UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE *103d* CONGRESS
SECOND SESSION

VOLUME 140—PART 11

JUNE 29, 1994 TO JULY 13, 1994
(PAGES 14949 TO 16510)

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79-059 O—97 Vol. 140 (Pt. 11) 1

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PROCEEDINGS AND DEBATES OF THE 103d CONGRESS, SECOND SESSION

SENATE—*Wednesday, June 29, 1994*

(Legislative day of Tuesday, June 7, 1994)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable DIANNE FEINSTEIN, a Senator from the State of California.

PRAYER

The Reverend Oliver Dewayne Walker, Phillips Temple C.M.E. Church, Indianapolis, IN, offered the following prayer:

Let us pray:

If my people who are called by my name, shall humble themselves, and pray, and seek my face, and turn from their wicked ways; then will I hear from heaven, and will forgive their sin and will heal their land.—II Chronicles 7:14.

Eternal God our Creator, source of truth and justice, we are ever thankful to You for Your love, mercy, and grace. We look to You as the source of all our blessings. We praise You O God for the orientation we receive regarding You from our families, our religious communities, our heritage, from the foundation of this great Nation, and from nations that the myriad cultures we find represented in our country. We applaud the many persons who labor for righteousness, justice, freedom, and concerns for all humanity. The challenges we face as a nation can be dealt with O God as we have managed in the past. First, we place total confidence in You. Second, we rely on our ability to do the best in quality, and third, we have learned that a strong spirit of working together with all persons brings victory. Ever increase our sensitivity to the pain, violence, racism, hate, and greed that is ever present. That we may do all in our power with You working through us to erase these wrongs in society. Bless our lawmakers here today. We thank You for hearing and granting these requests. In and through Thy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 29, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DIANNE FEINSTEIN, a Senator from the State of California, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. FEINSTEIN thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

PRODUCT LIABILITY FAIRNESS ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 687, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 687) to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dorgan-Moseley-Braun Amendment No. 1895, to eliminate provisions limiting punitive damages concerning certain drugs and medical devices and certain aircraft and components.

The ACTING PRESIDENT pro tempore. The time until 10 a.m. shall be equally divided and controlled by the Senator from South Carolina [Mr. HOLLINGS] and the Senator from West Virginia [Mr. ROCKEFELLER], or their designees.

Mr. GORTON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Mr. GORTON. Madam President, I will be the designee, and I ask unanimous consent to have printed a letter to me from Mothers Against Drunk Driving with respect to the debate on the amendment adopted yesterday approving that amendment withdrawing any objections that organization might otherwise have had to the bill.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MOTHERS AGAINST DRUNK DRIVING,
Irving, TX, June 28, 1994.

Re: S. 687.

Hon. SLADE GORTON,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GORTON: In my letter of June 22 to you and all Senators, I expressed MADD's concern about the potential adverse impact of S. 687 on dram shop actions in state courts. While MADD has not taken a position in support of, or opposition to this bill as a whole, we were concerned about what we perceived as unintended consequences of the bill. Our Public Policy department at the National Office has been in contact today with Senator Danforth's staff concerning proposed amendments to the bill, aimed at clarifying that the bill does not preempt dram shop laws or dram shop actions. We have also reviewed the proposed amendment submitted by you, Senator Rockefeller and Senator Lieberman.

Subject to introduction and adoption of an amendment(s) setting forth that civil actions seeking recovery under dram shop laws/statutes, or seeking recovery from a seller of alcohol products on the theory of common law negligence, are not subject to this act; MADD withdraws its objections to Senate consideration of S. 687.

MADD greatly appreciates your response to our concerns.

Sincerely,

REBECCA A. BROWN,
National President.

Mr. HEFLIN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. HEFLIN. Madam President, I suggest the absence of a quorum and ask that the time be equally divided.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. Madam President, I ask unanimous consent that the Senate proceed to vote on the Dorgan amendment to Senate bill 687.

Mr. HEFLIN. We object.

The ACTING PRESIDENT pro tempore. There is objection.

Mr. ROCKEFELLER. There being objection, and since we cannot proceed to the amendment, I suggest the absence of a quorum and ask unanimous consent that the time be equally divided.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEFLIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. MURRAY. Madam President, I rise today in opposition to S. 687. This is a very complex piece of legislation which could have a harmful effect on the lives of millions of Americans. If enacted, the bill would hurt consumers in Washington State, and throughout the Nation.

I am not a lawyer and do not wish to discuss the legal intricacies of the bill. However, I do want to raise some very serious, commonsense problems I have with this legislation.

I am deeply concerned about the bill's potential to disproportionately harm women. It would restrict their ability to recover for injuries caused by defective products. Women have been the victims of many of our Nation's most severe drug and medical device disasters. DES, Dalkon shield and Copper-7 IUD's, and silicone breast implants are just three examples.

S. 687 would eliminate the possibility of punitive damages if the Food and Drug Administration approved the drug or device. The courts would be forced to treat FDA approval as a guarantee of product safety. Given that drugs and devices with FDA approval have killed and injured consumers, relying on FDA regulation alone is inadequate consumer protection. The threat of punitive damages is an important mechanism to keep dangerous products off the market.

S. 687 also would abolish joint and several liability for noneconomic damages—compensation for intangible losses such as fertility, disfigurement, and pain and suffering. By making noneconomic damages more difficult to recover, S. 687 places less importance on a women's loss of her ability to bear children, or the disabling of a child, than on a corporate executive losing his salary.

It is not fair to only require the victims of noneconomic damages to bear the burden of pulling all the defendants who caused them harm into court. Joint and several liability allows injured victims to receive full compensation, and leaves it to the guilty defendants to divide the damages appropriately among themselves. It is much fairer to place this burden with the guilty parties than with those who are injured.

Madam President, Senator KOHL attempted to introduce more fairness into this bill earlier today. Restricting the ability of Federal courts to sanction secrecy in cases affecting public health and safety is a noble goal. I was proud to join him as a cosponsor of his antisecrecy amendment, and I am sorry that the amendment was not adopted.

The settlement of the Stern case in 1985 by Dow Corning is illustrative of why such change is necessary. As a result of a secret settlement agreement, Dow Corning was able to hide its decade-old knowledge of the serious health problems its silicon breast implants could cause for 6 additional years. The damaging information did not become public until the FDA launched a breast cancer implant investigation in 1992. In the interim, nearly 10,000 women received breast implants every month, and countless women were harmed.

Madam President, S. 687 would not only disproportionately harm women, it would also deprive injured consumers in my home State of Washington of rights they currently have. This is significant because Washington has one of the most conservative tort law scheme's in the Nation.

This bill would reduce the statute of limitations in my home State of Washington from 3 years to 2 years. Injured consumers would have less time in which to file lawsuits when they are harmed by dangerous products.

The bill would reduce the number of situations in which product sellers can be held liable in Washington State.

And, the bill would abolish joint and several liability for noneconomic damages currently available in Washington when the injured person has not contributed to her injury.

Madam President, I have serious concerns about S. 687 and cannot support passage of this bill as currently drafted. I urge my colleagues to think long and hard about consumer health and safety, as well as the potential impact of this bill on women.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. HEFLIN. Madam President, I yield myself such time as I may take.

The ACTING PRESIDENT pro tempore. Is the Senator the designee of the Senator from South Carolina?

Mr. HEFLIN. Yes.

The ACTING PRESIDENT pro tempore. So we may proceed, and the Senator from Alabama is recognized.

Mr. HEFLIN. Madam President, this debate has gone on for a good while, and there has been almost every conceivable subject discussed as it would relate to the issue at hand. I do not want to be repetitious and redundant and repeat a lot of things. But, nevertheless, there are some things that, maybe put in a different perspective, ought to be considered.

We have had a lot of discussion on women's rights involved in this legislation. I think it would be appropriate to consider what has happened in the judicial system in the civil arena of the courts over the years relating to women's rights.

When I first started practicing law not too many years ago, relatively speaking, there were no women on the juries. There were very few women lawyers. I was in law school in 1946 through 1948 at the end of World War II. Most of the students were veterans of World War II and had returned. I believe that probably out of 600 that were in law school with me at the time, there were probably six women. Today you go to law schools and you will find that probably 50 percent or more are women.

Certainly as to juries, the average jury you see in the box, if it is not a majority of women, there are a goodly number there that are in the jury box. There are many women trial lawyers, and as to the judges today many judges are women.

But somehow or another relative to product liability, there seems to be a much larger number of women who are affected by certain defective products. We have had a list presented here, the Dalkon shield, high-absorbent tampon linked to toxic shock syndrome, and numerous others.

When I look at this bill, I do not think it was intended necessarily by the authors of the bill, not certainly the Members of the Senate or their staffs, because this thing has been drafted and redrafted over the 16 or 17 years that it has been here. Nevertheless, there are numerous instances that affect women probably more so than men.

Of course, the one that has caused such a debate among the various women's groups has been the approval of the language in there dealing with FDA and the premarket approval, giving a complete excuse against punitive damages. But the joint and several liability issue on noneconomic damages likewise affects women much more so than men in regards to activities that would go on.

It just seems that what has happened really, this bill has not grown with the changes. It has inherent things that you do not always articulate or see exactly that have stayed in it since it was first drafted 16 and 17 years ago, and there has not been an evolution and recognition of women's rights and women's protection that should be included or how it might affect women.

These things are built in, and every time I read it I keep finding language that seems to discriminate against children, the elderly, or women involved in it.

I think that mindset took place years ago, 16 or 17 years ago, or 18 or 19 years ago. I think Senator HOLLINGS indicated that there was the first effort in drafting this when it was presented, which was about 1974 or 1975, or something like that, I just do not think it has evolved as we have moved forward.

There are other aspects of this that I do not want to go through a lot of repetition dealing with. There are things that I have not articulated, but nevertheless I think are important that we consider. Other people may have, and maybe I can give a little different viewpoint to it relative to some of the matters pertaining to it.

Some of these deal with the issue of whether or not it is going to lower any cost to business. There have been hearings numerous times in which there have been representatives of the American Insurance Association and they have clearly made known that this bill is not going to affect insurance rates. There have been studies over the years that indicate that really product liability costs are a negligible part of the overall cost relative to business.

The Conference Board survey of risk managers of corporations show that product liability costs for most businesses are 1 percent or less of the final product. A Rand Corp. study found that only 9 out of every 1,000 manufacturers were named in any product liability suits in any given year. The survey states that available evidence does not support the notion that product liability is crippling American business.

I am going to talk a little further. I want to reserve the time for some of the others that will be coming to the floor, so I suggest the absence of a quorum.

I ask unanimous consent that the time be equally charged for the quorum call.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GORTON. I ask unanimous consent that the Senator from Pennsylvania be permitted to speak as if in morning business. For how long?

Mr. SPECTER. Ten minutes.

Mr. GORTON. To be equally divided on this current debate.

The ACTING PRESIDENT pro tempore. Is there objection? There being none, the Senator from Pennsylvania is recognized to speak in morning for 10 minutes.

Mr. SPECTER. I thank the Chair and I thank my colleague from Washington for permitting this 10 minutes as if in morning business in the absence of any proceeding pending before the Senate on the issue of product liability.

HEALTH CARE

Mr. SPECTER. Madam President, I have sought recognition for a few moments this morning to talk about an important report from the General Accounting Office on the cost relating to the administration of President Clinton's health care program.

When the President submitted legislation, ranging some 1,342 pages, Senator HARKIN and I—Senator HARKIN being the chairman of the Appropriations Subcommittee on Labor, Health, Human Services, and Education, and I being the ranking member—submitted a letter, dated November 30, 1992, to the Comptroller General, Charles Bowsher, asking for a cost estimate on the administration of the Clinton health care program. This was requested because of the complexity of the Clinton health care program.

By letter dated June 15, 1994, the General Accounting Office responded and, in effect, said that they could not verify the administration cost of $5.4 billion over a 5-year period because the Office of Management and Budget, which had prepared the cost estimate, was doing so out of the range of their ordinary responsibilities. And, to quote directly from the conclusion of the Office of Management and Budget, they stated the following:

> OMB staff did not provide us complete information about the underlying assumptions they used to estimate the Federal costs for the Health Security Act [HSA] startup and administration. The staff of OMB stated that they did not follow their normal budget estimating process. They made the budget estimates in a short timeframe and based them on proposed legislation that did not have responsibilities for some of the functions clearly defined. OMB staff said they did not document their estimating assumptions and were reluctant to discuss the details of their work.

Madam President, I suggest to you that this OMB report on estimating cost is very important because of the obviously tremendous costs associated with administering the Clinton health care plan.

When I first read the Clinton plan, I was surprised at the number of agencies, boards, and commissions which were created, and asked a staff member, Sharon Helfant from my office, to prepare a list. Instead of preparing the list, Sharon Helfant prepared a chart, which I have talked about on the Senate floor before, but it is worth reviewing today, because, at a glance, it shows the enormous complexity of President Clinton's health care program.

Every box in red is a new agency, board, or commission. There are 105 of those red boxes on this chart. Every box in green is an existing bureau or agency which is given a new administrative job. There are 47 existing agencies which are given new tasks.

This chart appeared in a full-page spread in the Washington Times on December 22, 1993. It was also used by Senator DOLE in his reply to President Clinton's State of the Union speech in late January. As a result, the White House issued a release that the chart was inaccurate, notwithstanding the fact that in every one of these boxes there is a specific page reference to the Clinton health care plan.

It is obvious, on the face of this kind of a complex administrative bureaucracy, that the Clinton health care plan is going to be enormously costly to administer.

That is the reason Senator HARKIN, in his position as chairman of the Subcommittee on Labor, Health, Human Services, and Education, and I, as ranking Republican, asked for this cost estimate.

The General Accounting Office has the responsibility to provide to the Members of Congress information to analyze, corroborate, or dispute figures which are released by the administration.

I must say, Madam President, that it is distressing to note in the GAO report that the Office of Management and Budget, which prepared these cost estimates, did not have any real basis for its determination and would not provide GAO with the available backup material which estimated the cost to be $5.4 billion. This estimate, on its face, is not worth very much because of the underlying inadequacies of the analysis.

The GAO report shows that the OMB decisions were made, and, as it says here:

> The staff was given a very short time frame to develop the estimates. The staff said that they did not document the assumptions they used and, in our discussions with them, they [the OMB staff] would not fully discuss the details of their estimating strategy.

The GAO report further discloses that:

> OMB did not provide cost estimates for each detailed Federal administrative function.

And further in the report:

> OMB staff did not determine the Federal full-time-equivalent employee requirements for the HSA implementation.

That is the implementation of the statute.

At this juncture, we all know that many committees of the Congress are working very hard to try to come forward with legislation, and it is obvious that the cost factor is very important in our congressional determination. So I call on OMB, the administration, and the President to come forward with some realistic estimate as to what the cost will be.

It is my thought, and the thought of many other people, that this kind of administrative bureaucratic setup, with 105 new agencies, boards, and commissions, and new jobs for 47 existing agencies, is going to cost billions of dollars.

That is why I have introduced alternative legislation, Senate bill 18, which retains our current health care system—a system that provides the best health care in the world to 86.1 percent of the American people. My legislation targets the specific problems: Coverage for the 37 million Americans now not covered; portability—that is when a person changes jobs; coverage for preexisting conditions; and factors which will lead to cost reduction by dealing with, for example, low-birth-weight babies, children who are born weighing a pound, 18 ounces, 20 ounces, by providing prenatal care. When those children come into the world, they are human tragedies carrying scars with them for their entire lives. Each child costs an estimated $150,000 by the time he or she leaves the hospital. So it involves multibillion-dollar costs to a health care system. My bill, Senate bill 18, deals with other savings on terminal care costs and on managed health care.

It is my hope we will pass health care legislation this year. As I have said on the Senate floor, I agree with the President's objective of providing health care insurance for all Americans. But I do not agree with the massive, cumbersome bureaucracy which he has proposed. I think the administration has a duty—an absolute, positive, mandatory duty—to tell us what this proposal is going to cost. That is a threshold question.

There are many questions which we cannot answer as to how the plan is going to play out. But as to what the bureaucracy will cost, they ought to tell us. When the General Accounting Office makes a report and says that OMB has provided an inadequate basis for a cost estimate of $5.4 billion—not that $5.4 billion is chopped liver; it is a lot of money—then OMB and GAO should not have the ability to do the estimate. They did not outline their assumptions. They did it in a short timeframe. They have no basis for the figure which they have come to. Congress, therefore, cannot have confidence in their estimates on the cost of the Clinton health proposal.

So I am hopeful we will yet have some realistic appraisal by the administration. I think if and when we ever get the true figure, it is going to be an enormous cost which will further undercut the viability of the President's health care program.

Madam President, I ask unanimous consent that a copy of the letter from Senator HARKIN and myself to Mr. Bowsher, dated November 30, 1993, and a copy of the GAO report dated June 15, 1994, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, November 30, 1993.

Mr. CHARLES A. BOWSHER,
Comptroller General, General Accounting Office, General Accounting Office Building, Washington, DC.

DEAR MR. BOWSHER: We are writing concerning the recent introduction of the Health Security Act, the President's comprehensive legislative proposal to extend affordable health care coverage to all Americans and to implement reforms to improve the quality and efficiency of the health care system. While we concur in the broad objectives outlined in the plan and look forward to working with the President and the relevant legislative committees, we believe that a careful analysis of all aspects of the proposal is essential.

As the Chairman and Ranking Member of the Senate Appropriations Subcommittee which has jurisdiction over funding for discretionary health programs, we are particularly interested in an analysis of the federal costs required to set up, administer and support the programs authorized in the legislation. This analysis is especially important given the action by the Congress to freeze discretionary appropriations over the next 4 years. We, therefore, request that the General Accounting Office conduct an in depth analysis by agency of the federal costs of administering the new health care system, and of fully funding the new and expanded authorizations of discretionary programs outlined in the legislation. The study should also examine the impact of these expenditures on overall health care spending.

Your prompt attention to this request is appreciated.

Sincerely,
TOM HARKIN,
Chairman, Labor, HHS and Education Subcommittee.
ARLEN SPECTER,
Ranking Member.

U.S. GENERAL ACCOUNTING OFFICE,
Washington, DC, June 15, 1994.

Hon. ARLEN SPECTER,
Ranking Minority Member, Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, Committee on Appropriations, U.S. Senate.

DEAR SENATOR SPECTER: In November 1993, the President released his detailed legislative proposal for national health care reform. The proposed Health Security Act (HSA) is a comprehensive plan to provide universal health insurance for a broad range of services. The President's 1995 budget request to the Congress includes a $5.4 billion estimate of the federal expense to start up and administer the proposed new health care system over 6 years.

Concerned about how the administrative costs of implementing the proposed new health care system would be funded, given the limit Congress placed on discretionary appropriations,[1] you asked that we determine what justifications the administration used to support the federal administrative cost estimates that appear in the President's 1995 budget. Specifically, you asked that we identify the federal administrative functions that were considered and determine the underlying assumptions used to derive the estimated costs. On April 29, 1994, we briefed your staff on the results of our work.

In summary, the Office of Management and Budget (OMB) identified the federal functions required to implement the proposed HSA and estimated the federal administrative costs of starting up and supporting these functions over 6 years. OMB staff said that pricing out the proposed HSA was difficult. The staff attributed the difficulty in estimating the federal administrative costs to primarily two factors: (1) decisions had not been made about what entity would carry out some of the functions and (2) the staff was given a very short time frame to develop the estimates. The staff said that they did not document the assumptions they used and, in our discussions with them, they would not fully discuss the details of their estimating strategy. As a result, we could not reconstruct the information for you.

FEDERAL ADMINISTRATIVE COSTS TO IMPLEMENT HSA

OMB was responsible for identifying the federal administrative functions to implement the proposed HSA and for developing the administrative cost estimates that appear in the President's fiscal year 1995 budget. Normally, OMB does not independently prepare cost estimates for proposed legislation.[2] In this instance, however, OMB's budget examiners, not the executive branch departments or agencies, estimated the federal administrative costs for the administration. Moreover, while these estimates of federal costs appeared in the President's fiscal year 1995 budget, preparing them was conducted outside OMB's normal budget estimating processes.[3] OMB staff stated that they were asked to estimate the cost of the proposed bill in a very short time frame. Also, there was some uncertainty about whether some of the functions under the proposed new health care system would be carried out by the federal government, the states, or the proposed alliances. OMB staff stressed that these factors made estimating the federal administrative costs very difficult.

FUNCTIONS IDENTIFIED AND ANNUAL COSTS ESTIMATED FOR 6 YEARS

OMB staff identified the specific detailed federal administrative functions required under HSA and estimated the implementation cost of these functions rather than by a department or other entity such as the National Health Board (NHB) that would be responsible for the function. OMB did not provide cost estimates for each detailed federal administrative function. Instead, OMB grouped the detailed administrative functions and provided us annual federal cost estimates by four functional categories: (1) Information Systems and Quality Assurance, (2) Monitoring of States and Alliances, (3) Program Oversight and Financial Management, and (4) Transition to the New System. The estimates are of new or add-on costs. Table 1 shows, by these four functional categories, OMB's estimates of the federal administrative costs for implementing HSA over 6 years. Estimates of federal administrative costs for 1995 through the year 2000 totaled $5.4 billion. OMB staff did not determine federal full-time-equivalent employee requirements for HSA implementation.

Footnotes at end of article.

TABLE 1.—PROPOSED HEALTH SECURITY ACT—OMB'S ADMINISTRATIVE COST ESTIMATES FOR FEDERAL FUNCTIONS

[Dollars in millions]

Functional categories	Fiscal year						1995–2000
	1995	1996	1997	1998	1999	2000	
Information Systems and Quality Assurance [1]	$915	$95	$94	$81	$81	$81	$1,347
Monitoring of States and Alliances [2]	40	92	174	241	272	279	1,098
Program Oversight and Financial Management [3]	77	178	194	226	226	230	1,131
Transition to the New System [4]	247	527	726	353	7	8	1,868
Total, HSA start-up and administration	1,279	892	1,188	901	586	598	5,444

[1] HSA specifies that the Federal Government would help develop and maintain a health information network; establish a National Quality Management Program; provide technical assistance to alliances, states, and health plans; and set standards to implement privacy protections, malpractice reforms, and administrative simplification measures.

[2] Under HSA, the Federal Government would oversee key state and alliance functions. The Federal Government would monitor alliance financial operations (including audits of alliances); ensure that plans and alliances conform to applicable regulatory requirements; make certain that employers make premium contributions and provide insurance through qualified plans; oversee the administration of premium targets; monitor and audit employer subsidies; and back up state guarantee funds.

[3] Federal responsibility under HSA would include development of rules and standards for the overall financial oversight of the new system. The pricing reflects several oversight functions, including update of the comprehensive benefits package, examination of new drug prices, development of rules for health plans, monitoring of alliance grievance procedures, development of a risk adjustment system, monitoring health care prices and expenditures, and supporting anti-trust reform and fraud and abuse preventive activities.

[4] The Federal Government would help states make the transition to the new system. The Federal Government would administer planning and start-up grants, issue standards for health plans during the transition, process state waivers, and administer a national risk pool for the uninsured during the period prior to phase-in of universal coverage.

Source: Analytic Perspectives, Budget of the United States Government, fiscal year 1995; and OMB staff.

In discussions with us, OMB staff added the following qualifiers to the federal cost estimates they developed for HSA start-up and administration:

Administrative costs associated with providing health security cards are not included in the estimates because OMB staff assumed this would be an alliance function rather than federal function.

Start-up costs are reflected in the first 2 years (1995 and 1996).

The $1.279 billion estimate for 1995 costs was designated PAYGO.[4] OMB staff told us that this was done because the estimated costs would exceed the discretionary spending cap for that year. The administration suggested that revenue from a tobacco tax would be used to fund these costs.

NO RECORD OF ESTIMATING ASSUMPTIONS

OMB staff told us that they did not document the assumptions they used to estimate federal costs for HSA start-up and administration, and they would not reconstruct the information for us. In discussions with us, OMB staff provided sketchy information about the assumptions used to cost-out the detailed federal administrative functions they identified in the proposed HSA. In some cases, they extrapolated from existing functions. Where they extrapolated or used proxy measures, however, they did not disclose any dollar values associated with their analyses. Furthermore, they did not provide any information on analyses they conducted that showed the difference in magnitude, if any, between the proxies they used and the proposed federal administrative functions. OMB staff provided some information about their estimating assumptions and the rationale they used in costing out the federal administrative functions for implementing the proposed HSA (see enclosure).

In conclusion, OMB staff did not provide us complete information about the underlying assumptions they used to estimate the federal costs for HSA start-up and administration. The staff stated that they did not follow their normal buuget estimating process. They made the budget estimates in a short time frame and based them on proposed legislation that did not have responsibilities for some of the functions clearly defined. OMB staff said they did not document their estimating assumptions and were reluctant to discuss the details of their work.

To identify the federal functions and determine the estimating assumptions the administration used, we met with staff from OMB and the Department of Health and Human Services (HHS).[5] HHS officials told us they had no involvement in estimating the federal costs and did not know what estimating assumptions OMB used. As agreed with your staff, we did not attempt independently to estimate the federal costs of administering the proposed new system or measure the impact of the expenditures on overall health care spending. Also, we did not evaluate the appropriateness of the estimating assumptions used. We conducted our work from February to May 1994 in accordance with generally accepted government auditing standards.

OMB officials reviewed a draft of this correspondence and offered some technical changes. We made the technical changes as appropriate.

We are sending copies of this correspondence to the Chairman of the Subcommittee on Labor, Health and Human Services, Education and Related Agencies, Senate Committee on Appropriations, and the director of the Office of Management and Budget. We will also make copies available to others on request.

Please contact James O. McClyde, Assistant Director, at (202) 512-7119, if you have any questions about this letter.

Sincerely yours,

SARAH F. JAGGAR,
(For Mark V. Nadel, Associate Director, National and Public Health Issues).

Enclosure.

PROPOSED HEALTH SECURITY ACT—INFORMATION OMB PROVIDED ABOUT ESTIMATING ASSUMPTIONS THEY USED TO COST OUT FEDERAL ADMINISTRATIVE FUNCTIONS

(By functional category)

Information Systems and Quality Assurance:

About 60 percent of 1995 costs is for start-up of this function.

Standard-setting would be a major part of this function.

The federal government would not build new data systems because existing systems can be expanded.

Private sector data systems that could be used include Blue Cross and Blue Shield's electronic claims system.

Analogues considered in pricing this function were resources of the Health Care Financing Administration (information systems) and the Social Security Administration (system resources), and data from the Agency for Health Care Policy and Research (quality management data) and the Aid to Families With Dependent Children program (quality control data).

NHB will probably contract out any additional work it is responsible for under this function.

DOL's responsibilities would be very small.

Monitoring of States and Alliances.

About 50 to 75 percent of 1995 costs would be for standard-setting.

Most of the total cost would be for federal staff to monitor alliances and employers.

It is not very likely that DOL would have to take over corporate alliances, so a very small cost was included for readiness.

Program Oversight and Financial Management:

About 10 percent or less of 1995 costs would be for start-up.

Many main NHB functions would be included.[6]

Some standard-setting would be included along with ongoing activities such as updating the benefits package.

Most of the costs would be for federal staff, including a small HHS staff to monitor health care prices and expenditures[7] and the HHS Inspector General's office to conduct fraud and abuse reviews.

It is not very likely that HHS would have to take over alliances, so a small cost was included for readiness.

Transition to the New System:

About 90 percent of the costs would be associated with setting up and administering a national risk pool and for grant administration.

FOOTNOTES

[1] The Budget Enforcement Act of 1990 (BEA) contains procedures designed to enforce the deficit reduction agreement. The act divides the budget into two mutually exclusive categories: (1) discretionary programs and (2) direct spending. The act also provides pay-as-you-go (PAYGO) procedures for legislation affecting direct spending or receipts. For 1991 through 1995, among other provisions, the act limits discretionary spending. The Omnibus Budget Reconciliation Act of 1993 extended the discretionary spending limits through 1998.

[2] OMB is responsible for cost estimates used in the President's budget and for enacted legislation to meet the requirements of BEA. OMB is also responsible for pricing legislative proposals on behalf of the administration. However, in fulfilling these responsibilities, OMB generally relies on executive branch agencies to prepare initial cost estimates. OMB budget examiners then review and modify these estimates as needed.

[3] Under the normal executive budget formulation process, beginning in the fall, OMB works closely with agencies to prepare cost estimates of agency activities to be incorporated in the President's budget. As agencies prepare their budgets for submission to OMB, they maintain continuing contact with OMB budget examiners. OMB also provides agencies detailed instructions for preparing submissions through Circular A-11. This process is more fully described in appendix I of A Glossary of Terms Used in the Federal Budget Process (GAO/AFMD-2.1.1).

[4] Under BEA, PAYGO requirements stipulate that any new legislation that increases direct (mandatory) spending or decreases receipts be deficit neutral (that is, not increase the deficit). For discretionary programs, the act establishes discretionary spending caps or limits. These measures are designed to reduce or limit the growth in the federal budget deficit. BEA rules require that new accounts

or activities be categorized in consultation with the House and Senate Committees on Appropriations and the Budget.

[5] We interviewed officials from HHS' Offices of the Assistant Secretary for Program Evaluation and Assistant Secretary for Management and Budget.

[6] OMB did not use analogues/proxies for estimating NHB costs. They assumed a staff of about 30 people and one auditor per alliance for financial monitoring. OMB officials talked about the Federal Reserve Board and the Securities Exchange Commission as possible models for costing-out the NHB financial management responsibilities.

[7] The Health Care Financing Administration already publishes some health care price data.

Mr. SPECTER. I thank the Chair, and again I thank my colleague from Washington.

I yield the floor.

PRODUCT LIABILITY FAIRNESS ACT

The Senate continued with the consideration of the bill.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. HEFLIN. Parliamentary inquiry; what is the remaining time for each side?

The ACTING PRESIDENT pro tempore. The time remaining to the Senator is 9 minutes, I am told.

Mr. HEFLIN. How much is on the other side?

The ACTING PRESIDENT pro tempore. They have 18 minutes.

Mr. HEFLIN. I will yield 3 minutes to the Senator from Iowa [Mr. HARKIN].

The ACTING PRESIDENT pro tempore. The Senator from Iowa is recognized for 3 minutes.

Mr. HARKIN. Madam President, I thank the Senator for yielding me the 3 minutes. I did have a longer statement in opposition to this bill.

Let me just summarize it very briefly. I will take time, hopefully after this next cloture vote at 10 o'clock, to expound more fully upon my opposition to the elements that are in this so-called product liability reform bill. And I am hopeful, of course, that at 10 o'clock, when the vote occurs, we will have sufficient votes to, again, keep the debate going.

For many years, there have been those who want to take away the centuries-old protections that the little person has against powerful forces. The centuries-old doctrine that people have to act wisely and prudently and with due care and concern, and that people will be held responsible if they act recklessly and carelessly in their manufacture of articles is to be thrown out the window with this bill.

For years, the proponents, who want to do that, have been saying we have not had a chance to debate it. Now we have a chance to debate it. Now they want to cut off debate. They want to invoke cloture so those of us who have amendments to offer to the bill, and Senator LAUTENBERG and I do have a very meaningful amendment to offer to this bill, will be foreclosed from offering those amendments and debating them because of the rules under cloture.

So I find that just one of the double standards that the proponents of this bill are using. Because, Madam President, this bill in itself sets up a double standard. There is one standard if you are a manufacturer, if you are a business concern, a corporation; another standard if you are just one of the little people of this country who happens to get injured by a product.

Under this bill, as it is designed right now, let us say an airliner crashes and the next of kin sues. There are limits on what that person can recover for surviving family members, for example. But let us say if it was, to use an example, American Airlines—I hate to pick them out; I just picked out an airline—they could go back and sue Boeing Aircraft with no limits. So in terms of a business suing another business, there are no limits as to what they can sue for in terms of product liability. But for the little person, they put the limits on.

The ACTING PRESIDENT pro tempore. The Senator has spoken for 3 minutes.

Mr. HARKIN. That is just one of the double standards in this bill. I have several more. I hope after the 10 o'clock vote, I will be able to expound more fully on the double standards in this bill.

The ACTING PRESIDENT pro tempore. Who yields time? The Senator from West Virginia.

Mr. ROCKEFELLER. Madam President, I did not hear entirely the words of the Senator from Iowa, but those that I did hear were stunning because he indicated that it was the proponents of the bill who were trying to stall debate and cause a filibuster.

Everybody knows and has known from the beginning, and the opponents of this bill have made known from the beginning—the Senator from Alabama and the Senator from South Carolina have made it clear from the beginning—that they were going to filibuster the bill. In fact, we had a meeting yesterday in the majority leader's office in which one of the Senators on the opponents' side was asked what would they do now that we had agreed to try to remove the FDA amendment and the FAA amendment, thus taking away many of the issues that women in particular were concerned about. The majority leader asked what will this particular opponent do? And he said: I will continue to talk.

This is a classic, absolute, ultimate, total filibuster on the part of the opponents. My dear friend from Iowa, whom I am devoted to, made one of the most remarkable statements I have ever heard. I hope everyone in this body will take some time to think again about the question that we have to answer at the cloture vote scheduled for 10 o'clock. It is really very simple. That is, will we reward obstructionism? Or will we not? Obstructionism equals filibuster. Filibuster is what this bill has been facing for the last 8 years since I have been in the Senate, and 13 years that this bill has been a matter of hoped-for discussion.

This Senator said almost nothing yesterday in the debate because there was not any debate. The Senator from Alabama referred to this being an extended debate. There has been no debate. There has been no debate. The Senator from Washington has not debated. He is a master debater. He knows the bill. He has not debated at all. I have not debated. I have said almost nothing. The Senator from Connecticut has debated hardly at all. He simply has made some points about the bill. And the reason is because there is a filibuster against this bill.

The question is, Will the Senate be able after 13 years to understand that this is a filibuster that we are trying to vote down so that we can get to the bill to discuss amendments which might improve the bill and defeat amendments which would hurt the bill, where the Senator from Connecticut and this Senator, and the Senator from Washington would be very helpful?

The question in this vote is not whether to say a flat yes or a flat no to the bill before us today, which is the Product Liability Fairness Act. That can only be answered if and when the Senate can undergo an open, straightforward process in which any of our colleagues can offer suggestions on a way to improve the legislation. We are not at the point of even putting amendments to the bill. Even the FDA amendment, which is cared about so strongly by so many, cannot be removed until we obtain cloture. So I just hope that my colleagues really do understand our situation.

To be clear about the situation we are in right now, the chief sponsors of this bill realized in the course of yesterday's debate on this bill that the prevailing sentiment on one of the provisions known as the FDA-FAA section, section 203, was that it would be deleted from the bill. We acknowledged the view—those of us who support the bill—and the reasons that those views are felt so strongly. As a result, we entered into discussions with our colleagues, the distinguished Senator from North Dakota and the distinguished Senator from Illinois, who have led the effort steadily, stoutly, steadfastly and with great value to remove this section from the bill.

When we, the sponsors, decided we should support that change, we worked out an understanding that we would support their motion to strike FDA and FAA. But, once again, we were thwarted even on yesterday and prevented from making the change to the bill pending before us until we came to another cloture vote, which ripens at

10 o'clock. We could not even debate the bill yesterday.

Mr. DORGAN. Will the Senator yield?

Mr. ROCKEFELLER. I yield to the Senator from North Dakota.

Mr. DORGAN. Madam President, I appreciate the Senator yielding for a comment and a question. As I understand the position of the Senate at this point, we are discussing the amendment which I offered last evening, along with my colleague, Senator MOSELEY-BRAUN. That is the business before the Senate at this point, and the Senate is scheduled to take a cloture vote at 10 a.m.; am I correct, Madam President?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. DORGAN. Let me just make a couple of additional points—if the Senator will continue to yield—about this amendment. It was November when this piece of legislation moved through the Commerce Committee. That is some long while ago. When it did, the day it moved through the Commerce Committee, I spoke to the Senator from West Virginia and told him then that I would not support this piece of legislation on the floor, with section 203 as drafted in it.

I felt very strongly, as I do now, about saying to someone we are going to set up a new shield and a new test, if you are, God forbid, injured somehow by a medical device or a pharmaceutical drug, and you seek compensation for that because you believe someone else was responsible—in this case the manufacturer of the device or drug—and you file a suit under this legislation as it is currently written, the response is, "Well, the FDA approved it. We have no further liability here."

I could give you a notebook full of cases where the FDA has approved a drug or medical device that was later found to be defective or faulty. We ought not injure the rights of individuals in this country with a new shield and a new protection for manufacturers. This bill says we are going to increase the height of the bar now and requires victims to prove fraud and misinformation has occurred by the manufacturer with respect to FDA approval or the FAA approval. That makes no sense to me. My position remains that I will not support this legislation with this section in it.

I inquire of the Senator from West Virginia. We are in a catch-22 position now. I have offered an amendment to strip this section of the bill, a section that I think is a terrible section. The amendment apparently is not to be acted on before 10 o'clock. I would ask unanimous consent, but I will not because I understand it has already been requested, that we hold the vote on this amendment before the cloture vote. My understanding is that has been requested and there was an objection.

The ACTING PRESIDENT pro tempore. That is correct.

Mr. DORGAN. It really does no good to repeat that. My point is, we have an amendment that, as I understand, the manager of the bill and the ranking member have said they will accept.

Mr. GORTON. That is correct.

Mr. DORGAN. So as this bill advances, if it advances, they will accept stripping section 203 from the bill and the bill will advance without this section in it.

Mr. GORTON. The Senator from North Dakota is correct.

Mr. DORGAN. My preference would, obviously, be that we dispose of this amendment before the cloture vote. I understand the legislative procedure that we now follow and the cloture vote is going to occur at 10 and we are not able to dispose of this.

But I want to be certain of the discussion we had yesterday that the manager and the ranking member understand what I understand: That if this bill advances, that this bill will advance with a legislative provision that will strike section 203 because this amendment that I have offered is germane, so it will exist even after cloture and must be disposed of by the Senate.

My understanding is if the bill advances and if we dispose of this legislation that the ranking member and the manager of the bill are going to be supporting the striking of section 203.

Mr. GORTON. If the Senator will yield, the Senator's amendment strikes sections 203 (b) and (c) of the amendment and not only the Senator from West Virginia and I——

Mr. ROCKEFELLER. I have yielded to the Senator.

Mr. GORTON. We will support that amendment, but I have undertaken to persuade members on this side who will agree with me to do so as well. I think I can say with confidence that the amendment will be successful.

The ACTING PRESIDENT pro tempore. Senator ROCKEFELLER is controlling the floor at this moment. He is recognized.

Mr. ROCKEFELLER. I thank the Senator from North Dakota. I would like to make a point that the majority leader, Senator MITCHELL, acknowledged on Friday—this is in the CONGRESSIONAL RECORD—that the proponents of the bill were asked to file the cloture motion because of the certainty that the bill would be filibustered. That is what the majority leader said.

So for my colleagues who are listening and to their associates throughout this and other buildings, let me reiterate that this bill would reduce the average 5 years that a person waits to get compensated for a crippling injury of some sort. We are trying to reduce that, we are trying to help the victims and take some of the money away from the lawyers to give it to the victims, and we are being filibustered.

In any event, I would like at this point to yield 2 minutes to the Senator from Pennsylvania.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized for 2 minutes.

Mr. SPECTER. Madam President, I thank my colleague from West Virginia.

I believe that the filibuster should be very, very sparingly used. In a democracy, we function on 51 percent or a simple majority. But as we all know, some may not understand watching on C-SPAN or in the galleries, where there is a filibuster in the U.S. Senate, it requires 60 votes to shut off debate to move ahead to consideration of the merits of legislation.

I believe that a filibuster ought to be very, very sparingly used on major policy matters and constitutional issues to protect the rights of the minority from an unfair majority.

I believe on the current face of this bill with a commitment by the managers to eliminate the provisions restricting punitive damages from the Food and Drug Administration and the Federal Aviation Administration, that we ought to proceed to consider the bill.

I voted against cloture yesterday to continue the debate because I thought it was important that those provisions be removed.

I wish to say that I have some substantial reluctance to see legislation in any area which involves case law determination where the courts for decades and really centuries have in a form of incrustation made decisions in an area like product liability. I have litigated in the field and have had occasion to read extensively in the field. There is a wisdom, a common law wisdom, which comes from the judicial process that really cannot be matched by what we do in the legislature. In Congress, where we have bills and hearings and markups, very frequently only a Senator or two at the hearings, which is a very difficult process to have the kind of analysis which the courts have rendered.

I have great reservations about the underlying bill. I make no commitment how I am going to vote on the underlying bill. I have filed a series of amendments.

I am very concerned about the provisions with respect to workman's comp and subrogation interests, very concerned especially in the area of catastrophic injury and to the joint and several liability issue. I have had some indications from the managers of a willingness to consider my amendments. But I think in this posture on this matter we ought not to require 60 votes but ought to go back to the democratic process of 51 votes. With the managers' assurances that these provisions as to punitive damages will be removed, I intend to support the cloture motion.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Who yields time? The Senator from West Virginia.

Mr. ROCKEFELLER. I yield to the Senator from Connecticut—how much time do the proponents have?

The ACTING PRESIDENT pro tempore. Four minutes.

Mr. ROCKEFELLER. Two minutes.

Mr. LIEBERMAN. Fine.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut is recognized for 2 minutes.

Mr. LIEBERMAN. I thank the Chair and I thank my colleague.

Madam President, one of the most ill-understood aspects of our product liability system is how it affects the international competitiveness of our American manufacturing companies. I want to set aside, for a moment, the effect on innovation, and just focus on how our product liability system, which is uniquely generous, affects U.S. manufacturers simply with respect to sales of existing products.

It is often argued by opponents of this bill that our product liability laws cannot be a competitive disadvantage to U.S. firms because, in this country, all competitors here are subject to our laws, and abroad, all competitors are subject to foreign laws. The problem with this argument is that it is not true. The underlying assumption of a level playing field in each market is false.

As Prof. Aaron Twerski, one of the Nation's premier scholars in tort law, told the Senate Commerce Committee, under so-called modern or interest analysis choice of law doctrines, a U.S. manufacturer can be sued in the United States, under U.S. laws, for injuries resulting from a product manufactured here, even if the product was sold abroad in a foreign country and the person injured was a foreign citizen in that country. As Professor Twerski testified, "U.S. manufacturers may be held to higher and more costly product liability standards in both U.S. and foreign markets than their foreign counterparts." Obviously, this puts U.S. companies at a cost disadvantage when selling in foreign markets since they will have to insure against the possibility of lawsuits brought by foreign purchasers in U.S. courts, while foreign competitors do not have to bear similar insurance costs with respect to sales in that country.

In addition, it is simply much harder to take discovery—and hence to obtain a successful judgment—against a foreign manufacturer. While a U.S. court can obtain documents and testimony easily from a U.S.-based manufacturer, discovery procedures in foreign countries are much more limited, and usually involve replies to written interrogatories. Ironically, the less U.S. presence a foreign manufacturer has, the easier it will be to shield its documents.

The same can be said when it comes time to enforce judgments. In the United States, a U.S. claimant can obtain a judgment against a U.S. company simply by getting a court order. The court can even order seizure of assets to enforce payment. U.S. claimants and courts do not have similar tools available against the assets of foreign manufacturers abroad. Foreign courts can refuse to honor U.S. judgments by finding that the U.S. court lacked jurisdiction or that insufficient evidence existed to support the judgment. The practical expense of hiring a foreign lawyer to attempt to collect a U.S. judgment further frustrates collection. This gives foreign manufacturers a real advantage vis-a-vis U.S. manufacturers when it comes to avoiding collection of tort damages.

Our tort liability system has had one other impact on the ability of claimants to collect judgments from foreign manufacturers. Professor Twerski told the Commerce Committee that the United States has been unable to get foreign countries to agree to a treaty to enforce American judgments abroad because of foreign countries' low regard for U.S. tort judgments, which they view as out of control. Ironically, our supposedly proplaintiff system may actually be hurting claimants when it comes to suing and collecting from foreign companies.

One other point needs to be made. When our product liability system drives manufacturing offshore or even into thinly capitalized U.S. based companies, claimants do not necessarily come out ahead. The risk of covering the cost of an injury will be transferred from the manufacturers to the purchasers in both settings, either because the assets of the foreign manufacturer are not subject to U.S. jurisdiction or because the thinly capitalized company seeks protection in bankruptcy. Either way, all our product liability system has accomplished in that setting is to reduce the amount of compensation available to injured claimants. That can hardly be considered a proconsumer result.

Passage of S. 687 would help to mitigate these disadvantages for American companies and American consumers. A fair and balanced product liability system is in the best interests of all Americans.

Madam President, we are coming again to one of those moments of truth which test not only the issue at hand but the openness and fairness of this body. The fact is we saw it last year in this Chamber and we saw it again yesterday. The majority of Members of the Senate want to reform the product liability laws of our country. They understand that too many consumers are not treated fairly under these laws. They have to wait too long; that if their injuries are small, they tend to be overcompensated because of the pressures in the system to settle. If their injuries are large, they are too often undercompensated; that the current system eats away at our competitiveness and our manufacturing base and the creation of jobs.

We can disagree or argue about the particular remedies, but a clear majority of the Senate wants to reform our product liability laws. The question that we are going to answer at 10 o'clock in this cloture vote is whether we are going to give that majority the opportunity to work together and do just that. It has consequences for people's lives, people's jobs and the future of our economy.

Second, we are in a posture now that I think suggests the difficulties and unreasonableness. The sponsors of this bill have tried to be fair every inch of the way, and yesterday as the vote went on and as we heard from our colleagues and we listened to them, we understood that there is substantial opposition to section 203. Senator DORGAN has a motion to strike. We wanted it voted on.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. LIEBERMAN. I ask my colleague for an additional 30 seconds.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut has asked for an additional 30 seconds.

Mr. ROCKEFELLER. The Senator has that time.

Mr. LIEBERMAN. I thank the Senator.

Senator DORGAN's motion to strike, to take this objectionable provision out of the bill, is before us. All of us who are sponsors support that motion. We are trying to be reasonable, and yet those who oppose the bill are blocking a vote before 10 o'clock because they think in that way some who want this section out of the bill will not vote for cloture. I say to my friends, if cloture is adopted, the pending issue will be the motion to strike 203 and we will adopt it, so please vote for cloture.

I thank the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. ROCKEFELLER. I yield the remainder of the proponents' time to the Senator from the State of Washington.

The ACTING PRESIDENT pro tempore. The Senator from Washington is recognized.

Mr. GORTON. Madam President, the vote we are about to take is the crucial vote on product liability for this Congress. The product liability bill which would very likely be passed if cloture is invoked is certainly not all this Senator would have liked, but he and others have given their assurances of support for the motion to strike and those assurances will be kept.

Even so, this bill will represent a step forward toward greater fairness, toward greater productivity in our American economy and toward a greater degree of justice, less spent on transactional costs, less of the costs of the system going to actual victims. It is a good and forward looking proposal to reform our legal system. It should be passed. It can only be passed if 60 Members vote in favor of cloture.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. HEFLIN. Parliamentary inquiry, Madam President.

The ACTING PRESIDENT pro tempore. The Senator from Alabama will state it.

Mr. HEFLIN. How much time remains?

The ACTING PRESIDENT pro tempore. The Senator has 5 minutes.

Mr. HEFLIN. What about the opponents' time?

The ACTING PRESIDENT pro tempore. Their time has expired.

The Senator is recognized.

Mr. HEFLIN. I yield myself such time as I may need. Senator HOLLINGS I think may want to make some remarks.

I look around. It gets down to this—and I have said this before, but I want to reemphasize it and maybe say it a little differently. It is basically, is this a fair bill? And when you consider the overall situation, see the language that is in it, and how this word or that word is changed with an idea of giving an advantage, giving an advantage to the defendant, the manufacturing company, the insurance company, it just comes to it that it is an unfair bill.

Basically, No. 1, if it is a fair bill, why do they exclude businesses and eliminate commercial loss? The biggest verdicts have been in the business arena, punitive damages and others—Texaco, Pennzoil, for example. But this bill does nothing about that. But the fellow who loses a finger, who is a violinist, or who loses a leg who is a soccer player, about which we hear so much today, whose livelihood is taken away from him, the provisions of this bill apply to him, and they are designed throughout to restrict his rights to recover.

It is almost inconceivable that someone would come up with an idea that they can take your life insurance policy proceeds away from your widow and your children if you are killed as a result of an accident. Now, that is just unconscionable, but there is unconscionable language throughout.

You pay health insurance. Maybe you work for the Government or are an employee and pay a portion or maybe you work and pay it all, and you have spent over the years thousands and thousands of dollars. You are in a hospital today, with costs like they are, for a month recovering, or you can pass away, yet they are allowed to deduct—not the jury. The jury knows nothing about this and are told nothing about it—but the court, after the verdict is rendered, is obligated under the law, under the provisions that are applicable, to deduct that $100,000 or whatever the hospital bill is from your economic damages. Then, if you had a disability payment or anything else, they eliminate that under these provisions and deduct it from you.

Now, what is fair about that? It is just unconscionable to me that people would write that in it, but they do it under collateral benefits. They think nobody will read the definition of what collateral benefits means, so therefore they get by in the fine print.

Now, arguments have been made here, very forcefully—and he has done a remarkable job, Senator ROCKEFELLER, in his advocacy, Senator GORTON, Senator LIEBERMAN and others, but they argue, all right, what we need to do takes 5 years.

I support procedures to bring about the expeditious handling of cases. I support alternate dispute resolutions. But let us do that separate and not have all of this garbage and unfairness that is in the bill.

Thank you, Madam President.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER (Mrs. MURRAY). The majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Madam President, I ask unanimous consent that there be 5 minutes more of debate equally divided between Senator HEFLIN and Senator ROCKEFELLER and that the vote occur at 10:05 a.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Who yields time?

Mr. ROCKEFELLER. Madam President, we have 2½ minutes for each side.

Mr. HEFLIN. Madam President, I yield 30 seconds to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa, Mr. HARKIN, is recognized.

Mr. HARKIN. Madam President, I thank the Senator for yielding 30 seconds.

I want to respond to my friend from West Virginia on the issue of the cloture vote. I ask my friend from West Virginia, are we not debating the bill? Are we not offering amendments? This bill was brought up on Friday. We have offered amendments. We are offering amendments. Also, we are voting on them. But, no, the proponents of this bill filed a cloture motion right at the beginning.

Give us a week to debate it. Give us a week to offer amendments. The proponents of this bill know that, if cloture is invoked, we have 30 hours total to debate and amend this bill. We can spend a week to 10 days on Whitewater, can we not? We can do that. But we cannot spend a little bit of time amending this bill. That is why we ought to vote to sustain the debate.

Mr. ROCKEFELLER. Madam President, I again defer to the majority leader. The Senator knows full well that the majority leader said the reason the cloture petitions had to be filed was because there would be a filibuster by the opponents.

Mr. HARKIN. We are just simply amending the bill.

The PRESIDING OFFICER. Who yields time?

Mr. ROCKEFELLER. I yield myself 2½ minutes, or whatever time is left.

I really do urge my colleagues to reject the obstructionism, to reject the filibuster. I think that this is a test of the Senate. Do we have the will to stand up to a small minority in a democracy when we have more than a majority of the Senate which wants to act its will on this bill? Will our Senators say to the people of our respective States that now you are limited to only 2 years from the point of your injury in order to bring suit and that, under this bill which we are advancing, that would be changed entirely to the advantage of the victim?

Our bill will allow injured persons to sue up to 2 years from the point of the discovery of the injury and the cause of the injury. Many injured people would benefit from this change.

Our bill will give more attention to the victims than to the pockets of lawyers. Facts have shown clearly over the years that the trial lawyers and the defense lawyers are getting more money in this process than are the victims who are injured and who have to wait an average of 5 years to receive compensation. Even after 5 years, 39 percent of these injured parties will receive no financial reward whatsoever.

This is a terrible injustice. It is being blocked by a few people who have tremendous power, who are able now for the 13th year to bring the business of this Senate to an absolute halt on this subject, to filibuster the Senate.

I appeal to my colleagues, to their sense of fair play, to their sense of reason, to their sense of fairness to the victims, that we support the motion for cloture.

I thank the Chair.

Mr. HEFLIN. Madam President, the issue that Senator ROCKEFELLER and others make is expedited court procedures. Let us cut back the backlog and the congestion and the time that it takes. That is an issue that we ought to agree on. We can support it, and we can take measures to approach it.

He mentions alternate dispute resolutions. I think we are agreeable to most alternate dispute resolutions. But let us do that separately and not with all of this unfair language, this fine print, this design to take away the rights of the poor person, the injured person, the woman, the child, the elderly. Let us put all of the unfairness that exists herein, let us separate this. It has one or two good points in it. You have that combined with all of the damage and other things that it does. It is just not a bill that ought to be adopted at all.

There is no issue here pertaining to savings on business because, clearly, the insurance premiums are not going to be affected. Clearly, it shows in the studies that there is no competitiveness problem here. The whole issue comes down to fairness. And I say to you that this is an unfair bill.

The PRESIDING OFFICER. The time of the Senator from Alabama has expired.

Mr. SIMPSON. Madam President, I want to commend the sponsors of this legislation for their tenacity. Senator GORTON and Senator ROCKEFELLER have been absolute stalwarts in their efforts to bring this bill to the floor. Both are very effective legislators.

However, I counsel my colleagues to consider carefully the consequences of our vote today.

If cloture is invoked, this bill or a similar version will very well be enacted into law. That disturbs me greatly.

Each Congress which has considered this, or similar proposals, has chosen not to enact such sweeping changes to existing law. I think that such a prudent course has been due to the realization that there are simply these areas of State law into which the Federal Government should not intrude.

We have heard a great deal of thoughtful and powerful debate on the floor of the Senate today and yesterday. It should be clear, Madam President, that for each example that has been given of an "abuse" in the current system, there are equally persuasive and powerful examples of how the system has worked quite well.

The current products liability laws do result in efforts to make products safer and do ensure that people have proper recourse to damages when and if they are injured.

Certainly, there are occasions to "fix" a problem.

I am concerned, however, that this "fix"—S. 687—is far too extreme for what amounts to variance in the laws of some States.

That is an important distinction, Madam President.

Some States' products liability laws may, in fact, lead to unfair results. However, the debate on this legislation has fallen far short of convincing me that "all" State laws are flawed.

Madam President, we do not need a "Federal fix" for this area of State law.

I would conclude my comments today by asking my colleagues a simple and direct question: Are we prepared to tell the State juries in our own States that we do not have faith in their common sense and judgment?

If we allow this legislation to be enacted, that is just what we will be doing. We will be telling our own constituents that we know better—we, not they, know best how to achieve "fairness" in the State courts. I do not believe we can, in good faith, make or believe in that statement.

I urge my colleagues to vote against cloture on this legislation.

Mr. MATHEWS. Madam President, for some time now, it has been clear that the present product liability system is in need of serious reform. In fact, there is serious question whether this hodgepodge of law, questionable claims, outrageous judgments, and economic roadblocks can be called a system in any commendable sense. I want to compliment Senator ROCKEFELLER for his leadership in addressing the product liability morass. And I urge all our colleagues to join with him to pass S. 687.

In taking this legislation up, Madam President, we must acknowledge that much of the quarrel generated by this bill is between defendants' lawyers and plaintiffs' lawyers. I believe we should avoid taking sides in that argument by concentrating on what the current product liability situation does to society, business, injured consumers, and the economy.

It seems to me, Madam President, that product liability statutes ought to facilitate three general goals. First, to enable consumers injured by manufacturers' negligence to be compensated promptly and proportionally. Second, to penalize manufacturers and sellers who perpetuate faulty merchandise upon consumers, who as a rule know less about the product than the people who make it. And third, to reign in the unscrupulous manufacturer with the jeopardy of legal action.

In other words, statutes should join and clarify responsibility and liability for both consumer and manufacturer. To a great extent, the system that exists now does neither.

What we have is a self-perpetuating, self-feeding litigation machine that devours billions of dollars a year. These costs drain resources that could be used to advance our economy. But even worse, they are only one aspect of the economic penalties inherent in our product liability predicament. Others include closed plants, laid-off workers, discontinued products, and products that are never developed because of actual and anticipated liability litigation. In dozens of industries ranging from aviation to pharmaceuticals, the United States is losing part of its competitive advantage and part of its incentive to innovate because the threat of untamed product liability damages is forever at our throats.

In many cases, that threat amounts to what I call graymail of American business. Take the case of Polyloom Corp. in my native Tennessee. Polyloom makes carpet yarn. The company was added to a product liability suit involving a schoolboy who tripped over a floor covered by a carpet containing its yarn.

Polyloom's president put the situation very well:

> Our lawyer advised us that we could not have any liability in such a case, but he also told us that we likely would not be able to extract ourselves from the lawsuit until just prior to trial or at the trial. When we approached the plaintiff's lawyer with the facts, we were asked to pay several thousand dollars for the privilege of getting out of something in which we did nothing wrong.

The company refused to be extorted and eventually was dropped from the suit—after it had incurred the expense of depositions, petitions, and litigation. Regrettably, Madam President, this kind of jobbery is common in the product liability process. Plaintiffs threaten a company with the expectation of higher insurance premiums, punitive damages, and loss of reputation unless it pays up to make the case go away. Graymail is becoming part of the cost of doing business in America.

Let me be clear: Firms that produce and sell products which do harm should compensate those who are harmed. But graymail does not penalize or restrain unscrupulous manufacturers and sellers. It encourages lawyers, acting in the interest of their clients, to cast their biggest net into the widest pool of potential defendants. It encourages a fishing expedition to find the deepest pockets for liability awards. It expands beyond any reasonable definition the notion of responsibility and liability on the part of consumer and manufacturer.

This legislation helps to restore reason to a situation that is becoming unreasonable for consumer and manufacturer alike. It benefits injured consumers by starting the statute of limitations for filing complaints according to a discovery rule rather than a time-of-injury rule. It promotes expedited settlement of claims by giving both parties incentives to make and accept reasonable reparations out of court. It encourages dispute resolution by an arbitrator, reducing the expense and time of litigation.

In particular, Madam President, this measure establishes a clear standard to which manufacturers can be held in assessing punitive damages. It calls for liability to be determined by acts that show conscious, flagrant indifference to consumer safety. I believe that this provision is especially worthy of note and support.

It establishes a clear, no-excuses rule that determines whether manufacturers have gone over the line. When firms violate that standard, courts and society are reassured that punishment by punitive damages is warranted. I believe that this standard will result in tougher punishments for firms that truly deserve them.

Overall, Madam President, I am convinced that this measure is worthy for many reasons. It preserves the right of justified claimants to compensation for injury and it enhances their right to swift and appropriate compensation. It reduces tremendous direct and indirect costs to business and our economy. It removes the speculation and ambiguity that plague the current system. And it establishes a much-needed clear standard for punishing firms that act in flagrant disregard of their responsibilities.

I will vote for this legislation, and I urge my colleagues to do likewise.

Mr. DORGAN. Madam President, I rise today to offer an amendment to S. 687, the Product Liability Fairness Act. As my colleagues know, this legislation would reform tort laws on the Federal level and make rule changes that relate to product liability cases. I believe that some kind of reform with respect to product liability cases is necessary and I am willing to support Federal action in this area. I share the concerns that many small businesses have with the current system. Small businesses are asking for some sort of attention to product liability issues and I want to respond to those concerns, namely that fear of liability inhibits their ability to conduct their business and create jobs. I hope the Congress will pass legislation to address these concerns.

However, I have very serious reservations about provisions in S. 687 which would provide certain manufacturers with a defense against any punitive damages if their product has received Food and Drug Administration [FDA] approval or Federal Aviation Administration [FAA] certification. It seems to me that the Congress would be making a grave error if we gave large pharmaceutical companies and aircraft manufacturers a defense against punitive damages and expect that the FDA and the FAA can provide absolute and perfect protection to consumers. Agency approval and certification of products is meant to compliment our tort system, not replace it. This is especially true in the area of punitive damages. It is unacceptable to consumers, especially to those concerned with women's health and the safety of aircraft, and would seriously weaken their rights to challenge manufacturers who market defective products. Notwithstanding the issue of compensating victims, punitive damages serve as a necessary check in consumer product regulation. My conscience cannot accept this provision in the bill and I cannot support this legislation if this provision remains in the bill.

PUNITIVE DAMAGES ARE NOT PART OF THE LIABILITY PROBLEM

That is why I am offering an amendment that would delete the FDA and FAA defense provisions on punitive damages. Although punitive damages are rare, they are very necessary when imposed. The bill in its present form would protect manufacturers from punitive damage exposure if their product is approved by the FDA or the FAA. The fact is that punitive damages are not a problem in the present tort system. The problem that needs to be addressed is that there are too many frivolous cases filed and settled simply to avoid a nuisance rather than resolve whether or not there was fault on the part of a manufacturer. The nuisance problem is draining resources and burdening small businesses. I want to address this problem and I believe other provisions in the bill address this issue. But the FDA and FAA provisions have no relation to the product liability problems that need to be addressed. Rather, they raise serious concerns about the ability of consumers to rectify unjustifiable behavior by a manufacturer.

Punitive damages are imposed in cases where there is a need to punish and deter manufacturers whose fault is conscious or reckless. Punitive damages are necessary to impose a threat on manufacturers whose negligence or disregard for safety are almost criminal, or worse and are intended to force dangerous products either off the market or require manufacturers to redesign bad products. By eliminating the exposure to punitive damages for certain classes of products as the bill provides, a critical regulating device which has been used to get bad products off the market would be diminished.

At issue with this provision is not simply a matter of individual compensation for negligence. Rather, a broader social objective is at stake where the tort system plays a necessary role to hold manufacturers and Federal agencies in check. The FDA and FAA provisions in S. 687 provide protection to manufacturers in the kinds of cases where it is in the best interest of the public to fight for consumer protection. Examples of where the FDA and the FAA have failed to remove dangerous products are legion. If companies are given a defense from punitive damages because a Federal agency provides marketing approval, we are throwing public health concerns with respect to drugs, medical products, and aircraft manufacturing to the wind.

BURDEN OF FEDERAL AGENCIES

It would be naive of the Congress to believe that any government regulatory agency or system could prevent, stop, or control the marketing of harmful products. At best, Government safety standards establish minimum levels of protection for the public. The FDA and the FAA have been slow to act in the face of evidence of harm and have failed to catch dangers in the marketplace in the past. Certainly, similar failures will happen in the future, especially if these agencies are not given increased resources and enhanced authority to monitor product safety. Even if the FDA and the FAA were dramatically improved, there will be cases where harmful products are approved and negligent behavior on the part of manufacturers will be the cause. We need the trot system to help identify these situations.

A 1990 GAO report found that between 1976 and 1985, 51.5 percent of the drugs approved by the FDA had serious post-approval risks that could lead to hospitalization, increases in length of hospitalization, severe or permanent disability, or death. There are multiple factors contributing to this phenomenon. One is that the FDA approval process is inherently limited; another is limited resources. However, given understood limitations, the agency is very overburdened. In 1979, FDA had a staff of 8,000. In 1989, after enactment of 24 new laws increasing the agency's responsibilities, the staff levels dropped by 1,000.

In this debate, it is important that we understand how the FDA approval process works. The fact is that the FDA does not do any of its own testing. Rather, it must rely entirely on data and test results conducted by the manufacturer. On top of that, the FDA is one of the very few Federal agencies that does not have subpoena power—an important enforcement tool possessed by all the Federal departments and dozens of boards and commissions. Despite the fact there have been attempts in the Congress to grant subpoena power to the FDA, the big drug companies have fought his legislation vigorously. The pharmaceutical industry that is now seeking immunity from liability from punitive damages in this legislation has fought hard to deny effective enforcement tools to the FDA that would give us more assurance that companies are marketing safe products. It seems strange to me that commissions like Floral Research and Information, Watermelon Research, and Vesting and liquidation of Bulgarian, Hungarian, and Romanian Property International Claims would have subpoena power yet the FDA does not and the pharmaceutical industry would continue to fight the same enforcement powers for the FDA—where much more is at risk with respect to public safety.

DANGEROUS PRODUCTS WITH FDA APPROVAL

Examples of cases where the FDA has permitted a manufacturer to knowingly market a dangerous during or medical device are many. Most of us are aware of the problems caused by the Copper-7 IUD's and silicone breast implants—both FDA sanctioned products which were not only harmful to the public but are cases in which the FDA had knowledge of the products' dangers. There are numerous other examples where either because of manufacturer negligence or because of agency oversight failure, medical drugs and devices were marketed despite serious health concerns:

Bjork-Shiley heart valve, was sold with FDA permission between 1981 and 1986 even though both the FDA and the manufacturer of the valve had evidence of strut fractures that led to the death of many patients;

Albuteral, an asthma drug that has recently been recalled when it was discovered that millions of vials of the drug were contaminated with bacteria;

Theratronics radiation equipment. Therac 25, a cancer treatment device, was found to be associated with five deaths in 1984 and 1988. Inadequate FDA bookkeeping allowed the product to be used until is prohibited its importation in 1991;

Zomax, versed, and accutance are examples of drugs where the FDA ignored data showing potentially serious health risks; and

The list goes on. But the point of mentioning these examples is not to assert whether or not the manufacturers of these products have engaged in behavior worthy of punitive damage awards—that issue needs to be left to a court. Rather, I raise these examples to point out that the FDA approval process cannot be used as a shield for manufacturer disregard for public safety. Under the FDA approved process, the agency must rely upon the data and clinical trials supplied by the manufacturer seeking approval. The FDA approves a product based upon the weighing of risks versus benefits. It is always understood that many risks cannot be detected in the pre-market approval process and often information about serious safety concerns arise after approval. The relevant question here is whether or not a manufacturer has engaged in behavior that warrants liability for harm caused by their product, despite agency approval. It makes no sense to me to say that we should exclude a role for the tort system to provide this "check" on product safety regulation. The FDA has numerous responsibilities, the most important of which is to protect public safety by doing its best to identify unsafe products. It should not be shouldered with the responsibility as the prime enforcer of reckless behavior that is in flagrant disregard of public safety.

THE FRAUD EXCEPTION MEANS ESCAPE CLAUSE

The FDA and FAA defense provisions include a clause which would eliminate the defense if the manufacturer received product approval through fraud or has not complied with information sharing requirements to the appropriate agency. However, this "escape clause" is far from adequate and does not change the fact that the actual impact of these provisions will mean simply that negligent manufacturers will have more protection in a lawsuit and in turn a substantially larger burden will be placed on the consumer to win damages. Under this legislation, the burden is placed on the injured individual to prove what is required to be submitted to the agency, and what information is relevant and material. Further, the FDA and the FAA are not adequately equipped to take on the additional and judicial functions of determining when corporations will be liable for punitive damages. In the last analysis, the consumer will bear the burden and responsibility to prove that a company defrauded a Federal agency with a product before they even have the opportunity to pursue damages. Furthermore, consumers will have the additional burden of having to demonstrate causation between the fraud and the harm caused under this legislation. The fraud exception simply places more and more hurdles in front of victims.

The results of the fraud exception and the so-called increased reporting requirements in this legislation will be that companies will flood FDA with massive amounts of information as to cover their tracks in the event problems do arise with their product. There is no requirement that this information is usable; companies can just dump boxes of information and leave it up to the agency to devote staff to dig through it. It seems to me that this exception will create more litigation and create more battles for lawyers to fight in liability cases, including an onslaught of litigation against the FDA and the FAA when plaintiffs are seeking to determine whether or not fraud was involved in the approval process.

How can we expect victims to identify fraud and prove it when the agency itself cannot? According to an FDA official quoted in a January 1992 article in the New York Times, the agency has no effective way of identifying fraud or serious misrepresentation of test data by companies. Madam President, I ask unanimous consent to include this article in the RECORD. What assurances will consumers have that fraud or information withholding has occurred? It seems to me that advocates of the FDA and FAA defense provisions need to demonstrate what is going to change overnight at the FDA or the FAA that will improve the ability of these agencies to identify the fraud and misinformation so that this exception would have any meaning at all.

It must be kept in mind that this legislation would significantly increase the burden of proof for punitive damages as well as establish a tighter definition of behavior subject to punitive damages than what is currently used in most States. Under S. 687, a plaintiff would have to show, by "clear and convincing evidence" that "the harm suffered was the result of conduct manifesting a manufacturer's or product seller's conscience, flagrant indifference to the safety of those persons who might be harmed by the product." My amendment does not affect this provision. However, it is important to point out that the FDA and FAA defense provisions in the bill is designed to protect manufacturers who would otherwise be found guilty of this very high standard—except for the fact that their product was approved by a Federal agency such as the FDA or the FAA.

FDA DEFENSE IS NOT NEEDED TO ENCOURAGE INNOVATION

One of the false claims being made about S. 687, the Product Liability Fairness Act, is that one of the bill's provisions, section 203 which would grant manufacturers of drugs and medical devices immunity from punitive damages if their products are approved by the Food and Drug Administration, will actually encourage innovation and increase availability to new drugs and medical devices. It is being asserted that because of liability exposure, new pharmaceutical drugs and medical devices are withheld from the market and suppressing innovation. There is no basis in fact for these claims.

It is not true that liability exposure is preventing people from obtaining safe and effective life-saving or life-enhancing medical devices. None of the products now being cited as examples of products that have been withheld because of liability concerns should be considered fully safe and deserving of immunity from product liability claims. In the committee report of the Senate Committee on Commerce, Science, and Transportation on S. 687 (November 20, 1993), Senator HOLLINGS rebuts a number of these the claims, including Copper-7 IUD's, which proponents claim is safe despite overwhelming evidence to the contrary; Puritan-Bennett Anesthesia Gas Machines, which were actually recalled by the manufacturer and the FDA for causing deaths and injuries; and Ortho contraceptives, over which punitive damages were awarded because the manufacturer ignored substantial evidence that the product cased renal failure.

Similar concerns have arise about another example: implanted shunts which are used to drain excess fluids from the brain. The shunt is made from Silastic tubing, a type of silicone, and has been implicated in intense inflammatory reactions in patients. Madam President, I ask unanimous consent that his article be printed in the RECORD.

Finally, proponents has also asserted that an AIDS vaccine could not be marketed because of fears about products liability. According to a recent Washington Post, the vaccine manufactures are racing to get an AIDS vaccine to market. The problems vaccine manufacturers are facing in getting their products to market are a lack of volunteers for clinical trials, NOT supposed fears about product liability. According to the article, there is no shortage of vaccine candidates; however, the

AIDS community did not feel that these vaccines were promising enough to justify clinical trials in high-risk populations. In addition, a recent letter from Project Inform lays to rest that claims of liability exposure is hampering the development of an AIDS vaccine. Madam President, I ask unanimous consent that the Washington Post article and the letter from Project Inform be printed in the RECORD.

The fact is that drug manufacturers do not need additional incentives in order to invest more in innovation. According to a Senate Aging Committee report, U.S. drug manufacturers spend far more on marketing and advertising, 22.5 percent of revenues, than on research and development, 16 percent of revenues. The pharmaceutical industry in the United States does not have an innovation problem—the problem is with inflated prices and protecting consumers from dangerous products. The bill's provisions that would shield drug manufacturers, under the veil of innovation, is not the kind of response the American people want Congress to give the big drug companies.

Clearly, the FDA punitive damage defense provisions in S. 687 jeopardize health and safety. These provisions do nothing to improve availability of safe medical products. Rather, these provisions remove big pharmaceutical companies and medical device manufacturers from accountability for defective products.

FAA CERTIFICATION IS SELF-CERTIFICATION

The FAA certification protection for manufacturers raises similar concerns. A recent study by the General Accounting Office was very critical of the FAA's certification process and found that the FAA has delegated so much of its responsibilities for certification that it has "lost its ability to effectively oversee or add value to the certification process as well as understand new technologies." If the FAA has such serious weaknesses with its certification process, why should it be used as a protection by a manufacturer? Madam President, I ask unanimous consent that a copy of this GAO study be printed in the RECORD.

FAA regulation is ostensibly self-regulation by aircraft manufacturers. To rely upon the FAA certification process as a defense against liability exposure is nothing less than falling for the "fox guarding the henhouse" problem.

CONCLUSION

Why is it that in cases where a company may be guilty of near criminal behavior with respect to showing blatant disregard for public safety, we would want to favor tort rules to benefit the manufacturer and make it substantially more difficult for the consumer? That is what these provisions in section 203 of this legislation accomplish.

If the FDA and FAA provisions remain in S. 687, I cannot support the bill. As I mentioned above, I want to support some sort of product liability reform. That is why I voted favorably to report this legislation from the Commerce Committee last fall. But the FDA and FAA provisions in the bill do not address the liability concerns that should be part of this legislation. The major beneficiary of these provisions is the large pharmaceutical companies that want to be protected from liability if they show disregard for public health. Let's not give them that break at the expense of victims and public safety.

I hope that my colleagues will realize the danger these provisions cause to public health and support my amendment to remove them from the legislation. If that is done, I believe that S. 687 will be a bill that those of us who want to support product liability reform which benefits small businesses will be able to support.

I urge my colleagues to support this amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Jan. 26, 1992]

QUESTIONS RAISED ON ABILITY OF FDA TO PROTECT PUBLIC

(By Gina Kolata)

Consumer groups and Federal officials are raising disturbing questions about whether the Food and Drug Administration has adequate powers to protect the public from dangerous drugs and devices. Recent cases involving silicone breast implants, the sleeping pill Halcion and the sedative Versed suggest that the agency and the public are sometimes the last to learn of reports of dangerous side effects.

The Federal agency does no testing of its own, and in making decisions it must rely entirely on the test results submitted by manufacturers. Officials of the agency and consumer advocates both say that the F.D.A. lacks the subpoena power, which virtually every other Federal agency has, to obtain drug company documents when suspicions are aroused.

Even when people who are harmed by drugs go to court and their lawyers discover reports of side effects in the companies' files, the companies may settle the case on condition that the reports are sealed. As a result, years may pass before the drug agency gets to hear of vital information about hazards.

In the case of silicone breast implants, the data that caused the Commissioner of Food and Drugs, Dr. David A. Kessler, to ban implants this month pending a review of their safety had long been known to the Dow Corning Corporation. The details were disclosed to trial lawyers eight years ago, but the drug agency learned about them only recently because a court agreement had kept them confidential.

"In view of the recent history with generic drugs and the data that are reported with Halcion and that are about to come out with breast implants, it is hard to say there's not a problem," said Dr. Alan Lisook, who is chief of the clinical investigations branch at the drug agency. He said he did not see any immediate solution. Among the disclosures that have shaken the agency are findings that some generic drug companies falsified the tests that enabled them to get their drugs marketed. Within the last six months there have also been allegations that major drug companies withheld safety data from the F.D.A. In one instance, questions were raised about the safety of the sedative Versed after the disclosure of internal documents from Hoffmann-La Roche Inc., which makes the drug. In addition, researchers who were witnesses in a lawsuit and had seen internal company documents accused the Upjohn Company, which produces the sleeping pill Halcion, of falsifying and failing to report data on adverse reactions in its clinical tests. In another lawsuit, against Dow Corning, the maker of silicone breast implants was accused of misrepresenting its safety data to the F.D.A.

COMPANIES DENY WRONGDOING

The final verdicts on Halcion and the breast implants have not been reached. The companies that make them vehemently deny any wrongdoing and say their data support their products' safety and efficacy.

The Pharmaceutical Manufacturers Association, which represents makers of brand-name drugs, said it did not perceive a problem in the F.D.A.'s ability to learn whether companies misrepresented or failed to report data. "To the extent that problems exist, the F.D.A. can detect them," said Dr. John Petricciani, the director for medical and regulatory affairs at the association.

But officials at the F.D.A. and consumer advocates say the recent cases spotlight the agency's limitations in accurately assessing the safety of drugs and devices. Adverse data about both Halcion and silicone breast implants were provided by their manufacturers to plaintiffs' lawyers but reached the F.D.A. only by chance.

Drug industry experts say there was no good way of determining whether the few cases that have appeared are anomalies or the tip of an iceberg. But some consumer advocates have voiced grave concerns that the companies may have hidden adverse data on other drugs.

Arthur Bryant, executive director of Trial Lawyers for Public Justice, a national public interest law firm, said the situation had seriously endangered patients. "The entire system, where secrecy is permitted, works to enable companies to maximize profits by sacrificing peoples' lives," he said.

Dr. Sidney Wolfe, director of the Health Research Group, which is part of Ralph Nader's Public Citizen consumer advocacy group, agreed. The F.D.A., he added, "is extraordinarily dependent on the companies to be honest."

"But as the line increases of companies that have pleaded guilty to criminal charges, maybe the default position is not to trust the companies," he said.

It might seem that any company that marketed an unsafe drug or device would be found out as adverse reactions accumulated. Yet F.D.A. officials say they have seen companies minimize or ignore adverse reactions in their reports to the agency, even though those side effects eventually forced the company to pull the drug from the market and incur heavy costs.

Dr. Robert Temple, director of new drug evaluations at the F.D.A., speculates that companies might grossly play down adverse reactions to their drugs because of "wishful thinking, hopes and dreams" on the part of companies that the reactions are not serious. "The most striking thing we've seen is companies not appreciating the wild horses they were riding," he said.

In addition, he said, he believes companies may fear that "if they tell us about it, we'll get hysterical and we won't make a reasonable judgment."

Dr. Henry Grabowski, an economist at Duke University who has studied the drug industry, said financial considerations could sway a company to play down adverse data. "Sometimes you can have a mindset that a drug will be very commercially important," he said. "You don't want to hear bad news about it. You don't really develop or acknowledge some problems."

F.D.A. officials and consumer advocates say that the F.D.A. stands virtually alone among Federal agencies in its lack of subpoena power. The Department of Agriculture, the Environmental Protection Agency, the Department of Transportation and the Federal Trade Commission all have subpoena power. Without it, the F.D.A.'s only stick is to threaten criminal prosecution by the Justice Department if it finds critical data have been withheld.

Dr. Lisook said subpoena power would certainly help the agency to investigate possible withholding of data about adverse drug reactions. "We can only pursue some cases to a certain point because there is information we can't obtain because we lack subpoena power," he said. Instead of forcing companies to produce documents and internal memorandums to establish whether there is any wrongdoing, the F.D.A. has to be certain enough that something is wrong to persuade the Justice Department to begin a criminal prosecution.

SUBPOENA POWER FOUGHT

The Pharmaceutical Manufacturers Association, however, opposes giving the F.D.A. subpoena power and heavily lobbied against it when a bill to give the agency that power was introduced in Congress last year. The bill failed to win approval after the Secretary of Health and Human Services, Dr. Louis W. Sullivan, said it would be vetoed.

The F.D.A. also has no good way of finding fraud or serious, if inadvertent, misrepresentation of data by companies. In its fraud investigations, Dr. Lisook said, the F.D.A. scrutinizes the records of individual investigators who perform studies for drug companies. On occasion, it has found that the investigators cheated, even making up all of their data. This happened with one independent researcher who studied Halcion, for example. But the agency cannot easily detect the next level of misrepresentation or negligence, a company's failure to properly report and analyze researcher's data, Dr. Lisook said.

A discrepancy between case report forms and company analyses would not ordinarily be apparent to the F.D.A., Dr. Lisook said, partly because the agency does not even receive most case report forms. Since 1984, when F.D.A. regulations were revised, companies have not been required to submit most case report forms to the F.D.A.

Dr. Lisook said the F.D.A. has stumbled upon companies that accidentally or purposely overlooked adverse reactions in their reports to the agency. "We can't go to a company and say, 'Tell us if there are adverse reactions you didn't submit,'" Dr. Lisook said. "We don't have any good method to determine whether what is on the case report forms is identical to what is on the tabular summaries."

In the case of Halcion, critics who have examined case report forms in connection with a lawsuit against Upjohn charge that the company left out information about adverse reactions reported on those forms when it prepared its data analyses for the F.D.A. Upjohn denies the charges and the F.D.A. is currently examining the forms and comparing them to the company's data analyses.

Another source of frustration for the F.D.A. is the growing tendency of companies to obtain secrecy orders that seal potentially damning company documents that are produced in product liability suits. These orders prevent the plaintiffs, their expert witnesses, and their lawyers from ever disclosing what they learned. The Halcion data were uncovered in a product liability lawsuit that was settled with a secrecy order.

The Pharmaceutical Manufacturers Association opposes changing secrecy orders to enable the F.D.A. to be guaranteed access to company data.

Secrecy orders that keep information on the safety of drugs and devices from the public and the F.D.A., "are an outrage, a total outrage," said Mr. Bryant, the public interest lawyer. "These standards for keeping data from the eyes of the public should be far higher than they are now," he said. "Yes, there should be secrecy for certain things like the formula for Coca-Cola. But we are talking about matters that involve threats to the public health and safety, matters that allow the public to evaluate whether the courts and regulatory agencies are doing their jobs."

[From the Lancet, Aug. 29, 1992]

ANTIBODIES TO SILICONE ELASTOMERS AND REACTIONS TO VENTRICULOPERITONEAL SHUNTS

(By Randall M. Goldblum, Ronald P. Pelley, Alice A. O'Donell, Debra Pyron, and John P. Heggers)

INTRODUCTION

Elastomers formed of cross-linked polydimethylsiloxane, commonly called silicone elastomers, are widely used to make medical implants and prostheses. Silicone elastomers are generally believed to be biologically inert, since tissue responses are usually limited to mild foreign-body reactions. However, over the past 10 years, there has been increasing suspicion that rare, severe inflammatory reactions to silicone elastomer implants have an immunological basis. 1, 2 We report evidence that specific antibody reactivity to polydimethylsiloxane develops in some patients after repeated exposure to Silastic (Dow-Corning Wright, Midland, Michigan, USA) shunt tubing.

CASE REPORTS

The first patient was a caucasian girl who had a low lumbar myelomeningocele repaired on the first day of life. A ventriculoperitoneal (VP) shunt was inserted at 19 days and revised at 4 months. When the patient was 6 years old an abdominal pseudocyst formed around the shunt. A year later a neck wound from a shunt revision became red, exuded clear fluid, and separated, exposing the underlying shunt tubing. This process recurred eleven times over the next 4 years. Similar reactions were seen at sites of silicone-coated sutures. Cultures from the wound sites, collected many times over 3 years, and four tissue samples failed to show any microorganisms, despite use of many special stains and electronmicroscopy. Histology of the inflamed tissue showed granulomatous inflammation with many lymphocytes, macrophages, giant cells, epithelioid cells, and occasional plasma cells. There was mild hypergammaglobulinaemia (IgA 3.24 g/l/ IgG 15.9 g/l). Serum samples taken when the child was 9–11 years old were stored frozen until analysis. At the ninth shunt replacement (age 14 years) precautions were taken to cover the track with intact tissue; it has been well tolerated for longer than 3 years.

The second patient was a Latin American girl who developed hydrocephalus at 9 months. Computed tomography confirmed hydrocephalus and showed partial agenesis of the corpus callosum and a Dandy Walker deformity. A VP shunt was placed and revised when she was 5½ years. 2 months later the shunt was extruded in the same way as in the first patient. A few months later an abdominal pseudocyst was noted. Local reactions developed along the shunt, but no microorganisms were found by culture or histology. Serum concentrations of IgG (15.4 g/l) and IgM (4.6 g/l) were moderately high and there was unexplained eosinophilia (1.2 10. sup. 9/l). The reactions gradually resolved over 10 days. Serum samples were taken at the time of admission to our hospital and a year later.

METHODS

These intense inflammatory reactions surrounding recently implanted Silastic tubing, in the absence of infection, suggested an immunological reaction, possibly to the tubing. To investigate this possibility, we developed an assay to detect antibodies to Silastic tubing. We also collected samples from five patients with VP shunts (aged 5–37 years) who had had no clinically apparent reactions. Four of these patients had had malfunction of their shunts, requiring at least one surgical revision. The assay was a modified enzyme-linked immunosorbent assay (ELISA) 3 with Silastic tubing as the solid-phase antigen. 1 ml volumes of serial tenfold dilutions (1/10–1/1000) of serum in 0.05 mol/l phosphate-buffered saline, pH 7.1, with 0.05% (by volume) Tween 20 (Sigma Chemical Co., St Louis, Missouri, USA) were incubated overnight at 20 degrees C in polystyrene test-tubes with 1 cm sections of surgical Silastic tubing, sliced linearly to allow full exposure of inner and outer surfaces. The pieces of tubing were washed three times with 3-4 ml buffer, then incubated for 4 h with rabbit antibody to human IgG conjugated with horseradish peroxidase (Dako, Carpinteria, California, USA), washed again, then transferred to clean polystyrene test tubes. 1 ml enzyme substrate (0.2 g/l orthophenyl enediamine dihydrochloride in citrate buffer with 0.25% hydrogen peroxide) was added to each tube and the enzyme reaction was allowed to continue for 20 min, then it was stopped by acidification. The optical density at 492 nm was measured (EIA reader, BioRad, Richmond, California). Each experiment contained one serum sample from patient 1 and a buffer control. Assays were run in duplicate. Optical densities for the buffer controls were always less than 7% of the maximum value for serum from patient 1.

To find out whether the IgG binding to Silastic tubing was specific, IgG was separated from the serum of patient 1, by means of a protein A column (BioRad), and cleaved into Fc and Fab fragments with papain immobilised on Sepharose beads (Pierce Chemicals, Rockford, Illinois). Fab fragments were separated from intact IgG and Fc fragments, concentrated, and checked for purity by sodium dodecyl sulphate polyacrylamide gel electrophoresis. The binding of Fab fragments to Silastic tubing was measured by means of the rabbit anti-IgG or a mixture of anti-kappa and anti-l ambda conjugates (Dako) diluted 1/500 and 1/3000, respectively.

We investigated the specificity of IgG binding to Silastic tubing further by assaying serum samples previously exposed to tubing or methylsiloxane-conjugated proteins. 1/10 dilutions of serum were exposed to 1 cm or 2 cm sections of Silastic tubing, as described above. The tubing was then removed and a fresh section of tubing was added to each absorbed serum. Both sets of Silastic tubing were processed to determine the amount of IgG bound.

Methylsiloxane-conjugated proteins were made by mixing 1 mg crystalline bovine serum albumin or ovalbumin (Sigma) with 1 ml pyridine in glass tubes previously treated ("siliconised") with a reactive oligodi methylsiloxane (Sigmacote, Sigma). The crystals were sonicated in a bath for 90 min at 56 degrees C and the mixture was left at 23 degrees C overnight to allow the pyridine to infiltrate the protein crystals. Varying amounts (10–1000 mu l) of the silylating agents orthobis- (trimethylsilyl) -trifluoro acetamide (Pierce) or N-trimethyls ilylimadazole (Supelco, Bellefonte, Pennsylvania) were incubated with the protein/pyridine suspension for 2 h at 56 degrees C with sonication. The mixture was evaporated to dryness under nitrogen, and the residue was suspended in 1 ml Tween-phosphate buffer. Control protein complexes were prepared in the same way, but no silylating agent was added; these samples were exposed to pyridine in "siliconised" glass tubes.

The oligomethylsiloxane-protein complexes were then used to absorb serum from patient 1. About 50 mu g of the complex mixture was incubated with 10 mu l serum for 15 min at 37 degrees C in a total volume of 1 ml. The absorbed serum was then used in the Silastic tubing ELISA.

RESULTS

In the ELISA for IgG binding to Silastic tubing, binding of serum IgG from patients 1 and 2 was easily shown at all three dilutions; serum from VP shunt patients without inflammatory reactions and from 9 healthy adults showed much lower or undetectable IgG binding (fig 1). To show that the binding to Silastic was attributable to specific antibody, IgG and Fab fragments from patient 1 were compared. Binding of the Fab fragment (anti-light-chain conjugate) approached that of intact IgG (fig 2). Fig 3 shows the effect of incubating serum from patients 1 and 2 and a normal adult with tubing before assaying the serum for IgG antibodies to Silastic. In both patients, most of the IgG able to bind to Silastic tubing was removed by the preincubation, though the concentration of total IgG determined by rate nephelometry did not change. The amount of IgG able to bind to Silastic tubing was also reduced substantially (22–56%) by preincubation of the serum with protein that had been subjected to pyridine treatment in silicone-treated glasswear (fig. 4). Incubation of serum with proteins treated with increasing amounts of either silylating reagent resulted in further decreases in IgG binding. Proteins conjugated with a large molar excess (680–1400 moles of trimethylsiloxane per mole of hydroxyl residues of protein) removed from the serum 72–81% of the binding activity for Silastic tubing (fig. 4). The results for the two different proteins and two different silylating reagents were pooled, since they showed no significant differences by ANOVA.

DISCUSSION

Temporary and long-term implantation of various devices made from silicones has become common medical therapy. Reactions to there foreign materials are usually restricted to mild fibrosis, 4 but immune mechanisms were proposed for some cases of obstruction of VP shunts, when inflammatory cells were detected in the tubing lumen. 5,6 Other evidence from patients and from experiments in animals suggests that the silicones may not be immunologically inert 2, 3, 7–10 and may elicit inflammatory reactions.

The two patients described here probably represent unusual complications of VP shunt placement, but similarities in their histories suggest common mechanisms. Their VP shunts were well tolerated at first, but after surgical revision of the abdominal pseudocysts and intense subcutaneous reactions developed at the sites of silicone implants and silicone-coated sutures, which could not be attributed to infections. All serum samples from both patients contained IgG that bound to the tubing in greater quantities than did IgG from normal adults or other VP shunt patients without inflammatory reactions.

The bound immunoglobulin seemed to be specific antibodies, since the Fab fragment of IgG also bound to the tubing and most of the binding IgG was removed by preincubation with similar tubing or siloxane-conjugated proteins. However, we cannot attribute the local inflammatory reactions to these antibodies. The granulomas observed in patient 1 are more consistent with T-cell-mediated immune lesions than with antibody-mediated reactions.

We have not yet found a form of polydimethylsiloxane adequate for in-vitro testing of cellular immunity in these patients, though the oligomethylsilane-protein complexes we used may be useful. The nature of the silicone antigen that elicits the immune response is not known.

Because therapeutic use of polydimethylsiloxane is widespread, the frequency of immune responses to these materials and their relation to adverse reactions to silicone implants should be studied further. Better understanding of the mechanisms by which patients become sensitised to polydimethylsiloxane could facilitate the selection of patients for implantation procedures, and aid in the development of new synthetic polymers that reduce the risk of adverse reactions to implantation of important medical devices.

[From the Washington Post, June 18, 1994]

NIH Delays Full-Scale Testing of Potential AIDS Vaccine

(By David Brown)

The National Institutes of Health yesterday decided to put off sponsoring a full-scale AIDS vaccine trial until more promising vaccines are developed or the two versions now ready for testing show more laboratory evidence that they are likely to work.

As a result, vaccine testing in thousands of high-risk people almost certainly will not occur for at least two years. By then, entirely different strategies for immunization could compete head-to-head, something that would not be possible if the nearly identical "candidate" vaccines were tested now.

An advisory committee of the National Institute of Allergy and Infectious Diseases (NIAID) reached the decision after an eight-hour public meeting yesterday. The recommendation was passed on to Anthony S. Fauci, the institute's director, who immediately accepted it. NIAID oversees virtually all of NIH's clinical studies of AIDS.

The decision will erode the lead that two biotechnology companies, Genentech and Biocine, have in the race to be the first to develop an effective vaccine to prevent infection by the human immunodeficiency virus (HIV). The 28-member advisory panel concluded there was neither compelling scientific evidence nor sufficient enthusiasm in high-risk communities where volunteers would be recruited, to justify a trial now.

In a sea of change from their familiar role of urging early testing of AIDS drugs, several AIDS activists advised against starting a large vaccine trial until there is greater scientific consensus that the candidates are very strong.

"Once we go down this road with a mediocre product . . . we may never have the chance to recruit a large number of people again," said Martin E. Delaney of Project Inform in San Francisco, a member of the advisory committee. He said much of the AIDS-ravaged gay community is discouraged by poor results of AIDS treatment drugs, and is much less likely to volunteer for clinical experimentation now than in the past.

"We have only one chance to test a vaccine in a large randomized trial, and this is not that chance," he said.

At a news conference after the meeting, however, Fauci emphasized the decision was essentially to delay testing the two vaccines, not to reject them as worthless.

"It is clear that the recommendation of the [advisory] group is not that there should be an abandonment of this concept [of immune protection that Genentech and Biocine have developed]," he said.

Both vaccines employ a protein from the virus's shell, or "envelope," to stimulate an uninfected person's immune defense against HIV. Those defenses are antibodies—biochemicals that specifically target the virus—and a class of white blood cells that attacks and kills cells the virus invades immediately after infection.

The protein in the vaccine, called gp120, is made by genetic engineering techniques and is incapable of causing HIV infection itself. It is like the crystal of a watch. The watch's works—in this case, the reproductive machinery of the virus—form no part of the vaccine.

Numerous other vaccines are now in development. Some involve splicing HIV genes into another carrier ("vector") virus, such as vaccine, which is the one used for smallpox vaccination. Replication of the vector then releases large amounts of harmless HIV protein into the body. Some scientists believe this strategy more closely resembles the real mechanism of HIV invasion, and will elicit a more robust defense.

Several panel members said they felt that a large trial testing a vector vaccine against an envelope vaccine would be a better use of time and money than a large trial testing only two envelope vaccines.

The two gp120 products have been used in small studies that allowed researchers to test their safety and to run numerous blood tests on volunteers to determine immune-system effects.

Those studies have shown that gp120 can stimulate a person to make antibodies and can case proliferation of certain types of white blood cells. In laboratory experiments, however, those antibodies have not been able to prevent infection of cells by "wild" HIV virus.

Seven chimpanzees who were given the vaccines subsequently resisted infection when HIV was injected into their bloodstreams. Company representatives pointed to these experiments as proof of their products' promise. Many panel members, however, were unsure how much could be extrapolated from such a small sample of animals—and from a species known to respond very differently from human beings.

The largest of the gp 120 studies done so far enrolled several hundred people at high risk for HIV infection because of their sexual practices or drug use. During the study, three persons—none of whom had gotten the full course of three shots—developed HIV infection through known routes of exposure. This did not prove that the vaccines were useless, but only that a single dose of them was not protective.

Numerous members of the advisory panel said that before moving to a larger trial, information should be learned about these "breakthrough" cases: what subtype of virus caused them; what their tests of immunity showed; and how their infections progress.

The panel considered two possible trials it could have recommended for starting later this year. One would have required 9,000 high-risk volunteers, divided equally into three groups who would receive one of the two vaccines or placebo. It would have had the power to determine with a high degree of certainty whether a vaccine's effectiveness was 50 percent or greater. Such a study would take 3½ years to run, at a cost of up to $18 million a year.

The other option, enrolling 4,500 people, could reliably identify a useful vaccine only if it was protective 70 percent of the time. There seemed to be little confidence among panel members the gp 120 candidates would perform that well. They concluded such a study (with a price tag as high as $9 million a year for two years) was not worth the money.

A recent survey of a community network of potential vaccine trial volunteers, set up under NIH auspices, showed that only 36 percent of gay men and injection drug users were "very willing" to participate in a vaccine trial.

PROJECT INFORM,
San Francisco, CA,

To whom it may concern: Some groups have suggested that product liability laws are the principal reason we don't yet have a vaccine for AIDS. In response, they suggest that greatly relaxing such laws would result in quick or immediate marketing approval of such a vaccine. This is simply not the case. The principal reason that we don't yet have an approved AIDS vaccine is that no such vaccine has demonstrated the ability to protect humans against the normal routes of infection by HIV, the virus which causes AIDS, and no vaccine has yet been proven to be completely safe. No vaccine has yet reached the stage of testing where product liability issues are even a significant concern.

Last week, as a member of the NIAID AIDS Research Advisory Committee, I voted against initiating widescale human testing of two proposed vaccines for AIDS, products of Genentech and Biocene, a division of Chiron Corporation. Liability issues never once entered the discussion. Instead, the committee voted against approval of wide scale testing primarily because the vaccines hadn't shown sufficient evidence of efficacy in initial trials, and secondarily because some safety questions remain, principally the question of whether such a vaccine might accelerate the course of disease in someone who became infected despite vaccination. Because these concerns remain unanswered, and because of the financial and human resources costs of the proposed trials, it was felt that the public interest would be best served by waiting for the availability of additional promising vaccine candidates which might be tested comparatively. These two vaccines, despite their weaknesses, are the products in the most advanced stage of testing and development of AIDS. Questions of safety and efficacy are thus larger still for any other vaccine candidates, which have not yet had even the level of human testing of these two.

There are many possible ways to build a vaccine for AIDS and I am no position to argue that one approach is inherently better than another. Only a graduated, step-by-step testing process can determine which is the safest and most effective approach. Product liability concerns are not presently an obstacle to such testing, which must precede any marketing approval of a vaccine. Regardless of product liability concerns, the availability of a vaccine for AIDS is many years away.

MATTHEW DELANEY,
Founding Director.

GAO REPORT—FAA'S CERTIFICATION PROCESS, EXECUTIVE SUMMARY

PURPOSE

The Federal Aviation Administration (FAA), which is responsible for certifying that new aircraft designs and systems meet safety standards, is faced with the daunting task of keeping abreast of increasingly complex technologies. Douglas Aircraft Company's MD-11 aircraft, for example, relies on sophisticated software systems to continuously monitor and adjust the hydraulic, electrical, and fuel systems without any action by the crew. Stating that it is crucial for FAA to understand new technologies to certify the safety of commercial aircraft, the Chairman, Subcommittee on Aviation, House Committee on Public Works and Transportation, asked GAO to determine if FAA staff are (1) effectively involved in the certification process and (2) provided the assistance and training needed to be competent in these technologies.

BACKGROUND

Before introducing a new type of aircraft into commercial service, a manufacturer must obtain FAA's certification that the aircraft meets safety standards. Over what is typically a 5-year process, the manufacturer must supply FAA with detailed analyses as well as produce a prototype of the aircraft. The Federal Aviation Act allows FAA to delegate activities, as the agency deems necessary, to approve employees of aircraft manufacturers. Although paid by manufacturers, these designees act as surrogates for FAA in examining aircraft design. FAA is responsible for overseeing the designees' activities and determining whether the designs meet FAA's requirements. A 1980 review by the National Academy of Sciences found that this delegation system was sound but warned that FAA was falling behind the industry in competence. The Academy recommended that FAA define a structured role for itself in the certification process and hire 20 to 30 experts to assist staff. FAA concurred with the findings, noting that it was developing a program employing experts and was committed to improving its training program.

RESULTS IN BRIEF

FAA has not ensured that its staff are effectively involved in the certification process. Despite the National Academy of Sciences' recommendation in 1980 that FAA develop a more structured role in the process, the agency has increasingly delegated duties to manufacturers without defining such a role. FAA now delegates up to 95 percent of the certification activities to manufacturers without defining (1) critical activities in which FAA staff should be involved, (2) guidance on the necessary level and quality of the oversight of designees, and (3) standards to evaluate staff members' performance. As a result, FAA staff no longer conduct all of such critical activities as the approval of test plans and analyses of hypothetical failures of systems. Because FAA has increased delegation over the last 13 years, its ability to effectively oversee or add value to the certification process as well as understand new technologies has been questioned by internal reviews and FAA and industry officials.

FAA has also not provided its staff the assistance and training needed to ensure competence in new technologies. While many FAA and manufacturing officials GAO interviewed stated that FAA's hiring of experts to assist staff is an excellent concept, FAA never fully implemented the program. FAA identified a need for 23 experts but has staffed only 8 positions. In addition, FAA has not identified critical points in the certification process that require experts' involvement. As a result, the experts are sometimes not sought for advice and are often involved in the process too late for them to be most effective. Also, FAA's training has not kept pace with technological advancements. GAO found, for example, that between fiscal years 1990 and 1992, only 1 of the 12 FAA engineers responsible for approving aircraft software attended a software-related training course. FAA officials acknowledged that inadequate training over the last decade has limited the certification staff's ability to understand such areas of dramatic technological advancement. As a result, FAA is developing a new training program. However, the program may not have the structure necessary to improve the staff's competence. The program does not, for example, establish specific training requirements for staff in their areas of responsibility.

PRINCIPAL FINDINGS

FAA has increased delegation without ensuring an effective role for staff

Since 1980, FAA has delegated most certification activities to designated manufacturing employees without defining or measuring an effective role for its own staff. Between 1980 and 1992, the number of designees rose from 299 to 1,287 (330 percent), while the number of FAA engineers and test pilots increased from 89 to 117 (31 percent). FAA has increasingly relied on designees because of a dramatic growth in its work load caused by more complex aircraft systems and an increase in such higher-priority duties as issuing directives to ensure the safety of already certified aircraft. FAA estimated, for example, that it delegated approximately 95 percent of the certification activities for the Boeing 747-400 aircraft. An FAA review in 1989 concluded that the amount of work delegated to designees had reached the maximum for properly managing the certification process and that further delegation would reduce FAA's ability to understand new technologies. Another internal review found that staff were not sufficiently familiar with the Boeing 747-400's flight management system to define requirements for testing it or verifying regulatory compliance. Both FAA's and Boeing's Certification Directors acknowledged that FAA's approach is too ad hoc and unmeasured to ensure a minimum effective level of involvement by FAA.

The National Academy of Sciences raised similar concerns in 1980. However, FAA has yet to identify critical activities in which staff should be involved, set standards governing the level and quality of the oversight of designees, or develop measures through which staff members' performance can be evaluated. For example, FAA has not established the extent to which it needs to be involved in the development and approval of test plans for key aircraft systems. The Academy concluded that the delegation system was sound, in part because FAA retained the approval of test plans. GAO found, however, that FAA has delegated the approval of as many as 95 percent of test plans to designees. FAA's Aircraft Certification Service Director has acknowledged the need to better define and measure an effective role for FAA staff in the certification process and stated that the agency will initiate an effort to define such a role. Until FAA completes this effort, questions will remain about the value that the agency's employees add to the process.

Staff's competence limited by lack of assistance and training

FAA has not provided the technical assistance needed to ensure the staff's competence in evaluating the latest technologies. FAA did not fully implement a program in which experts assist staff during the certification process. In 1979, FAA identified a need for over 20 experts in such areas as advanced avionics but authorized only 11 positions and staffed only 8. FAA officials stated that the agency could not attract qualified people but acknowledged that (1) FAA has not formally examined the need for additional experts since 1979 and (2) recent layoffs by manufacturers may have increased the pool of qualified individuals. Furthermore, because FAA has not identified key points in the process requiring the involvement of experts, their knowledge is not optimally used. For example, two experts were not involved in crucial early junctures in the certification of the Boeing 777. After discovering that Boeing was employing new designs, the two raised concerns about test requirements. Because of these concerns, Boeing modified its test procedures in one case and is currently reviewing them in the other.

In 1991, a contractor hired by FAA found that the agency does not have adequate training for its certification staff in such areas as composite materials and software systems. GAO found that his lack of training has occurred despite a 1987 internal study that recommended FAA establish annual training requirements. Citing the increasing inexperience of FAA staff—over half of the engineers with primary responsibility in the certification of the Boeing 777 have never participated in a major certification project—FAA is developing a new training program. While supporting this effort, GAO is concerned because it does not establish specific training requirements or identify technical training available from universities, private industry, and other government agencies.

RECOMMENDATIONS

GAO recommends that the Secretary of Transportation direct the Administrator, FAA, to define a minimum effective role for the agency in the certification process by identifying critical activities requiring FAA's involvement or oversight, establishing guidance on the necessary level and quality of the oversight of designees, and developing measures through which staff members' effectiveness can be evaluated. GAO also recommends that the FAA Administrator formally examine the need to hire experts in areas of technological advancement, require experts' involvement early in the certification process and at other key junctures, establish specific training requirements, and identify training in new technologies that is available at universities, industry, and other government agencies.

AGENCY COMMENTS

Although the Department of Transportation (DOT) takes the position that FAA staff and experts are effectively involved in the certification process, it concurred in part with GAO's recommendations. DOT did not fully concur with the recommendations because it felt that they would impose rigid requirements dictating the sequence and participants at each juncture of the process. GAO's recommendations are not designed to impose rigid requirements, but rather to enhance the technical competence of FAA staff and ensure that they add more to the certification process. GAO found that FAA needs to establish basic guidance that describes the critical activities requiring staff members' involvement, establishes measures to evaluate staff members' performance, and defines when experts should be consulted. The lack of such guidance—combined with inadequate training—has brought into question the value added by FAA's activities. An advisory group of individuals with distinguished aviation backgrounds agreed with GAO's conclusion.

DOT also stated that the delegation system has been effective. GAO agrees. The current process results in safe designs largely because of the efforts and expertise of the designees. What is less clear, however, is the extent to which the contributions of FAA staff materially add to this level of safety. Finally, DOT maintained that annual training requirements would be too "rigid." GAO acknowledges DOT's concern and has deleted its reference to annual requirements in recommending that staff receive the training needed to fulfill their certification mission.

Mr. WOFFORD. Madam President, I rise to oppose S. 687, I believe this legislation would unjustly limit the ability of consumers to receive full and just compensation for negligent conduct on the part of manufacturers, while unnecessarily interfering with State authority in the area of tort law.

Since I came to the Senate in 1991, I have consistently opposed effort to federalize tort laws. Under the principles of federalism, States have historically established their own tort rules. The Product Liability Fairness Act would change that historic practice by establishing national rules for some, but not for all, aspects of product liability law.

For example, S. 687 would prohibit punitive damages in most cases of products that receive FDA approval. Such an exemption would preempt existing State laws that allow for punitive damages, like Pennsylvania's. This bill presents the greatest threat to woman, the elderly, and the poor. Women would be severely affected because many of the more dangerous drugs and medical devices produced have a major impact on woman's health.

Just recently I received a letter from Karen M. Hicks of Bethlehem, PA, who like almost 4 million other women, was the victim of the Dalkon shield, IUD. Ms. Hicks writes:

> I began using the Dalkon Shield in 1972. Over the next 10 years, I suffered many medical problems. However, the [* * *] Company had skillfully and deliberately suppressed the facts about the havoc it was wreaking on women's bodies. Neither I nor my doctors were able to pinpoint the cause of my damage for more than a decade. In 1984, one week after I was married, I had to have an emergency total hysterectomy from the cumulative damages I had suffered for so long. That time bomb finally exploded and robbed me of my fertility. For all those years, I was told that my problems were "all in my head" The emotional wreckage is too painful to talk about. If Congress cares about the health and safety of women, it will defeat this legislation.

Proponents of S. 687 will argue that we must pass this bill to end the litigation explosion from frivolous lawsuits resulting in runaway jury verdicts. To that end, S. 687 would impose the more difficult standard of clear and convincing evidence before a jury could impose punitive damages. Before we impose such a standard we must first have clear and convincing evidence that there is a problem that needs to be fixed. I am not convinced that that evidence exists.

Madam President, before we take this step down the road to making it more difficult for consumers to receive full compensation for their injuries and remove important levers of accountability that deter manufacturers from unsafely cutting corners, we must listen to the many Americans like Ms. Hicks. And we must respect the important strides made by State legislatures in the area of tort law. We should not pass this bill.

Mr. COHEN. Mr. President, I rise in opposition to S. 687, the Product Liability Act. The bill is an unnecessary and unwise encroachment on the States in an area in which they possess abundant legislative and judicial experience. The legislatures of each State have debated product liability issues, enacted laws, and refined these laws in accordance with the will of the people who live under them. Additionally, the courts of each State have interpreted these laws, wrestled with the legal nuances, and developed sound bodies of case law.

This legislative and judicial experience has produced laws that strike a careful balance between the needs of plaintiffs and defendants, between the needs of consumers and businesses. These laws ensure that plaintiffs are redressed for injuries caused by defective products and ensure that defendants are protected from unwarranted lawsuits. S. 687 fails to strike the proper balance.

Congress may, of course, impose its will on the States. As shown by Chief Justice Marshall's landmark opinion in Gibbons versus Ogden and by Justice Holmes's classic dissent in Hammer versus Dagenhart, the Commerce Clause is a source of great power for the Federal Government. Indeed, the Commerce Clause empowers Congress to preempt State law to ensure a coherent structure to the national economy—but Congress must exercise this power with great care. In "The Federalist," James Madison notes the delicate balance between the Federal Government and the States, and he warns against "ambitious encroachments of the Federal Government on the authority of the State governments." S. 687 is such an encroachment.

For over 200 years, principles of federalism have prevailed as tort law has remained the province of the States. During this time, State legislatures have examined the issues and worked to pass laws that are fair and just. Similarly, State courts have scrutinized these laws and developed a significant expertise as well as a solid body of jurisprudence. This legislative and judicial experience has produced systems that are, on the whole, knowledgeable, stable, and equitable.

Absent an overwhelming need to alter this time-tested structure, it should be left alone. The Conference of Chief Justices agrees. Speaking on behalf of the Conference of Chief Justices at a recent Judiciary Committee hearing, Chief Justice Carrico of the Supreme Court of Virginia said: "[T]he response [to any defects in the system] should be left to the States where the power to decide local questions has remained for more than 200 years. There is no reason to believe that the States will not exercise the power wisely."

The United States is a nation of States. The need for the States to exercise their autonomy can be traced from the Constitutional Convention and the early days of the Union to the present day. States play a vital role in promoting the public good and, as in the case of product liability, are often in a better position to fashion a system that is attentive to the needs of the people. Thomas Jefferson once wrote, "Our country is too large to have all its affairs directed by a single government." This statement applies with particular force to the field of product liability.

Proponents of S. 687 argue that uniformity is essential to product liability law. Although uniformity is beneficial in many areas of the law, in the area of product liability it is not. The federalism embodied in the present system of product liability law should be valued, not disparaged. The vague promise of uniformity should not lead us to lay waste to State statutes and State common law. The diversity of State rules of liability is a strength, not a weakness.

Rather than have the Federal Government create rules for product liability, it would be better to continue to let each State experiment and devise a system for dealing with the problems particular to that State. As Justice Louis Brandeis stated:

> There must be power in the States * * * to remould, through experimentation, our economic practices and institutions to meet changing social and economic needs. * * * To stay experimentation in things social and economic is a grave responsibility. Denial of the right to experiment may be fraught with serious consequences to the Nation. It is one of the happy incidents of the federal system that a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.

Entering the field of product liability may be tempting for some, but we must resist the temptation or, like Pandora and her husband Epimetheus, we will regret our actions. If S. 687 is passed, the Federal Government will become forever ensnared in the field of product liability. In the next Congress, we will almost certainly have to revisit the very same issues that we are debating today. Interest groups will be clamoring for changes. At a time when the crush of legislation is already great, Members of Congress will have to spend more time on product liability, leaving less for health care, crime, education, and other pressing Federal concerns.

One provision of S. 687 is particularly striking and particularly troubling. Under section 4(e), decisions of a U.S. Court of Appeals interpreting this act would be binding on all Federal and State courts within the judicial circuit. Although the decisions of the Federal appellate courts should, obviously, bind the lower Federal courts, it is an affront to State sovereignty to have the decisions of Federal courts bind State courts.

Such a provision is unprecedented. Two State chief justices have written that they know of no other congressional legislation using the language contained in section 4(e). Again, Chief Justice Carrico of Virginia has stated that section 4(e) is "a serious threat to federalism" and "would reduce State supreme courts to second class citizens in the field of products liability law." Also, Chief Justice Feldman of Arizona, has stated that "The suggestion that section 4(e) be included in the product liability bill is almost offensive to State courts." He added, "It is one thing * * * to defer and another to be told to obey." Additionally, Federal judges whom I consulted have advised me that section 4(e) is both unseemly and unnecessary, and it has severe implications for federalism.

Section 4(e) and the litigation engendered by the rest of S. 687 would add to the Supreme Court's case load at a time when its docket is already full. In the field of tort law, State courts have proven to be sound arbiters. There is no need to burden the Supreme Court with cases involving complex questions of State and Federal law.

Section 4(e) was included to ensure uniformity in the field of product liability. But by supplanting State statutory and common law governing the substantive rules of product liability, S. 687 would cause uncertainty and complexity rather than certainty and clarity. The Conference of Chief Justices has even commented that "If the search is for * * * settled law, the goal will not be achieved through Federal product liability legislation. S. 687 would preempt all related State law and substitute Federal standards, with changed and untested terms and concepts. * * * A legal thicket is inevitable."

The Product Liability Act would thwart one of the primary goals of the civil justice system which, as stated in Rule 1 of the Federal Civil Rules of Procedure, is "to secure the just, speedy, and inexpensive determination of every action." Both claimants and defendants would be harmed.

We need a legal system that benefits all Americans: Consumers, manufacturers, workers, and sellers. S. 687 would not create such a system. It would unnecessarily intervene in an area best left to the States.

From the beginning of the Republic to the Civil War to the present day, federalism has played in important role in the balance of power in the Nation—in the ability of the people to express their will. The federalism embodied in the current system of tort law is valuable and necessary. I am not convinced that S. 687 will make the field of product liability more equitable, predictable, or efficient. It is better for States to have the flexibility to tailor their product liability laws without Federal preemption.

Finally, Mr. President, I want to briefly discuss the so-called liability crisis. For years proponents of Federal product liability legislation have claimed that the present system is to blame for skyrocketing costs, lawsuits running rampant, and a suffering economy. They say that this legislation is necessary because there is a crisis in product liability cases, but there is not a crisis.

In reality, product liability claims declined by 36 percent in the Federal courts between 1985 and 1991, excluding the unique claims of asbestos. In State courts, all tort cases amount to less than 10 percent of the total case load and only three-tenths of 1 percent of all civil cases.

Critics of the present system also claim that there has been an explosion in punitive damage awards. It is important to note that the vast majority of States have reformed punitive damage rules. In the last 25 years, punitive damages have only been awarded 353 times in product liability cases; 25 percent of these awards were reversed or remanded on appeal.

While proponents of Federal product liability standards assert that product liability cases costs American business $100 billion a year, the National Association of Insurance Commissioners pegs the actual figure at about $4 billion. This figures includes insurance premiums paid by businesses, actual damage awards and legal fees. As others have pointed out, $4 billion is less than what Americans spend annually on dog food. This is well under one-fifth of 1 percent of retail sales.

In conclusion, Mr. President, after weighing the claims that a uniform body of Federal product liability law would promote competitiveness against the costs of abandoning our well-established decentralized system, I have concluded that Federal preemption of State product liability laws would be unnecessary and unwise. It would trample the rights of States, disregard their vital experience, impose blanket rules on regions that have different needs, abrogate the sovereignty of State courts, and unnecessarily entangle Congress in the field of product liability. The States have the experience and have demonstrated the ability to handle product liability claims.

Mr. HEFLIN. Madam President, as we conclude debate on S. 687 relating to product liability legislation, I would especially like to thank all of those who have contributed to our efforts to get the facts before the Senate on this bill.

I would like to recognize the staff members of those Senators who joined our cause and who assisted their particular Senators. Their tireless efforts to assist us in researching the various issues, which were often difficult and complex, should be recognized and appreciated. I know that they put in a great deal of overtime at night and on weekends as we prepared for the floor debate which has just ended.

I want to thank Kevin Curtin, Moses Boyd, Claudia Simons, and Jim Drewry of Senator HOLLINGS' staff; Gene Kimmelman and Mike Lenett of Senator METZENBAUM'S staff; Sean Moylan of Senator BIDEN'S staff; Jeff Neterval of Senator FEINGOLD'S staff; Pam Smith of Senator MOSELEY-BRAUN'S staff; Phil Buchan of Senator HARKIN'S staff; Ken Boley of Senator WELLSTONE'S staff; Cathy Smith of Senator SHELBY'S staff; Thomas Moore of Senator BREAUX'S staff; Greg Rohde of Senator DORGAN'S staff; Judy Applebaum of Senator KENNEDY'S staff; Laura Schiller of Senator BOXER'S staff; Carlos Angulo of Senator SIMON'S staff; and Winston Lett of my subcommittee staff. Each should be recognized for the superb staff work they contributed on behalf of their individual Senators.

Ms. MOSELEY-BRAUN. Madam President, whether the sponsors of S. 687 had been successful in invoking cloture today or not, it is highly unlikely that this bill would have made its way to President Clinton's desk for his signature this year. The House of Representatives has not yet acted on its product liability legislation. This is a very busy year, and we are rapidly approaching the end of this Congress. All of these facts worked to undermine the prospects for completing action on S. 687 before we adjourn.

The amendment pending to S. 687 when the motion for cloture failed was an amendment proposed by Senator DORGAN and I, to strike the "FDA and FAA excuse" provisions from S. 687. I very much regret that the procedural posturing on this legislation made it impossible for a vote to occur on our amendment, as well as on a number of other amendments that had been proposed prior to the cloture vote. Unfortunately, the U.S. Senate was put in the position that this bill could not get the time it deserved.

While the time shortage and the procedural maneuvering made it impossible for me to vote for cloture today, I want to make it very clear that I have voted against cloture on this issue for the last time. The problems present in our product liability system are problems that this body must address.

The current system is too slow. The transaction costs are too high. Given the fact that markets for products are now national and global in scope, there is a good case to be made for a Federal approach.

That is not to say that I agree with every provision of S. 687 as currently drafted. I do not. Senator DORGAN and I proposed one amendment to strike the FDA excuse, and I daresay that had cloture been invoked I may have sponsored or cosponsored amendments to strike or modify other portions of the legislation.

Unfortunately, the majority of the product liability debate this year focused on whether the Federal Government should get involved in this area. Our focus in the future must not be limited to whether the Federal Government should be involved in product liability reform, but should also address what standards are appropriate to apply in product liability actions.

Before I close, Madam President, I want to thank Senators ROCKEFELLER and GORTON for this willingness to address the issue of the FDA and FAA excuse. I greatly appreciate their willingness to listen to and act on the concerns Senator DORGAN and I raised, and I deeply regret that we were not able to vote on this issue.

Finally, I simply stress that this issue—the issue of product liability reform—has been before the Senate for over a decade now. I want to state for the RECORD that I am committed to seeing that the next Congress acts on a bill that addresses the problems present in our current system, that is fair to consumers, employers, product sellers, and manufacturers. I believe that everyone who is interested in our civil justice system should come to the table and work with the Commerce Committee, Senator ROCKEFELLER and the entire Congress to address and resolve the underlying issues.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the Clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Calendar No. 409, S. 687, a bill to regulate interstate commerce by providing for a uniform product liability law:

> Jay Rockefeller, J. Lieberman, John Glenn, Claiborne Pell, Bob Kerrey, J.J. Exon, Harlan Mathews, Slade Gorton, Orrin G. Hatch, Strom Thurmond, Daniel Coats, Judd Gregg, Dirk Kempthorne, Pete V. Domenici, Larry Pressler, Kay Bailey Hutchinson, Frank H. Murkowski.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on S. 687, the product liability fairness bill, shall be brought to a close?

The yeas and nays are automatic under the rule, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. METZENBAUM. Madam President, I have a pair with the distinguished Senator from Arizona [Mr. DECONCINI]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. FORD. I announce that on this vote, the Senator from Arizona [Mr. DECONCINI] is paired with the Senator from Ohio [Mr. METZENBAUM].

If present and voting, the Senator from Arizona would vote "aye" and the Senator from Ohio would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 57, nays 41, as follows:

[Rollcall Vote No. 170 Leg.]

YEAS—57

Bennett
Bond
Boren
Brown
Burns
Byrd
Chafee
Coats
Conrad
Coverdell
Craig
Danforth
Daschle
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feinstein
Glenn
Gorton
Gramm
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Jeffords
Kassebaum
Kempthorne
Kohl
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Mikulski
Murkowski
Nickles
Nunn
Packwood
Pell
Pryor
Robb
Rockefeller
Sasser
Smith
Specter
Stevens
Thurmond
Wallop
Warner

NAYS—41

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Campbell
Cochran
Cohen
D'Amato
Feingold
Ford
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Mitchell
Moseley-Braun
Moynihan

Murray
Pressler
Reid
Riegle
Roth
Sarbanes
Shelby
Simon
Simpson
Wellstone
Wofford

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Metzenbaum,
against

NOT VOTING—1

DeConcini

The PRESIDING OFFICER. On this vote, the yeas are 57, the nays are 41. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. HOLLINGS. Madam President, I move to reconsider the vote.

Mr. HEFLIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURE RETURNED TO THE CALENDAR—S. 687

The PRESIDING OFFICER. Under the previous order, S. 687, the Product Liability Fairness Act, will be returned to the calendar.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

Mr. MITCHELL. Madam President, I ask unanimous consent that the Senate now proceed to Calendar No. 471, H.R. 4426, the foreign operations appropriations bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4426) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Maine?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

H.R. 4426

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995, and for other purposes, namely:

TITLE I—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increases in capital stock for the General Capital Increase, $23,009,101, to remain available until expended*: Provided, That one quarter of such funds may be obligated only after April 1, 1995: Provided further, That one quarter of such funds may be obligated only after September 1, 1995: Provided further, That not more than twenty-one days prior to the obligation of each such sum, the Secretary shall submit a certification to the Committees on Appropriations that the Bank has not approved any loans to Iran since October 1, 1994, or the President of the United States certifies that withholding of these funds is contrary to the national interest of the United States*.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed $743,923,914.

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States contribution to the Global Environment Facility (GEF), [$88,800,000] *$98,800,000*, to remain available until expended.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, [$1,235,000,000] *$1,207,750,000*, for the United States contribution to the replenishment, to remain available until expended.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $68,743,028, for the United States share of the increase in subscriptions to capital stock, to remain available until expended: *Provided*, That of the amount appropriated under this heading not more than $5,364,000 may be expended for the purchase of such stock in fiscal year 1995.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increase in capital stock, $28,111,959, and for the United States share of the increases in the resources of the Fund for Special Operations, $21,338,000, and for the United States share of the capital stock of the Inter-American Investment Corporation, $190,000, to remain available until expended[: *Provided*, That $25,269,224 of the amount made available for the paid-in share portion of the increase in capital stock, and $20,317,000 of the resources of the Fund for Special Operations shall be subject to the regular notification procedures of the Committees on Appropriations].

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Inter-American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $1,594,568,180.

CONTRIBUTION TO THE ENTERPRISE FOR THE AMERICAS MULTILATERAL INVESTMENT FUND

For payment to the Enterprise for the Americas Multilateral Investment Fund by the Secretary of the Treasury, for the United States contribution to the Fund to be administered by the Inter-American Development Bank, $75,000,000 to remain available until expended.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89-369), $167,960,000, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, $124,229,309, for the United States contribution to the African Development Fund, to remain available until expended[: *Provided*, That of the funds appropriated under this heading, $20,000,000 shall be subject to the regular notification procedures of the Committees on Appropriations].

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $133,000, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $2,002,540.

CONTRIBUTION TO THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the European Bank for Reconstruction and Development by the Secretary of the Treasury, $69,180,353, for the United States share of the paid-in share portion of the initial capital subscription, to remain available until expended: *Provided*, That during fiscal year 1995 the number of shares of stock purchased shall be not more than 600.

LIMITATION OF CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the European Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $161,420,824.

CONTRIBUTION TO THE ENHANCED STRUCTURAL ADJUSTMENT FACILITY OF THE INTERNATIONAL MONETARY FUND

For payment to the Interest Subsidy Account of the Enhanced Structural Adjustment Facility of the International Monetary Fund, $25,000,000, to remain available until expended.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of section 301 of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1973, [$366,000,000] *$382,000,000*: *Provided*, That none of the funds appropriated under this heading shall be made available for the United Nations Fund for Science and Technology: *Provided further*, That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: *Provided further*, That of the funds appropriated under this heading that are made available for the United Nations Children's Fund (UNICEF), 75 per centum shall be obligated and expended no later than thirty days after the date of enactment of this Act and 25 per centum shall be expended within thirty days from the start of UNICEF's fourth quarter of operations for 1995: *Provided further*, That none of the funds appropriated under this heading that are made available to the United Nations Population Fund (UNFPA) shall be made available for activities in the People's Republic of China: *Provided further*, That not more than [$40,000,000] *$60,000,000* of the funds appropriated under this heading may be made available to the UNFPA: *Provided further*, That not more than one-half of this amount may be provided to UNFPA before March 1, 1995, and that no later than February 15, 1995, the Secretary of State shall submit a report to the Committees on Appropriations indicating the amount UNFPA is budgeting for the People's Republic of China in 1995: *Provided further*, That any amount UNFPA plans to spend in the People's Republic of China in 1995 above $7,000,000, shall be deducted from the amount of funds provided to UNFPA after March 1, 1995 pursuant to the previous provisos: *Provided further*, That with respect to any funds appropriated under this heading that are made available to UNFPA, UNFPA shall be required to maintain such funds in a separate account and not commingle them with any other funds[: *Provided further*, That notwithstanding the fifth proviso of this heading, if UNFPA decides not to initiate a new program in China after its current program ends in 1995, up to an additional $20,000,000 of funds appropriated under this heading may be made available to UNFPA].

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1995, unless otherwise specified herein, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

DEVELOPMENT ASSISTANCE FUND

For necessary expenses to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961, [$811,000,000] *$882,000,000*, to remain available until September 30, 1996: *Provided, That of the funds appropriated under this title under the heading "Agency for International Development", (1) not less than $285,000,000 shall be made available for activities which have as their objective the reduction of childhood mortality, including such activities as immunization programs, oral rehydration programs, and education programs which address improved nutrition, and water and sanitation programs, (2) not less than $135,000,000 shall be made available for basic education programs, and (3) not less than $25,000,000 shall be made available for micronutrient programs: Provided further, That of the funds appropriated under this heading, not less than $1,000,000 shall be made available for support of displaced Burmese including for cross border activities: Provided further, That of the funds appropriated under this heading, not less than $600,000 shall be available to support parliamentary training and democracy programs in the People's Republic of China: Provided further, That the Agency for International Development shall make funds available for the activities described in the previous proviso on a grant basis to the International Republican Institute and the National Democratic Institute, notwithstanding any other provision of law.*

POPULATION, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 104(b), $450,000,000, to remain available until September 30, 1996: *Provided*, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further*, That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services: *Provided further*, That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further, That for purposes of this or any other Act authorizing or appropriating funds for foreign operations, export financing, and related programs, the term "motivate", as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counselling about, or referral for, all pregnancy options including abortion: Provided further*, That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961.

DEVELOPMENT FUND FOR AFRICA

For necessary expenses to carry out the provisions of chapter 10 of part I of the Foreign Assistance Act of 1961, [$790,000,000] *$802,000,000*, to remain available until September 30, 1996: *Provided*, That none of the funds appropriated by this Act to carry out chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 shall be transferred to the Government of Zaire: *Provided further*, That funds appropriated under this heading which are made available for activities supported by the Southern Africa Development Community shall be made available notwithstanding section 512 of this Act and section 620(q) of the Foreign Assistance Act of 1961.

PRIVATE AND VOLUNTARY ORGANIZATIONS

None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: *Provided*, That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in title II of the "Foreign Assistance and Related Programs Appropriations Act, 1985" (as enacted in Public Law 98-473) shall be superseded by the provisions of this section.

INTERNATIONAL DISASTER ASSISTANCE

For necessary expenses for international disaster relief, rehabilitation, and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, as amended, $169,998,000 to remain available until expended.

DEBT RESTRUCTURING

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, of modifying direct loans and loan guarantees, as the President may determine, for which funds have been appropriated or otherwise made available for programs within the International Affairs Budget Function 150, $7,000,000, to remain available until expended[: *Provided*, That it is the sense of the Congress that a program should be developed to undertake direct buy backs of bilateral debt from eligible poor and lower-middle income countries with local currency offsets to fund development and environmental activities, provided that such a program would have no budgetary impact. The Administration should consider how creative use of the sale of impaired Third World debts might be used to lower debt overhangs and generate local currencies for development and environmental activities].

MICRO AND SMALL ENTERPRISE DEVELOPMENT PROGRAM ACCOUNT

For the subsidy cost of direct loans and loan guarantees, $1,500,000, as authorized by section 108 of the Foreign Assistance Act of 1961, as amended: *Provided*, That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further, That guarantees of loans made under this heading in support of microenterprise activities may guarantee up to 70 percent of the principal amount of any such loans notwithstanding section 108 of the Foreign Assistance Act of 1961*. In addition, for administrative expenses to carry out programs under this heading, $500,000, all of which may be transferred to and merged with the appropriation for Operating Expenses of the Agency for International Development.

HOUSING GUARANTY PROGRAM ACCOUNT

For the subsidy cost, as defined in section 13201 of the Budget Enforcement Act of 1990, of guaranteed loans authorized by sections 221 and 222 of the Foreign Assistance Act of 1961, $19,300,000: *Provided*, That these funds are available to subsidize loan principal, 100 percent of which shall be guaranteed, pursuant to the authority of such sections: *Provided further*, That the President shall enter into commitments to guarantee such loans in the full amount provided under this heading, subject to the availability of qualified applicants for such guarantees. In addition, for administrative expenses to carry out guaranteed loan programs, $8,000,000, all of which may be transferred to and merged with the appropriation for Operating Expenses of the Agency for International Development: *Provided further*, That commitments to guarantee loans under this heading may be entered into notwithstanding the second and third sentences of section 222(a) and, with regard to programs for Eastern Europe and programs for the benefit of South Africans disadvantaged by apartheid, section 223(j) of the Foreign Assistance Act of 1961: *Provided further*, That none of the funds appropriated under this heading shall be obligated except through the regular notification procedures of the Committees on Appropriations.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $45,118,000.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667, [$517,500,000] *$517,800,000*[: *Provided*, That of this amount not more than $900,000 may be made available to pay for printing costs].

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667, $39,118,000, which sum shall be available for the Office of the Inspector General of the Agency for International Development.

ECONOMIC SUPPORT FUND

For necessary expenses to carry out the provisions of chapter 4 of part II, [$2,339,000,000] *$2,359,200,000*, to remain available until September 30, 1996: [*Provided*, That any funds appropriated under this heading that are made available for Israel shall be made available on a grant basis as a cash transfer and shall be disbursed within thirty days of enactment of this Act or by October 31, 1994, whichever is later: *Provided further*, That any funds appropriated under this heading that are made available for Egypt shall be provided on a grant basis, of which sum cash transfer assistance may be provided with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years:] *Provided, That of the funds appropriated under this heading, not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within thirty days of enactment of this Act or by October 31, 1994, whichever is later: Provided further, That not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, and of which sum cash transfer assistance may be provided, with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and of which not less than $200,000,000 shall be provided as Commodity Import Program assistance:* *Provided further*, That in exercising the authority to provide cash transfer assistance for Israel and Egypt, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to each such country: *Provided further*, That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty: *Provided further*, That none of the funds appropriated under this heading shall be made available for Zaire: *Provided further, That not more than $50,000,000 of the funds appropriated under this heading may be made available to finance tied-aid credits, unless the President determines it is in the national interest to provide in excess of $50,000,000 and so notifies the Committees on Appropriations through the regular notification procedures of the Committees on Appropriations: Provided further, That none of the funds made available or limited by this Act may be used for tied-aid credits or tied-aid grants except through the regular notification procedures of the Committees on Appropriations: Provided further, That none of the funds appropriated by this Act to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 may be used for tied-aid credits: Provided further, That as used in this heading the term "tied-aid credits" means any credit, within the meaning of section 15(h)(1) of the Export-Import Bank Act of 1945, which is used for blended or parallel financing, as those terms are defined by sections 15(h) (4) and (5), respectively, of such Act: Provided further, That not less than $15,000,000 of the funds appropriated under this heading shall be made available for Cyprus to be used only for scholarships, bicommunal projects, and measures aimed at the reunification of the island and designed to reduce tensions, and promote peace and cooperation between the two communities on Cyprus: Provided further, That not less than $7,000,000 of the funds appropriated under this heading shall be available only for the Middle East Regional Cooperation Program.*

INTERNATIONAL FUND FOR IRELAND

For necessary expenses to carry out the provisions of part I of the Foreign Assistance Act of 1961, up to [$19,600,000] *$15,000,000*, which shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99-415): *Provided*, That such amount shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further*, That funds made available under this heading shall remain available until expended.

ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

(a) For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989, [$360,000,000] *$359,000,000*, to remain available until expended, which shall be available, notwithstanding any other provision of law, for economic assistance *and for related* programs for Eastern Europe and the Baltic States.

(b) Funds appropriated under this heading or in prior appropriations Acts that are or have been made available for an Enterprise Fund may be deposited by such Fund in interest-bearing accounts prior to the Fund's disbursement of such funds for program purposes. The Fund may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress. Funds made available for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

(c) Funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in that Act for the use of economic assistance.

ASSISTANCE FOR THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

(a) For necessary expenses to carry out the provisions of chapter 11 of part I of the Foreign Assistance Act of 1961 and the FREEDOM Support Act, for assistance for the new independent states of the former Soviet Union and for related programs, [$875,500,000] *$839,000,000*, to remain available until expended: *Provided*, That the provisions of 498B(j) of the Foreign Assistance Act of 1961 shall apply to funds appropriated by this paragraph.

(b) None of the funds appropriated under this heading shall be transferred to the Government of Russia—

(1) unless that Government is making progress in implementing comprehensive economic reforms based on market principles, private ownership, negotiating repayment of commercial debt, respect for commercial contracts, and equitable treatment of foreign private investment; and

(2) if that Government applies or transfers United States assistance to any entity for the purpose of expropriating or seizing ownership or control of assets, investments, or ventures.

(c) Funds may be furnished without regard to subsection (b) if the President determines that to do so is in the national interest.

(d) None of the funds appropriated under this heading shall be made available to any government of the new independent states of the former Soviet Union if that government directs any action in violation of the territorial integrity or national sovereignty of any other new independent state, such as those violations included in Principle Six of the Helsinki Final Act: *Provided*, That such funds may be made available without regard to the restriction in this subsection if the President determines that to do so is in the national interest of the United States: *Provided further*, That the restriction of this subsection shall not apply to the use of such funds for the provision of assistance for purposes of humanitarian, disaster and refugee relief[: *Provided further*, That thirty days after the date of enactment of this Act, and then annually thereafter, the Secretary of State shall report to the Committees on Appropriations on steps taken by the governments of the new independent states concerning violations referred to in this subsection: *Provided further*, That in preparing this report the Secretary shall consult with the United States Representative to the Conference on Security and Cooperation in Europe].

(e) None of the funds appropriated under this heading for the new independent states of the former Soviet Union shall be made available for any state to enhance its military capability: *Provided*, That this restriction does not apply to demilitarization, defense conversion or non-proliferation programs, or programs to support troop withdrawal including through the support of an officer resettlement program, and technical assistance for the housing sector.

(f) Funds appropriated under this heading shall be subject to the regular [reprogramming] *notification* procedures of the Committees on Appropriations.

(g) Funds appropriated under this heading may be made available for assistance for Mongolia.

(h) Funds made available in this Act for assistance to the new independent states of the former Soviet Union shall be provided to the maximum extent feasible through the private sector, including private voluntary organizations and nongovernmental organizations functioning in the new independent states.

(i) Of the funds appropriated under this heading, $15,000,000 shall be available only for a family planning program for the new independent states of the former Soviet Union comparable to the family planning program currently administered by the Agency for International Development in the Central Asian Republics and focusing on population assistance which provides an alternative to abortion: Provided, That of such amount, $6,000,000 shall be available only for such a family planning program in

Russia, $3,000,000 shall be available only for such a family planning program in Ukraine, Moldova, and Belarus, and $6,000,000 shall be available only for such a family planning program in the Central Asian Republics.

(j) Of the funds appropriated under this heading, not less than $150,000,000 shall be available for programs for Ukraine: Provided, That of these funds not less than $25,000,000 shall be made available for land privatization activities and development of small and medium size businesses, including agriculture enterprises.

(k) Not less than $75,000,000 of the funds appropriated under this heading shall be available for programs and activities for Armenia.

(l) Not less than $50,000,000 of the funds appropriated under this heading shall be made available for programs for Georgia.

(m) Every 180 days, the Administrator for the Agency for International Development shall provide the Committees on Appropriations with a report listing grants and contracts issued from funds under this heading including the type, amount and country where assistance is expended.

INDEPENDENT AGENCIES

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out the provisions of title V of the International Security and Development Cooperation Act of 1980, Public Law 96–533, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $16,905,000: *Provided*, That, when, with the permission of the President of the Foundation, funds made available to a grantee under this heading are invested pending disbursement, the resulting interest is not required to be deposited in the United States Treasury if the grantee uses the resulting interest for the purpose for which the grant was made: *Provided further*, That this provision applies with respect to both interest earned before and interest earned after the enactment of this provision: *Provided further*, That notwithstanding section 505(a)(2) of the African Development Foundation Act, in exceptional circumstances the board of directors of the Foundation may waive the dollar limitation contained in that section with respect to a project: *Provided further*, That the Foundation shall provide a report to the Committees on Appropriations after each time such waiver authority is exercised.

INTER-AMERICAN FOUNDATION

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $30,960,000.

PEACE CORPS

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), [$219,745,000] *$221,745,000*, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided*, That none of the funds appropriated under this heading shall be used to pay for abortions: *Provided further*, That funds appropriated under this heading shall remain available until September 30, 1996.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out the provisions of section 481 of the Foreign Assistance Act of 1961, [$115,000,000] *$100,000,000: Provided, That during fiscal year 1995, the Department of State may also use the authority of section 608 of the Foreign Assistance Act of 1961, without regard to its restrictions, to receive nonlethal excess property from an agency of the United States Government for the purpose of providing it to a foreign country under chapter 8 of part I of that Act subject to the regular notification procedures of the Committees on Appropriations: Provided further, That notwithstanding sections 489A and 490A of the Foreign Assistance Act of 1961 and any reference in any provision of law to such sections, and notwithstanding section 6(a) of the International Narcotics Control Act of 1992, the provisions of sections 489 and 490 of the Foreign Assistance Act of 1961 shall apply during fiscal year 1995.*

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, [$670,688,000] *$671,000,000*: *Provided*, That not more than $11,500,000 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State: *Provided further, That not less than $80,000,000 shall be made available for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel.*

[REFUGEE RESETTLEMENT ASSISTANCE

[For necessary expenses for the targeted assistance program authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 and administered by the Office of Refugee Resettlement of the Department of Health and Human Services, in addition to amounts otherwise available for such purposes, $12,000,000.]

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), $50,000,000, to remain available until expended: *Provided*, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose.

ANTI-TERRORISM ASSISTANCE

For necessary expenses to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961, $15,244,000.

NONPROLIFERATION AND DISARMAMENT FUND

For necessary expenses for a "Nonproliferation and Disarmament Fund", $10,000,000, to remain available until expended, to promote bilateral and multilateral activities: *Provided*, That such funds may be used pursuant to the authorities contained in section 504 of the FREEDOM Support Act: *Provided further*, That such funds may also be used for such countries other than the new independent states of the former Soviet Union and international organizations when it is in the national security interest of the United States to do so: *Provided further*, That funds appropriated under this heading may be made available notwithstanding any other provision of law: *Provided further*, That funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, $25,500,000: *Provided*, That up to $300,000 of the funds appropriated under this heading may be made available for grant financed military education and training for any country whose annual per capita GNP exceeds $2,349 on the condition that that country agrees to fund from its own resources the transportation cost and living allowances of its students: *Provided further*, That the civilian personnel for whom military education and training may be provided under this heading may also include members of national legislatures who are responsible for the oversight and management of the military, *and may also include individuals who are not members of a government*: *Provided further*, That none of the funds appropriated under this heading shall be available for [Indonesia,] *Rwanda* and Zaire: [*Provided further*, That none of the funds appropriated by this Act shall be used to facilitate the provision of IMET to Indonesia:] *Provided further*, That a report is to be submitted to the Committees on Appropriations addressing how the proposed School of the Americas IMET program *for fiscal year 1995* will contribute to the promotion of human rights, respect for civilian authority and the rule of law, the establishment of legitimate judicial mechanisms for the military, and achieving the goal of right sizing military forces: *Provided further, That none of the funds appropriated under this heading may be made available for Thailand or Algeria except through the regular notification procedures of the Committees on Appropriations: Provided further, That the Secretary of State shall submit, by February 1, 1995, a report to the Committees on Appropriations on the Thai military's support for the Khmer Rouge and the Thai Government's efforts to impede support for Burmese democracy advocates, exiles, and refugees.*

MILITARY-TO-MILITARY CONTACT PROGRAM

For necessary expenses, for the military-to-military contact program of the Department of Defense, $12,000,000[, to]: *Provided, That of this amount, $2,800,000 shall be made available only for activities in the area of responsibility of the United States Pacific Command and $9,200,000 shall* be made available only for activities for East European countries and the Baltic States.

FOREIGN MILITARY FINANCING PROGRAM

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, [$3,149,279,000] *$3,151,279,000*[: *Provided*, That funds appropriated by this paragraph that are made available for Israel and Egypt shall be available only as grants: *Provided further*, That the funds appropriated by this paragraph that are made available for Israel shall be disbursed within thirty days of enactment of this Act or by October 31, 1994, whichever is later:] *Provided, That of the funds appropriated by this paragraph not less than $1,800,000,000 shall be available for grants only for Israel, and not less than $1,300,000,000 shall be available for grants only for Egypt: Provided further, That the funds appropriated* *by this paragraph for Israel shall be disbursed within thirty days of enactment of this Act or by October 31, 1994, whichever is later: Provided further, That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced fighter aircraft programs or for other advanced weapons systems, as follows: (1) up to $150,000,000 shall be available for research and development in the United States; and (2) not less than $475,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: Provided further*, That funds made available under this paragraph shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act.

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, of direct loans authorized by section 23 of the Arms Export Control Act as follows: cost of direct loans, $47,917,000: *Provided*, That these funds are available to subsidize gross obligations for the principal amount of direct loans of not to exceed $619,650,000: *Provided further*, That the rate of interest charged on such loans shall be not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturities: [*Provided further*, That the principal amount of direct loans for Greece and Turkey shall be made available according to a 7 to 10 ratio:] *Provided further, That funds appropriated under this heading shall be made available for Greece and Turkey only on a loan basis, and the principal amount of direct loans for each country shall not exceed the following: $255,150,000 only for Greece and $364,500,000 only for Turkey:* [*Provided further*, That 25 percent of the principal amount of direct loans for Turkey shall be withheld until the Secretary of State, in consultation with the Secretary of Defense, has submitted to the Committees on Appropriations a report addressing, among other things, the allegations of abuses against civilians by the Turkish armed forces and the situation in Cyprus, and a separate notification has been submitted at least 15 days prior to the obligation of such funds: *Provided further*, That 25 percent of the principal amount of direct loans for Greece shall be withheld until the Secretary of State has submitted to the Committees on Appropriations a report on the allegations of Greek violations of the United Nations sanctions against Serbia and of the United Nations Charter, and a separate notification has been submitted at least 15 days prior to the obligation of such funds] *Provided further, That any agreement for the sale or provision of any equipment on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) to Turkey that is entered into by the United States during fiscal year 1995 shall expressly state that the equipment is being provided by the United States only with the understanding that it will not be used for internal security purposes: Provided further, That any agreement for the sale or provision of any equipment on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) to Greece that is entered into by the United States during fiscal year 1995, shall expressly state that the equipment is being provided by the United States only with the understanding that it will not be used in violation of the United Nations sanctions against Serbia or the United Nations Charter.*

None of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed an agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds: *Provided*, That all country and funding level increases in allocations shall be submitted through the regular notification procedures of section 515 of this Act: *Provided further*, That funds made available under this heading shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a): *Provided further*, That none of the funds appropriated under this heading shall be available for Zaire, Sudan, Liberia, Guatemala, Peru, and Malawi: *Provided further*, That none of the funds appropriated under this heading may be made available for Colombia or Bolivia until the Secretary of State certifies that such funds will be used by such country primarily for counternarcotics activities: *Provided further, That funds made available under this heading may be used, notwithstanding any other provision of law, for demining activities, and may include activities implemented through nongovernmental and international organizations: Provided further, That any agreement for the sale or provision of any equipment on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) to Indonesia that is entered into by the United States during fiscal year 1995 shall expressly state the understanding that the equipment may not be used in East Timor: Provided further*, That not more than $100,000,000 of the funds made available under this heading shall be available for use in financing the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act to countries other than Israel and Egypt: *Provided further*, That only those countries for which assistance was justified for the "Foreign Military Sales Financing Program" in the fiscal year 1989 congressional presentation for security assistance programs may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: *Provided further*, That, subject to the regular notification procedures of the Committees on Appropriations, funds made available under this heading for the cost of direct loans may also be used to supplement the funds available under this heading for necessary expenses for grants if countries specified under this heading as eligible for such direct loans decline to utilize such loans: *Provided further*, That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further*, That the Department of Defense shall conduct during the current fiscal year nonreimbursable audits of private firms whose contracts are made directly with foreign governments and are financed with funds made available under this heading (as well as subcontractors thereunder) as requested by the Defense Security Assistance Agency: *Provided further*, That not more than $22,150,000 of the funds appropriated under this heading may be obligated for necessary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: *Provided further*, That not more than $335,000,000 of funds realized pursuant to section 21(e)(1)(A) of the Arms Export Control Act may be obligated for expenses incurred by the Department of Defense during [the fiscal year 1994] *fiscal year 1995* pursuant to section 43(b) of the Arms Export Control Act, except that this limitation may be exceeded only through the regular notification procedures of the Committees on Appropriations: *Provided further*, That none of the funds appropriated under this heading, and no employee of the Defense Security Assistance Agency, may be used to facilitate the transport of aircraft to commercial arms sales shows.

SPECIAL DEFENSE ACQUISITION FUND

Notwithstanding any provision of Public Law 102–391 as amended by Public Law 103–87, not to exceed $140,000,000 of the obligational authority provided in that Act under the heading "Special Defense Acquisition Fund" may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act.

Not to exceed $20,000,000 may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act for the purposes of closing the Special Defense Acquisition Fund, to remain available for obligation until September 30, 1998: Provided, That the authority provided in this Act is not used to initiate new procurements.

PEACEKEEPING OPERATIONS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the provisions of section 551 of the Foreign Assistance Act of 1961, $75,000,000: *Provided, That of this amount up to $850,000 may be transferred to, and merged with, funds appropriated under the heading "International Military Education and Training" to carry out the provisions of section 541 of the Act: Provided further, That funds transferred under the previous proviso shall be in addition to amounts that may be transferred between accounts under the authority of any other provision of law.*

TITLE IV—EXPORT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided*, That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

SUBSIDY APPROPRIATION

For the cost of direct loans, loan guarantees, insurance, and tied-aid grants as authorized by section 10 of the Export-Import Bank Act of 1945, as amended, [$792,653,000] *$786,551,000* to remain available until September 30, 1996: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: [*Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans, and tied-aid grants, and total loan principal, any part of which is to be guaranteed, including insurance, of not to exceed $19,000,000,000:] *Provided further*, That such sums shall remain available until 2010 for the disbursement of direct loans, loan guarantees, insurance and tied-aid grants obligated in fiscal years 1995 and 1996: *Provided further*, That up to $100,000,000 of funds appropriated by this paragraph shall remain available until expended and may be used for tied-aid grant purposes: *Provided further*, That none of the funds appropriated by this paragraph may be used for tied-aid credits or grants except through the regular notification procedures of the Committees on Appropriations: *Provided further*, That funds appropriated by this paragraph are made available notwithstanding section 2(b)(2) of the Export-Import Bank Act of 1945, in connection with the purchase or lease of any product by any East European country, any Baltic State, or any agency or national thereof.

ADMINISTRATIVE EXPENSES

For administrative expenses to carry out the direct and guaranteed loan and insurance programs (to be computed on an accrual basis), including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $20,000 for official reception and representation expenses for members of the Board of Directors, [$44,550,000] *$45,228,000*: *Provided*, That necessary expenses (including special services performed on a contract or fee basis, but not including other personal services) in connection with the collection of moneys owed the Export-Import Bank, repossession or sale of pledged collateral or other assets acquired by the Export-Import Bank in satisfaction of moneys owed the Export-Import Bank, or the investigation or appraisal of any property, or the evaluation of the legal or technical aspects of any transaction for which an application for a loan, guarantee or insurance commitment has been made, shall be considered nonadministrative expenses for the purposes of this heading: *Provided further, That, notwithstanding subsection (b) of section 117 of the Export Enhancement Act of 1992, subsection (a) thereof shall remain in effect until October 1, 1995.*

OVERSEAS PRIVATE INVESTMENT CORPORATION

[PROGRAM ACCOUNT

[For the subsidy cost as defined in section 13201 of the Budget Enforcement Act of 1990, of direct and guaranteed loans authorized by section 234 of the Foreign Assistance Act of 1961, as follows: cost of direct and guaranteed loans, $23,296,000. In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $7,933,000: *Provided*, That the funds provided in this paragraph shall be available for and apply to costs, direct loan obligations and loan guaranty commitments incurred or made during the period from October 1, 1994 through September 30, 1996: *Provided further*, That such sums are to remain available through fiscal year 2003 for the disbursement of direct and guaranteed loans obligated in fiscal year 1995, and through 2004 for the disbursement of direct and guaranteed loans obligated in fiscal year 1996.

[The Overseas Private Investment Corporation is authorized to make, without regard to fiscal year limitations, as provided by 31 U.S.C. 9104, such noncredit expenditures and commitments within the limits of funds available to it and in accordance with law (including an amount for official reception and representation expenses which shall not exceed $35,000) as may be necessary.]

NONCREDIT ACCOUNT

The Overseas Private Investment Corporation is authorized to make, without regard to fiscal year limitations, as provided by 31 U.S.C. 9104, such expenditures and commitments within the limits of funds available to it and in accordance with law as may be necessary: Provided, That the amount available for administrative expenses to carry out the credit and insurance programs (including an amount for official reception and representation expenses which shall not exceed $35,000) shall not exceed $24,322,000: Provided further, That project-specific transaction costs, including direct and indirect costs incurred in claims settlements, and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 of the Foreign Assistance Act of 1961 shall not be considered administrative expenses for the purposes of this heading.

PROGRAM ACCOUNT

For the cost of direct and guaranteed loans, $34,944,000, as authorized by section 234 of the Foreign Assistance Act of 1961, to be derived by transfer from the Overseas Private Investment Corporation Noncredit Account: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That not less than $24,944,000 of such subsidy shall be available for direct loan obligations and loan guaranty commitments incurred or made during fiscal years 1995 and 1996, and the remainder of such subsidy shall be available for such purposes without fiscal year limitation: Provided further, That such sums that are made available during fiscal years 1995 and 1996 shall remain available through fiscal year 2003 for the disbursement of direct and guaranteed loans obligated in fiscal year 1995, and through 2004 for the disbursement of direct and guaranteed loans obligated in fiscal year 1996: Provided further, That such sums that are obligated after fiscal year 1996 shall remain available for the disbursement of direct and guaranteed loans through the end of the eighth fiscal year after the fiscal year in which such sums were obligated. In addition, such sums as may be necessary for administrative expenses to carry out the credit program may be derived from amounts available for administrative expenses to carry out the credit and insurance programs in the Overseas Private Investment Corporation Noncredit Account and merged with said account.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT AGENCY

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $44,986,000.

TITLE V—GENERAL PROVISIONS

OBLIGATIONS DURING LAST MONTH OF AVAILABILITY

SEC. 501. Except for the appropriations entitled "International Disaster Assistance", and "United States Emergency Refugee and Migration Assistance Fund", not more than 15 per centum of any appropriation item made available by this Act shall be obligated during the last month of availability.

PROHIBITION OF BILATERAL FUNDING FOR INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 502. None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

LIMITATION ON RESIDENCE EXPENSES

SEC. 503. Of the funds appropriated or made available pursuant to this Act, not to exceed $126,500 shall be for official residence expenses of the Agency for International Development during the current fiscal year: *Provided*, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

LIMITATION ON EXPENSES

SEC. 504. Of the funds appropriated or made available pursuant to this Act, not to exceed $5,000 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

LIMITATION ON REPRESENTATIONAL ALLOWANCES

SEC. 505. Of the funds appropriated or made available pursuant to this Act, not to exceed $95,000 shall be available for representation allowances for the Agency for International Development during the current fiscal year: *Provided*, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further*, That of the funds made available by this Act for general costs of administering military assistance and sales under the heading "Foreign Military Financing Program", not to exceed $2,000 shall be available for entertainment expenses and not to exceed $50,000 shall be available for representation allowances: *Provided further*, That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $50,000 shall be available for entertainment allowances: *Provided further*, That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,000 shall be available for entertainment and representation allowances: *Provided further*, That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,000 shall be available for entertainment expenses: *Provided further*, That of the funds made available by this Act under the heading "Trade and Development Agency", not to exceed $2,000 shall be available for representation and entertainment allowances.

PROHIBITION ON FINANCING NUCLEAR GOODS

SEC. 506. None of the funds appropriated or made available (other than funds for "International Organizations and Programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used, except for purposes of nuclear safety, to finance the export of nuclear equipment, fuel, or technology.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 507. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Cuba, Iraq, Libya, [the Socialist Republic of Vietnam,] Iran, Serbia, Sudan, or Syria: *Provided*, That for purposes of this section, the prohibition on obligations or expenditures shall include direct loans, credits, insurance and guarantees of the Export-Import Bank or its agents.

MILITARY COUPS

SEC. 508. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree: *Provided*, That assistance may be resumed to such country if the President determines and reports to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office.

TRANSFERS BETWEEN ACCOUNTS

SEC. 509. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated, unless the President, prior to the exercise of any authority contained in the Foreign Assistance Act of 1961 to transfer funds, consults with and provides a written policy justification to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

DEOBLIGATION/REOBLIGATION AUTHORITY

SEC. 510. (a) Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any of the headings under the "Agency for International Development" are, if deobligated, hereby continued available for the same period as the respective appropriations under such headings or until September 30, 1995, whichever is later, and for the same general purpose, and for countries within the same region as originally obligated: *Provided*, That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation and reobligation of such funds in accordance with regular notification procedures of the Committees on Appropriations.

(b) Obligated balances of funds appropriated to carry out section 23 of the Arms Export Control Act as of the end of the fiscal year immediately preceding the current fiscal year are, if deobligated, hereby continued available during the current fiscal year for the same purpose under any authority applicable to such appropriations under this Act: *Provided*, That the authority of this subsection may not be used in fiscal year 1995.

AVAILABILITY OF FUNDS

SEC. 511. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided*, That funds appropriated for the purposes of chapters 1 and 8 of part I, section 667, and chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, shall remain available until expended if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: *Provided further*, That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended: *Provided further*, That the report required by section 653(a) of the Foreign Assistance Act of 1961 shall designate for each country, to the extent known at the time of submission of such report, those funds allocated for cash disbursement for balance of payment and economic policy reform purposes.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 512. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act: *Provided*, That this section and section 620(q) of the Foreign Assistance Act of 1961 shall not apply to funds made available in this Act or during the current fiscal year for Nicaragua, and for any narcotics-related assistance for Colombia, Bolivia, and Peru authorized by the Foreign Assistance Act of 1961 or the Arms Export Control Act.

COMMERCE AND TRADE

SEC. 513. (a) None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided*, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity.

(b) None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided*, That this subsection shall not prohibit—

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

(c) None of the funds provided in this Act to the Agency for International Development, other than funds made available to carry out Caribbean Basin Initiative programs under the Tariff Schedules of the United States, section 1202 of title 19, United States Code, schedule 8, part I, subpart B, item 807.00, shall be obligated or expended—

(1) to procure directly feasibility studies or prefeasibility studies for, or project profiles of potential investment in, the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined by section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)); or

(2) to assist directly in the establishment of facilities specifically designed for the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined in section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)).

SURPLUS COMMODITIES

SEC. 514. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the European Bank for Reconstruction and Development, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

NOTIFICATION REQUIREMENTS

SEC. 515. For the purposes of providing the Executive Branch with the necessary administrative flexibility, none of the funds made available under this Act for "Development Assistance Fund", "Population, Development Assistance", "Development Fund for Africa", "International organizations and programs", "Trade and Development Agency", "International narcotics control", "Assistance for Eastern Europe and the Baltic States", "Assistance for the New Independent States of the Former Soviet Union", "Economic Support Fund", "Peacekeeping operations", "Operating expenses of the Agency for International Development", "Operating expenses of the Agency for International Development Office of Inspector General", "Anti-terrorism assistance", "Foreign Military Financing Program", "International military education and training" **[**(including the military-to-military contact program)**]**, *"Military-to-Military Contact Program"*, "Inter-American Foundation", "African Development Foundation", "Peace Corps", or "Migration and refugee assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: *Provided*, That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 per centum in excess of the quantities justified to Congress unless the Committees on Appropriations are notified fifteen days in advance of such commitment: *Provided further*, That this section shall not apply to any reprogramming for an activity, program, or project under chapter 1 of part I of the Foreign Assistance Act of 1961 of less than 20 per centum of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year: *Provided further*, That the requirements of this section or any similar provision of this Act requiring notification in accordance with the regular notification procedures of the Committees on Appropriations may be waived if failure to do so would pose a substantial risk to human health or welfare: *Provided further*, That in case of any such waiver, notification to the Congress, or the appropriate congressional committees, shall be provided as early as practicable, but in no event later than three days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: *Provided further*, That any notification provided pursuant to such a waiver shall contain an explanation of the emergency circumstances.

Drawdowns made pursuant to section 506(a)(2) of the Foreign Assistance Act of 1961 shall be subject to the regular notification procedures of the Committees on Appropriations.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 516. (a) Notwithstanding any other provision of law or of this Act, none of the funds provided for "International Organizations and Programs" shall be available for the United States proportionate share, in accordance with section 307(c) of the Foreign Assistance Act of 1961, for any programs identified in section 307, or for Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended: *Provided*, That, subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of this section or any similar provision of law, shall remain available for obligation through September 30, 1996.

(b) The United States shall not make any voluntary or assessed contribution—

(1) to any affiliated organization of the United Nations which grants full membership as a state to any organization or group that does not have the internationally recognized attributes of statehood, or

(2) to the United Nations, if the United Nations grants full membership as a state in the United Nations to any organization or group that does not have the internationally recognized attributes of statehood,

during any period in which such membership is effective.

ECONOMIC SUPPORT FUND ASSISTANCE FOR ISRAEL

SEC. 517. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

PROHIBITION CONCERNING ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 518. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations. The Congress reaffirms its commitments to Population, Development Assistance and to the need for informed voluntary family planning.

REPORTING REQUIREMENT

SEC. 519. The President shall submit to the Committees on Appropriations the reports required by section 25(a)(1) of the Arms Export Control Act.

SPECIAL NOTIFICATION REQUIREMENTS

SEC. 520. None of the funds appropriated in this Act shall be obligated or expended for Colombia, *Dominican Republic*, El Salvador, Guatemala, Haiti, Indonesia, Liberia, Nicaragua, Pakistan, Peru, Rwanda, Sudan, or Zaire except as provided through the regular notification procedures of the Committees on Appropriations: *Provided*, That this section shall not apply to funds appropriated by this Act to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961 that are made available for El Salvador and Nicaragua.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 521. For the purpose of this Act, "program, project, and activity" shall be defined at the Appropriations Act account level and shall include all Appropriations and Authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund and Foreign Military Financing Program, "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account; for the development assistance accounts of the Agency for International Development "program, project, and activity" shall also be considered to include central program level funding, either as (1) justified to the Congress, or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within thirty days of enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961.

FAMILY PLANNING, CHILD SURVIVAL AND AIDS ACTIVITIES

SEC. 522. Up to $8,000,000 of the funds made available by this Act for assistance for family planning, health, child survival, and AIDS, may be used to reimburse United States Government agencies, agencies of State governments, institutions of higher learning, and private and voluntary organizations for the full cost of individuals (including for the personal services of such individuals) detailed or assigned to, or contracted by, as the case may be, the Agency for International Development for the purpose of carrying out family planning activities, child survival activities and activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome in developing countries: *Provided*, That such individuals shall not be included within any personnel ceiling applicable to any United States Government agency during the period of detail or assignment: *Provided further*, That funds appropriated by this Act that are made available for child survival activities or activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome may be made available notwithstanding any provision of law that restricts assistance to foreign countries: *Provided further*, That funds appropriated by this Act that are made available for family planning activities may be made available notwithstanding section 512 of this Act and section 620(q) of the Foreign Assistance Act of 1961.

PROHIBITION AGAINST INDIRECT FUNDING TO CERTAIN COUNTRIES

SEC. 523. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Cuba, Iraq, Libya, [the Socialist Republic of Vietnam,] Iran, Syria, North Korea, *or the* People's Republic of China[, or Laos] unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States.

RECIPROCAL LEASING

SEC. 524. Section 61(a) of the Arms Export Control Act is amended by striking out "1994" and inserting in lieu thereof "1995".

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 525. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (c) of that section: *Provided*, That before issuing a letter of offer to sell excess defense articles under the Arms Export Control Act, the Department of Defense shall notify the Committees on Appropriations in accordance with the regular notification procedures of such Committees: *Provided further*, That such Committees shall also be informed of the original acquisition cost of such defense articles.

AUTHORIZATION REQUIREMENT

SEC. 526. Funds appropriated by this Act may be obligated and expended [subject to] *notwithstanding* section 10 of Public Law 91-672 and section 15 of the State Department Basic Authorities Act of 1956: *Provided, That the Secretary of the Treasury may, to fulfill commitments of the United States, (a) subscribe to and make payment for shares of the Inter-American Development Bank, make contributions to the Fund for Special Operations of that Bank, and vote for resolutions (including amendments to that Bank's constitutive agreement), all in connection with the eighth general increase in resources of that Bank; and (b) contribute to the Restructured Global Environment Facility under its Instrument, to the African Development Fund in connection with the seventh general replenishment of its resources, and to the Interest Subsidy Account of the successor to the Enhanced Structural Adjustment Facility of the International Monetary Fund. The amount to be paid in respect of each such contribution or subscription is authorized to be appropriated without fiscal year limitation. Each such subscription or contribution shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.*

DEPLETED URANIUM

SEC. 527. None of the funds provided in this or any other Act may be made available to facilitate in any way the sale of M-833 antitank shells or any comparable antitank shells containing a depleted uranium penetrating component to any country other than (1) countries which are members of NATO, (2) countries which have been designated as a major non-NATO ally for purposes of section 1105 of the National Defense Authorization Act for Fiscal Year 1987 or, (3) Taiwan: *Provided*, That funds may be made available to facilitate the sale of such shells notwithstanding the limitations of this section if the President determines that to do so is in the national security interest of the United States.

OPPOSITION TO ASSISTANCE TO TERRORIST COUNTRIES BY INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 528. (a) INSTRUCTIONS FOR UNITED STATES EXECUTIVE DIRECTORS.—The Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution designated in subsection (b), and the Administrator of the Agency for International Development shall instruct the United States Executive Director of the International Fund for Agriculture Development, to use the voice and vote of the United States to oppose any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979.

(b) DEFINITION.—For purposes of this section, the term "international financial institution" includes—

(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund; and

(2) wherever applicable, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the African Development Fund, and the European Bank for Reconstruction and Development.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 529. (a) Notwithstanding any other provision of law, funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to enactment of this Act, shall not be made available to any country which the President determines—

(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism, or

(2) otherwise supports international terrorism.

(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each waiver in the Federal Register and, at least fifteen days before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

COMMERCIAL LEASING OF DEFENSE ARTICLES

SEC. 530. Notwithstanding any other provision of law, and subject to the regular notification requirements of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel and Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

COMPETITIVE INSURANCE

SEC. 531. All Agency for International Development contracts and solicitations, and subcontracts entered into under such contracts, shall include a clause requiring that United States [marine] insurance companies have a fair opportunity to bid for [marine] insurance when such insurance is necessary or appropriate.

STINGERS IN THE PERSIAN GULF REGION

SEC. 532. Except as provided in section 581 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, the United States may not sell or otherwise make available any Stingers to any country bordering the Persian Gulf under the Arms Export Control Act or chapter 2 of part II of the Foreign Assistance Act of 1961.

PROHIBITION ON LEVERAGING AND DIVERSION OF UNITED STATES ASSISTANCE

SEC. 533. (a) None of the funds appropriated by this Act may be provided to any foreign government (including any instrumentality or agency thereof), foreign person, or United States person in exchange for that foreign government or person undertaking any action which is, if carried out by the United States Government, a United States official or employee, expressly prohibited by a provision of United States law.

(b) For the purposes of this section the term "funds appropriated by this Act" includes only (1) assistance of any kind under the Foreign Assistance Act of 1961; and (2) credits, and guaranties under the Arms Export Control Act.

(c) Nothing in this section shall be construed to limit—

(1) the ability of the President, the Vice President, or any official or employee of the United States to make statements or otherwise express their views to any party on any subject;

(2) the ability of an official or employee of the United States to express the policies of the President; or

(3) the ability of an official or employee of the United States to communicate with any foreign country government, group or individual, either directly or through a third party, with respect to the prohibitions of this section including the reasons for such prohibitions, and the actions, terms, or conditions which might lead to the removal of the prohibitions of this section.

DEBT-FOR-DEVELOPMENT

SEC. 534. In order to enhance the continued participation of nongovernmental organizations in economic assistance activities under the Foreign Assistance Act of 1961, including endowments, debt-for-development and debt-for-nature exchanges, a nongovernmental organization which is a grantee or contractor of the Agency for International Development may place in interest bearing accounts funds made available under this Act or prior Acts or local currencies which accrue to that organization as a result of economic assistance provided under the heading "Agency for International Development" and any interest earned on such investment may be for the purpose for which the assistance was provided to that organization.

LOCATION OF STOCKPILES

SEC. 535. Section 514(b)(2) of the Foreign Assistance Act of 1961 is amended by striking out "$200,000,000 for stockpiles in Israel for fiscal year 1994" and inserting in lieu thereof "a total of $200,000,000 for stockpiles in Israel for fiscal years 1994 and 1995, up to $40,000,000 may be made available for stockpiles in the Republic of Korea, and up to $10,000,000 may be made available for stockpiles in Thailand for fiscal year 1995".

SEPARATE ACCOUNTS

SEC. 536. (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—(1) If assistance is furnished to the government of a foreign country under chapters 1 and 10 of part I (including the Philippines Multilateral Assistance Initiative) or chapter 4 of part II of the Foreign Assistance Act of 1961 under agreements which result in the generation of local currencies of that country, the Administrator of the Agency for International Development shall—

(A) require that local currencies be deposited in a separate account established by that government;

(B) enter into an agreement with that government which sets forth—

(i) the amount of the local currencies to be generated, and

(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

(C) establish by agreement with that government the responsibilities of the Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

(A) to carry out chapters 1 or 10 of part I or chapter 4 of part II (as the case may be), for such purposes as—

(i) project and sector assistance activities, or

(ii) debt and deficit financing; or

(B) for the administrative requirements of the United States Government.

(3) PROGRAMMING ACCOUNTABILITY.—The Agency for International Development shall take all appropriate steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under chapters 1 or 10 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

(5) CONFORMING AMENDMENTS.—The provisions of this subsection shall supersede the tenth and eleventh provisos contained under the heading "Sub-Saharan Africa, Development Assistance" as included in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 and sections 531(d) and 609 of the Foreign Assistance Act of 1961.

(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—(1) If assistance is made available to the government of a foreign country, under chapters 1 or 10 of part I (including the Philippines Multilateral Assistance Initiative) or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Report No. 98-1159).

(3) NOTIFICATION.—At least fifteen days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations.

COMPENSATION FOR UNITED STATES EXECUTIVE DIRECTORS TO INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 537. (a) No funds appropriated by this Act may be made as payment to any international financial institution while the United States Executive Director to such institution is compensated by the institution at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to such institution is compensated by the institution at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) For purposes of this section, "international financial institutions" are: the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the Asian Development Fund, the African Development Bank, the African Development Fund, the International Monetary Fund, and the European Bank for Reconstruction and Development.

COMPLIANCE WITH UNITED NATIONS SANCTIONS AGAINST IRAQ

SEC. 538. (a) DENIAL OF ASSISTANCE.—None of the funds appropriated or otherwise made available pursuant to this Act to carry out the Foreign Assistance Act of 1961 (including title IV of chapter 2 of part I, relating to the Overseas Private Investment Corporation) or the Arms Export Control Act may be used to provide assistance to any country that is not in compliance with the United Nations Security Council sanctions against Iraq unless the President determines and so certifies to the Congress that—

(1) such assistance is in the national interest of the United States;

(2) such assistance will directly benefit the needy people in that country; or

(3) the assistance to be provided will be humanitarian assistance for foreign nationals who have fled Iraq and Kuwait.

(b) IMPORT SANCTIONS.—If the President considers that the taking of such action would promote the effectiveness of the economic sanctions of the United Nations and the United States imposed with respect to Iraq, and is consistent with the national interest, the President may prohibit, for such a period of time as he considers appropriate, the importation into the United States of any or all products of any foreign country that has not prohibited—

(1) the importation of products of Iraq into its customs territory, and

(2) the export of its products to Iraq.

POW/MIA MILITARY DRAWDOWN

SEC. 539. (a) Notwithstanding any other provision of law, the President may direct the drawdown, without reimbursement by the recipient, of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, of an aggregate value not to exceed $15,000,000 in fiscal year 1995, as may be necessary to carry out subsection (b).

(b) Such defense articles, services and training may be provided to *Vietnam*, Cambodia and Laos, under subsection (a) as the President determines are necessary to support efforts to locate and repatriate members of the United States Armed Forces and civilians employed directly or indirectly by the United States Government who remain unaccounted for from the Vietnam War, and to ensure the safety of United States Government personnel engaged in such cooperative efforts and to support United States Department of Defense-sponsored humanitarian projects associated with the POW/MIA efforts. Any aircraft shall be provided under this section only to Laos and only on a lease or loan basis, but may be provided at no cost notwithstanding section 61 of the Arms Export Control Act and may be maintained with defense articles, services and training provided under this section.

(c) The President shall, within sixty days of the end of any fiscal year in which the authority of subsection (a) is exercised, submit a report to the Congress which identifies the articles, services, and training drawn down under this section.

(d) There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense articles, defense services, and military education and training provided under this section.

MEDITERRANEAN EXCESS DEFENSE ARTICLES

SEC. 540. During fiscal year 1995, the provisions of section 573(e) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, shall be applicable, for the period specified therein, to excess defense articles made available under sections 516 and 519 of the Foreign Assistance Act of 1961.

PRIORITY DELIVERY OF EQUIPMENT

SEC. 541. Notwithstanding any other provision of law, the delivery of excess defense articles that are to be transferred on a grant basis under section 516 of the Foreign Assistance Act to NATO allies and to major non-NATO allies on the southern and southeastern flank of NATO shall be given priority to the maximum extent feasible over the delivery of such excess defense articles to other countries.

ISRAEL DRAWDOWN

SEC. 542. Section 599B(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (as amended by Public Law 102-145, as amended, and Public Law 102-391), is further amended—

(a) by striking out "fiscal year 1994" and inserting in lieu thereof "fiscal year 1995";

(b) by striking out "Appropriations Act, 1994" and inserting in lieu thereof "Appropriations Act, 1995"; and

(c) by striking out "$700,000,000" and inserting in lieu thereof "$775,000,000".

CASH FLOW FINANCING

SEC. 543. For each country that has been approved for cash flow financing (as defined in section 25(d) of the Arms Export Control Act, as added by section 112(b) of Public Law 99-83) under the Foreign Military Financing Program, any Letter of Offer and Acceptance or other purchase agreement, or any amendment thereto, for a procurement in excess of $100,000,000 that is to be financed in whole or in part with funds made available under this Act shall be submitted through the regular notification procedures to the Committees on Appropriations.

AUTHORITIES FOR THE PEACE CORPS, THE INTER-AMERICAN FOUNDATION AND THE AFRICAN DEVELOPMENT FOUNDATION

SEC. 544. Unless expressly provided to the contrary, provisions of this or any other Act, including provisions contained in prior Acts authorizing or making appropriations for foreign operations, export financing, and related programs, shall not be construed to prohibit activities authorized by or conducted under the Peace Corps Act, the Inter-American Foundation Act, or the African Development Foundation Act. The appropriate agency shall promptly report to the Committees on Appropriations whenever it is conducting activities or is proposing to conduct activities in a country for which assistance is prohibited.

IMPACT ON JOBS IN THE UNITED STATES

SEC. 545. None of the funds appropriated by this Act may be obligated or expended to provide—

(a) any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States if such incentive or inducement is likely to reduce the number of employees of such business enterprise in the United States because United States production is being replaced by such enterprise outside the United States;

(b) assistance for the purpose of establishing or developing in a foreign country any export processing zone or designated area in which the tax, tariff, labor, environment, and safety laws of that country do not apply, in part or in whole, to activities carried out within that zone or area, unless the President determines and certifies that such assistance is not likely to cause a loss of jobs within the United States; or

(c) assistance for any project or activity that contributes to the violation of internationally recognized workers rights, as defined in section 502(a)(4) of the Trade Act of 1974, of workers in the recipient country, including any designated zone or area in that country: *Provided*, That in recognition that the application of this subsection should be commensurate with the level of development of the recipient country and sector, the provisions of this subsection shall not preclude assistance for the informal sector in such country, micro and small-scale enterprise, and smallholder agriculture.

AUTHORITY TO ASSIST BOSNIA-HERCEGOVINA

SEC. 546. (a) Congress finds as follows:

(1) The United Nations has imposed an embargo on the transfer of arms to any country on the territory of the former Yugoslavia.

(2) The federated states of Serbia and Montenegro have a large supply of military equipment and ammunition and the Serbian forces fighting the government of Bosnia-Hercegovina have more than one thousand battle tanks, armored vehicles, and artillery pieces.

(3) Because the United Nations arms embargo is serving to sustain the military advantage of the aggressor, the United Nations should exempt the government of Bosnia-Hercegovina from its embargo.

(b) Pursuant to a lifting of the United Nations arms embargo, or to a unilateral lifting of the arms embargo by the President of the United States, against Bosnia-Hercegovina, the President is authorized to transfer, *subject to the regular notification procedures of the Committees on Appropriations*, to the government of that nation, without reimbursement, defense articles from the stocks of the Department of Defense of an aggregate value not to exceed $50,000,000 in fiscal year 1995: *Provided*, That the President certifies in a timely fashion to the Congress that—

(1) the transfer of such articles would assist that nation in self-defense and thereby promote the security and stability of the region; and

(2) United States allies are prepared to join in such a military assistance effort.

(c) Within 60 days of any transfer under the authority provided in subsection (b), and every 60 days thereafter, the President shall report in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate concerning the articles transferred and the disposition thereof.

(d) There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense articles provided under this section.

(e) If the President determines that doing so will contribute to a just resolution of charges regarding genocide or other violations of international law in the former Yugoslavia, the authority of section 552(c) of the Foreign Assistance Act of 1961, as amended, may be used to provide up to $25,000,000 of commodities and services to the United Nations War Crimes Tribunal, without regard to the ceiling limitation contained in paragraph (2) thereof: *Provided*, That the determination required under this subsection shall be in lieu of any determinations otherwise required under section 552(c).

SPECIAL AUTHORITIES

SEC. 547. (a) Funds appropriated in title II of this Act that are made available for Haiti, Afghanistan, Lebanon, and Cambodia, and for victims of war, displaced children, displaced Burmese, humanitarian assistance for Romania, and humanitarian assistance for the peoples of Bosnia-Hercegovina, Croatia, and Kosova, may be made available notwithstanding any other provision of law: *Provided*, That any such funds that are made available for Cambodia shall be subject to the provisions of section 531(e) of the Foreign Assistance Act of 1961 and section 906 of the International Security and Development Cooperation Act of 1985: *Provided further*, That the President shall terminate assistance to any [Cambodian] organization that he determines is cooperating, tactically or strategically, with the Khmer Rouge in their military operations.

(b) Funds appropriated by this Act to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961 may be used, notwithstanding any other provision of law, for the purpose of supporting tropical forestry and energy programs aimed at reducing emissions of greenhouse gases with regard to the key countries in which deforestation and energy policy would make a significant contribution to global warming, *and for the purpose of supporting biodiversity conservation activities*: *Provided*, That such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(c) During fiscal year 1995, the President may use up to $50,000,000 under the authority of section 451 of the Foreign Assistance Act of 1961, notwithstanding the funding ceiling contained in subsection (a) of that section.

(d) The Agency for International Development may employ personal services contractors, notwithstanding any other provision of law, for the purpose of administering programs for the West Bank and Gaza.

POLICY ON TERMINATING THE ARAB LEAGUE BOYCOTT OF ISRAEL

SEC. 548. (a) FINDINGS.—The Congress finds that—

(1) since 1948 the Arab countries have maintained a primary boycott against Israel, refusing to do business with Israel;

(2) since the early 1950s the Arab League has maintained a secondary and tertiary boycott against American and other companies that have commercial ties with Israel;

(3) the boycott seeks to coerce American firms by blacklisting those that do business with Israel and harm America's competitiveness;

(4) the United States has a longstanding policy opposing the Arab League boycott and United States law prohibits American firms from providing information to Arab countries to demonstrate compliance with the boycott;

(5) with real progress being made in the Middle East peace process and the serious confidence-building measures taken by the State of Israel an end to the Arab boycott of Israel and of American companies that have commercial ties with Israel is long overdue and would represent a significant confidence-building measure; and

(6) in the interest of Middle East peace and free commerce, the President must take more concrete steps to press the Arab states to end their practice of blacklisting and boycotting American companies that have trade ties with Israel.

(b) POLICY.—It is the sense of the Congress that—

(1) the Arab League countries should immediately and publicly renounce the primary boycott of Israel and the secondary and tertiary boycott of American firms that have commercial ties with Israel and

(2) the President should—

(A) take more concrete steps to encourage vigorously Arab League countries to renounce publicly the primary boycotts of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel as a confidence-building measure;

(B) take into consideration the participation of any recipient country in the primary boycott of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel when determining whether to sell weapons to said country;

(C) report to Congress on the specific steps being taken by the President to bring about a public renunciation of the Arab primary boycott of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel; and

(D) encourage the allies and trading partners of the United States to enact laws prohibiting businesses from complying with the boycott and penalizing businesses that do comply.

ANTI-NARCOTICS ACTIVITIES

SEC. 549. (a) Of the funds appropriated by this Act under the heading "Economic Support Fund", assistance may be provided to strengthen the administration of justice in countries in Latin America and the Caribbean in accordance with the provisions of section 534 of the Foreign Assistance Act of 1961, except that programs to enhance protection of participants in judicial cases may be conducted notwithstanding section 660 of that Act.

(b) Of the funds appropriated by this Act under the heading "Economic Support Fund", notwithstanding section 660 of the Foreign Assistance Act of 1961, up to $3,000,000 may be made available, subject to the regular notification procedures of the Committees on Appropriations, for technical assistance, training, and commodities with the objective of creating a professional civilian police force for Panama, and for programs to improve penal institutions and the rehabilitation of offenders in Panama (which programs may be conducted other than through multilateral or regional institutions), except that such technical assistance shall not include more than $1,000,000 for the procurement of equipment for law enforcement purposes, and shall not include lethal equipment.

[(b)] *(c)* Funds made available pursuant to this section may be made available notwithstanding the third sentence of section 534(e) of the Foreign Assistance Act of 1961. Funds made available pursuant to subsection [(a)(1)] *(a)* for Bolivia, Colombia and Peru and subsection [(a)(2)] *(b)* may be made available notwithstanding section 534(c) and the second sentence of section 534(e) of the Foreign Assistance Act of 1961.

ELIGIBILITY FOR ASSISTANCE

SEC. 550. (a) ASSISTANCE THROUGH NONGOVERNMENTAL ORGANIZATIONS.—Restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance in support of programs of nongovernmental organizations from funds appropriated by this Act to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961: *Provided*, That the President shall take into consideration, in any case in which a restriction on assistance would be applicable but for this subsection, whether assistance in support of programs of nongovernmental organizations is in the national interest of the United States: *Provided further*, That before using the authority of this subsection to furnish assistance in support of programs of nongovernmental organizations, the President shall notify the Committees on Appropriations under the regular notification procedures of those committees, including a description of the program to be assisted, the assistance to be provided, and the reasons for furnishing such assistance: *Provided further*, That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion or involuntary sterilizations contained in this or any other Act.

(b) PUBLIC LAW 480.—During fiscal year 1995, restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance under titles I and II of the Agricultural Trade Development and Assistance Act of 1954: *Provided*, That none of the funds appropriated to carry out title I of such Act and made available pursuant to this subsection may be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

(c) EXCEPTION.—This section shall not apply—

(1) with respect to section 529 of this Act or any comparable provision of law prohibiting assistance to countries that support international terrorism; or

(2) with respect to section 116 of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to countries that violate internationally recognized human rights.

EARMARKS

SEC. 551. (a) Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with the earmark is made impossible by operation of any provision of this or any other Act or, with respect to a country with which the United States has an agreement providing the United States with base rights or base access in that country, if the President determines that the recipient for which funds are earmarked has significantly reduced its military or economic cooperation with the United States since enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; however, before exercising the authority of this subsection with regard to a base rights or base access country which has significantly reduced its military or economic cooperation with the United States, the President shall consult with, and shall provide a written policy justification to the Committees on Appropriations: *Provided*, That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That assistance that is reprogrammed pursuant to this subsection shall be made available under the same terms and conditions as originally provided.

(b) In addition to the authority contained in subsection (a), the original period of availability of funds appropriated by this Act and administered by the Agency for International Development that are earmarked for particular programs or activities by this or any other Act shall be extended for an additional fiscal year if the Administrator of such agency determines and reports promptly to the Committees on Appropriations that the termination of assistance to a country or a significant change in circumstances makes it unlikely that such earmarked funds can be obligated during the original period of availability: *Provided*, That such earmarked funds that are continued available for an additional fiscal year shall be obligated only for the purpose of such earmark.

CEILINGS AND EARMARKS

SEC. 552. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs.

EXCESS DEFENSE ARTICLES

SEC. 553. *(a)* The authority of section 519 of the Foreign Assistance Act of 1961, as amended, may be used in fiscal year 1995 to provide nonlethal excess defense articles to countries for which United States foreign assistance has been requested and for which receipt of such articles was separately justified for the fiscal year, without regard to the restrictions in subsection (a) of section 519.

(b) The authority of section 518 of the Foreign Assistance Act of 1961 may be exercised in any fiscal year to transfer, for the purposes of that section, nonlethal excess defense articles to international organizations and nongovernmental organizations notwithstanding section 502 of that Act.

PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 554. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of enactment of this Act by the Congress.

DISADVANTAGED ENTERPRISES

SEC. 555. (a) Except to the extent that the Administrator of the Agency for International Development determines otherwise, not less than 10 percent of the aggregate amount made available for the current fiscal year for the "Development Assistance Fund", "Population, Development Assistance", and the "Development Fund for Africa" shall be made available only for activities of United States organizations and individuals that are—

(1) business concerns owned and controlled by socially and economically disadvantaged individuals,

(2) historically black colleges and universities,

(3) colleges and universities having a student body in which more than 40 per centum of the students are Hispanic American, and

(4) private voluntary organizations which are controlled by individuals who are socially and economically disadvantaged.

(b)(1) In addition to other actions taken to carry out this section, the actions described in paragraphs (2) through (5) shall be taken with respect to development assistance and assistance for sub-Saharan Africa for the current fiscal year.

(2) Notwithstanding any other provision of law, in order to achieve the goals of this section, the Administrator—

(A) to the maximum extent practicable, shall utilize the authority of section 8(a) of the Small Business Act (15 U.S.C. 637(a));

(B) to the maximum extent practicable, shall enter into contracts with small business concerns owned and controlled by socially and economically disadvantaged individuals, and organizations contained in paragraphs (2) through (4) of subsection (a)—

(i) using less than full and open competitive procedures under such terms and conditions as the Administrator deems appropriate, and

(ii) using an administrative system for justifications and approvals that, in the Administrator's discretion, may best achieve the purpose of this section; and

(C) shall issue regulations to require that any contract in excess of $500,000 contain a provision requiring that no less than 10 per centum of the dollar value of the contract be subcontracted to entities described in subsection (a), except—

(i) to the extent the Administrator determines otherwise on a case-by-case or category-of-contract basis; and

(ii) this subparagraph does not apply to any prime contractor that is an entity described in subsection (a).

(3) Each person with contracting authority who is attached to the Agency's headquarters in Washington, as well as all Agency missions and regional offices, shall notify the Agency's Office of Small and Disadvantaged Business Utilization at least seven business days before advertising a contract in excess of $100,000, except to the extent that the Administrator determines otherwise on a case-by-case or category-of-contract basis.

(4) The Administrator shall include, as part of the performance evaluation of any mission director of the agency, the mission director's efforts to carry out this section.

(5) The Administrator shall submit to the Congress annual reports on the implementation of this section. Each such report shall specify the number and dollar value or amount (as the case may be) of prime contracts, subcontracts, grants, and cooperative agreements awarded to entities described in subsection (a) during the preceding fiscal year.

(c) As used in this section, the term "socially and economically disadvantaged individuals" has the same meaning that term is given for purposes of section 8(d) of the Small Business Act, except that the term includes women.

USE OF AMERICAN RESOURCES

SEC. 556. To the maximum extent possible, assistance provided under this Act should make full use of American resources, including commodities, products, and services.

LIMITATIONS ON ASSISTANCE FOR NICARAGUA

SEC. 557. (a) Funds appropriated by this Act under the heading "Economic Support Fund" may only be made available to the Government of Nicaragua upon the notification, in writing, by the Secretary of State to the appropriate committees that he has determined that significant and tangible progress is being made by the Government of Nicaragua toward—

(1) the prosecution of any individual identified as part of a terrorist/kidnapping ring by the investigation of issues raised by the discovery, after the May 23, *1993*, explosion in Managua, of weapons caches, false passports, identity papers and other documents, suggesting the existence of such a ring, including all government officials (including any members of the armed forces or security forces);

(2) the resolution of expropriation claims and the effective compensation of legitimate claims;

(3) the timely implementation of recommendations made by the Tripartite Commission as it undertakes to review and identify those responsible for gross human rights violations, including the expeditious prosecution of individuals identified by the commission in connection with such violations;

(4) the enactment into law of legislation to reform the Nicaraguan military and security forces in order to guarantee civilian control over the armed forces;

(5) the establishment of civilian control over the police, and the independence of the police from the military; and

(6) the effective reform of the Nicaraguan judicial system.

(b) The notification pursuant to subsection (a) above shall include a detailed listing of the tangible evidence that forms the basis for such determination.

(c) For purposes of this section, the term "appropriate committees" means the Committees on Foreign Relations and Appropriations of the Senate and Committees on Foreign Affairs and Appropriations of the House of Representatives.

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 558. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

CONSULTING SERVICES

SEC. 559. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law.

PRIVATE VOLUNTARY ORGANIZATIONS—DOCUMENTATION

SEC. 560. None of the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the Agency for International Development, nor shall any of the funds appropriated by this Act be made available to any private voluntary organization which is not registered with the Agency for International Development.

SPECIAL DEBT RELIEF FOR THE POOREST

[SEC. 561. (1) AUTHORITY TO REDUCE DEBT.—The President may reduce amounts owed to the United States (or any agency of the United States) by an eligible country as a result of—

[(A) guarantees issued under sections 221 and 222 of the Foreign Assistance Act of 1961; or

[(B) credits extended or guarantees issued under the Arms Export Control Act.

[(2) LIMITATIONS.—

[(A) The authority provided by paragraph (1) may be exercised only to implement multilateral official debt relief and referendum agreements, commonly referred to as "Paris Club Agreed Minutes".

[(B) The authority provided by paragraph (1) may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

[(C) The authority provided by paragraph (1) may be exercised only with respect to countries with heavy debt burdens that are eligible to borrow from the International Development Association, but not from the International Bank for Reconstruction and Development, commonly referred to as "IDA-only" countries.

[(3) CONDITIONS.—The authority provided by paragraph (1) may be exercised only with respect to a country whose government—

[(A) does not have an excessive level of military expenditures;

[(B) has not repeatedly provided support for acts of international terrorism;

[(C) is not failing to cooperate on international narcotics control matters; and

[(D) (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights.

[(4) AVAILABILITY OF FUNDS.—The authority provided by paragraph (1) may be used only with regard to funds appropriated by this Act under the heading "Debt Restructuring".

[(5) CERTAIN PROHIBITIONS INAPPLICABLE.—A reduction of debt pursuant to paragraph (1) shall not be considered assistance for purposes of any provision of law limiting assistance to a country.]

SEC. 561. (a) AUTHORITY TO REDUCE DEBT.—The President may reduce amounts owed to the United States (or any agency of the United States) by an eligible country as a result of—

(1) guarantees issued under sections 221 and 222 of the Foreign Assistance Act of 1961; or

(2) credits extended or guarantees issued under the Arms Export Control Act.

(b) LIMITATIONS.—

(1) The authority provided by subsection (a) may be exercised only to implement multilateral official debt relief and referendum agreements, commonly referred to as "Paris Club Agreed Minutes".

(2) The authority provided by subsection (a) may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

(3) The authority provided by subsection (a) may be exercised only with respect to countries with heavy debt burdens that are eligible to borrow from the International Development Association, but not from the International Bank for Reconstruction and Development, commonly referred to as "IDA-only" countries.

(c) CONDITIONS.—The authority provided by subsection (a) may be exercised only with respect to a country whose government—

(1) does not have an excessive level cf military expenditures;

(2) has not repeatedly provided support for acts of international terrorism;

(3) is not failing to cooperate on international narcotics control matters; and

(4) (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights.

(d) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to funds appropriated by this Act under the heading "Debt Restructuring".

(e) CERTAIN PROHIBITIONS INAPPLICABLE.—A reduction of debt pursuant to subsection (a) shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

GUARANTEES

SEC. 562. Section 251(b)(2)(G) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "1994" and inserting in lieu thereof "1994 and 1995" in both places that this appears.

PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS THAT EXPORT LETHAL MILITARY EQUIPMENT TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

SEC. 563. (a) None of the funds appropriated or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 40(d) of the Arms Export Control Act. The prohibition under this section with respect to a foreign government shall terminate 12 months after that government ceases to provide such military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after the date of enactment of this Act.

(b) Assistance restricted by subsection (a) or any other similar provision of law, may be furnished if the President determines that furnishing such assistance is important to the national interests of the United States.

(c) Whenever the waiver of subsection (b) is exercised, the President shall submit to the appropriate congressional committees a report with respect to the furnishing of such assistance. Any such report shall include a detailed explanation of the assistance to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance furthers United States national interests.

WITHHOLDING OF ASSISTANCE FOR PARKING FINES OWED BY FOREIGN COUNTRIES

SEC. 564. (a) IN GENERAL.—Of the funds made available for a foreign country under part I of the Foreign Assistance Act of 1961, an amount equivalent to 110 percent of the total unpaid fully adjudicated parking fines and penalties owed to the District of Columbia by such country as of the date of enactment of this Act shall be withheld from obligation for such country until the Secretary of State certifies and reports in writing to the appropriate congressional committees that such fines and penalties are fully paid to the government of the District of Columbia.

(b) DEFINITION.—For purposes of this section, the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives.

LIMITATION ON ASSISTANCE FOR THE PLO FOR THE WEST BANK AND GAZA

SEC. 565. None of the funds appropriated by this Act may be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza unless the President has exercised the authority under section 583(a) of the Middle East Peace Facilitation Act of 1994 (part E of title V of Public Law 103–236) or any other legislation to suspend or make inapplicable section 307 of the Foreign Assistance Act of 1961 and that suspension is still in effect: *Provided*, That if the President fails to make the certification under section 583(b)(2) of the Middle East Peace Facilitation Act or to suspend the prohibition under other legislation, funds appropriated by this Act may not be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza unless the President determines that it is in the national interest to do so and so reports to the Congress.

PROCUREMENT REDUCTION

SEC. 566. (a) Of the budgetary resources available to the Agency for International Development during fiscal year 1995, $1,598,000 are permanently canceled.

(b) The Administrator of the Agency for International Development shall allocate the amount of budgetary resources canceled among the Agency's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account.

(c) For the purposes of this section, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in section 403(a)(2) of title 41, United States Code.

[IMPLEMENTATION OF WAPENHANS REPORT RECOMMENDATIONS

[SEC. 567. Funds appropriated by title I of this Act under the headings "Contribution to the International Bank for Reconstruction and Development", "Contribution to the International Development Association", and "Contribution to the International Finance Corporation" shall not be available for payment to any such institution unless the Secretary of the Treasury (1) determines that the recommendations contained in the report entitled Report of the Portfolio Management Task Force (commonly referred to as the "Wapenhans Report") continue to be implemented, and (2) reports that determination to the Committee on Appropriations and the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate.]

IMPLEMENTATION OF WORLD BANK RECOMMENDATIONS

Sec. 567. (a) Funds appropriated by title I of this Act under the headings "Contribution to the International Bank for Reconstruction and Development" and "Contribution to the International Development Association" shall be available for payment to such institutions as follows:

(1) 50 percent of the funds appropriated under each such heading shall be made available prior to April 1, 1995, only if the Secretary of the Treasury makes the determination (and so reports to the Committees on Appropriations) described in paragraph (3) of this subsection at any time prior to that date.

(2) 50 percent of the funds appropriated under each such heading shall be made available on April 1, 1995, or thereafter, only if the Secretary of the Treasury makes the determination (and so reports to the Committees on Appropriations) described in paragraph (3) of this subsection at any time on or after that date.

(3) The determinations referred to in paragraphs (1) and (2) are determinations that the International Bank for Reconstruction and Development is—

(A) implementing the recommendations contained in "Next Steps", the follow-up to the Wapenhans Report;

(B) implementing the action plan contained in chapter 8 of its April 8, 1994, resettlement review entitled "Resettlement and Development";

(C) implementing the Bank's procedures on Disclosure of Operational Information issued in September 1993; and

(D) actively encouraging borrowing governments to publicly disclose information on structural adjustment programs.

(b) Funds appropriated by title I of this Act under the heading "Contribution to the International Finance Corporation" shall be available for payment to such institution as follows:

(1) 50 percent of the funds appropriated under such heading shall be made available prior to April 1, 1995, only if the Secretary of the Treasury makes the determination (and so reports to the Committees on Appropriations) described in paragraph (3) of this subsection.

(2) 50 percent of the funds appropriated under such heading shall be made available on or after April 1, 1995, only if the Secretary of the Treasury makes the determination (and so reports to the Committees on Appropriations) described in paragraph (3) of this subsection.

(3) The determinations referred to in paragraphs (1) and (2) are determinations that the International Finance Corporation is pursuing reforms comparable to those adopted by the International Bank for Reconstruction and Development regarding the environment, information disclosure, and resettlement.

RESTRICTIONS ON ASSISTANCE TO RUSSIA

Sec. 568. (a) Restriction.—None of the funds appropriated or otherwise made available by this Act may be obligated for assistance for the Government of Russia after December 31, 1994, unless [it has been made known to the President that] all armed forces of Russia and the Commonwealth of Independent States have been removed from all Baltic countries or that the status of those armed forces have been otherwise resolved by mutual agreement of the parties.

(b) Exemption.—Subsection (a) does not apply to assistance that involves the provision of student exchange programs, food, clothing, medicine, or other humanitarian assistance or to housing assistance for officers of the armed forces of Russia or the Commonwealth of Independent States who are removed from the territory of Estonia, Latvia, [and Lithuania] *Lithuania, or countries other than Russia.*

(c) Waiver.—Subsection (a) does not apply if after December 31, 1994, the President determines that the provision of funds to the Government of Russia is in the national interest.

[ADDITIONAL LIMITATION ON FUNDS TO ENSURE IMPLEMENTATION OF WAPENHANS REPORT RECOMMENDATIONS

[Sec. 569. (a) Limitation on Amounts Available Before April 1, 1995.—If amounts appropriated by title I become available pursuant to section 567—

[(1) not more than $30,000,000 shall be available for obligation before April 1, 1995, for "Contribution to the International Bank for Reconstruction and Development" for payment for contribution to the Global Environment Facility;

[(2) not more than $1,024,332,000 shall be available for obligation before April 1, 1995, for "Contribution to the International Development Association"; and

[(3) not more than $35,761,500 shall be available for obligation before April 1, 1995, for "Contribution to the International Finance Corporation".

[(b) Requirements for Availability of Additional Amounts.—No amount in excess of any sum specified in subsection (a) with respect to an account or activity shall become available on or after April 1, 1995, unless the Secretary of the Treasury—

[(1) determines that the recommendations contained in the report entitled Report of the Portfolio Management Task Force (commonly referred to as the "Wapenhans Report") continue to be implemented as of such date;

[(2) reports such determination to the Committee on Appropriations and the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate; and

[(3) complies with the regular notification procedures of the Committee on Appropriations.]

MILITARY EXPENDITURES BY RECIPIENTS OF MULTILATERAL ASSISTANCE

Sec. 569. The Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to vote against any loan or any extension of assistance to any country which fails to make available to such institution the most recent accurate and complete data on annual expenditures for its armed forces, unless such assistance is directed specifically to programs which serve the basic human needs of the citizens of such country.

PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS

Sec. 570. (a) Sense of Congress.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) Notice Requirement.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency shall provide, to the greatest extent practicable, to such entity [a notice describing the statement made in subsection (a) by the Congress] *notice consistent with subsection (a) and section 604(a) of the Foreign Assistance Act of 1961.*

WEST BANK AND GAZA ECONOMIC DEVELOPMENT FUND

Sec. 571. Of the funds appropriated by this Act under the heading "Economic Support Fund", not less than $20,000,000 should be made available to support the creation and expansion of small and medium-sized businesses, including agricultural enterprises, in the West Bank and Gaza. All or any part of such funds may be used for the subsidy cost of direct loans and loan guarantees as defined in section 502 of the Congressional Budget Act of 1974. Funds made available under this heading shall be subject to the regular notification procedures of the Committees on Appropriations.

AGRICULTURAL AID TO THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

Sec. 572. Of the funds appropriated by title II of this Act under the heading "Assistance for the New Independent States of the Former Soviet Union" up to $50,000,000 should be made available only for provision of United States agricultural commodities to address the food and nutrition needs of the people of the new independent states of the former Soviet Union: Provided, That in providing assistance under this section, primary emphasis shall be given to meeting the food and nutrition needs of children and pregnant and post-partum women: Provided further, That funds made available for the purposes of this section may be used for transportation of United States agricultural commodities provided under this section: Provided further, That the President may enter into agreements with the governments of the new independent states and nongovernmental organizations to provide for the sale of any part of the United States agricultural commodities in the new independent states for local currencies: Provided further, That any such local currencies shall be used in the new independent states to process, transport, store, distribute or otherwise enhance the effectiveness of the use of United States agricultural commodities provided under this section, and to support agricultural and rural development activities.

EXPORT FINANCING TRANSFER AUTHORITIES

Sec. 573. Not to exceed 5 percent of any appropriation other than for administrative expenses made available for the current fiscal year for programs under title IV of this Act may be transferred between such appropriations for use for any of the purposes, programs and activities for which the funds in such receiving account may be used, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 25 percent by any such transfer: Provided, That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations: Provided further, That $12,000,000 shall be immediately transferred from funds available to the Export-Import Bank for fiscal year 1994 to the Overseas Private Investment Corporation, and $1,000,000 shall be immediately transferred from funds available to the Export-Import Bank for fiscal year 1994 to the Trade and Development Agency: Provided further, That the provisions of the previous proviso shall be effective on the date of enactment of this Act.

INCAE

Sec. 574. The Government of Nicaragua may assume the obligation of the Central American Institute of Business Administration (INCAE) to make payment to the United States under a loan made to INCAE pursuant to an Alliance for Progress Loan Agreement dated April 25, 1972: Provided, That such payment shall be for the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, of such obligation and shall relieve INCAE of any further liability to the United States for payment of interest and principal under such loan notwithstanding section 620(r) of the Foreign Assistance Act of 1961.

MONGOLIA

SEC. 575. Section 620(f) of the Foreign Assistance Act of 1961 is amended by striking "Mongolian People's Republic." from the list contained therein.

REPORT ON COMPLIANCE WITH COMMITMENTS

SEC. 576. Section 804(b) of title VIII of Public Law 101-246 (PLO Commitments Compliance Act of 1989) is amended—

(1) in paragraph (9) by striking "; and" and inserting in lieu thereof ";";

(2) by striking the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(3) by adding the following new paragraph:

"(11) measures taken by the PLO to prevent acts of terrorism, crime and hostilities and to legally punish offenders, as called for in the Gaza-Jericho agreement of May 4, 1994.".

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995".

Mr. LEAHY. Madam President, the Senate is still not in order.

As manager of this bill, I would like to at least be able to hear what is going on.

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their conversations to the Cloakroom.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. Madam President, I ask unanimous consent that I be permitted to speak for 2 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object. I will object to any unanimous consent request while this bill is up unless we can have order in the Senate.

The PRESIDING OFFICER. The Senate will be in order. All conversations will be taken to the Cloakroom. Staff are asked to please cease their conversations or they will be asked to leave.

Mr. LEAHY. I remove my objection.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 2 minutes.

PRODUCT LIABILITY REFORM

Mr. ROCKEFELLER. Madam President, I just want to indicate, as the chief sponsor of the legislation, product liability reform, which has just been sent back to the Senate's calendar, that I am disappointed, but, on the other hand, I am not defeated. We simply have to persevere on this matter.

I want to say how proud I am to have worked with Senator GORTON. There are no words to express how deep my respect is for his abilities and skills. I have the same respect for the good Senators from Connecticut, JOE LIEBERMAN and CHRIS DODD, and others who helped us on this.

And the people who never do get thanked are the people that do all of the work, Tamera Stanton, on my staff, who is not even a lawyer, but who sat by me and just was incredible in the way she did this work; Tom Morgan of my own staff; John Nakahata, Tiger Joyce, Terri Claffey, they are from other Senators' staffs; Tony Orza, Alan Maness, Peter Kinzler, Gerron Levy, Greg Rohde, and there are others.

But the work and the intensity was enormous, the pressure was great. The result was democracy at work, and I understand that. And I just want to thank those who worked so hard and to thank all of the Senators who took this issue seriously and voted their feelings on it.

I thank the Chair and I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Madam President, I want to, in turn, thank the Senator from West Virginia for his kindness and for his courtesy and for his never-failing goodwill. In many respects his assignment in this connection was far more difficult than my own. But it was a pleasure to work with him and I know he joins me in saying, "The same time, same place next year." We will be back. He is correct, it is a valid cause and one of these days we are going to win it. I thank him.

I join him in his commendation for members of the staff on both sides, my own, on the minority side, and the Senator from West Virginia's staff and all of the rest who have helped him. And I know that their dedication will remain and we will try to do better the next time around.

Mr. HOLLINGS. Madam President, in all fairness, let us not just thank the trial lawyers of America. They obviously worked and the record will show they worked for the injured parties, and it is not easy, but, in addition to them, I ask unanimous consent that we include in the RECORD here the list of the organizations, such as the American Bar Association, the Conference of State Supreme Court Justices, the Chief Justices of those Supreme Courts, the National Conference of the Legislatures, the State Attorneys General Association, and all the women's associations and the Consumer Federation, Public Citizen. I ask unanimous consent that this list be printed in the RECORD for my genuine gratitude for their leadership.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

CONSUMERS FOR CIVIL JUSTICE

NJ Environmental Federation.
NAACP.
NOW—National Organization of Women.
Industrial Union Council.
Black Issues Convention.
NJ Citizen Action.
New Jersey Environmental Lobby (NJEL).
IUE, AFL–CIO.
United Auto Workers (UAW—Region 9).
NJ Hemophilia Foundation.
Central Jersey Spinal Cord Injury Assn.
NJ White Lung.
Central Labor Union—AFL–CIO.
Communications Workers of America (CWA–AFL–CIO).
CHILD–Cape May.
Amalgamated Transit Union.
American Litoral Society.
Arthur Kill Watershed Association.
Aspira, Inc. of New Jersey.
Association to Improve Benefits.
Bayonne Citizens for Clean Air.
Bergen Labor Council, AFL–CIO.
Bergen Save the Watershed Action Network (SWAN).
Boilermaker's Local 28.
Center for Visual Arts.
Chemical Workers Association.
Clean Ocean Action (COA).
Coalition Against Toxics—Camden County.
Columbian Federation.
Committee of Internists and Residents.
Concerned Citizens of Union County.
Concerned Citizens of Wayne.
Copeland Surveying, Inc.
Cornucopia Network of New Jersey.
Council of N.J. State College Locals—AFT.
Creative Risk Services, Inc.
CWA Local 1032.
CWA Local 1081.
DES Action—New Jersey.
Edison Wetlands Association.
Environmental Response Network—Atlantic County.
Grassroots Environmental Coalition (GREO).
Hospital Professionals & Allied Employees.
Hudson Labor Council.
IBEW Local 1032.
Implant Victim Action Committee.
International Association of Machinists.
International Federation of Professional Technical Employees.
Ironbound Committee Against Toxic Waste.
Local 8–149—OCAW.
Local 262, Retail, Wholesale Dept. Store Union—United Food & Commercial Workers.
Local 617 Service Employees International Union.
Machinist Union Local 914.
Mercer Environmental Coalition.
Middlesex County Environmental Coalition.
Monmouth County Citizens for Clean Air.
Monmouth County Friends of Clearwater.
N.J. Coalition of Labor Union Women.
Network for Environmental & Economic Responsibility at United Church of Christ.
New Jersey Right to Know and Act Coalition.
Newark Teachers Union.
NJ Coalition of Occupational Safety & Health.
NJ PIRG.
Ocean County Citizens for Clean Water.
People United for a Klean Environment—Burlington.
Peoples Medical Society.
PHILOPOSH.

Pompton Lakes Against Pollution.
Princeton Area Committee of NJEF.
Public Citizen.
Rain Forest Relief.
Rutgers AAUP.
Sheetmetal Workers Local Union 27.
Sierra Club, NJ Chapter.
Skylands Clean.
Teamsters Local 945.
The Command Trust, East Coast Connection Silicone Breast Implant Support Group.
TMJ Association.
United Labor Agency.
United Passaic Organization (UPO).
United Transportation Union Local 60.
Utility Co-Workers' Association.
VOCCAL—Oakland.
W.A.T.E.R.—Vineland.

LIST OF ORGANIZATIONS AND INDIVIDUALS OPPOSED TO FEDERAL PRODUCT LIABILITY LEGISLATION

AFL–CIO.
Alliance for Justice.
American Association of Retired Persons.
American Bar Association.
American Council of the Blind.
American Lung Association.
American Public Health Association.
Americans for Democratic Action.
Asbestos Victims' Education and Information.
Asbestos Victims of America.
Brown Lung Association.
California PIRG.
Citizen Action.
Colorado PIRG.
Conference of Chief Justices.
Connecticut PIRG.
Consumer Federation of America.
Consumers Union.
Dalkon Shield Claimants' Committee.
DES Action USA.
Disability Rights and Education Fund.
Environmental Action.
Florida PIRG.
Friends of the Earth.
Illinois PIRG.
Maryland PIRG.
Massachusetts PIRG.
Michigan Citizens Lobby.
Minnesota PIRG.
National Association for Public Health Policy.
National Campaign Against Toxic Hazards.
National Coalition Against the Misuse of Pesticides.
National Conference of State Legislatures.
National Consumers League.
National Insurance Consumers Organization.
National Spinal Cord Injury Association.
National Women's Health Network.
New Jersey Citizen Action.
New Jersey PIRG.
New Mexico PIRG.
Oregon State PIRG.
Pennsylvania PIRG.
PIRG in Michigan.
Pubic Citizen.
Public Voice for Food and Health Policy.
Ralph Nader.
Service Employees International Union, Local 82.
Sierra Club.
Trauma Foundation.
United Auto Workers.
United States Public Interest Research Group.
United Steel Workers.
Vermont PIRG.
Washington PIRG.
White Lung Association.
Wisconsin PIRG.

Mr. HEFLIN. Madam President, I will just take 30 seconds. I want to file at a later time all the staff members that worked on this so diligently and to thank them. I do not want to omit anyone, so I will be filing that later or speaking later thanking them for all of their work, and including any other organization that was omitted, I just want it be comprehensive and inclusive.

Mr. BAUCUS. Madam President, I ask unanimous consent to speak as in morning business for 10 minutes.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

The Senate continued with the consideration of the bill.

Mr. LEAHY. Parliamentary inquiry, what is the pending parliamentary situation?

The PRESIDING OFFICER. H.R. 4426, the appropriations bill.

The Senator from Montana asked for consent to speak as if in morning business.

Mr. LEAHY. Reserving the right to object, Madam President, are we now on foreign operations bill?

The PRESIDING OFFICER. The Senator from Vermont is correct.

Mr. LEAHY. Would the normal tradition be for the managers of the bill to give their opening statements at this point?

The PRESIDING OFFICER. The Senator from Vermont is correct.

UNANIMOUS-CONSENT AGREEMENT

Mr. LEAHY. Madam President, I want to propound a unanimous-consent request which will take care of the situation of the Senator from Montana and everybody else and also the bill that is on the floor. I am going to ask unanimous consent that there not be any amendments to the pending legislation in order prior to 11:15 a.m. and, at that point, I be recognized to give my opening statement, and prior to that time, we would be as in morning business.

This, I think, takes care of a situation involving the ranking member of this committee and myself.

So I make the unanimous-consent request that there be no amendments to the pending legislation in order prior to 11:15 a.m. and that, at 11:15 a.m., I will be recognized in the normal course of business to give my opening statement as manager of the bill, and prior to that time Senators be permitted to speak as in morning business for the time that they have requested.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

OPPOSITION TO FUNDING FOR THE SPACE STATION PROGRAM

Mr. BAUCUS. Madam President, during the coming months, we will make funding decisions that will affect the future for every man, woman, and child in the United States. Our votes will have an impact on the quality of environmental protection, the scope of Federal public health programs, veterans benefits, housing assistance, educational aid, national defense, scientific research, law enforcement, agricultural assistance, and many other matters of vital concern to our country.

Unfortunately, the Federal Government cannot afford to pay for all of the country's needs. Tight budget caps—a direct result of the massive budget deficit—makes it impossible to fully fund everything we require. So this year, in our consideration of fiscal year 1995 appropriations, we will be forced, perhaps more than ever before, to make tough funding choices.

We must set priorities that put people first by preserving the programs Americans need the most and cutting back on those that are of less importance to the health and well being of the country. Among the programs we must continue to support are those administered by the Environmental Protection Agency.

Opinion polls consistently show that Americans believe environmental protection is a top priority and should be fully funded.

There is good reason for our concerns about the environment. Cancer deaths attributable to pollution are rising; we are twice as likely to die of cancer as our grandparents. Degradation of our air and water continues to be a serious threat. Our children remain dangerously exposed to hazardous substances such as lead. More than 100 million citizens live in areas of the country where air pollution exceeds Federal health standards.

Yet EPA lacks the resources to fully implement environmental protection laws. The Agency cannot provide the level of protection promised by Federal statutes, and is unable to conduct sufficient research to ensure that pollution standards are based on the sound science all of us have called for at one time or another.

EPA's budget shortfall has serious consequences for all of us. The Agency's pesticides program has a backlog of toxicity studies that have not been reviewed on nearly 15,000 pesticides, many of which are used on food crops. Thousands of permits for water discharges and waste storage cannot be processed by the Agency in a timely manner. A number of new regulations required by the Clean Air Act Amendments of 1990 will be delayed or poorly implemented without sufficient resources. State and local governments, already hard pressed to implement

Federal requirements, will have even less money available to enforce Federal environmental laws. For business, the result of all this is a lack of certainty and an inability to plan.

EPA is funded by the VA, HUD, and Independent Agencies bill, which also supports programs for housing, veterans, aerospace, and the National Science Foundation. All of the programs funded by this appropriations bill are in jeopardy.

There is a nearly $800 million gap between the President's budget request for the programs contained in the bill and the Senate's budget cap for this allocation. Unless we remedy this situation, veterans will go without medical assistance and other benefits they require may be lessened. Programs designed to provide low-income housing and ease the homeless crisis will be unfunded. And the environment and public health gains of the last two decades will be reversed.

NASA's budget of nearly $15 billion is twice the size of EPA's budget. The administration's request for one NASA program alone, the space station, is $2.1 billion in fiscal year 1995, an amount nearly equal to all of EPA's core operating programs this year.

The space station is not only a drain on veterans, housing, and environmental programs, it takes money away from NASA itself. NASA is overextended and cannot afford to manage all of its programs, largely because of the resources that are diverted to the space station.

While there may be noble intent behind the space station, it is of questionable value and a largely speculative venture. Much of its goals are based on untested theory. It is unclear that the station will even survive damaging space debris. NASA estimates that there is a 1 in 5 chance that the space station would be seriously harmed by floating objects in space. NASA may well be able to correct these problems, but the bottom line is that we cannot afford to fund the space station this year.

Our needs here on Earth are far too great for us to be spending money on an outpost in outer space. Does it make sense for us to fund a space station at the expense of environmental protection programs designed to save our planet, programs enacted to sustain and protect our veterans, or programs created to provide basic housing in a country besieged by homelessness.

Reportedly, the President's No. 1 priority in the VA, HUD, and independent agencies appropriations bill is the space station. I suggest that the administration's priorities, in this case are misplaced, and do not reflect the needs or desires of the American people. I will be sending a letter to the President, asking him to withdraw his support for the space station. I also intend to work with my distinguished colleagues, Senator BUMPERS and Senator COHEN, who have demonstrated tremendous leadership in opposing the space station. I urge my colleagues to join me in opposing the space station and seeking a reallocation of the funding to other, more necessary programs.

Madam President, I yield the floor, and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Madam President, I ask unanimous consent to speak for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNCOLLECTED FINES

Mr. DORGAN. Madam President, I wanted to share with the Senate today some chartboards that I used at a hearing yesterday, and talk a bit about the conclusions of the hearing. Most Americans will well remember the 1980's as a time of intense speculation, junk bonds, leveraged buyouts, the country was awash in debt, and most especially a country in which we had massive S&L failures where two-thirds of the failures involved fraud. We had folks who used to run S&L's, who committed fraud, on their way to prison for 2 years at hard tennis in some minimum security camp, and the American people were furious about it. Billions of dollars, literally, were stolen by people who ran some of these institutions into the ground. The American people wanted, first of all, for these folks to be convicted of fraud when they committed fraud; and second, to have their assets seized as they went to jail.

I held a hearing yesterday before the Governmental Affairs Committee on the question of what has happened with respect to those who have been fined, or against whom restitution orders have been made. What has happened? Have we gotten the money from these folks? I am not just talking about those who committed fraud in S&L's. I am talking about those who were convicted of fraud in financial institutions and others convicted of Federal crimes and who have been ordered to pay fines and restitution.

You will see a blowup of a story in a newspaper the other day that says, "Little S&L Payback; swindlers' fines go uncollected."

The headline is probably an accurate reflection, from the information that I received at the hearing yesterday.

Here is another newspaper article from the Miami Herald. "Fine-collection center: 'Still just a good idea. Haven't gotten all the bugs out yet?'"

The article is talking about the National Fine Center, something that was decided to be created 7 or 8 years ago; $5 million has been spent and there still is no National Fine Center to collect the fines that are levied against those who have been fined in the Federal courts.

Let me describe where we are. "Major Financial Institution Fraud Fines and Restitution Ordered and Collected." These are the biggest crooks in the country. These are the criminals who fleeced the American people of billions of dollars, not with a gun but a pencil, stole from S&L's, defrauded the S&L's, defrauded the banks. They were sent to jail, most of them, and ordered to pay fines and restitution.

Now let us see how well we have done: $1.96 billion in fines and restitutions ordered against these criminals; $1.96 billion. How much has been collected? Two and a half percent; 98 cents on the dollar goes uncollected; 2 cents or 2½ cents on the dollar is collected. What on Earth is going on?

Let me show another chart. The 50 largest criminal debts owed to the United States. These are in Federal courts, fines and restitutions ordered by the Federal courts. The 50 largest. Just take the 50 largest that are on file. These are the biggest crooks. They owe $822 million in Federal fines and restitution.

How much have they paid? $4.1 million, one-half of 1 percent; 99.5 percent of the fines uncollected, one-half of 1 percent is collected.

Another chart. The 36 largest financial-institution-fraud debts. Now, recall, the last chart was the 50 largest criminal debts. This is the 36 largest financial institutions; that is S&L's and banks. These are the people who committed the fraud against those institutions. They went to court, most went to jail, ordered to pay fines and restitution; $608 million in fines and restitutions. They paid $4 million, six-tenths of 1 percent. Nearly 99.5 percent of the Federal fines levied against these folks, some of the biggest crooks in this country, goes uncollected.

They will say, "Yes, but these are the big crooks and they are in prison. How can the biggest crooks who are in prison pay?" Well, of the 14 largest financial-institution-fraud debts owed to the United States where the perpetrator is not in prison, these are folks who are out of prison, of $224 million in Federal fines assessed in restitution, $2.9 million was paid. These are people who are not in prison. That is 1.3 percent of the Federal fines that have been levied in restitutions ordered paid, 98.7 percent remains uncollected.

Another chart. Restitution orders of $1 million or more, payable to the Resolution Trust Corporation. These are restitution orders; $384 million ordered, $5.9 million paid; 1.5 percent collected.

I do not need to show a lot of other fancy colored charts to give you the same message. The message is that when the Federal Government, through its Federal court system, levies a fine on a criminal, it is not very likely we are going to collect much. We are collecting about a penny on the dollar. Under the best of circumstances, we are collecting 4 cents on the dollar. And the rest of the story is, 96 cents on the dollar is not being collected from some of the biggest criminals in this country.

Why? Because we do not have a national fine center. We have a disparate, fractured, disassembled system all around this country that does not work to collect fines. It is an afterthought in most of the districts.

You ask people how much is owed, how old is it, who owes it, what is their address, and they cannot tell you. They spent $5 million to create a national fine center, at the end of which we have no national fine center. The money for the national fine center comes out of the funds that would otherwise go to victims. So $19 million is available to be spent, they have spent $5 million, and we have no national fine center.

In fact, they say now we will have a national fine center, the first stage of which will be operational about 2¼ years from now, and that will largely be manual. There is something seriously wrong.

The hearing I held in the Governmental Affairs Committee yesterday asks the question: Why on Earth do we see a situation which, when we levy fines in the Federal Government or restitution orders against some of the biggest criminals in the history of this country, people who fleeced the American public of millions, yes, millions of dollars through fraud, why are we finding 99 percent of that fine and restitution ordered is not being collected? It is because at least, in large part we have a system that would persuade those out around the country, if you are going to owe money to somebody, better you owe it in the judicial system because it is unlikely they are going to be able to collect it. Owe it on a credit card and see what happens, see if you do not have a pen pal for life, see if you do not have pressure every day. But owe it here, we collect 1 percent. We collect only 1 percent; 99 percent goes uncollected.

We deserve better than that. The American people expect a whole lot better than that. I indicated yesterday to the Justice Department and the Administrative Office of the U.S. Courts that we are going to come back again with another hearing and another hearing to find out why do we not see better statistics on collecting fines against some of the biggest criminals in this country. The American people expect it and deserve it. Frankly, this system is not working, and we need to change it.

Madam President, I yield the floor.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

UNIVERSITY OF OKLAHOMA SOONER BASEBALL TEAM

Mr. BOREN. Madam President, it is not often that one gets the opportunity to rise in this Chamber to claim bragging rights about athletics. But I claim that privilege today in honor of a remarkable baseball team that hails from a university that is near and dear to me—the University of Oklahoma Sooners baseball team.

As I am sure my distinguished colleagues from Georgia, Senator COVERDELL and Senator NUNN, have noticed, the Sooners did their best to be very courteous to the Georgia Tech Yellow Jackets. But on June 12, 1994, this Sooners team captured the national title by decisively defeating the Georgia Tech Yellow Jackets by a score of 13–5 in the final game of the National Collegiate Athletic Association College World Series.

I am certain that I speak on behalf of all Oklahomans when I say that the Sooners performed impressively throughout the season, rising from underdogs to top dogs through great dedication, talent and fortitude.

In the early spring, OU was ranked in the mid-30's, clearly appearing to be a long shot for the College World Series title. However, their skill and tenacity paid off, and by the time the Sooners entered the College World Series, they boasted a regular season record of 46 wins against 17 losses and a Big Eight record of 21 wins against 9 losses, a regional record of 4–0, and they were ranked seventh in the NCAA, according to Baseball America.

The Sooners began the double elimination tournament as the fourth seed, which pitted them against Auburn in the first College World Series game. To reach the showdown against Georgia Tech, the Sooners defeated Auburn 5–4 and beat Arizona State in two games 4–3 and 6–1. OU continued to stun even their most loyal fans, all the way into the final game against the Yellow Jackets, setting College World Series Championship Game records. OU drove in 13 runs to top Minnesota's 12–1 victory against Arizona in 1956.

In addition, they tied the College World Series record with 16 hits. Even the crowd at the final game was record-breaking—21,503 people gathered to watch the event in Rosenblatt Stadium in Omaha, NE.

The story of this year's Sooners exemplifies the value of effort, determination, integrity and, not the least, talent. For most of the season, the players believed that they were not receiving the respect they deserved from their regional rivals. This feeling so affected the players and coaches, and compounded their low ranking in the early spring, that the team hung signs on their lockers that said, "We have no respect."

To combat this image and deliver results, the players and coaches worked to forge a winning machine. The guiding principles behind their efforts are ideas we can all stand to benefit from: trust and teamwork. A rope came to symbolize the Sooners' bond. As manager Sunny Golloway was known to ask the players, I paraphrase, If you were holding onto a rope that prevented a fatal fall from a cliff, who would you want holding the other end of that rope? Of course, the answer was a teammate.

It is this sort of positive thinking and enthusiasm for healthy competition that helped the Sooners capture the national title. It is these kinds of values, I hope, that they will carry forward from this once-in-a-lifetime achievement to the rest of their lives beyond OU baseball.

Now, Madam President, I would like to say a few words about each player on the team and the coaches on the staff.

THE PLAYERS

Bucky Buckles, a junior from Victorville, CA, set a school record for pitching and tied the Big Eight record for saves in a single season with 11 during the regular season. He added to that mark by saving three games in the postseason, including forcing the final out in the title game.

Sophomore Steve Connelly, of Long Beach, CA, is a hard thrower and believed to have one of the two or three best fastballs on the team.

Javier Flores, a freshman from Broken Arrow, OK, became catcher late in the season and threw out 8 of the last 15 stolen base attempts since taking his new duties midway through the regular season.

Senior Ken Gajewski, of Los Abirritos, CA, is known as a pitcher who throws strikes. During the regular season, he pitched three of the Sooners' first five victories, and he helped defeat Iowa State in the Big Eight tournament with 3.1 innings of relief in a 5 to 3 win.

Senior Chip Glass, from Ukiah, CA, played center field this year and holds the OU record for triples in a single season, 12, and for a career, 21. At times during the season, he had hitting streaks of eight, seven, six, and five. He was named Most Valuable Player of the College World Series after hitting three homers.

Rick Gutierrez, a senior from Long Beach, CA, was named Player of the Year in the Big Eight and is know as the best second baseman in the midlands. He went to regionas with a history of safe hits in 16 of the last 19 matches and held the second-highest batting average on the team, .352.

Sophomore Dustin Hansen, from Shattuck, OK, started this season in the infield and outfield and had a four-hit game against Missouri in the post-season conference tournament.

Rich Hills, a junior from Yorba Linda, CA, held the third-highest batting average on the team (.346), and set records in hitting doubles both for single-season and career totals and snagging extra bases. He also led the team with an RBI total of 59.

Kevin Lovingier, a senior from Laguna Hills, CA, helped to lead the Sooners in pitching with 66 strikeouts in the regular season and achieved a final ERA of 3.05, the team's third highest. With one of the better curveballs on the pitching squad, he is widely considered to be one of the major reasons for the team's achievements this season.

Sophomore M.J. Mariani, of Alameda, CA, started at third base this season and had the best gun in the infield. Fortunately for OU, Mariani, a UNLV transfer, will be eligible to play an extra year at OU because of a conference ruling this spring.

Damon Minor, a Hammon, OK sophomore, led the team with home runs, hitting two in one game. For part of the season, he started at first base. His three-run home run, which landed in the stadium parking lot, clinched the championship game.

Ryan Minor, twin brother of Damon and also from Hammon, started at first base near the end of the season and also pitched in three games. A versatile athlete, basketball prevented Ryan from playing baseball until March.

Sophomore Russell Ortiz, from Van Nuys, CA, is perhaps the hardest thrower on the squad. In his 2 years at OU before the regionals, he had made 37 pitching appearances.

Mark Redman, a sophomore from Del Mar, CA, ended the season with an excellent ERA of 2.71, the second-lowest on the pitching staff. In all, his record stands at 14–3, and he started in 20 games. He garnered 10 wins in the regular season, elevating him to the elite ranks of 10 others in OU history who have racked up double figures in wins. He set a single season school record with 134 strikeouts.

Junior Shawn Snyder, of Seminole, OK, was a solid reliever in the spring and appeared in 18 games to shut down opposing hitters. In a game against the Oklahoma State Cowboys, he started on the mound and stopped the first 10 hitters at home plate, completing four innings with only a two-hitter.

Aric Thomas, a junior from Riverside, CA, made hits in 15 consecutive games, the longest streak of any other OU hitter this year. Before regionals, he had 13 multihit games, and, earlier in the season, he had made it to base safely in 28 consecutive games.

Senior Darvin Traylor, from Riverside, CA, led the Sooners at the end of the season in hitting with a formidable .363 batting average. In his 2 years at OU, Traylor, a former relief pitcher and now an outstanding outfielder, has impressively played in 113 out of 114 games.

Freshman Joe Victery, of Ninnekah, OK, stood out this season as a rookie pitcher with a 4–0 record. He started 6 games while striking out 21.

Tim Walton, a junior from Cerritos, CA, ended the season with 11 starts, the second highest on the throwing squad. He was the winning pitcher in the championship game after going 2⅓ innings.

Finally, last but certainly not least, Jerry Whittaker, a junior from Long Beach, CA, has played in 106 of a possible 181 games during his last 3 years at OU before the regionals. Formerly a pitcher, injuries moved him to start as a centerfielder this year. He was the first OU player selected in this year's major league draft.

COACHING STAFF

Madam President, we all know that the team could not have succeeded without the superior coaching staff led by Head Coach Larry Cochell. In his 28th season heading a college-level team, Cochell has been at OU for 4 years and has reached the World Series four times with other teams. His fifth trip to Omaha was his first national championship; we're certainly glad he did it with OU. He's the only coach to have taken three different squads to the College World Series.

Pat Harrison lent invaluable assistance to the team through his expert instruction in hitting and playing the infield.

Vern Ruhle, a former Detroit Tiger, Cleveland Indian, California Angel, and Houston Astro, helped to hone Sooner pitching.

Meanwhile, Sunny Golloway, who came to OU just this past year, managed the Sooners skillfully throughout the season.

Rounding out the team's staff leadership was Mike Treps, special assistant to the athletic director, who served as the Sooners' liaison with the OU administration and has worked in OU athletics since 1972.

Madam President, I am proud of this team, and I am proud of these coaches from the University of Oklahoma, not only because they are great athletes, but because they are great people who exemplify the best of American values. They are a great tribute to the best tradition of athletics and personal achievement at the University of Oklahoma.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DORGAN). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. LEAHY. Mr. President, before I give my opening statement, I yield to the Senator from Washington State 5 minutes.

The PRESIDING OFFICER. The Senator from Washington [Mrs. MURRAY] is recognized for 5 minutes.

Mrs. MURRAY. Mr. President, I thank the Senator from Vermont.

PRAYING FOR THE VICTIMS OF DOMESTIC VIOLENCE

Mrs. MURRAY. Mr. President, last week, the U.S. Senate prayed for O.J. Simpson. Our Chaplain led us in prayer for this fallen hero, accused of a crime so horrible it defies description. We heard from the Book of Samuel: "How are the mighty fallen."

Mr. President, it seems we talk more and more often of fallen heroes, but we sometimes forget who they fall on.

So, Mr. President, this week I would like to suggest that all our colleagues reflect for a moment about the real victims in this case. About a young woman brutally murdered on her own front doorstep. About her friend stabbed so often his blood ran from one end of the sidwalk to the other.

And, about the young children who watched the battery and heard the abuse for so many years, and who are now left alone.

Mr. President, I do not rise today to suggest that O.J. Simpson is guilty of any crime. He will have his day in court. And, his fate will be left in the hands of twelve ordinary Americans.

Ordinary Americans know that domestic violence has become an overwhelming epidemic in this country. Across this Nation, every 15 seconds, a woman is battered. Every 6 minutes, a woman is raped. And, 90 percent of family violence defendants are never prosecuted.

Mr. President, you know I brag about my progressive State whenever I have the chance. But, today, I have sad news to report from my home State of Washington.

Even though Seattle is a national leader in addressing these issues, 7,900 incidents of domestic violence were reported there last year. That is a huge increase from the 2,100 incidents reported in 1985.

We must do more to prevent this violence.

Perhaps we are at a crossroads. I hope something positive will come from all the media attention this case is receiving. I urge the crime bill conferees to think about this case. I urge them to retain the violence against women provisions, which my good friends, Senator BIDEN and Senator BOXER, have worked so hard on.

I hope we use this incident to remember who suffers in this society when these programs are not funded. Who cries when we look the other way?

Mr. President, I would like our colleagues to take a moment today to pray for America's children.

Our children are the true victims of violence. Today, in this country, there is so much child abuse. So much meanness. And, so little human decency.

We force our overburdened teachers to be social workers and police officers. And, our children are left uneducated.

We have ignored our foster care system. And, our children go homeless.

We have created an unworkable and misguided welfare system. And, our children are hungry and scared.

Just last week, the Justice Department told us that more than half of this country's reported rape cases were committed against girls under the age of 18.

Time and again, I hear from ordinary Americans that there is an antidote to this violence and abuse—the simple value of accepting responsibility for our actions.

I am tired of hearing phony, ridiculous explanations. An explanation for violence is not an excuse. What happened to personal responsibility? As individuals, we must do all we can to stop the escalating cycle of violence in this country.

I wish there were just one simple bill I could introduce to make this problem go away. But, there is not. That is why we have to keep our children in mind with every piece of legislation we consider.

Mr. President, I have hope. Something good can come from this tragedy which has captured the media's attention.

But, it must start somewhere—or else, when the camera lights go off and the news media start a feeding frenzy somewhere else, Nicole Simpson will become as anonymous as the thousands of other American women murdered every year.

Mr. President, I say to everyone within the sound of my voice: Take responsibility for your actions. As individuals, we must do all we can to stop the meanness, stop the anger, and end this cycle of violence. Realize that your actions will shape not only your life but also our entire community and our future generations.

And to my colleagues I say: Remember the victims, and let us remember to pray for our children.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont [Mr. LEAHY] is recognized.

Mr. LEAHY. Mr. President, I ask the Senator from Washington to stay on the floor for a moment. I wish to commend her for her remarks, and I hope they will be heard and reheard and heard again. I was not on the floor at the time the prayer to which she referred was made. I read about it in an article this morning.

I have similar concerns about where public attention is placed. For 8½ years, I prosecuted violent crimes. I had a rule that on every violent crime, I went to the scene of it. Very often, it was 3 or 4 o'clock in the morning. In fact, for 8½ years, I was on call 24 hours a day, 7 days a week because of my concern about violent crime. These crimes included brutal murder cases. I was thinking as I read the descriptions of the blood and the scene, and it brought back so many images, even in a State with a very low crime rate like my own.

I say to those who would ignore that there are victims that I wish, just once, they could go to a murder scene as I have time and time again. It is not the cartoon things we see. It is not even the movies we see, and it is certainly not the PC television programs we see. There is an eeriness; there is a stench; there is an awfulness to a murder scene. I have been to scenes of murders of children, of spouses—incidentally, both male and female—friends, neighbors, and those who were just random victims of a burglary or a robbery gone awry.

And I can remember cases I prosecuted—and I am not suggesting who is guilty or innocent, and I would hope there would be a trial where a jury would actually make up its mind on the facts and not on what some high-paid commentator on television says. But I remember cases I had where people said, "How could this person ever have done something like this? The poor person must have been demented," blah, blah, blah. But we should remember it is the victims who are dead.

Just think of the children involved here. No matter who did this murder, you have children whose lives are irrevocably changed—and I add, changed for the worse—because no matter what happens, whether they have wealth or other family members, or whatever else, they are damaged for life. You have a young woman who had most of her life ahead of her who is dead. You have a young man with most of his life ahead of him, and he is dead.

On the one hand, I take some comfort that during my years as a prosecutor, I had the highest conviction rate on cases of domestic violence, I had the highest conviction rate on rape cases, and I had the highest conviction rate on murder cases of any prosecutor in our State. I take some satisfaction in that but. But, at the same time, I am dismayed that the cases were even there to prosecute.

One of the reasons that domestic cases are there to be prosecuted, Mr. President, is that they are not prosecuted because you have a spouse who has been beaten and is sitting there ready to testify with black eyes or broken ribs or what not. They are usually prosecuted because that spouse is in the morgue, unable to testify. And it is then when you go back through the record that you find they were beaten this time and this time and this time.

I can think of the cases that came to my attention for the first time as a prosecutor when the medical examiner called to tell me the results of an autopsy on the victim, and we find, for example, the husband, in one case—this upright pillar of the community who gave to all the best charities, was a church-going person, well respected, and who used to beat his wife on a very regular basis. But the police never followed up on the reports because they knew what a pillar of the community he was. When do we find it? When it can no longer be ignored because the body is in the morgue, and the autopsy is being done, and the results of the fractures and bruises and all are sealed.

So the Senator from Washington does us a service in speaking out on this on the floor. On this or any other case, the one concern we should have with the person arrested is that their rights under our American jurisprudence system, the best one in the world, are protected. But once we have done that, let us not forget the victims. Spousal abuse will continue in this country so long as we ignore the fact that there are victims. Children will be molested and killed so long as we forget that there are victims. And if the only time we pay attention is when the body reaches the morgue, then, Mr. President, as a society we have failed, and we have failed miserably.

So, frankly, I grow tired of hearing the constant commentary: How could such a person with so much ever end up in these straits?

Let us think about how could the mother of these children, how could another person, both of whom had their lives ahead of them, end up dead, and how could these children see their lives unalterably hurt?

I commend the Senator from Washington.

Mrs. MURRAY. Mr. President, I thank my colleague and commend him for his many years of service in remembering the children. I pledge to work with him and all others to continue that as we move forward.

I thank the Chair and yield the floor.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

The Senate continued with the consideration of the bill.

Mr. LEAHY. Mr. President, the parliamentary situation, as I understand it, is that we are on H.R. 4426, the foreign ops bill.

The PRESIDING OFFICER. That is correct. The pending question is the committee amendment on page 2, line 12 of the bill.

Mr. LEAHY. Mr. President, I note that this was reported by a unanimous vote of the Appropriations Committee on June 16, and I note that this was done in less time than in any other year I can recall.

A great deal of the credit goes to the ranking Republican, Senator MCCONNELL, who has worked with us in providing the bipartisan support to get it not only through the subcommittee in record time—at least a record in my 20 years here—but through the full committee, too.

The bill before the Senate totals $13.684 billion in fiscal year 1995 budget authority.

This is approximately $111 million below our allocation. It is, incidentally, $30 million below the President's request.

There are difficult problems scoring and otherwise in this bill. Senator BYRD, the chairman of the full committee, worked closely with us, as did the ranking member, Senator HATFIELD, and we were able to get the bill before us because of this. Had it not been for significant and timely help by Senator BYRD, we would not have the bill on the floor today.

I know that the leadership has worked hard to get it before us, and I thank them.

Let me note a few of the important provisions in this bill. They have aid to the New Independent States of the former Soviet Union. President Clinton has made clear that funding this program of aid to the New Independent States of the former Soviet Union is his No. 1 priority in the foreign aid program. I think his priorities are correct.

Senator MCCONNELL and I have agreed that the NIS program is of immense importance to the United States. I feel there is no task that is more urgent in supporting the transition to democracy and free market reforms in Russia, Ukraine, and elsewhere in the former Soviet Union. It is one of those rare instances where if we in the West are successful in this not only do we enhance our economic situation because of the new markets that will be developed, but it should be obvious to everybody, of course, that we significantly enhance our national security.

But we are faced with extreme budget pressures and problems with management implementation of this program. Notwithstanding that, we provided $839 million for the NIS Program. It is $61 million less than the President's request. It is $36 million below the House level.

I would like to just take a moment to explain why such cuts. It is intended to convey to the administration that while we continue to strongly support the NIS Program we are going to see rapid, visible improvements in the way it is managed, also improvements in the results it produces.

I am not expecting miracles. That is a new program. It involves a lot of countries, a lot of different countries, countries that themselves are groping for what they want to do. Of course, there are going to be problems. We never quite had a situation like this.

So we have to take some risks, and you know there are going to be some mistakes. But I would like to see some convincing evidence that AID and the State Department are learning from these mistakes as they go along.

We have also earmarked funds for Ukraine, Georgia, and Armenia. I would note that I was impressed and convinced by the report that my Republican colleague, Senator MCCONNELL, brought back from the Ukraine in his own visit in this regard. I know the House bill does not contain earmarks, and we are going to have some debate on this in conference as we fully expect, and I would hope that we can conduct that debate in a way that continues the strong feelings of a bipartisan majority in our committee that these countries need help. In fact, the administration plans to provide substantial aid to these countries in 1995, and I think the earmarks are a reflection of the U.S. Senate's interest in these countries.

It was not easy funding the overall program. By funding it, we have had to not fully fund other important programs like our contribution to the U.N. voluntary agencies or to multilateral banks, and I might mention these are contributions that we are committed to make, where as a result we are hundreds of millions of dollars in arrears to the World Bank and the other MDB's. At the same time we are in arrears to them, we are pressing them to make important reforms. We want them to shoulder more of the burden of economic development throughout the world.

We are basically saying to them, look, we are not able to pay our arrears to these MDB's, but please do what we want you to do even if we are not going to pay our bills and that is going to come into better balance. We are not going to get the reforms without paying our bills.

We were not able to increase funding above the request level for refugees or disaster assistance. You do not have to be an expert in refugee or disaster assistance programs to know there are tremendous needs and that we are not carrying out the responsibilities actually that most Americans would want us to do. All you have to do is turn on the television at night and see the refugees out of Rwanda and see what happens with floods in other places where the United States has historically and traditionally been able to help.

We were able to increase slightly aid to Africa as we face extraordinary needs, although we still only deal with a handful of dollars per person there even though again we have national security interests and even though this is an area where we have great economic interests, if they improve their lot. It is one of the places where our export programs work best and where American jobs are created.

We have also increased funding for family planning, a priority of the administration and Congress, and increased funding for development assistance.

In recognition of the great risk taken by Israel in its historic opening for peace with the Palestinians, aid for Israel and Egypt is earmarked at the requested levels. We note that with or without the earmark the administration is committed to aid these levels and would go forward with it. But I hope that this renewed demonstration of commitment to peace and stability in the Middle East will encourage all parties to continue to pursue the dramatic possibility for a settlement.

I would hope that the strong leadership of the State of Israel and the strong leadership of the Palestinian people would not be deterred by extremists on either side. There are extremists on both sides who would like nothing better than to see the peace process derailed.

That does not help the people of the region. It does not help the world. It does not help our foreign policy. And as I have many times before, I praise the leadership involved for their help.

We have also increased aid to the Palestinians. The bill recommends $80 million for the West Bank and Gaza Programs, including $20 million to support loans and grants to small- and medium-sized businesses there. It is imperative that the Palestinians see rapid, tangible evidence that peace with Israel will result in improvements in their standard of living.

I believe the vast majority of Palestinians and Israelis would agree that now having taken these steps for peace that the life of the Palestinians must improve and as they go into the ability to govern themselves and to set some of their own economic agendas that their must be examples of improvement. Otherwise, I do not know how Prime Minister Rabin or Chairman Arafat are able to hold together the people within their own governments necessary to move forward in peace.

Mr. President, we know that foreign aid is not a program of resounding popularity throughout the country. But I believe the reason for that has more to do with some of the wasteful programs we have seen over the years, when foreign aid was used to prop up corrupt dictators or squandered on grandiose projects that ended up falling into disrepair.

In the past few years we have made progress toward making the foreign aid program more effective and at the same time more reflective of the American people. The American people do have a long and proud history of helping people around the world who are less fortunate—for example, like the refugees fleeing genocide in Rwanda, and incidentally that is genocide. This bill aims to do that.

This bill is also designed to help Americans directly, by providing close to $1 billion to promote U.S. exports, which is the fastest-growing part of our economy and that part of the economy that is creating American jobs here inside the United States. It also contains hundreds of millions of dollars to protect the environment, knowing that our own life and health are affected by the worldwide environment.

I could go on, of course. But I say this just to note that in many ways foreign aid, the word foreign aid is a misnomer. This bill should be designed to do several things, designed to help protect our national security and you go down through the bill and find many places where it is doing precisely that, protecting the national security of all of us Americans.

It should be, second, designed in part to help our economic security. As we create exports markets around the world, that creates tens of thousands, even hundreds of thousands of jobs here in the United States, that is part of our security.

And then, with 4 or 5 percent of the world's population, we are using close to half of the world's resources. In a nation with the largest economy in the world, we have—each one of us as individuals has—certain humanitarian responsibilities, and it reflects those.

So I think we have to understand, as the only superpower left in the world, that what we do and what the rest of the world does irrevocably links, and this bill I think is important to that.

Let me finish with one point. I understand that there are dozens and dozens of amendments that may come up. If my past experience is any guide, a lot of these amendments will have nothing to do with this bill. This is an appropriations bill. I hope it can stay as an appropriations bill.

I suggest to those who have authorizing amendments or have amendments that are best placed on other types of bills, that they may be able to resist the temptation to do it. I understand sometimes some of us are able to resist temptation better than others. I speak of the parliamentary type of temptation. Obviously, Senators can resist all other types of temptations just by our nature.

But I have canceled any flight plans I might have had for Saturday. I realize it is not an easy weekend to get new reservations. I hope it turns out I did that not needing to. I know the press, for example, gets very concerned if we are gone for a long weekend and they would rather be here covering this. I am sure most others would, and they may have to be, but I hope not.

PRIVILEGE OF THE FLOOR

Before I yield to Senator MCCONNELL, I ask unanimous consent for floor privileges for Neil McGaraghan, Elizabeth Murtha, and Michele Hasenstaub.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kentucky [Mr. MCCONNELL].

Mr. MCCONNELL. Mr. President, let me begin by commending the chairman for moving this legislation forward so quickly. It is unusual for the Senate to be considering the foreign operations bill this early in the session. We not only moved quickly but with great care in allocating the scarce resources available to the subcommittee.

There are a number of important provisions and changes made this year which I would like to take a moment to review for my colleagues. First, the subcommittee included a number of earmarks for countries and programs of high priority. While I will discuss some of them in detail, I want to point out the reason for the earmarking.

With the arrival of a new administration, we anticipated reform authorization legislation which would reflect the dramatically changing world in which we live. Most of the members of the subcommittee shared the view that we should minimize earmarks to maximize the administration's flexibility in meeting emerging requirements. Nowhere was this flexibility more needed than in our relations with the New Independent States of the former Soviet Union. Governments, policies, and priorities were literally shifting day by day.

To put this in context, let me point out that a few years ago, the foreign operations bill included 89 earmarks. Last year, the bill was signed into law with seven, including the four related to the Camp David Accords, which are increasingly not controversial.

In reducing legislative earmarks, both the Senate and House agreed that our expectations and priorities would be identified in report language which was to be observed unless and until the administration consulted with the subcommittee. Unfortunately, this understanding and obligation was not respected by the administration.

In a random survey I conducted of 14 requirements included by the Senate in report language last year, the administration had not complied with 12. Let me add, the 14 projects or programs reflected Members' interests on both sides of the aisle. They ranged from child survival activities to assistance for Burmese exiles.

As a result of our experience over the past year, many of the subcommittee's members—and I include myself in that group—felt it was necessary to earmark resources to assure funding for high-priority items. Here again, there was bipartisan support for directing the resource commitments in this bill.

Let me now turn, Mr. President, to some of those earmarks. As with last year's bill, there was strong, unanimous support for sustaining the levels of economic and military assistance to Israel and to Egypt. In addition, several of my Democratic colleagues cosponsored my amendment to dedicate resources to support refugees, primarily from the New Independent States, settling in Israel. This grant has been essential in helping young and old alike establish new, productive lives free from the fear of persecution.

Mr. President, I also offered three earmarks within the INS account. I continue to believe the administration has not programmed sufficient funds for republics other than Russia. In a mid-year report reviewing planned commitments for fiscal year 1994, Russia tops the list with $1.6 billion in obligations, or 66 percent of the budget. Ukraine squeaks in next in line with 7 percent.

I understand Russia is the administration's highest priority and hardly any of us would argue with that. We share the range of concerns from strengthening democracy to denuclearization. However, I believe we can fulfill those aims as we balance the proportionate share of assistance we provide other nations.

I also have major reservations about how that sizable commitment to Russia is being invested, what is happening to the commitment to Russia. Generally, I am worried that we are doing very little to contribute to addressing very visible problems, particularly crime and law enforcement. While I agree with the administration that we need to contribute to a framework in which we help Russians help themselves, we need to weigh that approach in the context of urgent socioeconomic needs.

As the chairman of the subcommittee knows, I plan to address some of these specific issues in earmarks. But I do not think the Committee can resolve all the program problems with legislation and earmarking. One such problem seems to be a basic institutional reluctance to work with the U.S. private sector.

The Washington Post recently described one such venture, pointing out that it was an example of success in the making. A very talented American grocery store owner was setting up shop in Siberia leveraging private resources and ingenuity with seed capital from AID. It is an innovative approach which seems to be working. The irony, or should I say tragedy, is the administration has tried to restrict and terminate funding for the project. I expect the subcommittee will continue to battle bureaucrats to sustain exactly that kind of activity.

Similarly, the administration recently tried to end the Hospital Partnership Program, which is leveraging $3 from the private sector for every $1 AID contributes. This is a remarkable program which is dramatically improving the quality of life and care provided throughout the NIS—yet AID wants to end it. It makes no sense. For the moment the subcommittee has prevailed upon the administration to issue a stay of execution.

I do not want to dwell on the problems which have afflicted the NIS program. But I do want to emphasize the reason we earmarked funds for Ukraine, Armenia, and Georgia was in direct response to the administration's approach. Many people feel there is a lack of commitment to their democratic and economic future.

I am particularly disappointed with the situation in Ukraine. I believe the administration has missed a number of opportunities to encourage economic reform and improve prospects for stability in Ukraine. NSC advisers now acknowledge that they realized last October that holding U.S. assistance hostage to resolution of the nuclear issue was a mistake and failure. Yet, instead of correcting course and crafting a program unique to the difficulties and conditions in Ukraine, we are replicating the mass privatization program which we are still hoping will work in Russia. Serializing Russian programs is a mistake and an unfortunate result of running all NIS activities out of Moscow. It seems to me the time has come for country specific programs and effective strategies.

After a brief year's experience with the foreign operations bill, I find myself in an unusual position. Fundamentally, I support our foreign aid program. But our aid program must be linked to a coherent policy which advances American interests.

Unfortunately, what we hear is platitudes not policy. The Administration talks about the need to advance our economic security through export promotion, yet OPIC, an agency key to insuring and guaranteeing those American investments, has now run out of money.

We hear what a high priority advancing democracy is, yet successful programs which support parliamentary training and election monitoring scrape by with minimal support from AID.

The Secretary of State has declared our national security interests will not be subcontracted to any nation or organization, yet a United Nations bureaucrat can literally stop a U.S. plane in a mid-bombing run.

Half way through the Clinton administration, I do not see an emerging foreign policy strategy which clearly and effectively links our priorities with our assistance programs. There may be anecdotal evidence of success—a clinic or a children's feeding problem which survives impossible odds. But I am talking about the bigger picture, about the lack of direction and momentum.

A year ago, during our hearings on the foreign operations bill, both the chairman and I expressed concern about the muddled message communicated to friends and foe alike. Unfortunately, that situation has not improved. The administration continues to limp—then lurch—then limp along in defining America's role in the post-cold-war world. Given the circumstances, there are clear implications for foreign assistance. Where there is a policy vacuum, Members of Congress will want to be heard.

Frankly, as I have said on more than one occasion, I think congressionally directed foreign policy risks our national interests being pulled in 535 different directions. But I must say, short of the President fully engaging, lacking a clear sense of purpose, missing a consistent plan of action, and absent a national security team that works together, Congress will step into the vacuum.

And, the time has long since passed when George Bush can be blamed.

I hope the Administration will capitalize on the resolve and sense of purpose which characterized the President's D-day speeches. I want to believe rhetoric and the reality of our aid programs and foreign policy will at some point meet and merge.

That will take a serious, sustained commitment by the administration—an effort that is not yet in evidence. Nonetheless, I want the administration to understand that I will continue to hold out hope for meaningful improvements and offer my support and commitment to work with the chairman and our colleagues to assure there is adequate funding to secure our national interests where and as they are defined.

Mr. President, having made that opening statement I send to the desk——

Mr. LEAHY. Mr. President, will the Senator be willing to withhold just for a moment? We have not made the usual——

AMENDMENT NO. 2103 TO THE FIRST COMMITTEE AMENDMENT ON PAGE 2, LINE 12

Mr. MCCONNELL. No, Mr. President. I believe I have the floor. And I send to the desk an amendment to the first committee amendment and ask its immediate consideration. I send this on behalf——

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

Mr. MCCONNELL. I send this on behalf of Senator DOLE and Mr. LIEBERMAN.

The PRESIDING OFFICER. The clerk will first report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] for Mr. DOLE, for himself and Mr. LIEBERMAN, proposes an amendment numbered 2103 to the first reported amendment.

Mr. LEAHY. I suggest the absence of a quorum.

The PRESIDING OFFICER. If there is no objection to dispensing with the reading? Without objection, it is so ordered.

The amendment is as follows:

On line 21 of the first committee amendment strike the word "states", and insert the following:

"states

"BOSNIA AND HERZEGOVINA SELF-DEFENSE

"SEC. 17. (a) SHORT TITLE.—This section may be cited as the "Bosnia and Herzegovina Self-Defense Act of 1994".

"(b) FINDINGS.—The Congress makes the following findings:

"(1) For the reasons stated in section 520 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), the Congress has found that continued application of an international arms embargo to the Government of Bosnia and Herzegovina contravenes that Government's inherent right of individual or collective self-defense under Article 51 of the United Nations Charter and therefore is inconsistent with international law.

"(2) the United States has not formally sought multilateral support for terminating the arms embargo against Bosnia and Herzegovina either within the United Nations Security Council or within the North Atlantic Council since the enactment of section 520 of Public Law 103-236, Senate passage of S. 2042 of the One Hundred Third Congress, and House passage of sections 1401-1404 of H.R. 4301 of the One Hundred Third Congress.

"(c) TERMINATION OF ARMS EMBARGO.—

"(1) TERMINATION.—The President shall terminate the United States arms embargo of the Government of Bosnia and Herzegovina upon receipt from that Government of a request for assistance in exercising its right of self-defense under Article 51 of the United Nations Charter."

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I will shortly ask unanimous consent—I want to make sure I present this correctly—I am going to ask for 25 minutes as in morning business for the distinguished Senator from Iowa [Mr. GRASSLEY], and 10 minutes as in morning business for the distinguished Senator from Minnesota [Mr. WELLSTONE]. I will ask that be done in such a way—and I will make this request after about a minute or so of comment on something else—I will ask it be done in such a way that it not remove the parliamentary situation we found ourselves in at the time I had suggested the absence of a quorum.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Parliamentary inquiry. The pending business is the

Dole-Lieberman amendment to the first committee amendment, is that correct?

The PRESIDING OFFICER. The pending business is the McConnell amendment for Mr. DOLE and Mr. LIEBERMAN.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I will make my unanimous-consent request in just a moment.

I will note 14 pieces of the report language referred to by the ranking member were recommendations and not requirements. They were not completely funded, that is true. But they were funded in large measure, with a couple of exceptions. Just to be fair to AID—I stood on this floor and criticized them when I thought they deserved criticism, but to be fair to them, had AID fully carried out all the recommendations in the report, out of necessity they would have had to borrow money because we did not give them the money to carry out all the recommendations that were in the report.

In the past 3 years, we cut AID's development assistance budget by $400 million. So we cannot blame them for not fully carrying out recommendations for which we do not give them money. I think they did do a good job on most of the recommendations. In a couple of cases, they did fall short and with that I am disappointed. Because of that, we have contained $71 million more in development assistance in the House bill to help carry that out.

THE AGENCY FOR AMERICAN DEVELOPMENT?

Mr. President, over the past year I have made several statements on the need for the Agency for International Development to redefine its goals now that the cold war is behind us. No longer is the threat of communism our primary security threat and motivation for providing foreign assistance. With the end of the cold war, the most serious problems facing us today are unchecked population growth, widespread poverty, ethnic and regional conflicts, degradation of the Earth's environment, and the proliferation of conventional and, still, nuclear arms.

Under the strong leadership of Brian Atwood, AID has begun to redefine its mission and address some of the management problems that have plagued it for years. Administrator Atwood has tackled not only the bureaucratic morass that has impeded AID's effectiveness, he has refocused the agency's efforts on promoting sustainable economic growth, supporting democratic institutions and building foreign markets for American exports, and addressing basic humanitarian needs facing vulnerable groups like children and refugees.

Mr. President, as chairman of the Foreign Operations Subcommittee, I know that foreign aid is not popular. But I have never believed that is because the American people are not generous. There is ample evidence that they are. Rather, it is due to foreign aid being used to prop up corrupt dictators or wasted on grandiose projects that fall into disrepair after a few years. None of us want to see that, and Administrator Atwood is determined to see that it does not happen.

But while it is always easy to criticize, and there are grounds to do so, too little attention has been given to AID's accomplishments. Foreign aid not only helps people around the world who are less fortunate than we are, it also promotes American exports and it can even contain lessons for people here at home.

Recently AID cosponsored a conference in Baltimore entitled, "Lessons Without Borders: Local Problems, Global Solutions." The conference focused on issues like family health and economic entrepreneurship, and how we can apply lessons learned through our foreign aid programs to problems here in the United States. Vice President GORE was the keynote speaker. Senator SARBANES, Representative MFUME, and Mayor Kurt Schmoke also took part in what has become a partnership between AID and the city of Baltimore, a partnership AID hopes to duplicate with other American cities.

The theory behind these partnerships is that some lessons are universal. In areas like agriculture, health and small-business development, America can learn from its foreign assistance programs. In fact, AID has been working closely with community leaders nationwide in an effort to find solutions to problems which know no borders.

An example of this interactive sharing between cities in the United States and abroad is a program in Sarasota, FL, called School Year 2000. It as sponsored by Florida State University, funded through an AID grant, and directed toward a change in the school system in South Korea. The project created a new model for public education centered around the learner, based on competency and supported by technology. Originally started to reduce costs, the focus has expanded to improving the quality of education. The results of the program were so impressive that Florida legislators and organizations have used it to justify further investment in educational reform in their own State.

In Baltimore, research has been carried out to combat diarrheal disease, which kills millions of children each year. As many as 600 children in the United States die each year from this desease which, left untreated, can cause dehydration, while thousands of others are hospitalized. A solution of oral rehydration salts, developed through AID-funded research in Bangladesh, is being used to reduce these common ailments inexpensively.

The lesson here is that many of Baltimore's citizens are not aware of the availability of this low-cost remedy. An astonishing 150,000 of Baltimore's 730,000 inhabitants are functionally illiterate, and unable to read the signs that were meant to inform them of programs to protect their childrens' health. AID, which routinely works in countries with high illiteracy rates, has years of experience in innovative communication techniques for getting the message out about child health, family planning, and other programs. These same methods are now being used to educate needy people in Baltimore.

These are just two examples of how what we are accomplishing with our foreign aid dollars abroad can be used for our own benefit here at home.

The Florida State Interactive Program and the Baltimore conference show how AID is taking seriously its role in the global community. The focus is on solving problems that do not pay attention to State, national, or international borders. The "Lessons Without Borders" conference demonstrates how our foreign aid programs can help us find solutions to current American problems, and to current foreign problems which may become future problems in our own country. I applaud the Agency for International Development's efforts. While I do not suggest that it should change its name to the Agency for American Development, American taxpayers should be encouraged that it is putting these lessons to good use here at home as well as abroad.

Mr. President, I ask unanimous consent that an article from this Sunday's New York Times about "Lessons Without Borders" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 26, 1994]

FOREIGN-AID AGENCY SHIFTS TO PROBLEMS BACK HOME

(By Thomas L. Friedman)

BALTIMORE.—It is hard to know whether this a good news story or a bad news story, but here it is: The Agency for International Development, which spent the cold war fighting Communism with foreign aid and helping poor countries like Bangladesh immunize children, has found a new customer for its services: America's inner cities.

The good news is that A.I.D. has something to offer. The bad news is that parts of Los Angeles, Boston and Baltimore now need it as much as Bangladesh.

Over the years A.I.D. developed a reputation in Washington as a bloated and ineffective bureaucracy. But the Clinton Administration has been engaged in a major overhaul of A.I.D. The Clinton team is trying to shed what agency did worst, supporting anti-Communist dictators, and focus on what it did best—fostering cheap, low-tech methods for accelerating immunization, literacy and agricultural development and for nurturing small businesses.

The agency's shift in focus from Bangladesh to Baltimore was an accident waiting to happen. With no cold war, it was eager to justify its usefulness to taxpayers dubious of foreign aid, and it discovered American mayors so beleaguered by the problems of their inner cities that they were ready to take help from anywhere, even if it meant comparisons between their inner cities and the third world.

While A.I.D.'s charter prohibits it from actually financing programs money in the United States, nothing prevents the agency from sharing its expertise.

While talking this past spring with Marian Wright Edelman, the longtime head of the Children's Defense Fund, about the health problems faced by American children, the agency's director, J. Brian Atwood, was struck by the similarities with the problems his agency was fighting in Mali and Egypt, he recalled on Tuesday in an interview.

Ms. Edelman, he said, was struck by how in some respects Mali and Egypt seemed to be doing much better than the United States.

In particular, Mr. Atwood recounted, they noted that measles vaccination rates among inner-city children under age 2 were averaging around 40 percent in the United States. Yet, Governments in Egypt, the Philippines, India, Sri Lanka and Indonesia, using some of their own programs and some financed and planned by A.I.D., had achieved childhood immunization rates in the high 70 percent range, according to the Unicef Progress of Nations report.

During an interview on C-span a few days later, Mr. Atwood mentioned this discussion and mentioned that his agency hoped to become more involved in sharing ideas with American cities.

An aide to Mayor Kurt L. Schmoke of Baltimore happened to be watching, and the city immediately contacted Mr. Atwood and volunteered Baltimore for the first test case. Other cities followed.

Mr. Atwood, recognizing a new market for his agency's expertise, ordered aides to come up with a program, eventually christened "Lessons Without Borders." On June 6, a team of the agency's senior health and development experts held a day-long seminar with their Baltimore counterparts at Morgan State University, discussing A.I.D. programs that had worked or, often just as important, had not worked.

Another conference is now planned for Boston this fall, and the agency is laying out a two-year schedule for other cities that have asked for advice.

Still, it was not an easy thing for Mayor Schmoke. The headline in The Baltimore Sun the day of the conference read: "Baltimore to Try Third World Remedies." In fairness to Baltimore, it is one of the most thriving cities on the East Coast, with its rebuilt inner harbor, National Aquarium and downtown stadium of Camden Yards, anchoring a real urban renaissance.

But that renaissance is a work in progress. Just a few miles from the inner harbor, areas of Baltimore's inner city are rife with AIDS, illiteracy, family breakdown, joblessness and drugs.

LIKE A THIRD WORLD COUNTRY

"We have to let everybody know that we are not suggesting that our entire city has the same problems as a third world country," said Mayor Schmoke. "But we ought to recognize that there are sections of the city that are similar to the problems of less-developed countries."

Baltimore officials say they learned a number of things from their A.I.D. visitors. Although Baltimore has well-financed social programs, many people do not come in to use them. One reason is that 150,000 out of Baltimore's population of 730,000 are functionally illiterate.

"We found that people could not read the signs," said Mr. Tawney. A.I.D. operates in so many countries where illiteracy is taken for granted, and at the conference A.I.D. officials discussed many of the techniques they have developed for getting around illiteracy and promoting immunization, population control and other remedies. These ranged from using soap opera characters to entice people into clinics, to cartoons, to jingles, to having beer truck drivers distribute condoms as they drop off beer kegs at pubs in Jamaica. They also discussed A.I.D.'s "barefoot doctor" program of paying local villagers to go out and recruit people to come to clinics.

"You want to know what the real irony is?" asked Dr. Peter Beilenson, Baltimore's Commissioner of Health. "The company that develops these communications programs for A.I.D. is from Baltimore. Its office is about three blocks from here."

A SMALL GRANT GOES FAR

Another big issue discussed was job creation. Twenty years ago, the biggest employer in Baltimore was Bethlehem Steel, with about 35,000 employees. Today, the biggest employer in Baltimore is Johns Hopkins University Medical Center. Twenty years ago, a high school dropout was able to get a job at the steel plant, and buy a house and raise a family. Today, even a college degree would not guarantee a job at Johns Hopkins. This has left many inner city youth in Baltimore stranded, but one of the things discussed by A.I.D. and the Baltimorians, was trying to fill the void with a program A.I.D. has fostered with third world governments, called microenterprise development.

In Bolivia, for instance, the Banco Sol, partially supported by A.I.D. has been giving tiny loans, sometimes only $10 or $20, to men, and particularly women, who are working out of their homes and who, with just a little capital, might not only be able to sustain their own business but employ others as well. Sometimes the money goes for a sewing machine, sometimes it goes for teaching book keeping or commercial laws.

Michael A. Gaines Sr., head of Baltimore's Council for Economic and Business Opportunity, said what he learned from the AID seminar was that "Third world governments did not provide a social security net, but their policies increasingly allow for free flowing microentrepreneurship. We provide a social security net, but it comes with policies, restrictions and guidelines that preclude entrepreneurship."

Mr. Gaines is now running a pilot project in Baltimore intended to show how microentrepreneurs—the mother who does hair styling out of her home or the mechanic who works out of his garage—can grow with a small loan and a business plan.

Mr. Gaines said he would like not only A.I.D.'s advice, but also a slice of its $7 billion budget. Indeed, there is such a hunger for its expertise, and money, that it may justify itself right out of existence or be asked to be come A.A.D.—"Agency for American Development."

Mr. Gaines said: "If you were able to fold some of those AID resources and knowledge, with the Housing and Urban Development Agency and the Commerce Department, and start working in a coordinated way in this country, oh man, the potential would be tremendous."

Mr. LEAHY. Mr. President, I now ask unanimous consent that the Senator from Iowa [Mr. GRASSLEY] be recognized as in morning business for 15 minutes; the Senator from Minnesota [Mr. WELLSTONE] then be recognized as in morning business for 10 minutes; and that we then go back on the bill in the situation in which the bill is now.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Iowa, Senator GRASSLEY, is recognized for 15 minutes as in morning business.

SPEAKING FEES AND JOURNALISTS

Mr. GRASSLEY. Mr. President, the May 1994 issue of the American Journalism Review, [AJR], contains an article of great importance to the public, and to the journalism profession.

The article is written by Alicia C. Shepard, and it is entitled "Talk Is Expensive." It raises critical questions about the propriety of journalists taking speaking fees and trips from those whom they potentially or actually write about.

At issue is whether the acceptance of such fees constitutes a conflict of interest, or even the appearance of a conflict. If a reporter accepts money from an industry that he or she covers, how credible should we view their reporting?

I am speaking about this issue today because I believe a debate within the journalism community, and some appropriate steps, would help restore the credibility reporters seem to have lost with the public. As a Member of Congress, I believe I know a lot about credibility problems with the public.

Such steps are important if the Fourth Estate is to continue its role as an effective check-and-balance on our system of government.

Those who accept such fees deny that they are influenced; those who reject the fees say those who take them are helping to compromise the credibility of the journalism profession.

What is more, they say, it seems hypocritical for reporters to take money from the same sources they criticize for buying influence with and access to Members of Congress.

Mr. President, I intend, at the conclusion of my remarks, to ask that the article by Alicia Shepard be printed into the RECORD. But first, I would like to highlight the main points of the article. And then I will indicate where I am headed with this.

According to the article, journalists sometimes receive speaking fees from trade associations and other organizations. The fees range from a few hundred dollars, on up to $30,000, depending on the journalist's public profile; sometimes they are paid for free-lance articles in an organization's newsletter; sometimes they go on trips or cruises in exchange for a lecture.

The percentage of the journalism community that partakes of these offerings is small. But it is growing. And it has taken hold especially in the power centers of our country—Washington and New York. The recipients tend to be those we often recognize as the media elite—those with a high profile, usually on TV news shows and the like.

It is difficult—in fact, it is almost impossible—to tell which journalists make how much money. There is no requirement that such information be disclosed, and it usually is not, except when it is done selectively and voluntarily. According to the article, those who receive fees say it is none of the public's business.

Included in the article are several examples of potential conflict situations. I will not get into those specific cases because my colleagues can read about them tomorrow in the RECORD.

Also included are the arguments of dozens of prominent and not-so-prominent reporters, both pro and con. The debate resembles, to a great degree, those we have had on this very floor regarding the recent gift ban bill, the honoraria ban, and so on.

Critics charge that taking fees and other gratuities raises questions of a reporter's objectivity. And it is not just the taking of money that is questioned. It is the amount of money that some take that raises questions of possible influence and access-buying. Again, this is reminiscent of our debate on honoraria and campaign finance reform.

The article asserts that if some of the high-paid, big-name journalists made less on the side, perhaps there would be less criticism. Even one of the most prominent reporters, ABC's Sam Donaldson, who commands fees at the top end of the scale, admits speaking fees can be excessive.

Speaking of excessive, there is the case of White House staffer David Gergen. Before working in the White House, Mr. Gergen was required by law to disclose his speaking fees to the Office of Government Ethics. In 1992 alone, while working for U.S. News & Work Report, he gave 121 speeches. He reaped a total, for those 121 speeches, of $466,625.

As Ms. Shepard notes, that is a speech every 3 days.

Then again, the question is raised: To what extent is this debate driven by those who resent the fact that they cannot share in the same largess? One reporter interviewed seems to suggest jealousy as a motive of some critics. He said, "It's wonderful to have these standards. But the ones who have them don't seem to have to apply them."

The issue of public disclosure is cited as a possible first step toward a solution. There are no requirements for disclosure by journalists, such as Congress has had for honoraria, trips, and gifts. Yet some news organizations have their own internal policies regarding fees and disclosure.

For example, ABC News just issued a memorandum banning its on-camera journalists from taking speaking fees from trade associations or other for-profit organizations.

Finally, the article describes a specific instance in which efforts by some journalists to partially disclose became a casualty to resistance.

Not too long ago, members of the Periodical Press Gallery, right here in Congress, tried to address the issue of disclosure. Let me describe what happened.

First, by way of background: If you are a reporter for a periodical covering Congress, you have to get your credentials approved by a standing committee of the Periodical Press Gallery. The committee is comprised of seven reporters who are members of the Gallery. They decide who gets credentials and who doesn't.

Until 1988, disclosure requirements for members of the gallery were simply to list the speakers' bureau that pays them. They were not required to list the group spoken to or the amount of the fee.

But in 1988, the seven-member committee decided to reform itself. It still did not require disclosure of the amount of the speaking fee. But it did require disclosure of the group spoken to, and the date of the speech.

Now, what was the reaction by the members of the gallery to this reform?

Four of the seven were defeated for reelection. They were replaced by four new members. And the newly comprised committee than reverted to the pre-1988 requirements.

This is sort of the way bureaucracies in Washington respond to whistleblowers pushing reform. They reorganize them out of a job. They put them somewhere where they cannot cause any harm to the system.

While Press Galleries may not be well-suited to compel disclosure, it could be done by individual news organizations. I will have more to say about this momentarily. But it does lead me, Mr. President, into my own views on the issues covered in this article.

Polls have shown that the American people do not think very much of politicians or journalists. We are right down there together, just about slick "used car" salesmen.

Both of our professions have suffered credibility problems. The public attitude toward us is one of great cynicism.

And perhaps justifiably.

In the case of politicians, we are perceived as always saying one thing, and doing another. Congress is still the last plantation; it is the only place where one-plus-one can equal eleven. It is the place where mañana is the busiest day of the week. It is the place where a lack of common sense is not a handicap.

As for journalists, there is a fast-growing perception that they are part of the system instead of being impartial observers. The saying goes, "If you believe everything you read, better not read." Readers are becoming more and more of what journalists are becoming less and less of—skeptical.

Perhaps just like us in Congress, the journalism community needs to rebuild its credibility. In recent years, Congress has taken small steps toward outlawing most honoraria and banning gifts and travel. We have taken small steps toward subjecting ourselves to the laws we pass for the country. This is, in fact, an issue that I have taken the lead on. And, we have a lot more to do before we regain the trust of the people.

For journalists, the issue of taking speaking fees is best put by Walter Cronkite in the piece by Alicia Shepard. He said:

> I absolutely agree with those defending the practice by saying they are not influenced. I believe that. I believe good journalists, the ones who are admired any way, have nothing to fear from internal introspection as to what they've done or are doing. It's solely a matter of perception, and important to our integrity.

Mr. President, I share Mr. Cronkite's opinion. I do not intend for my remarks on the floor here today to be misconstrued as press-bashing. I do this out of respect for the profession. Just as we are servants of the people and keepers of the public trust, so, too, are journalists.

And I am not suggesting that fees and gifts should not be taken. We in Congress have banned honoraria for ourselves, now, except when we give our fees to charity. And our gift ban bill is now in conference. Let me make clear: Regardless of these changes, no Member of Congress has the credibility, in my view, to moralize to others about accepting fees or gifts or other gratuities.

But if I could make a suggestion for a place to start, it would be public disclosure. Disclosing pertinent information, such as who paid how much to whom, is the essence of what I am suggesting. Not rejecting fees.

I also want to be up front about the fact that I have taken honoraria myself. But I have been required by law to disclose how much I received and from whom. My constituents could then judge for themselves whether there was a conflict of interest or an appearance thereof. The same standard should obtain for journalists, with public disclosure.

My favorite saying in public life is: "Mold doesn't grow where the sun shines in." In fact, that is primarily the job of journalists—to shine a light throughout our Government, and throughout our country. Disclosure would be consistent with that principle.

Members of Congress are indeed held to a higher standard than journalists. This is because we are elected officials of the Government. As such, our actions are governed by statutes, like conflict of interest laws. And we are held accountable by the votes.

Members of the media, not being elected officials, are not subject to the same high standards and, consequently, are not subject to conflict laws.

However, the media has always enjoyed a special niche in our society because of its relevance to the public interest. It enjoys protections under the first amendment, which presupposes a public trust.

After all, the parable "Let he who is without sin cast the first stone" best fits the journalism profession. And so every effort should be made to maintain the image of being pure as the driven snow.

Because of this important role in our democracy, and since the media is not subject to conflict laws, it must therefore discipline itself. It must hold itself accountable. It is obliged to do so.

Like politicians, journalists must accept and fulfill their role in the public trust if they are to re-establish credibility with the public.

Public disclosure of fees by journalists would be a step toward restoring that credibility.

Journalists could take a lesson learned from our debate here on the Senate floor. As the reform winds swept through this body, many of my colleagues rejected the contention that they could be influenced by honoraria—regardless of the amounts. And I agreed with them.

But the press and the public didn't buy those arguments. And that's because the issue was not our integrity. It was the public's perception of our institution that was the problem.

As one political consultant might say, "It's the perception, stupid!"

And so the arguments made by my colleagues were true in most cases, but the public and the press didn't buy them. So if these arguments never played with the press, why should they play among the press.

Regarding that perception, here's what a spokewoman for Ted Koppel of ABC "Nightline" had to say about Mr. Koppel's views:

> He doesn't feel there's a conflict in every case. But he feels uncomfortable explaining to the people in his audience, who depend on his credibility, why he was doing it.

Mr. Koppel stopped speechmaking for fees 5 years ago.

And journalism professor Steven Knowlton of Pennsylvania State university echoed the rationale:

> If you can convince an auto mechanic or a barber that the money you took wouldn't buy any influence, that would be OK. But my tailor wouldn't believe that, if I took $30,000 from an individual, I wouldn't be influenced.

Mr. President, I understand the point of view of Mr. Koppel and Dr. Knowlton because it is the same rationale I used in supporting the gift ban here on this floor. It is a matter of our credibility—the way we are perceived by the public.

Again, I decided to speak about this issue today in the hope that this issue will spark a public debate within the journalism community. The introspection and the open debate would be good therapy, as it has been for Congress.

Addressing the issue would help restore credibility to the profession. The media cannot serve as an effective check-and-balance on the system of government without it.

My interest in this issue, Mr. President, is similar to my interest in the area of congressional coverage. It is important that Congress reestablish its credibility. It is important that journalists do likewise.

We in Congress, as well as journalists, are theoretically closest to the people. Yet our credibility with them has suffered precisely because we have withdrawn from them. We've become part of the system. And so if we can resume our proper roles in this democracy and thereby restore our credibility, much of the current cynicism in the public can be rooted out. Clearly, this is our paramount goal.

As for what steps to take, again it must be voluntary, and up to each organization. If the objective is to restore credibility, corrections must come from within the community itself.

So I am not talking about any kind of law, or some kind of rule change from the Rules Committee to our press galleries, or anything like that. That would amount to censorship and interference.

Rather, each news organization must decide for itself what its policies should be. ABC decided to ban speaking fees from all trade associations and all for-profit companies. ABC should be commended, in my view, for taking this giant step forward.

As for smaller steps, such as disclosure, I would toss out an idea for discussion. I realize there are drawbacks to this approach, but perhaps organizations like the National Press Club, or other press clubs, could be helpful.

When journalists, who are required by their companies to disclose, would give a speech for a fee, the relevant information could be deposited with the press club's library, and could be accessible to the public. Or, perhaps the information could be made available from the news organization itself. Either way, the public would have access to information needed to judge possible conflicts of interest.

Mr. President, this concludes my observations about the issue of speaking fees and journalists. They are meant as constructive remarks, and I hope they are received that way.

I wish to commend the author of the piece—Alicia Shepard—for her contribution to the debate. As noted earlier, Mr. President, I now ask unanimous consent that Ms. Shepard's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TALK IS EXPENSIVE

(By Alicia C. Shepard)

They don't come cheap. Diane Sawyer and Sam Donaldson are said to command up to $30,000 for a speech, Cokie Roberts up to $20,000, and David Brinkley $18,000. The going rate is believed to be as high as $12,500 for George Will and $10,000 for Tim Russert. William Safire says he's gotten $20,000. Anna Quindlen has received $15,000. CNN's Judy Woodruff and NBC's Lisa Myers say they've each pulled in $7,500, and Newsweek's Howard Fineman has earned $5,000.

That's according to brochures put out by speakers' bureaus, people who deal with the bureaus, published reports and, in some cases, the speakers themselves. Exact figures are often hard to pin down, since many celebrity journalists are extremely reluctant to reveal specific numbers. And often these same highly paid journalists speak for free, or charge much less than published rates.

What these journalists and a few hundred others have that the rest of us don't is "podium talent." And many have turned it into a lucrative sideline, giving one- to two-hour speeches to trade groups, colleges, corporations and conventions in return for what many other journalists may earn in a month or even a year.

Not every journalist can dip into the honoraria trough. The pool is limited to those with big names, wit and something pithy or insightful to say about politics or the media. Most of those commanding large speaking fees are the media elite of Washington. The rest come largely from the New York City media establishment. But those who collect fees are increasingly making those who don't uncomfortable. They say receiving large sums for speaking before groups with a vested interest in news coverage can give the appearance of a conflict. And it seems hypocritical for reporters to stuff their pockets with money from the same organizations they criticize for trying to buy influence on Capitol Hill.

To some, such impressive fees suggest those willing to pay want something in return. Of course, journalists who take honoraria say that isn't so. High-profile journalists say they are perceived as celebrities and entitled to capitalize on the years of work that led to stardom. And echoing members of Congress—who have been banned from taking honoraria since 1991—they insist they're not tainted by the money.

But those who decline invitations say the credibility of journalist speechmakers is compromised. As in politics, the appearance of a conflict, they say, is just as harmful as a real one. Although evidence of a quid pro quo has never surfaced, there have been instances where it's caused embarrassment to a journalist or his or her employer.

"I think we ought not to be doing this," former CBS and NBC correspondent Roger Mudd told AJR. "It poses so many difficulties. Journalists as a breed hold the politicians to a certain standard of conduct and a certain standard of the appearance of conduct. When it applies to us we frequently fail our own test."

"It's not a black-and-white situation," adds Walter Cronkite, who took money for speeches while at CBS, "but I would have to agree with the critics that it probably is better avoided."

Some journalists receive honoraria for services other than speeches. Beat reporters write freelance articles for organizations that have political or social agendas that benefit from news coverage. Others give lectures in exchange for junkets aboard cruise ships.

Whatever it is, as the number of possible conflicts increases, those who may be most confused are viewers and readers. "Journalists are something like judges in society," says ethics and public affairs professor Deni Elliott of the University of Montana. "I don't know the individual journalist I'm asked to trust. Maybe they absolutely can't be co-opted but I don't know that. I don't know who to trust."

Journalists aren't the only ones collecting speech money. They're marketed in the same brochures promoting Jimmy Carter, Marilyn Tucker Quayle, F. Lee Bailey, Art Linkletter and the Amazing Kreskin. Colin Powell, the recently retired chairman of the Joint Chiefs of Staff, has 60 speeches lined up this year for $60,000 each, according to a source who has worked with the Washington Speakers Bureau. While it's unlikely that even big-name journalists rake in as much as Powell, few journalists AJR spoke with would disclose their earnings, saying it's not the public's business.

While print journalists aren't often considered celebrities, television has helped raise the profiles of many newspaper and magazine journalists, like Al Hunt of the Wall Street Journal. Hunt, the Los Angeles Times' Jack Nelson, Newsweek's Fineman, the Washington Post's David Broder and other print reporters became popular as public speakers by sharing inside Washington tidbits on weekly public affairs shows like "Washington Week in Review," "The McLaughlin Group," "This Week With David Brinkley" or CNN's "Inside Politics."

"The ones who write about politics are most popular," says Lynn Choquette, a partner with the National Speakers Forum, which represents about 50 print and electronic journalists. She says her clients' fees range from $3,000 to $60,000, with journalists getting between $3,000 and $30,000.

The most popular? "Eleanor Clift. Fred Barnes. Morton Kondracke. George Will. David Broder," says Choquette. "People care intensely about domestic politics. That's one reason. Many of these journalists have become TV stars in their own right and that raises their level of celebrity. . . . If they have a charming personality and are telegenic, that really helps."

And that's where podium talent comes in. A moonlighting journalist can't just know health care reform or Whitewater inside out. "Speaking is akin to show business," says Phil Frankio, vice president of the Speakers Guild. "So there's not only the informational element, but somebody certainly has to have a good rapport with the audience. That may include humor or anecdotal type stories."

Leading Authorities, a speakers' group that lists a stable of 50 journalists eager to talk, most for $5,000 or less, prints this disclaimer in its booklet: "Keep in mind that speaking fees are a function of many variables, including: how well-known the speaker is; the amount of time (preparation, speaking and travel) required to perform the speaking engagement; and the value each speaker places on his or her time. Higher fees do not guarantee a more substantive presentation or more polished performance."

Among those listed with Leading Authorities who speak for $5,000 or less if no traveling is involved: Scripps Howard's Peter Brown, CNN's Jill Dougherty, syndicated columnists Jack Germond and Jules Witcover, ABC's Hal Bruno, NPR's Ray Suarez, U.S. News & World Report's Ken Walsh and Time's Michael Duffy.

Whether it's $5,000 or $30,000, the fee still dazzles journalists who can't command it. The rank and file are quick to note a certain irony. "The people who tend to get these speaking gigs are the people who need it the least," says Carl Cannon, White House correspondent for Baltimore's Sun. Speechmaking journalists are not eager to publicize how much they do make.

Even Sam Donaldson, whose reported fee of $30,000 has been widely cited in the press, won't confirm the amount, although that's what one special interest group said it paid the anchor. Donaldson advised AJR to call his speakers' bureau, which won't disclose it either. "I can tell you I didn't receive $30,000 but I'm not playing games with you," Donaldson says.

"I'm not going to disclose it," echoes the Wall Street Journal's Al Hunt. "I don't have a standard speech fee," says the Washington Post's David Broder. "I don't need to discuss that," says ABC's Catherine Crier.

PBS' Robert MacNeil says he speaks "primarily to promote the 'MacNeil/Lehrer News-Hour,' public television and my books" and says most of his speaking engagements are unpaid. Nonetheless, he says, "I think my fees are a private matter between me and my sponsors. But they range from honoraria of a few hundred dollars to a few that are in the upper end of current lecture scales."

Whatever the amounts, what happens when journalists speak before groups that have been or could be the subject of one of their stories? Take the case of Donaldson. On January 20, "PrimeTime Live" aired an investigative piece by Chris Wallace about a junket earlier that month sponsored by a group of insurance organizations, including the American Insurance Association, for about 30 congressional staffers. It was vintage "PrimeTime Live," with hidden cameras catching the staffers on the beach in Key West, Florida, and charges of influence peddling. The message was that once again a trade organization was trying to buy votes on Capitol Hill.

Only this story had a small on-air asterisk. Donaldson, too, had benefited from the industry's generosity and Wallace disclosed that fact, but not the amount, during the piece. *A year before Wallace's story aired, a consortium of many of the same insurance organizations that sponsored the Florida junket flew Donaldson first-class to New York City and chauffeured him by limousine to the Waldorf Astoria Hotel. There, he gave a one-hour speech for $30,000, according to a spokesperson for the group—about what it cost the industry to foot the bill for 30 in Florida.*

In its defense, Paul Equale, senior vice president for government affairs of the Independent Insurance Agents of America, asked Wallace on camera why it was OK for Donaldson to accept money from them and not OK for the congressional staffers.

"If Sam Donaldson can accept $30,000 from this industry and still do this story on 'PrimeTime Live,'" he asked, "why can't you understand that members of Congress and their staffs can accept a trip worth far less and still be as tough on my industry as Sam Donaldson? It's the same logic." Wallace ignored the question and the exchange never aired.

Rick Nelson, a producer with "PrimeTime Live," says the program didn't air Equale's question because "I don't think he made it [the point] very well," and Equale took too much time in bringing up the issue.

Donaldson argues that he's not writing laws for the insurance industry "that could cost them or make them millions of dollars."

He may not be writing laws, says Equale, but Donaldson's got more influence on the public agenda than many members of Congress. (As an example of the media's power, consider the libel suit Philip Morris filed in March against ABC over a segment aired on "Day One." The company says that when the show alleged in February and March that Philip Morris adds nicotine to cigarettes to keep smokers addicted, its stock dropped in value by $2.4 billion.)

Equale also notes that laws mandate that members of Congress and their staffs disclose trips paid for by lobbyists. "Sam Donaldson is under no such requirement," he says. "That's a double standard."

Equale isn't the first to accuse Donaldson of wanting it both ways. In spring 1993, "PrimeTime Live" broadcast a piece on a trip two dozen members of Congress and their spouses took to an island off the coast of Florida. It was paid for by the Electronic Industries Association (EIA). At the last minute ABC News President Roone Arledge insisted that Donaldson reveal he too had taken money from EIA for a speech in 1989—although the specific amount ($25,000, according to EIA) wasn't mentioned.

The show prompted a debate on the journalism bulletin board of CompuServe last May. Marianne Lavelle, a reporter with the National Law Journal who took part in the discussion, told AJR, "I may know as a journalist that he's unbiased, but how does Jane Doe in Pennsylvania know that he's not biased? The whole thing just increases your level of cynicism."

Donaldson didn't do the reporting for either piece and says his fees are being used by the two groups to deflect criticism. "If you or anyone else could provide evidence that I'd spoken to the insurance [industry], collected a fee and then somehow put the kibosh on the investigation or asked Chris Wallace to pull back his punches, that would be a real good story," Donaldson says.

"In fact, though, what the story appears to be, is pay Donaldson to speak to you and get investigated by 'Prime Time.' It's hard for me to see how anyone can make out that I have thus traduced the best traditions of our business."

Cokie Roberts, a reporter for NPR and ABC, was also recently criticized when she gave a speech to the Group Health Association of America, a group with a strong interest in the outcome of President Clinton's health care reform legislation. C-SPAN wanted to cover it but was turned down by Roberts' agent, the Harry Walker Agency, which bars C-SPAN cameras because they make it difficult for its clients to command large fees.

Roberts, who did not return repeated phone calls because she was "extraordinarily busy," has never publicly disclosed her fee, but insiders say it's $20,000—minus the agent's commission.

In a March column, the Chicago Tribune's Washington bureau chief, James Warren, criticized Roberts and CBS' Lesley Stahl. Stahl recently took money from Cigna Corp., an insurance company with a major stake in the health care debate. Warren speculated that Stahl was paid in the $10,000 to $20,000 range.

"Taking money from such a group shouldn't be a close call for someone covering Congress' biggest issue of the year," Warren wrote. "But in Washington, the reporter-pundit class, which craves both to be on TV and subsequent speaking gigs that can bring hefty outside income, is expert at rationalizing such conflicts with a mix of sophistry and fervent self-righteousness. One line usually is, 'Oh, there's nobody who thinks that my opinions can be bought.' . . . Baloney. When money changes hands, the relationship between reporter and subject changes."

Roy Brunett, a spokesperson for "60 minutes," says Stahl, who moderated a discussion on health care issues sponsored by the company, does not consider it a conflict or even the appearance of one. She also will not disclose her fee, Brunett says. "That's between her and the company."

Warren says he took $200 from the American Bar Association a few years ago to run a symposium, but now regrets it. "If I had to do it again," he says, "I don't think I'd take the money."

Beat reporters who have developed an expertise in their field also are often asked to speak to or write for groups they cover. One potential conflict arose when the World Resources Institute (WRI), an environmental think tank in Washington, D.C., asked three reporters to write for "The 1994 Information Please, Environmental Almanac," which was compiled by WRI and published by Houghton Mifflin. Bob Wyss of the Providence Journal-Bulletin, Russell Clemings of the Fresno Bee and Mike Mansur of the Kansas City Star wrote chapters and were paid. Says Mansur, who was paid $2,000 by Houghton Mifflin for a 7,000-word chapter, "None of the information [I wrote about] was new. It was all part of my coverage . . . for the Star."

Wyss, who wasn't required to check with an editor before taking the assignment, says there's no conflict. "It's extremely remote that I would be covering World Resources Inc. They're just not the sort of mainstream sort of environmental group that I even deal with." Clemings says he checked back to see what had been written about WRI before accepting the assignment. His last story on the institute had been about the almanac, but he says if something came up again, he would turn it over to another reporter.

Nevertheless, Bud Ward, editor of Environment Writer, a newsletter read by 1,400 environmental journalists, says he questions "whether they should be writing for a group that's subject to their own coverage. I'm concerned about the public's attitude toward the press. This kind of thing gives the public more reason to be skeptical of the media's independence."

Another subject of criticism from some reporters has been well-known journalists who give lectures in exchange for fancy accommodations on cruises where the paying passengers are lawyers, accountants, financial planners and insurance underwriters. Last year, for example, the L.A. Times' Jack Nelson and Paul Duke, the recently retired host of "Washington Week in Review," took two all-expenses paid cruises on luxury liners for a conference organized by a Florida travel agency. Some call it journalist junketeering; Nelson says he's providing a service.

Critics say that taking money from groups falling under a reporter's purview raises all sorts of potential conflicts of interest or, at the least, the appearance of one. The money also raises questions about a reporter's objectivity. "It seems to me the problem is because Sam and others take that kind of money it precludes them from ever covering insurance scandals," Roger Mudd, who now teaches journalism at Princeton University, said on a recent radio talk show. "It puts them in an immediate conflict of interest." Mudd says while he was with the networks, he took some small fees for speeches to schools.

James D. Squires, a former editor of the Chicago Tribune, tells of the time the Tribune's movie reviewer, Gene Siskel, wanted to do some side work for the Walt Disney Co. Squires said no. "If every time Gene Siskel came on TV and says 'I'm about to review a Disney movie and I'm paid by Disney but I'll still be impartial,'" says Squires, "look how silly that would look."

Bob Steele, director of the ethics program at the Poynter Institute, believes that, in their hearts, reporters who speak for cash may be 100 percent certain of their objectivity and fairness. But there's no way to prove that to their audience. "How do we know what didn't go into the story?" he asks. "Or that a journalist would do a story and be exceptionally hard on an organization to prove they were neutral?"

There's yet to be a case, however, in which there was a proven quid pro quo. "No one for a minute who knows Sam would think he could be influenced," says Squires, who once took $5,000 from the American Petroleum Institute while at the Tribune and donated it to charity. "But what it does is put the credibility of brand name journalism at risk. The same kind of damage is done by 'Hard Copy' and little nitwit reporters showing up on television making wild allegations."

Public figures also question the practice. At an April meeting of the American Society of Newspapers Editors, former Secretary of Defense nominee Bobby Ray Inman, who cited criticism of the media when he withdrew his name from consideration, chided columnists who take big fees for speeches.

Edward Pound, an investigative reporter for U.S. News & World Report, recalls asking White House adviser James Carville about speeches he gives to special interest groups. Carville deflected the criticism. "What he said to me was, 'What I find mostly when I go there is reporters giving speeches. I usually find myself preceding and following a reporter,'" says Pound. "There's a lot of truth to that. I don't want to sound high and mighty, but I just don't think it's a good policy. When I came to Washington in 1977, it wasn't nearly at the stage it is now. It's out of control."

Some critics say that while talking for dollars can be questionable—depending on the group paying—it's the amount that has people wondering if a group is trying to influence or buy access to a journalist.

"Journalists need to ask, 'What would reasonable people think about me taking an honorarium for speaking before this special interest group that has a vested interest in how they are covered?'" says Ralph Barney, a communications professor at Brigham Young University who specializes in ethics.

What would reasonable people think about U.S. News & World Reports' former editor at large, David Gergen? Before he became counselor to President Clinton, Gergen collected $466,625 for 121 speeches in 1992, according to a report he filed with the Office of Government Ethics. That's a speech every three days. In the month of October 1992 alone he gave 15 speeches—two on one day. In the first six months of 1993, Gergen spoke 50 times to groups such as IBM, the Mexican Stock Exchange and Dow Corning, earning $239,460—about the same amount as 18 months of his annual salary. The majority of organizations paid $5,000 or more. Gergen did not return phone calls.

Another journalist who joined the Clinton administration, Strobe Talbott, former editor at large for Time magazine, collected a total of $20,000 for two speeches in 1992, according to financial disclosure reports he filed when he became deputy secretary of state.

If Talbott, Gergen or Donaldson reaped $100 per speech, fewer would question it. Most agree journalists' time is valuable and they should be compensated. But $12,000—which Gergen got in 1992 for a speech to the American Stock Exchange—is another story.

"The group that hired you clearly thinks it's getting its money's worth or they wouldn't do it," says Steven Knowlton, a journalism professor at Pennsylvania State University who wrote a book on ethics titled "The Journalist's Moral Compass." "Is it for Sam Donaldson's brilliance or insight? No, I don't think so. They think they're buying some influence or else why would they do it?" He believes a reasonable fee would cover expenses or be a day or couple of days' pay.

Knowlton and the public might perceive it that way, but Donaldson says since he first took $100 in 1969 no one "in any of these organizations has called me and asked me to do something for them or to not do something against them."

Mark Rosenker, vice president of public affairs for the Electronic Industries Association agrees that his organization is not looking for favors but simply access. "My business is to get stories in the paper or TV," he says. "Would I call Sam? Yes. But I don't believe he'd do a favorable story or kill a story no matter how much I paid him for a speech."

Why then do trade groups and corporations—the ones that generally pay big fees for big names—pay Sawyer, Roberts, Donaldson and other well-known journalists outrageous sums?

Representatives of these groups say the reason is much simpler and much less conspiratorial: They pay big money because that's what topflight journalists charge. Many industry groups say they want a big-name journalist to talk about Washington and to help attract members to their conventions or meetings.

"At these big industry meetings, we fly in CEOs, their wives and district managers," says the insurance industry's Paul Equale. "They want glitz. Television has turned these people into celebrities." Adds EIA's Rosenker, "We expect a good speech. We expect to be entertained and enlightened."

Even Donaldson concedes that the fees border on the absurd. He says he charges what he does because that's what the market will bear and he wants to limit engagements—although he's listed with at least six speakers' bureaus. Donaldson says he doesn't even prepare for them: "If you hire me you're getting pretty much an off-the-cuff, let's-wing-it version of what's going on in Washington.

"You and I can agree that maybe it's silly or a waste of their money, but they actually pay me because they think I'm a celebrity who will come to their convention, whose members will be impressed that I'm on the program."

Knowlton won't argue with that. "As a journalist, he's not worth $30,000,"he says. "But he is as a star."

Carl Cannon of Baltimore's Sun is not on the speaking circuit. He and others acknowledge that some criticism may come from that old green-eyed monster, jealousy. What would the have-nots do, asked a journalist who didn't want to publicly defend that practice, if they were offered a change to speak for an hour for what they might earn in a month? "It's wonderful to have these standards," he says, "but the ones who have them don't seem to have to apply them."

Not all journalists, even those with podium potential, speak for money. Jim Lehrer, host of PBS' "MacNeil/Lehrer NewsHour," used to do it. Unlike his partner, Robert MacNeil, who speaks about 25 times a year but often for free, Lehrer now turns down invitations because of the public perceptions problem. He also says he doesn't need the cash anymore.

"I quit doing it since I no longer had kids in college," says Lehrer. "I'm not comfortable with it, to tell you the truth. I don't want to come over as being sanctimonious of self-righteous about this. I think everybody has to make their own decision. I'm just not doing it myself because of the nature of the business I'm in."

Another reason Lehrer doesn't do it, he says, is because taking cash on the circuit makes his colleagues occasionally appear hypocritical. "What I object to, to be straight about it, is journalists who take the position that they are purer than all other people," says Lehrer.

Lehrer says if he took $30,000 from a group, he's sure he wouldn't be influenced. "But if a member of Congress does that we automatically assume that it's not only unethical, but the guy's on the take," says Lehrer. "It's the self-righteousness that accompanies the taking of this money by journalists that I think is just absolute bullshit. Take the money, fine. Go make our speeches and be pure. But don't assume that everybody else is less pure than you are."

NBC's Tom Brokaw airs his views but gives the money to a foundation that distributes it to charity. Brokaw, like many other well-known journalists, also speaks for free to colleges, charities and civil groups.

ABC's "Nightline" anchor Ted Koppel quit speechmaking five years ago when he became dumbfounded by how much groups would pay. "He personally became uncomfortable with the whole process of taking money for speeches," says ABC spokesperson Eileen Murphy. "He doesn't feel there's a conflict in every case. But he feels uncomfortable explaining to the people in his audience, who depend on his credibility, why he was doing it." Some critics charge that Koppel and Lehrer both stopped doing it when they reached points in their career where their salaries were so high they could easily afford to be more ethical.

Koppel seems to have applied the same litmus test that Knowlton thinks all journalists should use. "If you can convince an auto mechanic or a barber that the money you took wouldn't buy any influence," says Knowlton, "that would be OK. But my tailor wouldn't believe that if I took $30,000 from an individual, I wouldn't be influenced."

Walter Cronkite says he "never thought about" the money he accepted for speeches while at CBS. "It never seemed to be a problem." But in retrospect he also believes perception problems are the most worrisome aspect of accepting honoraria.

"I absolutely agree with those defending the practice by saying they are not influenced. I believe that," he says. "I believe good journalists, the ones who are admired anyway, have nothing to fear from internal introspection as to what they've done or are doing. It's solely a matter of perception, and important to our integrity."

Judi Hasson, a reporter for USA Today who covers health reform, is one who refuses invitations from any group involved in her beat. "I just don't want to be taking money from the people I write about," she says. "I can use the money. But it's not difficult to turn it down."

Others wrestle with each invitation. "Every time someone asks you to speak," says ABC's Catherine Crier, "it's important to look and see whether you would see any conflict or problem. That inquiry is made every time I'm asked to speak."

But deciding just what is a conflict is becoming harder to determine. "The murky area, the ones where I need to check are the ones where I get an invitation from a business group," says the Washington Post's David Broder. "We don't want to be involved with people who have too much of a stake in anything. For example, I'm doing a lot of stuff on health care so I would not speak to any group that's a major player in the health care thing."

Maybe not now, but what, for the sake of argument, if Broder had in the past? "In my work, you never know," says Broder, "that's why it pays to bend over backwards."

Disclosure is often mentioned as a solution. If the public sees Cokie Roberts on TV talking about health care and knows she took $20,000 from a group concerned with the issue, then it can decide what to believe.

But disclosure isn't an easy solution. Unlike members of Congress, who must disclose all sources of income annually and are prohibited from accepting honoraria, no similar mechanism exists for journalists. Many news organizations have internal disclosure policies but they often relate more to whom a reporter speaks.

"We don't want to treat our reporters like children," says U.S. News & World Report's Kathy Bushkin, who is the magazine's director of editorial administration. The policy there, like at many news organizations, is reporters can't speak to groups they cover; for other speeches, the need to discuss the circumstances with their editor.

Many other news organizations are now addressing the issue of honoraria. In light of the Donaldson disclosures, ABC is reconsidering its policy, which currently doesn't specifically cover the issue. So is NBC. So is Newsweek, which now doesn't require correspondents to seek prior permission to speak for money. The Wall Street Journal decided a few years ago to forbid honoraria from any for-profit organization; the Washington Post forbids honoraria that could be interpreted as "disguised gratuities."

Magazine journalists who cover Capitol Hill had the opportunity to disclose their honoraria earnings six years ago, but few were eager to do so. To obtain congressional press passes, magazine reporters must apply for credentials from the Periodical Press Gallery. They gallery is run by Congress, but a seven-member committee of journalists decides who gets credentials. In 1988, the committee voted to revamp its application and have reporters list the group and date—not the amount—for each speech.

"If they spoke the Tobacco Institute or some business organization, that would have to have been disclosed," recalls David Holmes, superintendent of the House Periodical Press Gallery. Previously, they could just list the speakers' bureaus that paid them and not name the groups they spoke to or list the fee.

Few liked the new idea. Later that year, when committee members stood for reelection, four were thrown out. "The first thing they did was return to the old form," which only requires listing the speakers' bureau, says Holmes.

The issue came up again recently, but the new committee was not so bold. While it brought it up at a March meeting, it decided only to restate and clarify the existing policy. The bottom line: It's still alright to list only the speakers' bureau. Even so, some journalists continue to leave the line blank or write only "speeches."

Attempts to encourage disclosure or limit honoraria to small, expenses-only fees are suggested by critics not to strip a working journalist of income but to safeguard the eroding credibility of the profession. In a 1991 AJR reader's poll, 68 percent said they believed journalists should disclose speaking fees. Other polls list journalists just above used car salesmen and politicians when it comes to public trust. Losing credibility will just make it more difficult—if not impossible—to do the job, critics say.

Says Lehrer, Anything that detracts from our credibility detracts from our being. Because without our credibility, we ain't got it. We're nowhere."

The PRESIDING OFFICER. Under the previous unanimous-consent agreement, the Chair recognizes the Senator from Minnesota [Mr. WELLSTONE], for 10 minutes.

Mr. WELLSTONE. I thank the Chair.

CRIME BILL CONFERENCE

Mr. WELLSTONE. Mr. President, yesterday, I held a press conference with Representatives TORRICELLI, SCHROEDER, DELAURO, and MALONEY from the House. Our focus was on the conference committee dealing with the crime bill. What we spoke to was the stonewalling, I am proud to say, not by Senate conferees but by some House conferees, on some family antiviolence provisions which we believe are critically important.

Mr. President, I speak on the floor today to convey the following message to some of my colleagues in the House on this committee. It is so crystal clear that it is time for the Congress to take domestic violence in our Nation seriously, to understand that domestic violence is a crime, and to understand that it must be treated as such.

Mr. President, in November, the Senate approved, with the support of both Senator BIDEN and Senator HATCH, an amendment I introduced called the Domestic Violence Firearm Prevention Act. I wish to describe it for those who are listening.

It would, first of all, prohibit anyone who has been convicted for abusing a spouse or a child from owning or possessing a gun. It is very interesting, Mr. President, the National Rifle Association—and I am not on the floor, by the way, to attack the NRA at all—has said over and over again look for us for support in making sure that guns are not in the hands of people who have committed crimes.

That is really what this amendment says.

It would prohibit anyone who has a restraining order issued against them for owning or possessing a gun. Finally, it would prohibit anyone from selling or giving a gun to someone they knew had been convicted of abusing a spouse or a child.

Mr. President, I have said it once. I have said it twice. I have said it 10 times. All too often the only difference between a battered woman and a dead woman is the presence of a gun. Let me repeat that. All too often the only difference between a battered woman and a dead woman is the presence of a gun. We are trying to get the guns out of the hands of those people who have been convicted of an act of violence within their families. It is a most reasonable amendment.

This amendment was severely weakened on the House side. Statistics, Mr. President: every 12 seconds in the United States of America—FBI statistics—a woman is battered; every 12 seconds. Over 4,000 women are killed each year at the hands of their abusers. Please remember, Mr. President, this is the most underreported crime in America. An estimated 150,000 incidents of domestic violence involve a weapon. The New England Journal of Medicine in a recent article pointed out that with the history of battering, if there is a gun in the house or in the home, that woman is five times more likely to be murdered.

The problem is this: We have some conferees on the House side who are saying, yes, if somebody has been convicted of a felony, then of course we would take a gun out of their hands. That is the law of the land. But domestic violence is a misdemeanor quite often. They are right. So if I or you or someone, God forbid, beat up our neighbor's wife, it would be a felony. If we beat up our own wife, it is a misdemeanor.

What happens in State after State after State, Mr. President, is that the charges that are brought against abusers are essentially limited and brought down to fifth-degree assault or misdemeanor charges. Even in those States which say domestic violence is indeed a felony, sometimes the standards are so strict, permanent physical impairment has to happen as a result of it, or there had to be a use of a weapon, or there have to be broken bones —what I am saying is the fact is we do not treat domestic violence seriously. We do not treat this violence against a spouse or a child as a felony. All too often we treat it as a misdemeanor, and therefore the perpetrators are able to continue to own a gun. Then what happens all too often, and it is tragic and it is unnecessary, is that a woman is no longer battered, she is dead.

We are just simply saying that under Federal law we have a list of circumstances where we say you cannot own a gun or a firearm if you have committed a felony, and we should include domestic violence within this category.

Mr. President, it is amazing to me that this stonewalling is taking place on the part of the House conferees. There is such a disconnect to the position that some of them are taking and what people in the country are saying. I did not argue that this particular amendment is a be-all or end-all. But I am telling you one more time, it clearly is an important step in making the home a little bit safer place. It clearly is reasonable. It clearly speaks to some of the violence that is taking place, not just in our streets but in our homes. To me it is absolutely outrageous.

I give Senator BIDEN—and I know we are going to have Senator HATCH with us because he is supporting this—great credit. But we have to have this provision passed as a part of this crime bill.

Mr. President, if we pass the Violence Against Women Act provisions that Senator BIDEN has done such a great job for years and years in speaking about as a part of the crime bill, and we pass some of the other family violence provisions, whether it be safe visitation centers, whether it be getting the guns out of the hands of those people who have committed an act of violence against a spouse or child, we will be sending a very, very powerful and positive message to women in this country. This is the message. This violence is not your fault. There will be support for you in your community, and perpetrators will be held accountable.

I hope that the stonewalling ends, and I hope this provision is not dropped late at night. I know that we have support from Senate conferees. Hopefully we will have support from the House conferees. I am convinced that, if the House conferees hear from the public in this country about this amendment—and I know there is overwhelming support for it—it will be passed. But that is probably the only way it is going to happen, and that is why I speak on the floor today.

I yield the remainder of my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Marc Cummings, who is interning with me, be able to be on the floor today with me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

The Senate continued with the consideration of the bill.

Mr. McCONNELL. Mr. President, I withdraw the pending amendment No. 2103.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

Mr. McCONNELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I ask unanimous consent to proceed for 5 or 6 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington is recognized for 5 or 6 minutes.

Mr. GORTON. I thank the Chair.

(The remarks of Mr. GORTON pertaining to the introduction of S. 2247 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. LEAHY. Mr. President, I want Members to understand where we are.

Mr. President, I yield to the Senator from Maine.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, the Senate now finds itself in an all too familiar position. The bill now pending has been on the calendar since June 16, approximately 2 weeks. On last week, I announced my intention to proceed to the bill following the disposition of the product liability bill. I did so.

We have been advised there are a number of amendments to be offered by Senators, and yet although we have been on the bill now for a few hours we have been unable to dispose of any amendment.

I encourage Senators who have amendments to come to the Senate floor and offer them so we can begin debating and voting and making progress on this bill.

I understand that earlier an amendment was offered with respect to Bosnia, and then withdrawn. As we all know a Bosnia amendment is pending on the Department of Defense authorization bill, which has been set aside to go to this bill.

It is my intention to resume consideration of and complete action on the Department of Defense authorization bill this week, including the Bosnia amendment. However, if Senators wish to debate it on this bill, that is perfectly agreeable to me. We are prepared for debate, and vote on a Bosnia amendment today or tomorrow or Friday. We were prepared to vote on it last Friday when it was debated, but we were not able to gain agreement to proceed to a vote.

So, I merely wish to state to Senators that because we were unable to transact any business last Friday, we created more pressure on the days remaining this week. The longer we go today without transacting any business, the more pressure it creates on the remainder of this week.

I announced last week that we would complete action on five matters before we leave for the Fourth of July recess. Those were a certain nomination, the product liability bill, the foreign operations appropriations bill, the energy appropriations bill, and the Department of Defense authorization bill.

We have now completed action on two of them. The nomination has been completed and the product liability is completed, and I commend Senators for their actions to enable us to complete those measures. Now there remain three, including the pending bill. I want to repeat, it is my intention to complete action on these measures before we go into recess, and the longer we delay, as we did last Friday, as we are unfortunately doing now, without any action, that means the later we have to stay in session this evening, tomorrow evening, Friday, or Saturday if necessary.

So I encourage Senators who intend to offer amendments to come to the Senate floor to do so, to permit them to be debated and voted on.

I want to say, with respect to Bosnia, that we are prepared to proceed to it today, tomorrow, or Friday, at any time, with a time agreement to get votes on the matter, as I have previously indicated I am prepared to do.

Mr. President, I thank my colleague. I hope that he and the distinguished ranking member will soon be able to receive and debate and have amendments considered and voted on.

Mr. LEAHY. Mr. President, if the Senator from Maine, the distinguished majority leader, will yield, I note also for the RECORD, so there will be no confusion—after the distinguished leader, having indicating our schedule, a schedule with which I agree and I hope to have completed before we go out—I have discussed with the distinguished ranking member and others this bill, which has been on the calendar for some time.

As the Senator from Maine has already noted, and I repeated to him what I have been told, we would have, I forget the exact number now, either 38 or 48 possible amendments raised to it.

I note that this is a bill, the foreign operations bill, which has over the years often attracted enormous numbers of amendments. We can do one or two things. We could say there is going to be amendments, and let us not go forward, never; or vote them up or vote them down. I am a strong believer in the Senate to work its will and vote things up or down.

But I note that with this, DOD, and others, obviously we have, as Senators, the responsibility to move forward with this legislation, all of it, because we have a relatively short time after the Fourth of July break before we take the normal break that we do in an election year so Members are able to go back home and face the voters. And then we are into September and the end of the fiscal year. The appropriations bills have to go through and they have gone through the other body, or they would not be here. They have to then go through this body. Then they have to go through conference and come back. And, as the distinguished leader knows, the conference reports themselves sometimes become contested.

I do not know how you would do it otherwise. I would love to be able to bring up this bill and an hour later have completed it. It has been made clear we cannot do that.

But I urge Senators on both sides of the aisle, if they have amendments, to come forward. I am prepared to stay here. I am prepared to stay here all night, if that is what the desire of the majority leader is. I have done this on occasion in the past on bills, and I am happy to do it now.

I also note, as I discussed with my colleagues on the floor earlier, that while I have made no plans to travel on Saturday, because I know, if this takes an inordinate amount of time, then we still have DOD and the other matters the leader has suggested, all of which has to be done—I think he is absolutely right in saying they have to be done. I do not want to forestall anybody's opportunity to bring forward an amendment, but I hope that we can get going relatively soon and move the amendments—we have yet to even adopt the committee amendment, as we normally do—and go forward.

We have major issues in here. The Camp David countries—at a time when the Middle East peace agreement is at about its most critical—are held up in here. One of the reasons I want to get through this is, I know if we do not do it this week, we are running the risk, in the foreign operations bill, as we get into the press of the other things, to see it as part of the continuing resolution, which leaves it in doubt until sometime in October, at a time when at least the Middle East peace agreement is in a very tenuous situation, when we would be given a chance to say exactly what we are going to do.

NIS, the Director of the FBI, Director Freeh, is there now or about to be there. One of the things I will offer, on behalf of myself and Senator MCCONNELL, and Senator D'AMATO will join with him on, would be an amendment for money for law enforcement aid in the former Soviet Union. Director Freeh should be able to be in a position to point this action out, because of the help we want to give the tenuous, almost disastrous law enforcement situation, especially in Russia.

I could go on—I am not going to go on, but I could go on to hundreds of others—Camp David, Middle East peace accord, NIS, and others. So I hope that we could go forward so we could start conferencing this even possibly during the week's recess next week, and then go on so that in August we could get it passed and signed into law.

So I thank the distinguished Senator from Maine, the majority leader, for stating the record.

Let me say, Mr. President, I have noted that we have everything here, from humanitarian aid to matters of significant foreign policy issues, and we ought to be working on them.

I do not think that most Senators of either party want to stop a major part of our foreign policy by holding up this bill. I doubt that Senators want, either intentionally or inadvertently, to interfere with the Middle East peace process. I doubt if Senators, intentionally or inadvertently, want to do anything to hamstring our efforts to bring about or to help bring about democracy and a market economy in Russia and other parts of the former Soviet Union.

But I suggest to my colleagues on both sides of the aisle that delaying a bill, which ultimately has to pass, does all those things, because we ought to pass it. Either we pass it now or we run the very real risk of passing a continuing resolution in October.

Now, a number of Senators have expressed interest in particular things—law enforcement, aid for Russia, specific aspects and specific earmarks in the Middle East, and specific countries mentioned in the former Soviet Union, environmental issues, population issues, and others.

These are defined in this piece of legislation. In a continuing resolution, none of them will be defined. In fact, a number of these things that are new initiatives would not be reflected.

If we do not go forward on this, we are going to be going by the House-passed bill which does not have the items asked for by individual Senators. And I can tell my colleagues that I would not feel inclined at all, if we were to lose our chance to move forward on this bill, to try to ask the House to put in a continuing resolution help for these specific items. In fact, I would be just happy to say, "Well, look. We will just come back to it in January and see what we can put together."

So nobody should ignore the fact that the majority leader, with the minority leader, standing here on the floor last week laid out exactly what the program was going to be, which bills had to be passed. I do not recall any Senator, Republican or Democrat, standing up saying they objected to that program.

Certainly the ranking member has been very forthright and very honest, as he always has been with me, in stating that if this came up this week there would be a large number of amendments. He did not have to tell me that. In his usual fashion, candor and honesty, he did tell me exactly what was going to happen there and that has been relayed to the leadership on this side, as I suspect it has been to the leadership on the other side.

But the fact remains the distinguished Senator from Maine, the majority leader, said: We are going to bring this up and dispose of it; we are going to bring up, as we just have, the cloture motions on product liability; we are going to bring up DOD—I forget the list—but all of these things. Every single Member of this body, all 100 of us, knew they were going to be brought up, knew they were going to be disposed of one way or the other.

If Senators do not like the foreign operations bill, that is very simple. At some point we go to third reading and then they can vote aye or nay. If they do not like the bill, they can vote it down. It is very simple to do. If there is any amendment in there they do not like, vote it down.

On the other hand, if there is an amendment to be brought up on either the Republican side or Democratic side, if Senators like them, vote for them. If they do not like them, vote against them. Whatever it is, we will have a final bill with amendments that are either adopted or not adopted, and that is the bill I will bring to conference.

So, as I said, I plan to be here late into the evening. It will give me a chance to get caught up on my mail. I have canceled all plans to travel on Saturday because I suspect we will probably be doing DOD on Saturday as a result of delays on this. I hope I can still travel on Sunday. But I just reread the Adjournment Resolution. I understand we can go through Sunday, too. I will not cancel Sunday yet, Mr. President. I will keep Sunday on hold. But Saturday I have canceled.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WOFFORD). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, for those other Members of the Senate—I realize there is virtually nobody else on the floor—and the others who must be riveted—riveted—to their TV monitors to hear what is said, I urge Senators with amendments to this bill to come forth and bring their amendments in.

I hope that we might finish this thing by midnight or so tonight, if at all possible. But, again, I will remind Senators that after this bill, there are a couple of other appropriations bills coming up, plus DOD. For some who would like to be home for the Fourth of July recess before the 4th, which is on Monday, the adjournment resolution allows us to stay here until midnight Sunday, as I recall.

So I would not want this to be the reason we are still in Saturday. We have other bills to consider.

I will also note, Mr. President, what this bill is and what it is not. This is not a foreign aid authorization bill. It is an appropriations bill, determining exactly how we spend about $14 billion of the American taxpayers' money.

There are some who wish to have policy debates on Bosnia or Haiti, I suppose North Korea, or other places.

Now, a good, strong, realistic debate in the Senate on Bosnia, on Haiti, on North Korea, I think, could do the country good. I would like to see a real debate on what our whole foreign policy, especially as it relates to foreign aid and as it relates to the use of our military forces, what that policy should be in a post-cold-war period. We have not really had that debate. We did not have it in the last administration after the end of the cold war, and we certainly have not had it in this administration.

So I would like to see such a debate. I think that there would be some clear-cut results in such a debate that could be helpful to President Clinton and to his administration. Certainly it could be helpful to the country because I find as I travel in my own State of Vermont, as I do many times a month, or as I travel in other parts of the country, the people want to hear such a debate. They would like to know just what is going to be our foreign policy in the post-cold-war period.

But having said that, this bill is designed to determine exactly how we spend certain amounts of our money in carrying out foreign policy objectives. The objectives are assumed to have been set. We have to determine how much money will be used in carrying them out.

Now, we have in here, for example, money to aid the former Soviet Union. It is a very small amount of money considering what the needs are there. Nobody expects the United States to carry out a Marshall plan for the former Soviet Union. We do not have the resources and certainly we do not have the political will to do such even if the argument could be made that it would be wise for us to do it.

What we can do is join with some of the other Western nations in helping—let me just take Russia as one example, as one of the parts of the former Soviet Union—in helping Russia put together a banking system, in helping them put together a commercial code.

I have talked to business people in Moscow who worry about the inability to enter into contracts. And I say, you mean you want to be able to enter into a contract in Moscow that could be enforced in St. Petersburg? They said, no, we would like to be able to enter into a contract in Moscow that could be enforced in Moscow.

Before they can make the kind of investments the West needs in the private enterprise system in Russia, they have got to be able to have a real banking system and a real commercial code. We have money in this bill to help with setting it up. We have exchange programs. We have ways to help some of our own experts go over, not to ask Russia to be a clone of the United States, which it never will be, nor do we want that, not to have Moscow be a clone of New York, but to say, here is what we found has worked and here is what we found has not worked, and now try it, because, as I mentioned to the Prime Minister of Russia and have said to others, if they do not put their economic house in order, their legal house in order, commercial code, banking system and all, there is no way they can expect the West, the United States, Germany, the European Community, and so on, to invest in Russia.

Just think for a moment, Mr. President. Suppose you were the CEO of a large corporation in the United States, an international or multinational corporation, and you were looking where you might invest $100 million to $500 million in building a new plant, developing a new market, and you were faced with the question, would you invest it in Russia or would you invest it in South Africa?

Now, assuming the stability that we have seen so far with the new South African Government continues, your safer bet is going to be South Africa. They have a banking system. They have a commercial code, a free enterprise system, a middle class. They have a huge hitherto disenfranchised majority which is now becoming enfranchised and which will, through education, work, and whatnot, have a chance to become a market themselves, with, of course, vast resources.

Frankly, that CEO is going to look first to South Africa, and they are going to continue to look far more there or other parts of the world, they are going to look to Asia, the Pacific rim, and so on, before they would look to Russia or the Ukraine or Georgia or others because of what they see as an inability to carry out basic commercial transactions. For example, you start a company and fund it, it is actually starting to work, and somebody arbitrarily adds on a 25- or 30-percent tax that they had not expected, or whatever it might be. Crime has got to come under it. Senator MCCONNELL, Senator D'AMATO, and I and others will put into this bill, if we are able to pass it, money to help fight crime.

I remember 20 years ago walking around the streets of Moscow at 3 o'clock in the morning feeling perfectly safe. I expect probably at that time of the cold war, being tailed by the KGB, that I would have to be. But you do not have that sense of safety there today.

I believe it was one of our national newspapers that told the story of a car, an expensive car, expensive, imported car pulling up in front of a street-level office. Several gunmen jumped out of this car and started firing machineguns into the lobby of the business until, according to the story, one of the secretaries opened a filing drawer, pulled out a hand grenade and rolled the hand grenade under the car, which changed the odds somewhat and, as in a sporting event, gave the advantage to the other side.

Now, first off, just the idea of this taking place in a busy, main part of Moscow is mind-boggling, but then you have to stop to think what kind of business do they have that in the filing drawers they keep hand grenades. Do they file it under "B" for boom, "D" for defense, "O" for offense, "G" for grenades, "E" for explosives? We may have a new secretarial school that is going to have to start there. But these are the things that we can help with.

What is the advantage to us? The advantage to us, the United States and the West, are immeasurable. We are talking about a very small amount of investment if we can have it done right. We help the economy grow there. We then have new markets. That creates jobs in the United States. We can use our money to leverage it with the IMF, the World Bank, and others to help.

But one of the biggest advantages, not only to our economic security, but think of a nation with thousands and thousands of nuclear warheads, a nation that has been totalitarian and our greatest potential enemy in the world becoming now a democratic nation, joining with us in NATO and other international organizations, with these warheads no longer aimed to us, is the ability on both sides, the United States and the former Soviet Union, to start dismantling these nuclear weapons. This is just one of the advantages.

It is not all going to happen if we pass this bill. Of course not. But it allows the United States, as leader of the free world, as the greatest democracy in the world, the most powerful Nation on Earth, to give the kind of leadership that we need.

It is my impression as I travel around the world from leader after leader, they want the United States to lead the post-cold war period. "We want the United States to give leadership with your history of democracy and your ability to give the example. We want you to lead." As a United States Senator, as an American, as someone from Vermont, I want us with our great history of democracy to be that leader in the rest of the world.

So it is just one of the many things in here. Look at the tremendous risks, as I mentioned earlier this morning, taken in the Middle East, in Israel, and among leadership of the Palestinian people. These risks are going to be for naught unless we are able to step in and help. And I daresay that no country in the world is prepared to help to the extent the United States is. I think the United States should be proud of that. Because in an area that has festered with hatred, violence and murder, and turmoil for so long, the United States has the ability to help them finally be able to fulfill a promise to a new generation—to grow up without the animosities of parents and forebears—to grow up in peace.

I see the distinguished Senator from New Jersey on the floor. If he is seeking recognition, I will be happy to yield.

Mr. LAUTENBERG. I thank the manager of the bill. I agree with the points that he is making.

Mr. President, if I may be recognized.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I agree with the distinguished Senator from Vermont, as he reviews the obligation that we have under our appropriations bill on foreign operations.

He has been a leader in this area for many, many years, and has a unique ability to fashion a bill to take care of America's interests wherever they may be within ever-shrinking parameters. They call Senator LEAHY a magician of sorts because he seems to be able to accomplish all that we need to do with ever more pressure.

I commend him for his leadership in this regard, as well as in his other duties in the U.S. Senate.

So I thank my colleague and friend from Vermont for yielding the floor.

AMENDMENT NO. 2104 TO COMMITTEE AMENDMENT ON PAGE 21, LINE 12

(Purpose: To urge the renegotiation of prisoner transfer treaties in order to relieve overcrowding in Federal and State prisons)

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk in behalf of Mrs. FEINSTEIN, Mr. GRAHAM, and myself, and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair informs the Senator from New Jersey that the pending question is the first committee amendment. Is the Senator intending to amend that amendment?

Mr. LAUTENBERG. I ask that we amend the committee amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself, Mrs. FEINSTEIN, and Mr. GRAHAM, proposes an amendment numbered 2104.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the approriate place in the amendment, insert the following:

PRISONER TRANSFERS

SEC. . (a) SHORT TITLE.—This section may be cited as the "Prisoner Transfer Equity Act".

(b) PURPOSE.—The purpose of this section is to relieve overcrowding in Federal and State prisons by providing for the transfer of criminal aliens convicted of crimes in the United States back to their native countries to serve the balance of their sentences.

(c) FINDINGS.—The Congress makes the following findings:

(1) The cost of incarcerating an illegal alien in a Federal or State prison can cost as much as $25,000 per year.

(2) There are approximately 46,000 convicted criminal aliens serving in American prisons, including 25,000 convicted criminal aliens serving in State prisons and 21,000 convicted criminal aliens serving in Federal prisons.

(3) Many of these convicted criminal aliens are also illegal aliens, but the Immigration and Naturalization Service does not have exact data on how many.

(4) The combined cost to Federal and State governments for the incarceration of convicted criminal aliens is approximately $1,200,000—

(5) There are approximately 2,500 American citizens serving in prisons outside the United States.

(6) The United States has entered into over 25 prisoner exchange treaties. Since 1977, under these treaties, the United States sent approximately 1,200 prisoners to other counties but has received approximately 1,400 prisoners that it had to imprison. This has added to United States prison overcrowding.

(d) PRISONER TRANSFER TREATIES.—No later than 90 days after the date of enactment of this Act, the President should begin to negotiate prisoner transfer treaties, or renegotiate existing prisoner transfer treaties, with countries that currently have more prisoners in United States prisons than there are United States citizen in their prisons, to carry out the purpose of this Act. The focus of these negotiations should be on the transfer of illegal aliens who are serving in United States prisons.

(e) REPORT; WITHHOLDING OF ASSISTANCE.—

(1) REPORTS.—Not later than 1 year after the date of enactment of this Act, and not later than March 30 each year thereafter, the President shall submit a report to Congress on the progress of negotiations undertaken under subsection (d) since the date of enactment of this Act or the date of submission of the last report, as the case may be.

(2) WITHHOLDING OF ASSISTANCE.—Whenever—

(A) a report submitted under paragraph (1) indicates that no progress has been made in negotiations under subsection (d) with a foreign country, and

(B) the United States continues to maintain a surplus of prisoners who are nationals of that country, then, for the remainder of the fiscal year, and each fiscal year thereafter until progress is reported under subsection (a), not less than one percent or more than 10 percent of United States bilateral assistance allocated for that country (but for this provision) shall be withheld from obligation and expenditure for the country.

(3) DEFINITION.—As used in this section, the term "United States bilateral assistance" means—

(A) assistance under the Foreign Assistance Act of 1961 other than assistance provided through international organizations or other multilateral arrangements; and

(B) sales and sales financing under the Arms Export Control Act.

(f) WAIVER AUTHORITY.—The President may waive the application of subsection (e)(2) if such an application would jeopardize relationships between the United States and a foreign country that the President determines to be in the national interest. Whenever the President exercises the waiver authority of this section, the President shall submit a statement in writing to Congress setting forth the justification for the exercise of the waiver.

(g) DIPLOMATIC EFFORTS.—For each country that does not receive United States assistance for which the conditions of subsections (e)(2)(A) and (e)(2)(B) apply, the President should use such diplomatic offices and powers as may be necessary to make progress in negotiating or renegotiating a prisoner transfer treaty.

(h) RULE OF CONSTRUCTION.—Nothing in this section may be construed to alter or affect the existing immigration, refugee, political asylum laws of the United States nor any Federal, State or local criminal laws.

Mr. LAUTENBERG. Mr. President, one of the principal concerns of people throughout our country is how they deal with the ever-mounting problem of crime. How we deal with it depends very much on the facilities as well as the structure of our law enforcement process. By facilities, we are talking about courthouses, we are talking about jails, we are talking about equipment, police cars—all of the things that we need in a structure like ours to make certain that we catch the lawbreakers, and deal with them quickly and significantly.

We have a crime bill that has been under consideration for some time now. It is being negotiated in its final form between the House and the Senate. We expect that one day, hopefully in the not-too-distant future, we will have a crime bill that we can move through, get to the President's desk because the President is resolved to deliver a crime bill. It is a pledge that he has made. It is one that he has fought very hard to get through the process.

A significant part of that crime bill is to expand the number of jail cells, so that when someone is arrested for a crime they can be dealt with quickly, and have the sentences be realistic. I am a strong supporter of truth in sentencing, which means that if someone gets a jail sentence that they have to serve a significant portion of that. Eighty-five percent is kind of the rule on truth in sentencing.

That will enable States to use Federal cells that will be built under the crime bill. We are talking about something in excess of $3 billion worth of jail cells to be built across this country. They are desperately needed so that those out there who are either criminals or would-be criminals know very well that if they commit a crime, they will get caught; and, if they get caught, they are going away.

Right now, they do not go away. They get a sentence in many cases, and are turned back out in the street. I know in my own State we just do not have the capacity to house all of those who are convicted of crime.

So that brings me to the amendment, Mr. President, that I am offering to the foreign operations bill. That is to make certain that the thousands of criminal, undocumented aliens who serve time in our State and Federal prisons, and contribute to prison overcrowding which costs the American taxpayers approximately $1.2 billion each and every year, are sent back, or at least we try to send them back to the countries from whence they came. These criminal, illegal aliens have committed two strikes against us.

They have broken our immigration laws in coming here and, once here, have been convicted of crimes against people and institutions in our society. We ought to send back criminal illegal aliens in our prisons to their native countries to serve out their sentences. It is my hope that the amendment we are offering today will begin this process.

This amendment is based on legislation I introduced earlier this year called the Prisoner Transfer Equity Act. I am pleased to be joined by Senator FEINSTEIN and Senator GRAHAM in this effort, and I am told Senator FEINSTEIN will be including her remarks at a later time.

This amendment will direct the President to renegotiate existing prisoner transfer treaties and enter into new treaties to have countries take back the greater numbers of criminal illegal aliens currently serving time in our Federal and State prisons. When I say "greater," I am talking about those who are in our prisons in excess of an exchange for the Americans who are prisoners in those countries. While we have treaties with over 25 countries to do this, they are, unfortunately, not working.

This amendment gives the President and Secretary of State a stick to increase the flow of criminal illegal aliens back to their native countries. It requires the President to withhold up to 10 percent of a country's foreign aid if they do not make progress toward taking back more of their criminal illegal aliens. If the country does not receive foreign assistance and there is nothing therefore to withhold, the President is authorized to use other approaches like trade sanctions.

I want to be clear about one thing. The problem that we are confronting is not legal immigration. Those people who come here with a visa and with various types of permits are more than welcome. That is what has built America. It is the merging of the various cultures and ethnicities that has built the strength and energy this country has and has made us the strongest Nation in the world. I am the son of immigrants, and I know first hand that immigrants have helped to make this country great. The problem is what to do with illegal aliens who have committed crimes in our country and are serving time in our Federal and State prisons.

Once again, the first crime is that they are here illegally. Their second crime is that they have committed illegal acts, often violent acts. But punishing them costs us—the U.S. taxpayers—approximately $1.2 billion a year. Why should these people be jailed here rather than in their own country where their fellow citizens will be picking up the tab? Maybe it is easier to deal with being in prison in the United States than it is in their own country. In my own State, for instance, there is a fellow who is guarded constantly by two, three, or four guards because he is so violent that he has to be watched with every move he makes. If he goes out to the yard for recreation, the yard has to be cleared of other prisoners, and he has to have a couple of guards standing right alongside him all the time. But when we threaten to send him back to his country of origin, he quakes at the thought. Well, too bad. He should not have committed the crime here in the first place.

Nationwide, there are 58,000 convicted criminal aliens in our prisons; 21,000 are in Federal prisons, and 37,000 in State prisons. Not all of these prisoners are here illegally. Those who are here legally are entitled to the same due process as anyone else. But many of these convicted criminal aliens are illegal and should have been deported in the first place, particularly if they have committed a crime here. However, we do not have precise data on exactly how many of these people are illegal. What we have to do is get that kind of information squarely in front of us and focus on sending criminal illegal aliens back to their native countries.

While we look at this, we recognize that there are about 2,500 Americans serving time in foreign prisons. This surplus of prisoners is not only a burden on the Federal system, but the State system as well. For example, in the State of New Jersey, where we have approximately 500 convicts who are believed to be principally criminal aliens, it would cost us $35 million as a one-time cost to build a facility large enough to hold these people, and it would cost $12 million a year in operational costs to guard them and incarcerate them.

Since 1977, the United States has entered into prison transfer treaties with over 25 countries. These treaties were designed not only to bring American citizens back here to serve out their time if they are criminals, but also to transfer criminal illegal aliens out of our prisons. These treaties have not solved our problems. Since 1977, the United States has transferred approximately 1,200 prisoners back to their native countries. But, at the same time, we took back 1,400 Americans serving time in foreign prisons. So this has only added to our problem of prisoner overcrowding.

Recently, Attorney General Reno announced that the Mexican Government has agreed to take back 53 of its citizens to serve out their sentences. I commend the Attorney General for her efforts, and the Mexican Government. However, this is just a drop in the bucket. The amendment that we are offering should increase the number of criminal illegal aliens going back to their native countries by using the power of the purse—foreign aid—as a negotiating tool. What we are saying is not that this foreign aid should be simply taken away, but rather put into reserve or an escrow fund, and when these countries comply then, of course, these funds will be released.

It is not fair to ask the taxpayers to bear the total cost of jailing criminal illegal aliens who have twice broken our laws—once by entering or staying in our country illegally, and again by breaking our laws.

Mr. President, if, in fact, the roughly 58,000 prisoners who are believed to be principally illegal aliens were to be sent back to their countries, it would release a lot of space available for use in pursuing our own course of justice; 58,000 jail cells and beds is an awful lot of beds, and we ought not to have to spend more money than we ordinarily would if we can free up those beds.

So, Mr. President, I think this amendment is—to use the vernacular—a win-win situation. I think it is appropriate to introduce it here at this time, and I know that the managers have reviewed the amendment.

I hope they will support its adoption.

Mrs. FEINSTEIN. Mr. President, Americans know about trade deficits, but what they do not know about is another deficit—a prisoner deficit. The United States imports more foreign prisoners than we export, creating a tremendous burden on the criminal justice system and on the taxpayers.

To address this problem, on June 9, I joined Senators LAUTENBERG and GRAHAM to introduce the Prisoner Transfer Equity Act. This bill, which we are submitting as an amendment to the foreign operations appropriations bill today, uses the power of the purse to engage foreign nations in balancing the prisoner equation.

Currently, there are approximately 58,000 convicted criminal aliens in Federal and State prisons, a number of whom are illegal aliens. These prisoners can fill almost 20 San Quentins. At the same time, there are some 2,500 American prisoners in foreign prisons. The total cost to the taxpayer is approximately $1.2 billion.

It is not certain how many of these prisoners are illegal aliens, however California estimates that there are currently 13,000 to 15,000 criminal illegal aliens in State prisons and that there will be 18,000 over the next year at a cost of over $375 million. These inmates have not only broken our laws by entering the United States illegally, they have also committed felonies while they are here.

Since 1977, the United States has entered into prisoner transfer treaties with 30 nations which allow prisoners to return to their home country prisons to carry out the remainder of their prison terms. However, since that time, approximately 1,200 prisoners have been transferred from U.S. prisons to their home country prisons and approximately 1,400 American prisoners have been transferred back to U.S. prisons.

Indeed, I would like to recognize the fact that, since last fall, the Attorney General has made concerted efforts to expedite prisoner transfers. As a result, a total of 222 Mexican prisoners have been transferred to Mexican prisons, just since last December.

However, much more can be done.

The bill which I introduced June 15, the Immigration Control and Enforcement Act of 1994, which builds on the legislation I introduced last fall, authorizes the Secretary of State and the Attorney General to enter into agreements with foreign nations for the involuntary transfer of the deportable criminal illegal aliens.

The amendment to the foreign operations appropriations bill that I submit today with Senators LAUTENBERG and GRAHAM takes a significant additional step to address the large number of criminal illegal aliens in U.S. prisons. This amendment directs the President to negotiate or renegotiate prisoner transfer treaties, and it gives the President a powerful tool to use when negotiating and renegotiating these treaties with other countries.

If countries won't negotiate with the United States to improve the prisoner transfer treaties and increase the number of prisoner transfers, the President will have the option to withhold up to 10 percent of a country's foreign aid we provide to them or to use other diplomatic powers—including trade sanctions—until a country does make progress in treaty negotiations.

The broad principal on which the bill is based is very simple. The Prisoner Transfer Equity Act will help alleviate the burden placed on the United States to incarcerate persons who enter this country illegally and are subsequently convicted of crimes. The failure to pass legislation of this kind will only add to the financial and physical burdens placed on our Nation at a time when we can least afford it.

Mr. SASSER. Mr. President, I am pleased to join with the Senator from New Jersey in offering this amendment to H.R. 4426, the foreign operations appropriations bill.

It gives the President and the Secretary of State important new tools to encourage other countries to take back their citizens.

This amendment contains the provisions of S. 2175, the Prisoner Transfer Equity Act. It requires the President to withhold up to 10 percent of a country's foreign aid if they do not make progress towards taking back more of their citizens who are criminal illegal aliens in U.S. prisons.

If a country does not receive foreign aid, the President may use certain other approaches, such as trade sanctions.

The United States currently has prisoner transfer treaties with over 25 countries. It is clear, however, that these treaties have not solved the problem.

Since 1977, when we began negotiating these treaties, other countries have taken back only 1,200 of their own citizens. During that same time, however, the United States took back a larger number of our own citizens—some 1,400.

There are estimated to be some 53,000 convicted illegal aliens in U.S. prisons being fed and housed at taxpayers' expense. They have already broken our laws twice—first by coming here illegally and then by committing a crime while here. They are eating up scarce tax dollars and they are taking up prison space that could be used to house our own criminals.

When we passed the crime bill last year, we heard all sorts of proposals for increasing prison space. Many of them were good proposals. Well, here's a way to increase prison space without building a single new prison and at virtually no cost to the taxpayer.

These illegal criminal aliens cost the American taxpayer some $723 million a year. It's time to send these criminals back to their own country and let the taxpayers of those countries support them.

Mr. President, I commend the Senator from New Jersey for offering this legislation and I join him in thanking the managers of the bill for accepting this amendment.

Mr. LEAHY. Mr. President, I understand the very serious problem that the Senator from New Jersey and the Senator from California raise in their amendment. As I have told them before, I have some problems about withholding U.S. bilateral assistance from countries that do not cooperate in prisoner exchange and treaty negotiations, and I think that their amendment is improved by the provision to hold this money basically in escrow for these countries.

I worry that if you have some of these countries we are talking about when they are asked to take back these prisoners that we are now housing and paying for, or you forego money for child nutrition or AIDS prevention or whatever, some of them frankly are the most vulnerable in the society that we cut off first.

I am perfectly willing to accept this amendment because I know the very serious problem that the Senator from New Jersey speaks of. As a matter of fact, I can easily understand the frustrations of the taxpayers in these various States that have to pay for the jailing and housing of these people when they should be going back to their own country.

So I will not object to accepting this amendment. I would suggest that prior to now and the time in conference that the Senator from New Jersey and the Senator from California and I may want to look at the possibility of refining it even further.

I cannot imagine a Senator in this body disagreeing with trying to find some way to get these countries to take these people back, as they should. So this is a step toward working that out. I am willing to accept the amendment, but I would note the reservations as I have, and this may be something we should continue to work on.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I am informed there is one Senator on this side who would like to take a look at the amendment before we can clear it. Maybe the Senator from New Jersey would like to temporarily lay it aside or put in a quorum call or whatever.

Mr. LEAHY. Could I ask this—waiting for that—if we might just temporarily set this aside and I will assure the Senator from New Jersey we will protect his rights on this so we can probably move on to some technical amendments that have been cleared.

Mr. LAUTENBERG. Mr. President, I have no problem with doing that, and having the assurance of the manager that we will come back to it after there has been a review. I would be happy to answer any questions related to it.

I thank the managers and will await word and hope we will be able to get it done sooner rather than later.

Mr. LEAHY. I ask unanimous consent that the pending amendment by the Senator from New Jersey and the Senator from California be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2105 TO FIRST COMMITTEE AMENDMENT

(Purpose: To delete Malawi from the list of countries for which FMF is prohibited)

AMENDMENT NO. 2106 TO FIRST COMMITTEE AMENDMENT

(Purpose: To make a technical correction to the bill)

AMENDMENT NO. 2107 TO FIRST COMMITTEE AMENDMENT

(Purpose: To make a technical correction to the bill)

AMENDMENT NO. 2108 TO FIRST COMMITTEE AMENDMENT

(Purpose: To include military training in the drawdown to assist Bosnia authorized by section 546 of the bill)

Mr. LEAHY. Mr. President, I ask that be in order to send to the desk a group of amendments en bloc as amendments to the pending committee amendment.

The PRESIDING OFFICER. The clerk will report the amendments.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes amendments en bloc numbered 2105, 2106, 2107, and 2108 to the first committee amendment.

The amendments (Nos. 2105, 2106, 2107, and 2108) are as follows:

AMENDMENT NO. 2105

On page 34, line 11 of the Committee reported bill, linetype "*Peru, and Malawi*" and insert immediately thereafter: "*and Peru*"

AMENDMENT NO. 2106

On page 6, line 13 of the Committee reported bill, linetype "*during fiscal year*" through "*600*" on line 15 and insert immediately thereafter: "*of the amount appropriated under this heading not more than $7,002,000 may be expended for the purchase of such stock in fiscal year 1995*"

AMENDMENT NO. 2107

On page 59, line 19 of the Committee reported bill, after the word "*ceiling*" insert: "*established pursuant to any provision of law or regulation*"

AMENDMENT NO. 2108

On page 79, line 13 of the Committee reported bill, after the word "*Defense*" insert: "*and defense services of the Department of Defense*"

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I ask the chairman, are these the technical amendments that we have cleared on both sides?

Mr. LEAHY. Yes, they are.

Mr. President, I ask further unanimous consent that these be in order en bloc to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are considered and agreed to en bloc if there is no objection.

So the amendments (Nos. 2105, 2106, 2107, and 2108) were agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. McCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2109

(Purpose: To extend the authority for the donation of surplus agricultural commodities to Poland, and for other purposes)

Mr. LEAHY. Mr. President, I ask unanimous consent that it be in order to submit an amendment on behalf of the Senator from Maryland [Ms. MIKULSKI] to the bill.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Ms. MIKULSKI, proposes an amendment numbered 2109.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . DONATION OF SURPLUS AGRICULTURAL COMMODITIES TO POLAND.

(a) EXTENSION OF AUTHORIZATION.—Section 2223(a) of the American Aid to Poland Act of 1988 (7 U.S.C. 1431 note) is amended by striking "1988 through 1992" and inserting "1995 through 1999".

(b) DEFINITION OF ELIGIBLE COMMODITIES.—Section 2223(b)(1) of that Act is amended by inserting ", soybeans, and soybean products" after "feed grains".

(c) ELIGIBLE ACTIVITIES.—Section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(7)(D)(ii) is amended in the third sentence—

(1) by striking "and" at the end of subclause (II);

(2) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subclause:

"(IV) the Polish Catholic Episcopate's Rural Water Supply Foundation.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 1994.

Ms. MIKULSKI. Mr. President, I rise today to submit an amendment to reauthorize the donation of surplus agricultural commodities to Poland for an additional 5 years. The donated commodities are sold by the Joint Commission for Humanitarian Assistance to Poland, which then uses the proceeds to promote development in the Polish private sector and to help the people of Poland help themselves.

Mr. President, I am very proud to say that I was one of the original sponsors of the legislation creating this program, and that I have strongly supported the activities of the Joint Commission since its creation in 1988. Since that time, the Joint Commission has built an impressive record of fiscal responsibility, good will, and success in bringing about free market reforms in Poland.

It is no accident that over the same period, Poland has outperformed all other Eastern European economies and has moved significantly toward becoming a truly free economy. Great credit for this achievement must go to the Polish people themselves, but let us also credit institutions such as the Joint Commission, which have provided the stimulus for free market reforms.

Mr. President, the Joint Commission for Humanitarian Assistance to Poland is one of our great foreign aid success stories. Its record is one of purposeful, focused action. It functions as a means to build stable government, church, and nongovernmental agency partnerships. Under its initial authorization, the Commission contributed to improved Polish agricultural productivity. It has helped institute free-market reforms; established cultural and educational programs; and it has financed modern health care activities and orphanages in Poland. In short, Mr. President, the projects supported by the Joint Commission have improved the lives of hundreds of thousands of people in Poland and given them hope for a better life.

The Joint Commission is serving as a model for successful grassroots international cooperation. Our American Embassy personnel in Warsaw, their counterparts in the Polish Ministries of Agriculture, Health, and Labor along with several nongovernmental agencies like Project Judaica, Project Hope, and the Catholic Church in Poland have all assisted in making this effort work so well. The Joint Commission's success is being used as the model for similar cooperative programs in Russia, Ukraine, Belarus, and the other emerging democracies of the region.

Here are a few examples of projects the Joint Commission has funded:

A research center on Jewish history and culture in Poland under the auspices of Project Judaica;

A rehabilitation center for disabled children under the auspices of the Polish Catholic Episcopate;

A clinic and shelter for HIV-infected children and their mothers;

A privately owned drying house and storage plant to preserve produce for sale in the off-season market;

Financing of startup costs for an agro-business magazine, which has since become self-sufficient through advertising revenue; and

Privately owned packing plants, poultry processing plants, dairies, grain mills, feed mills, and honey and herb processing plants.

Additionally, profitmaking recipients of Joint Commission grants must reinvest a portion of their profits in infrastructure, ecological, or humanitarian projects. In this way, the impact of Joint Commission funding is multiplied.

In view of the past success of this program, I deeply believe that this worthy organization must be allowed to continue its important work. I am confident that when my Senate colleagues have considered the great benefits resulting from the innovative use of surplus American agricultural commodities, they will also support the reauthorization of this worthy program.

I urge adoption of this amendment.

Mr. LEAHY. Mr. President, this is an amendment reauthorizing donation of surplus agricultural commodities to Poland.

The PRESIDING OFFICER. Is there debate?

Without objection, the amendment is agreed to.

So the amendment (No. 2109) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. McCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. MIKULSKI. Mr. President, will the Senator from Vermont yield?

Mr. LEAHY. Yes, of course.

Ms. MIKULSKI. I would like to thank the Senator from Vermont and the Senator from Kentucky for moving the legislation to reauthorize the Joint Commission on Poland.

I believe it is a model on how we can promote self-help, initiative and reliance and use dollars that are converted, in as much as they could not leave the country anyway, to be able to put them to good use.

I thank both Senators for their courtesy in seeing that this bill is reauthorized. I particularly know that those in children's hospitals and the Project Judaica, which stands as a great intellectual center for the Jewish heritage of Poland, all of them will be grateful.

Mr. LEAHY. I thank the distinguished Senator from Maryland. I note she has been such a leader in this.

In fact, I have gone to some of the areas in Poland helped by this. I can state firsthand this is one of our more successful programs.

I would also note that its success is owed a great deal to the constant efforts by the Senator from Maryland.

I thank her for her help.

AMENDMENT NO. 2110

(Purpose: To authorize a drawdown on U.S. commodities and services to assist war crime tribunals and other bodies of the United Nations to deal with charges of violations of international law and to require a report regarding the U.S. participation in the United Nations War Crimes Tribunal)

Mr. LEAHY. Mr. President, I ask unanimous consent that it be in order to submit an amendment to the bill on behalf of myself.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered 2110.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 80 of the Committee reported bill, linetype from "(e)" on line 7 through and including the period on line 17, and on page 112, after line 9, insert:

"*WAR CRIMES TRIBUNALS*

"*SEC. 577. If the President determines that doing so will contribute to a just resolution of charges regarding genocide or other violations of international humanitarian law, the authority of section 552(c) of the Foreign Assistance Act of 1961, as amended, may be used to provide up to $25,000,000 of commodities and services to the United Nations War Crimes Tribunal established with regard to the former Yugoslavia by the United Nations Council or such other tribunals or other bodies as the Council may establish to deal with such violations, without regard to the ceiling limitation contained in paragraph (2) thereof: Provided, That the determination required under this section shall be in lieu of any determinations otherwise required under section 552(c): Provided further, That 60 days after the date of enactment of this Act, and every 180 days thereafter, the Secretary of State shall submit a report to the Committees on Appropriations describing the steps the United States Government is taking to collect information regarding allegations of genocide or other violations of international law in the former Yugoslavia and to furnish that information to the United Nations War Crimes Tribunal for the former Yugoslavia.*"

Mr. LEAHY. Mr. President, this amendment is to allow the use of excess commodities in relationship to war crime tribunals.

I believe it has been cleared.

The PRESIDING OFFICER. Is there any objection?

Without objection, it is so ordered. The amendment is agreed to.

So the amendment (No. 2110) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. McCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, we are about to move forward to something else in a minute, but I ask unanimous consent for not to exceed 3 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

NEA FUNDING

Mr. LEAHY. Mr. President, over the past few years funding for the National Endowment for the Arts has come under fire. The controversy usually begins over NEA funds used to support an artist's work that some people find offensive. I do not argue this point. In fact, some of the artists' works I have seen greatly offended me as they have some of my fellow Vermonters.

But to put this in perspective, these controversial grants are just a tiny fraction, .0001 percent, of the over 100,000 grants the NEA has awarded.

We should not forget all of the good that the NEA does—the great majority of NEA grants have created community celebrations, economic development, better schools, programs for the elderly, and has preserved our national heritage.

I am extremely concerned about the 5 percent cut to the NEA budget in the Interior Appropriations bill which passed the committee yesterday. I hope that prior to the time it comes on the floor and certainly prior to the time it goes to conference we might find a way to bring about a result that I think more carefully protects the interests of the American people.

Last year, the NEA budget was cut across the board by 2½ percent. This year, the Senate committee has targeted cuts to programs that are perceived by some to be the source of controversial grants.

In my home State of Vermont, the programs that are being targeted for cuts are good programs. This year, the Vermont Folklife Center in Middlebury received a $280,000 challenge grant.

The Folklife Center keeps Vermont's heritage alive; circulating exhibits to allow the young and old to see the beauty and importance of the artistry of their roots such as basketry, quiltmaking, stonework, slate and granite carving, the latter of interest to me because both my grandfathers were stonecutters in Vermont.

The Presenting and Commissioning Program awarded grants to arts centers around Vermont, including the Cross Roads Arts Council in Rutland and the Catamount Film and Arts Co. in St. Johnsbury, each of which received $5,000.

This may not seem like much when we debate billion dollar budgets in Congress, but to these programs these dollars mean the difference between being able to bring performers into their communities or not.

The Catamount Film and Arts Co., situated in one of Vermont's most rural areas, has brought the Vermont Composers Festival and the Festival of Japan to its community.

Just last weekend, the Cross Roads Arts Council held its third annual Rutland Region Ethnic Festival, a celebration of different heritages and cultures in their community. The festival was a great success, with more than 5,000 attendees enjoying entertainment and a variety of foods from around the world.

The NEA funds improve these organizations' ability to bring quality artists into the region for extended periods. This is important to give artists the time to go into schools, visit senior centers and work with at-risk youth.

These programs enrich the lives of Vermonters and visitors, connecting us to different ideas and cultures. Arts are effective economic development tools, and can draw people to communities as an attractive place to live, do business and visit.

The NEA programs support quality arts events across the country. If these cuts go through, it would make it very difficult for programs in my small State of Vermont to continue to compete for these funds.

The most recent NEA grant that has received some notoriety of late was a performance at the Walker Art Center in Minneapolis, a very prestigious regional center.

The performance in question is one of more than 100 events produced by Walker this year. And, incidentally, with the tremendous debate and maybe thousands of dollars' worth of debate time that we spend on it, we should note that only $150 of Federal funds were used. Incidentally, this was approved in 1992 by the previous acting chairman of the NEA, not in this administration at all.

Mr. President, we should not be judging next year's NEA budget on a decision that was made in 1992, under a different chairman. We now have a Chairman, Jane Alexander, who is doing a terrific job. She is working to reach the NEA's goal of bringing "the best art to the most people".

Last year, Ms. Alexander was overwhelmingly approved by this body. Since then she has been traveling across America, talking to people and seeing the kind of art that is happening in big and small communities. She is working to ensure that the National Endowment for the Arts continues reaching out to educate and fascinate people of all ages through the arts.

She knows what Americans want. She is an artist of great renown herself. She is backed up by people with great backgrounds, very respected backgrounds, in the arts. And I would note on a personal level, in that regard, Ellen McCulloch Lovell, who is the director of the President's Committee on the Arts and Humanities, someone with a great background in the arts, both in this city and in Vermont.

So I hope Ms. Alexander would be allowed to do her job and the NEA allowed to continue its good work.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

The Senate continued with the consideration of the bill.

Mr. LEAHY. Mr. President, I would note once again that the store is open. We are ready to hear and take amendments or debate them or vote on them.

If there are no further amendments, I, of course, would be happy to see us just adopt the committee amendments and go to final passage. This manager of the bill is ready to go.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I assume the distinguished Senator from Vermont does not hold the floor.

Mr. LEAHY. I yield the floor.

Mr. COCHRAN. Mr. President, I send an amendment to the desk and ask it be reported.

The PRESIDING OFFICER. The Senator is informed that the pending question is the first committee amendment.

Is this intended as an amendment to that?

Mr. COCHRAN. Mr. President, I would prefer to seek the counsel of the managers of the bill. This amendment does not seek to amend any provision in the committee amendment. It deals with another section of the bill.

Would it be appropriate to set aside the committee amendment for the purpose of taking up this amendment? Or I will be glad to withhold this until the committee amendment is disposed of, whatever the pleasure of the managers would be.

Mr. LEAHY. The Senator is on the floor now. If it would make life easier for him to just go ahead and set it aside, I certainly would have no objection. Because I would note, Mr. President, as I noted in the past on this particular subject—I think we handled the colloquy in report language—that the Senator knows I support him on it, if it is what I think it is.

But, in any event, whether it is the one I think it is or not, the Senator is here. He is always cooperative. If it would make life easier for him to set aside the committee amendment to go to his amendment, I am perfectly willing to do that.

Mr. COCHRAN. Mr. President, I appreciate the courtesy of the manager of the bill.

Has the unanimous consent been granted?

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2111

Mr. COCHRAN. Mr. President, I ask that the amendment I submitted to the desk be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN] proposes an amendment numbered 2111.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 33, line 3, strike all after "*Provided further*" through "United Nations Charter" on line 18.

Mr. COCHRAN. Mr. President, let me advise the Senate that this amendment would strike from the bill that portion of page 33 from line 3 through line 18. These lines contain language prohibiting the use of funds under the Arms Export Control Act that would go to Turkey, to the extent that none of the equipment purchased under this section could be used for any purpose inside the country of Turkey or for any internal security purpose.

And then, further, the language extends to Greece and contains a prohibition that funds under this provision going to Greece could not be used in violation of U.N. sanctions against Serbia or the U.N. Charter.

It seems to me that this language is unnecessary and provocative in the way it is used in the bill. These two countries are being singled out for special criticism, it seems to me, with the inclusion of this language.

It is unnecessary and gratuitous and, to me, insulting. It presumes that violations of either sanctions against Serbia or the U.N. Charter have been committed by Greece, or will be committed by Greece, and to me that is presumptuous and has no place in this bill.

With respect to Turkey, there is a presumption in this language that Turkey has or will use funds under this provision in violation of human rights or other interests within its own country. To me, again, that is unnecessary. It is a gratuitous insult to Turkey.

So I hope the committee managers can look favorably upon this suggested change in the bill. There is also corresponding language in the report which seeks to explain why this language is included in the bill.

When I saw that in the report and had it brought to my attention, it occurred to me that we should strike that from the report. But having consulted with the manager's staff, and having looked at the issue carefully, it seems that the most appropriate way to deal with this issue is straightforward: simply strike the offensive language from the bill. And I hope the Senate will agree to it.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, in a moment I am going to suggest the absence of a quorum. That will be for just a few minutes.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

AMENDMENT NO. 2112

(Purpose: To eliminate the appropriations proposed to be made for fiscal year 1995 for the International Development Association)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The Chair advises the Senator that there is pending at this time an amendment of the Senator from Mississippi.

Mr. HELMS. In that case, I ask unanimous consent that the amendment of the distinguished Senator from Mississippi be laid aside temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 2112.

The amendment is as follows:

On page 3, strike lines 8 through 13.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, it would be difficult, if not impossible, to imagine a Federal giveaway program more resented by the American taxpayers than the so-called foreign aid program. And that is not too hard to understand because the American people are aware that Congress has run up a debt of $4.6 trillion, and the American people more and more are demanding to know how and why billions of their tax dollars are being shipped overseas, in their minds at least, in massive handouts.

Year after year, there is an annual ritual in Washington about foreign aid reform. They talked about it the first year I was here, and that was almost 22 years ago. Nothing has been done of any consequence. The bureaucrats down in Foggy Bottom scurry around drafting what they call reform proposals. Congressional oversight committees hold endless hearings on the topic of reform, and inside-the-beltway magazines publish pompous articles about how Congress is finally going to do something about foreign aid. But when all the dust has settled, nothing changes, and this wasteful program runs on and on like Tennyson's brook.

Now if Congress sincerely wants to reform foreign aid, an excellent place to begin is with the World Bank and those other multilateral development banks. Year after year, these banks literally chew up hundreds of millions of dollars, all the while duping both the Congress and the administration—Republican and Democrat—into assuming that these wasteful institutions are performing a useful service.

The President's foreign aid reform proposal expresses no intent whatsoever to reform multilateral lending. In fact, none of the reform proposals considered by either the House of Representatives or this Senate during the past few years have set forth any such reform.

Therefore, the purpose of this amendment is to establish some reform in the World Bank operation. Despite the World Bank track record, this bill contains a $1.207 billion line item appropriation for a World Bank outfit called the International Development Association, hereinafter known as IDA. The World Bank and IDA have had 50 years to prove themselves to the American people, and have failed miserably.

In fact, just last year, over the objection of the United States Executive Director, the World Bank approved loans of $463,400,000 to, guess who, Iran, of all countries.

Mr. President, according to the most recent World Bank report, in 1993, the World Bank, including IDA, has lent developing countries more than $312 billion since it was created. What has been the track record of all that massive spending? Has it led to economic growth? Has it reduced global poverty? Has it strengthened the private sectors of the recipient countries? Not on your own patootie. No, sir.

The Cato Institute recently published an extensive report, as a matter of fact, on multilateral lending policies providing a clear answer to those questions, and the report's title is interesting. Listen to what the Cato Institute calls it: "Perpetuating Poverty: the World Bank, the IMF and the Developing World." That report stated:

> After providing advice, loans and grants to the governments of the world's poorest countries for 4 decades, the multilaterals can point to few, if any, cases in which their efforts have led to improved living standards and sustained economic prosperity. Instead of growth, the Third World has experienced social disintegration, economic stagnation, debt crises, and in some regions declines in agriculture production and income.

Now, as I already stated, Mr. President, the pending amendment would cut the United States $1.2 billion contribution to IDA. IDA is the major lending component of the World Bank. It constitutes more than half of the administration's request for all World Bank funding for fiscal year 1995. But it is an absolute sham, with a disgraceful record of propping up illegitimate and corrupt regimes throughout the Third World.

First of all, the fact that IDA is part of the World Bank is misleading. If it were a true bank, we would not have to "replenish" the funds in it. I am using a Treasury Department term when I say "replenish." Every 5 years they have to put more and more and more money back in. Now, here are the so-called lending terms. I have quotation marks around the word "lending" described by the Department of Treasury in their Congressional presentation for fiscal year 1995. Let me quote:

> The terms of new IDA credits—

Meaning taxpayers' money—

> which are made only to governments, are 10-year grace periods, 35- and 40-year maturities, no interest and a .75 percent service charge.

That is three-quarters of 1 percent.

Now, I just wonder how many people who may be listening would like to borrow money on those terms. I would like to borrow a ton if it were available to an average citizen. But, in other words, IDA hands out cash—and it is money taken from the American taxpayers—IDA hands out this money to the governments of the least developed countries and tells them do not bother to begin paying back this money for another 10 years. And when that 10-year period expires, you have another 35 to 40 years to complete the payment, all of this with virtually no interest.

So to be honest about it, these are not really loans. They are handouts. And they are handouts to the sectors that deserve the money the least—the governments. If we are going to use the taxpayers' money for anything, we ought to work with the private sector and not hand it to these corrupt governments around the world.

In many cases it goes to corrupt governments with no track record of any attempt at economic reform.

Now, the administration in its congressional request had this to say:

> IDA plays a pivotal role in supporting efforts to alleviate poverty and encouraging economic reform.

The administration then continued:

> IDA borrowers confront formidable development challenges in their efforts to promote economic growth and reduce poverty.

I am not sure exactly who wrote that, and I do not know what he was smoking, or she, but nothing could be further from the truth than that. It is a sham. It is a waste of the taxpayers' money. It is an insult to the taxpayers.

In short, the administration is operating under the illusion that IDA recipient countries are engaged in economic reform, which they are not, that they engage in efforts to promote growth, which they are not, but look at who is receiving the money.

Now, the administration in this request this year boasts about IDA's contribution to development in sub-Saharan Africa, and the administration request had this to say.

> IDA is especially important for its 38 sub-Saharan African borrowing countries.

I do not know how you define importance in that context, but I know how you spell sham, and I know what it means.

Anyhow, a review of IDA's lending to sub-Saharan Africa shows no correlation whatsoever between IDA lending and development in Africa. In fact, many of the African countries that have regressed the most over the past 10 years share one thing in common, and that is they have received generous amounts of money from IDA.

Mr. President, you can pick any illegitimate regime on the continent of Africa, any regime with a track record of repression and human rights violations, any regime with centralized control over the economy, and then ask the question, did that regime receive handouts from IDA? And in almost every case the answer is yes, yes, yes. It is well known that the Communist regime in Ethiopia, under its president there, was one of the most ruthless on the African Continent. That has been documented time and time again on this floor, not to mention in the Foreign Relations Committee.

In 1990, the regime was teetering on the brink of collapse, yet according to the World Bank annual report for 1990, the latest available, the Government of Ethiopia received $75,200,000 from IDA. The previous year the regime received $157 million from IDA. And in 1985, the time when the world was horrified by that brutal regime's indifference to the starvation of tens of thousands of its own people, that regime was rewarded with $166 million from IDA.

And 1990 was also the first full year in power for the repressive regime in Sudan, a regime that has been linked by the United States Government to international terrorism. Nonetheless, you have got it, that regime was rewarded with $82,200,000 in 1990 and according to World Bank documents the Sudan received $16 million in 1992.

And then there is another African country that is very much in the news, Somalia. In 1990, the year before Somalia collapsed into anarchy, the regime of President Siad Barre received $54,600,000 from IDA. The year before that it received $89 million from IDA.

Zaire is another African nation that has pursued disastrous economic policies. According to a 1994 State Department report, the regime in Zaire, which had been in power since 1965—now, this is the State Department's assessment, the State Department says Zaire is "highly corrupt, heavily indebted," and maintains "ineffective" economic policies.

That is a quote from the State Department, the same State Department that comes up here and says let us give this money away.

Up until last year, the Government of Zaire continued to receive assistance. In fact, in the years since IDA was created—that is, the 1960's, as I recall—Zaire alone received more than $1 billion in IDA loans, IDA credits.

There is another little country that we hear a whole lot about, if you want to talk about repression and horror and brutality. Yes, I am talking about Rwanda, a country that has recently distinguished itself by having one of the worst human rights records in the history of the world. Did Rwanda receive IDA funding last year? You bet. According to the 1993 World Bank Annual Report, Rwanda received $26 billion last year, and according to the World Bank's cumulative tables, Rwanda has received more than $617 million during the existence of IDA.

Despite all that, this administration claims that IDA plays a pivotal role in encouraging economic reform. A pivotal role.

P-i-v-o-t-a-l? I had better get my dictionary and see if the definition has changed when I was not looking.

What "pivotal role" did IDA play during the Mengistu regime? What are the results of this "pivotal role" in Sudan? In Somalia? In Zaire? In Rwanda?

Mr. President, I could go on and on. I focus on Africa because that is the continent where the administration seems to believe that IDA has made the biggest difference. The fact is, many African nations which have received massive infusions of IDA assistance have made little to no progress in the area of economic reform.

Let me quickly say in conclusion that wasteful spending is not limited to the African Continent. Last year Communist China received over $1 billion from IDA. The Communist nation of Laos received $55 million. India received more than $1.5 billion.

Let us go to Central America, down to Nicaragua. You know, the place where the Government has expropriated, seized property owned by hundreds upon hundreds of American citizens. Good old Madam "Nicaragua" Chamorro's government—with the Sandinistas still intact insofar as running that country is concerned—received $33 million.

In most cases, even if the United States attempts to block an IDA loan, it is approved over our objection of the United States. Last year I asked CRS to prepare a memorandum discussing the effect—if any—of United States opposition to IDA lending for China.

For example, I wanted to know in the wake of the Tiananmen Square crackdown if it had any effect.

What do you reckon the Congressional Research Service replied? It said:

> Because the U.S. vote is insufficient to block loans, IDA lending to China has not only resumed, but increased from $515 million, or 10 percent of total IDA loans approved in 1989 to $949 million, or 15 percent of IDA loans approved in 1992. About $400 million of the almost $950 million in IDA loans approved in 1992 went for projects in [names of cities deleted] the most affluent province and cities in China.

So not only are the loans which are constituted in large measure by the taxpayers of the United States, including North Carolina, being approved over the objections of the United States, but they are increasing dramatically, and they are going to some of the most affluent cities in Red China. This is not a new problem.

Mr. President, this is not a new problem. Three years ago the Under Secretary of Treasury appeared before the Foreign Relations Committee to discuss World Bank funding. He acknowledged that in most cases when the United States objects to a loan at the World Bank, our objection is typically overridden.

A little over 30 years ago, as the Senate considered a foreign aid bill, one of the great Senators in the history of this body, Sam Ervin, Jr., made a statement that is as timely today as it was when he made it with respect to foreign aid, Senator Ervin stated, and I quote:

> If an individual were to persist in borrowing money for the purpose of giving it away, his family and friends would institute an inquisition in lunacy, and procure the appointment of a guardian to manage his affairs. If an individual were to undertake to give away his property instead of paying his debts, the law would stay his hand and compel him to be just rather than generous. It is high time that Congress should exercise some common sense and put similar restraints on the Federal Government.

That is the end of the quote of Sam Ervin, Jr., with whom I served the first 2 years I was here. He was a brilliant constitutional lawyer, a great Senator, and a great friend, whom I miss.

Mr. President, Sam Ervin's statement has even more resonance today because the United States of America is flat broke. As I said at the outset, and as I say every day on the floor of this Senate, the U.S. Government is $4.6 trillion in debt. How do you imagine all of this debt was run up? It was incurred $1 at a time through spending on wasteful projects like the World Bank.

According to Citizens Against Governmental Waste, a stack of $1 bills amounting to $4.6 trillion would reach all the way to the moon and halfway back. Maybe that is what we ought to do to Senators who vote to continue this sham. Spending for projects like the World Bank indicates that the stack is going to get higher and higher and higher. If I were a member of the younger generation, I would resent what our generation is doing to them and to their future.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I cannot think of anything that is more fun than to shout about the so-called foreign aid and say, "Oh boy, more American giveaways." And you hear sometimes about these huge debts and that if we just do away with foreign aid, we would be done with all our debt, our deficits and everything else.

Of course, the fact of the matter is foreign aid is less than 1 percent of the overall national budget, and it is done for such things as helping our companies export abroad, creating tens of thousands of jobs in the United States, so we have a place to export. It fulfills the international commitments that we have entered into as a world power. It allows us to give humanitarian aid—incidentally, it is far less than many other nations do. When we talk about the national debt, it is a little less than 2 weeks of the interest that we pay on the debt that was run up during the Reagan administration, if you want to put that into perspective. We do not do such things as the past administration did; that is, giving $1.9 billion in foreign aid to Saddam Hussein. Incidentally, that is before the Persian Gulf war.

This is a bill designed to protect our national security interests. Do we get angry at some of the things in the World Bank? Absolutely. Nobody has been more angry than I have. Some of the argument that I and others have made is one of the reasons they are beginning to do some of the things we have asked them to do, like get rid of the lavish lifestyles, first-class air travel, and things of that nature.

But let us keep in mind we ask these international organizations to do the lion's share for what we want in the other parts of the world. We asked them to do the lion's share in the former Soviet Union because we do not want to risk our money, so we ask them to. We ask them to help develop a lot of the markets—American markets for American goods—worldwide, whether it is Eximbank, World Bank, or whatever else. These are things we help them to do. We see them helping out in Tajikistan, Georgia, Armenia, Albania, Macedonia, and a number of other countries which we are not particularly interested in going into, particularly with the amount of moneys we want. In Africa, where we have one of our greatest potentials for a new market and where we send our least amount of aid in developing those markets, we have asked IDA to go in and do it for us. In fact they have commitments in Africa for over 3 years. Some think this is something we should not be doing. I feel we should. This is a huge continent, and we would like to see it stable, economically viable, and we would like to be able to work with them.

Mr. President, I hope this amendment will be defeated.

The PRESIDING OFFICER. Is there further debate?

If not, the question occurs on the amendment offered by the Senator from North Carolina.

The yeas and nays having been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mr. LIEBERMAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 34, nays 66, as follows:

[Rollcall Vote No. 171 Leg.]

YEAS—34

Bennett
Brown
Burns
Byrd
Cochran
Craig
D'Amato
Dole
Faircloth
Ford
Gorton
Gramm
Grassley
Gregg
Hatch
Heflin
Helms
Hutchison
Kempthorne
Lott
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Pryor
Roth
Simpson
Smith
Stevens
Thurmond
Wallop
Warner

NAYS—66

Akaka
Baucus
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Campbell
Chafee
Coats
Cohen
Conrad
Coverdell
Danforth
Daschle
DeConcini
Dodd
Domenici
Dorgan
Durenberger
Exon
Feingold
Feinstein
Glenn
Graham
Harkin
Hatfield
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Specter
Wellstone
Wofford

So the amendment (No. 2112) was rejected.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WELLSTONE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SASSER PROVISION

Mr. SASSER. Mr. President, I would like to take a minute to thank Senator LEAHY for including a provision in the bill which will allow the Overseas Private Investment Corporation [OPIC] to continue to provide much-needed support to the American export community this year.

Section 573 of the reported bill allows the immediate transfer of $12 million to OPIC from the Export-Import Bank, allowing OPIC to keep their lending programs active through the end of this fiscal year. It will also allow $1 million to be transferred to the Trade and Development Agency [TDA] to support their operations.

We are able to make these resources available due to the fine work of Ken Brody and his staff at the Export-Import Bank. I am pleased to be able to report that this provision enjoys the support of the administration.

The provision will also allow a degree of future flexibility to transfer resources among the various agencies which support U.S. exporters. This has been a goal of the Trade Promotion Coordinating Committee and fully in keeping with Congress' goal of providing vigorous support to U.S. exporters.

Again, I would like to thank the chairman and Senator McConnell for including this provision in their mark. I would also like to thank their fine staffs—and officials of OPIC and Eximbank—for all their help in this matter.

AMENDMENT NO. 2111

The PRESIDING OFFICER. The Chair advises the Senator from Vermont and the Chamber that the question occurs now on the Cochran amendment, No. 2111.

The Senator from Vermont [Mr. LEAHY].

Mr. LEAHY. Mr. President, I understand what the Senator from Mississippi wishes to do. We have been trying, during some of these votes and other matters, to work out an area of agreement. I believe we do now agree.

I have prepared language which I have shown to the Senator from Mississippi. I am wondering if he is willing to accept this language, or to modify his amendment with the language I have shown him? If he would, I will send that language to the desk.

Mr. COCHRAN. Mr. President, if the Senator will yield?

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I have had a chance to look at the suggested language the managers have proffered and I am willing to accept that as an amendment to the amendment I had previously sent to the desk.

So I appreciate very much the cooperation of the distinguished Senator from Vermont and the Senator from Kentucky on this issue.

Mr. LEAHY. Mr. President, I will send this language as a modification to the amendment of the Senator from Mississippi.

Mr. President, if I might clarify that, as the amendment of the Senator from Mississippi was a strike of the committee amendment, then I would offer mine as an amendment. I believe parliamentarily that is what we have to do.

The PRESIDING OFFICER. If there is no objection, the amendment previously offered by the Senator from Mississippi will be withdrawn and the clerk will now report the amendment offered by the Senator from Vermont.

Hearing no objection, that will be the order.

The amendment (No. 2111) was withdrawn.

AMENDMENT NO. 2113 TO THE COMMITTEE AMENDMENT ON PAGE 32, LINE 12

(Purpose: To amend the committee amendment regarding FMF for Greece and Turkey)

Mr. LEAHY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered 2113.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 33, line 3, of the Committee reported bill, strike "*Provided further, That*" and all that follows through "*Charter*" on line 18, and insert: "*Provided further, That any agreement for the sale or provision of any defense article on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) to Turkey utilizing funds made available under this heading that is entered into by the United States during fiscal year 1995 shall expressly state that the article will not be used in violation of international law, and any grant of any excess defense article under the Foreign Assistance Act of 1961 during fiscal year 1995 shall be subject to the same condition: Provided further, That in any case in which a report to the Congress is required under section 3(c)(2) of the Arms Export Control Act regarding such a violation, such report shall also be submitted to the Committees on Appropriations: Provided further, That the Secretary of State, in consultation with the Secretary of Defense, shall submit a report to the Committees on Appropriations by February 1, 1995, describing how United States assistance to Greece is promoting respect for principles and obligations under the United Nations sanctions against Serbia, the United Nations Charter and the Helsinki Accords.*"

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I want to say to the Senator from Mississippi how much we appreciate his effort with regard to Turkey. We do not have a better ally anywhere in the World than Turkey. I think the Senator from Mississippi was correct in concluding that some of the language in the bill might well have gone too far. I commend him for his leadership on this issue and I also thank the chairman for working with the Senator from Mississippi and working the matter out.

Mr. LEAHY. Mr. President, if I might, I wish to echo those words commending the Senator from Mississippi. I note that this is following initiative, trying to improve the bill.

By parliamentary form I offered this amendment, but it was the initiative of the Senator from Mississippi that brought us forward and I commend him for his work.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2113) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. MCCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If there is no objection, the committee amendment, as amended, is also agreed to.

Mr. COCHRAN. Mr. President, let me thank the distinguished managers of the bill also for their cooperation on the issue. I appreciate their looking at the suggestion to delete this language and then agreeing to modify the language with this new amendment.

I think this would certainly work to the advantage of all concerned, both Turkey and Greece, to whom the language applied. I appreciate, again, the good cooperation from the Senators.

THE FIRST COMMITTEE AMENDMENT ON PAGE 2, LINE 12

The PRESIDING OFFICER. The question now recurs on the first committee amendment on page 2, line 12 of the bill.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I thank the distinguished chairman, Senator LEAHY, and Senator MCCONNELL, the ranking member, for their work in attempting to put this bill together. This bill includes many areas. I do not agree with them all but indeed there are many things that are very positive in the foreign operations appropriation.

Included in some of the things Senators LEAHY and MCCONNELL have done, they have advanced human rights around the world by some of the programs they have promoted and funded here. They have promoted democracy in Africa by supporting the Microenterprise Lending Program and ensuring that the amount and manner in which aid is delivered to Russia and the Newly Independent States of the former Soviet Union is appropriate and has some controls.

I here question the amount of aid we are going to distribute to Russia and the former Soviet Union, the republics. Nevertheless, it is done as well can do with so much diversity of opinion as to where the emphasis should be.

Another program under which Senator LEAHY and Senator MCCONNELL have been leaders are the Child Survival Programs. With relatively small amounts of funds, these programs have been successful in addressing the tragedy that goes unreported every day; tens of thousands of children die every day from diseases which most Americans do not realize can even be fatal. Senator McCONNELL and I both offered amendments during the subcommittee markup to earmark funds for these particular programs.

I am pleased the chairman accepted an amendment to earmark funds in the bill for child survival, basic education, and micronutrition programs. I strongly hope, Mr. President, this earmark will be retained in conference. I understand the House bill did not have earmarks, and the great constraints which the chairman faces in meeting the budget allocations for this bill. But clearly there are a few programs that are important, and this particular program of child survival is one of those programs.

While we certainly cannot afford to fund all the programs, I believe we must do all we can to provide this modest but vital funding to these programs which literally meet the most basic needs of children. These programs are what I consider smart spending. They help end the downward spiral of poverty and needless death and malnutrition of children in the developing world. The Child Survival Programs are far less costly than allowing famines of catastrophic proportions to develop which require responses far more costly in lives and resources than support for these programs that are in this bill.

I think what happened in Somalia is a perfect example of how much we put in to saving children there after the fact, how much more it cost than if we had a good child survival program in that part of the world.

Certainly the death of 35,000 children everyday from preventable diseases is nothing short of catastrophic. Indeed, just think and dwell on 35,000 children who are alive today will die tomorrow. This program, Mr. President, makes a difference and we know it makes a difference.

So, again, I thank the chairman and ranking member for their support and hope that they will keep this earmarked in the conference.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, is the pending business the Lautenberg amendment?

The PRESIDING OFFICER. The Senator is correct, the Lautenberg amendment is pending.

Mr. McCONNELL. I ask unanimous consent that the Lautenberg amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2114

Mr. McCONNELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL] proposes an amendment numbered 2114.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the section entitled "Assistance for the New Independent States of the Former Soviet Union," add the following new subsection:

"Not less than $15,000,000 of the funds appropriated under this heading shall be spent to support and expand the hospital partnerships program conducted throughout the NIS."

Mr. McCONNELL. Mr. President, over the past year, a very worthwhile hospital partnership program has been established involving 21 hospitals. For every dollar AID invests, the private sector invests three. This has proved to be a remarkable exchange program which has improved the quality of services, strengthened medical training and know-how and made basic equipment available the Russians could not afford. Nearly $24 million in time, equipment, and supplies have been contributed since the program began.

There have been 1,138 exchanges since July 1992. So, obviously, AID wants to end the program because it is working. After considerable debate, AID has agreed to briefly continue the program. I might note that five of the nine partnerships in Russia are with hospitals with members on our subcommittee.

I want to assure this important program continues and has the opportunity to expand. I understand there is an application pending from a Vermont hospital as well as one in Arkansas. Meaningful services, expertise and funds from the private sector are just the kind of programs we should be expanding.

Mr. LEAHY. Mr. President, I wish to note that I certainly support the distinguished Senator from Kentucky on this issue, and I appreciate his reference to Vermont. I know from our own experience in Vermont how helpful it is. I also know from the dedicated professionals in Vermont who have worked with this how valuable it is. So I certainly support it.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment offered by the Senator from Kentucky.

The amendment (No. 2114) was agreed to.

Mr. McCONNELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO GEN. WILLIAM KEYS ON HIS RETIREMENT

Mr. LEAHY. Mr. President, on July 8, the U.S. Marine Corps will hold a change of command ceremony at Camp Lejeune that will leave a vacuum in its wake. The Corps and our Nation will say hail and farewell to one of the finest leaders in its ranks: Gen. William Keys.

Bill Keys has served his country as a Marine for 34 years. What a remarkable accomplishment. Any individual who survives over three decades of drinking Marine coffee, well known for its distinctive CLP oil taste, deserves accolades, if not an eulogy.

In all seriousness, General Keys' career is marked with a long list of accomplishments in the Marine Corps that is second to none. Beginning his illustrious career as an infantry officer, General Keys served at every level of operational command, from a platoon leader with the 3d Battalion, 2d Marine Regiment, to commanding general of the 2d Marine Division which participated in the successful assault across the Kuwaiti border during Operation Desert Storm.

The stellar military career of Bill Keys is well documented by the many decorations and medals he has received. The list is too long to read on the floor today, but the honors include the Navy Cross, the Distinguished Service Medal, and the Silver Star.

Mr. President, medals are an important token of accomplishment, but they cannot fully express the gratitude this country has for the leadership and service Bill Keys has provided to his country. The Marine Corps has been an invaluable part of his life. But Bill Keys is the type of person who gives back even more than has been given to him.

Yes, he grew up with the corps but, more important, the corps grew with his leadership.

I first met General Keys through his association with one of my very best friends, Richard Torykian. Mr. Torykian and I have known each other since we were teenagers in college. I have a lot of respect for Dick Torykian. He frequently spoke to me about his relationship with General Keys, whom he had known in the Marine Corps. After listening to the unstinting praise that Dick had for General Keys, I was already predisposed to Bill Keys him when I first met him. I actually first met him while visiting my own son, Mark, on Parris Island, who was just beginning his own career in the Marine Corps.

During Desert Storm I could not help but think how fortunate this country was to have a man of General Keys' abilities in a command position. I knew Bill Keys was somebody who would always put the interests of the United States, the interests of those under his command, and the interests of the Marine Corps first and foremost. I was confident that he would have no agenda other than the honor that accompanies his own oath of office.

Bill Keys will be retiring in a few days, but his service to the corps is not complete. I know his advice and counsel will continue to be relentlessly sought out by the corps. Marcelle and I wish him the best. We know he is going to excel in whatever endeavors he takes on in the future.

Mr. President, I ask unanimous consent to make a statement as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Who seeks recognition?

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Jersey [Mr. LAUTENBERG].

Mr. LAUTENBERG. Mr. President, some time ago, I offered an amendment that I understood was accepted by both sides on this bill.

Mr. McCONNELL. Will the Senator yield?

Mr. LAUTENBERG. I will be happy to yield.

Mr. McCONNELL. I specifically said it had not yet been cleared on the Republican side.

Mr. LAUTENBERG. I thought in fairness to the distinguished ranking member of the subcommittee that that was kind of an afterthought and that it had been cleared because it was my understanding through the staffs that the amendment——

Mr. McCONNELL. I say to my friend from New Jersey, it has not yet been cleared. We are working on that and hope to get back to him shortly.

Mr. LAUTENBERG. Then I stand corrected.

Mr. President, I ask what the pending business is, please?

The PRESIDING OFFICER. The pending business is the amendment offered by the Senator from New Jersey to the first committee amendment.

Mr. LAUTENBERG. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. LAUTENBERG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The vote, when taken, will be by the yeas and nays.

Mr. LAUTENBERG. Mr. President, in deference to the bill managers, I will wait now and relinquish the floor. I relinquish the floor at the moment to come back to perhaps a vote a while later.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont [Mr. LEAHY].

Mr. LEAHY. Mr. President, just so everybody will understand my position on this amendment, I raised some points that I may raise again either in conference or later in working with the administration. I support the amendment of the Senator from New Jersey, and I will vote for the amendment by the Senator from New Jersey. I share his frustration and the frustration of the Senator from California [Mrs. FEINSTEIN], at the enormous cost being borne by many of our States, and by the Federal Government in some instances, for people who are in this country illegally, who have been prosecuted, convicted, sent to jail for violent crimes, who should be sent back to their countries, and we are unable to get the countries to take them back. So the taxpayers get stuck with the bill. If I recall the debate earlier today, the Senator from New Jersey said about 45,000.

Mr. LAUTENBERG. Fifty-eight.

Mr. LEAHY. Fifty-eight thousand.

Fifty-eight thousand people is larger than all but one county in my State, just to put it in perspective. These are foreign citizens. We know it can mean tens of thousands of dollars for one person incarcerated. So we are talking about hundreds of millions of dollars or more being paid for by the State of New Jersey and the State of California, and, I suspect, the States of many other Senators represented here are paying this bill.

So I hope that we will vote on it soon, and I will vote for it.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Dakota [Mr. PRESSLER].

Mr. PRESSLER. Mr. President, I have three amendments that have been agreed to. I could do them very quickly if we could lay aside the pending amendment and do these three amendments, and I do not plan to take more than a minute or two on each one.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Mr. President, reserving the right to object, and I do not expect I will, but I am not sure I know which are the amendments the Senator from——

Mr. PRESSLER. If the Senator will talk with staff, he has all three of them. I will explain what they are.

Mr. LEAHY. If the Senator will withhold just a minute and let me finish.

Mr. PRESSLER. The Senator's staff has all of them, and they have been cleared. I will send them over.

Mr. LEAHY. If the Senator will just let me finish my sentence. I know he wants to be helpful. Could he just tell me briefly what the three amendments are he is talking about because we are going to have to ask the Senator from New Jersey if he will be willing to set aside his amendment to do this.

Mr. PRESSLER. I have two amendments actually.

Mr. LEAHY. I am sorry. I misunderstood. I thought the Senator said three.

Mr. PRESSLER. I have two.

Mr. LEAHY. And what are they about?

Mr. PRESSLER. The first of the two amendments is a Buy America amendment. It declares a U.S. firm should be given equal opportunity to bid for U.N. acquisition needs, both peacekeeping and other acquisitions.

Additionally, this amendment says no funds appropriated by the foreign operations appropriations bill should be obligated or expended to pay U.S. voluntary contributions to U.N. peacekeeping activities unless the Secretary of State can certify that U.S. companies are being given a fair shake.

Mr. President, as you know, the United States currently pays 30.4 percent of U.N. peacekeeping costs. U.S. manufacturers need to be assured of the same opportunities to provide equipment, services and material that foreign manufacturers have.

My second amendment specifically addresses procurement problems associated with the telecommunications industry. This sense-of-the-Congress amendment calls on the administration—it does not require it—to use a reciprocal standard when considering awarding telecommunications contracts or when buying products from primary foreign telecommunications firms.

Additionally, if a foreign-owned firm discriminates against U.S. firms in awarding contracts or making Government-financed purchases, the amendment says that the administration should review critically such contracts and purchases.

This amendment expresses the sentiment that the United States should expect other countries to allow U.S. firms equal access to telecommunications contracts and procurement if foreign firms are expected to be able to participate in projects financed by U.S. foreign aid.

I urge my colleagues to support these two probusiness amendments.

Mr. LEAHY. The Senator's staff has given us three amendments. He has given us two amendments.

Mr. PRESSLER. Yes, there is a third amendment. It relates to the——

Mr. LEAHY. Is the Senator speaking of three amendments or two amendments?

Mr. PRESSLER. Three amendments.

Mr. LEAHY. We are back to three.

Mr. PRESSLER. Back to three.

Mr. LEAHY. We started at three, went to two, and are back to three.

Mr. PRESSLER. That is right. That is exactly correct. And there was no sleight of hand.

My third amendment is a sense-of-the-Congress amendment. It would allow U.S. payments in kind for U.N. peacekeeping assessments.

In other words, this amendment would encourage the contribution of U.S. goods and services in payment of our U.N. peacekeeping assessed costs. The United States could contribute excess defense equipment or other articles to peacekeeping operations and these contributions would be credited to the U.S. assessed costs. With the lion's share of the peacekeeping assessments—30.4 percent—the United States should be able to count goods and services against overall peacekeeping assessed costs.

AMENDMENT NO. 2104 TO COMMITTEE AMENDMENT PAGE 2, LINE 12

Mr. LEAHY. Now that I understand what the amendments are, I will object to going forward with those because I think we are about to dispose of the Lautenberg amendment. And while the Senator from New Jersey is still in the Chamber, I ask unanimous consent that the order for the yeas and nays be withdrawn on the Lautenberg amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. LEAHY. I ask, Mr. President, for the adoption of the Lautenberg amendment.

The PRESIDING OFFICER. Is there further debate then on amendment No. 2104 offered by the Senator from New Jersey?

Hearing none, the question is on agreeing to the amendment.

So the amendment (No. 2104) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. MCCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont [Mr. LEAHY].

Mr. LEAHY. Mr. President, it is now, of course, open for the Senator from South Dakota to send forward the amendments that he wishes. I would note, though, on discussions he had on Buy America, I would not object to that because I have already been advised that we are getting a fairly significant share of the peacekeeping equipment in America anyway. In fact, considering how much in arrears we are in a lot of our payments, as much in arrears as the United States is in its payments to the peacekeeping funds, we should probably be happy that other countries have not argued that they buy only the amount of American goods as we are in our payments because I suspect that, if other nations took that attitude, we would find the U.N. buying a lot less American equipment.

I am not going to object to that particular amendment. I just hope that it does not become of high profile to other countries because they might start calling up and asking just how much in arrears we are and start suggesting they buy a lot less.

Now, I would object very much to taking money out of our appropriations and our allocation, as the Senator from South Dakota does in another one of his amendments, to pay for the allocations and the appropriations in another appropriation, that is, State-Justice-Commerce, which it appears to be.

But I mention this, and, of course, the Senator can send any one of his amendments to the desk and we can debate them and decide where to go with them.

Mr. PRESSLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair inquires of the Senator from South Dakota whether the Senator intends to amend the pending first committee amendment or whether the Senator wishes to set aside that amendment and introduce this amendment.

Mr. PRESSLER. Parliamentary inquiry. Would it be simpler—I think I will offer two of my amendments en bloc. We have two of them agreed on for sure.

Mr. LEAHY. Mr. President, I do not want to be difficult on this, but we started with three amendments, came to two amendments, went back to three amendments. And before I start agreeing to anything, I would want to know which amendment we are talking about.

I think maybe it would be a lot quicker just to send the amendments one by one, debate them, and dispose of them.

AMENDMENT NO. 2115

(Purpose: To express the sense of Congress that funds should be restricted unless United States firms are given opportunities equal to foreign firms for supplying goods and services for peacekeeping activities).

The PRESIDING OFFICER. If there is no objection, the pending committee amendments will be set aside, and the clerk will report the first amendment sent to the desk by the Senator from South Dakota.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER] proposes an amendment numbered 2115.

Mr. PRESSLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 112, between lines 9 and 10, insert the following new section:

BUY AMERICA

SEC. . (a) None of the funds appropriated or otherwise made available by this Act may be obligated or expended to pay any United States voluntary contribution for United Nations peacekeeping activities unless the Secretary of State determines and certifies to the appropriate congressional committees that United States manufacturers and suppliers are being given opportunities to provide equipment, services, and material for such activities equal to those being given to foreign manufacturers and suppliers for such activities and for other United Nations acquisition needs.

(b) For purpose of this section, the term "appropriate congressional committees" means the Committees on Appropriations and Foreign Affairs of the House of Representatives and the Committees on Appropriations and Foreign Relations of the Senate.

Mr. PRESSLER. Mr. President, I have already explained this amendment.

Mr. LEAHY. To make life easier, Mr. President, for the Senator from South Dakota, we are willing to accept this. In fact, I would hope we might do as little fanfare as possible. Other countries that are concerned about us being in arrears in our payments know what we are doing. They will not be losing sales to America, not the other way around.

Mr. PRESSLER. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (No. 2115) was agreed to.

Mr. PRESSLER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

The PRESIDING OFFICER. Without objection, the motion to lay on the table is agreed to.

AMENDMENT NO. 2116

(Purpose: To express the sense of the Congress regarding telecommunications procurement)

Mr. PRESSLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER], proposes an amendment numbered 2116.

Mr. PRESSLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 112, between lines 9 and 10, insert the following new section:

TELECOMMUNICATIONS PROCUREMENT

SEC. . It is the sense of the Congress that the Agency for International Development, and other agencies as appropriate, should take steps to ensure that United States firms are not unfairly disadvantaged in procurement opportunities related to promoting development through telecommunications enhancement. The Congress expects that high technology firms primarily owned by nationals of countries which deny procurement opportunities to United States firms will not be eligible to bid on procurement opportunities funded by programs in this Act. In particular, the Congress would oppose such purchases if the government of that country restricts American manufacturers of the same high technology products from government procurement or government-financed programs.

Mr. PRESSLER. Mr. President, this amendment calls on the administration—it does not require them—to use a reciprocal standard in considering awarding telecommunications contracts when buying products from primary foreign-owned telecommunications firms. If a foreign owned firm discriminates against U.S. firms in awarding contracts or making Government-financed purchases, the administration should review critically such contract purchases.

This amendment expresses the sentiment that the U.S. should expect other countries to allow U.S. firms equal access to telecommunications products and procurement if foreign firms are expected to be able to participate in projects financed by U.S. foreign aid.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. PRESSLER. I urge adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (No. 2116) was agreed to.

Mr. PRESSLER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

The PRESIDING OFFICER. Without objection, the motion to lay on the table is agreed to.

Mr. LEAHY. Mr. President, I would suggest that, regarding the third amendment of the Senator from South Dakota which he is considering to offer, payments in kind, insofar as that is not something within the jurisdiction of this appropriations bill or this subcommittee, at least for the time being he may want to withhold that, and find out whether there is any way within the jurisdiction of it. Because I do not want to have other chairmen and ranking members down here, as well as the chairman, and the distinguished ranking member of the full committee, who is on the floor, getting involved in this debate. This does not appear, at least at first blush, to be within the jurisdiction of our committee of appropriations.

I would suggest to the Senator from South Dakota that he may want to withhold this one while we at least check out the jurisdictional issue.

The PRESIDING OFFICER. Is there further debate?

Mr. LEAHY. I do not think it has been sent to the desk.

The PRESIDING OFFICER. The Senator from South Dakota has apparently decided to withhold sending the amendment to the desk.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon [Mr. HATFIELD].

Mr. HATFIELD. Thank you, Mr. President.

Mr. President, I would like to offer an amendment to this bill. I understand under the procedure we are in that this would be ruled as out of order. But I would like to make a few comments about the amendment and the content of that amendment.

I know that a number on this floor share my concern about the proliferation of conventional weaponry in the world today. The United States has the dubious title of being the largest arms merchant, arms peddler, in the world today, now that the Soviet Union has shifted its structure.

Let me indicate that this bill that we have before us today appropriates over $3 billion in security assistance to U.S. allies. As many of you know, I am a longtime critic of our military assistance program because I believe that it undermines our development efforts in poorer countries. Our policy of encouraging nations to become militarized all too often encourages them to become aggressive, repressive, and impoverished.

I appreciate the committee's notations in the report accompanying this bill which calls upon the administration to show some leadership in curbing the global flow of weapons. Unfortunately, it is not enough.

It is time for reform of our weapons transfer policy. Let me remind us that since the end of World War II, 40 million men, women, and children have lost their lives in wars fought with conventional weapons.

These wars are fueled by weapons transfers and the United States is the world's arms dealer.

Our so-called nonproliferation policy has a gaping hole created by our desire to peddle arms worldwide. I would track that back to our own addiction for arms development in this country. Nevertheless, we have spread the virus all over the world.

The United States now sells over one-half of all weapons transferred to the Third World. Let us focus on the Third World. During fiscal year 1993 we set a record, with the United States entering into agreements for the sale of over 31 billion dollars' worth of conventional arms to 140 nations. It is almost a characteristic of wanting to somehow fuel our own budget by the sale of arms to the rest of the world.

This role as the leading arms peddler is a dangerous one: Promoting the sale of arms abroad weakens our own national security, undermines our nonproliferation efforts and sends a message of false hope to workers who are employed in the declining defense industry in this Nation.

Arms sales especially threaten stability in the Third World, as governments acquire U.S.-built weapons while at the same time failing to meet the basic needs of their people.

In their eagerness to acquire the latest conventional technology poorer countries ignore the human needs of their people and expend, on average, 38 percent of their scarce resources on their military weapons. Their choice to arm themselves leaves men, women, and children without adequate health care, education and employment opportunities all of which sow the seeds of war. At a cost of less than half their military expenditures, developing countries could have health care services which could save as many as 10 million lives a year, according to some studies.

The administration pledged to review conventional weapons transfers but has not delivered on its promise. Instead, it has adopted an aggressive promotion strategy which shops U.S. arms abroad. it is clear to me that only Congress can curb the war trade.

(Mr. MATHEWS assumed the chair.)

Mr. HATFIELD. I believe that Congress should not only review the kind of weapons allowed to be sold abroad, but also to whom those weapons are provided. The American public does not believe that U.S. arms should be provided to dictators. Current law in this country prohibits the transfer of weapons to gross violators of human rights. Yet, we ignore this law routinely in the administrative branch of Government, and in the legislative branch of Government we continue to fund and subsidize arms transfer.

It is time for a new policy and the code of conduct on arms transfers, which I have offered as freestanding legislation. I believe it is time for this to be approved by Congress. I was prepared today to offer this bill as an amendment to the foreign operations appropriations bill, and I have the support of over 100 grassroots organizations, including human rights, arms control, religious, and development groups that have already endorsed the code of conduct. These people have rejected the flimsy arguments that arms sales are relatively inexpensive and low-risk and that selling U.S. weapons abroad is good economic policy.

We sent our Secretary of Commerce to the Paris air show to peddle our arms, as one example of a policy of promoting the arms sales as an economic advantage to ourselves. Conventional arms transfers are none of the above. Arms transfers are heavily subsidized by the taxpayers of this country. Millions in taxpayer money are spent underwriting the cost of U.S. participation of arms trade fairs. The total Federal taxpayer cost of conventional arms transfers is estimated at $7 billion per year.

Even more disturbing are the security implications arms sales create for ourselves. As research has shown, American arms transfers fuel regional arms races, which in turn increase our own security requirements. Most startling, though, is the realization that our arms financing and transfer policy has resulted in United States soldiers in Panama, Somalia, and Iraq, facing weapons provided by their own Government. One researcher found that of the 48 conflicts underway as of 8 months ago, more than 36 of them involve parties which receive some U.S. weapons and training during the period leading up to the war. Our Nation is in the business of selling death and selling and promoting war with this kind of policy of arms transfer.

Since the toppling of the Soviet Union, we have been in a state of weapons sales free-for-all, with Cabinet Secretaries of the previous and the present administrations leading the way. Even as the administration claims concern, our bureaucracy is being streamlined in order to make arms transfer easier. I recall the change a few years ago wherein the Office of Munitions Control was renamed to a friendly name—the Center for Defense Trade. That tells me that our emphasis is no longer the restraint of arms trade, but rather the promotion of arms transfer.

By adopting the code of conduct on arms transfers, the Congress can turn this around. The United States would lead by example a worldwide ban on arms transfers to governments. My proposal would prohibit the transfer of any weapons to a nation which abuses the rights of its own people, which denies democratic rights to its people, which attacks its neighbor or its own people, and which fails to prohibit in the U.N. registry of arms their signing and registry.

My proposal does allow the President to ask Congress for a national security waiver if there is a compelling reason to provide military supplies to a country which does not meet all of the criteria of the code. In other words, we have to face the world as it is, and this is reality. There might be a special circumstance, and we have that kind of flexibility in this code.

Having spoken with many about my proposal, I know many Americans consider the code of conduct on arms transfers to be common sense. It is time for Congress to turn aside the short-term economic gains created by arms sales—economic gains which are lost to taxpayer subsidies and increased defense spending, as well as offsets in which U.S. arms suppliers agree to promote foreign domestic products as a trade for the weapons sales.

Mr. President, if we are going to debate again that issue that confronted this Congress on a number of occasions, whether to send arms to Bosnia because of the attack by the Serbs, have we ever thought or considered the possibility about cutting off arms, choking off the supply of arms that flow to the Danube freely by our allies and friends, as well as our own infusion of arms into all parts of the world? No. The profit—the almighty dollar—is of much higher value than human life under this policy. What is the difference if we kill a few people in some war somewhere else as long as we are making a buck on it? That is at the heart of this kind of addiction we have for arms selling all over the world.

There is only one supply of arms in the Yugoslavia area, and that is the Serbs that have an old arms equipment manufacturer. But they still need oil to move their instruments of war. At one time, West Germany, Greece, and other countries, such as France and Italy, were supplying arms in there, which are now being utilized to create these atrocities. Let us go back to the source of these atrocities. By sending more arms or by bombing other people, in that sense we do not solve the issue.

The amendment I planned to offer to this bill deals comprehensively with the crisis of the global arms glut, and I realize that it is therefore not in order procedurally. But this issue is too important to ignore. I believe that as we consider the pending legislation—which is the backbone of our arms transfer policy—the Senate should spend at least a few minutes discussing the critical need for change in our conventional weapons promotion policy.

Mr. President, this is not the first and only speech, and it will not be the last one. We must pursue this and persevere until we can get the attention of enough people in this body and in the administration to bring a halt to this merchant-of-death role that we have played all too effectively, all too efficiently, and all too profitably, in the world today, particularly in the Third World.

Mr. DORGAN. Mr. President, let me follow up on something Senator HATFIELD said that is enormously important. I have joined Senator HATFIELD in support of a bill, S. 1677, the code of conduct for arms transfers. He was going to offer it as an amendment to this bill, but there is a point of order against the amendment, so he did not.

However, I want to stress the importance of the issue that he raises. There is $3 billion in this bill for arms transfers to other nations. Not many people realize that the United States is the arms exporter of the world. The cause for concern is summarized in a recent newspaper headline: "Arms Control? U.S. Is The Worst Offender."

We have become conventional arms merchant to the world. We sell more conventional arms to more countries all over the world than anybody else by far. We continue to do this even though the last three times that American fighting forces faced hostile fire, they faced either American weapons or American-made technology.

In Iraq, for example, our forces faced U.S.-designed howitzers, cluster bombs, and ballistic missiles. Our own technology was used against us. American technology had found its way to Saddam Hussein's army.

Somalia? The soldiers that we sent to Somalia faced American-made recoilless rifles and landmines.

I understand it is difficult for the leading arms merchant in the world to shut off these transfers. This trade is done in the name of profit. But this trade isn't even levelling off—it's increasing. It is not just that we are leading the world, it is that these arms transfers are going up and up and up after the cold war is over. I am not talking about nuclear arms. I am talking about fighter planes and rifles and mines and flamethrowers and tanks that we sell throughout the world.

I full well understand, as does Senator HATFIELD, that it is difficult to put a stop to this because this is done in the name of profit. And if we don't supply these weapons, some other nation probably will. But these transfers are wrong for all of us.

The proposal that Senator HATFIELD discussed is the code of conduct on arms transfers. It provides that this country could not transfer arms to foreign governments that one, are undemocratic; two, abuse human rights; three, engage in armed aggression; or four, fail to register their own arms trades with the United Nations registry of conventional arms.

This is not a very sexy issue. Not many people are interested, partly because a lot of commercial interests in this country want to keep selling arms. I understand that.

But the United States has an obligation to lead the world. Our country should lead. We must work to make our allies and the rest of the world understand that selling more and more arms all around the world to various forms of governments to be used in all sorts of regional conflicts produces a less stable world, not a more stable world. These transfers cause regional tensions and instability, and make regional conflicts more deadly.

But these arms transfers don't just cause instability. They also suck up money from higher priorities. Literally hundreds of millions of people in some of the poorest countries of the world watch their governments use growing shares of their budgets to buy arms, often from us.

Lots of governments around the world have badly misplaced priorities. Some of the examples are absolutely astounding. Ethiopia, in 1990, spent 15 percent of its national output on its military. Ethiopia—a country with a tragic record of drought, disease, and famine.

Angola is even worse. How would you like to live in a country that devotes one-fifth of its annual output to military spending?

As I said, it is nice, for some, to be able to sell arms for profit. But we ought to provide leadership. The United States ought to be a country that leads. We ought to tell countries around the world: "Let us try to put a stop to the arms race in conventional weapons, let us stop saturating this world with arms." Hungry people need food. Sick people need medicine. All too often their governments are off in the arms bazaar and we are the merchants. And—most strikingly—when American fighting men and women go into harm's way, they usually face weapons that were manufactured or developed here at home.

We ought to learn from that. Senator HATFIELD is absolutely correct. I respect enormously his leadership on this issue and I am very pleased to speak in support of what he is trying to do.

I hope one day soon the Senate will debate this bill and pass it and make some progress in limiting the arms sales that so destabilize our world.

I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire [Mr. GREGG] is recognized.

AMENDMENT NO. 2117

(Purpose: Sense of the Senate relative to military operations in Haiti unless certain conditions are met)

Mr. GREGG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] proposes an amendment numbered 2117.

Mr. GREGG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. . SENSE OF THE CONGRESS ON UNITED STATES MILITARY OPERATIONS IN HAITI.

(a) REAFFIRMATION OF POLICY.—It is the sense of the Congress that the policy stated in section 8147 of Public Law 103-139 (107 Stat. 1474) regarding Haiti should be reaffirmed.

(b) LIMITATION.—It is the Sense of the Congress that none of the funds appropriated or otherwise made available to the Department of Defense for fiscal year 1995 under this or any other Act may be obligated or expended for any United States military operations in Haiti unless—

(1) such operations are authorized in advance by the Congress;

(2) the temporary deployment of forces of the Armed Forces of the United States into Haiti is necessary in order to protect or evacuate United States citizens from a situation of imminent danger and the President reports as soon as practicable to Congress after the initiation of the temporary deployment, but in no case later than 48 hours after the initiation of the temporary deployment;

(3) the deployment of forces of the Armed Forces of the United States into Haiti is vital to the national security interests of the United States (including the protection of American citizens in Haiti), there is not sufficient time to seek and receive congressional authorization, and the President reports as soon as practicable to Congress after the initiation of the deployment, but in no case later than 48 hours after the initiation of the deployment; or

(4) the President transmits to the Congress a written report pursuant to subsection (c).

(c) REPORT.—The limitation in subsection (b) does not apply if the President reports in advance to Congress that the intended deployment of forces of the Armed Forces of the United States into Haiti—

(1) is justified by United States national security interests;

(2) will be undertaken only after necessary steps have been taken to ensure the safety and security of such forces, including steps to ensure that such forces will not become targets due to the nature of the applicable rules of engagement;

(3) will be undertaken only after an assessment that—

(A) the proposed mission and objectives are most appropriate for the Armed Forces of the United States rather than civilian personnel or armed forces from other nations; and

(B) the United States forces proposed for deployment are necessary and sufficient to accomplish the objectives of the proposed mission;

(4) will be undertaken only after clear objectives for the deployment are established;

(5) will be undertaken only after the exit strategy for ending the deployment has been identified; and

(6) will be undertaken only after the financial costs of the deployment are estimated.

(d) DEFINITION.—As used in this section, the term "United States military operations in Haiti" means the continued deployment, introduction or reintroduction of forces of the Armed Forces of the United States into the land territory of Haiti, irrespective of whether those forces are under United States or United Nations command, but does not include activities for the collection of foreign intelligence, activities directly related to the operations of United States diplomatic or other United States Government facilities, or operations to counter emigration from Haiti.

Mr. GREGG. Mr. President, this amendment is a sense-of-the-Senate relative to the situation in Haiti. I believe the matter in Haiti is clearly on the front burner of the agenda of this country right now relative to foreign policy, and it would be inappropriate to pass a bill of this nature without Congress in a sense specifically expressing its views as to how the matter in Haiti should be managed.

We are seeing, obviously, a significant human tragedy in Haiti, which has been going on and expanding for the last few years.

But in the last few days, it has even become more significant in its relationship to the United States in the rather large increase in people fleeing that country and seeking the high seas and the American Coast Guard vessels having been put in the position of having to pick these people up and evaluate their opportunities to seek political asylum in this country.

But the issue goes well beyond those individuals who are fleeing Haiti. It goes to the matter of how this country relates to another nation, especially a nation which has been our neighbor in this hemisphere and whether or not our Nation is going to define our role in a coherent and precise manner or whether we are simply going to evolve in a hopscotch and herky-jerky pattern into a policy.

The purpose of the sense-of-the Senate resolution is to make it clear that before the President can take military action in Haiti, and there has been a tremendous amount of discussion of that being an option which this Presidency is considering, that before the President pursues military action in Haiti he must come to this Congress and explain why and receive the approval of this Congress, we would hope, but at the minimum explain why he has pursued that course.

There is, of course, talk specifically that this administration is considering invading the nation of Haiti. That is a rather dramatic act for any nation to take vis-a-vis another nation.

And we recognize that the problems of Haiti are dramatic and significant and that the Government of Haiti hardly qualifies for that term. But still a decision to invade that country demands an open and honest debate on the floor of this Senate before it is pursued if it is a premeditated act and something that is done for the purposes purely of executing public policy rather than for the purposes of protecting American lives or addressing an imminent disaster.

So this sense of the Senate makes it clear that we as a body expect the President, pursuant to the terms of the Constitution and the War Powers Act, to come to us in advance and explain whether or not and why that is the decision he wishes to pursue military operations in Haiti.

Why is this important? Well, it is, first, important for constitutional reasons and very significant constitutional reasons. Yes, the President is the Commander in Chief and as the

Commander in Chief he should have considerable latitude in his role to execute military operations around the globe. But as Commander in Chief he also has, under the Constitution, the responsibility to come to the Congress if he decides to pursue an act of war, and under the War Powers Act equally has an obligation to come to the Congress should he decide to pursue an action that involves an act of war, and clearly the invasion of Haiti is an act of war if that is a decision that is made and if that action is taken for political purposes or to accomplish a foreign policy goal.

Therefore, from a constitutional standpoint, it is very important that this Senate make it clear that we have a role on a decision of that magnitude as it impacts a sister nation in our hemisphere.

Equally important is the fact that before an invasion is to occur, if that is the decision and the policy this administration moves to, and it appears to be the decision unfortunately that they are pursuing, that before an invasion occurs of a neighboring nation, we, the Congress, and more importantly, the American people need an explanation of why and need to have a public debate as to why we would take such an act, why we would we put American lives at risk, why would we use American power to possibly take the lives of our fellow citizens in this hemisphere.

And this administration to date has not given us a definition of policy on the issue of Haiti. In fact, it has not given us a definition of policy on a number of international issues. But clearly on the issue of Haiti it has not defined its policy.

I would submit to you there are three tests which must be addressed and passed before we pursue military action in another part of the world, before we put American lives at risk, and those tests involve the following:

First, we have to have an explanation from the administration as to what the nature of the conflict is. Is it a conflict that is resolvable through military force? Or is it a conflict that has been going on for a great deal of time and which has generational roots and ethnic roots and religious roots and, therefore, may well not be resolvable.

Second, we need to know what our national interests are, and they have to be defined very clearly. When you ask an American soldier to put his or her life on the line, you need to be able to tell that American soldier why, you need to be able to tell the loved one of that American soldier why, you especially need to be able to explain that should the unfortunate occur and that soldier loses his or her life.

And third, there must be an explanation as to once American force is used how it will be disengaged, what is the plan for ending the use of the American force, for bringing the soldiers home.

On all three of those counts, this administration has been incoherent relative to the issue of Haiti. We do not have an explanation of the terms of the political situation in Haiti that makes any sense to anyone. One day we hear that we are supporting Mr. Aristide because he was elected. The next day we hear that, well, maybe he is not such a nice fellow and, therefore, we really should not be supporting him. And the next day we hear we are supporting the Governor's Island agreement. Then we hear maybe the Governor's Island agreement has been abrogated and no longer effective and, therefore, we do not want to pursue that either. It has been a back-and-forth manner of discussion, unfortunately.

In the public arena that has no definition to it at all as to the terms of what this conflict involves—should we engage in it and what do we expect the political consequences to be for the nation of Haiti and whether or not we can settle it?

We do know from history, however, that the last time we said we were going to go into Haiti with military force and try to resolve the Haitian political situation through the use of a military action and we expected to spend a few months doing it we ended up there for 19 years, and the overtones from that invasion and that occupation are still fairly significant in not only the Caribbean but throughout South America and especially Central America.

The second issue, of course, is what is our national interest in Haiti. In the arguments made I guess most often our national interest in Haiti and the one that has the most legitimacy is to keep Haitian refugees from coming to the United States. In addition, of course, we have the national interest of seeing the horrible situation Haitian people are confronting resolved in some manner so that they can go on with reasonably organized or orderly lifestyles and not be subject to a government that is basically one of violence and vigilante law.

Those are the two arguments that are made for our national interest, but I think we need to look at them in some depth because they have not been made substantively to the American people in the way the American people can say, yes, that legitimizes our putting an American life at risk.

On the first issue, the issue of immigration, that to a large degree has been created by ourselves through our use of sanctions. We are the ones who have put sanctions on this nation to a point where the only people benefiting from the sanctions are the political thugs who are running the country and the people on the streets are the ones who are suffering those sanctions to the degree where their only option appears to be to sail in small boats and hope wherever they come ashore will be better than where they left. And that was our doing in large part by the use of sanctions which may have been put on with good intention but clearly have not worked and have had, in fact, unintended consequences that have significantly deteriorated the situation and generated, in fact, the immigration, the outpouring of people from Haiti.

And so I do not think we have many excuses in the area of the excessive outflow of people, the immigration into the United States of Haitians. We do not need to look much farther than ourselves to find a cause for that action that presently is occurring, and it is occurring in this case because we changed our policy relative to dealing with the people once we met them on the high seas. At least for a while we were saying to these people, "I'm sorry. You are simply not going to be allowed into the United States. Therefore, turn back and go home."

Now we are saying to those people, we are holding out that light of hope that says: Some of you we are going to be let in; some of you we are going to be send back. We are going to put you on a ship, this hostile ship, to evaluate you. Maybe we will send a few back, maybe we will keep some of you here.

Obviously, we have held out hope that, if you get in a boat and you take off from the coast of Haiti, you have an opportunity to maybe get into the United States and get political asylum. It was a foolish and stupid decision which has been totally counterproductive, as has the tightening down of the sanctions on Haiti, leading to basically the only people benefiting from that being the hoodlums who are running the country who are now able to earn more profits from the black market which they control.

The administration has fostered, for all intents and purposes, because of this policy, because of the sanctions policy and because of its policy of holding out hope of political asylum to a few, has fostered, in large degree, the outpouring of people in boats from Haiti.

Had we, and we should have, actually, in my opinion, taken the position which we were taking, which was to say, "I'm sorry; we will not accept you; you must go back," then you would not have had people setting sail in such large numbers as they have been over the last few days.

And so I do not think that you can justify, and I do not think this administration can justify, invading Haiti because of a problem of people leaving Haiti which was created by this administration's policy, unless, of course, that was the intention. And I shall not attribute such cynicism to this administration, because I do not think it is there. But clearly that appears to be the primary reason for justifying invasion—the outpouring of people from Haiti who may end up in the United States.

I can understand the concerns of States along the gulf, especially Florida, which are having to bear the great burden of this foolish policy. But I do not think that we should further aggravate an already poor policy with a dramatically worse policy of putting American lives at risk and invading a neighboring country in order to try to correct the initiatives which have been taken by this administration which have failed.

And, second, there is the issue of, well, we should go into Haiti to restore the elected government of Aristide and replace the recognized thugs who are running the country.

Well, I do not know about you, and I do not know about other Senators in this Chamber, but I would find it extremely difficult to go to a wife or to a mother or to a father of an American service person who might die in such an invasion should the administration pursue it and say that they died to put in power Mr. Aristide.

There are too many questions about this gentleman. Yes, he was elected, we recognize that, and we wish to support democracy. But we do not support all people who have been elected to all offices around this globe. And when the type of questions which have been raised about Mr. Aristide exist, I find it very difficult to say that we are going to use American force to support his reinstitution into position.

But if the administration feels that way, if they feel that their failed policy relative to immigration, with the Haiti nation people leaving as boat people, needs military response, and if they feel that they must use a military response in order to put Mr. Aristide back in power, then that is the right of the President of the United States to make that decision.

But it is also his obligation, before he uses American troops to do that, to come to this Congress and this Senate and tell us he is going to do it, so that we may raise that issue to the proper level of debate that a democracy requires and especially so that the American people will have a chance to hear the debate in an open and viable forum and be able to make their own decision.

Because I think what we learned in the Desert Storm experience—as I recall, at the beginning of Desert Storm, there was not a whole lot of public support for that—but what we learned in the Desert Storm experience was that the American people, when educated on an issue of American military force, will act responsibly and that this Congress will act responsibly and that decisions will be made that are consistent with our constitutional framework, and that will actually enhance the power of the President to use military force if that is his decision.

That is true in a democracy. If you tell the people and you get their support, the power of the leadership on the issue becomes much stronger.

And so this sense of the Senate is a follow-on to a sense-of-the-Senate that was passed by this legislative body last year. It says that before a military operation can occur in Haiti, such operation should be authorized in advance by the Congress, unless the military operation is for the purpose of, one, saving American lives, or, two, confronting a catastrophe that is of a military nature that requires immediate response.

That is the purpose of this amendment, this sense of the Senate.

I do feel, considering the time and the nature of the present events that are occurring and the way that the movement now appears to be going within our foreign policy, that it is very important that this body reaffirm its right to that type of advanced authorization and warning from the President. Because it appears to be fairly clear that this administration, as a result of the failure of its policies on Haiti, is moving up to a higher level of action and maybe moving toward an invasion. Before that occurs, I think this Congress has a right to address the issue.

I yield to the Senator from Kentucky.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, on general principle, I feel very strongly that we should have congressional votes before we move our troops into any type of an invasion, absent the kind of emergency situation that has been discussed on the floor.

I know that a somewhat similar amendment or similar resolution to the one proposed by the Senator from New Hampshire passed this body, I believe, 98 to 2 here within the past year.

At the time of Desert Storm, I had urged President Bush and the congressional leadership, because of the deep divisions on that issue in the Congress, that there should be a vote. With some misgiving, I believe, the President and others tended to finally agree. We had a vote. It was a closely divided vote in this body.

But, having had the vote, we then gave strong support to the munition and manpower needs and financing and even some foreign aid issues necessary to support Desert Storm. Those who had opposed the action, like myself, and those who supported the action joined together after a congressional vote in favor of it to give President Bush and our allies the tools they needed.

I would note just one thing, while the Senator from New Hampshire is on the floor, because much of what he says I agree with. But there is one area where I would express some concern. When you say that, albeit the fact that President Aristide was elected, we are not about to support every elected official, he was elected rather overwhelmingly in Haiti. If we are going to stand up for the idea of Democratic elections, we do not have quite that luxury to pick and choose.

I would contrast this with our administration's strong support of the Emir of Kuwait. The Emir of Kuwait, if one can believe the independent news stories about him, has a lifestyle that would bring about an indictment in any one of our 50 States on everything from morals to drug usage. The Emir of Kuwait did not have enough concern about his own country, that—I mean, not only at the first sign of invasion he was out of there, living in great luxury in Saudi Arabia, but even after his country had been liberated it was beneath his dignity to return to his own country until the American taxpayers had footed the bill for the Corps of Engineers to outfit a palace for him, if news stories are to be understood or to be believed—and they were not disputed—with gold plated bathroom and toilet fixtures. Then, when that was set up, and only then, and only after many of his own people died, and only after Americans had died, and only after allies had died to protect this kingdom, then he finally saw fit to come back.

This is a man who leads a lifestyle that would make Nero blush with shame, even though he is one generation away from living in a tent in the desert, keeping warm by fires from whatever might be available. He was not elected by anybody. We were willing to add tens of billions of dollars to our deficit, put in harm's way hundreds of thousands of Americans, spend down our munitions and so forth, to go to save him and his country.

There are a couple of differences. He was not elected, as I said. In fact he did not even care enough for his country to come back until all his creature comforts were restored. I am trying to think what other difference.

One does occur. One does occur. Haiti is the poorest country in the hemisphere. Kuwait has huge oil reserves. I suspect somewhere, somewhere that might have allowed us to overlook the immorality of the Emir of Kuwait, drug usage by him, what appeared at least on the surface to be less than any bravery and attachment to his country, huge human rights violations within his own regime, an antipathy toward the United States demonstrated in vote after vote in the United Nations, risk to our own people, huge cost to our Treasury, deaths of so many brave Americans and our allies, veterans who still suffer from that combat. But there was that little matter of oil. I just mention that for what it is worth.

I know the Senator from North Dakota was seeking recognition. I apologize but I did want to make that point.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I will be happy to relinquish the floor with the understanding I be recognized at the end of the time the distinguished Senator from North Dakota is about to use.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I thank the managers of the bill for their courtesy.

Let me say in comment that Haiti is an extraordinarily complicated problem. I have been in Haiti. I have stood in the neonatal clinic there and held in my arms babies who are dying. This is a desperate, desperate situation in Haiti. I do not know the answer to it, but I hope we have a long and productive debate on what our Haiti policy ought to be.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. It is my understanding the Senator from New Hampshire would like to have the floor just very briefly. So I will yield the floor.

AMENDMENT NO. 2117, AS MODIFIED

Mr. GREGG. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The Senator has that right, and the amendment is so modified.

The amendment, as modified, is as follows:

At the appropriate place insert the following:

SEC. . UNITED STATES MILITARY OPERATIONS IN HAITI.

(A) REAFFIRMATION OF POLICY.—Congress reaffirms the policy stated in section 8147 of Public Law 103-139 (107 Stat. 1474) regarding Haiti.

(b) LIMITATION.—None of the funds appropriated or otherwise made available to the Department of Defense for fiscal year 1995 under this or any other act may be obligated or expended for any United States military operations in Haiti unless—

(1) such operations are authorized in advance by the Congress;

(2) the temporary deployment of forces of the Armed Forces of the United States into Haiti is necessary in order to protect or evacuate United States citizens from a situation of imminent danger and the President reports as soon as practicable to Congress after the initiation of the temporary deployment, but in no case later than 48 hours after the initiation of the temporary deployment;

(3) the deployment of forces of the Armed Forces of the United States into Haiti is vital to the national security interests of the United States (including the protection of American citizens in Haiti), there is not sufficient time to seek and receive congressional authorization, and the President reports as soon as practicable to Congress after the initiation of the deployment, but in no case later than 48 hours after the initiation of the deployment; or

(4) the President transmits to the Congress a written report pursuant to subsection (c).

(c) REPORT.—The limitation in subsection (b) does not apply if the President reports in advance to Congress that the intended deployment of forces of the Armed Forces of the United States into Haiti—

(1) is justified by United States national security interests;

(2) will be undertaken only after necessary steps have been taken to ensure the safety and security of such forces, including steps to ensure that such forces will not become targets due to the nature of the applicable rules of engagement;

(3) will be undertaken only after an assessment that—

(A) the proposed mission and objectives are most appropriate for the Armed Forces of the United States rather than civilian personnel or armed forces from other nations; and

(B) the United States forces proposed for deployment are necessary and sufficient to accomplish the objectives of the proposed mission;

(4) will be undertaken only after clear objectives for the deployment are established;

(5) will be undertaken only after an exit strategy for ending the deployment has been identified; and

(6) will be undertaken only after the financial costs of the deployment are estimated.

(d) DEFINITION.—As used in this section, the term "United States military operations in Haiti" means the continued deployment, introduction or reintroduction of forces of the Armed Forces of the United States into the land territory of Haiti, irrespective of whether those forces are under United States or United Nations command, but does not include activities for the collection of foreign intelligence, activities directly related to the operations of United States diplomatic or other United States Government facilities, or operations to counter emigration from Haiti.

Mr. GREGG. Mr. President, let me quickly explain. My modification makes this, rather than a sense-of-the-Senate, a rule of law, making it a condition of funding that the President first contact and advise us in advance before he uses military force in an invasion of Haiti.

So rather than being a sense-of-the-Senate, this makes it a statement of law. I yield the floor.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I want to commend the distinguished Senator from New Hampshire for his amendment, particularly as now modified. And I also want to make some observations about the use of American force.

My good friend and colleague from Vermont was discussing a moment ago the morality of the royal family in Kuwait and what their human rights record might be as somehow relevant to the Persian Gulf war. I submit, Mr. President, the Persian Gulf war did not have anything to do with human rights in Kuwait, did not have anything to do with the morality of the royal family. It had to do with American national security interests. That is what the Persian Gulf war was all about.

Certainly, the fact that Saddam Hussein, if he had been allowed to go into Saudi Arabia, would have controlled 50 percent of the world's oil supply was a very relevant issue. I do not think we should make any apologies about that. Why should we feel in any way embarrassed about the fact that control of 50 percent of the world's oil supply was a major factor in the fighting of the Persian Gulf war?

So the morality of the royal family or the human rights record of Kuwait was largely irrelevant. It had nothing to do with why the Persian Gulf war was fought. We fight wars when it is in our national security interests to fight wars.

The point the Senator from New Hampshire is making is there is a very legitimate concern among many of us as to whether or not an invasion of Haiti is a good idea or in our national security interest. Maybe the President can make that case and, as I understand the amendment of the Senator from New Hampshire, what he is saying is come to us and make the case in advance. Make the case.

The reason this is an appropriate amendment is because of the waffling of this administration on the Haiti issue. I will just cite for my colleagues some examples.

First, with regard to the sanctions issue. In November 1993, the President said:

> Sanctions were a bad idea because they would hurt the poor and would not guarantee the military government's surrender of power.

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In February 1994, the administration encouraged Aristide to compromise with Haiti's military and ignored Aristide's calls for sanctions.

In April 1994, the President called for a global embargo and changed his mind about compromising with the military. One position in November, a different position in February, a different position in April.

In May 1994, the embargo is enforced. Clinton shows he is not as concerned about the embargo's effect on innocent Haitians at that point. Then in June 1994, the administration forms new, tougher sanctions that, in effect, hurt Haiti's rich and spare the poor, because now we are not allowing flights to the United States. Of course, that is only going to impact the people in Haiti who have the money for an airline ticket.

So the reason for the amendment of the Senator from New Hampshire is that we cannot seem to get a steady hand here at the tiller when it comes to Haitian policy.

Look at the issue of military use. Before May, the President apparently did not consider using military force—before May.

May 3, the administration said it was reconsidering using force.

May 20, the administration lists reasons to use the military.

And on June 9, the administration shifts emphasis to sanctions because of criticism of potential military use.

So one issue 1 week, another position 2 weeks later, and another position 3 weeks later.

With regard to refugees, during the election we all recall—I see the Senator from Georgia on the floor, the Senator from New Hampshire of course offered the amendment. They were running in 1992. We remember candidate Clinton criticized the Bush policy for taking fleeing Haitians back to Haiti. That was candidate Clinton in 1992. After the election, the new administration adopted the policy of the old administration, a 180-degree flip.

Then on May 7, 1994, with regard to the refugee issue, the President rethinks the U.S. position on refugees.

May 9, he shifts his positionmaking processing available for refugees on ships.

May 17, Haitians are still being sent back.

I just cite these as examples of constant shifting of position by this administration on Haiti, leading the Senate not to have a whole lot of confidence in the administration's policy, thus, the amendment of the Senator from New Hampshire suggesting, now in binding form, that the President come here and make his case in advance as President Bush made his case in advance with regard to the Persian Gulf war, that that same approach ought to be used with regard to any kind of military invasion of Haiti.

There has been some concern around here that as soon as the Senate and the House left town, the invasion would occur. I hope that is not what the administration has in mind. But I think we want to send a message here that we would like to know something about it in advance. We are here this week. We are debating foreign policy. There are a number of Senators on the floor concerned about it.

I see the Senator from Georgia who has been extremely interested in this issue and will speak momentarily. We need to have this debate now in advance.

So, Mr. President, I see the Senator from Georgia is here, and I know he is anxious to speak on this. I yield the floor at this point and will resume the debate later.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I rise in support of the amendment offered by the Senator from New Hampshire, and others. We had an opportunity to hear from former Congressman Gray, special adviser to the President, on the question of Haiti yesterday. I advised Mr. Gray that I could be counted among those who very much opposed the concept of an invasion of Haiti. I pointed out at that time that I would not want to be the messenger to any American family of the death of their son or daughter engaged in the resolution of a significant domestic crisis in Haiti.

Everything we do now is definitional as we approach a new century. Are we saying or contemplating saying to this hemisphere that every time there is a significant domestic internal crisis that the U.S. Marines are going to show up? Is that what we are contemplating saying, because certainly that would be what the hemisphere would see.

We would be saying, because there is an interruption in democracy in a country in our hemisphere, that that is grounds for invasion. My heavens, in the last 15 years, we have had similar incidents in Ecuador, Honduras, Chile, Uruguay, Argentina, Grenada, and Suriname.

Are we saying that the message to the hemisphere is going to be that each and every time there is an interruption of this sort that the United States will be the resolver, will pick the solution? This sounds an awful lot like nation-building, a new term that we talk about often. It reminds me of Somalia where the outside force is dictating what the internal resolution should be.

My remarks in no way suggest that I am not sympathetic with the grave concerns that are occurring there. It is a most serious problem. There is great human suffering. Clearly, the junta has no moral standing. But I suggest that we should consider very, very seriously whether or not we want to say to the hemisphere, the United States is the resolver of every democratic interruption in our hemisphere; that American lives are going to impose the outcome of domestic crisis in every country in our hemisphere.

The Senator from Vermont was a moment ago talking about distinction. There are distinctions, very pragmatic ones, indeed.

Are there any Americans being held hostage in Haiti? Not to my knowledge. Are there Americans under immediate threat of harm in Haiti? Not to my knowledge. The United States has asked all Americans to leave, and the only ones remaining there have chosen to do so, wisely or unwisely.

Are there any strategic interests in Haiti that threaten the vital national security of the United States? Is there a passageway? Are there oil or strategic materials produced there in this poorest country in the hemisphere? No, no, and no.

That leaves us with only the theory that it is the responsibility of the United States to resolve internal domestic crises. For me, that answer is also no. We should be engaged in international pressure. We can debate the degree of these sanctions and who is affected or not. We can encourage other member states of the hemisphere to exact pressure. We can engage in international negotiation. We can involve the United Nations. But I cannot, for the life of me, see how we could turn to one family, one parent and say we decided to put your son or daughter at the threat of death or bodily harm over this domestic crisis. Nor do I believe we can say to this hemisphere, in good faith, that we are establishing a doctrine by which the United States is the ultimate resolver and judge over every domestic crisis.

So an amendment such as offered by the Senator from New Hampshire, which says there must be grave consultations on a matter of this nature, is absolutely correct. We are not only talking about Haiti; we are talking about American policy in our hemisphere and beyond. He does not deny the President his options. He ensures America an open dialog on the question that affects her sons and her daughters.

Mr. President, I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, first I wish to compliment my friend and colleague, Senator GREGG, from New Hampshire for this amendment.

I wish that this amendment was not necessary, but I think, unfortunately, it probably is. We keep reading things, we keep hearing things; that the administration is tightening down on the economic embargo in Haiti. And now we see more and more refugees leaving Haiti, creating somewhat of a crisis atmosphere, and more and more people talking about military intervention as a real possibility, reports in papers that the military is preparing for such an event.

Mr. President, I rise in strong support of the amendment introduced by the Senator from New Hampshire. The Clinton administration's policy on Haiti has been one of one failure after another. To cap off this failure, this administration, by all accounts, is seriously considering an invasion and occupation of that country for the purpose of returning the deposed President Jean-Bertrand Aristide to power. I think such a move would be a terrible mistake.

I would like to draw to my colleagues' attention a series of editorials that appeared on the Wall Street Journal editorial pages on June 16, 1994. Mr. President, I will ask unanimous consent that these all be inserted in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. NICKLES. Perhaps the most disturbing thing is that the Clinton administration's plan to invade Haiti is an open secret up at the United Nations in New York. On May 24, there was a high-level meeting of nervous U.N. officials who fear they may get stuck with the baby after a United States invasion of Haiti. Another article, "From Port-au-Prince to Gucci Gulch," by Christopher Caldwell, is an abridgement of a much longer article that appeared in the July 1994 issue of the American Spectator. Mr. Caldwell chronicles the behind-the-scenes political machinations in Washington that are closely tied to the administration's determination to put the highly unstable, violence-prone, and anti-American Mr. Aristide, back in power no matter what.

It appears the Clinton administration is planning to return Aristide to power with American military force. The administration is itself creating the very conditions it points to as justification of an invasion, with its sanctions policies and stepped-up processing of asylum claims. Both of these policies, working together, encourage more and more Haitians to risk their lives trying to get to the United States.

For ordinary Haitians, it is a carrot-and-stick policy. The tightened sanctions are the stick deepening the misery of what is already the poorest county in the hemisphere. The stepped-up processing of claims—some one-third of Haitian migrants intercepted on the high seas have been receiving asylum status in recent days, much higher than the usual rates—are the carrot. And now, because these policies mean more Haitian boat people, we supposedly have no choice but to send in our troops.

Mr. President, I would like to review for a moment the administration's policy, and look at how we got to this point. As some might remember, candidate Clinton talked big on Haiti in 1992:

> I am appalled by the decision of the Bush administration to pick up fleeing Haitians on the high seas and forcibly return them to Haiti before considering their claim of political asylum. * * * This policy must not stand. * * * If I were president, I would * * * give them temporary asylum until we restored the elected government of Haiti.

That was May 27, 1992. You did not need a crystal ball to figure out what followed: an unprecedented frenzy of boat-building activity in Haiti, with launch dates set for Inauguration Day, 1993. Most Presidents at least wait until they get into office before they start breaking campaign promises. But on January 14, 1993—1 week before taking the oath of office—President-elect Clinton reversed himself and reinstated the same Bush policy he had trashed during the campaign.

This episode pretty much set the tone of the Clinton policy on Haiti. To take another example: in their 1992 campaign manifesto, Putting People First, the Clinton-Gore team pledged to insist that our European allies observe the embargo on Haiti, especially with regard to oil. It then turns out, in April of this year, that the United States has been buying black market oil for our Embassy in Haiti, not only undercutting the sanctions but putting money in the pockets of the government we are trying to get rid of.

We should also remember the S.S. *Harlan County* episode of October 11, 1993.

Keep in mind, this happened not too long after 18 American servicemen were killed and 78 wounded in Somalia, in large part thanks to the refusal by Clinton appointees at the Pentagon to agree to requests from the military to give our troops the right kind of equipment, such as armored personnel carriers, to defend themselves.

As we all remember, American troops were sent to Haiti as part of a U.N. peacekeeping force to help implement a negotiated settlement that would put Aristide back in power. But the military men now running Haiti watch CNN too. They figured that the United States has been so easily humiliated in Somalia, they could probably get away with the same thing. It turns out they were right. A demonstration by some lightly armed thugs was enough to send us steaming back toward home.

So now we are faced with the possibility that the administration will seek to vindicate its failed policy with the ultimate folly: sending in U.S. troops. No less than Boutros Boutros-Ghali said at that May 24 meeting in New York described in the Wall Street Journal that the United States will repeat the Somalian experience.

I think that's right—this will be Somali all over again. It will be another impossible exercise in nation building, with maybe some warlord-chasing on the side. Except maybe we will not get out of it as easily as we did from Somalia. Last time we were in Haiti it was for 19 years.

Mr. President, this administration has not explained how, if we go into Haiti, this will further United States national interests. The Clinton administration has failed to set out any reasonable criteria for the use of United States troops in Haiti. The Clinton administration policy toward Haiti is obviously and disproportionately motivated not by a sober assessment of American national interests but by an inappropriate and misguided deference to United States domestic political considerations. It is obvious that the Clinton policy is very closely, and unwisely, tied to the personal political fortunes of Aristide, whose own commitment to democracy and human rights, respect for his political opponents, and propensity to violence has been the subject to controversy. At the same time, no one can claim that the solutions to Haiti's persistent social, economic, and political problems can be successfully resolved by direct military intervention of even the most well-intentioned foreign countries or international organizations.

In my opinion, there should be no deployment of United States Armed Forces into Haiti for the purpose of reinstating Jean Bertrand Aristide as president of Haiti.

Finally, we cannot forget that the Clinton administration has demonstrated a clear lack of strategic vision with regard to not only United States policy toward Haiti but in other trouble spots around the world such as Bosnia, North Korea, and Somalia. In short, Mr. President, military intervention in Haiti is a bad idea.

I strongly support the amendment of my colleague, and in my opinion there should not be deployment of United States Armed Forces into Haiti for the purpose of reinstating Mr. Aristide as President of Haiti. I am afraid, if we start this venture, the United States will be stuck in nation-building in Haiti for a long, long time.

Again, I wish to compliment my colleague from New Hampshire.

Mr. President, I ask unanimous consent to be added as a cosponsor to the amendment.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

EXHIBIT 1

[From the Wall Street Journal, June 16, 1994]

REAL VOODOO

A lot of people are wondering whether the United States is going to wake up some morning to discover that Bill Clinton's foreign policy has invaded Haiti. The usual take on invading runs something like this: Yes, it would be a drop kick for a big U.S. invasion force to drive the army out of Port-au-Prince, but then. . .

But then what? The questions and issues that lie beyond that "but then . . ." are more than a little intriguing. Problem is, hardly anyone seems to want to ask them, defaulting the decision about invading a place no serious person wants to invade to Bill Clinton's impulses and the political interests of the congressional Black Caucus.

One group that appears to be worrying alot about this issue is the people who set policy at the United Nations in New York. In the columns alongside, we publish excerpts from a rapporteur's notes on a meeting about Haiti that took place on May 24 among U.N officials.

In the aftermath of any invasion, "The Americans will be applauded and the dirty work will come back to the U.N.," Dante Caputo was quoted as saying at the May 24 meeting. "With Aristide as president, during two or three years, it will be hell," said Dante Caputo, the U.N.'s special rep for Haiti.

Then there's the voodoo issue, likely to make the U.N.'s "dirty work" even dirtier than usual. An AP dispatch out of Port-au-Prince Sunday reported a speech by interim Haitian "president" Emile Jonassaint, who cited "protectors they don't know about" and ended by invoking Agawou, the voodoo god of strength. President Clinton's special adviser on Haiti, William Gray, minimized the speech, noting that it was given at 2 a.m. Haitians understand that as the hour when secret societies meet.

Voudoun is an ancient African religion, known by other names in other Latin nations. But it takes a special meaning from Haiti's history. Since the successful slave revolt against the French in 1804, there has been a clandestine power of societies, sometimes called bizango and led by hougan. They are expert at poisons, used with great effect against the French. In 1986, ethnobotanist Wade Davis identified the chief ingredient of "zombie power" as tetrodotoxin, drawn from puffer fish and indeed capable of producing a deathlike trance. We suggest that any peacekeepers could reasonably demand that anything they ingest be shipped in from Guantanamo Bay.

Yet the congressional Black Caucus finds it in its interests to order up a large U.S. commitment to solving the disarray of a country that is organized around ruthless, clandestine factions driven by religious and nationalist crosscurrents. The caucus's champion is ousted President Jean Bertrand Aristide, an unpriestly priest whose followers, when he was in power, burned down the 250-year-old Catholic cathedral and stripped that papal nuncio to his underwear and paraded him. And recall that Commerce Secretary Ron Brown's interests in Haiti originated with being a paid lobbyist for the Duvalier government. Our only conclusion here is that the political world of Father Aristide, in Haiti and in Washington, is a mishmash that we wish we knew a lot more about. (Christopher Caldwell attempts elucidation in the columns nearby.)

In checking out the U.N. documents we've reprinted, we spoke with Alvaro de Soto, senior political adviser to the secretary-general, who neither denied nor confirmed their accuracy. However, Mr. de Soto did want to tell us that institution building in any country emerging from deep-rooted fratricidal conflicts requires patience and the cooperation and ability of former enemies to compromise. As the chief architect of the postwar accords in El Salvador, Mr. de Soto knows something about rebuilding civic institutions in torn countries. "You can't impose nation building," Mr. de Soto told us. "If these institutions are imposed on them, it just won't be durable." To date, though, we don't see a shred of evidence that the Clinton administration has thought about institution building in Haiti.

There is certainly a real concern about an unmanageable influx of refugees onto U.S. shores. But the best way to keep Haitians home would be to help create an environment in Haiti less hostile to survival. So far, the Clinton embargo has succeeded only in making nasty Haitians richer, the majority poorer and life on the island nation even more intolerable.

Incidentally, during Haiti's troubles in 1987, we looked into the history of successfully ridding a place of thugs. To rid India of its religious "thug" cults, Lord William Bentinck and Sir William Sleeman between 1831 and 1837 captured some 3,200 thugs, of which 412 were hanged. Such peacekeeping methods have passed into history. Highly motivated thugs in our time, alas, have not.

[From the Wall Street Journal, June 16, 1994]

From Port-au-Prince to Gucci Gulch

(By Christopher Caldwell)

President Clinton appears to be seriously considering using U.S. troops to return exiled Haitian President Jean-Bertrand Aristide to power. Taken on their face, the stated reasons for his pro-Aristide policy—stemming the flow of refugees and drugs and improving human rights—are absurd. The refugee flow is due to U.S. economic sanctions; Haiti's role in drug shipments is dwarfed by its neighbors; and Mr. Aristide flagrantly violated human rights during his brief reign.

The administration policy amounts to blind subservience to Mr. Aristide's agenda. It's a warning of what can happen when virtually the entire budget of a sovereign nation is funneled into a massive Washington lobbying and public relations campaign.

After the September 1961 coup that ousted Mr. Aristide, President Bush issued an executive order that Haitian government funds frozen in the U.S. be delivered to Mr. Aristide. While the U.S. Treasury and State Departments have imposed no oversight requirements, the rough amounts of the money Mr. Aristide can tap are known. According to State and Treasury sources, the funds contain upwards of $50 million, and Mr. Aristide's forces have spent more than $30 million so far. Disbursals from the U.S. Treasury started at $500,000 a month and have risen steadily, to their current point of $5.6 million to $5.9 million per quarter.

What is happening to all that money is unclear: During the brief premiership of Robert Malval last autumn, the U.S.-based newspaper Haiti Observateur was leaked a copy of the Aristide government's fourth-quarter budget for 1993, which showed $740,000 per month budgeted for Mr. Malval's ministerial cabinet. The scrupulous Mr. Malval, who was a major Aristide supporter, claims he never received a penny. That $2.2 million has never been accounted for.

The democratically elected Haitian Chamber of Deputies in April asked Secretary of State Warren Christopher for a thorough accounting of Mr. Aristide's expenditures. The request has not even been acknowledged. While it's true that Mr. Aristide is spending Haitian, not U.S. funds, his finances should be of concern to U.S. taxpayers. The handover of Haitian assets to Mr. Aristide violates the Haitian constitution and possibly international law. "When this is all over," says one American consultant to Haitian interests, "the Haitians are going to sue us for the money Aristide has spent, and we're going to have to pay it all back."

Since his arrival in the U.S., Mr. Aristide has used those funds for a public relations blitz. Miami attorney Ira Kurzban gets a six-figure salary as Mr. Aristide's lawyer. Another lawyer, Haitian-American Mildred Trouillot, is paid $6,000 a month, plus rent, expenses and office space. Mr. Aristide also engaged the services of Rabinowitz, Boudin, Standard, Krinsky & Lieberman to defend him against a $10 million suit filed in Brooklyn by the widow of Roger Lafontant, a Haitian coup leader slain in prison in 1991, allegedly by Aristide supporters. The law firm was paid tens of thousands of dollars out of the Haitian treasury before the suit was finally thrown out.

Mr. Aristide's PR is coordinated by the firm of McKinney & McDowell, which charges $175-per-hour of its services. However, the Aristide budget printed by the Haiti Observateur has no money earmarked for public relations. That led the newspaper's editor, Raymond Joseph, to speculate that the Aristide government has been fabricating its outlays to dupe the U.S. into releasing frozen funds.

But Mr. Aristide's most effective representative in the U.S. has been former Rep. Michael Barnes (D., Md.). As chairman of a House Foreign Affairs subcommittee in the 1980s, Mr. Barnes was among the most outspoken leaders of the congressional effort to thwart supply of the Nicaraguan Contras. Today, Mr. Barnes is all for U.S. intervention—in Haiti.

Mr. Barnes has used his connections to give the Aristide government a beachhead inside U.S. foreign policy, and earn his current firm, Hogan & Hartson, compensation that started at $55,000 a month. (In March, perhaps reacting to the Aristide government's straitened circumstances, the firm cut its retainer in half.) Mr. Barnes has claimed to charge Mr. Aristide half his going rate, but that still adds up to big money: $303,237.60 for billings between Sept. 29 and Dec. 7, 1993, to take the last period for which records are available. (Mr. Barnes did not return repeated calls seeking comment.)

According to an Aristide source, when associates of the exiled president expressed unhappiness with Mr. Barnes's work in late 1992, Mr. Barnes was able to play his trump card—his access to the incoming administration. He had run the Clinton campaign in Maryland. What's more, deputy national security adviser Samuel R. "Sandy" Berger, who is in charge of Haiti policy at the National Security Council, is by all accounts a close friend of Mr. Barnes. Just four months after Mr. Berger left his partnership at Hogan & Hartson to take up his administration post, Mr. Barnes pulled up stakes at Arent, Fox, Kintner, Plotkin & Kahn and took his account to Hogan & Hartson. This potentially brings millions into a firm that Mr. Berger will have every right to rejoin after his White House stint.

Dealing with Haiti at all may have become a serious ethical violation on Mr. Berger's part. The issue was first broached by Rep. Frank Wolf (R., Va.), after an article in the National Journal raised questions about Mr. Berger's negotiating most-favored-nation status for China after having lobbied for Payless Shoes, a major Chinese trading partner. Then-White House counsel Bernard Nussbaum found no conflict. Nonetheless, he said in a May 12, 1993, letter, Mr. Berger "has a 'covered relationship' with Hogan & Hartson for a year after severing his relationship with that firm, and [we] would be required to undertake the same inquiry if Hogan & Hartson represented a party in a particular matter."

Five days after that letter was written, Michael Barnes brought the Haiti account to Hogan & Hartson. Since Mr. Berger's "covered" status with Hogan & Hartson didn't expire until Jan. 19, 1994, an inquiry should have been opened into his Haiti role, and Mr. Berger should have recused himself from Haiti policy until his covered period expired. It is unlikely that any such inquiry was ever launched, for by Nov. 14, 1994, the Washington Post was describing Mr. Berger as the "principal driver of the U.S. policy of supporting Aristide's return."

According to Justice Department records, Hogan & Hartson had direct phone contact with Mr. Berger during this period to discuss the "restoration of democratically elected government in Haiti." (White House counsel Lloyd Cutler later wrote me that Mr. Berger did consult both the White House counsel and the NSC's legal adviser, and that both approved his participation.)

All of these questionable dealings should, at the very least, give Americans pause as President Clinton continues his campaign to return Mr. Aristide to power.

U.N. VIEW OF HAITI INTERVENTION

On May 24, officers of the United Nations gathered in New York to discuss the possibility of a U.S. invasion of Haiti and the role the U.N. might play in the aftermath. In attendance at the meeting were: Dante Caputo, special U.N. representative for Haiti; Boutros Boutros-Ghali, secretary-general of the U.N.; Rosario Green, assistant secretary-general; Alvaro de Soto, senior political adviser to the secretary-general; Chinmaya Gharekhan, special political adviser to the secretary-general; and Fabienne Sequin-Horton, rapporteur.

The Wall Street Journal obtained a copy of the rapporteur's notes on the meeting (prepared a day later), excerpts of which we publish below.

Mr. Caputo explains that . . . the Americans will not be able to stand for much longer, until August at the latest, the criticism of their foreign policy on the domestic front. They want to do something; they are going to try to intervene militarily.

The secretary-general wonders if President Aristide could invoke Article 51 of the [U.N.] Charter in order to call for a military intervention.

Mr. de Soto says that the [Haitian] constitution prevents him from doing so.

Mr. Caputo thinks that after having asked for the intervention, Mr. Aristide will condemn it. Moreover, the U.S., that wants to obtain the Security Council's blessing, is now actively studying the means to accord a legal protection to this affair.

Mr. de Soto recalls that this idea recently provoked a general protest among the OAS [Organization of American States].

What can the U.N. Secretariat do, either to avoid or to encourage this intervention? asks the secretary-general.

Mr. Caputo predicts a disaster. The U.S. will make the U.N. bear the responsibility to manage the occupation of Haiti. "With Aristide as president during two or three years, it will be hell!" It is not so much the armed intervention itself that we have to avoid. What we do not want is to inherit a "baby." For the Americans are fixing to leave quickly. They would not intervene if they had to remain.

Mr. Gharekhan asks Mr. Caputo what he understands by leaving "quickly." One month, replies Mr. Caputo. Who is going to replace the Americans? asks the secretary-general.

"Us," replies Mr. de Soto. The Americans will be applauded and the dirty work will come back to the U.N. The only thing that could discourage the U.S. would be to not obtain any contributing countries for mounting a multinational operation. . . .

The secretary-general recalls that in the past, the U.S. was able to show that it could mount a multinational force, if only in appearance. "Must we say that we think that a military intervention in Haiti would be negative?"

Mr. de Soto thinks that insinuating the possibility of an armed intervention is working to produce a certain effect in Haiti. The [Haitian] military leaders are nervous. . . . It would thus be politically dangerous to publicly discourage this menance. . . .

The Secretary-general fears that the U.S. will take a unilateral decision and that it will repeat the Somalian experience. The main question remains knowing what to do to avoid this unpleasant role for the U.N.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina [Mr. HELMS], is recognized.

Mr. HELMS. Mr. President, thank you very much.

Mr. President, have the yeas and nays be obtained on this amendment?

The PRESIDING OFFICER. No.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Mr. President, I am amazed at the speculation around this town that the President is preparing to order United States forces to invade Haiti while the Congress is in recess. I cannot believe that. Surely they have not gone out of their minds entirely down on Pennsylvania Avenue, because if the President in fact does do that I suspect it will be a decision he will long regret. The American people will hold him accountable, particularly when and if the first body bag comes back because the American people are opposed to this. The Congress has made clear on a number of occasions that both Houses of Congress, the House and the Senate, are opposed to it.

The President, of course, has constitutional authority to order such an invasion. Nobody questions that. But I cannot believe that he will do it without consulting Congress. Consultation will not consist of a last-minute call to the chairmen and the ranking members of the Foreign Relations Committee and the Armed Services Committee, et cetera. He had better sit down with leaders on both sides of the Capitol, and both sides of the aisle on both sides of the Capitol, and talk this thing out.

Furthermore, I have been assured as ranking member of the Senate Foreign Relations Committee by both the White House and the State Department that this is not going to happen.

So I am so pleased with my friend's amendment because it will remind the White House and the State Department, if they need reminding, that they had better consult the Congress.

On October 21 of last year the Senate voted 98 to 2 in opposition to using United States troops to invade Haiti. Then on May 3 of this year, Deputy Secretary of State Strobe Talbott assured the Foreign Relations Committee that an invasion was not imminent. On June 15, the President's special adviser on Haiti, William Gray, gave the same assurance at a House Foreign Affairs Committee meeting.

I say again to the President of the United States that Congress is opposed to an invasion and has said so repeatedly. My advice, for whatever it is worth, to the President of the United States is do not do it, Mr. President. Do not do it.

Regional experts at the State Department are opposed to the invasion, and I am amazed that they have not put an end to the speculation. The Pentagon is opposed to such an invasion. Most importantly, the mothers and fathers out there of servicemen and women are strongly opposed to an invasion of Haiti. Such an invasion is not an answer to Haiti's problems.

So I say again to the President, with all due respect, do not do it. Do not do it. Do not order the United States troops to invade Haiti in July when the Congress is in recess, or at any other time.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I would like to speak on the proposition that is before the Senate at the present time, which is an amendment to the Foreign Operations Act, which would establish some conditions prior to the President's ability to commit military force in Haiti.

Let me first put this in some context. One of the contexts is what the U.S. Senate did last year in considering this same subject. On October 21, 1993, the Senate, by a vote of 98–2, approved a sense of the Congress amendment to the Department of Defense Appropriations Act, which appears to be virtually verbatim to the proposal that is before us today—with this major exception: The October 21 proposal offered by Senators DOLE and MITCHELL was a sense of the Congress. That was the format of this proposal when it was originally offered. It has now been modified to be a rule of law. So we are about to pass—if we were to follow the advice of the advocates of this amendment—a rule of law to the President relative to the specific country of Haiti, a standard that I do not believe we have adopted for any other site-specific country around the world.

I am a strong believer that foreign policy should be both bipartisan and presidentially led. The best period of American foreign policy in this century was the period that occurred immediately after the end of World War II, at a time when there was a Republican Congress and a Democratic President, under circumstances that might have led to gridlock and stalemate in American foreign policy. It was a period of tremendous creativity in foreign policy. It was during that time that the United States adopted the Marshall plan, the basic structure of NATO, the policy of containment of communism. It was the period in which the basic architecture of free world foreign policy—not only United States foreign policy—lasted 45 years and eventually led to the demise of the Soviet Union, and the Warsaw Pact was put in place. It was done, Mr. President, largely because there was a cooperative relationship and understanding of our common national interests between Republicans in the Congress, such as Senator Arthur Vandenberg of Michigan, and President Harry S. Truman. I believe that is the tradition of bipartisanship that we in the 1990's should seek to emulate.

I am concerned that proposals such as the one before us today will take us in an opposite direction at the very time when we have the need for sensitivity, for very great awareness of not giving comfort to those who are in opposition to United States and international interests in Haiti, at the very time when we want to give the strongest message of resolve behind our current policies, exactly so that we will not be placed in the position of having to consider armed force. To have a proposal which will be interpreted by the military leadership in Haiti as a signal of division in our country is a disservice to the accomplishment of important United States national objectives.

There are other contexts in which this debate should take place, Mr. President. The United States has had a long, special interest in the Western Hemisphere. The Monroe Doctrine was a statement of the United States special concern for its relations with the nations of the Caribbean and Latin America. The Marine Corps hymn starts "From the halls of Montezuma," which is reflective of our early interest in what was occurring in Mexico.

Within the last few years, we have twice committed U.S. military force to action within this hemisphere—in 1983 in Grenada, and in 1989 in Panama. I was not a Member of the U.S. Senate in 1983, so I cannot speak from personal knowledge as to the circumstances that surrounded the relationship between the Congress and President Reagan in 1983 when the decision was made to commit U.S. force to that island nation. I was a Member of the U.S. Senate in December 1989 when President Bush committed force in Panama. And I can say, Mr. President, with great certitude that that occurred in the last days of December 1989, just prior to Christmas. It was a time when Congress was not in session. There had been no debate on the Senate floor to formally authorize President Bush to take the action that he did in Panama. But, Mr. President, I believe that President Bush exercised appropriate responsibility as United States Commander in Chief, protecting United States interests in Panama and protecting the principle of democracy which had been thwarted when General Noriega overthrew a free and fair election that occurred in Panama earlier in 1989 and denied the democratically elected President the opportunity to accept his position of responsibility.

I supported President Bush in 1989. I believe that he used American power appropriately to advance American national interests. I believe the interests of the United States would have been disserved if a Democratic Congress in 1989 had attempted to deny the Commander in Chief the ability to use that kind of authority in the maintenance and advancement of U.S. interests.

Our policy in Haiti has been the policy through two Presidential administrations. When President Aristide was removed from power at the end of a rifle in September 1991, President Bush immediately committed the United States to a policy of restoration of President Aristide. And throughout the balance of his term, he used various measures, including sanctions, as a means of accomplishing that objective. President Clinton has also had as the touchstone of United States policy in Haiti the restoration of the democratically elected President Aristide.

It has been suggested that rather than a bipartisan position of two U.S. Presidents, we are engaged in some precipitous act, that we are flailing away and about to act in a reckless manner. I point out that when we talk about our relations with Haiti, we are not talking about a country that is halfway around the world; we are talking about a country that is in our neighborhood; we are talking about a country with a long history of relationships with the United States.

In fact, Mr. President, as one brief historical aside, but for the fact that the Haitian military in the early part of the 19th century defeated an army of Napoleon, the United States would not have been in a position to have persuaded the French to sell the Louisiana Purchase to this country.

So almost from the beginning of our American history there have been interrelationships between Haiti, the second republic in the Western Hemisphere, and the United States of America, the first republic in the Western Hemisphere.

In December 1990, after a long period, three decades of dictatorial and tyrannical rule, the people of Haiti voted in what was acclaimed by international observers to be a free and fair election. The result of that free and fair election was that Jean-Bertrand Aristide was elected President of Haiti. He assumed office in February 1991. He served in that office for 7 months, and then in September 1991, in an old-style military coup, was banished and has been in exile from that date.

It has now been 2 years and 8 months that President Aristide has been denied his lawful position as President of Haiti.

Both President Bush and President Clinton have committed the United States of America as part of the international community support for democracy to the restoration of President Aristide.

We are not here debating the personality of President Aristide. We are debating whether the United States has a sufficient interest in the protection of the principle of democracy within our own hemisphere to warrant the President of the United States in 1994 having the same Commander in Chief responsibility that President Reagan exercised in 1983 and President Bush exercised in 1989.

I believe, Mr. President, that if we are going to have a credible, sustained policy in foreign policy, that while it is good that we have an active debate, it is critical that we speak to the world with a single voice. I supported President Reagan, I supported President Bush, and I will support President Clinton because they are the persons who have the legitimacy of the election of the people of the United States to be that voice to the world.

The Senator from New Hampshire in his earlier remarks laid out what I think is a fair method of analysis of when the United States should consider the use of armed force. He suggested a three-part test.

First, can the conflict be resolved by military means, or is it a situation which requires some methods other than military means?

Second, are there U.S. national interests that warrant the use of U.S. military force and the inevitable danger into which that will place American fighting men and women?

And third, how do we disengage what is our exit strategy?

Let me discuss those three items as they relate to Haiti:

First, can the United States accomplish its objective through the use of military means?

The answer to that question is clearly yes. Haiti has a small, ill-trained, ill-equipped, incompetent military force. There is no question that the United States in a very short use of combat capability would quickly overwhelm the Haitian military.

When I was in Haiti 10 days ago, it was the expectation of most of the observers that if there were, in fact, conflict, the Haitian military would fade into the population, would not stand and fight. In fact, it was even suggested that some Haitian military personnel wore civilian clothes beneath their uniform so that in the event that they should be called upon to fight during their particular station time, they could remove their uniform, lose their identity as a military personnel, and flee.

The second question is, I think, the heart of the debate, and that is, are their sufficient U.S. national interests to warrant the President of the United States having the authority to exercise his role as Commander in Chief?

I would start by saying that I think there was sufficient United States national interests to warrant President Reagan's action in Grenada and President Bush's action in Panama, and I would defy those who would impose a different standard on President Clinton as it relates to Haiti to explain why we have a lesser interest in a country which is substantially larger, closer, and has at least as many economic, political, and historic relationships to the United States and potential to inflict adverse consequences on the United States as does Grenada or Panama?

What are the United States interests in Haiti? Let me suggest some of these—and these are not original.

It has been stated that President Clinton has been in some way silent, inarticulate relative to United States interests in Haiti. In fact, I think quite to the contrary. He has been precise and he has been repetitive in stating what those U.S. interests are.

Among others, he has underscored the following:

First, the United States is a signatory to the San Diego Accord to the Organization of American States to which we committed ourselves with the other countries of the OAS to defend the principle of democracy within our hemisphere.

That was not a position taken by President Clinton but rather a position taken by President Bush, and that was one of the reasons that President Bush cited when he stated immediately after the coup that the U.S. position would be the restoration of President Aristide

I believe that if we were to retreat, to surrender, to accept the military overthrow of the democratically elected government in Haiti, we would be sending a horrendous signal to the barracks of the Caribbean and Latin America.

Just 25 years ago, Mr. President, you could count on the fingers of your hand with several left over the number of democracies in the Western Hemisphere. Today, Mr. President, all but two of the nations of the Western Hemisphere, Cuba and Haiti, are democracies. Many of those democracies are fragile, almost all are new, almost all are potentially vulnerable to the same type of military coup that occurred in Haiti in September 1991.

The signal that we would be sending to the barracks, barracks often occupied by the sons and grandsons of the former military presidents of these nations, would be that if they attempt a military takeover of their country, there will be no resolve, no sustained commitment to the protection of their democracies as there had been none to the protection of the democracy in Haiti.

It is very much in our interest, in the interest of the United States of America, that the Western Hemisphere be a hemisphere of stable democracies. It would be very debilitating to our relationships within our own neighborhood if again we had to deal with a series of dictatorships.

Second, Haiti is a neighbor and, therefore, when we see Haiti bleed, as Haiti is bleeding today, it evokes a special sense of empathy.

From February 1 to June 1 of this year, Mr. President, in Haiti there were 295 political murders according to the United Nations human rights observers. From February 1 to June 1, 1994, in Haiti, Mr. President, there were 66 political rapes according to the United Nations human rights observers. Between February 1 and June 1, 1994, in Haiti there were 91 political abductions according to the United Nations human rights observers.

Mr. President, those are descriptive of the conditions under which the 7 million Haitian citizens are now living. Those are conditions which now are coming into the living room of Americans as they are being communicated on a daily basis by the American press.

We have been moved by human rights abuses in Bosnia. We have been moved by human rights abuses in Southeast Asia. We have been moved by human rights abuses in Africa. This is an example of the abuse of our own neighbors.

Mr. President, we are not immune from the impact of these human rights and other political and economic denials.

Admittedly, horrendous things happen around the world. But when horrendous things happen in Haiti, we receive a significant part of the negative aftereffects.

Some of those negative effects are being seen as clearly as on the front page of today's newspapers—hundreds and now thousands of people seeking to flee Haiti, with the United States being the principal destination of those refugees, Haiti having been taken over as a significant new transshipment point for drugs from the production countries of South America to the United States. We are seeing the results of the Haitian dictatorship in our streets and with our children who are increasingly the targets of the drugs that are coming through Haiti.

I believe, Mr. President, that the United States has substantial interests in what is occurring in Haiti. Those interests extend beyond the 8,000-plus American citizens who are living in Haiti and who are at special jeopardy during this period.

A third question that the Senator from New Hampshire asked was: How do we disengage; what is our exit route?

I believe that President Clinton has been following a prudent, sequential policy in terms of our attempts to resolve the crisis in Haiti. We have been following a policy in the past several months of gradually increasing the economic sanctions and the political isolation of Haiti. In the last few days, we have cut off bank accounts for those Haitians wealthy enough to have accounts in the United States. We have terminated commercial air flights into Haiti. We are being joined increasingly by other nations around the world in seeing that those sanctions have the widest possible reach.

Now, I want to be candid, Mr. President, as I attempted to be yesterday in some testimony before the Western Hemisphere Subcommittee of the Foreign Relations Committee. That is, that I personally am not optimistic that those economic sanctions alone will be sufficient to cause this current military leadership in Haiti to voluntarily transfer power back to President Aristide. The unfortunate fact is that during this period, the Haitian military has been using their theft of the sovereignty of Haiti to become enormously wealthy—wealthy by the drug trade, wealthy by the great profits they are taking from contraband through other countries into Haiti.

I believe that we should continue to allow these sanctions, and possibly further increased sanctions, to run for a period of time to test whether they can accomplish that objective. But we may well reach the point where we are faced with an unhappy set of alternatives.

This debate has led one to believe that there is some silver bullet for the situation in Haiti that will come without pain and without consequences and without effect on the United States ability to protect its own interests and to be a credible voice in the international community.

I do not think there are going to be such easy answers. I think that we are going to be faced with the alternative of essentially surrender; accepting the fact that the Haitian military has won; that they have been able to face down the international community, face down the United States; that we would have to begin to accommodate to them to reach some form of working relationship. There would probably be a fig leaf offered in the form of new elections—new elections under the control of this illegitimate government; new elections which would give no sense of legitimacy of that government to the people of Haiti or to the international community. That is one option that we have before us.

Another is to fulfill the commitment that two Presidents of the United States, that the Organization of the American States, and that the United Nations have made collectively, and that is that the democratically elected President of Haiti will be restored to power. And, in my judgment, to achieve that end, if these current economic sanctions and political isolation do not do so, will require the credible threat and willingness to use military force.

I believe that the President of the United States is proceeding in a prudent manner in terms of developing that option should it be necessary. He has been clear that he is not going to take that option off the table. He is not going to give the thugs in Port-au-Prince the peace of mind that they are secure from military force. He is working with other nations and, I might say, in a particularly effective manner with our former colleague, Congressman Bill Gray, to develop a multinational support for future U.S. action; and a multinational direct participation, first, in a force that would be used to carry out that credible threat and a peacekeeping force which would be our exit strategy that would come in after the President had been restored to power in order to assure an ongoing international presence during the transition back to a democratic regime.

It will be that U.N. presence in Haiti, much like the U.N. presence in El Salvador, that will avoid a repetition of the necessity of a long period of United States involvement in Haiti, such as that which occurred from 1915 to 1934.

But there will be other forms of United States involvement in Haiti during this period of transition. There will be tremendous needs for economic assistance—economic assistance in terms of public sector involvement, assistance in rebuilding a shattered infrastructure for the country, and in creating a climate that will bring back private sector employment which has largely fled the country.

A week ago Sunday, I visited what had been a bustling industrial area near the airport in Port-au-Prince. On that day, it was a skeleton of empty, abandoned buildings, because the assembly industry had fled to other locations.

We are going to have to have an economic plan—"we" being the international community—with the international financial institutions playing a major role, that will be ready to be implemented as soon as President Aristide is restored to power.

We are also going to have to have a role in democratic reform. One of the most immediate will be to separate the police function from the military function so that there will be a professional police force to guarantee the security of the people of Haiti and to assure that human rights are being protected rather than abused by those who have the gun. I am very pleased that Canada is already in the process of training a corps of Haitian exiles who will form the base of a newly professionalized police force that can provide that kind of quality security to the people of Haiti.

Mr. President, this is a very serious debate we are having this afternoon. I would hope that, at a minimum, we would act in 1994 consistent with the manner in which we acted in October of 1993. I hope that, on a larger stage, we would act consistent with the manner which we did almost 50 years ago. With a spirit of bipartisanship, Congress and the President joined hands to develop new approaches to a new challenge to American freedom and democracy, the emergence of a Soviet Union with very acquisitive aspirations around the world.

Bipartisanship served the United States and served the world community well 50 years ago. That same spirit of bipartisanship can do the same in a more complex situation in which we are not facing a single enemy, but a whole series of challenges around the world as we reach the end of the 20th century.

I hope it would be in that spirit of building an American foreign policy to respond to American interests and opportunities around the world in this post-cold-war era that we would begin to evolve in this and other debates on America's position in the world.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, let me just preface my comments by saying I rise in opposition to the amendment, in its current form, of the Senator from New Hampshire. I would like to see if there is room for some discussion with him, with respect to that form.

Obviously the language of the amendment is very similar to an amendment that we passed in the Senate, I think last year it was, as a sense-of-the-Senate resolution. As every one of us knows, there is a huge difference between a sense of the Senate and a resolution which as a matter of law seeks to do more than just express the opinion of the Senate with respect to certain prescriptions on Presidential behavior.

If we are to discuss this issue as a matter of law binding as part of the ops appropriations, then we have a serious problem in terms of finishing the ops appropriations bill, because it would be as equally unacceptable, I might say, on the Republican side of the aisle—as it ought to be on the Democrat side of the aisle—that that kind of curbing of Presidential prerogative, or even this kind of expression of opinion in a binding form, is, in effect, a War Powers Act, a mini-War Powers Act applying specifically to Haiti. If we are going to pass some sort of mini-War Powers Act with respect to Haiti, then we ought to do it in the proper fashion.

I do not think anybody is going to come in here and start applying mini-war powers acts country by country. But that is precisely what binding language seeks to do.

There is a serious constitutional issue and, I might add, there is a very serious diplomatic issue in the context of what is at stake in our current efforts with Haiti. I have been here not long compared to some colleagues, like the Senator from Virginia and the Senator from Georgia [Mr. NUNN] the ranking member and the chairman of the Armed Services Committee, whom I know would feel very strongly on the merits that a binding statement with respect to this has serious implications with respect to Presidential power and prerogatives and the separation of powers. If we want to debate that, just as we have debated for ages, the issues of the War Powers Act, then let the debate begin and let it run on into the Fourth of July weekend.

I might also say to my friends on the other side of the aisle that there is a duplicity of standard here, a serious duplicity of standard. In the few years I have been here, I can remember coming to this floor and we had debates. I think, by and large, with the exception of major confrontations where forces might have already been in the field, or covert, unauthorized activities were taking place, as in Central America, there was debate on Presidential action. But I cannot think of an instance of prior restraint before any kind of activities had taken place that the Congress saw fit to engage in that forum for restraint. It was restraint on action already taken, not a prior restraint.

I can remember supporting President Bush and supporting President Reagan with respect to Panama, Grenada, where people felt there was a justification and certainly Presidential prerogative to immediately take action for reasons that the President saw fit at that time.

I think it is fair for the U.S. Senate to express the reservations that we did express. I voted for it. So I am not opposed to the substance of suggesting to the President that we ought to approach this carefully and for national security interests and the other reasons that are expressed.

But I think you have to look hard at what is really going on here, Mr. President, and question at least whether or not there is more than is really happening.

If you measure the responses that we have heard in the course of the foreign policy debates of the last months on almost every single issue, we hear people complaining about the choices made by the administration, but no offer of an alternative. Or if there is an offer of an alternative, it is an alternative that is kind of casually and cavalierly tossed off without real respect for the consequences of the alternative being offered.

You can look at Bosnia and find examples of this. You can look at Korea and find examples of this. You can certainly look at Haiti and find examples of this where we have heard colleagues recently say, "You have to lift the embargo, that's the solution." For the life of me, I cannot understand how lifting the embargo on Haiti does anything except award to a bunch of thugs the victory that they are already claiming.

Mr. President, this is not good diplomacy, it is not good timing. The administration has appointed——

Mr. McCONNELL. Will the Senator yield?

(Mr. FEINGOLD assumed the chair.)

Mr. KERRY. I yield for a question.

Mr. McCONNELL. Just for a question. I am having a hard time figuring out what the Senator from Massachusetts objects to.

He has, of course, read the amendment of the Senator from New Hampshire, and these stipulations have the word "or" between them. In other words, if the President meets any of these conditions, he would be free to go forward, as I understand it. So I was curious if the Senator from Massachusetts had a problem with subsection 1 which says:

> "Such operations are authorized in advance by the Congress."

Is that not the Persian Gulf example?

Mr. KERRY. Mr. President, let me say to my friend, as I just said a few moments ago, the substance does not bother me. I voted for this. I have read every line of it now. I have compared it to the original law that is referenced, and I do not disagree with that. That is not the problem.

Mr. McCONNELL. What is the problem?

Mr. KERRY. The problem is severalfold. No. 1, as the Senator knows, there is an enormous distinction between a sense-of-the-Senate resolution and something that we make into binding law. No. 1.

No. 2, I think the President can make a decision, he can even explain under any of the circumstances that may arise, he can find a justification in this. That is not the issue.

The issue is whether the U.S. Senate has a real need and reason at this moment in time to either curb the President or send this message and, second, precedentially, does the U.S. Senate want to do to this President what this Senator who asks the question would not have done and, in fact, argued against with respect to Presidents Bush and Reagan?

Mr. McCONNELL. I say to the Senator from Massachusetts that I specifically would not support restricting the President's options in advance by saying under no circumstances could the administration invade Haiti. That is not what I understand this says.

I am looking at my friend from New Hampshire. He is shaking his head no. No, that is not what this says. We are not ruling out the possibility of a Haitian invasion in advance. We are simply saying consistent with the Persian Gulf experience that you ought to come to Congress and get it authorized.

And I say to my friend from Massachusetts, the reason for this is all the flip-flopping—back and forth, back and forth—leaving Congress, at least some of us, not to have a lot of confidence and to fear—and it has been mentioned by several people on the floor, including this Senator—that this invasion is likely to occur when we are not around.

Mr. KERRY. Mr. President, let me answer my friend's question and correct him politely at the same time.

This is not like the Persian Gulf resolution, and my friend should remember back to the Persian Gulf resolution where the President of the United States put the troops in and then talked to us. There was no prior approval; there was no prior request for approval. The President put the troops in and explained to the American people why he chose to do it.

The first notice most Americans had was on television when they saw a bunch of grease-painted Seals arriving on the beach in full combat regalia. And they asked themselves, "What the hell's going on?"

So I say to my friend, he would not have done this to President Bush, and there is no rationale for doing this, except to try to come to the floor now and talk about flip-flops, et cetera.

I say to my friend, there are no flip-flops with respect to Haiti. It is nice to be able to make these arguments and it has become the current political game in Washington to try to make them. But the fact is that the President has had to balance a whole set of interests. People in Washington say, "Well, we don't want the refugees coming here." But, on the other hand, they are not willing to do something to end the process of refugees coming.

That touches our shores. What is astonishing to me is that if you really examine what is happening in Haiti where you have thugs involved in drug trafficking, which our own DEA and State Department acknowledge—they may dispute the amount, but they do not dispute the fact.

The fact is these guys are running drugs into your cities, my cities, and the cities in New Hampshire, and I wonder why my friends on the other side of the aisle are not more concerned about that.

They are engaged in the most horrific human rights abuses not far from the shores of the United States, where people are killed, left out in the street to rot. The people go out to try to collect the bodies, and the people who go out to collect the bodies are killed and left to rot as an example to the rest of the people in the community.

Prior Presidents of the United States saw fit to send American warships into the region some 27 times prior to the 1915 occupation. Then we saw fit to be there for 19 years. We have seen fit to be in other parts of the Americas. And here we are for once not asked to go down there in the interests of United Sugar or United Fruit but to go down there in the interests of the majority of the people who elected a President, supposedly in support of democracy, which is one of the major hallmarks of American foreign policy, and what happens? The Republican Party says lift the embargo and give a victory to these thugs.

Mr. McCONNELL. Could I just ask one more question?

Mr. KERRY. I wish to say something about this, and then I will come back to it because this is what is at stake. Not only do you have humanitarian abuses, you have widespread hunger; $150 is the annual income of a farmer in Haiti and only one-third of the land is arable. And what happens? Hunger is a solution to send troops to Somalia but hunger alone is meaningless in Haiti to my friends on the other side of the aisle.

So you not only have hunger, you not only have human rights abuses, you not only have drug running, but you have the theft of democracy right off our shores. And what happens? The Republican Party says award them the victory. Lift the embargo. That is the policy.

So I say to my friends you have in Haiti more rationale to kick these guys out than you had in Grenada or than you had in Panama, and you have all of the reasons that were present in Panama and in Grenada and in Somalia present in this one location, but there is a contrary policy that has been chosen by our friends on the other side of the aisle.

Why is there a double standard? Why is it OK for President Reagan to suggest that—let me use his words. I wish to use his words. Here are the words of President Reagan and President Bush. President Reagan told us he was sending American troops to Grenada to "protect innocent lives, including up to 1,000 Americans, to forestall further chaos and to assist in the restoration of conditions of law and order and of governmental institutions." There is not a word there with respect to Grenada that could not apply to Haiti.

Mr. McCONNELL. That is covered in the Senator's amendment.

Mr. KERRY. President Bush told us that the United States was invading Panama to safeguard the lives of Americans, to defend democracy and to protect the integrity of the Panama Canal Treaty.

And when he sent American forces to Somalia, President Bush said:

> Some crises in the world cannot be resolved without American involvement. American action is often necessary as a catalyst for broader involvement of the community of nations. Only the United States has the global reach to place a large security force on the ground in such a distant place quickly and efficiently and thus save thousands of innocents from death.

So there is a difference in the saving of innocents from death in Haiti and innocents from death in Somalia. I would respectfully suggest in our hemisphere and given our history there are 100 times more reasons, and I would suggest that for African-Americans in America who are asking themselves about this double standard, if we want to keep faith with what this country is about and hold together, we ought to apply the same standard.

Mr. McCONNELL. Will the Senator yield?

Mr. KERRY. I yield for a question.

Mr. McCONNELL. The Senator makes a very compelling argument. What is wrong with asking the President to make that argument to the Congress, which is all that the Senator from New Hampshire, as I read the resolution, is asking here, that the President simply come make the argument. There are a number of different options in the amendment which could justify an invasion if that is what the President had in mind. All we are saying here is, ask for permission, if you will.

Mr. KERRY. Let me say to my friend——

Mr. McCONNELL. I think the Congress might well be willing to have forceful leadership, conviction expressed by the President of the United States that this is what he feels we ought to do and asks for our support.

Mr. KERRY. Let me say to my friend from Kentucky that I think the President of the United States is offering forceful and clear policy with respect to Haiti. He has appointed a special negotiator, a special envoy. The President has made clear that the military option is not off the table, and the President has made clear that we are obviously tightening the sanctions and proceeding down a fixed course of action.

Now, he is on that course of action. Along comes the Senate at this very instant and merely replicates what it has already said. Now, how can one not believe there is not mischief in the effort to simply replicate what we are already on record 98 to 2 in doing, but we want to do it suddenly in binding fashion. We want to change the terms.

Now, we all understand what binding is around here. And we all understand the message that is trying to be sent. I just respectfully submit to my colleagues, if you read the language, in fact, because it is binding, I personally have serious concerns about some of the conditions as they are defined, and I would assert those concerns differently where it is binding than I might have asserted them when it is simply a sense of the Senate.

I might also add there are prerogatives expressed with respect to intervention that do not particularly apply to Haiti in the language, and therefore you find that you have a binding statement about reservation of powers of the President of the United States which might, in fact, be used as precedents for other situations and go beyond. We do not do this. This is not what the Senate does in its relationship with the President unless it is being asked to play politics.

Now, we were not asked to do that with the prior Presidents. And so the question has to be asked why it is happening now? I just respectfully submit to my colleagues if we want to debate this for a great, great period of time—if he wants to send his message as a sense of the Senate, I know that Democrats will join in that. But if he wants to create a War Powers Act that specifically curbs the power of the President, this Senator—and I am confident others, I would think the Senator from Georgia and other Senators will not be sanguine with that approach.

Now, it is very simple. It seems to me it is also horrendous timing for the Senate at this moment to send a message which is an expressed reservation about the conditions under which the President could make a choice, is in effect to send a message to the thugs that there are friends here in the Senate, that we are not really looking out for the interests of the country. Arthur Vandenburg would be ashamed of what is happening here right now. This is not bipartisan foreign policy, and it certainly is not an effort to try to find a consensus. So I respectfully suggest we can deal with it.

I ask my colleague whether he would be willing to try to send what is a reasonable statement, as we did previously, or whether the Senator feels compelled to force this confrontation on Presidential power.

Mr. GREGG. Is the Senator yielding?

Mr. KERRY. I am asking the question of the Senator. I yield to him to answer the question. I am not yielding the floor.

Mr. GREGG. Mr. President, prior to answering that question, let me make a couple of responses in relation to the question because the Senator made a lot of points here. I think some of them have been well said.

I honestly agree with the Senator from Kentucky. I wish the President were speaking as effectively as the Senator has spoken so the American people would have a sense of direction of where the Senate is going. I do not believe the President has done that. Basically this amendment gives the President that opportunity before putting American lives at risk, because that is needed to be done.

The Senator said the President has not flip-flopped. Read the President's words. On October 13, 1993, he said, "I have no intentions of asking our young people in uniform to go in there to do anything other than implement a peace agreement." Then in May 1994, he said, "I think that we cannot afford to discount the prospect of a military operation in Haiti."

That is just one example of the innumerable statements. The record reflects that inconsistency.

Mr. KERRY. Mr. President, I believe I asked a question and yielded the floor for an answer, not a speech.

I would be happy to answer the Senator and say that it is not inconsistent. There is no inconsistency in that statement. The implementing of the agreement was the implementing of the agreement of Governors Island. That agreement had a very specific set of requirements that the thugs were supposed to live up to. They did not live up to it. That is one thing. And the President has tried to act, I think with great patience, as a President of the United States ought to act where lives are concerned and the potential use of American service people are concerned. He ought to proceed with caution and care. That is what he is elected to do. The President has done that in a way, I think, that asserts the interests of trying to get back with the Governors Island accord. But at the same time he has made it very clear that if that cannot be implemented, he reserves other options that are available to him.

Mr. GREGG. If I may reply—

Mr. SPECTER. Mr. President, parliamentary inquiry.

Mr. GREGG. Is your definition of a peace agreement—

Mr. SPECTER. Does the Senator from Massachusetts retain his right to the floor when he asks a question? I do not intend to assert that he does not, although I think that is the rule. But there are quite a few of us who have been waiting to make statements on the issue.

So my parliamentary inquiry is, does the Senator from Massachusetts retain the floor when he asks a question of the Senator from New Hampshire?

The PRESIDING OFFICER. The Senator retaining the floor may only answer a question of another Senator by unanimous consent.

Mr. KERRY. Mr. President, parliamentary statement. I believe the Senator said—we can go back to the record—I will only ask the question and yield to him if I retain my right to the floor in the asking of a question. So, in effect, I asked unanimous consent and noted no objection if the Senator answered the question. I believe under those circumstances, while the general rule may be you would yield, I asked not to yield the right to the floor.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. BENNETT. Mr. President, will the Senator from Massachusetts yield for a question?

Mr. KERRY. Without yielding my right to the floor, I will yield for a question.

Mr. GREGG. May I ask a parliamentary inquiry? Is that the proper form of the request for yielding, or does the Senator from Massachusetts have to ask unanimous consent to ask the right to yield for the purpose of taking a question?

The PRESIDING OFFICER. The Senator who has the floor has a right to respond to the question without yielding the floor.

Mr. BENNETT. Mr. President, I ask the Senator from Massachusetts if he would refer to the Gregg amendment, the second portion of which reads that the deployment is temporary and necessary to protect United States citizens from imminent danger, and tell me whether or not in his opinion had this had the force of law it would have prohibited President Reagan from going into Grenada? Because, under my understanding of this language, President Reagan could have gone into Granada if this had had the force of law.

I ask the Senator for his reaction.

Mr. KERRY. Mr. President, that is a very legitimate question. The answer is very simply no. He would not have, nor do I assert that it might preclude him from any situations in Haiti. But it also might not apply to situations in Haiti. We cannot envision what specific situations might be. Certainly, there are some that are not contemplated in this. But I guarantee the Senator that he would not have voted, nor would the Senator from New Hampshire, nor the Senator from Kentucky, to try to restrain President Bush or President Reagan in the way that this amendment seeks to. They simply would not have done so. I know it from the arguments we have had on the floor in the last 10 years regarding this issue. No matter what reservations you may have or may not have about the way in which decisions are being made, let us just call it fair and directly and honestly here among Senators.

Mr. DODD. Will my colleague yield?

Mr. KERRY. No other Senator would have voted to restrain the President.

I yield for the purpose of answering a question and ask unanimous consent not to lose the floor.

Mr. DODD. I think the Senator raises a very legitimate point. Just look first at the title of this amendment. I ask this in a form of a question, Mr. President. The United States military operations in Haiti, "comma", North Korea, and Cuba.

Now let us pose the question whether or not we in this body would want to restrict this President, or any President, from the ability to respond in a way that he may feel necessary in situations that jeopardize the interests of the country by a binding, legal document.

I would suggest—and I raise this in the form of a question to my colleague from Massachusetts—that you would not find this amendment being offered were those other countries to have been added here.

Let us be very candid. What we are talking about here is a small, desperate, poor, black country in Haiti. It does not have any friends in the world, not much of a constituency here in this country. People do not care about it much; 7 million people, the poorest country in this hemisphere; one of the poorest in the world. So it is an easy target.

Frankly, we do a great disservice, in my view. My colleague from Massachusetts has accurately pointed out this is going to send a dreadful signal right now. I do not see a great number of people pounding for some military invasion here. We have a broad-based sanctions policy in effect now. We have put restraints on visas and commercial flights.

Let us try to come together if we can for just a few weeks to see if this new policy can work. Let us try, at least on this one issue, to see if we cannot find some common ground. No one is advocating at this particular juncture that the military option ought to be exercised. Yet, by voting in this body tonight we make that the issue. In one way or another we send signals that we ought not to be sending.

This is irresponsible. We are in the middle of a crisis right now. We ought to be able to come together as Americans on an issue like this. A nation stands a few short miles from our shores where people are being terrorized like no other nation in this hemisphere right now, with serious problems. And as U.S. Senators, we owe an obligation to our constituencies, to the executive branch in this country, and to this institution to act with a far higher degree of responsibility than this amendment suggests.

I urge the author of the amendment to withdraw this amendment. Debate Haiti if we want to, but do not place this body in the situation of trying to complicate and confuse the conduct of foreign policy at a critical moment. It is the height of irresponsibility, I would suggest, to put this institution in that position and to complicate the conduct of foreign policy at this critical moment in our relationships with this nation.

Mr. GREGG. Parliamentary inquiry, Mr. President.

Mr. KERRY. Mr. President, could I answer the question?

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I would answer whether or not—

The PRESIDING OFFICER. Will the Senator from Massachusetts withhold?

Mr. GREGG. I withdraw the parliamentary inquiry and simply ask whether that was a question.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thought it was an excellent question.

Mr. President, if I could simply say to my colleague who asks about the title of the bill and the impact of it, obviously, I agree completely. I think that he has pointed out a tremendous inconsistency, that if this did say "Cuba," we would probably not be debating this right now. I am not sure where we would wind up with respect to some other countries, but certainly you can come up with a list that this obviously would not be before us in this form.

Mr. President, I know my colleagues want to speak to this. I do not intend to hold the floor interminably. But I do want to say that this is much larger than a political issue in Washington. Whatever one's perceptions of the President's choices with respect to Haiti or elsewhere, we have a responsibility to look out for the larger interests of our country.

I am not saying the Senator from New Hampshire is not doing that, or does not want to do that. I think his perception may be that this is the way he protects that interest. But I am suggesting that in the process of dialog here on the floor, maybe we can come to a joint agreement or assessment that in fact that judgment might be misplaced or mistaken in this particular circumstance; that if we can avoid sending the kind of message that the Senator from Connecticut has just talked about, we ought to try to. It is our responsibility to.

Obviously, if you go back to the succession of events leading up to Haiti, you can look at Somalia. What happened in Somalia? A group of Rangers were ambushed, and I would agree that—and some of us said it at the time—the policy somehow rambled out into this broader reach. We suddenly were chasing Aideed, and suddenly it was more than any of us thought.

But what was the reaction? The reaction—if you will recall that briefing we went to—was the most incredible stampede and hue and cry for cut-and-run that I have ever seen in my life. In point of fact, this President of the United States resisted the enormous political pressure being put on him by the cut-and-run folks to create an orderly, sensible, withdrawal which left something in place of both our original intent and our honor.

In effect, we wound up with a President making a tough political decision to get people out, but doing so in a way that was totally contrary to most of the folks who said, "You have to get out of there immediately." That sent a message. And do not mistake it for one instant, the thugs down in Haiti read that message, because it was 1 week later that those thugs were on the dock building on the syndrome of Somalia to threaten the *Harlan County*.

What was the reaction? *Harlan County* turned because they were not equipped to fight, folks. That was not the mission. Nobody approved it. If they had, there would have been a hue and cry saying, "What the hell are you doing in Haiti?"

So they made a decision to respect what the original Governors Island meeting was about and did not engage in the threats of the loss of American life. But believe you me, the Haitian thugs read that message, too.

Then you turn around and you have the situation with respect to Bosnia, where everybody knows there is not one person—maybe 10 in this institution, who would vote to put American troops on the ground.

So here you are negotiating a hand where you have little leverage without American troops, and that sends a message. And every leader in the world, including Kim Il-song in Korea, has read that message.

So if you want to add to that message here on the floor of the Senate today and say to the thugs in Haiti, "Boy, you guys have a free hand because they have tied the President's hands in a way that he has to jump through hoops," and they are making it a clear message, no matter what the language says—the language of this amendment that you may understand and others may understand for the way it can be legally interpreted—to give him the right to make *x* decision or *y* decision, the truth is that it is not the legalities that the thugs will look at; it is the broader perception of what is happening here and what people are really trying to say. And you will have stripped out, once again, from this President whatever leverage may or may not exist to try to bring to a close this sorry chapter next to our shores.

So I hope we are not going to do that. I am certainly going to resist an effort to try to tie the hands of this President in a way that this same institution denied and resisted, and I think appropriately so, on other occasions efforts to do so for prior Presidents.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, when I raised a parliamentary inquiry before, my own view—and subject, obviously, to the determination of the Chair—was that the Senator from Massachusetts had lost the floor. I did not hear him ask unanimous consent when asking a question of another Senator. I did not raise that matter but only sought to suggest that others had been waiting for an opportunity to debate the issue. The Senator may yield for a question to another Senator without yielding the floor and does not need to ask unanimous consent. But when he asks questions, he loses the right to the floor in the absence of unanimous consent.

I have sought recognition here to make a relatively brief statement. I disagree with the Senator from Massachusetts when he says that this is a political issue. My view is that it is a constitutional issue as to who has the authority to authorize the use of military force.

My very strong view is that, when time permits, it is the Congress which has the authority to authorize the use of force. I did not like what I saw in the course of the Korean conflict, where the United States was engaged in war without appropriate congressional authorization. And I did not like what I saw in Vietnam when the United States engaged in war without appropriate congressional authorization. When the issue arose in Iraq, there was a specific congressional authorization to have that use of force.

I think that the situation in Grenada and Panama are fundamentally different from what is involved in Haiti. But perhaps we ought to revisit Grenada and Panama if there is a suggestion that when the Congress has the opportunity to deliberate and to make a decision on the use of force, the Congress should abdicate that and allow the President to act without congressional authorization.

When the Senator from Connecticut says that what the Senator from New Hampshire has proposed here today is irresponsible—and we have the Senator from Massachusetts agreeing with the Senator from Connecticut—I disagree with that. If the Senator from Connecticut wants to pursue the argument that there ought to be intervention because of the fact that Haitians are being terrorized, then let the Senator from Connecticut suggest a resolution to authorize the President to use force under that circumstance. And where the Senator from Massachusetts goes through a sequence saying that the thugs are running drugs; there are human rights violations; there is widespread hunger; there is theft of democracy, and then he says, "Why are people on the other side of the aisle not concerned with that?" Well, we are concerned with that.

What ought to be done here, if the Senator from Massachusetts and the Senator from Connecticut think that the President ought to have leeway to use military force, is to let them offer a resolution that authorizes the President to do that. When the Senate had a sense-of-the-Senate resolution back on October 21, 1993, which is identical in substance, limiting the President to use force without the authorization of Congress unless there is an emergency to protect U.S. citizens, or unless there is an emergency on national security interests, and the President continues to talk about the use of force, then I think it is entirely appropriate for the Senator from New Hampshire to come back and say, "Let us have it in the effect of law." It is highly unlikely that it will become law, because even if it passes the Congress, subject to a Presidential veto, then you have to have a two-thirds override. But I think what the Senator from New Hampshire is saying here is that he really means business, and that the President ought not to act unilaterally.

We went through this in a very measured way on the resolution for the use of force in Iraq. I remember very well back on January 3, 1991 when it was the Senator from Iowa, Senator HARKIN, who raised a procedural issue which forced the hands of the leadership to bring up the issue for debate on January 10. We had a debate on the floor of the Senate on the 10th, 11th, and 12th and authorized the use of force where the President had set a deadline, or the United Nations did, for January 15.

There is no doubt that if we had voted down that resolution the implication would have been plain, that the President could not have used force because he did not have the authorization of Congress to do so, notwithstanding the fact that there was no resolution saying no funds may be used by the President unilaterally to use force.

We know what the situation is in Haiti, and there is plenty of notice about what is going on in Haiti.

If that warrants the authorization of the President to use military action, then let us say so. But if it does not, then let us not criticize the Senator from New Hampshire for coming forward and offering a resolution which expresses the determination of the Senate and the Congress that force ought not to be used on the current state of the record without the authorization of Congress and unless there is a specific emergency and a specific way.

I do not believe that this is a political issue. I believe it is a constitutional issue, and I believe it is a matter of the authority of the Congress.

That is why I think the amendment is a good one and I intend to support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I ask for the yeas and nays on the Gregg amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. SPECTER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SPECTER. Mr. President, what would constitute a sufficient second with a number of Senators on the floor?

The PRESIDING OFFICER. Under the rules the sufficient second requires one-fifth of the seated Senators.

The majority leader.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, this is a very important matter, one on which the Senate has previously acted. A few months ago, the Senate voted on precisely this language in a sense-of-the-Senate resolution. My hope is that the Members of the Senate will act in a manner consistent with their previous vote in that regard.

But there are a number of Senators who wish to address this subject, as I do myself at a later time. And so, because this was offered in a form that is a second-degree amendment, it is not now subject to amendment, although it is likely that there will be an alternative presented in some form after a vote occurs on this.

I will myself have more to say on the subject before we get to a vote on it. I know Senator McCAIN has requested an opportunity to speak.

So I will now yield the floor.

Mr. LEAHY. Will the Senator yield to me before that for an observation?

Mr. MITCHELL. I will yield and the Senator can get recognition.

Mr. LEAHY. Mr. President, I will note the matter before us was originally presented, as was in that form last year, as a sense of the Senate. I should note, as a sense of the Senate, it passed, I believe, 98 to 2. In any event, I know of only two votes against it on the last rollcall vote as a sense of the Senate.

Had it remained as a sense of the Senate, as the majority manager of the bill, I would have been prepared to accept it. Others, of course, could have taken a different position, but I would have been prepared to accept it.

My objection and concern is setting an unprecedented mandatory position, one that has never been presented certainly in a country-specific fashion as this one is, something that no Member, to my knowledge, in either party, has ever presented in opposition to action of any President.

Certainly no Democrat or no Republican has ever presented as binding law legislation of this nature during the time of President Bush. No Senator, Republican or Democrat, ever presented a piece of legislation this specific as binding law during the Presidency of President Reagan. No Senator, Republican or Democrat, ever presented a piece of legislation this specific as binding law during the Presidency of Jimmy Carter, nor during the Presidency of Gerald Ford.

I use those Presidents because I have served here with five Presidents and never has any Senator, Republican or Democrat, sought legislation, binding legislation of this nature, of this specificity, binding the hands of any President.

And there is no question in my mind that, should there be action anticipated by the United States, President Clinton would consult with the bipartisan leadership of the Congress, as President Bush did, as President Reagan did, as President Carter and President Ford did.

But, I have basically concluded that, if legislation of this nature on a foreign aid bill in the final form were to go to the President, I would recommend the President to veto the bill. I hope we would not reach that point. But it would not be responsible for us to pass legislation this specific.

I would be happy to see us go back to what we had last year. There is legitimate debate about our policy in Haiti. It is a debate where Senators on both sides of the aisle and within both parties could differ and disagree. And that is perfectly legitimate. I have expressed my own concerns at times on that and as I know there is within the administration itself.

But to put this kind of binding legislation on would be unprecedented, unprecedented, in the annals of this country and something, in my 20 years here, with both Republican and Democratic Presidents, I have never known a Senator to bring forward or seek, in the U.S. Senate, to do anything with this specificity.

I yield the floor.

Mr. SIMON. Will the Senator yield for a question?

Mr. LEAHY. I yield for a question.

Mr. SIMON. I thank him for yielding.

Mr. McCAIN. Does the Senator yield the floor?

Mr. LEAHY. I yielded for a question. I will yield the floor.

Mr. SIMON. My question is this: I happen to oppose military action in Haiti. But I also do not want to weaken the President's hand in terms of the present situation.

In the kind of situation I am in, should I vote against the proposed amendment? What would the Senator from Vermont recommend?

Mr. LEAHY. I would recommend voting against it. Frankly, if I had my druthers—and of course the Senator who has proposed it can do whatever he wishes—but it would make more sense, in my estimation, to go back to what it was, a sense-of-the-Senate resolution, vote as we did last year on that. It would express the real concern and legitimate concern of all Senators, Republican and Democrat alike, on the Haiti policy.

But, should it be in this form, I would strongly urge one to vote against it. And we can express our opinion in another form, and either I will make that available or another Senator will in a sense of the Senate. But not in this form.

Mr. SIMON. I thank the Senator.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I will be relatively brief. My friend from Utah has been waiting for some time, he informs me.

It is with great reluctance that I oppose this amendment. I do so on strict constitutional grounds. I do not believe it is constitutional even with the significant caveats contained in this amendment, to prospectively limit the powers of the President of the United States.

Someday we should have a debate and either reaffirm or reject the War Powers Act. It is long overdue. It is an act of cowardice that we have not. But for us to prospectively tell the President of the United States that he cannot enter into military action anyplace in the world, in my view is a clear violation of his powers as Commander in Chief under the Constitution of the United States.

Mr. President, let me say I think the views and the concerns raised here by the Senator from New Hampshire are valid. I, too, am afraid we are on a slippery slope toward a military intervention.

There is no doubt that if you impose an embargo, you harm the lives of the very people you are trying to help, especially when the embargo is imposed on a poor, unfortunate island like Haiti. A flow of refugees is virtually assured by our policy toward Haiti. And we are seeing that tide increase as the embargo squeezes the very life out of these poor people. The effects of this policy will then give the administration a very invalid, in my view, rationale for invading and replacing this oppressive and dictatorial regime.

My prescription is to lift the embargo, offer the generals a way out, and stop insisting upon the reinstatement of Aristide. Call for free elections and see if that will work.

Sanctions are affecting the poorest people in Haiti. You cannot deny it. You cannot get around it. Preventing people from going shopping in Miami is one thing. There are people in Haiti who are for the first time starving to death, and we should not allow that to go on.

I believe that we could effectively send the right message to the President of the United States with a sense-of-the-Senate resolution stating that we should not undertake military action in Haiti. I believe it would pass overwhelmingly.

Mr. President, we should not get militarily involved because there is no way out. If the United States in a very brief military operation—it would be less than 6 hours—takes over the country of Haiti, my question is, who will run the country? I will tell you who would be running the country. It would be the United States of America. The people of Haiti would resent it, and you would find the kind of resistance and eventual armed warfare that we saw the last time we were there, where we went for a few months and stayed for 19 years. Before anyone supports invading Haiti, read the history of our last invasion of that country. If you read it, you cannot support an invasion of that country.

At the same time, I cannot support any resolution which prospectively limits the powers of the President as Commander in Chief. And I ask my colleagues, what if the Senate of the United States had passed a resolution prohibiting President Reagan from the invasion of Grenada, which might have happened, given the situation in Grenada at that time? What would have happened? What would have happened if this body had passed a prospective resolution prohibiting the President of the United States from invading Panama? Both were operations which, by the way, I supported, because I thought they were in our national security interests. I do not believe Haiti is. I am saying if you do this, you will set a very dangerous precedent.

I now yield for a question from my friend.

Mr. McCONNELL. Mr. President, I was going to ask my friend from Arizona in what way the Gregg amendment would have restricted President Reagan's actions in Grenada?

Mr. McCAIN. Obviously there are caveats in the Gregg amendment which give the President of the United States some wiggle room. But the fact remains, I tell my friend from Kentucky, that you are telling the President of the United States that he cannot expend funds to invade except under certain circumstances. It is the wrong thing to do. You can express the will of the Senate with a sense-of-the-Senate resolution and you can do it with great ease. If we pass this amendment, it will be a small step to further restrict the powers of the President of the United States.

The Senator from Kentucky is entitled to his view of what the amendment says. I know the Senator from New Hampshire has his view and the Senator from Utah has his view. I am saying it is dangerous to begin any amendment by saying that no funds will be spent for operations of this nature, even if you add a list of caveats that is 2 miles long.

Mr. McCONNELL. I say to my friend from Arizona, not to belabor this too long, seven times last year—seven times last fall I voted to support Presidential flexibility in Somalia, Bosnia, and Haiti. I think on a couple of those amendments I may have been the only one on our side of the aisle. Maybe Senator WARNER and I were the only two. So I share my colleague's concern, I say to my good friend. I just do not see how the Gregg amendment unduly restricts the President's hand. Basically, in a sense, the Constitution does that as well with the requirement of a declaration of war, if you wanted to carry it to that point.

But it seems to me that this is pretty sensibly addressed to reflect recent military experiences. Also, it is not without precedent for us to put some restrictions. I think of the Clark amendment with regard to Angola when President Ford was around; the Boland amendment—various mutations of that; the Cooper-Church amendment during the Vietnam period.

Anyway, I do not want to prolong it, I say to my friend from Arizona. I am sorry he will not be able to support this amendment. I think it is excellent.

Mr. McCAIN. I thank my colleague. I would be glad to respond to that comment. Early in our history, I would say to my friend from Kentucky, when we had Barbary Coast pirates who were interfering with United States trade, we sent a task force of naval vessels to punish those people. And some of the greatest names in our naval history went there. That was done without a declaration of war. That set a precedent for operations like Grenada, Panama, et cetera.

If the Senator from Kentucky supported the Boland amendment, I would say that he was in a very different position than I was because I believe the Boland amendment was unconstitutional. And I wish that the Reagan administration, by the way, had had the guts to fight that all the way up to the U.S. Supreme Court.

Mr. DODD. Will the Senator yield on that?

Mr. McCAIN. I will.

Mr. DODD. I just want to point out the Barbary pirates is a good historical example, because in that particular case—consider the day and age, it was in the early part of the 19th century—the forces there, in the Mediterranean, sent a boat back seeking permission of the President of the United States as to whether or not they could engage them. It took several months to get an answer. But they did not dare engage them without that permission, I point out to my colleague.

Let me just add as well, on the debate of the war powers resolution, Presidents, beginning with President Nixon, he—and for good arguments—objected. And there the law says in the absence of a declaration of war—the last time we did that was on December 8, 1941—that Presidents are allowed. The President shall submit within 48 hours to the Speaker of the House of Representatives, 48 hours after the engagement begins, a report in writing setting forth the circumstances, and so forth. That has been the subject of significant debate as to whether or not a President, even after there has been an engagement militarily, should be required to report back to the Congress. This goes the extraordinary step——

Mr. McCAIN. That is what I would also address. I hope my friend from Connecticut would agree—we need to debate the War Powers Act and clearly define what a President can and cannot do. We would not be engaged in this debate if we did. Be that as it may, my friend from Kentucky asked me what the problem was with the amendment. The first sentence, part (b):

> None of the funds appropriated or otherwise made available to the Department of Defense * * * may be obligated or expended for any United States military operations in Haiti unless * * *.

Now, those caveats are excellent. I am glad that they are in there. But it does not change the fact we are telling the President of the United States that he cannot spend any money to invade Haiti, even though there are caveats to it. If those caveats, I would say to the Senator from Kentucky, are that great, then let us make it a sense-of-the-Senate resolution, which the distinguished manager of the bill and the majority of us—not all, I see the Senator from Florida there and others—would support overwhelmingly. And then we would send a simple message.

As it is, we are now getting embroiled into interpretations of the Constitution of the United States. My interpretation is clear that we cannot prospectively limit the powers of the Commander in Chief.

Mr. DODD. Will the Senator yield?

Mr. McCAIN. Could I just finish this thought? I tell my friend from Kentucky, hopefully—hopefully—some day there will be a different party in power in the White House. And I would hate to be standing on this floor arguing with one of my colleagues on the other side of the aisle who wants to prospectively limit action by the President of the United States when I supported such a thing when my party was not in power. We could be setting a very dangerous precedent for those of us on this side of the aisle.

Mr. DODD. My colleague may know better, but I cannot think of a single example, even during the 12 years of the Reagan and Bush administrations, when any such amendment like this on any part of the world was ever offered or adopted. Does my colleague know of any example I may be forgetting?

Mr. McCAIN. I know of none, except for the Boland amendment, and the Boland amendment, in my view, was something that, frankly, poisoned the entire issue of our policy towards Nicaragua.

In retrospect, whether the Senator from Kentucky agreed with the Boland amendment or opposed it, we would have been better off if it had been judged constitutional or unconstitutional. There were people in the White House, as the Senator from Connecticut knows, who said it was unconstitutional and, therefore, violated it.

Mr. KERRY. Will my colleague yield for a point?

Mr. McCAIN. Yes, I yield.

Mr. KERRY. I point out with the respect to the Boland amendment, the Boland amendment reflected the desire to cut off aid to other people's forces, aiding other people's forces and effort, not directly to our forces being engaged in a particular conflict of a country.

Mr. McCAIN. I think the Senator from Massachusetts makes a good point.

I want to apologize to the Senator from Utah for taking so much time.

I want to briefly suggest to my friend from New Hampshire that we make his amendment a sense of the Senate, sending an overwhelming message to the President of the United States. If there is a significant vote—which I think there is going to be—then clearly the President cannot ignore that message from the Senate of the United States.

I hope we could do that. I deeply fear we are on a slippery slope to an invasion which cannot be of any benefit to the people of Haiti or the men and women of the Armed Forces of the United States. If we did make it a sense of the Senate, I think we would avoid a lot of this debate.

I understand and appreciate the goals of the Senator from New Hampshire. I regrettably cannot support the amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I yield to no one in my respect for the Constitution, for my concern for the maintenance of the proper role of the Constitution and the separation of powers. I would be persuaded by the arguments of the Senator from Arizona and the Senator from Massachusetts, and others, who raised the constitutional issue if I were not satisfied that the language of the Gregg amendment reflects proper constitutional procedure.

I asked the Senator from Massachusetts earlier when he was talking about this issue if the Gregg amendment would, in fact, have prevented President Reagan from proceeding in Grenada? I am satisfied that the language of the Gregg amendment makes it clear that President Reagan could easily have proceeded in Grenada had this amendment been in place because it says:

> The President can proceed if he finds that the deployment is temporary and necessary to protect U.S. citizens from imminent danger.

President Reagan found that to be the case in Grenada and proceeded. This amendment would not in any way have diminished his powers as Commander in Chief.

I was prepared to ask the Senator from Massachusetts a second question, which I will now review, with respect to Panama. If this amendment had been law, could President Bush have proceeded in Panama? In my view, he could have because No. 3 in the Gregg amendment says that he could proceed if he finds that the deployment, and I am quoting, "is vital to U.S. national security interests and insufficient time exists for the receipt of prior congressional authorization."

President Bush, obviously, believed that that was the case, and he proceeded.

I share with my friend from Pennsylvania, who has a legal background that I do not have, having never been to law school, the concern that Congress may well be losing its rights under the Constitution to declare war; that we may be in a position where the executive, under the powers of the Commander in Chief, gets us into a war situation and does not come to Congress for the proper authorization.

I find that this amendment strikes an appropriate balance in that concern. I do not want to tie the hands of the Commander in Chief when there is a necessary deployment needed to protect American citizens.

I do not want the Commander in Chief to have to come to Congress to ask for permission, to have to come to Congress to ask for a declaration of war when U.S. citizens are in danger. This amendment does not say that would be the case.

I do not want the President to have to come to Congress to ask for permission to use his powers as Commander in Chief when vital national security interests are at stake and there is not appropriate time.

But I do get concerned on a constitutional basis when I hear people talking about the United States planning an invasion in a leisurely fashion of a sovereign country with the President feeling he has no requirement to discuss that with the Congress. That gives me constitutional pain.

This is not an emergency. There is no one threatening American students in Grenada who may be carried off momentarily if the Marines do not land. This is not a surprise operation where national security interests are vitally affected if we do not go in under the cover of some kind of stealth operation and surprise a warlord, as was the case in Panama.

This, at least as I understand it in the press, is a considered, formal invasion of a sovereign country by the United States of America military. I think it is appropriate under the Constitution that the Congress be asked to declare war if that is what we are going to do. But if the President says, no, I cannot ask the Congress to declare war because the deployment was temporary and it was necessary to protect U.S. interests, I cannot ask the Congress to declare war because it is vital to our national security interests and there is insufficient time, this amendment says, fine, we will take your word for that, we will not change it. All we are asking you to do is do that much.

So I find myself in somewhat—not somewhat—in disagreement with my friend from Massachusetts on the legal issue and in agreement with my friend from Pennsylvania on the legal issue here. I feel that the amendment is not a violation of our constitutional circumstances.

I wish to make a few other comments because of the statements that were made by the Senator from Massachusetts, in all good motive and intention on his part. This is an issue, obviously, about which reasonable men and women can disagree, I would hope, in reasonable fashion.

He said to lift the embargo would be to award the thugs the victory. That is the interpretation he would put on that matter. I view it differently. The people of Haiti are suffering. They are hurting across a wide spectrum of economic deprivation. That economic deprivation is made intolerably worse, in my opinion, by the embargo.

The thugs who run Haiti, on the other hand, are prospering, and their prosperity is made considerably better by the embargo. They are not bothered by the lack of food. They are not bothered by the lack of economic support for the economy. They are taking it off the top and, I suspect—cannot prove it —that they are putting it in Swiss bank accounts preparing for the time when they decide to leave Port-au-Prince and enter into retirement on the Riviera in the time-honored fashion of other dictators in that part of the world who have gone that route.

The embargo, in my view, is furthering that kind of corruption and that kind of devastation of the economy. I believe honestly that lifting the embargo will be good for the economy of Haiti, be good for the ordinary people of Haiti and, ultimately, therefore, reduce the desire of the people of Haiti to physically get out because they will at least have some degree of economic hope where they are. The embargo is cutting down that economic hope.

So I say to my friend from Massachusetts, when I stand up here with the idea of supporting the lifting of the embargo, it is not out of all of the motives that he attributed to some on this issue.

Mr. KERRY. Will my friend yield for a question?

Mr. BENNETT. I will be happy to yield for a question.

Mr. KERRY. If my friend does not want to award them victory and my friend does not believe that they ought to be simply paid off and shipped out to the Riviera, then what is his leverage if you lift the embargo? What is it that says to them there is any reason to leave? What would compel them?

Mr. BENNETT. I respond to the Senator from Massachusetts in this fashion.

In order for a lever to work, it must have a fulcrum on which it is placed. The embargo has no fulcrum. The embargo is no leverage at all. That is my point.

Now, the question: How do we get them to leave? is a separate issue, in my view, from the embargo. It is unrelated to the embargo. The Senator from Arizona has referred to one suggestion that has been made, to which I would subscribe, at least to the degree I understand it so far; that is, that America says to people in power in Haiti, all right, you are in power; we do not like your being in power; we will give up our insistence that Aristide be returned to power—recognizing the only way that can happen is with American military might behind him—if you will give up your control on the present government, both step down from that circumstance and we have internationally monitored elections.

Now, you say you want them in jail for war crimes. You want them punished in some fashion. I might like to see that happen, too. But I frankly do not see a lever anywhere short of invasion that can produce that, and I do not believe that invasion would indeed produce that.

If I might go to——

Mr. KERRY. Would my colleague be willing just to yield for a comment?

Mr. BENNETT. I will yield for a comment providing I do not lose the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. I thank my friend for his courtesy.

I just say to the Senator from Utah, the plan he has offered might work, but it really ignores a larger sense in the history of Haiti and what is really at stake in this situation. It is pretty easy for any Senator or anybody in America to cavalierly, or however one phrases it, stand there and say abandon Aristide and have another election. But the fact is that this is the first free election the people of Haiti have had in 200 years. They did vote. They did have a free election. We invested in it, as did the rest of the world. The United Nations invested in it. And by 67 percent of their vote they elected this man.

Now, who are we to simply say abandon him? Who are we to turn around from the Haitian people and discard their own democracy? I cannot understand how it is that we have the arrogance to make a judgment about somebody else's free and fair election.

Mr. BENNETT. I thank the Senator for his comment. I respond in this fashion. If, indeed, Mr. Aristide still controls the hearts and support of 67 percent of the people in Haiti, he will have no problem whatsoever in gaining his position as President legitimately in an election of the kind I have described.

Mr. KERRY. Can I say to my friend, and I will not interrupt him further, but I just want to say to my friend that would be fine if you have the ability to write the constitution of Haiti. But the constitution of Haiti does not permit him to succeed himself. So if you think Aristide is a problem, the Aristide problem is gone as of a year from this December because they are going to have elections a year from this December and he cannot run to succeed himself.

Now, if you want to change the constitution somehow or have some declaration that he can go down there and run again, fine. But he cannot. I am not sure he wants to. But it still begs the question. The Haitian people would sense an extraordinary abandonment of their own investment in democracy if you just discard what they have already achieved.

Mr. BENNETT. I thank the Senator for informing me as to the details of the Haitian constitution. He made reference to Haitian history. As I understand Haitian history, it is not one that gives me a lot of confidence in any kind of democratic institution, including the elections, prospective elections, to which he refers.

The history of this island is wretched. The circumstances that have been going on there for over a century have been wretched from our point of view. And we do not have any good solutions facing us. We do not have any clear——

Mr. KERRY. Is the solution to render it more wretched? Is the solution to render it more wretched?

Mr. BENNETT. In response, Mr. President, as I have said before, in my opinion, this is a matter on which we can disagree, the embargo is making it more wretched. In my opinion, the position of this administration has contributed to the misery and difficulty of the people of Haiti.

Let me go on, Mr. President, with respect to what in my opinion would happen if, indeed, the United States were to invade Haiti. There appeared in the Washington Post within the last 2 weeks—I cannot put my hand on the exact date, but if it is important, we can find it—a report by an American journalist, Robert Novak, who went to Haiti and spent several days driving around the country, talking to people, observing circumstances for himself. He came back with a report that may or may not be accurate but which is, at least on its face, plausible.

He came back and reported to his readers that the present military and police establishment in Haiti are expecting an invasion, and they have prepared themselves as to how they will respond. This is his report.

(Mr. LEAHY assumed the chair.)

Mr. BENNETT. He quotes them as saying if the United States invades Haiti, we will take off our uniforms, hang them in the closet and go home, which means that there will be no police on the streets to prevent looting or enforce normal law, which means there will be no military presence of any kind to try to keep the peace, which means that if there is any degree of police activity or normal law enforcement activity on the island, it will have to be performed by the American military or the island will be reduced to absolute chaos with no form of law and order of any kind.

If Mr. Novak is correct in reporting that plan, and if the people who currently control Haiti have, indeed, adopted that plan, what are we looking at if there is an invasion? We are looking at an American protectorate that will require American troops in Haiti for months and years and decades to come in a society that is ruled by circumstances that are tremendously foreign to most Americans.

I know of these only by hearsay. I have friends who have lived in Haiti who have reported them to me. I admit the evidence is anecdotal. I do not pretend to have any kind of major study of this issue.

But voodoo and the secret societies that are woven throughout the Haitian culture, who go underground and who exert enormous amounts of control over what is done and what is not done, in ways that the American mind simply cannot comprehend, these things are reported to be very powerful in Haiti. They are reported to be a tremendous part of the power that was exercised by the former President for life, that he maintained his position not just by military power and terror but by a religious network of practices of the kind, as I say, with which Americans are completely unfamiliar.

This is not the kind of circumstance that leads me to believe a series of American police forces and American troops can in any logical or short-term fashion restore order to the island, to the society, and establish democratic procedures and institutions there.

What would I do if I were President of the United States faced with the Haitian thing? I guess my first reaction would be to ask myself, why I have run for the office to be faced with this? Because, as I say, there are no good options in my view. But I believe that we are responding to emotions that are very, very American, emotions that are admirable, but not necessarily connected with the facts.

If I were President of the United States, I would pick up the phone and call Colin Powell, and say, "Mr. Powell, could you come out of retirement long enough to go to Haiti on a factfinding mission, not as an envoy? You are not down there to negotiate. You are not down there to try to tell anybody to do anything. But you at least understand the military as well or better than anyone else on the planet. You understand what would be involved if we were to put military troops there. You have the sympathy for the people that comes out of your own experience. Will you form a factfinding commission and go to Haiti and find out exactly what is going to happen there, and come back and give us your advice?"

I would feel a lot more comfortable debating this thing if the facts we had before us came from that kind of an official factfinding group rather than newspaper reports and reactions on the part of individual Senators, myself included, every one of whom is reacting out of his or her own experience.

That is why I think we would be very precipitous to consider invading Haiti under the present circumstances. That is ultimately why, as I said in the beginning, I find myself in support of the Gregg amendment.

I yield the floor.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Thank you very much, Mr. President.

Mr. President, I rise in opposition to the amendment, and especially disagree with my friend and colleague from Utah with regard to this amendment.

I want to also to associate myself with the remarks of the previous speaker, the Senator from Arizona, when he talks to discuss constitutional issues. This amendment, in my opinion—and I agree with him—is a regrettable, unprecedented constitutional assault. Therefore, I think on those grounds alone it should be defeated.

Mr. President, I would like to make an inquiry and ask three questions—actually, a plea and three questions. The plea that I would make to my colleagues is, do not make up new rules for Haiti. Do not change the constitutional order. Do not hamstring the President. Do not do anything new for Haiti. Allow our policy to work. Allow us to stand for those values that we say undergird our foreign relations.

I will make three questions or observations in keeping with my plea that we not make up new rules for Haiti.

The first is whose side are we on? The contradiction in this amendment is that it simultaneously hamstrings the President, empowers the thugs that are now in power in Haiti—having taken it—and at the same time turns our back and is a rejection of the democratic values that were expressed by the people of Haiti in electing President Aristide.

So the question is, whose side are we on? Are we on the side of the thugs? I cannot imagine it. Are we on the side of the people who would throw out any attempts of a budding democracy there? I cannot imagine it.

So the first question then is whose side are we on here?

The second question that I would raise has to do with how we define what is in our national security interests. The amendment, after it says that no money shall be used, speaks to the issue of what our national security interests are in Haiti. I think those interests are pretty straightforward and pretty unavoidable.

In the first instance, this democracy or a budding democracy, is in our own backyard, if you will. These are our closest neighbors. How can we therefore stand for the protection and promotion of democracies in places halfway around the world when we cannot even protect it in our own backyard?

The second issue is human rights. We have all been appalled at the privations. But at the same time to give something to those who have caused that privation, who are exacerbating that privation, seems to me to fly directly in the face of our national interests.

The drug lords probably have been mentioned. Are we going to give some promotion and help out the people who have themselves been able to take power because of their involvement with funneling poison into our country? Are we going to support that?

The immigration issue: We have seen the boatloads of refugees, and all the frantic efforts to come up with ways to process and deal with and otherwise stem the avalanche of immigration from that land.

Are we going to say that it is OK; the people who have given rise to that will benefit from the action of this U.S. Senate? I do not think so. Not to mention cooperation with our allies in this part of the hemisphere. These are our most immediate neighbors. It seems to me that we are hard put to talk about affairs on the other side of the world and we cannot have clarity about what happens here at home.

My colleague, one of the speakers earlier, made the point about, well, we have to work out some way to work through this process, and would not General Powell be a good person? Well, I think General Powell is terrific. But I would point out that we already have Bill Gray, former Congressman, working on this issue. We are doing exactly that. We are trying to find ways to make the sanctions, to make the embargo, to make the approach the President has taken, work.

The question has been raised; well, do sanctions do any good or do they not just hurt the poorest and the weakest and the most helpless of the people in Haiti?

I want to make this point. It is not a digression because I have talked about affairs on the other side of the world and how relevant they are to what has happened in Haiti. When Nelson Mandela came out of prison, one of the first things that he said was to thank the people of the world community for supporting sanctions in South Africa. His view was that sanctions had given rise to the end of apartheid in South Africa.

I was not here in the Senate when the debate around sanctions happened with regard to South Africa. But I daresay if you pulled out the memoranda and the records of those debates, the same arguments were made; well, you are going to hurt the poor. I do not think the poor are helped by empowering these thugs that have reduced them to the worst level of poverty, privation and fear that they have suffered in this century. That is why sanctions will work.

My colleague, my friend, talked about having what is the fulcrum for this effort. You have to have a fulcrum to have some leverage. He is right. Let me suggest to you that the fulcrum here is the might and power of the greatest nation on this planet. If the United States cannot stand for democracy, if the United States does not have the wherewithal to clean up foreign affairs in its own backyard, how then can we expect anybody else to rise to that challenge?

We have the fulcrum, we have the power, we have the money, we have the capacity, we have the ability; all we have to have is the will. All we have to have is the will to stand up for democratic values that we say every day on this floor we believe in.

It seems to me that it is fair to have those values apply to Haiti. I go back to my original plea: Do not make up new rules for Haiti. Let us have the same rules apply for Haiti that we say we believe in in this country. Is there a different history? Yes, there are always differences; of course, there are. Democracy is new to Haiti. We have had democracy here for over 200 years. This is new for them. But I think if we have an opportunity to export the thing that made this country great, we ought to take that opportunity. And we ought to use every tool at our disposal.

In this instance, we have not yet given sanctions a chance. We have not given peace a chance. We have not given democracy a chance in Haiti, and that is why this amendment—and that is part of the problem, that it is an amendment—has to be rejected.

Finally, in closing, Mr. President, I ask one final question, and that is: If you do not like the policies of the President, then what are you for? What is the positive? Yes, this is being debated, but I daresay we do not make new constitutional law or foreign policy based on rumor, based on unsubstantiated reports, based on conversations over dinner tables, or cocktail parties, or clips that we get in the beltway circle of what is being said today. Our foreign policy has to have a firmer foundation than that, Mr. President. And this amendment undermines that foundation.

This amendment really sets our foreign policy—even in our "near abroad," to use that word in terms of the United States, and I know it is kind of a different concept, but that is really what it is; this is our "near abroad." If we are going to have a policy, the President has set out on a course. I have not always agreed with that course and, frankly, I was very critical at the beginning, that we were not more forceful and did not have a foreign embargo, that we did not turn the screws on the sanctions and really mean it and put some "umph" behind our policy in Haiti. I was very critical, and vocally so, and I said as much. But I have to tell you that, at the present time, there are real signs of movement. There are real signs that this President has taken the decisive moves, has taken a decisive approach to begin to give us an opportunity to prevail in that part of the world.

So I say to those who say, "Well, we are going to make him come to us, and we are going to make him report to us, and we are not going to spend any money, and we are not going to do this or that," there was a former Vice President who used the term "nattering nabobs of negativism." Mr. President, I think if there is going to be a "nattering nabob" in this situation, they are obligated to say: Fine, here is our plan. This is how we are going to do it—not next year, not next month, but today. And, no, this is not a purely political exercise; this is based on what we believe to be the appropriate course in our foreign policy. This is not just a chance to embarrass Bill Clinton. This is not just a chance to throw some marbles in the road so the foreign policy looks more confused than it is. This is not partisan politics. This is policy, and we believe in this course of action.

Let us see that first before we say to the President that he cannot do this, that, or the other. I close by saying: Please, I implore my colleagues, let us not make up new rules for Haiti and change the rules in the middle of the game. Let us go forward with the President's course. I believe it can be a productive course, and it can work if given the chance. The people of Haiti deserve as much, and the people of the United States deserve as much.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia [Mr. NUNN] is recognized.

Mr. NUNN. Mr. President, I rise and urge my colleagues to defeat the pending amendment. I do so not because I agree with everything the administration policy seems to represent on Haiti, because I do not. I really question the embargo as it is applying to the ordinary and particularly low-income Haitian people. I am afraid that the wrong people are being squeezed, and I think that has something to do with the exodus we are seeing in the last several days that may very well intensify.

I think embargoes have their place. But in certain circumstances they can be counterproductive. I think it is very important that the United States set clearly its goals on what we are trying to accomplish in Haiti. I am not sure I have seen that kind of expression—at least not in terms that I agree with—from the administration, or from anyone else. In my own view, the goals ought to be to first alleviate the very severe suffering of the Haitian people, which is very apparent. The second goal that is connected to the first should be to prevent a very large exodus of people from Haiti to the United States in a way that causes tremendous difficulties for us in absorbing it.

I think the third goal is a very important goal, but the one talked about as if it is the only goal, and that is to have some kind of democracy there that, in the long run, can serve the interests of the Haitian people. But where I suppose I differ with some of my colleagues and the administration is I do not think returning one man—even though an elected president—is the equivalent of restoring democracy. I believe restoring democracy in Haiti, where they have not had that kind of experience over the years, requires building a coalition. I think it requires having a foundation there that is enabling in terms of allowing President Aristide, or whoever is elected President in the next election, to govern.

I do not think that condition exists in Haiti today. It would be my view that that coalition needs to be built as a condition precedent to the return of Aristide. Otherwise, however he is returned, it will take a very substantial outside security force to protect him. I am not sure how you have a democracy when you have an outside security force, whether it is the U.S. military or whether it is a coalition of countries, that basically is having to protect the President of the country from his own people. I think that is the difficulty.

Having said that, Mr. President, I think it would be a fundamental mistake to pass this amendment. Let us just take a look at where we are now. I think some of the people sponsoring this amendment probably are very dubious about the embargo. But what kind of one-two punch are we going to be demonstrating toward Haiti if we have a combination of the embargo, which may very well be causing the kind of exodus we are now seeing, and then we passed an amendment in the Congress saying that we are not going to have any military option unless all of Congress agrees, or unless the President can meet certain conditions, which would be somewhat difficult—not impossible to meet, but somewhat difficult to meet—and might require some strained definitions.

So, Mr. President, when we find a policy that we do not agree with or that we have some reservations about—and I have reservations; some people fundamentally oppose it—I think we ought to always consider the possibility that we can make it worse. The one-two punch I see coming if we pass this kind of amendment is, No. 1, this does not do anything about the embargo or anything about the goals, does not do anything for the restoration of some kind of coalition there that can help President Aristide when he returns to govern that country successfully as a democracy, respecting human rights, without having to have outside military forces basically not only protect him but police the streets for months and perhaps even years to come. But what we will also be doing is saying that we are not going to put any pressure whatsoever on those in charge now who have basically abused democracy and who have abused human rights and who continue to abuse their positions of power; that we are going to say to them, breathe easy, General Cedras, breathe easy Police Chief Francois, because we are not going to let that option even be discovered.

What kind of one-two punch is that? To me, it is the worst of both worlds. We have an embargo that is basically causing an exodus, and we will then have the military option the table, at least psychologically and symbolically which is enormously important now.

(Ms. MOSELEY-BRAUN assumed the chair.)

Mr. NUNN. So it is my view, Madam President, that as a very practical matter, passing this kind of an amendment would be the worst of all worlds.

Then we turn to the constitutional question. This amendment goes further than the War Powers Act, which we debated for a long, long time before we passed it. Then it was vetoed. Then the veto was overriden. And there are a lot of problems with the War Powers Act. But if you are going to change it, you have to do so in a very thoughtful way.

This amendment basically changes the War Powers Act as to one country. It says one country is different from all the others in the world.

The President tomorrow morning, if this passed and was law, or let us say it passes in a week and becomes law, the President of the United States could invade China and send us a notice within 30 days. He could invade Russia and basically start a major conflict. He could send forces to Bosnia. As far as this resolution is concerned, he could basically take military action against North Korea.

But there would be one country that he would have to jump through hoop after hoop after hoop, and that would be Haiti.

Madam President, no matter what anyone thinks of the present policy, and there are probably people all over the lot on that—I certainly do not represent my views are the majority here. I do not know. But no matter what anyone thinks of our present policy, can we conceive of anything more ridiculous than saying Haiti is in a box all by itself and that nowhere else in the world is going to be like Haiti? It is a separate place, and, by golly, the President has got to do A, B, C, D, E, and F by law or he cannot have any flexibility.

Madam President, this amendment needs defeating. The majority leader will have a substitute. The substitute will convey some of the same concerns that the authors of this amendment have expressed, but it will be a sense of the Senate. It will not be a matter of law. It will not conflict with the War Powers Act. It will not be unconstitutional or even have the implication of being unconstitutional. And most importantly, it will not take a very difficult situation, where the President needs some flexibility, where he needs counsel but not binding restrictions, and make his situation even more difficult than it is now.

So, Madam President, I would urge the defeat of this amendment. It is in the second degree, and I understand that we will need to vote on it first. There will not be a substitute possible at this stage. But I can assure everyone, based on what the majority leader told me, and I am sure he told the same thing to the Senator from Vermont, there will be an opportunity for everyone who decides they want to vote against this amendment to express their own views through, I think, a more responsible vehicle that leaves the President of the United States, President Clinton, and his whole team of national security people a more broad range set of options than this one.

Mr. LEAHY. Madam President, will the Senator yield for a question?

Mr. NUNN. Yes.

Mr. LEAHY. Madam President, just before the Senator from Georgia came on the floor, I had said that in my 20th year here in the Senate, having served here during the time when President Ford, President Carter, President Reagan, President Bush, and now President Clinton, I could not recall one instance where anybody, either Democrat Senator or Republican Senator, had ever proposed in this body a piece of legislation so country specific that would so tie the hands of a President before the fact as this piece of legislation.

The distinguished Senator from Georgia has been on the Armed Services Committee throughout his career here in the Senate. He has been here longer than I. Can the Senator from Georgia ever recall that we considered such an amendment with either Republican or Democratic Presidents—during the time the Senate majority was Democratic or during the time the majority of the Senate was Republican—such an amendment that would so specifically tie the hands of a President and be so country specific?

Mr. NUNN. I cannot think of an example. I would not pretend that I have gone back and researched the whole record.

We have passed a good many sense-of-the-Senate type resolutions giving the President the benefit of our thoughts on a particular situation.

Mr. LEAHY. I am speaking of binding.

Mr. NUNN. A binding one in law? The only thing I can think of, I say to my friend from Vermont, is the War Powers Act. That was generic and applied to everybody. It did not single out one country.

I cannot think of anything that would cause the leaders in Haiti, who have abused their people there and who caused tremendous hardship there, to rejoice more than passing this amendment tonight.

Mr. LEAHY. I might say to my friend from Georgia I think not only are the points he makes so accurate but he has spoken of the practical effect it will have in Haiti, certainly an effect that I do not think anybody here would want to see happen.

I agree with him. That is exactly what would happen if we passed it.

Mr. DODD. Madam President, will my colleague yield on that?

Mr. LEAHY. If I could finish on this one thought. Think of what we are doing, Madam President.

This is a matter of enormous constitutional impact, because we have disagreements in this body on a Haitian policy, just as apparently there are disagreements within the administration on the Haitian policy and there is disagreements among the public. Then let us debate Haitian policy. Let us set aside a day and everybody step up here and address the Senate. Give the President the value of our advice and the American public. But think of what we are doing.

On an appropriations bill that everyone knows we are going to have to pass at some point certainly before we leave this week, we want to take a step of enormous constitutional import to totally change the rules to do something that probably has never ever been attempted in the 200-year history of our country, and we are going to do it after 2 or 3 hours of debate and toss it on to an appropriations bill.

This is not a responsible way of setting policy. It is a back-door way almost of trying to change the Constitution, and it is certainly a precedent that I would guarantee, if we were to pass it every single one of us at some time in the future would see that as a precedent that we would rue when faced with a different set of circumstances later on.

We should not legislate in this nature for the passing moment. We should legislate for what is in the best interest of the country, what is in the best interest of our constitutional checks and balances. And each one of us should stop and think for a moment that we are the most powerful nation on Earth. We have enormous power residing in the Presidency and in the judiciary and in the Congress, and it works because we have this constitutional checks and balances.

And here we are attempting to eliminate part of that checks and balances and do it in a way with very little thought. It is a step that we should not leap forward on. We are going over a constitutional precipice that I guarantee you, if we were to pass this everyone of us would rue it, and I guarantee historians would write, why did the Senate lose its sense?

Mr. NUNN. Madam President, do I have the floor?

The PRESIDING OFFICER. The Senator from Georgia retains the floor.

Mr. NUNN. Would the Senator from Vermont put a question mark after that erudite statement? That was a question I am attempting to answer.

Mr. LEAHY. I agree.

Mr. DODD. I agree there should be a question mark.

Mr. NUNN. I generally agree with the thrust of the Senator's remarks.

I am glad to yield to my friend from Connecticut, but first let me plead one thought.

I hope we do not have to use a military option. In my view the military option would be not very difficult militarily. You never want to put people at risk unless America has a vital stake involved and unless we have tried all other alternatives.

But the military scenario in Haiti would not be very difficult, to say the least, but what would be difficult, and the Senator from Utah mentioned this a little while ago, is we would basically become law enforcement officials. We would basically have to provide the police function, and we would be doing it with military forces.

As we have seen from difficulty in the Middle East and other places, that is a very difficult job for the military, who have a different mission. They are not taught to arrest and detect and prosecute. They are taught to basically search and destroy. That is a different mission.

So I hope that the military option is not required or necessary. But let us do not take it off the table. Let us do not take it away from the President as an option. Let us do not remove this psychological pressure that I hope will be successful in bringing about some resolution of the tragedy in Haiti.

I yield to my friend.

Mr. DODD. Madam President, I just want to subscribe to the thoughts being expressed by our colleague from Georgia. We held 4 hours of hearings yesterday on Haiti.

I want to come back to the underlying question here, putting aside the debate on Haiti for a minute, whether you agree or disagree with what is present policy.

There is a more fundamental issue that is being addressed as a result of our colleague from New Hampshire raising this binding amendment.

It goes far beyond the issue of this particular fact situation that I have been reading over the War Powers Resolution, and my colleague from Georgia is far better acquainted with this than I. And I see the arrival of our colleague from Virginia who is well acquainted with it, as well.

There has been a 22-year debate on the War Powers Resolution and the debate has not focused on whether or not the Congress has the authority to restrain a President's decision to initiate hostilities prior to congressional approval. The debate has been, one, whether or not he should have to consult with Congress before he engages in those activities and, second, whether, within 48 hours after engaging in those hostilities, he needs to come to the Congress and get some permission. And Presidents going back to President Nixon, if I am not incorrect, have strongly objected to even that restriction on executive power.

Now, that is the question I guess I would ask. But that has been a significant debate.

This amendment goes far beyond that, in that it is a precondition and sets a standard with which no other President has ever been asked to comply in any case specific or even in the generic situation.

Is that the opinion of the Senator from Georgia, as well?

Mr. NUNN. I think that is correct.

I would have to add, on the Iraq situation I think that there was a very strong view in the Congress because of the time element involved, the fact that there were 6 or 7 months of buildup and consideration and sanctions before there was any kind of formal debate in the Congress in terms of Congress' responsibility under the war provisions of the Constitution, that in that case there were a number of people that urged the President of the United States—then President Bush—to come to the Congress before taking military action.

I would have to go back and research it, but I do not believe there was any law that was passed. I am not sure there was even any attempt.

Mr. DODD. If my colleague would yield, President Bush actually requested of us to raise that issue.

Mr. NUNN. Correct.

Mr. DODD. And it was a significant debate. But to the contrary, it was not Congress insisting, it was not a legislatively initiated activity.

Mr. NUNN. But there were a lot of people in Congress, I would say a majority of Congress, that felt pretty strongly that he should ask that permission, given the circumstances and given the Constitution's clear role of Congress in declaring war, because that indeed would be an action anyone would define as a war.

I am not sure what we would call an actual military incursion in Haiti, but it is certainly not comparable to that.

Yet, I think the President ought to maximize his consultations with Congress before taking military action, anyway. But that is a different thing altogether than binding him in law and basically demonstrating to whoever would be your possible adversaries in advance that it is a binding action in law. And that is what we have here before us.

Mr. DODD. I thank my colleague.

Mr. NUNN. I yield the floor.

Mr. DODD. Mr. President, I would like to take a minute or so, if I can, on a general proposition.

First of all, I thank our colleague from Georgia and our colleague from Arizona. Their observations were on the constitutionality of this proposal rather than engaging in debate specifically on Haiti.

But I think it is important to note, with regard to the debate on Haiti itself, that I think the present course of action that the administration is following is a good one. It is a difficult one. It is cumbersome and awkward, but there are several things present here that have not been present in other situations.

One, there is tremendous international cooperation. The United Nations has voted unanimously to impose sanctions. There is the Organization of American States. We are not going it alone in this particular case.

I point out that we have had now, for basically four decades, an imposition of sanctions on Cuba. We have even now put a secondary boycott on Cuba. And people have argued over the years whether or not sanctions, economically, politically, and diplomatically have any affect at all.

As I listened to some of the comments about these sanctions, I am left with the impression by some of my colleagues that somehow it is this administration's fault for the condition under which Haitians are living.

Madam President, I lived on the border of Haiti for 2½ years. It goes back 3 decades ago, but I know this country very, very well. I have been there numerous times.

I would say to my colleagues, sanctions are tough. But these are desperately poor people who live outside of the mainstream of the normal economy of a country.

I would like to think—I would wish in some cases—that the people of Haiti would be affected. But frankly, they are so desperately poor that the issue of commercial flights coming in and out of Haiti, visas, and the like have no impact whatsoever on the average Haitian; even the normal export-import. These are people who live hand-to-mouth. This is not a case where the poor are being adversely affected to the extent that some of our colleagues have suggested.

Now there is an impact. But, Madam President, if we cannot make sanctions work here, then I do not know where we can make them work. If we cannot use sanctions to have some impact on the decisionmakers of that country, the economic elite and the military, I do not know where they could ever possibly work.

Here we have everybody joining us. I gather that Air France, the only airline left, is going to make a decision in the next 24 or 48 hours that will exclude all commercial traffic. Rarely has this country had the kind of cooperation and unanimity of support on an action that we do in this particular case.

Now will it produce the desired results? I do not know that. I am not enthusiastic about a military option here at all, for the very reason the Senator from Georgia and others have outlined. But I do think we ought to give these sanctions an opportunity to try to do the job that we would all like to see done.

Let us remember what happened here. Seventy percent of the people of this country for the first time in their history chose a leader—whether we like him or not is irrelevant—in the freest and fairest election in the history of that country. Jean-Bertrand Aristide was elected by the people of that nation to be their President. And then a handful of colonels and generals threw him out in a coup.

Now there are only two nations left in this hemisphere that do not have democratic governments—Cuba and Haiti.

All we are saying here is, we believe the people of Haiti have a right to be able to have their democratic leader back and the restoration of democracy, and that we are not going to subsidize these colonels and generals as if nothing happened.

You are not going to fly into Florida on American Airlines; you are not going to get a visa to come to the United States.

Is that really that outrageous for us to say we believe in democracy; we think it is important; we think it is in our interest to have democratic countries in this hemisphere?

Now, I am not enthusiastic, as I say, about a military invasion. I would quickly point out that no one I know of is suggesting we have the military stay around and run the country. There is a discussion, if a military invasion occurred, to have an international force go in that would do exactly what the Senator from Georgia has talked about, and that is training to do a policing kind of job, not a search and destroy mission.

I would inform my colleague that has been discussed in the aftermath of a successful military operation.

Again, I emphasize I do not like the idea of us even suggesting at this juncture a military operation. I think we can be successful with sanctions. At least, I think we ought to give them a try, and not just a few hours. That is all we have had, some of the sanctions have not even been imposed yet.

Last, I would just say, and I think this is true everywhere. "You do not ever take off the military option." Again, the Senator from Georgia is absolutely correct in this. You never say what you are not absolutely ever going to do. That is a tremendously crippling disadvantage to place any chief executive of this country in.

Again, you ought to draw that arrow from your quiver very reluctantly, very cautiously, know how to draw it and know how to put it back. And you ought to do that with some thought. But do not ever say, I am never, ever going to do it or I am only going to do it under the following conditions, and let your potential adversary know what those conditions are.

So, again, I emphasize the point here: The condition of Haitians was not imposed by these sanctions. The political condition in that country was not imposed by this administration. These conditions have existed as a result of the political leadership of Haiti for too many years.

There is an opportunity here for some change. It is in our interest, I believe, as a Nation, in this hemisphere and elsewhere to promote democratic governments and to stand up for them where they exist, to try to defend them when they are in trouble, and not to subsidize those who destroy them.

The military leaders in that country destroyed it. And I do not think they ought to be able to send their kids to prep schools in New England and I do not think they ought to go school in Miami and I do not think they should have the rights that other citizens do in other nations that support democracy. That is basically what these sanctions are about.

So, Madam President, I hope, for the reasons more fundamental than the debate regarding Haiti, that this amendment will be defeated.

But, beyond that, I think the Senate ought to look and think carefully about how we are conducting our foreign policy here in Haiti; whether or not there is an intelligent way to go here, so we can try to achieve the desired results that President Bush articulated when President Aristide was ousted and that President Clinton has tried to pursue during his Presidency. I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I have followed this debate, as have other Senators, I hope, with great interest. I share the concerns of the distinguished Senator from New Hampshire. I, too, have serious misgivings about the policy of this country with respect to Haiti. But I am of a very clear, unequivocal mind that this amendment transcends the constitutional balance between the executive and legislative branches. And for that reason I will oppose it.

Madam President, I went back and did some research. I would like to refer my colleagues to the CONGRESSIONAL RECORD of October 21, 1993, at which time this body had before it an amendment by the distinguished majority leader and the Republican leader. And the body approved that amendment with the exception, I think, of all but two votes. I urge Senators to take some time, if they so desire, to look at the debate which thoroughly aired many of the issues that are before us as a consequence of this amendment at this time.

I took the opportunity to include in the RECORD as a part of the debate, Madam President, two very detailed memoranda—one written by an Assistant Attorney General on February 12, 1980, during the administration of Ronald Reagan, and a second by the Office of Legal Counsel, dated October 26, 1983.

Both of these detailed memoranda describe this delicate balance between the executive and legislative branches and address the War Powers Act. It is very clear from a long series of well thought out and carefully constructed opinions by the executive branch as well as within our own discussions on this—and I suppose in my 16 years this is probably the 10th or 12th time that I and Senator COHEN and Senator NUNN and others have dealt with this war powers issue—there is a certain clear consistency that this body has followed throughout all of these debates. Regrettably, I say to my colleague from New Hampshire that he has crossed the line. It is for that reason I cannot support the amendment.

I find in these two opinions all the authority to oppose the amendment. If the Senators so desire, look at the memoranda. I wish to associate myself with the remarks of the distinguished Senator from Arizona, the Senator from Georgia, the Senator from Connecticut and, indeed, others who have spoken against the amendment.

I ask unanimous consent to have printed in the RECORD an article by James D. Hittle from the June 13, 1994, Navy Times, and I yield the floor.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Navy Times, June 13, 1994]

INVADING HAITI IS A U.S. INVITATION TO DISASTER

(By James D. Hittle)

Of all the misguided proposals considered by the Clinton administration foreign policy, the idea of a U.S. invasion of Haiti tops the list.

What's the objective? So far only the wispy ideas about human rights and restoring the Rev. Jean-Bertrand Aristide to power have been the leading reasons to risk U.S. lives and pay for the huge dollar cost of such a wild try. Sooner or later, U.S. troops would get killed.

Over a long period of time the casualties could go into the hundreds, perhaps thousands, and the euphoria of our landing and takeover in Haiti would wear down quickly as the body bags pile up at the shipping points. The public demand would be to "bring the boys home". And body bags there would be, as Haitian regulars and irregulars wage a guerrilla war in the bush against the occupying troops.

I've been in Haiti several times. About the only changes I saw in the countryside over the cities were a slight increase in the number of autos, deterioration of the road system and a worsening of the already abject poverty. It's the poorest country in the Caribbean. U.S. money isn't going to change much of it for the better.

As we look back on our previous effort to bring law and order to Haiti, there isn't much in terms of long-range results to brag about. Then-President Woodrow Wilson sent the Marines into Haiti to straighten it out in 1915. They came out in 1934. While there, the Marines brought a semblance of law and order to the cities. The countryside was largely disputed territory as the guerrillas waged an almost incessant warfare against the occupying Marines.

The 19-year stay of the Marines in Haiti shows how a well-intentioned intervention can stretch into a decade and even longer. Because of the need for pacification of the rural areas, combined with opposing guerrilla warfare, the Marine job, as the years went by, was never quite done.

One of the leading figures early on during the guerrilla warfare was Charlemagne Peralte, a clever jungle fighter and a constant threat to the Marines. In October 1919, an informer said there would be a jungle meeting of the guerrillas, and that Charlemagne would be there. Then-Marine Corps Capt. Herman Hannekden (later a brigadier general), who had been after Charlemagne for months, decided he'd attend the meeting and kill his adversary.

For assistance, Hannekden chose Marine Cpl. William R. Button. Obviously, these two couldn't simply show up at the jungle meeting in U.S Marine Corps uniforms and place Charlemagne under arrest. So Hannekden used old-fashioned imagination. Both he and Button disguised themselves in long native dresses and shawls. This, together with the darkness, gave them the camouflage to gather with the irregulars and their women in the murky fire-lighted jungle clearing. With their weapons tucked out of sight, Hannekden and Button gradually worked their way near Charlemagne.

Without any warning, the two Marines pulled out their guns and Hannekden, with a cool aim, put two .45-caliber slugs into Charlemagne's chest at 15 feet, killing him. Button, meanwhile, dropped nine of Charlemagne's bodyguards. Then the two Marines disappeared into the darkness.

Killing Charlemagne deprived the guerillas of their most able leader and, as a result, saved Marine lives. But the Marines didn't leave Haiti for another 15 years. For their heroism both Hannekden and Button were awarded the U.S. Medal of Honor.

It's questionable if such a bold strike at any enemy leader could be duplicated these days. Even irregulars often have detection and illumination devices, as well as the training, to keep all but the proven faithful away from their leader. But improvisation will continue to be their specialty.

The 1915–34 Marine Corps occupation of Haiti required the commitment of a large portion of the Marine Corps, which in those days was much smaller than today's troop level. Peak strength of the Corps in Haiti in the years 1925-26 was 2,750. Total Marine levels in 1925 were about 19,000.

During the occupation, 10 Marines were killed in action and 172 died of other causes including tropical diseases. It may not seem a big total, but multiply it by the much larger force the United States would need today to occupy the country. With land mines and deadly automatic weapons, the casualties could go much higher.

But with so much Latin American opposition to U.S. military intervention in Haiti, we could be stirring up more trouble for the United States than Aristide is worth. And with the United States and North Korea on the brink of a shooting war, this is certainly no time for a U.S. military misadventure in Haiti.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Madam President, when the amendment was initially offered as a sense of the Senate, I frankly was tempted to lend my support to it. My understanding now is it has been changed into a proposed statutory cutoff of any funds that could be used for a military operation in Haiti.

I would like to say just a couple of words by way of preface to these remarks, about why we are here. I recall many years ago reading a book Stewart Alsop wrote shortly before he died. I believe it was called "Stay of Execution." In it, he recounted an anecdote about Winston Churchill. A waiter set before Churchill a large and tasteless pudding. "Waiter," Churchill said, "pray remove this pudding. It has no theme."

I believe that is precisely why we are seeing the reaction to the present administration, as far as its foreign policy is concerned. It has no theme. There is a distinct perception in this Chamber, I believe on both sides of the aisle, whether one would admit that or not—if not in this Chamber then certainly in the country—there is great doubt about the present administration as far as its foreign policy is concerned.

We saw that, I think, with respect to Somalia. I heard the issue of Somalia raised earlier this evening, that we were fortunate to reject those on this side who wanted to "cut and run." I would like to take specific issue with the notion that we were in favor of cutting and running. What we were concerned about at that time was that we did not have a concrete theme. We did not have a consistent policy. We did not have, in fact, a well-reasoned, well-structured plan of operation. And when we suffered the 18 lives that were lost, there did not seem to be much of a plan as to how we were going to continue in that then hostile environment.

I, for one, am not prepared ever to put the lives of our sons and daughters on the line, in danger, in jeopardy, unless it is not only for a good cause but unless we have a good plan of operation. And we clearly did not have one at that time.

So it was not cut and run but rather we no longer had confidence in the policy that was being pursued. If the policy was right, then we no longer had the military force to accomplish that policy. And that was the reason why there was such concern over here and, I suspect, over there as well.

Madam President, I think you raised the issue, let us not have new rules for Haiti. I have not had time to refresh my memory on this, but I recall there was a Church or a Cooper amendment, back in 1973, that dealt with bombing in Indochina, cutting off the funds. I believe there was a Clark amendment back in 1974 prohibiting any military or paramilitary operations in Angola. Again, I have not had time to go back and thoroughly research that. So I think there has been some precedent in the use of this particular procedure. I do not think it was wise in the past, but there has been some precedent.

I would also like to address the issue of the Constitution. I disagree with my colleague from Virginia. I do not believe it is a constitutional issue. I do not believe the Senator from New Hampshire has walked across the threshold of constitutional powers here. I would like to repeat what I have said time and time again on this Senate floor. While the President may be the executor of foreign policy, he is not the sole architect of foreign policy. And if at times he has been, it has been a matter of practice and not a matter of law that he has exercised that power. Congress is a coequal partner in the formulation of foreign policy. He carries it out. He or she is a coequal partner. But no President can be said to be the sole architect of foreign policy.

I have heard my colleague from Maine, the majority leader, say on many, many occasions: We have had many Presidents in our history. We have never had a king, not once. And we do not have one now.

So it is Congress that has the power, at least a coequal power, in the field of formulating foreign policy.

The President is the Commander in Chief. And the Commander in Chief carries out the policy of the Government. Before he can ever carry out the policy wearing his military hat, a policy must be adopted and in formulating the policy, the President of the United States, as a civilian, acts in conjunction with the U.S. Congress. He then, as Commander in Chief, can carry out that policy. And it is important to recognize that distinction. The President cannot act alone unless it is on an emergency basis, unless he does so to protect the lives of Americans who might be in danger, are in danger, or unless there is an absolute emergency requiring him to act to protect the national security interests of this country. That is when the President can act alone, unilaterally. But he does not raise the armies and he does not support the armies. We do. For that notion to be set as a matter of policy or constitutional law—I think it is a mistake for us to articulate that. He is a coequal formulator of foreign policy and so are we.

I raised this issue in the past dealing with covert action when we had the Iran-Contra hearings. We found out that the President had initiated a covert action without properly notifying the Congress of the United States. When we found out what happened as a result of that covert action, we decided—we thought we were going to take some action right here on the Senate floor to force the President of the United States to notify Congress in advance. And that is what we thought the law was—notification in advance, unless that is not possible because of the exigencies of the moment, in which case notification is required within a reasonable timeframe.

Under the Reagan administration, the Justice Department issued an opinion that said a reasonable time period is whatever the President says is reasonable. It could be 2 days, it could be 2 weeks, it could be 2 months, it could be 6 months, it could be never. It is only when the President said it was time to notify Congress.

I mention that tonight because we have always believed in our society that we must have open debate about our foreign policy. That is why we have the Foreign Affairs Committee and the Foreign Relations Committee, to ventilate the conflicting and competing views of this Nation and then to help, by that debate, to set the policy, to send the signal to the administration, to tell the President this is what we believe is a right course of action. You cannot do that if you are acting covertly.

We recognize that sometimes the President has to act covertly. Sometimes it is imperative that he do so, but on very narrow, limited bases and then—and only then—provided he notifies the select intelligence committees of Congress, the leadership of these two committees, or at least the leadership of the Congress, to let us know what that covert action is designed to carry out, what foreign policy are we seeking to achieve with this covert action.

Absent Congress being notified, we have no participation, we have no role to play. All we can do is react. So many Members on both sides of this Chamber said that is not what we want to do; we want to have an active role in the formulation of policy, be it overt and certainly be it covert.

Presidents have resisted that. They say, no, we are the Commanders in Chief and we have to have the discretion to carry this out, as a matter of constitutional law. I disagree with that. Only under very narrow circumstances.

I think that is the case here. We are talking about debating foreign policy openly on something that may or may not affect our national security interests.

So I think it is entirely proper that the issue be raised. I think the Senator from New Hampshire has done a great service because he has raised the fundamental fears on the part of this country that we do not know what we are doing, we have not thought out carefully what we intend to do and what the consequences are. If you took an overnight poll—I hope we do not do that—but if you took one, how many people would be willing to, say, send their son or daughter to fight in Haiti?

I remember sitting in my office with "mothers against the war in the Persian Gulf." We had all the reasons we could marshal about why it was important to take on Saddam Hussein. We went through the whole list of what he was doing in Kuwait: the raping, the pillaging, the destruction of the entire country of Kuwait, the threat to blow up the oil wells, chemical warfare, biological warfare, the fact that he could straddle the oil fields of the Middle East, and what a threat that would mean to the national security interests of this country and many of our allies, the potential that he would even go to nuclear weapons, and the intelligence community could not tell us when he might acquire nuclear weapons—it could be a year, it could be 10 years; the fact he was developing a long-range missile capability.

None of that individually was enough to persuade the American people, at least if you looked at the polls, to go to war, and I had mothers against the war sitting in my office saying the blood of our children are going to be on your hands if you vote to go to war tomorrow. That is how reluctant the people of this country are to commit their treasure to another country, be it a neighbor or across the Atlantic Ocean or Somalia or anywhere else.

So I think it is very, very important that this issue be raised and debated here and that we not fall into the argument that the President, as a Commander in Chief, has the sole authority to commit our sons and daughters to a military action. That is not the case, and we ought not to endorse that concept tonight.

I am reluctant to support the amendment the way in which it is structured because I believe that we ought to send messages to the President, we ought to tell him we think it would be a mistake to act militarily. As a matter of fact, I believe the Senator from Connecticut indicated last fall:

> We cannot support indefinitely, or in perpetuity, governments, no matter how much we want to. We cannot send troops into Haiti and expect to become the police force and army of Haiti.

I think he still agrees with that. Most in this Chamber would.

I do not know what the President intends to do. I have heard many rumors. I must say that I think he has to listen very carefully to what is going on in this Chamber this evening. Many of us are reluctant to impose restraints—prior restraints—upon his conduct. We want to give him some flexibility. But that flexibility should not be interpreted as a license.

I recall during our buildup prior to the Persian Gulf war, for almost 6 months I went to President Bush and I said, "Mr. President, I believe you have an obligation to come before the Congress and get our consent before you go to war in the Persian Gulf." That was resisted. There was great difference of opinion. The President reacted rather negatively at the time.

I said, "Forget about the War Powers Act. Let's not debate the War Powers Act."

I think the War Powers Act is constitutional. Every President since its adoption has indicated it is unconstitutional.

"As a matter of practical policy, whether you agree or disagree about its constitutionality, if you commit troops to the Persian Gulf without our consent, I can guarantee you, once we start suffering casualties, the public opinion which you desperately need to solidify the support to maintain a presence in the Persian Gulf will evaporate. Once the bodies start coming home, public opinion will go in precisely the opposite direction, and you know what? Congress will be right behind them, right behind them. What you have to do is you must get our consent up front, you must put us to a vote up front to say we support what you are doing and, absent that support, you will find yourself hanging out there completely alone. You will find yourself in the same situation we found in the loss of public support for what we were doing in Vietnam."

That was a tragedy of immense proportion. The President was involved in a conflict for which the public had long since given up its support. I think if we learned anything from that, it was that if you are going to commit the sons and daughters of this country, to ask them to die for somebody else, you better have public support on your side. You better have Members of Congress on your side. In the absence of that, you will find yourself beating a retreat and the people who will lose their lives will feel and their families will feel, as some of those feel now about what we did in Somalia, that their sons' and daughters' lives were wasted.

I do not believe that is the case, but, nonetheless, that is the deep-seated feeling on the part of some and that will be the feeling any time we take a military operation which is not something that has to be taken overnight but is planned in advance. If you do not have public support for that operation, you run the risk of being forced at some time to back out, to get the troops out. And nothing is more fatal to our foreign policy, to the respect that we need.

Frankly, we do not have it right now. One of the really sad commentaries of today is that many countries—our allies included—do not hold us with very much respect. They see a loss of credibility in our policy. They see a lack of expertise in the field. They see a lack of any kind of sustainable policy that is supported by Congress. So they are reluctant to follow our lead. And that is one of the reasons why we are having so much difficulty getting allies, and others, to listen to what we would like to do, to support our efforts. They simply do not have confidence that we know what we are about.

So, Madam President, I suggest respectfully that whether or not this amendment is adopted, and I do not intend to support it, but the message ought to be very clear: Do not commit our forces to a military operation in Haiti unless you have support, unless you are convinced that the Congress will back you up over the long term.

If anything is more fatal to what we are doing in foreign policy, it is for us to send our troops in and then be forced to pull them out. It signifies weakness, vacillation, inconsistency, a muddled policy and a lack of leadership—all of that—which will undermine our national security interests perhaps more than the reduction of our military capability. If we lose the sense, the perception that we are in command of our policy, we will lose the Nation's respect, we will lose respect internationally, and that will be more damaging to our national security than anything else.

So I commend the Senator from New Hampshire for raising the issue. I think there are legitimate concerns about whether or not this is hamstringing the President, whether or not we ought to take preemptive action to preclude him from taking any action.

I might say the debate on Bosnia is not without some relevance here. Many of us said under no circumstances put ground troops in Bosnia. So we have gone on record, with a sense of the Senate perhaps but we have gone on record, saying no ground troops in Bosnia certainly at this time and perhaps not even if any kind of peaceful accord has been reached.

So that is the function of the Senate, to debate the issues, to ventilate our views, to give the President at least some guidance, in this case not a positive recommendation but one that says we are not satisfied yet that you have persuaded the American people it is imperative under any circumstances to intervene militarily. That may come about at some time, but we have not been persuaded yet. And we would urge you not to take such action until such time as you make the case and you come to us and seek our consent. Without that, I am afraid the policy would be doomed to failure if it were ever initiated.

Madam President, I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, the only reason I sought the floor, and I will not hold it for more than a moment—I see the distinguished majority leader in the Chamber now—I would assume most Senators have expressed themselves. The Senators I have talked to know exactly how they are going to vote on this issue. I would urge Senators we may be able to try to find a time to vote relatively soon on this. There are other matters that will come up. I would hope that we could dispose of a number of amendments if, indeed, they need rollcall votes this evening.

I yield to the Senator from Maine.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. We have been trying for some time to get an agreement to get a vote on this amendment and have been unsuccessful so far. But I hope that we will be able to do so.

I therefore now ask unanimous consent that at 8:50 p.m. this evening the Senate vote on or in relation to Senator GREGG's amendment No. 2117, as modified; that upon the disposition of his amendment, I be recognized to offer an amendment on behalf of myself and others; that the Senate vote on or in relation to my amendment after it has been reported, and that the preceding all occur without any intervening action or debate, and the time between now and 8:50 p.m. be divided equally between Senator LEAHY and Senator GREGG or their designees.

Mr. McCONNELL. I object.

Mr. MITCHELL. Madam President, may I inquire of the Senator as to what he is objecting and the reasons therefore?

Mr. McCONNELL. All I can say to the leader is that there is an objection lodged on this side to having the back-to-back votes.

Mr. MITCHELL. The Senator does not agree to having a vote on this amendment at 8:50 or he just does not want a vote on the subsequent amendment immediately thereafter?

Mr. McCONNELL. Might I say, I assume the objection might go away with if we go ahead and have the vote on the Gregg amendment and the leader would lay down his amendment and discuss that. That is the only suggestion I have. All I can tell the leader is that I have to object to this particular request.

Mr. MITCHELL. Madam President, just so Senators can understand the situation, the amendment that I will offer is identical in form and substance to an amendment which the Senate previously approved a few months ago by a vote of 98 to 2. We have now debated this subject on several occasions including most recently this evening, and we are all trying hard to make progress on this bill and other matters so that we could complete action and meet our target for the recess.

I do not know what there is left to debate. We have debated this subject several times and the amendment we are going to offer is absolutely identical, word for word, in form and substance to that which was previously debated and voted on by the Senate 98 to 2.

Will our colleagues agree to a vote on that 30 minutes after the vote on this amendment?

Mr. McCONNELL. Madam President, at the risk of being redundant, let me just repeat to the leader, I am constrained to object to the UC request as it is currently constructed.

Mr. MITCHELL. Would the Senator be constrained to object if I asked for a vote on the second amendment, which everybody has already voted on and 98 out of 100 voted for, 30 minutes after the first vote or 40 minutes after?

Mr. McCONNELL. I would have to check with this side.

Mr. MITCHELL. I will just say, Madam President, that when we get to the point when Senators start saying why can we not go home, these are some of the reasons why we cannot go home.

If that is the case, then would the Senator agree to permit a vote on the pending amendment without a time for the vote on the subsequent amendment? The Senator from New Hampshire is here. This will permit him to have a vote on his amendment. We will offer the other one. Then if the Senators want to delay or keep debating on the same subject repeatedly, why, I suppose we could stay and do that.

Mr. GREGG. If the Senator from Maine will yield, I am perfectly happy to vote on both amendments. I have no problem with the sequential vote. Somebody obviously does on our side. But as a practical matter all the time we need—I need to reserve time; the leader wishes to speak on this, and I would like to have 10 minutes to speak on it and therefore the time of 8:40, or 8:50 I guess it was, is fine with me as long as we have 15 minutes on our side and the rest to the opposition.

Mr. MITCHELL. Madam President, in an effort to be accommodating, I will renew the request without a time or a vote on the subsequent amendment. But I will simply say to the Senators that we simply stay here until we vote on that amendment, no matter how long it takes, or if we are not able to vote on that we will just have to stay in until we do.

I just do not see any reason why we cannot vote on an amendment that is identical to that which Senators have already debated at great length. It seems to me that there does not appear, or at least no reason has been advanced or suggested for that.

So I will renew my request that at 8:50—I guess we better make it 8:55 now, if the Senator from New Hampshire wants that much time this evening, the Senate vote on or in relation to Senator GREGG's amendment No. 2117, as modified; that upon the disposition of his amendment, I be recognized to offer an amendment on behalf of myself and others; that the time between now and 8:55 p.m. be equally divided between Senators LEAHY and GREGG or their designees.

Mr. GREGG. 8:50 is fine with me.

Mr. DOMENICI. Reserving the right to object, does the Senator have 2 minutes in that for me or if not could I ask——

Mr. MITCHELL. I made it 8:55 because the Senator from New Hampshire said he wanted 15 minutes.

Mr. GREGG. I will yield the Senator 2 minutes.

Mr. MITCHELL. I renew my request, Madam President, with the vote at 8:55.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, on my time, I would be very brief while the majority leader is here. I would assume, and I would hope people understand, the majority leader wishes to bring up his amendment, which he will be able to do after this. With or without unanimous consent, he will be able to bring it up. Obviously, some could stop us from having a vote on that. Would it be fair to say, I ask my good friend from Maine, that if action is taken to forestall the vote on the majority leader's resolution, we will have further votes this evening? I do not want people to assume we will have this one vote on the Gregg amendment and that is it.

Mr. MITCHELL. To the extent that it is within my power to do so, yes.

Mr. LEAHY. I reserve the remainder of my time.

The PRESIDING OFFICER. The minority leader.

Mr. GREGG. Is the Senator from Kentucky controlling the time or the Senator from New Hampshire?

Mr. McCONNELL. I believe the Senator from New Hampshire controls the time.

Mr. GREGG. I yield such time as he may need to the minority leader.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Madam President, I thank the Senator from New Hampshire.

As I have looked at the amendment, it looks familiar. It is essentially the same amendment that was offered, as the majority leader has pointed out, a couple months ago—a restriction on funds to invade Haiti because concerns were raised over the diplomatic sensitivity and executive branch privilege.

At that time we modified the amendment to make it a sense-of-the-Senate amendment. I assume that is what will follow this amendment.

Since that time, the war drums have been beating for an invasion of Haiti. Many commentators who were not in the forefront of support for the liberation of Grenada now advocate invading Haiti. And many who did not support the invasion of Panama now want to invade Haiti.

But Haiti is not Grenada, and Haiti is not Panama. American citizens are not in immediate danger in Haiti—as they were in Panama and Grenada. In Grenada, a Communist revolution was underway with the clear goal of expansion. Grenada's neighbors asked for American intervention. In Haiti, Americans are not at risk. Haiti's regime does not threaten its neighbors.

In 1989 an indicted drug trafficker ran Panama, American service persons were beaten and even killed, and the safety of the Panama Canal was at risk. Decisive military action was undertaken to defend American interests.

In both Panama and Grenada, other options were not available. Grenada was an emergency which required immediate action. In Panama, all avenues for a political solution were exhausted, In Haiti, however, the administration has rejected political negotiations. I am informed the U.S. Ambassador in Haiti is not allowed to meet Haitian military leaders. I am informed that Congressman Bill Gray, the President's special representative has not traveled to Haiti, and has not met with democratically elected Haitian parliamentarians.

I do not know why he has not.

So it seems to me that the administration relies on the views of President-elect Aristide and his paid advisers—who get paid pretty well, if you look at the records—and who reject negotiations. Maybe we should send President Carter to explore negotiated options in Haiti. I agree with the assessment of Larry Pezzullo, the last special representative for Haiti:

> By abandoning the track of multilateral negotiations, we have taken on full responsibility for Haiti's future. This is no favor to Aristide, the Haitian people or the Americans who will be sacrificed in the attempt.

As many of us predicted, what the administration has done now is tighten sanctions, which has driven people into boats, driven them out to sea, and forced the people in this hemisphere. It is not going to work. It in no way is going to work, and in my view they are punishing the wrong people.

Yes, there are human rights violations in Haiti—as there are in many countries in the hemisphere. But the boats are clearly free to leave Haiti—and leaving they are at a record rate particularly in the last few days. Unlike Cuba, emigrants from Haiti are not shot by pursuing military forces. Haitians are leaving because the United States-led economic embargo leaves them with no options. And the constant changes in U.S. immigration policy leave the hope that the way to get into America is to set sail.

The United States cannot declare a new foreign policy doctrine: That we will invade if democracy is interrupted. We ignored antidemocratic events in Algeria and in Georgia. We cannot invade every country where human rights abuses occur. We must only use military force where American interests are threatened.

Madam President, I am going to support the amendment by the distinguished Senator from New Hamphire. It seems to me that we have spent a lot of time on this particular issue.

Future historians will question the time and energy spent on Haiti while North Korea's nuclear ambitions are receiving limited attention.

Some have argued that this is a partisan effort. There have been many nonpartisan proposals for Haiti. Some in the Congress have supported establishing a safe haven. I have repeatedly proposed naming an independent commission to look at the real facts in Haiti. The administration has rejected these options. That is not the way to forge a bipartisan policy.

Some have said that the Congress has not put these geographic restrictions on U.S. Armed Forces. Let me remind my colleagues we spent many hours in the 1960's and 1970's on this floor debating amendments on funding limits for United States forces in Cambodia, in Laos and in Vietnam. The Cooper-Church amendment of September 17, 1969, for example, was prior restraint on United States military forces operating in Laos and Thailand. The Clark amendment of the former Senator from Iowa, of the 1970's was prior restraint on United States options in Angola. The Congress has been more than willing to restrain Presidents on foreign policy actions with which it disagrees. So let us not muddy the waters with constitutional arguments or partisan allegations. Let us vote on the issue—do you think Congress should be put in the loop before United States forces are committed to Haiti. That is precisely what it is.

I do not think invading Haiti makes sense. I do not think giving President Aristide veto power over U.S. actions makes sense. And I do not think public opinion polls ought to drive our invasion policy. We all read the news article this morning about a slight increase of support for military action in Haiti. But there was far more support for military action to halt North Korea's nuclear programs. But foreign policy is about more than polls. It is about leadership and it is about tough choices. We should make our own choice tonight—should Congress be involved before we go to war in Haiti?

I urge my colleagues to support Senator GREGG'S amendment.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, I yield 2 minutes to the Senator from New Mexico.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I rise first for the purpose of saying to my good friend from Maine, Senator COHEN, that I was privileged to be on the floor and to listen to his remarks. I compliment him for them. I think anybody that wants a history of what it really means for the U.S. Congress to be part of the foreign policy should either have listened or should read what he has to say.

Whether this proposal passes or not, it is quite obvious that there is kind of a pervasive, prevailing issue. And if the President does not see it, then he is blind. Clearly, that is, you do not commit American military without informing the Congress, at least—and probably history tells us—without getting their consent. We have been successful where Congress is a part because Congress speaks for the people and can take home to their States and their districts the concerns that a President has. If the President does this without Congress, then clearly the people will join on the opposite side almost automatically. It is not because we support something and that they will be with us. But it does indicate that it makes sense, that it is not something that a Chief Executive is doing without the concurrence of Congress and without asking Congress for advice.

So whether it passes or not, the Senator has made the point. If the point is not heard down at Pennsylvania Avenue by this President, then he is going to have another foreign policy failure. This is not a giant country. But for the United States, without Congress being informed or being part of this, to take on the idea of sending American men and women with military equipment in a military approach to that country, if Americans get killed, the President has to say, "I did not even ask Congress. I did not even inform Congress." Today we are saying that, if I read the Senator right. I think the Senator is absolutely consistent with good policy and consistent with what the Constitution really means.

I thank the Senator for his discussion today.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I ask unanimous consent that I be allowed to proceed for 1 minute on the time of the Senator from Vermont.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Madam President, just to address the last point, obviously the ideal situation is to have support of the American public and Congress. But we should be careful, though, in suggesting that the only time a President could exercise the option of military force ought to be when there is absolute congressional approval or popularity for the decision. That is always a convenient perspective. But in most cases, the people of this country have been reluctant about our foreign involvement. If Franklin Roosevelt had run in 1940 on the proposition that we were going to enter World War II, he might have been in serious political difficulty even though lend-lease and other things were involved.

We have been historically an isolationist country, because, by and large, our parents and great grandparents left the nations they were in because of the turmoil in the countries in which they resided. So there is a historic reluctance about foreign policy.

I have listened very carefully to the comments of my colleague from Maine, and I have great respect for him in this area. But as to this notion of always having congressional approval, I would remind him that we did not in Grenada. We did not in Panama. By the way, I supported both of those actions.

But had the President come and asked for permission in Panama and Grenada, you might have had a different perception for United States forces.

So I think you have to be selective in how you approach the issue of prior congressional approval or even consultation, in a broad sense.

Second, the notion of popular support on these issues, again, ideally you ought to have it. Hopefully, you will. But we cannot conduct our foreign policy on the basis of whether or not the American public from day to day are going to necessarily agree with the actions that are taken.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. How much time do we have remaining?

The PRESIDING OFFICER. There are 5 minutes and 26 seconds remaining for the proponents of the amendment; 10 minutes and 13 seconds for the opponents of the amendment.

Mr. GREGG. I ask the Senator from Vermont, will he use all of the time?

Mr. LEAHY. The majority leader has requested 5 or 6 minutes of the time that I might have.

Mr. GREGG. To speak last?

Mr. LEAHY. Yes.

Mr. GREGG. Madam President, I yield myself the remainder of my time.

I think it is important to recognize what we are voting on here and what we are not voting on. There has been much representation that has been inaccurate. The contention that in the Grenada situation and the Panama situation just reflected, that prior approval would be required, is inaccurate under this amendment. The statement that the President must come to Congress and get approval is inaccurate. Under this amendment, he must just send a report to the Congress outlining what he intends to do, and then he is qualified. One of the elements of this amendment could require prior approval, but it is not the only manner in which he can proceed if there is an emergency, where citizens are at risk, or when there is a vital national interest. And where it requires immediate action, he can just submit a report telling us what he is up to and why he intends to do it. So there is a lot of flexibility here for the President.

Second, it is important to understand that much more restrictive actions have been taken relative to the power of the President by this body and by the House of Representatives, and the representation that that is not true is inaccurate. I refer this body to the Boland amendment and the Clark amendment.

I will read from the Clark amendment:

> Notwithstanding any other provision of law, no assistance of any kind shall be provided for the purposes or which would have the effect of promoting or augmenting directly or indirectly the capacity of any nation,—

Which I presume includes us—

> group, organization, movement, or individual to conduct military or paramilitary operations in Angola.

That was the Clark amendment. This amendment I have offered here, compared to that amendment, is a dam with innumerable holes in it with the water flooding through. The simple fact is that this amendment does not tie the hands of the President. What this amendment does do is require that the President tell the American people what he is up to in Haiti, what is his policy in Haiti, which is something we have not heard. If he intends to invade Haiti, why?

Why should he tell the American people that? Because it is American lives that are going to be at risk. When that son or daughter hits the beach in Haiti or finds himself or herself on a street in Port-au-Prince fighting for his or her life, that person needs to know why. It is the obligation of this President to tell us, to tell this Congress and, in that way, tell the people of the United States. That is all we ask for in this amendment. Give us a report and tell us why you are going in there. There is clear movement by the administration to move toward the avenue of invasion. Their policy of sanctions have failed; there has been discussion of that. It failed because it was inappropriately designed. But there is no justification, in my opinion, for invasion.

If refugees are the issue, we should be invading Mexico, because the Mexican refugees that come up here multiply by a factor of about 2,000 compared to the number coming from Haiti. If the issue is drugs, we should be invading the Bahamas, because their problem with drugs passing through them is dramatically more significant than Haiti.

The fact is that this administration has not come to the American people and told us what the national interest is, and that requires us putting at risk American lives. They have an obligation to do that before they risk American lives. That is all this amendment says.

As a final comment, I make this point: I guess I come from a region of the Nation where—and I suspect most regions of the Nation are like this—when you say something, they expect you to mean it. Well, this Senate passed this exact language, and we may pass it again tonight in an act of what would have to be called "ultimate inconsistency," but we passed this exact language as a sense-of-the-Senate in October. Now we are told that we cannot do it as a force of law. Well, I think the American people may have a jaundiced view of the Congress and what it stands for, and possibly that type of an exercise in obfuscation is an example of why. If we passed it as a sense-of-the-Senate, we ought to have the wherewithal and the desire and the willingness and the Constitution to back it up as an act of law.

So I think it has been misrepresented as more than it is, as some sort of constitutional impairment of the Presidency. It is not. In fact, it is significantly less than what Congress has done many times under the Boland amendment and Clark amendment. It has been represented that the President must come to us and get prior approval. That is not accurate. He must just tell us what he is up to. It is a chance for the President to tell the American people when he decides, if he should decide.

One Senator basically said he had decided for all intents and purposes—or that Senator felt he should decide—to invade. This amendment provides that if he decides to invade another nation, tell us why, so that when our American soldiers go into that nation, the American people will be behind him because they will understand the reasons why. That is the purpose of this amendment.

I yield whatever time I have remaining.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LEAHY. Madam President, I yield 2 minutes to the Senator from Delaware.

Mr. BIDEN. Madam President, I will be necessarily brief. I am going to vote against this amendment, but not for some of the reasons stated. I think it is an axiomatic under the war clause of the Constitution that the President cannot use forces abroad in hostilities, except in certain limited circumstances, without the consent of Congress.

This is an incredibly poorly drafted amendment that is essentially a case-specific attempt at rewriting the War Powers Resolution. We have never, to the best of my knowledge, in an anticipatory way, suggested that a President of the United States must go to the U.S. Congress in anticipation of the probability that he or she might invade a particular country. By implication, this says that the President only has to get approval with regard to Haiti. But if he wants to go into Ukraine or Jordan, or if he wants to go into wherever, he can do it without bothering to obtain the consent of Congress.

This is, quite frankly, the most confusing and, I believe, damaging debate that has taken place on the question of what are the constitutional limitations on Presidential power.

I end by saying that we have been trying now—some of us—for the better part of 4 years to rewrite the War Powers Resolution. I have a proposal, as do others, called the Use of Force Act. But to attempt to do this piecemeal, in anticipation of the possibility that the President may take an action, which under the Constitution, most constitutional scholars would tell you he does not have the right to take anyway, seems to me to be, by implication, suggesting that if we do not approve this amendment, the President has the inherent authority to do what you are worried about being done in Haiti.

I respectfully suggest that this is the wrong way to go about this, and I will not ascribe any political motivation, except an intellectual inconsistency. This is, in a fundamental sense, the wrong way to deal with a serious problem. We should revisit the War Powers Resolution and rewrite the War Powers Resolution. But this does not do it and does not do it well.

Therefore, I shall vote against this amendment.

Mr. LEAHY. How much time is remaining for the Senator from Vermont?

The PRESIDING OFFICER. The Senator has 7 minutes 35 seconds remaining.

Mr. LEAHY. Madam President, one, I concur with the words of the Senator from Delaware. Again, I say that we are raising an issue of great constitutional magnitude, tossing it on as though it is some little earmark on a foreign aid bill. It is not. It is an issue that should be debated. Let us debate the War Powers Act as a standing item, but not on this. It diminishes the Senate, diminishes our own sense of the Constitution. It is flatout wrong.

Madam President, I yield the remainder of my time to the distinguished Senator from Maine, the majority leader.

Mr. MITCHELL. Madam President, this is a subject which has been debated on many occasions in the Senate. The Senate has already voted on the same issue which is being presented here this evening.

It is not uncommon for the Senate to debate and vote on the same thing on many occasions.

But I think it is appropriate to understand that a few months ago the Senate voted 81 to 19 in opposition to an amendment which is similar, indeed I believe identical in effect, although similar language, to the amendment which is now being offered.

Thereafter, the Senate voted 98 to 2 in favor of an amendment in the form of a sense-of-the-Congress resolution that is identical both in effect and words to that which I will offer immediately after the vote on this amendment.

It is my hope that we can vote promptly thereafter. There will be no need for debate. And I will ask, as soon as I am recognized and offer my amendment, that we proceed to vote on that amendment then.

Everything has been said that need be said on this subject. In fact, I think it has been said several times over on both sides of the debate, and there really is not much more that I can add to shed any light on the subject.

Nothing has happened, in my judgment, that justifies a reversal of position by the Senate or by any Senator. Those 19 Senators who voted for this amendment a few months ago would be perfectly justified in voting for it again. Those 81 who voted against it should, in fact, vote against it again, because it is the same thing. Then, when the sense of the Congress is offered after, it, too, is the same thing, and the 98 Senators who voted for that should, if consistent, vote for it; and the 2 who voted against it are, of course, free to do so.

So, Madam President, just so there is no misunderstanding in this respect, so there will be spread upon the RECORD for every Senator to see what it is we are doing, I ask unanimous consent that there be printed in the RECORD, first, the amendment offered at that time by the distinguished Senator from North Carolina, which is identical in effect and intention, although not in word, to that now being offered, to be followed by a record of the vote on that amendment, and then a copy of the sense-of-the-Congress resolution which we voted on, and then a record of the vote on that resolution be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HELMS (AND BROWN) AMENDMENT NO. 1072

Mr. HELMS (for himself and Mr. BROWN) proposed an amendment to the bill H.R. 3116, supra; as follows:

"At the end of the committee amendment on page 154, insert the following:

"SEC. 8142. None of the funds appropriated or otherwise made available by this Act may be obligated or expended for the Armed Forces of the United States to conduct operations in Haiti unless (1) operations of the Armed Forces of the United States in Haiti are specifically authorized in a law enacted in advance of the operations, or (2) the President certifies in writing to Congress that United States citizens in Haiti are in imminent danger and that a temporary deployment of the Armed Forces of the United States into Haiti is necessary in order to protect and evacuate United States citizens in Haiti. In the event of a certification under clause (2) of the preceding sentence, funds referred to in that sentence may be obligated and expended for the Armed Forces of the United States to conduct operations in Haiti only to the extent necessary for the Armed Forces to provide the protection and complete the evacuation certified as necessary."

[Rollcall No. 321 Leg.]

YEAS—19

Brown
Craig
D'Amato
Dole
Domenici
Faircloth
Grassley
Hatfield
Helms
Kempthorne
Lott
Murkowski
Nickles
Pressler
Roth
Smith
Stevens
Thurmond
Wallop

NAYS—81

Akaka
Baucus
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Conrad
Daschle
DeConcini
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Wellstone
Wofford
Bennett
Bond
Burns
Chafee
Coats
Cochran
Cohen
Coverdell
Danforth
Durenberger
Gorton
Gramm
Gregg
Hatch
Hutchison
Jeffords
Kassebaum
Lugar
Mack
McCain
McConnell
Packwood
Simpson
Specter
Warner

DOLE (AND OTHERS) AMENDMENT NO. 1074

Mr. MITCHELL (for Mr. DOLE for himself, Mr. MITCHELL, Mr. GRAHAM, Mr. SIMPSON, Mr. THURMOND, Mr. WARNER, Mrs. HUTCHISON, Mr. D'AMATO, Mr. MURKOWSKI, Mr. DODD and Mr. DOMENICI) proposed an amendment to the bill H.R. 3116, supra; as follows:

"At the appropriate place in the bill, insert the following:

"SEC. . SENSE OF CONGRESS ON THE USE OF FUNDS FOR UNITED STATES MILITARY OPERATIONS IN HAITI

"(a) STATEMENT OF POLICY.—It is the sense of the Congress that—

"(1) all parties should honor their obligations under the Governors Island Accord of July 3, 1993 and the New York Pact of July 16, 1993;

"(2) the United States has a national interest in preventing uncontrolled emigration from Haiti; and

"(3) the United States should remain engaged in Haiti to support national reconciliation and further its interest in preventing uncontrolled emigration.

"(b) LIMITATION.—It is the sense of Congress that funds appropriated by this Act should not be obligated or expended for United States military operations in Haiti unless—

"(1) authorized in advance by the Congress; or

"(2) the temporary deployment of United States Armed Forces into Haiti is necessary in order to protect or evacuate United States citizens from a situation of imminent danger and the President reports as soon as practicable to Congress after the initiation of the temporary deployment, but in no case later than forty-eight hours after the initiation of the temporary deployment; or

"(3) the deployment of United States Armed Forces into Haiti is vital to the national security interests of the United States, including but not limited to the protection of American citizens in Haiti, there is not sufficient time to seek and receive congressional authorization, and the President reports as soon as practicable to Congress after the initiation of the deployment, but in no case later than forty-eight hours after the initiation of the deployment; or

"(4) the President transmits to the Congress a written report pursuant to subsection (c).

"(c) REPORT.—It is the sense of Congress that the limitation in subsection (b) should not apply if the President reports in advance to Congress that the intended deployment of United States Armed Forces into Haiti—

"(1) is justified by United States national security interests;

"(2) will be undertaken only after necessary steps have been taken to ensure the safety and security of United States Armed Forces, including steps to ensure that U.S. Armed Forces will not become targets due to the nature of their rules of engagement;

"(3) will be undertaken only after an assessment that—

"(A) the proposed mission and objectives are most appropriate for the United States Armed Forces rather than civilian personnel or armed forces from other nations, and

"(B) that the United States Armed Forces proposed for deployment are necessary and sufficient to accomplish the objectives of the proposed mission;

"(4) will be undertaken only after clear objectives for the deployment are established;

"(5) will be undertaken only after an exit strategy for ending the deployment has been identified; and

"(6) will be undertaken only after the financial costs of the deployment are established.

"(d) DEFINITION.—As used in this section, the term "United States military operations in Haiti" means the continued deployment, introduction or reintroduction of United States Armed Forces into the land territory of Haiti, irrespective of whether those Armed Forces are under United States or United Nations command, but does not include activities for the collection of foreign intelligence, activities directly related to the operations of United States diplomatic or other United States Government facilities, or operations to counter emigration from Haiti."

[Rollcall No. 322 Leg.]

YEAS—98

Akaka
Baucus
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Campbell
Conrad
Daschle
DeConcini
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Wellstone
Wofford
Bennett
Bond
Brown
Burns
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
Danforth
Dole
Domenici
Durenberger
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Helms
Hutchison
Jeffords
Kassebaum
Kempthorne
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner

NAYS—2

Byrd
Hatfield

Mr. MITCHELL. Madam President, every Senator will be able to see exactly what it is he or she voted on just a few months ago. Then, of course, we will have the vote now on the same two issues, and we can have it all spread out on the RECORD so everyone can understand the identical nature of what it is we are doing.

I recognize that every Senator has a right to offer any amendment he or she wants and to say whatever he or she wants, and I guess it is fortunate for the Senate there is no rule of redundancy in the Senate.

But I repeat, in conclusion, as the vote will occur now in just a couple minutes, we are debating and voting on a subject that we have already debated and voted on. In fact, rarely do we have a debate that is almost verbatim of what was said in the previous debate. And rarely do we vote on amendments that are almost identical in one case here word for word what we voted on.

I do not know what is going to happen, but it would not surprise me if we go through this exercise yet another time in a few weeks. So I thought it would be useful for every Senator to have it all spread right out so they could see the past amendments, the past votes, the present amendments, the present votes. I hope there will be no further amendments and further votes.

Madam President, I urge my colleagues to be consistent with their previous position, reject this amendment, and then also being consistent with their previous position, vote for the resolution which I will, under the order, offer immediately following the vote on this amendment.

Madam President, I yield the floor and yield back the remainder of our time.

Mr. MOYNIHAN. Mr. President, I will oppose the Gregg amendment. This amendment is not a constructive means to address the complex issue of war powers. Moreover, the adoption of this amendment would be misinterpreted in Haiti and would weaken the President's hand in dealing with the situation and embolden Haiti's military rulers.

I believe that speakers have made it clear that this is not, in reality, a vote on the War Powers Act. We already have a War Powers Act. Adopting an amendment which singles out Haiti, would set an unfortunate precedent. Furthermore, it implies that absent the Gregg amendment the President is free to act as he pleases without the authorization of Congress.

VOTE ON AMENDMENT NO. 2117, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, the question occurs on amendment No. 2117, as modified, offered by the Senator from New Hampshire. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Nevada [Mr. BRYAN] is absent because of attending funeral.

The PRESIDING OFFICER (Mr. CAMPBELL). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 34, nays 65, as follows:

[Rollcall Vote No. 172 Leg.]

YEAS—34

Bennett
Bond
Brown
Coats
Cochran
Coverdell
Craig
D'Amato
Danforth

Dole
Domenici
Faircloth
Gorton
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Kempthorne
Lott
Lugar
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Simpson
Smith
Specter
Stevens
Thurmond
Wallop

NAYS—65

Akaka
Baucus
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Bumpers
Burns
Byrd
Campbell
Chafee
Cohen
Conrad
Daschle
DeConcini
Dodd
Dorgan
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Gramm
Harkin
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mack
Mathews
McCain
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Warner
Wellstone
Wofford

NOT VOTING—1

Bryan

So the amendment (No. 2117), as modified, was rejected.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

AMENDMENT NO. 2118

(Purpose: Expressing the sense of the Congress with respect to Haiti)

Mr. MITCHELL. Mr. President, on behalf of myself, Senator LEAHY, Senator WARNER, and Senator BIDEN, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] for himself, Mr. LEAHY, Mr. WARNER, and Mr. BIDEN, proposes an amendment numbered 2118.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the amendment add the following:

SEC. . SENSE OF THE CONGRESS ON THE USE OF FUNDS FOR UNITED STATES MILITARY OPERATIONS IN HAITI

(a) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) all parties should honor their obligations under the Governor's Island Accord of July 3, 1993 and the New York Pact of July 16, 1993;

(2) the United States has a national interest in preventing uncontrolled emigration from Haiti; and

(3) the United States should remain engaged in Haiti to support national reconciliation and further its interest in preventing uncontrolled emigration.

(b) LIMITATION.—It is the sense of the Congress that funds appropriated by this Act or any other Act should not be obligated or expended in Haiti unless—

(1) authorized in advanced by the Congress; or

(2) the temporary deployment of United States Armed Forces into Haiti is necessary in order to protect or evacuate United States citizens from a situation of imminent danger and the President reports as soon as practicable to Congress after the initiation of the temporary deployment; or

(3) the deployment of United States Armed Forces into Haiti is vital to the national security interests of the United States, including but not limited to the protection of American citizens in Haiti, there is not sufficient time to seek and receive Congressional authorization, and the President reports as soon as is practicable to Congress after the initiation of the deployment, but in no case later than forty eight hours after the initiation of the deployment; or

(4) the president transmits to the Congress a written report pursuant to subsection (c).

(c) REPORT.—It is the sense of the Congress that the limitation in subsection (b) should not apply if the President reports in advance to Congress that the intended deployment of United States Armed Forces into Haiti—

(1) is justified by U.S. national security interests;

(2) will be undertaken only after necessary steps have been taken to ensure the safety and security of U.S. Armed Forces, including steps to ensure that U.S. Armed Forces will not become targets due to the nature of their rules of engagement;

(3) will be undertaken only after an assessment that—

(A) the proposed mission and objectives are most appropriate for the U.S. Armed Forces rather than civilian personnel or armed forces from other nations, and

(B) that the U.S. Armed Forces proposed for deployment are necessary and sufficient to accomplish the objectives of the proposed mission;

(4) will be undertaken only after clear objectives for the deployment are established;

(5) will be undertaken only after an exit strategy for ending the deployment has been identified; and

(6) will be undertaken only after the financial costs of the deployment are estimated.

(d) DEFINITION.—As used in this section, the term "United States military operations in Haiti" means the continued deployment, introduction or reintroduction of United States Armed Forces into the land territory of Haiti, irrespective of whether those Armed Forces are under United States or United Nations command, but does not include activities for the collection of foreign intelligence, activities directly related to the operations of U.S. diplomatic or other U.S. government facilities, or operations to counter emigration from Haiti.

Mr. MITCHELL. Mr. President, this amendment is identical in form and substance to an amendment adopted by the Senate by a vote of 98 to 2 a few months ago. We have debated the subject, in my judgment, far more than is necessary. I believe there is nothing more to add.

I, therefore, request the yeas and nays and am prepared to vote on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from Kentucky [Mr. MCCONNELL].

Mr. MCCONNELL. Mr. President, I am told that there are some on this side who would like to speak briefly to the sense-of-the-Senate amendment. We had suggested to the leader—actually asked the leader if this was going to be the last vote of the evening. I was wondering what his plans were subsequent to the vote on this next amendment.

Mr. MITCHELL. Our plans are to proceed on the bill. A large number of Senators have said we want to be sure and get out of here by Friday evening. Of course, if we do not vote on Friday and we do not vote on Monday and we quit now, then we will be here Friday evening. So I think the best way to accomplish that is to proceed.

I hope we are not going to get into a situation where Senators are going to delay a vote on this simply because there are going to be other votes.

Mr. MCCONNELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESTORATION OF FUNDING FOR THE WORLD FOOD PROGRAMME

Mr. COCHRAN. Mr. President, it is my understanding that the State Department requested $5 million as the U.S. contribution to the administrative budget of the World Food Programme, the Food Aid Agency of the United Nations system. The Office of Management and Budget reduced this figure to $2 million in the President's budget. I would like to see this figure restored to $3 million, the amount in the current budget. I believe this addition is important to support the critical work the organization is undertaking throughout the world, often in very trying and dangerous situations.

Mr. LEAHY. I appreciate the distinguished Senator from Mississippi bringing this to the Senate's attention. The vital work of the World Food Programme requires a continuation of funding by the State Department at the current $3 million level. I assure the Senator we will make that clear in conference.

Mr. MCCONNELL. If the Senator will yield, I agree with the distinguished Senators from Vermont and Mississippi on the importance of the World Food Programme and the need to maintain the existing level of funding.

Mr. COCHRAN. I thank the managers.

NIS SECONDARY SCHOOL INITIATIVE

Mr. BRADLEY. Mr. President, I rise to express my enthusiastic support for the NIS Secondary School Initiative, which was created by the Freedom Support Act in 1992 and is administered by the U.S. Information Agency. I believe this exchange program is a valuable investment in people and one of the most successful components of our assistance to the former Soviet Union. Since January 1993, over 5,500 students have participated in the program, forming the foundation for relations between our nations in the coming years. The academic-year component of the program has given over 1,200 high school students from the former Soviet Union the opportunity to spend the past year living with host families and attending schools in communities across America. This past month I met with nearly 500 of these students, and I was struck by their spirit, energy, and openness. These young people—so dedicated to their own countries—return to the former Soviet Union with a firsthand understanding of America's democracy, pluralism, and free market economy, as well as with personal bonds with American friends and families that will last a lifetime. I want to applaud Senator LEAHY's leadership in developing this program and in ensuring that it continues to give thousands more of these young people from Russia, Ukraine, and the other former Republics the opportunity to visit America. Does the chairman agree that this program has demonstrated its importance and merits continuation?

Mr. LEAHY. I agree with the Senator from New Jersey that this program has been a great success. By giving these students the opportunity to experience firsthand the possibilities, challenges, and privileges of living in a democracy with a free market economy, these exchanges form the foundation for building democracy throughout the former Soviet Union. I strongly support the continuation and expansion of this program, and I look forward to welcoming the next group of participants to the United States next fall.

Mr. BRADLEY. And is it the intention of the chairman to work in conference to ensure that the conferees recommend that the NIS high school exchange program receives $25 million of the NIS assistance funds appropriated in the fiscal year 1995 Foreign Operations bill?

Mr. LEAHY. Yes, I will propose language in conference recommending that this program receives $25 million from the fiscal year 1995 NIS appropriation, to go toward its expansion in the 1995–96 school year. It is my hope that USIA will send upward of 8,500 students on NIS secondary school exchanges in 1995–96.

FOOD FOR PEACE

Mr. LAUTENBERG. Mr. President, the distinguished manager of the bill and I have worked together in past couple of years to see if foods that we ship overseas in the Public Law 480 Food for Peace Program, administered by AID, could be fortified with vitamin C. In my view, fortification of these grains would make the food we ship overseas more nutritious and would prevent illness.

However, despite our interest in this issue, AID has not yet determined whether or not fortified food remains intact during the shipment process and also has not told Congress how much it would cost to fortify grains to 100 mg per gram ration for the Public Law 480 Food and Peace Program.

Therefore, I would like to ask the distinguished floor manager, Senator LEAHY, if he would seek to include report language in conference that would direct the President to do the following:

First, provide an estimate on how much it would cost to fortify grains shipped in the Public Law 480 Program to 100 mg per 100 gram ration.

Second, report on whether or not the fortification of these grains is stable through the shipping process.

Third, submit a report to Congress before the next appropriations cycle on these issues so that the appropriations committees may make an informed decision on this issue.

I understand that the Senator from Vermont cannot guarantee anything in a conference with the House, thus I would simply ask if he would work with me to develop appropriate report language on this issue that would achieve our shared goals.

Mr. LEAHY. I would be happy to work with the Senator from New Jersey to resolve this issue in conference.

CDP/CDR

Mr. WOFFORD. Mr. President, I would like to enter into a colloquy with the distinguished manager of the bill, the chairman of the Senate Foreign Operations Subcommittee.

I am a strong supporter of a program funded in this bill—Cooperative Development Project and Cooperative Development Research. CDP/CDR promotes joint projects among the United States, Israel, Eastern Europe, and the Central Asian Republics—and among the United States, Israel and the developing world. CDP/CDR serve to boost these regions' science and technology infrastructure, and solve problems in the fields of agriculture, environment, energy, and health.

For the past 2 years, these programs have been earmarked. CDP/CDR is an excellent example of a creative foreign aid program that maximizes our foreign assistance efforts in key regions of the world. Israeli expertise in the fields of drip irrigation, malaria—combatting bacterium, environmental cleanup, and energy efficiency have all been brought to these countries through the CDP/CDR. What this program could bring the United States is increased stability and self-sufficiency in parts of the world where the United States has been asked to intervene in times of crisis.

Although CDP/CDR is not earmarked in the fiscal year 1995 Senate Foreign Operations bill, it is important to note that this program enjoys strong, bipartisan support in both Houses, and that the Congress does expect the administration to use funds appropriated by this act to fully fund the CDP/CDR program.

Mr. LEAHY. I share the Senator's support for this worthy program. CDP/CDR has made a valuable contribution to our development efforts in many parts of the world. I, too, expect the administration will fully fund CDP/CDR in fiscal year 1995, and that it will continue to play an important role in the former Soviet Union, Eastern and developing countries. Last year the administration clearly committed in writing at the time of the conference on this bill that they would fully fund this valuable program. I will seek the same commitment from them this year.

Mr. WOFFORD. I thank the chairman for his statement on CDP/CDR. I am pleased that we agree on this outstanding program, and would look forward to working with him to secure a commitment from the administration on the program.

Mr. LEAHY. I suggest the absence of a quorum.

Mr. JOHNSTON. Mr. President, will the Senator withhold? Will the Senator yield for a question?

The PRESIDING OFFICER. The Senator from Vermont has the floor.

Mr. LEAHY. Mr. President, I will just tell the distinguished Senator from Louisiana that I had told the distinguished Senator from Kentucky that I would reinstate the call of the quorum when I finished those items.

Mr. JOHNSTON. I wonder if this would be an appropriate time to make a statement on another subject?

Are we ready to vote?

Mr. MITCHELL. I might inquire of the Senator from Kentucky, through the Chair, can we have any indication of how long the Senator intends to keep us in a quorum call, or knows when the vote may occur?

Mr. McCONNELL. I thought he had learned through his staff that I am checking with the Republican leader and I should be able to report back.

Mr. MITCHELL. Does the Senator have any objection during that time if the Senator from Louisiana proceeds?

Mr. LEAHY. I yield to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, I rise to voice serious objection to language in this bill on page 34 which, in effect, puts an embargo on foreign military sales to Indonesia.

I think this is a very serious mistake for the United States to be doing this. The House has language continuing a ban on what we call IMET funds; that is, the military training funds. And this is, in effect, a sanction against Indonesia for the policy in East Timor.

What the Senate has done is to substitute for the ban on IMET funds, in effect, a ban on foreign military sales if those foreign military sales would be used in East Timor.

The problem is that any of these sales can be used anywhere in Indonesia. For example, the C-130, which is made in, I think, over 40 States in the United States and sold in fairly large quantity to Indonesia, flies all over Indonesia. If you cannot fly to East Timor, then you probably will not be able to sell the C-130 or spare parts for the F-16. The F-16 lands all over Indonesia. There are all kinds of spare parts, there are all kinds of weapons which are sold to Indonesia. So that we have in this language the start of what is, in effect, an arms embargo on foreign military sales.

I can tell you, Mr. President, the Indonesians are outraged about this language. It is much worse than the House language.

We could debate all night about East Timor and about human rights in Indonesia, which I believe are greatly improving. It is an emerging country. We could debate for a long time, and I think we ought to debate the question of Indonesia, their record on human rights and the situation in East Timor.

I believe Indonesia deserves the support of the United States. They are the fourth largest country in the world. They are the largest Moslem country in the world, and we keep poking them in the eye. They are one of the world's leading emerging countries in terms of economy. They will be buying $130 billion in infrastructure imports over the next decade. They are a key player in ASEAN and in APEC. Indeed, the President is going to APEC this fall, and while he is doing that, we are putting, in effect, an embargo on foreign military sales.

Mr. President, what is the policy of the State Department on this? I will be frank to tell you, I do not know. They tell me they are opposed to it, but a letter from them is not forthcoming, so I do not know what the policy is.

I have a letter from the Deputy Secretary of Defense, John M. Deutch, who says:

> I am writing to express the views of the Defense Department on a matter of some concern. A provision in the Foreign Operations Appropriations bill as reported by the Senate Appropriations Committee would place significant restrictions on the use of defense equipment that Indonesia purchases from the United States. Specifically, this provision would bar Indonesia from using defense items purchased through the Foreign Military Sales Program in East Timor.
>
> We oppose this provision, and in coordination with the State Department, are working with concerned Senators such as yourself to see if it can be revised. We are concerned that passage of this provision would disrupt our modest yet important security relationship with this strategic country and would drive the Indonesian defense establishment away from U.S. sources of equipment.
>
> As you certainly know, we have many important interests in Indonesia; improved human rights, as well as solid defense ties are among the many objectives we pursue. We strongly believe that active engagement with the Indonesian military through training and FMS programs and other defense cooperation better positions us to positively influence the development of improved human rights conditions. Through our interaction with the Indonesian military at all levels, we play a role in the candid dialog the administration conducts on human rights and the issue of East Timor.
>
> The Office of Management and Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this letter for the consideration of Congress.

Signed John M. Deutch, Deputy Secretary of Defense.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE DEPUTY SECRETARY OF DEFENSE,
Washington, DC, June 29, 1994.
Hon. BENNETT JOHNSTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR JOHNSTON: I am writing to express the views of the Defense Department on a matter of some concern. A provision in the Foreign Operations Appropriations Bill as reported by the Senate Appropriation Committee would place significant restrictions on the use of defense equipment that Indonesia purchases from the United States. Specifically, this provision would bar Indonesia from using defense items purchased through the Foreign Military Sales program in East Timor.

We oppose this provision, and in coordination with the State Department, are working with concerned Senators as yourself to see if it can be revised. We are concerned that passage of this provision would disrupt our modest yet important security relationship with this strategy country and would drive the Indonesian defense establishment away from US sources of equipment.

As you certainly know, we have many important interests in Indonesia; improved human rights as well as solid defense ties are among the many objectives we pursue. We strongly believe that active engagement with the Indonesian military through training and FMS programs and other defense cooperation better positions us to positively influence the development of improved human rights conditions. Through our interaction with the Indonesian military at all levels, we play a role in the candid dialogue the Administration conducts on human rights and the issue of East Timor.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this letter for the consideration of Congress.

Sincerely,

JOHN M. DEUTCH.

Mr. JOHNSTON. Mr. President, I would have had an amendment on this issue, but I was led to believe that the State Department would take a position and would give us a letter. They will not give us a letter. They say we are opposed to it, we want you to work it out.

What is our position from the State Department in East Timor and Indonesia, the fourth largest country in the world? We ought to have a position and we do not. Consequently, I do not have an amendment, but I think this is a huge mistake. I think it ought to be looked at in the conference committee. I hope they will look at it in the conference committee, and I hope the State Department will tell us one way or the other, do they want it, do they want to go back to the IMET ban, do they want to have foreign military sales bans? What do they want to do?

This is not beanbag, Mr. President. This is important foreign policy with the largest Moslem country in the world, and fourth largest country in the world, and one of the fastest emerging countries, and a traditional friend of the United States. They stood by us all the while in Vietnam and everyplace else. They are a demonstrated friend of the United States. If we are going to poke them in the eye, it ought to be intentionally, it ought to be the foreign policy of this country and not makeshift policy where nobody knows exactly what is the policy of the country.

I hope that we will look at this issue in the conference committee.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota, Mr. PRESSLER, is recognized.

Mr. PRESSLER. Mr. President, it is my strongest feeling in this debate on Haiti that we should not shed a single drop of American blood. I feel strongly that no troops should be sent there. I feel strongly that the problems in Haiti must be resolved by their people. The expectation is that we are going to solve their problems. America cannot do that. Even if we sent troops there, they could not restore democracy. That is a fallacious argument.

Some say we have an obligation to send troops to restore democracy. But that would not restore democracy in Haiti. United States troops cannot restore democracy in Haiti.

First, we should make clear there should be no United States troops sent to Haiti. Second, I feel strongly we should consider lifting the embargo. The embargo is hurting the poor people the most. I am very much in favor of an end to military rule. I am very much in favor of democracy in Haiti. Unfortunately, we are on the opposite course. We should implement a policy of not deploying United States troops to Haiti under the current circumstances, proceed with normal immigration procedures, and lift the embargo. That is just about the opposite of what the administration is doing.

That would lead to democracy and an end to military rule much faster. The course we are on leads the Haitian people to believe that the United States is somehow going to miraculously restore democracy in Haiti, a country that has never known democracy. Aristide has said he will not go back to Haiti as a result of a military invasion. Almost all who have followed these events say Haiti could not sustain democracy.

Almost all experts say the embargo is hurting the poor and the impoverished worst of all, and the people running the country, the military junta, are not going to give up or be hurt. We are pursuing the opposite policy we should with Haiti. We should reverse ourselves 180 degrees and we should do it now.

I thank the Chair.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. McCONNELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested.

Mr. MITCHELL. Mr. President, will the Senator withhold.

Is the Senator prepared to indicate whether we can vote on this matter at this time?

Mr. McCONNELL. I would say to the leader I am happy to indicate as soon as I have an opportunity to talk to the Republican leader, who is expected momentarily.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMON. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I wonder if I could have the attention of the Senator from Louisiana [Mr. JOHNSTON].

I heard the Senator's remarks about Indonesia, and I am not an expert in this area. I know our colleague, Senator FEINGOLD, has paid a great deal of attention to that. There is concern about what Indonesia is doing in East Timor and their pressure on the Philippines and others and then the recent crackdown on freedom of the press in Indonesia.

I have to say the conduct of Indonesia just recently in this regard has not encouraged me—and again I am a nonexpert in this field, but has not encouraged me to go with the Senator from Louisiana on his position. I would be curious as to his response on that.

Mr. JOHNSTON. The Senator is correct, that not everything that takes place in Indonesia is encouraging. They do not have freedom of the press in Indonesia as we know it, and indeed there has been some arrests, a crackdown on some press who have been particularly critical of the government. No doubt about that.

A lot of our friends around the world have adopted policies that are not consistent, do not comport with our Bill of Rights Government, and I think we should not retreat from doing what we can to be effective in trying to propagate democracy and freedom of speech, freedom of religion, et cetera, around the world.

My problem is that to put a ban on foreign military sales and to do so without having it a considered judgment of foreign policy of the United States with one of our best traditional friends, with one of the largest countries in the world, just to do it haphazardly I think is an awful way to make foreign policy.

We had debate earlier about whether the Congress should make it or whatever. It seems to me that the President and the State Department ought to be the ones to at least initiate and should not be bi-players, should not be wringing their hands on the sidelines while we make foreign policy in the Senate.

A good indication of the kind of foreign policy we made was a couple of weeks ago when we adopted two sense-of-the-Senate amendments on Bosnia about lifting the embargo. One said by a 50-to-49 vote we should not lift the embargo unless the United Nations says so, and the other one said we ought to lift the embargo with or without the United States—both resolutions adopted 50 to 49.

I just do not think we ought to make foreign policy in this way. I would also say that if we are going to take sanctions against every country in the world that is criticized by Amnesty International or somebody else, the list of our friends will be short indeed—short indeed. In fact, the United States itself has been criticized by Amnesty International on the death penalty and other things.

Having said that, I would say I share the Senator's concern about some of the policies in Indonesia, although I think that Indonesia has made huge steps forward in human rights, in labor relations, and I think the State Department would tell us that if they would tell us something.

Mr. SIMON. I simply say to my colleague from Louisiana that I agree we cannot expect carbon copies of the United States around the world. I think we have to be careful in micromanaging foreign policy in this Chamber. I think that is one of the dangers; when people sense a little bit of a vacuum in the executive branch, that we move in and move in sometimes when we should not.

I hope before the Senator would maybe offer an amendment that he might discuss this with our colleague, Senator FEINGOLD, who has spent a considerable amount of time in this area, who knows much more about it, frankly, than I do.

Mr. JOHNSTON. It was offensive I think, or counterproductive to have a ban on the IMF funds, the military training funds because the military training funds keep the kind of incident in East Timor from occurring by having better trained people.

The House had the ban on the IMF funds but for that we substituted something worse, which is the FMS ban. And one of the things that is so offensive to the Indonesians is that in mentioning East Timor it suggests that we do not recognize East Timor as a part of Indonesia, that somehow we are tipping our hat or genuflecting in the direction of those who say East Timor ought to be an independent state. There are some people who legitimately and sincerely believe that.

To say that as part of a law adopted by this Senate is a very serious charge. It is as if the British Parliament adopted a resolution that said Puerto Rico should not be part of the United States. And we have been criticized by the United Nations for that.

So I just say that this is a bad way to make foreign policy. I think it is a big mistake, and I hope the conferees will look at this when they get in the conference committee.

Mr. President, I would like to take this opportunity to say a few words about two other issues which are funded by the Foreign Operations Appropriation bill. Earlier this year, I led a CODEL to the Far East. Several of my colleagues and I visited numerous Asian nations, including Thailand and China, and I would like to speak about some issues relating to those two nations at this time.

As many of you know, in 1988, the legitimately elected government of Burma was blocked from assuming office by the military and leaders having been illegally detained. Since that time, in accordance with United States policy, our Government has denied Burma all foreign assistance with the exception of basic humanitarian assistance; the United States has had no bilateral assistance program for non-humanitarian aid with Burma since 1988.

Unfortunately, this well-intentioned policy of our Government resulted in the termination of a Drug Enforcement Administration bilateral counter-narcotics assistance program with Burma, which sprayed pesticides on poppies in Burma. As you know, opium and heroin are derived from the poppy plant, which grows prolificly in Burma. The abundance of poppies has created a profitable underground drug processing industry in Burma, and when it comes to the world's supply of illegal drugs, it can be said that "all roads lead to Burma." The DEA reports that Burma is the source of more than 70 percent of all heroin in the United States. Think about that—almost three-quarters of all heroin traded on American streets can be traced back to the poppy fields in Burma.

The heroin trade is a lucrative one both in Burma and in America; and heroin, whose use had been declining in this country, is increasingly becoming the drug of choice for many drug abusers in the United States. The reemergence of a market for heroin can be linked to the fact that a single kilo, or 2.2 pounds, of heroin can net $1 million in revenue.

Production of heroin in Burma has only increased since termination of the DEA program there. It is estimated that about 2500 metric tons of opium were produced last year in Burma, yielding slightly less than 200 million tons of heroin.

Ending the DEA counternarcotics program in Burma harms the United States more than it does the Burmese. It is American children who are purchasing Burmese heroin and American drug dealers who are getting rich off this fatal export from Burma. While present United States policy harms us, it strengthens the power of drug lords and helps entrench their position in Burmese society.

The United States has received a great deal of cooperation in the area of drug interdiction from Burma's neighbor, Thailand, and for that we should be most appreciative. However, it is impossible to stem the flow of heroin from Burma into America's streets without reducing the source. The source of that heroin is Burmese poppies, and to reduce that source we need the DEA's counternarcotics assistance program. I have a letter from the Drug Enforcement Administration giving their evaluation of current U.S. antidrug policy in Burma and would like to ask that it be inserted into the appropriate place in the RECORD.

Mr. President, I am not offering an amendment on this issue, and I do not in any way support the reestablishment of relations with Burma until a legitimate democratic government is installed there. However, the bill now under consideration appropriates $100 million to antinarcotic initiatives, with not one dollar of that money going to the largest source of narcotics. This policy just does not make sense. I believe the State Department should reconsider its definition of nonhumanitarian aid to evaluate whether the DEA's counternarcotics program should perhaps be reinstated. I believe the present U.S. policy in this regard is foolish and that, to restate a common expression, we are only shooting ourselves up the arm by allowing the world's largest exporter of heroin to continue to grow poppies at will.

The second issue I wish to discuss is that of fossil fuel use in the world's most populous state, the People's Republic of China. The magnitude of this problem was discussed in a hearing I chaired for the Energy and Natural Resources Committee in March. Since 1989, several bilateral aid programs have been prohibited from operating in China, first by administrative action and later by statute (Public Law 101–246), in an attempt to place pressure on central authorities to respect internationally recognized human rights. Restricted programs include sanctions against bilateral aid for environmental programs in China.

In addition to being the world's most populated nation, China is also the world's largest source of fossil fuel emissions. Unfortunately, air pollution does not recognize international boundaries, and what China's factories spew into the atmosphere eventually affects the air that we all breathe. This problem will only get worse in the future, as China's rapid economic expansion is expected to result in a doubling or tripling of industrial emissions that contribute to global climate change. This dramatic increase more than offsets reductions in air pollution anticipated by the United States. The United States can never reach its worldwide environmental goals unless we assist China with an aggressive pollution control and prevention program.

I have a letter that I sent to President Clinton in February, after I returned from the CODEL to China, and would like to ask that it be included in the RECORD. It explains in great detail why the United States should encourage, rather than discourage, our companies to share their environmental technology with China. I would like to share with you just a few of the statistics from that letter. The World Bank reports that Asia's contribution of greenhouse gases to the environment will increase from approximately 20 percent in 1985 to almost 30 percent by the year 2000. Half of all sulfur dioxide emissions by the year 2000 will originate in China, which relies on fossil fuels for domestic cooking, heating, and power generation.

Current United States policy of linking the human rights issue in China to trade and environmental issues contributes to global economic problems, hurting America's economic interests and undermining the well being of Chinese citizens. American companies should be allowed to compete for trade opportunities and help China mitigate its environmental problems, but are frustrated by U.S. trade policies. Restrictions on programs such as the U.S. Agency for International Development [USAID], Overseas Private Investment Corporation [OPIC], the Trade and Development Association [TDA], and the Export-Import Bank prevent U.S. Companies from investing in China and helping to improve their environmental technology. By decreasing trade restrictions on American corporations in China, we can have a lasting impact on the global environment, reducing acid rain and protecting the ozone layer.

The Foreign Operations Appropriations bill recommends the allocation of $55 million to combat the effects of global warming; however, allowing United States companies to share their clean air technologies with China could augment this investment considerably.

Not only are United States companies hurting because of current administration policy, but the Chinese people are suffering as well. Lung cancer associated with industrial air pollutants is now the leading cause of death in China. We can prevent the pain and suffering of millions of Chinese afflicted with pollution-induced lung cancer by providing incentives for our corporations to share their knowledge and expertise with Chinese factories and allowing them to compete on a level playing field. The primary fuel in China is coal, and it is burned inefficiently and without pollution controls. The resulting damage affects crops, buildings, and human health.

I am not going to offer an amendment to change United States policy toward China in this regard; however, I would again urge the State Department to reconsider their position on this issue and to consider the environmental consequences of China's rapid growth as a separate focus from other aspects of United States-China relations. It is my hope that we can find a way to address this problem that has such a major global environmental impact by developing a coordinated international environmental policy. Restoring USAID, OPIC, and TDA programs and involving the private sector in this area would be a positive step in developing a constructive relationship with China on an issue of global importance, and an issue which must be addressed to improve the health and safety of the Chinese people.

Mr. SIMON. Mr. President, I note the majority leader standing. I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I am advised that our colleagues now will permit a vote to occur, and therefore I ask that the Chair put the question.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 2118 offered by the majority leader.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Michigan [Mr. RIEGLE] is necessarily absent.

I also announce that the Senator from Nevada [Mr. BRYAN] is absent because of attending a funeral.

Mr. SIMPSON. I announce the Senator from Mississippi [Mr. COCHRAN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 93, nays 4, as follows:

[Rollcall Vote No. 173 Leg.]

YEAS—93

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Brown
Bumpers
Burns
Campbell
Chafee
Coats
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Heflin
Helms
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Smith
Specter
Stevens
Thurmond
Warner
Wellstone
Wofford

NAYS—4

Byrd
Faircloth
Hatfield
Wallop

NOT VOTING—3

Bryan
Cochran
Riegle

So the amendment (No. 2118) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OVERHAUL THE FOREIGN AID JALOPY

Mr. BYRD. Mr. President, the time is long overdue for a major overhaul of the foreign aid jalopy. This bill, the annual foreign aid bill, is a bill similar to dozens which have come before this body in previous years, and is, once again, to a large extent a product of old thinking. It represents holdover philosophy from the cold war, and responds to political problems and priorities which are outdated and gathering mold.

In saying this, I certainly do not fault the chairman of the subcommittee, the able Senator from the State of Vermont, Mr. LEAHY, who has done his best given the budget request submitted by the President and the constraints of the budget. I commend him for his frugality, and note that the bill is below last year's appropriated amount by about $700 million and below the President's request for fiscal year 1995 by $340.3 million.

Nor do I fault the ranking manager of the bill, the able junior Senator from Kentucky [Mr. MCCONNELL]. This is a thankless task. Other than the appropriations subcommittee on the District of Columbia—which I chaired for 7 long years, just as Jacob worked for Rachel 7 years and then had Leah palmed off on him by Rachel's father—and perhaps the Legislative Appropriations Subcommittee, I do not know of any subcommittee that constitutes a more thankless job than the Foreign Relations Subcommittee. But somebody has to do the work. It is an important job. It is an important assignment and somebody has to do the work. It does not reward one with very good headlines back home.

The Administration has promised major foreign aid reform in light of the end of the cold war and in response to new priorities. While the Administration did submit a foreign aid reform bill, as is pointed out in the report accompanying this measure, it "falls far short of the reforms that are needed." Thus, foreign aid reform on a magnitude to reflect changed realities has not been executed and is, therefore, not reflected in this measure. I suggest that if further initiatives are not taken by the Administration in preparation for the fiscal year 1996 bill next year, that the subcommittee, working with the House Appropriations Subcommittee, and with the legislative committee—Foreign Relations Committee of the Senate, Foreign Affairs Committee of the House—take the bull by the horns themselves and put into place a far-reaching program of reform befitting the new era which our economy and the world reflect. In the absence of this, I cannot support the bill as it has been presented do the Senate, nor could I support similar legislation in the future.

Our major emphasis under a reformed foreign assistance measure should be to enhance American competitiveness abroad. Many of my colleagues and I have attempted to shift the direction of foreign aid to help our ability to export more American products abroad, to create new markets for our goods and services, and fashion our foreign aid programs so as to promote U.S. economic goals—much in the way our major international economic competitors, particularly Japan and the aggressive economies of the Far East, and the countries of the European Economic Community have done. In my view, a more tightly woven connection between our economic health and strength with our foreign assistance programs is still sorely needed.

Second, there is entirely too much arms giving and arms sales promotion in our foreign aid program. Much of this was in vogue during the Cold War, and no one has yet to seriously question whether we are fueling regional tensions and conflicts by selling American arms. The grant program alone this year consumes nearly 25 percent of the whole bill, over $3.1 billion.

An American arming the world in the guise of foreign assistance does an increasing disservice regarding the real and urgent needs of the emerging nations in the third world and the nations of the defunct Soviet bloc and its proxies. The committee report states that "regrettably, the evidence clearly indicates that the administration has sought to promote arms sales, rather than to reduce them. The committee deplores "the administration's apparent lack of interest in doing anything significant about the problem * * * of excessive levels of military spending by developing countries." So, Mr. President, we are concerned, on the one hand, about stopping the spread of weapons of mass destruction, including not only nuclear, but also chemical and biological weapons, and we have invented a new term to stop the spread and use of these weapons called "counterproliferation." On the other hand, we are still peddling weapons and components, a practice that speaks loudly of our inconsistency on the matter.

The distinguished Senator from New Jersey, Mr. LAUTENBERG, suggested on this floor earlier in the debate that foreign countries which do not cooperate with our efforts to reduce illegal immigration, and which will not agree to accept their nationals who are illegal aliens here in the United States, and are incarcerated felons, should not be recipients of foreign aid. That is a very worthwhile goal, and an idea that should be seriously explored. Other ties to foreign aid which reflect U.S. concerns and interests should be allowed a forum in coming years.

I do not intend to engage in an extensive dissection of the details of the Administration's foreign aid program on this floor today. But it is high time we get this antique car off the road and into either the overhaul shop or the junkyard. The point is that our foreign aid program should cease being mainly a one-way transfer of resources, but should be used as a lever to accomplish our Nation's priorities not only in the economic area, but in terms as well of promoting our goals in other priority areas such as immigration reform, and benefits to U.S. business. It should be a clear carrot for nations that play ball with us, and a stick for those that do not.

As I have said before, our foreign aid budget is not an entitlement program.

Mr. President, we have not been hard-headed nor tight-fisted enough in focusing our attention more directly on our Nation's best interest when it comes to foreign aid. Until we do a better job, I cannot vote for these examples of wrong-headed American generosity.

After all, it is our money, the taxpayers' money, that is being squandered if we fail to vigorously promote our own national interests. As with Timon of Athens:

When Fortune in her shift and change of mood
Spurns down her late beloved, all his dependents

Which labour'd after him to the mountain's
top
Even on their knees and hands, let him slip
down,
Not one accompanying his declining foot.

Mr. President, I yield the floor.

Mr. JOHNSTON. Mr. President, I send an amendment to the desk on behalf of myself, Mr. MCCONNELL, Mr. NUNN, Mr. INOUYE, Mr. HOLLINGS and Mr. HEFLIN, and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair advises the Senator that there are pending committee amendments.

Mr. JOHNSTON. Mr. President, I ask unanimous consent to temporarily lay the amendments aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, does that mean that the Johnston amendment is now the pending question?

The PRESIDING OFFICER. The Senator from Louisiana intends to lay the committee amendment aside?

Mr. JOHNSTON. Mr. President, if I may inquire of the floor manager, I would like to bring this up at a time convenient with both floor managers, and I understand the Dole amendment had been scheduled and I thought this was an appropriate time.

Mr. LEAHY. Mr. President, the Johnston amendment, which he has introduced, is now pending. I certainly do not want to cut him off or the Senator from Kentucky—if we could have order, Mr. President—because I think for some of those who may be planning to leave this may be of importance to them, because I suspect we are going to vote on this.

The PRESIDING OFFICER (Mr. LAUTENBERG). The Senator is right. If we could have order in the Chamber. Please cease conversations.

Mr. LEAHY. Mr. President, so people will understand, I do not want to cut off any amount of time for the Senator from Louisiana or the Senator from Kentucky to speak on the amendment of the Senator from Louisiana, but at some appropriate time they will get a chance to say what they want. I will go to a few items, and I will then move to table, asking for the yeas and nays.

I mention that because it would then require a vote. I will either win or lose, either way. If I lose the motion to table, of course, I will not ask for a second rollcall on the amendment, naturally.

Mr. MCCONNELL. Mr. President, will the Senator yield?

Mr. LEAHY. Of course.

Mr. MCCONNELL. I just would like to say to my friend from Louisiana that I am supporting the amendment along with him, but I myself understood that we were going to go with it right now. I was hoping we might be able to lay that aside and move to the Bosnia amendment. I wonder if there is any chance of that from the Senator from Louisiana.

UNANIMOUS CONSENT AGREEMENT

Mr. JOHNSTON. Of course, I would be willing to enter into a unanimous consent agreement to have a short time limit for anybody who would like a time limit tomorrow or tonight.

Mr. LEAHY. Later tonight.

Mr. JOHNSTON. Or when anybody would like. I certainly will go along with the floor managers, whatever they wish.

Mr. LEAHY. Mr. President, I do not want to delay. There is nobody more willing to enter into a short time agreement than I. I have demonstrated that time and time again. I am happy to enter into whatever time agreement the proponent of the amendment feels protects his interest. I would want 10 or 15 minutes on my own at the most to state my point, but I would want to vote on this tonight.

We spent a lot of time in quorum calls and a lot of time talking about issues that were voted on a lopsided vote. We have had four votes. We have been on this bill for about 12 hours now. None of these votes were close votes. A number of them were items that we have already debated at length at other times.

And I told my colleagues that I have canceled plans to fly anywhere on Saturday, but I do not want to cancel plans to fly on Sunday, too.

I would like to get this bill done. So I would be very reluctant to agree to anything that would not allow us to vote, and I know the Senator from Louisiana would want a rollcall on this to vote on his matter tonight.

If we want to set it aside and do other things and come back to it, if that kind of agreement were entered into and vote on it, I do not know, midnight, 1 o'clock, whatever, so we can keep this bill moving.

Mr. JOHNSTON. What is the desire? Would it be agreeable, Mr. President, if I may ask the managers, if we had a 30-minute time limit equally divided on our amendment?

Mr. MCCONNELL. To be taken up subsequent to the Dole amendment?

Mr. DOLE. Right now.

Mr. MCCONNELL. Now, fine.

Mr. JOHNSTON. All right.

Then, Mr. President, if there is no objection, I ask unanimous consent that on the Johnston-McConnell-Nunn amendment there be a 30-minute time agreement equally divided with no second-degree amendment in order, the time to be under my control and that of the distinguished floor manager.

Mr. LEAHY. I do not believe a second-degree amendment would be in order anyway because of the parliamentary situation, and the Senator does not preclude motions to table?

Mr. JOHNSTON. No.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I am advised that the proper way to get to this amendment, since we have not reached this committee amendment in proper form now is by unanimous consent. I guess my unanimous consent might have covered the amendment in order to move to strike at this time in accordance with the amendment at the desk, and I ask the Chair if that is the correct parliamentary situation.

The PRESIDING OFFICER. The Senator has a right to make that request.

Mr. LEAHY. Mr. President, reserving the right to object, this gets a little bit confusing. I realize we can do anything by unanimous consent. But is the Senator saying he wishes to move to amend an amendment that is not before us because it has not yet been adopted? Would it not be better to adopt the amendment that he wishes to amend?

Mr. JOHNSTON. Mr. President, if the Senator will yield, I am advised that the proper motion would be a motion to table the committee amendment which is contained on page 34, line 15, beginning with the word "provided" and ending with the word "Timor" on line 25.

I ask unanimous consent that there be a 30-minute time agreement on the motion to table that amendment and that it be in order to consider it at this time.

Mr. LEAHY. Mr. President, reserving the right to object, that amendment has not been adopted. I make a parliamentary inquiry.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LEAHY. Can the Senator from Louisiana—and I want to help him find a way to do this—move to strike an amendment which has not yet been adopted?

Mr. JOHNSTON. The Chair just advised me that the proper motion is the motion to table since it has not been adopted, and I have asked unanimous consent so to do with a 30-minute time agreement.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. I do not mean to be difficult. But would the Senator tell me which lines he is talking about?

Mr. JOHNSTON. It is on page 34, beginning with line 15 beginning with the word "provided" and ending on line 25, page 34 with the word "Timor."

Mr. LEAHY. So he would take out the money for the demining activities? That has nothing to do with Timor. It is talking about demining in Cambodia, Afghanistan, Africa, and everywhere else.

Might the Senator want to start down on line 19?

Mr. JOHNSTON. Let me correct that motion, Mr. President. It is page 34, line 19, beginning with the word "provided" and ending on line 25 with the word "East Timor." I think my written amendment so states.

Mr. LEAHY. Mr. President, I will not object provided I have the right to offer a perfecting amendment on line 21 between the words "any" and "equipment" to be able to offer the amendment to say "lethal."

Mr. JOHNSTON. Mr. President, the Senator can do so by unanimous consent, as far as I am concerned.

If the matter is tabled, then there will be nothing to put "lethal" between. If it is not tabled, then you can announce to Senators that it is your intention, and I would have no objection.

Mr. LEAHY. If the amendment of the Senator from Louisiana is tabled, the motion to strike, we are back to "provided further, that any agreement for the sale," and so on. We would be back to the legislation, is that not correct?

Mr. JOHNSTON. If my motion to table is granted, then that matter will be stricken and there will be no language in which to insert the word "lethal."

Mr. LEAHY. Parliamentary inquiry, Mr. President. Would it be in order at the appropriate time to move to table the motion to table of the Senator from Louisiana?

The PRESIDING OFFICER. It would be incorrect. A motion to table cannot follow a previous motion to table.

Mr. JOHNSTON. What is the parliamentary situation, Mr. President?

The PRESIDING OFFICER. The Senator from Louisiana has made a unanimous consent request. Is there objection?

Mr. LEAHY. Reserving the right to object.

Would the Senator from Louisiana permit me, by unanimous consent, to amend the provision on line 21 with the word "lethal" ahead of the word "equipment"?

Mr. JOHNSTON. Mr. President, I would restate my unanimous consent request.

I ask unanimous-consent that it be in order to move to table the language on page 34, line 19, beginning with the word "provided" and ending with line 25 with the words "East Timor"; and further request that the amendment to be stricken be modified by adding the word "lethal" in front of the word "equipment" on line 21.

Mr. LEAHY. And would you further modify that that at the expiration of 30 minutes we would vote on or in relation to your motion?

Mr. JOHNSTON. Yes; it is a motion to table.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The committee amendment is so modified.

The modification reads as follows:

The committee amendment on page 34, beginning with "Provided" on line 19, is modified by inserting "lethal" before the word "equipment" on line 21.

Mr. JOHNSTON. And we now have a time agreement of 30 minutes?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I yield myself 5 minutes.

Mr. President, since I made my statement on this matter, I am advised that the State Department has, in fact, as of 7:35 p.m. tonight, taken a position on this provision and that they do find this provision unnecessary and inconsistent with our policy.

If I may now read the letter from Warren Christopher. It is a letter to Mr. LEAHY. It reads as follows:

DEAR MR. CHAIRMAN: As you work on the FY 1995 Foreign Operations Appropriations bill, we would like to provide you with a clear statement of the Administration's policy towards Indonesia and reiterate our objections to language which would place restrictions on arms sales or transfers to that country.

This Administration is steadfastly pursuing the objective, shared with Congress, of promoting an improved human rights environment in East Timor and elsewhere in Indonesia. We are trying to pursue our agenda aggressively, working with Indonesians both inside and outside the Government, using our assistance, information, and exchange programs to achieve results. At the same time, we have raised our human rights concerns at the highest levels in meetings with Indonesian officials. As a direct expression of our concerns, our current policy is to deny license requests for sales of small and light arms and lethal crowd control items to Indonesia. In accordance with U.S. law, we make these decisions on a case-by-case basis, applying this general guidance.

East Timor remains a high priority for our human rights efforts in Indonesia. In 1993–94, there was considerably greater access to East Timor on the part of international groups such as the International Commission of Jurists, Human Rights Watch, foreign and domestic journalists, parliamentarians, and diplomats. We understand that the International Committee of the Red Cross [ICRC] is expanding its on-the-ground presence in East Timor and has, with the cooperation of government authorities, worked out satisfactory access arrangements for visits to detainees. The expanded USAID program includes projects designed to strengthen indigenous NGOs active in agriculture, health, vocational training, and microenterprise. On the security front, the Indonesian Government has reduced its troop levels in East Timor by two battalions. In East Timor, as well as elsewhere in Indonesia, we have seen evidence of improved military accountability and self-restraint under new military leadership.

We clearly recognize that more needs to be done. We continue to push for a full accounting for those missing from the 1991 shootings in Bast Timor and for reductions or commutations of sentences given to civilian demonstrators. We have also urged further reductions in troop levels and efforts at reconciliation which take into account East Timor's unique culture and history. But we do not see new restrictions on sales of defense equipment warranted by any deterioration in conditions; indeed we believe efforts to support military reform and promote military professionalism, discipline and accountability should be encouraged.

IMET restoration would be an important tool to this end. We therefore welcome the fact that the Senate Appropriations Committee language for the Foreign Operations Bill for FY 1995 would remove the existing legislative prohibition regarding IMET for Indonesia.

The United States has important economic, commercial, security, human rights, and political interests in Indonesia. Our challenge is to develop a policy that advances all our interests, that obtains positive results and reduces, to the extent possible, unintended negative effects. In this regard, the provision restricting military sales or transfers to Indonesia in the Foreign Operations Appropriations bill is unnecessary and inconsistent with our policy objectives in Indonesia.

Please be assured that we will continue to work aggressively to promote better human rights observance throughout Indonesia. We are committed to doing so in what we believe is a comprehensive, effective, and results-oriented manner, and will continue to keep in close contact with you and other Members interested in these matters.

Sincerely,

WARREN CHRISTOPHER.

Mr. President, in fairness to the chairman, neither of these letters, either from the Deputy Secretary of Defense or from the Secretary of State, were available to any of us on the Foreign Operations subcommittee at the time this amendment was adopted.

I hope, therefore, that this language could be stricken, keeping in mind that the matter will be in conference as regards IMET.

I yield the floor at this time.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. I yield the Senator 5 minutes.

Mr. McCONNELL. Mr. President, I ask unanimous consent Senator DOLE be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I rise in support of the amendment by the Senator from Louisiana. Indonesia is a large, thriving market. In fact, it has been identified as one of the prime trade investment opportunities for U.S. companies. The language in the bill is sufficiently vague to cause both the United States and the Indonesian Government a considerable concern.

The language asks that we reach an agreement with Indonesia that equipment we sell may not be used in East Timor.

Frankly, I do not see how we could possibly monitor that. If we sell equipment to Indonesia to use with their armed forces, we do not sell it to a particular place in Indonesia. What happens, for example, if a unit is using United States equipment in one part of Indonesia and gets transferred to East

Timor? There is no practical way to endorse this particular provision.

In effect, our inability to monitor the terms of any understanding could turn it into an embargo of all sales. I repeat, it could turn it into an embargo of all sales, and that is certainly not in our best interests.

This would be a serious mistake. Indonesia has been a valuable ally in regional politics and has provided support to our naval forces in the region over the years. The effect of the amendment would be damaging to our trade, political and security relationship with a country of over 190 million people. I think we can press the human rights case in a constructive fashion without damaging this important relationship.

So I commend the Senator from Louisiana for this proposal. We have been working with him to try to minimize the restrictions on Indonesia in this bill. We obviously did not get quite far enough to satisfy the Senator from Louisiana. I think his concerns are valid. I support them, and I hope the Senate will approve the Johnston amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, I yield myself such time as I may need.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, basically my good friends from Louisiana and Kentucky are saying we should have no restrictions or no say at all on what the equipment we send to Indonesia is used for. I am not sure if there are other countries that we are willing to give that kind of carte blanche to. I know of none in this bill that we give that to. I know of no countries where we give them such an open-ended use of our equipment.

It is not a case where we have ignored Indonesia. We have given them $4 billion of taxpayer-paid-for economic and military aid over the past 30 years—$4 billion. We are going to give Indonesia another $60 million in aid next year. We have not turned our back on them.

In the committee amendments we have removed the prohibitions on IMET placed in by the other body. We have tried to do things to show Indonesia our continuing support. After all, $4 billion, and $60 million next year, is more than just a valentine card.

The Indonesian army occupied East Timor over 20 years ago. Since 1976 we passed half a dozen nonbinding resolutions in this Congress. Most of the Members of this body voted on them—asking them to stop abusing the rights of the people of East Timor.

Three years ago—one of the things that really brought this to a head—Indonesian soldiers fired on peaceful demonstrators in East Timor. They killed between 200 and 300 people. At first they said only 19 people died but then, when the truth came out, they said we have to do something about it. And what did they do? They arrested some of the demonstrators, sentenced some of them up to life imprisonment, and the soldiers went to jail for a few months. Even that would not have happened if the press had not become aware of what happened. Even the officers in charge were never charged with a crime. People are still not accounted for.

We cut off military assistance for 2 years and then we ended up selling it to the Indonesians anyway. We deleted the House language cutting off sale of military training. I moved to delete the ban on military training assistance. I believe the ban outlived its usefulness and I moved to make sure that could still go to Indonesia. But having given them $60 million in aid, having lifted the bans on training and assistance, let us not totally turn our backs on the people of East Timor and say the resolutions we passed time and time again in the Senate were merely that. We never meant it.

We have even amended this provision so it covers only lethal equipment.

Could we, insofar as we are using America's taxpayers' money, just have a little teensy-weensy bit of control? Even a little teensy-weensy bit of American taxpayers' say of where this money is going to be used? Even a little itsy-bitsy bit of say when we tap the pockets of Americans for $60 billion more to say what it is going to be used for?

There are 8,000 Indonesian troops in East Timor. We do not affect the $28 million sales of commercial equipment to Indonesia in 1995. That goes forward. But we can say when we are sending $60 million of your tax dollars, my tax dollars, everybody else's tax dollars to Indonesia, we also support people who were persecuted for peacefully expressing their human rights, even if they happen to live halfway around the world and we do not see them daily.

I agree Indonesia is an important country. I joined with the Senator from Louisiana in making that statement, as he knows, on a number of occasions. But that is why we provide this money. That is why I deleted the prohibition of IMET training. That is why I supported $60 million to them.

But I have to tell you, this is one Vermonter who does not like to give out a blank check of the taxpayers' money, and I say this action of the Senators from Louisiana and Kentucky would do that, as we put on no controls whatsoever.

Mr. President, I ask unanimous consent that an article by Philip Shenon in the New York Times on June 29, 1994, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INDONESIA MOVES TO STIFLE CRITICISM, BOTH AT HOME AND ABROAD

(By Philip Shenon)

SINGAPORE, June 27.—The Indonesian Government, which bans most public debate among its own people over the disputed territory of East Timor, is pressing its smaller Asian neighbors to keep quiet, too.

Last month the Philippines gave in to threats from Indonesia and barred foreign visitors, including Danielle Mitterrand, the wife of the French President, from attending a conference in Manila on human rights abuses in East Timor, a former Portuguese colony that was invaded and annexed by Indonesia in 1976.

Now the Indonesians have turned their diplomatic guns on Malaysia, warning that ties between the two countries could be damaged by a planned East Timor forum to be held this year in Kuala Lumpur, the Malaysian capital.

Brig. Gen. Syarwan Hamid, a spokesman for the Indonesian military, was quoted by the Indonesian press agency as saying the Malaysia conference "is clearly not an ordinary meeting" because some of the participants "wish to tarnish the image of the Indonesian Government and the military." A spokesman for President Suharto's Government said the conference could "upset the solidarity and good relations" between Indonesia and Malaysia.

So far the Malaysian Government has responded to the Indonesian protests by pleading ignorance. Government spokesmen in Kuala Lumpur say they have no information about the East Timor conference, which is being organized by Malaysian public interest and religious groups. The date of the conference has not been announced.

Diplomats in Kuala Lumpur say that if the Indonesian protests continue, Malaysia will almost certainly heed the warnings from its neighbor and cancel the conference. With more than 190 million people spread across the world's largest archipelago, Indonesia dwarfs surrounding nations.

International attention to human rights abuses in East Timor, where as many as 200,000 people have died since the Indonesian invasion, has hindered plans by the Suharto Government to secure a far greater role for Indonesia on the world stage.

In recent months the Government has ushered groups of foreign journalists and United Nations officials into East Timor in hopes of proving that the situation is better than is usually reported.

The decision last month by President Fidel V. Ramos of the Philippines to appease Indonesia by barring dozens of foreigners from taking part in the five-day Manila conference created a furor in the Philippines, which otherwise promotes itself as a bastion of democracy and free speech in Southeast Asia.

Mr. Ramos described the forum as "inimical to the national interest" and conceded that he had given in to the Suharto Government because of concerns that the conference could affect Indonesian investment in the Philippines. Despite the ban, many foreigners managed to attend on tourist visas. Mrs. Mitterrand, president of a French human rights group, stayed home, telling reporters in Paris that Indonesia had applied "tyrannical pressure on us and on the Philippine Government to keep me from going to that meeting."

As it tries to stifle foreign criticism about East Timor, the Indonesian Government continues to deal harshly with its critics at home, as was clear again on Monday as police officers in Jakarta, the Indonesian capital, used rattan sticks to break up a street protest over a Government ban on three of the country's most influential magazines.

Witnesses said dozens of people had been detained as they joined a crowd of about 150 people marching on the offices of the Information Ministry, which issued the order last week to shut down the magazines, including Tempo, a national newsweekly.

Diplomats and human rights groups said the three magazines had been banned because of their reporting on corruption in President Suharto's Cabinet.

Mr. LEAHY. I see the Senator from Wisconsin on the floor. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Vermont has 9 minutes 40 seconds.

Mr. LEAHY. How much time would the Senator from Wisconsin like?

Mr. FEINGOLD. May I have 5 minutes?

Mr. LEAHY. I yield 5 minutes to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 5 minutes.

Mr. FEINGOLD. I thank the Senator from Vermont.

Mr. President, this is a heck of a time to be giving a seal of approval to the conduct of the Indonesian Government with regard to human rights and, in particular, treatment of East Timor. The Congress suspended IMET to Indonesia in response to a brutal massacre by the Indonesia forces against peaceful demonstrators in 1991, and the Indonesians have shown really very little remorse since then. Last year the Senate Foreign Relations Committee adopted an amendment to the foreign assistance bill that would require the administration to consult with Congress on human rights before approving the sale or transfer of arms under the Arms Export Control Act.

Among those conditions the Indonesian Government has significantly failed to respond. There are six areas. To the first three, there has been no response. One of the conditions was whether the civilians convicted in connection with the November 1991 East Timor incident have been treated in accordance with international standards of fairness, including whether the Indonesian Government has reviewed the sentences of these individuals for the purpose of their commutation, reduction or remission. No response from the Indonesian Government on this item.

A second item, whether the Indonesian Government is taking steps to curb human rights violations by its security forces, including all military personnel who were responsible for ordering, authorizing or initiating the use of lethal force against demonstrators in East Timor in 1991 are being brought to justice. No response from the Indonesian Government.

Finally, whether there has been a full public accounting of the individuals missing after the November 1991 incident. No response.

That was the position which the administration agreed to, and the administration now certainly does not believe we should give a blank check to Indonesia.

The administration has adopted a ban on light arms sales to Indonesia after a thorough review of policy which concluded that Indonesia is an important ally but, at the same time, the administration wanted to send a strong message that Indonesia has not done enough.

So this is the worst possible approach we can take to simply strike the language in the bill. I cannot think of a worse time. In this very week, the Indonesians have cracked down on press freedoms by revoking the licenses of three major journals for "sowing discontent." This is the kind of conduct we are going to reward on this night after that conduct in Indonesia this week. I think that is very troubling.

Fifty people who were peacefully protesting the restriction were beaten by Indonesian security forces this past week, and this comes, Mr. President, on the heels of bullying tactics by the Indonesian Government against the Philippines just recently for holding a conference of foreigners who are going to simply talk about what was going on in East Timor. I understand that they are also now trying to keep the Malaysians from holding a similar conference as well.

Of course, the Indonesians are our allies, and I hope their country is trying to make progress in this regard and we want to have a strong friendship. But the conduct of just these past couple of weeks indicate just the opposite.

I think it would be a very serious mistake for us to remove a provision that says American arms should not be used to kill and torture the people of East Timor. And I ask the Senate to oppose this effort to table the committee language because it could not come at a more inappropriate time with regard to the human rights of the people of this world and, in particular, the human rights of the people of Indonesia and the people of East Timor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, I promised to yield 2 minutes to the chairman of the Foreign Relations Committee.

Mr. WELLSTONE. I ask the distinguished chairman for 2 minutes.

Mr. LEAHY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Vermont has 5 minutes and 15 seconds available.

Mr. LEAHY. I yield 2 minutes to the Senator from Rhode Island, and then I will yield to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. PELL. Mr. President, I thank my friend and colleague from Vermont.

I wish to state general and specific reasons why the position regarding East Timor, in my view, of the Senator from Vermont is correct, and, thus, that the language in the bill, as reported by the committee, is correct.

I think we all agree that there should be some control of weapons, whether they are lethal or nonlethal, when they are turned over to other countries. We used this argument when the Turks took American weapons and misused them in the occupation of Cypress. The argument that the United States should exercise some control over its military assistance and sales to foreign countries is widely accepted.

In addition, there is the argument of human rights. It is generally recognized that Indonesia is a little slow in its march down the road toward human rights, although more and more countries throughout the world and particularly in the Far East are improving the human rights conditions of its citizens.

From a specific viewpoint, I cannot help but recall a couple of years ago when I was in Indonesia, I asked President Soeharto if I could go to East Timor. He told me emphatically, "No, that it might have an unsettling effect." He was afraid at that time that a visit by this U.S. Senator would draw too much attention to the plight of the East Timorese people.

As Senator LEAHY mentioned, I too was deeply distressed by the treatment accorded the shooters and the shootees at a riot in Dili, East Timor, in 1991 when the Indonesian military fired upon a group of peaceful demonstrators. The punishment meted out to the ones who murdered or shot the shooters was far less than the punishment handed out to the shootees, the people shot at. Clearly, Indonesian security forces continue to repress the East Timorese.

I urge my colleagues to support the committee language as written.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, one thing, this does not affect licenses of commercial sales, which is the overwhelming majority of our military sales, and having given billions of dollars to Indonesia, another $60 million, the language sought to be stricken is simply any agreement for the sale or provision of any lethal equipment on the United States munitions list to Indonesia that is entered into by the United States during fiscal year 1995 to expressly state the understanding the equipment may not be used in East Timor.

It does not affect commercial sales, which is the overwhelming majority of military sales. It is a tiny, itsy-bitsy restraint on the money we are going to give them.

I yield, first, 1 minute to Senator HARKIN and 1 minute to Senator WELLSTONE.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 1 minute.

Mr. HARKIN. Mr. President, I just learned of this amendment, and I noticed there was a time limit on it. I wish there was not. Had I been here, I would have objected to a time limit on this amendment.

I kept hearing all this talk on my monitor before I left to come over here that somehow because Indonesia is big and powerful and they are a market and that somehow we have to excuse their conduct in East Timor.

Look at the history. In 1975 with the use of United States arms, which we prohibited in a treaty with Indonesia in 1958, they invaded tiny East Timor, killed 200,000 people, one-third of their population and have kept them in severe repression ever since.

And now we are going to let them walk and say, "Oh, that's just fine."

It has been condemned by the United Nations and by about every human rights organization around the world. The East Timorese have pleaded with us year after year to help them out. Just last week, the Indonesian Government banned three of the top newspapers in East Timor. They will not let them publish. Three of their top newspapers they just shut down so they could not publish anymore.

Is this the kind of activity that we want to reward? They broke the treaty we had with them dating back to 1958 in using our arms to invade East Timor. I agree with the distinguished chairman we ought to have at least some control.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. WELLSTONE. Mr. President, I ask that my minute be given to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for the remaining minute.

Mr. HARKIN. Mr. President, the East Timorese over the years, the Catholic population there have pleaded with us to help them out, to take their cause to the world community. Just because they are small and because they are defenseless means that we have to put up with what the Indonesians have done to them? I do not think so.

We have not banned all aid to Indonesia. We have not stopped trade with them. But at least I think we ought to do what the chairman has said, to hold them to some small standard.

The implication I think given earlier that I heard on my monitor that somehow the State Department is against all forms of control on the military equipment that we give them is wrong. They may be opposed to this amendment, or they may be opposed to one provision in the bill, but the implication that they are opposed to any restrictions at all is wrong and the amendment offered by the Senator from Louisiana strips all controls—everything—strips everything off.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. HARKIN. I will if I have made a mistake.

The PRESIDING OFFICER. The Senator's time has expired. Six minutes remain for the proponents of the amendment.

Mr. JOHNSTON. Mr. President, I yield myself 30 seconds simply to say that my amendment strips only that part of the bill to which the State Department and the Department of Defense both object.

Mr. President, I yield 3 minutes to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 3 minutes.

Mr. SIMPSON. Mr. President, I am aware of the time limitation. I just want the Senate to be very clear what we are voting on here. This is not a vote about whether or not we are concerned about human rights violations or transgression in the region of East Timor. We are rather voting about whether or not to place an explicit prohibition on the use by the Indonesian Government of any defense items which we send to them in East Timor.

The language in the underlying bill is very troubling. I appreciate that we have been able to successfully work at the committee level to remove the restrictions on IMET, that training which is in the House version. But there is a clear and disturbing indication that results from military sales language in the underlying bill. I think all of us would agree it would be inappropriate for us to restrict how other governments are able to use their defense weaponry to deal with insurgent activity within their borders. Arrogant intrusion.

I agree with Senator JOHNSTON that by drawing the line on East Timor, we are giving a kind of implicit endorsement to the principle that East Timor is not a part of Indonesia.

I fully recognize that many Members of this Senate believe in good conscience that East Timor is not and should not be a part of Indonesia. This is going much further than simply saying, as we should, that basic human rights ought to be respected there.

By including this language, we place the Senate on record on one side of a very fractious debate, and that is on a side in direct opposition to the Indonesian Government. Therefore, I urge my colleagues to be mindful of this while casting their votes.

I further echo the arguments of my colleague, Senator JOHNSTON, in noting that the language in the underlying bill contradicts the evolving administration policy toward Indonesia which is in the direction of more exchange, more involvement and more influence on human rights by the consequence of increased military and trade contacts.

I urge, if you can, go to Indonesia. See the changes made. Hear their leaders. Look at our own history, where in 1860 we had a civil war that makes that one, if it comes about, look like nothing. A country that has 300 languages—not dialects, but languages—and hundreds of ethnic groups. They know what will happen to their country when the breakup takes place. I think it is very important we not judge Indonesia by our own standards and try to let Indonesia judge itself and know that our best influence on their human rights is exchange and openness and trade and communication.

Mr. JOHNSTON. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 2 minutes 50 seconds remaining.

Mr. JOHNSTON. Mr. President, did the Senator from Kentucky want 1½ minutes?

Mr. McCONNELL. I will just take a minute, I say to my friend.

There is no doubt that there is a human rights problem in East Timor. We are not here arguing about that. But the control the chairman is insisting on will not necessarily achieve the goal of improving that situation, and it may punish American companies seeking contracts and business opportunities.

Like China, I think it is a mistake to try to use commercial levers to fulfill human rights goals. While strict commercial sales are excluded, American defense contractors would be penalized under this proposal.

So I hope that the amendment of the Senator from Louisiana will be approved.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the Senator from Wyoming stated it properly. There are human rights concerns in Indonesia. By adopting the language that is contained in the bill, we are not endorsing the human rights violations in Indonesia. What we are doing by adopting the Johnston motion to strike is recognizing that the Secretary of State believes there has been a lot of progress in Indonesia, by recognizing that the Department of Defense thinks this is a very unworkable amendment that may restrict the sales of spare parts to C–130's, of which we sell many, many to Indonesia, spare parts to F–16's, spare parts to other things, and thereby render ourselves to be unreliable as the supplier to Indonesia.

Mr. President, the President of the United States is going to Indonesia this fall. This would be a matter of severe embarrassment to him, a major blow in our relationship with Indonesia. I say follow the Secretary of

State, follow the Deputy Secretary of Defense, both of whom say this would be a big mistake and we ought to strike this language.

Mr. President, I ask unanimous consent that the following be added as cosponsors: The Senator from Virginia [Mr. WARNER]; the Senator from Kansas [Mr. DOLE]; the Senator from Virginia [Mr. ROBB]; the Senator from California [Mrs. FEINSTEIN]; the Senator from Wyoming [Mr. SIMPSON]; the Senator from Tennessee [Mr. MATHEWS]; the Senator from Alaska [Mr. STEVENS]; the Senator from South Carolina [Mr. THURMOND]; and the Senator from Florida [Mr. GRAHAM].

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I rise to speak about the pending Johnston amendment to the foreign operations appropriations bill, which strikes language prohibiting the Indonesian Government from using United States military equipment in East Timor. This is a very complex issue that I have reviewed carefully.

On the one hand, there is no question that there are serious and continuing human rights abuses in Indonesia. While we now see the Indonesian Government opening up to visits by the International Committee of the Red Cross and withdrawing troops from East Timor, it has simultaneously moved to crack down on freedom of the press and labor activists.

On the other hand, Indonesia is an important ally of the United States in a strategic location. It is also a large and populous country that provides significant trade and investment opportunities for American companies. The entire Pacific rim is particularly important to California business and industry.

With regard to the Johnston amendment, the pertinent question to ask is whether keeping the language restricting military sales to Indonesia would accomplish the goal of improving human rights in that country and in particular in East Timor. I believe that the answer to that question has to be "no."

There are also logistical concerns about whether it is practical to try to condition military sales on where the equipment will be used.

Secretary of State Christopher has stated that the administration is concerned about human rights in East Timor and will continue to engage the Indonesian Government aggressively on this important issue. I support Secretary Christopher's and the administration's efforts in this regard. In addition, as Secretary Christopher has explained, it is the State Department's current policy to deny license requests for sales of small and light arms and lethal crowd control items to Indonesia. This decision was made on the basis of concerns over Indonesia's past record in human rights, especially in East Timor.

With this in mind, I will vote for the Johnston amendment. As a general rule, I believe that trade is a force for economic liberalization and that it leads to democratization. Trade is a tool, but it must not be used as a blunt instrument to cudgel those nations that we wish to influence.

I ask unanimous consent that the letter from Secretary Christopher be printed in the RECORD.

THE SECRETARY OF STATE,
Washington, June 29, 1994.
Hon. PATRICK J. LEAHY,
Committee on Appropriations,
U.S. Senate,
Washington, DC.

DEAR MR. CHAIRMAN: As you work on the FY 1995 Foreign Operations Appropriations bill, we would like to provide you with a clear statement of the Administration's policy towards Indonesia and reiterate our objections to language which would place restrictions on arms sales or transfers to that country.

This Administration is steadfastly pursuing the objective, shared with Congress, of promoting an improved human rights environment in East Timor and elsewhere in Indonesia. We are trying to pursue our agenda aggressively, working with Indonesians both inside and outside the Government, using our assistance, information, and exchange programs to achieve results. At the same time, we have raised our human rights concerns at the highest levels in meetings with Indonesia officials. As a direct expression of our concerns, our current policy is to deny license requests for sales of small and light arms and lethal crowd control items to Indonesia. In accordance with U.S. law, we make these decisions on a case-by-case basis, applying this general guidance.

East Timor remains a high priority for our human rights efforts in Indonesia. In 1993–94, there was considerably greater access to East Timor on the part of international groups such as the International Commission of Jurists, Human Rights Watch, foreign and domestic journalists, parliamentarians, and diplomats. We understand that the International Committee of the Red Cross [ICRC] is expanding its on-the-ground presence in East Timor and has, with the cooperation of government authorities, worked out satisfactory access arrangements for visits to detainees. The expanded USAID program includes projects designed to strengthen indigenous NGOs active in agriculture, health, vocational training, and microenterprise. On the security front, the Indonesian Government has reduced its troop levels in East Timor by two battalions. In East Timor, as well as elsewhere in Indonesia, we have seen evidence of improved military accountability and self-restraint under new military leadership.

We clearly recognize that more needs to be done. We continue to push for a full accounting for those missing from the 1991 shootings in East Timor and for reductions or commutations of sentences given to civilian demonstrators. We have also urged further reductions in troop levels and efforts at reconciliation which take into account East Timor's unique culture and history. But we do not see new restrictions on sales of defense equipment warranted by any deterioration in conditions; indeed we believe efforts to support military reform and promote military professionalism, discipline and accountability should be encouraged.

IMET restoration would be an important tool to this end. We therefore welcome the fact that the Senate Appropriations Committee language for the Foreign Operations Bill for FY 1995 would remove the existing legislative prohibition regarding IMET for Indonesia.

The United States has important economic, commercial, security, human rights, and political interests in Indonesia. Our challenge is to develop a policy that advances all our interests, that obtains positive results and reduces, to the extent possible, unintended negative effects. In this regard, the provision restricting military sales or transfers to Indonesia in the Foreign Operations Appropriations bill is unnecessary and inconsistent with our policy objectives in Indonesia.

Please be assured that we will continue to work aggressively to promote better human rights observance throughout Indonesia. We are committed to doing so in what we believe is a comprehensive, effective, and results-oriented manner, and will continue to keep in close contact with you and other Members interested in these matters.

Sincerely,
WARREN CHRISTOPHER.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the motion to table the committee amendment on page 34, line 19, beginning with the word "provided" through the words "East Timor" on line 25. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Alaska [Mr. PRYOR] and the Senator from Michigan [Mr. RIEGLE] are necessarily absent.

I also announce that the Senator from Nevada [Mr. BRYAN] is absent because of attending a funeral.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 59, nays 35, as follows:

[Rollcall Vote No. 174 Leg.]

YEAS—59

Akaka
Baucus
Bennett
Bond
Boren
Breaux
Brown
Bumpers
Burns
Byrd
Campbell
Coats
Cohen
Conrad
Coverdell
Craig
Danforth
Dole
Domenici
Exon
Faircloth
Feinstein
Glenn
Gorton
Graham
Gramm
Gregg
Hatch
Heflin
Helms
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kerrey
Lott
Lugar
Mack
Mathews
McCain
McConnell
Mikulski
Nickles
Nunn
Packwood
Pressler
Reid
Robb
Rockefeller
Roth
Shelby
Simpson
Smith
Stevens
Thurmond
Warner

NAYS—35

Biden
Bingaman
Boxer
Bradley
D'Amato
Daschle

DeConcini
Dodd
Dorgan
Durenberger
Feingold
Ford
Grassley
Harkin
Hatfield
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Pell
Sarbanes
Sasser
Simon
Specter
Wellstone
Wofford

NOT VOTING—6

Bryan
Chafee
Cochran
Pryor
Riegle
Wallop

So the motion to table was agreed to.

AMENDMENT NOS. 2119 THROUGH 2126, EN BLOC

Mr. LEAHY. Mr. President, I send a group of amendments to the desk, en bloc, and ask for their immediate consideration.

The PRESIDING OFFICER (Mr. LEVIN). Does the Senator request that the pending committee amendments be set aside?

Mr. LEAHY. Yes, I ask unanimous consent that they be laid aside so that these amendments may be considered.

I also ask unanimous consent that any statements relative to these amendments be placed appropriately in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The pending committee amendments will be laid aside.

The clerk will report the amendments, en bloc.

The legislative clerk read as follows:

> The Senator from Vermont [Mr. LEAHY] proposes amendments, en bloc, numbered 2119 through 2126.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments, en bloc, are as follows:

AMENDMENT NO. 2119

(Purpose: To require a report on country development policies)

At the appropriate place, insert the following:

COUNTRY DEVELOPMENT POLICIES REPORT

SEC. . (a) REPORTING REQUIREMENT.—The Secretary of State shall, by March 31, 1995, submit to the Committees on Appropriations a report providing a concise overview of the prospects for economic growth on a broad, equitable, and sustainable basis in the countries receiving economic assistance under title II of this Act. For each country, the report shall discuss the laws, policies, and practices of that country that most contribute to or detract from the achievement of this kind of growth. The report should address relevant macroeconomic, microeconomic, social, legal, environmental, and political factors.

(b) COUNTRIES.—The countries referred to in subsection (a) are countries—

(1) for which in excess of a total of $5,000,000 has been obligated during the previous fiscal year for assistance under sections 103 through 106, chapters 10 and 11 of part I, and chapter 4 of part II of the Foreign Assistance Act of 1961, and under the Support for East European Democracy Act of 1989; or

(2) for which in excess of $1,000,000 has been obligated during the previous fiscal year for assistance administered by the Overseas Private Investment Corporation.

(c) CONSULTATION.—The Secretary of State shall submit the report required by subsection (a) in consultation with the Secretary of the Treasury, the Administrator of the Agency for International Development, and the President of the Overseas Private Investment Corporation.

Mr. MACK. Mr. President, I rise to offer an amendment that requires the administration to send a report to the Congress on the policies of foreign aid recipients that most affect economic growth.

The reason for this amendment is simple. There is no way to address the tremendous poverty in much of this world without economic growth. That is the undeniable truth, and the World Bank and the IMF are saying it loudly and clearly.

There is a growing consensus in the developing world today that poverty cannot be addressed without economic growth, and that sound economic policies are the most important factor in achieving that growth.

I would cite just one fact to illustrate the dramatic need for growth, particular in Africa. The New York Times points out that the 1991 gross national product of all subSaharan nations combined, except for South Africa, is about the same as the GNP of Belgium. Those African nations have a population of 600 million people, compared to 10 million people in Belgium.

That is an astounding and tragic fact. If we do not address the need for economic growth in Africa, we are in effect saying we do not really care about poverty in Africa. Yes, we are willing to send billions and billions of dollars in aid to Africa, but that is not the same as caring. If we really cared about the people of Africa we would be doing everything we could to encourage progrowth economic policies. Without sound economic policies, no amount of foreign aid will address the poverty that exists in these nations.

As I said, both the World Bank and the IMF have come to this conclusion. A 1994 World Bank report on Africa states:

> A broad-based pattern of rapid economic growth is vital to reducing poverty in Sub-Saharan Africa . . . The importance of reforms for Africa's economic future cannot be overstated. With today's poor policies, it will be 40 years before the region returns to its per capita income of the mid 1970s.

In a recent speech on the developing world, the Director of the International Monetary Fund said:

> The aim must be economic growth, because that is the only means of obtaining rising living standards on a sustainable basis. Growth is the key to reducing poverty.

The purpose of this amendment is to require the administration to produce a comprehensive but concise report that assesses the economic policies of the countries we aid with an eye toward whether they contribute to or retard economic growth. The principle here is similar to the principle behind the existing State Department report on human rights. If we wish to encourage certain policies, we should have a clear idea about which countries are pursuing good policies and which are not.

The World Bank has found that good policies matter. Their African study found that countries with largely improved macroeconomic policies grew almost 2 percent faster than they did before policy reforms. And that the growth rate in countries with the worst policy records actually fell by 2.6 percent.

This is a modest amendment. It is not as comprehensive as I originally intended to offer, but it is a reasonable compromise. We worked closely with the staff of the chairman and ranking member who is a cosponsor in drafting it, and appreciate their assistance.

AMENDMENT NO. 2120

(Purpose: To allow for Department of Defense Expenditure for the transportation of Nonlethal Excess Defense Articles to Albania.)

On page 112, after line 12 of the Committee reported bill, insert:

NONLETHAL EXCESS DEFENSE ARTICLES

SEC. . Notwithstanding section 519(f) of the Foreign Assistance Act of 1961, during fiscal year 1995, funds available to the Department of Defense may be expended for crating, packing, handling and transportation of nonlethal excess defense articles transferred under the authority of section 519 to Albania.

Mr. LEVIN. Mr. President, as the poorest nation in Europe, Albania faces tremendous difficulties. Having been totally isolated behind the Iron Curtain, Albania spent nearly half a century in the grip of a paranoid tyranny. Last year the United Nations classified Albania as a least-developed nation, the first time ever a European nation was thus classified.

I traveled to Albania last year, and met with the President and many of the officials of the Albanian armed services. I have also met with the Defense Minister here in Washington, as have many of my colleagues. I understand and admire the great distance Albania has come in a short time, but I also understand what an even greater distance it still has to go.

Albania is striving to establish a free market and democratic society. The path will be long, and the journey difficult. For example, there have been recent problems with civil liberties and press freedoms. It is proper that the United States help the Albanian people establish a firm and solid foundation for free institutions in Albania, especially since the Balkans is in such turmoil.

Mr. President, one way to enhance stability is to assist the Albanians in establishing strong civilian control over its own military. The United States has been advising them on this, and they are open and receptive. The amendment I have offered will authorize the granting of a waiver for Albania, if desired, of the statutory requirement that any nation receiving nonlethal excess defense articles pay for the handling and transportation of those items.

In the case of Albania, a little help will go a long way. They have signed the Partnership for Peace agreement with NATO, and they are looking to the United States for assistance and guidance. This amendment will enable Albania to receive relatively small amounts of non-lethal Department of Defense items even though they do not now have the resources to pay for the handling and transportation of those stocks.

Albania is a struggling nation in a crucial part of the world that is in crisis. They want to be our friend and ally, and this is one small way for us to assist them in this.

I express my appreciation to Representative ELIOT ENGEL for his work on this issue, and I thank the managers of the bill for accepting this amendment. It will help solidify the foundation for the emerging democracy in Albania, and that may be an important step to help stabilize the region.

AMENDMENT NO. 2121

(Purpose: To express the sense of the Senate regarding a volunteer United Tech Corps to provide technical assistance to the new independent states of the former Soviet Union)

On page 23, after line 25, insert the following new subsection:

(n) Of the program funded under this heading, it is the sense of the Senate that a volunteer United States Tech Corps should be funded for the purpose of providing technical assistance to the new independent states of the former Soviet Union, particularly in the refrigeration of perishable commodities.

AMENDMENT NO. 2122

At the appropriate place in the bill, insert the following:

Notwithstanding any other provision of law, demining equipment available to any department or agency and used in support of the clearing of landmines for humanitarian purposes may be disposed of on a grant basis in foreign countries, subject to such terms and conditions as the President may prescribe.

AMENDMENT NO. 2123

At the end of the section entitled Assistance to the New Independent States of the Former Soviet Union, add the following new section:

Not less than $50,000,000 of the funds appropriated under this heading shall be made available for programs and activities which match U.S. private sector resources with federal funds.

AMENDMENT NO. 2124

At the end of section entitled "Assistance to the New Independent States of the Former Soviet Union" add the following:

Within sixty days of enactment of this Act, the Administrator of the Agency for International Development shall report to the Committees on Appropriations concerning the feasibility of developing an outreach program which would make grants to partnerships between American communities and organizations with cultural and ethnic ties to the new independent states and their counterparts in the new independent states.

AMENDMENT NO. 2125

(Purpose: To prohibit the availability of military education and training funds and foreign military financing funds for alcoholic beverages and certain food and entertainment expenses)

On page 112, between lines 9 and 10, insert the following new section:

PROHIBITION ON PAYMENT OF CERTAIN EXPENSES

SEC. . None of the funds appropriated or otherwise made available by this Act under the heading "INTERNATIONAL MILITARY EDUCATION AND TRAINING" or "FOREIGN MILITARY FINANCING PROGRAM" may be obligated or expended to pay for—

(1) alcoholic beverages;

(2) food (other than food provided at a military installation); or

(3) entertainment expenses for activities that are substantially of a recreational character, including entrance fees and food at sporting events and amusement parks.

Mr. PRYOR. Mr. President, I wish to discuss two programs that I believe deserve our close scrutiny. The International Military Education and Training Program, or IMET, and the Foreign Military Financing Program, or FMF, provide funds to foreign countries to enable foreign soldiers to come to the United States to attend military schools. These programs further these soldier's professional knowledge as well as expose them to American culture and traditions. In the last year we have had approximately 4,000 officers and enlisted men from a variety of countries from Botswana to Venezuela.

These foreign military students attend many of the same courses that American soldiers and officers attend, such as the Command and General Staff course. In addition, many of the students also learn valuable skills tailored to their region. For example, students from Latin American countries learn about U.S. antidrug operations. However this program provides certain benefits to these foreign military students that our American students can only hope for.

The Informational Program, which is part of IMET, provides funding to all the military departments to acquaint foreign military personnel with our Nation's society, institutions, ideals, and priorities. This is the official DOD definition. However, while these goals are admirable, I am forced to question many of the expenditures.

I recently asked the Department of the Army to provide a list of all Informational Program expenditures at the U.S. Army School of the Americas. While this request focused only on the School of the Americas, I am also reviewing spending throughout the Department of Defense on Informational Program items. I received some appalling results.

Mr. President, the U.S. Army routinely buys cases of Chivas Regal scotch and Miller Lite beer with program funds. The Army also routinely paid for hot dogs and other refreshments for the students at events such as the Six Flags over Georgia amusement park and Atlanta Braves baseball games. The Army also paid for countless trips to a local steakhouse. These are only a few examples. The list goes on.

Let me read some other examples: over 2,600 dollars worth of baseball hats, 1,140 dollars worth of lapel pins, 700 dollars worth of coffee mugs, $2,500 for a picnic, and over $1,000 at the Kick-N-Chicken liquor store. In fact, in fiscal year 1992, the School of the Americas spent $7,000 on such questionable expenses. One year later, they spent $23,000. Finally, in fiscal year 1994, the school spent $19,000. It should be noted that the school's Informational Program budget for fiscal year 1994 was $62,000. Mr. President, what is the Department of Defense guidance on these matters? Army Regulation 12–15 clearly states that:

> The entertainment and social aspects of activities should not be a predominant element of the Informational Program . . . Activities that could be interpreted as being lavish are to be avoided.

While I realize these are not staggering sums of money, when in the Senate we often talk about millions of dollars without batting an eye, I do not believe this is an appropriate use of taxpayer dollars. This type of spending is not consistent without our own military traditions and most importantly, we certainly do not give our own soldiers these kinds of perks.

Mr. President, there appears to be a culture of spending in IMET that must be addressed and remedied. Again, although we are not talking about huge sums of money, we must send a message that our soldiers come first. Mr. President, the U.S. Government does not purchase hot dogs and other items for soldiers in the U.S. Army. How can we ask our own soldiers to do more with less, when we are treating foreign officers like kings? The amendment which I am offering will eliminate these types of expenditures. Very simply, the amendment states that no IMET or FMF funds will be spent on alcohol or recreational trips. In addition, the amendment also states that the primary focus of IMET must be cultural or educational in nature. These extravagant types of expenditures are not consistent with the intent of the Informational Program and are an insult to the uniformed members of the U.S. Armed Forces.

Mr. LAUTENBERG. Mr. President, I am pleased to offer this amendment along with Senator PRYOR.

We have heard a lot about waste fraud and abuse in government spending. Well, Senator PRYOR and I have found some. And we intend to eliminate it.

Under the auspices of the Information Program budgets of the International Military Education and Training IMET and Foreign Military Financing [FMF] programs, American taxpayers spend millions of dollars to give foreign soldiers military training and an education about American society. That may well be a good thing to do. But it turns out that we actually give them a lot more than training.

We give these foreign soldiers free hot dogs, free popcorn, and probably free peanuts and crackerjacks when they attend baseball games and go to amusement parks. We pay the bill for dinners at fancy steak houses. We pick up the tab for entrance fees at parks and maybe even greens fees at golf courses. And we pay for extravagant parties where the liquor flows freely.

Now, Mr. President, none of this is supposed to happen. Under guidelines developed by the Department of Defense, Information Programs like IMET and FMF are designed "to introduce foreign military personnel to and acquaint them with this nation's society, institutions, ideals, and priorities." DOD regulations explicitly say that, when it comes to the Information Program "Entertainment and social events should not be a major element of the program."

That is the theory.

But here is the reality.

Over the past 5 years, the United States has spent $24.3 million on visiting foreign soldiers through the various Information Programs within the Department of Defense. Too much of that money is spent on food, fun, and entertainment.

Let me give some examples drawn from the expense accounts we examined at the School of the Americas—an institution which, like all IMET and FMF programs, has an Information Program.

Over a 3-year period from 1991 through 1993, the school spent nearly eight times as much on food and entertainment for foreign students as it did to take them to see American historical and cultural sites.

In 1991, the School spent less than $3,000 on entrance fees and admission to historical and cultural sites such as Historic Columbus, the Little White House, and CNN. In that same year, however, the school spent nearly five times that amount wining and dining foreign soldiers with U.S. taxpayers' money in local restaurants. Foreign soldiers were regularly treated to lunch and dinner 48 times, including multiple visits to such favorite restaurants as Ryan's Steak House.

That same year, visiting foreign soldiers were taken to Atlanta Stadium to watch the Braves play. Although the foreign soldiers apparently bought their own tickets, we bought the food they ate there—all $280.50 worth. The next year, students were taken to 6 Flags Over Georgia, and again, we bought the food they ate at the amusement park. On another trip to 6 Flags, our guests were still hungry when they left the amusement park—which may explain the nearly $700 worth of steak dinners at Western Sizzlin restaurant, presumably bought for foreign soldiers on their way home.

It is not only food and entertainment that are given a higher priority than historical and educational activities. The American people are being asked to spend tens of thousands of dollars on gifts and trinkets for foreign soldiers. In fact, in 1991, the School spent almost three times as much on gifts and trinkets for foreign soldiers as it did taking them to museums and historical sites.

What kind of gifts and trinkets? Well, there were $2,640 worth of baseball hats with a special insignia. There were $2,250 worth of pewter boxes with stars and stripes, $737 dollars worth of School of the Americas pins, $1,512 worth of School of the Americas ties, and $700 worth of School mugs.

Let us look at 1992.

That year, the School spent nearly 7 times as much on food, entertainment, and alcohol for visiting foreign soldiers as it did taking those soldiers to American historical sites. The school spent nearly $2,500 on just one picnic. Now that's a lot of potato salad!

And, in just a few stops to the Kick-N-Chicken Liquor store, the school spent thousands of dollars on expensive alcohol. Maybe American soldiers drink alcohol—which they pay for themselves—but we spent thousands of dollars to buy our foreign guests Chivas Regal, Johnnie Walker, Jack Daniels, Tangueray, Bacardi, Stolichnaya Vodka, Courvasier Cognac, and Gallo wine.

Nineteen hundred and ninety-three expenditures look very similar. There were trips to the Steak & Ale Restaurant, Shogun Japanese Steak House, Ryan's Steak House, the Bonanza Family Restaurant, Tortilla Flats, the Sundial Room, the Westin Peachtree, Shoney's the Sizzler, Sonny's BBQ, and LePetit Bistro. Tens of thousands of dollars were spent on food. Because the priority was food and fun, only a few historical outings were thrown in for good measure. In fact, that year, the School spent 18 times as much on food and fun as it did taking students to cultural and historical sites.

And that, Mr. President, is just the obvious misuse of taxpayer dollars. There are some less obvious examples as well. For example, when we reviewed the expenses at the School, we found several trips to, and entrance fees paid for, Callaway Gardens. That, I thought, might be some historic site that I hadn't heard about; some cultural center that I had never visited; some Civil War battlefield I did not know about. So I got a copy of a brochure about Callaway Gardens. And guess what? Callaway Gardens isn't a museum or a battle ground at all. It's a resort.

Callaway Gardens, according to its own literature, offers visitors "63 Holes of Golf—magnificently designed". The resort's advertising boasts that its "18 hole and executive 9-hole golf courses are rated among the Nation's best," and that its "Mountain View course is the site for the PGA Tour's Buick Southern Open held each fall." But wait! That is not all. Callaway Gardens Resort has a 7½ mile bike trail. It has a beach where there is "swimming, sunbathing, paddleboating, miniature golf"—and a circus.

It has a tennis center with "clay and hard surface tennis courts, racquetball courts, and a complete pro shop." Also, "sailboats, canoes, and motorized suncats are available for boating enthusiasts."

I would like to take a vacation there. But the American taxpayers ought not be asked to pay for it. But they are paying for foreign soldiers to go to Callaway Gardens. Now, Mr. President, I am sure it is a nice resort—but going there is probably not going to improve anyone's understanding of American society.

I tell you, Mr. President, I have been through these expense accounts fairly carefully. I uncovered the real nature of Callaway Gardens but there were some items I could not figure out. There was the $719 for "double elephant ears" which I still am puzzled by. And a "custom vinyl link mat" for $654.72 which confuses me. I have asked the Department of Defense to clarify these expenditures for me.

There are plenty of examples of unnecessary spending in these Information Program accounts. But beneath the temptation to make fun of these examples, there are at least three serious points that need to be made.

First, picking up these bills is inconsistent with the mission of schools that train foreign soldiers. Those programs are designed to instill in foreign soldiers an appreciation of the appropriate role of military leaders in a democratic society. Giving them special treatment is not consistent with at least my vision of how the military should operate in a democracy.

When foreign soldiers receive free alcohol, they are being taught that they are different than other people. When the U.S. Government gives them free lunches and steak dinners, it teaches them that they deserve privileges merely because they are in the military. And when foreign soldiers receive free tickets, it teaches them to expect free access to activities that other people must pay for.

We should be training the foreign soldiers who attend such programs something about the nature of leadership and the role of the military in a democratic society. Picking up the bill for food and entertainment is not the way to do that. Which may explain why the School of the Americas boasts such graduates as Manuel Noriega.

Second, we do not need to pay for these special favors. Foreign soldiers are paid by their own governments. They receive a basic allowance. They are not poor. They came here to learn something. In that process, we should expose them to American culture. But steak dinners and resort outings are not the essence of American culture. Maybe we should make sure they are exposed to those experiences; but they can and should pay for them rather than asking the American taxpayer to pick up the bill.

Third, it is unjust to pay for entertainment for foreign soldiers when we do not pay our own soldiers enough to meet their basic needs. A lot of American soldiers might want to go to Ryan's Steak House or Callaway Gardens or a ballgame or an amusement park. But if they go, they pay their own way. And that often is not very easy.

An article in the New York Times from June 12, discusses the growing financial worries of American soldiers, and it quotes the wife of a soldier whose family recently began drawing $228 each month in food stamps to get by. In an attempt to explain just how tight the family budget is, the soldier's wife said, "We haven't bought any steaks since we've been here, and whenever I want to cook something with ham, I substitute Spam for it."

While American soldiers struggle to make ends meet, they see foreign soldiers getting free meals at fancy restaurants paid by U.S. taxpayers. They hear stories about foreign soldiers getting free alcohol paid by U.S. taxpayers. And they know that foreign soldiers get special treatment at ball games and amusement parks at taxpayer expense.

For all those reasons, Mr. President, we need to correct this problem. And our amendment does that.

Mr. President, our amendment will take excessive and wasteful spending out of the Information Program for foreign soldiers throughout the IMET and FMF programs. It will prohibit tax dollars from being spent on food, other than that provided at a military installation. It will prohibit entertainment expenses for activities that are largely recreational, including entrance fees and food at sporting events and amusement parks. It will prohibit tax dollars from being spent on alcohol. Importantly, it makes the point that wining and dining foreign soldiers and officers does not serve the public interest and should be cut out of the budget.

I urge my colleagues to support this amendment.

AMENDMENT NO. 2126

The Senate finds that:

A) The Burmese people overwhelmingly voted in 1990 to begin a process of political and economic reform based on a fundamental respect to human rights and freedom of political expression by resoundingly rejecting the military-led government of the State Law and Order Restoration Council (SLORC), and electing a coalition government headed by the National League for Democracy;

B) SLORC refused to recognize the will of the Burmese people and in the wake of the election launched a bloody crackdown against the prodemocracy movement killing some activists through torture; others were imprisoned or forced to flee Burma;

C) Since that time, all political dissent has been banned with violators arrested, jailed often beaten and sometimes executed for attempting to express political beliefs. The United States and United Nations have repeatedly identified SLORC as one of the worst offenders of human rights in the world;

D) SLORC and military officials have a long history of complicity in drug trafficking and production;

E) The forced conscription of rural villagers including the elderly, pregnant women, and children as slave labor to carry arms and ammunition for the military, and build roads and bridges for government projects continues. Slave porters are routinely malnourished, beaten, often raped and sometimes executed if they fail to perform work ordered by military officials;

F) The massive infusion of new arms into Burma poses a direct threat to regional stability; and

G) The actions of the government of Thailand in harassing an forcibly repatriating Burmese refugees is of deep concern to the United States.

The Senate of the United States of America calls for:

A) SLORC to immediately and unconditionally release the leader of the National League for Democracy, Aung San Suu Kyi, from house arrest and install the legitimate government of Burma;

B) Immediate access to political detainees or convicted prisoners of any kind by representatives of the International Committee of the Red Cross.

C) The regime in Rangoon to take real and meaningful action against drug smugglers and corrupt government officials to combat the flood of opium and heroin coming from Burma;

D) International corporations investing or seeking business opportunities in Burma to recognize SLORC's policy of political repression, abuse of human rights, use of slave labor, and complicity in drug trafficking and refrain from investing in Burma;

E) The international community to ban selling weapons to SLORC;

F) The international community to recognize the plight of Burmese refugees and take whatever steps may be necessary to guarantee their safety and human rights.

Mr. MCCONNELL. Mr. President, in 1990, the military-run junta in Burma, known as the State Law and Order Restoration Council [SLORC] held parliamentary elections with the notion that they could manipulate the electoral process, win the elections, and legitimize their brutal rule with the international community. Well, the people had different ideas.

When the votes were counted after the election, the people handed the military dictators a crushing blow. The Burmese overwhelmingly rejected SLORC, and clearly signaled their intention to build a new Burma based on respect for human rights and political freedoms. The opposition, prodemocracy movement led by Aung San Suu Kyi and her National League for Democracy [NLD] party swept the vast majority of parliamentary seats, but before the new government could be seated, the military dictators led by General Ne Win struck. They arrested the new parliamentarians, cracked down on the opposition parties, and denied the Burmese people their right to self-determination.

Today, the situation in Burma continues to deteriorate. The human rights record of SLORC has the odious distinction of being one of the worst in the world. All political dissent is banned, in fact, anyone caught reading The New Era, an underground, prodemocracy newspaper, is automatically sentenced to 3 years in jail where beatings and torture are common occurrences.

SLORC is rapidly expanding its military and has purchased more than a billion dollars' worth of new weapons and hardware from China. This buildup is a direct threat to regional stability. In addition, the arms are being used to coerce ethnic groups living in the mountainous border areas into signing cease-fire or peace accords with SLORC. The military has an especially brutal record of human-rights abuses with rural villagers subject to executions, rape, and forced slave labor. For example, it is standard operating procedure for SLORC forces to use villagers—including women and children—as human minesweepers marching them at gunpoint down unsecured roads. Villages are also forced to "donate" people who work as slaves carrying arms and ammunition as well as in road construction. Anyone who resists is beaten or shot.

Mr. President, SLORC is not the legitimate government of Burma. In fact, they are nothing more than drug-dealing thugs. My amendment is designed to convey a strong message to SLORC: there is nothing they can do to legitimize themselves to the United States, and hopefully to the rest of the international community. SLORC has been hard at work trying to write a new constitution and they have scheduled a September session to try and finish this document. Despite their best efforts, we will not be duped by this carefully choreographed sham portrayal of peace and national reconciliation.

This amendment calls for the restoration of the democratically elected government of Burma, the immediate, unconditional release of Aung San Suu Kyi, a heroine of democracy, and for this government and the international community to provide assistance to the Burmese refugees living on the border areas.

I hope my colleagues will join me in approving this amendment denouncing

SLORC, and at the same time reminding the Burmese people who hold out the hope that they can once again play a part in bringing democracy to Burma that they have not been forgotten by the United States.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendments, en bloc.

The amendments (Nos. 2119 through 2126), en bloc, were agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Mr. KOHL. Mr. President, I would like to take this opportunity to draw attention to two important Wisconsin-based programs which play a vital role in promoting democracy and understanding. Both of these programs are funded through the Agency for International Development [AID].

The Milwaukee International Health Training Center [MIHTC] is a consortium of schools, community-based clinics, private industries, universities, and social service agencies whose mission is to help developing countries improve the skills of their health care personnel, the use of their resources, and their service delivery systems.

This year, the House included report language urging AID to make every effort to provide $150,000 in fiscal year 1995 for an institutional development grant. While the Senate Committee on Appropriations did not include a recommendation for a specific funding level, it did include language stating that health training "can be effectively delivered by an alliance of schools and universities, community-based clinics, private industry, and social service agencies." The committee "encourages AID to support initiatives which incorporate this integrated approach to providing health care systems training." I want to clarify that the Senate committee's decision not to include the House language is in no way indicative of its level of support for the program. AID should know that the Milwaukee training program is supported by both congressional committees.

I would also like to make clear that there is strong support within Congress for the Milwaukee County Training Center for Local Democracy. This center, which is administered by Milwaukee County, trains Polish public administrators in economic development, urban planning, and communal services. During the 6-week program, participants live with Milwaukee area families, and work under the mentorship of Milwaukee metro area public administrators. The participants also work with faculty members of the University of Wisconsin—Milwaukee developing case studies, which may be used to train colleagues in Poland.

The House included report language recognizing the "impressive accomplishments" of the Milwaukee County project and recommending that "a best effort be made to fund the Milwaukee County Training Center for Local Democracy in the amount of $300,000 for fiscal year 1995." While the Senate Committee on Appropriations did not recommend a specific funding level for the project, the committee "is aware of existing exchange programs which have successfully provided training in local governance and public administration under the mentorship of public administrators in U.S. cities" and "encourages AID to continue supporting exchanges which bring central and Eastern European public officials to the United States for training." Once again, AID should understand that the Senate committee's decision not to include the House's language in no way indicates a lack of support for the project.

Mr. President, I strongly support both of these programs and hope AID will carefully consider the House and Senate report language in evaluating funding requests for these two training programs.

SUPPORT FOR ANTIABORTION AMENDMENT

Mr. PRESSLER. Mr. President, the Clinton administration has announced that it wishes to withhold foreign aid to countries that do not provide State-funded abortions. I always have opposed the use of Federal funds for any type of abortion-related activity, either domestically or through assistance to other countries. By granting or withholding assistance based upon this Clinton criterion, we would be imposing the Clinton administration's will on many cultures in which abortion is considered reprehensible.

I support the Helms amendment, which would not allow Federal funds to support indirectly proabortion policies in various countries. For instance, the majority of nations in Latin America and Africa view proabortion policies with great disfavor, as such policies are inconsistent with their mainstream cultural and religious values.

Many countries have strong sentiments against abortion. The final Preparatory Committee meeting prior to the Third U.N. International Conference on Population and Development to be held in Cairo, ended in dissension over reproductive rights. Roman Catholic and other antiabortion proponents from various countries signaled their strong disagreement with proabortion proposals.

I urge my colleagues to join me in support of the Helms amendment.

AID TO TURKEY—AMENDMENT NO. 2113

Mr. Leahy. Mr. President, the amendment I offered with the support of the Senator from Mississippi regarding Turkey requires that in any agreement to sell or provide military equipment to Turkey by the United States, there must be an express statement that the equipment will not be used in violation of international law. This requirement is intended to ensure that U.S. military equipment is not used against noncombatants, or otherwise in violation of the Geneva Conventions or any other international law. It is intended to ensure that, at the very least, any military equipment that we provide to Turkey is not used in violation of human rights.

Year after year in hearings and in the committee report, we have raised concerns about human rights violations in Turkey. We have asked for a strategy from the administration on how they are going to pursue these human rights problems. We never received one.

During the past few years when the administration said it was urging the Turkish Government to deal with the human rights problems, the situation got worse, not better.

Let me describe what is going on today in Turkey, according to the State Department and human rights monitors.

Torture is used routinely on people in custody. I will spare you the gory details of the practices that are used.

There are repeated reports that the Turkish armed forces have fired on the homes of Kurdish villagers in southeastern Turkey. Whole villages have been burned and forcibly evacuated.

More than 800 villages are said to have been evacuated under government pressure since 1990—70 since March of this year. Scorched-earth tactics are reportedly being used, resulting in some areas in a landscape of burnt villages.

The security forces continue to be charged with using deadly force against unarmed Kurdish civilians.

Nobody questions the Turkish Government's right to fight the PKK guerrillas, who themselves are guilty of atrocities. But that is no excuse for tactics that target civilian populations.

We cannot permit our helicopters and our military aid to be used in the strafing and bombing and burning of Kurdish villages.

This provision does not deny one dime of aid to Turkey. It simply says that before we sell or give them military aid, the Turkish Government must agree that it will only be used in accordance with international law.

If the Turkish Government wants to use our aid to fight their war against the Kurds inside Turkey, they are going to have to show that they can tell the difference between noncombatant women and children who happen to be Kurdish, and terrorists.

Mr. MITCHELL. Mr. President, I have consulted with the distinguished manager, Senator LEAHY, and I have also engaged in negotiations with our colleagues on the best way to proceed with respect to this bill and the remaining measures which must be completed prior to the Senate's departure this weekend for the Independence Day recess.

It is apparent that we will not be permitted to complete action on this bill prior to that time. I regret that, but that is a reality, and it is within the power of Senators to prevent legislation from passing by a stated time.

Therefore, I have decided, following the consultations and discussions which I mentioned earlier, to enter into an agreement on which we have reached an understanding, although it has not yet been placed into a formal agreement, that will be done tomorrow, but the understanding will be entered as an agreement tomorrow that we will get a finite list of the remaining amendments to this bill, and we will put the bill over until after the recess, with the further understanding that there will be a specific date and time certain by which those amendments will have to be offered.

Therefore, we will be able to complete action on the measure within what I hope will be a reasonable period of time when we return from the recess.

The two remaining measures on which we must complete action this week are the energy and water appropriations bill and the Department of Defense authorization bill. We had, of course, spent some considerable time on the Department of Defense authorization bill last week.

There now exists a finite list of amendments to that bill. Although it is very long, the managers have been working diligently to pare down the list and obtain agreements on those amendments which will require votes.

So, Mr. President, we will proceed to the energy and water appropriations bill at 9 a.m. tomorrow with the expectation that we will be able to complete action on that bill within a relatively short period of time and then be able to get to the Department of Defense authorization bill by early tomorrow afternoon.

We will then remain in session for as long as it takes to complete action on the Department of Defense authorization bill. When we complete action on that, the Senate will then conclude for this legislative period and will begin the Independence Day recess.

I will also either on tomorrow or on Friday set forth for the Senate in as much detail as is possible the schedule for the first week of the Senate session following the Independence Day recess.

So for now we have made some progress on this bill, but it is obvious that we are not going to be able to complete it, and, therefore, we will enter the agreement which will permit its completion shortly after returning from recess by a time is certain and within a reasonable period of time, and we will take up and complete action on the energy and water appropriations bill tomorrow, then begin the DOD authorization bill, and then once we get on that we will simply stay in session until such time as the DOD bill is completed.

I hope that can be done by the close of business on Friday, but I want to make clear that we will stay in session for however long it takes to complete action on the DOD authorization bill.

Mr. President, I thank my colleagues for their patience, and I thank the Senator from Vermont for his diligence and perseverance on this matter.

Mr. LEAHY. Mr. President, if the Senator will yield, I will just note I know the frustration he must feel in trying to move matters forward. On this bill I think we have had only a couple votes that really pertained directly to the appropriations items in the bill. They were disposed of in about an hour or less of debate. We spent 13 hours on this discussing items that have either been discussed at great length in the Senate before and voted on or really bear no relationship to an appropriations bill. I note, therefore, those who are concerned about what happens in the foreign operations bill, those who have countries that they are particularly concerned about and will be made new items, I point out that, one, we have not even been allowed to do as we normally do and that is adopt the committee amendments en bloc, and 95 percent of the time the debate so far has been on issues that have been covered before. They are non-appropriations issues, and we have yet to be able to consider those items that traditionally been part of the foreign operations bill. We have yet to adopt the provisions related to the Camp David countries, yet to debate provisions related to NIS even though these are all provisions voted unanimously by both the subcommittee and full Committee on Appropriations. So I share the frustration of the Senator from Maine, and I must say that he has the patience of the mountains of Maine to be able to put up with this. I thank him for his help.

Mr. MITCHELL. Mr. President, we all know that the Senate's rulings permit delay for those who wish to engage in delay. Unfortunately, it is a common practice here. Ultimately, we will get this bill done and the others done. We will just proceed.

I want to repeat so there is no misunderstanding we will go to the energy and water appropriations bill at 9 a.m. tomorrow. Our efforts will be to complete action on that bill in a relatively short period of time and then immediately thereafter return to the DOD authorization bill and then remain in session until such time as that bill is completed.

If we can finish action on it tomorrow night, then we will break for recess tomorrow night. If we cannot and take until Friday, then we proceed on Friday and finish it. If we do not finish on Friday, we come back on Saturday. We will simply stay as long as it takes to act on the DOD authorization bill.

Mr. President, I thank my colleagues.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. LEAHY. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein for up to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPEAL TAX HIKE ON SOCIAL SECURITY

Mr. GORTON. Mr. President, thousands of seniors in my home State of Washington are suffering from last year's massive tax hike on Social Security benefits. As many seniors are painfully aware, the 1993 tax bill included a whopping tax hike of up to 70 percent on some Social Security benefits.

Recently, I asked constituents all across Washington about this tax increase to get their feelings on the matter. Overwhelmingly, they responded that the tax increase was unjust, unfair, and unwarranted. They tell me that it needs to be repealed—now. I agree wholeheartedly and am working hard to see that happen.

I have frankly been outraged by the willingness of this Congress to heap more and more taxes on the backs of seniors. Seniors are not greedy. They are not selfish. They are trying to make ends meet on a fixed income, after having spent years and years building up the economy of this country. They deserve our heartfelt thanks, not a grab at their pocketbooks. They are justifiably angry.

Let me just read what a few of my constituents have to say on this topic. A senior in Olympia says it is "wrong to put a high tax on seniors' Social Security. Our government made a contract with all citizens and we were forced to pay into the plan all our working lives. It is unconscionable that we could now be forced to give up those Social Security benefits to high taxes."

A man in Vancouver, in discussing Congress' tax increase, asks "They think this is fair?" A woman characterizes the Social Security tax hike as "putting the squeeze on taxpayers for expanded programs." A man in Issaquah says "this is just a back-door method of raiding Social Security to finance who knows what." And a man in Auburn says "New taxes on Social Security should be repealed now!"

Mr. President, I agree. That is why I cosponsored S. 1408, to completely repeal the tax hike imposed by last year's tax bill. It is critical legislation for this country's senior citizens. And I will, with the help of the people of Washington State, continue fighting to pass it.

S. 687—PRODUCTS LIABILITY

Mr. DOLE. Mr. President, my remarks will be brief, as everything that can be said about this bill has been said—if not during this debate, then certainly sometime over the last 13 years.

And while the Senate has talked and talked about this issue, American manufacturers, wholesalers, distributors, and retailers have lost jobs and opportunities, innovation has been stifled, and consumers have suffered.

I find it ironic, Mr. President, that many of my colleagues who so strongly support overhauling our health care system—which is the best in the world—continue to try and block reform of our products liability laws—which are among the most confusing and inefficient in the world.

In my book, Mr. President, obtaining cloture and eventually passing S. 687 is a "win-win" situation.

American businesses would win, because their expenses would be reduced, and their products would receive a boost here at home and in the world market. Foreign competitors do not face skyrocketing liability costs, and in some industries have captured market share from U.S. companies that are burdened with such costs.

American consumers would win because better products would enter the market, and prices would be lower.

Those afflicted with a number of diseases would win, because pharmaceutical and medical research companies would have more money to spend on research and development rather than on litigation.

Indeed, the Commerce Committee heard testimony from two firms that concern over products liability litigation and costs caused them to drop research into drugs which might be important to AIDS patients.

Those who have legitimate products liability claims would win because the bill creates incentives for resolution of disputes before going to trial—a system that often creates waits of longer than 2 years between filing a case and receiving the jury verdicts—and longer if there is an appeal.

Severely injured victims cannot afford to wait years before being compensated. Often, these long delays force settlement for amounts far less than adequate.

Mr. President, 13 years of being tied up by the American Trial Lawyers Association is long enough. Let's invoke cloture, pass this bill, and then take another much needed step, and move on to reforming the liability laws relating to aviation.

S. 687—PRODUCT LIABILITY BILL

Mr. BRADLEY. Mr. President, I rise in opposition, to S. 687, the Product Liability Fairness Act. The debate on this bill has been spirited and informative. I have reviewed the present bill and compared it to S. 640, the prior product liability bill that this body considered in 1992. While I think that this bill is better than the prior bill, I do not think that it goes far enough in striking a balance between the desires of manufacturers and product sellers to streamline the product liability process and the ability of ordinary Americans to bring lawsuits seeking relief from injuries resulting from defective and dangerous products.

My initial concern with the bill is that I think the provision concerning expedited settlement puts an undue burden on plaintiffs by placing a cap on attorneys' fees of $50,000 when the defendant rejects a settlement offer and the plaintiff receives a judgment that is greater than the amount of the offer. As an initial matter, I think that the cap will affect the quality of legal talent that will be available to plaintiffs who wish to pursue litigation. In our market-driven society, as in any profession, attorneys in the legal profession with superior skills will gravitate toward those cases that yield the greatest compensation. No such cap is placed on fees that attorneys for defendant can receive. While I share the concerns of some that a few attorneys may be receiving a windfall with respect to fees in these cases, I think that the present cap will place too much of a burden on plaintiffs by limiting their options in choosing and retaining skilled attorneys when the defendants make the determination that plaintiffs adjudicate their claims in court.

Also, I believe that such a cap will force plaintiffs to play Russian Roulette with the decision of whether to go to trial based on advice from an attorney that would inject the issue of attorney's fees into the decision-making process. A decision to proceed to trial should be made solely on the basic of a consideration of the merits of the underlying claim. This bill, however, would dilute that decision by placing the issue of attorney's fees into the equation. Plaintiffs are frequently persons of modest means who perceive a lawsuit as a unique event. Their attorneys usually take these cases on a contingency fee basis and thus accept part of the risk of losing the case. On the other hand, defendants perceive these lawsuits as a regular and calculable part of business. Thus, plaintiffs and their attorneys are likely to be more risk averse than defendants and will accept a smaller sum to avoid the risk of losing in court. Such a scheme does not place plaintiffs and defendants on equal ground in the legal arena.

Mr. President, with respect to the provisions of the bill that provide an exemption from punitive damages for drug companies and aircraft companies, I think that this provision places too much of a burden on a weak and ill-equipped Federal regulatory system to protect the safety and well-being of American citizens. There is no question that over the last decade, the budgets and personnel of regulatory agencies have been severely cut. For example, between 1979 and 1989, the FDA's staff was reduced by over 1,000 employees. Thus, I think that it is incongruous to pass a bill that strips the judiciary of the ability to protect consumers from defective and dangerous products without strengthening the first line of defense against unsafe products, the regulatory agencies.

Mr. President, I have some broad concerns regarding the impact of this bill on the American public. While the bill places restrictions on the ability of individual citizens to seek redress from defective products, it places no restrictions on corporations to seek such redress. For example, this bill contains a provision that bars civil actions if a capital good that is 25 years or older is alleged to have caused harm. Thus, if a capital product explodes and severs the leg of an individual worker while causing extensive damage to a plant, an individual claimant entitled to worker's compensation has no claim, while the corporation can sue for damage to the plant even though the corporation has insurance.

Mr. President, I have heard that these lawsuits are eroding American corporate competitiveness. However, Mr. President, any bill that attempts to improve U.S. competitiveness by reducing the amount of litigation in our society should be comprehensive. It should not focus solely on cases brought by individuals who claim to be injured by certain products, but should also focus on litigation between other actors in the system on a variety of legal theories. Nothing hampers U.S. competitiveness more than a system which encourages our businesses to sue each other over matters that could be resolved outside the courts. In our search for legal reform, let's try to rid the courts of some of these cases as well.

Mr. President, we have been told that there is a litigation explosion with respect to product liability and that corporations and the business community are suffering under the weight of this explosion. We have been told that this bill will place plaintiffs and defendants on more equal ground in the litigation process. However, Mr. President, the New York Times just last week reported the results of a study which concludes that in 1992, juries awarded judgments to plaintiffs in personal injury cases 52 percent of the time. This figure is down from 63 percent in 1989. With respect to product liability cases, the study found that in 1993, the plaintiffs chances of winning at trial are 41 percent. Thus, statistics show that at the present time, defendants, not plaintiffs, are victorious in a majority of the product liability cases that are adjudicated. While one could conclude that plaintiffs may be losing these lawsuits because they are frivolous, the fact is that State and Federal courts have procedures in place to sanction plaintiffs who bring frivolous lawsuits, and no evidence has been presented to this legislative body that plaintiffs are engaging in the practice of bringing frivolous actions.

Mr. President, although there have been relatively few punitive damage awards in product liability cases over the last 25 years, we have been told that the threat of punitive damages encourages many product manufacturers to settle cases that they would have no problem winning in an effort to avoid having claims for punitive damages go to juries unfamiliar with the precautions that are now taken to ensure that products are safe. However, Mr. President, the numbers simply do not add up to the conclusion that the business community is being treated unfairly by juries. Indeed, in almost 60 percent of the product liability cases brought in 1993, plaintiffs were the losing parties.

Mr. President, it has additionally been argued that these lawsuits increase the costs of producing products in this country and thus hurts American competitiveness. However, a 1987 conference board survey of risk managers of 232 corporations shows that product liability costs for most businesses are 1 percent or less of the final price of a product, and have very little impact on larger economic issues such as market share or jobs. In addition, the American Insurance Association, the largest trade association representing the insurance industry, has testified that this legislation will have virtually no effect on insurance costs.

Mr. President, to put it succinctly, I do not think that the bill will really do what its proponents say it will do. As mentioned earlier, the proponents of this bill argue that the business community is suffering under the weight of a litigation explosion. They contend that this bill will decrease both the incidence and cost of litigation. Mr. President, no one disagrees that we are an overly litigious society. However, I am not convinced that this bill can correct the problem of litigiousness by focusing on just one aspect of the system. A recent University of Wisconsin study shows that when you take out asbestos cases, the number of product liability cases has actually decreased since 1985, and according to a survey of several State court systems by the National Center for State Courts, "the most dramatic increase in the civil caseloads tended to be for real property rights cases or contract cases, not torts." Nothing in the current bill addresses the other types of cases.

In conclusion, Mr. President, because of the above stated concerns, I must oppose S. 687, the Product Liability Fairness Act.

S. 687, THE PRODUCT LIABILITY FAIRNESS ACT

Mr. KERREY. Mr. President, I voted against cloture on S. 687, the Product Liability Fairness Act for three reasons. The first is that the proponents of the bill have not shown that the uncertainty of product liability lawsuits has put U.S. manufacturers in crisis, a claim that has been made repeatedly. Second, the bill, in attempting to address this perceived crisis, unfairly makes some rules uniform without providing uniformity in other rules. Third, recent trends indicate that the product liability system is regulating itself.

Support of S. 687 requires a firm belief in the premise that U.S. manufacturing is at a disadvantage compared with other countries and in need of Federal relief because of product liability laws. Some industries, like the small aircraft industry, have been able to document a trend of losing ground to foreign manufacturers over a number of years. However, in the vast majority of industries, the facts and trends indicate otherwise. U.S. workers produce $49,000 in output each year, more than any other country. Our rate of unemployment is lower than any other country. In addition, the General Accounting Office, in a 1988 report, found that insurance costs represented a relatively small proportion of businesses' annual gross receipts—.06 percent for large businesses and about 1 percent for small businesses. U.S. business and manufacturing is alive and thriving.

Another frequently cited need for reform is the notion that the amount of litigation in this country is dragging down the United States. I think the reality is quite the contrary. Our system of justice is based upon the right to trial by jury. Yes, it is true that we are a litigious society. However, litigation is the price we pay to remain a free and self-governing people. Juries do not work for trial attorneys. Juries are made up of our neighbors and colleagues who work for a living, know the value of a dollar, and determine the proper amount that an injured party should receive. In reality, the number of product liability cases in Federal courts, other than asbestos cases, has been steadily declining.

Senator ROCKEFELLER and the manufacturers who support this bill seek to instill balance in the jury system which is often unpredictable. I think this is a reasonable goal. Unfortunately, S. 687 does not achieve the balance I believe is necessary.

In Nebraska, like most other States, our manufacturers export over 80 percent of their goods for sale in other States exposing them to varying State laws. I understand their desire for uniformity. But many believe that S. 687 will actually result in less uniformity in the law of product liability for the simple reason that the bill preempts some State laws while leaving others intact. In addition, the bill places the responsibility of interpreting and applying a mix of State and Federal law in the State courts. The result is that we will disrupt established State law and be left with different interpretations of the new law, an outcome which does not help manufacturers or consumers.

In addition, S. 687, while providing some uniformity for manufacturers, does not provide the same measure of uniformity for injured parties.

In an effort to provide better balance in the bill, I made several suggestions to the bill sponsor, Senator ROCKEFELLER. One suggestion I made was adopted by Senator ROCKEFELLER. The change addresses the unfairness of penalties applied to parties under section 101 which governs expedited product liability judgments. Under that section a defendant's penalty for rejection of a settlement offer is capped at $50,000, but the claimant's penalty is not capped. I am pleased that Senator ROCKEFELLER agreed to include a $50,000 cap on the claimant's penalty to mirror that of the defendant. This change provides fairness and uniformity for both parties. However, the fact remains that many other sections of the bill override State laws where those laws protect consumers, but leave intact the different State laws where those laws benefit manufacturers.

Uniformity for both manufacturers and consumers is especially important in Nebraska whose citizens would be in a worse position under the bill because strict Nebraska laws would remain in place in addition to the new Federal rules legislated in the bill. For example, Nebraska citizens would be harmed by the section of the bill on punitive damages. Punitive damages are meant to act as a punishment for companies whose wrongdoing goes beyond mere negligence to the level of outrageous misconduct. S. 687 establishes the burden of proof an injured party must meet to qualify for punitive damages and provides a defense to punitive damages for drugs or aircraft that have been approved by Federal agencies. However, the bill specifically exempts States, like Nebraska, which do not currently offer punitive damages. Thus, a Nebraskan injured by a defective product could not get punitive damages, whereas an Iowan, for example, could. I think this is an unconscionable result for the citizens of Nebraska. When the Federal Government takes over an area of law and does so with the justification that uniformity must be achieved, then uniformity ought to be achieved for Nebraska consumers as well as manufacturers.

I want to make one thing clear. I do not oppose intervening to assist manufactures where a clear case has been made to do so. In fact, I cosponsored and voted in support of S. 1458, the General Aviation Revitalization Act which passed the Senate in March. What distinguishes these two bills is that with regard to general aviation, the industry was able to show trends measured over a period of time which indicated that the small plane industry was being usurped by foreign competition. In addition, the bill was very tailored in its intervention. Rather than the more scattershot approach outlined in S. 687, the general aviation bill only imposed a 15 year statute of limitation within which a person may bring suit.

A third reason why I chose not to support S. 687 at this time is that the product liability system has begun to moderate in recent years. Intervention is less compelling now than it was 4 or 5 years ago. As I mentioned before, the number of product liability cases in Federal courts, other than asbestos cases, has been decreasing in recent years, falling 40 percent between 1985 and 1990. According to the Commerce Committee's report on S. 687, the filing of tort lawsuits, which include product liability lawsuits, make up less than one percent of all cases filed in State courts, and less than 10 percent of most States' civil caseload. In addition, last Friday's New York Times contained a front page story with the headline "U.S. Juries Grow Tougher on Plaintiffs in Lawsuits." The story reported on studies that show a plaintiff's chances of winning at a product liability trial dropped to 41 percent last year from 43 percent in 1992 and 59 percent in 1989.

In short, the proponents of the bill did not make the case that such a drastic usurpation of State control is necessary. The truth is that it is very difficult, if not impossible, to predict the ramifications of this legislation, especially its potential consequences for people injured by defective products. Without a clear need to intervene I cannot support Federal intrusion into the well-established area of State law.

CLOTURE VOTE ON PRODUCT LIABILITY

Mrs. FEINSTEIN. For the record, Mr. President, I would like to provide some detail on my vote today on the second motion for cloture on S. 687, the Product Liability Fairness Act.

Last night, after the Senate first voted to deny cloture on S. 687, the bill's managers, along with Senators DORGAN, MOSELEY-BRAUN, MIKULSKI, RIEGLE and I struck what I considered the best compromise, to strike altogether provisions of S. 687 which offered a defense against punitive damages for drug and medical manufacturers dubbed the "FDA defense", and save the bill for a constructive floor debate including amendments on the other substantive issues. I also submitted an amendment that would have imposed criminal penalties on corporations that concealed serious dangers in their products from regulatory agencies. The goal of the compromise was to show willingness to improve the bill and gain enough support to permit the Senate to continue working on product liability. Opponents left no alternative but to vote for cloture to attain a chance to work on the bill.

Because the opposition was adamant about preventing any vote on amendments prior to a cloture vote, I joined several of my colleagues and voted for cloture in an effort to move forward so that amendments could be considered and approved. I hoped by invoking cloture we could ultimately strike some unfortunate provisions of the bill.

Trial lawyers and consumer advocates have raised legitimate concerns that some of the most high-profile product liability cases have been those involving drugs and medical devices, such as DES, Dalkon Shield IUDs and silicone gel breast implants, and that the FDA defense in S. 687 worked to the disadvantage of women. I believed that the best way to address that issue was to clarify the FDA defense in the ways that the Feinstein/Lieberman amendment proposed to do or to, preferably, strike the provisions from the bill altogether, if there were enough votes to do so.

Business leaders from throughout my State of California, however, impressed upon me that a level litigation playing field is important to their competitiveness and could be accomplished, in part, by uniformity and predictability in some aspects of the product liability system nationwide.

As I said yesterday on the Senate floor, this bill had provisions which were both fair and reasonable, notwithstanding the FDA defense. The 2-year statute of limitations, for example, would have allowed an injured person to bring a lawsuit 2-years after they discovered both the harm such as cancer, and its cause, such as asbestos. S. 687 would have preserved a persons' claim for a year more than currently provided in my own State of California, and would have been a big improvement over several States' statutes of limitations begin to run before a party even knows that they have been injured.

It was my fundamental belief that the competing positions on this bill could have been reconciled to create good public policy. No compromise could be reached, however, in a hostile environment where sides have staked out their position, decided to filibuster, and refused to allow a vote on every constructive amendment. Cloture under those circumstances appeared to be the only way to allow the business of the Senate to continue.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, as of the close of business on Tuesday, June 28, the Federal debt stood at $4,603,689,750,246.51. This means that on a per capita basis, every man, woman and child in America owes $17,658.21 as his or her share of that debt.

TRIBUTE TO JACQUELINE KENNEDY ONASSIS

Mr. HEFLIN. Mr. President, America and the world lost an icon and living legend on May 19 when former First Lady Jacqueline Kennedy Onassis died after a battle with cancer. Even now, over a month after her sudden passing, people everywhere are still trying to articulate what she meant to them personally and to assess her place in history. The most striking aspect of her death to me has been the tremendous outpouring of love and affection from all over the world, accompanied by descriptive terms like style, grace, elegance, dignity, and class. This remarkable woman was indeed all of these things and more, and she embodied the very best things that we like to think characterize America itself.

Of course, we don't have royalty in this country, and Jacqueline Kennedy Onassis never wanted to be our Queen. She just wanted to raise her children and live her life in her own way, pursuing the things she enjoyed and devoting herself to causes about which she felt strongly. Even decades after she left the White House, she marveled at the exalted place she occupied in the eyes of the public, once remarking to a friend that she couldn't understand why anyone would care what she did or said.

Perhaps Jackie herself didn't understand her fame, but to millions of people, she was the closest thing America has ever had to royalty, and they were intensely interested in her and everything she did. Ironically, while her celebrity was unparalleled, she could be spotted in Central Park spending quiet time with her grandchildren or strolling along the streets of Manhattan alone. Her public, for the most part, respected her privacy, admiring her from afar.

Maybe it was her mystery that made her so appealing to so many. After leaving the White House, she gave no public interviews, wrote no memoirs, and did no talk shows. Many wished she had. But somehow it was appropriate that she remained private to the end, because that mysterious and private image is, to a large degree what made her who she was. She felt no need to involve herself in politics other than to lend her support to her family whenever they needed it. Jackie just wanted to live her life in quiet dignity, surrounded by her close friends and family.

Her children, Caroline and John, Jr., were Jackie's greatest passion, and are certainly her greatest legacy. A large part of her life over the last three and a half decades was devoted to the task of making sure her children were raised the right way. She deserves a great deal or credit for the job she did, especially since she succeeded so well in spite of the unique challenges faced by single parents. The glare of the media spotlight certainly didn't make her job any easier.

Cultural pursuits were Jackie's other great passion. She was always fascinated by the arts and literature, and for the last decade and a half of her life as a book editor in New York, she was responsible for the publication of some remarkable works. I had the privilege of working with her while she was editing former Alabama Congressman Carl Elliott's book "The Cost of Courage: The Journey of an American Congressman" a few years ago. Congressman Elliott was the first recipient of the JFK Profiles in Courage award, and she took an abiding and personal interest in his life and the sacrifices he made in the name of principle. Last December, she sent him a bouquet of flowers for his 80th birthday. Her accompanying note read, "Pretend that I'm there holding your hand because I wish I could be." In January, he received another letter from her saying how much she had enjoyed seeing a televised documentary about his life. Stories abound about such selfless and simple acts of kindness on her part. These were among her trademarks.

Jackie was an international figure, loved around the world, yet she was quintessentially American. It made us proud when she charmed DeGaulle and Khrushev. She proved to an often skeptical world that refinement and culture were not strangers to us. She spoke several languages fluently, and was treated as royalty wherever she went.

As First Lady, Jacqueline Kennedy has a unique position in a changing world. She and John Kennedy were partners in the reinvigoration of America. She brought youth, vitality, intelligence, and, of course, a new style to the White House. We owe her a great deal of thanks for restoring the White House to its place as a showplace of American design and architecture, and for working to make the Federal Government a source of support for the arts in our country. The national endowments for the arts and humanities are direct results of her efforts to enhance the place of culture and literature in our society.

It is an understatement to say that America has never known—and will probably never know again—anyone else like Jacqueline Kennedy Onassis. When she died, people who had never met her spontaneously broke into tears, unable to explain exactly why. Perhaps it was because she was our last link to "Camelot" and all that it symbolized, a living symbol of all-too-brief slice of the past during which anything seemed possible. Or perhaps it was because of the way she held the Nation together that dark weekend after her husband's tragic death. Or maybe it was that she was such an integral part of us—an American original—despite her intensely private nature.

Jackie's final resting place next to John Kennedy and the eternal flame she lit over 30 years ago is both fitting and poignant. Even though she lived over three decades after the assassination, we still feel cheated because she died so suddenly and untimely. She was active and vibrant until the very end. There was so much more that we looked forward to from this extraordinary woman, just as was the case with her husband. And yet as sad as her death was, it is somewhat fitting that she is finally reunited with him, because visitors to that special sight will now come to focus more on them as a team and what together they meant to our Nation.

They will remain symbols of hope for generations to come, and will continue to remind us of the very best things about ourselves and our country. Through her style, grace, elegance, dignity, and class in the aftermath of one of the greatest tragedies to ever befall the Nation and world, Jackie secured her rightful place in history. Her strength and determination comforted us, and taught us a great deal about ourselves. We will miss her, and will be forever grateful to her.

THE RETIREMENT OF HORACE CROUCH

Mr. THURMOND. Mr. President, I rise today to pay tribute to a man who is not only my good friend, but also my brother-in-law, Col. Horace J. Crouch.

Horace is an individual of many admirable qualities and someone who I truly hold in high esteem. His optimistic and positive outlook on life, coupled with his generous and outgoing personality, have forever endeared him to the countless number of people he has befriended over the years.

A hard-working and dedicated man, Horace has accomplished many impressive things in a life dedicated to public service. Horace's career in government began after his graduation from Clemson University, when he was commissioned into the U.S. Army as an infantry officer. He eventually earned the rank of Colonel, led troops in combat, and served as a commander in our Nation's most illustrious military unit, the 82d Airborne Division. Additionally, he became an engineer officer; learned to pilot helicopters and airplanes as his additional duty and logged more than 5,000 hours of air time; and served as a staff officer with the Office of Chief of Research and Development, Department of the Army.

After a distinguished military career of 30 years, most people would be happy to quietly enjoy their retirement; however, such a lifestyle simply did not suit a man with Horace's energy and drive and he began working at the Small Business Administration. From there, he found himself back at the Pentagon, this time serving as the Deputy Director, and later, the Director of the Office of Small and Disadvantaged Business Utilization, Office of the Under Secretary of Defense for Acquisition.

I have had the pleasure of knowing Horace and his family for almost 50 years. I married his sister, Jean Crouch, in the first year of my term as Governor of South Carolina. Jean was a beautiful and caring young woman who made an outstanding First Lady of our State. Horace also has two other siblings; a brother, residing in Frederick, MD, who is a respected and skilled Urologist; and a sister, Mrs. David Kennedy, of Williston, SC. Additionally, he and his lovely wife, the former Bernice Brown, are the proud parents of one son, J. Crouch, who is on the staff of the University of South Carolina.

Mr. President, Horace Crouch has selflessly given to this Nation throughout his whole life and never asked for anything in return. His dedication and love for the United States is above question and I only wish that there were more citizens as committed to the welfare, protection, and prosperity of this Nation as he. I know that we are all grateful for his many contributions and wish he and his family health and happiness in all their future endeavors.

TRIBUTE TO DR. MAX LENNON, PRESIDENT OF CLEMSON UNIVERSITY

Mr. THURMOND. Mr. President, for more than the past 100 years, Clemson University has played a vital role in South Carolina's higher education system. Originally chartered as an agricultural college, Clemson has grown into one of the Nation's leading academic and research institutions and is known throughout the world for its excellent professors and programs. One man who has played an important role in Clemson's emergence as an academic leader has been Dr. Max Lennon, the university's president for the past 8 years.

During his tenure, Dr. Lennon has accomplished many great things for Clemson and has led the university into new and exciting fields. Under his direction, grant and research funding have risen considerably and the student population has reached a strong and constant level. Dr. Lennon has entered Clemson into interesting and promising partnerships with private corporations that are exploring new technologies in engineering, textiles, agriculture, and many other fields. He has also established a small business incubator designed to foster new commerce and industry in South Carolina, ensuring that our State will remain economically strong into the 21st century. Dr. Lennon has accomplished all these things without losing site of the university's primary mission, which is to provide a quality and affordable education to students from South Carolina and throughout the United States.

I also want to take a moment to recognize Dr. Lennon's very lovely and personable wife, Ruth. She assisted Dr. Lennon greatly during his years as president and was a tremendous asset to Clemson and the State.

Mr. President, regrettably, Dr. Lennon has decided to resign from the presidency of Clemson University. I know that I speak for many people, from students to other members of government, when I say that while he will be greatly missed, we will never forget the many important and worthy contributions he made to make South Carolina a better place. I wish him and his family health and happiness in all their future endeavors.

TRIBUTE TO PARKER CITY, IN

Mr. COATS. Mr. President, I rise today in honor of the 100th anniversary of the incorporation of the town of Parker City, IN. Situated in central Indiana, Parker City enjoys a rich history. Formerly known as Morristown, Parker City was laid out in November 1851. The first passenger train came through the town in 1852, and in 1872 the community's Methodist Church was built. The first gas well was drilled in 1892, and since then natural gas has played a major role in the town's development. In 1891, the name of the town was changed from Morristown to Parker. Parker was incorporated in 1894, and the name was officially changed from Parker to Parker City in 1975.

Parker City is home to a friendly community that is proud of its churches, factory, fire department, businesses, and civic organizations. Although the town limits have expanded, Parker City continues to offer a high quality of life that meets the needs of its residents and welcomes newcomers to this quaint town. Parker City represents the character and smalltown values on which our Nation was built. I congratulate the people of Parker City on their 100th anniversary.

COMMENDING OU SOONERS BASEBALL TEAM ON COLLEGE WORLD SERIES VICTORY

Mr. NICKLES. Mr. President, two weeks ago the Oklahoma Sooners did what no one believed they could do by winning the NCAA College World Series. This was accomplished with the same determination that enabled them to come from behind 25 times during the regular season, and culminating with the national title. In so doing, they became the first Big Eight team to win the College World Series since Oklahoma State in 1959. In fact, they did so convincingly. They won every game. They trailed in only one of 72 innings of the tournament. They led the series in hitting with .327; in pitching with 2.37 ERA and in defense with only five errors.

And in the final game of this relentless charge through the top teams in college baseball, the Sooners chocked up a record number of runs to beat Georgia Tech 13–5 and capture OU's first baseball championship in more than 40 years.

This is an exceptional group of athletes—an exceptional team. It is a great honor for the University and the State to be represented by these students, who truly are team players. You can't accomplish something of this magnitude without working as a team.

Chip Glass, who is a senior center fielder and was named the tournament's Most Outstanding Player, made the statement that "This was a team in the truest sense of the word. We all pulled together and did what it took to win." I admire this sort of spirit.

I understand the championship shirts the team wore following the victory were printed with the phrase "25 guys pulling on the same rope." That is essential for any victory—teamwork; pulling together. Imagine if we could apply the same principle in the U.S. States Senate, 100 Senators pulling together.

I couldn't be happier for these athletes and their coach, Larry Cochell, who has worked so hard this season, as well as the seniors, and the entire team. Five players were named to the all-tournament team and I would like to recognize them as well for their efforts: first baseman Ryan Minor, second baseman Rick Gutierrez, right fielder Darvin Traylor, pitcher Mark Redman and, again, center fielder Chip Glass.

It is not often in life when you can call yourself the very best there is. These young men have accomplished that, and I hope this taste of success creates in them a passion for excellence they will carry with them throughout their lives. Mr. Chairman, my congratulations to the team members, Coach Cochell, the OU athletic program, and the University of Oklahoma on this accomplishment.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

SECURITIES AND EXCHANGE COMMISSION

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senate proceed to the executive session to consider Calendar No. 940, Steven Mark Harte Wallman, of Virginia, to be a member of the Securities and Exchange Commission; and I further ask unanimous consent that the nominee be confirmed, that any statements appear in the RECORD as if read, that upon confirmation, the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination was considered and confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to the consideration of legislative business.

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 5, 1993, the Secretary of the Senate, on June 29, 1994, during the recess of the Senate, received a message from the House of Representatives announcing that the House disagrees to the amendments of the Senate to the bill (H.R. 4454) making appropriations for the legislative branch for the fiscal year ending September 30, 1995, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. FAZIO, Mr. MORAN, Mr. OBEY, Mr. MURTHA, Mr. CARR, Mr. CHAPMAN, Mr. SABO, Mr. YOUNG of Florida, Mr. PACKARD, Mr. TAYLOR of North Carolina, and Mr. MCDADE as managers of the conference on the part of the House.

MESSAGES FROM THE HOUSE

At 12:20 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4400. An act to amend title 39, United States Code, to prevent the use of paid confidential informants by the United States Postal Service in certain narcotics investigations; to require that the appointment of the Inspector General of the United States Postal Service be made by the President, with the advice and consent of the Senate; and for other purposes.

H.R. 4577. An act to designate the Federal building and United States courthouse located at 242 East Main Street in Bowling Green, Kentucky, as the "William H. Natcher Federal Building and United States Courthouse."

H.R. 4595. An act to designate the building located at 4021 Laclede in St. Louis, Missouri, for the period of time during which it houses operations of the United States Postal Service, as the "Marian Oldham Post Office."

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1458. An act to amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

H.R. 2559. An act to designate the Federal building located at 601 East 12th Street in Kansas City, Missouri, as the "Richard Bolling Federal Building" and the United States Courthouse located at Ninth and Locust Streets, in Kansas City, Missouri, as the "Charles Evans Whittaker United States Courthouse".

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 4400. An act to amend title 39, United States Code, to prevent the use of paid confidential informants by the United States Postal Service in certain narcotics investigations; to require that the appointment of the Inspector General of the United States Postal Service be made by the President, with the advice and consent of the Senate; and for other purposes; to the Committee on Governmental Affairs.

H.R. 4577. An act to designate the Federal building and United States courthouse located at 242 East Main Street in Bowling Green, Kentucky, as the "William H. Natcher Federal Building and United States Courthouse"; to the Committee on Environment and Public Works.

H.R. 4595. An act to designate the building located at 4021 Laclede in St. Louis, Missouri, for the period of time during which it houses operations of the United States Postal Service, as the "Marian Oldham Post Office"; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-568. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary:

"ASSEMBLY JOINT RESOLUTION 71

"Whereas, the plight of California's missing children has become a societal dilemma that each of us shares; and

"Whereas, more than 80,000 California children disappear each year; and

"Whereas, by the end of 1993, there remained 10,455 active missing children files with the California Attorney General's office; and

"Whereas, while missing children include those who are abducted by estranged family members and strangers, they also include lost children, throwaways, and runaways; and

"Whereas, each year more families are forced to live their lives while a beloved child is lost or missing; and

"Whereas, in the names of Amanda Campbell, Kevin Collins, Jaycee Lee Dugard, Rasheeyda Wilson, and countless other California children whose names and faces are remembered each night by their families; and

"Whereas, we must work toward heightened awareness because one person may hold the key to finding a missing child; and

"Whereas, the sharing of information on missing children may help enhance the possibility of recovering California's missing children; and

"Whereas, if there is to be an end to the plight of missing children, then it must start with us in government: Now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectively memorializes the President and the Congress of the United States to commit to the pursuit of policies that will protect children and punish those who harm them; and be it further

"*Resolved*, That the Legislature condemns any crimes against children causing emotional or physical abuse or death; and be it further

"*Resolved*, That the Legislature, sharing a common concern for children, establish April 17, 1994, through April 23, 1994, and the third week in April each year thereafter, as California Missing Children's Week; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-569. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on the Judiciary:

"SENATE JOINT MEMORIAL 94-2

"Whereas, an amendment to the United States Constitution previously introduced in Congress seeks to prevent federal courts from levying or increasing taxes without representation of the people and against the people's wishes; and

"Whereas, the amendment states that: "Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or an official of such state or political subdivision, to levy or increase taxes": Now, therefore, be it

"*Resolved by the Senate of the Fifty-ninth General Assembly of the State of Colorado, the House of Representatives concurring herein*, That the General Assembly strongly urges the Congress of the United States to pass, prepare, and submit to the several states this amendment to the Constitution of the United States, and be it further

"*Resolved*, That the General Assembly also proposes that the legislatures of each of the several states, which have not yet made similar applications, apply to the Congress requesting enactment of an appropriate amendment to the United States Constitution, and be it further

"*Resolved*, That copies of this resolution be sent to the President of the United States, Speaker of the House of Representatives Thomas S. Foley, Senate Majority Leader George Mitchell, House Majority Leader Richard Gephardt, Senate Minority Leader Robert Dole, House Minority Leader Robert H. Michel, each member of the Colorado congressional delegation, and the presiding officers of each house of the legislatures of the several states."

POM-570. A resolution adopted by the House of the Legislature of the State of Colorado; to the Committee on the Judiciary:

"HOUSE RESOLUTION 94-1008

"Whereas, on April 16, 1994, the state of Colorado was honored by a visit from a distinguished and decorated Vietnamese war hero, Major Nguyen Quy An, sho saved the lives of four American airmen; and

"Whereas, Major Nguyen Quy An was a flight leader and aircraft commander in the 219th squadron, 41st wing, of the Vietnamese Air Force in January of 1969; and

"Whereas, on the 17th day of January of that year Major An was called upon to infiltrate deep into enemy-held territory to insert a platoon of special forces personnel into a bomb crater landing zone; and

"Whereas, on approach, Major An's helicopter and his cargo of troops were ambushed by heavy enemy artillery fire but he courageously continued his mission; and

"Whereas, during the increasingly dangerous maneuver, a nearby United States Army helicopter was severely hit in the fuel cell by a heavy caliber round of fire while climbing from a jungle clearing; and

"Whereas, Major An, in high orbit, sighted the burning American helicopter and immediately made a risky, high-speed dive toward the stricken craft; and

"Whereas, Major An, with complete disregard for his own safety, closed in on the craft, radioed the crew, and guided them to a safe landing in a jungle clearing a short distance from the Ho Chi Minh Trail, heavily infiltrated with North Vietnamese soldiers; and

"Whereas, Major An landed his own craft in the same clearing and waited for the four U.S. airmen to find their way through the jungle to his craft and flew the four men to safety; and

"Whereas, Major Nguyen Quy An's quick thinking and brave action while surrounded by danger on behalf of the four American airmen represent a courageous demonstration of selfless heroism; and

"Whereas, Major Nguyen Quy An was decorated with the award of the distinguished flying cross by the United States for his outstanding heroism; and

"Whereas, in another demonstration of courage and heroism, Major An lost both arms when his helicopter was shot down during a subsequent combat mission; and

"Whereas, Major An has sought refugee status in the United States but has been refused because he did not serve a sufficient length of time in a forced-labor camp to qualify for the program designed to assist Vietnamese who were severely punished for siding with the United States during the Vietnam War; and

"Whereas, it is fitting to honor Major Nguyen Quy An, to recognize his courageous and valuable contribution to the United States, and to come to the aid of Major An in his efforts to become a citizen of the United States: Now, therefore, be it

"*Resolved by the House of Representatives of the Fifty-ninth General Assembly of the State of Colorado:*

"(1) That we, the members of the House of Representatives of the General Assembly of the State of Colorado, commend Major Nguyen Quy An for his great skill, courage, and valor in saving the lives of four American pilots during the Vietnam War; and

"(2) That we, the members of the House of Representatives of the General Assembly of the State of Colorado, hereby petition the Congress of the United States to enact legislation which would grant United States citizenship to Major Nguyen Quy An; and

"(3) That we, the members of the House of Representatives of the General Assembly of the State of Colorado, hereby petition the immigration and naturalization service of the United States department of justice to grant United States citizenship to Major Nguyen Quy An, and be it further

"*Resolved*, That copies of this Resolution be transmitted to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to each member of Congress from the State of Colorado, and to the Immigration and Naturalization Service of the United States Department of Justice."

POM–571. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on the Judiciary:

"HOUSE JOINT RESOLUTION 94–1007

"Whereas, a bill has been introduced in the Congress of the United States to admit the city of Washington, D.C., as the nation's fifty-first state; and

"Whereas, paragraph 17 of Section 8 of Article I of the United States Constitution provides that the nation's capital shall be formed from territory voluntarily ceded by particular states to the federal government for that specific purpose; and

"Whereas, the city of Washington, D.C., is composed of territory ceded by the state of Maryland for the specific purpose of forming the nation's capital; and

"Whereas, section 3 of Article IV of the United States Constitution forbids the formation of a new state erected within the jurisdiction of any other state, out of the territory of any single state, or the junction of two or more states without the consent of the legislatures of the state concerned; and

"Whereas, the state of Maryland has never consented to the use of its former territory for the formation of the proposed state of New Columbia; and

"Whereas, the ninety-fifth Congress, in proposing a constitutional amendment granting Washington, D.C., congressional representation on par with the several states, recognized the unconstitutionality of statehood absent a constitutional amendment; and

"Whereas, the several states rejected the proposed amendment granting the city of Washington, D.C., statehood; Now, therefore, be it

"*Resolved by the House of Representatives of the Fifty-ninth General Assembly of the State of Colorado, the Senate concurring herein:* That the General Assembly respectfully urges the President and Congress of the United States to recognize the constitutional amendment process as the only legal method of admitting the city of Washington, D.C., to the union as a state and to reject any other form of legislation that purports to achieve that goal, and be it further

"*Resolved*, That copies of this resolution be sent to the President and Vice President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each Senator and Representative from Colorado in the Congress of the United States."

POM–572. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on the Judiciary:

"HOUSE JOINT RESOLUTION 94–1026

"Whereas, there is continuing controversy concerning the presence of American servicemen who were listed as prisoners of war or missing in action being held against their will in the southeast Asian nations of Vietnam, Laos, and Kampuchea (formerly known as Cambodia); and

"Whereas, the United States government has stated that all of our prisoners of war have been returned from Vietnam; and

"Whereas, Vietnamese reports by General Tran Von Kwong, deputy chief of staff for the North Vietnamese army, reported that in September of 1972, Hanoi held one thousand five American prisoners; and

"Whereas, only five hundred ninety-one American prisoners of war have been released under the 1973 peace settlement; and

"Whereas, Vietnamese nationals who have moved to the United States have reported the appearance of American prisoners of war still being held against their will in southeast Asia; and

"Whereas, the President of Russia let it be known that the Soviet Union took American servicemen during the Vietnamese war into Russia and there is no adequate explanation concerning the whereabouts of these servicemen; and

"Whereas, there are still hundreds of documents in the possession of the United States department of defense that have not been released to the public regarding the fate of American servicemen classified as prisoners of war or missing in action; and

"Whereas, there are forty missing and unaccounted for servicemen from Colorado in southeast Asia; and

"Whereas, the United States government has not entered into formal negotiations with the governments of Laos and Kampuchea concerning the release of American prisoners of war who were taken by the Communist forces during the Vietnam war; and

"Whereas, the Paris Peace Accord is now twenty years old and any national security secrets regarding the technology that was used during the war would now be outdated; and

"Whereas, the constitutional rights of any Americans who are still held against their will in southeast Asia as a result of the Vietnam war are being violated by virtue of their captivity; and

"Whereas, Americans highly prize and value their constitutional rights; and

"Whereas, the United States supreme court is the last bastion that an American has for redress of grievances and protection of constitutional rights against the government; and

"Whereas, the United States constitution, in article III, section 2(2), states that:

"(2) Jurisdiction of supreme court. In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the supreme court shall have original jurisdiction. . . ."; Now, therefore, be it

"*Resolved by the House of Representatives of the Fifty-ninth General Assembly of the State of Colorado, the Senate concurring herein:* That the general assembly hereby urges the attorney general, jointly with all other states that have declared their support for this cause, to file an action on behalf of the people of the state of Colorado in the United States supreme court against the government of the United States, including the United States Department of Defense and the Central Intelligence Agency, and against the ambassadors or other public ministers and consuls of the governments of Vietnam, Laos, Kampuchea, Russia, and China, alleging violations of the constitutional rights of the following named servicemen from Colorado:

Name	Service branch	Home town
Anselmo, William F	Air Force	Denver.
Apodaca, Victor J. Jr	Air Force	Englewood.
Barber, Thomas D	Navy	Aurora.
Berry, John A	Army	Naturita.
Boston, Leo S	Air Force	Cañon City.
Brownlee, Charles R	Air Force	Alamosa.
Corbitt, Gilland W	Air Force	Denver.
Danielson, Mark G	Air Force	Rangely.
DeHerrera, Benjamin D	Army	Colorado Springs.
Donovan, Leroy M	Army	Cedaredge.
Gilchrist, Robert M	Air Force	Littleton.
Green, Gerald	Navy	Fort Morgan.
Hamm, James E	Air Force	Longmont.
Hanratty, Thomas M	Marine Corps	Beulah.
Hansen, Lester A	Army	Pueblo.
Helwig, Roger D	Air Force	Colorado Springs.
Hrdlicka, David L	Army	Littleton.
Jacques, James J	Marine Corps	Denver.
Jefferson, Perry H	Air Force	Denver.
Kemp, Clayton C III	Navy	Wheat Ridge.
Kohler, Delvin L	Navy	Kersey.
Lavoo, John A	Marine Corps	Pueblo.
Ladewig, Melvin E	Air Force	Englewood.
Leeper, Wallace M	Army	Wellington.
Martin, Duane W	Army	Denver.
McVey, LaVoy D	Marine Corps	Lamar.
Mitchell, Thomas B	Army	Littleton.
Morgan, Burke H	Air Force	Manitou Springs.
Mullins, Harold E	Air Force	Denver.
Packard, Ronald L	Air Force	Cañon City.
Pawlish, George F	Navy	Las Animas.
Ralston, Frank D III	Air Force	Denver.
Shafer, Philip R	Navy	Grand Junction.
Silva, Claude A	Army	Monte Vista.
Simpson, Joseph L	Army	Denver.
Steadman, James E	Air Force	Fort Collins.
Stearns, Roger H	Air Force	Boulder.
Swanson, Jon E	Army	Denver.
Tucker, Timothy M	Air Force	Las Animas.
Walker, Bruce C	Air Force	Pueblo.

"*Be it further resolved*, That the attorney general, in filing the lawsuit, should demand that the United States Department of Defense, the United States Central Intelligence Agency, and the governments of Vietnam, Laos, Kampuchea, Russia, and China deliver all documents concerning prisoners of war and persons missing in action in Vietnam, Laos, and Kampuchea to the attorney general, and be it further

"*Resolved*, That the government of every state in the United States of America is encouraged to join in the cause of action on behalf of each state and on behalf of the citizens of each state who are being held in captivity in southeast Asia, and be it further

"*Resolved*, That a copy of this resolution be transmitted to the Attorney General of the state of Colorado, the Clerk of the United States Supreme Court, the President and Vice-president of the United States, the Speaker of the United States House of Representatives, the members of the Colorado congressional delegation, and the clerk of each chamber of every state legislature."

POM–573. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on the Judiciary.

"HOUSE CONCURRENT RESOLUTION

"Whereas, on September 25, 1789, the First Congress of the United States convened in New York, New York, and proposed an amendment to the Constitution of the United States stipulating that any change in the compensation of members of the Congress of the United States be delayed in taking effect until an election of the United States House of Representatives has intervened; and

"Whereas, this particular constitutional amendment was, pursuant to Article V of the United States Constitution, submitted by the First Congress to the state legislatures for ratification with no deadline on its consideration; and

"Whereas, the United States Supreme Court, in the landmark case of *Coleman* vs. *Miller*, held that Congress itself is the final arbiter of whether too great a time has elapsed between Congress' submission of a specific constitutional amendment and the ratification of that amendment by the legislatures of at least three-fourths of the states; and

"Whereas, on May 7, 1992, the Legislature of the State of Michigan became the thirty-eighth state to approve this two-hundred-and-four-year-old constitutional amendment meeting the requirement that it be ratified by three-fourths of the fifty states; and

"Whereas, on May 18, 1992, the Archivist of the United States did cause to be published in the *Federal Register* of the following day the conclusion that, having been duly ratified by the legislatures of at least three-fourths of the several states, the two-hundred-and-four-year-old constitutional amendment had officially become a part of the United States Constitution as its Twenty-seventh Amendment; and

"Whereas, on May 20, 1992, both the United States Senate and the United States House of Representatives, by roll-call votes, adopted resolutions concurring with the conclusion of the Archivist of the United States; and

"Whereas, the people of the State of Hawaii are in agreement with their fellow Americans in the forty-two other sovereign states that this two-hundred-and-four-year-old constitutional amendment is a proper addition to the United States Constitution and it is important that Hawaii's unique imprint be placed upon it; Now, therefore, be it.

"*Resolved by the House of Representatives of the Seventeenth Legislature of the State of Hawaii, Regular Session of 1994, the Senate concurring*, That the Twenty-seventh Amendment to the United States Constitution which reads as follows:

"Twenty-seventh Amendment—No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened." is hereby ratified by the Legislature of the State of Hawaii; and be it further

"*Resolved*, That certified copies of this Concurrent Resolution be transmitted to each member of Hawaii's congressional delegation; to the Archivist of the United States; to the Vice-President of the United States, as presiding officer of the United States Senate; and to the Speaker of the United States House of Representatives' and be it further

"*Resolved*, That the Vice-President and the Speaker of the U.S. House of Representatives be respectfully requested to officially enter this Concurrent Resolution in the CONGRESSIONAL RECORD."

POM–574. A concurrent resolution adopted by the Legislature of the State of Kansas; to the Committee on the Judiciary.

"HOUSE CONCURRENT RESOLUTION 5031

"Whereas, there is continuing controversy concerning the presence of American servicemen, who were listed as Prisoners of War (POWS) or Missing in Action (MIAS), being held against their will in the Southeast Asian nations of Vietnam, Laos, and Kampuchea (formerly Cambodia); and

"Whereas, the United States government has stated that all of our Prisoners of War have been returned from Vietnam; and

"Whereas, a recent top secret Vietnamese report, dating from 1972 reported that in September of 1972, Hanoi held 1,205 American prisoners; and

"Whereas, only 591 American Prisoners of War have been released under the 1973 Peace Settlement; and

"Whereas, Vietnamese nationals who have moved to the United States have reported the appearance of American Prisoners of War still being held against their will in Southeast Asia; and

"Whereas, there are still many unreleased documents in the United States Defense Department concerning the fate of American servicemen classified as Prisoners of War or Missing in Action; and

"Whereas, there are thirty-four missing and unaccounted for servicemen in Southeast Asia from Kansas: John Quincy Adam, (Bethel); Frankie Eugene Allgood, (Fort Scott); Denis Leon Anderson, (Hope); Steven Henry Bennefeld, (Girard); Michael Hugh Breeding, (Blue Rapids); David Marion Christian, (Lane); Richard Ames Claflin, (Kansas City); Michael L. Donovan, (Norton); Thomas Eldon Gillen, (Kingman); Dennis L. Graham, (Greensburg); Patrick K. Harrold, (Fort Leavenworth); Jerry Wayne Hendrix, (Wichita); Charles L. Hoskins, (Roeland Park); Eugene M. Jewell, (Topeka); Dean Albert Klenda, (Manhattan); Kurt Elton LaPlant, (Lenexa); John Carl Lindahl, (Lindsborg); George Wendell Long, (Medicine Lodge); Glenn DeWayne McCubbin, (Almena); William D. McGonigle, (Wichita); Bobby Lyn McKain, (Garden City); William R. Moore, (Princeton); Richard Lynn Mowrey, (Prairie Village); Fred Albert Neth, (Fort Scott); Ward Karl Patton, (Fontana); Dennis Gerald Pugh, (Salina); Ronald James Schultz, (Hillsboro); Richard D. Smith, (Wichita); Robert L. Standerwick, (Mankato); Frederick John Sutter, (Leawood); William Joseph Thompson, (Kansas City); John Mark Tiderman, (Kansas City); Larry Don Welsh, (Kansas City); and Joseph A. Zutterman, Jr., (Marysville); and

"Whereas, the inferior courts of the federal judiciary have not granted relief to the American soldiers listed as Prisoners of War or Missing in Action; and

"Whereas, the United States Constitution, in Article III, section 2, states "In all Cases affecting Ambassadors, other public Ministers and Counsels, and those in which a State shall be a Party, the Supreme Court shall have original Jurisdiction": Now, therefore, be it

"*Resolved by the House of Representatives of the State of Kansas, the Senate concurring therein:* That we hereby request the Kansas Attorney General to determine the merits of joining with attorneys general of other states in an action against the United States government, and also against the Ambassadors or other Public Ministers and Consuls of the governments of Vietnam, Laos, Kampuchea, Russia and China, to obtain information about Kansas POWS/MIAS in Southeast Asia and to recommend to the legislature whether to join in such action; and be it further

"*Resolved:* That the Secretary of State be directed to send copies of this resolution to the Kansas Attorney General; the United States Supreme Court; the President of the United States; the Speaker of the United States House of Representatives; the President of the United States Senate; the members of the Kansas congressional delegation and the clerks of the respective Houses and Senates of our 49 sister states."

POM–575. A concurrent resolution adopted by the Legislature of the State of Missouri; to the Committee on the Judiciary.

"SENATE CONCURRENT RESOLUTION 21

"Whereas, the states of the United States are separate sovereignties united in a federal system; and

"Whereas, unfunded mandates imposed by the federal government upon the states and their subdivisions require state and local governments to spend money, which, in effect, taxes states and localities; and

"Whereas, the Congressional Budget Office has estimated that the cumulative cost of new mandates imposed on state and local governments between 1983 and 1990 is between $8.9 billion and $12.7 billion; and

"Whereas, President Clinton has recognized the magnitude of this growing problem for the states through the issuance of Executive Order 12875 *Enhancing the Intergovernmental Partnership*, which states that "the cumulative effect of unfunded Federal mandates has increasingly strained the budgets of state, local, and tribal governments"; and

"Whereas, Executive Order 12875 calls on federal agencies to reduce federal mandates to the extent possible under federal law; and

"Whereas, Executive Order 12875 was much appreciated by state and local governments but does not address the primary cause of unfunded federal mandates contained in existing and new federal laws; and

"Whereas, unfunded federal mandates eliminate or reduce the ability of state and local governments to improve vital public safety services such as police and fire protection, jail and prison space, and efficient and swift criminal justice through properly funded courts and public defender systems; and

"Whereas, unfunded federal mandates eliminate or reduce the ability of state and local governments to improve funding and quality of education provided to our children, a primary state responsibility; and

"Whereas, in Missouri alone, unfunded federal mandates for just the medicaid program have consumed nearly $600 million in state funds since Fiscal Year 1991; and

"Whereas, unfunded federal mandates cost the state of Missouri between $75 million and $100 million in new state funds each year, an amount equal to half of the general revenue growth available to the state; and

"Whereas, unfunded mandates undercut the accountability that is fundamental in our democratic system by allowing federal decision makers to establish programs and set policies: Now, therefore, be it

"*Resolved by the Missouri Senate of the Eighty-seventh General Assembly, the House of Representatives concurring therein*, That the Missouri General Assembly hereby proposes to the Congress of the United States that procedures be instituted in the Congress to add a new Article to the Constitution of the United States, and further requests the Congress to prepare and submit to the several states before January 1, 1996, an amendment to the Constitution of the United States to prohibit the federal government from requiring states to pay the cost of new or increased programs or activities, which are commonly referred to as "unfunded federal mandates"; and be it further

"*Resolved*, That if, by January 1, 1996, the Congress has not proposed and submitted to the several states such an amendment, this body respectfully makes application to the Congress of the United States for a convention to be called under Article V of the Constitution of the United States for the specific and exclusive purpose of proposing an amendment to the Constitution of the United States to prohibit unfunded federal mandates; and be it further

"*Resolved* That effective January 1, 1996, this application constitutes a continuing application in accordance with Article V of the Constitution of the United States until the legislatures of at least two-thirds of the several states have made similar applications pursuant to Article V, but if the Congress proposes an amendment to the Constitution identical in subject matter, then this application for petition for the Constitutional convention shall no longer be of any force or effect; and be it further

"*Resolved*, That this application shall be deemed null and void, rescinded and of no effect in the event that such convention not be limited to the specific and exclusive purpose of providing for an amendment to the Constitution to prohibit unfunded federal mandates; and be it further

"*Resolved*, That this body also proposes that the legislatures of each of the several states comprising the United States, which have not yet made similar applications, apply to the Congress requesting enactment of an appropriate amendment to the federal Constitution, and make application to the Congress to call a Constitutional convention for the purpose of proposing such an amendment to the federal Constitution; and be it further

"*Resolved*, That upon signing by the Governor of this concurrent resolution, copies of this resolution be sent by the Secretary of the Senate to each member of the Missouri Congressional delegation, to the Secretary of State and Presiding Officers of both houses of the legislatures of each of the other states in the union, the Clerk of the United States House of Representatives, the Secretary of the United States Senate, and the President of the United States."

POM-576. A concurrent resolution adopted by the Legislature of the State of Missouri; to the Committee on the Judiciary.

"SENATE CONCURRENT RESOLUTION 14

"Whereas, scientific and medical studies show marijuana to be of medical value in the treatment of glaucoma and in easing the debilitating side effects of anti-cancer treatments; and

"Whereas, courts have recognized marijuana's medical benefits in the treatment of these diseases; and

"Whereas, several states have enacted and Governors have signed, laws acknowledging these benefits. They have further sought to establish compassionate programs of medical access to marijuana; and

"Whereas, several states have through their various offices and agencies, made a good faith effort to allow individuals to obtain marijuana for medical applications; and

"Whereas, federal agencies have, through regulation and policies, made it difficult to obtain marijuana for medical purposes; and

"Whereas, glaucoma and cancer patients, promised medical access to marijuana under the laws of the United States, are being deprived of such access by federal agencies: Now, therefore, be it

"*Resolved by the Missouri Senate, the House of Representatives concurring therein* that the Missouri General Assembly hereby respectfully memorialize the United States Congress to become informed of these difficulties, and to investigate and hold public hearings into federal policies which prohibit marijuana's legitimate medical use; and be it further

"*Resolved*, That the Congress of the United States seeks to remedy federal policies which prevent the several states from acquiring, inhibit physicians from prescribing, and prevent patients from obtaining marijuana for legitimate medical applications, by ending federal prohibitions against the legitimate and appropriate use of marijuana in medical treatments; and be it further

"*Resolved*," That copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Missouri Congressional Delegation."

POM-577. A concurrent resolution adopted by the Legislature of the State of New Hampshire; to the Committee on the Judiciary.

"HOUSE CONCURRENT RESOLUTION 22

"Whereas, members of Congress from every state have risen to obtain from public funds benefits, perquisites, salaries and security beyond the reach of the common citizen; and

"Whereas, the obtaining of these benefits has not been with the consent of the governed; and

"Whereas, the members of Congress have passed laws which are the law of the land for the common citizen, but which do not apply to Congress; and

"Whereas, the record of the proceedings of Congress may be altered by members of Congress to cast members in a less baleful light; and

"Whereas, the proceedings of Congress can be made so tortuous as to confound the common citizen and allow members of Congress to avoid responsibility for their actions; and

"Whereas, in matters of election campaign reform, ethics and regard for the common good of these United States, Congress as a body has shown itself to be beyond the control of the people of these United States: Now, therefore, be it

"*Resolved by the House of Representatives, the Senate concurring*, That we, the members of the general court of the state of New Hampshire, do hereby call upon Congress to amend the Constitution to allow the people of the United States to set meaningful limits on campaign spending, to approve congressional benefits, perquisites and salaries, and to require Congress to keep unalterable, true records of its proceedings;

"That we, the members of the general court of the state of New Hampshire, do hereby call upon our sister states to join us in this call; and

"That copies of this resolution be transmitted by the clerk of the house to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the New Hampshire Congressional delegation."

POM-578. A resolution adopted by the Senate of the Legislature of the State of New York; to the Committee on the Judiciary.

"LEGISLATIVE RESOLUTION

"Whereas, unfunded mandates by the United States Congress and the Executive Branch of the federal government increasingly strain already-tight state government budgets if the states are to comply; and

"Whereas, to further compound this assault on state revenues, federal District Courts, with the blessing of the United States Supreme Court, continue to order states to levy or increase taxes to supplement their budgets to comply with federal mandates; and

"Whereas, the Courts' actions are an intrusion into a legitimate legislative debate over state spending priorities and not a response to a constitutional directive; and

"Whereas, the Constitution of the United States of America does not allow, nor do the states need, judicial intervention requiring tax levies or increases as solutions to potentially serious problems; and

"Whereas, this usurpation of legislative authority begins a process that over time could threaten the fundamental concept of separation of powers that is precious to the preservation of the form of our government embodied by the Constitution of the United States of America; and

"Whereas, several states have petitioned the United States Congress to propose an amendment to the Constitution of the United States of America which reads as follows:

"Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or an official of such state or political subdivision, to levy or increase taxes.": Now, therefore, be it

"*Resolved*, That this Legislative Body respectfully requests and petitions the Congress of the United States to propose submission to the states for their ratification an amendment to the Constitution of the United States of America to restrict the ability of the United States Supreme Court or any inferior court of the United States or mandate any state or political subdivision thereof to levy or increase taxes; and be it further

"*Resolved*, That copies of this Resolution, suitably engrossed, be transmitted to the Secretary of the Senate of the United States, the Clerk of the House of Representatives of the United States, Senator Daniel P. Moynihan, Senator Alfonse M. D'Amato and the members of the New York State Congressional Delegation."

POM-579. A resolution adopted by the Senate of the General Assembly of the State of North Carolina; to the Committee on the Judiciary.

"SENATE RESOLUTION 1625

"Whereas, although the right of free expression is part of the foundation of the United States Constitution, very carefully drawn limits on expression in specific instances have long been recognized as legitimate means of maintaining public safety and defining other societal standards; and

"Whereas, certain actions, although arguably related to one person's free expression, nevertheless raise issues concerning public decency, public peace, and the rights of other citizens; and

"Whereas, there are symbols of our national soul such as the Washington Monument, the United States Capitol Building, and memorials to our greatest leaders, which are the property of every American and are worthy of protection from desecration and dishonor; and

"Whereas, the American flag is a most honorable and worthy banner of a nation which is thankful for its strengths and committed to curing its faults, a nation that remains the destination of millions of immigrants attracted by the universal power of the American ideal; and

"Whereas, the law as interpreted by the United States Supreme Court no longer accords the Stars and Stripes the reverence, respect, and dignity befitting the banner of that most noble experiment of a nation-state; and

"Whereas, it is only fitting that people everywhere should lend their voices to a forceful call for restoration of the Stars and Stripes to a proper station under law and decency: Now, therefore, be it

"*Resolved by the Senate:*

"Section 1. The Senate respectfully memorializes the Congress of the United States to propose an amendment to the United States Constitution, for ratification by the states, specifying that Congress and the states shall have the power to prohibit the physical desecration of the flag of the United States.

"Sec. 2. The Principal Clerk of the Senate shall transmit a certified copy of this resolution to the Secretary of the United States Senate, to the Clerk of the United States House of Representatives, and to each member of the North Carolina congressional delegation.

"Sec. 3. This resolution is effective upon adoption."

POM-580. A joint resolution adopted by the Legislature of the State of Tennessee; to the Committee on the Judiciary.

"SENATE JOINT RESOLUTION 372

"Whereas, in a five-to-four decision on April 18, 1990, the United States Supreme Court extended the power of the judicial branch of government beyond any defensible bounds; and

"Whereas, in *Missouri* v. *Jenkins* (110 Sup. Ct. 1651 (1990)), the U.S. Supreme Court held that a federal court had the power to order an increase in state and local taxes; and

"Whereas, this unprecedented decision violates the fundamental tenet of separation of powers: the federal judiciary, who serve for life and who are answerable to no one, should not have control over the power of the purse; and

"Whereas, in response to this decision, several members of Congress have introduced a constitutional amendment to re-establish a principle that has been well-settled: Judges do not have the power to tax; and

"Whereas, the passage of such constitutional amendment (first by a two-thirds (⅔) majority in both houses of Congress and then by three-fourths (¾) of the several states' legislatures or conventions) would serve not only to reverse an unfortunate decision, but also to reassert the legislature's constitutional role in maintaining a strong tripartite system of government, a system in which each of the branches is constrained by the others; and

"Whereas, such proposed constitutional amendment is a long overdue response to a federal judiciary that, in the pursuit of seemingly good ends, fails to recognize the constitutional limits on its power; and

"Whereas, in addition to being introduced in the U.S. Congress such constitutional amendment has also been proposed by several states; and

"Whereas, the test of such proposed constitutional amendment reads: "Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision, to levy or increase taxes"; and

"Whereas, such amendment seeks properly to prevent federal courts from levying or increasing taxes without representation of the people and against the people's wishes: Now, therefore, be it

"*Resolved by the Senate of the Ninety-Eighth General Assembly of the State of Tennessee, the House of Representatives Concurring*, That this General Assembly hereby memorializes the U.S. Congress to propose and submit to the several states for ratification no later than January 1, 1995, an amendment to the Constitution of the United States, the text of which amendment shall read:

"Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or an official of such state or political subdivision, to levy or increase taxes", and be it further

Resolved, That this Body calls upon each Tennessean serving in the U.S. Senate and the U.S. House of Representatives to utilize immediately the full measure of his or her resources and influence in order to ensure the passage of such amendment to the Constitution of the United States, which provides that no court shall have the power to levy or increase taxes, and be it further

Resolved, That this General Assembly also proposes that the legislatures of each of the several states comprising the United States which have not yet made similar requests apply to the U.S. Congress requesting enactment of such amendment to the United States Constitution, and be it further

Resolved, That the Chief Clerk of the Senate is directed to transmit enrolled copies of this resolution to the Secretary of State and to the presiding officer and minority party leader in each house of the legislature of the several states comprising the Union; the Speaker and the Clerk of the U.S. House of Representatives; the President and the Secretary of the U.S. Senate; and to each member of the Tennessee delegation to the U.S. Congress."

POM-581. A resolution adopted by the Legislature of Clinton County, New York relative to base closures; to the Committee on Labor and Human Resources.

POM-582. A joint resolution adopted by the Legislature of the State of Colorado to the Committee on Labor and Human Resources:

"HOUSE JOINT RESOLUTION 94-1005

"Whereas, it is imperative that patients and consumers of health care services be brought back into the financial equation if the cost of providing such services is to be brought under control; and

"Whereas, patients and consumers will reduce health care costs if they are allowed to benefit from prudent individual spending decisions and if they use pre-tax dollars to establish individual medical accounts or individual medical savings accounts; and

"Whereas, it is important to preserve the excellent quality of American medicine by giving Americans the freedom to choose their own health care provider and not limiting their choice to employer- or government-designed health benefit packages: Now, therefore, be it

"*Resolved by the House of Representatives of the Fifty-ninth General Assembly of the State of Colorado, the Senate concurring herein:* That we, the members of the Colorado General Assembly, hereby urge the members of the United States Congress to consider programs to encourage and facilitate the use of individual medical savings accounts, which will enable Americans to plan for their future health needs, and be it further

"*Resolved*, That copies of this Resolution be sent to the President of the United States, the Speaker of the House of Representatives of the United States Congress, the President of the Senate of the United States Congress, and each Member of Congress from the State of Colorado."

POM-583. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Labor and Human Resources.

"SENATE CONCURRENT RESOLUTION 48

"Whereas, senior managers in the Office of Regulatory Affairs of the Food and Drug Administration have proposed restructuring field laboratories to close ten district laboratories, including the lab in New Orleans, in favor of five large general laboratories and four special purpose laboratories; and

"Whereas, while ostensibly this proposal is made to improve efficiency, lower cost, and upgrade service, analysis of the facts do not support such a result emanating from the closure of the New Orleans lab; and

"Whereas, the New Orleans lab is staffed by experienced and dedicated scientists whose expertise, particularly in the problems inherent in the Gulf Coast region, would be lost having an adverse impact on the level of consumer health and safety protection; and

"Whereas, over the years the FDA lab in New Orleans has played a vital role in investigating a broad range of health and consumer problems in the area such as fish kills, crises intervention during water disasters, contaminated farm animal feed, investigating grain elevator explosions, monitoring food, feed, and water during hurricanes, training seafood industry people in industry standards, and numerous other examples; and

"Whereas, New Orleans, as one of the nation's largest ports located on the nation's busiest river is extraordinarily well situated for the provision of the most efficient, effective, and useful service; and

"Whereas, the New Orleans FDA lab is not outmoded and an advisory committee of working analysts recommended against its closure; and

"Whereas, no demonstration has been made that throwing away the expertise, experience, and good work of a district lab such as New Orleans in order to undertake the construction, equipping and staffing of new facilities is necessary or even a good idea: Therefore, be it

"*Resolved*, That the Legislature of Louisiana memorializes the Congress of the United States to take whatever steps are necessary to prevent the closure of the federal Food and Drug Administration's New Orleans District Laboratory, and be it further

"*Resolved*, That a copy of this Resolution be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-584. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Labor and Human Resources.

"SENATE CONCURRENT RESOLUTION 108

"Whereas, the office of elderly affairs in the office of the Governor is the single-point manager for the state in administering the Older Americans Act of 1965; and

"Whereas, the Louisiana Executive Board of Aging is the state board responsible for setting forth policies and procedures used by the office of elderly affairs to ensure compliance with the Older Americans Act of 1965; and

"Whereas, the Intrastate Funding Formula as proposed in Notice of Proposed Rulemaking (NPRM) 45 CFR Part 1321 represents a policy action requiring Louisiana Executive Board of Aging approval as a condition precedent to soliciting formal approval from the Administration on Aging; and

"Whereas, the Louisiana Executive Board on Aging strongly believes that if the proposed notice is approved it will generate a statewide catastrophic impact on the current effective delivery system of services to the elderly; and

"Whereas, it is further believed that the capital outlay and professional workforce at many area agencies will become surplus due to a massive out-shifting of funds; other area agencies will be forced to make new investments in capital outlay and train new employees generated by a massive in-shifting of funds; therefore, the entire exercise triggered by the pending notice is non-cost effective; and

"Whereas, low-income minority elderly are entitled to the same level of services from each area agency on aging as required by the Older Americans Act of 1965 in lieu of a selected fifty-one percent; and

"Whereas, the guidelines in the pending notice exceed the requirements of the Older Americans Act of 1965: Therefore, be it

"*Resolved*, That the Legislature of Louisiana memorializes the Congress of the United States to give states more flexibility in the Intrastate Funding Formula process and to recognize the autonomy of each state and their unique problems in providing services to the elderly in accordance with the Older Americans Act of 1965, and be it further

"*Resolved*, That the Legislature of Louisiana requests states be permitted to apply the formula in a manner to address problems unique to each state at the state level; to continue using existing capital investments and trained personnel; to support the concept that all low-income elderly persons are entitled to equal levels of service from all area agencies; and to prevent the decimation of many parish entities with resultant catastrophic adverse effects on needy elderly, and be it further

"*Resolved*, That a copy of this Resolution be transmitted to the secretary of the United States Senate, the clerk of the United States House of Representatives, and to each member of the Louisiana congressional delegation."

POM-585. A concurrent resolution adopted by the Legislature of the State of Arizona; to the Committee on Indian Affairs.

"HOUSE CONCURRENT MEMORIAL 2006

"Whereas, the economy, health and general welfare of the people and the state of Arizona depend upon a secure and stable supply of water; and

"Whereas, efforts are currently under way in the state of Arizona to quantify and validate thousands of claims to the use of waters of the state; and

"Whereas, the Indian communities in the state of Arizona assert claims to the rights to large quantities of water; and

"Whereas, the settlement and quantification of the Indian communities' claims to water are of great importance to the economy, health and general welfare of the members of the Indian communities in Arizona; and

"Whereas, the United States, as trustee for the Indian communities of the state of Arizona, plays a vital role in the negotiations and settlements of the Indian communities' claims to water; and

"Whereas, water delivered by the Central Arizona Project has been a key component of water rights settlements already finalized for certain Indian communities in Arizona; and

"Whereas, under the Leavitt Act (47 Stat. 564, 25 United States Code section 386a), the collection of all construction costs against any Indian-owned lands within any federal irrigation project is deferred; and

"Whereas, current federal policy has facilitated these finalized settlements by allowing Central Arizona Project water allocated to Indian-owned lands, but leased for use by non-Indians, to be free of the capital costs normally associated with use of Central Arizona Project water by non-Indians; and

"Whereas, a change in federal policy requiring lessors of Central Arizona Project water allocated to Indian communities to pay capital costs normally associated with non-Indian use of Central Arizona Project water would hinder further settlement of claims to water rights by Arizona Indian communities.

"Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

"1. That the President of the United States instruct the United States Attorney General and the Secretary of the Interior to make the settlement of outstanding water rights claims by the Indian communities of Arizona a priority of their respective departments.

"2. That the United States Congress take whatever actions are necessary, including the authorization of funds, to facilitate the passage and finalization of any negotiated settlements to the Indian communities' outstanding water rights claims.

"3. That the President and Congress of the United States facilitate settlement of outstanding water rights claims by the Indian communities of Arizona by maintaining the current policy of allowing Central Arizona Project water allocated to Indian-owned lands, but leased for use by non-Indians, to be free of the capital costs normally associated with use of Central Arizona Project water by non-Indians.

"4. That the Secretary of state of the State of Arizona transmit copies of this Concurrent Memorial to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the United States Attorney General, the United States Secretary of the Interior and to each Member of the Arizona Congressional Delegation."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2956. A communication from the Comptroller General of the Department of Defense, transmitting, pursuant to law, a report of a violation of the Antideficiency Act, case number 93-4; to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 234: A resolution expressing the sense of the Senate concerning the fifth year of imprisonment of Daw Aung San Suu Kyi by Burma's military dictatorship, and for other purposes.

S.J. Res. 204: A joint resolution recognizing the American Academy in Rome, an American overseas center for independent study and advanced research, on the occasion of the 100th anniversary of its founding.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Michael Nacht, of Maryland, to be an Assistant Director of the United States Arms Control and Disarmament Agency;

Maria Otero, of the District of Columbia, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 2000;

Maria Otero, of the District of Columbia, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 1994;

Thomas W. Graham, Jr., of Maryland, to be Special Representative of the President for Arms Control, Nonproliferation, and Disarmament Matters, United States Arms Control and Disarmament Agency, with the rank of Ambassador;

Michael Marek, of Illinois, to be United States Alternate Executive Director of the International Bank for Reconstruction and Development for a term of two years;

Jeffrey Rush, Jr., of Virginia, to be Inspector General, Agency for International Development (New Position);

Ernest Gideon Green, of the District of Columbia, to be a Member of the Board of Directors of the African Development Foundation for the remainder of the term expiring September 22, 1995;

James Sweeney, of New Mexico, to be a Special Representative of the President for Arms Control, Nonproliferation, and Disarmament Matters, United States Arms Control and Disarmament Agency, with the rank of Ambassador;

Lawrence Scheinman, of New York, to be an Assistant Director of the United States Arms Control and Disarmament Agency;

Amy Sands, of California, to be an Assistant Director of the United States Arms Control and Disarmament Agency; and

David M. Ransom, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Bahrain.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: David M. Ransom.

Post: American Embassy, Bahrain.

Contributions, amount, date, donee:

1. Self, David M. Ransom, zero.
2. Spouse, Marjorie A. Ransom, zero.
3. Children and spouses names, Elizabeth, zero; Katherine, zero; Sarah, zero.
4. Parents names, Clifford F. Ransom II, deceased; Inez N. Ransom, deceased.
5. Grandparents name, Fredic and Anna Ransom, deceased; Lockridge and Mina Green, deceased.
6. Brothers and spouses names, Clifford F. Ransom II (no spouse), zero.

7. Sisters and spouses names, no sisters.

Joseph Edward Lake, of Texas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Albania.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Joseph Edward Lake.
Post: Ambassador to Albania.
Contributions, amount, date, donee:
1. Self, Joseph E. Lake, none.
2. Spouse, Jo Ann K. Lake, none.
3. Children and spouses names, Joseph E. Lake, Jr., and Susan Fawcett Lake, none. Mary Elizabeth Lake, none; Michael Allen Lake, none.
4. Parents names, Dr. Lloyd E. Lake, Sr., deceased. Marion Marie Allen Lake, deceased.
5. Grandparents name, Joseph Marhal Lake, deceased. Pernita F. Bailey Lake, deceased.
6. Brothers and spouses names, Dr. Lloyd E. Lake, Jr., and Betty Jane Dudley Lake, $200, 1992, Hutchison for Senator.
7. Sisters and spouses names, none.

Ronald E. Neumann, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic and Popular Republic of Algeria.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Ronald E. Neumann.
Post: Algiers.
Contributions, amount, date, donee:
1. Self, Ronald E. Neumann, none.
2. Spouse, Margaret Elaine Neumann, none.
3. Children and spouses names, Brian D. Neumann, none; Helen D. Neumann, none.
4. Parents names, Robert and Marlen Neumann, 1994 None.

1993:
$140, National Republican Congressional Committee.
$140, Republicans for Choice.
$100, Republican National Committee.
$25, Montgomery Republican Fund.
$25, Republican Party of Montgomery County.

1992:
$500, Republican Campaign Council.
$100, Bush-Quayle Primary Committee.
$100, Tom Campbell for U.S. Senate.
$125, National Republican Congressional Committee.
$100, Republicans for Choice State Fund.
$25, Conservative Republican Committee.
$25, Montgomery County Republican Fund.
$150, Spiro for Congress.
$40, Handgun Control (PAC).

1991:
$500, Republican National Committee.
$125, National Republican Congressional Committee.
$25, Reagan Appointee Alumni Association.
$100, Republican Campaign Council.
$80, California Republican Party.
$40, Republicans for Choice.
$50, Fund for a Conservative Majority.
$50, Handgun Control (PAC).
$25, Conservative Republican Committee.

1990:
$500, Republican National Committee.
$50, Citizens for Bush.
$50, Bush Presidential Dinner.
$65, California Republican Party.
$75, Committee to Re-elect Tom Campbell.
$225, National Republican Congressional Committee.
$100, Ronald Reagan Presidential Foundation.
$50, Handgun Control (PAC).
$80, Fund for a Conservative Majority.

5. Grandparents names, Mark and Helen Eldredge, deceased. Hugo and Stephanie Neumann, deceased.
6. Brothers and spouses names, Gregory and Leonica Neumann, none.
7. Sisters and spouses names, Marcia Neumann, deceased.

Mary Ann Casey, of Colorado, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Tunisia.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Mary Ann (NMI) Casey.
Post: U.S. Ambassador to Tunisia.
Contributions, amount, date, donee:
1. Self, none.
2. Spouse, (I am single).
3. Children and spouses names, N/A.
4. Parents names, Frank J. Casey, deceased 1983; Anna V. Casey, none.
5. Grandparents names, my last surviving grandparent died in 1962.
6. Brothers and spouses names, Michael J. Casey, none; Frank J. Casey, none.
7. Sisters and spouses names, no sisters.

George Charles Bruno, of New Hampshire, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belize.

Nominee: George Bruno, Manchester, NH.
Post: Ambassador, Belize.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, Amount, Date, Donee:
1. Self, see below.
2. Spouse, Rona Zlokower, None.
3. Children and spouses, Liza Bruno, none.
4. Parents names, Francine Dutcher, and Charles George Bruno, none.
5. Grandparents names, Alfred and Pauline Hofmann, deceased.
6. Brothers and spouses names, Valentine and Lewis Berryan, Victoria Dutcher, John and Cathy Bruno, Richard and Stephanie Dutcher, none.
7. Sisters and spouses names, Above, none.

GEORGE BRUNO

FEDERAL CAMPAIGN CONTRIBUTIONS

1989	
2/6—Scott Williams for Congress	$100
2/11—Dave Nagle for Congress	100
4/15—Sharon Dixon for Mayor	50
1990	
8/30—Keefe for Congress	100
9/17—Cohen for Congress	30
10/10—Sharon Dixon for Mayor	50
1991	
1/11—Keefe for Congress	30
11/11—Dick Swett for Congress	50
12/10—Clinton for President	100
1992	
1/11—Bart Cohen for Congress	15
1/11—Dick Swett for Congress	250
4/12—Clinton for President	100
4/28—Clinton for President	100
10/28—Rauh for Senate	75
10/10—Bob Preston for Congress	100
1993	
4/13—David Nagle for Congress	100
4/29—Italina American Leadership Council for Clinton/Gore	100
8/1—Dick Swett for Congress	250

Elizabeth Frawley Bagley, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Portugal.

Nominee: Elizabeth F. Bagley.
Post: U.S. Ambassador to Portugal.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

1. Self, Elizabeth F. Bagley, see appendix 1.
2. Spouse, Smith W. Bagley, see appendix 2.
3. Children, Vaughan Elizabeth, age 4, not applicable; Conor Reynolds, age 6 months, not applicable.
4. Parents, Hon. John D. Frawley and RoseMary Frawley, none.
5. Grandparents, Mr. and Mrs. Edward Frawley, deceased; Mr. and Mrs. Andrew Vaughn, deceased.
6. Brothers and spouses, Mr. Kevin B. Frawley, Ms. Joan M. Frawley, Rev. Brian E. Frawley, Mr. Terence A. Frawley, Ms. Tabitha Z. Frawley, none.
7. Sisters and spouses: Ms. RoseMary Frawley, Ms. Pegeen Frawley Doran, Hon. Stephen W. Dorn, Ms. Bernadette Frawley Butterfield, Mr. Michael Butterfield, Ms. Ellen M. Frawley, none.

APPENDIX 1

5/1/90—Fascell, Dante B.	1,000
5/10/90—Atkins, Chester G.	500
5/14/90—Harkin, Tom	1,000
5/16/90—Gantt, Harvey B.	1,000
5/18/90—Heath, Josephine	1,000
6/20/90—Fund for a Democratic Majority	1,000
6/29/90—Kerry, John	1,000
6/30/90—Dodd, Christopher J.	1,000
9/13/90—Democratic Senatorial Campaign Committee	7,000
9/19/90—Heath, Josephine	1,000
9/20/90—Baucus, Max	1,000
10/22/90—Lonsdale, Harold K.	1,000
10/24/90—Atkins, Chester G.	500
10/24/90—Wellstone, Paul	500
10/26/90—Wellstone, Paul	500
11/2/90—Hill, Baron P.	1,000
2/8/91—Ferraro, Geraldine	1,000
4/19/91—Fowler, Wyche, Jr.	1,000
4/19/91—Wirth, Timothy E.	1,000
5/13/91—Boxer, Barbara	1,000
5/17/91—Democratic National Committee Services Corporation/Democratic National Committee	500
6/6/91—Wofford, Harris	1,000
6/6/91—Wofford, Harris	1,000
6/7/91—Mikulski, Barbara A.	1,000
6/8/91—Massachusetts Democratic State Committee—Federal Funds Account	1,000

6/14/91—Fund for a Democratic Majority	1,000
6/18/91—Aucoin, Les	1,000
8/13/91—Harkin, Tom	1,000
8/13/91—Harkin, Tom	1,500
9/16/91—Democratic National Committee Services Corporation/Democratic National Committee	1,500
9/25/91—Democratic National Committee Services Corporation/Democratic National Committee	3,000
10/22/91—Boxer, Barbara	1,000
10/23/91—Kerrey, J. Robert	1,000
10/28/91—Democratic Senatorial Campaign Committee	12,000
11/29/91—Aucoin, Les	1,000
12/19/91—Democratic National Committee Services Corporation/Democratic National Committee	3,500
2/20/92—Harman, Jane	1,000
4/10/92—Clinton, Bill	1,000
7/8/92—Clinton, Bill	1,000
8/1/92—Yeakel, Lynn Hardy	1,000
9/16/92—Harman, Jane	500
10/15/92—Moody, Jim	1,000
10/23/92—Feinstein, Dianne	1,000
10/28/92—Democratic Senatorial Campaign Committee	3,655
11/12/92—Fowler, Wyche, Jr.	1,000
5/7/93—Kerry, J. Robert	1,000
5/7/93—Kerry, J. Robert	1,000
8/12/93—Kennedy, Edward	500
10/6/93—Wofford, Harris	1,000
10/29/93—Democratic Senatorial Campaign Committee	5,500
12/7/93—Kennedy, Edward	500

APPENDIX 2

5/7/90—Democratic Senatorial Campaign Committee	3,000
5/14/90—Harkin, Tom	1,000
5/15/90—Baucus, Max	1,000
5/16/90—Gantt, Harvey B.	1,000
6/15/90—Democratic Decade	2,000
7/30/90—Gantt, Harvey B.	1,000
7/30/90—Gantt, Harvey B.	1,000
9/6/90—Norton, Eleanor Holmes	1,000
9/8/90—Moffett, Anthony Toby	1,000
10/4/90—Wellstone, Paul	500
10/25/90—Wellstone, Paul	500
2/28/91—Gantt, Harvey B.	1,000
3/19/91—Boxer, Barbara	1,000
4/29/91—Dodd, Christopher J.	1,000
4/12/91—Richardson, Bill	1,000
4/19/91—Fowler, Wyche Jr.	1,000
5/17/91—Democratic National Committee Services Corporation/Democratic National Committee	500
5/20/91—Independent Action Incorporated	1,000
6/6/91—Wofford, Harris	1,000
6/6/91—Wofford, Harris	1,000
8/13/91—Harkin, Tom	1,000
9/4/91—Harman, Jane	1,000
9/16/91—Democratic National Committee Services Corporation/Democratic National Committee	1,500
9/25/91—Democratic National Services Corporation/Democratic National Committee	3,000
9/26/91—Ferraro, Geraldine	1,000
10/8/91—Aucoin, Les	1,000
10/21/91—Boxer, Barbara	1,000
11/25/91—Aucoin, Les	1,000
12/19/91—Democratic National Committee Services Corporation/Democratic National Committee	3,500
12/30/91—Moody, Jim	1,000
12/30/91—Moody, Jim	1,000
2/28/92—Sanford, James Terry	1,000
3/26/92—Watt, Melvin	1,000
4/1/92—Kerrey, Robert J.	1,000
5/19/92—Clinton, William Jefferson	1,000
6/10/92—Yeakel, Lynn Hardy	1,000
7/8/92—Clinton, William Jefferson	1,000
9/11/92—Democratic Senatorial Campaign Committee	3,000
10/16/92—Feingold, Russell D.	1,000
6/29/92—Wofford, Harris	2,000

Brian J. Donnelly, of Massachusetts, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Trinidad and Tobago.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Brian Joseph Donnelly.

Post: Ambassador, Trinidad and Tobago.

Contributions, amount, date, donee:

1. Self, $1,000, March 1992, Pat Williams for Congress; $1,000, July 1992, Citizens for Downey; $1,000, Oct. 1992, McCloskey for Congress; $1,000, Oct. 1992, Kennelly for Congress; $1,000, Oct. 1992, Boxer for Senate; $1,000, Oct. 1992, Martin Meehan for Congress; $1,000, June 1992, Okar for Congress; $1,000, June 1992, Anthony for Congress.

Also $1,000, Richard E. Neal for Congress; $1,000, June 1991, Les AuCoin for Senate Committee; $5,000, Oct. 1991, Democratic Congressional Committee; $1,000, Feb. 1990, Citizens for Harkin; $1,000, May 1990, Brennan for Governor; $1,000, July 1990, Carl Perkins Committee; and $1,000, Sept. 1990, McCloskey for Congress.

2. Spouse, Virginia A. Donnelly, none.

3. Children and Spouses, Lauren Donnelly, none; Brian Donnelly, none.

4. Parents, Lawrence Donnelly, deceased; Louise Donnelly, deceased.

5. Grandparents, Thomas and Sarah Donnelly, deceased; Joseph and Margaret Kelly, deceased.

6. Brothers and Spouses, Lawrence and Mary Donnelly, none; Paul Donnelly, none.

7. Sisters and Spouses, Louise and Paul Lydon, none.

Clay Constantinou, of New Jersey, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Luxembourg.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Clay Constantinou.

Post: Ambassador to Luxembourg.

Contributions, amount, date, donee:

1. Self $1,000, Apr. 1990, Fund for a Democratic Majority; $1,000, Apr. 1990, Friends for Robert Torriccelli; $500, Mar. 1990, Don Payne for Congress; $500, Feb. 1990, Gubernatorial Inaugural Ball (N.J.); $500, Feb. 1990, Gubernatorial Inaugural Ball (N.J.).

Also $20, Feb. 1991, Mid Manhattan Democratic Club; $150, Feb. 1991, Pallone for Congress; $300, Feb. 1991, Friends for Gabe Ambrosio; $150, May 1991, Westchester County Democratic Committee; $500, Apr. 1991, Paul Tsongas for President; $500, May 1991, Tsongas for President Committee; $500, June 1991, Tsongas Committee; $1,500, Sept. 1991, Governor's Gala (N.J.); $1,000, Oct. 1991, Clinton for President; $1,000, Oct. 1991, Robert Torriccelli; $125, Oct. 1991, Highland Park Democratic Club; $500, Aug. 1991, Pallone for Congress.

Also $1,000, May 1992, New Jersey State Democratic Committee; $250, July 1992, Rosa DeLauro; $50, Sept. 1992, Executive's Family Picnic; $500, June 1993, Lautenberg Committee; $1,800, May 1993, Florio '93; $500, June 1993, Friends of Phil Angelides; $500, June 1993, Sarbanes Committee; $500, Feb. 1993, Bill Bradley for U.S. Senate.

2. Spouse, Eileen Constantinou, none.

3. Children and Spouses Jennifer, Dan, none.

4. Parents, Dan (deceased) Helen (deceased), none.

5. Grandparents, Kleanthes Maouris, Polyxeni Maouris, deceased.

6. Brothers and Spouses, Dino Constantinou, none.

7. Sisters and spouses, none.

Raymond Edwin Mabus, Jr., of Mississippi, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Saudi Arabia.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Raymond Edwin Mabus, Jr.

Post: Ambassador to Audi Arabia.

Contributions, amount, date, donee:

1. Self, $500.00, 4/10/92, Clinton-Gore Campaign, $200.00, 6/19/92, Mike Espy for Congress (Second District of Mississippi); $500.00, 4/6/93, Bennie Thompson for Congress (Second District of Mississippi).

2. Spouse, $500.00, 10/29/92, Clinton-Gore Campaign.

3. Children, Names, Elisabeth Hamilton Mabus, Anne Gates Mabus.

4. Parents, Names, Raymond E. Mabus, Sr., deceased, Lucille C. Mabus, none.

5. Grandparents, Names, Elmer E. Mabus, Deceased; Helen S. Mabus, Deceased, James E. Curtis, Deceased, Birdie W. Curtis, Deceased.

6. Brothers, Names, None.

7. Sisters, Names, None.

Note: All contributions came out of a joint account of my wife and myself.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PELL. Mr. President, for the Committee on Foreign Relations, I also report favorably a nomination list in the Foreign Service which was printed in full in the CONGRESSIONAL RECORD on May 24, 1994, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of May 24, 1994 at the end of the Senate proceedings.)

By Mr. MOYNIHAN, from the Committee on Finance:

Valerie Lau, of California, to be inspector General, Department of the Treasury; and

Ronald K. Noble, of New York, to be Under Secretary of the Treasury for Enforcement. (New Position)

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees; commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

The following executive reports of committees were submitted:

By Mr. FORD, from the Committee on Rules and Administration:

Lee Ann Elliott, of Virginia, to be a Member of the Federal Election Commission for a term expiring April 30, 1999; and

Danny Lee McDonald, of Oklahoma, to be a Member of the Federal Election Commission for a term expiring April 30, 1999.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees; commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GORTON:

S. 2247. A bill to amend the Fair Housing Act to modify the exemption from certain familial status discrimination prohibitions granted to housing for older persons, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GORTON (for himself and Mrs. MURRAY):

S. 2248. A bill to permit the Secretary of Agriculture to exchange certain lands in the Wenatachee National Forest, WA, for certain lands owned by Public Utility District No. 1 of Chelan County, WA, and for other purposes; to the Committee on Energy and National Resources.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 2249. A bill to amend the Alaska Native Claims Settlement Act, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WOFFORD:

S.J. Res. 206. Joint resolution designating September 17, 1994, as Constitution Day; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself, Mr. DOLE, Mr. AKAKA, Mr. BIDEN, Mr. BINGAMAN, Mr. BOREN, Mr. BREAUX, Mr. DECONCINI, Mr. DODD, Mr. DORGAN, Mr. GLENN, Mr. GRAHAM, Mr. HATCH, Mr. HATFIELD, Mr. HEFLIN, Mr. HOLLINGS, Mr. JOHNSTON, Mr. KERRY, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. LUGAR, Mr. MATHEWS, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. PELL, Mr. REID, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. SIMON, Mr. WELLSTONE, and Mr. WOFFORD):

S. Res. 235. Resolution to print as a Senate document a collection of statements made in tribute to the late First Lady of the United States, Jacqueline Kennedy Onassis; considered and agreed to.

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 236. Resolution to increase the portion of funds available to the Committee on Banking, Housing, and Urban Affairs for hiring consultants; considered and agreed to.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GORTON:

S. 2247. A bill to amend the Fair Housing Act to modify the exemption from certain familial status discrimination prohibitions granted to housing for older persons, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

FAIR HOUSING ACT AMENDMENTS OF 1994

• Mr. GORTON. Mr. President, it has been brought to my attention, by thousands of letters from my constituents in Washington State, that the Department of Housing and Urban Development is in the process of developing a proposed rule regarding homes for older persons. Although this proposed rule has not yet been published, it has already caused a great deal of anger and distress among senior citizens in my State and across the Nation. This proposed rule is an attempt to place arduous, expensive, and unfair regulations on communities created especially for persons aged 55 and older.

I introduce legislation which would counteract HUD's proposed rule. The Fair Housing Act currently in effect, rightly exempts "55 and over" communities from certain familial status discrimination provisions. The law allows senior citizens to develop communities which restrict residence to persons aged 55 and older. These communities give seniors a choice to live in a comfortable, quiet home of their own—a choice they rightly deserve. But, the Department of Housing and Urban Development wants to take that choice away.

Officials at HUD are proposing a rule which would eliminate this exemption unless 55 and older communities provide a set of extravagant and very expensive services and facilities for their residents. The Department argues that the Fair Housing Amendments Act of 1988 already includes a provision requiring certain services and facilities in order for these communities to qualify for the exemption, and that the proposed rule is merely an attempt to better define this provision of the law.

Mr. President, I argue that it was never the intent of Congress to make the requirements for exemption so onerous that only a few, very wealthy 55 and over communities would have the means to qualify. Yet that is precisely what HUD's proposed rule will do. The Department of Housing and Urban Development plans to mandate 24-hour on-site emergency medical facilities, nursing care, on-site community dining facilities and many more exorbitant facilities and services.

What HUD doesn't seem to understand is that the majority of 55 and over communities cater to low- and moderate-income seniors. Many are mobile home parks or apartment complexes. These communities simply do not have the resources necessary to comply with HUD's proposed regulations. My constituents who operate and live in these senior communities have told me if HUD's proposed rule is enacted, they will be forced to either drastically increase rents—forcing many residents to move out—or give up their exemption, creating for many of them loud and chaotic living situations which they want desperately to avoid. Mr. President, neither of these options is acceptable to my constituents and neither is acceptable to me.

Senior citizens deserve the right to live as they choose. Retired Americans have spent a lifetime raising children, paying taxes, and working hard. They have earned their retirement and the right to live in the community of their choice, without the Federal Government saddling them with burdensome, complicated, and expensive Federal regulations. Clearly, retired Americans have the intelligence to decide whether they need to live in a community with 24-hour medical care without the assistance of the Federal Government.

Mr. and Mrs. Roderick Mason of Bellingham, WA wrote to me a few weeks ago to express their deep concern about the Department's proposal. They write,

> When we moved to our mobile home park we knew what services were offered and chose to live here with people in our age group. We do not desire the added services needed for those who can no longer care for themselves. We have no desire to operate as a nursing home. In our view, that is not the true intent of 55 and over housing.

And Mr. and Mrs. Bob Larsen of Seattle write,

> Many of us already have to contend with the rising cost of living since our original retirement and to further disrupt our lifestyle with unnecessary rules and regulations would be disgusting. Our plan when we moved into this community, was to live here as long as we could function on our own.

Like my constituents, I am outraged by the Department of Housing and Urban Development's proposal. That is why I am introducing this legislation today. My bill would simply exempt communities, in which at least 80 percent of the residents are aged 55 and over, from the services and facilities provision of the Fair Housing Act. In effect, this legislation will give retired Americans the right to live in the community of their choice without undue interference by the Federal Government.

I am introducing this legislation today, because I believe individuals are better suited to make decisions about how to live their own lives than is the

Federal bureaucracy. I urge my colleagues to join me in this fight to protect the rights of retired Americans, before the Federal Government is able to eliminate their choice to live in a community designed specifically for persons aged 55 and over.•

By Mr. GORTON (for himself and Mrs. MURRAY):

S. 2248. A bill to permit the Secretary of Agriculture to exchange certain lands in the Wenatachee National Forest, Washington, for certain lands owned by Public Utility District No. 1 of Chelan County, WA, and for other purposes; to the Committee on Energy and Natural Resources.

U.S. FOREST SERVICE/CHELAN COUNTY PUBLIC UTILITIES DISTRICT LAND EXCHANGE ACT OF 1994

• Mr. GORTON. Mr. President, I introduce legislation to authorize a land exchange between the Wenatchee National Forest and Chelan County Public Utilities District. This bill was passed by the Senate in the 102d Congress, but no action was taken in the House of Representatives.

In recent years in Chelan county, the septic tank and associated drainfield systems of several local businesses and private residences have begun to fail. This failure may cause potential pollution to the pristine waters of Lake Wenatchee. A solution was found when a local business owner inquired into the possibility of using a sewage treatment plant owned and operated by the Wenatchee National Forest to treat the area's wastewater. Chelan County PUD was also approached and agreed to provide wastewater treatment services in the Lake Wenatchee area.

Both the Forest Service and Chelan County PUD have agreed to a land exchange which would transfer ownership of the existing sewage treatment plant in the Wenatchee National Forest and the surrounding 85 acres of National Forest land to Chelan County PUD. The Forest Service would receive 109 acres of Chelan County PUD land in exchange. The PUD land is surrounded on three sides by national forest land and lies on the Wenatchee River, a proposed wild and scenic river.

This land exchange is supported by both the Forest Service and Chelan County PUD, as well as local residents and business owners in the Lake Wenatchee area. It would serve to prevent the potential pollution of Lake Wenatchee and exchange national forest land currently encumbered by a sewage treatment plant with more desirable land located on the Wenatchee River.

Mr. President, this exchange is a win-win solution to Lake Wenatchee's sewage treatment problem. I urge the Energy Committee to hold hearings on the bill as soon as possible. I thank my colleagues for their consideration.•

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 2249. A bill to amend the Alaska Native Claims Settlement Act, and for other purposes; to the Committee on Energy and Natural Resources.

ANCSA STOCK BUYBACK ACT OF 1994

• Mr. MURKOWSKI. Mr. President, I rise today to introduce the Alaska Native Claims Settlement Act Stock Buyback Act of 1994.

In 1971 Congress enacted the Alaska Native Claims Settlement Act [ANCSA] to settle Alaska Natives land claims.

Under ANCSA, the Federal Government granted Alaska's Natives 44 million acres of land and approximately $1 billion in monetary compensation for the loss of title to their ancestral lands. In addition, ANCSA formed Native corporations. Alaska Natives enrolled in these corporations were issued shares of stock in the various regional and village corporations.

ANCSA specifically stated that Native corporation stock—unlike most corporate stock—could not be sold, transferred, or pledged by the owners of the shares. Rather, stock could only be transferred through inheritance or in limited cases by court decree.

The drafters of ANCSA initially believed that a period of 20 years would be a sufficient amount of time for the restrictions on the sale of stock to remain in place. But, as 1991 approached, bringing with it the impending change in the alienability of Native stock, the Alaska Native community grew concerned about the effect of the potential sale of Native stock.

In 1987, 3 years prior to the 1991 restriction-lifting date, Congress enacted legislation which reformed the mechanism governing stock sale restrictions in a fundamental way.

Under the 1987 amendments, instead of expiring automatically in 1991, the stock restrictions on alienability continue automatically unless and until the shareholders of a Native corporation vote to remove them.

The legislation I am introducing today amends ANCSA by allowing the Cook Inlet Regional Corporations [CIRI], upon the approval of its 6,300 shareholders, to offer to its shareholders, a repurchase plan of CIRI stock from those shareholders who desire to tender their stock to the company.

The stock would then be canceled. The plan allows shareholders to access the capital value of CIRI stock in a way that preserves Native control and ownership of CIRI. The proposed legislation contains safeguards designed to ensure that the repurchase would be conducted fairly.

Mr. President, this legislation is supported by Alaska's Native community.

I have discussed this issue with Senator STEVENS and Congressman YOUNG and we have decided to support CIRI's efforts to repurchase stock which will enable CIRI and other ANCSA Regional Corporations to remain in Native control.

I urge my colleagues to support this legislation.•

By Mr. WOFFORD:

S.J. Res. 206. A joint resolution designating September 17, 1994, as "Constitution Day"; to the Committee on the Judiciary.

CONSTITUTION DAY JOINT RESOLUTION

• Mr. WOFFORD. Mr. President, on June 29, 1787, 207 years ago today, the delegates to the Constitutional Convention in Philadelphia spent hours debating representation in a bicameral legislature. Delegates from Maryland insisted that the small States be equally represented in the House and Senate, arguing that without such representation, the small States would be squashed.

This argument was not universally accepted. Small State delegates Oliver Ellsworth and Roger Sherman of Connecticut continued working behind the scenes to effect a compromise with the delegates of the large States, so that the proposed Senate would contain equal representation of two Senators from each State, while the House of Representatives would be based on population—the compromise that was eventually adopted and served as a key ingredient in making the Convention a success.

On behalf of the National Constitution Center, chartered by Congress in 1988 in the Constitutional Heritage Act and located in Philadelphia, I am introducing today a resolution that would designate September 17, 1994 as Constitution Day.

Constitution Day would honor the Constitution and publicize the importance of observing and understanding how this document affects our daily lives. The Constitution is the greatest instrument of self-government yet devised. It has lasted more than 200 years and has given us stability, continuity, growth, and flexibility.

The National Constitution Center last year expanded its celebration of Constitution Day from one park, Independence National Historic Park in Philadelphia to 139 parks, archives, and Presidential libraries around the country. Citizens numbering 200,000 signed replicas of the Constitution. This year, the Center will further expand its effort to teach people the values of the Constitution. I hope this resolution will allow Constitution Day to be conducted in large cities and small towns across the Nation. The Center hopes to eventually extend the program into a Constitution Week—a full week of activities and events designed to furthering the understanding of this magnificent document.

I was a member of the original Planning Committee that launched the National Constitution Center in 1985–86, and I have long held an interest in our country's earliest history. That is why I support the National Constitution

Center and their efforts to expand the program and ultimately build a Constitution Center in Philadelphia—a place where millions of Americans could come to learn more about the great ideas behind our Constitution, its bill of Rights, and the Declaration of Independence.

I am pleased to introduce this resolution designating September 17, 1994 as Constitution Day. I hope my colleagues will join me in sponsoring this legislation, and I ask unanimous consent that the text of the resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 206

Whereas the Constitution of the United States is the cornerstone of the Nation's system of government under law;

Whereas the Constitution of the United States signifies the importance of the rule of law and affirms the Nation's dedication to the principles of freedom and justice;

Whereas the Constitution of the United States is recognized by many to be the most significant and important document in history for establishing freedom and justice through democracy;

Whereas the Constitution of the United States provides the framework of the Nation's law, spirit, and beliefs;

Whereas the Constitution of the United States deserves the recognition, respect, and reverence of all Americans;

Whereas every American should celebrate the freedom and responsibilities of the Constitution of the United States; and

Whereas the Constitution of the United States was signed on September 17, 1787; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 17, 1994, is designated as "Constitution Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that day with appropriate ceremonies and activities.●

ADDITIONAL COSPONSORS

S. 2046

At the request of Mr. COCHRAN, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 2046, a bill to amend the Public Health Service Act to provide for the establishment by the National Institutes of Health research centers regarding movement disorders, and for other purposes.

S. 2070

At the request of Mr. KOHL, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2070, a bill to amend the Internal Revenue Code of 1986 to increase the deductibility of business meal expenses for individuals who are subject to Federal hours of limitation.

S. 2183

At the request of Mr. ROBB, the names of the Senator from Florida [Mr. GRAHAM] and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 2183, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the signing of the World War II peace accords on September 2, 1945.

S. 2225

At the request of Mrs. BOXER, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 2225, a bill to direct the Secretary of the Interior to conduct a salmon captive broodstock program.

S. 2243

At the request of Mr. STEVENS, the names of the Senator from Oregon [Mr. HATFIELD] and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of S. 2243, a bill to amend the Fishermen's Protective Act of 1967 to permit reimbursement of fishermen for fees required by a foreign government to be paid in advance in order to navigate in the waters of that foreign country whenever the United States considers that fee to be inconsistent with international law, and for other purposes.

S.J. RES. 169

At the request of Mr. WARNER, the names of the Senator from Idaho [Mr. CRAIG], the Senator from Indiana [Mr. LUGAR], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Kansas [Mr. DOLE], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Rhode Island [Mr. PELL], the Senator from Arizona [Mr. DECONCINI], the Senator from Iowa [Mr. GRASSLEY], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S.J. Res. 169, a joint resolution to designate July 27 of each year as "National Korean War Veterans Armistice Day."

S.J. RES. 178

At the request of Mr. DOMENICI, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S.J. Res. 178, a joint resolution to proclaim the week of October 16 through October 22, 1994 as "National Character Counts Week."

S.J. RES. 192

At the request of Mr. KOHL, the names of the Senator from Mississippi [Mr. LOTT], the Senator from Alaska [Mr. MURKOWSKI], the senator from Michigan [Mr. RIEGLE], the Senator from North Dakota [Mr. DORGAN], the Senator from New York [Mr. MOYNIHAN], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S.J. Res. 192, a joint resolution to designate October 1994 as "Crime Prevention Month."

S.J. RES. 198

At the request of Mr. PRYOR, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Ohio [Mr. METZENBAUM], and the Senator from West Virginia [Mr. BYRD] were added as cosponsors of S.J. Res 198, a joint resolution designating 1995 as the "Year of the Grandparent."

S.J. RES. 199

At the request of Mr. COCHRAN, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S.J. Res. 199, a joint resolution proposing an amendment to the Constitution of the United States relative to the free exercise of religion.

S. RES. 234

At the request of Mr. PELL, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of S. Res. 234, a resolution expressing the sense of the Senate concerning the fifth year of imprisonment of Daw Aung San Suu Kyi by Burma's military dictatorship, and for other purposes.

SENATE RESOLUTION 235—RELATIVE TO A COLLECTION OF STATEMENTS

Mr. MITCHELL (for himself, Mr. DOLE, Mr. AKAKA, Mr. BIDEN, Mr. BINGAMAN, Mr. BOREN, Mr. BREAUX, Mr. DECONCINI, Mr. DODD, Mr. DORGAN, Mr. GLENN, Mr. GRAHAM, Mr. HATCH, Mr. HATFIELD, Mr. HEFLIN, Mr. HOLLINGS, Mr. JOHNSTON, Mr. KERRY, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. LUGAR, Mr. MATHEWS, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. PELL, Mr. REID, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. SIMON, Mr. WELLSTONE, and Mr. WOFFORD) submitted the following resolution; which was considered and agreed to:

S. RES. 235

Resolved, That there shall be printed as a Senate document a collection of statements made in tribute to the late First Lady of the United States, Jacqueline Kennedy Onassis, together with appropriate illustrations and other materials relating to her death.

SENATE RESOLUTION 236—RELATIVE TO THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 236

Resolved, That section 6(c)(1) of Senate Resolution 71 (103d Congress, 1st Session) is amended by striking "$1,000" and inserting "$300,000".

AMENDMENTS SUBMITTED

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

DOLE (AND LIEBERMAN) AMENDMENT NO. 2103

Mr. MCCONNELL (for Mr. DOLE, for himself and Mr. LIEBERMAN) proposed an amendment to the bill (H.R. 4426) making appropriations for foreign operations, export financing, and related

program for the fiscal year ending September 30, 1995; as follows:

On line 21 of the first committee amendment strike the word states, and insert the following:

States

BOSNIA AND HERZEGOVINA SELF-DEFENSE

SEC. . (a) SHORT TITLE.—This section may be cited as the "Bosnia and Herzegovina Self-Defense Act of 1944".

(b) FINDINGS.—The Congress makes the following findings:

(1) For the reasons stated in section 520 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236), the Congress has found that continued application of an international arms embargo to the Government of Bosnia and Herzegovina contravenes that Government's inherent right of individual or collective self-defense under Article 51 of the United Nations Charter and therefore is inconsistent with international law.

(2) The United States has not formally sought multilateral support for terminating the arms embargo against Bosnia and Herzegovina either within the United Nations Security Council or within the North Atlantic Council since the enactment of section 520 of Public Law 103-236, Senate passage of S. 2042 of the One Hundred Third Congress, and House passage of sections 1401-1404 of H.R. 4301 of the One Hundred Third Congress.

(c) TERMINATION OF ARMS EMBARGO.—

(1) TERMINATION.—The President shall terminate the United States arms embargo of the Government of Bosnia and Herzegovina upon receipt from that Government of a request for assistance in exercising its right of self-defense under Article 51 of the United Nations Charter.

LAUTENBERG (AND OTHERS) AMENDMENT NO. 2104

Mr. LAUTENBERG (for himself, Mrs. FEINSTEIN, Mr. GRAHAM, and Mr. SASSER) proposed an amendment to the bill H.R. 4426, supra; as follows:

At the appropriate place in the amendment, insert the following:

PRISONER TRANSFERS

SEC. . (a) SHORT TITLE.—This section may be cited as the "Prisoner Transfer Equity Act".

(b) PURPOSE.—The purpose of this section is to relieve overcrowding in Federal and State prisons by providing for the transfer of criminal aliens convicted of crimes in the United States back to their native countries to serve the balance of their sentences.

(c) FINDINGS.—The Congress makes the following findings:

(1) The cost of incarcerating an illegal alien in a Federal or State prison can cost as much as $25,000 per year.

(2) There are approximately 46,000 convicted criminal aliens serving in American prisons, including 25,000 convicted criminal aliens serving in State prisons and 21,000 convicted criminal aliens serving in Federal prisons.

(3) Many of these convicted criminal aliens are also illegal aliens, but the Immigration and Naturalization Service does not have exact data on how many.

(4) The combined cost to Federal and State governments for the incarceration of convicted criminal aliens is approximately $1,200,000—

(5) There are approximately 2,500 American citizens serving in prisons outside the United States.

(6) The United States has entered into over 25 prisoner exchange treaties. Since 1977, under these treaties, the United States sent approximately 1,200 prisoners to other countries but has received approximately 1,400 prisoners that it had to imprison. This has added to United States prison overcrowding.

(d) PRISONER TRANSFER TREATIES.—No later than 90 days after the date of enactment of this Act, the President should begin to negotiate prisoner transfer treaties, or renegotiate existing prisoner transfer treaties, with countries that currently have more prisoners in United States prisons than there are United States citizens in their prisons, to carry out the purpose of this Act. The focus of these negotiations should be on the tranfer of illegal aliens who are serving in United States prisons.

(e) REPORT; WITHHOLDING OF ASSISTANCE.—

(1) REPORTS.—Not later than 1 year after the date of enactment of this Act, and not later than March 30 each year thereafter, the President shall submit a report to Congress on the progress of negotiations undertaken under subsection (d) since the date of enactment of this Act or the date of submission of the last report, as the case may be.

(2) WITHHOLDING OF ASSISTANCE.—Whenever—

(A) a report submitted under paragraph (1) indicates that no progress has been made in negotiations under subsection (d) with a foreign country, and

(B) the United States continues to maintain a surplus of prisoners who are nationals of that country,

then, for the remainder of the fiscal year, and each fiscal year thereafter until progress is reported under subsection (a), not less than one percent or more than 10 percent of United States bilateral assistance allocated for that country (but for this provision) shall be withheld from obligation and expenditure for that country.

(3) DEFINITION.—As used in this section, the term "United States bilateral assistance" means—

(A) assistance under the Foreign Assistance Act of 1961 other than assistance provided through international organizations or other multilateral arrangements; and

(B) sales and sales financing under the Arms Export Control Act.

(f) WAIVER AUTHORITY.—The President may waive the application of subsection (e)(2) if such an application would jeopardize relationships between the United States and a foreign country that the President determines to be in the national interest. Whenever the President exercises the waiver authority of this section, the President shall submit a statement in writing to Congress setting forth the justification for the exercise of the waiver.

(g) DIPLOMATIC EFFORTS.—For each country that does not receive United States assistance and for which the conditions of subsections (e)(2)(A) and (e)(2)(B) apply, the President should use such diplomatic offices and powers as may be necessary to make progress in negotiating or renegotiating a prisoner transfer treaty.

(h) RULE OF CONSTRUCTION.—Nothing in this section may be construed to alter or affect the existing immigration, refugee, political asylum laws of the United States nor any Federal, State, or local criminal laws.

LEAHY AMENDMENTS NOS. 2105-2108

Mr. LEAHY proposed four amendments to the bill H.R. 4426, supra; as follows:

AMENDMENT NO. 2105

On page 34, line 11 of the Committee reported bill, linetype "Peru, and Malawi" and insert immediately thereafter: "and Peru".

AMENDMENT NO. 2106

On page 6, line 13 of the Committee reported bill, linetype "during fiscal year" through "600" on line 15 and insert immediately thereafter: "of the amount appropriated under this heading not more than $7,002,000 may be expended for the purchase of such stock in fiscal year 1995".

AMENDMENT NO. 2107

On page 59, line 19 of the Committee reported bill, after the word "ceiling" insert: "established pursuant to any provision of law or regulation".

AMENDMENT NO. 2108

On page 79, line 13 of the Committee reported bill, after the word "Defense" insert: "and defense services of the Department of Defense".

MIKULSKI AMENDMENT NO. 2109

Mr. LEAHY (for Ms. MIKULSKI) proposed an amendment to the bill H.R. 4426, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . DONATION OF SURPLUS AGRICULTURAL COMMODITIES TO POLAND.

(a) EXTENSION OF AUTHORIZATION.—Section 2223(a) of the American Aid to Poland Act of 1988 (7 U.S.C. 1431 note) is amended by striking "1988 through 1992" and inserting "1995 through 1999".

(b) DEFINITION OF ELIGIBLE COMMODITIES.—Section 2223(b)(1) of that Act is amended by inserting ", soybeans, and soybean products" after "feed grains".

(c) ELIGIBLE ACTIVITIES.—Section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(7)(D)(ii)) is amended in the third sentence—

(1) by striking "and" at the end of subclause (II);

(2) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subclause:

"(IV) the Polish Catholic Episcopate's Rural Water Supply Foundation.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 1994.

LEAHY AMENDMENT NO. 2110

Mr. LEAHY proposed an amendment to the bill H.R. 4426, supra; as follows:

On page 80 of the Committee reported bill, linetype from "(e)" on line 7 through and including the period on line 17, and on page 112, after line 9, insert:

"WAR CRIMES TRIBUNALS

SEC. 577. If the President determines that doing so will contribute to a just resolution of charges regarding genocide or other violations of international humanitarian law, the authority of section 552(c) of the Foreign Assistance Act of 1961, as amended, may be used to provide up to $25,000,000 of commodities and services to the United Nations War Crimes Tribunal established with regard to the former Yugoslavia by the United Nations Security Council or such other tribunals or other bodies as the Council may establish to deal with such violations, without regard to the ceiling limitation contained in paragraph (2) thereof: *Provided*, That the determination required under this section shall be in lieu of any determinations otherwise required under section 552(c): *Provided further*, That 60 days after the date of enactment of this Act, and every 180 days thereafter, the Secretary of State shall submit a report to the Committees on Appropriations describing the steps the United States Government is taking to collect information regarding allegations of genocide or other violations of international law in the former Yugoslavia and to furnish that information to the United Nations War Crimes Tribunal for the former Yugoslavia."

COCHRAN AMENDMENT NO. 2111

Mr. COCHRAN proposed an amendment to the bill H.R. 4426, supra; as follows:

On page 33, line 3, strike all after "*Provided further*" through "United Nations Charter" on line 18.

HELMS AMENDMENT NO. 2112

Mr. HELMS proposed an amendment to the bill H.R. 4426, supra; as follows:

On page 3, strike lines 8 through 13.

LEAHY AMENDMENT NO. 2113

Mr. LEAHY proposed an amendment to the bill H.R. 4426, supra; as follows:

On page 33, line 3, of the Committee reported bill, strike "*Provided further, That*" and all that follows through "*Charter*" on line 18, and insert:

"*Provided further, That any agreement for the sale or provision of any defense article on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) to Turkey utilizing funds made available under this heading that is entered into by the United States during fiscal year 1995 shall expressly state that the article will not be used in violation of international law, and any grant of any excess defense article under the Foreign Assistance Act of 1961 during fiscal year 1995 shall be subject to the same condition: Provided further, That in any case in which a report to the Congress is required under section 3(c)(2) of the Arms Export Control Act regarding such a violation, such report shall also be submitted to the Committees on Appropriations: Provided further, That the Secretary of State, in consultation with the Secretary of Defense shall submit a report to the Committees on Appropriations by February 1, 1995, describing how United States assistance to Greece is promoting respect for principles and obligations under the United Nations sanctions against Serbia, the United Nations Charter and the Helsinki Accords.*"

MCCONNELL AMENDMENT NO. 2114

Mr. MCCONNELL proposed an amendment to the bill H.R. 4426, supra; as follows:

At the end of the section entitle "Assistance for the New Independent States of the Former Soviet Union," add the following new subsection:

Not less than $15,000,000 of the funds appropriated under this heading shall be spent to support and expand the hospital partnerships program conducted throughout the NIS.

PRESSLER AMENDMENTS NOS. 2115–2116

Mr. PRESSLER proposed two amendments to the bill H.R. 4426, supra; as follows:

AMENDMENT NO. 2115

On page 112, between lines 9 and 10, insert the following new section:

BUY AMERICA

SEC. . (a) None of the funds appropriated or otherwise made available by this Act may be obligated or expended to pay any United States voluntary contribution for United Nations peacekeeping activities unless the Secretary of State determines and certifies to the appropriate congressional committees that United States manufacturers and suppliers are being given opportunities to provide equipment, services, and material for such activities equal to those being given to foreign manufacturers and suppliers for such activities and for other United Nations acquisition needs.

(b) For purpose of this section, the term "appropriate congressional committees" means the Committees on Appropriations and Foreign Affairs of the House of Representatives and the Committees on Appropriations and Foreign Relations of the Senate.

AMENDMENT NO. 2116

On page 112, between lines 9 and 10, insert the following new section:

TELECOMMUNICATIONS PROCUREMENT

SEC. . It is the sense of the Congress that the Agency for International Development, and other agencies as appropriate, should take steps to ensure that United States firms are not unfairly disadvantaged in procurement opportunities related to promoting development through telecommunications enhancement. The Congress expects that high technology firms primarily owned by nationals of countries which deny procurement opportunities to United States firms will not be eligible to bid on procurement opportunities funded by programs in this Act. In particular, the Congress would oppose such purchases if the government of that country restricts American manufacturers of the same high technology products from government procurement or government-financed programs.

GREGG (AND NICKLES) AMENDMENT NO. 2117

Mr. GREGG (for himself and Mr. NICKLES) proposed an amendment to the bill H.R. 4426, supra; as follows:

At the appropriate place insert the following:

SEC. . SENSE OF THE CONGRESS ON UNITED STATES MILITARY OPERATIONS IN HAITI.

(a) REAFFIRMATION OF POLICY.—It is the sense of the Congress that the policy stated in section 8147 of Public Law 103–139 (107 Stat. 1474) regarding Haiti should be reaffirmed.

(b) LIMITATION.—It is the sense of the Congress that none of the funds appropriated or otherwise made available to the Department of Defense for fiscal year 1995 under this or any other Act may be obligated or expended for any United States military operations in Haiti unless—

(1) such operations are authorized in advance by the Congress;

(2) the temporary deployment of forces of the Armed Forces of the United States into Haiti is necessary in order to protect or evacuate United States citizens from a situation of imminent danger and the President reports as soon as practicable to Congress after the initiation of the temporary deployment, but in no case later than 48 hours after the initiation of the temporary deployment;

(3) the deployment of forces of the Armed Forces of the United States into Haiti is vital to the national security interests of the United States (including the protection of American citizens in Haiti), there is not sufficient time to seek and receive congressional authorization, and the President reports as soon as practicable to Congress after the initiation of the deployment, but in no case later than 48 hours after the initiation of the deployment; or

(4) the President transmits to the Congress a written report pursuant to subsection (c).

(c) REPORT.—The limitation in subsection (b) does not apply if the President reports in advance to Congress that the intended deployment of forces of the Armed Forces of the United States into Haiti—

(1) is justified by United States national security interests;

(2) will be undertaken only after necessary steps have been taken to ensure the safety and security of such forces, including steps to ensure that such forces will not become targets due to the nature of the applicable rules of engagement;

(3) will be undertaken only after an assessment that—

(A) the proposed mission and objectives are most appropriate for the Armed Forces of the United States rather than civilian personnel or armed forces from other nations; and

(B) the United States forces proposed for deployment are necessary and sufficient to accomplish the objectives of the proposed mission;

(4) will be undertaken only after clear objectives for the deployment are established;

(5) will be undertaken only after an exit strategy for ending the deployment has been identified; and

(6) will be undertaken only after the financial costs of the deployment are estimated.

(d) DEFINITION.—As used in this section, the term "United States military operations in Haiti" means the continued deployment, introduction or reintroduction of forces of the Armed Forces of the United States into the land territory of Haiti, irrespective of whether those forces are under United States or United Nations command, but does not include activities for the collection of foreign intelligence, activities directly related to the operations of United States diplomatic or other United States Government facilities, or operations to counter emigration from Haiti.

MITCHELL (AND OTHERS) AMENDMENT NO. 2118

Mr. MITCHELL (for himself, Mr. LEAHY, Mr. WARNER, and Mr. BIDEN) proposed an amendment to the bill H.R. 4426, supra; as follows:

At the appropriate place in the amendment add the following:

SEC. . SENSE OF THE CONGRESS ON THE USE OF FUNDS FOR UNITED STATES MILITARY OPERATIONS IN HAITI.

(a) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) all parties should honor their obligations under the Governor's Island Accord of July 3, 1993 and the New York Pact of July 16, 1993;

(2) the United States has a national interest in preventing uncontrolled emigration from Haiti; and

(3) the United States should remain engaged in Haiti to support national reconciliation and further its interest in preventing uncontrolled emigration.

(b) LIMITATION.—It is the sense of the Congress that funds appropriated by this Act or any other Act should not be obligated or expended in Haiti unless—

(1) authorized in advanced by the Congress; or

(2) the temporary deployment of United States Armed Forces into Haiti is necessary in order to protect or evacuate United States citizens from a situation of imminent danger and the President reports as soon as practicable to Congress after the initiation of the temporary deployment; or

(3) the deployment of United States Armed Forces into Haiti is vital to the national security interests of the United States, including but not limited to the protection of American citizens in Haiti, there is not sufficient time to seek and receive Congressional authorization, and the President reports as soon as is practicable to Congress after the initiation of the deployment, but in no case later than forty eight hours after the initiation of the deployment; or

(4) the president transmits to the Congress a written report pursuant to subsection (c).

(c) REPORT.—It is the sense of the Congress that the limitation in subsection (b) should not apply if the President reports in advance to Congress that the intended deployment of United States Armed Forces into Haiti—

(1) is justified by U.S. national security interests;

(2) will be undertaken only after necessary steps have been taken to ensure the safety and security of U.S. Armed Forces, including steps to ensure that U.S. Armed Forces will not become targets due to the nature of their rules of engagement;

(3) will be undertaken only after an assessment that—

(A) the proposed mission and objectives are most appropriate for the U.S. Armed Forces rather than civilian personnel or armed forces from other nations, and

(B) that the U.S. Armed Forces proposed for deployment are necessary and sufficient to accomplish the objectives of the proposed mission;

(4) will be undertaken only after clear objectives for the deployment are established;

(5) will be undertaken only after an exit strategy for ending the deployment has been identified; and

(6) will be undertaken only after the financial costs of the deployment are estimated.

(d) DEFINITION.—As used in this section, the term "United States military operations in Haiti" means the continued deployment, introduction or reintroduction of United States Armed Forces into the land territory of Haiti, irrespective of whether those Armed Forces are under United States or United Nations command, but does not include activities for the collection of foreign intelligence, activities directly related to the operations of U.S. diplomatic or other U.S. government facilities, or operations to computer emigration from Haiti.

MACK (AND MCCONNELL) AMENDMENT NO. 2119

Mr. LEAHY (for Mr. MACK for himself and Mr. MCCONNELL) proposed an amendment to the bill H.R. 4426, supra; as follows:

SEC. . (a) REPORTING REQUIREMENT.—The Secretary of State shall, by March 31, 1995, submit to the Committees on Appropriations a report providing a concise overview of the prospects for economic growth on a broad, equitable, and sustainable basis in the countries receiving economic assistance under title II of this Act. For each country, the report shall discuss the laws, policies, and practices of that country that most contribute to or detract from the achievement of this kind of growth. The report should address relevant macroeconomic, microeconomic, social, legal, environmental, and political factors.

(b) COUNTRIES.—The countries referred to in subsection (a) are countries—

(1) for which in excess of a total of $5,000,000 has been obligated during the previous fiscal year for assistance under sections 103 through 106, chapters 10 and 11 of part I, and chapter 4 of part II of the Foreign Assistance Act of 1961, and under the Support for East European Democracy Act of 1989; or

(2) for which in excess of $1,000,000 has been obligated during the previous fiscal year for assistance administered by the Overseas Private Investment Corporation.

(c) CONSULTATION.—The Secretary of State shall submit the report required by subsection (a) in consultation with the Secretary of the Treasury, the Administrator of the Agency for International Development, and the President of the Overseas Private Investment Corporation.

LEVIN AMENDMENT NO. 2120

Mr. LEAHY (for Mr. LEVIN) proposed an amendment to the bill H.R. 4426, supra; as follows:

"NON-LETHAL EXCESS DEFENSE ARTICLES

SEC. . Notwithstanding section 519(f) of the Foreign Assistance Act of 1961, during fiscal year 1995, funds available to the Department of Defense may be expended for crating, packing, handling and transportation of nonlethal excess defense articles transferred under the authority of section 519 to Albania."

BURNS AMENDMENT NO. 2121

Mr. LEAHY (for Mr. BURNS) proposed an amendment to the bill H.R. 4426, supra; as follows:

On page 23, after line 25, insert the following new subsection:

(n) Of the programs funded under this heading, it is the sense of the Senate that a volunteer United States Tech Corps should be funded for the purpose of providing technical assistance to the new independent states of the former Soviet Union, particularly in the refrigeration of perishable commodities.

LEAHY AMENDMENT NO. 2122

Mr. LEAHY proposed an amendment to the bill H.R. 4426, supra; as follows:

At the appropriate place in the bill, insert the following:

Notwithstanding any other provision of law, demining equipment available to any department or agency and used in support of the clearing of landmines for humanitarian purposes may be disposed of on a grant basis in foreign countries, subject to such terms and conditions as the President may prescribe.

MCCONNELL AMENDMENT NO. 2123

Mr. LEAHY (for Mr. MCCONNELL) proposed an amendment to the bill H.R. 4426, supra; as follows:

At the end of the section entitled Assistance to the New Independent States of the Former Soviet Union, add the following new section:

Not less than $50,000,000 of the funds appropriated under this heading be made available for programs and activities which match U.S. private sector resources with federal funds.

MCCONNELL AMENDMENT NO. 2124

Mr. LEAHY (for Mr. MCCONNELL) proposed an amendment to the bill H.R. 4426, supra; as follows:

At the end of section entitled "Assistance to the New Independent States and of the Former Soviet Union" add the following:

Within sixty days of enactment of this Act, the Administrator of the Agency of International Development shall report to the Committees on Appropriations concerning the feasibility of developing an outreach program which would make grants to partnerships between American communities and organizations with cultural and ethnic ties to the new independent states and their counterparts in the new independent states."

PRYOR (AND LAUTENBERG) AMENDMENT 2125

Mr. LEAHY (for Mr. PRYOR for himself and Mr. LAUTENBERG proposed an amendment to the bill H.R. 4426, supra; as follows:

On page 112, between lines 9 and 10, insert the following new section:

PROHIBITION ON PAYMENT OF CERTAIN EXPENSES

SEC. . None of the funds appropriated or otherwise made available by this Act under the heading "INTERNATIONAL MILITARY EDUCATION AND TRAINING" or "FOREIGN MILITARY FINANCING PROGRAM" may be obligated or expended to pay for—

(1) alcoholic beverages;

(2) food (other than food provided at a military installation); or

(2) food (other than food provided at a military installation); or

(3) entertainment expenses for activities that are substantially of a recreational character, including entrance fees and food at sporting events and amusement parks.

MCCONNELL AMENDMENT NO. 2126

Mr. LEAHY (for Mr. MCCONNELL) proposed an amendment to the bill H.R. 4426, supra; as follows:

The Senate finds that:

(A) The Burmese people overwhelmingly voted in 1990 to begin a process of political and economic reform based on a fundamental respect for human rights and freedom of political expression by resoundingly rejecting the military-led government of the State Law and Order Restoration Council (SLORC), and electing a coalition government headed by the National League for Democracy;

(B) SLORC refused to recognize the will of the Burmese people and in the wake of the election launched a bloody crackdown against the prodemocracy movement killing some activists through torture; others were imprisoned or forced to flee Burma;

(C) Since that time, all political dissent has been banned with violators arrested, jailed often beaten and sometimes executed for attempting to express their political beliefs. The United States and United Nations have repeatedly identified SLORC as one of the worst offenders of human rights in the world;

(D) SLORC and military officials have a long history of complicity in drug trafficking and production;

(E) The forced conscription of rural villagers including the elderly, pregnant women, and children as slave labor to carry arms and ammunition for the military, and build roads and bridges for government projects continues. Slave porters are routinely malnourished, beaten, often raped and sometimes executed if they fail to perform work ordered by military officials;

(F) The massive infusion of new arms into Burma poses a direct threat to regional stability; and

(G) The actions of the government of Thailand in harassing and forceably repatriating Burmese refugees is of deep concern to the United States.

The Senate of the United States of America calls for:

(A) SLORC to immediately and unconditionally release the leader of the National League for Democracy, Aung San Suu Kyi, from house arrest and install the legitimate government of Burma;

(B) Immediate access to political detainees or convicted prisoners of any kind by representatives of the International Committee of the Red Cross.

(C) The regime in Rangoon to take real and meaningful action against drug smugglers and corrupt government officials to combat the flood of opium and heroin coming from Burma;

(D) International corporations investing or seeking business opportunities in Burma to recognize SLORC's policy of political repression, abuse of human rights, use of slave labor, and complicity in drug trafficking and refrain from investing in Burma;

(E) The international community to ban selling weapons to SLORC;

(F) The international community to recognize the plight of Burmese refugees and take whatever steps may be necessary to guarantee their safety and human rights.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Wednesday, June 29, 1994 at 9:30 a.m., in SD–628, to receive testimony from administration witnesses on pesticide legislation including S. 985, S. 1478, and S. 2050.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today, Wednesday, June 29, 1994, at 2 p.m., to consider the Health Security Act of 1994; and to consider the nomination of Valerie Lau to be the Inspector General of the Treasury Department; and to consider the nomination of Ronald Noble to be Under Secretary of the Treasury—Enforcement.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Wednesday, June 29, at 9 a.m. to hold ambassadorial nomination hearings on Brian J. Donnelly, to be Ambassador to Trinidad and Tobago and on Mr. George C. Bruno, to be Ambassador to Belize.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Wednesday, June 29, at 11 a.m. to hold a business meeting to consider and vote on the attached agenda items.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. LEAHY. Mr. President, I ask unanimous consent on the behalf of the Governmental Affairs Committee for authority to meet on Wednesday, June 29, at 9:30 a.m. for a hearing on Congressional Coverage Legislation: Applying Laws to Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. LEAHY. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Wednesday, June 29, at 2:30 p.m. for a nomination hearing on Zoe Bush, Rhonda Winston, and Judith Bartnoff, nominees, for Associate Judge, Superior Court of the District of Columbia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, June 29, 1994, to hold a hearing on the nominations of Guido Calabresi of Connecticut, to be U.S. circuit judge for the second circuit and John R. Schmidt of Illinois, to be associate attorney general.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Communications Subcommittee of the Senate Committee on Commerce, Science and Transportation be authorized to meet on July 29, 1994, at 2 p.m. on S. 2120, Reauthorization of the Corporation for Public Broadcasting.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TEDDY KOLLEK GIVES US WISDOM

• Mr. SIMON. Mr. President, over the years, I have had the chance to get acquainted with the former mayor of Jerusalem, Teddy Kollek.

I've always been impressed by his enthusiasm, his wisdom, his ability and, most of all, his willingness to make his role as mayor an umbrella where he pulls Arabs, Jews, Christians, and people of every background together. I remember having dinner with him one night when he had to leave early because he had to go to a Greek Orthodox event.

Recently, I saw a column in the Jerusalem Post, which he wrote, about Jerusalem. But it really touches on more than Jerusalem.

It talks about basically recognizing that all citizens have to be first-class citizens but, also, recognizing that Jerusalem can never be divided again.

Because what he says makes so much sense and because of the stature that Teddy Kollek has with so many of us, I ask to insert this into the RECORD at this point, and I urge my colleagues to read it.

[From the Jerusalem Post, June 11, 1994]

NO ONE CAN SAY WE TREATED JERUSALEM'S ARABS BADLY

(By Teddy Kollek)

Jerusalem is making the headlines every day. Arafat mentions it in his speeches and promises a jihad. Some of our right-wing politicians, including Jerusalem's mayor, make strong statements about the unity of the city. And professors try to come up with compromise solutions.

The status of Jerusalem clearly has to be settled if lasting peace is to be achieved.

During these crucial days, I frequently hear city officials stress how little my administration did for the Arabs, and how they plan to do much more. Although I doubt their sincerity, I can only wish them luck. But I would like to put the facts straight as I see them.

During my 28 years as mayor I was often attacked for doing too much for the Arabs. This angered me because I felt we were doing too little; but a mayor's power is limited by the government, by the city council and by the financial means at his disposal.

From the moment Jerusalem was united in 1967, I believed that we had to find a way to live with the Arabs that would accommodate both them and us, because there was no chance—as some people apparently hoped—of driving the Arabs out.

Any attempt to do so can only lead to destruction and redivision, because the Arabs will never leave a city they consider holy.

The only way of keeping Jerusalem a united city under our sovereignty is to treat minorities as we would like Jews to be treated. You can't fight antisemitism while treating others as second-class citizens.

And so, with this understanding of the city, we set out to close the gap between the Arabs and ourselves.

It is nearly impossible to grasp the scope of that task; so much was done, and human memory is short.

In 1967 the Arabs in Jerusalem did not have even the most basic services. Their part of the city was terribly neglected, and raising standards to a normal level was much harder and more costly than starting from scratch, as we did in the new Jewish neighborhoods.

To begin with, the walls of the Old City, first built by Herod and then rebuilt by Suleiman the Magnificent, had been neglected for centuries. Some of the gates had been entirely destroyed. A tremendous effort was required to reconstruct them into the glorious, imposing spectacle they are today.

We rebuilt the roads in the Old City and strengthened the buildings, many of which were 200 or 300 years old and in a state of collapse.

Only 10% of the homes in the Old City had running water. We installed running water not only within the walls, but also in other Arab parts of the city.

We placed water and sewage pipes, power cables and telephone wires underground, which made the lives of the Arab inhabitants easier and improved the look of the city.

We replaced the thousands of TV antennae with a central antenna. We built a first-class library as well as a magnificent medical center in Sheikh Jarrah which has been praised as the best clinic in the country.

All this was done without any Arab financial help; the funds came from the municipality and moneys raised through the Jerusalem Foundation, whose contributors are Jewish (mostly) and Christian.

And often there was not only lack of support but also strong opposition, both in the government and the city council.

We did a lot more than this. We gave the Arabs rights they did not have under Jordanian rule. The last Arab newspaper to be produced in the city had been closed down by the Hashemites a few months before the Six Day War. We let them publish their newspapers without political censorship. And though their publications have frequently expressed the opinion that Israel has no right to exist, no paper has yet been closed down.

Every Arab resident has been given the choice, unheard of in similar situations elsewhere in the world (Alsace-Lorraine, for example), of either becoming an Israeli citizen or remaining Jordanian.

And with their Arab passports and Israeli identity cards, they have the advantage of being able to travel to Arab countries (which we can't do), and then returning to Israel, where they enjoy—among other things—insurance benefits and old-age pensions like all Israelis.

Moreover, this is not affected by the fact that we know their children or close relatives are active in anti-Israel organizations such as Hamas.

Nor did we change anything in their school curricula. The only exception I recall was an exercise in an arithmetic book: "When you have 10 Jews and kill 6, how many remain?" We altered that sentence.

But we kept the same teachers they had before the 1967 war, and the same headmasters. We enlarged their schools. We never interfered with their prayers or with their jurisdiction over their holy places, most importantly the Dome of the Rock.

We behaved this way despite the fact that 58 synagogues in the Jewish Quarter had been destroyed or desecrated during the period of Jordanian rule.

Taking into account the things mentioned above and many others I will not list here, we have probably spent no less money on the Arab part of the city than we have on the Jewish section.

That still doesn't change the fact that some Arab neighborhoods remain underdeveloped and lack many services. We have tried, and should try harder.

But they should also do their part. Every Arab, whether an Israeli or a Jordanian citizen, has the right to vote for the city council. I am only sorry that so far they have not dared to run for a seat on the council. That way they would have more influence over their own affairs and would have proper representation. I am hopeful that this will happen soon.

I am also advocating that the basic rights which the Arabs have been enjoying de facto since 1967 be officially embodied in law by the Knesset. I think this will do a great deal for their sense of security and for a better atmosphere among all citizens of the city.

With all the turmoil and the historical developments now taking place, we must not lose sight of the fact that our objective is to hold on to and strengthen a united Jerusalem. In order to accomplish this I believe we must continue with the policy we have followed over the past 27 years.

The idea of two capitals in one "united" city is ridiculous.•

TRIBUTE TO DR. BEVERLY GAINES

• Mr. McCONNELL. Mr. President, I rise today to honor an individual who has spent her adult life making significant contributions to the Louisville community. Dr. Beverly Gaines, pediatrician and secretary of the Jefferson County Medical Society board of governors, is a shining example of a successful entrepreneur and citizen.

A native of Columbus OH, Beverly Gaines obtained her undergraduate degree from Case Western Reserve University, and went on to graduate with honors from the University of Louisville Medical School in 1979. Since then, Beverly has been much more than just a doctor to the residents of Louisville. Her selfless dedication to caring for others has brought respect and admiration from her peers, who describe her as a true leader among women, physicians, and African-Americans.

Today, in addition to her pediatric practice, she serves on the board of the Louisville Area Chamber of Commerce, sits on the National Medical Association Council on medical legislation and is on the Visiting Nurse Association professional advisory committee. She received the 1993 American Medical Women's Association Community Service Award for her efforts in organizing an African-American Health Jamboree in Louisville last year. It featured free health screenings, immunizations, and offered education on domestic violence and drug awareness.

Mr. President, it is difficult to put into words what her faithful and compassionate service has meant to the citizens of Louisville. She says she devotes one-half to two-thirds of her time to community service, and when asked why, her simple response is that she believes there are some things that are above and beyond money. Clearly, Mr. President, this is a philosophy everyone should follow.

Mr. President, I ask my colleagues to join me in recognizing this outstanding Kentuckian who has given so much to the city of Louisville. In addition, I ask that a May 30, 1994, article from Business First be included in the RECORD.

The article follows:

DR. BEVERLY GAINES LIKES MAKING A DIFFERENCE—PEDIATRICIAN DEVOTES MAJORITY OF HER TIME TO COMMUNITY SERVICE

(By Eric Benmour)

While growing up in Columbus, Ohio, Dr. Beverly M. Gaines got a great deal of support.

She says her parents were determined that Gaines and her brother "be something."

The ethic in their house was, "lessons come first and get your education, and then other things are possible."

During Derby Week, Gaines needed help taking care of her children—Lisa, 15, and Samuel, 10—because Gaines is on the board of the Kentucky Derby Festival.

Gaines' mother came from Columbus to stay at Gaines' Hurstbourne-area home to help.

"That's the kind of support I have enjoyed all my life," she says.

She also got help from her grade-school teachers.

"Those teachers loved us," says Gaines, 41. "You couldn't have told any one of us that we weren't hot-dog wonderful. We had models for success."

But Gaines learned early in life that society had different expectations of her than she had about herself—because she's an African American.

She tells the story of a group of students gathered together to make rounds after an oral examination in medical school at the University of Louisville.

"There were four of us, two white males, a white female and myself," Gaines recalls. "Our resident that made rounds with us on Saturday morning said to the one white male he thought was a superior student, 'Oh, what did you get, Andrew?' And Andrew said, 'I got a 3.5. (out of a possible 4 grade-point average).' "

The resident praised the student and then asked the next student, who got a 3.0. He gave him praise as well. The girl got a 3.0, Gaines says.

"And he said, 'Let's start rounds.' We left the residence room and were almost to the area where the patients' charts were located.

"And he said, 'Oh Beverly, what did you get?' I said, 'I got a 4.0.' He said, 'Let's start rounds.'

"That is the best story I could ever tell you about what my life is like. You can jump through hoops, you can do all the objective measures, you can do all the subjective measures, but your strength has to be from within. Because you do not get that reinforcement outside. And I think that's purely related to race."

By any measure today, Gaines has used her strength to be successful and to make an impact in Louisville.

In addition to her pediatric practice, she serves on the board of the Louisville Area Chamber of Commerce; is secretary of the Jefferson County Medical Society board of governors; is a member of the Louisville chapter of Links, a women's organization; sits on the National Medical Association council on medical legislation; is public-affairs committee chairperson for the Falls City Medical Society; and is on the visiting Nurse Association professional advisory committee.

She also has served on the Leadership Louisville Foundation Inc. board in past and current positions as secretary of the executive committee, and as a member of its finance committee, nominating committee and minority-recruitment committee.

She received the 1993 American Medical Women's Association Community Service Award.

Last year, Gaines organized an African-American Health Jamboree. The second, scheduled for June 27, features free health screenings, radon-test kits, smoke detectors, immunizations and healthy snacks. It also offers education on domestic violence, drug awareness and other issues.

The jamboree has seven sponsors and more than 60 exhibitors.

As a physician, "I know it's much cheaper to teach people initially to live healthy and keep them healthy than it is to take sick people and try to make them well," Gaines says.

The jamboree grew out of efforts by Gaines to increase radon awareness in the African-American community. Her task was to promote radon awareness through collaborative community efforts and coalition building.

"It (the jamboree) was her brainchild," says William W. Summers IV, Louisville's deputy mayor.

When asked how she can do her job and be so involved in community issues, Summers says: "I think she's like a number of us. You recognize you have a commitment to give something back, and you make time. I think she tends to take advantage of all of her time."

An article in a Metro United Way newsletter on Gaines' contribution to the community called her a "leader" among women, physicians and African Americans.

Dr. Ralph Morris, a Louisville physician, agrees Gaines is a leader.

He cites her ability to tackle projects and see them to completion. For example, she was successful in bringing a regional National Medical Association convention to Louisville in the early 1980s. The National Medical Association is an association of minority doctors.

The only advice Morris has for Gaines is: "She needs to slow down. She's working quite hard.

"I really have a lot of respect for her," he says. "I marvel at her energy. She's doing this as a single head of household." Gaines is divorced.

State Sen. Gerald Neal worked with Gaines on health care issues that have been debated in the General Assembly. In 1992, Gaines was on the Governor's Health Care Task Force.

Neal described Gaines as "a person with a lot of energy" who "does things, as opposed to talking about them."

Neal says he called on Gaines because "she's active and visible, accessible," and she's always willing to help.

Gaines is asked to be involved because she is "very open-minded," says Sharon Williams, a friend and vice president of minority business development with the Louisville Area Chamber of Commerce.

"She has natural leadership abilities," Williams says. "She's a very effective communicator. I think she makes people feel comfortable."

Also, Gaines is "assertive," Williams says.

Gaines says she tries not to do too much. With that in mind, in December she resigned from several groups.

Gaines says she elects to serve on boards or participate in an organization if she believes she can have an impact and add a different viewpoint.

She says she devotes one-half to two-thirds of her time of community service.

"That has a dollar value," she says. "My accountant could tell you that he has reminded me it has a dollar value. But then I think there are some things that are above and beyond money, especially for minorities.

"And that, maybe ultimately it will make things better for my business and other people's businesses."

Gains learned more about the area in 1987 when she completed the Leadership Louisville program. She came to Louisville in 1977 to attend the University of Louisville Medical School.

"I loved it," she says of Leadership Louisville. "I'm a transplant. I've been here since 1977. And I kept my nose to the grindstone and had been very focused."

Leadership Louisville was "like going to school" and learning about the community, Gaines says. "It gave me probably the best teaching lesson in how Louisville really runs. It was an eye-opener."

During Leadership Louisville she met Christine Johnson, now the president of the organization. Leadership Louisville was founded in 1979 to develop a network of future community leaders.

"She has a wonderful laugh and terrific energy, and a very genuine warmth about her that makes her stand out," Johnson says. "She's a delightful person to be around. She has a real zest for life.

"There's also a serious side to her. She takes strong positions in meetings. She doesn't hesitate to speak up. She is outspoken. But she doesn't alienate people in the process."

Johnson calls Gaines a "shining example of what Leadership Louisville's all about."

Gaines says she isn't sure what the source is of her motivation.

Perhaps it comes from her parents.

"My mother was a driven individual," she says. "She's very aggressive."

Her mother, Marie Madry, says she sees a lot of her late husband, Maurice, in Beverly. Maurice Madry died in 1973.

"He was a wonderful person," says Marie Madry, 77. "Beverly has his personality. She just loves people, and so did he."

Maurice Madry was a landscaper for the city of Columbus. He also sold flowers and vegetables from his own stand.

Gaines says of her late father: "My father could meet and greet. He had a high school education. When we sold flowers, winos would speak to him, doctors and lawyers would speak to him. He could just deal with people. I never saw my father mishandle a human being. He was always a kind, respectful individual.

"My father died, though, when I was in college," she says. She adds that if she has any regret in her life, it's that "he did not live to see me graduate." Gaines has her undergraduate degree in natural sciences from Case Western Reserve University in Cleveland.

Before speaking about her family, Gaines says she has to reach for the Kleenex.

"I came from a family that had real values," Gaines says.

Her only sibling is a brother, Philip, who is five years older. He is a journalist by trade who now works for a youth program in Columbus.

Because she has a large number of cousins, Gaines never had a baby sitter. She remembers getting together and playing the piano and sewing with her family.

She always did well in school.

"I never thought about not doing well," Gaines says. "I never thought about not doing my work."

As for her career choice, Gaines says: "I wanted to be a doctor since I can remember wanting to be anything."

Even when she was small, she would fix her father's cuts.

"I loved taking care of his wounds," Gaines says. "And I never wanted to be anything else."

The only time she deviated from her desire to be a physician was in college. She joined a pre-med club and heard someone talk about the odds of becoming a physician.

So Gaines got a minor in education and obtained the credentials needed to teach science in case she didn't get into medical school.

But she was accepted into the University of Kentucky medical school.

She got married in her first year of medical school in July 1975. Her husband, Samuel, joined her in Lexington to get his master's degree in business administration. After he got his degree, he was looking for a job. He found work with IBM in Louisville. Gaines started at UK and transferred to U of L for her last two years of medical school.

She finished her postgraduate training in December 1982.

In January 1983, she began working with a doctor in Indiana. During that time she was pregnant with Samuel, who was born in November 1983.

Sharon Williams suggested Gaines open her own office. At the time, Williams was with Citizens Fidelity Bank, now PNC Bank.

Williams says she met Gaines when Gaines took care of Williams' daughter.

In April 1984, Gaines opened an office with a partner, Ron Jones, at 1170 E. Broadway.

Jones left in 1987 to take a job offer in Arizona. In the same year, Gaines had back surgery.

"1987 was a terrible year, actually. Ron left in '87. We knew before I got sick (injured) he was going to leave. He got a job offer in Phoenix. That was probably the worst thing that happened and the best thing that happened, all in the same ball of wax.

"We weren't making that much money. We were seeing patients, but we weren't real good business people, so we weren't good on collections. When he left, because I had never been involved in the business side, I was forced to learn about the buiness. I hired a consultant from my bed, after I had back surgery. And I had back surgery in May; he left in August. I didn't come back to work until September."

Gaines' doctor originally had released her to work June 1987.

On her first day back, however, her car was hit from behind while she was driving home from the office.

She was out about an additional six weeks.

The consultant she hired to help with her business stayed for two years, initially working every day, one on one. When the consultant left, "it was like cutting an umbilical cord."

"By mid-'88 I was on a roll," Gaines says. "I was back on my feet."

In discussing her medical practice, Gaines notes: "In medicine, we've always enjoyed a good living. A lot of people are afraid to say that, but I'm not. I make more money than anybody in my family's ever made. If I probably make half next year what I made this year, I'll still make more money than anybody in my family. I'm not afraid to say that.

"If I have to make a little less to support health care reform, I could probably live with that. I'm not coming from here (she holds her hand up). I'm coming from here (she lowers her hand). I have too many cousins and uncles and aunts probably who need health insurance. . ."

Gaines does mention the fact she has a medical license in Florida, and jokes about moving down there and putting up her umbrella on the beach when she's ready to treat patients.

Gaines got the license in 1991, after a doctor she knows in Miami suggested she take over the doctor's practice there.

Gaines says she has no plans to move to Florida.

"I think you always should keep your options open," Gaines says. "I've had 10 good years," she says. "I'm very grateful for the 10 years I had. I hope I have 10 more like it. I might not."

With all her work, she says her only hobbies are her children. Even her daughter has told her, "you need to get a life."•

ADDITIONAL COSPONSORS TO S. 2243, A BILL TO AMEND THE FISHERMEN'S PROTECTIVE ACT

• Mr. STEVENS. Mr. President, I ask for unanimous consent that my colleague from Oregon, Senator HATFIELD, and my colleague from Idaho, Senator CRAIG, be added as cosponsors to my bill, S. 2243, to amend the Fishermen's Protective Act.

This amendment would allow United States fishermen who are being forced to pay an illegal transit fee in Canada to be reimbursed for paying in advance to avoid vessel seizures.

I am very pleased that Senator HATFIELD and Senator CRAIG are joining Senators GORTON, MURRAY, MURKOWSKI, PACKWOOD, and me in this effort. We hope that the Senate will support the expeditious passage of this important bill.•

STATEMENTS OF TRIBUTE TO LATE FIRST LADY JACQUELINE KENNEDY ONASSIS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senators may have until Wednesday, July 13, to submit statements of tribute to the late First Lady Jacqueline Kennedy Onassis.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING PRINTING OF STATEMENTS AS A SENATE DOCUMENT

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 235, a resolution to authorize the printing of statements made in tribute to the late First Lady Jacqueline Kennedy Onassis submitted earlier today by the distinguished Senator from Maine [Mr. MITCHELL] and the Republican leader, and others, and that the resolution be agreed to and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 235) was agreed to, as follows:

S. RES. 235

Resolved, That there shall be printed as a Senate document a collection of statements made in tribute to the late First Lady of the United States, Jacqueline Kennedy Onassis, together with appropriate illustrations and other materials relating to her death.

INCREASING FUNDS TO BANKING COMMITTEE FOR HIRING CONSULTANTS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 236, a resolution to increase the portion of funds available to the Committee on Banking for the purpose of hiring consultants, submitted earlier today by the distinguished Senator from Maine [Mr. MITCHELL], and the Republican leader, that the resolution be agreed to, and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 236) was deemed agreed to, as follows:

S. RES. 236

Resolved, That section 6(c)(1) of Senate Resolution 71 (103d Congress, 1st Session) is amended by striking "$1,000" and inserting $300,000".

FOREST ECOSYSTEM RESEARCH LABORATORY AUTHORIZATION ACT OF 1994

Mr. LEAHY. Mr. President, I ask unanimous consent that the Agricultural Committee be discharged from further consideration of S. 2155, the Forest Ecosystem Research Laboratory Authorization Act of 1994; that the Senate then proceed to its immediate consideration; that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table; and that any statements appear in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 2155) was deemed read three times, and passed, as follows:

S. 2155

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Forest Ecosystem Research Laboratory Authorization Act of 1994".

SEC. 2. FOREST ECOSYSTEM RESEARCH LABORATORY.

(a) IN GENERAL.—Subject to the availability of funds appropriated under subsection (c), the Secretary of Agriculture, acting through the Cooperative State Research Service, shall provide the Federal share of the cost of planning and constructing a Forest Ecosystem Research Laboratory at Oregon State University in Corvallis, Oregon.

(b) FEDERAL SHARE.—The Federal share provided under subsection (a) shall be 50 percent.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000, to remain available until expended.

Mr. HATFIELD. Mr. President, as we all know, the forests of the Pacific Northwest have been at the center of an intense national debate for several years now. As an active participant in these discussions, I am constantly reminded that many of the solutions to the management of these forests are heavily dependent on sound and accurate scientific information. That is why I introduced the Forest Ecosystem Laboratory Authorization Act in May of this year. I would like to thank the chairman and ranking member of the Agricultural Committee, Senators LEAHY and LUGAR for their quick and expedient consideration of this important bill.

The purpose of this legislation is to help us improve our understanding of the complexities of our forests. Specifically, the bill will authorize the construction of the Forest Ecosystem Research Laboratory at Oregon State University in Corvallis, OR, which serves as the focal point for forestry research in our country.

This new building will provide a modern facility to support innovative research in critical areas of forest ecology and utilization. The laboratory will improve the capacity of ongoing research activities of the Oregon Forest Research Laboratory which was founded at the University in 1941. It will also unite the personnel of the existing departments of Forest Science and Forest Products with the Forest Research Laboratory. Research conducted in the Forest Ecosystem Research Laboratory will focus on such important questions as the impact of climate change on forest, forest health, biotechnology, the structure and function of forests, sustainable forestry, and designing new products from a changing resource base.

I strongly believe the Oregon Forest Ecosystem Research Laboratory will provide us with an uniquely valuable tool for the development of sound, scientifically based ecosystem management for the 21st century and would like to thank Senators LEAHY and LUGAR for their assistance in bringing this important bill to the floor for consideration by the full Senate.

ORDERS FOR TOMORROW

Mr. LEAHY. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Thursday, June 30; that following the prayer, the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; and that immediately thereafter, the Senate proceed to the consideration of Calendar Order No. 484, H.R. 4506, the energy and water appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. LEAHY. Mr. President, if there is no further business to come before the Senate today, and I see no other Senator seeking recognition, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 11:21 p.m., recessed until Thursday, June 30, 1994, at 9 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate June 19, 1994:

SECURITIES AND EXCHANGE COMMISSION

STEVEN MARK HARTE WALLMAN, OF VIRGINIA, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR THE TERM EXPIRING JUNE 5, 1997.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Wednesday, June 29, 1994*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May Your spirit, O God, that renews us in body and mind, and whose power is the strength of all who believe, be with every person who turns to You for blessing. Where there is illness, give healing; where there is hesitation, grant courage; where there is doubt, grant faith; where there is anxiety or apprehension, grant peace. And may we, in all things, live and act as those who are created in Your image and trust in Your eternal grace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Connecticut [Ms. DELAURO] come forward and lead the House in the Pledge of Allegiance.

Ms. DELAURO led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 4581. An act to provide for the imposition of temporary fees in connection with the handling of complaints of violations of the Perishable Agricultural Commodities Act, 1930.

APPOINTMENT AS MEMBER OF BOARD OF REGENTS OF SMITHSONIAN INSTITUTE

The SPEAKER. Pursuant to the provisions of sections 5580 and 5581 of the revised statutes—title 20, United States Code, sections 42–43—the Chair appoints as a member of the Board of Regents of the Smithsonian Institution the following Member of the House to fill the existing vacancy thereon:

Mr. FOLEY of Washington.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will receive 10 requests from each side for 1-minute speeches.

UNIVERSAL HEALTH CARE COVERAGE NECESSARY FOR ALL AMERICANS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, last week President Clinton reiterated his pledge to veto any health care legislation that does not include universal coverage. We need universal coverage, not simply to cover the 40 million uninsured Americans who are without insurance today, but to cover the millions of insured Americans who could be without coverage tomorrow.

Too many working Americans are one accident or one illness away from having their health benefits terminated. Too many working families are watching their insurance premiums go through the roof, and too many Americans are running into lifetime limits and preexisting conditions.

Without comprehensive reform, more than 22 million working Americans will be denied health care coverage and more than 7 million American children will be left out in the cold. Without comprehensive reform, American businesses will continue to pay the hidden costs for the uninsured, and American workers will lose an estimated $46 billion in wages. Without comprehensive reform, even working Americans who have health coverage at work will pay an estimated $28 billion more for that same coverage.

If we do not pass a plan that includes universal coverage, working Americans will continue to face these uncertainties. We owe it to them to pass comprehensive reform. We owe it to the 40 million Americans without health care today, and we owe it to the millions of working Americans who could lose their health care tomorrow.

PARTISAN DELAY

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, who wants to be partisan, and who wants to find a bipartisan solution to health care? Who wants action now, and who wants to delay action?

Apparently Chairman JOHN DINGELL has given up on getting a commonsense health care bill out of his committee because he cannot find enough Democrats to support the President's bill. Sadly, he has decided to blame Republicans for his own failure.

I suggest to the chairman that he look in the mirror if he wants to find the real reason why he could not get a health care plan through the committee. After all, Republicans were willing to support the Rowland-Bilirakis bill, the only bipartisan proposal that could have served as a starting point. But the chairman rejected it out of hand. And, worse, I understand the Democrats have been working feverishly overnight to retreat from the first step to health care now that we adopted yesterday in the Committee of the Whole on the Health and Human Services appropriation bill.

We passed the Porter amendment, which greatly expanded community health centers in rural areas. Now the Democratic leadership wants to revote this amendment to kill this first step to health care reform. I think that is absolutely outrageous. I want to commend those 53 Democrats who joined with us in that positive vote yesterday. And to have the pressure applied to reverse yourselves when we go back into the House I think is outrageous.

Mr. Speaker, it is quite obvious who wants to be partisan and who wants to delay commonsense health care reform. I suggest maybe the Democratic leadership ought to be ashamed of itself.

THE MIDDLE CLASS AND HEALTH CARE

(Mr. DERRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERRICK. Mr. Speaker, there has been an explosion of health care proposals before Congress. Of all the options, one is completely unacceptable: no action at all.

The Wall Street Journal reports that if the status quo continues, more Americans are likely to be without health insurance and Government spending will likely rise to cover the cost.

The number of uninsured workers rose from 15.3 percent in 1988 to 17.5 percent in 1992. That trend is likely to continue, especially since our fastest growing industries often do not offer health insurance.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The middle class will fill these new jobs. If Congress does not act, the middle class will suffer. Americans know what is at stake. Yesterday, the Washington Post reported that 78 percent of Americans favor universal coverage, and 72 percent feel employers should provide health insurance to their employees.

Americans want and need health care reform. Congress can provide it. The middle class deserves better than partisan efforts to blockade reform: they deserve action.

THREE SHOCKING DEVELOPMENTS

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, we have had three shocking developments in health care in the last few hours. First, Chairman DINGELL's letter simply misinforms the House. He says, "The House Republican leadership actively opposed efforts to craft a bipartisan bill."

That is plain not true. We reached out to Democrat after Democrat. We offered to support the Rowland-Bilirakis bill, which is a bipartisan bill, which has 35 Democrats, 35 Republicans. We are committed to a bipartisan plan.

Chairman DINGELL was afraid to bring his committee together because a bipartisan bill would have had a majority and the President would have lost.

Second, Chairman DINGELL's letter says that he has already been promised by the Speaker and Majority Leader GEPHARDT that the Energy and Commerce leadership, which has failed, will now be in some kind of secret meeting writing a health bill, even though they failed. I hope that is not true.

Third, we have been told that the Clinton administration is trying to break up the bipartisan coalition Democrats and Republicans which last night passed the Porter amendment. I would hope that there are no Clinton clones who can be turned around in 24 hours on a policy vote that was real, to create more community health centers to help more people with health care.

□ 1010

HEALTH CARE REFORM

(Mr. ROWLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROWLAND. Mr. Speaker, yesterday, an amendment by JOHN PORTER transferred some money from the increases in administrative accounts of the Departments of Labor, HHS, and Education to develop additional community health centers in rural and intercity areas giving access to health care to tens of thousands of people who do not now have access. This amendment passed. Today, I understand, we may vote in the House to reverse this.

My question to my colleagues is this. If you are for health care reform, how will you explain to the people back home who sent you here that you voted against money for increasing community health centers, that is taken from administrative costs in Federal departments, but would vote for cuts in Medicare to finance health reform. That will not be easy to explain, to the senior citizens in your districts.

EQUAL HEALTH CARE COVERAGE FOR AMERICANS

(Mr. LINDER asked and was given permission to address the House for 1 minute.)

Mr. LINDER. Mr. Speaker, for the last couple of weeks the President and Mrs. Clinton have repeatedly said that they just want to give the same health coverage to the American people that Members of Congress have.

Now, setting aside the fact that the Clintons have the same coverage as Members of Congress, it is worth noting that there is presently a bill before each House that would do precisely what the Clintons say they seek to do.

The Nickles-Stearns bill would expand the Federal employee plan for those who are not insured. It also has a funding mechanism for the working poor.

Why has no Democrat signed onto this proposal? Why has Mrs. Clinton not applauded it?

Could it be that the Nickles-Stearns bill empowers individuals rather than enlarging the bureaucracy, or are they simply being disingenuous and misleading Americans again, something that they have elevated to an art form?

ATTENTION, DEFENDERS OF PRIVATE PROPERTY RIGHTS

(Mr. TAUZIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAUZIN. Mr. Speaker, over 100 Members of this House have now signed up as defenders of private property in America. Over 150 Members have signed onto House bill 3875, the private property owners bill of rights.

Today we launch a discharge petition drive to bring that measure on the floor of the House. It is not because the committee system has failed it. It is because the Committee on Rules consistently refuses to allow the issue of compensation for private property takings to reach the floor of this House.

Today Discharge Petition 23 has been filed. I urge Members of this body to sign up. As defenders of private property in America, we ought to make sure for every citizen of this country who owns property that when our Government takes that property from them, for whatever good purpose, be it an environmental purpose or otherwise, that they get the same kind of justice that large landowners can get when they can take a trip to the Supreme Court. That justice ought to be for compensation, for taking their property, for full payment by the U.S. Government as the fifth amendment to the U.S. Constitution reads.

Last week on Friday, the Supreme Court upheld the sanctity of that fifth amendment protection as sacred as free speech in the bill of rights. I urge fellow Members to sign up as a defender of private property rights. Sign up Discharge Petition 23; sign up on House bill 3875.

THE PRESIDENT'S POLICY ON HAITI

(Mr. McCOLLUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCOLLUM. Mr. Speaker, it is said that if one does not study history, one is condemned to repeat it. Judging from the President's policy on Haiti; he appears not only to have not studied history, but quite evidently was too busy running for office between 1990 and 1992 to even read the newspapers.

Had the President paid any attention to the situation in Haiti before he became President, other than to take cheap political shots at his opponent, he would have realized that announcing aboard-ship asylum processing was an announcement for every Haitian to take to the open sea.

And that is what has happened.

Does the President forget that just 2 years ago, the United States was processing, at its peak, 13,000 Haitians a month under a policy similar to the one he has just reinstated?

And what next? Rumors of a U.S. military invasion are rife in Washington. Does the President forget what happened the last time we invaded and occupied Haiti? We ended up occupying Haiti for 14 years and earned their enmity for many decades.

How will troops tied down in an occupation of Haiti be able to respond to a real crisis on the Korean peninsula?

Mr. President, read the papers and read history. Maybe we'll find a coherent foreign policy someday.

REPUBLICANS NOT PARTISAN

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, in a recent memo to his committee, the gentleman from Michigan, Chairman JOHN DINGELL made reference to what he considered to be the partisan resistance of the Republicans to a bipartisan bill.

Let us take a look at the history of partisanship on health care. On June 4, 1992, the House Republican leader introduced a health care bill on behalf of President Bush. On July 24, according to the Washington Post, the Democrats met under the direction of their leader the gentleman from Missouri, RICHARD GEPHARDT, as a part of an ongoing effort to reach agreement on a health care bill as a counter to President Bush's proposal.

The gentleman from Illinois [Mr. ROSTENKOWSKI], according to the Post, worried that health legislation might somehow backfire and hurt Democrat candidates, according to the Post. The gentleman from Illinois [Mr. ROSTENKNOWSI said, "I would hate like heck at this point in time to do something that would derail the upward swing that we feel with GORE and Clinton doing such an outstanding job."

Energy Chairman, the gentleman from Michigan, JOHN DINGELL said, to 50 or so Members, according to the Post, "What we are trying to do here is a political exercise to first of all work out our own program and, second, screw the Republicans."

Now, the gentleman from Michigan [Mr. DINGELL] calls us partisan. Let me suggest to the gentleman from Michigan [Mr. DINGELL] that he listen to the lyrics of that great tune by Jerry Jeff Walker, "the pot can't call the kettle black."

CATERPILLAR

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, 14,000 workers at Caterpillar are on strike. They are not striking because of pensions, health care, food stamps, welfare. They are striking because they are afraid to lose their jobs. And is it any wonder? A company spokesperson said, "We don't think we can compete in the global marketplace with our work force."

Unbelievable. This is not the same old song and dance strike, folks. It is a dance all right, but it is dirty dancing and it is dirty dancing right on the face of the American workers.

Congress is allowing our jobs to go overseas; workers are turning over their shoulders so hard, they are performing pirouettes right before our eyes. Congress sits here and rearranges the deck chairs and ships jobs overseas. Better wise up before we do not have a damn job left.

SPACE STATION ALPHA

(Mr. GRAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAMS. Mr. Speaker, July marks the 25th anniversary of the Apollo 11 moon landing—the culmination of one of the most significant undertakings this Nation has ever known. Yet on the eve of this historic event, the House is debating termination of the Space Station.

The United States has always been the leading economic and military power. By investing in futuristic research and exploring the unknown, we expanded the envelope of technology and created millions of jobs.

While some argue that Space Station doesn't impact their constituents, I disagree. Since its inception, the space program has resulted in countless spinoff technologies that positively impact our everyday lives.

The development of life-saving technologies such as programmable pacemakers and bioreactors for culturing ovarian and breast cancer cells have dramatically improved medical care. And environmental technologies such as water purification systems help us improve our world.

Some in this body have used the budget as an excuse to scuttle the Space Station. Yet, if the Space Station were terminated, these same members would turn around and waste these dollars on the Great Society programs that have failed. From a cost-benefit perspective, eliminating the Space Station would be "penny wise and pound foolish."

Today, let us recall the vision of President Kennedy and ask ourselves whether its time to return America from a nation of failed social programs to a nation of pioneers. America cannot afford one small step for man and one giant leap backward.

IN SUPPORT OF 85-15

(Ms. WATERS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.

Ms. WATERS. Mr. Speaker, in a few minutes the Labor, HHS, Education appropriations bill will be before us. The first order of business will be an amendment that is known as the 85-15 rule retention amendment.)

□ 1020

Simply put, Mr. Speaker, I am trying to stop the hemorrhaging of over $4 billion that is being ripped off by the private post-secondary schools. They are taking the money from our Pell grants and our student loans.

Members have heard them on television. They know who they are, the Joe Blow School of Computer Training. They have no computers. They train for something called medical assistance and truck drivers and security guards. They are ripping off the system.

Mr. Speaker, our students are not getting trained, they are not getting jobs, they lose their earned income tax credit because they default on these loans. If they get a little job, their checks are garnisheed. They cannot get any housing assistance through the Federal Government.

To simply put it, I am trying to use the rule when we found veterans were getting ripped off with the GI bill. It is the 85-15 rule. It says you must get at least 15 percent of your business from paying clients. If you have to have 100 percent, something is wrong.

Mr. Speaker, I am going to see who the real budget cutters are today. I am going to see who is going to support 85-15.

BACK ROOM HEALTH CARE REFORM

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, on the floor yesterday I expressed concern that when the deal gets done on the health bill, that it will be done in back rooms and it will be done in a way that the American people will not be able to have a look at what is happening in health care reform.

We have a letter now written by Chairman JOHN DINGELL to the Speaker that indicates that that is exactly what is about to take place. In his letter to the Speaker, DINGELL says:

> I appreciate your and Majority Leader Gephardt's assurances that the Energy and Commerce Committee will continue to play a key role as we bring health care reform legislation before the House Rules Committee and to the floor.

That is an admission that this is going to be done in the back rooms, because the House Committee on Energy and Commerce has not passed out a bill, yet they are going to be involved in the Rules Committee process and developing the package that comes to the floor. That is very worrisome.

Mr. Speaker, then we put that together with what the Democrats are about to do here today. They are going to try to reverse a health care vote that took place on the House floor yesterday out in the open.

When Member were asked to vote on whether or not community health care centers should be refunded rather than funding labor bureaucracy, Members of Congress decided to do health reform. Now they are being asked by the Clinton administration to reverse that vote.

Let us see how many people decide that health reform is not as important as they thought it was yesterday.

AMERICA MUST HAVE UNIVERSAL HEALTH CARE COVERAGE

(Mr. ROMERO-BARCELÓ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROMERO-BARCELÓ. Mr. Speaker, for nearly a century, Americans have discussed and debated how best to reform our national health care system. In the next couple of months, we have the opportunity to accomplish something that our Nation has never done before: provide health security to every American.

The debate over health care reform that will unfold in this Chamber over the next months will touch all of our lives and the lives of our parents, our children, and generations to come.

But no one will be more affected by the outcome of this debate than the millions of working and uninsured families in this country. If we fail to enact universal health care reform this year, more than 22 million Americans who work for a living will continue to be denied health care protection. That figure represents 85 percent of the uninsured people in this Nation.

As a recent Wall Street Journal article correctly stated: "The social and economic consequences of once again retreating from far-reaching reform are clear: more uninsured Americans and higher costs for Government."

Mr. Speaker, the cost of inaction is too high. America cannot wait any longer.

URGING MEMBERS TO VOTE FOR THE ROEMER-ZIMMER AMENDMENT

(Mr. ZIMMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZIMMER. Mr. Speaker, today the House will vote on whether to continue funding the space station. Last year when the gentleman from Indiana [Mr. ROEMER] and I proposed a straight cutting amendment, proponents of the space station argued that it would not cut the deficit. They said the money would be redistributed to other programs in conference.

This year, Mr. Speaker, we are proposing an amendment that will explicitly reallocate the $2.1 billion from space station funds to more cost-effective programs within NASA. Now our opponents are complaining that we did not offer the same kind of amendment that they criticized last year.

The truth is, Mr. Speaker, that killing the space station will cut spending by more than $60 billion over the next 18 years. Both the National Taxpayers Union and Citizens Against Government Waste understand this fact, and that is why they are including the Roemer-Zimmer amendment in their score cards.

Mr. Speaker, this may be the biggest single budget cut the House has an opportunity to vote on this year. Vote for the Roemer-Zimmer amendment.

AMERICA MUST HAVE HEALTH CARE REFORM WITH UNIVERSAL COVERAGE

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to address an issue on the minds of many here and in my district—health care reform.

The real solution which health care reform must find is the protection of the working class. Remember, 85 percent of the uninsured in America are in working families. The middle class of America will once again be left to shoulder the burden for rising medical costs if health care reform without universal coverage is enacted.

If we do nothing, some may say we will do no harm, but the facts say otherwise. For the people of Texas, our lack of action will mean over 2 million Texans who work for a living will be denied health care protection.

If we do nothing, Texas will lose about $2,5 billion in uncompensated care each year. If we do nothing, over 9 million Texans will be denied mental health and substance abuse benefits.

Texas and all of America needs health care reform with universal coverage as the central feature of the package.

As the Wall Street Journal noted, the lack of universal coverage will mean more uninsured and higher costs to the Government, which means higher costs to the taxpayer. We must make the smart choice and enact reform with universal coverage.

THE FAILED ADMINISTRATION POLICY ON HAITI

(Mr. CANADY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CANADY. Mr. Speaker, the failure of the Clinton administration policy on Haiti is becoming more and more obvious each day. The current exodus of Haitians from their troubled country is the wholly predictable consequence of an ill-conceived and mismanaged policy. If the administration stays on its present course, a disaster is likely to ensue.

To get off on the right track, Mr. Speaker, the administration should act to end the embargo of the Haitian people without further delay. The embargo is causing terrible suffering to the Haitian people, and it is driving them to seek refuge from the economic chaos caused by the embargo. There is no denying that the exodus of Haitians we have seen in recent days is the direct result of the ill-conceived embargo.

The administration should also end its support for Mr. Aristide, who has demonstrated that he is unlikely to ever be the unifying force needed to bring peace and prosperity to the Haitian people.

The administration's current policy is failing to protect not only the interests of the United States, but also the interests of the Haitian people themselves. It needs to be changed.

A DISRESPECTFUL ATTITUDE TOWARD THE MILITARY

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, when I was a boy, one of the things I was taught to respect was the flag and the people who serve in the military and defend our Nation. Those people, many of them, lie resting in Arlington Cemetery because they have given the last full measure of devotion in serving this Nation.

The White House, however, Mr. Speaker, has a different attitude toward the military. Not long ago a two-star general visited the White House. One of the top staff people said, "I don't talk to people in uniform." Then a few weeks ago, we saw that a U.S. Marine helicopter was used by the White House to go on a golfing trip. Then last week they had a Democrat fundraiser at the White House and they asked four of those sterling officers of the U.S. military to serve as waiters to serve those people tea and crumpets.

It is an absolute shame, Mr. Speaker, the attitude this administration has toward the military in this country.

BASE CONVERSION IS A VICTORY FOR AMERICA

(Mr. FARR of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FARR of California. Mr. Speaker, a year ago the President of the United States laid out a plan to return closed military bases to the community. In 10 days, the President's plan becomes a reality.

Next week Secretary of Defense William Perry will come to my district in Monterey, CA, to turn Fort Ord, the largest military base that is closed in the United States, into civilian control. The base conversion will not just be a victory for the base, it will be a victory for America, as we learn new ways of using our resources for economic recovery and for investment.

We will have the 21st campus of California State University built for the 21st century. Those unemployed will be reemployed. The development will spur Fort Ord into new economic recovery. Three thousand acres will be available for private land investment. The conversion of Fort Ord is a testimony to the President and this administration for their concern for the communities and for the effectiveness of base closures to be a catalyst for economic recovery.

CALLING FOR AN END TO SANCTIONS AND ANY PLANS OF MILITARY INVASION OF HAITI

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, There have been many reports in the New York Times and other places, that the administration is planning a military invasion of Haiti.

Lending credence to these reports is the fact that the Democrats in this body have just voted down requiring the President to get the approval of Congress before such an invasion.

The American people do not want a military invasion of Haiti.

There is no threat to our national security there.

There is no vital U.S. national interest there.

If we invade Haiti, it will be for the very worst of reasons—simply to satisfy domestic political considerations.

Aristide, who some say is not even a stable person, is not worth one American life.

We cannot afford the hundreds of millions a long occupation would require.

According to Senator GRAHAM, of the President's own party, our sanctions against Haiti are not hurting the rich, but they are starving the poor.

For the sake of poor people in Haiti, we should end United States sanctions immediately.

For the sake of poor and middle income taxpayers here, we should cancel all plans for an expensive, unnecessary, and unjustified, invasion of Haiti.

□ 1030

MARYLANDERS WHO HAVE DIED BECAUSE OF DOMESTIC VIOLENCE

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous material.)

Mrs. MORELLA. Mr. Speaker, every year, on a night that is always bitterly cold, a memorial service is held in Annapolis, MD, for the women and children who have died during the year at the hands of their loved ones. In February, the names of 73 Marylanders—women, boys, and girls—were read and remembered.

Forty-one were killed with guns, 18 with knives, 5 were strangled, 6 were burned to death, and 1 was scalded; 1 was killed with a carving fork, another was beaten to death.

Mr. Speaker, I have the names of those people which I will insert in the RECORD. Let us urge our conferees to act promptly to bring back this crime bill which includes the Violence Against Women Act. We can do no less.

The names referred to are as follows:

Deborah Sears, Randolph Robinson, Darlene Oliver, Elizabeth Lunenfeld, Pamela Ware, Victoria Hill, Ryan Gesner, Cecilian Ayala, Edith Hood, Cheryl Resch, Francine Stalkner, Billy Ward, Maxine Jackson, Margaret Jones, Stanley Braxton, Hosie Matlock, Daniel Blue, Daries Talley, Edward Taylor, Jeana Skates, William Glover, Eugene Baker, Gary Stevens, David Williams, Myisha Hall, Linda Pearson, and Curtis Bellamy.

Delphinia Edmond, Thomas Smith, Ruth Roberts, Calvin Smith, Sylvia Antezana, Angela Berry, Henry Young, Loretta Shifflett, Theresa Champigny, Jeffrey Larkin, Linda Oxidene, Stacey Platt, Donna Hudgins, Hattie Pratt, Lillian Dupont, Ivy Jones, Everett Jones, Cherise Smith, Gregory Murray, Afton Teal, Richard Williams, Jet Smith, Barbara Forbes, and Darnette Patterson.

John Richardson, Christopher Delauder, Frances Earp, Janet Hampton, Susan Gasiorek, Cynthia Hetterman, James Corkell, Melissa Pratz, Carrie Bolling, Penney Hanby, Deanna Hanby, Margaret Weigel, Harry Zellman, Theresa Hutson, Antoine Lucas, Russell Williams, Gregory Cook, Damien Cook, Takia Cook, and Dion Cook.

ADMINISTRATION DEFINITION OF UNIVERSAL COVERAGE

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, I guess we are hearing that we are going to go back and revisit the Community Health Care Center vote amendment by the gentleman from Illinois [Mr. PORTER], which passed yesterday. Last time we did that in the House and reversed ourselves on a policy matter it was Haiti. Today, sadly enough, we are seeing the tragic results play themselves out as a result of our extra stupid foreign policy on Haiti that resulted from a turnaround vote.

But let us go to health care. There has been lots of talk about universal access. We were told each and every American will have health care and a plastic card. But now the White House spokesperson says that does not necessarily mean all Americans. Each and every American does not mean all Americans. Well, what does that mean?

Maybe it means that the President's veto pen has no ink in it because maybe it means there are not enough members of the President's party who are willing to support the Clinton health care plan because we already know that the employer mandate side of that is going to cost Americans more than 1 million jobs. We know that is not what Americans want. We do not want to be losing jobs in this country. We want to be providing jobs and providing good health.

There is a way. There is a solution. We should embrace and focus on the Rowland-Bilirakis health care bill.

DEPARTMENT OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

Mr. SMITH of Iowa. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4606) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes.

The SPEAKER pro tempore (Mr. DARDEN). The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

□ 1034

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for further consideration of the bill, H.R. 4606, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, June 28, 1994, the bill had been read through page 65, line 16, and open for amendment from page 57, line 1 through page 65, line 16.

Pursuant to the order of the House of Tuesday, June 28, all debate on the bill and amendments thereto will close in 1 hour.

Are there any further amendments?

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 64, strike lines 9 through 14 and insert the following:

SEC. 507. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, this is the Buy American amendment.

I yield to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Chairman, as I understand it, all the gentleman is doing is restating the provisions the gentleman already has in the bill but in the same manner that it is in other bills. If that is the case, I have no objection.

Mr. TRAFICANT. Mr. Chairman, I yield to the distinguished gentleman from Illinois [Mr. PORTER], the ranking member on the subcommittee.

Mr. PORTER. Mr. Chairman, we have no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MS. WATERS

Ms. WATERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. WATERS: Page 65, delete Section 510 (lines 9–12).

Ms. WATERS. Mr. Chairman, this amendment would delete a delay in the so-called 85–15 rule, which is designed to keep abusive proprietary schools from wasting scarce Federal student loan dollars.

There has been a lot of misinformation about the 85–15 rule. Many people claim that quality schools will close if we comply with the Department of Education timetable for implementing 85–15. This is false.

Since 85–15 became law nearly 2 years ago, both the Bush and Clinton administrations have held extensive public comment periods—to solicit the views of those affected—and to prepare schools for implementation. Thus, all schools will have had nearly 2 years to be sure that 15 percent of their revenues came from non-Federal student aid sources.

Let me underscore this point. There has been extensive discussion on scoring funding for participating schools, however, the fundamental point of the 85–15 rule remains the same—no school which relies on title IV student loans for more than 85 percent of its revenue should continue to qualify for loans.

There has been some discussion that private contracting funds would not be counted toward a school's 15-percent revenue requirement. This is also false. Any funds from a private business which enrolls students in the regular training program of any school counts toward the school's 15 percent.

Mr. Chairman—people ask why cannot we just delay this for 1 year. First of all, we cannot afford delay. The New York Times has documented that up to one-fifth of the $20 billion in Federal student loan funds is hemorrhaging from the system each year because of abuse and fraud. The 85–15 rule would root out much of this abuse.

The delay proposed in this bill is the latest attempt to thwart reform. The fact is, the special interests representing bad proprietary institutions have always opposed the 85–15 rule. They have fought this rule every step of the way. The lobbying campaign to delay the 85–15 rule is merely a continuation of the misleading and heavy-handed tactics employed to stop our efforts.

The 85–15 has been used for 40 years to stop abuse of veterans under the GI bill. If it is good enough to protect veterans, why is 85–15 not good enough to stop scam artists from preying on low-income individuals?

There is a scandal brewing in America today. It is the scandal of unscrupulous private, post-secondary schools enlisting poor people into their schools, with no intention of training or educating them—filling out their student loan forms—and leaving the students with no education and no ability to pay back their loans. Students default on their loans—setting up a vicious cycle for the students.

□ 1040

Once a student defaults on a loan, they disqualify for public housing assistance, their future wages are garnisheed, their credit rating is shot, they cannot get earned income tax credit.

This system abuses poor people and costs the Federal Government billions of dollars.

Mr. Chairman, schools are being sued around the United States for these abusive practices. Schools are robbing the Federal Treasury and saddling unsuspecting students with debt. Schools are preying on low-income and minority individuals.

My amendment is supported by those who see firsthand the abuse in our communities. The Waters-Roukema amendment is supported by the National Consumer Law Center, by Consumers' Union, and the National Association of Consumer Agency Administrators. In addition, the amendment is supported by the Association of Independent Colleges and Universities, as well as the New York Times.

Delay will do nothing to stop the abuse. If we delay now, it will be longer than a year before the Education Department can implement the 85–15 rule. The language in this bill now prohibits the use of any funds to implement 85–15 before July 1, 1995.

We beat them on the rulemaking, and they came back into the Committee on Appropriations at the last minute. Anybody should suspect those who come at the last minute to try and thwart the efforts of a rule that has been worked on, that has been made such as this one.

That means the Department will not be able to collect the data which will be used to determine the applicability of 85–15 until July of next year. Final implementation will be some period of time after that.

We cannot continue to wait, Mr. Chairman. We have waited long enough. The 85–15 rule was passed in 1992. If we delay now, the soonest implementation will be 4 years after the date it was passed.

I ask for an "aye" vote on the Waters amendment to keep 85–15 in law.

Mr. BONILLA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to oppose this amendment, and I would like to point out, to start out, that the education of many people in this country, hundreds of thousands of them, hangs in the balance with the vote we are about to cast. They are counting on us to cast a "no" vote on this amendment.

With the overwhelming support of the full Committee on Appropriations last week, I attached this provision that the gentlewoman from California is now attempting to strike.

First of all, I would like to thank the chairman, the gentleman from Iowa [Mr. SMITH], for working with me on this issue. I offered this amendment in subcommittee and full committee, and he has shown nothing but fairness each step of the way in the legislative process.

During the 1992 reauthorization of the Higher Education Act, this floor amendment was adopted without any prior authorization, no hearings were held at all on this issue, which requires at least 15 percent of the trade school's revenue to come from sources other than title IV funds. I agree with this concept, because its intent was good, but the effect it is now having on the students and schools is bad.

This final regulation is much more restrictive than it was originally anticipated.

On the national level it is estimated that about 50 to 60 percent of the proprietary institutions serving over 800,000 students annually will have a real hard time in meeting or will not be able to meet this new definition. These are students that I would classify as your nontraditional students. They fall somewhere in between the high school graduate and the person who can afford to go to college, people who are trying to learn a special trade or skill in a private trade school that are oftentimes single parents, from low-income neighborhoods, that are just trying to advance themselves in the work force.

I do not think there has ever been an issue this controversial this year that has received such bipartisan support. I have a letter signed and dated June 9 from the Hispanic Caucus signed by every member of the caucus to Secretary Riley that supports postponing this rule. I have a letter dated June 10 from 20 Committee on Education and Labor members to Chairman SMITH requesting Chairman SMITH's help in delaying implementation of the rule as well. Another letter is dated June 13 from the chairman, the gentleman from Michigan [Mr. FORD], to the chairman, the gentleman from Iowa [Mr. SMITH], saying because of the potential for serious dislocation in these communities, the Committee on Appropriations may be presented with this proposal to delay, and such an approach would provide the community time to prepare for enforcement and allow for a more rational implementation of this regulation. I also have a letter dated June 16 from 103 Members of Congress, including the chairman of the Black Caucus, the gentleman from Maryland [Mr. MFUME], to Secretary RILEY that supports this delay.

Finally, I have a letter dated June 17 from 20 members of the Committee on Education and Labor to the chairman, the gentleman from Wisconsin [Mr. OBEY], requesting their assistance in this matter; 20 of 28 Democrats, 10 of 15 Republicans on the committee. I would say that that is strong bipartisan support.

Whatever the merits of 85-15, the process of bringing in the regulation is what is at issue, retroactivity and the definitions for revenue.

The Department of Education has had over 21 months to develop definitions of revenue and other relevant pieces to implement the 85-15 section. During that period, several of the factors chosen by the Department to determine compliance have changed several times. This is not a simple equation.

And remember, the Congress at the subcommittee level or full committee level has never had a hearing on this amendment and how it would affect the schools and students that would be affected by this rule.

If you go back and look at the debate on the House floor, it takes up less than one page of the CONGRESSIONAL RECORD, including the printing of the amendment. I just do not think that anyone could have anticipated ramifications of this provision.

The education community was given the minimum statutory time of 30 days to respond to the notice of proposed rulemaking. The final regulation was only published this spring in late April, and becomes effective this Friday. The regulation has a lookback component, a perspective, which requires postsecondary institutions covered under the rule to meet the regulation for their last fiscal year completed after October of 1993. That is retroactive. That is something the schools and students could not have anticipated.

Not only has the Department allowed no time to comply with the regulations, the Department has used definitions of revenue which ignore its own assumptions in the refund regulation which assumes the first dollar into an institution is a private dollar.

Another thing we must consider is if many of these students are forced out of school, their loans under this rule will be forgiven. We in turn are going to have to pick up and cover those loans to the tune of over $1.3 billion, and we all know that we cannot afford that.

I am asking Members—I am appealing to their compassion and concern for the students who would be affected by this vote today—to vote "no" on this amendment. People out there that have a dream that they are pursuing, many times holding down a job at night with a young child, are working—had to pursue that dream.

Vote "no" today to preserve that American dream.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

First of all, I want to say I commend the gentlewoman from California for pursuing this issue. It is an important issue to take on, and there is a lot of merit in it.

As a matter of fact, when we took it up in subcommittee, I thought at first that I was going to be wholeheartedly on her side. I do not care if it is 20 percent or it is 10 percent, any school that is getting this money that is not training somebody for a job is one school too many.

We need the money for those schools that are training people for jobs.

However, by the time we got to the full committee, 22 of the 24 members of the authorizing committee said, "Give us this amendment and delay this new rule so we can have an opportunity to work on this some more."

The regulations had just come out, and they wanted to change them. And so we worked with the authorizing committees, and so at that point the full committee went along with the authorizing committee, and we put this amendment in the bill, because we cooperate with the authorizing committees.

I want to make it clear, however, that I think that there is no excuse for coming on the floor again next year with the same kind of an amendment. One year ought to be plenty of time to work this out. Some way or another you have got to get rid of those schools that are getting money that are not training kids for jobs.

Ms. WATERS. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentlewoman from California.

Ms. WATERS. I think it is important to clarify something that was just said, not by you, Mr. Chairman, but by the gentleman from Texas, who indicated that he had a letter from Secretary Riley, and I do not know if he left the impression that that was a letter of support. The Department of Education does not take any position.

As a matter of fact, their letter indicates, "With respect to the regulations we promulgated on April 29, 1994, to implement the 85-15 rule," they say, "we believe these regulations are fair and reasonable and that they faithfully carry out the law." So the Department of Education has no position, and the Secretary does not support eliminating the 85-15 rule.

I wanted to make that clear.

Mr. SMITH of Iowa. Anyway, under all the circumstances, I support the provision that is in the bill that does delay the implementation of this rule so we can work with the authorizing committee.

Mr. PORTER. Mr. Chairman, I move to strike the requisite number of words.

Chairman, I oppose the amendment.

It is difficult for me to do so, because I support the 85-15 concept; 85-15 was designed to eliminate the Federal student aid mills, which are robbing taxpayers and shortchanging students. But here is what has happened: The Department has taken almost 2 years to issue its regulations.

□ 1050

There has been great anticipation of them. They finally issued them on April 29. They defined revenue in those regulations in a very unexpected way, and then applied that regulation retroactively. Many good schools will be kicked out of the title IV student aid programs as a result. For instance, schools which provide offsite training to employees of large businesses will not be able to include these programs in their base revenue unless the training that they provide offsite is exactly the same as the training they provide at the school. That would effectively prohibit trade schools from customizing offsite training programs to employer needs. That does not, to me, make any sense that these revenues would be excluded.

In addition, I have to say, Mr. Chairman, we have $30 million in the bill for State Postsecondary Review Programs [SPREE], and that is designed to root out waste, fraud, and abuse and define schools that are not providing real training to people which ought to be excluded from the title IV program.

So, Mr. Chairman, under these circumstances, I think that the provision in the bill that Mr. BONILLA offered as an amendment in the full committee that would delay implementation of 85-15 is reasonable. I therefore urge the Members to reject the Waters amendment.

Mr. DURBIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment offered by the gentlewoman from California [Ms. WATERS] and the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mr. Chairman, let me put this in perspective for a moment and tell you what we are talking about. We are talking about young people coming out of high schools desperate to find a job, who walk into one of these trade schools and sign a contract to be trained to become a cosmetologist, a beautician, a computer operator, you name it, and as a result of signing that contract, they are also in the process of applying for Federal assistance. We are talking about scholarships paid for by Federal taxpayers for these schools. Do you know what they charge some of these kids? $8,000 to $12,000 a year—$8,000 to $12,000. And these young people get enrolled in courses and find out they are not worth much at all. They may finish them and find out there is no job at the end of it. And what is left? You are left with a student who has a financial obligation, no job, and the taxpayers holding the bag. That is what this is all about.

And if you think Ms. WATERS and Mrs. ROUKEMA are making this up, the inspector general for the Office of Education has told us point blank that as long as these schools rely on Federal funding, they will kite the tuition fees as high as they possibly can and we taxpayers will pay for training that does not lead to a job. This is disgraceful.

That we would lose $4 billion a year that should be invested in good education for our young people and instead go to trade schools that are ripping them off and ripping us off as taxpayers. The inspector general says you can find community colleges in many of these same areas that charge a fraction of the cost and give better training.

But, no, the scam is the trade schools know where the money is. By capitalizing all this Federal money, they are exploiting the kids and the taxpayers.

Make no mistake, there are good trade schools, there are good business colleges. I am sure you are going to hear about them. But they cannot only survive, they are going to prosper because they are successful, good institutions. They should be in the front lines supporting the Waters amendment to get the people who are ripping off the kids and ripping off the taxpayers out of the trade school business.

I want to tell you many people are going to argue that a lot of kids from disadvantaged circumstances have no other place to turn but these trade schools. Well, I do not agree with that premise. But I do not think we are doing a favor to these kids from disadvantaged communities to put them in a school, saddle them with an obligation and dash their hopes again about any future, because they are going to be ripped off by this process.

Think about it: What we are saying is, if you are running a trade school and more than 85 percent of your funds are coming from this one program, frankly we are going to cut you off. We are not saying that they cannot have funds coming in from other Federal programs or other State programs, but that if they are just relying on this student assistance program we think they are taking advantage of the kids and taking advantage of the taxpayers.

I think that this is a critically important amendment. You will hear debate through this week, next week, and beyond about saving the taxpayers money. We are talking about $4 billion in waste, fraud and abuse.

Support the Waters-Roukema amendment.

Mr. GOODLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am going to speak rapidly because to get all this said in 5 minutes will be difficult. But I think we need the facts now. We have a lot of rhetoric going on here. We have a lot of talk about what took place in years past, but nothing about the leadership that we have had with Chairman FORD to do something about this issue.

So I am going to try to very quickly point this out.

The committee was positively correct in delaying for a year the implementation of this recently published regulation, published on April 29, 1994, as a matter of fact.

The 85–15 rule was adopted on the House floor. I amended the gentlewoman's amendment in order to do that as part of the reauthorization of the Higher Education Act in 1992.

The rule simply requires proprietary institutions to have at least 15 percent of its revenues from sources that are not derived from funds provided under this title.

Although this sounds very simple, if you follow the regulatory process you know that it is anything but simple. After months of negotiations, and drafts and redrafts of the regulations, the final regulations were published on April 29, 1994, with a July 1, 1994 effective date. Unfortunately, the Department of Education's application of the effective date has created serious problems for the many quality proprietary institutions across the country. These regulations with the stated effective date of July 1, 1994, are being applied by the Department to the period beginning July 1, 1993, to June 30, 1994. Some people say that is not retroactive; I do not know how you read it any other way. If retroactivity means extending in scope or effect to a prior time or to conditions that existed in the past, then regulations effective as of July 1, 1994, applied to a period of time prior to that date are clearly retroactive.

Some have said that the proprietary institutions have known for a long time what the regulatory requirements would be with respect to 85–15. That is not true at all.

As recently as a brief period between proposed regulations and final regulations, February 10, 1994, to April 29, 1994, these particular regulations underwent significant change and for my colleagues who believe the calculation is a simple one I want to point out that it took 11 paragraphs of small print in the Federal Register to explain what goes into the numerator versus the denominator for purposes of performing the 85–15 calculation. That cannot be simple.

Here is one example of the problem schools are facing: Schools which provide training to a business at the location of the business and not the school cannot count income from training programs as revenue for purposes of 85–15. This provision has seriously impacted schools which provide such training and thought the revenue counted toward the 15 percent of non-Federal revenue. Considering that the statute does not define revenue at all, schools should not be accused of being unreasonable for not being prepared to deduct income earned from educational training programs from the revenue calculations. Who would have thought that income from educational training programs offered to businesses would not be counted as revenue merely because of where the training occurred?

Another problem I have with the effective date of the 85–15 regulation is the potentially devastating impact on the schools and the students we are all talking about. By September 30, 1994, schools must inform the department of their compliance with the 85–15 rule. If a school is not in compliance, the school is liable for all title IV funds disbursed to its students since July 1, 1994, and it loses its eligibility for the title IV programs. If the school is forced to close, students will be 3 months into their programs and they will be without a school to attend.

Does that make sense if you are trying to help students? If the school is unable to repay the funds, the Government will be out the funds since the students will not be responsible for these funds. Why do we want to create such a situation when it could be easily avoided?

Let me point out things that have been done: I would be standing here with the gentlewoman from California [Ms. WATERS] if we were talking about 1986, 1987, 1988, 1989, but we are talking about 1994. We are not talking about past history. Yes, we set up a program just as we did in many other programs where we threw out too much money without much control, and we were taken advantage of.

☐ 1100

But, Mr. Chairman, as I indicated, the Chairman realized this, and we have been working on it. In 1986, for instance, the Consolidated Omnibus Budget Reconciliation Act of 1986 made three major changes to get at this issue. In 1986 the Higher Education Act Amendments made four major changes to get at this issue. In the Higher Education Act we also came up with three more ways to prevent this from happening. Delayed disbursement was one of those things that took place. The fortunate thing about the delayed disbursement is that we have eliminated

700 schools by doing this, and the people who are out in front are the proprietary schools, who are good schools, helping us to do that. We passed all sorts of things.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. GOODLING] has expired.

(On request of Mr. FORD of Michigan and by unanimous consent, Mr. GOODLING was allowed to proceed for 3 additional minutes.)

Mr. GOODLING. In 1989 we passed legislation in the Labor, Health and Human Services, and Education Appropriations Act requiring students to have a high school diploma or equivalency certificate to be eligible for title IV aid. In the Omnibus Reconciliation Act of 1989, Mr. Chairman, we passed one, two, three, four, five, six measures, to get at this problem so that we could save the proprietary schools that are good schools that we need, positively need, if we are going to be competitive in this world.

In the Omnibus Reconciliation Act of 1990, Mr. Chairman, again we passed four more things that would require these schools to be good schools and would not allow the schools to take advantage of students. In the Higher Education Act of 1992, we will not know exactly how much more improvement we have brought about by those amendments, because we disburse money, and then they go through the training, and we see what is going to happen. But again we passed three, six, seven, eight more specific things to make sure that we are getting the best proprietary schools.

Let me just tell my colleagues what happened already. Between 1989 and 1992 there has been a 20-percent decrease in the number of proprietary schools. Why? Because of the things we passed to make sure that the bad ones were pushed out, and, as I said, 700 have already gone by the wayside.

In 1989, Mr. Chairman, proprietary school students accounted for 32.7 percent of Stafford loans and 64.5 percent of SLS loans. By 1992 they dropped to 17.6 percent of Stafford and 27.7 of SLS respectively, almost a two-thirds drop in the loans going to these schools. In 1989, the loans to proprietary school students accounted for 27 percent of the total dollar value of Stafford loans, and 59 percent of SLS loans. In 1992, they only accounted for 13 percent of Stafford loans. We have gone from 27 percent already down to 13 percent and from 59 percent to 23 percent in relationship to SLS loans.

So, Mr. Chairman, my colleagues can see what is happening. Everything that our committee did in order to bring about a change in this whole operation so that students do not suffer and the taxpayers do not suffer is working. The number of proprietary school borrowers of SLS loans have been declining each year since 1989 when the number of borrowers was at a high of 415,000. It is now down to 158,000. The comparable dollars borrowed was $1.2 billion in 1989. We are now down to $500 million in this particular year. The number of proprietary school borrowers of Stafford loans has also been declining each year since 1989 when the number of borrowers were 960,000, and now we are down to 546,000. The comparable dollars borrowed are $2.6 billion, down to $1.5 billion.

Everything that has been put into effect is working to save the students, to give them the best education and to make very, very sure that taxpayers are not caught holding the bag.

Mr. STOKES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentlewoman from California [Ms. WATERS]. In doing so, Mr. Chairman, I want to also take a moment, and in the same manner that the chairman of this committee has complimented her for bringing this matter to our attention, stressing the fact that this is a very serious matter, I want to concur in that respect.

However, Mr. Chairman, at this time I support the committee and the amendment which we adopted in the full committee which was sponsored by the gentleman from Texas [Mr. BONILLA]. I think it is important for the House to understand that at the subcommittee level and the full committee level we had extensive dialog and debate on this issue. When we left the full committee, when we left the subcommittee, we did so with the understanding that in the interim period between the subcommittee meeting and the full committee meeting that I would consult with members of the Committee on Education and Labor, and in particular the chairman of that committee, with reference to how they felt about this particular amendment. In talking with the gentleman from Michigan [Mr. FORD] and also the ranking majority member, the gentleman from Missouri [Mr. CLAY], Mr. Chairman, both of them were emphatic in the fact that they supported the delay of the implementation of this regulation as was being supported and sponsored by the gentleman from Texas [Mr. BONILLA].

One of the most persuasive issues or points that came to fore was the fact that we had in our possession at the full committee level a letter from the gentleman from Michigan [Mr. FORD]. I would like to refer to that letter because I think the committee was strongly persuaded in its action at the full committee level in adopting the amendment offered by the gentleman from Texas [Mr. BONILLA] by this language in Chairman FORD's letter. He said to us:

> On its face the 8515 rule is well intentioned and a seemingly simple attempt to ensure that proprietary school programs are sound enough to attract students who are willing to expend their own resources, as well as those of the Federal Government. However the authors of the amendment could not have foreseen the level of complexity surrounding this issue, which is due to a number of variable factors such as student demographics and income levels, local economies and particular institutional programs. Because of this complexity, the 8515 rule appears likely to force the closure of schools that have successfully trained and placed large percentages of their enrollees and may eliminate vital job training resources from low income communities. These issues only now are being brought to light because of the absence of any hearings on the issue before the rule was adopted.

He then went on to say that we are now faced with serious questions as to the prudence of enforcing the 8515 rule on the basis of fiscal year 1993 as the Department of Education proposes.

I think that the letter of the gentleman from Michigan [Mr. FORD] was very persuasive in terms of our committee wanting to follow the dictates of the authorizing committee. All the amendment of the gentleman from Texas [Mr. BONILLA] does is to delay for 1 year the implementation of this rule. It provides an opportunity in the interim period for the authorizing committees to look into this very complicated and very serious matter. There is no question but that at the time that the gentlewoman from California [Ms. WATERS] imposed this amendment, that there was a serious problem. There are good proprietary schools, and there are bad ones. All of us have seen them in our congressional districts. But that is not the point here. The point here today is the simple matter of delaying for 1 year the implementation of this regulation imposed by the Department of Education.

I think that the amendment we have adopted in the full Appropriations Committee is a good amendment. I think that the amendment offered by the gentleman from Texas [Mr. BONILLA] is thoughtful, it is incisive, it makes sense, and I support that amendment. I would urge the defeat of the amendment offered by the gentlewoman from California [Ms. WATERS].

Mr. HORN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, colleagues, I have been an educator since 1969. I have seen this growing scandal since that time as president of a university and as the chairman of a national association of 373 universities. Congress made a fundamental mistake when it permitted a group of schools to access Federal student loan funds that might have many qualified schools, but also has many unqualified schools in their midst, and that is the proprietary schools of the country.

There is no doubt that some proprietary schools do fine training. Many of their students do learn something and secure a job. That is not the question.

The question here is postponing for 1 more year a sensible regulation that requires these schools to have at least 15 percent of their revenue from other than Federal loan funds. Those who want to continue procrastination in this area will stand accused of billions of dollars in defaulted loans being added to the national debt. When students learn nothing and cannot get a job to repay the loan, they default.

Now, if there is something wrong with the regulation, do not postpone it for a year. Support the gentlewoman from California [Ms. WATERS] and the gentlewoman from New Jersey [Mrs. ROUKEMA] amendment and rewrite it in the conference with the Senate. But we need action. We do not need more procrastination.

In my humble opinion as an educator who has watched with great upset this trend, those who vote against the amendment are simply adding to the national deficit, and we should regard that as gross irresponsibility.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. HORN. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, the gentleman referred to his career before Congress. He and I became friends long before I met him here on the floor of the House.

I have been the chairman of the Committee on Education and Labor since 1977, and the gentleman called upon me numerous times as a very effective lobbyist for the type of institution he was employed by.

Now he is here and he is talking about another type of institution. Never did I ever hear from the gentleman any concern about the mistakes we were making. Just "We need more money."

There are institutions like yours, sir, that will be caught by these silly regulations, if they are permitted to go forward in the form they are in now. It is not just proprietary schools.

Just 3 weeks ago the House voted overwhelmingly to delay the impact of this on historically black colleges because we realized the majority of them would have been adversely impacted and they had no opportunity to prepare for it. We delayed that for 2 years.

This is not a 2-year delay. This is a delay until the end of this appropriations year. You will notice before this debate is over, the overwhelming majority of the members of the committee that writes this legislation and who wrote all of the integrity provisions that the gentleman from Pennsylvania [Mr. GOODLING] referred to, believed that what we did is working.

We have no problem with 85-15 if it was intelligently applied. But the way these regulations would apply it makes absolutely no sense. As the gentleman from Pennsylvania [Mr. GOODLING] said, if you need 11 pages of fine print to explain the components of the denominator in trying to come up with a formula for what is 85 and what is 15, there is something wrong, because everybody who rushed to judgment out here and voted for the gentlewoman's amendment thought they understood what 85-15 was.

You have got to get at least 15 percent of your money from some source other than the Federal Government. Not so by the regulation. That is the problem. Not so by the regulation. And that is why the Department of Education is working with us to go back to the drawing board. We will put 85-15 in effect before I leave here, but we will put it in effect in a sensible way, so it does not throw the baby out with the bath water.

Mr. Chairman, in preparation for the 1992 reauthorization of the Higher Education Act of 1965, the Education and Labor Committee reviewed and debated virtually every aspect of the act with the objective of improving the quality and integrity of Federal higher education programs. As a result, the committee reported out a bill that recommended substantial increases in the level of scrutiny over these programs and rigorous fiscal integrity provisions to protect American taxpayer dollars. The Higher Education Act reauthorization adopted by the 102d Congress includes new programs that are now enabling the Department of Education to eliminate the problem schools and weed out the unscrupulous actors who have sought to gain at the expense of American taxpayers and students.

During the floor debate of the 1992 reauthorization, this body also adopted an amendment now known as the 85–15 rule, which states that proprietary institutions with more than 85 percent of their revenues from title IV of the Higher Education Act are ineligible for title IV funds. The 85–15 rule is a well-intentioned and seemingly simple attempt to ensure that proprietary schools are sound enough to attract students willing to spend their own funds to attend. However, the rule is not simple, and, despite its good intentions, will not have the desired effect of eliminating inferior institutions while retaining only those that are sound and worthy of Federal support.

Because the 85–15 rule was offered on the floor, the authorizing committee had no opportunity to review its effects or implications. Had the issue been properly raised before the Education and Labor Committee's consideration of the Higher Education Act reauthorization, the committee would have summoned witnesses and consulted the Department of Education, which would have allowed it to assess the impact of the 85–15 rule. The committee would then have advised the Congress as to how this rule would affect schools in Members' districts, described the characteristics and relative successes of the schools likely to be affected by this rule, and presented the Congress with an analysis of how this rule would affect the students attending these institutions. However, because the amendment was offered on the floor, thereby preempting the Education and Labor Committee's analysis and review, the Congress did not have the benefit of all the information relevant to the effects of the 85–15 rule.

Some of that information is now becoming available, and early reports indicate that serious problems may result from the Education Department's proposed imminent implementation of this rule. For example, it appears as if all of the proprietary schools in Puerto Rico will be closed. Many schools in economically distressed areas that are now training hard-to-serve populations and placing them in steady jobs with good futures will be closed. Other schools with unacceptably low placement rates will be completely unaffected by this rule. On the other hand, some schools that are presently providing highly valued services to companies on a contractual basis will be closed since those contracts are to be excluded from the Department's calculation of revenues. Since the authorizing committee did not have a chance to build a record on this issue among others, the Department of Education had little guidance as to whether to include these funds in the definition of revenues.

There are other problematic issues relating to the enforcement of this rule. For example, schools that become ineligible in the coming year will be required to return all title IV, HEA funds expended after July 1. But because a school will begin awarding Federal aid to students before they can be certain as to the percentage of non-Federal funds, some of those schools will not know whether they are in compliance until they have spent the Federal money. Schools will be forced to make high-stakes wagers on whether they will qualify, since decisions will have to be made after Federal aid has been spent on their programs.

A reasonable delay of the enforcement of this rule will give schools an opportunity to prepare and make appropriate changes in their programs to comply with the rule. This does not mean that bad schools get a reprieve from meeting Federal standards. The 1992 reauthorization is now eliminating institutions that do not meet Federal fiscal integrity standards and will continue to do so as many of the regulations implemented pursuant to the 1992 reauthorization of the Higher Education Act take effect. However, a delay, such as that recommended by the Appropriations Committee, may be a prudent way to avoid closing good schools and would prevent the unnecessary disruption and dislocation in the communities these institutions serve.

Mr. HORN. Mr. Chairman, reclaiming my time, I think the gentleman, who has a very good memory, will recall that I importuned him, as I did the 1970 White House Conference on Youth, that we should be collecting student loans through our income tax system. I regret that Congress has not acted earlier on that proposal.

Mr. FORD of Michigan. But the gentleman acknowledges we have acted.

Mr. HORN. I acknowledge you acted. We acted a decade after we should have.

Mr. FORD of Michigan. We finally have an administration that is willing to use the Treasury Department to collect the loans.

Mr. HORN. As I recall the Reagan administration arranged for the loan payments of those who had defaulted to be collected against any refund due to the individual from the Internal Revenue Service. Since 1970, I have advocated that all individual loans owed to the Federal Government be collected by IRS based on an ability to pay. By the way, not one institution of the American Association of State Colleges and Universities would fail to qualify under the 85–15 rule.

Mr. Chairman, I include as part of my remarks, the relevant concerns on this subject expressed by the American Association of State Colleges and Universities [AASCU].

AASCU RESOLUTION OF 1975: PROPOSED LEGISLATION AND REGULATIONS ON ACCREDITATION

Whereas, the U.S. Office of Education is considering legislation and regulations which (1) would broaden the language of the Educational Amendment of 1972 to make private and proprietary postsecondary vocational institutions eligible for student assistance funds by way of State approval and (2) revise existing regulations to require that accrediting agencies agree to provide monitoring services in areas other than the academic quality of postsecondary institutions; and

Whereas, the proposed legislation raises the specter of repetition of the poor performance of some state level agencies with the G.I. Bill in the post World War II era; and

Whereas, AASCU believes that education and the public interest are best served when the determination of eligibility for Federal funding involves the appropriate and mutually reinforcing role of Federal government, state government, and voluntary, non-government accreditation and when the role of voluntary, non-governmental accreditation is properly recognized as being that of evaluating and promoting educational quality;* * *

Mr. HORN. Mr. Chairman, I note in particular the reference to some of the awards made during the Second World War. Congress changed the ground rules for GI bill awards made to Korean veterans.

AASCU RESOLUTION OF 1979: IV. PUBLIC FUNDS FOR PRIVATE AND PROPRIETARY INSTITUTIONS

Today, over 40 states provide some form of aid to the private sector. State student aid (sometimes limited to "independent" colleges) is most common, but an increasing number of states also have institutional aid, on a per student or per degree awarded basis. Some now have "tuition offset" or "tuition equalization" programs which are intended to reduce tuition to make it possible for more students to attend private colleges, and some also include proprietary school students in their state student aid programs.

AASCU believes the state's first priority should be to insure the quality of public higher education. While we strongly support the American concept of pluralism in higher education, we stand by the position that no state aid to the private or proprietary sector should be at the expense of public college students, either in terms of reduced appropriations for the public sector or increased tuition and student charges at the state colleges and universities.

AASCU RESOLUTION OF 1994–1995

Support radical legislative and regulatory remedies to the morass of fraud, waste and abuse the besets student aid especially in the for-profit sector.

Mr. HORN. Mr. Chairman, the National Consumer Law Center, Inc. has made an excellent statement answering the most common arguments against the 85–15 rule. I ask that the statement be included at this point in my remarks.

NATIONAL CONSUMER LAW CENTER INC.,
Washington, DC.

ANSWERS TO THE MOST COMMON ARGUMENTS AGAINST THE 85–15 RULE

Will most trade schools, including both good and bad schools, be forced to close if the 85–15 regulation becomes effective July 1, 1994?

No! Most good trade school are able to attract non-Title IV revenue. The biggest impact of 85–15 will be on shoddy Title IV mills which exclusively solicit low-income students eligible for the maximum federal loans and Pell grants. If the school provides meaningful training for decent paying jobs for which there are openings, students will spread the word, and others will enroll, and pay or have their families pay toward their tuition.

Trade schools say that minorities and poor people will be hurt by the Department of Education's 85–15 regulation. Is that so?

No. To the contrary, the 85–15 Rule will *help* poor and minority students by protecting them from shoddy programs at schools set up primarily to receive federal Title IV aid. It will shield them from the consequences of loan default which will most certainly follow from inadequate education or training including: being barred from future educational opportunities (which require grants or loans); having their Earned Income Tax Credits or income tax refunds seized to satisfy defaulted loans; being unable to get a car loan, mortgage, or subsidized housing due to a bad credit report.

Schools say that the 85–15 regulation operates retroactively. Is that so?

Absolutely not. The effective date of the law was October 1, 1992. It has not yet been implemented. Under the Department's regulation, no revenue from before October 2, 1992 would be counted. The trade schools also argue that the definition of revenue adopted in the final rule is different from the proposed rule in that the final rule only allows counting of revenue generated by Title IV-eligible programs. But most schools have only Title IV-eligible programs so counting only that revenue would be the same whether one applied the proposed or final regulation. Consequently, the Title IV revenue limitation would have no effect on most schools.

What's the harm of a one year delay in the 85–15 regulation?

Scarce Title IV dollars will be lost to unscrupulous schools and low-income students will be harmed. They will have incurred loan liability for inadequate training and suffer the many adverse consequences of loan default.

Is the 85/15 regulation beyond the statutory authority?

No. The regulation closely tracks the statute and reasonably defines the formula by which compliance with the rule is determined.

Weren't trade schools part of the process that negotiated the regulations with the Department?

Yes. The industry participated in an extensive negotiating process to develop the regulations, along with colleges and student and consumer groups, from January through September 1993.

Trade schools claim that the 85/15 regulation prevents them from counting as part of their total revenue funds obtained through training contracts with companies to train their employees. Is that so?

No. The revenue can clearly be counted so long as the school's program is eligible for Title IV aid.

Is there any precedent for the 85/15 Rule in other federal programs?

Yes. Training programs funded through the GI Bill for veterans contain a similar 85/15 limitation, also meant to curb abuses perpetrated by trade schools set up primarily to garner federal aid.

Is cash from students or their families the only way to satisfy the 15% requirement of the 85/15 Rule?

No. Other forms of state, local and federal government dollars, such as Job Training Partnership Act (JTPA) funds, federal Perkins Act funds and state grant monies, may also be used to meet the 15%.

Is the Department's definition of revenue in the 85/15 regulation unfair to trade schools?

No. The definition is the result of compromise through the negotiated rulemaking process required by Congress. Just as trade schools believe the final regulation is too harsh, consumer advocates believe that it is too loose since it allows schools to count as revenue certain monies from non-training activities.

Mr. HORN. Mr. Chairman, the inspector general of the U.S. Department of Education, the Honorable James B. Thomas, Jr. has appropriately expressed his "concern about H.R. 4606 * * * which would delay the effective date of the 85–15 rule." He is correctly concerned about the fraud, waste, and abuse which will occur if we do not support the Waters-Roukena amendment.

OFFICE OF INSPECTOR GENERAL,
U.S. DEPARTMENT OF EDUCATION,
Washington, DC, June 24, 1994.

Hon. CLAIBORNE PELL,
Chairman, Subcommittee on Education and Humanities, U.S. Senate, Washington, DC.

DEAR SENATOR PELL: I am writing to express my concern about H.R. 4606, a bill approved this week by the House Appropriations Committee, which would delay the effective date of the "85/15" rule. That rule was enacted as part of the Higher Education Amendments of 1992, 20 U.S.C. §1088, and became law on July 23, 1992. It requires that proprietary trade schools derive at least 15 percent of their revenues from non-Title IV sources. In my view, this is an important anti-fraud, waste and abuse provision that should not be delayed.

The Office of Inspector General has done extensive work on the student financial assistance programs under Title IV of the Higher Education Act for many years, and we have identified the proprietary trade school section as a major contributor to the fraud, waste and abuse in the programs. One such abuse is that such schools set tuition prices that bear little or no relation to the quality of the training, the prospect for employment in the field of the training and the prospect for a salary that will allow students to pay their federally insured loans and support themselves. Instead, our observations reflect that the tuition price is often set based upon the maximum federal student financial assistance that is available, leading in many cases to inflated prices that the federal taxpayer and student are being asked to bear. Our studies have documented instances where community colleges and other public institutions offer training in the same field sufficient to allow students to gain entry-level jobs for a fraction of the price charged by proprietary trade schools.

Before the 85/15 rule, there was no provision of law to ensure that tuition prices were reasonable. On the contrary, the availability of Title IV money actually interfered with free market forces that would otherwise control prices, because no one was required to pay his own money for the training or find non-Title IV sources (e.g., private, state or other federal program sources). By ensuring that a modest amount of such schools' revenue come from non-Title IV sources, the 85-15 rule will re-introduce a measure of free market control and force prices to reasonable levels relative to the value of the training offered, without direct federal price controls.

Because I believe this very valuable purpose is served by the 85-15 rule, I am not convinced that it should be delayed based on arguments by the proprietary trade schools that some percentage of such schools will close if the rule takes effect on schedule. First, as I have previously testified before the Senate Appropriations Committee, the acronym "SFA Programs" stands for "Student" Financial Assistance Programs and not "School" Financial Assistance Programs. We must be concerned first and foremost about the students who are victimized by inflated tuition prices for training for generally low-wage jobs, and end up defaulting on their student loans. Second, we have not seen data supporting the statistics for potential school closures cited by the proprietary trade schools. Third, we do not know whether schools that maintain they cannot comply with the 85-15 rule have made any serious efforts to do so in the two years since the law became effective. Finally, based upon this office's extensive experience auditing and investigating proprietary trade schools in the Title IV programs, we believe it is likely that most schools that cannot meet the 15-percent rule have other serious programmatic problems such as high default rates, late refunds and administrative capability problems. I do not believe that "good" schools—those providing valuable training for reasonable prices—will fall victim to the 85-15 rule.

I urge you to reject any attempt to delay or otherwise weaken the 85-15 rule.

Sincerely,

JAMES B. THOMAS, Jr.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Waters amendment. The gentleman from Texas [Mr. BONILLA] has done a good job, as has the gentleman from Michigan [Mr. FORD], the gentleman from Michigan [Mr. KILDEE], and the gentleman from Pennsylvania [Mr. GOODLING].

Does the amendment of the gentlewoman from California have some good merit? Yes, it does. Have there been fly-by-night schools? Yes, there have been. The committee and other sources have been working diligently to eliminate those schools.

Since 1989, over 20 percent of those fly-by-night schools have been closed. Can we do it better? I think even the chairman would agree, yes, we can. All we are asking for is to wait until the end of this year when the gentleman from Michigan [Mr. FORD] retires, to resolve the situation. The formula, the means in which to calculate this, is so monumental, that we are going to close a lot of good schools.

I do not have the primary schools in my district. They are down in South Bay. But I have been to 11 of those that are performing very, very well. What are those schools? A couple of them are beautician schools and cosmetology schools. I wanted to tell you, they are very effective.

By law, they are required to spend extra time in service at the school for practical application. And who do they help? They help the very, very poor, because they practice on someone that cannot afford to get a haircut. The gentlewoman would know this. I would invite the gentlewoman to come to San Diego, and I would be happy to take her down there.

This amendment is ill-advised. Congress could not have foreseen the devastating impact of provisions on students attending private career colleges.

Mr. Chairman, I envision education as if you take a look at the number of children who start college, it is a very low percentage. If you take a look at the number that finish college, that is a low number. If you take a look at those that drop out, that do not finish a college education with a skill that they can use in later life, it is a much higher percentage than those that finish college. So we need to educate and provide basic education for schools. Without some of these schools, that will not happen.

We need schools and trade schools for women. This fills that. There is very little of those in existence today. The department regulation is applied retroactively and includes language which prohibits institutions from counting all viable revenue in the formula itself. It is monumental. We are going to close a great majority of our good schools. That is going to equate to 1.2 million children that will not have vocational education training.

That is why I oppose the amendment. If the current regulation is implemented, over 50 percent of these quality proprietary institutions of higher education in the Nation will be forced to close their doors.

I take a look at what we need to do in education. I feel that the vocational education, the training, the things that we need to proceed with, are much more important than some of the things we are doing even for higher education.

Ms. WATERS. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentlewoman from California.

Ms. WATERS. Mr. Chairman, I thank the gentleman from California for yielding to me on this issue.

Mr. Chairman, I simply would like to say that certainly I would accept your invitation to come to San Diego to see poverty, but I really do not have to go very far. I represent a district that probably has a lot more poverty than the area that you are suggesting I visit.

Does it not strike you as strange that the so-called liberal lady from California is up here fighting, fighting to keep resources, as you would have described them, out of a district of poor people? I think I have a reputation for trying to get everything that I can get for poor people. When the liberal lady from California stands up and says no, I do not want it in my district, you better know something is wrong with it.

Mr. CUNNINGHAM. Mr. Chairman, reclaiming my time, I know the gentlewoman fights for poor people, and I support that. But I also see other liberals on the committee that are opposing her amendment, and for good reason. If the gentlewoman could run a business and see how you make it run, and write paychecks to keep it from closing, that is what we are talking about here. We are talking about closing businesses that provide a valuable education source to many thousands of students.

I would have the gentlewoman come to my district. It is not exclusively poor. But I would also like her to look at the good that these schools are doing. I say that sincerely to the gentlewoman from California.

Mrs. MEEK of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Waters amendment. Now, why would I oppose the gentlewoman's amendment? We come from similar kinds of backgrounds and districts. I have taught school and worked in impoverished communities for 42 years. I have seen and served on education committees for the last 14 years. So why would I not support the Waters amendment? I wanted to tell you why.

The issue here is certainly not the 85-15. That is not the issue. If you listen to the impassioned remarks, you would feel that that is the issue.

□ 1120

That is not the issue. The issue here is one which the Committee on Appropriations had to face. It is one which the subcommittee from the Committee on Education and Labor and the entire full committee had to face.

No. 1, there is a problem. There has been one. It is not as much as it was, but it is much less, as we heard the gentleman from Pennsylvania [Mr. GOODLING] talk about. So that is not the issue. Do not be waivered by what we hear based on emotion.

No. 1, the fact is 85-15, the concept, is a meritorious concept. What we are arguing here today is the delay in this should be held. Why should we delay the implementation?

No. 1, it was suddenly put into effect. It was written and the regulations were released on April 29. Now the Department of Education and the supporters of this amendment would say to us that it could be implemented without confusion, quickly, and it is going to hurt a lot of people.

I come from a district where there are women with small children. There are people who need jobs, who have been through a hurricane, who have been through four major riots. They have been through all kinds of devastating occurrences. But I can stand here and say to Members as an educator, we cannot do a quick fix to this problem. We need to go back to what the subcommittee or the Committee on Education and Labor has already come up with. It is called the Post Secondary Education Review Committee. They are the experts in this.

They are talking to industry throughout this country. We are speaking to people who come from neighborhoods like mine and from the gentlewoman. I want to help the same people that she does. I want to help the same people that the Committee on Education and Labor does. Look at this, give it a chance because we understand that most schools, like the ones that this amendment will affect, serve individuals who need help most in going up the education ladder.

Historically, these schools earn about 8 percent of their income from nonfinancial aid sources. Historically that is the case. But would it not make more sense to study these schools, to give the Committee on Education and Labor a chance to study these schools' income and patterns and compare their schools' performance in areas such as graduation and placement rates? All of these schools are not bad. All of these schools are not ripping off the students. Those that are left may not ever, the community college may not ever accept some of the students that go to some of the schools that are doing a good job in our neighborhoods.

So this amendment would be much better, also, the gentlewoman has compared it to the GI bill. But it is not just like the GI bill because the GI bill had a waiver in it, which would give the administrator a chance to waive these requirements of this subsection in whole or part if the administrator determines it to be in the interest of the eligible student and the Federal Government.

We are talking about putting all the emphasis on these schools. I want Members to think before they vote about these students who are also impacted negatively by this quick jump-start movement by the Department of Education. Vote against the Waters amendment, because it does not give us a chance to study this for the good of all concerned.

Mrs. ROUKEMA. Mr. Chairman, I move to strike the requisite number of words.

I urge support of the Waters-Roukema amendment. As a cosponsor of that amendment, I want to say here that our colleague from California, [Ms. WATERS], deserves a lot of credit for what she is doing here. She does represent poor areas, but she understands that the kids are the victims here. They are not getting an education, and they and the taxpayers are being saddled with the cost. That is why I rise in proud support of our amendment.

I also like this legislation. I will probably vote for the bill in the end. But we are making a very, very serious error on this issue. I am astonished that the Committee on Appropriations went along with this. I am deeply concerned, as a Republican, about this and the fact that taxpayer accountability is going totally out the window. It is a giant step backward. In other words, waste, fraud, and abuse are winning right here if we do not adopt this amendment.

We have heard more rhetoric on this floor about eliminating waste, fraud, and abuse and being accountable to the taxpayers. If Members really mean it, they have to vote for the Waters amendment.

Now, I would like to separate some of the fact from the fiction that has been stated here today. I was one of the Members that fought, even before 1992, to get reform legislation into the law. After 2 or 3 years of active study on this subject, where everybody knew it was a scandal, we finally got it into the Higher Education Act of 1992. So we are talking about 2 years when all interested, effected parties knew this was coming along. We saw at that time that the default rate had grown to close to $4 billion a year. That was an absolute scandal. So we were forced to do something about it.

But now here we are, 2 years later, asking for yet more time. We have had 5 years that we have been working on it prior to the reform bill. Now they want more time.

The inspector general's report that was alluded to, and I hope it is put into the RECORD, and I will urge that it should be in the RECORD, because it tells the whole story there.

Let us understand, for the colleagues that do not know what we are talking about, what 85-15 rule is all about. First of all, we are not talking about all the vocational schools. We are talking about the proprietary schools, and what proprietary schools means is for-profit schools. It is not all the for-profit schools. It is only those that apply under the 85-15, which means that 85 percent of their funds are taxpayer money. So we ought to be keeping a close eye on this.

The rule change that the gentlewoman offered in the original legislation 2 years ago was a very modest change, and it was designed to separate the wheat from the chaff; in other words, to separate the scam schools from the genuine trade schools; or the diploma mills from the real schools that were doing their job; the solid citizens from the bad actors. That is all we are talking about here, those bad actors that have become diploma mills. They are scam schools and we all know it.

Over the past few years we have seen the evidence, overwhelming evidence of the abuses in these schools. And I think we can definitely summarize it by saying, these schools that are left—because many, as has already been documented, are already out of business—but the schools that are left are literally on the dole in the purest sense of the word. They are on the dole with 85 percent of their funds coming from taxpayers. They provide no worthwhile training, that is evident. They leave students with little or nothing to show except that they now have the bill. No job skills. No education. Only serious debt, and the taxpayer is being sent the bill.

That is what we are talking about. We are not talking about anything else.

Now, the other fiction here is that somehow we are springing something on these schools at the last minute. That is not true. They have had 2 years to prepare for this. And, indeed, in the past year they have been actively involved, invited in by the Department of Education to work on the rulemaking. And if they did not do their jobs over this past year, then I do not think the taxpayer should be told, sorry, folks, you have to wait yet another year so it will be 3 years from the time the reform was put in. I think this is a disgrace. I think voting against the Waters amendment literally, quite literally tells these schools, you can continue on the dole and the taxpayers will continue to pick up the bill.

I am afraid that, I have the feeling here that they are going to use this time to escape the reforms that we put into law. They are going to find another loophole. I am afraid that is the agenda here, a not so hidden agenda. Vote "yes." Cut the waste, fraud, and abuse. Save the taxpayers.

□ 1130

Mr. Speaker, I see no other reason for further delays, but that we should demand accountability now. It was well thought out. If they did not do their job over the past year during the rulemaking process, they that is their problem.

Mrs. LOWEY. Mr. Chairman, I move to strike the requisite number of words.

Chairman, I rise in opposition to the Waters amendment, not because I want to delay action on rooting out waste and fraud in student aid programs, but because I fervently want to get it right.

I commend and I am grateful to the gentlewoman from California [Ms. WATERS] for all her outstanding work on this issue. We agree that this is a critical issue that we have to face head on.

I was part of those hearings with the Committee on Education and Labor where we saw fraudulent schools lure kids off the street and get them into these programs, but we cannot condemn all the schools just because of the truly, truly fraudulent schools that are not educating. We all know that there are groups that are doing the right thing with those same numerical numbers.

Mr. Chairman, I want us to get this situation right. It is far from clear to me what the impact will be of the 85-15 rule. There are those who warn that it will result in the closure of numerous quality job training programs, leaving students with nowhere to turn and the Federal Government liable for student loan debts. Others believe that 85-15 is the only way to target schools which exist solely to rip off the student aid system.

The fact is that no one can tell us with reasonable certainty what the impact of 85-15 will be. Therefore, that is why I support the delay in its implementation so that the Education Department can take a more careful look at its effects and make changes in the rules that are consistent with the authorizing legislation.

Mr. Chairman, there is not another member of this body who feels more strongly about the importance of eliminating waste and fraud in student aid. In 1992 I worked very closely with the chairman, the gentleman from Michigan [Mr. FORD] and other Members on the Committee on Education and Labor on this issue, and sponsored the legislation which established a State post-secondary review program, SPREE, the Federal-State partnership, designed to improve the quality and accountability of Federal student aid programs.

The integrity provisions to which I refer are beginning to work. States are putting in place a system where they can look at a whole school, not just numbers, but evaluate the whole school and get rid of those schools that are not doing a job, that are ripping off the system with our taxpayer dollars.

Mr. Speaker, in my judgment, 85-15 may not be and is not, until we have more specifics, the best way to root out these schools, to get rid of those bad programs. That is why we want in place a State integrity program to really look at the whole school. That is going to get to work by triggers. They are going to make them identify these schools.

This limited rule, in my judgment, Mr. Chairman is not nearly equal to the task of addressing a problem that wastes $4 billion per year.

My core concern is that the problems caused by 85-15 could undermine support for the larger task of establishing a comprehensive system of overseeing the use of Federal student aid. If we cannot predict the impact of this rule on schools and students, we should take the time to find out, to get it right.

Therefore, I urge my colleagues to oppose the Waters amendment, so the Education Department and the authorizing committee, as agreed to by our chairman, the gentleman from Michigan [Mr. FORD], and he is committed to getting this in place by the end of the year, can get this right, so we can truly get rid of those schools that are ripping off our kids, ripping off the taxpayers.

Mr. SERRANO. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, I think we have to be very, very careful with what we may think we may be doing today by approving this amendment. The fact of the matter is that there is not a single person here in this House who does not recognize the fact that there is a serious problem with many of these schools. That is why all of us together have gone out to try to do something about this problem.

However, Mr. Speaker, as has been said by so many speakers today, this particular problem deals with the fact that this regulation as imposed now runs the risk of closing down so many schools that it would create a problem throughout this Nation; so many good schools that it would create a problem throughout this Nation.

Before I came to this House, I spent 15½ years in the New York State Assembly, and many of those years were spent as chairman of its Education Committee. As chairman of that committee, I spent a lot of time going after these schools, and in fact, being involved in closing down many of them.

However, it was never our intent to close down the good schools. It was certainly not our intent to create a situation that there may be in New York State, in California, in places like Puerto Rico, which Members will hear about later, where you would probably close down every single school, and students who attend these schools for the most part are people who have been failed by the regular school system, people who are trying to get a second shot at an education. Please take into consideration this kind of information you have heard today when Members take this vote.

I never thought that I would rise on this floor in opposition to anything the gentlewoman from California [Ms. WATERS] says. Our voting records are identical. She is correct, and I stand with her. However, the regulations being imposed, based on her genuine desire, are not correct and they must be stopped. They must be stopped now.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. SERRANO. I yield to the gentleman from Michigan.

Mr. Chairman, I simply want to say very briefly, if we look at what the gentleman from Pennsylvania [Mr. GOODLING] gave, he gave a pretty complete list of integrity provisions.

I am surprised to see the gentlewoman from New Jersey [Mrs. ROUKEMA] saying that she talked and talked and nobody did anything, because we let her introduce a good many of those resolutions, those amendments, including on the floor. When I mentioned a little while ago the relief we had to give to the historically black colleges, it was to one of the gentlewoman's amendments.

When I referred to the gentlewoman, I meant the gentlewoman from New Jersey [Mrs. ROUKEMA], not the gentlewoman from Los Angeles [Ms. WATERS]. The gentlewoman from New Jersey [Mrs. ROUKEMA] was willingly given credit for passing a number of the integrity provisions that we worked out.

When Members see the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from Michigan [Mr. FORD] out here on the same side of an issue, there has to be a reason. The reason is that we both have invested too many years of our lives trying to take care of the integrity of these programs, but trying to do it in a sensible way.

Mr. Chairman, I can assure this House that we have already been negotiating with the administration. They took over a job that was started by their predecessors. They ran too fast and did a pretty poor job with it.

Do not be fooled by this "They have had ever since 1992 to get ready for it." The regulations were only published in late April, to be effectively July 1. There has been very little time.

As soon as we saw, we realized there was a problem, but we have not been able to turn it around. If Members give us this delay, we promise on our committee that we will work with the department, and if necessary, we will bring in a piece of separate legislation, not to repeal 85-15, we do not have any objection to 85-15, but to do what people thought they were voting for with 85-15, not what the regulations would have us do.

Our quarrel, as the gentleman from New York [Mr. SERRANO] says, is not with the 85-15. That fight is over a long time ago. Our quarrel is with the regulations that were written to implement 85-15. They go much further than I am sure anybody who voted for 85-15 intended.

I am sure Members thought that if the school got at least 15 percent of its money from a source other than the Federal Government, it would qualify. Not so. Under the regulations, if they are training students for General Motors or IT&T or somebody else, that money does not help because it does not come out of the students' pockets. That is crazy.

The General Motors Institute, which primarily trains people for promotion and employment with General Motors, takes students in and it is eligible for Title IV programs. That would say that the money that they spend on training their own employees and upgrading their employees does not count against the Federal contribution. That is not what people who voted for 85-15 thought they were voting for.

Mr. TORRES. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The Chair would ask the gentleman to withhold. There are only 3 remaining minutes for the entire debate on this bill and on this amendment.

The Chair is going to exercise the Chair's discretion to divide the last 3 minutes, since proponents of the amendment do not get opportunities under the current rule.

The gentleman from Minnesota will be recognized for 1½ minutes, and the gentleman from California [Mr. TORRES] will be recognized for 1½ minutes, of the 3 remaining minutes.

The Chair recognizes the gentleman from California [Mr. TORRES] for 1½ minutes.

Mr. TORRES. I yield to the gentleman from Virginia [Mr. SCOTT].

Mr. Chairman, I rise in opposition to the amendment offered by my friend from California, who fights as hard to make educational opportunities available to deserving students as any member of the House. I believe, however, that this amendment may inadvertently hurt both disadvantaged students, as well as the schools that serve them.

Mr. Chairman, we all know of the abuses of Federal student aid that have been committed in the past: some fly-by-night proprietary schools which participate in the Pell Grant Program have become Pell mills, preying on low-income individuals to enroll them as students, take their money, and abandon them before offering sufficient training or job placement. However, since the Department of Education began closer monitoring of proprietary schools and implementing stiffer regulations regarding title IV funds, many of these schools have been forced to shut down. I am confident that with the Department's commitment and vigilance, we will continue to be able close the doors of schools that rip off students.

The 85–15 rule was one of several legislative means established to help curtail the activities of unscrupulous trade schools. Certainly, we would agree that no school should draw all of its revenue from title IV programs. An unintended side effect of implementing the 85–15 rule at this time, however, is that many of those legitimate institutions serving lower income students may be irreparably harmed. Although this rule was passed with the Higher Education Act reauthorization in 1992, it took until late April of this year for the Department to publish final regulations for 85–15. It is therefore only fair to allow schools time to comply prospectively, rather than force schools to take drastic action in the short run to comply with the new regulations.

The low-income students we are trying to help will likely to be the very ones hurt if this rule is applied retroactively. Given that poor students are more dependent on student aid than others, schools will be forced to make admissions decisions based upon who has the ability to pay for tuition. This redlining of poor students and poor communities is almost inevitable unless we allow schools additional time to come into compliance with this rule.

Mr. Chairman, over 75 percent of the jobs of the future will require some kind of training or education beyond high school; and even those with jobs now may need to be retrained, because many districts such as mine will face significant job losses if we cannot convert our defense-based industries to civilian applications. Proprietary schools will play a key role in helping to meet these goals. I therefore urge my colleagues to keep the best interests of students in mind, and vote "no" on this amendment.

Mr. TORRES. I yield to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Chairman, I oppose the amendment, and urge my colleagues to oppose this amendment.

As a member of the Education and Labor Committee, I am deeply concerned that this amendment will negatively impact the ability of many low-income students to pursue a quality education. When the Congress passed the Higher Education Act amendments 2 years ago, I supported many of the integrity issues to weed-out unscrupulous proprietary schools. But the current 85–15 regulation, applied in a retroactive manner, is unfair, and unworkable to many of the good schools that provide a sound education to it's students.

Some have suggested that the 85–15 provision is 2 years old, and that schools should have adapted to this rule. But let me say that this provision went through negotiated rulemaking, which, by definition, is a negotiation process. There have been several different drafts of the 85–15 rule, and the department should not retroactively apply this rule. I believe it is fair to give these schools 1 year to meet these new requirements, and I urge my colleagues to vote against this amendment.

□ 1140

Mr. TORRES. I yield such time as he may consume to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Chairman, I oppose the amendment.

Mr. Chairman, I rise to support the provisions in H.R. 4606, the 1995 Labor, Health and Human Services, Education appropriations legislation which delay the implementation of the 85–15 regulations as they relate to proprietary schools.

This delay is necessary so that the schools affected by these regulations will have time to carefully study what is expected of them in order that they can implement the regulations in an effective manner.

The amendment requiring that proprietary schools (private career schools) receive 15 percent of their income from non-Federal student aid sources was enacted in the higher education amendments of 1992.

In early 1994, a notice of proposed rulemaking was published setting forth what could be considered as revenue for the 15 percent. On April 19, 1994, the final regulations were published. The final regulations did not reflect any of the versions of the proposed formulas. Therefore, schools have only had since April 29, 1994, to examine how to calculate their revenue. The effective date of the regulations is July 1, 1994. It is very difficult for schools to meet this deadline date of July 1. Schools need time to make the necessary changes in their operational procedures in order to comply with these regulations. If these schools are forced to comply with this deadline, there will be many devastating consequences:

It is estimated that as many as 50 percent of all proprietary schools will fold under the new 85–15 rule as written. Other estimates range from 30 to 70 percent. However, using 30 percent, we are talking about 600,000 students each year with no way to complete their education. The social cost of this would be immense. A 1-year delay will help many of these schools.

In Missouri alone it will make 8,000 to 9,000 students ineligible overnight. In St. Louis alone almost 3,000 students will become ineligible. As applied, it will destroy the private degree programs offered by private career schools because a student in the second year of an associate or baccalaureate degree will loose his or her eligibility and have to drop out of the program. A 1-year delay will allow institutions to bring their organization into compliance with the Secretary's definition of revenue.

Let me cite for you some other examples of why this delay is needed for some proprietary schools in St. Louis. The Sanford-Brown School in St. Louis trains the majority of all 3-year registered nurses in the State of Missouri. Their completion rate for students exceeds 85 percent and their placement rate is over 90 percent—at hospitals such as Barnes and Washington University. Most of the students at Sanford-Brown have chosen not to attend a traditional school for reasons of cost, distance from home, and the alternative of successful training for a specific occupation.

The Missouri School for Doctors Assistants, also in St. Louis, is another example of a good school serving the community and students who would be impacted adversely. In this case, a disproportionate number of students are minorities, displaced homemakers, and single parents. Yet they complete diploma and associate degree programs at a rate over 80 percent and are placed in skilled medical jobs at a rate of nearly 100 percent.

In regard to another matter pertaining to the 85–15 rule, the authorizing committee never fully debated this issue. There is now legislation introduced by Representative PATSY MINK which addresses the formula and will provide the authorizing committee with an opportunity to fully examine this provision.

If 85–15 is put in place right now, we are telling students they have no choice, and we are taking away the most fragile and important part of their lives—hope and the fulfillment of their dreams.

I urge you to support the language contained in the bill addressing the delay of the 85–15 rule.

Mr. TORRES. Mr. Chairman, I yield our remaining time to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. Mr. Chairman, I thank the gentleman for yielding the time.

Mr. Chairman, the issue here is not opposition to the principle of 85–15. No one wants to see that abrogated in any way.

What we are objecting to are the regulations. Here is a school who has written to me from Pittsburgh, Sawyer School. What happens in the regulations is that there is a definition of revenue which excludes the revenue that goes to this school which it has acquired in a joint venture with AT&T, the Communications Works of America, and the International Brotherhood of Electrical Workers under which some 400 persons are going to be trained by the Sawyer School. By some quirk of the definition they have ruled that the revenues that are to be obtained by this contract for retraining of 400 workers for new jobs, because the industry is closing down, will not qualify as revenue for this particular school.

So this school that has an outstanding record, acknowledged by the fact that it has this contract, is going to be shut down on July 1 unless this delay is put into effect.

I urge Members to vote down the Waters amendment.

The CHAIRMAN. The gentleman from Minnesota [Mr. PENNY] is recognized for the remaining 1½ minutes.

Mr. PENNY. Mr. Chairman, an earlier speaker referenced these for-profit trade schools as businesses. They are not businesses. They are parasites if they cannot obtain at least 15 percent of their funds from sources other than title IV student financial aid.

If we had a farmer that could not obtain at least 15 percent from the sale of his product and instead drew more than 85 percent of his income from Government subsidies, we would not call him a farmer, we would call him a failure. If we had a hospital that could not get at least 15 percent of their revenue from private pay patients and not strictly from Government payments we would wonder about the health of that hospital and the quality of its services. If we had law firms that were getting no more than 15 percent of all of their income from sources other than the Government, we would wonder whether they were ripping the Government off. If we had defense contractors that had no other line of work except Government contracts and some of them do not, we must acknowledge that they are in dire straits. Likewise, we should no longer prop up these for-profit trade schools if they rely on Federal Government moneys for more than 85 percent of their annual budget.

We have an inability to get rid of anything around here. It is evidenced today by the debate on this amendment as we are now being asked to delay the implementation of the 85–15 policy. Just a few weeks ago after deciding to downsize the Federal work force by 10 percent, we reversed our decision and exempted one of the largest departments from that work force reduction. We are now hearing talk about undoing the B–2 bomber decision of a few years back. We now hear talk about delaying the military base closing process. Delaying 85–15 would reverse a budget saving decision made as part of the 1992 Higher Education Act. Let's stick with that cost-saving decision. These for-profit trade schools have had 2 years to get ready. If they are not ready by now, it is time to cut them off. We can go a long way toward ending waste, fraud and abuse in our student financial aid programs by voting for the Waters amendment.

The CHAIRMAN. All time for debate has expired.

Mr. COLLINS of Georgia. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentlewoman from California's attempt this morning is directed toward prohibiting abusive trade schools from continuing to receive Federal dollars.

I agree with the goals of the gentlewoman, but in this situation, the new rules of the Department of Education will do more harm than good.

On April 29 of this year, the Secretary of Education published a number of new regulations crafted by the Department which will have a negative impact on some good vocational schools.

The topic of this amendment, 85–15, is just one of many such regulations. I rise here this evening to draw Members' attention to these regulations, because, together, they pose some very real problems for the very people this amendment is attempting to protect: Working folks who want to learn a trade and improve their lives.

Consider the effects of the Secretary's new regulations on the trucking industry. I use the example of the trucking industry because I have owned a trucking company for over 30 years, and I see firsthand the need of quality training schools for the industry.

In 1987, this Congress determined that all truck drivers were required to be commercially licensed. This regulation went into effect in 1992 nationally.

The effect of this legislation has been to sharply reduce the number of bad, incompetent drivers on the road, and I do not dispute the intent of such licensing. However, there is a tremendous shortage of well-qualified, well-trained drivers.

Mr. Chairman, I have heard from many company owners that they have more freight than drivers to move it. The industry needs more drivers, and it needs more quality vocational schools to train these drivers.

The 85–15 provision, along with several other regulations promulgated on April 29, will devastate these driver training schools. And, in most cases, legitimate schools.

Another example of one such April 29 regulation, a simple definition of an academic year.

The Secretary has newly defined an academic year according to weeks of instructional time that are comprised of at least 5 days of regularly scheduled instruction.

This single provision would completely prohibit vocational schools that train students on a part-time or weekend basis from serving and training many working, tax-paying contributors.

Consider this definition of academic year as it applies to one very legitimate driver training school in my district, a school with a placement rate year in and year out of 97 percent, a school where students, on average, see their yearly income double after graduation.

The students that attend this school are not predominantly recent high school graduates. They are, on average, 32 years of age, and in search of a career to better themselves. The students are heads of family whose average income when they enter this school is $250 per week. These prospective students support a family on $13,000 each year, a number well below the defined poverty line for a family. In order to continue to earn this meager income and support their families, these students must continue to work, in most cases full-time, while they attend the training school on weekends.

Consider now that the school must implement the Secretary's new definition of academic year to the school curriculum. The result is that the school must discontinue its program of weekend-only classes or 4-days-a-week part-time classes in order to be in compliance with the Secretary's new regulation. The student is forced with a choice: Do I continue school and quit my job—which means the student is no longer earning an income and he will be in greater need of financial assistance from the Federal Government—or do I quit training for a better career so that I can feed my family?

A very difficult question, Mr. Chairman, and meanwhile the economy is in need of more well-trained drivers.

The Secretary of Education has promulgated many regulations that will challenge the continued existence of many legitimate vocational schools.

Mr. Chairman, the Secretary has gone too far. He was given a charge to deal with those schools that prey on its students, but in fact these new regulations will prey on the students.

Oppose the Waters amendment. Not only should this rule be postponed but others should also be postponed.

Mr. WELDON. Mr. Chairman, I rise today to express my opposition to both the Waters and Gordon amendments. Although both these amendments seek to eliminate the abuse of Federal funds by ineffective or fraudulent career schools, they would also severely harm upstanding trade schools which are providing valuable opportunities for people to acquire skills necessary to make them productive members of the American economy.

The overwhelming bipartisan opposition of Education and Labor members to the Waters amendment demonstrates the severe negative impact this amendment would have. The Waters amendment will force 50 percent of the quality proprietary institutions of higher education to close. Mr. Chairman, the Appropriations Committee has corrected a potentially devastating error by the Federal Government. Passing the Waters amendment and allowing this error to proceed would be one of the most tragic actions this body would take.

This amendment is offered on the presumption that we would be letting schools off the hook in complying with the 85–15 regulation. This presumption is totally incorrect. Instead, we are taking action to correct a retroactive injustice. I was one of 103 Members to write Secretary Riley to stress in the strongest terms that this was not our intent when we passed the higher education amendments of 1992.

To make these regulations retroactive is simply unfair. The Appropriations Committee's one year postponement of this regulation gives career schools the ability to make a good faith effort to comply with the law and reestablishes Congress' original intent.

We heard the frustration of the American people in passing a retroactive tax in the President's tax bill last August. The action by the Appropriations Committee on this issue ensures we do not make similar mistake, but instead provides ample notification of new Government regulations. I applaud the action of the Appropriations Committee, and the efforts of Chairman FORD, Congressman BILL GOODLING and the other members of the Education and Labor Committee in addressing this issue.

Regarding the Gordon amendment, I want to commend the efforts of my colleague, Mr. GORDON, to pass legislation that would eradicate abuses of our education grant and loan programs. He is to be commended for his efforts. I am concerned, however, with the criteria Mr. GORDON is using for loan and grant eligibility. By using the student loan default rate to determine loan status, schools are at the mercy of the financial standing of their students. I believe it is ill-conceived to use this standard. This standard creates a disincentive for a school to serve low-income individuals. We are penalizing those most in need. Instead I believe we must move in the direction advocated by Congressman ROB ANDREWS. His legislation would base a school's eligibility for student loan and grant assistance on the school's effectiveness in placing students in jobs related to their educational training. This proposal would properly reflect the effectiveness of a career school.

In addition, I am concerned that this amendment restricts the choices of low-income individuals. If a student receives a Pell Grant, they should be able to attend any accredited school.

Again, I believe the intention of Mr. GORDON is admirable, but we need to pursue this goal by using a different approach. Therefore, I urge my colleagues to oppose the Waters and Gordon amendments, and support the Education Quality Index Act introduced by Congressman ROB ANDREWS.

Mr. BEREUTER. Mr. Chairman, this Member rises today to urge his colleagues to oppose the Waters amendment. The Waters amendment would delete the provision contained in this appropriations bill that delays the implementation of the 85–15 rule until July 1, 1995. As you know, the Department of Education recently issued regulations to implement the 1992 Higher Education Act. The 85–15 regulations were set to go into effect on July 1, 1994, and therefore would apply to the previous year's revenues. It is patently unfair to expect proprietary institutions to comply with an extremely complex formula that is applied retroactively.

Mr. Chairman, there is an excellent proprietary institution in the First Congressional District of Nebraska, the Lincoln School of Commerce. The school has been in existence for 110 years, has a 92-percent placement rate for graduates, and has had a default rate of 18 percent. This year, the college's default rate is expected to decrease to 14 percent. As one example, in order to prepare for the implementation of the 85–15 rule, the college decided to give students who purchased their books with cash a 10-percent discount. This move was made in order to provide an incentive for students to use cash and not their student loans to pay for books, thereby decreasing the percentage of funds coming into the institution from the Federal Government. The college implemented this program last fall. However, under the formula issued by the Department of Education on April 29, books are not considered part of the education program. So even though the Lincoln School of Commerce tried to comply in advance with these regulations, their efforts were in vain. Right now, they are within the 85–15 percentage division, but they are right on the edge.

Of course, the original intent of this provision in the 1992 Higher Education Act was to regulate those proprietary institutions that were abusing their students and the student loan system. Lincoln School of Commerce, for example, is clearly not one of those schools. In fact, generally, proprietary institutions in Nebraska are doing an excellent job and a majority of these schools will be adversely impacted by the retroactive application of these rules.

Mr. Chairman, this Member urges his colleagues to defeat the Waters amendment.

Mr. KLINK. Mr. Chairman, I rise in strong opposition to the Waters amendment.

I believe that the 85–15 rule, while perhaps well-intentioned, is a bad approach. In an effort to try and weed out bad schools, it says that if a proprietary school has more than 85 percent of its revenues from Federal student aid, that school loses its eligibility for student aid.

So, for the sole reason of having a great majority of students who are eligible for Federal student aid and who make use of that student aid, a school would lose its eligibility for Federal student aid and be forced to close its doors.

In some low-income areas, students will lose their only avenue for the job training they need to find good jobs. These same areas are the ones that have high utilization of Federal student aid and schools located in these areas will be judged as bad schools simply because of their location.

The 85–15 rule doesn't look at anything else: It doesn't consider student loan default rates, it doesn't take into account the job placement rates of these schools, it simply says if you have 85 percent of your revenue from Federal student loans, you close and your students are out in the street.

I say to my colleagues: Please pick your own cliche to describe the 85–15 rule—throwing the baby out with the bath water, biting off your nose to spite your face, burning down the house to fix the leak.

I think the 85–15 rule is just plain wrong. I think there are better ways to judge the quality of a school.

To make the 85–15 rule worse: It's retroactive. Schools will be judged on the just completed school year. They won't have any time to adjust their revenue or their mix of students. So on July 1, 30 to 75 percent of all career schools in the United States will be forced to close. That includes at least 12 in Pennsylvania, leaving 2,600 students in the lurch.

When those schools close, we are looking at a budgetary mess. Students will either default on their loans or need their loans forgiven, State tuition recovery funds will be depleted, dislocated workers will lose their training opportunities and end up relying more on unemployment or worse, welfare. Faculty and staff of the schools will be unemployed and in the same boat.

Finally, I believe the 85–15 rule is inconsistent with the goals of the school-to-work act, which this Congress has already approved, and the Reemployment Act, which the House has yet to consider. Those goals are training and educating students and workers in the skills they will need to obtain jobs in today's workplace.

The 85–15 rule could close many proprietary schools, some of the very same institutions that we will need to provide training under school-to-work and the Reemployment Act. High school graduates and dislocated workers will lose a prime source of job training.

The Appropriations Committee has not voted to repeal the 85–15 rule. What the committee has done is to delay the implementation of the 85–15 rule for 1 year. That year will give these schools a fair chance to come into compliance.

Mr. Chairman, I urge my colleagues to oppose the Waters amendment and support the Appropriations Committee so students and workers can continue to get the job training they need.

The following schools in Pennsylvania will be forced to close on July 1 because of the 85–15 Institutional Eligibility Rule developed by USDE.

School	No. students	Percent	
		Completion	Placement
Advanced Career Training	300	70	90
Delaware County Inst. of Training	140	81	72
South Hills Business School	330	85	93
Gateway Tech	150	70	80
Pittsburgh Beauty Academy: Charlerol, Greensburg, New Kensington, and Pittsburgh	600	72	100
PA Business Institute	700	80	95
York Tech. Institute	130	80	75
Craft Institute	272	68	56
Randy Rick Beauty Academy	85	74	90
Total	2,622		

Mr. ROMERO-BARCELÓ. Mr. Chairman, I rise in strong opposition to the amendment to eliminate the provision of this bill which prohibits the use of funds to implement the so-called 85–15 rule prior to July 1, 1995, and urge our colleagues to defeat this amendment.

The provision in the bill merely seeks to delay the implementation of these regulations for 1 year. Without such a delay, the regulations will be applied retroactively and will undoubtedly force many institutions to close.

At a time when many of this administration's initiatives center on meaningful employment—school-to-work, the Reemployment Act, and welfare reform—this seems particularly shortsighted since such postsecondary career schools will be the most useful in helping us reach our employment goals. In simple fairness, a year's postponement would give these institutions an opportunity to comply with these very complex regulations.

In my congressional district of Puerto Rico, the impact of the 85–15 rule will be nothing short of catastrophic. There are 65 proprietary institutions with 60 branches for a total of 125 proprietary educational units dispersed around the island. These institutions serve more than 40 municipalities, most of which depend on them exclusively for vocational and technical education and training. Under the final 85–15 regulations, it is anticipated that almost all—not 4 or 5 schools, not half of them—but almost all of these institutions in Puerto Rico will be forced to close on July 1.

These institutions serve 75,000 students who will not have any other alternative to further their education in order to find employment. Unlike the mainland, there is no community college system in Puerto Rico with the capacity to absorb and serve these students. Total Federal financial aid received is almost 90 percent. Thus, it will be impossible for the Puerto Rican career schools to meet the 85–15 rule in the year which began on July 1, 1993, and ends on June 30, 1994.

The proprietary sector in Puerto Rico currently employs around 5,000 people and the payroll is estimated at $71 million. In addition, this sector is a solid contributor to the island's economy, paying about $3 million in income taxes. Therefore, the forced closing of these institutions would have a substantial impact on the chronic unemployment situation and already difficult economic conditions in Puerto Rico.

Despite a limited number of abuses in a few institutions which, of course, should be firmly dealt with, postsecondary proprietary institutions play a vital role in this Nation's higher education system. I urge you to defeat this amendment and thus allow proprietary schools sufficient time to comply with the regulations and at the same time ensure that our students have the opportunity to pursue their educational and employment goals.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California [Ms. WATERS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Ms. WATERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 63, noes 365, not voting 11, as follows:

[Roll No. 301]

AYES—63

Allard
Andrews (ME)
Bacchus (FL)
Bachus (AL)
Baker (CA)
Barton
Beilenson
Costello
Dooley
Durbin
Eshoo
Evans
Farr
Fields (LA)
Foglietta
Ford (TN)
Fowler
Frank (MA)
Furse
Gallo
Gilman
Gonzalez
Gordon
Harman
Hinchey
Horn
Hoyer
Hutchinson
Jacobs
Johnson (SD)
Johnston
Kanjorski
Kennedy
Lambert
Lipinski
Long
Margolies-Mezvinsky
Matsui
McKinney
Miller (CA)
Minge
Norton (DC)
Obey
Olver
Pallone
Pelosi
Penny
Peterson (MN)
Poshard
Roukema
Royce
Sabo
Sanders
Sangmeister
Schenk
Stark
Synar
Torricelli
Tucker
Vento
Visclosky
Waters
Zimmer

NOES—365

Abercrombie
Ackerman
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Baesler
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Bateman
Becerra
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cardin
Carr
Castle
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Everett
Ewing
Faleomavaega (AS)
Fawell
Fazio
Fields (TX)
Filner
Fingerhut
Fish
Flake
Ford (MI)
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gingrich
Glickman
Goodlatte
Goodling
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Houghton
Huffington
Hughes
Hunter
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jefferson
Johnson (CT)
Johnson (GA)
Johnson, E. B.
Johnson, Sam
Kaptur
Kasich
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Livingston
Lloyd
Lowey
Lucas
Maloney
Mann
Manton
Manzullo
Markey
Martinez
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (FL)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Ortiz
Orton
Owens
Oxley
Packard
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Peterson (FL)
Petri
Pickett
Pickle
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Roybal-Allard
Rush
Santorum
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Scott
Sensenbrenner
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Towns
Traficant
Underwood (GU)
Unsoeld
Upton
Velazquez
Volkmer
Vucanovich
Walker
Walsh
Washington
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff

NOT VOTING—11

Cantwell
Chapman
Hilliard
Lancaster
Machtley
Pombo
Sarpalius
Schumer
Serrano
Smith (MI)
Valentine

□ 1204

Messrs. ARMEY, ACKERMAN, GILCHREST, SHAYS, BOEHLERT, BARLOW, and ARCHER, Miss COLLINS of Michigan, and Mr. DICKEY changed their vote from "aye" to "no."

Messrs. BEILENSON, GONZALEZ, BACHUS of Alabama, STARK, TORRICELLI, ANDREWS of Maine, and SYNAR changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read the last three lines.

The Clerk read as follows:

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1995".

Mr. SMITH of Iowa. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to, and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly, the Committee rose, and the Speaker pro tempore (Mr. OBERSTAR) having assumed the chair, Mr. SHARP, chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4606) making appropriations for the Departments of Labor, Health and

Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment?

Mr. SMITH of Iowa. Mr. Speaker, I demand a separate vote on the so-called Porter amendments.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment?

Mr. MFUME. Mr. Speaker, I demand a separate vote on the so-called Santorum amendments.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

PARLIAMENTARY INQUIRIES

Mr. McDADE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Pennsylvania will state his parliamentary inquiry.

Mr. McDADE. Mr. Speaker, we are about to embark on a series of votes, and I am trying to find out, for the convenience of the membership, whether it would be the intention of the Chair to compress them to 5-minute votes after the initial 15.

The SPEAKER pro tempore. If a recorded vote is ordered, there would be a 15-minute vote. It is the Chair's intention to have a 15-minute vote on the first amendment and a 5-minute vote on the subsequent amendment.

Mr. McDADE. All subsequent votes, Mr. Speaker?

The SPEAKER pro tempore. There have been only two requested.

Mr. McDADE. Mr. Speaker, I ask unanimous consent that all subsequent votes be also 5-minute votes.

The SPEAKER pro tempore. There are only two.

Mr. McDADE. There are only two?

The SPEAKER pro tempore. Only two.

Mr. McDADE. Should any occur, Mr. Speaker, I ask unanimous consent that further votes will be 5-minutes votes, including a recommital——

The SPEAKER pro tempore. The Chair cannot rule on the gentleman's unanimous-consent request because only two have been requested.

Mr. McDADE. I am simply asking that we put any record votes that might be requested that might be ordered after——

The SPEAKER pro tempore. Does the gentleman understand there could be a motion to recommit?

Mr. McDADE. I do, Mr. Speaker.

The SPEAKER pro tempore. And that it may be debatable, and there would be a 15-minute vote on it.

Mr. McDADE. If it is not debatable, will it be a 5-minute vote, Mr. Speaker?

The SPEAKER pro tempore. The Chair has said that there will be a 15-minute vote on any first vote requested, a 5-minute vote on a second vote, if ordered on an amendment adopted in the Committee of the Whole. And then there would be intervening business. Should there be a motion to recommit, on that there would be a 15-minute vote.

And then if on final passage a recorded vote is ordered following a recorded vote on recommittal, the Chair would direct a 5-minute vote on it.

Mr. McDADE. Mr. Speaker, I withdraw my unanimous-consent request and rely on the discretion of the Chair.

☐ 1210

Mr. MFUME. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. OBERSTAR). The gentleman will state his parliamentary inquiry.

Mr. MFUME. Mr. Speaker, in deference to what I believe to be the intentions of the gentleman who spoke earlier, this gentleman would not be averse to having both votes placed at 5 minutes each and have the Chair make further determinations beyond that one.

The SPEAKER pro tempore. The Chair will inform the gentleman from Maryland that the first vote must be a 15-minute vote.

Mr. MFUME. Does not a unanimous-consent request, if adopted, supersede that?

The SPEAKER pro tempore. The Chair will not entertain such a request. It would not be fair to Members who have left the Chamber in anticipation of the first vote being a 15-minute vote.

Mr. MFUME. Further continuing with my inquiry, Mr. Speaker, the Chair may not want to entertain it; however, the Chair must entertain a unanimous-consent request, and it must be ruled out of order.

The SPEAKER pro tempore. The Chair need not recognize a Member making a unanimous-consent request of that nature.

Mr. MFUME. Then we are operating under new rules, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Maryland has proposed a parliamentary inquiry. The Chair has in the past denied recognition for such a unanimous-consent request.

Mr. PORTER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. PORTER. In what order will the two amendments be voted on?

The SPEAKER pro tempore. The amendment en bloc offered by the gentleman from Illinois [Mr. PORTER] first, since they come first in the bill, followed by the amendment offered by the gentleman from Pennsylvania [Mr. SANTORUM].

The SPEAKER pro tempore. The Clerk will report the first amendments on which a separate vote has been demanded.

The Clerk read as follows:

Amendments: On page 8, line 4, strike "$30,411,000" and insert in lieu thereof "$29,784,000";

On page 8, line 8, strike "$66,388,000" and insert in lieu thereof "$63,959,000";

On page 9, line 9, strike "$242,860,000" and insert in lieu thereof "$237,791,000";

On page 13, line 6, strike "$312,500,000" and insert in lieu thereof "$296,428,000";

On page 15, line 19, strike "$197,519,000" and insert in lieu thereof "$194,607,000";

On page 16, line 23, strike "$296,761,000" and insert in lieu thereof "$291,101,000";

On page 17, line 1, strike "$54,102,000" and insert in lieu thereof "$51,927,000";

On page 17, line 9, strike "$156,002,000" and insert in lieu thereof "$143,459,000";

On page 20, line 17, strike "$3,008,225,000" and insert in lieu thereof "$3,121,225,000";

On page 40, line 3, strike "$4,408,775,000" and insert in lieu thereof "$4,402,690,000";

On page 52, line 26, strike "$359,358,000" and insert in lieu thereof "$346,008,000"; and

On page 53, line 4, strike "$58,325,000" and insert in lieu thereof "$56,570,000".

Mr. KOLBE. Mr. Chairman, I rise today in strong support of the Porter amendment to the fiscal year 1995 Labor-HHS appropriations bill to increase funding for community health centers by $87 million for a total of $100 million.

This new funding would create 125 new community health centers and provide access to health care for an additional 848,000 Americans. Mr. Chairman, this is what the health care debate is all about—access. Many uninsured and low-income families lack access to primary and preventative health care services. This is a real problem and Mr. Porter's amendment is a real solution.

Community health centers provide care that a large population in this country and in my State of Arizona would not otherwise be able to obtain.

The El Rio Santa Cruz Community Health Center in Tucson is an excellent example of the difference community health centers make. El Rio provides care for people who are caught in the gap—those who are not poor enough to qualify for public assistance and yet are unable to afford private health insurance policies. El Rio offers a sliding fee to this group and people pay according to their ability.

El Rio offers cost-effective, quality care to the underserved population in Tucson and has strong support in the Tucson community—in fact El Rio has a new children's and dental clinic as a result of this support.

El Rio has also established several programs which make a significant contribution to the health of low-income individuals and families in Tucson. These programs include a teen parent program, a well woman clinic, a teen wellness center, a homeless health care program, and a WIC center.

Members from both parties recognize that community health centers are a vital component of health care delivery. These facilities have proven their effectiveness in combating the lack of affordable and available health care in underserved areas.

We do not need a Government takeover of the health care system in order to provide cost-effective care to the uninsured and underinsured segments of our population—and we do not need to wait for Congress to get around to passing a health care bill.

Mr. Porter's amendment will provide more low-income Americans with quality primary health care services today.

I urge my colleagues to support the amendment.

The SPEAKER pro tempore. The question is on the amendments.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. PORTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. The Chair advises Members that if a recorded vote is ordered on the second amendments, it will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 211, noes 217, not voting 6, as follows:

[Roll No. 302]

AYES—211

Allard
Andrews (ME)
Andrews (TX)
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cooper
Cox
Crane
Crapo
Cunningham
de la Garza
Deal
DeLay
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson (GA)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lambert
Lancaster
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lloyd
Lucas
Manzullo
McCandless
McCollum
McCrery
McCurdy
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Nussle
Ortiz
Oxley
Packard
Parker
Paxon
Payne (VA)
Penny
Peterson (MN)
Petri
Pickett
Pickle
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—217

Abercrombie
Ackerman
Andrews (NJ)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Durbin
Edwards (CA)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Green
Gutierrez
Hall (OH)
Hamburg
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Poshard
Price (NC)
Quillen
Rahall
Rangel
Reed
Richardson
Roemer
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Scott
Serrano
Sharp
Shepherd
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Synar
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—6

Chapman
Machtley
Pombo
Reynolds
Schumer
Valentine

□ 1231

So the amendments were rejected.

The result of the vote was announced as above recorded.

Mr. MFUME. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to enter into a colloquy with the gentleman from Pennsylvania [Mr. SANTORUM] for purposes of clarification, which may in fact make unnecessary a recorded vote on the Santorum amendment.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. MFUME. Mr. Speaker, yesterday while in the Committee of the Whole House on the State of the Union with the bill under consideration that we had brought to the floor today, there was an amendment passed by voice that was offered by the distinguished gentleman from Pennsylvania [Mr. SANTORUM].

I have asked for a separate vote on that, but will be prepared to withdraw that if, for purposes of clarification in a brief colloquy, I could get some basic understanding with respect to the intent of the gentleman and the intent and, indeed, the purpose of the amendment. As you know, it was a transferring of $32 million in the administrative account at the Social Security Administration.

Mr. Speaker, I will make just one point, and then will gladly yield to the distinguished maker of the amendment.

Since 1983, the number of Social Security employees has dropped approximately 20 percent, while workloads in recent years have grown 70 percent. Furthermore, according to the Bureau of Labor Statistics, overall productivity at the Social Security Administration has increased by 18 percent over the last 5 years. What we have are good people who are doing a good job.

I wanted to make sure it was not the intent of the gentleman from Pennsylvania in this amendment, which was adopted by voice, to preclude in any way the ability of that agency to reward low-level employees, or others, with small bonuses based on the merit of their work, given the increased workload that they have been forced to labor under.

Mr. SANTORUM. Mr. Speaker, will the gentleman yield?

Mr. MFUME. I yield to the gentleman from Pennsylvania.

Mr. SANTORUM. Mr. Speaker, this amendment does not preclude the Social Security Administration from issuing bonuses. This amendment is directed at the last round of bonuses, which were the highest amount ever given by the Social Security Administration, $32 million, a lot of them given to the high paid executives in outrageous figures, shortly after they came to this Congress and asked for $200 million to clear up the backlog in the disability area. They took $32 million of it and gave it out in bonuses.

We are taking administrative money and putting it back in the disability account to clear up that backlog. It does not preclude future bonuses for low level employees.

Mr. MFUME. Mr. Speaker, let me say to the gentleman I share the outrage of any employee getting the type of bonuses reported in the paper, over $9,000, while hurting good, hard-working people whom may get a $70 or $100 bonus.

May I ask the gentleman from Iowa, Chairman SMITH, if that is your understanding also, that the Social Security Administration is not prohibited as a result of this amendment from doing what they have done to reward hard-working employees who are faced with an overwhelming workload?

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. MFUME. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, I assure the gentleman that the amendment does not in any way change any rules or laws at the Social Security Administration. What it did was take out of the $5 billion administrative account, $32 million, and move it over to where they are processing disability claims, where it is badly needed, and that is all that it does. It does nothing else whatever. It makes no change in the rules on bonuses.

Mr. MFUME. Mr. Speaker, I thank the chairman, and I thank the maker of the amendment, the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. Speaker, I am satisfied with the explanation by the maker of the amendment and the chairman of the committee that my concerns have been met.

The SPEAKER pro tempore. The Clerk will report the remaining amendments on which a separate vote has been demanded.

The Clerk read as follows:

Amendments:

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

LIMITATION ON ADMINISTRATIVE EXPENSES

a. On page 35, Line 8: Strike "$5,159,785,000" and insert "5,127,785,000".

b. On page 35, Line 20: Strike "$320,000,000" and insert "$352,000,000".

The SPEAKER pro tempore. The question is on the amendments.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

□ 1240

MOTION TO RECOMMIT OFFERED BY MR. LIGHTFOOT

Mr. LIGHTFOOT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. OBERSTAR). Is the gentleman opposed to the bill?

Mr. LIGHTFOOT. In its present form, yes, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. LIGHTFOOT moves to recommit the bill, H.R. 4606, back to the Committee on Appropriations with instructions to report back the same to the House forthwith with the following amendments:

On page 8, line 4, strike "$30,411,000" and insert in lieu thereof "$30,097,500";

On page 8, line 8, strike "$66,388,000" and insert in lieu thereof "$65,174,000";

On page 9, line 9, strike "$242,860,000" and insert in lieu thereof "$240,325,000";

On page 13, line 6, strike "$312,500,000" and insert in lieu thereof "$304,643,000";

On page 15, line 19, strike "$197,519,000" and insert in lieu thereof "$196,063,000";

On page 16, line 23, strike "$296,761,000" and insert in lieu thereof "$293,931,000";

On page 17, line 1, strike "$54,102,000" and insert in lieu thereof "$53,014,000";

On page 17, line 9, strike "$156,002,000" and insert in lieu thereof "$149,730,000";

On page 20, line 17, strike "$3,008,225,000" and insert in lieu thereof "$3,064,725,000";

On page 40, line 3, strike "$4,408,775,000" and insert in lieu thereof "$4,405,732,000";

On page 52, line 26, strike "$359,358,000" and insert in lieu thereof "$352,683,000";

On page 53, line 4, strike "$58,325,000" and insert in lieu thereof "$57,447,500".

Mr. LIGHTFOOT (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was objection.

Mr. LIGHTFOOT. Mr. Speaker, yesterday the House, with the help of 53 courageous Democrats, passed the first down payment on meaningful health care access and coverage for hundreds of thousands of people in urban and rural areas throughout the country. It voted $100 million for community health centers, $26 million for rural health outreach programs and grants and reduced the Government bureaucracy.

With the strong arm of the leadership of this body and of the President, his Cabinet, a number of Members turned their backs on their conscience. The House voted to reject an amendment that only passed yesterday evening just a few moments ago.

It became all too clear that there are those who want health care reform today and those that would prefer to wait and to have it only their way or none at all.

Mr. Speaker, my motion to recommit is quite simple. It asks the House to begin real health care reform that this House began yesterday but was stymied. The motion to recommit cuts the original $100 million to $50 million. It goes to community health centers. And the $26 million for rural health outreach grants is down to $13 million. We hope that this will make it palatable enough to those who switch their vote to come back and vote for real health care. This recommittal begins health care reform right now. Again, we waited 2 years for action on the national initiative. Still congressional committees are struggling with the reform strategies. Only two out of the five committees have cleared reform bills as of today. Another, the Committee on Energy and Commerce, is hopelessly deadlocked, Mr. Speaker.

This motion will bring health care to an additional 424,000 Americans and support an additional 63 new community health centers. In other words, it will provide access to health care for the first time to nearly a half a million people.

We can bring health care to these people today, not next year but we can do it today. We can start it right now. We do not have to wait for the Committees on Ways and Means and Energy and Commerce, and Education and Labor. We do not have to wait for the President, the First Lady to decide what their bottom line finally is going to be. We can act today, as we did yesterday.

I ask my colleagues to vote their conscience, as they did yesterday. Do they want to help people or do they want to help bureaucrats? It is that simple.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. LIGHTFOOT. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I understand what the gentleman is saying. This is the same kind of vote where what we are doing is cutting money out of the bureaucracies in order to give it to community health care centers. But in the case of the gentleman's motion, it is about half the cost that we had in yesterday's motion. In other words, instead of $100 million, he is going to $50 million so that means that there is only $50 million in cuts in bureaucracy that is involved in the gentleman's motion; is that correct?

Mr. LIGHTFOOT. Mr. Speaker, the gentleman from Pennsylvania is correct.

Mr. WALKER. Mr. Speaker, if the gentleman will continue to yield, it will have the same effect. It will allow us to get some community health care center help that we do not now have.

Mr. LIGHTFOOT. Mr. Speaker, that is also correct. I thank the gentleman for his comments.

Again, in closing, Mr. Speaker, I think it boils down to voting for what we know is right. We can vote for health care today. We can do it now, and we can go forth out of here, I think, in a bipartisan effort showing people that we are interested in the health care issue and interested in results that we all can live with, that we are more interested in people, in helping people than we are in empowering bureaucrats, the bottom line, that is what this boils down to. Again, I would ask for support on this motion to recommit. Vote for people instead of bureaucrats.

Mr. SMITH of Iowa. Mr. Speaker, I am opposed to the motion.

Let me make it clear, nobody is against more community health centers. If we had been against them, we would not have put another $19 million into the bill for new community health centers. We put extra money in for community health centers. But, there also needs to be money to cut down on fraud and abuse in the student aid program. There are also some other things in here that are needed. We would like a bigger increase for health centers, but it is going to come in the health care bill. More people will have insurance so they can pay their way when they go to the community health center. We do not have to take it out of the important items that are currently in this bill. We can wait and do that in the health care bill.

This is really the identical vote that we had a minute ago except every increase and every reduction is cut in half. We do half the damage we did a minute ago, but we still do the same kind of damage.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I think it is important to point out that the National Association of Community Health Centers has not supported the Porter amendment. I urge Members to vote no.

Mr. SMITH of Iowa. This is the same vote we had a while ago except it just does half the amount of damage, but it still does the same kind of damage. Vote "no."

Mr. RICHARDSON. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from New Mexico.

Mr. RICHARDSON. Mr. Speaker, late last night the committee adopted an amendment by the gentleman from Colorado [Mr. HEFLEY] to reduce the appropriation of the Corporation for Public Broadcasting by $1 million.

In the CONGRESSIONAL RECORD, it states that this money was aimed at Radio Pacifica. Is it correct that under no circumstances can a cut be specified on any appropriation?

Mr. SMITH of Iowa. All it did was reduce the account by $1 million out of $272 million. We accepted it in the interest of time and so on.

Mr. RICHARDSON. Mr. Speaker, I thank the gentleman.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. LIGHTFOOT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 206, noes 224, not voting 4, as follows:

[Roll No. 303]

AYES—206

Allard
Andrews (ME)
Andrews (NJ)
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cooper
Cox
Crane
Crapo
Cunningham
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson (GA)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lancaster
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lloyd
Lucas
Manzullo
McCandless
McCollum
McCrery
McCurdy
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Ortiz
Oxley
Packard
Paxon
Payne (VA)
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Valentine
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—224

Abercrombie
Ackerman
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Pelosi
Penny
Peterson (FL)
Pickett
Pickle
Poshard
Price (NC)
Rahall
Rangel
Reed
Richardson
Roemer
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Scott
Serrano
Sharp
Shepherd
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Synar
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—4

Chapman
Machtley
Reynolds
Schumer

□ 1304

Mr. DEAL changed his vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. OBERSTAR). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. SMITH of Iowa. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. The Chair will remind Members this is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 339, noes 89, not voting 6, as follows:

[Roll No. 304]

AYES—339

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Baker (CA)
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Callahan
Calvert
Canady
Cantwell
Cardin
Carr
Castle
Clay
Clayton
Clement
Clinger
Coble
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Duncan
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Grandy
Green
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastert
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Holden
Horn
Houghton
Hoyer
Hughes
Hutchinson
Hutto
Hyde
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McDermott
McHale
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Pickett
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Rangel
Ravenel
Reed
Regula
Richardson
Ridge
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schenk
Schiff
Schroeder
Scott
Serrano
Sharp
Shaw
Shays
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Synar
Tanner
Tauzin
Taylor (NC)
Tejeda
Thomas (CA)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)

NOES—89

Allard
Archer
Armey
Bachus (AL)
Baker (LA)
Ballenger
Bartlett
Barton
Boehner
Bunning
Burton
Buyer
Camp
Collins (GA)
Combest
Cox
Crane
Crapo
DeLay
Doolittle
Dornan
Dreier
Dunn
Ehlers
Fields (TX)
Franks (NJ)
Gekas
Goodlatte
Goss
Grams
Greenwood
Hancock
Hansen
Hefley
Herger
Hoke
Huffington
Hunter
Inglis
Inhofe
Istook
Johnson, Sam
Kim
King
Kingston
Knollenberg
Kolbe
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lucas
Manzullo
McCandless
McCollum
McHugh
McInnis
Mica
Miller (FL)
Minge
Moorhead
Nussle
Orton
Oxley
Packard
Paxon
Peterson (MN)
Petri
Pombo
Portman
Ramstad
Roberts
Rohrabacher
Roth
Royce
Schaefer
Sensenbrenner
Shuster
Smith (MI)
Smith (OR)
Solomon
Spence
Stump
Talent
Taylor (MS)
Thomas (WY)
Walker
Zeliff
Zimmer

NOT VOTING—6

Chapman
Clyburn
Farr
Machtley
Reynolds
Schumer

□ 1314

Messrs. HOEKSTRA, HASTERT, and BAKER of California changed their vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. CLYBURN. Mr. Speaker, on rollcall No. 304, final passage, I am recorded as not voting. I would like the RECORD to show that I did insert my card in this box, but the machine was a bit lethargic coming on. If I had been recorded, I would have voted in favor of passage.

PERSONAL EXPLANATION

Mr. FARR of California. Mr. Speaker, on rollcall No. 304, I was unavoidably detained with my constituents. If I had been present, I would have voted in favor of H.R. 4606.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 4650, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1995

Mr. GORDON, from the Committee on Rules, submitted a privileged report (Rept. No. 103-568) on the resolution (H. Res. 469) waiving certain points of order against the bill (H.R. 4650) making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 4454, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1995

Mr. GORDON, from the Committee on Rules, submitted a privileged report (Rept. No. 103-569) on the resolution (H. Res. 470) waiving points of order against the conference report to accompany the bill (H.R. 4454) making appropriations for the legislative branch for the fiscal year ending September 30, 1995, and for other purposes, which was referred to the House Calendar and ordered to be printed.

WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 4649, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1995, AND DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1994

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 466 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 466

Resolved, That all points of order against consideration of the bill (H.R. 4649) making appropriations of the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes, are waived. During consideration of the bill, all points of order against provisions in the bill for failure to comply with clause 2 of rule XXI are waived.

The SPEAKER pro tempore (Mr. OBERSTAR). The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, during consideration of this resolution, all time yielded is for the purpose of debate only. I yield the customary 30 minutes, for the purpose of debate only, to the gentleman from California [Mr. DREIER]. Pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 466 is an open rule which provides for the consideration of H.R. 4649, the District of Columbia appropriations bill for fiscal year 1995.

The rule waives all points of order for violations of clause 2 of rule XXI against all provisions in the bill. Clause 2 of rule XXI prohibits legislation and unauthorized appropriations in a general appropriations bill.

All points of order are waived against consideration of the bill for failure to comply with clause 7 of rule XXI which requires committee hearings be printed and available to Members for at least 3 calendar days prior to House consideration.

Finally, the rule waives points of order against consideration of the bill for violating section 302(F) of the Budget Act. The Appropriations Committee adopted an amendment which exceeded the subcommittee's 602(B) allocation by $10 million. Chairman DIXON will offer an amendment to strike that section of the bill and correct this violation.

I want to compliment Chairman JULIAN DIXON and ranking Republican JAMES WALSH and their staff for all of their hard work. Each year the subcommittee must address varied and difficult issues within the subcommittee's jurisdiction and provide funding for the District of Columbia's departments and programs, all with increasingly limited resources.

Mr. Speaker, I urge my colleagues to adopt this open rule.

☐ 1320

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly oppose this rule because of the principle that seems to have been shoved aside by the Democrat leadership and a majority of the members of our Committee on Rules. That principle is, very simply, fairness. If it is appropriate to waive points of order against all or part of an appropriations bill, then amendments to all or parts of the appropriations bill should be granted the same treatment. This rule provides a blanket waiver of rule XXI prohibiting unauthorized appropriations or legislative provisions in a general appropriations bill.

Yet when the ranking minority member of the District of Columbia Subcommittee, the gentleman from New York [Mr. WALSH], asked our Committee on Rules to grant his amendment the same treatment given to the bill, he was told that only Democrat chairmen can operate outside the rules of the House. Incredibly, the amendments that Mr. WALSH sought to have debated are based on recommendations by the General Accounting Office in response to a request by the chairman of the District of Columbia Committee and his counterpart on the Committee on Appropriations for information on the financial status of the District of Columbia Government. That report concludes that the city is in such a financial state of disarray that when astronomers thought they discovered a black hole in space, their telescopes were actually pointed at the city treasury.

Mr. Speaker, the appropriators have been coming to the Committee on Rules and asking to waive clause 2 of rule XXI so often that they refer to these waivers as routine. The reality is that our budget process is broken and the House leadership continues to do business as if nothing is wrong.

The authorizing committees do not seem to legislate anymore; much of it is done right here in these appropriations bills.

Mr. Speaker, we have reached the point where ignoring rules of the House has become standard operating procedure. The authorizing committee chairmen bypassed the deliberative process that we once called the committee system and they cut their deals with the Appropriations Committee. Then the Rules Committee structures a rule that conveniently shuts out virtually every Member of the House from participating in major legislative decisions.

Mr. Speaker, it is time to bring this House of Representatives out of the dark ages; it is time to reform the convoluted budget process; it is time to reform the stifling bureaucracy that exists in this institution.

The leadership may be unwilling to move this institution forward, but at least we can restore some semblance of fairness to the legislative process, if we simply defeat this rule.

ROLLCALL VOTES IN THE RULES COMMITTEE ON AMENDMENTS TO THE PROPOSED RULE TO H.R. 4649, DISTRICT OF COLUMBIA APPROPRIATIONS, FISCAL YEAR 1995, TUESDAY, JUNE 28, 1994

1. Walsh (NY) No. 1—An amendment to establish a separate account from the federal payment designated for the city's pension fund. Vote (Rejected 4-5): Yeas—Solomon, Quillen, Dreier, Goss. Nays—Moakley, Derrick, Beilenson, Bonior, Gordon. Not Voting: Frost, Hall, Wheat, Slaughter.

2. Walsh (NY) No. 2—An amendment to prohibit the city from offering 2 cola's for police & fire pensioners; and No. 3 an amendment to require the mayor to develop a new pension plan for prospective employees. Vote (Rejected 4-5): Yeas—Solomon, Quillen, Dreier, Goss. Nays—Moakley, Derrick, Beilenson, Bonior, Gordon. Not Voting: Frost, Hall, Wheat, Slaughter.

3. Adoption of Rule—Vote (Adopted 5-4): Yeas—Moakley, Derrick, Beilenson, Bonior, Gordon. Nays—Solomon, Quillen, Dreier, Goss. Not Voting: Frost, Hall, Wheat, Slaughter.

Mr. Speaker, I reserve the balance of my time.

Mr. GORDON. Mr. Speaker, I yield myself such time as I may consume.

Once again it seems that my friend from California's only consistency is inconsistency. On the one hand he says he wants an open rule; this is an open rule. But it is not good enough. Sometimes he says he wants a waiver. It seems that when he wants a waiver and he gets it, that is fair; but when he does not want a waiver or if he does want a waiver and does not get it, that is unfair. So it seems that fairness is determined by whether he gets what he wants every time.

Make no question about it, this is an open rule.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. GORDON. I am happy to yield to the gentleman from California.

Mr. DREIER. I thank the gentleman for yielding to me.

Mr. Speaker, let me explain this issue of fairness. We would not have made a request for any waivers whatsoever on Mr. WALSH's three amendments that I offered upstairs that did require waivers, if the bill itself that was coming out of the Appropriations Committee was not. We were not asking for any different treatment for Mr. WALSH than we are for the bill as it is treated in the way it has been submitted before us.

So what we are saying is if it is fair for you, it should be fair for us too. That is the only concern that we have.

I thank my friend for yielding.

Mr. GORDON. Once again, this is an open rule. When my friend from California wants waivers, then you need to have waivers or it is not fair. When my friend from California does not want waivers, then if you do not have waivers, it is not fair. So I think we need to make it very clear this is an open rule. I hope folks will understand that and vote for that accordingly.

Mr. DREIER. Mr. Speaker, would the gentleman yield for a question?

Mr. GORDON. I am happy to yield to the gentleman from California.

Mr. DREIER. I thank my friend for yielding.

I appreciate his thoughtful statement, and I would like to inquire of my friend if he would agree to waive, that is, to come down with a full open rule that would not provide protection for any parts of the bill coming out of the Appropriations Committee, I would be more than happy to not make the request for the three Walsh amendments that I submitted upstairs. Would my friend be agreeable to that?

Mr. GORDON. I would be happy to address it if the gentleman would repeat it.

Mr. DREIER. If my friend would further yield, I would like to state to my friend that we would be more than happy on this side to relinquish our request for the waiver on the three Walsh amendments that I submitted upstairs if the gentleman will insure that no parts of this rule, this bill that is coming down, the D.C. appropriations measure, are protected at all.

Mr. GORDON. Once again, this is the rule that the gentleman wants on this one; on something else, the gentleman would want something else done. The fact of the matter is this is an open rule.

Mr. DREIER. All we are asking for is fair treatment on both sides of the aisle here.

Mr. GORDON. Mr. Speaker, I yield to the chairman of the subcommittee, the gentleman from California [Mr. DIXON].

Mr. DIXON. I thank the gentleman for yielding to me.

Mr. Speaker, my colleague is absolutely correct.

Mr. DREIER. Your California colleague?

Mr. DIXON. No, I am referring to the gentleman from Tennessee.

The fact of the matter is that an open rule refers to amendments and not to the content of the bill. But let us get to the content of the bill. There are waivers on the content of the bill. Who is the author of the waivers? Mr. WALSH. Mr. WALSH had five amendments. I went to the Committee on Rules and supported him on waiving points of order on two of them.

I think that was reasonable. These were not the chairman's amendments that were put in the bill; these were Mr. WALSH's amendments. As it relates to the open rule, we do have an open rule and anyone can offer an amendment within the House rules. I do not know how—when the Republican ranking member has offered amendments and we asked that they be protected, but not all of them—how then you can say that there is any inequity in this situation.

Mr. DREIER. If my friend from Tennessee would yield so that I might ask a question of the distinguished subcommittee chairman.

Mr. GORDON. I am happy to yield to the gentleman from California.

Mr. Speaker, the gentleman has time of his own. I will yield mine. I assume that if we run out of time, the gentleman will yield some back. I know we will work the time situation out.

I am happy to yield at this time.

Mr. DREIER. I thank the gentleman for yielding.

If I could inquire of my friend from California: I understand there were a total of five amendments that were proposed here and that the gentleman accepted two of the five amendments. Was there a reason that the other three amendments could not have been incorporated?

Mr. DIXON. If the gentleman would yield, in my judgment they were not good amendments for this bill.

Mr. DREIER. The concern that I have, as my friend from Tennessee has raised in response to the issue of fairness which I brought up, this rule waives points of order against the bill in general. It seems to me, if we are going to do that on any aspect of the bill, we should treat all Members in an evenhanded way. That is all we are requesting.

Mr. DIXON. If the gentleman would yield further, we can have this dialog and debate this issue. But it gets down to this: Mr. WALSH came to the Rules Committee and asked for a waiver of points of order so that he could offer on the floor three amendments he offered in our committee but were not adopted.

□ 1330

Those amendments had been turned down in the subcommittee, and—just let me finish; it is on our time—turned down in the full committee. I did not support his request for a waiver when we were before the Rules Committee. But I was not rigid about it. On two of them I said, "I will go with you and support the waiver."

That is exactly where we are, no matter how much we discuss it and shape it in some other way. He had five amendments. Two of them I accepted. They would be subject to a point of order, but the committee thought they were good amendments.

I asked the Rules Committee to "Please protect them."

He is saying, "What about the other 60 percent? It's unfair because you are not allowing me to offer them on the floor."

Now we can talk about it all day, but that is the sum and substance, and I think anyone looking at it will see that our committee and the Committee on Rules have been equitable on this issue.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. GORDON. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, in responding I will say to the gentleman that I will be happy to yield some time to him if it is necessary.

Let me say to the gentleman from California [Mr. DIXON] that all we are asking for is fair treatment here. As my friend knows, appropriations bills are privileged resolutions which can come straight to the House floor, and under the operating rules of the House they should come directly to the House floor unless waivers are requested, and what we are saying is, you came before the committee and made that request for protection of your bill. All we're saying is that that same kind of courtesy should be extended on this side of the aisle to the ranking member of the committee, the Subcommittee on Appropriations.

Mr. GORDON. Mr. Speaker, let me make very clear that the gentleman from New York [Mr. WALSH] is a valued Member, I am sure, of the committee, and I know of the House as a whole, and it is my understanding that he had a chance to offer these amendments both at the subcommittee and at the committee level. So, he has had an opportunity to offer these amendments, and once again, Mr. Speaker, let me make clear this is an open rule so that all matters that are relevant to this bill can be brought before this Chamber for amendments.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume, if I might, to respond briefly to the statement my friend has made. I simply want to say that because a Member has had an opportunity at the subcommittee level and at the full committee level, that should never preempt their right to have the full membership's consideration of a proposal that they might have.

Mr. Speaker, I yield 6 minutes to my very distinguished friend and classmate from Richmond, the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I am taking this time to alert the Members to a pair of motions I will offer during consideration of H.R. 4649. As soon as the bill is open for amendment, I will offer a motion for the Committee of the Whole to rise and report the bill back to the House with a recommendation that the enacting clause be stricken. If that motion is successful, I intend to offer a motion to refer the bill with instructions to the Appropriations Committee. The instructions will be to wait for the District government to revise its budget and then to report the bill back with an amendment to take into account the revised District budget.

Last year the District government passed a revised fiscal year 1994 budget during the congressional appropriations process. The House had already approved the original budget and we did not get to act on the revised budget until the conference report. That process is unacceptable because we perfected a meaningless bill and never got a chance to perfect the real one. The District government is already working to revise the budget that will be before us today. For example, I have a June 16, 1994, letter from the District announcing that it is currently revising the budget by $75 million simply because of the recent settlement with the retirement board. This revision should increase as the District figures out how to deal with the new court order to repair the 5,600 fire code violations in the schools before they can be opened in September. More changes will surely follow. We should simply wait for the District to complete its process. That is what my motions are intended to accomplish.

To accomplish my purpose of sending the bill back to the Appropriations Committee for revision I must offer two separate motions. The first motion—to have the Committee of the Whole rise and recommend that the enacting clause be stricken is frequently used as a maneuver to secure more debate time. I will not be using the motion for that purpose. Rather, I hope to win that vote so that we will not go through the amendment process on this bill. As I have already pointed out, the amendment process is pointless since the District government is currently working on revising the budget that is in this bill.

We have a significant amount of new information from the GAO report requested by the chairmen of the District Committee and the Appropriations Subcommittee on the District. The District Government needs time to review this report and act accordingly.

I want to give the District government a reasonable opportunity to make its own choices and not have those decisions made by Congress and handed down to the District. In turn, we must not go forward with this budget until the District acts. We must not come to the end of this session facing a choice of this budget or no budget. We must have an alternative.

If my motion for the Committee to rise is successful, I will offer another motion to refer the bill back to the Appropriations Committee. What I want the committee to do is wait for the District government to complete its budget revision process and then for the committee to consider that revision. After any committee amendments to the updated District budget, the committee will report the bill back to the House with an amendment revising the budget as necessary.

This procedure is the only way in which this House will have the opportunity to examine, perfect, and work its will on the ultimate District budget. Any action that we take on this flawed bill will serve no useful purpose.

I also want to take just a moment to respond to some of the comments of others on the action I am taking on this important issue. I have heard my actions described as a ploy to defeat the District budget. I am taking this action specifically so that we will not defeat the District's budget. The only ploy that I see in this process is the flawed spending plan the chairman and ranking Republican of the Appropriations Subcommittee received from the District just last night. I can assure everyone that this so-called new plan is being introduced only to confuse Members. Members must also understand that this plan which may be brought up in this debate has nothing to do with the fiscal year 1995 budget before us today. If justification cannot be found for the purported savings or revenues then we will be witnessing not a step forward in good faith but a leap backward into more unreality.

I urge all Members to support my motions to send the bill back to the Appropriations Committee for further work, pending action by the District government which surely must be taken eventually.

□ 1340

Mr. GORDON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DIXON], chairman of the subcommittee.

Mr. DIXON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, let me first say that I rise to serve notice to this body that I intend to resist the motions that will be offered by the gentleman from Virginia [Mr. BLILEY]. However, I would like to point out to the Members that the gentleman from Virginia has been very constructive in this debate and has kept me advised of what he intended to do, and I know he thinks his proposal is constructive. I just disagree with him and will make the case for my position on the merits at the appropriate time.

Mr. Speaker, I reserve the balance of my time.

Mr. GORDON. Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, may I inquire of the Chair as to how much time remains on both sides?

The SPEAKER pro tempore (Mr. TAYLOR of Mississippi). The gentleman from California [Mr. DREIER] has 20 minutes remaining, and the gentleman from Tennessee [Mr. GORDON] has 19 minutes remaining.

Mr. DREIER. Mr. Speaker, I am happy to yield 6 minutes to the Member whose name has been mentioned throughout this day, the gentleman from New York [Mr. WALSH], the ranking Republican on the Subcommittee on the District of Columbia.

Mr. WALSH. Mr. Speaker, I thank the gentleman from California [Mr. DREIER], the distinguished member of the Committee on Rules, for protecting my interest in these amendments as regards our efforts before the Committee on Rules.

Mr. Speaker, I rise in opposition to the rule. I appreciate the fact that it is an open rule, but we did, in fact, ask for the same waiver that the chairman of the subcommittee had asked for, and I do agree and admit that the chairman asked for a waiver to accept two of the amendments we had offered in committee. The difficulty was that the other three were very consistent with those first two amendments. But we were denied.

During the general debate I will speak to the GAO report which shows clearly how desperate the District's condition is. The District's operating budget is not balanced, nor has it been balanced for the past 2 years.

Under this rule I would like to focus on the unfunded pension liability of the District of Columbia. Currently the Federal pension obligation of the District government is $4.4 billion underfunded. This is a monumental amount of money. The cost of this obligation to the District for 1995 is $300 million. Things have gotten so bad that the Mayor this year, in order to present a so-called balanced budget, decided to renege on the pension payments this year. This sent shock waves through the community and to the financial markets, and it scared the heck out of the pensioners. The Pension Board was forced to raid the fund to meet its commitment. Thus future pensioners will be denied the interest that would have accrued on that money.

This was a terrible decision, but Ms. O'Connor, the Chief Financial Officer for the District, said it was a choice between funding the pension or maintaining the Metro System. What a terrible position they have put themselves in. And let us not forget, Mr. Speaker, that in just 1991 the Congress gave the District an additional $100 million and allowed them to borrow an additional $300 million in 1991, 3 years ago, to get their fiscal house in order and set up a rainy-day fund.

Well, the wolf is at the door again, just 3 years later, and neither the District nor the Congress is willing to make the tough decisions.

We will hear today that we must pay homage to home rule, but the District must make its own decisions. But they have not, and they will not. Therefore, we must. Besides, the District government knows we will stand aside again and wait for them to make the hard decisions, which means that no decisions will be made.

Mr. Speaker, under home rule and under the agreement, the law requires that the District present us with a balanced budget. They have not. The GAO report shows they have not. They ended 1993 short and will again in 1994 wind up short by over $58 million in their cash reserves. I refer to the GAO report, Financial Status for the District of Columbia, and I read this on page 13: "The District estimated its cash balances would dip to $65 million by September of 1995."

This estimate assumed deferring a $74 million pension payment in 1995 until 1996. However, the District entered into an agreement with the Pension Board to make all payments in 1995, which includes an additional $74 million payment. With an estimated $65 million in the fund prior to that agreement, that shows it will finish the year with at least a $9 million deficit. Part of that agreement with the Pension Board requires that the District pay them accrued interest and penalties amounting to another $13 million. They will end the year at a minimum of $22 million in deficit in cash funds.

According to the GAO audit, the actual cash on hand at the end of 1993 was a minus $31 million, and as forecasted in 1994, a minus $58 million.

The Washington Post reported just this week, based on this GAO report, that the District could conceivably wind up with a minus $200 million shortage in 1995 and have to go to the U.S. Treasury to bail itself out.

Mr. Speaker, I asked to be allowed to present several amendments that would make a positive impact on the pension and the budget. Chairman DIXON, to his credit, accepted two of them. The first amendment would appropriate $250,000 to audit the Pension Board, and the second would require the District to give us quarterly reports on spending and revenue projections. The Board asked for and received a waiver from the Committee on Rules. I did not.

We asked for three amendments, first, to set aside $295 million to make sure the pension obligation would be met this year; second, to cut a double cost-of-living allowance from two a year down to one; and, third, to develop a new pension system for prospective hiring so that this obligation can be met. All were disallowed.

The committee should be consistent and should have supported my request for a waiver. I say to my colleagues that the time has come for all good men and women to come to the aid of their Nation's Capital.

For that reason, Mr. Speaker, I ask for a "no" vote on the rule, and I myself will vote "no" on this rule.

Mr. GORDON. Mr. Speaker, for the purpose of debate only, I yield 3 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I rise to ask my colleagues to support the rule that is before us. It is a perfectly fair rule.

Mr. Speaker, there has been much reference to the GAO report. The GAO report was commissioned by the two chairs of the appropriate committees and has laid the predicate at last for an appropriate action by the District and by the Congress.

This is a precarious moment for the District, and I ask my colleagues to respect the appropriations process that has produced this rule and is finally producing action in the District.

The District of course, has become fair game this year because of the possibility of insolvency. About the worst thing we could do to make it worse, of course, would be to attempt blind micromanagement from the Hill. It is a dangerous game. We do not have the full chessboard before us. I assure the Members that if we start manipulating the parts of the budget on the chessboard that most concern us, some of the pieces will fall off. Precipitous cuts or, for that matter, sending the budget back where it came from are examples of actions destined to take the District down.

□ 1350

For example, the District needs to restructure its government, not simply to cut its government. It does not need to slap together something on paper that will please the Congress.

As we speak today, the City Council is holding hearings on the GAO report which, after all, was just issued within the past week or 10 days. I have spoken with both the mayor and the chair of the city council and impressed upon them the seriousness of the situation from the point of view of Congress.

I was pleased at how serious they took the situation and the report and am pleased that today, the first opportunity the council has had, it is itself holding public hearings on the GAO report, to which I expect the appropriate response.

What will not get the appropriate response, what we cannot do during this budget period, is to somehow turn this situation on its head. This situation needs a deliberative process. That process begins with the GAO report. It continues with hearings in the city. It cannot be manufactured from the Congress. I ask my colleagues to support this rule in all fairness.

Mr. GORDON. Mr. Speaker, I have no further requests for time.

Mr. DREIER. Mr. Speaker, actually I am very pleased that my friend from Culver City has joined us again and my friend from Tennessee. I would like to engage in a colloquy, if I might just for a moment, on this issue we were discussing earlier.

We have spent a great deal of time talking about the waiver for these two amendments that were protected of the gentleman from New York [Mr. WALSH]. Then I referred to the fact that three of them were not.

I wonder if my friend might tell us how many other items were protected in this measure in all? We have talked about these three. I know we have blanket waivers for a number of provisions. I just wondered how many.

Mr. DIXON. Mr. Chairman, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from California.

Mr. DIXON. Mr. Speaker, I cannot tell the gentleman the number. I can tell the gentleman the waivers that I joined in as it related to actions that we took. Two offered by the gentleman from New York [Mr. WALSH], one offered by the gentleman from Maryland [Mr. HOYER], dealing with the wharf, and, at that point in time, one offered by the gentleman from Virginia [Mr. MORAN], which the gentleman from Tennessee has indicated, because of a scoring problem, I will in fact offer an amendment to strike.

So there are basically three, two by the gentleman from New York [Mr. WALSH] and one by the gentleman from Maryland [Mr. HOYER].

But I would point out that the budget, as sent up to us, did have some requests from the District which really do not relate to our conversation nor did any harm.

Mr. DREIER. Mr. Speaker, reclaiming my time, I understand that really is a subjective assessment, that they did not do any harm. I will say in the name of fairness, our count over here, and I wanted to see if it meshed with yours, shows there are 51 items that are protected in this measure under the total provided to me by the ranking member of your subcommittee. You have referred to a couple of Democrat amendments, the gentleman from Maryland [Mr. HOYER] and the gentleman from Virginia [Mr. MORAN].

All we are asking is that while we have had these two protected for the gentleman from New York [Mr. WALSH], out of a total of 51, it seems to me we ought to maybe have 51, or, if we do it based on the breakup of the configuration of this House, a 60-40 ratio might be more balanced.

It seems to me when there are 51 items in here that are protected, that it really is not fair, and that gets back to my opening statement.

Mr. DIXON. Mr. Chairman, if the gentleman would yield for a response, I am not sure that there are 51, but I would accept that. I do not think that is correct.

Mr. DREIER. Mr. Chairman, I am using the report the gentleman submitted.

Mr. DIXON. I accept that. But the real issue is how many waivers were made based on Members of Congress or the committee's request. Let me point out to the gentleman that the large majority, except for those three or four, are language that have been placed in the bill.

Let me give an illustration of that. On page 21, line 16, section 113, no part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy, including boycotts designed to support or defeat legislation before Congress or any State legislature.

That is something that this body has accepted in the past, that they would not use money for propaganda or otherwise lobbying.

Mr. DREIER. If I could reclaim my time, Mr. Speaker, just to say to argue that no Member has made this request, when in fact the chairman of the subcommittee has made this request to put these items in order here, it seems to me as we look at this, if you are going to continue to do this, why do we have an authorizing committee on which the gentleman from Virginia [Mr. BLILEY] has worked so diligently over the years, if all of these items are going to be taken care of in this appropriations process? It has not simply been three Members who made this request. The majority leadership of this committee has, maybe at the request of the city here, the District of Columbia, included these items. But, frankly, a Member has done it.

Mr. Speaker, I yield 3 minutes to my friend, the gentleman from Sanibel, FL [Mr. GOSS], who has spent a lot of time thinking about and living in the District of Columbia when he is up here and not in Sanibel, FL.

Mr. GOSS. Mr. Speaker, each year I rise with great regret during consideration of the District of Columbia appropriations bill—regret I feel for the lost opportunity the people of the District of Columbia have suffered because their local elected leaders and public officials have failed in their management of the Nation's Capital City.

I am a true champion of home rule. I have a deep disappointment as a champion of home rule that after 20 years of home rule here, there is really only a worsening crisis of function after function of the city government.

The headlines this past year have told an incredible story of corruption and fraud, mismanagement, abuse of privilege, inept leadership, and virtually criminal abuse of the public trust; and I'm not talking about Mayor Kelly's cosmetician. We had a scandal at the District of Columbia Housing Agency involving bribery and misuse of public housing funds at the same time as more than $1.3 million was spent for renovations at the Housing Agency. There is the ongoing financial crisis involving a dangerous shortfall in the District's budget—a crisis that has been detailed in an eye-opening GAO report which portends a Federal bailout in the near future and an imperiled pension fund. There were the scandals of District of Columbia police officers conspiring to assist a drug ring, corrections officers found guilty of accepting bribes and smuggling drugs, and the forced resignation of the city's director of campaign finance because of drug charges. Violent crime is up, child welfare and productivity are down, and the Nation's Capital continues to prove that it cannot effectively manage itself.

Meanwhile, Mr. Speaker, this House is asked to approve funding for the District of about $720 million—without any serious requirement for changes in the way this city is being run. We have a disastrous financial situation—and a city government that has bounced from one scandal to the next. Yet, when Mr. WALSH of New York sought, in good faith, to offer concrete measures to head off the financial crisis—he was shut out. Mr. Speaker, I urge a "no" vote on this rule. For 20 years we've been told it'll be better next year—turns up. It's time for the District to clean up its act and face the music.

Chairman DIXON said we need to fix things. Well, no rule can fix what is wrong with the District of Columbia government. Frankly, this legislation does not fix it either, and that is why it should not be approved. This bill just shuffles money, another three-quarters of a billion dollars, on a problem that does not have a fix. No fix is even called for in this legislation.

I am told if you compare with other cities, they have problems too. And, yes, they do, the large urban metropolitan areas. I am aware of that. The fact of the matter is, Congress has a very special relationship with the District of Columbia, and has a very special responsibility. It seems to me that if we have this special responsibility, and that is what the problem is with the District of Columbia, then Congress had better get to work and find out what the fix is right now, because we cannot just keep doing what we have been doing before.

I am going to be offering cutting amendments to make a point. They certainly are not going to improve the situation. They may save the taxpayers some money.

We had a vote here on statehood. It did not pass because statehood is not defensible. We are having a referendum right now on home rule, and that may not sustain, because that no longer may be defensible. Certainly wasting taxpayers' dollars is not defensible. I think the District has been told repeatedly, the management, the government, that they have got to shape up, and every year we are told it is going to get better, and every year it gets worse.

Okay, where is the fix? It is not in this rule. It is not in this legislation. I suggest we go back to the drawing board and try and do what is right for our Nation's Capital.

□ 1400

Mr. DREIER. Mr. Speaker, I yield 2 minutes to a member of the Committee on Energy and Commerce, the gentleman from Ennis, TX [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, at the appropriate time under consideration of H.R. 4649, the D.C. appropriations bill, I will offer an amendment to prevent any funds from being expended to enforce the Domestic partners Act that the District of Columbia passed in 1992.

The Barton amendment is identical to an amendment that was offered 2 years ago by the gentleman from Texas [Mr. DELAY] and last year by the gentleman from Oklahoma [Mr. ISTOOK.] It passed in 1992 with 235 votes. It passed in 1993 with 251 votes. Had the committee seen fit to include the language in the pending legislation, there would not be a need to offer it as an amendment on the floor this year.

However, the committee did not do that and so there is a need for this amendment. Under the D.C. Domestic Partners Act, there is a tax preference given to domestic partners, it allows homosexual marriages to be registered. It defines domestic partners as a homosexual couple, heterosexual couple living together and any roommate. The Barton amendment basically continues, if adopted, the language that has been approved by this House and the Senate the last 2 years. It is supported by the Concerned Women for America, the Christian Coalition, the Family Research Council and Traditional Values Coalition.

I would strongly urge all Members to support the Barton amendment this year, when it is offered.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Lincoln, NE [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for yielding me this time.

I serve on the housing subcommittee of the Committee on Banking, Finance and Urban Affairs. I have been attempting to focus some attention upon an entity of the District of Columbia called the Department of Public and Assisted Housing. This is the housing authority for this District of Columbia in which we now are located.

Since HUD has begun to describe troubled housing authorities in the late 1970's, DPAH has always been listed as one of the troubled housing authorities. HUD has recently declared it to be the most troubled or the worst housing authority in the United States of America.

I gather that most of my colleagues have noticed something about the latest scandal that has racked DPAH, the latest one being the voucher problem. Some time ago, a special master was appointed to consider the problems of DPAH. The special master made the recommendation that Judge Steffen Graae should, in fact, put the housing authority into a receivership.

This latest scandal that has racked this housing authority is not only a waste of taxpayers' funds, it is really hurting the people who can least afford to be hurt in our society, particularly in this city.

To have to pay bribes to get housing vouchers, the routine practice at DPAH which apparently went on for years and years, is just outrageous. I do not know what we can do to move Judge Graae along, but it is a rare opportunity to take the floor on this relevant issue affecting an element in the District of Columbia's government, DPAH. This Member will continue pushing for action on DPAH through votes on this issue in the Banking subcommittee and committee. In addition, Mr. Chairman, I would like very much to see the problems of DPAH addressed somehow in the appropriation process in the future through this appropriations subcommittee.

If Judge Graae is unwilling to act upon this special master's recommendation, then I think the Congress has a responsibility to put DPAH in receivership and to require a whole host of our necessary reforms.

Mr. DREIER. Mr. Speaker, I yield myself 1 minute just to close.

Mr. Speaker, we have just decided here that we are going to ask for a vote on the previous question. We have concluded that with 51 items that are protected in this measure, we should, in fact, have a real open rule to bring about the kind of fairness that I know my friend from Tennessee would like to have. I will ask my colleagues to vote to defeat the previous question and then I will insert an amendment which will simply ensure that this is an open rule without any protections whatsoever, whether they are for the majority Members or the items that we discussed from the gentleman from New York [Mr. WALSH]. It is the only way that we can bring about true fairness and an open rule.

Mr. Speaker, I yield back the balance of my time.

Mr. GORDON. Mr. Speaker, I yield myself such time as I may consume.

In conclusion, let me just say that many of us have serious concerns about the management of the District of Columbia. I am certainly one of those Members here. So I think it is important that we get on and debate this bill and address these serious matters.

At the risk of creating an echo in this chamber, let me say, once again, as my friend from California knows, this is an open rule. The fact of the matter is that all relevant amendment were allowed at the subcommittee level, debated, and voted upon. All relevant amendments were allowed at the committee level, introduced, debated, and voted upon. And all relevant amendments today on the House floor will be allowed, debated, and voted upon.

This is an open rule. This is an open rule that is supported by the chairman of the authorizing committee, and I would request that this body approve this open rule.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. GORDON. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank the gentleman for yielding to me.

I picked up this open rule that my friend has referred to. It is House Resolution 466. It is very brief. It makes no mention whatsoever of an open rule. All it does is waive points of order. So I would like to ask the gentleman, he about six times described this as a great open rule. All it does is waive points of order on 51 items protecting items that the majority has raised and just a couple of items that have been raised by the minority here. That is why I hope very much that we can vote to defeat the previous question to ensure that we will be able to have a true open rule and eliminate all of these items in here which are protected.

Mr. GORDON. Mr. Speaker, reclaiming my time, as my friend from California knows, and he frequently asks for an open rule, an open rule applies to an amendment process. All amendments that were relevant were allowed in this committee.

Mr. Speaker, I yield to the gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Speaker, I thank the gentleman from Tennessee for yielding to me. I would just like to engage in a colloquy with my good friend from California, who is a member of the Committee on Rules. First, I do not understand the rationale for turning down the previous question on an open rule.

As I understand what the gentleman is saying, an open rule would not prohibit a Member from making a point of order. An open rule would allow the amendments that the gentleman from New York, Mr. WALSH, offered, and that were agreed to by our committee and that I am trying to protect through this rule to be struck on a point of order. It would not allow the gentleman from New York, [Mr. WALSH] to offer his amendments because they are still subject to a point of order.

If I understand, and perhaps I do not understand it, that would be the situation.

Finally, as it relates to the other 47 that the gentleman refers to, those are policy issues that both sides of the aisle agree with. They would be subject to a point of order.

An open rule, as the gentleman is saying it, does not move us forward at all. It is counterproductive. I thought the gentleman from New York, [Mr. WALSH] wanted to have summary reports every quarter. I agree with that. But there may be Members here who do not want to move that far. It would mean that that would be struck on a procedural matter. I do not think that the member of the Committee on Rules wants to do that.

Mr. GORDON. Mr. Speaker, reclaiming my time, I think we need to move forward with this bill. This is the conclusion of the time. We need to move forward with this bill. I do not want to cut the gentleman off.

Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. DREIER] to conclude. Then we will move forward with this resolution.

□ 1410

Mr. DREIER. Mr. Speaker, I was simply going to respond to the questions raised by my friend, the gentleman from Culver City, CA [Mr. DIXON] and say that it is under the standard rules of the House that the open amendment process is in order. In light of that, there is no necessity to go to the Committee on Rules whatsoever, if it were not for the protection of these 51 items.

Mr. Speaker, my amendment that I hope to offer when we defeat the previous question simply strikes all after the resolving clause and inserts in lieu thereof nothing. Basically, this is not necessary whatsoever, because this rule says nothing about an open amendment process. All it does is provide waivers protecting items that have been raised by the majority.

Mr. Speaker, I thank the gentleman for yielding to me, and urge a no vote on the previous question. The material referred to is as follows:

HOUSE RESOLUTION 466—AN AMENDMENT OFFERED BY MR. DREIER

Strike all after the resolving clause and insert in lieu thereof, nothing.

CHANGES IN THE APPLICATION OF EXISTING LAW

Pursuant to Clause 3, rule XXI of the Rules of the House of Representatives, the following statements are submitted describing the effect of provisions in the accompanying bill which might be construed, under some circumstances, as directly or indirectly changing the application of existing law.

1. Under "Governmental Direction and Support", there is language which provides that program fees collected from the issuance of bonds or other debt instruments shall be available for the payment of expenses of the District's debt management program. Section 490 of the Home Rule Charter (Public Law 93–198, as amended) authorizes the District government to issue revenue bonds for a number of specified purposes and was amended by Public Law 95–218 specifically to enable the District government to act as a conduit for the issuance of revenue bonds for private colleges and universities. This language will allow the District government to be reimbursed for the costs of issuing bonds on behalf of third-party beneficiaries.

2. The bill includes language under "Governmental Direction and Support" appropriating funds to pay legal, management, investment and other fees and administrative expenses of the District of Columbia Retirement Board. Section 121(f)(1) of the District of Columbia Retirement and Reform Act (Public Law 96–122) states that all administrative expenses incurred by the Board are to be paid out of funds appropriated for such purposes. The language recommended by the Committee appropriates the total amount required for the operation of the Board and specifies that the total amount is to be from the investment income of the pension funds. The language also clarifies that all expenses of the Board are to be paid from this appropriation. A requirement for quarterly reports as well as timely submission of budget data and audit information is also included in the language.

3. The bill includes language under "Economic Development and Regulation", requiring that any profits associated with the operations of the District of Columbia Housing Finance Agency be used to reimburse the general fund for the costs involved in issuing mortgage revenue bonds. The language also provides that upon commencement of debt service payments such payments shall be deposited into the general fund.

4. Under "Public Safety and Justice", language provides an exemption for two classes

of passenger motor vehicles from 31 U.S.C. 1343(c) which states, in part, that:

(c)(1) Except as specifically provided by law, an agency may use an appropriation to buy a passenger motor vehicle (except a bus or ambulance) only at a total cost (except costs required only for transportation) that

* * * * *

(C) is not more than the maximum price established by the agency having authority under law to establish a maximum price; and

(D) is not more than the amount specified in a law.

The classes of motor vehicles exempted from the price ceiling are vehicles used for police, fire fighting and fire prevention activities. Because of the special requirements for those types of vehicles the costs exceed the maximum set for passenger motor vehicles for regular use.

5. Language is included under "Public Safety and Justice" authorizing the Mayor to reimburse the National Guard for expenses incurred in connection with emergency services performed by the Guard at the request of the Mayor. The language also provides that the availability of these funds is to be considered as constituting payment in advance for the emergency services involved.

6. Language included under "Public Safety and Justice" provides that funds appropriated for expenses under the Criminal Justice Act of 1974 (Public Law 93–412) for fiscal year 1995 shall be available for obligations incurred under that Act in each fiscal year since inception of the program in fiscal year 1975. This language is necessary due to the long time lag, for various reasons, between the time attorneys are appointed and the time vouchers are presented to the District for payment.

7. Language under "Public Safety and Justice" provides that funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984 shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1985.

8. Language under "Public Safety and Justice" provides that funds appropriated for expenses under the Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986 shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1989.

9. Language is included under "Public Safety and Justice" providing $500,000 for the Police Chief's confidential fund in fiscal year 1995 in accordance with the Police Chief's estimates.

10. Language under "Public Safety and Justice" requires the Police department to provide quarterly reports on its efforts to increase efficiency and improve the professionalism in the Department.

11. Language under "Public Safety and Justice" gives the Metropolitan Police Department independent authority to make purchases up to $500,000 and provides that the District of Columbia government may not require the Department to submit to any other procurement review process, or to obtain the approval of any other official or employee.

12. Language is included under "Public Education System" authorizing the District of Columbia Public Schools to accept not to exceed 31 motor vehicles for exclusive use in the driver education program.

13. Language is under "Public Education System" requiring the Board of Trustees of the University of the District of Columbia to establish a tuition rate for nonresident students at a level no lower than the rate for nonresident students at comparable public institutions of higher education in the metropolitan area.

14. Under "Human Support Services", there is language providing that appropriations available solely for employees' disability compensation shall remain available until expended. 31 U.S.C. 1301(c)(2) provides in part, that:

(c) An appropriation in a regular, annual appropriation law may be construed to be permanent or available continuously only if the appropriation—

* * * * *

(2) expressly provides that it is available after the fiscal year covered by the law in which it appears.

15. Language under "Human Support Services" prohibits the District from providing free government service to private nonprofit organizations if the District would not be qualified to receive reimbursement pursuant to the Stewart B. McKinney Homeless Act.

16. Language is included under "Public Works" providing for the rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia.

17. Language under "Repayment of General Fund Recovery Debt" provides funds to reduce the District's accumulated general fund deficit.

18. Under "Capital Outlay", there is language that provides that the amount appropriated shall remain available until expended. This language is needed to provide an exemption to 31 U.S.C. 1301(c)(2) to allow the funds to remain available beyond fiscal year 1995. The exemption is needed because of the length of time required for the design and construction of capital projects.

19. The Committee has included language under "Capital Outlay" requiring that funds appropriated for capital outlay projects shall be managed and controlled in accordance with procedures and limitations established under the financial management system and that all such funds shall be available only for the specific project and purpose intended.

20. Language under "Lottery and Charitable Games Enterprise Fund" requires the use of non-Federal funds to finance the operations of the Lottery Board and directs the District to identify the source of funding from its own locally-generated revenues.

21. Section 101 of the "General Provisions" requires that all expenditures for consulting services obtained through procurement contracts be open for public inspection.

22. Language under section 104 grants the Mayor the authority within rates prescribed by Federal Travel Regulations, to establish mileage allowances for privately owned automobiles and motorcycles used for official purposes.

23. A proviso is included under section 105 of the bill permitting the Council of the District of Columbia and the local judiciary to expend funds for travel and payment of dues without authorization by the Mayor.

24. Section 106 appropriates funds for refunding overpayments of taxes collected and for paying judgments against the District of Columbia government.

25. Section 107 of the "General Provisions" provides an exemption from the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effect April 6, 1982 (D.C. Law 4–101; D.C. Code, sec. 3–205.44). That section states that:

Such amount as referred to in subsection (a) of this section shall not be less than the full amount determined as necessary on the basis of the minimum needs of such person as established by the Council.

Because of financing constraints, the District has regularly budgeted for a percentage of the public assistance payment standard, rather than for the full amount as required by Sec. 3–205.44 of the District of Columbia Code.

26. Language is included in section 110 of the "General Provisions" requiring the annual budget for the District of Columbia government for fiscal year 1996 to be transmitted to the Congress no later than April 15, 1995. The District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93–198) does not provide a specific date for the transmitting of budgets to the Congress.

27. Language in section 112 of the "General Provisions" has been carried since 1979 and allows the payment of a percentage of taxes collected to individuals who provide information to the District resulting in the collection of taxes.

28. A proviso is included under Section 114 requiring the Mayor to develop an annual plan for borrowing capital outlay funds and to submit quarterly reports to the Council to the District of Columbia.

29. Language in section 115 of the "General Provisions" requires the Mayor to obtain approval from the Council of the District of Columbia prior to borrowing funds for capital projects.

30. Section 116 of the "General Provisions" prohibits the Mayor from paying operating expenses with funds borrowed for capital projects.

31. Language in section 117 prohibits the obligation or expenditure of funds by reprogramming unless advance approval is obtained in accordance with established procedures set forth in House Report No. 96–443 as modified in House Report No. 98–265.

32. Language in section 118 prohibits the use of Federal funds in the bill to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia government.

33. Language in section 119 prohibits the use of Federal funds in the bill to purchase passenger automobiles as defined in 15 U.S.C. 2001(2) with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon.

34. Language in section 120 authorizes the Mayor to set the salary of the City Administrator at a rate not to exceed the maximum statutory rate established for level IV of the Federal Executive Schedule under 5 U.S.C. 5315, and provides that this salary may be payable to the City Administrator during fiscal year 1995. The language also authorizes the Mayor to set the per diem rate for board members of the Redevelopment Land Agency in the same manner consistent with their authority to set these rates for members of other boards and commissions of the District government. The Major does not have this authority at the present time.

35. Language under section 121 clarifies the pay setting authority for District employees as the District's Merit Personnel Act rather than title 5 of the United States Code.

36. Language in section 122 exempts the District from provisions of section 322 of the Economy Act of 1932 concerning expenditures for office leasing, alternations, improvements and repairs. This exemption was recommended by the General Accounting Office and was first carried in the fiscal year 1985 bill.

37. Language in section 124 extends for one year the District's authority to sell its general obligations bonds through negotiated sales.

38. Language in section 125 prohibits the District government from renewing or extending sole source contracts without opening them to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1984, effective February 21, 1986 (D.C. Law 6-85).

39. Sec. 126 requires any sequestration pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) to be applied to each of the Federal fund appropriation accounts rather than to the aggregate total of these accounts.

40. Language in section 127 provides that in the event a sequestration order is issued after the amounts appropriated to the District have been paid to the District, the Mayor is required to pay the Secretary of the Treasury, within 15 days after receipt of a request from the Secretary, the amounts sequestered by the order provided the sequestration percentage is applied to each of the Federal appropriation accounts and not applied to the aggregate total.

41. Section 128 makes permanent section 133 of the D.C. Appropriations Act, 1990, Public Law 101-168; 103 Stat. 1280-1282, which provides means by which the District of Columbia government is paid for water and sanitary sewer services furnished to any department, agency, or independent establishment of the Federal government.

42. Language under section 129 requires the District to pay interest on payments to the Federal Bureau of Prisons made more than 60 days from receipt of an itemized statement.

43. Language in section 130 prohibits the expenditure of funds for programs or functions for which a reorganization plan is required but has not been approved by the Council.

44. Language under section 131 allows the District of Columbia government to accept and use, with the Mayor's approval, donations received for public purposes authorized by law. The language also requires that accurate records be maintained by the agency or entity administering the program and that the records be available for audit and public inspection. The language also allows the Council of the District of Columbia and the Board of Education to accept gifts and donations without the approval of the Mayor.

45. Language under section 132 imposes a hiring freeze District-wide except for essential positions and requires the Council to enact implementing legislation.

46. Language under section 133 continues current law as it relates to the prohibition on the use of Federal funds for salaries, expenses, or other costs associated with the offices of D.C. Senator for representative.

47. Language under section 134 continues current law that prohibits the use of Federal funds in the bill for abortions except to save the life of the mother and in cases of rape or incest.

48. Language under section 135 requires an independent audit of the D.C. Retirement Board.

49. Language under section 136 relates to the Municipal Fish Wharf.

50. Language under section 137 relates to quarterly financial reports.

51. The Committee has approved language under the Water and Sewer Enterprise Fund relating to capital borrowings by the Secretary of the Army for the Washington Aqueduct.

Mr. GORDON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as I conclude this debate, we talked about a lot of parliamentary gobbledygook. The fact of the matter is, this is an open rule that allows all relevant amendments to be offered, debated, and voted upon.

Mr. STARK. Mr. Speaker, I rise in strong support of this rule providing for consideration of the District of Columbia appropriations bill for fiscal year 1995. I commend my colleague, JULIAN DIXON, for seeking this rule and Rules Committee Chairman JOE MOAKLEY for offering it.

This rule is both fair and reasonable. What makes this rule fair is that it allows for consideration of any amendment that complies with the Rules of the House governing consideration of appropriations bills. What makes this rule reasonable is that it defers to the authorizing committee decisions about such matters as the District's pension system and the use of the Federal payment.

Mr. Speaker, the House District Committee has before it legislation affecting the District's retirement system and unfunded pension liability, as well as reauthorization of the Federal payment. In those contexts, the committee will address the findings of the recently released GAO report on the financial condition of the District of Columbia.

I urge my colleagues to support this rule.

Mr. GORDON. Mr. Speaker I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. TAYLOR of Mississippi) The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. GORDON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

This will be a 15-minute vote. It will be followed by a 5-minute vote, if ordered, upon adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 251, nays 177, not voting 6, as follows:

[Roll No. 305]

YEAS—251

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velázquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—177

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook

Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—6

Chapman
Dicks
Machtley
Reynolds
Schumer
Washington

☐ 1430

Messrs. MCKEON, EVERETT, LEWIS of California, and MCCANDLESS changed their vote from "yea" to "nay."

Mr. BARCA of Wisconsin and Ms. EDDIE BERNICE JOHNSON of Texas changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

☐ 1433

The SPEAKER pro tempore (Mr. TAYLOR of Mississippi). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. GORDON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 236, noes 188, not voting 10, as follows:

[Roll No. 306]

AYES—236

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
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Frank (MA)
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Johnson (GA)
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Johnson, E. B.
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Lewis (GA)
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NOES—188

Allard
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Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
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Barton
Bateman
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Johnson, Sam
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Roberts
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Ros-Lehtinen
Roth
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Rowland
Royce
Santorum
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
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Shuster
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Talent
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
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Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—10

Armey
Chapman
Dicks
Machtley
Maloney
Reynolds
Schumer
Swift
Volkmer
Washington

☐ 1438

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. MALONEY. Mr. Speaker, I inadvertently missed rollcall 306 because I was in a meeting with constituents and arrived in the Chamber just after the vote ended. Had I been present, I would have voted "yea."

GENERAL LEAVE

Mr. GORDON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 466, the resolution just considered and agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

☐ 1440

GENERAL LEAVE

Mr. STOKES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 4624, that I be permitted to include tables, charts, and other extraneous material.

The SPEAKER pro tempore (Mr. TAYLOR of Mississippi). Is there objection to the request of the gentleman from Ohio?

There was no objection.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1995

Mr. STOKES. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4624) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and the offices for the fiscal year ending September 30, 1995, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not exceed 1 hour, the time to be equally divided and controlled by the gentleman from California [Mr. LEWIS] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. STOKES].

The motion was agreed to.

□ 1442

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4624, with Mr. BEILENSON in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

Pursuant to the unanimous consent agreement, the gentleman from Ohio [Mr. STOKES] will be recognized for 30 minutes, and the gentleman from California [Mr. LEWIS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we bring before the House today the 1995 VA, HUD, and independent agencies appropriations bill. Coincidentally, it is exactly one year to the day since we appeared before the House, last year with the bill.

As always, this is a very difficult bill to prepare. It requires tough, difficult choices. But in making those choices, what we as a committee attempted to do, I believe, was to be balanced and fair.

Our section 602(b) allocation was approximately $400 million in outlays below the President's request. The budget authority allocation is approximately $450 million above the 1995 request. But it is the outlay allocation that is the most constraining—and the question quickly becomes "what programs should be reduced to meet the outlay allocation?"

This problem is not unique to the VA-HUD Subcommittee. All discretionary spending is being squeezed as the budget caps continue to shrink the money available. And I think I can predict that next year we will be facing a discretionary cap that will force further spending cuts. And frankly, the outlook beyond 1996 appears equally grim.

As I mentioned, the outlay allocation is approximately $400 million below the President's request. To that deficit in outlays, the committee added approximately $350 million in outlays for high priority programs in the Departments of Veterans Affairs and Housing and Urban Development.

For example, VA's medical care account was increased to maintain the current services level. Medical and prosthetic research was increased to maintain the 1994 level. Additional funds were provided to address the increasing backlog in processing of veterans' claims. And operating subsidies for public housing projects were increased so as to provide for the well-being of low-income families.

That brought the real outlay shortfall to approximately $700 million. This amount was offset by outlay enhancers of approximately $300 million. These savings primarily result from including language to increase the Federal Housing Administration's mortgage floor and upper limit for high-cost areas, and expanding the Government National Mortgage Associations' real estate mortgage investment conduit program.

In order to bring the bill within the section 602(b) outlay allocation, reductions were required in the requested increases for the Environmental Protection Agency, the National Science Foundation, and the Corporation for National and Community Service. A reduction was also required in the amount requested for the National Aeronautics and Space Administration. However, each of these agencies received approximately one-half—or more—of its requested increase above the 1994 appropriation level, despite reductions in the amounts requested.

Let me stress this point because I believe it is very significant. EPA, the Science Foundation, and the Corporation each received approximately one-half—or more—of its requested increase.

Mr. Chairman, the VA-HUD Subcommittee has received letters from each of the heads of the major agencies funded in the bill supporting the subcommittee's recommendations.

There is another point I would like to mention—the President's investment proposals. The VA-HUD Subcommittee accounts for approximately $13 billion of the $90 billion in the investment package. This bill, as reported to the House, includes more than $12 billion for those investment proposals. That means the bill funds approximately 90 percent of the President's investment package.

Before going on to specific recommendations for the major agencies in the bill, let me explain the ground rules we used regarding legislation in the 1995 bill.

With a few exceptions—the previously mentioned outlay enhancers being the main ones—there is no legislation in this bill. Funding is provided for ongoing programs for which enabling legislation presently exists—although there is no authorization for a specific amount of funds for fiscal year 1995. This practice is not different from the way we have proceeded in past years.

Funds are not provided for a number of new programs in HUD, VA, and EPA for which there is no existing legislation. But, let me assure the members, the subcommittee will consider funding for all new programs, including those in HUD, VA, and EPA, in conference—after enactment and review of the authorizing legislation—and within the availability of funds in the subcommittee's allocation.

Let me turn now and highlight a few of the subcommittee's major recommendations.

For the Department of Veterans Affairs medical care account, we have provided a total of $16.2 billion—an increase of $111 million above the 1995 request. This increase represents the amount the VA estimates is needed to maintain the current services level in 1995.

The increase in funds recommended, together with an increase of approximately $300 million requested for contract employment, will permit the VA to maintain the 1994 hospital staffing levels. It is the committee's intention that the Secretary have the discretion to determine whether the FTE level is 201,508, as proposed in the budget—205,188, as provided in 1994—or some level in between. Any reduction below the 1994 FTE level will be offset with increases in contract employment. This places the responsibility for determining the proper mix of federal employees and contract employees where such an administrative decision should be—with the Secretary.

Under housing, we are recommending $26.8 billion—which is an increase of $915 million above the president's request. The recommended amount is also an increase of $1.8 billion above the 1994 level.

Where did that increase above the 1994 level go? Of the recommended amount, an increase of $279 million above the 1994 level is for homeless programs—the Secretary's number one priority.

The bill also includes the following increases above the 1994 level: $200 million for the community development grants program; $280 million for public housing operating subsidies; and $1.3

billion for 30,000 units of section 8 rental assistance.

Turning to the Corporation for National and Community Service, the Committee is recommending a total of $490 million in 1995. This is an increase of $120 million above the 1994 level and a decrease of $120 million below the 1995 request.

For EPA, the Committee is recommending a total of almost $7 billion in 1995 for activities of the Environmental Protection Agency. This is $368 million above the 1994 level and $170 million below the 1994 request.

Turning next to NASA, we have included $14 billion for the National Aeronautics and Space Administration in 1995. That is a reduction of $240 million below the budget request and $527 million below the 1994 level.

Included within the recommended amount is the full request of $2,120,900,000 for the space station program.

For the National Science Foundation, the bill includes $3.1 billion. This is an increase of $88 million above the 1994 level and $93 million below the 1995 request.

□ 1450

Mr. Chairman, I want to thank all of the members of the subcommittee for their active and interested participation in the hearings and deliberations that resulted in the development of this bill. I want to especially thank the ranking minority member of the subcommittee, the gentleman from California [Mr. LEWIS] for his cooperation and assistance. It is a pleasure working with him. I also want to express my appreciation and that of our subcommittee members, to our hard-working staff: Paul Thomason, Michelle Burkett, Robyn Bason and our detailee, Doug Reber. They have done an outstanding job.

Lastly, Mr. Chairman, crafting this bill would not have been possible without the hard work and long hours expended by the members of this subcommittee. I want to thank the gentleman from California [Mr. LEWIS], the gentleman from Texas [Mr. DELAY], and the gentleman from New Jersey [Mr. GALLO] for their work on that side of the aisle; and the gentleman from West Virginia [Mr. MOLLOHAN], the gentleman from Texas [Mr. CHAPMAN], the gentlewoman from Ohio [Ms. KAPTUR], the gentleman from California [Mr. TORRES], and the gentleman from Arkansas [Mr. THORNTON] on this side of the aisle. They are good Members, and we have produced a good bill.

I urge the Members to support the bill.

Mr. Chairman, at this point I will include a table with the Committee's recommendations compared to the 1994 levels and the budget estimates.

Department or agency	Appropriated, 1994	Budget estimates, 1995	Recommended in bill	Bill compared with—	
				Appropriated, 1994	Budget estimates, 1995
[1]	[2]	[3]	[4]	[5]	[6]
American Battle Monuments Commission	$20,211,000	$20,265,000	$20,265,000	+$54,000	
Cemeterial Expenses, Army	12,738,000	12,017,000	12,017,000	−721,000	
Chemical Safety and Hazard Investigation Board		4,250,000			−$14,250,000
Community Development Financial Institutions		144,000,000			−144,000,000
Consumer Information Center	2,074,000	2,008,000	2,008,000	−66,000	
Consumer Product Safety Commission	42,286,000	40,009,000	43,486,000	+1,200,000	+3,477,000
Corporation for National and Community Service	365,000,000	611,388,000	491,388,000	+126,388,000	−120,000,000
Council on Environment Quality	675,000	997,000	997,000	+322,000	
Court of Veterans Appeals	9,159,000	9,429,000	9,289,000	+130,000	−140,000
Department of Housing and Urban Development	24,966,681,000	25,901,078,000	26,815,784,000	+1,849,103,000	+914,706,000
Department of Veterans Affairs	36,665,953,032	37,105,920,061	37,283,863,061	+617,910,029	+177,943,000
Environment Protection Agency	6,619,797,900	7,158,095,000	6,988,017,000	+368,037,100	−170,078,000
Federal Deposit Insurance Corporation[1]	1,178,000,000	842,000,000	842,000,000	−336,000,000	
Federal Emergency Management Agency	786,289,000	702,000,000	831,322,000	+45,033,000	+129,322,000
National Aeronautics and Space Administration	14,527,399,000	14,240,684,000	14,000,684,000	−526,715,000	−240,000,000
National Credit Union Administration (limitation on direct loans)	(600,000,000)	(600,000,000)	(600,000,000)		
National Science Foundation	3,017,797,000	3,198,909,000	3,106,063,000	+88,266,000	−92,846,000
Neighborhood Reinvestment Corporation	32,000,000	38,667,000	38,667,000	+6,667,000	
Office of Consumer Affairs	2,159,000	2,166,000	2,166,000	+7,000	
Office of Science and Technology Policy	4,450,000	4,981,000	4,981,000	+531,000	
Office of National Service	160,000			−160,000	
Resolution Trust Corporation; Office of Inspector General	34,314,000	32,000,000	32,000,000	−2,314,000	
Selective Service System	25,000,000	22,930,000	22,930,000	−2,070,000	
Budget scorekeeping adjustments	−6,323,000	15,565,000	15,746,000	22,069,000	+181,000
Total	88,306,001,932	90,109,358,061	90,563,673,061	+2,257,671,129	+454,315,000

[1] Included such sums as necessary for losses under the Savings Association Insurance Fund.

Mr. Chairman, I reserve the balance of my time.

Mr. LEWIS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me first respond to the gentleman from Ohio [Mr. STOKES] and express my gratitude, not only for his expression of friendship and the pleasure we have had working together, but to say to the Members of the House that LOU STOKES is not just one of the finer members of the Committee on Appropriations, he is one of the best chairmen to have to work with. I look forward to continuing this newly developed partnership that is doing so well.

My colleagues, I rise to express my strongest support for H.R. 4624—the fiscal 1995 VA-HUD appropriations bill. In 1980, I read an editorial in the Los Angeles Times regarding the conclusions reached in the public policy process regarding land planning for desert wilderness in California—a subject, most of you know, that has my foremost attention these days. It concluded: "It's a good compromise. None of the principals can be totally satisfied with the final result."

That's precisely the way I would describe our VA-HUD appropriations bill. Almost every conceivable interest has to accept some pain or sacrifice in order to balance the competing interests in this bill.

The Clinton administration supports the bill but it has paid a price. In return for station and the substantial reinvention of the U.S. Department of Housing and Urban Development, the President and Director Panetta have had to surrender $170 million from their requested investment initiatives at the Environmental Protection Agency. The anticipated ramp up in the first full year of the Corporation for National and Community Service has been cut in half. And although total HUD funding is substantially more robust than this Member would like to see, pending concrete progress in resolving the Department's chronic management deficiencies, this bill defers funding of six new housing initiatives totalling $1.049 billion.

It is hoped that the veterans service organizations and those who serve on the authorizing committee will join us in support of the decisions reached regarding discretionary veterans programs. We provide the funds which make it possible for Secretary Brown to avoid a reduction of nearly 3,700 employees in this Nation's largest Government run medical care delivery system. While that runs counter to Vice President GORE's recommendations in the National Performance Review, it is a direct reflection of the will of this House.

We have restored a proposed cut of $41 million or 16 percent for VA medical research. The price for these decisions is that we have severely reduced VA major construction. We are, for the moment, $302 million or 73 percent below last year's enacted appropriations level. Additionally, we have increased total medical care funding by $611 million. while that's no small chunk of change, the subcommittee has traditionally added at least $1 billion above the previous year's appropriations. We no longer have the flexibility to provide such increases and address the bill's other challenges.

I want to take just a few moments to describe what has become the foremost controversy in our bill. And let's get it right. It's no longer Freedom or Alpha and it most certainly is not MIR II. It is truly an international space station. My chairman has had his doubts but he's nothing if not loyal and determined. And I am not just enthusiastic about the progress which NASA has made, I am deeply impressed by the level of enthusiasm of the current administration for this program.

So the chairman and I are here today in unified support of continuing America's program of manned exploration of space and pleased to be able to tell you that we welcome Russian participation in America's space station with open arms. Let me drive the point home.

The two most frequently asked questions are: What will it cost and when will we see concrete results from America's collaboration with the Russians? As of last week, NASA and the Russian space agency have a fixed price $400 million contract. With that we will be buying hardware. With that we will have a common airlock and docking module. We will have access to the existing Soviet space station. American research will be conducted on Russian research modules.

Much more importantly, next year when we have this debate an American astronaut will have flown in space for 3 months on a Russian station. He will arrive on the Russian Soyuz vehicle and return on the shuttle after it has docked with the Soviet station. Our astronaut will be in space for 90 days—breaking the previous American record of 84 days on Skylab. That is a most concrete result and we will have it with your help when we debate this bill next year.

I have already told you the price this administration is paying in other investment priorities. You should know that NASA is paying the price as well. In this bill NASA has an overall funding cut of $526 million or −4 percent from last year. It will sustain this cut, and contrary to the rhetoric we will hear from others, will do so with a fully funded space science budget and without the cancellation of any major science initiative.

We present you with a bill which spends $70.4 billion in Federal domestic discretionary dollars.

Mr. STOKES. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Ohio [Ms. KAPTUR], a member of the subcommittee.

Ms. KAPTUR. Mr. Chairman, as a member of the subcommittee, I want to commend the distinguished chairman of our committee, the gentleman from Ohio [Mr. STOKES], for his cordial but disciplined handling of this very, very complicated bill, and also the ranking minority member, the gentleman from California [Mr. LEWIS], for his vigilance throughout.

Let me say this is a very hard committee to serve on, because we have so many different departments and agencies under our jurisdiction. We were not able in this budget because of the constraints we are working under to fully fund all requests for the Environmental Protection Agency. We know across this country there is unfinished cleanup business in every corner of the Nation.

We were not able to fully fund the National Science Foundation, where so much of our future is tied to basic research. And we were not able to fund the Corporation for National and Community Service at the level requested by the President.

We made cuts in HUD's housing program, in EPA's water treatment grants, and in the Superfund program. This coming year we are going to be able to only fund about 5 percent of the sites on the national Superfund priority list. So much work remains to be done.

We consider it a victory that we were able to keep the VA medical research budget at its current level of $252 million, a victory just to keep the current research programs going, no new programs added. We were able to do a little bit more for the homelessness problem that has plagued this Nation for well over a decade. And we were also able to pay particular attention to housing for chronically mentally ill veterans and to support rehabilitation services for disabled veterans, as this Nation promised them when they put their lives on the line for the Nation.

In terms of welfare reform, I think the additional funding in the bill for the family self-sufficiency centers that will help public housing residents access jobs and educational opportunities, was a real progressive step.

One of the most important steps we took in the bill in concert with the authorizing committee was to enhance FHA's maximum mortgage limit to $172,678, which will help to aid the recovery across our country.

I have to say in closing, that one of the most difficult aspects of serving on this committee is that the manned space station takes so much money that we have to put constraints on every other single program under our jurisdiction. This was extremely difficult for me as a member of the committee, as I watched other priority programs taking a second place, really, to the manned space program, which we all know is important, but, in essence, put a lock on every other single program under our jurisdiction.

So although we could not fully fund other programs, I think our bill accommodates in a reasonable way congressional and Presidential priorities.

Mr. LEWIS of California. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey [Mr. GALLO].

Mr. GALLO. Mr. Chairman, I thank the ranking member, the gentleman from California [Mr. LEWIS], for yielding time to me.

Mr. Chairman, I want to begin by congratulating both the chairman, the gentleman from Ohio [Mr. STOKES], and also the ranking member, for a masterful job in crafting this bill.

Our subcommittee was faced with a very difficult task. Their strong, effective and cooperative leadership has enabled us to bring this bill to the floor, and it merits your support.

I want to express my strong support for the subcommittee's restoration to last year's level of funding for the section 202 elderly housing program.

This program has created more than 250,000 affordable housing units for low-income seniors over the last 30 years.

Yet, demands remain great. In my district alone, more than 2,500 seniors are on waiting lists for affordable housing.

This year the President's budget contained an 87-percent cut in this important program.

This is the second year in a row that our subcommittee has had to restore major cuts to this worthy program.

I hope the White House and HUD finally understand the strong support senior citizen housing enjoys in this Congress.

Also in the area of senior citizen housing, I want to express my continued concern about the problems facing seniors who live alongside substance abusers in mixed population housing.

The committee expressed its concern in the report, and I hope that HUD Secretary Cisneros will take the action needed to ensure that those seniors do not live in fear.

I also believe that the subcommittee has met its obligation to our veterans. Our country owes an enormous debt of gratitude to the men and women who have defended us, both in war and in peace. I am pleased that this bill recognizes that fact through its funding for veterans' programs.

I also would like to express my support for the subcommittee's appropriation for NASA. The bill supports the international space station without short-changing other important NASA efforts. I am confident that under the direction of NASA Administrator Dan Goldin, the station will be brought in on-time and on-budget.

This bill also funds the Environmental Protection Agency. In that context I want to express my frustration with EPA's decision to issue regulations mandating the use of ethanol in reformulated gasoline.

This mandate is in direct violation of the Clean Air Act. Congress specifically directed the EPA to issue fuel-neutral guidelines for reformulated gasoline. The EPA has overstepped its bounds, and Congress is letting them get away with it.

The States should have the right to be able to pick the mix that they want. As it is, those that are not going to be able to reach the attainment levels can expect a 7- to 15-cent-per-gallon gas increase.

The State also has lost its prerogatives as a result of EPA's action in dealing with mandating that 30 percent ethanol has to be utilized in their mix.

It does another harmful thing. There are a lot of companies out there that are dealing with alternative fuels. What it says to them is, forget it. The Federal Government has made a decision that ethanol is going to be the mix, and that is it. And I do not really have a fight with any of the alternatives. I just think that the States should have the prerogative to be able to figure out what blend they want in their mixture.

□ 1510

And it should not be mandated. I have sent a letter to the President indicating that I would hope that he would rescind the EPA's regulations, because I do not feel that they are proper. I think that they penalize and take away the flexibilities that the States need.

With that, Mr. Chairman, I stand ready to support this bill. I again want to thank my ranking member, the gentleman from California [Mr. LEWIS], and the chairman, the gentleman from Ohio [Mr. STOKES], and all of the Members that participate as members of the subcommittee for their hard work in bringing this bill to the floor.

Mr. STOKES. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Mississippi [Mr. MONTGOMERY], chairman of the Committee on Veterans' Affairs.

Mr. MONTGOMERY. Mr. Chairman, I rise in support of this bill and especially as it relates to veterans programs, which provides funds for the Department of Veterans Affairs and the American Battle Monuments Commission. Millions of Americans who saw the commemoration of the Allied landing at Normandy also saw the serene beauty of the American cemetery located in Colleville, France, just above Omaha beach. I would like to commend the ABMC for the superb job it does in maintaining these overseas cemeteries.

I want to commend the chairman of the subcommittee, Mr. STOKES, for his support of veterans programs, and I thank Mr. LEWIS of California also for his help.

Chairman STOKES and the ranking minority member, Mr. LEWIS of California, have been very fair in their treatment of veterans in this bill. Although there are differences between the budget levels our committee recommended several months ago and the amounts provided by the bill, the bill provides increases above the President's recommended budget in three key areas.

The veterans health care system is beginning to make changes necessary to make it a customer-driven organization. This bill provides $16.2 billion for medical care in 1995. This is $111 million more than requested by the administration. It provides stable funding support for a system that will provide treatment to almost 3 million veterans next year.

The subcommittee also restored the administration's $41 million proposed cut in medical research. Although I believe that we could and should provide more funds to carry out this important work, the amounts provided by this bill will allow VA to fund about the same number of research projects next year that are being funded this fiscal year. The current level of 4,100 FTEE could be continued during fiscal year 1995 under this bill.

Finally, I want to mention the increase in funds included in the bill for the regional offices which process veterans' claims for benefits. There is a huge backlog of claims at many offices throughout the country, and the additional $10 million provided in the bill, along with implementation of the much-delayed modernization and management-reform efforts by the VA, will help address this major problem.

In closing, Mr. Chairman, I thank the committee for funding the Selective Service system.

Again, I want to thank the subcommittee chairman and all members of the subcommittee and full committee for the work they have done on this measure as it relates to veterans.

Mr. LEWIS of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH], a member of the committee.

Mrs. VUCANOVICH. Mr. Chairman, I thank the gentleman for yielding time to me. Mr. Chairman, I rise today in support of the VA-Housing appropriations bill. I feel that the committee has made improvements to the President's request, especially for veterans programs. Unfortunately, the current administration fumbled the ball on the needs of our veterans. Luckily, the committee has picked up the ball and that means a touchdown for the veterans. Nevertheless, I am still concerned about the administration's value of the veteran. While the Department of Veterans Affairs talks a good game, the veterans in the northern part of my State of Nevada are still waiting for improvements to a medical facility they were promised many years ago. It is time to stop delaying this project, changing plans midstream, and just get it done. I appreciate the help that the chairman, Mr. STOKES and ranking member Mr. LEWIS have provided me on this issue and I will continue to work with them through conference of this bill. Veterans in Nevada feel talk is cheap, it is time for the administration and Congress to put our money where our mouths are.

Mr. Chairman, I thank the gentleman from California [Mr. LEWIS] for his help and assistance to me.

Mr. STOKES. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. BROWN], the distinguished chairman of the Committee on Science, Space, and Technology.

Mr. BROWN of California. Mr. Chairman, I rise in support of this Veterans Affairs, Housing and Urban Development, and independent agencies appropriations bill and I commend the gentleman from Ohio and the committee for their efforts.

I am pleased with the substance of the bill as it pertains to programs in the jurisdiction of the Committee on Science, Space, and Technology. I am pleased that it is relatively free of the kind of legislative language that should be left to the proper authorizing committees—but that nevertheless appears all too often in appropriations bills. And I am pleased that there appears to be no substantial erosion in the efforts begun by the committee last year to keep inappropriate academic earmarks out of the appropriations bill.

With respect to the substance of the bill, I want first to commend Mr. STOKES and the committee for their efforts to produce a bill that fully funds the space station while preserving a balanced civil space program that includes a viable science program. As many of my colleagues know, I withheld my support for the space station this year until I was convinced that we would continue to have such a balanced program. The committee has done a good job of meeting my concerns and I am now vigorously supporting the space station.

I am also pleased that the committee has produced funding for the National Science Foundation that is broadly consistent with the investment goals of the administration and the NSF authorization bill.

Although the committee has not specified a funding total for research and development at the Environmental Protection Agency, I am pleased that they have expressed their support for the research and development function at the EPA in report language. However, I am concerned that report language on priority setting at EPA with regard to statutory and court-ordered mandates could be read to indicate that research funding should be reduced. I want to emphasize that this interpretation would be very shortsighted on the part of the Agency and I hope we could clarify the meaning of this language in the conference report. Also, the Committee on Science, Space, and Technology looks forward to working with the Appropriations Committee in helping EPA improve its peer review process.

Mr. Chairman, although I am pleased with the efforts of the committee to fund science, space, and technology investments under very tight budget conditions, I think it is important to recognize that the overall trend in such investments is disturbing. In 1995, Federal support of R&D will fall below 1 percent of national income for the first time since 1958. The President's objective of a 50–50 split between defense and civilian Federal R&D investments by 1998 is in jeopardy if the intention was to shift real resources from defense R&D to nondefense R&D rather than simply to cut defense R&D. And our major international competitors are devoting a larger share of their national income to overall R&D investments—public and private—than we are.

These trends are not the fault of the Appropriations Committee, which is faced with increasingly tight budget caps and spending allocations. It is very difficult to make sound longer term investments in such a budget environment. This is certainly true for R&D investments, which, although critical to raising the Nation's productivity and standard of living, all too often are singled out for reduction or elimination by zealous deficit cutters who overlook their longer term payoffs in order to achieve short-term budget savings.

This squeeze on R&D investments is aggravated by the practice of congressional earmarking. I wish I could say the report accompanying this bill is entirely free of earmarks. It is not. But I would commend Mr. STOKES for his efforts to keep academic earmarking under control at levels well below those prevailing when I and others on the Science Committee and in the House first began investigating this practice. And I would remind the various department heads that report language is not binding on their agencies and they are free to fund the programs they originally intended to fund. I am including a list of earmarks with this statement.

Mr. Chairman, notwithstanding the concerns I have expressed here, this is a good bill and I urge all Members to support it.

ACADEMIC EARMARKS FISCAL YEAR 1995 VA/HUD HOUSE APPROPRIATIONS REPORT

Agency and academic of institution	Project description	Dollar amount
EPA:		
Clark Atlanta Univ	Hazardous Substance Center	3.5M
Colorado Sch. of Mines	Natl High Altitude Heavy Duty Engine Rsch. and Technology Ctr.	250K
Colorado State Univ	Natl. Ctr. for Vehicle Emissions Control and Safety for emissions training activities.	150K
Florida International Univ	Florida Keys Marine Sanctuary	155K
Lamar Univ	Gulf Coast Hazardous Substance Waste Ctr.	2.5M
Minority Health Professions Schools Association[1].	Hazardous substance investigations.	4.0M
Penn State & West Virginia Univ.	National Mine Lands Reclamation Center—acid mine drainage from abandoned mines.	450K
Renssleaer Polytechnic Inst.	Fresh Water Institute	500K
Saginaw Valley State Univ	Earthvision activities	1.2M
S.W. Center for Environmental Research[2].	Environmental issues affecting U.S.-Mexico border region.	1.5M
Univ. of Arkansas-Little Rock.	Toxicological research	300K
Univ. of Colorado-Boulder	Environmental Ed, Research and Demonstration Center.	225K
Univ. of Detroit Mercy	Ctr. for Excellence in Polymer Rsch, and Environmental Study.	600K
Univ. of Minnesota-Duluth	Study of the uptake of environmental mercury by fish populations.	165K
Univ. of Minnesota-St. Paul.	Studies of potential detrimental effects of the European Ruffe, a non-indigenous fish to Lake Superior.	70K
U. of North Dakota	Nat. Ctr. for Excellence of Air Toxic Metals.	120K
Univ. of Northern Iowa	Small Business Pollution Prevention Center.	300K
West Virginia U	Small Flows Clearinghouse	1.240M
Wilkes Univ	Susquehanna River wetlands project.	300K
NASA:		
Ohio State Univ	Super Computer Center	3.0M
Total		20.5M

[1] Tuskegee Univ., Charles Drew Univ., FL A&M Univ., Morehouse Sch. of Medicine, Xavier Univ. of Louisiana, Meharry Medical Col, and TX Southern Univ.

[2] NM State Univ., AZ St. Univ., San Diego St. Univ., Univ. of TX at El Paso, and Univ. of Utah.

Mr. LEWIS of California. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania, Mr. GOODLING.

Mr. GOODLING. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I had planned to offer an amendment to the appropriation bill now under consideration which would have eliminated $120.4 million from the funding allocated to the Corporation for National and Community Service and would have held that corporation's funding at the fiscal year 1994 level. I would have offered it for two reasons.

No. 1, to get the attention of the Members of Congress who have oversight responsibility and, No. 2, to get the attention of the administration. I believe I have gotten both without having to offer the amendment.

I will offer that amendment at this time, but I will work actively to ensure that sufficient oversight of the National Service Program is conducted to guarantee that taxpayers' dollars devoted to this program are as wisely spent.

□ 1520

Mr. Chairman, I remember Mr. Ziegler, who was responsible for setting up Head Start, saying that the big problem that he had was the fact that he tried to move too rapidly with the program. This is the same thing that I tell the committee all the time in relationship to WIC, even though I am a strong supporter. We have to make sure that we do not just pump a lot of money out there, if there is not the infrastructure or the quality personnel to carry out the kind of programs that we want to carry out. Otherwise we get a black eye in the Congress of the United States.

Mr. Speaker, when the National Service Trust Act was enacted last summer, the vision of the Corporation for National Community Service was that it was going to be a different kind of government actor. In trying to win over the support for the creation of a new and quite expensive Federal program, the White House assured many of us that increased funding would be sought only to the extent that the corporation proved its worth.

In fact, when Bruce Babbitt, the Secretary of the Interior, testified before the Committee on Education and Labor prior to the passage of the National Service legislation, he indicated that the administration wanted, "to see the program grow at the right pace, even if that is not the fastest".

Despite these assertions, the administration's budget request for the corporation asked for an increase of almost 65 percent. Although the Committee on Appropriations cut the request to increase in half, the $409.4 million allocated the corporation in the VA–HUD bill still represents an almost one-third hike in funding. I do not believe we have enough information about the efficiency of the corporation or the effectiveness of its program to justify such a large increase.

The Corporation for National Community Service is a newly created Government entity that is still not fully formed. My understanding is that the board of directors for the corporation has not yet formally been appointed and the regulations determining how corporation grant programs will be administered were just issued in this spring.

Although the short-term Summer of Safety projects are under way, the first full-scale National Service effort operated by the corporation will not happen until the fall. In fact, just last week the corporation announced the grantees for the service programs it will fund directly. Both the corporation and the State commission have put forth a mighty effort to ready themselves for full operation, but I think all parties would admit that the pace has been quite hectic.

I simply feel we should gather some evidence about the effectiveness of the program before we vote on large increases. This is particularly true when many worthwhile programs that are already proven are experiencing sharp decreases in funding. I hate to bring up the whole issue of how expensive it is for the National Service Program to try to give educational opportunities when at the same time we are cutting programs like Pell grants, which we know are effective and work well.

The question has been put, Mr. Chairman, why raise the lack of information about the effectiveness of the National Service Program in terms of increased funding, when the same can be said of many other Federal programs?

First of all, I would be the first to admit the amount of oversight conducted by the Congress over Federal spending is insufficient. This program is very different.

Mr. STOKES. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Chairman, first of all I would like to recognize our distinguished chairman of this subcommittee and the Committee on Appropriations, and say that I cannot say enough good, fair things about him. I think Kennedy defined courage as grace under pressure, and certainly our chairman is the epitome of that grace.

Certainly the gentleman from California [Mr. LEWIS], with his knowledge, experience, and bipartisanship, is also a real tribute to this bill.

In addition, Mr. Chairman, I would like to thank the gentleman from Massachusetts [Mr. MOAKLEY] and the gentleman from New York [Mr. SOLOMON] for allowing the Roemer-Zimmer amendment to be protected and come to the floor today.

I would like to thank the gentleman from Pennsylvania [Mr. GOODLING] for not offering the amendment to cut further the National Service Program. That program has experienced a $120-million cut in this bill, and I do not think that we should cut further one of the crowning jewels of the achievements that we have had as a Congress in putting National Service together.

Finally, Mr. Chairman, on the space station, an amendment that I will offer with the distinguished and capable gentleman from New Jersey [Mr. ZIMMER] later on this afternoon, we will have plenty of debate on it. I try to call them like I see them, Mr. Chairman, and work together with the Republicans. I started to hear from some of the Republicans that there might not be deficit reduction in this amendment.

Let me be very clear and very fair and try to explain to Members on both sides of the aisle, when they vote for the Roemer-Zimmer amendment, they are eliminating a project that will cost the taxpayers $71 billion. The National Taxpayers Union and Citizens Against Government Waste both support this amendment.

There is no innuendo, no rumor, or no rhetoric that can confuse people. When we cut a program like the space station, there is deficit reduction potential and opportunity in that. There is no doubt that when we cut $71 billion, we do something for the deficit.

Mr. Chairman, I look forward with a great deal of anticipation to this space station debate.

Mr. LEWIS of California. Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from Nebraska, DOUG BEREUTER.

Mr. BEREUTER. Mr. Chairman, this Member rises in support of H.R. 4624 and thanks the distinguished chairman of the subcommittee, Mr. STOKES, and the distinguished gentleman from California, Mr. LEWIS, and all the members and staff of the subcommittee for their work in bringing this measure to the floor today.

First, this Member is most pleased that this measure includes funding for the Indian Housing Loan Guarantee Program, which this Member authored last year with the bipartisan help of my colleagues on the Banking Committee. The $3 million appropriation for this program will finance the costs for loan guarantees to leverage a much larger amount of loan dollars for this loan program aimed at Indian reservations. This is a fiscally conservative, progressive program which will bring new opportunity to native Americans living on Indian reservations at a very low cost to the Federal Government.

Second, this Member is also pleased, Mr. Chairman, that H.R. 4624 includes funding of $263 million for Indian housing new construction. The shortage of safe, decent, affordable housing in Indian country is a tragedy. While programs like the aforementioned Indian Housing Loan Guarantee Program will bring the private sector into the provision of housing on Indian reservations, there is still a great need for Federal assistance, and this Member is pleased that this measure matches last year's funding level for Indian housing new construction. Third, this Member is also pleased that the measure includes $500,000 for the National American Indian Housing Council. This funding will make training and technical assistance available to Indian housing authorities across the Nation.

As a fourth and fifth note of appreciation, Mr. Chairman, this Member wants to express his support for the inclusion in this measure of $6 million for rural water assistance activities and $70 million for public water system supervision grants. These are two very important programs for rural communities. The supervision grants directly fund State programs which implement the Safe Drinking Water Act. Without this funding, States would face another unfunded Federal mandate.

Again, Mr. Chairman, this Member thanks the distinguished chairman of the VA, HUD and Independent Agencies Appropriations Subcommittee, Mr. STOKES, and the distinguished ranking member of the subcommittee, Mr. LEWIS, for their efforts and assistance, not only for our large metropolitan areas but for Indian reservations and the Nation's smaller communities as well. Most of the appropriation items I have mentioned are very small, but they leverage much larger private sector dollars and benefits.

I urge my colleagues to support H.R. 4624.

Mr. STOKES. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from West Virginia [Mr. MOLLOHAN], a member of the subcommittee.

Mr. MOLLOHAN. Mr. Chairman, first I want to thank the chairman of the subcommittee.

Mr. Chairman, I rise in strong support of the fiscal year 1995 VA, HUD, and Independent Agencies appropriations bill. As a member of the subcommittee, I can attest to the quality of this legislation.

Under the able leadership of the chairman and the ranking member, we have crafted a bill which is responsive to the broad constituencies it serves. In this tight budgetary climate, we have managed to make room for some of the President's important investment initiatives while still maintaining our commitment to proven programs. And in the toughest of years, Chairman STOKES has exhibited strong leadership in effecting compromise, and has conducted the business of the subcommittee with the utmost fairness.

The subcommittee provided almost $1 billion over the President's request for HUD. By providing this increase we were able to address several issues of concern to Members on both sides of the aisle:

We restored the President's proposed cut to the section 202 program for the elderly, a public-private partnership with proven results;

We provided increases for the CDBG and Home Programs, two initiatives which give our communities flexibility to address local concerns;

We restored funding for critical public housing programs, providing an operating subsidy level at 100 percent of the performance funding system; and

We were able to provide a significant increase—close to $300 million above last year's level—to homeless assistance programs.

It has truly been a pleasure to work with someone as committed and visionary as Secretary Henry Cisneros, and I believe this section of our bill is reflective of his efforts.

Additionally, this bill provides $37.3 billion for programs and benefits for the Department of Veterans Affairs. This total is $618 million, or 2 percent, more than we provided in fiscal year 1994. Nearly half of these funds, $16.2 billion, are appropriated for medical care.

Undoubtedly many of you have been contacted by your constituents who are concerned about funds for VA medical and prosthetic research. I am pleased to tell you that the Appropriations VA-HUD Subcommittee has restored the funding cuts proposed by the administration in this area and has kept funded this research at a current level of $252 million. VA medical research is improving the lives of our Nation's veterans and we must continue the important work being done in this area.

We have provided a total of $14 billion for the National Aeronautics and Space Administration, and we have fully funded the President's request for $2.1 billion to continue the Space Station Program. No one in this body can rightfully claim that funding for space activities is taking critical funds from other agencies. In fact, NASA takes a 4-percent cut from last year's funding levels. Within that austere budgetary constraint we have not only provided full funding for the space station but we have also fully funded the President's request for science, aeronautics, and technology programs. NASA is responding very impressively to the difficult task of cutting its programs under the able leadership of administrator Dan Goldin. The agency deserves this body's support for the funding levels recommended in the bill.

Our committee has been as generous as we could to the Environmental Protection Agency and the National Science Foundation, given our budget outlay problems. Both of these agencies received approximately one-half of the requested increases above 1994 appropriations levels.

In closing, Mr. Chairman, I commend my colleague from Ohio for his fine work on this bill and ask that it receive the support of the membership.

□ 1530

Mr. LEWIS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Chairman, yesterday I learned the hard lesson of how difficult it is to cut or even suggest cutting a social program here.

Today for the sake of our country's future and to help ensure greater opportunity for our children and future generations, I hope the Congress exercises better judgment in regard to the space station.

The space station is probably too—to coin a phrase "governmentalized"—and parts of it like any government-based program have been wasteful.

But rarely do we have before us a better opportunity to create jobs, promote research and development, and create better opportunities for our future.

Let me say that my support for the space station is based on that hope for the future.

I know of no other project before this Congress that offers more promises for high-paying jobs in the private sector for now and the future.

This chart shows that high-paying manufacturing jobs are on the decline while government and public sector jobs have passed by manufacturing private sector employment. What promise does that hold for the future?

Even more frightening is the fact that part-time jobs are now growing faster than any other segment of employment in our economy. What hope does that hold for the future?

These charts, show that over the last 5 years, that the largest area of increase in jobs in our economy are part-time, low-paying jobs. This chart shows that the number of manufacturing jobs created in the past 2 years are now exceeded by government public sector jobs—what promise does that hold for the future.

Manufacturing jobs, including those in our space industry, are higher paying jobs. We cannot expect people to live on low-paying, part-time jobs. We need projects like the space station to help provide higher paying jobs for the future.

My colleagues, let me tell you what happens if we lose the space station:

The United States loses competitive edge in the global market.

Fifty-five thousand U.S. jobs lost by 1997 and real gross domestic product down $14 billion by the year 2000.

Little, if any, significant deficit reduction.

Studies demonstrate that for every $1 spent by NASA, $7 is returned to the U.S. economy.

In 1987, for example: NASA's budget equalled $7.887 billion. This investment yielded: $17.8 billion total industry sales; $2.9 billion business profits; $5.6 billion government tax revenues; and 209,000 private sector jobs.

An investment in the space station is an investment in our economy.

Mr. STOKES. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. KLEIN].

Mr. KLEIN. Mr. Chairman, I rise in strong support of the H.R. 4624, the fiscal year 1995 VA-HUD-Independent appropriations bill.

Of special importance to me is the provision contained in this measure which would increase the current limit on single-family loans insured by the Federal Housing Administration in high-cost areas to $172,675 from the current level of $151,725.

This provision is identical to an amendment I offered during the full Banking Committee markup of the Housing and Community Development Act reauthorization legislation which the full House is scheduled to consider now that it has been reported out.

I want to thank Chairman STOKES and ranking member JERRY LEWIS for agreeing to incorporate this provision into the bill we have under discussion today.

In so doing, they have given middle-income working families in high cost areas like northern New Jersey the opportunity to purchase their first home by taking advantage of the lower down payment requirements of the FHA program.

In areas like mine, where the average home costs $179,000, many young families have been frozen out of the housing market simply because they do not have enough cash on hand to meet the minimum down payment and closing costs associated with a conventional loan.

Mr. Chairman, increasing the ceiling makes good sense. Home buyers in high cost areas can finally participate in the FHA loan program and, indeed, everyone will benefit because lower cost houses can benefit from a mortgage insurance fund that is more financially stable and stronger. Indeed, it will help the economy by spurring housing construction.

Finally, this particular provision is revenue-positive. It will produce at a minimum $40 million more dollars for the Government.

I urge my colleagues on both sides of the aisle to support this legislation and to support the increase in the FHA loan limit.

Mr. LEWIS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. TALENT].

Mr. TALENT. Mr. Chairman, I thank the distinguished ranking member for yielding me the time.

Mr. Chairman, I would like to engage the chairman of the VA-HUD Subcommittee in a colloquy concerning the cleanup of dioxin at a Superfund site in Times Beach, MO.

Mr. STOKES. Mr. Chairman, if the gentleman will yield, I am familiar with the interest of the gentleman from Missouri in this issue and would be happy to engage him in a colloquy.

Mr. TALENT. As the gentleman is probably aware, the EPA is moving forward with plans for incineration of the dioxin waste at the Times Beach Superfund site in the St. Louis suburbs. This is not a new issue to the residents of the area; in a non-binding referendum vote in 1990, the residents of St. Louis County overwhelmingly rejected EPA's proposed incineration project.

There are alternatives to incineration, which EPA has examined in other sites around the country. Clearly, EPA is willing to consider alternatives to incineration. In several meetings with agency officials and in a May 9 letter to EPA Administrator Carol Browner, I asked EPA to consider alternatives to incineration at Times Beach. The answer I received 2 days ago was inadequate for this enormous problem.

Mr. STOKES. It appears to me that the people of St. Louis and other areas should be afforded an opportunity to test alternative technologies in their communities.

Mr. TALENT. I am well aware of the chairman's strong record of environmental protection and hard work to ensure that these areas are cleaned up as soon as possible. It is because of my faith in the chairman's dedication that I have decided not to offer an amendment to strike or restrict EPA's funding.

Mr. STOKES. I thank the gentleman and understand his concerns. As the gentleman may know, there is a study underway to review alternative technologies and the incineration issue at the request of this subcommittee. I would be happy to have the General Accounting Office include the Times Beach site in its study.

Mr. TALENT. I thank the chairman and appreciate his action on this issue. I would also appreciate if the chairman would include report language in the statement of the managers accompanying the conference report on this bill requesting that EPA carefully consider the findings and recommendations from the GAO/OTA study.

Mr. STOKES. I would be happy to accommodate the gentleman's request by including report language to that effect.

Mr. TALENT. Mr. Chairman, I thank the chairman of the subcommittee for his expeditious work on this issue and would also thank the staff for their fine work.

Mr. LEWIS of California. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, today we will be deciding in this piece of legislation whether or not we will continue building the space station. This decision is not a reversible decision. If we decide that the space station will be part of our past or we will not continue our expenditures, we will not be recovering from this in any time period during the time that any of us are alive. We will be making the decision for the United States of America to retreat from space, to retreat from the frontier that stands before us.

□ 1540

I will be voting to support the space station. I will be doing so for a number of reasons. No. 1, I believe that the future of mankind lies in conquering frontiers, and especially in developing commercial applications for space, and the space station is our means of coming to that point where we can commercialize space.

But more importantly, Mr. Chairman, perhaps for the people who are struggling to make ends meet now, for those of us in California who are trying to bring an economy that is so in such horrible shape under control and to bring prosperity to our people.

We have a situation at the end of the cold war in California where people are being put out of work; the space station also serves as a transition out of the cold war into a time period when our economy will have adjusted for the fact that we had so much government spending and aerospace spending for all of these years. It will help us adjust and bring the American economy through, because America's economy is dependent on California, into a time when the aerospace industry can function in a competitive marketplace and be developing utensils, and different projects like the SSTO program, that will give us a chance to explore and utilize space for a profit.

Turning around now and saying no to the space station will hurt our economy right now, but will also be a retreat for the future that we will never recover from.

It is time to say yes to the space station.

Mr. STOKES. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Chairman, I would like to engage in a brief colloquy, if I may.

I want to thank the committee for providing $250,000 for the Environmental Protection Agency to carry out a study of alternative revenue sources for water project funding. The State revolving fund program has been and will be important in helping communities finance the multimillion dollar treatment facilities required by the Clean Water and the Safe Drinking Water Acts, but, as the chairman is aware, it does not come close to meeting the need.

For clarification, is it the intent of the committee the EPA look at alternative revenue sources for both wastewater treatment and drinking water treatment facilities.

Mr. STOKES. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Ohio.

Mr. STOKES. Mr. Chairman, I would say to the distinguished chairman of the Merchant Marine and Fisheries Committee that it is the intent of the committee for the study to include drinking water as well as wastewater project funding needs.

Mr. LEWIS of California. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I think it is important for the Members to know that while this bill is a sizable one, it includes a total of some $90 billion in appropriations. The bill itself is a relatively tight measure. In veterans' funding, for example, the increase in this bill for the 1995 fiscal year is limited to 1.7 percent. In housing programs we will provide $26 billion; an increase of 7.4 percent. This is more than I might have advocated myself, but nonetheless represents a very serious effort on the part of the chairman to cut back requests for funding.

EPA is increased by 5.6 percent. NSF is limited to 2.9 percent. NASA's funding, a total of $14 billion with approximately $2.1 billion going to station, has an actual decrease from last fiscal year of 3.6 percent.

This has been a very, very difficult appropriations year for the VA, HUD, and Independent Agencies Subcommittee.

I would like to close my remarks by asking the Members to give their support to this legislation and express once again my appreciation to my chairman, the gentleman from Ohio [Mr. STOKES], for his cooperation.

Mr. VENTO. Mr. Chairman, I rise in support of most of the funding in the VA, HUD, and Independent Agencies appropriations bill for HUD housing and community development programs, for the Environmental Protection Agency, for our important veterans programs, for basic science and research programs, and for other independent agencies. Nonetheless, Mr. Chairman, I continue to oppose the NASA space station program which is generously maintained through this appropriation legislation, effectively ransoming other domestic interests here on spaceship Earth. I've noted the past administration and the Clinton administration support for an evolving space station program as one concept is found faulty or too costly another takes its place only to be found deficient in turn.

As always, there are good reasons to support this overall HUD–VA measure. The bill before us today addresses many of the issues and proposals presented to the Congress by the able new Secretary at HUD, Henry Cisneros, that are in the various stages of being written into law. The HUD–VA appropriation measure is a significant undertaking and I respect the work the Appropriations Committee has shared with the legislative committees and the policies we are working on together. While I retain certain reservations regarding the overall discretion the bill appears to give the Department of Housing and Urban Development with regard to the key changes we are writing into reformed McKinney homeless assistance law, I am pleased at the level of funding commitment that this measure provides.

I am hopeful that this discretion will help assure continued funding of the activities of the important Interagency Council for the Homeless, in the absence of a specific authorization. The Banking Committee is reauthorizing this valuable Council in order to ensure continued accountability and responsibility for better services for homeless persons from the array of national departments and agencies who have primary ongoing responsibility to outreach to the homeless population.

I am pleased that this bill maintained a separate FEMA Emergency Food and Shelter Program, whose work is exemplary in our local communities. They have done a good job and as such, what isn't broken, needs no repair.

I am disappointed that this bill continues to cloud the issue of a required statutory earmark of funds for the Veterans' Community Based Organization grant program. Unfortunately, although report language references the issue, the text of the bill does not specifically appropriate $10 million in funds. This will continue the quagmire for this community-based organization and oriented program and possibly result in little or no services for homeless veterans flowing through this program.

I am pleased that the subcommittee and committee have restored funding for senior housing and public housing and that the bill continues to pay attention to community development and housing needs through the host of programs available, including the CDBG program, the HOME program, and others. Federally assisted housing, section 8 assistance, and public housing are key to moving beyond the McKinney homeless programs to permanent housing for our citizens. We need the mix of programs to fully complement the varied needs of our communities and the people.

Mr. Chairman, I would like to note several areas in the Housing and Community Development Act where we are moving in different directions that is disjunct and some programs where we are on the same song sheet in concert.

With regard to the vital FHA mortgage insurance program that enables so many Americans to become homeowners, we are fundamentally in the same place on the floor and ceiling loan limits—with slight differences in the paths we take to get to the same point—the base loan limits adjustments so much needed to make FHA fully relevant in the 1990's.

I am also interested in the expansion of the drug elimination grants in public housing, today revamped as COMPAC, and must point out to my colleagues on the Appropriations Committee that their conclusion in report language that the funds for this program should be disproportionately weighted to large public housing authorities was not approved in the bill being reported by the Legislative Committee. I hope we can continue to work together on this matter and live within the bounds of what is authorized in the end and the preferred positive policy.

I must also comment on initiatives we are pursuing in committee and that I believe are important to support in appropriations. In particular I refer to the attempts to assist HUD and communities in providing equal opportunity and choice in housing. Facilitating mobility of section 8 housing to new areas and with less concentration of lower income people, and improving options for people is essential and a worthy objective of our national housing policies.

I am unable to point out all the specifics concerning this proposed appropriation today, but suffice it to note that these programs of HUD, EPA, and VA respond to commitments to people and real needs. I strongly urge support for the amendment to cut funding for the space station and would hope we could redirect funds to deserving programs like the national community services programs.

I thank Chairman STOKES and his staff for their work in crafting these spending priorities and am hopeful that we will, with this measure, continue to address human deficit through the many commitments to our communities and cities.

Mr. SKAGGS. Mr. Chairman, I'd like to commend Chairman STOKES for his outstanding work in producing a bill which covers so well such a diverse range of programs as housing, veterans issues, environmental and consumer protection, and science and technology policy—and for doing so under severe budget constraints. These decisions are never easy, particularly when they involve such critical needs.

While this bill covers many important programs, I'd like to mention three of specific interest to the people of Colorado. All three involve testing or monitoring of exhaust emissions at high altitude, and all have been developed in conjunction with the Environmental Protection Agency [EPA] to address special problems caused by vehicles operating at such altitudes.

Carbon monoxide is emitted in larger amounts and is even more of a health threat at higher altitudes than at sea level. Yet the performance of engines at high altitudes is not well understood.

The 1990 Clean Air Act Amendments authorized the National High-Altitude, Heavy-Duty Research and Technology Assessment Center. This facility contains engine and vehicle testing systems for measuring emissions associated with gasoline, diesel, and alternative fuels. Data collected by the center indicates that emissions of carbon monoxide at higher altitudes are 50 to 70 percent greater than at low altitudes.

The development of a data base, which will be used to modify heavy-duty engines, is critical to addressing pollution peculiar to high altitudes. Cities all along the Rocky Mountains will benefit from this data and the committee has provided $250,000 for the center.

The National Center for Vehicle Emissions Control and Safety [NVECS] at Colorado State University was established by the EPA in 1976 to study alternative fuels, and vehicle inspection and maintenance, and to test emissions reduction devices. It was designated a high-altitude research, testing, and training center by the 1990 Clean Air Act Amendments. NVECS has contributed substantially to the EPA's Vehicle Maintenance Initiative which is training and retraining automotive technicians who are currently not qualified to inspect, diagnose, and repair today's vehicles. This bill designates $150,000 for the NVECS program.

Finally, the bill provides $150,000 for high-altitude exhaust emissions compliance testing conducted by the Colorado Department of Health [CDH]. As a result of tests performed by CDH, in conjunction with EPA, 778,000 vehicles have been recalled since 1989 for repairs to assure compliance with Federal standards. CDH has the only facility officially designated by the EPA Administrator for high-altitude, in-use compliance testing.

I thank the chairman and the subcommittee for their support of these valuable programs which will help address pollution problems particular to high-altitude States like Colorado.

Mr. FAWELL. Mr. Chairman, I rise in opposition to this bill, H.R. 4624, VA/HUD Appropriations for Fiscal Year 1995. What Members may not be aware of as we consider this legislation is the large amount of money which is earmarked for projects included in the committee report which accompanied this legislation. I refer, Mr. Chairman, to the funds for the Environmental Protection Agency [EPA] for fiscal year 1995, in which a great number of projects are specifically delineated for funding without prior congressional hearings, debate, or authorization.

Mr. Chairman, we all know that this is a year of limited budget resources. Every Federal agency, every department, every congressional committee is being forced to make very difficult decisions as they prioritize funding for different accounts. Many accounts within the EPA are funded at this year's level or below. These concerns are familiar to most Members. There has been a great deal of prior debate over issues like this on the floor.

An issue that has not been debated enough is the effect that the earmarking of funds will have on the national needs which are attended to by Federal agencies. I know that most Members are aware of the many environmental issues that must compete for Federal funding. I refer to issues such as the need for cleaner water, and air, and more funding for important environmental priorities like Superfund—the cleanup of polluted areas. What Members of Congress may not be aware of is that in almost every account that Congress funds for the EPA, several million dollars are earmarked for projects of local interest, projects which have not been authorized, and projects which have had absolutely no congressional debate.

If we take for example, the Research, Prevention, and Program Activities Account in this bill, we will see that it has been funded at $90 million below the 1994 level. When we progress further in the report, we will see that there is over $42 million earmarked for specific projects—projects that have not been requested by the EPA and are not national priority. These projects are funded at the expense of higher priority items, and the funding for these projects will actually take away from some of the major environmental initiatives for today's Congress. In effect because $42 million is specifically earmarked in this account, it is actually $130 million which will not be available for EPA environmental initiatives.

I am enclosing for the record a list of several examples of congressional earmarking for academic research which are in this bill. The studies funded in this list have not been specifically authorized and no hearings have been held to determine whether or not they merit funding in a time of such limited resources.

Mr. Chairman, Congress cannot continue to spend money in such a careless fashion. As stewards of limited resources, we must watch with a careful eye to see that Federal moneys are spent efficiently and wisely. This starts with following the rules of congressional procedure which probhit appropriations without authorization. Until we begin to adhere to these standards wich produce fiscal responsibility, we will continue to see our national debt increases. We cannot afford to see needed Federal programs suffer because of congressional earmarks.

As representatives of taxpayers, concerned about the future, we must have zero tolerance continue.

ACADEMIC EARMARKS—FISCAL YEAR 1995 VA/HUD HOUSE APPROPRIATIONS REPORT

Agency and academic of institution	Project description	Amount
EPA:		
Clark Atlanta Univ	Hazardous Substance Center	$3.5M
Colorado Sch of Mines	Natl High Altitude Heavy Duty Engine Rsch & Technology Ctr	250K
Colorado State Univ	Natl Ctr for Vehicle Emissions Control & Safety for emissions training activities	150K
Florida International Univ	Florida Keys Marine Sanctuary	155K
Lamar Univ	Gulf Coast Hazardous Substance Waste Ctr	2.5M
Minority Health Professions Schools Association[1]	Hazardous substance investigations	4.0M
Penn State & West Virginia Univ	National Mine Lands Reclamation Center-acid mine drainage from abandoned mines	450K
Rensselaer Polytechnic Inst	Fresh Water Institute	500K
Saginaw Valley State Univ	Earthvision activities	1.2M
S.W. Center for Environmental Research[2]	Environmental issues affecting U.S.-Mexico border region	1.5M
Univ of Arkansas-Little Rock	Toxicological research	300K
Univ of Colorado-Boulder	Environmental Ed, Research & Demonstration Center	225K
Univ of Detroit Mercy	Ctr for Excellence in Polymer Rsch and Environmental Study	600K
Univ of Minnesota-Duluth	Study of the uptake of environmental mercury by fish populations	165K
Univ of Minnesota-St Paul	Studies of potential detrimental effects of the European Ruffe, a non-indigenous fish to Lake Superior	70K
U of North Dakota	Nat Ctr for Excellence on Air Toxic Metals	120K
Univ of Northern Iowa	Small Business Pollution Prevention Center	300K
West Virginia U	Small Flows Clearinghouse	1:240M
Wilkes Univ	Susquehanna River wetlands project	300K
NASA:		
Ohio State Univ	Super Computer Center	3.0M
Total		20.5M.

[1] Tuskegee Univ, Charles Drew Univ, FL A&M Univ, Morehouse Sch of Medicine, Xavier Univ of Louisiana, Meharry Medicial Col. and TX Southern Univ.

[2] N M State Univ, AZ St Univ, San Diego St Univ, Univ of TX at El Paso, and Univ of Utah.

Mr. PACKARD. Mr. Chairman, as we take up the fiscal year 1995 VA-HUD Appropriations bill, I would like to congratulate Subcommittee Chairman STOKES and ranking member JERRY LEWIS for their leadership on this important legislation. Their efforts to institute a strict level of criteria to fund VA-HUD projects signals their commitment to fiscal responsibility.

I especially appreciate the consideration of Southern California's special waste water treatment needs with the inclusion of funding for the international treatment project in Tijuana. I know that residents of the Southern California region will reap tremendous benefits from this program.

As a former member of the Committee on Science, Space, and Technology, I have closely followed the progress of the Space Station. I wish to commend Chairman STOKES and ranking member LEWIS for crafting a bill that takes the Space Station, and thus America's space program forward and rise in opposition to the Zimmer/Roemer amendment which would eliminate funding for this vital program.

The Space Station is the centerpiece of NASA. It focuses many divergent programs and projects on the single, unifying goal of expanding our knowledge about our universe and the earth. In a year in which we face so many domestic priorities competing for funding, it is important to underscore the importance of this project for our future standard of living.

For example, the life sciences medical research conducted in space yields knowledge that improves our computer technology and increases our ability to manufacture drugs to cure illnesses on earth. The American space program has generated many other advances in American technology like weather satellites, lasers, CATScans, and Pacemakers.

Furthermore, support for Space Station Alpha signals a commitment to the progress of one of the most successful sectors of our economy. In 1992, when America's economic engine seemed stalled, the United States aerospace industry continued to drive forward, maintaining a $31 billion dollar surplus and accounting for $44.5 billion worth of exports to more than 135 countries around the world.

The Space Station employs many of the most highly skilled workers in the country—providing more than 70,000 jobs. As California continues to suffer the impact of defense downsizing, residents of my State realize the importance of Space Station Alpha as a vehicle for protecting one of California's precious resources—our highly skilled employee base.

While, some may argue that cutting space station dollars from this bill is a move towards solving our budgetary crisis, I remind my colleagues that money cut from this vital program will not be allocated towards deficit reduction. Instead, NASA would be required to shift the space station money to lower priority programs within NASA's purview—a foolish move indeed. Furthermore, eliminating the space station program will serve only to remove the single unifying element for NASA's research and the nexus for experimentation and results.

Thus, I urge my colleagues to defeat the Zimmer/Roemer amendment and retain funding for space station *Alpha*. The bottom line is that it is a fiscally responsible approach to funding a project that will provide generations of benefits to Americans.

Mr. STOKES. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, amendment No. 1 printed in House Report No. 103-563 may be offered only by a Member designated in the report, may amend portions of the bill not yet read for amendment, shall be considered as read, shall be debated for 2 hours equally divided and controlled by the proponent and an opponent of the amendment, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.

The Clerk will read.

The Clerk read as follows:

H.R. 4624

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes, namely:

TITLE I

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFERS OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 1312, 1977, and 2106, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540–548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $17,626,892,000, to remain available until expended: *Provided*, That not to exceed $25,750,000 of the amount appropriated shall be reimbursed to "General operating expenses" and "Medical care" for necessary expenses in implementing those provisions authorized in the Omnibus Budget Reconciliation Act of 1990, Public Law 101–508, and in the Veterans' Benefits Act of 1992, Public Law 102–568, the funding source for which is specifically provided as the "Compensation and pensions" appropriation: *Provided further*, That $6,000,000 of the amount appropriated shall be transferred to "Medical facilities revolving fund" to augment the funding of individual medical facilities for nursing home care provided to pensioners as authorized by the Veterans' Benefits Act of 1992, Public Law 102–568.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34, 35, 36, 39, 51, 53, 55, and 61), $1,286,600,000, to remain available until expended: *Provided*, That funds shall be available to pay any court order, court award or any compromise settlement arising from litigation involving the vocational training program authorized by section 18 of Public Law 98–77, as amended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), $24,760,000, to remain available until expended.

GUARANTY AND INDEMNITY PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $65,226,000, which may be transferred to and merged with the appropriation for "General operating expenses".

LOAN GUARANTY PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $59,371,000, which may be transferred to and merged with the appropriation for "General operating expenses".

DIRECT LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That during 1995, within the resources available, not to exceed $1,000,000 in gross obligations for direct loans are authorized for specially adapted housing loans (38 U.S.C. chapter 37).

In addition, for administrative expenses to carry out the direct loan program, $1,020,000, which may be transferred to and merged with the appropriation for "General operating expenses".

EDUCATION LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $1,061, as authorized by 38 U.S.C. 3698, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $4,034.

In addition, for administrative expenses necessary to carry out the direct loan program, $195,000, which may be transferred to and merged with the appropriation for "General operating expenses".

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $54,000, as authorized by 38 U.S.C. chapter 31, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $1,964,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $767,000, which may be transferred to and merged with the appropriation for "General operating expenses".

NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For administrative expenses to carry out the direct loan program authorized by section 38, U.S.C. chapter 37, subchapter V, as amended, $218,000, which may be transferred to and merged with the appropriation for "General operating expenses".

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs, including care and treatment in facilities not under the jurisdiction of the Department of Veterans Affairs, and furnishing recreational facilities, supplies, and equipment; funeral, burial, and other expenses incidental thereto for beneficiaries receiving care in Department of Veterans Affairs facilities; administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs; oversight, engineering and architectural activities not charged to project cost; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department of Veterans Affairs, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); aid to State homes as authorized by law (38 U.S.C. 1741); and not to exceed $8,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 8110(a)(5); $16,232,756,000, plus reimbursements: *Provided*, That of the funds made available under this heading, $771,000,000 is for the equipment and land and structures object classifications only, which amount shall not become available for obligation until August 1, 1995, and shall remain available for obligation until September 30, 1996.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by law (38 U.S.C. chapter 73), to remain available until September 30, 1996, $252,000,000, plus reimbursements.

HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

For payment of health professional scholarship program grants, as authorized by law, to students who agree to a service obligation with the Department of Veterans Affairs at one of its medical facilities, $10,386,000.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of planning, design, project management, architectural, engineering, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs, including site acquisition; engineering and architectural activites not charged to project cost; and research and development in building construction technology; $69,808,000, plus reimbursements.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

For payment to the Republic of the Philippines of grants, as authorized by law (38 U.S.C. 1732), for assisting in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Medical Center, $500,000, to remain available until September 30, 1996.

TRANSITIONAL HOUSING LOAN PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $7,000, as authorized by Public Law 102–54, section 8, which shall be transferred from the "General post fund": *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $70,000. In addition, for administrative expenses to carry out the direct loan program, $54,000, which shall be transferred from the "General post fund", as authorized by Public Law 102–54, section 8.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed $25,000 for official reception and representation expenses; hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; $887,909,000, of which $25,500,000, for the acquisition of automated data processing equipment and services to support the modernization program in the Veterans Benefits Administration, shall not become available for obligation until September 1, 1995, and shall remain available for obligation until September 30, 1996.

NATIONAL CEMETERY SYSTEM

For necessary expenses for the maintenance and operation of the National Cemetery System not otherwise provided for, including uniforms or allowances therefor, as authorized by law; cemeterial expenses as authorized by law; purchase of three passenger motor vehicles, for use in cemeterial operations; and hire of passenger motor vehicles, $72,663,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $32,219,000.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, where the estimated cost of a project is $3,000,000 or more or where funds for a project were made available in a previous major project appropriation, $101,965,000, to remain available until expended: *Provided*, That, except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further*, That funds provided in this appropriation for fiscal year 1995, for each approved project shall be obligated (1) by the awarding of a construction documents contract by September 30, 1995, and (2) by the awarding of a construction contract by September 30, 1996: *Provided further*, That the Secretary shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93–344): *Provided further*, That no funds from any other account except the "Parking revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Department of Veterans Affairs of the project or any part thereof with respect to that part only.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, where the estimated cost of a project is less than $3,000,000, $153,540,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $3,000,000: *Provided*, That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department of Veterans Affairs which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

PARKING REVOLVING FUND

For the parking revolving fund as authorized by law (38 U.S.C. 8109), $1,400,000, together with income from fees collected, to remain available until expended. Resources of this fund shall be available for all expenses authorized by 38 U.S.C. 8109 except operations and maintenance costs which will be funded from "Medical care".

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by law (38 U.S.C. 8131–8137), $37,397,000, to remain available until expended.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veteran cemeteries as authorized by law (38 U.S.C. 2408), $5,378,000, to remain available until September 30, 1997.

ADMINISTRATIVE PROVISIONS
(INCLUDING TRANSFER OF FUNDS)

Any appropriation for 1995 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations.

Appropriations available to the Department of Veterans Affairs for 1995 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Department of Veterans Affairs (except the appropriations for "Construction, major projects", "Construction, minor projects" and the "Parking revolving fund") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Secretary of Veterans Affairs.

Appropriations available to the Department of Veterans Affairs for fiscal year 1995 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" shall be available for payment of prior year accrued obligations required to be recorded by law against the corresponding prior year accounts within the last quarter of fiscal year *1994*.

Appropriations accounts available to the Department of Veterans Affairs for fiscal year 1995 shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from title X of the Competitive Equality Banking Act, Public Law 100–86, except that if such obligations are from trust fund accounts they shall be payable from "Compensation and pensions".

Of the budgetary resources available to the Department of Veterans Affairs during fiscal year 1995, $20,742,000 are permanently canceled. The Secretary of Veterans Affairs shall allocate the amount of budgetary resources canceled among the Department's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account. For the purposes of this section, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or service and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

Mr. STOKES (during the reading). Mr. Chairman, I ask unanimous consent that title I through page 17, line 5, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. Are there any points of order against title I of the bill?

Are there any amendments to title I of the bill?

Mrs. ROUKEMA. Mr. Chairman, I rise in reluctant opposition to the fiscal year 1995 VA, HUD, independent agencies appropriation bill. I do so in large part to the continued funding for the space station program.

However, as the ranking Republican on the authorizing Subcommittee on Housing I want to take this opportunity to personally commend Chairman OBEY and ranking member McDADE as well as Chairman STOKES and ranking member LEWIS of the VA–HUD Subcommittee for their efforts with respect to our Nation's housing programs.

With respect to this bill, I appreciate the difficult job the members of the Appropriations Committee face in trying to provide a fair distribution of very limited funds.

I want to commend the committee for rejecting the administration's budget requests for several programs including the HOME Program, section 202 Elderly Housing and the Public Housing Modernization.

The increased funding levels for the HOME Program, the 202 elderly, the section 811 disabled program and the public housing programs included in this bill are consistent with the actual need for these housing programs.

Finally, to Chairman STOKES and ranking member LEWIS, I want to again thank you for taking the authorization committee's concerns into consideration with respect to the funding of unauthorized housing and community development initiatives.

As my colleagues know, the Banking Committee just recently reported out the fiscal year 1995 authorization for HUD programs which we hope to have on the floor after the July recess. The Appropriations Committee should be commended for setting aside sufficient funds for the programs we will authorize.

There are, however, three exceptions. The first is the $265 million increase in the HUD Pension Demonstration Program created last year. We have yet to receive any report on how the demonstration is proceeding and therefore the authorization committee was reluctant to increase the funding for that program much beyond the fiscal year 1994 level.

The second, involves funding for the Homeless programs. Again, the funding for McKinney in this bill is about $200 million over the authorization level.

Finally, the Appropriations Committee included an increase in both the FHA floor and high-cost area loan limits. While the authorization committee has recommended similar increases, this action does constitute authorizing on an appropriations bill and should not have been included in this legislation.

The spirit of cooperation between authorizers and appropriators up to this point has been very much appreciated and I hope will continue into the future.

Mr. MYERS of Indiana. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise not on title I, but I have had for some time concern about the Federal Emergency Management Agency.

Just when do they decide to help a community? I have had questions for quite some time, but it became very real last April 27 when West Lafayette, IN, experienced a tornado that killed 3 people; 74 trailers were totally destroyed; a factory, about one-third of which was destroyed; more than a dozen homes were destroyed; a church mission, a service station, a police barracks was partially destroyed, countless damage done.

The Governor of Indiana applied for assistance under the Federal Emergency Management Agency and was turned down. We did not like that. Appeal was made, and again it was turned down on the basis there was no large enough loss. It did not involve enough people. The ability of the local community should have been sufficient to take care of this loss.

Then about 2 weeks ago I read where the District of Columbia received help through FEMA for an ice storm back in March. Now, I was here during March. I do not recall any major losses, any loss of life because of the ice storm.

My inquiry today is: Has this committee ever asked FEMA, is there any rule or regulation or a formula that they apply to losses like this?

To the people of Indiana, my little community, those individuals, and I think there are 70-some families still homeless living in tents, living in temporary shelters without any help, yet here in the District of Columbia because of an ice storm, and to my knowledge, well, there are homeless here, probably not because of the ice storm. But there was the loss to those 70-some families, and more than that, but 70 are still homeless, is just as great to those individuals in Indiana as they are here in the District of Columbia. Yet the District was approved.

Has the committee ever inquired if there is a formula or how FEMA decides to help someone or not? I know California had a big earthquake, and when we have had the other national disasters, it has helped. But how about smaller communities? Again, to the individuals out there it is just as great.

Can anyone answer from the committee? Mr. Chairman, has there ever been inquiry? Does the committee understand when they apply? I know you and I have talked about it. I appreciate very much your willingness to help, and I am not blaming the committee, but I do wonder about FEMA.

Mr. STOKES. Mr. Chairman, will the gentleman yield?

Me. MYERS of Indiana. I yield to the gentleman from Ohio.

Mr. STOKES. As the gentleman has stated in his remarks, you and I have discussed this matter, and per our discussion, I shared with you the fact that I had a very similar situation in the State of Ohio. I have had several of the Members of the House who have come to me and discussed very similar problems. Problems where their Governors have declared a disaster, and yet FEMA has not been able to recognize it as a disaster and have the President declare it a disaster.

This situation creates a real hardship for these local communities. But even after review, we have found that there is very little that we can do under the circumstances.

So the gentleman is not alone in facing the problem he has presented. There are many of us who have undergone a very same or a similar situation.

Mr. MYERS of Indiana. I have talked to colleagues who have had a similar experience. I wonder if they have ever explained what formula they use. Is there a formula? or is it just an administrative answer yes or no? How do they decide? Do we know how they make the decision? Is there a dollar figure? Is there a numbers figure about how many people have suffered losses?

The ice storm here really rattled my cage again. I read about this ice storm, and I remember some ice hit here back in March, but, my goodness, nothing on the proportion of three people being killed in my district in Indiana and all this disaster, trailers just totally destroyed. It is fortunate only three people were killed. It happened about midnight.

□ 1550

But the loss to these individual families is just as great. I do not know of any family who had any losses here in the District.

Mr. Chairman, I would be glad to yield to the chairman of the subcommittee if there is any answer to my question. Maybe there is not.

Mr. STOKES. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Ohio.

Mr. STOKES. I thank the gentleman for yielding.

Mr. Chairman, it is my understanding they do operate using certain criteria. I am unable to tell the gentleman precisely all the elements that are a part of this formula criteria. However, I do know that economics is a part of it, and that demographic data, threat to health and safety of the people, and several other factors enter into it. But I cannot, much beyond that, tell you exactly or precisely what makes up the criteria. Certainly the problem that he raises is one that is shared by many of us. Perhaps this is something we ought to inquire further into. I certainly am available to work with the gentleman from Indiana [Mr. MYERS] to engage in any further discussions he would like to have with the agency or any further appeals to be made to the agency officials.

Mr. MYERS of Indiana. I appreciate the gentleman making that offer. I appreciate it. I would be glad to work with him. I am not asking for special attention. It is too late to help my district in Indiana. But this would apply to the future.

Again, these families had losses which were just as great as those that happened to others.

The CHAIRMAN. The time of the gentleman from Indiana [Mr. MYERS] has expired.

(By unanimous consent, Mr. MYERS of Indiana was allowed to proceed for 2 additional minutes.)

Mr. MYERS of Indiana. The losses to these individual families is just as great because they are part of a small piece, a small pie, as they were in the larger California disaster. The losses to the individual families is just as great. Are we here to help just big communities or people who are really in need of help? Most of these trailers, most of them had no insurance whatsoever. Of course, that is not the way we should operate our homes, but we found a lot of these trailers had no insurance, no way of recovering from this, and a lot of them were senior citizens, unless they could get some kind of help.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from California.

Mr. LEWIS of California. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Indiana raises an important question. I frankly do not think there is a clear formula that is responsive in a direct way. But both the gentleman and I know that when an emergency occurs or a disaster occurs, a local community may request a disaster declaration by the Governor. The Governor will normally respond in a way that makes some evaluation, by what formula I do not know, but he makes some evaluation or declaration, and the President will consider that. The President on the other hand does not seem to have a dollar amount by which they judge it is a disaster that justifies a Federal declaration, but rather they try to determine whether the State or the locality has the funds themselves before they declare that a disaster. But there is no formula, as I understand it.

In the meantime, the question asked is do all Americans get fair consideration in this process? I certainly hope that the answer is positive, that we should not just live with the hope but rather try to be more responsive as we go forward in our discussions in the months ahead.

Mr. MYERS of Indiana. Again, when the District got that ruling, I saw no evidence of that, so I have to raise questions.

I note on page 67 of the report the committee urged FEMA to come forward with a study, and I hope that the study will include something like this so that we will all understand how they make these decisions. I hope and urge them to include the formula so we will all understand whether we are being treated fairly or not. In the meantime I have to say there is a cloud over this program as far as I am concerned.

Mr. LEWIS of California. I think the gentleman is raising a very important question, particularly as it affects districts like his own, which raise very serious problems. We sometimes wonder whether people know that small communities exist and most obviously urban centers get a lot of attention.

Mr. MYERS of Indiana. The gentleman from California has it down pat, he seems to know how to do it. Of course, the gentleman also had big losses, too.

The CHAIRMAN. If there are no amendments to title I, the clerk will read.

The Clerk read as follows:

TITLE II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE GRANTS (HOPE GRANTS)

For homeownership and opportunity for people everywhere (HOPE grants) program as authorized under title III of the United States Housing Act of 1937 (42 U.S.C. 1437aaa et seq.) and subtitles A, B, and C of title IV of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), $100,000,000, to remain available until expended, of which up to one and one-half percent may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this head as authorized under subtitle E of title I of the Housing and Community Development Act of 1992.

HOME INVESTMENT PARTNERSHIPS PROGRAM

For the HOME investment partnership program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), as amended, $1,275,000,000, to remain available until expended.

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(INCLUDING RESCISSION OF FUNDS)

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $11,473,019,000, to remain available until expended: *Provided*, That of the total amount provided under this head, $263,000,000 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb); and $598,000,000 shall be for the development or acquisition cost of public housing, of which up to .67 per centum shall be available for technical assistance and inspection of public housing agencies by the Secretary: *Provided further*, That of the total amount provided under this head, $3,600,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l), including up to .54 per centum for the inspection of modernization units and provision of technical assistance by the Secretary and contract expertise to assist in the oversight and management of the public and Indian housing modernization program, including an annual resident survey: *Provided further*, That of the amounts provided under this head for modernization of existing public housing projects, $85,000,000 may be used for the Tenant Opportunity Program: *Provided further*, That of the total amount provided under this head, $2,643,000,000 shall be for rental assistance under the section 8 existing housing certificate program (42 U.S.C. 1437f) and the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)): *Provided further*, That those portions of the fees for the costs incurred in administering incremental units assisted in the certificate and housing voucher programs under sections 8(b), 8(o), and 8(e)(2) shall be established or increased in accordance with the authorization for such fees in section 8(q) of the Act: *Provided further*, That of the total amount provided under this head, $17,300,000 shall be available for fees for coordinators under section 23(h)(1) for the family self-sufficiency program (42 U.S.C. 1437u): *Provided further*, That of the total amount provided under this head, $1,202,100,000 shall be for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended, and $555,000,000 shall be for section 8 assistance for property deposition, and $100,000,000 shall be for assistance for State or local units of government, tenant and nonprofit organizations to purchase projects where owners have indicated an intention to prepay mortgages and for assistance to be used as an incentive to prevent prepayment or for vouchers to aid eligible tenants adversely affected by mortgage prepayment, as authorized in the Emergency Low-Income Housing Preservation Act of 1987, as amended: *Provided further*, That 50 per centum of the amounts of budget authority, or in lieu thereof 50 per centum of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100–628, 102 Stat. 3224, 3268) shall be rescinded, or in the case of cash, shall be remitted to the Treasury, and such amounts of budget authority or cash recaptured and not rescinded or remitted to the Treasury shall be used by State housing finance agencies or local governments or local housing agencies with projects approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992, in accordance with such section: *Provided further*, That of the total amount provided under this head, $156,000,000 shall be for housing opportunities for persons with AIDS under title VIII, subtitle D of the Cranston-Gonzalez National Affordable Housing Act; $150,000,000 shall be for the lead-based paint hazard reduction program as authorized under sections 1011 and 1053 of the Residential Lead-Based Hazard Reduction Act of 1992; and $30,000,000 shall be for service coordinators in public housing pursuant to section 9(a)(1)(B)(ii) of the United States Housing Act of 1937; and $30,000,000 shall be for service coordinators in project-based section 8 housing, pursuant to section 8(d)(2)(F)(1) of the Act, tenant-based section 8 housing, pursuant to section 8(q) of the Act and, for service coordinators in multifamily housing assisted under the National Housing Act, pursuant to section 676 of the Housing and Community Development Act of 1992: *Provided further*, That of the total amount provided under this head, $149,000,000 shall be for moving to opportunity.

AMENDMENT OFFERED BY MR. SMITH OF MICHIGAN

Mr. SMITH of Michigan. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Michigan: Page 18, line 18, delete "$598,000,000" and insert "$150,000,000".

Page 19, line 10, delete "$2,643,000,000" and insert "$2,822,653,400".

Mr. SMITH of Michigan. Mr. Chairman, the question that this amendment addresses is whether we should go along with the President's and the administration's request for funding of new construction and major reconstruction of public housing and the Government telling these people what kind of a house they should be living in and what part of the city that should be built in, or we let those individuals decide what kind of a house they want to live in with income rental vouchers.

My amendment would cut funding for new construction and major reconstruction of public housing by $448 million and would adopt the administration's request of $150 million. It would then increase funding for rental assistance, section 8 vouchers, by $180 million to serve the same number of households, 5,240 as reduced under the public housing program.

My amendment would increase the number of section 8 vouchers funded under this bill from 69,000 to 74,000.

As a result, in addition to serving the same number of households, there would be $268 million in savings for the Federal Government.

It becomes a philosophical debate, partially: Should we provide vouchers to low income individuals so they can decide where to live and let market forces start working to fix up those old houses and build new houses, or should we continue the process of public housing in this country, allowing most of our Federal money to go to developers? I know the developers have a strong voice in saying we need more housing; but I would suggest with all humility to my colleagues that it is important that we use Federal money as cost effectively and as efficiently as we can and that we really target our assistance, aiming limited housing resources at the poor people in need of this help.

Historically, the cost of building and maintaining public housing is twice as much as providing rental assistance. Under this bill, each public housing unit costs $85,500. We can serve the same number of low-income families with section 8 vouchers for $34,300.

So, No. 1, it is more cost efficient. No. 2, this is the recommendation of the administration. It brings it back to that level of $150 million for new housing construction.

The Committee on Appropriations raised this requested level to almost four times this amount.

Of the 4.6 million HUD-subsidized households, nearly 3 million are section 8 rental assistance subsidies. The number of public housing units number 1.4 million. It seems to me, in concluding, Mr. Chairman, that vouchers for housing provide the greatest freedom of choice for our low-income population. By working through the market process, vouchers are also the most efficient means of providing housing for the poor. Instead of tax dollars going to assist developers to produce housing which concentrates low-income families and therefore segregates them, vouchers allow recipients to choose any housing which they can afford in combination with their own resources. The market assures efficient use of resources in the sense that if a landlord does not maintain the dwelling or provide adequate service, the tenant can then take his or her voucher to another landlord and another building. It lets the market system work, it does not have Government saying that we are going to concentrate the poor, the low-income in one section, and segregate them and therefore deprive them of the chance, for encouragement, ideas and support necessary to succeed.

The history of Government construction subsidies for developers in Government-owned housing in my State of Michigan has been checkered. The city of Detroit, in particular, has had a number of problems with its housing projects. Many of these problems could have been avoided if low-income tenants had the option of choosing among all existing low-rental private housing.

Mr. STOKES. Mr. Chairman, I rise in strong disagreement to the gentleman's amendment. If I understand the gentleman's amendment correctly, he takes $598 million out of the Public Housing Program and he transfers $180 million over to the Voucher Program.

□ 1600

What we did in our bill was to provide for public housing at the 1994 level. In doing so, we did disagree with the administration who wanted to cut this particular program. But we felt that as a result of the hearings we conducted and the testimony that was taken during the course of our hearings from the Department of HUD, there was a great need for public housing. We felt it was our responsibility to provide funds for public housing which, as all of us know, is for poor people and low-income people who are unable to obtain any other type of housing.

Our Government does provide what is supposed to be decent housing for people in a decent environment in order to try and care for them because they are unable to care for themselves. But let me just point out a couple of things.

The gentleman made the statement that vouchers are the most efficient means of providing housing for poor people. I do not know what the gentleman relies upon in making such a statement. I do not know of any basis for that. I do know that vouchers are only good for 5 years, and I do know that public housing is available almost forever.

For instance, Mr. Chairman, in the city of Cleveland, public housing, which my brother and I grew up in, was built in 1938. That housing is still good housing in Cleveland and continues to provide an opportunity for poor people to have a place to live.

So, Mr. Chairman, I think we made the right decision in terms of what appears in our bill.

Mr. SMITH of Michigan. Mr. Chairman, will the gentleman yield?

Mr. STOKES. I yield to the gentleman from Michigan.

Mr. SMITH of Michigan. Mr. Chairman, the gentleman indicated that I took all of the money out of that construction. That is incorrect. I left $150 million in. That is the same amount that the administration, the President, recommended.

Mr. STOKES. Mr. Chairman, I stand corrected; the gentleman is correct. I said the gentleman took out $598 million; he took out $448 million. So, I stand corrected in that respect.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. STOKES. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I hope the House will stand by the appropriations subcommittee. As someone who has worked on housing for all of the time that I have been here, I think this is a terribly important issue.

The gentleman from Michigan [Mr. SMITH] says this is better for the poor people, to not build anything or to build very little and to give them vouchers. But I know of no organization representing tenants, or the poor or elderly people, that has come forward to the housing subcommittee and said, "Change this." The overwhelming majority of housing groups have come, those representing tenants, and said to build them because, as the gentleman from Ohio has pointed out, we are talking here about temporary versus permanent housing in our hands, and let me add one other important issue.

Many have asked us to be able to tear down existing public housing. People have said we have got this problem, we want to be able to tear down some of the existing public housing. The law requires that, if public housing is torn down, it be replaced, because otherwise we get a net diminution. If we take away the money that is in the bill of the subcommittee, we are going to make it very difficult for our communities to replace public housing that has become so deteriorated or abandoned that it is an eyesore because the law has, and nobody has been pushing for total change of that successfully, the law still requires some replacement. I say, You need what the gentleman from Ohio has done if you're going to have that replacement. This is the most flexible way to do housing.

Finally, Mr. Chairman, there are parts of the country where the vouchers do not work because the housing market is so tight that the poor people cannot find places to live, and, if we do not do some construction, this is all our elderly housing, housing for people with handicaps. It just does not work.

Mr. STOKES. Mr. Chairman, I would hope we would defeat the amendment offered by the gentleman from Michigan [Mr. SMITH].

Mr. BURTON of Indiana. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as my colleagues know, if public housing is destroyed by the tenants and it becomes dilapidated, I think it is a shame that we tear it down, rebuilt it, and go through the same exercise again. That is the law, as the gentleman said, but we ought to change that because it costs so much money.

I remember when we had the White River project in Indianapolis. We had these high-rise buildings that cost tens of millions of dollars to build. They had elevators. It was public housing. It was going to solve the problem in Indianapolis. It was totally destroyed inside, and we ended up, after years of losing taxpayers' dollars, turning it over to a private entrepreneur to redevelop that, using those structures, and selling it on the open market to individual purchasers.

Mr. Chairman, public housing simply has been a disaster in many parts of the country, and this section 8 voucher program is a good constructive alternative to solving the problem, plus it saves the taxpayers $268 million. Instead of $448 million for this program, we put $180 million into the Voucher Program. These poor people can choose where they want to go live. They do not have to live in a ghetto in the middle of the city if they do not want to. They can take that voucher and go out and find a place where there is decent housing and live the kind of life that they want to.

But what do we want to do? Keep creating these public housing projects in parts of the country where there is a terrible crime problem, and, when it becomes dilapidated, what do we do? We tear it down and rebuild it with taxpayers' dollars. What a waste of money, what a waste of money.

This is a good amendment, it is a sound and reasonable amendment, and it is going to save the taxpayer $268 billion, and that is probably why it is going to fail.

Mr. SMITH of Michigan. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman form Michigan.

Mr. SMITH of Michigan. Mr. Chairman, the gentleman from Massachusetts argues there is not enough vacant housing, but we already have the low-income housing tax credit that is building over a hundred thousand homes every year. In addition, the section 811 program for the elderly and the handicapped will provide another 11,600 new homes. Other new construction funds include the assistance available under the home investment partnerships program, funded at just slightly over $1.2 billion in this bill.

Mr. Chairman, my question to the gentleman is: If you were low income and had a choice of living where you wanted to or where the Government built this low-income housing in the deprived area, where would you want to go?

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman from Michigan [Mr. SMITH] for the question, and there is no question. I say to the gentleman, if you look at many parts of this country, you'll see these families saying, "My kids are being shot, there's a terrible crime problem, there is a drug warlord in this public housing project that's threatening my kids every day. I want to get out of here." The way this bill is written, they'll never get out of there, but, if we go to the voucher program, they can leave that project, go to someplace else, and it will save the Government $268 million in the process.

Mr. Chairman, this makes sense. It is a good amendment. I urge my colleagues to pass it.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from Indiana [Mr. BURTON] and the gentleman from Michigan [Mr. SMITH] have argued that this is for the poor, to give them more choice. I would repeat, as a member of the Housing Subcommittee, that we have not had organizations representing low-income tenants, representing the poor, telling us to come and do this, and the reason is that they do want some choices, and choice is what they have in the current bill, and we will lose under this amendment because this amendment will reduce to a very, very low number the amount of new public housing construction. There was some confusion here. When the gentleman talks about the home program or about the low-income tax credits, there are a range of incomes for which we provide housing assistance. Many of those go for mixed income developments. Many of them go for people of moderate income. This, as the gentleman from Ohio pointed out, goes to the poorest of the poor.

Mr. Chairman, public housing is for the people who have nowhere else to go, and to say in many parts of this country, in the crowded housing markets of many metropolitan areas, that we can replace this with vouchers is a joke on them because I can tell my colleagues we know this is a fact:

There are parts of the country where vouchers simply cannot be used by people. The housing market is such that these people are turned away. They do not want to deal with the government. They cannot do it in the private market, and they will not take these people.

The gentleman from Indiana [Mr. BURTON] says, "If the public housing is bad, you're just going to replace the same thing." Of course not. That is caricature that no one thinks. What we are saying is that, because the society did build some public housing units unwisely in some cases, we do want to tear down parts of it, or all of it, but not reduplicate the mistakes.

□ 1610

We do better now with public housing. This argument that all public housing is a terrible thing, most of you know is not true. Elderly housing, for instance, and there are two types of elderly housing, 202 elderly housing, that is a different program, and many of them cost more. There are people who are not wealthy enough as the elderly to live in some of the 202 housing. And the gentleman should understand that much of what you think of as public housing for the poorest of the poor elderly, will be cut from this bill.

Mr. SMITH of Michigan. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Michigan.

Mr. SMITH of Michigan. Mr. Chairman, still again, that is why you are exactly right. You are right on that point, and that is why we leave $150 million there, because there is need in some areas. This is what the President recommended.

Mr. FRANK of Massachusetts. Reclaiming my time, I wish we could make one rule: We should do it when the President is a Republican, you do it when the President is a Democrat. This extraordinarily temporary fealty to the President is so silly and it just wastes time. For Members on the other side, like the gentleman from Michigan, to make a sudden conversion to a Presidential loyalist and want anyone to believe that is part of this reason, really is not persuasive. I do not understand why anybody would do that.

The point is, we will not be able to build the level of housing for older people that are looking for it. The gentleman is cutting it from $600 million to $150 million. Yes, the President proposed an unwise cut in this regard. But the housing that is needed for the poorest of the poor, our ability to replace housing, will not be there.

Again, the argument that this is in favor of the poor, I think, is wrong. We need a mix. In some markets and in some situations, the voucher system works well. In other cases and for some people, you need construction.

There are, for instance, a shortage of units in many cities for large families, for families with five, six, or seven children. One of the things we have to be able to do in public housing is to build those units. Tell people with five children that they have to do out on the private market with vouchers, and it may be impossible to do.

We are still going to be doing a lot with vouchers. But if you accept the amendment and undo what the gentleman from Ohio has done, you will leave the poor worse off, with fewer options, and the society less able to respond.

Mr. SMITH of Michigan. Mr. Chairman, if the gentleman will yield further, still, there has got to be some area of common agreement that when we build more housing we put more pressure on the inner city to further dilapidate it.

Mr. FRANK of Massachusetts. Mr. Chairman, I reclaim my time. That is simply nonsense. There is nothing in this law that says they can only build in the inner city. That is a product of the gentleman's own misconception. When someone says public housing, why do you automatically think inner city? I do not represent any major city.

Mr. SMITH of Michigan. Mr. Chairman, I think I misspoke.

Mr. FRANK of Massachusetts. Mr. Chairman, the gentleman has now made it very clear why he is so mistaken. He equates public housing with the inner city. I do not have what we call an inner city in my district. I have 35 communities as large as 98,000 people, and public housing is an important resource for them.

It simply is the core of the error to think that all public housing is currently inner city, not that that is a terrible thing, and that is an indication of why the gentleman is wrong.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. FRANK] has expired.

(At the request of Mr. BURTON of Indiana and by unanimous consent, Mr. FRANK of Massachusetts was allowed to proceed for 1 additional minute.)

Mr. FRANK of Massachusetts. I yield to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I just have one question.

Mr. FRANK of Massachusetts. I do not believe you will have just one, but I will take the one.

Mr. BURTON of Indiana. Does the gentleman believe that the poor people who live in public housing ought to have the right to choose where they want to live like anybody else?

Mr. FRANK of Massachusetts. I do, but I believe in many parts of this country you cannot give them an effective choice with a voucher, because the housing market is so constrained the market for large families is so constrained, the unwillingness of certain private landlords to deal with the Government is so low, that unless you have a mix of choices that includes some public housing and some vouchers, they will not have an effective choice. And anyone who thinks that a voucher gives a large poor family complete choice is mistaken. And for the elderly, they very often prefer to live in elderly-only buildings. For the elderly, many of them, given a choice, would not want a voucher in the private market. They would want a unit built only for the elderly, potentially with elderly services, and many elderly would prefer to go that way.

Mr. ROTH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have had some experience with the voucher program, because Green Bay, WI was one of two sites selected a number of years ago as a pilot project for the voucher program. I have had a chance to meet with many of the people who have benefited from the vouchers program.

I want you to know that people appreciate the voucher system, and we have had excellent experience with the voucher system.

You see, what the voucher system does is treats people more like intelligent human beings. A voucher gives people an opportunity to pick the area where they want to live. They pick the community they want to live in. And it gives them a choice which they do not have when we have all government housing.

Basically, what I have found over the years debating this issue is that it is really not whether the politicians want to help the people who do not have adequate housing or give them a better place to live, it is really a question of political philosophy. I see it as a question more of ideology rather than economics.

If you believe the Government can best provide for housing and do a better job than the private sector, and so on, you say we have to have more and more government housing. But you know something? The taxpayers pay through the nose, because there is no housing as expensive as government housing. All of you know that, because all of you have had experience with government housing.

Vouchers get away from the stigma. Unfortunately, there is a stigma attached to government housing. With vouchers you get away from that stigma. Plus people have more pride and keep up their house when they have a voucher system. The people feel they are renting a place, it is not given to them. They feel this is part of me, this is my home. This is my home. I know that because I visited many of the people when we were debating this issue in the voucher program some time ago.

Now, you also give people, in my opinion, more options. I do not know what takes place in Chicago and some of these other areas, but I know the place we had it in Indiana and the other pilot project we had in Green Bay, WI, it worked out very well. The surveys done with the people that lived in these homes and housing dealing with vouchers show they were very happy with vouchers, and they asked us to continue the program.

So from my experience and my background, this is a good amendment, because it gives people basically what people are looking for, and that is what we are trying to do with this legislation.

Mr. STOKES. Mr. Chairman, will the gentleman yield?

Mr. ROTH. I yield to the gentleman from Ohio.

Mr. STOKES. Mr. Chairman, I thank the gentleman for yielding.

The gentleman mentions the success of the voucher program in his city. I do not question the fact that such a program was a success. However, did they take money out of the public housing program in your city in order to do it? Because that is what this gentleman's amendment does. It takes money out of public housing and transfers it over to the voucher program for that purpose.

Mr. ROTH. Mr. Chairman, reclaiming my time, what the gentleman is doing is not taking away housing, because he is giving them a voucher, which is saving the taxpayers money plus giving the people a better place in which to live.

Mr. STOKES. Mr. Chairman, will the gentleman yield?

Mr. ROTH. I yield to the gentleman from Ohio.

Mr. STOKES. Mr. Chairman, the gentleman is taking $448 million out of the public housing account, and he is transferring only $180 million over to the voucher program. At the same time, the gentleman is not doing anything about the fact that there are still people waiting in line who need public housing, who are being deprived of it, because of the gentleman's amendment.

Mr. ROTH. Mr. Chairman, I thank the chairman, and there isn't a Member in this House I have more respect for than the gentleman from Ohio [Mr. STOKES]. But I must say this in rebuttal. Sure, he is only using $180 million, but he is doing with $180 million what others can do with $480 million. So he is saving the taxpayer money plus taking care of the people that need help. That sort of initiative should be praised rather than scoffed.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. ROTH. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, the gentleman makes one mistake though. He is doing that for a 5-year period only. The public housing that would be built will last 50 and 60 and 70 years. The gentleman's housing lasts only for a 5-year period versus permanent units.

Mr. ROTH. My friend from Massachusetts, if you had a sense of humor, you would be dying laughing at yourself. Public housing lasts 50 years?

Mr. SMITH of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ROTH. I yield to the gentleman from Michigan.

Mr. SMITH of Michigan. Mr. Chairman, let us look at this budget for how much we provide existing public housing. Do we each know we provide additional funds for public housing units? We have 1.4 million public housing units in the inventory under HUD. This bill provides $2.5 billion for operating subsidies. That's $1,800 per unit. This bill provides $3.6 billion for modernization. That's $2,500 per unit.

Building more houses is not the solution. Saying we are going to build more public housing to give this money to developers and contractors is not the way to help people who need housing in this country.

□ 1620

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to this amendment. This is a good appropriation bill with regards to the housing, urban development budget, and funding that the chairman brings to the House. The fact is, we do not get anything for nothing.

What this Smith amendment purports to do is say we can house all the same people with a rental voucher for 5 years as we could if we constructed the units of housing. Naturally, the truth is, at the end of this day, at the end of the period for the vouchers, we end up with a bunch of rent receipts, as opposed to real public housing.

Some of the gentlemen from the other side of the aisle suggested that public housing does not last for 5 years. I can point out numerous public housing projects in my own district of St. Paul, MN, that, in fact, are close to 50 years old, in very good shape because of the modernization funds that are in this bill and will help other housing authorities do the same thing, and working and dynamic public housing, meeting the needs today and in the future. Not all public housing has the problems that occur in a city or in some of the troubled projects that the gentleman has talked about.

Housing, public housing is one of the most successful programs that we have in the Nation, that is a matter of fact.

Of course, we can concentrate on the problems but we are missing the main point in terms of how this program works. The fact is that the General Accounting Office and others have done studies and analysis for the Congress on this particular purpose. And they found out and they demonstrated for the Congress that it gave us the most housing per dollar. The fact is, this public housing will last 30, 40, 50 years. Obviously, it has to be maintained and properly managed. If we have a poorly constructed or designed building, it will not last that long.

The truth is, of course, that we do not need either public housing or voucher rather; we need both of these programs. Obviously a section 8 voucher and the improved program that exist today, worked on by the various committees, does serve a very, very important function. It serves a need. Obviously, in various markets, there is not the vacancy rate that occurs in other markets. Some markets have a very large vacancy rate. Others have a very small one. Besides that, the type of public housing units we have may have two, three, four bedrooms in them in order to accommodate the size of the families that are experiencing difficulty for a short period of time. That has to be recognized. Most apartment buildings and other types of housing do not accommodate that type of family.

They have rules dealing with children. They have rules dealing with a variety of other activities that obviously do not accommodate public housing residents.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I want to point out again, with regard to choice, because the gentleman has helped make this clear, certainly people who suggest that public housing only lasts 5 years or does not last 5 years are so wrong and so inaccurate as to show that what we are talking about here is using caricatures that kind of just degrade the whole operation.

In many cities in this country the private rental market is so expensive that this argument about choice is simply wrong. If we want to have any degree of social integration in those communities, in effect, we will have public housing because the rules for the voucher program, the rent levels which it holds to, rule out many many communities. I represent some. I know of others even in large cities, if we wanted to do this in Manhattan, if we want to do it in San Francisco, we simply will not be able to build at a rental market situation for rents that vouchers can meet. So having some mix, rather than mischaracterizing public housing as only for the inner city, as not even lasting 5 years, those kinds of degradations of public housing and the people who live there are what is behind this amendment. And they are wrong.

Mr. VENTO. Mr. Chairman, I thank the gentleman for his contribution. The point is that public housing saves the taxpayers money. We have done studies on this. The GAO has done studies. It saves money. Is every individual project a success, no. But by and large, they are. That is why we have these projects remaining.

Furthermore, as we eliminate or replace public housing, we are losing some of the units. It is necessary, therefore, to have a modest program of reconstruction to maintain an adequate level of public housing. We have in this country serious problems with regards to housing. At the request of the Speaker, I led a task force on which the gentleman from Massachusetts and others served dealing with hopelessness. It pointed out that 7 percent of the people in this country, sometime during their life, had been homeless.

We have a serious problem with regards to adequate shelter in this Nation. Public housing plays a key role. The gentlemen are simply mistaken in trying to portray this section 8 voucher-program as a savings to the taxpayer. This is not a savings to the taxpayer at all. The public housing gives us the best for the buck in terms of housing and meeting the needs of people, Mr. Chairman. The amendment cuts over one-quarter of a billion dollars from public housing for the poor—that doesn't help, that hurts the people who have real need.

I would urge the Members, therefore, to reject this amendment. I think it is ill-considered and ill-conceived.

Mr. ARMEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me begin by asking that I be disassociated with the remarks of the previous speaker. I want to also take a moment to thank the gentleman from Michigan [Mr. SMITH] for bringing this amendment to the floor.

I have been involved in this issue of public housing and how to handle public housing since I first came here in 1985. I had the privilege of working for several years on this issue. It seemed like every summer, with Jack Kemp. And I think we made some progress. We have made some progress, but I am afraid there are some areas in which we have not made progress.

The American people give us a privilege to be in this body. That privilege very often is the extraordinary privilege where we get to represent the extraordinary compassion of the American people for people among themselves who are less fortunate. One of those areas in which we get to represent that compassion is in the provision of housing for people of low income and economic hardship.

I believe that it is our duty to represent that compassion with understanding. I think the gentleman from Michigan [Mr. SMITH] is doing that today.

I do not believe it is within our right, as Members of Congress representing the compassion of the American people, to link that compassion with power and dependency. No, ours should be a compassion that is linked with a devotion to freedom and with respect to the people for whom we offer this helping hand. If, in fact, we construct politics and policies of power and dependency, we will most certainly, in fact, develop and create in our community the pathologies of dependency and the pathologies of power.

My colleagues, I am sad to report that despite the very many good public housing projects we can find scattered around this country, we have too many housing projects in America today that are marked by these pathologies. We all know the hard, cruel, mean conditions under which too many American citizens who deserve our respect and deserve our compassion end up living because, in fact, we have decided to serve power and we are willing to accept their dependency as the price for our power.

Let us not make any mistake about it and let us not kid ourselves. The people with a vested interest in public housing are the public housing authorities who gain control over the lives of other people, the politicians that find people that are as easy to put into buses to drive to the polls as their children are to put into buses and drive to school. And just as those children are deprived of the freedom and the joy of walking through their neighborhood with their friends to a safe school on safe streets, those voters are deprived of the freedom and the joy of casting their own independent vote.

No voter in America today should be compelled by a feeling that their vote must be cast as their only means to security for one or the other of a politician that has the gall to promise them security and not the devotion to duty to promise them liberty. That is what public housing gives us. That is a pathology we should stamp out.

☐ 1630

Section 8 vouchers give people a sense of freedom, of independence, of self-sufficiency, of neighborhood.

It gives little boys and little girls the right to play in their neighborhood, knowing they are safe to walk to school with school children, their friends, to walk down to the corner drug store, to be safe, to be in fact integrated with people of different income experiences, different races, different cultures, different experiences, and to not live with a stigma of living in the projects.

Mr. Chairman, I cannot tell the Members the pain that I have seen in the face of a little girl who said that her goal in life was to not have to be ashamed that she lived in the projects. Let us have the decency to give people the liberty that comes with section 8 vouchers. Can we be that decent in this body?

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. SMITH].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SMITH of Michigan. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 162, noes 269, not voting 8, as follows:

[Roll No. 307]

AYES—162

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bilirakis
Bliley
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Condit
Cox
Crane
Crapo
Cunningham
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hochbrueckner
Hoekstra
Hoke
Horn
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Leach
Levy
Lewis (KY)
Lightfoot
Linder
Livingston
Manzullo
McCandless
McCollum
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Myers
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Penny
Petri
Pombo
Porter
Portman
Pryce (OH)
Quinn
Ramstad
Ravenel
Regula
Roberts
Rohrabacher
Roth
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Smith (MI)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Weldon
Wolf
Young (AK)
Zeliff
Zimmer

NOES—269

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Baker (LA)
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Frost
Furse
Gallo
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Gunderson
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Holden
Houghton
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Lehman
Levin
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Lucas
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Quillen
Rahall
Rangel
Reed
Richardson
Ridge
Roemer
Rogers
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Synar
Tanner
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Walsh
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (FL)

NOT VOTING—8

Andrews (NJ)
Chapman
Dingell
Faleomavaega (AS)
Machtley
Reynolds
Schumer
Washington

☐ 1650

Mr. MEEHAN changed his vote from "aye" to "no."

Mr. GRANDY and Mr. PAYNE of Virginia changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 1653

The CHAIRMAN. Are there other amendments to this portion of title II?

AMENDMENT OFFERED BY MR. SMITH OF MICHIGAN

Mr. SMITH of Michigan. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Michigan: Page 19, line 10, delete "$2,643,000,000" and insert "$2,378,725,000".

Mr. STOKES. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 20 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The gentleman from Michigan [Mr. SMITH] will be recognized for 10 minutes, and the gentleman from Ohio [Mr. STOKES] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, if it would help, I would like to call to the Members' attention that I do not intend to ask for a recorded rollcall vote on this amendment.

I offer this amendment in order to question why we are appropriating funds for the Pension Fund Program at a level higher than authorized. It reminds me of the man that had gangrene in one leg, and he went to the doctor, the doctor said, "We have got to cut it off," and after the surgery, the doctor said, "I've got good news and bad news." He said, "Well, give me the bad news first." He said, "Well, we cut off the wrong leg." He said, "My gosh, what is the good news?" He said, "Well, the gangrene was not as bad as we thought, and I think we are going to be able to save the other leg."

Mr. Chairman, that applies to this amendment, because the Committee on Banking, Finance and Urban Affairs will soon come out with an authorization for this Pension Fund Program less than this appropriation.

I would like to ask the chairman, the gentleman from Ohio [Mr. STOKES] if he would consider a colloquy to answer some of my questions. I am concerned that the authorization for this program will be $150 million while this appropriation is $414 million.

Can you tell me why the committee made a decision to bring this up to $414 million when the Committee on Banking, Finance and Urban Affairs is authorizing this at a level of $150 million?

Mr. STOKES. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Michigan. I am happy to yield to the gentleman from Ohio.

Mr. STOKES. The gentleman is correct. That is what we did. But we did that because of the request to us, and we were simply responding to the President's request.

Mr. SMITH of Michigan. Well, my concern is that it is a 15-year program. It obligates the taxpayers of this country to spend additional funds over the next 15 years and it seems to me there is considerable risk involved. Has there been an evaluation of the soundness of this idea? When the Committee on Banking, Finance and Urban Affairs authorizes it at $150 million and we jump this up to $414 million, it seems reasonable that we should be concerned. This is especially true at a time when the Government is jumping into a public debt load approaching $6.3 trillion within the next 5 years and we are looking at ways to cut money. It seems to me there needs to be overwhelming justification if we are going to appropriate at a greater level than what is authorized.

Mr. STOKES. If the gentleman will yield further, I will try to answer the gentleman's question.

First, the authorization bill assumes $150 million of the $2.7 billion for section 8 rental assistance for the Pension Program.

I would say to the gentleman that it is unknown at this time how this issue will come out in conference. The point is we are providing funds for the section 8 Rental Assistance Program, which is within the amount in the recommendation of the Committee on Banking, Finance and Urban Affairs.

If an authorization bill is enacted that only provides $150 million for the Pension Fund Program, then that would be the amount of funds that would be available. But additional funds could be available for regular section 8 units.

The gentleman's amendment only addresses one part of the section 8 rental assistance recommendation. It does not address the point that additional funds are assumed in the authorization bill for regular incremental units.

Mr. SMITH of Michigan. Let me follow up with one more question. Has there been any evaluation of risk as we expand this demonstration pension fund money in relation to these housing developments? Has there been an evaluation of risk as we jump this money up to this level of $414 million?

□ 1700

Mr. STOKES. Will the gentleman yield? I think, as the gentleman knows, this program is just beginning. There is no way for us to have that type of data available at this time. We are reacting to the authorizing committee's actions here. At some point, I assume that type of data evaluation will be accumulated.

Mr. SMITH of Michigan. Mr. Chairman, allow me to conclude by saying I would hope that my colleagues would return the funding level of the Pension Program to $150 million, which, as I understand, is the authorized amount.

Mr. COLEMAN. Mr. Chairman, I rise today in support of H.R. 4624, the VA-HUD-Independent Agencies Appropriations Act for fiscal year 1995, but in opposition to the gentleman's amendment.

This amendment would have a devastating effect on a program that has just been started called the Community Investment Demonstration Program, also known as the Pension Investment Program. The Investment Program, as established in the HUD Demonstration Act of 1993, sets aside section 8 project-based subsidies for multifamily rental and limited equity co-op housing projects whose construction or rehabilitation will be financed with pension fund capital.

This new program is designed to build bridges to pension fund managers and forge new investment partnerships for affordable housing. The AFL-CIO Housing Investment Trust helped conceive and refine the idea based on their experience investing in affordable multifamily housing. The idea is simple. HUD makes available to pension funds, on a competitive basis, Section 8 project based rental assistance to support construction and rehabilitation of affordable multifamily housing. The subsidy reduces the risk by ensuring more predictable cash flows from project rents. Thus, making pension fund financing more secure both for portfolio yield and more liquid for sale to secondary market investors such as Fannie Mae and Feddie Mac.

HUD has already received applications from throughout the country. Other pension funds participating in the program are: California Public Employees Retirement System working with the BRIDGE Housing Corp., the Board of Pensions and Retirement of the city of Philadelphia working with the Philadelphia Redevelopment Authority, and others.

HUD is currently expecting to receive numerous additional applications for the Section 8 Community Investment Demonstration funds, including from the AFL-CIO Housing Investment Trust. The trust solicited project proposals to package investments for its own application to HUD, including one for a housing project in the city of El Paso. The trust received 191 proposals to build or rehabilitate over 21,000 affordable housing units, more than half of them to be for Section 8 tenants. These proposals cover 34 States and 110 cities, from California to Florida, Maryland to Massachusetts, Virginia to Wisconsin, New Jersey to Illinois, Texas to Michigan, and more.

Therefore, Mr. Chairman, I urge my colleagues to defeat this amendment and support these types of initiatives in the future. With housing dollars becoming more scarce, this is the best method to proceed.

The CHAIRMAN. Is there further debate? If not, the question is on the amendment offered by the gentleman from Michigan [Mr. SMITH].

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Of the total amount provided under this head, $1,158,000,000 shall be for capital advances, including amendments to capital advance contracts, for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for the elderly under section 202(c)(2) of the Housing Act of 1959: *Provided*, That $22,000,000 shall be for service coordinators pursuant to section 202(q) of the Housing Act of 1959 and subtitle E of title VI of the Housing and Community Development Act of 1992, other than section 676 of such Act and section 8(d)(2)(F)(i) of the Act.

Of the total amount provided under this head, $387,000,000 shall be for capital advances, including amendments to capital advance contracts, for supportive housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act; and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for persons with disabilities as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act.

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

(INCLUDING TRANSFER OF FUNDS)

For assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) not otherwise provided for, for use in connection with expiring section 8 subsidy contracts, $3,705,000,000, to remain available until expended: *Provided*, That to the extent the amount in this appropriation is insufficient to fund all expiring section 8 contracts, the Secretary may transfer to and merge with this appropriation such amounts from the "Annual contributions for assisted housing" appropriation as the Secretary shall determine, and amounts earmarked in the foregoing account may be reduced accordingly, at the Secretary's discretion: *Provided further*, That the Secretary may maintain consolidated accounting data for funds disbursed at the public housing agency or Indian housing authority or project level for subsidy assistance regardless of the source of the disbursement so as to minimize the administrative burden of multiple accounts.

Further, for the foregoing purposes, $800,000,000, to become available for obligation on October 1, 1995, and to remain available for obligation until expended.

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1) is reduced in fiscal year 1995 by not more than $2,000,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts: *Provided*, That up to $66,000,000 of recaptured section 236 budget authority resulting from the prepayment of mortgages subsidized under section 236 of the National Housing Act (12 U.S.C. 1715z-1) shall be rescinded in fiscal year 1995.

HOMEOWNERSHIP ASSISTANCE

(INCLUDING RESCISSION OF FUNDS)

For payments under section 235(r) of the National Housing Act, as amended (12 U.S.C. 1715z) for incentives to mortgagors to refinance mortgages that are insured under such section 235 and for closing and other costs in connection with such refinancing, $6,875,000, to remain available until expended: *Provided*, That up to $50,000,000 of recaptured section 235 budget authority resulting from reducing the interest rate on such refinanced mortgages shall be reused for payments under this heading: *Provided further*, That up to $184,000,000 of additional recaptured section 235 budget authority from refinancing section 235 mortgages shall be rescinded in fiscal year 1995.

CONGREGATE SERVICES

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs, $6,267,000, to remain available until September 30, 1996, in accordance with the provisions of the Congregate Services Act of 1978, as amended.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), $2,900,000,000.

SEVERELY DISTRESSED PUBLIC HOUSING

For the revitalization of severely distressed public housing program, as authorized by section 24 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437), $500,000,000, to remain available until expended, of which up to one-half of one percent may be used for technical assistance under this program, to be made available directly, or indirectly under contracts or grants, as appropriate.

DRUG ELIMINATION GRANTS FOR LOW-INCOME HOUSING

For grants to public housing agencies for use in eliminating drug-related crime in public housing projects authorized by 42 U.S.C. 11901–11908, and for drug information clearinghouse services authorized by 42 U.S.C. 11921–11925, $265,000,000, to remain available until expended, of which $10,000,000 shall be for grants, technical assistance, contracts and other assistance training, program assessment, and execution for or on behalf of public housing agencies and resident organizations (including the cost of necessary travel for participants in such training) and of which $1,500,000 shall be for grants for an after school demonstration program in public housing projects, run by the 4H Clubs of America and co-sponsored by private sector firms.

INDIAN HOUSING LOAN GUARANTEE FUND PROGRAM ACCOUNT

For the cost of guaranteed loans, $3,000,000, as authorized by section 184 of the Housing and Community Development Act of 1992 (106 Stat. 3739): *Provided*, That such costs, including the costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $22,388,000.

YOUTHBUILD PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For youthbuild program activities authorized by subtitle D of title IV of the Crantson-Gonzalez National Affordable Housing Act, as amended, $50,000,000, to remain available until expended. In addition, the unexpended balances from the $28,000,000 made available for subtitle D of title IV of such Act under the head "Homeownership and opportunity for people everywhere grants (HOPE Grants)" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1994 shall be transferred to and merged with this appropriation.

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, other than loans, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106 of the Housing and Urban Development Act of 1968, as amended, $50,000,000.

FLEXIBLE SUBSIDY FUND

For assistance to owners of eligible multifamily housing projects insured, or formerly insured, and under the National Housing Act, as amended, or which are otherwise eligible for assistance under section 201(c) of the Housing and Community Development Amendments of 1978, as amended (12 U.S.C. 1715z–1a), in the program of assistance for troubled multifamily housing projects under the Housing and Community Development Amendments of 1978, as amended, $50,000,000, and all uncommitted balances of excess rental charges as of September 30, 1994, and any collections and other amounts in the fund authorized under section 201(j) of the Housing and Community Development Amendments of 1978, as amended, during fiscal year 1995, to remain available until expended: *Provided*, That assistance to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

FEDERAL HOUSING ADMINISTRATION

FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

During fiscal year 1995, commitments to guarantee loans to carry out the purposes of section 203(b) of the National Housing Act, as amended, shall not exceed a loan principal of $100,000,000,000.

During fiscal year 1995, obligations to make direct loans to carry out the purposes of section 204(g) of the National Housing Act, as amended, shall not exceed $180,000,000: *Provided*, That the foregoing amount shall be for loans to nonprofit and governmental entities in connection with sales of single family real properties owned by the Secretary and formerly insured under section 203 of such Act.

For administrative expenses necessary to carry out the guaranteed and direct loan program, $308,846,000, to be derived from the FHA-mutual mortgage insurance guaranteed loans receipt account, of which not to exceed $302,056,000 shall be transferred to the appropriation for salaries and expenses; and of which not to exceed $6,790,000 shall be transferred to the appropriation for the Office of Inspector General.

FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of guaranteed loans, as authorized by sections 238 and 519 of the National Housing Act, as amended (12 U.S.C. 1715z–3(b) and 1735c(f)), $152,000,000, to remain available until September 30, 1996, of which up to $132,903,000 is to be derived from the FHA—general and special risk, negative subsidies receipt account: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal any part of which is to be guaranteed of not to exceed $20,885,072,000.

Gross obligations for the principal amount of direct loans, as authorized by sections 204(g), 207(l), 238(a), and 519(d) of the National Housing Act, shall not exceed $220,000,000; of which not to exceed $200,000,000 shall be for bridge financing in connection with the sale of multifamily real properties owned by the Secretary and formerly insured under such Act; and of which not to exceed $20,000,000 shall be for loans to nonprofit and governmental entities in connection with the sale of single-family real properties owned by the Secretary and formerly insured under such Act.

In addition, for administrative expenses necessary to carry out the guaranteed and direct loan programs, $197,470,000, of which $193,299,000 shall be transferred to the appropriation for salaries and expenses; and of which $4,171,000 shall be transferred to the appropriation for the Office of Inspector General.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE PROGRAM ACCOUNT

(INCLUDES TRANSFER OF FUNDS)

During fiscal year 1995, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721(g)), shall not exceed $142,000,000,000.

For administrative expenses necessary to carry out the guaranteed mortgage-backed securities program, $8,824,000, to be derived from the GNMA—guarantees of mortgage-backed securities guaranteed loan receipt account, of which not to exceed $8,824,000 shall be transferred to the appropriation for salaries and expenses.

HOMELESS ASSISTANCE

HOMELESS ASSISTANCE GRANTS

For the emergency shelter grants program (as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended); the supportive housing program (as authorized under subtitle C of title IV of such Act); the section 8 moderate rehabilitation single room occupancy program (as authorized under the United States Housing Act of 1937, as amended) to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act; the shelter plus care program (as authorized under substitle F of title IV of such Act); and the innovative homeless initiatives demonstration program (as authorized under section 2 of the HUD Demonstration Act of 1993 (Public Law 103–120)), $1,120,000,000, to remain available until expended.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $4,600,000,000, to remain available until September 30, 1997: *Provided*, That $46,000,000 shall be available for grants to Indian tribes pursuant to section 106(a)(1) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), and $61,500,000 shall be available for "special purpose grants" pursuant to section 107 of such Act: *Provided further*, That not to exceed 20 per centum of any grant made with funds appropriated herein (other than a grant using funds under section 107(b)(3) of such Act or funds set aside in the following provisos) shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development: *Provided further*, That $35,000,000 shall be made available from the total amount provided to carry out an early childhood development program under section 222 of the Housing and Urban-Rural Recovery Act of 1983, as amended (12 U.S.C. 1701z-6 note), including services for families that are homeless or at risk of becoming homeless: *Provided further*, That $10,000,000 shall be made available from the total amount provided to carry out a neighborhood development program under section 123 of said Act (42 U.S.C. 5318 note).

During fiscal year 1995, new commitments to issue guarantees to carry out the purposes of section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), shall not exceed $2,054,000,000.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z-1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $40,000,000, to remain available until September 30, 1996.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and section 561 of the Housing and Community Development Act of 1987, as amended, $33,375,000, to remain available until September 30, 1996: *Provided*, That $26,000,000 shall be available to carry out activities pursuant to section 561 of the Housing and Community Development Act of 1987.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative and non-administrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $7,000 for official reception and representation expenses, $962,173,000, of which $495,355,000 shall be provided from the various funds of the Federal Housing Administration, and $8,824,000 shall be provided from funds of the Government National Mortgage Association.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $47,388,000, of which $10,961,000 shall be transferred from the various funds of the Federal Housing Administration.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OR FUNDS)

For carrying out the Federal Housing Enterprise Financial Safety and Soundness Act of 1992, $15,451,000, to remain available until expended, from the Federal Housing Enterprise Oversight Fund: *Provided*, That such amounts shall be collected by the Director as authorized by section 1316 (a) and (b) of such Act, and deposited in the Fund under section 1316(f).

ADMINISTRATIVE PROVISIONS

None of the funds provided under this title to the Department of Housing and Urban Development, which are obligated to State or local governments or to housing finance agencies or other public or quasi-public housing agencies, shall be used to indemnify contractors or subcontractors of the government or agency against costs associated with judgments of infringement of intellectual property rights.

Of the budgetary resources available to the Department of Housing and Urban Development during fiscal year 1995, $3,538,000 are permanently canceled. The Secretary of Housing and Urban Development shall allocate the amount of budgetary resources canceled among the Department's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account. For the purpose of this paragraph, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or service and ending with contract completion and closeout as specified in 41 U.S.C. 403 (2).

Of the $150,000,000 earmarked in Public Law 102–139 for special purpose grants (105 Stat. 736, 745), $1,000,000 made available to the Pennsylvania Housing Finance Agency to complete renovation and revitalization of the Saquoit Silk Mills in Scranton into low-income elderly apartments shall instead be made available for such low-income elderly apartments on the site of the existing Lackawanna Junior College in Lackawanna County, Pennsylvania.

Notwithstanding any provision of law or regulation thereunder, the requirement that an amendment to an urban development action grant agreement must be integrally related to the approved project is hereby waived for project numbers B87AA360540 and B87AA360521.

None of the funds made available in this Act may be used in violation of section 214 of the Housing and Community Development Act of 1980 or of any applicable Federal law or regulation of the United States.

Subparagraph (A) of the first sentence of section 203(b) (2) of the National Housing Act is amended by striking clause (ii) and all that follows through "1992;" and inserting in lieu thereof the following——

"(ii) 85 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size; except that the applicable dollar amount limitation in effect for any area under this subparagraph (A) may not be less than the greater of—

"(I) the dollar amount limitation in effect under this section for the area on the date of enactment of the Housing Choice and Community Investment Act of 1994; or

"(II) the applicable average area purchase price determined under section 143(e)(2) of the Internal Revenue Code of 1986, adjusted by the Secretary to reflect a single amount using purchase prices for residences that have been previously occupied, and for residences that have not been so occupied, which amount shall be adjusted by the Secretary annually on the basis of the Constant Quality Housing Price Index;".

Notwithstanding subsection 306(g) (3) of the National Housing Act, as amended, fees charged for the guaranty of, or commitment to guaranty, multiclass securities backed by a trust or pool of securities or notes guaranteed by the Government National Mortgage Association prior to February 1, 1993, and other related fees, shall be charged in an amount the Association deems appropriate.

AMENDMENT OFFERED BY MR. BARRETT OF WISCONSIN

Mr. BARRETT of Wisconsin. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BARRETT of Wisconsin: Page 38, after line 19, insert the following:

Notwithstanding any other provision of law, no community development grant provided in fiscal year 1994 or any succeeding fiscal year under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) may be used for any activity (including any infrastructure improvement) that is intended, or likely, to facilitate the relocation or expansion of any industrial or commercial plant, facility, or operation, from one area to another area, if the relocation or expansion will result in a loss of employment in the area from which the relocation or expansion occurs.

Mr. STOKES. Mr. Chairman, I reserve a point of order on the amendment.

Mr. BARRETT of Wisconsin. Mr. Chairman, the amendment that Mr. KLECZKA and I propose would add an antipiracy provision to the Community Development Block Grant Program in the Department of Housing and Urban Development. It would prevent the use of community development grant funds from being used for any activity that is intended, or likely, to facilitate the relocation of jobs from one area to another area.

Just days ago, we learned that almost a quarter of a million dollars in Federal funds will be used to help pay for a $23 million plant relocation that will cost jobs in the Milwaukee area. This is not an appropriate use of the CDBG Program, and is an incredible misuse of Federal funds. Unfortunately, under current law, this scenario could happen in any State.

The CDBG Program is a good program that greatly assists our State and local governments in implementing effective community development plans. But these funds are supposed to be used to help communities and States promote community and economic development.

CDBG funds should not be used simply to shift jobs from one State to another. This is robbing Peter to pay Paul.

Our amendment is very similar to provisions in the Housing and Community Development Act of 1974 that prohibited the use of urban development action grants for projects intended to move jobs from one area to another area. It extends the same protections to CDBG funds and will prevent grants from being used to shift jobs from one part of the country to another area.

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If the antipiracy language is adopted, Wisconsin taxpayers and other taxpayers across our country would no longer be forced to pick up the tab for transferring jobs from their State. Let us work to end this misuse of Federal dollars.

The chairman of the HUD authorizing committee, the gentleman from Texas [Mr. GONZALEZ], has expressed his support for this amendment. The gentleman from Wisconsin [Mr. KLECZKA] and I will be working with Chairman GONZALEZ and hope to work with our colleagues to ensure that this language is enacted into law.

Mr. Chairman, I concede the point of order. The gentleman from Wisconsin [Mr. KLECZKA] and I offer this amendment because it is good public policy. We will pursue other avenues to deal with the misguided use of CDBG funds.

Mr. KLECZKA. Mr. Chairman, while we will unfortunately have to accede to this point of order, let me comment briefly on what the Barrett-Kleczka amendment would have done. The amendment is an effort to right a serious wrong and to ensure that Federal CDBG funds are not used for piracy.

The Briggs and Stratton Corp., of the Milwaukee area has recently announced that it will be moving 2,000 jobs out of Wisconsin in order to expand its operations into Missouri, with the help of a $209,000 Community Development Block Grant. Therefore, the said irony is that Wisconsin taxpayers have unknowingly played a role in the loss of their own jobs.

We all know the purpose of the Community Development Block Grant: to spur economic growth and improve life for low- and moderate-income residents of an area. There are many examples of the positive use of these funds in the Milwaukee area alone. In a typical year, examples include improvements to more than 4,000 housing units, job training or placement assistance to several hundred residents, and expansion or improvements to approximately 100 Milwaukee businesses.

The Walkers Point Development Corp., was recently awarded a grant to aid in housing acquisition, rehabilitation, and disposition to first-time homebuyers. The Milwaukee Christian Center was the recipient of a $500,000 Community Development Block Grant. The funds will be used to operate an owner-occupied rehabilitation program for low-income homeowners. Last year, the program was able to improve almost 50 units with CDBG funds. Journey House, a youth center in Milwaukee, was provided $85,000 for its programming for inner-city youth.

So, you can see that the Community Development Block Grant Program is indeed a worthy, commendable program that assists our communities in providing much-needed neighborhood services and clearly betters the lives of many residents. That is why it is so outrageous to me that CDBG funds could be distorted to lure jobs from State to State. The program was meant to create jobs, not to snatch them.

In fact, I have already been contacted by several constituents who will personally suffer due to this move. They are angry that Wisconsin taxpayer funds are being used to take jobs away from Wisconsin. I agree with my constituents that this is clearly not an appropriate use of this commendable program. The amendment we are offering today is a clear, honest attempt to right this wrong and to disallow future use of CDBG funds to lure companies.

What should we tell those loyal employees who will clearly suffer as a result of Federal funds being spent in this manner? What about their families who will suffer?

Mr. Chairman, we need to let our constituents know that we recognize the worthiness of the Community Development Block Grants benefitted by the program, not harmed by it.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Ohio [Mr. STOKES] insist on his point of order?

Mr. STOKES. Yes, Mr. Chairman, I do.

The CHAIRMAN. The gentleman will state his point of order.

Mr. STOKES. Mr. Chairman, I make a point of order against the amendment because it proposes to change existing law. It constitutes legislation in an appropriations bill. Therefore, Mr. Chairman, it violates clause 2 of rule XXI. That rule states in pertinent part:

"No amendment to a general appropriation bill shall be in order if changing existing law."

Mr. Chairman, the amendment would modify the Housing and Community Development Act of 1974. I, therefore, Mr. Chairman, ask for a ruling from the Chair.

The CHAIRMAN. Does the gentleman from Wisconsin [Mr. BARRETT] concede the point of order?

Mr. BARRETT of Wisconsin. Yes, I do, Mr. Chairman.

The CHAIRMAN (Mr. BEILENSON). The gentleman from Wisconsin concedes the point of order, and the point of order is sustained.

The Clerk will read.

The Clerk read as follows:

TITLE III

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; $20,265,000, to remain available until expended: *Provided*, That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further*, That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further*, That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it: *Provided further*, That section 509 of the general provisions carried in title V of this Act shall not apply to the funds provided under this heading: *Provided further*, That not more than $125,000 of the private contributions to the Korean War Memorial Fund may be used for administrative support of the Korean War Veterans Memorial Advisory Board including travel by members of the board authorized by the Commission, travel allowances to conform to those provided by Federal travel regulations.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–124, $1,730,000 are rescinded.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18, purchase of nominal awards to recognize non-Federal officials' contributions to Commission activities, and not to exceed $500 for official reception and representation expenses, $43,486,000.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Corporation for National and Community Service in carrying out the programs, activities, and initiatives under the National and Community Service Act of 1990, as amended (Public Law 103–82) (hereinafter referred to as "the Act"), $490,388,000 to remain available until September 30, 1996, except as provided hereafter: *Provided*, That not more than $27,400,000 is available for administrative expenses authorized under section 501(a)(4) of the Act, of which not more than $13,700,000 shall be for administrative expenses for State commissions pursuant to section 126(a) of subtitle C of title I of the Act: *Provided further*, That not more than $2,500 shall be for official reception and representation expenses: *Provided further*, That not more than $125,900,000, to remain available without fiscal year limitation, shall be transferred to the National Service Trust Fund for educational awards as authorized under subtitle D of title I of the Act.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $1,000,000.

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Veterans Appeals as authorized by 38 U.S.C. sections 7251–7292, $9,289,000, to be available without regard to section 509 of this Act, of which not to exceed $650,000, to remain available until September 30, 1996, shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set forth, under this head in Public Law 102–229.

DEPARTMENT OF DEFENSE—CIVIL CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of two passenger motor vehicles for replacement only, and not to exceed $1,000 for official reception and representation expenses; $12,017,000 to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

RESEARCH, PREVENTION AND PROGRAM ACTIVITIES

For research and development, prevention, abatement, compliance and enforcement activities, including hire of passenger motor vehicles, hire, maintenance, and operation of aircraft; purchase of reprints, library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members, construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; and not to exceed $9,000 for official reception and representation expenses; $1,600,300,000, to remain available until September 30, 1996: *Provided*, That not more than $250,000,000 of these funds shall be available for operating expenses, including not more than $55,000,000 for procurement of laboratory equipment, supplies, and other operating expenses in support of research and development: *Provided further*, That none of the funds appropriated under this heading shall be available to the National Oceanic and Atmospheric Administration pursuant to section 118(h)(3) of the Federal Water Pollution Control Act, as amended: *Provided further*, That from funds appropriated under this heading, the Administrator may make grants to federally recognized Indian governments for the development of multimedia environmental programs.

AMENDMENT OFFERED BY MR. UPTON

Mr. UPTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amended offered by Mr. UPTON: On page 43, line 10, after "1996" insert: "except that none of this amount shall be available for a grant of $285,000 for a further study on methane and ruminant productivity".

Mr. UPTON. Mr. Chairman, at this point I ask unanimous consent that I be able to offer this same amendment after the debate and vote on the space station amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. The gentleman withdraws his amendment at this point.

The Clerk will read.

The Clerk read as follows:

PROGRAM AND RESEARCH OPERATIONS

For necessary expenses, not otherwise provided for, for personnel and related costs and for travel expenses, including uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; and for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; $935,000,000

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $44,595,000, of which $15,384,000 shall be derived from the Hazardous Substance Superfund trust fund and $669,000 shall be derived from the Leaking Underground Storage Tank trust fund: *Provided*, That not more than $41,150,000 of these funds shall be available for administrative expenses.

FACILITIES AND NATIONWIDE SUPPORT

For construction, repair, improvement, extension, alteration and purchase of fixed equipment or facilities of or for use by the Environmental Protection Agency, and for nationwide support of facilities-related activities, $174,700,000, to remain available until expended.

HAZARDOUS SUBSTANCE SUPERFUND

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111(c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; $1,425,000,000 to remain available until expended, consisting of $1,185,000,000 as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended by Public Law 101–508, and $250,000,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA, as amended by Public Law 101–508, plus sums recovered on behalf of the Hazardous Substance Superfund in excess of $229,391,000 during fiscal year 1995: *Provided*, That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: *Provided further*, That notwithstanding section 111(m) of CERCLA or any other provision of law, not to exceed $69,000,000 of funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA and section 118(f) of the Superfund Amendments and Reauthorization Act of 1986: *Provided further*, That none of the funds appropriated under this heading shall be available for the Agency for Toxic Substances and Disease Registry to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 1995: *Provided further*, That no more than $308,000,000 of these funds shall be available for administrative expenses of the Environmental Protection Agency: *Provided further*, That none of the funds appropriated in this Act may be made available for program management of Alternative Remedial Contracting Strategy (ACS) contracts exceeding 11 percent of the total cost of such contract.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $70,000,000 to remain available until expended: *Provided*, That no more than $8,150,000 shall be available for administrative expenses.

OIL SPILL RESPONSE

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out the Environmental Protection Agency's responsibilities under the Oil Pollution Act of 1990, $20,000,000, to be derived from the Oil Spill Liability trust fund, and to remain available until expended: *Provided*, That not more than $8,420,000 of these funds shall be available for administrative expenses.

WATER INFRASTRUCTURE/STATE REVOLVING FUNDS

For necessary expenses for capitalization grants for State revolving funds to support water infrastructure financing, and to carry out the purposes of the Federal Water Pollution Control Act, as amended, the Water Quality Act of 1987, and the Public Health Service Act, $2,732,000,000, to remain available until expended, of which $1,787,000,000 shall not become available until December 31, 1995: *Provided*, That of the amount which becomes available on October 1, 1994, $22,500,000 shall be for making grants under section 104(b)(3) of the Federal Water Pollution Control Act, as amended; $100,000,000 shall be for making grants under section 319 of the Federal Water Pollution Control Act, as amended; $52,500,000 shall be for section 510 of the Water Quality Act of 1987; and $70,000,000 shall be for making grants under section 1443(a) of the Public Health Service Act: *Provided further*, That the grant awarded from funds appropriated under the paragraph with the heading "Construction grants" in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990 (103 Stat. 858) for construction of a connector sewer line, consisting of a main trunk line and 4 pump stations for the town of Honea Path, South Carolina, to the wasterwater treatment facility in the town of Ware Shoals, South Carolina, shall include demolition of Chiquola Mill Lagoon, Clatworthy Lagoon, Corner Creek Lagoon, and Still Branch Lagoon.

AMENDMENT OFFERED BY MR. STOKES

Mr. STOKES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STOKES: On Page 47, lines 17-18, strike: "December 31, 1994" and insert in lieu thereof: "authorized by law".

On page 47, line 23, after the word "amended" add: ", and shall not become available until authorized by law".

Mr. STOKES. Mr. Chairman, this amendment will delete the language in the water infrastructure/State revolving funds account stating that the wastewater funding is delayed until December 31, 1994, and instead makes the availability of such funds subject to authorization.

Further, Mr. Chairman, the amendment states that the nonpoint-source grants funding will not become available until those funds are authorized in consultation with the gentleman from California [Mr. MINETA] of the Committee on Public Works and Transportation. We have agreed to include language which would subject the availability of funds to authorizing legislation. We had included language in the bill and the report addressing this matter, but after further consultation, we have agreed to the modification proposed by the gentleman from California [Mr. MINETA].

Mr. Chairman, I urge my colleagues to support this amendment.

Mr. PETE GEREN of Texas. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage the gentleman from Ohio [Mr. STOKES] in a colloquy.

Mr. Chairman, as a member of the authorizing committee, let me commend the chairman of the Appropriations subcommittee for his efforts to insure that the programs he is funding are fully authorized. Let me point out, however, that this is the end of June and we are still working on clean water reauthorization. The issues before us are complex, and, despite everyone's best intentions and efforts on the authorizing committee, we have not moved the bill. We all want a bill. The gentleman from California [Mr. MINETA] wants a bill. The members of the committee supporting a bipartisan alternative to his bill want a bill. We all want to get it done as soon as possible. But to date, Mr. Chairman, we have not agreed on what the bill should look like. Given that fact, Mr. Chairman, there is a risk that reauthorization will not happen this year.

I would like the distinguished chairman's assurance that, as this appropriations bill moves forward, he will reexamine what progress has been made on clean-water legislation and do what he can to try to ensure funds for States and local governments.

Mr. STOKES. Mr. Chairman, will the gentleman yield?

Mr. PETE GEREN of Texas. I yield to the gentleman from Ohio.

Mr. STOKES. Mr. Chairman, the gentleman has my assurance that this issue will be carefully considered in conference, that we will take into account where the reauthorization process stands at that time, what the likelihood of reauthorization is, if it has not been accomplished at that time, as well as the needs of the available communities and States. Obviously I cannot today prejudge the outcome of the conference, but those are the factors that we would take into account.

Mr. PETE GEREN of Texas. Mr. Chairman, I certainly appreciate the contribution of the gentleman from Ohio [Mr. STOKES] and his hard work in bringing this bill to the floor.

□ 1720

Mr. SHUSTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment. I think it is a good amendment, and it is in keeping with the fundamental principle that we should be authorizing appropriations before the funds are appropriated, and any appropriations should be subject to authorization.

I certainly commend the distinguished gentleman from Ohio [Mr. STOKES], the chairman of the appropriations subcommittee, for the assurances which he has given us concerning his recognition of the importance of clean water funding to be continued.

There are mandates levied upon our States and our localities well in excess of $100 billion. Therefore, for us not to continue this highly successful environmental program for clean water improvement would be very irresponsible.

Now, there are some who have argued that this is a cynical ploy to put in place the argument that States and localities must back away from their interest in seeing us reform this program, their interest in seeing us reform the wetlands problems facing this country, their interest in seeing us reform the unfunded mandates and seeing us reform the various regulations, the onerous regulations imposed upon not only our States and localities, but private institutions and people as well.

I reject the notion that that is the reason for this amendment. I reject the notion that this is simply a cynical ploy to tell the States and localities that the clean water bill will be a take-it-or-leave-it proposition. I believe, indeed, that everyone is proceeding in good faith, that everyone recognizes that we need legislation, that the Committee on Public Works and Transportation will have the opportunity to work its will on this legislation. Once we have worked our will on this legislation, that legislation will be brought to the floor, and we will have an open and fair debate.

So, recognizing and believing that indeed there is no undercurrent, sub rosa effort here to simply use this amendment as a mechanism to force States and localities to be whipped into line to support legislation that they really would like to see reformed, believing, rather, that everybody is acting in good faith and we will indeed have the opportunity to work our will on clean water legislation, I strongly support this amendment offered by the distinguished chairman of the subcommittee.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by Mr. STOKES.

This bill would appropriate nearly $1.8 billion for wastewater treatment State revolving funds and $100 million for nonpoint pollution programs under the Clean Water Act.

The problem is that neither of these programs is authorized, and under House rules they may not be appropriated unless they have been authorized.

Now I fully understand the importance of these programs. In fact one of the main reasons I and many of my committee colleagues have been working so hard to get the Clean Water Act reauthorized in a form which can be enacted is that I not only want this spending authorized, I want it substantially increased.

I would have been within my rights to insist that this spending not be protected under the rule and be knocked out on a point of order. That would have left us with no money at all for these programs. Because I recognize the importance of these programs, I did not do that. Instead, with Mr. STOKES and Mr. OBEY, I worked out a compromise under which the funding would not be knocked out and the amendment now offered would make it subject to authorization. This compromise was designed to preserve the funding as the appropriations process moves forward and to avoid a confrontation over the issue.

Anyone opposing this amendment is telling me and everybody else that we should not work out these compromises, we should just strike the funding outright and we should not reach any accommodations with anyone. It that's what you want, we can do business that way, but I would not recommend it.

I would also add that the amendment being offered is designed to help us achieve reauthorization of the Clean Water Act, and many of you have reason to hope that that reauthorization is enacted. The most important reason in my view is that the burdens of cleaning our Nation's waters now fall only on the municipalities and industries which hold discharge permits. The future burden on those permit holders will continue to increase without a bill, because they are the only ones doing the cleanup. Under our reauthorization bill that burden would be spread more evenly and more efficiently, so that those who now hold permits would not have to bear the entire future burden. Anybody who now holds a discharge permit, or who discharges to somebody who does, needs a reauthorization bill and has good reason to support Mr. STOKES' amendment.

And finally, to those who are concerned about fiscal responsibility and careful scrutiny of spending, the Stokes amendment stands for the proposition that before we spend money around here the spending ought to be fully reviewed by both the authorizing process and by the appropriations process. If we start giving a bye to a billion here and a billion there, letting spending just go through the appropriations review without going through the authorizing review, then, what we are doing is allowing the taxpayer's money to be spent in a far more casual way, with far less scrutiny and far less accountability. That is not the way to protect the taxpayer's best interests.

I therefore urge a "yes" vote on the Stokes amendment.

[Mr. LEWIS of California addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

Mr. BOEHLERT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Stokes amendment, and say what a refreshing change it is from last year.

Mr. Chairman, this amendment is critical to the procedural integrity of this institution. Last year the Public Works Committee and the Appropriations Committee fought a long and contentious battle on the issue of appropriating unauthorized funds for transportation. This fall the authorization for the funding of the CWA runs out and to appropriate unauthorized funds would place us in the same awkward position we were in last year.

Chairman STOKES, to his credit, has taken a critical step in preventing a battle over unauthorized funding and has crafted an amendment that makes the appropriation of CWA funding contingent on an authorization. As the ranking member of the Water Resources and Environment Subcommittee, I applaud Chairman STOKES' efforts. It is critical to preserving the authorizing committee's role in determining the most cost-effective way to direct our Nation's limited water infrastructure dollars.

FISCAL RESPONSIBILITY

In these fiscally tough times it simply makes no sense to appropriate nearly $2 billion without giving thorough consideration on how this money can best be used to meet our Nation's water quality needs. As over 2 years of hearings before our committee have shown, we can get significantly greater bang for our buck by putting resources into reducing nonpoint source pollution instead of continuing to ratchet down on municipalities and industry. Without a new authorization we will not be applying our water resources in the most effective way.

I urge all of my colleagues to support the Stokes amendment. It is a vote for fiscal responsibility and a vote to preserve the authorizing process.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. STOKES].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ADMINISTRATIVE PROVISION

Of the budgetary resources available to the Environmental Protection Agency during fiscal year 1995, $7,525,000 are permanently canceled. The Administrator of the Environmental Protection Agency shall allocate the amount of budgetary resources canceled among the agency's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account. For the purposes of this paragraph, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or service and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $2,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $4,981,000: *Provided*, That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses to continue functions assigned to the Council on Environmental Quality and Office of Environmental Quality pursuant to the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977, $997,000.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $320,000,000, to remain available until expended.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For the cost of direct loans, $2,418,000, as authorized by section 319, and $1,980,000, as authorized by section 417 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $175,000,000 under section 319 and not to exceed $3,000,000 under section 417 of the Stafford Act: *Provided further*, That any unused portion of the direct loan limitation and subsidy shall be available until expended.

In addition, for administrative expenses to carry out the direct loan program, $145,000.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government programs to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $2,500 for official reception and representation expenses; $165,000,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $4,400,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), section 107 and 303 of the National Security Act of 1947, as amended (50 U.S.C. 404–405), and Reorganization Plan No. 3 of 1978, $220,345,000.

EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated $130,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program pursuant to title III of Public Law 100–77, as amended: *Provided*, That total administrative costs shall not exceed three and one-half per centum of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

(TRANSFERS OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973, $14,913,000 shall be transferred as needed to the "Salaries and expenses" appropriation for administrative costs of the insurance and flood plain management programs and $49,229,000 shall be transferred as needed to the "Emergency management planning and assistance" appropriation for flood plain management activities, including $4,720,000 for expenses under section 1362 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4103, 4127), which amount shall be available until September 30, 1996. In fiscal year 1995, no funds in excess of (1) $32,000,000 for operating expenses, (2) $253,641,000 for agents' commissions and taxes, and (3) $12,000,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

ADMINISTRATIVE PROVISIONS

The Director of the Federal Emergency Management Agency shall promulgate through rulemaking a methodology for assessment and collection of fees to be assessed and collected in fiscal year 1995 applicable to persons subject to the Federal Emergency Management Agency's radiological emergency preparedness regulations. The aggregate charges assessed pursuant to this section during fiscal year 1995 shall approximate, but not be less than, 100 per centum of the amounts anticipated by the Federal Emergency Management Agency to be obligated for its radiological emergency preparedness program for such fiscal year. The methodology for assessment and collection of fees shall be fair and equitable, and shall reflect the full amount of costs of providing radiological emergency planning, preparedness, response and associated services. Such fees will be assessed in a manner that reflects the use of agency resources for classes of regulated persons and the administrative costs of collecting such fees. Fees received pursuant to this section shall be deposited in the general fund of the Treasury as offsetting receipts. Assessment and collection of such fees are only authorized during fiscal year 1995.

Of the budgetary resources available to the Federal Emergency Management Agency during fiscal year 1995, $1,441,000 are permanently canceled. The Director of the Federal Emergency Management Agency shall allocate the amount of budgetary resources canceled among the Agency's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocate to such account. For the purposes of this paragraph, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or service and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $2,008,000, to be deposited into the Consumer Information Center Fund: *Provided*, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $7,500,000. Administrative expenses of the Consumer Information Center in fiscal year 1995 shall not exceed $2,454,000. Appropriations, revenues, and collections accruing to this fund during fiscal year 1995 in excess of $7,500,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, $2,166,000: *Provided*, That notwithstanding any other provision of law, that Office may solicit, accept and deposit to this account, during fiscal year 1995, gifts for the purpose of defraying its costs of printing, publishing, and distributing consumer information and educational materials; may expend up to $1,100,000 of those gifts for those purposes, in addition to amounts otherwise appropriated; and the balance shall remain available for expenditure for such purposes to the extent authorized in subsequent appropriations Acts: *Provided further*, That none of the funds provided under this heading may be made available for any other activities within the Department of Health and Human Services.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

For necessary expenses, not otherwise provided for, in the conduct and support of human space flight research and development activities, including research; development; operations; services; maintenance; construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; $5,592,900,000, to remain available until September 30, 1996.

AMENDMENT OFFERED BY MR. HEFLEY

Mr. HEFLEY. Mr. Chairman, I offer an amendment, and ask unanimous consent that it be considered out of order, notwithstanding that the paragraph has not been read.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. HEFLEY: On page 57, line 4, delete the following, "$5,901,200,000," and insert "$5,889,200,000".

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

Mr. STOKES. Mr. Chairman, reserving the right to object, I do so to inquire if we could have an agreement to have a limit on debate time.

Mr. HEFLEY. Mr. Chairman, if the gentleman will yield, I think a time limit would be appropriate. What would the gentleman have in mind?

Mr. STOKES. Mr. Chairman, I would suggest 20 minutes, to be divided equally between the gentleman from Colorado [Mr. HEFLEY] and myself.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado [Mr. HEFLEY] with regard to taking up this amendment out of order?

There was no objection.

The CHAIRMAN. Is there objection to the proposed time limit, 20 minutes, to be divided 10 minutes on each side, on this amendment and any amendments thereto?

There was no objection.

The CHAIRMAN. The gentleman from Colorado [Mr. HEFLEY] will be recognized for 10 minutes and the gentleman from Ohio [Mr. STOKES] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment before us is intended to limit spending for the Consortium for International Earth Science Network in Saginaw, MI, to $6 million. Offering this amendment has become almost a tradition with me. The reasons for offering it have not changed.

Five years ago this project, like so many others, simply appeared in the NASA budget. Over the past few years, this body has okayed nearly $100 million on a facility of questionable merit, and this year we apparently intend to spend $18 million more. That is $12 million more than NASA requested before the Committee on Appropriations began its deliberations.

□ 1730

Let me repeat that. NASA requested $6 million, the figure that I am saying we should move back to. In the bill we are offering to give them $1 million more than they requested.

I know the Michigan delegation is going to answer these remarks by saying that CIESIN is necessary to process the information NASA will receive from mission to Planet Earth. But last year, its defenders said CIESIN was meant to accomplish an exciting new mission.

Get what the exciting new mission is, Mr. Chairman. The exciting new mission was to study the impacts of environmental change on society. In its report last year the Committee on Science, Space, and Technology said CIESIN needed to refocus its mission from local economic development and university support to international data collection. This year it is being presented as one of eight distributive archives centers for the Earth observing system, the only one specializing in socioeconomic data.

What will it be next year? Mission control? Who knows what it will be. Let me read from a report by NASA's own inspector general office on CIESIN.

> Initially, CIESIN conducted research in the field of earth sciences in support of NASA's EOS program. However, it has evolved into an organization specializing in the acquisition and distribution of human dimensions data. As such, CIESIN's primary focus is outside of NASA's earth science expertise, thereby affecting NASA's ability to provide adequate oversight and focus. CIESIN has also received funding through NASA to construct a $7 million facility that may not be needed, especially considering the questionable basis being used to justify the construction.

That is not something that I said. This comes from the inspector general's report, Mr. Chairman. I charge that the only purpose CIESIN has is to pump Federal dollars into Saginaw, MI. If we need a center to interpret environmental data from satellites or study interactions between society and the environment or to do any of the other missions CIESIN supporters have dreamed up for it over the years, I am sure there are existing laboratories and universities that can do the work more cheaply and efficiently than this thing can be done. I am sorry that the only way I can make this point is to cut $12 million from the science, aeronautics, and technology account. I would like to take that money and put it back into that account in some more productive way, but I cannot do that. The thrust of most of the debates on NASA has been that we are asking the space agency to do too much, that they do not have any money. In a perfect world, we could simply amend this bill to ban funding for CIESIN and let NASA use the money for more sensible purposes. Instead, cutting money is the only way I can make my point.

No one should be under any illusion that CIESIN is an integral part of NASA's mission. This is one manifestation of an insidious game. Somebody's pet scheme gets planted in appropriations not just at NASA but at a lot of other agencies, particularly the energy department. The agency attempts to humor Congress by working around the request, but it grows and grows in seemingly reasonable limiting increments.

Eventually it begins to erode the agency's ability to do the job that it was meant to do. A million here, a million there, pretty soon we are talking about a lot of money. And CIESIN is talking about a lot of money. CIESIN should not have been funded in the first place, and it does not belong in this budget. If Members care about restraining government spending, if they believe in the space program or even if we still harbor the faintest belief that government can do something right, then Members will vote for this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. STOKES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the gentleman's amendment to decrease funding for CIESIN, the Consortium for International Earth Science Information Network from $18 million down to $6 million.

The committee has included $18 million for CIESIN in 1995, which is approximately the 1994 funding level.

Mr. Chairman, for a number of years there has been some disagreement about the funding level for CIESIN, but there is absolutely no disagreement about its need. As others who are familiar with the Mission to Planet Earth Program have said, "if we did not have a CIESIN, we would have to invent one."

During the 1995 budget hearings, I inquired as to NASA's position regarding CIESIN. Dr. Kennel, the associate administrator for Mission to Planet Earth stated, and I want to quote him:

> Now, for the record, I think it is important to state that we are very happy with the objectives of CIESIN, and we believe they play an important role in global change research.

The overall goal of CIESIN is to increase our understanding of the human dimensions of global change by providing a framework for the integration of social and natural science data for research. This program will facilitate the access to and use of Mission to Planet Earth data for earth science research and public policymaking.

Mr. Chairman, over the next few years this Nation will spend billions of dollars to collect data to improve our understanding of the processes in the atmosphere, oceans, and on land surfaces and the interactions between these components. This effort would generate and unbelievable amount of data. To be of any real value, this data must remain available in a readable and usable form and must be disseminated to researchers across the United States and around the world. That is what CIESIN is set up to accomplish.

I would urge the Members to support the CIESIN effort at the current level of $18 million and to defeat the gentleman's amendment.

Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. BARCIA].

Mr. BARCIA of Michigan. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Colorado. It is a misrepresentation of what CIESIN needs, and would be a blow to appropriately using the billions of dollars worth of environmental data that is stored throughout the Federal Government.

It is true that CIESIN received an appropriation of $5 million last year. It is also true that this House on three occasions voted to sustain CIESIN with an authorization and an appropriation of $18 million.

The situation last year was that when one added the $5 million appropriated in the conference agreement to the $13 million in fiscal 1993 funds that carried over to fiscal 1994, CIESIN was able to operate at an $18 million level in fiscal 1994.

The amount provided by the appropriations committee is a continuation of the current level of effort for this worthwhile program. I have talked with NASA Administrator Dan Goldin, and he has told me that the administration has no objection to the $18 million for CIESIN. I have talked with Vice President GORE, and he has told me that the administration understands CIESIN's mission and is supportive of it.

Mr. Chairman, CIESIN wants to provide one-stop access to environmental science data bases. It makes it technically possible for scientists, educators, policymakers, and the public to search diverse data bases, and for the first time permits the integration of physical science data with social science data including economic, health, and ecological data. CIESIN works with NASA, the Department of Defense, EPA, the Department of Agriculture, the Office of Science and Technology Policy, the Department of State, the Agency for International Development, and the list goes on.

CIESIN has 24 points of correlation with the stated goals of the administration on environmental policy and data management. Forty-four U.S.-based and international data holding institutions have agreed to unify their catalogs and share data on the CIESIN network worldwide, including the United Nations, the World Bank, and the World Health Organization. CIESIN has competitive applications pending with the OAS, the United Nations, the World Bank, the Soros Foundation, and several other Federal agencies.

CIESIN is good science, it is necessary science, it is cost-conscious science, and it is cost-effective science. Please oppose the Hefley amendment.

□ 1740

Mr. HEFLEY. Mr. Chairman, I yield myself such time as I may consume, to respond to the comments that have been made.

For several years, Mr. Chairman, I have tried to cut out CIESIN altogether. The reason I have is when we first went to NASA and we said "What is CIESIN?" and they said "We do not know." I said, "Why is it in the budget?" They said, "We do not know why it is in the budget."

The gentleman who just spoke, his predecessor put it in the budget; Mr. Traxler, I believe, put it in the budget. That is why it is in the budget.

What is it supposed to do? They told us, 2 or 3 years ago when they started this, they told us one thing it was supposed to do. Last year it was something else it was supposed to do. Now it is a third thing it is supposed to do.

All people get up and talk about it being such a vital, important part of the overall NASA program. Yet NASA says, "We do not know what it is. We do not know why it is. We do not know why it is here."

As I understood it, there was a deal struck last year to provide CIESIN with $6 million a year over the coming years. Somehow that deal has broken down, because we are talking not $6 million, not twice that, not $12 million, but three times that. We are talking $18 million.

How much money, now that NASA has been reminded that there is a CIESIN and it is part of their budget, how much does NASA think they ought to have for it? NASA thinks they ought to have $6 million, not $18, not $12 million. NASA thinks they ought to have $6 million for it.

The gentleman mentioned that there was no disagreement regarding the need. There is tremendous disagreement regarding the need. This is not a unique organization, where this information flows only here. There are eight centers where this kind of information flows.

Mr. Chairman, we do not have to have this one. Let me read, if I might, from the NASA Inspector General's report on evaluation of CIESIN. Its headline is: "CIESIN Funding Could Be Reduced."

It said, "The consortium had not spent", and Mr. Chairman, I would like to emphasize this, "The consortium had not spent its entire fiscal year 1992 appropriations, and a substantial amount of 1993 operating funds, as of September 30, 1993. This occurred because NASA held up fiscal year 1993 funds until CIESIN had submitted an acceptable, revised budget proposal. At current spending levels, the unexpended funds could allow CIESIN to operate through the majority of fiscal year 1994. Therefore, NASA can significantly reduce," get this, the Inspector General, not JOEL HEFLEY, not someone who just likes to cut the budget, but NASA's Inspector General says, "Therefore, NASA can significantly reduce or eliminate CIESIN's fiscal year 1994 funding," because they have not spent all the money. There is still money there in the bank, drawing interest. We have not spent all the money.

Mr. Chairman, I reserve the balance of my time.

Mr. STOKES. Mr. Chairman, may I inquire as to how much time I have remaining, and how much time the gentleman from Colorado has remaining?

The CHAIRMAN. The gentleman from Ohio [Mr. STOKES] has 4 minutes remaining, and the gentleman from Colorado [Mr. HEFLEY] has 2 minutes remaining.

Mr. STOKES. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. BROWN] the chairman of the Committee on Science, Space, and Technology.

Mr. BROWN of California. Mr. Chairman, first may I compliment the author of this amendment for his continuing scrutiny of earmarks and unnecessary programs in the budget. I had the same feelings about this program initially several years ago, and as Members may recall, I strenuously resisted its continuation in the form that it existed.

I have, however, working with both NASA and the gentleman from Michigan [Mr. BARCIA], who now represents this district in which CIESIN exists, been seeking very diligently to bring this program into line with the overall goals of NASA and with the proper procedures of the House.

Mr. Chairman, I would feel very badly, after we have worked so hard to have this program authorized, have it requested by the administration, have it examined by the GAO, and having found it to be now in accordance with the best standards that we have, I would feel very badly if the House would not turn on this project and say, "We are going to cut it out of the budget." I think that would be wrong.

I am going to continue to focus on earmarks, I am going to preach the gospel that we can work to authorize these programs, and we can make them better and stronger, and I hope my colleagues on both sides will agree with me that we can do that. If so, I think we can bring a much more orderly process to the House, protect good programs, and continue to support the kind of processes that are good for legislation.

Mr. UPTON. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I am glad to yield to the gentleman from Michigan.

Mr. UPTON. Mr. Chairman, I agree with the remarks of the gentleman from California, and would like to make this point. As a supporter of a number of the things NASA does, we need to have a downlink in this country to decipher the information collected. Without something like CIESIN we lose the capability and it is worthless, the stuff that it would otherwise be sending back.

This facility does in fact decipher that data. It allows our scientists to figure out what is going on and what we can do, and because of that, I would urge my colleagues to vote no on this amendment.

Mr. BROWN of California. The gentleman's comments are very well taken. The management of CIESIN now is in the hands of the best professionals that can be found. I have discussed the program with them. I know it is an evolving program, Mr. Chairman, but it will fit a very important need.

Mr. HEFLEY. Mr. Chairman, I yield 30 second to the gentleman from Michigan [Mr. CAMP], who is not supportive of my amendment. The gentleman is from Michigan and I think he ought to have a right to have his say.

Mr. CAMP. Mr. Speaker, I want to thank the gentleman from Colorado [Mr. HEFLEY] for yielding time to me.

Mr. Chairman, the actions of the House are at times hard to understand. Yesterday in an almost unanimous vote we supported legislation allowing the continuation of the information superhighway. Today we are faced with an amendment that can only be seen as a detour.

CIESIN, which is funded by NASA, a research institution, provides this country with the research advantage that other countries can only dream of attaining. It is a computer network filled with critical information for individuals, businesses, and educational institutions.

I have joined my friend, the gentleman from Colorado, on this floor to fight against government waste. CIESIN has maintained its operating costs.

I urge a "no" vote on this amendment.

The CHAIRMAN. The gentleman from Colorado [Mr. HEFLEY] has 1½ minutes remaining, and the gentleman from Ohio [Mr. STOKES] is entitled to close.

Mr. HEFLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. LEWIS of California. Will the gentleman yield?

Mr. HEFLEY. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, the gentleman has been more than helpful, and I appreciate that, regardless of his position.

While I do support the statement of the gentleman from Michigan [Mr. UPTON], I think the way the gentleman from Colorado [Mr. HEFLEY] has handled himself is highly professional and very helpful to the process.

Mr. HEFLEY. Reclaiming my time, Mr. Chairman, I thank the gentleman very much. I appreciate that, particularly coming from a dear friend such as the gentleman from California [Mr. LEWIS].

Another dear friend, the gentleman from Michigan [Mr. UPTON] just made a statement that I think we ought to deal with. That is, if we lose this, the data that is coming down is worthless.

Mr. Chairman, let me point out again that we have at least eight other centers that collect this data. This is not the only one. They do not have a unique capacity that no place else has.

In fact, we cannot find any reason through NASA as to why this exists, except that a powerful member of the Committee on Appropriations wanted it in his district. That is all we can find. If we talk to some of the NASA people privately, they will not come in here and say that to us, but they will tell us, though, that that is the case.

Mr. Chairman, let me point out a second thing, and then I will close, because we do not want to prolong this too long.

The second thing is, Mr. Chairman, I am not trying to cut out the budget for CIESIN. What I am doing is asking us to exercise a little fiscal restraint, and to cut out the amount of money that NASA did not request.

☐ 1750

Let us give NASA every penny they requested, but let us cut out the $12 million they did not request.

Mr. STOKES. Mr. Chairman, I yield the balance of my time, for the purpose of closing debate, to the gentleman from Michigan [Mr. BARCIA].

Mr. BARCIA of Michigan. Mr. Chairman, I would just like to comment briefly with regard to the remarks of the gentleman from Colorado regarding the Inspector General's report. It is true that NASA did, in fact, evaluate the effectiveness of CIESIN and there was an interim report which I think the gentleman made reference to on the floor this evening relative to what were perceived deficiencies in the administration at CIESIN.

I do want to tell the gentleman that the final version of the inspector general's report gave what is in my opinion a glowing recommendation to the program and the necessity. I will concede the point that perhaps CIESIN is fulfilling a role that is even broader than perhaps NASA's mission. This is the actual final document that the inspector general published and all of the concerns have been answered by CIESIN. They did publish this reply to the NASA audit report. I would be happy to share that with the gentleman from Colorado [Mr. HEFLEY]. I know certainly the gentleman from Colorado is well intentioned and concerned about the expenditures. I am absolutely confident that the work that CIESIN is doing is critical to the overall mission of NASA and several other Federal agencies.

It is my hope that the gentleman's amendment will be turned down, and I pledge my cooperation in working with the gentleman to answer any unresolved questions that may have been raised by the inspector general's interim report as well as any other concerns the gentleman has.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. BARCIA of Michigan. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I would like to rise in support of the gentleman's statement. NASA's position regarding CIESIN funding has been talked about earlier in this debate. I must say that since that time, NASA has had reason to readjust their thinking about CIESIN and that should be noted in the RECORD as well.

Mr. BARCIA of Michigan. I thank the gentleman. Dr. Goldin has been very supportive in recent discussions of CIESIN and I am hopeful that the climate with NASA will be much better in the future.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado [Mr. HEFLEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HEFLEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 169, noes 264, not voting 6, as follows:

[Roll No. 308]

AYES—169

Allard
Andrews (NJ)
Archer
Armey
Bachus (AL)
Baker (CA)
Ballenger
Barrett (NE)
Barrett (WI)
Barton
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bunning
Burton
Buyer
Calvert
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Coppersmith
Costello
Cox
Crane
Crapo
Cunningham
DeLay
Deutsch
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
English
Everett
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hamilton
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Kolbe
Kyl
Lazio
Levy
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lucas
Maloney
Manzullo
Margolies-Mezvinsky
McCandless
McCollum
McCurdy
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Moorhead
Nussle
Orton
Oxley
Packard
Pallone
Paxon
Penny
Petri
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quinn
Ramstad
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schenk
Schiff
Schroeder
Sensenbrenner
Shaw
Shays
Shuster
Skelton
Slattery
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Synar
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (FL)
Zeliff
Zimmer

NOES—264

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Baker (LA)
Barca
Barcia
Barlow
Bateman
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Callahan
Camp
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
Eshoo
Evans
Ewing
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoekstra
Holden
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Knollenberg
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey
Mann
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCrery
McDade
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Owens
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Price (NC)
Quillen
Rahall
Rangel
Ravenel
Reed
Richardson
Roemer
Romero-Barcelo (PR)
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skeen
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)

NOT VOTING—6

Bartlett
Faleomavaega (AS)
Machtley
Reynolds
Schumer
Washington

☐ 1814

Messrs. BILBRAY, DINGELL, EWING, MFUME, and RAVENEL changed their vote from "aye" to "no."

Ms. SCHENK and Messrs. PENNY, BARRETT of Wisconsin, SMITH of New Jersey, and DEUTSCH changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. WALKER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, no one comes to Congress without working very hard to get here. There are an endless variety of reasons behind all of that hard work, but I would venture to guess that a common thread is our desire to contribute a little something toward influencing the future. We each want to help build something toward tomorrow better than what we see today.

The nature of those contributions takes different forms depending on our priorities or our district's needs. Some of us seek to build a strong economic foundation; some to help the unfortunate; some to build infrastructure; some to promote and defend national interests; some to educate, and some to protect. But all of us think about the future because as President Teddy Roosevelt once said:

> * * * policy rests upon the fundamental law that neither man nor nation can prosper unless, in dealing with the present, thought is steadily taken for the future.

Today's decision is about the future. Today's decision is about doing something that will be remembered as a step into humankind's destiny. Today's decision is about contributing to the never-ending quest of human exploration. Today's decision is about looking beyond our present problems and building something toward tomorrow.

The space station, like all the other vehicles that have carried us toward the future, is surrounded by controversy. Its easy to dispute, even mock, the unknown, Because what we will learn by going to the frontier is more about imagination and hope that it is about hard, cold fact, the potential of space station often defies description; and that is a problem in legislative debate.

But history, rather than science, is instructive. The easy argument against exploration always has been not here, not now because there are too many other needs which must be met first with limited resources. Invariably, throughout history, that easy argument has been wrong. Men and women who have bought the easy argument have become defenders of the status quo and their dreams have been lost. Nations which have bought the easy argument have lost their sense of destiny and declined in both power and prestige.

Between now and the year 2002, we will spend something less than two-tenths of 1 percent of our projected national outlays to build, orbit, and man a space station. In the same period, we will spend almost nine times more on food stamps. We will spend at least 12 percent of total national outlays, or more than 70 times what we spend on space station, paying interest on the national debt. Massive commitment to debt and welfare without small investments in exploration and imagination is not the foundation on which great nations are built or sustained.

Still, putting men and women in space to live and work takes real money. We owe the American people no less than an assurance that the money will be well-spent. I believe those assurances are really apparent.

We will do completely unique scientific work aboard space station that holds the promise of new discoveries. The payoff could be enormous.

We will develop new technologies in order to build the space station which will allow us to build world-class products here on earth. The payoffs will be immediate and real.

We will forge a partnership with the Russians which will build mutual trust and respect. The payoff is a promise of peace.

We will cooperate in an international venture which may prove a model for other scientific endeavors. The payoff will be a triumph of American leadership.

Are the payoffs worth the price? For some here, the answer is obviously no. But they would have us give up a lot.

When you abandon space station, you stop 30 years of progress in human spaceflight.

When you abandon space station, you leave the space shuttle as a magnificent flying machine without its original mission.

When you abandon space station, you kill off the last major science project being done with international partners and jeopardize any future cooperative efforts.

When you abandon space station, you abandon American leadership in the arena of the future and leave the potential of space to others.

When you abandon space station, the dream is no longer alive.

"Without vision, the people perish." So states Biblical wisdom. Where is the vision in spending vastly more for debt service than we spend for dreams?

If you came to Congress to, in some small way, touch the future, here is your chance. Somewhere out there, on the endless frontier, is the destiny of humankind. We can step toward that destiny, or we can step back, away from it. I hope most of us choose to step forward. For as T.S. Eliot tells us in "Little Gidding," in exploration is fulfillment. He wrote:

We shall not cease from exploration
And the end of all our exploring
Will be to arrive where we started
And know the place for the first time.

Your support for space station will allow Americans to know a new and unique frontier for the first time. And in knowing that frontier, America will define the future.

Mr. BATEMAN. Mr. Chairman, I rise today in opposition to this amendment and want to express my strong support for the space station. As cochair of the space caucus and the representative of a district which includes NASA's Langley Research Center, I have spent a great deal of time involved in the activities of the U.S. space program, and I believe that the space station project is essential to the future of our Nation.

Some would argue that the future of our Nation is here on Earth rather than in space. However, technology developed through the U.S. space program already benefits us in many ways and the space station will enable us to develop new and more advanced technologies that will help make life here on Earth better and safer. This spinoff technology is employed regularly in computers and communications, health and medicine, the environment, home and recreation, and public safety. For example, some rescue services are better able to monitor the exact location of their units and greatly reduce response time. Firefighters now have lighter and more efficient breathing apparatus. And, spinoff technology is used to enhance scanning devices used in hospitals and airports. There are thousands of examples of spinoff technology from which we reap daily benefits. Money spent on the space station is indeed an important investment in our future here on Earth.

Now let me turn to those who have dubbed the space station as a wasteful program that only will add to the deficit. I am extremely concerned about the deficit and believe it is essential for the Federal Government to practice fiscal responsibility to stop spending from spiraling out of control. I would like to point out that this amendment will not cut any spending from the fiscal year 1995 NASA budget—it simply will reapportion funds and bar the use of any NASA funds in this bill for the space station program. This is not a deficit reduction amendment.

In addition, the space station program recently has undergone a significant redesign effort that has produced a more streamlined and more efficient project that is operating within reduced budgetary constraints and on schedule. The reorganized project also includes the participation of the Russians, who bring with them 20 years of space station technology. While not depending on Russian technology, the program will reap the benefits of enhanced efficiency and scientific payoff.

The international space station is a project that will enable the United States to maintain its position as a world leader in technology. It also will serve as an important foreign policy initiative, bringing together countries across the globe to share in the costs and add experience and technology to the effort. Abandoning the space station will hurt the national economy and the economies of 39 States and the District of Columbia, which will gain revenue from the project. In addition, it would endanger the jobs of roughly 70,000 U.S. workers employed in space station-related activities.

Again, I express my strong opposition to this amendment. It does not reduce the deficit. it endangers the United States ability to compete in the world economy and high-tech arena. And it would send a signal that the United States is not committed to openness and cooperation in its foreign policy efforts.

□ 1820

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I ask unanimous consent that my amendment, which would appear at page 75, be allowed to be offered out of order to expedite the matters this evening.

The CHAIRMAN. Does the gentleman wish to offer his amendment at this time?

Mr. TRAFICANT. Yes, Mr. Chairman, I do.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 75, strike lines 14 through 19 and insert the following:

SEC. 518. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, this is a Buy-American amendment that has been on all the appropriations bills.

Mr. STOKES. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Ohio.

Mr. STOKES. Mr. Chairman, I have discussed this Buy-American amendment with the gentleman from Ohio [Mr. TRAFICANT]. We would accept his amendment.

Mr. TRAFICANT. With that, Mr. Chairman, I urge an aye vote, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROEMER

Mr. ROEMER. Mr. Chairman, I offer an amendment made in order by House Resolution 465.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ROEMER: Page 56, line 16, strike "$5,592,900,000" insert "$4,653,200,000".

Page 57, line 4, strike "$5,901,200,000" and insert "$6,727,587,000".

Page 57, line 25, strike "$2,549,587,000" and insert "$2,662,900,000".

Page 60, after line 12, insert the following: None of the funds made available in this Act to the National Aeronautics and Space Administration may be used for the space station program.

The CHAIRMAN. Pursuant to the rule, the gentleman from Indiana [Mr. ROEMER] will be recognized for 1 hour, and a Member opposed will be recognized for 1 hour.

The Chair recognizes the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Chairman, I yield 30 minutes to the gentleman from New Jersey [Mr. ZIMMER] and ask unanimous consent that he be allowed to control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. ROEMER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we will debate for the next 2 hours one of the most serious topics that a people can debate, our future, what we decide to invest in as a Congress and as a people, and there will be tough choices, tough choices about what we come here to vote on. What we decide is important.

The gentleman from Pennsylvania [Mr. WALKER] just gave a beautiful speech quoting Isaiah from the Bible, without vision the people will perish, but with bad vision, with bad science, with bad investments, the people will perish.

I offer this amendment, Mr. Chairman, with the distinguished gentleman from New Jersey [Mr. ZIMMER], and our amendment is different from last year's amendment. Last year our amendment cut the $2.1 billion from NASA to eliminate the space station and put the money immediately toward deficit reduction. This year we cut the $2.1 billion from the space station, thereby eliminating the space station, and put the money for this year only, 1 year, $2.1 billion, back into the NASA account.

Now that, Mr. Chairman, is significant deficit reduction. That, Mr. Chairman, according to the Citizens Against Government Waste, writing their letter to us and to Congress, they say,

> We strongly support and urge every Member to vote for the Roemer-Zimmer amendment to kill the Space Station. The Roemer-Zimmer amendment will save more than $60 billion in the outyears and may be the best vote for deficit reduction you will cast this year.

So, Mr. Chairman, we have significant deficit reduction in this amendment. I am not sure that we will have a more significant or serious effort to reduce the deficit than we have put together tonight and put before our colleagues. But I think it is important to talk a little bit about the space station itself, Mr. Chairman, and why we are opposed to it.

We will hear very, very grandiose claims of what the space station can do, and if it was the space station that was designed in 1984 by Mr. Reagan as President, I would vote for that space station. That space station was going to cost $8 billion. That space station was going to be finished in 1994. That space station was going to achieve eight scientific objectives. It was going to have a telescope on it to help us understand the solar system. It was going to have a telescope pointed toward Earth to help us understand environmental problems. It was going to be a stepping stone to exploring Mars and other planets. It was going to help us repair problems in space like the Hubble.

Now sadly, Mr. Chairman, that great idea that President Reagan had in 1984 has already cost us $12 billion. We are not going to be done with it in 1994 because we have not even turned the first screw on putting it together, and now projections are for the year 2002. The science has gone from eight missions to one-and-a-half, and the total cost, Mr. Chairman, has escalated from $8 billion to $71 billion.

Now, Mr. Chairman, if we had that original design and those scientific objectives, I would say this is worth the while and worth the risk. But today, Mr. Chairman, with the huge budget deficit, with us cutting $490 million out of our income for Head Start, with the other various choices that this committee has made, like a $120 cut in national service, we cannot afford this space station at this time.

I think most of the people watching this debate on TV ask, as they might ask before they invest in the stock market or buy something at the grocery store, what is the track record of this space station, and what is the future prospect of this space station? How would I want my Congressman or Congresswoman to vote on this?

Mr. Chairman, I have just told my colleagues the track record. It is abysmal.

What about the future?

There is an article that appeared this week in the front page of the New York Times by William Broad that said that there is a one-in-five chance that this space station will be hit by debris.

□ 1830

Now, I am not very good with statistics. I readily admit that. A one-in-five chance. What does that mean? How does that relate to our other space programs? How does that relate to riding on an airplane?

Riding on an airplane, there is a one-in-two-million chance that something bad will happen. For the shuttle, there is a 1 in 78 chance. For the space station, 1 in 5. That is a 20-percent chance, with $71 billion.

Now, Mr. Golden has admitted that that is a problem. He says he will spend money to shield it. That shield will weigh down the space station and make it more expensive than the $71 billion. I do not think we can risk $71 billion for a 20-percent chance.

What has changed this year from last year when we had this debate? Last year when we debated this, we had a one-vote margin. What things have changed which may add or detract from votes for or against this space station?

First of all, we now have a Russian design, and we are sending NASA dollars, $400-million precious NASA dollars, to the former Soviet Union to subsidize their space program.

What else has changed? Because we are going to hear a lot about international partnerships. The Canadians are now saying you are going to subsidize the Russian program, we are going to cut back our commitment to the space station by $700 million. So whereas the international partners are cutting back, we are blindly moving forward.

What else has changed about cost? Because the administrator, Mr. Golden, who I greatly respect and admire for the job he is trying to do at NASA, has said they are trying to save and shave costs on this program.

He says $2 billion. And in a just published report by GAO, they say this about those projected $2-billion savings:

> When all space station related elements are considered, current estimates would indicate that much of the savings NASA attributes to expanded Russian participation will not be achieved. Furthermore, if only part of NASA's estimated $2 billion savings is attributable to the Russian participation, it is possible that expanded Russian involvement could result in little or no net savings.

Much of those $2 billion in savings Mr. Golden projects will come in the form of $1.6 billion. He projects that because the space station will be completed 14 to 15 months earlier, from the year 2003 to 2002. We have not completed it with a U.S. effort in 10 years, yet now we are going to expedite completing this, with the complexities of doing engineering and technology with another country? We are going to expedite this by 15 months and save $1.6 billion?

That is baloney, Mr. Chairman. There is no savings from that expedited schedule.

Finally, Mr. Chairman, let me conclude by saying this budgetary environment is very different from last year. We in the House are $527 million in this budget below the 1994 level. The Senate is $310 million below that, $800 million. Senator MIKULSKI is saying even if we can try to save Cassini or AXAF, she has said to the administrator, make your choice. Start cutting other programs if you keep the space station.

So, Mr. Chairman, we cannot afford this poorly designed and pedestrian space station. If it had the vision, if it had the accomplishment, if it had the science of President Reagan's 1984 venture, then we might consider that. But given the reality of the budget, given the problems with the science, given the GAO report, I urge my colleagues to cast a tough vote and cut, finally, this space station.

Mr. Chairman, I reserve the balance of my time.

Mr. STOKES. Mr. Chairman, I yield one-half of my time to the ranking minority member, the gentleman from California [Mr. LEWIS] and ask unanimous consent the gentleman be allowed to control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The gentleman from Ohio [Mr. STOKES] will be recognized for 30 minutes, and the gentleman from California [Mr. LEWIS] will be recognized for 30 minutes.

Mr. STOKES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Indiana [Mr. ROEMER] to terminate the space station—but keep those funds in NASA. I will keep my remarks brief so as to permit others to also speak in opposition to this amendment.

Mr. Chairman, the bill we have before us today includes $2,120,900,000 in fiscal year 1995 for the International Space Station *Alpha* proposed by the President.

Mr. Chairman, I support my President and intend to vote for this redesigned space station.

Let me speak for a moment regarding our cooperation with Russia. I think we will benefit from working with a nation with so much experience in long-duration space travel. Further, the Russians have a track record of honoring international agreements even through the most difficult of economic and political times. The President believes that this cooperative venture with Russia is important for foreign policy reasons. I support the President in his efforts to help stabilize the potential for technology migration.

There is concern that the space station will take funds away from other worthwhile science projects. I would remind the Members that the committee has provided the full budget request of $2.1 billion for space station—and we have done it without cutting back on space science, aeronautical research, or mission to planet Earth activities. In fact, the committee did not recommend any reduction in the science, aeronautics, and technology account which funds these activities.

The reductions to NASA's requests are in the human space flight account which funds space station and space shuttle activities and the mission support account which primarily funds NASA employees and facilities.

Earlier this year, the chairman and ranking minority member of the Committee on Science, Space, and Technology were seriously examining whether to support the space station program. After intense examination, both members now support the space station program.

I urge members to vote against the amendment to terminate the space station.

Mr. Chairman, I reserve the balance of my time.

Mr. ZIMMER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, a year ago this body came within a single vote of canceling the space station project, a project that has been grounded on the drawing board for 10 long and expensive years.

In 1993, we had an American space station with participation by several international partners. This year we have a space station that relies heavily on Russia to get it off the ground.

Although NASA has announced plans to buy the Russian control module, we will be dependent on Russian rockets to provide the fuel to keep the station aloft. Russia's Government is, as we all know, unstable. A friendly regime may not last past the elections scheduled for early 1996, much less through construction of the station and operating it for 10 years through the year 2012.

It is also unclear whether Russia's shaky economy and industrial base will allow it to live up to its commitments.

In recent years, Congress has been faced by enormous budgetary constraints, and so we have agonized over every single dollar that we have committed to foreign aid for anyone, anywhere. But the State Department has admitted in testimony to our committee, the Committee on Science, Space, and Technology, that there are absolutely no safeguards in place to assure that the money that we send Russia to pay for this program will not be siphoned off by corrupt bureaucrats or to support the Russian military establishment.

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We are getting very little for this investment in terms of domestic improvement in the nation of Russia.

Mr. Chairman, I wrote the section of the Freedom Support Act that made it easier for us to import space hardware and technology from the former Soviet Union. I commend the idea of joining with the Russians in any worthwhile project that will help secure democracy and free markets in that country. But touting this repackaged space station as the vehicle for that effort demeans this noble objective.

Just within the past week there have been a number of very disquieting news reports about new risks that we are encountering because of Russia's involvement with the space station project.

The gentleman from Indiana [Mr. ROEMER] referred to the article in the New York Times on Monday explaining that we have doubled the risk of collision with orbital debris by our new orbital inclination that is required in order to do this project together with the Russians.

Instead of a 1 in 10 chance of a major collision, we have a 1 in 5 chance of a major collision. That is very serious. It is a new risk. It has intruded into the project because of the Russian involvement.

This week's edition of Aviation Week and Space Technology has an article about the difficulty in building the new lightweight fuel tank for more than $400 million that is going to be required to be added to the shuttle in order for us to get the full payload up into the new orbit. There are some major difficulties which will result in delays or unreliability or expanded costs or all of those things.

There is another article in the same issue headlined "Russian Management Worries Station Team." There are going to be very major difficulties in working with Russian bureaucrats in getting this project completed. And finally, in this week's Space News, there is an article that is headlined, "New Plan Poses Higher Risks For Station." In order to build the joint space station with available funds, we are cutting back on spare parts, on testing, on all the things that we need to assure the reliability of this program, increasing the risk to humans as well as to machinery, increasing the cost and, in all likelihood, stretching out the completion date.

Mr. Chairman, the United States has poured $11.4 billion into this orbiting boondoggle. We have nothing to show for all that expense except a few pieces of hardware and a decimated space program. As originally conceived, the space station was a marvelous creation that would cost $8 billion and would perform a remarkable array of functions.

It would be a staging base to launch deep space missions. It would be our doorway into space. It would be a factory in space where products could be manufactured with greater precision and quality. It would be an observatory not just for the stars but also for the Earth, so it would combine the functions now performed by the Hubble Telescope and other observatories with those planned for the multibillion-dollar Earth Observing System. It was designed to be a transportation node, a loading dock, and a spacecraft servicing center. The station was to be a facility where spacecraft would be assembled. Fuel and supplies for use in future mission would be stored in it.

Finally, its eighth function was as a research facility for life sciences and microgravity. That was the original conception. That was the dream. Now here is the reality.

The total cost has escalated from $8 billion to more than $70 billion, and the crew size has been cut from eight to six. It will no longer be a staging base. The manufacturing facility is gone. The space-based observatory is gone. The transportation node is gone. The servicing facility is gone. The assembly facility is gone. The storage facility is gone. All that is left is that eighth function, the research laboratory, doing work that is interesting but not worth $70 billion.

Mr. Chairman, the life sciences research that is part of the residual function of the space station is intended to prepare us for long-duration space missions. But NASA currently has absolutely no plans to send humans back to the Moon and beyond to Mars or even beyond Earth orbit. These programs were canceled in order to pay for the space station. And microgravity research can more easily be done at less cost on the space shuttle or on smaller, less expensive spacecraft than it can on the space station. In fact, our leading scientists in this field tell us that it is a mistake to try to do microgravity research on the same platform where you are doing life sciences research, because the presence of astronauts knocking around will interfere with the experiments being done in the microgravity module.

Mr. Chairman, it is time for this Congress to do what it should have done years ago, cut our losses and the losses of our international partners and put an end to this budgetary black hole in space.

NASA has tried relentlessly to salvage this project in the face of growing political and scientific opposition. In doing so, it has choked off a host of more cost-effective research efforts and other space programs. NASA is being forced to scale back the shuttle program. It is canceling shuttle missions and considering mothballing an orbiter. The satellite surveying Venus will be turned off while in perfect working order in order to save money because NASA cannot afford to keep operating it.

Even with modest inflation, NASA will face a 20-percent cut in science spending over the next 4 years. That means NASA will have to cancel or scale back even more programs than it has to date.

A recent study by the Congressional Budget Office verifies what I have been arguing for years, that the space station has become an enormous parasite, consuming resources from every other NASA program in order to feed its evergrowing hunger for funds. As a result, some of the space station's most devoted proponents are reluctantly coming to the conclusion that in this era of shrinking discretionary budgets, the only way we can save the space program is by killing the space station.

Mr. Chairman, if the administration's intent is truly to promote democracy and free markets in Russia and close relations with that nation, there are surely better ways to achieve that, both in space and on Earth. We have already sunk more than $11 billion into a space station that now would achieve only one-eighth of its original mission at more than eight times its original cost.

To commit even a dollar more, much less billions more, to a project whose success hinges on an unstable and unpredictable foreign government is sheer folly.

I urge this Congress to do what it came so close to doing last year, kill this space station and salvage our space program.

Mr. Chairman, I reserve the balance of my time.

Mr. LEWIS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Chairman, I rise in strong support of the space station.

Mr. Chairman, 10 years from now there is no doubt that we will be using new items invented because of the space station.

When we discuss NASA, and especially the space station, we are usually so focused on the future that we sometimes forget the past, and what it can teach us about the benefits of continuing our investment in the space program. We all remember the major events of the past 30 years, like Neil Armstrong's "Giant Leap for Mankind" in 1969, but some of the greatest, long-term benefits from the space program can be found outside of NASA, in the businesses and industries that have grown up around the technologies developed for the space program.

The need for light-weight materials for space launch technology led to the development of a composite materials industry. Medical break-throughs, like CAT scans, MRI scanning, programmable pacemakers, lasers for surgical procedures, implantable insulin pumps for diabetics, vision diagnostic equipment, and fiberoptics technology have saved thousands of lives and improved the lives of perhaps millions of patients throughout the world. And that's just a partial list of such inventions that have grown out of the space program. How do you put a price tag on that sort of benefit, Mr. Chairman?

We could spend literally hours here on the floor describing the benefits of our past investment in space research. I have no doubt that 20 or 30 years from now our successors in this body will be able to do the same, discussing the benefits and inventions and spin-offs that will by then have come out of the space station program and our ongoing exploration in space.

Let us vote today to make sure that will happen. Vote to support the space station appropriations.

Mr. LEWIS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Chairman, I rise in support of the space station and in opposition to the pending amendment.

Mr. LEWIS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to express my strongest support for International Space Station *Alpha*. I'd just like to stress three specifics.

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First, we hear arguments that the scientific capability of station is not worth the investment. Let me share just one example. And its not just a possibility it's a new development that will be a concrete result of station's unique capability in microgravity research. Researchers at NASA's Johnson Space Center have developed a device called the rotating wall vessel. They have flown it on shuttle and experienced enormous success in using the vessel in a microgravity environment to grow cancer cells outside the body.

Prior to the use of the rotating wall vessel, breast tumors had never been cultured successfully outside the body. Fifty thousand women will die of breast cancer this year and another 182,000 will be diagnosed with it. The ability to watch cancer cells grow and change gives scientists insight into their genetic material. It's not a huge leap from understanding cancer cells in that form to improving the survival rate for these cancers. The key to progress in this unique microgravity research vessel, however, is the ability to expose these cells to microgravity over an extended period of time. This is just one more concrete reason to support station.

Second, I want Members to dismiss outright the argument that full funding of station is responsible for reductions in the costs associated with the shuttle.

Nothing in the current International Space Station *Alpha* has caused a reduction. Funding for shuttle operations and upgrades has been declining in real terms at about 3 percent per year since 1990. That reflects two things—an insistence by this subcommittee that NASA eliminate questionable overhead in the program and a willingness by the agency to demonstrate that it can be more cost efficient.

Opponents can not have it both ways. They would suggest that we kill station because it can not be managed within costs. Then, when a major space program like shuttle has a concrete record of reductions over a period of years, they would slyly imply that it is not cost efficiency or legislative oversight but rather reflects station putting a squeeze on the shuttle budget.

In anticipation of this argument, I asked the Associate Administrator for Space Flight—Jeremiah Pearson—to comment in writing.

I ask unanimous consent to include his letter to the subcommittee of June 27, at this point in the RECORD. I'll read only one sentence from it.

> The FY 95 appropriations mark is adequate to operate the space shuttle safely and productively and keep the program on schedule to support NASA's science objectives.

Lastly, next year when we have this debate an American astronaut will have flown in space for 3 months on a Russian station. He will arrive on the Russian Soyuz vehicle and return on the shuttle after it has docked with the Soviet station. Our astronaut will be in space for 90 days—breaking the previous American record of 84 days on skylab. That is a most concrete result and we will have it with your help when we debate this bill next year. Even 2 years ago, this Member would not have imagined we could be in this position. With your help it will be a reality. Please join me in supporting this bill and in defeating the Roemer amendment.

> NATIONAL AERONAUTICS AND
> SPACE ADMINISTRATION,
> *Washington, DC, June 27, 1994.*
>
> Hon. JERRY LEWIS,
> *House of Representatives, Washington, DC.*
>
> DEAR MR. LEWIS: I am writing to thank you for your support of NASA's FY 1995 budget request. Specifically, the Subcommittee on VA-HUD-Independent Agencies has allocated a mark of $5.6 billion for the Human Space Flight program. This FY 1995 appropriations mark is adequate to operate the Space Shuttle safely and productively and keep the program on schedule to support NASA's science objectives.
>
> Thank you for your continued support of this critical program. I look forward to working with you to ensure full funding for the Space Station and NASA's other important programs.
>
> Please let me know if you need any further information.
>
> Sincerely,
> JEREMIAH W. PEARSON III
> *Associate Administrator for Space Flight.*

Mr. Chairman, I reserve the balance of my time.

Mr. ROEMER. Mr. Chairman, I am happy to yield 1 minute and 30 seconds to the distinguished gentleman from Minnesota [Mr. PENNY], who has devoted his career to real deficit reduction.

Mr. PENNY. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, we need to bring this discussion back down to Earth. We have heard from previous speakers a long list of the virtues of the space station project, but frankly, most of the promised opportunities I think could be handled through research programs here on the ground.

This year alone, Mr. Chairman, in a very tight budget, we have allocated in this spending bill $2.1 billion for the space station. I know that the chairman of this committee and the chairman of the authorizing committee have expressed concern throughout the years about the potential of this project crowding out other important research items.

Mr. Chairman, $2.1 billion this year is perhaps manageable in their view, but things will not get better. The budget caps are going to be even more austere as each year goes by, and if we can barely handle $2.1 billion this year, we certainly cannot handle continued appropriations of this level in the years to come. Undoubtedly, the space station will crowd other important research items as time goes by.

Mr. Chairman, I also want to speak to the question of deficit reduction, because some of my friends on the Democratic side of the aisle have suggested that they are not happy that we are cutting this program, and allowing the money to stay in the NASA budget. They want to see this money, or at least part of this appropriation cut, go toward deficit reduction.

If we take the space station out, if we have the courage to cancel this big ticket science program we then free up the money for the long term. Some dollars may stay within NASA research, some may be reallocated to other domestic needs, and some certainly could go toward deficit reduction. I urge a yes vote on the Roemer-Zimmer amendment.

Mr. STOKES. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. HALL], chairman of the Subcommittee on Space of the Committee on Science, Space, and Technology.

Mr. HALL of Texas. Mr. Chairman the gentleman from California [Mr. LEWIS] and others have covered the medical aspect. I rise in opposition to the amendment, and ask that the Members vote no.

Mr. Chairman, I rise in strong opposition to the amendment to kill the space station program. We have been down this road many, many times in the last few years. It is time for the opposition to accept the fact that the House thinks that the space station is good for America and good for the American taxpayer. We need to stop debating the space station and get on with building it.

My position on the space station is no secret. I strongly support the station and believe that it will deliver important long term benefits to the Nation. Many of my colleagues will be describing those benefits in detail, so I would like to mention just one—but one that is very close to my heart.

It is clear that the space station has enormous potential to advance our understanding of a number of terrestrial medical conditions—including dreaded diseases like cancer and diabetes. The advances made possible by the ability to do medical research in space will inevitably lead to breakthroughs that will benefit all of our citizens: young and old, female and male, and our veterans.

Why do I feel so positive about the contributions that the space station can make to the Nation's medical research program? As chairman of the Subcommittee on Space, I have asked some of America's leading researchers to testify on what they think, and their testimony has been remarkable.

Listen to what Dr. Michael Debakey, the famed heart surgeon had to say:

> Better health care for our citizens is not at odds with a space station. As a physician, teacher, and explorer, I must emphasize that our space program and space station are not frivolous, because they may provide keys to solving some of the most vexing problems that affect our people.

or to Dr. Charles Lemaistre, president of the M.D. Anderson Cancer Center and former president of the American Cancer Society:

> In [the space] environment where we have a unique approach to weightlessness, toward purifying many of the agents that are already effective here on Earth, toward removing the toxicity of many of the cancer chemotherapeutic agents, there is opportunity there. It is that opportunity we all want to see made possible to biomedical research by the creation of space station *Freedom*.

I would like to share with you a recently approved resolution of the American Medical Association's House of Delegates:

> The AMA supports the continuation of the NASA and other programs for conducting medical research and other research and other research with potential health care benefits on manned space flights including the continued development and subsequent operation of the international space station.

It is not just the American Medical Association and the distinguished physicians whose testimony I quoted that see the value of research conducted in space. Eight of the Institutes of the National Institutes of Health see enough potential benefit from NASA's research activities in space to justify entering into agreements for cooperative research and to undertake a joint NIH–NASA shuttle research flight in 1997. That shuttle flight will be just the first step in a vigorous research program that will ultimately be carried out on the space station.

I have another reason for my confidence. Looking back over the last 35 years of the space program, it is clear that the civil space program, in meeting its immense engineering and scientific challenges, has consistently delivered technologies and research that have directly improved the medical care of our citizens. In fact, just last month NASA and the Multiple Sclerosis Association signed an agreement to collaborate on using NASA space suit technology to help ease the suffering of MS patients. Medical telemetry systems, materials for hip replacements, medication systems—the list of beneficial spinoffs goes on and on, and will continue as long as we have a robust space program.

As well intentioned as the amendment may be, it threatens to choke off the space program just as we are starting to realize exciting research benefits. The space station is an important investment in our future, and I urge my colleagues to support the station and defeat the amendment.

Mr. STOKES. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from West Virginia [Mr. MOLLOHAN], a member of the subcommittee.

Mr. MOLLOHAN. Mr. Chairman, I rise in strong opposition to Congressman ROEHMER's amendment to terminate funding for the space station program. While I trust that the gentleman intends to help the space program with this amendment, I cannot stress how painfully misdirected his efforts are.

Do not be fooled by the Roehmer amendment. A vote for the amendment is not a deficit reduction vote—your vote would shift funding to other spending programs within NASA.

A vote for the Roemer amendment is not a vote to help NASA—the space station is critical to our civil space program. And NASA's friends are working with the agency to help them carefully scope their priorities to match the treacherous fiscal climate we face.

This is a vote in support of preserving our industrial base—and related jobs—right here in America;

Yes, Mr. Chairman, a vote in support of preserving our industrial base—and our technology advantages.

Mr. Chairman, when Members think about their vote on space station, sometimes they think only of mission control in Houston, the launch sites in Florida, or they have visions of the space shuttle landing at Edwards Air Force Base in California—but what they do not consider is that many of the materials for the space program are made by basic industry in the Mid-Atlantic and Midwestern States.

Over the last several weeks, I have heard from union workers in both the ferrous and nonferrous industries. These workers are engaged in metal fabrication and other manufacturing processes which make the space program possible. They make specialty steels and futuristic aluminum alloys that go into everything from satellites, shuttles, to the space station.

At a future point in consideration of this bill, I would like to submit, for the record, a very persuasive letter from the United Steelworkers of America, urging my continued support for the space station—on behalf of basic industry America. They urge me to encourage all members of the steel caucus to help the industry by supporting the space station program.

It should be simple for you to support NASA—it is deserving of our vote of confidence. Under the able leadership of Administrator Dan Goldin, NASA has sharpened the technical reliability and capability of the space station program to unprecedented levels over the last year. Accordingly, the scientific merit for continuing the program is stronger now than ever—and they have achieved this within the cost caps set for the program.

The Clinton administration has incorporated the space station program as a critical piece of our United States and Russian foreign policy. Space station is a perfect model of post cold war international cooperation with Russia, as well as with our other important international partners—from Europe, Canada, and Japan.

And, we are not spending dollars in space, we are spending them on jobs right here in America.

Mr. Chairman, I urge my colleagues to defeat the Roemer amendment.

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Mr. Chairman, I include for the RECORD the letter I referenced, as follows:

UNITED STEELWORKERS OF AMERICA,
DISTRICT 23, LOCAL UNION NO. 1190,
Steubenville, OH, June 6, 1994.

Hon. ALAN MOLLOHAN,
House of Representatives,
Washington, DC.

DEAR REPRESENTIVE MOLLOHAN: I'm writing as a member of a national workforce coalition. The member unions in the coalition are fighting to preserve the industrial base in this country. I'm writing today to get your help to fund the space station because steel and aluminum workers have an interest in this program. Our industries supply the specialty steel and aluminum alloy metals used in the space program. It's important for members of the Steel Caucus to know how important the space station and shuttle programs are to the tri-state region. Right now, the ferrous and non-ferrous metal industries that employ steelworkers throughout the Midwest contribute to aerospace products. If commercial space programs like the space station are continued. We have a chance to reinvigorate the steel and aluminum industries in the country.

People don't realize that the space program relies on the basic industries for materials. These materials aren't made in California and Texas where everybody thinks the space program is. They're made in the Midwest. Our brother steelworkers at Reynold's Aluminum in Illinois make the aluminum skins for the new lightweight shuttle tank that's assembled by our UAW brothers all the way down in Louisiana. So we're all connected.

If the space station is not given full funding, the cutbacks will go all the way through our members here in the Midwest. If the program continues and is expanded, steel and aluminum companies in the Midwest will make the investments needed for space exploration. This would give our members the opportunity to become more involved in the new technologies that will produce the new jobs. We think this message ought to be given to all the members in your Steel Caucus.

You have always been a champion of the steel and aluminum workers in the tri-state region. We understand that you have been a strong supporter of the space station. We want you to know that the workers in your region are counting on you. When you return from the Memorial Day recess and your subcommittee takes up funding for the space station, we hope you will take the lead in getting other members of the Steel Caucus to understand the importance of this program to the basic industries.

Sincerely,

JOSEPH SMARRELLA,
Treasurer.

Mr. ZIMMER. Mr. Chairman, I yield 3 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, as I rise today in strong support of the Roemer-Zimmer amendment to terminate funding for the space station, I cannot repress the sinking feeling that another $2.1 billion has been wasted on this program since the last time the House had this debate. The space station has been given a new name for fiscal year 1995. It is now the International space station *Alpha* [ISSA]. But new name or not, the plain fact is, the space station's scientific mission has continued to shrink while its cost has continued to escalate exponentially.

The space station's new name has successfully added a foreign aid component to the highly questionable arguments for funding of this scientifically dubious project. Quite simply, the poor state of the Russian economy and the Yeltzin government's tenuous grip on power make Russia an unreliable partner in a multiyear, multi-billion-dollar venture. Canada has realized this fact and voted to reduce its financial commitment to the space station. We should see the handwriting on the wall and cancel it now.

One year ago, I was very optimistic the U.S. House of Representatives was going to come to its senses and terminate this prime example of Government waste. Today the House must not delay—take a major step toward fiscal responsibility by adopting the Roemer-Zimmer amendment.

My constituents in New Jersey's Fifth District continue to demand that Congress make tough budget choices and cut spending before raising taxes. Continued funding of over-budget and problem-plagued boondoggles, like the space station, only serve to keep voter discontent with Congress at historically high levels. If the House fails to adopt the Roemer-Zimmer amendment, another $2.1 billion of hard-earned taxpayers' money will be wasted on the space station in 1995.

Despite arguments to the contrary, the space station is siphoning funds from other basic science programs, cancer research, environmental protection, housing needs, emergency food and shelter programs, veterans programs, and—most of all—deficit reduction. We need the space station's $2.1 billion here on Earth.

The space station program is so fundamentally flawed that when President Clinton selected a new scaled-back design for the space station last year, the chosen design satisfied only one of the eight original design objectives. This was admirably documented by our colleague from New Jersey [Mr. ZIMMER]. I do not believe Russian cooperation will improve this situation. Moreover, NASA currently estimates the latest space station design will cost American taxpayers between $40 and $71 billion to complete and operate over 10 years. But with NASA's poor track record on cost overruns, it is doubtful that NASA has any idea how much it will cost American taxpayers to maintain and operate the space station.

Taxpayers have already spent $11.4 billion on the space station since 1984, with few tangible results. Each time NASA redesigns the space station its utility diminishes, its cost escalates, and it directs desperately needed funding away from other scientifically valid programs. The space station has always been of dubious scientific worth, and the scientific benefit to be derived from the current space station design is even more illusive.

All the lofty arguments aside, the space station is a luxury "pork project" the United States cannot afford when the Federal Government has accumulated a national debt of approximately $5 trillion.

It seems ironic that proponents of the space station argue it is a gift for future generations when, in reality, the space station's greatest gift to future generations is its contribution to our Nation's enormous Federal debt.

Mr. Chairman, I urge my colleagues to use their common sense and vote for fiscal responsibility by supporting the Roemer-Zimmer amendment to terminate the space station. In a time of real budgetary restraint, this is money that could be used much more beneficially for cancer research, veterans health care, women's health research, the Home Investment Partnership Program, or environmental protection and cleanup.

Mr. Chairman, let us stop this taxpayer ripoff right now, before more Federal dollars are wasted. Vote "yes" on the Roemer-Zimmer amendment.

Mr. LEWIS of California. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I thank the gentleman for yielding me the time. I compliment the chairman of the subcommittee and my ranking member for the work they have done on this.

Mr. Chairman, I rise in strong support of the international space station and in strong opposition to the short-sighted and ill-conceived amendment offered by the gentlemen from Indiana and New Jersey.

You will find no one more committed than myself to deficit reduction, cost effectiveness, the prudent use of taxpayer dollars and outright stinginess in Federal spending.

Let me make this very clear: This is not an amendment for deficit reduction. Read the amendment. Make no mistake, this amendment will kill the space station but not one dime will go for deficit reduction. The amendment leaves enough money in human space flight for shutdown costs and reallocates the balance back into NASA, for the most part into the Science, Aeronautics, and Technology section of the NASA appropriation from which no cuts were taken during the committee's consideration.

The authors of this amendment claim that the space station is eating away at NASA's science budget. I don't know who is giving them their numbers, but the Appropriations Committee fully funded the President's request for Science, Aeronautics, and Technology at an increase of $113 million over fiscal year 1994.

Although this amendment does not allocate any savings for deficit reduction, I want my colleagues to know clearly that NASA has done its part for deficit reduction. In last year's request, NASA reduced its 5 year budget plan by 18 percent. This year, NASA reduced it again by another 12 percent.

The funding level for NASA in this bill is $526 million under fiscal year 1994. All other agencies in this VA/HUD bill are receiving increases over last year.

Mr. Chairman, this space station has been redesigned, the management has been streamlined and Russia, our former cold war enemy, has joined the program as a full international partner. And I have to say I am particularly pleased with the dramatic streamlining of the management structure. Lines of authority and accountability are direct and simple. Excessive bureaucratic layers have been eliminated.

The assertion that station has lost its primary scientific mission and has turned into simply a foreign policy program is absurd. While the new station will cost $5 billion or 23 percent less than space station *Freedom*, this space station has 85 percent more pressurized volume, 50 percent larger crew, and double the power of the previous design. All the science objectives ever envisioned for our space station are fully achievable with this space station.

Moreover, NASA has responded well to the concerns that a Russian pull-out could jeopardize the program and has modified the plans; the Russians have been removed from the critical path. The United States will provide guidance, navigation, control, and reboost capability, an independent environmental control and life support system, and accelerated power capability. The international space station will not be dependent upon Russia's contribution but will benefit greatly from Russia's expansive experience in space.

I ask my colleagues not to fool themselves—without the space station there is no shuttle program and without that, there is no NASA. I submit to my colleagues that the space station is a program we cannot afford not to fund.

Mr. Chairman, the American people support this critical program and I believe that today, as it has for the past several years, the space station will receive the support of the majority of my colleagues.

I said this last year and I will say it again—let this be the end. I implore my colleagues, look at the progress, study the design, follow the budget—and where problems arise, by all means, let's fix them. But let's not return any more to this same place. If this amendment fails, I urge space station opponents to accept the will of this country and let us move forward on this monumental project.

□ 1910

Ms. DUNN. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I am happy to yield to the gentlewoman from Washington.

Ms. DUNN. Mr. Chairman, as a strong supporter of the space station, I rise in opposition to this amendment.

Fiscal responsibility is no joke, and getting the most for the taxpayer's hard-earned dollars is one of the main missions of Congress. Voting against the space station will not reduce the deficit. Those moneys designated for the station will simply be devoured by other programs within VA-HUD and other agencies. You save nothing, and risk losing our preeminence in space and technology.

The international space station is better managed, has more lab space, more power, more crew area, and will use at least 75 percent of the *Freedom* station. If this is not cheaper, faster, and better, I don't know what is.

When it came to budget prioritizing within the Agency, NASA tightened its belt and made the tough cuts. NASA is committed to cut 3,000 civil service staff from current levels by the end of this decade, and the overall NASA budget is below 1994 budget levels.

Ladies and gentleman, here is a Government agency that has cut its budget 30 percent in 2 years. As one of my favorite Presidents use to say, "not bad—not bad at all."

It has become apparent to many that this isn't the same space station program we saw last year. Even the vest oversight committee that turned its back on the station a year ago has done a 180-degree turn in support of the new station program.

We have gone from four NASA centers and four prime contractors to a single center in Houston and one prime contractor.

Now, the prime contractor for the station is the Boeing Co., and even if they weren't in my own back yard, I'd give them high marks for the job they have done to help reign in the costs of the station.

Our space station continues the largest scientific cooperative program in history. We are drawing on the scientific expertise from 13 nations in this joint venture and we are proving that former adversaries can join forces behind peaceful initiatives that will help build mutual trust and support shared goals.

One of the defining reasons for my support for the station is that we will be able to conduct research on the station that cannot be done on Earth. In the microgravity environment of space we will study new and exciting approaches to diagnosing and treating ovarian and breast cancer tumors. Truly, we have had the best of both worlds—biomedical research on Earth and in space, working hand-in-hand to help eradicate the terrible disease of breast cancer that strikes one out of eight women in America.

As we weigh the future of America's space leadership, and the future of our international partnerships, I urge my colleagues to support the space station, and vote against this amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. TORRES] who serves very ably on the subcommittee.

Mr. TORRES. Mr. Chairman, last year we came to a crossroads on the space station.

We chose to fund a reengineered, fiscally responsible, and scientifically focused international space station. Our international partners—Canada, France, Japan and Russia—have already committed $3 billion to completing the space station.

We cannot turn back.

The space station is our Nation's most important scientific initiative that will lead the global community into the 21st century. It is a laboratory to engage in new scientific endeavours for the benefit of future generations. It is a unifying force that will bring the world's economic and military superpowers together in pursuit of scientific discovery.

To turn back now would severely and irreversibly damage the progress we are achieving in these areas.

We cannot turn back.

We are also talking about engaging our best scientists, computer programmers, and engineers to keep our Nation's lead in the space.

We have over 13,000 direct jobs committed to the space station and over 55,000 when supplies and other indirect jobs are included.

In my home State of California, over 4,000 individuals work directly on the space station—and the number soars to 17,000 jobs when subcontractors and indirect jobs are included. These are the kind of jobs we want to keep—highly skilled and well paid.

A Wharton Econometric Forecasting Associates study has shown that eliminating the entire space station would only improve the Federal budget by $260 million after accounting for lower tax receipts and new transfer costs from higher unemployment. This does not take into account the numerous critical technologies that NASA develops and the technology spinoffs that benefit from NASA's research.

Mr. Chairman, I have spent many hours listening to testimony in the VA-HUD subcommittee, visiting with NASA scientists, and reviewing NASA's reorganization. The space station team has pushed the envelope in terms of fiscal constraint and scientific integrity. We must not allow the promise of discovery to be exchanged for short-term political gain.

My colleagues are sorely misguided in their attempts to eliminate the space station. They are naive to think that taking a sledgehammer to science and thousands and thousands of highly skilled jobs, will somehow benefit our economy, the Federal budget, and our children.

I commend the work of NASA scientists and management and their commitment to a sound space station. They deserve the full support of this Congress.

We cannot turn back, I say to my friends.

Mr. Chairman, I urge my colleagues to oppose efforts to kill the space station and kill our Nation's commitment to science.

Mr. ROEMER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Chairman, I rise in support of the Roemer-Zimmer amendment to terminate the space station.

I would rather that this cut go directly toward deficit reduction, but the fact is today we have an opportunity to kill a $75 billion project.

Over and over in this Chamber we hear people talk about cutting spending. We hear those same people defend project after project in our districts, the super collider which we had to vote against 3 times before we actually killed it last year, farm subsidies, defense projects, now the space station.

I did not come to my decision to oppose the space station lightly. It will cost jobs in my State in northeast Ohio, but we simply cannot afford it.

I believe that the United States should be in space. But right now the return a manned space station offers on our investment just is not enough. Americans can continue to be leaders in technology by advancing the work we have already begun in unmanned satellites. The space station may be good science, but we simply cannot afford it.

Mr. ZIMMER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just like to respond to one of the comments made by my friend, the gentleman from Texas [Mr. DELAY], who said, as I recall, not one dime will go to deficit reduction if this amendment is passed, because it is an amendment that reallocates money to other programs within NASA.

Last year the gentleman from Indiana [Mr. ROEMER] and I proposed a straight cutting amendment, and at that time the gentleman from Texas had this to say about that amendment, "If you are voting for this amendment as deficit reduction, make no mistake about it, not a dime of the $2.1 billion will go to deficit reduction. That money will go to other programs. We all know it. Those of us who have been here for years understand it, and there is no doubt that that is what will happen."

So, Mr. Chairman, we took the gentleman from Texas at his word. We proposed an amendment this year that was different from the last one, and now he is criticizing us for not proposing the kind of amendment that he attacked a year ago.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. ZIMMER. I am happy to yield to the gentleman from Texas.

Mr. DELAY. I just simply would point out that I was right. This year you are being honest. Last year you were not.

Mr. ZIMMER. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Chairman, 10 years ago when we began funding the space station, we were promised that it would cost only $8 billion, and be finished by 1994. Well, it is 1994, we have spent $11 billion, and we have zilch. We have no modules in space. We have no flight-ready hardware. And we are being told that the total cost of the space station will exceed $70 billion, more than 8 times the original estimate.

Nor does it consider that our tenuous agreement with the Russians may actually cost us rather than save us money.

Now we are told that even if we spend all of this money, the space station has a 20-percent chance of being smashed to pieces by space debris. Can we really afford to play Russian roulette?

Many space station advocates are claiming proposed benefits for women's health research. Let us take a look at what the $70 billion space station really amounts to: 235 times what the National Institutes of Health and the Department of Defense will spend next year for breast cancer research; 1,300 times what the National Institutes of Health and the Department of Defense will spend next year for cervical cancer research; 1,870 times what the NIH and DOD will spend next year for ovarian cancer research; 8,850 times what the NIH and DOD will spend next year for uterine cancer research.

Dr. David Rosenthal, speaking for the American Cancer Society has said, "Statements have been made and published to the effect that vital cancer research would be done in space, and that is cited as a reason for supporting space station funding. We cannot find valid scientific justification for these claims."

We all believe in women's health research. It is very important. But if we want to increase funding for it, why should we spend billions of dollars for one laboratory in space when we could use this money to fund hundreds or thousands of laboratories here on Earth? That is bad science and bad judgment.

The space station's cost is out of this world, and we should mothball it.

Mr. MOLLOHAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS of Texas. Mr. Chairman, I rise in opposition to the amendment and in support of the space station.

Mr. Chairman, once again we are faced with a vote not just on our commitment to the space station but on our commitment to the future. The potential scientific, educational, and economic benefits of the station are well documented. However this year there is an important new factor that makes the space station an even better investment in the future.

Thirty-five years ago competition from the Soviet Union's Sputnik provided a major impetus to build our Nation's space program.

Today, our conflict is not against a rival power, but rather against our own limitations. Competition with the Soviet Union has turned into cooperation with Russia, a cooperation that brings together the best and brightest minds in an endeavor that will greatly expand the boundaries of human achievement.

As our relationship with Russia continues to evolve in this post-cold-war world, the space station provides a catalyst for building mutual trust and cooperation. Today, this partnership is more important than ever. Finding solutions to world problems such as regional instability, arms technology proliferation, and environmental degradation require that we work in close concert with both friends and former adversaries.

In addition to these global considerations, Russian participation in the space station will make a substantial and immediate contribution to the project itself. One such payoff will come from the U.S. Shuttle-Mir missions, which will give us extremely valuable on-orbit experience. It is impossible to understate the importance of this type of experience—it is exactly what made the Hubble Telescope repair mission such an astounding success.

Russian involvement in the space station has already resulted in a more robust and capable station. The new station has more electrical power and pressurized volume than the previous designs, allowing for both a larger crew and a wider range of experiments. Working with the Russians is going to save us both money in developing this station and time in deploying it. Russian long-term experience in space and the addition of their own network of communications, control, and launch centers will add to the station's margin of safety.

The cold-war competition between the Soviet Union and the United States helped launch our exploration of space. Today the contest has changed, but our goals of scientific advancement and human progress are stronger than ever. We must now act here in this Chamber to seize this historic opportunity and join with the Russians and our international partners in an endeavor in space that holds great promise for life on Earth.

Mr. MOLLOHAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS. Mr. Chairman, I rise in opposition to the amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 1 minute to the gentleman from Alabama [Mr. BEVILL], the distinguished chairman of the Energy and Water Subcommittee of the Committee on Appropriations.

□ 1920

Mr. BEVILL. Mr. Chairman, I rise today in strong support of the VA–HUD appropriations bill and I am especially pleased with the funding level for NASA and the International Space Station. As you know, the space station is the largest cooperative science program in the world. It has become a premier international undertaking with the participation of the United States, Canada, Japan, the European Space Agency and Russia.

NASA has made great strides in the past year to streamline the Space Station Program and the changes have been extremely positive.

The partnership with the Russians, who have worked in space longer than anybody else, will bring a new dimension to this program. We welcome this opportunity to work with the Russians on this program, to gain their insight and expertise in this multi-country effort.

Our cooperation on this project could have a far-reaching impact in terms of better international relations. We certainly need to support the International Space Station.

As you know, this program has made excellent progress. More and more of the actual flight hardware is being completed, despite what you may have heard from the critics of this program.

The estimated cost of the space station has been reduced and we anticipate getting more bang for the buck. Certainly, we expect that greater scientific capability will be generated through this project.

The space station is important to the future of high technology in this country. It will help us advance into the 21st century and keep us on the cutting edge in our scientific endeavors.

I am also very pleased to note that this bill contains full funding for the Advanced X-ray Astrophysics Facility [AXAF] Program. This is the top priority NASA mission for astrophysics and a program of great importance to the Marshall Space Flight Center in Huntsville, AL.

AXAF is an x-ray observatory which will probe fundamental questions about the origin and fate of our universe.

This is a very well-managed program which was recently restructured to reduce costs substantially while maintaining scientific integrity.

It is well on its way toward its scheduled launch date in 1998 and is an outstanding example of NASA's commitment to maximizing return for the taxpayers' investment.

I want to commend my good friend and colleague, Chairman LOUIS STOKES for his outstanding work on this bill. I appreciate his commitment to the space station. He has kept this program alive without sacrificing any important science program.

I urge my colleagues to support this bill, including the funding for the space station and the AXAF program.

Mr. Chairman, the full Appropriations Committee supported this bill unanimously. Everybody who has spoken here has not served 1 day on that committee, has not heard one bit of testimony. I think we ought to support Chairman LOUIS STOKES, who has done a great job with this committee. He is one of the best chairmen of this Congress and the committee is one of the best committees in Congress under his leadership.

We need to support this committee. They are people who know what they are doing.

Mr. LEWIS of California. Mr. Chairman, I yield 2 minutes to my leader in the House, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the new space station and in opposition to the Roemer amendment.

Thirty years ago, a television series based on the premise that space was the final frontier became an international phenomena.

In fact, "Star Trek" was such a hit it spawned another successful television series that just recently completed its mission, "Star Trek: The Next Generation."

I like to think of this new redesigned effort as "Space Station: the Next Generation."

This next generation of space station is cheaper, more powerful and bigger than the original design.

Because of effective and efficient management techniques, the new space station will cost $5 billion less than the old design, while accommodating 2 more scientists on the crew.

And because of strong international cooperation, the new space station will benefit from the expertise of the Russian Space Agency to help meeting the goals of the program.

Mr. Chairman, I have long supported the space program and space station *Freedom* in all its redesigns.

Looking at my distinguished friend from California [Mr. BROWN] and I, roughly in the same age bracket, in the early days of the program we supported this from the very beginning. I am rather troubled by the fact that the younger Members of this House take the view that, what we heard in those days, "We can't afford to explore the outer frontier," if we had taken that attitude 30 years ago, where would we be today in this world? I cannot understand it, quite frankly. As the distinguished gentleman from Pennsylvania [Mr. WALKER] eloquently pointed out earlier in the evening, the reasons for my support are that we cannot reap the fruits of the future without planting the seeds of invention.

Mr. Chairman, we cannot expect a better tomorrow without investing in our future today. And we cannot move forward by standing still.

Supporting the Roemer amendment is worse than standing still. It is taking a giant step backward as we face the end of the 20th century.

Supporting "Space Station: The Next Generation" means taking a bold step forward to solve the problems of today with the technology of tomorrow.

I urge my colleagues to join me in supporting the space station and opposing the Roemer amendment. Vote no on the Roemer amendment.

Mr. ROEMER. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. NADLER], a Member of the freshman class.

Mr. NADLER. I thank the gentleman for yielding this time to me.

Mr. Chairman, I believe in human space flight, and I believe that eventually we should and will make a commitment to go back to the moon, to occupy it, to utilize its resources for the benefit of humanity.

As part of such a commitment, we would need a space station. But in the absence of that commitment, it is quite clearly far in the future, a space station has to be justified in terms of the scientific research that can be done on it and not in any other place.

All the scientific research that I have seen advanced to justify the space station could be done in other places and in other manners except for investigations of the long-term physiological effects of space flight on human beings. And that research need not be done until we make that commitment to reoccupy the moon.

In the meantime we would be much, much better not building the space station, which has no valid scientific justification, no necessity, and use the money for our needs here at home for the people who live on this planet.

Mr. ZIMMER. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. I thank the gentleman for yielding this time to me.

When I was growing up, if scientists had said that the U.S. was going to build a permanent space station, people would have said, "Sure, when pigs fly." But when I look at this project, I think that is just about right because the pork is really flying.

The bottom line is that we cannot afford the $70.8 billion needed to build and launch the space station. Under the budget resolution we passed May 5, the debt will climb to $6.3 trillion in 5 years. This year, we will pay $298 billion in interest on the debt. That is nearly $10,000 a second in interest on the national debt. Under these conditions, we cannot have everything we want. We have to cut spending.

Space station supporters stress its scientific benefits. Undoubtedly, the space station would facilitate some scientific research. But is that worth $70 billion that we do not have? The space station steals money away from the other science programs in the Federal budget. Since 1984, NASA has had to cancel, delay, or shrink many of the other scientific projects in the budget to preserve the downsized space station. Yet, much of the proposed space station research could be performed for less money on Earth, on the space shuttle, or on unmanned spacecraft.

Finally, we have to decide what the Government should be doing. Congress has plenty to do right here on Earth. We need to control crime, reform welfare, and improve our schools. We need to protect private property and provide for the Nation's defense. And of course, we need to get Federal spending under control. But, instead, of fixing these problems, Congress finds itself lost in space.

Mr. ROEMER. Mr. Chairman, I yield 2 minutes to the gentleman from Vermont, [Mr. SANDERS].

□ 1930

Mr. SANDERS. Mr. Chairman, I rise this evening, not to attack the space station, but to speak about priorities, to speak about hungry children in America, elderly citizens unable to afford their prescription drugs, veterans sleeping out on the streets, underfunded school systems and overtaxed working people.

Mr. Chairman, we are asked today to continue a project which will cost over $70 billion. How do I go home to Vermont and tell the elderly people of my State that there are Members of Congress who want to cut their Medicare, cut their Medicaid, cut their Social Security because of the deficit, but somehow there are tens of billions of dollars available to build the space station?

Mr. Chairman, how do I go home to Vermont and tell the veterans of my State who put their lives on the line in Korea, in Vietnam, in the Persian Gulf, that there are Members of Congress who want to cut back on veterans programs, who want to cut back on the quality of care they receive in the VA hospitals because of the deficit, but somehow there are tens of billions of dollars available to build the space station?

Mr. Chairman, it is an absolute national disgrace that the United States today has the highest rate of childhood poverty in the industrialized world. Twenty-two percent of our kids live in poverty. Five million children go hungry. How in God's name can we continue to let American children go hungry because of the deficit, but at the same time we have tens of billions of dollars to fund the space station?

Mr. Chairman, I hope that the day will come when I will be able to vote for the space station because in many ways it is a good and useful program. But that day is not today, Mr. Chairman. Let us get our priorities straight. Let us ease the pain and suffering being experienced by tens of millions of Americans today before we put our money into outer space. Let us feed the hungry, let us shelter the homeless, let us tend to the sick, and let us tend to the weak and vulnerable, and, when we do all of that, when we are living well on the planet Earth, everyone together, proud, united, then let us go to outer space.

Mr. STOKES. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida [Mr. BACCHUS].

Mr. BACCHUS of Florida. Mr. Chairman, I say to the gentleman from Ohio, "Thank you for your friendship and support, Mr. STOKES."

Mr. Chairman, 25 year ago Neil Armstrong took one small step for man, one giant leap for mankind. That was a giant leap forward. I say to my colleagues, "Don't take a giant leap backward tonight by killing the space station."

This vote tonight, Mr. Chairman, offers a stark choice of our Nation celebrating the 25th anniversary of our landing on the Moon. Will we take the first real steps to a permanent human presence in space, and do it together with other nations, including Russia, the very nation against which we raced to the Moon? Or will we abandon leadership in space to other nations eager to take it away from us?

I was looking through the New York Times a few weeks ago when I saw this headline that reminded me of a vote we cast a year ago this summer. The headline says: Panel Urges U.S. to Join Europe's Collider Project. We killed the superconducting super collider. That was a mistake. I think many people who voted to kill it a year ago realize now it was a mistake. Do we want to see a headline this time next year that says: Panel Urges U.S. to Join a Japanese or a Russian Space Station?

Mr. Chairman, I do not think so.

Once the Soviet military-industrial complex built rockets pointed at us. Today the Russians work with us. If my colleagues think cooperation in space is too risky and too expensive, think how much riskier and how much more expensive it will be if superpower confrontation were to be renewed here on Earth.

Vote against this amendment. Support, save, and build the space station.

Mr. LEWIS of California. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment in support of space station *Alpha*. Much has been said expressing concern about the Russian participation in the International Space Station, and that concern will be well founded if Russia were in the critical path that the space station could not fly without Russia and if Russia should get out of the space station because of political and economic changes there and the rest of the world would be literally left up in space. But Russia is no longer in the critical path in the International Space Station.

Last week President Clinton himself sent a letter to me which says in part:

> However, in keeping with the concerns raised by you and other Members of the House and Senate, I want to assure you that the United States will maintain in-line autonomous U.S. flight and life support capability during all phases of the space station assembly.

That takes Russia out of the critical path, and that is a statement of administration policy which is binding upon NASA.

Now this House has sent a lot of money over to Russia in the Freedom Support Act, and most of that has gone into the Russian central bank, and, quite frankly, disappeared. What we are getting here is concrete Russian hardware and technology. We are getting back something for our money, and the Russians have been much better than the United States at long-term space flight as well as in heavy lift capability.

Second, Mr. Chairman, this Congress has a challenge. Many of the redesigns and cost overruns, previous designs of the space station, were ordered right here in the Congress of the United States. NASA Administrator Golden has said that, if we maintain the $2.1 billion appropriation, this space station will be completed on time and on budget. The danger is cutting the $2.1 billion to something less than that which will mean a stretch-out and a guaranteed cost overrun.

My support for the station is conditioned upon the conference coming back at $2.1 billion so we do not fall into the trap that we put ourselves into several times in the past.

Finally, Mr. Chairman, this amendment is not the same amendment that was voted upon last year in both the authorization and appropriation bills. This amendment does not cut the deficit by a dime. It reallocates the $2.1 billion to pet scientific programs of the authors of the amendment.

Mr. Chairman, I am a deficit hawk, and I rank No. 1 in the National Taxpayers Union roll call on who is a pinchpenny here in the Congress of the United States.

This is a different amendment. It spends the $2.1 billion elsewhere. It does not reduce the budget deficit.

Let us stick with the space station rather than the pork of the gentleman from Indiana [Mr. ROEMER] and the gentleman from New Jersey [Mr. ZIMMER].

Mr. ROEMER. Mr. Chairman, before yielding to the gentleman from Wisconsin, I yield myself such time as I may consume just to say that the rating of the gentleman from Wisconsin [Mr. SENSENBRENNER] may be in jeopardy after this next vote. Certainly Citizens Against Government Waste, in fact, score this, and this may be the best vote for deficit reduction the gentleman could cast this year. I say to the gentleman, "Certainly you cannot argue that, if you cancel 55, to 60, to $70 billion, whatever the cost of this space station is which is going up every day, and that is no longer in the budget, that is deficit reduction in anybody's vocabulary or dictionary."

Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Mr. Chairman, the history of the space station best resembles the play "Waiting for Godot". When the space station was first proposed in 1984 during the Reagan administration, its supporters predicted that the project would cost a total of $8 billion and would be operational by 1994. Nineteen ninety-four has arrived, and yet we are still paying, and we are still waiting. In fact, the project remains in the planning stages, having already cost the taxpayers $11 billion, with no end in sight, and we are still waiting. NASA now estimates that the total cost of construction and operation for 10 years will be more than $70 billion. If this program is allowed to continue, this debate will be repeated for the next 10 years, and $70 billion will be wasted.

Space Station *Alpha*, as it is now known, also brings to mind a giant black hole orbiting the Earth, sucking in taxpayers; funds and siphoning in money from the rest of the space programs. In fact, Mr. Chairman, a vast majority of the objectives of the space station can be accomplished through existing technology.

I would love the United States to build and operate a successful space station, but, Mr. Chairman, we must be realistic, we must know the limits of our resources, and we must cut this wasteful program.

Let us not wait any longer.

□ 1940

Mr. STOKES. Mr. Chairman, I yield 3½ minutes to the distinguished Chairman of the Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of International Space Station *Alpha*, which is home-based at the Johnson Space Center in my congressional district, and in strong opposition to the Roemer amendment. Space Station *Alpha* is an integral part of NASA's epic journey into space and vital to the United States' best interest. Eliminating the space station will do nothing but relegate NASA to a minor role in the exploration of space and force the United States to suffer the consequences of not being the most technologically advanced country in the world.

While insuring the United States leadership role in the 21st century will be the ultimate benefit from Space Station *Alpha*, the practical benefits that we'll recognize today, here on Earth, are reason enough to support the space station. Anytime we can generate a $7 increase in economic activity for every dollar spent, we've made a wise investment. Anytime we can walk into a hospital emergency room and see a person's life being saved because of the devices developed through manned space exploration, we've made a wiser investment. Anytime we can enter into a peaceful, cooperative effort with a former adversary, we've made an ever wiser investment. Anytime we can stir the imagination of our Nation's youth and encourage them to study the areas of math, science, and engineering, we've made still a wiser investment.

On the other hand, when we cut the heart and soul out of our most forward-looking and risk-taking organization, how wise of an investment have we made? The Roemer amendment purposes to do just that, to eliminate the space station while maintaining NASA's current funding level. This isn't an issue of fiscal responsibility, or seeing to our more immediate needs, it is simply an issue of whether we, the United States, intend to march boldly into the 21st century or hesitantly crawl backwards.

For America to lead, we must have the courage to take chances and continue to challenge our collective abilities. History has shown that nations who refuse to meet the challenges of their day, nations that are averse to taking risks, nations that yearn for the status quo are nations in decline. We demand more in this country. We demand that our country meet the challenges of our day head on, mindful that we take these risks for the sake of our children and our grandchildren, because if we don't, they will be the ones who will ultimately suffer from our lack of courage and foresight.

Mr. Chairman, I urge my colleagues to oppose this amendment, and encourage them to demonstrate the fortitude that is necessary for this Nation to continue its greatness.

Mr. LEWIS of California. Mr. Chairman, I rise to associate myself with the very fine statement of the gentleman from Texas [Mr. BROOKS].

Mr. Chairman, I yield 1½ minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in strong opposition to the Roemer amendment. I want to urge Members to consider the ramifications for our manufacturing base—and good jobs—of building a space station which must last 10 to 30 years in space with little repair or maintenance.

Our first concrete advancement in manufacturing produced by space station research is what is called rapid prototyping techniques which has reduced the time required to produce parts for the space station by integrating design and manufacturing in a truly revolutionary way.

Using rapid prototyping it is now possible to make metal castings of unique parts directly from the design without drawings or special tooling. What does this mean to our manufacturers? It means a 24-week process can now be accomplished in 2.4 weeks. This is a major advancement that will have a huge impact on the productivity and competitiveness of all U.S. manufacturers, allowing them to reduce costs and make ideas into reality faster.

Second, space station hardware requirements have forced manufacturers to invent new material joining techniques that allow them to weld aluminum and titanium to fabricate small, complex heat exchangers consistently and with outstanding reliability. Both the new joining and welding processes and the miniaturization of heat exchangers have applications throughout manufacturing and will enable us to upgrade, miniaturize, and in other ways improve our products.

Last, manufacturing processes have been developed to apply and bond coatings to space hardware surfaces that inhibit the growth of microbiological organisms in space. These same techniques, applied to Earth hardware, can improve our indoor and outdoor air and water quality.

The fundamental question as Sen. KAY BAILEY HUTCHINSON puts it, is simple: Do we want the kind of spending that is one time only, that will provide jobs for 10 months or 18 months, or do we want to spend money where it is going to reap benefits twentyfold, and even hundredfold, as space research had already shown it will do? The International Space Station is precisely where we should be prioritizing our spending.

I urge Members to consider the beneficial impacts building Space Station *Freedom* will have upon U.S. leadership in manufacturing and product design and I urge you to vote down this amendment.

Mr. ZIMMER. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Chairman, every single year since I was elected to Congress we have had this same debate: Should we blindly continue to funnel money into the space station or should we finally face up to fiscal reality?

This year, I urge my colleagues to closely and carefully consider the arguments presented by my colleagues from New Jersey and Indiana.

If you do, you will see that it makes no sense to keep pouring billions of dollars year after year into a dubious science project we simply cannot afford.

So far, we have already spent over $11 billion with no space hardware to show for it. What we do have, however, is a $4 trillion debt.

The American people are demanding that Congress stop spending money we don't have. But somehow, President Clinton has decided there is another $70 billion in the budget for this risky venture with the Russians.

But this $70 billion is only what NASA projects the new International Space Station *Alpha* will cost.

As we all know, NASA is notoriously poor at estimating future costs—so much so that its projects habitually run 77 percent over budget.

Mr. Chairman, it is time to bring space station supporters down to Earth where the air is not so thin and remind them that we have a $4.4 trillion national debt.

It is time to place fiscal responsibility ahead of space-based pork. It is time to pass the Zimmer-Roemer amendment.

Mr. ROEMER. Mr. Chairman, much has been said about the foreign policy implications of this space station. I now yield 3 minutes to the very distinguished gentleman from Indiana [Mr. HAMILTON], chairman of the Committee on Foreign Affairs.

Mr. HAMILTON. Mr. Chairman, I thank my friend and colleague, the gentleman from Indiana for yielding.

Mr. Chairman, I rise in strong support of the Roemer Amendment to delete funding for the space station project.

I. DOMESTIC REASONS

I oppose the space station project primarily for domestic and fiscal reasons:

First, funding of the space station project will have an adverse impact on other worthy scientific and space programs in the NASA budget.

Second, it is not fiscally responsible to move ahead with the space station at this time. To accommodate the space station, other important accounts in this appropriations bill—and future appropriations bills—must be cut;

Third, the cost of the space station program continues to rise. The station has been redesigned at least five times. It has suffered from delays and significant cost overruns. Cost projections run as high as $75 billion; and

Fourth, the scientific community is divided on the need for this space station. Many experts state that the space station cannot achieve the basic research requirements for which it is intended. The scientific merits are not persuasive.

II. FOREIGN POLICY REASONS

I also oppose the space station project for foreign policy reasons. The Administration has made several claims about the foreign policy value of this project. I am not convinced. This project is peripheral to United States and Russian policy objectives.

I meet with Russian officials all the time. I hear testimony from the Administration on Russia all the time. I certainly do not ever remember the space station mentioned as a priority by Russians. I do not ever remember it mentioned as a priority for U.S. policy—until recent months. Suddenly, it has become a priority.

Second the space station is neither consistent with the goals of U.S. policy toward Russia, nor the purposes of U.S. assistance.

Look closely at the Freedom Support Act. The purpose of U.S. assistance is to support democracy and market economic reform. Nowhere is space cooperation listed.

Look at the most successful U.S. assistance projects in Russia. They support privatization.

Our proposed partner in this space station project is the Russian Space Agency, a large state enterprise.

The United States will be spending $100 million a year over 4 years to support a Russian state enterprise—directly contradicting the goals of U.S. policy and assistance toward Russia.

Look at how the United States provides assistance to Russia. We fund exchanges. We provide technical assistance. We do not provide cash transfers. This $400 million is a cash transfer. We will have little ability to keep track of how that $400 million is spent.

Third the foreign policy assumptions governing this project are unrealistic.

Each of us want to see a steady, forward trend, in U.S.-Russian relations. But that is not something we can count on, given the time fame of the space station project. No one can ensure that U.S.-Russian relations will be stable through the year 2002, or the subsequent 30 years of the space station's operation.

The next time there is a crisis in U.S.-Russian relations, the space station will be a tempting target for cancellation.

The next time the Russians sell missile components outside the Missile Technology Control Regime guidelines, the space station will be a target for sanction.

Russia's proposed role is critical to the space station's completion. If Russia falls out of the project because of politics, the project itself will fall apart—unless we obtain significant additional commitments of time and U.S. resources.

Fourth, there are other, important scientific and technical areas where we can—and do—cooperate with Russia.

We are cooperating on weapons dismantlement and nuclear reactor safety programs that are directly in the U.S. national interest.

Aerospace cooperation is already taking place between U.S. and Russian firms exactly where it should take place—in the private sector.

III. CONCLUSIONS

In summary, I do not accept the foreign policy arguments that have been made for the space station.

Our space cooperation with the Soviet Union in the 1970s did not transform or transcend the political relationship. Each of us remember Apollo-Soyuz in the 1970s. When our relations with the Soviet Union fell apart in the 1980s after the invasion of Afghanistan, space cooperation lapsed.

This space station project does not stand on its merits in the domestic debate. It does not stand on its merits in the foreign policy debate.

Space cooperation is peripheral to strong U.S.-Russian relations. Space Cooperation will be among the first casualties if those relations should fall apart.

I urge support for the Roemer Amendment.

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Mr. STOKES. Mr. Chairman, I yield 1½ minutes to the gentleman from Alabama [Mr. CRAMER].

Mr. CRAMER. Mr. Chairman, I rise on behalf of the fine NASA employees around this country, the contractors who have in many cases given their careers and even lives on behalf of the manned exploration program. I rise in strong opposition to the Roemer amendment.

I want to say to my colleagues, this is the seventh time in the last 3 years that we have voted on this issue. At some point we have to, as Congress, decide that we want to let this agency do what it does and what it has given us in the past.

To hear the arguments tonight, we would think that this is a program that has given us nothing. NASA has given us a lot and has benefited many for years in ways that we cannot even calculate today.

I say that this is a space station that is worthy of the support of this body. Nothing has changed in the last year to merit another vote on this issue. In fact, the advisory committee that was appointed to look at the redesign of the space station, referred to as the Vest Committee, Charles Vest, president of MIT, just a few months ago, upon review of this program, said, "This program has been dramatically reorganized and has progressed to an extent that has greatly exceeded my expectations. There has been an absolute sea change in the management and organizational structure of this program."

That is quite a turnaround. This committee has done a yeoman's job with this issue. I congratulate the gentleman from Ohio [Mr. STOKES] and the ranking member as well, the gentleman from California [Mr. BROWN] in the authorizing committee that I am a member of, the gentleman from Wisconsin [Mr. SENSENBRENNER] as well. We have put NASA through every hoop that it must jump through, and it has jumped through that hoop. We have redesigned this program. It is a better program. Let us support it and get off NASA's back.

Mr. LEWIS of California. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS of Texas. Mr. Chairman, I rise in strong opposition to the Roemer amendment.

Let us put this in perspective. The Space Station accounts for one seventh-hundredth of the entire federal budget so funding for the Space Station amounts to about $8 per person, so for the cost of one pizza per year, each American can keep the Space Station on track.

Mr. Chairman, I rise today to support full funding for the NASA Space Station Program and oppose the Roemer-Zimmer amendment.

Let me point out to my colleagues that NASA's annual budget accounts for less than 1% of total Federal spending and that the space station accounts for 1/700th of the entire Federal budget. Funding for the space station amounts to about $8 per person. So, for the cost of one pizza a year, each American can keep the Space Station Program on track. In addition, every dollar spent on the space program returns about $7 to the Nation's economy.

Its important to remember that technology developed to support space flight and space-based research is already improving the quality of medical care we receive right here on earth. A few examples of these medical "spin-offs" include:

NASA research has led to a 3 inch implant for delivering insulin to diabetics. The implant provides more precise control of blood sugar levels, and frees diabetics from the burden of daily insulin injections.

NASA developed instruments to measure bone loss and bone density that do not require penetrating the skin; such instruments are now being used by hospitals nationwide.

The "cool suit," developed for the Apollo Program, is now helping to improve the quality of life for some multiple sclerosis patients.

The space station is responsible for more than 40,000 jobs nationwide, and the aerospace jobs created by the space program pay an average of $43,000 a year. Aerospace is the U.S. economy's single strongest export sector, with 1992 exports topping $45 billion.

The Space Station Program has long benefited, and continues to benefit Americans, and all mankind, in areas as diverse as medicine, telecommunications, industrial production and basic science. Killing the Space Station Program would kill these benefits. Please support the Space Station Program by opposing the Roemer-Zimmer amendment.

Mr. ZIMMER. Mr. Chairman, I yield 2 minutes and 30 seconds to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, I rise in strong support of this amendment. When debating the pros and cons of the space station, we are at no loss for cute phrases like "fiscal black hole," "pigs in space," "lost in space," "costs are exploding out of the world." The list goes on and on.

But for all the humorous cliches and one-liners, let us not forget what a serious and expensive issue this really is.

Mr. Chairman, when the idea of building a high-technology research station in outer space was first conceived 10 years ago, it was given a $8 billion price tag and it would be in orbit this year. I worked at the Office of Management and Budget back then, and I can remember well the arguments both for and against the station. I had some questions about the costs and the mission for such a project back then, but my view was overruled.

Here we are now, 10 years later, the cheapest version of this is going to cost still over $70 billion to build and operate for the next 10 years. And we are not even close to launching a single part of this station into space.

Judging by the higher costs that have already taken place, who knows what the final price tag will be?

The American people are asking us to make some tough choices. And this space station, whether you call it freedom or alpha, frankly, I would prefer to call it spam, because that is pork in a can.

We have a $200 billion deficit, with so many big problems to solve right here at home.

Highly respected scientists have questioned the real benefit of a manned space station. They have repeatedly stated that experiments that would be conducted in this orbiting lab would serve no pressing scientific need whatsoever and would, in fact, take away scarce dollars from more worthy projects.

Just this week I met with a number of university presidents complaining strenuously that money for research in universities is being cut dramatically. We still cannot even keep up with inflation for medical research. We have proven that we can send people to the Moon. Let us prove that we can cure diseases, robbing millions of health and happiness he on Earth.

Let us prove that we can solve problems like hunger and homelessness, joblessness and lack of decent health care and an educational system in need of reform. Ventures like the space station can wait, but the health and the education of our people cannot.

Mr. STOKES. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, I rise today in strong opposition to the Roemer-Zimmer amendment.

Every Member of Congress should be perfectly clear about what in fact the Roemer-Zimmer amendment would and would not do.

To start, it would not cut the budget deficit. Nor would it redirect NASA funds to the Veterans Administration, or for public housing, or for any other program under the jurisdiction of the VA, HUD, and Independent Agencies Appropriations Subcommittee.

What the Roemer-Zimmer amendment would do, is re-arrange priorities within NASA. Specifically, this amendment would prohibit funds appropriated by this H.R. 4624 from being used for further development of the space station.

In other words, this amendment assumes that the Clinton administration, NASA, our own Science, Space, and Technology Committee and the appropriations Subcommittee for VA, HUD and independent agencies are dead wrong about what the priorities should be for this Nation's space program.

Mr. Chairman, I could not disagree more, and I urge those of my colleagues who, like me, believe that U.S. competitiveness is tied to our pushing the Nation's technology envelope—as we most certainly will do during construction of the station—to oppose this amendment.

I also urge Members to vote against Roemer-Zimmer if they are at all concerned about the growing gap between the level of Japan's investment in advanced research and development, and our own, and the growing trade deficit that has resulted from that gap.

I believe that Members should vote for the space station because it is an incredible testbed for advanced technologies which will drive U.S. success in industries such as aerospace, materials, power efficiency, robotics, electronics, and remote sensing.

For instance, the challenge of protecting our astronauts and their equipment from the harsh environment of space—radiation, atomic oxygen and extreme temperature changes—will lead to the development of advanced, longlife structural materials, coatings, lubricants, and mechanical devices, which will enable longlife unattended operations of power stations, environmental monitoring stations, scientific and military observation posts in remote areas.

These and many other technologies developed during construction of the space station will make a critical contribution to the Nation's ability to maintain the leading edge in high-technology innovation. The importance of retaining international leadership in this area should not be underestimated.

In the end, Mr. Chairman, this vote is essentially a question of priorities. When it comes to the issue of our space program, I tend to agree with the leaders of the science community, NASA, industry, labor and our Science Committee when they say that this is the most important way to spend our limited NASA dollars. I urge my colleagues to consider the importance of these priorities, and to oppose the Roemer-Zimmer amendment.

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Vote for the space station, because it is an incredible testbed for advanced technology which will drive U.S. successes in industries such as aerospace, materials, power efficiency, robotics, electronics, and remote sensing.

In the end, Mr. Chairman, this vote is essentially a question of priorities. When it comes to the issue of our space program, I agree with the leaders of the science community, NASA, industry, labor, and our Committee on Science, Space, and Technology, and I urge my colleagues to oppose the Roemer-Zimmer amendment.

Mr. ROEMER. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. KLEIN], a valuable member of the Committee on Science, Space, and Technology.

Mr. KLEIN. Mr. Chairman, I rise in strong support of the Roemer amendment.

If we had unlimited resources, it might, it might be a good expenditure of money to go on with this program, a program that almost all of the experts say will yield little or no scientific benefit that could not be achieved either on the ground or through unmanned space flight. Unfortunately, Mr. Chairman, we do not have unlimited resources.

Mr. Chairman, I would rather spend the $75 billion that this program will cost in programs that will yield jobs and will improve the quality of life for Americans, programs like medical research, programs like energy research, programs like environmental research. Yes, Mr. Chairman, manned space flight will make us feel good, but I would rather spend the money making us feel good by improving the quality of life right here in America.

Mr. STOKES. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. TUCKER].

Mr. TUCKER. Mr. Chairman, I thank the gentleman from Ohio [Mr. STOKES] for yielding time to me.

Mr. Chairman, I rise in opposition to the Roemer amendment and in strong support of the VA/HUD appropriations, and in particular the space station. This body will have an opportunity to support a vision for a better quality-of-life in America, funding for the space station. Last year the space station survived a killing amendment by one vote. We face a tough vote to fund this most important project, and keep the vision alive.

Over the years the space station has seen many peaks and valleys, I think that NASA is now on the right track and is moving toward the goal of a manned space station. NASA has brought in the Russian space program in an unprecedented move of international cooperation. Why should NASA have to reinvent the wheel when we can use the best minds of the United States and Russia?

The economic growth surrounding the space station is tremendous. We hear about the $70 billion price tag but nationally there are an estimated 55,000 jobs generated by the space station. Now that the cold war is over and has been over for a couple of years and the Defense budget is showing the effects of it, this country needs to have a strong space program once again. The space station will be the cornerstone of a strong space program. Decades ago this country had a vision of space travel and I think the vision has been clouded in the last few years. A yes vote for the funding for the space station program will clear the clouds around not only the space station but the entire space program.

NASA has quote, unquote "reinvented" itself. They have gone back and looked at itself and streamlined, they cut overhead and contracting. NASA has done a good job with streamlining the project, Congress has put a budgetary cap on funding for the space station, $2.1 billion a year. We need to give the space program a green light about the space station. I urge Members to vote no on the Roemer/Zimmer amendment. If the space station funding is cut what will be cut next year? Possibly the space shuttle? I do not want to see this domino effect happen to NASA's program.

Mr. Chairman, I strongly support the space station and I strongly commend the work of the distinguished gentleman from Ohio [Mr. STOKES].

Mr. LEWIS of California. Mr. Chairman, I yield 1 minute to my colleague, the gentleman from California, Mr. RANDY "DUKE" CUNNINGHAM.

Mr. CUNNINGHAM. Mr. Chairman, imagine, put yourself back a couple of hundred years and I was Christopher Columbus asking for financing for the Nina, the Santa Maria, and the Pinta. There would be argument about finances, but there was a disagreement, and the government supported that dream, and the rest is history.

Last week, Mr. Chairman, the Women's caucus, made up of Republican and Democratic women, took a bunch of us men to a dinner—or actually a luncheon held—sponsoring Dr. Becker of Florida that talked about cancer research and multidimensional cell research that is going to lead to cancer. You cannot look at a cancer cell, multidimensional, here on Earth; you cannot even grow it the way we can in space. Whether it is AIDS, whether it is cancer research, or whether it is Alzheimer's let us support it and oppose the Roemer amendment.

Mr. ZIMMER. Mr. Chairman, I yield 1 minute to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I have listened to this debate with great interest. As a matter of fact, I have had great interest in it since last year. However, Mr. Chairman, I am concerned about the direction that this debate has taken. It sounds as if when one is not for the space station, somehow you are not for research, somehow you are not for NASA. That is not the case. That is not the case at all. Indeed, we are continuing to fund NASA. I hope we continue after this to fund NASA.

The previous gentleman said, "What will be next?" I do not think anything will be next, except to support research. I am for basic research. Our military research has gone down. I am for the space program. I am for NASA.

The gentleman from Texas talked about the benefits we have had from the space program. They have not come from the space station because there has been no space station. We have spent tons of money on an elusive space station that is not there. We ought to be spending our money within NASA for things that are in fact successful, instead of continuing to put money in something that has indeed proven unsuccessful.

Mr. Chairman, I support the amendment.

Mr. ROEMER. Mr. Chairman, I yield 1 minute to the gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VELÁZQUEZ. Mr. Chairman, I rise today in strong support of the Roemer/Zimmer amendment.

The question here is not whether in the abstract there is any value to a space station or not, but how it stacks up in terms of our national priorities. I ask you, does it make sense to spend $1.9 billion this year in public housing for a few astronauts when hundreds of thousands of individuals and families are living on the streets? That $1.9 billion would be on top of the $11.9 billion that we have already appropriated for the space station.

It is time that we stop pouring more of our limited funds into a luxury hotel in the sky, and instead put more dollars into public and assisted housing here on the ground. The space station may have some scientific promise, but given the critical needs we confront here on Earth, it is one that we simply can no longer afford.

Mr. Chairman, I believe this amendment is an important first step in reordering our national priorities. I urge my colleagues to support the Roemer/Zimmer amendment.

Mr. STOKES. Mr. Chairman, I yield 1½ minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Chairman, last year in a very close vote in the House I voted to terminate the space station project. I cast that vote because I believed that in setting priorities in a difficult budget climate we could not afford to spend the sums necessary to go forward with the space station. But, the collective wisdom of Congress was to move forward with the project.

Today, I will be voting for space station funding. I am convinced that NASA used the wake-up call delivered by the House last year to dramatically change the project, to address Members' concerns, and to present us with a very different case for funding this year. A few key facts highlight just how different this project is:

Total costs through to completion of the station in 2002 have been cut from more than $24 billion to about $17.5 billion.

Power on the station has been increased from 68 to 110 kilowatts; 4 pressurized modules have been added, almost doubling the volume in the station; and crew size has increased from 4 to 6 persons.

A single contractor, Boeing, has been named to take responsibility for moving the project ahead in a timely and businesslike fashion.

Finally, Russia, our world's other leader in space exploration, has been brought on as a full international partner. This addition has allowed for much of the new station's added capacity and reduced costs, while serving our Nation's most critical, long-term foreign policy goal.

While the space station project has been through several redesigns since 1984, this overhaul has finally brought the changes necessary to give the project the clear mission and purpose essential to its success. We also now have the capability to get the job done at a cost this Nation and its international partners can bear.

This space station will continue America's preeminent leadership in science and technology, enhance our Nation's economic competitiveness, dramatically build international cooperation, and provide a powerful tool for educators to excite generations of children around the world.

I have been particularly heartened by the conclusions of the independent, expert panel assembled by NASA to critique the redesign. Dr. Charles Vest, the president of M.I.T. and chairman of the panel, stated:

> I was absolutely stunned at how much change has been brought into the management and operation of the program. They seem to have by and large gone quite far down the path of implementing all of the things that we recommended in terms of management of the program.

I am convinced that the space station program before us today is a very different and much improved project—compared to the one I voted against last year. At the same time, I think there is a second significant consideration we all must weigh with regard to today's vote.

At some point we must decide to move ahead with this project or kill it. I believe last year was the critical point. Refighting this fight each year only makes it more difficult for NASA to take on its greatest challenge in an efficient or reasonable manner. We owe it to the dedicated men and women who have devoted their extraordinary talents to make this project work to give them a decision. That decision was made last year.

At this point, I believe we should stand behind the past decisions of Congress and give the space station the support it requires. I would urge my colleagues to join with me in moving this project ahead.

Mr. ROEMER. Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. COPPERSMITH].

The CHAIRMAN. The Chair would urge Members who are yielding time to be ready to yield their time or to yield it back.

Mr. ROEMER. Mr. Chairman, instead of the gentleman from Arizona, I do not think he is quite ready with his very brilliant remarks, and I would yield to the gentleman from Wisconsin [Mr. BARCA], who is ready with his brilliant remarks.

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Mr. BARCA of Wisconsin. Mr. Chairman, this is not a bad project. This is a good project. I believe the administrator, Dan Goldin, has done an excellent job in trying to correct the abysmal performance of NASA that they have demonstrated in the past at this project. If we had better fiscal conditions, if we had a balanced budget, I would support this. Some of the opponents are absolutely wrong when they come to this floor and say this will not be deficit reduction. This is $70 billion.

Mr. Chairman, some of this will be reallocated to science and research as it should, but most will go to reducing our deficit. Every day we hear people in this well exhorting us to take the deficit seriously with their $2 million cutting amendments. In many cases I applaud their efforts, but we need a thousand $2 million amendments in order to come close to the cost of this project.

Mr. Chairman, this is too expensive. We have had too checkered of a past. Let us vote for the Boemer-Zimmer amendment.

The CHAIRMAN. The Chair will announce that he will call in the following order the gentleman to yield:

The gentleman from Ohio, [Mr. STOKES], the gentleman from New Jersey [Mr. ZIMMERMAN], the gentleman from California [Mr. LEWIS], and the gentleman from Indiana [Mr. ROEMER].

The gentleman from Ohio [Mr STOKES] has 8½ minutes remaining, the gentleman from New Jersey [Mr. ZIMMER] has 7 minutes remaining, the gentleman from California [Mr. LEWIS] has 8½ minutes remaining, and the gentleman from Indiana [Mr. ROEMER] has 7 minutes remaining.

Mr. STOKES. Mr. Chairman, I yield 2 minutes to the gentleman from Texas, Mr. CHAPMAN, a member of the subcommittee.

Mr. CHAPMAN. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I want to in this forum thank our chairman for his hard work in crafting a balanced bill and one in which I believe contemplates not only a balance throughout the agencies that we fund but in this particular case creates the availability in funding to do space station, and I believe we ought to do it.

Mr. Chairman, the Roemer amendment should be defeated. Space station is about our national vitality, undertaking new challenges and fostering a national spirit of excellence. It is about American competitiveness and supporting the favorable balance of trade in our aerospace industry.

This space station project will contribute to high technology and engineering by accelerating breakthroughs and technological prowess in space, and in U.S. products and services here at home. It will contribute to our knowledge by promoting our understanding of our planet and the universe, our employment by directly or indirectly creating 50,000 jobs, tapping the services of over 2,000 businesses, and providing activity in 36 States across this great land.

Mr. Chairman, the space station program will contribute to our education by stimulating youth in math, in science, and engineering, and by supporting a technically competent work force for the future of this country.

The space station most of all will contribute to and is about our quality of life by developing products which will contribute to our life on Earth in areas of medical research, materials, life sciences, robotics, in advances in technology, in making life better that have been detailed here on this floor in this debate.

Mr. Chairman, Theodore Roosevelt once said that we must move forward. We should. This is about science, it is about the future of this country. We should defeat the Roemer amendment and support the space station in this bill.

Mr. LEWIS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from New York, [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, the space station has been scaled down in terms of bureaucracy and enlarged in terms of science. I urge its support and the defeat of this amendment.

Mr. Chairman. The space station—scaled down in terms of bureaucracy, enlarged in terms of science—has developed into a truly global project with a clear purpose. Moreover, at the helm is a reengineered, more efficient NASA that is aligned to balance the project with other important aspects of its mission.

In short, the space station deserves to be a top priority. It is worth the price tag required for success. Edwin Powell Hubble once said, "Equipped with his five senses, man explores the universe around him and calls the adventure science."

The space station extends not only our senses, but also our imaginations. In addition, to providing a world-class orbiting laboratory, the space station will afford the United States and other participating nations the opportunity to pursue: The spacefaring technologies of tomorrow; a better understanding of the human body; peaceful international cooperation; inspiration for our children, and hope for the future.

It is not just the Russians who have joined hands with us in the venture that represents a vivid departure from the threatening tensions of the cold war. We have forged ahead with help from the Canadians, the Japanese, and the European Space Agency, which includes nine nations. All told, other countries have provided more than $3 billion toward the project, which will provide a scientific space platform for at least 15 years and most likely more.

The space station is, in fact, the largest international scientific collaboration ever, the embodiment of what distinguished thinkers like Linus Pauling have meant when they have expressed the sentiment that "we need to have the spirit of science that in international affairs, to make the conduct of international affairs effort to find the solution."

We also should recognize important changes NASA has made in response to problems threatening the space station. The agency has restructured management to streamline the redesign process, improve efficiency and reduce the workforce.

In closing, I want to reiterate my strong support for the space station, a project that deserves to be fully developed and implemented for the profound benefits it can ultimately provide the Nation. I urge you to join with me in opposing any amendment that would kill the space station.

Mr. LEWIS of California. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana [Mr. BAKER].

Mr. BAKER of Louisiana. Mr. Chairman, on the afternoon of July 16 at 3 o'clock eastern time a cataclysmic event of immense proportions in our solar system will occur when the Shoemaker-Levy 9 comet plunges into the surface of Jupiter creating circumstances which scientists cannot yet predict the outcome.

Some may question why is this of significance. Some years ago the Galileo spacecraft was launched without knowledge of the comet's existence and it will be the only scientific instrument with direct observational capabilities.

More importantly some 65 million years ago at the beginning of the Cenozoic era many believe and some strongly believe that it was such a similar event when a comet struck the surface of the Earth that life forms across species were eliminated. The Leviathans of the Earth, the dinosaurs became extinct as the result of such impact.

We do not yet know the consequences of small investments in science and technology. As long as mankind has the intelligence to explore space and we have the people with courage to take that first step on what is becoming a discount mobile home circling our globe, I think we owe it to our future, not simply to taxpayer concerns about every dollar we can save, we owe it to our future to save every opportunity for the expansion of man's knowledge.

Mr. ROEMER. Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. COPPERSMITH].

Mr. COPPERSMITH. Mr. Chairman, it must be a good thing the space station is supposed to be out in space, because supporting it requires Members to contradict their statements and prior positions here on Earth.

Consider the Russian participation. Members who oppose foreign aid to Russia and the other newly independent states by supporting the space station, will vote to send far more money to Russia than in the foreign aid they opposed. This money will be used not to build a market economy, not to build democracy, but instead will go to the Russian military-industrial complex.

Consider deficit reduction. Members who think it a sin to spend any money here on Earth, whether for education, for vaccinations, or for research close their eyes and say it is fine to spend money in space.

Consider program accountability. Members who demand results for programs here on Earth will accept programs in space on faith and speculation, particularly a program whose justification and specifications change each year.

Mr. Chairman, the space station, as has been said before, is good. But we must recognize that it is simply not good enough. Too many government programs have not shown results. We have had the courage to terminate some of them. I hope we have the courage tonight to recognize that after 10 years and $11 billion spent, with nothing in orbit to show for the money, and with billions more to go, not just to build the station but also to operate it, the space station is simply not good enough.

Please support this amendment. Members who do will not only be right, they also will be consistent.

Mr. STOKES. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Florida [Ms. BROWN].

Ms. BROWN of Florida. Mr. Chairman, I rise in strong opposition to the Roemer amendment which will terminate the space station program.

With the tough fiscal constraints on the Federal budget, it is important for us to stretch every dollar to ensure that the American people get their money's worth. Space station will cost each American taxpayer $9 a year about the same as a night at the movies. Every dollar put in space programs returns at least $2 in direct and indirect benefits.

And what will we get in return for our money. Scientific, education, and international benefits from the space station will far outweigh its costs.

The space station will be the largest and most advanced international laboratory ever built for research in space. More than 600 experiments have already been proposed for the station which will build on the proven medical research already conducted on the space shuttle.

The space station will inspire a new generation of Americans to explore and achieve while pioneering new methods of education to teach and motivate the next generation of scientists, engineers and explorers.

In the next century, America's economy will be a multi-cultural, multi-racial work force of men and women with interdisciplinary technological skills. NASA programs, including the space station, provide both the inspiration and the means for minority students to pursue careers in science, engineering, astrophysics and related fields.

The space station is a sound investment in NASA and our future. The American people support the space station and they believe that the U.S. should spend whatever is necessary to maintain U.S. leadership in space. President Clinton supports it. Today, we should support it.

Mr. ZIMMER. Mr. Chairman, I yield myself 2 minutes to deal with some very important issues that were alluded to by the gentleman from Wisconsin [Mr. SENSENBRENNER]; namely, whether the Russians are in the so-called critical path, and to what extent involving Russia has increased the risk in this program.

I commend the gentleman from Wisconsin [Mr. SENSENBRENNER], for his hard work to try and make this program independent and less risky, but it has not been fully successful, because we still rely very heavily on Russian rockets to launch the space station and keep it from crashing back to Earth. We are relying on a rocket called the Progress X which Russia has not yet developed. The Zenit rocket which is intended to be used for resupply flights is being manufactured in Ukraine with which Russia has rocky relations. Russia has looser standards for protecting their spacecraft from orbital debris and because we are putting our joint space station at a higher inclination, we have doubled the risk of collision with orbital debris because of the accommodations we had to make with the Russians.

□ 2020

Another consequence of the joint project is that we now only have a 5-minute launch window every day to get our payloads up into orbit to join with that space station. It had been, a 50-minute window. That means that we are either going to have to risk the safety of our astronauts or we are going to incur enormous amounts of money skipping day after day as we get to that launch window of 5 minutes per day.

There is the untested fuel tank that has to be developed in order to lighten the weight of our shuttle to deliver a full payload to the higher inclination orbit, and there are a number of other major concerns that still remain. So I believe it would be a very grave error to continue this program as long as it is so dependent on Russian involvement.

Mr. Chairman, I reserve the balance of my time.

Mr. LEWIS of California. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. STOKES. Mr. Chairman, I yield 1½ minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, John Kennedy challenged Congress. Ronald Reagan, in fact, challenged Congress. Congress delivered. America's space program is number one in the world.

And opponents tonight say when you find yourself in a deep hole, stop digging. That makes some sense. And they are honorable.

I say, as an old quarterback, when you are winning you never, never turn the ball over to your opponent. America is winning.

Number one, scientists, engineers, astronauts, teachers, space industry, companies, 50,000 workers that are saying to Congress tonight, "Do not surrender. Do not throw in the towel. We are winning."

Folks, I am not going to take all of this time.

What Congress has to do is finish something we start, and let the world recognize that. And it is time for Congress to look the world in the eye and say, "When you get to outer space, you will be beamed up by the U.S. Department of Commerce and the Boston Pops Orchestra playing 'The Star Spangled Banner,' because we are going to do it." And that is the determination we need.

There are 50,000 workers out there. There are companies in every part of this country that have made a commitment to the space station.

The least the Congress of the United States can do is meet the challenge as well.

Kennedy challenged us. Reagan challenged us. Clinton is there with that similar challenge.

Republicans and Democrats alike, Congress, past Congresses have delivered. Let us do our fair share. Let us pass the space station.

The gentleman from Indiana [Mr. ROEMER] is a fine Member, but I think we should defeat this soundly.

Mr. ROEMER. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I would think my colleagues would be careful when the gentleman from Ohio, who just spoke, has joined the overwhelming majority and falls in line. People should think that maybe there is something odd going on here.

What is odd is at a time when people are talking about the necessity of reducing the deficit in the budget and finding desperately needed funds to fight disease, to fight crime, to deal with other problems, we indulge ourselves as we do here.

Space exploration is important. But putting a fully manned platform up there on a permanent basis is not a mission driven by science or scientists. As the gentleman said, it is for prestige. It is so people who go up there can hear the Boston Pops Orchestra playing. I will personally give them CD's if the ethics rules allow of the Boston Pops. It would be much cheaper than to spend the tens of billions involved here.

Remember what we are talking about. We are talking about our commitment to human life. If we make that space exploration safe for human beings because we are so committed to human life, we will spend an enormous amount of money that does not have scientific justification, that is not driven by experimentation or by industrial spinoffs. It will be driven solely by the need to make it safe.

On a cost-analysis basis, the additional money that it will cost us to put people there does not even pretend to have scientific justification. It is a justification of prestige.

My friend said we are No. 1. Sure, we are No. 1. Who did we beat? Iran? Belguim? Kazakhstan?

Competition does not get you as much as it used to. There is no other superpower. So we do not have to engage in that kind of competitive operation. We can do what needs to be done.

I will say this, if you vote against this amendment, I do not understand how you then go tell people you want to reduce the deficit, increase funds for crime, and do all of those other things. That is specious.

Mr. STOKES. Mr. Chairman, I yield 1 minute to the gentleman from Texas, Mr. GENE GREEN.

Mr. GENE GREEN of Texas. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, this next month is the 25th anniversary of NASA's Apollo Moon Mission. It seems appropriate that tonight we are celebrating that landing on the Moon, and we are recognizing that we are having to make that decision again.

I serve, like the sponsor of this amendment, on the Committee on Education and Labor, and I spend a lot of time in our public schools. Each time I go to our public schools in an inner-city district like I represent, when I talk about the space program or the space station, those children's eyes light up. Their eyes gleam, because they know it is their future even though they have to worry about the day-to-day existence.

I would urge you to vote no on the Roemer amendment. Do not take that sparkle out of our children's eyes, because it is their future that we are voting on tonight, their future, their research that they will be doing, just like the Moon program 25 years ago sparked a great deal of more physics students.

By making the right decision tonight and voting down the Roemer amendment, we will do that for our children in our elementary schools.

PARLIAMENTARY INQUIRY

Mr. ROEMER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ROEMER. Mr. Chairman, who has the right to close?

The CHAIRMAN. The gentleman from Ohio [Mr. STOKES] has the right to close.

Mr. ROEMER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, much has been said about the dream of Apollo, and it is and it was a glorious dream.

This paper appeared or a similar headline, "Men Walk on the Moon," which appeared all over the United States.

I cannot tell you, as a 12-year-old, how impressed I was watching it on a black-and-white television and reading about it. I remember vividly watching it, because I was limited to how much TV I could watch every night, a half an hour. Yet my parents said on this momentous historical occasion we could watch this late into the night. There were no limits.

I remember, after watching the television, walking outside into the backyard, looking up to the Moon and thinking that there was a man on the Moon and that we could do anything. We could do anything; anything was possible for people.

□ 2030

Yet now, Mr. Chairman, we are thinking of trading in the dream of Apollo for a Yugo, for mediocrity, for a pedestrian space station that cannot achieve the glory and the dreams of what we did 25 years ago.

We should not settle for science that is half-baked, science that does not achieve all that we want it to. We can push for more in this legislation and NASA, and we should not settle for a space station that has moved from 8 scientific objectives to only 1½. It has been said by a diplomat, Carl Scherz, Mr. Chairman, he said back 120 years ago, "America, when right, to be kept right; when wrong, to be put right."

We need to put this space station right. We need to put NASA right, and we need to put our American people as a priority and give them the right responses in this Congress.

However the votes turn out tonight, Mr. Chairman, the votes may be on the other side tonight, but the dollars in the budget are on our side. Let us not put another $2 billion or $4 billion into this mediocre space station that does not conjure up the dreams of Galileo and Fineman and Einstein and Newton, but conjures Machiavelli, a space station that is very cleverly put in different congressional districts, very difficult to cut but very little true science and true good.

I urge my colleagues to act tonight with the courageous vote to cut this space station and get this space program moving back into this direction that we made so many people proud of, including myself as a 12-year-old boy.

Mr. Chairman, I yield back the balance of my time.

Mr. STOKES. Mr. Chairman, I yield 1 minute to my friend and colleague, the gentleman from Ohio [Mr. FINGERHUT].

Mr. FINGERHUT. I thank the gentleman for yielding this time to me. I thank the gentleman who has done so much on this issue, my neighbor from Ohio and my good friend.

Most of the arguments that could be made about the space station have been made. I certainly associate myself with all those who say this is a vote about the future, and about the future of our country, about the future of our jobs, the future of our technology. But let me say on this particular amendment what I think are the three most compelling reasons to vote against the Roemer amendment.

The first is we have visited this issue time and time again. Just in the 2 years I have been in Congress we have voted on this three times. At some point I believe we should put this issue to rest. I believe it has been decided by this Congress. We support the space station, let us move forward and build it.

Second, I do believe we are going to build a space station someday. If we were to vote against this and we were to kill the space station, the Russians are going to move ahead, the Japanese are going to go ahead; they are going to go up in space and the Nation is going to suddenly wake up in alarm and say, "Look, they have beaten us into space. We now have to build a space station." We will build it 10 years down the road at greater cost than we would today.

Finally last year was a touch vote, it was a weighing against the deficit reduction. This is not deficit reduction. This is choice of priorities.

Mr. LEWIS of California. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. HOCHBRUECKNER].

Mr. HOCHBRUECKNER. Mr. Chairman, I thank the gentleman for the time.

Mr. Chairman, let me provide an opinion here as someone who comes from the industry. I worked for over 20 years in the aerospace industry, and I think we should hear a point of view from someone in that field. I am only one of a handful of people in the Congress from an engineering background. We clearly are trying to move from a defense-based aerospace industry into one producing better commercial products. The space station helps us to do just that.

Make no mistake about it, the low-tech jobs are leaving and our jobs future in the United States will rely very heavily upon producing better high-tech, commercial products. No one can predict the future products that will come from the space station, but we must invest in the future.

Stopping the space station is equivalent to eating our seed corn, and we cannot allow that to happen. So, please invest the money, let us give our engineers the opportunity to develop the new products, to make us more competitive in the world marketplace.

Please vote against this amendment and keep our engineering future bright.

Mr. ZIMMER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, America's space program will remain stuck in low Earth orbit as long as NASA persists in pursuing extravagant boondoggles like the space station. When the space station was proposed in 1984, it was going to cost $8 billion; it was going to perform a dazzling array of functions, and it was scheduled to be fully operational by 1992. It was going to give us a big edge in the space race against our mortal enemy, the Soviet Union.

By the early 1990's, however, the space station had already consumed that $8 billion, the Soviet Union was gone and with it our superpower rivalry. But the space station was not even close to being operational. It was allowed to continue simply because, as some Members have intimated this evening, it had become a huge Government jobs program.

Now the administration has another rationale for the space station: It tells us the space station will promote democracy and free markets in Russia while saving American taxpayers money. We have heard testimony in the Space Subcommittee from the State Department that there are absolutely no assurances that democracy and free markets will be promoted. As the chairman of the Committee on Foreign Affairs pointed out, the money will all go to state-operated enterprises in Russia and will probably strengthen the very forces we are trying to overcome as Russia tries to develop a democratic and free market society.

As for NASA's claim that the joint Russian-American space station will save the taxpayers $2 billion, the General Accounting Office released a study just last Friday that concludes that those savings are grossly exaggerated and may not exist at all.

This is not a $17.4 billion space station, as some would have you believe.

Here is what the space station will cost, according to NASA's own numbers. We have spent $11.4 billion on research and development so far. Those are sunk costs. We will spend $17.4 billion on future construction costs. We will spend $13 billion on operating costs; that is $1.3 billion for 10 years; and more if the lifespan of the project is longer. We will spend $29 billion on transportation costs to build, service, and use the space station.

Now, that is $70.8 billion. But NASA's sticker price really is not the full price. The price tag is going to be higher because NASA's estimate does not include the $438 million cost of upgrading the space shuttle so it can reach the space station with the full payload. It does not include the cost of the module to house the centrifuge, something that has not been mentioned tonight but is absolutely essential if we are going to do life sciences, research on the space station. It does not include the $100 million cost to us due to Canada's recent decision to reduce its contribution to the space station because Canada can no longer afford the cost.

Those are just the extra costs we can quantify. In addition, NASA is still negotiating the price of the contract with Boeing, the prime contractor, and it is still negotiating a contract with Russia over what exactly Russia will provide in the long run and how much more we are going to have to pay to Russia for that.

Mr. Chairman, the fundamental question before this House today is whether this orbiting boondoggle is worth the untold billions of American taxpayer dollars it will cost. I submit that it is not.

Mr. Chairman, we should cut our losses now; vote for the Roemer-Zimmer amendment.

Mr. LEWIS of California. Mr. Chairman, I yield 1 minute to my friend, the gentleman from New York, Mr. FLOYD FLAKE.

Mr. FLAKE. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise today to urge a "no" vote on the Roemer-Zimmer amendment. As many may be aware, I have previously voted against the Space Station Program. I did so primarily for economic reasons. I thought that our limited resources were better spent in other areas. But times are changing. I have, however, had a change of heart.

I recognize that spinoff technology in the areas of seminar software, industrial inspection systems, business software innovations, medical research, and other sciences to be compelling—compelling in the sense that all Americans benefit from this program. Furthermore, I recognize that America needs a presence in space. Without the space station, we will have wasted money not only in the program itself but in the resources and effort we have put into the Shuttle Program.

By voting for this amendment, we also fail to recognize the new international space station, partners, management reforms at NASA, and, despite skewed perceptions, we fail to recognize many NASA successes. I therefore urge you to vote against the Roemer-Zimmer amendment.

□ 2040

Mr. LEWIS of California. Mr. Chairman, I yield 1 minute to my friend, the gentlewoman from Florida [Mrs. MEEK], a member of the Committee on Appropriations.

Mrs. MEEK of Florida. Mr. Chairman, it is not often in a body such as this body that is steeped in tradition and institutionalism that one has a chance to do something that is good, not only for increasing the quality of life, but also for advancing in science and technology. I think each of us has that opportunity now because now we can either look forward to improving our scientific and technological knowledge in the future, or we can be mired in going back to the olden days.

Well, Mr. Chairman, it is time to go forward now. The time has gone to stand still and think about what was good 10 or 20 years ago. The space station is looking forward to the 21st century, and we must be a part of that.

This is a hard vote. The Congress is a place for those people who do not mind making a hard vote.

Vote yes for the space station.

Mr. STOKES. Mr. Chairman, I yield the balance of my time to the gentleman from California [Mr. BROWN], the distinguished chairman of the Committee on Science, Space, and Technology.

Mr. LEWIS of California. Mr. Chairman, I yield an additional minute to the gentleman from California [Mr. BROWN].

The CHAIRMAN. The gentleman from California [Mr. BROWN] is recognized for 3½ minutes.

Mr. BROWN of California. Mr. Chairman, I wish to rise in strong opposition to the amendment to terminate funding for the space station. While the amendment does not reduce the deficit, it does inflict serious damage to the balanced civil space program that I believe is an important part of the Nation's investment in civilian research and development.

Let me elaborate for a minute on the state of the U.S. investment in R&D. Quite frankly, the situation is worrisome. For the first time since 1958, Federal support of R&D will fall below 1 percent of gross domestic product. As defense R&D has declined, the investment in civilian R&D has not risen enough to compensate, and both have declined as a percentage of gross domestic product. Cancellation of space station would only exacerbate the situation.

Let us examine what the proposed amendment would do—and not do. First, while the opponents of the space station say that killing the station will help cut the deficit, the amendment that Members are voting on today does not reduce the deficit by a single dollar.

Second, in an argument that is somewhat contradictory to their deficit reduction argument, space station opponents assert that killing the station will free up funds for housing, veterans, and other important programs. However, the amendment does not provide a single dollar to any of those programs. The chart illustrates that their other accounts have already benefited greatly in the bill and there is no conceivable need for further reductions to NASA.

Third, space station opponents say that funding the station will squeeze out other important NASA programs in science and aeronautics. Members know that I have worked hard to ensure that funding for science and aeronautics is protected, and I would not support the space station if I believed that those programs were suffering. However, the simple fact is that the appropriations bill before House today contains full funding for the Science, Aeronautics, and Technology account. Thus, the amendment attempts to correct a nonexistent problem and increase funding in these areas above the requests of NASA and the President.

In reality, this debate is not about deficit reduction or about funding for social programs—it is about the future course of the Civil Space Program.

I strongly believe that the Nation's Space Program will be much more balanced and vital with a space station than without one. The space station is a central element of the Space Program, and the cornerstone of our future activities in human spaceflight. It truly is the next logical step in the human exploration of space.

The space station will be a valuable orbiting research facility on which significant scientific and engineering research will take place. Based on the results that have been obtained with the shuttle to date, it is clear that there is a vast potential for productive work in space. The microgravity environment of space offers truly exciting possibilities for meaningful research and development activities.

In microgravity, we are able to study fundamental properties and processes of materials in ways not possible on Earth. We can grow more perfect crystals of important proteins and learn how to alter them to preform better in the treatment of medical conditions. We can improve our understanding of the fundamental functioning of our biological systems.

However, the space station has an importance beyond its role as a research facility. It represents the world's largest cooperative undertaking in science and technology. It has become the centerpiece of the national space programs of Canada, Japan, and 10 European Nations. And it marks a historic realignment of the American and Russian Space Programs from competition to cooperation.

The importance of this realignment should not be underestimated. Cooperation in space between Russia and the

United States on the Space Station Program offers the promise of reduced costs for each nation. It also allows each nation to benefit from the strengths of the other's Space Program.

It is also clear that the benefits of the space station collaboration are not confined to space exploration. The Gore-Chernomyrdin agreements are strengthening the links between our nations and accelerating the process of reform in Russia. Equally important, the agreements have also helped make the world safer by reducing the prospects of proliferation of harmful technologies.

The House has voted on the space station numerous times and the position of the House has always been the same: The Space Station Program is important, is affordable, and is worthy of support. Nothing has happened to change that conclusion. I urge you to support the space station and defect the amendment to terminate it.

The CHAIRMAN. The gentleman from California [Mr. LEWIS], if he wishes, has 2½ minutes remaining, or he may yield it back.

Mr. LEWIS of California. Mr. Chairman, I yield myself the balance of the time, not to close the debate on this amendment, but rather because we are closing debate very quickly on this entire bill. Mr. Chairman, I want to take just a moment to express my deep appreciation for the work of my colleagues who have been so helpful on this bill.

Mr. Chairman, let me say this, that there really have been two portions to this bill. There has been the space station, and, on the other hand, there have been all these other very, very important programs, our housing programs, veterans programs, vital programs that relate to the work of EPA. I want to express my deep appreciation to my colleague, the gentleman from California [Mr. BROWN], for his work on all of this, to the gentleman from Wisconsin [Mr. SENSENBRENNER] and to the gentleman from Pennsylvania [Mr. WALKER], who have been so helpful in this process.

But, Mr. Chairman, I especially want to express my deep appreciation one more time to the gentleman from Ohio [Mr. STOKES] and his fine staff for their cooperation in this effort. Tonight, I believe, space station is going to be successful. I hope it is overwhelmingly successful. It is important that we set the record straight on just a couple of items.

□ 2050

It has been said time and time again that space station was stealing from other science programs. The fact is that nothing could be further from the truth, that nobody but nobody with credibility suggests that if we eliminate space station, that money will automatically be going to be transferred to other science projects. Indeed, it is this Member's judgment that space station going down would destroy all of NASA's programs.

Mr. Chairman, our country is at its best when it focuses on very important programs that affect us here at home, such as our housing and veterans programs. But our Nation and our world have been at their best when people look beyond their horizons to their future. That portion of the bill that deals with station indeed is looking to the future of mankind. I urge my colleagues to recognize that as they give not just support for station, but to the entire bill as well.

Mr. TORRES. Mr. Chairman, I rise in support of the action taken by the Appropriations Committee to fully fund the Cassini and AXAF programs.

These two programs are top priority planetary exploration and astrophysics missions.

AXAF is an x-ray observatory designed to view some of the most intriguing and energetic celestial objects, such as black holes, quasars and the remnants of exploded stars. AXAF will probe fundamental questions about the origin and fate of our universe.

The Cassini mission to Saturn and its moon, Titan, will investigate crucial questions about the formation and evolution of our solar system.

Two years ago, in response to increasing Federal budget pressures, both AXAF and Cassini were restructured to reduce costs substantially while maintaining scientific integrity. Both programs are approximately half completed and are outstanding examples of NASA's commitment to maximizing return for the taxpayer's dollars.

AXAF and Cassini are challenging and visionary missions. They are an investment in our technological future and will inspire and motivate the next generation of scientists, engineers and computer specialists. AXAF and Cassini will provide over 1,000 high-tech jobs in California alone, and will also provide significant numbers of jobs in other areas of the country. Our international partners are also very enthusiastic about their collaboration on these missions.

AXAF and Cassini are cornerstones of the new NASA. These are programs of the highest scientific merit which will maintain our country's preeminence in space science. I commend Chairman LOUIS STOKES and ranking minority member JERRY LEWIS, for producing a bill that, under difficult budgetary circumstances, supports a balanced NASA program which includes adequate funding for space science, mission to planet Earth and the space station.

Mr. DICKS. Mr. Chairman, I rise in strong opposition to the amendment and in support of space station *Freedom*.

I recognize the magnitude of the investment required for this project and the difficulties the House faces with constrained resources. But space station is a unique laboratory in space that will provide a wide range of scientific technological, educational and economic benefits. Fundamentally it represents the future of manned exploration of space.

I am pleased to note that the program has been restructured to reduce cost and increase capability by streamlining management, reducing overhead and consolidating contractor accountability. These improvements were overwhelmingly endorsed by members of the President's Advisory Committee on Space Station. In the words of the Committee's Chairman, Dr. Charles Vest.

> There has been an absolute sea change in the management and organizational structure of this program. As you know, the Advisory Committee was extremely critical of the organizational structure that had evolved for Space Station Freedom. The new organization reflects both the recommendations of the Advisory Committee and the modern management practices brought to the table by Boeing, and is consistent with the themes of Reinventing Government.

The new partnership with Russia on this project is also critically important both to reduce program costs and to promote important foreign policy goals in assisting Russia's transition to a free market economy without dependence on ballistic missile exports. Despite rumors spread by station opponents that the cost of Russian participation was escalating wildly, NASA recently signed the contract for specific Russian hardware and services on schedule and for the exact amount estimated last year.

Critics also contend that station is squeezing out every other NASA effort. But the facts are that human space flight has declined from 47 percent of the NASA budget in fiscal year 1993 to 38 percent by fiscal year 1997. The percentage dedicated to Science and Aeronautical and Technology Research has increased from 34 percent to 42 percent of NASA expenditures.

Abandoning station now that we have efficient management, costs under control and a precedent setting agreement for cooperation with the Russians would be the height of folly. Oppose this amendment.

Mr. POMEROY. Mr. Chairman, today I rise to again support the amendment offered by the gentleman from Indiana [Mr. ROEMER] and the gentleman from New Jersey [Mr. ZIMMER] to eliminate funding for the space station.

Mr. Chairman, we all recognize that human space flight is a source of national esteem and prestige. In another era, we may have been able to support a program as costly as the space station. However, today the budget deficit threatens the very underpinnings of our Nation's economic security. The fact is, we cannot afford to nurse huge and hugely unsuccessful projects such as the space station through countless redesigns and perennial cost-overruns—in the meantime wasting billions.

In 1984, the Reagan administration proposed to construct a manned space station that would be in service by 1994 at a cost of $8 billion. Today, we have spent $11 billion and have nothing whatsoever to show for it. It is now estimated that the total cost to build and operate the space station will be at least $70.8 billion.

I have heard proponents of the space station argue, rather incredibly, that the Roemer amendment does not reduce the deficit. It's true that the Roemer amendment redirects the $2.1 billion provided in this bill for the space station to pay for station shutdown costs and to fund NASA science and space programs now being devoured by the station. However, it's also true that the Roemer amendment stops the multibillion dollars hemorrhage created by the station—saving more than $60 billion in the out years. In fact, the Roemer-Zimmer may well be the most significant deficit reduction proposal Members will consider this year.

Finally, I would like to emphasize that a "yes" vote on the bipartisan Roemer-Zimmer amendment is not a vote against NASA. Quite the opposite, to support Roemer-Zimmer is to support valuable, cost-effective NASA space and science programs that have been starved by the space station. A vote for the Roemer-Zimmer amendment is a vote against the space station—a project that is rapidly losing its scientific missions even as it continues to add billions to our deficit.

Mr. STEARNS. Mr. Chairman, space is man's last and greatest frontier. It has been since the inception of the Space Program, and will be for years to come, for space represents tomorrow. It is a window of opportunity for man to see into the future.

Tonight we have an opportunity to vote on the future of the space station. It is a vote that signifies the continuance of our desire to walk in the footsteps of our forefathers. We have always been a frontier nation. We have always sought what is on the other side of the river, or over the next mountain. This sense of frontier has shaped our people and our Nation into what it is today.

The critics of the space station are men of little vision. They do not see the possibilities; they do not see the future. They would hold America back, forbidding us the opportunity to pass into tomorrow. Obviously, the critics of the space station are content with the status quo. They claim that we cannot afford the space station. On the contrary, we cannot afford to be without the space station.

There are so many possibilities opened up to all of mankind by the space station. It signifies so much that is new and desirable. It allows us the opportunity to forge ahead, working jointly with other nations to create a better tomorrow for all of humanity. The space station would provide a place for science to grow in new directions, a place for us to begin to comprehend the unknown, a place for man to look into his own future.

Let me offer a lesson from the pages of history. The mid-1400's Europe was starting on the epic voyage of discovery and it was the country of Portugal who first led the way with names that ring through history—Prince Henry the Navigator, Dias, Da Gama. These men and other discovered the passage to India and the East Indies, discovered Brazil and had the ability to bring untold wealth back to their country and the rest of Europe. But there were critics of these voyages who said it was too expensive and costly and not enough benefits to outweigh the dangers. So Portugal did not go forward. Spain, England, France, and the Dutch did. Portugal lost its lead and momentum and its leadership in world history.

Are we to be the Portuguese of the 20th century? It was America who opened the universe for all of mankind. Are we to allow our country to slid into the backwater in the exploration of space?

America was founded by men of vision. From the very beginnings of our Nation we have continued to search for new horizons. From Christopher Columbus to Lewis and Clark to Neil Armstrong, Americans have always forged ahead. This is no time to begin to backtrack. The space station represents what is across the river, or over the next mountain. It is our window of opportunity. We cannot neglect our own future. We must continue to lead the way. We must support funding for the space station. Vote against the Roemer amendment.

Mrs. LLOYD. Mr. Chairman, I rise in support of the fiscal year 1995 VA, HUD, and independent agencies appropriations bill, specifically the appropriation for the National Aeronautics and Space Administration. I commend Chairman STOKES for his role in guiding this legislation.

The variety of scientific programs that are covered under this appropriations bill provide benefits and inspiration to a wide range of people. The projects undertaken by NASA provide for advances in areas from health care to communications as well as encouraging our students in the fields of math, science, and engineering. We often do not realize the far-reaching effects of NASA projects, yet we cannot underestimate their importance.

There has been a great deal of controversy and debate regarding the provisions of this legislation, specifically the international space station program. However, we must realize the benefits and possibilities that such projects hold for everyone in our society. Maintaining a strong industrial base that incorporates the most advanced technologies and materials is vital to our economic stability and growth. A world-class orbiting laboratory, the international space station, will allow us to take advantage of the unique zero-gravity environment to pursue the spacefaring technologies of tomorrow, better understand the human body, and pioneer 21st century technologies. It will be a contributor to our economic future and a giant leap forward in our technological and scientific capabilities.

We must also remember that we are not alone in this endeavor. As the world redefines itself in the wake of the cold war, the value of international cooperative projects, like the space station, is unmeasurable. While the United States has contributed a great deal to the space station project, it is truly an international endeavor. Russia, Japan, Canada, and the European Community have committed to add $9 billion to the United States contribution; they have already contributed more than $4 billion for the project. Should we take the drastic step today of cutting off our involvement with the space station, we jeopardize our standing as a world leader in scientific advancement and threaten any future international partnerships.

In these difficult economic times it is clear that we need to examine every area for savings to eliminate waste and mismanagement wherever possible. We cannot simply and blindly turn our back on projects such as this which offer so many possibilities. I would encourage your support for the program and the many other worthy projects encompassed in this legislation not only for our future but for the future of many generations to follow.

Ms. PELOSI. Mr. Chairman, I rise today in support of the Roemer-Zimmer amendment to delete funding for the space station from the VA/HUD appropriations bill.

We have already spent over $11 billion on the space station, which is projected to cost $75 billion. Today, while we debate spending an additional $2.1 billion for this project, over 500,000 children are homeless. Forty percent of our homeless population is made up of families with children, and one-quarter of the homeless population is comprised of children under the age of 18. How can we continue to pour money into the space station when we cannot even ensure access to safe, decent, and affordable housing for this Nation's children?

In times like these, we simply cannot afford budget-busting experiments like the space station.

Some of my colleagues today have said that the space station's work will benefit education and women's health research. I would argue that a much more efficient and cost-effective way to support this research is to cancel the space station and fund directly the many quality initiatives here on Earth.

In this fiscal environment, we simply cannot afford to indulge in projects like the space station. We have to make tough choices. I urge my colleagues to support the Roemer-Zimmer amendment. It is a sound move in a difficult fiscal situation.

STATEMENT OF CONGRESSWOMAN JOLENE UNSOELD ON THE ROEMER AMENDMENT TO TERMINATE THE INTERNATIONAL SPACE STATION

Mrs. UNSOELD. Mr. Chairman, difficult votes are part of the terrain when serving in this body and I generally make them and move on. Each year that I have voted to kill the Space Station, however, it's left a bitter taste.

I am a believer in the importance of space exploration. We all know of the many technological spinoffs from past space efforts that continue to enrich the lives of all of us. Furthermore, space exploration has served to inspire generations of children just as exploration of our own globe inspired earlier generations.

In past years, however, I could not bring myself to vote for the Space Station because NASA simply didn't have its act together. Cost overruns, constant redesigns, and abominably bad management practices gave me little reason to believe taxpayer dollars would be well spent or that the station—quite literally—would ever get off the ground.

That has changed, and to a degree I frankly did not consider possible. The Vest committee highlighted the change in its recent report. The head of the committee and president of M.I.T., Charles Vest wrote to Dr. John Gibbons, the President's science adviser, that there had been "an absolute sea change in the management and organizational structure of this program." Dr. Vest also noted a marked improvement in our coordination with other participating governments.

That is the other critical development that demanded that I take a fresh look at this project Coordination with Japan, Canada and the European Union is on a sounder footing. What's more, the inclusion of Russia in the space station effort is a major new development, and the evidence suggests that while their participation is not risk free, the pluses far outweigh the minuses.

The Space Station Program can benefit greatly from the considerable experience the Russian Space Agency has in human space flight. They have developed technologies from which we can benefit. Additionally, our ability to use the Mir station during construction will allow us to cut the cost of constructing the space station while reducing the amount of time it will require to complete it.

Russian participation offers another extraordinary opportunity. Joined with the European Union, Japan, and Canada, the United States, and Russia are poised to undertake a remarkable cooperative adventure that can serve to inspire us all while breaking down nationalist barriers. The cold war may be a thing of the past. Cold war suspicions are not. That alone would not justify building the space station, but it represents one additional reason I have reevaluated my past opposition.

Vastly improved program management, benefits offered by Russian participation, the prospect for scientific advancement, the opportunity to inspire our children and a belief that it is the destiny of humankind that we push back the boundaries of space—these are the reasons I am voting this year to continue development of the space station. But there is a message for NASA—those of us who have been troubled by management of the program in the past will keep our eye on you. We will offer our praise and support if the program is well run, but we will not stand for a return of earlier mismanagement.

Ms. ESHOO. Mr. Chairman, I rise to urge my colleagues to oppose the Roemer/Zimmer amendment and support NASA's Space Station Program.

As a member of the Science, Space, and Technology Committee, I believe the space station will: increase our scientific knowledge, provide new defense technologies, and develop successful civilian spin-offs.

But beyond the scientific and economic reasons to fund the space station, there are critical foreign policy and national security reasons for supporting it.

Russia is in an economic state worse than our Great Depression. One exception to this industrial collapse is the technology produced by the Russian Space Agency. It is good and it is available.

We have a choice. We can enter into a well-negotiated, well-constructed, agreement where our two nations work with other countries on this international space project.

Or, we can pass the Roemer/Zimmer amendment, terminate this international effort, and the Russians will switch to producing missiles and begin selling them to India, Iran, and other countries.

Mr. Chairman, this is the reality. This amendment is short-sighted and fails to recognize the changes in our world. Voting yes means turning our backs on an opportunity to turn swords into plowshares without weakening America's defenses. Such opportunities are rare.

Vote no on the Roemer/Zimmer amendment and support the space station.

Mr. GEDJENSON. Mr. Chairman, I rise today in support of NASA programs and the space station.

Less than 1 percent of the Federal budget is spent on space, but the payback is enormous. Space-derived technology has led to advances in health care, communications, weather forecasting, and environmental research. The international space station will provide a permanent laboratory for important experimentation to develop lifesaving drugs, new alloys and other useful technologies for America's future economic well being. The products of this research will directly benefit all Americans now and well into the next century, as well as generate industries that will provide new high technology employment for our future. Space programs stimulate transition from a defense-oriented to a peacetime economy, effectively using many existing manufacturing assets. Space programs provide jobs for highly skilled workers and sustain the vendor base. With the depressed state of the defense market in Connecticut, space programs are crucial in helping to retain technical expertise to provide for future growth opportunities in this region. The Space Station Program employs hundreds of highly skilled workers in southeastern Connecticut. Termination of the program would be devastating for the businesses, workers, and communities of my district.

NASA and the space station are not robbing veterans, housing the National Science Foundation, or other worthy activities. Budgets are tight, but we cannot sacrifice our future. The space station will generate thousands of lifesaving and useful technologies which will provide significant long-term benefits to the American taxpayers. The VA–HUD–Independent Agencies Appropriations bill strikes a reasonable balance between current needs and future requirements.

I urge you to join me in supporting space programs. Vote for the space station and other NASA programs and against the Roemer/Zimmer amendment.

Mrs. FOWLER. Mr. Chairman, I rise today to strongly support the space station.

The space station will provide us with a long-duration, gravity-free laboratory of literally unparalleled capabilities. We have already seen remarkable progress on breast and cervical cancers and other life-threatening conditions due to space research. With the space station we can expand this work and further enhance the quality of life on Earth.

The space station will offer a unique ability to observe Earth. It will let us perform long-term research on atmospheric, environmental, and oceanic conditions, again improving life here on Earth.

Pursuit of the space station will promote work on critical technologies essential to our Nation's success in the 21st century. I would note that space research has historically returned to our economy some $9 for each $1 spent.

Finally, the space station is an international program, with the United States leading the effort. If we abandon it, our partners will only question our reliability on other cooperative projects.

Mr. Chairman, the Space Program has long fueled the collective imagination of our Nation. We must move forward on space station. Vote no on the Roemer amendment.

Mr. ANDREWS of Texas. Mr. Chairman, once again we are faced with a vote not just on our commitment to the space station but on our commitment to the future. The potential scientific, educational and economic benefits of the station are well documented. However this year there is an important new factor that makes the space station an even better investment in the future.

Thirty-five years ago competition from the Soviet Union (Sputnik) provided a major impetus to build our Nation's space program. Today, our conflict is not against a rival power, but rather against our own limitations. Competition with the Soviet Union has turned into cooperation with Russia, a cooperation that brings together the best and brightest minds in an endeavor that will greatly expand the boundaries of human achievement.

As our relationship with Russia continues to evolve in this post-cold war world, the space station provides an catalyst for building mutual trust and cooperation. Today, this partnership is more important than ever. Finding solutions to world problems such as regional instability, arms technology proliferation and environmental degradation require that we work in close concert with both friends and former adversaries.

In addition to these global considerations, Russian participation in the space station will make a substantial and immediate contribution to the project itself. One such pay-off will come from the U.S. Shuttle-Mir missions, which will give us extremely valuable on-orbit experience. It is impossible to understate the importance of this type of experience—it is exactly what made the Hubble Telescope repair mission such an astounding success.

Russian involvement in the space station has already resulted in a more robust and capable station. The new station has more electrical power and pressurized volume than the previous designs, allowing for both a larger crew and a wider range of experiments. Working with the Russians is going to save us both money in developing this station and time in deploying it. Russian long-term experience in space and the addition of their own network of communications, control and launch centers will add to the station's margin of safety.

The cold war competition between the Soviet Union and the United States helped launch our exploration of space. Today the contest has changed, but our goals of scientific advancement and human progress are stronger than ever. We must now act here in this chamber to seize this historic opportunity and join with the Russians and our international partners in an endeavor in space that holds great promise for life on Earth.

Mr. CLAY. Mr. Chairman, I rise today to urge my colleagues to support the International Space Station. Our Nation's technological growth is dependent on programs such as the space station.

The Federal budget request calls for the government to spend $2.9 billion in fiscal year 1995 on the space station. The space station requires less than one-seventh of the annual budget and less than 15 percent of the NASA budget. The development of the program costs each American about 2.2 cents a day. This figure is minute in comparison to the opportunities that will be gained from this endeavor.

The space station will allow scientists to participate in over 600 experiments and provide the opportunity to evaluate several different medical phenomena. This station would enhance the opportunities to explore possible cures for cancer, arthritis, osteoporosis, and AIDS. The Space Program research has opened an opportunity to improve upon familiar medical machinery including CAT scans, x-rays, and laser surgery.

Space science technology has greatly improved this country's communications capacity and its spin-offs have contributed to every major area of human development.

Super Bowl XXVII was brought to you by satellite communication, the improvement of running shoes by incorporating moon boot material to the soles for shock absorption, radiation hazard detectors have been made available by NASA to protect people exposed to potentially dangerous levels of microwave radiation, improvements made on air purification systems, and the effectiveness of X-ray technology has been greatly improved by the introduction of solar cell sensors.

The space station is essential to space education. In the next century, America's economy will be founded in a multicultural, multiracial work force of men and women with interdisciplinary technological skills. Space education can stimulate students to enter into academic programs that are crucial to our Nation's technological competitiveness and in which they can develop vital job skills for the 21st century. Space education is especially valuable to minority students from nontraditional backgrounds who are seeking careers which provide security and favorable economic opportunities.

The space station is a sound investment in NASA and our future. This program allows the world's best scientists and astronauts to work together in a cooperative effort. It is a program whose historical benefits have far outweighed its costs. The International Space Station is essential to maintaining our Nation's preeminence in space technology. I urge my colleagues to support funding of the space station.

Mr. BALLENGER. Mr. Chairman, I rise in opposition to the Roemer/Zimmer amendment to terminate funding for the space station *Alpha*.

Reducing the Federal deficit is one of my top priorities and I have supported previous efforts to end funding for the space station because funds from this program, over $2 billion, would be targeted for deficit reduction. Unfortunately, the sponsors of the amendment, chose to redistribute funds from the space station to other NASA programs. I plan to oppose the amendment for that reason.

Should amendments to terminate the space station return to the original objective of deficit reduction rather than more congressional spending, I will reconsider my decision and again support efforts to terminate funding for the space station.

Mrs. MORELLA. Mr. Chairman, I have always believed that the space station is a vital step in allowing us to continue meeting our future space objectives. As a member of the Science, Space, and Technology Committee, I am continuing my support of the program today because the space station will be an international research laboratory advancing science and technology, as well as expanding the human presence in space.

The recent incarnation of the space station, known as international space station *Alpha*, which we are debating, is vastly different from the structure which Congress has considered in past years. For the first time, we are debating a space station which includes Russian participation.

With Russian participation, the space station will be more powerful and will have greater capabilities than ever before. As a result, NASA estimates that the space station will be constructed faster, by 15 months, and at a cost saving to the United States of approximately $2 billion. In addition, international space station *Alpha* will be able to tap into the Russian expertise in long-duration space flight and allow United States industry to receive increased access to Russian civil aerospace high technology.

There are foreign policy benefits as well. This project complements the President's goal of democratization and free market movement in Russia, and is a strong inducement for Russia to adhere to the missile technology control regime. Russia will be joining the United States and our original international space station partners, Japan, the European space agency, and Canada, in a cooperative benefit-sharing and cost-sharing relationship. The space station is truly a tangible example of international cooperation at an unprecedented level.

Mr. Chairman, there is virtue and promise in the continued support of the space station since it assures U.S. leadership and preeminence in both space and in the new world order. However, although it is being conceived by, and constructed in our generation, the real beneficiaries of the space station's unique laboratory environment and its discoveries will be our future generations. In addition, the true promise of the space station lies in its impact upon our educational system and upon our Nation's youth. The space station is capturing the imaginations of American students and is helping guide many of them to careers in technically demanding fields, such as math, science, and engineering, which are necessary to maintain a work force capable of competing in the global marketplace.

As a final point, it is important to note that due to the appropriations procedure, NASA has the unenviable task of competing with some very important social programs. Yet, it has been often overlooked that NASA is the only major account in this appropriations bill to be cut below last year's funding level. The facts show that NASA and the space station are simply not taking the much needed funds away from veterans, housing, the National Science Foundation, or other worthy activities in this bill. Nor is the space station robbing other NASA research accounts since this bill fully funds the President's request for science and technology in the NASA budget.

Mr. Chairman, while we must be vigilant through our congressional oversight to ensure that future costs are contained in the construction and operation of international space station *Alpha*, Congress must continue its bipartisan support of the project and reject the amendment to terminate space station funding. Perhaps it is fitting that we are taking this vote as we approach the silver anniversary of the *Apollo 11* lunar landing. Just as we did after Neil Armstrong stepped onto the Moon 25 years ago and after we vote to continue space station funding today, we can point confidently to the Stars, and recognize our future and the future of our Nation.

Mr. BARTON of Texas. Mr. Chairman, I rise in strong support of the space station *Alpha*. Space station *Alpha* will inspire yet another generation of Americans to become explorers in the fields of new science, engineering, and medicine.

Alpha is critical to maintaining U.S. leadership in space and global competitiveness, and to serve as a driving force for emerging technologies. This space station will permit engineers and scientists to accelerate breakthroughs in technology and engineering that will have immediate, practical applications for life on Earth.

Alpha's facilities, with near absence of gravity, will permit researchers to study materials that could not exist and processes that could not take place in full Earth gravity. These materials include polymers for everything from paint to contact lenses, semiconductors for high-speed computers and electronics, and high-temperature superconductors for efficiency in electrical devices.

Experimental research in the near absence of gravity produces new insights into industrial processes in materials that cannot be replicated on Earth and contribute to increased understanding of fluid physics and combustion. A better understanding of the combustion process can lead to energy conservation on Earth. As small as a 2-percent increase in burner efficiency for heaters would save the United States $8 billion per year.

In addition, space science is a catalyst for academic achievement. It is important to note that trends of U.S. college students majoring in science and engineering track closely with the funding trends of the U.S. space program. Teachers and communities across the Nation are already using space station concepts in the classroom, and in the future will have experiments on *Alpha*. These experiments will be conducted from their classrooms on the ground. Students will transmit and receive data, manipulate equipment remotely, and evaluate the experiments through interpretation of the data.

Support for the space station *Alpha* is important to America's future.

Mr. HASTINGS. Mr. Chairman, I rise to offer my unequivocal support for the International Space Program. Our Space Program, in particular the space station, provides us the unique opportunity to discover the unknown, to pursue the unchartered, and to challenge the boundaries of our station in life.

The International Space Program offers many advantages to the United States, particularly in the area of foreign policy. The prospective agreement will serve as a long-awaited collaborative effort between Russia and the United States, a symbol of the end of the cold war.

It will encourage Russia to act in compliance with agreements to stop the proliferation of ballistic missile technology. The joint space station will serve the multifaceted purpose of keeping Russian aerospace workers employed in nonthreatening activities.

The space station will provide America with a steady job base and improved technologies. Space exploration has contributed to scientific breakthroughs in microelectronics, ceramics, computers, optics, environmental sciences, and medical technology, as well as many other advances. It allows our best and brightest scientists to stretch beyond their physical and mental limits in researching and developing our tools of tomorrow.

Continued support for the space station will maintain progress for greater access to international technology, and improve the quality of life for all Americans and for all people around the world.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. ROEMER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ROEMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 155, noes 278, not voting 6, as follows:

[Roll No. 309]

AYES—155

Ackerman
Andrews (ME)
Baesler
Barca
Barlow
Barrett (WI)
Bereuter
Bilbray
Blackwell
Blute
Brown (OH)
Bunning
Camp
Cantwell
Collins (GA)
Collins (IL)
Collins (MI)
Condit
Coppersmith
Costello
Coyne
Danner
de Lugo (VI)
DeFazio
Dellums
Derrick
Duncan
Durbin
English
Evans
Fawell
Foglietta
Frank (MA)
Franks (NJ)
Furse
Goodlatte
Goodling
Gordon
Gutierrez
Hamburg
Hamilton
Hastert
Herger
Hoagland
Hoekstra
Holden
Hoyer
Hughes
Hutchinson
Inglis
Inslee
Istook
Jacobs
Johnson (GA)
Johnson (SD)
Kanjorski
Kaptur
Kasich
Kennedy
Kildee
King
Kleczka
Klein
Klink
Knollenberg
Kolbe
Kreidler
LaFalce
Lambert
Lancaster
Lazio
Leach
Lehman
Levin
Lipinski
Long
Lowey
Maloney
Mann
Manzullo
Margolies-Mezvinsky
Markey
McHugh
McKinney
McNulty
Meehan
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Nadler
Neal (NC)
Norton (DC)
Nussle
Oberstar
Obey
Olver
Orton
Owens
Pallone
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (MN)
Pomeroy
Porter
Portman
Poshard
Ramstad
Ravenel
Reed
Roemer
Roukema
Rush
Sabo
Sanders
Sangmeister
Schaefer
Schenk
Schroeder
Schumer
Serrano
Shays
Shepherd
Shuster
Skaggs
Slaughter
Smith (MI)
Snowe
Solomon
Spratt
Stark
Strickland
Studds
Stupak
Swett
Synar
Tauzin
Thomas (WY)
Underwood (GU)
Upton
Velazquez
Vento
Visclosky
Waxman
Wheat
Williams
Woolsey
Wyden
Yates
Zimmer

NOES—278

Abercrombie
Allard
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Berman
Bevill
Bilirakis
Bishop
Bliley
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Bryant
Burton
Buyer
Byrne
Callahan
Calvert
Canady
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Combest
Conyers
Cooper
Cox
Cramer
Crane
Crapo
Cunningham
Darden
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Dunn
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
Eshoo
Everett
Ewing
Farr
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Ford (TN)
Fowler
Franks (CT)
Frost
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goss
Grams
Green
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hancock
Hansen
Harman
Hastings
Hayes
Hefley
Hefner
Hilliard
Hinchey
Hobson
Hochbrueckner
Hoke
Horn
Houghton
Huffington
Hunter
Hutto
Hyde
Inhofe
Jefferson
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Johnston
Kennelly
Kim
Kingston
Klug
Kopetski
Kyl
Lantos
LaRocco
Laughlin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Livingston
Lloyd
Lucas
Manton
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McInnis
McKeon
McMillan
Meek
Meyers
Mica
Michel
Miller (FL)
Mineta
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Neal (MA)
Ortiz
Oxley
Packard
Parker
Pastor
Peterson (FL)
Petri
Pickett
Pickle
Pombo
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Regula
Reynolds
Richardson
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Roybal-Allard
Royce
Santorum
Sarpalius
Sawyer
Saxton
Schiff
Scott
Sensenbrenner
Sharp
Shaw
Sisisky
Skeen
Skelton
Slattery
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Spence
Stearns
Stenholm
Stokes
Stump
Sundquist
Swift
Talent
Tanner
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Watt
Weldon
Whitten
Wilson
Wise
Wolf
Wynn
Young (AK)
Young (FL)
Zeliff

NOT VOTING—6

Faleomavaega (AS)
Ford (MI)
Grandy
Machtley
Rangel
Romero-Barcelo (PR)

☐ 2110

Messrs. WASHINGTON, MICA, and McDADE changed their vote from "aye" to "no."

Mr. DERRICK and Mr. BLACKWELL changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SCIENCE, AERONAUTICS AND TECHNOLOGY

For necessary expenses, not otherwise provided for, for the conduct and support of science, aeronautics, and technology research and development activities, including research; development; operations; services; maintenance; construction of facilities including repair, rehabilitation and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; $5,901,200,000, to remain available until September 30, 1996.

MISSION SUPPORT

For necessary expenses, not otherwise provided for, in carrying out mission support for human space flight programs and science, aeronautical, and technology programs, including research operations and support; space communications activities including operations, production, and services; maintenance; construction of facilities including repair, rehabilitation, and modification of facilities, minor construction of new facilities and additions to existing facilities, facility planning and design, environmental compliance and restoration, and acquisition or condemnation of real property, as authorized by law; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); travel expenses; purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; not to exceed $35,000 for official reception and representation expenses; and purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; $2,549,587,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $16,000,000.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Of the budgetary resources available to the National Aeronautics and Space Administration during fiscal year 1995, $59,003,000 are permanently canceled. The Administrator of the National Aeronautics and Space Administration shall allocate the amount of budgetary resources canceled among the agency's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account. For the purposes of this paragraph, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or service and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, when any activity has been initiated by the incurrence of obligations for construction of facilities as authorized by law, the amount available for such activity shall remain available until expended. This provision does not apply to the amounts appropriated in "Mission support" pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design.

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, the amounts appropriated for construction of facilities shall remain available until September 30, 1997.

No amount appropriated pursuant to this or any other Act may be used for the lease or construction of a new contractor-funded facility for exclusive use in support of a contract or contracts with the National Aeronautics and Space Administration under which the Administration would be required to substantially amortize through payment or reimbursement such contractor investment, unless an appropriations Act specifies the lease or contract pursuant to which such facilities are to be constructed or leased or such facility is otherwise identified in such Act. The Administrator may authorize such facility lease or construction, if he determines, in consultation with the Committees on Appropriations, that deferral of such action until the enactment of the next appropriations Act would be inconsistent with the interest of the Nation in aeronautical and space activities.

The unexpired balances of prior appropriations to NASA for activities for which funds are provided under this Act may be transferred to the new account established for the appropriation that provides funds for such activity under this Act. Balances so transferred may be merged with funds in the newly established account and thereafter may be accounted for as one fund to be available for the same purposes and under the same terms and conditions.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 1995, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed $600,000,000: *Provided*, That administrative expenses of the Central Liquidity Facility in fiscal year 1995 shall not exceed $901,000.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

(INCLUDING TRANSFER AND RESCISSION OF FUNDS)

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; $2,216,923,000, of which not to exceed $225,430,000 shall remain available until expended for Polar research and operations support, and for reimbursement to other Federal agencies for operational and science support and logistical and other related activities for the United States Antarctic program; the balance to remain available until September 30, 1996: *Provided*, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further*, That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally: *Provided further*, That amounts appropriated in prior fiscal years for the United States Polar Research Programs, the United States Antarctic Logistical Support Activities, and the Critical Technologies Institute shall be transferred to and merged with this appropriation and remain available until expended.

Of the amounts made available under this heading in Public Law 103–124, $35,000,000 are rescinded.

MAJOR RESEARCH EQUIPMENT

For necessary expenses in carrying out major construction and procurement projects pursuant to the purposes of the National Science Foundation Act of 1950, as amended, $105,000,000, to remain available until expended.

ACADEMIC RESEARCH INFRASTRUCTURE

For necessary expenses in carrying out an academic research infrastructure program pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $100,000,000, to remain available until September 30, 1996: *Provided*, That these funds shall not become available for obligation until March 31, 1995.

EDUCATION AND HUMAN RESOURCES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, 585,974,000, to remain available until September 30, 1996: *Provided*, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

SALARIES AND EXPENSES

For necessary salaries and expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $9,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); rental of conference rooms in the District of Columbia; reimbursement of the General Services Administration for security guard services; $123,966,000: *Provided*, That contracts may be entered into under salaries and expenses in fiscal year 1995 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $4,000,000.

NATIONAL SCIENCE FOUNDATION HEADQUARTERS RELOCATION

For necessary support of the relocation of the National Science Foundation, $5,200,000: *Provided*, That these funds shall be used to reimburse the General Services Administration for services and related acquisitions in support of relocating the National Science Foundation.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107), $38,667,000.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101–4118) for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $22,930,000: *Provided*, That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further*, That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

Mr. STOKES (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of title III through page 65, line 12, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. Are there any amendments to this portion of title III?

Mr. STOKES. Mr. Chairman, I ask unanimous consent that title IV and title V, through page 73, line 18, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The text of title IV and title V, through page 73, line 18, is as follows:

TITLE IV

CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1995 for such corporation or agency except as hereinafter provided: *Provided*, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

FEDERAL DEPOSIT INSURANCE CORPORATION

FSLIC RESOLUTION FUND

For payment of expenditures of the FSLIC Resolution Fund, for which other funds available to the FSLIC Resolution Fund as authorized by Public Law 101–73 are insufficient, $827,000,000, to remain available until expended.

FDIC AFFORDABLE HOUSING PROGRAM

For the affordable housing program of the Federal Deposit Insurance Corporation under section 40 of the Federal Deposit Insurance Act (12 U.S.C. 1831q), $15,000,000 to pay for any losses resulting from the sale of properties under the program, and for all administrative and holding costs associated with operating the program.

Notwithstanding any provisions of section 40 of the Federal Deposit Insurance Act or any other provision of law, the Federal Deposit Insurance Corporation shall be deemed in compliance with such section if, in its sole discretion, the Corporation at any time modifies, amends or waives any provisions of such section in order to maximize the efficient use of the available appropriated funds. The Corporation shall not be subject to suit for its failure to comply with the requirements of this provision or section 40 of the Federal Deposit Insurance Act.

RESOLUTION TRUST CORPORATION

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $32,000,000.

TITLE V

GENERAL PROVISIONS

SECTION 501. Where appropriations in titles I, II, and III of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; to travel performed by the Offices of Inspector General in connection with audits and investigations; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further*, That if appropriations in titles I, II, and III exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefor set forth in the estimates in the same proportion.

SEC. 502. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 503. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Resolution Trust Corporation, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1831).

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 506. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of any officer or employee authorized such transportation under title 31, United States Code, section 1344.

SEC. 507. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided*, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 508. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the rate paid for Level IV of the Executive Schedule, unless specifically authorized by law.

SEC. 509. No part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to any part of the appropriations contained in this Act for Offices of Inspector General personnel compensation and benefits.

SEC. 510. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

SEC. 511. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 512. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 513. Except as otherwise provided in section 506, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 514. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

SEC. 515. Such sums as may be necessary for fiscal year 1995 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 516. None of the funds appropriated in title I of this Act shall be used to enter into any new lease of real property if the estimated annual rental is more than $300,000 unless the Secretary submits, in writing, a report to the Committees on Appropriations of the Congress and a period of 30 days has expired following the date on which the report is received by the Committees on Appropriations.

The CHAIRMAN. Are there amendments to title IV or title V, through page 73, line 18?

If not, the Clerk will read.

The Clerk read as follows:

SEC. 517. (a) The Resolution Trust Corporation ("Corporation") shall report to the Congress at least once a month on the status of the review required by section 21A(b)(11)(B) of the Federal Home Loan Bank Act and the actions taken with respect to the agreements described in such section. The report shall describe, for each such agreement, the review that has been conducted and the action that has been taken, if any, to rescind or to restructure, modify, or renegotiate the agreement. In describing the action taken, the Corporation is not required to provide detailed information regarding an ongoing investigation or negotiation. The Corporation shall exercise any and all legal rights to restructure, modify, renegotiate or rescind such agreement, notwithstanding any other provision of law, where the savings would be realized.

(b) To expend any appropriated funds for the purpose of restructuring, modifying, or renegotiating the agreements described in subsection (a), the Corporation shall certify to the Congress, for each such agreement, the following:

(1) the Corporation has completed its review of the agreement, as required by section 21A(b)(11)(B) of the Federal Home Loan Bank Act;

(2)(A) at the time of certification, in the opinion of the Corporation and based upon the information available to it, there is insufficient evidence or other indication of fraud, misrepresentation, failure to disclose a material fact, failure to perform under the terms of the agreement, improprieties in the bidding process, failure to comply with any law, rule or regulation regarding the validity of the agreement, or any other legal basis sufficient for the rescission of the agreement; or

(B) at the time of certification, the Corporation finds that there may be sufficient evidence to provide a legal basis for the rescission of the assistance agreement, but the Corporation determines that it may be in the best interest of the Government of restructure, modify or renegotiate the assistance agreement; and

(3) the Corporation has or will promptly exercise any and all legal rights to modify, renegotiate, or restructure the agreement where savings would be realized by such action.

SEC. 518. COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended in violation of sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c; popularly known as "Buy American Act"), which are applicable to those funds.

□ 2120

Mr. ROHRABACHER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I expect that soon the floor manager will be moving that the committee rise and report this bill back to the House, This is not just a procedural motion, Mr. Chairman. If his effect succeeds, it will mean that for another year the money in this Veterans, HUD, and Independent Agencies Appropriations bill will go to illegal aliens, even as many American citizens have to go without those same benefits.

This policy is wrong, Mr. Chairman. This policy is wrong because our country should not be handing out any benefits to illegal aliens on the same basis as American citizens. This policy is wrong because it entices more and more people to come into our country illegally.

And, Mr. Chairman, this policy is wrong because it is simply unfair to American citizens and legal residents, who should always come first when taxpayer money is spent.

Yet the leadership on the other side wants you to vote for a motion that will continue this failed policy. Because the point of this motion is to deny me the right to offer an amendment that says, No more. My amendment, which this motion would prevent me from offering, says that we are going to stop the nonsensical policy of giving benefits to illegal aliens.

Let me offer my colleagues an example of what will happen if the motion to rise passes. This bill funds long-term disaster assistance and several housing assistance programs. Although there is a restriction in current law that is reiterated in this bill with regard to illegal aliens receiving housing subsidies, it does not apply to most housing programs.

Also, I would point out that although we were successful in adopting an amendment to the Los Angeles Earthquake Supplemental Appropriations bill, to cut off long-term disaster assistance to illegal immigrants, that provision applied only to that bill.

In order to prevent illegal aliens from receiving future long-term disaster assistance, we must amend this bill.

Unless the motion to rise is defeated, and my amendment is adopted, there will continue to be Americans who will be denied assistance so that illegal aliens can continue getting the help instead.

Let us stop this insane policy of handing out taxpayer-paid benefits to anyone who can make it into this country illegally. Vote "no" on the motion to rise.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

This Act may be cited as the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995.

Mr. STOKES. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ROHRABACHER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 261, noes 163, not voting 15, as follows:

[Roll No. 310]

AYES—261

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (TN)
Frank (MA)
Frost
Furse
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Quillen
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Rowland
Roybal-Allard
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schaefer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Whitten
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (FL)

NOES—163

Allard
Andrews (NJ)
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bliley
Blute
Boehlert
Boehner
Bunning
Burton
Buyer

Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cooper
Crane
Crapo
Cunningham
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lucas
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Pryce (OH)
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Roth
Roukema
Royce
Santorum
Saxton
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Zeliff
Zimmer

NOT VOTING—15

Cox
Faleomavaega (AS)
Fish
Ford (MI)
Grandy
Istook
Machtley
Mollohan
Romero-Barcelo (PR)
Rush
Swift
Torres
Washington
Wheat
Williams

□ 2142

Mr. FAWELL changed his vote from "aye" to "no."

Mr. LIVINGSTON changed his vote from "no" to "aye."

So the motion to rise and report was agreed to.

The result of the vote was announced as above recorded.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. OBERSTAR] having assumed the chair, Mr. BEILENSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4624) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to, and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. KOLBE

Mr. KOLBE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. KOLBE. In its present form, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion.

The clerk read as follows:

Mr. KOLBE moves to recommit the bill H.R. 4624 to the Committee on Appropriations with instructions to report back the same forthwith with the following amendment: On page 66, strike line 10 and all that follows through page 67, line 15.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. KOLBE] is recognized for 5 minutes in support of his motion.

Mr. KOLBE. I thank the Speaker.

Mr. Speaker, I realize that the hour is late, although I suspect we may still be here for a while. I rise this evening to offer this motion to recommit the VA-HUD appropriation bill. My motion would recommit with instructions to report it back by striking the funding for three programs. It would strike $827 million from the Federal Deposit Insurance Corporation and FSLIC resolution fund; it would strike $15 million from the FDIC affordable housing program, and $32 million from the Resolution Trust Corporation, Office of Inspector General.

Mr. Speaker, I suppose we could say that we could in one quick blow here save almost $900 million for the American taxpayer, but there is another underlying issue for this motion. The fact is, none of these three agencies for which I would strike the funds in this bill testified before the VA-HUD Subcommittee to provide justification for their budget requests.

Every year, every year since these agencies have been in existence, they have testified before the VA-HUD Subcommittee or the relevant subcommittee of Appropriations to which they were assigned. But not this year.

And as a result, the House of Representatives, the subcommittee, the Appropriations Committee, and the full House of Representatives has been denied the opportunity to exercise its responsibility to exercise respect to oversight authority over the budget requests for these agencies.

Now, Mr. Speaker, I suspect—though I hope I would be wrong—but I would suspect there may be just a bit of politics in this decision not to call these three particular agencies to testify.

I think the reason is fairly obvious. We might as well lay it out on the table here tonight. The reason these agencies were not called to testify was that somehow some members of the subcommittee might just ask some embarrassing questions pertaining to the so-called Whitewater investigation. But Mr. Speaker, there is more to this issue. It is not Whitewater we are talking about; we are talking about their regular budget requests. We are talking about their operating funds. No justification was ever presented to the subcommittee; no opportunity was given for the subcommittee to ask questions, to get oral testimony from the agency officials as to why these funds were required or how they would be spent.

So I would say, Mr. Speaker, that the issue tonight goes beyond Whitewater. I think it goes beyond the issue of party politics despite the rhetoric that may be heard. I think that Congress, as an institution, and certainly the Committee on Appropriations as part of this House, has a responsibility, a constitutional responsibility to conduct budget oversight of all the agencies of the executive branch. That is our basic responsibility. And when the majority party, for whatever reason, cancels hearings in front of the committee, then this sacred system of checks and balances is put in jeopardy.

□ 2150

We have to acknowledge the potential for abuses if legitimate oversight responsibilities are ignored when both the executive branch and the legislative branch are controlled by the same party. Congress has an obligation, when it comes to the use of taxpayer funds, to question agencies on their funding priorities. There is no reason that these agencies should be excused from testifying on their budget requests. It is our duty, it is the duty of Congress, certainly of the Committee on Appropriations on which I serve, to know precisely what is in the budget requests for these agencies, why they request the funds, and how they exercise their spending authority. They must explain their costs; they must account for their expenditures. If not the Congress, Mr. Speaker, then who should they account to?

I agree with Senator BYRD in the other body who was quoted today in the newspaper as saying, while speaking about funding for another agency; he said, quote, it, meaning funding, must be justified on an annual basis along with other programs funded in the same bill, unquote.

Now, Mr. Speaker, there is precedent for zeroing out an agency that did not testify on its appropriation bill. Two years ago the House did not provide funds for the National Space Council, as a matter of fact, in this same subcommittee, because it had sent a letter in lieu of testifying. Both the minority and the majority on the VA-HUD Subcommittee agreed a letter was not sufficient justification for a funding request. We are in the same situation today. Many important questions remain unanswered about a large amount, $900 million of funding for these agencies, because they never appeared before the subcommittee to testify.

Mr. Speaker, I urge the House to exercise its oversight process. We should send a signal to these agencies. We should vote aye on the motion to recommit.

The SPEAKER pro tempore (Mr. OBERSTAR). The time of the gentleman from Arizona [Mr. KOLBE] has expired.

Mr. STOKES. Mr. Speaker, I rise in opposition to the motion to recommit offered by the gentleman from Arizona [Mr. KOLBE].

The SPEAKER pro tempore the gentleman from Ohio [Mr. STOKES] is recognize for 5 minutes in opposition to the motion to recommit.

Mr. STOKES. Mr. Speaker, due to the lateness of the hour, I have no intention of taking up the entire 5 minutes to speak on this issue. Let me just begin by saying that the issue of holding hearings on these agencies became more of a partisan problem than an issue. As a result the Whitewater case, we decided not to hold hearings with these agencies until the ongoing investigations concerning Whitewater was moving forward, and I might add, Mr. Speaker, the investigations are still ongoing.

Let me also say, Mr. Speaker, that the gentleman from Texas [Mr. GONZALEZ] of the Committee on Banking, Finance and Urban Affairs has stated earlier this week that hearings on the Whitewater case will be held on July 26, 1994.

Before closing let me just call to the attention of Members what the gentleman's motion to recommit will do.

Mr. Speaker, the gentleman's motion to recommit takes all of the money out of the Federal Deposit Insurance Corporation, FSLIC resolution fund in the amount of $827 million in borrowing. It takes out $15 million, the total amount of money in the FDIC Affordable housing program, and it takes all of the money, $32 million, out of the Resolution Trust Corporation's Office of Inspector General. The result of this motion to recommit, Mr. Speaker, would be to prevent the agencies, which Congress established, from efficiently and effectively utilizing taxpayer dollars. In addition, this would limit the agency's ability to leverage sources of funds because of the absence of an appropriation in fiscal year 1995.

I would urge that the Members oppose the motion to recommit.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. KOLBE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. The Chair will announce that pursuant to the provisions of clause 5 of rule XV, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage of the bill.

The vote was taken by electronic device, and there were—yeas 166, nays 262, answered "present" 1, not voting 5, as follows:

[Roll No. 311]

YEAS—166

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Levy
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Pryce (OH)
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—262

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (TN)
Frank (MA)
Frost
Furse
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Quillen
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

ANSWERED "PRESENT"—1

Hyde

NOT VOTING—5

Fish
Ford (MI)
Grandy
Machtley
Washington

□ 2217

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I rise to inquire of the gentleman from Missouri [Mr. GEPHARDT] the program for the balance of this evening and tomorrow.

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, our plan, in cooperation with the Minority, is to proceed to a unanimous consent request on the rule on the legislative branch conference report; also, a rule on the DOD appropriation bill; then to move immediately after that to the legislative branch conference report; and then after that to go into the DOD appropriation bill. The final business for the evening would be the motion to instruct on the crime bill.

Mr. Speaker, if we are able, as we hope, to move quickly through this business, we would then have one piece of business left for tomorrow, which we are working to try to resolve, which is the DC appropriation bill. We are in collaboration or negotiation and consultation with the minority to try to work our way through that bill as well, which would mean a very short day tomorrow.

□ 2220

If we have everyone's cooperation, we can move quickly through this business this evening and try to get out of here at the earliest possible moment.

Mr. MICHEL. Mr. Speaker, I thank the majority leader.

If I might just make a comment, I would like to compliment the House on its decorum and the chairmanship of the current Member. If we keep on that kind of track, then the very important pieces of legislation that we always anguish about the temperament about the House at any given time, if everybody cooperates, why, it should work very smoothly and everybody take note of that.

We will be happy to agree.

WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 4650, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1995, AND WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 4454, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1995

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the House immediately adopt House Resolution 469 and House Resolution 470.

The SPEAKER pro tempore (Mr. OBERSTAR). Is there objection to the request of the gentleman from Missouri?

There was no objection.

The texts of House Resolution 469 and of House Resolution 470 are as follows:

H.R. RES. 469

Resolved, That points of order against consideration of the bill (H.R. 4650) making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes, for failure to comply with clause 7 of rule XXI are waived. During consideration of the bill, all points of order against provisions in the bill for failure to comply with clause 2 or 6 of rule XXI are waived.

H.R. RES. 470

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 4454) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1995, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The resolutions were agreed to.

A motion to reconsider was laid on the table.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1995

The SPEAKER pro tempore. The question is on the passage of the bill. This will be a 5-minute vote if a recorded vote is ordered.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. STOKES. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 344, nays 84, not voting 6, as follows:

[Roll No. 312]

YEAS—344

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Baker (CA)
Baker (LA)
Barcia
Barlow
Barrett (NE)
Bartlett
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Flake
Foglietta
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hansen
Harman
Hastert
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoke
Holden
Horn
Houghton
Hoyer
Hutchinson
Hutto
Hyde
Inslee
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
King
Kingston
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Packard
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Rogers
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schenk
Schiff
Schumer
Scott
Serrano
Sharp
Shaw
Shays
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Spratt
Stearns
Stenholm
Stokes
Strickland
Studds
Stupak
Sundquist
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns

Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)

NAYS—84

Allard
Archer
Armey
Bachus (AL)
Ballenger
Barca
Barrett (WI)
Barton
Boehner
Bunning
Burton
Castle
Combest
Cox
Crane
Crapo
Cunningham
Doolittle
Dornan
Dreier
Duncan
Ehlers
Fawell
Franks (NJ)
Gekas
Goss
Grams
Hancock
Hefley
Herger
Hoekstra
Huffington
Hughes
Hunter
Inglis
Inhofe
Istook
Jacobs
Johnson, Sam
Kim
Klug
Knollenberg
Kolbe
Kyl
Leach
Linder
Manzullo
McCandless
McKeon
Mica
Miller (FL)
Minge
Moorhead
Myers
Nussle
Oxley
Paxon
Penny
Peterson (MN)
Petri
Pombo
Porter
Portman
Ramstad
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Schaefer
Schroeder
Sensenbrenner
Shuster
Smith (MI)
Solomon
Spence
Stark
Stump
Swett
Walker
Zeliff
Zimmer

NOT VOTING—6

Coyne
Fish
Ford (MI)
Grandy
Machtley
Washington

☐ 2229

Mr. PORTER changed his vote from "yea" to "nay."

Mr. KASICH changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FAZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report to the bill, H.R. 4454, making appropriations for the legislative branch for the fiscal year ending September 30, 1995, and for other purposes, and that I may include extraneous and tabular material.

The SPEAKER pro tempore (Mr. OBERSTAR). Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON H.R. 4454, LEGISLATIVE BRANCH APPROPRIATION ACT, 1995

Mr. FAZIO. Mr. Speaker, pursuant to House Resolution 470 just adopted, I call up the conference report on the bill, H.R. 4454 making appropriations for the legislative branch for the fiscal year ending September 30, 1995, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 470, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Tuesday, June 28, 1994, at page 14920.)

The SPEAKER pro tempore. The gentleman from California [Mr. FAZIO] will be recognized for 30 minutes, and the gentleman from Florida [Mr. YOUNG] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have had a very successful conference; 33 Senate amendments to the House bill have all been resolved. We will include a table showing the details of the conference agreement in the RECORD.

The material to which I referred is as follows:

H.R. 4454—LEGISLATIVE APPROPRIATIONS CONFERENCE AGREEMENT—REMARKS OF HON. VIC FAZIO, CALIFORNIA

SUCCESSFUL CONFERENCE

33 Senate amendments to the House bill; all resolved by conferees.

I will include a table showing details of conference agreement.

LEGISLATIVE BRANCH HAS EXCEEDED THE 4 PERCENT STAFF REDUCTION PLAN—WE ARE GOING TO ACHIEVE 5.6 PERCENT

Conference agreement: Maximum restraint on spending consistent with our needs to carry out the job of the Federal legislature.

Applied tougher spending standards to our own budget than almost any other part of government.

Also, we carried out the instructions of the House to the House conferees on Amendment No. 24 to require cost savings at GPO in developing electronic formats for enhanced information access as required by law.

CONFERENCE AGREEMENT—BUDGET AUTHORITY

$2.37 billion ($2,367,287,500)—that's 4.2 percent (+$96.7 million) above 1994.

$142.4 million below budget request—a 5.7 percent reduction.

$100.7 million below our 602(b) Budget Resolution target—(−4.1 percent).

CONFERENCE BUDGET AUTHORITY COMPARED TO HOUSE BILL

The bill we sent to the Senate did not have funds for Senate operations.

Excluding the Senate items, the conference agreement is $24.4 million ($24,434,000) above the House-passed bill. Consisting of: COLA and locality pay increase of $10 million for legislative agencies entitled to receive them; A comparability pay increase of $3.7 million for Capitol and Library police; Building renovation projects: $2.5 million for the Collidge auditorium and Whittall Pavilions at Library of Congress; $6 million derived from receipts for asbestos removal at the GAO building; Workload items: $1.5 million for electronic access by libraries to Federal documents, offset by a substantially higher amount of savings from other electronic format projects; and $475,000 for CRS data services to Members of Congress.

OTHER RESOURCES ADDED

We have funded the beginning of the reconstruction of the Botanic Garden conservatory.

Out of existing no-year funds out of Architect accounts.

We maintained the reduction amendment adopted on the House floor by using previously appropriated funds.

We have funded new security equipment for the Capitol buildings from the same source.

BASELINE COMPARISONS

If we go back three years to the actual 1992 appropriation, and the fiscal year 1995 baseline then projected by CBO: The Legislative Bill is −12.3 percent (−$331 million) below the 1992 level of operations in BA; and 5.5 percent (−$139 million) below 1992 in outlays.

PROVISIONS

Amendment No. 26 amends the Federal printing code. The original Senate amendment made extensive changes in Federal policy which governs the purchase of printing services from the private sector. We did not go along with the Senate in expanding this policy to use the Government Printing Office procurement program for the purchase of computer printing. That is the province of the Government Operations Committee, and we did not change that. But we did go along with including high volume duplicating. The GAO has said there is no longer any real distinction between duplicating and printing—and we have recognized that in this bill.

Amendment No. 26 strengthens the hand of GPO to utilize their competitive procurement program—which is highly developed—to get the best possible price for the government in obtaining contract printing.

Amendment No. 33 contains language that enacts a Human Resources Act for the employees of the Architect of the Capitol. This amendment was included in the Senate bill and, after further review and consultations with Senator Mikulski and others, the Senate managers asked for a further amendment in the conference committee, which House and Senate conferees agreed to. In addition, the House managers proposed a further amendment designed to guarantee that House garage and lot attendants will be eligible for all employee rights made available to House employees.

SUMMARY

In summary, the bill is: $142 million below the request; $101 million below the Sec. 602(b) target allocation; 12.3 percent below the 95 baseline projected from the 1992 level of operation.

Urge an aye vote on passage.

H.R. 4454 - LEGISLATIVE BRANCH APPROPRIATIONS, 1995

	FY 1994 Enacted	FY 1995 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - CONGRESSIONAL OPERATIONS						
SENATE						
Mileage and Expense Allowances						
Mileage of the Vice President and Senators	60,000	60,000		60,000	60,000	
Expense allowances:						
Vice President	10,000	10,000		10,000	10,000	
President Pro Tempore of the Senate	10,000	10,000		10,000	10,000	
Majority Leader of the Senate	10,000	10,000		10,000	10,000	
Minority Leader of the Senate	10,000	10,000		10,000	10,000	
Majority Whip of the Senate	5,000	5,000		5,000	5,000	
Minority Whip of the Senate	5,000	5,000		5,000	5,000	
Chairmen of the Majority Conference Committee	3,000	3,000		3,000	3,000	
Chairmen of the Minority Conference Committee	3,000	3,000		3,000	3,000	
Subtotal, expense allowances	56,000	56,000		56,000	56,000	
Representation allowances for the Majority and Minority Leaders	30,000	30,000		30,000	30,000	
Total, Mileage and expenses allowances	146,000	146,000		146,000	146,000	
Salaries, Officers and Employees						
Office of the Vice President	1,431,000	1,513,000		1,513,000	1,513,000	+82,000
Office of the President Pro Tempore	432,000	457,000		457,000	457,000	+25,000
Offices of the Majority and Minority Leaders	2,076,000	2,195,000		2,195,000	2,195,000	+119,000
Offices of the Majority and Minority Whips	644,000	656,000		656,000	656,000	+12,000
Conference committees	1,884,000	1,992,000		1,992,000	1,992,000	+108,000
Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority	362,000	384,000		384,000	384,000	+22,000
Office of the Chaplain	172,000	192,000		192,000	192,000	+20,000
Office of the Secretary	12,165,000	12,961,000		12,961,000	12,961,000	+796,000
Office of the Sergeant at Arms and Doorkeeper	32,739,000	32,739,000		32,739,000	32,739,000	
Offices of the Secretaries for the Majority and Minority	1,133,000	1,197,000		1,197,000	1,197,000	+64,000
Agency contributions	17,307,000	17,052,000		17,052,000	17,052,000	-255,000
Total, salaries, officers and employees	70,345,000	71,338,000		71,338,000	71,338,000	+993,000
Office of the Legislative Counsel of the Senate						
Salaries and expenses	3,080,000	3,381,000		3,381,000	3,381,000	+301,000
Office of Senate Legal Counsel						
Salaries and expenses	833,000	936,000		936,000	936,000	+103,000
Expense Allowances of the Secretary of the Senate, Sergeant at Arms and Doorkeeper of the Senate, and Secretaries for the Majority and Minority of the Senate: Expenses allowances	12,000	12,000		12,000	12,000	
Contingent Expenses of the Senate						
Senate policy committees	2,398,200	2,574,000		2,574,000	2,574,000	+175,800
Inquiries and investigations	77,000,000	78,112,000		78,112,000	78,112,000	+1,112,000
Expenses of United States Senate Caucus on International Narcotics Control	336,000	348,000		348,000	348,000	+12,000
Secretary of the Senate	1,966,500	1,966,500		1,966,500	1,966,500	
(By transfer)				(7,000,000)	(7,000,000)	(+7,000,000)
Sergeant at Arms and Doorkeeper of the Senate	74,894,000	74,894,000		74,894,000	74,894,000	
Miscellaneous items	6,748,000	7,429,000		7,429,000	7,429,000	+681,000
Senators' Official Personnel and Office Expense Account	185,768,000	213,542,000		206,542,000	206,542,000	+20,774,000
Office of Fair Employment Practices	825,000	889,000		889,000	889,000	+64,000
Settlements and Awards Reserve		1,000,000		1,000,000	1,000,000	+1,000,000
Stationery (revolving fund)	13,000	13,000		13,000	13,000	
Official Mail Costs						
Expenses	20,000,000	36,000,000		11,000,000	11,000,000	-9,000,000
Total, contingent expenses of the Senate	369,948,700	416,767,500		384,767,500	384,767,500	+14,818,800
Total, Senate	444,364,700	492,580,500		460,580,500	460,580,500	+16,215,800
Rescission				-23,000,000	-23,000,000	-23,000,000
Total, Senate (net)	444,364,700	492,580,500		437,580,500	437,580,500	-6,784,200
HOUSE OF REPRESENTATIVES						
Payments to Widows and Heirs of Deceased Members of Congress						
Gratuities, deceased Members	133,600		133,600	133,600	133,600	

H.R. 4454 - LEGISLATIVE BRANCH APPROPRIATIONS, 1995

	FY 1994 Enacted	FY 1995 Estimate	House	Senate	Conference	Conference compared with enacted
Salaries and Expenses						
House Leadership Offices						
Office of the Speaker	1,396,000	1,809,000	1,444,000	1,444,000	1,444,000	+48,000
Office of the Majority Floor Leader	1,003,000	1,121,000	1,042,000	1,042,000	1,042,000	+39,000
Office of the Minority Floor Leader	1,383,000	1,534,000	1,429,000	1,429,000	1,429,000	+46,000
Office of the Majority Whip	1,236,000	1,361,000	1,284,000	1,284,000	1,284,000	+48,000
Office of the Minority Whip	855,000	848,000	897,000	897,000	897,000	+42,000
Total, House leadership offices	5,871,000	6,573,000	6,096,000	6,096,000	6,096,000	+225,000
Members' Clerk Hire						
Clerk hire	225,004,000	256,702,000	240,417,000	240,417,000	240,417,000	+15,413,000
Committee Employees						
Professional and clerical employees of standing committees	70,445,000	78,301,000	73,925,000	73,925,000	73,925,000	+3,480,000
Committee on the Budget (Studies)						
Salaries and expenses	389,000	401,000	401,000	401,000	401,000	+12,000
Standing Committees, Special and Select						
Salaries and expenses	52,662,000	56,748,000	53,191,000	53,191,000	53,191,000	+529,000
House Information Systems						
Salaries and expenses	22,885,000	22,894,000	22,437,000	22,437,000	22,437,000	-448,000
Offsetting collections	-8,328,000	-6,420,000	-6,420,000	-6,420,000	-6,420,000	+1,908,000
Net total, House Information Systems	14,557,000	16,474,000	16,017,000	16,017,000	16,017,000	+1,460,000
Allowances and Expenses						
Official Expenses of Members	76,545,000	79,800,000	79,800,000	79,800,000	79,800,000	+3,255,000
Supplies, materials, administrative costs and Federal tort claims	11,328,000	6,696,000	6,103,000	6,103,000	6,103,000	-5,225,000
Office equipment	7,196,000	11,779,000	11,779,000	11,779,000	11,779,000	+4,583,000
Net expenses for telecommunications	5,960,000	10,872,000	10,872,000	10,872,000	10,872,000	+4,912,000
Furniture and furnishings	1,720,000	2,012,000	2,012,000	2,012,000	2,012,000	+292,000
Stenographic reporting of committee hearings	1,055,000	1,100,000	1,100,000	1,100,000	1,100,000	+45,000
Reemployed annuitants reimbursements	933,000	1,312,000	1,279,000	1,279,000	1,279,000	+346,000
Government contributions	115,314,000	134,841,000	130,849,000	130,849,000	130,849,000	+15,535,000
Miscellaneous items	761,000	778,000	778,000	778,000	778,000	+17,000
Total, allowances and expenses	220,812,000	249,282,000	244,572,000	244,572,000	244,572,000	+23,760,000
Committee on Appropriations (Studies and Investigations)						
Salaries and expenses	6,431,000	6,507,000	6,495,000	6,495,000	6,495,000	+64,000
Official Mail Costs						
Expenses	40,000,000	40,000,000	31,000,000	31,000,000	31,000,000	-9,000,000
Salaries, Officers and Employees						
Office of the Clerk	11,947,000	15,441,000	14,158,000	14,158,000	14,158,000	+2,211,000
Office of the Sergeant at Arms	1,384,000	1,677,000	1,502,000	1,502,000	1,502,000	+118,000
Office of the Doorkeeper	10,101,000	13,867,000	11,506,000	11,506,000	11,506,000	+1,405,000
Office of Director of Non-Legislative and Financial Services	14,402,000	18,393,000	16,360,000	16,360,000	16,360,000	+1,958,000
Office of Inspector General	....	304,000	286,000	286,000	286,000	+286,000
Office of General Counsel	674,000	783,000	762,000	762,000	762,000	+88,000
Office of the Chaplain	123,000	129,000	124,000	124,000	124,000	+1,000
Office of the Parliamentarian	888,000	1,076,000	973,000	973,000	973,000	+85,000
Office of the Parliamentarian	(589,000)	(752,000)	(659,000)	(659,000)	(659,000)	(+70,000)
Compilation of precedents of the House of Representatives	(299,000)	(324,000)	(314,000)	(314,000)	(314,000)	(+15,000)
Office of the Historian	310,000	405,000	337,000	337,000	337,000	+27,000
Office of the Law Revision Counsel	1,453,000	1,779,000	1,630,000	1,630,000	1,630,000	+177,000
Office of the Legislative Counsel	4,071,000	4,844,000	4,400,000	4,400,000	4,400,000	+329,000
Six minority employees	739,000	772,000	747,000	747,000	747,000	+8,000
House Democratic Steering Committee and Caucus	1,474,000	1,837,000	1,523,000	1,523,000	1,523,000	+49,000
House Democratic Steering Committee	(842,000)	(1,027,000)	(870,000)	(870,000)	(870,000)	(+28,000)
House Democratic Caucus	(632,000)	(810,000)	(653,000)	(653,000)	(653,000)	(+21,000)
House Republican Conference	1,474,000	1,837,000	1,523,000	1,523,000	1,523,000	+49,000
Other Authorized Employees	1,098,000	1,814,000	504,000	504,000	504,000	-594,000
Technical assistant, Office of the Attending Physician	(146,000)	(168,000)	(161,000)	(161,000)	(161,000)	(+15,000)
L.B.J. Interns	(483,000)	(1,144,000)	....	....	....	(-483,000)
Former Speakers' staff	(417,000)	(446,000)	(290,000)	(290,000)	(290,000)	(-127,000)
Miscellaneous items	(52,000)	(56,000)	(53,000)	(53,000)	(53,000)	(+1,000)
Total, salaries, officers and employees	50,147,000	64,178,000	58,354,000	58,354,000	58,354,000	+8,207,000
Total, salaries and expenses	686,318,000	777,147,000	728,468,000	728,468,000	728,468,000	+42,150,000
Total, House of Representatives	686,451,800	777,147,000	728,601,800	728,601,800	728,601,800	+42,150,000

H.R. 4454 - LEGISLATIVE BRANCH APPROPRIATIONS, 1995

	FY 1994 Enacted	FY 1995 Estimate	House	Senate	Conference	Conference compared with enacted
JOINT ITEMS						
Joint Economic Committee	3,980,000	4,120,000	4,090,000	4,090,000	4,090,000	+110,000
Joint Committee on Printing	1,344,000	1,380,000	1,370,000	1,370,000	1,370,000	+26,000
Joint Committee on Taxation	5,701,000	6,484,000	6,019,000	6,019,000	6,019,000	+318,000
Office of the Attending Physician						
Medical supplies, equipment, expenses, and allowances	1,502,000	1,335,000	1,335,000	1,335,000	1,335,000	-167,000
Capitol Police Board						
Capitol Police						
Salaries:						
Sergeant at Arms of the House of Representatives	29,453,000	33,386,000	31,833,000	33,463,000	33,463,000	+4,010,000
Sergeant at Arms and Doorkeeper of the Senate	32,802,000	36,033,000	34,158,000	35,919,000	35,919,000	+3,117,000
Total, salaries	62,255,000	69,419,000	65,991,000	69,382,000	69,382,000	+7,127,000
General expenses	1,977,000	2,000,000	2,000,000	2,000,000	2,000,000	+23,000
Total, Capitol Police Board	64,232,000	71,419,000	67,991,000	71,382,000	71,382,000	+7,150,000
Capitol Guide Service						
Salaries and expenses	1,628,000	1,628,000	1,628,000	1,628,000	1,628,000	
Special Services Office						
Salaries and expenses	363,000	363,000	363,000	363,000	363,000	
Statements of Appropriations						
Preparation		20,000				
Total, Joint items	78,750,000	86,749,000	82,796,000	86,187,000	86,187,000	+7,437,000
OFFICE OF TECHNOLOGY ASSESSMENT						
Salaries and expenses	21,315,000	22,030,000	21,831,000	21,970,000	21,970,000	+655,000
CONGRESSIONAL BUDGET OFFICE						
Salaries and expenses	22,317,000	23,261,000	23,133,000	23,188,000	23,188,000	+871,000
ARCHITECT OF THE CAPITOL						
Office of the Architect of the Capitol						
Salaries	8,453,000	9,515,000	8,927,000	9,103,000	9,103,000	+650,000
Travel (limitation on official travel expenses)	(20,000)	(20,000)	(20,000)	(20,000)	(20,000)	
Contingent expenses	100,000	100,000	100,000	100,000	100,000	
Total, Office of the Architect of the Capitol	8,553,000	9,615,000	9,027,000	9,203,000	9,203,000	+650,000
Capitol Buildings and Grounds						
Capitol buildings	23,978,000	24,418,000	22,340,000	22,797,000	22,797,000	-1,181,000
Sec. 310 (purchasing x-ray and metal detectors)				(2,015,000)	(2,015,000)	(+2,015,000)
Capitol grounds	5,288,000	5,725,000	5,201,000	5,270,000	5,270,000	-18,000
Senate Office Buildings	47,339,000	48,316,000		47,619,000	47,619,000	+280,000
House Office Buildings	32,287,000	40,034,000	41,364,000	41,364,000	41,364,000	+9,077,000
Capitol Power Plant	35,977,000	40,548,000	36,542,000	36,637,000	36,637,000	+660,000
Offsetting collections	-3,200,000	-3,200,000	-3,200,000	-3,200,000	-3,200,000	
Net total, Capitol Power Plant	32,777,000	37,348,000	33,342,000	33,437,000	33,437,000	+660,000
Total, Capitol buildings and grounds	141,670,000	158,839,000	102,247,000	150,487,000	150,487,000	+8,817,000
Total, Architect of the Capitol	150,223,000	168,454,000	111,274,000	159,690,000	159,690,000	+9,467,000
LIBRARY OF CONGRESS						
Congressional Research Service						
Salaries and expenses	56,718,000	60,411,000	56,938,000	60,459,000	60,084,000	+3,366,000
GOVERNMENT PRINTING OFFICE						
Congressional printing and binding	88,404,000	95,158,000	87,717,000	89,724,000	89,724,000	+1,320,000
Total, title I, Congressional Operations	1,548,543,300	1,723,790,500	1,114,390,600	1,607,400,100	1,607,025,100	+58,481,800
Appropriations	(1,548,543,300)	(1,723,790,500)	(1,114,390,600)	(1,630,400,100)	(1,630,025,100)	(+81,481,800)
Rescission				(-23,000,000)	(-23,000,000)	(-23,000,000)

H.R. 4454 - LEGISLATIVE BRANCH APPROPRIATIONS, 1995

	FY 1994 Enacted	FY 1995 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE II - OTHER AGENCIES						
BOTANIC GARDEN						
Salaries and expenses	3,008,000	3,378,000	3,182,000	3,230,000	3,230,000	+222,000
Conservatory rennovation		7,000,000				
(By transfer)				(7,000,000)	(7,000,000)	(+7,000,000)
Total	3,008,000	10,378,000	3,182,000	3,230,000	3,230,000	+222,000
LIBRARY OF CONGRESS						
Salaries and expenses	201,408,000	213,205,000	207,857,000	210,164,000	210,164,000	+8,756,000
Authority to spend receipts	-7,500,000	-7,869,000	-7,869,000	-7,869,000	-7,869,000	-369,000
Net total, Salaries and expenses	193,908,000	205,336,000	199,988,000	202,295,000	202,295,000	+8,389,000
Copyright Office, salaries and expenses	26,188,000	27,956,000	27,186,000	27,456,000	27,456,000	+1,268,000
Authority to spend receipts	-16,833,000	-17,427,000	-17,391,000	-17,411,000	-17,411,000	-578,000
Net total, Copyright Office	9,355,000	10,529,000	9,795,000	10,045,000	10,045,000	+690,000
Books for the blind and physically handicapped, salaries and expenses	42,613,000	50,155,000	44,822,000	44,951,000	44,951,000	+2,338,000
Furniture and furnishings	3,939,000	6,239,000	5,825,000	5,825,000	5,825,000	+1,886,000
Total, Library of Congress (except CRS)	[1] 249,813,000	272,259,000	260,230,000	263,116,000	263,116,000	+13,303,000
ARCHITECT OF THE CAPITOL						
Library Buildings and Grounds						
Structural and mechanical care	9,974,000	10,785,000	9,860,000	13,483,000	12,483,000	+2,509,000
COPYRIGHT ROYALTY TRIBUNAL						
Salaries and expenses	1,028,000					-1,028,000
Authority to spend receipts	-900,000					+900,000
Net total, Copyright Royalty Tribunal	128,000					-128,000
GOVERNMENT PRINTING OFFICE						
Office of Superintendent of Documents						
Salaries and expenses	29,082,000	33,800,000	30,600,000	32,207,000	32,207,000	+3,125,000
GENERAL ACCOUNTING OFFICE						
Salaries and expenses	[2] 431,765,000	459,591,000	440,525,000	450,360,000	450,360,000	+18,595,000
Offsetting collections	-1,600,000	-1,000,000	-1,000,000	-7,000,000	-7,000,000	-5,400,000
Subtotal	430,165,000	458,591,000	439,525,000	443,360,000	443,360,000	+13,195,000
GAO use of collections (formerly receipts)				6,000,000	6,000,000	+6,000,000
Total, General Accounting Office	430,165,000	458,591,000	439,525,000	449,360,000	449,360,000	+19,195,000
Total, title II, Other agencies	722,170,000	785,813,000	743,397,000	761,398,000	760,398,000	+38,228,000
Grand total	2,270,713,300	2,509,703,500	1,857,787,800	2,368,796,100	2,367,421,100	+96,707,800

1/ FY 1994 includes recision of -$1,000,000.

2/ FY 1994 includes recision of -$650,000.

Mr. Speaker, there is one particularly important aspect of this report that relates to the Architect of the Capitol. Because of his interest in this issue, I yield 1 minute to the gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise today in support of the Legislative Branch Appropriations Conference Report and would like to commend Chairman FAZIO for his hard work on this measure.

Mr. Speaker, in April 1994, the General Accounting Office released a report on the personnel management policies and practices at the Architect of the Capitol. The report, requested by Senator BARBARA MIKULSKI revealed some startling facts, many that my colleagues would be amazed to learn. If I may, let me give you a few of the findings released in the report.

There is no clearly defined hiring procedure.

Supervisors are not required to provide annual performance reviews.

Promotions are inconsistent and not documented.

Employees are not made aware of offenses for which they can be disciplined.

There is no procedure for appealing disciplinary measures.

This list of basic workers violations goes on and on throughout the report.

In an effort to address these unfair labor practices I worked with the gentlelady from the District of Columbia, Representative MFUME, and my colleagues in the other body to craft legislation that would address this matter. I am pleased that Chairman FAZIO and other members of the Conference Committee found it appropriate to include the basic principles of that legislation in the conference report.

Mr. Speaker, the employees of the Architect of the Capitol are the people who paint our hallways, run our trains, and move our office furniture. It is time that we provide them with the same common human resource management practices that are provided for employees in the Federal Government and private sector organizations.

I encourage my colleagues to support this language and to support this conference report.

Mr. FAZIO. Mr. Speaker, I appreciate the gentleman's comments.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to say that our chairman has very ably described the few minor changes that the conference made. We just a few short weeks ago had a lot of debate and quite a few votes on the issues about this bill, and I think we might as well go ahead and go on to passage.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I am happy to yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, if I understand it, I see one copy here of the so-called budget figures. It is $96,707,000 above last year, is that correct?

Mr. FAZIO. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from California.

Mr. FAZIO. Mr. Speaker, the gentleman is correct. It is 4.2 percent, down from 4.4 percent when it passed the House.

Mr. MYERS of Indiana. But it is still $96 million over last year?

Mr. FAZIO. The gentleman is correct.

Mr. YOUNG of Florida. Mr. Speaker, I yield back the balance of my time.

Mr. FAZIO. Mr. Speaker, I believe this is, as the gentleman from Florida said, a very similar vote to the one we had before. This is less than when it passed the House, and I urge adoption of the conference report.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 4650) making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1995

Mr. MURTHA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4650) making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 5 minutes, the time to be equally divided and controlled by the gentleman from Pennsylvania [Mr. MCDADE] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. MURTHA].

The motion was agreed to.

□ 2245

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4650, with Mr. TORRICELLI in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous consent agreement, the gentleman from Pennsylvania [Mr. MURTHA] will be recognized for 2½ minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I bring to the House of Representatives the Fiscal Year 1995 Defense Appropriations Bill. I'd like to thank all the members of the Defense Subcommittee for the hard work they have performed all year. I'd like to give special thanks to the ranking minority member of the subcommittee, my friend from Pennsylvania [Mr. MCDADE].

Mr. Chairman, this is the last defense appropriation bill we will be passing in the House while Don Richbourg is staff director of the Defense Subcommittee. Don graduated from the University of Virginia and served as an officer in the Army for 3 years in the intelligence area. After working for a period of time in the private sector he came to work for the Appropriations Committee in 1966. He has had various positions with the Appropriations Committee including serving with the Defense Subcommittee since 1983. He has been the staff director of the Defense Subcommittee since 1985.

Don Richbourg has been a consummate professional during the many years he has served with the committee. His integrity, commitment to the work ethic, judgment and grasp of defense issues are unrivaled. Don has the unique ability to understand and articulate the large national security issues and broad budget topics we face daily on the Defense Subcommittee, while simultaneously conducting the daily detailed work of the appropriations process. He will be sorely missed.

FISCAL YEAR 1995 DEFENSE APPROPRIATIONS BILL

The Appropriations Committee is recommending to the House a total of $243.6 billion in the new budget authority for fiscal year 1995 for the Defense Department. This figure is $846 million below the budget request. These spending levels do not include funds for the Nuclear Weapons Program of the Department of Energy or for Military Construction. Those activities are funded in separate appropriations bills. This has been an extremely challenging year in terms of trying to match the limited resources we have available to the mix of programs necessary to carry out our international commitments.

At this point in the RECORD I will insert a table outlining the Committee's recommendations by account.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1994 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1995

(1) Agency and item	(2) Appropriated 1994 (enacted to date)	(3) Budget estimates, 1995	(4) Recommended in bill	(5) Bill compared with appropriated, 1994	(6) Bill compared with budget estimates, 1995
Recapitulation					
Title I—Military Personnel	70,624,044,000	70,475,397,000	70,893,502,000	+269,458,000	+418,105,000
Title II—Operation and Maintenance	76,616,787,000	81,926,891,000	80,006,961,000	+3,390,174,000	−1,919,930,000
Title III—Procurement	44,663,078,000	42,698,919,000	43,018,433,000	−1,644,645,000	+319,514,000
Title IV—Research, Development, Test Evaluation	35,191,491,000	36,225,013,000	34,467,940,000	−723,551,000	−1,757,073,000
Title V—Revolving and Management Funds	2,643,095,000	1,777,638,000	1,949,038,000	−694,057,000	+171,400,000
Title VI—Other Department of Defense Programs	11,021,820,000	11,329,706,000	12,965,203,000	+1,943,383,000	+1,635,497,000
Title VII—National Foreign Intelligence Program	343,588,000	305,384,000	281,084,000	−62,504,000	−24,300,000
Title VIII—General provisions	−558,958,000	7,131,000	12,131,000	+571,089,000	+5,000,000
Procurement: General provisions		−304,900,000			+304,900,000
(Additional transfer authority)	(2,500,000,000)	(2,000,000,000)	(2,000,000,000)	(−500,000,000)	
Total, Department of Defense	240,544,945,000	244,441,179,000	243,594,292,000	+3,049,347,000	−846,887,000
Scorekeeping adjustments	−465,300,000	8,800,000	8,800,000	+474,100,000	
Grant Total	240,079,645,000	244,449,979,000	243,603,092,000	+3,523,447,000	−846,887,000

This bill is: below the budget request; below the 602(b) allocation in budget authority; and below the outlay level in the 602(b) allocation.

SPENDING AND PERSONNEL TRENDS IN DEFENSE

Mr. Chairman, because of the dissolution of the Soviet Union and the collapse of the Warsaw Pact, very large downsizing of the Department of Defense has taken place. To put the scope of that downsizing in perspective I would cite a few statistics:

The President's fiscal year 1995 budget proposes and the bill implements the 10th consecutive year of reductions in budget authority for defense when measured in constant dollars.

Defense spending levels are reaching historic lows. The 1995 spending level for defense as a percentage of the gross domestic product is projected to be the lowest it has been since before World War II with the exception of fiscal year 1948.

From fiscal year 1985 through fiscal year 1995 over 1,000,000 personnel have been reduced from the manpower levels of the active force, the Guard, and Reserve and civilians employed by the DOD.

The projected fiscal year 1995 active duty end strength will be at the lowest point since 1950.

Millions of additional jobs are being eliminated in the private sector as a result of these reductions.

NO HOLLOW FORCE

Mr. Chairman, while the Committee has been supportive of this downsizing because of the rapidly changing global situation, it has been quite concerned about the potential of a "hollow force" emerging as occurred after World II, the Korean War and the Vietnam war. The committee commends the administration for recognizing various "early warning signs" of the potential of a hollow force emerging and taking action to break the "boom and bust" readiness cycle of the past. The budget as submitted recommends a substantial increase in the Operations and Maintenance budget to enhance readiness, training and depot maintenance. The administration's budget request increases constant dollar operating resources by +14 percent per Army combat battalion, +11 percent Navy ship and +12 percent per Air Force aircraft between fiscal year 1993 and fiscal year 1995.

To further strengthen the administration's initiative, the Committee recommends major readiness enhancements totaling nearly $3,200,000,000 over the budget request in the following areas:

+$607,000,000 for depot maintenance;

+$517,000,000 for real property maintenance;

+$17,000,000 for recruiting and advertising;

+$90,000,000 for war reserve spare parts;

+$465,000,000 for military pay increases;

+$250,000,000 for a new Korean Readiness Enhancement Account;

+$400,000,000 for ammunition;

+$310,000,000 for increased unity training and support;

+$530,000,000 for civilian pay increases.

THREATS HAVE NOT EVAPORATED

There are those who would argue that because of the demise of the Soviet Union, reductions in defense spending should be even deeper than the significant reductions outlined in the President's plan. Unfortunately, the end of the cold war has not brought about a tranquil era in the world.

Each passing day brings home the point that the post-cold war era may well be a volatile and dangerous time. Ethnic, cultural, and religious enmities exist and are increasing in the Balkans, Africa and Middle East. At least 20 countries—many of them hostile to the U.S.—have now or are seeking to develop nuclear, biological and/or chemical weapons and the means to deliver them. More than 12 countries have operational ballistic missiles, and others have programs to develop them. There is no question that America, as the world's only superpower, must maintain an adequate and robust national defense posture in this era of change and turbulence.

The need to be prepared was expressed succinctly by the Chairman of the Joint Chiefs of staff before the Committee earlier this year.

Since our Nation was founded, we have never experienced a 20–year period of uninterrupted peace. Put another way, no soldier in this country's history has ever completed a military career when the Nation did not engage in armed conflict at least once. This is the reality that underscores our need to remain ready.

RESERVE COMPONENT

As the war in the Persian Gulf dramatized, the Reserve Component plays a key role in our overall force readiness. A comparison of the active force level vis-a-vis the Reserve Components during the 1987–1997 time frame, shows that while the active force will have declined from 2,200,000 to 1,500,000, the Selected Reserves will decrease from 1,200,000 to 934,000. Thus while that active force will have declined by 32 percent during that time frame, the Reserve components declined by 19 percent.

The DOD plans to place even greater reliance on the reserve components in the future, including enhanced readiness for 15 combat maneuver brigades with deployment times reduced to 90 days. The Committee has taken initiatives to further enhance the readiness and morale of the Guard and Reserves. These initiatives include a pay raise and an increase of almost $800 million for high priority procurement items for the Guard and Reserve.

DISCRETIONARY SPENDING

As the Chairman of the Subcommittee responsible for approximately one-half of all discretionary spending, I would like to take a moment to point out the outstanding track record of the Appropriations Committee in controlling discretionary spending. As the following table points out, the real growth of discretionary spending for the 30 year time period of 1968–1998 is 0 percent.

OUTLAYS FOR MAJOR SPENDING CATEGORIES FISCAL YEAR 1968–1998

[In billions of constant 1994 dollars]

	Discretionary spending	Entitlements and other mandatory spending	Deposit insurance	Net interest	Offsetting receipts	Total outlays
1968	486.1	223.3	−2.1	44.2	−42.3	709.2
1969	464.8	234.3	−2.3	48.4	−42.1	702.8
1970	454.7	250.7	−1.8	52.5	−41.9	714.2
1971	443.4	288.4	−1.3	51.8	−49.1	733.1
1972	448.1	325.9	−2.0	52.1	−47.5	776.6
1973	437.0	363.3	−2.6	56.2	−58.3	795.5

OUTLAYS FOR MAJOR SPENDING CATEGORIES FISCAL YEAR 1968–1998—Continued

[In billions of constant 1994 dollars]

	Discretionary spending	Entitlements and other mandatory spending	Deposit insurance	Net interest	Offsetting receipts	Total outlays
1974	425.3	379.4	−1.8	64.0	−63.1	803.7
1975	441.1	446.4	1.4	63.1	−49.7	902.2
1976	446.5	482.5	−1.5	68.0	−49.9	945.6
1977	466.3	488.8	−6.6	70.7	−50.9	968.2
1978	486.1	507.6	−2.2	78.8	−50.7	1,019.6
1979	489.8	506.5	−3.6	87.0	−52.2	1,027.5
1980	507.7	535.4	−0.7	96.5	−53.5	1,085.2
1981	514.3	568.5	−2.3	114.8	−63.2	1,131.9
1982	508.7	581.3	−3.3	132.6	−56.2	1,163.1
1983	527.8	614.7	−1.7	134.1	−67.7	1,207.2
1984	543.9	582.0	−1.2	159.2	−63.4	1,220.4
1985	575.1	621.8	−3.0	178.9	−65.1	1,307.7
1986	591.9	619.8	2.0	183.4	−61.9	1,335.2
1987	583.1	616.2	4.1	181.7	−69.4	1,315.6
1988	585.4	622.1	12.6	191.1	−71.7	1,339.4
1989	588.4	632.3	26.4	203.4	−76.8	1,373.8
1990	574.3	649.5	66.5	210.9	−67.3	1,433.9
1991	582.7	691.0	72.3	212.0	−115.5	1,442.5
1992	566.9	752.7	2.8	210.9	−72.8	1,460.5
1993	556.8	782.3	−28.7	204.1	−68.9	1,445.6
1994[1]	544.3	801.9	−3.5	201.2	−68.1	1,475.7
1995[1]	530.0	832.0	−11.8	207.5	−82.4	1,475.3
1996[1]	513.9	846.7	−13.2	216.7	−67.5	1,496.5
1997[1]	498.7	881.9	−5.5	220.3	−68.7	1,526.8
1998[1]	485.1	913.1	−4.3	223.3	−70.7	1,546.5
Percentage change 1968–1998	0	+309	....	+405	....	+118

[1] Projection (April 1994).

Source: Congressional Budget Office.

CONCLUSION

Returning to the Defense Bill, in conclusion, the bill is below the budget request; is below the level in the 602 allocation; continues the steady contraction of the overall force structure; and makes an important contribution to enhancing our readiness and ensuring that we do not have a return to the "hollow force" that has emerged in past downsizing.

I urge passage of the defense bill by the House of Representatives.

Mr. Chairman, I have additional clarification of the committee's intent regarding several subjects. In fiscal years 1994 and 1995, DOD requested no funds for reusable space launch vehicle technologies or the continued development of the DC–X single stage to orbit [SSTO] launch vehicle. In fiscal year 1994 the committee provided $40 million above the budget and this bill before you today includes another $50,000,000 above the budget for this effort.

On pages 32 and 33 of report number 103–562 which accompanies this bill, the committee included a brief discussion of the merits of reusable space launch technologies. It is the committee's belief that SSTO is a viable program structure around which reusable technologies can be focused. It is clearly the committee's intent that the $50,000,000 provided in fiscal year 1995 and the $35,000,000 still unobligated in fiscal year 1994 be available for the Air Force's Phillips Laboratory to proceed with the next phase of the SSTO reusable space launch technology effort.

The committee intends that out of funds available to the Department of Defense, $1,800,000 shall be available for Plasma—electric waste converter, and $12,000,000 shall be available for the MK4 acoustic device countermeasure.

Mr. Chairman, I yield back the balance of my time.

Mr. MCDADE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of this bill and ask for its prompt and favorable consideration.

At the outset I want to acknowledge the chairman, the gentleman from Pennsylvania, who this year led us through a process which presented us with more difficulty than any bill I have dealt with in any of the 14 years I have been on the Defense Subcommittee. He brought each and every issue to the subcommittee—seeking out the collective view, both sides of the aisle, and forging a consensus around what I consider a solid bill given the dollars we have available. And he has held fast to what has always been his bottom line—taking care of the troops in the field. This bill looks after the troops and no one deserves more credit than JACK MURTHA.

Mr. Chairman, it is no secret that many of us, myself included believe the Defense program being put forward by the administration is fatally flawed. It cuts Defense too far, and too fast. The bill before you today will bring Defense spending to 3.8 percent of Gross Domestic Product—the lowest level since 1948. And the plan is to bring it down even further, to 2.8 percent, by 1999.

That is the plan, and the roadmap to get us there is full of missing pages and surrounded by smoke and mirrors. It is common knowledge now the Pentagon' 5-year program is underfunded by at least $50 billion and probably more: $20 billion from faulty inflation assumptions, $6 to $9 billion in "savings" from procurement reform, billions more assumed from base closures, and $26 billion by holding military and DoD civilian pay to less than what is needed to cover cost-of-living increases.

Meanwhile, our troops are being deployed away from home more than ever and the world continues to confront us with challenges. There is talk of sending troops on new missions, from Haiti to Bosnia. And the situation on the Korean peninsula threatens our Nation and the entire globe with enormous stakes and huge risks.

So what we are looking at is a budget being cut to the bone, and which only works by claiming billions of phantom savings, at a time when we are calling on the military more and more. Mr. Chairman, unless this gets fixed, we are going to break the force. We will break this force and repeat history by creating another hollow military.

The danger signs are already out there. Many of you saw the New York Times story on June 12 about how more and more of our enlisted servicemembers need Government assistance such as food stamps. Military families are under increasing strains and incidents of spousal abuse are on the rise.

And military readiness is at risk. Let me read some excerpts from a letter I received this month from the Army Chief of Staff, General Gordon Sullivan:

Speaking of budgets, he says: "the Army has lost more than can be accommodated and still fulfill our requirements."

Speaking of readiness he says: "In 1993, Army training tempo fell to its lowest point in years," and "the high state of readiness that our army used to defeat Iraq in 1991 is now being depleted."

And speaking of his troops in the field, he says: "I can no longer ask them to take shortcuts. We need tangible increases in training, quality of life, and * * * maintenance."

The danger signs are there, Mr. Chairman. And while today we cannot change the overall path this administration seems determined to take us on in Defense, we certainly can take strong action in this bill to address these looming problems and that is what we are recommending.

There is a full cost-of-living pay increase in the bill for both military and civilian personnel. An additional $1.5 billion for maintenance, training hours, and war reserve items. Also, $400 million over the budget to shore up the Nation's ammunition base which is crumbling before our eyes. And $250 million extra for strategic sealift.

All told, nearly $5 billion in increases over the budget, to bolster near-term readiness and warfighting deficiencies ranging from theater missile defense to preserving the B-52 bomber force.

Throughout the bill you will find other programs funded to support the smaller, leaner force we are creating, such as the C-17 airlifter, the new carrier, and upgrades to the Army's armored force.

In closing, given the funding we had available, this is a good bill which puts readiness first and which deserves the House's support. Again, I want to commend the chairman and all the subcommittee members and staff for their work, and in particular, I want to acknowledge the staff director of the Defense Subcommittee, Don Richbourg. This is the last bill that our subcommittee will be bringing to the House with Don, as he will be leaving the committee at the end of this year. This follows 28 years of service in which he has deservedly gained a reputation as one of the best staff members on the Hill. He has truly become an institution on the committee, and I cannot give him enough credit for the skill and judgment he has brought to the Defense Subcommittee in handling one of the most complex and critically important bills before the Congress every year. He has been scrupulously nonpartisan, in the best traditions of the Appropriations Committee, and I speak for all the Members on our side who have benefited from his hard work and experience. Don, the country is better off for your contributions and I want to thank you for making a difference.

I ask for quick and favorable consideration of this bill.

Mr. Chairman, I yield 30 seconds to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Chairman, I just want to commend the chairman and the committee for assuring the gentleman from Virginia [Mr. MORAN] and myself that he will do everything he can to try to see to it that we are able to solve this COLA equity problem which was not resolved in the Appropriations Committee and had been resolved under a specific provision in the House Armed Services Committee. I look forward to working with them and the Members of the other body to try to find a satisfactory resolution to this very troublesome but important problem.

Mr. McDADE. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. YOUNG].

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for yielding me the time. Although this bill is not to the levels that I would like to see because I think we are approaching a hollow force rapidly and our readiness is suffering, I rise in support of this bill.

Mr. Chairman, I rise in support of this year's defense appropriations bill, but this may be the last year I can support our product. It is not the fault of the committee and its strong leadership under Chairman MURTHA and my good friend JOE MCDADE. They have done a masterful job of taking a very poor administrative budget request bordering on the irresponsible and turning it into an acceptable bill.

The fiscal year 1995 budget and this appropriations bill represent the 10th consecutive year of reductions in budget authority for defense when measured in constant dollars, except for the one time surge in spending for Operations Desert Shield and Desert Storm. By the end of fiscal year 1994, our active force level will be 513,000 military personnel less than the level in place when the Berlin Wall came down in 1989. The amount of this reduction in personnel is incredible considering that there were more than 513,000 military personnel stationed overseas in 1989 and that is roughly equal to the entire force the United States deployed to the Persian Gulf during the war with Iraq in 1991. The projected uniformed strength of 1,400,000 by 1997 would be the lowest number of personnel in the Armed Forces in 57 years.

It is not only the budget request that is unacceptable. Almost every uniformed witness who appeared before our committee when forced to level with us admitted that the basic concept on which the Defense Department's budget is predicated—fighting two near simultaneous major regional conflicts—would be very difficult to do today or in the future. There were varying degrees of concern, but no uniformed officer could honestly testify that we can now or in the future accomplish this basic goal without serious risks.

I view with great alarm what they have said about this basic building block of the defense budget. In fact, I have come to the conclusion that the entire two near simultaneous MRC concept is a sham. Listen to what the military officers who testified before our committee say about it:

General Shalikashvili, the Chairman of the Joint Chiefs of Staff: "The forces and capabilities we are recommending, and that Secretary Perry outlined are lean; in fact I would say very, very lean, but sufficient." How would you like to be in a Korean foxhole depending on a very, very lean force, but one that is sufficient?

General McPeak, Chief of Staff of the Air Force when asked about being able to execute two MRC's: "We said coming out of the Bottom-Up Review that we were accepting a certain level of risk in being able to execute two MRC's." He adds, "I would like to order up one big one and one little one. Towards the end of this decade when we get PGM's in the bomber force then I think you could handle two." How would you like to be a soldier on the way to the Middle East when a conflict is already waging in Korea. Is the conflict you are going to the big one or the little one?

What's really disturbing is that in some very important aspects of war fighting, they didn't even consider what two MRC's require. Like intelligence. Here's what the Assistant Secretary of Defense for Command, Control, Communications and Intelligence has to say: "One of the weaknesses of the Bottom-Up Review is that it did not place the emphasis that we felt was necessary on the intelligence to include the communications to support the intelligence. When we brought that to the attention of Dr. Deutch, he established another task force headed up by Mr. Hall and our group. They are currently working the problem and expect to report out some time within the next 30 days." One of the lessons learned from Desert Storm/Desert Shield is that C3I is among our most important shortfalls.

And when you get to the war fighters themselves, it gets real serious. Here is what General Hoar of the Central Command says about the two MRC issue: "The issue, as I see it, mainly has to do with risk. The BUR, as I read it, says that we would incur moderate risk by doing two near simultaneous major regional contingencies. There are a lot of unknowns in this, Mr. Young, in the sense that the BUR was put together, not as a national strategy, but as a means of determining size and how we should go. As a result, there are a lot of things that are unanswered for us as well."

And the real key—getting there—is probably the biggest concern yet. At least two CINCs who would have to use our transportation system say it is broke. One of them calls it a "showstopper." The CINC in charge of transportation flat out says he cannot provide transportation to two MRC's today. He can provide for one, and he feels fairly confident on that although he says there are some fairly "heroic assumptions that get made relative to activation of the Reserve and the CRAF." Now that's just for one. What about getting to two. They don't have a clue about that because they haven't even figured out how to do the most likely scenario—Korea and the Middle East.

The two MRC concept as currently scripted is a fraud. It is just a game. It is not a war fighting plan. In fact as I said, the CINCs responsible to fight those conflicts and the CINC responsible for getting them to the battlefield had just begun the process of figuring out how to deploy the necessary troops during the middle of our hearing cycle. That's not the kind of planning you base a whole budget on for 1 year never the less the whole FDP.

I don't blame the military officers to whose testimony I have referred. They are all honorable men and if they had been less than candid with us, I would be really disappointed. But the same thing is happening with our budget as happened in Somalia. The civilian leadership sent our young men to a hotspot half way around the world. The military commander on the scene requested armor. The civilian leadership didn't respond. We lost 44 men.

Here, the civilian leadership devises a plan for the military to fight two near simultaneous MRC's. The military planners are telling us as best they can while still being good soldiers, that the plan doesn't provide the armor they need. Not only the armor, but the fighters and the transportation to get there. It's our job to see that a lot of them don't get killed because we fall for their game.

In view of the testimony we received, I think it would be very prudent for the Department to scrap its so called bottom up review and start all over again. It is clear to me that the present strategy is seriously flawed.

The second big problem I have with this budget is that it does not provide the modest pay raise for the troops, the committee has provided it for the second year in a row, and it does not come close to providing the quality of life that our service members and their families deserve. And this is a big problem. Again, I go to our hearings. Throughout our hearings the military officers who are charged with stating priorities placed pay and quality of life highest.

Perhaps Admiral Larson, Commander in Chief for the Pacific Command said it best when he said:

> I am concerned about our troops and pay raises. There are a lot of things that have gone on in the last year that are very disturbing to me, suggestions like cost of living allowance caps and rolling COLAs and cancelling this and waiting until the age of 62. Our troops look at that as reneging on a contract they made when they came aboard. They read Army and Air Force Times and know what is going on. They can tell you how much they are going to lose over a lifetime if they stay in. I am never going to get another pay raise in the Navy, so I am not talking for myself, but for the troops. I think we have to be careful when we start diddling with their contract. The things they were told 18 or 20 years ago we told them in good faith. This is the first time in my 40 years in uniform we haven't grandfathered that kind of thing. The last time we came up with a new system it was grandfathered and we stated everybody that comes in after next October will be under the new system. Now we are talking about people that have been in 20 years taking these hits. I think it is very dangerous.

And then he tells it like it is, because this is what the Department of Defense has in affect done. He says "I was told by some people if I put compensation and quality of life and people on my Integrated Priority List, I was wasting a number because everybody is supposed to know that. I feel because it is so important, I want to put it there and give it visibility."

People are the most important asset we have, and the Department is giving them short shift. Though very small improvements have been made in morale, welfare and recreation, child care and family services programs; the quality of life, base support and real property maintenance categories as a whole remain well below the essential funding threshold. Again, the committee has done the very best it can to make up for these shortfalls, but the Department has to do better. Any further cuts this year would seriously impact directly on force structure and readiness, undermining the war fighting capabilities of our troops.

This has translated into hard decisions in which essential modernization programs have been reduced, delayed, or canceled, and only the most critical have been preserved. Meanwhile, we cannot afford to erode the quality of life for our service men and women and their families who do so much for so many so frequently—and as an all volunteer force.

In the spring of 1993, the administration proposed capping increases in military pay by eliminating raises in 1994 altogether and holding future increases to 1.5 percentage points below the Employment Cost Index [ECI]. As I pointed out earlier, the subcommittee wisely rejected this plan and provided much needed pay raises for our military personnel both last year and this.

If civilian wage movement kept pace with the projected cost of living, the administration proposal would have created a decline in relative military pay on the order of 9 percent from fiscal year 1994 to 1997. The existing military pay gap is estimated at 11.7 percent, and number already large enough for concern. The continuance of pay caps of ECI minus 1.5 percent would widen the gap to over 18 percent, according to current methods of estimation, by 1997.

The personal lives of many of our military personnel are in increased turmoil as a direct result of a stagnant pay scale and rapid downsizing. As the gap between military pay and civilian wages continues to grow, increasing numbers of military families are forced to turn to food stamps to make ends meet. That's just not right. Food stamps redeemed at commissaries grew last year over 10 percent and included use by retirees. Those married service men and women fortunate enough to be unrestricted by operational tempo or deployments often must take on second jobs to pay the bills that come with raising a young family. The service men and women assigned to a deploying unit or one with a high operational and personnel tempo too often find themselves turning to Federal assistance just to maintain a minimal life style.

Finally, I must say that although the Berlin wall has come down, the Iron Curtain has melted and the possibility of super power conflict has substantively diminished, the world remains a hostile place. There are currently 20 shooting wars in progress. Another 18 hot spots are being monitored on a daily basis. We have troops in Somalia, Bosnia, and the Middle East. Korea and Haiti are possible near term future presence or war fighting requirements.

The bottom line is that while force structure has come down, presence requirements have not. For those services who are heavily involved in forward presence in both peace and war, this is increasingly challenging for both service personnel and their families. We are doing more with less and that is driving personnel deployment tempos to unacceptable levels.

As a Congress, we are doing the best we can to provide adequate resources for service personnel and their families. But the annual budgets presented to us do not recognize this growing problem.

The administration should know that many in the Congress who have steadfastly stood for strong national defense will no longer be able to support their requests unless the next budget submitted by the President contains adequate resources to address these readiness and quality of life issues. It must address the acceptability of military pay and modernization levels when viewed against a need for a well-trained, well-equipped force with acceptable levels of moral and quality of life. Our service men and women and their families deserve no less and we as a Nation owe them a lot more.

It is time to sound the alarm. We cannot sit idly by and see our defense capability reduced to a hollow force. We can't sit idly by and let the concerns of these brave military commanders fall on deaf ears. And we can't continue to ignore the plight of the soldier in the field, the sailor at sea, and the airman in the sky who risk their lives every day for our freedom.

Mr. McDADE. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana [Mr. MYERS].

Mr. MYERS of Indiana. Mr. Chairman, I hate to get in front of this train moving down the track so rapidly with 2½ minutes debate, but I have tried to look for a table. How does this compare to last year's outlays and budget authority?

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, I say to my friend that we are close to $4 billion under last year in outlays.

Mr. MYERS of Indiana. We are $4 billion under last year?

Mr. McDADE. The gentleman is correct.

Mr. MYERS of Indiana. And we just passed an appropriation bill for $96 million more than last year for ourselves, and for something that is as important as our national security we cut it $4 billion, and we are going to spend 2½ minutes debate on it.

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Mr. McDADE. Mr. Chairman, I appreciate the gentleman's concern.

Mr. TUCKER. Mr. Chairman, I rise in support of H.R. 4650, the Defense appropriations bill.

Mr. Chairman, the authorizing and appropriating committees have tackled the difficult task of keeping America strong at a time when we must cut spending.

I am pleased that H.R. 4650 funds the vital CVN–76 aircraft carrier to support our naval presence around the world. I am pleased that H.R. 4650 funds the purchase of 28 FA–18 C/D aircraft and research development expenses for the state-of-the-art FA–18 E/F aircraft.

Mr. Chairman, even more than all the above I am most pleased, that the Armed Services Committee and the Defense Appropriations Subcommittee are funding the purchase of six C–17 transport aircraft. This vitally important project will remain alive because this august body gave overwhelming support by a vote of 330 to 100 in favor of this project.

Mr. Chairman, I am concerned however, that the Defense Appropriations Subcommittee has cut a draconian $900 million in university research funding from the defense budget. In fact my alma mater, the University of Southern California, will lose $50 million in defense research funding, including global defense communications, high power ignitions systems, laser technology and critical materials development. I urge the conference committee to restore this vital funding.

Mr. Chairman, I am urging my colleagues to support H.R. 4650 the Defense appropriations bill to keep America strong.

Mr. BROWN of California. Mr. Chairman, I rise more in regret than in anger, to call attention to a provision in the DOD appropriation Committee report. The report recommends that support for university research be cut by 50 percent from an estimated $1.8 billion to $900 million.

I must observe that if anyone in this body believed that this cut was going to stand up in the Senate or in Conference, we would be hearing howls of range. As it is, we hear no howls and no rage. The silence on this cut is deafening, but for those of us who are old hands in this institution, it speaks volumes.

If this cut stood, some of our most prestigious institutions of education and research would be severely damaged. Among the top ten recipients of DOD funding one finds the University of Texas, the Massachusetts Institute of Technology, Johns Hopkins University, the University of Washington, Georgia Tech, and Stanford University. I may not be much of a vote counter, but a coalition that includes Members from the States of Texas, Massachusetts, Maryland, Georgia, California, and the Speaker's home State of Washington is not a bad base from which to start. If there needs to be a legislative fix to this problem, I am confident one would be engineered.

If this cut stood it would directly undermine the Department of Defense's Science and Technology strategy and the president's technology plan. DOD support for research at Universities is focused on areas of particular concern to the Department: electrical engineering, laser and optical sciences, materials science, applied mathematics and computer science. These same fields are among the areas of emphasis laid out by the President in his technology initiatives. In short, the research cuts that are recommended in the report accompanying this bill provide direct support for advanced technology development at the Department of Defense. They also represent a critical investment in the future of both our national security and our economic vitality.

With all the dire consequences that would be provoked by this cut, our silence may be difficult for the public, especially our friends in Universities around the nation, to understand. I will explain it for their benefit. All of us here in this body assume, and I think correctly, that this problem will go away in the Senate and in Conference and the money will be restored. There is no fight over this cut because, for all practical purposes, there is no cut to fight over.

I want to make two additional points. It's been said that nothing is given so profusely as advice. This entire 300 page report from the Appropriations Committee is full of nothing but advice—some of it very detailed. The distinguished gentleman from Pennsylvania made this very point on Monday during the Full Committee consideration of this bill. As this report simply contains recommendations, the Department can consider and reject that advice if it fails to fit with the priorities of the Department.

Secondly, despite the "fiscal constraints" that inspired the 50 percent cut in university research, this bill and report includes at least $67 million in academic earmarks according to an analysis by my staff. In addition, there are tens of millions in other very detailed spending instructions to the Department, some of which are certainly for academic earmarks. While this is down considerably from years before, and represents a standard to which we should hold this bill when it comes back from conference, it is still a cause for concern. I will enter a list of known academic earmarks for the RECORD.

Finally, I note that press reports regarding the cuts in university research have quoted my colleague from Pennsylvania as expressing a concern regarding the costs of research overhead. I assure him that I share his concerns regarding indirect costs and my Committee has held a hearing on this issue. I would be happy to hold joint hearings with my Friend if he would like to work with me to address this issue.

Mr. GOSS. Mr. Chairman, at a time when the administration is desperately trying to make good on at least one of its campaign promises—delivering a laser-like focus on domestic issues—the world is not sitting idly by. In fact, as the United States seems to be turning more and more inward, and Members of Congress spend long days debating this health care proposal or that new social policy, U.S. global leadership is being tested in hot spots all around the world. And today, we consider perhaps the most important of the appropriations bills—the one responsible for ensuring our national security—yet this debate will likely not be the center of attention in this House.

That's a shame, because U.S. foreign policy is adrift and U.S. military readiness is on the decline as are our intelligence capabilities—a dangerous combination of trends.

In Bosnia, Korea, Rwanda, Somalia, and Haiti—we face the potential of U.S. military expense or involvement through the United Nations or perhaps even unilaterally. Yet we know that, with the enormous down-sizing that's been underway in our defense capabilities, we will be less able to meet all of these challenges should we be tested on more than one front.

I know that we must reduce Federal spending and bring down our budget deficit—but I also know that the security of our Nation and our national interests cannot be compromised. And the truth is that the serious budget crisis we face will not be solved, even by completely decimating our military, because our deficit genesis lies in ongoing entitlement programs and perpetual Government waste and inefficiency.

Of course, we know that the Pentagon can and must improve the effectiveness with which it spends finite resources—and I certainly hope that planning for the next class of submarines or aircraft carriers or missile systems emphasizes budget realities over political considerations to ensure the most bang for our limited bucks.

Mr. Speaker, on the eve of the Fourth of July work period, I renew my plea to the administration not to apply the military option in Haiti. Do not invade Haiti. The question is not whether we could win a military conflict in Haiti—anyone with a working knowledge of that country knows that it might take no more than a few hours for United States troops to dispose of the rag-tag Haitian military which would probably not even confront a United States force. They would cut and run and hide and bide their time.

The danger for U.S. troops and long-term U.S. interests lies not in the initial action, but in the follow-on—and I caution the American people to pay close attention to the phrase "follow-on," which is something we've been hearing more frequently as the U.S. becomes entangled in ill-defined, open-ended military commitments through the United Nations.

The problem arises when we forgo leadership because we are distracted by attempts to extricate our military from messy follow-on situations, like Somalia. Haiti will be a costly, messy follow-on, too, and that's why I remain deeply concerned that this administration, still driven by domestic political concerns, will seek to employ military force to bring about a change in Haiti. This would be a terrible mistake.

Mr. Speaker, I urge that we proceed on this appropriations bill and I simply wish to encourage my colleagues to take time away from their endless busy day to give some thought to the direction this administration is taking our Nation and our Nation's defense. It's something that every American must care about. I ask are we being a little too casual about something so vital to our country when every year we seem to reduce our proportionate commitment. It's worth thinking about.

Mr. LAZIO. Mr. Chairman, today, we voted on a complex and challenging bill that set funding levels for our Nation's defense. Yet the hard-working members of the Defense Subcommittees are not finished with their work. When they meet with Members of the Senate to conference the two bills, there will be many issues to discuss, including the level of funding for university-based research.

As keepers of the Nation's trust, the committee was aware that they must shift limited resources to meet the needs of military preparedness. Most important, the committee voted to keep our Nation's promise to our proud service men and women by ensuring military salaries would provide a good quality of life. Yet, the committee made the difficult decision of cutting university-based research in half.

I would have preferred to vote today on a higher level of funding for academic research so we could continue the military's partnership with our Nation's university-based scientists. On Long Island, we have joined in partnership with the military to develop new computer systems, new methods of coating metal so submarines do not need to be repainted, and we have set new standards for physics research. It is important for our Nation's prominence in developing new technology and military strength to keep this partnership strong. I hope that when this issue is revisited in conference, the subcommittee members will find a new way of minimizing the impact of this cut.

Ms. FURSE. Mr. Chairman, it is important that we maintain continuity in our funding decisions. My amendment, adopted last night during consideration of the fiscal 1995 defense appropriations bill, was a commonsense move that needed to be made.

This bill made reductions to many specific programs, but it did not specifically reduce management support, DOD's overhead costs of performing R&D missions. It doesn't make sense to pay the same amount for management support when there's less to manage.

The bill reduced the Research, Development, Test and Evaluation budget from its requested level by $1.7 billion, or about 5 percent. Seven hundred million dollars of the reduction transfers defense conversion into another section of the bill, so the real reduction to R,D,T&E is $1 billion, or about 3 percent. My amendment made a $30 million reduction in management support.

This not only saves the taxpayers $30 million, it also will force the military services to share each other's R&D infrastructure and increase efficiency by avoiding duplication.

Mr. VISCLOSKY. Mr. Chairman, we live in a time when Government is often criticized for being short-sighted. Annual budgets grow tighter yearly forcing us to respond to immediate needs, and often forsaking the future.

This is not true of the fiscal year 1995 defense appropriations bill, which, under the leadership of Chairman MURTHA and Mr. MCDADE, looks beyond this decade and into the next century. While the bill serves the immediate national interest—especially in regard to the readiness of our troops—it will have a profound impact on our future ability to afford the best defense possible. I commend the subcommittee chairman and ranking member for their dedication to our Nation's long-term ability to defense itself.

I also want to recognize the subcommittee staff for their incredibly hard work on this legislation. It would be difficult to find a collection of more knowledgeable, dedicated people. I especially want to congratulate Don Richbourg on this, his last bill as staff director for the subcommittee. He has provided a great service to this Congress and his country. We will all miss him.

The fiscal year 1995 defense appropriations bill will enhance our ability to be flexible and avoid the past mistake of locking ourselves into brittle systems that cannot accommodate change. This is an era of great political and social evolution. While this era represents many opportunities, no one can assess with certainty what the future holds. All we can do is ensure that those who follow us in this body are given the greatest flexibility possible.

Defense flexibility has many factors: the ability to use a system for several different purposes; the ability to evolve a system; and, the ability to easily insert new technologies—whether more advanced or less costly. Obviously, a low-cost system frees up funds for other purposes.

Consider the legislation's proposal for the Navy's new attack submarine [NAS]. The bill proposes the Department of Defense take a quick step back, reassess the program, they consider how they can make it more flexible.

More specifically, the legislation calls upon the Department to review preliminary cold war era designs and invest in changes to reduce the risks associated with this new submarine program. It demands that the Navy work with the program's contractors to review all work to date and make sure that every effort has been made to get the cost of the ship down. If there is an area where further savings could be made wisely, it must be incorporated into the ship's plan now. Most importantly, the bill directs the Navy to make sure the NAS is fully modular. It is imperative that as new technologies come available, they can be easily installed in the submarine.

Should, for example, an electric propulsion system become available, one that will allow for cheaper and quieter submarine propulsion without hazardous environmental waste, this legislation strives to make sure that it could be incorporated into the submarine without a complete redesign of the ship. This should also be the case for the sail, the forward section of the submarine, and the central portion in case of the need to insert special mission modules.

I want to make it clear to my colleagues, this is the last possible year to make these types of changes to the NAS. This is the last year Congress can make sure the NAS is malleable enough and cheap enough that it can be afforded in the next century. The NAS design contract is ready to be let. If we fail to take this quick breather in fiscal year 1995, the NAS design will be set in stone. It will be much too expensive—in both cost and time—to make changes to the program that will keep it flexible and cost effective enough to be the submarine of our Nation's future. Instead it will be a very expensive, 20th century ship lurching along in the 21st century.

Another example of the forethought of this legislation is its approach to space launch. The proposal halts further procurement of a launch program that would bring the cost of each heavy launch up to $1 billion in the next century, in favor of a new, flexible, and cost effective launch vehicle.

Specifically, the legislation restricts the expenditure of funds for the Titan IV launch vehicle to 41 vehicles. The current cost of launching a Titan IV is about $350 million. Should we move ahead as planned, however and procure a 42d vehicle, the cost to launch the 42d vehicle will be about $1 billion. The legislation recognizes that now is the time to change this course, before procurement of more Titan IV's begins and Congress finds itself in the uncomfortable position of choosing between billion dollar launches and the expensive cancellation of an ongoing program.

The legislation requires the Department of Defense to begin working on a new launch program in fiscal year 1995—10 years before we need the vehicle. Ten years to experiment with technologies so the next vehicle capable of launching heavy payloads is flexible and cost effective.

The bill makes available $100 million for development of a low-risk, new family of launch vehicles. The vehicles are to be configured to replace Titan IV class payloads, but are to have common hardware, common payload interface, and provide launch support for both medium and heavy payloads. The bill requires the Department of Defense to conduct an open competition that will incorporate the many low-cost advances by small innovative firms in recent years. Again, this proposal stresses flexibility and lower cost, commonality of vehicles, and the ability of the vehicle to perform more than one task.

The final aspect of the legislation I want to bring to my colleagues' attention is the provisions regarding the ammunition industrial base—the group of industry and Government entities that develop and manufacture ammunition for our Nation's defense. The bill's goal is to lay to rest as much of the old ammunition industrial base as possible to make space, both physically and fiscally, for more modern facilities and weaponry.

The bill provides an $110 million appropriation for the destruction of old, useless munitions. These munitions, which comprise 13 percent of the stockpile, or over 350,000 tons of material, absorb both space and valuable resources that are required to store them safely. The sooner we rid the inventory of useless munitions, the sooner these funds will be available for forward-looking programs.

In the same vein, the legislation contains an $86 million appropriation to accelerate the layaway of ammunition manufacturing facilities that are not needed for current requirements. This funding will also be available to close facilities no longer needed at all.

In addition to getting rid of the obsolete, the legislation stresses making the operating aspects of the ammunition industrial base more economical and flexible. There is an appropriation of $60 million to modernize facilities and machinery that are still in demand. The ammunitions operation and maintenance account has been funded at $340 million to bring ammunition management accounts up to acceptable levels. These funds will cover safety and security of facilities, receipt and issue, rewarehousing, inventory management, surveillance and maintenance of ammunition management accounts—areas that have long been under funded. It will also provide adequate administration of facility layaway.

To the detriment of our Armed Forces, ammunition procurement has faced severe budget cuts in recent years. In the last decade, overall ammunition procurement has been cut by 78 percent and training munitions and war reserves have reached unacceptably low levels. Further, of the Department's list of 18 munitions that are in need of modernization, funding had been budgeted for only 5. This bill begins to address these problems.

The bill provides a $308.6 million increase in the overall appropriation for ammunition procurement. These funds will begin to provide for 14 munitions modernization and increased procurement to begin to bring war and training reserves up to acceptable levels.

The initiatives I have listed here are among many in this bill designed to bring the ammunition industrial base in line with the real needs of the Department of Defense and its soldiers. They will rid the Department of waste, and free up much needed funds for modernization.

In closing, I again commend Chairman MURTHA and Mr. MCDADE for their foresight and dedication to making sure our Nation's defense is sound, economical, and flexible. I urge my colleagues to support this legislation.

Mr. MCDADE. Mr. Chairman, I yield back the balance of my time.

Mr. MURTHA. Mr. Chairman, I yield back the balance of my time.

Mr. Chairman, I ask unanimous consent that the bill, through page 107, line 4, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The text of the bill, through line 4, page 107, is as follows:

H.R. 4650

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1995, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $20,737,470,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $17,692,537,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $5,816,671,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $17,311,379,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3021, and 3038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $2,183,620,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $1,398,609,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $354,048,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8021, and 8038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $782,434,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 265, 3021, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $3,378,705,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 265, 8021, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $1,238,029,000.

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $14,437,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $17,836,504,000, of which $150,000,000 for real property maintenance shall be made available for obligation until September 30, 1996 and, in addition, $50,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund: *Provided,* That of the funds appropriated in this paragraph, not less than $388,599,000 shall be made available only for conventional ammunition care and maintenance: *Provided further,* That of the funds appropriated in this paragraph, $5,800,000 shall be available only for removal of Department of Defense equipment from Pine Bluff Arsenal: *Provided further,* That of the funds appropriated in this paragraph, $473,763,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, NAVY

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $4,301,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $21,316,555,000, of which $200,000,000 for real property maintenance shall be made available for obligation until September 30, 1996 and, in addition, $50,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund: *Provided,* That of the funds appropriated in this paragraph, $1,206,359,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $2,097,395,000, of which $66,000,000 for real property maintenance shall be made available for obligation until September 30, 1996: *Provided,* That of the funds appropriated in this paragraph, $100,300,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $8,762,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $18,913,050,000, of which $84,000,000 for real property maintenance shall be made available for obligation until September 30, 1996 and, in addition, $50,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund: *Provided*, That of the funds appropriated in this paragraph, $179,592,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; $8,945,266,000, of which not to exceed $25,000,000 may be available for the CINC initiative fund account; and of which not to exceed $23,768,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $1,240,109,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $834,119,000: *Provided*, That of the funds appropriated in this paragraph, $6,300,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $83,542,000: *Provided*, That of the funds appropriated in this paragraph, $2,080,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $1,486,805,000: *Provided*, That of the funds appropriated in this paragraph $5,473,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); $2,498,868,000: *Provided*, That of the funds appropriated in this paragraph, $10,000,000 shall be made available only for a National Guard Outreach Program in the Los Angeles School District: *Provided further*, That of the funds appropriated in this paragraph, $50,253,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; $2,797,978,000: *Provided*, That of the funds appropriated under this heading, $1,500,000 shall be made available only for the operation of Air National Guard C–130 operational support aircraft of the 159th Air National Guard Fighter Group: *Provided further*, That of the funds appropriated in this paragraph, $17,800,000 shall not be obligated or expended until authorized by law.

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

For the necessary expenses and personnel services (other than pay and non-travel-related allowances of members of the Armed Forces of the United States, except for members of the reserve components thereof called or ordered to active duty to provide support for the national matches) in accordance with law, for operation and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; the conduct of the national matches; the sale of ammunition under the authority of title 10, United States Code, sections 4308 and 4311; the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; and the payment to competitors at national matches under section 4312 of title 10, United States Code, of subsistence and travel allowances under section 4313 of title 10, United States Code; not to exceed $2,544,000.

COURT OF MILITARY APPEALS, DEFENSE

For salaries and expenses necessary for the United States Court of Military Appeals; $6,126,000, of which not to exceed $2,500 can be used for official representation purposes.

ENVIRONMENTAL RESTORATION, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense; $1,880,200,000, to remain available until transferred: *Provided*, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes (including programs and operations at sites formerly used by the Department of Defense), transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense as the Secretary may designate, to be merged with and to be available for the same purposes and for the same time period as the appropriations of funds to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

SUPPORT FOR INTERNATIONAL SPORTING COMPETITIONS, DEFENSE

For the account "Support for International Sporting Competitions, Defense"; $7,900,000, to be merged with and to be available for the same purposes and the same time period as that appropriation: *Provided*, That of the funds in that appropriation not more than $1,500,000 may be used for the 1995 Special Olympics: *Provided further*, That of the funds in that appropriation not more than $4,400,000 may be used for the 1996 Paralympics: *Provided further*, That funds appropriated in this paragraph shall not be obligated or expended until authorized by law.

HUMANITARIAN ASSISTANCE

For transportation for humanitarian relief for the people of Afghanistan, the Kurdish population and other minorities of northern Iraq, and the people of sub-Saharan Africa, acquisition and shipment of transportation assets to assist in the distribution of such relief, and for transportation and distribution of humanitarian relief supplies, and excess non-lethal property; $60,000,000 of which $12,000,000 shall be made available only for activities to support the clearing of landmines for humanitarian purposes.

TITLE III

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interest therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,264,198,000, to remain available for obligation until September 30, 1997.

Missile Procurement, Army

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $728,095,000, to remain available for obligation until September 30, 1997: *Provided*, That of the funds appropriated in this paragraph, $42,959,000 shall not be obligated or expended until authorized by law.

Procurement of Weapons and Tracked Combat Vehicles, Army

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,001,873,000, to remain available for obligation until September 30, 1997: *Provided*, That of the funds appropriated in this paragraph, $58,987,000 shall not be obligated or expended until authorized by law.

Procurement of Ammunition, Army

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,274,644,000, to remain available for obligation until September 30, 1997: *Provided*, That of the amounts appropriated for the ARMS program in "Procurement of Ammunition, Army, 1993/1995", $43,000,000 may be available to fund subsidy costs of loan guarantees authorized to be made under that program: *Provided further*, That of the funds appropriated in this paragraph, $419,761,000 shall not be obligated or expended until authorized by law.

Other Procurement, Army

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,348,806,000, to remain available for obligation until September 30, 1997.

Aircraft Procurement, Navy

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $4,820,442,000, to remain available for obligation until September 30, 1997: *Provided*, That of the funds appropriated in this paragraph, $232,435,000 shall not be obligated or expended until authorized by law.

Weapons Procurement, Navy

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $1,969,336,000, to remain available for obligation until September 30, 1997: *Provided*, That of the funds appropriated in this paragraph, $70,458,000 shall not be obligated or expended until authorized by law.

Procurement of Ammunition, Navy and Marine Corps

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; as follows:

For the Navy, $335,368,000;

For the Marine Corps, $158,442,000;

In all: $493,810,000, to remain available for obligation until September 30, 1997: *Provided*, That of the funds appropriated in this paragraph, $34,500,000 shall not be obligated or expended until authorized by law.

Shipbuilding and Conversion, Navy

(including transfer of funds)

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

Carrier replacement program, $2,446,958,000;

DDG–51 destroyer program, $2,607,690,000;

LHD–1 amphibious assault ship program, $50,000,000;

Nuclear submarine main steam condenser industrial base, $1,000,000;

Cost growth on prior years' programs, $8,200,000;

For craft, outfitting, post delivery, conversions, and first destination transportation, $357,521,000;

In all: $5,471,369,000, and, in addition, $1,200,000,000 shall be derived by transfer from the National Defense Sealift Fund for additional funding for the Carrier replacement program, all to remain available for obligation until September 30, 1999: *Provided*, That additional obligations may be incurred after September 30, 1999, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further*, That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: *Provided further*, That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards.

Other Procurement, Navy

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 262 passenger motor vehicles, of which 162 shall be for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $3,271,088,000, to remain available for obligation until September 30, 1997: *Provided*, That of the funds appropriated in this paragraph, $29,477,000 shall not be obligated or expended until authorized by law.

Procurement, Marine Corps

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of not to exceed 103 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; $452,178,000, to remain available for obligation until September 30, 1997: *Provided*, That of the funds appropriated in this paragraph, $58,768,000 shall not be obligated or expended until authorized by law.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $6,182,199,000, to remain available for obligation until September 30, 1997: *Provided*, That not less than $103,700,000 of the funds appropriated in this paragraph shall be used only to initiate procurement of non-developmental airlift aircraft no later than September 30, 1995: *Provided further*, That the Department of the Air Force shall qualify a second source producer for the C–17 transport aircraft engine and competitively contract for the procurement of the C–17 engine no later than September 30, 1997: *Provided further*, That of the funds appropriated in this paragraph, $80,432,000 shall not be obligated or expended until authorized by law.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $2,758,285,000, to remain available for obligation until September 30, 1997.

PROCUREMENT OF AMMUNITION, AIR FORCE

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $278,681,000, to remain available for obligation until September 30, 1997: *Provided*, That of the funds appropriated in this paragraph, $18,963,000 shall not be obligated or expended until authorized by law.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 678 passenger motor vehicles for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $6,886,613,000, to remain available for obligation until September 30, 1997: *Provided*, That of the funds appropriated in this paragraph, $31,190,000 shall not be obligated or expended until authorized by law.

PROCUREMENT, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 437 passenger motor vehicles, of which 431 shall be for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $3,020,616,000, to remain available for obligation until September 30, 1997: *Provided*, That of the funds appropriated in this paragraph, $953,922,000 shall not be obligated or expended until authorized by law.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces; $796,200,000, to remain available for obligation until September 30, 1997: *Provided*, That of the funds appropriated in this paragraph, $9,000,000 shall not be obligated or expended until authorized by law.

TITLE IV

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $5,456,498,000, to remain available for obligation until September 30, 1996: *Provided*, That of the funds appropriated in this paragraph, $35,695,000 shall not be obligated or expended until authorized by law.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $8,598,958,000, to remain available for obligation until September 30, 1996: *Provided*, That for continued research and development programs at the National Center for Physical Acoustics, centering on ocean acoustics as it applies to advanced antisubmarine warfare acoustics issues with focus on ocean bottom acoustics, seismic coupling, sea-surface and bottom scattering, oceanic ambient noise, underwater sound propagation, bubble related ambient noise, acoustically active surfaces, machinery noise, propagation physics, solid state acoustics, electrorheological fluids, transducer development, ultrasonic sensors, and other such projects as may be agreed upon, $1,000,000 shall be made available, as a grant, to the Mississippi Resource Development Corporation, of which not to exceed $250,000 of such sum may be used to provide such special equipment as may be required for particular projects: *Provided further*, That none of the funds appropriated in this paragraph may be obligated or expended to develop or purchase equipment for an Aegis destroyer variant (commonly known as "Flight IIA") whose initial operating capability is budgeted to be achieved prior to the initial operating capability of the Ship Self-Defense program, nor to develop sensor, processor, or display capabilities which duplicate in any way those being developed in the Ship Self-Defense program: *Provided further*, That funds appropriated in this paragraph for development of E–2C aircraft upgrades may not be obligated until the Under Secretary of Defense for Acquisition submits a plan to the Committees on Appropriations and Armed Services of each House of Congress for development and deployment of a fully participating cooperative engagement capability on E–2 aircraft to be fielded concurrent with and no later than major computer upgrades for the aircraft: *Provided further*, That funds appropriated in this paragraph for development of the LPD–17 ship may not be obligated unless the baseline design of the ship includes cooperative engagement capability and sufficient own-ship self-defense capability against advanced sea-skimming antiship cruise missiles in the baseline design to achieve an estimated probability of survival from attack by such missiles at a level no less than any other Navy ship.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $10,728,533,000, to remain available for obligation until September 30, 1996: *Provided*, That not less than $12,000,000 of the funds appropriated in this paragraph shall be made available only for the Joint Seismic Program and Global Seismic Network administrated by the Incorporated Research Institutions for Seismology: *Provided further*, That not less than $20,000,000 of the funds appropriated in this paragraph shall be made available only for the National Center for Manufacturing Sciences (NCMS).

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $9,419,955,000, to remain available for obligation until September 30, 1996: *Provided*, That not less than $120,000,000 of the funds appropriated in this paragraph are available only for the Sea-Based Wide Area Defense program: *Provided further*, That of the funds appropriated in this paragraph, $361,743,000 shall not be obligated or expended until authorized by law: *Provided further*, That funds appropriated in this paragraph for development of the TIER II Plus vehicle shall not be obligated until not less than $50,000,000 has been obligated for the TIER III Minus vehicle.

DEVELOPMENTAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Director, Test and Evaluation in the direction and supervision of developmental test and evaluation, including performance and joint developmental testing and evaluation; and administrative expenses in connection therewith; $251,495,000, to remain available for obligation until September 30, 1996.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith; $12,501,000, to remain available for obligation until September 30, 1996.

TITLE V

REVOLVING AND MANAGEMENT FUNDS

DEFENSE BUSINESS OPERATIONS FUND

For the Defense Business Operations Fund; $1,090,438,000.

NATIONAL DEFENSE SEALIFT FUND

(INCLUDING TRANSFER OF FUNDS)

For National Defense Sealift Fund programs, projects, and activities, $858,600,000, to remain available until expended: *Provided*, That $25,000,000 shall be transferred to the Secretary of Transportation for title XI loan guarantees: *Provided further*, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: *Provided further*, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: *Provided further*, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That funds appropriated in this paragraph shall not be obligated or expended until authorized by law.

TITLE VI

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law; $9,895,159,000, of which $9,577,770,000 shall be for Operation and maintenance, of which $317,389,000, to remain available for obligation until September 30, 1997, shall be for Procurement: *Provided*, That the Department shall continue to competitively contract during fiscal year 1995 for mail service pharmacy for at least two multi-state regions in addition to the ongoing solicitations for Florida, South Carolina, Georgia, Delaware, New Jersey, Pennsylvania, and Hawaii, as well as each base closure area not supported by an at-risk managed care plan; that such services shall be procured independent of any other Department managed care contracts; that one multi-state region shall include the State of Kentucky and that one multi-state region shall include the State of New Mexico: *Provided further*, That of the funds appropriated in this paragraph, $8,500,000 shall not be obligated or expended until authorized by law.

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, $562,949,000, of which $345,784,000 shall be for Operation and maintenance, $196,465,000 shall be for Procurement to remain available until September 30, 1997, and $20,700,000 shall be for Research, development, test and evaluation to remain available until September 30, 1996.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation; $713,053,000: *Provided*, That the funds appropriated by this paragraph shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this paragraph is in addition to any transfer authority contained elsewhere in this Act.

OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended; $142,098,000, of which $141,098,000 shall be for Operation and maintenance, of which not to exceed $400,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on his certificate of necessity for confidential military purposes; and of which $1,000,000, to remain available until September 30, 1997, shall be for Procurement.

DEFENSE CONVERSION AND REINVESTMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for transition benefits for military and civilian employees of the Department of Defense, and for assistance to communities and industries affected by the military drawdown; for transfer to appropriations available to the Department of Defense for Operation and maintenance, and for Research, development, test and evaluation; $1,401,944,000: *Provided*, That the funds appropriated by this paragraph shall be available for the same time period and for the same purpose as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this paragraph is in addition to any transfer authority contained elsewhere in this Act: *Provided further*, That $50,000,000 shall be available to cover the costs (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) of loan guarantees issued pursuant to subsection (b)(3) of such section: *Provided further*, That of the funds appropriated in this paragraph, $30,744,000 shall not be obligated or expended until authorized by law.

KOREAN ENHANCED READINESS ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to enhance the readiness of United States Forces to perform the mission assigned to United States Forces, Korea, $250,000,000: *Provided*, That such funds may be transferred by the Secretary to appropriations made available to the Department of Defense for Operation and maintenance, Procurement, and Research, development, test and evaluation: *Provided further*, That the funds appropriated by this paragraph shall be available for the same time period and for the same purpose as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this paragraph is in addition to any transfer authority contained elsewhere in this Act: *Provided further*, That of the funds appropriated by this paragraph, not less than $55,000,000 shall be transferred to "Other procurement, Army", and not less than $15,000,000 shall be transferred to "Research, development, test and evaluation, Defense-Wide": *Provided further*, That no funds made available under this paragraph shall be obligated until 15 days after submission of a report by the Secretary to the House and Senate Committees on Appropriations explaining and justifying the proposed uses of such funds: *Provided further*, That funds appropriated in this paragraph shall not be obligated or expended until authorized by law.

TITLE VII

NATIONAL FOREIGN INTELLIGENCE PROGRAM

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $198,000,000.

COMMUNITY MANAGEMENT ACCOUNT

For necessary expenses of the Community Management Account; $83,084,000: *Provided*, That of the funds appropriated in this paragraph, no more than $2,000,000 may be available for the purchase of information system upgrades at the Department of State Bureau of Intelligence and Research.

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided*, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: *Provided further*, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: *Provided further*, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps, or the National Board for the Promotion of Rifle Practice, Army.

(TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $2,000,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act.

(TRANSFER OF FUNDS)

SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds and the "Foreign Currency Fluctuations, Defense" and "Operation and Maintenance" appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8007. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: *Provided*, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: *Provided further*, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

SEC. 8008. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the Committees on Appropriations and Armed Services of the Senate and House of Representatives.

SEC. 8009. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services shall be available for payments to physicians and other authorized individual health care providers in excess of the amounts allowed in fiscal year 1994 for similar services, except that: (a) for services for which the Secretary of Defense determines an increase is justified by economic circumstances, the allowable amounts may be increased in accordance with appropriate economic index data similar to that used pursuant to title XVIII of the Social Security Act; and (b) for services the Secretary determines are overpriced based on allowable payments under title XVIII of the Social Security Act, the allowable amounts shall be reduced by not more than 15 percent (except that the reduction may be waived if the Secretary determines that it would impair adequate access to health care services for beneficiaries). The Secretary shall solicit public comment prior to promulgating regulations to implement this section. Such regulations shall include a limitation, similar to that used under title XVIII of the Social Security Act, on the extent to which a provider may bill a beneficiary an actual charge in excess of the allowable amount.

SEC. 8010. None of the funds provided in this Act shall be available to initiate (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000, or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the Committees on Appropriations and Armed Services of the Senate and House of Representatives have been notified at least thirty days in advance of the proposed contract award: *Provided*, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further*, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further*, That no multiyear procurement contract can be terminated without 10-day prior notification to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate: *Provided further*, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement.

SEC. 8011. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to Congress on September 30 of each year: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239: *Provided further*, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8012. Notwithstanding any other provision of law, governments of Indian tribes shall be treated as State and local governments for the purposes of disposition of real property recommended for closure in the report of the Defense Secretary's Commission on Base Realignments and Closures, December 1988, the report to the President from the Defense Base Closure and Realignment Commission, July 1991, and Public Law 100-526.

SEC. 8013. (a) The provisions of section 115(a)(4) of title 10, United States Code, shall not apply with respect to fiscal year 1995 or with respect to the appropriation of funds for that year.

(b) During fiscal year 1995, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(c) The fiscal year 1996 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1996 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 1996.

SEC. 8014. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8015. None of the funds appropriated by this Act shall be obligated for the pay of any individual who is initially employed after the date of enactment of this Act as a technician in the administration and training of the Army Reserve and the maintenance and repair of supplies issued to the

Army Reserve unless such individual is also a military member of the Army Reserve troop program unit that he or she is employed to support. Those technicians employed by the Army Reserve in areas other than Army Reserve troop program units need only be members of the Selected Reserve.

SEC. 8016. Notwithstanding any other provision of law, the Secretaries of the Army and Air Force may authorize the retention in an active status until age sixty of any person who would otherwise be removed from an active status and who is employed as a National Guard or Reserve technician in a position in which active status in a reserve component of the Army or Air Force is required as a condition of that employment.

SEC. 8017. Notwithstanding any other provision of law, during the current fiscal year and hereafter, proceeds from the investment of the Fisher House Investment Trust Fund will be used to support the operation and maintenance of Fisher Houses associated with Army medical treatment facilities.

SEC. 8018. (a) None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act—

(1) enlists in the armed services for a period of active duty of less than three years; or

(2) receives an enlistment bonus under section 308a or 308f of title 37, United States Code,

nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Secretary of Veterans Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Secretary of Veterans Affairs pay such benefits to any such member: *Provided*, That, in the case of a member covered by clause (1), these limitations shall not apply to members in combat arms skills or to members who enlist in the armed services on or after July 1, 1989, under a program continued or established by the Secretary of Defense in fiscal year 1991 to test the cost-effective use of special recruiting incentives involving not more than nineteen noncombat arms skills approved in advance by the Secretary of Defense: *Provided further*, That this subsection applies only to active components of the Army.

(b) None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: *Provided*, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further*, That this subsection applies only to active components of the Army.

SEC. 8019. Funds appropriated in this Act shall be available for the payment of not more than 75 percent of the charges of a postsecondary educational institution for the tuition or expenses of an officer in the Ready Reserve of the Army National Guard or Army Reserve for education or training during his off-duty periods, except that no part of the charges may be paid unless the officer agrees to remain a member of the Ready Reserve for at least four years after completion of such training or education.

SEC. 8020. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of enactment of this Act, is performed by more than ten Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That this section shall not apply to a commercial or industrial type function of the Department of Defense that: (1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Javits-Wagner-O'Day Act; (2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or (3) is planned to be converted to performance by a qualified firm under 51 percent Native American ownership.

SEC. 8021. None of the funds made available by this Act may be obligated for the acquisition of major automated information systems which have not successfully completed oversight reviews required by Department of Defense regulations: *Provided*, That the automated information systems oversight review board will be independent of any other Department review function and chaired by the Assistant Secretary of Defense for Command, Control, Communications and Intelligence: *Provided further*, That except for those programs to modernize and develop migration and standard automated information systems that have been certified by the Department's senior information resource management (IRM) official as being fully compliant with the Department's information management initiative as defined in Defense Department Directive 8000.1, no funds may be expended for modernization or development of any automated information system (AIS) by the military departments, services, defense agencies, Joint Staff or Military Commands in excess of $2,000,000 unless the senior official of the Office of the Secretary of Defense with primary responsibility for the functions being supported or to be supported certifies to the Assistant Secretary of Defense for Command, Control, Communications and Intelligence that the functional requirement(s) is valid and that the system modernization or development has no unnecessary duplication of other available or planned AISs: *Provided further*, That all new Department of Defense procurements shall separately identify software costs in the work breakdown structure defined by MIL-STD-881 in those instances where software is considered to be a major category of cost.

SEC. 8022. Notwithstanding any other provision of law, the Secretary of the Navy may use funds appropriated to charter ships to be used as auxiliary minesweepers providing that the owner agrees that these ships may be activated as Navy Reserve ships with Navy Reserve crews used in training exercises conducted in accordance with law and policies governing Naval Reserve forces.

SEC. 8023. Funds appropriated or made available in this Act shall be obligated and expended to continue to fully utilize the facilities at the United States Army Engineer's Waterways Experiment Station, including the continued availability of the supercomputer capability: *Provided*, That none of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the Armed Services and Appropriations Committees of Congress that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8024. For the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119) and by the Budget Enforcement Act of 1990 (Public Law 101-508), the term program, project, and activity for appropriations contained in this Act shall be defined as the most specific level of budget items identified in the Department of Defense Appropriations Act, 1995, the accompanying House and Senate Committee reports, the conference report and accompanying joint explanatory statement of the managers of the Committee of Conference, the related classified annexes and reports, and the P-1 and R-1 budget justification documents as subsequently modified by Congressional action: *Provided*, That the following exception to the above definition shall apply:

For the Military Personnel and the Operation and Maintenance accounts, the term "program, project, and activity" is defined as the appropriations accounts contained in the Department of Defense Appropriations Act: *Provided further*, That at the time the President submits his budget for fiscal year 1996, the Department of Defense shall transmit to the Committees on Appropriations and the Committees on Armed Services of the Senate and the House of Representatives a budget justification document to be known as the "O-1" which shall identify, at the budget activity, activity group, and subactivity group level, the amounts requested by the President to be appropriated to the Department of Defense for operation and maintenance in any budget request, or amended budget request, for fiscal year 1996.

SEC. 8025. Of the funds appropriated to the Army, $223,736,000 shall be available only for the Reserve Component Automation System (RCAS): *Provided*, That none of these funds can be expended—

(1) except as approved by the Chief of the National Guard Bureau;

(2) unless RCAS resource management functions are performed by the National Guard Bureau;

(3) to pay the salary of an RCAS program manager who has not been selected and approved by the Chief of the National Guard Bureau and chartered by the Chief of the National Guard Bureau and the Secretary of the Army;

(4) unless the Program Manager (PM) charter makes the PM accountable to the Chief of the National Guard Bureau and fully defines his authority, responsibility, reporting channels and organizational structure;

(5) to pay the salaries of individuals assigned to the RCAS program management office unless such organization is comprised of personnel chosen jointly by the Chiefs of the National Guard Bureau and the Army Reserve;

(6) to pay contracted costs for the acquisition of RCAS unless RCAS is an integrated system consisting of software, hardware, and communications equipment and unless such contract continues to preclude the use of Government furnished equipment, operating systems, and executive applications software; and

(7) unless RCAS performs its own classified information processing:

Provided further, That notwithstanding any other provision of law, none of the funds appropriated shall be available for procurement of computers for the Army Reserve Component which are used to network or expand the capabilities of existing or future information systems or duplicate functions to be provided under the RCAS contract unless the procurement meets the following criteria: (A) at sites scheduled to receive RCAS equipment prior to September 30, 1995, RCAS ADP equipment may be procured and only in the numbers and types allocated by the RCAS program to each site; and at sites scheduled to receive RCAS equipment after September 30, 1995, RCAS ADP equipment or ADP equipment from a list of RCAS compatible equipment approved by the Chief of the National Guard Bureau or his designee, may be procured and only in the numbers and types allocated by the RCAS program to each site; (B) the requesting organizational element has insufficient ADP equipment to perform administrative functions but not to exceed the number of work stations determined by the RCAS program for that site; (C) replacement equipment will not exceed the minimum required to maintain the reliability of existing capabilities; (D) replacement will be justified on the basis of cost and feasibility of repairs and maintenance of present ADP equipment as compared to the cost of replacement; and (E) the procurement under this policy must be approved by the Chief of the National Guard Bureau or his designee, provided that the procurement is a one for one replacement action of existing equipment.

SEC. 8026. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: *Provided*, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further*, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: *Provided further*, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

(TRANSFER OF FUNDS)

SEC. 8027. Notwithstanding any other provision of law, the Department of Defense may transfer prior year, unobligated balances and funds appropriated in this Act to the operation and maintenance appropriations for the purpose of providing military technician and Department of Defense medical personnel pay and medical programs (including CHAMPUS) the same exemption from sequestration set forth in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100–119) and by the Budget Enforcement Act of 1990 (Public Law 101–508) as that granted the other military personnel accounts: *Provided*, That any transfer made pursuant to any use of the authority provided by this provision shall be limited so that the amounts reprogrammed to the operation and maintenance appropriations do not exceed the amounts sequestered under the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100–119) and by the Budget Enforcement Act of 1990 (Public Law 101–508): *Provided further*, That the authority to make transfers pursuant to this section is in addition to the authority to make transfers under other provisions of this Act: *Provided further*, That the Secretary of Defense may proceed with such transfer after notifying the Appropriations Committees of the House of Representatives and the Senate twenty calendar days in session before any such transfer of funds under this provision.

SEC. 8028. None of the funds available to the Department of the Navy may be used to enter into any contract for the overhaul, repair, or maintenance of any naval vessel homeported on the West Coast of the United States which includes charges for interport differential as an evaluation factor for award.

SEC. 8029. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: *Provided*, That this limitation does not apply in the case of inpatient mental health services provided under the program for the handicapped under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

SEC. 8030. Operational control of the Naval Reserve Personnel Center, including its functions and responsibilities, shall be under the command and control of the Commander, Naval Reserve Command: *Provided*, That notwithstanding any other provision of law, the one-time costs, including the procurement or lease of new or reutilized automatic data processing investment equipment, peripheral equipment and related software, of the 1993 Report to the President of the Defense Base Closure and Realignment Commission or current DOD Data Center Consolidation shall not exceed $309,000,000.

SEC. 8031. Funds available in this Act may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe.

SEC. 8032. None of the funds available to the Department of Defense shall be obligated or expended for (or to implement) automatic data processing, data processing center, central design activity, DMRD 918, defense information infrastructure, and military or civilian personnel function consolidation plans, consolidations, and disestablishment or realignment plans that impact, in terms of reductions in force or transfers in military and civilian personnel, end strength, billets, functions, or missions, the Enlisted Personnel Management Center, and the collocated Naval Computer and Telecommunications Station, the Naval Reserve Force Information Systems Office, and the Naval Reserve Personnel Center until sixty legislative days after the Secretary of Defense submits to the House and Senate Committees on Appropriations a report, including complete review comments and a validation by the Department of Defense Comptroller, justifying and validating that such plans and actions: (1) do not consolidate, plan to consolidate, disestablish or realign Department of Defense or Service data processing functions or centers, central design activities, or military and civilian personnel functions and activities, or claim savings from such function and activity consolidations and disestablishment, realignment, or consolidation plans, that are in more than one defense management report plan or decision or any other Department of Defense or Service consolidation, disestablishment or realignment plan; (2) utilize criteria primarily weighted to evaluate, measure and compare how data processing centers and activities, central design activities, and military and civilian personnel functions and activities are ranked in terms of operational readiness, customer satisfaction, and the most cost effective and least expensive from a business performance, and regional operations cost standpoint; (3) will provide equal or better service for DOD customers; (4) provide details as to the impacts on the quality of life and benefits of the individual service person, dependents, and civilian personnel; and (5) will not adversely impact the mission and readiness of the Navy and Naval Reserves: *Provided*, That funds made available to the Department of Defense shall be available to implement the 1993 Defense Base Closure and Realignment Commission approved recommendations concerning the Enlisted Personnel Management Center and the collocated Naval Computer and Telecommunications Station.

SEC. 8033. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may, by Executive Agreement, establish with host nation governments in NATO member states a separate account into which such residual value amounts negotiated in the return of United States military installations in NATO member states may be deposited, in the currency of the host nation, in lieu of direct monetary transfers to the United States Treasury: *Provided*, That such credits may be utilized only for the construction of facilities to support United States military forces in that host nation, or such real property maintenance and base operating costs that are currently executed through monetary transfers to such host nations: *Provided further*, That the Department of Defense's budget submission for fiscal year 1996 shall identify such sums anticipated in residual value settlements, and identify such construction, real property maintenance or base operating costs that shall be funded by the host nation through such credits: *Provided further*, That all military construction projects to be executed from such accounts must be previously approved in a prior Act of Congress: *Provided further*, That each such Executive Agreement with a NATO member host nation shall be reported to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate thirty days prior to the conclusion and endorsement of any such agreement established under this provision.

SEC. 8034. None of the funds available to the Department of Defense in this Act shall be used to demilitarize or dispose of more than 310,784 unserviceable M1 Garand rifles and M1 Carbines.

SEC. 8035. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be available to pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

SEC. 8036. None of the funds appropriated by this Act may be used by the Department of Defense to assign a supervisor's title or grade when the number of people he or she supervises is considered as a basis for this determination: *Provided*, That savings that result from this provision are represented as such in future budget proposals.

SEC. 8037. Of the funds appropriated by this Act, no more than $18,500,000 shall be available for the mental health care demonstration project at Fort Bragg, North Carolina: *Provided*, That adjustments may be made for normal and reasonable price and program growth.

SEC. 8038. None of the funds appropriated by this Act shall be available for payments under the Department of Defense contract with the Louisiana State University Medical Center involving the use of cats for Brain Missile Wound Research, and the Department of Defense shall not make payments under such contract from funds obligated prior to the date of the enactment of this Act, except as necessary for costs incurred by the contractor prior to the enactment of this Act: *Provided*, That funds necessary for the care of animals covered by this contract are allowed.

SEC. 8039. None of the funds provided in this Act or any other Act shall be available to conduct bone trauma research at any Army Research Laboratory until the Secretary of the Army certifies that the synthetic compound to be used in the experiments is of such a type that its use will result in a significant medical finding, the research has military application, the research will be conducted in accordance with the standards set by an animal care and use committee, and the research does not duplicate research already conducted by a manufacturer or any other research organization.

SEC. 8040. The Secretary of Defense shall include in any base closure and realignment plan submitted to Congress after the date of enactment of this Act, a complete review for the five-year period beginning on October 1, 1994, which shall include expected force structure and levels for such period, expected installation requirements for such period, a budget plan for such period, the cost savings expected to be realized through realignments and closures of military installations during such period, an economics model to identify the critical local economic sectors affected by proposed closures and realignments of military installations and an assessment of the economic impact in each area in which a military installation is to be realigned or closed.

SEC. 8041. No more than $50,000 of the funds appropriated or made available in this Act shall be used for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and Senate that such a relocation is required in the best interest of the Government: *Provided further*, That no funds appropriated or made available in this Act shall be used for the relocation into the National Capital Region of the Air Force Office of Medical Support located at Brooks Air Force Base.

SEC. 8042. During the current fiscal year, funds appropriated or otherwise available for any Federal agency, the Congress, the judicial branch, or the District of Columbia may be used for the pay, allowances, and benefits of an employee as defined by section 2105 of title 5 or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who—

(1) is a member of a Reserve component of the armed forces, as described in section 261 of title 10, or the National Guard, as described in section 101 of title 32;

(2) performs, for the purpose of providing military aid to enforce the law or providing assistance to civil authorities in the protection or saving of life or property or prevention of injury—

(A) Federal service under section 331, 332, 333, 3500, or 8500 of title 10, or other provision of law, as applicable, or

(B) full-time military service for his State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States; and

(3) requests and is granted—

(A) leave under the authority of this section; or

(B) annual leave, which may be granted without regard to the provisions of sections 5519 and 6323(b) of title 5, if such employee is otherwise entitled to such annual leave:

Provided, That any employee who requests leave under subsection (3)(A) for service described in subsection (2) of this section is entitled to such leave, subject to the provisions of this section and of the last sentence of section 6323(b) of title 5, and such leave shall be considered leave under section 6323(b) of title 5.

SEC. 8043. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A-76 if the study being performed exceeds a period of twenty-four months after initiation of such study with respect to a single function activity or forty-eight months after initiation of such study for a multi-function activity.

SEC. 8044. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8045. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

SEC. 8046. Of the funds made available in this Act, not less than $24,565,000 shall be available for the Civil Air Patrol, of which $13,105,000 shall be available for Operation and Maintenance.

SEC. 8047. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 53rd Weather Reconnaissance Squadron of the Air Force Reserve, if such action would reduce the WC-130 Weather Reconnaissance mission below the levels funded in this Act.

SEC. 8048. (a) Of the funds for the procurement of supplies or services appropriated by this Act, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

(b) During the current fiscal year, a business concern which has negotiated with a military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting that subcontracting goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

(c) For the purpose of this section, the phrase "qualified nonprofit agency for the blind or other severely handicapped" means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O'Day Act (41 U.S.C. 46-48).

SEC. 8049. During the current fiscal year, net receipts pursuant to collections from third party payers pursuant to section 1095 of title 10, United States Code, shall be made available to the local facility of the uniformed services responsible for the collections and shall be over and above the facility's direct budget amount.

SEC. 8050. Notwithstanding any other provision of law or regulation, ships designated T-AGS 63, T-AGS 64 and T-AGS 65 must utilize remanufactured milspec SASS multibeam sonars: *Provided*, That the Secretary of the Navy may waive this restriction by certifying in writing to the Committees on Appropriations that an alternative acquisition must be made in order to acquire capability for national security purposes.

SEC. 8051. Section 8060 of the Department of Defense Appropriations Act, 1994 (Public Law 103-139) is hereby repealed, which contained authority for acquisition of LANDSAT 7.

SEC. 8052. Notwithstanding any other provision of law, of the funds appropriated for the Defense Health Program during this fiscal year and hereafter, the amount payable for services provided under this section shall not be less than the amount calculated under the coordination of benefits reimbursement formula utilized when CHAMPUS is a secondary payor to medical insurance programs other than Medicare, and such appropriations as necessary shall be available (notwithstanding the last sentence of section 1086(c) of title 10, United States Code) to continue Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) benefits, until age 65, under such section for a former member of a uniformed service who is entitled to retired or retainer pay or equivalent pay, or a dependent of such a member, or any other beneficiary described by section 1086(c) of title 10, United States Code, who becomes eligible for hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) solely on the grounds of physical disability, or end stage renal disease: *Provided*, That expenses under this section shall only be covered to the extent that such expenses are not covered under parts A and B of title XVIII of the Social Security Act and are otherwise covered under CHAMPUS: *Provided further*, That no reimbursement shall be made for services provided prior to October 1, 1991.

SEC. 8053. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $250,000,000 for purposes specified in section 2350j(c) of title 10, United States Code in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: *Provided*, That, upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriation or fund which incurred such obligations.

SEC. 8054. (a) Funds appropriated in this Act to finance activities of Department of Defense (DOD) Federally Funded Research and Development Centers (FFRDCs) may not be obligated or expended for an FFRDC if a member of its Board of Directors or Trustees simultaneously serves on the Board of Directors or Trustees of a profit-making company under contract to the Department of Defense unless the FFRDC has a DOD approved conflict of interest policy for its members.

(b) None of the funds appropriated in this Act are available to establish a new FFRDC, either as a new entity, or as a separate entity administered by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other nonprofit entities.

(c) Notwithstanding any other provision of law, of the amounts available to the Department of Defense during fiscal year 1995, not more than $1,252,650,000 may be obligated for financing activities of FFRDCs.

(d) The Secretary of Defense may not obligate more than one-half of the funds available to FFRDCs until the Congressional defense committees receive the report on establishing pay caps for FFRDC employees that was directed in the Committee's report accompanying the fiscal year 1994 Department of Defense Appropriations Act.

SEC. 8055. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: *Provided*, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: *Provided further*, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That these restrictions shall not apply to contracts which are in being as of the date of enactment of this Act.

SEC. 8056. For the purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services, the Committees on Appropriations, and the subcommittees on Defense of the Committee on Appropriations, of the Senate and the House of Representatives.

SEC. 8057. Notwithstanding any other provision of law, during the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: *Provided*, That the Senior Acquisition Executive of the military department or defense agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: *Provided further*, That Office of Management and Budget Circular A-76 shall not apply to competitions conducted under this section.

SEC. 8058. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 1995. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8059. (a) Of the funds made available in this Act in title II, Operation and Maintenance, Army, $2,000,000 shall be available only to execute the cleanup of uncontrolled hazardous waste contamination affecting the Sale Parcel at Hamilton Air Force Base, in Novato, in the State of California.

(b) Notwithstanding any other provision of law, in the event that the purchaser of the Sale Parcel exercises its option to withdraw from all or a portion of the sale, as provided in the Agreement and Modification, dated September 25, 1990, between the Department of Defense, the General Services Administration, and the purchaser, as amended, the purchaser's deposit of $4,500,000 shall be returned by the General Services Administration and funds eligible for reimbursement under the Agreement and Modification, as amended, shall come from the funds made available to the Department of Defense by this Act.

(c) In the event that the purchaser purchases only a portion of the Sale Parcel and exercises its option to withdraw from the sale as to the rest of the Sale Parcel, the portion of the Sale Parcel that is not purchased (other than Landfill 26 and an appropriate buffer area around it and the groundwater treatment facility site), together with any of the land referred to in section 9099(e) of Public Law 102-396 that is not purchased by the purchaser, shall be sold to the City of Novato, in the State of California, for the sum of One Dollar as a public benefit transfer for school, classroom or other educational use, for use as a public park or recreation area or for further conveyance as provided herein, subject to the following restrictions: (1) if the City sells any portion of such land to any third party within ten years after the transfer to the City, which sale may be made without the foregoing use restrictions, any proceeds received by the City in connection with such sale, minus the demonstrated reasonable costs of conducting the sale and of any improvements made by the City to the land following its acquisition of the land (but only to the extent such improvements increase the value of the portion sold), shall be immediately turned over to the Army in reimbursement of the withdrawal payment made by the Army to the contract purchaser and the costs of cleaning up the Landfill and (2) until one year following completion of the cleanup of contaminated soil in the Landfill and completion of the groundwater treatment facilities, the sale must be at a per-acre price for the portion sold that is at least equal to the per-acre contract price paid by the purchaser for the portion of the Sale Parcel purchased under the Agreement and Modification, as amended, and thereafter must be at a price at least equal to the fair market value of the portion sold. The foregoing restrictions shall not apply to a transfer to another public or quasi-public agency for public uses of the kind described above. The deed to the City shall contain a clause providing that, if any of the proceeds referred to in clause (1) are not delivered to the Army within 30 days after sale, or any portion of the land not sold as provided herein is used for other than educational, park or recreational uses, title to the applicable portion of such land shall revert to the United States Government at the election of the General Services Administration. The Army shall agree to deliver into the applicable closing escrow an acknowledgement of receipt of any proceeds described in clause (1) above and a release of the reverter right as to the affected land, effective upon such receipt.

(d) Notwithstanding any other provision of law, the Air Force shall be reimbursed for expenditures in excess of $15,000,000 in connection with the total clean-up of uncontrolled hazardous waste contamination on the aforementioned Sale Parcel from the proceeds collected upon the closing of any portion of the Sale Parcel purchased by the contract purchaser under the Agreement and Modification, as amended.

(e) Notwithstanding any other provision of law, the purchaser's reimbursement claims shall be audited by the Defense Contract Audit Agency for reasonableness and accuracy before the Department of Defense provides any funds under the purchaser's withdrawal and reimbursement rights.

SEC. 8060. Notwithstanding any other provision of law, the Secretary of Defense may, when he considers it in the best interest of the United States, cancel any part of an indebtedness, up to $2,500, that is or was owed to the United States by a member or former member of a uniformed service if such indebtedness, as determined by the Secretary, was incurred in connection with Operation Desert Shield/Storm: *Provided*, That the amount of an indebtedness previously paid by a member or former member and cancelled under this section shall be refunded to the member.

SEC. 8061. Appropriations contained in this Act that remain available at the end of the current fiscal year as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

SEC. 8062. During the current fiscal year and thereafter, voluntary separation incentives payable under 10 U.S.C. 1175 may be paid in such amounts as are necessary from the assets of the Voluntary Separation Incentive Fund established by section 1175(h)(1).

(INCLUDING TRANSFER OF FUNDS)

SEC. 8063. Amounts deposited during fiscal years 1994 and 1995 to the special account established under 40 U.S.C. 485(h)(2) and to the special account established under 10 U.S.C. 2667(d)(1) are appropriated and shall be available until transferred by the Secretary of Defense to current applicable appropriations or funds of the Department of Defense under the terms and conditions specified by 40 U.S.C. 485(h)(2) (A) and (B) and 10 U.S.C. 2667(d)(1)(B), to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred.

SEC. 8064. In order to maintain an electric furnace capacity in the United States, preference for the purchase of chromite ore and manganese ore authorized for disposal from the National Defense Stockpile shall be given to domestic producers of high carbon ferrochromium and high carbon ferromanganese—

(A) whose primary output during the three preceding years has been ferrochromium or ferromanganese; and

(B) who guarantee to use the chromite and manganese ore for domestic purposes.

SEC. 8065. None of the funds in this or any other Act shall be available for the preparation of studies on—

(a) the feasibility of removal and transportation of unitary chemical weapons from the eight chemical storage sites within the continental United States: *Provided*, That this prohibition shall not apply to non-stockpile material in the United States or to studies needed for environmental analysis required by the National Environmental Policy Act, or for General Accounting Office studies requested by a Member of Congress or a Congressional Committee; and

(b) the potential future uses of the nine chemical disposal facilities other than for the destruction of stockpile chemical munitions and as limited by section 1412(c)(2), Public Law 99-145: *Provided*, That this prohibition does not apply to future use studies for the CAMDS facility at Tooele, Utah.

SEC. 8066. During the current fiscal year, appropriations available to the Department of Defense may be used to reimburse a member of a reserve component of the Armed Forces who is not otherwise entitled to travel and transportation allowances and who occupies transient government housing while performing active duty for training or inactive duty training: *Provided*, That such members may be provided lodging in kind if transient government quarters are unavailable as if the member was entitled to such allowances under subsection (a) of section 404 of title 37, United States Code: *Provided further*, That if lodging in kind is provided, any authorized service charge or cost of such lodging may be paid directly from funds appropriated for operation and maintenance of the reserve component of the member concerned.

SEC. 8067. For fiscal year 1995, the total amount appropriated to fund the Uniformed Services Treatment Facilities program, operated pursuant to section 911 of Public Law 97-99 (42 U.S.C. 248c), is limited to $329,000,000, of which not more than $300,000,000 may be provided by the funds appropriated by this Act.

SEC. 8068. None of the funds available in this Act may be used to support in any manner, including travel or other related expenses, the "Tailhook Association": *Provided*, That investigations by the Secretary of the Navy or consultation with the Tailhook Association are not prohibited by this provision.

SEC. 8069. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the Defense Agencies.

SEC. 8070. None of the funds available to the Department of Defense may be obligated or expended for construction of Ground Wave Emergency Network (GWEN) sites in Fiscal Year 1995.

SEC. 8071. Notwithstanding any other provision of law, the Naval shipyards of the United States shall be eligible to participate in any manufacturing extension program financed by funds appropriated in this or any other Act.

SEC. 8072. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101-510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

SEC. 8073. During the current fiscal year and thereafter, annual payments granted under the provisions of section 4416 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-428; 106 Stat. 2714) shall be made from appropriations in this Act which are available for the pay of reserve component personnel.

SEC. 8074. None of the funds appropriated by this Act may be used to relocate the 116th Fighter Wing of the Air National Guard from Dobbins Air Reserve Base to Robins Air Force Base, or to convert that wing from F-15A aircraft to B-1B aircraft.

SEC. 8075. None of the funds appropriated by this Act shall be used to procure aircraft fuel cells unless the fuel cells are produced or manufactured in the United States by a domestic-operated entity: *Provided*, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8076. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than $50,000.

SEC. 8077. During the current fiscal year and thereafter, appropriations available for the pay and allowances of active duty members of the Armed Forces shall be available to pay the retired pay which is payable pursuant to section 4403 of Public Law 102-484 (10 U.S.C. 1293 note) under the terms and conditions provided in section 4403.

SEC. 8078. (a) During the current fiscal year, none of the appropriations or funds available to the Defense Business Operations Fund shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Defense Business Operations Fund if such an item would not have been chargeable to the Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 1996 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1996 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 1996 procurement appropriation and not in the supply management business area or any other area or category of the Defense Business Operations Fund.

SEC. 8079. None of the funds provided in this Act shall be available for use by a Military Department to modify an aircraft, weapon, ship or other item of equipment, that the Military Department concerned plans to retire or otherwise dispose of within five years after completion of the modification: *Provided*, That this prohibition shall not apply to safety modifications: *Provided further*, That this prohibition may be waived by the Secretary of a Military Department if the Secretary determines it is in the best national security interest of the country to provide such waiver and so notifies the congressional defense committees in writing.

SEC. 8080. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

SEC. 8081. None of the funds appropriated by this Act shall be available for payment of the compensation of personnel assigned to or serving in the National Foreign Intelligence Program in excess of 94 percent of such personnel actually assigned to or serving in the National Foreign Intelligence Program on September 30, 1992: *Provided*, That in making any reduction in the number of such personnel that may be required pursuant to this section, the percentage of reductions to Senior Intelligence Service positions shall be equal to or exceed the percentage of reductions to non-Senior Intelligence Service positions: *Provided further*, That in making any reduction in the number of such personnel that may be required pursuant to this section, the percentage of reductions to positions in the National Capital Region shall be equal to or exceed the percentage of reductions to positions outside of the National Capital Region.

SEC. 8082. None of the funds provided by this Act may be used to pay the salaries of any person or persons who authorize the transfer of obligated and deobligated appropriations into the Reserve for Contingencies of the Central Intelligence Agency.

SEC. 8083. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 1996.

SEC. 8084. The classified Annex prepared by the Committee on Appropriations to accompany the report on the Department of Defense Appropriations Act, 1995 is hereby incorporated into this Act: *Provided*, That the amounts specified in the classified Annex are not in addition to amounts appropriated by other provisions of this Act: *Provided further*, That the President shall provide for appropriate distribution of the classified Annex, or of appropriate portions of the classified Annex, within the executive branch of the Government.

SEC. 8085. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8086. None of the funds appropriated by this Act shall be available for the planning, programming or actual movement of any component or function of the Defense Mapping Agency Aerospace Center annex from the St. Louis, Missouri area.

SEC. 8087. Notwithstanding any other provision of law, reimbursements received from the North Atlantic Treaty Organization for the E–3 Airborne Warning and Control System (AWACS) Radar System Improvement Program (RSIP) attributable to development work for fiscal years 1987 through 1992 shall be available to the Air Force until September 30, 1995, for meeting that service's financial commitments for the AWACS RSIP.

SEC. 8088. (a) None of the funds appropriated or otherwise made available in this Act may be used to transport or provide for the transportation of chemical munitions to the Johnston Atoll for the purpose of storing or demilitarizing such munitions.

(b) The prohibition in subsection (a) shall not apply to any obsolete World War II chemical munition of the United States found in the World War II Pacific Theater of Operations.

(c) The President may suspend the application of subsection (a) during a period of war in which the United States is a party.

SEC. 8089. Notwithstanding any other provision of law, funds made available in this Act and in the fiscal year 1994 Department of Defense Appropriations Act (Public Law 103–139) under the heading "Procurement, Defense-Wide" shall be available to pay equitable adjustments to which the contractor is legally entitled for Coastal Patrol Craft that were procured in prior fiscal years.

SEC. 8090. Notwithstanding any other provision of law, funds appropriated in this Act for the High Performance Computing Modernization Plan shall be made available only for the upgrade, purchase, or modernization of supercomputing capability and capacity at all DOD high performance computing sites: *Provided*, That contracts, contract modifications, or contract options are awarded as the result of full and open competition based upon the requirements of the users.

SEC. 8091. Amounts collected for the use of the facilities of the National Science Center for Communications and Electronics during the current fiscal year pursuant to section 1459(g) of the Department of Defense Authorization Act, 1986 and deposited to the special account established under subsection 1459(g)(2) of that Act are appropriated and shall be available until expended for the operation and maintenance of the Center as provided for in subsection 1459(g)(2).

SEC. 8092. The Secretary of Defense and the Director of Central Intelligence shall deliver, no later than January 1, 1995, a report providing the following information about all research and development projects involving the implementation, monitoring, or verification of current and projected international arms control agreements: (a) annual and total budgets, goals, schedules, and priorities; (b) relationships among related projects being funded by the Department of Defense, the National Foreign Intelligence Program, and other departments and agencies of the Federal Government; and (c) comments by the Arms Control and Disarmament Agency about the relevance of each project to the arms control priorities of the United States.

SEC. 8093. Notwithstanding any other provision of law, none of the funds appropriated in this or any other Act shall be used for the purchase of a totally enclosed lifeboat survival system, which consists of the lifeboat and associated davits and winches, if less than 75 percent of the entire system's components are manufactured in the United States, and if less than 75 percent of the labor in the manufacture and assembly of the entire system is performed in the United States.

SEC. 8094. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

SEC. 8095. None of the funds available to the Department of Defense in this Act shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

SEC. 8096. None of the funds appropriated or otherwise made available by this Act may be used for a defense technology reinvestment project that is not selected pursuant to the applicable competitive selection and other procedures set forth in chapter 148 of title 10, United States Code.

SEC. 8097. None of the funds appropriated in this Act are available for development of bistatic active capability in SURTASS unless the acoustic signal processing for this capability is hosted exclusively on the AN/UYS–2 in the operational system.

SEC. 8098. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8099. Notwithstanding any other provision of law, the Secretary of the Navy shall obligate funds made available in the fiscal year 1993 Department of Defense Appropriations Act (Public Law 102–396) and the fiscal year 1994 Department of Defense Appropriations Act (Public Law 103–139) under the heading "Aircraft Procurement, Navy" for the USH–42 mission recorder for S–3 aircraft.

SEC. 8100. It is the sense of Congress that none of the funds appropriated or otherwise made available by this Act should be available for the purposes of deploying United States Armed Forces to participate in the implementation of a peace settlement in Bosnia-Herzegovina, unless previously authorized by the Congress.

(TRANSFER OF FUNDS)

SEC. 8101. In addition to any other transfer authority contained in this Act, funding appropriated under the heading "Operation and Maintenance, Defense-Wide" for increasing energy and water efficiency in Federal buildings may be transferred to other appropriations or funds of the Department of Defense, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred.

SEC. 8102. Funds appropriated by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 1995 until the enactment of the Intelligence Authorization Act for fiscal year 1995.

SEC. 8103. (1) Except as provided in subsection (c) below, it is the sense of the Congress that none of the funds appropriated by this Act should be obligated or expended for costs incurred by the United States Armed Forces units serving in any international peacekeeping or peace-enforcement operations under the authority of Chapter VI or Chapter VII of the United Nations Charter and under the authority of a United Nations Security Council Resolution, or for costs incurred by United States Armed Forces serving in any significant international humanitarian, peacekeeping or peace-enforcement operations, unless—

(a) the President initiates consultations with the bi-partisan leadership of Congress, including the leadership of the relevant committees, regarding such operations; these consultations should be initiated at least fifteen days prior to the initial deployment of United States Armed Forces units to participate in such an operation, whenever possible, but in no case later than forty-eight hours after such a deployment; and these consultations should continue on a periodic basis throughout the period of the deployment;

(b) such consultation should include discussion of—

(1) the goals of the operation and the mission of any United States Armed Forces units involved in the operation;

(2) the United States interests that will be served by the operation;

(3) the estimated cost of the operation;

(4) the strategy by which the President proposes to fund the operation, including possible supplemental appropriations or payments from international organizations, foreign countries or other donors;

(5) the extent of involvement of armed forces and other contributions of personnel from other nations; and

(6) the operation's anticipated duration and scope;

(c) subsection (a) does not apply with respect to an international humanitarian assistance operation carried out in response to natural disasters; or to any other international humanitarian assistance operation if the President reports to Congress that the estimated cost of such operation is less than $50,000,000.

(2) Further, it is the sense of the Congress that the President should seek supplemental appropriations for any significant deployment of United States Armed Forces when such forces are to perform or have been performing international humanitarian, peacekeeping or peace-enforcement operations.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8104. Balances of the funds appropriated in Public Laws 102–172, 102–396, and 103–139, under the headings "World University Games", "Summer Olympics", and "World Cup USA 1994" in title II of those Acts shall be merged into a single account entitled "Support for International Sporting Competitions, Defense", to remain available until expended: *Provided further*, That such account shall be available for the purpose of liquidating obligations incurred under the appropriations from which funds are transferred pursuant to the provisions of this section and for providing support to the 1996 Games of the XXVI Olympiad to be held in Atlanta, Georgia, under the terms and conditions specified in those Acts under the headings "Summer Olympics" and for providing support to any other international sporting competitions, as provided for in Authorization or Appropriations Acts, during the current fiscal year and thereafter.

SEC. 8105. Of the funds appropriated in this Act, not to exceed $68,000,000 may be used for the purchase or construction of vessels for the Ready Reserve Force component of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744).

SEC. 8106. After September 1, 1995, none of the funds in this Act are available for research, development, acquisition, or launch of Titan IV expendable launch vehicles: *Provided*, That the above provision shall not apply if the Secretary of Defense certifies to the Congress a plan for the development of and initiation of a competition for a family of launch vehicles that is—

(1) capable of launching both medium and heavy payloads,

(2) fully funded in the outyears, and

(3) scheduled to be available prior to the launch of the 41st Titan IV expendable launch vehicle:

Provided further, That MILSTAR satellites 1 through 6 shall be launched on vehicles being procured as a part of the current contract for 41 Titan IV launch vehicles: *Provided further*, That none of the funds in this Act may be used to procure more than 41 Titan IV expendable launch vehicles.

SEC. 8107. Notwithstanding any other provision of law, of the funds appropriated to the Department of the Navy for Operation and Maintenance, not less than $3,000,000 shall be obligated and expended only for operation and maintenance, purchase of automatic data processing equipment, or in-house central design development for the Naval Reserve Force Information Systems Office, the Navy Reserve Personnel Center, the Enlisted Personnel Management Center, and the collocated Naval Computer and Telecommunications Station: *Provided*, That notwithstanding any other provision of law, of the funds appropriated to the Department of Defense for Procurement, Defense-Wide not less than $10,000,000 shall be obligated and expended only for automatic data processing equipment or software, or in-house central design development for the Naval Reserve Force Information Systems Office, the Naval Reserve Personnel Center, the Enlisted Personnel Management Center and the collocated Naval Computer and Telecommunications Station: *Provided further*, That the Secretary of the Navy shall establish the Naval Reserve Force Information Systems Office, the Enlisted Personnel Management Center, and the collocated Naval Computer and Telecommunications Station, as the designers, developers, managers, integrators and central design activity for the software development and maintenance of the Naval active and reserve Single Source Data Collection System.

SEC. 8108. No funds available to the Department of Defense may be used to establish additional field operating agencies or field offices of any element of the Department during fiscal year 1995: *Provided*, That after August 30, 1995, none of the funds available to the Department of Defense shall be used to support more than fifty percent of the field operating agencies or field offices of any element of the Department of Defense which were in existence on September 30, 1994.

SEC. 8109. None of the funds made available in this Act under the heading "Shipbuilding and Conversion, Navy" may be obligated for the DDG–51 destroyer program or the LHD–1 amphibious assault ship program until the fiscal year 1995 options for acquisition of sealift ships have been exercised.

SEC. 8110. None of the funds provided in this Act may be used to procure crystal oscillator carriers, ceramic package incorporating ceramic components joined with glass (frit) or epoxy seals, or multi-layer cofired single chip ceramic packages unless such products are produced or manufactured in the United States: *Provided*, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8111. Notwithstanding any other provision of law, funds made available in the fiscal year 1993 and 1994 Department of Defense Appropriations Acts for the EA–6B program are to be used exclusively to begin engineering changes that will increase the capability of the Navy's EA–6B aircraft by insertion of the critical elements of the EA–6B ADVCAP receiver processor group system into the on-board system and the addition of the ALQ–149 Command, Control, and Communications countermeasure system: *Provided*, That these funds shall be obligated no later than 120 days after enactment of this Act: *Provided further*, That the Secretary of the Navy shall obligate $6,000,000 made available in the fiscal year 1994 Department of Defense Appropriations Act (Public Law 103–139) exclusively for the miniaturization of the EA–6B RPG technology for use on the Navy's electronic warfare aircraft.

(TRANSFER OF FUNDS)

SEC. 8112. For the rehabilitation of damage caused to Rongelap Atoll by the nuclear testing program and for the resettlement of Rongelap Atoll, $5,000,000 is appropriated to the Department of Defense, which shall be transferred to the Department of the Interior for deposit into the Rongelap Resettlement Trust Fund.

SEC. 8113. None of the funds provided in this Act may be used to develop the Sustaining Base Information System until the Assistant Secretary of Defense for Command, Control, Communications and Intelligence has certified to the Armed Services and Appropriations Committees of Congress that the Department of Defense has published a complete and comprehensive system functional description governing the acquisition and has received from the contractor an estimate of the number of lines of software code to implement such functional description and an estimate of the attendant cost: *Provided*, That none of the work content of the Sustaining Base Information System contract may be performed instead by government in-house activities without being competed if such efforts are passed through government organizations to other than Sustaining Base Information System contractors.

SEC. 8114. The Assistant Secretary of Defense for Command, Control, Communications and Intelligence shall establish and implement a master plan for all acquisitions of automated document conversion systems, equipment, and technologies: *Provided*, That none of the funds in this Act may be used to develop technologies or to acquire new automated document conversion equipment, services, or systems which cost more than $5,000,000 after January 1, 1995 unless such acquisitions are approved in advance by the Assistant Secretary or his designee: *Provided further*, That of the funds appropriated to the Department of Defense for Procurement, Defense-Wide, not less than $30,000,000 shall be used only to integrate the Automated Document Conversion System into the Joint Engineering Data Management and Information Control System.

SEC. 8115. Notwithstanding any other provision of law, none of the funds provided in this Act may be used to procure vessel propellers six feet in diameter and greater unless such propellers are manufactured in the United States incorporating only casting which are poured and finished in the United States. Nor may any of the funds provided in this Act be used to procure ship propulsion shafting unless such ship propulsion shafting is manufactured in the United States: *Provided*, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

(TRANSFER OF FUNDS)

SEC. 8116. Notwithstanding any other provision of law, $16,300,000 made available in the fiscal year 1993 Department of Defense Appropriations Act (Public Law 102–396) for "Other Procurement, Navy" and $5,900,000 made available in the fiscal year 1994 Department of Defense Appropriations Act (Public Law 103–139) for "Other Procurement, Navy" shall be transferred to "Research, Development, Test and Evaluation, Navy" for the SPS–48E program.

SEC. 8117. Notwithstanding any other provision of law, the Department of Defense shall award contracts for the CHAMPUS Reform Initiative in California-Hawaii and the Managed Care Support initiative in Washington-Oregon regions in sufficient time for the contractors to begin to provide health care under those contracts no later than April 1, 1995 in California and Hawaii, and not later than March 1, 1995 for Washington and Oregon, or as soon thereafter as practicable.

SEC. 8118. None of the funds appropriated in this Act shall be used for the recruitment or enrollment of a new student or class of students at the Uniformed Services University of the Health Sciences.

SEC. 8119. None of the funds appropriated or made available by this Act shall be obligated to procure active matrix liquid crystal displays unless the displays, including the active and passive plates, are produced or manufactured in the United States by a domestic-owned and domestic-operated entity: *Provided*, That the Secretary of the military department or head of a Defense Agency responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That these restrictions shall not apply to contracts which are in being as of the date of enactment of this Act.

SEC. 8120. None of the funds appropriated in this Act to the Department of the Army may be obligated for procurement of 120mm mortars or 120mm mortar ammunition manufactured outside of the United States.

The CHAIRMAN. Are there any points of order to the bill?

Are there any amendments to the bill?

Mrs. SCHROEDER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I really do not have an amendment but I just want to have a colloquy with the chairman about a very important thing that he has been wonderful on, and that is the Defense Women's Health Research.

I notice in the report that I think there was a mistake in there in that it got earmarked, and we have been very good about keeping it nonearmarked and keeping it with the Army so the Army can manage it in the best possible way.

Mr. MURTHA. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I am happy to yield to the gentleman from Pennsylvania.

Mr. MURTHA. The gentlewoman is absolutely correct. The Committee did not mean to earmark that language for that $40 million. It is for general purposes, and we will change that.

Mrs. SCHROEDER. So we can unanimously change the record by doing this?

Mr. MURTHA. Yes. That is correct.

Mrs. SCHROEDER. I thank the gentleman from Pennsylvania. And I thank him for his hard work on all of this wonderful women's and men's research.

AMENDMENT OFFERED BY MRS. MALONEY

Mrs. MALONEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. MALONEY: Page 14, strike lines 4 through 22.

Mrs. MALONEY. Mr. Chairman, I offer an amendment to cut the single most ridiculous item in the budget.

Let me make this simple and quick. Three simple facts: The Civilian Marksmanship Program is obsolete. Created in 1903 during the Spanish-American War, it is no longer needed to train men and women to shoot straight. It is time to declare victory and cut this boondoggle out of the budget. It is a boondoggle.

It hands out millions of rounds of ammunition to private gun clubs. The Army does not want it. The Department of Defense does not want it. The Office of Management and Budget does not want the money.

If we cannot cut here, where? Where are we going to cut?

Mr. MURTHA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I yield back the balance of my time, and I ask for a vote on the amendment.

The CHAIRMAN. Do other Members seek to be recognized for debate on the amendment?

The question is on the amendment offered by the gentlewoman from New York [Mrs. MALONEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mrs. MALONEY. Mr. Chairman, I demand a recorded vote, and I make the point of order that a quorum is not present.

The CHAIRMAN. The gentlewoman from New York has requested a recorded vote.

Those in favor of a recorded vote will rise and remain standing until counted. The Chair will count for a recorded vote.

Mrs. MALONEY. Mr. Speaker, I note the absence of a quorum.

The CHAIRMAN. The gentlewoman makes a point of order that a quorum is not present. The Chair will count for a quorum.

A quorum is present.

Mrs. MALONEY. Mr. Chairman, I demand a division.

The CHAIRMAN. The gentlewoman from New York has demanded a division.

Those in favor of the amendment will rise and remain standing until counted.

Those opposed will rise and remain standing until counted.

On this vote, in the affirmative: 20; opposed: 69.

Mrs. MALONEY. In the absence of a quorum, I asked for a quorum.

Mr. MURTHA. Regular order.

Mrs. MALONEY. Notice of a quorum.

The CHAIRMAN. The gentlewoman has made a point of order of no quorum. The Chair must again count for a quorum since there has been a division vote.

The Chair has counted more than 100 Members for a quorum. A quorum is present.

Mrs. MALONEY. Division; I ask for a division.

Mr. SOLOMON. Regular order.

The CHAIRMAN. The gentlewoman is not able to ask for a division again. A division vote has been conducted.

Mr. MURTHA. Regular order.

Mrs. MALONEY. I demand a recorded vote.

The CHAIRMAN. The gentlewoman cannot ask for another division. Is the gentlewoman asking for a recorded vote?

Mrs. MALONEY. Yes, Mr. Speaker.

The CHAIRMAN. Those in favor of a recorded vote will rise and remain standing.

An insufficient number has arisen.

The amendment is rejected.

AMENDMENT OFFERED BY MS. FURSE

Ms. FURSE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. FURSE: On page 107 of the bill, after line 4, insert the following new section:

SEC. 8121. The total amount appropriated to or for the use of the Department of Defense by this act for research, development, test and evaluation for management support is hereby reduced by $30,000,000: *Provided*, That the Secretary of Defense shall allocate the amount reduced in the preceding sentence and not later than December 31, 1994, report to the Senate and the House Committees on Appropriations and Armed Services how this reduction was allocated among the services and Defense agencies.

Mr. MURTHA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. MURTHA. Mr. Chairman, will the gentlewoman yield?

Ms. FURSE. I am happy to yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Chairman, we accept the amendment. We have both looked at the amendment, and we accept the amendment.

Ms. FURSE. Mr. Chairman, I appreciate the subcommittee chairman's accepting the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Oregon [Ms. FURSE].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

If not, the Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Department of Defense Appropriations Act, 1995".

Mr. MURTHA. Mr. Chairman, I move that the committee do now rise and report the bill back to the House with an amendment, with the recommendation the amendment be agreed to, and the bill, as amended, do pass.

The CHAIRMAN. The question is on the motion offered by the gentleman from Pennsylvania [Mr. MURTHA].

The motion was agreed to.

□ 2250

Accordingly the committee rose; and the Speaker pro tempore (Mr. MCNULTY) having assumed the chair, Mr. TORRICELLI, chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4650) making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes, had directed him to report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to, and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BUNNING. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 330, nays 91, not voting 13, as follows:

[Roll No. 313]

YEAS—330

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (NE)
Bateman
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Byrne
Callahan
Calvert
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (GA)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeLauro
Derrick
Deutsch
Dickey
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (TX)
Emerson
Engel
English
Eshoo
Evans
Everett
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (TN)
Fowler
Franks (CT)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Green
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastert
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Holden
Horn
Houghton
Hoyer
Hughes
Hutchinson
Hutto
Hyde
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Maloney
Mann
Manton
Manzullo
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Mfume
Mica
Michel
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal (MA)
Neal (NC)
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pickle
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Spence
Spratt
Stenholm
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—91

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (WI)
Bartlett
Barton
Bentley
Brown (CA)
Bunning
Burton
Buyer
Camp
Coble
Collins (IL)
Combest
Cox
Crane
Crapo
Cunningham
DeFazio
Diaz-Balart
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (CA)
Ehlers
Ewing
Fawell
Fields (TX)
Frank (MA)
Franks (NJ)
Goss
Grams
Greenwood
Hamburg
Hancock
Hansen
Hefley
Herger
Hoekstra
Hoke
Huffington
Hunter
Inglis
Inhofe
Johnson, Sam
Johnston
Klug
Knollenberg
Kyl
Margolies-Mezvinsky
McHugh
McInnis
Meyers
Miller (FL)
Minge
Moorhead
Myers
Nussle
Oberstar
Owens
Paxon
Penny
Peterson (MN)
Petri
Pombo
Ramstad
Ros-Lehtinen
Roth
Roukema
Royce
Sanders
Schaefer
Sensenbrenner
Shays
Solomon
Stark
Stearns
Stump
Thomas (WY)
Vento
Waxman
Wyden
Zeliff
Zimmer

NOT VOTING—13

DeLay
Dellums
Fish
Ford (MI)
Gibbons
Grandy
Machtley
Murphy
Smith (OR)
Swift
Washington
Whitten
Yates

□ 2316

Messrs. OWENS, OBERSTAR, and WAXMAN changed their vote from "yea" to "nay."

Mr. CONDIT changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I would like to inquire of the distinguished Majority Leader how he envisions the evening unfolding at this juncture.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield, because of all the good cooperation we made here this evening, the good progress made, we have one additional matter tonight, as I said earlier, which is a motion to instruct on the crime bill. That should come right away.

Tomorrow we will meet at 10 o'clock, and we will try to proceed with the District of Columbia appropriations bill. Negotiations are still going on with regard to that. We hope it can be worked out.

Mr. MICHEL. I thank the gentleman. Mr. Speaker, we have an adjournment resolution then to consider. Does the gentleman intend to do that?

Mr. GEPHARDT. I intend to do that right now.

PROVIDING FOR ADJOURNMENT OF THE HOUSE FROM THURSDAY, JUNE 30, 1994, TO TUESDAY, JULY 12, 1994, AND ADJOURNMENT OR RECESS OF THE SENATE FROM THURSDAY, JUNE 30, 1994, FRIDAY, JULY 1, 1994, SATURDAY, JULY 2, 1994, OR SUNDAY, JULY 3, 1994, TO MONDAY, JULY 11, 1994

Mr. GEPHARDT. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 263) and ask unanimous consent for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 263

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, June 30, 1994, it stand adjourned until 10:30 a.m. on Tuesday, July 12, 1994, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Thursday, June 30, 1994, Friday, July 1, 1994, Saturday, July 2, 1994, or Sunday, July 3, 1994 pursuant to a motion made by the Majority Leader or his designee, in accordance with this resolution, it stand recessed or adjourned until noon on Monday, July 11, 1994, or at such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

□ 2320

MOTION TO INSTRUCT CONFEREES ON H.R. 3355, VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

Ms. MOLINARI. Mr. Speaker, pursuant to the provisions of rule XXVIII, clause 1(c), I offer a privileged motion to instruct conferees on the bill (H.R. 3355) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Ms. MOLINARI moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the Senate amendment to the bill H.R. 3355 be instructed not to make any agreement that does not include Subtitle E of Title VIII of the Senate amendment, providing for the admissibility of evidence of similar crimes in sex offense cases.

The SPEAKER. The gentlewoman from New York [Ms. MOLINARI] will be recognized for 30 minutes, and the gentleman from New Jersey [Mr. HUGHES] will be recognized for 30 minutes.

The Chair recognizes the gentlewoman from New York (Ms. MOLINARI).

Ms. MOLINARI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the indulgence of my colleagues and I assure the Members we will move very quickly, but this is a deadly serious subject.

Mr. Speaker, this motion instructs the conferees to accept language in the Senate crime bill that changes the Federal Rules of Evidence to let prosecutors in two cases, sexual assault and child molestation, to introduce evidence that the defendant has committed similar crimes in the past. This same language was adopted by the other body 75 to 19 and is part of their crime bill.

Mr. Speaker, The People versus Hansen. In this case the defendant, Hansen, was found guilty of inducement of child prostitution and attempted sexual assault on a child. Hansen had been the subject of a police investigation after parents complained that he had engaged in obscene telephone conversations with their preteen daughters. The investigation showed that the defendant's name and phone number were common knowledge at a junior high school, and when the girls called him, he would ask them to come to his residence to have sex with him. He would then give them money and arrange necessary transportation. Conversations were taped by the police in which he made this proposition to two 11-year-old girls.

In order to apprehend Hansen, the police had one of the girls call him and have him send a cab to take her and her sisters to his residence. Hansen was arrested as he paid the girls' cab driver.

The evidence at the trial included testimony by two other young girls that the defendant had also solicited sex with them in phone conversations. However, the appellate court held that admission of the testimony with the other two girls was reversible error because this evidence was "unnecessary to establish intent" and hence, in the court's view, "was without a valid purpose."

Mr. Speaker, this happens time and time again in sexual assault and in child molestation cases where there are no witnesses other than the victim. This allows, it does not mandate, a judge's discretion in only those two instances, when he or she thinks that the cases are similar and relevant enough to introduce prior evidence of past convictions.

Mr. Speaker, this will allow the States and the Federal Government to proceed to convict and apprehend and put away child molesters and sexual assaulters without fear of technical overturning.

Mr. Speaker, I reserve the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to the motion to instruct conferees. I do so on two grounds. It is very difficult to argue against something that would suggest that in some way we are going to make it easier for child molesters or sexual abusers to walk.

First of all, Mr. Speaker, we in the Congress many years ago set up an extensive process called the Rules Enabling Act, which has served us well for a long time. Under this particular process, changes in the rules of evidence and procedure for Federal courts originate not in the Congress but in the federal court system. We decided that a long time ago.

The governing body of the Federal courts, the Judicial Conference of the United States, develops and proposes rules changes which must be approved by the Supreme Court before being submitted to Congress. The changes go into effect 6 months later unless rejected or modified by the Congress. The Federal Rules of Evidence, like all other Federal rules, affect the daily business of all of our courts, and also serve as a pattern for many State procedural rules.

In fact, on the Rules Enabling Panel we have State court justices, we have constitutional scholars, the Chief Justice makes the appointments, and it has served us well over the years.

The pervasive and substantial impact of the Federal Rules demands exacting and meticulous care in drafting amendments. This is not evident in the proposal before us. The existing rulemaking process involves a minimum of six levels of scrutiny or stages of formal review. This has gone through none. This is an amendment offered on the floor of the Senate after about 20 minutes' debate, without very much thought, and it is procedurally and substantively flawed. There has been no debate about the impact it would have on criminal or civil cases.

Mr. Speaker, I think it is the height of irresponsibility to suggest that we change our rules of evidence on the basis of no hearings, totally abandoning the process we have set up that served us well. The proposed new rules of evidence, this particular rule would create an exception to rule 404(a), which excludes admission of a person's character for the purpose of proving action in conformity therewith on a particular occasion.

In effect, Mr. Speaker, 404(a) states that we cannot convict a person for a particular crime based on past conduct of a similar nature. In prosecutions of sexual assault or child molestation offenses, this type of evidence would be particularly prejudicial.

These proposed new rules of evidence changes would go further and allow admission of evidence, not conviction. We are talking about allowing evidence, not a record of conviction. Even if the defendant had been acquitted of the charges on previous occasions, any evidence, regardless of conviction, could be offered under this particular rule of evidence.

Mr. Speaker, there is the "no need for a conviction" language in the proposal that makes admissible all evidence of the defendant's commission of another offense that is similar in nature. I know that in our actions on crime bills we all have a tendency to want to be tough, sound tough, but come on, this is ridiculous. It is ridiculous.

Frankly, Mr. Speaker, what the gentlewoman is doing, it raises serious constitutional questions. If the only evidence in the prosecution's case-in-chief is evidence that is hearsay or was rejected by a previous jury when they acquitted the defendant, it raises constitutional questions as to whether the conviction could stand.

Mr. Speaker, this has not been thought through. We ought to reject this.

Mr. Speaker, I reserve the balance of my time.

Ms. MOLINARI. Mr. Speaker, I yield myself 1 minute to respond.

First of all, we did not have hearings on this measure in this body, that is accurate. That is not by fault of this gentlewoman. I went before the Committee on Rules for the last three years to try to get a hearing in the people's body and was denied that opportunity.

Number two, to instill a judicial conference to study this bill, this effort has been part of every crime bill that has left this House, but has failed to be passed into law by this Congress while the current system goes unchecked and unheeded.

Number three, with due respect to the gentleman from New Jersey [Mr. HUGHES], I think if we talked to any one of the victims or the parents of the victims whose assailant has been allowed to go free because of a technical difficulty, they would not deem this measure ridiculous, and they would not agree to the statement that the current system serves us well.

Mr. Speaker, I yield 3 minutes to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, under the Federal Rules of Evidence, prior similar offenses may be admitted at trial even when the defendant has not been charged with offenses, but there is no Federal rule expressly authorizing such admissibility in the sex crime context. Ironically, Mr. Speaker, this is the context in which it is needed the most.

□ 2330

In other context, such evidence is permitted to prove motive, opportunity, intent, knowledge or absence of mistake. In sex-related crimes, it can be particularly useful to demonstrate a propensity of the accused to commit similar prior offenses.

We are not talking about allegations. We are talking about prior offenses. So that if as the gentlewoman from New York pointed out in the case that she discussed there is a clear pattern of conduct by an accused who has been convicted of similar conduct in the past and the case revolves around a question of belief of his word or her word, the evidence of that prior offense has probative value to determine the guilt of innocence of the accused. In that situation, the judge ought to have the discretion to admit the evidence.

It is not automatic. The judge simply would be permitted the discretion to admit the evidence in this limited situation. The judge still has total discretion to exclude the evidence if its probative value is substantially outweighed by the danger of unfair prejudice to the defendant.

Mr. Speaker, there is no taking away of the rights of the accused. It is only in a very limited circumstance in which the judge would allow the evidence but an important circumstance, a circumstance in which perhaps the only credible evidence for the jury because of the dispute between the only two people who know what happened is evidence of offenses of similar conduct in the past.

This is an important but small step for us to take to begin to grant the victims of crime equal protection in our criminal justice system.

Mr. Speaker, as the gentlewoman pointed out, the reason we did not have an opportunity to have the debate on this is because we were denied that opportunity by the Committee on Rules. But the Senate approved this language by a vote of 75–19. It is important for us to instruct our conferees to agree with the Senate provision to take this small step for justice for the victims of crime in our society. I urge a "yes" vote.

I have appreciated working with Representative MOLINARI on this important issue. Sexual violence is one of the most troubling issues facing our Nation today, and the importance of State and national commitment to strengthening laws against sexual violence cannot be underscored.

Let me start by stating some of the statistics, often heard, but important enough to this debate to mention again. Police records indicate a woman is raped every six minutes in the United States. According to the Uniform Crime Report sponsored by the FBI, four women are raped every day in Arizona. In Phoenix alone last year, there were 476 rapes reported. And, according to National Victim Center statistics, of these sexual violence victims only around 22 percent report the crime to police. According to the same group, we spend ten times more in resources defending those accused of sexual assault than we spend in helping the victims of sexual violence.

And, yet, behind the shocking statistics of sexual violence there lies a criminal justice system that oftentimes works more for the accused than for the victim. Take the following example:

> On May 4, 1986, Suzanne Harrison, an 18-year-old honor student in Texas, three weeks away from high school graduation, was abducted. The next day she was found raped brutally beaten and strangled to death. She was murdered by a parolee named Jerry Walter McFadden, a man who calls himself "Animal." McFadden had been convicted of two 1973 rapes and sentenced to two 15-year sentences. Paroled in 1978, he was again sentenced to 15 years in 1981 for a three-count crime spree in which he kidnapped, raped, and sodomized a Texas woman. Released on parole again in July of 1985, even though his record now contained three sex-related convictions and two prison sentences, McFadden raped and murdered Suzanne Harrison less than one year later.

Clearly, if a criminal justice system were better able to keep rapists in jail, Suzanne Harrison and thousands of other victims might be alive today.

Tonight, we have the opportunity to instruct conferees to make a small but important change to our criminal justice system so that victims of sexual abuse and child molestation are not revictimized once they bring charges against a perpetrator and enter into the court system. Members can do this by approving this motion to instruct crime bill conferees to accept section 831 of the Senate-passed crime bill.

This important provision would amend the Federal Rules of Evidence to make it easier for prosecutors in sexual violence and child molestation cases to introduce evidence showing that the accused has committed similar sexual assault crimes in the past. This very amendment, introduced by Senator DOLE, passed 75–19 during debate on the Senate crime bill. The amendment is also a provision of H.R. 688, the Sexual Assault Prevention Act, which Representative MOLINARI and I have introduced to combat sexual and domestic violence. There are currently 113 bipartisan cosponsors of our bill.

Unfortunately, House Members did not have an opportunity to vote on the Federal Rules of Evidence amendment. Representative MOLINARI and I both offered amendments during Rules Committee consideration of the crime bill to change the Federal Rules of Evidence in the same manner that Senator DOLE's amendment does; but, the Rules Committee would not permit its consideration, so this is your first opportunity to vote on this provision.

It is critical that we accept this provision of the Senate bill. Its effect is to help ensure that the criminal justice system is not skewed unfairly toward the rights of the accused at the expense of the victim.

It will go a long way toward helping to neutralize the psychological damage a sexual assault or child molestation victim experiences going thorough the judicial process. And, it will provide a model upon which States can base reforms of their own rules of evidence.

In most rape or molestation cases, it is the word of the defendant against the word of the victim. If the defendant has committed similar acts in the past, the claims of the victim are more likely to be considered truthful if there is substantiation of other assaults.

It is also common in rape and child molestation cases that the victim is too traumatized, intimidated, or humiliated to file a complaint and go through the full course of proceedings of a criminal prosecution. Nevertheless, the victims in such cases are often willing to bear the burden of testifying when they know that the person who marred their lives has also victimized others and that these revelations will come out at trial. According to Justice Department statistics released last week, girls under 18 are the victims of more than half the rapes reported to police. Allowing the prosecution to bring to trial similar child molestation crimes of the accused will certainly held these young victims bring their attacker to justice.

It is important to note that the Senate provision does not require that evidence of prior sexual assault be admitted. The trial court retains the total discretion to include or exclude this type of evidence moreover, under the Senate provision the defendant would have 15 days notice of the evidence to be offered and cross examination would be allowed. Essentially what this amendment does is make it clear that a judge will not necessarily be reversed on appeal if he admits evidence of prior similar acts in sex-related cases. The judge retains the discretion to exclude the evidence if its probative value is substantially outweighed by the danger of unfair prejudice to the defendant.

Mr. Chairman, this should not be controversial. For the thousands of individuals who are victims of sexual violence every year, we should strengthen our sexual violence laws by instructing conferees to include section 831 in the crime conference report. Members should not pass up this opportunity to make a positive difference in the lives of those who have experienced the tragedy of sexual assault and child molestation. Members should vote yes on this motion to instruct.

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Let me just say to my colleague, the gentleman from Arizona, I do not know whether he heard my original statement, but that is not the process. We have a rules enabling act that we created. We have a process, the Judicial Conference of the United States is the one that takes the testimony, basically decides changes in the rules of evidence and they implement them. We have the right to reject. We are basically circumventing the process that we set up. It is not the Committee on Rules of this House that basically works its will on rules of evidence. It was done so that we should have the kind of expertise and consideration that the Judicial Conference of the United States would provide.

Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I would say to my colleagues that this is something that is one of the most inadvisable things that we could do if we believe in the criminal law.

I believe as strongly as anybody that we ought to go after people who commit crimes, sexual crimes, and rape. But we should do it based on the laws of evidence. Make no mistake about it, my colleagues, this would say, not just a conviction but any allegation at all would be admissible in a court, not for all crimes but for these crimes. That is turning our system of due process on its head.

Let me state, why do you think the NOW legal defense fund, one of the strongest women's groups in this country that has made a campaign to eliminate rape, to eliminate sexual harassment, why are they opposed to this? They are very simply opposed because this is the kind of measure that does not belong in a system where we talk about freedom, where we talk about due process, where we talk about evidence. To say that any allegation for these particular cases shall be admissible in court is a very, very serious matter, I would argue a serious mistake, but if we are going to do this, then we ought to be very careful about where and when we do it and not just rush headlong into passing a motion like this which while I know is not binding would say something terrible about our beliefs in how we prosecute criminals.

Mr. Speaker, I do not believe that the Civil Liberties Union is right on every issue, but this goes so far beyond.

Mr. Speaker, I would simply say that to say that any allegation whatsoever for these two crimes shall be admissible as evidence, not a conviction, not even something that was admitted in court, but any prior evidence would be a serious mistake. I would ask my colleagues to think twice before we rush to pass something that so flies in the face of what Anglo-Saxon jurisprudence has stood for for 200 years.

Ms. MOLINARI. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. McCURDY].

Mr. McCURDY. Mr. Speaker, unfortunately I believe the American public is tired of hearing about process and rules, especially when we see the fact that the gentlewoman was not offered an opportunity to present this amendment and have it fully debated.

Mr. Speaker, I rise in strong support of the gentlewoman's motion to instruct and urge its passage.

(By unanimous consent Mr. MICHEL was allowed to proceed out of order.)

LEGISLATIVE PROGRAM

Mr. MICHEL. Mr. Speaker, I take this time to give the membership an update on where we are, and I yield to the distinguished majority leader.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield, as we informed the Members earlier, a negotiation has been going on about the DC bill. It is my understanding that negotiation has not succeeded. Therefore, it is intended to have a pro forma session tomorrow and to not bring up the DC bill.

I would tell the Members on this side of the aisle that the whip meeting which is scheduled for tomorrow will be held tomorrow morning at 8:30.

Mr. MICHEL. Might I also for the edification of the Members on our date to come back, Tuesday, July 12, would we expect votes on Tuesday? Do we know enough about that as of yet?

Mr. GEPHARDT. We will try to notify the Cloakrooms as to what time they might begin, but we would expect votes on Tuesday.

Mr. MICHEL. I thank the distinguished majority leader.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the distinguished gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, I would like to announce to all sinners here tonight, we will have the prayer breakfast here at 8 o'clock tomorrow in the Capitol Building.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, let me announce to Members on our side that we will have the conference as scheduled tomorrow morning. Members will find it an interesting conference. There is going to be a surprise announcement there that Members will all be interested in. We are not telling the other side over there.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I know the minority leader would also like to have those on this side join with him in wishing the gentlewoman from New York and the gentleman from New York a wonderful wedding that they are going to be having over the break.

Ms. MOLINARI. Mr. Speaker, if the gentleman will yield, I thank the gentlewoman from Colorado for her thoughtfulness.

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, let me just address two issues that have been brought up by the other side.

First, with the gentleman from New York who talked about the fact that this amendment is going to require the evidence to be admitted. That is not what this amendment does. It allows the judge the discretion to admit it.

Mr. Speaker, how come when it comes to judge's discretion in sentencing for criminals it is OK, for a judge's discretion for evidence with respect to criminals, that is OK, but for a judge's discretion with respect to victims, it is not OK.

□ 2340

I think we have to start looking at both sides of the equation and start looking at what kind of discretion we allow judges to use. If we trust their judgement in one respect, we should trust it just as much for the other party involved in the crime.

Second, when it comes to the issue of process, I cannot believe what we are saying here tonight is that we are going to allow a serial rapist, a serial sexual assaulter, a serial child molester the opportunity to continue without having that relevant evidence brought before the judge because the process of the Supreme Court and the committee that judges rules of evidence has not gotten around to dealing with this issue. That is what we are elected to do, not wait for them to tell us what is in our best interests, but in fact move forward.

Mr. SCHUMER. Mr. Speaker, will the gentleman yield?

Mr. SANTORUM. I am happy to yield to the gentleman from New York.

Mr. SCHUMER. Mr. Speaker, I would ask the gentleman if we have a serial rapist who has a conviction for serial rape, is it not true that the rules of evidence allow and the judge cannot block that evidence from being admitted right now.

Mr. SANTORUM. The gentleman is correct.

Mr. SCHUMER. I thank the gentleman.

Mr. SANTORUM. I urge an "aye" vote.

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a lot of statements are being made.

Members have to read the rule. The rule makes it admissible. It can be hearsay. The defendant could have been acquitted of a prior offense, similar offense, and it still is admissible. That is what it says. It is not within the discretion of the court.

For that reason and that reason alone, Members should reject this. It is ridiculous to suggest we are going to introduce evidence on another matter that indicates on a previous matter there was some evidence of a criminal offense when that defendant was acquitted of that offense. That is crazy. I mean we are talking about changes that have not been thought through. They really go to the heart of the whole due process that we accord to defendants, and I would urge my colleagues to reject the motion to instruct.

Mr. Speaker, I yield back the balance of my time.

Ms. MOLINARI. Mr. Speaker, I yield myself 2 minutes to respond.

The law as proposed states, "In a criminal cause in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible and may be considered for its bearing on any matter to which it is deemed relevant by the judge." It is not mandatory.

Mr. Speaker, I will cite one more case study and then I will close.

State v. *Pace*, 275 S.E.2d 254 (N.C. App. 1981). In this case, the victim, Cynthia Hairston, was an acquaintance of the defendant Pace. Pace encountered the victim while she was waiting for a bus, and invited her to wait in his car because it was cold in the bus station. When she got into the car, he drove to a dead end street, and there twice raped her and forced her to perform oral sex. The victim attempted to resist but was limited in her ability to do so by the fact that she was eight months pregnant at the time.

At the trial of Pace for assaulting Cynthia Hairston, the government also presented another witness, Vickie Rorie, who testified that Pace had raped her about two months earlier. At that time, she met Pace through a friend. Later on the day that they met, Pace had come to her apartment, threatened her with a weapon, and raped her. As with Cynthia Hairston, Pace addressed her as "Baby Girl" during the assault.

In relation to both incidents, Pace admitted engaging in sex with the victims at the times in question, but stated that it had been consensual. This defense was disbelieved, and Pace was convicted.

Because of the law as it stands today, the conviction was reversed on appeal. The appellate court said that the testimony of Vickie Rorie only "tended to show the bad character of the defendant and his disposition to commit sex crimes," and hence was deemed inadmissible, and the case was overturned.

Mr. Speaker, to close the debate, I yield such time as he may consume to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Speaker, I thank the gentlewoman for yielding me the time.

Mr. Speaker, I would just like to point out in closing this debate here tonight that it has been 10 weeks since we passed a crime bill on the floor of the House, 10 weeks. It was back in April when we did this. We have had one pro forma meeting of the conference committee between the House and the Senate.

According to the crime statistics clock that runs all of the time, there is a rape committed every 5 minutes. By the calculations that I have made, over that 10-week period there have been almost 21,000 forcible rapes committed in this country. Tonight we have an opportunity by this motion to instruct to do something we did not do in that crime bill but we have the opportunity to do and to correct a little bit when the conference committee meets. That is to give an instruction, and that is all Members are voting on tonight, an instruction to our conferees to agree to a provision in the Senate bill that we never got the opportunity to vote on out here or to debate on the floor. But it is something the gentlewoman from New York has been trying to do for a long time, and it is the right thing to do.

All of the technicalities notwithstanding, there is a problem with the rules of evidence with regard to the ability to produce the kind of background necessary to get rape convictions in this country. It is an important vote, and I certainly urge a yes vote and I thank the gentlewoman for offering it and for giving us this opportunity.

Mr. LEWIS of Florida. Mr. Speaker, I wish to express my support for subtitle E of title VIII of the Senate crime bill, and for the motion to instruct House conferees on H.R. 3355 to not agree to a report that does not contain this important provision. Had I been present I would have voted "yes" on last night's motion to instruct.

This title clarifies the right of judges to allow prosecutors, when appropriate, to use available evidence demonstrating that defendants in sexual assault or child molestation cases have previously committed similar sexual offenses. This section does not require such evidence to be used, but rather reinforces the judge's authority to admit such testimony when he or she sees fit.

Many of those who commit crimes of sexual assault and child molestation have a terrible history of sexually violent and abusive behavior, terrorizing victim after victim with circumstances making it difficult to prosecute effectively. This provision will help break many of these chains of violence, by allowing the relevant facts of a sexual predator's past to be used against him. I trust our judicial system to ensure this practice will not tread on the presumption of a defendant's innocence, or in any way dilute the right of a fair and speedy trial.

Ms. MOLINARI. Mr. Speaker, I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I move the previous question on the motion to instruct.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair wishes to announce before putting the question that in addition to the program announced by the majority and minority leaders, the Chair will recognize the gentleman from North Carolina [Mr. ROSE] following the conclusion of the pending business, for the purpose of offering a Senate Concurrent Resolution 68 concerning the printing of a document on which I understand there will be no objection from either side.

Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. The question is on the motion to instruct offered by the gentleman from New York [Ms. MOLINARI].

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Ms. MOLINARI. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 348, noes 62, not voting 24, as follows:

[Roll No. 314]

AYES—348

Ackerman
Allard
Andrews (NJ)
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bentley
Bereuter
Bevill

Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Brewster
Browder
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Green
Greenwood
Gunderson
Gutierrez
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kaptur
Kasich
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lucas
Maloney
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
McNulty
Meehan
Menendez
Meyers
Mfume
Mica
Michel
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Myers
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Rowland
Royce
Sabo
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Traficant
Upton
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—62

Abercrombie
Andrews (ME)
Becerra
Beilenson
Berman
Brooks
Brown (CA)
Clayton
Collins (IL)
Collins (MI)
Conyers
Coyne
Derrick
Dixon
Edwards (CA)
Evans
Flake
Foglietta
Furse
Gonzalez
Hamburg
Hastings
Hughes
Kanjorski
Kennedy
Kopetski
Lewis (GA)
Lowey
Mann
McDermott
McKinney
Meek
Miller (CA)
Mollohan
Nadler
Olver
Owens
Payne (NJ)
Pelosi
Rangel
Rostenkowski
Roukema
Roybal-Allard
Rush
Sanders
Sangmeister
Schumer
Scott
Skaggs
Stokes
Swift
Synar
Towns
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Waters
Watt
Waxman
Woolsey

NOT VOTING—24

Andrews (TX)
Applegate
Bateman
Boucher
Clay
DeFazio
Dellums
Fish
Ford (MI)
Gibbons
Grandy
Hall (OH)
Lewis (FL)
Machtley
Murphy
Murtha
Pickett
Smith (OR)
Stark
Studds
Valentine
Washington
Whitten
Yates

☐ 0004

Ms. PELOSI changed her vote from "aye" to "no."

Messrs. MOAKLEY, HOKE, ACKERMAN, and JEFFERSON changed their vote from "no" to "aye."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF SENATOR ROBERT C. BYRD'S ADDRESSES TO THE UNITED STATES SENATE ON THE HISTORY OF ROMAN CONSTITUTIONALISM

Mr. ROSE. Mr. Speaker, I ask unanimous consent for the immediate consideration of Senate concurrent resolution (S. Con. Res. 68) to authorize printing of "Senator Robert C. Byrd's Addresses to the United States Senate on the History of Roman Constitutionalism."

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore (Mr. BARRETT of Wisconsin). Is there objection to the request of the gentleman from North Carolina?

Mr. THOMAS of California. Mr. Speaker, reserving the right to object, I do so for the purpose of asking the chairman of the committee a question.

To be able to print the "Robert Byrd Addresses to the United States Senate on the History of Roman Constitutionalism," the printing presses have to be free on any jobs that probably were anticipated to be printed prior to printing this. And the only thing I could think of was, of course, the task force on the Post Office's support that was ordered to be compiled and printed. Is that going to be done?

Mr. ROSE. Mr. Speaker, will the gentleman from California yield?

Mr. THOMAS of California. I certainly yield to the gentleman from North Carolina, the chairman of the committee.

Mr. ROSE. I thank the gentleman for yielding.

Mr. Speaker, I am very happy to tell the gentleman that tomorrow morning the transcript of those proceeding will be sent to the Public Printer for printing at once.

Mr. THOMAS of California. Now, the supporting documents could be rightfully called an appendix, though the transcripts were the primary concern, and I am pleased to hear that they will be sent to the printer tomorrow morning, and as soon as possible my assumption is then the materials that would be in the follow-on appendix would be compiled and sent to the printer as well.

Mr. ROSE. This gentleman is correct.

Mr. THOMAS of California. Mr. Speaker, that means the printing presses would be cleared to print "Senator Robert C. Byrd's Addresses to the United States Senate on the History of Roman Constitutionalism," and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

Resolved by the Senate (the House of Representatives concurring), That there shall be printed as a Senate document "U.S. Senator Robert C. Byrd's Addresses to the United States Senate on the History of Roman Constitutionalism", delivered between May 5, 1993 and October 18, 1993.

SEC. 2. The document referred to in the first section shall be—

(1) published under the supervision of the Secretary of the Senate; and

(2) in such style, form, manner, and binding as directed by the Joint Committee on Printing, after consultation with the Secretary of the Senate.

The document shall include illustrations.

SEC. 3. In addition to the usual number of copies of the document, there shall be printed the lesser of—

(1) 5,000 copies for the use of the Secretary of Senate; or

(2) such number of copies as does not exceed a total production and printing cost of $47,864.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3266

Mr. DOOLEY. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor of H.R. 3266.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DREIER) to revise and extend their remarks and include extraneous material:)

Mr. GOSS for 5 minutes on June 30.

Mrs. MORELLA for 5 minutes on June 30.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DREIER) and to include extraneous matter:)

Mr. SOLOMON in two instances.
Mr. POMBO.
Mr. FIELDS.
Mr. SHAYS.
Mr. GILLMOR.
Mr. KING.
Mrs. VUCANOVICH.
Mr. KNOLLENBERG.
Mr. SANTORUM.
Mr. DORNAN in four instances.
Mr. FAWELL.

(The following Members (at the request of Mr. DOOLEY) to revise and extend their remarks and include extraneous material:)

Mr. LEVIN in two instances.
Mr. CLEMENT.
Mr. DE LUGO.
Mr. KILDEE in two instances.
Mr. ANDREWS of Texas.
Mr. STARK.
Mr. HOYER.
Mr. HAMILTON.
Mrs. MALONEY.
Ms. LONG.
Mrs. COLLINS of Illinois in two instances.
Mr. SCHUMER.
Mr. PETE GEREN of Texas.
Mr. HOCHBRUECKNER.
Ms. ESHOO.
Mr. MORAN.
Mr. LANCASTER.
Mr. BROWN of California.
Mr. SPRATT.
Mr. BECERRA.
Mr. TOWNS in six instances.
Mr. FINGERHUT.
Mr. RUSH.
Mr. RICHARDSON.
Mr. JACOBS.
Mr. COPPERSMITH.
Ms. LAMBERT.
Mr. STUPAK in two instances.
Mr. CHAPMAN.
Mr. LEVIN.
Mr. HALL of Texas.

BILLS PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bills of the House of the following title:

On June 28, 1994:

H.R. 1758. An act to revise, codify, and enact without substantive change certain general and permanent laws, related to transportation, as subtitles II, III, and V–X of title 49, United States Code, "Transportation", and to make other technical improvements in the Code.

H.R. 3724. An act to designate the United States courthouse located in Bridgeport, Connecticut, as the "Brien McMahon Federal Building".

H.R. 4568. An act making supplemental appropriations for the Department of Housing and Urban Development for the fiscal year ending September 30, 1994, and for other purposes.

ADJOURNMENT

Mr. DOOLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 11 minutes a.m.), the House adjourned until today, Thursday, June 30, 1994, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3436. A letter from the Executive Director, Thrift Depositor Protection Oversight Board, transmitting the annual report of the Thrift Depositor Protection Oversight Board on the Resolution Funding Corporation for the calendar year 1993, pursuant to Public Law 101–73, section 511(a) (103 Stat. 404); to the Committee on Banking, Finance and Urban Affairs.

3437. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation entitled, the "Saint Elizabeths Hospital Amendment of 1994"; to the Committee on the District of Columbia.

3438. A letter from the Secretary of Education, transmitting final regulations—Federal Family Education Loan Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3439. A letter from the Secretary of Agriculture, transmitting the annual report on the Youth Conservation Corps Program in the Department for fiscal year 1993, pursuant to 16 U.S.C. 1705; to the Committee on Education and Labor.

3440. A letter from the Assistant Secretary for Environment, Safety and Health, Department of Energy, transmitting a copy of the summary of the draft Environmental Impact Statement [EIS] for Programmatic Spent Nuclear Fuel Management and Idaho National Engineering Laboratory Environmental Restoration and Waste Management Programs; to the Committee on Energy and Commerce.

3441. A letter from the Secretary of Health and Human Services, transmitting the Department's report on the health care services in the Home Demonstration Program, pursuant to section 397(d)(2) of the Public Health Service Act; to the Committee on Energy and Commerce.

3442. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Army's proposed lease of defense articles to Bahrain (Transmittal No. 20-94), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

3443. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report of activities under the Freedom of Information Act for calendar year 1993, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3444. A letter from the Chairman, Federal Election Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1993, pursuant to 5 U.S.C. 552b; to the Committee on Government Operations.

3445. A letter from the Inspector General, General Services Administration, transmitting a copy of his office's audit report register, including all financial recommendations, for the period ending March 31, 1994, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

3446. A letter from the Director, Office of Personnel Management, transmitting the semiannual report on the activities of the inspector general for the period October 1, 1993, through March 31, 1994, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

3447. A letter from the Director, Office of Personnel Management, transmitting the office's fiscal year 1993 financial statements; to the Committee on Government Operations.

3448. A letter from the Secretary of the Treasury, transmitting the semiannual report of activities of the inspector general for the period ended March 31, 1994, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2515, 2526); to the Committee on Government Operations.

3449. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Natural Resources.

3450. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Natural Resources.

3451. A letter from the Secretary, Department of the Interior, transmitting the 23d annual report of the actual operation during water year 1993 for the reservoirs along the Colorado River; projected plan of operation for water year 1994, pursuant to 43 U.S.C. 1552(b); to the Committee on Natural Resources.

3452. A letter from the Secretary, Department of Transportation, transmitting the Department's annual report on the progress in implementing the Coast Guard Environmental Compliance and Restoration Program for fiscal year 1993, pursuant to Public Law 101–225, section 222(a) (103 Stat. 1918); to the Committee on Merchant Marine and Fisheries.

3453. A letter from the Director, Office of Personnel Management, transmitting a draft of proposed legislation entitled, the "Federal Employees Health Benefits Provider Integrity Amendments of 1994"; to the Committee on Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk

for printing and reference to the proper calendar, as follows:

Mr. FROST: Committee on Rules. House Resolution 469. Resolution waiving certain points of order against the bill (H.R. 4650) making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes (Rept. 103–568). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 470. Resolution waiving points of order against the conference report to accompany the bill (H.R. 4454) making appropriations for the legislative branch for the fiscal year ending September 30, 1995, and for other purposes (Rept. 103–569). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of California (for himself, Mr. VALENTINE, Mrs. MORELLA, Mr. KLEIN, Mr. MCHALE, and Mr. JOHNSON of Georgia):

H.R. 4673. A bill to establish a U.S. Design Council as an advisory committee within the Department of Commerce to promote understanding of the importance of design in the development of products and systems, and for other purposes; jointly, to the Committees on Energy and Commerce and Science, Space, and Technology.

By Mrs. COLLINS of Illinois:

H.R. 4674. A bill to provide for the reliquidation of certain entries of imported chemicals; to the Committee on Ways and Means.

By Ms. LONG (for herself, Mr. DE LA GARZA, Mr. EMERSON, Mr. KINGSTON, Mr. POMEROY, Mr. BEREUTER, Mr. ROSE, Mr. STENHOLM, Mr. JOHNSON of South Dakota, Mr. CONDIT, Mr. PETERSON of Minnesota, Mr. DOOLEY, Mrs. CLAYTON, Mr. MINGE, Mr. HOLDEN, Ms. MCKINNEY, Mr. BAESLER, Mrs. THURMAN, Mr. THOMPSON, Mr. BISHOP, Ms. LAMBERT, Mr. FARR, Mr. GUNDERSON, Mr. COMBEST, Mr. ALLARD, Mr. BARRETT of Nebraska, Mr. NUSSLE, Mr. BOEHNER, Mr. DICKEY, Mr. POMBO, Mr. EVERETT, Mr. FAZIO, Mr. HAYES, Mr. LEACH, Mr. MCHUGH, Mr. MONTGOMERY, Mr. GILCHREST, Mr. LANCASTER, Mr. LIGHTFOOT, Mr. LIVINGSTON, Mr. CRAPO, Mr. CLYBURN, Mr. HASTINGS, Mr. LEWIS of Florida, Mr. EVANS, Mr. BARTON of Texas, Mr. WILLIAMS, Mr. SARPALIUS, and Mr. LUCAS):

H.R. 4675. A bill to maintain the ability of U.S. agriculture to remain viable and competitive in domestic and international markets, to meet the food and fiber needs of United States and international consumers, and for other purposes; jointly, to the Committees on Agriculture and Foreign Affairs.

By Ms. LAMBERT (for herself and Mr. MCCLOSKEY):

H.R. 4676. A bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture development and research program, and for other purposes; jointly, to the Committees on Agriculture and Merchant Marine and Fisheries.

By Mr. LEVIN:

H.R. 4677. A bill to provide for monthly reporting of child support obligations to certain consumer reporting agencies; to the Committee on Ways and Means.

By Mr. ORTON:

H.R. 4678. A bill to amend the Congressional Budget Act of 1974 to provide more program specificity during consideration of concurrent resolutions on the budget, and for other purposes; to the Committee on Rules.

By Mr. SPRATT (for himself and Mr. CONYERS:)

H.R. 4679. A bill to amend the Inspector General Act of 1978 to expand the mission of inspectors general, to provide for greater independence for inspectors general, and to make inspectors general more effective and accountable; to the Committee on Government Operations.

H.R. 4680. A bill to amend title 5, United States Code, to provide sanctions and remedies for violations of the right of executive branch employees to provide information to the Congress and its committees, and to amend the Inspector General Act of 1978 to provide protections for executive branch employees who provide information to an inspector general; jointly, to the Committees on Post Office and Civil Service and Government Operations.

By Mr. RICHARDSON (for himself, Mrs. COLLINS of Illinois, and Mrs. SCHROEDER):

H.R. 4682. A bill to guarantee the participation of small businesses, rural telephone companies, and businesses owned by members of minority groups and women in spectrum auctions; to the Committee on Energy and Commerce.

By Mr. PALLONE:

H.R. 4683. A bill to amend the Solid Waste Disposal Act to provide congressional authorization of State control over transportation of municipal solid waste, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GEPHARDT:

H. Con. Res. 263. Concurrent resolution providing for an adjournment or recess of the two Houses; considered and agreed to.

By Mr. ACKERMAN (for himself and Mr. LEACH):

H. Res. 471. A resolution to urge the Government of Burma [Myanmar] to release Aung San Suu Kyi, and for other purposes; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

435. By the SPEAKER: Memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to memorializing the Congress of the United States to support H.R. 3666 and S. 2007, the George C. Marshall Commemorative Coin Acts; to the Committee on Banking, Finance and Urban Affairs.

436. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to memorializing the Congress of the United States to support an amendment to the U.S. Constitution to restore voluntary prayer in the public school system; to the Committee on the Judiciary.

437. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to memorializing the President of the United States to appoint a special presidential commission to study domestic violence, the adequacy of the response of the criminal justice system, the adequacy of social services, and the adequacy of police protection for victims of domestic violence; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. OBEY introduced a bill (H.R. 4681) to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade and on the Great Lakes and their tributary and connecting waters in trade with Canada for the vessel *Eagle Mar;* which was referred to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 123: Mr. BREWSTER.

H.R. 214: Mr. KINGSTON.

H.R. 465: Mr. KINGSTON.

H.R. 662: Mr. KINGSTON.

H.R. 723: Mr. KINGSTON.

H.R. 911: Mr. MILLER of Florida and Mr. BALLENGER.

H.R. 1080: Mr. BALLENGER and Mr. BACHUS of Alabama.

H.R. 1082: Mr. TORRICELLI.

H.R. 1164: Mr. ANDREWS of Maine.

H.R. 1181: Mr. HILLIARD.

H.R. 1277: Mr. HANSEN.

H.R. 1293: Mr. WALKER and Mr. KINGSTON.

H.R. 1487: Mr. KINGSTON.

H.R. 1490: Mr. ORTON and Mr. LUCAS.

H.R. 1500: Mr. DEUTSCH and Mr. RICHARDSON.

H.R. 1518: Mr. KYL.

H.R. 1621: Mrs. BYRNE.

H.R. 1627: Mr. LUCAS.

H.R. 1671: Mr. SABO.

H.R. 1683: Mrs. UNSOELD.

H.R. 1709: Mr. BARCA of Wisconsin and Mr. WHEAT.

H.R. 1737: Mr. OWENS, Mr. FARR, and Mr. FROST.

H.R. 2043: Mr. GEJDENSON.

H.R. 2175: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 2258: Mr. PARKER and Ms. SHEPHERD.

H.R. 2418: Mr. TAYLOR of North Carolina, Ms. KAPTUR, Mr. MINGE, and Mr. NEAL of North Carolina.

H.R. 2467: Mr. REGULA, Mr. SAM JOHNSON, and Mr. VISCLOSKY.

H.R. 2588: Mr. DEFAZIO.

H.R. 2646: Mr. KINGSTON.

H.R. 2717: Mr. SOLOMON, Mr. BURTON of Indiana, and Mr. DORNAN.

H.R. 2790: Mr. COLEMAN.

H.R. 2826: Mr. SYNAR, Mr. WYNN, Mr. SANGMEISTER, and Mr. FILNER.

H.R. 2858: Mr. KYL.

H.R. 2959: Mr. QUINN.

H.R. 3025: Mr. JOHNSTON of Florida.

H.R. 3065: Mr. ROYCE.

H.R. 3255: Mr. MCHUGH and Mr. KYL.

H.R. 3320: Mr. DEFAZIO, Mr. DOOLITTLE, Mr. PETE GEREN of Texas, and Mr. BARTLETT of Maryland.

H.R. 3324: Ms. BROWN of Florida and Mr. JEFFERSON.

H.R. 3433: Mr. BARRETT of Wisconsin, Mr. MURPHY, Mr. RAVENEL, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. RANGEL, Mr. MONTGOMERY, Mr. REYNOLDS, Mr. WHEAT, and Mr. SKAGGS.

H.R. 3439: Mr. ROGERS.

H.R. 3442: Mr. KINGSTON.

H.R. 3486: Mr. CAMP.

H.R. 3574: Mr. PARKER.

H.R. 3646: Mr. GILMAN, Mr. LEWIS of Florida, Mr. SKEEN, and Mr. DEUTSCH.

H.R. 3725: Ms. DUNN, Mr. GOSS, and Mr. CANADY.

H.R. 3795: Mr. TORRICELLI and Mr. SOLOMON.

H.R. 3820: Mr. STUPAK.

H.R. 3866: Mr. FINGERHUT, Mr. SKELTON, Mr. STUPAK, and Ms. BROWN of Florida.

H.R. 3871: Mr. PARKER.

H.R. 3875: Mr. TANNER and Ms. LAMBERT.

H.R. 3940: Mr. PARKER and Mr. INGLIS of South Carolina.

H.R. 3955: Mr. BAESLER and Mr. DICKEY.

H.R. 3971: Mr. PAXON, Mrs. JOHNSON of Connecticut, and Mr. JOHNSON of Georgia.

H.R. 3978: Mr. SMITH of Oregon.

H.R. 3990: Mr. FINGERHUT.

H.R. 3994: Mr. MCNULTY.

H.R. 4024: Ms. MCKINNEY.

H.R. 4036: Ms. MARGOLIES-MEZVINSKY, Mrs. MEYERS of Kansas, Mr. MCDADE, and Mr. DOOLITTLE.

H.R. 4050: Mr. KENNEDY.

H.R. 4051: Ms. NORTON.

H.R. 4100: Mr. SCHIFF.

H.R. 4115: Mr. MORAN, Mr. MANTON, and Mr. FISH.

H.R. 4129: Mr. BLACKWELL, Mr. PAYNE of New Jersey, Mr. ANDREWS of Maine, Mr. HANSEN, Mr. CHAPMAN, and Mr. PICKETT.

H.R. 4146: Mr. BAKER of Louisiana.

H.R. 4210: Mr. SOLOMON, Mrs. MALONEY, Mr. PALLONE, Mr. BORSKI, and Mr. KING.

H.R. 4271: Ms. WOOLSEY.

H.R. 4279: Mr. MURPHY, Mrs. ROUKEMA, and Mr. ANDREWS of Maine.

H.R. 4318: Mr. YATES and Mr. FROST.

H.R. 4366: Mr. TORRES.

H.R. 4375: Mr. BONIOR.

H.R. 4386: Mr. GUNDERSON, Mr. THORNTON, and Mr. DUNCAN.

H.R. 4403: Mr. HERGER.

H.R. 4404: Ms. SHEPHERD, Mr. WAXMAN, Mr. THOMPSON, Mr. BARLOW, and Mr. MINETA.

H.R. 4434: Ms. FURSE, Mr. POSHARD, Ms. SCHENK, and Mr. SOLOMON.

H.R. 4491: Mr. MACHTLEY, Mr. LIPINSKI, and Mr. COOPER.

H.R. 4507: Mr. BALLENGER.

H.R. 4514: Mr. FRANK of Massachusetts and Mr. OWENS.

H.R. 4517: Mr. ROGERS.

H.R. 4519: Mr. PETE GEREN of Texas.

H.R. 4528: Mr. STARK.

H.R. 4555: Mr. POMEROY.

H.R. 4618: Mr. KLECZKA, Mr. OLVER, and Mrs. MALONEY.

H.R. 4634: Mr. GRANDY, Mr. ROBERTS, Mr. HOAGLAND, Mr. PETERSON of Minnesota, Mr. OBEY, Mr. COSTELLO, Mr. SKELTON, Mr. EMERSON, Ms. DANNER, Mr. LEACH, Mr. GLICKMAN, Mr. BEREUTER, Mr. BARRETT of Nebraska, Mr. POMEROY, Mr. SLATTERY, Mr. MANZULLO, Mr. EWING, Mr. EVANS, Mr. LIGHTFOOT, Ms. LONG, Mr. DE LA GARZA, Mr. NUSSLE, Mr. ABERCROMBIE, Mrs. THURMAN, Mrs. MINK of Hawaii, Mr. CONDIT, Mr. SARPALIUS, Ms. MCKINNEY, Mr. WILLIAMS, Mr. HOLDEN, Mr. ROSE, Mr. MANN, Mr. DICKEY, Mr. PENNY, Mr. SABO, Mr. WHEAT, Mr. FROST, Mr. COMBEST, Mr. BARCA of Wisconsin, Mr. LANCASTER, Mr. GUNDERSON, and Mr. EHLERS.

H.R. 4643: Mr. TRAFICANT.

H.R. 4661: Mr. TORRICELLI and Mr. GALLO.

H.R. 4662: Mr. TORRICELLI and Mr. GALLO.

H.J. Res. 38: Mr. LEWIS of Kentucky and Mr. LUCAS.

H.J. Res. 297: Mr. LAFALCE, Mrs. UNSOELD, Mr. ROWLAND, Mr. GLICKMAN, Mr. BILIRAKIS, Mr. LEHMAN, Mr. RUSH, Mr. HALL of Texas, Mrs. MALONEY, Mr. CONDIT, Mr. DARDEN, Mr. SWIFT, Mr. RICHARDSON, Mr. SCOTT, Mr. COSTELLO, Mr. MARKEY, Mr. COLEMAN, Mr. SYNAR, Mr. DURBIN, Mr. HASTINGS, Mr. KLINK, Mr. ROMERO-BARCELÓ, Mr. MILLER of California, Mr. FORD of Michigan, Mrs. MINK of Hawaii, Mr. ROBERTS, Mr. STUMP, Mr. COPPERSMITH, Mr. TRAFICANT, Mr. LAZIO, Mr. WYDEN, Mr. BREWSTER, Ms. DANNER, Mr. HINCHEY, Mr. POSHARD, Mr. SAWYER, Mr. SARPALIUS, Mr. ROEMER, Mr. DEAL, Mr. MCKEON, Mr. PETERSON of Florida, Mr. FIELDS of Texas, Mr. JACOBS, Mr. COYNE, Mr. LIPINSKI, Mr. DOOLEY, Mr. JOHNSON of Georgia, Mr. MOLLOHAN, Mr. PAYNE of Virginia, Mr. ANDREWS of Texas, Mr. VOLKMER, Mr. SPRATT, Mr. TAYLOR of Mississippi, Mrs. BYRNE, Mr. ANDREWS of New Jersey, Mr. BROOKS, Ms. SLAUGHTER, and Mr. FRANKS of Connecticut.

H.J. Res. 314: Mr. SERRANO and Mr. SKEEN.

H.J. Res. 332: Mr. WOLF, Mr. POSHARD, Mr. MURPHY, Mr. SYNAR, Mr. HOLDEN, Mr. WALSH, Mr. HUNTER, Mr. CRANE, Mr. SANDERS, Ms. LOWEY, Mr. KOPETSKI, Mr. HUTTO, Mr. ANDREWS of New Jersey, Mr. CLEMENT, Mr. MACHTLEY, Mr. EDWARDS of Texas, Mr. SAXTON, Mrs. BENTLEY, Mr. BREWSTER, Mr. QUILLEN, and Mr. FILNER.

H.J. Res. 338: Mr. LAROCCO, Mr. GOODLING, Mrs. UNSOELD, and Mr. OLVER.

H.J. Res. 353: Mr. SCHIFF, Mr. BONIOR, and Mrs. FOWLER.

H.J. Res. 362: Mr. MARTINEZ and Mr. MONTGOMERY.

H.J. Res. 364: Mrs. BENTLEY, Mr. BAESLER, Mr. DE LUGO, Mr. GONZALEZ, Mr. JACOBS, Mr. SAWYER, Mr. RICHARDSON, Mr. SERRANO, Mr. FISH, and Mr. BACCHUS of Florida.

H.J. Res. 373: Mr. GILMAN.

H.J. Res. 374: Ms. SLAUGHTER, Mr. LIPINSKI, Mr. FLAKE, Mr. WHEAT, and Mr. HOYER.

H. Con. Res. 6: Mr. DEAL.

H. Con. Res. 15: Mr. MEEHAN.

H. Con. Res. 148: Ms. KAPTUR.

H. Con. Res. 152: Mr. GILMAN.

H. Con. Res. 166: Mr. KINGSTON.

H. Con. Res. 199: Mr. GRAMS.

H. Con. Res. 212: Mr. DICKS, Mr. HINCHEY, and Mr. VISCLOSKY.

H. Con. Res. 234: Mr. BERMAN, Mr. BROWN of California, Mr. GUTIERREZ, Mr. JOHNSTON of Florida, Mr. MCHALE, Mr. SAWYER, Mr. SHAYS, and Mr. WAXMAN.

H. Con. Res. 247: Mr. LEVY, Mr. DOOLEY, Ms. WOOLSEY, Mr. BATEMAN, Mr. WAXMAN, Ms. SLAUGHTER, and Mr. BARCA of Wisconsin.

H. Con. Res. 254: Mr. MCCLOSKEY, Ms. PELOSI, Ms. WOOLSEY, Mr. MCDERMOTT, Mr. RAMSTAD, Mr. ABERCROMBIE, Mr. ACKERMAN, Mrs. LLOYD, Mr. GEJDENSON, Mr. BERMAN, Mrs. MORELLA, Mr. SHAYS, Ms. FURSE, Mr. PORTER, Mr. GILMAN, Mr. MCNULTY, and Mr. EVANS.

H. Res. 234: Mr. EHLERS and Mr. LIGHTFOOT.

H. Res. 247: Mr. FISH and Mr. BALLENGER.

H. Res. 330: Mr. KINGSTON.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3266: Mr. DOOLEY.

PETITIONS, ETC.

Under clause 1 of rule XXII,

100. The SPEAKER presented a petition of the citizens of Brooklyn, NY, relative to Mrs. Stein, a citizen of Brooklyn; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4299

By Mr. GOSS:

—At the end of title III (page 5, after line 23), add the following:

SEC. 303. DISCLOSURE OF CLASSIFIED INFORMATION BY MEMBERS OF CONGRESS.

During the fiscal year 1995, no element of the United States Government for which funds are authorized in this Act may provide any classified information concerning or derived from the intelligence or intelligence related activities of any such element to a Member of the House of Representatives unless and until a copy of the following oath of secrecy has been signed by that Member and has been published in the Congressional Record:

"I do solemnly swear that I will not willfully directly or indirectly disclose to any unauthorized person any classified information received from any department of the Government funded in the Intelligence Authorization Act for Fiscal Year 1995 in the course of my duties as a Member of the United States House of Representatives, except pursuant to the Rules and Procedures of the House.".

H.R. 4600

By Mr. SOLOMON:

—In lieu of the matter proposed to be inserted by the amendment in the nature of a substitute by Mr. Stenholm, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "The Enhanced Rescission/Receipts Act of 1994".

SEC. 2. LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY.

(a) IN GENERAL.—Notwithstanding the provisions of part B of title X of The Congressional Budget and Impoundment Control Act of 1974, and subject to the provisions of this section, the President may rescind all or part of any discretionary budget authority or veto any targeted tax benefit within any revenue bill which is subject to the terms of this Act if the President—

(1) determines that—

(A) such rescission or veto would help reduce the Federal budget deficit;

(B) such rescission or veto will not impair any essential Government functions; and

(C) such rescission or veto will not harm the national interest; and

(2) notifies the Congress of such rescission or veto by a special message not later than twenty calendar days (not including Saturdays, Sundays, or holidays) after the date of enactment of a regular or supplemental appropriation act or a joint resolution making continuing appropriations providing such budget authority or a revenue bill containing a targeted tax benefit.

The President shall submit a separate rescission message for each appropriation bill and for each revenue bill under this paragraph.

SEC. 3. RESCISSION EFFECTIVE UNLESS DISAPPROVED.

(A)(1) Any amount of budget authority rescinded under this Act as set forth in a special message by the President shall be deemed canceled unless, during the period described in subsection (b), a rescission/recepts disapproval bill making available all of the amount rescinded is enacted into law.

(2) Any provision of law vetoed under this Act as set forth in a special message by the President shall be deemed repealed unless,

during the period described in subsection (b), a rescission/receipts disapproval bill restoring that provision is enacted into law.

(b) The period referred to in subsection (a) is—

(1) a congressional review period of twenty calendar days of session during which Congress must complete action on the rescission/receipts disapproval bill and present such bill to the President for approval or disapproval;

(2) after the period provided in paragraph (1), an additional ten days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission/receipts disapproval bill; and

(3) if the President vetoes the rescission/receipts disapproval bill during the period provided in paragraph (2), an additional five calendar days of session after the date of the veto.

(c) If a special message is transmitted by the President under this Act and the last session of the Congress adjourns sine die before the expiration of the period described in subsection (b), the rescission or veto, as the case may be, shall not take effect. The message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the review period referred to in subsection (b) (with respect to such message) shall run beginning after such first day.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) The term "rescission/receipts disapproval bill" means a bill or joint resolution which—

(A) only disapproves a rescission of budget authority, in whole, rescinded, or

(B) only disapproves a veto of any provision of law that would decrease receipts, in a special message transmitted by the President under this Act.

(2) The term "calendar days of session" shall mean only those days on which both Houses of Congress are in session.

(3) The term "targeted tax benefit" means any provision which has the practical effect of providing a benefit in the form of a differential treatment to a particular taxpayer or a limited class of taxpayers, whether or not such provision is limited by its terms to a particular taxpayer or a class of taxpayers. Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.

SEC. 5. CONGRESSIONAL CONSIDERATION OF LEGISLATIVE LINE ITEM VETO RESCISSIONS.

(a) PRESIDENTIAL SPECIAL MESSAGE.—Whenever the President rescinds any budget authority as provided in this Act or vetoes any provision of law as provided in this Act, the President shall transmit to both Houses of Congress a special message specifying—

(1) the amount of budget authority rescinded or the provision vetoed;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(3) the reasons and justifications for the determination to rescind budget authority or veto any provision pursuant to this Act;

(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission or veto; and

(5) all factions, circumstances, and considerations relating to or bearing upon the rescission or veto and the decision to effect the rescission or veto, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

(b) TRANSMISSION OF MESSAGES TO HOUSE AND SENATE.—

(1) Each special message transmitted under this Act shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

(2) Any special message transmitted under this Act shall be printed in the first issue of the Federal Register published after such transmittal.

(c) REFERRAL OF RESCISSION/RECEIPTS DISAPPROVAL BILL.—Any rescission/receipts disapproval bill introduced with respect to a special message shall be referred to the appropriate committees of the House of Representatives or the Senate, as the case may be.

(d) CONSIDERATION IN THE SENATE.—

(1) Any rescission/receipts disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this Act.

(2) Debate in the Senate on any rescission/receipts disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than ten hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motions or appeal in connection with such bill shall be limited to one hour, to be equally divided between, and controlled by the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days not to exceed one, not counting any day on which the Senate is not in session) is not in order.

(e) POINTS OF ORDER.—

(1) It shall not be in order in the Senate or the House of Representatives to consider any rescission/receipts disapproval bill that relates to any matter other than the rescission of budget authority or veto of the provision of law transmitted by the President under this Act.

(2) It shall not be in order in the Senate or the House of Representatives to consider any amendment to a rescission/receipts disapproval bill.

(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.

H. Res. 467

By Mr. DREIER:

—On page 2, at line 25, insert the following new section after the period:

"Sec. 2. Notwithstanding the foregoing provisions of this resolution, following the disposition of amendments to "the Expedited Rescissions Act of 1994," as provided for in the foregoing provisions of this resolution, it shall be in order, any rule of the House to the contrary notwithstanding, to consider an amendment at the end of the bill by, and if offered by, Representative Hamilton of Indiana or Representative Dreier of California, or their designees, consisting of the text of the bill H.R. 3801, the "Legislative Reorganization Act of 1994," as original text for the purpose of further amendment under the five-minute rule, titles I through III of the bill shall be redesignated as titles II through IV of the amendment, and all points of order against the amendment and against its consideration are waived. The amendment shall be read by title for amendment and each title shall be considered as read.

"Sec. 3."

H.R. 4650

By Mr. PENNY:

—Page, 21, line 12, strike "$1,969,336,000" and insert "$1,273,336,000".

EXTENSIONS OF REMARKS

THE ISSUE OF THE TAKINGS CLAUSE

HON. RICHARD W. POMBO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. POMBO. Mr. Speaker, in a landmark decision last Friday, the Supreme Court bolstered and strengthened longstanding constitutional principles designed to protect private property owners by elevating the importance of the takings clause found in the fifth amendment to the Constitution. This clause prohibits Government takings of private property without paying a just compensation for it.

In the majority opinion, written by Chief Justice William Rehnquist, the Court sees "no reason why the takings clause of the fifth amendment, as much a part of the Bill of Rights as the first amendment or fourth amendment, should be relegated to the status of a poor relation." Mr. Speaker, this decision was long overdue.

Under the guise of environmental protection, the Government has been misusing regulatory measures to strip away the constitutionally protected rights of landowners. This unchecked activity has deprived citizens not only of their rights, but often of their livelihood as well.

Mr. Speaker, we must follow the lead of the Supreme Court on this issue. As Members of Congress, it is our duty to uphold—without exception—the integrity of the Constitution. We can do so by supporting measures that protect and enforce our fifth amendment right to life, liberty, and property. These rights form the core of our political tradition. They must never be compromised.

ENACT TRUE LINE-ITEM VETO

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. SOLOMON. Mr. Speaker, yesterday the Rules Committee reported a modified closed rule for the consideration of H.R. 4600, the Expedited Rescissions Act of 1994. The rule makes in order an expedited rescissions substitute by Representative STENHOLM, and my substitute to it that would put in place a true line-item veto for the President over rescissions and special tax breaks.

The bill is now scheduled to come to the floor after the July 4 recess. I urge my colleagues to vote for the true line-item veto substitute at that time. At this point in the RECORD, Mr. Speaker, I include my testimony before the Rules Committee yesterday and a summary of my substitute. I am placing the text of my substitute in the amendments portion of today's RECORD.

TESTIMONY

Mr. Chairman and Members of the Committee: I appreciate this opportunity to testify before you today to request that you make in order my amendment in the nature of a substitute to H.R. 4600 and waive appropriate points of order against it as you did last year.

I don't want to belabor the points I made last week at our markup as to why I don't think we should even be taking-up a bill identical to one we passed last year. But, as long as we are, then we should provide for a reasonable and fair amendment process. My amendment is nearly identical to the one this committee made in order to H.R. 1578 last year with two exceptions.

First, my substitute last year provided for only a two-year experiment with this enhanced rescission, line-item veto authority. This substitute would make that permanent.

Second, my substitute last year did not include targeted tax provisions, though this Committee did allow our Republican Leader to offer that provision to my substitute, but denied his request to offer it to the base bill as well. The substitute before you today includes the Michel tax veto provisions.

For your information, the Michel amendment to my substitute last year was adopted on a vote of 257 to 157, but my substitute as amended by Michel was then rejected, 198 to 219.

But I think you can see from those votes that there is very strong support for giving the President a real line-item veto as opposed to just a souped-up version of the current rescission process.

What is the main difference between the expedited rescission process of H.R. 4600 and the Michel-Solomon enhanced rescission approach? Make no mistake about it, it is a very fundamental and profound difference. The Spratt bills says that both Houses must approve a president's rescission to stop the spending.

The Michel-Solomon approach says that the spending and tax breaks unless both Houses, by majority vote, disapprove the President's recommendations by legislative enactment. Since the President is likely to veto any disapproval bill under our approach, it would then take two-thirds of both Houses under the Constitution to override that veto to force the money to be spent or the special interest tax break to take effect.

Put another way, the Spratt bill allows for a majority of either House to block the President's spending cuts; Michel-Solomon ultimately requires two-thirds of both Houses to block the President's spending cuts and tax break vetoes.

That is why we call this a true, legislative line-item veto. It is similar to what the governors of some 43 States now have—the ability to cut wasteful spending subject to override only by a super-majority of the legislature.

Without that super-majority requirement under the Constitution, the legislature would likely engage in the same old log-rolling it does when it first enacts an appropriations measure—"you support my project and I'll support yours."

We can't go on with that business-as-usual approach with the tide of red ink that is engulfing us and our children and grandchildren. We need a tough, real line-item veto with teeth for the President's spending-cut proposals to stick.

That's what Candidate Clinton said he would ask Congress for back in 1992. I only regret that since he became President Mr. Clinton has reneged on his campaign promise and now supports instead this watered down rescission proposal that won't change much from what it is today.

Mr. Chairman, let me close by addressing two concerns raised in a letter to you on June 23rd from the Chairman of the Ways and Means Committee, Mr. Gibbons.

First, he objects to our substitute on grounds that it infringes on his committee's jurisdiction. He's dead wrong on that! Mr. Michel's bill, H.R. 493, which is identical to our substitute, and which gives the President veto authority over special interest tax breaks, was only referred to the Committees on Rules and Government Operations.

It was not referred to Ways and Means because this does not affect the tax code. It affects Title X of the Budget Act instead because it provides an alternative to the current impoundment process.

Secondly, Mr. Gibbons suggests that the substitute is unconstitutional because under the Constitution only the House can originate revenue measures. He's correct about the Constitution but wrong about our substitute.

This does not give the President authority to originate a revenue measure; it only gives him the right to selectively veto certain special interest tax breaks in bills originated by the House and passed by Congress.

This is really no different from existing trade provisions authored by Mr. Gibbons' Committee which delegate to the President authority to alter the tariff treatment of certain countries, subject to disapproval by legislative enactment.

For instance, after the July recess the House will take up my joint resolution to disapprove most favored nation status for China. That is considered under our rules and precedents as well as established law as affecting revenues. And yet, we have delegated to the President our authority in that area, subject to congressional disapproval by legislative enactment.

I do not hear Mr. Gibbons suggesting that the Trade Act is unconstitutional. And yet, this is nearly identical to that disapproval process of certain presidential actions affecting revenues.

It is consistent with the Supreme Court's decision in 1982 in INS v. Chadha which said you can't have one- or two-House vetoes of Executive actions where we have delegated our powers. You can only withdraw that delegation by a new law that is presented to the President.

So, for instance, if my MFN resolution passes both the House and Senate, and is then vetoed by the President, two-thirds of both Houses are required to override that veto, according to the Constitution, in order to block special tariff status for China.

That is the same situation posed by the Michel-Solomon resolution for rescissions and targeted tax vetoes in this substitute.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

In summary, Mr. Chairman, I urge this Committee to make our substitute in order once again.

I think there is growing support in the Congress and the country for enacting this kind of real line-item veto that will enable the President and Congress to get a better handle on wasteful spending. This is the way to do it.

SUMMARY

The President may submit to Congress a special message for each appropriation bill or revenue bill within 20 days of their enactment, proposing to rescind all or part of any budget authority or veto any targeted tax benefit (defined as a benefit for the differential treatment to a particular taxpayer or limited class of taxpayers).

The budget authority shall be rescinded or the tax benefit vetoed unless a bill of disapproval is passed by Congress within 20 days of session and enacted into law. The President would have the constitutional 10 days to sign or veto a disapproval bill and Congress would have 5 days of session to override a veto.

If the last session of Congress adjourns sine die before the expiration of the 20 day period, the rescission or tax veto will not take effect but will be considered to be automatically retransmitted on the first day of the next Congress.

Each rescission or tax veto message shall be referred to the appropriate committees of the House and Senate.

Any disapproval bill introduced shall be referred to the appropriate committees of the House and Senate.

Disapproval bills in the Senate would be limited to not more than 10 hours of debate equally divided between the majority and minority leaders.

It would not be in order in either House to consider a disapproval bill that relates to any matter other than the President's message; nor shall it be in order in either House to consider an amendment to a disapproval bill; and these requirements may not be waived or suspended in the Senate except by a vote of three-fifths of the duly sworn Members of that body.

INTRODUCTION OF LEGISLATION TO ESTABLISH A DESIGN COUNCIL

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. BROWN of California. Mr. Speaker, I am pleased to join with Mr. VALENTINE, Mrs. MORELLA, Mr. KLEIN, Mr. MCHALE, and Mr. JOHNSON of Georgia, in introducing legislation to establish a Design Council in the Department of Commerce. The purpose of the Council is to promote awareness of the importance of design to the successful commercialization of technologies and to improving U.S. competitiveness.

In recent years, the design of products has been increasingly recognized as an economic tool for gaining the competitive edge in today's global market. When introduced early in the production process, design can reduce manufacturing costs, improve quality, and save the consumer and manufacturer money while reducing waste caused by poorly designed products. By defining design as a practice or continuous process involving an entire organization rather than as a separate component, this concept becomes accepted as a link in a chain of factors required for success.

Many of our international competitors have long recognized that design can be an essential element to improving economic prosperity. Today there are more than 100 design councils in countries around the world, including Japan, Korea, Taiwan, Singapore, Canada, France, Britain, Italy, Germany, Spain, Denmark, and Finland. Virtually all are funded either in whole or in part by their respective governments. Currently there is no comprehensive and coordinated approach to design in the public or private sectors in the United States, although there are some scattered activities ongoing which promote design.

The bill I am introducing today would establish a U.S. Design Council as an advisory committee within the Department of Commerce to be composed of seventeen members from the business, design, engineering, information technology, labor, and government sectors. The Council would provide advice and recommendations to the Secretary of Commerce on matters related to excellence in design, including the establishment of voluntary standards in the design of U.S. products and systems; the provision of information to U.S. businesses on the use of design in promoting their competitiveness; and the education of the general public regarding the relevance of design to their quality of life.

HONORING BARNEY QUILTER ON THE OCCASION OF HIS RETIREMENT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. GILLMOR. Mr. Speaker, I rise today to pay tribute to an outstanding citizen of Ohio. State Representative and Speaker Pro Tempore Barney Quilter is retiring after 28 years of service to the people of Ohio.

I had the privilege of serving in the Ohio State senate for much of the time Barney has served in the house. Although we belong to opposite political parties and often saw issues differently, we worked together for years to help northwest Ohio. I can tell you Barney has been a strong advocate and outstanding friend of our area. Barney Quilter's aggressive leadership was crucial in securing funding for the jewel of the State park system, Maumee Bay State Park located outside Toledo.

Currently serving his 14th consecutive term, this former staff sergeant during World War II and lifetime Toledoan, was first elected to the Ohio House of Representatives in 1967. Throughout his distinguished tenure with the Ohio House, Barney has demonstrated his deep faith in, and dedication to upholding the principles of American democracy. He has been a strong advocate for children and is recognized for his efforts on behalf of the environment, education, senior citizens, and Alzheimer's research.

Mr. Speaker, we have often heard that America works because of the unselfish contributions of her citizens. I know that Ohio is a much better place to live because of the dedication and countless hours of effort given by Representative Quilter during these past 28 years. While Barney may be leaving his official capacity as the State representative from Toledo, I know he will continue to be actively involved in those causes dear to him.

I ask my colleagues to join me in paying a special tribute to my friend, Representative Barney Quilter's record of personal accomplishments and wishing him, his wife Mary, and their children and grandchildren all the best in the years ahead.

RECOGNITION OF SEAN CHAFFIN FOR ESSAY IN SUPPORT OF SPACE STATION

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. HALL of Texas. Mr. Speaker, I am pleased to recognize Sean David Chaffin of Crandall, TX, for his second-place winning entry in the Earle North Parker Essay Contest sponsored by the Northeast Texas Air Force Association. The topic of this year's contest was whether the space station should be used to support the national security of the United States and the free world.

Mr. Chaffin, a senior at Crandall High School, was recognized for his effort at the Northeast Texas Air Force Association Banquet held in Commerce, TX, on February 11. He is the son of David and Joann Chaffin of Crandall.

Mr. Chaffin writes in part:

> The space station could be used to locate and destroy nuclear missiles that might be launched towards democratic nations. The space station might also be used to detect military mobilization, such as air raids or weapons movements. . . . Defense would become a global concern, with democratic countries protecting the interests of each other.

Mr. Chaffin argues that the space station should be funded among democratic countries, which could share ideas on technology and research. He envisions an increase in global commerce and improvement in international relations as a result of this cooperative effort.

"It is only common sense to use the space station as a means of defense for the world," he concludes.

> Not only would it protect the freedom of many nations, but it would introduce new technology, increase trade among nations, and provide a common link among the free nations of the world. The space station is very important to the future of today's democratic world.

I believe that Mr. Chaffin's position has merit, and I commend him for taking the time to reflect on this important and timely issue. I also would like to commend Neil Houser, Dennis Mathis, and Day Davis of the Northeast Texas Air Force Association for their promotion of this contest.

PORTER AMENDMENT H.R. 4606

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. PORTER. Mr. Speaker, yesterday the House adopted my amendment on the Labor-HHS-Ed appropriations bill to transfer funding from departmental management accounts to community health centers and rural health outreach grants. The amendment will provide access to health care for an additional 1 million Americans next year by supporting an additional 125 community health care centers.

Today, the Democratic leadership is attempting to induce 14 Members to switch their votes so that when we revote the amendment, it will be defeated.

Mr. Speaker, yesterday the House expressed its desire to cut bureaucracy and expand access to health care. Today we will see whether the administration can change enough votes to turn the tables and increase funding for bureaucracy by taking away access to basic health care for 1 million Americans.

We have been waiting 2 years for progress on health care reform. But the House is still unable to move forward.

Mr. Speaker, the vote is a clear choice. Those who want to do something today to expand access to health care will vote for the Porter amendment.

TOBACCO PETITION BY YVONNA MATTHIS

HON. H. MARTIN LANCASTER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. LANCASTER. Mr. Speaker, I would like to inform you of a remarkable effort by a private citizen. Yvonna Matthis, a resident of Greenville, NC, recently sent me the names of over 1,000 women and men who are strongly opposed to any increase in Federal excise taxes on tobacco products.

As one of the only two Members of Congress who grew up on a tobacco farm, I am also gravely concerned about the recent attacks on tobacco. I am certain that many of the signers of Yvonna Matthis' petition are tobacco farmers or relatives, neighbors, and friends of them. Like many of us who have grown up in tobacco-growing regions, they know the damage a tobacco tax increase would cause to farmers, agribusiness owners, workers, and manufacturers.

Mr. Speaker, it would be next to impossible for many of these families to survive if tobacco revenues were lost. For example, the farmers of the Third District of North Carolina are among the most diversified of all farmers. They produce a variety of field crops, such as peppers, wheat, corn, cucumbers, cotton, and sweet potatoes. However, 1 acre of any of these crops brings in less than one-third of the profit generated by an acre of tobacco.

For Americans engaged in the production of tobacco and tobacco products, a 45-cent increase in the cigarette excise tax and the proportional increase in the tax on some smokeless tobacco products would cause the displacement of more than 170,500 workers. Workers in cigarette manufacturing plants are the highest paid industrial workers in America, all living in the South. Sixty percent of this work force are women and 25 percent are African-Americans.

The impact of these statistics, Mr. Speaker, is overwhelmingly more poignant when I consider the thoughts and feelings of the more than 1,000 individuals who signed Yvonna Matthis' petition. And this dramatic show of opposition is just the effort of one American. I am positive that there are scores of other women and men who, like Yvonna Matthis and me, realize how unfairly an increase in the tobacco tax affects tobacco producers and consumers. It is as if we would associate these law-abiding citizens with the likes of the Colombian drug cartels.

Mr. Speaker, I would like to congratulate Yvonna Matthis on a tremendous accomplishment, and to extend my thanks for this outstanding effort.

CONGRESS WISHES HAPPY 100TH BIRTHDAY TO FORMER SAILOR WILLIAM URBAETIS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. SOLOMON. Mr. Speaker, some of the proudest ships in the U.S. Navy are named after the various States of the Union. And some of the proudest sailors are those who have served on those ships.

This July 19, one of those sailors, William Urbaetis of Mechanicville, NY, will celebrate his 100th birthday, making him the oldest living crew member of the U.S.S. *New York*.

Mr. Urbaetis was born on July 19, 1894. The U.S.S. *New York* (BB34) was commissioned in 1915. He joined the Navy on July 26, 1917 and served on the U.S. *Rondo* and U.S.S. *Madawaska* before being assigned to the U.S.S. *New York* in 1918. There he remained until his discharge on September 6, 1919.

After his Navy service Mr. Urbaetis worked for the West Virginia Paper and Pulp Mill for 45 years until his retirement. He and his wife, the former Freda Kokosky, raised a daughter and five sons, all of whom are still alive. He is a life member of the Veterans of Foreign Wars and American Legion. He is an avid stamp collector, and until recently was an avid beekeeper.

Mr. Speaker, veterans like Mr. Urbaetis have made enormous sacrifices to preserve our freedoms. And the overwhelming majority of them, like Mr. Urbaetis, have gone on to lead full, productive lives. Let us all wish a very happy 100th birthday to a good sailor and great American, William Urbaetis of Mechanicville, NY.

RECOGNIZING THE ACCOMPLISHMENTS OF THE GLENDALE CIVIC OBSERVATION PATROL AND THE KIWANIS CLUB OF GLENDALE

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. SCHUMER. Mr. Speaker, I rise today to recognize the accomplishments of two organizations in my district, the Glendale Civic Observation Patrol and the Kiwanis Club of Glendale.

Members of GCOP and the Kiwanis Club, along with Detective Keith Casey of the 104th precinct, have been working to ensure that their 5-year joint graffiti committee removes virtually all the graffiti in the neighborhood.

We all know graffiti is not just vandalism; it symbolizes a loss of control over the very streets we work and live on. By targeting and successfully removing graffiti wherever it appears, these dedicated citizens are protecting the property of our residents, keeping our neighborhood beautiful, and they are sending an important message to all would-be violators: Crime will not be tolerated on any level.

GCOP and the Kiwanis Club have reminded us of the duty of every citizen to make their neighborhood a better and safer place. For their work on graffiti removal and their service to the community, I salute the Glendale Civic Observation Patrol and the Kiwanis Club of Glendale.

CONGRATULATIONS TO CLAYTON KARRER FOR ESSAY IN DEFENSE OF SPACE STATION

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. HALL of Texas. Mr. Speaker, I am pleased to pay tribute to Clayton Tolle Karrer of Paris, TX, whose third-place winning essay in the Earle North Parker Essay Contest focused on the space station as a means of promoting the economic security, and thus national security, of the United States and the free world. The contest was sponsored for the 4th year by the Northeast Texas Air Force Association.

Mr. Karrer cites the developments in robotics, communications, construction, and medicine derived from the space program and develops an economic argument in support of the space station. He writes, "The new or improved products plus the international alliances that can be gained through our space station would be very powerful weapons in our continuing trade wars, weapons that would be far more advantageous than any armament of missiles in space could ever be."

"The new and improved partnerships and products Space Station Freedom could create for our nation would definitely help our country change the type of economy under which it operates, and that successful change would be the greatest support of our national security and the security of other nations that could be achieved," he continues.

"In fact," Mr. Karrer concludes, "that kind of support would allow our nation to win what might be its most important battle: the battle to make our economy number one in the world."

As a supporter of the space station, I commend Mr. Karrer for his interest in this timely issue. I also would like to pay tribute to his Paris High School English teacher, Sandra Gifford, for encouraging students to participate in this essay contest, and to Neil Houser, Dennis Mathis, and Day Davis of the Northeast Texas Air Force Association for promoting this event.

Mr. Karrer was recognized at the Northeast Texas Air Force Association Banquet on February 11 in Commerce, TX. A Paris High School senior, he is the son of Ray and Carolyn Karrer of Paris.

PANAMA CANAL COMMISSION AUTHORIZATION ACT, H.R. 4246

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. KING. Mr. Speaker, I rise in support of H.R. 4246, the Panama Canal Commission Authorization Act for fiscal year 1995.

Mr. Speaker, the Merchant Marine and Fisheries Committee reported this bill unanimously on May 11 of this year. The bill is noncontroversial and deserving of the support of the House.

The Panama Canal Commission is an independent agency which relies on revenues generated by the canal's users, not by taxpayer funds. The Commission is required to run on a break-even basis and once again has presented a budget which will ensure that it does so.

H.R. 4246 makes two minor changes which will help the Commission retain its valuable workers. The first will allow employees to use their educational assistance funding outside of Panama should the Department of Defense close its doors in Panama.

The second change will allow certain eligible employees to start processing their immigration paperwork before their actual retirement date. This provision has been cleared by the Judiciary Committee and by the minority.

Mr. Speaker, the Panama Canal Commission should be commended for continuing to submit budgets which require no U.S. taxpayer funding. In addition, I would like to recognize the tireless efforts of the chairman of the Commission, Robert McMillan. Bob has done an outstanding job in ensuring that the Commission operate as well as it does. I am particularly proud of his accomplishments as he is a resident of my congressional district.

I urge my colleagues to support H.R. 4246.

TRIBUTE TO D.C. COMMISSIONER JOHN DUNCAN

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. MORAN. Mr. Speaker, I would like to take this opportunity to quote from the June 22, 1994, Washington Post obituary honoring Mr. John Duncan.

John B. Duncan, 84, who as a member of Washington's last three-member board of commissioners helped broaden the ranks of African-Americans in the District government, died of kidney failure June 21 at his home in Alexandria.

He had been D.C. recorder of deeds for nine years and a city worker for 28 years when he was tapped by President Kennedy in 1961 to join the board governing the city's affairs. He was the District's first black commissioner and served until 1967, when, after a century, the single mayor-commissioner was reinstated and Walter E. Washington was appointed.

When Mr. Duncan became commissioner, many in the largely black city were pressing for self-rule, and Congress was resisting. The District's politics had been caught up in the growing militancy of African-Americans who were younger and less patient than the civil rights leaders of Mr. Duncan's generation.

Dismissing criticism from black-power advocates that he had not moved fast enough, Mr. Duncan observed in 1967: "Every generation finds that it is able to be more vocal than its fathers were. This is another generation. It strikes. It marches. It boycotts. Each generation gets closer to what we're all after."

Mr. Duncan made it his mission to expand the opportunities of black Washingtonians. The city bureaucracy he helped oversee had only four African-American board and council members when he took office. When he left, there were 143.

The appointments of corporation counsel, director of corrections and industrial safety director went to African-Americans, as did many clerical jobs previously held by whites. Mr. Duncan and board president Walter N. Tobiriner worked to enact open occupancy and fair employment ordinances that lowered barriers in the city.

As the commissioner with primary responsibility for the city's health, licensing, insurance and social welfare programs, Mr. Duncan pressed for fair housing in the face of "congressional threat and abuse," The Washington Post noted at the end of his first term.

But he also had gone to great lengths to avoid controversy, the newspaper said in an editorial. With his reputation for quiet and responsible conservatism now established, it said, "Mr. Duncan will perhaps be able to respond more actively to the city's aching need for leadership, particularly in the social services."

By the time Mr. Duncan left office, the city still had done little to dovetail its fragmented social services or to coordinate the efforts of the health and welfare departments. He had, however, helped persuade Congress to accept a compromise that gave the city a form of aid to children of the unemployed, getting those children on the welfare rolls for the first time.

Mr. Duncan and his fellow commissioners also lobbied Congress to replace them with a single executive and a nine-member council. The result in 1967 was the appointment by President Johnson of Washington as the city's first black mayor. Washington was elected mayor in 1974, along with the first district council.

John Bonner Duncan, one of seven siblings in a family of educators, was born in Springfield, Ky., was born in Salisbury, N.C. As a young man growing up in the repression of the South, the far-distant District of Columbia seemed like "the promised land," he recalled last year. But after arriving in Washington in 1930 to attend Howard University, he found that "this so-called dreamland had separate schools and signs segregating blacks from whites," and that "cafes permitted Negroes to handle food, to sell food, but they could not buy food."

Mr. Duncan graduated from Howard University and from Terrel Law School. He was an Interior Department messenger before becoming a lawyer with the federal government. He worked for the Bituminous Coal Commission, the Office of Price Administration and federal housing agencies.

During the 1940s, he held leadership roles in the Benning Heights Civic Association, the D.C. Federation of Civil Associations, the NAACP, the Washington Urban League and the Washington Federation of Churches. Duncan also served on the boards of such groups as the Community Chest, the Federal City Council, the United Negro College Fund and the National Conference of Christians and Jews.

After he left office, Mr. Duncan was assistant for urban relations to the Secretary of the Interior until 1969 and then worked two more decades as a consultant in housing development, public relations and equal opportunity.

He also headed organizations that included the Washington Home Rule Committee and the Voice of Informed Community Expression, a group formed after the 1968 riots. He served on a congressional commission that studied the efficiency of the city government.

Mr. Duncan was a trustee of John Wesley AME Zion Church in Washington and president of DePreist Fifteen, a men's organization.

His wife, Edith West Duncan, died in 1966. Survivors include his wife of 24 years, Dolores Duncan of Alexandria; two children from his first marriage, Dr. Joan West Duncan of Norwalk, Conn., and John B. Duncan Jr. of Casitas Springs, Calif.; a son from his second marriage, Jay Berry Duncan of Alexandria; and eight grandchildren.

TRIBUTE TO LILLIAN ANN ALLEN

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to honor and pay tribute to Lillian Ann Allen, a relative and lifetime resident of the great State of New York. Mrs. Allen will celebrate her 100th birthday in a few weeks.

Born Elizabeth Ann Schopp on July 12, 1894 in New York City, to Elizabeth and Julius Schopp, she was the third youngest in a family of 10. A frail child, Elizabeth's father often compared her complexion to that of a Lily. Gradually, Lily became her nickname until finally Elizabeth Ann became known as Lillian Ann.

Lillian's father passed away at an unfortunately young age. The family survived many difficult years thereafter. Lillian's most embarrassing moment occurred when she was in second grade. She was quite a giggler and her teacher, Miss Beasley, reprimanded her for interrupting the class by giggling in the middle of a lesson. Her punishment was to sit on Miss Beasley's lap for 1 hour. Lillian graduated from P.S. 96 on Manhattan's Upper

East Side. She was a switchboard operator in New York City and thoroughly enjoyed her responsibilities and contacts with people.

While on a boat trip on the Hudson River, Lillian met another New Yorker, Harry G. Allen. After a brief courtship they married on July 10, 1920. They were together for 67 happy years. Two children were born of this marriage—Andrew Kenneth and Doris Lillian. Both married, Ken to Marlex and Doris to Jim Craigens. Lillian and Harry had four grandchildren, David, Steven, Lynda, and Richard, and six great grandchildren, Scott, Wendee, Roger, Will, Kate, and Taylor. Their offspring have brought much joy to the family.

Lillian and Harry resided in New Rochelle, NY, for 36 years and then in Wantagh, NY for 30 years before Harry's passing.

Mrs. Allen still possesses a keen sense of humor and witty mind. She enjoys watching sports, traveling, and cooking shows on television at the Birchwood Nursing Home in Huntington, NY, where she has resided for 3 years.

Mr. Speaker, I am delighted to wish this lovely, spirited lady who is also the fraternal great aunt of my wife, Carol Ann, a most happy and healthy 100th birthday. My very best wishes to her entire family on this momentous occasion.

PERSONAL EXPLANATION

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mrs. MALONEY. Mr. Speaker, I inadvertently missed rollcall 306 because I was in a meeting with constituents and arrived in the Chamber just after the vote ended. Had I been present, I would have voted "yea."

RECOGNIZING DOROTHY CHRISTIANSEN FOR HER YEARS OF SERVICE TO ORGANIZED LABOR AND THE FEDERAL MEDIATION AND CONCILIATION SERVICE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. STARK. Mr. Speaker, today I would like to recognize Dorothy Christiansen's distinguished career of service to California workers. For more than 20 years, she has strengthened the foundation of labor-management relations in the bay area.

In 1969, Ms. Christiansen began her career as a clerical worker in Richmond, CA, where her fellow workers quickly elected her chapter president. Soon afterward, she became the deputy executive secretary of SEIU Local 390, where she served until 1977. From 1971 to 1977, she was also selected as a member of the Central Labor Council of Alameda County Executive Committee. As deputy executive secretary for SEIU, Ms. Christiansen served as a conegotiator for the first union contracts with Bay Area Rapid Transit, and with the cities of Oakland, Berkeley, Richmond, Fremont, Union City, and El Cerrito.

In 1977, Ms. Christiansen left her union position to become a labor commissioner and was then quickly appointed to the Federal mediation and Conciliation Service where she has served ever since. As a Federal mediator, she was instrumental in settling such difficult labor disputes as the 1986 Kaiser Hospital strike and the 1992 Summit Hospital strike. She is also responsible for avoiding numerous other potential labor disputes with her keen negotiating skills. Ms. Christiansen has always dealt with unions and management with one eye on fairness and the other on the welfare and dignity of the workers.

Mr. Speaker, I come before you today to recognize Dorothy Christiansen for her commitment in advancing and protecting a person's right to workplace fairness. I hope you and my colleagues will join me in congratulating this labor leader and mediator for all her accomplishments and tenacious spirit and wish her well in all her future endeavors.

INTRODUCING LEGISLATION TO PROVIDE RELIEF FOR AKZO CHEMICALS OF CHICAGO, IL

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mrs. COLLINS of Illinois. Mr. Speaker, today I am introducing legislation on behalf of a company in my congressional district, Akzo Chemicals of Chicago, IL, that seeks to provide Federal relief to them for their past overpayments of U.S. Customs import duties.

The Federal Government had mistakenly collected excess import duties and Akzo has now exhausted all administrative remedies to recover money that rightfully is theirs. I believe the U.S. Customs Service would agree with Akzo that the imported goods in question should have carried with them a lower duty rate, but at this point in time it seems that Customs' hands are tied, so to speak, in that the Service cannot refund the overpayments absent legislation requiring them to do so.

The bill I am introducing today provides for the reliquidation of relevant Customs entries, which would ensure that Akzo will have paid only the duties required by law and will receive compensation only for the excess import duties mistakenly charged them.

I am hopeful that this legislation will finally rectify this unfortunate situation.

TRIBUTE TO STACIE DAVIS FOR HER WINNING ESSAY SUPPORTING SPACE STATION FOR NATIONAL SECURITY PURPOSES

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. HALL of Texas. Mr. Speaker, at a time when Congress is deliberating the fate of the space station, I am pleased to recognize Stacie Blaine Davis, winner of the Earle North Parker Essay Contest sponsored by the Northeast Texas Air Force Association. The topic of this year's contest was "Should the Space Station be used to support the national security of the United States and the free world?"

Stacie Davis is a senior at Paris High School. She is the daughter of Henry and Margie Davis of Powderly, TX. Her English teacher, who promoted the contest, is Sandra Gifford.

Her essay reads in part:

> Should the United States press for space leadership? Other countries are continually advancing in space technology. The discoveries they make in space could surpass our knowledge. Japan, China, Russia, and India all are capable of launching satellites. Each country has political, military, economic, social, and scientific interest in space. No one needs to rely on the United States for space technology. Space stations seem like the next step.

"A need for a space station could take a role in national security in such areas as surveillance and communications," she states. "National security so advanced may save the world from a third world war. * * * It would be wise to insure our country's future with a space station."

As a long-time supporter of the space station, Mr. Speaker, I support Ms. Davis' position and commend her for her interest in this important topic. I also wish to commend Ms. Gifford for encouraging her students to participate in this writing contest and the efforts of Northeast Texas Air Force Representatives Neil Houser, Dennis Mathis, and Day Davis for their promotion of this 4-year-old event.

AGRICULTURAL INVESTMENT AND MARKET EXPANSION ACT

HON. JILL L. LONG

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Ms. LONG. Mr. Speaker, today a number of my colleagues and I are introducing legislation, H.R. 4675, the Agricultural Investment and Market Expansion Act [AIME], to maintain export and food assistance programs as allowed under the General Agreement on Tariffs and Trade [GATT]. The bill is budget neutral and merely shifts funding reductions required under GATT to important GATT-legal programs. This legislation is needed if the United States is to maintain a competitive edge against foreign competitors.

Agriculture tariff revenue losses are expected to account for $819 million or 7 percent of the total cost of GATT. The latest figure for the cost of GATT has been estimated to be $11.5 billion. However, the administration is asking agriculture to fund over 14 percent of the costs associated with financing GATT. Not only is this unfair treatment, but it is imperative that the money saved from export subsidy programs be redirected into the green-box programs to maintain a competitive edge for U.S. agriculture.

I ask my colleagues to consider cosponsoring this legislation.

CHANGES WITH RESPECT TO GPO

HON. PETE GEREN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. GEREN of Texas. Mr. Speaker, last night a joint House-Senate conference committee considering H.R. 4454, the Legislative Appropriations Act, agreed to dramatic changes with regard to the role of the Government Printing Office [GPO]. As it now stands, this bill would rewrite section 207 of Public Law 102–392 to give GPO expansive new powers that would affect virtually every executive branch agency.

Historically, GPO has been charged with traditional printing and binding. H.R. 4454 would now require nearly all duplicating by Federal agencies be procured by or through the GPO. Re-writing section 207 in this manner would expand GPO's jurisdiction to a far wider range of operations, including laser printing and photocopying. As it is, GPO is often unable to meet current agency requirements in a timely and cost efficient manner. Expanding its authority as proposed would not serve Congress or the taxpayers well.

Mr. Speaker, contrary to GPO's claims, this legislation will not result in any cost savings. In fact, altering section 207 as the Senate bill would do will create a management and budgetary nightmare. According to Leon Panetta, the former Director of the Office of Management and Budget and now White House Chief of Staff, "by establishing an unnecessary procurement bottleneck, the provision would adversely affect the efficient use of laser printers and copiers by executive branch agencies in the furtherance of their missions, and would increase costs ultimately born by the taxpayers."

In this era of leaner budgets can we really afford such an experiment? As this matter is debated again in the House, I urge my colleagues to keep these facts in mind and reject the conference report on H.R. 4454.

CREDIT BUREAU REPORTING OF COURT-ORDERED CHILD SUPPORT OBLIGATIONS

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. LEVIN. Mr. Speaker, today, I am releasing this GAO report to emphasize the importance of parental responsibility when it comes to child support. All children are created by two people, and both of them must accept personal and financial responsibility.

I have been a longtime supporter of the Child Support Enforcement Program, first enacted into law in 1975, and expanded by the Child-Support Enforcement Amendments of 1984. In 1988, I worked actively on the Family Support Act, which, among other things, significantly strengthened efforts to expand and enforce the payment of court-ordered child support, including: Establishing mandatory wage withholding, requiring States to use State-developed guidelines to set child support awards, and requiring States to collect social security numbers from both parents at the time of a child's birth in the hospital, in order to establish paternity.

Because of these past improvements, we are collecting increasing amounts of court-ordered child support. For every dollar we invest, we now collect $3.99 on average. But, despite this real success, large gaps remain.

According to the Department of Health and Human Services publication, "Child Support Enforcement: Seventeenth Annual Report to Congress," of nearly $35 billion in cumulative court-ordered child support owed through 1992, $27 billion remained uncollected. In 1992, more than 5½ million absentee parents made no child support payments at all.

We have improved, Mr. Speaker, but we have to do better.

Today, I am introducing legislation to require all States to participate in a simplified, nationally uniform child-support credit-bureau reporting system. Credit bureaus, and through them, individual lenders, will know on a monthly basis whether parents owe court-ordered child support and whether or not they are fulfilling this most basic obligation.

At my request, the GAO looked in depth at this weapon against negligent parents and, I am pleased to report, found it promising. Most States have tried or are now considering some form of credit bureau reporting. However, at this time, there is no nationally uniform reporting system in place.

It is time, Mr. Speaker, to put our money where our mouth is. If we support family values, then surely this is a sensible and necessary step. Government, by itself, cannot combat delinquent parents—parents who willfully fail to support their children. Private sector banks, credit card agencies, merchants, and businesses should put court-ordered child support on the scale when weighing the decision to make a loan.

If we are to revisit the larger issue of welfare reform, we must also crack down on those parents who fail to make court-ordered child support payments. Unpaid child support—$5 billion in 1992 alone—directly contributes to the impoverishment of children and rising welfare costs.

A year ago, I received a letter from a constituent of mine in Warren, MI. This mother of two ran away from her husband, moved into a shelter for abused women and wrote, "I have been working as a secretary for almost 8 years now, and it still seems that there is never enough money. My ex-husband doesn't even pay the ordered $55 per week, an amount so small it won't even buy them both new shoes or new coats. It won't pay for Little League registration * * * and if I saved every penny, it wouldn't put them even half way through college. Why does he do this?" she asks. "Because he feels he can get away with it and I'd say he's right," she adds.

Unfortunately, this woman from Warren is not alone. In this case, the father does have the means to pay. If credit bureau reporting were mandatory, this parent's credit history would have reflected his child support delinquencies and may have put a dent in his ability to purchase the new cars and expensive home improvements his former wife says he now enjoys.

Mr. Speaker, we need to send a clear, moral signal to parents: You must assume personal responsibility. There is a price to pay if you neglect your children.

Government is doing what it can by intercepting tax refunds, garnishing wages, and putting liens on the property of those who consistently fail to support their children. But we also need the help of the private sector. I strongly believe that payment of child support is at least as important as other liabilities that lenders evaluate before extending credit. Like credit card balances, mortgages, auto loans and student loans, child support obligations must be noted. And failure to pay court-ordered support should carry the gravest consequences.

This GAO report looks at 16 States, 11 of which do some form of reporting of delinquent child support payments to credit bureaus.

The GAO finds that credit bureau reporting appears to have a positive effect on increasing collections and that startup and operational costs are nominal.

In 1992–93, Washington State officials noted modest increases in child support collections within 2 to 4 months after the State notified parents that their child support delinquencies would be reported to credit bureaus.

In 1989, California officials attributed a 12-percent increase in voluntary child collections in Fresno County to credit bureau reporting.

In 1989, officials in Marion County, IN evaluated credit bureau reporting and found their child support collections increased by 16 percent.

It appears the main benefits of credit bureau reporting will show up over time as potential lenders deny credit to delinquent noncustodial parents. Greater public awareness should also stimulate an increase in collections.

Mr. Speaker, we must send the message that both parents are responsible for supporting their children and that child support is a debt parents cannot afford to ignore.

Mr. Speaker, I ask that a copy of the bill be inserted in the RECORD at this point.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MONTHLY REPORTING TO CERTAIN CONSUMER REPORTING AGENCIES OF CHILD SUPPORT OBLIGATIONS.

(a) IN GENERAL.—Section 466(a)(7) of the Social Security Act (42 U.S.C. 666(a)(7)) is amended to read as follows:

"(7)(A)(i) Procedures which require the State agency to provide to each qualified consumer reporting agency, on a monthly basis, such information (and in such form and in such manner) as the Secretary shall require by regulation with respect to any child support obligation owed by an absent parent to any person being provided services under the State plan approved under this part, except that information with respect to overdue support payable shall be made available under such procedures only after—

"(I) the State agency has transmitted to the absent parent notice that the information is to be so provided;

"(III) the absent parent has been given a reasonable opportunity to contest the accuracy of the information; and

"(III) full compliance with all procedural due process requirements of the State.

"(ii) Clause (i) shall not be construed to require the provision of more than 1 notice to an absent parent with respect to child support payable by the absent parent pursuant to a child support order.

"(B) As used in subparagraph (A), the term 'qualified consumer reporting agency' means—

"(i) each consumer reporting agency (as defined in section 603(f) of the Fair Credit Reporting Act) that is a major reporting agency (as determined by the Secretary in regulations); and

"(ii) at the option of the State, any other consumer reporting agency (as so defined).".

(b) REGULATIONS.—Within 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall prescribe such regulations as may be necessary to carry out the amendment made by subsection (a).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 12 months after the date of the enactment of this Act.

TRIBUTE TO PHYLLIS J. SHORENSTEIN

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Ms. ESHOO. Mr. Speaker, I rise today to pay tribute to Phyllis J. Shorenstein—patron of the arts, civic leader, and loving wife and mother—who passed away earlier this month in San Francisco. Having been friends with Phyllis and her husband, Walter, for many years, I know she will be sorely missed. But I also know that her contributions to the San Francisco community will endure for generations to come.

From the moment Phyllis met Walter at Travis Air Force Base during World War II, they formed a close partnership in both their personal and public lives.

Together, they raised three exceptional children and were blessed with six grandchildren. When their daughter, Joan, died in 1986, Phyllis and Walter Shorenstein honored her memory as a distinguished reporter and producer for the CBS Evening News by establishing the Joan Shorenstein Barone Center on the Press, Politics, and Public Policy at Harvard University's Kennedy School of Government.

Phyllis Shorenstein's leadership to improve the Bay Area's cultural life is legendary. She was known around the world as the founder of the Asian Art Museum of San Francisco in Golden Gate Park. Having served as a commissioner of the museum for several terms, she was largely responsible for this magnificent facility acquiring a large part of its collection. She played a key role in obtaining the Avery Brundage collection for the museum in 1960 and spent the past two decades with her family donating works to it from throughout Asia. Her contributions were recognized in May 1994 when the museum opened a special exhibition and named a gallery in honor of Phyllis Shorenstein and her family.

Phyllis Shorenstein was a major supporter of the United Way, the Catholic Youth Organization, and the University of California/San Francisco and Stanford University Medical Centers. She did this because she had an unswerving commitment to the betterment of her community and humanity.

Those who were fortunate enough to know Phyllis Shorenstein remember her as a gracious and generous woman. She was a celebrated hostess who opened her home to heads of state, local dignitaries, family members, and scores of friends, inspiring one and all with her vibrant spirit and dedication to causes she held dear.

Mr. Speaker, Phyllis Shorenstein was one of the most remarkable individuals I have ever had the privilege to know and her passing is a great loss for her family, her community, and our Nation. I ask my colleagues to join me at this time in paying tribute to her, the life of purpose she led, and extend our deepest of sympathies to her husband Walter and the family she loved so much.

COL. TOM PARKER'S 85TH BIRTHDAY CELEBRATED

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. CLEMENT. Mr. Speaker, I am pleased to join Americans everywhere in congratulating Col. Tom Parker today on his 85th birthday.

An individual remembered as the manager for Elvis Presley, Colonel Parker has long been associated with the music industry. Prior to his association with Elvis, Colonel Parker promoted many country acts and managed the careers of such distinguished artists as Eddy Arnold and Hank Snow.

During one of Hank Snow's tours, Colonel Parker booked an unknown who would one day thrill the world: Elvis Presley. From that day forward, Colonel Parker and Elvis had a friendship and professional relationship that would see both scale the heights of musical celebrity.

An interesting personal note is that while Colonel Parker is a West Virginia native, his honorary title comes through his membership in the Tennessee militia. It was my father, Frank G. Clement, Governor of Tennessee, who bestowed that honor in 1954. And Harlan Mathews, one of our State's U.S. Senators, was then a young assistant on my father's staff. And best of all, I remember when both Colonel Parker and Elvis visited my family at the Governor's residence. Few, I would dare say, have had the thrill that my brothers, a few neighborhood friends, and I had that night of having Elvis perform for such a small audience.

This week, grand celebrations will take place in Las Vegas commemorating Colonel Parker and honoring him for his contribution to American music. I am proud to join in those festivities by extending heartfelt birthday wishes to Colonel Parker.

CONGRESSMAN KILDEE HONORS WILLIAM MINARDO

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. KILDEE. Mr. Speaker, I rise today to urge my colleagues in the U.S. House of Representatives to pay tribute to an outstanding individual from my hometown of Flint, MI, Mr. William Minardo.

Bill Minardo will be honored with an 85th birthday party on July 11, 1994. This event will also celebrate the 60th anniversary of community education. Bill is being honored for his outstanding achievements in the field of community education in Flint, MI. Bill, along with Mr. Frank Manley and C.S. Mott, formulated the concept of community education in Flint, MI. The first community education program was launched in Flint on November 10, 1935, when 500 students, after finishing their school day, returned to Lowell Junior High School in the evening. The response to that first offering of community education was overwhelming. From there the program expanded to the point where it gained national recognition and is now a part of practically every school district in the United States. Bill Minardo has the distinct honor of being the world's first community school director.

Bill was born in Flint and is a product of the Flint school system. He graduated from the University of Notre Dame in 1932. He began his career in Flint as a teacher at Lowell Junior High School. He worked as a volunteer the first year, doing whatever was needed. He also acted as a liaison between the parochial schools in Flint and the Flint Board of Education. He taught physical education and science while at Lowell. Bill was a tireless worker, beginning his teaching day at 7 a.m. and ending at 5 p.m. He went home and returned back to the school by 7 p.m. for the community education program, which often lasted until 10 or 11 p.m.

In 1951 Bill became the community school director at Freeman Elementary School. It was in the 1950's and 1960's that community education flourished in Flint. This was as a result of the involvement of visionaries such as Frank Manley, C.S. Mott, and Bill Minardo. Throughout the infancy of community education and as it grew, Bill Minardo was at the forefront. His dedication and leadership were essential to the program's success in Flint. Bill retired from the Flint schools in 1973. Since then, he has been active in the Northern High School Alumni Association, the Greater Flint Sports Hall of Fame and numerous other community activities.

Mr. Speaker, it is indeed an honor and a pleasure for me to have this opportunity to recognize the achievements of this outstanding humanitarian, William Minardo. He has been a pioneer in the field of community education and a great role model for thousands of students in Flint, MI. I know my colleagues in the House of Representatives join me in thanking Bill Minardo for his years of selfless dedication to the field of community education.

PRESIDENT YELTSIN'S ANTICRIME DECREE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. HOYER. Mr. Speaker, Russian President Boris Yeltsin recently called his country a "superpower of crime." On June 14, he moved to combat this growing menace, by issuing a decree that, among other things, authorizes 30-day police detentions, empowers the police to enter premises and seize documents, and permits the introduction of special control in regions particularly ravaged by criminals.

The urgency of the measure is understandable. Statistics from the Ministry of Internal Affairs about crime in Russia, especially street crime and the upsurge of brazen murders, make chilling reading. Even more alarming, however, are reports about organized crime taking over control of the economy, monopolizing the benefits of privatization, demanding protection money from entrepreneurs, and, through its close ties with corrupt government officials, beginning in some respects actually to displace the state. Yeltsin has described crime and corruption as the gravest threat to Russian statehood. Considering the scope of the danger and the relative weakness of the law enforcement apparatus, it would seem that extraordinary methods are in order.

But these types of measures, imposed by decree, are more typical of a police state, rather than a society premised on rule of law. Virtually all of Russia's political parties—even Russia's Choice, which is most supportive of Yeltsin—strongly oppose the initiative, claiming that it violates the constitution, threatens human rights and foreshadows a future crackdown on political pluralism and hard-won liberties in the name of battling an omnipresent criminal enemy. Last week, the Russian Duma voted by a huge margin for a resolution urging Yeltsin to suspend his decree, which, omniously, Vladimir Zhirinovsky, chairman of the ludicrously misnamed "Liberal Democratic Party," backs fully.

Everyone acknowledges that Russia's authorities must act against crime, but it is preferable to govern by law than by presidential decree. Russia's parliamentarians, rather than merely objecting to Yeltsin's measures, should quickly craft anticrime legislation that attacks the problem while safeguarding basic human rights. Crime in Russia threatens all branches of government; this should be one area where the executive and legislative branches, and a frightened society, can cooperate instead of seeking advantage.

Russia lacks laws like RICOH, which have proved so useful in this country. The U.S. legislative experience, which has had success against organized crime in recent years, could be helpful in this respect, and we should offer our assistance. But nothing will work if Russia's law enforcement apparatus remains underpaid, susceptible to bribes or threats from criminals, poorly trained and armed, and sees no civic value or personal benefit in protecting society from hoodlums. Unless a sense of order can be restored in Russia—in a legal manner—Russia's experiment with democracy could well fail, with consequences that would be disastrous not only for Russia.

REMEMBERING THE WAR IN THE WESTERN PACIFIC

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. DE LUGO. Mr. Speaker, last week, I took the floor to express concern about the administration's lack of response to the Delegate from Guam's efforts to have the sacrifices of the Marianas Campaign of World War II properly honored on their 50th anniversary.

I urged that there be top representation at the commemoration he organized at Arlington National Cemetery and high-level participation in the ceremonies remembering the battles for Guam, the Northern Marianas, and Palau.

I am now pleased to report that the efforts to obtain the administration's attention at a fitting level paid off. The Secretaries of the Navy and the Interior spoke at the services at Arlington which Congressman UNDERWOOD was joined in arranging by Resident Representative Babauta of the Northern Mariana Islands. The Commandant of the Marine Corps will go to the battle sites for the observances there.

I feel strongly about remembering the suffering that the people of Guam endured during the occupation of their island by the enemy because it was so great, because they so defiantly maintained their loyalty to the United States throughout their oppression, and because issues relating to that history still have not been fully resolved.

These issues have included the military's continued control of much more of the island than it needs to and the lack of recognition of the heroism and the heartbreak of Guamanians while captives of the enemy.

Our new colleague from Guam is having notable success in addressing this situation.

We have passed a bill to require that title to thousands of acres of land be transferred to the territory.

He is conducting a series of conferences on the Federal control of land issue that have found the military willing to give up thousands of acres more.

Guam's united leaders persuaded the Base Closure Commission that facilities on the island should not be consolidated, freeing up valuable property needed for development by the airport named for Guam's great first Delegate, A.B. Won Pat, who began many of these efforts.

A monument paying tribute to all who sacrificed on Guam during the war is being constructed at the war in the Pacific National Park.

Finally, I also want to note the reasons to also acknowledge what the peoples of the Northern Marianas and Palau went through during World War II.

Their islands were controlled by Japan before the war * * * but not by their choice. Their islands were also the site of some of the bloodiest battles of the war * * * and they were caught in the middle. And the war also resulted in a relationship with our Nation which led them to choose to unite with our country in the case of the Northern Marianas and to more freely associate with us in the case of Palau, relationships which are to the benefit of both them and us.

LOW-KEY U.S. COMMEMORATION OF ANOTHER "D-DAY"

ARLINGTON, VA.—Pacific landing that hastened the Japanese surrender in World War II were recalled Saturday at a subdued ceremony in Arlington National Cemetery.

Interior Secretary Bruce Babbitt, Navy Secretary John H. Dalton, and Gen. John Shalikashvili, Chairman of the Joint Chiefs of Staff, and a crowd of nearly 400, mostly veterans and relatives, attended the National Commemoration of the 50th Anniversary of the Liberation of Guam and the Northern Mariana Islands.

Veterans and Guam's congressional delegate has complained about the lack of official attention to the Pacific. News stories from Saipan contrasted the quiet commemoration in mid-June of United States Marine "D-day" landings there 50 years ago with the 50th anniversary of D-day in Normandy, France, earlier in June.

Normandy drew President Clinton and other top allied leaders while the highest government presence reported at Saipan was U.S. military officers based on Guam.

"I am at a loss to explain to the people of Guam * * * to the veterans of the war in the Pacific why their battles do not deserve national recognition equal to the attention heaped on those who fought in Europe," ROBERT A. UNDERWOOD, Guam's nonvoting member of the House, said in a June 16 floor speech.

The same day, UNDERWOOD wrote Clinton he was disappointed neither the president nor other senior officials would attend Saturday's ceremony, and there would be no official observance of the actual 50th anniversary of the July 21 liberation of Guam, the only inhabited U.S. territory occupied in World War II.

The participation of Babbitt, Dalton, and Shalikashvili in the Arlington ceremony was announced almost a week later.

CONGRATULATIONS TO GIFT WINNERS

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. SHAYS. Mr. Speaker, from June 28 to July 1, the Growth Initiatives for Teachers [GIFT] Program will be holding a seminar for 120 winners nationwide. Each winning team received a $12,000 grant to use to support innovative teaching methods in mathematics and science.

The GIFT program was established by GTE Corp. in 1983 with a pilot effort in North Carolina. By 1994, the program was offered in 32 States and the District of Columbia. Since 1983, over 1,100 mathematics and science teachers have been awarded more than $6.6 million in GIFT grants.

Mr. Speaker, I would like to take this opportunity to congratulate this year's 120 GIFT winners. We are so fortunate to have such dedicated and professional educators helping shape the lives of our young people. I am particularly proud of the two teachers from Connecticut's Fourth Congressional District, Belinda Battista and Carol Matuszewski of Chalk Hill Middle School in Monroe, who are among the grant recipients.

It gives me great pleasure to salute the GTE Foundation, located in Connecticut's Fourth Congressional District, for recognizing and supporting excellence in teaching secondary mathematics and science.

MARKETS WILL CONTROL HEALTH CARE COSTS

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. ANDREWS of Texas. Mr. Speaker, too often, Washington policymakers attack a problem with complex and convoluted approaches instead of correcting the errors that caused the problem in the first place. Sometimes solving a problem isn't in devising intricate strategies, but in stopping what you keep doing wrong.

That's where we are on the issue of containing health care costs. Skyrocketing costs are the root cause of 32 million uninsured Americans and why nearly a quarter of our annual spending goes to health care. Obviously, ending this cost growth is essential to reform.

The problem is how do you bring those costs down? Our current debate divides into two camps: Those who think Washington should set rigid price controls, and those who think Government should create an environment that allows the consumer to control the cost.

Simply put, either the citizenry or the Government will have the primary responsibility for controlling costs. Despite the Government's abysmal history in saving taxpayers' money and an even worse record in managing finances, President Clinton has resisted making a choice between the two. Instead, he's tried stirring them together—although his recipe calls for more Government in the mix—and has created a concoction with little chance of success.

Nothing better illustrates this than the premium caps—a form of price controls on insurance premiums—to be implemented under the President's health plan. According to White House calculations, premiums would have to fall by 2 percent in 1 year for the plan to work. Unfortunately, markets just do not work that way. General inflation, which has steadily declined over the last decade, has never fallen in such a sudden manner. At least not without harsh economic consequences.

If markets don't succeed in achieving this accelerated goal, then the only option would be to turn to the Government. But as history has taught us, Government cost ceilings quickly become the goal—not the inhibitor—of price increases. For example, if the Government dictates that neither you, nor your competitors, can charge more than a dollar for a service, what incentive is there for you to charge 80 cents?—Hint: none.

So once we start down this path, the only logical response to any bumps in the road will be more burdensome Government regulations. Say a health plan under the premium caps is operating at a loss.

They'd have to reduce key services to stay afloat, right? But the sure outcry of customers losing benefits would cause the Government to regulate how the plans deliver care. We're right back to the kind of Government micromanagement that the President says he wants to avoid.

A better way is for the Government to give consumers the tools and incentives they need to get better value for their health care dollar. That means an alternative to premium caps: a tax cap. Right now, the Government provides an unlimited subsidy to the health care industry by giving tax deductions to businesses for whatever the cost of their health plans—no matter how expensive those plans are. The direct cost of this subsidy is $40 billion each year. The indirect cost is billions more since the subsidy insulates individuals and businesses from the true cost of health care.

Even worse, the current tax structure for health care costs is shamefully regressive. The health care tax expenditure is five times greater for the top 20 percent of richest families in this country than for the poorest 20 percent.

The best way to achieve the goals of cost containment and tax equity would be to first cap the deduction to the price of the most cost effective—and, therefore, least expensive—plan in a region. This approach would give a great advantage to any health plan that could provide the same benefits package, but beat its competitor's price. Consumers wishing to spend more for a health care plan they would be free to do so—but with their own money. They would still get a deduction up to the cost of the benchmark plan.

Second, if we're going to make health plans more competitive, we should give individuals a greater stake in the responsibilities and benefits of this new market. More exactly, we should shift the deductibility of health care premiums from businesses to individual citizens—including the self-employed. Today, the Tax Code limits that deduction only to amounts over 7.5 percent of adjusted gross income. This expansion of the tax deduction up to the cost of the benchmark plan will greatly increase the incentive to have health care coverage. This "carrot" approach has a much better chance of success than the "stick" of both an employer and individual mandates, and points us directly to the goal of universal coverage.

To be sure they are getting the best value for their dollar, consumers need a way to decide which plan provides the best care at the best price. They can get this information through health plan report cards that will provide outcomes data, comparative price structures, etc. on plan available to them, with the promise that the least expensive plan meets quality standards. I am convinced that the best decisions for controlling health care spending are made at the kitchen tables of a million American homes, not at a committee table in Washington.

So why shouldn't President Clinton adopt a tax cap when it embodies so many of the principles—that is, individual responsibility and empowerment, progressivity, and less Government regulation—he espoused while running for election? Perhaps part of the problem comes from flawed data the White House relied upon to chose a premium cap over a tax cap. Figures supplied by the Congressional Budget Office [CBO], have presented an unfavorable view of market-based reforms because they use an econometric model built on current market conditions to estimate cost savings. But those models won't be accurate, since a managed competition approach so fundamentally changes the market that the old conditions no longer apply.

Such duplicity by CBO has raised serious questions in Washington. It seems the CBO will credit significant savings only to those health proposals that use Government price controls. But they cannot score the political potential for delaying budget deadlines for which the administration and Congress are well known. Outside the Washington beltway, health professionals know to look skeptically at such pronouncements of savings. If price controls were put in place, hospital closings and downsizings would be inevitable. Right now, one-third of this Nation's hospital beds lie empty every day. What Member of Congress would not become an advocate against the price controls when hospitals in his or her district start closing?

No empirical evidence exists to prove that price controls will work. Similarly, a recent analysis by Mathematica, a well-respected New York research firm, shows that a wide range of results are possible from minimal savings to substantial savings. We shouldn't count our medical savings before we have them.

However, the conflict between the economic and political theories does preclude at least the possibility of common ground. So, while the President's Task Force on Health Reform lacks a consistent policy on cost control, he has laid some ground where the seeds of a compromise could sprout.

Let us be realistic. There is little likelihood that a system designed on the principles of managed competition will work perfectly. Not only does it require active management by the Government, consumers, and health care industry leaders, but radically overhauling the health care system is so large a proposition that there could be unpredictable results. So we would make contingencies for controlling health care cost—like more drastic Government intervention—if aspects of the plan are unsuccessful.

Congress always has the option of instituting premium caps if the initial results are worse than we expected. Yet, if we get the philosophy right, then whatever adjustments we make later on will give us the best chance of sustaining reform.

But why build a system of managed competition, if you don't take it for a test drive? The President's own elaborate system of alliances, a national health board, and a new rules for the marketplace do not make sense unless competition takes place.

The question is if we drive our own, or squeeze onto the bus. I am hopeful that President Clinton, and my congressional colleagues, will see the logic of this argument.

POLYPHASER WINS NEVADA EXPORT AWARD

HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mrs. VUCANOVICH. Mr. Speaker, a high-technology manufacturing firm in my congressional district in Nevada, has recently won the 1994 Export Award from our Governor. The PolyPhaser Corp. of Minden, NV, designs, tests, and manufactures hundreds of electronic surge suppression products that protect much of our growing technology society from the effects of lightning, electromagnetic pulse, and other forms of electronic surges. The PolyPhaser Corp. produces an array of surge suppression devices ranging from simple coaxial line protectors for video equipment and local area computer networks to complex milspec surge protection devices for advanced U.S. military equipment. Their new range of lightning strike counters and sophisticated grounding components for radio towers, power lines, and telephone lines have provided the communications industry with a new appreciation for the expanding needs of our Nation's power generation and communications systems.

The PolyPhaser Corp. came to Nevada in 1984 from Florida. The company has grown steadily over the years and now employs over 100 Nevadans. The company recently expanded its manufacturing facility in Minden's Meridian Business Park from 18,000 square feet to over 53,000 square feet. It is now the largest manufacturing facility under one roof in all of Douglas County.

We are certainly proud of Gayle and Roger Block's entrepreneurial spirit in Nevada. I would like to acknowledge their outstanding success in marketing Nevada-based exports to the rest of the world and also Gayle Block's dedicated service on the board of directors of the Nevada Manufacturers Association. At this time I wish to include in the CONGRESSIONAL RECORD the recognition letter from the Nevada District Export Council. It is signed by executive secretary James K. Hellwig, who is the U.S. Department of Commerce/International Trade Administration's office director in Reno. My congratulations go to all of the hard-working folks at the PolyPhaser Corp.

NEVADA DISTRICT
EXPORT COUNCIL,
Reno, NV, May 20, 1994.

ROGER R. BLOCK,
President, PolyPhaser Corp., Minden, NV.

GREETINGS MR. BLOCK: It is my pleasure to officially notify you that the PolyPhaser Corporation is the northern Nevada recipient of the 1994 Governor's Export Award.

Through your firm's dedicated efforts in expanding export sales, PolyPhaser is making significant and lasting contributions to the state's, and the nation's, economic development. it is precisely for the purpose of exemplifying firms such as yours, as models for other companies to emulate, that the Export Awards were created.

The award will be presented during the "Governor's Export Award Luncheon" on May 26. There will be headtable seating for the award recipients, key-note speaker, trade promotion officials, and the Governor.

By now, you have received the flier on the lunch that I faxed to J.J. Johnson. I would recommend coming early to the lunch so that we may finalize any remaining matters, and so that you may orient yourselves to the facilities.

Enclosed you will find a rough draft of the luncheon agenda. We hope that whomever receives the award on behalf of PolyPhaser will make a few remarks on the importance of exporting to the company.

I will call next week to gather additional information for my part of the agenda—providing the background information on the recipient companies, and to see if there is anything left to be said or done before the award luncheon. In the meantime, should you need anything, don't hesitate to call me at 702-784-5203.

Again, my warmest congratulations on receiving the award.

Sincerely,

JAMES K. HELLWIG,
Executive Secretary.

WASHINGTON REPORT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994,

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 29, 1994, into the CONGRESSIONAL RECORD:

AGRICULTURAL OUTLOOK

U.S. agriculture continues its strong performance. Net cash income is expected to match last year's record level of $59 billion. The value of exports in 1994 is forecast to equal last year's level of $42.5 billion. Although the value of exports has remained stagnant, there has been a rise in high value exports, particularly dairy, meat and poultry.

FY 1995 BUDGET

On June 17, the House approved a bill providing $68 billion for the U.S. Department of Agriculture (USDA) for next year. Roughly $55 billion will support mandatory spending such as food stamps and price and income supports and the remainder will support discretionary USDA programs such as farm credit, crop insurance, research, and extension. In recent years, agriculture has averaged about ⅓ of USDA's budget with most of the balance funding food, nutrition, and consumer programs. Congress will continue its work on the FY 1995 budget to assure that farmers receive full benefit for each dollar spent.

TRADE

Opening export markets is critical for U.S. farmers. One out of every three acres of cropland already goes for export each year, and U.S. productivity continues to rise. Because the US economy cannot consume all the output from the steady rise in farm productivity, expanding global export markets must be a primary policy goal. The growth in the markets for value-added farm products—like corn oil and soybean meal—will also help absorb the added production.

The North American Free Trade Agreement (NAFTA) became effective in January, and will phase out barriers in US, Mexican, and Canadian agricultural trade over 15 years. Once fully implemented, US agricultural exports are expected to be $2.6 billion higher annually than without the agreement. Although still early, the initial indicators are favorable. The value of US exports to Mexico in the first three months of this year was $1.44 billion, or about 12% higher than during the same period in 1993. Congress is working on implementing legislation to the Uruguay Round of the GATT, which would cover agriculture for the first time. If adopted by the member countries, those countries would be required to make significant cuts in the value and volume of agricultural export subsidies. Discussion continues on how to pay for the loss of revenue that will result from the agreement's tariff reductions. I have discussed this matter with the administration, and have made it clear that I will oppose funding proposals that unfairly place the burden of paying for the loss of revenue on the backs of farmers. The administration is also seeking new trade negotiating authority that would permit Chile and other Latin American countries to join the free trade agreement between the US, Mexico, and Canada. I know of no single step that would help farmers more to expand US agricultural exports. New global markets provide the American farmer with exciting opportunities.

NEW USES

The Clean Air Act of 1990 expanded the role of cleaner fuels, such as ethanol, in fighting air pollution. The administration proposed a rule that would carve out a specific niche for corn-based fuel additives in the reformulated gasoline market. The rule, which will be finalized this month, will help corn growers. I believe that developing industrial uses of crops and producing new crops for new uses are promising ways to increase markets for agricultural products.

USDA REORGANIZATION

Earlier this month the House Agriculture Committee approved a bill that would strengthen the Agriculture Secretary's authority to reorganize the agency. The centerpiece of the bill is a new Farm Services Agency that would carry out price and income support, crop insurance, and farm credit programs. Conservation programs would be placed in a new Natural Resources Conservation Service. The bill would require the administration to meet certain cost saving goals and to merge, consolidate or close a number of its field offices. However, the bill would require that job reductions in Washington, DC be larger on a percentage basis than those in the field offices. I agree with the priority placed on making the largest cuts from USDA headquarters. My goal is to reduce the bureaucracy and save money, while providing improved service to farmers. The full House may debate the reorganization bill this week. The Senate approved its own version of a reorganization bill in April.

CONSERVATION AND ENVIRONMENTAL ISSUES

The 1985 farm act established several programs to provide incentives to encourage soil conservation, and the 1990 farm act established additional programs to address mainly water quality issues. The upcoming reauthorization of the Clean Water Act will again focus attention on agriculture's role in non-point pollution and wetlands conversion; laws governing pesticide sale and use will also be reviewed. I want Congress to look at these proposals with great care. I will support farmer friendly approaches to legislation. I do not want to penalize farmers.

1995 FARM ACT

Enhancing farmers' competitiveness will be a high priority in the 1995 farm act debate. Congress is expected to take steps beyond the 1985 and 1990 farm acts to achieve greater market orientation. More than in the past, agricultural policy will likely be linked to national priorities, including job creation in rural America. Environmental policies will also be reviewed. For instance, debate has begun concerning what will happen to the 36 million acres of highly erodible cropland enrolled in the Conservation Reserve Program when CRP contracts begin expiring in 1995. Discussion on these and other issues is just getting started and will likely culminate in the 1995 farm act.

OUTLOOK

Strong economic growth and low interest and inflation rates will continue to help US farmers. They will also benefit from the lowest debt-to-asset ratio—a key indicator of farm financial health—in 25 years. There will be challenges for US agriculture, including declining price and income supports, increased competition from abroad, lower sales to the former Soviet Union, and reduced US export subsidies under GATT. My view is that overall US agriculture is in a strong competitive position to succeed over the decade. As Congress prepares for the renewal of the farm act next year, my hope is that greater economic growth at home and abroad and stable production expenses will help US farmers strengthen their position as the world's leading producers.

TRIBUTE TO THE CITY OF WALLED LAKE

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. KNOLLENBERG. Mr. Speaker, the city of Walled Lake turns 40 years old this year. Founded back in 1954, the residents have a great deal to be proud of, moving forward into the 21st century while still maintaining their strong sense of community and tradition.

Since its earliest settlers in the early 1830's, Walled Lake has been a crossroads in the region. Back then, as it is today, it was an economy based on quality service and an honest day's labor.

Incorporated in 1954, the city had just over 3,200 residents. Today, however, they number more than twice as many. And they did it by maintaining a sound mix of residential and industrial development.

Through the efforts of the mayor, the city council, and the downtown development authority a number of farsighted infrastructure projects have been completed or are underway.

Walled Lake, unlike a number of other cities, planned for its future early-on by constructing a city-wide water system in the late 1960's.

Again in the early 1970's, by constructing a city-wide sewer system, serviced by the Walled Lake-Novi Sewage Treatment Plant. And Walled Lake's leaders followed this up by paving their city streets.

Currently, the city is working on a number of similar infrastructure projects: the extension of Maple Road to reduce traffic congestion; and the widening of Pontiac Trail and Maple Road for public safety and landscape enhancements.

And in the not so distant future, the city of Walled Lake is considering such economic boons as: an industrial park and a 110,000 square foot shopping center.

Combined, these are quite exciting times in this proud little city.

It is this sense of sustained community improvement and pride that has helped build Walled Lake into the type of place that draws visitors and residents-to-be from around the State and the entire region.

The city's leaders and citizenry have a great deal to look back on with pride, and even more prosperity can be seen in their future. This is especially appropriate considering Walled Lake's motto: "Pride in our past—Faith in our future."

I can only imagine what type of prosperity the next 40 years will bring to this fine city.

THE COMMUNICATIONS OPPORTUNITY ACT OF 1994

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mrs. COLLINS of Illinois. Mr. Speaker, I am proud to join my distinguished colleagues, Mr. RICHARDSON and Mrs. SCHROEDER, in introducing the Communications Opportunity Act of 1994. This legislation represents an important step in guaranteeing increased marketplace penetration by small businesses, women, minority-owned and rural firms, or so-called designated entities, in emerging telecommunications technologies.

Today the Federal Communications Commission [FCC] formally announced its final rules for designated entity participation in auctions of broadband radio spectrum for a new generation of wireless technologies known as personal communications services or PCS. These technologies will allow a type of two-way, location independent communication among individuals that was viewed as mere fantasy as little as a few decades ago.

I, along with my colleagues, have been thoroughly engaged in efforts to ensure that the preferences given designated entities in these auctions will be effective and we are heartened by the FCC's actions today. It remains imperative that women, minorities, and small businesses become PCS license holders rather than mere auction participants.

The 1993 budget act gave the FCC a congressional mandate to disseminate licenses for spectrum-based telecommunications services among broad segments of the population which historically have faced barriers to market entry. While the FCC has formulated workable licensing preferences for designated entities, we intend to keep the pressure on the Commission to substantively carry out the responsibilities with which it has been charged both now and into the future through our legislation.

Underrepresentation of women and minorities in the telecommunications field is well documented. A perfect example can be found in the cellular telephone industry, which generates in excess of $10 billion a year, yet a comprehensive 1991 study by the U.S. Minority Business Development Agency found that only 11 minority firms were offering services in this market. Even more distressing, this same study clearly indicated that less than 1 percent of all telecommunications companies were minority-owned.

For women-owned firms, the statistics are similar. As reported in 1993, the Census Bureau's survey of women-owned businesses found that only 1.9 percent of these firms were involved in the communications field. Given estimates stating the possibility of PCS becoming a $100 billion-a-year industry, it is absolutely imperative that we seize the moment to ensure that designated entities are players in this vital arena.

The Communications Opportunity Act of 1994 will strengthen the mandate given the FCC in the 1993 budget act and codify specific ways, such as targeted set-asides, in which the Commission could guarantee licenses to designated entities. Our aim in drafting this legislation has been to ensure that designated entities are not simply bystanders on the shoulder of the superhighway on-ramp but rather drivers in its express lanes.

It is widely recognized that emerging telecommunications technologies are key to both the present and future stability and strength of the U.S. economy. Today's evolving industries will provide thousands of jobs for our citizens and bolster American competitiveness.

Because of this fact, we cannot allow those individuals, institutions, and business interests that are now on the fringe or are traditionally the last to benefit from technological changes to be left behind, given the enormous opportunities these technological changes present. The inclusion or exclusion of designated entities in emerging technologies will dictate the fate of women, minorities, and small businesses owners and the communities in which they live and work as we head into the 21st century.

The Communications Opportunity Act of 1994 will ensure effective inclusion of designated entities in cutting-edge telecommunications industries. I urge my colleagues to join us in supporting and moving this vital legislation forward.

TRIBUTE TO MARY ANNE MANG

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. DORNAN. Mr. Speaker, one of the greatest pleasures of serving in this legislative body is the opportunity we occasionally get to alert our fellow citizens to outstanding individuals in our Nation. I rise today to recognize such an individual, Mary Anne Mang, who is retiring after 33 years of successful service to Disneyland. I repeat: 33 years of loyal service.

Mary Anne began her long and distinguished career at Disneyland in 1960 as the manager of their newly established sales promotion department. A year later she moved to

Disneyland's group sales department and for the last 8 years has served as their public relations manager. One of her notable and personally fulfilling accomplishments has been the Disneyland Creativity Challenge Program, which she helped found more than 6 years ago. This program recognizes junior and senior high school students who are interested in the creative and fine arts disciplines.

In addition to her responsibilities at Disneyland, Mary Anne has been dedicated to serving her community in other capacities as well. She currently sits on the board of directors of several Orange County civic organizations, including the American Red Cross, American Heart Association, Boys & Girls Club of Anaheim, and the Volunteer Center of Greater Orange County. She is also a member of a number of local councils and committees, including the Anaheim Arts Council, Anaheim Chamber of Commerce Women's Division, Anaheim Memorial Hospital Medical Center Governing Board, and Susan Komen Foundation.

On a more personal note, it was during her time at Disneyland that Mary Anne developed a professional relationship with a fine gentleman of law enforcement, Norbert Mang, who at the time was serving as the captain of the Anaheim Police. They fell in love and married 18 years ago. He has been a loving and supportive husband to Mary Anne through all of her time-consuming endeavors. I guess behind every successful woman there's a great peace officer. Well, almost every great woman.

Throughout her entire career, Mary Anne Mang has exhibited extraordinary leadership, skill, and professionalism. She has been a wonderful role model for her coworkers and an exemplary inspiration and role model to us all. I sincerely hope that her influence will linger at Disney and in her community and that her future holds as many joyful and fulfilling days as her past.

May God bless you always, Mary Anne. What's your next challenge?

TRIBUTE TO ADOLFO G. ALAYON

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. TOWNS. Mr. Speaker, I rise today to recognize a distinguished leader in our community, Mr. Adolfo G. Alayon. Mr. Alayon was born in Santurce, PR on March 12, 1940. He graduated from Eastern District High School in Brooklyn and received his bachelor's degree from Queens College.

Mr. Alayon served as a member of the President's Consumer Advisory Council under Presidents Richard M. Nixon and Gerald Ford from 1973 to 1976. He also was a member of former New York Mayor Abraham Beame's Consumer Advisory Council. Since 1969, Mr. Alayon has been the executive director and president of the Consumer Action Program of Bedford Stuyvesant, Inc. [CABS].

During his tenure as president of CABS, Mr. Alayon has been responsible for the development and operation of several institutions which provide Central Brooklyn with important services. The CABS organization provides hundreds of Brooklyn residents with employment.

Under his direction and development, the CABS Business Development Office was responsible for the preparation of over $20 million in small business loans and $30 million in procurement contracts with the U.S. Department of Commerce. More than 1,000 elderly and disabled individuals are cared for through the CABS Home Attendants Service, Inc. A 66 unit multifamily housing project and a 111 unit elderly housing project have been developed to provide the Brooklyn community with much needed service. In addition, the CABS Nursing Home Co. provides a 160 bed nursing staff and facility.

The residents of Central Brooklyn respect Mr. Alayon's efforts and success. His talent and expertise in the business community have earned him respect and admiration at the national level. Mr. Speaker, it is with great pleasure that I rise today to recognize Mr. Adolfo G. Alayon for his outstanding and beneficial achievements.

AMERICA'S B-2: THAT'S THE "SPIRIT"

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. DORNAN. Mr. Speaker, the question regarding defense spending is not whether we should or should not downsize our Armed Forces. The real question is where further cuts can be made without risking the capability of the United States to defend its interests around the world. We must not invite aggression by weakening our present and future defense capabilities.

Despite recent conflicts in Panama and the Middle East, and potential new conflicts in Bosnia, Haiti, and North Korea, some today continue to ask, "Do we still really need the Armed Forces of the United States?" Notwithstanding the end of the cold war, the threats to U.S. interests around the world continue to grow.

If Plato is correct that "Only the dead have seen the end of war," our country may well find itself involved in resolving another regional conflict in the very near future. As the only remaining world superpower, we will continue to be challenged and tested by aggressors seeking to alter a regional balance of power to their favor.

Meanwhile, with the current demise of Soviet (now Russian) world military power, including the nuclear threat, many of our forces have been withdrawn from their forward deployed bases. Rather than focusing on former Soviet Union military threat, our new national military strategy calls for a force structure capable of prevailing in two major regional conflicts [MRCs].

Because of such a drastically changed strategic environment, the U.S. desperately needs forces capable of quickly projecting conventional combat power to the far reaches of the globe. As the recently completed Bottom Up Review [BUR] concluded, the Air Force and its heavy bombers are the key power projection force for this new strategy.

A new, modern bomber force is vital to this strategy because a major regional conflict will not be solved with a single limited raid such as that conducted against Libya in April, 1986. Instead, such a conflict will likely require large scale attacks against airfields, command centers, and even destroying invading armor formations. Only the manned bomber has the range, payload, and hit-the-target precision necessary to achieve success in such missions especially during the first few critical days of a conflict. Secretary of Defense William Perry stated during his confirmation hearing that the B-2 "Spirit" stealth bomber would be his platform of choice for delivering precision weapons in a regional defense strategy.

The rapid proliferation of advanced weapons technology means that it is highly likely that our forces will encounter very capable enemies in the future. Since the B-2 bomber represents a vast technological improvement over other Air Force bombers and all other military aircraft worldwide, the "Spirit" removes the risk we would face with less capable, nonstealthy aircraft.

Secretary Perry also indicated that the current planned inventory of just 20 B-2 bombers is too thin to meet regional defense mission requirements. I strongly agree. A larger force of B-2 aircraft would not only be able to effectively deal with two MRCs, but could also shorten the duration of these conflicts by delaying advancing enemy forces until additional American or allied forces were deployed into the combat area. Such capability could have conceivably stopped Iraqi armor forces from overrunning Kuwait.

Mr. Speaker, our country needs the B-2 "Spirit" bomber with its unmatched technological superiority in order to deter war and, if necessary, end any conflict quickly and decisively. As a Member of the California congressional delegation and long time champion of airpower, I am extremely proud of the B-2 and the people who conceived it, designed it, built it and maintained it. And, of course, I'm proud of and envious of those who have the honor to fly this national treasure.

IMPORTANT PENDING LEGISLATION

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. JACOBS. Mr. Speaker, crime legislation is some respects may be helpful to our country and, therefore, it is on the verge of being passed.

Clean water legislation in practically every respect is good for our country and it should be moved along.

THE PHOENIX SENIOR SUMMER CORPS' "SUMMER OF SAFETY"

HON. SAM COPPERSMITH

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. COPPERSMITH. Mr. Speaker, I rise to call to my colleagues' attention the "Summer of Safety" project of the city of Phoenix.

Since 1974, Phoenix has sponsored the very successful Senior Companion Program. This important and caring effort arranges for senior companions to assist each other in remaining independent, in their homes, exactly where most seniors want to live.

This summer, as part of the President's National Service Initiative, the Corporation for National and Community Service has stated a new initiative for seniors called the "Summer of Safety." Organized by the City's Senior Companion Program, a group of senior volunteers called the Senior Summer Corps has formed to address many public safety needs of local communities throughout the summer.

According to recent surveys, nearly two-thirds of seniors who live in Maricopa County fear walking alone at night. The Phoenix Senior Summer Corps will address two public safety needs identified by the Phoenix Police Department: teaching seniors how to make their homes safer, and educating them on what kinds of activities they should report to the police. Seniors also learn about potential criminal activities in their community and about ways neighbors can help prevent crime by developing a neighborhood senior block-watch program.

The "Summer of Safety" program recognizes what Americans have always known; that neighbors, working together, are the best resources for improving the safety and quality of life in our communities. I urge my colleagues to join me in applauding and supporting the work of the Phoenix Police Department and the Senior Summer Corps.

COMMUNICATIONS OPPORTUNITY ACT OF 1994 INTRODUCED

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. RICHARDSON. Mr. Speaker, today Congresswomen CARDISS COLLINS and PATRICIA SCHROEDER joined me in introducing the Communications Opportunity Act of 1994, to ensure that small businesses, rural telephone companies, and businesses owned by minority groups and women—designated entities—are able to successfully participate in the provision of wireless services.

Later this year the Federal Communications Commission [FCC] will undertake the unprecedented step of auctioning off publicly held frequency spectrum to private entities. The auction process will allow for the creation of a host of new telecommunications services. Under the FCC auction, new wireless services will proliferate, new industries will emerge, thousands of jobs will be created, and Americans will have entirely new ways to communicate. It is imperative that all constituencies, whether they are rural, women, minorities, or small businesses, have a real opportunity to offer wireless services.

Our legislation will codify the use of license set-asides for designated entities in conducting spectrum auctions. While the FCC adopted progressive rules regarding designated entities in today's personal communications services rulemaking, these steps do not go far enough. The FCC took too long in coming to its decision today and over the last month I have had to spend too much time and energy on an issue that should not even be questioned. This legislation will ensure that designated entity participation is not taken for granted in future auction rulemakings. The Communications Opportunity Act will also maintain the flexibility that Congress intended when it originally ordered the auctions in the 1993 Budget Reconciliation Act. Minorities, women, and small and rural businesses have been left out of the provision of telecommunication services for too long and we want to ensure that, as we auction spectrum to commercial interests, the public interest in having designated entities offer telecommunications services is upheld.

I urge my colleagues to support this important legislation.

HOUSE MEMBERS COMMENDED

HON. ERIC FINGERHUT

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. FINGERHUT. Mr. Speaker, I wish to commend members of the House Appropriations Subcommittee on transportation for their excellent work in passing the Department of Transportation and Related Agencies appropriations bill of 1995.

I especially wish to thank Chairman Carr for the inclusion of $1 million for the Tower City Intermodal Hub Study. The proposed intermodal hub would integrate Cleveland's existing bus, rapid transit, and inter-city rail services, as well as future commuter rail and high-speed rail services. Significant opportunities for transit linkages within the Cleveland-Akron-Columbus-Cincinnati corridor as well as points west to Toledo-Detroit and east through my district to Buffalo would be created.

This funding will provide the development of a preliminary engineering study of three potential sites to assist in the critical decision of site selection. The Greater Cleveland Regional Transit Authority would be the recipient of the funding, and is presently committed to provide local matching funds.

I would like to thank the committee once again for the attention they have given this important request.

TRIBUTE TO BRUCE A. JACKSON

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. TOWNS. Mr. Speaker, my esteemed colleagues in the House, today I rise to recognize an exceptional and truly outstanding leader in the community, Mr. Bruce A. Jackson. Mr. Jackson is a resident of Manhattan and the senior partner of Jackson & Consumano Law Firm. He received his BA degree from the University of Connecticut and his Juris Doctor Degree from St. John's University School of Law in New York.

Mr. Jackson has held several associate attorney positions with various law firms, including Skadden, Arps, Slate, Meagher & Flom and Bower & Gardner. He has also been a partner in Pegalis & Wachsman and in the firm of Kanterman, Taub, Breitner, Jackson, Rosenbloom & Hofflich. From 1977 to 1980, Mr. Jackson served as an Assistant District Attorney in New York County under Robert M. Morganthau.

Mr. Jackson is a member of several bar associations and organizations; among them, the State of New York Bar Association, Metropolitan Black Bar Association of New York, American Trial Lawyers Association, International Academy of Law and Mental Health, American Bar Association and the Puerto Rican Bar Association of New York. He has also been admitted to the U.S. District Court of Connecticut and the U.S. District Courts for the Southern and Eastern Districts of New York. In 1993, Governor Mario M. Cuomo appointed Mr. Jackson to serve on the Special Legislative Advisory Panel on Empire Blue Cross/Blue Shield of New York. He has also recently been appointed to the Special Committee to Implement Merit Selection of Judges of the New York State Bar Association.

As founding partner of his own law firm, Mr. Jackson has actively participated in increasing minority representation in the field of law. He has been in support of many progressive political and civic causes. In 1988, the Institute of Jewish Humanities of New York presented him with the Shalom (peace) Award for his effort in promoting the ideals of interfaith and interracial peace. The Brooklyn Democrats have presented Mr. Jackson with an award for his outstanding legal contributions to the New York community. In 1993, Brooklyn Borough President Howard Golden and Assemblyman Darryl Towns recognized him for civic leadership and service. The Black, Asian and Latino Law Alumni Association of St. John's University Law School has honored him for his outstanding record of service as past president of the organization.

Mr. Bruce Jackson is a highly accomplished member of our society. My colleagues, it is with great respect and admiration that I rise before you today to recognize this distinguished citizen.

BALLISTIC MISSILE DEFENSE—WILL WE EVER LEARN THE LESSONS OF HISTORY?

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. DORNAN. Mr. Speaker, 50 years ago on June 13, 1944, six civilians were killed in London when they were hit by the first German V–1, the "Buzz Bomb." Hitler's vengeance weapon was the forefather of today's cruise missiles, just as his V–2 1,000 lb. warhead missile was the forerunner of all ballistic missiles.

Today, fifty years later, another ruthless dictator, Kim Il-sung, threatens peace throughout the Pacific with new, more terrible vengeance weapons including—in the very near future—nuclear armed ballistic missiles. Despite threats of embargo and diplomatic peace offerings, North Korea continues to develop missiles capable of hitting all of South Korea, much of Japan, and eventually even the west coast of the United States.

But, as a June 10, 1994, Wall Street Journal editorial pointed out, there is a better way to deal with such threats. We can, and we must, continue the vision of President Ronald Reagan and immediately develop ballistic missile defense systems. For a modest investment today in existing *Aegis* cruisers and destroyers, we can provide our allies and our forward deployed forces with a near-term, low-cost defense against such attacks. The time for U.S. ballistic missile defense is now. Mr. Speaker, I include in the RECORD my Dear Colleague from June 14 with its excellent Wall Street Journal article.

HOUSE OF REPRESENTATIVES,
Washington, DC, June 14, 1994.

DEAR COLLEAGUE: I highly recommend the following Wall Street Journal editorial from June 10, 1994, about the real issue in North Korea, proliferation of ballistic missiles.

We continue to ignore this worldwide threat and underfund even the most modest missile defense proposals such as sea-based systems using existing missiles and ships.

As the editorial clearly points out, the time for missile defense is now.

Best regards,

ROBERT K. DORNAN,
U.S. Congressman.

NORTH KOREA, THE TIME FOR U.S. BALLISTIC MISSILE DEFENSE IS NOW—THE KOREAN SEMINAR

The Clinton foreign policy has turned into a continuing seminar in What Not to Do.

You don't enact a free-trade agreement such as Nafta, then expect the world to understand why you're following on with threats of a trade war against Japan. If, as with MFN and China, you culminate a loudly wrong policy with the right decision, you'll only get credit for a flip-flop. Haiti shows the dangers of signing up for a pass-fail foreign policy that you'd rather not attend at all. And in Bosnia, the Clinton dons have taught us what happens when you feed a Serbian an endless supply of carrots; in reaction, a bipartisan House vote yesterday of 244–178 resoundingly rejected the Clinton policy of temporizing on letting Bosnia's Muslims defend themselves a related article appears nearby).

Finally, we have the administration's fascinating Lirean Seminar. The administration is now threatening economic sanctions against nuclear blackmailer Kin Il Sung if he doesn't open North Korea to inspection by the International Atomic Energy Agency. Yesterday, Japan's U.N. ambassador had to knock down stories that some in his government lacked enthusiasm for sanctions.

Some in Japan have professed concern at trouble from their own Korean population, which remits some $1 billion annually to relatives in the North via bank accounts in Hong Kong, Switzerland and other unstoppable pipelines. We suspect, though, that Japan (itself the recent object of Clinton trade threats) notices that U.S. foreign policy already has sanctions programs up and running against Haiti, Serbia and Iraq. All leak badly. Now the U.S. wants to juggle a fourth such project against North Korea.

A common problem with the administration's policies is that they seem designed to escape facing the core realities of the problems in front of them. It as at least refreshing to see Secretary of Defense William Perry getting the import of the Korean issue squarely on the table when he asserted: "What is at stake here is the whole proliferation issue."

In other words, the real long-term issue is not merely whether we'll have to bomb North Korea or its Yongbyon reactor; most likely Kim has one or more such facilities underground, elaborate tunneling being one of his few real skills. No, the larger issue is: How do we live and survive in a world in which controls over weapons-grade plutonium in places like Russia is eroding, while the market of potential buyers inexorably expands?

Our answer when we last addressed the subject ("North Korea's Threat," March 22) was: Build Ronald Reagan's Strategic Defense Initiative. Pursue the technologies that were being developed to track and destroy incoming missiles from an unfriendly party. Instead, we noted, the Clinton budget eviscerated the SDI program, as Democrats long had demanded.

The Clinton policy around the North Korean nuclear issue essentially represents the Democratic establishment's longstanding theology on this subject: Negotiate indefinitely, with the ultimate goal of bringing the other party inside some sort of arms control framework. Under Ronald Reagan, the Republicans broke out of this negotiate-to-agree strategy. It proposed building missile defenses.

That was during the Cold War, and liberal Democrats mocked the notion of trying to thwart a Soviet ICBM barrage. Today we've agreed that such a numerical threat is essentially gone. The Kim-like nuclear threat now is from a relative *handful* of incoming missiles, a technological challenge of greatly reduced magnitude. But we also seem to have agreed that a North Korea-sized threat is serious.

So: Do we negotiate, or do we start building missile defenses?

Wednesday, North Korea said it would let in the inspectors if the U.S. resumes negotiations. The Clinton teams' endless offering of carrots to Kim to gain access for the IAEA's inspectors has been derided, but it deserves some attention. Let's assume the IAEA went into Yongbyon and elsewhere and announced that North Korea clearly can make bombs, and may have them. Then what?

While Secretary Perry worries that the whole proliferation issue is at stake, Democratic arms-controllers have never offered a persuasive answer to what they'd do *after* verifying the existence of a threat. Presumably they'd negotiate harder. But the Clinton foreign policy, here and elsewhere, forces one toward a conclusion about Democratic strategy: It's a bluff. And if a Kim Il Sung calls our bluff, bombing Seoul or Tokyo, then what? Massive war? Our own bomb? Or nothing?

Ronald Reagan's missile-defense proposal was an attempt to escape from choosing merely between the negotiator's bluff and war. In power, President Reagan and his representatives bore a heavy burden to prove his case. Now the burden—and responsibility—is on the Democrats to defend negotiation and disprove missile defense. Under the circumstances, building a defense against missiles is looking better and better to us.

TRIBUTE TO TOM KELLEY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. KILDEE. Mr. Speaker, I want to pay tribute to Tom Kelley, who is leaving the staff of my subcommittee after 9 years. During this period of time, Tom has provided excellent staffwork for 2 subcommittees—first, for the Subcommittee on Human Resources where he became well known for his knowledge and expertise in such areas as programs for the elderly and energy assistance for the poor and then, through the present, for the Subcommittee on Elementary, Secondary, and Vocational Education where his name has become closely associated with matters such as vocational education, technology, and school-to-work transition. I can say, without reservation, that his many contributions have been critical to the very productive work of my subcommittees.

Tom is leaving to take a position in the U.S. Department of Education's Office of Legislation and, while I am sorry to see him depart, I am pleased that he is remaining in public service. I have often said that the purpose of government is to promote, protect, defend, and enhance human dignity and Tom has always carried out his responsibilities in a manner that exemplifies that principle.

I first met Tom 10 years ago in our home town of Flint, MI and was immediately impressed with his warmth, intelligence, insight, and good humor. It was obvious that this young man would do well, and he has. And knowing Tom as I do, there is no doubt that success will always follow him, wherever he may go.

TRIBUTE TO DECOSTA HEADLEY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. TOWNS. Mr. Speaker, it is with great pleasure that I bring to the attention of my esteemed colleagues the distinguished community service record of Mr. DeCosta Headley. Mr. Headley received his B.A. degree from Shaw University. He was raised in the east New York section of Brooklyn, where he now resides.

Mr. Headley is the founder of the Rosetta Gaston United Democratic Club. He is the first vice chairman of the Kings County Democratic Party and the male district leader for the 40th assembly district.

As first vice chairman and district leader, Mr. Headley has been involved in many successful election campaigns, supporting candidates at the municipal, State, and national level. Through the Rosetta Gaston United Democratic Club, Mr. Headley has raised funds for youth scholarships. He also has assisted members of his community by finding employment opportunities for them. For the elderly and disabled, Mr. Headley helps to provide daily meal services, health care, and transportation services.

DeCosta Headley has been honored with numerous awards throughout his lifetime of community service. Among them are: the Manhattan Jaycee's Award for Distinguished Service, College of Human Services Award, the Mayor's Award for Community Services, Social Action Institute Citation in Recognition of Public Service, Brooklyn Borough President's Proclamation, Congressman Towns Men's Caucus Award, the Pace University Community Leadership Award, and a citation from the Martin Luther King, Jr. Foundation.

These awards are a testament to DeCosta's commitment to public service. His efforts in the areas of education, social justice, and economic improvement have changed the lives of many people for the better in Brooklyn. I ask my colleagues to join me in honoring Mr. DeCosta Headley for his outstanding record effecting positive social change.

CREDIT UNIONS SERVE PENNSYLVANIA

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. SANTORUM. Mr. Speaker, there are more credit unions in Pennsylvania than in any other State of the Union. Almost 2.7 million Pennsylvanians are served by 979 credit unions.

This year marks the 60th anniversary of the signing of the Federal Credit Union Act, which established Federal charters and allowed credit unions to spread nationwide. Five of the 50 oldest Federal credit unions are from Pennsylvania, the oldest of which, Lehigh Valley Postal Federal Credit Union, also celebrates its 60th anniversary this year.

Over the years, credit unions have become a vital component of our financial system, providing millions of Americans with the availability of sound financial services, investment opportunities, and credit at low rates.

That is an important accomplishment in itself. But what makes it all the more impressive is the key role of volunteers who are involved in every phase of operations, including serving as the board of directors. Credit unions are a superb example of the good that can be accomplished when individuals are willing to give of themselves to help one another.

Credit unions are uniquely democratic economic organizations, founded on the principle that persons of good character and modest means, joining together in cooperative spirit and action, can promote thrift, create a source of credit for productive purposes, and build a better standard of living for themselves. Because credit unions exemplify the traditional American values of thrift, self-help, and voluntarism, they have carved a special place for themselves among the Nation's financial institutions.

I salute credit unions and their members on the 60th anniversary of the signing of the Federal Credit Union Act. I look forward to working with them and with such organizations as the National Association of Federal Credit Unions and the Pennsylvania Credit Union League in the future.

TRIBUTE TO BRIG. GEN. RUDOLF F. PEKSENS

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. STUPAK. Mr. Speaker, I rise today to pay tribute to an outstanding American, Brig. Gen. Rudolf F. Peksens, who served an exceptional 2 years at K.I. Sawyer Air Force Base. After the closing of the K.I. Sawyer Base in 1995, the General will be transferred to the South Com Air Force Base in South America. I want to express my gratitude on behalf of the residents of northern Michigan for all his service and extend our best wishes for the future.

General Peksens entered the Air Force in 1966 as a graduate of the Tufts University Reserve Officer Training Corps program. He is the only Air Force officer to have flown fighter, bomber, and reconnaissance aircraft in combat. General Peksens served as a B–52 copilot on the first 410th Bombardment Wing aircrew selected to conduct Arc Light bombing missions over southeast Asia in 1968. He also flew combat missions in 1970 over Southeast Asia in the RF–4C Phantom. During operations Desert Storm and Provide Comfort, he served as vice commander and then commander of the 7440th Combat Wing and flew combat missions over Iraq in the F–4C Phantom II Advanced Wild Weasel.

Beginning in June 1986, General Peksens started a 5-year series of three command positions in Germany. He first served as commander of the joint U.S. Air Forces in Europe/U.S. Army in Europe Warrior Preparation Center, the largest computer war gaming facility in the world. From July 1988 to July 1989, he commanded the 26th Reconnaissance Wing, Zweibrucken Air Base, during which time the wing won the annual worldwide reconnaissance competition. From July 1989 to July 1991, he commanded the 52d Fighter Wing "Wild Weasels" at Spangdahlem Air Base. During that period, the 52d Fighter Wing deployed early and contributed significantly and measurably to successful combat operations in the gulf war.

The general is an experienced commander and combat aviator. He is rated a command pilot with more than 3,600 hours, including more than 600 combat hours in B–52, RF–4, and F4–G aircraft. He is the recipient of the Legion of Merit, Distinguished Flying Cross with oak leaf cluster, Bronze Star Medal, and Air Medal with nine oak leaf clusters. The general so far has received seven promotions, and I know that he will be promoted again in the future.

General Peksens' military achievements are well established. As significant to me, though, are General Peksens' unique personal qualities that have endeared him to his troops and the Marquette community. "General Rudy," as some refer to him, possesses a special approachability and knack for candor. These qualities have allowed him to be both a highly competent representative of the Air Force and trusted ally of the community as Sawyer transitions to civilian use. Anyone familiar with the history of base closures in our country understands the necessity of trust between the military and the affected community for successful conversion efforts. We have avoided at Sawyer the adversarial relationships that have often plagued other communities in their conversion attempts. Our early successes are a tribute to General Peksens' leadership.

Mr. Speaker, it is indeed an honor to rise today to extend my gratitude to Brig. Gen. Rudolf F. Peksens. The major awards and decorations he has received symbolize the strength of his character and serve as an inspiration to all his peers. I urge all my colleagues to join me in saluting Brig. Gen. Rudolf F. Peksens.

TRIBUTE TO N. ANTHONY CLOUDEN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. TOWNS. Mr. Speaker, I rise today to pay tribute to a man who has made a positive difference in his community, Mr. N. Anthony Clouden. Mr. Clouden is a graduate of Baruch College, with a bachelor's degree in business administration, and post-graduate in business and finance at New York University. In his professional life, Mr. Clouden is the president of the Golden Construction and Management Corp. He is also in the real estate business in Brooklyn. Mr. Clouden is the founder and chief executive officer of the Caribbean-American Media Council. The Council is a non-profit organization which promotes the cultural diversity of the Caribbean and African-American communities.

Over the years, Mr. Clouden has served his community of Crown Heights with distinction. Former Mayor David N. Dinkins appointed Mr. Clouden to serve on the Minority Advisory Council, dealing with issues concerning minority businesses.

Brooklyn Borough President Howard Golden appointed Anthony Clouden chairman and coordinator of the Kings County Democratic Committee Affirmative Action Program. He was also appointed Commissioner of the Board of Elections in Brooklyn.

Mr. Clouden works with members of the black, Jewish, Hispanic, and Asian-American community to help include them in the electoral process and to strengthen the relationship between the political leadership and the residents of these communities. Mr. Speaker, I urge all of my distinguished colleagues to recognize Mr. N. Anthony Clouden for his outstanding example of community service.

FAA EMPLOYEE OBJECTS TO GAY-PRIDE VOICE MAIL

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. DORNAN. Mr. Speaker, are we going to hell in a hand basket? Or is this just the pagan irreligious left pushing sodomy and the worship of Baal. Read this latest dispatch on the evil seeping through the Clinton appointments.

[From the Washington Times]

FAA EMPLOYEE OBJECTS TO GAY-PRIDE VOICE MAIL

(By Ruth Larson)

Anthony R. Vanchieri got a surprise when he checked his voice mail one morning in May—a message inviting him to "celebrate with us the diversity of the gay and lesbian community."

The operations researcher got another surprise when he complained to his superiors at the Federal Aviation Administration—his voice-mail system was deactivated.

The message—broadcast to all 4,100 voice-mail users at the Department of Transportation, the FAA's parent agency—announced a series of events to mark June as "Gay Pride Month." It was sponsored by the 150-member DOT chapter of Gay, Lesbian or Bisexual Employees (GLOBE).

"I was appalled," Mr. Vanchieri wrote in a computer message later that day to FAA Administrator David Hinson. "I am upset, I am angry, and I feel that I have been specifically identified for ridicule because of your VMX [voice mail] message."

Mr. Vanchieri is not alone in his frustrations. At least 36 DOT and FAA employees have reportedly complained about the "Gay Pride Month" messages.

In response to Mr. Vanchieri's complaint, the FAA's Office of Civil Rights said, "The Department of Transportation has officially recognized the organization [GLOBE]. . . . The FAA complies with this recognition of an employee association which contributes to employee welfare and morale, and assists in fostering a climate of diversity and inclusion."

The civil rights office suggested Mr. Vanchieri could fast-forward through such messages or delete them. It also said he could cancel his participation in the system-wide broadcasts by notifying the agency's telecommunications branch.

Mr. Vanchieri asked that he be taken off the list of subscribers who receive system-wide broadcasts on their voice mail. But instead, the FAA deleted him from the voice-mail system on June 14.

According to Mr. Vanchieri, FAA officials told him "VMX is government property, and anyone who doesn't like what they hear on the system doesn't deserve the privilege of using the VMX."

GLOBE Chairman Thomas A. Sachs said: "I'm sorry he was offended. Maybe he should have come to some of our events, so he could see who we are, and that he shouldn't have been offended. We just did what every other employee organization is doing." Other organizations, such as those for women, blacks or Hispanics, are allowed to broadcast similar announcements, he said.

He added: "I'm very sorry he lost his voice mail. I would not have gone that far—I would have sent him to sensitivity training."

Late yesterday, a DOT spokesman said Mr. Vanchieri's voice mail had been turned off by mistake and had just been restored. The agency only recently learned of the problem.

Rep Robert K. Dornan, California Republican, said: "This is just another sign that this administration is utterly corrupt—to promote bisexuality using government equipment. This will be brought before the full House."

In a letter to Rep. James L. Obserstar, Minnesota Democrat and chairman of the House Public Works and Transportation Committee's aviation subcommittee, Mr. Vanchieri said he had been warned that his FAA career could be ruined by going public with his complaint but he defended his decision to take the risk.

"I believe the DOT/FAA went too far and [voice mail] changed from an information tool to a tool of humiliation and intimidation." Mr. Vanchieri wrote.

Mr. Obsertar's office declined to comment on the matter.

"The people who were so upset are not bigots, or intolerant, or 'homophobes,'" Mr. Vanchieri wrote. "Rather they are honest, hard-working men and women appalled by the cavalier attitude shown by the DOT/FAA in cheerily inviting all to celebrate the homosexual lifestyle when the appropriateness of that lifestyle is, at this very moment, not yet decided in the public domain."

NATIONAL AQUACULTURE DEVELOPMENT AND PROMOTION ACT OF 1994 INTRODUCED

HON. BLANCHE M. LAMBERT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Ms. LAMBERT. Mr. Speaker, I rise today to introduce legislation which will promote a growing domestic industry and help to create jobs in rural America. My bill will assist one of the fastest growing segments of American agriculture—aquaculture farming.

As our country continues to play a leading role in the expanding global economy we must continue to first identify new markets and then secure an adequate market share for our commodities. This bill will help to accomplish both of those goals. Although this industry continues to grow in the United States we are far behind our global competitors—countries such as China, Japan, India, Norway, and Thailand all enjoy a larger percentage of the global market. Currently the United States imports approximately 60 percent of its fish and shellfish; a situation that results in an approximately $3.3 billion annual trade deficit in seafood products. Clearly there is room for improvement.

There can be no doubt that the United States has the technology and production capacity to make such improvements, all we need now is a national strategy implemented through the Department of Agriculture. Traditional production agriculture has enjoyed the support of the American people for decades and the results have been no less than staggering: Our country produces the most abundant, safest and least expensive food supply in the world, supplying food and fiber not only for our country but also for the rest of the world. All of this is accomplished in spite of the fact that agriculture-related programs account for less than 1 percent of the Federal budget and have sustained massive cuts over the past several years. Yet agriculture is the only sector of our economy that enjoys a trade surplus.

Mr. Speaker, over 30 States raise approximately two dozen species commercially. In my home State of Arkansas, aquaculture production, including catfish, baitfish and carp, has a total value of almost $100 million, with almost 50,000 acres in production.

This bill, although modest in scope and in cost, will provide the Secretary of Agriculture with a framework to pursue a national policy for private aquaculture. Specifically the bill will provide the Secretary of Agriculture, in consultation with the Secretaries of Interior and Commerce, with the authority to develop an aquaculture program for private aquaculture within 1 year of enactment. The bill also authorizes the Secretary to establish an educational program for high school and vocational education students in order to increase the understanding of basic aquaculture farming principles and methods. In addition the bill would make aquaculture farmers eligible for farm credit loans and provide disaster assistance to aquaculture farmers who suffer losses due to damaging weather or a related condition. I should note that this bill does not provide a subsidy program for aquaculture, but merely gives aquaculture farmers access to some of the non-subsidy programs that are available to traditional agriculture.

This bill is similar to legislation introduced in the Senate last year by Senator AKAKA of Hawaii and now enjoys the support of 31 cosponsors ranging from California to Maine. It is my hope that the House will move quickly to hold hearings on this bill and implement its provisions which will ultimately benefit rural America as well as the U.S. position in the global marketplace.

TRIBUTE TO DR. ROY W. STREETE

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. TOWNS. Mr. Speaker, I rise today to pay tribute to an outstanding and accomplished resident of New York, Dr. Roy W. Streete. Dr. Streete is currently practicing dentistry in the Bronx, New York. He is a cofounder and President of the Organization for International Development [OID]. The OID works to ameliorate health conditions of the needy and poverty stricken throughout the world. The organization consists of dedicated volunteers who frequently travel to Jamaica to provide health care and educational services to adults and children who would otherwise remain inaccessible.

Dr. Streete is the last of six sons born to the late Llewellyn and Lola Streete in the District of Donalva, Parish of Hanover, Jamaica, West Indies. He received his early education at the Mt. Hannah Primary School and the Ruseau High School. After migrating to the United States, Dr. Streete received a BA degree from Lehman College. He went on to receive a

DDS degree from Howard University, and an MPH in International Health from New York Medical College.

Dr. Streete is a great but modest person who embodies the philosophy that he is his "brother's keeper". His humanitarian efforts directed at helping the disadvantaged, have brought a higher level of health welfare for many people. The efforts of Dr. Streete and the OID reflect the admirable quality of unselfishness. I ask my colleagues to join me in honoring Dr. Roy Streete for his outstanding and worthwhile contribution.

CENTENNIAL ANNIVERSARY AND REUNION OF GLADSTONE AREA SCHOOLS

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. STUPAK. Mr. Speaker, I would like to bring to the attention of my colleagues an anniversary of great significance not only to the residents of my district, but to me as well: The centennial anniversary and reunion of the Gladstone area schools. I myself was a graduate of Gladstone High in 1970, and on this occasion of the 100th graduating class it seems most fitting to pay tribute to a community of students, educators, and residents who have always excelled in providing a quality education to the people of my district.

Gladstone being my alma mater, I feel strongly about the difficulties that often face rural education. With only 7,500 graduates since the first class of seniors received their diplomas in 1894, Gladstone has learned to hurdle the challenges that often face smaller schools. By keeping students motivated and enthusiastic about their studies, extra-curricular activities, and their community, Gladstone area schools have certainly more than compensated for any discrepancy that may exist between their program and that of a school with a larger student body. The Gladstone program is a testimony to the fact that the key ingredients for successful education are motivated teachers, interested students, and, above all, a committed community lending its support.

I offer my most sincere thanks to those who have made Gladstone area schools a success both during my high school career and in the times before and after. It is my hope that our community understands what a wonderful asset a quality school represents, and I wish the Gladstone "Braves" all the best in their next century.

TRIBUTE TO MS. MARIA DEL CARMEN REYES

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1994

Mr. TOWNS. Mr. Speaker, I would like to recognize the achievements of Ms. Maria del Carmen Reyes whose service to her community of North Brooklyn is invaluable. It is time that she, as one of the unsung heroes of the neighborhood, finally receive recognition.

She is currently a senior administrator of Woodhull Medical and Mental Health Center serving as director of community and public affairs for the past 5 years. In this position, she is the hospital spokesperson and liaison to area elected officials and community organizations. Her extensive community service background gives her keen insight into the needs of the North Brooklyn area.

She honed her administrative skills as the youngest program director of federally funded youth programs. She served 11 years in this capacity and was responsible for the management of over $5 million.

Ms. Reyes was born on October 11, 1955, and is a life-long resident of Williamsburg, Brooklyn. She is very proud of her Puerto Rican heritage and pursues interests in the study of natural medicine indigenous to the Caribbean and the maintenance of Puerto Rican oral tradition by the telling of folktales.

Highly involved in her community as a volunteer, Ms. Reyes has served for over 10 years on Community Board No. 1 in various positions, including chairperson of the Youth Services and Social Services Committee. Other community activities have included membership on the Borinquen Senior Citizens Advisory Board, the National Association of Latino Elected and Appointed Officials, the Woodhull Advisory Board, the Eastern District YMCA Board of Managers, and most recently as chairperson of the 11th Congressional District Commission on Hispanic Affairs.

I am proud to recognize the outstanding achievement, and the commitment shown by Ms. Maria del Carmen Reyes. I congratulate her for being a positive force in her community.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 30, 1994, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 1

10:00 a.m.

Finance

Business meeting, to continue markup of proposed legislation to provide national comprehensive health care.

SD-215

JULY 12

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of Defense.

SD-192

Environment and Public Works

To hold hearings on proposals to reform current policies on floodplain management and flood control.

SD-406

JULY 13

9:30 a.m.

Commerce, Science, and Transportation

Foreign Commerce and Tourism Subcommittee

To hold hearings to examine current tourism policy activities.

SR-253

JULY 14

9:30 a.m.

Energy and Natural Resources

To hold oversight hearings to examine the scientific and technological basis for radon policy.

SD-366

Rules and Administration

To hold oversight hearings on the operations of the Library of Congress.

SR-301

Indian Affairs

To hold hearings on proposed legislation relating to Native American cultural protection and free exercise of religion.

SD-G50

JULY 19

2:00 p.m.

Indian Affairs

To hold hearings on S. 2230, to revise the Indian Gaming Regulatory Act.

SD-G50

JULY 21

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on issues relating to international fisheries.

SR-253

JULY 25

2:00 p.m.

Indian Affairs

To resume hearings on S. 2230, to revise the Indian Gaming Regulatory Act.

SD-106

HOUSE OF REPRESENTATIVES—*Thursday, June 30, 1994*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we approach the celebration of the birth of our country, we are conscious, O God, of all the blessings that we have received. We are grateful for the resources of people and material gifts of spiritual values, and the contributions of so many traditions that have been woven into the fabric of our society. As we pray that we will be the people You would have us be, so may we, with integrity and honesty, look at our communities and do what we can to right the wrongs, to heal the divisions, to catch the vision of a united people, one in purpose and one in design, promoting justice, and mercy for every person. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from California [Mr. DREIER] come forward and lead the House in the Pledge of Allegiance.

Mr. DREIER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2155. An Act to authorize the appropriation of funds for the Federal share of the cost of the construction of a Forest Ecosystem Research Laboratory at Oregon State University in Corvallis, Oregon, and for other purposes.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JULY 13, 1994

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that business in order under the Calendar Wednesday rule be dispensed with on Wednesday, July 13, 1994.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

AUTHORIZING THE SPEAKER AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS NOTWITHSTANDING ADJOURNMENT

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Tuesday, July 12, 1994, the Speaker and the minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

UNIVERSAL HEALTH CARE FOR WORKING AMERICA

(Mr. FILNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FILNER. Mr. Speaker, I rise today to speak in support of health care reform.

As a member of the freshman class, I was sent to Congress by the residents of California's 50th Congressional District to make significant changes in the way this country is run.

One of my highest priorities is to deliver the changes that they want in the way health care is provided—or in many cases, not provided.

I represent what is sometimes called a working class district. As we all know, the burden of our current health care system is heaviest on working Americans. Eighty percent of those who currently have no health insurance are working Americans—citizens who get up each day and put in an honest day's work, but do not make enough to afford expensive health insurance and whose employers do not provide it.

This is no way to treat working Americans. Universal health care coverage must be the immediate goal. We must fight the special interests so that we can make the changes and accomplish the job we were sent here to do.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO HAVE UNTIL 5 P.M., JULY 8, 1994, TO FILE REPORT ON H.R. 4008, THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AUTHORIZATION ACT OF 1994

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may have until 5 p.m. on July 8, 1994, to file a report on the bill, H.R. 4008, the National Oceanic and Atmospheric Administration Authorization Act of 1994, as amended.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CLINTON ADMINISTRATION'S ATTITUDE TOWARD MILITARY

(Mr. BURTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, many Americans have been appalled at the Clinton administration's attitude toward the military. In recent weeks, they have seen a U.S. helicopter, a Marine helicopter, used to take White House staff at a cost of $14,000 to the taxpayers to go play golf.

The other night at the White House they had four officers that they made serve as waiters at a Democrat fundraiser at the White House. A two-star general at the White House was told by a top White House staffer that she did not talk to people in uniform.

Then during the Normandy trip, the White House staff stole 60 of these towels and about 30 of these robes away from the U.S.S. *George Washington*.

Mr. Speaker, a message needs to be sent to the White House, the President, his staff. There needs to be respect for the property of the taxpayers of this country and to the military. These people serve and defend us in time of war, and they need our utmost respect, not the contempt shown by the Clinton administration.

UNIVERSAL COVERAGE FUNDAMENTAL TO HEALTH CARE REFORM

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, I rise today to speak to my colleagues about

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the importance of insuring that universal coverage is the main tenet of whatever health care legislation is passed.

If we were to pass health care legislation without providing coverage to all Americans, we would be performing a great disservice to those currently uninsured, and insured, as well as to our country at large.

As long as some Americans remain uninsured, the entire country is at risk. Not insuring everyone passes on economic burdens to businesses and individuals who are insured. I believe it is in everyone's best interest that all people receive proper health care. We will have a healthier society, a healthier work force, and better communities.

In North Carolina alone, without universal coverage, 578,217 people will be denied health care and businesses that currently offer insurance will pay an estimated $387 million more in premium costs.

Providing universal coverage in any health care reform legislation is fundamental. Without universal coverage, any proposal bearing the name of health care reform is a sham.

DESIGNATION OF HON. STENY H. HOYER TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH JULY 12, 1994

The SPEAKER pro tempore (Mr. MONTGOMERY) laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 30, 1994.

I hereby designate the Honorable STENY H. HOYER to act as Speaker pro tempore to sign enrolled bills and joint resolutions through July 12, 1994.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the designation is agreed to.

There was no objection.

LEVEL OF ITS INCOMPETENCE

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, the Peter Principle states: "In a hierarchy, every employee tends to rise to his level of incompetence."

A congressional corollary would be: "In a democracy, after 40 years of one-party control, the legislative branch tends to rise to the level of its incompetence." We saw that level of incompetence earlier this week, when the chairman of the Energy and Commerce Committee gave up trying to find a commonsense, bipartisan resolution to health care reform.

Mr. DINGELL blamed Republicans for "actively opposing efforts to craft a bipartisan bill," despite the fact that Republicans have actively worked in a bipartisan fashion to get a bill together. The Rowland-Bilirakis bill is the only bipartisan solution out there, and it is supported by the Republican leadership.

Mr. Speaker, the Democrat leadership has become so partisan, after 40 years of one-party rule, it will not even recognize a bipartisan effort when it sees one. The Democrat leadership has finally reached its level of incompetence, and the health care debate is just one indication of that fact.

DOMESTIC VIOLENCE MUST NOT STAY BEHIND CLOSED DOORS

(Mr. BARRETT of Wisconsin asked and was given permission to address the House for 1 minute.)

Mr. BARRETT of Wisconsin. Mr. Speaker, I rise today to commemorate two women in my home city of Milwaukee who died at the hands of the person whom they should have been able to trust the most—their husbands.

First let me tell you about a young woman named Hoa, who escaped Cambodia and came to the United States in search of a better life. After years of abuse, Hoa sought protection at a shelter. She was working with the counselors to find safe, permanent housing when her husband found her, accused her of leaving their home to have an affair, and stabbed her to death.

Next, there is Denise, who was 21 when she obtained a restraining order against her husband; it did not work. Her husband broke into her home, shot and killed her. When the police found her body, she was clutching the restraining order in her hands.

These are only two of the many women who die at the hands of people they love or once loved. We must not forget that behind every statistic there is a human name and voice. They are our sisters, daughters, and mothers. We cannot shirk our responsibility as legislators. We must let the world know that we cannot and will not allow domestic violence to stay being closed doors.

□ 1010

A CRISIS OF ITS OWN MAKING

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, the administration is now in crisis mode to cope with the explosion of refugees from Haiti. It is hard to fathom that the people responsible for leading the free world might be so naive, but amazingly, administration officials are scratching their heads, or at least pretending to, about why their misery-producing embargo is causing more Haitians to leave Haiti. This result was totally predictable and was predicted by those who know Haiti. Haitians are suffering and dying and the only hope they see is to head for a better life in the United States, an option, incidentally, that is looking more and more possible now under the new Clinton policy of winking at the rules for political asylum. Now the administration scrambles to develop contingency plans for the refugees: Jamaica, Turks and Caicos, Guantanamo Bay. What is next? What then? All signs point toward military intervention and more violence and misery. The current problems are a crisis of this administration's own making. Those innocent Haitians who do not starve or die of disease from the embargo, we are now going to put them in a war zone?

Mr. Speaker, why am I hearing only silence from those liberals who call themselves human rights activists who support this Clinton fiasco?

INCONSISTENCY IN VOTING

(Mr. SKAGGS asked and was given permission to revise and extend his remarks.)

Mr. SKAGGS. Mr. Speaker, the work of any legislative body always involves compromise, and so absolutes like consistency, for instance, are always in short supply. Those backing the A to Z proposal have seemed especially resolute, however, in claiming the high ground on fiscal discipline, so Members can imagine the surprise and confusion late Tuesday night when 191 of our colleagues who had previously signed the discharge petition on A to Z then voted for the Baker amendment to the Labor-HHS appropriation bill.

That amendment added $1 million to appropriations for libraries, but made no offsetting cuts, even through this bill was already at the maximum allowed under the caps imposed on our subcommittee. Those voting for this cap-breaking amendment included even the gentleman from New Jersey [Mr. ANDREWS] and the gentleman from New Hampshire [Mr. ZELIFF], the authors of A to Z. I guess there is a subtlety to this that I am missing.

Anyway, I thought the RECORD ought to include a full accounting of Members who have signed the discharge petition and who backed Baker, to boot.

Mr. Speaker, I include a list of those Members for the RECORD at this point.

SIGNED A TO Z DISCHARGE, VOTED FOR BAKER AMENDMENT

Allard
Andrews (NJ)
Archer
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barrett
Bartlett
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Browder
Brown (OH)
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cantwell
Castle
Clinger
Coble
Collins (GA)
Combest
Condit

Cooper
Coppersmith
Cox
Crane
Crapo
Cunningham
DeFazio
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Ewing
Fawell
Fingerhut
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Herger
Hoekstra
Hoke
Holden
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson (GA)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Machtley
Manzullo
Margolies-Mezvinsky
McCandless
McCollum
McCrery
McCurdy
McHale
McHugh
McInnis
McKeon
McMillan
Meehan
Meyers
Mica
Miller (FL)
Minge
Molinari
Moorhead
Morella
Nussle
Oxley
Packard
Paxon
Peterson (MN)
Petri
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schenk
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Talent
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thurman
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

A SUCCESSFUL FIRST 6 MONTHS FOR THE NORTH AMERICAN FREE-TRADE AGREEMENT

(Mr. DREIER asked and was given permission to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, when we reconvene week after next, the debate will continue on about the General Agreement on Tariffs and Trade and most-favored-nation trading status for the People's Republic of China.

While I know many of our colleagues are at this moment charging off to their districts, I think it is very important to note that today, June 30, will complete the first 6 months of the North American Free-Trade Agreement. One thing is clear, the predictions of gloom and doom which we heard throughout that debate last year have in fact proved to be untrue.

As soon as we complete our 1-minutes and any other business that is proceeding here today, Mr. Speaker, I and my colleagues, the gentleman from Arizona [Mr. KOLBE], the gentlewoman from Colorado [Mrs. SCHROEDER], the gentleman from Arkansas [Mr. DICKEY], and others will be joining me in talking about the success of the first 6 months of the North American Free-Trade Agreement.

URGING MEMBERS TO SUPPORT THE LINE-ITEM VETO

(Mr. COOPER asked and was given permission to revise and extend his remarks.)

Mr. COOPER. Mr. Speaker, last year alone the Congress of the United States put almost $6 billion worth of pork barrel spending projects into its spending bills. We will never balance the Federal budget unless we get this rush to the Federal trough under control.

That is why we need to make a fundamental change in the way this House works and the way this Government works. That is why I have always supported the line-item veto.

With the stroke of a pen, the President could cut out each pork project that Congress puts into each bill. That is why I am joining my colleague, the gentleman from New York [Mr. SOLOMON], in introducing legislation to adopt the real line-item veto.

A vote on the Solomon proposal was supposed to take place today. Like many of my colleagues, I was very disappointed to hear that it would be delayed for 2 weeks, until the week of July 11.

I also view this as an opportunity to go back to our districts and to our States and listen to the people. I think we will find that the American people strongly support the real line-item veto, so we can get our Federal spending under control.

Mr. Speaker, this may be our best chance to adopt the line-item veto and to get our economic House in order. I urge my colleagues to support the line-item veto.

URGING MEMBERS TO SIGN THE DISCHARGE PETITION ON THE PRIVATE PROPERTY OWNERS' BILL OF RIGHTS

(Mr. DICKEY asked and was given permission to revise and extend his remarks.)

Mr. DICKEY. Mr. Speaker, the private property owner's bill of rights has been presented to this body, and I want to stand firmly behind it.

For 203 years we have seen the rights of private property owners in America being eroded, taken away, restricted, and frustrated. We have now a movement afoot to make sure that when the Government comes and takes property, that it must pay for it or it should leave the private property owners alone.

We have a discharge petition in this body, and I urge the Members of this body to sign the discharge petition so we can get the private property owners' bill of rights on this floor and before this body and pass it, so we can protect the individual property rights of the people of the United States.

URGING CRIME BILL CONFEREES TO INCLUDE THE STRONGEST VERSION OF THE VIOLENCE AGAINST WOMEN ACT

(Mr. OLVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OLVER. Mr. Speaker, domestic violence is among the most insidious of crimes. It is committed in the privacy of one's own home, behind drawn curtains and closed doors. The victims do not suffer on our streets or in our public parks but in their kitchens, their living rooms, and bedrooms all across America.

These are private crimes, but violent crimes nonetheless. And victims of domestic violence cross all age and economic boundaries. Mr. Speaker, here are two cases from my own district.

On March 22, 1993, Tara, age 22, a senior at the University of Massachusetts, was stabbed repeatedly by her former boyfriend, who was the father of her 11-month-old daughter. He then set her house on fire, and Tara died of smoke inhalation.

On August 14, Kelly, age 27, of West Springfield, was murdered by her boyfriend. Kelly, who was pregnant, was shot in the head twice.

The crime bill now in conference includes a provision I added to create advocates within the judicial system for victims of domestic violence. These advocates will ensure that domestic violence victims receive the full range of needed protection and support they are entitled to under the law.

Mr. Speaker, I urge the crime bill conferees to include the strongest form of the Violence Against Women Act in their report along with full and necessary funding. Then we can go home to our districts knowing we have taken an important step toward ending the epidemic of domestic violence sweeping our country.

TAXPAYERS' FRIENDS CONSISTENTLY VOTE TO CUT SPENDING

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, there is an organization called the National Taxpayers Union that rates the Congress as to whether or not they are taxpayers' friends or big spenders. They take a look at each Member's voting record and decide whether or not that Member has done what he could to try to save the taxpayer money.

I was reminded of that particular chart a few moments ago when the gentleman from Colorado [Mr. SKAGGS] was talking to us about a vote that occurred on the floor the other evening, and I thought we ought to analyze the people who he talked about in terms of that record.

He mentioned the gentleman from New Hampshire [Mr. ZELIFF]. When I look at the National Taxpayers rating, Mr. ZELIFF gets an A from the National Taxpayers Union. He is a taxpayers' friend.

On the other hand, the gentleman from Colorado [Mr. SKAGGS], who accused some Members of hypocrisy in his remarks, I look at the record and I find that the record of the gentleman from Colorado [Mr. SKAGGS] with the National Taxpayers Union in the first session of this Congress was indeed, what, an F. He rates as a big spender.

It seems to me we ought to have some element of fairness when people come to the floor and suggest hypocrisy on the part of others. Hypocrisy starts not in one vote. Hypocrisy is a question of all of the votes we cast, and whether or not we add up to being a taxpayers' friend or a big spender.

URGING BIPARTISAN SUPPORT FOR UNIVERSAL COVERAGE IN HEALTH CARE

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, we are hearing a lot of talk now about could we please have a bipartisan health care bill. I really do think we need a bipartisan health care bill, but the No. 1 thing that seems to be holding us up is whether or not we have universal coverage. I must ask, why pass a health care bill if we do not have universal coverage?

We have all sorts of examples just in the last year of things showing that if we make it accessible to people, unfortunately, there are a lot of people who would rather go spend that monthly premium for something else, run the risk, and then if they get sick, they are in the emergency ward and all the rest of us pay the bill.

Mr. Speaker, what are those examples? Let us look at the people who did not have flood insurance who lived in a flood zone. They could buy flood insurance. They knew they were in a flood zone. They did not. They asked the taxpayer to bail them out.

□ 1020

Look at people who did not have earthquake insurance, even though that they were in an area that had earthquakes, but they figured that the Federal Government would come bail them out.

Mr. Speaker, I think unless we find a way to have everybody covered in the health care plan, unfortunately we will still find a lot of people who will not pay, but since no one knows if they are going to get sick or be injured or not, they will be in there and we will pay.

I think universality is very important and we can have bipartisanship if we can get over that hurdle.

ADMINISTRATION'S HAITIAN POLICY

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTCHINSON. Mr. Speaker, yesterday the administration argued two preposterous propositions regarding the misguided and wrongheaded Haitian policy.

It insisted, No. 1, that the sanctions are not exacerbating the malnutrition and starvation of thousands of Haitian children and that the sanctions are only hurting the wealthy.

Second, they insisted that the recent wave of refugees are the result of political oppression, not economic and nutritional deprivation.

In fact, according to a Harvard University study issued prior to the recent round of even tougher sanctions, it said that 1,000 children a month are dying because of the sanctions. Last week the U.S. Agency for International Development issued a factsheet that said that the embargo has a direct impact on the social and economic conditions of vulnerable Haitians whose numbers are steadily increasing.

Mr. Gray was wrong. The administration is wrong. The sanctions should be lifted and a bipartisan panel should be appointed by the President to recommend a new Haitian policy.

TV NATION DAY

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. Mr. Speaker, I rise today in support of the resolution to designate July 1, 1994, as "TV Nation Day."

"TV Nation" is a positive, upbeat news magazine show that focuses on what is right with America. It is a civics lesson presented in an exciting style, a program that shows how our Government works. And although "TV Nation" has no sex or violence, and does not invade the personal privacy of people, it is still entertaining and informative.

But "TV Nation" is important for other reasons. As the first joint venture between American and European television, "TV Nation" is bringing foreign money into the United States to create jobs. This arrangement not only fosters good will among nations, it also helps our economy. Moreover, because "TV Nation" is produced in New York City, the show will help boost the city's economy, providing many new employment opportunities. Unfortunately, the film and television industry has been leaving New York in recent years. It is our hope that TV Nation's decision to stay in New York will help reverse this trend, and bring the entertainment industry back to New York where it began.

TV Nation Day is clearly something we should celebrate.

Mr. Speaker, we should be proud that at last someone is doing something positive that does not focus on the worst elements of society.

VIOLENCE AGAINST WOMEN

(Ms. HARMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HARMAN. Mr. Speaker, the tragic murder of Nicole Simpson has raised our consciousness about domestic violence. If a man beats a woman in the middle of the street, no ones debates whether it is a crime. But when an assault is committed against a woman by her husband in her own home, behind closed doors, some view the facts differently. Even the victims in many cases—including Nicole Simpson—choose not to report acts of violence or not to press charges.

We must raise awareness that domestic violence is indeed a horrible crime; unreported domestic violence is a crime unpunished. And we must help the women who cry out for help.

In the last 2 weeks since the Simpson murder, calls to shelters in my district from battered women have increased dramatically. The day after the murder, Rainbow Services Ltd., a shelter for battered women in San Pedro, received over three times the normal number of requests from battered women for restraining orders against their husbands. The 1736 Family Crisis Center hotline in Redondo Beach has received 25 percent more calls. This month alone, they received around 350 calls from women needing immediate shelter—they have only 33 beds. For the last 3 weeks, the Los Angeles Commission on Assaults Against Women hotline has received three times its normal number of calls on domestic violence. Domestic violence calls to the Community Helpline of the South Bay have increased 30 percent in the last 2 weeks.

In the last 5 years, domestic violence calls in L.A. County have increased by 36.9 percent. In 1993 alone, 67 women were murdered by their spouse, live-in, ex-spouse, or boyfriend. Spurred to action by the Simpson murder, The city of Los Angeles is responding to the increasing number of domestic violence calls to police agencies and hotlines with the creation of the Domestic Violence Task Force and increased funding. The city council has just agreed to spend $5 million a year to develop more shelters, and the county board of supervisors approved spending $1.1 million on the 18 shelters that already exist. I applaud these efforts, but we must do even more.

I recently visited the Hexagon House and Madison Emergency Shelter in Washington, DC, with several other

Members and Health and Human Services Secretary Donna Shalala. There we saw some happy outcomes: women and children who had sought refuge from violent partners or fathers, and who received shelter, counseling, and transition assistance. Many battered and abused women aren't so lucky.

The Congress has an important opportunity to help save the lives of women and children suffering from domestic violence, and to help support shelters that provide refuge and help for many battered women. As the crime bill conferees reconcile the House and Senate versions, I urge them to include the provisions of the Violence Against Women Act, and to provide the full $1.8 billion funding. Inclusion of the Violence Against Women provisions in the crime bill will help women across the United States—women who cannot wait any longer.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. KANJORSKI). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

FAIRNESS FOR FILIPINO WORLD WAR II VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. FILNER] is recognized for 5 minutes.

Mr. FILNER. Mr. Speaker, today, Congressman LANE EVANS and I are introducing a bill to restore fairness to the Filipino War veterans who served in World War II.

Early this month, we commemorated the bravery of our fighting men in Europe on the 50th anniversary of the D-day invasion. At this juncture, it seems equally fitting to recall the contributions of the thousands of Filipino veterans who fought side-by-side with forces from the United States mainland against a common enemy.

It is hard to believe that soon after the war ended—the war in which Filipino soldiers served and died defending the American flag in the epic battles of Bataan and Corregidor and through 4 years of enemy occupation—the 79th Congress in 1946 voted in a way that can only be considered to be a blatant discrimination against the Filipino veterans.

In the words of the Washington Post of June 17, 1947:

> While the Philippine Islands were still under United States sovereignty, the President issued an order making the Filipino Army a part of the American Army. This made the Filipino soldiers who constituted that army a part of our fighting forces as much as were soldiers drafted from the states, and they remained in this status until the eve of the Philippine independence. Last year, however, Congress passed the First Rescission Act denying to Filipino Veterans most of the benefits that go automatically to other veterans who were exposed to similar risks and hardships. We cannot help thinking that if Congress reviews the situation, with full realization that these men were members of our own army and subject to its orders, it will see that a grave injustice has been done.

This review is long overdue.

My bill, the Filipino Veteran Equity Act of 1994, would credit service in the organized military forces of the Government of the Philippines and the Philippine Scouts to have been active service for purposes of benefits under programs administered by the Secretary of Veterans Affairs.

President Harry S. Truman, who signed the Rescission Act, criticized it in the following words:

> The passage and approval of this legislation does not release the United States from its moral obligation to provide for the heroic Filipino Veterans who have sacrificed so much for the common cause during the war. The Philippine Army veterans * * * fought under the American flag and under the direction of our military leaders. I consider it a moral obligation of the United States to look after the welfare of the Filipino Veterans.

In 15 years, none of these veterans will be left alive. Many, until their dying day, were kept wondering and asking, "Do we deserve the 1946 Rescission Act? Haven't we suffered the same suffering as the American soldier fighting the same war? Do bullets and mortar shells ask if their target is an American or Filipino soldier?"

I urge my colleagues to join with me in correcting this injustice. We must recognize the contribution of the World War II Filipino veterans.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. FILNER. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I really want to congratulate the gentleman from California for bringing this forward. It has always struck me that all of our veterans fought for the same flag and as a Nation who has stood for diversity and stood for inclusiveness and all of that, I have just been amazed and horrified that so many are forgotten.

□ 1030

And I really thank you for bringing that to all of our attention. We all wish you well and hope we can correct that injustice. And as we go into the Fourth of July break, it is a good thing to remind people of.

Mr. FILNER. I thank the gentlewoman. The gentlewoman helps fight injustice in all sectors of society, and I thank you for joining me in this.

GAFFNEY BEARING PLANT AWARDED SHINGO PRIZE FOR EXCELLENCE IN MANUFACTURING

The SPEAKER pro tempore (Mr. KANJORSKI). Under a previous order of the House, the gentleman from South Caroline [Mr. SPRATT] is recognized for 5 minutes.

Mr. SPRATT. Mr. Speaker, the Shingo Prize for Excellence in Manufacturing was established in 1988 and named to honor Shigeo Shingo. Dr. Shingo distinguished himself in Japan and the world as cocreator of the Toyota production system and an expert on manufacturing processes. The Shingo Prize is awarded annually to a few select firms that have made truly outstanding achievements in manufacturing—in quality, in productivity, and in plain, old-fashioned customer satisfaction.

When this award was first established, I am sure its sponsors expected to bestow it upon high-technology firms in places like California's Silicon Valley and North Carolina's Research Triangle. Well, Mr. Speaker, on Monday, June 27, I was in Gaffney, SC, in my district, to take part in a ceremony awarding the coveted Shingo Prize to the Gaffney Bearing Plant of the Timken Co. This plant was one of only seven nationwide to receive the Shingo Award this year.

I had visited this plant, where Timken's tapered roller bearings are made, as recently as last summer, and had seen the improvements made throughout the plant, literally on every production line. In each area of the plant a large chart was posted to show what had been changed and what had been achieved. The statistics over 3 years are striking. Gaffney Bearing Plant has achieved: 28 percent increase in labor productivity; 22 percent improvement in schedule accomplishment; 46 percent reduction in inventory days; 56 percent reduction in customer concerns; 24 percent reduction in the cost of nonconformance; 27 percent reduction in average setup time; 41 percent reduction in BTU's consumed per component; and 47 percent reduction in defects per million pieces.

When I left the Gaffney Bearing Plant last summer, I thought to myself, "If only plants like this could be cloned and held out to the rest of our economy." In a way, the Shingo Prize does that; it spotlights this outstanding plant as a model, a shining example of how excellence can be attained by focusing on core manufacturing processes, by removing waste and reducing defects, and by striving constantly for a better product at a lower cost.

In the late 1980's, as competition in bearings became more and more global and more intense, the Timken Co. initiated what it called the Vision 2000 program. The goal was nothing less than to become the best-performing manufacturing company in the world. At the time, many may have considered that goal rhetorical, a bit ambitious, especially for a plant in Gaffney, SC. On Monday, the Gaffney Bearing Plant showed anyone who was skeptical just what American workers can do when they are encouraged and empowered. Timken has removed two layers of management, decentralized key functions, used coaching methods in supervision, and focused its associates' time for 3- to 5-day periods on improving specific processes. The results are impressive, and they are still being racked up. Even as the Shingo Prize was being presented, Gaffney Bearing Plant was moving ahead with the next phase, with its signals set on new quality and efficiency goals.

When I spoke to Timken workers at the ceremony on the plant floor, I noted that although our economy was strong, the dollar was still being pounded in world currency markets. Fundamentally, I said, the dollar is falling against the yen and the mark because for too many years, we have imported more than we have exported. There are short-term solutions to the trade deficit; but in long term, I said, the real solution lay in their hands.

What is heartening, and my reason for making this statement, is that companies like Timken are rising to the challenge; plants in places like Gaffney are pointing the way, proving to the world that in the United States, we can still manufacture goods of world-class quality and be efficient and competitive.

Gaffney Bearing Plant deserves the Shingo Prize, and the Shingo Prize Council should be commended for selecting it. The Gaffney Plant also deserves our admiration for showing that American manufacturers can still be among the best performing companies in the world.

THE TRADEGY IN HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, no one can ignore the front-page pictures, the photographs, in the Washington Post this morning. They are pictures here under the headline "Haiti's Tiny Victims."

It talks about youngsters, malnourished or starving, and dying in Haiti. This is one of those pictures you just cannot close your eyes and make it go away. The scene comes back, and actually the scene in reality down there from firsthand observers is even worse than these pictures depict.

I know that there is a Harvard report that came out a few months ago from the Harvard International School of Public Health noting that 1,000 Haitian children a month, 1,000 children a month are dying as a direct result of the United States embargo on Haiti. How many do you suppose are dying today now that we have intensified this embargo and made it even more stringent?

We cannot disavow the responsibility for these innocent victims.

I heard Bill Gray, the President's special assistant on Haiti, last night on CNN after we got home saying, "We aren't really causing any harm. Haiti is a poor country. Gee, they are having trouble there. This isn't our fault." Well, baloney. That is not true. We are causing this, and we have got to recognize that fact and accept the responsibility.

The facts are the relief flights are not getting in. The administration is holding them back, and the reason they are is because the military is getting ahold of the materials that are coming in, the medicine and the food, and selling them on the black market, and profiting and making themselves even more comfortable. Those relief flights are not going. They are not getting through because of the embargo.

We were feeding a million people in Haiti, 1 million people were counting on us for food and medicine. Those flights are not going through.

What are those folks doing? I will tell you what they are doing, they are starving and dying from disease. We are causing an economic catastrophe that is literally driving people into the sea. I read from the Washington Post yesterday, " 'There is nothing for us in Haiti,' say the Haitians. 'The embargo is killing us one by one. So whatever it takes I am going, going into the sea.' "

Despite Mr. Gray saying, "No, no nothing we are doing here is causing a problem for these people," baloney, he is wrong, and it is painful and it is deadly. I am very deeply troubled. I am very deeply troubled, as you can tell, by the Clinton foreign policy. Driving innocent victims into the sea is not what America is about, and it is not what democracy is about.

This Congress is complicit. We cannot escape our own accountability here. We are allowing it to happen. We endorse, by a very thin majority, a policy that is driving people into the sea, and it is wrong, and we all know it.

The sanctions have destroyed a very weak economy that was there, and the military junta is still profiting. How long is this going to go on? How long are we going to cancel the relief flights? What are we doing, creating a pretext for invasion? Is that what this is about?

Well, we have got another problem here. It is called the credibility at the White House. Bill Gray lost it with me on C-SPAN last night when I heard him say we are not causing a problem there, but there is more.

Aristide calls Haiti a house afire. We, of course, have helped set the house afire by helping torch it with our economic sanctions, but more than that, then we have gone ahead and we have said to the Haitians, "Look, come on out. There is a better life in America." We have created a magnet.

We have now got a scene where people are literally floating out of Haiti on just about anything that will float. Our helicopters from the Coast Guard cutters are spotting them, sending the cutters to rescue them, and we have a tremendous number of refugees, because we have created an incentive for them to leave and an incentive for them to come. This is unbelievable. We have created this scene.

Now, the problem is this, two out of three of those Haitians are going to be returned to Haiti. So they are not going to believe that we are real people, because we are telling them there is a better life, and we are sending them back to starvation.

The real problem is another part of the magnet we have caused is we have changed the standards, despite Bill Gray's personal assurances to me and other Members of Congress, that we would maintain the standards for political asylumship, we now have a situation where 30 percent of those applying for asylum are being given asylum, and under the rules, traditionally that has been a 5-percent approval rate.

☐ 1040

So we have not only deceived the Haitians, we are now in a position where we deceived Members of Congress because the rules have been changed even though we received assurances that they would not be.

Who can you believe in the Clinton administration? They are now feigning surprise by all this number of refugees. Is it a wave or is it a surge? Well, it is neither. It is a costly mess, costly in terms of dollars for taxpayers and lives of Haitians.

I do not know whether we are doing this as a pretext for an invasion or not. I do not know whether we are doing it because the President needs votes for his domestic agenda. I have no idea why we are doing this stupidity. There is no threat to our national security to justify an invasion, and there are better solutions out there. The White House knows it, and I wish they would attend to those solutions and stop the starvation and killing that is going on in Haiti.

PERMISSION FOR MEMBERS TO SUBMIT MATERIAL FOR EXTENSION OF REMARKS ON JUNE 30, 1994

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent that for today, Thursday, June 30, 1994, all Members be permitted to extend their remarks and to include extraneous material in that section of the RECORD entitled "Extension of Remarks."

The SPEAKER pro tempore (Mr. KANJORSKI). Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

CALLING FOR EXPANDED CONGRESSIONAL HEARINGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, there has been a tentative agreement forced upon the Republican Party in this Congress on the Whitewater investigations. What has happened is the Democrat majority has said the only way we are going to have hearings in either the House or the Senate is if it is very structured and very limited. They want to limit it to three things: The death of Vincent Foster; the removal by the White House personnel immediately after his death of files from his office; and White House attempts to influence the Resolution Trust Corporation investigation of Mr. and Mrs. Clinton's role in the Arkansas S&L.

But the investigation by the House and the Senate should be much, much broader. I want to tell my colleagues why.

First of all, there are questions about Mr. Fiske, the special prosecutor's objectivity. Mr. Fiske was a very close associate at various times when they were both in New York practicing law with Bernie Nussbaum, one of the chief advisers to President Clinton. As a matter of fact, Mr. Fiske, the special prosecutor, special investigator in this case, tried to get Mr. Nussbaum appointed assistant counsel during the Iran-Contra investigation. Mr. Fiske's law firm represented the International Paper Co., which got a $10 million loan from the Arkansas Development Finance Authority in Arkansas. His firm also represented the International Paper Co. during the time when they sold hundreds of acres to the Whitewater Development Corp.

Mr. Fiske recommended Louis Freeh, now head of the FBI, to be the head of the FBI to Mr. Nussbaum at the White House. So there is some question about whether there will be complete thoroughness on the part of Mr. Fiske and his staff in investigating the White House allegations.

But beyond that there is a lot of other things that need to be investigated because more and more is coming out daily.

First of all, why did then-Governor Bill Clinton pardon a convicted cocaine dealer, Dan Lasater, in 1990? Dan Lasater pleaded guilty to Federal drug charges in December 1986. But he served only 6 months of a 2½-year sentence. While he was reportedly under investigation by the Arkansas State Police for drug dealing, President Clinton and the Government of Arkansas gave him $664 million in bonds to sell for the State, which garnered him $1.6 million in commissions.

Why did then-Governor Bill Clinton pardon convicted cocaine dealer Dan Lasater in 1990? After all this involvement with him and they gave big contributions to Clinton's campaign, he is then pardoned for cocaine trafficking. Was it because Dan Lasater was a large contributor, was it because Dan Lasater had flown the Governor around Arkansas and the country in his private jet? Was it because Dan Lasater gave Roger Clinton, President Clinton's brother, a job at his Florida horse stables and loaned him $8,000 to pay back a drug debt? Did Bill Clinton know about the Lasater investigation and Lasater's drug use at the time he gave him $664 million in State bonds to sell?

According to published accounts and Mr. Dennis Patrick, between $60 million and $107 million was traded in an account in his name at Lasater & Co. without his knowledge. That may have involved laundering of drug money. One day $23 million was traded in his account. Patsy Thomasson, the chief personnel officer at the White House, was running Lasater & Co. She was chief financial officer at the time. Now she is special assistant to the President of the United States. Where did this money come from? Where did it go? Did Ms. Thomasson know about these transactions? I do not know how she could not have.

There are, of course, other things that need to be explained.

In 1985 the Arkansas Development Finance Authority was created by Bill Clinton to provide economic development loans to small businesses in Arkansas. A number of serious questions have been raised about ADFA which need to be investigated.

Listen to this: On December 29, 1988, ADFA deposited $50 million in a bank in the Cayman Islands. Why are you taking money out of the State of Arkansas and putting it in the Cayman Islands? This money was transferred through Simmons First National Bank of Pine Bluff, AR. Why did ADFA deposit $50 million in an offshore bank instead of a bank in some other part of the country or in Arkansas? The interest rates were approximately the same.

The State Department's international narcotics control report described the Cayman Islands as a haven for the laundering of drug money. And here is the Arkansas Development Finance Authority sending $50 million down there. Was the $50 million plus interest repaid to ADFA? Right now we do not have any documentation as to whether it was ever repaid, we do not know what happened to it. Did the Arkansas Development Finance Authority make any other offshore deposits, and for what reasons?

Public documents show that ADFA was steering millions of dollars in bond underwriting business to Lasater and his company, who I said before was convicted for drug dealing.

Why would ADFA give all of this business to Lasater & Co. while Dan Lasater, the company's president, was under Federal investigation for narcotics trafficking?

The American people need to know the answers to these questions, and we are very, very concerned that Mr. Fiske may limit the investigation so that we never get the answers.

If somebody at the White House was involved in the laundering of drug money, then we should have a full accounting, it should be explained to this body and to the American people. And if there is no reason to believe that, then why does not the White House, Patsy Thomasson and everybody else come forward, Mr. Fiske, and give us the ability to investigate it so we can clear up this whole matter? If there is nothing to hide, they should not be concerned.

LET'S EXPAND FEDERAL HEALTH CARE TO INCLUDE ALL AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. STEARNS] is recognized for 5 minutes.

Mr. STEARNS. Mr. Speaker, we have been hearing a lot of talk about giving the American people the same type of health care that we here in Congress have available to us.

It seems that everybody is jumping on this band wagon. In fact, First Lady Hillary Clinton recently said:

> Members of Congress are a lot of smart people, I have a great deal of respect for them in both parties. If they really believe that every American ought to have what they have, which is guaranteed health insurance, they can figure out how we can do it and afford to do it and delivery quality health care.

NBC's Brokaw:

> So what you're doing, is charging Congress to deliver to the country what it has for itself.

Hillary:

> That's right, I think that's only fair." [To Your Health, June 21].

Well, I can't say that I disagree with this concept because you see, Mr. Speaker, the Consumer Choice Health Security Act, the plan which I originally introduced last fall, does just that.

Our plan provides universal coverage. No new taxes and budget neutral. We are happy to see that the President and his wife have come around to our way of thinking.

I say this because the adminstration's plan, as introduced, would require all Americans to enroll in the Clinton plan's regional alliances, the large mandatory Government-sponsored health care purchasing cooperatives, Federal workers and Members of Congress would be able to keep their health benefits plans until at least January 1998. It is noteworthy that the health care reform that is good enough for all other Americans is not good enough for Federal workers, including Members of Congress, until it has been tested on the rest of America first.

It is most unfortunate that I, along with my colleagues on the Energy and Commerce Committee, will not have an opportunity to present our ideas and debate this issue fully in the committee.

The chairman has discharged the committee from fulfilling its obligation of formulating health care reform. Thus, members of the committee, which traditionally has been charged with this responsibility, will be shut out of the process. Not only has the legislation bypassed the subcommittee, which is the normal procedure, it will also bypass full committee.

This doesn't say much for working together in a bipartisan manner. Mr. Speaker, the bottom line is that Republicans have tried to work together and come up with a plan which we can all agree upon. The Rowland-Bilirakis bill is just one such example. I also believe our colleagues in the other body are also striving to make sure we end up with something upon which we can all agree.

I would have liked to have had the opportunity to present my bill, the Consumer Choice Health Security Act, in committee. My bill would provide health care by expanding the current Federal health program which would ensure that all Americans will have the same choice of plans available to them that we here in Congress currently enjoy.

It would provide the American people with a whole host of plans from which to choose. The key here is, or course, that we allow the consumer to make these choices for themselves, and not have the Federal Government take over this role.

The majority of the American people have indicated that they want to make their own choices about health care, especially the right to choose their own doctor.

Under this plan the consumer, not the employer, would own the plan and choose the benefits.

We have structured this legislation to provide health insurance coverage for all Americans in a revolutionary manner, through tax credits and medical savings accounts.

A major feature of the bill is that a refundable tax credit would replace the current exclusion available to households for company-sponsored health insurance. Employers would still be responsible for making payroll deductions equal to the premiums for the plan chosen by the employee and for sending that money to the plan. The employer would also have to adjust the employee's tax withholdings to reflect the estimated credit available to an employee.

I would like to emphasize that the consumer choice bill has no mandates on employers to provide health insurance. Employers must only give their employees the option of retaining their current benefits or cashing out their benefits and choosing another plan of their choice.

A 25-percent tax credit would also apply to medical-savings accounts. These medical-savings accounts, which can accrue interest tax free, could be used to pay for medical expenses not covered by health insurance.

I believe that by combining these innovative approaches Americans will be empowered to make their own choices about health care.

THERE ARE TWO SIDES TO THE STORY IN HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, I want to make just a few comments because I know how deeply the gentleman cares about Haiti and that tragedy, and I feel also very deeply about Haiti and the tragedy.

But I think part of the problem is no one is quite sure what to do. It is easy to throw rocks and it is easy to scream at the administration, but I have not seen anybody here put a proposal on the table. I kind of think, before we attack, we should have some proposals to propose.

The gentleman was saying how terrible it was that we had stopped the relief flights going into Haiti because many were now starving. Well, I certainly am not for people starving anywhere. I agree with that.

But on the other hand, the gentleman also conceded that one of the reasons we stopped the relief flights was that the military was taking all the food and selling it on the black market.

Now, I think had we not stopped the relief flights, then people would have been attacking us because we were sending food into the military to sustain itself and the people who were starving would still be starving. Whether we sent in the relief food or not, the relief would have really been for the people in power more than for the people that we are really concerned about.

□ 1050

There has been great criticism about the number of Haitians getting on boats and coming here, and the great tragedy of that Nation is there has been a lot of people coming here for a very long time because it has not been able to build a viable economy, and part of it has been because it has had such miserable leadership at home, and many people felt they took power to line their own pockets rather than to help people. All of that we understand, and they are trying very hard to process the ones who are truly, truly political refugees suffering all sorts of torment and discrimination at home because of their politics and those who were just coming as economic refugees, and, as my colleagues know, they can condemn the United States for enforcing that law, but, if we just said every economic refugee in the world can come in here, I am not sure when we run out of space.

So, again they have tried to put a humanitarian policy in to prevent those who are being beaten, and battered, and tormented to come in, but those who were just coming because life would be better, we would like to do that, we would like to do that for everybody, but we cannot do that because at some point we run out of room, and we have got to worry about lives of Americans who are here.

So, Mr. Speaker, we hear all of these tough choices, and it is so very easy to criticize, and it is so very painful to look at the pictures. But then my question is:

What do people want us to do? Is it the policy of the gentleman who was here to invade Haiti?

I do not think Americans are prepared to do that. We tried that once, too, in this century, and, before we quickly sign up for that program, I think we better look at the results of the other time we tried it, and the results were not very positive, to be perfectly honest. We were there quite some time, it cost a lot of money, and really nothing got better in Haiti.

So, again all I want to say is I would like to see a bipartisan solution to this. I would like to see an American solution to this. I would like to see something we can all be proud of, or we never saw suffering children, or we never saw people trying to flee again, and we knew everything was solved in Haiti in a painless, bloodless way. I just do not know what that is, and I hope, if there is anyone in America who has an idea of what that is, they would come forward, because I think every American would like to see the same thing, but I do not think we get anywhere by attacking the administration, or attacking William Gray, who is the man trying to make some sense out of all of this, or saying that some people just do not care about the starvation. I think all of us care, and we care very deeply about the starvation and torment people are in. We just feel a little bankrupt in trying to figure out what to do.

We ran in to Somalia feeling very badly about all of that, and we found that it was a lot more complex than we thought, and we had gone into Haiti before, and we found that was more complex than we thought. So, let us try to come together and reason together to find a way rather than shout at each other, and I think we will get a lot further.

NAFTA—THE FIRST 6 MONTHS

The SPEAKER pro tempore (Mr. KANJORSKI). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from California [Mr. DREIER] is recognized for 60 minutes as the designee of the minority leader.

Mr. DREIER. Mr. Speaker, I and several of our colleagues have taken time out because today is a very important point for us. We mark today the first 6 months of implementation of the North American Free-Trade Agreement.

Now there a year ago right now was a great deal of discussion here in the House and in the other body, and frankly there was a great deal of debate going on in this country over whether or not we should implement the North American Free-Trade Agreement, and many of our colleagues on both sides of the aisle regularly, and especially as members of the staff know here, stayed late at night to discuss whether or not we should implement the North American Free-Trade Agreement, and we all know that last fall, just before Congress adjourned on November 17, we had a very crucial vote here in the House, and by a very strong margin, Mr. Speaker, we passed the North American Free-Trade Agreement, something that had been envisioned since 1979 when Ronald Reagan first talked about it. It was an agreement that had been negotiated by President George Bush and was strongly supported by President Bill Clinton, demonstrating that we can, in a bipartisan way, work to create opportunities for U.S. export growth, and we can work together to bring down the barriers that tariffs pose for the free flow of goods and services.

Well, Mr. Speaker, quite frankly there were many people during that debate last year who predicted gloom and doom. They predicted the demise of the free world as we know it. They predicted that the U.S. economy would fail dramatically, and, in fact, we found the opposite to be the case. There are many people who are pointing to the fact that over the past 6 months we have enjoyed economic growth. Many like to argue that it is due to the policies that President Clinton has passed as it relates to domestic economic items here. Quite frankly, if my colleagues look at the economic growth which the United States economy has enjoyed, it is in large part due to exports and, of course, the increase in exports which we have seen to Mexico.

Now, Mr. Speaker, based on most analyses provided and the tragedies that we have witnessed in Mexico over the past 6 months, it would stand to reason that we would not have an increase in the flow of exports to Mexico, that in fact, even with the Chiapas rebellion, even with the very tragic assassination of Luis Donaldo Colosio, the presidential candidate of the Institutional Revolutionary Party, even with the economic turmoil which has existed in Mexico, we have seen, based on the data which we have received for the first 3 months of the year, exports to Mexico increased to a level of $11.8 billion from January 1 through March of this year, and it seems to me that we need to realize that there has been what we described often during the debate a win-win situation.

No one has worked harder on the issue of the North American Free-Trade Agreement than the gentleman from Tucson, AZ [Mr. KOLBE], my colleague. I had the great privilege of working with him and the gentlewoman from Colorado [Mrs. SCHROEDER] who I am going to call on in just a few moments, but first I am going to call on my great friend from Tucson.

Mr. KOLBE. Mr. Speaker, I thank the gentleman from California [Mr. DREIER] for yielding, and I appreciate his leadership on this, as I do the gentlewoman from Colorado who is one of the really hard workers on her side of the aisle last fall in this debate over the North American Free-Trade Agreement, and I especially appreciate the fact that the gentleman from California has taken this hour to essentially report to the American people, a very preliminary report we would have to admit, but to report on the progress that we have made since the enactment of the North American Free-Trade Agreement and since it went into effect on January 1.

As the gentleman said, the preliminary data is very, very encouraging, and I think, as he said in his 1-minute teaser earlier this morning, he said that we would be talking about some of these figures and also reporting on some of the very specific cases that have been very successful.

Let me begin with kind of from the larger to the more specific, but the gentleman used a figure that, I think, is very, very important. He talked about exports to Mexico at a figure, at a rate, of over $11 billion, almost $12 billion in the first quarter. That translates on an annual basis into $48 billion.

Now the first thing that strikes me about that is that that 15-percent increase, that is a 15-percent increase, and two important points, I think, need to be made. First, that 15-percent increase puts us very close to supplanting Japan with Mexico as our second largest trading partner. Almost certainly, if that rate continues next year, Mexico will be a larger trading partner than Japan is in terms of an export market for the United States goods, and that, of course, means jobs here at home exporting goods to a country like Mexico as it does to Japan.

□ 1100

The second thing is that that number, that 15 percent, if that holds good for the rest of this year is an increase.

Mr. DREIER. If I could reclaim my time, that 15 percent is the increase over the first 3 months of calendar year 1993, where we had already seen a tremendous surge in the level of exports that had taken place really since 1986 when privatization began. So exports were very positive in 1993, and we have seen nearly a 15-percent increase since implementation of NAFTA during the first 3 months of 1994.

Mr. KOLBE. The gentleman is correct on that. That is what is important. You are looking at a 15-percent increase on top of what had been a very substantial increase in the year before.

When you take that, if you extrapolate that to the entire calendar year 1994, and we believe that there will be a 15-percent increase over the entire year, you are talking about in the first year, in the first year of NAFTA, creating about 128,000 additional jobs in the United States directly related to the exports to Mexico. Because every economist agrees that each billion dollars of exports translates into about 15,000 to 20,000 jobs here at home. So we are talking about 128,000 additional jobs. In the total labor market of the United States, that is not a huge amount. But it is an important addition when we are talking about finding new jobs and building an engine of economic growth.

Mr. DREIER. The important thing to note here is as we look at what sectors of the economy we have seen the increase in exports in, it has been in electrical, machinery, paper, trucks, cereals, and other areas like that, all items which have seen a decrease in that tariff barrier as they have sought to export to Mexico.

Mr. KOLBE. The gentleman is absolutely correct. I think that the content of the exports is a very, very important factor.

Looking at another country, for example, in China, where we have a very substantial trade deficit, I think sometimes we miss the fact that there is a big difference between what we import from China, which is largely shoes, toys, some textiles, goods like that, consumer goods, and what we export to China, which is very large heavy equipment, aircraft, electronic goods, and equipment, software, computers, all of which are high-technology and require jobs at the very high end of the wage scale. So there is a very different content, job content, related to the exports versus imports. I know the gentlewoman from Colorado understands some of this.

Mr. DREIER. I would be happy to yield at this time to another person who worked with us in a bipartisan way to implement the North American Free-Trade Agreement, my very good friend from Denver, Mrs. SCHROEDER.

Mrs. SCHROEDER. I thank both of you, because you worked awfully hard on your side of the aisle, and we worked hard over here. It is a very good idea that this be brought up just before we go home. Because when we come back, GATT is going to be front and center, and some of the horrible scenarios spun out on NAFTA are going to be spun out on GATT over and over again.

There seems to be a lot of people, unlike us, who do not believe American business can compete and American business is as vibrant as we think it is. And the good thing about NAFTA is we have had this little display now to see that it did work, and we can expand it and we can go on, and it is exciting to see other countries such as Chile in the hemisphere wanting to have this expanded to them.

I think it is win-win. I think it is a good example of how the American people win, if all of us can kind of come together and figure out these solutions.

I thank you so much for being very courageous. I am sure on your side of the aisle it was not particularly popular to be working with the President of the United States.

Mr. DREIER. We loved every minute of it.

Mrs. SCHROEDER. You were working for the United States, as we all were. There is a great feeling of satisfaction that we can stand here and say that all the naysayers will probably bring out their same tune and play it again, but we hope people look at the facts rather than get scared by it.

I wanted to join in and thank you both.

Mr. DREIER. I thank my friend very much for that helpful contribution. It is kind of you to note on our side we want to encourage a spirit of bipartisanship, contrary to some of the arguments we often hear made as debate ranges on a wide range of issues.

Mr. KOLBE. I appreciate the comments of the gentlewoman from Colorado because I think it does reflect the very strong bipartisan support that trade as an issue has in this body. We understand, those of us who advocate trade agreements, understand that trade is the engine of growth. Trade is really the future economic growth of this country.

In that light I wanted just to make a comment based on the thoughts that were contained in an article that was about this surge of exports to Mexico. One of the officials of the AFL–CIO said well, yes, but. And the "but" was look at how much more Mexican exports to the United States have grown.

It is true that the first 3 months, while our exports grew 15 percent, the Mexican exports into this country grew 22 percent. But to say yes, but, about that——

Mr. DREIER. We have to remember there is still a trade surplus with Mexico. In the first 3 months of the year it is half a billion dollars. If you extrapolate that, that means for the entire year, we would have a surplus of $2 billion.

Mr. KOLBE. One can almost say at the moment our trade is almost in balance. The point is that trade is not a win or lose situation. It does not mean that we are worse off because Mexico also got better off. We are better off by exporting 15 percent, or another $3 billion to Mexico in the first quarter of this year, and Mexico, of course, is better off. Frankly, American consumers benefit by the facts that tariffs have gone down and we have the option of buying goods and services from Mexico that were not available to us before, or were only available at a very high price.

I think that is an issue that often gets forgotten in this trade debate, that in a two way trade, it is the consumer that benefits by having access to imports.

Mr. DREIER. There is a perfect analogy which is extraordinarily timely, and I am excited that the American people are focusing on this issue. It is the World Cup.

Now, on the Fourth of July, Monday, in Palo Alto, CA, Brazil and the United States are going to be playing each other in the World Cup. Brazil and the United States are going to be the sole two teams on that field when the World Cup match is played.

Now, as we look at the issue of trade, there are people who like to say it is Mexico and the United States, and it is just the two of us. But we know that we live in a global economy, and in fact competition is wide ranging.

Now, as my friend pointed to the fact there has been a 22-percent increase in the level of imports from Mexico, we have got to realize that that is something that has come about in competition not just with Mexico, but with the rest of the world. And many of those items which we have purchased are items which would have come from China, Indonesia, Singapore, and other countries in Latin America.

So in the World Cup it would be, on the issue of trade, as if every single team in the World Cup was on the field playing, when in fact that is not the case when they are playing soccer. But in the global economy that we have today, that is the case.

So as we benefit the United States consumer by increasing the flow of items from Mexico to the United States, it is coming about because of that diminution of tariff or tax barriers which exists between the two countries.

Mr. KOLBE. The gentleman is correct. I think it is important to keep that point in mind, that the fact that there were these exports coming from Mexico to the United States did not mean that it diminished the United States production or United States jobs, that it supplanted United States production. It may have supplanted some of the production in another location, or, more importantly, it added to the total wealth within this country. It adds to the total wealth Americans have in terms of the products and services they are able to buy.

In the meantime, we are benefiting because we are exporting more to Mexico and exporting more to other countries.

Mr. DREIER. Many of our colleagues worked long and hard on the issue of the North American Free-Trade Agreement, and we had, as we were saying earlier, bipartisan support. But among the freshman Members who just came to this Congress within the past 18 months, JAY DICKEY stood out as one who worked long and hard, took time on special orders, worked diligently to convince a number of his freshman colleagues and others to support the North American Free-Trade Agreement. I am happy to yield at this time to my friend from Pine Bluff.

□ 1110

Mr. DICKEY. I thank the gentleman from Claremont, CA.

Mr. Speaker, I am excited about NAFTA and what we are seeing as a result because of jobs. As I have been told, 20,000 U.S. jobs are created upon an increase of each $1 billion in trade. We are estimating that in the year 1994 we are going to have a $7 billion gain in trade in Mexico, or with Mexico, and therefore, we are going to have seven times 20,000 United States jobs that are created.

Mr. Speaker, some of this data that we have relates to various parts of our industry and exports. We have always been a supplier of United States-made motor vehicle body parts or radio and television parts to Mexico. Now, because of NAFTA, we can go and sell the completed car. The projection is from Ford Motor Corp. that they will export nearly 25,000 cars and trucks to Mexico this year, which is 23,300 more cars than they exported in 1993.

Wal-Mart of Arkansas, my home State, is going to provide 40 percent more United States-made products to its Mexican stores because of NAFTA. We also had the National Cotton Council of Memphis giving out a report for the first 3 months of this year, January through March, of an increase in cotton sales to Mexico to the tune of 62 percent.

This region includes Arkansas, Louisiana, Mississippi, Tennessee, and Missouri. It makes up one-third of the Nation's cotton crop. We do not know what the others are doing, but we do know it is affecting us directly, particularly our farmers.

The livestock and poultry commission in our State of Arkansas also reports that the poultry products are well on their way to increased exportation to Mexico. We anticipate increases not only in raw products; namely, broilers, but also finished products, such as the chicken and the TV dinners and entrees, as the tariffs come down.

Mr. DREIER. If I could reclaim my time for just a moment to underscore a very important item that my friend, the gentleman from Tucson, AZ, [Mr. KOLBE], and I both would like to point to, that is Wal-Mart, based in the gentleman's State, and the tremendous increase that we have seen in the number of United States-produced goods that are being sold in Mexico. I should say that my friend, the gentleman from Tucson, and I on more than a few occasions had the opportunity to visit the largest Wal-Mart store in the world.

Mr. KOLBE. The gentleman from Arkansas [Mr. Dickey] was on that visit when we visited the Wal-Mart store, and I know he would probably like to share some of what we saw there.

Mr. DICKEY. Absolutely. It was fantastic.

Let me tell you, if I may, what the Wal-Mart people tell me. They went down there thinking that the Mexicans would buy their products that they made a little better than they would buy United States-made products, so they put on the shelves the Mexican-made products, which supposedly were made in a cheaper fashion and they could reduce the prices.

They could not get those things off the shelves, so they started moving in American-made products, selling them at the same high volume, low discount rate, and they could not keep the American-made products on the shelves.

We saw that Wal-Mart that night. It was like an anthill, people everywhere. They seemed to know exactly what they were doing. It was a gigantic store and a tremendous, tremendous trophy to NAFTA.

Mr. DREIER. The figures from Wal-Mart are phenomenal. It this article, which was in USA Today, it says "Exports To Mexico Soar After NAFTA," and it has this amazing Wal-Mart figure in which it says "Wal-Mart has increased the percentage of United States-made products in its Mexican stores to 80 percent from 40 percent because," and Mr. Southerquist, the chief operating officer is quoted as saying, "that is what the shoppers there wanted, were American-made products," exactly what my friend, the gentleman from Pine Bluff, has said, so a doubling of the increase of United States-manufactured goods that are on the shelves in Mexico.

Mr. KOLBE. If the gentleman from California [Mr. Dreier] would yield, in the spirit of fairness and telling all the truth here, one of the problems we have had with NAFTA and the implementation has been trying to understand the new rules and regulations, in particular the new rules and regulations that have been imposed in Mexico on labeling.

I think, Mr. Speaker, I would acknowledge that this last week, just this last week, that the Wal-Mart store was closed very briefly by the Mexicans because of failure to adequately or properly label some of the products. That is one of the learning things we are going through, is learning how, what is required in terms of product labeling in Mexico. It is a new law down there, and there have been problems, I think we need to acknowledge.

The customs brokers tell me there have been problems trying to figure out new procedures for crossing at the border. All that is the learning process. It is the growing pains, if you will, of the new and growing trade relationship between our countries.

Mr. DICKEY. Let me finish just one paragraph.

Mr. DREIER. I am happy to yield to the gentleman from Pine Bluff.

Mr. DICKEY. What I want to do is bring this into Arkansas, maybe Pine Bluff, AR. We produce soybeans in our area. We have been competing in the past with South America, which is a major soybean producing nation.

What is happening is that we are now able to provide Mexico with soybeans with no tariff, where the South American countries must pay the tariff. We have been given an advantage in southern Arkansas and eastern Arkansas, we have been given an advantage, because the tariffs from the other competing countries are still in place and we no longer have them.

I tell the Members, it is exciting. It is something that is really going to happen, and it is going to pay off. This effort that was made is going to pay off. I want to thank the gentleman from California [Mr. Dreier], too.

Mr. DREIER. Mr. Speaker, we have been joined by one who voted "no" on the North American Free Trade Agreement, and I suspect may have seen the light. What he just said to me is that he wants to talk about the NAFTA in a positive way. I would be happy at this point to yield to my friend, the gentleman from San Diego, CA [Mr. Filner].

Mr. FILNER. I thank the gentleman for yielding.

Mr. Speaker, let me just say to the gentlemen who are here, as they know, I represent the border area between California and Mexico. I did not vote "yes" for NAFTA, but it is vital to my constituents that NAFTA works. It is vital that we be part of economic growth and economic vitality.

I was pleased to hear the reports that the gentleman had today of some of the successes. I just wanted to make the Members aware that from my perspective sitting on the border, wanting to work with the Members to make it work, that we have to work to make sure that the infrastructure at the border is adequate to cover this advancing activity.

For example, as Members well know, much of the trade between the two nations is still carried on trucks, and about 50 percent of the trucks come through one border crossing in San Diego, the Otai Mesa border crossing. There is no interstate highway that connects that border crossing with the rest of the highway system in America. It is just a city street now that is very dangerous.

I have worked with the Committee on Public Works and Transportation to get that road declared part of the National Highway System. We got a little bit of money this year to begin to move forward, but we need, I think, Mr. Speaker, to have an infrastructure fund specially for the advancement of NAFTA.

It is going to impose some burdens on our infrastructure, and if the successes that the gentleman has outlined here today continue, we are going to need that. This is a potential impediment. I hope to work with the gentleman to make sure that infrastructure is there.

Mr. DREIER. Absolutely. I thank my friend, the gentleman from San Diego, CA [Mr. Filner], for his contribution. I have visited the Otai Mesa, and obviously there are infrastructure problems that need to be addressed, but frankly, as we see the increase of the flow of goods and services, we also want to get to the root of the illegal immigration problem not only by enhancing the economy of Mexico so people do not have to flee across the border, but by improving that infrastructure. As the gentleman has said, we clearly will create a situation that can enhance the ability for goods and services to flow across the border.

Mr. Speaker, I will say to the gentleman that I have strongly supported efforts to improve the infrastructure in that area, and am committed to doing everything that I possibly can to do that.

Mr. FILNER. Mr. Speaker, I look forward to working with the gentleman. I think we can be brought together on the two things the gentleman has mentioned, the advance in economics and the decrease of illegal immigration.

Mr. DREIER. I thank my friend for also realizing that NAFTA is going to be a win-win for both countries.

Mr. Speaker, I would like to further yield to my friend, the gentleman from Tucson, AZ [Mr. Kolbe].

Mr. KOLBE. I thank the gentleman for yielding to me.

Mr. Speaker, I would like to share with my colleague, the gentleman from California [Mr. Dreier], as well as others who may be listening to us here today, again before we get to some of the specifics that I think will be of interest to our listeners, to our Members, just some more macrodata.

□ 1120

KPMJ Peat, Marwick did a study not long ago, probably the most extensive study of American businesses about how they viewed NAFTA and what their response to it would be. They interviewed 1,036 business executives from mid-April to mid-May. They were all companies with gross revenues of at least $10 million or more in the area of financial services, health care, information and communications, manufacturing, retailing and distribution industries.

Here are just a few of the things they said which I think are interesting, because these are the people on the front line deciding whether they are going to do business in Mexico or how they are going to do so. First of all, 60 percent of them believed that it would improve the U.S. economy, and at the same time that it would provide stability to the Mexican economy. Sixty-six percent believe that it would help their companies expand in the rest of Latin America. Interestingly, 40 to 50 percent, in other words almost half already conducted preliminary research and have taken steps to hire personnel who speak Spanish in order to take advantage of this growing market.

Another couple of things are interesting. When asked where they plan to do their investment in the next year, 22 percent of them said Mexico. That is higher than any other country or region of the world. For example, 19 percent expected to do additional investment in Europe. Japan was only 9 percent.

So we have a tremendous market, it seems to me, in Mexico that has been demonstrated by the confidence that these American businesses have.

I would also just add one other little point. When asked would they move their business to Mexico or did they have any plans to do so, 86 percent said they had no plans whatsoever to move any of their production or business down to Mexico, but were hoping to take advantage of the growing markets down there. I think this information is useful information.

Mr. DREIER. That is very helpful. I appreciate the fact that my friend has pointed out the overwhelming support that is there and the successes which we have had.

One of the other items that was raised throughout the debate on the NAFTA was the issue of the political instability that exists in Mexico and the problems of six decades of one-party rule. One interesting assessment was provided by Nora Lustig who is an expert from the Brookings Institution. The point was made that in Mexico the fact that NAFTA was implemented helped to moderate the government's response to the Chiapas uprising and increase the pressure that the election, which we are going to be seeing on August 21, will be run in a fair and balanced way because there is a spotlight effect on Mexico.

There were many who argued that President Salinas and others in the Mexican Government were supporting the NAFTA and wanted to look as if they were improving the human rights situation and other problems that existed there just to get it through when in fact, as we look at the first 6 months, while there have been as we all acknowledge serious problems in Mexico, there has been that spotlight effect on Mexico, it does appear that as the world has looked at it things have improved. Based on most every assessment that has come out over the past several months, we will see on August 21 a fair and balanced election.

My friend from Tucson is planning to be in Mexico for the election on August 21. I wonder if he might have some thoughts that he might like to share on that.

Mr. KOLBE. I appreciate the gentleman's comments and his question on that. I am hoping to be in Mexico during that time, if the schedule will permit, because I think it is very important that American political leaders see and understand the changes that are taking place in the Mexican political system.

As the gentleman has correctly pointed out, it has been a very dramatic change down there. In past elections there was the total machinery of the election in the hands of one party, the PRI. They have made so many changes to the election laws this year that you can hardly keep up with them. There are, for example, several limits on the spending so that all of the parties have equal access to the media markets. They also have equal access in terms of being able to raise funds.

The second thing that has been changed, and I think this is really very dramatic, is the new election rolls. They have been working on this for several years, but now every person has a card in their hand that guarantees them the right to vote, and they must have that card stamped, or they must have their finger stamped in order to vote. Once they do, they cannot vote again. That has been one of the problems in the past.

They are going to select their poll watchers, the people that run the polls in every little precinct, in every little village throughout Mexico, or every little suburban area in Mexico City, they are going to be selected randomly by a draw from the registered voters in that particular voting district, or as we would say in this country, precinct. So there is no way that one party gets an advantage over the other. They are going to select them randomly.

As proof I think of their strong desire to have a free and open election, the Mexicans are bending over backwards to invite foreign observers to see this election take place. In fact, I think they are hoping that the foreign observers will help to make sure that honesty is the byword of this election. So for a country that in the past has seen having foreign observers there as an infringement on their sovereignty, they are going to the other extreme, if you will, and inviting literally thousands of observers to come to that country. I have urged them for years to do this and said, look, we invite people to our elections from every country all over the world to come over and see how we do it. Maybe you can learn something from our elections, and we might learn something from the way Mexico has conducted this election. It is certainly going to be among the most modern in terms of technology in the world, and it far exceeds anything that we do in this country in terms of their polling lists, and the modernity and the updating of their polling lists and how updated they are. It is going to be a very technically oriented election, and I think we can probably learn something.

There are three candidates, as the gentleman knows, and at the moment two of them, that is the government party candidate, the PRI which has been the presidency for the last 60 years in Mexico is running narrowly or slightly ahead of the candidate of PAN, which is the more free enterprise oriented party, the National Action Party. On the other side, the Democrat Revolution Party, the PRD, is, of course, led by Mr. Cardenas and that party is running very much third right now.

Mr. DREIER. A very distant third.

Mr. KOLBE. A very distant third. They are going to be the ones, of course, that will raise all of the questions and the charges about dishonesty in the election.

I think what is the real news is that the PAN is running as close as they are today to the PRI.

Mr. DREIER. What we often heard throughout the debate on the NAFTA was that there was a strong opposition within Mexico to the NAFTA, the two parties which are almost neck and neck, very close at the top, way ahead of the PRD candidate, Mr. Cardenas both strongly supported implementation of the North American Free-Trade Agreement, and those candidates are the ones who have gained the largest support base within Mexico.

Mr. KOLBE. That is correct. And the PAN, the National Action Party, was very quick to support the concept of NAFTA. For years they have been arguing for a more open and freer trade, and they were very, very quick in responding to that.

So in fact it is very hard today to distinguish between the PRI, the government party, the Party Revolutionary Internationale and the PAN, the National Action Party and their economic policies. So both of them are strong advocates of more open markets, freer trade and capitalism in Mexico, which I think is a very clear signal to the rest of the world of the economic direction of Mexico.

Mr. DREIER. Mr. Speaker, we have spent the last 40 some odd minutes talking about the wide range of issues and concerns that were raised on this whole issue of the North American Free-Trade Agreement, ranging from the question of exports versus imports, the political situation, the problems that Mexico has faced, which we all acknowledge are still there.

□ 1130

I think that as we look at this issue we should take the next few minutes to be very specific about some of the marvelous success stories that exist as it relates to the NAFTA.

Now, as we all know, some of the most virulent opponents to the North American Free-Trade Agreement stated as that debate raged last year that we would see the economies in the Rust Belt of the country devastated if NAFTA were to be implemented, all of the jobs because of businesses flowing to Mexico would be evaporating, and they said to people like the gentleman from Arizona [Mr. KOLBE] and to me that, "Yes, you come from the Western part of the United States, your States border Mexico, and you will have real improvement. But the rest of the country will pay the price from the implementation of the NAFTA."

So I would like to take a couple of minutes to start out by pointing to a few successes that exist in Ohio.

Now, we know that some of the strongest opposition came from Members of the Ohio delegation, and for starters, as we look at the first 6 months, the headline of this article, "Chrysler Starts Shipping Jeeps To Mexico." In January, Chrysler began shipping its first Jeeps to Mexico. The company will ship about 3,800 Jeep Wranglers and Cherokees to Mexico from its Toledo, OH, plant in 1994, thanks in part to lower tariffs as a result of the North American Free-Trade agreement, that's in an article in the Journal of Commerce.

The Jeep sales have also benefited suppliers to Chrysler who are spread throughout that region.

Then there is an article in the Cleveland Plain Dealer, "Axle Maker Sees Silver Lining From Jeep Exports." With the export of nearly 4,000 United States-made Jeeps to Mexico, Toledo-based Dana Corp. now has to produce more axles for the popular vehicles. The chairman of the Dana Corp. indicated in December of 1993 that the company may even close its plants in Mexico and bring business back to the United States. Now, that is a little different than what we heard last year during this debate on the NAFTA.

Then if you look also in Ohio, Cougar and Thunderbird production moves from Mexico to Ohio. The Ford Motor Co. announced in January that it plans to shift production of its Cougars and Thunderbirds from Mexico to Lorain, OH. Ford plans to build an additional 8,000 Thunderbirds and Cougars this year in Lorain using current workers on overtime. A Ford spokesperson, who credits the NAFTA for the production move, said the company may also move its production for the Grand Marquis from Mexico to the United States. The company is holding to its assurance that NAFTA would create, not eliminate, U.S. jobs, and plans to hire 550 workers as it realigns its North American operations.

Mr. KOLBE. If the gentleman will yield further, there is more in the automobile market. As a matter of fact, many of us argued during the course of the NAFTA debate that one of the first and greatest beneficiaries was going to be the automobile industry, because the most excluded product that we make in the United States, from the Mexican market, has been automobiles. That is because of what they call the auto pact that requires that for every car that is imported into Mexico, two have to be exported, and any car that is imported has such horrendous tariffs on, it made it impossible. What the companies were forced to do was go down there and build their production plants in Mexico in order to produce.

Now we are going toward a rationalization. We are seeing astonishing results immediately, even though it is not for 10 years until all the tariffs and restrictions on imports of autos come off.

Here is what happened with Chrysler and the export of Intrepids, Dodge Intrepids, to Mexico. This year they are going to export about 2,500 Dodge Intrepids from their Newark, DE, plant to Mexico. Now, that does not seem like an awful lot, but it is an awful lot when you think that last year they exported exactly eight, eight Dodge Intrepids which were sent to Mexico. They are going from 8 to 2,500. That is in the first year.

Each year those tariffs continue to come down. Each year the number of imports allowed into Mexico continues to go up, so there is going to be a tremendous boom, I believe, in that market. You are looking at 90 million people down there, a growing middle-class market in Mexico. There is a tremendous opportunity.

That is just what you cited, as with Jeep, as one example, and that is just another one. There are others in the area.

Mr. DREIER. We have this litany of pages. If you look further in Ohio, Goodyear Tire hiring in Ohio due to Mexico trade; export consultants swamped by NAFTA interests; machinery producer sees gains in Mexican market. These are all items that have been in Ohio.

Then in Michigan, and you may recall there were more than a couple of our colleagues from Michigan who often stood in the well and spoke in opposition to the North American Free-Trade Agreement.

The headline and report for the Joint Automotive Governmental Action Council, and we have mentioned Chrysler, we have mentioned Ford. "GM auto exports to Mexico booming under the NAFTA." "Dow Chemical projects $34 million growth in exports to Mexico just in 1994."

Mr. KOLBE. If the gentleman will yield again, back on automobiles again, here in Indiana, a company called MascoTech, Inc., and actually it is a Michigan-based company, but they have bought a new plant in North Vernon, IN, to produce auto parts for the Mexican market, a huge, huge market in Mexico for automobile parts. They are going to be building wheel covers, spoilers, luggage racks, battery protectors that will be going to Ford and Chrysler plants in Mexico. They expect to sell some 4 million parts, auto parts, from its North Vernon facility to the two auto makers by 1995, all, 100 percent of it, due to the increased business with Mexico.

Mr. DREIER. I am originally from the "Show Me" State. In fact, I am going to be spending some time there next week.

As I look at Missouri, I look at a company with which I have been very familiar over the years based in Kansas City, MO, called Butler Manufacturing Co.

Their firm is a supplier of specialty components, nonresidential construction services, and they project that their total orders will rise by 27 percent in the Mexican market. Part of the reason for the growth is that under NAFTA, Butler can charge its clients lower prices. Mexico's import duties on construction materials fell from 15 percent to zero under NAFTA, a benefit it can pass to its customers.

Back in the United States, Butler is already increasing its engineering staff and expanding its manufacturing shifts to respond to increased production.

And then another headline that was in the Saint Louis Post-Dispatch just a couple of months ago, "Chrysler Picks Missouri, Not Mexico, As Site For The Ram Production." I guess that is one of their automobiles, I guess, the Chrysler Ram. I am not too familiar with that one. Obviously they are selling in Mexico, and they are being manufactured right here in the United States.

Mr. KOLBE. If the gentleman will yield further, one case that includes my own State of Arizona is Honeywell. Honeywell, of course, is based in Minneapolis.

Mr. DREIER. I thought we were not going to talk about our own home States here.

Mr. KOLBE. It is not my home district, because they are located in the Phoenix area, but Honeywell expects to increase sales to Mexico 60 percent in 1994; with NAFTA's more open government buying rule, they expect to sell more of the TDC 3,000 process control systems which are built in Phoenix to the Mexican oil company, and that is Petroleos Mexicanos, or PEMEX. They are also selling other equipment that is made in Albuquerque, made in Arlington Heights and Freeport, IL, so very important gains there.

We have been talking a lot about big companies, Chrysler, Ford, and Dow and Honeywell.

Little companies are benefiting, too. Let me just suggest a couple of them. One in San Rafael, CA, Panamax——

Mr. DREIER. Thanks for covering California for me. I appreciate it.

Mr. KOLBE. They are a small designer and manufacturer of surge protectors for high-technology electronics equipment. They have added 15 to 18 employees just to meet the NAFTA-generated sales this year. They have added a bilingual sales staffperson to handle the calls from Mexico and Latin America.

That, by the way, is a phenomenon we are seeing all over the country, and putting a tremendous demand on individuals graduating from high schools and universities that have language capabilities that can do business in English as well as in Spanish. So there is a tremendous need there. In fact, the language firm, just one other, and I will give the floor back to my good friend from California, called the Language Solution, a Burbank-based language instruction services firm, it is reaping the benefits of increased trade with Mexico. It opened an office last year in El Paso, to teach Spanish to local U.S. Government and business personnel. It has already won a contract with the local gas company as well as several other U.S. companies that have border operations, border facilities.

It is selling more of its business in Albuquerque, where firms are asking for language-trained individuals. So there is an example of the spinoff of NAFTA in another area of language, a firm that is devoted specifically to that.

And the list goes on and on, as the gentleman knows.

Mr. DREIER. And it is going to go on and on right here, and to be even-handed, I am going to talk about Florida. In Florida, and this was in the NAFTA News on April 25, Medical Equipment Maker Sees Jump In Sales To Mexico. Fort Pierce-based DeVilbiss/Pulsair, a medical equipment manufacturer, has seen exports to Mexico skyrocket over the last 2 years. The company expects sales to grow even faster under the NAFTA, which cut Mexican tariffs on medical equipment. Pulsair expects 1994 sales of over 2,000 units, according to company vice-president Mark Novak, and here is what he said: "With NAFTA's lower tariffs, market activity will increase, and sales have no way to go but up."

□ 1140

Having said that, having referred to Florida, I yield to my very good friend, the gentleman from Sanibel, FL [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I thank the distinguished Member from Laverne, CA.

Mr. Speaker, in fact there is other good news in Florida, success stories about Florida manufacturing that have worked out very well. I want to congratulate the gentleman from Arizona [Mr. KOLBE] and the gentleman from California [Mr. DREIER] for taking this time. We are fulfilling a promise here, and I appreciate their leadership. We promised we would watch the situation with NAFTA very closely and that we would issue progress reports from time to time.

I think that a lot of us took NAFTA a little bit on faith, the faith that American business can compete and win, and in fact that is exactly what is happening. We are being justified.

I want to congratulate Mr. DREIER and Mr. KOLBE for their continued leadership, meeting the obligation, and satisfying the promises to keep monitoring and reporting back. I have to say that their are still some problems in some sectors, as Mr. DREIER knows and we have talked about. We are working them out. We are getting good response to work out problems with the tomato growers, for the child labor laws, pesticides and things like that. Progress is being made in troubled areas and success is being made in other areas.

I would also like to say that someday I hope we are going to be able to have other markets as well. Places like Haiti come to mind. If the gentleman would indulge me for about 10 seconds, I heard the gentlewoman from Colorado [Mrs. SCHROEDER], who participated in this earlier, who referred to Haiti, saying it is a shame that we do not have other options for the situations in Haiti. I think she was referring to the somewhat critical statements I made earlier in the morning.

In fact, we do have other options for Haiti than the administration's policy. Apparently the gentlewoman has forgotten that we have a safe haven solution that involved no embargo, provided humanitarian relief, and did not call for an invasion.

So, either the gentlewoman has forgotten, simply forgotten, or as a member of the Armed Services Committee she was absent from the debate, but I do not think that is correct. So we have had concrete solutions offered that are better. And I hope those solutions will lead to better opportunity for NAFTA to come to Haiti and other places like that where they will profit and will profit.

I thank the gentleman.

Mr. DREIER. My friend is absolutely right. I thank him for his contribution and the diligent and very responsible way in which he has been dealing with the wide range of issues that affect this hemisphere. I know that he as a Floridian has been working specifically on the issue of Haiti. He underscores what truly is a goal of ours—that is, to create a hemispherewide free trade zone so that we can witness the free flow of goods and services throughout this hemisphere. I think that is a very important item which would again create a win-win situation.

I would like to point to one more item, since I have had an 11:30 appointment that I have stood up so far. The person with whom I have the appointment and was scheduled to meet happens to be from Connecticut. So I thought maybe I should point to one of the success items in Connecticut, and then I would further yield to my friend from Tucson. This is correspondence from a company based in Norwalk, Connecticut, named Perkin-Elmer. They are, as I said, based in Norwalk. They report that they have sold $550,000 in water quality analysis equipment to Medico under NAFTA. The company has sold $250,000 worth of atomic absorption spectrometers and $150,000 worth of gas chromotographs to Mexico's regional water laboratories. The firm has also sold an $80,000 inductively coupled plasma emission spectrometer and a $70,000 gas chromography mass spectroscopy system to the City Water Laboratory in Juarez. I wonder how they translate that in Spanish. Each sale also involves repeat business because the machines require replacing consumable equipment, such as light sources.

That came out in an article just about 6 weeks ago on a success in Connecticut.

I further yield to the gentleman.

Mr. KOLBE. I thank the gentleman for yielding.

Mr. Speaker, the gentleman was stumbling somewhat over those scientific terms. I do not know how it is translated into Spanish. I am not sure how the reporter is going to get it quite into the record here. But I know the gentleman has scientific background, and he knows it all and uses those terms correctly.

Mr. DREIER. If I may interject, one of my best friends is a spectroscopist.

Mr. KOLBE. The gentleman points out correctly that a lot of this is very high-technology scientific equipment that we are selling and a lot of it is also services.

Let me also, in concluding my remarks here, mention one or two other items.

I think it is interesting that Ace Hardware is planning to build a $26 million paint manufacturing facility in Texas as a result of NAFTA. They have reported their sales grew by 125 percent in the first 2 months of this year as a result of taking the tariff off. I think that is one of the products where the tariff comes off immediately, 100 percent of the tariff is reduced there. That is paint sales. They now have more than 1,000 jobs in the United States supported by sales in Mexico. They hired 25 workers in just the past couple of months to serve Mexico. All of these have been hired since the passage of NAFTA.

But it is not just manufacturing. There are services which I want to mention.

Integrated Cargo Management Systems, in San Antonio, produces high-technology services for monitoring of trucks and cargo. They signed a letter with Mexico's Radio Beep SA de CV. That is the largest paging and messaging company in Mexico. They signed for the exclusive distribution rights. That is an example of the kind of thing that can happen with the passage of NAFTA.

Let me finally just mention an insurance firm in Mississippi, Jackson-based U.S. Life Insurance Co. recently received approved from the Mexican Government to participate in the Mexican reinsurance market. That is a brand-new area that the United States have been excluded from entirely in the past, in the insurance and reinsurance market. There is a huge opportunity for U.S. firms. These are just a couple of examples. Let me, as I close my thoughts here, remember that we are really not talking just about names of firms, we are not talking about sales and dollars, we are talking about human beings, jobs, good jobs for Americans, for American men and women and for their families. That is what trade is all about. I know my good friend from California shares that vision of trade as the engine of growth for the United States, and that is why we work so hard to make sure that NAFTA becomes a reality. And I think that is why we stand here today with some justifiable pride and certainly some satisfaction, knowing that the efforts we put forth have literally, literally led to the creation of thousands of new jobs here in the United States for American workers. I know he is going to be a leader as he has been in the past on NAFTA. He was on NAFTA and he will be a leader in making sure that we have a good GATT agreement, and GATT-implementing legislation.

I thank the gentleman for his contribution.

Mr. DREIER. I thank my friend very much for the leadership role he has played in this issue of the NAFTA and will continue to work closely together on the MFN with China and the General Agreement on Tariffs and Trade and the wide range of trade issues which, as he said, create opportunities to benefit not only workers in this country but also the consumers who do see a real plus from the issue of free trade.

Things are not perfect in this arrangement with Mexico and the United States. You will recall the package is to be phased in over a long period of time, 15 years. We are hopping to reduce that total phase-in period. We know there are very serious problems that continue to exist in Mexico today. But having said that, it is very clear from what we have discussed over the past hour and other evidence that has come forward the preponderance of information that has been provided demonstrates that breaking down tariff barriers, as was done with the North American Free-Trade Agreement, is a win-win situation. There is no benefit for the United States of America to have a poor southern neighbor. We want to help lift the economies throughout the world and we want to do it not with dramatically increasing, taking U.S. taxpayer dollars through foreign aid, but instead through trade. And that really is the key to growth in the United States and in the other countries.

Mr. Speaker, with that, I would like to extend best wishes to our friends and colleagues, all those who work here in the Congress, for the next 10 days as we embark on our Independence Day district work period.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO FILE REPORTS ON H.R. 3800, ENVIRONMENTAL INSURANCE RESOLUTION AND EQUITY ACT 1994, AND H.R. 2448, RADON AWARENESS AND DISCLOSURE ACT OF 1993

Ms. LAMBERT. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce have until midnight tonight to file a report on the bill (H.R. 3800) to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes, and a report on the bill (H.R. 2448) to improve the accuracy of radon testing products and services, to increase testing for radon, and for other purposes.

Mr. Speaker, this request has certainly been cleared with the minority side.

The SPEAKER pro tempore (Mr. KANJORSKI). Is there objection to the request of the gentlewoman from Arkansas?

There was no objection.

□ 1150

INTRODUCTION OF LEGISLATION TO IMPROVE HEALTH CARE IN RURAL AREAS

(Ms. LAMBERT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LAMBERT. Mr. Speaker, for the last 4 years I have been traveling through the 25 counties of Arkansas' First Congressional District talking with the people about what they really need to improve their health care in rural Arkansas. I have talked with mothers who have to drive hundreds of miles across county lines to deliver babies because there are no obstetricians near their home, or their HMO only contracts with a hospital that is 200 miles away.

I have talked with small town doctors who pay triple the costs for repairs on their medical machines, x-rays and other things, and they pay triple the costs for supplies like film because they work in isolated areas and serve the people of Arkansas' First Congressional District. And I have talked to parents of chronically ill children who could not get their children the care they needed because their HMO's did not cover specialized treatment like pediatric cardiologists.

Now the time for talking is over. It is time for action. I am pleased to introduce today three bills that will bring doctors to rural areas that will help to keep them there, and will more adequately reimburse the cost of serving in rural areas, and, hopefully, improve delivery of services to chronically ill children.

Mr. Speaker, my fear is that in these confusing discussions of health care reform that rural concerns will get left out or simply the short end of the stick. Insurance for all people does not mean a lot in rural communities if we do not have doctors or health care providers there and if they cannot get the type of treatment that they need. These bills will answer the call of the people of the rural areas of this Nation and in Arkansas' First Congressional District.

FINDING A REMEDY TO THE CARBONE DECISION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of New Jersey. Mr. Speaker, I rise today to urge my colleagues to support bipartisan legislation I, along with others, have introduced, H.R. 4661, to ensure the protection of flow control authority for those local and State governments that rely on it for the implementation of long-term, integrated, environmentally sound municipal solid waste management plans.

Mr. Speaker, it is absolutely clear that without this flow control option, recycling, composting, source reduction, resource recovery programs, waste-to-energy and other environmental projects to manage municipal solid waste in communities across the United States will be seriously endangered. Indeed, it is fair to say that in the aftermath of the Carbone decision, which has overnight eliminated this important local government tool, the momentum toward increased recycling, composting, and source reduction will not only come to a halt but could be significantly reversed, undoing all the progress we have made over the last decade. As Justice Sandra Day O'Connor noted in her concurring opinion, it is within Congress' power to authorize local imposition of flow control. I urge my colleagues to move legislation that would ensure localities continued use of and investment in innovative and environmentally sound solid waste management systems.

Mr. Speaker, some who claim to be concerned about the negative environmental impact of the Carbone decision are suggesting a narrow grandfather of exact facilities already built. I believe that could prove to be short sighted and environmentally regressive. It would freeze in current technology, making it more difficult to finance new technology for recycling, composting, resource recovery and source reduction. Accordingly, I have introduced legislation, H.R. 4661, that grandfathers solid waste management plans that are predicted on waste flow control. My bill enables communities that rely on waste flow control to pursue those plans and for those communities that do not have such plans, they may proceed pursuant to the new guidelines established in the bill.

Mr. Speaker and my colleagues, we need to fully understand and appreciate this: the Carbone decision and other similar court cases place many planned and existing recycling and composting facilities in jeopardy.

To underscore this concern, let me point to some places across the country where composting and related environmental projects are at risk absence of flow control legislation like H.R. 4661.

The city of Springfield, MO, has decided to open to $17.9 million recycling and composting facility—referred to as a materials recovery facility [MRF]—the funding of which requires a bond issue. After the decision to build the facility was made, however, local waste haulers purchased landfills outside the city limits. They then began transporting 75 percent of the city's waste to these landfills, thereby jeopardizing the city's chances for a bond issue. The waste hauler's landfills do not, of course, incorporate source reduction or recycling into their waste disposal programs. In contrast, the city's plan, which now stands in jeopardy due to the actions of the local waste haulers, incorporates recycling, source reduction, public education, and the removal of household chemicals from the waste stream.

The city of San Diego's municipal solid waste composting project, Cape May County, New Jersey's municipal solid waste composting project, and Rockland County New York's recycling facility are all in similar situations. Each local government has planned an environmentally sound recycling or composting facility as part of an integrated solid waste management plan. Each one must now put implementation of its recycling or composting facilities as well as its entire integrated solid waste plan on hold as a result of its inability to use flow control in the wake of the Carbone decision.

Similarly, Fresno, CA, is in the planning phase of its municipal solid waste composting project. Under the California State "Integrated Waste Management Act of 1989," California communities are required by law to divert 50 percent of their waste from landfills by the year 2000. In order to comply with this mandate, San Diego built the waste recovery facility at issue. Plans for this facility will also be put on hold.

Riverside County, CA, is in the final permitting stages for their planned recycling facility, a facility which would allow the county to avoid landfilling a significant portion of their waste in compliance with California law. These plans will now be put on hold as a result of the Carbone decision.

The Connecticut Resources Recovery Authority operates two recycling facilities that are absolutely dependent on flow control. Connecticut Attorney General Richard Blumenthal recently described the impact the Carbone decision will have on his State. He told the press that "as a direct and immediate result" of the Carbone decision, "many (Connecticut) municipalities, and ultimately their taxpaying citizens will find themselves liable for huge payments in lieu of garbage which they can no longer supply." As Blumenthal notes, it is ironic that Connecticut municipalities find themselves in this position because Connecticut complies with Federal mandates requiring long range planning for solid waste disposal and recycling. The State of Connecticut could ultimately be liable for $520 million in State revenue bonds.

San Diego County recently began commercial operation of a $134 million waste recovery facility which recovers recyclable from the waste stream. In order to comply with California State mandate, San Diego built the waste facility at issue. The fate of this facility, which depends on flow control, is uncertain in the wake of the Carbone decision.

In my own district, one county, Mercer County, issued and spent $71 million in revenue bonds for the construction and implementation of a state-of-the-art comprehensive solid waste management system which incorporates many environmental programs. Its solid waste management system includes comprehensive recycling, leaf and yard waste compositing, household hazardous waste collection, an aggressive consumer education program, resource recovery and landfilling. Similarly, Atlantic County has a comprehensive solid waste management system that includes compositing of municipal waste, including leaf and yard waste, a comprehensive recycling program, including curb-side collection of batteries and other items, household hazardous waste collection and an aggressive consumer education program.

By employing comprehensive waste management systems, the counties eliminate the need to send significant portions—often over 50-percent—of their waste streams to waste disposal facilities. Under Mercer County's comprehensive recycling program, which includes curbside collection of recyclable materials including wood, paper, plastic, glass, steel, aluminum, bi-metallic, newsprint, batteries, tires, and ascptic containers, last year 63 percent of the county's municipal solid waste was recycled.

In addition to the many environmental projects employed by Mercer and Atlantic Counties, the two counties have agreed to jointly operate a regional resource recovery facility, scheduled to begin construction on July 31, 1994. As a result of the Carbone decision and the counties' inability to use flow control in the absence of Federal legislation authorizing its use, both counties' entire comprehensive solid waste management systems—and the $71 million in revenue bonds used to fund the Mercer County system—are in jeopardy. As a result, not only is the construction of this regional facility placed in jeopardy, but so are the numerous aggressive and effective environmental programs currently run by the counties.

Burlington County, in my district, faces a similar situation regarding its proposed sewage sludge composting plant. The plant is estimated to cost $70 million and the County has already borrowed $46 million from the State wastewater trust. However, financing is based on the assurance that sewage sludge from all 40 municipalities in Burlington County would be treated at the plant. Without this guaranteed revenue, the county may be forced to accept sludge from outside the county—thus breaking a longstanding promise to Burlington residents—or hike disposal fees which would inevitably mean higher local property taxes.

Situations similar to those I have just described also exist in Snohomish County, WA, Brookhaven, NY, Lancaster County, PA, Beaumont, TX, and in many other localities throughout the country.

Mr. Speaker, under Federal law, these State and local governments, as well as many more, are presupported by the Federal Government to have the responsibility for managing municipal solid waste. As part of this responsibility, local governments have developed and implemented integrated municipal solid waste management plans. In many instances recycling or other environmental programs are mandated by local governments as part of their diposal of MSW. In other instances, local governments choose, often based on public demand, to implement recycling and other environmentally responsible programs such as composting, source reduction, household hazardous waste collection, and public education to deal with municipal solid waste. Local governments use flow control ordinance to implement the long-term integrated solid waste plans required of them and to fullfil their responsibility to protect the public health and safety by providing adequate long-term disposal capacity. To change the rules now, would be patently unfair and wreak havoc on environmentally safe and publicly approved waste management plans across the country.

When a locality implements a fully-integrated solid waste management system that includes components such as recycling, composting, waste-to-energy facilities, landfills and public education, flow control allows the locality to fund these components through the collection of tipping fees at the municipal solid waste landfill and/or waste-to-energy facility which are parts of the system.

Often times large private haulers compete for only a portion—or the cheapest aspect—of the complete plan leaving it to the taxpayers to pay for the nondisposal costs of the system, such as the costs of recycling, composting, source reduction and public education program. Unlike local governments who are required to act in the public interest, private waste companies often overlook the long-term environmental benefits and focus on their prime interest: making money through the cheapest disposal means. Such profit motives create disincentives for the employ of recycling, resource conservation and recovery technologies, which are invariably more expensive, when you do not factor in their obvious long-term benefits to the community and the environment.

Mr. Speaker, there is a consensus that our local governments have the responsibility to provide for the safe and sanitary disposal of municipal solid waste over the long-term. Yet, Congress must ensure that local governments have the explicit authority to: first, pursue environmentally safe avenues of recycling, composting, and disposal as components of their integrated solid waste management plans and, second, to cost effectively finance such activities through guaranteeing adequate waste streams to their waste management facilities to ensure that they receive sufficient revenues to met their bond obligations. One of the most equitable and progressive ways to accomplish these two objectives is to ensure that municipalities who have enacted flow control programs are permitted to carry them out.

In my own State of New Jersey we have required each of our 21 counties to develop their own waste flow and management plans so that our State will become self-sufficient in our management of garbage disposal and no longer export our trash. All around the country, in more than 25 States, State and local governments have taken the initiative and are developing environmentally responsible integrated systems for the management of waste. All of their efforts, as well as their financial and environmental health, are now at risk if Congress remains silent on the flow control issue. I therefore strongly urge my colleagues to support my legislation which restores flow control authority to those local governments that have planned for it. Those of us who are environmentally concerned about solid waste reduction and preserving our open spaces through increased recycling and other means must vigorously support enactment of this comprehensive measure.

Outline of the provisions of H.R. 4661:

THE WASTE FLOW CONTROL ACT OF 1994 (H.R. 4661)

Grandfather for States and political subdivisions that have relied on flow control:

(A) Allows continued flow control for residential, commercial, incinerator ash, construction or demolition debris, industrial, institutional waste, if adopted before May 15, 1994 (date of *Carbone* decision);

(B) Protects source separation and recycling programs, if adopted before May 15, 1994;

(C) Protects all ordinances, laws, contracts, administrative/legislative provisions, including solid waste management plans, adopted before May 15, 1994; and

(D) Protects all existing and planned facilities.

Clearly states that waste flow control is a reasonable regulation of commerce, retroactive to the effective date of the contract or agreement or date of adoption of any law, ordinance, regulation, legislative/administrative provision.

Congressional grant of authority to States for prospective waste flow control:

(A) Gives States and qualified political subdivisions permission to flow control residential waste, including:

(1) from a single or multifamily residence;
(2) from an apartment or condominium; or
(3) from a hotel or motel.

(B) Gives States and qualified political subdivisions authority to control destination of recyclables, if:

(1) the materials are relinquished voluntarily; or

(2) the State or qualified political subdivision assumes responsibility for the materials.

(C) Allows the designation of waste management facilities.

Contingencies for prospective waste flow control:

(A) State or political subdivision must establish a source separation program for recycling, reclamation, and reuse.

(B) Designation process for waste management facilities must include 1 or more public hearings and a written explanation.

Competitive bidding process for prospective waste flow control:

(A) Designation process must be a part of a long-term municipal solid waste management strategy.

(B) Goals of the designation process must at least include:

(1) capacity assurance;

(2) provisions to protect human health and environment; and

(3) additional goals determined to be relevant to State or qualified political subdivision.

(C) Identifies/compares reasonable and available alternatives.

(D) Provides for public participation and comment.

(E) Provides for an open competitive process for designation, including:

(1) in writing, criteria to be utilized in selection;

(2) opportunity for private and public persons to offer their existing or proposed facilities; and

(3) use of the merits of the facilities in selection.

Protects State procurement laws and Federal and State environmental standards relating to the disposal or management of solid waste or recyclables.

RECESS

The SPEAKER pro tempore (Mr. KANJORSKI). Pursuant to clause 12, rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 11 o'clock and 57 minutes p.m.) the House stood in recess subject to the call of the Chair.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 263. Concurrent resolution providing for an adjournment or recess of the two Houses.

□ 1659

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. KANJORSKI] at 4 o'clock and 59 minutes p.m.

WAIVER OF BUDGET RULES FOR FREE-TRADE AGREEMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, Treasury Secretary Lloyd Bentsen rightly refers to the impending results of the Uruguay round of GATT as a "huge global tax cut" amounting to nearly $750 billion over the next decade. Second, Trade Representative Mickey Kantor says it is the most substantial elimination of trade barriers in the history of GATT.

Mr. Speaker, this Member could not agree more. The Uruguay round trade agreement of GATT would accomplish both of these remarkable achievements.

Unfortunately Mr. Speaker, the Clinton administration seems determined to jeopardize these two achievements by refusing to waive strict budget rules which cripple our ability to implement the recently negotiated GATT agreement.

These budget rules require either more taxes or spending cuts to offset the estimated $11.5 billion in Federal Government revenue that is cut by the GATT agreement's proposed reductions in tariffs over 5 years. The Federal Government collects these tariffs on a variety of goods imported to the United States. U.S. consumers ultimately pay these tariffs in the price of the imported goods.

Mr. Speaker, economists almost unanimously agree that a direct waiver of the budget rules could be justified so that additional taxes or spending cuts are not required to make up the loss of Federal revenue from tariff reductions under GATT. These economists correctly argue that increased trade and economic activity resulting from GATT would immediately stimulate more corporate and individual Federal tax revenues. These increased Federal tax revenues would clearly exceed the Federal revenues lost from tariff reductions.

Mr. Speaker, the Clinton administration is jeopardizing these two remarkable achievements by proposing to raise taxes on a variety of industries which have little nexus to the trade agreement. For example, the administration has proposed imposing taxes on broadcasters for their use of the electromagnetic spectrum. Clearly, these broadcasters have little to gain from increased trade among member nations of GATT. Therefore, forcing them to pay for GATT really makes no sense—it is just a search for revenue.

Additionally Mr. Speaker, Mr. Leon Panetta has recently jeopardized agricultural support for the Uruguay round trade agreement by saying agriculture would only have to sacrifice approximately $1.7 billion of the agricultural budget to help pay for the cost of implementing the GATT accord.

Mr. Speaker, during the Uruguay round of the GATT talks the United States negotiated with other grain subsidizing nations and agreed to reduce its agricultural export subsidies by approximately $1.7 billion—the amount Mr. Panetta says agriculture owes; but, the United States agricultural industry did not agree during the negotiations to permit these funds to disappear from the agricultural budget. Unfortunately, the administration has wrongly linked these two different items out of misplaced convenience and is thereby using the GATT implementing legislation to do an "end run" around the House Agriculture and Appropriations Committees.

Fortunately Mr. Speaker, at least 21 Members of Congress led by Representative TOM EWING have the courage to advocate a straightforward budget waiver for the GATT agreement and do what makes sense. Representative EWING's legislation, H.R. 4198, would permit us to avoid our current and future predicaments by waiving budget rules for the implementation of all free-trade agreements. Certainly it is appropriate at least for the revenue-positive GATT agreement from the Uruguay round.

Mr. Speaker, the Journal of Commerce and the Wall Street Journal agree; a waiver of the budget rules is absolutely justified because increased Federal revenues from increased corporate and individual income tax proceeds springing from greater trade generated by GATT will greatly exceed the Federal revenues lost by tariff reductions. Therefore, this Member urges his colleagues to cosponsor the Ewing legislation to waive budget rules for free-trade agreements and support U.S. trade.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BURTON of Indiana) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 5 minutes, today.

Mr. MICA, for 5 minutes, today.

Mr. STEARNS, for 5 minutes, today.

(The following Member was granted permission to revise and extend his remarks and include extraneous material:)

Mr. SMITH of New Jersey, for 5 minutes, today.

(The following Members (at the request of Mr. FILNER) to revise and extend their remarks and include extraneous material:)

Mr. LEVIN, for 5 minutes, today.

Mr. STUDDS, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. SPRATT, for 5 minutes, today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Mrs. SCHROEDER, for 5 minutes, today.

The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. BEREUTER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SMITH of New Jersey and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,020.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2155. An act to authorize the appropriation of funds for the Federal share of the cost of the construction of a Forest Ecosystem Research Laboratory at Oregon State University in Corvallis, Oregon, and for other purposes; to the Committee on Agriculture.

ADJOURNMENT

Mr. BEREUTER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of House Concurrent Resolution 263 of the 103d Congress, the House stands adjourned until 10:30 a.m., Tuesday, July 12, 1994.

Thereupon (at 5 o'clock and 4 minutes p.m.) pursuant to House Concurrent Resolution 263, the House adjourned until Tuesday, July 12, 1994, at 10:30 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3454. A letter from the Assistant Secretary of the Army—Installations, Logistics, and Financial Management—Department of Defense, transmitting notification of emergency munitions disposal, pursuant to 50 U.S.C. 1518; to the Committee on Armed Services.

3455. A letter from the Secretary of Defense, transmitting certification that each military service has developed and implemented a plan to adjust its officer personnel assignment and promotion policies; to the Committee on Armed Services.

3456. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. 07-94, concerning a cooperative research and development project to be executed by the Department of Defense Advanced Research Projects Agency and the United Kingdom Ministry of Defense Directorate for Future Systems, pursuant to 22 U.S.C. 2767(f); to the Committee on Foreign Affairs.

3457. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for the production of major defense equipment marketed to Taiwan (Transmittal No. DTC-18-94), pursuant to 22 U.S.C. 2776(c) and (d); to the Committee on Foreign Affairs.

3458. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment and services sold commercially to Mexico (Transmittal No. DTC-19-94), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3459. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment and services sold commercially to

Brunei (Transmittal No. DTC-17-94), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3460. A letter from the President, Resolution Funding Corporation, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1993, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

3461. A letter from the Assistant Secretary for Indian Affairs, Department of the Interior, transmitting notification that the report on the implementation of the Indian Self-Determination and Education Assistance Act should be completed by July 1994, pursuant to 45 U.S.C. 450j-1(c); to the Committee on Natural Resources.

3462. A letter from the Chairman, Pennsylvania Avenue Development Corporation, transmitting a draft of proposed legislation to amend the Pennsylvania Avenue Development Corporation Act of 1972, to establish the Pennsylvania Avenue Corporation, to provide for the maintenance and use of the area between the White House and the Capitol, and for other purposes; to the Committee on Natural Resources.

3463. A letter from the General Counsel, National Tropical Botanical Garden, transmitting the annual audit report of the National Tropical Botanical Garden, calender year 1993, pursuant to Public Law 88-449, section 10(b) (78 Stat. 498); to the Committee on the Judiciary.

3464. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on the disposal of land valued in excess of $50,000, pursuant to 42 U.S.C. 2476a; to the Committee on Science, Space, and Technology.

3465. A letter from the Comptroller General, General Accounting Office, transmitting a report studying the ability of the State and local governments to rebuild following the January 1993 earthquake in southern California, pursuant to Public Law 103-211, section 404; jointly, to the Committees on Appropriations and Government Operations.

3466. A letter from the Comptroller General, General Accounting Office, transmitting the results of the audit of the principal financial statements of the U.S. Customs Service for fiscal year 1993, pursuant to Public Law 101-576, section 305 (104 Stat. 2853); jointly, to the Committees on Government Operations and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MILLER of California: Committee on Natural Resources. H.R. 3707. A bill to establish an American Heritage Areas Partnership Program in the Department of the Interior; with an amendment (Rept. 103-570). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. S. 208. An act to reform the concessions policies of the National Park Service, and for other purposes; with an amendment (Rept. 103-571). Referred to the Committee of the Whole House on the State of the Union.

Mr. LaFALCE: Committee on Small business. H.R. 4322. A bill to amend the Small Business Act to increase the authorization for the development company program, and for other purposes; with an amendment (Rept. 103-572). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSE: Committee on House Administration. Investigation of the Office of the Postmaster, pursuant to House Resolution 450 (Rept. 103-573). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2448. A bill to improve the accuracy of radon testing products and services, to increase testing for radon, and for other purposes; with an amendment (Rept. 103-574). Referred to the Committee of the Whole House on the State of the Union.

Mr. GIBBONS: Committee on Ways and Means. House Joint Resolution 373. Resolution disapproving the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China (Rept. 103-575). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3800. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes; with an amendment (Rept. 103-582 Pt. 1). Ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on the Judiciary. S. 537. An act for the relief of Tania Gil Compton (Rept. 103-576). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 3718. A bill for the relief of Mark A. Potts (Rept. 103-577). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 2266. A bill for relief of Orlando Wayne Naraysingh (Rept. 103-578). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 2411. A bill for the relief of Leteane Clement Monatsi (Rept. 103-579). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 1184. A bill for the relief of Jung Ja Golden (Rept. 103-580). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 2084. A bill for the relief of Fanie Phily Mateo Angeles; with an amendment (Rept. 103-581). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BOUCHER (for himself, Mr. BROWN of California, Mr. BOEHLERT, Mr. TRAFICANT, Mr. FAWELL, Mr. EHLERS, and Mrs. LLOYD):

H.R. 4684. A bill to authorize and provide program direction for high energy and nuclear physics research at the Department of Energy, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. LaFALCE:

H.R. 4685. A bill to authorize the establishment of a premier lending program for participation in the certified development company program, and for other purposes; to the Committee on Small Business.

H.R. 4686. A bill to provide limited relief from high interest rates in certain debentures guaranteed or purchased by the Small Business Administration, and for other purposes; to the Committee on Small Business.

By Ms. LAMBERT:

H.R. 4687. A bill to amend title XIX of the Social Security Act to prohibit a State from requiring any child with special health care needs to receive services under the State's plan for medical assistance under such title through enrollment with a capitated managed care plan until the State adopts pediatric risk adjustment methodologies to take into account the costs to capitated managed care plans of providing services to such children, and to direct the Secretary of Health and Human Services to develop model pediatric risk adjustment methodologies for such purpose; to the Committee on Energy and Commerce.

H.R. 4688. A bill to amend the Internal Revenue Code of 1986, the Public Health Service Act, and certain other acts to provide for an increase in the number of health professionals serving in rural areas; jointly, to the Committee on Energy and Commerce, Ways and Means, and Education and Labor.

H.R. 4689. A bill to amend title XVIII of the Social Security Act to increase the bonus payment provided for physicians' services furnished under part B of the Medicare Program in a health professional shortage area to 20 percent in the case or primary care services, to establish updates for 1995 in the conversion factors used to determine the amount of payment made for physicians' services under the Medicare Program, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. BEREUTER:

H.R. 4690. A bill to provide assistance for the establishment of community rural health networks in chronically underserved areas, to provide incentives for providers of health care services to furnish services in such areas, to assist providers of emergency medical services in such areas, and for other purposes; jointly, to the Committees on Energy and Commerce, Ways and Means, Education and Labor, and the Judiciary.

By Mr. BOUCHER:

H.R. 4691. A bill to establish the Saltville Heritage Area in the Commonwealth of Virginia; to the Committee on Natural Resources.

H.R. 4692. A bill to establish the Appalachian Coal Heritage Area; to the Committee on Natural Resources.

By Mr. BROWN of California:

H.R. 4693. A bill to prohibit the importation of goods produced abroad with child labor, and for other purposes; jointly, to the Committees on Foreign Affairs and Ways and Means.

By Mrs. BYRNE (for herself, Mr. BOUCHER, Mr. MORAN, Mr. SCOTT, and Mr. SISISKY):

H.R. 4694. A bill to exclude from Federal income taxation amounts received in settlement of refund claims for State or local income taxes on Federal retirement benefits which were not subject to State or local income taxation on the same basis as State or local retirement benefits; to the Committee on Ways and Means.

By Mr. CLAY:

H.R. 4695. A bill to amend title 39, United States Code, to provide for procedures under which persons wrongfully arrested by the Postal Inspection Service on narcotics charges may seek compensation from the U.S. Postal Service; to the Committee on Post Office and Civil Service.

By Mr. DEFAZIO:

H.R. 4696. A bill to permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, and for other purposes; to the Committee on Energy and Commerce.

By Ms. ENGLISH of Arizona:

H.R. 4697. A bill to modify the boundaries of Walnut Canyon National Monument in the State of Arizona; to the Committee on Natural Resources.

H.R. 4698. A bill to terminate price support and marketing quotas for tobacco, disallow the income tax deduction for certain advertising expenses for tobacco products, and to establish a trust fund to support antidrugs and antitobacco use activities; jointly, to the Committees on Agriculture, Ways and Means, Energy and Commerce, and Education and Labor.

By Mr. EVANS (for himself, Mr. DELLUMS, Mr. MEEHAN, Mr. BONIOR, Mrs. UNSOELD, Mr. STARK, Mr. DEFAZIO, Mr. FILNER, Mr. FRANK of Massachusetts, Ms. PELOSI, Mr. VISCLOSKY, Ms. FURSE, Mr. FALEOMAVAEGA, Mr. OLVER, Mr. HOCHBRUECKNER, Mr. HINCHEY, Mr. WYNN, Mr. ENGEL, Mr. FARR, Mr. GUTIERREZ, Mr. DURBIN, Mr. EDWARDS of California, Mr. FINGERHUT, Mr. LIPINSKI, Mr. BEILENSON, Mr. KREIDLER, Mr. SERRANO, Mr. SANDERS, Mr. SHAYS, Mr. KENNEDY, Ms. SHEPHERD, Mr. HAMBURG, Mr. FOGLIETTA, Mr. ABERCROMBIE, Mr. MILLER of California, Mr. LEWIS of Georgia, Mrs. MORELLA, Mr. VENTO, Ms. WOOLSEY, Mr. FISH, Mr. JACOBS, Mr. OWENS, Ms. SLAUGHTER, Mr. STRICKLAND, Mr. BERMAN, Mr. ANDREWS of Maine, Mr. MCDERMOTT, Mr. KOPETSKI, and Mrs. SCHROEDER):

H.R. 4699. A bill to state the sense of Congress on the production, possession, transfer, and use of antipersonnel landmines, to place a moratorium on U.S. production of antipersonnel landmines, and for other purposes; jointly, to the Committees on Foreign Affairs and Armed Services.

By Mr. DINGELL (for himself, Mr. MOORHEAD, Mr. MARKEY and Mr. SABO):

H.R. 4700. A bill to amend the Communications Act of 1934 to prohibit unjust enrichment in the award of licenses by means of pioneer preferences; to the Committee on Energy and Commerce.

By Mr. FILNER:

H.R. 4701. A bill to amend title 38, United States Code, to deem certain service in the organized military forces of the Government of the Commonwealth of the Philippines and the Philippine Scouts to have been active service for purposes of benefits under programs administered by the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. GOODLING (for himself, Mr. DOOLITTLE, Mr. FISH, Mr. MURPHY, Mr. ROHRABACHER, Mr. UNDERWOOD, and Mr. PAYNE of Virginia):

H.R. 4702. A bill to amend the Internal Revenue Code of 1986 to allow builders to compute on the installment sales method income from the sale of certain residential real property, and for other purposes; to the Committee on Ways and Means.

By Mr. JOHNSON of South Dakota:

H.R. 4703. A bill to amend the Federal Election Campaign Act of 1971 to strengthen certain reporting requirements; to the Committee on House Administration.

By Mr. KLINK:

H.R. 4704. A bill to provide for the conveyance of certain lands and improvements in Hopewell Township, PA, to a nonprofit organization known as the Beaver County Corp. for Economic Development to provide a site for economic development; to the Committee on Public Works and Transportation.

By Mr. KOPETSKI:

H.R. 4705. A bill to authorize the appropriation of funds for the Federal share of the cost of the construction of a forest ecosystem research laboratory at Oregon State University in Corvallis, OR, and other purposes; to the Committee on Agriculture.

By Mr. KREIDLER:

H.R. 4706. A bill to provide for certain reductions in Federal spending at or through facilities of the Department of Energy, and for other purposes; jointly, to the Committees on Armed Services, Energy and Commerce, and Science, Space, and Technology.

By Mr. MACHTLEY:

H.R. 4707. A bill to amend the Immigration and Nationality Act to make permanent the visa waiver program and to authorize, under certain conditions, the designation of certain member states of the European Union as visa waiver program countries; to the Committee on the Judiciary.

By Mr. MARTINEZ (for himself and Ms. WATERS):

H.R. 4708. A bill to establish a national public works program to provide incentives for the creation of jobs and address the restoration of infrastructure in communities across the United States, and for other purposes; jointly, to the Committees on Public Works and Transportation and Education and Labor.

By Mr. RICHARDSON (for himself and Mr. THOMAS of Wyoming):

H.R. 4709. A bill to make certain technical corrections, and for other purposes; to the Committee on Natural Resources.

By Mr. SANDERS (for himself, Mr. BONIOR, Ms. KAPTUR, Mr. FRANK of Massachusetts, Mr. BROWN of California, Mr. DEFAZIO, Mr. HINCHEY, Mrs. BENTLEY, Mr. EVANS, Mr. DELLUMS, and Mr. OLVER):

H.R. 4710. A bill to require the inclusion of provisions relating to worker rights and environmental standards in any trade agreement entered into under any future trade negotiating authority; to the Committee on Ways and Means.

By Ms. SLAUGHTER:

H.R. 4711. A bill to amend title 11, United States Code with respect to certain debts in connection with divorce or separation; to establish a commission to analyze bankruptcy issues; and for other purposes; to the Committee on the Judiciary.

By Mr. TORRICELLI (for himself, Mr. LANTOS, and Mr. MCCANDLESS):

H.R. 4712. A bill to assure that the United States can provide assistance to certain foreign officials to reduce illicit drug traffic; jointly, to the Committees on the Judiciary and Foreign Affairs.

By Mrs. UNSOELD (for herself and Ms. CANTWELL):

H.R. 4713. A bill to promote public confidence in the Magnuson Fishery Conservation and Management Act, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. CARDIN:

H.R. 4714. A bill to amend the Internal Revenue Code of 1986 to restore the exception to the market discount rules for tax-exempt obligations; to the Committee on Ways and Means.

By Mr. HERGER:

H.R. 4715. A bill to authorize the Secretary of the Interior to convey certain lands administered by the Secretary, and for other purposes; jointly, to the Committees on Agriculture and Natural Resources.

By Mrs. JOHNSON of Connecticut:

H.R. 4716. A bill to provide compensation to certain parties injured under the trade laws of the United States, and for other purposes; to the Committee on Ways and Means.

By Mr. KIM (for himself, Mr. ACKERMAN, Mr. BACCHUS of Florida, Mr. BACHUS of Alabama, Mr. BAKER of California, Mr. BARTLETT of Maryland, Mr. BONILLA, Mr. BROWN of California, Mr. CALVERT, Mr. CASTLE, Mr. COBLE, Mr. CRAPO, Mr. DELAY, Mr. DICKEY, Mr. DOOLITTLE, Mr. DORNAN, Mr. DREIER, Mr. DUNCAN, Mr. FRANKS of New Jersey, Mr. GALLEGLY, Mr. PETE GEREN of Texas, Mr. GILMAN, Mr. GINGRICH, Mr. SAM JOHNSON of Texas, Mr. KINGSTON, Mr. LEVY, Mr. LEWIS of California, Mr. LINDER, Mr. MARTINEZ, Mr. MCHUGH, Mr. MCKEON, Mr. MILLER of Florida, Mr. MOORHEAD, Mr. PACKARD, Mr. ROHRABACHER, Mr. ROYCE, Mr. SAWYER, Mr. SMITH of Texas, Mr. SMITH of Michigan, Mr. FILNER, and Mr. HUTCHINSON):

H.J. Res. 384. Joint resolution to designate the week of February 6, 1995, as "National Inventors Week"; to the Committee on Post Office and Civil Service.

By Ms. MOLINARI (for herself, Mr. RICHARDSON, Mr. QUINN, Ms. PRYCE of Ohio, Mr. BORSKI, Mr. ACKERMAN, Mr. KASICH, Mr. HOKE, Mr. CASTLE, Mr. VALENTINE, Mr. MINETA, Mr. EMERSON, Mrs. UNSOELD, Mrs. FOWLER, Mr. BLUTE, Ms. BROWN of Florida, Ms. COLLINS of Michigan, Mr. FRANKS of Connecticut, Mr. GUNDERSON, Mr. HOUGHTON, Mr. RANGEL, Mrs. JOHNSON of Connecticut, Mr. THOMPSON, Mr. WAXMAN, Mrs. MORELLA, Mr. DINGELL, Mr. SANDERS, Mr. SCHUMER, Mr. SYNAR, Mr. WALSH, Mr. WOLF, Mr. FROST, Mr. TRAFICANT, Ms. FURSE, Mrs. KENNELLY, Mrs. MINK, Mr. SKEEN, Mr. CALVERT, Mr. ANDREWS of Maine, Ms. SNOWE, Mr. BACCHUS of Florida, Ms. NORTON, Mr. FISH, and Mr. FLAKE):

H.J. Res. 385. Joint resolution to designate February 2, 1995, and February 1, 1996, as "National Women and Girls in Sports Day"; to the Committee on Post Office and Civil Service.

By Mr. SMITH of New Jersey (for himself, Mr. TORRICELLI, Mr. GILMAN, Mr. HYDE, Mr. HALL of Ohio, Mr. LIVINGSTON, Mr. GOSS, and Mr. EMERSON):

H. Con. Res. 264. Concurrent resolution establishing a congressional commission for the purpose of assessing the humanitarian, political, and diplomatic conditions in Haiti and reporting to the Congress on the appropriate policy options available to the United States with respect to Haiti; to the Committee on Foreign Affairs.

By Mrs. FOWLER (for herself, Mr. TORKILDSEN, Ms. DUNN, and Mr. DREIER):

H. Res. 472. Resolution providing for the consideration of the bill (H.R. 3801) to improve the operations of the legislative branch of the Federal Government, and for other purposes; to the Committee on Rules.

By Mr. MANTON (for himself, Mr. PALLONE, Ms. ROYBAL-ALLARD, Mr. OWENS, and Mr. MEEHAN):

H. Res. 473. Resolution to raise awareness about domestic violence against women in the United States; to the Committee on Education and Labor.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. LEVIN:

H.R. 4717. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade and on the Great Lakes and their tributary and connecting waters in trade with Canada for the vessel *Sea Hawk III*; to the Committee on Merchant Marine and Fisheries.

By Mr. MONTGOMERY:

H.R. 4718. A bill for the relief of Joe W. Floyd; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Ms. KAPTUR.

H.R. 70: Mr. KYL.

H.R. 455: Mr. POMEROY.

H.R. 465: Mr. KYL.

H.R. 500: Mr. MORAN.

H.R. 561: Mr. YOUNG of Alaska.

H.R. 851: Mr. SOLOMON.

H.R. 1482: Mr. KYL.

H.R. 1483: Mr. KYL.

H.R. 1487: Mr. KYL.

H.R. 1505: Mr. KYL.

H.R. 1859: Mrs. BYRNE.

H.R. 1915: Mr. TORKILDSEN.

H.R. 2088: Mr. FRANKS of Connecticut and Mr. SWETT.

H.R. 2292: Mrs. MORELLA and Mr. BLUTE.

H.R. 2467: Mr. FLAKE and Mr. KLINK.

H.R. 2626: Mr. LAFALCE and Ms. PELOSI.

H.R. 2929: Mr. MCINNIS.

H.R. 2990: Mr. PARKER.

H.R. 3024: Mr. BALLENGER.

H.R. 3039: Mr. FINGERHUT, Mr. UPTON, and Mr. BACHUS of Alabama.

H.R. 3270: Mr. ACKERMAN, Mr. BAESLER, Mr. BARCA of Wisconsin, Mr. BARLOW, Mr. BROOKS, Mr. BROWN of Ohio, Mrs. BYRNE, Ms. CANTWELL, Mr. COPPERSMITH, Mr. DEFAZIO, Mr. DERRICK, Mr. DEUTSCH, Mr. DINGELL, Mr. DOOLEY, Mr. ENGEL, Ms. ESHOO, Mr. EVANS, Mr. FINGERHUT, Mr. FORD of Michigan, Ms. FURSE, Mr. GEPHARDT, Mr. GENE GREEN of Texas, Mr. GUTIERREZ, Mr. HALL of Ohio, Mr. HAMBURG, Mr. HOYER, Mr. KANJORSKI, Ms. KAPTUR, Mr. KLINK, Mr. LAROCCO, Mr. LEWIS of Georgia, Ms. LOWEY, Mr. MCNULTY, Mrs. MALONEY, Ms. MARGOLIES-MEZVINSKY, Mr. MEEHAN, Mr. MFUME, Mr. MILLER of California, Mr. MINETA, Mr. MOAKLEY, Mr. MONTGOMERY, Mr. MORAN, Mr. NEAL of Massachusetts, Mr. NEAL of North Carolina, Mr. OBEY, Mr. OWENS, Mr. PARKER, Ms. PELOSI, Mr. PENNY, Mr. ROSE, Ms. ROYBAL-ALLARD, Mr. RUSH, Mr. SABO, Mr. SANDERS, Mr. SAWYER, Mr. SCHUMER, Ms. SHEPHERD, Mr. SOLOMON, Mr. STENHOLM, Mr. STUPAK, Mr. SYNAR, Mr. TAUZIN, Mr. TAYLOR of Mississippi, Mr. TOWNS, Mr. TRAFICANT, Mr. TUCKER, Mrs. UNSOELD, Ms. VELAZQUEZ, Ms. WATERS, Mr. WATT, Mr. WILLIAMS, Mr. WISE, Ms. WOOLSEY, Mr. MURTHA, Mr. SHARP, Mr. REED, Mr. NADLER, Mr. ANDREWS of Maine, Mr. MARTINEZ, Mr. WILSON, Mr. BACCHUS of Florida, Mrs. KENNELLY, Mr. JOHNSON of South Dakota, Mr. VALENTINE, Mr. HEFNER, Mr. BISHOP, Mr. BEVILL, Mr. RICHARDSON, Mr. VENTO, Ms. SLAUGHTER, Mr. HASTINGS, Mr. FLAKE, Ms. MCKINNEY, Mr. BORSKI, and Mr. LAFALCE.

H.R. 3407: Mr. KNOLLENBERG, Mr. DIAZ-BALART, Mr. GUNDERSON, Mr. MOORHEAD, Mr. ROYCE, and Mr. CLEMENT.

H.R. 3458: Mr. SOLOMON.

H.R. 3472: Mr. MCHALE.

H.R. 3483: Mr. KINGSTON.

H.R. 3519: Mr. VENTO.

H.R. 3523: Mr. MINGE.

H.R. 3630: Mr. RAHALL and Mr. WISE.

H.R. 3906: Mrs. FOWLER, Mr. TALENT, Mr. COLEMAN, Mr. KOLBE, and Mr. PETE GEREN of Texas.

H.R. 4050: Ms. SLAUGHTER, Mr. KANJORSKI, Mr. OWENS, Mr. PAYNE of New Jersey, Ms. FURSE, and Mr. HILLIARD.

H.R. 4058: Mr. GENE GREEN of Texas and Mr. CARDIN.

H.R. 4074: Mr. YATES, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. WOLF, Ms. DELAURO, Mr. KINGSTON, Mr. MCCRERY, Mr. BAKER of California, and Mr. PETE GEREN of Texas.

H.R. 4088: Mr. KING.

H.R. 4181: Mrs. SCHROEDER.

H.R. 4257: Mr. SHAW.

H.R. 4271: Mr. MCDADE.

H.R. 4291: Mr. MINGE, Mr. BROWN of Ohio, and Mr. BARCIA of Michigan.

H.R. 4386: Mr. KING.

H.R. 4404: Mr. RICHARDSON and Mr. MEEHAN.

H.R. 4411: Mr. OWENS.

H.R. 4413: Mr. OBERSTAR.

H.R. 4427: Mr. FOGLIETTA and Mr. PARKER.

H.R. 4475: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. FISH, Mr. EHLERS, and Mr. GALLO.

H.R. 4477: Mr. GEJDENSON, Mr. RAVENEL, Mr. HOCHBRUECKNER, Mr. KOPETSKI, Mr. BORSKI, Mr. DEFAZIO, Mr. CRAPO, Ms. FURSE, Mr. MANTON, Mr. JEFFERSON, Mr. HANSEN, Mr. WYDEN, Mr. CALLAHAN, and Mr. BARLOW.

H.R. 4495: Mr. SWETT, Mr. DE LUGO, Mr. WASHINGTON, Mr. MILLER of California, and Mr. BORSKI.

H.R. 4496: Mr. SWETT, Mrs. LLOYD, Mr. LIPINSKI, Ms. MARGOLIES-MEZVINSKY, and Mr. BEILENSON.

H.R. 4497: Mr. THOMAS of Wyoming, Mr. OBEY, Mr. ROBERTS, and Mr. SMITH of Oregon.

H.R. 4517: Ms. NORTON.

H.R. 4570: Mr. KILDEE, Ms. PRYCE of Ohio, Mr. MEEHAN, Ms. FURSE, Mrs. UNSOELD, Mrs. MINK of Hawaii, Mrs. LLOYD, Mrs. FOWLER, Ms. CANTWELL, and Ms. COLLINS of Michigan.

H.R. 4580: Mrs. MEEK of Florida, Mr. BORSKI, Ms. VELAZQUEZ, and Mr. LIPINSKI.

H.R. 4590: Mr. BUNNING, Mr. DELLUMS, Mr. DURBIN, Mr. EVANS, Mr. HALL of Ohio, Mrs. SCHROEDER, Mr. STOKES, Mr. TRAFICANT, Mr. VENTO, Mr. WASHINGTON, and Mr. HINCHEY.

H.R. 4617: Mr. BURTON of Indiana, Mr. SANDERS, and Mr. LAUGHLIN.

H.J. Res. 44: Mr. LUCAS.

H.J. Res. 160: Mr. LUCAS.

H.J. Res. 256: Mr. BALLENGER.

H.J. Res. 326: Mr. POMBO and Ms. MARGOLIES-MEZVINSKY.

H.J. Res. 349: Mr. UNDERWOOD, Mr. HUGHES, Mr. JEFFERSON, Mr. PASTOR, Mr. PORTER, Mr. LANCASTER, Mr. DEFAZIO, Mr. FARR, Mr. SCHAEFER, Mr. THOMAS of Wyoming, Mr. RICHARDSON, Mr. MOLLOHAN, Mr. PRICE of North Carolina, Mr. COX, and Mr. GIBBONS.

H.J. Res. 363: Mr. HALL of Ohio, Mr. DEAL, Mr. THOMPSON, Mr. CLYBURN, Mr. HINCHEY, Mr. FARR, Mrs. MALONEY, Mr. KANJORSKI, Mr. DURBIN, Mr. RICHARDSON, Mr. THOMAS of Wyoming, Mr. BLUTE, Mr. BAKER of California, Mr. POMBO, Mr. HAMILTON, Mr. FILNER, Mr. CONDIT, Ms. CANTWELL, Mr. FINGERHUT, Mr. HAMBURG, Mr. LAROCCO, Mr. BARLOW, Mr. DE LA GARZA, Ms. ESHOO, Mr. JOHNSON of Georgia, Ms. DANNER, Ms. ENGLISH of Arizona, Mr. RUSH, Mr. ABERCROMBIE, Mr. BROWN of Ohio, Mr. FIELDS of Texas, Mr. JEFFERSON, Mr. CARDIN, Mr. GONZALEZ, Mr. TORKILDSEN, Mr. MILLER of Florida, Mr. GENE GREEN of Texas, Mr. MCHALE, Mr. BORSKI, Ms. KAPTUR, Ms. MCKINNEY, Mr. TUCKER, Mr. POMEROY, Mr. WATT, Mr. WYDEN, Mr. MILLER of California, Mr. BARCIA of Michigan, Mr. RAHALL, Mr. BRYANT, Mr. FAZIO, Mr. HASTINGS, Mr. OLVER, Mr. MINETA, Mr. SANDERS, Mr. BECERRA, Ms. SHEPHERD, Mr. DEFAZIO, Mr. MANN, Mr. FRANK of Massachusetts, Mr. APPLEGATE, Mr. PASTOR, Mr. SMITH of Iowa, Mr. VISCLOSKY, Mr. KLUG, Mr. PETE GEREN of Texas, Mr. ANDREWS of Maine, Mr. SCOTT, Mrs. UNSOELD, and Mr. DORNAN.

H.J. Res. 366: Mr. ALLARD, Mr. ANDREWS of New Jersey, Mr. APPLEGATE, Mr. BACCHUS of Florida, Mr. BAKER of California, Mr. BARCA of Wisconsin, Mr. BARRETT of Nebraska, Mr. BARTLETT of Maryland, Mr. BILIRAKIS, Mr. BLILEY, Mr. BOEHLERT, Mr. BORSKI, Mr. BRYANT, Mrs. BYRNE, Mr. CALLAHAN, Mr. CANADY, Mr. CARDIN, Mr. CLEMENT, Mr. COBLE, Mr. COLEMAN, Ms. COLLINS of Michigan, Mr. CONYERS, Mr. COOPER, Mr. COPPERSMITH, Mr. COX, Mr. COYNE, Mr. CUNNINGHAM, Mr. DARDEN, Mr. DICKEY, Mr. DOOLITTLE, Mr. DORNAN, Ms. DUNN, Ms. ESHOO, Mr. EVANS, Mr. FILNER, Mr. FLAKE, Mr. FOGLIETTA, Mrs. FOWLER, Mr. FROST, Mr. GIBBONS, Mr. GILMAN, Mr. GLICKMAN, Mr. GUNDERSON, Mr. HEFLEY, Mr. HERGER, Mr. HOCHBRUECKNER, Mr. HOLDEN, Mr. HOYER, Mr. KANJORSKI, Mr. KLECZKA, Mr. KLINK, Mr. KNOLLENBERG, Mr. LAFALCE, Mr. LANCASTER, Mr. LAZIO, Mr. LEWIS of California, Mr. LIPINSKI, Mrs. LLOYD, Mr. LUCAS, Mr. MARTINEZ, Mr. MAZZOLI, Mr. MCCOLLUM, Mr. MCHALE, Mr. MCINNIS, Mr. MCKEON, Mr. MENENDEZ, Mr. MICHEL, Mr. MORAN, Mrs. MORELLA, Mr. MURPHY, Mr. MYERS of Indiana, Mr. PACKARD, Mr. RAHALL, Mr. RANGEL, Mr. REED, Mr. ROHRABACHER, Mr. ROMERO-BARCELO, Mr. ROTH, Mr. SANGMEISTER, Mr. SAWYER, Mr. SERRANO, Mr. SHARP, Mr. SHAYS, Mr. SISISKY, Mr. SKEEN, Ms. SLAUGHTER, Mr. SMITH of New Jersey, Mr. SMITH of Texas, Mr. SOLOMON, Mr. SPENCE, Mr. SYNAR, Mr. TALENT, Mr. THOMPSON, Mr. TRAFICANT, Mr. UPTON, Mr. VENTO, Mr. VISCLOSKY, Mr. WALSH, Mr. WHEAT, Mr. WILSON, and Mr. WISE.

H.J. Res. 378: Mr. MCNULTY.

H.J. Res. 383: Ms. MOLINARI, Mr. MANTON, Mr. HINCHEY, Mr. MENENDEZ, Mr. TOWNS, and Mr. LAFALCE.

H. Con. Res. 90: Mr. KYL.

H. Con. Res. 166: Mr. ROYCE, Mr. EMERSON, Mr. CANADY, and Mr. MOORHEAD.

H. Con. Res. 243: Mr. BILIRAKIS and Ms. BROWN of Florida.

H. Con. Res. 256: Mr. UPTON, Mr. SLATTERY, Mr. WELDON, and Mr. DARDEN.

DISCHARGE PETITIONS

Under clause 3 of rule XXVII, the following discharge petitions were filed:

Petition 23, June 29, 1994, by Mr. TAUZIN on the bill H.R. 3875, was signed by the following Members: W.J. (Billy) Tauzin, Bill McCollum, Jack Fields, John J. Duncan, Jr., Richard K. Armey, Frank D. Lucas, Dan Schaefer, Pat Roberts, Philip M. Crane, James V. Hansen, Wayne Allard, Joe Barton, Craig Thomas, Don Sundquist, Sonny Callahan, Harold Rogers, Stephen E. Buyer, Dan Burton, Bob Stump, Jim McCrery, Mel Hancock, Cass Ballenger, Don Young, John Linder, Bill Baker, Michael D. Crapo, Tom DeLay, John T. Doolittle, Alfred A. (Al)

McCandless, Wally Herger, Thomas J. Bliley, Jr., Randy "Duke" Cunningham, Jim Bunning, J. Alex McMillan, Jack Kingston, Terry Everett, Bill Emerson, Joe Skeen, Charles H. Taylor, J. Dennis Hastert, Thomas W. Ewing, Christopher Cox, Scott McInnis, Jay Dickey, Dan Rohrabacher, Peter Hoekstra, Bill Archer, Peter Blute, Michael Bilirakis, Robert F. (Bob) Smith, Joel Hefley, Bob Livingston, William M. Thomas, Lamar Smith, Howard Coble, James A. Traficant, Dan Miller, Mike Parker, Larry Combest, Henry Bonilla, Ken Calvert, Jerry Lewis, John L. Mica, Charles Wilson, Howard P. "Buck" McKeon, Richard W. Pombo, James M. Inhofe, Barbara F. Vucanovich, Ron Packard, Michael Huffington, Joe Knollenberg, Ralph M. Hall, Duncan Hunter, Jim Lightfoot, Tillie K. Fowler, Dave Camp, John A. Boehner, Paul E. Gillmor, Bill Paxon, Sam Johnson, Gary A. Condit, J. Roy Rowland, Robert H. Michel, Jim Kolbe, Michael G. Oxley, Floyd Spence, Donald A. Manzullo, Gerald B.H. Solomon, John M. McHugh, Charles W. Stenholm, James A. Hayes, Pete Geren, Nick Smith, James H. (Jimmy) Quillen, Robert K. Dornan, C.W. Bill Young, Carlos J. Moorhead, Jon Kyl, William F. Clinger, Jr., E. Clay Shaw, Jr., Richard H. Baker, Newt Gingrich, David Dreier, Mac Collins, Peter T. King, Bill Barrett, Bill K. Brewster, Jim Nussle, David L. Hobson, Frank D. Lucas, Henry J. Hyde, William H. Zeliff, Jr., William F. Goodling, Jay Kim, Cliff Stearns, Elton Gallegly, Charles T. Canady, Helen Delich Bentley, F. James Sensenbrenner, Jr., Susan Molinari, Stephen Horn, Martin R. Hoke, Thomas J. Ridge, Robert S. Walker, Calvin M. Dooley, Rob Portman, and Porter J. Goss.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 11 by Mr. RAMSTAD on House Resolution 247: David Dreier and Steve Gunderson.

Petition 16 by Mr. ZELIFF on House Resolution 407: Jim Slattery.

Petition 17 by Mr. SHAW on House Resolution 386: Richard H. Baker, Joseph H. McDade, Sherwood L. Boehlert, Frank R. Wolf, Duncan Hunter, C.W. Bill Young, Michael Bilirakis, Don Young, Helen Delich Bentley, Joe Skeen, Bill Emerson, John R. Kasich, Roscoe G. Bartlett, Robert K. Dornan, Sonny Callahan, Christopher H. Smith, Wally Herger, Harold Rogers, James V. Hansen, Joe Barton, Robert F. (Bob) Smith, James M. Inhofe, Spencer Bachus, Susan Molinari, David L. Hobson, and Martin R. Hoke.

Petition 18 by Mr. HASTERT on House Resolution 402: Don Sundquist.

Petition 19 by Mr. EWING on House Resolution 415: Jack Kingston, Newt Gingrich, Tom DeLay, Gerald B.H. Solomon, Ralph M. Hall, Robert S. Walker, Peter Blute, Christopher Cox, Bob Livingston, Lamar S. Smith, Jack Quinn, Jim Chapman, and Steve Gunderson.

Petition 20 by Mr. SANGMEISTER on House Resolution: Michael Bilirakis and Dan Miller.

Petition 22 by Mr. INHOFE on House Resolution 409: Ron Lewis, Toby Roth, James A. Barcia, Nick Smith, Newt Gingrich, Roscoe G. Bartlett, John Linder, Michael D. Crapo, Donald A. Manzullo, Ernest J. Istook, Jr., Bob Franks, Bill Paxton, John T. Doolittle, Gerald B.H. Solomon, Ralph M. Hall, Richard K. Armey, James M. Talent, Deborah Pryce, Bill McCollum, Mel Hancock, Scott McInnis, Christopher Cox, Craig Thomas, Spencer Bachus, and Steve Gunderson.

SENATE—*Thursday, June 30, 1994*

(Legislative day of Tuesday, June 7, 1994)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Therefore shall a man leave his father and his mother, and shall cleave unto his wife: and they shall be one flesh.—Genesis 2:24.

Husbands, love your wives, even as Christ also loved the church, and gave himself for it * * *.—Ephesians 5:25.

Eternal God of infinite love, perfect and just in all Thy ways, Thou knowest the hurt and the anger that weighs so heavily on the hearts of the many women who have had to endure, silently, the indignities, the agonies, the pain visited upon them by a brutal husband or lover. Thou knowest those who have been violated and humiliated. Thou knowest the children, every day abused by the cruelty of brutal men.

All this evil which has, so smugly, been ignored or minimized by family, friends, justice systems and even churches, has finally been brought to light by the national, hourly press and media coverage of the O.J. Simpson affair.

Gracious, righteous Lord, we ask that Thou will make Thy presence felt by all the victims, known and unknown, who have suffered for so long in their silent desperation. Forgive all of us who have ignored this suffering and may have contributed to it by our indifference.

Mighty God, bring healing to our Nation and to all of us who seem so blind and deaf to so much agony.

We pray in the name of the Great Physician. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 30, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

1994 JULY QUARTERLY REPORTS

The mailing and filing date of the July quarterly report required by the Federal Election Campaign Act, as amended, is Friday, July 15, 1994. All principal campaign committees supporting Senate candidates in the 1994 races must file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510-7116. Senators may wish to advise their campaign committee personnel of this requirement.

The Public Records Office will be open from 8 a.m. until 9 p.m. on July 15, to receive these filings. For further information, please contact the Office of Public Records on (202) 224-0322.

REGISTRATION OF MASS MAILINGS

The filing date for 1994 second quarter mass mailings is July 25, 1994. If a Senator's office did no mass mailings during this period, please submit a form that states "none."

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510-7116.

The Public Records Office will be open from 8 a.m. to 6 p.m. on the filing date to accept these filings. For further information, please contact the Public Records Office on (202) 224-0322.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT OF 1995

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 4506, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4506) making appropriations for energy and water development for the fiscal year ending September 30, 1995 and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

H.R. 4506

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1995, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, **[**$179,062,000**]** *$181,199,000,* to remain available until expended, of which funds are provided for the following projects in the amounts specified:

[Los Angeles County Water Conservation and Supply, California, $700,000;

[Norco Bluffs, California, $400,000;

[Indianapolis, White River, Central Waterfront, Indiana, $4,000,000;

[Ohio River Greenway, Indiana, $900,000;

[Lake George, Hobart, Indiana, $260,000;

[Little Calumet River Basin (Cady Marsh Ditch), Indiana, $150,000;

[Kentucky Lock and Dam, Kentucky, $2,000,000;

[Hazard, Kentucky, $500,000;

[Mussers Dam, Pennsylvania, $200,000;

[Hartsville, Trousdale County, Tennessee, $95,000;

[West Virginia Comprehensive, West Virginia, $350,000; and

[West Virginia Port Development, West Virginia, $800,000**]**

Red River Navigation Study, Arkansas, $500,000;

Indianapolis, White River, Central Waterfront, Indiana, $4,000,000;

Little Calumet River Basin (Cady Marsh Ditch), Indiana, $150,000;

Kentucky Lock and Dam, Kentucky, $2,000,000;

Hazard, Kentucky, $500,000;

Hartsville, Trousdale County, Tennessee, $95,000;

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

West Virginia Comprehensive, West Virginia, $350,000; and

West Virginia Port Development, West Virginia, $800,000.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), [$1,023,595,000] *$977,660,000,* to remain available until expended, of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the Lock and Dam 25, Mississippi River, Illinois and Missouri, and GIWW-Brazos River Floodgates, Texas, projects, and of which funds are provided for the following projects in the amounts specified:

[Red River Emergency Bank Protection, Arkansas and Louisiana, $6,000,000;

[Red River below Denison Dam Levee and Bank Stabilization, Arkansas and Louisiana, $1,500,000;

[West Sacramento, California, $500,000;

[Sacramento River Flood Control Project (Glenn-Colusa Irrigation District), California, $400,000;

[Sacramento River Flood Control Project (Deficiency Correction), California, $3,700,000;

[San Timoteo Creek (Santa Ana River Mainstem), California, $5,000,000;

[Central and Southern Florida, Florida, $11,315,000;

[Kissimmee River, Florida, $9,000,000;

[Casino Beach, Illinois, $1,000,000;

[Des Moines Recreational River and Greenbelt, Iowa, $4,000,000;

[Harlan (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $20,000,000;

[Middlesborough (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $1,200,000;

[Williamsburg (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $3,000,000;

[Pike County (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $5,000,000;

[Lake Pontchartrain and Vicinity (Jefferson Parish), Louisiana, $800,000;

[Lake Pontchartrain and Vicinity (Hurricane Protection), Louisiana, $12,500,000;

[Ste. Genevieve, Missouri, $3,000,000;

[Hackensack Meadowlands Area, New Jersey, $2,500,000;

[Ramapo River at Oakland, New Jersey, $600,000;

[Salem River, New Jersey, $1,000,000;

[Carolina Beach and Vicinity, North Carolina, $2,800,000;

[Fort Fisher and Vicinity, North Carolina, $900,000;

[Broad Top Region, Pennsylvania, $1,000,000;

[Lackawanna River, Olyphant, Pennsylvania, $1,100,000;

[Lackawanna River, Scranton, Pennsylvania, $1,000,000;

[South Central Pennsylvania Environmental Restoration Infrastructure and Resource Protection Development Pilot Program, Pennsylvania, $7,000,000;

[Wallisville, Lake, Texas, $1,000,000;

[Richmond Filtration Plant, Virginia, $2,000,000; and

[Southern West Virginia Environmental Restoration Infrastructure and Resource Protection Development Pilot Program, West Virginia, $1,500,000]

Red River Emergency Bank Protection, Arkansas and Louisiana, $6,000,000;

Red River below Denison Dam Levee and Bank Stabilization, Arkansas and Louisiana, $1,500,000;

West Sacramento, California, $500,000;

Sacramento River Flood Control Project (Glenn-Colusa Irrigation District), California, $400,000;

Sacramento River Flood Control Project (Deficiency Correction), California, $3,700,000;

San Timoteo Creek (Santa Ana River Mainstem), California, $5,000,000;

Kissimmee River, Florida, $3,000,000;

Savannah Harbor Deepening, Georgia (Reimbursement), $11,585,000, of which $2,083,000 is for a cost-shared Savannah River recreation enhancement and public access project along 900 linear feet of shoreline in the City of Savannah;

Casino Beach, Illinois, $1,000,000;

Des Moines Recreational River and Greenbelt, Iowa, $2,000,000;

Harlan (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $20,000,000;

Middlesborough (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $1,200,000;

Williamsburg (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $3,000,000;

Pike County (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $5,000,000;

Lake Pontchartrain and Vicinity (Jefferson Parish), Louisiana, $800,000;

Lake Pontchartrain and Vicinity (Hurricane Protection), Louisiana, $12,500,000;

Ouachita River Levees, Louisiana, $4,500,000;

Ste. Genevieve, Missouri, $3,000,000;

Ramapo River at Oakland, New Jersey, $600,000;

Broad Top Region, Pennsylvania, $1,000,000;

Lackawanna River, Olyphant, Pennsylvania, $1,100,000;

Lackawanna River, Scranton, Pennsylvania, $1,000,000;

South Central Pennsylvania Environmental Restoration Infrastructure and Resource Protection Development Pilot Program, Pennsylvania, $2,000,000;

Wallisville Lake, Texas, $1,000,000;

Richmond Filtration Plant, Virginia, $2,000,000;

Southern West Virginia Environmental Restoration Infrastructure and Resource Protection Development Pilot Program, West Virginia, $1,500,000;

Hatfield Bottom (Levisa and Tug Fork of the Big Sandy River and Upper Cumberland River), West Virginia, $500,000; and

Upper Mingo (Levisa and Tug Fork of the Big Sandy River and Upper Cumberland River), West Virginia, $250,000:

Provided, That of the offsetting collections credited to this account, $71,000 are permanently canceled.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g-1), [$334,138,000] *$328,138,000,* to remain available until expended, [of which $3,000,000 is provided for the Eastern Arkansas Region, Arkansas, project] *and of which funds are provided for the following projects in the amounts specified:*

Eastern Arkansas Region, Arkansas, $3,000,000;

Yazoo Basin, Mississippi, Upper Yazoo Projects, Belzoni Bridge Removal, $640,000; and

Tiptonville, Tennessee, Levee Extension, Mississippi River Levees, $1,000,000.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, [$1,646,535,000] *$1,631,434,000,* to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662, may be derived from that fund, and of which $37,000,000 shall be for construction, operation, and maintenance of outdoor recreation facilities, to be derived from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l), and of which funds are provided for the following projects in the amounts specified:

[Tucson Diversion Channel, Arizona, $2,500,000;

[Jeffersonville-Clarksville, Indiana, $750,000;

[McAlpine Lock and Dam (Ohio River Locks and Dams), Kentucky, $1,000,000; and

[Raystown Lake, Pennsylvania, $5,330,000]

Tucson Diversion Channel, Arizona, $2,500,000; and

John H. Kerr Reservoir, Virginia and North Carolina (Mosquito Control), $40,000:

Provided, That not to exceed $7,000,000 shall be available for obligation for national emergency preparedness programs: *Provided further*, That of the offsetting collections credited to this account, $1,000 are permanently canceled: *Provided further, That the Secretary of the Army is directed during fiscal year 1995 to maintain a minimum conservation pool level of 475.5 at Wister Lake in Oklahoma.*

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $101,000,000, to remain available until expended.

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by section 5 of the Flood Control Act approved August 18, 1941, as amended, $14,979,000, to remain available until expended: *Provided*, That of the offsetting collections credited to this account, $5,000 are permanently canceled.

OIL SPILL RESEARCH

For expenses necessary to carry out the purposes of the Oil Spill Liability Trust Fund, pursuant to title VII of the Oil Pollution Act of 1990, [$625,000] *$900,000,* to be derived from the Fund and to remain available until expended.

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the Office of the Chief of Engineers and offices of the

Division Engineers; activities of the Coastal Engineering Research Board, the Humphreys Engineer Center Support Activity, and the Water Resources Support Center, [$152,500,000] *$156,255,000, to remain available until expended*: *Provided*, That not to exceed [$56,480,000] *$59,280,000* of the funds provided in this Act shall be available for general administration and related functions in the Office of the Chief of Engineers: [*Provided further*, That no part of any other appropriation provided in title I of this Act shall be available to fund the activities of the Office of the Chief of Engineers or the Division Offices] *Provided further, That no part of any other appropriation provided in title I of this Act shall be available to fund the activities of the Office of the Chief of Engineers or the executive direction and management activities of the Division Offices, except that activities conducted under the authority of 33 U.S.C. 702a and 702g-1 will be funded by the Flood Control, Mississippi River and Tributaries account.*

PERMANENT APPROPRIATIONS

Amounts otherwise available for obligation in fiscal year 1995 are reduced by $4,000.

RIVERS AND HARBORS CONTRIBUTED FUNDS

Amounts otherwise available for obligation in fiscal year 1995 are reduced by $16,000.

ADMINISTRATIVE PROVISIONS

During the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 100 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISION

CORPS OF ENGINEERS—CIVIL

SEC. 101. In fiscal year 1995, the Secretary shall advertise for competitive bid at least 7,500,000 cubic yards of the hopper dredge volume accomplished with Government-owned dredges in fiscal year 1992.

Notwithstanding the provisions of this section, the Secretary is authorized to use the dredge fleet of the Corps of Engineers to undertake projects when industry does not perform as required by the contract specifications or when the bids are more than 25 percent in excess of what the Secretary determines to be a fair and reasonable estimated cost of a well equipped contractor doing the work or to respond to emergency requirements.

TITLE II

DEPARTMENT OF THE INTERIOR

CENTRAL UTAH PROJECT

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For the purpose of carrying out provisions of the Central Utah Project Completion Act, Public Law 102-575 (106 Stat. 4605), $38,972,000, to remain available until expended, of which $22,839,000 shall be to carry out the activities authorized under title II of the Act and for feasibility studies of alternatives to the Uintah and Upalco Units, and of which $16,133,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account: *Provided*, That of the amounts deposited into the Account, $5,000,000 shall be considered the Federal Contribution authorized by paragraph 402(b)(2) of the Act and $11,133,000 shall be available to the Utah Reclamation Mitigation and Conservation Commission to carry out the activities authorized under title III of the Act.

In addition, for necessary expenses incurred in carrying out responsibilities of the Secretary of the Interior under the Act, $1,191,000, to remain available until expended.

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, to remain available until expended, [$14,190,000] *$14,340,000*: *Provided*, That, of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such amounts shall remain available until expended.

CONSTRUCTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Bureau of Reclamation use) and for other related activities as authorized by law, to remain available until expended, [$432,727,000] *$425,727,000* of which $23,272,000 shall be available for transfer to the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d), and $153,793,000 shall be available for transfer to the Lower Colorado River Basin Development Fund authorized by section 403 of the Act of September 30, 1968 (43 U.S.C. 1543), and such amounts as may be necessary shall be considered as though advanced to the Colorado River Dam Fund for the Boulder Canyon Project as authorized by the Act of December 21, 1928, as amended: *Provided*, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*, That transfers to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation under this heading: *Provided further*, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such funds shall remain available until expended: *Provided further*, That no part of the funds herein approved shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument: *Provided further*, That all costs of the safety of dams modification work at Coolidge Dam, San Carlos Irrigation Project, Arizona, performed under the authority of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 506), as amended, are in addition to the amount authorized in section 5 of said Act.

OPERATION AND MAINTENANCE

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, to remain available until expended, [$286,521,000] *$282,165,000*: *Provided*, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund, and the amount for program activities which can be derived from the special fee account established pursuant to the Act of December 22, 1987 (16 U.S.C. 460l-6a, as amended), may be derived from that fund: *Provided further*, That of the total appropriated, such amounts as may be required for replacement work on the Boulder Canyon Project which would require readvances to the Colorado River Dam Fund shall be readvanced to the Colorado River Dam Fund pursuant to section 5 of the Boulder Canyon Project Adjustment Act of July 19, 1940 (43 U.S.C. 618d), and such readvances since October 1, 1984, and in the future shall bear interest at the rate determined pursuant to section 104(a)(5) of Public Law 98-381: *Provided further*, That funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same purpose and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended: *Provided further*, That revenues in the Upper Colorado River Basin Fund shall be available for performing examination of existing structures on participating projects of the Colorado River Storage Project.

BUREAU OF RECLAMATION LOANS PROGRAM ACCOUNT

For the cost of direct loans and/or grants, [$9,000,000] *$6,000,000*, to remain available until expended, as authorized by the Small Reclamation Projects Act of August 6, 1956, as amended (43 U.S.C. 422a-422l): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed [$23,000,000] *$20,000,000*.

In addition, for administrative expenses necessary to carry out the program for direct loans and/or grants, $600,000: *Provided*, That of the total sums appropriated, the amount of program activities which can be financed by the reclamation fund shall be derived from the fund.

CENTRAL VALLEY PROJECT RESTORATION FUND

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, to remain available until expended, such sums as may be assessed and collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f) and 3406(c)(1) of Public Law 102-575: *Provided*, That the Bureau of Reclamation is directed to levy additional mitigation and restoration payments totaling $37,232,000 (October 1992 price levels), as authorized by section 3407(d) of Public Law 102-575.

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, $54,034,000, of which $1,400,000 shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

EMERGENCY FUND

For an additional amount for the "Emergency fund", as authorized by the Act of

June 26, 1948 (43 U.S.C. 502), as amended, to remain available until expended for the purposes specified in said Act, $1,000,000, to be derived from the reclamation fund.

SPECIAL FUNDS

(TRANSFER OF FUNDS)

Sums herein referred to as being derived from the reclamation fund or special fee account are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391) or the Act of December 22, 1987 (16 U.S.C. 4601–6a, as amended), respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified; and the unexpended balances of sums transferred for expenditure under the head "General Administrative Expenses" shall revert and be credited to the reclamation fund.

WORKING CAPITAL FUND

Of the offsetting collections credited to this account, $863,000 are permanently canceled due to reduced GSA rental charges and $1,848,000 are permanently canceled due to efficiencies in the procurement process.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 9 passenger motor vehicles for replacement only.

TITLE III

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for energy supply, research and development activities, and other activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 25, of which 19 are for replacement only), [$3,302,170,000] *$3,329,728,000*, to remain available until expended: *Provided, That the Secretary of Energy may transfer available amounts appropriated for use by the Department of Energy under title III of previously enacted Energy and Water Development Appropriations Acts into the Isotope Production and Distribution Program Fund, in order to continue isotope production and distribution activities: Provided further, That the authority to use these amounts appropriated is effective from the date of enactment of this Act.*

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses incidental thereto necessary for residual uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.) and the Energy Policy Act (Public Law 102–486, section 901), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of electricity as necessary; purchase of passenger motor vehicles (not to exceed 11 for replacement only), $73,210,000, to remain available until expended: *Provided*, That revenues received by the Department for residual uranium enrichment activities and estimated to total $9,900,000 in fiscal year 1995, shall be retained and used for the specific purpose of offsetting costs incurred by the Department for such activities notwithstanding the provisions of section 3302(b) of title 31, United States Code: *Provided further*, That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1995 so as to result in a final fiscal year 1995 appropriation estimated at not more than $63,310,000.

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

For necessary expenses in carrying out uranium enrichment facility decontamination and decommissioning, remedial actions and other activities of title II of the Atomic Energy Act of 1954 and title X, subtitle A of the Energy Policy Act of 1992, $301,327,000 to be derived from the fund, to remain available until expended: *Provided, That at least $41,700,000 of amounts derived from the fund for such expenses shall be expended in accordance with title X, subtitle A of the Energy Policy Act of 1992.*

GENERAL SCIENCE AND RESEARCH ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for general science and research activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 12 for replacement only), [$989,031,000] *$973,632,000*, to remain available until expended: *Provided*, That none of the funds made available under this section for Department of Energy facilities may be obligated or expended for food, beverages, receptions, parties, country club fees, plants or flowers pursuant to any cost-reimbursable contract: *Provided further, That of the amounts previously appropriated to orderly terminate the Superconducting Super Collider (SSC) project in the Energy and Water Development Appropriations Act, 1994, amounts not to exceed $65,000,000 shall be available as a one-time contribution to the completion, with modification, of partially completed facilities at the project site if the Secretary determines such one-time contribution (i) will assist the maximization of the value of the investment made in the facilities and (ii) is in furtherance of a settlement of the claims that the State of Texas has asserted against the United States in connection with the termination of the SSC project: Provided further, That no such amounts shall be made available as a contribution to operating expenses of such facilities.*

NUCLEAR WASTE DISPOSAL FUND

For the nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, [$304,800,000] *$402,800,000*, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise her authority pursuant to section 302(e)(5) of said Act to issue obligations to the Secretary of the Treasury: *Provided*, That of the amount herein appropriated, within available funds, not to exceed [$6,000,000] *$5,500,000* may be provided to the State of Nevada, for the sole purpose of conduct of its scientific oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97–425, as amended: *Provided further*, That of the amount herein appropriated, not more than [$8,500,000] *$7,000,000* may be provided to affected local governments, as defined in the Act, to conduct appropriate activities pursuant to the Act: *Provided further, That the distribution of the funds herein provided among the affected units of local government shall be determined by the Department of Energy and made available to the State and affected units of local government by direct payment: Provided further*, That within ninety days of the completion of each Federal fiscal year, each State or local entity shall provide certification to the Department of Energy, that all funds expended from such payments have been expended for activities as defined in Public Law 97–425, as amended. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further*, That none of the funds herein appropriated may be used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in section 1913 of title 18, United States Code: *Provided further*, That none of the funds herein appropriated may be used for litigation expenses: *Provided further*, That none of the funds herein appropriated may be used to support multistate efforts or other coalition building activities inconsistent with the restrictions contained in this Act.

[ISOTOPE PRODUCTION AND DISTRIBUTION PROGRAM FUND

[For Department of Energy expenses for isotope production and distribution activities, $11,600,000, to remain available until expended.]

ATOMIC ENERGY DEFENSE ACTIVITIES

WEAPONS ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 104, of which 103 are for replacement only, including 22 police-type vehicles), [$3,201,369,000 to remain available until expended, of which $20,765,000 shall be available only for program activities at the University of Rochester, Rochester, New York; and $8,750,000 shall be available only for program activities at the Naval Research Laboratory, Washington, District of Columbia] *$3,251,268,000, to remain available until expended.*

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense environmental restoration and waste management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 87 of which 67 are for replacement only including 6 police-type vehicles), [$5,128,211,000] *$5,083,691,000*, to remain available until expended[: *Provided*, That funds previously made available under this head in the Energy and Water Development Appropriations Act, 1992, to assist the State of New Mexico and affected local governments in mitigating the impacts of the Waste Isolation Pilot Plant are available for any authorized purposes under this head].

MATERIALS SUPPORT AND OTHER DEFENSE PROGRAMS

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense materials support, and other defense activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, [$1,842,204,000] *$1,865,910,000*, to remain available until expended.

DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $129,430,000, to remain available until expended, all of which shall be used in accordance with the terms and conditions of the Nuclear Waste Fund appropriation of the Department of Energy contained in this title.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for Departmental Administration and other activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $35,000), $407,312,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511, et seq.): *Provided*, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further*, That moneys received by the Department for miscellaneous revenues estimated to total $161,490,000 in fiscal year 1995 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95–238, notwithstanding the provisions of section 3302 of title 31, United States Code: *Provided further*, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1995 so as to result in a final fiscal year 1995 appropriation estimated at not more than $245,822,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $26,465,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

OPERATION AND MAINTENANCE, ALASKA POWER ADMINISTRATION

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, $6,494,000, to remain available until expended.

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93–454, are approved for the purchase, operation and maintenance of two rotary-wing aircraft for replacement only, and for official reception and representation expenses in an amount not to exceed $3,000.

During fiscal year 1995, no new direct loan obligations may be made.

[Amounts otherwise available for obligation in fiscal year 1995 are reduced by $485,000.]

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $22,431,000, to remain available until expended.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 connected therewith, in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $21,316,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $3,935,000 in reimbursements, to remain available until expended.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7101, et seq.), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, [$224,085,000] *$222,285,000*, to remain available until expended, of which $202,512,000 shall be derived from the Department of the Interior Reclamation Fund: *Provided*, That of the amount herein appropriated, within available funds, $5,135,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992: *Provided further*, That the Secretary of the Treasury is authorized to transfer from the Colorado River Dam Fund to the Western Area Power Administration $7,472,000, to carry out the power marketing and transmission activities of the Boulder Canyon project as provided in section 104(a)(4) of the Hoover Power Plant Act of 1984, to remain available until expended.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including services as authorized by 5 U.S.C. 3109, including the hire of passenger motor vehicles; official reception and representation expenses (not to exceed $3,000); $166,173,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, not to exceed $166,173,000 of revenues from fees and annual charges, and other services and collections in fiscal year 1995, shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1995, so as to result in a final fiscal year 1995 appropriation estimated at not more than $0.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, and for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, to remain available until expended, [$187,000,000] *$287,000,000*.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100–456, section 1441, $17,933,000, to remain available until expended.

DELAWARE RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), $343,000.

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), $478,000.

INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

To enable the Secretary of the Treasury to pay in advance to the Interstate Commission on the Potomac River Basin the Federal contribution toward the expenses of the Commission during the current fiscal year in the administration of its business in the conservancy district established pursuant to the Act of July 11, 1940 (54 Stat. 748), as amended by the Act of September 25, 1970 (Public Law 91–407), $511,000.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including the employment of aliens; services authorized by section 3109 of title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft,

[$540,501,000] *$535,501,000*, to remain available until expended, of which $22,000,000 shall be derived from the Nuclear Waste Fund: *Provided*, That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That moneys received by the Commission for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act of 1954, as amended, may be retained and used for salaries and expenses associated with those activities, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at [$518,501,000] *$513,501,000* in fiscal year 1995 shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1995 from licensing fees, inspection services and other services and collections, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1995 appropriation estimated at not more than $22,000,000.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by section 3109 of title 5, United States Code, $5,080,000, to remain available until expended; and in addition, an amount not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: *Provided*, That notice of such transfers shall be given to the Committees on Appropriations of the House and Senate: *Provided further*, That from this appropriation, transfers of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1995 from licensing fees, inspection services, and other services and collections, so as to result in a final fiscal year 1995 appropriation estimated at not more than $0.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100-203, section 5051, $2,664,000, to be transferred from the Nuclear Waste Fund and to remain available until expended.

OFFICE OF THE NUCLEAR WASTE NEGOTIATOR

SALARIES AND EXPENSES

For necessary expenses of the office of the Nuclear Waste Negotiator in carrying out activities authorized by the Nuclear Waste Policy Act of 1982, as amended by Public Law 102-486, section 802, $1,000,000 to be derived from the Nuclear Waste Fund and to remain available until expended.

SUSQUEHANNA RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission as authorized by law (84 Stat. 1541), $318,000.

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1530, 1531), $288,000.

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including purchase, hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, [$136,856,000] *$142,873,000*, to remain available until expended.

TITLE V—GENERAL PROVISIONS

PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS

SEC. 501. (a) SENSE OF CONGRESS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

This Act may be cited as the "Energy and Water Development Appropriations Act, 1995".

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, Members of the Senate, the Senate will now consider the energy and water appropriations bill. As I stated last evening, it is my intention that we complete action on that bill this morning. So far, very few Senators have indicated an intention to offer amendments, and those Senators who intend to do so must be present promptly to offer their amendments. We must complete action on this bill in order to resume consideration of the Department of Defense authorization bill. As I indicated last evening, we will remain in session this week until we complete action on these two bills. As soon as we finish the DOD authorization bill, the Senate will adjourn for the Independence Day recess. But we will stay in session however long it takes to complete action on the Department of Defense authorization bill. My hope is that we can do it by a reasonable hour tomorrow, but if not we will simply stay here until we finish it.

However it is important—indeed it is imperative—that those Senators who intend to offer amendments to the energy and water appropriations bill come to the Senate floor immediately to be in a position to do so, because we are going to proceed promptly with this bill, as I have now stated on several occasions so Senators are plainly on notice in that regard.

Mr. President, I thank my colleagues. I note the presence of the managers, the distinguished Senators from Louisiana and Oregon, and I therefore yield the floor.

Mr. HATFIELD. Will the majority leader yield for a question?

Mr. MITCHELL. Certainly, yes.

Mr. HATFIELD. Would the leader give us a little guidance as to how long would be a reasonable period to wait for amendments to be offered before we might ask for third reading?

Mr. MITCHELL. Mr. President, my hope is that Senators have heard this and are hopefully in the process of alerting their staffs to notify the staffs of the Senators from Oregon and Louisiana. I do not wish at this time to impose a time deadline, but I think there is a real sense of urgency. Senators are on notice if they are not going to come to the Senate floor to offer their amendments we are going to proceed to complete action on the bill.

Mr. HATFIELD. If I might just comment, I would take note of the fact that only the managers and the majority leader are presently on the floor.

Mr. MITCHELL. Not an uncommon event.

Mr. JOHNSTON. Mr. President, will the distinguished majority leader yield?

Mr. MITCHELL. Certainly, yes.

Mr. JOHNSTON. I believe the distinguished majority leader said something similar to what he has just said yesterday.

Mr. MITCHELL. That is correct.

Mr. JOHNSTON. So Senators have twice been put on notice.

Mr. MITCHELL. That is correct.

Mr. JOHNSTON. And solicited to come with their amendments.

Mr. MITCHELL. Right.

Mr. JOHNSTON. Mr. President, does the leader concur with me that if Senators do have an amendment and do want protection, that they should see the floor managers? At this point the only amendment we know about—and I tell this to Senators—is a Kerry amendment, which I assume he will put in. He has been alerted to the fact we are starting at 9 today. So I would assume he will be here after very short opening statements.

Mr. MITCHELL. Mr. President, what I will do, if that is the only amendment that has been specifically noted, I will direct the floor staff to contact Senator KERRY's office to notify him of what has been said and what the plans are so he will understand that it is imperative he be present promptly to offer his amendment.

Mr. JOHNSTON. I take it any time agreements we can enter to dispose of amendments, the majority leader would concur in? May we seek those freely?

Mr. MITCHELL. Not only concur but encourage.

Mr. JOHNSTON. I thank the leader.

Mr. MITCHELL. I thank my colleague.

Mr. JOHNSTON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, we, again, are on the floor and I say again, because this is an annual event with my friend and colleague from Oregon, Senator HATFIELD, on handling the energy and water appropriations bill. I guess we are probably the longest running twosome in the Appropriations Committee, I having chaired on and off for a number of years, and Senator HATFIELD having chaired on and off for a number of years and having rotated as ranking minority members.

Again, Mr. President, it is a relationship that is greatly to be desired among Senators: Productive, pleasant, and always, I think, the kind of relationship that Senators seek and glory in when it is present.

Senator HATFIELD and I are pleased to present the energy and water appropriations bill again today. Our total obligational authority is $20.5 billion. We are $143,000 over the President's estimate and $157 million more than the House-passed bill, but we are within our 302(b) allocation.

Mr. President, this has been a particularly difficult year for the energy and water appropriations bill. I say that because our bill had greater cuts in our 602(b) allocation, proportionately, than any other appropriations subcommittee. There are 13 appropriations subcommittees and we had the largest cuts of all.

We are $1.3 billion under last year's nominal spending levels in BA—that is, in budget authority—and $1.5 billion below last year's nominal spending levels in budget outlays. So it was very, very difficult to meet the needs of the Nation in the areas of energy and water.

I might say here on the floor, as I have said in committee and as I have repeated over and over again, I think we made a real mistake in adopting the Exon Grassley amendment because it is beginning to impinge on the muscle and fiber and bone of the infrastructure of this country in our subcommittee and in other subcommittees, because that amendment goes to that very small percentage of spending which is discretionary spending and which is largely infrastructure-type spending to meet the new priorities, to meet the new vision of the country.

All of us know that the real spending in this country is in entitlements. Senator Bob Kerrey, of Nebraska, is chairman of a new entitlement commission. I hope they can find a way to cut entitlement spending because that is where the money is.

In discretionary spending, such as energy and water—such as protecting people from the ravages of floods, such as protecting them from rivers flooding and hurricanes, building water projects and providing the infrastructure in California, for example, to restore the salmon runs—all of that kind of spending is severely cut, $1.5 billion less than last year.

We have had, I believe it was, 1,200 separate requests from Senators to include items in this bill. To say that we could even meet a majority of those requests, of course, is impossible. We are not meeting the needs of the Nation in this bill.

Mr. President, I am pleased to present to the Senate, the energy and water development appropriation bill for the fiscal year beginning on October 1, 1994, and ending on September 30, 1995. This bill, H.R. 4506, passed the House of Representatives on June 14, 1994, by a vote of 393 yeas to 29 nays. The Subcommittee on Energy and Water Development marked up this bill on June 23, 1994, and the full committee marked it up and reported this bill the same day, June 23, 1994.

Before summarizing the principal aspects of this year's appropriation bill, I want to take a moment to especially thank the chairman of our full Committee on Appropriations, the distinguished President pro tempore and our leader for all the hard work confronting us in moving these appropriation bills through the subcommittee, the full committee and now to the Senate. I commend the chairman in leading us to this point.

Mr. President, as usual, I want to thank the distinguished Senator from Oregon, [Mr. Hatfield], who is a former chairman of the full committee and the ranking minority member of the committee for his cooperation, teamwork, and leadership. He is an outstanding minority member as he was an outstanding chairman.

PURPOSE OF THE BILL

The bill supplies funds for water resources development programs and related activities, of the Department of the Army, Civil Functions—U.S. Army Corps of Engineers' Civil Works Program in title I; for the Department of the Interior's Bureau of Reclamation in title II; for the Department of Energy's energy research activities—except for fossil fuel programs and certain conservation and regulatory functions—including atomic energy defense activities in title III; and for related independent agencies and commissions, including the Appalachian Regional Commission and Appalachian regional development programs, the Nuclear Regulatory Commission, and the Tennessee Valley Authority in title IV.

SUMMARY OF RECOMMENDATIONS

Mr. President, the fiscal year 1995 budget estimates for the bill total $20,512,750,000 in new budget obligations authority. The recommendation of the committee provides $20,512,893,000. This amount is $143,000 over the President's budget estimate and $157,271,000 more than the House-passed bill.

Mr. President, I will briefly summarize the major recommendations provided in the bill. All the details and figures are, of course, included in the committee report, 103–291, accompanying the bill, which has been available since last Friday, June 24, 1994.

TITLE I, ARMY CORPS OF ENGINEERS

First under title I of the bill which provides appropriations for the Department of the Army Civil Works Program, U.S. Army Corps of Engineers, we are recommending a total amount of new budget authority of $3,391,565,000, which is $60,869,000 below the House and $77.7 million over the budget estimate.

The committee has had a large number of requests for various water development projects including many requests for new construction starts. However, due to the limited budgetary resources, the committee could not provide funding for each and every project requested. The committee recommendation does not include a small number of new construction starts and has deferred without prejudice the largest of the projects eligible for initiation of construction. Because of the importance of some of these projects to the economic well-being of the Nation, the committee will continue to monitor each project's progress to insure that it is ready to proceed to construction when resources become available. I should caution, however, that due to the cost to construct a number of these projects, budgetary support from the executive branch will be critical in making the decision to proceed.

TITLE II, DEPARTMENT OF THE INTERIOR

For title II, Department of the Interior Bureau of Reclamation, we recommend a total in new budget authority of $869.4 million, which is $47.4 million over the budget estimate and $14.2 million under the House.

TITLE III, DEPARTMENT OF ENERGY

Under title III, Department of Energy, the committee provides a total of $15.9 billion. This amount includes $3.3 billion for energy supply, research, and development activities; $63.3 million for uranium supply and enrichment activities; $301.3 million for uranium enrichment decontamination and decommissioning fund, $973.6 million for general science and research activities, $402.8 million for Nuclear Waste Disposal Fund, and $6.2 billion for environmental restoration and waste management—defense and nondefense.

For the atomic energy defense activities, there is a total of $10.3 billion, comprised of $3.2 billion for weapons activities; $5.1 billion for defense environmental restoration and waste management; $1.86 for materials support and other defense programs and $129.4 million for defense nuclear waste disposal.

For Departmental Administration $407.3 million is recommended offset with anticipated miscellaneous revenues of $161.5 million for a new appropriation of $245.8 million. A total of $272.5 million is recommended in the bill for the power marketing administrations and $166,173,000 is for the Federal Energy Regulatory Commission [FERC] offset 100 percent by revenues.

A net appropriation of $272 million is provided for solar programs, including photovoltaics, wind, and biomass and for all solar renewables, $373 million, an increase of over $25 million compared to 1994.

For nuclear energy programs, $308 million is recommended, which is about $30 million less than the current level. The major programs provided for include funds to continue the integral fast reactor and a phase shutdown which will complete the research program, as opposed to an immediate termination. The sum of $12 million is included for the gas turbine modular helium reactor, also known as the gas reactor, or HTGR. The amount recommended for the IFR Program is $98 million.

For the magnetic fusion program, we are recommending $362.5 million, which is $10 million less than the budget. The main issue here is called the TPX or the Tokamak physics experiment at Princeton University. The House included a new start for this program. Construction of TPX would be in the range of $800 million to $1 billion, and probably a like amount to operate it over the life of its years. It is on the critical path to what we call ITER, the international tokamak experiment. It is necessary to do ITER or something like ITER to get to the commercialization of fusion. ITER will probably cost $10 billion and another $10 billion to operate, for $20 billion overall. If $2 billion is added for TPX, the program is about $22 billion. Now, it is an international Tokamak. If it is built in this country, the estimates are that the United States' share would be 60 to 70 percent. If it were built in Japan, the United States would have to pay at least 25 percent. So that the 64-dollar question is—"Is America willing to sign a mortgage for TPX for almost $2 billion, including operation.

TITLE IV, REGULATORY AND OTHER INDEPENDENT AGENCIES

A total of $475.4 million for various regulatory and independent agencies of the Federal Government is included in the bill. Major programs include the Appalachian Regional Commission, $287 million; Nuclear Regulatory Commission, $535.5 million; and for the Tennessee Valley Authority, $142.9 million. The Nuclear Regulatory Commission amount of $535.5 million is offset by licensing fees.

The 602(b) allocation for the bill is $20.513 billion in new budget obligational authority and $20.943 billion in outlays. The bill before the Senate contains $20.525 billion in budget authority and $20.889 billion in outlays. So there is no room to add to the bill.

Let me give a few highlights.

First of all, the biggest science endeavor that this country faces in the future, or at least one of the biggest—perhaps the space station competes in size, I have not compared the two—is nuclear fusion. Fusion offers the hope to the country of limitless energy, relatively clean and with a fuel which is inexhaustible. However, it is also extremely expensive.

The way we would get from here to commercialization is, first, to do what we call the TPX, the Tokamak physics experiment at Princeton, which will cost somewhere in the neighborhood of $800 million to build, perhaps over time, over a decade or so, maybe another $1 billion to operate.

Following on as a second iteration is what we call the ITER, the international Tokamak experiment. ITER is likely to cost $10 billion to build and $10 billion to operate. ITER should bring us what we call break even—that is, more energy out than goes in—and it should be that which proves the feasibility of fusion energy.

Fusion energy is greatly debated, Mr. President. I believe the evidence is fairly clear that it will work, that we can get more energy out than we put in. The big unanswered question is whether it could be made to work on an economically feasible basis. If it can, it may produce commercial amounts of energy by the year 2050; in other words, more than half a century from now, we may be able to get this limitless energy, this energy from limitless sources in the middle of the next century sometime. So it is a very big question to go into.

In the committee language, we kept the team at Princeton together for TPX, but we said we should not enter into this endeavor, the international physics experiment, ITER—$20 billion in scope, TPX which itself could be, including operations money, $2 billion—without a national debate, without the Congress having been involved and without the President having signed on.

This Senator led the fight on the SSC, the superconducting super collider, and after 10 years and $2 billion, we finally decided—the House did—that we could no longer pursue the SSC. I think it was a great mistake and a terrible loss to the country. Nevertheless, that was the will of the Congress and that is what we have done. With termination expenses, that will probably be in the neighborhood of $3 billion down the drain.

We are determined on this committee not to have that happen on fusion. If we are going to go into fusion—and I believe we should; I believe this great country ought to pursue this limitless source of energy—then we ought to do so only after national debate, to have the budget cutters come here and talk about why we should not do it, have a debate, have a vote and then abide by decisions and not get into this thing incrementally. The TPX has never been authorized. It has never had that debate. Let us not get another $2 billion into a project and then say we cannot afford it.

For that reason, in our bill we provided that we would keep the team together at Princeton but that we would not make a decision on a start of construction of TPX until and unless the Congress and the President had signed on to this endeavor for fusion.

In other words, you should not do TPX unless you also decide to do ITER, ITER being an international Tokamak experiment. If we build it in this country, we would probably have to pay from 60 to 70 percent of the cost, or if we built it in Japan, pick a figure—maybe 25 percent, and 25 percent of $20 billion is still a lot of money, particularly to build a Tokamak reactor in another country.

So we need to think about those things as a country. I am for TPX but not now, not until it is authorized, not until the President and the Congress go into this with their eyes wide open.

Now, another big project, Mr. President, is the advanced neutron source at Oak Ridge, TN. The advanced neutron source is clearly a very useful reactor. It would examine the structure of metals and other materials. It would also cost $3 billion.

Now, in the case of the advanced neutron source, the House had a new start, committing us to the $3 billion. We said, and we believe, that the advanced neutron source is not yet ready. The environmental impact statement has yet to be completed, the site specific environmental impact statement. They have not yet made a decision as to the kind of fuel, the degree of enrichment that they would use in this reactor, a very fundamental choice involving what is a new reactor.

Mr. President, we believe that we should commit the same amount of money as the House to the advanced neutron source but that they should complete those studies, complete the EIS, make those fundamental determinations of fuel enrichment and the structure of the machine and then make a decision—again, an eyes-wide-open decision. It is not as expensive, of course, as fusion, but believe me at a time when spending this year is down $1.5 billion in this bill below last year, and next year with the Exon-Grassley amendment, it will take an even further hit.

To start a new project like the advanced neutron source, which will probably peak out at somewhere between, well, perhaps $800 million in 1 year it would require, taking from other programs is something you should not enter into lightly and certainly not prematurely. For that reason we believe that was premature this year.

Now, Mr. President, we underfunded a lot of programs that we would like to be able to fund more. In solar energy, we would like to have had an even greater increase than we had. We have a $25 million increase in solar energy over last year which, considering the budget stringencies of this year, is heroic. We had a $15 million cut in our nuclear programs, which are getting more and more modest, but some spending in this area is absolutely essential.

All in all, Mr. President, this is a bill that is very sparse and that demands and needs much more money than it has.

Mr. President, I expect an amendment on what we call the IFR, the integral fast reactor from Senator KERRY today. There may or may not be an amendment by Senator HARKIN. And we hope to have the bill finished by noon. Those are the directions given us by the majority leader. So I ask all Senators to come to the floor and let us know if they have amendments.

I yield the floor.

Mr. HATFIELD. Mr. President, I would like to thank Senator JOHNSTON, first of all, for his introductory remarks and the explanation and description of the bill we have now before us, the energy and water development bill for fiscal 1995.

Chairman JOHNSTON, let me say, has done an outstanding job again this year in developing the Committee's bill that we have before us, and I am very pleased to be associated with his effort. It has been truly bipartisan throughout.

Mr. President, the subcommittee's work was more difficult this year than ever before. We say that each year because it is true each year. And if you put it into a 5-year context, you can certainly understand then the drastic changes that have occurred and are occurring at this time. Our 602(b) allocation was $20.513 billion in budget authority, which was $1.176 billion below the current year's enactment level of $21.689 billion. Unfortunately, the lack of resources that this committee was provided means that we have made some very drastic cuts in programs that are very worthy and very important to this country.

Chairman JOHNSTON and I have worked many years on both the Appropriations Committee and on the Energy and Natural Resources Committee which, as you know, is the authorizing committee. We have mutual interests in developing our policies which will provide for the long-term energy security of the United States. Although we sometimes disagree on what the Nation's energy priorities should be, we respect each other's views and understand the reasoning behind our respective positions.

Ultimately, I believe that the dynamics and bipartisan nature of the Energy and Water Development Subcommittee have tended to narrow the swing of the energy policy pendulum from one extreme to the other, whether it be nuclear, solar, and renewable technologies, or atomic energy defense activities.

In the end and over the years, the subcommittee's recommendations have been guided by prudence, reason and fiscal awareness. This constancy of purpose on the subcommittee's part has been of tremendous benefit I believe to the Nation.

Although the chairman has presented the highlights of the bill earlier, I wish to mention a few areas in which I have particular and special interest.

First, the committee has recommended a total of $369 million for solar and renewable energy programs under its jurisdiction. While this is about $40 million below the President's request, it is $22 million above the current funding level.

I know that many Members of the Senate share my concern that the full amount requested by the administration has not been provided for these popular and very important programs. While I am disappointed with the lack of available resources for the solar and renewable programs, I also believe that this should be viewed in a historic context. The committee's recommendation of $369 million represents a 257 percent increase in the solar and renewable budgets over the last 5 years. From anyone's perspective, this represents a significant commitment on the part of the subcommittee to support the development of these particular technologies.

The committee's proposals regarding atomic energy defense activities also should be viewed historically to appreciate fully the change in the U.S. nuclear weapons policy since the end of the cold war. The total amount provided in this bill for atomic weapons activities is $10.33 billion. Approximately half of this amount, $5.084 million is for environmental restoration and waste management activities at the Department of Energy's nuclear weapons production facilities, and $5.246 billion is for weapons-related activities.

In other words, it is about a 50-50 split.

Comparing these funding levels of the fiscal year 1990 appropriations, we find that our nuclear weapons priorities have changed significantly. During this 5-year period, environmental restoration and waste management funds have increased by 306 percent, while the weapons activities and nuclear materials support programs have declined by about 34 percent.

And even this 34-percent decline does not tell the full story if we acknowledge that significant weapons resources are now directed to technology transfer activities with private industry, nonproliferation, nuclear safeguards and security, and other nontraditional nuclear weapons programs.

The bill also contains $50 million, under the Materials Support and Other Defense Programs appropriation account, for fissile materials control and disposition activities. This represents a $41 million increase over the President's request. I think it is important for every Member of the Senate to understand that the committee is providing these funds for activities relating to research and evaluation of reactor and accelerator technologies for plutonium disposition and tritium production.

While I agree we must investigate all possible options for plutonium disposition and storage, I am concerned that we may be heading down this path a little too quickly. I am especially disturbed by the proposals which would have us embrace existing light water reactors to burn plutonium and generate electricity for commercial consumption. In my view this obscures the line between nuclear weapons activities and commercial power generation, and has significant implications on national security and worldwide nonproliferation policies. We should take care to ensure that any decision we make on plutonium disposition does not further encourage the development of a global plutonium economy.

Finally, Mr. President, I want to mention the funding provided in the bill for salmon recovery activities in the Columbia River Basin. We have provided $38.3 million for the Corps of Engineers to continue its activities under the Columbia River Juvenile Fish Mitigation Program to increase fish bypass efficiency on the Columbia and Snake Rivers.

The committee report provides additional direction for the corps to investigate new bypass technologies including surface flow facilities, sound and light guidance systems, and other devices.

An additional $9 million has been provided under the Lower Snake River

Fish and Wildlife Compensation Program for fish hatchery construction projects in the Snake River Basin. These projects include adult trapping and juvenile acclimation facilities in various streams, and water treatment facilities for the Lookingglass fish hatchery. I am pleased to say that these represent the first funds appropriated specifically for hatchery projects to assist in rebuilding depleted salmon stocks in the Columbia Basin. Once again, the Energy and Water Subcommittee is taking the lead in providing initial and crucial funds for salmon recovery efforts.

Also, the committee has provided the $5.6 million requested by the administration for the Bureau of Reclamation's salmon recovery activities.

Mr. President, I am compelled to emphasize that salmon recovery activities encompass a wide range of activities dealing with the hydroelectric system, hatchery reforms, habitat enhancement, and changes in salmon harvest. The recent release of the Snake River Salmon Recovery Team's final recommendations, together with the Northwest Power Planning Council's Strategy for Salmon, now provides us with two regionally developed, complementary plans to recover the species.

Let me also emphasize that the rate payers of the Pacific Northwest will, in addition to these figures and funds, provide $350 million this year for further salmon mitigation; and that over 50 percent of these funds that I have just enumerated will be repaid to the Federal Treasury by the rate payers under the Bonneville Power Administration.

Mr. President, just to give you some indication, in the last 10 years the rate payers of the Pacific Northwest have paid over $1 billion—over $1 billion—for salmon mitigation and recovery. So no one can say that the regional resource is not being tapped as far as salmon recovery and salmon mitigation.

These two plans that we now have for recovery provide a broad prescription of activities which deal with all four major areas of reform.

Both documents indicate that the recovery process will be slow and painful—there are no quick fixes or free lunches. While there certainly are measures which should be taken sooner rather than later, we need to develop a common sense strategy based on science and public input that directs our scarce resources to those areas which will provide the most immediate protection for the remaining depleted stocks and best prospects for rebuilding them.

Again, I want to thank Senator JOHNSTON for his assistance in providing the salmon recovery funds included in the bill, and surely will look to him again in future years when funding requirements inevitably will increase further.

I think we have to understand that point as well; that these will be increases in the outlying years, and we must meet those needs.

I also want to thank Senator BYRD, the chairman of the full Appropriations Committee, who has the great responsibility of shepherding 13 separate appropriations bills through the subcommittee process, the full committee process, to get them passed on the floor, into conference, back into the respective Chambers for approval of the conference reports, and down to the White House for signature. This is no mean undertaking, and Senator BYRD has done this with great skill over the years, as he has done all of his work with great skill in the committee.

Finally, I want to thank the staff of the Energy and Water Development Subcommittee for their assistance in putting this bill together. Senator JOHNSTON has already indicated that we have a long tenure of partnership in giving leadership to the subcommittee, which I treasure. But we also have been blessed with a very outstanding staff, who have great seniority in time and in service to this subcommittee.

I want to especially recognize Proctor Jones, David Gwaltney, Gloria Butland, Mark Walker, and Dorothy Pastis, who have all worked for many weeks on this bill. And their efforts should not go unnoticed.

Mr. President, I yield the floor.

Mr. JOHNSTON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Louisiana [Mr. JOHNSTON].

ORDER OF PROCEDURE

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, and that the bill, as thus amended, be regarded for purpose of amendment as original text; provided that no point of order shall have been considered to have been waived by agreeing to this request.

Mr. HATFIELD. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. HATFIELD. Reserving the right to object, and I will not, Mr. President, may I say to the chairman of the committee, Mr. JOHNSTON, that I have just had a request by Senator STEVENS to set aside the committee amendment on page 32.

Mr. JOHNSTON. Mr. President, I will certainly do that. I say to my colleague that this would be considered original text under my request for the purpose of further amendment. So it would be amendable by Senator STEVENS to accomplish whatever he wishes to accomplish.

Mr. HATFIELD. I do not have the background as to his request. But that has been sent to me at this moment by telephone. I request that of the chairman; if he might exclude that from his unanimous-consent request.

Mr. JOHNSTON. All right. In view of the request, Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, except for the committee amendment on page 32, line 15; and that the bill, as amended, be regarded for the purpose of amendment as original text; provided that no point of order shall have been considered to have been waived by agreeing to this request.

Mr. HATFIELD. I thank the Senator.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I might say that I have now received word that Senator HARKIN will have an amendment that will transfer $33 million from the nuclear weapons program to renewable energy; that he will have a second amendment that will strike $275 million from the Nuclear Weapons Program; that Senator WELLSTONE has asked to reserve two relevant amendments; that Senator LAUTENBERG has two amendments which he believes to be cleared. And other than that Kerry amendment, which will be shortly offered, we have no word of any other amendments.

Mr. President, with respect to the Kerry amendment, it is our intention to have opening statements and then, thereafter, to seek a time agreement, but we will not do so at this time.

I yield the floor.

Mr. CRAIG addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Idaho [Mr. CRAIG] is recognized.

Mr. CRAIG. Mr. President, I want to take a brief moment at the beginning of the debate on this important appropriation bill to thank the chairman and ranking member for their work on behalf of the Pacific Northwest and my State of Idaho, and the cooperative relationship we have been able to maintain as we have worked with these very important issues.

My colleague from Oregon has mentioned very key appropriations on the Snake and Columbia River systems to deal with an issue in the Pacific Northwest that is absolutely key and must be resolved, and that is the endangered species of salmon in the Snake and Columbia system and the mitigation plan to try to save those important species.

That plan, while it is important, must be balanced with the economy of the Pacific Northwest and intermountain area. Of course, the Senator from Oregon and this Senator knows how key the hydro production on the Snake and Columbia is, the transportation systems that have been developed that are now a critical link to the economy of that region, and the areas within the bill that deal with fish mitigation and dam modification are all part of an ongoing responsibility that I think the Federal Government has to share with us in the cost of providing for an environment in which the salmon can live and can continue to grow and develop. That is part of this bill, it is an important part.

The Senator from Oregon has been extremely sensitive to making sure that we continue to resolve this issue and that the Federal Government be a partner with us in the Pacific Northwest in the resolution of this particular problem. I must also say that with the Department of the Interior, the Bureau of Reclamation, and all of the kinds of issues that are in part here, and also the Department of Energy with its national laboratory in my State, this is a key appropriation of funds not only critical to jobs, but very important science programs that are charting a future for this country's energy. This committee has been extremely sensitive to that.

Senator JOHNSTON is well known for his knowledge in those areas and his advocacy of them, and I appreciate the relationship we have as this budget has been developed in the work we do on the Energy and Natural Resources Committee together.

In the next few moments, we will begin debate on an amendment that I hope the Senators will listen very carefully to and weigh its consideration as it relates to our future, not only in nuclear energy as a safe, clean energy source for our country, but the dedication this country has had to resolving nuclear problems around the world, and especially the proliferation of plutonium and the responsibility we have signed off on—to be a world leader in resolving this problem and the development of the technology that can ultimately burn these wastes and these risks and put them in a state that future generations will know are safe and secure. That is our responsibility as a Senate, and this Government has so charged us. This legislation reflects those responsibilities, and I hope we can, in large part, pass it.

I yield the remainder of my time.

Mr. HATFIELD. Mr. President, if I can respond briefly to the Senator from Idaho, I appreciate his comments relating to the committee's work. His efforts have been certainly a part of the product we bring here today, because the Senator from Idaho [Mr. CRAIG], has been most attentive to the problems facing us in the region, whether it is power generation or salmon mitigation, or whatever it may be. If we did not have the broad-based support of this body, our committee's work would be much more difficult. Because of the leadership of the Senator from Idaho in helping to bring attention and to focus on these problems, it has been very helpful. I thank him at this time.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. McCAIN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The clerk will continue calling the roll.

The assistant legislative clerk continued calling the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

Mr. KERRY. Mr. President, a few moments before the quorum call was put into place, the Senator from Idaho asked Senators to listen carefully to this debate, because it is about the future, the future of nuclear power, and about the interests of the United States with respect to the control of plutonium.

I think that in so stating, the Senator has framed, in one sense, the reality of what this debate is about and, in another sense, the illusion of what it is about. And I ask my colleagues indeed to listen carefully and to weigh carefully the truth, the reality of what is at stake in this debate.

Those who want to keep what is known as the advanced liquid metal reactor alive will assert arguments that I respectfully submit simply do not stand up under scientific inquiry or under sound proliferation or fiscal analysis. And I ask my colleagues to weigh carefully the balance of what studies and who makes the arguments for the illusion and what studies and who makes the arguments for the reality. And there is not one Senator here who is not capable of distinguishing between the interests behind the illusion and the interests that assert the reality.

The reality of the ALMR, the advanced liquid metal reactor, is that it is a waste and that it is a danger, that it is fiscally irresponsible, scientifically irresponsible, and irresponsible with respect to arms control and nuclear waste. And every single independent study—independent study—confirms what I have just said: OTA, National Academy of Sciences, GAO, and so forth.

Now let me frame this debate, if I may, by reading a letter from the President of the United States sent to me yesterday. I will just read the first paragraph which is relevant.

> Thank you for your letter supporting our decision to terminate the Department of Energy's advanced liquid metal reactor program, including the integral fast reactor project. I want to assure you that this administration does not support the IFR and will oppose any efforts to continue the funding for this reactor project. The IFR has no foreseeable commercial value and its continuation would undercut our international nuclear weapons nonproliferation efforts.

And that is signed by the President of the United States.

In addition, the Secretary of Energy, Hazel O'Leary, has taken a courageous position and put very squarely before the Senate what is at stake here.

I quote from her letter of June 27:

> In summary, terminating the Integral Fast Reactor program in FY 1995 would save taxpayers $2.9 billion between 1995 and 2010. If we take the direction that has been outlined in the budget amendment submitted on June 17, 1994, and your Integral Fast Reactor termination bill recommending redirection of the assets of the facility * * * we would save $1.3 billion in taxpayer money from FY 1995–2010. This is the Administration's preferred option.
>
> No further testing of the Integral Fast Reactor concept is required to prove the technical feasibility of actinide recycle and burning in a fast spectrum reactor, such as the Experimental Breeder Reactor in Idaho. The basic physics and chemistry of this technology are established.
>
> The principal concerns that led me to withdraw my support for this program are the inconsistencies with our nonproliferation objectives and the high cost of further development.

Now, Mr. President, here is the President of the United States and the Secretary of Energy saying clearly, "Senate, Congress, do not continue this program."

Now, who is here on the floor asking to continue it? Understandably—and I do not begrudge them and I understand it—the Senators from Idaho, where you have a breeder reactor program, and the Senators from Illinois, where you have the research.

The question is squarely before the U.S. Senate: Do we have the courage and the foresight to be willing to cut a program that every single analysis has deemed a waste, which the President does not want, which the Secretary of Energy does not want, and which so clearly threatens the proliferation concerns of this country?

I ask my colleagues to weigh very carefully how, in the midst of the Korean crisis, where we are summoning the international community to come together in an effort to try to preach nonproliferation, we can turn around and engage ourselves in a program that embraces the potential for that proliferation.

This kind of irresponsible effort for fundamental pork barrel purposes undercuts every single effort of the United States in the international community.

Mr. President, let me show my colleagues a little of the background of this program.

Unbelievably, this program really began in 1948. This program has now become more expensive than the Clinch River breeder reactor that we killed. The program, incredibly, was attempted to be killed by one of the cosponsors of this amendment today, Senator BUMPERS.

Senator BUMPERS had the foresight to try to kill this back in 1982. We have spent, beginning in 1948, $297 million; this was 1948 to 1967.

In 1968, $112 million; 1969, $132 million; 1970, $144 million. On you go through the 1970's. It climbs, $234 million, $353 million, $568 million, $612 million. You get into the 1980's and we get into $614 million, $546 million; 1984 it began to go down a little, $304 million. Now we are in the $136, $142 million range.

The National Academy of Sciences, OTA, independent research, Department of Energy, and the President of the United States have all come to the conclusion we do not have anything to show for that. We do not have anything to show for that incredible investment except running up against the barrier of nonproliferation efforts, an extraordinary amount of increased potential waste as we pursue a technology that not only puts more plutonium into circulation, but increases the amount of waste, the actinides that you then have to have in a repository and hold for literally thousands of years for it to be eliminated.

My colleagues are going to come to the floor and say you can eliminate all of that because this technology is going to chew it all up. Wrong. Wrong. The National Academy of Sciences tells you: Wrong and unnecessary. That is the most important thing I ask colleagues to focus on. When we come to the floor of the Senate and we are asked to make a judgment about a program—you may have the most incredibly highfalutin, wonderful program of creative technology, but it could be absolutely unnecessary because you have a far simpler, more readily available, safer technology at your hands. And that is precisely what we have.

You do not need to develop a separate reprocessing capacity to burn fuel or to chew up plutonium because we have at our disposal means of getting rid of the plutonium and of controlling the plutonium better with the existing technology.

Let me just frame this a little bit for some of those who have not had the time to read all the faxes that have been circulated on it or understand all the technology. It is not half as complicated as it sounds, because if it were that complicated I am sure I would not be here debating it. It is not that complicated.

I also want to ask colleagues to look at the fact that every major publication in the country from the Post to the Times, Philadelphia out to the Far West, the South—there is not one editorial that I have read that said keep this going. They all label it a waste, and they have singled this as one of the most important opportunities for the U.S. Senate to eliminate waste. For those who come to the floor with all these line item vetoes and balanced budget amendments and all these techniques to control spending—here is the technique to control spending. Vote to cut this program.

We all know how hard it is to cut, how few programs have ever been eliminated. If ever there was a golden opportunity for reality to begin to set in, here it is. I share with my colleagues some of the public opinion on this.

The Washington Post:

> The Wrong Reactor. Killing the ALMR appropriation would make it a little easier for the United States to restrain the proliferation of nuclear weapons in a world that has too many of them.

The Hartford Courant, Connecticut:

> End The Research On Breeder Reactor. Scientists have raised serious doubts about the breeder's ability to reduce the nuclear waste, to burn plutonium efficiently, to make more fuel.

The Oregonian:

> Give up nuclear breeder dream. The time has come for America to abandon the 1970's dream of developing an advanced light metal reactor. Continuing financial support for this technology makes no sense from an energy development point of view.

St. Louis Post Dispatch, the Philadelphia Inquirer:

> It's back. The Senate meets the Clinch River monster.
>
> Like Freddie Kreuger, the breeder has made a nightmare issue come back. The Clinton administration wants to end this program. The House is virtually certain to vote it down again so its prospects of survival depend once again on the Senate which kept it alive by voting for it last year.

The San Francisco Chronicle:

> Saying no to nuclear pork.

The Morning Sentinel; the Bangor Daily News; the Buffalo News and on. The Los Angeles Times:

> The broad understanding about this is this is pork. It is dangerous pork because it threatens the nonproliferation policy of this country.

What are we talking about? We are talking about a whole new form of a nuclear reactor.

This is not a vote for or against nuclear power and it should not be confused as that. I support light water reactor technology. I support the advanced light water technology that is proposed in this bill. And I hope we will indeed develop more contained and even safer second-generation technology. But that technology is based on a once-through fuel cycle, where you take uranium as your major fuel source, burn it, and then when you have waste, when the fuel is spent, as we say, that waste is deposited and you put in more uranium. Out of that waste you could reprocess, and through chemical additives you can extract plutonium. The extraction of plutonium reduces it to a very, very small amount of plutonium, and the plutonium obviously is the bomb-capable material, taking about 15 pounds to make a bomb.

What this reactor does is create a reprocessing technique that is not dependent on the uranium, but separates and reuses plutonium. It does so with the technology that can very easily be used as breeder technology. I will later point out how the National Academy of Sciences and others fear the potential for this particular design to provide breeder technology in other parts of the world.

We know, all of us, how difficult it is to make this kind of choice. But I respectfully submit that the realities of this particular program are such that, hopefully, colleagues will decide that we have no choice. I have pointed out the close to $89 billion history of expenditure which has left us not even with a technology at this point in time, let alone the problems with the threat with which it leaves us. But let me share with my colleagues the projections for this program if we do not cut it off today. This is what it is going to cost over the next 15 years if we pour the money into it that is currently in the mark that comes to us from the committee.

This is the termination line, this red line going across, about $0.3 billion for termination funding.

If, on the other hand, we proceed forward—and I want to emphasize not just proceed forward with the 4 years of expenditure within the bill which will take you to a certain point in the technology, but if you have spent that money and you want to go to the point where you are really putting this technology on line, you are looking at, going out to the year 2010, a $3.2 billion expenditure just to begin to prove whether or not this is indeed truly feasible. As Secretary O'Leary has said, that is the difference of $2.9 billion, between continuing it and terminating it.

I will say something later about that. My colleagues are going to try to make the argument that it is more expensive to terminate than not to.

That is such an extraordinary argument, given the history of the U.S. Senate, and we can go into that in a little while. I know they are going to say it is more expensive to terminate it, and I will show how, in fact, that is not true.

I just ask any colleague here, as a matter of common sense, what program, where you have an option between terminating it and not ever going on with the program or paying for it in a so-called termination payout—you tell me which is cheaper. There is not a program in the history of the Senate that has not been cheaper just to end it.

Mr. President, you have the Secretary, the OMB, and all of your neutral—and I emphasize neutral—observers telling the U.S. Senate that there is an enormous cost to the continuation of this program.

I know that some of my colleagues are going to say, "OK, it's expensive. But even if it's expensive, probably we ought to fund scientific research because that is a good long-term investment.''

In this case, it is not a good investment because it is never a good investment to research into something that is a bad idea. The technology here, even if successful, No. 1, is just not needed. We do not need this. And, No. 2, it is dangerous. It is dangerous for the very reasons that the President and Secretary O'Leary have set out: It threatens the nonproliferation protocol.

I want to make it clear again—and I want to emphasize this—it is not just dangerous for anything to do with nuclear power, et cetera. That is not what is the argument here. It is only dangerous because of the questions that I have raised with respect to proliferation, to the breeder reactor and, I might add, to the additional waste that this new technology creates. But the prime reason for Senators being concerned about this truly remains this question of proliferation.

I also would like to emphasize—and I think it is important to emphasize this—that the President has asked the Senate not to fund this program because he and all of the national security team have made the judgment that this threatens their capacity to make a clean-hands argument, a legitimate argument to other countries about proliferation.

I think any Senator would say if, indeed, you can create more plutonium through this, and there is a risk of breeder reactor capacity, then that technology, being out in the marketplace, represents more possibilities for rogue nations to begin to pursue that technology. It is clearly not in the United States interest to do that.

Let me share with my colleagues a letter from Senator GLENN. I think there is no Member of the Senate who has spent more time on nonproliferation issues or who has been more on the cutting edge of holding Pakistan and other countries accountable. He writes a letter to colleagues. Senator GLENN says:

> I urge you to support the Kerry-Gregg-Bumpers amendment. Events on the Korean peninsula have made all of us more aware than ever of the dangers of plutonium. The Korean crisis underscores the importance of U.S. efforts to steer countries away from programs that produce plutonium by reprocessing and breeding. But if the United States is itself pursuing breeder and reprocessing technologies, its credibility in these nonproliferation efforts will be greatly diminished.

Mr. President, I ask unanimous consent that the letter from Senator GLENN, from the Secretary of Energy, and from the President be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC, June 30, 1994.

DEAR COLLEAGUE: When the Energy and Water Development Appropriations Bill comes to the floor, Senators Kerry, Gregg, and Bumpers will offer an amendment to terminate the Department of Energy's Advanced Liquid Metal Reactor (ALMR) and actinide recycling programs. As a Senator concerned with stopping the spread of nuclear weapons, I urge you to support the Kerry-Gregg-Bumpers amendment.

Events on the Korean peninsula have made all of us more aware than ever of the dangers of plutonium. The Korean crisis underscores the importance of U.S. efforts to steer countries away from programs that produce plutonium by "reprocessing" and "breeding." ("Reprocessing" refers to the extraction of plutonium from spent nuclear fuel; "breeder reactors" are reactors that produce more plutonium than they consume.)

But if the United States is itself pursuing breeder and reprocessing technologies, its credibility in these nonproliferation efforts will be greatly diminished. Largely for this reason, Secretary O'Leary decided to terminate funding for the ALMR system. According to the Secretary, U.S. pursuit of plutonium production technologies:

"* * * could provide an excuse for rogue nations to oppose international efforts to end their plutonium separation efforts * * * continued support of the IFR would make it difficult, if not impossible, for the United States to help lead the world toward reducing the threat of plutonium proliferation."

In addition to undermining U.S. non-proliferation policy, the ALMR system represents a proliferant technology. Recent studies by the National Academy of Sciences (NAS) and the Office of Technology Assessment (OTA) have confirmed the warnings of ALMR opponents during last year's floor debate—that the ALMR could be used by a proliferator to produce material that is directly usable in a nuclear weapon, and that it can be readily converted into a breeder reactor even if it is not originally designed as one.

Finally the ALMR cannot be justified as an option for disposition of plutonium from nuclear weapons. The comprehensive NAS study on this subject found the ALMR inferior to other options because of the technological uncertainties, long time frame, and high costs that would be required.

In short, the ALMR does not enhance U.S. nonproliferation efforts; it is a proliferation risk. I urge you to vote for the Kerry-Gregg-Bumpers amendment to terminate this unneeded program.

Best regards
Sincerely,

JOHN GLENN,
Chairman.

THE SECRETARY OF ENERGY,
Washington, DC, June 27, 1994.

Hon. JOHN F. KERRY,
U.S. Senate, Washington, DC.

DEAR SENATOR KERRY: At your request, we have reviewed the letter dated June 23, 1994, regarding the Integral Fast Reactor/Advanced Liquid Metal Reactor program that was circulated by Senators Simon, Moseley-Braun, Craig, and Kempthorne. The Administration remains firmly opposed to the program's continuation.

In summary, terminating the Integral Fast Reactor program in FY 1995 would save taxpayers $2.9 billion between FY 1995–2010. If we take the direction that has been outlined in the budget amendment submitted on June 17, 1994, and your Integral Fast Reactor termination bill recommending redirection of the assets of the facility to work on nonproliferation and environmental cleanup, we would save $1.3 billion in taxpayer money from FY 1995–2010. This is the Administration's preferred option.

No further testing of the Integral Fast Reactor concept is required to prove the technical feasibility of actinide recycle and burning in a fast spectrum reactor, such as the Experimental Breeder Reactor in Idaho. The basis physics and chemistry of this technology are established.

The principal concerns that led me to withdraw my support for this program are its inconsistencies with our nonproliferation objectives and the high cost of further development. Research on the Integral Fast Reactor system is inconsistent with the Administration's nonproliferation policy, because the United States does not encourage the civil use of plutonium and does not engage in plutonium reprocessing for nuclear power purposes. Because it is based on plutonium reprocessing and recycle, continued development of Integral Fast Reactor would undercut our efforts to discourage other countries from plutonium reprocessing and recycle.

I also support termination on the grounds that the Integral Fast Reactor has little commercial potential in the marketplace. There is no foreseeable prospect that it would be economically competitive with the next generation of light water reactors currently being developed with Department of Energy support. But, continuation of the program in FY 1995 and beyond would be extremely costly. We disagree with the information contained in the letter mentioned before that a savings would not be achieved if termination of the Integral Fast Reactor began in FY 1995. The Department estimates that it would cost $4.2 billion, including $1 billion of industry cost-sharing to complete development of the Integral Fast Reactor. The Department believes it makes little sense to spend such a large sum.

Termination of the program beginning FY 1995 would require approximately $0.3 billion between FY 1995–1998. Thus, if the program is terminated, with no follow on missions, $2.9 billion would be saved between FY 1995–2010.

The Department supports redirecting the scientific, personnel and technological assets of the laboratory currently preforming research on the Integral Fast Reactor to higher priority missions. These missions, which are fully described in a budget amendment, submitted to Congress on June 17, 1994, would cost $1.9 billion between FY 1995–2010. Thus, redirecting the Laboratory to perform critical work would save $1.3 billion between FY 1995–2010. This is totally consistent with the legislation (S. 1859) introduced by you and Senators Bumpers and Gregg, which urged that personnel assigned to Integral Fast Reactor be reassigned to other activities of the Department such as nuclear nonproliferation and environmental cleanup.

For these reasons, I believe that the Integral Fast Reactor program, including actinide recycle and development of the advanced liquid metal reactor, should be terminated in FY 1995. The Administration support redirecting the people and facilities associated with the Integral Fast Reactor to higher priority projects. Redirection is consistent with the bill introduced by yourself and Senators Bumpers and Gregg. These activities are proposed in the Administration's budget amendment submitted by the President on June 17, 1994. We would urge congressional support for this approach.

Sincerely,

HAZEL R. O'LEARY.

THE WHITE HOUSE,
Washington, DC, June 29, 1994.
Hon. JOHN F. KERRY,
U.S. Senate, Washington, DC.

DEAR JOHN: Thank you for your letter supporting our decision to terminate the Department of Energy's (DOE) advanced liquid metal reactor (ALMR) program, including the Integral Fast Reactor (IFR) project. I want to assure you that this Administration does not support the IFR and will oppose any efforts to continue the funding for this reactor project. The IFR has no foreseeable commercial value and its continuation would undercut our international nuclear weapons nonproliferation efforts.

In an effort to redirect the ALMR's dedicated and talented workforce at the Argonne National Laboratory in Illinois and Idaho, the Department of Energy, at under Secretary O'Leary's direction, recently completed a proposal to restructure its nuclear research program and focus on areas that support the Administration's nuclear policy goals. On June 17, 1994, I asked Congress to consider an amendment to DOE's FY 1995 budget request, which implements this restructuring effort. The new research areas include high priority energy projects, such as the development of novel technology to address our important nonproliferation objectives, research into the safe decommissioning of nuclear facilities, and fuel cycle safety studies. By shifting to these higher priority research programs. DOE will be able to make productive use of the technical staff at the Argonne National Laboratory to achieve the Administration's policy goals.

Thank you for your letter of support.

Sincerely,

BILL.

Mr. KERRY. Mr. President, the New York Times on Sunday wrote the following:

> Financing the integral fast reactor would send the wrong signal to Japan and others who are planning to produce more plutonium to fuel nuclear power plants. Besides sabotaging U.S. nonproliferation policy, further research into the ALMR will put information on plutonium separation into the public domain.

So, Mr. President, proponents will argue that the United States will be discriminating in sharing this technology, but I tell you, the record of that is not good. In the past, technology has spread to rogue nations. North Korea reportedly acquired its advanced European reprocessing technology that was used in a facility in Belgium, and its operating reactor is known to be a clone of a British production reactor.

So here we are, staring in the face of the fact that we have the potential of war on the Korean Peninsula over people pushing the envelope of nuclear reprocessing, and we know they got their technology from the British or Belgium, and here we are pursuing a technology which everybody knows will move across the pages of scientific publications and ultimately into the marketplace as people buy it and use it.

Much of the ALMR reprocessing technology is going to be described in open scientific literature because the contract calls for it to be. At least one of the contracts on pyroprocessing establishes the right of the contractors to publish the detailed results of their R&D work. So here you have the R&D work that is going to be put out into the public domain as a matter of contractual right.

Further, Mr. President, the ALMR facilities themselves are going to make plutonium more available to those wishing to acquire it for bonds.

Here we get to one of the central arguments. Proponents say that it is more proliferation resistant to alternative reprocessing technology, but I would caution my colleagues that that is not the measurement, No. 1. The meaningful comparison is to compare the ALMR technology with the current light water reactor technology, the once-through fuel technology which we currently use to produce electricity in our reactors. Under this comparison, the ALMR clearly increases proliferation risks.

I have talked about a National Academy of Sciences study. I would like to quote from that study so my colleagues are aware of precisely what the National Academy of Sciences has said:

> Possession of such a facility would still offer a State the technology needed to produce separated plutonium for weapons should it choose to do so openly.

I talked about new studies. Last year, we had this debate on the floor of the Senate and my colleague from Louisiana, and others, stood up and said, "No, no, this is not a breeder; it can't do this, it can't do that."

There have been a series of new studies in the last year. I think it is three, to be precise. Three studies. Not one of those studies does anything except confirm what I said last year and refute what the Senator from Louisiana asserted.

This technology will not recycle the spent fuel from nuclear reactors and the plutonium from weapons, and each of the independent studies has come out which refutes the notion that they might. It is almost shocking, if not hard to believe, that notwithstanding every independent study, there is not one independent study suggesting to the contrary.

The National Academy of Sciences published a study saying that the ALMR is a bad idea for weapons plutonium disposition. My colleagues are going to try to assert that it is a good idea for disposition, but the neutral, independent National Academy of Sciences says, no, it is a bad idea.

The GAO published a study saying that the ALMR is a bad idea for commercial spent fuel disposition, and the OTA has published a study agreeing with both of these studies and claiming that the ALMR could easily become a breeder reactor producing more plutonium than it consumes.

These are the only—I repeat, the only—objective studies conducted in the last year, and they all came out against the technology. I think we would all be well served to heed the independent entities that are supposed to provide us with advice of this nature.

Let me just point to this list. These are the independent studies. The DOE says no; GAO, no; OTA, no; NAS, no; Lawrence Livermore Labs, no; Rand Corp., no; the NRC Committee on International Security and Arms Control, no.

This is a formidable array of independent studies suggesting that the Senate should not fund this program, that it is dangerous, that it is a waste, that it is a combination of the two, and even other reasons why we should not pursue this program.

Now, further, on the question of weapons plutonium, the National Academy of Sciences did a very thorough study of just the weapons plutonium as distinguished from commercial waste, and they concluded unequivocally that the ALMR was far less desirable than two other technologies for disposal. And this is why I make the argument, Mr. President, that this is not necessary. Even if you were to accept the arguments of the proponents that this is somehow a terrific idea, you still have to weigh their notion of terrific against less expensive alternatives and currently available technology.

The fact is that in a neutral analysis of that you come out and you say to yourself, well, we do not really need to do this because we can dispose of this fuel faster and safer using one of two other methods. And those two other methods are to mix the spent fuel, to mix the plutonium with the current fuels, uranium, et cetera, and when you mix it up adequately, the reprocessing is so complicated and expensive, as we found ourselves, that you have effectively eliminated it from use and danger.

The second means is through vitrification, glassification, creating glass logs and then you put it in a repository. And every one of the independent entities that analyzed this have said those are the preferred routes. They are available today. They do not create more waste as does the IFR, and they are safe and they are cheaper.

Now, the vitrification technology and the MOX technology as they are known, are not something that we have to spend another $8 billion to pursue. I might add, even if you wound up with this technology and you wanted to go ahead, you are talking about billions of dollars to be able to spend just to get this into place compared to the costs of the current disposition.

Mr. President, the National Academy of Sciences said to us that there is a clear and present danger from the presence of weapons plutonium and that therefore the most important quality in the solution of it is speed, the speed with which we can get rid of it, the speed with which you make that plutonium unusable. Well, the ALMR would in fact take a great deal longer than either vitrification or MOX, the two other technologies.

The proposed ALMR system would not start the disposition campaign of plutonium until after the completion of the vitrification. In other words, if you have available plutonium, you can begin today immediately to do the glassification, and the period of time it takes in the predisposition would take you up until about the year 2005, and then you begin the actual disposition. And that is because of the handling and so forth.

In terms of mixing with MOX, it would also take you to about the year 2004, and then the period for disposition because of the time it takes to dispose and go through the half life, et cetera, would take you up to the year 2035. But you would not even begin the preparation for disposition on the current rate of the ALMR until about the year 2015, and it takes you way out to the year 2045, which is considerably longer to deal with the problem that the National Academy of Sciences said is a clear and present danger and one that you ought to deal with immediately.

Now, Mr. President, there are other reasons why this is wasteful and dangerous, but I am going to wait until my colleagues have articulated some of their views as to why we ought to proceed forward. I would simply say to colleagues that if they will take a moment to peruse the literature which they have been given, the copies of the studies, the copies of the editorials, the President's letter, Hazel O'Leary's letters, and other sources, the conclusion is really inescapable, that there is no legitimate justification for proceeding forward with this.

It is not a legitimate form of future research. It is not needed. It represents dangers. There are extraordinary costs attendant to it, far in excess of what is necessary to deal with the current waste. And perhaps most important of all, it is clearly making more plutonium available in the waste stream and in the production stream, which is always dangerous, in addition to the technology which can be transferred into breeder capacity, therefore representing an escalation of the potential for plutonium problems and proliferation problems in the future. This is not wise, and it is certainly not necessary measured against other available technologies and means of proceeding forward.

So I will await further arguments, and at this point in time I yield the floor.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, my friend from Massachusetts makes a very good recitation of arguments on the people who are against the IFR. I will not engage in listing all the people who are for the IFR. We could go through the same litany of listing who is for. That should not determine what we do here.

Suffice it to say, I will quote only from one editorial, which I think sums up the argument against IFR, from the Chicago Tribune. They said:

> The administration's rationale on the fast reactor is based at best more on nuclear politics and fuzzy thinking than on good science. At worst it's another sign of the administration's hostility toward nuclear energy.

Now, you can dismiss that editorial just as we dismissed the other editorials that have been talked about here. Today's debate is a pretty good indication of the fact that if you ask the wrong questions you will get the wrong answers.

Now, this is a very simple, in my view a very clear, issue in which the overwhelming, the overwhelming side should say to complete the studies on the IFR.

Therein lies the first question: What are we trying to do here? Are we trying to build an integral fast reactor? The answer is no. All we are trying to do is complete the studies while we make a decision among the many options, which I will deal with soon, about plutonium.

The administration, Mr. President, has not made a decision on how to dispose of plutonium. They have not. All they have are a number of options as to which they have no decision, and so far as I know, they do not have even an inclination.

Mr. President, my friend from Massachusetts put up a list of people who say they are all against the IFR, listing prominently the National Academy of Sciences. Not so, Mr. President. Not so. There are only two studies that I know of of the National Academy of Sciences. We not only have those studies but we have held hearings. We have the luxury on the Energy Committee of holding hearings and bringing forth the experts to testify about what their studies are and what their opinions are.

One is the Panofsky study, a very distinguished scientist, Pefe Panofsky from Stanford, who was the chairman of the Management and Disposition of Excess Weapons Plutonium Study dated 1994. Dr. Panofsky came before our committee and testified. What he said was that there are short-term and long-term options for the disposal of plutonium. The short-term options are what we call the dirty option; that is, you mix it with reactor fuel, or with waste from Hanford and you store it away. I will deal with those options soon. As a short-term option, the IFR is not a particularly good—well, it is not good, and his report so states. As a long-term option, it is. The long-term option is to burn up the plutonium. Quoting from page 185 of the Panofsky study, the long-term disposition, he says:

> The ALMR, for example, is a pyro-processing approach intended to significantly reduce the costs, wastes, and proliferation risks of reprocessing. In this integrated reprocessing approach, plutonium is never fully separated in a form that could be used directly in nuclear weapons, thereby reducing safeguards concerns.

He goes on to say that:

> If operated in a once-through mold, however ALMR—

Advanced Liquid Metal Reactor—

> could be used to transform weapons plutonium into spent fuel. The capital costs of these ALMR concepts are generally higher than those of the light water reactor, however, and they are much less close to being licensed in the United States.

What he is saying is that the ALMR, the Advanced Liquid Metal Reactor, or we call it the IFR, is not close to being licensed. It is a long-term solution. But it burns up the plutonium.

The other National Academy of Sciences study on Nuclear Power Technical and Institutional Options for the future states this about the long-term ALMR. It says:

> The committee believes that the LMR should have the highest priority for long-term nuclear technology development.

The National Academy of Sciences said it should have the highest priority.

Mr. President, this is a quotation. I have the studies here. I invite my colleagues to come see it.

If you ask the National Academy of Sciences what is the best short-term solution, they will tell you indeed that it is not the IFR. If you ask them what is the long-term solution, they will say the IFR has the highest priority.

So what is the question here before us today? The question here is whether to preserve the option for the IFR. Should we build an IFR, Mr. President? I do not have the slightest idea. And nobody can until these studies are completed. At the completion of those studies, we can weigh it against the other options; not until we complete the studies.

What does it cost us to complete the studies, Mr. President? These are the figures from the Department of Energy. The original DOE request was $83.8 million; an additional DOE request was $33.2 million, or a total of $117 million. We are talking fiscal year 1995. This is the DOE position of terminating the IFR.

Under our option under what the committee has proposed, we have a total of $113.8 million, and indeed if you get the Japanese cost-sharing, that is reduced further by $15 million, for a net cost of $98.8 million. So that you save some $18.2 million with the approach that the committee has taken in FY 1995.

Let me repeat that, Mr. President. You save money in fiscal year 1995, some $18.2 million; that is, assuming Japanese cost-sharing, and there is every indication that they will cost share. Without the cost-sharing, you still have $3.2 million for fiscal year 1995. That is to complete the study phase.

If you want the 4-year funding profile, this is a 4-year profile to complete the program, the immediate termination, the Kerry position, would cost you $344.3 million; the phased termination costs with the Japanese contribution would cost you $327.8 million; the bottom line is a cost savings of $16.5 million to complete the studies.

Mr. President, that sounds counterintuitive. The reason that it costs more to terminate than to complete the studies is, first of all, that the termination costs involve continuing to operate the reactor and using this spent fuel in the reactor which adds additional costs. In addition to that, the Department of Energy had additional, I guess what you might call, pork to satisfy Illinois.

So, Mr. President, let me make it clear, and I hope my colleague from Massachusetts will admit the fact that it costs less money to pursue the option we propose than to terminate the program now. Let me repeat that. It costs less money to pursue the option from the Appropriations Committee which will give us a look at the option than it does to immediately terminate the program.

Mr. President, what is involved in plutonium? Why this special concern with plutonium? The reason is, Mr. President, of course plutonium is a poison and is long-lived. Frankly, that is not the biggest reason. Uranium is long-lived, as is arsenic, for example, which has no half life. It just goes on forever. The problem of dealing with and storing plutonium is not particularly a formidable scientific challenge. I mean it is a challenge, no doubt. But it is one where Dr. Panofsky said we are not so much worried about dealing with the plutonium on the short-term basis for example in the tanks at Hanford using known scientific technology. We can deal with that. The problem is that plutonium has a proliferation problem. It has a proliferation problem that uranium does not have.

The reason is, first of all, that it takes less of it to make a bomb. Ten pounds of plutonium will make a bomb, whereas it takes some 30 pounds of uranium 235. So a lesser quantity of it will make a bomb as, indeed, we are finding out in North Korea where small amounts of plutonium might give them one or two bombs right now according to published reports.

Second, it is more easily separable than is uranium 235. You can blend uranium 235 with uranium 238 which occurs naturally and is not fissionable. And you cannot then separate that without going to an enormous amount of expense which no terrorist in the world and virtually no Third World country could do. Uranium enrichment requirements which you require for uranium are formidable indeed.

On the other hand, Mr. President, plutonium can be chemically separated. There are some 26 countries in the world including North Korea that have what we call the Purex process where you simply take the plutonium and spent fuel rods, mix it with acid and other things that will in effect leech out the pure plutonium, and you can have your plutonium for a bomb. A terrorist cannot do it. But Third World countries like North Korea presently have the ability to do that.

So it is because of that that we look to a long-term solution. There are now in this country in plutonium bombs about 100 tons of plutonium. There are probably 250 tons of plutonium worldwide. Remember, only 10 pounds can make a bomb. So if you have 250 tons of this stuff worldwide, it is a very big threat.

It is also a big problem, Mr. President, because in its pure form—and people say it is so highly reactive and poisonous—but the fact of the matter is, in its pure form, as in the bomb form, the pits, made out of pure plutonium, you can put it in your pocket and walk out of the factory with it. That is one of the big problems. It emits what they call alpha rays, which if you ingest it, it can kill you, and will kill you in sufficient amounts. You can hold it in your hand, and the alpha rays do not penetrate the skin or do not penetrate a piece of paper. So it is a material that can be handled like this glass of water. You can put it under your overcoat and walk out of the building and go make a bomb. That is the problem with plutonium.

Mr. President, we have what we call short-term and long-term solutions. My friend from Massachusetts talked about one of the short-term solutions. We have extensive hearing records on these solutions, Mr. President.

The first is to take the plutonium and put it in existing light water reactors in Palo Verde, AZ. There are certain advantages to doing so. There are only three of these reactors in the country that can use this. What you do is take the plutonium and mix it with uranium fuel. The problem with using that reactor in Arizona is that it is a private company. It would assume significant licensing and security burdens. Frankly, the Department of Energy has not explored this with Palo Verde. It is an option, but they have not explored it, I think, for the very reasons I have said. There is a resistance to using private reactors to burn up fuel.

The second is to use the uncompleted nuclear reactors in Washington, what we call the WPPSS reactor. This is the so-called Isaiah project, Mr. President. I do not see my friend from Oregon on the floor, but I can tell you that he is absolutely apoplectic about the idea of even considering completing the WPPSS project in the State of Washington and using that to burn up the fuel.

That Isaiah project, Mr. President, is not even being pursued as an option by the Department of Energy. We had the Department of Energy up and asked them, "What are the options you are going to pursue? Isaiah is one of them. Are you keeping the Isaiah reactor in shape where you can use it?" They said, "No." I said, "Well, is it an option or not? Are you using it as an option?" They said, "Well, it is an option, but we are not going to fund the option." I am sure that met with great approval by the Senator from Oregon [Mr. HATFIELD]. Nevertheless, it is one of the options, and you can treat it as seriously as you wish, but I can tell you that the Department of Energy is not funding that. They have not talked to them in Arizona.

The third is to use the Candu reactor in Canada. We have not talked to Canada either, Mr. President. They have not agreed to use their reactors to burn weapons-grade plutonium. It would involve transporting large amounts of weapons plutonium or reactor plutonium out of the country. You can say, well, that is a great option, but the Canadians have not agreed to it. I do not know of anybody in this country that is pushing it. So treat that one as seriously as you like, Mr. President.

The fourth is the modular helium reactor, which may be a very good option, again, in the long term. It can actually burn up the plutonium. These first three reactor options really just dirty up the plutonium, make it difficult to separate. But you could separate it by the Purex process. Again, 26 countries have that Purex process, including North Korea. It makes it proliferation-proof in the sense that you cannot put it in your pocket and carry it out of the building. It is not as good as the IFR, which can actually burn up the plutonium.

The modular helium reactor is in the very early stages. There is $12 million to pursue that option in this bill. That is not a lot. It is a long way down the line. There are some international interests in it. The Russians have some particular interest in the modular helium reactor as a long-term solution. But we are a long way away from that, and it would cost a lot of money.

The next option is this option, the integral fast reactor. It has advantages that nothing else has. It will actually burn up the fuel. It will actually take the plutonium and not just dirty it up

—which would require the Purex process to again separate it—it would actually consume the plutonium. That is the great advantage of IFR. It also has the great advantage of reducing the amount of waste, reducing the space you would need to dispose of the waste.

There are still other options, Mr. President. You can indefinitely store the nuclear warheads. We store some of those down at Barksdale Field in my hometown. I do not think people indefinitely want to have these nuclear warheads where somebody could break in and cart off a nuclear warhead or a pit to a nuclear warhead. I do not think that is a serious option.

Another is to vitrify with high-level waste and bury it in the repository. That is, mix it with glass. I saw a chart of my friend from Massachusetts that said we can start doing that in 1995. Not so, Mr. President. We do not have a single plant in this country that can vitrify. There are as yet tremendous problems in vitrifying using plutonium, because the science of where you get to a critical mass and the storage of plutonium in a vitrified form is not known; it is way down the line. Nevertheless, Mr. President, this is a short-term solution. We have not agreed or decided, as a country, which option to use. This is only a temporary option. It would still be possible to go in and retrieve those vitrified logs and extract the plutonium and make bombs out of those. Maybe that is the solution that the country will come to. The Department of Energy has not made that decision.

You can see what the advantages and disadvantages are. You have to store it in a nuclear waste dump, and it can be reprocessed to extract the plutonium from it. Or you could drop it down in deep bore holes in the Earth's crust. If you cannot do that with fuel rods, you certainly could not do it with plutonium.

You could dispose of it under the sea bed. Scientists tell us that is a serious solution and it could be done. I do not think the American people would put up with the idea of disposing of these things—what they do is they have these little screw things that would get down to the silt in the bottom of the ocean and screw themselves down into the silt. Scientists say it is serious. I do not think it is serious. I do not think anyone likes the idea of putting all that plutonium in the ocean.

Or you could detonate the warheads underground. Again that is a nonstarter.

Launch it into space. That is good except at what cost? And what happens if they fall back to Earth as too many of our rockets do.

Or you could dilute it in the ocean, literally. Scientists tell us you can do that, just dilute it. The ocean is big. I do not think we want to take the chance of having all that plutonium in our oceans and fish ingesting it.

As you can see, Mr. President, most of these options are not options at all. There are serious options here, some of which are not being seriously pursued by the Department of Energy. And clearly as a long-term solution the integral fast reactor is really the best solution, if it works, if it can be done in a cost effective way. But we do not know that until we pursue the option.

Now, what did the National Academy of Science say. They say the long-term steps will be needed to reduce the proliferation risks posed by the entire global stock—that is about 250 tons—of plutonium particularly as the radioactivity of spent fuel decays.

To further refine these concepts, research on fission options for the near total elimination of plutonium should continue at the conceptual level.

(Mrs. MURRAY assumed the chair.)

Mr. JOHNSTON. Remember, Madam President, the IFR is the only one that eliminates the plutonium. All the others dilute it in poisonous fuel, which makes it more difficult to deal with it to be sure, but this is the only one that eliminates it.

Research and development should be undertaken immediately to resolve the outstanding uncertainties facing each of the options. There are tremendous uncertainties as to the costs, as to the practicality. All of these things are uncertain—uncertainties. That is why at no cost to the taxpayer, using the Department of Energy's fission, we should complete the 4-year research program to ripen this option along with these other options.

These options, Madam President, are not without risk. Each one has some risk. But this option, the IFR, the integral fast reactor, or the advanced liquid metal reactor, as others would call it, is the only one that eliminates the plutonium. Indeed it takes a long time to do so, but it does eliminate the plutonium. And in the process of burning the plutonium in the reactor it is never in a form that can be easily dealt with by terrorists. That is it will be in an irradiated form, just as the fuel rods from light water reactors can be chemically processed using that purex. Nevertheless, it would be very difficult during the process of burning these up to take them away.

As the National Academy of Science says, plutonium is never fully separated—this is the IFR process—in a form that could be used directly in nuclear weapons thereby reducing safeguard concerns.

The National Academy of Science is recognizing that using the IFR, and during this period in which you are burning up and eliminating the plutonium, that you never have the plutonium in a form where the terrorists can take it away. I mean they could not transport it, in effect.

The Department of Energy says it is highly diversion resistant.

The Office of Technology Assessment says compared with other older technologies that have been used to reprocess and separate spent reactor fuel and to separate plutonium, the ALMR system—that is this system—may offer more proliferation advantages because of technical barriers that could be designed into the system.

The point of all these, and I think it is accepted, and I do not think this would be argued to the contrary, is that the IFR is proliferation resistant, more so than the other options.

Now, Madam President, how does this thing work and how does it differ? This is a little bit of a complicated chart, but it compares light water reactor plants, the existing plants, with the ALWR in the light water plant.

You mine uranium and fabricate fuel; you put it in the light water reactor. This is a traditional nuclear reactor. You generate your electricity. The spent fuel comes out and you store it in Yucca Mountain, or wherever, or in the spent fuel pools, in the meantime.

With the advanced liquid metal reactor, you can actually take the spent fuel from the light water reactor and put it in a reprocessing plant. You can also take the plutonium from nuclear weapons. Remember we have about 100 tons in this country of plutonium from nuclear weapons, or 250 tons worldwide. You can take those and put it then in your advanced liquid metal reactor and generate electricity. Then you put it back in your IFR plant where it burns. Once-through, it burns up about 25 percent of the plutonium.

You bring it back in your recycle plant where you remix the fuel, leaving it in a form that is not proliferation friendly, always being proliferation resistant. You put it right back into your advanced liquid metal reactor until all the plutonium is gone.

The plutonium is gone, and that is why we call it a long-term solution.

Now, Madam President, I am not here saying that we ought to build the IFR or the advanced liquid metal reactor. I am saying that we ought, at no cost to the taxpayer, look at this option and compare it to the other options because these other options, Madam President, have downsides, too.

You know, it is very easy to say we do not want to do the IFR; we want to do something else. You say, what else do you want to do? They say, one of the options is the WPPSS reactor up in Washington. You say, good. What do you have to do to make that come about? First of all, we have to maintain that reactor by putting some money into it. Are you maintaining it? No. Do you lose that option by not maintaining it? Yes.

So, they say anything but IFR. But when you ask them what is the solution they have none. That is why, at no cost to the taxpayer, we ought to get a look-see and complete the 4-year research term.

Now, Madam President, let me deal quickly with one or two other red herrings here. First of all, that is the son of Clinch River, and this is a breeder reactor. Any reactor, Madam President, breeds a certain amount of plutonium. A regular light water reactor breeds plutonium or makes plutonium. I mean you start off with U-235 and U-238, and you end up with a lot of fission products and some plutonium which can be separated out using PUREX. To be sure it is not terribly efficient like with most light water reactors, but it can be done.

Now, indeed, this reactor as well as most any other reactors can be reconfigured to breed plutonium. But according to the Department of Energy, in a question asked by Senator BUMPERS in writing to the Department of Energy, they say it would take some $60 million and some 3-plus years to convert this reactor to a breeder reactor.

It is not now a breeder reactor. It is not a son of Clinch River. I mean, it is different from Clinch River. Clinch River used an oxide fuel. This uses a metal fuel. Clinch River was not passively safe. This is passively safe, proliferation resistant. Clinch River had primary components in multiple vaults. This uses a single vault. Clinch River breeds plutonium. This burns plutonium.

Advanced nuclear physicist and Nobel Prize winner Hans Bethe said:

> Some members of your committee, I am told, believe that the IFR is a repackaging of the defunct Clinch River breeder. Nothing could be further from the truth.

Madam President, my friend from Massachusetts and I can stay up here all day and say, "Yes, it is," "No, it isn't." The Nobel Prize winner Hans Bethe says, "Nothing could be further from the truth" that this is the son of Clinch River, that this is a breeder reactor. It is not.

The Department of Energy, which, to be sure, opposes the IFR, says 3 years and $60 million. As I said in the debate last time, Madam President, you could make an airplane out of a speedboat, and that is no reason not to say do not buy the speedboat to go fishing just because you can make an airplane out of it. Or you could make a silk purse out of a sow's ear, given enough time and enough money.

But, Madam President, we are talking $60 million and 3 years plus. So the idea that somehow this will be regarded as the son of Clinch River and as a new breeder reactor is just not so. It is just not true. To be sure, it will have the capability, with modifications, as will any other reactor in the country, with greater or lesser efficiency, to breed plutonium. But it is neither intended nor capable of doing that. And, as the Nobel Prize winning laureate Hans Bethe says, "Nothing could be further from the truth."

Madam President, I hope we will take a look at this; that we will complete this research program.

If I could put up that 4-year cost just one more time. Really, the key to this argument is this: It is a research program to preserve the option to finish the design of this project which, in the finishing of the research, we will be able to answer these tough questions. It costs less money to finish the research program than to terminate it, using the Department of Energy's figures. Until the Department of Energy can give us some justification of what option they have chosen, they should not foreclose what the National Academy of Sciences says is the best long-term option.

Is it likely that we would ever build the reactor? I do not know, Madam President. You cannot make that judgment until you finish the program. But to say we are going to shoot it into space, or we are going to dilute it in the ocean, or we are going to sink it on the ocean floor, or we are going to use some technology like vitrification, which we do not now have, to foreclose this option when we do not have that option, does not make any sense. Or to say we are going to send it to Canada when we have not even talked to the Canadians, or we are going to go to Palo Verde, when we have not even talked to the Arizona Public Service Co.

You talk about the antinukes; they would come unglued if you tried to use a civilian reactor for the purpose of burning plutonium. And the WPPSS reactor, they are not even funding the possibility and they lose that possibility in the so-called WPPSS reactor, the so-called Isaiah project, by failing the funding. They say it is an option, on the one hand, and they foreclose the option, on the other hand.

That is why, Madam President, this solution, at no cost to the taxpayer to finish a 4-year research program, is the only prudent thing for this country to do.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Madam President, I strongly concur with my colleague from Louisiana, and I say this as one who has generally voted antinuclear. I voted against the Price-Anderson limit on liability because I do not think there should be this exemption from liability for the nuclear industry. Had there not been that limitation on liability, we would not have had the kind of developments that we had.

I have also learned over the years that there is no Member of the U.S. Congress, House or Senate, who knows as much in the scientific area as Senator BENNETT JOHNSTON from Louisiana. If you want a good argument against term limits, BENNETT JOHNSTON of Louisiana is the argument, because it takes a huge amount of time to develop that kind of expertise.

Now, it has been said that the President of the United States is opposed to it and the administration has gone on record against it.

I could read you a letter from a year ago, where the President of the United States was for it. What happened in the meantime? Is there any scientific development in the meantime? None that I am aware of.

I think what happened is a political decision was made, and I understand that. We all understand political decisions. A political decision was made because some of the people who are antinuclear, just as a reflex action, went to work on the White House and the decision was made that we are going to try and satisfy them.

The Secretary of Energy has come out against it. But let me tell you that the personnel, the scientific personnel in the Department of Energy, are overwhelmingly for this development.

Those of us who are interested in seeing that we have nuclear energy that does not have weapons-grade plutonium ought to be very, very much for this. The Presiding Officer right now, Senator MURRAY from the State of Washington—a fresh, new face who is adding luster to this body—has the second largest accumulation of weapons-grade plutonium in her State, 11 tons. Only Colorado, with 12.9 tons, has more. The people of Washington have a great stake in this.

As my colleague from Louisiana pointed out, we are not talking about the Clinch River breeder reactor.

Then what about the cost factor? You see the things here. You heard my colleague from Massachusetts read a letter from the Secretary of Energy, for whom I have a high regard, who said it is going to cost $2.7 billion if we carry this out to commercialization. That is the commercializing of it. That is a decision that will be made if this is successful. We do not know for sure if it is going to be successful. But, presumably, the commercialization is going to be paid by commercial interests.

But let us listen to the same Secretary of Energy—this is on March 9 of this year—over in the House Energy and Power Subcommittee. Representative CRAPO asked:

> Also, it is my understanding that there is termination money in the budget for this project. I have been advised that the amount of money that it will take to terminate this research exceeds, or at least equals, the amount of money it will take to complete the research. Do you have an understanding in that regard?

Secretary O'Leary: "That is correct."

Then, come over to the Senate. On March 23, the distinguished junior Senator from Idaho asked the Secretary:

"Is it true that the decision to terminate the IFR program is not based on budgetary savings?"

Secretary O'Leary: "Not in the near time; you're absolutely correct."

We are not talking about dollars being saved here. We are talking about whether we should proceed with research so we can develop nuclear energy that cannot be converted to nuclear weapons. That is what the fight is all about. And I think it just absolutely does not make sense at all for us not to move ahead on this.

I ask unanimous consent to have an article from Business Week printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

> [From Business Week, Mar. 22, 1993]
>
> A BIG-SCIENCE CUT THAT COULD DROWN US IN NUCLEAR WASTE
>
> While the science community is feeling rather good, overall, about President Clinton's technology agenda, there's one curious slight: Funding for the Integral Fast Reactor (IFR) has been dropped. Many scientists think the decision is shortsighted. In fact, a recent study by the National Academy of Sciences tagged the IFR as the No. 1 priority in nuclear-reactor science.
>
> The IFR program was originally launched by Argonne National Laboratory to develop a safer nuclear-power plant. But it evolved into something far more important. The reactor could burn the spent nuclear fuel from traditional nuclear plants—waste that will otherwise pose a radioactive threat for thousands of years. Moreover, the IFR should be able to burn the radioactive plutonium recovered from dismantled nuclear weapons. Tons of this nasty stuff have already piled up at a remote site near Amarillo, Tex.—with lots more to come. Without the IFR, this weapons-grade plutonium may have to be guarded night and day for centuries.

Mr. SIMON. Business Week: March 22, "A Big-Science Cut That Could Drown Us in Nuclear Waste."

This says if we cut this, we have nuclear waste problems.

While the science community is feeling rather good, overall, about President Clinton's technology agenda, there's one curious slight: Funding for the Integral Fast Reactor (IFR) has been dropped. Many scientists think the decision is shortsighted. In fact, a recent study by the National Academy of Sciences tagged the IFR as the No. 1 priority in nuclear-reactor science.

The Livermore National Labs have been quoted here. Listen to what they have to say.

> In summary, using IFR high transuranic plutonium would add significant difficulties to a proliferation of the Nation's nuclear weapons program as compared to using weapons grade or reactor grade plutonium.

The House Appropriations Committee on Energy and Water used this language in their report. It is not simply the Senate committee that unanimously, and I underscore unanimously, voted this out. Listen to what the House committee said:

> The committee has significant reservation over the elimination of the advanced liquid metal reactor. The committee considers the research conducted to be vital to maintain a nuclear option for future generations.

What do the scientists at Argonne say? What will happen? In terms of fuel, a thousand megawatt light water reactor uses 20 tons per year. The IFR, 1,000 megawatt, will use 1,500 pounds; less than 5 percent.

Waste, nuclear waste—what are we talking about? Light water reactor, 20 tons per year. IFR, if it works—and we cannot be sure—1,500 pounds per year.

Plutonium waste: Light water reactor, 1,000 megawatts, 500 pounds per year; integral fast reactor, zero.

If we are interested in doing what we can to reduce weapons proliferation and to solve this problem of nuclear waste, I think we ought to be moving ahead with the integral fast reactor. And I think the evidence is overwhelming.

Candidly, I got into this because Argonne, an Illinois facility, was involved. And I went in, frankly, with no commitment to them to support it. I went in very, very reluctantly. I have become convinced this is something essential to the future of the Nation.

Let me also mention that just this month the Department of Energy made a report. My colleague from Louisiana will be interested in this. Just this month the Department of Energy made a report on the *Seawolf*. What does it say we are going to do with the residue from the *Seawolf*? They have a little map in here. It shows it all going out to Idaho. They are going to use the integral fast reactor. The Department of Energy says that is the way we take care of the fuel from this.

The evidence is just overwhelming that we ought to be moving in this direction. I hope we will do the right thing, the logical thing, and continue this program. If we do the political thing I, frankly—I do not know where the political side is on this for Members. But I know where the right thing is. If you look at how we stop the potential of producing weapons grade plutonium, there is no question on that. I think that is something that is important to our children, to the pages, to future generations.

I strongly support the comments of Senator JOHNSTON and urge that the Kerry amendment be defeated.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. Madam President, we have been told here today on the floor, and in private conversations before today, that the decision the Senate is about to make is principally about nonproliferation, about technology options, and about our nuclear future. But that premise is wrong.

Although the Senate has heard a thoughtful and well-presented set of arguments for terminating the IFR project operated by Argonne National Laboratory, these arguments are all based on the same faulty premise that the Senate is, today, deciding whether or not to commercialize the advanced liquid metal reactor/integral fast reactor technology. That is not the issue.

Although a letter, Madam President, circulated by the administration and referred to by the distinguished Senator from Massachusetts, makes that case, the fact is the Senate is not deciding whether to build a commercial-type prototype for the period of fiscal years 1995–2010. Rather, the Senate has before it two much more limited questions. I would like for a moment to pick up the debate where the distinguished Senator from Louisiana [Mr. JOHNSTON] left off in that regard.

The limited questions are, first, whether to complete ALMR/IFR technology research which has been underway since 1984 and has only 2 more years to go before it is finished and the test reactor is shut down in any event; and, second, whether it is cheaper to finish the project now or to terminate it prematurely.

As the administration's own figures state flatly and clearly, it is now less expensive to complete this research than it is to arbitrarily shut it down prematurely. Those are the only questions, the real questions before the Senate today.

At this juncture, we must decide only whether to terminate research that is 80 percent complete, when doing so costs more money instead of saving money. Premature termination of this project will cost $344 million between 1995 and 1998. Finishing research, on the other hand—that is defeating this amendment and letting the IFR research program go forward—will cost $327 million over the same time period. So finishing the research, as Senator JOHNSTON has eloquently pointed out with his charts, actually saves taxpayers $16.5 million over 4 years. A vote to kill this research program today is a vote to spend more money, not less.

In testimony before the Senate Energy and Natural Resources Committee on the 1st of March, the then-Acting Director of Nuclear Programs in DOE stated:

> Funding [for the ALMR/IFR program] comes out the same either way, given the participation [from the Japanese] that we are expecting.

That has been confirmed by Secretary O'Leary before the House Energy and Power Subcommittee this year. It is now less costly to complete this experiment than it is to kill it. The Japanese want to help pay to complete the research. They have committed to provide some $60 million through fiscal year 1998 to do so. However, if we cancel the experiment, we will bear the total costs alone. In fact, if we do not do the research, not only would we wind up paying to prematurely shut this down by ourselves, but the Japanese will go forward with the technology on their own—with or without us. They make that point very clearly in a letter to my distinguished colleague from Louisiana.

I ask unanimous consent to have this printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

POWER REACTOR AND NUCLEAR
FUEL DEVELOPMENT CORP.,
June 17, 1994.

Hon. BENNETT JOHNSTON,
Committee on Appropriations,
U.S. Senate,
Washington DC.

DEAR SENATOR JOHNSTON, In response to your inquiry, I would be pleased to provide you with information on the status of PNC's views about actinide recycling R&D activities. We have three cooperative agreements with the Department of Energy [DOE] in the areas of fast breeder reactors, waste management activities, and safeguards. In general, we would like to enhance our cooperative R&D activities with the DOE since we believe that, through joint efforts in areas of mutual interest, each country can further its own research agenda and conserve limited budget resources as well.

In this regard, we did make a specific offer earlier this year to contribute to a multi-year, R&D program on actinide recycling and the IFR directed by the Argonne National Laboratory [ANL]. If realized, this would have marked the first commitment by a corporation affiliated with the Japanese Government such as our (although several Japanese private entities have supported certain projects in this area). We came very close to reaching a final agreement with the DOE.

Our tentative assumption for this cooperative project was approximately $60 million over five years, subject of course to the approval of the budgetary authorities in Japan. However, the project was abruptly terminated by the DOE in January of this year when funding wasn't identified in the Administration's request for FY 1995 budget. We were therefore forced to cease cooperative discussions with the DOE and no longer secure financial resources for this cooperative project in coming years.

Meanwhile, we are starting on our own to carry out R&D in the field of actinide recycling. A new long-term plan for nuclear energy, under the auspices of the Atomic Energy Commission of Japan, will include specific reference to the importance of carrying out R&D on advanced reactors, including those for recycling actinides. It requires technologies which are still in the initial stage of research, but we are committed to proceed with R&D in the long-term in order to make tangible progress.

We remain interested in working with the DOE in this field, although its recent actions don't provide a stable, credible basis on which to proceed at this point. If Congress were to restore the program for the next fiscal year, we would reconsider our options about participating in a joint program.

We appreciate your interest and leadership on these issues and hope our two Governments can continue to cooperate on nuclear energy and other advanced technologies in the future.

Sincerely,

TAKAO ISHIWATARI,
President.

Ms. MOSELEY-BRAUN. I will not read the letter. I believe Senator JOHNSTON has already referenced the letter, talking about the lack of participation in the shutdown costs from the Japanese. But this is a serious budgetary mistake, for us to move in the direction the Senator from Massachusetts suggests.

Madam President, I am surprised that at a time of real budget crisis, when we are having such difficulty finding money to meet important domestic priorities, such as more police on the streets, health care reform and welfare reform, we are contemplating dumping a billion dollars of tax money into the trash. Let there be no mistake about it at all, that is precisely what we would be doing if we vote to kill this program today.

We have already spent roughly $800 million on this research. We will spend roughly another $330 million whether we terminate the research before it is finished, or whether we carry out research to its completion. Either way, we are going to spend a total of a billion dollars.

Ending the ALMR/IFR Program now saves absolutely nothing. It simply wastes money and, worst still, it wastes a decade worth of research. We are here debating this on the floor now because, quite frankly, I think an artificial decision point has been created.

The real decision on the ALMR/IFR is in 1998, consistent with the time-line outline in the Energy Policy Act of 1992. That act directs the Secretary of Energy to assess ALMR/IFR technology when, and only when, adequate scientific data exists to make a well-informed conclusion.

Madam President, I ask unanimous consent that a relative page of this act be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ENERGY POLICY ACT OF 1992

SEC. 2122. PROGRAM, GOALS, AND PLAN.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program to encourage the deployment of advanced nuclear reactor technologies that to the maximum extent practicable—

(1) are cost effective in comparison to alternative sources of commercial electric power of comparable availability and reliability, taking into consideration life cycle environmental costs;

(2) facilitate the design, licensing, construction, and operation of a nuclear powerplant using a standardized design;

(3) exhibit enhanced safety features; and

(4) incorporate features that advance the objectives of the Nuclear Non-Proliferation Act of 1978.

(b) PROGRAM GOALS.—The goals of the program established under subsection (a) shall include—

(1) for the near-term—

(A) to facilitate the completion, by September 30, 1996, for certification by the Commission, of standardized advanced light water reactor technology designs that the Secretary determines have the characteristics described in subsection (a) (1) through (4);

(B) to facilitate the completion of submissions, by September 30, 1996, for preliminary design approvals by the Commission of standardized designs for the modular high-temperature gas-cooled reactor technology and the liquid metal reactor technology; and

(C) to evaluate by September 30, 1996, actinide burn technology to determine if it can reduce the volume of long-lived fission by-products;

(2) for the mid-term—

(A) to facilitate increased efficiency of enhanced safety, advanced light water reactors to produce electric power at the lowest cost to the customer;

(B) to develop advanced reactor concepts that are passively safe and environmentally acceptable; and

(C) to complete necessary research and development on high-temperature gas-cooled reactor technology and liquid metal reactor technology to support the selection, by September 30, 1998, of one or both of those technologies as appropriate for prototype demonstration; and

(3) for the long-term, to complete research and development and demonstration to support the design of advanced reactor technologies capable of providing electric power to a utility grid as soon as practicable but no later than the year 2010.

(c) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a 5-year program plan to guide the activities under this section. The program plan shall include schedule milestones, Federal funding requirements, and non-Federal cost sharing requirements. In preparing the program plan, the Secretary shall take into consideration—

(1) the need for, and the potential for future adoption by electric utilities or other entities of, advanced nuclear reactor technologies that are available, under development, or have the potential for being developed, for the generation of energy from nuclear fission;

Ms. MOSELEY-BRAUN. Madam President, I am not going to hide the fact—and Senator SIMON, I think, has spoken eloquently about the fact that there are jobs involved. These are jobs of highly skilled scientists with hundreds of years of cumulative experience. Five hundred Illinoisans and 900-plus some Idahoans accepted the invitation of this Government to perform this research. These scientists have had to commit their entire careers to long-term, Government-sponsored research projects. They make those commitments for decades at a time, totally dependent on our orderly establishment of research priorities.

But Government science policy has been far from orderly these days, Madam President. In fact, it has been chaotic and, I would suggest, disruptive. We are faced now with playing political games with people's careers and people's families.

Look at the space station, for example; look at the SSC. When we make a commitment to these long-term projects, we ought to at least not move precipitously to end those commitments unless there are absolute, compelling budgetary reasons that force us to do otherwise.

An article in last year's Washington Post written after the demise of the SSC makes the point very well and I want to quote from that:

> To one * * * family * * * and their two young daughters, their news from Washington seemed a cruel twist * * *. They cannot understand why * * * lawmakers were never committed to the project.
>
> One scientist employed at the SSC said, "They don't care up there * * * they don't seem to understand how they've been jerking around the citizens down here."
>
> Another made the point that, "* * * the Government asked the scientists and computer experts and engineers to come work on this * * *. We were invited * * *. Next time will everybody come? Will anybody listen? The Government has really blown its credibility."

Well, Madam President, we might just blow it again and, in this case, we do not have the compelling budgetary justification that drove the SSC decision. What must the American scientific community think of Congress? What must the American people think of the Congress, now that we have just spent $1 billion of their tax money for absolutely nothing if this amendment is successful?

Such poor policy decisions end up discouraging scientists and eager students from entering Government research, and I think that is the real danger that is done here.

At some point, we are going to have to stop such disruptive and herky-jerky turnaround science policy. The Government signed a contract, the Government made a commitment to Illinois and Idaho scientists and, Madam President, perhaps—just perhaps—it is time for the Government to keep its word.

I have further concerns about the process in which this decision was made. The Energy Policy Act of 1992, which underwent intense debate and scrutiny, calls for final evaluation of the Actinide Recycle Program in 1996 and for a final decision to proceed with prototype construction in 1998.

Instead, the administration made a major energy policy decision behind closed doors, slipped it into the budget without consulting Congress and without fully obtaining the views of the scientific community. That is one of the reasons, I submit, for the battle of the network editorials that we are seeing on the floor. We do not yet have the conclusive scientific evidence and data that the law originally contemplated for evaluating the efficacy of this program.

Opponents of completing the IFR experiments cite a mosaic of reports conducted on the ALMR/IFR. They argue these reports appear to show consensus within the scientific community against this experiment. The problem is that the reports that are being referenced evaluate the ALMR/IFR technology solely for plutonium disposal, or solely for waste disposal, but not in the context of its primary purpose, which is to provide a future energy source.

It is like the old story about the blindfolded men who confront an elephant from different prospectives. One guessed it was a tree, another guessed it was a snake. These reports come from the ALMR/IFR from different directions but do not address what it was fundamentally designed to do. We must look at this project as a sum of its parts.

The ALMR/IFR was designed to produce energy. It just so happens it can burn plutonium and nuclear waste as well. A 1992 National Research Council report on future options looked at the ALMR/IFR in this context and concludes:

> The LMR should have the highest priority for long-term nuclear technology deployment.

A recent report from the Office of Technology Assessment also points out the following:

> The development of this technology needs to be considered in the context of plutonium disposition policy objectives—as well as overall policy objectives.

Although the 1994 National Academy of Sciences report concludes the ALMR/IFR should not be deployed solely for plutonium disposition in the short-term, the report does, in fact, go on to say that in the context of future nuclear energy options, ALMR/IFR technology, and I quote, "offers the possibility of pursuing the elimination approach in the long term, not only for weapons plutonium, but also for the much larger quantities of civilian sector plutonium."

Further, the OTA report clearly emphasizes the need to complete this research, and I quote:

> Because of the nature of any research project in which both problems and opportunities have yet to be discovered, it is difficult to evaluate the suitability and potential [of the ALMR/IFR] for any specific goal. Such a research project will change and adapt in response to data gathered during its development.

I digress for a moment from the quote. That is precisely what research is about—change and adaptation.

> Thus, the OTA analysis reflects that uncertainty.

And then the report goes on to say:

> OTA cannot provide conclusive results regarding its potential for newly identified uses other than power production.

So, Madam President, if money then is not a factor, and as we have already demonstrated, we are going to lose money in the process, why not let us finish this research?

IFR opponents go on to say that the 1994 National Academy of Sciences report rejects ALMR/IFR technology. But let us put that report in perspective. The premise of the report was to assess the quickest, cheapest way to deweaponize plutonium from dismantled weapons into a form useless for a proliferator, into a form like spent fuel.

Given the dangers posed by that material, I certainly agree that we need to do that. And to do that, the NAS report recommends that: One, we use plutonium as fuel in existing reactors or, two, mix plutonium with radioactive waste, glassify it and bury it, and that will take care of it in the short-term. However, not only would burning plutonium through existing reactors in the U.S. require relicensing and expensive facility construction, but the denatured plutonium could still be reprocessed back into weapons-grade plutonium.

Further, glassifying—the proposal that was discussed a moment ago—glassifying plutonium would not only require a place for storage at a time when we are running out of storage room, but as its radioactivity decays over time, it, too, can be reprocessed back into bombs.

The NAS report recognizes this fact, concluding that:

> While the spent fuel standard is the appropriate goal for excess weapons plutonium disposition, further steps should be taken to reduce the proliferation risks posed by all of the world's plutonium stocks, including plutonium in spent fuel * * * this broad question is beyond the scope of this study.

The only way to destroy plutonium forever is by burning it in fast reactors like the IFR. As there is disagreement within the scientific community, there is disagreement within this administration as well. And there have been many flip-flops of position as, again, the senior Senator from Illinois pointed out, on this technology over the past 2 years.

This year, the administration says the ALMR/IFR is a proliferator, but last year, responding to a question posed by my colleague from Idaho, the Department of Energy stated:

> Because the ALMR/IFR pyroprocessing is incapable of producing a pure plutonium product, subsequent reprocessing using the aqueous process, is necessary.

Therefore, we believe the risk of proliferation is not any greater than that associated with current power reactors.

This fact, Madam President, has since been further confirmed by a recent Lawrence Livermore study, a summary of which I would like also to submit for the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

The Integral Fast Reactor (IFR) Fuel Cycle—Some Implications of Using IFR High-Transuranic Plutonium ["HITRU PU"] in a Proliferant Nuclear Weapon Program

(By Donald L. Goldman, Defense Technologies Engineering Division, Lawrence Livermore National Laboratory)

PURPOSE OF THE STUDY

To assess the usefulness, relative to weapons-and reactor-grade plutonium, of Integral

Fast Reactor (IFR) processed metallic fissile material ("HITRU Pu") in a nuclear proliferant nation's program.

DEFINITIONS AND ABBREVIATIONS

Weapons-grade plutonium="w-g Pu".

99+% pure plutonium.

94% Pu239.

May contain −1% gallium.

Reactor-grade plutonium="r-g Pu".

99+% pure plutonium.

50–60% Pu239.

From spent LWR fuel via aqueous processing after cooling for 2 years or more.

High Transuranic plutonium="HITRU Pu".

65–70% plutonium plus a large fraction of mixed transuranics

30–40% Pu239.

From (FR low-temperature pyro-processing.

High Explosives="HE".

INTERNATIONAL NUCLEAR FUEL CYCLE EVALUATION DEFINITIONS—IAEA, VIENNA (1980)

Proliferation.—Misuse by a government of nuclear fuel cycle facilities, know how, or materials to assist in the acquisition, manufacture or storage of a nuclear weapon.

Diversion.—All activities needed to implement a decision, whether by national government or sub-national group, to misuse nuclear fuel cycle facilities or nuclear materials in order to attempt the manufacture of nuclear weapons or for other purposes.

Major fissile materials properties of concern to the weapons engineer are:

Thermal power (watts generated per unit mass).

Radiation output (neutrons and photons leaving the fissile material).

Metallurgical stability (constancy of its dimensions and properties).

Chemical stability (constancy of its chemical makeup).

A proliferant using HITRU Pu for nuclear weapons faces issues and concerns that use of weapons- or reactor-grade Pu would avoid:

High heat output from the HITRU Pu means having to avoid excessively high internal temperatures, making issues of HE and pit material design and selection, and possibly limiting allowed operational (i.e., air) temperatures.

High radiation output from HITRU Pu can lead to: Potentially lethal personnel exposures during manufacturing and use, forcing development of remote capabilities and hindering the weapon's usefulness; and potentially damaging material and component exposures during the weapon's stockpile life.

Metal properties from 18 material scenarios were examined for their impact on the heat and radiation design issues.

Each material scenario is defined in terms of fuel management processing and the cooling period prior to processing.

ANL calculated the output material properties assuming LWR feed-stock:

2 fuel management cases: Once-thru and recycled to equilibrium.

3 processing cases: the IFR baseline; 2 possible off-normal uranium-removal approaches.

3 cooling periods before pyro-processing: 1, 10, and 30 years.

Heat: Temperatures reached by the pit and the HE are of crucial concern to the weapon engineer.

Pit: Dimensional and density stability.

High explosive: melting and self-initiation ("cook-off").

These temperatures were calculated for some simple geometries.

Conclusion: heat output from HITRU Pu will be a major problem for the proliferant designer.

HITRU Pu heat output will complicate and may even preclude the design of simple nuclear devices, due to its effect on HE and Pu components.

HITRU Pu self-heating will create density and dimensional stability design issues.

HITRU Pu heat can cause HE to self-detonate or melt, severely impacting the design process. Allowable outside air temperature will likely be limited.

The HITRU Pu from the 2 off-normal processing cases studied create more heat than the baseline process.

Use of either weapons- or reactor-grade Pu would largely avoid these problems.

Radiation: the neutron and photon outputs from HITRU Pu would create issues regarding: Personnel safety, materials and components, weapon utility.

Manually fabricating pits for a proliferant's stockpile would result in unacceptable personnel exposures.

For example, making a pit in the U.S. required about 22 hours of close-in body exposure (at—½ meter) and about 8 hours of hands-on contact by the principal workers.

Using unshielded dose rates for the best-case HITRU Pu from the IFR (30 year cooling), these times would result in: About 10^3 Rem whole-body exposure (well above the 100% lethal dose), about 10^4–10^5 Rem hand exposure (not shieldable).

These levels are incapacitating and lethal. Designing processes to deal with them would significantly complicate a proliferant's development and development programs and production activities.

High radiation levels within a HITRU Pu nuclear weapon could also affect and constrain other material selections and components designs.

Over time, high photon and neutron fluxes negatively impact materials and electronics behaviors.

Conclusion: Very high potential radiation exposures from IFR HITRU Pu will add major complexities in developing a proliferant weapons fabrication and handling capacity.

HITRU Pu neutron outputs per gram are in general 3–4 orders of magnitude higher than weapons-grade or reactor-grade Pu.

The neutron multiplication of the weapons will raise this even more.

Gamma radiation is similarly higher.

So, remote fabrication and assembly facilities will be needed, from receipt of the metal ingot, through plutonium part fabrication and pit assembly, to installation into a weapon or storage container.

And, very high radiation levels outside a weapon using HITRU Pu will preclude close exposures for more than brief periods.

Final conclusions: Based on our assumptions regarding a proliferant nation's nuclear program:

To base a nuclear weapon stockpile on HITRU Pu, significant additional and unique challenges would have to be overcome by the proliferant's nuclear weapon R&D program:

Design and use of remote fabrication and assembly facilities.

Selection and use of heat-insensitive materials and components or invention of new, unproven design approaches.

Selection and design of radiation-insensitive components.

Constraints on the use of the nuclear weapons made with HITRU Pu would include:

Dealing with the need for either exposing personnel to high radiation or remotely handling it.

Limiting the outside temperatures that the warhead sees.

In summary, using IFR HITRU Pu would add significant difficulties to a proliferant nation's nuclear weapon program, as compared to using weapons-grade or reactor-grade plutonium.

Ms. MOSELEY-BRAUN. This year the administration says completing ALMR/IFR research sends bad signals to the world, but last year they said:

> If the United States wished to play a major role in deterring proliferation and enforcing the international safeguard regime, it is important we maintain the technical leadership in the development of nuclear power and continue to make advances in proliferation-resistant technologies.

Madam President, that is what this project is about.

In one of the most remarkable moves of all, Madam President, Secretary O'Leary this year awarded the general manager—and this is almost a funny story—the general manager of the ALMR/IFR program a gold medal and $10,000 for his work on this technology, and the Secretary at the time described the ALMR/IFR as having "improved safety, more efficient use of fuel, and less radioactive waste." So why would the administration award someone $10,000 and a gold medal for a program that they then turn around and want to kill, Madam President?

Because there are those in the administration who believe this technology has promise, and there are those in the Senate who believe this technology has promise.

There will be some today who will tell you this is an issue about nuclear proliferation. I submit that anyone with common sense who has watched the proliferation policy in this country over the past 15 years knows we are not going to influence other nations from aspiring to or rejecting reprocessing.

For example, opposition by previous administrations had a minimal effect on reprocessing policies of major nuclear nations. France went ahead and did what it was going to do; England did what they were going to do; Japan did what they were going to do. Their argument is that they seek energy independence that we in the United States already enjoy. So the idea that we can whipsaw other nations by shutting down our research capacity really does not make a whole lot of sense and, frankly, borders on arrogance.

I know the scare tactic and the specter of North Korea has been raised here, and that is a concern for every American. But regrettably, North Korea just may have chosen to reprocess its spent fuel into something more dangerous than new fuel.

The IFR does not produce weapons-grade plutonium. That is a red herring in this whole debate. Proliferation, therefore, is not a problem that arises with IFR research or IFR technology. Proliferation, Madam President, is a problem with existing light water reactors and PUREX reprocessing. Today's reactors produce plutonium that then can be reprocessed into bombs. Plutonium proliferation is going to be a serious problem, and it is a serious problem whether we complete the ALMR/IFR research or not. Regrettably, this problem is not going to go away overnight. Therefore, if the moral high ground is to be taken here—and I wish to associate myself with Senator SIMON's remarks in this regard—it ought to be taken by those willing to provide an alternative to PUREX reprocessing, for example. PUREX is readily accessible to other nations. They have it. They can get it. It is out there. PUREX can separate plutonium for civilian energy use or for bombs. ALMR/IFR technology, however, keeps power production completely separated from weapons production. That is kind of an important point here, that we are talking about power production and not weapons production. ALMR/IFR technologies, nations seeking to reprocess will in fact choose PUREX. With ALMR/IFR technology, there would be no legitimate excuse for nations to obtain PUREX capability.

In closing, I would like to say this is a modest investment for a research project that holds great promise for the future. I know that many of my colleagues are intrigued by the promise of this technology. I know that many would like to see whether we can actually recycle nuclear waste into energy, or burn the plutonium from bombs. That is what we hope this research is going to give us the capacity to do. That is all we are asking for today, to take a look, to finish the research. And just think, Madam President, it is not going to cost us money. In fact, if anything, it is going to keep us from blowing an awful lot of money.

I think it is worth investing 2 more years in an experiment that can solve a waste storage problem, a 100,000-year waste storage problem—in fact, someone made the comment earlier today that the only thing on the planet that is even remotely that old are the pyramids, and we could not even keep those from being robbed—especially since we are now at the point when carrying the experiment to its conclusion and terminating this project will cost the same amount.

Madam President, is it not worth going forward rather than hoping that future generations will not have to worry about buried plutonium and nuclear waste escaping from some underground storage site into the environment? That is what is at issue here. Do we not have a responsibility to develop promising technology that may deal with the disposal of our nuclear waste and plutonium? Do we not have an obligation to go forward and finish this experiment, as authorized under the act, until we are absolutely sure that this is a dead end and that this research does not have the promise that we today think it does?

Madam President, I think we do have an obligation to continue this project, to continue the ALMR/IFR research. I think that it holds great promise for the future.

I wish to submit also for the RECORD—we were talking about editorials. There are a number of editorials that I would like to submit for the RECORD as well since we are going to battle over newspaper opinions: The Chicago Tribune: "Fighting to Save Good Nuclear Science"; the Wall Street Journal: "Nuclear-Plant Design Nears Crucial Test;" the Christian Science Monitor: "Keep Funds for Nuclear Research"; the Chicago Tribune again: "Don't Foreclose This Nuclear Option;" the Chicago Tribune again: "Argonne Nuclear Research is Vital"; Crains Business: "Argonne Cuts Make No Sense."

There are others, Madam President. I will just submit them for the RECORD. I think there are 15 here, 15 different editorials. Science News, "Nuclear Leftovers: Waste Not, Want Not." Here is another one from Madison, GA. "Integral Fast Reactor Could Have Advantage."

I ask unanimous consent to have these editorials printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, June 24, 1994]

FIGHTING TO SAVE GOOD NUCLEAR SCIENCE

Sen. Paul Simon doesn't often square off with the Clinton administration, but he's doing just that to try to prevent it from prematurely and myopically closing off a possible source of future energy.

As he did last year, the Illinois Democrat is preparing to lead a fight to restore funding for research on a new type of nuclear reactor, after the House recently voted to kill it. Unlike last year, however, Simon faces the opposition of the administration and Energy Secretary Hazel O'Leary, who decided this year to oppose work on the Integral Fast Reactor at Argonne National Laboratory in suburban Lemont.

While it is trying to discourage plutonium use around the world and limit illicit nuclear arms production, O'Leary argues, the United States shouldn't be doing anything to even "give the appearance of continuing the use of civilian plutonium production."

While nonproliferation is a worthy goal, the administration's rationale on the fast reactor is based, at best, more on anti-nuclear politics and fuzzy thinking than on good science. At worst, it's another sign of the administration's hostility toward nuclear energy.

Although nuclear reactors provide a fifth of America's electricity, growth has been stymied by concerns over safety and waste disposal. Each conventional reactor burns just 1 percent of its uranium fuel, leaving radioactive waste and about 500 pounds of plutonium a year. Combined with plutonium from dismantled nuclear weapons, the world's stockpile is growing, and only a small amount in the wrong hands could be used to build nuclear bombs.

In contrast, Argonne's fast reactor is designed to consume 99 percent of its fuel, leaving virtually no plutonium behind. Furthermore, it can burn waste from other nuclear plants or from nuclear warheads, thus extending the uranium supply for decades. And it can do so safely, without polluting the air or producing material easily converted into nuclear arms.

Since other nations, like nuclear-dependent Japan and France, aren't likely to shut down their reactors anytime soon, the Clinton position is politically unrealistic and Argonne's reactor may offer the best long-term solution to reducing nuclear proliferation. The full system is ready to be tested, and it will cost just as much to test and put on the shelf as to shut down.

So this isn't a budget problem. It's a chance to test technology that may solve nuclear proliferation and waste dilemmas. The Senate should follow Simon's leadership and restore funds for the fast reactor.

[From the Wall Street Journal, May 25, 1993]

NUCLEAR-PLANT DESIGN NEARS CRUCIAL TEST

(By Michael W. Miller)

ARGONNE, IL.—At their sprawling facility here southwest of Chicago, Argonne National Laboratory researchers cluster around a glass-walled "glove box."

A technician pushes his hands into heavy rubber gloves mounted in twin portholes and reaches through the walls of the 12-foot-high chamber. Much as a fast-food worker readies frozen french fries for a dip in the fryer, the technician begins placing chopped-up pieces of metal rod into a mesh basket.

Uncle Sam has spent $700 million and nearly a decade on this project, the integral fast reactor, and for many the design represents the future of nuclear energy. But the project's own future is now in doubt.

The integral fast reactor is designed to recycle its own nuclear fuel. That means it would produce drastically less nuclear waste than the current generation of commercial nukes churns out. In theory, it could even get rid of the most dangerous elements from the nuclear waste of conventional nuclear plants, helping ameliorate a growing waste-disposal problem.

It also appears to offer a potential means of disposing of plutonium from dismantled nuclear bombs and missiles. Its supports say tests have provided that the sodium-cooled reactor is immune to the types of mishaps that befell Chernobyl or Three Mile Island.

While all the parts have worked in engineering-scale demonstrations, only the prototype reactor being built by about 300 workers in Idaho can prove if the integral concept is practical.

Yet the technical hurdles may be far less difficult to clear than the political ones. President Clinton initially sought to halt all funding for the project. Only after generating some heat of their own did local politicians manage to win $22 million in fiscal 1994 funds for limited further research. Deleted, though, from next year's proposed budget are outlays to operate the prototype plant, and without its completion, researchers won't know if the reactor actually works.

A TRAGEDY

"For this nation's energy future, termination of this project just before it will be proved or disproved is a tragedy," contends Charles E. Till, associate director for engineering research at Argonne National Laboratory and head of the project.

Still, skeptics abound. It has been nearly two decades since ground was broken for a new U.S. nuclear plant. "Are they talking about turning seawater into gold, too?" says Robert Pollard, a nuclear safety engineer who quit the Nuclear Regulatory Commission 17 years ago and is now with the Union of Concerned Scientists. With the integral fast reactor, "you've got a bunch of people who haven't produced anything useful in 30 years trying to save their jobs." he adds.

Despite the budget setback, jittery Argonne scientists and engineers continue preparing for what they have imagined would be the payoff for the years of design studies and lab work performed on small-scale demonstration devices. Even as the fine-tuning experiments continue, a test reactor is being transformed into the prototype reactor, mainly by converting a fuel-recycling facility.

The Idaho site should be operable as an integral fast reactor late this year. But because the Energy Department is moving to shut the test reactor, it appears there will be funds enough just to try the recycling process as an experimental method to eliminate the nuclear waste left in the plant, rather than as an integrated operation.

Meanwhile, at the lab here, researchers begin yet another experimental run-through of the electrorefining technique central to the integral fast reactor's recycling process.

The basket of metal rods, in its chamber filled with inert gases, holds morsels of uranium-zirconium allow, about to be immersed in a vessel of salts and heated to 930 degrees Fahrenheit. Suspended at the end of a positively charged anode and hit with a heavy surge of electricity, the 10 kilograms of metal chunks in the basket will dissolve. The metal ions will migrate through the molten salts, then collect in a foot-long cylinder of spidery strands at the base of a negatively charged electrical pole known as a cathode.

NUCLEAR "ASH"

If this were "hot" fuel taken from a working plant, the pieces of rod would also contain fission material. Such material is the nuclear "ash" of unwanted isotopes that build up in the fuel rods and impede the reaction, eventually requiring the fuel to be replaced. The electrorefining would leave that unwanted fission material either on the anode or in the salts.

However, in this experiment, the researchers are using nonradioactive depleted uranium to permit easier handling. "The chemistry is the same," says chemical engineer Eddie Gay, gazing through the glass like a proud father outside a hospital nursery. "This works." In the recycling system, the metallic mixture that emerges from the electrorefining procedure is further purified by high-tech crucibles known as cathode processors, leaving ingots of pure nuclear fuel that can be cast into new fuel rods.

Conventional nuclear power plants have to pull their fuel rods periodically because of the buildup of fission material. Even though 95% of the potential energy is left inside such rods, however, the absence of a reprocessing facility for existing fuel rods in the U.S., or even a place to bury them, means that the highly radioactive spent rods have been sitting for decades in holding pools near nuclear power plants around the country.

But the integral fast reactor has drawn fire because it is a "breeder" reactor, which creates more fuel than it burns. The fuel created is deadly plutonium, and the U.S. decided a decade ago not to pursue the design.

OTHER COUNTRIES

Other countries have fewer qualms about using breeder reactors or about reprocessing fuel. In France and the United Kingdom, for instance, chemical reprocessing of nuclear waste strips out the fission material, allowing the fuel to be reused. But the process isolates the plutonium that also forms during nuclear fission, creating a hazard that's very hard to dispose of and, because plutonium is easily convertible to weapons material, poses proliferation hazards.

In the integral fast reactor's recycling process, the plutonium and other long-lived "actinides" that form during the reaction aren't stripped out during reprocessing. Instead, those elements accompany the uranium through the various steps and back into the recycled fuel rods, to be burned up in the reactor.

Nevertheless, the reactor's foes see the project as just a repackaged version of the breeder technology, dubbed the Clinch River program, discarded a decade ago. "Given the absence of economic justification for the (reactor) as a generation technology, proponents of the project are now advancing a waste-management mission" for it, wrote 22 members of the House Science, Space and Technology Committee recently to Chairman George E. Brown. But that mission "poses the same economic, environmental and nuclear proliferation problems that killed the original breeder reactor program," the lawmakers contend.

Its designers, understandably, think differently. Dr. Robert Holtz, standing next to a full-scale processor whose design and construction he has overseen for several years, declares it "a terrible waste" if the project is allowed to die. "To throw this option away seems," he begins before pausing to search for a scientist's malediction, "not very intelligent."

[From the Christian Science Monitor, Apr. 1, 1993]

KEEP FUNDS FOR NUCLEAR RESEARCH

An audible gasp filled the chamber when President Clinton announced in his address to a joint session of Congress that "we're eliminating programs that are no longer needed, such as nuclear-power research and development."

His judgment may be premature. Today, Charles Till of Argonne National Laboratory testifies before a House Appropriations subcommittee. His team is developing the advanced Integral Fast Reactor (IFR), a design that proponents say will solve many of the problems associated with commercial nuclear reactors.

Japanese utilities have committed $46 million to the project through 1996. Southern California Edison will also put up $2 million next year, and other West Coast utilities are interested.

Advocates say the design is superior to current reactors in several respects. Among them:

Safety: The fuel is engineered so that if it overheats, its swelling alone stops the chain reaction. This "passively safe" approach was validated in a 1986 test that tried to force an IFR prototype to undergo a Three-Mile-Island-type accident.

Efficiency: The IFR's fuel can be reprocessed. Light-water reactors supplying half the world's energy needs would exhaust uranium reserves in just 30 years; IFRs would extend them to 2,000 years.

Security: The fuel reprocessing system is simple, compact, and can be used on site; it cannot isolate bomb-grade materials.

Environmental impact: By reprocessing fuel, the IFR eliminates the most dangerous, long-lived part of nuclear waste. Its only discards would be nuclear "ash," which after 300 years would be no more radioactive than the original ore.

The Energy Department has invested $700 million in the IFR since 1984. All facets of the technology have been demonstrated individually. Till's team needs $120 million a year for a three-year, full-scale demonstration. Having come this far, it is a waste not to move to full-scale testing. If the technology fails to prove itself, eliminate the program. If it succeeds, however, the potential payoff is too great to ignore.

[From the Chicago Tribune, Feb. 27, 1993]

DON'T FORECLOSE THIS NUCLEAR OPTION

President Clinton's economic program, as he conceded this week, can be improved significantly by including more cuts in government spending. To do that, every federal program and expenditure must be put on the budget-cutters' block, including those for basic scientific research.

Before any of those hit the floor, however, the White House and Congress, with the help of scientific leaders, need to agree on rational, national priorities. Money ought to go to projects that serve the national interest and have been judged through peer review to be the most worthy.

The goal must be to invest in research that will expand the frontiers of knowledge and keep the nation on the edge of technological innovation, while shunning pork-barrel projects aimed at creating jobs in favored congressional districts of subsidizing clout-heavy industries.

But it is not evident that Clinton has followed these principles in proposing to phase out funding for research on advanced nuclear reactors.

The proposed cancellation would wipe out 500 high-wage jobs—about a third of the total—at Argonne National Laboratory near Lemont and another 1,000 in Idaho. More troubling than that, however, is that it would kill a project that is developing revolutionary technology that could produce safe, environmentally sound nuclear power for the 21st Century and beyond.

America needs to pursue greater energy efficiency and the potential of renewable fuels, but it is folly to believe that giant windmill farms or fields of solar panels will power the U.S. economy in the foreseeable future.

Nuclear energy now generates about a fifth of the nation's electrical power, and most analysts believe it can play a significant role in the energy mix for decades to come, if some problems are solved.

Commercial reactor companies have designed advanced light-water reactors, which will be safer than today's models and could be available before the end of the decade. But they still will burn a small percentage of uranium as fuel and leave the bulk as highly radioactive waste that must be safely stored.

After $700 million and seven years of work, Argonne researchers are close to demonstrating a safe reactor that burns nearly all of its fuel. Furthermore, it can recycle and burn most of the nuclear wastes, or those from existing commercial plants or weapons facilities. And it does this without polluting the air.

A National Academy of Sciences study last year said it should be the nation's top long-term nuclear research priority. The Japanese, apparently in agreement, have pledged $46 million over seven years to the project.

With the end of the Cold War, there are major savings to be made in the government's nuclear programs, especially for weapons and uranium enrichment. But it would be shortsighted and foolish to abandon a promising investment in a viable future energy technology.

[From the Chicago Tribune, Sept. 19, 1993]

ARGONNE NUCLEAR RESEARCH IS VITAL

With an eye more on deficit reduction and antinuclear sentiment than on the future, the U.S. House voted overwhelmingly last June to kill funding for research on a new type of nuclear reactor.

The decision to end work on the Integral Fast Reactor at Argonne National Laboratory was more than penny wise and pound foolish; it was totally irresponsible. Scientists have spent $700 million since 1984 developing the revolutionary technology, and they had hoped to show next month that it works.

The Senate soon will have a chance to intervene. Rather than toss out a promising technology just before it can be tested, it should restore funding. The cost to taxpayers would be small compared with the potential benefits they and their children can reap later from a secure abundant energy source.

Today's commercial reactors are cooled by water and use uranium as their primary fuel. By contrast, Argonne's sodium-cooled reactor burns either spent fuel from existing nuclear plants or plutonium to produce electricity. It can be set up to burn more radioactive material than it produces or to produce waste that can be reprocessed and recycled as fuel.

Despite its potential to dispose of spent nuclear fuel, burn plutonium from dismantled warheads and provide an inexhaustible energy source, House opponents argue that the new reactor would be too expensive.

Utilities, they say, are more interested in a new generation of light-water reactors being developed for use by the end of the decade. In addition, they warn, the greater use of plutonium would increase the risk of nuclear arms proliferation.

True, utilities want a near-term nuclear option of new, smaller light-water reactors. But in the next 15–50 years, perhaps sooner, the nation might want to have another nuclear choice—one that can produce electricity safely for centuries with less and more manageable waste than current technology.

To shut down the Argonne program now without completing tests, as the House has voted, would take five years and cost $406 million. To demonstrate that it works and have it available for possible future use would take five years and cost $445 million a $39 million difference.

Actually, the Integral Fast Reactor could come in handy fairly quickly. It could be used to reduce spent fuel that is accumulating at nuclear plants. It could provide a market for plutonium being released from weapons in Russia and the United States. As for a proliferation threat, the reactor's fuel reprocessing doesn't produce weapons-grad plutonium.

Some lawmakers may not believe that nuclear power will play a role in America's energy future, but few scientists agree. For $39 million, a new technology can be demonstrated and preserved as a long term option. It's a small price to pay: the Senate should ante up.

[From Crain's Chicago Business, Mar. 8, 1993]

ARGONNE CUTS MAKE NO SENSE

In the spirit of shared sacrifice, we're not of a mind to get parochial by nit-picking every Clinton budget cut that might hurt Illinois. But the administration's proposal to end funding for a critical nuclear research project at Argonne National Laboratory makes no sense for the nation, much less Illinois.

Argonne's integral fast reactor program (IFR) holds the promise of providing centuries of safe, reliable nuclear power. The program is developing a meltdown-proof reactor that burns its own waste, and experiments are under way to see if it can burn wastes from existing commercial reactors and weapons programs. What's more, since IFR burns all the energy in natural uranium, it can provide electricity for centuries; existing reactors use less than 1% of uranium's energy.

While commercial application is still about 20 years away, a full demonstration of IFR's technology will take place this year. But the Clinton administration wants to cut $200 million out of IFR's fiscal 1994 funding and wants to zero out the program by 1998. That would save $1.2 billion, but what's really at work here is this administration's disturbingly simplistic anti-nuclear power mentality. Does the Clinton-Gore crowd really believe the nation's future power needs can be met—and concerns over global warming dealt with—only through conservation and solar windmills?

We're concerned about the 500 local Argonne jobs that would be cut here. But the shame would be to kill this promising technology.

[From the Chicago Sun-Times, Feb. 24, 1993]

SAVE ARGONNE NUKE RESEARCH

No sooner do we say that innovation has a partner in Washington than the Clinton administration goes and cancels research at Argonne National Laboratory that could lead to the next generation of safe nuclear reactors.

Yes, we'll be accused of favoring government spending cuts, as long as they don't affect the Chicago area. And we'll plead guilty to not wanting to see 500 Chicago area Argonne workers laid off.

But our concern isn't pork barrel politics. Argonne researchers are on the trail of a technology that addresses the major knock put on nuclear power—safety. After an investment of seven years and $700 million, the results are encouraging.

Abandoning the effort would delight those who, as an article of faith, dislike nuclear power. But slamming the door on discovery, especially at a place like Argonne, where commercialization of new technologies is a way of life, is unreasonable.

[From the Chicago Tribune, May 31, 1993]

FACTS, NOT POLEMICS, IN NUCLEAR DEBATE

BARRINGTON.—Once again, the high-pitched whining of a special interest group with an ax to grind is heard. This time it was Dr. Michael McCally (Voice, May 11), of Physicians for Social Responsibility, knocking a nuclear power generating technology that holds great promise for reducing stockpiles of weapons-grade plutonium.

I'm talking about the Integral Fast Reactor (IFR) that is being developed by Argonne National Laboratory. At best, his rebuttal to a prior letter by George Martin on the subject is, as Dr. McCally put it, "misleading." At worst, his remarks are a gross misinterpretation of the facts as they relate to IFR technology.

He says this type of reactor will produce "vast" quantities of waste. According to Argonne National Laboratory, this reactor reduces the amount of waste drastically. The waste from a 1,000-MW IFR plant operated for an entire year would not quite fill a common file cabinet.

Moreover, the waste that is produced has radioactive components that have half-lives of hundreds of years, instead of tens of thousands of years. It also will burn the spent fuel from our current generation of nuclear plants. Is that so undesirable? Furthermore, plutonium and uranium from dismantled nuclear weapons can fuel this reactor, perhaps its greatest benefit.

While it is true that the IFR has the ability to make more fuel than it consumes, and hence the "breeder" reactor label, it will not produce more pollution or more plutonium for weapons. First of all, the IFR will incorporate a fuel recycling/processing technique called pyroprocessing, which is much different than the process Dr. McCally so caustically refers to in his letter. The new process is much more economical, energy-efficient and environmentally friendly.

The plutonium the process produces is also not the pure stock required for weapons production. Yes, it is possible to make something that explodes from fuel-grade plutonium, but it has been proven to be more theoretical than practical. If a country wanted to start a clandestine nuclear weapons program, the risk of its plans being exposed by stealing or diverting fuel-grade plutonium would preclude any attempt.

Anti-plutonium polemics begin to sound like gibberish when a few facts like these come to light. It takes a wealthy, technically adept country to produce any kind of mass-destruction weapon. It is beyond reason to think even the most evil, demented government would apply the vast resources it would require to an unproven theoretical bomb-making process. One needs only to look at Iraq's recently destroyed weapons program to see the validity of that statement.

It is unfortunate that Dr. McCally has so little grasp of the facts or an understanding of the technology. The bankrupt logic of the anti-nuclear crowd's rhetoric is getting very tiresome. It would be refreshing to see such groups expending some energy developing solutions to the world's problems rather than tearing down the efforts of those who are really trying. The IFR has the potential to actually do something constructive with the most destructive devices ever built. It can reduce the amount of nuclear waste already here while producing energy to power industry, provide light where there is darkness, and promote peaceful economic development throughout the country and the world. Physicians for Social Responsibility, heal thyselves first.

[From Business Week, Mar. 22, 1993]

A BIG-SCIENCE CUT THAT COULD DROWN US IN NUCLEAR WASTE

While the science community is feeling rather good, overall, about President Clinton's technology agenda, there's one curious slight: Funding for the Integral Fast Reactor (IFR) has been dropped. Many scientists think the decision is shortsighted. In fact, a recent study by the National Academy of Sciences tagged the IFR as the No. 1 priority in nuclear-reactor science.

The IFR program was originally launched by Argonne National Laboratory to develop a safer nuclear-power plant. But it evolved into something far more important: The reactor could burn the spent nuclear fuel from traditional nuclear plants—waste that will otherwise pose a radioactive threat for thousands of years. Moreover, the IFR should be able to burn the radioactive plutonium recovered from dismantled nuclear weapons. Tons of this nasty stuff have already piled up at a remote site near Amarillo, Tex.—with lots more to come. Without the IFR, this weapons-grade plutonium may have to be guarded night and day for centuries.

Nuclear Leftovers: Waste Not, Want Not

Legal and safety disputes have logjammed federal programs to create repositories for the permanent internment of long-lived radioactive wastes. What's a nuclear power plant owner or bomb maker to do while debate over the placement of these "hot" discards drags on?

Consider squashing or "burning" wastes, suggest researchers at two Department of Energy (DOE) facilities.

On Feb. 22, technicians began flattening wastes at DOE's Rocky Flats plant, a former nuclear-weapons facility outside Golden, Colo. Conceptually similar to a kitchen compactor, Rocky Flats' 44-ton trash smasher drives a piston with 2,200 tons of compaction force down upon 35-gallon drums containing plastic, glass, and metal wastes. Resulting "pucks" may take up as little as one-fifth of the waste's initial volume. That's a dramatic reduction for a plant like Rocky Flats, which has enough plutonium-laced wastes to fill 3,000 55-gallon drums.

"[This] supercompactor could save the taxpayers millions of dollars in future disposal costs by reducing the total volume of waste," notes Bob Nelson, who manages DOE's Rocky Flats Office.

Argonne (Ill.) National Laboratory is exploring a higher tech solution: recycling long-lived wastes as fuel for a new breed of "inherently safe" reactors (SN: 1/26/85, p.60). In a reactor, some neutrons liberated by fissioning uranium are absorbed by other uranium atoms, transmuting them into heavier elements known as actinides. Because today's commercial reactors cannot "burn" actinides efficiently, these heavy elements accumulate as long-lived wastes—isotopes with half-lives measured in thousands to millions of years. But in Argonne's experimental Integral Fast Reactor (IFR), "we can effectively destroy them," notes IFR project manager Yoon I. Chang.

Having demonstrated a technology for extracting actinides from IFR wastes, Chang says, his team must not prove that recycled actinides will fission efficiently. Late last month, they launched a two-year experiment to test just that by placing a small quantity of the actinides americium and neptunium into a fuel bundle that they inserted in an IFR-type reactor core.

If successful, says Charles E. Till, also at Argonne, this experiment "will be the equivalent of burning nuclear garbage." Though his team has thus far demonstrated the ability to recycle actinides from IFR fuels only, Chang says a spin-off program is under way to adapt this technology to the efficient extraction of actinides from commercial reactor wastes.

[From Burrelle's, Apr. 8, 1993]

Integral Fast Reactor Could Have Advantage

When he made his address to Congress President Clinton caused considerable consternation when he announced that he planned to eliminate programs that are no longer needed, "such as nuclear-power research and development."

In testimony before a House Appropriations Committee, Charles Till of Argonne National Laboratory said that his team is developing the advanced integral Fast Reactor, a design that proponents say will solve many of the problems associated with commercial nuclear reactors.

Japanese utilities have committed $446 million to the project through 1996. Southern California Edison will also put up $2 million next year, and other West Coast utilities are interested.

The president's judgment, then, sounds premature.

Advocates say the design is superior to current reactors in several respects. Among them:

Safety: The fuel is engineered so that if it overheats, its swelling alone stops the chain reaction. This "passively safe" approach was validated in a 1986 test that tried to force an IFR prototype to undergo a Three-Mile Island type accident.

Efficiency: The IFR's fuel can be reprocessed. Light-water reactors supplying half the world's energy needs would exhaust uranium reserves in just 90 years; IFR's would extend them to 2,000 years.

Security: The fuel reprocessing system is simple, compact, and can be used on site, it cannot isolate bomb-grade materials.

Environmental impact: By reprocessing fuel, the IFR eliminates the most dangerous, long lived part of nuclear waste. Its only discards would be nuclear "ash", which after 300 years would be no more radioactive than the original ore.

The Energy Department has invested $700 million in the IFR since 1984. All facets of the technology have been demonstrated individually. Till's team needs $120 million a year for a three-year, full-scale demonstration. Having come this far, it is a waste not to move to full-scale testing. If the technology fails to prove itself, eliminate the program. If it succeeds, however, the potential payoff is too great to ignore.

[From the Naperville Sun, Apr. 30, 1993]

A Different Nuclear Threat

The Department of Energy (DOE) is apparently expending very little energy thinking about the nation's future in terms of energy, environment or national security.

It is DOE's serious proposal to slash the advanced nuclear reactor research at Argonne National Laboratory; eliminating 160 jobs at the Lemont lab and another 750 at Argonne's Idaho facility.

If this were only about jobs, we would have a complaint because the economic impact could reach some 1,200 jobs in this area. And this after the feds saw fit to curtail the future of Batavia's Fermi Lab in a highly political decision several years ago to build the Superconducting Super Collider in Texas.

But this is not about jobs, this is about the future. Advanced nuclear research at Argonne is developing an Integral Fast Reactor (IFR) program as a highest priority.

In simplest terms, the IFR burns its own nuclear waste to the nth degree. This produces cheaper power and eliminates most of the waste that poses a major disposal problem. Further, the waste that is left needs far less storage time to become as safe as the original fuel.

It has been tested and found far more efficient than today's reactors, far safer, and no hazard in terms of air pollution. Argonne is, in fact, now working to develop a reactor at its Idaho facility that would burn waste from both the present commercial reactors and from weapons programs. The reactor is scheduled to be ready for commercial development in five years.

About 20 percent of the nation's power is currently generated by nuclear plants. There is currently no other long-term option to supply energy the nation needs to grow.

The Argonne IFR program promises an approach to that growth in a way that is safe, sane and eliminates our addiction to foreign oil—which has proved an obstacle to a safe and sane foreign policy.

And make no mistake, the proposed DOE cutback is not a budget-cutting priority. Overall the department is planning to spend more on civilian programs by 16 percent than it has appropriated this year. Argonne is seeking $128 million of that $8.04 billion budget, only $2 million more than it takes to carry on the helium reserves storage in Texas, a program that outlived its mission years ago.

Argonne's program has been endorsed by the National Academy of Science, supported with funding by a California utility through the Electric Power Research Institute, and by the Japanese utility companies to a promised $46 million.

It has not been endorsed by the U.S. Department of Energy for reasons that appear in a class with helium reserves—lighter than air, but smack of an anti-nuclear policy by the current administration.

[From the Regional News, Apr. 8, 1993]

Cut Consequences

The proposed funding elimination for research on the Integral Fast Reactor (IFR) at Argonne National Laboratory is a step in the wrong direction. The loss of 500 direct and 1,250 other jobs related to Argonne National Laboratory's largest research project would have a negative impact on the communities surrounding the laboratory. In addition, the $700 million already spent on research for this project during the past 10 years would be lost. But this proposed cut is puzzling for other reasons as well.

The IFR addresses each of what has been described as the three "Es" of funding criteria for federal research: energy, environment and economic development. These issues are important to our nation's future and have been touted by the Clinton administration as being high on the list of our national agenda. A closer examination of these issues illustrates why the "ripple effects" of discontinued IFR research would be felt beyond Cook, DuPage and Will counties in the immediate future—it would be felt by our entire nation for possibly generations to come.

Energy: Nuclear reactors generate 80 percent of northern Illinois' electricity. Nuclear power reduces our dependence on foreign oil and mitigates costly pollution controls for power generated by fossil fuels. One IFR would supply electricity to 750,000 people while greatly reducing the volume of raw materials. The IFR system would use virtually all of the uranium's energy, as opposed to less than 1 percent used with current technology. The greater efficiency alone is worth investing in IFR research. The IFR would be ready for commercial operations by the year 2010.

Environment: The IFR has been successfully tested against conditions simulating the Chernobyl and Three Mile situations. The IFR would reduce the life of hazardous nuclear waste from hundreds of thousands of years to 200 to 300 years. The volume and hazardous waste would also be reduced to about the size of a filing cabinet per year. Its ability to dispose of existing nuclear waste and the plutonium from dismantled nuclear weapons is being tested. Our nation's concern for the environment suggests that the ability to safely recycle hazardous nuclear waste should be among our highest research priorities.

Economic development: Futurists are unanimous on the subject of technology—the nations with it will be the haves, while those without it will be the have-nots. Our ability to compete globally will depend on commercial applications of technology such as the IFR. Japan has invested heavily in IFR technology and will be positioned to take over should the United States abandon this effort.

Failing to invest in IFR technology would relegate the United States to "second fiddle" status in yet another international market sector. Purchasing IFR technology that was once within our grasp from other countries would be a bitter pill to swallow indeed.

Heading into the 21st century, the United States can be either a leader or laggard in the ownership and application of IFR technology and the resultant energy, environmental and economic development benefits it would provide. Let us hope the current administration chooses to keep us technologically competitive by continuing to fund IFR research.

[From the Palos Citizen, Apr. 29, 1993]

IMPORTANCE OF RESEARCH FUNDS FOR ARGONNE LAB

"This country, as well as the world-at-large, is in danger of losing an extremely important project if funding is not restored to Argonne National Labs for its Integral Fast Reactor (IFR) program," said Congressman William O. Lipinski.

The IFR program uses revolutionary technology which offers safe, economically promising and environmentally sound solutions to many of the concerns raised about nuclear power.

The IFR's advantages include:

Passive, Walk-Away Safety. The IFR technology is much safer than current reactor designs. Its inherent passive safety characteristics were demonstrated in 1986 in a landmark series of tests at Argonne's IFR prototype reactor in Idaho, where simulations of the Three Mile Island and Chernobyltype accidents resulted in immediate and harmless system shutdown without any damage to the reactor or the environment and with no risk of radioactive release.

Dramatically Reduced Waste-Disposal Problems. The IFR technology permits radioactive recycling, which reduces the lifetime of high-level nuclear waste from millions of years to a few hundred years. The IFR can recycle its own radioactive by-products as well as waste generated by current reactors or even excess plutonium available due to nuclear disarmament, providing solutions for the long-term high-level nuclear waste disposal program.

Nearly Inexhaustible Fuel Supply. The IFR has the capability to generate more fuel than it consumes, thereby providing a nearly inexhaustible fuel supply and allowing nuclear power to supply America's energy needs for centuries.

Argonne National Labs is the only place in the world where this type of research is being performed. This is significant. Even if the U.S. were to decide not to increase its source of energy from nuclear power, other countries do rely substantially on it. Thus, creating a good deal of waste. France derives 80 percent of its electricity from nuclear power, Japan 45 percent, European countries 40–50 percent and increasing. They need our technology. Better that we sell it to them than find ourselves buying the technology from them in the future.

"The citizens of Illinois, America, and the world need to rally around this project to ensure a safer future in nuclear power," declared Lipinski.

[From Burrelle's, Apr. 29, 1993]

ARGONNE PRODUCES FUEL RODS USING NUCLEAR WASTE

An experiment now underway at Argonne National Laboratory's Idaho site is likely to show that the volume of waste from commercial nuclear power plants can be reduced three-fold, and the length of time the waste must be stored can be reduced from 10,000 years to no more than 200 or 300 years.

Argonne scientists have produced fuel rods for the Integral Fast Reactor using long-lived radioactive elements found in nuclear waste, said Yoon Chang, manager for Argonne's Integral Fast Reactor project, speaking to a meeting of the American Chemical Society in Denver.

"The experiment is the equivalent of burning nuclear garbage," Chang said. "In the Integral Fast Reactor, we can turn that garbage into energy."

The conversion of waste to fuel is part of Argonne's Integral Fast Reactor project. The Integral Fast Reactor can be designed not only to consume its own fuel but also to be inherently safe—it can shut itself off if it malfunctions. In a report last year, the National Academy of Sciences said the Integral Fast Reactor should have the nation's highest priority for technology development.

The new fuel rods are made of uranium, zirconium and plutonium and contain americium and neptunium, two of the radioactive elements left after nuclear fuel is burned.

The elements used in the experiments are some of the longer-lived elements in nuclear waste—they retain high levels of radioactivity for thousands of years. Separating these elements from the shorter-lived fission products may simplify the waste disposal process.

The elements, called actinides, are separated from the fuel rods in a recycling process developed at Argonne. First, bundles of fuel rods are chopped into small pieces. These pieces go into an electrorefiner, where most of the uranium, plutonium and other long-lived transuranic materials are separated from the short-lived fission products, which cannot be reused as fuel. Next, a cathode processor further separates the metal. A casting furnace then forms the recycled materials into new fuel rods.

Argonne is located in Illinois 25 miles southwest of Chicago. Argonne-West, the laboratory's satellite research facility, is located 35 miles west of Idaho Falls, Idaho. Argonne is operated by the University of Chicago for the U.S. Department of Energy.

THE DANGER IS NOT GOING NUCLEAR

If President Clinton intends to lift this nation out of economic depression and guarantee a better standard of living for future generations, then he has to go nuclear. This is not a question of "opinion"; it is a matter of scientific fact. It is a fact that economic prosperity is inextricably linked to the use of the most advanced, most energydense technologies, for only such technologies can increase overall economic productivity and thus foster the process of economic growth.

Specifically, this means that U.S. economic growth requires the development of the next generation of nuclear reactors: (1) standardized, "inherently safe" designs for light water reactors that are preapproved and can be built and operating within 5 or 6 years; (2) modular reactor designs that can be mass produced, such as the HTGR (high-temperature gas-cooled reactor), which is ideal for export and which has the advantage of higher heat available for industrial processing; (3) reactors like the Integral Fast Reactor (IFR) at Argonne National Laboratory, which will burn spent fuel, including actinides, thus reducing the amount of high level nuclear waste; and (4) a well-funded program to achieve controlled thermonuclear fusion, which includes funding all alternative concept fusion methods (plasma focus, light ion beams, and so on) plus research in the new field of solid-state fusion.

The President's "Vision of Change for America," released Feb. 17, 1993, ignores this basic reality of physical economy and instead proposes the elimination of "research and development funding support and related facility funding for nuclear reactors that have no commercial or other identified application." His State of the Union address was even more blunt; there the President said that his budget would eliminate "programs that are no longer needed, such as nuclear power research and development."

Whatever is the President's intention, the proposed cuts in the budget include the HTGR and the IFR, both of which have commercial and other applications in a sane world. The problem is indeed one of vision: Does the administration foresee a nation taking the technological lead and developing a second Atoms for Peace program, by pioneering the next-generation nuclear technology for worldwide export? Or is its vision one of a postindustrial society?

INHERENTLY MALTHUSIAN RENEWABLES

Windmills, solar panels, geothermal sources, and biomass are energy sources alluring only to those who never had to struggle (or even think about struggling) through life 100 or more years ago—or life today in a Third World country. Would any woman who has to spend several hours a day collecting twigs to light a fire to cook diner—or who has to watch a child die because there is no refrigeration to preserve medicines and vaccines—reject the advantages of modern electricity?

The energy deficit worldwide staggers the imagination. In the United States, the lack of investment in nuclear and coal power plant construction for baseload electricity supply has left the Eastern third of the nation on the edge of power shortages. By the turn of the century, the nation will be about 100 GW (gigawatts, or 100 billion watts) short of electric-generating capacity, the equivalent of 100 conventional nuclear power plants.

The situation is worse in the rest of the world, where lack of investment has led to electricity availability only during a few short hours per day in countries like Argentina and Colombia. In Eastern Europe, about 100 GW of electric-generating capacity is needed to rescue a situation where economic catastrophe threatens war and chaos. For the poorest nations of Africa and Asia, there is not even enough energy for the barest necessities, never mind development.

The universal form of energy that can be used for heating, cooling, cooking, lighting, industry, agriculture, and transportation is electricity. The most efficient, clean way to produce electric power today is with nuclear technology. The amount of energy produced per unit land area and per man-hour of labor by nuclear power cannot be matched by any other technology, including coal, which requires enormous resources for mining and transportation. To bring the poor nations up to a standard of living and life expectancy equivalent to that of Western Europe requires the availability of minimally 1 GW of electricial-generating capacity per million population.

The so-called renewables are inherently diffuse energy sources with limited uses.

Even with enormous improvements in efficienty, they will always, by nature, be too inefficient to power an industrial society and support a growing world population at a standard of living appropriate for human beings in the 21st century. The leaders of the environmentalist lobby who attack nuclear power and propagandize for "renewables" know this limitation and are pleased with it. They want a return to a smaller, postindustrial world, even if that means reducing the world population by starvation and disease.

The danger of not going nuclear is that the proliferation of inherently Malthusian energy sources will bring certain death to millions of people.

And so, Madam President, I just submit that premature termination of this experiment is wrong-headed. The administration is just wrong on this one. And I believe that we have made an investment. It does not make sense for us to be penny-wise and pound-foolish, although I daresay I do not think we are being penny-wise here. This is promising technology. We will lose money by terminating it prematurely. Let us see it to its conclusion, its natural conclusion, and then decide where this technology takes us as we go into the next century.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. I would like to thank the chairman for his leadership on this issue and for his understanding of this issue. I would also like to acknowledge and thank our partners, the Senators from Illinois, Senator SIMON and Senator MOSELEY-BRAUN, along with my colleague from Idaho. We formed a good, bipartisan team on this whole issue.

I have a great deal of respect for the Senator from Massachusetts, but I have to say that I take strong exception, and I am very disappointed with his characterization of this as being an irresponsible effort.

There is a problem here that has to be solved, and to label those who are trying to find a solution as irresponsible I think is irresponsible.

It has been referenced the number of States that have spent nuclear fuel that is stored in those States, 39 States, whether it is commercial or naval fuel or fuel from university projects.

Madam President, I do not have to remind you about this problem.

You have over 2,300 metric tons of spent nuclear fuel that is parked in your State. You have 11 metric tons in addition to that that is weapons-grade plutonium; Connecticut, over 2,000 metric tons parked in their State; New Hampshire. It is all over the country. Perhaps if some of your weapons-grade plutonium were parked in Massachusetts, then there would be a different attitude and approach on this issue.

But I say to the Senator from Massachusetts it is his problem, too. It is every Senator's problem to deal with this. It has been referenced that it is ironic and it is unbelievable that in the midst of this North Korean crisis we would even consider dealing with this thing called the integral fast reactor. Where are they getting their plutonium, Madam President? You probably received the same briefing I have: The assertion being that country which wants to become a nuclear threat to the Free World is getting it from the spent fuel of the graphite reactor, and they are using the PUREX process. It is already in place. That is where the plutonium would come from.

So why in the world do they continue this argument that the IFR is simply designed to create more plutonium? Ladies and gentleman, we have more plutonium than we know what to do with. We have a surplus of weapons-grade plutonium throughout the world. While it is surplus, do not ever forget that it is lethal.

Last month I had the opportunity, as a member of the Armed Services Committee, to go with Senator SAM NUNN and other Members to Russia to meet with our counterparts as they begin to put together democracy in that nation that we hope will succeed. In those meetings we talked about things such as the START treaties, and the fact that as a result of the START treaties each country will have over 50 metric tons of weapons-grade plutonium that will come about as we dismantle our nuclear warheads.

Is that not a positive step forward, the dismantling of nuclear warheads? Of course it is. But what are you going to do with the weapons-grade plutonium? Because in these meetings we also talked about the organized crime that is now running rampant in Russia. We talked about the fact that our Federal Bureau of Investigation wants to set up an office now in Russia because of this security problem. You know the terrorists would love to have this weapons-grade plutonium.

Senator EXON—who was a part of this delegation—and I met with the minister of atomic energy for Russia, Viktor Mikhailov. We had a wonderful discussion with this man who is in charge of the spent fuel in Russia. He said they are pursuing solutions to this. But he said, "It is a real problem. It is a real problem with the weapons-grade plutonium because we do not know what to do with it. Sure, we are going to try to store it. But it is a security problem." As he said, in a matter of weeks you can retrieve that from storage and you can reassemble a bomb, a nuclear bomb. Remember, both countries will now have a surplus of 100 metric tons. It only takes 15 pounds to make an atomic bomb; 15 pounds, and we have 100 metric tons between the United States and Russia.

So I asked Viktor Mikhailov, "Are you pursuing the fast reactor technology?" He said, "Of course we are because that is part of the solution." He said, "But it is very sad that the United States is turning its back on this technology." He said, "We are working with Japan and France because this is part of the solution." I said, "May I quote you on the floor of the U.S. Senate that you would encourage this Government, this administration, this Congress to continue our efforts on the fast reactor, and then to share that technology, so that we can make it a safer world?" And with great enthusiasm he said, "Yes, definitely." So we are irresponsible for pursuing this type of technology?

If I were a citizen listening to this debate today, watching it on C-SPAN, I would think that we were talking about two different things. Because those that are trying to support this amendment are saying one thing, and they are quoting the National Academy of Sciences. And those that are against this amendment are saying another thing, and they are quoting the National Academy of Sciences. It is as though we are not engaging in a real dialog in talking about this issue; the National Academy of Sciences.

I spoke to Dr. Panofsky, the author of the National Academy of Sciences study, yesterday on the telephone. I was not speaking to an antagonist. He is not against the IFR. Yet that is how it would be characterized.

I also spoke to Dr. Michael May, who is a member of the National Academy of Sciences, the team that dealt with this whole question that is being pointed to as saying IFR is bad. That is not what he said. Here is a letter that he sent to me.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CENTER FOR INTERNATIONAL SECURITY AND ARMS CONTROL, STANFORD UNIVERSITY,
Stanford, CA, May 16, 1994.

Senator DIRK KEMPTHORNE,
U.S. Senate, Washington, DC.

DEAR SENATOR KEMPTHORNE: Thank you for your phone call and your interest in the report of the Committee on International Security and Arms Control of the National Academy of Sciences on the management and disposition of excess weapons plutonium. This letter is to clarify the position taken by the report with regards to the integral Fast Reactor (IFR) project.

The Committee did not recommend termination of the IFR project. In fact, the report did not mention the project by name. It did refer to the integral reprocessing approach, noting in part that, in that approach, "plutonium is never fully separated in a form that could be used directly in nuclear weapons, thereby reducing safeguards concerns." (p. 185). The Committee did not recommend this approach or any other approach involving new or advanced reactors for long-term disposition of excess weapons plutonium, because putting the plutonium into a form as resistant to theft or diversion as plutonium

> in spent fuel can be done more cheaply and expeditiously by other methods, while eliminating the excess weapons plutonium entirely makes little sense unless all the plutonium in the world is also eliminated, an extremely costly and time-consuming endeavor, and one not compatible with the continuation of nuclear power.
>
> With regards to total plutonium inventories, while the Committee was not charged with and did not conduct a comprehensive examination of the proliferation risks of civilian nuclear fuel cycles, it recommended that "further steps . . . be taken to reduce the proliferation risks posed by all of the world's plutonium stocks, military and civilian, separated and unseparated. . . . Studies [of the future of nuclear electricity generation] should have as one important focus minimizing the risk of nuclear proliferation, and should consider nuclear systems as a whole, from the mining of uranium through to the disposal of waste . . ." (p. 228–9) The IFR approach, while not mentioned specifically fits within such systems.
>
> While I am not personally an expert on nuclear reactor systems, I have been favorably impressed by the IFR approach and, based on what I know, believe the program should be continued.
>
> I hope this letter answers your question and would be glad to be further help in the matter as needed.
>
> Sincerely yours,
>
> MICHAEL M. MAY,
> *Co-Director.*

Mr. KEMPTHORNE. He said:

> The committee did not recommend termination of the IFR project. In fact, the report did not mention the project by name. It did refer to the integral reprocessing approach, noting in part that, in that approach, "plutonium is never fully separated in a form that could be used directory in nuclear weapons, thereby reducing safeguards concerns."

Then this member of the National Academy of Sciences team went on to say:

> I have been favorably impressed by the IFR approach and, based on what I know, believe the program should be continued.

So I am not characterizing what the National Academy of Sciences report is all about. I am simply reading a letter from a member that helped write that report who says he is favorably impressed with the IFR and he thinks it should continue.

This idea that because the IFR, which is a plutonium burner, can be converted to a breeder, therefore we should not pursue this, you have heard different analogies. But Madam President, that is like saying that we should not build airplanes because they can be used for war, they can be equipped with an arsenal ignoring the fact of what commercial aviation means to the world, ignoring the fact that those airplanes transport patients that need medical help.

So let us not just focus on the fact that, yes, if you want to spend the money, if you want to spend all of that time, you could probably convert this to become breeders. But you do not need to, Madam President. We have more plutonium than we know what to do with.

Then it was stated by the Senator from Massachusetts "we don't need it." I just talked about the START treaties. The State of Texas is concerned about this. Pantex has entered into an agreement with the Department of Energy that says that they will only receive the weapons-grade plutonium from the dismantling of these nuclear warheads for 3 more years. That is it, 3 more years. Yet, we are going to have a supply as a result of the START treaties through the end of the century. Where are you going to put it?

At a recent Armed Services Committee hearing, Madam President, I spoke with the Secretary of Energy. I said, "We talk about spent fuel at Savannah River, spent fuel at Hanford, spent fuel at Idaho, surplus plutonium at Pantex, the fact that we have 50 metric tons of weapons-grade plutonium that will be surplus as a result of the START treaties. Where are we going to put all of this?" The Secretary of Energy said, and I quote: "Well, sir. I am not certain where I am going to put it yet."

I saw a report that was just released last week on all of the DOE spent fuel and suggested options of what they might do with it. You probably cannot see that Madam President, but that shows different States. One of the solutions is just to dump it in these different States. It is not a solution.

Madam President, the idea that we are just going to dump it in these States is not a solution.

I do not believe that the solution is just to stick it in the sand. I do not believe the solution is to bury it under the feet of our children and our grandchildren, because that is not the American way. We meet our challenges head on. That solution is sticking our head in the sand. Is it the responsible thing to do to simply say that because we cannot come up with a solution, we are going to leave it for future generations, for the young people of this Nation to deal with it and, hopefully, they will have a little more courage? I do not think so.

The American way is to use our technology and our means to find a solution. That is what the integral fast reactor is. Why should we turn our back when we are 2 years from the answer as to whether or not this is a viable option that allows us to, finally, for the first time as a nation, begin having a solution to the nuclear waste problem.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas [Mr. BUMPERS] is recognized.

Mr. BUMPERS. Madam President, this is an issue I became involved in when I first came to the Senate, and that has now been almost 20 years ago.

In 1978, I began my efforts to kill the Clinch River breeder reactor down in Tennessee. I started off with a few votes, and each year I got a few more votes. As I began to get closer to winning, and as the costs had gone from $300 million to $8 billion, the Department of Energy began to frantically dig a big hole in the ground. That is what they always do. They get bulldozers out and start digging big holes in the ground. When they think they are about to lose, then they say: "Oh, we have gone too far now; you cannot stop this project now. We have already invested too much money in it."

I remarked to some of my friends in the Cloakroom a while ago that the American people have a 14 percent confidence level in the U.S. Congress. That is tragic. It is tragic for us as individuals, and it is tragic for the political process and the country. Much of what they are upset about is not legitimate, and some of the things they ought to be upset about, they are not.

One of the things they ought to be upset about is the advanced liquid metal reactor. Congress reminds me of Charlie Brown. Every fall when the football season starts, Lucy says, "Charlie, I am going to hold the ball for you, and I want you to kick it." Charlie says, "No, I am not going to do it, because you will do just like you did last year; you will pull the ball out just as I get there, and I will take a terrible spill." And Lucy reassures Charlie that, no, this year she is not going to do that. This year she is really going to hold the ball so he can kick it. And every year, old Charlie falls for it, and every year he takes a spill, as she pulls the ball away from him just as he gets there.

The administrations of Ronald Reagan and George Bush continued to pull the ball away from Congress on the super collider, and the space station, the B–1 bomber, the B–2 bomber, and Congress just kept falling for it. Every year there was a new rationale for each and every boondoggle. We have a $4 trillion debt to prove it. I could not believe the House voted yesterday to continue the space station program. The President, to his credit, has done a very effective job in lobbying Congress on the space station. President Clinton was committed to the super collider, but he could not save it last year. And this year, I have a whole host of things which I will be offering in the appropriations process to try to cut spending.

Congress simply cannot bring itself to deal with these issues, except on a parochial basis—the promise of jobs in States where jobs would be lost. So the Clinch River breeder, even with Howard Baker as the majority leader, from Tennessee, where it was going to be built, went down to defeat, but not before spending over $1 billion.

Now we are back at the same old stand with a slightly different kind of reactor called a liquid metal reactor. I wish I were as well versed technically on this issue as the proponent of the liquid metal reactor, Senator JOHNSTON of Louisiana. I never even had high school chemistry. But not having high school chemistry does not keep me from understanding Economics 103A. And Economics 103A says we are headed for an expenditure, which over the next 35 years, if you compound the interest on the cost, is going to run close to $6.5 billion.

What is another one of those "Lucy" promises this year? Well, now you are told the international community is going to contribute; the private sector is going to contribute; and if we do not go forward with this, our word is no good. How will we ever convince our partners in other countries—the Japanese, notably—and the domestic power industry, that our word is good if we stop now? Well, we would be doing them a big favor if we stop now, because, despite what you hear to the contrary, there are no foreign or private contributions. Nobody is committed. You could not pick a better time to keep your word.

I have heard figures all over the place this morning about what it is going to cost to terminate this project, and what it would cost to go ahead with it. These figures are not something I conjured up in the middle of the night. I do not know where you get better figures than the Department of Energy. Neither they nor the President want the project. But here is what it is going to cost in constant dollars—$3.4 billion—if we go ahead with the liquid metal reactor program. Here is what it would cost to terminate, if the Senate does its duty today. Three hundred million dollars; less than 10 percent of what the total cost of it will be if we complete this project.

Mr. SIMON. Will my colleague yield?

Mr. BUMPERS. Yes.

Mr. SIMON. If I can just quote from Secretary O'Leary's testimony in the House Energy and Power Subcommittee. Representative CRAPO says:

> I have been advised that the amount of money that it will take to terminate this research exceeds, or at least equals, the amount of money it will take to complete the research. Do you have an understanding in that regard?

Secretary O'Leary: "That is correct."

I just point out to my friend from Arkansas that I think the more recent letter just does not make sense, because it counts commercialization.

Mr. BUMPERS. Madam President, I will read a letter that Senator KERRY and I received from Hazel O'Leary about 30 minutes ago.

It reads as follows:

> DEAR SENATOR KERRY: In response to your request, the Department of Energy has not signed any new agreement with the government of Japan or the Power Reactor and Nuclear Fuel Development Corporation of Japan that provides for financial contributions to the Integral Fast Reactor program. Therefore, based on Department of Energy budgetary evidence from fiscal year 1995 to 1998, the cost to terminate the Integral Fast Reactor program will be $27 million less than continuing the program.

This letter is 30 minutes old.

Madam President, we are not just talking about what it is going to take to continue this program. Admittedly, the difference in cost of termination and continuing over the next 4 years is small. We are talking about what it is going to cost over the 35-year life of the project, and that difference is: $300 million versus $6½ billion, counting the interest on the money we will borrow.

There is another thing that I might point out, and that is we have not built a nuclear power plant in this country since 1976, 18 long years. And do you know why we have not? Because the American people do not want them. We have 109 nuclear power plants in this country right now, which, incidentally, could burn up this 100 tons of plutonium we are trying to deal with. I am going to come back to that in just a moment. But the people in this country, particularly after Chernobyl, but even before that, said no more nuclear power until you can convince us that our children are safe.

We have not been able to come up with a light water reactor or any other kind of reactor design that would assure the people of this country that they are not in danger. So we have not built them.

Back to the double whammy which I started out to talk about a while ago. You get a chance to once again say to the American people we are serious about cutting the deficit; we are not going to go forward with a highly questionable project and take $6½ billion of your money to do it. How could you benefit more politically, because that is the name of the game around here, than to go home and say not only are we going to not breed more plutonium and make the world less safe, we are not going to breed plutonium and we are going to save you $6½ billion at the same time.

Third, why is it we want to go against the Department of Energy and the President's foreign policy. It is all wrong.

(Mr. PRYOR assumed the chair.)

Mr. BUMPERS. Mr. President, I am one of the 42 percent of the people of this country who do not disapprove of the President's foreign policy. Oh, I know it is very difficult for people in this country to approve a foreign policy of the President unless he is willing to send troops everywhere there happens to be a dispute to show that we are the big man on the block.

I was as concerned and I remain as concerned about Korea as any spot on the face of the Earth. But I will say this: Things are looking a lot better in Korea. And do you know why? Not because we bombed their nuclear facilities but because we talked to them, and now they say, "We are going to let you inspect our facilities." And there is something else that nobody ever dreamed would happen, a summit between the North and South Korean leaders scheduled for July 27.

So once again a little patience and a little talking, at least for the time being, appears to have been a good approach on the part of the President.

Why does not someone write that story, that it is turning out as a very successful policy of this President?

We debated Haiti all day yesterday. I voted against the amendment of the Senator from New Hampshire because I do not think the Congress generally has any business telling the President what he can do and cannot do in implementing foreign policy. But some people will never be happy until we send troops to Haiti. The same people who are clamoring to send troops to Haiti, will, when it bogs down and American bodies start coming back in body bags, say he messed it up; he is not doing what I intended. He did it all wrong.

I have been here 20 years and I have seen that happen time and time again.

You have another crowd around here that wants to go into Bosnia, whether the United Nations and our partners in the United Nations like it or not. Do you know where Bosnia is? It is in Europe. It is not on our border north or south.

We have an interest. We have an interest in solving the problems there and stopping that war. But I can tell you even though I voted against going to Iraq, at that particular time, I consistently applauded George Bush for getting the United Nations to approve it and only going when we had the United Nations on board, and they all went and they all fought. That is the way it ought to be done.

When Bill Clinton was trying to get all of our United Nations neighbors to start bombing the Serb positions around Sarajevo, every one of them said no thank you.

It is in their backyards, not ours.

But now the guns are fairly silent in what used to be Yugoslavia. It just may be that a little patience has paid off.

With regard to Korea, I would have been prepared at some point because that is a renegade society, to consider military action. And even though things are looking good there, Kim Il-song is the same old Kim Il-song that we have been dealing with now for over 40 years. I just hold my breath and hope things turn out right.

All I am saying is that in Bosnia and in Korea, so far, patience and talking has paid off.

If you start down the road building this liquid metal reactor and processing and reprocessing plutonium, of which we have 100 tons, instead of disposing of it right now, either by vitrification or burning it up in light water reactors, which can be done, what do you say to the Koreans? What do you say to the rest of the world? We have the moral high ground. When you vote against the Kerry-Gregg-Bumpers amendment, you are saying: We do not like the high ground. We like plutonium, lots of it. Why? Why would you want to give up a very strong moral position that we now occupy by saying we are going to flood this world with more plutonium and just hope to God someone does not steal it and make a bomb out of it?

Mr. President, I was able to kill the Clinch River breeder reactor in 1983 but since 1986, we have already spent $1.4 billion and are headed for $6.5 billion over 35 years on an LMR.

Last year, the House, to its eternal credit, voted overwhelmingly to kill this project, 272 to 146. The Senate voted the other way—53 to 45 against the Kerry-BUMPERS-GREGG amendment last year. So what happened when we went to conference with the House? Well, the House committee receded to the Senate and $100 million more went down the tube.

Mr. President, I do not deny that we may be able to build this reactor. I do not know that we can, but I think it may be possible to build the integral fast reactor. But I do not think it is going to be feasible economically to use these reactors, because they are not going to be competitive, for 40 to 60 years given expected uranium prices.

The National Academy of Sciences, on whom we depend for our most really reliable scientific information, says that the liquid metal reactor cannot possibly be economical until 2025, at the earliest. That is 31 years from now.

When it comes to breeding, I have heard so many claims this morning, let me quote some other scientists.

The Senator from Louisiana says this is going to eat up plutonium; we are going to get rid of the plutonium by using it to fuel an integral fast reactor. And, again, I am not going to deny that that might be possible, Mr. President. But I do know one thing. If you wrap a uranium blanket around an IFR reactor, you can breed up to 20 to 30 percent more plutonium than you will consume.

Now, my friend from Idaho and other supporters of this will say, "Yeah, that's fine, but to turn an IFR into a breeder is very difficult and time-consuming."

Well, even your own Dr. Charles Till, of Argonne Laboratories, said before the Energy and Natural Resources Committee, "It is not a tremendous change to make it a breeder and it would probably only take a few weeks to do it."

We always change the missions of government programs to keep them going. Do you remember when we were going to build the B-2—and they were going to cost $500 million each—because it was stealthy and it could evade Russian radar and drop its bombs in a nuclear war? And now the Russians are becoming a part of NATO, they are becoming a part of the space station, they have dropped communism. They represent no threat to this Nation right now. The B-2 was intended to drop bombs on the Russians and we are going to have a debate later today or tomorrow about building an additional 20 B-2 bombers to drop bombs, not nuclear bombs, just drop bombs anywhere, not just on Russia. It is now touted as a conventional bomber.

We can think up more reasons to continue wasteful programs than anybody in the world. Every time one falls flat, somebody comes up with another rationale to spend the taxpayers' money. And the liquid metal reactor is no different.

Everybody here knows that the reason we started building the liquid metal reactor to begin with was for military purposes, to make plutonium so we could build more bombs. But now, now that we are dismantling thousands of nuclear warheads, we say, "Well, we are going to use it to generate electricity."

We have not even found a way to permanently store spent fuel rods from light water reactors but we want to make more plutonium. In a General Electric advertisement—and they are hot for this thing—they promote the fact in their advertising that the LMR is a potential breeder of plutonium. And, according to the Office of Technology Assessment—which, along with the National Academy of Sciences, are the two scientific groups we depend on most in the U.S. Senate—"It would be difficult or impossible to design a reactor core that could be guaranteed to not work as a plutonium breeder."

Let me say that in ordinary English. The Office of Technology Assessment says it would be impossible, virtually impossible, to design a reactor core that did not breed plutonium. What more does anybody want?

IFR fuel is less pure than the fuel that would have been generated by the Clinch River breeder. But the plutonium from an integral fast reactor is much closer to weapons grade material than spent fuel from light water reactors by a margin of 20 to 1.

One of the first international trips I took after I came to the U.S. Senate was to visit the International Atomic Energy Agency in Vienna. I spent 2 days with them briefing me about how they monitor nuclear plants and determine whether there has been any theft or diversion of material.

They have cameras in these plants, and they have an accounting procedure: How much did you have? How much do you have now? And what is the difference and what happened to it? It is not all that complicated.

But there was some fuel missing in Korea and that is what we were concerned about. Many scientists believe there is enough material in Korea's nuclear complex that has probably been diverted to make one or two bombs. That is the IAEA's sole purpose for existing, to track fissionable material.

We have 100 tons of plutonium from dismantled nuclear weapons. 100 tons is a lot. One way of getting rid of it is to vitrify it, that is make a glass rod of it. And, you can use it in a light water reactor.

Second, if we decide to use it in the existing 109 nuclear powerplants of this country, it would take 25 years to dispose of the entire amount. But if you stored it until you can build an LMR, 30 to 40 years hence, you would have 30 to 40 years in which the possibility, indeed the threat, of diversion and theft grows. And, in addition to that, how do we say to France and Japan that we wish you would quit processing plutonium, when we are doing it?

The Office of Technology Assessment, again, says that advanced liquid metal reactor technology is less appropriate than near-term technology.

Let me say one more time, the Department of Energy says, if you want to get rid of this plutonium, you can mix it with uranium and dispose of it within 25 years in light water reactors. Why would we not do that?

Now if I may, in closing, address a question to my good friend and distinguished colleague, the chairman of my committee, the Senator from Louisiana.

Mr. JOHNSTON. Yes, Mr. President.

(Mr. ROBB assumed the chair.)

Mr. BUMPERS. Mr. President, on a separate matter, I discovered this morning that this bill takes $65 million from funds we had appropriated last year for closing down the superconducting super collider in Texas and put it into what was described in the bill as a one-time contribution to some remnant of the SSC.

Mr. JOHNSTON. Mr. President, the Department of Energy has had ongoing negotiations with the State of Texas about the termination costs of the SSC. The State of Texas has huge claims, as you can imagine, because they have floated some one-half billion dollar's worth of bonds and there are claims under a memorandum of understanding which are quite ambiguous, but also the claims resulting from that are quite huge with respect to what they are claiming for termination costs.

Along the line, there had been extensive negotiations with the Department of Energy as to how they might settle that. And, really, the State of Texas—the principal thing they would like is to be able to make something useful out of the site down there. So as part of a settlement, and as to minimize the loss and to maximize the use of the facilities down there, they have proposed that you take what we call the LINAC, the linear accelerator, which is the first step of speeding up protons that were going to be injected into that big ring—the LINAC is mostly complete—they want to convert that LINAC into a medical facility which will have the ability to treat cancer. What the protons can actually do, the ions, is go through the skin into the body where you do not have to cut open the body but you can actually go in and excise a tumor without ever opening the skin. We have one of these facilities in Loma Linda, CA. It is, they tell me, the preferred way to treat prostrate cancer. I suggest, if any of my colleagues gets this, they should explore particularly the one at Loma Linda.

In any event, they want to do that using money already appropriated that is a carryover from prior years. It is a one-time expense recommended by the Department of Energy and as part of a settlement with the State of Texas. I think it is prudent to do so. It maximizes the utility of the LINAC, which is already in place. Texas will share the cost of building the facility and will bear the full cost of operation of the facility. I think it is a prudent thing to do. It involves no additional spending authority. If we did not do this, we might have to settle this thing in court, which would take some years and could be much more expensive.

Mr. BUMPERS. Let me say to my colleague, on April 12 of this year, the Department of Energy said that the remaining termination costs on the superconducting super collider were $568 million. Are we proposing to take $65 million of that?

Mr. JOHNSTON. No, no. The $65 million previously appropriated to SSC remains with SSC. It is being transferred over to convert the LINAC, the linear accelerator. It has nothing to do with IFR. The linear accelerator, which is the first step of starting the protons, you know—we were going to put them around the ring in the SSC. The first step is the linear accelerator, and we are going to convert that for medical purposes. It has nothing whatsoever to do with IFR.

Mr. BUMPERS. Let me ask this simple question, if the Senator can give me a bottom-line figure. If the Kerry amendment fails, how much money is in the bill to continue the liquid metal reactor research?

Mr. JOHNSTON. I have a chart on that. It is $98 million.

Mr. BUMPERS. As I understand it, funds provided for SSC termination and LINAC have nothing to do with funds provided for the LMR.

Mr. JOHNSTON. No. The IFR and the LINAC, in Texas, are totally separate. They have absolutely nothing to do with one another.

Here is what the Department of Energy wants to do. They want the original request of $83.8 million.

Mr. BUMPERS. Will my colleague turn that chart around just a little?

Mr. JOHNSTON. Yes. The Department of Energy's original request is $83.8 million. They have an additional request of $33.2 million, which is for—I would call it sort of pork, to help the people in the area and keep them employed. So they have asked for $117 million.

Our phased termination option, which is 4 years, is $113.8 million. If the Japanese cost share—and that is not for sure. I have a lot of correspondence here from the Japanese where they would indicate—they were ready to close the deal earlier. Now they said they would reconsider. But they would contribute $15 million. The net cost this year would be $98.8. That is for fiscal year 1995.

So this is the comparison in cost of what the DOE was requesting and what we want to do with the Japanese contribution. In other words, it costs $18.2 million less to do what we wanted to do than what the Department of Energy wanted to do. Or, over a 4-year period it will cost $344.3 million under the Kerry amendment, and with our phased termination cost it will cost $327.8 million. That includes the Japanese contribution.

Again, that may not come in, but we think it will. This is really not a question of cost between the Kerry amendment and our amendment. It is a question of whether you complete the research.

If I may, it sounds counter-intuitive that you can do the two for virtually the same amount of money. The reason is that EBR–II, which is the experimental breeder reactor II, which is being operated at the present time, has liquid sodium in it, and under the immediate termination, as under the Kerry amendment, you must continue to operate that. You cannot shut it down or turn it off as you can with a regular light water reactor; otherwise the liquid sodium would freeze up. So you have to continue to operate it under the Kerry termination. The real difference is under both of these, you continue to operate EBR–II. Under ours you continue to do the experiments during the 4-year termination phase. Under the Kerry amendment you do not do the experiments.

All we are asking is that we complete the scientific program while you continue to operate for the 4 years of the phased-down termination under our option. It is not a question of cost. We show that we save $16.5 million over the life of this thing if we get the Japanese contribution. If you say the Japanese do not contribute, it may cost—I think the figure is $25 million. In either event, it is not a question of cost. We are not asking you do this to save the $16 million, and I do not believe Senator KERRY is saying to stop it because it costs $25 million because the Japanese may not contribute. That is not the question.

The question is whether you want the research. I believe, if I interpret Senator KERRY correctly, he is saying you would be tempted to build the reactor if you finish the research.

Not so. What we are saying is let us find the research, let us complete the research to explore the option because we have not yet picked another option. And if I may ask on the question of options, my friend from Arkansas did, in fact, talk about one of the options, which is to take plutonium from weapons and burn it in civilian reactors. Is my friend from Arkansas saying he would prefer that option? Understanding you are taking weapons grade plutonium and putting it in civilian reactors, which do not have the safeguards and do not have all the guards around it that you do at EBR–II or that you would at the single integral fast reactor, has the Senator from Arkansas settled on that option?

Mr. BUMPERS. I did not say that. I am just quoting from the Department of Energy and the Office of Technology Assessment.

Mr. KERRY. Will the Senator yield?

Mr. BUMPERS. I will be happy to yield.

Mr. KERRY. I believe what the Senator was referring to—and it is the same option we discussed earlier—it is the MOX option. It is the combination of mixing the plutonium and uranium, and that gives you the potential, at that point, to burn. It is different from using pure plutonium in some form. There has never been a discussion of that.

Mr. JOHNSTON. If the Senator will yield, it depends on what kind of mix oxide. If you are poisoning it, in effect, with spent fuel or with waste from Hanford, that is one kind of fuel that you could conceivably use. That makes it awfully difficult to transport and handle. The other kind is a mix oxide where you have uranium and plutonium which can be easily handled and is not proliferation proof, and that is the problem.

Mr. KERRY. It is not really the problem, if I could just say, because in point of fact the Senate has now been presented with a sort of cloudy image of these different fuels and what the choices really are and whether or not we have made an option.

The fact is the National Academy of Sciences, as the Senator from Louisiana well knows, has given a very clear direction and is absolutely firm about these options. And in fact, Dr. Panofsky, who was quoted earlier by the Senator as somehow leaving the door open for this technology, does not leave the door open for this, only in terms of operational choices.

I think the Senator has a chart there, and in the chart, he has a quote about the research that was advocated from the National Academy of Sciences. Maybe he could go back to that chart, because I thought there was a very important distinction that that draws which the Senator did not draw, and of which the Senate ought to be aware.

Mr. BUMPERS. While the Senator is looking for that chart, if I can get back into this debate to answer the question that was just asked—"Am I suggesting that we use this plutonium in light water reactors?"—I did not suggest any specific remedy. But the National Academy of Sciences listed this as an option for the disposition of weapons-grade plutonium.

Mr. JOHNSTON. It can be done.

Mr. BUMPERS. Let me continue:

> According to a recent report prepared by the National Academy of Sciences, the two most promising alternatives for plutonium disposition are, No. 1, fabrication and use as fuel in existing light water reactors and, No. 2, vitrification.

The Department of Energy follows that by saying that you can take the 100 metric tons of warhead plutonium and mix it with uranium and burn the full amount—that is, the 100 tons—in existing light water reactors in 25 years.

Mr. JOHNSTON. If the Senator will yield, there are two problems with that. First, you can surely burn it in existing reactors. They have to be reconfigured. Earlier I pointed out where these reactors might be. The problem is a MOX fuel mixing plutonium and uranium is not proliferationproof. It is when it comes out the other end but not when it goes in.

Mr. BUMPERS. Mr. President, storing 100 tons for more than 30 years is even more dangerous. You can start to burn this plutonium now. You cannot start burning this plutonium under the Senator's plan until this design and capability is proven, and that could be 30 to 35 years from now, if ever.

Mr. JOHNSTON. The Senator points out properly that this is not a quick solution and, indeed, none—see, the Department of Energy has not settled on a solution either. This business of using——

Mr. KERRY. If the Senator will yield.

Mr. JOHNSTON. Vitrification—if I can finish—we do not have a vitrification facility in this country, nor do we know the limits of critical mass using the vitrification with plutonium—a real problem on disposal of fuels. If I may just point out on this quotation—you can prove most anything with quotations—if you look at that quotation, the sentence before and the sentence after puts it in quite a different context. The sentence before says, as part of that future referring to IFR:

> They may offer the possibility of pursuing the elimination approach in the long-term, not only for weapons plutonium but also for the much larger quantities of civilian sector plutonium.

They go on to say—and they quote this—then they say:

> In saying this, the committee does not intend to recommend either for or against the development and deployment of advanced reactors for commercial electricity production which is beyond the scope of its charge.

And the other National Academy of Sciences study, by a different panel which includes the present head of the Nuclear Energy Office in the Department of Energy, the present one says:

> The committee believes that the LMR should have the highest priority for long-term nuclear technology development.

Should have the highest priority.

Again I quote:

> The problems of proliferation and physical security posed by the various technologies——

Mr. BUMPERS. Let me interrupt. Is the Senator on page 2?

Mr. JOHNSTON. I am on page 197.

Mr. BUMPERS. I am sorry, we are reading from different reports.

Mr. JOHNSTON. This is the Nuclear Power Technical and Institutional Options for the Future by the Research Council of the National Academy of Sciences:

> The problems of proliferation and physical security posed by the various technologies are different and require continued attention. Special attention will need to be paid to the LMR.

None of these talks about being an early option. I am not saying when you finish this 4-year study that you will be able to deal with the problem of plutonium proliferation. Unquestionably, that is not true. Nor is it true that you would be able to pursue any of these other options.

But we have not decided on any of these other options, and I would like to know what anybody proposes as an option, because each one of these options, using the CANDU reactors in Canada, using Palo Verde in Arizona, using the WPPSS reactor in Washington, all have proliferation problems that the IFR does not have, and they have practical problems, like how do you keep this plutonium safeguarded as it is going in its MOX state?

Mr. KERRY. I would——

Mr. BUMPERS. Mr. President, may I say to Senator KERRY, I want to yield the floor, and I want to terminate my part of this debate, if you will allow me to make some final observations.

First, I want to make the observation that the Senator from Louisiana is reading from a report that is older than the most current.

Mr. JOHNSTON. 1992. I read from both, one is 1994, the Panofsky report, where we had the hearing—I think the Senator was there for at least part of the time.

Mr. BUMPERS. If I may just read from the 1994 report which is about as hot off the press as anything you will get from the National Academy of Sciences on this subject, here is what they say:

> Safeguarded storage. First, we recommend the United States and Russia pursue a reciprocal regime of secured, internationally monitored, storage of fissile material with the aim of insuring that the inventory in storage can be withdrawn only for non-weapons purposes.

No. 3, and I am reading from page 2 of the executive summary:

> Long-term plutonium disposition.

That is what brought us to this colloquy and this debate right now.

> We recommend that the United States and Russia pursue long-term plutonium disposition options that, one, minimize the time during which the plutonium is stored in forms readily usable for nuclear weapons; two, preserve material safeguards and security during the disposition process, seeking to maintain the same high standards of security and accounting applied to stored nuclear weapons.

The report proceeds to discuss other matters. But No. 1 on their list is to minimize the time during which this 100 tons of plutonium in the world today is stored in forms readily usable for nuclear weapons.

Now, just to pursue that a moment, they go on to say that the two most promising things that we ought to be doing to dispose of plutonium is either to vitrify it and store it or burn it in light water reactors. The NAS does not recommend the use of liquid metal reactors for the disposition of weapons-grade plutonium.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana [Mr. JOHNSTON].

Mr. JOHNSTON. Just briefly to respond to that, that is clearly what they said at the National Academy of Sciences. Speaking of the short-term problem, what they are saying is that you need on a short-term basis to get this plutonium out of the form that can be put in someone's pocket and spirited out of the factory or out of the safeguard place. Clearly that is so.

What the National Academy of Sciences said in the same report speaking of the long-term steps is that:

> Long-term steps will be needed to reduce the proliferation risks posed by the entire global stock of plutonium, particularly as the radioactivity of spent fuel decays.
>
> To further refine these concepts, research on fission options for the near-total elimination of plutonium should continue at the conceptual level.

Now, this is what the IFR is continuing—total elimination. The IFR, or the LMR—they call it by either thing—is the only one that totally eliminates plutonium. It is true that MOX fuel mixing uranium and plutonium will irradiate the fuel and it makes it difficult to handle then and on the short-term basis is relatively proliferation proof.

However, using the PUREX process, which is a chemical process, using hydrochloric acid—you can separate it. North Korea has the PUREX process. You can take it out of these fuel rods. You can take it out of the vitrified or glassified rods and get your plutonium again. You cannot do that with spent fuel from uranium mines. That is a much more complicated process.

That is why the National Academy of Sciences, while saying exactly what the Senator said, also said that you need to refine these concepts. "Research on fission options for the near-total elimination of plutonium should continue at the conceptual level," which is precisely what we are saying—continue the research for the 4 years.

You see, our program is a termination program for EBR–II, which is the reactor. We say terminate it in 4 years. The Senator says terminate it in 4 years. The difference is he says do not do the research which gives you conceptual research on options for the near-total elimination. He says do not do that, no cost. Now, that escapes me—why you would not want to do the research to find the answer to this in the same length of time. You end up with EBR–II, the reactor, terminated in 4 years and it does not cost any money and why would you not want to find the answer to that question? The National Academy of Sciences says you ought to do it.

Mr. KERRY. If the Senator will yield.

Mr. JOHNSTON. I will yield for a question.

Mr. KERRY. I am sure he would agree with me, because he said it previously, that it is only at no cost if the Japanese agree.

Mr. JOHNSTON. If the Japanese agree, I think we make—we save $15 million. If the Japanese do not agree, I think it costs $26 million over 4 years.

Mr. KERRY. Let us come back and phrase the question the way I did. It is only at no cost on two counts: First, if your expected expenditures pan out, which I will show momentarily has never happened and even now is not, and, second, if the Japanese contribute. If the Japanese do not contribute, the taxpayers are out the money. Is that not accurate?

Mr. JOHNSTON. The Japanese what?

Mr. KERRY. If the Japanese do not contribute, the American taxpayer is going to have to ante up.

Mr. JOHNSTON. I believe that is correct. And I think the figure is——

Mr. KERRY. Here is a letter hot off the press as of 30 minutes ago, as the Senator from Arkansas said, saying that we have not signed any new agreement with the Government of Japan.

> Therefore, based on Department of Energy budgetary estimates from fiscal year 1995 to 1999, the cost to terminate the integral fast reactor will be $20 million less than continuing the program.

So for hours now all of you folks have been saying here it is less expensive to continue, and here straight off the press from the Department of Energy is, No. 1, a statement the Japanese are not contributing and, No. 2, a very clear statement that it is more expensive to continue the program.

Mr. JOHNSTON. Not for fiscal year 1995. For fiscal year 1995, without the Japanese cost sharing, you save $3.2 million.

Mr. KERRY. That is not for termination, that 33.

Mr. JOHNSTON. Yes. Both of these are terminations. Our program is a termination of what we call EBR——

Mr. KERRY. The $33 million is for other projects that Argonne is going to pursue. The $33 million is for other projects Argonne will pursue.

Mr. JOHNSTON. Twelve of the 33 I am advised are for additional projects.

Mr. KERRY. No, the whole $33 million is for other projects that Argonne will pursue. But you see, all of this is skirting around what is really at issue here. It really does not come to grips with the choice. And I wish to go back, if I may, if I could ask the Senator respectfully to go back to the quote he had a moment ago about conceptual. He was quoting from the report. Let me just take—this is the 1994 report. The 1994 report says point blank:

> Advanced reactors should not be specifically developed or deployed for transforming weapons plutonium into spent fuel because that aim can be achieved more rapidly, less expensively, and more surely using existing revolutionary reactor types.

So here is the Academy saying point blank——

Mr. SIMON. Will my colleague yield?

Mr. KERRY. Let me just finish. Point blank, do not do this for the very reason that all of you have asserted is a good rationale for doing this.

Now, you go further than that and the next page——

Mr. JOHNSTON. Wait.

Mr. KERRY. Let me just finish. On page 161 of the report—I mean we have had very little time to rebut about four or five speakers. I just want to put a little bit of this information into perspective.

Mr. JOHNSTON. Wait a minute. The Senator was asking me a question, did they say the quoted language, and the answer to that, if that is a question, is yes. But I say to the Senator, respectfully, if you put it in context, it comes to a different conclusion because the sentence before says, "As part of that future"——

Mr. KERRY. I am willing to read the whole paragraph in because it goes to this question of conceptual. They are, indeed, advocating conceptual research. But what you have and what is being funded goes way beyond conceptual research. It is operational funding.

Mr. JOHNSTON. No, no, it is not.

Mr. KERRY. It absolutely is. It is moving toward the construction of a prototype.

Mr. JOHNSTON. It absolutely is not.

Mr. KERRY. This is where——

Mr. JOHNSTON. Mr. President, let me make this clear because about this there is no doubt and no question. It is our bill. I would not mislead the Senate or I would not mislead my friend from Massachusetts.

Mr. CRAIG. Will the Senator from Louisiana yield?

Mr. JOHNSTON. What we propose is the completion of a 4-year research program at the end of which you will have terminated EBR–II, which is the experimental breeder reactor up in Idaho. We are testing the fuel and we are doing the design work. There is no new start. There is no construction. There is no leading to—it is in effect conceptual work.

Mr. KERRY. I agree with the Senator there is no new start construction, but there is a huge gap here and I am going to wait. I know the Senator from Idaho has not spoken yet. I wish to come back. But I intend to show how in fact this argument about civilian plutonium, military plutonium disposition, et cetera, simply does not stand up. And I am happy to wait to do that.

Mr. JOHNSTON. All right. I wish to yield to my friend from Idaho, but I wish to say, first of all, with respect to the National Academy of Sciences, what they are saying is you should not specifically develop or deploy. That means the building of a reactor specifically for the purpose of elimination of weapons plutonium. They go on to say that it has attractive options for the elimination of plutonium but that should be pursued only as part of a program that might generate electricity as well and that it is too soon to tell whether that is the proper option.

Mr. KERRY. If I could say to my friend—and this is a good dialog and it is important— if we turn to the next page, page 161, of the very same report, it says the following:

> Commercial reactors of the types currently operating in the United States, known as light water reactors, offer the technical possibility of transforming excess weapons plutonium into spent fuel within a few decades. Such a plutonium disposition campaign could probably begin within roughly a decade paced by the need to provide a plutonium fuel fabrication capability and a variety of institutional issues, including licensing and public acceptance. Once started, the campaign could be completed within 20 to 40 years paced by the number of reactors participating * * *.

And so forth.

As the Senator well knows, we are on a light water reactor development program—advanced reactor. That is the current technology in the United States. There is no reason given that capacity within light water technology to do any of this in the liquid metal technology except for the rationale that has been proposed by Senators, which is to use up weapons-grade plutonium. Having shown that you do not need to do that, let me just point out one very quickly——

Mr. JOHNSTON. If the Senator will——

Mr. KERRY. Let me finish this one point.

Dr. Panofsky, who has been quoted here, said very clearly at the press conference releasing the report, he described the results of the study saying that the panel had started with a horse race of more than a dozen horses, and it shot all but three of them: vitrifaction, MOX, and deep bore holes. In other words, Dr. Panofsky himself said at the press conference announcing this report that as far as an option for plutonium disposition, ALMR was not even in the horse race.

Mr. MITCHELL. Mr. President, will the Senator yield for an inquiry?

ORDER OF PROCEDURE

Mr. JOHNSTON. Yes. Mr. President, the Senator is inquiring about a time agreement. I was just getting ready to see if we could get a time agreement with maybe an hour equally divided.

Mr. MITCHELL. Mr. President, this amendment has already been debated for more than 3 hours. We are entering the fourth hour of debate on this amendment.

Mr. JOHNSTON. I will agree to whatever time agreement the Senator from Massachusetts will. I think the Senator from Idaho has not spoken yet. What would the Senator from Massachusetts suggest?

Mr. KERRY. Mr. President, I have a couple of other Senators who have asked for time, I am told. So I think we would need to reserve 45 minutes on this side.

Mr. JOHNSTON. Could we not do it in an hour?

Mr. KERRY. If I may say, there are a lot of debates that take place on the floor. We spent hours on Haiti yesterday. I am happy to accommodate. But if I have a couple of Senators who tell me they need 10 or 15 minutes, I think asking for 45 minutes, given the money at stake and the nature of the issue measured against a lot of other hours in the Senate, is not that tough.

Mr. MITCHELL. Mr. President, one thing I have learned in the Senate is every Senator believes that his issue is the most important and his words are the most important. I know other Senators feel that way on other issues. It is something we have to contend with.

I feel we are now entering the fourth hour of debate trying very hard to complete action on this bill. Would the Senator from Louisiana be agreeable to having an hour with 40 minutes for Senator KERRY?

Mr. JOHNSTON. We have other speakers as well. I would be willing to cut our side short as well.

Mr. KERRY. Mr. President, let me say to the distinguished majority leader, I know he wants to move on. We all want to move on. I do not think I have ever delayed the Senate. I would like to try to come to an agreement. I do not have a problem. I am just trying to protect a couple of Senators who are not here. I can do it in less time. I am certainly not asserting that my words are going to make that kind of difference here. But I want to protect those who are not here.

Mr. JOHNSTON. Mr. President, I would agree to whatever equal division the Senator from Massachusetts agrees to, if an hour and a half is the best he can do.

Mr. KERRY. I would be happy to try to yield it back if we can get some word they are not coming to the floor. All I want to is do is make sure they have that ability. I will yield it back. I will make that statement.

Mr. JOHNSTON. Let us make an attempt to yield back. If the distinguished majority leader will accept it, we will go with 1½ hours. I think we can yield back.

Mr. MITCHELL. Could we have the amendment offered? I think that would be a useful step. Then if the best we can do is an hour, let us take 1½ hours. But every Senator here knows that come about 6 or 7 o'clock this evening, I am going to be besieged by requests from Senators about when we can leave, and when are we going to be through with the evening, when are we going to be through with the week? We have to make some progress here and get this bill passed.

Mr. JOHNSTON. I say to the distinguished majority leader I have been asking for a time agreement since shortly after 9 o'clock this morning.

Mr. MITCHELL. An hour and half, after offering the amendment?

Mr. KERRY. I am happy to do that.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that when the Kerry amendment is offered, there be 1½ hours of debate after which there would be a vote on or in relation to the Kerry amendment, and further request there be no second-degree amendments in order.

The PRESIDING OFFICER Without objection, it is so ordered.

Mr. KERRY. Mr. President, I ask unanimous consent that the pending committee amendments be set aside for the purpose of offering an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2127

(Purpose: To provide for the termination of the Advanced Liquid Metal Reactor/Integral Fast Reactor [ALMR/IFR] Program)

Mr. KERRY. Mr. President, the amendment is at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Massachussetts [Mr. KERRY], for himself, Mr. GREGG, Mr. BUMPERS, and Mr. LAUTENBERG, proposes an amendment numbered 2127.

Mr. KERRY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 40, between lines 21 and 22, insert the following:

SEC. 502. TERMINATION OF ADVANCED LIQUID METAL REACTOR PROGRAM.

(a) TERMINATION.—Except as provided in subsection (b), funds appropriated under this Act may not be obligated or expended for purposes of the Advanced Liquid Metal Reactor/Integral Fast Reactor (ALM/IFR) program.

(b) TERMINATION COSTS.—Funds appropriated under this Act for the Advanced Liquid Metal Reactor/Integral Fast Reactor (ALMR/IFR) program may be obligated and expended for that program only for payment of the costs associated with the immediate termination of the program, beginning in FY 1995.

Mr. KERRY. Mr. President, I believe the Senator from Idaho seeks recognition.

The PRESIDING OFFICER (Mr. KERREY). Who yields time on the amendment? Does the Senator from Louisiana yield time?

Mr. JOHNSTON. Yes. I yield 15 minutes to the distinguished Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, thank you.

Let me also thank the Senator from Massachusetts for propounding his amendment. We have an amendment on the floor to debate.

Let me say to both the Senator from Massachusetts and the Senator from Arkansas, who have debated their position most clearly this morning, that frankly not much has changed, not much has changed from a year ago when this Senate engaged in a very similar debate on this issue.

The Senator from Massachusetts will cite new scientific evidence that would cause this issue to be debated differently. But I would suggest that there is every bit the countering evidence scientifically as presented by the Senator from Louisiana that, in my opinion, holds sway, and, if not that, at least balance in this argument.

But let me tell you that while the arguments of the Senator from Louisiana or this Senator from Idaho or the Senator from Massachusetts have probably not changed from a year ago, Mr. President, something has changed, that is, the position of the Department of Energy and this administration on the issue of funding for the completion of the scientific project known as IFR.

That is why we are here today in large part, because a year ago when the Department of Energy was asked the profound questions which the Senator from Massachusetts put before us this morning—they being, risk of major proliferation, technology has no use, and that this was a major deficit increase—here is what the Secretary of Energy said a year ago.

She says: "It has strong economic potential" and "could save billions of dollars over 60 years by recycling actinides, which are isotopes of uranium."

The Secretary of Energy said: "Offers major environmental health and waste management benefits." And there she was talking about the question of the ongoing storage of spent nuclear fuels of this country and no method by which to effectively reduce their radioactivity long term.

She also said at that time: "Would use a process that is proliferation resistant."

Might I suggest, Mr. President, that the old statement "what a difference a year makes," in this debate has made the difference, with the Secretary of Energy. How can this be a non proliferator last year, and yet the Senator from Massachusetts stands on the floor today and says that it is a proliferator this year? I do not blame Senators for being frustrated or confused because of the bantering back and forth as to which is good science or which is bad science, which report says this and which report says that. Those arguments have not changed, but Secretary O'Leary has changed her position. Why?

Well, the Senator from Massachusetts said that it is a deficit issue. Doggone it, it is not a deficit issue anymore, and the Senator from Massachusetts knows that. We are terminating the EBR terminator reactor in Idaho right now. That is going to cost hundreds of millions of dollars to terminate. But in the process of doing that, we are completing a research program as to how to establish an integral fast reactor that burns plutonium.

That is what we are talking about today. Will the Japanese participate? Has the Senator from Massachusetts found a slight window in which he can argue some kind of deficit reduction? And is that based on whether the Japanese will or will not participate in this project? Because I will tell you, the Secretary of Energy has worked overtime trying to get them out of the project. Yet, they still hang on. I want to quote from a letter and then add it by unanimous consent to the RECORD, Mr. President. It is dated June 17, 1994. This is from the president of the Power Reactor and Nuclear Fuel Development Corporation of Japan. This is what he writes to our chairman of the Energy and Natural Resources Committee, BENNETT JOHNSTON:

> We remain interested in working with DOE in this field, although its recent actions don't provide a stable, credible base on which to proceed at this point.

And that is what we are about today. If Congress were to restore the program for the next fiscal year, we would consider our options about participating in the joint program.

I ask unanimous consent that that be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

POWER REACTOR AND NUCLEAR FUEL DEVELOPMENT CORPORATION,
Tokyo, Japan, June 17, 1994.

Hon. BENNETT JOHNSTON,
Chairman, Subcommittee on Energy and Water Development, Committee on Appropriations, U.S. Senate, Washington DC.

DEAR SENATOR JOHNSTON: In response to your inquiry, I would be pleased to provide you with information on the status of PNC's views about actinide recycling R&D activities. We have three cooperative agreements with the Department of Energy (DOE) in the areas of fast breeder reactors, waste management activities, and safeguards. In general, we would like to enhance our cooperative R&D activities with the DOE since we believe that, through joint efforts in areas of mutual interest, each country can further its own research agenda and conserve limited budget resources as well.

In this regard, we did make a specific offer earlier this year to contribute to a multi-year, R&D program on actinide recycling and the IFR directed by the Argonne National Laboratory (ANL). If realized, this would have marked the first commitment by a corporation affiliated with the Japanese Government such as ours (although several Japanese private entities have supported certain projects in this area). We came very close to reaching a final agreement with the DOE.

Our tentative assumption for this cooperative project was approximately $60 million over five years, subject of course to the approval of the budgetary authorities in Japan. However, the project was abruptly terminated by the DOE in January of this year when funding wasn't identified in the Administration's request for FY 1995 budget. We were therefore forced to cease cooperative discussions with the DOE and no longer secure financial resources for this cooperative project in coming years.

Meanwhile, we are starting on our own to carry out R&D in the field of actinide recycling. A new long-term plan for nuclear energy, under the auspices of the Atomic Energy Commission of Japan, will include specific reference to the importance of carrying out R&D on advanced reactors, including those for recycling actinides. It requires technologies which are still in the initial stage of research, but we are committed to proceed with R&D in the long term in order to make tangible progress.

We remain interested in working with the DOE in this field, although its recent actions don't provide a stable, credible basis on which to proceed at this point. If congress were to restore the program for the next fiscal year, we would reconsider our options about participating in a joint program.

We appreciate your interest and leadership on these issues and hope our two Governments can continue to cooperate on nuclear energy and other advanced technologies in the future.

Sincerely,

TAKAO ISHIWATARI,
President.

Mr. CRAIG. Why would Japan be interested? Why do they want to continue to work with all of us in the development of this program? Well, Mr. President, it is obvious why they want to do it. They, like a lot of other countries around the world, are frustrated. They are frustrated over their light-water reactor program because it produces plutonium. And they must recycle that through the processes of PUREX, as has been described today. And they, like France and like England and like the United States and like Russia, would like to operate a reactor that does not produce plutonium. The IFR is that reactor design. You cannot deny it. That is what our scientists tell us. That is reality. That is what we are here debating today.

So you see, I am about as frustrated as these Japanese are that we have a Secretary that one year says that this is a good idea and this is an economically right idea and an environmentally sound idea and this is a nonproliferating idea, and all of a sudden, she finally fills her offices with assistant secretaries that are profoundly antinuclear, and her mind changes. Doggone it, that is what has happened. The economics have not changed, the science has not changed, but the politics have changed.

The 900 employees in Idaho and 500 employees in Illinois who have done their level best to make this one of the finest science programs we have, that have always stayed in budget, that are on time and on line, cannot understand why, if the science was good a year ago, why it is not good today. But the politics have changed. The politics have changed.

Business Week magazine is not a very political publication. While they are willing to credit this President with some of his technology agendas, they are saying: Mr. President, on this one you are making a mistake, and your Secretary is profoundly wrong. They are suggesting—and the Senator from Illinois has put this quote in the RECORD, so I will not ask that it be printed—that we do not now have a long-term proposal for the shortening of the radioactive life of our nuclear waste materials in this country.

The Senator from Massachusetts today talks about time and money, and that is what we should be talking about. Today, thanks to this Senate, we are working to establish a long-term solution to spent commercial nuclear fuel. We have said to the State of Nevada that we do not care what your politics are, we are going to store it there if we can. That is a Government position, a Government policy. And we have chosen Yucca Mountain, and we are going to spend well over $6 billion to get a piece of paper that says that this area is geologically sound enough to store nuclear waste or it is not. That is only a piece of paper, Mr. President. And then once we have the paper, and if it says yes, we will build a facility that may cost $4 or $5 billion, and we can fill that facility overnight.

Here is why we can fill the facility. It is because the Senator from Massachusetts, in his State today, has 2,021 casks of spent nuclear waste fuel. He has 431 metric tons. Fifteen percent of the power that lights the lights of Massachusetts is generated by nuclear power. Every day when you throw a light switch, you generate a little waste. That is in Massachusetts.

In Arkansas, 33 percent of their power is generated through nuclear, and they have 1,188 casks. It goes on and on. When a Senator stands on this floor, as did my colleague from Arkansas, and talks about morality, long term and short term, the moral thing to do is to fund the IFR, because that is the long-term solution. The Senator from Massachusetts is absolutely right—this will not be built tomorrow if the science and research proves out. It cannot be built tomorrow, and we are not prepared to do that.

For this Secretary to suggest that this is a $2.7 billion project, just is flat wrong, and she knows it. She is playing politics.

This Senate and this Congress have never said they are going to fund the development of this reactor design. No. The Senator, who is the chairman of the Energy Committee and the chairman of the appropriations portion, is right when he says that this will be terminated in about 2½ years and he states the costs—and they are accurate.

Nobody has said anything, nobody has told the 900 people in Idaho they are going to stay on to the year 2000 and build a new reactor if it were to be built there. They know once their work is done, EBR–II comes down, based on the policy established by this Congress a year ago.

That is the reality of this debate. You should be debating it on politics. There is nothing wrong with that debate. But do not debate it on economics. Do not debate it on science, and do not debate it on the deficit.

The Senator from Illinois and I stood on this floor many times debating balanced budgets, and I think the Senator from Massachusetts made reference to the balanced budget and line-item veto today. That did not pass me by. I knew what he was saying.

When we debate balanced budgets, we talk about reducing the deficit. We talk about saving money. But one thing that we do when we save money is we also learn not to waste money.

We have spent $800 million on this project. We are a few million away from the design completion that sets this on the shelf and gives these young people an option for their future to know that we can produce electricity, that we can burn spent nuclear fuels, and that we will not proliferate.

The Ambassador from Russia wants this program and hopes we will continue it. The Japanese want it. The French want it. The British want it.

Why do we not want it? Why should we not be the world leader in this technology? We always have been.

I know this President is struggling with his foreign policy. This is good foreign policy. This is the best there is. When the world turns to the United States and looks at our science and says, "That is the right science and you are leading us into the future, and that is what we want," that is good foreign policy.

Hazel O'Leary should not be practicing foreign policy down at DOE. A lot of the nations of our world want this now, because they do not want to proliferate. They do not want to have to go through the PUREX process of the light water reactor. They want something that will burn it. Why do we not work with them and finish this project and give it to them?

That is good politics. It is good economics. It is sound. That has been the argument in the past. That is the argument today.

That is why I think clearly the committee of authorization did the appropriate thing when they recommended funding of this project.

We have heard a debate about how do you get rid of the spent materials now? How do you get rid of weapons-grade plutonium now? Mix it with uranium? Make a MOX-fuel burn in light water reactors, and you have solved the problem.

How can you solve a problem when the light water reactor of average size produces 500 pounds of plutonium every year and creates a very large waste stream?

I suggest to the Senator from Massachusetts that that is only the short-term problem about getting the weapons-grade plutonium off the street and getting it mixed so that it cannot be reconfigured, but it does not solve that problem.

Short term and long term—this Nation has been known for its farsightedness. I would not like to think that we are shortsighted on our future.

We must handle our nuclear waste or the lights will go out in Massachusetts because the American people will simply say, "Congress of the United States, you have not been responsible in handling nuclear waste. We do not want any more reactors. We ask you to shut down the ones you have."

That would be a tragic day because we know that nuclear energy is clean. We know that it does not pollute the air. We know that it does not damage the ozone. We know that it is a tremendous producer of energy in a clean sense, and our only problem is that we cannot come to political terms on how to handle the waste stream. So we in a very unpolitical way are letting it build up around the Nation because what we are talking about in Massachusetts is dry storage and it is sitting on top of the ground out there.

Idaho does not generate, but we are willing to help you solve the problem because we have the experts who know how to do it, and we want to help the rest of these States, this Nation, and the world bring about the science that will produce the reactor ultimately that will get to where we want to get.

That is why this quote from Business Week is accurate. That is why the Secretary of Energy is just simply wrong.

While I do not agree with her on a lot of things, I disagree with her politics on this. She can play politics, and that is what is going on because economics and science do not fit at this moment. I think those arguments have been well placed on the floor today and very clearly understood.

So let us not waste money. Let us analyze this in a deficit neutral way. Let us get to the Japanese and encourage them to come back on board as they are standing waiting to go at this moment and not discourage them but give them the green light that we will go through to the completion of this research project.

That is what this debate is all about today. It is not about really anything else. It cannot be about proliferation. It is a nonstarter false argument, and we all know that today. That is the basis of the new concept, which is to get away from proliferation, to get to a safer reactor, a walk away, a hands-free reactor, that is cool in its operation and safe to the society around it.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Louisiana.

UNANIMOUS-CONSENT AGREEMENT

Mr. JOHNSTON. Mr. President, I, at the conclusion of this vote—the Senator from Arkansas [Mr. PRYOR], has been asking for 8 minutes to make a statement.

I ask unanimous consent that he be recognized after this vote to make a statement on an unrelated matter for 8 minutes.

Mr. PRYOR. Mr. President, I thank the distinguished Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I yield 5 minutes to the distinguished Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. I thank Senator JOHNSTON.

Mr. President, first, a clarification. We have been hearing about the National Academy of Sciences on both sides of this. The National Academy of Sciences says if you want to do this solely to get rid of plutonium, this does not make sense. No one wants to do this solely to get rid of plutonium. It is an energy creator.

Second, we have problems in almost every State. Someone just handed me an Associated Press story from Newport News, VA. Let me just read a few sentences.

The Navy and the Department of Energy have decided that the Newport News Shipbuilding and Drydock Company will not keep a nuclear waste from warships after June 1995. However, it is still not clear where the spent radioactive fuel will go after then, Navy and DOE officials said. A recently released 4,200-page Department of Energy report listed 10 places, including the Government-owned Norfolk Naval Shipyards in Portsmouth where nuclear waste from warships weapons factories and research reactors may be stored between 1995 and 2035. The Navy wants all its nuclear wastes to go to the Idaho National Engineering Laboratory.

That is just brand new.

In your State, Mr. President, in Nebraska, 34 percent of the energy in Nebraska comes from nuclear energy. You have right now in Nebraska 351 tons of spent fuel in storage. If we do not find an answer, it is going to just build up and build up and build up, totally aside from the arms problem that is involved here.

We have letters from academics all over the country saying it is really important to move ahead on this. I would like to put in the RECORD a letter from the head of the nuclear engineering department of MIT, the Massachusetts Institute of Technology, and 11 professors there, and I ask unanimous consent to print that in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MARCH 17, 1993.

Subject: Advanced Nuclear Power Technologies in the Clinton/Gore Era.

LETTERS TO THE EDITOR,
The Washington Post,
Washington, DC.

GENTLEMEN: The proposed federal budget would eliminate the program to develop the two most innovative of the advanced nuclear energy technologies, for a potential savings of $200 million in the next budget, and $1 billion over five years. These programs, for the liquid metal-cooled and gas-cooled reactor concepts, were started during the 1980s in an effort to improve nuclear power plant safety.

We write, concerned that this decision may prove very harmful to the country. We urge that a decision as important as this one should be taken only after deliberate debate of its full implications. This has not occurred. Instead, the decision announced ignores the technological benefit of these programs, such as were pointed out in the 1992 National Academy of Sciences/National Research Council report concerning our national advanced reactor development strategy. That report has not been rebutted in formulation of the announced policy. Instead, it has so far been ignored.

Much time is needed for developing new technological options. The progress made to-date in the advanced nuclear energy will be difficult to replicate if it is discarded. Such a decision should only be made following an open exhaustive discussion.

The technologies of the current DOE Program include Light Water Reactors (LWRs), Modular Gas-Cooled Reactors (MGR) and Liquid Metal-cooled Reactors (LMR). Each has a different role and rationale in the overall national energy strategy adopted by the Congress last fall. The LWR program is concerned with making significant safety and economic improvements upon the power plants in current use, both through evolutionary improvements and improved safety concepts. The MGR has been cited by its proponents as the concept offering possibly the greatest potential for improved safety, and has provided the inspiration for efforts to develop a new generation of advanced reactors. The LMR is most important for its capability to convert the very large non-fuel portion of natural uranium into plutonium, which can be used as reactor fuel. If nuclear energy is to play any important role in mitigating global warming (should that phenomenon turn out to be a serious problem), this capability will be essential as terrestrial uranium resources appear to be small enough that they would otherwise limit the contributions of nuclear energy technologies. Conceivably the LMR can also be useful for consuming long-lived nuclear wastes. All three reactor types can also be used to consume plutonium from surplus nuclear weapons.

The rationale offered by the White House for the announced policy is that the LWR program should continue, as it offers near-term payoffs; the MGR program should be ended because it is not needed and will not provide benefits during this decade, and the LMR program should be terminated because it is of no interest to electric utilities and its promise for alleviating nuclear waste disposal problems are too uncertain and far into the future.

We have each worked on different aspects of advanced nuclear power concepts throughout our careers. We believe that the threatened reactor development programs have good chances for success, and can provide valuable technological options for the nation. Should these programs be ended, it would be so expensive to revive them later that we might never receive their benefits.

Beyond the implications for technological advancement, the announced decision is important for the existing nuclear power plants, which produce about 20% of the nation's electricity. Experience has shown that nuclear technology can be very valuable when used properly, but very unforgiving when used carelessly. This effort demands the involvement of our most capable people. The ability to attract individuals of the highest quality into this field will be greatly impaired if it comes to be viewed as having stagnated. The announced decision implicitly makes that statement.

Thus, we argue that the advanced reactor development programs should be improved, not shutdown. We suggest that arguments to the contrary be examined carefully, and rejected when they are found to reduce the nation's range of promising energy options. This is the case with the proposed halt in developing a new generation of advanced reactor technology, and it should be reconsidered.

Sincerely,

Ronald G. Ballinger, Professor of Nuclear Engineering; Elias P. Gyftopoaios, Professor of Nuclear Engineering; John A. Bernard, Jr., Director, Reactor Operations Nuclear Reactor Laboratory; Michael W. Golay, Professor of Nuclear Engineering; Allan F. Henry, Professor of Nuclear Engineering; Michael J.Driscoll, Professor Emeritus of Nuclear Engineering; Otto K. Hariing, Director, Nuclear Reactor Lab., Professor of Nuclear Engineering; Mujid S. Kazimi, Professor and Head, Nuclear Engineering Department; John E. Meyer, Professor Nuclear Engineering.

Mr. SIMON. Mr. President, there is a point where it simply is not prudent to stop a project.

When I was a Member of the House, I say with some reluctance to my friends who have offices in the Hart Building, I voted against the Hart Building. But once you had the building under construction, I then voted to complete the building so we would not just waste the money.

We are in that situation here. We are in a situation where we can either complete the project and learn something, or devastate the project at the same cost. That just does not make sense.

I hear a great deal from citizens in Illinois when I go out that we ought to be less partisan in this body. I agree on that completely. Here is a case where the two Senators from Idaho, who are Republicans, are working with the two Senators from Illinois, who are Democrats. Congressman HASTERT and Congressman FAWELL, Republican Members of the House are strongly in support of this.

I have heard from Gov. Cecil Andrus and Attorney General Larry Echohawk, Democrats from Idaho who are on this.

I have a hard time believing that anyone who is reasonably objective can look at this and not say the prudent thing for us to do, whether from a fiscal viewpoint or from an arms proliferation viewpoint, is not to go ahead.

Among others are the National Association of Regulated Utility Commissioners, the AFL–CIO, the American Society of Mechanical Engineers, and most of the major utilities of our country.

On the question of Japan, in the first 5 months of fiscal year 1994, Japan gave us $9 million. They were ready to give us another payment for $10 million when, in the words of the Japanese leader, he says, it was "abruptly"—that was his word, "abruptly"—"canceled by the Department of Energy." The total commitment of Japan was for $60 million. Japan does not do these things lightly. And the indication from them is if we stop, they are going to try and go ahead in this field. If they go ahead, guess who profits all around the world from the technology we are looking for?

Mr. President, I think it would be a great mistake for the future of this country to adopt the amendment of the Senator from Massachusetts.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I yield myself such time as I might use.

Mr. President, there have been some extraordinary, broad, grabbing comments about why this is necessary. And, frankly, they are just plain incorrect; incorrect on the science as well as on the facts. Let me discuss that.

The Senator from Idaho and the Senator from Illinois a moment ago were saying, we are just going to have this waste build up and build up and build up. And we just heard how plutonium is coming out of the plant in Massachusetts and Arkansas and elsewhere, and we have to deal with it.

The fact is that usable plutonium does not come out of the plan in Massachusetts or in Arkansas. There are two kinds of waste that come out of our current technology of nuclear plant. They are called actinides, with a nuclear number of 89 or higher, which includes plutonium, and then fission waste, fission waste which cannot be split into further use of energy. That is what you get, plutonium mixed with other components. And it is precisely because you have to reprocess it that this cannot be used as a bomb material.

So the plutonium, that the Senator from Idaho tries to scare everybody about the buildup of, is already mixed in fuel and it is an extraordinarily expensive and complicated process to get that plutonium out in order to use it.

But the reactor that they are talking about building will build quite near weapons-grade plutonium, so you have a whole tracking process, not exactly weapons-grade plutonium, but much closer to weapons-grade plutonium than what you have in the present system. And that is a matter of fact.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. KERRY. I will yield on your time.

Mr. JOHNSTON. On my time.

I would like to deny categorically and completely the Senator's last statement. Our reactor does not use weapons-grade plutonium.

Mr. KERRY. I said near.

The Senator from Louisiana knows that the plutonium that is created through the process and extracted because it has to be reused is nearer to weapons-grade fuel than the fuel of any mixed plutonium in a light water reactor. Now you cannot deny that as a matter of scientific evidence.

So you are creating a closer to weapons grade form of fuel and you have a whole problem of trying to keep track of it.

But here is the reason. The Senator says, "Why has the Secretary of Energy changed her mind?"

Well, first of all, the Secretary of Energy came to me and said she wishes she had paid more attention to this and been able to make this decision last year, so they would not use her quotes this year. But she did not have that time and now she has and she has reviewed it. And the Secretary of Energy has written a letter which says point blank, "Here is the reason, my colleagues, that we do not need this."

Quoting the Secretary of Energy:

> No further testing of the Integral Fast Reactor concept is required to prove the technical feasibility of actinide recycle and burning.

There you go. We do not need to do it because it is not necessary in terms of the science. She goes on further and says:

> The basic physics and chemistry of this technology are established.

Now, what is really going on here is an effort to try to—I mean, if this is going to have all the great business technology aspects that have been talked about and the future that the people are talking about, that means you are going to use it. And the fact is that the President of the United States has said we do not want to use it because it has an affect on proliferation in the world and a host of other entities have agreed with that.

Now we have had heard about the jobs issue. My good friend from Illinois mentioned it earlier, something about little games with careers. This is not a little game with anybody's career. There is no game being played with people as far as the choice we face.

In fact, in the letter from the President of the United States, he says:

> In an effort to redirect the ALMR's dedicated and talented workforce at the Argonne National Laboratory in Illinois and Idaho, the Department of Energy, under Secretary O'Leary's direction, recently completed a proposal to restructure its nuclear research program and focus on areas that support the administration's nuclear policy goals.

So there is a specific effort to keep people working.

Mr. President, I do not want these people put out of work. There is plenty of research for them to do. But they do not need to do research which the Secretary of Energy herself has said is already complete. We do not need this in order to understand the basic physics and where we are going.

Now, we have heard again and again, as a fundamental rationale for trying to go down this road, that the ALMR will solve our plutonium disposition problem and even deal with the question of waste.

Mr. President, that is not true. As a matter of scientific fact, it is known that this reactor creates new kinds of waste. You cannot just dispose of an element. You can change an element. Basic physics taught us that.

And what happens when you burn the plutonium is you wind up with other kinds of waste, some of which has a half-life much longer than the plutonium itself. In fact, if you look at the cost of pursuing the plutonium proposal put on the table versus the repository alone, which is the current alternative, you are talking about the difference of $33 billion and $117 billion. You are talking about $4 billion per ALMR reactor if you go down that road, not to mention the licensing problems, the citing problems, and all of the public problems you are going to have in trying to do that. You have not only done that, but you have created a whole new form of waste.

As I mentioned earlier, you have two kinds of waste coming out of a nuclear plant today. Supporters of this program have come to the floor today and they are suggesting that you are going to solve the waste problem by turning actinides into fuel.

But, Mr. President, I remind my colleagues that does absolutely nothing to reduce disposal costs or risk. You still will have to have the repository. In fact, DOE's own waste managers are not purchasing the ALMR technology because they believe it is too costly and unnecessary.

The Senator from Illinois, a while ago, talked about all the people in the Energy Department that support this. The people in the Energy Department do not support this technology and they are not even pursuing it is because it is too costly and unnecessary.

Moreover, it does not reduce the volume of fissioned products. And, as I just mentioned, the ALMR process itself, when you take the plutonium and burn it, creates a whole new set of waste and that continues as a result of the additives that are needed. And, according to Argonne National Lab technical documents themselves, they acknowledge it will create this new waste.

Now the reprocessing step alone, Mr. President, would increase the amount of high-level waste by 30 percent. When you burn the plutonium, you turn it into high- and low-level waste and you will create a 30-percent increase in waste that then still needs to go to a repository.

Moreover, those fission products that are left behind are both intensely radioactive and water soluble, which means that they can be much more dangerous to the environment. They will require a long-term deposit in a repository and they will dominate the long-term risks of that depository.

Let me give you a specific example. Iodine 129 has a half-life of 17 million years. Cesium 135, a 3-million-year half-life. Technetium, a 212,000 year life.

By comparison the half-life of plutonium 239 is 24,000 years.

So I respectfully suggest if you really examine what is at stake here, on the issue of whether it is more expensive or less, we have disposed of that. It is more expensive to continue. I ask any one of my colleagues just to go back and remind themselves about this program through the years. Go back to when Senator BUMPERS said he started trying to get rid of it in 1978. After hundreds of millions of dollars, $8 billion, and you have nothing to show for it, and now a tough President and others saying do not do it.

My colleagues have said not much has changed in the last year. That is not true. Since last year you have a President who is specifically saying I do not want this because it is a threat to proliferation issues in the world. You have a National Academy of Science report that says, "The advanced reactors are not competitive for this mission because of cost and delay of their development, licensing, and construction." You have an OTA report. Let me read from the OTA report. Incidentally, all of these are neutral. We have heard from the Chicago Tribune. We have heard from the attorney general and the Governor of Idaho. But here are neutral students of this very issue. The report of the OTA says:

> A number of studies have examined the use of nuclear reactors including the ALMR/IFR to dispose of plutonium from dismantled U.S. and former Soviet nuclear weapons. These studies were carried out by the Office of Technology Assessment, the National Research Council Committee on International Security and Control, the General Accounting Office, the Rand Corporation and the Department of Energy. Although each study approached the issue from a unique perspective, they reached many similar conclusions.

Then I skip down:

> Although all options involve some unresolved options and risks of uncertain magnitude, these studies concluded that the development of advanced reactors for plutonium disposition would involve the highest costs and the greatest uncertainties.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, sometimes I wonder how our colleagues can possibly make sense of this debate. Both sides are quoting the National Academy of Sciences. Both sides are talking about editorials, one side saying it will and the other saying it will not. I really think a couple of things are fairly clear. One is that this is not about money. The Secretary of Energy testified before our committee. In answer to a direct question, "Is this about money?" she said, "No."

The reason is we save money if the Japanese contribute, and we have letters indicating, I think, a good possibility that will happen. I ask unanimous consent that these letters, a whole series of letters here, be printed in the RECORD at this time.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

POWER REACTOR AND NUCLEAR
FUEL DEVELOPMENT CORP.,
June 17, 1994.

Hon. BENNETT JOHNSTON,
Chairman, Subcommittee on Energy and Water Development, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR SENATOR JOHNSTON: In response to your inquiry, I would be pleased to provide you with information on the status of PNC's views about actinide recycling R&D activities. We have three cooperative agreements with the Department of Energy (DOE) in the areas of fast breeder reactors, waste management activities, and safeguards. In general, we would like to enhance our cooperative R&D activities with the DOE since we believe that, through joint efforts in areas of mutual interest, each country can further its own research agenda and conserve limited budget resources as well.

In this regard, we did make a specific offer earlier this year to contribute to a multiyear, R&D program on actinide recycling and the IFR directed by the Argonne National Laboratory (ANL). If realized, this would have marked the first commitment by a corporation affiliated with the Japanese Government such as ours (although several Japanese private entities have supported certain projects in this area). We came very close to reaching a final agreement with the DOE.

Our tentative assumption for this cooperative project was approximately $60 million over five years, subject of course to the approval of the budgetary authorities in Japan. However, the project was abruptly terminated by the DOE in January of this year when funding wasn't identified in the Administration's request for FY 1995 budget. We were therefore forced to cease cooperative discussions with the DOE and no longer secure financial resources for this cooperative project in coming years.

Meanwhile, we are starting on our own to carry out R&D in the field of actinide recycling. A new long-term plan for nuclear energy, under the auspices of the Atomic Energy Commission of Japan, will include specific reference to the importance of carrying out R&D on advanced reactors, including those for recycling actinides. It requires technologies which are still in the initial stage of research, but we are committed to proceed with R&D in the long-term in order to make tangible progress.

We remain interested in working with the DOE in this field, although its recent actions don't provide a stable, credible basis on which to proceed at this point. If Congress were to restore the program for the next fiscal year, we would reconsider our options about participating in a joint program.

We appreciate your interest and leadership on these issues and hope our two Governments can continue to cooperate on nuclear energy and other advanced technologies in the future.

Sincerely,

TAKAO ISHIWATARI,
President.

FEDERATION OF ELECTRIC
POWER COMPANIES,
Tokyo, Japan, May 10, 1994.

Hon. J. BENNETT JOHNSTON,
Chairman, Subcommittee on Energy and Water Development, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR CHAIRMAN JOHNSTON: On behalf of the Federation of Electric Power Companies (FEPC) comprising of all nine utilities in Japan, I wish to express our concerns over the Department of Energy's decision to propose in its FY 1995 Congressional Budget Request the termination of the Integral Fast Reactor (IFR) Program conducted at Argonne National Laboratory.

In Japan, nuclear power is contributing over 25 percent of electricity generation today and will have to expand its role to meet the increasing electricity demand in the future, yet protect our environment. A goal of a future nuclear development in Japan is to establish a fast reactor technology, combined with a fuel recycle technology, while taking into consideration nonproliferation. More than 95 percent of the spent nuclear fuels are Uranium and Plutonium. By reprocessing the spent nuclear fuels and recycling Uranium and Plutonium to the nuclear power plants, we can extract residual energy from the spent fuel to generate renewable electric energy. Also it can reduce the volume of the high-level radioactive waste and the radioactive toxic lifetime, as compared with a case of the direct disposal of the spent fuel.

Japanese utilities have two concerns regarding the future development of fast reactors: economics and nonproliferation. The IFR technology being developed in the U.S. has potential in addressing both of these concerns. This is why FEPC decided to participate in the U.S. IFR fuel cycle demonstration program as a cost-sharing partner. The conventional PUREX reprocessing in use in Europe and planned in Japan is a mature technology. However, the IFR pyroprocessing is a totally new technology that requires a pilot-scale demonstration before we can make an independent assessment for its feasibility and practicality.

Terminating this demonstration at this juncture, especially when it is on the brink of a pilotscale operation in EBR-II and Fuel Cycle Facility (FCF), is simply unconscionable for the future of nuclear development. IFR pyroprocessing is the only technology that has potential of solving the proliferation concerns associated with fast reactors in the long term. The U.S. has historically played a preeminent role in developing the civilian nuclear power, and the IFR demonstration will be a significant step in advancing a safe, proliferation-resistant nuclear technology for future generations.

For these reasons and to promote further U.S.-Japan cooperation in the field of nuclear power development, we strongly recommend that the funding for the IFR Program be continued to the point that a meaningful assessment of this new technology can be made with respect to its economics potential and its role in achieving nonproliferation.

Sincerely,

RYO IKEGAME,
Chairman.

CENTRAL RESEARCH INSTITUTE OF
ELECTRIC POWER INDUSTRY,
Tokyo 100, Japan, May 12, 1994.

Hon. BENNETT JOHNSTON,
Chairman, Senate Appropriation Subcommittee on Energy and Water Development, Washington, DC.

DEAR HON. JOHNSTON: There is an urgent worldwide need to control the release of carbon dioxide so as to avoid the possibility of a global warming disaster. Given the need to take action promptly, and the growing energy demand due to the population and economic growth of the developing nations, use of nuclear energy, which emits no carbon dioxide or other greenhouse gases, assumes critical importance.

The Integral Fast Reactor (IFR) under development in the U.S. is an extremely promising technology for the future nuclear energy. It simplifies the fuel cycle. It solves the waste problem through actinide recycling. Moreover, it contributes positively toward achieving the non-proliferation goal. Hence, Central Research Institute of Electric Power Industry (CRIEPI) of Japan has been participating in the program since 1989 both in funding and in joint research undertakings. Japan has strong interest in the pyroprocessing technology because of its highly proliferation-resistant characteristics. This is one of the most important factors in the long-term nuclear energy utilization planning process, which is currently under consideration in Japan.

Termination of the IFR Program in the U.S. will prevent a major breakthrough in nuclear power. This, in turn will impede the resolution of the environmental problem on a global scale through effective utilization of uranium. It may seem that we have considerable time to prepare for the commercialization of fast reactor in succession to today's commercial reactors. However, if we are to follow a course in which we do our best to solve the environmental problem (CO_2 counter measure), in fact we have no time to spare at all. Moreover, commercialization of an innovative technology generally requires a long time. It, therefore is of extreme importance for the future of mankind that the U.S. continues positive efforts to complete the IFR technology development and demonstration.

In view of the above-mentioned circumstances, and to promote further U.S.-Japan cooperation in the nuclear energy field, I should be grateful if you would kindly take appropriate measures which will allow the continuation of the IFR Program along with the operation of EBR–II and the related facilities at Argonne National Laboratory, so that the IFR fuel cycle demonstration could proceed to completion as planned.

Very truly yours,

SUSUMU YODA,
President.

NUCLEAR SYSTEMS ASSOCIATION,
Tokyo, Japan, June 15, 1994.

The Hon. J. BENNETT JOHNSTON,
Chairman, Subcommittee on Energy and Water Development, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR CHAIRMAN JOHNSTON: This is to remind you of our deep concern about the possible discontinuation of the development of innovative nuclear energy technology, Integral Fast Reactor (IFR) program in particular, expressed in our letter to President Clinton dated June 1, 1993, which was sent to you by carbon copy. We believe that you are a prominent politician having a profound knowledge on energy problems. Hence we are writing this letter to you.

As you know, various studies by experts have predicted that the continued emission of carbon dioxide at present level will cause unprecedented rate and level of global warming of which ultimate potential impacts could be catastrophic. We believe that the increased use of nuclear energy that involves essentially no release of carbon dioxide and other greenhouse effect gases is one of the most practical steps we developed countries should especially pursue, considering steady increase in energy demand in the world and in the developing countries in particular.

We believe that further sophistication of nuclear fuel cycle technology in parallel with commercialization of fast reactor is necessary and effective for wider use of nuclear energy in future. The closure of nuclear fuel cycle through reprocessing of spent fuel and fast reactors extremely enhances the supply potential of nuclear energy and provide us with a technological scheme fundamentally different from the current once-through use of nuclear fuel since most of the nuclear material is to be disposed of as waste in the latter system.

We recognize that the pyroprocess technology the US has successfully studied for more than ten years at Argonne National Laboratory (ANL) is quite promising for the above mentioned scheme. It makes it possible not only to close the fuel cycle but to do so in simpler and far more proliferation resistant way, producing lessor amount of waste. We therefore have a great interest in demonstrating the feasibility of the technology at ANL. This is the reason why Japanese electric utilities entered the cooperative agreement with ANL in 1989 and provided fair amount of resources for the Fuel Cycle Demonstration Test Program. Indeed it was our pleasure that the Integral Fast Reactor (IFR) program was endorsed by the Energy Policy Act '92 approved by an overwhelming majority "Yes" in both Houses.

Japanese Atomic Energy Commission will continue to support the development of fast reactor in the revised version of its long term plan, recognizing that it is necessary and feasible to commercialize the technology within fifty years through continued research and development of enabling and innovative technologies relevant to fast reactor. It is needless to say that the pyroprocessing technology will be included in this category of technology.

We are afraid that the discontinuation of the development of this forward looking technology in the US would suggest the loss of interest in the waste reduction and recycling which nuclear business should take through the implementation of this new thinking. Furthermore, subsequent delay in the commercialization of such proliferation resistant technology for recycled use of nuclear fuel would narrow the technology option for future humankind to cope with the increased energy demand in future. Theoretically speaking, the US can restart the program when the real necessity will come into sight. However, it would be very difficult in practice to do so if the relevant resources and expertise have been depleted. We believe that it is beneficial to the world as well as to the US to finish the demonstration of the feasibility of this innovative pyroprocessing technology, at least. We would do our best asking the Japanese concerned authorities and industries to contribute to this activity if continued as planned.

Very truly yours,

TAKASHI MUKAIBO,
Chairman of Japan Atomic Industrial Forum.

JUNE 8, 1994.

Hon. J. BENNETT JOHNSTON,
Chairman, Subcommittee on Energy and Water Development, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR CHAIRMAN JOHNSTON: I, as one of staffs in Japanese universities, is deeply concerned about the proposed phase-out of advanced nuclear reactor research and development programs on the U.S., in particular the Integral Fast Reactor (IFR) Program including the shutdown of EBR–II from a long-term viewpoint, namely, how we can keep a potential for sustainable developments in the world.

I believe the IFR Program (metallic fuel and pyroprocessing) for which R&D efforts are currently in progress in the U.S. is a very valuable research program for mankind not only as a technological project but as a landmark to keep the potential solving our future issues.

Technologically it has a potential of simplifying nuclear waste disposal, it viewpoint of resource utilization, and it strives to realize a technology which contributes significantly to the nonproliferation goal. We, therefore, recognize the IFR metallic fuel cycle as an option in the future generation of nuclear power, and have a strong interest in the feasibility demonstration of the IFR technology.

Furthermore, we are firmly convinced that to successfully accomplish the program, we need databases concerning pyroprocessing of the spent fuel, and safety verification. From this viewpoint, we believe the continued operation of EBR–II and the related facilities is a decisive factor which determines the feasibility demonstration.

In view of the above-mentioned circumstances, and to further promote U.S.-Japan cooperation in the nuclear power field, we would like to ask you to take appropriate measures to enable continuation of the IFR Program to a successful demonstration in EBR–II. We have a profound respect for the preeminent role that the U.S. played in advancing the nuclear technology, and we believe the IFR technology will benefit mankind for generations to come. Hence we are sure that if the U.S. continues to positively promote the demonstration of the IFR Program, a greater cooperation from Japan will be extended to the Program, not only as a partner of a project but as one of colleagues to solve current problems in our modern society.

Very truly yours,

S. IWATA,
Professor.

NUCLEAR ENGINEERING RESEARCH LABORATORY FACULTY OF ENGINEERING,
Tokyo, Japan, June 5, 1994.

Hon. J. BENNETT JOHNSON,
Chairman, Subcommittee on Energy and Water Development, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR CHAIRMAN JOHNSTON: We, as nuclear engineering specialists in Japanese universities, are deeply concerned about the proposed phase-out of advanced nuclear reactor research and development programs in the U.S., in particular the Integral Fast Reactor (IFR) Program including the shutdown of EBR–II.

We believe that the IFR Program (metallic fuel and pyroprocessing) for which R&D efforts are currently in progress in the U.S. is a very valuable research program for the mankind. This is because it has a potential to simplify nuclear waste disposal, it includes actinide recycling technology to contribute to the nonproliferation goal. We, therefore, recognize the IFR metallic fuel cycle as an option in the future generation of nuclear power, and have a strong interest in the feasibility demonstration of the IFR technology. That is why the Japanese electric utilities, with the support given by various research organizations promoting LMR development have been contributing funds to participate in the IFR fuel cycle demonstration, as part of U.S.-Japan cooperation in the LMR development.

Furthermore, we are firmly convinced that to successfully accomplish the program, we need databases concerning pyroprocessing of the spent fuel, and safety verification. From this viewpoint, we believe the continued operation of EBR–II and the related facilities is a decisive factor which determines the feasibility demonstration.

In view of the above-mentioned circumstances, and to further promote U.S.-Japan cooperation in the nuclear power field, we would like to ask you to take appropriate measures to enable continuation of the IFR Program to a successful demonstration in EBR–II. We have a profound respect for the preeminent role that the U.S. has played in advancing the nuclear technology, and we believe the IFR technology will benefit the mankind for the generations to come. Hence we are sure that if the U.S. continues to positively promote the demonstration of the IFR Program, a greater cooperation from Japan will be extended to the Program.

Very truly yours,

M. JAMAWAKI,
Professor.

NUCLEAR ENGINEERING RESEARCH LABORATORY,
FACULTY OF ENGINEERING,
Tokyo, Japan, June 9, 1994.

Hon. J. BENNETT JOHNSTON,
Chairman, Subcommittee on Energy and Water Development, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR CHAIRMAN JOHNSTON: I am a Professor of The University of Tokyo and currently serving as the head of Nuclear Engineering Research Laboratory, The University of Tokyo operating a fast research reactor and two accelerators.

I am deeply concerned about the proposed phase-out of advanced nuclear reactor research and development programs in the U.S., in particular the Integral Fast Reactor (IFR) Program including the shutdown of EBR–II.

We believe the IFR Program (metallic fuel and pyroprocessing) for which R&D efforts are currently in progress in the U.S. is a very valuable research program for mankind because it has potential of simplifying nuclear fuel reprocessing and improving the economy of electricity generation in the future. We, recognize the IFR metallic fuel cycle as an option in the future generation of nuclear power, and have a strong interest in the feasibility demonstration of the IFR technology. That is why the Japanese electric utilities, with the support given by various research organizations promoting LMR development have been contributing funds to participate in the IFR fuel cycle demonstration, as a part of U.S.-Japan cooperation in the LMR development.

Furthermore, we are firmly convinced that to successfully accomplish the program, we need databases concerning pyroprocessing of the spent fuel, and safety verification. From this viewpoint, we believe the continued operation of EBR–II and the related facilities is a decisive factor which determines the feasibility demonstration.

In view of the above-mentioned circumstances, and to further promote U.S.-Japan cooperation in the nuclear power field, we would like to ask you to take appropriate measures to enable continuation of the IFR Program to a successful demonstration in EBR–II. We have a profound respect for the pre-eminent role that the U.S. played in advancing the nuclear technology.

Very truly yours,

YOSHIAKI OKA,
Professor.

DEPARTMENT OF QUANTUM ENGINEERING AND SYSTEMS SCIENCE,
Tokyo, Japan, June 3, 1994.

Hon. J. BENNETT JOHNSTON,
Chairman, Subcommittee on Energy and Water Development, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR CHAIRMAN JOHNSTON: I am a Japanese scientist in nuclear engineering. I am heartly concerned on the proposition of phase-out of Advanced Nuclear Reactor Research and Development Program in the United States, hearing from both of my colleagues and the news papers.

I am working also as the Japanese contact person of the US-Japan student exchange program for these six years. Many young post-graduates researchers in the nuclear engineering have visited mutually. Many of Japanese visitors have obtained so many important experiences in your dreamful Integral Fast Reactor (IFR) program and through experiments and analysis of EBR–IL. In this period, about sixteen US students have stayed in Japanese universities from Illinois, MIT, Stanford, Missouri, Purdue, Iowa Sate, Michigan, North Carolina State, Santa Barbara, Virginia, Pennsylvania, Maryland and Wisconsin. We have discussed them on the future cooperative plan in the global nuclear engineering.

Therefore, I am sure that the U.S. continues to make successive important efforts for the US and global generations to come. I sincerely expect a greater cooperation in nuclear engineering among your students and us.

Very truly yours.

M. NAKAZAWA,
Professor.

FACULTY OF ENGINEERING,
Sapparo 060, Japan, June 2, 1994.

Hon. J. BENNETT JOHNSTON,
Chairman, Subcommittee on Energy and Water Development, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR CHAIRMAN JOHNSTON: We, Japanese Universities, are deeply concerned about the proposed phase-out of advanced nuclear reactor research and development programs in the U.S., in particular the Integral Fast Reactor (IFR) Program including the shutdown of EBR–II.

We believe the IFR Program (metallic fuel and pyro-processing) for which R&D efforts are currently in progress in the U.S. is very valuable research program for mankind because it has a potential of simplifying nuclear waste disposal, it includes actinide recycling technology which is important from the viewpoint of resource utilization. We, therefore recognize the IFR metallic fuel cycle as an option in the future generation of nuclear power, and have a strong interest in the feasibility demonstration of IFR technology.

We have deep respect for the preeminent role that U.S. played in advancing the nuclear technology, and we believe the IFR technology will benefit mankind for generations to come. Hence we are certain that if U.S. continues to positively promote the demonstration of the IFR Program, a greater cooperation from Japan will be extended to the Program.

Sincerely yours,

MEISAKI KATAYAMA.

Mr. JOHNSTON. Mr. President, I believe, in fact, they will contribute. If so, we actually save money by our 4-year termination. If not, I believe the figure is $26 million over 4 years. Considering that which has already been invested, that is not the issue here.

The issue is whether you terminate what we call EBR–II, which is the experimental breeder reactor which is being used to do this research. Under our proposal we would terminate EBR–II in 4 years, doing the research along the way essentially without cost to the taxpayer. Or, under the KERRY proposal, you terminate EBR–II in 4 years, not doing the research.

There are a lot of antinukes who say, "Do not possibly find out the answer to these questions." I think the preferred scientific reaction is just as the National Academy of Sciences says. They said, "Do not develop and deploy this reactor at this time. But research on fission options for the near total elimination of plutonium should continue at the conceptual level."

That is what we proposed. We are not proposing the development or deployment of a reactor at this time. Once we have settled among these various options, then we can decide which option to do. Should we send it to Canada and burn it in the CANDU reactors? Our weapons grade plutonium going to Canada? Maybe so. If so, we ought to start talking to the Canadians.

Should we use it in the WPPSS reactor, which is in Washington, which is one of the proposals? Maybe so. If so, they better not lose that option which they are going to lose soon.

Should we use it in the Palo Verde reactor in Arizona? Perhaps so. But that is a civilian reactor and that has not been looked into.

One thing that is very clear is that we are not going to go to just any reactor in the United States, even though technically, and I guess theoretically, you could use any reactor to burn plutonium. You would not do that because they are really not designed for it. That is why you want to finish building the WPPSS reactors, which could be designed for it, the Palo Verde reactor which could be redesigned for it, the CANDU reactors in Canada, which could be used for it, or as Dr. Panofsky said, build a new one at Savannah River. That technology is now owned by ABB. But until we decide which of these options we want to use, we ought to pursue this, as the National Academy of Sciences says.

I also ask unanimous consent to have printed in the RECORD at this point a letter signed by the heads of the nuclear engineering departments of the most distinguished universities of the country, saying we ought to pursue this, including the University of Michigan, Pennsylvania State, MIT, University of Arizona, Florida, UC Berkeley, UC Santa Barbara, University of Illinois, Cornell, University of Missouri, Georgia Institute of Technology, North Carolina, Iowa—the list goes on for another couple of pages, of the most distinguished heads of university nuclear programs in the country.

I ask unanimous consent that list be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NUCLEAR ENGINEERING DEPARTMENT HEADS ORGANIZATION,
May 11, 1994.

Hon. J. BENNETT JOHNSTON,
Chairman, Senate Appropriations Subcommittee on Energy and Water Development, Washington, DC.

DEAR SENATOR JOHNSTON: We are academic department and program heads in the field of nuclear engineering. The faculty in our institutions and the graduate students who have worked on research in our departments have many years of experience studying today's generation of nuclear power plants, and many of us are involved in analyses of next generation light water reactors and advanced nuclear reactors that include the liquid metal-cooled reactors and the gas-cooled reactors. In this letter we wish to express our thoughts and concerns with respect to the FY 1995 budget as it relates to nuclear power research.

We were pleased to see that the importance of the advanced light water reactor program was recognized and funded. Without such funding we would limit the opportunity to retain the nuclear power option, an option we believe will become increasingly important early in the next century. Lack of funding would also inhibit our ability to compete in the international arena in countries where nuclear power is expanding in use.

However, we believe it is a serious error in policy to eliminate the longer term advanced reactor programs, specifically the liquid metal reactor (LMR) program and the gas cooled reactor (GCR) program. We do not believe that adequate consideration has been given to the benefits and importance of these programs. These include:

Both reactor concepts offer unique safety features that are not available in the present generation of light water reactors.

The LMR is capable of destroying the longest lived elements in radioactive waste, thus offering the potential to reduce the burden of disposal of high level waste.

Both concepts represent potential methods for utilizing bomb-grade plutonium as a safe fuel for electricity generation.

The LMR has the capability, through actinide recycling, to extend the nuclear fuel supply for centuries beyond that available with the conventional light water reactor fuel cycle utilizing uranium 235 as the fuel.

The LMR program is pioneering the Intergral Fast Reactor (IFR) concept which involves the reprocessing and recycling of fuel and long-lived radioactive waste in a closed-cycle, proliferation-resistant system. Crucial tests of this important technology will begin this year if funding continues.

The IFR concept supports the Administration's non-proliferation goals by providing a non-proliferation alternative technology to the current commercial PUREX reprocessing and by eliminating plutonium stockpiling.

The EBR–II liquid metal reactor in Idaho is the only test reactor of its kind in the United States. It is being used to develop and test metallic fuel which increases the safety and reduces the cost of such reactors. It is playing an important international role for the Japanese, who are providing financial support for the program, and is being used to test new diagnostic and control technologies that are important to the light water program.

We note that the Energy Policy Act of 1992 authorizes the continuation of research and development of advanced reactor technologies, including GCR and LMR designs, in order to encourage the commercialization and deployment of advanced reactor technologies by the year 2010. In addition, the Act includes as a goal the evaluation of actinide burner technologies to reduce the volume of high level nuclear waste. It is clear that the elimination of the LMR, GCR, and testing programs is counter to the provisions of the Energy Policy Act of 1992.

The sudden cutoff of these advanced reactor programs represents a serious loss of technology development that has occurred over several decades. We are pleased that your long term development policy includes research and development in controlled fusion. But while fusion is a high risk technology requiring the solution to many scientific, technology and economic problems, the advanced reactor programs are much nearer to demonstrated success.

Eliminating these programs will jeopardize the goal of maintaining nuclear power as a viable energy option for this nation into the next century, a consequence which could be especially damaging to our country if acceptable (environmentally and economically) alternative sources of electricity cannot be developed to replace nuclear power for electricity generation. In addition, this decision will deter many of our brightest students in science and engineering from entering this field, which will be perceived as at best a stagnated field. Such students are needed for the safe operation of this generation of plants, and to maintain and develop the technical expertise for future uses of nuclear energy. This will further exacerbate a manpower shortage for the nuclear industry that is projected for this decade and well into the next century.[1] When and if this country decides that nuclear power is needed, there will no longer be the expertise or technology to provide it, except for foreign corporations, which stand to benefit substantially as the U.S. abandons its once-leading role in nuclear reactor technology.[2] The irony here is that U.S. light water technology, licensed to foreign countries, may be successfully marketed by these very countries as our nation abdicates its leadership role in developing and utilizing nuclear energy. Indeed, we may become purchasers of our own—new and imrpoved—technology (once again!).

Moreover, if the U.S. wishes to play a major role in deterring proliferation and enforcing IAEA safeguards with respect to diversion of nuclear fuel for weapons use, this nation must maintain a strong role in the development and use of nuclear power, in particular to continue to make advances in the development and use of nuclear power, in particular to continue to make advances in the development of advanced reactors (improved safety, economic fuel cycles, proliferation-resistance, waste disposal, etc.). Otherwise we run the clear risk of becoming a third-world country with respect to nuclear power and have minimal impact on world policy in this area.

Finally, not only do we feel strongly that the decision to stop advanced reactor research and development is not in the best interests of our country, we are concerned with the process by which this decision was made. This decision, a major energy policy decision which affects current and future generations of Americans, has been made without the benefit of informed public debate. The decision has been made behind closed doors, without consideration of opposing viewpoints, and is being presented to the nation as a fait accompli, buried in the complex budget package for FY 1995. The manner in which this decision was made is inappropriate for an issue of such overriding national importance as the long-term energy and environmental policy for our nation.

There is ample evidence to suggest that a broad segment of the engineering and scientific community is not in agreement with this decision. For example, two recent National Academy of Science (NAS) reports have examined the issue of nuclear power in different contexts. The first NAS report[3] was based on the premise that nuclear power would be maintained as an important energy option as part of a balanced energy policy. Given this premise, the report recommends actions necessary to retain nuclear power as a viable energy option in the next century, including strong support for investments in advanced reactor research and development.

The second NAS report[4] contains several recommendations which address the need to maintain the nuclear option as a substitute for fossil fuels to mitigate greenhouse warming. However, it is recognized that current concerns (safety, economics, waste disposal) need to be addressed and alternative reactor concepts need to be examined. In particular, investments in advanced reactor research and development are strongly recommended.

These recommendations from prestigious national scientific panels substantiate our remarks regarding the importance of nuclear power for meeting the future energy needs of this country, in an environmentally acceptable way. Moreover, they give credence to our conclusion that the decision process did not represent a balanced consideration of the scientific merits of research and development for advanced reactor concepts.

We, therefore, strongly recommend that the advanced nuclear reactor research and development be continued in accordance with the provisions of the Energy Policy Act of 1992. This would be a prudent investment in the future energy security, environmental health, and innovative technology competitiveness of the nation. We urge you to restore the funding for the advanced reactor R&D as you consider the FY 1995 Energy and Water Appropriations Bill.

Respectfully yours,

William R. Martin, Department of Nuclear Engineering, University of Michigan; Edward H. Klevans, Nuclear Engineering Department, Pennsylvania State University; Edward N. Lambremont, Nuclear Science Center, Louisiana State University; Gary A. Pertmer, Materials and Nuclear Engineering, University of Maryland; John W. Poston, Department of Nuclear Engineering, Texas A&M University; Victor H. Ransom, School of Nuclear Engineering, Purdue University; Gilbert A. Emmert, Nuclear Engineering and Eng. Physics, University of Wisconsin, Madison; Bernard W. Wehring, Nuclear Engineering Program, University of Texas at Austin; N. Dean Eckhoff, Department of Nuclear Engineering, Kansas State University; Michael Z. Podowski, Nuclear Engineering and Eng. Physics, Rensselaer Polytechnic Institute; Gary M. Sandquist, Nuclear Engineering Program, University of Utah; Varada Charyulu, Nuclear Science and Engineering, Idaho State University; Kirk A. Matthews, Nuclear Engineering Curriculum, Air Force Institute of Technology; Ronald D. Flack, Mech., Aerospace, and Nuclear Engineering, University of Virginia. Mujid S. Kazimi, Department of Nuclear Engineering, Massachusetts Institute of Technology; James S. Tulenko, Dept. of Nuclear Engineering Sciences, University of Florida; Glenn E. Lucas, Chemical and Nuclear Engineering, University of California, Santa Barbara; Barclay G. Jones, Department of Nuclear Engineering, University of Illinois; William H. Miller, Nuclear Engineering Program, University of Missouri, Columbia; Donald J. Dudziak, Department of Nuclear Engineering, North Carolina State University; Morris Farr, Nuclear and Energy Engineering, University of Arizona; T. Kenneth

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Footnotes at end of article.

Fowler, Department of Nuclear Engineering, University of California, Berkeley; Don W. Miller, Nuclear Engineering Program, Ohio State University; David D. Clark, Nuclear Science and Engineering Program, Cornell University; Ward O. Winer, Nuclear Engineering and Health Physics, Georgia Institute of Technology; Daniel B. Bullen, Nuclear Engineering Program, Iowa State University; Thomas W. Kerlin; Nuclear Engineering Department, University of Tennessee; David Woodall, Program in Nuclear Engineering, University of Idaho; Gilbert J. Brown, Chemical and Nuclear Engineering, University of Massachusetts, Lowell; Roy Eckart, Mech., Industrial, and Nuclear Eng., University of Cincinnati; Alan H. Robinson, Department of Nuclear Engineering, Oregon State University; Arvind Kumar, Department of Nuclear Engineering, University of Missouri, Rolla.

FOOTNOTES

[1] U.S. Nuclear Engineering Education: Status and Prospects, National Research Council, National Academy Press (1990).

[2] C.W. Forsberg, et al., The Changing Structure of the International Commercial Nuclear Power Reactor Industry, ORNL/TM-12284, Oak Ridge National Laboratory (1992).

[3] Nuclear Power: Technical and Institutional Options for the Future, National Research Council, National Academy Press (1992).

[4] Policy Implications of Greenhouse Warming: Mitigation, Adaptation, and the Science Base, National Research Council, National Academy Press (1992).

Mr. CRAIG. Will the chairman yield?

Mr. JOHNSTON. Yes, I will yield for a brief time.

Mr. CRAIG. Mr. President, the Senator from Massachusetts a moment ago basically said the waste stream flowing from a light water reactor——

Mr. JOHNSTON. If the Senator will withhold that and let me make this point, I will then yield to him.

Mr. CRAIG. Go right ahead.

Mr. JOHNSTON. The most telling recommendation of all comes from another section of the Department of Energy. It is in a report dated June 1994—I remind my colleagues that this is June 1994. "Department of Energy, Programmatic Spent Nuclear Fuel Management and Idaho National Engineering Laboratories Environmental Restoration and Waste Management Program, Draft Environment Impact Statement." This is over at Tom Grumbly's shop, who is in the Department of Energy. They list the alternatives for disposition of the spent fuel at Idaho National Lab, which is where this is located.

In each of their alternatives, the 10-year plan, the minimum treatment storage and disposal plan, and maximum treatment storage and disposal—each one of those alternatives includes demonstrating of the actinide recycle. That is what we are talking about, the demonstration of the actinide recycle.

So while one part of the Department of Energy has said, "shut her down, boys, do not possibly find out the information," the other part that is charged with the cleanup, that has the dirty, hands-on job of cleaning up Idaho National Lab, says, "demonstrate the program."

I guess the internal signals in behalf of the Department of Energy—they have not gotten the political signals yet that tell them what to do—but I am telling you, Mr. President, those who are charged with the cleanup say we have to demonstrate this actinide recycle under any of the alternatives.

All we want to do is to demonstrate at essentially no cost to the taxpayer.

Mr. President, let me yield 2 minutes to my distinguished friend from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, the environmental impact statement he just referred to is the result of a lawsuit in Idaho that basically said, if you are going to send us your Navy nuclear waste, give us a solution to your problem or do not send us your waste. And we are offering that solution today.

But there was a statement by the Senator from Massachusetts that cannot be allowed to stand on the RECORD, and that is that the waste stream coming from the light water reactor or an IFR configuration were similar, very similar, I believe was his exact statements, hardly any difference.

This is radioactivity life——

Mr. KERRY. Will the Senator yield?

Mr. CRAIG. Yes.

Mr. KERRY. Similar to what?

Mr. CRAIG. The Senator was talking about the radioactivity and the plutonium, the actinides involved in these waste streams, as I read the Senator.

Mr. KERRY. No.

Mr. CRAIG. Mr. President, what did he say?

Mr. KERRY. I said fuel——

Mr. CRAIG. In one-half minute or less.

Mr. KERRY. Fuel in a once-fuel cycle within a light water reactor comes out in spent fuel form which has both fissionable and the actinide. The actinide is what contains the plutonium. You have to separate the plutonium if you are going to use it in weapons-grade fuel. That is what I said. You do not have, as the Senator seems to imply, this pot of plutonium that is a threat.

Mr. CRAIG. I do not mean to give that impression. What is implied in the Senator's statement is that they are very similar. They are not at all similar. We are worried about life, radioactivity exposure to our public, the availability to handle this waste stream. IFR waste streams lose their radioactivity to background level in about 800 years; light water reactor in nearly 10,000. And, of course, we are also talking about volume. The Senator mentioned volumes. Substantially less volume comes from an IFR versus a light water. His statements cannot be allowed to stand on the RECORD. That is the science we are dealing with, and we know that to be accurate science.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I wonder if the Senator would like to have a further agreement to maybe sum up.

Mr. KERRY. I would be delighted to do that. There is another Senator who is tied up and is not able to get here. I will yield back time. I will keep that promise.

How much time remains, Mr. President?

The PRESIDING OFFICER. Thirty-three minutes left. The Senator from Louisiana has 12 minutes.

Mr. KERRY. Will the Senator from Louisiana agree to sum up and then I will sum up? Whatever is agreeable to the Senator.

Mr. JOHNSTON. Whatever time the Senator agrees to, I will agree to. Two minutes? Five minutes?

Mr. KERRY. Why do we not take 5 minutes each, and I will yield back the difference of time on my 5 minutes.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the time be shortened to 10 minutes equally divided between myself and the Senator from Massachusetts.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I may not take the full 5 minutes because the issue has been stated and is simple. This is not about money; it is not about the termination of the EBR-II or the reactor program. The path of the Senator from Massachusetts and our path terminates the EBR-II program. It is about doing the research along the way which completes a 4-year program of research which is substantially without cost to the taxpayer.

If the Japanese contribute, as the correspondence I have put in the RECORD indicates, we save money; if not, we spend about $26 million out of—I guess $800 million has already been spent on this program. So $26 million, if it would come to that over a period of 4 years, is virtually without cost and the Secretary of Energy has so stated.

Mr. President, it is about options. Until the United States decides on a short-term option, which I think will undoubtedly mean some kind of treatment of the plutonium so as to make it proliferation proof, that is the short-term option, and I think that will probably be pursued. The National Academy of Sciences says we ought to have a long-term option as well, and that is ridding ourselves of the plutonium, which the IFR gives you the capacity to do. It is the only option that rids you of the plutonium other than to shoot it into space.

Other options, such as dilution in the ocean or sinking it in the ocean floor, I believe, are not options.

I think the scientists in the country, as indicated by that letter I just put in, support this option. The National Academy of Sciences, as I pointed out, also support it. I have read previously, but let me reread, the one sentence from the National Academy of Sciences' 1992 report where they say:

> The committee believes that the LMR should have the highest priority for long-term nuclear technology development.

And then again they say: "Special attention needs to be paid to the LMR". In the 1994 report, they say that you should pursue not the development, not the deployment, but the conceptual design, which is what we propose, of the IFR.

So we can do it virtually without cost. It ought to be done. There is no reason not to do it. It is an option the United States needs.

I reserve the remainder of my time.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I yield myself 4 minutes.

Let me correct something quickly for the Senator from Idaho, if I can. Lawrence Livermore Labs has estimated that reprocessing high-level wastes could generate up to a 30-percent greater volume of low-level waste than direct disposal of comparable light water reactor waste.

So Lawrence Livermore and other independent labs have determined, indeed, this process will create more waste. But that is arguing at the margins of this.

We keep hearing this notion that it is really not going to cost more, but, in point of fact, we all understand from experience around here that this is not just about sort of a phaseout or a termination. This is about the years and years and years this program has been going on and those who get it going now have one intention, which is to get it up to a demonstrated capacity and then to implement it.

The fact is that you have a choice today. You can pay operating costs for 4 more years and termination costs, too, or you can save the operating costs and pay only the termination cost. That is a difference of some money and that has been established to be several millions of dollars.

But more important is the question of whether or not we are going to go against the expressed desire of the President of the United States not to have this program, to go against his statement that he believes this jeopardizes our status vis-a-vis other countries in arguing proliferation and, most important, that contrary to the expressed statement of this year—not last year which is what the proponents keep going to—but this year the Secretary of Energy has said:

> No further testing is required to prove the technical feasibility. The basic physics and chemistry of this technology are established.

Mr. President, the National Taxpayers Union lists this as one of the 10 great boondoggle programs of the country. They say point blank: Myth, the ALMR is a budget-neutral program.

The National Taxpayers Union points out, as Secretary O'Leary has pointed out, that it is really going to cost you $4.2 billion, including $1 billion of industry cost-sharing to complete the development. That is what we keep hearing about here, the development of the integral fast reactor.

In addition, we have heard it asserted that this really is not a budget issue, it is a termination issue. Again, the National Taxpayers Union, Secretary O'Leary and others disagree with that. And in her June 27 letter, she says point blank:

> The principal concerns that led me to withdraw my support for this program are the high costs of further development. Continuation of the program will be extremely costly and termination of the program would require approximately $.3 billion instead of the $3.1 billion.

So you have a $2.9 billion difference.

Finally, Mr. President, I really believe that—and I just quote the National Taxpayers Union—this is the old issue we face around here.

To continue to throw money at a project that has been rejected by experts from Lawrence Livermore National Laboratory, Oak Ridge National Laboratory, Rand Corp., Office of Technology Assessment, General Accounting Office, and the National Academy of Sciences is perpetuating a myth that taxpayers will no longer tolerate and that the Senate should not either.

The PRESIDING OFFICER. The Senator has spoken 4 minutes.

Mr. FEINGOLD. Mr. President, I rise in support of the amendment to terminate funding for the advanced liquid metal reactor [ALMR].

Mr. President, last year I stood on the Senate floor to oppose continued funding of the ALMR. Since that time the arguments against continued funding of this project have only grown stronger. This project raises serious safety and environmental concerns, economic questions, and the threat of nuclear materials proliferation.

I was very encouraged when President Clinton's budget request proposed terminating the ALMR based on concerns about proliferation risks, and I certainly agree with Department of Energy's, Hazel O'Leary's assessment that:

> We cannot credibly urge that others not use technologies for separating and using plutonium if we are pursuing those same technologies ourselves. Such actions could provide an excuse for rogue nations to oppose international efforts to end their separation efforts.

Mr. President, at a time when events in Korea are highlighting worldwide concerns about availability of weapons-grade plutonium, the United States should be striving to lead by example, not pursing technologies that leave our own policies open to question.

Last year on the Senate floor, many of my colleagues raised concerns that the ALMR could easily be converted into a breeder. My friend and colleague from Massachusetts has done an excellent job explaining that new evidence only reinforces those fears.

The Office of Technology Assessment's report which states that operating the ALMR to breed plutonium "would probably not be difficult," and which further states, "it would, however, be difficult to design an ALMR reactor core that could not be converted to breeder operation * * *" should alone give us pause.

The dangers this technology would present in the wrong hands are alarming. That it should be developed by the U.S. Government at the same time we wish to halt the pursuit of similar technologies in other countries is incongruous and sets precisely the wrong example.

Nor do I believe switching from a uranium-based nuclear power system to one based on plutonium makes economic sense when we have a readily available and inexpensive supply of uranium that does not raise the same proliferation concerns.

These concerns, in my mind, are alone sufficient to warrant termination of the ALMR project. However, these reasons are reinforced by budget concerns.

Mr. President, at a time when every item in the Federal budget is being subjected to close scrutiny, this project does not even warrant a second glance.

I understand that the committee has made the argument that completion costs for the ALMR are actually somewhat less than early termination costs.

Mr. President, even if one accepts the assumptions of the committee in making that determination through fiscal year 1988, and I believe there is room for discussion there, we as a body must consider the life costs of the project. The Department of Energy's cost estimates for construction of the power reactor and facility to recycle its fuel exceeds $3 billion. Early termination costs would be about a tenth of that amount.

Also with early termination, the ALMR facility will not have been contaminated with radioactive material eliminating cleanup and decommissioning concerns proponents may not have considered.

Proponents of the ALMR argue that it can be used to recycle other nuclear waste. Given the long-term problems associated with nuclear waste disposal this is certainly an enticing argument. However, the recent GAO report, "nuclear science: developing technology to reduce radioactive waste may take decades and be costly" found that the Department of Energy's own waste managers believe other technologies are more feasible.

Second, GAO also reported that it would take 20 ALMR systems 100 years or more to handle 90 percent of the light water reactor waste inventory expected in the year 2010, raising even further budget implications of construction, operation, and decommissioning of 20 ALMR systems for radioactive waste disposal.

The National Academy of Sciences and independent scientists at Lawrence Livermore National Laboratory have questioned the economic viability of using ALMR technology for waste disposal estimating that it could quadruple the cost of high-level waste disposal. Further, the technology would not be commercially viable for 30 years.

And another more recent National Academy of Sciences report which specifically explores the issues of disposition of excess weapons plutonium states, "advanced reactors should not be specifically developed or built for transforming weapons plutonium into spent fuel, because that aim can be achieved more rapidly, less expensively, and more surely by using existing or evolutionary reactor types."

Mr. President, last year the Senate voted unsuccessfully to terminate funding for the ALMR. Given all of the new information which only reinforces the arguments against continuing this technology, I hope some of my colleagues will reconsider last year's vote.

We have a soaring Federal debt that has now well exceeded $4 trillion. In the past year and a half we have put up a good-sized down payment on that following the President's deficit reduction plan. Canceling funding for ALMR, an unnecessary and potentially dangerous project will be another small monthly payment on that enormous debt.

Mr. President, as elected officials we are often called upon to make tough funding choices. To me, this vote is not a tough choice at all, and I hope my colleagues will join me in voting to terminate the ALMR project.

Mr. JOHNSTON. Mr. President, I am prepared to yield back the remainder of my time.

Mr. KERRY. I yield the remainder of my time.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time. I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment (No. 2127) of the Senator from Massachusetts. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Michigan [Mr. RIEGLE] is necessarily absent.

I also announce that the Senator from Nevada [Mr. BRYAN] is absent because of attending a funeral.

The PRESIDING OFFICER (Mr. DORGAN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 52, nays 46, as follows:

[Rollcall Vote No. 175 Leg.]

YEAS—52

Bennett
Bond
Boren
Breaux
Brown
Burns
Byrd
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
Danforth
Daschle
Dodd
Dole
Domenici
Durenberger
Faircloth
Ford
Gorton
Gramm
Grassley
Hatch
Heflin
Helms
Hollings
Hutchison
Inouye
Johnston
Kempthorne
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Murkowski
Nickles
Nunn
Packwood
Pressler
Sasser
Shelby
Simon
Simpson
Smith
Stevens
Thurmond
Wallop
Warner

NAYS—46

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Bumpers
Campbell
Cohen
Conrad
DeConcini
Dorgan
Exon
Feingold
Feinstein
Glenn
Graham
Gregg
Harkin
Hatfield
Jeffords
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mathews
McCain
Metzenbaum
Mitchell
Moynihan
Murray
Pell
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Specter
Wellstone
Wofford

NOT VOTING—2

Bryan
Riegle

So the motion to table the amendment (No. 2127) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

(Later, the following occurred:)

The PRESIDING OFFICER. The Senator from Florida.

CHANGE OF VOTE

Mr. GRAHAM. Mr. President, on roll call 175 I voted "aye." It was my intention to vote "nay."

Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, until the Chamber clears, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT ON THE FISCAL YEAR 1995 ENERGY AND WATER APPROPRIATIONS BILL

Mr. SASSER. Mr. President, The Senate Budget Committee has examined H.R. 4506, the Energy and Water appropriations bill and has found that the bill is under its 602(B) budget authority allocation by $107,000 and under its 602(B) outlay allocation by $59 million.

I compliment the distinguished manager of the bill Senator JOHNSTON, and the distinguished ranking member of the Energy and Water Subcommittee, Senator HATFIELD, on all their hard work.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the Energy and Water appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 4506—FISCAL YEAR 1995 ENERGY AND WATER APPROPRIATIONS—SENATE-REPORTED BILL

[Dollars in millions]

Bill summary	Budget authority	Outlays
Discretionary totals:		
New spending in bill	$20,513	$12,083
Outlays from prior year appropriations		8,916
Permanent/advance appropriations	0	0
Supplementals	0	−115
Subtotal, discretionary spending	20,513	20,884
Mandatory totals	0	0
Bill total	20,513	20,884
Senate 602(b) allocation	20,513	20,943
Difference	0	−59
Discretionary totals above (+) or below) (−):		
President's request	0	−56
House-passed bill	157	31
Senate-reported bill		
Senate-passed bill		
Defense	10,348	10,472
International affairs	0	0
Domestic discretionary	10,165	10,412

BILL HISTORY—H.R. 4506—FISCAL YEAR 1995 ENERGY AND WATER APPROPRIATIONS

[In thousands of dollars]

Bill summary	President's request		House-passed		Senate-reported		Senate-passed		Conference	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Discretionary totals:										
New spending in bill	20,512,750	12,139,076	20,355,622	12,052,033	20,512,893	12,082,930				
Permanents/advances	0	0	0	0	0	0				
Outlays from prior years		8,916,272		8,916,272		8,916,272				
Supplemental	0	−115,305	0	−115,305	0	−115,305				
Subtotal, discretionary	20,512,750	20,940,043	20,355,622	20,853,000	20,512,893	20,883,897				
Mandatory totals:										
Mandatory spending in bill	0	0	0	0	0	0				
Budget resolution adjustment	0	0	0	0	0	0	0	0	0	0
Subtotal, mandatory	0	0	0	0	0	0				
Bill totals	20,512,750	20,940,043	20,355,622	20,853,000	20,512,893	20,883,897	0	0	0	0
602(b) allocation	20,513,000	20,943,000	20,513,000	20,943,000	20,513,000	20,943,000				
Difference	−250	−2,957	−157,378	−90,000	−107	−59,103	0	0	0	0
Defense	10,541,065	10,584,521	10,319,147	10,442,422	10,348,232	10,471,685	0	0	0	0
International Affairs	0	0	0	0	0	0	0	0	0	0
Domestic Discretionary	9,971,685	10,355,522	10,036,475	10,410,578	10,164,661	10,412,212	0	0	0	0

Mr. JOHNSTON. Mr. President, I wonder if, while we are waiting for the distinguished Senator from Arkansas to begin his 8-minute statement, we might find out from Senators who has amendments, if there is anyone new, or anybody who indicated he has an amendment and is not going to bring up an amendment. I am told Senator WELLSTONE has two relevant amendments. Senator LAUTENBERG has two, which I believe have been cleared, or one that has been cleared. I understand that Senator HARKIN has two amendments. I understand that Senator STEVENS may have an amendment. Other than that, I know of no other amendments. We have a small package of agreed-to amendments.

I ask Senators, if they have amendments, to please let us know about it. Otherwise, we will proceed as soon as these others are done to final passage.

I yield the floor.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas [Mr. PRYOR].

FINAL REPORT ON THE DEATH OF VINCENT FOSTER, JR.

Mr. PRYOR. Mr. President, I thank the Chair. This morning, Robert B. Fiske, Jr., the independent counsel for the Whitewater matter has issued a final report as it relates to the death of White House Deputy Counsel, Vince Foster, Jr.

As we all know, there has been much speculation as to the cause of Mr. Foster's unfortunate death, and Mr. Fiske's report this morning, I think, should end, now and forevermore, all speculation, rumor, and innuendo as to the actual cause of this fine man's death.

Mr. President, a statement was issued this morning indicating that the Washington, DC office of the independent counsel has completed two separate investigations. I will quote a few paragraphs from this particular investigation as handed down by Mr. Fiske this morning.

> 1. An investigation to determine whether the cause of the death of Vincent Foster, Jr. was a suicide or a homicide, and if it was a suicide, whether any matter related to the Clintons' involvement in the Whitewater Development Company (Whitewater), Madison Guaranty Savings and Loan (Madison Guaranty), or Capital Management Service (CMS), played any role in his death.

Mr. President, I will skip the next two paragraphs and quote again.

> We announce today the results of the 2 completed investigations. We are satisfied that all of the issues involved in these investigations have been fully and thoroughly investigated.
>
> In total, attorneys from this office and agents of the Federal Bureau of Investigation questioned 188 persons and reviewed and analyzed thousands of documents. Other investigative steps were also undertaken.
>
> I am extremely grateful for the commitment and effort of the lawyers on my staff in Washington; Roderick C. Lankler, Mark J. Stein, and Carl J. Stich, Jr., and the FBI agents who have worked with us.

Mr. President, let me conclude with this paragraph, once again quoting from the official investigation.

> At this time we are issuing a complete report on the death of Vincent Foster.

Mr. President, this is that complete report. It is voluminous. It is filled with the statements of the individuals interviewed in the Vincent Foster case. I will not put this entire matter into the RECORD, Mr. President, but I will momentarily ask unanimous consent to place a summary in the RECORD at the ending of my statement. Quoting again:

> This report concludes that on July 20, 1993, Mr. Foster committed suicide in Fort Marcy Park, Fairfax County, Virginia. The report lists a number of factors that may have contributed to his suicide. It finds no evidence that matters relating to Whitewater, Madison Guaranty or CMS played any role in his death.
>
> The investigation into Mr. Foster's death was not a grand jury investigation. It consisted of interviews by attorneys and FBI agents, working with this office, and of extensive forensic and pathological laboratory analysis.
>
> Accordingly, there are no grand jury secrecy restrictions on the public issuance of a full report and we are making public such a report at this time. We will submit a copy of this report to the division of the Court of Appeals for the District of Columbia referred to in title 28, United States Code, section 49, as part of the report required by title 28, Code of Federal Regulations, section 600–2(b)1.

Mr. President, I would like to say on a personal matter that I truly believe that Mr. Fiske's report today concludes that the evidence overwhelmingly supports the conclusion that Mr. Foster committed suicide at Fort Marcy Park.

Mr. Fiske concludes in his report and I do quote, "There is no evidence to the contrary."

The conclusion, Mr. President, was endorsed by all participants in this investigation in this blue book which is the report of independent counsel, in re Vincent W. Foster, Jr., dated June 30, 1994.

Mr. President, the special counsel found no evidence that issues involving Whitewater, Madison, Capital Management Services, or other personal legal matters of the President or Mrs. Clinton were a factor in Mr. Foster's suicide.

Mr. Fiske also concluded that while in the weeks prior to his death certain matters were troubling him, "We have learned of no instances"—and I am quoting, Mr. President—"in which Whitewater, Madison Guaranty, CMS, or other possible legal matters of the Clintons were mentioned."

In conclusion, Mr. President, let me state that I think that the Vincent Foster matter should serve as a constant reminder of the excesses of the rumor mill and innuendo and those who wish to spread half truths and untruths. It is not just the duty and the obligation of public officials to the truth, it is the obligation, Mr. President, of every citizen to respect and to help retain the character and not to taint the character of those individuals by spreading falsehoods and perpetrate innuendos and rumors.

We have reached a point in our society where there is almost no restraint in this regard, to pass on these falsehoods and to attempt in every way that we can to perpetuate these falsehoods until they become a matter of fact.

Mr. President, all I can say is thank God, thank God that there was an official investigation to clear up this matter of the late Vincent Foster, Jr. I wonder what it would be like, Mr. President, had we kept on believing what some of the people on radio and television and in the news have stated. One claimed, and I quote, "That Vincent Foster was murdered in an apartment owned by Hillary Clinton." That was noted in Newsweek, March 21, 1994, quoting an individual on the radio. There was a newsletter that said that Mr. Foster died in a "safe house in Virginia rather than in Fort Marcy Park." There was an evangelist on television who devoted a segment of his show to the Foster death. He asked, "was there a murder of a White House counsel," to which he responded, and I quote, "It looks more and more like that." This remark was quoted in the New York Times as recently as June 26, 1994.

Once again, Mr. President, this case should serve as an example of what we should and should not do.

Finally, let us pray that the family of Vincent Foster can now grieve in peace, and let us hope that Vincent Foster will now be left to rest in peace.

I thank the Chair.

I yield back the remainder of my time.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

STATEMENT ON WASHINGTON, DC, INVESTIGATIONS, JUNE 30, 1994

The Washington, DC Office of the Independent Counsel has completed two separate investigations:

(1) An investigation to determine whether the cause of the death of Vincent W. Foster, Jr. was a suicide or a homicide, and if it was a suicide, whether any matter related to the Clintons' involvement in the Whitewater Development Company ("Whitewater"), Madison Guaranty Savings and Loan ("Madison Guaranty") or Capital Management Services ("CMS") played any role in his death; and

(2) An investigation to determine whether a criminal prosecution should be brought against anyone for obstruction of justice or a violation of any other federal statute for conduct arising out of a series of meetings and other contacts between White House and Treasury Department officials from September 1993 through March 1994.

A third investigation, to determine whether a criminal prosecution should be brought against anyone for obstruction of justice or a violation of any other federal statute for conduct involving the handling of Mr. Foster's documents in the White House immediately following his death, is in its final stages and should be completed shortly.

We announce today the results of the 2 completed investigations. We are satisfied that all of the issues involved in these investigations have been fully and thorougly investigated. In total, attorneys from this Office and agents of the Federal Bureau of Investigation ("FBI") questioned 188 persons and reviewed and analyzed thousands of documents. Other investigative steps were also undertaken.

I am extremely grateful for the commitment and effort of the lawyers on my staff in Washington; Roderick C. Lankler, Mark J. Stein and Carl J. Stich, Jr., and the FBI agents who have worked with us, which has enabled us to conduct and complete these two investigations in a period of less than four months.

THE FOSTER DEATH INVESTIGATION

At this time, we are issuing a complete report on the death of Vincent Foster. This report concludes that on July 20, 1993, Mr. Foster committed suicide in Fort Marcy Park, Fairfax County, Virginia. The report lists a number of factors that may have contributed to his suicide, and finds no evidence that matters relating to Whitewater, Madison Guaranty or CMS played any role in his death. The investigation into Mr. Foster's death was not a grand jury investigation. It consisted of interviews by attorneys and FBI agents working with this Office, and of extensive forensic and pathological laboratory analyses. Accordingly, there are no grand jury secrecy restrictions on the public issuance of a full report, and we are making public such a report at this time.[1] We will submit a copy of this report to the division of the Court of Appeals for the District of Columbia referred to in Title 28, United States Code, Section 49, as part of the report required by Title 28, Code of Federal Regulations, Section 600.2(b)(1).

WHITE HOUSE/TREASURY CONTACTS INVESTIGATION

On February 24, 1994 Deputy Treasury Secretary Roger Altman disclosed in testimony before the Senate Banking Committee that he and Treasury General Counsel Jean Hanson had met with members of the White House staff on the subject of the Resolution Trust Corporation's ("RTC's") investigation of Madison Guaranty Savings & Loan ("Madison Guaranty"). In the days and weeks that followed that testimony, disclosure were made about additional meetings and contacts that occurred from September 1993 through February 1994 between Treasury representatives and White House staff on the subject of Madison Guaranty. Following these disclosures, Members of Congress, the press and other individuals raised questions about what occurred at these meetings and whether there was any attempt by members of the Administration to improperly influence the RTC investigation.

As a result of these disclosures and the issues that arose from them, this Office conducted a grand jury investigation to determine whether any Government official did anything during or following these contacts that amounted to obstruction of justice under the federal criminal laws.

The purpose of this investigation was to determine whether the evidence established that any of those contacts, viewed individually or collectively, amounted to a violation of law by anyone involved. A total of more than twenty different contacts, either face-to-face meetings or telephone conversations, were investigated. The investigation focused on whether in the course of any of these contacts, any individual obstructed justice, attempted to obstruct justice, or conspired with others to obstruct justice, as defined in Title 18, United States Code, Section 1505. That section provides, in pertinent part:

> "Whoever corruptly * * * influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States * * * [s]hall be fined not more than $5,000 or imprisoned not more than five years, or both."

After a review of all the evidence, we have concluded that the evidence is insufficient to establish that anyone within the White House or the Department of the Treasury acted with the intent to corruptly influence an RTC investigation. Therefore, the evidence of the events surrounding the contacts between the White House and the Treasury Department does not justify the prosecution of anyone for a violation of Section 1505. We have also concluded that the evidence does not justify a criminal prosecution for violation of any other federal statute.

Because this investigation was conducted almost entirely through the use of a federal grand jury sitting in the District of Columbia, we are precluded by Rule 6(e) of the Federal Rules of Criminal Procedure from publicly disclosing anything more than the results of the investigation. We will submit a full report of this investigation to the Division of the Court of Appeals for the District of Columbia referred to in Title 28, United States Code, Section 49, pursuant to Title 28, Code of Federal Regulations, Section 600.2(b)(1).

In reaching this conclusion, this Office is not determining anything other than that the evidence does not justify a criminal prosecution. We express no opinion on the propriety of these meetings or whether anything that occurred at these meetings constitutes a breach of ethical rules or standards. Prior to the issuance of our grand jury subpoenas, Secretary of the Treasury Lloyd M. Bentsen, Jr. had asked the Office of Government Ethics ("OGE") to conduct an investigation into these meetings. That investigation was suspended, at our request, when we began our investigation. We have advised Secretary Bentsen that we have completed our investigation, and we understand that the OGE investigation will now go forward.

ROBERT B. FISKE, Jr.,
Independent Counsel.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas.

FINAL REPORT ON THE DEATH OF VINCENT FOSTER, JR.

Mr. BUMPERS. Mr. President, let me just say to my distinguished colleague and good friend, Senator PRYOR, that he has served the Nation well by the statement he just made. I believe the whole Vincent Foster saga is one of the sorriest, saddest chapters in the history of this country.

Vince Foster's whole family have been good friends of mine and Senator PRYOR's during our political careers.

Vincent Foster's death was such a sad thing. He was a man of outstanding talents, mind, feelings about public service, and was a senior partner in one of the finest law firms in our State. His wonderful mother and sister were never permitted to grieve in peace, as Senator PRYOR said.

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[1] Rule 6(e) of the Federal Rules of Criminal Procedure provides, in relevant part, "(2) A grand juror, an interpreter, a stenographer, an operator of a recording device, a typist who transcribes recorded testimony, an attorney for the government, or any person to whom disclosure is made [pursuant to a specified exception] shall not disclose matters occurring before the grand jury, except as otherwise provided for in these rules. . . . A knowing violation of Rule 6 may be punished as a contempt of court."

When I speak to high school groups and even college groups, it is impossible for me to be as upbeat as I would like to be, and often times I say one of the saddest things about what has happened in this country is that people have forgotten how to be civil: We have forgotten how to say "Thank you"; "I am sorry"; "Please"; "Excuse me". We have become so crude and insensitive in so many ways.

Not long ago, I watched an episode of "Saturday Night Live", one of my favorite programs. I used to love to watch it. But in my opinion, they desecrated the memory of Vincent Foster, Jr., in an unbelievably crude, insensitive, and crass way. I have not been able to watch "Saturday Night Live" since I saw that. All I could think about was the way his mother and family must have felt hearing his exemplary life and cherished memory being desecrated.

I want to applaud the independent counsel. I have not read the report. But based on what Senator PRYOR just said, counsel said exactly what needed to be said about the subject. Until we have a society with a culture where people are automatically taught to be more sensitive about things like that, then I dare say, I yearn for the British system where, for example, under their system of criminal justice the prosecutor does not go before the cameras and tell every shred of evidence he has. He announces the indictment, and that is all you see until the day of trial.

It is so easy to get caught up in this sort of thing. And, as Senator PRYOR just pointed out, some of the things that were written in speculation about a wonderful man's death just haunted me.

So I thank Senator PRYOR for saying what he said. I thank the independent counsel for what seems to have been a very thorough investigation of something that should never even have had to be examined.

I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nevada.

SUICIDE

Mr. REID. Mr. President, having been on the floor and heard the statements of both of my friends from Arkansas, the two Senators, one of the things that has not been spoken about in this situation dealing with Vincent Foster is the fact that it was a suicide. For those of us who have experienced suicides in our immediate family, this event even becomes more tragic.

My heart goes out to the Foster family. I do not know them. I never met Vincent Foster. But I know from personal experiences what that family has gone through by virtue of the fact that Vincent Foster killed himself.

I hope those people who are responsible for the maliciousness, the innuendo, and the meanness, analyze what they have done to this wonderful family.

I appreciate very much the statements made by Senators PRYOR and BUMPERS indicating that Vincent Foster committed suicide. It is nothing that his family should be ashamed of. It is a fact that it did happen. What they have gone through, no family should go through, in addition to the suicide which is so tragic.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oklahoma.

RAISE THE LEVEL OF POLITICAL DISCOURSE

Mr. BOREN. Mr. President, I will just take just a moment.

I want to express my appreciation to my colleagues from Arkansas, Senator PRYOR and Senator BUMPERS, for the comments that they have just made.

I remained on the floor after the last vote to bring to the floor some college students, who are working as members of my staff this summer, so that they might have the experience of seeing the Senate in action. I am glad that they had an opportunity to hear the remarks of Senator PRYOR, and I am glad that they had the opportunity to hear the remarks of Senator BUMPERS.

We have been drifting, in our politics over the last 2 decades or so, into a higher level of inhumanity and, as Senator PRYOR said, incivility in our political discourse in this country.

We should have a lively debate on the issue. It is fair to debate to try to destroy the arguments of the other side. But all too often we have not stopped to understand that we are also often dealing with the lives of human beings, and, in the course of trying to destroy the argument on the other side of an issue, very often in our politics we have turned toward trying to destroy the person who makes those arguments, forgetting that they are human beings with records of personal character and integrity, with families who suffer when they are attacked.

I think it is very important, Mr. President, that we reflect upon what has happened in this case and that we resolve that human beings will not be treated as pawns in a political chess game, even those with whom we have the most sharp disagreements.

I presided over some confirmation hearings as a committee chairman of this body. I have observed confirmation hearings of controversial nominees. I have seen us time and time again cross the line between meritorious discussion of issues into a discussion of personalities that seems to substitute rational discourse and in place of it put personal attacks.

I hope we reflect upon what our colleagues have said today and each of us try to do what we can to raise the level of political discourse, civility, and humanity in the public life of this country.

A TRIBUTE TO DR. WALTER WASHINGTON: WHAT MANNER OF MAN?

Mr. LOTT. Mr. President, I rise today to pay tribute to an outstanding Mississippian and great American, Dr. Walter Washington, the president of Alcorn State University, in Lorman, MS. Dr. Washington retires today after 25 years of service to Alcorn State University, and some 46 years of dedicated service to this country, and the State of Mississippi. He has distinguished himself in the fields of higher education, State government, and community relations.

There are countless citizens across this country whose lives have been touched and enhanced by Dr. Washington. In his lifetime, he has been a classroom teacher, a principal, a dean, and a president of a junior college and a university. His deep interest in challenging and training our future leaders has given him a distinct place in higher education. I have known Dr. Washington since I first served in the House of Representatives, and I would like to pay him homage, and share with my colleagues, what manner of man he is.

Dr. Walter Washington is a native of Hazelhurst, MS. He attended public elementary and secondary schools in the State. He received the bachelor of arts degree from Tougaloo College; the master of science degree from Indiana University; the education specialist degree from Peabody College; the doctoral degree from the University of Southern Mississippi; and a certificate from the Institute for Educational Management at Harvard University.

Dr. Washington holds membership in a number of professional and civic organizations. He is married to the former Carolyn Carter, a retired professor from Alcorn State University.

I am proud to share with my colleagues in the U.S. Senate the notable fact that Dr. Washington has served as a college president longer than any other individual in the Nation. In addition, the university he has guided for a quarter of a century has a special connection to the Congress. Alcorn State University was established in 1871, under the Morrill Act, and is the oldest historically black land-grant institution in America. The very first president of Alcorn State University was a

Member of this body, the Honorable Hiram Revels. Senator Revels, was the first African-American to serve in Congress, and he also was a Mississippian.

Dr. Washington and Alcorn State University both have amassed a record of achievement. They both have a staunch commitment to the very best in education. As president of Alcorn State University, Dr. Washington made many significant contributions. I would like to highlight a few of the many accomplishments from his administration, which he leaves as a rich legacy.

Dr. Washington worked to make the university financially sound.

The university's budget increased from $4 million in 1969 to approximately $32 million in 1993.

He established the Alcorn State University Foundation which currently has assets in excess of $4.3 million with an endowment of $3.3 million.

Outside funds to the university now total more than $11 million annually.

The value of the physical plant increased from $8 million in 1969 to $60 million in 1993 with the addition of 16 new facilities at the university.

In spite of serious budget cuts, as much as 28.3 percent in 1986, the university never experienced a deficit during Dr. Washington's tenure.

Dr. Washington pushed to expand the university's academic offerings and research capabilities.

He garnered support from the Mississippi legislature to establish a branch of the Mississippi Agricultural and Forestry Experiment Station on the campus of Alcorn and garnered support from the Mississippi legislature to directly fund agricultural extension and research for the first time in the university's history.

Dr. Washington implemented higher standards of achievement for the university with the results being expanded growth:

Alcorn State University was the first historically black institution in Mississippi to increase its requirements for admission;

Enrollment reached the largest in the university's history with 3,244 students in the fall of 1991;

Strengthened faculty with approximately 50 percent now holding earned terminal degrees;

Worked successfully to have five areas of the curriculum professionally accredited;

Established the School of Nursing;

Established the General College of Excellence; and

Established the School of Graduate Studies offering master's and specialist degrees.

Dr. Washington is the manner of man whose principles, judgment, and leadership have earned him a special place in the halls of professional education that is undisputed. His indelible mark in that field is a tribute in itself. I congratulate him on his outstanding record of service to Alcorn State University, the State of Mississippi, and this Nation, and I wish him a wonderful and active retirement.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT

The Senate continued with the consideration of the bill.

PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that congressional fellow Larry Ferderber be extended privileges of the floor during the discussion of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who seeks recognition?

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa [Mr. HARKIN].

Mr. HARKIN. Mr. President, as soon as I finish my opening remarks, I will be sending an amendment to the desk on behalf of myself, Senator JEFFORDS, Senator LAUTENBERG, Senator FEINGOLD, Senator AKAKA, Senator BOXER, Senator CAMPBELL, Senator WELLSTONE, Senator DECONCINI, and Senator ROTH.

Mr. President, this rather modest amendment that I will be offering raises a simple question of spending priorities. It essentially transfers $33 million from the Department of Energy's nuclear weapons activities to support for renewable energy.

Let me put this in context. The total budget for the nuclear weapons activities is about $3.25 billion. This $33 million would represent, as you can see, about a 1-percent shift. That is all.

Mr. President, it is time to look to the future and change our priorities. For too long we have lavished our limited resources on nuclear weapons activities and starved programs to develop and deploy renewable energy systems.

The Clinton administration has proposed a modest increase in solar energy funding. I applaud this very modest increase.

However, renewable energy funding should be much greater than it is today. For frame of reference, the renewable energy budget was about $1.33 billion in 1980. That is in constant, 1995 dollars. The renewables budget request is only 30 percent of renewables funding 15 years ago. The Department of Energy will have only 30 percent of the buying power next year that they had in 1980 for renewable energy.

Nuclear energy research still receives over twice as much Federal funding as renewables in this budget, about $861 million in the fiscal year 1995 request. That breaks down to $312 million for fission, $372 million for magnetic confinement fusion, and $176 million for inertial confinement fusion.

So what we have in this appropriations bill before us is twice as many taxpayers' dollars going for nuclear energy research than we do for all renewable energy research.

Why should we spend over twice as much on nuclear energy R&D as we do on renewable energy? With all the problems of radioactive waste disposal, weapons proliferation, safety and cost of nuclear fission, and all of the scientific and engineering uncertainty of fusion, we should be shifting the balance even more toward renewables that are becoming more competitive every year.

Fossil energy also continues to receive a larger share, about $520 million, despite the environmental costs of burning fossil fuels, and despite the fact that the fossil fuel industry is alive and well with substantial profits to plow back into research and development.

So, again, Mr. President, let me make this point very clear. We are putting about $400 million into the total renewable energy research. We are putting $520 million into fossil energy research. And all of the fossil energy companies that I know of are making money. They are profitable; a lot of profits. Yet, the fledgling renewable energy industry is not all that profitable yet. So it does not make much sense to me to be plowing so many taxpayers' dollars into fossil energy research and cutting short on renewable energy research.

The amendment we are offering is addressing the administration's request of $300.9 million for solar energy, part of the $409.6 million renewable energy budget. The House energy and water appropriations bill includes the full amount requested for solar energy. The bill before us, however, reduces the solar energy request by just over $29 million, and reduces the total renewable budget by $40.6 million.

This amendment I will offer fully restores the $29 million for solar energy and also adds $4 million for the Solar Hydrogen Program, bringing the total renewable budget to within $7.6 million of the administration's request.

Frankly, we should have taken more money and had it fully funded. In other words the President's request ought to be fully funded but we come pretty close to it with this amendment.

The primary beneficiaries of this amendment are the wind energy and photovoltaic programs. The bill before us reduces wind energy by $11.71 million and photovoltaics by $10.4 million from the President's request. Solar thermal, international solar programs, resource assessment and solar program direction were all reduced. Our amendment fully restores all of these requests made by the President.

Wind energy systems have made dramatic progress over the last decade. Wind energy systems have come of age.

The wind turbines installed in California provide enough electricity for over one million citizens, about 3 billion kilowatt-hours each year. These 16,000 turbines have a combined capacity of 1,700 megawatts.

Wind energy prices have fallen dramatically. Costs in the range of 4.3 to 5.7 cents per kilowatt hour have been quoted for high wind areas.

But now we have to improve the technology even more, and extend wind energy systems to other States. While wind energy systems are being planned in at least 10 States outside Hawaii and California, much more is needed to fully exploit the potential of wind energy.

Photovoltaics or solar cells are still too expensive for mass markets, but costs have been reduced sufficiently to permit development of niche markets. For example, utilities are now finding that relatively small PV systems may be cost effective away from the central power stations to avoid costs of new transmission networks.

This is the exciting news. The utilities themselves are finding applications for PV systems. They have recently formed a market-driven industry association, the Utility PhotoVoltaic Group, or UPVG for short. This fledgling industry group has already obtained interest from 70 utilities to install 7 megawatts of PV systems. These projects would cost a total of $79 million. But here is the good news: Private industry would provide 86 percent of the cost, or $68 million. The Federal Government would provide just 14 percent of the costs for these PV systems. I believe this is the type of leverage we need to stimulate a dynamic PV market, which in turn will lead to economies of scale and reduced PV prices.

But we need the DOE investment in solar energy to make these projects happen and to support the research and development needed to improve PV efficiency and reduce manufacturing costs.

Our amendment, in addition to restoring the full $29 million for solar energy programs, would also increase the Solar Hydrogen Program by $4 million.

For those of you not familiar with solar hydrogen, let me say just a few words about this exciting concept for storing and utilizing solar energy.

For small market penetration, wind and solar energy can be used to supplement the electrical grid. Conventional fossil fuel power plants provide electricity when renewable sources are not available.

But what happens when we reach that happy and environmentally clean day when solar and wind energy provide more than 15 to 20 percent of our Nation's energy needs?

What do we do when the wind is not blowing and the sun is not shining?

How do we capture solar energy to power our cars, trucks, buses, and trains?

Hydrogen is the answer.

Hydrogen gas can be generated by electrolyzing water with solar or wind energy. Hydrogen gas can be produced from biomass—crops grown specifically for producing energy.

Hydrogen can be used to power our homes, cars, and factories, and hydrogen is the ultimate environmental fuel.

Burning hydrogen produces no acid rain, no ozone depleting chemicals, no ozone precursor chemicals, no toxic air pollutants, and no radioactive waste. Hydrogen produces clean, pure H_2O—water.

Hydrogen is used to power the space shuttle. Hydrogen and oxygen are combined in a fuel cell to produce electricity and water for the astronauts to drink.

Hydrogen could also be used to power our automobiles equipped with fuel cells—as we have on the shuttle—and produce the electricity needed to run quiet, clean electric motors.

If that hydrogen were produced by solar energy, there would be absolutely no pollution of any type, and no resource depletion during operation.

In short, solar hydrogen is the ideal environmental fuel. Solar hydrogen could be the basis of a truly sustainable energy system in the next century.

In my judgment, we should be spending $50 to $100 million on solar hydrogen, given its potential for a sustainable energy future. But this amendment adds just $4 million for the Solar Hydrogen Program in DOE.

That $4 million will bring it up to $14 million. So for this most promising of all environmentally clean fuels we are only putting in $14 million.

This bill only puts $10 million in. We are trying to get it up to $14 million for solar energy.

When we think about all we put into efficient energy in the last 30 or 40 years—and I will be talking more about that. Mr. President, in the last 42 years, from 1948 to 1990, when you add all the investments we have made in nuclear R&D—that is government funding, avoided insurance costs, uranium enrichment costs, radioactive waste disposal, dismantling three enrichment plants, nuclear plant decommissioning, Nuclear Regulatory Commission operating costs, tax breaks and accelerated depreciation—add all those up and the amount of taxpayer subsidies that have gone into the Nuclear Energy Program comes to somewhere between $188 and $328 billion. Think about that. In our lifetimes, most of us anyway, we have put over $200 billion, if you take the lowest figure—$200 billion of taxpayer subsidies in the Nuclear Energy Program. Yet that is not reflected in the price you pay for nuclear power when you power your homes.

Again, $200 billion, and now we are wondering where to store it, we are dismantling plants, we are seeing it is too expensive. And all we are asking for is $14 million for solar hydrogen, an energy system that could truly revolutionize the way we live and clean up our environment.

Let me just discuss for a moment my concern about the continued high levels of funding for the DOE Nuclear Weapons Program. In my judgment it should be reduced substantially. The total atomic defense activities in this bill are twice the levels they were in 1979, even after adjusting for inflation.

Let us look at 1979. The cold war was still raging. In 1979 they were still designing, building, and testing nuclear weapons. Today we are not designing any new nuclear weapons.

Today we are not building any new nuclear weapons, and today we are not testing any nuclear weapons, old or new.

Why do we need to spend over $10 billion for atomic defense activities in 1995 when $5.2 billion was added in 1979? And that is in constant dollars.

This amendment that I will be offering reduces the atomic defense activities by a meager $33 million, or three-tenths of 1 percent. I suppose we will hear all kinds of talk that this will deal a terrible blow to the atomic defense activities to cleanup to storage. I cannot believe that three-tenths of 1 percent is going to cause any real undue hardship in the atomic defense activities. But as I pointed out, we are already spending twice as much today as we did in 1979.

The amendment reduces the nuclear weapons activities account by just 1 percent, from $33 million out of $3.25 billion for nuclear weapons activities—$33 million out of $3.25 billion; 1 percent. Is it not worth it for our children and grandchildren and for the future energy security of our country to take just 1 percent and put it into renewable energies and solar hydrogen?

In summary, this amendment is a modest step in changing our priorities. As I said, it probably should be more. I really believe solar hydrogen ought to be in the neighborhood of $100 million a year, rather than $14 million or $10 million, as is in this bill.

So this is a modest step in moving back from cold war spending levels for nuclear weapons. It is a modest step in fully funding the administration's request for solar energy research and development. It is a modest step in supporting the solar hydrogen program.

This amendment addresses one fundamental question: Do we look to the future and make a wise investment in our energy and environmental security, or do we continue to waste billions to keep a cold-war industry afloat well beyond its needed lifetime?

I see the cosponsor of the amendment, Senator JEFFORDS, seeking recognition.

Mr. JOHNSTON. Will the Senator yield? I wonder if the Senator will offer his amendment at this point.

(Mrs. BOXER assumed the Chair.)

AMENDMENT NO. 2128

(Purpose: To provide that certain funds appropriated for the Department of Energy for weapons activities for atomic energy defense be available instead for energy supply, research and development activities relating to certain renewable energy sources and to fund fully activities relating to such energy sources)

Mr. HARKIN. Madam President, I send an amendment to the desk on behalf of myself, Senator JEFFORDS, Senator LAUTENBERG, Senator FEINGOLD, Senator AKAKA, Senator ROTH, Senator DECONCINI, Senator WELLSTONE, Senator CAMPBELL, and Senator BOXER.

The PRESIDING OFFICER. The Chair asks the Senator from Iowa if he is seeking to set aside the pending committee amendment?

Mr. HARKIN. I ask unanimous consent that we set aside the pending committee amendment to take up the amendment I just offered.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. JEFFORDS, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. AKAKA, Mrs. BOXER, Mr. CAMPBELL, Mr. WELLSTONE, Mr. DECONCINI, and Mr. ROTH, proposes an amendment numbered 2128.

Mr. HARKIN. Madam President, I ask unanimous consent that the reading of the amendment be disposed of.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 40, between lines 21 and 22, insert the following:

FUNDING FOR ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES RELATING TO RENEWABLE ENERGY SOURCES

SEC. 502. (a) REDUCTION IN APPROPRIATION FOR WEAPONS ACTIVITIES FOR ATOMIC ENERGY DEFENSE.—Notwithstanding any other provision of this Act, the amount appropriated in title III of this Act under the heading "ATOMIC ENERGY DEFENSE ACTIVITIES WEAPONS ACTIVITIES" is hereby reduced by $33,042,000.

(b) INCREASE IN APPROPRIATION FOR ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES.—Notwithstanding any other provision of this Act, the amount appropriated in title III of this Act under the heading "ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES" is hereby increased by $33,042,000.

(c) AVAILABILITY OF FUNDS.—Of the funds appropriated in title III of this Act under the heading "ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES"—

(1) not less than $94,400,000 shall be available for photovoltaic energy systems (of which $93,400,000 shall be available for operating expenses and $1,000,000 shall be available for capital equipment);

(2) not less than $33,293,000 shall be available for solar thermal energy systems (of which $33,593,000 shall be available for operating expenses and $700,000 shall be available for capital equipment);

(3) not less than $51,710,000 shall be available for wind energy systems (of which $50,710,000 shall be available for operating expenses and $1,000,000 shall be available for capital equipment);

(4) not less than $13,129,000 shall be available for international solar energy programs;

(5) not less than $4,700,000 shall be available for resource assessment (of which $4,300,000 shall be available for operating expenses and $400,000 shall be available for capital equipment);

(6) not less than $9,460,000 shall be available for solar and renewable energy program direction; and

(7) not less than $14,000,000 shall be available for hydrogen research.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Iowa wish to retain the floor?

Mr. REID. Madam President, I am wondering if I can direct an inquiry to the manager of the bill and the Senator from Iowa who offered the amendment?

There is a markup at 3:30, and I am interested in this amendment. I wonder if there is going to be a time agreement on this amendment. Has that been talked about?

Mr. JOHNSTON. Madam President, if the question is asked of me, we had discussed a time agreement. I am in hopes that we can dispose of it even faster without a time agreement, because the time agreement we discussed is 3 hours. I do not believe that we will need 3 hours on this amendment. So I think perhaps we can terminate it faster than that.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I take the floor today to oppose this amendment. This amendment, if adopted, would impose irresponsible funding reductions on the Department of Energy's nuclear weapons activities.

My friend from Iowa said that he had a simple question, and that was spending priorities. I say that the priority question is whether or not we feel confident about our nuclear defense funding as compared to further increased spending in the solar area.

I say to my friend from Iowa, I would not take a second seat to anyone in the work that has been done these last few years in the Congress dealing with alternative energy sources.

As the Senator from Iowa knows, he and I have led the fight for increased spending for hydrogen fuel development. I am convinced that through the development of hydrogen fuel that we will have a better world in which to live, we will have no more oil spills, we will have a cleaner, safer environment.

I am glad to see that there is a slight increase in the hydrogen fuel development budget this year. I say slight. It is very small. There has been a slight increase in the solar energy field—not enough—but certainly there is one. Why is the Senator from Iowa attacking the weapons activities budget when his fight is with other energy funding?

If we take a look at what is really happening, we find that assuring adequate nuclear weapons funding, of course, is a serious issue. It cannot be viewed as a simple budget issue to be traded off against any other budget item. It cannot be viewed as something to be cut as a symbolic act to advance world disarmament.

I say to my friend from Iowa and others who are sponsoring this amendment, I have worked hard to prevent proliferation of weaponry around the world. One of my first votes in the House of Representatives was for a nuclear weapons freeze. I did that in spite of the fact that Nevada was the place where nuclear testing had taken place for 40-odd years. I did it because I believe that it was important that there be a freeze.

I support totally the builddown of the nuclear weaponry in the former Soviet Union and the United States. Nuclear weapons are heavy responsibilities for the nations that possess them. Their stewardship cannot be treated lightly. Nuclear weapons remain an instrument of U.S. national security policy and will continue to be for the foreseeable future.

We have a responsibility to the United States, and to the world at large, to maintain our nuclear competence and to maintain our nuclear weapons in a safe, secure, and reliable manner. With this responsibility comes a responsibility to fund the organizations that are responsible for care of the weapons and the expertise that supports them.

In addition to our moral responsibility, Madam President, to responsibly manage our nuclear stockpile, we must realize that we still have nuclear defense needs. The worldwide nuclear dangers have changed but, sadly, they have not gone away. International events are still unpredictable. Our daily news is filled with examples of nuclear proliferation threats and terrorist activities.

We have been very fortunate as a nation and as a world that we have not, as yet, had terrorist activities relating to nuclear weaponry. Of course, one of the main responsibilities of those who are concerned about nuclear weapons is what we do about terrorists who come in contact, who obtain, build or steal nuclear weapons.

Yesterday in the newspaper was North Korea. Today it is the Russian mafia acquiring nuclear material to sell to the highest bidders.

For example, I offer this New York Times article: "Russian Aide Says Gangsters Try to Steal Atom Material."

I ask unanimous consent to print this newspaper article from the New York Times in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 26, 1994]

RUSSIAN AIDE SAYS GANGSTERS TRY TO STEAL ATOM MATERIAL

(By Michael R. Gordon)

WASHINGTON.—A senior Russian law enforcement official said today that organized crime in Russia was trying to infiltrate military installations to steal nuclear material and sell it on the black market.

"These crime groups in recent years are demonstrating more and more interest toward the defense facilities of the former Soviet Union," Mikhail Yegorov, head of the organized crime control department of the Russian Ministry of Internal Affairs, said in an appearance before a Congressional committee.

Mr. Yegorov insisted that Russia's military bases were well guarded, but he acknowledged that 47 criminal investigations had been opened into attempts to steal radioactive materials.

But Louis J. Freeh, the Director of the Federal Bureau of Investigation, provided a less reassuring picture.

Mr. Freeh told the Senate Government Affairs Committee that while the F.B.I. did not have any evidence to confirm reports that Russian criminals have stolen nuclear warheads or bomb-grade materials, Interpol, the international police agency, had reported the disappearance of two kilograms (4.4 pounds) of highly enriched uranium from an institution near St. Petersberg.

Mr. Freeh indicated that the report was being taken seriously and was under investigation. Six to 10 kilograms of highly enriched uranium are needed to make a small nuclear bomb.

More broadly, American officials are worried that the growth of organized crime in Russia and the fact that the Russian mafia has targeted military installations have greatly increased the risk of nuclear theft.

"We are gravely concerned Russian organized crime members may have already attained or will attain the capacity to steal nuclear weapons," Mr. Freeh said.

The Russian mafia's interest in nuclear materials is just one result of a crime wave that has occurred in Russia since the collapse of the former Soviet Union. Mr. Yegorov told the Senate panel that crime was endangering economic reforms in Russia and added that Russian criminals were beginning to make inroads in Europe and the United States.

"At the present time, organized crime is a real threat to the stability of the country's economic and social life," Mr. Yegorov said. "Up to 50 percent, in some cases, of the profits that these criminal organizations get they use to bribe official persons."

Russian officials say that organized crime existed under Soviet rule, mostly in black markets, but that it has flourished in recent years with the growth of a private economy.

Mr. Yegorov said that there were nearly 5,700 criminal groups in Russia with about 100,000 members, and that 101 Russian criminal organizations operate abroad, in 29 countries.

He said 183 Russian police officers were killed and over 800 wounded fighting in gun battles with organized crime last year.

Mr. Yegorov said that the Russian criminal organizations were involved in drug dealing, money laundering and other activities in San Francisco, Los Angeles, Miami, Chicago and New York.

And Mr. Freeh said Russian organized crime was linked to a $1 billion health care fraud case in Los Angeles. To work with Russia, the F.B.I. is setting up an office in Moscow.

He added that there were 47 Russian groups in Germany involved in extortation, fraud and economic crimes, and that more than 60 such groups operated in Italy.

Trying to defend Russian handling of the nuclear issue, Mr. Yegorov insisted that military installations had good security. He also detailed some of the attempted 47 thefts, saying the vast majority of them involved attempts to steal very small quantities of nuclear material or low-enriched uranium that were thwarted by the Russian authorities.

But he said nine of the cases involved allegations of attempted thefts of highly enriched uranium. He said one of those nine cases was linked to organized crime.

Mr. REID. Madam President, from the Washington Post we have the following headline: "Nuclear Theft Found at Chernobyl: Ukraine's Reactors Are Vulnerable, Security Chief Concedes."

I ask unanimous consent that this Washington Post article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NUCLEAR THEFT FOUND AT CHERNOBYL: UKRAINE'S REACTORS ARE VULNERABLE, SECURITY CHIEF CONCEDES

(By Robert Seely)

KIEV.—A top official in charge of security at Ukraine's nuclear power stations has painted a picture of dangerously lax conditions and sloppy standards.

As a result, Anatoly Marushchak said in an interview Wednesday, thieves were able to walk out of the Chernobyl nuclear power station with two uranium-filled reactor control rods, officials discovered late last month. "Our atomic power stations are not secure against theft," he said

Western nations have repeatedly expressed concern about safety and policing standards in Eastern Europe's nuclear power industry. Marushchak's comments are likely to increase that concern.

The Chernobyl power station, scene of the world's worst nuclear accident in 1986, is a special target of attention. Despite the theft—and Chernobyl's acknowledged poor safety record—lawmakers in this former Soviet republic voted last month to overturn an earlier decision to close the power plant.

Marushchak, an Interior Ministry official in charge of Ukraine's nuclear defense coordinating team, said only one of the country's five nuclear power plants is equipped with isolation doors and electronic passes.

"In Western countries, only some specific people can be admitted to premises where nuclear fuel is stored. Such a registration system has not existed here for the past few years," Marushchak said.

A combined police and secret service team, he said, is looking for the thieves who stole the Chernobyl fuel rods.

The 3-yard-long zirconium rods and the 454 uranium pellets they contain are valued locally at more than $1 million. "This looks like the work of a specialist, someone who knows the price and value of the fuel rods," Marushchak said.

Ukrainian police, he said, still do not know when the theft took place. "We think it was sometime this year. We should know soon."

With hyperinflation, economic decline and a drastic drop in living standards plaguing Ukraine, nuclear safety has dropped on the government's list of priorities. The same has happened in many neighboring states.

Thefts from nuclear power stations are nothing new in the former Soviet Union. Authorities in Belarus, which borders Poland, admit their republic served as a conduit for smugglers trying to export uranium to the West.

So far, however, smugglers have not been able to get hold of weapons-grade uranium, according to William Potter, nuclear weapons control expert at the Institute of International Studies in Monterey, Calif.

For Ukraine, Marushchak said, it will take at least a year to install effective security systems against theft in nuclear power plants.

Mr. REID. What will we see tomorrow in the Washington Post, the New York Times, the L.A. Times, whatever the newspaper might be or the media outlet. Who can guarantee that something that we had not heard of 4 or 5 years ago, called Russian nationalism, will not create new threats in the future? Who is responsible for making sure that we are prepared for this not so unlikely future? We are responsible. We, Congress, must support the Nation's nuclear deterrent and the complex that supports it.

A cut of $33 million from this account as proposed in this amendment comes after several years of continuing reductions in the weapons activities budget. Since 1990, the weapons activity funding has been cut by 30 percent in real dollars.

On top of this have been inflation losses, and increasing costs due to rising regulatory requirements, that have resulted in further reduction in buying power. The amount available to actually conduct the weapons program is approximately one-half of what it was 5 years ago. I repeat, Madam President, the amount available to actually conduct the weapons program is approximately one-half of what it was 5 years ago. We have as many weapons as we had 5 years ago. In addition to that, we have added responsibilities to help the Soviet Union in their builddown.

These reductions in support for nuclear weapons activities stand in sharp contrast to the cuts in the defense budget over the same period of time. The DOD budget in 1990 was $291 billion. The 1995 request is for $252 billion. This is a 13 percent cut in real dollars. We have drawn the line on defense cuts, yet we have accepted continuing cuts, and larger cuts, in nuclear weapons support.

Both the House and the Senate Armed Services Committees have expressed strong concerns that the Department of Energy has not adequately funded its nuclear weapons activities. The House has directed the Department of Energy to submit a plan to reverse the losses of nuclear competence that have resulted from the recent budget cutting.

The amendment now pending before this body to accelerate the losses at the same time that the House is trying to reverse the situation is wrong. It is time to draw the line with respect to our nuclear deterrence. We must stabilize and protect our nuclear weapons infrastructure. We are not talking about building more weapons.

This amendment is based on numerous, I respectfully submit, misinformed beliefs. The sponsors and supporters of this amendment are mistaken in believing that with the end of the cold war the nuclear weapons stockpile and support infrastructure can be adequately maintained at some tiny fraction of the previous program requirements. The requirements on the stewardship of our nuclear stockpile and the maintenance of our nuclear competency have increased, not decreased.

This may be surprising to those who do not understand the requirements and responsibilities of those entrusted with our nuclear stockpile. But it is not simply a matter of numbers of weapons. There are costs to keep the doors open, and costs to maintain critical technical capabilities, that do not scale with the number of nuclear weapons.

The proponents of the amendment are also misinformed of the impact their amendment will have on the goals they claim to be seeking. My friend from Iowa is talking about a 1-percent cut.

Well, this is not just a 1-percent cut. This is one more step to further a massive cut in the nuclear weapons program. It is a cut on top of an administration reduction of over 10 percent.

This amendment will not save dollars in the long run. It will not maintain the stockpile in a safe and reliable manner. And it will not speed up the reconfiguration and downsizing of the weapons complex.

The responsibilities of owning nuclear weapons are tremendous. These weapons that are now being reduced in total number have to be disassembled by someone. It just does not happen magically. Weapons that are built have to also be taken apart, and you have to be just as concerned about safety in taking them apart as you do in putting them together.

Mr. HARKIN. Will the Senator yield for a question? I did not want to interrupt, but I would like to engage him in a question.

Mr. REID. I say to my friend, I would really like to discuss this issue in detail with you but I have to be at a markup in just a few minutes. Could you wait?

Mr. HARKIN. I just wanted to know where the Senator got the 10 percent.

Mr. REID. The 10 percent of about 3 plus billion dollars?

Mr. HARKIN. Yes, $3.25 billion.

Mr. REID. We will go over that before we finish here. I will be happy to go over those numbers.

Madam President, in short, this amendment will not aid arms control or disarmament. In fact, it will put it in jeopardy. It will cause concern with our allies that we do not have a safe stockpile. It will cause significant concern in the Republics that make up the former Soviet Union, as we know we must also help those Republics in their disarmament. The truth is this amendment will delay and undermine our efforts to reduce the worldwide nuclear danger.

Several years of nuclear weapons activities budget cuts have occurred while requirements on the nuclear weapons program have increased. Requirements to reconfigure the complex, dismantle the stockpile, and provide reliability and safety without nuclear testing have been added to administering the nuclear stockpile. The responsibility has increased significantly now. Although we are not conducting nuclear tests and not designing new weapons, the responsibilities and requirements to maintain these capabilities have not gone away.

The President has directed that the Department of Energy maintain the ability to conduct a nuclear test on 6 months' notice. That is a directive from the President of the United States. Congress, through its safeguards to the Threshold Test Ban Treaty, still requires the Department of Energy to maintain a viable testing and research program. So the total requirements on the weapons program have increased dramatically, while the budgets have been reduced dramatically.

Some find it difficult to believe that the requirements are going up when we are not building new weapons. Let me offer an example. We have an accelerated stockpile dismantlement program. This dismantlement process is a reverse of the assembly process. So the work per weapon is the same and it is performed in the same facility. As we are being pushed to dismantle at a higher rate by far than when we built, the workload is increasing, and this is happening in a plant that is getting older—that is Pantex—in an increasingly regulated environment, which is further driving up the cost.

So the fact that we are not designing and building new weapons does not translate into fewer requirements on our nuclear weapons assembly complex. Rather, there are more requirements, and more stringent requirements.

Likewise, in the nuclear testing area, we have not abdicated our responsibility to assure the safety and reliability of the stockpile. However, we have given up our most cost effective tool for certifying the reliability and safety of nuclear weapons. While the testing program is trying to maintain a marginal capability to resume testing if directed to do so by the President, it is also working to develop alternative experimental techniques and associated facilities to acquire the data previously obtained through nuclear testing.

So here again the requirements have not decreased but, Madam President, they have increased.

To further exacerbate the situation, the current budget request from the DOE is already underfunded. We have spoken to the Secretary, and the budget she submitted, I think she would be the first to acknowledge, is one that is very, very tight. It cannot support readiness to resume testing as directed by the President. It cannot support and adequately stockpile the stewardship program. It cannot support the builddown of the nuclear weapons complex or the builddown of the stockpile. How can we justify further budget cuts when the risks are so high.

I know that my friend from Iowa—and I see in the Chamber my friend from Vermont, and I have seen in the Chamber the last little bit my friend from Oregon have the best intentions. I know they think that since we do not have testing anymore we can get rid of everything. Their well-intentioned thoughts are contrary to the facts. Even though their hearts are in the right place, I respectfully submit that their heads are in the wrong place. They have not thought this process through. And for what they have worked for all these years, to make a safer world, they are now going in the opposite direction. If this amendment passes, there will not be a safer world; there will be a world that is simply not as safe.

Additional funding cuts as proposed in this amendment will not drive the cost down in the long run. Until funds are available to provide the experimental means to assure reliability and safety without testing, to build the facilities to support a smaller, more efficient complex and to support the storage and dismantlement of nuclear weapons and materials, we will have to maintain an old, outdated complex to provide marginal or perhaps submarginal stewardship over our nuclear weapons stockpile.

That is not the way it should be. This will cost more in the long run and delay the time when we can have a smaller more effective nuclear weapons complex. It will also increase the risks of owning nuclear weapons. And let us not forget that we will own nuclear weapons for the foreseeable future. It is only a question of how many.

Simply put, this amendment is not in line with the realities of the post-cold-war era. It is not consistent with the nuclear powers' responsibility in the post-cold-war world. We have significant responsibilities now that we did not have before. We are not only concerned now about our safety regarding nuclear weapons, but the rest of the world's safety. We have to be on top of what is going on in the rest of the world. We cannot do that with any certainty with the budget we have now. To cut $33 million from it, I believe, is irresponsible.

This body must defeat the Harkin amendment and preserve the Department of Energy weapons activity budget. We must stop the self-proclaimed arms control organizations outside the Government from pushing us into reckless action. And that is what this is. It is now time to stabilize the nuclear defense infrastructure, time to allow the stewards of our nuclear weapons to manage their responsibilities, and time to allow the administration to implement arms control testing and nonproliferation policies that the Congress has given them.

I learned, coming to the Congress 12 years ago, that the reason we have a Secretary of State, the reason we have a Secretary of Defense, and the reason we have a Secretary of Energy is that Congress has 535 secretaries of state, secretaries of defense, and secretaries of energy. We all have our own views as to how we can administratively handle the areas that I just outlined. That is why we must rely on the executive branch of Government to make these decisions for us. All we do is fine tune them. We are not fine tuning anything we have been given by the administration in this instance. We are continuing to bludgeon it and really wreaking havoc with what I believe is a decent arms control policy that is now in effect in this country.

If we let this amendment pass, we will support reckless national security policy. We will be continuing to support actions that will have serious detrimental impacts on the safety, security, and the reliability of the nuclear stockpile. The builddown of the nuclear stockpile, both here and in Russia, will be slowed down.

We cannot let this happen. The storage and disposition of excess nuclear weapons materials will be hampered. The smaller, more efficient, and more environmentally benign nuclear weapons complex will be delayed with added costs and, most important of all, reduced margins of safety.

Furthermore, we will be undermining our arms control and nonproliferation goals. Without adequate stockpile stewardship, a comprehensive test ban is at risk. The U.S. Senate has historically required assurances and safeguards before it adopted a major nuclear arms control treaty. These assurances cannot be given if the budget continues to be whacked and cut. If we cannot be reasonably assured of being able to ratify a comprehensive test ban treaty, we will be further at risk of not being able to secure an extension of the Nuclear Non-Proliferation Treaty in the spring of next year. This is a major goal of the administration and of the arms control community. Failure to support stockpile stewardship undermines this goal.

In conclusion, the Congress must provide clear, responsible leadership with respect to the management of our nuclear weapons stockpile and its supporting infrastructure. As both the House and Senate Armed Services Committees have been clear about, the responsible action is to stop cutting funds to this very important function.

We must defeat this amendment and send the message that, really, enough is enough. The cold war is ended. Nuclear testing is stopped. We have begun to dismantle our stockpile, and we have drastically reduced the numbers in the nuclear budget. We can no longer allow the nuclear weapons program to be the whipping boy of the antinuclear crowd. It is now time to let those responsible for management of our nuclear weapons stockpile to try to do their job.

Let me tell my friend from Iowa. I have just spoken to my staff, and the numbers—I ask the RECORD to reflect it in my statement—that I gave, the 10 percent number should have referred to the cuts already taken by the administration and was not meant to represent the impact of this amendment alone.

Mr. HARKIN. I know. Reasonable people can disagree on this. My good friend has been a great supporter of hydrogen energy. I want to make sure the numbers are correct.

Mr. REID. I apologize if my point was not clear.

Mr. HARKIN. $3.25 billion, and I am trying to transfer $33 million.

Mr. REID. Yes, I understand. I do say this to my friend from Iowa. The testing program, which makes up the key part of the $3.2 billion, has been an obvious target of the Senator's remarks in the past, and I perhaps misspoke in reacting to this cut as being directed at the testing budget. I think the main point is still true, the overall weapons budget has already been cut enough. As I have outlined in my statement, I think enough is enough.

Mr. HARKIN. If the Senator will yield, I did not realize 1 percent was going to make that big of an upset. The Senator pointed out that the testing and dismantlement amounts to $627 million out of $10.5 billion. So you have a long way to go. We could do double testing, double dismantlement, and still not get much of that $10.5 billion. There is quite a lot of other money. You have $627 million out of $10.5 billion in the whole atomic activity that is just used for testing and dismantlement. Again, as I say, there is a lot of room in there for money for testing and dismantlement, if that is the Senator's wish.

Mr. REID. I just say to my friend from Iowa that since 1990 the weapons activities fund has been cut by 30 percent in real dollars. So there have been significant cuts. My friend from Iowa has been responsible for some of those cuts. I think he should be satisfied with the great progress that has been made in cutting this. The amount available actually to conduct the weapons program is approximately half of what it was 5 years ago.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Madam President, I would like to point out before the Senator from Nevada leaves that the appropriations in this particular item for the weapons system is $50 million higher than the House version. Therefore, the amendment that the Senator from Iowa and I are offering is actually only taking $30 million of the $50 million that is in excess of the House version. So we are not asking for anything Draconian here, at least with respect to the House Appropriations Committee.

So I do not want to leave the impression which the Senator from Nevada would like to leave, that we somehow are eliminating this program. There is still $20 million more that the House is allocating for this provision.

I also would like to differ very strongly with the assertions that we somehow are sending the wrong message to the world by reducing the amount of money that we are putting into this system. It seems to me the right message to be sending to the rest of the world at this time when we are faced with nuclear proliferation is to really do some substantial reordering of our priorities and reduce the funding in the nuclear area, the weapons area in particular, and send the message to the world that it is not our intention to keep improving on our system but rather send a message to the world that, hopefully, nuclear proliferation is out as far as this Nation is concerned and the rest of the world.

So I am very hopeful that we will reorder the priorities of the Nation that have been recommended by the administration and that we put back in or put up what the administration requests in this area of the renewable resources.

So I say, though we have argued these issues many times and I am not going to take a long time today, the Energy Policy Act of 1992 begins to outline a national energy strategy for our country. The reason this body labored long and hard to pass and support legislation some years ago is to achieve energy security which is vital to our economy and our national security. And very critical aspects of that were to, especially in such areas as biomass conversion, as well as wind and solar, that the great hopes for this Nation are to get ourselves into an energy security situation.

To accomplish this security, the primary goal of the act is to develop domestic energy sources so as to reduce our reliance on foreign sources of energy, particularly foreign oil. Such sources include wind, solar, and biomass. And biomass, as we know from our long discussion, is a very important area where we can substantially reduce our dependency upon foreign oil. Hydrogen, as eloquently outlined by the Senator from Iowa, is another very promising area.

These are the energy sources of the future. But they are also energy sources of the present. Madam President, renewable energy is becoming a larger share of the energy market, currently supplying close to 12 percent of the national energy demand, and that is way up from where it was 20 years ago.

The Department of Energy predicts that this percentage will increase dramatically as advanced technologies are developed. Let us not undercut this progress. Small, large and medium companies across this country are working to create cutting-edge renewable technologies.

One of the problems we have, of course, when you discuss the renewable technology, is that you do not have the ability in infrastructure that nuclear has, so there are the great defenders. But we need to sort of represent all of the country in the sense of trying to reorder our priorities to promote renewable energy sources.

The use of renewables has taken hold in almost every State from California to Maine. In addition, U.S. firms are capturing a larger share of the world market in renewable energy technologies. It is valuable to these developing nations to be able to participate and be able to utilize renewable sources of energy. To me, our greatest help for these developing nations can be in providing them with renewable technologies.

More than one-half of the manufacturing capacity of the U.S. solar industry is geared to exports. Northern Power Systems, from my State of Vermont, markets wind turbine technologies around the globe. If a city, town, or power system in Saudi Arabia wants a wind turbine, they call Waitsfield, VT.

This technology, and many like it, was developed in coordination with the DOE and the National Renewable Energy Laboratory. The renewables research and development programs at DOE support the work of over 1,000 companies which provide 15,000 megawatts of energy in the U.S. and supply electricity to over 175,000 communities worldwide.

But we need to do more. Wind, solar, biomass—these sources will provide the energy of the future. Let us not continue to invest in finite energy options while other countries move ahead in developing renewables. We have the lead here; let us keep it.

Over the past decade, wind turbines have undergone a technological revolution. They have become more reliable and less expensive, as designs have improved and the wind power companies have gained experience in manufacturing the turbines and picking the best sites on which to install them.

Wind machines now being installed can potentially offer electricity at 5 cents per kilowatt hour, cheaper than the traditional sources. The wind turbines in the United States now generate as much power as two large nuclear power plants.

New designs for solar cells and improved manufacturing techniques are lowering the costs of what many energy experts see as one of the most promising energy sources for the future. Solar cells, which convert light directly into electricity, are becoming cost competitive with other energy sources. Vast improvements have been made in the last few years in that regard.

Our continuing investment in this technology will allow us to develop more solar-based power and move away from more polluting fuels. Examples of successful solar projects are abundant. In Arizona, California, Colorado, Florida, Hawaii, and elsewhere, solar is an integral part of the energy market. We need more resources to make sure we can take advantage of those opening markets in Asia, Africa, and South America.

The utility industry has invested heavily in renewables. Over 80 utilities have joined the Solar Compact program, where they plan to invest $360 million in cost-sharing with the Federal Government. This program was identified as the leading national environmental program in Time Magazine this past January.

For those who argue that these fuels are in their infancy and will only play a minor role in our energy mix, let us dispel that myth. Take New England, where it is cold, not always sunny, and where energy demands are very high, and the cost of traditional sources are very high. In Vermont, 20 percent of our electric demand comes from biomass. In Maine, 25 percent comes from biomass. Studies indicate that wind power could potentially supply 22 percent of current electric demand in New England. A 1991 report by the U.S. Department of Energy estimated that Vermont has the potential to satisfy more than 90 percent of its electrical needs using renewables. Statistics for other States in the country are the same. Let us really do something important in our energy situation in this Nation.

Maintaining the funding for renewables is vital for the future viability of the development of such technologies. The President requested $300 million, but the committee mark before the Senate cuts this by almost $30 million; 10 percent of the entire renewables budget has been cut by this committee. We want to put it back to what the President's request is and to take it from the source which will end up with still $20 million more than what the House has for the nuclear weapons program.

If we cut this now, it could be disastrous. Our national security comes not only from the billions spent on nuclear weapons, but from the millions we spend on weaning ourselves from our addiction to foreign oil.

We are far more secure if we maintain our commitment to renewables, and move $30 million from the $3 billion requested for nuclear weapons activities. That is all. We need not beat all our swords into plowshares, but let us see if we cannot fuel the forge with renewables. Let us invest in the future, not the past.

Let us take a look at chart 1 here. The chart beside me points to the imbalance we see in our country's investment in energy technologies over the past 20 years. Seventy-nine percent of our energy research and development funds have been dedicated to nuclear and fossil fuel technologies and energies of the past. Only 14 percent of the Department of Energy funds have gone for development of renewable energy technologies.

Yet, since the oil embargo of the early 1970's, we have been trying to wean ourselves away from our dependence on foreign oil and away from fossil fuels. For 20 years, we have been talking about developing our own domestic energy supply. We are doing it. Let us not stop now.

As I pointed out earlier, I think the real challenge to us is in stopping nuclear proliferation. But another danger we still have, as we found in the gulf war, is we were so dependent upon foreign oil, and when there was a disruption in the Middle East, we were quite insecure. We should do something about that.

Chart number two indicates graphically that if you look at the past 20 years, look at the difference in our investment in renewables versus nuclear. It is close to $12 billion invested in research and development of nuclear power plant technologies.

But when is the last time we licensed a nuclear power plant? Over 18 years ago. We are no longer building nuclear power plants in this country. Solar, wind, biomass are the power choices of today and of the future.

Madam President, clearly, I have not discussed many of the other important reasons for investment in renewables. Use of traditional fuels is a major cause of local, regional, and global environmental problems. The renewable energy systems displace fossil fuel use, thereby reducing emissions of pollutants that contribute to acid rain, urban smog, and global climate change.

The Clean Air Act Amendments of 1990 helped reduce the amount of air pollutants, but we must do more. What easier way than to reduce harmful air emissions than switch to clean alternatives where economically feasible? So much can be done, as outlined earlier, and as we found when we discussed the energy bill some years ago.

As regions around the country struggle with their energy mix for the future, many look to renewables as a vital component of that mix. As nuclear powerplants are decommissioned, as utilities look to reduce their reliance on foreign oil, many look to wind, solar, or biomass as a replacement.

As I mentioned earlier, biomass has so much potential. Yet we spend so little to get the breakthrough—we are now on the edge—especially by cellulose conversion.

By definition, the supply of renewables is endless. Though at times the short-term investment in renewable energy systems may seem high, these systems can generate clean, cheap energy for years and years with little additional investment apart from maintenance.

The Federal Government needs to maintain its commitment to this important technological development. Cutting the President's request for commercialization of these technologies may severely restrict our ability to compete in this multi-billion-dollar worldwide market. Already, the European Economic Community threatens the U.S. global leadership in ability to provide these systems.

It is incredibly important that we do not lose that leadership, that we take advantage of those opening markets not only for our own self-interest but in the interest of those nations which can benefit from these kinds of low cost and low polluting sources.

Let us stick with the President's request, as the House has, and keep our commitment to these successful programs. We cannot take such a large step back at this point in the development of these technologies.

I urge my colleagues to support us in our efforts to replace these funds.

Madam President, I thank my colleagues, and I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Madam President, the difficulty sometimes in the appropriations process is trying to put everything in its proper place and proportion. It is a question of setting priorities, and it is always—particularly in recent years—a question of cutting out that which we would like to do.

I would like to say at the outset, Madam President, I am a supporter of solar and renewables. The EPAC, the Energy Policy Act, passed 2 years ago which came out of my committee—Senator WALLOP and I were the lead authors of that—has done more in terms of establishing solar renewable energy efficiency programs than all the bills put together passed or considered by the Congress in all the years prior to that time.

It is a real breakthrough in energy efficiency, conservation, and solar energy. We do not take second place to anyone on our committee in promoting these technologies.

Mr. NUNN. Madam President, will the Senator from Louisiana yield for a brief question?

Mr. JOHNSTON. Yes.

Mr. NUNN. I am not going to be able to stay. I am trying to get ready for the defense bill, assuming this bill passes any time soon.

It is my understanding that the committee has not increased the request for the nuclear weapons components from the administration. Is that right?

Mr. JOHNSTON. No. As a matter of fact, we have cut the administration request. We are $49 million less than the administration requested.

Mr. NUNN. So you are already below. If that amendment passes, you would be that much more below?

Mr. JOHNSTON. That is right, an additional $32 million, which would be $71 million less than what the administration requested.

Mr. NUNN. It is also my understanding, and this is confirmed by, I believe, our committee as well as the Senator's committee, that the main purpose of the funding in the nuclear weapons program is to maintain the safety and reliability of the weapons and assist in dismantling the weapons, which is a very, very difficult and hazardous job unless done properly.

Mr. JOHNSTON. It is not only dismantlement. It is public health and work health and safety, research and development work related to safety issues for those weapons which are to remain in the stockpile for the foreseeable future, and environmental activities at DOE facilities to maintain compliance with Federal, State, and local laws.

I mean these are separate from Tom Brumbley's activities over in the Department of Energy. These are defense activities funded under this budget line.

Mr. NUNN. We are not developing new weapons now?

Mr. JOHNSTON. That is correct.

Mr. NUNN. What we are trying to do is take care safely of the old weapons and dismantle those weapons in a safe manner.

Mr. JOHNSTON. Safety, reliability, and dismantlement. We will be dismantling about 50 tons of plutonium from nuclear weapons over the next few years. That is half of our stockpile. I believe the period of time is the next 5 years. It is a very, very expensive proposition.

Mr. NUNN. You already also reduced this budget the last 2 years something like 30 percent; is that correct? My understanding is it is from $4.5 billion down to $3.2 billion in the last 2 years.

Mr. JOHNSTON. The Senator is correct. We reduced the budget by $1.4 billion.

Mr. NUNN. I thank the Senator.

I do not want to take any more of his time when he would be making his case.

I would urge the Senate carefully to listen to the Senator from Louisiana because I think he is absolutely right on this, and I would hate to see this account reduced when we are really trying to dismantle the results of the cold war in terms of the nuclear weapons but do it in a safe way and a reliable way.

Mr. JOHNSTON. I thank the Senator for making the central point of this whole thing, which is we are reducing this budget line for nuclear weapons really faster than the administration.

I heard speeches on this floor this week to the effect that this is an antinuclear administration. You can believe that or not. If the administration is antinuclear as shown by what they have requested in this budget line, we are already $49 million below getting nuclear than the administration, and we are a little bit above the House. That is because we are $50 million over the House, but the reason we are is that we got a $93 million increase after this bill left the House—budget increase from the President, and we only granted $50 million of that.

So again we cut the President's request. I mean, how much can you cut the dismantlement of nuclear weapons without in effect going exactly opposite from whatever one wants to do which is rid ourselves of nuclear weapons?

Mr. NUNN. At some point you lose the skills and people and the kind of knowledge that is necessary to do this job and do it safely.

Mr. JOHNSTON. The Senator is exactly correct.

Mr. NUNN. I thank the Senator from Louisiana, and I hope the Senate will support the position he is advocating.

Mr. JOHNSTON. Madam President, as I said it is a question of how much do you cut everything and keep it in proportion.

I pointed out that my Committee on Energy and Natural Resources is a strong supporter of solar efficiency and renewables. We have done a lot for that. We have done more than all the committees in all the history of the Congress in one bill. That is EPAC.

Our EPAC bill, for example, had a renewable tax credit of 1½ cents for kilowatt hours. That amounts in a 5-year period for wind, $67 million; for biomass, $29 million; for solar geothermal, $291 million. There is an excise tax exemption for ethanol and an additional one which we put in our bill of $151 million. That is on top of a Federal subsidy of 54 cents a gallon for ethanol, which amounts to an additional $500 million a year.

The PURPA bill came out of our committee a few years ago. That requires purchases in effect of solar and renewables at voided cost which has been a massive subsidy for the solar and renewable energy industry.

The California Public Utilities Commissioner testified before our committee that in California alone it has amounted to a cumulative subsidy of $7 billion.

Madam President, there has been a lot done for solar and renewables, and most of it has come out of our committee. So let it not be said that we are not supporters of solar and renewables.

The question is, how do you put it in context; how do you put in proper balance? I tell you what we did. We increased solar and renewables by 10 percent this year. This is in a budget where our budget, as I said at the outset, is down $1.5 billion in outlays over last year. That is in nominal dollars, $1.5 billion.

Our whole nondefense expenditure is about $10 billion; our defense is about $10 billion. But we are down $1.5 billion. So we do not have increases to spread around. But even though we had no increases to spread around, we did spread 10 percent increase to solar and renewables, not as much as we would like, not as much as the administration would like, but we did do that.

Having said that, Madam President, let us put solar in context. I have been here 22 years. I remember my very first year here, the late great Hubert Humphrey came in with an amendment where we were going to have a subsidy for solar energy, and I said put me on it because I had heard, like everybody else, boy, this is the be-all and the end-all, and since then I have seen billions of dollars of subsidy for solar and renewables go through this Senate and I voted for I think virtually all of it, most of it, and we are making some breakthroughs. We are doing some real good.

You look at wind energy now. Wind energy now is actually competitive in some areas of the country. Photovoltaics are an important niche source of energy, important but niche and likely to be a niche for the foreseeable future. By niche I mean remote locations. In future years we hope in some of the desert southwest we will be able to use it in rays on homes perhaps with air-conditioning in the hot part of the day. There is real hope for it.

There is real hope for it. That is why we have increased photovoltaic.

But, Madam President, to say that this is going to solve our problem is just not so.

For example, the World Energy Council in a 1992 report entitled, "Energy for Tomorrow's World: The Realities, the Real Options, and the Agenda of Achievement," involving over 250 national experts contributed to the 30-year outlook.

What they say is:

> The predominant new energy sources for electricity production coming into service between now and 2020 will be coal, nuclear, natural gas, and hydropower—in that order. There will be smaller contributions from oil and renewables; renewables other than hydropower will contribute only 2 percent of the worldwide generating capacity in 2020.

Now, Madam President, 2 percent is a lot and it is worth going after and it is why we are increasing that. So, you know, I feel torn here, because I want to speak for the renewables because they are important and we have increased them by 10 percent.

On the other hand, I have to get over on the other side with my other hat and say, "Look, let us do a reality check before we rush off and think all you have to have is a photovoltaic array on your house and it is going to solve the problem, or a windmill."

It does not. The Sun does not shine all the time. The wind does not blow everywhere. And in some places where you can put the windmill, it is even intermittent there. I mean, the Altamont Pass in California, where you have all the windmills, the wind blows there most every day during certain parts of the day, not all of the day but certain parts of every day it blows. But even then it has some problems, what we call avian problems, with birds flying through it. Some do not like it because it pollutes the visual landscape.

My purpose is not to speak against wind energy, because we have an increase of wind energy in our bill. For photovoltaic, we increase $10 million; soil thermal, we increase $593,000; wind energy systems, we increase by $11.7 million.

I am not speaking against wind. I am just trying to do a reality check. The reality check says, yes, at a time when everything else is going down, at a time when we are cutting $1.5 billion from this budget, let us go ahead and increase solar and renewables by a full 10 percent. And I think that is generous.

As a matter of fact, Madam President, this budget function in 1990 was $130 million. Since I have resumed the chairmanship since 1990, we have increased that to $370 million, or almost 300 percent.

Now is that enough? Gosh, it is never enough. I believe it was John L. Lewis, the great labor leader, when asked what he wanted in negotiations, he said, "More." And, you know, that is what everybody wants in this budget process. We want more. Whatever we give you, we want more because it is never, never enough.

Now, let us look at nuclear weapons, on the other hand. The Senator from Georgia put it very well when he said that these nuclear weapons activities are not building new nuclear weapons. They are maintaining the reliability and the safety of the stockpile. Nobody is talking about abolishing our stockpile of nuclear weapons. I say "nobody." I do not believe anybody in the Senate, not one single Senator, is saying abolish all nuclear weapons.

I mean, it is really not a point of real debate. We are going to keep a certain number. Some say we ought to keep fewer; some say we ought to keep more. Everybody says we ought to keep some nuclear weapons in the stockpile.

To the extent that we dismantle any and reduce, we have to have research, we have to have the plant at Pantex to dismantle those weapons and take those what we call pits out, which are made out of plutonium. We have to store the plutonium. We have to do research to determine the safety of those nuclear weapons and the reliability of those nuclear weapons. We have to maintain the public health and safety of the workers, because it is a real problem.

We discussed the nature of plutonium earlier. Plutonium, if inhaled, is a very deadly poison. And they do some milling of those things that puts some of this dust into the air. As a matter of fact, there are some pounds of plutonium that are in the ducts at some of our plants, and that is one of the dismantling problems we have.

So, Madam President, when we have cut this line of nuclear weapons, what we have done is not just quit making nuclear weapons. We have cut the safety and the dismantlement programs. We are $344 million less than last year in this account, $49 million less than the administration requested. And if you consider that we had an additional $93 million budget request that came in after the bill left the House, if you factor that in, we are less than the House.

So, Madam President, I think we dare not cut this important weapons program—which is really a dismantling of the nuclear weapons program—more than we have. I submit that we have done very well in a tight budget year, where everything else is getting cut, by increasing solar and renewables by 10 percent.

Mr. AKAKA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Madam President, I rise in support of the Harkin-Jeffords amendment. This amendment will restore funding for solar and renewable research and development to the amount recommended in President Clinton's budget.

I want to thank Senator HARKIN for offering his amendment, because I believe that our country's renewable energy program is at a watershed. With support from Congress and the Federal Government, we can forge ahead with sustainable development based upon appropriate, renewable technologies. We can position our renewable industry to capture its share of the rapidly expanding market for solar technology. And, we can provide power in an environmentally responsible way.

Or, we can retreat from this promising growth industry, as we did throughout the decade of the 1980's, and watch our international competitors carve up a market that will exceed a billion dollars by the turn of the century.

Should we allow our renewable initiatives to sputter and stall? Or, do we move forward, as other countries are doing, and make essential investments in technologies that will create new jobs, open export markets, and promote a quality environment? This is the choice we will make when we vote on this amendment.

At stake is our ability to compete in an international energy market that will experience explosive growth in the years ahead. An estimated 75 percent of the population in the developing world still lives without electricity. Many local governments cannot afford to meet the growing energy demand by building, operating, and maintaining centralized power plants and the costly infrastructure associated with them. The flexibility offered by renewable energy technologies is a natural fit.

The administration's fiscal year 1995 budget request for solar and renewable energy was carefully crafted to provide a balanced portfolio of research, development, and export promotion for the coming fiscal year. Unfortunately, the bill we are considering today upsets this delicate balance. The $29 million cut, from a proposed budget of $300 million, represents a significant step backward at a time when the Clinton administration wants to accelerate renewable energy development, and to integrate these technologies into the energy grid.

The past decade was a period of unparalleled success in the drive to reduce the cost of solar and renewable technology. Some are on the verge of becoming cost-competitive with conventional energy sources.

This trend will continue to improve in the years ahead. As prices continue to drop, the rate at which these technologies are integrated into the energy grid will steadily increase.

The efficiency that has been achieved in generating power from renewable technologies is simply remarkable. In the case of wind energy, the typical cost per kilowatt hour was 35 cents in 1980. Today, wind-generated electricity costs 5 to 8 cents per kilowatt hour.

Electricity generated from photovoltaics cost 90-cents-per-kilowatt-hour in 1980. Today, the average cost is 30 cents. By the end of the decade, photovoltaic generating costs could drop by an additional 50 percent. It is no wonder that the Energy Information Agency is projecting an annual growth rate through the year 2010 of 1.8 percent for renewables—which is higher than any other power source.

What is at stake is the ability of a young, but dynamic industry to capture world markets for renewable technologies so that Americans can hold their share of rewarding, high paying jobs in the future. That is what the Harkin amendment is all about. If we are to move into the future with a strong economy and a healthy environment, renewable energy technologies must be a part of our investment portfolio.

today, the value of U.S. renewable energy exports exceeds a quarter of a billion dollars. But the U.S. industry is barely penetrating the expanding world market for renewable energy technologies. This is a direct result of a weak commitment to renewable energy research, development, and export promotion. A 1992 Department of Energy report found that the United States ranks lowest in the amount of resources it commits to solar and renewable export promotion, compared with seven leading trading nations.

I support the Harkin amendment because I want to reverse this trend. Frankly, I would have preferred higher spending levels for solar and renewable programs, but that is not realistic given the budget constraints we face. Unless we maintain the funding level recommended by the Clinton administration, we will continue to lose ground, and should not be surprised if other countries out-compete U.S. industry in this rapidly expanding market.

This is something that we need to do. We need to adopt the Harkin-Jeffords amendment, and I urge my colleagues to support this amendment.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I will try to be brief. I understand our chairman wants to move on.

We had a good debate on this subject. I just want to make a point on solar energy. I am here because I support the committee bill, the committee increases in solar energy, and reluctantly support the committee's decreases in funding for nuclear weapons and nuclear weapons research activities.

I am not going to take a back seat to anyone on solar energy. I think the chairman will remember that one of the instrumentalities that we used to maximize the marketplace, in terms of not only solar energy but wind energy and all of the renewables, was the Public Utilities Regulatory Policy Act, commonly called PURPA.

What it did was it forced the utility companies to buy from renewable sources, and put them in their grid at prices above the prices that the utilities could buy energy from central sources. This put a great pressure for the demands of these kinds of energies and caused them to be purchased and thus caused many of these facilities to be built.

I was the author of an amendment, and it was debated long and hard in the Energy Committee, to increase the qualifying facilities definition so these kinds of off-power-grid energy-producing facilities, that were solar and wind and the like, could actually get purchased and increase the market even more. So this Senator has been a strong proponent all the way from solar, and its divergent approaches, to photovoltaics, to everything in between. I supported funding on the appropriations side and I have supported regulatory changes that will enhance the market demand on these kinds of sources.

But I want to make sure that nobody in the Senate thinks I am standing up here supporting a bill that does not provide a history and a legacy of dramatic increase in solar energy funding. I just want to repeat what has been said, and do it my way. In 1990 we were spending $90 million on the program that the distinguished Senator, Senator HARKIN, wants to increase. That went from $90 million to $252 million for the year we are now living in—from $90 to $252 million. Under the appropriations bill, which—Madam President, you were present when we discussed and voted on that bill in appropriations—it will now go to $272 million.

So, in all honesty we are going from $90 million in 1990 to $272 million this year, which is a very, very substantial increase. In terms of percentages it is 45.6 in 1991; 34.4 in 1992, very steep increases; 6.3 in 1993; another huge jump, 34.8 in 1994; and now up again about 8 additional percent.

So I do not believe the issue is whether we are adequately considering solar energy and funding it at increasing rates. I think, since 1990, the record is dramatic, it is positive, and it is clearly on track for those who think we should spend more money on solar energy, as this Senator does, and as our committee, the full committee does, and the subcommittee that reported the bill.

Having said that, that is what is increasing. Everybody should know—I repeat—that we are not building any new nuclear weapons. All the talk about the Department of Energy nuclear deterrent laboratories and what they are doing for the United States post-cold war should start with the premise that we are not building any new weapons. But we had a gigantic arsenal that we have to builddown, and we have a certain number of nuclear weapons that we must maintain, keep safe, make sure that they deliver what they are supposed to deliver at the right time and not the wrong time, and all of this costs a lot of money.

The Pantex plant, for instance, at Amarillo is now running at full speed. So some might say, "What is different, Senator? It was always running at full speed." Madam President, it is running at full speed backward. It is full speed disassembling weapons to meet the SALT II limitations, and that is not cheap. It is highly sophisticated, it is dangerous, and no one wants us to cut any of the corners on that.

Over the next 5 to 10 years, more than 20,000 nuclear weapons will be disassembled with everything that goes with that. That is a function of this funding that we seek to cut further today. I will put a chart in on how much it has already been cut, especially over the last 2 years but starting with the cold war termination.

The laboratories under the jurisdiction of the DOE that do work for the Department of Defense in this area are developing new technologies to dispose of this plutonium that comes out of the disassembling of our nuclear bombs and the uranium that is coming out of these weapons using reactors or accelerators. Frankly, we are engaged in the scientific evaluation and engineering evaluation to see which will work best, and this bill contains money, for the first time, to make that evaluation so that we will be in a position with reference to plutonium in the future to decide whether it is accelerators or reactors, but we are charged with getting rid of it.

These same facilities that we use to produce plutonium and highly enriched uranium, hand explosives—Hanford, Savannah River—have moved out of the defense complex and are now being cleaned up. If anybody thinks that is cheap, then just look at the budget for that part and the research that goes with it over the past 6 years.

These laboratories that we seek to further reduce in funding are developing new technologies to reduce the anticipated $300 billion pricetag that cleanup currently has as the estimates for achievement. Clearly, we do not want to spend that much money, and the very labs that we would cut additional resources from are engaged in exciting research that says maybe we can do that for a lot less money.

The Department is transitioning or moving to a stockpile stewardship role. I have described that in my own words, but the best thing to call it is a stewardship role. This entails—and I believe everybody agrees this must be the case for the foreseeable future—being responsible for 3,500 warheads, mandated under SALT II, for an indefinite period of time. We all hope that will not be the case, but we cannot tell our nuclear scientists that they are not going to have the money to do what they are ordered to do and what we have agreed to by treaty.

They have to design modern safety features for the remaining stockpile, and that is in accordance with the President's reduction strategy, which is clearly a tough strategy in terms of safety features during this period of time. Anyone who has worked in nuclear activities knows that we have to have a safety program for this builddown and for this maintenance and knows that that does not come cheap.

They are going to continue these laboratories to support arms control and verification and help for all of the treaties on which we are working. They are there all the time. They are the best in the world.

I could go on. They are even charged now, Madam President, with helping their former enemies, the scientists of the Soviet Union, in trying to disassemble Soviet nuclear weapons and related products. These same laboratories are involved in that as part of their mission of disassembling and exchanging the very best science technology around.

So anybody who thinks we are going to maintain this expertise by letting these laboratories do work for others just does not understand that you are not going to do work for others, be it the EPA, the Department of Agriculture, the Department of Commerce, the civilian needs of our Nation through the private sector. You are not going to build your laboratories with that kind of work. You must have a basic ingredient sustained there of the scientists that make up this treasure trove of America's great history and legacy that comes from these laboratories.

Just in summary, so no one will think that this Committee on Appropriations is not aware of its responsibility to begin reducing the costs of the nuclear weapons activities and the laboratory and science apparatus that goes with it, I am going to insert in the RECORD a chart that shows from 1990 the weapons activities which were $4.520 billion will be $3.251 billion, and that is even with some parts of it having to go up. Nonetheless, it has been reduced by the amount that I have just stated, which is almost 40 percent.

Our chairman has indicated, because of budget constraints where we could not cut things that the President had cut, we are not even fully funding the weapons activity requested of this President. We are about $40 million to $41 million less. This would say, on top of that, another 30-plus so that we can fund solar energy, which we just described as receiving the kind of increases that I believe are indicative of our full confidence and full support, but that we probably, in choosing here, ought not put another $33 million in that growing account to the detriment of the accounts we are speaking of, which clearly are among the most precarious, dangerous, needed activities of the scientific community and technology community of this Nation.

I know the distinguished occupant of the chair has one of these great laboratories in her State, the Lawrence Livermore Laboratory. It is doing all of the kinds of work that I described. It, too, is struggling under a builddown. Yet, it is committed to do the kind of work that has been described by the Senator from New Mexico in this statement to see that we have safe, reliable activities as we build down in this very, very different world, hopefully one that will have no nuclear weapons around at some time in the future; but in the meantime, that we will have no accidents, that we will not be taking any untoward risks and that we will be doing it right.

I ask unanimous consent that my summary chart on DOE solar budget activities from 1990 through 1995 be printed in the RECORD, and the DOE defense budget 1990 through Senate appropriations recommendation on this bill for 1995, including the environmental restoration account, which has gone up dramatically, and other atomic defense activities, which have come down dramatically, be printed in the RECORD, along with the annual percentage change chart that accompanies it.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DOE AND THE DEFENSE BUDGET

[Budget authority in millions]

	1990	1991	1992	1993	1994	Clinton 1995	Senate approps 1995
Weapons activities	4,542	4,636	4,660	4,561	3,595	3,300	3,251
Environmental restoration and waste management	1,975	3,160	3,681	4,828	5,182	5,194	5,084
Other atomic defense	3,133	3,782	3,639	2,670	2,084	2,028	1,995
Total atomic energy defense activities	9,649,	11,578	11,980	12,059	10,861	10,523	10,330

DOE AND THE DEFENSE BUDGET

[Annual percentage change]

	1991	1992	1993	1994	Clinton 1995	Senate approps 1995
Weapons activities	2.1	0.5	−2.1	−21.2	−8.2	−9.6
Environmental restoration and waste management	60.0	16.5	31.2	7.3	0.2	−1.9
Other atomic defense	20.7	−3.8	−26.6	−22.0	−2.7	−4.2

DOE AND THE DEFENSE BUDGET—Continued

[Annual percentage change]

	1991	1992	1993	1994	Clinton 1995	Senate approps 1995
Total atomic energy defense activities	20.0	3.5	0.7	−9.9	−3.1	−1.8

DOE SOLAR BUDGET

[Budget authority dollars in millions]

	1990	1991	1992	1993	1994	Clinton 1995	Senate approps 1995
Appropriations	$90	$131	$176	$187	$252	$301	$272
Annual percentage change		45.6	34.4	6.3	34.8	19.4	7.9

Mr. DOMENICI. Madam President, I yield the floor and thank the Chair for recognition.

Mr. ROTH. Mr. President, today I rise as a proud cosponsor of an amendment introduced by Senator HARKIN and Senator JEFFORDS. I believe that this is an important issue to our Nation and also a very important issue to my State of Delaware. I agree with the President's budget request to fully fund renewable energy programs. Renewable energy programs promise to supply economically competitive and commercially viable energy, while also assisting our Nation in reducing greenhouse gases and oil imports. The Nation should be looking toward alternative forms and sources of energy, not taking a step backward by not fully funding these programs.

Delaware has a long tradition in solar energy. In 1972, the University of Delaware established one of the first photovoltaic laboratories in the Nation. The university has been instrumental in developing solar photovoltaic energy, the same type of energy that powers solar watches and calculators. In addition to this outstanding record in solar engineering, the university has one of the premier centers for solar energy policy issues, the Center for Energy and Environmental Policy. Recently, the University of Delaware was recognized as a Center for Excellence for solar energy research. My State also has a major solar energy manufacturer, Astro Power, which is now the fastest growing manufacturer of photovoltaic cells. In collaboration with the University of Delaware and Astro Power, Delaware's major utility—Delmarva Power & Light—has installed an innovative solar energy system that has proven to significantly reduce building electricity demand. Through this collaboration, my State has demonstrated that solar energy technology can be an economically competitive and commercially viable energy alternative for the utility industry.

Rapid development of solar energy technologies is occurring. The Department of Energy and the National Renewable Energy Laboratories expect the domestic sales of solar energy technologies to double by the year 2000. Cutting the President's request for commercializing these technologies would have a chilling effect on the U.S. industries' ability to compete on an international scale in these billion-dollar markets of today and tomorrow. The employment potential of renewables represents a minimum of 15,000 new jobs this decade with nearly 120,000 the next decade. It is imperative that this Senate support solar energy technologies and be a partner to an energy future that addresses our economic needs in an environmentally acceptable manner. My State has done and will continue to do its part. And I hope my colleagues in the Senate will look to the future and do their part in securing a safe and reliable energy future.

Mr. JOHNSTON. Madam President, I believe that everyone has had his or her say on this issue and, if so, I move to table and ask for the yeas and nays.

Mr. HARKIN. Will the Senator withhold? I just have a couple comments.

Mr. JOHNSTON. I withhold.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, I just want to respond to a couple of things. We heard a lot of talk about the dismantlement program and how much is involved in the dismantlement program. I wish the Senator from New Mexico had stayed around. I wanted to engage in a colloquy. Obviously, he has another committee meeting to go to.

Out of the $10.5 billion that is in this bill for nuclear activities, atomic activities, about $252 million goes for dismantlement at the Pantex plant in Texas. There is another $375 million that goes for testing. So out of $10.5 billion, we have about $627 million that is going for dismantlement and testing.

To hear the opponents of my amendment talk, you would think that I was taking $33 million out of dismantlement and testing. That could not be further from the truth. That is a very small part of the big pie.

One wonders, if they are only using $627 million for testing and dismantlement, what the rest of the money is really going for. I might point out, Madam President, that one of the activities involved in doing some of the solar hydrogen research is in the Presiding Officer's State at Lawrence Livermore. They are already beginning the process of changing it over and doing different things in energy.

But again, with the meager amounts of money being involved here, $10 million, not much can be done.

I might also point out, I think there was a misstatement earlier that somehow there was a modest increase in solar hydrogen. That is not so. Solar hydrogen last year was $10 million. There is $10 million in this bill. There was no increase at all. In fact, my amendment attempts to give that a modest increase from $10 million to $14 million, a somewhat small, modest increase. As I said before, I really believe a strong case can be made for a solar hydrogen, or at least a hydrogen research budget of about $100 million.

Madam President, I have a couple of things I ask unanimous consent to insert in the RECORD. One is a table showing the estimated Government subsidies for nuclear power from 1948 to 1990.

The other one is a renewable hydrogen program plan, a table showing where in 1995 $113 million could be wisely spent on research in renewable hydrogen. So when we are asking for $14 million, that does not even come close to the $113 million that could be used in all of the various areas of research for renewable hydrogen.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Estimated Government subsidies for nuclear power—1948–90

Nuclear R&D	33
Price-Anderson avoided insurance costs	30–150
Uranium enrichment costs	11
Radioactive waste disposal	4.1
Dismantling 3 enrichment plants	16–36
Nuclear plant decommissioning	5
NRC operating costs	9.2
Tax breaks & accelerated depreciation	30
Total	188–328

Senator Harkin's renewable hydrogen program plan, 1995

	Millions
1.0 Hydrogen R&D	55.5
1.1 H2 Production	14.6
Photoelectrochemical	2.0
Biological	2.0
Advanced Electrolysis	2.5
Biomass:	
Plant Growth	0.4
Bio Gasification	3.5

	Millions
OTEC	3.0
Natural Gas Reformer	1.2
1.2 H2 Storage	13.1
Compressed H2:	
Stationery Tanks	0.4
On-board Vehicle Storage	2.4
Underground	0.8
Liquification: Magnetic Refrig	2.0
Hydrides	3.5
Cryo Adsorption	2.0
Iron rust	2.0
Advanced Storage Materials	0.0
Competitive Procurement	0.0
1.3 H2 Distribution	2.5
1.4 H2 Utilization	15.8
Industrial	2.0
Commercial	0.5
Residential	0.8
Transportation:	
PAFC	3.0
PEM FC	5.0
Solid Oxide FC	0.5
Surge Power	2.0
Utility	2.0
1.5 H2 Systems Engineering	9.5
Safety	2.0
Environment	1.5
Economics	6.0
2.0 H2 Integrated Systems Experiments/Demos	38.0
2.1 Motor Vehicle Demonstrations	31.0
PAFC Bus Demo	3.0
GM PAFC Car Project	12.0
FC Locomotive	2.0
Direct H2 PEM FCEV	9.0
H2 Dispensing Stations (s)	5.0
2.2 Sustainable Energy Centers	7.0
3.0 Pre-Commercial Scale-up	14.5
3.1 Advanced Manufacturing Technology	2.5
3.2 Build Prototype Fleet FCEV's	0.0
3.3 Build Multiple NG Reforming Stations	0.0
3.4 Built Fleet of Urban FC Buses	12.0
4.0 Market Entry	0.0
4.1 Federal Fleet FCEV Purchases	0.0
4.2 Incentives for Commercial FCEV Fleets	0.0
4.3 Production Incentives for Renewable Hydrogen	0.0
5.0 Hydrogen Aircraft Development (subsonic)	5.0
5.1 Aircraft System Design	1.0
5.2 H2 Aircraft Component R&D	1.0
5.3 Airport H2 Infrastructure	3.0
Total	113.0

Mr. HARKIN. So again, it is a very modest amendment. I have just been somewhat bemused by all of the talk of the fact that I am transferring 1 percent, a 1-percent shift out of atomic activities into solar and renewable energy, 1 percent, and that 1 percent is going to devastate dismantlement, devastate testing, devastate the Nuclear Non-Proliferation Treaty. My goodness sakes, you would think that 1 percent would just devastate everything.

Well, it is a very modest amendment. After hearing all that rhetoric, I probably should have tried to shift 10 percent. As long as we are going to devastate everything anyway, maybe I should have tried 10 percent. But I thought I would try a modest amendment, something that could be accommodated very easily. One percent is not that big a deal. We need, in solar and renewable energy, to try to get it back up a little bit.

Now, the Senator from New Mexico stated that we had increased solar energy. Well, again, comparable to what we had under Reagan-Bush, yes, we have increased it a modest amount. But I point out again that the whole renewable energy budget request is 30 percent of what we had in 1980. So, yes, we took a big cut. In the 1990's, we brought it up a modest amount, but we are still only 30 percent of what we had in 1980. And again, I point out that the total renewable budget is one-half, just one-half, of nuclear, fusion, and fossil energy research, all of which totals over $800 million. The renewable budget is only a little over $400 million.

So again, it is a very modest amendment. It is a 1-percent shift of money to try to get us back up a little bit in solar and renewable energy and to put $4 million into renewable hydrogen energy. And with that, Madam President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mr. HARKIN. I ask unanimous consent to add Senator KOHL as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader.

PROVIDING FOR AN ADJOURNMENT OR RECESS OF THE TWO HOUSES

Mr. MITCHELL. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 263, the adjournment resolution just received from the House; that the concurrent resolution be agreed to and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the concurrent resolution (H. Con. Res. 263) was considered and agreed to, as follows:

H. CON. RES. 263

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, June 30, 1994, it stand adjourned until 10:30 a.m. on Tuesday, July 12, 1994, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Thursday, June 30, 1994, Friday, July 1, 1994, Saturday, July 2, 1994, or Sunday, July 3, 1994 pursuant to a motion made by the Majority Leader or his designee, in accordance with this resolution, it stand recessed or adjourned until noon on Monday, July 11, 1994, or at such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

Mr. MITCHELL. Madam President, I note the presence of the distinguished Republican leader in the Chamber. I was about to say that I discussed this with him and he had agreed to permit its consideration and approval.

Pursuant to our discussion, I want to state now, in effect repeat now, what I have previously said, that we expect to finish this bill shortly, and immediately thereafter we will proceed to the consideration of the Department of Defense authorization bill.

We must complete action on that bill before the Senate breaks for the Independence Day recess, and we will stay in session for as long as that takes—tonight, tomorrow night, Saturday, if necessary. I hope it is not necessary, but we have to get this work done.

I encourage those Senators who wish to offer amendments to the Defense Department authorization bill to be present and to contact the manager of that bill, Senator NUNN, to make certain that we can use the time that remains expeditiously. But I wish to repeat what I have said. We will remain in session until we complete action on that bill.

Now, Madam President, Senators can leave if they want to, but if we get to that point where Senators have left and have urged other Senators here to protect them against votes, as they did last Friday—and I repeat what I said many times since last Friday—we will have an unlimited number of procedural votes. Any Senator who leaves before we complete action on this bill runs the risk of missing a large number of votes. I regret that, but it is imperative that Senators remain to do the business we must complete before going on the recess.

I thank my colleagues.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2128

Mr. JOHNSTON. Madam President, I ask unanimous consent that it be in order to move to table and that upon making that motion, the vote occur at 5 p.m. on the motion to table.

The PRESIDING OFFICER. Is there objection?

Is the Senator from Iowa objecting?

The Chair hears none, and it is so ordered.

Mr. JOHNSTON. Madam President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll at 5 o'clock.

Mr. JOHNSTON. Now, Madam President, in the 30 minutes prior to that vote—I know of no other major amendments—we have a number of agreed to amendments, and I hope we can wrap up all the details so that we can have the vote on the motion to table the Harkin amendment and follow that by third reading.

Madam President, I will send a group of amendments to the desk after I describe them, and I will ask for consideration en bloc.

The first is a Burns amendment that provides that within the funds made available for the Water Management Conservation Program, $300,000 shall be available for a Western regional drought mitigation center located within the Great Plains region through a competitive grant process.

The second amendment is an amendment by Senator NICKLES which provides that within the funds available for hydrogen research $250,000 shall be made available to an institution with expertise in electrochemical fuel cells, thermochemical and photochemical reactions to hydrogen production may be synergistically studied and the application of gas storage and alternate vehicle technology may be integrated.

The next amendment is on behalf of Senator KEMPTHORNE which provides that not less than $1,500,000 shall be available for hydropower research and development, of which $1 million shall be available on the advanced hydropower turbine program for design activities conduct and funded jointly by the Secretary of Energy and one or more appropriate entities from the private sector for an energy-efficient turbine that reduces the environmental impact on fish species.

The next is an amendment by Senator DOMENICI that provides that of the total amount appropriated $4.827 million shall be available for transfer to the State of New Mexico Irrigation Works Construction Fund for settlement of all claims associated with the Costilla Dam;

The next is on behalf of Senator FORD which provides that the Secretary of Army, acting through the Chief of Engineers, shall not collect fees at boat launching ramps located in undeveloped or lightly developed shorelines with minimum security and illumination.

Madam President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 2129 THROUGH 2133

Mr. JOHNSTON. Madam President, I send those amendments to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes amendments numbered 2129 through 2133.

Mr. HATFIELD. Madam President, all those amendments have been cleared on this side of the aisle.

The PRESIDING OFFICER. Without objection, the amendments are considered and agreed to.

The amendments (Nos. 2129 through 2133) were agreed to.

The amendments were agreed to as follows:

AMENDMENT NO. 2129

Mr. JOHNSTON offered an amendment No. 2129 for Mr. BURNS.

The amendment is as follows:

On page 18, line 19 insert the following before the period: ": *Provided further*, That within the funds made available in this Act for the Water Management and Conservation Program, $300,000 shall be available for any western regional drought mitigation center located within the Great Plains through a competitive grant process"

Mr. BURNS. Madam President, I offer an amendment to the Energy and Water Appropriations bill, H.R. 4506, which would allow existing funds for establishing a drought mitigation center within the Great Plains region of the Bureau of Reclamation.

This amendment allows for a competitive grant to be awarded for a drought mitigation information center. The Water Resources Center at Montana State University has designed a program with help of representatives from the Montana Department of Natural Resources and Conservation which would serve as a clearinghouse of drought information which could be utilized by States in the region. The center would address problems unique to the great plains. I am pleased that the managers of this bill have agreed to accept this amendment, and I look forward to Montana competing for this competitive grant.

AMENDMENT NO. 2130

Mr. JOHNSTON offered an amendment No. 2130 for Mr. NICKLES.

The amendment is as follows:

At the end of the sentence on page 22, line 7, after the word "Act", insert the following new provision:

"*Provided further*, That within funds available for hydrogen research, $250,000 shall be made available to an institution where expertise in electrochemical (fuel cells), thermochemical and photochemical reactions for hydrogen production may be synergistically studied and the application to gas storage and alternate vehicle technology may be integrated."

Mr. NICKLES. I would like to thank both Senator JOHNSTON and Senator HATFIELD for agreeing to include my amendment on hydrogen research in the 1995 energy and appropriations bill. It is my understanding that this bill provides $10,000,000 for hydrogen research.

Mr. JOHNSTON. That is correct.

Mr. NICKLES. The University of Oklahoma has expertise in electrochemical, thermochemical, and photochemical reactions for hydrogen production. In light of this expertise, I would strongly encourage the Department of Energy to provide at least $250,000 in funding to the University for research on the economical production of hydrogen.

Mr. HATFIELD. I join with Senator NICKLES in encouraging the Department of Energy to provide the University of Oklahoma at least $250,000 in funding for hydrogen research.

Mr. JOHNSTON. I concur.

AMENDMENT NO. 2131

Mr. JOHNSTON offered an amendment No. 2131 for Mr. KEMPTHORNE.

The amendment is as follows:

On page 22, line 7, insert before the period the following: ": *Provided further*, That not less than $1,500,000 shall be available for hydropower research and development, of which $1,000,000 shall be available under the Advanced Hydropower Turbine program for design activities conducted and funded jointly by the Secretary of Energy and one or more appropriate entities from the private sector for an energy-efficient turbine that reduces the environmental impact on fish species".

Mr. KEMPTHORNE. Madam President, the amendment I offer increases the DOE hydropower budget by $500,000 from within available funds under DOE's $3.3 billion energy supply, research, and development budget; $1 million of the total, $1.5 million, amount is then set aside for DOE's effort to develop an advanced hydropower turbine.

The purpose of DOE's current advanced hydropower turbine effort is to develop an energy efficient, fish friendly turbine. In the past couple of years, we have become especially aware of the distinct environmental problems associated with hydropower projects. These include problems of fish passage, which have been such a crucial issue in salmon recovery in the Pacific Northwest, dissolved oxygen and cavitation.

Hydropower engineers and scientists believe that breakthroughs are now possible. Not only can we now resolve the environmental problems, they believe we can increase energy production and maintain that production over a wider range of flows. As anyone will tell you in the Pacific Northwest, stream flows are a critical issue.

The current Department of Energy effort is being carried out on a cost-share basis with the private sector, including hydropower interests from every region of the country. Industry has committed $500,000 to match $500,000 now being provided by DOE. My amendment would simply invest an additional $500,000 in this program.

The administration has included hydropower R&D in its sustainable energy budget proposal, backed by industry and major environmental groups. It has also formed a technical oversight committee. Participants include: Corps of Engineers, NMFS, Bureau of Reclamation, Bonneville Power, private sector companies in the Pacific Northwest and the East, the Electric Power Research Institute, and the Interior Department.

This project is important for the Pacific Northwest, where we are engaged in a multimillion dollar salmon recovery effort. This research and development is also important for the Eastern States where the Atlantic salmon is listed, and it is important for every State that has hydropower as a part of its energy mix.

Madam President, this is an idea whose time has come. DOE recognizes this and has taken the initiative with basic seed money. Congress needs to step up to the plate, also, and give its solid endorsement by accelerated funding. With over 100 hydropower facilities due to be relicensed in the next decade, and the salmon problems, this work will prove crucial to the continuing viability of hydropower. This work will also be important to U.S. technological leadership in the export market for mass power generating renewable energy sources.

I understand that the chairman, Mr. JOHNSTON, and ranking member, Mr. HATFIELD, have agreed to accept the amendment, and we will work on this further between now and conference.

AMENDMENT NO. 2132

Mr. JOHNSTON offered an amendment No. 2132 for Mr. DOMENICI.

The amendment is as follows:

On page 17, at the end of line 13, before the period after the word "Act" and add the following new proviso: ": *Provided further*, That of the total appropriated, $4,827,000 shall be available for transfer to the State of New Mexico Irrigation Works Construction Fund for settlement of all claims associated with Costilla Dam".

AMENDMENT NO. 2133

Mr. JOHNSTON offered an amendment No. 2133 for Mr. FORD.

The amendment is as follows:

On page 14 after line 8, add the following:

SEC. 102. The Secretary of the Army, acting through the Chief of Engineers, shall not collect fees at boat launching ramps located in undeveloped or lightly developed shorelands with minimum security and illumination.

Mr. JOHNSON. Madam President, I move to reconsider the vote by which the amendments were agreed to en bloc.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MOUNTAIN PARK PROJECT

Mr. NICKLES. Madam President, Senator BOREN and I have been working with several of our colleagues to offer an amendment allowing the Mountain Park Conservancy District to prepay, or refinance, its obligation to the Bureau of Reclamation for the Mountain Park project. The prepayment authorized by our amendment would be equal to the fair market value of the district's debt, and is necessary to prevent a possible default by the district on their obligation.

Since our amendment does constitute authorization language, we have worked closely with the leaders of the authorizing committees, Senator JOHNSTON, Senator WALLOP, Senator BRADLEY, and Congressman MILLER. Unfortunately, we were unable to gain everyone's approval to move the amendment on this appropriations bill.

Therefore, Madam President, I will not offer the amendment today, but will instead introduce it as a freestanding bill later this week. It is my understanding that Senator BRADLEY's authorizing subcommittee will be holding hearings in late July, and that he has committed to working with Senator BOREN and I to hold hearings and move our bill as soon as possible.

Mr. BOREN. Madam President, several years ago, Congress passed legislation allowing the Mountain Park Conservancy District to restructure debt owed to the Bureau of Reclamation. Unfortunately, the legislation that passed did not give the desired relief.

Today, the communities of the district are faced with a tough choice. Either default on the loan to the Federal Government or face bankruptcy. Neither of these choices will benefit the community nor the Federal treasury.

Both the House and Senate have recognized the need to provide relief to the district and protect the financial investment made by the Bureau of Reclamation. Congressional action is needed this year to modify the original legislation and prevent default by the district.

I would have preferred to solve this problem on the energy and water appropriations bill, as it is most likely guaranteed of passing both the House and Senate this year. However, I do understand the reluctance to approve authorizing legislation on an appropriations bill. I would like to thank Senator BRADLEY for his pledge to work out a solution in the energy committee and his subcommittee on water and power as soon as possible. I also appreciate his understanding of the urgency of this matter and his commitment to work together and pass a solution before Congress adjourns for the year.

Mr. BRADLEY. I thank the Senators from Oklahoma for their comments. I regret that we cannot accommodate their amendment at this time. The need for assistance at the Mountain Park project is great, and I will work with them to move legislation through the authorizing committee as soon as possible.

Mr. JOHNSTON. I, too, thank the Senators from Oklahoma for withholding their amendment. As the chairman of the Energy and Natural Resources Committee, I am sensitive to the Senators' problem, and I hope to work with them to solve it.

Mr. HATFIELD. The Senators from Oklahoma make a strong case to help the Mountain Park Conservancy District in Oklahoma. I, too, will work with them on this matter in the authorizing committee.

CENTRAL UTAH PROJECT

Mr. HATCH. Madam President, those of us involved in completion of the Central Utah project anticipate that, in the near future, President Clinton will appoint the members of the Utah Reclamation and Mitigation Commission, which was established with passage of the Central Utah Project Completion Act [CUPCA] of 1992, Public Law 102–575. This Commission will administer millions of dollars included in this year's Energy and Water Development Appropriations bill for fish and wildlife enhancement measures associated with the Central Utah project. I would like to engage Senator JOHNSTON, who chairs the Energy and Water Development Appropriations Subcommittee and the Senate Energy and Natural Resources Committee, which passed CUPCA, in a brief colloquy, with my colleague Senator BENNETT, with respect to the use of these funds.

Mr. JOHNSTON. I would be happy to discuss this matter with my two colleagues from Utah.

Mr. HATCH. According to the distinguished chairman of the subcommittee, what guidance has been provided to members of the Utah Reclamation and Mitigation Commission with respect to how the fish and wildlife funds in the bill now before the Senate are to be used?

Mr. JOHNSTON. These funds have been appropriated for specific purposes. The provisions of title III of CUPCA govern the activities of the Commission with respect to the expenditure of funds provided in this appropriations bill. While title III of Public Law 102–575 identifies a number of fish and wildlife related projects, which are eligible to receive funding, section 301(f)(3) of that law directs the Commission to expend funds on a priority basis. In essence, that section states that the Commission shall provide funding on a priority basis for environmental mitigation measures adopted as a result of compliance with the National Environmental Policy Act of 1969 [NEPA] for projects built under titles II and III of CUPCA.

Mr. BENNETT. According to my colleague's understanding of Public Law 102–575, how will the Commission determine which projects meet the requirements of section 301(f)(3)?

Mr. JOHNSTON. I expect that the Commission will work closely with the Central Utah Water Conservancy District, which has been given the authority by Congress to complete the features of the Central Utah project, and is responsible for future NEPA compliance on the project. In this process, the Commission should also consult with resource agencies and local environmental groups. As mitigation measures are developed by the district under compliance with NEPA, it is my understanding the Commission will include funding for priority items in its annual budget requests for these measures.

Mr. BENNETT. I concur with the Senator from Louisiana and thank him for his clarification on this matter.

Mr. HATCH. I, too, concur with the statements made by the Senator from Louisiana on this point. Senator BENNETT and I believe that it is important to reiterate how funds provided in this bill will be utilized now that members to the Utah Reclamation and Mitigation Commission will soon be appointed. I thank my colleague for his responses of these questions.

Mr. LAUTENBERG. Madam President, the chairman and I have discussed a problem facing communities in my state which currently are burdened with the Wayne and Maywood Superfund sites containing thorium contaminated soil. The Department of Energy had proposed that the soil be treated with a new and still experimental technology called soil washing. The residents of the two communities oppose that. And, as I told the chairman, I was just informed by the Department of Energy that they have agreed to abandon efforts to conduct soil washing on site or in those communities. They will—and I support this decision—continue to test the soil washing technology, but they will not be doing it in Wayne and Maywood.

While this is obviously good news, I do want to make sure that the contaminated soil in the communities will, in fact, be cleaned up expeditiously in order to protect human health. In that context, I want to make sure that enough of the money the Department of Energy was going to use to test soil washing will be reserved for alternative methods of cleanup in these communities. I have a letter from the Department, which I want to submit for the RECORD, which makes it clear that is their understanding and I simply want to ask the chairman if he shares that understanding.

Mr. JOHNSTON. Madam President, the Senator from New Jersey and I have discussed the problem facing these communities in his State at great length over the past few months. I understand his concerns and the concerns of the residents of those communities. I am delighted that he has been able to make an arrangement with the Department to conduct soil washing tests at other locations.

I am aware of the Department's understanding about reserving sufficient funds for alternative treatment of the contaminated soil in these communities.

Mr. LAUTENBERG. I ask unanimous consent that the letter from Mr. Grumbly be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF ENERGY,
Washington, DC.

Hon. FRANK R. LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: I am writing in response to your June 24, 1994, letter expressing concerns about the Department of Energy's proposed soil washing test in Wayne and Maywood, New Jersey. I understand your position that we not proceed with the soil washing proposal because of community opposition and questions about its effectiveness. Given that concern, the Department of Energy has decided not to go forward with our proposed soil washing test in Wayne or Maywood, consistent with your concern.

I know that you are concerned with resolving outstanding issues in Wayne and Maywood and moving forward with an acceptable and effective clean up plan. I am committed to this goal as well as pledge that the Department of Energy will continue to review options to protect the public health and environment in Wayne and Maywood. DOE is investigating an alternative site for the soil washing pilot test.

As you know, DOE plans to use $4 million for action at the Wayne site if the Fiscal Year 1995 budget is approved as requested. Also, we continue to be committed to begin removal of the pile from the Maywood site in 1994.

If you have any questions, please feel free to contact me.

Sincerely,

THOMAS P. GRUMBLY,
Assistant Secretary for
Environmental Management.

Mr. DOMENICI. Madam President, I would like to compliment the subcommittee chairman and ranking minority member on H.R. 4506, the fiscal year 1995 Energy and Water Development appropriations bill. It has been my pleasure as a member of the subcommittee to work with them both.

I would ask the distinguished subcommittee chairman if he would engage in a colloquy.

Significant funding is provided through this appropriations bill and through the Department of Energy for the Los Alamos National Laboratory, located in my State. Less than 10 air miles also separates LANL from the pueblos of Cochiti, Santa Clara, and Jemez, and the pueblo of San Ildefonso has the distinction of being the only tribe in the country to share a common boundary with a Department of Energy facility. These four pueblos are affected by LANL activities impacting surface and ground waters, ground water, transportation of hazardous wastes, and air emissions.

This spring, representatives of the pueblos came to Washington to meet with DOE Under Secretary Curtis, and to request his assistance to provide DOE funding to enable these pueblos, known as the Los Alamos Pueblos project, to be able to discern more about whether and how activities at LANL may be impacting the land, water, air, and wildlife in the area, and the health and safety of pueblo members. While the Department does not support a specific earmark of funds for the Los Alamos Pueblos project, Under Secretary Curtis has indicated that the Department is eager to work to establish a long-term relationship with the pueblos, and to develop a long-range plan to address tribal concerns about activities at LANL.

Mr. BINGAMAN. I express my support as well for a comprehensive strategy developed jointly by the pueblos and DOE. Such a strategy is a natural next step toward implementation of the accords the Department of Energy has signed with these four pueblos to ensure their participation in long-term planning and management processes affecting LANL.

I commend the Department, Secretary O'Leary, and Under Secretary Curtis, for their expressions of a commitment to work with the LAPP pueblos. I note, too, that the pueblo governors have requested a meeting with the director of LANL, in the hopes that they may work with officials at the laboratory level to raise visibility about concerns of the pueblos and to participate in decisionmaking at LANL in the future.

May I count on the subcommittee chairman's support for a dialog between the Department of Energy and the Los Alamos Pueblos project toward a cooperative agreement which would facilitate pueblo participation in environmental, health and safety, and other issues affecting them at LANL?

Mr. JOHNSTON. The Senators may surely count on my support. While the administration and the subcommittee do not support the specific earmarking of funds within the Department of Energy budget for LANL, as the Los Alamos Pueblos project requested, we encourage the Department and the pueblos to work together.

DRY STRAITS, AK

Mr. MURKOWSKI. I would like the Corps of Engineers to continue the reconnaissance report of Dry Straits/Wrangell Narrows by developing a detailed mathematical model of Dry Straits. I also would like the Army Corps to go ahead with physical modeling of Dry Straits once a mathematical model is available.

In Alaska, our livelihood stems from the sea. Southeast Alaska, where Wrangell Narrows and Dry Straits are located, depends on safe navigation for its people and commerce. The Corps of Engineers is presently looking at improving navigation across Dry Straits near Wrangell, AK. The lack of depth of present navigational channels prevents most large vessels from plying the most convenient routes of the protected waters of the Inside Passage.

Without improved navigational passages, large vessels are prevented from connecting with the rest of the ocean-going commercial network.

Thus, the Army Corps should continue its study of Dry Straits by conducting needed modeling studies to determine the viability of improving this channel to accommodate larger vessels. I had been prepared to offer an amendment to provide funds for this purpose. However, the managers have noted concern with the December 1993 interim reconnaissance report on Dry Straits/Wrangell Narrows which estimates a benefit-cost ratio less than the Corps considers necessary.

Mr. HATFIELD. I understand that the Senator from Alaska does not feel that this benefit-cost ratio is accurate and would like to have a more detailed assessment of the economic benefits of this project.

Mr. MURKOWSKI. Yes, that is the case. I have lived in southeast Alaska and I think that this project has a much greater economic benefit than was estimated by the corps.

In its economic analysis, the corps investigated the following benefit categories for an improved navigation route through Dry Straits: reduction in delay for log tows; improvements in the Alaska Marine Highway ferry schedule; increased tourist spending; increase in number of general cargo vessels through the strait; reduced casualties to commercial vessels; and reduction in vessel operating cost (fuel). While I am not sure that the economic analysis exhausts all categories that needed to be considered in this list, I am sure that the economic analysis did not evaluate the benefits of these categories thoroughly enough. The National Economic Development [NED] benefits were only estimated for the last of these six categories. I think that the NED benefits should have been performed for all of these categories.

I also feel the corps was remiss in not doing any analysis of two options—a shallower channel project that could provide limited benefits at a substantially lower cost, and a larger channel project that would open the passage to even the largest cruise ships that frequent these waters.

I believe that if all of the potential benefits were figured into the equation that the annual costs of Dry Straits may be offset and that even the high initial cost of construction may be worth the investment. I seek the assistance of the chairman in directing the corps to reconsider its economic analysis of benefits to costs by taking into account the benefits of all categories and any other benefits that may be realized from this project.

Mr. JOHNSTON. I urge the Army Corps to address the concerns of the Senator related to the benefit-cost calculation.

Mr. MURKOWSKI. I thank Senator JOHNSTON. Taking all of this into account, I think that this project warrants further studies. I anticipate that a more thorough evaluation of the benefits to costs will result in the next needed step of a detailed modeling.

Mr. HATFIELD. I am happy to be able to accommodate the Senator from Alaska in this way for now. I am willing to work with the Senator in the future on this project.

NEW BOAT HARBOR AT WRANGELL, AK

Mr. MURKOWSKI. Madam President, I once had the privilege of managing a bank in the city of Wrangell, in southeast Alaska. Wrangell is a small but thriving community of approximately 3,000 people—active in the Alaska fishing industry, a destination for the State's marine highway ferry system, the hub of a thriving river trade with Canada, and the site of an important lumber mill. Like most Alaskan coastal communities, its welfare is closely tied to the sea. Unfortunately, the current boat harbor, constructed in the 1930's, is unable to satisfy today's boating needs. It suffers from limited depth, inadequate wave protection, and overcrowding. It needs moorage for local commercial fishing and pleasure craft, moorage for transient vessels, space for an expanding tugboat fleet, and room for needed upland facilities to support water-related uses.

The Corps of Engineers in Alaska has indicated that it would be receptive to evaluating the need for new harbor construction in Wrangell, but because of the press of other business and limited funding, it was unable to include this project in the general investigations category of its appropriation request for fiscal year 1995.

I would like to inquire of the distinguished floor managers if they would be amendable to supporting the addition of language to the conference report which urges the Corps to consider the need for evaluation of this project when it prepares its request for fiscal year 1996.

Mr. JOHNSTON. I thank my colleague, the junior Senator from Alaska, for his question. I understand that the corps has previously explored this project, but that it has been several years since it has done so, and that corps staff in Alaska concur that additional growth in the community has brought impacts and needs that did not exist in the past.

As long as it is understood that we are in no way binding the Corps of Engineers to a specific request, but merely requesting that it give due consideration to the matter, I would be pleased to explore addressing the project in the conference report.

Mr. HATFIELD. I certainly have no objection to suggesting that this project be considered by the corps for inclusion in the fiscal year 1996 request.

Mr. MURKOWSKI. I thank the managers for their consideration, and will have my staff contact the committee staff on this matter.

DEPARTMENT OF ENERGY REPORT ON EXPORTING ALASKAN NORTH SLOPE CRUDE OIL

Mr. MURKOWSKI. Madam President, today the Energy Department released its detailed report and analysis of the economic effects of lifting the ban on exporting Alaska North Slope [ANS] crude oil. The DOE report presents a compelling case for immediately lifting the 21-year old ban. Lifting the ban will stimulate the economy, enhance our Nation's energy security, and have important beneficial effects on the environment.

After reading this report, the only conclusion that a reasonable person can reach is that the export ban makes absolutely no sense and continuation of the ban is inconsistent with our national interest. The study found that "exporting ANS crude oil would result in a substantial net increase in U.S. employment." If the ban is lifted this year, at least 11,000, and possibly as many as 16,000 new jobs would be created in 1995 alone. And by the end of the decade, as many as 25,000 new jobs would be generated from ANS exports. And nearly all of those jobs would be created in two States that have yet to recover from the recession—California and Alaska.

Ending the export ban, according to DOE, will stimulate oil production activity in California and Alaska, thereby enhancing our Nation's energy security. DOE estimates that California oil producers could be producing an additional 100 to 110 thousand barrels a day if the ban is lifted. Moreover, the higher returns resulting from exports would stimulate exploration and development activities in major North Slope fields such as Point McIntyre or Endicott. As a result of this activity, DOE estimates that Alaskan oil reserves could increase by 200 million to 400 million barrels.

Madam President, for more than two decades, the export ban has been glutting the California oil market, driving the price of oil in California far below the world market and making it impossible for independent oil producers to survive. DOE's study confirms the impact of this market glut: "California refiners today purchase the State's indigenous crude for prices that are between $0.90 and $2.50 per barrel lower than its refined value relative to ANS crude oil."

Despite glut-induced low-crude prices in California, consumers receive none of the benefits in the form of lower prices for gasoline. As DOE notes: "The low cost of acquiring crude oil is not shared with consumers of refined products." Who benefits from the glut? The refiners in California who, according to DOE, operate on the highest margins in the country—31 percent higher than the U.S. average. And these margins have been widening in recent years.

DOE found that in 1988 refiners' gross margins in the United States averaged $7.21 per barrel in 1988 whereas gross margins in California were $9.82—$2.61 a barrel higher. Last year, when U.S. average refiners' margins were $8.17 a barrel, refiners in California enjoyed margins averaging $12.39—$4.12 a barrel higher or 50 percent higher than margins received by other U.S. refiners.

What the study concludes is that California refiners could easily absorb the higher crude prices that would result from lifting the ban but that "refined product price increases would be minimal or nonexistent." In other words, Madam President, consumers in California will not see a price increase if ANS exports are permitted.

One aspect of the report that I found most interesting concerns the environmental implications of lifting the ban. DOE concluded that there is "no plausible evidence of any direct negative environmental impact from lifting the ANS export ban." In fact, DOE found that there would be positive effects on the environment if the ban is lifted because increased onshore production in California would decrease the need for tanker shipments into the State. Moreover, sulfur-related emissions from refineries and automobiles would decline in California because some crude that replace ANS crude would have a lower sulfur content than ANS crude.

Moreover, lifting the ban would raise royalty revenue for the Federal Government and would increase tax and royalty revenues for Alaska and California. The study estimates that Federal receipts would increase from $99 million to $180 million, while Alaska royalties and severance income would increase from $700 million to $1.6 billion. For California's State government, returns from royalties and State and local taxes would add $180 million to $230 million to the State's coffers. And three-fourths of these financial benefits could accrue in the next 2 years.

Madam President, the export ban is an outdated relic of the world of 20 years ago and should be ended. Senator STEVENS and I have introduced legislation (S. 1993) that would end the ban and require that ANS exports be transported on Jones Act tankers. DOE's study concludes that using Jones Act tankers in the ANS export trade would mitigate maritime job losses that would occur if the exports could be shipped on foreign flag vessels. I believe it is in our Nation's national security interest to maintain a healthy, competitive, and viable merchant marine. It is for that reason that S. 1993 requires the use of Jones Act vessels.

In recent weeks, the issue of requiring that Jones Act vessels be used to transport ANS crude has raised some concerns within the administration and with some international trade organizations. I am baffled by those who raise concerns about using Jones Act tankers because there is no basis to conclude that this requirement would violate our obligations under the General Agreement on Tariffs and Trade [GATT].

The recently concluded Uruguay round of multilateral trade negotiations reached no agreement on maritime services. The GATT members agreed to continue to negotiate on trade in maritime services and agreed to a standstill on current restrictions on trade in maritime services. Requiring the use of U.S. flag vessels on ANS exports does not violate the standstill commitment. In fact, permitting such exports actually represents a liberalization of our existing export control policy which currently prohibits any exports of ANS crude.

Moreover, the requirement to ship ANS crude on U.S. flag vessels would not affect trade in maritime services since no foreign-flag vessels currently carry any Alaskan oil. Therefore requiring ANS crude to be shipped on Jones Act vessels would not adversely affect foreign flag vessels since no foreign flag vessels would be displaced as a result of the Jones Act requirement.

As DOE noted in its report, a portion of the ANS crude exported will have to be replaced by U.S. imports of crude oil. These imports are likely to be transported on foreign-flag vessels. As a result, allowing ANS crude to be exported will result in an increase of foreign-flag shipments of crude—or refined products—into the United States.

Madam President, I would also note that there is precedent for extending the Jones Act to foreign trade without any concern that it would violate GATT. Under section 7(d) of the Export Administration Act of 1979, as amended to implement the United States-Canada Free-Trade Agreement, 50,000 barrels per day of ANS crude may be exported for consumption in Canada provided that "any ocean transportation" of such crude be on Jones Act vessels.

Some members of the Organization for Economic Cooperation and Development [OECD] have also expressed concerns that using Jones Act tankers in this trade will upset the trade talks on shipping subsidies. Madam President, it is not clear where the OECD talks are headed. They've been on-going for more than 5 years with no real progress having been made.

The OECD's goal is to eliminate all government preferences for domestic merchant fleets. That may be a laudable goal for some, but for this Senator it is an unrealistic and dangerous aim. This Nation needs a strong merchant fleet as part of our overall national defense. If OECD had its way, the Jones Act would disappear. And if that happened, there would be no U.S. flag merchant marine by the end of the century. Maybe that is what some of our trading partners desire. But it is not what the negotiating position should be for the United States.

Madam President, I would note that today the Export Administration Act [EAA] will expire. That is the primary law that bans the export of ANS crude. Later this summer we will consider legislation extending the EAA. When the Senate considers the EAA, I hope all of my colleagues will support our effort to finally eliminate this irrational export ban. In the face of this report, there seems no reason for the ban to last another day.

Mr. JOHNSTON. Madam President, we have some other amendments that have been agreed to by Senator HATFIELD, the ranking minority member and myself, but which I believe there may be either an objection or a request for a rollcall vote from Senator MCCAIN.

AMENDMENT NO. 2134

Mr. HATFIELD. Madam President, I will send this to the desk and ask for its immediate consideration. I am offering this amendment on behalf of Senator DOLE, our Republican leader, which would identify $500,000 for general investigations, provided for Wichita, Kansas, the Equus Beds project.

Madam President, we also have a request by Senator MCCAIN that this be adopted by rollcall vote without objection.

AMENDMENT NO. 2134

Mr. HATFIELD. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], for Mr. DOLE, proposes an amendment numbered 2134.

Mr. HATFIELD. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, line 2, insert the following before the period: ": *Provided further*, That of the funds appropriated for General Investigations, $500,000 is provided for the Wichita, Kansas, Equus Beds project".

Mr. HATFIELD. Madam President, I ask in behalf of Senator MCCAIN for the yeas and nays on this.

Mr. JOHNSTON. Madam President, will the Senator withhold at this time?

Mr. HATFIELD. Yes.

The PRESIDING OFFICER. Is the Senator from Oregon yielding the floor?

Mr. HATFIELD. I withhold my request.

Mr. JOHNSTON. Madam President, if I may say a word about this, and then hope that we would not require the yeas and nays because we are going to have to stay here tonight until the defense bill is finished. I submit that there is no reason in the world to have a vote on this amendment.

Senator DOLE proposes a study on a demonstration project which is authorized which would commit $500,000 on a ground water recharge study. That is all it is.

Madam President, we have a huge number of these kinds of studies in this bill. We have a huge number. If we had to vote on every one, we would be here for weeks. Most of them are already contained in our report. I invite my colleagues to look at these. These are studies. They go on for pages. This is no different from that. Look at this, Madam President. I do not know how many page pages this is. It is single spaced, over 10 pages, several hundred of these. This is no different from those.

It has been approved by Senator HATFIELD and myself. I would hope that the Senator would not ask for the yeas and nays. I could put in a quorum call so this could be explained to the Senator from Arizona [Mr. McCAIN]. If we have a vote on this, this is not the last one. We have some others we would have to vote on. There is just no reason to do that.

So I hope we would not have to do that.

Mr. HATFIELD. I withhold the request, Madam President, in asking for the yeas and nays. I have indicated to the staff that I would like to have Senator McCAIN on the floor to make a determination on this. I say to the Senator from Louisiana that there are three other amendments that we have here to deal with: One by Senator CHAFEE, one by Senator LEVIN, as well as one by Senator DOLE; a total of three that at this point I understand the Senator from Arizona [Mr. McCAIN] wishes to have a rollcall.

So that would be in effect three rollcall votes unless there is some way of doing them en bloc; to have one rollcall, if he demands that. But I would at this time suggest the absence of a quorum, unless there are other items that the Senator would like to dispose of and set aside this first Dole amendment.

Mr. JOHNSTON. If the Senator will yield, while we are waiting, Senator CHAFEE has an amendment which involves $67,500 for an investigation of the Allendale Dam in Rhode Island; another one of several hundred of these kinds of things.

Here is another one by Senator LEVIN with the Grand Marais Harbor in Michigan, a $100,000 investigation.

Madam President, the Senate has done nothing to warrant the punishment of having to come over here and vote on these. If every Senator wanted a rollcall vote, do you know how many weeks we would be here on every one of these kinds of things?

Madam President, I hope the Senator from Arizona will come over, and look at these. And then we have a couple of others that we have agreed to with explanation that I think he would agree to.

So I hope he will not insist on a rollcall vote.

Mr. HATFIELD. Madam President, I understand what the chairman of our subcommittee said. I can understand his concern, and I share that concern. But I must also say the flip side of that coin is obviously that any Senator has a right to have a rollcall vote on any amendment on any matter pending in this Senate on which an agreement must be reached. I must in that respect defend the right of the Senator from Arizona, Mr. McCAIN's right, to have such a rollcall. I hope it is not necessary. But I agree with the Senator that until we find that out directly, I am still under such instructions and a request from the Senator from Arizona to ask for such rollcall votes.

I will restrain myself at this time in doing that pending his arrival on the floor to speak for himself.

Mr. JOHNSTON. Madam President, I am advised we are going to need these rollcall votes. I wonder if we could just set—I know we also have a Lautenberg amendment which you and I have cleared and whether we could just set like 5 votes in a row.

Mr. HATFIELD. It would be fine with me. We have a vote now scheduled for 5 o'clock. My only point is there are other matters we can dispose of in the meantime, and then stack these votes after the 5 o'clock vote that is being requested by Senator McCAIN?

Mr. JOHNSTON. I think so. I think we could get one vote out of the way now and the others.

Madam President, is the Dole amendment pending?

The PRESIDING OFFICER. The amendment is pending.

UNANIMOUS CONSENT AGREEMENT

Mr. JOHNSTON. Madam President, I ask unanimous consent that it be in order that, upon the yeas and nays being requested on the Dole amendment, a rollcall vote occur on that immediately; that immediately thereafter, we have a vote on the motion to table the Harkin amendment; that if that amendment is not tabled, immediately thereafter there be a vote on the Harkin amendment; that immediately thereafter, a vote occur on the Levin amendment, and that it be in order at this time to submit an amendment on behalf of Senator LEVIN; that immediately thereafter, there being a vote on the Chafee amendment, and that it be in order to submit that amendment at this time; that immediately thereafter, there be a vote on the Lautenberg-Bradley amendment, and that it be in order to submit that amendment at this time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HATFIELD. If the Senator will yield, there is also a Stevens amendment on the electrical generator in Alaska which he indicated he would like to take up as soon as possible after the 5 o'clock vote.

Mr. JOHNSTON. Yes, that would be in order.

If I may, I amend that request to have the first vote on the motion to table the Harkin amendment, followed by the vote on the Harkin amendment, if not tabled, followed by the Dole amendment, the Levin amendment, the Chafee amendment, and the Lautenberg amendment, in that order, and that no second-degree amendments be in order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENTS NOS. 2135, 2136 AND 2137, EN BLOC

Mr. JOHNSTON. Madam President, I send a group of amendments, en bloc, on behalf of Senators LEVIN, CHAFEE, and LAUTENBERG to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes amendments, en bloc, numbered 2135, 2136, and 2137.

Mr. JOHNSTON. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 2135

(Purpose: To fund an economic study of Grand Marais Harbor, MI)

On page 3, between lines 21 and 22, insert the following: "Grand Marais Harbor, Michigan, $100,000".

AMENDMENT NO. 2136

On page 9, line 15, before the ":", insert the following: "Allendale Dam, Rhode Island, $67,500".

AMENDMENT NO. 2137

On page 21, line 25, after "expended" insert: ", of which $45,000,000 is to initiate construction of the Tokamak Physics Experiment (TPX) at the Princeton Plasma Physics Laboratory, subject to subsequent enactment into law of specific authorizing legislation.".

Mr. LAUTENBERG. Madam President, first of all, I would like to thank the chairman of the Energy and Water Appropriations Subcommittee for working with me and the senior Senator from New Jersey on this amendment. As my colleagues know, he is chairman of this subcommittee and is also chairman of the full Energy Committee. He is clearly the leader in the Senate on energy legislation.

Specifically, he has also been a big supporter of the fusion program. He has stated publicly his support for the TPX fusion machine that is scheduled to be built at Princeton University and the ITER project, which is designed to be an international collaborative fusion effort between the United States, Russia, Japan, and the European Community. The ITER machine is being designed to lead to a commercial fusion reactor in the next century.

Madam President, this amendment adds $45 million for the construction of the TPX fusion machine at Princeton University. However, it makes the construction funds contingent upon authorization by the Congress. Now, I would let my colleagues know that the Senate has already passed a fusion authorization bill that includes authorization for building TPX at Princeton and ITER. This bill is sponsored by the distinguished manager of the bill, Senator JOHNSTON. The House also has a fusion authorization bill pending in the House Science Committee.

Madam President, it would be my preference that this contingency provision not be included in the amendment. There are many other energy research projects funded in this bill that are not contingent upon authorization.

However, I agree with the chairman that we need a roadmap for where we are going with the fusion program. I believe that we should either enact this authorizing legislation or require the administration to present the Congress with a plan for the future of the fusion program.

But this amendment does represent good news for the fusion program. It means that we are moving forward on construction of TPX and ITER. It means that the international fusion effort will continue.

Madam President, there are approximately 1,000 hard working scientists and technicians at the Princeton Plasma Physics Laboratory. They have dedicated their lives to try to make fusion energy a reality. If we are successful in the development of fusion energy, our grandchildren may inherit an abundant source of clean energy that does not have the radioactive waste problems associated with nuclear fission.

Madam President, at this time I would also like to make my colleagues aware of some recent developments at the Princeton Laboratory. Last December, Princeton scientists achieved world record bursts of fusion during experiments on the existing TFTR machine.

The TFTR machine's peak output was 6 million watts, triple the output of a similar effort in England 2 years earlier. This event was met with worldwide news coverage and I ask unanimous consent to have printed a front page New York Times article that summarizes this event in the RECORD following my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 10, 1993]

SCIENTISTS AT PRINCETON PRODUCE WORLD'S LARGEST FUSION REACTION

(By Malcolm W. Browne)

PLAINSBORO, N.J., Dec. 9—A huge experimental reactor embodying the process of the hydrogen fusion that fuels the sun unleashed a burst of energy tonight that broke all records and appeared to pave the way for eventual exploitation of abundant, cheap fusion energy.

The achievement crowned a day of lesser landmarks, in which the Princeton Plasma Physics Laboratory gradually increased the power of its Tokamak Fusion Test Reactor by mixing increasing proportions of tritium into the machine's fuel.

In the final "shot" of the night, the machine achieved a fusion power equivalent to about three million watts—double the power achieved two years ago by the Joint European Torus, a somewhat similar machine in England.

As the vast power of the seven-second burst manifested itself on computer screens in the control room and auditorium, it became apparent that the experiment was a success, about 500 scientists who had worked on the project for up to 20 years cheered and applauded, a few with tears in their eyes.

In the next several months, the Princeton group expects to increase the power of its reactor to five megawatts, and by the end of next year, to 10 megawatts. The machine consumes about twice as much energy as it produces, but this ratio is a vast improvement over previous types of fusion experiment.

Physicists and engineers had packed the huge control room of Princeton's tokamak fusion test reactor to run the machine on a fuel never before used in a reactor: a full-strength mixture of deuterium and tritium.

Fusion is the joining together of the nuclei of hydrogen atoms, each of which contains one proton. The fused nucleus resulting from this reaction is that of helium, which contains two protons. This process is the opposite of fission, the phenomenon that powers conventional nuclear reactors; fission involves breaking apart heavy nuclei, like those of plutonium atoms.

Although radioactive tritium fuel is used in the tokamak reactor, scientists say there is no danger of any accidental release of the tiny quantity used in the experiment—five grams. Unlike nuclear fission reactors, a fusion reactor cannot melt down, and if anything goes wrong, the fusion reaction, which is very difficult to keep going, simply stops.

Physicists believe that if the current series of high-power experiments is successful—and two more advanced fusion reactors are completed—the first commercial fusion power reactors could begin operating around the year 2030.

NEW AGE OF CHEAP ENERGY IS SEEN AS FUSION EXPERIMENT SUCCEEDS

The atmosphere in the huge control room here was reminiscent of a control room at the National Aeronautics and Space Agency preparing for a major space launching. As occasional snags in the countdown for the main fusion "shot" developed, scores of news reporters, officials and scientists watched the tense proceedings from the windows of a balcony surrounding the control room.

Before trying a full-strength shot using the full charge of deuterium and tritium, the physicists conducted several lesser shots, each one more powerful than the last, and each "exploring a virgin field of physics," according to Dr. Dale M. Meade, deputy director of the laboratory. Onlookers heard a loud whine with each shot, as the 50-foot-high machine vibrated after being suddenly exposed to a powerful magnetic field.

The audience, which included officials of the Department of Energy, was also treated to spectacular views of the interior of the reaction chamber. Closed-circuit television vividly displayed the white-hot fuel confined in the machine, and could see the bright flash swiftly fade as the temperature rose above that at which visible light is emitted.

Dr. Meade said a crucial goal of tonight's series of runs was the measurement of the number and energy of neutrons emitted by the fusion reaction, which are an indication of the reaction's power. In a commercial reactor, these neutrons would be harvested by an external metal "blanket," which would heat up as neutrons hit it. This heat would be transferred to a gas that would turn the turbines of electric generators.

Scientists said that the deuterium-tritium fuel used in the current experiment would achieve a temperature of several hundred million degrees—modest by fusion standards, but far higher than the temperature at the core of the sun.

In the last 10 years, it has cost about $1.4 billion to build the tokamak reactor at Princeton's Plasma Physics Laboratory and conduct dry runs using deuterium fuel. Nearly all the money was provided by the Federal Department of Energy. The Princeton laboratory hopes to gain financing for a new tokamak reactor in which a continuous fusion reaction could be maintained.

The term tokamak is derived from a Russion acronym for toroidal magnetic chamber, which describes the design of the device.

Mr. LAUTENBERG. Since then, Princeton scientists have achieved even greater levels of fusion power—9 million watts of power. I am proud of these accomplishments and working together with my colleagues, I trust that there will be many more as we ultimately move toward commercial fusion energy.

Once again, I would like to thank the Senator from Louisiana for offering this amendment. I urge the Senate to adopt it.

Mr. JOHNSTON. Madam President, I have described previously the Chafee, Dole, and Levin amendments.

The Lautenberg amendment provides that with respect to the TPX project at Princeton, the tokamak physics experiment, that—the House has provided that we proceed with that project for a new start, and $45 million is committed for a new start of that project.

What this amendment says is that the new start of the TPX project be subject to subsequent enactment into law of specific authorizing legislation. The reason for that, as I explained when we opened the bill this morning, is that the TPX project, in my view, should not begin until the Congress understands what the mortgage is of the TPX project, and what the mortgage is on the either project, or the international tokamak experiment, which would follow on that, and understands the scope of this and makes a decision to go ahead, which the authorizing legislation would allow.

We have already passed in the Senate a bill which deals with TPX and ITER and it now reposes in the House. So it would be up to the House to act on that. In other words, it would be possible to get that authorizing bill passed this year, or, if not this year, early next year. It provides, in effect, that the $45 million as provided by the House may not be used to commence the project until and unless it is authorized. I think this is very prudent, Madam President.

I favor the TPX project and I favor the ITER project. But the combined U.S. obligation under those two projects could be as high as $15 billion—$15 billion. It is not something that you do without being authorized. It may be the answer to all of our energy problems. It may produce energy cleanly and safely, with an unlimited supply of fuel; that is the promise of fusion energy. That promise would probably not be realized, if realized, until 2050, or beyond.

But the Congress needs to debate and consider this fusion program. It is not all upside. I am hopeful that it would work. I believe we ought to go into this $15 billion crusade. However, there are those who think it will never work, that it is too expensive and too long-term, and that we do not have the resources to do it.

Madam President, having been burned on the SSC Program, having seen us invest, together with termination costs, almost $3 billion in SSC and then decide to terminate that program, we should not proceed with what could be a program three times or four times that big without at least an authorization. That is all this amendment does. From somebody who favors the program, TPX, it says let us proceed, but subject to authorization. And there is every ability to authorize that project this year, with a bill that reposes in the House. I understand there have been hearings in the House already. So it can proceed.

So, Madam President, that is what this Lautenberg-Bradley amendment would do. I do not know why anybody would oppose that. Senator LAUTENBERG and Senator BRADLEY are for it, and the floor managers are for it. It seems to me that everybody ought to be for that. In any event, we will be voting on that.

Madam President, beginning at 5 p.m., we have a long series of votes. I ask the floor staff whether it would be in order to ask that all votes after the first be 10-minute votes? I am advised that no, it would not be. We will ask the majority leader to come and make that request. There are now stacked up, I believe, five votes, commencing at 5 o'clock.

Madam President, I am advised if we table, then it is five votes; if we do not table it is six votes. Only one or two of those are necessary.

I hope we can expunge the order for those other votes because nobody objects to them. It is just sort of a caning of the Senate.

Mr. HATFIELD. Madam President, will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. HATFIELD. As I understand then the remaining agenda we have to complete this bill will be an amendment to be offered by Senator STEVENS following the series of votes, then the action on the one committee amendment, and then we could go to third reading; is that correct?

Mr. JOHNSTON. So far as I know that is correct. The Stevens amendment would be eligible for consideration at that time. It is not involved in the unanimous consent agreement.

Mr. HATFIELD. It is not in the mix of votes, no. But he wanted to have the opportunity to offer his amendment.

Mr. JOHNSTON. The Senator is correct. I think so far as I know our business is done other than the Stevens amendment if offered. That is all we know about it. So I hope we can go to third reading.

Madam President, I ask unanimous consent that it be in order to ask for the yeas and nays, en bloc, on all those amendments.

The PRESIDING OFFICER. Is there objection?

Mr. HATFIELD. Madam President, reserving the right to object.

The PRESIDING OFFICER. All right.

Mr. HATFIELD. Is that one vote for all?

Mr. JOHNSTON. No. Madam President, the unanimous consent would be to ask for the yeas and nays on each of the amendments not en bloc but on each of the amendments.

The PRESIDING OFFICER. Is there objection?

Without object, it is so ordered.

Mr. JOHNSTON. Madam President, I ask for the yeas and nays on all the amendments.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBB. Why ask for the yeas and nays?

Mr. JOHNSTON. Madam President, I am advised that it is the wish of some Senators to expunge the order for the yeas and nays on everything other than the first two Harkin amendments in hopes that Senator MCCAIN will not ask for them, but he will obviously be here and be able to ask for the yeas and nays and they will be stacked.

So I ask unanimous consent that the order for the yeas and nays on all amendments other than the motion to table the Harkin amendment, and the motion to pass the Harkin amendment, if not tabled, be expunged.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. JOHNSTON. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON MOTION TO TABLE AMENDMENT NO. 2128

The PRESIDING OFFICER. The hour of 5 p.m. having arrived, the question now occurs on agreeing to the motion to table amendment No. 2128, offered by the Senator from Iowa [Mr. HARKIN].

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. PRYOR. Mr. President, on this vote I have a live pair with the Senator from Nevada [Mr. BRYAN]. If he were present, he would vote "aye." If I were permitted to vote, I would vote "nay." I, therefore, withhold my vote.

Mr. FORD. I announce that the Senator from Nevada [Mr. BRYAN] is absent because of attending funeral.

On this vote, the Senator from Nevada [Mr. BRYAN] is paired with the Senator from Arkansas [Mr. PRYOR].

If present and voting, the Senator from New York would vote "aye" and the Senator from Arkansas would vote "nay."

The PRESIDING OFFICER (Mr. MATHEWS). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 53, nays 45, as follows:

[Rollcall Vote No. 176 Leg.]

YEAS—53

Bennett
Bingaman
Bond
Breaux
Brown
Burns
Byrd
Coats
Cochran
Conrad
Coverdell
Craig
D'Amato
Danforth
Dodd
Dole
Domenici
Faircloth
Ford
Glenn
Gorton
Gramm
Gregg
Hatch
Heflin
Helms
Hollings
Hutchison
Johnston
Kassebaum
Kempthorne
Lott
Lugar
Mack
Mathews
McCain
McConnell
Mitchell
Murkowski
Nickles
Nunn
Packwood
Reid
Robb
Sasser
Shelby
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner

NAYS—45

Akaka
Baucus
Biden
Boren
Boxer
Bradley
Bumpers
Campbell
Chafee
Cohen
Daschle
DeConcini
Dorgan
Durenberger
Exon
Feingold
Feinstein
Graham
Grassley
Harkin
Hatfield
Inouye
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Moseley-Braun
Moynihan
Murray
Pell
Pressler
Riegle
Rockefeller
Roth
Sarbanes
Simon
Wellstone
Wofford

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Pryor, against

NOT VOTING—1

Bryan

So the motion to lay on the table the amendment (No. 2128) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, under the unanimous consent agreement, I believe we now have four consecutive rollcall votes; am I correct?

The PRESIDING OFFICER. The Senator is correct.

The Chair will say to the Senator that there are four consecutive votes, not necessarily rollcall votes, unless they are called for.

Mr. JOHNSTON. I thank the Chair.

Mr. President, the Senator from Arizona has consented to allow one rollcall vote on the Lautenberg amendment and, thereafter, we can accept the other amendments.

So I ask for the yeas and nays on the Lautenberg amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. Mr. President, are there any other rollcall votes that have been ordered at this point?

The PRESIDING OFFICER. There are not.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that it be in order to consider the Lautenberg amendment and after that, a rollcall vote occur at this time.

The PRESIDING OFFICER. Is there objection?

Mr. DECONCINI. Reserving the right to object.

The PRESIDING OFFICER. Objection is heard.

Mr. DECONCINI. Can the Senator explain to me what happened to the other three or four votes?

Mr. JOHNSTON. We are going to have voice votes.

Mr. DECONCINI. The Senator is going to accept those?

Mr. JOHNSTON. We already accepted them, and we will have voice votes on those pending amendments.

Mr. DECONCINI. That is what I mean, the pending amendments on which we thought we were going to have rollcall votes, the yeas and nays were never ordered?

Mr. JOHNSTON. Never ordered.

Mr. DECONCINI. So it is only a discussion if there might be rollcall votes.

Mr. JOHNSTON. That is correct.

VOTE ON AMENDMENT NO. 2137

The PRESIDING OFFICER. Under the previous order, the question now occurs on agreeing to amendment No. 2137 offered by Senator LAUTENBERG.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Nevada [Mr. BRYAN] is absent because of attending a funeral.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 69, nays 30, as follows:

[Rollcall Vote No. 177 Leg.]

YEAS—69

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Bumpers
Byrd
Chafee
Cochran
Conrad
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Feingold
Feinstein
Glenn
Gorton
Graham
Harkin
Hatch
Hatfield
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mack
Mathews
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Packwood
Pell
Pressler
Pryor
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Wellstone
Wofford

NAYS—30

Brown
Burns
Campbell
Coats
Cohen
Coverdell
Craig
D'Amato
Faircloth
Ford
Gramm
Grassley
Gregg
Helms
Hutchison
Jeffords
Kassebaum
Kempthorne
Lott
Lugar
McCain
Murkowski
Nickles
Nunn
Reid
Roth
Smith
Thurmond
Wallop
Warner

NOT VOTING—1

Bryan

So the amendment (No. 2137) was agreed to.

AMENDMENTS NOS. 2134, 2135, AND 2136 EN BLOC

The PRESIDING OFFICER. The Chair announces that, without objection, amendments Nos. 2134, 2135, and 2136 are agreed to en bloc.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that it be in order to move en bloc to reconsider and lay on the table the motions for each of the last four amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the motion to lay on the table for each of the amendments is agreed to.

Mr. JOHNSTON. Mr. President, for the edification of my colleagues, I believe what we will do now is as follows: Senator WELLSTONE has an amendment that, speaking for the majority, we can approve. And I am in good hopes that the minority would do that as well.

Senator STEVENS has an amendment. I know of no other amendments. We have a request for a rollcall vote on final passage.

So my guess is that in the next 15 minutes or so we will have a vote on final passage. If anybody knows anything to the contrary to that, please let us know.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

Mr. President, I just wanted to build on comments of the Senator from Louisiana. We are right now looking over the language and negotiating on this amendment. We hope to get back to the Senator very soon, and hopefully we can reach agreement. We still are just looking at the language.

Mr. JOHNSTON. Will the Senator offer it? I will be speaking.

Mr. WELLSTONE. I will offer it as soon as I take a look. I am now taking a look at what the Senator suggested. We will try to evaluate that.

The PRESIDING OFFICER. Who seeks recognition?

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 2138

Mr. STEVENS. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself, Mr. INOUYE, and Mr. MURKOWSKI, proposes an amendment numbered 2138.

The amendment is as follows:

At the end of the Committee amendment on page 32 insert the following:

"*Provided*, The Secretary may expend up to $25 million in unobligated funds for the formulation and implementation of a program to provide Alaska villages with reliable and affordable electrical generation systems, and, notwithstanding any other provision of law, may use any such unobligated funds to provide fuel for electrical generation, at market prices to any village in Alaska that is unable to obtain such fuel from commercial vendors: *Provided further*, That the State of Alaska will provide a dollar-for-dollar match of the Federal share."

Mr. STEVENS. Mr. President, for myself, the Senator from Hawaii [Mr. INOUYE] and my colleague, the Senator from Alaska [Mr. MURKOWSKI], I offer this amendment.

It is necessary to take the time of the Senate to discuss this amendment. Let me tell you the background of this amendment. Just 2 days ago a delegation came to my office from the northwest Eskimo villages and asked me if I could get my good friend from Hawaii, as chairman of the Indian Committee, to listen to this problem. Senator INOUYE consented to do that, and we met with them for about 2 hours. They explained to us the problem.

This amendment attempts to start the Federal Government on a process of trying to help solve that problem.

Just so there is no question about it, let me read again what the amendment would do. It would authorize the Secretary of Energy to expend up to $25 million in unobligated funds for the formulation and implementation of a program to provide Alaska villages with reliable and affordable electric generation systems, and notwithstanding any of the provisions of law, the Secretary would be authorized—it says she may use—to use any such unobligated funds to provide fuel for electrical generation at market prices to any village in Alaska that is unable to obtain fuel from commercial vendors; provided further that the State of Alaska will provide a dollar-for-dollar match of such Federal share.

In my State, there are a great many rural villages. This map of Alaska shows some of those villages. They are spread throughout the State. Mainly, however, the Senate will note they go up the west coast of Alaska and up the eastern portion of Alaska.

In these areas, there are individual villages. They have individual diesel fuel generators. And they have individual tanks to store diesel fuel.

Mr. President, these 120 villages, or more, use small generators; they are independent stand-alone systems used to provide electric power for the people who live in these villages. This is diesel generation. The villages pay very high for that power that is generated. Their cost is up to $1 per kilowatt hour. In comparison, the people of the area we are in right now pay about 8 cents per kilowatt hour. The basic cost is roughly 12 times the cost of power in the Washington area.

The tanks that store this diesel fuel were installed by the Bureau of Indian Affairs in the 1940's and 1950's. They have now been cited by the Coast Guard as being hazards, safety hazards to the navigable rivers. Almost all the villages are located on navigable rivers. These tanks need to be repaired or replaced because of the designation by the Coast Guard under the Oil Pollution Act. Resolving that tank problem alone, to replace the tanks will cost roughly $240 million.

Mr. President, in Public Law 1024–86, enacted in 1992, is this provision:

> It is to promote energy resource development and vertical integration on Indian reservations.

These are all Indian villages, recognized tribes of the United States now.

The provision states, in section 2603:

> The Secretary shall provide grants not to exceed 50 percent of the project cost for vertical integration projects. For the purpose of this project, the term "vertical integration project" means a project that promotes the vertical integration of energy resources on an Indian reservation so that the energy resource is used or processed on such Indian reservation. The term includes but is not limited to projects involving solar, wind, or refineries, electricity, hydroelectricity, cogeneration, natural gas distribution, and clean, innovative uses of coal.

That term Indian reservation in section 2601 specifically includes "native groups, regional corporations, and village corporations that are organized in Alaska."

What I present to the Senate is an amendment to start the process of trying to place these villages in compliance with the Oil Pollution Act of 1990. That act has now made it almost impossible to deliver oil to those villages because the fuel tanks do not meet Federal standards. Delivery of oil to those tanks will be in violation of the Oil Pollution Act unless the tanks are replaced.

Another provision of the Oil Pollution Act requires that companies that transport oil products carry $150 million in financial responsibility in cases of spills. Even if they are just transporting 100 gallons of fuel, they are subject to a $150 million financial responsibility requirement for each shipment. What that means is that the oil companies going to deliver oil to these tanks face the potential liability of up to $150 million if there is a spill from the tanks that have already been found to be a safety hazard.

These tanks, and the aging diesel generators used by these villages, must be replaced with new ones, and emerging technologies such as wind, hydro power, coal, or natural gas, are needed to replace the dependence on diesel fuel.

As I just mentioned, the DOE has the authority to develop demonstration projects which use local fuels as an alternative to these diesel tanks. The problem we have that I am trying to present to the Senate is that we must spend well over $240 million to replace the tanks, and yet even after they are replaced, the problem is that the ever-increasing cost of diesel fuel in the area is such that it is going to mean these people will be out of electric energy anyway.

I suggest that we should have some demonstration projects from the Department of Energy to show how Alaska's energy, the energy located in these areas, where these villages exist, is safe, reliable, and efficient, and renewable energy could be developed. That is possible only through cooperation between the Federal and State Governments and these local villages.

This amendment of mine specifically requires that the State of Alaska must meet, dollar for dollar, the expenditures of the Federal Government in developing these new systems. A systems approach needs to be taken to meet these needs. We can, for instance, use hydroelectric power in conjunction with other power sources. We can produce other forms of electricity through wind and other types of generation, and we can stop some of the pollution in the area at the same time.

The great difficulty is, and I will show the Senate—the basic problem is this: This map shows the State of Alaska superimposed on the United States. It also has the parks, refuges, and forests that are withdrawn. Basically, the areas where the villages exist were withdrawn in 1980 by the Federal Government, and it is impossible for these villages to get to and develop the natural gas and geothermal power in the area. Even the wind power potential cannot be developed without using Federal lands that are already withdrawn and not available.

What we want to see is a task force developed to deal with this basic problem. Spanning the chasm between the present and future energy self-reliability is going to cost a lot of money. The bridge between what exists now, that must be replaced now, and the situation that must be developed for tomorrow, out into the future so these people will have available energy, is great. It will cost, as I said, over $200 million just to replace the tanks that have been condemned already by the Coast Guard.

I believe that the amendment we have presented is a beginning. It provides that the Secretary of Energy can spend up to $25 million from funds available, provided the State matches it dollar-for-dollar to help provide affordable electric generation systems to these village people.

Mr. President, I want to emphasize that there is energy there. I travel throughout the area. There is known gas, geothermal, and coal resources in the area; yet, these people are paying substantial amounts to bring diesel into the area. Sometimes when their fuel deliveries do not take place and bulk fuels have to be flown in, the cost per gallon to fly diesel fuel into these areas is up to $3 a gallon.

I do believe that there is discretion by the Secretary of Energy to use money, pursuant to the existing authority, to provide for these demonstration projects on these village corporation lands, and that we should have the authority for her to proceed now to develop this.

The program that was authorized in the Energy Policy Act of 1992 has never been implemented. It is not implemented by this bill. But I believe there are moneys there that are available, that have not been obligated, that could be used to develop a solution to this problem.

The main thing I want to bring to the Senate's attention is that this is a Federal problem. These are 120 separate native tribes. They have been designated as Indian tribes by the Department of the Interior. They have come to us for assistance. My good friend from Hawaii listened to them. I have to tell you that the sincerity of these people is just fantastic. They believe the system that was authorized in the law. They believe that they are going to get assistance from their Federal and State government.

(Mr. DECONCINI assumed the chair.)

Mr. STEVENS. They came to us with a mission statement developed by the Alaska Rural Energy Program, and they need to have assistance now. They want to bring the government of Alaska and the Federal Government together to work with each of these villages as individual governments to try and solve the problem that they face without additional pollution and to try to bring about some permanent solution to them.

Let me point out that again these are individual villages. The total number of people that are in those villages is roughly 30,000 people. They have no way to get assistance without some form of assistance developed. I think that is the reason for the demonstration program for Indian tribes we enacted in 1992. That was the solution that was authorized at the time.

There is not any money available so far to proceed with this. That is why there is the provision in our amendment which would authorize the use of moneys that are already available.

I will ask unanimous consent that the summary that was presented by the Alaska Rural Energy Task Force to Senator INOUYE and me when they came to meet with us this week be printed in the RECORD.

Mr. President, I want to call on my friends who are the managers of this bill to respond to our problem. I know they are reluctant to consider my amendment. But I would ask them, if they represented a State like ours what would you do?

We had a group of people that came down here all the way, 5,000 miles, to consult with us, to ask us for help.

This bill is on the floor. Why can we not help them? Why cannot we authorize the Secretary to use her discretion? It does not mandate anything. Why cannot we authorize the use of funds that may not be obligated under this bill in 1995?

If something is not done we are going to have a serious problem of pollution of navigable waters because of these tanks which were installed by the Federal Government, have been maintained by the Federal Government. And the question is, how do we deal with it?

I am not here to beg. I am here to ask. I think they have taken this trip down to visit us and to seek a solution. And I would like to see a solution start on its way.

This is not asking for the full amount. As I said, the full amount would be over almost $250 million to replace the tanks. We are looking for $25 million to be matched by the State government making $50 million to be the initial demonstration phase of a program to meet a very critical problem in rural Alaska, a problem brought to us by a series of representatives of these rural utilities that use costly diesel generation today at exorbitant prices they must pay.

We used to have, by the way, Mr. President, a Federal tanker that delivered that oil. That does not happen anymore. They do not buy it in bulk down in Seattle the way they used to deliver it once a year up to these villages. They must contract to buy it once a year to fill up those tanks. The tanks have now been condemned. I think we have to have a solution.

Incidentally, I want to again publicly thank my great friend from Hawaii, who has been to my State. He has been north of the Arctic Circle many times. He has come and listened to our people in Alaska, and he is literally the unchallenged hero of the Alaska Native people in terms of his willingness to come and listen to them, visit with them, and get to know them as chairman of the Indian committee. So I pay tribute to my friend from Hawaii and thank him for being with me at the time this delegation came to visit us.

Mr. President, I again renew my request that this executive summary of the mission outlined by these people when they came to us be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ALASKA RURAL ENERGY—EXECUTIVE SUMMARY

Mission statement: develop safe, reliable and efficient energy systems in rural Alaska that are financially viable and environmentally sound.

Providing electric power in rural Alaska is difficult because of its size, terrain, climate and sparse population.

Most of the 120 electric utilities—more than the Pacific Northwest states combined—in Alaska are small, stand-alone operations servicing individual communities.

Virtually all of Alaska's rural utilities depend primarily on costly diesel generation—up to $1.00 per kilowatt hour in some cases—with its attendant delivery, storage and environmental constraints.

Economic and infrastructure development can only be achieved by lowering energy costs, developing greater efficiencies in management and operation, and in developing renewable alternatives to diesel generation.

Alaska has made major investments in rural energy and has embarked on a regionalization program to help rural utilities achieve greater efficiencies.

Rural Alaska's problems with bulk fuel storage and water and waste water facilities are not the responsibility of a single entity; both state and federal agencies were and are involved.

Solving these problems and complying with air, water and pollution laws and regulations will require a collaborative effort between state and federal agencies and the utilities and communities involved.

In order to bring Alaska's rural electrical systems up to standards set by the Rural Electrication Association, it is estimated that $60 million—exclusive of bulk fuel needs estimated at $200 million—would be required.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. STEVENS. Yes.

Mr. JOHNSTON. Mr. President, the Senator from Louisiana has not only a great deal of sympathy for Alaska but he demonstrated sympathy for what are real problems of the people of Alaska. And I think the Senator from Alaska knows that I have demonstrated that time and time again.

I am sensitive to this problem, first, of the inability of people in these remote villages to get electric generating systems and, second, the inability to get fuel. These are real problems that I would like to find a solution to.

Now, I would suggest to my friend that this bill at this time is not the time and place to do it, first of all because we do not have the unobligated funds here; second, because a site specific amendment such as this I believe would set a bad precedent; third, I believe there would be other Senators who would object because we have told all Senators that a site specific amendment we would not accept; and fourth, it really needs some study.

From what we know, there are great needs, and I concur with the Senator from Alaska. But how many generating systems, and how many villages, at what cost, from what account, how does the administration budget for it? It is the kind of issue on which I think we ought to have hearings and we ought to probably have some supplemental legislation. I understand there is some authorization for this already passed, but it ought to be considered in the context of a budget request.

I will tell the Senator, as I say, my demonstrated record is one of sympathy for his projects, and I hope he would give us time to study this in the cool light of day, consider it in light of budget requests and where the funding might come from, and that would probably be a better solution even then to pass this amendment, because this amendment, first of all, would surely run into deep trouble in the conference committee and even if passed into law it would be discretionary with the Secretary of Energy who would not have the money with which to fund the program.

So I think it would be a pyrrhic victory at best. I would urge the Senator to give us some time to work on this and I will, as I have on other matters of his concern, try to work it out in the ensuing months.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I do not mean in any way to infer that the managers of the bill and particularly my friend from Louisiana has not also been to Alaska and is not familiar with the issues.

As a matter of fact in this bill is a $5 million appropriation, which the managers of the bill have already authorized, for the Tazimina hydro project. It is in near Nondalton, AK. It is one of the rural villages. It is to a point where it can be developed. It will provide a substantial boost for several villages if it can be fully constructed.

I understand what the Senator is saying.

Let me first, however, yield the floor to my friend from Hawaii, and then I will come back to the comments of the Senator from Louisiana, if I may.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, soon this Nation will adopt a policy to make health universal, that every American, man, woman, and child will receive health care. When this will come about no one seems to know, but I hope it is soon.

Second, we have a very important measure pending before us which would build an informational highway throughout the United States and will send messages to and from all Americans, to colleges, to libraries, schools, hospitals, cities, villages. This is the great American dream that will soon become a reality.

But, Mr. President, may I share with you a picture of a few Americans who have been forgotten all these years and decades. They are the Natives of Alaska. My good friend from Alaska, Senator STEVENS, pointed out there are 120 villages. Most of these villages are north of the Arctic Circle, and it may interest my colleagues to know of the 120 villages only 4 have running water. None has sewer systems. Every morning some child from each household has to carry a honey bucket to a dumping site, and in case we do not know what a honey bucket is call up the Alaskans and they will tell you what it is.

The fastest selling commodity in the village store is Pinesol to clean the honey buckets.

During my most recent visit to the Natives of Alaska, I was asked not to visit one of the villages. Why? Because 92 percent of the residents had hepatitis.

This is a picture throughout these villages of over 100,000 people. There are no highways, so you cannot go by automobile from one village to another. You have to fly in. And during the wintertime maybe a dogsled, if you want to risk your life.

And so what happens? We here in Washington would pay at the highest $1.25 a gallon for diesel oil. In Alaska, these natives have to pay up to $5 a gallon. That is not an American way of sharing the bounties of this democracy.

Yes, I suppose a study should be made. Yes, I think a hearing should be held.

But, Mr. President, if we look through the records of this Senate, we have had many studies, many, many hearings. I think the time has come.

If we are to have a hearing, fine. But let us hope that we will have the strength of conviction to come out with a solution. It is about time these Natives got the promise that all of us have been able to live with all these years. I think we owe them something.

So I support the amendment of my friend. It is a good amendment. It should be passed.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I do thank my good friend for his support and interest and his knowledge of our people. I hope that we can find some way to proceed.

My good friend from Hawaii is chairman of the Indian Affairs Committee. Our friend from Louisiana is chairman of the Energy Committee. I hope that we can find some way.

The Senator from Louisiana has mentioned a hearing. Is it possible we might have a hearing sometime before the supplemental comes along, so that we could explore the possibilities of getting some specifics in terms of a plan and maybe call the BIA and energy people to come listen to our friends from these villages, to let them hear the plight of their circumstance?

This circumstance was brought about by an act of Congress we passed in 1990 intended to protect the navigable waters of the United States. It is going to place a severe burden on them already in order to replace the tanks which are found to be defective. I am glad the survey was made.

We do need some help in doing what the Senator from Louisiana has suggested in coming forth now with a plan before this becomes a crisis.

If these people have to fly in oil, it is going to cost us three times as much. These basic costs are paid by the taxpayers of the United States now. The tanks that were put in were paid by the taxpayers of the United States. There is very little basic income out there to pay for high-priced diesel and electricity. The State does provide some income; so does the Federal Government. We are willing, as a State, to meet half of the cost of providing for these people who are wards of the United States, basically, as basic members of the Indian communities of our country.

I ask my friend if we could have a hearing sometime before we get to the next supplemental so we might see if we could find a way to start this plan and to put it in action sometime this coming year. Is that possible?

Mr. JOHNSTON. Mr. President, I say to my friend, I would certainly want to do that. But since we do not know when the next supplemental will be, we cannot say for sure exactly when this would be. But I will explore this problem at the earliest time with the Senator from Alaska.

There may be other committees also involved with this. My staff and I have been talking about the problem. Perhaps the BIA would be one source here with the loan guarantee programs, perhaps the Department of Agriculture, rural electric, REA.

But I will explore all of those avenues with the Senator with a view to finding a solution and having a hearing, I hope, at the earliest practicable time. I think we ought to be able to work on a solution prior to the supplemental. I cannot guarantee that, because I am not sure when it would be. But I think we could.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I do not want to seem like I am pressing my friend from Louisiana. Both the Senator from Louisiana and the Senator from Hawaii have demonstrated their friendship to my State, as I said.

But I am going to have to bring people down again from this area, some 5,000 miles. Can we plan sometime in July or early August? Can we get together and find a date where we can tell them to come back to try to organize a group that will listen to them?

Mr. JOHNSTON. I say to my friend, we have the mining law conference going on right now, which is entering its crescendo. That pretty well takes me out of being able to preside.

I would have to find out when the committee room is available and what Senators can preside.

There is no hesitation in trying to help the Senator. I just cannot say at this point when it might be. Obviously, we do not know what the schedule will be, but at the soonest practicable time.

Mr. STEVENS. Does the Senator from Louisiana believe that could be this year?

Mr. JOHNSTON. I hope so.

Mr. STEVENS. And might I inquire from my friend from Hawaii whether it would be possible to work in conjunction with the Indian Affairs Committee on that matter?

I am just inquiring whether it would be possible that we might work these two committees together, and it may even take, as my friend from Louisiana said, the Agriculture Committee, too. But could we get together to see if we could get a senatorial task force to work on working with this task force? Would the Senator from Hawaii be willing to work with me in that matter?

Mr. INOUYE. Mr. President, if I may respond to the Senator from Alaska. You just give me the marching orders and I will walk in step.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am constrained to say that I had hoped that it might be possible to start today. But if it takes another hearing or meeting to get us the coordination of the Senate that is required to start funding on the way before we close in October of this year, I am prayerful, really, that we can get that done, with the assurance of my friend from Louisiana that he will work with us to try to do that, and the cooperation of the Senator from Hawaii with regard to the Indian Affairs Committee.

I want to thank them both for their courtesy and willingness to listen to me today and to urge the Members of the Senate who have heard this debate to also see what we might be able to do to help these people.

As the Senator from Hawaii said, if there are any people that have been left behind in the developments and technology in this generation that we all enjoy, it is the people of the Native villages of Alaska.

I invite any Member of the Senate to join me in the trips that I take when we have these recesses. As a matter of fact, I will go again this year to the Yukon River and visit some villages along the Yukon. Last year, I visited the people along the Kuskokwim River. The year before, we also went up to visit the villages up in this area of the North Slope. I think it is necessary to visit the areas to see what the Senator from Hawaii and the Senator from Louisiana have seen to understand the plight of these people who still inhabit their traditional areas of rural Alaska.

I think I am experienced enough to know that it would do me no good to offer this amendment now, in view of the fact that it is not supported by my friend from Louisiana under the circumstances.

And so, based upon his willingness to work with me to work out something, I will withdraw this amendment at this time. But I shall be back.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment.

Mr. STEVENS. I have not done that yet, but I will.

But I will be back. And on each succeeding bill that I can find any way to find some money to start solving this problem for my people, I am going to come back to the Senate and ask for its consideration.

So I do withdraw the amendment at this time, Mr. President.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment. The amendment is withdrawn.

The amendment (No. 2138) was withdrawn.

Mr. JOHNSTON. Mr. President, I thank the Senator for doing so. I hope we will be able to work out his problem soon.

Mr. President, I know of only two amendments, both of which we are prepared to take. There may be a third one which I hope will not require a rollcall vote.

I tell my colleagues that one of our colleagues is in the middle of a root canal. He has Novocain in his mouth and is waiting to go back to the dentist as soon as this debate is over with. So I urge Senators to be very brief in their debate since we are going to take your amendments.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Upon hearing the comments of my colleague from the State of Louisiana I am tempted to speak very fast like this.

The PRESIDING OFFICER. If there is no objection, the pending amendment will be set aside.

AMENDMENT NO. 2139

(Purpose: To provide funds for development of the advanced light water reactor and for activities relating to renewable energy sources)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] for himself and Mr. HARKIN, proposes an amendment numbered 2139.

Mr. WELLSTONE Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 22, line 5, insert after "distribution activities:" the following: "*Provided further*, That from available funds appropriated under this Act, but not from any funds appropriated for the Solar and Renewable Energy programs, not less than $90,000,000 shall be expended for photovoltaic energy systems (of which $89,000,000 shall be for operating expenses and $1,000,000 shall be for capital equipment): *Provided further*, That from availabe funds appropriated under this Act, but not from any funds appropriated for the solar and renewable energy programs' for operating expenses and $1,000,000 shall be for capital equipment): *Provided further*, That from available funds appropriated under this Act, but not from any funds appropriated for the solar and renewable energy programs, not less than $12,000,000 shall be expended for hydrogen research.".

Mr. WELLSTONE. I send this amendment to the desk, on which we now have full cooperation from the Senator from Louisiana, on behalf of myself and Senator HARKIN.

What it essentially does is deal with the concern that both I and Senator HARKIN have had, and other Senators as well, about the investment in renewable energy policy.

This takes funds, altogether $14 million, from available funds and this $14 million would be divided, $6 million photovoltaic, $6 million wind, and $2 million hydrogen. The language makes it clear this would come from available funds appropriated to this act but not from any of the funds appropriated for the solar and renewable programs. I very much appreciate the cooperation and support of the chairman, the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the Senate demonstrated, in the previous Wellstone amendment, strong support—although not majority support—for a larger amount for the solar energy program. As I explained, the chairman of the subcommittee, myself, I very much support these programs as well. The question is one of money. And we are willing to accept this amendment at $14 million. We will have to find it and we are willing to do so.

So, therefore, we accept the amendment.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I compliment the Senator from Minnesota and the distinguished chairman of the appropriations subcommittee for accepting this amendment. Again, I just want to make sure we are clear here. What this amendment does is it provides a base funding support for photovoltaic energy systems of $90 million, a base funding for wind energy systems of $46 million, and a base funding of $12 million for hydrogen research.

I obviously would like to have more, but with the assurances of the chairman of the subcommittee that we will be able to get this from available funds and find that money, at least it is a step in the right direction. It will get us a little more in the renewable area, and just a little bit more in the hydrogen research.

I just want to mention with regard to the hydrogen research, I am hopeful out of the $12 million that is now in here for hydrogen research that at least some of that $2 million extra will be used for renewable hydrogen. In other words, merging up solar energy and photovoltaics and wind energy with the production of hydrogen for storage, transmission and further use.

With that, again I compliment the Senator from Minnesota and thank the chairman of the committee for accepting the amendment.

Mr. BUMPERS. Vote.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. The Senator from Iowa is correct in his understanding of the amendment and the overall amount of the appropriation.

I ask unanimous consent to add the name of Senator JEFFORDS, who did so much work on the prior amendment with Senator HARKIN, to this amendment that I have introduced.

I thank the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Vermont is added.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2139) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 2140

(Purpose: To provide funds for a feasibility study of the Lewis and Clark Rural Water System)

Mr. JOHNSTON. Mr. President, I have an agreed amendment here which I will send to the desk providing that, of the funds appropriated for General Investigations, $50,000 is provided for the Lewis and Clark Rural Water System in the South Dakota feasibility study.

Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] for Mr. PRESSLER, for himself and Mr. DASCHLE, proposes an amendment numbered 2140.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, line 2, insert the following before the period: ": *Provided further*, That of the funds appropriated for General Investigations, $50,000 is provided for the Lewis and Clark Rural Water System, South Dakota, feasibility study".

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2140) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there any further amendments?

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

AMENDMENT NO. 2141

(Purpose: To prohibit funds under this bill from being used for the purpose of effectuating an Army Corps of Engineers drawdown of Dworshak Reservoir in Idaho)

Mr. KEMPTHORNE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for himself and Mr. CRAIG proposes an amendment numbered 2141.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following: "It is the sense of Senate that the Corps of Engineers shall not facilitate or carry out the draft or drawdown below 1520 feet of Dworshak Reservoir until such time as the Corps of Engineers has completed a study of all possible alternatives and potential options including environmental and economic analysis for the affected area, and presented such report to the appropriate committees of Congress and the affected delegations.

Mr. KEMPTHORNE. Mr. President, this deals with the endangered species, the salmon in the Northwest. We have just been notified the Corps of Engineers has been ordered by the National Marine Fisheries Service to begin the drawdown of Dworshak Reservoir. The corps has stated they are going to base their future actions on good, sound science. We applaud that. That makes a great deal of sense.

The National Marine Fisheries Service, however, is the same agency that during Memorial Day recess decided the way to save this endangered species was to begin the spilling of water over the dam, against warnings by biologists that this would produce dissolved nitrogen in the water above standards the fish could survive. The result is this fish bubble disease killed the fish. So approximately a week to 10 days later they stopped this.

So much for good, sound science. In order to save the salmon we cannot afford to experiment. We need to use good, hard science because otherwise it is bad for the fish, the species we are trying to save.

It is also bad for another species, the humans who live in that region. This is devastating for communities like Orofino and Lewiston in that region. They have been told they should not have such reliance on the natural resource industries that are there, they should go to recreation. How can you have recreation when you drain this water below the seven marinas that currently give them some sort of recreational opportunity? And we are in the eighth year of a drought in Idaho. This bias toward experimenting with water is wrong.

So this amendment simply states the Corps of Engineers needs to identify all options and report back to the appropriate committees and the affected State delegations before they proceed on this so we finally can have good hard science instead of this experimentation which is not yielding the results we want for any of these species.

The PRESIDING OFFICER. Is there further debate? The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, we are having some discussions here. I ask the floor staff if it would be in order, if it is suitable to the proponents or possible opponents of the bill, to consider it as a freestanding resolution immediately after passage of this? It is a sense of the Senate. That should give us time to work it out. Would that be suitable to the proponents and possible opponents?

I am just advised we cannot clear that.

Mr. President, I ask unanimous consent that we temporarily lay this aside for the purpose of adopting the remaining committee amendments.

The PRESIDING OFFICER (Mr. EXON). Is there objection? Without objection, it is so ordered.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

So the committee amendments were agreed to, en bloc.

Mr. JOHNSTON. Mr. President, I am advised that nothing else is pending.

So I ask unanimous consent that upon disposition of the pending amendment we move immediately to third reading of the bill, without intervening motions or other dilatory actions.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRESS ON WATER DEVELOPMENT IN NORTH DAKOTA

Mr. DORGAN. Mr. President, my State of North Dakota receives only 12 to 14 inches of rain annually on the west side, and less than 20 inches in most of the State. Consequently, we must be good stewards of our water. We must safeguard our supply and distribute it wisely so that people have good water for their homes, farms, ranches and businesses. We must also ensure that we have the quality water supplies that allow for rural economic development in an environmentally responsible way.

Senator BYRD and Senator JOHNSTON, chairman of the Senate Appropriations Committee and Subcommittee with jurisdiction of H.R. 4506, understand the water needs of rural States, and, in this bill, they have continued to help North Dakota and other rural States meet those needs. Despite the need to reduce fiscal year 1995 energy and water program spending by about $1.2 billion from current levels, the committee has provided $32 million for the

Bureau of Reclamation and North Dakota to continue work on the Garrison Diversion Unit, the central water management program for our State. This project is intended to help compensate North Dakota for the permanent loss of prime farmland that resulted when a Rhode Island-sized reservoir was created on the Missouri River in North Dakota to protect downstream States from flooding.

In addition to the funding level provided for Garrison Diversion, the committee has instructed the Bureau to actually spend the $32 million next year on water supply features of North Dakota. Earlier this year, the Bureau reassigned about $2.5 million of our fiscal year 1994 appropriation to completion of construction in other States, and suspended important water supply work in North Dakota. The funds should have been spent for municipal and rural water supply projects that were already under construction and nearing construction in North Dakota. Considering some of the urgent water supply needs in our State, our people need the new and improved water supplies that this project will provide. Therefore, I thank the committee for providing that direction to the Bureau.

The committee has also agreed to provide $200,000 for the Army Corps of Engineers to conduct a reconnaissance study of an old dam on the Red River of the north at Fargo. The study will look at possible ways of correcting a serious safety problem at the dam, where more than 30 people have drowned over the years. Alterations for the so-called Midtown Dam might also include a slight raising of the dam to improve its holding capacity for the Fargo municipal water supply. I appreciate the committee's provision for this study.

H.R. 4506, THE ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL, FISCAL YEAR 1995

Mr. DOMENICI. Mr. President, I rise in support of the energy and water development appropriations bill reported by the Senate Appropriations Committee.

By CBO's scoring, this bill provides $20.5 billion in new budget authority and $12.1 billion in new outlays for the Department of Energy, the Corps of Engineers, the Bureau of Reclamation, and for other selected independent agencies. With outlays from prior-year budget authority and other completed actions, the Senate bill is within the subcommittee's section 602(b) allocation.

While this bill funds science and infrastructure programs that look to our future, only a handful of programs realize an increase over last year's levels. Overall, this bill reduces funding relative to last year's level by $1.6 billion—mostly due to reductions in DOE's defense activities and the cancellation of the superconducting super collider.

I particularly appreciate the subcommittee's support for a number of projects and programs important to my home State of New Mexico.

I want to take a moment to highlight just a few of these items.

The bill supports technology transfer efforts by our DOE National Laboratories, providing $215.8 million to carry out these programs.

The report accompanying this bill provides an excellent explanation of the scientific and technical expertise of DOE's National Laboratories and their capabilities in addressing a number of national problems.

The Senate bill fully funds the President's advanced computational technology initiative for the domestic oil and gas industry. Our energy security is threatened by the serious decline in our domestic oil and gas industry and this initiative will assist the industry finding and developing domestic oil and gas resources.

One of the most difficult problems facing DOE is plutonium disposition. The bill includes $50 million for this effort and the report includes language allowing this funding to be used to continue research on the feasibility of using reactor technologies to burn plutonium while simultaneously producing tritium and for continuation of the current accelerator production of tritium project being carried out by the DOE National Laboratories.

I also appreciate that this bill contains funding for the Los Alamos Meson Physics Facility [LAMPF] and the Lujan Neutron Scattering Center [LANSCE] complex—facilities that are important to the scientific infrastructure of this country.

Finally, the bill includes funding for a number of water programs that are important to my State. These items include funding for acequias rehabilitation and remediation at the Costilla Dam.

I commend the subcommittee chairman, the Senator from Louisiana, and the ranking minority member, the Senator from Oregon, for bringing this bill to the floor within its section 602(b) allocation and the spending cap.

INTERIM SPENT FUEL STORAGE INSTALLATION

Mr. BINGAMAN. Mr. President, I rise today to discuss a matter of great importance to my State: a proposal for a utility-funded, privately run, interim spent fuel storage installation in my home State of New Mexico. As I have stated repeatedly on the floor of the Senate, and elsewhere, over the last 3 years, I am opposed to the siting of an installation for high level spent nuclear fuel in New Mexico—regardless of who owns it. In that respect, I make no distinction between a privately funded and managed facility and a DOE monitored retrievable storage facility.

My distinguished colleague from Louisiana, Chairman JOHNSTON, chairman of the Energy and Natural Resources Committee and the Subcommittee on Energy and Water appropriations, has been most supportive of my concerns on this issue. With his assistance, and that of Chairmen DINGELL and BEVILL, I was able to secure passage of an amendment to the fiscal year 1994 Energy and Water appropriations bill which cut off funding for Phase IIB activities pursuant to the siting of a DOE monitored retrievable storage facility. At that time he made clear that he, too, had serious concerns about aspects of the MRS siting process.

Last week, I asked Senator JOHNSTON for his view on the prospects of an independent spent fuel storage installation in New Mexico. His opinion is that it will never be built. He notes that the utilities' proposal was born of frustration over the lack of progress being made under the DOE MRS program. As an answer to those concerns, the administration has proposed for fiscal year 1995 a significant increase over the fiscal year 1994 budget for the nuclear waste disposal program. Chairman JOHNSTON has personally committed to securing the necessary funding increases the administration is seeking and to ensuring that the program succeeds, over the next several years, on a timely basis.

Under this scenario, Mr. President, an independent spent fuel storage installation is not likely to make much progress. It will take nearly a decade to do the work necessary for such an installation—a decade in which the Department of Energy will have made its technical site suitability determination and filed a license application for a permanent storage site. Given the choice between a DOE site and privately-run and financed site, it is clear the former will prove preferable to the latter. In any event, as the chairman has committed to me, I will have and intend to use every opportunity in the future to block any serious effort to locate a facility in New Mexico.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, the two distinguished Senators from Idaho who have the sense-of-the-Senate resolution in at this point as an amendment need to work this matter out with the distinguished Senator from Washington [Mrs. MURRAY], and they recognize the problem that our colleague has with his root canal and the Novocaine wearing off. So they have agreed to withdraw the amendment and go immediately to final passage, at which time our colleague can go back to the dentist.

I urge all Senators, if they do come to an agreement, to allow that to be put on the next bill, which is the defense authorization bill. I think it is a very good thing what our colleagues from Idaho are doing to accommodate another colleague. So I hope other colleagues will keep that in mind as they make further requests.

So, Mr. President, I ask unanimous consent that the pending amendment be withdrawn and that we proceed to final passage.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

So the amendment (No. 2141) was withdrawn.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass, as amended?

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Nevada [Mr. BRYAN] is absent because of attending a funeral.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 8, as follows:

[Rollcall Vote No. 178 Leg.]

YEAS—91

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Warner
Wellstone
Wofford

NAYS—8

Brown
Faircloth
Gregg
Helms
Kerry
McCain
Smith
Wallop

NOT VOTING—1

Bryan

So the bill (H.R. 4506), as amended, was passed.

Mr. REID. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. KEMPTHORNE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I move that the Senate insist on its amendments and request a conference with the House on the disagreeing votes thereon and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. EXON) appointed Mr. JOHNSTON, Mr. BYRD, Mr. HOLLINGS, Mr. SASSER, Mr. DECONCINI, Mr. REID, Mr. KERREY of Nebraska, Mr. HATFIELD, Mr. COCHRAN, Mr. DOMENICI, Mr. NICKLES, Mr. GORTON, and Mr. MCCONNELL conferees on the part of the Senate.

UNANIMOUS-CONSENT AGREEMENT—H.R. 4454

Mr. MITCHELL. Mr. President, I ask unanimous consent that immediately following the next rollcall vote in relation to the defense authorization bill, the Senate proceed to the consideration of the conference report on the legislative appropriations bill, H.R. 4454; that the Senate vote without any intervening action or debate on the conference report; that any statements thereon appear at the appropriate place in the RECORD as though read, and that it now be in order to request the yeas and nays on the conference report.

The PRESIDING OFFICER (Mr. CAMPBELL). Without objection, it is so ordered.

Mr. MITCHELL. I now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 4426

Mr. MITCHELL. Mr. President, I now ask unanimous consent that when the Senate resumes consideration of H.R. 4426, the foreign operations appropriations bill, the committee amendments be agreed to, en bloc, and be considered as original text for the purpose of further amendment; that no points of order be waived by virtue of their adoption, with the exception of the following:

Committee amendment on page 2, lines 12 through 21; committee amendment on page 11, lines 11 through 16; committee amendment on page 40, lines 11 through 14; and committee amendment on page 61, line 12 through line 4 on page 62.

I further ask unanimous consent that the list of amendments I will send to the desk be the only floor amendments remaining in order on the bill; that they may be offered in the first or second degree, if offered to a committee amendment; that the only other second-degree floor amendments in order be those that are relevant to the first-degree floor amendments to which offered; that the listed amendments must be offered by 6 p.m. Thursday, July 14; that upon disposition of the listed amendments, any remaining committee amendments be disposed of, and without debate, the bill read a third time, and the Senate vote on passage of H.R. 4426; that upon disposition of the bill, the Senate insist on its amendments, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I send the list of amendments to the desk.

The list of amendments is as follows:

Bumpers: Relevant.

Byrd: (1) Relevant; (2) Relevant.

Dodd: Relevant.

Dorgan: (1) Haiti; (2) Relevant.

Feingold: (1) Relevant; (2) Relevant; (3) Relevant.

Graham: (1) Relevant; (2) Relevant.

Harkin: (1) Relevant; (2) Relevant; (3) Relevant.

Kerrey (NE): Relevant.

Inouye: Relevant.

Lautenberg: Relevant.

Leahy: (1) NIS; (2) Camp David countries; (3) Relevant; (4) Relevant; (5) Relevant; (6) Relevant; (7) Relevant; (8) Relevant; (9) Relevant; (10) Relevant.

Levin: Relevant.

Metzenbaum: (1) Relevant; (2) Relevant.

Mitchell: (1) Relevant; (2) Relevant; (3) Relevant.

Pell: (1) Relevant; (2) Relevant; (3) Relevant.

Pryor/Lautenberg: Information programs.

Riegle: (1) Kosovo; (2) Relevant.

Shelby/Specter: PLO.

Simon: (1) Poverty reduction; (2) Relevant; Relevant.

Wellstone: (1) Relevant; (2) Relevant; (3) Relevant.

FOREIGN OPS REPUBLICAN AMENDMENTS

Coverdell: Relevant.

Nickles: Narcotics control; Relevant.

Brown: Salary Commission; World Bank; Excess defense; Democracy; (1) Relevant; (2) Relevant.

Cohen: (1) Relevant; (2) Relevant.

McCain: (1) Relevant, (2) Relevant; IESC; Baltics; Cambodia.

Dole: Bosnia hospital aid; Bosnia winter aid; Haiti; Peacekeeping; Enterprise funds; Bosnia; UN Sanctions; Kosova; Bosnia IMET; CASS scholarship, Armenia; Humanitarian and, (1) Relevant; (2) Relevant; (3) Relevant; (4) Relevant; NIS aid.

Domenici: Peacekeeping authority; NIS threat reduction; NIS aid management; IMG SDR allocation; International credit reform/debt.

Gramm: (1) Relevant; (2) Relevant.

Warner: (1) Relevant; (2) Relevant.

Specter: PLO.

D'Amato: Golan Heights; Counter-terrorism; (1) Relevant; (2) Relevant; Crime Control/Russia.

Smith: Relevant.

Mack: Relevant.

Gorton: Relevant.

Helms: (1) Relevant; (2) Relevant; (3) Relevant; (4) Relevant; (5) Relevant; (6) Relevant; (7) Relevant; (8) Relevant; (9) Relevant; (10) Relevant; (11) Relevant; (12) Relevant; (13) Relevant; (14) Relevant; (15) Relevant; (16) Relevant; (17) Relevant; (18) Relevant; (19) Relevant; (20) Relevant.

McCONNELL: NIS Management, Crime, Legal reform/NIS, Narcotics.

Pressler: Payment in kind/UN voluntary peacekeeping assessment; Relevant.

McConnell: Middle East; Cong. presentation documents; Peacekeeping; AID; NIS; Enterprise fund; Narcotics; Eastern Europe; NIS; (1) Relevant; (2) Relevant; (3) Relevant; (4) Relevant; (5) Relevant; (6) Relevant.

Thurmond: SOS international org.

Hatfield: AID.

EXCEPTED COMMITTEE AMENDMENTS:

1. Comm. amdt. on page 2, lines 12–21.
2. Comm. amdt. on page 11, lines 11–16.
3. Comm. amdt. on page 40, lines 11–14.
4. Comm. amdt. on page 61, line 12 through line 4 on page 62.

Mr. MITCHELL. Mr. President, I have just met with the distinguished Republican leader, and we have discussed how best to proceed with respect to the pending and now only remaining bill on which action will be required before the Independence Day recess, and the distinguished Republican leader is now consulting with his colleagues on a proposal which I made to him in that regard. I expect to have a response and therefore an announcement shortly.

So I will momentarily suggest the absence of a quorum and ask that the managers of the Department of Defense authorization bill come to the floor and be ready to proceed in a short time.

Accordingly, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the distinguished Senator from Rhode Island be recognized to address the Senate as in morning business for up to 3 minutes.

The PRESIDING OFFICER. The Senator from Rhode Island [Mr. PELL], is recognized.

GOV. DENNIS ROBERTS WAS A TRULY GREAT MAN

Mr. PELL. Mr. President, it is with great personal sadness that I rise to inform the Senate of the passing today in Providence, RI, of a legendary figure in the history of my State—former Gov. Dennis J. Roberts.

Governor Roberts, who was 91, died this morning at Rhode Island Hospital. I understand he had been in superb good health.

Just a year ago I had the particular delight to attend his 90th birthday luncheon given by our current Governor, Bruce G. Sundlun, and attended by all living former Governors, including our colleague, Senator CHAFEE and our former colleague, John O. Pastore. It was a wonderful moment in Rhode Island history and Governor Roberts was, as always, eloquent, and devastating in his repartee.

Mr. President, my own political career became entwined with that of Governor Roberts in 1960 when we were two of the three candidates for the Democratic nomination for the U.S. Senate seat being vacated by Senator Theodore Francis Green. I was fortunate to be victorious but, nevertheless, Governor Roberts was always very gracious to me throughout the rest of his years. I know that I liked and respected him immensely and considered him a truly great man.

Dennis J. Roberts, widely known as "Denny", was a towering figure in our State. He was elected Governor four times, serving as long as anyone in our State's history. Previously he had served as a State senator, chairman of the Democratic City Committee in Providence, and, from 1940 through 1951, as mayor of Providence.

Both as mayor and as Governor he was a commanding, decisive, skilled figure, equally comfortable and talented as a public administrator and as a political leader.

Denny Roberts was a political leader at a time when politics was an honorable and respected profession and he practiced the art of politics as few others. He built a powerful political organization in Providence and in Rhode Island and saw to it that the system delivered quality public services and innovative public programs. To many this period was the Golden Age of Providence and Rhode Islands politics and Denny Roberts presided over it.

Since that election in 1960 Governor Roberts remained deeply involved in Rhode Island public life as an attorney, a champion of civil rights, an elder statesman.

Mr. President, that is a sad day for our State, but also a day to look back with admiration and pride on a remarkable man and a remarkable career. I offer my wife's and my sympathies to Governor Roberts nephews, former Attorney General Dennis J. Roberts II and Thomas Roberts of Providence.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia [Mr. BYRD] is recognized.

Mr. BYRD. Mr. President, inasmuch as the Senate is presently awaiting the managers of the pending business, I ask unanimous consent that I may speak for not to exceed 15 minutes on another matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

JULY 4—OUR SACRED NATIONAL BIRTHDAY

Mr. BYRD. Mr. President, ironically, King George III of England wrote in his journal on July 4, 1776, "Nothing of importance happened today."

The limitations of communication in 1776 notwithstanding, could the assessment of the events of any day in recorded history have missed the mark so radically as did His Britannic Majesty's commentary on that July 4?

The annual calendar is crowded with days of note: January 1, New Year's Day; March 15, the Ides of March; March 17, St. Patrick's Day; Passover; Palm Sunday; Easter; Mother's Day; Labor Day; and December 25, Christmas Day.

But, increasingly, July 4—American Independence Day—is taking on a universal significance for people everywhere. The founders of the new nation considered Independence Day an important occasion for rejoicing. John Adams said,

> I am apt to believe that it will be celebrated by succeeding generations as the great anniversary festival. It ought to be commemorated as the day of deliverance, by solemn acts of devotion to God Almighty. It ought to be solemnized with pomp and parade, with shows, games, sports, guns, bells, bonfires, and illuminations, from one end of this continent to the other, from this time forward for evermore.

Independence Day was first observed in Philadelphia on July 4, 1777. Bands played, colorful bunting was displayed, and the people rejoiced. Independence Day has been celebrated all over the country from that day to the present day.

In 1776, Europe was dominated by kings and other feudal personages, most of whom claimed their power through "Divine Right"—that is, that their power and authority had been dispensed to them as an Act of Will by God Almighty and, hence, they were at liberty to rule as they saw fit, justly or unjustly, assured in their consciences that their decisions and their deeds were all equally expressions of the Divine Will.

The American Declaration of Independence, drawn up by some of the most select minds ever designated to launch any ship of state on its maiden voyage, flew directly in the face of Divine Right theory. The Founding Fathers, taking their own destinies and that of the Colonies that they represented in Philadelphia into their own hands, asserted for the first time in a great founding document that the aborning American nation and its populace had a God-given right to liberty and self-governance, especially in the face of tyranny, and that they were breaking the historic ties that linked the new nation to the British throne.

To assert a claim to popular sovereignty was one thing; to make that sovereignty a reality was something else. Thus, before the claims of the Declaration of Independence could have any practical effect, the American people, in their righteous conviction, were compelled to make their claims to liberty and self-government stick on the battlefield. They rose to the occasion. At Lexington their blood was shed. At Concord—

By the rude bridge that arched the flood,
Their flag to April's breeze unfurled,
Here once the embattled farmers stood,
And fired the shot heard round the world.

Trenton, Princeton, and Saratoga were the successive theatres of their victories in a war that finally terminated in the happy scene at Yorktown.

Our Founding Fathers did, by their sacrifices and with their blood, validate their claims to liberty and self-government, thus eventually forcing on the greatest military and naval power of the late 18th century a peace that officially recognized the independence of the United States of America.

Striking that blow for liberty meant that Americans were no longer "subjects," but were ever after free people with personal freedoms, but also with personal responsibilities for the governance and the preservation of the new nation—a nation established not on the basis of some mystic mythology as had been Ancient Rome or Imperial Japan, but a nation formed and established by the will and the acts of sovereign men and women in behalf of their posterity and the future.

Thenceforth, the United States of America became a living contradiction to every claim of absolutism and despotism issued from the vain imaginings of any tyrant and uttered from the throat of every dictator.

Certainly, as 20th-century Americans, we are indebted to the generation of 1776, to those Americans who broke with the British Crown and created this nation—a nation that did not rise, vaporous and evanescent, from the brains of Rousseau or Hobbs or Thomas More, or spring like Aphrodite from the foam of the ocean waves. It was the production of hardy farmers, small-towns people, sturdy mountaineers, and other common folk who built upon the solid foundations of experience gained through centuries of struggle with hereditary and haughty monarchs in the mother country of England, and the experiences of the infant colonies.

Mr. President, that which was at first only a small remote star, glimmering on the political concerns of Europe with a faint, cold beam, has now become a new firmament in the heaven of nations, shining with the brilliance of a sun that cannot be hidden. Like the immutable laws of motion and of order, which pervade the orbs of the universe and fix the planets in their unerring courses, our commerce has spread over all the seas of the globe; and the increase of our fields and factories, forests and mines outruns calculation and almost mocks human imagination.

The Republican system of government which was created by the blood and brawn and brains of our fathers was the nearest approach to human perfection that the political world has yet seen, and it will stand in history without a parallel until the trumpet of the angel shall sound and time shall be no more.

But, just as winning liberty was no small feat by our fathers, even so has preserving that liberty been a never ending responsibility shared by all Americans today and in all the years to come—both in time of peace as well as in war.

For peace itself should not so dull a kingdom,
Though war nor no known quarrel were in question,
But that defences, musters, preparations,
Should be maintain'd, assembled and collected,
As were a war in expectation.

Thus, here today and across America, every American owes a debt of gratitude to those virtually millions of men and women who have guarded our precious liberties in the generations since July 4, 1776.

Indeed, the claims asserted in the Declaration of Independence would have been hollow had not in subsequent American history ordinary American citizens risen to extraordinary heights of personal valor and sacrifice in service to preserving our liberties and keeping America free and independent.

Quite recently, I received a sincerely reflective letter from a West Virginia veteran of World War II, Mr. George H. Ayres of Chapmanville, West Virginia. Mr. Ayres is 83 years old, and had followed the television coverage of the early June commemorations in Europe of the Fiftieth Anniversary of D-Day and the Normandy campaign.

Those telecasts evidently set Mr. Ayres to contemplating his own experiences. Mr. Ayres wrote to me, saying, in part:

> I was in Naples—Foggia, Rome, Anzio—in Italy. Also, in . . . the Tunisia campaign in Africa. Finally, in the German campaign in France. . . . I went over on the *Queen Mary* and returned on the *Queen Elizabeth*. . . . I was discharged May 24, 1945. . . . The worst was Anzio. I don't know how I lived there. I still remember broad daylight created there at night. It was not like a [lighted] football field, but [like] natural daylight. . . . Civilization almost vanished. . . . I don't want to discuss much of the stuff that went on then. . . . I am 83 now, but I still think about it. Excuse my scribbling.

Mr. President, George Ayres is a confirmation of the faith that guided the Founding Fathers in the gamble that they launched on July 4, 1776, in the Declaration of Independence. On that first Fourth of July, the men who affixed their signatures on a document that was meant to sever the Colonies' ties with the British Crown, gambled their lives, their fortunes, and their "sacred honor" on the patriotism and integrity of men like George Ayres of Chapmanville, West Virginia, and on men in Dayton, Ohio, and Denver, Colorado, and in Lowell, Massachusetts, and in cities and towns and villages throughout America—indeed, the Founding Fathers gambled all that they possessed on a faith that men and women who enjoyed the fruits and the blessings of American citizenship would live up to the demands of that citizenship when conditions demanded.

In this year of 1994, as we look towards the joyous Fourth on Monday, I pay particular tribute to those veterans of World War II who, 50 years ago, guaranteed our freedoms against the onslaughts of one of the most diabolic affronts to human decency in history—led by Adolph Hitler, Benito Mussolini, and Emperor Hirohito. Most of the remaining veterans of World War II are long into their earthly pilgrimages, and their numbers shrink more with each passing year.

But like those World War II veterans, the veterans of Korea and Vietnam and other American wars, as well as those who stood guard on Freedom's Frontiers throughout the Cold War, also have a claim on the Nation's gratitude.

To all those men and women of honor, America offers its thankfulness and respect.

On this coming July 4, I hope that all Americans will bow their heads in a moment of prayerful thanksgiving to the Ultimate Author of all of our liberties, even the Heavenly Father Himself, from Whose Providence all of our blessings and privileges flow, and unto Whom we will finally answer for our stewardship over this Divinely Ordained, Divinely Conceived United States of America.

Let fame, that all hunt after in their lives,
Live register'd upon our brazen tombs
And then grace us in the disgrace of death;
When, spite of cormorant devouring Time,
The endeavour of this present breath may buy
That honour which shall bate his scythe's keen edge
And make us heirs of all eternity.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I ask unanimous consent if I may proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PAXON-MOLINARI MARRIAGE

Mr. DOLE. Mr. President, I do not know what all the Members of the Senate will be doing during the July 4th recess, but I suspect that none of us will have as eventful a recess as Congressman BILL PAXON and Congresswoman SUSAN MOLINARI. Because on Sunday, these two outstanding public servants are getting married to each other.

And as someone who has more than 18 years of experience in a Washington, DC two-career marriage, I want to extend my congratulations to my two good friends.

I have checked the laws of our land very carefully, Mr. President, and can find nothing that prohibits two Members of Congress from marrying.

But just to be safe, I want my friends to know that I stand ready to propose an amendment to the Robinson-Patman Anti-Trust Act to render the Paxon-Molinari merger a combination in the public interest, and not in undue restraint of trade.

I know that all Members of the Senate join me in sending our best wishes to Congressman PAXON and Congresswoman MOLINARI. May they have many happy years together, and may their votes never cancel each other's out.

THE 75TH ANNIVERSARY OF THE NATIONAL EASTER SEAL SOCIETY

Mr. DOLE. Mr. President, I rise today to recognize the outstanding work of the National Easter Seal Society, which this year celebrates its 75th anniversary. The mission of Easter Seals is to help people with disabilities achieve independence. It accomplishes this goal by providing rehabilitation and assistive technology services, and through programs of disability prevention, advocacy, and public education.

A DISTINGUISHED HISTORY

Mr. President, Easter Seals has a distinguished history. It is among the Nation's oldest voluntary organizations serving people with disabilities, and began with the vision and hard work of Ohio businessman Edgar F. Allen. Allen started life modestly—his first job was as a hardware salesman. Later, he made a fortune selling railroad ties and poles for telegraph and telephone lines. But in 1907, his life was shattered when his 18-year-old son was killed in a streetcar accident. As a result, he retired to devote himself to public service—first, by building a community hospital in his hometown of Elyria, and later, in 1915, founding the Gates Hospital for Crippled Children, the Nation's first facility solely for children with disabilities.

Allen's experience with the Gates Hospital convinced him that there was an even greater need for local, community-based rehabilitation services. So, in 1919, with the support of Rotarians, he established the Ohio Society for Crippled Children. The Ohio society soon attracted national interest, and in 1921 the National Society for Crippled Children was born. By 1929, affiliates had been organized in 23 States.

Throughout the past 75 years, Easter Seals has been at the forefront of change. It has spawned other disability organizations. For example, in 1922 it sponsored an international society, which later became Rehabilitation International. RI is today a global federation, linking 135 disability groups in 81 countries.

Easter Seals was among the first to speak of the rights of people with disabilities. In 1930, the society's data helped convince the White House Conference on Child Health and Protection to adopt a bill of rights for handicapped children.

It has advocated progressive social policies. In 1935, Easter Seals pushed hard for the Social Security Act, which included funding to States for services to children with disabilities.

Easter Seals expanded its mission as new needs arose. In the 1940's, with the advent of World War II, it began to serve disabled veterans, and accordingly changed its name to the National Society for Crippled Children and Adults.

Easter Seals has also promoted research. The Easter Seal Research Foundation was formed in 1953 to develop new ways to prevent and alleviate disabling conditions. This foundation played a vital role in defining the post-polio syndrome, which affects thousands of Americans.

And Easter Seals was among the first to champion an accessible environment. In 1958, it initiated a Federal project to develop standards for barrier-free buildings. In 1975, it sponsored the Nation's first National Barriers Awareness Week.

In recent years, Easter Seals championed passage of the Americans with Disabilities Act, and backed other legislation to improve access to air travel, housing, early intervention, and education, and technology for people with disabilities.

THE WORK OF EASTER SEALS TODAY

Mr. President, today Easter Seals serves over one million Americans each year, through affiliates in every State.

And it continues breaking new ground. It sponsors several important national programs, including Family Friends, an intergenerational mentoring program for parents of children with disabilities; Agrability, a program to assist farmers with disabilities; and Project Action, a project to promote accessible transportation.

Mr. President, the work of Easter Seals is only possible because of the generous support of thousands of Americans, as volunteers and financial contributors. This year's telethon raised a recordbreaking $52 million. Easter Seals has worked hard to deserve this trust. It is recognized as one of the Nation's best managed charities, and for 15 consecutive years has been cited by the National Health Council as the organization with the highest percentage of funds going to client services.

EASTER SEALS AND DISABILITY FUTURE

In closing, Mr. President, let me note that as valuable as Easter Seals' work has been, in my view its leadership and programs will be even more important in the future. The issues that Easter Seals has pioneered place it at the very cutting edge of America's "disability future." The number of Americans with disabilities is growing rapidly, and disability is fast becoming the chief domestic policy issue of the late 20th and early 21st centuries. No doubt about it, Easter Seals' service to people with disabilities and the Nation will be in great demand for decades to come.

DOLE-PACKWOOD PLAN

Mr. DOLE. I wanted to reiterate what I indicated yesterday in the Senate Finance Committee with reference to health care reform. It was about 18 months ago when we began our journey in a bipartisan way toward health care reform.

Since that time, every Member of this body has participated in countless meetings on health care here in Washington, and in their home State. Many others, of course, have participated in extensive hearings on the subject.

And as we learned more and more about health care reform, I suspect that our opinions on the subject have changed to some degree.

But throughout this debate, there is one fact that has not changed. And that is the fact that we began this journey in a bipartisan spirit. And 18 months later, that bipartisan spirit is still very much alive and well.

It is in that spirit that Senator PACKWOOD and I—joined by 38 other Republican Senators—and 1 additional supporter, a total of 40—put a new proposal on the table yesterday.

While I am pleased to have the overwhelming majority of Republican Senators supporting this bill, I do not consider this to be the Republican solution. Nor do I regard it as the only solution. It is another option. Hopefully a bipartisan option. I am hoping it will attract a number of Democrats in the House and the Senate.

It is, however, a solution that protects the many strengths of the best health care system in the world. It is a solution that maintains and increases the quality and choice that Americans have come to expect. And it is a solution that truly helps those who are in need.

If you cannot afford health insurance, then this plan gives you access through subsidies.

If you have been denied insurance because of a pre-existing condition, this plan will make the changes needed so you can gain coverage.

If you have lost your insurance because of a change in your employment status, then this plan helps you by assuring health insurance portability.

If you own a small business and just cannot afford to give your employees health insurance, then this plan would reduce your costs by giving you the power to join voluntary purchasing pools with other small businesses in your own State or own area.

If you are self-employed or own a small business, then you have the option to purchase insurance through the Federal employees health benefit plan, the same program that insures the White House, the Congress and over 2 million Federal employees, and I think that is very, very important.

There are many other common-sense provisions, like allowing medical IRA's, tough medical malpractice tort liability and ensuring tax fairness by ensuring the self-employed and individuals receive the same tax treatment on their insurance premium payments as businesses and employees. This will help farmers and ranchers all across America and other self-employed people across America. Those who have labeled this an "obstructionist" plan or "status quo" plan, or an "incomplete" plan are just plain wrong.

Let me admit, however, that there are some things missing from this plan.

You will not find any new taxes, for instance. Nor will you find price controls or job-killing mandates on employers or the placement of a mountain of bureaucrats between Americans and their doctors. All these are missing from this plan. You will not find any of that in this plan, and we are proud there is none of that in this plan.

So, Mr. President, my purpose for making this statement today is to invite my colleagues on the other side of the aisle—and we have already talked with a number of colleagues through their staffs, and we have briefed a number of colleagues on this bill. Today we were joined by a large group of supporters of different associations, including the American Farm Bureau, the American Cattlemen Association, the U.S. Chamber of Commerce, the National Federation of Independent Business, the National Association of Manufacturers, the National Restaurant Association.

Mr. President, I ask unanimous consent to print the entire group in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Business Groups Meeting With Senators on the Dole/Packwood Health Care Plan—June 30, 1994

National Federation of Independent Business.

National Association of Wholesaler-Distributors.

Schering—Plough Corp.

National Association of Manufacturers.

U.S. Chamber of Commerce.

Printing Industries of America.

Searle Pharmaceuticals.

National Retail Federation.

American Business Council.

Federation of American Health Systems.

National Restaurant Association.

American Home Products.

American Health Care Association.

American Trucking Association.

National Business Coalition on Health.

National Cattlemen Association.

Cessna Aircraft Co.

Health Care Leadership Council.

National Association of Health Underwriters.

Business Coalition for Affordable Health Care.

Pharmaceutical Manufacturers Association.

National Wheat Growers Association.

Association of Private Pension and Welfare Plans.

National Association for Home Care.

Warner—Lambert.

Pfizer Pharmaceuticals.

C.I.G.N.A.

American Managed Care and Review Association.

United States Business and Industrial Council.

Mr. DOLE. Mr. President, it is a very impressive group of businesses all across the country, farm groups all across the country, the National Wheat Growers Association. And we believe that they are approaching this issue in a bipartisan manner.

So I urge my colleagues to not look at this as a Republican partisan effort. It is not a Republican partisan effort. It is another option.

We did not know how to do it except to get as many Republicans as we could together and then reach out to our colleagues on the other side. We are in the process of doing that.

I hope Members of the Senate and the House will take a close look at our proposal and call back to your home State and discuss the plan with your doctors, your hospitals, your small businessmen and women.

I might also add, we are working closely with Congressman ROWLAND from Georgia and Congressman BILIRAKIS. Congressman ROWLAND is a Democrat and Congressman BILIRAKIS is a Republican. They have 36 Democrats and Republicans on their proposal. We hope we can come together with their proposal and our proposal to make it truly bipartisan. If you look at this program in an objective way, you will understand it will make a positive difference and one you can be proud to support.

CRIME

Mr. DOLE. Mr. President, the crime conference is the latest victim of gridlock, as House and Senate liberals continue to hold the conference report hostage to the so-called Racial Justice Act.

The Racial Justice Act is part of a long tradition here in Congress where bad legislation is given a great-sounding name. In the real-world of business, this is called false advertising. The bottom line is that the Racial Justice Act will not much to advance the cause of civil rights, but it will do a great deal to clog the courts and make the death penalty virtually unenforceable everywhere it is carried out.

Of course, no crime bill can stop the violence on our streets. No legislation can build good character, which is the most effective deterrent to violent crime.

But legislation that meets the tough-on-crime test—substantial funding for prisons, a strong emphasis on truth-in-sentencing, and a commitment to mandatory minimum sentences for violent criminals—can, and will, make a difference.

That is why President Clinton's leadership is so critical: Where does President Clinton himself stand on the so-called racial justice provisions? Does President Clinton believe, as do most law enforcement groups, that these provisions would sound the death-knell for the death penalty? And if President Clinton agrees that each capital case should be judged on the merits, and not on the basis of random statistics, why does he not speak out now? Why does he not tell the crime conference to drop the racial justice provisions as a way of breaking the legislative logjam?

Mr. President, an American is murdered every 21 minutes, raped every 5 minutes, robbed every 46 seconds, assaulted every 29 seconds. So, each day we delay on passing a tough crime bill means another day of unabated violence. Each day of delay means another day of justified skepticism by the American people.

Leadership is not something to be squandered. It is something to be used. and that is why President Clinton should step up to the plate and tell the American people exactly where he stands. President Clinton should publicly and unequivocally denounce the Racial Justice Act for what it really is—a back-door effort to gut our Nation's death penalty laws.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

Mr. NUNN. Mr. President, we are in the process of trying to get a unanimous consent agreement on a time agreement on a couple of important amendments that we will be debating this evening, one on the B-2 and the other on an amendment we call COLA equity relating to military retirement. It is my hope that we can go ahead and get started on the debate, even pending the unanimous consent request. That request is, I hope, going to be entered into.

So I ask that the Senator from Michigan [Mr. LEVIN] and the Senator from Vermont [Mr. LEAHY] and others who are interested in the B-2 debate, come on over and begin debate on that. I think we would not be wasting any time at all because that is the amendment that I hope we will be able to get to first. I know the Senator from Michigan is anxious to get that up. It is going to take a considerable amount of time for debate. So I hope we can get started on the B-2 debate. I yield the floor, and I suggest the absence of a quorum.

Mr. DOLE. Will the Senator withhold?

Mr. NUNN. I withhold.

Mr. DOLE. The Senator from South Carolina is prepared to speak on Bosnia at this time if there is no objection to that.

Mr. NUNN. No, I have no objection at all.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina [Mr. THURMOND] is recognized.

BOSNIAN ARMS EMBARGO

Mr. THURMOND. Mr. President, I am pleased to join as a cosponsor of the Dole-Lieberman amendment to lift the Bosnian arms embargo. I regret I must oppose my distinguished colleagues on the Armed Services Committee, the able Chairman Senator NUNN, and Senator WARNER, who have offered a second degree amendment. I know their views on this matter are well thought out and sincerely held. I recognize that they too want to help the embattled Bosnians, but have honest concerns about the dangers of acting unilaterally.

When this issue was last before the Senate, we had a vigorous debate, perhaps one of the best the Senate has seen in a long time. That debate highlighted the moral and political complexities of the Balkan war, and showed that men and women of good will can disagree passionately.

The Bosnian question is not a matter any of us should take lightly. Nevertheless, I am still persuaded that the amendment is necessary. While the Bosnian crisis confronts us with extremely complex dilemmas, I believe the fundamental, underlying issue is simple—it is a matter of basic moral choice. America is not obligated to intervene militarily on the side of the Bosnians, or supply them with tanks and artillery. But if we are not going to defend the Bosnians from aggression and wanton killing, it is morally wrong to deny them the means to defend themselves.

Opponents of lifting the embargo argue that acting unilaterally will undermine America's leadership position in NATO. It may compromise other U.N.-sponsored sanctions and embargoes around the world which the United States supports; for example, in Iraq or Haiti. For us to act alone may make it difficult to go to our allies or the United Nations if we need to invoke sanctions against North Korea at some future point.

I realize we must balance the moral imperative against the political risks in acting unilaterally. Withdrawing from the current NATO operation may well place a severe strain on the Alliance. I can only hope that if the United States must act alone, we can find some way to reconcile this action with our leadership role in NATO.

Is such a reconciliation of competing interests possible? Douglas Hurd, the British Foreign Secretary, recently visited with the Armed Services Committee. While he opposed lifting the embargo, he conceded that NATO also wants to help the Bosnians, just as we who support this amendment. I remind my colleagues that NATO's first combat mission in its 45-year history was on behalf of the Bosnians, with air strikes against Serbian aggressors. Clearly it is NATO's policy to help the victims of aggression. The purpose of the Dole amendment is to help the victims of aggression. Since the supporters of this amendment and NATO members agree in principle, surely some way can be found to work out this difficulty.

If not, Mr. President, then we find ourselves caught between a rock and hard place. Americans want to preserve our standing and commitment to NATO, and we want to allow the victims of brutal aggression to defend themselves. Faced with such a dilemma, we must look for guidance in "first principles," principles which flow from our historic national norms and values.

I believe the first principle involved here is clear; it is the inherent right of self-defense. The Dole amendment bases termination of the embargo squarely on the right of self-defense, in this case as spelled out in article 2 and article 51 of the U.N. Charter. Natural law, most world religions, our own moral tradition, and plain common sense support the right of a people to defend themselves from attack. But, by enforcing the embargo, we violate our own historic moral and political norms. We allow U.N. resolutions to overturn the U.N. Charter, a blatant inconsistency that should never have happened in the first place.

Let the Bosnians acquire the arms they need to defend their villages, their women and children. Let us reaffirm the traditional American principle that every State has the right to defend itself. In today's violent and chaotic world, the inherent, fundamental right of self-defense must be protected.

Mr. President, the opponents of the amendment base their arguments on what might happen if we act unilaterally. They fear that lifting the embargo will only prolong the agony. Certainly no one can promise that lifting the embargo will bring about a lasting peace. But I base my support of the amendment on what has already happened. The current approach simply has not worked, and has only made the innocent vulnerable to slaughter. At one time I would have said indiscriminate slaughter. But after hearing the compelling testimony of Bosnian Vice-President Ganich and also the moving remarks on the floor of Senator BIDEN, I realize that the slaughter is not indiscriminate. The Serbs clearly have embarked on a policy of deliberate killing of women and children, the old and helpless, in order to terrorize the Bosnians into fleeing or submitting.

In my view, and in the view of the Bosnians themselves, the current military imbalance is what makes the policy of terror possible, and prolongs the war. Lifting the embargo may help bring peace. At least it will reduce the violence by making the Serbs pay a higher price for their aggression.

I concede that none of the options open to us are attractive. If we do nothing, we feel a sense of responsibility as we watch an ineffective U.N. peace operation falter, while the innocent suffer. If we act unilaterally, we jeopardize our relations with our allies. In the end I have to reach into my conscience and conclude that we must not continue forcing the Bosnian Muslims to remain defenseless against Serbian tanks and heavy artillery, with no means to protect themselves.

I wish it were not necessary for us to act alone, since the Bosnian crisis is not just an American responsibility—it affects Europe far more than us. Perhaps the Europeans can be persuaded to join with us. That may mean they will have to withdraw their peacekeeping troops. Yet, the Bosnians have made it very clear this is what they prefer. They would rather have the means to defend themselves than be forced to rely on foreign peacekeepers.

Mr. President, our current policy has proven to be neither practical nor moral. Something new is needed to change the dynamics of this one-sided war. We have to try something else. I believe that the Dole amendment is a proper and necessary step in that direction, and I urge its adoption.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

PRIVILEGE OF THE FLOOR

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that David W. Davis, a fellow in my office, be granted floor privileges throughout the remainder of consideration of S. 2182.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. I thank the Chair.

LIFTING OF THE BOSNIAN ARMS EMBARGO

Mrs. HUTCHISON. Mr. President, the most troubling aspect of this debate is that we are voting to take this action without our allies. We have stood in the field shoulder to shoulder with these same friends, wading ashore on the beaches of Normandy, slogging over the frozen mountains of Korea, bearing the searing heat of the Arabian Peninsula. In each of these cases, the United States was a reliable ally who paid her full share of the costs and individual self-sacrifice to accomplish a common goal.

This time, however, it seems that all of us are willing to fiddle while Rome burns. We have been debating lifting the arms embargo on Bosnia for over a year. We have attempted to bring our allies to this view. But it has not happened. And Rome still burns. More than 200 men, women, and children have been slaughtered during the time that we have been debating. There is genocide in Bosnia. Thus far, the United States has correctly, I believe, resisted armed intervention, and I will continue to oppose sending armed troops from the United States into Bosnia. Because we are unwilling to take on this mission, the time has come for Congress to stop the impediment to the Bosnians being able to defend themselves.

On June 23, Vice President Ganic came to the Senate Armed Services Committee. He is the Vice President of Bosnia. He made a poignant appeal to the Armed Services Committee. He said, apologetically, "I realize I am emotional about this issue."

I thought to myself this man is apologizing for being emotional while they are under armed assault and their families are being brutalized and murdered. He asked that we lift the arms embargo. He is one of their elected leaders. He is a spokesman for his country.

Mr. President, I think we must grant the request of the people of Bosnia.

We have a moral obligation to follow declared U.S. doctrine as enunciated by U.S. Presidents from John F. Kennedy to George Bush in that we will lend our support wherever we can to oppressed people who are willing to fight for their freedom. It is not always our responsibility to fight for others, but we must be willing to support them. The issue is American leadership and resolve.

Three years ago, the United States formed and led a coalition of diverse nations to a stunning victory in Operation Desert Storm. At that time, the United States was the unquestioned leader of the world. Are we now perceived as simply a member of the community of nations rather than leader? The danger lies in the false sense of security that leadership will somehow evolve from consensus.

Nothing could be further from the truth. Consensus follows leadership. Leadership does not, nor will it ever, follow consensus.

The coalition which met the challenge in the gulf war did not result from consensus. It came because of American leadership, and that is what is lacking today. It is up to us to provide that leadership. No other country can and no other country will.

A few weeks ago, we celebrated the 50th anniversary of the allied landings at Normandy. On that day, free people all through Europe commemorated the rollback of Nazi tyranny. It will be a bitter irony if the United States, which bore a tremendous amount of the burden in the defeat of Nazi Germany, may also be remembered in history for consigning the people of the cities of Gorazde to the same fate as the citizens of Guernica.

During the testimony before the Senate Armed Services Committee, Bosnian Vice President Ganic talked about our sacrifices on D-day, and he warned that 50 years after the defeat of fascism, unfortunately, in Europe fascism is again on the rise with genocide and repression against the non-Serbian population.

Dr. Ganic reminded us that the same European leaders who celebrated the D-day anniversary are now unable or unwilling to assume the task of confronting fascism. He asked that if the world is not prepared to act now to stop this tyranny as was done 50 years ago, at least let the Bosnians defend themselves.

There is an old adage that it is preferable to die fighting on your feet than to live begging on your knees. It is clear that the Bosnians have made their choice, and it is to fight on their feet, come what may. The Bosnians are not asking for troops to fight for them on the ground. Dr. Ganic told us he hopes the U.N. troops continue to do humanitarian missions in Bosnia, but if they feel they must withdraw, Bosnia is willing to accept that fate. He simply plead with us to no longer combine big words with small deeds but to lift the embargo because they need arms to survive.

In closing Mr. President, Richard Perle recently defined the stakes so well. He said,

> In considering finally whether to reverse the shameful policy of leaving Bosnia defenseless against a well armed Serbian aggression, we face a decision in which the right and moral course is also the course least likely to lead to adverse consequences for the United States and its allies. That is because it has the prospect of leading to a peace the Bosnians themselves can defend rather than a peace imposed on the vanquished that cannot last and which the United States would be obliged to defend.

The United States has acted unilaterally before and we will again. We must lift the arms embargo. Vice President Ganic said, "We are dying anyway. Let us die fighting—fighting for our country." Mr. President, I hope we hear their pleas and help them by lifting this arms embargo.

Thank you, Mr. President.

I yield the floor.

IN SUPPORT OF FITZSIMONS ARMY MEDICAL CENTER

Mr. CAMPBELL. Mr. President, I support keeping the authorization of appropriations for a planned replacement hospital at Fitzsimons Army Medical Center [FAMC] in Aurora, CO. In case anybody missed it, the Senate Armed Services Committee decided to deauthorize $390 million that Congress approved 2 years ago for this project.

The DOD medical system is split into several regions. FAMC is the lead agent for the provision of health care in the central region, and the major medical referral center for Army and Air Force hospitals in this region. That includes 12 States: Colorado, Utah, Illinois, Wyoming, North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa, Missouri, and Wisconsin.

This is the largest geographic region in the entire defense medical center system, and FAMC is the only such medical center in the U.S. heartland. In addition, FAMC is one of seven Army teaching hospitals, and provides medical and surgical care for all branches of the Armed Forces, their dependents, and retired personnel.

The FAMC region includes a beneficiary population of at least 735,000, and probably closer to 900,000, which makes it sixth out of the 12 DOD regions in terms of population. This region already has the fewest referral, tertiary care beds of any DOD medical region.

The Army desperately wants to build a replacement facility at FAMC. In fact, the hospital has been part of the Army's overall military construction plan since 1989. The reason this is such a priority is obvious to anyone who has ever been there: FAMC's buildings are by far the oldest in the DOD health care system, more than twice as old as any other defense medical center.

That is why Congress, in 1992, authorized $390 million for a 450-bed teaching hospital, and appropriated $57 million for design and site preparation. Last year, Congress appropriated $4 million for a telephone facility, and the Department of Defense released $30 million to finish the design phase of this project.

Because of changing needs due to military downsizing, in January of this year the Under Secretary of Defense, John Deutch, limited the scope of the project to 200 beds and $225 million, and set fiscal year 1996 to commence construction.

Granted, this project has its detractors within the Department of Defense. In March, the DOD discontinued efforts to build a replacement facility. The IG argued that DOD should reduce graduate medical programs, and send local patients to civilian facilities, rather than refer them to FAMC.

The Army strongly disputed the IG's conclusions, noting that the IG failed to acknowledge FAMC's regional mission and medical training functions. The Army also contends that three separate economic analyses and the DOD's own COBRA model analysis all supported a replacement hospital at FAMC.

Despite the Army's arguments, and despite the obvious support for this project from the Under Secretary, the Senate Armed Services Committee decided to deauthorize the entire $390 million for this FAMC hospital. The committee report claimed that the Assistant Secretary of Health Affairs concurred with the IG's conclusions about the FAMC project. Well, that may have been true in January, when longtime Fitzsimons foe Dr. Edward Martin was acting as assistant secretary. I can assure the committee that the current, duly confirmed Assistant Secretary for Health Affairs, Dr. Stephen Joseph, does not share the committee's opinion. In fact, Dr. Joseph joined the Army in appealing to Secretary Perry and Under Secretary Deutch to make the retention of Fitzsimons authorization a DOD priority.

My office, and to my knowledge most other offices from the 12-State region, were caught completely by surprise. When my staff asked after the fact why the committee made this decision, the committee's majority staff director simply replied, "It was a good government thing to do." Well, I don't see it that way. This decision was not good government, and it certainly did not show a spirit of cooperation and consultation before making such controversial decisions.

I understand the Armed Services Committee has to consider all military construction projects very carefully, given tight budgets and changing military needs. I know that we all have to share the pain of budget cuts—Colorado already lost the Pueblo Depot Activity, which was a big part of the city of Pueblo's economy, and Lowry Air Force Base, which will be a great loss to the cities of Denver and Aurora. I've always told my constituents that I won't fight to keep a military facility open just as a jobs program.

But I also believe that we make these decisions in broad daylight, with much consultation and public debate. That's why we have public committee hearings, and why we set up a public process for making base closure decisions.

In the case of Fitzsimons, however, I never had the chance to even make a comment. There was one hearing, on April 28, in the Military Readiness Subcommittee hearing on the military construction budget. At that hearing, the subcommittee chair, Senator GLENN, asked several questions specifically about the IG report on Fitzsimons. Since FAMC was not an item in this year's budget and was not listed as a topic for discussion, in my mind this hardly constitutes a public hearing on the subject.

I also find it interesting that while slashing Fitzsimons, the committee let stand several other hospital replacement projects: at Portsmouth, VA, for $176 million; at Elmendorf, AK, for $160 million; at Fort Bragg, NC, for $240 million; and at Fort Sill, OK, for $68 million.

I was also surprised to learn that the DOD IG had issued an audit report on the Portsmouth project in September, 1993, which concluded that constructing this facility would "further aggravate an already excessive rate of empty beds in Government hospitals in the Norfolk area, and further divert patients from already underutilized nonfederal hospitals in the area." The IG recommended changes that would save $49 million on this project; apparently, the committee decided not to implement most of those recommendations.

I believe that if the IG did audits on every single hospital replacement project, that audit would draw similar conclusions. The IG says it would be cheaper to rely on civilian health facilities and reduce graduate military medical programs. That will be true of any defense medical facility. This is a policy question as well as an economics question: does the DOD and Congress want to take those steps? Are those steps in the best interests of our Nation's Armed Forces?

If members of the Armed Services Committee are going to allow the DOD Inspector General to make these policy decisions for them, then let's be fair about it—let's do IG reports on all military construction projects, and implement their recommendations without debate. If they won't do that, then the committee has a responsibility to the Senate to ensure that they make the decisionmaking process open and fair.

The House of Representatives did not adopt a similar provision regarding Fitzsimons, and I intend to work to ensure that House and Senate conferees keep authorization for the FAMC replacement hospital. I am more than willing to consider ways to save money on military facilities in my State, as long as I am part of the process. In this case, I was not, and I do not accept the committee's decision.

This decision leaves the entire middle of the country with one old, inadequate facility to handle its enormous mission. That's a big hole in the military medical system, and we need to fill it.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Georgia [Mr. NUNN], is recognized.

Mr. NUNN. Mr. President, we are still in the process of trying to get a unanimous consent agreement, which I believe is going to happen but has not yet happened. If that agreement is entered into, then it would mean we would be debating the B–2 tonight. Therefore, unless there is some other Senator that wants to be recognized now on one of the defense-related subjects, I will go ahead in the interest of time and start making a few comments on the B–2.

These comments basically relate to what the committee did, and everyone is going to need to understand that before voting on the amendment to strike what the committee did, which will be offered by the Senator from Michigan. So I believe the best use of time is for me to go ahead and make my presentation.

Mr. President, the Levin amendment will cut the $150 million the committee recommended for a bomber industrial fund. I want to begin by emphatically saying what the bomber industrial fund in this bill does not do. It is not an authorization for more B–2's. That is prohibited by the committee bill and by other existing laws that are unchanged by our bill. It is not a start or long lead for more B–2's. That is strictly prohibited by the committee bill. It is not a waste of money. Roughly $75 million of the $150 million will go to keep the vendor base supplying spare parts for the 20 B–2's already approved and which they will ultimately need. In other words, this is buying spare parts that will be consumed by these B–2's in the years ahead, ones we already have.

The other $75 million of the $150 million keeps the production facilities ready should the Department and the Congress conclude next year that, as part of an industrial based plan and the review of the overall bomber requirements, which our bill requires, there is need for more B–2's. We are giving the Department of Defense, the Air Force, the Congress, and the American people an option. That is what we are doing. That is what the $150 million does.

As I will make clear now, I do not think we are prepared, I certainly do not believe the Department of Defense is prepared, to make that decision at this time based on the information base.

I want to lay out for the Senators why the bomber industrial base is an integral part of the committee's overall bomber plan and why it should be retained. Years ago the Air Force's bomber road map, which was their detailed plan of what we needed in terms of bombers for the future, called for a force of 184 active bombers, virtually all the bombers the Air Force now owns or has on order, in order to deal with the opening phase of a Desert-Storm-type operation. This was based on an assumption of an operation in which the enemy did not allow us 6 months to build up our forces in the region, which of course we had in the Desert Storm-Iraqi war.

For these 184 bombers, the bomber road map called for the procurement of an array of smart precision weapons, both smart iron bombs for use by the B–2 and smart standoff weapons for the nonstealthy B–1's and B–52's which make up most of the bomber force.

Last fall the administration's Bottom-Up Review concluded that U.S. strategy should be based on, and U.S. military forces sized to prevail in, a two-regional scenario with the second contingency occurring nearly simultaneously. The MRC's, as they are called, would occur nearly simultaneously. That was the planning assumption on which the Clinton defense plan had been based.

The Bottom-Up Review established a new requirement of 100 bombers for each of these theaters with the assumption that the B–2 would be moved or swung from the first MRC theater to the second after attacking the tough targets that were heavily defended. So the Bottom-Up Review bomber force adds up to the same 184 bombers that the bomber road map previously had recommended, but allocated those 184 bombers to two separate theaters and two wars rather than one.

So it has been a matter of considerable amount of attention in our committee because there has been no real analytical explanation about how you move from the bomber road map of requiring 184 bombers for one war to the Bottom-Up Review which basically spreads that same force structure over two regional wars occurring simultaneously.

The fiscal year 1995 defense budget submitted to the Congress in February proposed to cut the number of active nonstealthy bombers from 168 to only 100. The budget also proposed to permanently retire 47 of the 95 B–52–H bombers—that has been a matter of considerable concern to our committee, and, I think, a matter of considerable concern to the Members of the Senate—and not to fund any of the conventional weapons upgrades for 23 of the 95 B–1B bombers, rendering these 23 useless for conventional nonnuclear combat missions.

Moreover, in the outyears, only 800 nonstealthy B–1's and B–52's would be retained as fully combat-capable aircraft. Thus, with an average of 16 combat-ready B–2's—and that is what we have now, only 16 available; once all the 20 bombers have been delivered, you get 16 that will be available—the total active bomber inventory in the outyears would be only 96 heavy bombers, even fewer than the 100 bombers that the Bottom-Up Review found to be the minimum number for one contingency.

Mr. President, someone listening to this debate might ask what the basis for this downsizing is, this dramatic downsizing of the bomber force. The answer is we do not know. We do not know on the Armed Services Committee, and neither, apparently, does the Defense Department at this stage.

Secretary Widnall suggested at a hearing that bombers might be swung from the first theater to the second. We have had other explanations, including an Assistant Secretary who claimed that the Bottom-Up Review was a misprint, that it always intended to say that 100 bombers were enough to cover both MRC's and that the text should have called for all bombers to swing through the second theater.

A classified briefing provided for the committee by the Office of the Secretary of Defense and the Joint Chiefs provided no—zero—analytical basis for DOD bomber proposals, either those in the Bottom-Up Review or those in the budget request.

In contrast to DOD's lack of any kind of real quantitative analysis on the bomber question, Mr. President, the committee has received no less than four very recent detailed, quantitative studies of bomber requirements from well-qualified analysis groups.

While each study uses slightly different scenarios and assumptions, their conclusions are unanimous. Two of them were done by people who have a stake in the game; they are defense contractors. Two of them were done by people who are basically independent and have no stake in the procurement of bombers. So it is interesting that they came to the same conclusions.

The force proposed by DOD of only 89 stealthy bombers plus 20 B–2's is grossly inadequate to meet a two MRC challenge. And bomber numbers as low as those proposed by the Department of Defense would substantially increase the probability of failure even if we had a single regional war. Those were the results of detailed analyses that have not been rebutted by the Department of Defense.

Moreover, Mr. President, a central finding of two of these studies is that a bomber force made up of mostly nonstealthy bombers—that would be B–52's or B–1's—requires very large numbers of expensive standoff precision munitions; that is, munitions that can be fired from a distance from the target so the bombers do not have to fly over the target where they are so exposed to enemy fire. That means that these expensive standoff precision munitions would enable the nonstealthy bombers that can be seen by radar to deliver early and massive attacks in from outside the reach of enemy defenses until the defenses are beat down by some other force. Some other force has to come in and suppress those defenses before we can take in B–52's and B–1's, which are vulnerable if they fly into heavily defended areas. Therefore, we have to have something else that goes in and does the job to suppress those defenses before those planes can come in and hit their targets.

What else is there that can do that? Well, I think the primary near-term options are stealth aircraft. These are the B–2 or the F–117's that have to be used in this regard. Both studies conclude that a few additional B–2's would greatly accelerate the destruction of these enemy defenses. And this is interesting for those who are interested in the B–52: If you can suppress those enemy defenses, then the B–52's have a much greater role in the future than is the case otherwise. They have to have some condition precedent to flying over these targets unless we are willing to risk very substantial lives in the process.

I will resume my comments on the B–2 later.

I yield to the majority leader.

UNANIMOUS-CONSENT REQUEST

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate resume consideration of the defense authorization bill; that the pending amendments be set aside; that Senator LEVIN be recognized to offer his B–2 amendment; that there be a time limitation for debate of 3 hours on his amendment, that upon the use or yielding back of 2 hours this evening of that time, the amendment be laid aside and Senator WARNER be recognized to offer his amendment regarding military COLA; that there be a time limitation for debate of 2 hours on his amendment; that upon the use or yielding back of time on that amendment this evening, the amendment be laid aside and Senator NUNN be recognized to offer a military COLA amendment; there be 30 minutes for debate on that amendment; that when the Senate completes its business tonight, it stand in recess until 8:30 a.m. on Friday, July 1; that following the prayer, the time for the two leaders be reserved for their use later in the day; that the Senate then resume consideration of the defense authorization bill; that Senator NUNN's amendment No. 1852 and Senator DOLE's amendment No. 1851 then be modified so that they are each free-standing first-degree amendments with both pending at the same time; that the time between 8:30 a.m. and 9:30 a.m. be for debate on the two Bosnia amendments; that at 9:30 a.m. the Senate resume consideration of Senator LEVIN's B–2 amendment; that there then be 1 hour remaining for debate on that amendment, with 40 minutes under Senator LEVIN's control and 20 minutes under Senator NUNN's control; that at 10:30 a.m. the Senate vote on or in relation to Senator LEVIN's B–2 amendment; that upon the disposition of that amendment, the Senate vote on Senator NUNN's Bosnia amendment; that upon the disposition of that amendment, the Senate vote on Senator

DOLE's amendment; that upon the disposition of that amendment the Senate vote on or in relation to Senator WARNER's COLA amendment; that upon the disposition of that amendment, the Senate vote on or in relation to Senator NUNN's COLA amendment; that upon the disposition of that amendment, the Senate vote on the conference report to accompany H.R. 4454; that no other amendments be in order prior to the disposition of the above amendments; that all times for debate be equally divided in the usual form, except where noted; and that these votes occur without any intervening debate.

The PRESIDING OFFICER. Is there objection?

Mr. NUNN. Reserving the right to object, and I will not object.

Mr. WARNER. Mr. President, I also reserve the right to object.

Mr. MITCHELL. Mr. President, I yield to the Senator from Virginia. Did he have an inquiry?

Mr. WARNER. Yes. Reserving the right to object, I address the question both to the distinguished chairman and to the majority leader.

I have discussed from time to time with the chairman of the committee, the Senator from Georgia, that the Senator from Virginia would like an up-or-down vote on his COLA amendment, and it is not clear from this exactly what would be the procedure. At least I am not able to, to my satisfaction, determine just how this would be handled.

Mr. MITCHELL. Mr. President, pursuant to this agreement, a tabling motion would be in order, if offered, to the amendment.

Mr. WARNER. Mr. President, would the distinguished leadership, both the majority leader and the chairman, consider allowing the Senator from Virginia to have just an up-or-down vote?

Mr. NUNN. Yes. The Senator and I talked about not having a substitute amendment. The way this is stated, we would vote independently on our amendments. There would be no substitute. I would also be willing not to make a tabling motion.

Mr. WARNER. I thank the distinguished chairman.

Mr. President, it would be my understanding that in such places as appropriate in this time agreement, it would be amended to reflect that the Senator from Virginia would have——

Mr. MITCHELL. If the Senator will yield, I think I can take care of that by asking that with respect to the COLA amendments and the B-2 amendment, if agreeable to the distinguished manager, that the words "or in relation to" be stricken so that it would then be understood and required under the agreement that there would be votes on the amendments, and they would not be subject to a tabling motion.

Mr. WARNER. I thank the majority leader. I have a further question. Would it also be permissible that the vote on the amendment of the Senator from Virginia precede a vote on the amendment of the Senator from Georgia?

Mr. MITCHELL. I did not hear the last inquiry.

Mr. WARNER. I think the Senator from Georgia is prepared to respond.

Mr. NUNN. I believe the order of votes in the request reflects that we would vote on his first. I believe that is right. That was the intent, of course, to have your vote first.

Mr. WARNER. Then, Mr. President, if I might have the second question, the reference to the Bosnia section. Is the Senator Nunn amendment the one that the distinguished chairman from Georgia and I have worked on?

Mr. NUNN. Yes.

Mr. WARNER. It is the same basic amendment as changed pursuant to our agreement.

Mr. NUNN. It is the Nunn-Warner-Mitchell——

Mr. MITCHELL. Kassebaum.

Mr. NUNN. Kassebaum amendment.

Mr. MITCHELL. Mr. President, if I may comment, there have been some minor language changes, I believe, and we are trying to get a copy of those to give them to our colleagues on the other side. I was going to modify the agreement further to permit modification of both of the Bosnian amendments prior to the close of business this evening. So it is our intention to exchange the current status of the document at the close of business this evening.

Mr. WARNER. I thank the distinguished majority leader and the distinguished chairman.

The modification to the Nunn-Warner agreement that I have seen thus far is quite satisfactory, and I will most willingly participate in most other amendments that need be considered.

Mr. MITCHELL. Mr. President, I have to withhold for a moment on the agreement because we have another inquiry from someone not present to which I must respond. So I will for the moment withdraw the request and I will after dealing with the additional inquiry again propound the agreement.

Mr. WARNER. Mr. President, I wish to tell the distinguished majority leader the Senator from Virginia is satisfied.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, assuming the distinguished majority leader and others and Chairman NUNN of Georgia pursue the agreement along lines here, it calls upon the Warner COLA amendment for 2 hours.

I simply wish to assume that I would half of that, which would be 1 hour. I know the distinguished Senator from Maryland [Mr. SARBANES] is anxious to speak.

But I wish to tell the leadership I do not know at this moment of others. Therefore, I would like to put the Senate on notice that the Senator from Virginia may not require his full hour on his COLA amendment.

I know that the leadership is trying to expedite the bill tonight. So I wish other Senators who do wish to speak on the COLA proposition of the Senator from Virginia might come forward.

I see the distinguished Senator from South Carolina wishes to speak.

So, therefore, we may not require the full hour.

I think the Chair, and I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OPPOSITION TO THE LEVIN AMENDMENT TO S. 2182 TO DELETE FUNDS IN SUPPORT OF A B-2 INDUSTRIAL BASE

Mrs. HUTCHISON. Mr. President, I rise in opposition to the amendment offered by my distinguished colleague from Michigan. Supporting funds for a defense program to support the industrial base for that program is not a new idea. It is a sound one in many instances.

I support these initiatives because I believe they are critical to our future defense needs. We must keep a robust bomber industrial base for American security needs. If the Congress denies the $150 million recommended by the Senate Armed Services Committee for support of the B-2 bomber industrial base, we will be terminating our ability to build heavy bombers in the future. This is very shortsighted. The advantages of stealth aircraft were fully proven during Desert Storm when the F-117 aircraft flew more than 90 percent of the missions over Baghdad.

Stealth aircraft do not require fighter escorts and defense suppression aircraft and electronic warfare aircraft to reach their targets, which in turn cuts down on the tanker support necessary to support the mission. In a recent newspaper article, reference was made to a mission during Desert Storm that required 75 aircraft with a total crew requirement of 135 to support the mission. Only two B-2 bombers would be required to fly the same mission with a total crew requirement of four personnel. Needless to say the potential force structure savings provided by stealth are very significant. Let me say a few things about what the $150 million recommended by the Senate Armed Services Committee does and what it does not do.

It would stop the planned shut down of key suppliers; reestablish key suppliers who have already shut down; plan and requalify key components that are becoming obsolescent; and produce limited components and material, some of which can be used as spares for existing B-2's. The $150 million would not buy any additional B-2's and does not obligate the Government to buy additional B-2's.

If the Congress does not approve the $150 million this year, and as a result of the ongoing review of roles and missions, the recommendation is made for fiscal year 1996 to reestablish the B-2 industrial base, the price tag will be $650 million. It is the prudent business decision to spend $150 million to preserve our options on the potential for more B-2 bombers. More than a prudent business decision, Mr. President, is the military requirement for more heavy bombers.

The Bottom Up Review calls for a bomber force of 184 aircraft to conduct two major regional contingencies. This is significant to note because one major regional contingency alone could call for 100 bombers in order for the United States to prevail with minimum risk to our personnel. If the United States were faced with two major regional contingencies, a bomber force of 80 aircraft could bring about a situation where we could be faced with defeat in one theater in order to prevail in another, or long and protracted combat in both theaters with the outcome in both theaters uncertain. These are not acceptable risks.

Mr. President, one of the keys to our success during Desert Storm was the use of the doctrine of "overwhelming force," whereby we brought to bear sufficient force against our adversary to conclude the conflict on our terms with as little loss of U.S. personnel as possible. During Desert Storm, we were fortunate that we had 6 months to prepare for the conflict. Saddam Hussein's mistake was not lost on our potential adversaries. Adequate readiness does not assume a long planning timeframe for future contingencies. Therefore, it is imperative to have the systems in our inventory that can deliver the most firepower with the least required support. The B-2 bomber is the only system that can provide that edge.

I ask my distinguished colleague from Michigan if he would consider not proposing his amendment since all of the arguments against it have already been made.

Thank you, Mr. President.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now resume consideration of the defense authorization bill; that the pending amendments be set aside; that Senator LEVIN be recognized to offer his B-2 amendment; that there be a time limitation for debate of 3 hours on his amendment; that upon the use or yielding back of 2 hours and 10 minutes of that time tonight, the amendment be laid aside and Senator WARNER be recognized to offer his amendment regarding military COLA; that there be a time limitation for debate of 2 hours on his amendment; that upon the use or yielding back of that time tonight on that amendment, the amendment be laid aside and Senator NUNN be recognized to offer a military COLA amendment; that there be 30 minutes for debate on that amendment; that when the Senate completes its business tonight, it stand in recess until 8:20 a.m. on Friday, July 1; that following the prayer, the time for the two leaders be reserved for their use later in the day; that the Senate then resume consideration of the defense authorization bill; and that Senator NUNN's amendment, No. 1852, as modified by the amendment I now send to the desk, and Senator DOLE's amendment, No. 1851, then be modified so that they are each freestanding first-degree amendments with both pending at the same time; that the time between 8:20 a.m. and 9:10 a.m. be for debate on the two Bosnia amendments; that at 9:10 a.m., the Senate resume consideration of Senator LEVIN's B-2 amendment; that there then be 50 minutes remaining for debate on that amendment, with 35 minutes under Senator LEVIN's control and 15 minutes under Senator NUNN's control; that at 10 a.m., there be 20 minutes for debate on the WARNER COLA amendment divided between Senators BYRD and WARNER; that at 10:20 a.m., Senator DOLE be recognized for 5 minutes and that at 10:25 a.m., I be recognized for 5 minutes; and that at 10:30 a.m., the Senate vote on Senator LEVIN's B-2 amendment; that upon the disposition of that amendment, the Senate vote on Senator NUNN's Bosnia amendment; that upon the disposition of that amendment, the Senate vote on Senator DOLE's amendment; that upon the disposition of that amendment, the Senate vote on Senator WARNER's COLA amendment; that upon the disposition of that amendment, the Senate vote on Senator NUNN's COLA amendment; that upon the disposition of that amendment, the Senate vote on the conference report to accompany H.R. 4454; that no other amendments be in order prior to the disposition of the above amendments; that all time for debate be equally divided in the usual form, except where noted; and that these votes occur without any intervening debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 1852, AS MODIFIED

Mr. MITCHELL. Mr. President, in behalf of Senators NUNN and WARNER, I send a modification of the Nunn-Warner amendment No. 1852 to the desk, as stated in my proposal and agreed to.

The amendment, with its modification, is as follows:

At the appropriate place, insert:

(a) PURPOSE.—To express the sense of Congress concerning the international efforts to end the conflict in Bosnia and Hercegovina.

(b) STATEMENTS.—The Congress makes the following statements of support:

(1) The Congress supports the use of international sanctions in the form of arms and economic embargoes imposed by the United Nations Security Council in appropriate circumstances.

(2) The Congress supports the imposition of an arms and economic embargo on the Government of Iraq by United Nations Security Council resolution 661 of August 6, 1990 to bring about compliance with a number of conditions, including in particular an end to Iraq's nuclear weapons program.

(3) The Congress supports the imposition of an arms, petroleum and economic embargo on Haiti by United Nations Security Council resolutions 875 of October 16, 1993 and 917 of May 17, 1994 to bring about compliance with the Governors Island Agreement.

(4) The Congress supports the imposition of an arms and civil aircraft embargo on Libya pursuant to United Nations Security Council resolution 748 of March 31, 1992 in order to convince Libya to renounce terrorism.

(c) FINDINGS.—The Congress makes the following findings:

(1) The United States took the lead in the United Nations Security Council to impose international sanctions in the form of arms and economic embargoes on Iraq, Haiti, and Libya.

(2) The security of the Republic of Korea with whom the United States has a mutual defense treaty and on whose territory there are more than 38,000 members of the United States Armed Forces is a vital interest of the United States.

(3) Should negotiations fail, the imposition of sanctions by the United Nations Security Council on North Korea, which would require the affirmative vote or abstention of China, Russia, Britain, and France, may be essential to stop North Korea's nuclear weapons development program and to end a nuclear threat to the Republic of Korea and Southeast Asia.

(4) The effective enforcement of sanctions on North Korea, once imposed by the United Nations Security Council, would require the cooperation of China, Russia, and Japan as well as other allies, including Britain and

France, both permanent members of the United Nations Security Council.

(5) The United States voted for the international arms embargo imposed by United Nations Security Council resolution 713 of September 25, 1991 that was imposed on Yugoslavia.

(6) The imposition of the United Nations arms embargo on September 25, 1991 has not served to end the conflict in Bosnia and Hercegovina, has provided a battlefield advantage to the Bosnian Serbs, who possess artillery, tanks, and other weapons left behind by the former Yugoslav Army or provided by Serbia and Montenegro, and has deprived the Government of Bosnia and Hercegovina from acquiring the adequate means of defending itself and its citizens.

(7) Our NATO allies have committed ground forces to the United Nations Protection Force (UNPROFOR) in former Yugoslavia. At the present time France has 5,518 troops, Britain 3,435, the Netherlands 2,073, Canada 2,037, Turkey 1,696, Spain 1,417, and Belgium 1,000. Our NATO allies have thus far sustained 49 deaths and 936 wounded as a result of their participation in UNPROFOR.

(8) For the first time the so-called "contact group" composed of representatives of the United States, Russia, France and Britain is moving toward a unified position of using an incentives and disincentives "carrot and stick" strategy to bring about a peaceful settlement of the conflict in Bosnia and Hercegovina.

(d) It is the sense of the Congress—

That the United States should work with the NATO Member nations and the other permanent members of the United Nations Security Council to endorse the efforts of the contact group to bring about a peaceful settlement of the conflict in Bosnia Hercegovina, including the following:

a. the preservation of an economically, politically and militarily viable Bosnian state capable of exercising its rights under the United Nations Charter.

(i) as part of a peaceful settlement, the lifting of the United Nations arms embargo on the Government of Bosnia and Hercegovina so that it can exercise the inherent right of a sovereign state to self-defense.

b. if the Bosnian Serbs, while the contact group's peace proposal is being considered and discussed, attack the safe areas designated by the United Nations Security Council, the partial lifting of the arms embargo on the Government of Bosnia and Hercegovina and the provision to that Government of defensive weapons and equipment appropriate and necessary to defend those safe areas.

c. if the Bosnian Serbs do not respond constructively to the peace negotiations, the President or his representative shall promptly propose or support a resolution in the United Nations Security Council to terminate the intentional arms embargo on Bosnia and Hercegovina (and the orderly withdrawal of the United Nationals Protection Force and humanitarian relief personnel). If the Security Council fails to pass such a resolution, the President shall within 5 days consult with Congress regarding unilateral termination of the arms embargo on the Government of Bosnia and Hercegovina.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, having obtained this agreement, there will be no further rollcall votes this evening. I thank all of the Senators involved in the process by which this agreement was reached. This is the product of several hours of discussion involving a large number of Senators.

I wish now to state so that all Senators will be aware, either those who are present in the Senate or watching in their offices, or hopefully their staffs are watching, there will be six votes in the Senate beginning at 10:30 a.m. tomorrow. I repeat, there will be six votes in the Senate beginning at 10:30 a.m.: The first on the B–2 amendment, then there will be two votes on the Bosnia amendments, then there will be two votes on the military COLA amendments, then there will be one vote on the conference report accompanying the legislative appropriations bill.

Thereafter, we will remain in session until we complete action on the bill, and there will be other votes during the day as necessary to complete action on this bill.

I repeat that we will stay in session this week until we finish this bill. I hope it can be done tomorrow and I know the managers will do all they can to see that it is completed tomorrow.

Senators should be aware, and I encourage all offices to notify the Senators immediately, that there will be six recorded votes beginning at 10:30 a.m. tomorrow and there will be further votes during the day as necessary to complete action on this bill.

I hope it is not necessary, but I repeat what I said earlier several times and want to make clear, if we cannot finish this bill tomorrow, we will be back in session on Saturday in an effort to finish it on that day.

So I, again, thank my colleagues, especially the distinguished chairman of the committee, the Senator from Georgia, and the distinguished ranking member, the Senator from South Carolina, and all concerned, for their cooperation in enabling us to reach this agreement.

Mr. President, I now yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I thank the leader. I want everyone to know how hard it is to work out these unanimous consent agreements. Truly the majority leader's work is a very, very difficult job. I am grateful to him every time I manage a bill. It is extremely difficult to get these matters done. So I thank the majority leader and thank all my colleagues for letting us at least move this far.

I think this will be a major part of the bill. There will be some other important amendments, and I think no one should believe that after the six votes tomorrow that is the end of it. We will have other votes. It is my hope, though, that we can expedite the process after those six votes and have other agreements that will compress the time and yet still give people a chance to discuss these items.

Mr. President, I believe the Senator from Michigan is now entitled to be recognized to send his amendment to the desk. I had started my remarks on this and I certainly will wait until the Senator makes his remarks to complete my remarks on the B–2. The Senator from South Carolina would like to be able to make a few remarks.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The PRESIDING OFFICER. The clerk will first report the pending bill.

The legislative clerk read as follows:

A bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Johnston amendment No. 1840, to restore funding for the National Defense Sealift Fund and reduce funding for the LHD–7 Amphibious Ship.

Dole-Lieberman amendment No. 1851, to terminate the United States arms embargo applicable to the Government of Bosnia and Herzegovina.

Nunn/Warner amendment No. 1852 (as modified), to express the sense of the Congress that the United States should work with NATO member nations and members of the United Nations Security Council to endorse the efforts of the contact group to bring about a peaceful settlement of the conflict in Bosnia and Herzegovina.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

AMENDMENT NO. 2142

(Purpose: To strike out the funds for a B–2 Bomber Industrial Base program and make available such funds for environmental restoration activities at military installations approved for closure)

Mr. LEVIN. Mr. President, I send an amendment to the desk on behalf of myself, Senators COHEN, GLENN, McCAIN, LEAHY, HATFIELD, and others and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself, Mr. COHEN, Mr. GLENN, Mr. McCAIN, Mr. LEAHY and Mr. HATFIELD, proposes an amendment numbered 2142.

On page 25, beginning with line 4, strike out all through page 26, line 13.

On page 272, line 16, strike out "$2,189,858,000" and insert in lieu thereof "$2,339,858,000".

Mr. LEVIN. Mr. President, I yield myself 1 minute to describe the amendment and then, if my friend, Senator THURMOND, wishes to go at this point, I will be happy to yield to him and then come back to my remarks. So I will just yield myself 2 minutes, Mr. President.

This amendment would strike the $150 million for the B–2 bomber which was added by the Armed Services Committee to the bill. It was not requested by the Pentagon. As a matter of fact, the Secretary of Defense has indicated that he does not wish this money, that there is a better use for this money.

What the amendment does is to transfer this money to the base closing cleanup fund, which has been reduced by $500 million because of the earthquake emergency in California. We have shorted that base closing cleanup fund by one-half billion dollars. We made a commitment to the communities where bases are closed that we would make it possible to close these bases quickly and to pay quickly for the environmentally required cleanups.

What we did when the earthquake hit us was to remove $500 million from that fund, and we must replace it if we are going to keep our commitment to the communities which have been impacted by base closings and help the environment in this country.

What this amendment does is take the $150 million, which the Pentagon did not ask for, for this B-2 industrial base fund and transfer it back into the fund from which $500 million was taken during the California earthquake emergency.

Mr. President, I understand that the Senator from South Carolina, the ranking member on the Armed Services Committee, may wish to proceed at this time. I will be happy to yield to him, and I ask unanimous consent that I yield to him at this point and that I then be recognized to complete my statement after his statement is completed.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I thank the distinguished Senator. I will make very brief remarks.

Mr. President, I rise to oppose the Levin amendment to cancel the provision to maintain the bomber industrial base. The Defense Department has not presented a coherent explanation of their intentions for providing bomber capability. This measure provides a year's insurance policy by keeping the B-2 production option open.

This is a prudent measure to preserve capacity and reduce the cost of future acquisitions if we find them necessary during next year's hearings on bomber requirements.

Again, I say I oppose the Levin amendment and favor the B-2 plane.

I yield the floor. I thank the Senator very much.

EXTENSION OF THE EXPORT ADMINISTRATION ACT OF 1979

Mr. NUNN. If the Senator will withhold, I have another matter I would like to handle very quickly here.

The PRESIDING OFFICER. The Senator is recognized.

Mr. NUNN. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H. R. 4635, a bill to provide for a temporary extension of the Export Administration Act just received from the House; that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table.

The PRESIDING OFFICER (Mr. FEINGOLD). Is there objection? Without objection, it is so ordered.

So the bill (H.R. 4635) was deemed to have been considered, read three times, and passed.

Mr. NUNN. I thank the Chair.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The Senate continued with the consideration of the bill.

Mr. LEVIN. Mr. President, I yield myself as much time as I might need.

Mr. President, as I indicated, this amendment would strike the money which the committee added for the B-2 bombers, money which was not requested by the Pentagon, and the money would be used by the Pentagon, according to the committee add-on, to really open the door to future production of B-2 planes that we do not need and cannot afford. That was the purpose of the committee add-on. Although technically it does not fund the production of the plane, the purpose of it is to allow for future production of planes that again we cannot afford and we decided to terminate at 20.

Congress has capped the B-2 program at 20 planes twice. In both 1992 and 1993, Congress mandated in law that no more than 20 B-2 bombers could be produced. The Senate and the House supported that cap. Presidents Bush and Clinton both supported it. The House last month reaffirmed its support for the existing cap on B-2 bombers and on its total program cost and provided no unrequested funds for the B-2 bomber.

But, Mr. President, like that energizer bunny, this B-2 debate just keeps going and going and going. Now the committee wants to add $150 million to keep it going, a warm production base for a bomber that we have twice decided to cap and terminate at 20 planes.

If this amendment fails, Senators can expect to just keep getting a bigger and bigger bill for B-2 bombers each year for the foreseeable future, and we are going to be getting into a debate each year over the cost of that bill as well.

Two years ago, we had an extensive floor debate on whether to stop the B-2 program after building 20 planes or 15 planes. That was the issue. The Senate voted to stop the program at 20. And as the distinguished chairman of the Armed Services Committee, Senator NUNN, said during that debate:

> I therefore urge my colleagues to agree to conclude the B-2 program at 20 as requested and to put this divisive issue finally behind us.

"Put this divisive issue finally behind us" is what the chairman of the Armed Services Committee told us a couple years ago, cap it at 20 and end it there.

My good friend, another good friend, this time the Senator from Nebraska [Mr. EXON] who is chairman of the subcommittee of jurisdiction, said during that same debate 2 years ago:

> We should put the B-2 program to rest and give it a decent burial as far as new procurement is concerned by cutting it off at 20.

The distinguished ranking member of the Armed Services Committee, Senator THURMOND, said at that time, we should: "Complete the B-2 bomber program at a total of 20 operational B-2 bombers." He said: "It is time to make a final commitment to the B-2 and cease this annual debate."

Well, following those pleas, the Senate, 2 years ago, agreed to build 20 bombers and to cap it, to complete it at 20 bombers. The House agreed. President Bush signed that bill into law. President Bush and then Secretary of Defense Dick Cheney decided to terminate the bomber program at 20. And then last year we reaffirmed that cap on the program at 20 planes, agreeing unanimously to an amendment by Senator LEAHY. The House agreed. President Clinton signed that bill into law with its B-2 legislative cap.

What has happened in the last 2 years that justifies the new fund that this bill would establish to reopen the option of buying more B-2 bombers? What has happened to justify this down payment of $150 million to give ourselves the chance to spend untold billions of dollars on more B-2 bombers? Has the Soviet Union reestablished itself and begun a massive high-technology buildup? Have our national spending priorities changed, yielding new resources for the Defense Department? Have our military spending priorities changed, suggesting more B-2 bombers are more urgently needed now than the Bush administration determined that they were 2 years ago?

The only thing that has changed is that certain members of the B-2 bomber production team have finished producing their parts of the B-2 bomber that we agreed to buy and have prevailed on some in Congress to establish what section 141 of this bill calls an "industrial base preservation fund." This fund will provide $150 million, a good part of which is to pay subcontractors to stay on standby for another year awaiting orders for additional B-2 production, and next year the argument is going to be the same.

But there is no justification for expanding the B-2 program beyond the 20 planes which this Congress twice, and this body twice, has said would be the cap on the B-2 bomber. And it is difficult to understand why, with so many

Senators deeply concerned about defense budget shortages, that we should even contemplate spending $150 million just to keep the door remaining open for more B-2 bombers which we decided 2 years ago we did not need.

Senator after Senator speaks about shortfalls in defense spending, shortfalls which they allege threaten morale and readiness, and then suddenly $150 million is found to add to the Pentagon request. The Pentagon has not requested the $150 million. The Pentagon does not want the $150 million. But despite all the protestations about shortfalls in defense, boom, there it is and the B-2 debate now continues. Something which was supposed to be put to rest, which we were told would be put to rest 2 years ago, now suddenly again is with us.

Mr. President, I was an original supporter of the B-2. I voted for the B-2 originally; cast a key vote for it; felt we should have gone directly to the B-2 bomber without building both a B-1 bomber and a B-2 bomber.

I supported it until the management of the program by the Air Force raised serious concerns the taxpayers would not be getting the plane that they paid for. Some other of the cosponsors on this amendment are long time B-2 opponents unlike me. But the vote on this amendment is not a repeat of previous votes on a 20-plane force. Senators who voted for 20 planes or against 20 planes should understand that we have already committed to buying 20 planes. The issue today, the issue tomorrow when we vote, is whether to start spending more money so that we can buy more than the 20 bombers that have been agreed to by Presidents Bush and Clinton, Defense Secretaries Cheney, Aspin, and Perry, and the Congress for the last 2 years.

So this is a vote on whether to start down a new road that may lead to tens of billions of dollars for more B-2 bombers. This is a vote on whether to lift the tent and invite the camel in nose first.

What our amendment would do, instead of spending the money for something the Pentagon says it does not need and cannot afford, is to spend the money on something the Pentagon says it does need and does not have the money for instead of spending it on an item which is not validated, there is no military requirement for more than 20 B-2 bombers or this so-called B-2 industrial; no validated military requirement whatsoever. But there is a critically important validated program from which we took $500 million to pay for the emergency earthquake assistance. That is the base closing cleanup fund.

So if what we do in this amendment is take the $150 million and apply it to restore some of the funding, I emphasize just some—because we took $500 million, this would just restore $150 million—it would restore some of the funding for military base reuse that was taken to pay for that emergency earthquake relief earlier this year.

The swift cleanup and reuse of military bases that have been ordered closed through the base closure process is a top priority of this Congress, and it is a top priority of the administration.

We made a commitment to the people of this country. We said we have to close some bases. But we will have the funds available for prompt reuse and prompt cleanup. That was a commitment which this Congress solemnly made, and which we have not been able to live up to because we borrowed that $500 million from that fund.

The Pentagon, as I said, Mr. President, opposes the additional B-2 funding as unnecessary and unaffordable. The Pentagon supports restoring this previously borrowed money from the base reuse fund. So we have a situation where the Pentagon does not support the $150 million added by the committee but does support the restoration of funding to this base reuse and cleanup fund.

The Defense Department and the Air Force officials have testified over and over again that the new B-2 funding would rob defense dollars from higher priority. The top Defense Department officials, Secretary of Defense, and the Deputy Secretary of Defense are on record saying they do not support the additional funds for the B-2, and they do support the restoration of funds to that account for base reuse.

On June 22, Deputy Secretary John Deutch sent a letter which states in clear terms that the Department of Defense does not support funds added in the committee bill for a so-called defense industrial base and does not want the option of buying more B-2's. Here is what Deputy Secretary Deutch said.

> Based on a careful analysis of the industrial base, warfighting, and budgetary implications of an enlarged B-2 fleet the Department cannot support further purchases of B-2 aircraft or actions that would contribute to that end.

Deputy Secretary Deutch makes clear in this letter that this conclusion is based on a careful look at our security need for more B-2's.

This is what his letter goes on to say:

> The Department has taken the necessary steps to deal with the B-2 industrial base and programmatic issue. The Department has continuously examined the role of the B-2 from a warfighting perspective within the context of our ongoing analysis of the bomber force.

And Secretary Deutch says finally:

> No requirement has emerged from this analysis that changes the recommendation in the Bottom-Up Review for 20 B-2 aircraft.

This letter from Dr. Deutch makes clear also that the Department has examined the budget environment and found that more B-2's are unaffordable. This is what he wrote:

> Finally, absent an unlikely budget windfall for Defense or a radical shift in our budget priorities, we simply can't afford additional B-2 aircraft. The billions of dollars that would be needed to sustain such an effort are not affordable. Funds for additional aircraft would have to be taken from higher priority Defense needs that support the readiness and modernization of our forces in a viable support infrastructure.

So I repeat, as recently as just a week ago, Dr. Deutch said that based on careful analysis of the industrial base, war fighting and budgetary implications of an enlarged B-2 fleet, the Department cannot support further purchases of B-2 aircraft or actions that would contribute to that end.

Mr. President, I ask unanimous consent that the letter of Deputy Secretary Deutch dated June 22 of this year be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPUTY SECRETARY OF DEFENSE,
Washington, DC, June 22, 1994.

Hon. CARL LEVIN,
U.S. Senate, Washington, DC.

DEAR SENATOR LEVIN: This is in response to your recent inquiry about the Department's possible interest in additional B-2 aircraft beyond the 20 currently authorized. Based on a careful analysis of the industrial base, warfighting, and budgetary implications of an enlarged B-2 fleet the Department cannot support further purchases of B-2 aircraft or actions that would contribute to that end.

The Department has taken the necessary steps to deal with B-2 industrial base and programmatic issues. As you know, the Department is committed to completing successfully the 20 B-2 program agreed to in 1992 by the Congress and President Bush and endorsed by President Clinton. Even in these difficult budgetary times we have included nearly $900 million in our fiscal year 1995 request to produce an aircraft with superior military capabilities, as well as to provide us with a wealth of manufacturing technology and experience that our defense industry will draw on in our development and procurement of other systems, even after the B-2 line closes down.

Working with the Congress the Department has been making every effort to stabilize the program from both a management and financial perspective. The Department's certification of the sound management of the program—as required by the National Defense Authorization Act for Fiscal Year 1994—was a major step in settling outstanding issues in this regard. Therefore, the introduction of additional funding uncertainty in the future of the B-2 program would be an unfortunate return to a period that we have put behind us.

The Department has continuously examined the role of the B-2 from a warfighting perspective within the context of our ongoing analysis of the bomber force. No requirement has emerged from this analysis to change the recommendation in the Bottom Up Review for 20 B-2 aircraft.

Finally, absent an unlikely budget windfall for Defense or a radical shift in our budget priorities, we simply can't afford additional B-2 aircraft. The billions of dollars that would be needed to sustain such an effort are not affordable. Funds for additional aircraft would have to be taken from higher priority Defense needs that support the readiness and

> modernization of our forces and a viable support infrastructure.
>
> When fielded, the authorized force of 20 B-2s will make a substantial contribution to our nation's defense. The Department's careful stewardship of this program—working in harmony with the Congress—ensures that essential industrial base tasks will be completed.
>
> I trust this letter responds to your questions and stand ready to provide further details if needed.
>
> JOHN M. DEUTCH.

Mr. LEVIN. Mr. President, Dr. Deutch's comments do not represent a new position for the Department of Defense. The Pentagon has been telling us all year that we should not be buying more B-2's or preparing to buy more B-2's. Secretary of Defense Bill Perry on February 23 of this year in a letter to Senator FEINSTEIN wrote the following:

> Since we don't have enough money to protect all our traditional industrial base, we could jeopardize our more critical assets unless we invest strategically. This means we must carefully and freshly define the most essential and fragile segments of our defense industry, and then find the resolve to discipline our defense budgets accordingly. Last year we took a major step—

This is Dr. Perry's letter, continuing:

> Last year we took a major step toward an investment strategy when we defined our post-cold-war military requirements in the Bottom-Up Review. This effort produced a solid basis for the investment choices we are proposing to protect our industrial base over the next 5 years and especially in the FY '95 budget.

Secretary Perry continues:

> One of the most difficult questions we have thus far faced in our strategic planning about our defense industrial base is the one about our stealth bomber production capacity.

Then he goes on to say something we should all focus on:

> Given my deep personal convictions about the military importance of stealth for nearly two decades, you can well imagine why I have wanted to make sure we get this one right, and I believe we have.

That is the father of stealth talking. He goes on to say:

> First, we have fully budgeted the funds necessary to complete the $44 billion B-2 program agreed upon in 1992 by the Congress and President Bush, and endorsed by President Clinton. This year alone, we requested $891 million for the B-2 Program, one of the largest requests in DOD's 1995 budget, even though the competition for funds is extraordinarily fierce. The program we are fully funding will not only produce the superior military capabilities of 20 operational B-2 bombers, but it will also provide us with a wealth of manufacturing technology and experience that our defense industries will draw on in our development and procurement of other systems, even after the B-2 line closes down.
>
> I have carefully considered your suggestion that we should have also added money to support the B-2 production line beyond what would be needed to complete the 20 authorized planes. For several reasons, I still believe our decision not to do so is still the right one. We should recognize now that any additional money added next year to sustain the B-2 line would only be the tip of a budget wedge.

Again, I am quoting from Dr. Perry's letter:

> The large amounts required either to buy more B-2's or to sustain the B-2 production line, without producing more planes, would have to be taken from more pressing military priorities. Our investment strategy over the next few years quite deliberately protects military readiness by limiting weapon modernization, and more B-2's, as desirable as they might be, should not come into the cost of readiness. Among defense modernization programs, we have placed more immediate priority on airlift, rather than additional bombers.

Secretary Perry went further in that letter, warning that to reopen the debate on the B-2 could actually damage the program.

This is what he said later on in that letter:

> We should also be aware of the possible consequences of reopening the debate on the B-2. One of the most devilish threats to any weapons program is instability, financial and political. For years, the B-2 program has been plagued by not knowing how many planes we were going to build or how much money would be available. Whatever one's personal views on the substance of the 1992 B-2 agreement, it has given the program an essential stability so that now we are able to get the job done.

Mr. President, what Secretary Perry warned against in that last paragraph I read is introducing instability into this program, and that is precisely what the proponents of the B-2 so-called "industrial base fund" are doing. With this huge funding wedge, it is a wedge for untold billions of dollars. It sounds like $150 million in the defense budget. Maybe that does not sound like such a big number to some, but it does to me.

It is the wedge into the spending of billions of dollars for more B-2 bombers that is the issue. Whether we are going to open that door that we closed twice, that two Presidents have closed, and three Secretaries of Defense have closed, and whether we are going to open that door based on no military requirement, with no idea of what should be cut out of future years' defense budgets to pay for more B-2's, Bill Perry, the Secretary of Defense, is one of the strongest proponents of stealth technology. He is one of the fathers of stealth technology. That is why his opposition to the B-2 add-on by the committee is so powerful.

Mr. President, I would like to take a few more minutes at this time to look at the other purpose of the amendment, which is to restore part of the $508 million that were in effect borrowed from the base realignment and closure account last February to pay some emergency costs from the earthquake in California. The earthquake was a sudden tragedy, and it created immediate need for emergency assistance. We responded to it, as we should have. One of the sources for the funds used for that assistance was an account which pays for costs associated with preparing for the closure and the transfer of facilities that were ordered closed through the Base Closure Commission process, including environmental cleanup, which is a big part of the closure cost.

Congress and the President have promised that the Department of Defense would complete environmental restoration of closing bases quickly and release property for reuse by local communities struggling to rebuild their economies and to attract new jobs. Mine is not the only State where communities that have been excellent neighbors to the military for generations are struggling to adjust to the loss of the military facility. As we downsize the military, we must make reductions in military facilities to save operating costs. But the impact on local communities, especially smaller communities where a military base has dominated the local economy, can be very great.

The key to recovering from a base closure and to rebuilding new economic strength in a community is preparing a closing base for rapid reuse. That includes cleaning up environmental damage caused by the military while it was a tenant. We made that promise to help affected communities by completing environmental cleanup quickly, to speed reuse by local communities trying to rebuild their economies and to attract new jobs.

The use of the base closing fund to pay for part of the earthquake emergency supplemental in February represented nearly half of the current year appropriated funds for the so-called BRAC account, and created a serious accounting shortfall in that account. That funding shortfall still exists, because the fiscal year 1994 rescission for earthquake relief became law after the Department of Defense had submitted its fiscal year 1995 budget. The Department of Defense took interim measures to cushion the most immediate shortfalls by reallocating 1994 funds for base closing and cleanup from the other services to the Navy, which had the most urgent projects at the time. Those interim measures do not solve the funding shortfall problem. They just defer the funding shortfall to fiscal year 1995.

The Department and individual service officials have testified that the rescission of $508 million in fiscal year 1994 funds from that BRAC-3 account will have a negative impact on reuse of closing bases unless we redress it.

That is why the Defense Department supports the second goal of this amendment, which is to restore some of the base closing and cleanup funds used for the emergency earthquake relief by adding to the BRAC-III account the $150 million made available by striking the so-called B-2 industrial base fund that was added by the Armed Services Committee.

As a matter of fact, the Department of Defense would like us to be able to restore all of the $508 million rescinded from that BRAC-III account as Deputy Defense Secretary Deutch says in this June 8, 1994, letter. And this is what he wrote, the key line being:

> Restoration of the amount rescinded would ensure that the President's plan to speed economic recovery of closure communities is achieved.

Mr. President, I ask unanimous consent that the full June 8, 1994, letter supporting restoration of the amount rescinded from that BRAC account be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, DC, *June 8, 1994.*

Hon. CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN: This responds to your June 7, letter expressing concern about funding shortfalls in the Base Realignment and Closure (BRAC) accounts that pay for environmental restoration and remediation at closing or realigning bases.

You asked whether the requirement to promptly clean closing military bases requires additional funding beyond what is currently appropriated? The recent FY 1994 rescission of $508 million could have had a serious impact on the FY 1994 BRAC program; however, we have reallocated unobligated BRAC funds to minimize the impact of the rescission on the FY 1994 realignment and closure schedule.

In response to your question concerning the need for additional BRAC funding above the amount requested in the FY 1995 President's Budget, it is essential that Congress approve the $2.7 billion requested in FY 1995. Congress should also restore the amount rescinded since the FY 1995 request was prepared assuming the unobligated funds used to offset the rescission would be available in FY 1995. Restoration of the amount rescinded would ensure that the President's plan to speed economic recovery of closure communities is achieved.

I would appreciate your support and assistance in this matter.

Sincerely,

JOHN DEUTCH,
Deputy Secretary of Defense.

Mr. LEVIN. Mr. President, the Secretary of the Air Force in her March 8, 1994, appearance before the Senate Armed Services Committee summed it up this way.

> I cannot think of anything more shortsighted than to not fund or to rescind environmental cleanup money for BRAC bases.
>
> As you know, I have visited all the BRAC bases on the 1993 list. It is absolutely an impediment and stumbling block to transitions of those properties to the community so I am very concerned about it.

The "it" being the rescission of those funds from that BRAC–III account.

This amendment again would use that $150 million not requested for this new B–2 fund and add it to a base closure account which already is in existence from which we in effect borrow $500 million. It would thereby help to keep a solemn commitment which this Congress made to communities that have closing military facilities, help them to recover from those economic shocks quickly, and to be able to develop new uses for those facilities without prolonged delays for environmental cleanup.

That is why, Mr. President, this amendment is strongly supported by the leading national environmental organizations.

Mr. President, I ask unanimous consent at this point to print in the RECORD a letter supporting this amendment signed by 10 national environmental organizations, including Friends of the Earth, National Wildlife Federation, and the League of Conservation Voters.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JUNE 23, 1994.

SUPPORT LEVIN BASE CLOSURE CLEANUP/B-2 AMENDMENT—SPEED CLEANUP OF CLOSING MILITARY BASES, REDEVELOPMENT, AND JOBS

DEAR SENATOR: When the Senate considers the fiscal 1995 Defense Authorization bill this week, we urge you to support an amendment by Senators Levin, Cohen, Glenn, McCain and Leahy that would transfer $150 million in Department of Defense (DOD) funds from the B-2 Bomber program to the cleanup of closing military bases. Base closure cleanup funding was badly cut earlier this year, leaving a serious shortfall.

This is a reasonable amendment that protects both our nation's defense capabilities and its environment. The amendment is also important for jobs, because speeding cleanup of closing military bases is the best way to ensure that defense-dependent communities can quickly redevelop the bases to attract new jobs.

The additional funds for the base realignment and closure (BRAC) account are badly needed. This account pays for the costs of closing military bases, including the cleanup of toxic contamination. Unfortunately, in a little-noticed provision of the Earthquake Emergency Supplemental Appropriations bill enacted in February, $508 million of previously-appropriated BRAC funds (some of which were intended for cleanup) were rescinded, and the legislative "floor" for cleanup funding was lowered. DOD officials have testified to Congress that the serious shortfall in the BRAC account "will delay the closure of some bases" and that funds "will need to be restored to keep the BRAC process on schedule and to realize full savings from infrastructure reductions." Deputy Secretary of Defense John Deutch wrote on June 7 in support of restoring rescinded BRAC funds to "ensure that the President's plan to speed economic recovery of closure communities is achieved."

There is no military requirement for more B–2 Stealth Bombers. President Bush terminated the B–2 bomber program, and Congress passed a law capping the program at 20 planes. Yet, the Committee-reported bill adds $150 million in funds as a down payment on more B–2's beyond the maximum 20 already funded. President Clinton did not request these extra funds and the Pentagon explicitly opposes more B–2 funding as unnecessary and unaffordable.

The League of Conservation Voters may consider including this vote on the Levin-Cohen amendment when compiling the 1994 "National Environmental Scorecard."

Please vote for a strong defense, clean environment and jobs. Support the Levin amendment.

Sincerely,

Ralph De Gennaro, Director, Appropriations Project, Friends of the Earth; Margaret Morgan-Hubbard, Executive Director, Environmental Action Foundation; Sharon Newsome, Vice President, Resources Conservation, National Wildlife Federation; Peter Tyler, Associate Director of Policy, Physicians for Social Responsibility; Lenny Siegel, Director, Pacific Studies Center; Drew Caputo, Attorney, Natural Resources Defense Council; Betsy Loyless, Political Director, League of Conservation Voters; A. Blakeman Early, Washington Director, Environmental Quality Program, Sierra Club; Don Gray, Director, Water Program, Environmental and Energy Study Institute; Lara Levison, Field Coordinator, National Legislation, Union of Concerned Scientists.

Mr. LEVIN. Mr. President, this amendment allows us to keep two commitments at one time, the commitment we made twice to terminate the B–2 line at 20 and a commitment that we made to fund the cleanup of closing bases. Both those commitments are commitments that were on record as having been made. They are both important. They both have a history in this body and they both should be kept.

Mr. President, I yield the floor at this time.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, I yield such time as the Senator from Hawaii may desire.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. I thank my friend from Georgia.

Mr. President, I rise to speak in opposition to the amendment just offered by my distinguished friend from Michigan.

The Senator's amendment seeks to take $150 million which is in the bill for the expressed purpose for preserving the industrial base for the production of the modern bomber aircraft.

Mr. President, his amendment would take that money, zero that line in the budget, dismantle the tools and assembly facilities on the last American line for bomber production and instead authorize an increase in funding for base closures.

Mr. President, I have no quarrel with the Senator from Michigan on the need to fund base closure activities. I agree that the Congress needs to support funding for base closure. The Congress and the administration have agreed to close 100 bases in 3 rounds of the base closure process, and clearly we must provide funds to meet the cost of closure, and we are doing just that.

In point of fact, if we should examine the bill before the Senate, we are struck by the fact that the bill already includes $2.676 billion for base closure activities.

Mr. President, the Committee on Armed Services did not cut one penny from the amount requested for base closures. In fact, the amount the committee recommends for base closure funding is more than half the total that the committee recommends for all military construction programs worldwide.

Base closure funding is fully authorized in the bill before us and increased authorization is not needed. On the other hand, if the amendment of the Senator from Michigan is adopted, it will terminate the Nation's industrial base for bombers by eliminating any funds to preserve the production of the B–2. I think that my colleagues need to consider the ramifications of this decision very, very carefully.

Secretary of Defense Perry has been mentioned several times in this debate. The Secretary testified to the Defense Appropriations Subcommittee earlier this year on the bomber industrial base. He told us quite frankly that his budget did not address this need. He said the following:

> We do not have anything in our program to sustain a bomber industrial base. That is a weakness of this program that we are presenting to you and you may rightly challenge and criticize that assumption.

He went on to say:

> The most logical way of maintaining a bomber industrial base was to continue to build more B–2's. That is not only because that is the best, the most cost-effective bomber we can describe for you right now, but because we could make a very good use of the extra B–2's if we had them.

Mr. President, that is the testimony of the Secretary of Defense, the man who most would agree knows more about the U.S. industrial base than anyone else. Because of him the budget provides funding to maintain the submarine industrial base. Because of Secretary Perry, the budget contains funding to maintain the tank industrial base, a matter I know to be of great importance to the Senator from Michigan.

The testimony of the Secretary of Defense is that there is a weakness in the budget presented to the Congress because it fails to protect the bomber industrial base, and it is the Secretary who says that the best way to sustain the industrial base is to build more B–2 bombers because DOD could make very good use of extra B–2's.

Mr. President, as my colleagues know, I am a strong supporter of the B–2. I recognize that the B–2 is the best bomber ever produced and, though it is expensive, I think we should purchase more.

The country learned many lessons from Desert Storm, and one of the most significant lessons learned is that stealth works. The success of the F–117 in that war demonstrated to the entire world the advantages of stealth technology in military aircraft. And the B–2 is the next technological leap. It is the Stealth bomber.

Mr. President, as we debate this issue, I would ask my colleagues to bear in mind that the American public is increasingly reluctant to support U.S. interests abroad, if that means intervention and the possible loss of American life.

It is self-evident that the best way to protect those who must go into harm's way is to provide them with the best equipment to reduce casualties and deaths. Improved survivability is the term employed by the experts, and in my generation, it was known as returning home alive.

Mr. President, the millennium has not arrived. From time to time we may find it necessary to project power in a hostile environment. If the Nation must project power, attack multiple targets in heavily defended areas, the best approach is to use the B–2. It will have the best chance of completing its mission and bringing the crews back safely.

It is also clear that as we further reduce our forces it is absolutely essential that our personnel have the best equipment in the world. If we are to prevail in all future conflicts, it will be because we enabled our forces to outfight our opponents. We will not be able to achieve a decisive victory through numbers or the quantity of our forces. We are reducing and downsizing to about as half as many military personnel as we had during the cold war. So we must retain a clear and decisive capability through the quality of our forces.

Mr. President, our forces should not be marginally better than those of our opponents—Americans die when they fight for a margin of victory—we must, in our constitutional responsibility to "provide for the common defense" ensure that our forces have a decisive capability. This means we must have the best trained and best equipped military in the world. One sure way to guarantee that our forces will be the best equipped is to continue to buy systems such as the B–2 bomber.

This bomber is a marvel of American technology. It has the capability to take off from bases in the United States and fly anywhere in the world, penetrate virtually any airspace, deliver a devastating blow, and return to the United States without stopping. In this era, when the United States is deploying fewer troops overseas at fewer locations, the global reach of the B–2 is essential to deterrence and to war fighting.

Mr. President, the B–2 is essential. No other system in the U.S. inventory can make the same claim; no other weapon can do the job. With mid-air refueling, the B–1B and B–52 can fly long ranges, but they cannot penetrate heavily defended airspace. Even the F–117 does not have the capability of the B–2 in that arena.

There are many of my colleagues who recognize that the B–2 is a marvel of American technology. But, they say, they are concerned about the cost. They argue that the B–2 is simply too expensive. I ask my colleagues, where is the study, the documented evidence, to support this point? Who has done a comparison between the operational cost effectiveness of buying more B–2 bombers and the costs of maintaining the force structure to allow the B–1's and B–5's to provide the Nation's attack capability?

No one. That is the answer. The Defense Department did a study on the cost effectiveness of the new attack submarine versus the *Seawolf*. It compared the value of the V–22 *Osprey* to that of conventional helicopters. It contracted for a study comparing the cost effectiveness of buying more C–17's or other airlift aircraft. The Department, however, has not done an analysis which compares the total life cycle costs and effectiveness of the B–2 and its required support, to that of the other bomber and support aircraft alternatives.

The decision to curtail the B–2 bomber from 132—and we should remind ourselves that that is how many we ordered—to 75 to 40 all the way down to 20 bombers was done for purely political purposes. The force structure requirements for other aircraft types were determined after the decision was made to cut the B–2 program, and the cost effectiveness of this approach was never determined.

Many of my colleagues are probably not aware that the Rand Corp. has been examining the war fighting effectiveness of the bomber force structure. Among its conclusions, Rand notes that a fleet of 38 B–2 bombers and 40 B–52's would be as effective as a fleet of 20 B–2's, 40 B–52's and 60 B–1 bombers. That means that 18 additional B–2's could do the job of 60 B–1's. Millions of dollars could be saved through reduced military personnel and operations and maintenance costs; hundreds of lives would no longer be put at risk.

The Rand study also said the larger B–2 fleet would have more flexibility to meet the two MRC strategies and would be easier to employ operationally. The B–2 does not need the electronic warfare and fighter escort support required for conventional operations. This, too, can lower overall life-cycle costs.

Does this, by itself, mean that we should rush out to buy more B–2's and retire the B–1's? Not necessarily, and that is not the position recommended in this authorization bill. The analysis which compares the life-cycle cost of 18 additional B–2's and 60 existing B–1B's has not been done. What the Rand results demonstrate, however, is that DOD should examine the cost effectiveness of each alternative, before it makes a decision to invest substantially more money into either. The amendment offered by the Senator from Michigan would preclude DOD from reviewing this matter, because it would eliminate the possibility of ever purchasing more B-2 bombers.

The Institute for Defense Analyses is also conducting reviews on Air Force bombers; however, its focus is on the B-1. Among its results, it is likely to conclude that previous Air Force plans to fix the electronic countermeasures system on the B-1B were not the most cost-effective solution. It is also likely to suggest other alternatives to the Air Force plan for "fixing" the B-1B might make more sense. Even in this study though, the Air Force and DOD will not get the complete analysis which would be required to determine the most cost-effective bomber force structure.

Furthermore, the Roles and Missions Commission is reviewing DOD's needs for long-range bombing. It, too, could conclude that additional B-2 bombers might make sense. I think we should consider these points:

It is far less expensive for a potential adversary to acquire the capability to shoot down a conventional bomber than to invest in any potential method to defeat a Stealthy platform;

The number of Stealth aircraft in the U.S. inventory is minimal, because the navy has canceled its only Stealthy attack aircraft program and the Air Force is not buying any more F-117 Stealth fighters; and;

[Maintaining the force structure to ensure that conventional aircraft can attack heavily defended targets is both manpower and cost intensive.]

So it seems clear to me, Mr. President, that we should insist that we stop and get a complete accounting of the cost of each alternative before precluding the B-2 option.

Mr. President, I do not make my argument on costs alone. In addition to not knowing which force structure would be the most cost effective, there is also great uncertainty over the total force structure that is required. The bottom up review concluded that 100 bombers are required to handle one major regional conflict. It also assumed a force structure of 184 bombers. However, the Air Force plans to retain only 107 total bombers in its inventory, and of that number not more than 80 will be ready for combat.

And I think, as a matter of a footnote, of during the recent Desert Storm conflict. In that one conflict, we employed nearly 200 bombers.

Exactly how this force structure will fulfill the requirements for fighting two nearly simultaneous major regional contingencies has not been answered to my satisfaction by any DOD official. In any case, as is clear from the results of the Rand analysis, if a small force structure is to be agreed upon, it should include more B-2's.

Considering the uncertainties of the force structure and its cost effectiveness, I believe all my colleagues should agree it makes great sense to maintain the capacity to build additional B-2 bombers.

The Congress needs to know what option makes the most sense. It should not mandate the end of the B-2 or the retirement of the B-1 or B-52, until it knows the answers to these questions. The recommendations in this bill safeguard all three bombers until DOD and the Congress ascertain what is the best option.

I am convinced the results of a comprehensive cost and operational effectiveness analysis will show that, in the long run, it would be more cost effective to purchase more B-2 bombers than to continue to fix and upgrade the existing conventional bombers and maintain the fighter escorts and electronic warfare capability which is required to support conventional bombers. But, we don't know the answer yet. The Levin amendment would force DOD to eliminate this option. It would do so before all the necessary information has been gathered.

Mr. President, the Levin amendment presents us with clarity and confusion; with what we know and with what we do not know. We know that, if the amendment is adopted, the last bomber production line in the United States will be terminated—a key element of the Defense industrial base will be irretrievably lost. What we do not know is how much do alternative force structures cost and how do these costs compare—in life-cycle operations and maintenance costs—to the acquisition and operation of more B-2 bombers.

On both of these counts, I urge my colleagues to defeat the Levin amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, before the Senator from Hawaii leaves, I want to say that I appreciate very much his remarks. He has listened to this testimony and he is an expert in defense. He has been a student of the experiences of Desert Storm and a student, of course, of other wars including the war in which he himself made great sacrifices. So he has great expertise in this area and I want to compliment him on his presentation.

Before he leaves, I would like to have the Senator from Hawaii, if I can switch microphones here, take a look at this chart, because he talked about the tradeoffs and the cost effectiveness.

Mr. President, one of the problems we have in debating the B-2, and I think it is going to be an increasing problem in the years ahead, is that we are thinking in terms of evolutions in warfare. We are thinking in terms of evolutions in weapons systems. We are not thinking in terms of revolutions in weapons systems and that is what the B-2 is. This is revolutionary technology. If people would follow this chart—particularly those who talk so much about the cost of the B-2 and compare it to a normal aircraft—and take a look at an actual event, not a war game but actual event that happened in Iraq.

This is basically the Air Force chart presented by Secretary of Air Force Don Rice. Right up to this line right here represents what happened in Iraq. This is, of course, a projection based on Air Force analysis of the capability of the B-2. During the Persian Gulf conflict, there was an Iraqi nuclear weapon research center that we wanted to target and destroy. That was one of the early targets.

So what did we do? We sent this group of aircraft after that target. These were the bomb droppers. These were the F-16's. These were the air escort—that is 16 F-16's that actually were to deliver the package of bombs. The air escorts were the F-15's. These were the suppression vehicles, the F-15's. There were also 16. The suppression of air defenses, enemy air defenses—these are the Wild Weasel aircraft, the F-4's. There are a number of them, as we can see here. And these are the tankers, the K-135 tankers. This was the package of aircraft sent after that high priority target.

It was a high priority defense for the Iraqis also. They put up everything they had, in terms of that area, to try to suppress this kind of attack. What happened in that actual experience? They did not hit the target. They did not get the target because they were so diverted by the enemy air defenses. They were not able to deliver the bombs on target and they could not destroy the target.

Then what we did, instead of that, we said, let us try another way. And we came back. This tells us something about revolutionary warfare. We came back with the F-117's. These are the Stealth bombers that we have out there now, nowhere nearly as capable as the B-2. The technology was developed back under Secretary Perry when he was in the Carter administration. This is the F-117. There were eight of these aircraft, eight of them plus two tankers. That group of aircraft delivered the weapon to the target and destroyed the target.

The first group did not. That does not mean that these aircraft are not good aircraft. It means that what we have is a revolution in stealth technology, and when people are trying to compare an older bomber with a B-2, in terms of cost, you are really making comparison between apples and oranges. There is no comparison in capability.

Just to give an example, this package of aircraft, 55 aircraft—just the operational cost of those aircraft over 20 years is $3.4 billion. That does not count the procurement cost. We have already bought the aircraft so we are not talking about procurement. The procurement cost of this aircraft would be vast compared to this aircraft here, but just look at operational cost. Fifty-five aircraft. Here there are 10 aircraft. This package cost $3.4 million to maintain and operate over 20 years. This package cost $740 million. If you had two B–2's, the Air Force projects they could have done the same job. Of course, we did not have B–2's then during that conflict. Their 20-year cost for operation is $308 million. The difference in this package and this package is $3.1 billion—just in operational costs.

The crew members at risk. This is the important thing. For everyone who cares about the military lives that we risk, for everyone who wants to minimize the life at risk in any kind of conflict, this is enormously important. The crew members at risk in this scenario with this group of aircraft were 116. The crew members at risk when they succeeded in hitting the target were 16. There were 100 fewer people at risk; 100 less American men—and increasingly women—would have been at risk in these two situations.

If you have the B–2 aircraft, two of those, with the same kind of mission to be performed, you would have four people at risk; four people at risk. How much are lives worth? They are worth a great deal to us. They are worth a great deal to the American people. They are worth a great deal, in terms of the brave and courageous people who defend our country.

When you look at the other comparison here, forward base support—there is a huge difference in what is required for forward base support. There is a huge difference in what is required for consumed fuel—413,000 gallons here, 110,000 here, and 54,000 here.

Look at the difference in the airlift required to be able to make this kind of attack. The Senator from Hawaii talked about the importance of getting the aircraft in the area. That is enormously important. It takes a long time to get these aircraft positioned because these are short-range aircraft. These aircraft, as the Senator from Hawaii made clear—the B–2 can fly from the United States. They can deliver a load. They have tankers that back them up. They have very few tankers that are even required in most situations, but they can be backed up by tankers. To deploy this load right here takes 30 loads of C–141's to get the equipment for these aircraft to be able to fly their mission. Eleven C–5's and 30 C–141's. In this actual situation there were eight C–141's, and three C–5's.

Here, if you notice, there is zero airlift required for the Stealth. Zero airlift required for this situation here. And the total aircraft is two.

So any way you look at this technology, it is revolutionary technology. The mistake that is made over and over again—and people do not listen to the debate and therefore when they think about a B–2 aircraft they compare that to a B–1 or B–52—there is no comparison. This aircraft can fly to a mission without having protection because it is stealthy. It does not have to have the F–15's and the F–16's, and all the suppression of enemy aircraft. It does not have to have the Wild Weasels that have the ECM, the electronic countermeasures. These can fly by themselves. That is enormous in terms of difference in money. It is enormous in terms of savings.

There is another thing I think people should concentrate on. We have B–52 aircraft. That is one of the best aircraft that has ever been built. Those aircraft have many years of life left. I am amazed at how many years they have left.

Some of the B–52's will be flying until the year 2015; some people say even beyond that. But the B–52 aircraft is like the F–16. It cannot fly directly over a heavily defended target without being in an enormous risk situation.

Therefore, what we are going to have to do in the future, if we have targets that are heavily defended—and we will face that—we are going to have to fly the B–2's in first. We have to use them wisely, go in at the beginning, take out the hard targets, take out the enemy air defenses, and then you can fly over the targets with the B–52's.

It really extends the life of the B–52. It allows the B–52 to go over the target after the B–2 has destroyed the defenses.

There is another way to approach this problem, and that way also has to be done. It is not either/or. That is, to put on standoff munitions, munitions that can be fired from a long distance from the B–52's. And those standoff munitions are going to be needed. We are developing them. Unfortunately, most of them will not be available until around the turn of the century.

The other thing that we have to keep in mind, though, is we want to fire as few of those as we can, and we will have to have a number of them. But they are enormously expensive.

What we have not done in the Department of Defense, the Department of Defense has not measured the cost of these standoff, precision-guided weapons versus the B–2. Later in my presentation, I am going to be showing that to suppress enemy air defenses from a long distance—and it would take in most situations 1 week to do that—if you use the conventional bombers without the B–2 going in first or the 117 going in first, if you do that, then you are going to spend enormous amounts of money in using up those precision guided, standoff munitions.

They are not finished yet. They are being developed now. They are one of our most important developments. But we have to use those in an economical fashion. The rough calculations that my staff has done in connection with the Air Force is that 1 week of using those weapons, 1 week of that kind of firing at the normal sortie rate for the Air Force, would cost about $15.2 billion—$15.2 billion. Is that the best way to spend the money? I do not think we ought to rely on that alone.

But what we are doing if we kill the B–2 program is we are making it absolutely inevitable that we are going to spend far more money either in standoff munitions or in some new bomber down the road. At some point, this country will come to the realization that we have to develop a stealthy bomber. We will go out and have R&D, we will have procurement, we will have all sorts of money invested in a new bomber because we have given up on the B–2 when we have only 20 aircraft.

Mr. President, I know the Senator from Hawaii has to leave, but I want to make one other point and ask him to make any comments he would like before he leaves, because he has followed this subject with a great deal of care; and that is the effectiveness of the money we have already spent.

People read about how much the B–2 costs, and it does cost a lot of money. Actually, the cost from this point on is not very much more than what a C–17 cost. A C–17 is about $450 million from this point forward. Every B–2 we buy is about $550 million to $600 million. That is a lot of money. But it is not a lot of money when you consider it is revolutionary technology, and when you consider the tradeoffs in terms of procurement, as well as operational costs.

I want to ask the Senator from Hawaii to comment on this: The B–2 costs, when people read about it in the paper, they read $1.5 billion, $2 billion an aircraft. The reason for that is because you have a huge front end of research and development. That front end of research and development is spread through all of our Stealth technologies. We are going to use it in everything we do on Stealth, so it is not simply applicable to the B–2. But it is about $25 billion.

So if you build more than the 20 which we have paid for, no matter what it costs you per aircraft from here on, which is about $600 million, the writers all write it up by dividing 20 into $25 billion and you get approximately $1.5 billion apiece, just in allocating the research and development.

But if you build another 10 aircraft or another 20 aircraft, it cuts down tremendously on that, and what it costs from this point forward is what we have to look at. If you build 20 more B–2 aircraft, we can do it for about $12 billion. The first 20 aircraft, amortized into that $25 billion, costs something like $1.5 billion apiece. We are looking at a false kind of analogy because we have already sunk that money. That

$25 billion is now expended. It is now developed. It is already in place in terms of the results. We have a B-2 aircraft.

The point is that we can build another 20 aircraft for about $10 billion or $12 billion less than it would cost for standoff munitions if you do not have the Stealth aircraft in place to fire those munitions for about 1 week in a scenario where we would have to do so. And I am sure that scenario would apply in the Middle East, it would apply in North Korea, it would apply anywhere else.

So people are beginning, I hope, to focus on the economics of this situation which means that they have to focus on the fact that this is not simply another aircraft, it is a revolutionary aircraft that saves lots of money, it saves lots of time, it enables us to move from this country to almost anywhere in the world, from these shores, and it does so risking about, in comparison, 116 lives under the present kind of scenario to four lives under the B-2.

I will say to my friend—that is a lot for him to comment on —but before he leaves, I want to get his reaction particularly to the economics of that.

The PRESIDING OFFICER (Mr. WOFFORD). The Senator from Hawaii.

Mr. INOUYE. Mr. President, the distinguished chairman of the Armed Services Committee, I think, has more than adequately responded to that question. If I may, I would like to add a historical footnote to the debate that is going on.

I think all of us should recall that Desert Shield began in August 1991. That is 3 years ago. In January 1991, it was the consensus of the intelligence community of the United States that the Middle East was at peace. Some of my colleagues in this body visited Saddam Hussein and came home singing his praises, telling us that he is the future of the Middle East; that he has the secret to peace. That was earlier in 1991.

In January 1991, I received a telephone call at the same time the chairman of the Armed Services Committee had a call, and the call was one of great surprise. General Schwarzkopf was about to be retired. The great hero of Desert Storm was about to be retired because we were at peace in the Middle East.

The central command was to be dismantled because we were at peace in the Middle East, and all of us know what we had to go through.

I bring this up just to respond to those of my colleagues who have been saying, "Why are we still debating the B-2? Why are we insisting on spending money? Don't you know that the wall in Berlin is down? Don't you know that the Soviets have been dismantled?"

January 1, 1991, our intelligence community said we have peace in the Middle East. That is the uncertainty that we face in this world today. And, Mr. President, I would rather spend a few more and sleep a bit more soundly, than save money and risk the lives of these men on the chart. That is the difference.

Mr. NUNN. Mr. President, if I could say one other point before my friend from Hawaii leaves, and I want to yield to the Senator from Virginia.

Mr. President, the 116 people that are directly involved in the running of these aircraft, 1,124 labeled "Forward Base Support," these are people who have to be in the theater, these are people who are in harm's way when you count theater ballistic missiles and Scud missiles, so forth. The biggest loss we had in the gulf war was from people in the rear areas, in the barracks hit by a Scud missile.

So we have 116 and 1,124 people with this package of aircraft that are exposed and in harm's way, 16 and 179 people, in this package of aircraft, which we actually use; in this package of aircraft, which we are advocating to protect the option of building next year, we would have 4 people exposed—4 people in harm's way. Here you have a total of about 1,400 people in harm's way.

I yield to my friend from Virginia.

Mr. WARNER. Mr. President, I just wish to associate myself with the remarks of our distinguished colleague from Hawaii, and indeed the chairman of the committee. Our colleague from Hawaii served with great distinction in World War II, and as I sat here listening to him I thought back to that period. I served for a very brief period, inconsequential compared to the Senator's distinguished record, in the war in some aviation units. Planes in World War II were $25,000, $30,000, $40,000, $50,000 apiece. At one time, Mr. President, the United States of America was turning out several thousand planes every month to meet the needs of that conflict. And here we are talking about but a few airplanes, projecting into a future which is most uncertain.

A few days ago, when this bill was first put on the floor, I brought in the charts from the Defense Intelligence Agency which showed the trouble spots in the world today, June 1994—about 60 trouble spots where there is some type of armed conflict taking place, civil insurrection and otherwise. Just 6 years before, in another chart which I had prepared, there were but 32 trouble spots.

So in a period of 6 years they have doubled throughout the world. This is not a safe world, as the Senator pointed out, and as has the chairman. I think this is a very prudent investment for our country, not for ourselves but for our children and our grandchildren into the year 2000, when we cannot predict the world in which we will live.

I yield the floor.

Mr. NUNN. I thank my friend from Virginia.

Mr. President, I yield such time as the Senator from California may require.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I thank the Presiding Officer very much.

I would like to thank the chairman of the Armed Services Committee for his remarks and also the distinguished Senator from Hawaii. I think they crystallized the arguments as well as I have heard.

I also wish to thank my respected colleague from Michigan, who takes a dissenting view. I wish to share with the Senate how this California woman came really to believe in the Stealth technology of the B-2 bomber. I first went to see the B-2 a few years ago, and I thought, well, this is pretty nice, very expensive, but I did not pay much attention to it.

In August of 1991, as the Senator from Hawaii said, I watched on television as the Stealth fighter, the F-117, conducted 90 percent of the bombing missions in Baghdad, and I watched the laser-directed ordnance fly; I watched on my television set how very precise it was. I thought, my goodness, this is the technology of the future.

Since that time, I went back twice to where the B-2 is being made. I had the privilege of naming No. 2 the "Spirit of California." And I learned another fact which the chairman of the Armed Services Committee indicated. This plane is capable of taking off from Whiteman Air Force Base with two people aboard, refueling in midair, striking anywhere in the world, and returning home safely with very few people in harm's way, and with very little commitment of other aircraft or assets. And it can deliver a large payload, precision or carpet. It is truly a plane of the future.

I spoke earlier with Secretary Perry in my office, prior to receiving the letter that Senator Levin read. Secretary Perry, in fact, indicated his commitment to Stealth technology and to the B-2. Of course, he had made an agreement with the Congress and in particular the House Armed Services Committee, an agreement of 20 total B-2's. Who would know how the world would change? As Senator INOUYE said, who would have thought that we would be in a war with Iraq 3 years ago? Who knows what will happen with North Korea in the future?

So I rise today to oppose the Levin amendment and in support of the Armed Services Committee's recommendation to preserve the bomber industrial base of the B-2. Let me say that I am not opposed to funding for base closure and reuse. My own State is the heaviest State hurt in the Nation by base closures, and BRAC funds are needed to ensure the timely and effective reuse and redevelopment of military bases.

I understand, however, that there are large unobligated balances in the BRAC accounts that can be used to meet any near-term shortfall in funding and, moreover, that they roll over and are added to as the years go on. The Defense Department has yet to supply me or the Congress with a base-by-base plan with specific spending for BRAC-related needs.

Nevertheless, I strongly support BRAC funding. This bill fully authorizes the President's budget request of $2.7 billion for BRAC funding. Are additional funds necessary? Probably. And I would support other efforts to increase base closure and reuse funding if necessary. But, I cannot support cutting funds to preserve the B-2 industrial base.

As many of my colleagues know, the recent Bottom-Up Review, conducted by the Department of Defense to review United States military requirements and strategy in the post-cold-war world, endorsed a force of up to 184 long-range bombers with 100 bombers needed for a single major regional conflict.

Some Pentagon officials are now planning on a force of only 100 total bombers. With a stated military requirement of fighting and winning two nearly simultaneous major regional conflicts, a force of only 100 long-range bombers could be inadequate to meet U.S. national security needs.

In fact, in recent testimony before the Senate Armed Services Committee, General Loh, Commander of Air Combat Command, stated that the Nation needs to decide how many long-range bombers we need. He said that to complete the required mission, he needs 184. General Loh, the officer who must command our war-fighting aircraft in times of national emergency, has concluded that 100 bombers is not sufficient to meet our military needs. As he stated in congressional testimony, the United States, under current plans, has "a gap in our bomber capabilities."

In addition, a recent Rand study that I hold here determined that Stealth bombers may be the only practical option for countering a sudden armored invasion in a distant part of the world during the critical early days of a future conventional conflict. The Rand study goes on to suggest that an increased B-2 force may be necessary.

If additional B-2 aircraft are needed in the future, the prime contractor will be able to take advantage of the substantial investment in the program to date. The flyaway cost of each additional B-2 can be reduced to less than $600 million under a fixed-price contract. That is substantially less than the $2 billion figure that some people cite as the cost of each B-2 bomber.

But, this debate right now is not about authorizing additional B-2 bombers. It is about preserving the option to purchase additional long-range bombers in the future if the congressionally mandated Roles and Missions study, which is still ongoing, endorses a larger bomber force. This study will not be complete until next year and will carefully scrutinize this important issue.

As the Pentagon's Roles and Missions study continues, one issue of immediate concern is the dissolution of the only bomber production facility in the United States. As many of my colleagues know, the first operational B-2 bomber was delivered to the Air Force on December 17, 1993. By the end of this year, five B-2 aircraft, including the "Spirit of California" will be operational and the last B-2 will be well into final fabrication at the assemble facility in Palmdale, CA.

Unless action is taken now, in fiscal year 1995, to preserve the uniqueness of the B-2 industrial base, the only bomber production facility in the Nation will virtually evaporate within a few years. Once the B-2 industrial base disappears—including all the facilities, skilled work force, key suppliers and management capability—it is unlikely that the budget resources will be available in the future to recreate the more than $20 billion already invested in the program.

Funding in fiscal year 1995 will halt further dismantling of the production infrastructure and preserve the ability to restart the B-2 program at the lowest possible cost. Let me quote from the Senate Armed Services Committee report:

> Funds * * * are to preserve tooling in ready status, preserve a production capability for spare parts within the lower tier vendor structure, and develop detailed production plans for conventional capability-only B-2 bombers.

Here are some specific examples of what the funds will be used for:

Halt the planned shutdown of key suppliers needed to build additional bombers. For example, the cathode ray tubes for multipurpose display units are going out of production unless action is taken soon; similarly, the ACES-2 ejection seat will soon be unavailable.

Reestablish key suppliers who are already shut down, if they are on the critical path for first delivery of additional B-2s in the future.

Begin requalification of hardware affected by obsolescence. For example, several replacement integrated circuit cards must be qualified for the Hughes radar; six parts of a ZSR item made by Loral Federal Systems are obsolescent and must be replaced.

And, provide for inspection, repair and maintenance of tooling at Northrop, Boeing, and Vought facilities.

The concept of preserving the industrial base is not new. Last year it was not new. This year it is not new. The Bottom-Up Review endorsed the concept of sustained low rate production of submarines, tanks, and aircraft carriers to ensure the industrial capability to meet future inventory requirements. The same logic would seem to apply to the unique capability to produce long-range stealth bombers as well.

As General Loh said, "the bomber industrial base provides this Nation with a unique capability". The materials, processes, tolerances, and skill-mixes required for other fighter and commercial aircraft cannot sustain the B-2 industrial base. The very large composite structures, the manufacturing and materials processes that are used, and the special instruments used to measure low observable performance, are all unique to the B-2 bomber.

$150 million is needed in fiscal year 1995 to maintain the unique capabilities of the B-2 industrial base until further consideration can be given to our long-range bomber force. This, in essence, is a holding pattern—it will preserve our options for the future.

For this country to cut off like that the major stealth production our technology has created with no way in a cost-effective manner to recreate it, should the "Roles and Missions" study show that more are needed, I think is extraordinarily shortsighted and foolish.

We have all talked about the world situation. Nobody should believe there is a safer world today. No one. As a matter of fact, it is a less safe world because more irresponsible people are obtaining sophisticated weapons and are willing to use them. And therefore, the use of a deep-penetrating, low-manpower, stealth, precision-guided delivery system bomber is truly the state of the art for the future.

This Nation is now developing a strategy of conventional deterrence rather than the nuclear deterrence of the cold war. The Defense Department's recent review of military requirements concluded that stealth aircraft carrying precision guided munitions—so-called smart bombs—are the key to dealing with future contingencies anywhere in the world, whether in the Middle East, North Korea, or other international hot spots.

And the B-2 bomber will play a key role in this new conventional deterrence mission.

With the B-2 bomber, dictators like Saddam Hussein must worry about more than just what U.S. ships are off his coast or what NATO air bases are nearby. With a long-range Stealth bomber capable of striking any target anywhere in the world with precision guided bombs within hours, the Saddams of the future will now have to worry about the capacity of our Air Force to launch a strike from Whiteman Air Force Base and other domestic installations throughout the continental United States.

Far from being a relic of the cold war, the B-2 bomber, with its enormous range, stealth technology, and ability to deliver large amounts of conventional smart bombs, stands in the vanguard of our ability to respond swiftly and effectively to any threat to our national security anywhere in the world.

In fact, Secretary of the Air Force Sheila Widnall recently reaffirmed the importance of the B–2 bomber, saying that it will be the U.S. military's "silver bullet" capable of penetrating deep into enemy territory—unescorted and undetected—and dropping precision guided conventional weapons right on target.

The B–2 is the most technological advanced aircraft in existence. Its long range and large payload project the power and weight of this Nation worldwide. In fact, the B–2 can strike any target anywhere in the world with just one mid-air refueling.

I am absolutely confident that stealth technology makes military and fiscal sense.

As the Senator from Georgia, the distinguished chairman of the Armed Services Committee, pointed out, because you need fewer unescorted B–2 bombers to do the job of scores of other bombers, fighters, and tankers, stealth technology puts fewer lives at risk and is, in the long run, cost effective.

I make no bones about being a supporter of the B–2. It is important, first of all, to our national security. It is also important to the State of California—22,000 jobs in my State depend on the B–2 program. For California, the B–2 means $2.5 billion in contracts, and more than 4,500 active subcontractors and suppliers.

At a time when California is being so hard hit by defense downsizing and military base closure—250,000 jobs lost just in the last 2 years alone—the B–2 is extremely important to the well-being and economic health of our State and to the national security of our entire Nation.

The debate on whether to continue B–2 production beyond the 20 aircraft already authorized will occur sometime in the future. The B–52 force—which, by the way, is fully authorized and protected in this bill—is aging. While I also support the B–1B program, its bomber force may not be sufficient in number to meet U.S. needs, and it confronts some developmental challenges before it can be fully operational for conventional missions.

At some point in the future, the administration and Congress will need to address the requirements of the Air Force's long-range bomber force. However, sustainment of the bomber industrial base must be addressed in fiscal year 1995.

A modest investment in fiscal year 1995—not requiring a commitment to new aircraft—would hold the B–2 industrial team together until the Roles and Missions study is complete and further consideration can be given to the future of our long-range bomber force.

Hence, I fully support the Senate Armed Services Committee's action to recommend the authorization of $150 million in fiscal year 1995 to preserve the bomber industrial base. I urge my colleagues to oppose the Levin amendment.

Thank you Mr. President, and I yield the floor.

Mr. NUNN. Mr. President, I thank the Senator from California, because she has mastered this subject in a very short period of time. She has been very interested in the B–2 from the day she arrived here. She has been enormously helpful in our committee deliberations on the B–2, and she is enormously helpful on the floor.

So I cannot think of a better ally in this important fight for our security than the Senator from California. I might also say that it is not always true, but in this case it is true, that what is in the best interest of jobs in the very important State of California is also very much in the best interest of our Nation's security. That is a happy merger between economic effect and also national security interests. I am not supporting this program because of the job effects in California. I welcome those effects, because I think it is important. But the value of this program is the national security of the United States. In years to come, people will recognize that, however this vote goes.

I remember very well when the Department of Defense wanted to stop building F–117's, which were the first stealth aircraft we had. At that time, that program was a black program; it was not a program that was even out in the open. We had about 26 of those aircraft. Some of us, a few of us, insisted we go ahead and continue producing those aircraft. We produced up to 44 aircraft. Every single one of those aircraft they could get in the Persian Gulf was there. That was the most valuable asset they had in the Persian Gulf.

So we now have a Department of Defense saying they do not want any more B–2's. But I can assure you, Mr. President, if they see the Senate of the United States standing up for B–2, I think we will have a little more courageous position from the Department of Defense on the B–2. This aircraft is enormously important, and there are plenty of people in the Department of Defense, including the Secretary of Defense himself, who understand that very well.

I know the Senator from Nebraska, who is the chairman of the subcommittee and a leader on the Armed Services Committee, wishes to speak. I am delighted that he is here on the floor.

I yield whatever time I have remaining to the Senator from Nebraska.

Mr. EXON. Mr. President, I made a lengthy talk on the whole defense authorization bill last Friday, and I will try to not repeat too much of that tonight in my remarks.

Let me start out by saying that the decision which was reached in the subcommittee I chair, which has jurisdiction over our whole strategic force program and nuclear defense, was not made on where jobs would be located or whether or not it would be a good investment to have jobs in a certain place. We did not make this decision, Mr. President, on the basis of how good the B–2 is, how stealthy it is, what it could do in a certain situation, although we were thoroughly familiar with that. I was, rather, interested in the debate tonight, to see a rehash and re-explanation of the critical role that the B–2 bomber is going to play in the future national defense posture and in the defense of the United States of America.

Mr. President, I find myself at odds with some of my closest friends and associates in the U.S. Senate. I have listened to their remarks in opposition to the very limited amount of money—considering the $270 billion defense budget—to protect the interests of the United States of America should we be faced with a challenge in the immediate future and to give this administration and this Pentagon a chance to better explain what their bomber program is for now and in the future.

My good friend, Senator Carl LEVIN, from Michigan, and I came to the Senate together. We sat side by side on the Armed Services Committee. He has made some very interesting points and, from his perspective, I think a good case as to why the limited amount of money that we are providing to buy the insurance policy for the future should be transferred to some worthy cause like helping out on the base closing expenses. As important as that help might be, I have been convinced that we are taking the right course of action, and I would like to briefly map, if I might, the scenario that we find ourselves in.

It is true that we had previously agreed to not buy more than 20 B–2's. It is true, as my friend and colleague from Michigan said and as I have said in debate, when we finally closed off the B–2 bomber program at 20—Senator LEVIN, I think, quoted me correctly when he said that the Senator from Nebraska said, "We should put the B–2 bomber to rest, we should give it a decent burial."

I said that, Mr. President, because over the objections and best judgment of this Senator, the then Bush administration, in my opinion, caved in far too early and surrendered what I thought was an unfortunate, tragic decision: To limit the B–2 bomber purchase to only 20. Originally, all we were talking about were 132 of those, and they cut that in half down to 75, and I was prepared at that particular time, if necessary, to come down to 50 or even 30 or 40. I objected.

The PRESIDING OFFICER. The time of the Senator from Nebraska has expired.

Mr. LEVIN. I am happy to yield to my friend some of the remaining time I have. How much time will the Senator need?

Mr. EXON. I am sorry. May I have another 5 minutes?

Mr. LEVIN. I will be happy to yield the Senator another 5 minutes.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for an additional 5 minutes.

Mr. EXON. Mr. President, I am trying to put this in perspective and not be too repetitious. I thought it was a bad move to cut it off at 20. But then we had an argument on the floor of the Senate, whose words I have been quoted as using, even to get 20 bombers, and that is what I was talking about.

I was simply saying, Mr. President, that at that time, however, I had no idea, I had no inclination that this administration and this Pentagon would come up with a Bottom-Up Review that makes absolutely no sense whatsoever with regard to the inventory of bombers to meet a two-front war in the future.

I simply point out, Mr. President, that the figures we should keep in mind when we decide which way we should vote on this is that we are spending $150 million in the next fiscal year if the recommendations of the committee follow—$150 million. But half of that, $75 million of it, is for an advanced purchase of parts for the B-2 bomber that we would be required to purchase at some later date whether or not we cut off the production at 20, which we still might do.

So $75 million of the $150 million, or roughly half of it, is an expenditure that we are obligated to spend anyway. What about the other $75 million? The other $75 million for the B-2 program is an insurance policy. The insurance policy is simply this:

Mr. President, I do not believe that my house is going to burn down next year, but that does not mean that I am going to cancel the policy and save the money and transfer it to a Base Closure Commission.

I am simply saying that the $75 million that we have in this program, as I have outlined, is to keep that line warm so that if, within the next year, we should have a serious conflict or be threatened with a serious conflict in Korea, if things should turn around in the Soviet Union and the Soviet Union would become a real threat again, which they are not now, if either one or both of those things should happen, or if we would become involved in combat somewhere else, I can hear the cry across America, "What are we going to do to arm ourselves?" And the Members of the U.S. Senate on both sides of the aisle will be falling all over themselves to improve our bomber program.

I do not know whether that is going to happen. I do not know whether we are going to build any more B-2's or not. I simply say with the inefficient Bottom-Up Review, with the fact that the administration did not make a case or an explanation of what they were doing, I do not happen to believe that 100 bombers is a sufficient force.

Senator NUNN and others have shown clearly the capacity of the B-2. So I say this decision was made, Mr. President, after careful consideration, after this Senator rejected earlier plans and programs to spend up to $700 million and $750 million to keep that line open. We have come down to what I think is a bargain of an insurance policy for $75 million, to give this administration a chance to straighten out their thinking on what the bombers are and to explain that in terms that we can understand in the Armed Services Committee, which has jurisdiction.

I hope we will not accept the amendment offered by Senator LEVIN, and I may have a little more to say on this in the morning.

I thank my colleagues, and I thank my friend from Michigan for yielding me time from his side. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan has 25 minutes and 40 seconds.

Mr. LEVIN. I thank the Chair.

Mr. President, earlier tonight I quoted from some letters from the Defense Department. These are important letters because they come from people who are stealth supporters.

These are important letters because the father of stealth is Secretary Perry. If anyone is aware of the use of stealth technology, it is the person who probably did more than any other single person to bring stealth technology to this country: The Secretary of Defense. The Secretary of Defense says we do not need more and we cannot afford more.

There has to be an end to programs, and this end of 20 was with two Presidents and three Secretaries of Defense, and Congress twice has determined this is where it should end.

Perhaps of all of the quotes from this lengthy letter of the Secretary of Defense, the most compelling is the following. He says:

> One of the most difficult questions we have thus far to face in our strategic planning about our defense industrial base is the one about our Stealth bomber production capacity.

Then he says:

> Given my deep personal conviction about the military importance of Stealth for nearly two decades, you can well imagine why I have wanted to make sure we get this one right, and I believe we have.

Then he goes on for about 2 pages to explain why we should not be adding money for this so-called industrial base.

Even more recently than that letter, which was dated in February, is a letter from the Deputy Secretary, John Deutch, who says that the Department has taken the necessary steps to deal with the B-2 industrial base and programmatic issues. He said that based on a careful analysis of the industrial base, war fighting—the kind of chart we just saw—and budgetary implications of an enlarged B-2 fleet, the Department cannot support further purchases of B-2 aircraft or actions that would contribute to that end.

Mr. President, in addition to the fact that the Defense Department, which is led by Stealth supporters, has said that it is right, that we have stability in the program, and that we end it, we have the fact that we have tremendous capability not reflected on the chart we just saw, which is important capability.

It has to be added to the capability that we consider that goes into the decision that Congress made, three Secretaries of Defense, and two Presidents to terminate B-2 production.

As the Bottom-Up Review stated, the Defense Department says that "theater air forces"—not the long-range bombers, but theater air forces—"will undoubtedly play an even greater role in any future conflict in which the United States is engaged."

Mr. President, these forces include the Navy forward-deployed aircraft carrier forces, which can respond quickly to crises around the world. The Navy and the Marine Corps today have some 1,600 strike aircraft, many of which carry highly accurate guided weapons that can attack critical ground targets early in a conflict.

The Air Force has an even larger inventory of theater strike aircraft, some 2,300.

So all told, the Defense Department today has about 3,900 theater aircraft with precision or very accurate weapons that can be used to attack critical ground targets.

By the way, the 20 B-2 bombers that we have will not have conventional capability until the end of the decade. The 3,900 strike aircraft have precision capability now. And these 3,900 aircraft are in addition to our other long-range bombers and the other accurate ground attack weapons like the Tomahawk sea-launched cruise missile, which are not even counted in this figure.

A few more details on the numbers: On the chart, Navy and Marine Corps now have 1,600 strike aircraft, most of which can deliver precision guided munitions. These include the following aircraft: The A-6E, FA-18A, FA-18C/D, the FA-14A/B, armed with a variety of precision weapons. These weapons include the stand-off land-attack missile, the SLAM, the Walleye I and Walleye II, LGB-10, LGB-12, LGB-16, GBU-24, the IR Maverick, and the Laser Maverick.

And, by the way, after the turn of the decade, the Navy expects to have 1,300 strike aircraft, all with precision strike capability, including the FA-18E/F multiroll fighter and the new weapons now being developed.

Future weapons: Future weapons that we are now paying for for these aircraft include the joint direct attack munition, the joint stand-off weapons, the triservice stand-off attack weapon, and the SLAM expanded response missile, in addition to all the weapons that are already in the inventory.

So today, we have 1,600 Navy strike aircraft, with 10 types of highly accurate strike weapons. And, by the way, the green dots are the ones with stand-off capability, the ones with precision munitions that can stand away from the target and still hit the target. The Air Force has 2,300 strike aircraft of 10 varieties that can carry precision or highly accurate weapons.

And none of these capabilities include our bomber forces in the totals, and none of them include the long-range sea launch cruise missiles that can be fired from all of our attack submarines and many of our surface ships from hundreds of miles away from the target, as they did in Desert Storm.

So we have to take all of our capability into account. Each one of these weapons systems has a capability that another weapons system does not have. The Tomahawk cruise missile has a capability that the B–2 does not have; that is, to hit a target without any pilot and with greater accuracy than anything.

Mr. President, we have to terminate some weapons systems. We have to make some choices in terms of dollars.

At one point, we finally terminated the Stealth fighter, the F–117. We made a decision to terminate it. The same argument, I am sure, was made: How can we possibly terminate the F–117 at 50 when you compare the Stealth capability of the F–117 to all the other aircraft we have, the F–16, F–15?

On that same chart we just saw, we saw that the Stealth fighters were the fighters we used the most in Iraq. We terminated that at 50, approximately.

At some point you terminate a system, when you balance it with all the other systems that you have, even though the system may have a unique capability, such as the F–117 and the B-2. You have to terminate systems when simply a decision is made in the total overall balance of weaponry that you have enough as part of an overall inventory which, together with all the other capability that you have, gives you enough to meet potential threats.

We cannot afford more B–2's. The Congress has decided it twice, as have two Presidents. That is why the Chief of Staff of the Air Force, General McPeak, stated just this year: "We are not asking for more B–2's." This is the head of the Air Force.

> We are not asking for more B–2's. Quite frankly, the real problem with the B–2 is the price, the cost. It is very expensive. So on the forward financial planning assumptions that we are making, we do not see the headroom to drive more B–2's in there.

Mr. President, the chart that we saw earlier is a chart that has been used many, many times before. It shows us the capability of the B–2, which we do not doubt. What it does not show is what else is in our inventory which has tremendous capability, standoff capability, capability with no pilots at risk whatsoever, capability which was used, by the way, in the war against Iraq with tremendous success.

You have to look at the whole picture; not just one piece and compare it to two other pieces, at the whole picture. And when you look at the whole picture, I think you reach the conclusion that what Congress twice has voted to do, and what the Secretary of Defense urges us to stick with, is a program of 20 B–2 bombers.

Now I said a little earlier tonight that I supported the B–2 bomber when we decided to produce the B–2. I did it because it provided a capability which other equipment, other bombers, other planes, did not have.

But we also made, I believe, a decision which gave some stability to this program to terminate the B–2 at 20. And one of the things which I think is important to all of us that have to budget these defense dollars is the consequences of opening, reopening, terminating, reopening, keeping an option open, keeping a door open for programs. What does that do to the program?

And this is where Secretary Perry again urges us to stick with the decision that we have made, when he writes: "We should also be aware of the possible consequences of reopening the debate on the B–2." This is Secretary Perry speaking. "One of the most devilish threats to any weapons program is instability, financial and political. For years, the B–2 program was plagued by not knowing how many planes we were going to build or how much money would be available. Whatever one's personal views on the substance of the 1992 B–2 agreement"—that is the one that says terminate it at 20 —"it has given the program an essential stability so that we are now able to get the job done."

Let us not destabilize this program again. As everybody said, just about—B–2 supporters and B–2 opponents—back in 1992, when the decision was made to terminate this at 20, let us agree to end this program at 20 and not keep opening, closing, opening, closing this program.

It is a statement which John Deutch has also made to us in recent days. And that is that, "The introduction of additional funding uncertainty in the future of the B–2 program would be an unfortunate return to a period that we have put behind us."

I believe we ought to listen Secretary Perry, Secretary Deutch, the Chief of Staff of Air Force, and listen to our own judgment that we have made twice when we looked at the same chart which we saw earlier tonight and decided that we would terminate this program—an important program—at 20.

This is not an issue over whether or not the B–2 is an important part of our overall program. We already decided that. We decided to build 20 B–2's at tremendous expense.

The issue that we are going to decide is whether or not we are going to add $150 million, which the Defense Department did not ask for, to keep alive the possibility of building more of these, when we have previously made a decision based on the same arguments and balances that were shown on that chart we saw earlier tonight. The same chart was presented to us a year ago. Based on those arguments and those balances, Congress decided unanimously, I believe, in the Senate, by a vote on the Leahy amendment last year, to end this program at 20 B–2's.

We should stick to that and use the money, instead of adding it to the budget in a way that the Defense Department is not requesting, instead of doing that, we should use it for something which the Department is requesting and which we need, which is to restore money to the base closing fund and the cleanup fund for bases that are being closed, which we, in effect, borrowed from that fund earlier this year when we had a California earthquake.

We took $500 million from that cleanup and reuse fund. We are $500 million short of carrying out a commitment that we have made to the American people that when we vote to close bases we are going to promptly provide for the reuse and the environmental cleanup.

We can keep two commitments if we adopt this amendment. One that we made to cap the program, the B–2 program, at 20; the second commitment we can keep is to the American people relative to what we are going to do when we vote to close bases.

We have voted to close those bases. We promised that we would have a prompt reuse and environmental cleanup. We have now not carried out that commitment when we effectively borrowed $500 million from the fund for that purpose.

We should restore the $150 million to that fund instead of using it for a purpose that the Defense Department does not seek and which will again bring instability to a program which we stabilized twice in the Congress of the United States.

I yield the floor and reserve the remainder of my time, if any. I do not know if there is any time remaining.

The PRESIDING OFFICER (Mr. SIMON). The Senator has 9 minutes remaining.

Mr. LEVIN. I reserve the remainder of it.

Mr. NUNN. If the Senator will yield to me about 5 minutes I think I can wrap up.

Mr. LEVIN. I will be happy to yield to my friend from Georgia, 5 minutes.

The PRESIDING OFFICER. The Senator from Georgia is recognized for 5 minutes.

Mr. NUNN. Mr. President, I have to say any case the Senator from Michigan makes is always a strong case because he is a student of the defense programs. And any time I am on the different side of a question from him I know there is going to be a very good argument here. But I must say I was a little bit amused—if the Senator can move that chart so I can communicate with him? I think I have it memorized now.

I was a little amused when the Senator from Michigan has an amendment which would basically bury this program and end it forever and he says this is bad for a program to be destabilized. He is saying, if we do not pass the Levin amendment this program is destabilized. I would view the program as dead if we do pass the Levin amendment. I think the choice between being destabilized and dead is a pretty interesting choice.

I am reminded of the story about the man who had the heart attack and was being taken in for burial in a coffin—his wife was right behind—and the pallbearers let the coffin slip and it hit the ground. As they were picking it up, all of a sudden they realized there was movement inside. They opened up the coffin and to their great shock the man was still alive. They rushed him to the hospital, he was revived and lived for another 3 years in a very healthy fashion. Then the same thing happened to him; he had another heart attack and died.

The same wife was there the next time. She told the pallbearers, "Please be a little more careful with the coffin this time."

I say to the Senator, the choice between being buried and dead, and destabilized is an easy choice. So I say the amendment of the Senator would basically bury this program.

Mr. President, this program may end up getting buried. We may do it tomorrow in a vote. We may do it by not having any renewal of the program, even if this amendment passes and goes through the conference and is funded. But what this effort is, is a good faith effort to tell the Congress of the United States and the American people it will be a mistake if we do not build more than 20 B-2's. It will be a fundamental national security mistake that this country will regret. I do not have any doubt about that. It is just a question of when we realize it.

I hope we do not have to have a war to realize it. I hope we do not have to have a war in Korea or a war in the Middle East or anywhere else to realize it. But at some point it will become abundantly clear this Defense Department and this administration does not have a bomber program that can sustain the Bottom-Up Review scenarios in the future. It just cannot do it.

Mr. President, one of my good friends in this town—I have known him for a long time—is Deputy Secretary John Deutch. He is a great guy and he is a great Deputy Secretary of Defense. I have been restrained in my criticism of the DOD leadership on the bomber question because I not only like both Secretary Perry and Secretary Deutch personally, but I think they are outstanding defense leaders. I would have to say, though, on the bomber question they have bombed. This is an area of the budget where they have not done a good job. I think they realize it. That is the reason we have three studies going on now. They have not done their analytical homework on the bomber question. They may come to the same conclusion, but it would be based on a real analysis. So far we do not have one.

I had assumed with all four defense committees being critical of the bomber program that they would take an objective relook at that program. However, Secretary Deutch sent a letter out, which Senator LEVIN has already read. It looks like he is sticking by what anyone who has analyzed this program knows is a seriously flawed kind of bomber proposal put forward by the administration—not simply on the question of the B-2 but far beyond that. They were planning, before our bill, to retire a large number of B-52's and not to put any conventional capability really on a large number of B-1's, making the situation even more flawed.

I think it needs to be pointed out that Mr. Deutch's letter is simply in contradiction to the Secretary of Defense himself, Secretary Perry. There is no way you can fully credit Secretary Perry's testimony before the Inouye committee and also believe that the Deutch letter is an accurate, sound letter. Mr. Deutch has been consistent on bombers but he has been consistently wrong on bombers this year. I hope he will take another look at his position. For example, in his letter to Senator LEVIN he writes, quoting from the Deutch letter: "The Department has taken the necessary steps to deal with the B-2 industrial base and programmatic issues."

"The necessary steps," is what he says.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. NUNN. Mr. President, may I have another 3 minutes?

Mr. LEVIN. I would like to reserve at least 4 or 5 to myself to answer the Senator.

The PRESIDING OFFICER. The Senator from Michigan yields how much time?

Mr. LEVIN. How much time do I have left?

The PRESIDING OFFICER. You have 3 minutes 10 seconds left.

Mr. NUNN. Mr. President, if I could get maybe 30 seconds here?

Mr. LEVIN. I would be happy to yield 30 seconds.

Mr. NUNN. Mr. President, Secretary Perry says, quoting him—this is his testimony, "We don't have anything in our program to sustain a bomber industrial base." He goes on to say, without quoting his whole letter, "* * * so I would say this is a weakness in the budget proposal."

He makes it very clear that he is unhappy with the Department of Defense's own proposal and they have a long way to go.

I thank the Senator from Michigan. I will rest the case on the fact the Deutch letter is simply not a credible position based on the Secretary of Defense's own testimony.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I quoted at greater length from the Secretary of Defense's letter and I will repeat that since there has been a suggestion that Secretary Deutch's position is different from Secretary Perry's.

Secretary Perry said in a letter earlier this year that one of the most difficult questions we have faced thus far in our strategic planning about our defense industrial base is the one about Stealth bomber production capacities.

Given now-Secretary Perry's personal convictions about the military importance of Stealth for nearly two decades, "You can imagine why I have wanted to make sure we get this one right. And I believe we have." That is Secretary Perry. And then he tells us how he has done it, in two paragraphs which I have already put into the RECORD. So there is no conflict whatsoever between Deputy Secretary Deutch and Secretary Perry. Quite the opposite. Secretary Perry's letter is a very lengthy statement as to why we should not be adding $150 million or any other sum to this program to keep alive the possibility that we are going to build more B-2 bombers that we cannot afford and do not need.

As far as the question of keeping this program going, again raising the possibility that more B-2's will be built: We have already decided not to build more B-2's. It was Senator NUNN, a great chairman and a good friend, who said when we stopped the program at 20, "I urge my colleagues to agree to conclude the B-2 program at 20 as requested, and to put this divisive issue finally behind us."

That is what Senator NUNN said when we thought we put the divisive issue finally behind us: Buried, done, finished at 20.

Now the Armed Services Committee has added $150 million to now reraise this issue. It is a mistake for all the reasons that Secretary Perry and Secretary Deutch told us. It adds instability to the program. This amendment of mine does not kill the program. We capped the program at 20, twice—2 years ago and 1 year ago.

I thank the Chair and again I thank my good friends from Georgia and Virginia, for the quality of this debate. We differ on it. I also do not like differing with either one of them but once in a while it happens. When it does, it happens. So be it. I thank the Chair.

The PRESIDING OFFICER. All time on this amendment tonight has expired.

Under the previous order the amendment is set aside in order for the Senator from Virginia [Mr. WARNER] to offer an amendment regarding military COLA's.

The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I am going to ask unanimous consent at this time that the Senate lay aside the pending bill and proceed as in morning business for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I thank the Chair.

(The remarks of Mr. WARNER and Mr. GRAHAM pertaining to the introduction of S. 2258 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. WARNER. I ask unanimous consent that the Senate return to the bill for the Defense Department authorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The Senate continued with the consideration of the bill.

Mr. GLENN. Mr. President, I am pleased to support S. 2182, the National Defense Authorization Act for fiscal year 1995. I want to take a few moments today to summarize for my colleagues the portions of the bill dealing with issues under the jurisdiction of the Subcommittee on Military Readiness and Defense Infrastructure which I chair, and then offer my observations and comments on other portions of this important bill, including two issues falling within the jurisdiction of the Governmental Affairs Committee which I chair also.

Mr. President, before I turn to the specifics of the bill, I would like to offer a few comments about my views on the impact continued defense spending reductions are having on our ability to meet our national security requirements and our ability to fulfill the objectives laid out in our defense planning guidance.

Like most of my colleagues, I would very much like to shift funding from defense into other vitally important programs and work on eliminating our deficit. Unfortunately, I am not persuaded that peace has broken out throughout the world and that the United States can simply shed its military capability.

I have a chart here, Mr. President, using data from the Historical Statistics of the United States which depicts the history of our defense outlays for the past 100 or so years, measured as a percentage of our Gross National Product. Superimposed on the line depicting our actual defense outlays is a dotted line depicting what our spending would look like on a hypothetical 17-year cycle.

The interesting pattern over this 100-year period, going back as far as the Spanish-American War, is that our actual defense outlays come pretty close to following that hypothetical 17-year cycle with peaks and valleys showing a 7-year period of buildup followed by a 10-year period of drawdown. The only exception occurs in World War II which increased our defense outlays a few years after the 17-year cycle would have.

If the 17-year cycle is applied to the present day and carried forward into the future, we are just about at the low point of the valley and can expect to start the 7-year buildup in the next couple of years.

I'm not trying to be melodramatic, but when I look at that chart, Mr. President, I can't help but think about the fact that in 1917 my father went off to fight in the war to end all wars. Yet, I fought in two wars after that and the United States participated in two more major conflicts after those, in Vietnam and in the Persian Gulf.

Having won the cold war, we have entered a period of relative peace, a period in which we have found ourselves to be the world's only remaining superpower. It is critical that we retain our superpower status because, while the world may be different, it is still a dangerous place. We must be able to protect our vital interests around the globe and the vital interests of our allies. In addition, superpower status preserves our ability to help keep peace and support the spread of freedom and democracy worldwide.

In order to keep that superpower status, I believe we have to maintain the two kinds of power, Mr. President, that allowed us to win the cold war—economic power and military power.

Congress and the administration are working to retain and increase our economic power and global competitiveness by trying to tackle the deficit problem, by investing in productivity programs, and by reinventing government—these are all important to maintaining our superpower status through economic strength and I wholeheartedly support these efforts.

At the same time, I am very concerned that we may be slowly eroding our military power through unabated downsizing. The Armed Services Committee's bill approves the administration's glidepath which will bring our active duty end strength down from our current level of about 1.6 million active duty personnel to 1.45 million.

My preference, Mr. President, would be to level out at 1.6 million. Our current worldwide commitments and high-operating tempo, which are straining our existing force, argue against making further cuts. But, notwithstanding my concerns, I supported the committee's action because I recognize that fielding a force of 1.6 million active duty personnel cannot be accommodated within the current budget without hollowing out the force either in the near term by paying for the additional personnel out of operation and maintenance funds or by hollowing out the force in the long term by supporting the additional personnel at the expense of the investment accounts that pay for equipment and weapons modernization and research and development.

I certainly do not believe that we can go below the 1.45 million proposed by the administration and I will resist efforts to do so. Moreover, fielding a smaller force with an end strength of 1.45 million means that that force has to be more capable and must maintain extremely high levels of readiness—especially if they are called upon to conduct the two nearly simultaneous major regional conflicts contemplated by our defense planning guidance, the Bottom-Up Review.

Consequently, I urge my colleagues to resist the temptation to reduce personnel in order to pay other defense costs as others in Congress have proposed. Certainly, I urge my colleagues not to view the defense budget as the funding source for programs outside of defense.

Mr. President, I would now like to comment on the work we've done on the Readiness Subcommittee, which I chair. The primary focus of the Subcommittee on Military Readiness and Defense Infrastructure is on the combat readiness and combat capability of our military forces. Other very important areas under our jurisdiction include base closings, environmental cleanup, and military construction—but combat readiness remains the bottom line for our work on the subcommittee.

In my judgment, the recommendations in this bill under the subcommittee's jurisdiction include important enhancements to maintain the readiness and capability of the military services in fiscal year 1995.

This year the full committee heard testimony from the service chiefs and from the unified combatant commanders on readiness issues. Our subcommittee followed up these full committee hearings with five hearings that focused on maintaining the readiness and combat capability of our military forces as we reduce the defense budget and draw down the size of our defense establishment.

The subcommittee also visited the Norfolk naval complex to discuss readiness concerns with front-line operating units. This field visit was very helpful and informative, and I hope we can follow up this first field visit with other ones throughout the year.

Secretary Perry and General Shalikashvili testified before the committee that readiness programs had received the highest priority of any area in preparing the fiscal year 1995 budget. O&M funding grows by approximately $5 billion, or 2 percent in real terms, in the fiscal year 1995 budget request, compared to an overall negative growth rate of 1 percent in the defense budget as a whole.

Although a portion of this $5 billion increase is budgeted to cover inflation and the fiscal year 1995 civilian pay raise, it is important to recognize that these costs represent must-pay bills. If the costs of these must-pay bills are not fully reflected in the budget, the result is that funds are often reprogrammed during the fiscal year from other areas of the O&M budget—including readiness activities—to meet these costs.

The testimony before the committee this year indicates that the readiness of our military forces remains high, but all of the services expressed concern about their ability to sustain current readiness levels in the future at current funding levels.

For example, each of the services will continue to have large backlogs of equipment for depot maintenance at the end of fiscal year 1995. Under this budget the Army funds only 62 percent of its annual depot maintenance requirement; the Navy only 85 percent; and the Air Force only 80 percent. The Marine Corps funds only 26 percent of its total depot maintenance requirement in fiscal year 1995, but this figure is somewhat distorted by the large backlog from prior years. Overall, this is better than last year, but still below where we should be.

Another area of concern is real property maintenance—the repair and maintenance of facilities and bases. The Defense Department's own figures show that, even with the continued closure of unneeded bases, the backlog of real property maintenance and repair will reach $12.6 billion in fiscal year 1995, an increase of 12 percent over the fiscal year 1994 level and an increase of 50 percent over the fiscal year 1993 level.

Finally, I am concerned about the increasingly difficult recruiting environment facing all of the military services. Recruiting sufficient numbers of high quality people to serve in the Nation's armed forces is a critical component of current and future readiness.

In both full committee and subcommittee hearings this year, DOD witnesses testified that the overall level of O&M funding requested for fiscal year 1995 is the minimum adequate to maintain current readiness. In light of this testimony, we did our best to preserve the O&M funding level in the fiscal year 1995 budget request to the maximum extent possible.

At the same time, we also looked for savings that could be applied to some of the readiness programs identified by the military services as areas of concern that could lead to readiness problems in the near future.

Overall, Mr. President, the subcommittee made reductions of approximately $1.5 billion in the programs under the jurisdiction of the Readiness Subcommittee. The largest area of savings—approximately $1.2 billion—is in the area of civilian personnel. These savings are available because the drawdown of DOD's civilian workforce in the current fiscal year has occurred much faster than DOD anticipated when they put their budget together last January. This entire $1.5 billion in savings was redirected by the committee toward high priority readiness programs.

We used almost $800 million of the savings to increase some of the high priority readiness areas that we identified in our hearings: depot maintenance; support for Marine Corps' operating tempo; real property maintenance; and recruiting.

Another $300 million of these savings went to high priority readiness and quality of life military construction projects.

The balance of the savings—approximately $400 million—was applied toward the cost of increasing the military pay raise next year from the 1.6 percent requested by DOD to 2.6 percent. In my view, this increased pay raise is important to maintain the morale and quality of life—and the readiness—of the men and women in the armed forces.

Mr. President, I want to reassure the Senate that the Readiness Subcommittee has continued to monitor the implementation problems with the Defense Business Operation Fund, or DBOF. This bill includes provisions to: Make permanent the authority to operate the DBOF, as GAO and DOD recommended; maintain the requirement for DOD and GAO to report on the implementation of the DBOF Management Improvement Plan; and address problems in the management of capital investment projects in the DBOF.

In addition, the bill continues the current cap on obligations from DBOF for purchases of new inventory at 65 percent of sales in fiscal year 1995. This cap was put in place 4 years ago in response to long-standing, pervasive problems in inventory management throughout the Defense Department.

Although some services indicated during our hearings that it was time to lift this cap, none of the services has asked the Secretary of Defense to use his authority to waive this cap in the current fiscal year. I am a little tired of the services complaining about this cap but refusing to provide any justification for removing it and refusing to ask for a waiver from the Secretary of Defense.

I even wrote Deputy Secretary Deutch after one of our hearings this year and urged him to grant a waiver from this cap if any of the services demonstrated that the cap was hurting readiness.

This year we have included a provision in the bill specifically addressing the problem of the services complaining to us about this limitation while refusing to ask the Secretary of Defense to waive it: within 60 days of enactment of this act, each of the military services will be required to report to the Secretary of Defense on the readiness impact of this cap. If the Secretary of Defense determines that the cap is hurting readiness, he can waive it.

We are not keeping the cap on just to be obstinate. We are keeping the cap on because for too many years inventory management received scant attention, and billions of dollars went into unneeded new procurement largely because the services didn't know what was already on the shelf, in spite of repeated requests to do something about it. We do believe there has been much improvement in inventory management, and hope it continues to the point where we can eliminate the 65-percent cap. For now, we retain the 65-percent cap with a DOD waiver where justified.

Mr. President, I want to take this opportunity to commend the Comptroller of the Defense Department, Dr. John Hamre, for his efforts to improve financial management in DOD. We have had hearing after hearing in the Governmental Affairs Committee and in the Armed Services Committee in past years that highlighted major weaknesses in DOD's financial management systems. John understands the importance of addressing these problems.

He has the strong support of Secretary Perry and Deputy Secretary Deutch, and he is consulting with GAO and with the Congress. There is a great deal of work to be done in this area, but John Hamre is doing an excellent job and I look forward to working closely with him in the future on these matters.

In the depot maintenance area, the bill includes a provision that would require DOD to continue the practice of competing depot maintenance workload between DOD depots and between DOD depots and the private sector. Deputy Secretary Deutch issued a directive to the military services recently that canceled all public-public competitions—competitions between DOD depots and all public-private competitions—competitions in which DOD depots and the private sector compete, for depot maintenance workload.

The committee does not really understand why DOD is trying to eliminate competition for depot maintenance workload when GAO and DOD's own internal studies show that competition has saved money and made DOD depots and the private sector more efficient.

The bill also contains a provision to put the finances of the Armed Forces Retirement Home on a sound financial footing. Currently, the two retirement homes that make up the Armed Forces Retirement Home are financed with fines and forfeitures in the military services, a monthly assessment of 50 cents on all enlisted personnel and warrant officers, and residents' fees. As we reduce the size of the military services, these sources of funds are inadequate to support the operations of the home.

Based on the recommendation of DOD and the Armed Forces Retirement Home Board, we have given the Secretary of Defense the discretionary authority to increase the monthly assessment up to $2 over a 3-year period, and to raise the fees charged to residents of the home. At the same time, we have urged the Secretary to look at alternative methods of financing the operations of the home so that the full increase in the assessment will not be necessary.

Mr. President, I want to take a few minutes to talk about the committee's recommendations in the military construction portion of the bill. The bill makes some important changes which I recommended in the way the committee deals with military construction projects and with disposal of excess DOD property.

This year, in the final stages of preparing the fiscal year 1995 budget, OSD reduced the military construction accounts by approximately $1 billion to meet the final budget targets. As a result, the fiscal year 1995 military construction request is almost $1.1 billion below last year's level, a reduction of almost 15 percent in real terms. OSD officials told the committee that the only reason for this large reduction in military construction in fiscal year 1995 was the need "to absorb a departmentwide inflation increase" in fiscal year 1995.

All of the military services have complained this year that the sharp cut in military construction funding in the fiscal year 1995 budget would make it increasingly difficult to meet their facility modernization goals.

This year the committee received a large number of requests to authorize military construction projects that were not included in the Defense Department's budget, approximately $1.3 billion. For some time I have been concerned about the process of adding military construction projects to the budget. I know that Senator MCCAIN, the ranking minority member of the Readiness Subcommittee, shares my concerns on this point. We should not authorize any military construction project that does not meet a military requirement and is not needed by the military services, whether it is in the Pentagon's budget request or requested by a Member of Congress.

This year the committee adopted very stringent criteria for adding military construction projects to the budget. The committee reviewed each project proposed to be added to the budget request based on the following criteria: the project had to be consistent with past base closure actions; the project had to be a valid military requirement; the project had to be in the military service's current 5-year program; and the military service had to be able to execute the project in fiscal year 1995 if authorized.

Mr. President, every military construction project recommended as an addition to the fiscal year 1995 budget in the markup package meets these criteria.

Let me turn briefly now to the subject of land transfers.

For many years, Congress has authorized the Secretary of Defense and the Service Secretaries to transfer surplus DOD land or facilitate to specific recipients, generally State or local governments. The Armed Services Committee acted on these transfers on a case-by-case basis, after consulting with the Defense Department. However, these land transfers were never subjected to the Federal real estate disposal process run by GSA to make sure that there were not alternate Federal requirements outside of DOD for the land or facilities involved in these transactions.

This bill contains a provision that establishes expedited procedures for GSA to review all but one of the specific land transfers contained in this bill under which land would be turned over to a non-Federal entity. GSA will subject these transfers to screening for alternate Federal uses as well as State and local uses. This screening process must be concluded with 125 days after enactment of this bill.

I believe that this new process represents an important model for the future to ensure that conveyances of surplus DOD land and property are made in a way that fully protects the interests of the Federal Government as a whole and follows the general procedures for disposal of Federal property required of every other department of government.

Mr. President, the final issue I want to mention under the Readiness Subcommittee's jurisdiction involves the Fitzsimons Army Medical Center in Denver.

Two years ago Congress authorized the Army to construct a replacement hospital at Fitzsimons. The total cost of this 400-bed facility was $390 million, of which $32 million has been appropriated for design and site work. Earlier this year, DOD notified Congress of their decision to downsize this facility to a 200-bed hospital, which the DOD IG estimates would cost approximately $300 million.

In March of this year, the DOD IG issued a very strong report that found the construction of this new hospital was no longer justified for the following reasons: the new hospital was too expensive; the new hospital would serve only a small percentage of active duty personnel; the local civilian hospitals in the Denver area are underutilized; and other military medical facilities in the area could accommodate the active duty medical needs.

The DOD IG recommended the termination of this construction project, and the Acting Assistant Secretary of Defense for Health Affairs at the time agreed with the findings of the DOD IG.

At a time when we are reducing infrastructure throughout the Defense establishment, we need to find ways to eliminate marginal projects and programs. This new hospital clearly falls in that category. After careful review, the committee decided to follow the recommendation of the DOD IG, and this bill includes a provision that would terminate the construction authorization for a new hospital at the Fitzsimons Army Medical Center.

Now, Mr. President, I would like to turn to an issue that falls within the jurisdiction of the Governmental Affairs Committee and to which I object involving the issue of so-called "COLA equity."

In the process of marking up this bill, the Armed Services Committee voted 13 to 8 to recommend that a committee amendment be offered during floor consideration of this act that would equalize COLA dates for military and civil service retirees by moving the dates for military retiree COLA's forward and the dates for civil service COLA's back in each fiscal year from 1995 through 1998. Adoption of such a proposal, would completely rewrite last year's budget reconciliation bill by—in effect—increasing instructions to the Governmental Affairs Committee and decreasing instructions to the Senate Armed Services Committee.

I strongly support treating military retirees fairly. But the proposed committee amendment would be unprecedented in that it would rob one retirement system to pay for a completely different retirement system. I believe we have to find another way to approach this problem if we are to eliminate the difference in the way civil service and military retiree COLA's are treated as a consequence of last year's budget reconciliation. I'm sure that we will have a full discussion of this issue when the committee amendment is offered and I will make more extensive comments at that time.

Mr. President, let me turn briefly now to some other major areas of this important bill.

Mr. President, I would also like to express my strong support for a provision contained in the bill that would restore an SR–71 surveillance aircraft contingency capability. The Committee recommended the authorization of $100 million in fiscal year 1995 for an SR–71 contingency capability, and directed the Defense Airborne Reconnaissance Office Program manager to report to the congressional defense and intelligence committees prior to the DOD authorization conference on his estimate of the costs and benefits of such a capability.

The primary rationale for the restoration of the SR–71 is the committee's concern about the adequacy of warning and surveillance capabilities on the Korean Peninsula.

As a member of both the Senate Select Committee on Intelligence as well as the Senate Armed Services Committee, I have always been a supporter of the SR–71. And I was strongly opposed to the Bush administration's decision to terminate further operations of this outstanding reconnaissance asset in fiscal year 1990.

Mr. President, the SR–71 was a proven reconnaissance asset that brought a truly unique capability to America's Intelligence Community. The SR–71 was a high-altitude, high-speed, long-range airborne reconnaissance platform that served our Nation well since it first flew in the mid-1960's. The SR–71 provided coverage on demand with little or no warning to the reconnaissance target; it was a highly flexible system.

Because it is the world's fastest and highest flying aircraft, the SR–71 is able to penetrate hostile territory with comparatively little vulnerability to attack unlike other reconnaissance platforms. This would make it particularly useful in crisis situations such as in a conflict on the Korean Peninsula. While opponents of the SR–71 used to argue that national technical means were capable of performing the same mission, these systems are far less flexible and survivable than the SR–71.

Mr. President, intelligence systems such as the SR–71 are the eyes and ears for our Nation's defense and are therefore true force multipliers. The decision to cancel the SR–71 was a grave mistake. I am delighted that the Senate Armed Services Committee is taking the lead in restoring this important capability.

I am also pleased that the committee bill fully funds the bomber program request. I have come to the Senate floor on many occasions in the past to fight to include funding for the B–1 bomber, the aircraft the Air Force now calls the "backbone" and "workhorse" of the bomber fleet. I am pleased that this program is receiving the full funding it needs.

On the other hand, I opposed the committee's initiative that provides $150 million to keep the B–2 production line ready to produce additional B–2's. I do not believe we need additional B–2's, and working with Senators LEVIN, LEAHY, COHEN and MCCAIN, I will move to eliminate that funding during this debate.

Mr. President, that concludes my general remarks on the bill. I would like to take one last minute to recognize the committee staff who worked so hard in this past year. I'd like to thank David Lyles, Madelyn Creedon, Julie Kemp, Frank Norton, and Shelley Gough of the committee staff. Their expertise and assistance have been invaluable to me.

Thank you, Mr. President, I yield the floor.

Mr. WARNER. Mr. President, may I inquire of the Chair as to the time limitation for the Senator from Virginia?

The PRESIDING OFFICER. The 2 hours are to be equally divided.

Mr. WARNER. I thank the Chair. I shall yield to myself such time as I may require, and following that, I shall yield to my distinguished colleague, the senior Senator from Maryland [Mr. SARBANES], such time as he may require.

AMENDMENT NO. 2143

Mr. WARNER. Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. WARNER), for himself, Mr. SARBANES, Mr. HARKIN, Mr. COCHRAN, Mr. GORTON, Mr. D'AMATO, and Mr. BINGAMAN, proposes an amendment numbered 2143.

Mr. WARNER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following section:

SEC. . ELIMINATION OF DISPARITY BETWEEN EFFECTIVE DATES FOR MILITARY AND CIVILIAN RETIREE COST-OF-LIVING ADJUSTMENTS FOR FISCAL YEAR 1995.

(a) IN GENERAL.—The fiscal year 1995 increase in military retired pay shall (notwithstanding subparagraph (B) of section 1401a(b)(2) of title 10, United States Code) first be payable as part of such retired pay for the month of March 1995.

(b) DEFINITIONS.—For the purposes of subsection (a):

(1) The term "fiscal year 1995 increase in military retired pay" means the increase in retired pay that, pursuant to paragraph (1) of section 1401a(b) of title 10, United States Code, becomes effective on December 1, 1994.

(2) The term "retired pay" includes retainer pay.

(c) LIMITATION.—Subsection (a) shall be effective only if there is appropriated to the Department of Defense Military Retirement Fund (in an Act making appropriations for the Department of Defense for fiscal year 1995 that is enacted before March 1, 1995) such amount as is necessary to offset increased outlays to be made from that fund during fiscal year 1995 by reason of the provisions of subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1995 to the Department of Defense Military Retirement Fund the sum of $376,000,000 to offset increased outlays to be made from that fund during fiscal year 1995 by reason of the provisions of subsection (a).

Mr. WARNER. Mr. President, I know the Senator from Arizona [Mr. MCCAIN] likewise expressed an interest earlier this evening to address the body with respect to his interest in this legislation. Should he still be available, I assure him time will be available to him.

The 1993 budget reconciliation bill delayed the COLA's for Federal civil service retirees and for military retirees. But there was a clear distinction. We understand a COLA to be that adjustment to the monthly and, indeed, the cumulative annual return on retirements earned by both civil retirees and military retirees, to help them partially—underline partially—offset the hidden tax of inflation.

These men and women dedicated their careers, indeed, often the most productive years of their life, to public service of the United States of America. And in the case of military retirees, often much of that career was in farflung stations, posts, and ships throughout the world.

During my career in the Senate, I have fought to restore COLA cuts, and where full restoration could not be achieved, both for civil and military, then I have tried with others to protect the military retirees so that they would be treated the same as the civil and the entire class of retirees receive such equitable treatment as the Congress will accord them with respect to their COLA's.

But this time, Mr. President, in a very drastic manner, the military retirees were treated, in my judgment, very unfairly because of the disparity of their COLA adjustments with that of the civil service.

This amendment seeks to restore just part of that COLA in but 1 fiscal year. As much as I would like to correct it for the entire period of the fiscal year covered by the 1993 Budget Act, I have to recognize that that is not achievable. I confess with regret to the retirees that we cannot in this Congress at this time make that correction. So I set forth in this amendment that goal which I believe is achievable here and now in connection with this bill.

What we have done is establish in this amendment an equality between the COLA date for the civil service retiree and the COLA date for the military retiree absolutely the same.

The amendment would make the effective month, and that would be April 1995, for the COLA and again that would be the same effective date as now in the 1993 Budget Act for the civil service retiree.

The amendment treats both, as I say, the same for 1995. And to put it very simply that is being, in my judgment, simply fair—one word, "fair"—to both. These two classes of retirees should never be put in a position where they are competing head on for what is owed them legally in my respects and, indeed, in every respect morally for their service. That competition should never take place.

This amendment corrects the COLA disparity in the 1995 act and allows the administration and Congress time to resolve the outyear inequity. This is in line with the language in this year's budget resolution. If I may read that, it reads:

> Recognizes the existing discrepancy between the cost-of-living delay schedule for the military and the civilian Federal retirees and urges the Department of Defense and other appropriate executive branch agencies to cooperate with Congress in identifying budgetary savings necessary to offset the costs of equalizing the delay schedules.

The House of Representatives, upon learning that I and the Senator from Maryland and others were going to introduce legislation like this, took into consideration what we intended to do and what we are doing tonight, and put the identical provision of this amendment in House legislation. So therefore, if this body supports this amendment, it will then go into our bill and be a nonconferenceable item at such time as the conference may take place.

I yield such time as my distinguished friend and colleague may need. I wish to express to my colleague from Maryland appreciation for his hard work. From the very first day that I indicated a desire to work on this, the Senator stepped forward to be a full and equal partner and I appreciate that.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I thank the distinguished Senator from Virginia for his very generous comments. I must say it has been a pleasure to work closely with him on this very important issue, and I have been pleased to be aligned with him throughout this effort.

Mr. President, I am very pleased to join with the distinguished Senator from Virginia in offering this amendment. It is a very simple amendment. It would shift the 1995 cost-of-living adjustment for military retirees forward from October 1 to April 1.

This problem arose because at the time the COLA schedules were adjusted pursuant to the budget resolution in fiscal 1994, different target dates were achieved within the Governmental Affairs Committee for civilian COLA's and in the Armed Services Committee for military COLA's. Both COLA's were delayed until April of 1994. So instead of being paid on January 1, as had been scheduled prior to last year's budget resolution, they were paid on April 1 of this year.

The first point I wish to make that a delay has taken place; a sacrifice has already been made by these retirees. It was made this year. However, when the authorizing committees scheduled the COLA for 1995 and beyond, the military COLA was delayed not until April 1, as was done with civilian retirees, but until October 1. We now are seeking for the next fiscal year only—which would give us some time to address the longer-range problem—to shift the military COLA forward from October 1 to April 1 and thereby reestablish equity with civilian retirees. It is to address this problem that Senator WARNER and I have joined in proposing this amendment which corresponds with legislation that we introduced earlier this year and which some 40 Members of this body have joined in cosponsoring.

As the distinguished Senator from Virginia has indicated, an identical measure has been included in the defense authorization bill passed by the other body with very strong bipartisan support.

Mr. President, the next point I wish to make is that retirement benefits are perhaps better viewed as deferred income. I think that needs to be clearly understood. Employers provide a compensation package for their employees, and one of the common elements of that package is retirement benefits. If no retirement benefits were provided, clearly the immediate payment to employees would be higher because I assume the argument would be that employees would then have to provide for their retirement out of their immediate earnings.

But this is not the usual practice. Rather, employers typically provide a retirement program. Some people participate, others do not. However, Federal retirement is best considered an earned benefit which represents the deferred compensation of the employee.

The second point with respect to the military is that retirement benefits are also used as a means to attract people into the military. The military is not unique in this regard. Many companies in the private sector highlight their retirement programs in recruiting employees. The Federal Government also holds out retirement benefits as an attraction to the Federal service.

It is also important to understand that the COLA adjustment is a catch-up adjustment. It does not put the employee ahead. It is an effort to catch up with increases in prices that have already occurred. It is designed to protect a retiree's pension from losing value over time. COLA's do not increase the value of the annuity but, rather, hold it constant against inflation. If we fail to make the COLA adjustments, we are consigning our retirees to a lesser standard of living. And it is for that reason that I have long been a strong supporter of COLA's, particularly for those who are already dependent upon them.

What happened in last year's budget process is that we severed a linkage between civilian and military COLA's which has existed for the past 25 years. Since 1969, military and Federal civilian retirees have received an identical COLA on the same date. With military recruitment in decline, career stability affected by force drawdown, and even more intense operational requirements on the remaining forces, I think it is very important that we not send the message that military retirees will receive disparate and unequal treatment. These benefits have been used to induce military members to complete full military careers, to stay in the service, and it really comes down to honoring commitments that have already been made. I assume later an argument is going to be raised between discretionary and mandatory spending, but, in my view, you have to look at your total resources and make a judgment as to the best application of them.

There are some who may say that the people affected by this have retired. They are no longer in the military. Therefore, cutting their retirement benefits does not affect the operations of the military. I believe that is a very shortsighted view. I submit that breaking these commitments will have an obvious impact on people still in the military who are considering sustaining that career, or people thinking of going into the military in order to make it a career. If they look beyond and say to themselves, what will happen to me at the end of my working life when I participate in the retirement program? And what sort of treatment will I then receive and what will happen to me in terms of meeting my needs and the needs of my family? If they ask these questions in light of the recent actions taken against their COLA's, they are, in my view, less likely to begin or sustain a career in military service.

Mr. WARNER. Mr. President, will the Senator yield on that point?

Mr. SARBANES. Certainly.

Mr. WARNER. That is a very important point. Although the COLA's are not written into a service person's contract, since 1963 COLA's have been promised in nearly every military publication that discusses the military retirement system. Military retirees receive their COLA on April 1, 1994, and are scheduled to receive their next COLA on October 1, 1995.

Mr. SARBANES. That is right. So if it is included as part of the benefit package that is presented to people, then naturally there is a reliance placed upon it.

The military retirees are not saying they should not make any sacrifice. In fact, the amendment would shift their COLA forward. However, they would still be taking a delay in their COLA from what the law has heretofore provided. They would not receive it on the 1st of January, which has been the past practice. In fact, they would receive it, if our amendment is accepted, on the 1st of April. If this amendment is not accepted, the military retirees who just received a COLA adjustment on April 1, 1994, would not receive the next adjustment until the fall of 1995.

Of course, there are calculations of what this cumulative 5-year COLA delay that is now provided for would cost the average military retiree. It varies according to what their earnings have been as either an average enlisted retiree or an average retired officer. But, in any event, it is clear that an extra heavy, and I think therefore unjust, burden is being placed on our military retirees who have made significant sacrifices for their country in the course of serving in the military.

I think it is not the right message to send to active-duty personnel or people considering going into the military, that they are going to be treated this way in their retirement years. It has potentially serious implications for troop morale, as well as for recruitment and retention. In fact, as the Senator from Virginia pointed out, in numerous publications directed at military personnel, the mention of retirement benefits, and specifically annual COLA adjustments, is explicit.

This amendment offers us an opportunity to correct that for 1 year, for 1995, and shift the military COLA forward to April 1, thereby providing the protection against inflation which I believe our retirees are entitled to have.

Of course, there is a very strong coalition in support of this measure. They are not arguing that they make no COLA sacrifice. I think it is very important to underscore that. This is not an effort by military retirees to be held totally immune to making a sacrifice with respect to last year's budget package. Rather, this is an effort to bring military COLA's forward and thereby to put military retirees and civilian retirees on the same COLA schedule.

We may experience an effort to try to move the civilian COLA's back in order to move military COLA's forward. I, of course, am very much in opposition to that approach. In fact, all of the organizations of the military coalition that seek to move their COLA forward have taken a very strong and equitable position, much to their credit I would assert, on that particular issue.

So I join the distinguished Senator from Virginia in urging the adoption of this amendment. I believe it will correct an inequity that needs to be corrected. The opportunity is before us now to do this. I very much hope our colleagues will support this effort.

Mr. President, I yield the floor.

Mr. SHELBY. Mr. President, I am supporting the correction of a gross inequity that directly affects the welfare of our Nation's military retirees. I have been involved for over a year now in attempting to fashion a much-needed solution to the inequity between the delays in cost of living adjustments (COLA's) for military and civil service retirees that resulted from the Omnibus Budget Reconciliation Act of 1993. Certainly, those men and women who dedicated their careers to the defense of this country deserve a resolution of this disparity, a disparity that has placed the well being of our military retirees below that of other Federal retirees.

Mr. President, resolving this disparity has not been easy. Military retired pay has been adjusted for inflation since 1963, with military and civilian retirees receiving COLA's of identical percentages on identical dates since 1969. Last year, however, the Budget Resolution adopted by the House of Representatives contained reconciliation instructions that assumed savings of $4 billion over 5 years from both military and civilian retirement. The Senate Budget Resolution contained no such instructions. However, in conference, the managers of the bill assumed $2.4 billion in savings from military retirement accounts, while only $350 million was provided from civilian retirement.

As the chairman of the Subcommittee on Force Requirements and Personnel of the Armed Services Committee I was saddled with finding a way to achieve these savings. Since we needed to find these savings from entitlement accounts we were presented with very few alternatives. The formula that had been presented by the report accompanying the House Budget Resolution was altogether unworkable. It called for one COLA formula for those under 62 and another formula for those over 62. There was discussion of providing half COLA's and a maximum COLA of $400 per year.

Instead, the Armed Services Committee achieved the required savings from military retirement by delaying the COLA's for military retirees for 3 months in 1994 and for 9 months in 1995, 1996, 1997, and 1998. The Governmental Affairs Committee, needing to meet much small spending targets, delayed COLA's for civil service retires by 3 months in 1994, 1995, and 1996 and did not delay COLA's at all in 1997 or 1998. This action left military retirees with a 6-month inequity in 1995 and 1996 and a 9-month inequity in 1997 and 1998. I maintained that this discrepancy was unjust and inequitable, and joined with my colleagues on the Armed Service Committee in recommending that this injustice be corrected in the Budget Reconciliation bill. No such action was taken last year.

Mr. President, the amendment offered by Senator WARNER would address the inequity between military and civilian retiree COLA's for fiscal year 1995 through the transfer of $376 million from Department of Defense funding to the military retirement trust fund. I believe this amendment to be identical to S. 1805, which was introduced by Senator WARNER this year and to a provision in H.R. 4301, the House version of the National Defense Authorization Act for fiscal year 1995.

I have strongly supported the thrust of Senator WARNER's amendment, but have been concerned about the transfer of funds from discretionary accounts to direct spending accounts. That is why I have examined a number of alternative methods of funding; including delaying civil service retirement COLA's to offset the cost of advancing military retirement COLA's and equalizing COLA's by adding to the deficit. I have come to the conclusion that these alternatives would also, in the end, be inequitable and unworkable. I say this because we should not try to aid one group while hurting another and must not further add to the deficit.

Mr. President, I support the Warner amendment because it provides the Senate with the best method available to provide equity between military and civilian retirees in fiscal year 1995. Furthermore, it is budget neutral and therefore does not violate the Budget Act. It is my sincere hope that in the future the executive branch will work with Congress to identify the necessary savings to offset the cost of equalizing the COLA's in 1996, 1997 and 1998 and thus, eliminating the need to revisit this issue again next year.

Mr. President, our military retirees provided the most productive years of their lives to the defense of this great nation—always prepared to give their lives to ensure the preservation of the freedoms that we enjoy as Americans. To treat them as second class Federal employees is nothing less than a failure to honor the debt that we owe these men and women. I urge my colleagues to join me in correcting this inequity and thereby honoring this obligation.

Mr. INOUYE. Mr. President, the amendment offered by the Senator from Virginia is one that I wish I could support. The Senator's amendment would advance the cost of living adjustment for our military retirees by 6 months, making it available in April rather than October. The goal of the Senator is to have our military retirees receive the COLA adjustment at the same time as retired civil servants. The Senator argues that our military retirees should not be treated any differently than our civilian retirees, and I agree.

The problem with the amendment offered by the Senator is that it does not actually change the COLA, it merely would allow for the increase. Somebody else would have to pay for it. That somebody is the Senate Appropriations Committee—specifically, the DOD Appropriations Subcommittee.

As my colleagues are aware, COLA payments are part of the mandatory budget, and are the jurisdiction of authorizing committees. The appropriations committee has no budget allocation to pay for increased COLA's.

Had the Senator proposed to increase the COLA as an entitlement, then, despite the resulting increase in the deficit, I would have supported his amendment. Had the Senator proposed increasing the COLA by cutting another entitlement, then I may have been inclined to endorse his efforts.

However, the Senator's amendment does not provide for mandatory entitlement funding. The amendment allows for an increase, so long as the appropriations committee cuts defense programs to pay for it. This is not acceptable. The Senator knows that we have cut defense spending too deeply already. Adding additional requirements for COLA's would only exacerbate problems which have resulted from the sharp reductions in defense discretionary spending over the past 5 years.

In addition, I think all my colleagues should consider the precedent which would be set by the Warner amendment. This amendment would break down the barrier between entitlement and discretionary programs. It says that we should pay for unfunded entitlement increases by cutting discretionary spending.

Mr. President, many of my colleagues have spoken frequently on the floor on the need to hold down entitlement spending. It was not my impression that they meant to hold down mandatory payments for entitlements by using discretionary funds to pay these bills.

If we adopt this amendment today, tomorrow there will be—I predict—other very worthy unfunded entitlement programs that many Members will want to increase. Those proponents will turn to the appropriations committee to pay the bill.

Mr. President, discretionary spending is already too low to fund all of the discretionary requirements and legitimate interests of the Members of this body. I would urge my colleagues not to add unfunded mandatory payments to our list of necessary discretionary funding requirements. I suggest that all my colleagues consider these points and vote against this amendment.

Mr. GLENN. Mr. President, I rise today regarding the current inequity in the Cost-of-Living-Adjustment [COLA] delay schedules for military versus Federal civilian retirees. As chairman of the Committee on Governmental Affairs and joined in these views by Senator Roth, the Ranking Minority Member, we have long supported equity between the retirement systems of military and Federal civilian retirees.

However, there is one issue related to so-called COLA equity which we must object to. In the process of making up S. 2182, the Department of Defense Authorization Act, the Armed Services Committee voted 13 to 8 to recommend that a committee amendment be offered during floor consideration of this Act that would equalize COLA dates for military and civil service retirees by moving the dates for military retiree COLA's forward and the dates for civil service COLA's back in each fiscal year from 1995 through 1998.

Adoption of such a proposal, would completely rewrite last year's budget reconciliation bill by—in effect—increasing instructions to the Governmental Affairs Committee and decreasing instructions to the Senate Armed Services Committee.

Such an amendment would be unprecedented. Robbing one retirement system to pay for another retirement system is simply wrong. To propose increasing military retiree COLA's at the expense of civilian retiree COLA's is not equitable.

If we are to correct the COLA inequity between military and Federal civilian retirees, we believe that the proper course of action is that suggested by Senators JOHN WARNER and PAUL SARBANES. The Federal and military committees are unanimous in their opposition to Senator NUNN'S proposal, or any alternative that would provide COLA's to one group of retirees at the expense of another. This is why military, Federal employee and postal associations and unions are supporting the Warner/Sarbanes amendment. Attached is a list of these groups. The Warner/Sarbanes amendment would rectify the COLA disparity in 1995 by shifting the COLA for military retirees to April through a reduction in the nonreadiness accounts in the defense budget. As you may know, the Warner/Sarbanes amendment was included in the House-passed DOD reauthorization bill.

For many years, Social Security, the civil service, and the military retirement systems have used the same adjustments for inflation. Last year's budget reconciliation bill changed COLA's for Federal civilian retirees in one way and military in another. Social Security was left untouched. We have consistently supported equitable COLA treatment between the three systems, and we favor raising the COLA for military retirees. However, we do not believe that the proposal being recommended by the distinguished chairman of the Armed Services Committee is the appropriate solution to COLA equity. In the interest of restoring equity and fairness, we urge you to support the Warner/Sarbanes amendment.

FEDERAL CIVILIAN AND MILITARY ORGANIZATIONS THAT OPPOSE THE NUNN SUBSTITUTE OR ANY AMENDMENT THAT WILL REDUCE CIVILIAN COLA'S

The Retired Officers Association.
Non Commissioned Officers Association.
Air Force Sergeants Association.
National Association for Uniformed Services.
The Retired Enlisted Association.
Enlisted Association of the National Guard Association of the U.S.
Marine Corps Reserve Officers Association.
National Military Family Association.
Commissioned Officers Association.
Marine Corps League.
CWO and WO Association, U.S. Coast Guard.
Jewish War Veterans of the U.S.
United Armed Forces Association.
Naval Enlisted Reserve Association.
Navy League of the U.S.
The Military Chaplains Association.
U.S. Army Warrant Officers Association.
U.S. Coast Guard CPO Association.
National Guard Association of the U.S.
Naval Reserve Association.
Reserve Officers Association.
Air Force Association.
Association of Military Surgeons.
Fleet Reserve Association.
Association of the U.S. Army.
American Federation of Government Employees.
American Federation of State, County and Municipal Employees, AFL–CIO.
American Postal Workers Union.
Federal Managers Association.
International Association of Fire Fighters.
National Postal Mailhandlers Union.
National Association of Letter Carriers.
National Association of Postal Supervisors.
National Association of Postmasters of the United States.
National Association of Retired Federal Employees.
National Federation of Federal Employees.
National Rural Letter Carriers Association.
National Treasury Employees Union.
Senior Executives Association.

Mr. WARNER. Mr. President, I yield such time as I may require.

I thank my distinguished colleague. He pointed out the importance to the men and women on active duty today. Here is a publication entitled "Wifeline," which helps families. This is the Chief of Naval Operations addressing the active duty, and pointing out the importance of the career retention program, and how the COLA's are instrumental in the career retention program.

I would just like to read from another military publication entitled "Retirement: Family Matter."

The purpose of the retired person's cost-of-living adjustment is to maintain military retirees' purchasing power. In other words, military retirees should be able to buy the same amount of goods and services in the future as when they retire; no more, no less. Cost-of-living adjustments are the mechanisms used to accomplish this.

Mr. SARBANES. Mr. President, will the Senator yield on that?

Mr. WARNER. Yes.

Mr. SARBANES. I want to point out that the COLA adjustment is made at the end of the time period during which prices are rising. So, for the period of time before the COLA adjustment is made, the retiree is absorbing those price increases. COLA's never put them ahead. In strict terms, the COLA adjustment does not even hold them even, since the adjustment comes at the end of the period during which prices had already risen.

Therefore, retirees must absorb out of their existing retirement pay the increase in prices that takes place until they actually receive their COLA adjustment.

To that extent, they are making even that much more of a sacrifice over time. We provide our retirees with a COLA to bring their purchasing power back up. But they never get ahead of the game. That is very important to understand.

Mr. WARNER. Mr. President, the Senator is quite correct. To be precise, they get nothing in January, nothing in February or March. It is not until April when they begin to get a very modest—2.6 percent in the current rate—a very modest compensation for a lifetime in their most productive years.

It is my hope and expectation that the Senate will accept this amendment.

I yield the floor.

The PRESIDING OFFICER. Does the Senator from Virginia yield his time?

Mr. WARNER. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. For what purpose does the Senator from Georgia rise?

Mr. NUNN. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator is recognized.

Mr. NUNN. Mr. President, it is a late hour of the night to be debating this issue. I am not under any illusion that our colleagues are all around the television sets beaming in on C-SPAN in anticipation of what we are going to say next. I hope there are a few people listening. Perhaps I do not want too many people listening because I am on the unpopular side of this debate. I doubt if there are many constituents out there who are interested in this issue except the ones who are going to benefit by the Warner amendment, the military retiree community that would benefit. I agree with the Senator from Virginia that this problem needs to be solved. But the Warner amendment involves more than just COLA equity.

Mr. President, this simple-sounding amendment is really a direct cut to the defense budget. It does not address the COLA equity problem after 1995. And it would set what I think is a very dangerous and unfortunate precedent of bypassing the pay-as-you-go system by raiding discretionary spending programs to fund entitlement programs.

Mr. President, I support the goal of my friend from Virginia, which is to ensure that military retirees are treated fairly. But I believe the method proposed in the amendment by the Senator from Virginia and the Senator from Maryland is so seriously flawed that its cure is worse than the disease.

But, Mr. President, I think the military retirement community has not been told by their representatives, the people who are here in Washington, that this money is coming directly out of the defense budget. So we are curing one problem, and it is an inequity. I do not think there should be a disparity between military retirement COLA's and civilian COLA's. They ought to all be the same. From my point of view, all COLA's ought to be the same. If we are going to reduce one, we ought to reduce them all. If we are going to make one whole, we ought to basically take care of them all.

But what the military retirees out there that are corresponding with me do not really recognize, until I write them and then they recognize it, is that this money is coming right out of the defense budget. And because of the outlay implications of this cut in the defense budget to restore COLA equity, it is going to have to come out of, in all likelihood, military readiness.

So I do not think anybody should make any mistake about it. In order to correct an inequity, in my view, this cure is worse than the disease. We cannot afford to continue to bleed the military budget. This is a direct cut in the defense budget.

I share the view of my colleagues from Maryland and Virginia on the inequity here. I will not rebut anything they have said, because they are essentially correct that the civil service retirement has not been treated the same as the military retirement, and they ought to be treated the same. The inequity is there and there is no denying that. I wish it had not happened. Our committee warned last year it was going to happen, but at that stage we could not get anyone's attention, and it appeared there was no other way to carry out our responsibilities. We have only one little tiny bit of so-called mandatory accounts in our whole jurisdiction.

We were mandated by the budget resolution to make a cut that amounts to about $2 billion over 4 years. We had nowhere else to get it. It had to come out of the mandatory jurisdiction —not the 050 function; it had to come out of the function 600 budget. We worked with the military retirement community, and they worked cooperatively. They did not want to be treated inequitably, and we worked with them. Instead of cutting more out of people retiring before age 62, we chose a way so it would be across the board. Of course, they do not like what happened, and that is the realization that they are being treated differently from civil service retirees.

WHAT IS THE DISCREPANCY?

Mr. President, the COLA equity problem was created by the fiscal year 1994 budget resolution and the Omnibus Budget Reconciliation Act of 1993.

The conference report on the concurrent resolution on the budget for fiscal year 1994 contained reconciliation instructions requiring savings in both military and civil service retirement. To carry out these reconciliation instructions, the budget resolution assigned deficit reduction targets for military retirement to the Armed Services Committee, and deficit reduction targets for civil service retirement to the Governmental Affairs Committee.

The Armed Services Committee achieved our required savings from military retirement by delaying COLA's for military retirees for 3 months in 1994 and for 9 months in 1995, 1996, 1997, and 1998. The total 5-year savings from military retirement was $2.358 billion.

COLA's for civil service retirees were only delayed by 3 months for 1994, 1995, and 1996 and were not delayed at all in 1997 or 1998. The total 5-year savings from delaying civil service retirement COLA's was $788 million. This was twice the amount that had been assumed in the Budget Resolution, but only one-third the amount of savings required from military retirement, even though annual civil service retirement outlays exceed military retirement outlays.

The result is that the Omnibus Budget Reconciliation Act of 1993 delays COLA's for military retirees for 6 months beyond the date on which civil service retiree COLA's are paid in 1995 and 1996. In 1997 and 1998, the additional delay for military retirees grows to 9 months. In 1999, both military and civil service COLA's will once again be paid in January.

Before this 1993 act, permanent law called for COLA's to be paid to military and civil service retirees on January 1 of each year. Military and civil service retirees have received COLA's of identical percentages on identical dates since 1969.

The discrepancy in COLA delays in the Reconciliation Act does not result from the failure of any committee of jurisdiction to achieve its deficit reduction target. The discrepancy was inherent in the targets themselves.

HOW DID THIS DISCREPANCY COME ABOUT?

There appears to be some confusion about how this discrepancy was created. An article in the Washington Post of June 22 stated that "The Problem has its roots in a decision by Congress last year to halve the cost-of-living increases for federal civilian and military pensioners under age 62."

Mr. President, this is not correct. Congress never decided to reduce COLA's for retirees under 62 and exempt retirees over 62. In fact, when presented with instructions to save money from military and civil service retirement, all four committees of jurisdiction, and the Congress as a whole in the reconciliation bill, decided exactly the opposite. We decided to apply one COLA delay to all civil service retirees, regardless of age, and one COLA delay policy to all military retirees, regardless of age.

Unfortunately, as we all know, the problem was the delay for civil service retirees was not the same as the delay for military retirees. The reason for this goes back to the assumptions the Budget Committees made in setting the numbers.

The whole idea of COLA reductions originated in the House Budget Committee last year. The House version of the fiscal year 1994 budget resolution assumed equal savings of $4 billion over 5 years from military retirement and $4 billion from civil service retirement. The report language accompanying the House budget resolution was the only place where any assumptions about how savings in COLA's would be achieved were stated in any budget resolution last year. These assumptions were basically to give COLA's equal to one-half the inflation rate to retirees under 62, and COLA's 1 percentage point below the inflation rate to retirees over age 62.

This was the House Budget Committee assumption—not to make savings only from retirees under 62, but to require savings from all retirees. The Senate version of the fiscal year 1994 budget resolution had no such provision on COLA savings—none whatsoever.

Now when the conference report came to the Senate, the compromise between the House version with COLA savings and the Senate version with no COLA savings was to come out in between. The budget resolution conference required COLA savings of about one-third the amount the House had originally proposed.

This kind of thing happens on almost any bill. There is a provision in one bill but not the other, you go to conference, it comes out somewhere in the middle, it's one item among a large number of provisions in a non-amendable conference report that you have to vote up or down on taking it as a whole.

That's how this COLA discrepancy came about, Mr. President. The first and only time the Senate had a chance to vote on saving money from COLA's was as one item in the entire non-amendable conference report on the fiscal year 1994 budget resolution.

And this conference report did not contain one word about how these savings would be made—that's not what budget resolutions do. The conference report merely stated how much money had to be saved. Neither the bill language nor the report made any statement that it was congressional policy to make the savings from retirees over 62 or retirees under 62 or anything else. So it is incorrect to say Congress "decided" to make savings only from retirees under 62.

That may be what the budget committees assumed. But Congress never specifically endorsed differential treatment of retirees based on their age. Nor did the budget resolution endorse treating military retirees worse than civil service retirees.

What the budget resolution conference did say was that the savings expected from military retirement COLA's were now assumed to be greater than the savings from civil service COLA's. That numerical difference is consistent with a policy of taking all the savings from retirees under 62, since more military retirees than civilian retirees are under 62.

When it got the reconciliation process where the actual legislation was written to achieve the savings, the Congress rejected the policy, the assumption, of treating retirees differently based on their age. But rejecting that assumption did nothing to change the inequality of the savings required from military and civil service retiree COLA's. That is how we ended up with the unequal delays, Mr. President.

The Armed Services Committee recognized this discrepancy last year and recommended that the Congress correct this inequity. In our report of June 10, 1993, transmitting our legislation to delay military retirement COLA's to the Budget Committee, the committee stated:

> The members of the Armed Services Committee are concerned that the required reductions in military retirement spending will result in greater COLA delays for military retirees than for other federal retirees. COLA equity for all federal retirees should be a basic principle and we urge the full Senate and the conferees on the Reconciliation Bill to take this into consideration.

Unfortunately, no such correction was made last year, which is why we are here today debating this issue.

I am not going to talk a lot about it tonight, but there is another alternative to the Warner amendment, and perhaps it is even more unpopular than leaving the situation at the status quo. We will have to make that judgment before we vote. I will have an amendment, and I will decide after we see the vote on the Warner amendment whether to push that amendment to a vote or not. I would like to cure the problem by equalizing civil service and military retirement, so there is equal sacrifice on both accounts, rather than taking it out of the defense budget.

If the Warner amendment passes, though, I see no need to propose that amendment, because the Senate will have spoken, and it will have taken basically what is an entitlement cut from last year and made it whole out of a discretionary account. That, to me, is not only a mistake, but it is setting a very dangerous precedent. One thing about military retirees, they are the most patriotic people in the United States, in my view, without disparaging any other group. They have dedicated their lives to the security of our Nation, and they have risked their lives for the security of our Nation, and they have sacrificed family time over the years for the security of our Nation, and they have served in remote locations, and they have served in periods of war, and they have served in periods of grave danger, and they have indeed enabled our Nation to remain free.

The one thing that I think most of them would agree with is that they would rather continue to make sacrifices, if required, than to deplete the readiness of our military forces to fight a war today. Yet, in their name, in good faith, the readiness of the U.S. military forces, if this amendment passes, is going to be decreased because of this restoration of what is a mandatory program out of a discretionary account.

I must add this also: It is not the intent of the authors of this amendment, but it will be here as a precedent, if we get into a squeeze on the health care budget, if people are having to take cuts there. As the occupant of the chair knows, the entitlement programs are growing like mad in this overall budget, and I am going to show a chart on that. This is the precedent, make no mistake about it. We will have set precedent for the first time, as far as I know, that you can take an entitlement program and make it whole, or add to it, or prevent it from being depleted, by taking discretionary funds.

The problem with our budget situation now is that the entitlement programs are eating up the overall Federal budget. I would like for my staff, if they would, to bring a chart in on the entitlement programs, because it shows very vividly what has happened.

What we really ought to be doing is restraining the growth of entitlement programs. It is not the military or civil service retirement that is causing the main problem. Everyone ought to be aware of what is on this chart. This is basically the heart of our fiscal problem, and we are going to make it worse. Mr. President, this chart represents the difference between the cumulative spending over the previous 5 years and what we are going to spend over the next 5 years. This shows it very vividly. This is the zero line. This would mean—if you were on the zero line—there is no difference in the future 5 years, from the previous 5 years. Here is what is happening. The defense budget of the United States, which is being cut by this amendment, is going down $190 billion compared to the previous 5-year period. This is the only part of our budget going down. These are actual dollars.

The domestic discretionary accounts are going up $250 billion over the next 5 years compared to the previous 5 years. Social Security is going up about $440 billion. That is funded by the Social Security taxes, and so this is not increasing the deficit; this is more than funded. In future years we are going to have big problems with this account; after people leave from here and are sitting back and pointing their fingers at someone else, that is when we are going to have problems on that account. Right now it is in surplus.

Health care, which we are debating now, over the next 5 years compared to the previous 5 years—and this is just the increase, not the total—it is going up almost $800 billion. Other entitlement programs—and this gets into the civil service retirement, military retirement, and it also has other accounts in it, food stamps are in that account, and there are a number of other accounts. This is going up approximately $100 billion.

Remember, defense and foreign affairs is going down $190 billion. And then this is just a coincidence, but it tells us what our problem is in this country. Interest on the debt in the next 5 years goes up by $190 billion. It just so happens that is the same number as defense is going down. People ask where the peace dividend is going, and you can wipe it out right here, an increase of $190 billion in interest on debt, and a decrease of $190 billion in defense. This amendment is not the main problem we have. I do not want to pretend that it is. I say that what we are doing here is decreasing the defense line more, and we are increasing entitlement spending, or at least making it whole.

So what is happening is we are taking the part of the budget that is basically being eroded very rapidly—some of it for good reason because the world situation has changed. But in my opinion we are going much too far and too fast in our defense cuts. This amendment is going to make it worse.

Mr. President, everything the Senator from Virginia said about the equity of the situation, I agree with. Sometimes, however, you have to recognize that sometimes in trying to cure a problem, the way you cure it can make the situation in other areas worse.

The delay—I will not go into tonight as to why it happened, but I will say that our committee had no choice whatsoever but to cut military retirement. I think the Senator from Virginia would agree with that. We had no other place to get the money under the mandate of the Budget Committee last year. So we recommended the delay in COLA because that was the only choice we had.

Mr. President, the defense budget is discretionary spending. It must fit within the discretionary caps. Military retirement is not part of the defense budget. It is not part of the 050 function. It is under function 600, military retirement, what we call mandatory or entitlement spending. Unless the law is changed, it goes up every year; it is automatic. It is not in a pot the appropriators make decisions on. It is in the income security function of the budget; as I mentioned, it is function 600 of the budget. Under the rules of the Budget Enforcement Act, increases or decreases in military retirement are supposed to operate under the pay-as-you-go system as with any other entitlement program.

Military retirement has nothing more to do with the defense budget than the retired pay of civil servants does with the budgets of their former agencies. The Warner amendment proposes to start mixing the funding of discretionary programs constrained by the discretionary caps with the funding for mandatory programs which are under the pay-as-you-go system.

Mr. President, there is another alternative here, and again, I do not know whether we will vote on it or not; but we would have an alternative of taking the overall cut that had been required last year and equalizing it between the civil service retirees and the military retirees so everybody is on one playing field.

That means the civil servants who are retired would sacrifice some more. They would have a little less increase in their COLA over the next few years because of this approach, and the military people would be better off than they are now under the current law, because of last year's restraint on COLA's. But they would certainly still be making some sacrifice.

If you did it that way, the total amount of the average military retiree's cut over the next 4 or 5 years would be about $650 instead of about $1,300 under the current law.

Each civil service retiree's average sacrifice would be about $650 spread over 4 years. We are not talking about a huge amount of money, although I know to some people it represents a very substantial amount.

That is another alternative. As I said, I am going to have to decide whether to propose that if the Warner amendment passes. Frankly, I see no need to propose it. I think everyone here who votes tomorrow ought to be aware of the issue. I hope everyone recognizes the implication of what this is going to do.

The Senator from West Virginia, Senator BYRD, will be making a very brief talk tomorrow morning. He is going to make it abundantly clear that this money is going to have to come out of the defense budget. There is no place else from which it is going to come. It is going to come out of the defense budget. As chairman of the Appropriations Committee, he is going to say that the appropriators will decide this. I think my friend from West Virginia will answer this question. This money is subject to approval. This does not cure the problem unless there is an appropriations bill that funds it.

Mr. WARNER. Mr. President, the Senator is correct.

Mr. NUNN. Mr. President, let me just give the people who may be interested in this a little rundown on the implications of the Warner amendment. I also want to make it clear this solves the COLA inequity problem for only 1 year. This does not take care of the next 3 years. If you take care of those, you are going to have to cut the defense budget $2.1 billion. If you take care of all the inequity problems it is $2.1 billion.

So the numbers I am dealing with now only represent this year's cut in the defense budget, which is $376 million. I am talking about $376 million in this amendment for this year. But make no mistake, that axe is going to have to be $2.2 billion if we are going to cure this inequity problem over the next 3 or 4 years.

In my opinion, in addition to all the other problems in the defense budget, this would be a serious blow. I believe tomorrow we will be hearing from the Department of Defense. I am not going to speak for them, and I never presume to make announcements on what they are going to say unless I actually see the letter and see the signatures. I think we will hear from the Defense Department on this.

We do have a letter from Mr. Leon Panetta, the Director of the Office of Management and Budget. Basically, he makes a couple of points in opposition to this Warner amendment. He says: First, the amendment would create a loophole in the budget process of ensuring discipline and reducing deficits. The Warner amendment will create a dangerous precedent by financing increased entitlement spending by cutting discretionary programs.

In effect, the Warner amendment will undermine the basic pay-as-you-go precept of mandatory payments. Pay as you go means if you increase one mandatory program, you have to decrease another.

We have that system, and it has helped restrain the growth in entitlement programs.

This undermines pay as you go because this is not another entitlement account paying for this, it is a discretionary defense account.

Mr. Panetta goes on to say that the Warner amendment, no matter how well-intentioned, reduces resources currently budgeted for high priority defense programs. He then says that the President cannot support cuts in the defense program of this magnitude no matter how deserving the cause.

I repeat. That is a deserving cause. The question is whether we are going to do harm that will outweigh the benefits of the cure.

I think we ought to think through just a moment, and then I will yield back some of my time and be prepared to answer questions: Where are we going to pay for this? How are we going to pay for it?

THE WARNER AMENDMENT MEANS FURTHER DEFENSE CUTS

The amendment proposed by the Senator from Virginia and the Senator from Maryland adds $376 million to the cost of this bill. It is not paid for. The Dear Colleague letter that the Senators from Virginia and Maryland sent out states their intention to cut nonreadiness defense funding. Yet this amendment does not identify one dime of those cuts. If they know where these cuts are coming from, they are keeping it a secret. Of course their amendment looks easy to vote for. It promises COLA equity with no pain. Nothing is being cut in this amendment to pay for it.

What would you have to do to get these cuts?

Does the Senate favor cutting $400 million from the personnel accounts? Are we in favor of laying people off in the active duty military forces or the active duty civilians in the military?

I know that is not what the Senator from Virginia wants. I doubt seriously that is what the Senator from Maryland wants.

Do we want to do it by reducing military pay? We have a 2.6-percent military pay raise in this bill. We could cut the pay raise back to 1.7 percent to pay for this amendment, but we would have to do the same thing for military pay next year, and the year after, and the year after, to be able to do that.

I doubt seriously either of the Senators proposing this amendment want to cut military pay. I doubt very seriously if they want to lay off military or civilian employees.

So let us look at the alternatives. If we do not cut personnel, if we do not cut pay, does the Senate favor cutting $500 million from the operating accounts? That is what it would take, since you do not spend out at the same rate in the operating accounts as you do in this COLA. O&M money is spent out a little slower than a COLA payment, so in order to make this kind of outlay cut in what we call readiness you have to cut about $500 million from O&M. It takes $500 million in readiness cuts to offset the $376 million in outlays of COLA compensation; the reason being the operating account spends a little slower.

That would cut the number of flying hours, the number of steaming hours, it would cut depot maintenance, and real property maintenance.

The Senator from Virginia is alert, perhaps more than anybody in our committee, to maintaining military readiness going back to the 1970's. I doubt seriously he would want to cut military readiness.

So my assumption is that neither the authors of this amendment nor the Senators who sponsored it, nor the Senators who are going to vote for it, want to reduce force structure. They do not want to lay people off. They do not want to reduce pay. They do not want to deplete readiness.

Where else can we go to get the money?

We could cut it out of something like environmental restoration. I doubt very seriously if the Senator from Maryland would want to cut it out of the environmental cleanup fund.

What about the research and development account? It would take $800 million in cuts to pay for this $376 million amendment.

The reason for that is because the R&D accounts spend out over 2 or 3 years. In order to offset this, which we would have to do in defense, you need to offset the outlays actually spent in 1 year. This $376 million is all spent in 1 year, so you would have to cut $800 million out of R&D.

I doubt very seriously if those who favor this amendment favor cutting that much from research.

Then we get down to procurement. What will it take in order to pay for this $376 million if we cut it out of procurement? As far as I know, that is about all that is left. You have pay; you have operation and maintenance; you have force structure; you have research and development; you have procurement.

To take it out of procurement really has a big effect, because the procurement account spends out slowly. To get $376 million in outlays out of the procurement account, which you would have to do just to pay for the 1995 COLA, not talking about what is going to happen in 1996, 1997, and 1998—because if we adopt this amendment now we will have to do it again for the next 3 years—we would have to cancel the aircraft carrier, the CVN-76. We would have to cancel the Navy F-18 fighter. We would have to kill the D-5 missile, eliminate the LMD amphibious ship—that may be done any way. We are not through with that. That may have to be done by tomorrow because we have the Sealift money coming back in. We would have to eliminate all these programs as well as eliminate all Guard and Reserve procurement from this bill.

So that all has to be done—that is not either/or—if we tried to offset this $376 million from procurement. We could find other ways of doing it. This is one hypothetical example. I think it is representative and a fair example. That is $8.7 billion worth of budget authority cuts in order to get this $376 million.

Mr. President, this is just the cost of 1995. We would have to cut somewhere in that neighborhood in procurement every year. I doubt if we would take it all out of procurement. We probably would not take it all out of any of these accounts. We would probably find some way to spread it around. But there is no way you can do this without cutting defense and harming the defense budget.

The Senate of the United States does not have to face these questions when we vote tomorrow. The Appropriations Committee will have to face these questions before the year is over. And the Senate of the United States will have set in motion an inevitability—an inevitability—of defense cuts of a very serious nature. Most importantly, our military forces in the field will have to live with the effects of our decision for a long time to come.

Mr. President, I know military retirees probably about as well as I know any group in this country. I think they are, as they should be, conscious of what their own benefits are and what their own basic rights are and what their expectations are.

But I also know military retirees well enough to believe that most of them—not all, but I believe a majority of them, a substantial majority—do not want to weaken the defenses of this country. They spent their entire lives sacrificing for this country, and I do not believe they really want to see defense cuts coming in order to make up this inequity.

They have been told by their representatives—and I am not talking about the Senator from Virginia and the Senator from Maryland; I am talking about the representative organizations—they have been told this can be done out of the defense budget; in effect, it is a free ride.

Mr. President, that is wrong. They have been misled. In some cases, they have been misled by people who do not know any better, but in other cases they have been misled by people who should know better. I will be very prudent with my words.

I would like to remind my colleagues that President Clinton, in his State of the Union addressed this January, told us,

> Nothing, nothing is more important to our security, than our Nation's Armed Forces . . . This year, many people urged me to cut our defense spending further to pay for other

government programs. I said no . . . . We must not cut defense further. I hope the Congress, without regard to party, will support that position.

The President said we should not cut defense further. He did not say "except if it's to fund an entitlement program." I would say to all my colleagues who are concerned that we are cutting defense too deeply, that we are already seeding some ragged edges in readiness. If we vote here on this floor today to start funding entitlements out of the defense budget, we won't need a special panel to tell us a few years from now how we got a hollow military.

Mr. President, the most serious implication of this, however, is not what happens this year; that will be serious—but what happens next year and the year after and the year after. But even more than this $2 billion, if we make this mistake—and it will be a mistake and in my view we are going to make it; I think the votes are probably going to be here to pass this amendment—if we make this mistake, how are we going to deal with entitlement programs in the future?

What is going to happen when someone comes in and proposes a Medicare amendment and says that we cut in the health reform bill or in last year's reconciliation bill too much out of Medicare or too much out of Medicaid or too much out of farm support prices or too much out of food stamps? And how can we possibly avoid taking it out of defense?

This is creating a precedent of avoiding, or restoring, entitlement cuts by taking it out of the defense budget. If this amendment passes, this will haunt us for a long time to come.

Because there are people in this body—not the people here tonight; probably no one is even listening tonight—but there will be people on this floor of the Senate within 2 years that will be after the defense budget to fund other entitlements.

I go back to the chart, Mr. President. The problem in our fiscal picture in this country is not the discretionary accounts, although there is waste and abuse and fraud there like everywhere else, and it can be trimmed and it can be cut. The problem is in entitlement growth.

But what this amendment does is take money from defense, which is coming down, and put it over into entitlement accounts, which are going up.

So, as worthy as the cause is, I have to, in good conscience, oppose this amendment. I wish I did not. I doubt very seriously if I will get a single letter, maybe one; maybe there is somebody out there that will write and say thank you for opposing this amendment. I suspect I will get several thousand that say we do not understand why you opposed our COLA.

But, Mr. President, at some point somebody has to say what is happening to our national security and our defense—not today, not tomorrow, not next week. We are still a strong country, stronger than any in the world. But you cannot keep doing things like this without paying a price. And we are going to pay the price. It is inevitable.

CONCLUSION

Mr. President, the Warner amendment promises COLA equity, but it does not deliver on that promise. We have 4-year problem. The Warner amendment only attempts to solve that problem for 1 year.

The Warner amendment does not guarantee COLA equity, even in 1995, for a single military retiree. It says there will be COLA equity if the Appropriations Committee can find the money to pay for it. But the Senator's amendment has not such offsets. This amendment tells the Appropriation Committee to go find the money to pay for this benefit, without asking the Senate to face up to finding these offsets.

Ultimately this amendment will lead to cutting the defense budget to pay for retirement benefits, despite the President's request to Congress to hold the line on further defense cuts, and despite the concern that I and many of my colleagues in both the House and Senate have that the current 5-year defense plan is already underfunded.

The Warner amendment undermines the budget process by providing an escape hatch from the pay-as-you-go system. As a result, it puts all discretionary spending programs, not just defense, at risk. If we adopt this amendment, the Senate will be setting a precedent whereby any entitlement program can be increase as a discretionary program, without adhering to the pay-as-you-go rules, simply by offering floor amendments to appropriation bills.

We all agree that the current COLA inequity is a problem. But the Warner amendment is not the right way to solve this problem. The Congress has already established a pay-as-you-go process to deal with situations like this. We should be willing to live within the rules we have set. I urge my colleague to reject the Warner amendment.

Mr. President, I ask unanimous consent that a letter from the Office of Management and Budget Director Leon Panetta be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, June 29, 1994.

Hon. SAM NUNN,
Chairman, Committee on Armed Service, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you know, the defense authorization bill passed by the House on June 9 contained a provision that would adjust the effective date for cost-of-living adjustments (COLA's) for military retirees to the same date as for civilian retirees. We understand that your committee considered this issue during your markup of the authorization bill, and that Senator Warner intends to offer a similar amendment on the floor of the Senate during consideration of your bill. I am writing to let you know that the Administration does not support the Warner amendment.

We fully recognize the inequity—created by congressional action last year—of the current situation where cost-of-living adjustment for military retirees lag similar adjustments for civilian employees. The Warner amendment is unacceptable, however, for two reasons. First, the amendment would create a loophole in the basic process insuring discipline in reducing deficits. Current budget guidelines require increases in so-called mandatory spending to be offset by cuts in comparable mandatory accounts. The Warner amendment would create a dangerous precedent by financing increases in entitlements through cuts in discretionary programs. In effect, the Warner amendment undermines the basic "pay as you go" precept for mandatory spending. If enacted, this amendment would open wide the defense budget and other discretionary funds to finance politically-popular entitlement programs.

Second, as you know well, the President has insisted that the defense budget not be cut further. The Warner amendment, no matter how well intentioned would reduce resources currently budgeted for high priority defense programs. Moreover, since the Warner amendment would involve $375 million in outlays, this would necessitate offsetting cuts of $500 million in readiness-related O&M funding, or as much as $2 billion in procurement if readiness funding is to be insulated from the effects of the amendment. The President cannot support cuts in his defense program of that magnitude, no matter how deserving the cause.

For these two reasons, I request your support in defeating the Warner amendment.

Sincerely,

LEON PANETTA,
Director.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from Virginia.

Mr. WARNER. How much time does the Senator from Virginia have remaining?

The PRESIDING OFFICER. The Senator from Virginia has 38 minutes 51 seconds.

Mr. WARNER. Mr. President, I do not intend to take that much time.

Does the distinguished Senator from Maryland desire any additional time?

Mr. SARBANES. Yes.

Mr. WARNER. Would he kindly indicate the amount he would like?

Mr. SARBANES. Five or ten minutes.

Mr. WARNER. I yield such time as the Senator from Maryland might require.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I just want to point out a couple of things.

I understand the litany of horror stories that the distinguished Senator from Georgia has laid before us. I was particularly interested in his apprehension about the far-reaching effects of rectifying the COLA problem. But I want to make one point.

What this amendment is addressed to is intimately related with the defense program. The basic premise on which we are proceeding is that retirement for military people has a direct relationship to the military program.

First of all, these are people who have made the military program work in the past. The country has some obligation to them as a consequence of that. If we chose not to uphold that obligation, we could eliminate their retirement, pick up a lot of money, and boost all these other programs within the defense budget. No one is suggesting we do so.

So the real question is, what is fair? What is equitable? How do you allocate your resources?

I would assert this has a direct effect on our military because it clearly affects the morale of our men and women in the service, and therefore, our ability to encourage them to sustain a military career.

The use of discretionary defense spending to meet military compensation obligations is not unprecedented. The military pay increases are absorbed within discretionary defense spending almost annually. Furthermore, if you regard retirement benefits as deferred compensation, it argues even more strongly for making the COLA adjustment that the distinguished Senator from Virginia and I are seeking with this amendment.

Of course, the House has asserted that this can be achieved using of discretionary nonreadiness defense funds. I understand that the chairman of the committee differs with that and I submit that this will require a careful analysis of the defense budget.

However, my understanding is that the defense budget for fiscal 1995 provides $270 billion in outlays. I think that is the correct figure—$270 billion. On the other hand, this amendment costs $376 million.

So you have a universe of $270 billion in outlays out of which to find the $376 million to cover this COLA adjustment.

I appreciate that the task is a challenging one and I understand the arguments that the chairman of the committee has made. But, nevertheless, there are people who have examined this issue and seem to believe it is within reason to achieve.

I want to now make a couple of points about their interesting entitlement chart.

The real entitlement problem is health care costs. There is absolutely no doubt about it. Here it is. And, of course, that is why we are trying to do health care reform. One of the purposes of the health care reform, amongst others, is to have comprehensive coverage for all our people. But another purpose is to achieve effective health care cost containment. And, of course, that is addressed at trying to control these increases in health care indicated on the chart. However, this has nothing to do with the issue that we are addressing here this evening. Nothing whatsoever.

The second big outlay increase in entitlements is Social Security. But, as the distinguished chairman of the committee, the distinguished Senator from Georgia, pointed out, this program is actually more than paying for itself. In fact, the Social Security Trust Fund is running a surplus, not contributing to the deficit in any way. In effect, it represents a judgment on the part of the American people that they are willing to pay the Social Security taxes in order to sustain the program and pay the Social Security benefits.

Now, the distinguished Senator from Georgia said there are problems coming up in the future with respect to that program. And if you look at the projections there is a certain accuracy to that. But we have had that problem in the past. And every time we had it, we adjusted the Social Security System in order to address it.

Most recently, in the early 1980's, we restricted the benefits and increased the taxes in order to get the trust fund back into a proper balance. I am very frank to say I have every anticipation that, if necessary, we will do that again. That takes care of your two big outlay increases. The other, of course is an increase in domestic discretionary spending with a corresponding decrease in defense and foreign assistance.

The argument is maybe there should be a decrease in these areas. One has to examine what the security situation is in determining whether this decrease is reasonable, whether it is too much, or not enough. And whether the domestic discretionary increase is too much or not enough. I have no magic answer for that.

I do not think you can simply call something an entitlement and say it is bad. You have to know what the program is. You have to make your comparisons. Obviously what we are trying to do in this amendment will require some lowering of defense spending in other areas. You then need to ascertain those areas. You have to ask yourself the question: Is that a reasonable tradeoff to make?

We are not going outside of the defense-related area, which is a danger that the Senator from Georgia raised and frankly which I believe is a very remote danger. I do not anticipate a situation in which people are going to propose paying for the Medicare Program out of the defense budget. We are proposing this tonight because we assert that this retirement program for the military is directly related to the military budget and the whole approach with respect to the military. In addition, the entitlement group which military COLA's are a part have increased the least of all the items on this chart.

I very much hope the Members will support this amendment. I appreciate there will be some of the difficulties which the chairman of the committee has outlined. But it would seem to me they could be overcome. That was certainly the position that was taken in the House. In fact, as I understand it, in the course of the consideration it was repeatedly asserted that they would be able to find the funds out of nonreadiness funds in the budget.

But I understand the chairman asserts that is not the case and that is one of the things—

Mr. NUNN. If the Senator will yield at that point, it is interesting the Appropriations Committee is the one who has to find the money. The House Appropriations Committee did not find the money. They did not put it in their bill. The authorized money is not appropriated in the House bill. If it is not appropriated in the Senate bill it will not be found, notwithstanding.

Mr. SARBANES. I understand it is a two step process, but if we do not take the first step here the second step cannot be taken there. There is no guarantee if we take the first step here the second step will be taken, but if we do not do this step there is no possibility of doing the second step.

Mr. NUNN. The Senator is absolutely correct. No quarrel on that point. The only point I was making is when the Senator says it is not going to be that difficult to find, the House appropriators did not find it and it is not in the House appropriations bill.

Mr. SARBANES. I believe in trying again. I think we ought to take this step and then see what can be done. The consequence, of course, of taking this approach is that it opens up the possibility of being able to remedy this discrepancy and bringing the military retirees forward to the first of April instead of deferring them to October 1st.

So, given all of that I very much hope our colleagues, when they come to consider this amendment, will be supportive of it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I simply wish to conclude my remarks by saying the Senator from Maryland is exactly right and that is that it is the responsibility of the Department of Defense. I listened very carefully while my good friend, the distinguished chairman, enumerated a number of areas which would have to be cut if this amount of money, relatively small as the Senator from Maryland pointed out, $376 million versus $270 billion—

Mr. SARBANES. Million against billion.

Mr. WARNER. But I can summarize my argument in one sentence. That is an obligation of the Department of Defense. The first obligation is not to the tanks and the airplanes and to the ships, but it is the men and women who operate them, who operate them today and who are counting on this COLA and this Congress to take care of them out of fairness tomorrow. If we do not take care of those who have retired and fulfilled their obligation there is less incentive for those who are on active duty today, roughly 1.3 million, to remain and assume those hardships and those risks together with their families.

I yield my time.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I will send an amendment to the desk, which will be offered if the Senator from Virginia's amendment is not agreed to. I think, however, if his amendment is agreed to it will be my view that the Senators have really voiced their view on this and I see no need to push this amendment.

But this amendment would address the COLA inequity that the Senators from Virginia and Maryland have identified. I agree with their description. I repeat that—I think they are right. There is an inequity. I just do not think we can cure every inequity, and I certainly believe we cannot cure this inequity, and should not cure it, by taking it out of the defense budget.

Mr. President, this amendment would share the sacrifice. This would basically say for the civil service retirees and the military retirees, COLA restraint would be equalized. It would mean military retirees would basically have about half as much sacrifice as under the status quo. Civil service retirees would basically have about $700, over a 4-year period less in terms of increases. Nobody is getting cut in this process. I think that is one point that ought to be made. These are all increases. We are talking about increases here. We are not talking about cutting anybody's retirement. We are talking about how much increase they get as a compensation for the cost of living.

The difference between this amendment and the Warner amendment is, first of all, the Warner amendment is a 1-year amendment. It will basically restore approximately $270 to the average military retiree next year.

Mr. WARNER. That is $376 million.

Mr. NUNN. I am talking about the average retiree: $270, approximately.

What my amendment would do is take the entire sacrifice the military retirees are going to be making over the 4-year period, which is about $1,300, and say you take only half of that. So this amendment basically would save the average military retiree about $650. The Warner amendment saves them about $270 the first year. This amendment saves them more. But if you continue this process and you have the Warner-Sarbanes amendment every year and take that amount out every year for 4 years, you would save more under their approach. But theirs is a 1-year balancing. My amendment restores equity for all 4 years.

What it does not do is increase the deficit. Neither does the Warner amendment. My amendment solves the problem without cutting any important spending programs in defense. It solves the problem without creating what I consider to be a very dangerous precedent of raiding the discretionary spending to pay the costs of the mandatory entitlement, and violating the pay-as-you-go principle of the 1990 budget agreement which said in effect, very simply, if you raise one entitlement program you have to lower another one. Our colleagues on the Governmental Affairs Committee, Senator GLENN and Senator ROTH, wrote a letter saying:

> Such an amendment would be unprecedented. [This is talking about the Nunn amendment] Robbing one retirement system to pay another retirement system is simply wrong. To propose increasing military retirees' COLA's at the expense of civil service retirees is not equitable.

I quote from their letter in opposition to my approach and the committee approach. Our committee voted for this second approach, I believe 13 to 8, the Armed Services Committee did.

What Senator GLENN and Senator ROTH are saying is they do not believe in the pay-as-you-go system. The pay-as-you-go system, which was enacted in 1990, said if you raise one entitlement program you have to cut another one. So, basically they are saying when you do that you are robbing. They are basically saying we are going to keep letting entitlements go. This is not the Senator from Virginia and Senator from Maryland who said this. I just believe, since there is going to be so little time—almost no time tomorrow for debate—it ought to be said.

I fundamentally disagree with this particular letter. The approach the Armed Services Committee voted for—although we did not do it in the bill because we did not have sole jurisdiction over these programs—did not violate the pay-as-you-go principle. It would stick to that principle. It would say we are not letting entitlement growth get any worse.

ALTERNATIVES CONSIDERED BY THE COMMITTEE

Mr. President, I think most of my colleagues agree that Congress made a mistake last year when we put the COLA's for military and civilian retirees on different schedules. Most members of our committee felt this was wrong and wanted to address this issue this year.

During our markup of this bill, the committee considered five different options for equalizing the dates on which military and civil service retiree COLA's are paid.

The first option was to move the military retirement COLA date up each year to the same date as civil service retiree COLA's are paid by adding the cost to the deficit. This would increase the deficit by $2.1 billion over the next 4 years. Not one member of our committee spoke in favor of this approach during our markup.

The second option was to move civil service retiree COLA's back to the same dates on which military retiree COLA's are paid. While this approach would reduce the deficit by $2.8 billion over the next years, I think it is fair to say this would be an unpopular approach.

The third alternative was to not change the civil service COLA date, but to find some other nonretirement entitlement that could be reduced to offset the increased cost of the military retirement COLA, as required under the pay-as-you-go rules of the 1990 Budget Summit Agreement. This was not a realistic option in our markup, as we have no other entitlements under our committee's jurisdiction large enough to cover the cost of COLA equity. However, some of my colleagues may have some nonretirement entitlement program savings in mind, and of course any Senator is free to offer an amendment to do this if neither the Warner amendment nor the committee amendment is adopted.

The committee discussion focused on two major alternatives, one of which is the amendment proposed by the Senator from Virginia, and one of which is the committee amendment which I am proposing.

WARNER/SARBANES AMENDMENT

The fourth alternative the committee considered was the Warner-Sarbanes amendment which we have been debating. I will not repeat my arguments as to why I oppose that approach.

COMMITTEE AMENDMENT

Mr. President, the final alternative looked at, and the one recommended by the committee by a vote of 13 to 8, is this committee amendment to eliminate the discrepancy in COLA delays by splitting the difference between the current COLA dates.

This approach would equalize the COLA dates for military and civil service retirees by moving the military retirement COLA date forward 3 months in 1995 and 1996, while moving the civil service COLA date back 3 months so that both COLA's would be paid on July 1. In 1997 and 1998, the military retirement COLA date would be moved forward 5 months, while the civil service COLA date would be moved back 4 months so that both COLA's would be paid on May 1.

The committee amendment would correct the inequity in COLA dates and would not increase the deficit. It would reduce spending in one entitlement to fund an increase in another entitlement, as provided for in the pay-as-you-go procedures set up by the Budget Enforcement Act of 1990, without requiring additional reductions in already scarce defense resources and without setting new budget precedents.

Mr. President, this amendment corrects the current COLA inequity created by the Omnibus Budget Reconciliation Act of 1993, and it continues the policy the Congress has followed for the past 25 years: ensuring that military and civil service retirees receive the same COLA's on the same dates.

This amendment operates on a basic principle we use to solve difficult problems all the time: splitting the difference. To eliminate the 6-month difference in 1995 and 1996, the military retiree COLA would be moved up 3 months and the civil service retiree COLA would be moved back 3 months. The 9-month discrepancy in 1997 and 1998 would be eliminated by moving civil service COLA's back 4 months and moving military retiree COLA's up 5 months.

Let me explain exactly what this discrepancy means to the typical retiree. The average military retiree and the average civil service retiree both receive pensions of about $1,500 to $1,600 a month, or $18,000 to $19,000 per year. The cost-of-living increase for 1995 is estimated to be 3 percent. Three percent of $1,500 a month is $45. The issue then is how much longer does a military retiree have to wait for his $45 increase than civil service retirees do?

Under current law, that is, if we do not fix the discrepancy, military retirees will have to wait 6 months longer than their civilian counterparts in 1995 and 1996. So to the average military retiree the discrepancy comes out to about $270 a year in 1995 and 1996—that's $45 a month for 6 months. In 1997 and 1998 the discrepancy grows to 9 months, so the average military retiree will lose about $400, compared to his retired civil service counterparts. So for the whole 4-year period the discrepancy equates to about $1,350 for the average military retiree—that is the cost of his additional delay.

The amendment recommended by the Armed Services Committee would delay civil service retiree COLA's for 3 additional months, in order to move the military retiree COLA up by 3 months. So instead of the military retiree getting $270 less than his civil service counterpart, the military retiree would get about $135 more next year, and the civil service retiree would get about $135 less than they would under current law.

No retiree's pension would be reduced. I know some people might think that was the case given all the rhetoric about this amendment, but it is not. Nobody would get less. But rather than one group getting more in April while the other group has to wait until October, they would both start getting more in July.

The committee amendment would mean that the average civil service retiree would get a $45 increase 3 months later in 1995, and the average military retiree would get a $45-a-month increase 3 months sooner, compared to current law. That is what we are talking about Mr. President. One hundred and thirty five dollars. We would be asking one group, who due to what I would call a mistake, got $270 more than their neighbor, to split that $270 with their neighbor.

While I was not all that surprised to find that the groups representing the retirees that got the $270 windfall were not prepared to share in the name of fairness, I was somewhat surprised to find that groups representing the military retirees who got less also oppose having their neighbors share the $270 with them. Many of the groups lobbying the Congress on this amendment seem to think the only fair solution is to leave the first group—who got more—alone, and find another $270 to give to each person in the second group by cutting it out of the defense budget.

Mr. President, I do not agree with funding entitlement COLA's by cutting our defense budget even further. I believe the committee amendment is a better way to deal with this problem. The committee amendment pays for itself in every year. It is in keeping with the pay-as-you-go procedures contained in the 1990 budget summit agreement, whereby an increase to one entitlement program can be offset with a decrease to another entitlement program.

This amendment will not weaken the budget process by undercutting the discipline of the pay-as-you go process.

This amendment will not weaken the committee system by handing over the functions of the authorizing committees to the Appropriations Committee.

This amendment will not force us to make cuts in the operations and maintenance accounts which will further jeopardize the readiness of our forces.

I urge my colleagues to support the committee amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I ask unanimous consent I may have printed in the RECORD at this point a list of those associations, Federal, civilian, and military organizations, that oppose the proposition of the distinguished chairman. I think they have communicated with the Congress and they are well deserving to be mentioned in this RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

FEDERAL CIVILIAN AND MILITARY ORGANIZATIONS THAT OPPOSE THE NUNN COLA EQUITY SUBSTITUTE TO THE DEFENSE AUTHORIZATION BILL

The Retired Officers Association.
Non-Commissioned Officers Association.
Air Force Sergeants Association.
National Association for Uniformed Services.
The Retired Enlisted Association.
Enlisted Association of the National Guard Association of the U.S.
Marine Corps Reserve Officers Association.
National Military Family Association.
Commissioned Officers Association.
Marine Corps League.
CWO and WO Association, U.S. Coast Guard.
Jewish War Veterans of the U.S.
United Armed Forces Association.
Naval Enlisted Reserve Association.
Navy League of the U.S.
The Military Chaplains Association.
U.S. Army Warrant Officers Association.
U.S. Coast Guard CPO Association.
National Guard Association of the U.S.
Naval Reserve Association.
Reserve Officers Association.
Air Force Association.
Association of Military Surgeons.
Fleet Reserve Association.
Association of the U.S. Army.
American Federation of Government Employees.
American Federation of State, County and Municipal Employees, AFL-CIO.
American Foreign Service Association.
American Psychiatric Association.
American Postal Workers Union.
Federally Employed Women.
Federal Managers Association.
Fund for Assuring an Independent Retirement.
Graphic Communications International Union.
International Association of Fire Fighters.
International Federation of Professional and Technical Engineers.
International Union of Operating Engineers.
Laborers' International Union of North America.
Military Sea Transport Union.
National Association of Air Traffic Specialists.
National Association ASCS County Office Employees.
National Association of Federal Veterinarians.
National Association of Government Employees.
National Labor Relations Board Union.
National League of Postmasters of the United States.
National Postal Mail Handlers Union.
National Association of Letter Carriers.
National Association of Postal Supervisors.
National Association of Postmasters of the United States.
National Association of Retired Federal Employees.
National Federation of Federal Employees.
National Rural Letter Carriers Association.
National Treasury Employees Union.
Organization of Professional Employees of the Department of Agriculture.
Overseas Education Association.
Patent Office Professional Association.
Public Employee Department AFL-CIO.
Senior Executives Association.
Service Employees International Union.

FEDERAL CIVILIAN AND MILITARY ORGANIZATIONS THAT SUPPORT THE NUNN COLA EQUITY SUBSTITUTE TO THE DEFENSE AUTHORIZATION BILL

None.

Mr. NUNN. Could I ask the Senator from Virginia, is there any organization out there that favors my amendment?

Nobody who gets paid in Washington favors my amendment and that is why we have such problem with entitlement programs today, because everybody paid in Washington gets paid to protect the entitlement programs when they are in debt. So it is no surprise to me that not a single organization in Washington would endorse this amendment. I think it would be basically shocking if I found anybody who did. So that is why we have the kind of fiscal problem we have today. There is really no better example.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I know debate time is going to be very limited tomorrow. I know it is very late in the evening. I just want to take a moment or two to address the amendment the distinguished Senator from Georgia indicated he may offer tomorrow. I, of course, would very much oppose that amendment. I want to be very clear. The amendment that Senator WARNER and I have offered is deficit neutral.

The distinguished Senator from Georgia does not like how we hope to pay for it. It will be paid for. It is deficit neutral.

Mr. NUNN. I think I said that. I agree with that.

Mr. SARBANES. This amendment the Senator from Georgia is talking about would pit one group of Federal retirees against another. I urge Members to think very carefully to support any amendment that would lead us down such a divisive path.

To their credit—and I want to underscore this—to their credit, the organizations and members who are part of the military coalition and who wish to shift forward military COLA's unequivocally opposed to any amendment that would offset one COLA against another.

They are against this amendment, and they do not want to see this conflict developing here.

I want to include in the RECORD the letter of the chairman and ranking member of the Governmental Affairs Committee which the chairman of the Armed Services Committee quoted just a moment or two ago.

Let me just quote the next paragraph from that letter:

> If we are to correct the COLA inequity between military and Federal civilian retirees, we believe that the proper course of action is that suggested by Senators John Warner and Paul Sarbanes. The Federal and military communities are unanimous in their opposition to Senator NUNN's proposal, or any alternative that would provide COLA's to one group of retirees at the expense of another.

And there is a list of the groups attached to this letter which oppose this amendment.

So I very much hope that on tomorrow when we vote, the Members will support the amendment put forward by the Senator from Virginia, Senator WARNER, in which I joined, and if the Senator from Georgia, Senator NUNN, was to offer the amendment he described that they would defeat that amendment.

Mr. President, I ask unanimous consent that the letter I referred to be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC, June 23, 1994.

DEAR COLLEAGUE: We are writing today regarding the current inequity in the Cost-of-Living-Adjustment (COLA) delay schedules for military versus Federal civilian retirees. As Chairman of the committee on Governmental Affairs and the Ranking Minority Member, we have long supported equity between the retirement systems of military and Federal civilian retirees.

However, there is one issue related to so-called COLA equity which we must object to. In the process of marking up S. 2182, the Department of Defense Authorization Act, the Armed Services Committee voted 13 to 8 to recommend that a committee amendment be offered during floor consideration of this Act that would equalize COLA dates for military and civil service retirees by moving the dates for military retiree COLA's forward and the dates for civil service COLA's back in each fiscal year from 1995 through 1998. Adoption of such a proposal, would completely rewrite last year's budget reconciliation bill by—in effect—increasing instructions to the Governmental Affairs Committee and decreasing instructions to the Senate Armed Services Committee.

Such an amendment would be unprecedented. Robbing one retirement system to pay for another retirement system is simply wrong. To propose increasing military retiree COLA's at the expense of civilian retiree COLA's is not equitable.

If we are to correct the COLA inequity between military and Federal civilian retirees, we believe that the proper course of action is that suggested by Senators John Warner and Paul Sarbanes. The federal and military communities are unanimous in their opposition to Senator Nunn's proposal, or any alternative that would provide COLA's to one group of retirees at the expense of another. This is why military, federal employee and postal associations and unions are supporting the Warner/Sarbanes amendment. Attached is a list of these groups. The Warner/Sarbanes amendment would rectify the COLA disparity in 1995 by shifting the COLA for military retirees to April through a reduction in the nonreadiness accounts in the defense budget. As you may know, the Warner/Sarbanes amendment was included in the House-passed DoD reauthorization bill.

For many years, social security, the civil service, and the military retirement systems have used the same adjustments for inflation. Last year's budget reconciliation bill changed COLA's for federal civilian retirees in one way and military in another. Social Security was left untouched. We have consistently supported equitable COLA treatment between the three systems, and we favor raising the COLA for military retirees. However, we do not believe that the proposal being recommended by the distinguished Chairman of the Armed Service Committee is the appropriate solution to COLA equity. In the interest of restoring equity and fairness, we urge you to support the Warner/Sarbanes amendment.

Sincerely,
JOHN GLENN,
Chairman.
WILLIAM V. ROTH, Jr.,
Ranking Member.

FEDERAL CIVILIAN AND MILITARY ORGANIZATIONS THAT OPPOSE THE NUNN SUBSTITUTE ON ANY AMENDMENT THAT WILL REDUCE CIVILIAN COLAS

The Retired Officers Association.
Non Commissioned Officers Association.
Air Force Sergeants Association.
National Association for Uniformed Services.
The Retired Enlisted Association.
Enlisted Association of the National Guard Association of the U.S.
Marine Corps Reserve Officers Association.
National Military Family Association.
Commissioned Officers Association.
Marine Corps League.
CWO and WO Association, U.S. Coast Guard.
Jewish War Veterans of the U.S.
United Armed Forces Association.
Naval Enlisted Reserve Association.
Navy League of the U.S.
The Military Chaplains Association.
U.S. Army Warrant Officers Association.
U.S. Coast Guard CPO Association.
National Guard Association of the U.S.
Naval Reserve Association.
Reserve Officers Association.
Air Force Association.
Association of Military Surgeons.
Fleet Reserve Association.
Association of the U.S. Army.
American Federation of Government Employees.
American Federation of State, County, and Municipal Employees, AFL–CIO.
American Postal Workers Union.
Federal Managers Association.
International Association of Fire Fighters.
National Postal Mailhandlers Union.
National Association of Letter Carriers.
National Association of Postal Supervisors.
National Association of Postmasters of the United States.
National Association of Retired Federal Employees.
National Federation of Federal Employees.
National Rural Letter Carriers Association.
National Treasury Employees Union.
Senior Executives Association.

Mr. SARBANES. Mr. President, I yield the floor.

Mr. WARNER. Parliamentary inquiry, is there any further business to come before the Senate?

Mr. NUNN. Mr. President, if there is no other Senator who wants to be heard—do we have any time remaining on the amendment that we need to yield back?

The PRESIDING OFFICER. The Senator from Georgia has 23 minutes and 20 seconds. The Senator from Virginia has yielded back his time.

Mr. NUNN. Mr. President, I believe under the unanimous consent agreement, as I recollect, there will be no further time if I did not yield back my time for that time to be used. There would be no time tomorrow morning because we have votes from 10:30 on, and all the other time is allocated to other amendments; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. Parliamentary inquiry. I am not sure I followed what the Senator said. It is my understanding the agreement explicitly states that the Senator from Virginia has 10 minutes on his amendment tomorrow morning, as well as the Senator from Georgia has 10 minutes on his amendment, assuming it is offered.

Mr. NUNN. The Senator is correct. What I am saying is if I do not yield back my time, there is no additional time available in the morning. We have that 20 minutes. I believe that will be wrap-up on this debate.

Mr. President, I yield back the remainder of my time, the time we have left this evening, not the time tomorrow.

The PRESIDING OFFICER. The Chair understands.

MORNING BUSINESS

TRIBUTE TO JACQUELINE KENNEDY ONASSIS

Mr. BRADLEY. Mr. President, Jacqueline Kennedy was 34 when she became a widow—34 years old when she stood next to Lyndon Baines Johnson and witnessed him taking the oath of office upon the assassination of her husband in November 1963.

She behaved at that moment in history with the dignity that she brought to the White House as its First Lady, with the strength she evidenced in the ensuing months while a nation mourned, and with the poise she possessed throughout the course of her life.

Jackie Kennedy Onassis was not a woman for that time, but a woman for all time—she endured, and moved beyond, that period of crisis in our Nation's history, to become more than the grieving widow of John F. Kennedy. She was her own strong woman, and that is how the Nation will remember her.

She will be remembered as a woman who fought for causes that were important to her and won: the preservation of Lafayette Square in Washington and the fight to save Grand Central Terminal in New York are but a few examples. She will be remembered for having built a successful career for herself in publishing: Bill Moyers, a colleague of her for whom she edited three books and a resident of my State, said that she was "as witty, warm, and creative in private as she was grand and graceful in public." Perhaps most of all, she will be remembered for the two beautiful children she left behind, whose success and happiness must be attributed in part to their mother's effort to shield them from the public's never-ending fascination with the Kennedy family.

Jackie Kennedy Onassis was an intensely private person in a world which viewed her as a living legend. In pursuit of that elusive privacy she became a sometime-resident of New Jersey, escaping from New York on weekends to her summer home in Bernardsville. There she indulged in her favorite pastime of horseback riding, and lived among people who respected the privacy that she came for. The residents of her adopted Bernardsville miss her, and mourn her passing as the Nation does.

They mourn her passing as we in the U.S. Senate do. I could not be more eloquent than her brother-in-law, Senator EDWARD KENNEDY, was in the eulogy he delivered at her funeral: "Jackie was too young to be a widow in 1963, and too young to die now * * * she graced our history, and for those of us who knew her and loved her, she graced our lives."

TRIBUTE TO MINNESOTA STUDENT GOING TO JAPAN

Mr. DURENBERGER. Mr. President, today I would like to congratulate Robert Meyers, a senior at Wayzata Senior High School in Plymouth, MN for being chosen to take part in the Sony Student Project Abroad. Rob was chosen for this honor because of his outstanding achievements in academic and extra-curricular pursuits.

Some of Rob's many achievements include: a 3.99 average on a 4.0 scale—straight A average; outstanding Wayzata Student Music Award; All-State Orchestra; First Speaker Award at Concordia College Debate Tournment; a member of the state champion tennis team, and a nomination to the U.S. Senate Page Program.

As you can see from the many accomplishments Rob has attained, he is not only extremely qualified to represent Minnesota in this program, but represents the kind of well-rounded student that Minnesota, or any State, would be proud to call its own.

The Sony Student Project Abroad began in 1990 to celebrate Sony Corp., of America's 30th anniversary, by providing talented American students the opportunity to study science and mathematics in Japan. This program will not only encourage the pursuit of excellence in science and mathematics but also will foster a deeper understanding of Japan among American youth.

As we enter into this highly techological information age, and as our world becomes increasingly interdependent, the importance of education in the science and the significance of international understanding are more critical than ever.

Again, I would like to congratulate Rob on receiving this great honor and thank Sony for making an investment in our future, by encouraging American students to pursue academic excellence. I look forward to hearing of Rob's experiences upon his return from Japan.

EAST TIMOR

Mr. DURENBERGER. Mr. President, I rise to express my deep dismay regarding the Senate's vote last evening concerning the sale of arms to Indonesia.

My colleagues are well aware of my interest and activity in regard to Indonesia's persistent abuse of human rights in East Timor. This is an issue which has concerned me for my entire tenure in the Senate.

It was almost 20 years ago that Indonesia invaded East Timor. The history of the past 20 years is a record of ongoing, brutal repression of the people of East Timor. Year after year, various human rights publications, including the annual Country Reports on Human Rights from the State Department, detail reports of torture, arbitrary arrests, unfair trials, and many other abuses, including harassment of human rights monitors.

In response to the Dili massacre in November 1991, the Congress suspended IMET aid to Indonesia. The House bill for fiscal year 1995 includes a prohibition on IMET to Indonesia. The Foreign Operations Subcommittee deleted this prohibition, and instead proposed language that any agreement to sell or provide military equipment to Indonesia during fiscal year 1995 shall expressly state that it not be used in East Timor.

Mr. President, this is not at all unreasonable. There are 8,000 Indonesian troops in East Timor. The record of repression is clear. All the committee provision did was require that United States arms should not be used against the people of East Timor. This action would send a strong message to the Indonesian Government that the United States will no longer turn a blind eye to its repression of the East Timorese. But by tabling the committee amendment, we have sent exactly the wrong message.

I will continue to press ahead and consistently urge the Indonesian Government to accept internationally accepted standards of human rights. I know my friend from Wisconsin, Senator FEINGOLD, will continue to push this matter as well, and I appreciate his efforts in this regard.

Thank you, Mr. President. I yield the floor.

TRIBUTE TO JACQUELINE BOUVIER KENNEDY ONASSIS

Mr. LAUTENBERG. Mr. President, on Thursday, May 20, in the year of 1994, a woman who had influenced the style of the country, given comfort to our people, and always demonstrated dignity and grace, passed away. Jacqueline Bouvier Kennedy Onassis was a woman who touched many people—Senators and citizens, executives and blue collar workers, Americans and people throughout the world. In the words of one woman, Kristin Cabral, who paid her respects during the calvacade along Washington's streets, "[Jackie] was not just some plastic icon, but a very strong person and woman. I very much believed in her."

I, too, very much believed in her and that which she accomplished. As the First Lady, Jackie worked hard to create a cultural atmosphere in the White House and the capital by promoting the arts. Through these efforts, she brought an appreciation for the arts to the United States as a whole. Later, as an editor, she continued this work, bringing many wonderful books to the printing press and to the public.

Dealing with pain and tragedy is a most difficult experience, and it becomes almost unbearable when it occurs in the public eye. Jackie's courage during those horrible days after November 22, 1963, gave the country strength. Instead of giving comfort to her, we drew courage from her. At that time, I was a businessman in New Jersey, active in civic affairs, but not yet involved in the political world in which Jackie found herself. I felt the enormous blow that struck the whole country, and also took comfort from Jackie's stoic countenance and composure.

My father was a cancer victim, as was Jackie. I knew something of the pain she must have felt. But even in her last hours, she was a figure of grace and courage. She chose to spend those final moments enjoying the company of her loved ones. As a fellow Martha's Vineyard vacationer, I often witnessed Jackie's complete devotion to her children and family. I know that her children, John and Caroline, will always remember the graceful, loving, and dedicated woman that all Americans have come to admire and love from afar.

Indeed, the memory of this strong woman will live on in the minds of all the people she touched. The indelible mark that she left upon the American people, and people throughout the world will only be deepened by her passing. Our memories of her will burn as bright, and as long, as the eternal flame which marks the grave of President Kennedy, next to whom she now rests in peace.

COMMENDING ANDREW S. BUSH ON HIS SERVICE TO THE U.S. CONGRESS

Mr. DOMENICI. Mr. President, I rise today to wish one of my former staff members well as he departs the U.S. Congress after more than 7 years of distinguished service. Andrew S. Bush, who worked for me for 3½ years before joining the staff of the Committee on Ways and Means of the House of Representatives, is leaving the Congress to lead an exciting new project involving reform of the Nation's welfare system.

Andy, who grew up in Wellsville, OH, came to Washington in 1986 after graduating Phi Beta Kappa from Ohio State University and earning a master's degree in public policy studies from the University of Chicago. He was a Presidential management intern with the Department of Health and Human Services, where he was a Medicaid policy analyst in the Health Care Financing Administration.

In March 1987, he joined my staff as the legislative assistant for labor, education, health, child care, and science and technology issues. He was the key member of my staff responsible for the enactment of the National Competitiveness and Technology Transfer Act of 1989. The act reformed the way technology is managed within the Department of Energy and improved the Department's ability to share nonclassified technologies and skills with the private sector for the benefit of American enterprise.

Andy was the point person on my staff for child care legislation. He was instrumental in developing tax credit legislation so that families would have a choice about the type of child care they could arrange. The objective was to make sure the same Federal incentive would be available for families choosing to have the mother stay home and provide the loving care, or for those choosing to arrange child care in the home with a relative or other care giver, or for those choosing to place the youngsters in day care centers.

Andy Bush was my staff brain on the brain. He was involved with the Decade of the Brain and worked diligently on legislation that led to the creation of the Human Genome Center at Los Alamos National Laboratories and other national laboratories. Hopefully, some day the work done at the Genome centers will provide the genetic information that will lead to the cure for more than 3,000 genetic diseases.

As I look back on it, Andy was an important part of a very strong, professional and effective legislative staff which worked to pass more than 200 bills and amendments during my third term in the Senate.

In November 1990, Andy left my staff to work for the Ways and Means Committee in the other body. As professional assistant to the minority for human resources and, most recently, health, he has made substantial contributions to the public policy debate on welfare reform, job training, unemployment compensation, child care, and of course, health care reform.

Those of us who serve in the Congress are fortunate to have talented young men and women to assist us. Andy Bush embodies the best qualities of those that serve us. He is truly dedicated to understanding the nature and consequences of public policy choices and working to improve the Government's ability to affect meaningful changes in the lives of our citizens. With his intelligence, professionalism, and good nature, he has made a difference.

Andy may be leaving the halls of Congress, but he is not leaving public service. One of his particular passions has been trying to address poverty and its associated problems of limited economic opportunity and the breakdown of the family, social institutions, and the social compact. In his new position as the manager of the welfare reform project for a non-profit research institute, Andy will be redesigning a State welfare system. This will allow him to create and develop more effective and efficient methods for intervening in the lives of disadvantaged individuals and helping those in need become capable of leading fulfilling and self-supportive lives.

Mr. President, I commend Andrew S. Bush for his service to the U.S. Congress and wish him well as he embarks on this exciting new phase of his career.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, the incredibly enormous Federal debt is like the weather—everybody talks about it but nobody does anything about it. Congress talks a good game about bringing Federal deficits and the Federal debt under control, but there are too many Senators and Members of the House of Representatives who unfailingly find all manner of excuses for voting against a constitutional amendment to require a balanced Federal budget.

As of Wednesday, June 29, at the close of business, the Federal debt stood—down to the penny—at exactly $4,604,969,673,918.82. This debt, mind you, was run up by the Congress of the United States; the big-spending bureaucrats in the executive branch of the U.S. Government, you see, cannot spend a dime that has not first been authorized and appropriated by the U.S. Congress. The U.S. Constitution is quite specific about that, as every school boy is supposed to know.

So pay no attention to the nonsense from politicians that the Federal debt was run up by one President or another, depending on party affiliation. Sometimes they say Ronald Reagan ran it up; sometimes they say George Bush. I even heard that Jimmy Carter helped run it up. All such suggestions are false—the Congress of the United States is the villain.

Most people cannot conceive of a billion of anything, let alone a trillion. It may provide a bit of perspective to bear in mind that a billion seconds ago, Mr. President the Cuban Missile Crisis was going on. A billion minutes ago, not many years had elapsed since Christ was crucified.

That sort of puts it in perspective, does it not, that Congress has run up a Federal debt of 4,604 of those billions—of dollars. In other words, the Federal debt, as I said earlier, stands today at $4,604,969,673,918.82.

SILVER AWARD TO NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE

Mr. SHELBY. Mr. President, the National Committee to Preserve Social Security and Medicare, a grassroots advocacy and education organization for older Americans based in Washington, DC recently won the Society of National Association Publications' Silver Award. The award recognized an editorial written by National Committee President Martha McSteen which appeared in their membership publication, "Secure Retirement."

Mr. President, I have worked closely with Martha and her staff on a number of issues that affect older people in this country. I understand their commitment to maintaining Social Security, and I congratulate Martha for her award-winning article.

Mr. President, I ask for unanimous consent to have my remarks entered into the RECORD along with Mrs. McSteen's award-winning editorial and a letter announcing the award in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SOCIETY OF NATIONAL
ASSOCIATION PUBLICATIONS,
April 24, 1994.

JACK MCDAVITT,
National Committee to Preserve Social Security & Medicare, Secure Retirement, Washington, DC.

DEAR JACK MCDAVITT: We would like to thank you for participating in the 1994 SNAP EXCEL Awards competition. This year we received a total of 651 entries, over 30% more than last year and by all accounts, the projects were of a very high quality and the judging extremely challenging.

We are delighted to inform you that your entry, Secure Retirement, was awarded a Silver Award in the Magazines—Editorial or Column category for "Social Security Protects the American Family." Congratulations on your fine work and exemplary product: your efforts have truly identified National Committee to Preserve Social Security & Medicare as a leader in the field.

As a winner, we cordially invite you to attend the Awards Breakfast where a presentation ceremony will take place and your publication will be publicly recognized as an award winner. The breakfast will be held Wednesday, May 25 from 9–11 a.m. at the Washington Marriott in Washington, DC. Please plan to join us for this annual celebration of the awards winners and use the enclosed form as your RSVP.

We appreciate your participation in this year's competition (and certainly next year's too!) and hope to see you in May at Exploring New Horizons, where the winning entries will be showcased and judges highlighted.

Sincerely,

LAURA J. DEVLIN,
Director, Association Services.

[From Secure Retirement, Nov.-Dec. 1993]

SOCIAL SECURITY PROTECTS THE AMERICAN FAMILY

(By Martha McSteen)

The ink was barely dry on the new budget law—one which mandates increased income taxes on Social Security benefits—before a proposal was made to once again threaten seniors in the name of deficit reduction.

The Concord Coalition—headed by former Sens. Paul Tsongas and Warren Rudman—has released its plan to eliminate the federal budget deficit by the year 2000. And they mean to do it by cutting entitlements—primarily Social Security and Medicare.

Indeed, the Concord Coalition advocates a combination of other changes—ending some obsolete subsidies, raising some new taxes—in order to achieve their goal. But the lion's share of the "savings" is achieved by means testing the Social Security and Medicare benefits of middle- and upper-income seniors.

The plan is based on the premise that seniors who are more well-off are not deserving of government support. Make no mistake—this is not just a move to curb benefits to the wealthy since means testing would start at family income levels of $40,000.

This is an attack on the fundamental principles of Social Security.

It seems once again seniors must educate the leaders and the lawmakers as to the truth about Social Security, Medicare and other earned-right entitlements.

Policy makers blame these programs for the deficit and claim that the budget cannot be balanced without cutting benefits.

This is simply untrue. Earned-right entitlements like Social Security and Medicare Part A do not cause the deficit.

Both of these programs are paid for by payroll contributions dedicated to a specific purpose. The monies collected from workers and employers are put into separate trust funds to pay benefits and administrative expenses. Period.

The Social Security is running a huge surplus—more than $46 billion this year alone. In no way is it contributing to the deficit.

But there is an even more important point to make, one which the number-crunchers seem to overlook. Social Security and Medicare protect the American family in its times of need. And Americans overwhelmingly support and value the security these programs provide.

Social Security gives financial security to those who have retired at 62 or older, to those who cannot work due to disability and to those who have lost a family worker. Medicare ensures disabled and older Americans have access to needed health care services.

Those who blame entitlement benefits for the nation's deficit woes often ignore Social Security as a family protection program. More than 2.5 million beneficiaries are children 18 years old and under.

Social Security provides valuable disability and life insurance protection for American families; Medicare provides health insurance for more than 1.9 million disabled Americans under 55.

Social Security lifts more families with children out of poverty than does the Aid to Families with Dependent Children (AFDC) program.

The changes proposed by the Concord Coalition would shift Social Security and Medicare from universal, progressive social insurance programs to welfare programs.

They would strip these programs of the public support they currently enjoy.

And that would be tragic. Social Security is the most effective anti-poverty program our nation has, simply because it is not a welfare program.

Another point to remember: critics argue Social Security and Medicare benefits are misplaced on the middle class. Calling Social Security a middle-class entitlement program, however, is a badge of success.

Without Social Security, more than one-third of all beneficiaries would no longer be middle class. They would be poor.

LETTER OF RECOGNITION REGARDING WILLIAM G. WETZEL'S RETIREMENT

Mr. SHELBY. Mr. President, I rise today to recognize William G. Wetzel, on the occasion of the conclusion of his term as president of the National Association of Health Underwriters [NAHU].

For more than 38 years, "Bill" Wetzel has been active in the insurance business. His remarkable career has covered accident and health claims, private investigating, underwriting, insurance sales and corporate management. It was fitting, therefore, when he was asked to serve as president of NAHU. With over 15,000 members, NAHU is the largest and only independent association representing professionals specializing in health insurance in the United States.

Bill has also been an invaluable participant in his local Birmingham, AL, Association of Health Underwriters, and consequently, I thought, no one was more deserving of the Alabama State Association of Health Underwriters' John Galloway Memorial Award for outstanding service in the interest of health insurance in 1993.

Bill has been a member of NAHU for 19 years, and has served on the NAHU Board as president of the Disability Insurance Training Council [DITC]. He personally researched and arranged for the production of the DITC Sales Reference Manual that is now nationally recognized.

In addition, Bill has been a leading voice in the current health care debate. He has fought tirelessly against the mandatory alliances that would have put his fellow underwriters out of business. I want to thank my friend from Alabama for his important input on this issue.

Mr. President, we wish the best for Bill and his family as he moves on in his life, and I look forward to his continuing leadership in his local Association of Health Underwriters. We in Alabama are proud of what Bill has contributed to our community and this great nation, and eagerly anticipate what the future has in store for him.

JACQUELINE KENNEDY ONASSIS

Mr. LEVIN. Mr. President, Jacqueline Kennedy Onassis touched a deep chord in the American people—from the day she married young Senator John Kennedy to her days as First Lady, through the tragedy of President Kennedy's assassination and finally through her withdrawal into private life. She remained a figure greatly admired by the public for many more years than she spent in public life. She had an allure that was seemingly irresistible, and a polish and refinement that one hopes would be models for us all.

She was a modern woman whose life in many ways personified the changing role of women in America during the second half of the 20th century. Her interests were cultural, artistic and many, and her good taste governed everything in which she involved herself. Protecting her children from the limelight that was forced upon her was probably the primary focus of her young life, and she raised them to be the fine young people they are today.

Jacqueline Kennedy Onassis was taken from her family and loved ones far too soon and the loss for them is surely immeasurable. It is also a loss to those who may not have known her personally but who had great admiration for this woman whose nobility of conduct displayed a consistent and extraordinary grace as she dealt with the severe pressures and demands placed on her.

Her passing leaves a void that will not easily be filled and also leaves us diminished as a nation.

TRIBUTE TO JACQUELINE BOUVIER KENNEDY ONASSIS

Mr. BIDEN. Mr. President as the nation mourned, and continues to mourn, the death of Jacqueline Bouvier Kennedy Onassis, many of us have tried, in private and public reflections, to define and explain her enduring place in our common history and our shared consciousness. It is a difficult, if not impossible, task, as it always is when we try to put into words the meaning of a life that has touched our very spirit and left us forever changed.

It never was the ambition of the woman we knew, and will always remember, as "Jackie" to have the kind of fundamental public influence. It was a part of her style that she did not cherish celebrity, a part of her grace that she did not succumb to its temptations, and a part of her dignity that she did not surrender to fame, but sought—in the end, it seemed, successfully—to make peace with it on her own terms.

Certainly, Mrs. Onassis did seek throughout her adult life to make public contributions, and did so successfully and every meaningfully. The legacy of her passion for the arts, for history and for the beauty of the landmarks and places of refuge she cherished so deeply, is very tangible and valuable, and cause enough for our lasting respect and gratitude.

Yet there is more than we remember. We remember that at the age of just 31, then-Jacqueline Kennedy seemed the living expression of the inspiration so many of us felt on that cold January day in 1961. When "the torch [was] passed to a new generation of Americans," it quickly seemed to us that Jackie was among the most worthy to receive it, that she represented part of what was best in us, part of what we aspired to be. We were, simply, fascinated by her.

Initially, it may have been the glamour, the elegance in appearance and manner that President and Mrs. Kennedy introduced over the still-young medium of television, which fascinated us in itself. But there was something deeper in the images. The couple in the White House looked like a promise, like the embodiment of hope as well as of style.

As time passed in all its fateful twists, our admiration for Jackie grew deeper. We came to know and respect her devotion to her children, her complete and uncompromising commitment to them, and her growing pride in their achievements and their characters. We learned about the seriousness and sincerity of all her passions, and about her determination to remain true to them—despite criticism, despite challenges, despite losses that would have cracked a less noble heart.

It was in times of loss, and especially during those wrenching days of November 1963, that Jackie touched this nation's spirit most profoundly. She was 34 years old, with two very young children, when President Kennedy was killed. She must have felt the eyes and the weight of the world on her, added to her personal and family grief, her justified anxiety about her children's future, and what must have been a rage almost as great as her sadness.

What she did was remarkable. She carried this Nation to the Capitol Rotunda, along the route of the funeral procession and for days and weeks afterward, with a strength at once incomprehensible and undeniable. Again, now in the darkest as before in the brightest hour, she seemed the embodiment of hope—hope that the unendurable could be endured, that the future still mattered and demanded our attention, that dreams were still possible.

That may have been the greatest gift that Jacqueline Kennedy Onassis gave to this country, an enduring sense of hope. She gave it to us not through conscious effort, but as a natural result of her transcendent grace and dignity. And it is right that we should honor her for it, now and always.

WIRELESS CABLE SERVICE EXPANDS IN SOUTH DAKOTA

Mr. PRESSLER. Mr. President, recently I celebrated with some of my constituents the initiation of new wireless cable service in the Sioux Falls area. On May 31, 1994, I attended the formal dedication of Sioux Valley Rural Television's microwave broadcast facilities outside Rowena, SD. I was pleased to join the celebration.

Sioux Valley Electric's vision of providing wireless cable service to its rural customers began years ago. General manager, Jim Kiley, told me in 1987 about Sioux Valley Electric's desire to provide wireless cable service. Unfortunately, the Federal Communications Commission [FCC] had a freeze on new applications for wireless cable. The agency had received so many applications, there was a tremendous backlog. However, most of the applications were for more lucrative urban markets.

Jim and I met with then FCC chairman Dennis Patrick and explained that lifting the freeze could provide television choices for underserved rural areas. Sioux Valley Rural Television applied for a license at Colman and asked for a waiver or lifting of the freeze. The FCC accepted Sioux Valley's application and lifted the freeze for applications that were 50 miles or more from an existing license. This really opened things up for rural areas.

Sioux Valley was granted a license for Colman and has been providing television service since July 1989. I had the pleasure of attending the dedication ceremony for Sioux Valley's broadcast tower in Colman.

In 1992, Jim told me about Sioux Valley's pending applications at the FCC to provide service in Sioux Falls and northern Minnehaha County, and to add additional channels in Colman. It has taken a long time, but the FCC finally granted these applications. Sioux Valley has been providing 11 channels of television from its tower outside Rowena since May 15, 1994.

Mr. President, I ask unanimous consent that an article about the dedication from the Humboldt Journal be placed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Humboldt Journal, June 9, 1994]

SIOUX VALLEY RURAL TV NOW SERVING MINNEHAHA & NORTHERN LINCOLN COUNTIES

With help from Senator Larry Pressler (R-SD), Sioux Valley Rural Television (SVRTV) formally dedicated its new Rowena microwave broadcast facilities last week.

SVRTV is a subsidiary of Sioux Valley Electric. Since 1989, the TV cooperative has been serving subscribers in Lake, Brookings and Moody counties. Recently, with help from Senator Pressler and his Washington staff, SVRTV also won Federal Communications Commission (FCC) licensing to serve Minnehaha and northern Lincoln county areas surrounding Sioux Falls.

"Our new Rowena system is broadcasting 11 of cable TV's most popular channels," said Jim Kiley, general manager of both Sioux Valley Electric and Sioux Valley Rural TV. "Our basic-plus package of programming even includes the Disney Channel," Kiley added.

Other channels included in SVRTV's basic-plus package are Discovery, ESPN (sports), the Cable News Network (CNN), the Nashville Network, TNT (Turner Network Television), superstations WGN and WTBS, Nickelodeon, the USA Network and TNN. The Home Box Office (HBO) Movie Channel is also available for an additional $9.95/month.

NOTHING TO BUY

SVRTV subscribers lease their home-end equipment (a TV top receiver/descrambler and small outdoor microwave antenna). The monthly fee for the ten channels shown above is $18.95, plus a $6.50/month equipment lease/maintenance charge. Equipment installation is provided by SVRTV technicians and typically costs $25.

General Manager Kiley, in remarks at the dedication ceremony, said providing cable TV programming in rural areas is consistent with Sioux Valley Electric's basic approach to serving its consumers:

"We view our mission as going beyond merely meeting consumers' basic need for reliable central station electric service. We also feel our organization should be looked on as a resource that can be used by rural people to improve their overall quality of life."

Kiley said the cooperative began providing wireless cable TV service because "Our rural consumers wanted greater access to the type of entertainment and informational programming that cable systems were providing to their urban-area customers."

PRESSLER, STAFF PRAISED

Both Kiley and SVRTV board chairman John Tevedahl praised the efforts of Senator Pressler and his staff in working with the FCC to secure the licensing required to provide expanded TV programming to rural-area subscribers throughout Sioux Valley Electric's four county service territory: "We simply couldn't have asked for a more dedicated ally," said Tevedahl. SVRTV's operations director, Joel Brick, and his staff also won praise:

"Joel has literally worked night and day for the past five years to accomplish what we're here to celebrate today," Tevedahl said adding "On behalf of all the people who will enjoy the results of your work, I and the rest of the Sioux Valley Rural TV board of directors thanks you. Tevedahl also cited Kiley for his leadership throughout the five years SVRTV has been in operation: "It was your vision that was responsible for adding TV programming to the long list of other services which our cooperative provides. It hasn't been easy to see all of this through, and I salute you for your encouragement, enthusiasm and leadership."

FREE SIGNAL CHECKS

Brick said SVRTV's new Rowena facility is performing "flawlessly," adding that a strong signal should be available to most of the estimated 5,000 homes with the system's coverage area. Nevertheless, before installing a potential subscriber's home-end equipment, Brick said SVRTV technicians perform a free, no-obligation signal quality test at the subscriber's location to be certain that a good signal is available. "That way," he added, "there's no uncertainty involved."

Information about Sioux Valley Rural TV is available by calling 1-800-616-7888.

SALUTE TO COP COLLECTIBLES

Mr. COHEN. Mr. President, I rise today to bring to the attention of my colleagues an outstanding and innovative program of Maine's South Portland Police department which has been enormously successful in teaching young citizens to stay away from illegal drugs.

As juvenile crime and illegal drugs use continue to infect our cities and towns in epidemic proportions, we must do all we can to educate our Nation's youth from their earliest ages about the dangers of becoming involved with drugs, crime, and violence. Conveying an anti-drug message to kids is increasingly difficult since our culture delivers a continuous message of violence and irresponsibility to our children through the television and movies they watch, the music they hear, and even the headlines and news stories to which they are exposed.

Parents, teachers, and communities are finding it very difficult indeed to compete with the glamorous portrayal of violence and substance abuse. Thus, when community leaders find a way to reach children effectively on these crucial issues, we should do all we can to promote their efforts.

The South Portland Police department in Maine has taken on the difficult task of delivering positive messages to young people through a very successful—and seemingly old fashioned—means: trading cards. Last year, the department issued its first edition of "Cop Collectibles"—trading cards, like baseball or football cards, featuring police officers. Instead of sports heroes, each card sports the picture of a local police officer. On the back is the officer's biography and an anti-drug message which the officer on the card has selected.

Sgt. George Berry, the public relations officer of the department, seized on the opportunity to trade on this American tradition after learning about a similar collectibles program in Iowa. The cards are distributed to children at schools, and each week the police department features a card that the children eagerly collect. Prizes and contests are provided to encourage children to collect the cards, and community businesses have joined in by offering promotions, such as free pizzas or T-shirts, to young people who participate in the program.

The Cop Collectibles program has been enthusiastically embraced by the entire community, schools, parents, and most importantly, by the children themselves. Almost 140,000 cards have been distributed in the first year of this project alone and a second series of cards will soon be issued. Several other police departments have plans to begin similar programs due to the enormous success of South Portland's experience.

In addition to providing a strong, effective antidrug message, the Cop Collectible program has fostered an important relationship between law enforcement and youth. Since the program began, it is not unusual to see children lining up at the police station to visit their heroes, pointing out a familiar police officer on the street based on cards they have collected, or having officers autograph their cards at the Maine mall. Perhaps most importantly, the program has taught children that it is "cool" to admire police officers and to resist drugs, alcohol, and violence.

Mr. President, through my work on the Juvenile Justice Subcommittee, I am firmly convinced that prevention and education are the best way to combat juvenile crime, and that communities must do all they can to support law enforcement's efforts in these areas. The South Portland Police department's Cop Collectibles program is a prime example of how a community has banded together to send the right message to their children, and I am confident that we will see the positive results of this program for years to come.

I want to commend Chief Robert Schwartz, Sergeant Berry, and the entire South Portland Police department for their commitment to the young people of their community and congratulate them on the success of their program.

WINNERS IN WYOMING COAL INFORMATION COMMITTEE ESSAY SCHOLARSHIP PROGRAM

Mr. WALLOP. Mr. President, I rise today to honor the four winners of the Wyoming Coal Information Committee annual essay scholarship program. Rebecca Fisher of Powell received a $2,000 scholarship for her first place entry and will attend the Northwest College in Powell. The regional winners of the $500 WCIC scholarships are Neel Kumar of Laramie, David Russell of Rawlins, and Tammy Gilbertson of Gillette, all of whom plan to attend the University of Wyoming.

These outstanding students competed with 33 other Wyoming students. To qualify, students were required to write an essay entitled, "Wyoming Coal—Revenues, Resources and Jobs for the State and Its Citizens." By utilizing and culminating their extensive research, participants were able to better understand the importance of Wyoming's coal industry and the benefits it provides. All of the top essayists wrote excellent pieces focusing on how the industry benefits each and every person in Wyoming through tax revenues that fund schools, roads, and other vital services. All essayists agreed that the search by producers for a cleaner fuel rejuvenated Wyoming's failing coal economy in the 1960's. The winner, Rebecca Fisher, stated that Wyoming's strip mines and high worker productivity combined with its environmentally friendly low-sulfur coal contribute to its No. 1 ranking as a coal producing state. Tammy Gilbertson added that the coal industry provides 4,576 jobs and brings in $21 billion annually. Neel Kumar and David Russell noted Wyoming coal offers a practical alternative to unstable and unreliable Mideast oil. In short, each student did an outstanding job illustrating the contributions coal has made to our State's economy and environment.

I commend the Wyoming Coal Information Committee for providing scholarships that will undoubtedly encourage students to become the powerful leaders who will shape our future, and I congratulate each of these students on writing articulate and thoughtful essays. I ask that the essays be printed following these remarks.

There being no objection, the essays were ordered to be printed in the RECORD, as follows:

WYOMING COAL—REVENUES, RESOURCES AND JOBS FOR THE STATE AND ITS CITIZENS

(By Rebecca Fisher)

As a high school senior and one who has, what I thought, a well rounded knowledge of the world and that's going on in it, I was amazed to discover Wyoming's involvement in the coal industry.

In 1992, according to Rand McNally, the population of the State of Wyoming was approximately 455,975. Every year the State Inspector of Mines of Wyoming submits to the Governor of Wyoming, an annual report. In this report I was able to find out much about coal mining in the State of Wyoming. I found out from this annual report that approximately 2 percent of the entire State's population is employed in the mining industry and 49.8 percent of these were employed in coal mining production.

In the 1993 "Wyoming Mineral and Energy Yearbook" published by the Department of Commerce/Economic and Community Development Division/Energy Section, I found out that most of the coal produced in Wyoming is in Campbell County. In 1992 coal production fell in Campbell County by slightly over 5 million tons but this was the first decrease in Campbell County since 1986. Even with this decrease, Campbell County still produced 84 percent of the State's total coal. This decrease occurred because of the devaluation on coal by $38 million (or 9 cents per ton) and because of production losses. Campbell County produced 159.6 million tons of coal in 1992 and is expected to produce 153.3 million tons in 1993.

In 1993, Converse County was expected to be the second largest producer of coal in the State, with estimates of 17.1 million tons expected to be produced. This is quite an increase over the 1992 production of 8.5 million tons, 3d largest county for 1992 production. These increases reflect planned increases in several of the State's newest mines.

The third largest county, production wise, is Sweetwater County. In 1992, 12.8 million tons were produced. The 1993 estimates show a decrease to approximately 11.3 million tons.

The dollar valuation of coal production for 1993, based on the 1992 production, is the second largest for the State, at 31.5 percent in reference to mineral income. Coal production is second only to oil production, at 39 percent of the total dollar valuation. In Wyoming, the minerals industry is the largest contributor to the State's economy. The 1993 valuation based on 1992 production was $3,619,999,037 which represents 59 percent of Wyoming's total valuation. These figures place Wyoming in the top 10 of mineral producing States in the United States. Coal, coming in at 31.5 percent of the total valuation, breaks down to $1,140,299,696, making Wyoming the top producer of coal in the Nation.

There are basically four main types of coal but many more subcategories. The four main categories are ranked according to their composition and heating value. The four categories rank in order, from the highest content and heating value to the lowest. The four categories are: anthracite, bituminous, subbituminous, and lignite. The grade of Wyoming's coal is subbituminous and contains less sulfur and more moisture than this same grade of coal that is produced in the East and Midwest. The low sulfur content is the physical property that makes Wyoming coal so attractive to thermal electric generation plants. This interest began in the middle 1960's when it was discovered that the low sulfur content of the coal made it possible for the thermal electric plants to operate without having to install expensive exhaust gas scrubbers. Even though Wyoming coal had other factors that were not as impressive, such as low heat value and high water content, the savings of not having to install the exhaust gas scrubbers more than compensated for these other properties.

There was another reason that interest was sparked in the 1960's toward Wyoming coal and that was cost. Because most of the coal produced in Wyoming was strip mined, open pit mines, it cost less to produce than the deep mined eastern coal. Worker productivity is also greater because of the ability to use larger machinery and modern technology in the open pit mines. These factors all contribute to the lower production costs of Wyoming coal and the lower cost made it possible for the thermal electric generation plants to operate more profitably.

In 1959 Wyoming was at the very lowest in its coal production. The decrease in the production of coal started in 1947 when the railroads started changing from steam to diesel engines. As the demand decreased so did coal production. When the interest by the thermal electric generation plants started, Wyoming coal perked up. Since 1971 Wyoming coal production has increased over twenty seven fold. The decrease in 1992 (which was the first decrease since 1986) still led the Nation in coal production at 190,025,252 tons. The estimates by the Department of Commerce indicate that they expect Wyoming to be producing 220 million tons of coal by the year 1997. This is approximately a 16 percent increase over what was produced in 1992.

The Powder River Basin which encompasses three counties, Converse, Campbell, and Sheridan, has the three largest surface mines in the Nation. In the entire State there are 30 active coal mines. Of these 30 mines, 26 of them are surface mines strip mines, and only 4 are underground operations. Of the 23 counties in the State, the coal mines are concentrated in only 7 of them. The Kemmerer Coal Co. started operating around the turn of the century and is still operating today. It is considered the longest continuous operation in the State.

The demand for Wyoming coal has not only been from power plants in 32 of the United States, but also from electric utilities in Mexico, Canada, Japan, and Taiwan. Some billion tons has been exported to these other countries. Getting back to the figures I quoted earlier about the percentage of Wyoming residents that were employed in actual coal production I would like to say that I was not able to come up with any information that indicates figures that include the transportation of coal to its destinations. I did find out that 88 percent of the coal that was exported in 1992 was transported by the railroads. The balance of 12 percent was transported by truck or barge. So you can see that a great deal of people, not only in Wyoming, are receiving their livelihood from coal production and also from the transportation of coal from Wyoming to its destination of use. This is not to mention the number of people who are employed because of the energy that the coal is producing.

Living in Park County, which produces no coal, I was only aware that the lime plant, that was recently constructed near Frannie on the Wyoming/Montana border, used coal to operate their plant. I called the plant and was interested to learn that for the 330 days per year that they actually operate, they use 90 tons of coal daily. That figures out to 29,700 tons annually. They have the coal trucked in from Sheridan County and they receive three trucks daily. The lime plant employs 13 fulltime people and if the coal stopped, that would mean that 13 lime plant employees and at least three truck drivers would be out of work. So you can see that not only the production of coal employs residents of the State but some of the industry in the State is very dependent on Wyoming coal.

A different twist that I really hadn't considered is most taxes that are paid by the coal producers and the multitude of other minerals produced in the State, contribute directly to the individual residents of the State. Wyoming is one of only a few States in the United States that does not have State income taxes. I believe that most of the reason for this is the fact that we are so mineral rich and mineral production derives enough taxes to enable the State to operate without having to have a State income tax. Not only do the people derive the advantage of not having to pay State taxes but the cities, towns, and counties derive some of their operating revenues from the collections from the mineral producers in the form of mineral royalties, mineral severance, and sales taxes. Without the minerals produced in this wonderful State we would be poor indeed.

In conclusion I would like to submit a tremendous thank you to all of the mineral producers for making Wyoming such a wonderful State to live in. Without you, we as residents, would have less jobs, more taxes, and probably fewer cities, towns, and counties that provide well for our citizens.

WYOMING COAL REVENUES, RESOURCES, AND JOBS FOR THE STATE AND IT'S CITIZENS

(By Tammy Gilbertson)

Wyoming is a sparsely populated state with a delicate economy. Agriculture will not begin to support it, and the future of oil is uncertain and unpredictable. Coal, however, properly managed, marketed, and controlled will make Wyoming an economic leader in the west for many years.

Wyoming's coal sales are well over one billion dollars annually. This figure is based on sales; it in no way reflects the actual money that coal brings into Wyoming. Wyoming leads all other states in the amount of coal produced yearly. Wyoming (Campbell County) has the two largest coal mines in North America.

The impact of mining in Wyoming is positive and has been significant over the past two decades. In 1975, coal activities increased dramatically in the Powder River Basin and continued to grow until the local industry reached it's peak in 1981. The high level of activity in the coal industry, combined with a flourishing oil and tourist industry resulted in a statewide population explosion, with people from all over the world coming to Wyoming; most to mine coal. Sixty-three percent of Wyoming's gross economy is a direct or indirect result of coal mining in the state. More recently, the industry has experienced a steady, healthy growth; and the economic impact can already be seen (Mines in WY 1).

Coal mining has a significant effect on virtually all citizens of Wyoming. Coal revenues has generated over 10 million dollars for our state's schools in the last five years alone (Campbell County Chamber of Commerce). The coal industry provides jobs for 4,576 people year round in Wyoming. In total, coal mining brings in 21 billion dollars annually in direct economic impact on Wyoming.

Modern mining addresses issues which were notoriously ignored in the past; safety, environmental concerns, and community development and improvement are very serious considerations for today's mining companies. The environment is an issue that is on everyone's mind when mining is considered or discussed. Wyoming has a very rewarding program dealing with reclaiming the land that is mined. In Wyoming, every mine has a department that deals directly with environmental issues. These issues range from keeping the mine site clean to making sure that when the land has been mined it is put back to it's natural state. Reclaiming land is the process of putting the land back to the state that you found it in. Mines spend millions of dollars on this; the process includes planting grass, planting trees, adding rocks, and reestablishing animals that once lived on the land. This is a process that not only the mines but also the government takes very seriously. Mines can be very severely fined if the act of reclamation has not been successfully completed. Another issue of concern to the environment is the cleanliness of the mine. All mines have a standard of cleanliness that must be attained at all times. This standard includes the entire mine, from the mine vehicles to the bathrooms.

Safety is another issue that both mines and the government take very seriously. Mines make safety their first priority. Like the environment, safety also has it's own department. There are extensively trained, though rarely needed, rescue teams at every mine. Safety teams are maintained in case there are emergencies that require people with medical or rescue training. Achieving better safety records has become an exercise of intense competition among area mines, and the end result is that few injuries occur. Employees are generously rewarded for their contributions to safety. These rewards vary from money to clothing. Mines also encourage good health. They do this by providing health club passes to employees and their families or providing wellness clubs for participants to belong to. These programs are typically quite successful and are often expanded to benefit others in the communities.

In conclusion, mining is an extremely complex issue that deals with more than just energy; it deals with people. Right now coal is the United States' number one source of energy. Our reserves indicated that we would have enough coal to last at least 240 years at current consumption rates. Without coal, Wyoming would be a very poor state; and Campbell County would not exist in the form that we know it today.

WYOMING COAL—REVENUES, RESOURCES AND JOBS FOR THE STATE AND ITS CITIZENS

(By Neel Kumar)

Coal, one of Wyoming's most valuable assets, has almost unlimited potential in domestic and foreign markets. Wyoming coal is desirable because it has many unique characteristics such as its economical mining cost and its low sulfur content.

The demand for coal has been on the rise for several years. In the United States the need for a cleaner fuel source has caused many companies to take a good look at converting their factories from oil and high sulfur coal to the low sulfur coal found in the West. The domestic necessity for low sulfur coal, such as the type found in the Powder River Basin, has caused the demand for Wyoming coal to become greater. Wyoming has overtaken other states such as West Virginia and Kentucky to become the nation's leading coal producer. In 1991, Wyoming's coal industries were responsible for 19.6% of the United States' total coal output. The power generating industry is easily the largest consumer of Wyoming coal. Of the 194 million tons produced in 1991, 97% was consumed by power plants.

Coal offers a viable and cost efficient alternative to foreign oil. By using coal reserves, such as the ones in Wyoming, the United States decreases its dependency upon foreign energy products. Domestic coal would provide the nation with invaluable independence. This energy independence would also be very beneficial in the case of a national crisis such as a war or natural disaster. With the volatile instability of the Middle East, Wyoming coal offers this country a dependable and practical power source. By mining domestic coal, the United States invests into its power companies two choices. They can either begin burning more low sulfur coal or they can install scrubbers to filter some of the detrimental emissions released from their power plants. Switching to cleaner coal of the Western reserves would be half as expensive as buying a scrubber.

The Environmental Protection Agency's (EPA) strict environmental standards make Wyoming's relatively clean coal look extremely appealing to many manufacturers and companies. A coal consuming company can save money by combining Wyoming's clean coal with a high sulfur coal to form an effective and inexpensive mix. Many industry analysts predict coal will be one of the solutions to the world's environmental problems. Wyoming's low sulfur coal has already helped the power generating industry to produce less hazardous emissions.

In the future, Wyoming coal may be exposed to new areas presently under development. Studies have been conducted to remove the pollutants in the flue gas resulting from the combustion of coal using microwaves. Scientists have also experimented with the addition of ammonia to coal to remove pollutants. If all or any of these processes are successful, Wyoming coal will become an even more important resource. The technology for the gasification and liquefaction of coals is available; should the economics be favorable, these technologies will offer Wyoming a chance to utilize its reserves in another method.

The coal industry brings many kinds of jobs to Wyoming. In 1992, the employment of workers in the coal industry was at 4,648. Equally important to Wyoming's economy are the number of jobs created as an indirect result of various coal companies. Besides the workers in the coal mines, people are needed to operate the machinery in the power plants which produce electricity from the coal. Many jobs, including positions which involve the construction and maintenance of mining facilities, have been created as a direct consequence of Wyoming's coal industry. Numerous companies have been founded to offer the coal industry dependable machinery. Other offshoots of mining are the businesses and industries which settle near the mines to provide the workers with everyday necessities; an example of a city like this is Wright, Wyoming.

The research of coal utilization has been become very important. The country has begun to realize the values of its enormous coal resources and why it should be utilized in an environmentally safe manner. Studies, both public and private, are being conducted to determine the best possible method for burning Wyoming's low sulfur coal. All of these jobs, direct results of the coal industry, are a significant part of both Wyoming's society and its economy.

Wyoming coal industries are also responsible for a great amount of economic activity in this state. In 1991, a study conducted by Drs. Robert Fletcher and David Taylor found this economic activity in Wyoming to be approximately $2.7 billion. Once again, the indirect economic results of the coal industry are equally as important.

State taxes from the sale of Wyoming coal provide money for road maintenance, educational institutions, water development projects, recreational facilities and trust funds. Other taxes, such as the severance tax, are distributed to capital construction, highway funds and a Permanent Mineral Trust Fund. In 1991, the total amount of taxes—including sales, use, federal, and severance among others—generated from Wyoming's coal reserves was $457,359,000. The state of Wyoming received roughly 57.3% of the aforementioned figure.

Wyoming has unlimited economic potential with the advancement of the coal industry. The state must begin to concentrate its efforts to utilize its assets in the most productive way possible. It is clear that the Wyoming coal industry will lead this state into the 21st century, giving its citizens a bright and prosperous future.

WYOMING COAL

(By David Russell)

In the heart of Rawlins, Wyoming thrives a small business that provides several services to the community. D&L Enterprises, owned and run by my father and his brother, is an industrial paper company, appliance sales and repair dealership, and part of the Culligan franchise all wrapped into one with plumbing on the side.

Rawlins is struggling economically right now, and businesses, especially small businesses are going through some hard times. My father has to keep his business very flexible and open to new ideas just to survive, but he could not survive at all without Wyoming's coal industry.

Every business and every person in this state is affected by Wyoming coal, whether they realize it or not. My father deals directly with the coal mines in Carbon County, selling them various paper products, rock salt, and extensive water conditioning services. Indirectly, the coal mines help the business by providing individual consumers.

In 1993, Wyoming's coal industry employed over 4,500 individuals, paying them an average of $1003.00 a week. This money was in turn put back into Wyoming's economy when an employee bought groceries, had a dishwasher fixed, or just ordered a pizza.

These 4,500 people keep my father and many others in business.

Aside from the business aspect, all Wyoming citizens benefit politically and financially from the coal industry. Because much of the nation depends on Wyoming coal as a source of energy, Wyoming carries much weight in Congress, especially on energy and environmental issues. With the ever increasing concern for the environment, demand for Wyoming's low sulfur coal will inevitably increase. Financially, Wyoming's citizens save a substantial amount of money. Severance taxes on mines account for five percent of tax revenue for the State. Wyoming also collects royalties from mines located on state owned land. If the coal mines didn't exist, that money would still have to come from somewhere.

Coal mining is a booming industry, which attracts big companies. Big companies bring people and business into the state. Wyoming has greatly benefited from the hard working and valuable citizens brought in by the coal industry.

Coal was discovered in Wyoming as early as 1843. According to U.S. Geological Survey records, the first recorded production of coal occurred in 1865 where some 800 tons of coal were produced. The Union Pacific Railroad was the major coal consumer from 1868 to 1950. Coal mines shot up all over the state and production inclined steadily until the mid 1940's.

During the 1950's, Union Pacific made a transition from coal burning steam engines to more efficient diesel engines. This was a striking blow to the coal industry and the economy of Wyoming. Coal production which was 9.8 million tons bottomed out at 1.6 million tons in 1958. Life got hard fast for many people. The fall in demand threatened the very livelihood of Wyoming's citizens. In Kemmerer, incidents were recorded of people rolling boulders down mountains to wreck any passing diesel propelled locomotives.

After hitting rock bottom in 1958, coal production again started to rise steadily. Demands from electric generation plants and factories kept coal miners working. These factories were generally located within the state at first, but the number of factories out of state increased, and coal production continued to rise.

In 1970, the Clean Air Act was passed. Within two years the demand for Wyoming's low sulfur coal shot to over 10 million tons. In 1973 the Arab oil embargo created an even bigger demand. Wyoming has since grown to be the number one coal producer in the nation. Amidst cutbacks, Wyoming produced a record of 214 million tons in 1993. Ninety-seven percent of Wyoming's coal is used by electric power generation plants and 84% of the coal is being transported outside the state.

In 1990 Congress enacted revisions to the clean air act, but Wyoming has not yet felt a significant impact. More environmentally friendly legislation is likely, and production will only increase. By the year 2001, the number of people employed by the coal industry is projected to be 5,140, and production will be 214.7 million tons. Wyoming still has 25 billion tons of coal in demonstrated reserves, but technological advances may enable us to take advantage of the 1.5 trillion tons underlying about 41% of Wyoming's surface.

Over the years, environmental extremists have been opposed to coal mining. Even the term "strip mining" brings to mind images of barren waste land, stripped of beauty and integrity, left by the heartless coal miner, who was only interested in making a buck. These images are frightening, but they are simply not true. Coal mines are required by law to protect the quality of the land, air and water. Like a good Boy Scout, mining operations return land to a condition as good as or better than it was before any mining took place.

I learned this lesson first hand last summer. I was employed by Graves & Associates, a company contracted to reclaim abandoned drill sites in the Green Mountain area. We were given maps of the area marked with all known drill sites, each of which had to be accounted for before moving on. At each site, we augured down to open up the hole, checked how deep the hole was, made sure it was taken care of properly, and then did a little landscaping.

* * * * *

TRIBUTE TO COL. JOHN McLAURIN, U.S. ARMY

Mr. SHELBY. Mr. President, today I want to congratulate Col. John McLaurin who is retiring after more than 23 years of service to the U.S. Army Judge Advocate General's Corps. Colonel McLaurin's final tour of duty has been as the chief of the Investigations and Legislative Division of the Secretary of the Army's Office of Legislative Liaison. In this capacity, John represented the Army in a highly professional and ethical manner. I have valued and relied upon his advice and wisdom in dealing with many of the difficult issues that face this great country of ours today. Articulate, forthright, and reliable, John is admired by all of us who have had the privilege to know and work with him.

John did not spend all of his years in the Army working in legislative liaison, however. In Belgium, at the Supreme Headquarters Allied Powers Europe, he successfully conducted the military services, negotiations with Belgian Government personnel under article VII of the NATO Status of Forces Agreement to obtain release of jurisdiction over military personnel. In France, at the American Embassy, he successfully negotiated similar releases of jurisdiction with the Governments of France and Monaco and served as the U.S. Defense Attaché's principal negotiator of American-French military international agreements. In South Korea he served as the staff judge advocate of the 2d Infantry Division, our most forward deployed unit in South Korea. John has served in equally notable positions in the United States as the staff judge advocate of Health Services Command, assistant general counsel in the Defense Intelligence Agency, deputy staff judge advocate of the 2d Armored Division, and post judge advocate at Yuma Proving Grounds. He developed Health Service Command's multimillion-dollar Third Party Collection Program and the Defense Intelligence Agency's Freedom of Information Act Office and regulations. He has successfully advocated in Federal civilian, military criminal, and military administrative proceedings. John's tenure in each of these positions was always marked by success, not just by giving great legal advice, but also by bringing a genuine love of the military and the soldiers who are the backbone of the Army to each position.

John is the type of dedicated, caring leader on whom our great Army depends. He has served our Nation well, and our heartfelt appreciation and best wishes for continued success go with him.

TRIBUTE TO FATHER CAESAR CAVIGLIA

Mr. REID. Mr. President, I would like to take a few moments to reflect on the career and pending retirement of a very special man in the southern Nevada community.

For the past 40 years, Father Caesar Caviglia, a native Nevadan, has devoted his life to helping people around him. He has done this, I believe, in a very unique fashion, exceptional in the way one would view the role of a priest.

Caesar Caviglia got his calling early in life. Religion became the principal focus for young Caesar and, at the age of 18, he enrolled in St. Mary's College in Mortaga, CA. To further his religious convictions, he entered the seminary 4 years later and was ordained at the age of 27. He holds degrees in philosophy, education, theology, and economics.

His education, as you can see, is quite impressive. His uniqueness, however, lies not in his education but in his ability to utilize his education and other natural abilities to garner support for projects and ventures that have changed the lives of those he serves. Father Caviglia was instrumental in securing a $1 million grant to build the Henderson Convention Center. He singlehandedly established the Henderson campus of the Community College of Southern Nevada. His love for senior citizens was realized in his creation of a meals-on-wheels program. I have named only a few projects he established to enlighten and nourish the community. It would take several CONGRESSIONAL RECORDS to list his complete works.

Commitment is the word that describes Father Caviglia's conduct in his ministry to, as he says, "be involved with the people in the secular dimension of their lives."

Some call Father Caviglia a power broker because he has become a political force in Nevada for many years. He has become such an influential figure that politicians seeking statewide office actively seek his support. I know this because I am one of those who sought his guidance and support, and thankfully so. His involvement with the political community has always been with the honest interests of Nevadans in mind.

Father Caviglia displayed his genuine concern for peace and humanity by playing a major role in blocking the MX missile project. He also became active in opposing the relaxation of Nevada's abortion laws. He saw these issues not as political, but as moral and spiritual. His actions are that of a guardian watching over a community he serves and cares deeply about. He has not restricted himself to the traditional role of a priest, but has moved throughout political and business worlds seeking to identify ways of improving the community's quality of life.

Whatever issue confronts him, Father Caviglia never drifts from his religious convictions. His inner core of faith is what motivates him. These beliefs have been translated into labors of love. In his own words, Father Caviglia sees the church, "as a fulcrum of change for the good." His brand of leadership is one of bringing the worlds of church, politics, and business together to forge a united path toward betterment as individuals and as a community.

When one looks at the life of Father Caviglia, one sees a person who has sacrificed his life for the service of others, a man whose selfless actions made his neighborhood a better place to live. His smile is contagious, and he has made a lot of people happy. Despite his relationship with the rich and powerful, his goals are with everyday people. He has a genuine understanding of the plights of those isolated or in pain, and he devotes himself to unifying and healing.

Father Caviglia's popularity is a product in no small part of his sense of humor and colorful stories, which he relates to audiences in eloquent fashion. In one chance meeting, it would be clear to anyone why Father Caviglia has endeared so many.

As he looks forward to his retirement after 22 years as the shepherd of St. Peter the Apostle Catholic Church, we should all be thankful for being blessed by a man who has accomplished so much for our community and, throughout it all, made us laugh. He has sacrificed his life for the benefits of others and has done so with a irrepressible, zestful spirit that makes him a spiritual role model and moral compass for us all. He once said "Embrace life to the fullest. Grab onto it with intensity, with a passion. Because the real talent we read of in the Bible is the talent of life itself, the talent of a life well-lived." Those are the words of a man who loves life and loves people.

UNITED STATES TO MOVE AHEAD WITH THE LAW OF THE SEA CONVENTION

Mr. PELL. Mr. President, I would like to inform my colleagues of a significant announcement made this morning by Secretary Christopher during his appearance before the Foreign Relations Committee. At the committee's hearing, he announced that the United States will sign a key Agreement that should enable us to become a party to the United Nations Convention on the Law of the Sea.

I am delighted by this news.

My involvement with and belief in the Convention has been extensive. In the 1960's I introduced resolutions in the Senate calling for negotiation of such an agreement. I was a delegate to some of the negotiating sessions. I have looked forward to this moment for almost 30 years.

Negotiation of an agreement to modify Part XI of the Law of the Sea Convention, which modifies the deep seabed mining provisions of the Convention, should make the Convention as a whole acceptable to the United States. This significant accomplishment has been a bipartisan policy goal of three administrations.

The Law Sea Convention contains many tangible and significant benefits for the United States. The Convention's provisions on freedom of navigation are especially important for our national security. The Persian Gulf War, conflicts in Bosnia and other regions of the world, together with excessive claims to jurisdiction by coastal states, underscore the United States' security interest in unimpeded military and commercial sea and air traffic.

The Convention has many other benefits. In particular, its provisions on the marine environment and fisheries provide a sound basis to address many of the problems faced in these areas.

I believe the United States and the world community will benefit from a regime that brings the rule of international law to the oceans.

The LOS Convention will enter into force in November of this year, so U.S. ratification is urgent. As Chairman of the Foreign Relations Committee, I will give my highest priority to securing Senate advice and consent to ratification of the Convention and the modifying Agreement.

Mr. President, I ask unanimous consent that a letter from the Secretary regarding his decision on the Convention as well as accompanying background material addressing the importance of the Convention for the United States be included in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, June 30, 1994.

Hon. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: Thank you for your letter of June 10 commending the Department's efforts to solve our outstanding difficulties with the deep seabed mining provisions of the United Nations Convention on the Law of the Sea of 1982. I am pleased to inform you, and through you, your colleagues in the Senate, of the Administration's decision to sign an Agreement on July 29 that will modify the deep seabed mining provisions of the Convention to meet United States objections.

As you know, a comprehensive and widely accepted Law of the Sea Convention has been an objective pursued by Democratic and Republican Administrations for more than two decades. Unfortunately, the pursuit of that objective was interrupted in 1982 by the adoption of a Convention that contained seriously flawed provisions on deep seabed mining.

Since that time, the other parts of the Law of the Sea Convention have provided the basic framework for United States oceans policy. With the entry into force of the Convention on November 16 of this year, it is now possible for the United States to pursue its policy objectives as an active party to the Convention. Indeed, in the aftermath of the cold war, it is imperative from the standpoint of our security and economic interests that the United States become a party to the Convention.

The Convention guarantees United States control of economic activities in adjacent offshore areas and enhances our ability to protect the marine environment. At the same time, it preserves and reinforces the freedoms of navigation and overflight essential to our strategic and commercial interests as the preeminent global power. Its strategic importance can not be overstated as our changing defense policy places greater emphasis on our ability to project our military forces and less on forward basing.

The "Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982" modifies the seabed mining provisions of the convention to respond to the United States objections. The process that led to this Agreement was initiated during the Bush Administration and our participation has continued under the Clinton Administration. The result is a regime that is consistent with our free market principles and provides the United States with influence over decisions on deep seabed mining commensurate with our interests.

As a treaty, the Agreement will be signed subject to Senate advice and consent to its ratification. By the terms of the Agreement the United States may only become party to it if we become party to the Law of the Sea Convention at the same time; the two instruments are to be interpreted and applied together as a single instrument. Accordingly, it will be necessary to submit the Agreement and the Convention together for Senate consideration, and following the United States signature of the Agreement on July 29, we will immediately begin preparation for their submission to the Senate for advice and consent.

Enclosed you will find a copy of the Agreement and additional background material addressing the importance of the Convention for the United States and the means by which the Agreement addresses our principal objections to the seabed mining provisions of the Convention.

Be assured of the Department's full cooperation as we seek to bring this longstanding bipartisan undertaking to a successful conclusion.

Sincerely,

WARREN CHRISTOPHER

Enclosure:
As Stated.

OCEANS POLICY AND THE LAW OF THE SEA CONVENTION

On July 29, 1994, the United Nations General Assembly will reconvene in special session for the purpose of adopting and opening for signature the "Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982" (Agreement). The Agreement will fundamentally change the provisions of the Convention (Part XI) that establish a regime to manage deep seabed mining beyond national jurisdiction. In so doing, it removes the obstacles that have prevented the United States and other industrialized countries from becoming parties to the Convention.

The Administration believes that the Agreement satisfactorily addresses long-held objections to the Convention's seabed mining provisions. Therefore, based on a unanimous interagency recommendation, the Administration has decided to sign the Agreement on the date it is open for signature. With the conclusion of this Agreement, it will now be possible for the United States to consider accession to the Convention. This action places the United States on the threshold of achieving an objective that has been pursued by successive United States Administrations for over a quarter century—that is, a comprehensive and widely ratified law of the Sea convention.

BACKGROUND: UNITED STATES OCEANS INTERESTS

The United States has important and diverse interests in the oceans. As the world's pre-eminent naval power, the U.S. has a strong national security interest in the ability, as a widely accepted matter of right, to navigate freely and overfly the oceans of the world. The end of the Cold War has, if anything, highlighted this need in view of our decreasing reliance on forward basing and the corresponding growing reliance on our ability to project our military power. Ensuring the free flow of commercial navigation is likewise a basic concern for the United States. As a major trading power, our economic growth is inextricably linked to a robust and growing export sector that is heavily dependent upon maritime transport.

At the same time, the U.S., with one of the longest coastlines of any nation in the world, has basic resource and environmental interests in the oceans. The seabed of the deep oceans offers the potential for economically and strategically important mineral resources. Inshore and coastal waters generate vital economic activities—fisheries, offshore minerals.

The health and well-being of coastal populations—the majority of Americans live in coastal areas—are intimately linked to the quality of the coastal marine environment.

Understanding the oceans, including their role in global processes, is one of the frontiers of human scientific investigation. The U.S. is a leader in the conduct of marine scientific research. Further, such research is essential for understanding and addressing problems associated with the use and protection of the marine environment, including marine pollution, conservation of fish and other marine living species and forecasting of weather and climate variability.

Pursuit of these objectives, however, requires careful and often difficult balancing of interests. As a coastal nation, for example, we naturally tend to seek maximum control over the waters off our shores. Equally, as a major maritime power, we often view such efforts on the part of others as unwarranted limitations on legitimate rights of navigation.

Moreover, traditional perceptions of the inexhaustibility of marine resources and of the capacity of the oceans to neutralize wastes have changed as marine species have been progressively depleted by harvesting and their habitats damaged or threatened by pollution and a variety of other human activities. Maintaining the health and productive capacity of the oceans while seeking to meet the economic aspirations of growing populations also requires difficult choices.

Striking the balances necessary to implement U.S. oceans policy must be viewed in an international context. Living resources migrate. Likewise, marine ecosystems and ocean currents, which transport pollutants and otherwise affect environmental interests, extend across maritime boundaries and jurisdictional limits. National security and commercial shipping interests are also international in scope. Access to mineral resources beyond national jurisdiction will be difficult without a basic international consensus. Achievement of oceans policy objectives thus requires international cooperation at the bilateral, regional and global level. The alternative is increased competition and conflict over control of the oceans and marine resources to the detriment of United States strategic, economic, scientific and environmental interests.

THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

United States oceans policy has always had as a basic objective the application of the rule of law to the use and conservation of the oceans. The United States was a leader in the international community's effort to develop an overall legal framework for the oceans in the Third United Nations Conference on the Law of the Sea, which began its substantive work in 1974.

The resulting United Nations Convention on the Law of the Sea (UNCLOS), concluded in 1982, provides a comprehensive legal framework governing uses of the oceans and the rights and obligations of States relating thereto. It achieved consensus on the nature and extent of jurisdiction that States may exercise off their coasts: a territorial sea of a maximum breadth of 12 nautical miles and coastal State jurisdiction over fisheries and other resources (e.g., oil and gas) in a 200 nautical-mile Exclusive Economic Zone (EEZ) and on the continental shelf here it extends beyond the EEZ. It balances extended coastal State jurisdiction with provision for preservation and elaboration of rights of navigation and overflight in these areas and guarantees of passage through and over straits used for international navigation and archipelagoes.

In addition to the nature and extent of maritime jurisdiction, UNCLOS sets forth rights and obligations of States with respect to:

Conserving marine living resources, including coastal fisheries populations, straddling stocks (fisheries populations whose range includes both areas of the EEZ and the high seas); and highly migratory species and marine mammals, such as whales;

Protecting the marine environment from all sources of pollution, including from vessels, dumping, seabed activities and land-based activities; and

The conduct of marine scientific research, including procedures for coastal State exercise of the right to require consent for research in coastal waters and for promoting and facilitating access by researchers to such areas.

The agreements reached in these areas well serve U.S. interests. Nonetheless, the provisions of UNCLOS on the deep seabed posed fundamental difficulties. Negotiations on these provisions were designed to give effect to the generally accepted principle that the resources of the seabed beyond national jurisdiction are the common heritage of mankind and that an international regime should be established to administer these resources. The essence of this principle is that the international community as a whole has an interest in the utilization of resources beyond the limits of national jurisdiction. Before the principle was incorporated into a United Nations Resolution in 1971, it had been endorsed in a statement by President Johnson in somewhat different terms (the "legacy of all human beings") and supported by the Nixon Administration. Subsequently, this principle was affirmed in the deep seabed mining legislation of the United States enacted in 1980.

Unfortunately efforts to negotiate an international regime took place against the backdrop of deep ideological divisions between developing and industrialized nations over how the principle should be translated into a concrete regime. The result from the United States perspective was a fundamentally flawed seabed mining regime.

U.S. objections, shared by other industrialized States, fell into two categories: institutional issues and economic and commercial issues. On the institutional front, we objected to inadequate influence for the United States and other industrialized countries within the seabed organization. On the economic and commercial front, we sought a more market-oriented regime. Therefore, we objected to mandatory technology transfer, production limitations from the seabed, onerous financial obligations on miners and the establishment of a subsidized international public enterprise that would compete unfairly with other commercial enterprises.

Because of basic objections to the seabed mining provisions of UNCLOS, the United States decided that it could not accept the Convention as a whole and did not sign it.

IMPLEMENTATION OF UNITED STATES POLICY

In 1983, the United States issued a presidential statement on oceans policy. It restated the objections to Part XI, reiterated our commitment to the objective of a universally acceptable convention and indicated that the United States would accept and act in accordance with the Convention's balance of interests relating to traditional uses of the oceans. This policy has been reaffirmed by successive United States Administrations. On this basis, the United States promoted international acceptance of the non-seabed provisions of UNCLOS, but continued to take the position that the deep seabed regime of Part XI required fundamental reform for the United States to consider accession to the Convention.

In the late 1980's, other nations increasingly began to recognize difficulties in the seabed mining regime contained in UNCLOS. This shift in attitude reflected general changes in the international political environment: the waning of the Cold War and the explosion of interest in free market reforms in developing countries and within Eastern Europe and the States of the former Soviet Union. It also reflected the decline in commercial interest in deep seabed mining as a result of relatively low metals prices and growing convergence of view among industrialized countries on the need for changes in

Part XI of the sort consistently advocated by the United States. The views of industrialized nations were matched by expressions of interest in an accommodation by developing countries—the primary defenders of Part XI.

These developments led the United Nations Secretary General in 1990 to launch a process of consultations aimed at resolving the objections that had caused the United States and others to reject the deep seabed mining regime. Initially, the United States took a cautious approach to these talks based on uncertainty regarding the likelihood that they could produce fundamental reform. However, in light of our longstanding commitment to a universally acceptable Convention, we participated to better evaluate the opportunities that might exist.

As they evolved, the Secretary General's consultations revealed growing international support for finding a solution to the problems of Part XI. The prospect of entry into force of the Convention (now definitely to take place on November 16, 1994) added momentum. Other industrialized nations saw a window of opportunity for fundamental change and argued that it would be more difficult to effect such change once the Convention had entered into force and its institutions had been established. Likewise, key developing countries shared concerns about entry into force of Part XI with little or no industrialized country participation.

In early 1993, the Clinton Administration undertook a detailed review of United States oceans policy. It endorsed the basic elements of that policy as they had been consistently articulated by past Administrations. It concluded that the prospects of reforming Part XI of UNCLOS to address our longstanding difficulties had improved to the point that U.S. oceans policy would be best served by taking a more active role in the reform effort.

This conclusion was also based on an assessment, which has been shared by all United States administrations since negotiations began on the Law of the Sea Convention, that a comprehensive and widely ratified Convention best serves United States interests. The merit of the Convention in this regard is not that it provides an answer to every future question regarding the uses of the oceans, but that it frames and channels discussions of new issues along lines favorable to our interests. Therefore, a Convention acceptable to us offers a legal framework within which to pursue and protect our oceans interests with greater predictability and at less political and economic cost than through other alternatives.

The United States has demonstrated that it can successfully assert its oceans interests without treaty relations with other States and that it could continue to do so if our objections to Part XI are not met. The costs of this approach, however, would grow over time, and long-term United States interests in stable and predictable rules concerning uses of the oceans would be best served by entry into force of a widely acceptable convention.

THE AGREEMENT RELATING TO THE IMPLEMENTATION OF PART XI OF THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

Progress in the United Nations Secretary General's consultations has been rapid since the April, 1993 announcement by the United States that it would actively engage in the reform effort. Negotiations concluded June 3rd of this year on the Agreement, which will fundamentally change Part XI.

The "Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982" (Agreement), avoids establishing a detailed regime anticipating all phases of potential activity associated commitment with mining of the deep seabed. Rather, it sets forth economic and commercial principles that are consistent with our free market philosophy and which form the basis for developing rules and regulations establishing a management regime when interest in commercial mining emerges.

The Agreement retains the institutional outlines of Part XI but scales back the structure and links the activation and operation of institutions to the actual development of concrete interest in seabed mining. Of fundamental importance, it alters Part XI to provide the United States, and other states with major economic interests, a voice in decisionmaking commensurate with those interests. The United States, acting alone, can block decision on issues of major financial or budgetary significance in a Finance Committee. Acting alone, the United States can block decisions to distribute revenues from mining (e.g., to liberation movements) in the executive Council. Other substantive decisions can be blocked in the Council by the United States and two of our allies acting in concert.

The mandatory technology transfer provisions are replaced by provisions for the promotion of technology transfer through cooperative arrangements (e.g., joint ventures) and through procurement on the open market. Importantly, such initiatives are to be based on "fair and reasonable commercial terms and conditions, including effective protection of intellectual property rights." Although the prospective operating arm (the Enterprise) is retained, the executive Council must decide whether and when it is to become operational. Moreover, the Agreement subjects the Enterprise to the same obligations as other miners and removes the obligation of developed States to finance it.

The Agreement limits assistance to land-based producers of minerals to adjustment assistance financed out of a portion of royalties from future seabed mining. It also replaces the production control regime of Part XI by the application of GATT principles on subsidization. The Agreement further replaces the detailed and burdensome financial obligations imposed on miners by a future system for recovering economic rents based on systems applicable to land-based mining and provides that it be designed to avoid competitive incentives or disincentives for seabed mining. The Agreement provides for grandfathering in the mining consortia licensed under U.S. law on the basis of terms and conditions "similar to and no less favorable than" those granted to French, Japanese, Russian, Indian and Chinese companies whose mine site claims have already been registered by the Law of the Sea Preparatory Committee. Finally, substantial financial obligations at the exploration stage are eliminated.

In short, the Agreement achieves a restructuring of Part XI of the Convention which is consistent with our economic principles as well as our need to ensure adequate United States influence over decisions made by the institutions of the regime. In doing so, it achieves the fundamental United States objective of guaranteed the United States access to deep seabed resources on the basis of reasonable terms and conditions.

INACTIVATION OF THE 44TH MISSILE WING

Mr. PRESSLER. Mr. President, the following is the text of remarks I intend to give at a dinner honoring the inactivation of the 44th Missile Wing in Rapid City on Sunday, July 3, 1994:

I am pleased to be here this evening to join you in honoring the 44th Strategic Missile Wing. The 44th has made the philosophy of "Peace Through Strength" a reality. The brave men and women of the 44th have served our nation with distinction for over 32 years. I extend my sincere thanks to them and to their families. We can never underestimate the important contributions of supportive family members. I am sure the American people also would like to extend appreciation for their many years of dedication and vigilance. The distinguished service of the men and women of the 44th Strategic Missile Wing represents of their commitment to keeping America safe and free. Clearly, their contribution to the national security of our country has been great.

The Cold War began on August 29, 1949 when the Soviet Union tested its first atomic weapon. The world entered an era of global instability, with communism challenging our most cherished democratic ideals. America responded to the challenge with the policy of containment and nuclear deterrence. For forty years, this policy served this nation as the primary means of ensuring our national security and protecting fundamental freedoms—values Americans hold so dear. The 44th Strategic Missile Wing played a crucial role in maintaining peace throughout the Cold War. Our policy of deterrence was successful—not only as a result of superior technology but also the superior spirit and commitment of each individual in the 44th Missile Wing.

The 44th Strategic Missile Wing, along with the development of the Minuteman weapons system, served our country during a period of great international tension. From 1962 to 1994, the 44th Missile Wing sustained our national security. Their nationally distinguished service has been recognized through numerous prestigious awards—and I will take this opportunity to personally congratulate Colonel Roscoe Moulthrop, the Wing Commander and the staff of the 44th Missile Wing who are to receive the Air Force Outstanding Unit Award later this month. You are a great credit to yourselves, your families, this community, the State of South Dakota, and the United States Air Force.

The revolutions of 1989 and the ensuing collapse of the communist empire in Eastern Europe were precipitated by America's commitment to a strong national defense—the key component of which was powerful nuclear deterrence. The outstanding individuals who served in the 44th Strategic Missile Wing, through their dedication to the principles of freedom, encouraged these remarkable changes in the world—changes which none of us ever dreamed we would witness in our lifetimes. I agree wholeheartedly with what former President Bush once said: ". . . there is no higher honor than to serve free men and women; no greater privilege than to labor . . . beneath the Great Seal of the United States and the American flag."

Thank you again for your commitment, your service, and your love for this great country and the principles for which it stands.

TRIBUTE TO SHARON MAHOE, PRESIDENT, HAWAII STATE TEACHERS ASSOCIATION

Mr. AKAKA. Mr. President, I rise today to express my congratulations and best wishes to Sharon Mahoe for her 4 years of distinguished service as president of the Hawaii State Teachers Association [HSTA].

Sharon epitomizes all that is best in our Nation's teachers—dedication, commitment, sincerity and honesty. It is often said that one person can make the difference. Sharon Mahoe has certainly proven that axiom. Since she began teaching in 1973, Sharon has made a difference in the lives of students and teachers as the strongest advocate of their causes.

Under Sharon's leadership, teachers were active participants in efforts to reform and improve the educational system in our State. Ms. Mahoe has also been instrumental in improving the professional development opportunities of Hawaii's teachers, and has fostered discussions and exchanges among teachers, students, and parents.

Throughout her presidential tenure, Sharon has been an advocate and defender of our teachers. Her skill, devotion, and fervor in the fight on behalf of our teachers are truly commendable. For the past 4 years, Sharon has dedicated herself to making HSTA the most effective champion of teachers in our State.

For all of us who attempt to serve, in our own ways, the contributions of special individuals like Sharon embody what we strive to achieve. Sharon Mahoe's dedication in pursuit of the common good; her efforts to enhance the ability of teachers to perform their duties; and the singular fashion in which she exemplifies all that is best in our traditional work ethic—these are attributes that can never be too highly extolled.

Mr. President, I would like to recognize Sharon Mahoe for her outstanding achievements. The true beneficiaries of her guidance are the teachers and students of Hawaii. Although her tenure as president of the Hawaii State Teachers Association comes to a close today, I am sure that we will continue to hear of her future accomplishments.

MESSSAGES FROM THE HOUSE

At 9 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent, without amendment:

S. Con. Res. 68. Concurrent resolution to authorize printing of Senator ROBERT C. BYRD's Addresses to the United States Senate on the History of Roman Constitutionalism.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 263. Concurrent resolution providing for an adjournment or recess of the two Houses.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4454) making appropriations for the legislative branch for the fiscal year ending September 30, 1995, and for other purposes.

At 4:51 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3626. An act to supersede the Modification of Final Judgment entered August 24, 1982, in the antitrust action styled United States v. Western Electric, Civil Action No. 82–0192, United States District Court for the District of Columbia, to amend the Communications Act of 1934 to regulate the manufacturing of Bell operating companies, and for other purposes.

H.R. 4606. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes.

H.R. 4624. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes.

H.R. 4650. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate.

S. 1587. An act to revise and streamline the acquisition laws of the Federal Government, and for other purposes.

The message further announced that, pursuant to the provisions of sections 5580 and 5581 of the Revised Statutes (20 U.S.C. 42–43), the Speaker appoints himself on the part of the House as a member of the Board of Regents of the Smithsonian Institution, to fill the existing vacancy thereon.

At 7:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 3567) to amend the John F. Kennedy Center Act to transfer operating responsibilities to the Board of Trustees of the John F. Kennedy Center for the Performing Arts, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 3626. An act to supersede the Modification of Final Judgment entered August 24, 1982, in the antitrust action styled United States v. Western Electric, Civil Action No. 82–0192, United States District Court for the District of Columbia, to amend the Communications Act of 1934 to regulate the manufacturing of Bell operating companies, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 4606. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes; to the Committee on Appropriations.

H.R. 4624. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes; to the Committee on Appropritions.

H.R. 4650. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes; to the Committee on Appropriations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2957. A communication from the Secretary of Defense, transmitting, pursuant to law, a notice relative to the National Defense Authorization Act for fiscal year 1995; to the Committee on Armed Services.

EC–2958. A communication from the Secretary of Defense, transmitting, pursuant to law, a notice relative to the National Defense Authorization Act for fiscal year 1995; to the Committee on Armed Services.

EC–2959. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, notice relative to plans to adjust officer personnel assignments and promotion policies; to the Committee on Armed Services.

EC–2960. A communication from the Assistant Secretary of the Army (Installations, Logistics and Environment), transmitting, pursuant to law, notice relative to the Aberdeen Proving Ground, Maryland; to the Committee on Armed Services.

EC–2961. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, the report on tied-aid credits; to the Committee on Banking, Housing, and Urban Affairs.

EC–2962. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on Rwanda; to the Committee on Banking, Housing, and Urban Affairs.

EC–2963. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report on intelligent vehicle-highway systems; to the Committee on Commerce, Science, and Transportation.

EC–2964. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "Environmental Compliance and Restoration Program"; to the Committee on Commerce, Science, and Transportation.

EC–2965. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on bluefin tuna; to the Committee on Commerce, Science, and Transportation.

EC-2966. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, a report on the Slidell, Louisiana Computer Complex; to the Committee on Commerce, Science, and Transportation.

EC-2967. A communication from the Chairman of the Competitiveness Policy Council, transmitting, pursuant to law, a report of recommendations for policy changes; to the Committee on Commerce, Science, and Transportation.

EC-2968. A communication from the Deputy Associate Director for Compliance (Royalty Management Program), Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-2969. A communication from the Deputy Associate Director for Compliance (Royalty Management Program), Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-2970. A communication from the Department of Agriculture, transmitting, pursuant to law, the report of the activities of the Youth Conservation Corps during calendar year 1993; to the Committee on Energy and Natural Resources.

EC-2971. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report on the Colorado River for calendar year 1993; to the Committee on Energy and Natural Resources.

EC-2972. A communication from the Administrator of the Energy Information Administration, transmitting, pursuant to law, a report entitled "Profiles of Foreign Direct Investment in U.S. Energy 1992"; to the Committee on Energy and Natural Resources.

EC-2973. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a report of informational copies of lease prospectuses; to the Committee on Environment and Public Works.

EC-2974. A communication from the Secretary of Labor, transmitting, pursuant to law, the report on Trade Adjustment Assistance benefits; to the Committee on Finance.

EC-2975. A communication from Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, notice of a reward paid; to the Committee on Foreign Relations.

EC-2976. A communication from Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, notice of a Presidential Determination relative to the Assistance Program for the New Independent States of the Former Soviet Union; to the Committee on Foreign Relations.

EC-2977. A communication from the Assistant Secretary of the Interior (Indian Affairs), transmitting, pursuant to law, a proposed plan for the use and distribution of the Pueblo of Nambe's judgment funds; to the Committee on Indian Affairs.

EC-2978. A communication from the Deputy Attorney General, transmitting, pursuant to law, a report on the Federal Prison Industries program; to the Committee on the Judiciary.

EC-2979. A communication from the National Council of Radiation Protection and Measurements, transmitting, pursuant to law, the report of the audit of the financial statements and schedules for calendar year 1993; to the Committee on the Judiciary.

EC-2980. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations with respect to the Federal Family Education Loan Programs; to the Committee on Labor and Human Resources.

EC-2981. A communication from the Assistant Secretary of Education, transmitting, pursuant to law, a notice of final priority relative to the Cooperative Demonstration Program (Manufacturing Technologies); to the Committee on Labor and Human Resources.

EC-2982. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for the Federal Family Education Loan Programs; to the Committee on Labor and Human Resources.

EC-2983. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for the Federal Family Education Loan Programs; to the Committee on Labor and Human Resources.

EC-2984. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to health care services in the home demonstration program; to the Committee on Labor and Human Resources.

EC-2985. A communication from the Executive Director of the National Kidney and Urologic Diseases Advisory Board, transmitting, pursuant to law, the annual report of the Board for 1994; to the Committee on Labor and Human Resources.

EC-2986. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation to transfer certain real and personal property at Saint Elizabeths Hospital; to the Committee on Labor and Human Resources.

EC-2987. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, a report of proposed regulations governing nominating conventions; to the Committee on Rules and Administration.

EC-2988. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-254 adopted by the Council on June 21, 1994; to the Committee on Governmental Affairs.

EC-2989. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-258 adopted by the Council on June 07, 1994; to the Committee on Governmental Affairs.

EC-2990. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-259 adopted by the Council on June 07, 1994; to the Committee on Governmental Affairs.

EC-2991. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-260 adopted by the Council on June 07, 1994; to the Committee on Governmental Affairs.

EC-2992. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-261 adopted by the Council on June 07, 1994; to the Committee on Governmental Affairs.

EC-2993. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-262 adopted by the Council on June 07, 1994; to the Committee on Governmental Affairs.

EC-2994. A communication from the Director of the Office of Personnel Management, transmitting, a draft of proposed legislation entitled "Federal Employee Health Benefits Provider Integrity Amendments of 1994"; to the Committee on Governmental Affairs.

EC-2995. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the annual report under the Government in the Sunshine Act for calendar year 1993; to the Committee on Governmental Affairs.

EC-2996. A communication from the Inspector General of the General Services Administration, transmitting, pursuant to law, the report of the audit of financial recommendations for the period October 1, 1993 through March 31, 1994; to the Committee on Governmental Affairs.

EC-2997. A communication from the Secretary of Treasury, transmitting, pursuant to law, the report of the Office of the Inspector General for the period October 1, 1993 through March 31, 1994; to the Committee on Governmental Affairs.

EC-2998. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of financial statements for fiscal year 1993; to the Committee on Governmental Affairs.

EC-2999. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the study of the ability of the state and local governments to rebuild following the January 1994 earthquake in southern California; to the Committee on Governmental Affairs.

EC-3000. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report of the Office of the Inspector General for the period October 1, 1993 through March 31, 1994; to the Committee on Governmental Affairs.

EC-3001. A communication from the Secretary of Housing and Urban Development's designee, Federal Housing Finance Board, transmitting, pursuant to law, the report of financial statements for calendar year 1993; to the Committee on Governmental Affairs.

EC-3002. A communication from the Chairman of the Farm Credit System Insurance Corporation, transmitting, pursuant to law, the Corporation's annual report for calendar year 1993; to the Committee on Governmental Affairs.

EC-3003. A communication from the Chairman of the National Endowment for the Humanities, transmitting, pursuant to law, the report of the Office of the Inspector General for the period October 1, 1993 through March 31, 1994; to the Committee on Governmental Affairs.

EC-3004. A communication from the Chief Judge of the Court of Veterans' Appeals, transmitting, pursuant to law, the actuarial report of the Judges' Retirement Plan for calendar year 1993; to the Committee on Governmental Affairs.

EC-3005. A communication from the Office of the District of Columbia Auditor, transmitting, pursuant to law, the report of the analysis of the consolidated cash flow statement for fiscal year 1994; to the Committee on Governmental Affairs.

EC-3006. A communication from the Executive Director of the Thrift Depositor Protection Oversight Board, transmitting, pursuant to law, the annual report on the Resolution Funding Corporation for calendar year 1993; to the Committee on Banking, Housing and Urban Affairs.

EC-3007. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1993; to the Committee on the Judiciary.

EC-3008. A communication from the General Counsel and Chief Financial Officer, National Tropical Botanical Garden, transmitting, pursuant to law, the report of financial statements and schedules for calendar years 1992 and 1993; to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-586. A resolution adopted by the Commission of the City of Kissimmee, Florida relative to Taiwan; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services, with amendments:

S. 2082. An original bill to authorize appropriations for fiscal year 1995 for the intelligence activities of the United States Government and for the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. No. 103-295).

By Mr. DECONCINI, from the Select Committee on Intelligence, with an amendment in the nature of a substitute:

S. 2056. A bill to amend the National Security Act of 1947 to improve the counterintelligence and security posture of the United States, and for other purposes (Rept. No. 103-296).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Anne C. Petersen, of Minnesota to be Deputy Director of the National Science Foundation;

Nelba R. Chavez, of Arizona, to be Administrator of the Substance Abuse and Mental Health Services Administration, Department of Health and Human Services;

Cynthia A. Metzler, of the District of Columbia, to be an Assistant Secretary of Labor;

Judith O. Rubin, of New York, to be a Member of the National Council on the Arts for a term expiring September 3, 1998;

Colleen Jennings-Roggensack, of Arizona, to be a Member of the National Council on the Arts for a term expiring September 3, 1996;

Fredric K. Schroeder, of New Mexico, to be Commissioner of the Rehabilitation Service Administration, Department of Education;

Rachel Worby, of West Virginia, to be a Member of the National Council on the Arts for a term expiring September 3, 1998;

John Haughton D'Arms, of Michigan, to be a Member of the National Council on the Humanities for a term expiring January 26, 2000;

Thomas Cleveland Holt, of Illinois, to be a Member of the National Council on the Humanities for the remainder of the term expiring January 26, 1998;

Darryl J. Gless, of North Carolina, to be a Member of the National Council on the Humanities for a term expiring January 26, 1998;

Ramon A. Gutierrez, of California, to be a Member of the National Council on the Humanities for a term expiring January 26, 2000;

Martha Congleton Howell, of New York, to be a Member of the National Council on the Humanities for a term expiring January 26, 2000;

Nicolas Kanellos, of Texas, to be a Member of the National Council on the Humanities for a term expiring January 26, 2000;

Charles Patrick Henry, of California, to be a Member of the National Council on the Humanities for a term expiring January 26, 2000;

Harold K. Skramstad, of Michigan, to be a Member of the National Council on the Humanities for a term expiring January 26, 2000;

Bev Lindsey, of Arkansas, to be a Member of the National Council on the Humanities for a term expiring January 26, 2000; and

Robert I. Rotberg, of Massachusetts, to be a Member of the National Council on the Humanities for a term expiring January 26, 2000.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 2250. A bill to amend the Internal Revenue Code of 1986 to permit tax-exempt financing of certain transportation facilities; to the Committee on Finance.

By Mr. JOHNSTON (by request):

S. 2251. A bill to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HATCH (for himself, Mr. INOUYE, Mr. MCCAIN, and Mr. BENNETT):

S. 2252. A bill to amend section 17 of the Act of August 27, 1954 (25 U.S.C. 667p), relating to the distribution and taxation of assets and earnings, to clarify that distributions of rents and royalties derived from assets held in continued trust by the Government, and paid to the mixed-blood members of the Ute Indian tribe, their Ute Indian heirs, or Ute Indian legatees, are not subject to Federal or State taxation at the time of distribution, and for other purposes; to the Committee on Finance.

By Mr. NICKLES (for himself and Mr. BOREN):

S. 2253. A bill to modify the Mountain Park Project in Oklahoma, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BIDEN:

S. 2254. A bill to amend the Energy Reorganization Act of 1974 to establish an Independent Nuclear Safety Board, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GORTON:

S. 2255. A bill to amend the Budget Enforcement Act of 1990 to establish a new budget point of order against any amendment, bill, or conference report that directs increased revenues from additional taxation of Social Security or Railroad Retirement benefits to a fund other than the Social Security trust fund or the Social Security Equivalent Benefit Account; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee has thirty days to report or be discharged.

By Mr. ROBB:

S. 2256. A bill to exclude from Federal income taxation amounts received in settlement of refund claims for State and local income taxes on Federal retirement benefits which were not subject to State or local income taxation on the same basis as State or local retirement benefits; to the Committee on Finance.

By Mr. BAUCUS (for himself, Mr. DURENBERGER, Mr. MITCHELL, Mr. MOYNIHAN, Mr. MATHEWS, Mr. COHEN, Mr. PRYOR, Mr. BINGAMAN, Mrs. BOXER, and Mr. DORGAN):

S. 2257. A bill to amend the Public Works and Economic Development Act of 1965 to reauthorize economic development programs, and for other purposes; to the Committee on Environment and Public Works.

By Mr. WARNER (for himself, Mr. GRAHAM, Mr. DECONCINI, Mr. METZENBAUM, Mr. CHAFEE, and Mr. COHEN):

S. 2258. A bill to create a Commission on the Roles and Capabilities of the U.S. Intelligence Community, and for other purposes; to the Select Committee on Intelligence.

By Mrs. MURRAY (for herself, Mr. HATFIELD, Mr. GORTON, Mr. INOUYE, and Mr. BRADLEY):

S. 2259. A bill to provide for the settlement of the claims of the Confederated Tribes of the Colville Reservation concerning their contribution to the production of hydropower by the Grand Coulee Dam, and for other purposes; to the Committee on Indian Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 2250. A bill to amend the Internal Revenue Code of 1986 to permit tax-exempt financing of certain transportation facilities; to the Committee on Finance.

ALAMEDA TRANSPORTATION CORRIDOR TAX-EXEMPT FINANCING ACT

• Mrs. BOXER. Mr. President, today my colleague, Senator FEINSTEIN, and I are introducing legislation critical to helping the largest port complex in the United States expand its trade with the countries of the Pacific rim. Our bill would help provide more efficient cargo transportation by granting tax exempt financing for the Alameda transportation corridor improvement project. These improvements will speed the transport of international cargo between the San Pedro Bay ports of Los

Angeles and Long Beach to the Interstate Highway System and the national railroad network. The corridor will be a segment of the proposed National Highway System.

The Alameda corridor project is a rail consolidation plan for the Los Angeles-Long Beach ports and has major economic and environmental benefits, plus 10,000 construction jobs. The corridor project would consolidate more than 90 miles of rail into a single 20-mile high capacity corridor, eliminating 200 at-grade roadway crossings. The project will also widen and improve the truck route paralleling the rail facility to expedite port truck traffic.

This line will comprise two pairs of tracks leading directly from the port to switching yards in central Los Angeles. By eliminating the railroad crossings, the project would sharply reduce traffic congestion—saving 15,000 hours of delay by vehicles now waiting for trains to pass each day—with consequential benefits to the local air quality.

The estimated total cost of the project is $1.8 billion. More than half will be financed by the ports and port users. The ports will contribute $400 million and State and Federal governments are expected to contribute $700 million. The balance, about a third of the total cost, will come from tax-exempt bond financing. Fees paid by shippers using the corridor will be used to retire the bonds.

Our bill clarifies the scope of the current tax exemption for docks and wharves by specifically including related transportation facilities to ensure that State and local governments will be permitted to tax-exempt finance those transportation facilities which are reasonably required for the efficient use of publicly-owned port infrastructure.

The bill provides that transportation facilities—including trackage and rail facilities, but not rolling stock—shall be treated as "docks and wharves" for purposes of the exempt facility bond rules if at least 80 percent of the annual use of such transportation facilities is to be in connection with the transport of cargo to or from docks or wharves. For example, rail facilities for transporting cargo from a port area to the major railyard some miles away would qualify as an exempt port facility provided that 80 percent of the cargo transported on the facilities is bound for or arriving from the port. It is intended that use—for purposes of the 80-percent test—be computed in any reasonable fashion including, for example, on the basis of ton-miles or car-miles.

The bill provides that for purposes of the governmental ownership requirement for docks and wharves, related transportation facilities that are leased by a government agency shall be treated as owned by such agency if the lessee makes an irrevocable election not to claim depreciation or an investment credit with respect to such facilities and the lessee has no option to purchase the facilities other than at fair market value.

This bill is a critical step needed to help provide the most efficient transportation network possible to these vital ports. The Alameda Transportation Corridor project will create a transportation system of truly national significance.

The Pacific rim is the largest and fastest growing market in the global economy. U.S.-Pacific rim trade is expected to double in the next 15 to 20 years. In the Los Angeles region alone, more than 900 Asian and other Pacific rim firms employ more than 63,000 workers in local operations. More than 200,000 regional jobs are supported by the movement of goods through the ports of Los Angeles and Long Beach. They are critical components of our national economy. In fact, 25 percent of all U.S. waterborne international trade moves through the ports representing $116 billion in trade each year.

The ports have joined forces on a $4 billion, 2,000-acre terminal expansion program. Completion of the program will result in a dramatic expansion between the ports' cities and the Pacific rim. The value of that trade is estimated to reach $253 billion by the year 2010. Employment linked to this trade is also expected to grow from 2.5 million to 5.7 million jobs. Further, the growing trade will generate nearly $20 billion in additional Federal revenue by 2010.

The United States spends nearly $1 trillion a year—17 percent of our gross domestic product—on transportation services. A 1-percent improvement in the overall efficiency of our transportation system would translate into nearly $100 billion in savings across the economy within a decade. Meanwhile, half of our Nation's ports face growing congestion. Adequate access to our ports, which handled 450 billion dollars' worth of commerce in 1990, is a national priority. Total port commerce is expected to triple over the next three decades.

Mr. President, I hope our colleagues will support this legislation that is critical to our national efforts to compete as a nation in the global marketplace. To be successful we must modernize, and we must have the most efficient tools possible to promote jobs prosperity across our country.●

● Mrs. FEINSTEIN. Mr. President, today Senator BOXER and I introduce legislation that will allow for the Alameda Corridor Transportation Authority to issue tax-free bonds to help construct the Alameda corridor, probably the most important transportation project currently under consideration anywhere in the United States.

The Alameda corridor is a $1.8 billion project that will allow the San Pedro Bay Ports—Los Angeles and Long Beach—to expand and grow well into the 21st century. The project, in the years ahead, will require a Federal authorization of $700 million, the necessary Federal commitment. The ports have committed well over $400 million to purchase railroad rights-of-way.

But, initial construction will be funded by the issuance of bonds, and that is why this bill is so vital. Tax-free bonds can currently be issued for construction of harbor and port facilities, but under current law, the corridor would not apply since the major distribution center is 20 miles inland from the port. This legislation would extend the ability to issue tax-free bonds for transportation facilities, which would include trackage and rail facilities, if 80 percent of the cargo transported on the tracks is to and from the port, which is otherwise eligible for the issuance of tax-free bonds. Additionally, the facility must be publicly owned. This bill will reduce the cost of the corridor's construction by approximately $200 million.

Currently, to handle the cargo going in and out of the ports, according to the Alameda Corridor Transportation Authority, the San Pedro Bay ports now generate approximately 20,000 truck trips and 29 train movements per day. By the year 2020, truck traffic is projected to increase to 49,000 daily trips and 97 daily train movements.

Today, three railroads on three separate tracks serve the San Pedro Bay Ports, with 90 miles of track and over 200 grade crossings between the ports and inland cargo dispersal sites. Santa Fe's railroad alone has 92 crossings within a 20-mile span. Trucks carrying goods from the ports to dispersal sites farther inland face numerous stops and traffic.

With the projected increase in trade and cargo transport needs, the current transportation system will simply be inadequate to handle future demands.

The Alameda corridor project would consolidate the existing railways into a single corridor that would be depressed, and all crossing streets would bridge over the top. This would avoid the terrible delays as a result of the grade crossings. The corridor would also accommodate truck traffic.

Make no mistake, the Alameda corridor is a project of national significance.

The benefit of constructing the corridor will go far beyond the Los Angeles region, and well beyond the California borders. Every State in this Nation is impacted by the trade along the Pacific rim, and thus by the activities of Pacific ports. Trucks and trains must move the goods out of the ports. Workers must unload the goods from ships, put them on trains or trucks, and then once they arrive at a destination, more workers must unload these goods, before they are delivered to their final stop. Trade creates jobs in every sector of the economy.

Put simply, trade means jobs.

All of the Nation's coastal States understand the importance of trade, seagoing trade in particular. In 1992, the last year for which statistics are available, this Nation exported 1.58.4 billion dollar's worth of goods through its seaports, and imported $293.1 billion of goods through the same ports of entry.

The San Pedro Bay ports are the busiest containerport facility in the world. Combined, 109 billion dollar's worth of cargo moved through the Los Angeles and Long Beach ports. Trade on the Pacific rim is only expected to grow.

We must be able to support the projected growth in international commerce, and the development of the Alameda corridor will help us insure that we do so.●

By Mr. JOHNSTON (by request):

S. 2251. A bill to amend the Energy Policy and Conservation Act to manage the strategic petroleum reserve more effectively, and for other purposes; to the Committee on Energy and Natural Resources.

ENERGY POLICY AND CONSERVATION ACT AMENDMENTS OF 1994

● Mr. JOHNSTON. Mr. President, at the request of the Department of Energy, I send to the desk a bill to amend the Energy Policy and Conservation Act to manage the strategic petroleum reserve more effectively and for other purposes.

I ask unanimous consent that the bill, the communication, and a sectional analysis prepared by the Department of Energy be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2251

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Policy and Conservation Act Amendments Act".

SEC. 2. Section 2 of the Energy Policy and Conservation Act (42 U.S.C. 6201) is amended—

(1) in paragraph (1) by striking "standby" and ", subject to congressional review, to impose rationing, to reduce demand for energy through the implementation of conservation plans, and"; and

(2) by striking paragraphs (3) and (6).

SEC. 3. Title I of the Energy Policy and Conservation Act (42 U.S.C. 6211–6251) is amended—

(a) by striking section 102 (42 U.S.C. 6211);

(b) in section 105 (42 U.S.C. 6213)—

(1) by amending subsection (a) to read as follows—

"(a) The Secretary of the Interior shall prohibit the bidding for any right to develop crude oil, natural gas, and natural gas liquids on any lands located on the Outer Continental Shelf by any person if more than one major oil company, more than one affiliate of a major oil company, or a major oil company and any affiliate of a major oil company, has or have a significant ownership interest in that person, when the Secretary determines prior to any lease sale that this bidding would adversely affect competition or the receipt of fair market value."; and

(2) by striking subsections (c) and (e);

(c) by striking section 106 (42 U.S.C. 6214);

(d) in section 151 (42 U.S.C. 6231)—

(1) in subsection (a) by striking "limited" and "short-term"; and

(2) by amending subsection (b) to read as follows:

"(b) It is the policy of the United States to provide for the creation of a Strategic Petroleum Reserve for the shortage of up to 1 billion barrels of petroleum products to reduce the impact of disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program.";

(e) in section 152 (42 U.S.C. 6232)—

(1) by striking paragraph (1), and

(2) in paragraph (11) by striking ", the Early Storage Reserve";

(f) by striking section 153 (42 U.S.C. 6233);

(g) in section 154 (42 U.S.C. 6234)—

(1) by amending subsection (a)(1) to read as follows:

"(a)(1) A Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products shall be created pursuant to this part.";

(2) by amending subsection (b) to read as follows:

"(b) The Secretary, acting through the Strategic Petroleum Reserve Office and in accordance with this part, shall exercise authority over the development, operation, and maintenance of the Reserve."; and

(3) by striking subsection (c), (d), and (e).

(h) by striking section 155 (42 U.S.C. 6235);

(i) in section 156(b) (42 U.S.C. 6236(b)), by striking "To implement the Early Storage Reserve Plan or the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 159(a), the" and inserting "The";

(j) by amending section 157 (42 U.S.C. 6237)—

(1) in subsection (a), by striking "The Strategic Petroleum Reserve Plan shall provide for the establishment and maintenance of" and insert "The Secretary shall establish and maintain as part of the Strategic Petroleum Reserve", and

(2) in subsection (b), by striking "To implement the Strategic Petroleum Reserve Plan, the Secretary shall accumulate and maintain" and inserting "The Secretary shall establish and maintain as part of the Strategic Petroleum Reserve";

(k) by striking section 158 (42 U.S.C. 6238);

(l) by amending the heading for section 159 (42 U.S.C. 6239) to read, "Development, Operation, and Maintenance of the Reserve";

(m) in section 159 (42 U.S.C. 6239)—

(1) by striking subsections (a), (b), (c), (d), and (e);

(2) by amending subsection (f) to read as follows:

"(f) In order to develop, operate, or maintain the Strategic Petroleum Reserve, the Secretary may:

"(1) issue rules, regulations, or orders;

"(2) acquire by purchase, condemnation, or otherwise, land or interests in land for the location of storage and related facilities;

"(3) construct, purchase, lease, or otherwise acquire storage and related facilities;

"(4) use, lease, maintain, sell, or otherwise dispose of storage and related facilities acquired under this part, under such terms and conditions as the Secretary may deem necessary or appropriate;

"(5) acquire subject to the provisions of section 160 by purchase, exchange, or otherwise, petroleum products for storage in the Strategic Petroleum Reserve;

"(6) store petroleum products in storage facilities owned and controlled by the United States or in storage facilities owned by others if those facilities are subject to audit by the United States;

"(7) execute any contracts necessary to develop, operate, or maintain the Strategic Petroleum Reserve;

"(8) require an importer of petroleum products or refiner to acquire and to store and maintain, in readily available inventories, petroleum products in the Industrial Petroleum Reserve, under section 156;

"(9) require the storage of petroleum products in the Industrial Petroleum Reserve, under section 156, on terms that the Secretary specifies in storage facilities owned and controlled by the United States or in storage facilities other than those owned by the United States if those facilities are subject to audit by the United States;

"(10) require the maintenance of the Industrial Petroleum Reserve; and

"(11) bring an action, when the Secretary considers it necessary, in any court having jurisdiction over the proceedings, to acquire by condemnation any real or personal property, including facilities, temporary use of facilities, or other interests in land, together with any personal property located on or used with the land.";

(3) in subsection (g)—

(A) by striking "implementation" and inserting "development"; and

(B) by striking "Plan";

(4) by striking subsections (h) and (i); and

(5) by amending subsection (j) to read as follows:

"(j) When a pattern of appropriations for fill of the Strategic Petroleum Reserve develops such that a 750 million barrel inventory can reasonably be expected to be reached within five years by a continuation of that pattern, a plan for expansion will be submitted to the Congress.";

(6) by amending subsection (l) to read as follows:

"(l) During any period in which drawdown and distribution are being implemented, the Secretary may issue rules, regulations, or orders to implement the drawdown and distribution of the Strategic Petroleum Reserve in accordance with section 523 of this Act, without regard to the requirements of section 553 of title 5, United States Code, and section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).";

(n) in section 160 (42 U.S.C. 6240)—

(1) in subsection (a), by striking all before the dash and inserting the following—

"(a) To the extent funds are available under section 167(b) (2) and (3) and for the purposes of implementing the Strategic Petroleum Reserve, the Secretary may acquire, place in storage, transport, or exchange";

(2) in subsection (b), by striking "including the Early Storage Reserve" and paragraph (2); and

(3) by striking subsections (c), (d), and (e);

(o) in section 161 (42 U.S.C. 6241)—

(1) by striking subsections (b) and (c);

(2) by amending subsection (d)(1) to read as follows:

"(d)(1) No drawdown and distribution of the Strategic Petroleum Reserve may be made unless the President has found drawdown and distribution is required by a severe energy supply interruption or by obligations of the United States under the international energy program.";

(3) by amending subsection (e) to read as follows:

"(e)(1) The Secretary shall sell any petroleum product withdrawn from the Strategic Petroleum Reserve at public sale to the highest qualified bidder in the amounts, for the period, and after a notice of sale the Secretary considers proper, and without regard to Federal, State, or local regulations controlling sales of petroleum products.

"(2) The Secretary may cancel in whole or in part any offer to sell petroleum products as part of any drawdown and distribution under this Section."; and

(4) in subsection (g)—

(A) in paragraph (1), by striking "Distribution Plan" and inserting "distribution procedures", and

(B) by striking paragraphs (2) and (6);

(p) by striking section 164 (42 U.S.C. 6244);

(q) by amending section 165 (42 U.S.C. 6245) to read as follows—

"SEC. 165. The Secretary shall report annually to the President and the Congress on actions taken to implement this part. This report shall include—

"(1) a detailed statement of the status of the Strategic Petroleum Reserve, including—

"(A) the capacity of the Reserve and the scheduled annual fill rate for achieving this capacity;

"(B) the scheduled annual fill rate for the fiscal year for which the report is transmitted;

"(C) the type and quality of crude oil to be acquired for the Reserve under the schedule described in subparagraph (A);

"(D) the schedule of construction of any facilities, including a description of the type and location of the facilities, and of enhancements and improvements to existing facilities;

"(E) a description of the current method of drawdown and distribution to be utilized; and

"(F) an explanation of any changes made in the matters described in subparagraphs (A) through (E) since the transmittal of the previous report under this section;

"(2) a summary of the actions taken to develop, operate, or maintain the Strategic Petroleum Reserve;

"(3) a summary of the financial transactions in the Strategic Petroleum Reserve and SPR Petroleum Account; and

"(4) a summary of existing problems with respect to operation or maintenance of the Strategic Petroleum Reserve; and

"(5) any recommendation for supplemental legislation the Secretary considers necessary or appropriate to implement this part.";

(r) in section 166 (42 U.S.C. 6246) by striking all after "appropriated" and inserting "the funds necessary to implement this part.";

(s) in section 167 (42 U.S.C. 6247)—

(1) in subsection (b)—

(A) by inserting "test sales of petroleum products from the Reserve," after "Strategic Petroleum Reserve,";

(B) by striking paragraph (1);

(C) in paragraph (2), by striking "after fiscal year 1982"; and

(2) by amending subsection (e) to read as follows

"(e) The Impoundment Control Act of 1974 (2 U.S.C. 681–688) applies to funds made available under subsection (b).";

(t) in section 172 (42 U.S.C. 6249a) by striking subsections (a) and (b);

(u) by striking section 173 (42 U.S.C. 6249b); and

(v) in section 181 (42 U.S.C. 6251), by striking "1994" each time it appears and inserting "1999".

SEC. 4. Title II of the Energy Policy and Conservation Act (42 U.S.C. 6211–6251) is amended—

(a) by striking Part A (42 U.S.C. 201 through 204);

(b) in section 252 (42 U.S.C. 6272)—

(1) in subsections (a)(1) and (b), by striking "allocation and information" and inserting "emergency response";

(2) in subsection (d)(3), by striking "known" and inserting after "circumstances" "known at the time of approval";

(3) in subsection (e)(2) by striking "shall" and inserting "may";

(4) in subsection (f)(2) by inserting "voluntary agreement or" after "approved";

(5) by amending subsection (h) to read as follows—

"(h) Section 708 of the Defense Production Act of 1950 shall not apply to any agreement or action undertaken for the purpose of developing or carrying out—

"(1) the international energy program, or

"(2) any allocation, price control, or similar program with respect to petroleum products under this Act.";

(6) in subsection (i) by inserting "annually, or" after "least" and by inserting "during an international energy supply emergency" after "months";

(7) in subsection (k) by amending paragraph (2) to read as follows—

"(2) The term 'emergency response provisions of the international energy program' means—

(A) the provisions of the international energy program which relate to international allocation of petroleum products and to the information system provided in the program, and

(B) the emergency response measures adopted by the Governing Board of the International Energy Agency (including the July 11, 1984 decision by the Governing Board on "Stocks and Supply Disruptions") for the coordinated drawdown of stocks of petroleum products held or controlled by governments and complementary actions taken by governments during an existing or impending international oil supply disruption, whether or not international allocation of petroleum products is required by chapters III and IV of the international energy program."; and

(8) by amending subsection (l) to read as follows—

"(l) The antitrust defense under subsection (f) applies only to the development or carrying out of voluntary agreements and plans of action to implement the emergency response provisions of the international energy program, except that in the event the International Energy Agency seeks advice and information concerning preparation and implementation of measures by governments on the coordinated drawdown of stocks of petroleum products and complementary actions as described in subsection (k)(2)(B), the antitrust defense also applies but only to advising and consulting with and providing information or data to the International Energy Agency according to procedures set forth in a voluntary agreement or plan of action, unless the Attorney General, after consultation with the Secretary of State, the Secretary of Energy, and the Federal Trade Commission, determines that additional actions are necessary or appropriate to fulfill the purposes of this section; provided that the antitrust defense shall not extend to the international allocation of petroleum products unless allocation is required by chapters III and IV of the international energy program during an international energy supply emergency.";

(c) by adding at the end of section 256(h), "There are authorized to be appropriated for fiscal years 1996 through 1999, such sums as may be necessary."

(d) by striking Part C (42 U.S.C. 271 through 272); and

(e) in section 281 (42 U.S.C. 6285), by striking "1994" each time is appears and inserting "1999".

SEC. 5. (a) Title III of the Energy Policy and Conservation Act (42 U.S.C. 6291–6327, 6361–6374d) is amended—

(1) in section 365(f) (42 U.S.C. 6325(f)) by amending paragraph (1) to read as follows:

"(1) Except as provided in paragraph (2), for the purpose of carrying out this part, there are authorized to be appropriated for fiscal years 1995 through 1999, such sums as may be necessary."; and

(2) section 397 (42 U.S.C. 6371f) is amended to read as follows:

"For the purpose of carrying out this part, there are authorized to be appropriated for fiscal years 1995 through 1999, such sums as may be necessary.".

(b) Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended to read as follows:

"SEC. 422. For the purposes of carrying out the weatherization program under this part, there are authorized to be appropriated for fiscal years 1995 through 1999, such sums as may be necessary.".

SEC. 6. Title V of the Energy Policy and Conservation Act (42 U.S.C. 6381–6422) is amended—

(1) by striking section 507 (42 U.S.C. 6385), and

(2) by striking section 522 (42 U.S.C. 6392).

SECRETARY OF ENERGY,
Washington, DC, May 23, 1994.

Hon. ALBERT GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a legislative proposal cited as the "Energy Policy and Conservation Act Amendments Act of 1994." This proposal would amend and extend certain authorities in the Energy Policy and Conversation Act that have expired or will expire September 30, 1994. Not all sections of the current act are proposed for extension. It also would extend authorization of appropriations for the Weatherization Assistance Program under the Energy Conservation and Production Act.

The Energy Policy and Conservation Act was passed in 1975. Title I authorizes the creation and maintenance of the Strategic Petroleum Reserve that would mitigate shortages during an oil supply disruption. Title II contains authorities essential for meeting key United States obligations to the International Energy Agency, our method of coordinating Energy Emergency Response Programs with other countries. The current antitrust defense that is provided to American companies by the Act when they cooperate with International Energy Administration programs is very limited and would be expanded by the proposed legislation. Titles I and II expire on September 30, 1994. Title III contains authorities for energy efficiency and conservation, some of whose appropriation authorization have expired. These successful and very cost-beneficial programs, designed to encourage and subsidize demand reducing investment and manufacturing, are proposed for extension without amendment. Title IV made amendments to the Emergency Petroleum Allocation Act, which expired in 1981. Title V contains provisions pertaining to energy data bases and information and general and administrative matters that were residual from the Federal Energy Administration and should be made current.

The proposed legislation would extend the Strategic Petroleum Reserve, participation in the International Energy Program, and conservation and efficiency authorities to September 30, 1999. It will also revise or delete certain provisions that are outdated or unnecessary. The proposed legislation and a sectional analysis are enclosed.

The Office of Management and Budget advises that enactment of this proposal would be in accord with the program of the President. We look forward to working with the Congress toward enactment of this legislation.

Sincerely,

HAZEL R. O'LEARY.

SECTION-BY-SECTION ANALYSIS

SECTION 2. AMENDMENTS TO THE STATEMENT OF PURPOSES

Section 2 of the bill would amend section 2 of the Energy Policy and Conservation Act (EPCA).

Paragraph (1) would strike language referring to standby energy conservation and rationing authorities in title II, part A, which expired June 30, 1985.

Paragraph (2) would strike paragraphs (3) and (6) of the Statement of Purposes to reflect the bill's elimination of sections 102 (Incentive to develop underground coal mines) and 106 (Production of oil or gas at the maximum efficient rate and temporary emergency production rate).

SEC. 3. AMENDMENTS TO TITLE I OF EPCA

Subsection (a) would strike section 102 of EPCA.

Section 102 of EPCA provides a loan guaranty program to encourage the opening of underground coal mines. Coal supply, however, is abundant, and the loan guarantee program has been inactive since the early 1980s. Because there is no current or foreseeable need for the program authorized by section 102 of EPCA, it is appropriate to delete the section.

Subsection (b) would amend section 105(a) of EPCA by providing that the Secretary of the Interior may allow joint bidding by major oil companies unless he or she determines that this bidding would adversely affect competition or the receipt of fair market value. If the Secretary finds that a prohibition must be issued, it may be done without issuing a rule, as previously required. This change would render unnecessary the exemption process required in section 105(c). The report required in section 105(e) has been issued to Congress.

Subsection (c) would strike section 106 of EPCA.

Section 106 of EPCA directs the Secretary of the Interior to determine the maximum efficient rate of production and the temporary emergency rate of production, if any, for each field on Federal lands which produces or is capable of producing significant volumes of crude oil or natural gas. The President may then require production at those rates, and the owner may sue for damages if economic loss is incurred.

Subsection (d) would amend section 151 of EPCA to clarify the policy for establishing a strategic reserve of petroleum products, and delete references to the Early Storage Reserve, the objectives of which have been achieved.

Subsection (e) would amend section 152 of EPCA by deleting the definition of "Early Storage Reserve." Requirements for and all references to this part of the program would be deleted by this bill.

Subsection (f) would strike section 153 of EPCA and amend section 154 to reflect the transfer of the Strategic Petroleum Reserve Office from the Federal Energy Administration to the Department of Energy.

Subsection (g) would amend section 154 of EPCA to eliminate requirements for a Strategic Petroleum Reserve Plan, and for specified fill rates and schedules, but would retain authority for a one billion barrel Reserve.

The Strategic Petroleum Reserve Plan is largely obsolete because the sites that are described for development in the Plan have now been developed. The need for the Drawdown and Distribution Plan, contained in Plan Amendment 4, is eliminated by the amendment to section 159, which would codify competitive sale as the drawdown and distribution policy and eliminate allocation as a method of distribution.

Subsection (h) would delete section 155 of EPCA, which requires the establishment of an Early Storage Reserve. All of the volumetric goals for the Early Storage Reserve have been accomplished, and there is no longer a distinction between the Early Storage Reserve and any other facilities or petroleum that make up the Strategic Petroleum Reserve.

Subsection (i) would amend section 156(b) of EPCA on the Industrial Petroleum Reserve authority to remove references to the Early Storage Reserve and the Strategic Petroleum Plan, which are being deleted by other amendments.

Subsection (j) would amend section 157 of EPCA to remove references to the Strategic Petroleum Reserve Plan.

Subsection (k) would delete 158 of EPCA.

Section 158 requires reports to Congress on Utility Reserves, Coal Reserves, and Remote Crude Oil and Natural Gas Reserves within six months of passage of the original Act. This requirement has been fulfilled.

Subsection (l) would amend the heading for section 159 of EPCA to reflect amendment to its contents.

Subsection (m) would amend section 159 of EPCA.

Paragraph (1) would eliminate subsections (a) through (e) of section 159 of EPCA, which require Congressional review of the Strategic Petroleum Reserve Plan and provide for Plan amendments, to reflect the deletion of the requirement for a Strategic Petroleum Reserve Plan in subsection (g) of this amendment.

Paragraph (2) would amend subsection 159(f) of EPCA to eliminate references to the Strategic Petroleum Reserve Plan and the Early Storage Reserve Plan. This amendment also would clarify and make explicit the Secretary's discretionary authority to lease, sell, or otherwise dispose of underutilized Strategic Petroleum Reserve facilities. If necessary or appropriate, lease terms could exceed the five-year limitation of section 649(b) of the Department of Energy Organization Act.

Paragraph (3) would remove references in subsection (g) of section 159 of EPCA to the Strategic Petroleum Reserve Plan.

Paragraph (4) would delete subsections 159(h) and (i) of EPCA. Subsection 159(h) deals with interim storage facilities which provide for storage of petroleum prior to the creation of Government-owned facilities. That authority is no longer needed since the Reserve has 750 million barrels of capacity, of which approximately 160 million barrels are empty. Subsection 159(i) required the submission of a report to Congress within 18 months after enactment of the 1990 EPCA Amendments on the results of contract negotiations conducted pursuant to part C of EPCA. The Department did not conclude any contracts pursuant to part C, and the reporting provision has expired by its own terms.

Paragraph (5) would amend subsection 159(j) of EPCA to reflect the elimination of the statutory requirement for a Strategic Petroleum Reserve Plan by amendment of section 154 of the Act. This amendment would continue the requirement for submission to Congress of proposed plans for expansion of storage capacity following a determination by the Secretary that a pattern of funding has been established which will fill the Reserve to 750 million barrels within five years. This reflects the situation that financing of fill for the available capacity in the Reserve is problematic, and that premature planning for capacity expansion beyond current capacity is unwise and costly.

Paragraph (6) would amend subsection 159(l) to eliminate the reference to the Distribution Plan, but would retain the Secretary's authority, during drawdown and distribution of the Reserve, to promulgate regulations necessary to the drawdown and distribution without regard to rulemaking requirements in section 553 of title 5, United States Code and section 501 of the Department of Energy Organization Act.

Subsection (n) would amend section 160 of EPCA.

Paragraph (1) would amend subsection 160(a) of EPCA to provide that the Secretary's authority to acquire petroleum products for the Strategic Petroleum Reserve is contingent on the availability of funds.

Paragraph (2) would amend subsection 160(b) of EPCA by striking the reference to the Early Storage Reserve, which would be eliminated by this bill.

Paragraph (3) would strike subsections 160(c), (d) and (e) of EPCA.

Subsection 160(c) of EPCA requires minimum fill rates. These requirements have proved unrealistic given changes in oil markets and availability of financing. The proposed amendment gives the Secretary flexibility to fill the Reserve contingent upon the availability of funds.

Subsection 160(d) links sales authority for the United States share of crude oil at Naval Petroleum Reserve Numbered 1 to a fill level of 750,000,000 barrels or a fill rate of 75,000 barrels per day. The requirement for Strategic Petroleum Reserve fill is dependent on the availability of financing for Strategic Petroleum Reserve acquisition, and the logistics of moving Naval Petroleum Reserve Numbered 1 crude oil to the Strategic Petroleum Reserve have proved to be very problematic.

Subsection 160(e) describes various exceptions to the linkage between the Naval Petroleum Reserve Numbered 1 crude oil sales authority and the Strategic Petroleum Reserve fill rate, which would be eliminated by this bill.

Subsection (o) would amend section 161 of EPCA.

Paragraph (1) would strike subsections 161 (b) and (c) of EPCA, because they refer to both the Strategic Petroleum Reserve Plan and the Early Storage Reserve Plan which would be eliminated by this bill.

Paragraph (2) would amend subsection 161(b) of EPCA by eliminating the references to the Distribution Plan contained in the Strategic Petroleum Reserve Plan but would not change the existing conditions for Presidential decision to draw down and distribute the Reserve.

Paragraph (3) would amend subsection 161(e) of EPCA to require the Secretary to distribute oil from the Reserve via a public competitive sale to the highest qualified bidder. The amendment eliminates the Secretary's allocation authority.

The amendment also would make explicit the authority of the Secretary to cancel a sale in progress. This authority would enable the Secretary to respond to inordinately low bids, changes in market conditions, or a sudden reversal in the nature of the shortage or emergency.

Paragraph (4) would amend subsection 161(g) of EPCA.

Subparagraph (4)(A) would amend subsection 161(g)(1) of EPCA to substitute "distribution procedures" for "Distribution Plan."

Subparagraph (4)(B) would strike subsection 161(g)(2) of EPCA because it refers to the Distribution Plan eliminated by the bill, and subsection 161(g)(6) of EPCA because it refers to the minimum required fill rate eliminated by the bill.

Subsection (p) would strike section 164 of EPCA. Section 164 of EPCA required a study of the use of Naval Petroleum Reserve No. 4 jointly by the Secretaries of Energy, the Interior and the Navy, with a report to Congress within 180 days of the passage of the original Act. The study and report were completed.

Subsection (q) would amend section 165 of EPCA by deleting the requirement for quarterly reports on the operation of the Strategic Petroleum Reserve, and requiring instead an annual report consistent with other parts of this amendment. Quarterly reports, considered important during the early growth period of the Strategic Petroleum Reserve to inform the Congress of progress in construction and the rate of fill, are now unnecessary, and their deletion would save administrative costs. Subsection (q) would also eliminate references to the Strategic Petroleum Reserve Plan, the Distribution Plan, and the Early Storage Reserve, which are eliminated by the bill.

Subsection (r) would amend section 166 of EPCA to authorize appropriations necessary to implement the Strategic Petroleum Reserve, and to delete year specific authorizations for the early years of the Reserve.

Subsection (s) would amend section 167 of EPCA to recognize explicitly that funds generated by test sales will be deposited in the SPR Petroleum Account. The amendment would remove language specific to fiscal year 1982 which limited the amount of money in the SPR Petroleum Account that year. The amendment also would delete reference to the use of funds for interim storage, which will no be needed because the permanent facilities are complete for the storage of 750 million barrels of oil.

Subsection (t) would amend section 172 of EPCA to delete subsections (a) and (b). The exemption in subsection (a) from the requirement for a Strategic Petroleum Reserve Plan amendment is no longer necessary because the bill eliminates the requirement for the Plan.

Subsection (b), which provides for treatment of part C contract oil coming out of the Reserve for purposes of calculating fill rates, is unnecessary since the requirement for specific fill rates is deleted by amendment of section 160 of the Act.

Subsection (u) would delete section 173 of EPCA which requires congressional review and, therefore, public scrutiny of the details of contracts even though no implementing legislation is needed, and requires a 30-day "lie before" period before the contract can go into effect. This requirement is a substantial impediment to acquisition of oil for the Reserve by "leasing" and other alternative financing methods authorized by EPCA, part C.

Subsection (v) would amend section 181 of EPCA by extending the expiration date of title I, parts B and C from September 30, 1994 to September 30, 1999.

SEC. 4. AMENDMENTS TO TITLE II OF EPCA

Subsection (a) would strike part A of EPCA title II, which contains the authorities for gasoline rationing and other mandatory energy conservation measures which expired on July 1, 1995.

Subsection (b) would amend section 252 of EPCA, which makes available to United States oil companies a limited antitrust defense and breach of contract defense for actions taken to carry out a voluntary agreement or plan of action to implement the "allocation and information provisions" of the Agreement on an International Energy Program ("IEP"). These limited defenses are now available only in connection with the companies' participation in planning for and operation of the IEP's emergency oil sharing and information programs. The amendment would extend the section 252 antitrust defense (but not the breach of contract defense) to U.S. companies when they assist the International Energy Agency ("IEA") in planning for and implementing the coordinated drawdown of government-owned or government-controlled petroleum stocks. In 1984, largely at the urging of the United States, the IEA's Governing Board adopted a decision on "Stocks and Supply Disruptions" which established a framework for coordinating the drawdown of member countries' government-owned and government-controlled petroleum stocks in those oil supply disruptions that appear capable of causing severe economic harm, whether or not sufficient to activate the IEP emergency oil sharing and information programs. During the 1990–91 Persian Gulf crisis the IEA successfully tested the new coordinated stockdraw policy.

Paragraph 1 would amend subsections 252(a) and (b) of EPC by substituting the term "emergency response provisions of the international energy program" for the term "allocation and information provisions of the international energy program." The new term, which would be defined in amended subsection (k)(2), establishes the scope of oil company activities covered by the antitrust defense and includes actions to assist the IEA in implementing coordinated drawdown of petroleum stocks.

Paragraph 2 would amend paragraph 252(d)(3) of EPCA to clarify that a plan of action submitted to the Attorney General for approval must be as specific in its description of proposed substantive actions as is reasonable "in light of circumstances known at the time of approval" rather than "in light of known circumstances."

Paragraph 3 would amend paragraph 252(e)(2) of EPCA to give the Attorney General flexibility in promulgating rules concerning the maintenance of records by oil companies related to the development and carrying out of voluntary agreements and plans of action.

Paragraph 4 would amend paragraph 252(f)(2) of EPCA to clarify that the antitrust defense applies to oil company actions taken to carry out an approved voluntary agreement as well as an approved plan of action.

Paragraph 5 would amend subsection 252(h) of EPCA to strike the reference to section 708(A) of the Defense Production Act of 1950, which was repealed by Public Law 102-558 (October 28, 1992), and the reference to the Emergency Petroleum Allocation Act of 1973, which expired in 1981.

Paragraph 6 would amend subsection 252(i) of EPCA to require the Attorney General and the Federal Trade Commission to submit reports to Congress and to the President on the impact of actions authorized by section 252 on competition and on small businesses annually rather than every six months, except during an "international energy supply emergency," when the reports would be required every six months.

Paragraph 7 would amend paragraph 252(k)(2) of EPCA by substituting a definition of the term "emergency response provisions of the international energy program" for the present definition of "allocation and information provisions of the international energy program." The new term, which establishes the scope of company actions covered by the antitrust defense, covers (A) the allocation and information provisions of the IEP and (B) emergency response measures adopted by the IEA Governing Board for the coordinated drawdown of stocks of petroleum products held or controlled by governments and complementary actions taken by governments during an existing or impending international oil supply disruption, whether or not international allocation of petroleum products is required by the IEP.

Paragraph 8 would amend subsection 252(l) of EPCA to clarify that the antitrust defense applies only to company actions to implement the IEA's emergency oil sharing system and IEA emergency response measures on coordinated stockdraw. With respect to stockdraw measures, the antitrust defense applies only to advising and consulting with or providing information or data to the IEA, unless the Attorney General, after consultation with the Departments of State and Energy, determines that additional actions are necessary or appropriate. However, the amendment makes clear that no antitrust defense would be available for oil companies to participate voluntarily in so-called "subtrigger" or "subcrisis" international oil allocation.

Subsection (c) would amend subsection 256(h) of EPCA to authorize appropriations for fiscal years 1996 through 1999 for the activities of the interagency working group and interagency working subgroups established by section 256 of EPCA to promote exports of renewable energy and energy efficiency products and services.

Subsection (d) would strike EPCA part C, which was added to the EPCA by the Energy Emergency Preparedness Act of 1982 and which required the submission to Congress of reports on energy emergency legal authorities and response procedures. The reporting requirement was fulfilled in 1982.

Subsection (e) would amend section 281 of EPCA by extending the expiration date of title II from September 30, 1994 to September 30, 1999.

SEC. 5. AMENDMENTS TO TITLE III OF EPCA AND SECTION 422 OF THE ENERGY CONSERVATION AND PRODUCTION ACT

Subsection (a) would amend sections 365 and 397 of EPCA, which provide authorization for appropriations for fiscal years 1991, 1992, and 1993 for State Energy Conservation programs and the Energy Conservation Program for Schools and Hospitals. The amendment would authorize appropriation of such funds as may be necessary for fiscal years 1995 through 1999.

Subsection (b) would amend section 422 of the Energy Conservation and Production

Act, which provides authorization for appropriations for fiscal years 1992, 1993, and 1994 for the Weatherization Assistance Program. The amendment would authorize appropriation of such funds as may be necessary for the program for fiscal years 1995 through 1999.

SEC. 6. AMENDMENTS TO TITLE V OF EPCA

Paragraph 1 would delete section 507 of the Act, which provides that the Energy Information Administration must continue to gather the same data on pricing, supply and distribution of petroleum products as it did on September 1, 1981. This section hinders the flexibility of the Administrator to collect information that is currently meaningful. There is no reason to have a statutory prohibition against modifying and amending the types of data collected.

Paragraph 2 would delete section 522 of the Act, which provides conflict of interest disclosure requirements for the Federal Energy Administration. This section was superseded by the Department of Energy Organization Act.•

By Mr. HATCH (for himself, Mr. INOUYE, Mr. MCCAIN, and Mr. BENNETT):

S. 2252. A bill to amend section 17 of the Act of August 27, 1954 (25 U.S.C. 667p), relating to the distribution and taxation of assets and earnings, to clarify that distributions of rents and royalties derived from assets held in continued trust by the Government, and paid to the mixed-blood members of the Ute Indian Tribe, their Ute Indian heirs, or Ute Indian legatees, are not subject to Federal or State taxation at the time of distribution, and for other purposes; to the Committee on Finance.

UTE INDIAN TAX STATUS ACT

Mr. HATCH. Mr. President, I am joined today by my colleagues, Senators INOUYE, MCCAIN, and BENNETT, to introduce a bill of great importance to the Ute Indians, a native population of my home State of Utah.

This legislation will restore the tax status of the Ute mixed blood Indians with regard to proceeds received from a trust created by the Federal Government as agreed in a settlement between the Federal Government and the tribe in 1954.

Until recently, the Federal Government has respected the intent of Congress to exempt this income from Federal and State taxation. However, in a recent tenth circuit decision the court construed the intent of Congress as allowing the tax exemption on the settlement proceeds to lapse. This bill is necessary to clarify the legislative intent of Congress and reinstate the exemption.

In my view, it was the intent of Congress in the 1954 settlement to exempt from Federal and State taxation the income derived from the assets held in continued trust by the Federal Government for, and paid to, the mixed blood Ute Indians. This has been the law for nearly four decades and should remain the law.

Historically, with regard to all settlements between the Federal Government and numerous Indian nations, the proceeds from settlements have been exempt from Federal and State taxation. The mixed blood Ute Indians have been singled out and treated differently since the tenth circuit's decision. This bill clarifies the 1954 settlement and simply restores the tax status of the mixed blood members of the tribe.

I believe all of my Senate colleagues will recognize this legislation as both fair and necessary. I am pleased to have the support of the chairman and ranking Republican member of the Senate Indian Affairs Committee as well as my Utah colleague, Senator BENNETT. I urge all Senators to help us clarify this exemption.

By Mr. NICKLES (for himself and Mr. BOREN):

S. 2253. A bill to modify the Mountain Park Project in Oklahoma, and for other purposes; to the Committee on Energy and Natural Resources.

THE MOUNTAIN PARK PROJECT ACT OF 1994

• Mr. NICKLES. Mr. President, I am pleased today to introduce legislation on behalf of myself and Senator BOREN to allow the Mountain Park Conservancy District in Oklahoma to prepay, or refinance, its obligation to the Bureau of Reclamation for the Mountain Park project. This prepayment will be equal to the fair market value of the district's debt, and is necessary to prevent a possible default by the district on their obligation.

To provide some background on this issue, Mr. President, the Mountain Park Master Conservancy District was formed by the Oklahoma communities of Altus, Frederick, and Snyder in the early 1970's. The district contracted with the Bureau of Reclamation for construction of the Mountain Park project in response to projections that the local population would increase significantly in the future and that additional water supply would be needed. Unfortunately, such population growth never developed, creating a very difficult financial situation for the district and the Federal Government.

Later this year, one of the municipalities obligated to the district may default on its loan payment to the district. Such a default would, in turn, likely cause the district to default on its obligation to the Bureau.

Since 1992, the district has worked with the Oklahoma congressional delegation to obtain relief from the financial burden caused by its obligation to repay the water supply costs associated with the Mountain Park project. The district has requested that they be allowed to purchase or prepay this obligation by making a one-time payment to the United States of the fair market value of such repayment obligation as of the date of such prepayment. Similar transactions have been allowed in the past in connection with not only certain Bureau projects, but those of other Federal agencies, as well.

During the 102d Congress, legislation I introduced to help the district was consolidated into the Reclamation Projects Authorization and Adjustment Act of 1992 and enacted as Public Law 102-575. As finally approved, however, Public Law 102-575 placed more stringent requirements on the district than those historically required by OMB in that it placed a cap on the discount factor which could be used in determining the discounted present value of the district's obligation, limiting the discount factor to a rate consisting of the current market yield on Treasury securities of comparable maturities.

Following an analysis of this legislation, the Bureau's own financial adviser recently noted, "[b]ecause the legislation prohibits the Secretary from basing the interest rate of discount factor on third party and open market factors a market value for the obligation cannot be established." Thus, Public Law 102-575 essentially prohibits the Secretary from accepting a prepayment in an amount equal to the fair market value of the district's obligation.

Public Law 102-575 also directed the Secretary to offer a revised schedule of payments to the district not later than 12 months following its enactment. Since January 1994, when the Secretary's offer was received, the district has been working with the Bureau to find an answer to the cities' financial problems. These discussions resulted in a request by the district for legislation to modify the language in Public Law 102-575 and allow the Secretary to accept a payment equal to the fair market value of this obligation. In addition, the district has proposed that a portion project's water supply be reallocated for environmental purposes to further reduce their municipal water supply repayment obligation.

It is urgent that Congress enact this legislation this year, Mr. President. The Mountain Park Conservancy District is acting in a responsible manner to solve this financial problem while protecting the interest of the Federal Government, and I believe we should accommodate that effort in a timely manner. I have spoken with the chairman of the Senate authorizing subcommittee, Senator BRADLEY, and he has assured me that he will cooperate to move this legislation as soon as possible.•

• Mr. BOREN. Mr. President, I introduce with Senator NICKLES a bill to restructure the debt owed by the Mountain Park Conservancy District to the Federal Government. Several years ago, Congress passed legislation allowing the Mountain Park District to restructure debt owed to the Bureau of Reclamation. Unfortunately, the legislation that passed did not give the district the desired relief.

Today, the communities of the district are faced with a tough choice. Either default on the loan to the Federal Government or face bankruptcy. Neither of these choices will benefit the community nor the Federal Treasury.

Both the House and Senate have recognized the need to provide relief to the district and protect the financial investment made by the Bureau of Reclamation. Congressional action is needed this year to modify the original legislation and prevent default by the district.

I would have preferred to solve this problem on the Energy and Water appropriations bill, as it is most likely guaranteed of passing both the House and Senate this year. However, I do understand the reluctance to approve authorizing legislation on an appropriations bill. I would like to thank Senator BRADLEY for his pledge to work out a solution in the Energy Committee and his Subcommittee on Water and Power as soon as possible. I also appreciate his understanding of the urgency of this matter and his commitment to work together and pass a solution before Congress adjourns for the year.•

By Mr. BIDEN:

S. 2254. A bill to amend the Energy Reorganization Act of 1974 to establish an Independent Nuclear Safety Board, and for other purposes; to the Committee on Environment and Public Works.

INDEPENDENT NUCLEAR SAFETY BOARD ACT OF 1994

• Mr. BIDEN. Mr. President, I introduce a bill to establish an independent nuclear safety board. The function of this board will be to conduct impartial investigations of events which threaten human health and safety at Nuclear Regulatory Commission [NRC] licensed facilities.

I introduce this measure, not to replace the NRC, but because I have continuing questions about the NRC's ability to both regulate the nuclear industry and simultaneously ensure that the public's health, safety and welfare predominates. I originally introduced this legislation in 1987 during the 100th Congress, and it passed the Senate as part of an overall reorganization of the NRC. I reintroduced it during the 101st Congress and again during the 102d Congress as an amendment to S. 2166, the national energy strategy legislation.

The need to establish an independent safety board first became clear to me in 1983 when an accident occurred at the Salem nuclear generating plant in New Jersey, one of the largest operating nuclear facilities in the country. The complex-owned and operated by Public Service Electric and Gas, is located just across the Delaware River from my home town of Wilmington. The subsequent handling of the accident by the NRC raised several concerns regarding its ability to safeguard the public.

In 1983, a so-called fail-safe mechanism—Salem I's automatic shutdown system—failed. In fact, there were two failures over a 4-day period. What made the situation worse, to me and many others, was that the NRC seemed unwilling to require improvements in the plant and allowed for a restart with no assurances that the plant was safe. After pressure was placed on the NRC, it took another look at the situation and eventually fined the utility $850,000, at the time the largest fine ever handed down. Since operations began at Salem over 17 years ago, the utility has been fined for violations 10 times. And even more important, in my view, is the fact that in the case of more than 20 NRC findings of violations at Salem, the utility was not fined at all.

Among those violations that went unfined, was the November 1991 explosion of the Salem II steam turbine. The explosion, which resulted in a fire that caused $75 million in containment and damage costs at the plant, and which the NRC concluded was caused in most part by involved personnel error, insufficient preventative maintenance and inadequate surveillance, did not result in any fine whatsoever for the utility. One factor in determining that a fine should not be imposed, according to the NRC, was the fact that the utility reported the accident to the NRC.

Mr. President, the latest in a long list of incidents at Salem occurred in April of this year. The sequence of events I will briefly summarize would seem almost comical if the potential for life-threatening consequences were not so serious.

The problem that initiated the incident itself would have been considered minor, river grasses that clogged cooling water intake valves. It was also a problem that was well known to the utility's management months before and could have been easily rectified if the management had made the needed modifications to the plant. However, it was never properly addressed and workers at the plant, for some time, had been addressing it by manually hosing off the circulating filter screens. The hosing was not sufficient to stop the clogging and a decrease in the quantity of water entering the plant occurred. If the workers at the plant had simply let the reactor trip, the plant would have shutdown. That did not happen. In an effort to keep the plant operational, workers started a chain of events full of operational and mechanical errors which could only be described as a serious breakdown in Salem operations.

The day after the incident occurred, the NRC sent an augmented inspection team [AIT] to investigate. While investigating, the team discovered a hydrogen and nitrogen gas bubble in the reactor vessel head. The operator had ignored the indicator that showed there was water displacement in the reactor and the equipment had not even been checked.

After the April 7 incident, I wrote to NRC Chairman Ivan Selin on two separate occasions. In these letters, I asked the NRC to thoroughly review all aspects of Salem's operations and to provide assurances that much needed management improvements were already in place before granting a restart at the Salem I facility.

Mr. President, despite my concerns and requests, a little over a month after this incident occurred, Salem I was granted permission by the NRC to restart the facility. When justifying their reason for permitting the restart, the NRC concluded that "near-term and long-term actions initiated by the licensee appear to be sufficient to cause improvement if management maintains their commitment of the program."

Unfortunately, those same commitments have been made over and over again by the utility. Just last year, in a May 13 letter to the NRC, PSE&G acknowledged weaknesses in management and the need to take corrective action. According to the NRC "a state of denial existed previously."

Yet, in 1991, the operator provided the NRC with assurances that management deficiencies would be corrected. And in 1989, when I visited the plant, the same assurances, with equal fervor and enthusiasm, were given to me.

Mr. President, what concerns me most is that a state of denial may still exist, and if history is any guide, we have no reason to believe that the operator has truly resolved its problems. In fact, just 1 month before the April 7 incidence, the NRC had fined Salem $50,000 for maintenance violations blaming "continued demonstrated weaknesses" of the plant's management.

At what point does the NRC say: "We're not going to let you fool us again?" When public safety and health has been compromised? At that point it is too late to take corrective action.

After the NRC granted permission to restart Salem, my staff and I met with Chairman Selin. While concurring with my observations of repeated and continuous problems at the plant, Chairman Selin nonetheless supported the NRC staff recommendation to allow the restart. As I told the Chairman, experience offers little hope that the promises made this time will be followed any better than in the past.

Mr. President, serious problems at nuclear powerplants and insufficient regulatory scrutiny by the NRC are not limited to the Salem facility. One example involves the Millstone plant in Connecticut and an incident that took place there in August 1993, an incident that an NRC official later declared had the potential to be another Three Mile Island.

The problem began when a leak occurred in a safety valve at the facility. Instead of temporarily shutting the plant down to replace the valve, the operator continued to keep the plant running while repairing the valve. The repair consisted of drilling holes in the valves and pouring in a sealant to stop the leak.

This method of drilling was used more than 30 times over a period of 73 days. Finally, so much stress had been placed on the bolts holding the valve that one of the bolts broke. The plant was finally shutdown and the valve fixed properly.

The NRC was aware of the leaky valve from the beginning and allowed the operators at Millstone to use this very rudimentary repair method. In fact, an NRC investigator was stationed at the facility during that period. At the time of the incident, the NRC severely underplayed the seriousness of the situation. Only later was the public informed of the real dangers that could have resulted from such handling by the operator.

Mr. President, questionable NRC practices such as those that have occurred at Salem and Millstone must be corrected. The public has a right to demand and expect only the highest of standards from a regulatory agency where safety should be of utmost singular importance. That level of strict oversight has not been present and will not be, in my view, if the NRC continues to investigate its own regulatory failings. That is the underlying conflict the independent safety board seeks to resolve.

By establishing an independent body to conduct accident investigations at nuclear powerplants, there will be a much greater assurance that all facts and circumstances surrounding an incident and its subsequent investigation are not hidden from public view. Most critically, the inherent conflict of NRC staff investigating accidents which exhaustive NRC oversight might have precluded is removed through outside independent investigation.

Other shortfalls of current investigatory practices are also addressed in my bill. The causes and contributing factors to accidents will be reviewed by experienced, not first-time, investigators. Those who do the investigating will be in a position to assure that the Board's recommendations are answered by the NRC. As practices stand now, accident investigators are returned to their normal duties and are not in a good position to assure that their recommendations are ever addressed or result in changes in nuclear plants.

The Board will have only limited financial and staff resources. It will be impossible for the Board called for in my legislation to become a mini-NRC. The Board will have broad authority to investigate what it deems important, but the limited resources will force it to focus on the highest priority accidents or concerns.

Again Mr. President, it is my belief that an Independent Nuclear Safety Board will dramatically improve the NRC's regulatory accountability. The public should not have to live in an environment where questionable regulatory and enforcement methods can and do lead to serious safety risks. The Federal Government has the responsibility to do all it can to eliminate such risks.

I ask unanimous consent that a brief summary and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2254

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Nuclear Safety Board Act of 1994".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that there is a great need for—

(1) vigorous investigation of events at facilities, or involving materials, licensed or otherwise regulated by the Nuclear Regulatory Commission that could adversely affect public health or safety; and

(2) continual review and assessment of licensing and other regulatory practices of the Nuclear Regulatory Commission, which may result in conclusions critical of the Nuclear Regulatory Commission or officials of the Commission.

(b) PURPOSE.—The purpose of this Act is to establish an Independent Nuclear Safety Board which shall promote nuclear safety by—

(1) conducting independent investigations of events at facilities, or involving materials, licensed or otherwise regulated by the Nuclear Regulatory Commission that could adversely affect public health or safety;

(2) reviewing and assessing the licensing and other regulatory practices of the Nuclear Regulatory Commission;

(3) recommending to the Nuclear Regulatory Commission improvements in licensing and related regulatory practices; and

(4) informing Congress of findings and recommendations of the Board that result from the investigations referred to in paragraph (1).

SEC. 3. ESTABLISHMENT OF NUCLEAR SAFETY BOARD.

Title II of the Energy Reorganization Act of 1974 (42 U.S.C. 5841 et seq.) is amended by adding at the end the following new section:

"SEC. 212. INDEPENDENT NUCLEAR SAFETY BOARD.

"(a) ESTABLISHMENT.—There is established a board to be known as the 'Independent Nuclear Safety Board' (referred to in this section as the 'Board').

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The Board shall be composed of 3 members appointed by the President, by and with the advice and consent of the Senate, from among respected experts in the field of commercial nuclear energy with a demonstrated competence and knowledge relevant to the independent investigative and prescriptive functions of the Board. Not more than 2 members of the Board shall be members of the same political party. Not later than 90 days after the date of enactment of this section, the President shall submit the nominations for appointment to the Board.

"(2) VACANCIES.—Any vacancy in the membership of the Board shall be filled in the same manner in which the original appointment was made.

"(3) FINANCIAL INTERESTS.—No member of the Board shall—

"(A) have any significant financial relationship in any firm, company, corporation, or other business entity that is engaged in an activity regulated by the Nuclear Regulatory Commission (referred to in this section as the 'Commission') as a licensee or contractor; or

"(B) have had such a relationship within the 2-year period preceding the appointment of the member.

"(c) CHAIRPERSON.—

"(1) IN GENERAL.—The Chairperson and Vice Chairperson of the Board shall be designated by the President. The Chairperson and Vice Chairperson may be reappointed.

"(2) FUNCTIONS.—

"(A) IN GENERAL.—The Chairperson shall be the chief executive officer of the Board and shall, subject to such policies as the Board may establish, exercise the functions of the Board with respect to—

"(i) the appointment and supervision of personnel employed by the Board;

"(ii) the organization of any administrative units established by the Board; and

"(iii) the use and expenditure of funds.

"(B) DELEGATION.—The Chairperson may delegate any of the functions under this paragraph to any other member of the Board or to any appropriate employee or officer of the Board.

"(3) VICE CHAIRPERSON.—The Vice Chairperson shall act as Chairperson in the case of the absence or incapacity of the Chairperson or in the case of a vacancy in the office of Chairperson.

"(d) TERMS OF MEMBERS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), each member of the Board shall serve for a term of 6 years. A member of the Board may be reappointed.

"(2) INITIAL MEMBERS.—Of the members first appointed to the Board—

"(A) 1 member shall be appointed for a term of 2 years;

"(B) 1 member shall be appointed for a term of 4 years; and

"(C) 1 member shall be appointed for a term of 6 years;

as designated by the President at the time of appointment.

"(3) SPECIAL TERMS.—Any member appointed to fill a vacancy occurring before the expiration of the term of office for which the predecessor of the member was appointed shall be appointed only for the remainder of the term. A member may serve after the expiration of the term of the member until a successor has taken office.

"(4) REMOVAL.—Any member of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(e) QUORUM.—Two members of the Board shall constitute a quorum, but a lesser number may hold hearings.

"(f) FUNCTIONS AND AUTHORITIES.—

"(1) INVESTIGATIONS.—

"(A) IN GENERAL.—

"(i) INVESTIGATIONS BY BOARD.—The Board shall investigate any event at any facility, or involving any material, licensed or otherwise regulated by the Commission, that the Board determines to be significant because the event could—

"(I) adversely affect public health or safety; or

"(II) be the precursor of an event that could adversely affect public health or safety.

"(ii) INVESTIGATIONS BY COMMISSION.—The Board may request the Commission to carry out an investigation of an event described in clause (i) and to report the findings of the Commission to the Board in a timely fashion. Whenever the Commission concludes such an investigation, the Board may analyze the findings of the Commission for the purpose of making its own conclusions and recommendations.

"(B) PURPOSE OF INVESTIGATIONS.—The purpose of a Board investigation of an event under this paragraph shall be—

"(i) to ascertain information concerning the circumstances of the event, and the implications of the event for public health and safety;

"(ii) to determine whether the event is part of a pattern of similar events at 1 or more facilities, or involving any material, licensed or otherwise regulated by the Commission that could—

"(I) adversely affect public health or safety; or

"(II) be the precursor of an event that could adversely affect public health or safety; and

"(iii) to provide such recommendations to the Commission for changes in licensing, safety regulations and requirements, and other regulatory policy as may be prudent or necessary.

"(2) ANALYSIS OF OPERATIONAL DATA.—For purposes of carrying out this section, the Board shall have access to and may systematically analyze—

"(A) operational data from any facility, or involving any material, licensed or otherwise regulated by the Commission to determine whether there exist certain patterns of events that indicate safety problems; and

"(B) operational data of the Commission including personnel and files.

"(3) SPECIAL STUDIES.—The Board may conduct special studies pertaining to nuclear safety at any facility, or involving any material, licensed or otherwise regulated by the Commission.

"(4) EVALUATION OF SUGGESTIONS.—The Board may evaluate suggestions received from the scientific and industrial communities, and from the interested public, on specific measures to improve safety at any facility, or involving any material, licensed or otherwise regulated by the Commission.

"(5) RECOMMENDATIONS TO COMMISSION.—

"(A) IN GENERAL.—The Board shall recommend to the Commission specific measures that should be adopted to minimize the likelihood that events will occur at any facility, or involving any material, licensed or otherwise regulated by the Commission, that could adversely affect public health or safety. The Commission shall respond in writing to the recommendations of the Board not later than 120 days after receipt of the recommendations. The written response shall detail specific measures adopted by the Commission in response to the recommendations, and explanations for the inaction of the Commission on recommendations the Commission chose to reject.

"(B) SUBMISSION TO CONGRESS.—The recommendations of the Board made pursuant to subparagraph (A) shall be submitted to Congress.

"(6) REPORTING REQUIREMENTS.—

"(A) IN GENERAL.—For purposes of investigations, the Board shall establish reporting requirements that shall be binding on—

"(i) any person who operates, designs, supplies, maintains, or is otherwise involved with the operation or construction of, a facility licensed or otherwise regulated by the Commission; and

"(ii) any person who processes, stores, transports, uses, or possesses a material licensed or otherwise regulated by the Commission.

"(B) PROTECTED MATERIAL.—

"(i) REPORTING.—The information that the Board may require to be reported under this paragraph may include any material designated as classified material pursuant to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or any information designated as safeguards information and protected from disclosure under section 147 of such Act (42 U.S.C. 2167).

"(ii) PUBLIC ACCESS.—Information received by the Board shall be made available to the public in accordance with the applicable provisions of subsections (a) and (b) of section 306 of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1905).

"(7) HEARINGS.—

"(A) IN GENERAL.—The Board or, on the authorization of the Board, any member of the Board, may, for the purpose of carrying out this section, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such evidence as the Board or the authorized member determines advisable.

"(B) SUBPOENAS.—

"(i) IN GENERAL.—A subpoena may be issued only under the signature of the Chairperson, or any member of the Board designated by the Chairperson, and shall be served by any person designated by the Chairperson or the member. The attendance of witnesses and the production of evidence may be required from any place in the United States at any designated place of hearing in the United States.

"(ii) OATHS.—Any member of the Board may administer an oath or affirmation to a witness appearing before the Board.

"(iii) ENFORCEMENT.—Any person who willfully neglects or refuses to qualify as a witness, or to testify, or to produce any evidence in obedience to any subpoena duly issued under the authority of this paragraph, shall be fined not more than $5,000, or imprisoned for not more than 180 days, or both. Upon certification by the Chairperson of the Board of the facts concerning any willful disobedience by any person to the United States attorney for any judicial district in which the person resides or is found, the attorney may proceed by information for the prosecution of the person for the offense.

"(8) REPORTS.—

"(A) IN GENERAL.—The Board shall issue periodic reports that shall be made available to Congress, and to Federal, State, and local government agencies concerned with safety at a facility, or involving any material, licensed or otherwise regulated by the Commission. The reports shall be made available to other interested persons on request.

"(B) CONTENTS.—Each report shall contain—

"(i) the major findings of the Board investigations; and

"(ii) recommendations of—

"(I) specific measures to reduce the likelihood of a recurrence of nuclear events similar to events investigated by the Board; and

"(II) corrective steps implemented or required by the Commission to enhance or improve safety conditions at facilities investigated by the Board and other facilities as considered appropriate by the Board.

"(9) STAFF AND CONSULTANTS.—In accordance with the civil service laws and regulations, the Chairperson of the Board may hire staff and employ consultants for the purpose of carrying out the functions and duties of the Board under this subsection.

"(10) EVENTS.—As used in this subsection, the term 'event' includes an action or failure to act by any person, including the Commission as an organization and the staff of the Commission, or a continuing series of actions or failures to act by any such person, including operational failures, that the Board determines have a potentially adverse effect on public health or safety as described in paragraph (1).

"(g) TRANSFER OF FUNCTIONS.—There are transferred to the Board—

"(1) all functions of the Office for Analysis and Evaluation of Operational Data of the Commission relating to the functions of the Board described in subsection (f); and

"(2) such personnel from the Office for Analysis and Evaluation of Operational Data as the Director of the Office of Management and Budget determines are necessary to carry out the functions described in subsection (f).

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 1995 through 2000.

"(i) TERMINATION.—The Board shall terminate on September 30, 2000.".

INDEPENDENT NUCLEAR SAFETY BOARD ACT OF 1994—BILL SUMMARY

Bill Title: The Independent Nuclear Safety Board Act of 1994.

Purpose: To establish an Independent Nuclear Safety Board.

The Board established by this bill would conduct independent investigations of events at facilities, review and assess NRC licensing and regulatory practices, recommend improvements to those practices, and report to Congress on these.

The Board would consist of three bipartisan and experienced members who have no financial relationships with nuclear business entities. Board members would have access to all data, including classified documents. The Board may also hold public hearings to which witnesses may be subpoenaed. Witnesses refusing to comply with subpoenas will be fined not more than $5,000, or imprisoned for up to 180 days, or both

The bill authorizes $10 million for each of fiscal years 1995 through 2000. The bill terminates the Board on September 30, 2000.•

By Mr. GORTON:

S. 2255. A bill to amend the Budget Enforcement Act of 1990 to establish a new budget point of order against any amendment, bill, or conference report that directs increased revenues from additional taxation of Social Security or Railroad Retirement benefits to a fund other than the Social Security trust fund or the Social Security equivalent benefit account; to the Committee on the Budget and the Committee

on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee has 30 days to report or be discharged.

THE SOCIAL SECURITY TRUST FUND PROTECTION ACT OF 1994

• Mr. GORTON. Mr. President, today I am introducing legislation entitled "The Social Security Trust Fund Protection Act of 1994." It is legislation that will protect the Social Security trust fund from the greedy hands of a Government looking for any way possible to raise revenue. It is a hands-off Social Security bill.

In the early 1980's, Social Security was on the brink of bankruptcy. The promise of a secure retirement was in jeopardy and people lost confidence in the system. It was only the quick action of Congress that saved it. Now it is solvent well into the future.

As part of that bailout, Congress made a deal with seniors. We said that in return for taxing up to 50 percent of their Social Security benefits, we would help ensure the integrity of the trust fund by placing those revenues back into the Social Security system.

It was a commitment we made—a promise we are beholden to honor. Revenues raised from the taxation of Social Security benefits were to strengthen, or fortify, the Social Security trust fund.

Last year's tax bill, however, reneged on that deal. The tax bill included a massive tax hike on Social Security benefits, raising the taxable portion from 50 percent to 85 percent. I vehemently opposed that tax hike and actively worked to strip it from the bill. In fact, I voted for five separate amendments, both in the Budget Committee and on the Senate floor, to eliminate this onerous tax. Unfortunately, we failed, and the tax hike was signed into law.

Beyond my steadfast opposition to the tax hike, I was outraged by where the money was to be deposited. It was not, as we promised in the 1980's, placed back into the trust fund. Instead, it was diverted away to fund other Government programs. Congress broke its promise—as if it never mattered—and for the first time ever, revenues from the taxation of benefits are now used to fund other Government programs.

Mr. President, that is wrong. That was not part of the deal seniors made and seniors know it. It was simply a back door raid on the trust fund. I have been contacted by many seniors and other citizens of my home State of Washington about this issue. They believe that the Government should stick by its deal, and that Social Security money should stay in the Social Security system.

I listened, and I agree. That is why I am introducing the Social Security Trust Fund Protection Act of 1994, to restore the deal Congress made.

This legislation is simple. It creates a 60-vote budget point-of-order against any bill, amendment, or conference report that directs revenues derived from an increased tax on Social Security benefits away from the Social Security trust fund. It covers instances where the taxable portion of Social Security benefits is raised, and instances where the threshold levels are readjusted below the current levels. It covers revenues raised from Railroad Retirement tier I benefits in the same manner.

Its effects will be dependent on the type of underlying bill. For reconciliation bills, this point of order will combine with an already existing point of order to make it much more difficult to tax Social Security benefits at all. If additional revenues raised from a tax hike are placed into the trust fund, the reconciliation bill is subject to the existing point of order. If it places revenues anywhere else, it is subject to this new point of order. In essence, my bill makes it almost impossible, on a reconciliation bill, for Congress to take away more of a senior's Social Security checks through higher taxation.

For all other types of bills, there is no current prohibition on placing new revenues into the trust fund. So my new point of order would simply mandate that any additional revenues raised from a tax hike be placed back into the trust fund.

Mr. President, I am outraged that Congress succeeded in raising the tax on Social Security benefits, and am dismayed that the Government uses that money to fund other Government programs. And I am worried that since this tax increase and revenue diversion slipped through once, it could happen again.

Congress may soon decide that it needs more revenues and may once again look into the pockets of seniors to get that revenue. My bill will make Social Security off limits in the future. It will eliminate the incentive to tax Social Security benefits to fund other Government programs. No longer will Social Security be considered a cash cow, providing vast amounts of money to fund Government programs. It means that if Congress ever passes another tax hike on Social Security benefits, seniors will know that the money has to be used only to further strengthen the system.

I listened to the concerns of the people of Washington State on this matter, and I am responding. I am introducing legislation designed to protect the Social Security trust fund in the future, and encourage my colleagues to join this fight with me and cosponsor the bill.

Mr. President, I ask that a letter from the Seniors Coalition in support of this bill appear in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SENIORS COALITION,
June 29, 1994.

Hon. SLADE GORTON,
U.S. Senate, Washington, DC.

DEAR SENATOR GORTON: Speaking for the two million members and supporters of The Seniors Coalition, I would like to thank you for your leadership in introducing the Social Security Trust Fund Protection Act of 1994.

We have been gravely concerned with the tax increase on Social Security benefits approved in the 1993 budget. However, we have been more concerned with the direction and use of those revenues. It is unconscionable that the revenues generated by this tax on senior citizens are being funneled into government programs, and not into the Social Security Trust Fund. The continual and blatant "raiding" of the Social Security Trust Fund by Congress must end.

The Social Security Trust Fund Protection Act of 1994 is precisely the type of legislation that serves the senior citizens of this country best. This measure helps to secure the fiscal integrity of the trust fund and guarantees that senior citizens will not be targeted as a quick source of revenue for more government spending.

Senator Gorton, you are to be applauded for your efforts to protect the senior citizens of America. Please do not hesitate to contact myself, or Kimberly Schuld at (703) 591-0663 if we can be of assistance to you on this measure.

Sincerely,

JAKE HANSEN,
Director of Government Affairs.•

By Mr. ROBB:

S. 2256. A bill to exclude from Federal income taxation amounts received in settlement of refund claims for State or local income taxes on Federal retirement benefits which were not subject to State or local income taxation on the same basis as State or local retirement benefits; to the Committee on Finance.

THE FEDERAL RETIREES FAIRNESS ACT

• Mr. ROBB. Mr. President, I introduce a bill to prevent a serious injustice from occurring, and to ask that my Senate colleagues join me as cosponsors of an important piece of legislation. This measure, the Federal Retirees Fairness Act, will guarantee fair treatment for military and Federal retirees who had their retirement benefits improperly taxed by States and are now seeking recompense.

In 1991, the Supreme Court ruled in Davis versus Michigan that States cannot tax the retirement benefits of military and Federal retirees differently than State retirees. In some instances, States compelled to discontinue this practice have begun to issue refunds to the retirees for the improperly collected State income taxes.

This legislation will ensure that these retirees do not pay Federal taxes a second time on their retirement benefits.

When these retirement benefits were initially received by the retirees, they were properly taxed by the Federal Government. State income taxes were also collected on the benefits, albeit improperly. Some retirees deducted from their Federal taxes the amount of State tax they paid on their benefits. Many others took the standard deduction and did not deduct the amount of State tax.

With State refunds forthcoming, those retirees who took the Federal standard deduction face the very real possibility of being taxed again on the same income. Should the IRS consider the refund as original income, these standard deduction filers would be forced to pay tax a second time on their retirement benefits. I think all my colleagues will agree that this is entirely unfair and should be prevented.

This bill will do just that by spelling out clearly that these refunds shall be exempt from Federal taxation. Adoption of this legislation will ensure that Federal and military retirees, in several States across the Nation, will not be subjected to double taxation on their retirement benefits by the Federal Government.

I fully understand that this measure could create a slight windfall for retirees who filed itemized returns and deducted from their Federal taxes the amount of State tax paid on their benefits. However, since these benefits have been subject to Federal tax once, it is important to note that the only interest the Federal Government has in these refunds is in recouping the amounts which retirees deducted from Federal taxes.

Considering the demographics involved in this matter and the fact that a majority of retirees were likely better off taking the standard deduction, it is very reasonable to assume that the number of filers who itemized is quite small. Consequently, the amount of foregone Federal revenues could also be quite small, meaning that the cost to the IRS of collecting that tax may very well exceed the benefits to the Federal Government.

Mr. President, this bill is ultimately about fairness. Should a Federal or military retiree, who, in a very real sense, was forced to make a multiyear, interest-free loan to the State, be subjected to a double tax by the Federal Government? I think not, and I would argue that this body does not either. I respectfully request that my colleagues stand up for fairness for our Nation's Federal and military retirees and cosponsor this worthwhile legislation.•

By Mr. BAUCUS (for himself, Mr. DURENBERGER, Mr. MITCHELL, Mr. MOYNIHAN, Mr. MATHEWS, Mr. COHEN, Mr. PRYOR, Mr. BINGAMAN, Mrs. BOXER, and Mr. DORGAN):

S. 2257. A bill to amend the Public Works and Economic Development Act of 1965 to reauthorize economic development programs, and for other purposes; to the Committee on Environment and Public Works.

ECONOMIC DEVELOPMENT REAUTHORIZATION ACT OF 1994

• Mr. BAUCUS. Mr. President, I introduce a bill to reauthorize programs within the Economic Development Administration. It is with great pleasure that I am joined by my colleagues, Senators DURENBERGER, MITCHELL, MATHEWS, COHEN, PRYOR, BINGAMAN, BOXER, MOYNIHAN, and DORGAN.

Mr. President, programs under the jurisdiction of the Economic Development Administration have not been reauthorized for more than a decade. Despite the uncertainty and instability this has created, EDA has become the cornerstone for efforts to strengthen and diversify the economies of our Nation's communities.

Since its inception in 1965, the EDA has established an impressive track record of helping communities to help themselves. These bootstrap efforts have allowed communities to meet economic challenges in a variety of ways—making public works improvements to attract new businesses and provide technical assistance and planning grants that allow a community to plan for their future, for example.

In just three words, I can tell you why I've become a strong believer in EDA: Libby, Havre, and Poplar. These words may not mean much to people in this town. But, to me, they are communities—they are people—they are names, faces, families, and Montanans—that I care deeply about. Unfortunately, each of these communities has experienced hard economic times.

Libby, for instance, is a timber dependent community in Montana's northwest corner. The timber mill that is Libby's largest employer recently changed hands and cut its workforce by half, costing about 300 jobs.

At the other end of the State, on the Fort Peck Indian Reservation, lies Poplar. In the face of Poplar's historically high unemployment, A & S Tribal Industries became a success story. Most recently, this firm delivered vital supplies to our forces in Operation Desert Storm. As a tribal run defense procurement contractor, A & S developed into Montana's largest manufacturer. But the end of the Cold War has meant the loss of almost 400 jobs at A & S.

And, finally, there's Havre. Located along the old Great Northern line, Havre is primarily a railroad town. In 1992, we were all shocked to learn that the Burlington Northern Railroad planned to shut the doors on its machine shop, costing Havre 300 jobs.

They say that tough times never last, but tough people do. I know this applies to folks in Libby, Poplar, and Havre and economically troubled communities all across America. With hard work and a strong spirit, these communities are fighting to rebuild their economic base—to bring jobs back. And, in each case, EDA has been there; not offering a handout; but, rather a helping hand by empowering people to help themselves.

Havre is an excellent example. With the help of EDA's revolving loan fund, strong community teamwork attracted a new manufacturing business. There is an excellent chance that this new business will ultimately employ more than the 300 people thrown out of work by the BN shutdown.

EDA has also been instrumental in responding to and assisting areas affected by natural disasters. In Florida and Louisiana, EDA was there to help businesses affected by the devastation of Hurricane Andrew. And EDA is still working with those areas of the Midwest devastated by the disastrous floods of 1993.

The programs within the EDA have become even more critical to Congress' efforts to alleviate and address job losses due to the closure and realignment of military bases around the country.

The EDA's programs are effective tools that are used on the local level—working hand-in-hand with local governments and businesses to develop future economic investment strategies. By acting as a catalyst, economic development funds are used to attract significant private contributions and support.

Despite efforts to dismantle EDA, the agency has matured in its approach to local economic development efforts. But the lack of authorization has not allowed Congress to make necessary changes to the statute and mission of EDA. As with any program, there are some areas that are working well and other areas that need to be refined. The lack of authorization has left some aspects of EDA's programs outdated or unnecessary. That is why I am introducing this bill today—a bill to streamline and advance EDA's successful programs.

The bill starts with the basic strengths of EDA and improves its process for delivering assistance to areas that are economically distressed. It streamlines the grant application and review process while also requiring that applicants prove the economic distress of their area.

The bill calls for a greater role for EDA to coordinate the efforts of various agencies that have economic development programs to reduce duplication and promote cooperation among those agencies.

It is my intention to act quickly on this legislation and I encourage my colleagues to take a look at this bill.

Mr. President, our country is faced with many challenges. Many of our communities are in economic transition and we need to strengthen and diversify the economies of those communities. We need to reauthorize EDA. It is high time that we recognize the important role that EDA plays in the future of this country. And I ask unanimous consent that the full text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Economic Development Reauthorization Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Direct and supplementary grants.
Sec. 3. Grants for public works facilities.
Sec. 4. Repeal of financial assistance for sewer facilities.
Sec. 5. Relationship of overall economic development plan to public works and development facility loans.
Sec. 6. Elimination of overall economic development program.
Sec. 7. Redevelopment area loan program.
Sec. 8. Technical assistance, research, and information.
Sec. 9. Business outreach center demonstration project.
Sec. 10. Office of Strategic Economic Development Planning and Policy.
Sec. 11. Authorization of appropriations for technical assistance, research, and information.
Sec. 12. Redevelopment areas.
Sec. 13. Annual review.
Sec. 14. Economic development districts.
Sec. 15. Applications for assistance.
Sec. 16. Performance evaluations of grant recipients.
Sec. 17. Transfer of funds.
Sec. 18. Extension of benefits.
Sec. 19. Supervision of Regional Counsels.
Sec. 20. Purpose.
Sec. 21. Base closings and realignments.
Sec. 22. Outreach to communities adversely affected by closures and realignments of military installations.
Sec. 23. Treatment of revolving loan funds.
Sec. 24. Sale of financial instruments in revolving loan funds.
Sec. 25. Special economic development and adjustment assistance.
Sec. 26. Compliance with Buy American Act.

SEC. 2. DIRECT AND SUPPLEMENTARY GRANTS.

(a) DIRECT GRANTS.—Section 101(a)(1) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3131(a)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking "acquisition, construction" and inserting "acquisition, design, engineering, construction";

(2) by striking subparagraph (C) and inserting the following new subparagraph:

"(C) the area for which the project is to be undertaken has an approved overall economic development plan as provided in section 402 and such project is consistent with such plan; and"; and

(3) in subparagraph (D)—

(A) by striking "so designated under section 401(a)(6)," and inserting "described in section 401(a)(7),"; and

(B) by striking "area." and inserting "area; and".

(b) CONSIDERATIONS FOR SUPPLEMENTARY GRANTS.—Section 101(c) of such Act is amended—

(1) in the second and third sentences, by striking "designated as such under section 401(a)(6) of this Act." and inserting "described in section 401(a)(7)."; and

(2) in the last sentence—

(A) by striking "the area, the" and inserting "the area and the"; and

(B) by striking ", and the amount of such" and all that follows and inserting a period.

SEC. 3. GRANTS FOR PUBLIC WORKS FACILITIES.

Section 105 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3135) is amended to read as follows:

"SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $175,000,000 for each of fiscal years 1995 through 1997. Such sums shall remain available until expended. Not less than 15 percent and not more than 35 percent of the amounts appropriated for any of fiscal years 1995 through 1997 under this section shall be expended in redevelopment areas described in section 401(a)(7).".

SEC. 4. REPEAL OF FINANCIAL ASSISTANCE FOR SEWER FACILITIES.

(a) IN GENERAL.—Title I of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3131–3137) is amended—

(1) by repealing section 106;

(2) by redesignating section 107 as section 104; and

(3) by moving such section 104 to appear after section 103.

(b) CONFORMING AMENDMENT.—Section 211(b)(3) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 211(b)(3)) is amended in the last sentence by striking "Notwithstanding" and all that follows through "education-related" and inserting "An education-related".

SEC. 5. RELATIONSHIP OF OVERALL ECONOMIC DEVELOPMENT PLAN TO PUBLIC WORKS AND DEVELOPMENT FACILITY LOANS.

Section 201(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141(a)) is amended by striking paragraph (5) and inserting the following new paragraph:

"(5) such area has an approved overall economic development plan as provided in section 402 and the project for which financial assistance is sought is consistent with such plan.".

SEC. 6. ELIMINATION OF OVERALL ECONOMIC DEVELOPMENT PROGRAM.

Section 202(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3142(b)) is amended—

(1) in paragraph (1), by striking "Such financial assistance shall not be extended" and inserting "The applicant for such financial assistance shall include, in the application of the applicant for such assistance, an assurance that the assistance will not be used"; and

(2) in paragraph (10), by striking "there shall be submitted to and approval of the Secretary an overall program for the economic development of the area and" and inserting "the applicant shall submit to the Secretary under section 402, and obtain approval of, an overall economic development plan and there is".

SEC. 7. REDEVELOPMENT AREA LOAN PROGRAM.

(a) IN GENERAL.—Section 204(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3144(a)) is amended by striking the last two sentences.

(b) CONFORMING AMENDMENTS.—

(1) Section 2 of the Act entitled "An Act to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for title I through IV through fiscal year 1971", approved July 6, 1970 (42 U.S.C. 3162 note) is repealed.

(2) Section 6 of the Act entitled "An Act to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for a one-year period", approved June 18, 1973 (42 U.S.C. 3162 note) is amended—

(A) in subsection (a), by striking "(a)"; and

(B) by striking subsection (b).

SEC. 8. TECHNICAL ASSISTANCE, RESEARCH, AND INFORMATION.

Section 301(a)(1) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3151(a)(1)) is amended by striking "areas which he has designated as redevelopment areas under this Act," and inserting "redevelopment areas,".

SEC. 9. BUSINESS OUTREACH CENTER DEMONSTRATION PROJECT.

Section 303 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3152) is amended to read as follows:

"SEC. 303. BUSINESS OUTREACH CENTER DEMONSTRATION PROJECT.

"(a) DEFINITION.—As used in this section, the term 'isolated small business' means a small business that is unable to effectively access small business services provided by a Federal, State, or local government due to linguistic, cultural, or geographic barriers, as determined by the Secretary.

"(b) DEMONSTRATION PROJECT.—Using funds made available under this title, the Secretary shall conduct a demonstration project in each of fiscal years 1994 through 1996 for the purpose of demonstrating methods of assisting isolated small businesses to access small business services provided by Federal, State, and local governments.

"(c) ESTABLISHMENT OF CENTERS.—In conducting the demonstration project under this section, the Secretary shall establish 3 business outreach centers. At least 1 of the centers shall be located in a rural area.

"(d) DUTIES OF CENTERS.—Each business outreach center established under this section shall—

"(1) provide a one-stop clearinghouse to assist isolated small businesses in accessing small business services provided by Federal, State, and local governments; and

"(2) improve efficiency in the delivery of such services.

"(e) SERVICES TO BE PROVIDED.—Each business outreach center established under this section shall provide each of the following services:

"(1) Outreach to isolated small businesses.

"(2) Assessment of the need of isolated small businesses for assistance services.

"(3) Referral of isolated small businesses to small business assistance agencies.

"(4) Preparation of materials required by isolated small businesses for participation in small business assistance programs.

"(5) Case management to ensure follow-up and quality control of business services.

"(6) Coordination of networking among isolated small businesses.

"(7) Quality control of small business assistance services.".

SEC. 10. OFFICE OF STRATEGIC ECONOMIC DEVELOPMENT PLANNING AND POLICY.

Title III of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3151–3153) is amended by adding at the end the following new section:

"SEC. 305. OFFICE OF STRATEGIC ECONOMIC DEVELOPMENT PLANNING AND POLICY.

"(a) ESTABLISHMENT.—The Secretary shall establish in the Economic Development Administration an Office of Strategic Economic Development Planning and Policy (referred to in this section as the 'Office').

"(b) Director.—The Office shall be headed by a Director, who shall be appointed by the Secretary and who shall report to the Assistant Secretary for Economic Development.

"(c) Duties.—The duties of the Director are as follows:

"(1) Research, evaluation, and demonstration projects.—The Director shall support research, evaluation, and demonstration projects to study and assess best practices in economic development and to examine trends and changes in economic conditions that affect regional development. The Director shall conduct a study of innovative economic development financing tools that may be employed to further economic development of States, regions, and localities.

"(2) Policy development.—The Director shall develop and submit to the Secretary recommendations on both short- and long-term policies regarding economic development issues and programs, to help foster the diffusion of innovative, best practices in economic development throughout the Department of Commerce.

"(d) Federal Coordinating Council for Economic Development.—

"(1) In general.—There is established a Federal Coordinating Council for Economic Development (referred to in this subsection as the 'Council').

"(2) Composition of the council.—

"(A) In general.—The Council shall be composed of representatives from Federal agencies, appointed by the heads of the agencies, involved in matters that affect regional economic development. The Secretary shall determine the Federal agencies that are involved in matters that affect regional economic development.

"(B) Vacancies.—Any vacancy in the Council shall not affect the powers of the Council, but shall be filled in the same manner as the original appointment.

"(3) Duties.—The Council shall assist the Secretary in providing a unifying framework for economic development efforts and shall develop a governmentwide strategic plan for economic development. The Council shall work to improve coordination of Federal economic development efforts to eliminate duplication and to direct Federal resources to improve economic conditions.

"(4) Travel expenses.—The members of the Council shall not receive compensation for service on the Council but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the homes or regular places of business of the members in the performance of services for the Council.

"(5) Facilities, supplies, and personnel.—

"(A) In general.—Upon the request of the Council, the Secretary shall provide to the Council any facilities, supplies, and personnel necessary for the Council to carry out the responsibilities of the Council under this subsection.

"(B) Details.—In the case of a detail of a Federal Government employee under paragraph (1), the employee may be detailed to the Council without reimbursement. The detail shall be without interruption or loss of civil service status or privilege.

"(6) Hearings.—The Council may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Council considers advisable to carry out this subsection.

"(7) Information from federal agencies.—The Council may secure directly from any Federal department or agency such information as the Council considers necessary to carry out this subsection. Upon request of the Council, the head of such department or agency shall furnish such information to the Council.

"(8) Postal services.—The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(9) Termination.—The Council shall terminate 1 year after the date of the establishment of the Council.".

SEC. 11. AUTHORIZATION OF APPROPRIATIONS FOR TECHNICAL ASSISTANCE, RESEARCH, AND INFORMATION.

Title III of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3151–3153) (as amended by section 10) is further amended by adding at the end the following new section:

"SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $50,000,000 for each of fiscal years 1995 through 1997. Such sums shall remain available until expended.".

SEC. 12. REDEVELOPMENT AREAS.

Section 401 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161) is amended to read as follows:

"SEC. 401. AREA ELIGIBILITY.

"(a) Certification.—An applicant seeking assistance under this Act to undertake a project for an area shall certify, as part of an application for such assistance, that the area on the date of submission of such application meets 1 or more of the following criteria:

"(1) The per capita income of the area is 80 percent or less of the per capita income of the United States.

"(2) The average rate of unemployment in the area (seasonally adjusted), as determined by the Secretary of Labor for the most recent 24-month period for which statistics are available, minus the national average rate of unemployment (seasonally adjusted), as so determined, is equal to or exceeds 1 percent.

"(3) The average rate of unemployment in the area (seasonally adjusted), as determined by the Secretary of Labor for the most recent 12-month period for which statistics are available, minus the national average rate of unemployment (seasonally adjusted), as so determined, is equal to or exceeds 2 percent.

"(4) The area has experienced or is about to experience a sudden economic dislocation resulting in job loss that is significant both in terms of the number of jobs eliminated and the effect on the rate of unemployment in the area (if information on such rate is available), as such rate is determined by the Secretary of Labor.

"(5) The population growth rate of the United States, as determined by the Secretary of Commerce for an appropriate period, minus the population growth rate of the area, as so determined, is equal to or exceeds 3 percent.

"(6) The area has experienced a decline in total employment that is equal to or exceeds 2 percent over the most recent 5-year period for which statistics are available, as such employment is determined by the Secretary of Labor, acting through the Commissioner of Labor Statistics.

"(7) The area is a community or neighborhood (defined without regard to political or other subdivisions or boundaries) that the Secretary determines has 1 or more of the following conditions:

"(A) A large concentration of low-income persons.

"(B) A rural area having substantial outmigration or substantial economic deterioration and unemployment.

"(C) Substantial unemployment.

"(b) Documentation.—

"(1) Data and statistics.—A certification made under subsection (a) shall be supported by Federal data, if available, and in other cases by data available through the appropriate State government. The applicant shall use the most recent statistics available to support the certification.

"(2) Acceptance of data.—The Secretary shall accept the data unless the Secretary determines that the data are inaccurate.

"(c) Special Rule.—With respect to a redevelopment area described in subsection (a)(7)—

"(1) the project to be carried out in the area shall not be subject to section 101(a)(1)(A);

"(2) the area shall not be subject to section 101(a)(1)(C); and

"(3) the area shall not be considered to be a redevelopment area for purposes of section 403(a)(1)(B).

"(d) Prior Designation.—Any designation of a redevelopment area for the purposes of this Act that was made before the date of enactment of the Economic Development Reauthorization Act of 1994 shall not be effective after such date.

"(e) Definition.—As used in this Act, the term 'redevelopment area' means an area that is the subject of a certification that is—

"(1) described in subsection (a); and

"(2) submitted by an applicant as part of an application for assistance—

"(A) that is described in subsection (a); and

"(B) for which the applicant obtains the approval of the Secretary.".

SEC. 13. ANNUAL REVIEW.

(a) In General.—Section 402 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3162) is amended to read as follows:

"SEC. 402. OVERALL ECONOMIC DEVELOPMENT PLAN AND INVESTMENT STRATEGY.

"(a) Overall Economic Development Plan and Investment Strategy.—The Secretary may provide assistance under this Act to an applicant for a project to be undertaken in an area only if the applicant has prepared and submitted to the Secretary, and obtained approval of, an overall economic development plan or an investment strategy. Such an overall economic development plan or investment strategy shall—

"(1) identify the economic development problems to be addressed using such assistance;

"(2) identify past, present, and projected further economic development investments in such area and public and private participants and sources of funding for such investments; and

"(3) set forth a strategy for addressing the economic development problems identified pursuant to paragraph (1) and describe how the strategy will solve such problems.

"(b) Application Requirements.—In submitting an application for assistance under title I or II, an applicant shall describe how the proposed project implements the plan or strategy, provide estimates of costs and timetables for completion for the project, and provide a summary of public and private resources expected to be available for the project.

"(c) Existing Plans and Investment Strategies.—To the maximum extent practicable, the Secretary shall approve under subsection (a) overall economic development plans, and overall economic development programs, that were approved by the Secretary under this Act before the date of enactment of the Economic Development Reauthorization Act of 1994 and that substantially meet the requirements of this section.

"(d) DEFINITION.—As used in this Act, the term 'economic development plan' includes—

"(1) a plan or program described in subsection (c) and submitted for approval under subsection (a); and

"(2) an investment strategy submitted for approval under subsection (a) in lieu of such a plan.".

(b) CONFORMING AMENDMENTS.—

(1) TRADE ACT OF 1974.—Section 273(c)(2) of the Trade Act of 1974 (19 U.S.C. 2373(c)(2)) is amended—

(A) by striking "overall economic development program" and inserting "overall economic development plan or investment strategy"; and

(B) by striking "section 202(b)(10)" and inserting "section 402".

(2) COMMUNITY ECONOMIC DEVELOPMENT ACT OF 1981.—Section 626(b)(1) of the Community Economic Development Act of 1981 (42 U.S.C. 9815(b)(1)) is amended—

(A) by striking "Public" and inserting "Public";

(B) by striking "overall economic development program" and inserting "overall economic development plan or investment strategy"; and

(C) by striking "section 202(b)(10)" and inserting "section 402".

SEC. 14. ECONOMIC DEVELOPMENT DISTRICTS.

(a) RELATIONSHIP TO OVERALL ECONOMIC DEVELOPMENT PLANS.—Section 403 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3171) is amended—

(1) in subsections (a)(1)(C), (a)(1)(D), (a)(2)(A), (a)(3)(A), (a)(4)(B), (e), and (i) by striking "overall economic development program" and inserting "overall economic development plan";

(2) in subsection (a)(1)(D), by striking "program" the second place the term appears and inserting "plan"; and

(3) in subsections (b) and (b)(2)(B), by striking "overall economic development programs" and inserting "overall economic development plans".

(b) RELATIONSHIP TO REDEVELOPMENT AREA.—Section 403(a)(4) of such Act is amended by striking "(designated under section 401)".

(c) ECONOMIC DEVELOPMENT DISTRICT DEFINED.—Section 403(d) of such Act is amended by adding at the end the following new sentence: "Such term includes any economic development district designated by the Secretary under this section before the date of enactment of the Economic Development Reauthorization Act of 1994, unless the Secretary terminates the designation.".

(d) FUNDING.—Section 403 of such Act is amended—

(1) by striking subsection (g) and inserting the following new subsection:

"(g) Amounts authorized to be appropriated under other sections of this Act shall be available for purposes of carrying out paragraphs (3) and (4) of subsection (a).";

(2) by striking subsection (h); and

(3) by redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

SEC. 15. APPLICATIONS FOR ASSISTANCE.

(a) EXPEDITED PROCESSING.—Title VI of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3201–3204) is amended by adding at the end the following new section:

"SEC. 605. EXPEDITED PROCESSING OF APPLICATIONS.

"(a) GUIDELINES.—Not later than 60 days after the date of enactment of this section, the Assistant Secretary for Economic Development shall—

"(1) develop and publish in the Federal Register guidelines that establish procedures to expedite the processing of applications for assistance under this Act; and

"(2) transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report containing such guidelines.

"(b) CONTENTS.—Guidelines to be developed and published under subsection (a) shall, at a minimum, provide for—

"(1) increased reliance on self-certification by applicants for such assistance to establish compliance with other Federal laws;

"(2) greater use of uniform application forms and procedures;

"(3) delegation of decisionmaking authority to regional offices of the Economic Development Administration; and

"(4) reduction in the time and number of reviews conducted by offices of the Department of Commerce other than the Economic Development Administration.".

(b) UNIFORM APPLICATION FORM.—Title VI of such Act (as amended by subsection (a)) is further amended by adding at the end the following new section:

"SEC. 606. UNIFORM APPLICATION FORM.

"(a) DEVELOPMENT.—The Secretary shall, in cooperation with the heads of appropriate Federal departments and agencies, develop a general, simplified application form for grant assistance under this Act that may be used by all Federal departments and agencies that provide grant assistance.

"(b) REPORT.—Not later than 180 days after the date of enactment of this section, the Secretary shall transmit to Congress a report on use of the form developed pursuant to subsection (a) by Federal departments and agencies.".

SEC. 16. PERFORMANCE EVALUATIONS OF GRANT RECIPIENTS.

Title VI of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3201–3204) (as amended by subsections (a) and (b) of section 15) is further amended by adding at the end the following new section:

"SEC. 607. PERFORMANCE EVALUATIONS OF GRANT RECIPIENTS.

"(a) IN GENERAL.—At least once every 2 years, the Secretary shall conduct an evaluation of each university center receiving assistance under title III (referred to in this section as a 'university center') and economic development district receiving grant assistance under this Act to assess the performance and contribution toward job creation of the recipient.

"(b) CRITERIA.—

"(1) ESTABLISHMENT.—The Secretary shall establish criteria for use in conducting evaluations under subsection (a).

"(2) CRITERIA FOR UNIVERSITY CENTERS.—The criteria for evaluation of a university center shall, at a minimum, provide for an assessment of the contribution of the center to providing technical assistance, conducting applied research, and disseminating results of the activities of the center.

"(3) CRITERIA FOR ECONOMIC DEVELOPMENT DISTRICTS.—The criteria for evaluation of an economic development district shall, at a minimum, provide for an assessment of management standards, financial accountability, and program performance.

"(c) PEER REVIEW.—In conducting an evaluation of a university center under subsection (a), the Secretary shall provide for the participation in the evaluation of at least 1 other university center on a cost-reimbursement basis.".

SEC. 17. TRANSFER OF FUNDS.

Section 708 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3218) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of law, the Secretary may accept such transfers of funds from other departments and agencies of the Federal Government as the Secretary determines to be appropriate and use such funds to carry out objectives of this Act, if the Secretary uses the funds to carry out objectives for which (and in accordance with the terms under which) the funds are specifically authorized and appropriated. Not more than 5 percent of such funds may be transferred to the account relating to salaries and expenses of the Economic Development Administration.".

SEC. 18. EXTENSION OF BENEFITS.

Section 715 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3225) is amended by striking "such areas as may be designated as 'redevelopment areas' or 'economic development centers' under the authority of section 401 or 403 of this Act:" and inserting "redevelopment areas and such areas as may be designated as 'economic development centers' under section 403:".

SEC. 19. SUPERVISION OF REGIONAL COUNSELS.

Title VII of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3211–3226) is amended by adding at the end the following new section:

"SEC. 717. SUPERVISION OF REGIONAL COUNSELS.

"The Secretary shall take such actions as may be necessary to ensure that individuals serving as Regional Counsels of the Economic Development Administration report directly to their respective Regional Directors.".

SEC. 20. PURPOSE.

The first sentence of section 901 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3241) is amended by striking "It is the purpose of this title" and inserting "The purposes of title I and of this title are".

SEC. 21. BASE CLOSINGS AND REALIGNMENTS.

Section 903 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3243) is amended by adding at the end the following new subsection:

"(e)(1) In any case in which the Secretary determines that a need exists for assistance under subsection (a) due to the closure or realignment of a military installation, the Secretary may make such assistance available to an eligible recipient for a project to be carried out on the military installation or for a project to be carried out in a community adversely affected by the closure or realignment.

"(2) Notwithstanding any other provision of law, the Secretary may provide to an eligible recipient any assistance available under this title for a project to be carried out on a military installation that is closed or scheduled for closure or realignment, without requiring that the eligible recipient have title to the property on which the installation is located, or a leasehold interest in the property, for any specified term.".

SEC. 22. OUTREACH TO COMMUNITIES ADVERSELY AFFECTED BY CLOSURES AND REALIGNMENTS OF MILITARY INSTALLATIONS.

Title IX of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3241–3245) is amended—

(1) by redesignating section 905 as section 908; and

(2) by inserting after section 904 the following new section:

"SEC. 905. OUTREACH TO COMMUNITIES ADVERSELY AFFECTED BY CLOSURES AND REALIGNMENTS OF MILITARY INSTALLATIONS.

"(a) Designation of Agency Representatives.—The Assistant Secretary for Economic Development shall designate for each State in which communities are adversely affected by closures and realignments of military installations, an individual to serve as a representative of the Economic Development Administration. Such individual may be the State Economic Development Agency Representative or another qualified individual.

"(b) Responsibilities.—Individuals appointed as agency representatives under subsection (a) shall provide outreach and technical assistance, to communities adversely affected by closures and realignments of military installations, on obtaining assistance from the Economic Development Administration.".

SEC. 23. TREATMENT OF REVOLVING LOAN FUNDS.

Title IX of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3241–3245) (as amended by section 22) is further amended by inserting after section 905 the following new section:

"SEC. 906. TREATMENT OF REVOLVING LOAN FUNDS.

"(a) In General.—An amount made available through a grant made under this title that is used by an eligible recipient to establish a revolving loan fund shall not be treated, except as provided by subsection (b), as an amount derived from Federal funds for the purposes of any Federal law after such amount is loaned from the fund to a borrower and repaid to the fund.

"(b) Exceptions.—An amount described in subsection (a) that is loaned from a revolving loan fund to a borrower and repaid to the fund—

"(1) may be used only for a project that is consistent with the purposes of this title; and

"(2) shall be subject to the financial management, accounting, reporting, and auditing standards that were originally applicable to such amount on the date on which the Secretary made the amount available to the recipient through a grant described in subsection (a).

"(c) Regulations.—Not later than 30 days after the date of enactment of this section, the Secretary shall issue regulations to carry out subsection (a).

"(d) Public Review and Comment.—Before issuing any final guidelines or administrative manuals governing the operation of revolving loan funds established using amounts from grants made under this title, the Secretary shall provide reasonable opportunity for public review of and comment on such guidelines and administrative manuals.".

SEC. 24. SALE OF FINANCIAL INSTRUMENTS IN REVOLVING LOAN FUNDS.

Title IX of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3241–3245) (as amended by section 23) is further amended by inserting after section 906 the following new section:

"SEC. 907. SALE OF FINANCIAL INSTRUMENTS IN REVOLVING LOAN FUNDS.

"Any loan, loan guarantee, or other financial instrument in the portfolio of a revolving loan fund described in section 906 may be sold, at the discretion of the grant recipient that established the fund, to a third party. The proceeds of the sale—

"(1) shall be deposited in the fund and only used for projects that are consistent with the purposes of this title; and

"(2) shall be subject to the financial management, accounting, reporting, and auditing standards that were originally applicable to the financial instrument on the date on which the financial instrument was entered into.".

SEC. 25. SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE.

Section 908 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3245) (as redesignated by section 22(1)) is amended to read as follows:

"SEC. 908. AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.—There are authorized to be appropriated to carry out this title $124,800,000 for fiscal year 1995 and $81,000,000 for each of fiscal years 1996 and 1997. Such sums shall remain available until expended.

"(b) Set-Aside for Activities Related to Closures and Realignments of Military Installations.—Of the amounts appropriated pursuant to subsection (a) for fiscal year 1995, not less than $80,000,000 shall be available for purposes of assisting eligible recipients in carrying out activities related to closures and realignments of military installations.

"(c) Additional Amounts.—In addition to the appropriations authorized by subsection (a), there are authorized to be appropriated to carry out this title such sums as may be necessary to provide assistance for activities related to closures and realignments of military installations and to provide assistance in the case of a natural disaster for each of fiscal years 1995, 1996, and 1997. Such sums shall remain available until expended.".

SEC. 26. COMPLIANCE WITH BUY AMERICAN ACT.

None of the funds made available under this title, or any amendment made by this title, may be expended to acquire articles, materials, or supplies, or to procure services, in violation of the applicable provisions of sections 2 through 4 of title III of the Act of March 3, 1933 (commonly known as the "Buy American Act") (41 U.S.C. 10a–10b–1).●

By Mr. WARNER (for himself, Mr. Graham, Mr. DeConcini, Mr. Metzenbaum, Mr. Chafee, and Mr. Cohen):

S. 2258. A bill to create a Commission on the Roles and Capabilities of the U.S. Intelligence Community, and for other purposes; to the Select Committee on Intelligence.

COMMISSION CREATION LEGISLATION

Mr. WARNER. Mr. President, I am rising today to introduce legislation that would establish a Presidential Commission to examine the roles and missions of the U.S. intelligence community.

It was not too many years ago, Mr. President, that there was a solid consensus in Congress in support of the intelligence budget and our intelligence agencies. During the decade of the 1980's, for example, the intelligence authorization bill was so noncontroversial that it was often passed during a late night session on a voice vote without debate or amendment. That era is now gone, and the intelligence authorization bill seems to attract more debate and discussion every year.

I anticipate that this year the Senate will establish a new record for the length of time that it debates the intelligence authorization bill. We will consider counterintelligence legislation in connection with the intelligence bill this year; we will probably face amendments aimed at cutting the intelligence budget, as we have each of the last few years; and the Senate may revisit the issue of declassifying the intelligence budget totals. Some Senators have indicated they may seek to convene the Senate in executive session to debate classified programs. That is a procedure I always support.

As my colleagues are aware, the Department of Defense has been the subject of extensive reviews in recent years. The Bottom-Up Review being the most recent. In 1986, both Houses of Congress overwhelmingly approved the Goldwater-Nichols Act, which strengthened the Unified Combatant Commands and the Office of the Chairman of the Joint Chiefs of Staff. A Presidential commission has been established to review the roles and mission of our Armed Forces. These have been very productive and necessary steps, and I believe that a comparable review of the intelligence community is now, timely. Such a review, I predict, will result in the strengthening of the Nation's intelligence.

The bill that I am introducing today, together with Senator Graham of Florida, chairman of the Intelligence Committee, is intended to provide a thorough and fully independent review of the organization and mission of the intelligence community. While the Jacobs' panel looked at part of our intelligence structure, and made a valuable contribution, this proposed commission would be the first fully independent review of the roles and missions of the entire intelligence community since the establishment of the CIA in 1947.

Our bill has a number of important features.

First, the Commission would be composed of four Members of Congress appointed by our leadership in consultation with the chairman and vice chairman of the Intelligence Committee as well as seven individuals from the private sector appointed by the President. In order to ensure an independent perspective, we have stipulated in the bill that the members of the Commission shall not have previously held leadership positions in the intelligence community.

Second, we have provided funds so that the Commission can have a clearance staff to handle classified material, and will therefore not need to depend on intelligence community officials for information and analysis.

Third, we have provided the Commission the time necessary to do a thorough and detailed study. Its report would not be due until December 1996.

Finally, I think it is important for my colleagues to understand that our bill tasks the Commission with reviewing the full range of issues that have arisen with regard to the intelligence community in recent years. For example, under our bill, the Commission would be charged with reviewing the budgets of the intelligence community as well as their roles and missions; the role of economic intelligence would be addressed, as would the issue of declassifying the intelligence budget.

I want the record to reflect the fact that this bill was a collaborative effort involving myself, Senator DECONCINI, and Senator GRAHAM of Florida. Over the last couple of months, I have been publicly outspoken regarding the need for a Presidential Commission, and on May 19 I wrote the President urging his support for such a Commission. But my initial idea had been to have a Presidential Commission that would have focused primarily on the CIA and its relations with other organizations. Senator GRAHAM at that point approached me expressing support for a Presidential Commission, suggesting however that its purview be expanded to include the entire intelligence community. Senator GRAHAM and our distinguished chairman, Senator DECONCINI, both had ideas for topics the Commission should consider that have been incorporated in this bill. So my colleagues from Florida and Arizona are not only cosponsors, but coauthors of this legislation.

I strongly believe that the world is a more complex and difficult place in many respects than it was during the cold war. There is no doubt in my mind that an independent Commission will validate the continued need for clandestine human and technical intelligence collection to support U.S. national security interests. Nevertheless, the Commission may very well recommend changes that eliminate waste or duplication and increase the performance and effectiveness of the intelligence community. We need an independent review at this time, to scrub the existing structure and provide both the Congress and the public with assurances that the intelligence organization and activities we support are consistent with our great Nation's values, budgets, and interests. I have no doubt that the intelligence community will pass this test and emerge with renewed public and congressional support.

I hope that my colleagues, the administration and the public will review the bill and comment on it so that we can make any needed changes or improvement prior to the time the intelligence authorization bill comes to the floor of the Senate. It would be my intention, and I know that of our distinguished chairman and the distinguished Senator from Florida, to offer this bill as an amendment to the intelligence authorization bill at that time.

Mr. President, in closing, I ask unanimous consent that a letter I wrote to the President on this topic last month be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
May 19, 1994.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I am writing today to urge you to consider establishing a Presidential Commission to review the roles, mission, funding level and organizational structure of the Central Intelligence Agency as well as its integral role as the lead agency in the Intelligence Community.

As you know, the CIA has come under intense public scrutiny as a result of the Ames case. My own view is that much of this criticism is unjustified. Nevertheless, this tragic case has triggered many of my colleagues (and their constituents) to pose constructively, a broad range of important questions, not only about the CIA's counterintelligence practices, but more fundamentally, the appropriate role of clandestine activities in a world devoid of the Soviet threat. As I, Chairman DeConcini, and others, support the Intelligence Authorization bill (and subsequent appropriations) on the floor, it would be helpful to refer to a decision by you to initiate an in-depth study by a Presidential Commission.

For nearly a quarter of a century, I have worked with the CIA. Unequivocally, I believe that the CIA continues to play a unique and vital role in supporting U.S. national security interests. The threat of nuclear conflicts has diminished, in the wake of the demise of the Soviet Union, but the dramatic collapse of that vast empire has produced a heightened instability throughout not only the former Soviet Union, but the world.

Further, as you well know, in the minds of many the world is more complex and unpredictable than it was before the collapse of the Soviet Union. The time for a hard look at the CIA is now. I am confident that the Agency will pass "the test," no matter how vigorously examined, and that constructive new ideas, which neither you nor I now have, will emerge to change and strengthen intelligence.

In recent years, other parts of the national security apparatus have undergone fundamental reforms. The Goldwater-Nichols bill reformed important structures within the Department of Defense and was approved overwhelmingly by both Houses of Congress. It was enacted in 1986, following vigorous efforts by the Senate Armed Services Committee. Last Year, the Defense Department conducted a "bottom-up review" in order to assure that we have an appropriate balance between U.S. military objectives and force structure. More recently, Congress directed, and you appointed, a panel to review the roles and missions of the armed forces. A Presidential Commission, however, is essential in this case.

In my view, an independent appraisal of the Agency, in the context of it's partners, would restore a sense of confidence in the Agency and in Congress.

Congress, in its oversight capacity, is undertaking, to a limited extent, its own review; but, in my judgment would welcome an independent analysis. In keeping with past practice, I recommend that such a commission be composed of individuals appointed by yourself and the leaders of the House and Senate and be directed to report back to you in less than a year.

Senator Boren and Senator Cohen worked very successfully with a group—with similar objectives—known as the "Jacobs Panel." Both Senators, unsolicited, support the concept of your appointing a group and suggest that one or more of the "Jacobs Panel" be included to achieve a measure of continuity.

In closing, I would urge that this panel examine the question of economic intelligence, for I foresee growing problems as other nations are becoming more active in this area and economic competition intensifies.

If you support the idea of a Presidential Commission, I would be happy to offer an amendment authorizing such a commission during Senate consideration of the Fiscal Year 1995 Intelligence Authorization bill. I appreciate your consideration of this important issue.

Respectfully yours,
JOHN WARNER.

Mr. GRAHAM. Mr. President, I am pleased to join Senators WARNER and DECONCINI in introducing legislation to establish a blue ribbon commission on the roles and capabilities of the U.S. intelligence community.

The purpose of this commission is to commence an analysis of the missions, roles, functions, and relationships of the intelligence community and its responsiveness to consumers' needs, based on the post-cold war environment.

With the collapse of the Soviet Eastern bloc we face a dramatically changed world. Rather than one principle enemy, we now confront a world where regional instability presents a variety of threats.

As the world is changing, so must our approach to intelligence gathering. We must chart a new course. The commission which we are today proposing will play a critical role in charting that new course.

I believe, as my colleague and friend from Virginia has stated, this is the time to step back to take a long view and a fresh look at our intelligence priorities. Where changes are needed we need to make them. New thinking is required and nothing is sacrosanct. Most importantly in an environment of reduced resources we must match means to ends.

Intelligence is critical to the security of our Nation and will remain so. As we reduce our defense spending the role of intelligence becomes even more critical. Good intelligence is invaluable, it can tell us where the next threat will arise and how we should best deploy resources to address it.

I am also well aware that recent events, such as the Ames spy case, have focused a critical light on the intelligence community and generated renewed concerns for an evaluation.

Mr. President the time is right for a comprehensive review. I would like to highlight three issues which the commission will evaluate closely:

First, the roles and missions of the intelligence community in terms of providing support to its traditional customers—the defense and foreign policy establishments.

Second, whether intelligence efforts are prepared to address emergency needs—such as increasingly sophisticated economic intelligence for new customers.

Third, available requirements and resources—both human and material—are they properly watched and allocated within the intelligence community.

A particular concern is whether the recruitment, training, and promotion policies of the intelligence community will achieve the human resources needed in a world in which human intelligence capabilities will be increasingly required.

I am particularly concerned that at a time when I suspect that human intelligence, as distinct from technological means of gathering intelligence, will assume greater importance, particularly in places in the 60 emerging hot spots around the world, that we have the capability to recruit, train, and lead our humans who will be providing that human intelligence.

The proposed commission would consist of 11 members: seven appointed by the President; one member each appointed by the Senate majority leader and minority leader; and one member each appointed by the Speaker of the House and the House minority leader.

This proposed commission would ensure an independent evaluation with executive and legislative branch collaboration, to provide a review that could serve to strengthen the support and refine the management of these vital capabilities essential for our national security. The structure of this commission will ensure its independence.

I look forward to its creation and receiving its recommendations by December 31, 1996.

Mr. President, I appreciate this time and join my colleague from Virginia in looking forward to the creation and the receipt of the report of the commission by December 31, 1996.

By Mrs. MURRAY (for herself, Mr. HATFIELD, Mr. GORTON, Mr. INOUYE, and Mr. BRADLEY):

S. 2259. A bill to provide for the settlement of the claims of the Confederated Tribes of the Colville Reservation concerning their contribution to the production of hydropower by the Grand Coulee Dam, and for other purposes; to the Committee on Indian Affairs.

GRAND COULEE DAM SETTLEMENT ACT

• Mrs. MURRAY. Mr. President, today I am proud to introduce the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act.

This legislation would codify an historic agreement recently reached between the Confederated Tribes of the Colville Reservation and the United States. Since the Federal construction of the Grand Coulee Dam, the people of Washington State and the Nation have benefited greatly from the power produced from the waters of the Columbia. But few have sacrificed as much for these gains as the Confederated Tribes of the Colville Reservation, on whose land the Grand Coulee Dam was built. This bill would resolve this inequity, settling the tribe's long-standing claims against the United States for compensation of the reservation lands taken for Grand Coulee Dam construction and operation.

In 1933, the Federal Power Commission granted a permit to develop the water resources at the site that is now the Grand Coulee Dam on the Columbia River in Washington State. The dam was to be constructed under a Federal Power Act license, and the tribe was to receive annual payments for tribal lands taken and used for the production of power. The tribe testified before Congress, that their best lands would be lost and their ability to fish would be destroyed. The Secretary of the Interior, Harold Ickes, supported the tribes, affirming that they should be compensated according to the power produced by the dam.

Even so, when the United States completed the dam and began producing electricity in 1942, the tribe received nothing for its contribution to the production of electricity.

The tribe then commenced to pursue its claim in the Federal courts. For almost 50 years—nearly a generation—the tribe filed claims litigation seeking compensation. The tribe first brought suit against the United States under the 1946 Indian Claims Commission Act for the taking of its property and the use of its lands. Finally, in 1992, the Court of Appeals for the Federal Circuit reversed a previously dismissed claim, thereby opening the door for settlement negotiations between the tribe, the Justice Department, and the Bonneville Power Administration [BPA] to begin.

The settlement agreement negotiated between the United States and the tribe is a fair, equitable, and final settlement for tribal compensation claims. Over 6 months of negotiations, representatives of the Department of Justice, the Department of Interior, and the BPA agreed with the Colville Tribe on the Settlement Agreement represented by this act.

The purposes of this act are as follows. First, to approve and ratify the Settlement Agreement entered to by the United States and the Confederated Tribes of the Colville Reservation in Washington State. And second, to direct the BPA to carry out payment obligations under the Settlement Agreement.

Under the Settlement Agreement, the United States has agreed to pay $53 million to the tribe as settlement for past unpaid annual charges. The BPA will pay the tribe an annual payment for the continued use of reservation lands. The first payment will be for $15.25 million and will be made by March 1, 1996. Additional payments will be subject to a formula set forth in the agreement. These payments will fluctuate according to the amount of power produced annually at the Grand Coulee Dam and BPA's average sale price for power.

Mr. President, The Confederated Tribes of the Colville Reservation have contributed greatly to the success of my region of the country, and will continue to do so for many generations to come. It is time for the United States to recognize the contributions that have been made. Therefore, it is with conviction that I urge my colleagues to vote with me for passage of this act. Thank you.

Mr. President, I ask unanimous consent that the text of my statement be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2259

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Bonneville Power Administration;

(2) BONNEVILLE POWER ADMINISTRATION.—The term "Bonneville Power Administration" means the Bonneville Power Administration of the Department of Energy or any successor agency, corporation, or entity that markets power produced at the Dam.

(3) DAM.—The term "Dam" means the Grand Coulee Dam—

(A) operated by the Bureau of Reclamation of the Department of the Interior, and

(B) with respect to which power is marketed by the Bonneville Power Administration of the Department of Energy.

(4) CONFEDERATED TRIBES V. UNITED STATES.—The term "Confederated Tribes v. United States" means the case pending before the United States Court of Claims arising from the claim filed with the Indian Claims Commission with the docket number 181–D that—

(A) was transferred to the United States Court of Claims pursuant to the Federal Courts Improvement Act of 1982 (96 Stat. 25) as Confederated Tribes v. United States (20 Cl. Ct. 31);

(B) with respect to which an appeal was filed in the United States Court of Appeals, Federal Circuit (964 F.2d 1102) (Fed. Cir. 1992); and

(C) on the basis of the appeal, was remanded in part by the United States Court of Appeals to the United States Court of Claims.

(5) MINOR.—The term "minor" means a child who has not attained the age of 18.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(7) SETTLEMENT AGREEMENT.—The term "Settlement Agreement" means the Settlement Agreement entered into between the

United States and the Confederated Tribes of the Colville Reservation, signed by the United States on April 21, 1994, and by the Tribe on April 16, 1994, to settle the claims of the Tribe under Confederated Tribes v. United States.

(8) TRIBE.—"Tribe" means the Confederated Tribes of the Colville Reservation, a federally recognized Indian tribe.

SEC. 3. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) An action by the Confederated Tribes of the Colville Reservation against the United States is pending before the United States Court of Federal Claims.

(2) In such action, the Tribe seeks to recover damages under section 2(5)) of the of the Indian Claims Commission Act (60 Stat. 1050 (formerly 25 U.S.C. 70a(5)) relating to fair and honorable dealings.

(3) Although the matter that is the subject of such action is in dispute, the potential liability of the United States is substantial.

(4) The claim filed by Tribe with respect to such action alleges that—

(A) after the construction of the Grand Coulee Dam, the United States has used land located in the Colville Reservation in connection with the generation of electric power;

(B) the United States will continue to use such land during such time as the Grand Coulee Dam produces power; and

(C) the United States has promised to pay the Tribe for the use referred to in subparagraph (A), but has failed to make such payment.

(4) After years of litigation, the United States has negotiated a Settlement Agreement with the Tribe that was signed by the appropriate officials of the Department of Justice, the Bonneville Power Administration, and the Department of the Interior.

(5) The Settlement Agreement is contingent on the enactment of enabling legislation to approve and ratify the Settlement Agreement.

(6) Upon the enactment of this Act, the Settlement Agreement will—

(A) provide mutually agreeable compensation for the past use (as determined under such Agreement) of land of the Colville Reservation in connection with the generation of electric power at Grand Coulee Dam;

(B) establish a method to ensure that the Tribe will be compensated for future use (as determined under such Agreement) of land of the Colville Reservation in the generation of electric power at Grand Coulee Dam; and approved; and

(C) settle the claims of the Tribe against the United States brought under the Indian Claims Commission Act.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To approve and ratify the Settlement Agreement entered into by the United States and the Tribe.

(2) To direct the Bonneville Power Administration to carry out the obligations of the Bonneville Power Administration under the Settlement Agreement.

SEC. 4. APPROVAL, RATIFICATION AND IMPLEMENTATION OF SETTLEMENT AGREEMENT.

(a) IN GENERAL.—The Settlement Agreement is hereby approved and ratified.

(b) DUTIES OF THE BONNEVILLE POWER ADMINISTRATION.—The Bonneville Power Administration shall—

(1) on an annual basis, make payments to the Tribe in a manner consistent with the Settlement Agreement; and

(2) carry out any other obligation of the Bonneville Power Administration under the Settlement Agreement.

(c) IMPLEMENTATION OF SETTLEMENT AGREEMENT.—

(1) IN GENERAL.—In a manner consistent with the negotiated terms of the Settlement Agreement, the United States shall join in the motion that the Tribe has agreed to file in Confederated Tribes of Colville Reservation v. United States, for the entry of a compromise final judgment in the amount of $53,000,000.00.

(2) REQUIREMENTS FOR PAYMENT.—The United States shall pay the amount specified in paragraph (1) from funds appropriated pursuant to section 1304 of title 31, United States Code. The amount paid as a judgment may not be not reimbursed by the Bonneville Power Administration.

SEC. 5. DISTRIBUTION OF THE SETTLEMENT FUNDS.

(a) LUMP SUM PAYMENT.—The payment made under section 4(c)(1) (including any interest that accrues on the payment) shall be deposited by the Secretary of the Treasury in a trust fund established for the Tribe pursuant to of Public Law 93-134 (25 U.S.C. 1401 et seq.) for use by the tribal governing body of the Confederated Tribes of the Colville Reservation, pursuant to a distribution plan developed by the Tribe and approved by the Secretary of the Interior pursuant to section 3 of Public Law 93-134 (25 U.S.C. 1403), except that—

(1) under the distribution plan developed pursuant to this subsection any payment to be made to a minor shall be held by the United States in trust for the minor until the later of—

(A) the date the minor attains the age of 18; or

(B) the date of graduation of the secondary school class with respect to which the minor is scheduled to be a member; and

(2) the Secretary may, pursuant to regulations prescribed by the Secretary relating to the administration of the Bureau of Indian Affairs, authorize the emergency use of trust funds for the benefit of a minor.

(b) ANNUAL PAYMENTS.—In addition to the lump sum payment described in subsection (a), the appropriate official of the Federal Government shall make annual payments directly to the Tribe in accordance with the Settlement Agreement. The Tribe may use any amount received as an annual payment under this subsection in the same manner as the Tribe may use any other income received by the Tribe from the lease or sale of natural resources.

SEC. 6. REPAYMENT CREDIT.

(a) IN GENERAL.—Beginning with fiscal year 2000, and ending at the end of the last fiscal year during which the Tribe receives an annual payment pursuant to the Settlement Agreement, the Administrator shall deduct from the interest payable to the Secretary of the Treasury from net proceeds (as defined in section 13(b) of the Federal Columbia River Transmission System Act (16 U.S.C. 838(b)) an amount equal to 26 percent of the payment made to the Tribe for the immediately preceding fiscal year.

(b) CREDIT OF INTEREST.—

(1) IN GENERAL.—Each deduction made under this section shall—

(A) be credited to the amount of interest payments that would otherwise be payable by the Administrator to the Secretary of the Treasury during the fiscal year in which the deduction is made; and

(B) be allocated on a pro rata basis to all interest payments on debt associated with the generation function of the Federal Columbia River Power System that are payable during the fiscal year specified in subparagraph (A).

(2) SPECIAL ALLOCATION RULE.—If, for any fiscal year a deduction calculated pursuant to paragraph (1) would be greater than the amount of interest due on debt associated with the generation function described in paragraph (1)(B) for such fiscal year, the amount by which the deduction exceeds the interest due on debt associated with the generation function shall be allocated on a pro rata basis as a credit for the payment of any other interest that is payable by the Administrator by the Secretary for such fiscal year.

SEC. 7. MISCELLANEOUS PROVISIONS.

(a) LIENS AND FORFEITURES.—Funds paid or deposited to the credit of the Tribe pursuant to the Settlement Agreement or this Act, any interest or investment income earned or received on such funds, any payment authorized by the Tribe or the Secretary of the Interior to be made from such funds to members of the Tribe, and any interest or investment income earned on any such payment earned or received and deposited in a trust pursuant to this section for a member of the Tribe, may not be subject to any levy, execution, forfeiture, garnishment, lien, encumbrance, seizure, or taxation by the Federal Government or a State or political subdivision of a State.

(b) ELIGIBILITY FOR FEDERAL AND FEDERALLY FUNDED PROGRAMS.—None of the funds described in subsection (a) may be treated as income or resources or otherwise used as the basis for denying or reducing the financial assistance or other benefits to which the Tribe, a member of the Tribe, or a household of the Tribe would otherwise be entitled under the Social Security Act (42 U.S.C. 301 et seq.) or any program of the Federal Government or program that receives assistance from the Federal Government.

(c) TRUST RESPONSIBILITY.—This Act and the Settlement Agreement may not be construed to affect the trust responsibility of the United States to the Tribe or to any of the members of the Tribe.●

ADDITIONAL COSPONSORS

S. 373

At the request of Mr. DECONCINI, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 373, a bill to amend title 17, United States Code, to modify certain recordation and registration requirements, to establish copyright arbitration royalty panels to replace the Copyright Royalty Tribunal, and for other purposes.

S. 1037

At the request of Mrs. MURRAY, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 1037, a bill to amend the Civil Rights Act of 1991 with respect to the application of such Act.

S. 1063

At the request of Mr. MACK, his name was added as a cosponsor of S. 1063, a bill to amend the Employee Retirement Income Security Act of 1974 to clarify the treatment of a qualified football coaches plan.

At the request of Mr. HATCH, the name of the Senator from Oklahoma

[Mr. NICKLES] was added as a cosponsor of S. 1033, supra.

S. 1326

At the request of Mr. CAMPBELL, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1326, a bill to establish a forage fee formula on lands under the jurisdiction of the Department of Agriculture and the Department of the Interior.

S. 1539

At the request of Mr. INOUYE, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 1539, a bill to require the Secretary of the Treasury to mint coins in commemoration of Franklin Delano Roosevelt on the occasion of the 50th anniversary of the death of President Roosevelt.

S. 1805

At the request of Mr. WARNER, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1805, a bill to amend title 10, United States Code, to eliminate the disparity between the periods of delay provided for civilian and military retiree cost-of-living adjustments in the Omnibus Budget Reconciliation Act of 1993.

S. 2120

At the request of Mr. INOUYE, the names of the Senator from Idaho [Mr. CRAIG], the Senator from Virginia [Mr. ROBB], the Senator from Nebraska [Mr. EXON], the Senator from South Dakota [Mr. DASCHLE], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 2120, a bill to amend and extend the authorization of appropriations for public broadcasting, and for other purposes.

S. 2178

At the request of Mr. DASCHLE, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 2178, a bill to provide a program of compensation and health research for illnesses arising from service in the Armed Forces during the Persian Gulf War.

S. 2231

At the request of Mr. BINGAMAN, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 2231, a bill to amend the Federal Water Pollution Control Act (commonly known as the "Clean Water Act") to authorize appropriations for each of fiscal years 1994 through 2001 for the construction of wastewater treatment works to provide water pollution control in or near the United States-Mexico border area, and for other purposes.

SENATE JOINT RESOLUTION 184

At the request of Mr. THURMOND, the names of the Senator from New York [Mr. D'AMATO] and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of Senate Joint Resolution 184, a joint resolution designating September 18, 1994, through September 24, 1994, as "Iron Overload Diseases Awareness Week."

SENATE JOINT RESOLUTION 198

At the request of Mr. PRYOR, the names of the Senator from Ohio [Mr. GLENN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Montana [Mr. BURNS], the Senator from New York [Mr. D'AMATO], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of Senate Joint Resolution 198, a joint resolution designating 1995 as the "Year of the Grandparent."

SENATE CONCURRENT RESOLUTION 66

At the request of Ms. MIKULSKI, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of Senate Concurrent Resolution 66, a concurrent resolution to recognize and encourage the convening of a National Silver Haired Congress.

SENATE RESOLUTION 70

At the request of Mr. MCCONNELL, his name was withdrawn as a cosponsor of Senate Resolution 70, a resolution expressing the sense of the Senate regarding the need for the President to seek the advice and consent of the Senate to the ratification of the United Nations Convention on the Rights of the Child.

SENATE RESOLUTION 185

At the request of Mr. D'AMATO, the names of the Senator from New Hampshire [Mr. SMITH], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Resolution 185, a resolution to congratulate Phil Rizutto on his induction into the Baseball Hall of Fame.

AMENDMENTS SUBMITTED

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT FOR FISCAL YEAR 1995

KERRY (AND OTHERS) AMENDMENT NO. 2127

Mr. KERRY (for himself, Mr. GREGG, Mr. BUMPERS, and Mr. LAUTENBERG) proposed an amendment to the bill (H.R. 4506) making appropriations for energy and water development for the fiscal year ending September 30, 1995, and for other purposes; as follows:

On page 40, between lines 21 and 22, insert the following:

SEC. 502. TERMINATION OF ADVANCED LIQUID METAL REACTOR PROGRAM.

(a) TERMINATION.—Except as provided in subsection (b), funds appropriated under this Act may not be obligated or expended for purposes of the Advanced Liquid Metal Reactor/Integral Fast Reactor (ALMR/IFR) program.

(b) TERMINATION COSTS.—Funds appropriated under this Act for the Advanced Liquid Metal Reactor/Integral Fast Reactor (ALMR/IFR) program may be obligated and expended for that program only for payment of the costs associated with the immediate termination of the program beginning in fiscal year 1995.

HARKIN (AND OTHERS) AMENDMENT NO. 2128

Mr. HARKIN (for himself, Mr. JEFFORDS, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. AKAKA, Mrs. BOXER, Mr. CAMPBELL, Mr. WELLSTONE, Mr. DECONCINI, Mr. KOHL, and Mr. ROTH) proposed an amendment to the bill H.R. 4506, supra; as follows:

On page 40, between lines 21 and 22, insert the following:

FUNDING FOR ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES RELATING TO RENEWABLE ENERGY SOURCES

SEC. 502. (a) REDUCTION IN APPROPRIATION FOR WEAPONS ACTIVITIES FOR ATOMIC ENERGY DEFENSE.—Notwithstanding any other provision of this Act, the amount appropriated in title III of this Act under the heading "ATOMIC ENERGY DEFENSE ACTIVITIES WEAPONS ACTIVITIES" is hereby reduced by $33,042,000.

(b) INCREASE IN APPROPRIATION FOR ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES.—Notwithstanding any other provision of this Act, the amount appropriated in title III of this Act under the heading "ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES" is hereby increased by $33,042,000.

(c) AVAILABILITY OF FUNDS.—Of the funds appropriated in title III of this Act under the heading "ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES"—

(1) not less than $94,400,000 shall be available for photovoltaic energy systems (of which $93,400,000 shall be available for operating expenses and $1,000,000 shall be available for capital equipment);

(2) not less than $33,293,000 shall be available for solar thermal energy systems (of which $33,593,000 shall be available for operating expenses and $700,000 shall be available for capital equipment);

(3) not less than $51,710,000 shall be available for wind energy systems (of which $50,710,000 shall be available for operating expenses and $1,000,000 shall be available for capital equipment);

(4) not less than $13,129,000 shall be available for international solar energy programs;

(5) not less than $4,700,000 shall be available for resource assessment (of which $4,300,000 shall be available for operating expenses and $400,000 shall be available for capital equipment);

(6) not less than $9,460,000 shall be available for solar and renewable energy program direction; and

(7) not less than $14,000,000 shall be available for hydrogen research.

BURNS AMENDMENT NO. 2129

Mr. JOHNSTON (for Mr. BURNS) proposed an amendment to the bill H.R. 4506, supra; as follows:

On page 18, line 19 insert the following before the period:

"*Provided further*, That within the funds made available in this Act for the Water Management and Conservation Program, $300,000 shall be available for any western regional drought mitigation center located within the Great Plains Region through a competitive grant process."

NICKLES AMENDMENT NO. 2130

Mr. JOHNSTON (for Mr. NICKLES) proposed an amendment to the bill H.R. 4506, supra; as follows:

At the end of the sentence on page 22, line 7, after the word "Act", insert the following new provision—

"*Provided further*, That within funds available for hydrogen research, $250,000 shall be made available to an institution where expertise in electrochemical (fuel cells), thermochemical and photochemical reactions for hydrogen production may be synergistically studied and the application to gas storage and alternate vehicle technology may be integrated."

KEMPTHORNE AMENDMENT NO. 2131

Mr. JOHNSTON (for Mr. KEMPTHORNE) proposed an amendment to the bill H.R. 4506, supra; as follows:

On page 22, line 7, insert before the period the following: : *Provided further*, That not less than $1,500,000 shall be available for hydropower research and development, of which $1,000,000 shall be available under the Advanced Hydropower Turbine program for design activities conducted and funded jointly by the Secretary of Energy and one or more appropriate entities from the private sector for an energy-efficient turbine that reduces the environmental impact on fish species.

DOMENICI AMENDMENT NO. 2132

Mr. JOHNSTON (for Mr. DOMENICI) proposed an amendment to the bill H.R. 4506, supra; as follows:

On page 17, at the end of line 13, delete the period after the word "Act" and add the following new proviso: ": *Provided further*, That of the total appropriated, $4,827,000 shall be available for transfer to the State of New Mexico Irrigation Works Construction Fund for settlement of all claims associated with Costilla Dam".

FORD AMENDMENT NO. 2133

Mr. JOHNSTON (for Mr. FORD) proposed an amendment to the bill H.R. 4506, supra; as follows:

On page 14, after line 8, add the following:

SEC. 102. The Secretary of the Army, acting through the Chief of Engineers, shall not collect fees at boat launching ramps located in undeveloped or lightly developed shorelands with minimum security and illumination.

DOLE AMENDMENT NO. 2134

Mr. HATFIELD (for Mr. DOLE) proposed an amendment to the bill H.R. 4506, supra; as follows:

On page 16, line 2, insert the following before the period: ": *Provided further*, That of the funds appropriated for General Investigations, $500,000 is provided for the Wichita, Kansas, Equus Beds project".

LEVIN AMENDMENT NO. 2135

Mr. JOHNSTON (for Mr. LEVIN) proposed an amendment to the bill H.R. 4506, supra; as follows:

Page 3, between lines 21 and 22 insert the following: "Grand Marais Harbor, Michigan, $100,000";.

CHAFEE AMENDMENT NO. 2136

Mr. JOHNSTON (for Mr. CHAFEE) proposed an amendment to the bill H.R. 4506, supra; as follows:

On page 9, line 15, before the " : ", insert the following: "Allendale Dam, Rhode Island, $67,500".

LAUTENBERG (AND BRADLEY) AMENDMENT NO. 2137

Mr. JOHNSTON (for Mr. LAUTENBERG and Mr. BRADLEY) proposed an amendment to the bill H.R. 4506, supra; as follows:

On page 21, line 25, after "expended" insert:

", of which $45,000,000 is to initiate construction of the Tokamak Physics Experiment (TPX) at the Princeton Plasma Physics Laboratory, subject to subsequent enactment into law of specific authorizing legislation."

STEVENS (AND OTHERS) AMENDMENT NO. 2138

Mr. STEVENS (for himself, Mr. INOUYE, and Mr. MURKOWSKI) proposed an amendment to the bill H.R. 4506, supra; as follows:

At the end of the Committee amendment on page 32 insert the following:

"*Provided*, The Secretary may expend up to $25 million in unobligated funds for the formulation and implementation of a program to provide Alaska villages with reliable and affordable electrical generation systems, and, notwithstanding any other provision of law, may use any such unobligated funds to provide fuel for electrical generation, at market prices to any village in Alaska that is unable to obtain such fuel from commercial vendors: *Provided further*, that the State of Alaska will provide a dollar-for-dollar match of the Federal share."

WELLSTONE (AND JEFFORDS) AMENDMENT NO. 2139

Mr. WELLSTONE (for himself and Mr. JEFFORDS) proposed an amendment to the bill H.R. 4506, supra; as follows:

On page 22, line 5, insert after "distribution activities:" the following: "*Provided further*, That from available funds appropriated under this Act, but not from any funds appropriated for the Solar and Renewable Energy Programs, not less than $90,000,000 shall be expended for photovoltaic energy systems (of which $89,000,000 shall be for operating expenses and $1,000,000 shall be for capital equipment): *Provided further*, That from available funds appropriated under this Act, but not from any funds appropriated for the Solar and Renewable Energy Programs not less than $46,000,000 shall be expended for wind energy systems (of which $45,000,000 shall be for operating expenses and $1,000,000 shall be for capital equipment): *Provided further*, That from available funds appropriated under this Act, but not from any funds appropriated for the Solar and Renewable Energy Programs, not less than $12,000,000 shall be expended for "hydrogen research:".

PRESSLER (AND DASCHLE) AMENDMENT NO. 2140

Mr. JOHNSTON (for Mr. PRESSLER for himself and Mr. DASCHLE) proposed an amendment to the bill H.R. 4506, supra; as follows:

On page 16, line 2 insert the following before the period:

": *Provided further*, That of the funds appropriated for general investigations, $50,000 is provided for the Lewis and Clark Rural Water System, South Dakota feasibility study".

KEMPTHORNE (AND CRAIG) AMENDMENT NO. 2141

Mr. KEMPTHORNE (for himself and Mr. CRAIG) proposed an amendment to the bill H.R. 4506, supra; as follows:

At the appropriate place in the bill insert the following: "It is the sense of the Senate that the Corps of Engineers shall not facilitate or carry out the draft or drawdown below 1520 feet of Dworshak Reservoir until such time as the Corps of Engineers has completed a study of all possible alternatives and potential options including environmental and economic analysis for the affected area, and presented such report to the appropriate committees of Congress and the affected delegations.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

LEVIN (AND COHEN) AMENDMENT NO. 2142

Mr. LEVIN (for himself and Mr. COHEN) proposed an amendment to the bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 25, beginning with line 4, strike out all through page 26, line 13.

On page 272, line 16, strike out "$2,189,858,000" and insert in lieu thereof "$2,339,858,000".

WARNER (AND OTHERS) AMENDMENT NO. 2143

Mr. WARNER (for himself, Mr. SARBANES, Mr. HARKIN, Mr. COCHRAN, Mr. GORTON, Mr. D'AMATO, and Mr. BINGAMAN) proposed an amendment to the bill S. 2182, supra; as follows:

At the appropriate place in the bill, insert the following section:

SEC. . ELIMINATION OF DISPARITY BETWEEN EFFECTIVE DATES FOR MILITARY AND CIVILIAN RETIREE COST-OF-LIVING ADJUSTMENTS FOR FISCAL YEAR 1995.

(a) IN GENERAL.—The fiscal year 1995 increase in military retired pay shall (notwithstanding subparagraph (B) of section 1401a(b)(2) of title 10, United States Code) first be payable as part of such retired pay for the month of March 1995.

(b) DEFINITIONS.—for the purposes of subsection (a):

(1) The term "fiscal year 1995 increase in military retired pay" means the increase in retired pay that, pursuant to paragraph (1) of section 1401a(b) of title 10, United States Code, becomes effective on December 1, 1994.

(2) The term "retired pay" includes retainer pay.

(c) LIMITATION.—subsection (a) shall be effective only if there is appropriated to the Department of Defense Military Retirement fund (in an Act making appropriations for the Department of Defense for fiscal year 1995 that is enacted before March 1, 1995) such amount as is necessary to offset increased outlays to be made from that fund during fiscal year 1995 by reason of the provisions of subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1995 to the Department of Defense Military Retirement Fund the sum of $376,000,000 to offset increased outlays to be made from that fund during fiscal year 1995 by reason of the provisions of subsection (a).

NUNN AMENDMENT NO. 2144

(Ordered to lie on the table.)

Mr. NUNN submitted an amendment intended to be proposed by him to the bill S. 2182, supra; as follows:

On page 138, between lines 11 and 12, insert the following new section:

SEC. 634. ELIMINATION OF DISPARITY BETWEEN EFFECTIVE DATES FOR MILITARY AND CIVILIAN RETIREE COST-OF-LIVING ADJUSTMENTS.

(a) MILITARY RETIREMENT.—Section 1401a(b)(2)(B) of title 10, United States Code, is amended by striking out clause (ii) and inserting in lieu thereof the following:

"(ii) FISCAL YEARS 1995 AND 1996.—In the case of an increase in retired pay that, pursuant to paragraph (1), becomes effective on December 1 of 1994 or 1995, the initial month for which such increase is payable as part of such retired pay shall (notwithstanding such December 1 effective date) be June of the following year.

"(iii) FISCAL YEARS 1997 AND 1998.—In the case of an increase in retired pay that, pursuant to paragraph (1), becomes effective on December 1 of 1996 or 1997, the initial month for which such increase is payable as part of such retired pay shall (notwithstanding such December 1 effective date) be April of the following year.".

(b) CIVIL SERVICE RETIREMENT.—(1) Notwithstanding section 11001 of Public Law 103-66 (107 Stat. 408; 5 U.S.C. 8340 note), this section shall apply with respect to any cost-of-living increase scheduled to take effect, during fiscal years 1995, 1996, 1997, or 1998, under—

(A) section 8340(b) or 8462(b) of title 5, United States Code;

(B) section 826 or 858 of the Foreign Service Act of 1980; or

(C) section 291 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2131).

(2) A cost-of-living increase described in paragraph (1) shall not take effect—

(A) in the case of each of fiscal years 1995 and 1996, until June 1 of the following year; and

(B) in the case of each of fiscal years 1997 and 1998, until April 1 of the following year.

(3) Nothing in this section shall be considered to affect any determination relating to eligibility for an annuity increase or the amount of the first increase in an annuity under section 8340 (b) or (c) or 8462 (b) or (c) of title 5, United States Code, or comparable provisions of law.

NOTICE OF HEARING

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. GLENN. Mr. President, I would like to announce that the Subcommittee on Federal Services, Post Office, and Civil Service, of the Committee on Governmental Affairs, will hold a hearing July 20, 1994, on Child Support Enforcement; The Federal Role.

The hearing is scheduled for 9:30 a.m., in room 342 of the Senate Dirksen Office Building. For further information, please contact Rick Goodman, at 224-2254.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. NUNN. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, June 30, beginning immediately after the first vote, to report S. 823, the National Wildlife Refuge Management Act, as amended by the committee at the June 23 full committee business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today, Thursday, June 30, 1994, at 10 a.m., to consider the Health Security Act of 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 30, at 10 a.m. to hold a hearing with Secretary of State Christopher giving a foreign policy overview.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. NUNN. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Thursday, June 30, at 9:30 a.m., for a nomination hearing on John Andrew Koskinen, to be Deputy Director for Management, OMB.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, June 30, 1994 to hold a hearing on the nomination of Alexander Williams, Jr. of Maryland, to be U.S. district judge for the district of Maryland.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet on June 30, 1994, off the floor after a vote, for an executive session to consider the nominations of Colleen Jennings-Roggensack, Judith Rubin, and Rachel Worby to be members of the National Council on the Arts; Cynthia Metzler to be an Assistant Secretary, Department of Labor; Nelba Chavez to be Administrator, Substance Abuse and Mental Health Services Administration, Department of Health and Human Services; Frederic Schroeder to be Commissioner of the Rehabilitation Services Administration, Department of Education; Anne Peterson to be Deputy Director, National Science Foundation; and John Haughton D'Arms, Darryl J. Gless, Ramon A. Gutierrez, Charles Patrick Henry, Thomas Cleveland Holt, Martha Congleton Howell, Nicolas Kanellos, Bev Lindsey, Robert Rotbert, and Harold K. Skramstad, Jr. to be members of the National Council on the Humanities.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. NUNN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, June 30, 1994 at 9 a.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL FRIDAY, JULY 1, 1994 AT 8:20 A.M.

Mr. NUNN. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess until 8:20 a.m., Friday, July 1.

There being no objection, the Senate, at 12:26 a.m., recessed until Friday, July 1, 1994, at 8:20 a.m.

EXTENSIONS OF REMARKS

EXPORT OF MILITARY SENSITIVE DUAL-USE TECHNOLOGY

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. HUNTER. Mr. Speaker, shortly the House of Representatives will begin consideration of the Export Administration Act of 1994. This will be one of the most critical national security votes of this session.

As many of my colleagues are aware, the House Foreign Affairs Committee has reported out H.R. 3927, which rewrites our current laws regarding the export of militarily sensitive dual-use technology. I think it is safe to say that many in the nonproliferation community are alarmed by the Foreign Affairs Committee bill. In a statement before the House Armed Services Committee, Gary Milhollin, Director of the Wisconsin Project on Nuclear Arms Control, stated, "The bill reported out of the Foreign Affairs Committee would greatly weaken existing law. As I have already said there is absolutely no justification for that. In fact, the lesson of Iraq is that controls need to be stronger instead of weaker." Later in his statement Mr. Milhollin notes, "At best, the bill would allow the United States to control exports about the same way that Germany controlled them in the 1980's. The graphic I referred to above shows that German firms were the main suppliers of Iraq's chemical weapons, nuclear weapons, and long-range missile programs."

There are many problems with the Foreign Affairs Committee bill; however, the most glaring is that this legislation would significantly reduce the authority of the Secretary of Defense in making determinations of what to control and his authority to review license applications. I would like to remind my colleagues that in 1991 the Government Operations Committee held extensive hearings on our export control laws and specifically sales to Iraq, and Government Operations concluded that, "U.S. export officials (Commerce and Energy) transferred sensitive U.S.-origin equipment directly into the hands of Iraq's bomb and missile makers, and did it on behalf of an exporter that was already notorious for nuclear smuggling. The export went out at top speed even through there was a bad seller, a bad buyer, and a bad end use."

Mr. Speaker, it is clear that Defense needs more authority, not less.

Many in industry are strongly supportive of the work done by the Foreign Affairs Committee. They argue that the Department of Defense slows down the process and that too many items are controlled. Industry claims that $10–20 billion in sales and hundreds of thousands of jobs are lost. While I am sensitive to these claims, I am concerned that they may be overstated. My colleagues should be aware that in 1992, 96 percent of all manufactured exports left the country without a license. Of the remaining 4 percent that required a validated license, 96 percent were approved for export. According to the Senate Committee on Governmental Affairs the dollar value of license denials is about $700 million, a far cry from $10–20 billion.

Mr. Speaker, we all care about jobs but we must also consider that sales of dual-use technology could cost our soldiers their lives. During consideration of the Export Administration Act, I plan to offer several amendments regarding the role of the Secretary of Defense and amendments to strengthen the process for creating the Commodity Control List. For example, I believe the Secretary of Defense should be given the authority to stop any export that he feels could be detrimental to U.S. national security. I am not trying to slow down the process or to hurt our businesses' potential to export. I just want to ensure that we don't create another Iraq.

SIXTH DISTRICT HIGH SCHOOL TENNIS CHAMPIONS

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. COBLE. Mr. Speaker, people who know me know that my only athletic activity is tennis. I enjoy playing the game and watching the game. That is why I am so proud to say that the Sixth District is the new home of the North Carolina class 1A–2A high school tennis champions. In fact, the Sixth District had representatives in all three levels of the State's high school tennis championships this year.

On June 4, Western Alamance High School captured the 1A–2A dual team tennis championship with a 5–4 victory over Union Pines High School. In fact, the championship match completed a perfect season for the Warriors. Western Alamance, under the guidance of head coach Eric Ratchford, compiled a 23–0 record this season. The win also put the only mark on a perfect season for Union Pines which finished the year at 24–1. Coach Ratchford told the Burlington Times-News:

> We hit a pinnacle today. You're not going to get much better than this. I don't know if this will ever happen again. I've enjoyed working with these kids and they've got a lot to be proud of.

Coach Ratchford is equally proud of each and every member of the Western Alamance tennis team including, Kevin Gobble, Jason Smith, Jeremy Madrazo, Scott Meyer, David Slade, Nathan Raycroft, Jason Casidy, Thomas Sahadi, Brady Plummer, Perry Bullard, Alex Fitzgerald, Christopher Gowin, Sander Pol, Jan-Jelle van Herksen, and Jeff Meyer. We also offer our congratulations to athletic director John Garrison and principal Sam Fowler.

We also need to congratulate two other schools in the Sixth District which reached the State finals. Grimsley High School in Greensboro lost to Broughton High School of Raleigh in the class 4A tennis championships. In the 3A title match, Williams High School of Burlington was defeated by T.C. Roberson High School of Skyland. We are proud to say that the Sixth District was represented in the 4A, 3A, and 1A–2A title contests.

On behalf of the citizens of the Sixth District of North Carolina, we offer our congratulations to all of the students, parents, faculty, and staff of Western Alamance High School on the tennis team's championship, the first State title—in any sport—for the Warriors.

TRIBUTE TO JAMES HILL

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Ms. ESHOO. Mr. Speaker, I rise today to salute a dedicated labor leader, James Hill, on the occasion of his retirement as financial secretary/treasurer of Sheet Metal Workers International Association Local 104.

James Hill has served California and the labor community since his apprenticeship with Sheet Metal Workers Local 75 in 1958. Starting in 1974, he has worked as an executive board member of Sheet Metal Workers Local 309, including a term as its president in 1976. He has also been appointed to the mechanical review board and the health services agency for Santa Clara County. In addition, James Hill is a delegate to the Santa Clara and San Benito Counties Building Trades Council, and has served as a member of the San Jose Joint Apprenticeship Committee since 1968.

His commitment to workers in the bay area is unsurpassed, and has been recognized for his advocacy work with numerous awards from the Department of Apprenticeship Standards.

Mr. Speaker, James Hill has gained the utmost respect and regard of those with whom he has both worked with and served. I ask my colleagues to join me in honoring this special man for his countless contributions to our community.

SCRAP TIRES SHOULD BE RECYCLED AND USED IN ROAD CONSTRUCTION

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. SWETT. Mr. Speaker, the advent of the automobile opened new vistas of opportunity and freedom for Americans by giving them the kind of mobility earlier generations could only dream about. But not all of the consequences of the age of the automobile have been so positive. For automobiles ride on tires, and today we are faced with a surplus tire stockpile of between 2 and 3 billion tires. Worse still, this stockpile grows by 250 million each year.

These tires pose a serious threat to our environment. They are bulky and fill up our landfills. They do not biodegrade. They catch on fire easily. They retain water and create breeding grounds for mosquitos, with all the consequent public health problems.

What is the answer to this problem? The Intermodal Surface Transportation Efficiency Act of 1992 [ISTEA]—authored by the Public Works and Transportation Committee on which I am proud to serve—attempted to address this problem by requiring that States begin to utilize some of these tires in asphalt paving through the use of a new technology which produces a material known as rubberized asphalt, or "crumb rubber."

The good news is that this new material creates a superior road surface which requires less maintenance and will be longer lasting—characteristics which I believe are important since I think it critical that this country move to a life-cycle costing approach to road building. The bad news is that this provision of ISTEA has not been implemented because of a funding ban inserted in recent transportation appropriations bills.

The Public Works and Transportation Committee has attempted to resolve this policy impasse in the National Highway System bill (H.R. 4385) it approved, and the full House passed, earlier this year. The compromise language contained in H.R. 4385 is a sincere attempt to strike a reasonable compromise on this issue. None of the contending parties are entirely happy with the language (section 108), but all are agreed that the compromise is better than continued policy paralysis.

It is my strong hope that this compromise will be reflected in the fiscal year 1995 transportation appropriations conference report. I urge my colleagues and the transportation appropriations conferees to support this workable compromise.

NATIONAL CHARACTER COUNTS WEEK

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. HUGHES. Mr. Speaker, I rise today in support of House Joint Resolution 366, designating the week of October 16–22, 1994, as "National Character Counts Week."

House Joint Resolution 366 is a noble effort to bring national attention to the issue of character education and the importance of some crucial values. Unfortunately, with the deterioration of family, our young people are not receiving enough exposure to the importance of good character.

It is a national tragedy that so many children are raised without the benefit of positive family influences. These young people often do not understand even the fundamental precepts of right and wrong. They too often are not sensitive to such qualities as respecting others' opinions and taking responsibility for their own actions.

Somewhere out there is a youngster who will soon come to a crossroads. There are thousands like him who will be faced with the critical decision of which road to travel. And despite the moves toward tougher justice, the crime rate keeps going up. There is no doubt that our children are at risk, which means that our future is at risk.

"Character Counts" is a way to put basic good citizenship back into the lives of our children. It incorporates civics work with kids to provide a path for personal growth and safety, as well as emotional stability.

House Joint Resolution 366 aims to encourage communities, schools, and youth organizations to promote six core elements of character including trustworthiness, respect, responsibility, justice and fairness, caring, and civic virtue and citizenship. These six traits are the elements that we can all agree are absolutely essential to good citizenship and a productive and satisfying life.

The coalition will put the issue of character development in the forefront of the American agenda through a wide variety of grassroots activities built upon the simple but profound conviction that Character Counts. The coalition is built upon the common ground of consensus ethical values that form the foundation of a democratic society.

Character education programs are currently going on in thousands of our schools across the Nation. The intent is to teach students about these shared principles which contribute to ethical behavior and good citizenship. I believe in these positive efforts and feel that they need to be encouraged.

Over 48 national youth influencing organizations and 30 million young people and adult supporters already have a belief and commitment in "Character Counts." I urge my colleagues to join in this bipartisan effort to invest in the future of our young people. I hope that you will cosponsor House Joint Resolution 366, for it is a well-structured and worthwhile partnership for the future.

MFN TO CHINA

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. ANDREWS of Texas. Mr. Speaker, it has been over 20 years since former President Richard M. Nixon opened diplomatic relations with China and our nations have been intertwined ever since. Our countries have had a history of mutual respect, as well as a desire to continue this mutually beneficial relationship.

That is why I support the President's decision to renew China's most-favored-nation [MFN] trade status and like the administration, I believe that this is the best way to promote, over the long term, the full scope of United States economic and strategic interests with China.

This extension is not a forfeiture of human rights in China. There are still serious concerns about human rights in China and we must continue to pursue the human rights issue as a significant foreign policy objective.

In addition, we must continue to work with China on other issues that are vital to this country—relations with North Korea and nuclear proliferation, trade, and immigration. I believe that with greater exposure to democratic principles, western business practices, and economic contacts, the Government of China will be a trading partner with the same human rights agenda and principles this Nation promotes. In doing so, it is also important that we continue to encourage China to participate in the international community, while pursuing overall economic engagement in the process.

The administration is pushing a program to support the people in China who are working consistently and defiantly to promote democracy and human rights. There is support for Radio Free Asia and an ever-increasing promotion of a greater engagement of the Chinese people in general.

We must be plain about the differences and work to reconcile these differences when possible. We must advance exchange relationships that further China's knowledge and appreciation for the law, as well as promote freedom of choice and actively engage China in the implementation of the rights-related obligations.

We should maintain an active and engaging role in China. Trade with China supported over 150,000 American jobs and produced nearly $9 billion in United States exports. There is no doubt that with increased trade relations with China, these numbers will rise. Our vital interests with China are best served by continuing a normalized relationship over the long term.

China is changing economically, socially, and politically at a very fast pace. Therefore, it is important that the United States has a national interest in a China that is steady, reform-minded, constructive, secure, and meets all of the international human rights standards.

United States-China relations are of critical importance to the economic welfare of our country and a continued viable relationship with China will be helpful to our Nation, the Chinese people, and the international community.

CENTENNIAL OF THESSALONIA BAPTIST CHURCH

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. SERRANO. Mr. Speaker, I rise to pay tribute to Thessalonia Baptist Church, a South Bronx landmark which on July 16, 1994, will celebrate its centennial.

Originally founded in 1892, Thessalonia Baptist Church has seen the South Bronx community through times of glory and of decline. Happily, this venerable institution survives not only to see the renaissance of the Bronx, but to contribute to it.

The centennial of Thessalonia Baptist Church will be celebrated in its 30,000-square-foot cultural community center. In addition to serving the needs of the church and the community at large, this new building will house the Thessalonia Academy, the New York City Board of Education's first academy in the South Bronx.

Mr. Speaker, I ask my colleagues to join me in extending best wishes to the Rev. Dr. Shellie Sampson, Jr., and to the congregation and administration of Thessalonia Baptist Church on the occasion of this momentous centennial celebration.

STOP THE DEPENDENCY ON FOREIGN OIL

HON. BLANCHE M. LAMBERT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Ms. LAMBERT. Mr. Speaker, I rise today to express my continued concern over our Nation's dependency on foreign oil imports. I note that our dependency on foreign oil is higher than at any time since the Arab oil embargo some 20 years ago.

In March of this year, I cosigned a letter to the President with dozens of my colleagues expressing our concern about some of the problems which our domestic energy industry is facing. The fact that 49 percent of the oil consumed in our Nation is imported is a major problem.

If our dependency on foreign oil continues to grow, we will continue to witness job losses in our domestic oil industry and our trade deficit will continue to grow and hamper economic recovery.

Of particular concern to me is the need to seek alternative fuel and energy sources. These sources will not be adequately researched and developed as long as our markets are dominated by foreign oil supplies, leaving our economy vulnerable to price spikes on the world market and to regional conflicts such as the Iraqi war in 1992.

Today the Department of Energy is releasing a report which calls for a removal of the ban on the exportation of Alaskan oil. This report not only shows that the ban would pose no adverse impacts, but that lifting the ban would create many jobs in the domestic oil industry and spur more oil production in the United States, thereby reducing our dependence on foreign sources. In addition, lifting this ban could also help to lower our trade deficit.

I am encouraged by the administration's efforts to help our domestic energy industry and I look forward to continuing to work with them to create even more jobs and develop alternative sources.

INTRODUCTION OF LEGISLATION TO COMPENSATE THE VICTIMS OF ILL-FATED POSTAL INSPECTION SERVICE DRUG ENFORCEMENT OPERATIONS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. CLAY. Mr. Speaker, since at least 1985 the Inspection Service of the U.S. Postal Service has been hiring convicted felons as paid confidential informants in its narcotics trafficking enforcement operations. Those felons were placed in postal positions in postal facilities and given the responsibility of handling our mail. Postal inspectors did not supervise their informants properly. The informants began running the drug enforcement operations. They implicated innocent postal employees who were falsely arrested by inspectors who blindly accepted the information furnished by their paid felons. The more arrests an inspector made, the higher his or her performance rating—an operation known as Collars for Dollars. There was no incentive to scrutinize a paid informant who was targeting innocent postal employees.

Proper police procedures were not followed by the Postal Inspection Service. Inspectors were given only 2 days' training on the use of paid confidential informants in drug enforcement operations. This lack of training and expertise showed. Informants made alleged drug buys out of the view of inspectors. Innocent employees were arrested during Postal Service staged media events at which these innocent employees were handcuffed, paraded in front of TV cameras and taken to jail. In Los Angeles in 1986, both the judge and jury in one case made statements in court that a case against a postal employee should not have been brought because the investigation was so poorly conducted. But the Inspection Service continued to hire more felons as paid informants throughout the country and continued the same errors. This resulted in a 1992 operation in Cleveland where 19 innocent postal employees and one private citizen were falsely arrested. Some were erroneously convicted. There were no drug buys in Cleveland. The informants pocketed the buy money and provided the inspectors with baking soda. In all, $300,000 of Government funds were wasted and lost, and the lives of innocent workers were ruined. They lost income, jobs, reputation, and self esteem. Their families shared in that suffering.

The Committee on Post Office and Civil Service conducted its own extensive investigation into Inspection Service drug enforcement operations after it learned about the disastrous Cleveland drug sting from press reports. The committee found that the Cleveland operation was not an isolated case. Innocent employees were falsely fingered by the Inspection Service's paid felons in Los Angeles, West Palm Beach, Indianapolis, Boston, Toledo, and Minneapolis. Most of these employees were never convicted because of improper actions by the inspectors and their paid felons. In fact, in West Palm Beach, a postal inspector warned his superiors that the paid informant was entrapping postal employees. That inspector was reprimanded for his efforts. Because the Postal Service did not control its paid felons and made no effort to do so, innocent people suffered. These people and their families may never recover from the injuries they suffered.

The Postal Service has compounded their suffering. After removing them from their source of income, it fought providing them unemployment compensation. It has fought rehiring many of these victims. It has forced those it rehired to pay for health insurance during the time they were unemployed and did not have health insurance. It has failed to help any family members who suffered from its negligent actions.

The Postal Service's actions have been deplorable. The Postal Service must compensate those it wrongly harmed and must cease its disregard for the rights of its employees. The House has already passed one important piece of legislation to help prevent a repeat of these deplorable actions. H.R. 4400, the Postal Inspection Service and Inspector General Act creates an independent inspector general for the Postal Service who will oversee the Inspection Service and who would have protected postal workers from overzealous inspectors. H.R. 4400 also prohibits the Postal Service from hiring paid confidential informants for drug investigations unless the use of the mails is involved. Never again should the Postal Service employ paid felons and set them loose on the workroom floor. This legislation that I am introducing today provides a mechanism to compensate these innocent victims. Any individual who was arrested after 1983 by the postal inspectors for violating a controlled substance law as the result of an investigation in which a paid confidential informant was used, and was not convicted of violating a controlled substance law, may petition a panel of three administrative law judges for compensation for injuries. The individual must have exhausted all judicial and administrative procedures. In awarding damages the panel must consider injuries suffered by the victim's spouse and children and any compensation already received by the victim. No award may exceed $500,000. The Postal Service, not the U.S. Treasury, shall fund the costs of the procedures and all awards.

This is an extraordinary compensation bill to correct an extraordinary disrespect of the lives and rights of postal employees by the Postal Inspection Service.

THOSE TROUBLESOME CHRISTIANS

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. HUNTER. Mr. Speaker, in light of recent remarks regarding the religious right I wanted to urge my colleagues to read the following Review & Outlook article from today's Wall Street Journal. I found the article very interesting and believe my colleagues will also.

THOSE TROUBLESOME CHRISTIANS

Call it whatever they may—the Christian right, the radical religious right, conservative Christians—it's clear that word of a vast new conspiracy against freedom, democracy and, oh yes, tolerance, is getting to be big news. This process oozed to a peak of sorts last week when Rep. Vic Fazio, head of the Democratic Congressional Campaign Committee, condemned the "religious right." Following his declamation came President Clinton's attack on certain evangelical Christians. How seriously are we supposed to take these people?

We'll leave it to Mr. Clinton to get to the bottom of whether his own staff or the press were violating the Seventh Commandment in the bathrooms of the USS George Washington. But here is Mr. Fazio on the one hand carrying on about activist Christians and their "secretiveness" and describing them, confidently, as "what the American people fear the most." This is the same Rep. Fazio who last February refused to vote for a resolution condemning Khalid Muhammad, aide to Minister Louis Farrakhan.

Mr. Muhammad, recall, had been out on college campuses with this message of fellow-feeling: "We kill everything white. . . . We kill the women, we kill the children, we kill the babies . . . we kill the faggot, we kill the lesbian, we kill them all." And something about the "cracker" pope. When time came to vote, Rep. Fazio rose to attest that while he deplored Mr. Muhammad's views, it was also true that we now had a President "who values the diversity that is America." Moreover, Mr. Fazio declared, he did not think it Congress's job to "evaluate" expressions of bigotry. Possibly the author of these virtuous pronouncements can tell us whether there is any room in "the diversity that is America" for those Christian activists he has just described as a "peril" and "what the American people fear the most."

Details of the threats posed by the Radical Religious Right can now be heard—and read—every day. On the New York Times' opinion page, columnist Frank Rich accuses the Christian Action Network of mounting an assault in the tradition of Senator McCarthy and of attempting to spread "homophobic panic."

The cause of Mr. Rich's excitation had to do with the questions being raised, once again, about funding by National Endowment for the Arts. Its beneficiary, performer Ron Athey—an artist at the cutting edge of sorts—caused a ruckus during a theater performance when he sliced into another man's back. Mr. Rich earnestly explained that this performance was a way of dramatizing the homosexual artist's struggles and that, anyway, the blood produced by this piece of artistry was HIV negative. He took the occasion, further, to commend new NEA head Jane Alexander for her stalwart defense of artistic freedom.

Ms. Alexander herself recently announced that true Christians should speak up to counter the intolerance of conservative Christians who targeted the NEA. The NEA head went on to muse that she would have a hard time bringing herself to approve of any project that had "a terrible racial or homophobic slur." Would that we could know whether Ms. Alexander might have such trouble funding a work of "art" like Serrano's "Piss Christ"—consisting of a crucifix dipped in urine.

Meanwhile, of course, Surgeon General Joycelyn Elders, avowed opponent of those she describes as the "un-Christian" religious right, recites hymns to condoms and the possibility of drug legalization.

Also among those agitated about the Christian "right" is the Anti-Defamation League, which recently produced a tome outlining the various forms of menace posed by "stealth" candidates of the Christian right. This massive study is—in its complex drawings of vast secret conspiracies and ominous interconnections—reminiscent of nothing so much as the work of that fabled political star of the '50s, Senator McCarthy.

There is something, it must be said, wonderful in the spectacle of all these defenders of democracy and pluralism now busy alerting the nation to the menace of "the Christian Right." For the menace, in their descriptions, all comes down to the same remarkable charge: namely that Evangelicals and other Christians have committed the crime of getting into politics to make their views heard. In the strange view of the defenders of "pluralism" getting into public politics is equal to "extremism."

The last time we looked, the Christians were winning—elections, that is. The Democrats, who control Washington, our very own Rome, have been losing votes. We guess this means that in a democracy, you don't always have to go meekly to the lions.

TRIBUTE TO GENE VAN DEN HEUVAL

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Ms. ESHOO. Mr. Speaker, I rise today to salute a dedicated labor leader, Gene Van Den Heuval, on the occasion of his retirement as business representative for Monterey/San Benito Counties for the Sheet Metal Workers International Association Local 104.

Gene Van Den Heuval has served California and the labor community through both his work and volunteer activities since arriving in California in 1953. He was appointed to the Santa Clara Joint Apprenticeship Committee as delegate in 1958, elected to the Sheet Metal No. 309 Executive Board for three terms, and elected in 1973 as business representative for Sheet Metal Workers Local 209. This dedicated individual also accepted a position as the Monterey Joint Apprenticeship Committee training coordinator, served with the Economic Development Corporation of Monterey County as an Executive Committee board member for 3 years, and served as president of the Monterey/Santa Cruz Counties Building Trades Council for three terms. In addition, Gene Van Den Heuval served as chairman of the Monterey Building Trades Youth Foundation for 3 years, delegate to the California State Building and Construction Trades Council Executive Board for 18 years, and delegate to the Western States Council for 3 years. Further, he cofounded the Santa Cruz Coalition of Labor-Agriculture-Business in 1986 and currently serves as chairperson of the Monterey Bay Coalition of Labor, Agriculture and Business.

Gene Van Den Heuval's commitment to workers in the bay area is unsurpassed, and he has been recognized with numerous awards for his advocacy work, including multiple service awards from the Department of Apprenticeship Standards during his tenure as apprenticeship coordinator from 1973 to 1994.

Mr. Speaker, Gene Van Den Heuval has gained the utmost respect and regard of those with whom he has both worked with and served. I ask my colleagues to join me in honoring this special man for his countless contributions to our community.

IN TRIBUTE TO VICTIMS OF DOMESTIC VIOLENCE

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. SWETT. Mr. Speaker, I stand in support of the Violence Against Women Act. If this important and necessary legislation had been passed earlier, perhaps the list of New Hampshire women who have died as a result of domestic violence would not be so long.

I want to read the first names of a few New Hampshire women who have been killed as a result of domestic violence.:

Ashley, Antoinette, Jackie, Tina, Candy, Kelly, Judy, Paula, Pauline, Jill, Joanna, Jean, Mary Kay, Patricia, Emily, Elise, Mary Jane, Sandra, Roberta, Doreen, Rebecca, Tammy Anne, Robin, Brenda, Melody, Sheila, Michelle, Wendy, Tammy Joe, Barbara, Deborah, Donna, Dawn, Margaret, Sharon, Carol-Anne, Sharon, Diane, June, Alene, Claudine, Lorraine, Valerie, Debra, Kristen, Emma, Janice, Wanda, Diane, Ginger, Fay, and Elaine.

As a final point, I would like to recognize three New Hampshire children—Ashley, Holly, and Kelly—who were also killed as a result of domestic violence.

Mr. Speaker, let us commit to do all we can to put an end to domestic violence and make certain that these horrible lists do not grow any longer.

H.R. 3626, ANTITRUST AND COMMUNICATIONS REFORM ACT OF 1994

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. HASTERT. Mr. Speaker, during Tuesday's debate on H.R. 3626, the Antitrust and Communications Reform Act of 1994, I made reference to the historic nature of this bill's consideration as evidenced by its overwhelming passage by a 423 to 5 vote. I was especially pleased to note the fact that both the Competitive Long Distance Coalition, Inc. [CLDC]—composed of the big three long distance carriers—AT&T, MCI, and Sprint—as well as nearly all of the other nearly 400 long distance companies—and the MFJ Task Force—comprising of the seven Bell companies—were in support of the bill. Contained in the legislation is language describing the process for Bell entry into long distance service and telecommunications equipment manufacturing—two heretofore prohibited lines-of-businesses in the MFJ.

It is important to note that the final language in H.R. 3626 regarding intrastate long distance includes provisions to provide the Department of Justice with antitrust review of State utility commission actions relating to allowing Bell companies to provide long distance within a State. That is different language from the Energy and Commerce Committee's version which we reported out in March. Indeed, the final provisions represent a compromise before Chairmen DINGELL and BROOKS which both the long distance and Bell company officials have agreed to as indicated in their support of the legislation.

At this point, Mr. Speaker, I would like to insert in the RECORD the CLDC's statement of support for the bill as well as a newspaper advertisement sponsored by the Bell companies.

CLD COALITION, INC.,
Washington, DC, June 24, 1994.

PRESS RELEASE, JUNE 24, 1994

Contact: Al McGann, Matt Wagner.

Statement by Al McGann, Executive Director of the Competitive Long Distance Coalition, on Today's Release of House Telecommunications Legislation:

"Today's release of H.R. 3626 and H.R. 3636 is an important juncture in a long legislative process which we hope will result in final telecommunications legislation that benefits all Americans. We commend Chairmen Brook, Dingell, and Markey, and Congressman Fields, on their skill in moving this legislation to the floor of the House.

"The version of H.R. 3626 released today is a substantial improvement on the original version. Chairmen Brooks and Dingell have wisely recognized that the Bell monopolies' ability to harm competition necessitates a federal antitrust review of Bell entry into the already competitive long distance markets. We thank the Chairmen for strengthening the antitrust entry tests in the bill.

"H.R. 3636 strong fosters the establishment of local competition, which must be a prerequisite to Bell entry into long distance. the Competitive Long Distance Coalition continues to believe that the proper sequence for RBOC entry into long distance is local competition first and then Bell entry into long distance. This entry sequence is reflected in pending Senate legislation.

"As the focus of this debate now shifts to the Senate, we will continue to work with Members in the Senate and House to shape final legislation that protects consumers and fosters competition in local telecommunications markets."

H.R. 3626—THE RIGHT ROAD TO A BETTER AMERICA

Everyone's looking forward to the Information SuperHighway. Full competition in telecommunications would mean exciting new technologies, millions of new jobs in the United States, and consumer savings of $63 billion a year.

Now there's a bill we can all support. H.R. 3626, the Brooks-Dingell-Fish-Moorhead bill, would give America's consumers the real benefits of competition—lower prices and improved services. And America's working families would be winners too: A prestigious WEFA Group study recently projected that full telecommunications competition would generate 3.6 million new jobs in the United States in the next ten years.

America's Bell Companies are looking forward to their role in building our nation's future in telecommunications. Every day, we and other local carriers serve 250 million Americans. They want and deserve the benefits of competition—now.

Vote "Yes" on H.R. 3626, The Brooks-Dingell-Fish-Moorhead Bill.

Ameritech, Bell Atlantic, BellSouth, NYNEX, Pacific Telesis Group, Southwestern Bell Corporation, US WEST.

On a related matter, during the full Energy and Commerce Committee's consideration of H.R. 3626, the committee adopted, on a bipartisan vote, the so-called Oxley substitute amendment to the then-pending Bryant amendment which requires all Bell operating companies to pay to the local exchange carrier that originates or terminates its interexchange service a nondiscriminatory access fee. Nondiscriminatory means, for the purpose of this provision, a fee that does not give any undue preference or advantage to the Bell operating company. If the Bell operating company's interexchange services originate or terminate with its affiliated local exchange service facilities, then the Bell operating company must pay a nondiscriminatory access fee to its own local exchange carrier. This fee may be paid by means of appropriate accounting procedures.

SMALL BUSINESS PREPAYMENT PENALTY RELIEF ACT OF 1994

HON. JOHN J. LaFALCE

OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 30, 1994

Mr. LAFALCE. Mr. Speaker, I rise today as chairman of the House Committee on Small Business, to introduce the Small Business Prepayment Penalty Relief Act of 1994.

This is one of two bills that I will introduce today that will become part of the pending legislation to reauthorize the Small Business Administration. That legislation is currently under consideration in my committee.

Our Nation's small businesses are the essential component of the engine that is driving our economic growth. This bill will greatly help small business owners by providing some relief to those locked into high-interest rate loans.

My proposal will allow the SBA to provide some relief to those borrowers currently paying the highest interest rates—some as much as 15 percent. The bill authorizes $30 million for relief to make up for lost penalties. The bill requires the SBA to start with borrowers who are paying the highest interest rates and work down. It is expected that the amount authorized by the bill will provide relief to borrowers with interest rates over 10.5 percent. Borrowers who are paying high interest rates will have their interest rates reduced upon request. Borrowers with nearly $300 million in loans will be helped under this proposal.

A summary of the legislation is attached.

H.R.   may be cited as the "Small Business Prepayment Penalty Relief Act of 1994."

Section 2 would authorize the SBA to reduce the interest rate on debentures issued by certified development companies under section 503 and sold to the Federal Financing Bank.

Section 3 would authorize the SBA to reduce the interest rate on debentures issued by Small Business Investment Companies which have been sold to the Federal Financing Bank.

Section 4 would authorize SBA to reduce the interest rate on debentures issued by Specialized Small Business Investment Companies which have been purchased by SBA.

Section 5 would direct that SBA utilize the amount of the appropriation to carry out this Act to reduce the highest interest rate on the entire portfolio of these three types of debentures to a uniform rate.

Subsection (b) would authorize the appropriation of such sums as may be necessary to carry out the Act.

INTRODUCTION OF A BILL MAKING TECHNICAL CORRECTIONS TO VARIOUS INDIAN STATUTES

HON. BILL RICHARDSON

OF NEW MEXICO
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 30, 1994

Mr. RICHARDSON. Mr. Speaker, today, I am introducing a bill to make technical amendments to several laws affecting native Americans. As chairman of the Natural Resources Subcommittee on Native American Affairs, I have received many requests from tribes across the country to correct minor problems experienced by several Indian tribes. I am pleased to be joined by the ranking minority member of the Subcommittee, Representative THOMAS of Wyoming, who is cosponsoring the legislation. I have received requests for these amendments from Members and Indian tribes in the States of New Mexico, Texas, California, Montana, Oregon, Arizona, Oklahoma, North Dakota, and Wyoming. One section of the bill came as a request from the administration.

Mr. Speaker, I trust that we will work closely with the administration, the Members and the Indian tribes on this bill. This is a small bill, but it has great importance to the Indian tribes seeking our assistance.

I urge my colleagues to support this measure.

GLOBAL LANDMINE CRISIS

HON. LANE EVANS

OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 30, 1994

Mr. EVANS. Mr. Speaker, over the last quarter century, as we have tried to limit the nuclear threat, the more immediate threat has proved to be no bigger than a cigarbox and cheaper than its contents—the antipersonnel landmine.

Landmines are the real weapons of mass destruction, killing 1,200 people a month. Small, simple, and cheap, they are among the most cruel and deadly weapons used today.

It is ironic that while we labored so hard to stop the nuclear threat, we have done almost nothing to halt the spread of these indiscriminate and insidious weapons.

In the short term, there is little we can do to stop the killing. For example, even if we do see the beginning of the end in Bosnia, the millions of landmines that have been spread throughout the country will prolong this war for decades. And the innocent will suffer—whether it's farmers trying to plow their fields or children playing in the woods.

That is why it is so urgent that we seek an international ban on these weapons. In some countries, it will take more than their annual GNP to remove mines. It costs $300 to $1,000 to clear a landmine. Multiply this by the 85–100 million scattered throughout the world and the scope of this crisis becomes clear.

If this problem was present in our own country, and our own children were being killed and maimed in our backyards and playgrounds, we would see a ban tomorrow. Please join me in sponsoring legislation that I am introducing today to seek an international ban on these indiscriminate killers.

CELEBRATING THE 15TH ANNIVERSARY OF THE TRAVEL AGENTS OF SUFFOLK COUNTY

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. HOCHBRUECKNER. Mr. Speaker, I am pleased to recognize and honor the Travel Agents of Suffolk County [TASC] on the occasion of their 15th anniversary on July 13, 1994. TASC consists of over 400 dedicated travel professionals from Long Island, NY, who participate in tourism-related jobs.

Tourism is our Nation's second-largest employer, with nearly 6 million Americans employed in travel-related jobs. Only health services generate more jobs than the travel and tourism industry. TASC, which was formed in 1979, has helped to focus attention on the positive contribution of tourism toward job creation and economic development of Long Island. Additionally, TASC is known throughout the travel industry as a group that does its homework. TASC is not afraid to take a strong position on legislative and administrative issues affecting tourism and travel interests, and has made a positive contribution toward crafting responsible legislation.

Thousands of travelers visit Long Island each year for business and vacation, creating a demand for goods and services. Long Island's east end is well known throughout the Northeast as a top destination for summer vacationers. Our historic villages, pristine beaches, wineries, restaurants, and shopping and lodging facilities uniquely fit together to make our area a top vacation attraction. TASC members are essential professionals for facilitating travel plans for vacationers visiting Long Island, and for arranging Long Islanders' travel plans.

Mr. Speaker, TASC has done a wonderful job of promoting grassroots involvement among its members, and in educating lawmakers about issues of importance to the travel industry. I am pleased to offer my congratulations and encouragement to the members of TASC on their 15-year anniversary. I wish them continued success.

SUPPORT THE SPOUSAL EQUITY IN BANKRUPTCY AMENDMENTS OF 1994

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Ms. SLAUGHTER. Mr. Speaker, today I am introducing the Spousal Equity in Bankruptcy Amendments of 1994, legislation to give high priority to child support and alimony payments in the event of bankruptcy.

The 1978 overhaul of the Bankruptcy Code was necessary to reexamine bankruptcy procedure and strike a careful balance between the rights of creditors and debtors. This year, the Code should again be revisited. The passage of time has rendered a number of provisions obsolete and current problems not originally envisioned must be addressed.

One such problem concerns alimony and child support payments. While the current Code does not allow courts to forgive outstanding debts "in the nature of support," child support and alimony are given no priority when a debtor has assets and the proceeds are distributed. Thus, even while creditors can be paid, spouses and children who are entitled to support are not likely to be the beneficiaries. My legislation would elevate child support and alimony from their current status as general unsecured debts to formally prioritized debts, thereby ensuring that a spouse with dependent children will receive support payments without waiting for years.

In addition, my legislation establishes a Bankruptcy Commission to study the impact of bankruptcy laws on the family, and it protects child support and alimony payments from judicial liens and trustee avoidance proceedings.

The Spousal Equity in Bankruptcy Amendments also takes into account a little-known but potentially devastating loophole in bankruptcy and divorce proceedings. In the midst of a divorce or separation agreement, it is not uncommon for the custodial parent to accept a lower level of child support and/or alimony payments in exchange for the other parent's agreement to assume the couple's marital debts; these could be any debts which have been incurred over the marriage, such as auto loans, mortgage payments, and credit card bills. If the noncustodial parent declares bankruptcy following this agreement, however, the marital debts would then fall to the custodial nonbankrupt spouse. Since child support and alimony was negotiated down earlier, the custodial parent faces a bleak future: little to no support payments, the heavy responsibilities of the couple's debts while married, and the normal expenses that come with rearing children alone. This unfortunate situation does, indeed, occur and is the subject of current court proceedings within my home State of New York.

My legislation would expand current law to include these marital debts among those which are not discharged by a bankruptcy filing. I think it is outrageous that wives and dependent children would have to answer to all the couple's creditors for debts the husband agreed to pay in return for lower support and alimony. This relatively small—but vital—change in the Bankruptcy Code proposed by my legislation would prevent this, and ensure a more equitable treatment of all parties in the event of bankruptcy.

The spousal equity in bankruptcy amendments will also contribute to ending the cycle of poverty and welfare for custodial parents. Delinquent support payments and marital debts can be overwhelming for single-parent families to endure. The burden is further shifted on the Federal Government when these families face no other choice but welfare to provide the support the absent parent ought to be providing. Prioritizing support payments and shielding single parents against the shifting of spousal debts can help break this tragic welfare cycle.

Mr. Speaker, the President has said that ending prolonged dependence on welfare is a priority. Many of our colleagues have also recognized the urgent need to amend the current Bankruptcy Code. My legislation speaks to both important tasks. I urge my colleagues to support the Spousal Equity in Bankruptcy Amendments of 1994.

LIFTING THE BAN ON ALASKAN OIL

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. DELAY. Mr. Speaker, the Department of Energy has just produced a study which makes a compelling case for an action some of us have supported for a long time. That action is the lifting of the ban on exporting crude oil from the Alaska North Slope. The Department has indicated, in its careful and deliberate study, that this would have a very positive effect on jobs in both the production and shipping industries.

If the President really wants to help the ailing domestic energy industry, he should take heed of the results of this study by his own executive agency. This is a way to help spur domestic production and bring stability to our domestic producers with absolutely no cost to the taxpayers.

Mr. Speaker, during his campaign the President often spoke of encouraging innovative solutions to our domestic problems. Here is one thing he can do to give life to his words. He should throw the weight of his administration behind the legislative effort to end this anachronistic impediment to the free market. Lift the ban.

FORTNIGHT OF PATRIOTISM

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. STEARNS. Mr. Speaker, I would like to commend the city of Keystone Heights for their recent declaration of a Fortnight of Patriotism. This patriotic community is making a special effort this year to observe our American traditions and values through the time spanning Flag Day, June 14 to Independence Day, July 4. I would like to read to my colleagues this resolution.

> Whereas, our nation annually recognizes June 14th as Flag Day commemorating the flag of these United States of America; and
>
> Whereas, our nation annually recognizes July 4th as Independence Day commemorating the birth and independence of these United States of America,
>
> Now Therefore, I, Wilbert E. Thrasher, Mayor of the City of Keystone Heights, Florida do hereby proclaim those days between Flag Day, June 14 and Independence Day, July 4 as a fortnight of patriotism and urge my fellow Americans to rekindle the fire of patriotism during this approximate two week celebration of flag and country.
>
> Furthermore, I encourage citizens of the United States of America to join in these festivities through the exhibition of "Old Glory", and the prominent display of red, white, and blue at their homes and places of business.
>
> Dated this fourth day of April, 1994.

GI BILL UPDATE

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. MONTGOMERY. Mr. Speaker, last week I was honored to participate in a ceremony at the Department of Veterans Affairs commemorating the 50th anniversary of the GI bill of rights.

On June 6, 1944, the Allied Forces launched the massive invasion which rescued Europe from Hitler's terror and oppression and restored liberty in the Western World. I came into Normandy 5 months after the invasion as a 2d lieutenant in an armored division. I then had the great privilege to lead a congressional delegation which participated in the recent 50th anniversary of that momentous day.

Sixteen days after the D-day invasion, on June 22, 1944, President Franklin Delano Roosevelt signed the Servicemen's Readjustment Act of 1944—generally referred to as the GI bill of rights. There have been few, if any, more important pieces of legislation enacted by Congress, and no investment ever made by our Government has paid richer dividends to us all. Because of the increased earning power that comes with advanced education, veterans pay several times the cost of the GI bill in Federal income tax over the course of their lifetimes.

No program in the 20th century has had more of an impact on the social and economic fabric of the United States—housing, education, employment, corporate America—all areas of our society have benefited from the assistance provided under this landmark legislation. Extended to our present day by the Korean conflict, Vietnam era, and Montgomery GI bills, the original GI bill changed the concept of adult education in the United States and started the greatest home construction boom in history.

This is an appropriate time to update my colleagues on the GI bill that is available to the young men and women now entering our Armed Forces. Since we enacted this program in 1984, more than 1.5 million young men and women have enrolled in the Montgomery GI bill—Active Duty—chapter 30, title 38, United States Code—and over 419,000 veterans have gone to school under this program. Nearly 315,000 members of the Selected Reserve have pursued further education using the benefits available to them under the Montgomery GI bill-Selected Reserve—chapter 106, title 10, United States Code.

During the month of May 1994, 94 percent of new active duty Army recruits elected to participate in the Montgomery GI bill [MGIB]. Ninety-seven percent of Navy recruits made the same decision as did 88 percent of Air Force recruits and 97 percent of Marine Corps recruits. Overall, during the month of May 1994, 94 percent of all new recruits DOD-wide chose to enroll in the MGIB–Active Duty.

Not only has the MGIB been popular with recruits, it has also been a cost-effective program. Since the initiation of the MGIB—Active Duty on July 1, 1985, through May 31, 1994, $1.99 billion have reverted to the U.S. Treasury as a result of the basic pay reductions required to participate in the program. During the same time period, $2.9 billion have been paid in benefits under the MGIB-Active Duty and the MGIB—Selected Reserve.

GI bills are often characterized as rewards for honorable military service. I believe they are even more appropriately described as tributes to those whose lives have been disrupted—and too often threatened—so that the rest of us can enjoy the security and prosperity of these democratic United States.

SWIFT ENACTMENT OF H.R. 3636 URGED

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. SWETT. Mr. Speaker, I was gratified by the House's action this week in approving H.R. 3636, the National Communications Competition and Information Infrastructure Act. This important measure, shepherded through the legislative process by our colleagues Mr. MARKEY and Mr. FIELDS, will inject a positive note of competition into our communications industry. I am confident that this competition will benefit consumers and provided needed impetus for even more technological progress in a key sector of our economy.

H.R. 3636 is a forward looking, visionary bill, proving that Government can respond to the rapidly shifting technological landscape in a timely and constructive way. The overwhelming support of the House for this bill—as evidenced by its 423–3 margin of passage—is testament to the months of work and consultation that went into this legislation.

I strongly urge the other body to move swiftly in passing similar legislation so that a conferenced bill can be approved and sent to the President for signature before the end of this session.

INTRODUCTION OF LEGISLATION TO CREATE THE PREMIER LENDERS PROGRAM

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. LaFALCE. Mr. Speaker, I rise today as chairmman of the Small Business Committee to introduce legislation that will facilitate the administration of the certified development company loan program administered by the Small Business Administration.

This is one of two bills that I introduce today that will become part of the pending legislation to reauthorize the Small Business Administration. That legislation is currently under consideration in my committee.

My bill addresses concerns that many in the small business community have had regarding the timeliness of SBA approval for certain loans. The premier lender program will allow the best lenders who are providing long-term loans for plant and equipment financing under the certified development company program to process the applications of borrowers with excellent credit reports faster. Under the new premier lender program, these lenders will completely process and approve SBA loans without prior approval from the SBA. Premier lenders must agree to assume 5 percent of the risk of the loan.

The premier lender program is meant for lenders and borrowers who have an excellent established track record with the Small Business Administration. It is meant to reduce the paperwork and time involved in the loan approval process. It is patterned after the highly successful preferred lenders program under which financial institutions can quickly issue SBA guarantees on the best 7(a) loan applications.

A summary of the legislation is attached.

> H.R. ____ would authorize the Small Business Administration to establish a premier lenders program under the certified development company program.
>
> SBA would delegate to these lenders the authority to approve debenture guarantees, and the underlying loans to small businesses for plant and equipment, without prior SBA approval. The premier lender be required to assume the responsibility for and reimburse the SBA for 5 percent of any losses resulting from loans and debenture guarantees issued without the SBA's prior approval.
>
> The program would be established on a pilot basis and repealed in five years.

JAY WALKER: A MAN OF THE COMMUNITY

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. FARR of California. Mr. Speaker, I rise today to mourn the loss of a constituent and good friend, Jay Walker. But more than just a constituent, and more than just a good friend of mine, Jay Walker was a shining example to his friends, family and community of what it means to dedicate oneself to helping others.

Jay Walker, died a month ago, but it seems like only yesterday that he was actively involved in one activity or another in the community. During his teaching career, Mr. Walker was committed to providing college access for women and minorities, particularly African-Americans. In 1985, he became associate director of admissions for University of California, Santa Cruz. After learning he had contracted the HIV virus, Mr. Walker began his work as a volunteer with the Santa Cruz AIDS Project, including a term as president of the board. He worked through the schools, and as a member of the editorial board of contributors for the Santa Cruz Sentinel, to educate the public about the disease. A friend said of him "He was, in a real true sense, a teacher. And he used the lessons of this disease to educate people."

Mr. Speaker, I commend to you and to all my colleagues, the life and lessons of my friend, Jay Walker.

ADM. STANLEY R. ARTHUR

HON. OWEN B. PICKETT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. PICKETT. Mr. Speaker, the withdrawal of the nomination of Adm. Stanley R. Arthur to be commander in chief, U.S. Pacific Command is cause for concern. Press reports assign various reasons for this action, but a recurring theme attributes it to a personnel decision concerning a female officer. Both the Navy Inspector General and the Secretary of the Navy concurred in the decision.

We hold our military leaders to a very high standard. That is as it should be. They have awesome authority and responsibility for the management and operation of our military resources. They must be held accountable. But after years of dedicated service and recognized achievement they should not find their careers tarnished by unfounded publicity about one equivocal event.

Our Nation needs the services of officers like Admiral Arthur. He has served with distinction as commander of the Pacific Fleet. He was deeply involved in Operation Desert Storm. And he successfully saw the Navy through troubled times during his tenure as vice chief of naval operations.

Admiral Arthur deserves the respect and admiration of all Americans for his long and illustrious military career. We are in his debt as a nation. It is our loss that he was not confirmed in his appointment as CINCPAC. Let us hope that a similar fate never befalls an officer of such exceptional credentials in the future.

FIRST TIME HOMEBUYERS ASSISTANCE ACT

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. GOODLING. Mr. Speaker, today I am introducing the "First Time Homebuyers Assistance Act" which will make the American dream of owning a home a reality for thousands of renters. Today's renters often pay as much for rent as homeowners pay for a monthly mortgage payment. It is not surprising that the 1994 Fannie Mae National Housing Survey found 86 percent of renters believe they would be better off owning a home, and 76 percent believe now is the time to buy a home because of lower interest rates.

What does homeownership mean to Americans? Homeownership means financial, psychological, and familial security particularly for minorities, younger Americans, and those with lower incomes. Homeownership means a stronger economy, safer neighborhoods, and a better quality of life. Mr. Speaker, given such an optimistic view of homeownership, why do so many renters continue to rent? According to the Fannie Mae survey, an overwhelming 65 percent of renters rank the downpayment as their primary obstacle to owning a home.

Several years ago, I visited a home builder in York, PA, located in my congressional district, who developed a unique and innovative arrangement in which moderately-priced single-family homes are constructed for purchase with no downpayment. A local financial institution finances 80 percent of the loan, while the remaining 20 percent, in the form of a second mortgage, is financed by the local builder. This creative financing plan makes the purchase of a home affordable for financially, hard-working people who want to buy a home, but cannot afford a downpayment.

As it turns out, however, the Tax Code penalizes builders who finance the downpayment on behalf of the purchasers. Currently, the Tax Code limits a builder's ability to finance second mortgages because it assumes that buyers are paying the entire balance of their tax obligations in the year the property is purchased. The law also requires builders to pay taxes on the entire amount of the income received from a mortgage in the year the purchase is made. For a builder, it becomes almost impossible to pay these taxes, not having cash on hand to do so until the balance of the mortgage payment is received at a future date. In other words, the Tax Code prohibits a builder from using the installment method to calculate his tax liability. This situation places a builder in a financial bind and jeopardizes the future of this and similar housing programs.

The First Time Homebuyers Assistance Act will enable a builder to use the installment method to calculate his tax liability under certain specific circumstances. The bill applies to newly built, owner-occupied units only. The purchaser must be a first-time homebuyer who qualifies for 100 percent of the loan. Further, the legislation directs that a second mortgage on the property be no more than 20 percent of the sale price and applies only to single-family homes costing no more than 75 percent of the median home price in a given area.

Mr. Speaker, I urge my colleagues to cosponsor this legislation which is specifically geared to helping those who need the most assistance in buying a home. With your support, the First Time Homebuyers Assistance Act can make the American dream an American reality.

TRIBUTE TO WILLIAM H. CARROLL ON HIS RETIREMENT FROM FEDERAL SERVICE

HON. JON KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. KYL. Mr. Speaker, I rise today in honor William H. Carroll, a distinguished gentleman who has faithfully and energetically served this Nation for the past 35 years in the Federal service. Mr. Carroll's career epitomizes the spirit of public service.

Throughout the past 35 years, Bill Carroll has held many significant assignments in the Federal service. In addition to serving his country as a soldier in the U.S. Army from 1959 to 1961, he worked as a GS–5 accounting technician for the Federal Housing Administration from 1963 to 1964. From 1964 to 1966 he worked as a GS–7 computer programmer for the Treasury Department and later the U.S. Army. Bill Carroll served as a contracting officer, as a GS–13, for the Department of the Navy from 1966 to 1971. Beginning his career as a Federal attorney, he served as a GS–14 assistant counsel for the Department of the Navy and then for the Marine Corps from 1971 to 1974. Following his tour with the Marine Corps, he served as an associate counsel for contracting, as a GM–15, at the Defense Logistics Agency from 1984 to 1986. In 1985, Bill Carroll entered the Senior Executive Service as DLA's special assistant for contracting integrity. He assumed his current position in 1985, while on detail from DLA, as general counsel of the then-Strategic Defense Initiative Organization.

Mr. Carroll was initially detailed to SDIO in 1985 at a time when much of the organization was in its development stages, including the legal office. He has been the organization's only general counsel since the program's inception through its current evolution as the BMDO. He has made outstanding personal contributions to the Department of Defense, his country, and the international arena. He manages legal services provided to one of the most technologically complex and strategically important programs ever undertake by the DOD. He has personally participated and meticulously guided the program through a myriad of legal disciplines to include contract, fiscal, environmental, administrative, and international law. He has also been a stalwart manager of the program's Ethics and Fraud Prevention Program and Procedures. He has never wavered in his commitment to providing this nationally and internationally significant program the best legal advice and direction.

Among his most important contributions have been his ability to ensure that all planned field tests and experiments of the BMD program have been in compliance with the United States' treaty obligations, including the Antibillistic Missile Treaty and Intermediate Range Nuclear Forces Treaty. Mr. Carroll and his staff have obtained the Department of Defense Treaty Compliance Certifications for over 50 field tests and experiments. In each case he and his staff have demonstrated clear technical objectives and treaty compliance to Defense Department policy makers and legal advisers.

BMDO's international activities have been strongly supported by Mr. Carroll's expertise and sage, legal advice. In this regard he has ably assisted Department of Defense negotiations of "umbrella" ballistic missile defense research agreements with the Governments of the United Kingdom, Germany, Israel, Italy, and Japan, as well as specific international agreements or award of project contracts to Government and industry entities within the countries of France, the Netherlands, and Russia.

Mr. Carroll is a leader at the BMDO in fostering an ethical climate by his personal example, his vigilance, and his refusal to countenace unethical behavor. He championed equal opportunity for women and minorities in the Federal workplace throughout his career.

On top of all his contributions to ensure good government, Bill Carroll has served as a positive role model for a new generation of Government attorneys, as well as all those men and women he has worked with over the years. As his service in the Federal Government comes to a close, I can honestly say that I know Bill Carroll has served with absolute distinction and integrity.

DISAPPROVAL OF HOUSE WAIVER OF 3-DAY REVIEW RULE

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. FAWELL. Mr. Speaker, I rise to express my disapproval of the manner in which the House of Representatives considered two important pieces of legislation: the Legislative Branch Appropriations Bill Conference Report and the Defense Appropriations Bill for fiscal year 1995. These measures were passed by the House late last evening with barely any debate, and in the case of the legislative branch appropriations bill, we increased spending on ourselves without a recorded vote.

In my opinion, there is no more important decision facing Congress than how it spends the people's money. We owe it to the U.S. taxpayers to carefully review and deliberate each and every spending decision. Unfortunately, last night, the House waived its own rules requiring that all Members of Congress have 3 days to review bills prior to House floor consideration. These rules are intended to ensure that every Member of Congress has time to review legislation and draft amendments to improve or modify the measures. In waiving these rules and debating the defense appropriations bill for only 13 minutes, the House has disenfranchised Members of Congress from the legislative process.

Despite my strong support for the defense of our Nation, I voted against the defense appropriation because of my disgust with the procedure by which it was approved. I frankly do not know many of the specific spending provisions of this bill, and am sure that the vast majority of Members of Congress do not know either.

Mr. Speaker, this is not the way Congress should operate. Our constituents deserve accountability for the way we manage the Federal budget. Last night, we let them down.

TRIBUTE TO CLARA BEAUCHAMP

HON. FRANK TEJEDA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. TEJEDA. Mr. Speaker, as Congress focuses its attention on the details of the national health care reform debate, we must not forget the outstanding individuals who today serve our communities in the noble pursuit of nursing and public health care. In San Antonio, we have been fortunate for the past 40 years to have had the dedication and tireless service of Clara Beauchamp. Her recent retirement marks the end of a distinguished career.

Beginning her work as a registered nurse in a San Antonio hospital, Ms. Beauchamp joined the health staff of East Central High School in 1971 as health occupations teacher. Five years later, she was promoted to the position of school district nurse. With time and reflecting the growing needs in the area, Ms. Beauchamp became the school district's health services coordinator. As such, she developed new educational and health programs, and most recently worked with a staff of 5 nurses and 8 health aides to serve the needs of 6,500 school children. We cannot adequately thank her for her years of service to our youth.

Ms. Beauchamp did not treat concern for the health of others as a mere occupation; for her, it is a life pursuit she will continue into retirement. She has won numerous awards from the American Cancer Society and the American Heart Association in recognition of her public health work and accomplishments. As chair of the school nurse committee for the cancer society, she was instrumental in the creation of tobacco-free schools in Bexar County and throughout Texas. The Heart Association recognized her important service to the parent education task force and the school task force. We all know that public health education—learning how better to take care of ourselves—saves lives, and we owe a debt of gratitude to Ms. Beauchamp for her work. We also know that, in trauma situations, emergency first aid can make the life and death difference. And again we must thank Ms. Beauchamp for her work on the committee which brought emergency medical service to Bexar County.

She is no stranger to public service. Her husband, Jerry, served in the Texas State House of Representatives for a number of years, and I commend them both on their devotion to public good. As they enter their retirement years, they hope to spend more time with their 5 children and 10 grandchildren while continuing to devote time to their community and church. Ms. Beauchamp leaves a positive legacy, one that we will appreciate for many years to come.

A TRIBUTE TO THE DECLARATION OF INDEPENDENCE CO-SIGNERS' CONVENTION: KEEPING THE AMERICAN SPIRIT ALIVE

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. BLACKWELL. Mr. Speaker, I rise today on the floor of the U.S. House of Representatives to pay tribute to a worthy and just cause, the Declaration of Independence Co-Signers' Convention.

The Declaration of Independence Co-Signers' Convention is designed to inspire and increase citizens' understanding, commitment and participation in Government. From the period of July 2 through July 4, the Second Annual Declaration of Independence Co-Signers' Convention will be held to celebrate, commemorate and educate people across the Nation about the history of the Declaration of Independence and the American Revolution.

Mr. Speaker, in 1776 we waged war on behalf of the great principle that government should derive its just powers from the consent of the governed. In other words, we do not need a lot of bureaucrats looking over our shoulders and telling us how to run our lives. We are a people who declared our independence 200 years ago, and we are not about to lose it. Let independence be our boast, ever mindful of what it cost. Those who expect to reap the blessings of freedom must, like men and women, undergo the fatigue of supporting it.

Mr. Speaker, as an African-American, this event has special significance to me. When asked the question, What do African-Americans want? The answer is very simple. African-Americans want only what all other Americans want. We want the opportunity to make real what the Declaration of Independence, the Constitution and the Bill of Rights provide, as established by the Four Freedoms. While we know these ideals are open to no individual completely, we want only our equal right to enjoy them.

Today we are in the midst of a social revolution where future progress will reflect maturity and justice through the principles outlined in the Declaration of Independence. Without recognition and continued support for this sacred Declaration, the "unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness" might perish. The preservation of these rights is the foundation upon which the Declaration of Independence Co-Signers' Convention is based.

Mr. Speaker, I proudly ask my colleagues to rise and join me in paying our greatest tributes to the men and women who have organized the Declaration of Independence Co-Signers' Convention in hopes of keeping the American spirit alive.

BIOMEDICAL RESEARCH

HON. ROD GRAMS

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. GRAMS. Mr. Speaker, I rise today to express my support for encouraging greater private investment in biomedical research.

While the Federal Government plays an important role in funding much of the biomedical research under way today, we must not lose sight of the need to encourage the role which the private sector plays in biomedical research. Over the next few years, private investment will become increasingly more important as public dollars become more scarce.

Given the growing trend to target Federal research dollars to meet the political demands of constituencies, Congress and the citizens of this country should all appreciate the Life & Health Insurance Medical Research Fund, which supports basic biomedical research.

I am proud to stand here today to recognize and congratulate four outstanding groups in my home State of Minnesota who have generously donated to this fund.

The Lutheran Brotherhood of Minneapolis has been a major supporter of the Life & Health Insurance Medical Research Fund by committing significant financial assistance through the year 2003. This pledge supports scholarships for candidates studying for the combined M.D.-Ph.D. degree.

Northwestern National Life, also from Minneapolis, has consistently contributed to the fund throughout the last 10 years.

Minnesota Mutual of St. Paul has also provided financial support for competitive grants and scholarships in basic biomedical research.

And finally, Allianz Life Insurance Co. of North America in Minneapolis, a participant in the fund since 1984, has contributed funds which have increased the number of competitive grants and scholarships available for basic biomedical research.

The support that these companies are giving to outstanding biomedical researchers is clear and convincing evidence that the private sector can contribute much to the progress of advances in medical knowledge.

Biomedical research has proven to be one of our Nation's greatest investments—it saves lives.

Let us work, to ensure that more companies and individuals recognize the efforts of funds like the Life & Health Insurance Medical Research Fund and encourage them to join in the cause to support important biomedical research.

INTRODUCTION OF THE APPALACHIAN COAL HERITAGE AREA ACT AND THE SALTVILLE HERITAGE AREA ACT

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. BOUCHER. Mr. Speaker, today I am proud to introduce two pieces of legislation, the Appalachian Coal Heritage Area Act and the Saltville Heritage Area Act, which will help to preserve the important cultural and historic resources of two unique locations in my congressional district.

The Appalachian Coal Heritage Area derives its historical importance from the natural resource upon which it rests—coal. The heritage area is located in the heart of the Pocahontas coal field, an area renowned for the purity of its coal. The Appalachian Coal Heritage Area is home to the first mine in the Pocahontas coal field, and the mine that gave the field its name—the Pocahontas mine.

The Pocahontas mine was opened in the 1880's and expanded quickly when a 13-foot seam of coal was discovered. When active mining ceased, the Pocahontas mine took on a second life as an educational tool. Since the opening of the Pocahontas Exhibition Mine in 1938, it has been visited by more than one million people. The mine serves as the historical centerpiece of the Appalachian Coal Heritage Area.

Vistors to the mine take a guided tour that teaches them about the geological history of coal formation and the history of coal mining and coke production at Pocahontas. Exhibits explain the evolution of the coal extraction process and of mining tools, from basic hand tools to powerful electric coal cutting machines. Discussions cover all aspects of work in the mines, from safety and mine tragedies to coal transportation. As one study suggests, "by the time the tour ends visitors have acquired a fairly comprehensive understanding of Pocahontas coal from its formation to its mining and its importance in the industrial development of this country."

While the Pocahontas mine serves as the area's historical centerpiece, it is by no means the Appalachian Coal Heritage Area's only historical asset. The twin company towns of Pocahontas and Bramwell, separated by just 1 mile and the Virginia-West Virginia State line, both have rich architectural and cultural legacies.

Pocahontas was the first and largest mining town built in the Pocahontas coal field. Many of Pocahontas' residences date from the 1880's, and many more were built in two further construction periods in the 1900's and 1920's. Furthermore, the town still incorporates many of the original commercial establishments. Among these are saloons, the drugstore and the town's opera house. Because Pocahontas was a company town, the importance of these buildings goes far deeper than their age—they are living testimony to the lives of Appalachia's miners.

It is also important to remember Pocahontas' unique cultural history. One historian has suggested that "the ethnic history of the coal mining fields of * * * Virginia is a microcosm of the ethnic history of the United States." When coal companies recruited labor, they brought in workers from three different populations—white Americans from other coal regions, African-Americans from the South and immigrants from Southern and Southeastern Europe. The town's religious structures reflect this diversity. It is still possible to visit many of these buildings, including a synagogue built in 1913 and a mural-covered Catholic church built by the Hungarian population in 1896. Thus, Pocahontas' architectual legacy demonstrates how workers from diverse national, ethnic and religious backgrounds came together within the great American "melting pot."

Bramwell, too, has a rich history. Whereas Pocahontas housed the mine's workers, Bramwell was host to the coal companies' executives. These officials' desire for more luxurious houses combined with the skills of immigrant laborers and with native Appalachian materials to create a unique style that can only be described as primitive Victorian. These European-influenced structures include a Tudor mansion, a yellow brick estate with a copper roof, and even commercial and religious structures such as a bluestone bank built by Italian stonecutters and a chapel built as a replica of one in Wales.

Just as the Appalachian Coal Heritage Area's history centers around coal, the Saltville Heritage Area has a long heritage based on its own abundant natural resource—salt.

Because salt is essential to all life, and because of Saltville's abundance of salt, the area has attracted a broad range of people and animals. The earliest of these were ice age mammals. Fossil remains of these animals have attracted collectors for nearly 200 years, among them Thomas Jefferson. Major paleontological discoveries have included the giant ground sloth, the mastodon and the woolly mammoth.

The next chapter of Saltville's history details human habitation. A number of archeological digs in and around Saltville have uncovered remains of humans and human society. These include tools, beads, and pots which detail roughly 13,000 years of settlement. Perhaps most importantly, some have interpreted recent discoveries in Saltville to suggest that humans lived in North America nearly 2,000 years earlier than archeologists had previously thought.

The final stage in this remarkable history is the growth of salt production. This was initiated on a small scale in the mid-18th century, and beame an important source of industry by the early 1800's. The onset of the Civil War transformed this already-important industry into a critical one. During the war, furnaces at Saltville produced all or part of the State supply of salt for Virginia, North Carolina, Tennessee, Alabama, and Georgia. Both Union and Confederate forces understood the importance of the salt works, and both sides worked to control the area. Confederate fortifications of Saltville remain to this day, though in 1864 they could not sustain the Union assault.

Mr. Speaker, today I introduce the Appalachian Coal Heritage Area Act and the Saltville Heritage Area Act to recognize the important roles that these locations have played in our national history. Together, these areas provide valuable lessons about our prehistory and our history, our ancestors, our industry, our struggles, and even our great diversity. These are lessons that must not be lost. I encourage my colleagues to examine this legislation closely and hope that they can offer their support.

SEVENTY-FIFTH ANNIVERSARY OF THE APPRENTICE SCHOOL OF THE NEWPORT NEWS SHIPYARD

HON. ROBERT C. SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. SCOTT. Mr. Speaker, today, I would like to congratulate the Apprentice School of Newport News Shipbuilding on its 75th year of excellence in vocational training.

Since 1919, 75 years ago this year, the training of apprentices and the developing of critical skills has been a priority of the Newport News Shipyard. This comes from fundamental understanding, true today as it was 75 years ago, that being competitive in the world requires world-class craftsmanship.

We as a nation are embarking on a new era—one that will require our young men and women to process advanced technical skills—skills that will allow our workers to continue to be the best in the world.

The apprentice school, a fully accredited institution, is a shining example of how to provide this craftsmanship and skill to our citizens. The school carefully blends classroom bookwork with the practical experiences necessary to build the best and most complex ships known to man.

As we in Congress look for the answers to the tough educational problems facing our Nation, the apprentice school is a great example of how to accomplish this mission.

Congratulations apprentice school on a job well done.

TRIBUTE TO NEW HAMPSHIRE'S STAND DOWN '94

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. SWETT. Mr. Speaker, I rise today to ask my colleagues to join me in paying tribute to the many New Hampshire volunteers who planned and executed Stand Down '94. Stand down is a military term, meaning to take a break from combat, or stand down from action. Stand Down '94, held during the weekend of June 11 and 12, was an opportunity for homeless veterans to take a much needed break from their daily battle with homelessness. It was a chance for these veterans to access the many day-to-day services which most people take for granted: hot food, hot showers, and shelter. But Stand Down '94 was much more than this.

Stand Down '94 also provided the opportunity for homeless veterans to directly access their entitlements, to obtain medical evaluations, to get career counseling and job placement * * * even to obtain new photo identification. Although other stand downs have been held through the country, Stand Down '94, at the New Hampshire Veterans' Home in Tilton, NH, was the first in the Nation to be done without financial aid from government resources. A host of veteran service organizations, government employees, volunteer groups, private companies, and individual citizens pulled together to make Stand Down '94 the success that it was.

Mr. Speaker, although over 500 people contributed either their personal time, equipment, or material goods to this effort, I want to call special attention to 2 individuals. The first is Tom Norris, of the New Hampshire Department of Employment Security, who acted as the chairman of Stand Down '94. Tom's inspired leadership was the guiding force that made this event happen. The second is Barry Conway, commander of the New Hampshire Veterans' Home, where Stand Down '94 was held. Barry's willingness and enthusiasm to host this event on the grounds of the Veterans' Home is what sparked others to contribute. These two veterans have shown their commitment to their fellow veterans, and stand as an example for others.

Mr. Speaker, I ask my colleagues to join me in praising Tom Norris, Barry Conway, and the rest of the 500 volunteers that made Stand Down '94 in Tilton, NH, a great success. Stand Down '94 should serve as a model for similar initiatives throughout the country, where our homeless veterans are given the opportunities, which they need and deserve, to win their battle against homelessness.

DR. PAUL E. ERRERA

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. MONTGOMERY. Mr. Speaker, last October, I placed in the RECORD an article about the largest integrated network of homeless treatment programs in the country, which was developed by the Department of Veterans Affairs. The evolution of these impressive programs was guided by Dr. Paul E. Errera, the Director of the Mental Health and Behavioral Sciences Service at the Department of Veterans Affairs.

Paul has left his post at the Department's central office—which he held since 1985—to return to the work he once did with veterans at the West Haven VA Medical Center.

I want to share with you a little about this dynamic man and his impressive career of service to veterans with mental health problems.

Paul received his medical degree at the Harvard University School of Medicine. He interned at the Yale New Haven Hospital and did his residency in the department of psychiatry, Yale University School of Medicine. During his residency, he began his service to veterans at the VA Hospital, West Haven, CT. He held various positions at Yale where he taught others in the field of psychiatry and became a professor of psychiatry in 1970. From 1970 to 1985, he served as chief of the psychiatry service at the VA Medical Center in West Haven.

In a speech Paul made at a going away luncheon held in his honor on June 21, he referred to his time at central office as the capstone of my professional life, and turned the gathering into a tribute to those he serves—the mentally ill, the homeless, alcohol abusers, drug addicts and the vocationally disabled—and the team of committed and immensely skilled professionals he directed. This man is a selfless professional, who always turns the spotlight from himself to, in his own words, "the mission that we have successfully kept at the center of our efforts and that we celebrate today."

Mr. Speaker, I want my colleagues and the entire country to know that we have exemplary individuals in the Department of Veterans Affairs but none better than Paul Errera, a man totally committed to the service of our Nation's veterans.

ON NORMANDY BEACH

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. WOLF. Mr. Speaker, earlier this month our Nation took time to honor the memory of those brave Americans who fought for freedom 50 years ago on the beaches of Normandy.

As part of that tribute, the Honorable John O. Marsh, Jr., a former colleague in the House and the longest serving Secretary of the Army in the Nation's history, commemorated the D-day landing at the Omaha Sector, Normandy Beach, in France on June 6, 1944, by Company C, 116th Infantry Regiment, 29th Division, of the Virginia-Maryland National Guard.

I would like to share his eloquent remarks presented at a ceremony at Veterans Memorial Stadium in Harrisonburg, VA, on June 5 with my colleagues:

TO COMMEMORATE THE LANDING AT THE "OMAHA SECTOR," NORMANDY BEACH JUNE 6, 1944, BY COMPANY C, 116TH INFANTRY REGIMENT 29TH DIVISION, VIRGINIA-MARYLAND NATIONAL GUARD

(By John O. Marsh, Jr.)

BACKGROUND

Harrisonburg has been the home of Company C, 116th Infantry Regiment, Virginia National Guard, a Regiment of the famous Virginia-Maryland 29th Division Army National Guard for many years. The Division was organized in WWI and fought in France. It was the only National Guard Division that took part in the Normandy invasion.

It should be noted that by the time of D-Day the ranks of the Division had been significantly augmented by draftees and others, whereby in the 29th there were soldiers from every state in the Union. However, the Division continued to have a significant number of original members so that at its core, it was still a National Guard Division with many of these Guard soldiers holding leadership posts both as commissioned and non-commissioned officers.

The 116th Infantry Regiment traces its military heritage to units organized in the Shenandoah Valley of Virginia before the Colonial Wars. It participated in numerous campaigns of the French and Indian War under the command of then Col. George Washington, the American Revolution, and the War of 1812. It was commanded by Stonewall Jackson in the War Between the States (Civil War) and earned 18 Streamers from Bull Run to Appomattox.

This Regiment, often referred to as the Stonewall Brigade, was in the first wave at

Normandy Beach at the sector that has become famous as "Bloody Omaha." So named because of the fierce resistance encountered, and the enormous casualties suffered by U.S. forces before gaining a lodgement on the coast of France.

By the end of July 1944, the 116th, whose strength on D-Day of just over 3,200 men and officers had sustained 3,400 casualties. When VE-Day came in May, the casualties were over 7,000.

For all of those soldiers of Company C and the 116th Infantry Regiment, as well as all who served there, these remarks are a tribute from one who was later a pilgrim to the place where they so valiantly fought, were wounded—died—but prevailed.

ON NORMANDY BEACH

Normandy Beach is its own memorial.

There is a stillness about a battlefield where great causes were fought and decided. President Lincoln spoke of it at Gettysburg—and called it "Hallowed Ground."

Those who fought at Normandy and lived; they shall age. Yet the agelessness of those who died there is a Spirit you can sense as you walk along the beach. It carries you back to the days when you were young.

Today on this hallowed ground stillness and tranquillity prevail in marked contrast to the sounds and chaos of battle. An attitude of reverence comes naturally. We talk in quieter tones—we move less swiftly—a tribute beneficiaries give—even when only dimly aware of causes decided by others—but knowing some debt for their resolution is still owing.

For mile after mile along this stretch of French coast named Normandy a terrible price was paid by those who waded with a rising tide from the English Channel to gain a foothold on the Continent—and by those who made their assault from French skies and landed in nearby fields in darkness before dawn.

Monuments along the shore stand not just as a tribute to their deeds to be remembered, but a memory to youth that never grew old.

They are placed here on the coast of France, in the Province of Normandy, to vouchsafe our Country's commitment to a great cause.

America sought no empire, nor the lands of others—save but a place of ground near the beaches where they fell—and there to bury her dead. Where like Flanders fields—they are Freedom's silent requiem.

In Victory we unleashed no vengeance upon our foe. Rather we helped rebuild a ravaged land.

The monuments of D-Day stand both as a pledge to the Values of our past, and to our Hope for the future.

Hope for a world that is at peace—a world guided by truth—a world that is free.

This pledge of Values and Hope—our Country, and all its forces of land, air, and sea, shall defend.

When this anniversary day is past, and those who pilgrimed here have gone, and tides ebb and flow——

When the sounds of the Channel are the only sounds in a place of beauty and loneliness——

When the cry of the gulls and the winds across the sands of Normandy break the stillness of a battleground——

Then the waves that wash gently on the beaches of France—will in rhythmic cadence be—forever, a lasting tribute to what my Countrymen did here.

WE MUST SHARE INFORMATION IN THE WAR ON DRUGS

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. TORRICELLI. Mr. Speaker, for 3 years, the centerpiece of the United States drug war in the Andes has been the use of military radar and spy planes to track and attack narco-traffickers at their weakest point: the air bridge of small planes linking the coca leaf fields of Peru with the cocaine laboratories of Colombia.

But barely a year after this air interception network began successfully disrupting trafficking routes, the Pentagon abruptly ceased the operation on May 1. The Pentagon says it made this decision because it feared liability suits from families of traffickers shot down with the use of American-supplied information.

Today, I am introducing legislation along with the distinguished chairman of the Subcommittee on International Security, International Organizations and Human Rights, TOM LANTOS, that will ensure that the United States can once again share radar information with foreign governments to reduce illicit drug trafficking.

Our legislation creates an exemption in the section of the United States Code that prohibits foreign countries from taking hostile action against civilian aircraft, and that prohibits the United States from providing information to aid in such action, if the aircraft in question are reasonably suspected of being engaged in the trafficking of controlled substances. The exemption only applies if the President certifies that the foreign country in question faces an extraordinary threat from illegal narcotics trafficking, and if such country has in place procedures to protect against innocent loss of life in the air and on the ground.

I have made special trips to Colombia and Peru to attain support for the United States-Andean air strategy over the past 3 years. I have done so because this strategy is absolutely essential to our efforts to stop the flow of drugs into the United States. Indeed, with radar coverage suspended, Colombian and Peruvian defense officials say that drug trafficking flights have increased by as much as 20 percent.

Virtually all the world's cocaine supply originates in the coca-leaf fields of Peru and Bolivia. About 80 percent of the drug passes through Colombia, for refining on its way north to the United States. Traffickers move most of their drugs in small planes.

In 1993 alone, 32 tons of cocaine were seized in Colombia, as a result of the sharing of American-supplied information. Indeed, within a few days before the radars were shut off, American-supplied information helped the Colombians seize four drug planes.

Both the Colombian and Peruvian governments maintain shoot down policies that are fair and responsible. According to these policies, civilian planes run the risk of being shot down only if pilots fly without flight plans, if they do not respond to radio contact by pursuing military aircraft, and if they ignore the military pilots' visual signals to land. Extensive rules of engagement for forcing down planes are in complete agreement with international law.

The war on drugs cannot be won without complete cooperation between the United States and our Andean allies. The United States military has the capability to make a real difference by providing these allies with the information they need to successfully track and intercept narco-trafficking aircraft. We must resume this information sharing immediately, and send a strong message to the narco-traffickers that they will pay tremendous consequences should they continue to evade international law.

A DOMESTIC VIOLENCE STORY NOT FOUND ON THE FRONT PAGE

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Ms. MOLINARI. Mr. Speaker, let's take a break from the O.J. Simpson story. What about other stories? It is time we opened our eyes to the secret shame in homes across this country. Domestic violence is all too common—in your community, in my community.

I recently received a letter from a woman in my district that I would like to share with you.

For the last three years I have been threatened, beaten, harassed, stalked and terrified by my husband. He has been arrested several times in violations regarding an order of protection from family court. But recently the violence escalated.

He has been removed from our home, but one day he broke in and waited for me to return from work. He beat me in the head with a sack of coins he held in his hand, and when I finally fell to the ground he kicked me in the head and body several times. I bled profusely from my head injuries, and was rushed to the hospital. Staples were placed in my scalp. I was badly bruised and needed to stay in bed for weeks.

A warrant was issued for his arrest, but he couldn't be found. A month later, while crossing the street, he tried to run me over with his van. When he realized he had missed me, he jumped out of the van and beat me until people came to my rescue.

Mr. Speaker, I am told that the charges against her husband will be reduced to a misdemeanor and he will probably receive a sentence of 100 hours of community service and 1-year probation, and she will receive a 1-year order of protection.

Let this be a lesson to us all. The O.J. Simpson case is focusing attention on domestic violence like never before, but the laws in our country are inadequate and so is society's attitude—still—toward domestic violence.

INTRODUCTION OF THREE RURAL MEDICAL BILLS

HON. BLANCHE M. LAMBERT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Ms. LAMBERT. Mr. Speaker, I am pleased to take the floor today to describe three bills that I have introduced. Two of these bills will go a long way toward solving the lack of health care providers in rural areas. The other bill will assist countless of sick chronically ill children on Medicaid.

The first bill, the Medicare Rural Physician Payment Equity Act, will provide doctors practicing in rural health professional shortage areas with incentives to locate in rural areas.

Mr. Speaker, doctors in my district constantly describe the gross underpayment received on Medicare claims and as a result they have a difficult time remaining in rural areas such as my district. This bill will help solve that problem.

The Medicare Rural Physician Payment Equity Act, will give doctors providing primary care services a 20-percent Medicare bonus payment and 10 percent bonus for other services. In addition, the bill extends these benefits to nonphysician providers.

Another provision of this legislation will write into law the recommendations of the physician payment review commission to update Medicare payments 10.7 percent for surgical services, 10.1 percent for primary care services, and 7.4 percent for all other services.

The second bill is entitled "The Rural Health Care Practitioners Revitalization Act of 1994." This legislation takes an innovative approach toward getting doctors into rural areas.

First, this legislation provides a variety of tax credits to doctors who agree to practice in rural underserved areas. These tax credits range from tax-exemptions for interest on student loans, to credits given to doctors who agree to practice in rural areas for a specific time-frame.

Second, the bill more than doubles the authorization for the National Health Service Corps. Such an increase will allow the program to bring even more doctors into rural areas. The bill also has a provision to provide more contracts to doctors with rural backgrounds.

Third, the legislation establishes a State Health Service Corps Demonstration Project. Under this project, States will be allowed to establish programs to attract and train more doctors for service in health professional shortage areas. There is a Federal match for the program which is authorized through the year 2001.

A final provision of the bill provides additional money for the Area Health Education Centers [AHECs]. These centers typically provide residency training programs for doctors in rural areas. It is widely recognized that without an expansion of AHEC assistance it will be extremely difficult to attract doctors into rural settings.

Mr. Speaker, my third bill being introduced today is the Children's Health Equity Act of 1994. This bill seeks to provide protection to some of the most vulnerable enrollees, children, in the Medicaid Program.

Today more and more States are moving into Medicaid-managed care programs. While this may not be bad in and of itself, the drive to managed care may leave chronically ill children with little or no access to pediatric specialists. Specifically HMO-type plans can systematically deny care to very sick children by not having enough or any pediatric specialists on contract.

This bill seeks to protect children with special health care needs by requiring States who adopt Medicaid-managed care programs to keep chronically ill children enrolled in traditional fee for service programs. Most often, traditional Medicaid fee for service plans are the only way to provide necessary access to pediatric specialists for children with special health care needs.

Another provision of this legislation requires the Secretary of Health and Human Services to develop and report to Congress on the viability of using pediatric risk adjustors for managed care plans. Risk adjustors, which balance profits between insurers who may be denying services rather than containing costs, provide great opportunities for intelligent management of the entire managed care industry, but we need to know just what concerns need consideration for children.

Mr. Chairman, I believe this bills I have introduced today provide a great opportunity for us to improve the health of rural America and to better the lives of children. We must ensure that our vulnerable populations, specifically rural and children concerns, have access to health care. It is my belief that these pieces of legislation will help us achieve these goals.

CELEBRATING 100 YEARS AT ST. LUKE'S UNITED METHODIST CHURCH

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. PALLONE. Mr. Speaker, on July 10, 1994, St. Luke's United Methodist Church in Long Branch, NJ, will celebrate the first century of the use of its landmark structure, which was dedicated on July 8, 1894. This will be an exciting and important event for not only the congregants of St. Luke's, but for the entire community of Long Branch.

The congregation first began meeting in 1856, when the church now known as Old First United Methodist Church of West Long Branch assisted in the purchase of a Presbyterian Church across Broadway from the present site of St. Luke's, for a meeting house for several of its classes. For 4 years, worship at the Second Methodist Episcopal Church of Long Branch was led by the minister appointed to First Methodist Episcopal Church of Long Branch. In 1860, the charge was divided, with a pastor appointed to serve each church. At this time, as the Civil War was consuming America, Methodism was celebrating its centennial in the United States with a great effort to build churches and bring in new members. The Long Branch congregation purchased the site near Broadway and constructed Centenary Methodist Episcopal Church, completing the structure in 1869. President Ulysses S. Grant, with his wife and two children, attended the dedication in July of that year. After some initial difficulties, members of the community gave whatever they could to help the church reorganize as St. Luke's Methodist Episcopal Church.

Fourteen years later, in 1893, disaster struck again when Centenary/St. Luke's burned to the ground. But the members had the faith, courage and vision to overcome this adversity and—using stone and brick, this time—constructed a church dedicated as much for religious education as for worship. Built at a cost of $53,000 a century ago, this beautiful structure (which has since been refurbished, repainted and reinforced) would probably cost millions to recreate, if such an effort were even undertaken in this day and age. Membership has gone up and down, pastors and members of the congregations have come and gone, lived and died. But St. Luke's unique position as a special institution, both for its congregants and in the larger community, remains solid. I congratulate the entire St. Luke's family on their first 100 years and wish them well in their next century of faith and service.

INTRODUCTION OF THE 1994 ETHICS AMENDMENTS TO THE MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

HON. MARIA CANTWELL

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Ms. CANTWELL. Mr. Speaker, I rise today to join Congresswoman JOLENE UNSOELD in the introduction of the 1994 ethics amendments to the Magnuson Fishery Conservation and Management Act. This legislation will improve the ability of Regional Fishery Management Councils to manage America's fisheries effectively and restore public confidence in the role of council members as stewards of that resource.

Since the Magnuson Fishery Conservation and Management Act was enacted in 1976, two of its primary goals have been accomplished:

First, foreign fishing interests have been displaced in the U.S. Exclusive Economic Zone, which the Magnuson Act established; and

Second, the United States has developed a commercial fishing industry that contributes more than $1 billion to the economy of the Pacific Northwest and billions more to other regions of the country.

As Americanization of the industry took place, however, the role of the Regional Fishery Management Councils changed, and so did public perception of their effectiveness and integrity.

Growing competition among U.S. fishers has increased the demand on America's fisheries—and intensified the pressure on council members to make impartial harvest decisions. The Magnuson Act requires council members to be knowledgeable and experienced in the industry. Often, however, the people who meet those criteria also have the most to gain or lose financially from the regulatory and allocation decisions of the council.

Potential conflicts of interest for industry representatives who serve on Regional Fishery Management Councils have been a problem for years, because council members are charged with making resource management decisions that directly affect their personal income. At the same time, members of these councils are the only Federal advisers not subject to official Government standards of disclosure and ethical conduct. The intensity of the controversy over potential conflicts of interest has increased as America's fish stocks have declined.

The goal of this legislation is to remove the potential for abuse and self-serving decisions. We must ensure that the Regional Fishery Management Councils are fully accountable, capable of responsible stewardship and empowered to maker trustworthy decisions about one of this Nation's most valuable, and most vulnerable, natural resources.

I urge my colleagues to pass this amendment to ensure the integrity and accountability of America's Regional Fishery Management Councils. Fisheries is one of our Nation's most valuable economic and environmental resources. The management of that resource is something that must be conducted in an open process and under full public scrutiny.

TRAGEDY IN AMERICA

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. REED. Mr. Speaker, I rise today to discuss one of the greatest tragedies seen everyday in America: violence against women and their children by someone whom they love and trust. Even more tragic is the fact that it has taken the murder of a national figure to draw attention to this epidemic.

During 1993, five women were murdered by their respective husbands or companions in my State of Rhode Island. In one case, the couple's daughter was also killed before the husband killed himself. In order that these crimes are not soon forgotten, I would like to submit their names for the record: Marie, age 30; Pamela, age 42; Tiffany, age 14; John, age 48; and Michele, age 28.

Each and every act of violence against a woman is one too many. We, as the national lawmakers of this country, must protect our citizens, including women who are becoming victims at an all too frequent rate.

This is just one reason why I have stood as an original cosponsor of the Violence Against Women Act. I challenge my colleagues who are conferees on the crime bill to take a stand for women by including the Violence Against Women Act at its full funding level in the conference report. Putting an end to these violent crimes is something we must all claim responsibility for.

TRIBUTE TO DAVID L. COON

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. DUNCAN. Mr. Speaker, I would like to pay tribute today to an exceptional American, David L. Coon, who will be retiring, after 20 years of distinguished service, from the U.S. Capitol Police Force.

Dave began serving his country more than 40 years ago when he joined the U.S. Marine Corps in 1954. He attained the distinguished rank of Gunnery Sergeant. During his career in the corps, Dave served two combat tours in the Vietnam conflict, 1965–67 and 1970–72.

As a young marine in 1965, Sergeant Coon served as the acting 1st Sgt. for Gulf Company, 2nd Battalion, 3rd Marines, in the Republic of Vietnam. After his first tour in Vietnam, Sergeant Coon served as a marine recruiter in Canton, OH. Many of us remember the turmoil our Nation experienced during the sixties. Sergeant Coon and his family lived a short distance from Kent State University during the tragic and well-documented student protests of the war.

Dave was then selected for duty as the administrative chief for the Marine Corps Officer Basic School at Quantico, VA. Shortly thereafter he was again ordered to return to duty in Vietnam. When Gunnery Sergeant Coon returned from combat duty he was transferred to Marine Corps Headquarters, Washington, DC serving as the administrative chief of the Manpower Plans and Policy Division where he retired in 1974.

During his Marine Corps career Gunnery Sergeant Coon was a recipient of the Naval Achievement Medal, National Defense Medal—1 star, Vietnam Service Medal—3 battle stars, Combat Action Ribbon, and the Presidential Citation Award.

As a 20-year veteran of the U.S. Capitol Police, officer Coon distinguished himself as a professional. As a law enforcement officer he was recognized and awarded by his peers for outstanding competency and proficiency.

Officer Coon is also very involved in his community. He currently serves on the Spotsylvania County Board of Zoning Appeals. And Dave has been very active in the Knights of Columbus where he has held virtually every leadership position in the Knights of Columbus, Fredericksburg Council.

I know that officer Coon's family is very proud of him as well. He and his wife, Maureen, have raised five children and instilled in them the values of family, God, and country. Through Dave and Maureen's love, instruction, discipline, guidance and example their five children, Kathy, Jim, Jon, David, and Kim have learned the values that have shaped their private lives and their public citizenship.

I want to thank Dave for his distinguished service to our Nation, and wish him a happy and healthy retirement.

CELEBRATING GLOBAL ACTION PLAN

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. HINCHEY. Mr. Speaker, I would like to bring to your attention an environmental grassroots organization called the Global Action Plan, or GAP. GAP was started in Woodstock, NY, and has grown to become an international environmental organization. It is theories and tactics are unique and effective.

GAP was started when a number of grassroots activists realized that the most effective way to slow the current exploitation of the Earth's resources was to change the way individuals lived their daily lives. These concerned men and women saw that although awareness of environmental destruction has been raised, we have been less effective in changing deeply ingrained behaviors that still threaten the environment. GAP was formed to help individuals lead environmentally aware lives. Their slogan is "Empowering Individuals to Live Environmentally Sustainable Lifestyles." I think these are good words to live by. Ultimately GAP is an organization which is designed to help people help themselves.

GAP's activities are innovative and unique. They organize communities and neighborhoods into EcoTeams in which members support and educate one another about environmentally sound living practices. Over 4,000 households in 10 countries have joined EcoTeams, and the results have been impressive. Households in the United States, for example, have reported a 39-percent reduction in solid waste and an average savings of $430 per household.

The achievements of GAP testify to the strength and effectiveness of grassroots organizations. GAP is a model organization in its agenda and in its leadership—it shows us that where there is a will, there is a way. I would like my colleagues in the House to join me in honoring and thanking GAP for both its important role as a defender of our precious environment and as an example grassroots organization. As we quickly approach the 21st century, we must be careful not to forget the impact that dedicated individuals can have on our world. Global Action Plan serves as a perfect reminder to us all of that fact.

TRIBUTE TO COL. RONALD J. RAKOWSKY

HON. STEVEN SCHIFF

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. SCHIFF. Mr. Speaker, I would like to bring to your attention today the exemplary work and splendid public service of one of our country's outstanding military men, Col. Ronald J. Rakowsky, the staff judge advocate for the Air Reserve Personnel Center, Denver, CO. Colonel Rakowsky will be retiring after an especially distinguished military career on October 1, 1994.

Colonel Rakowsky entered active duty August 15, 1970, at MacDill Air Force Base, FL. His assignments include Clark AB, Republic of Philippines; Air Force Military Personnel Center, Randolph AFB, TX; March AFB, CA; Chief Personnel Law Branch, General Law Division, Office of the Judge Advocate General; Chief Legislative Division, Office of the Judge Advocate General; Associate Director of Civil Law, Office of the Judge Advocate General; Chief, Preventive Law and Legal Aid Group, Office of the Judge Advocate General; and his current position as Staff Judge Advocate, Air Reserve Personnel Center, which he assumed May 14, 1988.

He attained a bachelor of arts degree from Denison University, Granville, OH, in 1966 and a juris doctor in 1969 at Case Western Reserve University School of Law, Cleveland, OH. He is a graduate of the Air War College, the Industrial College of the Armed Forces and the Air Command and Staff College. Colonel Rakowsky is admitted to practice before the Supreme Court of the United States, the United States Court of Military Appeals, and the Supreme Courts of Ohio, Florida, and Colorado.

Since the spring of 1988, Colonel Rakowsky has been intimately involved in designing, perfecting, and implementing plans for peacetime training and wartime mobilization of the mobilization assets of the U.S. Air Force. During Operation Desert Shield/Storm, he was instrumental in supplying backfill Air Force Reserve and Air National Guard Judge Advocates and paralegals to active duty Air Force bases in the continental United States whose personnel assets had been projected forward for use in the area of operations for the Persian Gulf conflict. These Reserve and Guard personnel saw to it that quality essential services were available at all Air Force bases during the operations.

Colonel Rakowsky's military decorations include the Meritorious Service Medal with three oak leaf clusters, the Air Force Commendation Medal, the Air Force Achievement Medal, and the Humanitarian Service Medal with two devices.

Mr. Speaker, I ask that you join me, our colleagues, and Colonel Rakowsky's many friends in saluting the distinguished officer's many years of selfless service to the United States of America. I know our Nation, his wife Marge, his daughter Catherine, and his son Robert, are extremely proud of his accomplishments. It is fitting that the House of Representatives pays tribute to him today.

IN RECOGNITION OF THE BO-BOEN SNOWMOBILE CLUB

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. ROTH. Mr. Speaker, it is with great pleasure that I rise today to salute the Bo-Boen Snowmobile Club on the occasion of its 25th anniversary.

Having spent numerous winters in northeast Wisconsin, I have had many occasions to enjoy the thrill of snowmobiling. Almost nothing can match the exhilaration of sledding across a frozen lake with the majestic beauty of the Wisconsin winter landscape as a backdrop. I can understand why the Bo-Boen sledders have dedicated so much of their time and energy to this sport.

The Bo-Boen Snowmobile Club is the largest such group in the State of Wisconsin. It is also one of the most active in trail maintenance, safety training, and community involvement. The club maps and grooms over 160 miles of snowmobile trails every year. They also annually offer snowmobile safety and education courses. This past year, the club's safety class of 56 students was the largest group of sledders ever certified. The future promises to be even brighter, as 1995 will mark the club's 25th year.

I'm especially proud that Bo-Boen makes its home in St. Germain, WI. This region of the State, part of my congressional district, boasts the country's finest snowmobile trails, and each winter season brings thousands of snowmobiling enthusiasts to the North Woods.

Mr. Speaker, I would like to commend club president Patrick Rohan and everyone involved in the club for their work on behalf of the North Woods snowmobiling community. Thanks to the club's efforts promoting the sport and its safety, snowmobile enthusiasts from every corner will continue to enjoy the activity we in Wisconsin cherish so much. I ask that my colleagues join me today in saluting the 25th anniversary of the Bo-Boen Snowmobile Club.

ADMIRAL STANLEY R. ARTHUR

HON. OWEN B. PICKETT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. PICKETT. Mr. Speaker, the withdrawal of the nomination of Adm. Stanley R. Arthur to be Commander in Chief, U.S. Pacific Command is cause for concern. Press reports assign various reasons for this action, but a recurring theme attributes it to a personnel decision concerning a female officer. Both the Navy Inspector General and Secretary of the Navy concurred in the decision.

We hold our military leaders to a very high standard. That is as it should be. They have awesome authority and responsibility for the management and operation of our military resources. They must be held accountable. But after years of dedicated service and recognized achievement they should not find their careers tarnished by unfounded publicity about one equivocal event.

Our Nation needs the services of officers like Admiral Arthur. He has served with distinction as Commander of the 7th Fleet. He was deeply involved in operation Desert Storm. And he successfully saw the Navy through troubled times during his tenure as Vice Chief of Naval Operations.

Admiral Arthur deserves the respect and admiration of all Americans for his long and illustrious military career. We are in his debt as a Nation. It is our loss that he was not confirmed in his appointment as CINCPAC. Let us hope that a similar fate never befalls an officer of such exceptional credentials in the future.

IN TRIBUTE TO YVONNE J. SETENCICH

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. LEHMAN. Mr. Speaker, I rise before my colleagues today to pay tribute to Yvonne J. Setencich, who has served her county well, laboring behind the scenes and working to ensure a better Government for all of us.

For 6 years Yvonne has served on the Fresno County grand jury, a tenure that is unprecedented in Fresno County history. Yvonne, who happens to live in Sanger, the small farming community that is my birthplace, capped her career as a member of this government watchdog organization by serving as foreman in 1993–94.

I have known Yvonne for many years and although she no longer is my constituent, she is my friend. Although grand jury proceedings are secret, I know her to be a tireless worker, conscientious and organized in the way she goes about the tasks that are before her.

Yvonne has unselfishly given her time and served Fresno County and its citizens with distinction. I am proud to call Yvonne my friend, and I commend her for the years of valuable service she has provided toward a better and more efficient government.

HEALTH CARE REFORM VOTES WAYS AND MEANS COMMITTEE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. MICHEL. Mr. Speaker, I submit for the RECORD the rollcall votes on health care reform which took place in the Ways and Means Committee on June 24, 1994.

The following recorded votes were taken on June 24, 1994 in the Committee on Ways and Means during consideration of Acting Chairman Gibbons' substitute proposal for H.R. 3600, The Health Security Act of 1994:

An amendment by Mrs. Johnson permitting insurers to vary the premium rates they charge by age, using 10-year age bands. The underlying Mark requires all insurance premiums for each family size class to be set at the same community-wide rate, varying only by geographic area. Defeated 24–14.

DEMOCRATS

Mr. Gibbons, nay.
Mr. Rostenkowski, nay.
Mr. Pickle, nay.
Mr. Rangel, nay.
Mr. Stark, nay.
Mr. Jacobs, nay by proxy.
Mr. Ford (TN), nay.
Mr. Matsui, nay.
Mrs. Kennelly, nay.
Mr. Coyne, nay.
Mr. Andrews (TX), nay.
Mr. Levin, nay.
Mr. Cardin, nay.
Mr. McDermott, nay.
Mr. Kleczka, nay.
Mr. Lewis (GA), nay by proxy.
Mr. Payne (VA), nay.
Mr. Neal (MASS), nay.
Mr. Hoagland, nay.
Mr. McNulty, nay.
Mr. Kopetski, nay.
Mr. Jefferson, nay.
Mr. Brewster, nay.
Mr. Reynolds, nay by proxy.

REPUBLICANS

Mr. Archer, yea.
Mr. Crane, yea by proxy.
Mr. Thomas (CA), yea.
Mr. Shaw, yea.
Mr. Sundquist, yea by proxy.
Mr. Johnson (CT), yea.
Mr. Bunning, yea.
Mr. Grandy, yea.
Mr. Houghton, yea.

Mr. Herger, yea.
Mr. McCrery, yea.
Mr. Hancock, yea.
Mr. Santorum, yea.
Mr. Camp, yea.

An amendment by Mr. Camp to allow association health plans to vary the insurance premiums they charge based upon the cost experience of insuring its enrollees. The underlying mark would require premium charges for each family class to be set at the same rate, varying only by geographic area. Experience rating permitted under this amendment would be limited to plans offered through professional and trade associations who have at least 1000 individuals or 200 employer members; who have existed for at least 5 years; were formed and exist for the purpose of selling insurance; are neither owned nor controlled by an insurance carrier; who do not condition membership on health status or claims experience; and who offer coverage to spouses and dependents. Such association plans would not be required to take all individuals who apply for insurance. Defeated 21–17.

DEMOCRATS

Mr. Gibbons, nay.
Mr. Rostenkowski, nay.
Mr. Pickle, yea.
Mr. Rangel, yea.
Mr. Stark, nay.
Mr. Jacobs, nay by proxy.
Mr. Ford (TN), nay.
Mr. Matsui, nay by proxy.
Mrs. Kennelly, nay.
Mr. Coyne, nay.
Mr. Andrews (TX), nay.
Mr. Levin, nay.
Mr. Cardin, nay.
Mr. McDermott, nay.
Mr. Kleczka, nay.
Mr. Lewis (GA), nay by proxy.
Mr. Payne (VA), nay.
Mr. Neal (MA), nay.
Mr. Hoagland, yea.
Mr. McNulty, nay.
Mr. Kopetski, nay.
Mr. Jefferson, nay.
Mr. Brewster, yea.
Mr. Reynolds, nay by proxy.

REPUBLICANS

Mr. Archer, yea.
Mr. Crane, yea by proxy.
Mr. Thomas (CA), yea.
Mr. Shaw, yea.
Mr. Sundquist, yea by proxy.
Mrs. Johnson (CT), yea.
Mr. Bunning, yea.
Mr. Grandy, yea.
Mr. Houghton, yea.
Mr. Herger, yea.
Mr. McCrery, yea.
Mr. Hancock, yea.
Mr. Santorum, yea.
Mr. Camp, yea.

An amendment by Mr. Thomas permitting premium variation based upon the administrative expense associated with a plan's distribution method. The underlying mark requires all premiums, for each family class, to be offered at the same rate, varying only by geographic area. Defeated 23–15.

DEMOCRATS

Mr. Gibbons, nay.
Mr. Rostenkowski, nay.
Mr. Pickle, nay.
Mr. Rangel, nay.
Mr. Stark, nay.
Mr. Jacobs, nay by proxy.
Mr. Ford (TN), nay.
Mr. Matsui, nay by proxy.
Mrs. Kennelly, nay.
Mr. Coyne, nay.
Mr. Andrews (TX), nay.
Mr. Levin, nay.
Mr. Cardin, nay.
Mr. McDermott, nay.
Mr. Kleczka, nay.
Mr. Lewis (GA), nay by proxy.
Mr. Payne (VA), nay.
Mr. Neal (MA), nay.
Mr. Hoagland, yea.
Mr. McNulty, nay.
Mr. Kopetski, nay.
Mr. Jefferson, nay.
Mr. Brewster, nay.
Mr. Reynolds, nay by proxy.

REPUBLICANS

Mr. Archer, yea.
Mr. Crane, yea by proxy.
Mr. Thomas (CA), yea.
Mr. Shaw, yea.
Mr. Sundquist, yea by proxy.
Mrs. Johnson (CT), yea.
Mr. Bunning, yea.
Mr. Grandy, yea by proxy.
Mr. Houghton, yea.
Mr. Herger, yea.
Mr. McCrery, yea.
Mr. Hancock, yea.
Mr. Santorum, yea.
Mr. Camp, yea.

An amendment by Mrs. Johnson permitting establishment of individual and employer groups for the purpose of purchasing health insurance for their members, as long as such groups accept all small employers (up to 100 employees), eligible employees, and eligible individuals residing within the designated service area who seek membership. Such groups must offer all health plans interested in participating and may charge a uniform administrative fee. Plans offered through such groups must offer the same premiums in and outside of such purchasing groups. States may authorize more than one such group within a given geographic area, and provide for a risk adjustment mechanism if necessary.

DEMOCRATS

Mr. Gibbons, nay.
Mr. Rostenkowski, nay.
Mr. Pickle, nay.
Mr. Rangel, nay.
Mr. Stark, nay.
Mr. Jacobs, nay by proxy.
Mr. Ford (TN), nay.
Mr. Matsui, nay.
Mrs. Kennelly, nay.
Mr. Coyne, nay.
Mr. Andrews (TX), nay.
Mr. Levin, nay.
Mr. Cardin, nay.
Mr. McDermott, nay.
Mr. Kleczka, nay.
Mr. Lewis (GA), nay by proxy.
Mr. Payne (VA), nay.
Mr. Neal (MA), nay.
Mr. Hoagland, nay.
Mr. McNulty, nay.
Mr. Kopetski, nay.
Mr. Jefferson, nay.
Mr. Brewster, nay.
Mr. Reynolds, nay by proxy.

REPUBLICANS

Mr. Archer, yea.
Mr. Crane, yea by proxy.
Mr. Thomas (CA), yea.
Mr. Shaw, yea.
Mr. Sundquist, yea by proxy.
Mrs. Johnson (CT), yea.
Mr. Bunning, yea.
Mr. Grandy, yea.
Mr. Houghton, yea.
Mr. Herger, yea.
Mr. McCrery, yea.
Mr. Hancock, yea.
Mr. Santorum, yea.
Mr. Camp, yea.

An amendment by Mr. McCrery to strike provisions allowing states to enforce a capital allocation plan that would subject to state review and approval, any capital expenditures for health care exceeding $1 million (or less, at state option).

DEMOCRATS

Mr. Gibbons, nay.
Mr. Rostenkowski, nay.
Mr. Pickle, nay.
Mr. Rangel, nay.
Mr. Stark, nay.
Mr. Jacobs, nay by proxy.
Mr. Ford (TN), nay.
Mr. Matsui, nay.
Mrs. Kennelly, nay.
Mr. Coyne, nay.
Mr. Andrews (TX), nay.
Mr. Levin, nay.
Mr. Cardin, nay.
Mr. McDermott, nay.
Mr. Kleczka, nay.
Mr. Lewis (GA), nay by proxy.
Mr. Payne (VA), nay.
Mr. Neal (MA), nay.
Mr. Hoagland, nay by proxy.
Mr. McNulty, nay.
Mr. Kopetski, nay.
Mr. Jefferson, nay.
Mr. Brewster, nay.
Mr. Reynolds, nay by proxy.

REPUBLICANS

Mr. Archer, yea.
Mr. Crane, yea by proxy.
Mr. Thomas (CA), yea.
Mr. Shaw, yea.
Mr. Sundquist, yea by proxy.
Mrs. Johnson (CT), yea.
Mr. Bunning, yea by proxy.
Mr. Grandy, yea by proxy.
Mr. Houghton, yea.
Mr. Herger, yea.
Mr. McCrery, yea.
Mr. Hancock, yea.
Mr. Santorum, yea.
Mr. Camp, yea.

HONORING ROSE MARIE LOPEZ

HON. XAVIER BECERRA

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. BECERRA. Mr. Speaker, it is with the utmost pride and privilege that I rise today to recognize Mrs. Rose Marie Lopez for her 34 years of dedicated and unsurpassed service to the people of Los Angeles. Held in the highest esteem as a mother, an activist, and leader, Rose Marie has become an indispensable asset to her community.

Born and raised in the Chavez Ravine area of Los Angeles, Rose Marie attended Albion Elementary School, Nightingale Junior High School, and Lincoln High School. She and her husband, Henry Lopez, raised seven children.

Rose Marie's energy and accomplishments have no end. In addition to her duties as a senior field deputy to Los Angeles County Supervisor Gloria Molina, she was a cofounder of the "Happy Valley Community Group," president of the League of United Latin American Citizens [LULAC], a longtime member of the

Lincoln Heights Chamber of Commerce, and block captain for the Los Angeles Police Department Neighborhood Watch in El Sereno. She has been honored by the Los Angeles County Democratic Central Committee as "Woman of the Year."

Rose Marie Lopez is the fighter that we would all love to have in our corner. When the community of East Los Angeles was threatened with the imposition of yet another prison facility in its neighborhoods, Rose Marie was among the leaders who struggled for 6 grueling years to achieve a resounding and unexpected victory. Through her participation in various educational, political, and community organizations, Rose Marie has sought to promote equity for working men and women and their children. She is past president of the Parents Club of Our Lady Help of Christians School, an advisory council member for Lincoln High School, and a member of parent groups at several local elementary and secondary schools.

But perhaps Rose Marie's greatest achievement has been as a champion for our senior citizens. Decent living conditions, fair and prompt services, protection from fraudulent abuse, advocacy of their rights—these are the compelling causes on behalf of seniors that Rose Marie has taken most to heart with unmatched tenacity.

Mr. Speaker, on June 30, 1994, colleagues and friends will gather at a special dinner to bid farewell and pay special tribute to Rose Marie Lopez for her stellar, rock-solid service to the people of Los Angeles. It is with great pride that I ask my colleagues to join me today in saluting this exceptional individual for her outstanding contributions not just to a community but to the people and future of our grand city of Los Angeles.

A BILL TO REVISE THE TAX TREATMENT OF MUNICIPAL SECURITIES PURCHASED AT MARKET DISCOUNT

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. CARDIN. Mr. Speaker, today I am introducing legislation to repeal a provision of last year's tax legislation that has reduced secondary market liquidity for municipal bonds and complicated the Tax Code unnecessarily. The existing law may also have the effect of making it more difficult for States and localities to invest in our Nation's crumbling infrastructure.

The provision in question changed the way certain municipal bonds are treated under the Internal Revenue Code and caused some of these bonds to be less attractive to investors. State and local issuers attempting to address America's chronic public investment needs may be forced to offer higher yields on their securities, which would drive up their borrowing costs.

Of critical importance to the success of the American system of public finance is the liquidity of the secondary market for municipal bonds. Investors are willing to accept lower rates of return on State and local government securities because of the tax exemption, but also because they know they can readily sell their bonds, if necessary, before maturity. It is this indispensable characteristic of the municipal bond market that was handicapped last year by the Budget Act.

In certain situations, holders of municipal bonds seek to sell their securities at what is known as a market discount. In general, market discount occurs when a bond is purchased on the secondary market at a price below par or below the adjusted issue price, and is typically caused by a rise in market interest rates or a decline in the credit-worthiness of the borrower. Market discount is the difference between the purchase price of a bond and its stated redemption price at maturity.

Before the enactment of last year's budget reconciliation bill, accreted market discount on a municpal bond was taxed as capital gain at the time the bond was sold, redeemed or otherwise disposed of. Under the new law, accreted market discount is taxed as ordinary income.

Since they are now subject to higher ordinary income tax rates, market discount bonds have become more difficult to sell on the secondary market than other municipal bonds. Any security issued by a State or locality could become a market discount bond at some point during its life, so secondary market liquidity for all municipal securities has decreased. Also decreasing demand for market discount bonds is the fact that investors can no longer use capital gains on market discount bonds to offset capital losses. Investors in secondary market municipal securities now demand higher rates of return to compensate them for higher tax rates on discount bonds and for increased risk that their securities will be more difficult to sell. These higher rates mean that States and localities could ultimately face higher costs in issuing securities to pay for much-needed public infrastructure investment. Early anecdotal evidence suggests that yields on market discount bonds are 5 to 10 basis points higher than they would have been under the old rules.

Moreover, the new market discount rule has resulted in a reporting nightmare for bond dealers, mutual funds, bank trust funds, and others who are required to sort out and document income to taxpayers. Some tax-exempt mutual funds have simply stopped buying market discount bonds altogether because of this complexity, further reducing the liquidity of and demand for these securities and driving up their yields.

Since the new market discount rules could result in higher capital costs for state and local municipal bond issuers, raise extremely complex financial considerations that repel investors, and provide little or no economic advantage to the Federal Government, I propose that Congress restore the law to its pre-1993 status. Such a revision would be consistent with efforts to simplify the Internal Revenue Code under any comprehensive tax simplification measure. I encourage my colleagues to join me as cosponsors of this legislation.

STOP THE VIOLENCE

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. STUDDS. Mr. Speaker, I am honored to join with my colleagues from the Congressional Caucus for Women's Issues to work toward ending the state of emergency that exists for battered women and children in this country.

Last year alone, in the Commonwealth of Massachusetts, 29 women died from incidents of domestic violence. It is imperative that we include the provisions of the Violence Against Women Act in the final crime bill—it contains crucial funding for rape crisis centers, additional police, prosecutors, and victim advocates. In my own district in southeastern Massachusetts, the violence continues month after month—these deaths tragically illustrate the need for decisive action:

A 25-year-old Hyannis woman died of beating and stabbing injuries. Her husband turned himself in only 5 hours later.

A school-teacher from West Barnstable was beaten to death by her husband of 18 years in their home. He then put her body in her car and set it on fire to hide his crime.

A Plymouth nursing home worker, 42 years of age, was stabbed to death, allegedly by her husband, at the nursing home where she worked. They were involved in a custody dispute and her husband was on probation for a previous assault and rape. He also had a history of violent abuse against a previous wife and, incredibly, several restraining orders against him had expired because the police could not locate him.

The city of Quincy has a nationally acclaimed domestic violence program—highlighted by everyone from "60 Minutes" to the National Council of Juvenile and Family Court Judges. The Quincy program, designed by a creative district attorney, has a precourt approach which includes a computerizing police tracking and followup on all family disturbance calls by the DA's domestic violence counselors.

Yet despite this state-of-the-art program, last year a 25-year-old Quincy woman was shot in the head by her sister's estranged boyfriend. He was angry over breaking up with the victim's sister and went to confront her with a gun. In the midst of his confusion, he shot the wrong woman once in the head as her finance and her 12-year-old nephew watched. The man then fled the United States and is considered a fugitive.

We know that we are not doing enough to prevent domestic violence and that we must strengthen our commitment to ending the pain. I urge my colleagues on the conference committee to join me in sending the crime bill, including the Violence Against Women Act, to the House floor and to the President's desk. The women of this Nation—and their families—cannot afford to wait.

TRIBUTE TO GONZALO F. AYALA

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. TOWNS. Mr. Speaker, I rise today to honor the extraordinary achievements of Mr. Gonzalo F. Ayala, president of Community Capital Bank. He is one of the few prominent members of the business world who continues to maintain his sense of social consciousness.

His rise to success inspires everyone. At the age of 16, he left his native Bolivia for the United States and settled with his sister in Brooklyn's Cobble Hill neighborhood. While working for Forbes magazine as a control clerk and computer operator, he studied accounting at night at Baruch College.

It took Mr. Ayala 8 years to complete his bachelor's degree. But, that did not deter him from continuing night school to pursue a master's degree in business administration from Pace University. During that time, he assumed his first position with a bank and was hired as an auditor for Capital National Bank.

His next important career move occurred when he was hired by Northfield Savings Bank in Staten Island, a very prestigious investment institution. As an executive vice president, he played an important role in the maintenance of $330 million in assets.

He resigned from that institution and joined a struggling community development bank, Community Capital, where he was hired as vice president and cashier. This bank is only one of four lending institutions which practices socially conscious commercial banking.

Since then, Mr. Ayala has become president of Community Capital. He has kept the focus of the bank on lending to economically distressed areas, as part of an effort to revitalize the community. Despite relatively small resources, the bank has become a profitmaking institution and continues to grow while servicing those who might be overlooked elsewhere.

Mr. Ayala's ability to retain his community consciousness and commercial savvy, should be admired and emulated. His success attests to the worthiness of hard work and dedication. I hope my fellow colleagues will join with me in commending Mr. Gonzalo F. Ayala for being a model of personal and business achievement.

PIONEER PREFERENCE REFORM ACT OF 1994

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. MARKEY. Mr. Speaker, today, Chairman DINGELL and I and others introduced the Pioneer Preference Reform Act of 1994. This bill seeks to address a problem which has come to our attention recently concerning the Federal Communications Commission's implementation of personal communications services [PCS] and a system of competitive bidding to award licenses, both of which were mandated by the Omnibus Budget Reconciliation Act of 1993.

The pioneer preference program was developed by the Commission in the late 1980's as a means to reward those who invest in technology but who might lose out in the casino-style lottery system which then determined how licenses were awarded. The lottery system made no distinction between the serious technology applicant and the person off the street who plunked money down to pay the copying fee for an application. The problem which the pioneer preference program sought to remedy was that a person could invest millions in developing new technology only to see someone pay $75 to a lottery mill and win the license. Thus, the pioneer program was designed to reward those who invest in technology.

However, the FCC licensing process changed dramatically in 1993 when Chairman DINGELL and I and others pushed through the Licensing Reform Act of 1993, which largely abolished lotteries and instead put in place a system of competitive bidding. The Commission is now implementing the competitive bidding process, and in that context it appears that the Commission lacks authority to impose a reasonable fee on those who obtain their license under the pioneer preference program.

Though I have generally supported the concept of the pioneer preference program, since I think it served as an important counterbalance to the "roll-the-dice, anyone-can-win" lottery system, I agree that this matter needs to be revisited since the Commission may not have full authority to collect a fair amount from these pioneers. The legislation introduced today would accomplish that goal in two ways.

First, it gives the Commission authority to require a pioneer preference winner to pay a sum equal to not less than 90 percent of the highest bid for a license that is most reasonably comparable in terms of bandwidth, area designation, usage restrictions, and other characteristics. Thus, the Commission will look to reasonably comparable license bids, taking into account a variety of complex factors to help identify what would be a fair reference point, and apply 90 percent to that figure to determine how much the pioneer preference winners should pay. In establishing a payment system, the Commission could require payment using schedules and methods outlined in section 309(j)(4)(A) as a means of collecting revenues for the Treasury.

Second, the legislation requires the FCC to establish a formal process for considering future applications. Correspondence between the chairman of the Oversight Committee and the Commission shows that a more rigorous process needs to be in place as we move forward with this program. An FCC rulemaking would meet that need.

HEALTH CARE REFORM VOTES, WAYS AND MEANS COMMITTEE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. MICHEL. Mr. Speaker, I submit for the RECORD the rollcall votes on health care reform which took place in the Ways and Means Committee on June 27, 1994.

The following recorded votes were taken on June 27, 1994 in the Committee on Ways and Means during consideration of Acting Chairman Gibbons' substitute proposal for H.R. 3600, The Health Security Act of 1994:

An amendment by Mr. Thomas exempting dentistry from the physician self-referral ban that prohibits physicians who have a financial relationship with clinical laboratories from referring Medicare patients to those entities. The Mark extends application of the physician self-referral ban to services including dentistry. Defeated 23-15.

DEMOCRATS

Mr. Gibbons, nay.
Mr. Rostenkowski, nay by proxy.
Mr. Pickle, nay.
Mr. Rangel, nay by proxy.
Mr. Stark, nay.
Mr. Jacobs, nay.
Mr. Ford (TN), nay by proxy.
Mr. Matsui, nay.
Mrs. Kennelly, nay.
Mr. Coyne, nay.
Mr. Andrews (TX), nay.
Mr. Levin, nay.
Mr. Cardin, nay.
Mr. McDermott, nay.
Mr. Kleczka, nay.
Mr. Lewis (GA), nay.
Mr. Payne (VA), nay.
Mr. Neal, nay.
Mr. Hoagland, yea.
Mr. McNulty, nay.
Mr. Kopetski, nay.
Mr. Jefferson, nay.
Mr. Brewster, nay by proxy.
Mr. Reynolds, nay by proxy.

REPUBLICANS

Mr. Archer, yea.
Mr. Crane, yea.
Mr. Thomas (CA), yea.
Mr. Shaw, yea.
Mr. Sundquist, yea.
Mrs. Johnson (CT), yea.
Mr. Bunning, yea by proxy.
Mr. Grandy, yea.
Mr. Houghton, yea.
Mr. Herger, yea.
Mr. McCrery, yea.
Mr. Hancock, yea.
Mr. Santorum, yea.
Mr. Camp, yea.

An amendment by Mr. Thomas expanding the exemption to physician self-referral prohibitions for certain managed care arrangements. The bill limits the exemption for managed case arrangements to capitated arrangements only; it does not allow exemption for personnel risk arrangement. Current law exempts services paid to a physician or physician group on a capitulated basis. The amendment would have furthered this exemption to include (i) provider organizations as well as physician groups, (ii) methods of financial risk other than capitulation, including withholds and global fixed fees, and (iii) health plans that furnish designated health services directly or through subsidiary organizations, and who pay for such services through the acceptance of a premium or capitulation. Defeated 23-15.

DEMOCRATS

Mr. Gibbons, nay.
Mr. Rostenkowski, nay by proxy.
Mr. Pickle, nay.
Mr. Rangel, nay by proxy.
Mr. Stark, nay.
Mr. Jacobs, nay.
Mr. Ford (TN), nay by proxy.
Mr. Matsui, nay.
Mrs. Kennelly, nay.
Mr. Coyne, nay.

Mr. Andrews (TX), nay.
Mr. Levin, nay.
Mr. Cardin, nay.
Mr. McDermott, nay.
Mr. Kleczka, nay.
Mr. Lewis (GA), nay.
Mr. Payne (VA), nay.
Mr. Neal, nay.
Mr. Hoagland, yea.
Mr. McNulty, nay.
Mr. Kopetski, nay.
Mr. Jefferson, nay by proxy.
Mr. Brewster, nay by proxy.
Mr. Reynolds, nay by proxy.

REPUBLICANS

Mr. Archer, yea.
Mr. Crane, yea.
Mr. Thomas (CA), yea.
Mr. Shaw, yea.
Mr. Sundquist, yea.
Mrs. Johnson (CT), yea.
Mr. Bunning, yea by proxy.
Mr. Grandy, yea.
Mr. Houghton, yea.
Mr. Herger, yea.
Mr. McCrery, yea.
Mr. Hancock, yea.
Mr. Santorum, yea.
Mr. Camp, yea.

An amendment by Mr. McCrery replacing the Mark's requirement that all long-term care policies include nonforfeiture benefits, with a requirement that insurers offer the purchaser the option to obtain nonforfeiture benefits. Nonforfeiture benefits would be excluded only if the insured individual rejected in writing the option to obtain such coverage. Defeated 20–18.

DEMOCRATS

Mr. Gibbons, nay.
Mr. Rostenkowski, nay by proxy.
Mr. Pickle, nay.
Mr. Rangel, nay by proxy.
Mr. Stark, nay.
Mr. Jacobs, nay.
Mr. Ford (TN), nay by proxy.
Mr. Matsui, nay.
Mrs. Kennelly, yea.
Mr. Coyne, nay by proxy.
Mr. Andrews (TX), yea by proxy.
Mr. Levin, nay.
Mr. Cardin, nay.
Mr. McDermott, nay.
Mr. Kleczka, nay.
Mr. Lewis (GA), nay.
Mr. Payne (VA), nay by proxy.
Mr. Neal, yea.
Mr. Hoagland, yea.
Mr. McNulty, nay.
Mr. Kopetski, nay.
Mr. Jefferson, nay by proxy.
Mr. Brewster, nay by proxy.
Mr. Reynolds, nay by proxy.

REPUBLICANS

Mr. Archer, yea.
Mr. Crane, yea.
Mr. Thomas (CA), yea.
Mr. Shaw, yea.
Mr. Sundquist, yea.
Mrs. Johnson (CT), yea.
Mr. Bunning, yea.
Mr. Grandy, yea.
Mr. Houghton, yea.
Mr. Herger, yea.
Mr. McCrery, yea.
Mr. Hancock, yea.
Mr. Santorum, yea.
Mr. Camp, yea.

HEALTH CARE REFORM VOTES

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. MICHEL. Mr. Speaker, I submit for the RECORD the rollcall votes on health care reform which took place in the Ways and Means Committee on June 30, 1994.

The following recorded votes were taken on June 30, 1994 in the Committee on Ways and Means during consideration of Acting Chairman Gibbons' substitute proposal for H.R. 3600, The Health Security Act of 1994:

An amendment in the nature of a substitute by Mr. Archer including provisions that would ensure portability, eliminate preexisting conditions, reform insurance market rates to ensure coverage security, establish new subsidy programs to help low-income individuals and families obtain coverage, ensure spending for new subsidies do not exceed financing provided for it, expand opportunities for individuals and employees of small businesses to obtain insurance coverage, expand tax benefits for individuals and the self-employed in purchasing health insurance, enabling establishment of medical savings accounts permitting tax free deposits into savings accounts that can be used for certain medical coverage and expenses, permitting State reforms of Medicaid to improve coverage options for low-income individuals, reforming malpractice and product liability laws, increase enforcement of fraud and abuse, reforming antitrust laws to improve efficiency, and other provisions. Defeated 24–14.

DEMOCRATS

Mr. Gibbons, nay.
Mr. Rostenkowski, nay.
Mr. Pickle, nay.
Mr. Rangel, nay.
Mr. Stark, nay.
Mr. Jacobs, nay.
Mr. Ford (TN), nay.
Mr. Matsui, nay.
Mrs. Kennelly, nay.
Mr. Coyne, nay.
Mr. Andrews (TX), nay.
Mr. Levin, nay.
Mr. Cardin, nay.
Mr. McDermott, nay.
Mr. Kleczka, nay.
Mr. Lewis (GA), nay by proxy.
Mr. Payne (VA), nay.
Mr. Neal (MA), nay.
Mr. Hoagland, nay.
Mr. McNulty, nay.
Mr. Kopetski, nay.
Mr. Jefferson, nay.
Mr. Brewster, nay.
Mr. Reynolds, "nay" by proxy.

REPUBLICANS

Mr. Archer, yea.
Mr. Crane, yea.
Mr. Thomas (CA), yea.
Mr. Shaw, yea.
Mr. Sundquist, yea.
Mrs. Johnson (CT), yea.
Mr. Bunning, yea.
Mr. Grandy, yea.
Mr. Houghton, yea.
Mr. Herger, yea.
Mr. McCrery, yea.
Mr. Hancock, yea.
Mr. Santorum, yea.
Mr. Camp, yea.

An amendment in the nature of a substitute by Mr. McDermott, replacing the text of the Chairman's Mark with a substitute measure providing for comprehensive health insurance reform by establishing a nationwide single-payer health care financing system. Defeated 29–9.

DEMOCRATS

Mr. Gibbons, nay.
Mr. Rostenkowski, yea.
Mr. Pickle, nay.
Mr. Rangel, yea.
Mr. Stark, yea.
Mr. Jacobs, nay by proxy.
Mr. Ford (TN), yea.
Mr. Matsui, nay.
Mrs. Kennelly, nay.
Mr. Coyne, yea.
Mr. Andrews (TX), nay by proxy.
Mr. Levin, nay.
Mr. Cardin, nay.
Mr. McDermott, yea.
Mr. Kleczka, yea.
Mr. Lewis (GA), yea by proxy.
Mr. Payne (VA), nay.
Mr. Neal (MA), nay.
Mr. Hoagland, nay.
Mr. McNulty, nay.
Mr. Kopetski, nay.
Mr. Jefferson, nay by proxy.
Mr. Brewster, nay.
Mr. Reynolds, yea by proxy.

REPUBLICANS

Mr. Archer, nay.
Mr. Crane, nay.
Mr. Thomas (CA), nay.
Mr. Shaw, nay.
Mr. Sundquist, nay.
Mrs. Johnson (CT), nay.
Mr. Bunning, nay.
Mr. Grandy, nay by proxy.
Mr. Houghton, nay.
Mr. Herger, nay by proxy.
Mr. McCrery, nay.
Mr. Hancock, nay.
Mr. Santorum, nay.
Mr. Camp, nay.

An amendment in the nature of a substitute by Mr. Thomas to replace the chairman's Mark with the text of H.R. 3600, The Health Security Act, as introduced in the House of Representatives. H.R. 3600 is the proposal submitted on behalf of the President. Defeated 17–0 with 19 Members voting present.

DEMOCRATS

Mr. Gibbons, nay.
Mr. Rostenkowski, present.
Mr. Pickle, present.
Mr. Rangel, present.
Mr. Stark, present.
Mr. Jacobs, present.
Mr. Ford (TN), present.
Mr. Matsui, present.
Mrs. Kennelly, present.
Mr. Coyne, present.
Mr. Andrews (TX).
Mr. Levin, present.
Mr. Cardin, present.
Mr. McDermott, present.
Mr. Kleczka, present.
Mr. Lewis (GA), present.
Mr. Payne (VA), present.
Mr. Neal (MA), present.
Mr. Hoagland, nay.
Mr. McNulty, nay.
Mr. Kopetski, present.
Mr. Jefferson, present.
Mr. Brewster, present.
Mr. Reynolds.

REPUBLICANS

Mr. Archer, nay.
Mr. Crane, nay by proxy.
Mr. Thomas (CA), nay.
Mr. Shaw, nay.
Mr. Sundquist, nay.
Mrs. Johnson (CT), nay.
Mr. Bunning, nay.
Mr. Grandy, nay by proxy.
Mr. Houghton, nay.
Mr. Herger, nay.
Mr. McCrery, nay.
Mr. Hancock, nay.
Mr. Santorum, nay.

Mr. Camp, nay.

A motion by Mr. Stark to report favorably to the full House of Representatives the Chairman's Mark as amended. Approved 20–18.

DEMOCRATS

Mr. Gibbons, yea.
Mr. Rostenkowski, yea.
Mr. Pickle, yea.
Mr. Rangel, yea.
Mr. Stark, yea.
Mr. Jacobs, yea.
Mr. Ford (TN), yea.
Mr. Matsui, yea.
Mrs. Kennelly, yea.
Mr. Coyne, yea.
Mr. Andrews (TX), nay.
Mr. Levin, yea.
Mr. Cardin, yea.
Mr. McDermott, nay.
Mr. Kleczka, yea.
Mr. Lewis (GA), yea.
Mr. Payne (VA), yea.
Mr. Neal (MA), yea.
Mr. Hoagland, nay.
Mr. McNulty, yea.
Mr. Kopetski, yea.
Mr. Jefferson, yea.
Mr. Brewster, nay.
Mr. Reynolds, yea by proxy.

REPUBLICANS

Mr. Archer, nay.
Mr. Crane, nay.
Mr. Thomas (CA), nay.
Mr. Shaw, nay.
Mr. Sundquist, nay.
Mrs. Johnson (CT), nay.
Mr. Bunning, nay.
Mr. Grandy, nay.
Mr. Houghton, nay.
Mr. Herger, nay.
Mr. McCrery, nay.
Mr. Hancock, nay.
Mr. Santorum, nay.
Mr. Camp, nay.

HEALTH CARE REFORM VOTES—WAYS AND MEANS COMMITTEE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. MICHEL. Mr. Speaker, I submit for the RECORD the rollcall votes on health care reform which took place in the Ways and Means Committee on June 25, 1994.

The following recorded votes were taken on June 25, 1994 in the Committee on Ways and Means during consideration of Acting Chairman Gibbons' substitute proposal for H.R. 3600, The Health Security Act of 1994:

An amendment by Mr. Thomas permitting reimbursement rates paid to hospitals under Medicare for graduate medical education [GME] to be adjusted as follows; allow non-hospital-based residency programs to qualify for direct GME payments; allow ambulatory teaching facilities to qualify for indirect GME payments; enable residency programs to ultimately receive payments made to sponsoring institutions on their behalf; and allow teaching hospitals to include ambulatory training in time factors for direct and indirect DME payments. Defeated 21–17.

DEMOCRATS

Mr. Gibbons, nay.
Mr. Rostenkowski, nay.
Mr. Pickle, nay.
Mr. Rangel, nay.
Mr. Stark, nay.
Mr. Jacobs, nay by proxy.
Mr. Ford (TN), nay.
Mr. Matsui, nay.
Mrs. Kennelly, nay.
Mr. Coyne, nay.
Mr. Andrews (TX), yea by proxy.
Mr. Levin, nay.
Mr. Cardin, nay.
Mr. McDermott, nay.
Mr. Kleczka, nay.
Mr. Lewis (GA), nay by proxy.
Mr. Payne (VA), yea.
Mr. Neal (MA), nay.
Mr. Hoagland, yea by proxy.
Mr. McNulty, nay.
Mr. Kopetski, nay.
Mr. Jefferson, nay.
Mr. Brewster, nay.
Mr. Reynolds, nay by proxy.

REPUBLICANS

Mr. Archer, yea.
Mr. Crane, yea by proxy.
Mr. Thomas (CA), yea.
Mr. Shaw, yea.
Mr. Sundquist, yea by proxy.
Mrs. Johnson (CT), yea by proxy.
Mr. Bunning, yea by proxy.
Mr. Grandy, yea.
Mr. Houghton, yea.
Mr. Herger, yea.
Mr. McCrery, yea.
Mr. Hancock, yea.
Mr. Santorum, yea.
Mr. Camp, yea.

An amendment by Mr. Thomas striking the Medicare Part C program established in the Chairman's Mark, adding new provisions allowing States to purchase private health coverage on behalf of their Medicaid beneficiaries, and adding new provisions permitting the phase-in of low income subsidies to be accelerated if additional savings are achieved from the bill, and slowing the phase-in of the subsidies if savings are less than anticipated. Defeated 22–16.

DEMOCRATS

Mr. Gibbons, nay.
Mr. Rostenkowski, nay.
Mr. Pickle, nay.
Mr. Rangel, nay.
Mr. Stark, nay.
Mr. Jacobs, nay by proxy.
Mr. Ford (TN), nay.
Mr. Matsui, nay.
Mrs. Kennelly, nay.
Mr. Coyne, nay.
Mr. Andrews (TX), yea.
Mr. Levin, nay.
Mr. Cardin, nay.
Mr. McDermott, nay.
Mr. Kleczka, nay.
Mr. Lewis (GA), nay by proxy.
Mr. Payne (VA), nay.
Mr. Neal (MA), nay.
Mr. Hoagland, nay by proxy.
Mr. McNulty, nay.
Mr. Kopetski, nay.
Mr. Jefferson, nay by proxy.
Mr. Brewster, nay.
Mr. Reynolds, nay by proxy.

REPUBLICANS

Mr. Archer, yea.
Mr. Crane, yea by proxy.
Mr. Thomas (CA), yea.
Mr. Shaw, yea.
Mr. Sundquist, yea by proxy.
Mrs. Johnson (CT), yea by proxy.
Mr. Bunning, yea by proxy.
Mr. Grandy, yea.
Mr. Houghton, yea.
Mr. Herger, yea.
Mr. McCrery, yea.
Mr. Hancock, yea.
Mr. Santorum, yea.
Mr. Camp, yea.

An amendment by Mr. Santorum striking provisions establishing classes, allocating Medicare cost estimates by such classes, and allocating overall health spending to States. The allocation of such estimates in the Chairman's mark are used to establish payment rates and overall limits that enforce cost containment of public national health expenditures. Defeated 24–14.

DEMOCRATS

Mr. Gibbons, nay.
Mr. Rostenkowski, nay.
Mr. Pickle, nay.
Mr. Rangel, nay.
Mr. Stark, nay.
Mr. Jacobs, nay by proxy.
Mr. Ford (TN), nay.
Mr. Matsui, nay.
Mrs. Kennelly, nay.
Mr.Coyne, nay.
Mr. Andrews (TX), nay.
Mr. Levin, nay.
Mr. Cardin, nay.
Mr. McDermott, nay.
Mr. Kleczka, nay.
Mr. Lewis (GA), nay by proxy.
Mr. Payne (VA), nay.
Mr. Neal (MA), nay.
Mr. Hoagland, nay by proxy.
Mr. McNulty, nay.
Mr. Kopetski, nay.
Mr. Jefferson, nay.
Mr. Brewster, nay.
Mr. Reynolds, nay by proxy.

REPUBLICANS

Mr. Archer, yea.
Mr. Crane, yea by proxy.
Mr. Thomas (CA), yea.
Mr. Shaw, yea.
Mr. Sundquist, yea by proxy.
Mrs. Johnston (CT), yea by proxy.
Mr. Bunning, yea by proxy.
Mr. Grandy, yea.
Mr. Houghton, yea.
Mr. Herger, yea.
Mr. McCrery, yea.
Mr. Hancock, yea.
Mr. Santorum, yea.
Mr. Camp, yea.

An amendment by Mr. Thomas to grant states and health care providers the ability to review and appeal all procedures, methodologies and allocations made for the purpose of establishing limits and payment rates that they would control under Medicare. The Secretary of HHS would be required to ensure such due process is granted prior to imposition of maximum payment rates provided for in the Mark. Defeated 24–14.

DEMOCRATS

Mr. Gibbons, nay.
Mr. Rostenskowski, nay.
Mr. Pickle, nay.
Mr. Rangel, nay.
Mr. Stark, nay.
Mr. Jacobs, nay by proxy.
Mr. Ford (TN), nay.
Mr. Matsui, nay.
Mrs. Kennelly, nay by proxy.
Mr. Coyne, nay.
Mr. Andrews (TX), nay.
Mr. Levin, nay.
Mr. Cardin, nay.
Mr. McDermott, nay.
Mr. Kleczka, nay.
Mr. Lewis (GA), nay by proxy.
Mr. Payne (VA), nay.
Mr. Neal (MA), nay by proxy.

Mr. Hoagland, nay by proxy.
Mr. McNulty, nay.
Mr. Kopetski, nay.
Mr. Jefferson, nay.
Mr. Brewster, nay.
Mr. Reynolds, nay by proxy.

REPUBLICANS

Mr. Archer, yea.
Mr. Crane, yea by proxy.
Mr. Thomas (CA), yea.
Mr. Shaw, yea.
Mr. Sundquist, yea by proxy.
Mrs. Johnson (CT), yea by proxy.
Mr. Bunning, yea by proxy.
Mr. Grandy, yea.
Mr. Houghton, yea.
Mr. Herger, yea.
Mr. McCrery, yea.
Mr. Hancock, yea.
Mr. Santorum, yea.
Mr. Camp, yea.

An amendment by Mr. Archer permitting physicians participating in Medicare to perform simple clinical laboratory services without registering with the Health Care Financing Administration and without receiving a waiver. Defeated 21-6.

DEMOCRATS

Mr. Gibbons, nay.
Mr. Rostenkowski, nay.
Mr. Pickle, nay.
Mr. Rangel, nay.
Mr. Stark, nay.
Mr. Jacobs, nay by proxy.
Mr. Ford (TN), nay.
Mr. Matsui, nay.
Mrs. Kennelly, nay by proxy.
Mr. Coyne, nay.
Mr. Andrews (TX), nay by proxy.
Mr. Levin, nay.
Mr. Cardin, nay.
Mr. McDermott, nay.
Mr. Kleczka, nay.
Mr. Lewis (GA), nay by proxy.
Mr. Payne (VA), yea.
Mr. Neal (MA), nay by proxy.
Mr. McNulty, yea.
Mr. Kopetski, nay.
Mr. Jefferson, nay.
Mr. Brewster, nay.
Mr. Reynolds, nay by proxy.

REPUBLICANS

Mr. Archer, yea.
Mr. Crane, yea by proxy.
Mr. Thomas (CA), yea.
Mr. Shaw, yea.
Mr. Sundquist, yea by proxy.
Mrs. Johnson (CT), yea by proxy.
Mr. Bunning, yea by proxy.
Mr. Grandy, yea.
Mr. Houghton, yea.
Mr. Herger, yea.
Mr. McCrery, yea.
Mr. Hancock, yea.
Mr. Santorum, yea.
Mr. Camp, yea.

HEALTH CARE REFORM VOTES—WAYS AND MEANS COMMITTEE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. MICHEL. Mr. Speaker, I submit for the RECORD the rollcall votes on health care reform which took place in the Ways and Means Committee on June 28, 1994.

The following votes were taken on June 28, 1994, in the Committee on Ways and Means during consideration of Acting Chairman GIBBONS' substitute proposal for H.R. 3600, The Health Security Act of 1994:

An amendment by Mr. GIBBONS establishing a National Health Cost Commission, appointed by the President, that would report to Congress on whether the private sector cost containment provisions provided for in the mark should be implemented in 2001. This amendment would delay imposition of such price controls until at least 2001, and in 2000 Congress could be required to consider whether, under fast track rules, alternative cost containment recommendations may be made by the National Health Cost Commission. Adopted 20-18.

DEMOCRATS

Mr. Gibbons, yea.
Mr. Rostenkowski, yea.
Mr. Pickle, yea.
Mr. Rangel, yea.
Mr. Stark, yea.
Mr. Jacobs, nay.
Mr. Ford (TN), yea.
Mr. Matsui, yea.
Mrs. Kennelly, yea.
Mr. Coyne, yea.
Mr. Andrews (TX), nay.
Mr. Levin, yea.
Mr. Cardin, yea.
Mr. McDermott, yea.
Mr. Kleczka, yea.
Mr. Lewis (GA), yea.
Mr. Payne (VA), yea.
Mr. Neal (MA), yea.
Mr. Hoagland, nay.
Mr. McNulty, nay.
Mr. Kopetski, yea.
Mr. Jefferson, yea.
Mr. Brewster, yea.
Mr. Reynolds, yea.

REPUBLICANS

Mr. Archer, nay.
Mr. Crane, nay by proxy.
Mr. Thomas (CA), nay.
Mr. Shaw, nay.
Mr. Sundquist, nay
Mrs. Johnson (CT), nay by proxy.
Mr. Bunning, nay.
Mr. Grandy, nay.
Mr. Houghton, nay.
Mr. Herger, nay by proxy.
Mr. McCrery, nay.
Mr. Hancock, nay.
Mr. Santorum, nay.
Mr. Camp, nay.

An amendment, in the nature of a substitute, by Mr. Andrews to the Gibbons National Health Cost Commission amendment, striking all stand-by cost containment provisions that would apply to private sector health spending. The underlying mark imposes price controls on private sector health care services in states that fail to meet overall health spending limits beginning 1998. Defeated 20-18.

DEMOCRATS

Mr. Gibbons, nay.
Mr. Rostenkowski, nay.
Mr. Pickle, nay.
Mr. Rangel, nay.
Mr. Stark, nay.
Mr. Jacobs, yea.
Mr. Ford (TN), nay.
Mr. Matsui, nay.
Mrs. Kennelly, nay.
Mr. Coyne, nay.
Mr. Andrews (TX), yea.
Mr. Levin, nay.
Mr. Cardin, nay.
Mr. McDermott, nay.
Mr. Kleczka, nay.
Mr. Lewis (GA), nay.
Mr. Payne (VA), nay.
Mr. Neal (MA), nay.
Mr. Hoagland, yea.
Mr. McNulty, yea.
Mr. Kopetski, nay.
Mr. Jefferson, nay by proxy.
Mr. Brewster, nay by proxy.
Mr. Reynolds, nay.

REPUBLICANS

Mr. Archer, yea.
Mr. Crane, yea by proxy.
Mr. Thomas (CA), yea.
Mr. Shaw, yea.
Mr. Sundquist, yea.
Mrs. Johnson (CT), yea.
Mr. Bunning, yea.
Mr. Grandy, yea.
Mr. Houghton, yea.
Mr. Herger, yea.
Mr. McCrery, yea.
Mr. Hancock, yea.
Mr. Santorum, yea.
Mr. Camp, yea.

An amendment by Mr. Thomas requiring the Secretary of HHS to establish procedures by which States and health care providers effected by the private cost containment provisions are able to review and appeal the cost containment methodologies, allocations, rates and rate setting procedures. The underlying mark imposes price controls on all private sector health care services by class using a Medicare payment methodology in States that fail to meet overall health spending limits beginning in 1998. Defeated 24-14.

DEMOCRATS

Mr. Gibbons, nay.
Mr. Rostenkowski, nay.
Mr. Pickle, nay.
Mr. Rangel, nay.
Mr. Stark, nay.
Mr. Jacobs, nay.
Mr. Ford (TN), nay.
Mr. Matsui, nay.
Mrs. Kennelly, nay.
Mr. Coyne, nay.
Mr. Andrews (TX), nay.
Mr. Levin, nay.
Mr. Cardin, nay.
Mr. McDermott, nay.
Mr. Kleczka, nay.
Mr. Lewis, nay.
Mr. Payne, nay.
Mr. Neal, nay.
Mr. Hoagland, nay.
Mr. McNulty, nay.
Mr. Kopetski, nay.
Mr. Jefferson, nay.
Mr. Brewster, nay.
Mr. Reynolds, nay.

REPUBLICANS

Mr. Archer, yea.
Mr. Crane, yea by proxy.
Mr. Thomas (CA), yea.
Mr. Shaw, yea.
Mr. Sundquist, yea.
Mrs. Johnson (CT), yea.
Mr. Bunning, yea.
Mr. Grandy, yea.
Mr. Houghton, yea.
Mr. Herger, yea by proxy.
Mr. McCrery, yea.
Mr. Hancock, yea.
Mr. Santorum, yea.
Mr. Camp, yea.

An Amendment by Mr. Santorum preventing application of maximum payment rates on private sector health care services in a State unless a majority of voters in the State, by public referendum, approve application of such rates. The underlying mark imposes price controls on private sector health care services in States that fail to meet overall health spending limits beginning 1998. Defeated 24-14.

DEMOCRATS

Mr. Gibbons, nay.
Mr. Rostenskowski, nay.
Mr. Pickle, nay.
Mr. Rangle, nay.
Mr. Stark, nay.
Mr. Jacobs, nay.
Mr. Ford (TN), nay.
Mr. Matsui, nay.
Mrs. Kennelly, nay.
Mr. Coyne, nay.
Mr. Andrews (TX), nay.
Mr. Levin, nay.
Mr. Cardin, nay.
Mr. McDermott, nay.
Mr. Kleczka, nay.
Mr. Lewis (GA), nay.
Mr. Payne (VA), nay.
Mr. Neal (MA), nay.
Mr. Hoagland, nay.
Mr. McNulty, nay.
Mr. Kopetski, nay.
Mr. Jefferson, nay.
Mr. Brewster, nay.
Mr. Reynolds, nay.

REPUBLICANS

Mr. Archer, yea.
Mr. Crane, yea.
Mr. Thomas (CA), yea.
Mr. Shaw, yea.
Mr. Sundquist, yea.
Mrs. Johnson, yea.
Mr. Bunning, yea.
Mr. Grandy, yea.
Mr. Houghton, yea.
Mr. Herger, yea.
Mr. McCrery, yea.
Mr. Hancock, yea.
Mr. Santorum, yea.
Mr. Camp, yea.

U.S. COMPETITIVENESS CANNOT RELY ON A WEAK DOLLAR

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. LAFALCE. Mr. Speaker, over the years, the United States has identified important problems and tackled them with focused intensity: LBJ's War on Poverty, the War on Drugs, the War on Crime. It is now time to bring that same focus and energy to the issue of international competitiveness. Both U.S. policymakers and business leaders have yet to fully recognize the critical importance of the competitiveness of the U.S. manufacturing sector to this country's underlying economic strength.

Our economy is now back on a growth track, and the prospects for our manufacturing sector look much brighter than they once did. Over the last several years, U.S. manufacturers have taken measures to increase productivity, aggressively market their products, and forge creative competitive strategies. Most notably, we have succeeded in significantly expanding manufacturing exports.

But we must not be lulled into a sense of false security. Not all of our success is our own doing. In the export arena in particular, much of the export expansion can be attributed to a vastly weakened dollar which has made U.S. exports far less expensive.

In fact, we have not fully prepared ourselves for a sustained competitive struggle over the long haul. We have not solved the underlying economic problems of this country. Nor have we taken the necessary steps to ensure that our industries will be capable of effectively competing when the dollar is once again stronger.

Last month the Competitiveness Policy Council, which was created pursuant to legislation I authored in 1988, issued its third annual report. That report warned that the economic factors integral to achieving a rising standard of living—the ultimate measure of a nation's competitiveness—have not improved appreciably, if at all. The level of savings and investment, the commitment to research and development, the quality of education and training—these are the keys to competitiveness. But the Council's report emphasizes that improvement in these key areas have been pitiful.

For example, net private investment in 1993 reached 4 percent of GDP—only half of the percentage level in 1973 and the lowest of all the industrialized nations. Private savings actually fell in 1993 to 1.5 percent of net national product, and were nearly wiped out by the budget deficit. Moreover, any improvement in macroeconomic indicators masks what is really happening to individuals. The percentage of people living below the poverty line is increasing, and the gap between income groups is widening.

The United States must come to terms with the fact that we are in a competitiveness struggle for the long haul. Other countries know this. Japan has worked to retain its competitive edge even as the yen has appreciated 150 percent against the dollar since 1985. If U.S. industry is to be competitive, it must be as prepared to compete effectively if and when the dollar rises to the peaks of 1985 as it is now with the dollar at historically low levels.

U.S. policymakers and the leaders of our business community must show new resolve, commitment, and aggressiveness if we are to achieve sustained competitiveness. In short, we must adopt a "take no prisoners" approach. Other countries do and will continue to do so. We must not rely on a low dollar to maintain our competitive position, or our economy's strength relative to that of our competitors will only diminish over time.

Mr. Speaker, I am submitting for the RECORD an article written by John F. Welch, chairman and CEO of General Electric, that appeared in the Wall Street Journal last week. He eloquently articulates the danger of relying on exchange rates to achieve competitiveness, and the need to take the economic challenges of this new global marketplace seriously if we expect to compete successfully in the years ahead.

A MATTER OF EXCHANGE RATES

(By John F. Welch)

The American manufacturing sector has been getting some pretty good press lately, even from those busy writing its obituary just a few years ago. We've been described as "back with a vengeance," "tough, farsighted, clever," even "the envy of the industrialized world."

Almost every American industry, by almost every measure, has seen improvement in its productivity and it relative competitive position. And this improvement is reflected in another statistic: Exports as a percentage of gross domestic product are up more than 50% from a decade ago.

Yes, the numbers are pretty good. But there's a case to be made for at least a second look at this newly acclaimed supremacy of American manufacturing.

I like to think of what we have come through over the past decade as the leading edge of a hurricane, buffeting and turbulent. We got through this front edge with innovation, higher productivity, pain and sacrifice. Now we find ourselves not in the clear air of fair weather, but in the deceptively tranquil center of the storm—the eye of the hurricane. Exhibit A is the currency situation.

CURRENCY IS CRITICAL

In 1985 the yen was 270 to the dollar. Today, it's roughly 150% stronger, at 105. In 1985, the mark was 3.30 to the dollar. It's now about 50% stronger, 1.65. How much would we be selling; how bold and innovative would we American managers be; how envious would the world be of our manufacturing prowess if that yen and that mark were at the same strength they were not nine years ago, but only three—about 140 yen to the dollar?

Currency is a critical element in a country's competitiveness, and it is increasingly volatile and explosive in its effects. When Italy and Britain left the European monetary system in the summer of '92 and devalued their currencies against the franc and the mark, Italy's export growth surged to more than 18% annually from 4.6%. Britain shot to a 14% growth in exports from 3.5%—in a year.

American euphoria is enhanced in this pleasant interlude by the way the U.S. situation contrasts with the difficulties our competitors are having with their national economies. The well-deserve affluence and success of the Japanese dulled their competitive edge a bit, and the deflating of their bubble economy has taken its toll. In Western Europe, the bloated bureaucracies of their companies and the social policies of their governments finally caught up with them and severely reduced the competitiveness of their industry. And the West German acquisition of East Germany, while strategically sound, created, in M&A language, a heavy good-well amortization burden on short-term performance.

Finally, while Americans often complain about shareowner activism, impatience and demands for performance, I believe that the indulgence and the patience of the European and Japanese shareowners lessened the bite, the urgency and the overall competitive edge of their companies.

So, yes, we have plenty of reason to enjoy the relative improvement we see in our manufacturing industries, but we must avoid believing our own press clip—toasting the end of a storm that has not ended. For while we pat ourselves on the back, our global competitors are working feverishly to overcome the disadvantages of their economies and currencies.

The annual report of Toyota Motor one of the world's greatest manufacturers, lays out very clearly solution number one to the problem of the yen: "We will cut costs like we have never cut costs before." The Japanese are grimly determined to achieve not incremental performance improvements, but what they call "bullet-train," or order-of-magnitude, improvements. They put no stock in predictions of a weaker yen, and are preparing themselves to compete at 90 yen to the dollar.

Think about it. An enormously resourceful Japan, handicapped by a strong yen, still exports a record $350 billion of merchandise in

1993, grows to what some consider the world's largest manufacturing economy, and is talking about cost reduction of 30% to 50%.

I could make the case that the powerful yen is the best thing that ever happened to Japanese competitiveness.

And look at Europe. There's a new, aggressive, smart breed of CEO; privatization is spreading across the continent; companies are increasing their sourcing from low-cost areas within Europe and Eastern Europe; and shareowners are increasingly becoming interested in performance and profits. Companies are delayering, restructuring, attacking bureaucracy and getting faster.

Global competitors are taking actions today that could push U.S. manufacturers from the deceptive tranquility of the eye back into the turbulence of the hurricane, a hurricane that this time will come with a ferocity that could be intensified should the currency go the wrong way.

What are we going to do when a restructured and hungry Europe, and a lean, low-cost Japan, with improved economies, come roaring back—show them our press clippings? What happens if the yen swings back over 130, as it was just two years ago, or the mark moves toward 2?

We should not wait that long. There are things that can be done now.

First, stop believing the press and the politicians. They were wrong when many of them wrote American manufacturers off as dinosaurs, and now those that have taken the opposite view are equally wrong. This "happy days are here again" talk is just talk. We know it. Now we need to make sure each of our constituencies knows it as well, and we need to buttress the urgency of our situation with actions today that prepare us for tomorrow: relentless cost-cutting, rational labor management conversations, resisting the expansionist schemes of a tax-hungry government, and waging an unending war on bureaucracy and bureaucrats.

If the Japanese are preparing to compete at 90 yen, the U.S. must be ready to compete at 130. Until we are, we delude ourselves if we think we are in control of our own fate.

Second, we must focus enormous energy on growth, conceding no markets—and no customers—because our competitors concede none. Asia is the greatest growth market we will see in our careers. It is our future. The president's continuation of most-favored nation status for China was as far-sighted as it was courageous.

Next, this country must get even more productive. The country or the company with the highest absolute productivity may be buffeted by the winds of competition or the fluctuations of currency, but in the long run it controls its own fate.

PRODUCTIVITY'S SOURCE

The best companies now know, without a doubt, where productivity—real and limitless productivity—comes from. It comes from challenged, empowered, excited, rewarded teams of people. It comes from engaging every single mind in the organization, making everyone part of the action, and allowing everyone to have a voice—a role—in the success of the enterprise. Doing so raises productivity not incrementally, but by multiples.

Only by taking these steps will we be prepared to face what's ahead. Things are going to get tougher; the shakeouts will be more brutal, the pace of change more rapid. When we, someday in the future, look back on this sunny time in 1994, I hope it will be with the satisfaction of knowing we understood it for what it was—and used it to get ready for what was to come.

SUPPORT FOR THE VIOLENCE AGAINST WOMEN ACT

HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. MEEHAN. Mr. Speaker, we shouldn't need the sad story of O.J. Simpson's marriage to show us why we need the Violence Against Women Act. Every day and every night, thousands of men abuse their wives and girlfriends. Most of the men aren't former football stars, and most of the women they hurt don't look like models. But the pattern of obsession and violence is often the same.

Wife and girlfriend beating isn't the only kind of domestic violence against women. According to the Justice Department, girls under the age of 12 account for 16 percent of reported rapes. In 90 percent of these rapes against girls under 12, relatives and family acquaintances were the perpetrators.

In 1993, 43 people died as a result of domestic violence in Massachusetts alone. That's one murder every 8 days. As a former prosecutor with extensive experience in domestic violence cases, I know that this is more than an alarming statistic—it's an accounting of real people dying senselessly, and many of them could have been saved if the system had acted in time.

Here are some of the women who died last August in my State:

August 1: Patricia Aquino, 33, of Dorchester.

August 4: Mary Ellen Rhodes-Rice, 49 of West Barnstable.

August 9: Tina Mcleod, 26, of Lawrence.

August 14: Kelly Richards, 27, of West Springfield.

August 23: Ann-Marie Yukovitch, 39, of Watertown.

August 31: Cindy Squailia, 27, of Wareham.

In memory of these women, I hope the House will support funding for the Violence Against Women Act.

INTRODUCTION OF THE FAIR INTERNATIONAL STANDARDS IN TRADE ACT OF 1994

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. SANDERS. Mr. Speaker, I am today joined by a very distinguished group of my colleagues to introduce a very important bill—the Fair International Standards in Trade [FIST] Act of 1994—to change how our Nation goes about negotiating any future trade agreements and what must be contained in those agreements.

Last month, I was one of 36 Members of Congress who wrote to President Clinton to underscore our view that we have entered a new era in which any future trade agreements that seek to expand international trade and to eliminate unfair trade practices must also include strong, enforceable provisions to promote international respect for fundamental worker rights, environmental standards, and sustainable development. Specifically, our letter urged the President to take three actions:

One. Not to seek reauthorization of the Generalized System of Preferences [GSP] Program as an add-on provision to the impending Uruguay Round-GATT implementation bill;

Two. Not to seek an extension of new trade negotiating authority and fast-track procedures as an add-on provision to the aforementioned GATT implementation bill; and

Three. If No. 2 is disregarded, to couple any request for new trade negotiating authority with a binding requirement that any future trade agreements must include enforceable worker rights and environmental standards within the terms of those agreements. The text of that letter and its cosigners is included with this statement.

I regret to say that the Clinton administration has turned a deaf ear to all three of our appeals. They are, indeed, pushing behind the scenes for a 10-year reauthorization of the GSP Program and a 7-year blank check extension of new trade negotiating authority and fast-track procedures to be tacked on to the GATT implementation bill—a bill of several thousand pages—that is moving through the House Ways and Means and Senate Finance Committees at breakneck speed.

The only crumb the Clinton administration has thrown to us is a provision in their request for a 7-year extension of trade negotiating authority and fast-track procedures that would make worker rights and environmental standards a negotiating objective for possible future agreements.

But we will not be deterr by this largely empty gesture. The linkage of internationally recognized worker rights and labor standards has been a principal U.S. negotiating objective in multilateral trade negotiations in one form or another that has been included in U.S. trade law since 1974. Sadly, U.S. trade negotiators, across Democratic and Republican administrations alike, have failed miserably on this score, yet asked the Congress to approve several major international trade agreements anyway. This latest open-ended, vague pledge by the U.S. Trade Representative [USTR] does not ensure that our legitimate trade-related worker rights and environmental concerns will be seriously redressed within the terms of any new trade agreement.

Hence, the time has come for the Congress to require by law that enforceable worker rights and environmental standards be included within the terms of any new trade agreement before the President of the United States enters into and commits our country to approval of that agreement. That is precisely what the bill I am introducing today does.

This bill prohibits the President from entering into any new trade agreement that does not contain provisions that require each signatory country to the agreement to:

One. Adopt and enforce laws to afford internationally recognized worker rights in that country;

Two. Adopt and enforce laws to promote respect for internationally recognized environmental standards in that country; and

Three. Treat as an actionable unfair trade practice, backed by potential sanctions, the systematic denial or practical nullification of internationally recognized worker rights and environmental standards as a means for any signatory country to seek to gain a competitive advantage in international trade.

To his credit, President Clinton has stated on several occasions he has committed his administration to promoting respect for the environment and worker rights as essential building blocks for expanding international trade and rekindling growth in the global economy for the rest of the 1990's and beyond.

This bill should help him follow through on those very important commitments. It reflects a growing outcry inside and outside the Congress, at home and abroad, that global economic integration must be structured in law and practice to benefit working people as well as consumers, business, and entrepreneurs and to protect our shared natural environment.

CONGRESS OF THE UNITED STATES,
Washington, DC, May 9, 1994.

Hon. WILLIAM J. CLINTON,
President of the United States of America, The White House, Washington, DC.

DEAR MR. PRESIDENT: We heartily applaud your official statement in January in Brussels in which you reaffirmed your prior policy commitments to promoting respect for the environment and worker rights as essential building blocks for expanding international trade and rekindling growth in the global economy.

In keeping with your policy pronouncements, we are writing to underscore our view that we have entered a new era in which any future trade agreements that seek to expand international trade and to eliminate unreasonable and unfair trade practices must also include strong, enforceable provisions to promote international respect for fundamental environmental standards, worker rights, and sustainable development.

Some of us voted for implementation of the North American Free-Trade Agreement (NAFTA), while others of us voted against it. We may also differ among ourselves when the time comes for us to vote on the legislation to implement the results of Uruguay Round of the General Agreement on Tariffs and Trade (GATT).

But we all share a common belief that it is in keeping with both the U.S. national economic interest and a better world to work for a more sustainable integration of the global economy which benefits the most people, not just a comparative few, and helps protect the environment. To accomplish this, we believe that any future trade or investment agreements to which the U.S. becomes a party (whether multilateral, regional, or bilateral) must include binding provisions within the terms of the agreements themselves, which assure the adoption, implementation, and enforcement of fundamental environmental safeguards and worker rights within each of the countries party to such agreements.

In the 1990s and beyond, increased levels of trade, investment and international economic interdependence result in the economic conditions in one national economy being felt more quickly and sharply in other national economies. Through the negotiation of agreements such as the Montreal Protocol, the U.S. and the rest of the international community have also recognized that the activities of individual nations can have profound environmental consequences that extend beyond national borders. The expansion of international trade, in theory, still presumes to promote the security and living standards of all the world's people and to safeguard our common environment. Yet there is a growing realization that, in practice, trade can have the opposite effect in many instances, despoiling the environment and undermining working and living standards for many people in both developing and developed countries.

For example, the GATT and the NAFTA spell out rules with regard to capital subsidies, dumping, and intellectual property rights to promote fair competition in world trade, but ignore the relevance of the conditions under which exports are produced and services rendered to the promotion of fair competition in world trade. No country's comparative advantage should be based upon the degradation of that country's natural resources and the environment, failure to protect the global commons, or the systematic exploitation of its workers. While the NAFTA tangentially breaks some new ground in dealing with the environment, and to a lesser extent worker rights, there still are no trade rules or disincentives to deter any trading nation from seeking competitive advantage by despoiling its environment or brutalizing its workforce. These shortcomings display outdated reasoning and skewed priorities rather than common logic and understanding of how the global marketplace operates in the real world.

In the post-NAFTA climate on Capitol Hill, it will probably be necessary to enhance and institutionalize consideration of environmental and worker rights concerns in U.S. negotiating objectives and trade laws in order to forge broad congressional support for future trade agreements.

In fact, comprehensive, generic legislation to link environmental safeguards and worker rights to the conduct of U.S. trade policy is certain to be introduced this year. Such legislation should send a clear message to our trading partners that we are serious about protecting the environmental and worker rights at the same time we pursue further trade liberalization and greater competitiveness.

Such legislation should send a clear message to our trading partners that we are serious about protecting the environment and workers rights at the same time we pursue further trade liberalization and greater competitiveness.

In the meantime, we have identified three options we urge you to embrace at this time.

First, the Generalized System of Preferences (GSP) will expire in September unless re-authorized. We urge that respect for fundamental environmental standards be added to the mandatory eligibility criteria to be met in order for a developing country to be eligible for GSP trade preferences and duty-free access to the U.S. market. Also the worker rights provisions that were added to that law in 1984, and that have already proven very useful in persuading GSP beneficiary countries to improve their national worker rights laws and practices, need to be strengthened.

We want to work closely with you and take whatever time is needed to agree upon strong environmental and worker rights provisions to be included in any GSP re-authorization bill. Accordingly, we urge that you not seek a simple re-authorization of the GSP program as an "add-on" provision to a Uruguay Round GATT implementation bill that may be submitted to the Congress as soon as this spring.

Second, we anticipate that you will soon request the extension of trade negotiating authority to pursue new trade agreements and to request that "fast-track procedures" apply to congressional consideration of the implementing bills of any resulting agreements. We learned during the NAFTA negotiations and the debate leading up to the vote on its implementation that many members of Congress have many questions and unresolved concerns about future use of "fast-track procedures." Accordingly, we again urge that you not request any extension of your trade negotiating authority and "fast-track procedures" within the provisions of the forthcoming GATT implementation bill. Such a request is so important that we should debate it on its own terms as a separate bill.

Third, when you seek such an extension, we urge that you couple your request with a proposed requirement that any future trade agreement and its implementing legislation must include binding provisions within the terms of that agreement and implementing legislation, which assure the adoption, implementation, and enforcement of fundamental environmental safeguards and worker rights within each of the signatory countries if it is to be considered under "fast-track procedures" in the Congress.

We hope you will agree that what is urgently needed is a broader vision, new policies, and new trade agreements which reflect the fact that trade is not an end in itself. Fair competition in world trade should renounce and discourage the wanton destruction of the environment and systematic labor repression. U.S. leadership should hasten the day when world trade is structured under explicit rules and in practice to enhance environmental protection and to improve worker and living standards everywhere.

Mr. President, you have often spoken quite eloquently of our country's need to embrace economic change and to seize the historic opportunity at hand to exercise American leadership within the community of nations to open a new era of expanding international trade and secure investment. At the same time, together we can help awaken the world to the reality that trade is not an end in itself, but rather a very important means to a brighter, more equitable, and environmentally sustainable future for all of the world's people.

We look forward to working with you and officials of your administration on these and other approaches that are responsive to these broader, trade-related concerns that affect all of us.

Sincerely yours,

Jolene Unsoeld, Barney Frank, George Miller, John J. LaFalce, Helen Delich Bentley, Doug Applegate, George E. Brown, Jr., Dick Durbin, Bernard Sanders, Esteban E. Torres, Sidney R. Yates, Eric Fingerhut, David E. Bonior, Ron Dellums, Peter DeFazio, Bobby L. Rush, Austin J. Murphy, John Spratt, Jr., Lane Evans, Marcy Kaptur, Patsy T. Mink, Melvin L. Watt, Bob Filner, Elizabeth Furse.

Tom Barlow, Don Edwards, Leslie Byrne, Lynn Schenk, Dick Swett, Jerrold Nadler, Sherrod Brown, Louis Stokes, Nydia Velázquez, James Traficant, Neil Abercrombie, Tim Holden.

REGIONAL FISHERY MANAGEMENT COUNCILS ETHICS ACT OF 1994 INTRODUCED

HON. JOLENE UNSOELD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mrs. UNSOELD. Mr. Speaker, today I am introducing comprehensive legislation to respond to widespread concerns over how our Federal fisheries are being managed under the Magnuson Fishery Conservation and Management Act [MFCMA or Magnuson Act]. Joining me in introducing this bill is my Washington State and Merchant Marine and Fisheries Committee colleague Representative MARIA CANTWELL.

The Magnuson Act was enacted in 1976 to provide for the conservation and management of important fishery resources off the coast of the United States. It established a 197-mile Fishery Conservation Zone, now referred to as the U.S. Exclusive Economic Zone [EEZ], adjacent to the then 3-mile territorial sea. The Magnuson Act established sovereign rights and exclusive management authority over all marine resources, except for tuna, within the EEZ.

A principal purpose for enacting the Magnuson Act was to control the heavy foreign fishing off our coast that occurred in the years preceding the statute's enactment. In addition to restricting foreign access to U.S. fishery resources, principal goals of the act were to establish sound conservation and management practices and to encourage the development of the domestic fishing industry.

To allow broad-based participation in the management process, the Magnuson Act created eight regional fishery management councils. Each Council is comprised of State and Federal officials and interested fishing industry, sport fishing, academic and environmental representatives. The primary responsibility of the councils is the development of fishery management plans for important fishery resources. National conservation and management standards are established in the Magnuson Act, and these standards must be met in developing the fishery management plans. For each fishery the plans set the optimum yields to be harvested annually, the total allowable level of foreign fishing, and the rules governing the harvesting and landing of fishery resources by both U.S. and foreign fishermen.

The Secretary of Commerce, through the National Oceanic and Atmospheric Administration [NOAA], administers the Magnuson Act and has responsibility for reviewing and approving each fishery management plan and plan amendment prepared by the Councils. The Secretary of State, in consultation with the Secretary of Commerce, is responsible for allocating any surplus fish not harvested by U.S. fishermen among foreign nations and for negotiating governing international fishery agreements.

In the years since enactment of the Magnuson Act, two of its principal goals have been accomplished. The development of the domestic industry has been largely achieved with the full utilization of virtually every commercial fishery in the EEZ. This in turn has accomplished an additional objective of restricting foreign access to U.S. fishery resources, because foreign fish harvesting and processing activities have now been displaced by the U.S. industry, which is given priority access to the resource under the act.

However, the development of the domestic fishing industry has been, in some measure, a victim of its own success. It has placed increased pressure on the conservation and management objectives of the Magnuson Act and has created a new set of problems unknown to the authors of the act in 1976. Specifically, the displacement of foreign fleets has increased competition among domestic users for access to the resource.

These developments have in turn put increasing pressures on the Council system. The objective of creating broad-based participation in the fishery management process by those who know the most about the fishery has created a significant tension in the Council system where the most knowledgeable and experienced in the industry are often those with the greatest potential to benefit monetarily by the regulatory decisions of the Council. The act has historically permitted commercial fishermen and others whose livelihood depends on the resource management decisions of the Council to be put in charge of those very decisions.

Nowhere are these conflicts more clear than with economic allocation decisions. Management decisions made for reasons other than the conservation and management of the resource are necessarily economic in consequence if not motivation. They require a higher standard of scrutiny and care by Council members who are charged with the stewardship of the natural fisheries resources.

Contributing to a loss of confidence are Council procedures which do not adequately disclose, on the record, information about the interests of witnesses and which limit public participation through cumbersome agenda procedures which make it difficult to know when and what issues will be raised during weeklong Council meetings.

The clear success in the Americanization of our fisheries resources has been shared by American fishermen and American processors who have managed the process through their unique role on the Councils. Absent from the table when management decisions have been made, however, is the American public for whom our national fisheries are a shared resource.

Mr. Speaker, over the past 18 months our Fisheries Management Subcommittee has held numerous oversight hearings on our Federal fisheries management system in anticipation of reauthorization of the MFCMA. Numerous witnesses—representing every aspect of the Council management spectrum—testified before our committee. Nearly all suggested some type of reform was needed to restore the credibility of the decisions made by the Councils. Some suggested that allowing industry representatives to manage themselves creates a system rooted in conflicts of interests. An editorial in the Anchorage Daily News summed up this concern this way:

> The Council system is ethically bankrupt. We don't let Exxon, ARCO, and BP run the Alaskan State Department of Environmental Conservation. We don't put people from phone and electric companies in charge of the state public utilities commission. We shouldn't turn federal fisheries over to fishermen whose decisions directly affect their personal fortunes.

Other witnesses provided our subcommittee with specific examples of the conflict of interest problems inherent in the current system. For example, excerpts from transcripts of North Pacific Council meetings where a controversial plan to allocate pollock was being discussed reveal one Council member stating:

> The big thing here is that we all know how we're going to vote. We can hire legal staff to put it in legal order. The whole thing—we could have voted first and . . . taken the afternoon off and go [sic] on a tour of the city while they testified.

Later in the same meeting regarding the quality of analyses necessary for plan approval, a Council member states:

> Now what we're looking for, I take it, is the minimum that the judge will let us by on not knowing which judge will be looking at it.

Later, when the Council was considering whether an alternative management proposal known as ITQ's should be considered, a member of the Council asks in response to the decision not to include this alternative:

> Should we just include a paragraph (in the plan) that told the truth? Such as we had people that were running for public office that didn't want to face the heat of making an ITQ decision?

Perhaps just as powerful, Mr. Speaker, is the testimony provided by Mr. Frank DeGeorge, inspector general of the U.S. Department of Commerce, based on his criminal investigations of the Council system. His March 23, 1994, testimony stated his findings that Council members vote on matters in which they have direct financial interests. However, because the Magnuson Act specifically exempts council members from legal prohibitions on such conflicts, they technically did not violate the law. Further, the inspector general stated:

> I believe that the laws that apply to other federal operations should also apply to fishery management councils. Public confidence in the process that manages a public resource depends on the absence of even an appearance of conflict.

Mr. Speaker, all in all the record of our subcommittee's hearings indicates numerous commercial fishing interests, recreational fishing interests, conservation groups, government officials, and three of the regional councils want some kind of reform of the Councils. Clearly, this diversity of interests with a common concern sends a clear message that something must be done.

The bill we are introducing today responds to these concerns. It is called the Regional Fishery Management Councils Ethics Act and it is intended to improve the Council process and restore public confidence in the Federal management of our Nation's fisheries. Specifically, this bill:

Establishes more stringent financial disclosure mechanisms for Council members;

Establishes a recusal mechanism to prevent Council members from voting when a direct financial conflict exists;

Authorizes Secretary to remove Council members for violating conflict of interest provisions;

Modifies application of 18 U.S.C. §208—criminal conflict of interest provisions—to cover violations of new conflict of interest provisions;

Reinstates portions of the Federal Advisory Committee Act to require expanded public availability of documentation at Council meetings and improve public participation at Council meetings;

Requires Council members to take oath stating their commitment to conserving and managing the living marine resources of the United States for the best interest of the nation;

Requires Council staff to be impartial and provides them with whistleblower protections;

Requires two-thirds vote for economic allocation decisions.

My bill also introduces additional procedural mechanisms designed to promote and support an improved Council system that is more accountable to the public. I have focused on these issues initially because we must get the Councils back on track before our Nation's fisheries pass the point of no return.

Finally, Mr. Speaker, I want to state my strong views that in addition to council procedure reforms other changes to the act are both necessary and essential. Specific to the North Pacific Council is the industry's proposal to expand Washington State representation on the Council and to provide for an individual transferable quota management regime for the ground fisheries. On a national level—and as stewards of these resources—we must confront and respond to the increasing concerns of waste and by-catch in our fisheries. Our goal must be to minimize by-catch, eliminate high-grading and dumping.

Mr. Speaker, we have a lot of work to do during reauthorization of the MFCMA to assure the American public that the decisions made in the Councils are for the long-term good of the industry, the resource and the country, not just for the short-term profit of Council members. The act we are introducing today represents the first important step.

REGIONAL FISHERY MANAGEMENT COUNCILS ETHICS ACT OF 1994

SECTION-BY-SECTION ANALYSIS

Purpose of the Legislation

The purpose of this bill is to improve the functioning of the Regional Fishery Management Councils under the Magnuson Fishery Conservation and Management Act and to restore public confidence in the stewardship of national fishery resources.

Section 1—Title

This section cites the short title of the bill as the Regional Fishery Management Councils Ethics Act of 1994.

Section 2—Findings, Purposes, and Policy

This section clarifies the statement of purposes and policies of the Magnuson Act to emphasize that the Councils are to exercise their stewardship of the fishery resources in a manner free from conflicts of interest affecting Council members. The findings are amended to include a reference to Agenda 21 of the United States Conference on Environment and Development and the importance of promoting the sustainable use of the Nation's fishery resources.

Section 3—Conflicts of Interest

Publicized reports of conflicts of interest among Council members brought about by the increased competition among user groups has focused attention on the potential for abuse and self-serving decisions present in the current system.

The Magnuson Act currently requires Council members and other "affected individuals" to disclose their financial interests as they relate to any harvesting, processing or marketing activity in connection with a fishery over which the Council has jurisdiction. It does not, however, require a member to recuse himself or herself once having made the disclosure, even if a Council member would benefit directly from a Council vote.

Section 3(a): amends and broadens the disclosure requirements to cover an expanded range of "conflicts of interest." These changes require a Council member holding a financial interest that would be affected by an action of the Council to recuse him or herself from voting on such action. If the ability of a Council member to vote is challenged by another Council member on this basis or the member in question requests clarification, the issue is to be resolved first by the NMFS Regional Director with the advice of counsel. This decision may be appealed to the Secretary who is to make the final determination within a thirty-day period. In the event that the Secretary reverses the Regional Director and determines that the Council action would had a different outcome but for the Regional Director's decision, then the Secretary must remand to the Council for reconsideration consistent with the Secretary's decision. This section also modifies the application of 18 U.S.C. §208 to Council members by expanding coverage to include violations of these new conflict of interest provisions.

Section 3(b): authorizes the Secretary to remove for cause a Council member who violates the Act's conflict of interest prohibitions.

Section 3(c): establishes an oath emphasizing the important role of Council members as stewards and trustees of our Nation's fisheries resources.

Section 3(d): sets conduct criteria for Council staff. The importance of maintaining impartiality and the appearance of impartiality in the Council process is not limited to Council members themselves, but extends to the Council staff as well. To be sure that they are not left out by implication or otherwise, new provisions, patterned after existing Department of Commerce regulatory guidelines, are included for Council staff.

Section 3(e): establishes "whistleblower" protection provisions to ensure Council staff are able to act impartially and report violations without fear of retribution.

Section 3(f): adds to the itemization of prohibited acts in the Magnuson Act the failure of a Council member to seek recusal where required under this section as well as the submission of false information or the failure to submit information required under this section.

Section 4—Regional Fishery Management Councils

Meaningful participation in the Council process can be limited to the extent interested parties are unable to get items on the agenda and where items that are on the agenda are changed or postponed to other times. This can result in extraordinary costs to participation in the process requiring all interested participants to schedule the full week or more during which Council meetings take place in order to be sure that surprise action is not taken or that other matters are not considered for which one would have no notice.

Section 4(a): addresses procedural deficiencies with the Council system. Council decisions increasingly rely on information presented in public hearings and at Council meetings. Although minutes are required to be kept, they are insufficiently precise and can be unreliable given their summary nature.

The Magnuson Act originally placed the Councils under the Federal Advisory Committee Act (FACA). They were subsequently exempted from FACA coverage because some of the Councils had complained that the procedural requirements of FACA were hindering the interaction of the Councils with their own scientific and statistical committees and advisory panels.

This section restores portions of "FACA" and adds new procedural provisions to ensure that the Councils function with renewed public credibility and accountability, including; 1) providing a mechanism to place items on the Council's agenda and to impose some discipline on the agenda process, requiring that witnesses presenting the testimony make a statement of qualifications and a statement of interest so that the probative value of the subsequent testimony can be appropriately weighed and balanced by Council members, and requiring such testimony to be made under oath to enhance its reliability.

Section 4(b): establishes the requirement that Fishery Management Plans (FMPs) be based on a "clear preponderance of the evidence in the record." This provision is intended to ensure that FMPs are supported by the evidence and reports submitted to the Councils.

Section 4(c): establishes time limits for regulatory amendments to FMPs. There is currently no statutory time limit for regulatory amendments. Some regulatory amendments developed by the Councils take longer to be approved and implemented than plans or plan amendments.

Section 4(d): expands prohibited actions to include knowingly submitting or presenting false information to a Council or the Secretary.

Section 4(e): subjects Council actions to judicial review.

Section 5—National Standards

Section 5(a): modifies National Standard No. 1 to further emphasize conservation goals, including the protection of spawning and nursery areas and prevention of overfishing, and minimization of by-catch.

Section 5(b): amends National Standard No. 5 by requiring conservation management measures to promote "reduction of excess fishing capacity and bycatch."

Section 5(c): adds new National Standard No. 8 which seeks to promote "the safety of life and property at sea."

Section 6—Economic Allocations

This section addresses issues related to those difficult decisions Councils must now face involving the economic allocation of fishery resources among U.S. user groups and the need to establish limited entry systems when the Secretary determines that overcapitalization is contributing to overfishing.

Section 6(a): amends existing standards to require an affirmative vote of not less than two-thirds of the voting members for any Council decision involving an economic allocation. This is designed to ensure that decisions as significant as these reflect a broad consensus of the Council.

Section 6(b): requires Councils to develop a limited entry system for fisheries when the Secretary determines overcapitalization is contributing to overfishing in that fishery. This section also removes the restriction prohibiting the use of limited entry systems.

Section 7—Implementation of National Standards

The advisory guidelines established by the Secretary and based on the National Standards to assist in the development of fishery management plans currently do not have the force and effect of law.

Section 7: removes this limitation and gives the National Standards the force and effect of law.

Section 8—Non-Industry Representation

Although properly entitled to be involved in the decision-making process governing a national resource taken by fishermen every year, consumers, conservationists and other non-industry stakeholders of our fishery resources have long been absent from any meaningful role in the Council process.

Section 8: insures non-industry representatives a place at the table by adding two new seats to each council dedicated to a non-industry representative.

Section 9—Effective Date

This section puts the changes of this Act into effect 90 days after enactment, and directs the Secretary to use that 90 days to prepare rules and take other implementing actions.

TRADE DEFICIT WITH JAPAN

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. DELAY. Mr. Speaker, as you know, this week the U.S. dollar reached a record post-World War II low relative to the Japanese yen. For every percentage depreciation of the value of the dollar, Japanese manufacturers pay that much less for raw materials priced in dollars in the world market, resulting in an increase in the U.S. trade deficit with Japan. Over a decade our trade deficit with Japan has continued to climb. The Federal Government has used trade restrictions and manipulated exchange rates to try to balance trade with Japan for years. However, the deficit has doubled since 1985 alone. Obviously, our current trade policies are not the answer to the problem.

I would like to bring to the table another point of view by submitting for the CONGRESSIONAL RECORD this monograph entitled "The United States Trade Deficit With Japan: Made in America" by Dr. Lawrence M. Parks. Dr. Parks recognizes that trade negotiators have overlooked the concept of the quality of money. Monetary policy influences, if not determines, capital investment and international trade. He states that the debasement of the dollar has an adverse affect on long-term nominal interest rates that becomes even greater when applied to long-term investments, thus increasing the trade deficit. By strengthening the value of the dollar, U.S. capital investments are more likely to increase, improving the quality of goods for foreign trade and therefore our competitiveness.

In order to address the trade deficit, I agree with Dr. Parks that it is imperative to develop a sound economy and currency. By doing so, we will focus on a solution that has long been overdue. Dr. Parks offers an informative and rational proposal to settle the trade deficit debate and restore America's competitiveness. I encourage my colleagues to read and consider his piece.

THE UNITED STATES TRADE DEFICIT WITH JAPAN: MADE IN AMERICA

(By Lawrence Parks)

Summary: The United States trade deficit with Japan is primarily driven by the higher rate, actual and expected, at which the Dollar is being debased relative to the Yen. It is not due to any industrial policy of the Japanese Government. The debasement difference may appear small, but, because of the effect it has on long-term nominal interest rates, and as a result of interest rate compounding, the effect of debasement becomes large when applied to long-time-horizon investments. The advantage that Japan has had in long-time-horizon investments has given rise to the trade deficit.

As a matter of principle, the stronger a nation's currency, that is, the less susceptible it is to debasement, the greater the trade advantage that country has over those with weaker currencies. This is totally contrary to the untrue and widely accepted notion that countries that weaken their currencies enjoy a sustainable trade advantage because their exports become cheaper. Also, while Japan has not been completely open to foreign goods and services, competitive advantage is never sustained by tariffs and other trade barriers. Consider:

First, there is no historical precedent where fiat currencies did not become severely debased. All over the planet, fiat currencies are being debased, as evidenced by inflation everywhere. The market translates varying currency debasement rates—which are the essence of currency risks—into long-term nominal interest rate differentials. The higher the actual or anticipated currency debasement, the higher the relative long-term nominal interest rates in the affected country. Figure 1 [all illustrations referred to have been omitted] shows the long-term nominal interest rate differentials between the United States and Japan (1977–1992).

Second, increasing long-term nominal interest rates cause long-term investment activity to decrease because it is highly sensitive to slight changes in interest rates when such changes are compounded over many years. Over time, as long-term nominal interest rates increase, decreasing present values cause a dynamic reallocation of capital from investments in long-term economic activities to investments in short-term economic activities.

Table 1 depicts the present value of $1 for varying interest rates and time periods. As can be seen, for investments with expected lives of 15 to 20 years, a nominal interest rate differential of 5 percent results in present value changes of more than 2:1. Thus, a 5 percent lower long-term nominal interest rate (and a differential that is the consequence of a stronger currency), results in an overpowering competitive investment advantage of more than 100 percent over a country with the higher long-term nominal interest rate (which is a consequence of an actual and expected higher debasement rate).

For the years 1977–92, Figure 2 shows the relative present value investment advantage of Japan over the United States for investments with expected lives of 20 years or more due to Japan's lower currency debasement rate. The average 84 percent present value advantage is so great that entire industries, especially those that are capital intensive or require long investment horizons, have migrated from the United States to foreign shores.

Thus, the United States' emphasis upon the short-term as compared to the Japanese long-term perspective is not due to some American cultural deficiency. It is a rational market response to relatively higher actual and expected currency debasement (as reflected in measured inflation) and concomitant higher long-term nominal interest rates.

This result is confirmed by historical experience. The inherent constraints of the Gold Standard reduced the risk of currency debasement so that long-term nominal interest rates were substantially lower, and the investment horizon was much longer. In 1882, for example, a railroad company sold 1,000 year bonds, and earlier in this century there are many examples of 100 year bonds. For the same reason, the savings rate in the United States was much higher. A shorter investment horizon and a lower savings rate are a logical identity. Actual and expected currency debasement is the cause of both.

Third, as long-term nominal interest rates increase, there is not only a dynamic reallocation of financial capital, there is also a dynamic reallocation of intellectual capital from the long term to the short term. That is part of the reason why in America there has been a 25 percent dropoff in engineering and science education—which skills are mostly used in long-term economic activities—from 8 percent of the student body in the 1970's to about 6 percent today. Not surprisingly, there has been a corresponding increase in skill sets that are focused more on short-term economic activities, such as lawyering or other services.

As a result of a lower currency debasement rate—as manifested by lower nominal inflation and lower long-term nominal interest rates—Japan's present value of long-term investments is higher. Consequently, more long-term economic activities, such as research and development, are undertaken. In a similar way, because manufacturing is more capital intensive than services, in the United States there has been a reallocation from a manufacturing economy, which generally requires a longer planning and investment horizon, to a service economy, which generally requires a shorter planning and investment horizon.

The resulting greater allocation of capital to research and development and to other capital intensive economic activities during the past fifteen-years has given Japan a definitive competitive advantage in product development and innovation. At the same time, a lower cost of capital has enabled Japan to offer customer financing of its goods and services at better rates. Thus, Japan has been able to produce better products at a lower cost than the United States for almost fifteen years. This is the root cause of the trade imbalance.

Over time, currency debasement rates may vary, and relative competitive advantage may shift from one country to another. However, without exception, there is less accumulation of capital (both material and intellectual), shorter investment horizons, less savings, less long-term investment and fewer well-paying jobs than there would otherwise be if there were sound currencies.

In many countries, and especially in the United States, long-term nominal interest rates, together with taxes and regulatory burdens, are so high that there has been a continuing contraction in the productive asset base, especially intellectual capital. As currency debasement persists, the continuing reallocation of capital causes a corresponding decrease in high-value-added employment and production, higher unemployment, and a decrease in the standard of living.

The speed at which various currencies are debased is determined by fiscal and monetary policies of the various countries. Because Japan has more conservative fiscal and monetary policies, there is less current and anticipated debasement of the Yen relative to the Dollar. Thus, Japan continues to enjoy a competitive advantage over the United States and the trade imbalances persist. A return to sound money is a precondition for restoring America's economic and industrial competitiveness that once was, and could be again.

H.R. 4684, DEPARTMENT OF ENERGY HIGH ENERGY AND NUCLEAR PHYSICS AUTHORIZATION ACT OF 1994

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. BOUCHER. Mr. Speaker, today I am introducing the Department of Energy High Energy and Nuclear Physics Authorizing Act of 1994, along with the chairman of the Science, Space, and Technology Committee, GEORGE E. BROWN, JR., the ranking Republican member of the Science Subcommittee, SHERWOOD BOEHLERT, and other members of the committee. The bill would provide for authorization of appropriations and program direction for the Department of Energy's [DOE's] high energy and nuclear physics programs.

Mr. Speaker, high energy and nuclear physics have proven their worth to society, time and time again. For example, modern technological developments, such as electronics, take advantage of early discoveries in these fields. In addition, the DOE laboratories which provide the facilities for high energy and nuclear physics research and the research and development conducted at these facilities supply other scientific fields with valuable equipment and engineering insights. For example, accelerator and detector development has spurred advances in proton cancer therapy, radioactive isotope production, advanced materials research, high-speed data acquisition and analysis, and computer architecture.

Most importantly, the pursuit of knowledge for its own sake undergirds our definition of Western civilization. High energy and nuclear physics seek a fundamental understanding of matter, energy, and the universe; and the public follows each high energy and nuclear physics discovery—such as the recent evidence for the top quark—because these discoveries help us to understand the origin of the things we see around us. We must maintain our commitment, therefore, to such fundamental research.

RECENT DEVELOPMENTS IN THE FEDERAL SUPPORT OF HIGH ENERGY AND NUCLEAR PHYSICS

Last year, the House of Representatives orchestrated the termination of the superconducting super collider [SSC]. The demise of the SSC reduced the Federal budget for high energy physics by 50 percent and thwarted the aspirations of high energy physicists for a new frontier in high energy physics research. Thus, at the beginning of this year, the high energy physics community went back to the drawing board to develop a new long-range plan.

We now have the product of their work—a masterful and responsible plan for the future of high energy physics through the beginning of the next century. The report—the DOE High Energy Physics Advisory Panel's [HEPAP's] Vision for the Future of High Energy Physics—allows for exciting, promising physics within a very modest budget. HEPAP's policy proposals deserve our support. They include recommendations for specific funding levels for high energy physics in each of the next 4 years, for U.S. participation in the large hadron collider [LHC] project at the European Organization for Nuclear Research [CERN], for HEPAP to review the field in its entirety every 2 years, and for DOE to assess, immediately, its governance of the field.

The Nuclear Physics Program at DOE has also suffered in recent years, although bold, high profile projects like the SSC were never pursued. For instance, in the fiscal year 1995 budget request, DOE reduced the nuclear physics budget from $349 to $301 million. The Department then admitted that this request was in error and directed the joint DOE and National Science Foundation Nuclear Science Advisory Committee [NSAC] to detail reasonable funding requests in time for consideration by the Appropriations Committees in the fiscal year 1995 budget cycle. As a result, the House Appropriations Committee restored $34 million in nuclear science funding.

In the meantime, unsure of the final nuclear physics budget for fiscal year 1995, physicists developed contingency plans. In particular, Brookhaven National Laboratory delayed construction of the relativistic heavy ion collider, and scientists at the Los Alamos Meson Physics Facility agreed to terminate experiments before the end of fiscal year 1995, which is the last year of the facility's operations.

AUTHORIZATION OF APPROPRIATIONS

The bill follows the recommendations of DOE's HEPAP report for the authorization of the DOE high energy physics program to provide an extra $50 million for 3 years from fiscal year 1996–98 to the President's fiscal year 1995 request, plus inflation. The additional $150 million over 3 years will help the field to recover from the loss of the SSC and allow better utilization of DOE high energy physics facilities. In fiscal year 1999, the request drops the $50 million add-on. In fiscal year 1995, the President's budget request was $621.9 million. The authorized level would be $695.4 million in fiscal year 1996, $744.9 million by fiscal year 1998, and $713.6 million in fiscal year 1999.

For nuclear physics, the bill follows the recommendation of the Nuclear Science Advisory Committee to provide for appropriate utilization of existing facilities and the construction of the relativistic heavy ion collider at Brookhaven National Laboratory, and is consistent with the fiscal year 1995 budget level reported by the House for the DOE Nuclear Physics Program. Over the 4-year authorization, the bill adjusts for closure of the Los Alamos Meson Physics Facility plus inflation. The authorized level would be $377.1 million in fiscal year 1996 and rise to $373.7 million by fiscal year 1999.

INTERNATIONAL SCIENCE PROJECTS

The SSC and other international science collaborations have proved that the United States is not a reliable international partner. The international science community views the United States with skepticism and suspicion whenever the U.S. Government joins in international science collaborations. In particular, the international community views the United States as unwilling to assume any role except the lead in major collaborations and unable to commit to long-term fiscal and scientific plans.

The United States must prove itself a reliable scientific partner, especially in fields like high energy and nuclear physics where next generation scientific experiments are too expensive for one country to afford. As recommended by the HEPAP report, the bill would direct the Secretary of Energy to negotiate with CERN on U.S. participation in the planning and construction of the LHC. The LHC will enable physicists to conduct some of the experiments that were planned for the SSC. In addition, the high energy physics community is anticipating the successor to the LHC, a linear collider which could be located in the United States. A successful experience in international collaboration at CERN would enhance the prospects for a post-2000 linear collider project in the United States.

PROGRAM GOVERNANCE

The physics community lacks confidence in DOE's management of its high energy and nuclear physics programs. Scientists charge that DOE does not adequately consider scientific needs in its high energy and nuclear physics funding and staff allocations; that waste results from the inappropriate application of administrative, environment, health, and safety regulations; and that the DOE Advisory Panels, especially for high energy physics, are not truly representative of the community. In response, the bill would instruct DOE to contract with an independent entity to review and address these problems. DOE must present a report to Congress within 9 months of the passage of the act.

In addition, while the nuclear physics community regularly sets and updates long-range plans for the field, long-range planning in the high energy physics community does not follow a predictable timetable. One of the recommendations of the HEPAP report is to initiate a 2-year planning cycle for high-energy physics. The bill would institute such a long-range planning process with the goal of including the first long-range plan with the President's fiscal year 1997 budget request to Congress.

SUMMARY

The Department of Energy High Energy and Nuclear Physics Act of 1994 seeks reasonable funding levels for high energy and nuclear physics research. Authorized budget levels derive from reports by scientific advisory panels as well as current funding trends. In addition, the bill would direct the Secretary of Energy to pursue negotiations on international collaboration in the LHC project at CERN and specifies provisions that must be included in any final agreement.

While forming part of the backbone for technological development in this Nation, high energy and nuclear physics pursue the purest of scientific quests—the study of the origin and interaction of matter, energy, space, and time. After much consensus-building in the physics community concerning the responsible direction of these two fields in this budget-driven time, the Congress can support this bill with the knowledge that the hard choices have been made. High energy physics paid its deficit-cutting dues with the termination of the SSC. This bill sets high energy and nuclear physics on a proper course toward the future.

I urge my colleagues to join us in cosponsoring this legislation.

DEPARTMENT OF ENERGY STUDY ON ALASKA NORTH SLOPE OIL RECOMMENDS THE RIGHT POLICY CHOICE

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. ROHRABACHER. Mr. Speaker, the U.S. Department of Energy today released its long awaited study on whether the decades-long ban on the export of Alaska North Slope oil should be repealed.

Their study recommends repeal of the ban.

The study found that there would be a significant number of benefits from allowing the export of North Slope crude oil.

This is good news for our balance of payments and for our Nation's energy security.

I urge my colleagues to read today the following Executive Summary of the Energy Department's study. Every Member's office has received the complete study. I urge every Member to closely examine this study during the July 4th district work period. The repeal of the ban on the export of North Slope crude oil will be a priority issue when we return to Washington.

EXPORTING ALASKAN NORTH SLOPE CRUDE OIL—BENEFITS AND COSTS

EXECUTIVE SUMMARY—OVERVIEW OF FINDINGS

Our examination of the Alaskan North Slope (ANS) crude oil export issue found that there would be a significant number of benefits to the United States from allowing the export of ANS crude. The principal conclusions of this study are:

1. Exporting ANS crude oil would partially relieve the downward pressure on West Coast prices of both ANS and California crude oils. Little, if any, increase in consumer petroleum prices would be likely.

2. Higher crude oil prices would lead to better oil producer profitability, which in tern, would raise investment in domestic oil production.

(a) Incremental production in Alaska and California could be as high as 100 to 110 thousand barrels per day (mb/d) by the end of the decade.

(b) Reserve additions in Alaska alone could be as large as 200 to 400 million barrels—a size that roughly equates to the known reserves in major North Slope fields such as Point McIntyre or Endicott.

3. Improving conditions for West Coast oil producers would raise royalty revenue for the Federal Government and tax and royalty revenues for the States of Alaska and California. During the years 1994 to 2000:

(a) Federal receipts related to royalties and sales of Elk Hills oil production would total between $99 and $180 million (1992 $).

(b) Alaska would gain $700 million to $1.6 billion in State severance taxes, income taxes, and royalties.

(c) California returns from the State share of Federal royalties and State and local taxes would be $180 to $230 million.

(d) Under the low oil price scenario three-fourths of these benefits accrue between 1994 and 1996.

4. Exporting ANS crude oil would result in a substantial net increase in U.S. employment. In all cases examined, gains related to increases in oil industry investment and State and Federal revenues would be much larger than job losses in the U.S. maritime sector.

(a) By 1995, the net increase in U.S. employment would be from 11,000 to 16,000 jobs. By the end of the decade, exporting ANS crude could generate from 10,000 to 25,000 jobs. The range of estimates grows over time due to uncertainty in future oil prices.

(b) The estimate of the level of net job generation is relatively insensitive to whether ANS oil is exported on foreign-flag, U.S.-flag, or Jones Act tankers (U.S.-constructed and -crewed). Exporting oil in foreign-flag vessels would be the least expensive option, thereby generating higher returns for producers and the State of Alaska. This would lead to the highest level of overall job creation, but also would produce the highest level of job losses in the maritime sector. Exporting ANS crude on Jones Act vessels would lower corporate returns, oil production, and revenues for Alaska, but job losses in the maritime sector would be small. These differences offset each other, thereby eliminating the sensitivity to the method of exportation.

(c) Direct, indirect, and induced employment losses related to the maritime sector could be as high as 3,300 jobs if foreign-flag tankers are employed for exports of ANS crude oil.

5. No significantly negative environmental implications were found.

(a) Lifting the ANS export ban would decrease the incentive for opening the Arctic National Wildlife Refuge (ANWR), and would not affect California production from Outer Continental Shelf (OCS) areas.

(b) No modifications to the Trans-Alaskan Pipeline System (TAPS) would be required, although incremental production arising from ANS crude exports would extend the economically viable lifetime of the system a few years.

(c) Exporting ANS crude probably would decrease crude oil tanker movement in U.S. waters.

(d) Greenhouse gas emissions from generating steam to produce additional heavy oil would increase slightly, but this increase would be insignificant.

This report does not fully address the implications of changing U.S. maritime law. For example, the report does not examine whether limiting exports of ANS crude to Jones Act vessels would be consistent with existing U.S. international trade policies and commitments. Because this report does not address these trade-related issues, it makes no attempt to weigh the benefits of lifting the ban against any costs that might result from changes in U.S. maritime law.

The aspects of the study that lead to these findings and the study methodology are summarized in the sections that follow. The body of the report and its appendices provide details.

A TRAGEDY OF ERRORS

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. SMITH of New Jersey. Mr. Speaker, over the past several months, the Knox child pornography case has taken on the characteristics of a landmark court battle. What began as a routine prosecution of a man for the possession of child pornography took on new life when the Clinton Justice Department reversed the DOJ's previous position in the case and sought to weaken child pornography laws.

The Senate unanimously condemned the Department's attempt to substantially weaken Federal efforts to protect children from abuse and exploitation. The House overwhelmingly rejected this ludicrous position as well by a vote of 425–3. Furthermore, the courts—which consistently upheld the stronger standard in previous cases—strongly rebuffed the Clinton position as well on June 9 in its decision to uphold the prior conviction of Knox. Nearly half the full Congress participated as *amici* in the case in defense of children and in opposition to the DOJ position.

The following article is an excellent and incisive analysis of the decision makers at the Clinton Department of Justice and their decisions throughout this policy fiasco. Tom Jipping, who is the vice president for policy and director for the Center for Law and Democracy at the Free Congress Research & Education Foundation, has closely watched this case unfold from its genesis. He holds a law degree from the State University of New York at Buffalo and is in the unique position of having clerked for one of the Third Circuit Court of Appeals Judges who sat on the panel hearing the Knox case.

Mr. Speaker, I find Mr. Jipping's analysis both clear and thorough and trust that my colleagues will as well.

A TRAGEDY OF ERRORS: THE RENO JUSTICE DEPARTMENT AND CHILD PORNOGRAPHY

(By Thomas L. Jipping, M.A., J.D.[1])

On February 11, 1993, President Bill Clinton announced his nomination of Janet Reno to be Attorney General of the United States. At the White House ceremony marking the event, Reno said: "I would like to use the law of this land to do everything I possibly can to protect America's children from abuse and violence."

On the one hand, Reno's statement rang hollow because her own record on obscenity and pornography during 15 years as chief prosecutor in Florida's Dade County was so poor. She was often criticized for failing to prosecute obscenity. The American Family Association of Florida opposed her nomination to be Attorney General, stating: "Dade County has more outlets for hardcore pornography than does the rest of the State of Florida * * * Janet Reno has not seriously

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Footnotes at end of article.

prosecuted an obscenity case since she has taken office." The Miami Herald reported that Reno refused to accept petitions signed by hundreds of concerned Dade County residents and child advocacy groups charging that "too many sex crimes go unprosecuted in Dade [County]."[2]

On the other hand, Reno's statement sounded like it might help fulfill a campaign promise. In 1992, the Clinton/Gore campaign sent letters to concerned citizens stating that "aggressive enforcement of federal obscenity laws by the Justice Department—particularly by the Child Exploitation and Obscenity Section—will be a priority in a Clinton-Gore administration."

Reno soon had an opportunity to demonstrate whether her own record or Clinton's campaign promise would determine her approach to this important issue. A child pornography case titled United States versus Stephen Knox offered the Justice Department the opportunity to either make arguments that would aggressively enforce the federal child pornography laws or create loopholes to let pedolhiles and pornographers off the hook. The Reno Justice Department's approach to this case demonstrates that she is doing for America what she did for south Florida. Reality is sometimes starkly different from rhetoric.

I. FACTS

In March 1991, U.S. Customs officials intercepted a mailing to France requesting pornographic videotapes depicting minor girls and an envelope from the Netherlands with a catalog advertising similar material. Police arrested Stephen Knox, a man previously convicted of receiving child pornography through the mail, and seized three videotapes produced by the Nather Company in Las Vegas, Nevada. The tapes depicted minor girls dressed in bikini bathing suits, leotards, or underwear and striking provocative poses for the camera. The camera frequently zoomed in on the children's genital area. As the U.S. Court of Appeals would later put it, "[t]he films themselves * * * clearly were designed to pander to pedophiles."[3]

II. THE FEDERAL CHILD PORNOGRAPHY STATUTE

The Protection of Children Against Sexual Exploitation Act of 1977, as amended by the Child Protection Act of 1984, makes it a federal crime to knowingly receive through the mail[4] or to knowingly possess[5] child pornography. Under the statute, child pornography is: "any visual depiction [that] involves the use of a minor engaging in sexually explicit conduct."

The statute defines "sexually explicit conduct" to include: "actual or simulated * * * lascivious exhibition of the genitals or pubic area."[6]

Deciding whether the material at issue in a particular case is covered by this statute, then, requires answering two questions:

1. Does the material constitute an "exhibition of the genitals or pubic area"?
2. If so, is that exhibition "lascivious"?

The answers to these questions may to some appear to be playing with words; they nonetheless literally determine whether this federal law will be effective by producing prosecutions and convictions of pedophiles and child pornographers. Words such as "exhibition" and "lascivious" can be given broad or narrow meaning. The broader their meaning, the more prosecutions and convictions can be obtained in child pornography cases. The narrower their meaning, the fewer cases can be prosecuted and the fewer pedophiles can be convicted.

III. THE TRIAL

Stephen Knox was indicted for both receiving and possessing child pornography. He argued that the three Nather tapes did not contain an exhibition—lascivious or otherwise—of the genitals or pubic area because the minors depicted in them were not nude. As such, he did not answer the question of lasciviousness. U.S. District Judge James F. McClure, Jr., conducted a pretrial hearing on September 6, 1991. He decided that "the pubic area would appear to be the region of the human anatomy in close proximity to the genitals." Even though the genitals themselves were covered with clothing, he reasoned, "the area in close proximity to the genitals * * * was clearly exposed.

This analysis appears to define the word "exhibition" narrowly in terms of actual exposure rather than general display. Even so, since he defined the term "pubic area" broadly, Judge McClure was able to say that at least something was being exhibited. As such, he concluded, Knox's argument should be ignored and he should be tried.[7] After a non-jury trial, Judge McClure found Knox guilty on both counts and, on February 13, 1992, sentenced him to the mandatory minimum of five years in prison. Knox appealed.

IV. THE U.S. COURT OF APPEALS

The U.S. Court of Appeals for the Third Circuit[8] first decided that "[t]he district court's novel definition of the pubic area is anatomically and legally incorrect" and relied instead on the "medically accepted meaning" of the term. Looking at "the language of the statute itself," the court concluded that "Knox attempts to read a nudity requirement into a statute which has none * * * [N]udity is not a prerequisite for the occurrence of an exhibition." The court defined the word "exhibition" more broadly than the district court to mean "put on display" rather than actual exposure. The court found that the statute's legislative history and underlying rationale both supported its plain language on this issue and affirmed Knox's conviction on October 15, 1992.[9]

V. THE U.S. SUPREME COURT

A. Whether the Court Should Consider the Case

1. Stephen Knox's Position

Knox filed his appeal to the U.S. Supreme Court on January 12, 1993. The central question he raised was "[w]hether there can be an 'exhibition of the genitals or pubic area' where the genitals and pubic area are fully covered by an article of clothing." Again, he did not address the issue of lasciviousness since he insisted there was no exhibition of any kind in the material at issue.

2. The Department of Justice's Position

The U.S. Department of Justice (DOJ), now under the direction of Attorney General Reno, filed a brief in March 1993 signed by Acting Solicitor General William Bryson urging the Supreme Court not to accept the case for review for several reasons:

"There is no conflict among the circuits on this issue."[10]

The court of appeals was correct that the plain language of the statute does not include a nudity requirement but defines the term "exhibition" generally to mean "put on display."[11]

"The court of appeals correctly found no indication of any contrary intention in the legislative history."[12]

"Subsequent legislative history also supports the court of appeals' interpretation."[13]

B. The Merits of the Case

1. Stephen Knox's Position

On June 7, 1993, the Supreme Court accepted the case for review and Knox filed his brief on the merits on August 4, 1993, arguing again that there can be no "exhibition of the genitals or pubic area" if those body parts" are fully covered by an article of clothing." He again made no argument about lasciviousness since he contended there was no exhibition.

2. The Department of Justice's Position

The Department of Justice filed its brief on September 17, 1993. This time it was signed by Solicitor General Drew Days and took a completely different position. While the DOJ brief opposing the appeal six months earlier argued that the court of appeals' interpretation of the statute was correct, the brief on the merits argued that "the court of appeals . . . utilized an impermissibly broad standard."[14] In March 1993, DOJ argued that the statutory language and legislative history supported the court of appeals' interpretation. In September 1993, DOJ argued that "neither the statutory language nor the legislative history will bear such an interpretation."[15] DOJ urged the Supreme Court to "vacate the judgment of conviction and remand for consideration under the proper statutory standard."[16]

a. Definition of "exhibition".—In March 1993, DOJ argued that "exhibition" means "to put on display" as the court of appeals concluded. In September 1993, DOJ argued that "the plain language of the statute" requires showing that, in order for material to constitute an exhibition, it "must include a visible depiction of the genitals or pubic area."[17]

b. Definition of "lascivious".—No one, including Stephen Knox, had ever in this case offered a single argument about the meaning of "lascivious" in the statute. Before the Supreme Court, for the very first time, DOJ argued that, in order for an exhibition to be lascivious, it "must depict a child lasciviously engaging in sexual conduct (as distinguished from lasciviousness on the part of the photographer or consumer)."[18] That is whether a pornographic product depicting a child is lascivious must be determined, according to the Reno Justice Department, by looking at the child victim rather than the pornography itself.

Without explicitly addressing the issue, the district court clearly had assumed that the statute addressed the visual depiction of the child—that is, the pornographic product itself—rather than the conduct of the child. The court, for example, discussed "factors to be considered when determining whether a visual depiction of a minor constitutes a lascivious exhibition."[19]

Similarly, the court of appeals assumed that the statute's use of the words "lascivious exhibition" relate to the pornographic depiction of the child and not the conduct of the child. The court discussed "circumstances that made the visual depiction lascivious or sexually provocative"[20] by referring to its own precedent on the subject. That case, United States versus Villard,[21] adopted the analysis applied in United States versus Dost,[22] which also had the same focus. These factors include "the focal point of the visual depiction," the "setting of the visual depiction," or "whether the visual depiction is intended or designed to elicit a sexual response in the viewer."[23] Lasciviousness is measured by examining the depiction of the child, not the conduct of the child. The federal child pornography law criminalizes the conduct of the pornographer and the pedophile, not the child victim of their abuse.

DOJ's standard would create enormous loopholes for child pornographers to avoid prosecution. For example, under DOJ's interpretation, the statute would not cover material containing close-up shots of a sleeping child's exposed genitals. While such material would constitute an exhibition, the child would not be acting lasciviously. Yet who would argue that such material is child pornography and those who receive or possess it should be prosecuted?

3. The Supreme Court's decision

On November 1, 1993, the Supreme Court remanded the case with the following instructions: "The judgment is vacated and the case is remanded to the United States Court of Appeals for the Third Circuit for further consideration in light of the position asserted by the Solicitor General in his brief for the United States filed September 17, 1993."[24] The Supreme Court made no comment on whether the new DOJ position was correct.

VI. THE U.S. COURT OF APPEALS—AGAIN

A. Stephen Knox's Position

Knox filed his brief with the court of appeals on January 25, 1994. He again insisted that "there can be no 'exhibition of genitals or pubic area' * * * where the genitals and pubic area are fully covered by an article of clothing." He again made no argument about the meaning of "lascivious" but, in a footnote, said he "agrees with the government's position."[25]

B. The Department of Justice's Position

1. Definition of "Exhibition"

The Department of Justice filed its brief in February 1994 and changed its position once again. While DOJ argued to the Supreme Court that an exhibition requires a "visible depiction of the genitals or pubic area," DOJ now argued to the court of appeals that the statute "requires that the depiction in question render those body parts visible or discernible in some fashion."[26] DOJ's brief repeatedly phrased its new standard in terms of "some form of visibility or discernibility"[27] or "some discernibility."[28]

2. Definition of "Lascivious"

Admitting that Knox "never specifically raised the issue in either the district court or the court of appeals,"[29] DOJ also changed its position on the standard for determining whether a particular exhibition is "lascivious." While DOJ argued to the Supreme Court that an exhibition is lascivious if the child depicted in it is acting lasciviously, DOJ argued something different to the court of appeals. DOJ's new position was that "the conduct the minor was engaged in can be judged to constitute a 'lascivious exhibition' [if] the conduct appeals to the lascivious interest of some potential audience."[30] This standard is somewhere between the definition assumed by the district court and court of appeals and what DOJ had argued to the Supreme Court.

3. Remand to the Trial Court

The Department of Justice argued to the Supreme Court that "[t]he judgment of the court of appeals should be vacated and the case remanded to the court of appeals for further proceedings."[31] The Supreme Court complied. DOJ then argued to the court of appeals that "the appropriate course now is to send the case back to the district court for a new trial."[32] DOJ argued to the Supreme Court that even though the district court had applied "an erroneous legal theory * * * it cannot be assumed that the district court's legal error * * * infected the general verdict of conviction."[33] Therefore, the court of appeals' job is "simply to determine whether the evidence was sufficient, under the correct legal standard, to support a general verdict of guilty."[34] DOJ then argued to the court of appeals that "because appellant was never tried under the interpretation of the statute now urged by the government,"[35] the entire prosecution should begin again.

C. The Court's Decision

1. Definition of "Exhibition"

The same panel of three U.S. Court of Appeals judges heard new arguments on April 27, 1994, and issued their decision on June 9, 1994. Judge Cowen's opinion states the central holding as follows: "We hold that the federal child pornography statute, on its face, contains no nudity or discernibility requirement, that non-nude visual depictions, such as the ones contained in this record, can qualify as lascivious exhibitions, and that this construction does not render the statute unconstitutionally overbroad. Finally, we again conclude that the government presented sufficient evidence at the bench trial * * *. We thus will affirm Knox's conviction."[36]

The court denied DOJ's motion to remand the case to the district court for a new trial and reaffirmed all of the analysis and conclusions from its previous opinion with one exception. "In our prior opinion, we reviewed the legislative history and concluded that it supported our interpretation of the statutory language * * * After further examining the relevant legislative history, however, we conclude that it is wholly silent as to whether Congress intended the statutory term 'lascivious exhibition of the genitals or pubic area' to encompass non-nude depictions of these body parts."[37] This did not, however, affect the court's conclusion. If, as the court already found, the plain language of the statute is sufficient to answer the necessary questions, the burden was on Knox to demonstrate "a clearly contrary congressional intent"[38] and silent legislative history does not meet this burden.

2. Definition of "Lascivious"

The court also addressed the issue of lasciviousness—which DOJ had not argued to the court of appeals before but raised for the first time before the Supreme Court. Noting that DOJ "recedes somewhat" from its position on this issue before the Supreme Court, the court said: "We did not specifically address this aspect of the statute * * * because neither Knox nor the government presented for review or argued this aspect of the statute as something the court needed to address in order to decide the case. Upon consideration of the meaning of this statutory language, we reject any contention, whether implied by the government or not, that the child subject must be shown to have engaged in sexually explicit conduct with a lascivious intent."[39]

The court agreed with the U.S. Court of Appeals for the Ninth Circuit that "'[i]n the context of the statute applied to the conduct of children, lasciviousness is not a characteristic of the child photographed but of the exhibition which the photographer sets up for an audience that consists of himself or like-minded pedophiles."[40] As such, whether material depicts "sexually explicit conduct" is to be measured by the pornographer and the pedophile (or, in DOJ's terms, the photographer and the consumer), not their child victims.

VII. POLITICAL DEVELOPMENTS

A. The U.S. Senate

On November 4, 1993, the U.S. Senate voted 100–0 for an amendment to the crime bill it was considering which stated in part: "It is the sense of Congress that in filing its brief in United States versus Knox * * * the Justice Department did not accurately reflect the intent of Congress." That is, the existing statute is sufficient and the problem is the Reno Justice Department, not Congress.

B. The Clinton Administration

On November 10, 1993, President Clinton sent a letter to Attorney General Reno stating that he agreed with the Senate about what the proper scope of the child pornography law should be" and noting that "the Justice Department recently filed a brief in which the Department concluded that the current child pornography law is not as broad as it could be. Accordingly, the Justice Department should promptly prepare and submit any necessary legislation to ensure that federal law reaches all forms of child pornography, including the kinds of child pornography at issue in the Senate resolution." That is, the existing statute is insufficient and the problem is Congress, not the Reno Justice Department.

On November 16, 1993, the Justice Department sent to Congress a proposed amendment to the Child Protection Act. The Act already prohibits receipt or possession of depictions of minors engaged in sexually explicit conduct which, under current law, includes "lascivious exhibition of the genitals or pubic area." The Reno Justice Department's proposal would state that sexually explicit conduct includes: "(E) lascivious exhibition of the genitals or pubic area of any person, whether clothed or unclothed; an exhibition may be deemed lascivious if the depiction of the minor is designed for the purpose of eliciting or attempting to elicit a sexual response in the intended viewer; there shall be no requirement that the minor whose image is displayed in the material intend or understand that the depiction is designed for such a purpose."

Each of the three provisions of this proposed measure has a fundamental flaw. One is unnecessary, one is dangerous, and one is irrelevant. They add up to a hastily and very poorly drafted legislative proposal that is, in the words of ACLU legislative counsel Bob Peck, a "political pander rather than the result of any careful legal analysis."[41]

The first provision—that the statute applies whether the person is "clothed or unclothed"—is completely unnecessary. The statute's application is already this broad. This, of course, is one of the main issues in Knox and, as explained above, the U.S. Court of Appeals unanimously concluded that Congress considered, but rejected, a nudity requirement. The Grassley resolution adopted unanimously by the Senate and the Smith resolution already co-sponsored by a majority of House members (discussed below) reject this argument as inconsistent with Congress' intent as well.

The second provision—that an exhibition is "lascivious" if designed to elicit a sexual response—is dangerous. It appears to be drawn from a common test used by courts to determine whether an exhibition is lascivious within the meaning of the statute. The actual test, which the U.S. Court of Appeals cited in Knox, actually includes six different factors. This provision could easily be construed as reducing this multi-factor measure to a single factor. As such, this proposal arguably narrows rather than broadens the application of the child pornography statute, contradicting President Clinton's instructions in his November 10 letter. In a letter dated November 17, 1993, Pat Trueman, chief pornography prosecutor during the Bush Administration, stated that it could also lead to "First Amendment violations in enforcement, and ultimately render the law, at least this portion of it, unconstitutional."

The third provision—that the minor depicted in the pornography need not intend or understand that the depiction is lascivious—is irrelevant. The intentions or understanding of a minor are completely irrelevant in determining whether a sexual depiction of that minor constitutes pornography. a minor cannot give consent to be sexually exploited. The argument that an exhibition can be "lascivious" only if the child is actually behaving in a lascivious way (rather than the pornographic product appearing in a lascivious way) is the second major issue in Knox. This issue, however, was not raised by the pedophile but was created out of thin air and offered gratuitously to the Supreme Court by the Reno Justice Department. The Department offered no legal authority, and no legal authority exists, for its position.

C. The U.S. House of Representatives

On April 20, 1994, the House voted 426-3 for an amendment to the crime bill it was considering that mirrored the position taken unanimously by the Senate five months earlier.

VIII. CONCLUSION

Attorney General Reno promised when she was nominated to "use the law of this land to do everything [she] possibly can to protect America's children from abuse and violence." It is impossible to do so without aggressively attacking obscenity and pornography, as the Clinton/Gore campaign had promised to do. Instead, the Reno Justice Department has attempted to change the law of this land to create loopholes that will limit child pornography prosecutions and thus expose America's children to abuse and violence. DOJ first said the broad definition of child pornography applied by the court of appeals was correct. DOJ then said that definition should be narrowed. DOJ then said the proper definition was somewhere in between.

Both the legislative and judicial branches have told the executive branch that its attempt to weaken enforcement of the federal child pornography laws is politically and legally indefensible. It remains to be seen whether the Reno Justice Department will continue trying to defend it.

FOOTNOTES

[1] Vice President for Policy and Director, Center for Law & Democracy, Free Congress Research & Education Foundation. B.A. with honors, Calvin College (1983); J.D. cum laude, State University of New York (SUNY) at Buffalo (1987); M.A., SUNY-Buffalo (1989). Law Clerk, U.S. Court of Appeals (1988–89).

[2] "Activists Demand Reno Investigation," Miami Herald, September 7, 1990.

[3] United States versus Knox, 977 F.2d 815,817 (3rd Cir. 1992).

[4] 18 U.S.C. §2252(a)(2).

[5] 18 U.S.C. §2252(a)(4).

[6] 18 U.S.C. §2256(2)(E).

[7] See United States versus Knox, 776 F.Supp. 174 (M.D.Pa. 1991).

[8] The Third Circuit includes the states of Pennsylvania, New Jersey, and Delaware. Judges sit in randomly chosen panels of three to consider cases. Judges William Hutchinson and Robert Cowen and Senior Judge Joseph Weis, Jr., considered Knox's appeal.

[9] See United States versus Knox, 977 F.2d 815 (3rd Cir. 1992).

[10] Brief for the United States in Opposition, Knox versus United States, No. 92–1183, Supreme Court of the United States, at 6.

[11] Id.

[12] Id. at 7.

[13] Id.

[14] Brief for the United States, Knox versus United States, No. 92–1183, Supreme Court of the United States, at 8.

[15] Id. at 9.

[16] Id. at 9–10.

[17] *Id.* (emphasis in original).

[18] *Id.*

[19] United States versus Knox, 776 F.Supp. at 180 (emphasis added).

[20] United States versus Knox, 977 F.2d at 822 (emphasis added).

[21] 885 F.2d 117 (3rd Cir. 1989).

[22] 636 F.Supp. 828 (S.D.Cal. 1986).

[23] United States versus Knox, 977 F.2d at 822, quoting United States versus Villard, 885 F.2d at 122 (emphasis added).

[24] United States versus Knox, 114 S.Ct. 375 (1993).

[25] Brief of Appellant Stephen A. Knox, United States versus Knox, No.92–7089, United States Court of Appeals for the Third Circuit, at 6 n.2.

[26] Brief for the United States, United States versus Knox, No.92–7089, United States Court of Appeals for the Third Circuit, at 12.

[27] *Id.* at 12–13.

[28] *Id.* at 13.

[29] *Id.* at 15.

[30] *Id.* at 15.

[31] Brief for the United States, Knox versus United States, No.92–1183, Supreme Court of the United States, at 23.

[32] Brief for the United States, Knox versus United States, No.92–7089, United States Court of Appeals for the Third Circuit, at 19.

[33] Brief for the United States, Knox versus United States, No.92–1183, Supreme Court of the United States, at 22–23.

[34] *Id.* at 23.

[35] *Id.* at 18.

[36] United States versus Knox, No.92–7089 (June 9, 1994), slip opinion at 5.

[37] *Id.* at 26.

[38] *Id.*

[39] United States versus Knox, slip opinion at 24.

[40] *Id.* at 25, quoting United States versus Wiegand, 812 F.2d 1239,1244 (9th Cir.), *cert. denied*, 484 U.S. 856 (1987).

[41] Quoted in Cohen, "Clinton Approach to Child Porn Pleases No One," Legal Times, November 22, 1993, at 2.

HONORING DR. MARVIN LUDWIG ON THE OCCASION OF HIS RETIREMENT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. GILLMOR. Mr. Speaker, it gives me great pleasure to rise today and pay tribute to a special friend and outstanding citizen of Ohio. Defiance College President Dr. Marvin Ludwig is retiring today after 19 years at the helm of this Northwest Ohio institution.

I have had the privilege of knowing Dr. Ludwig for quite some time. At Defiance College since 1975, Marvin has been instrumental in increasing the college's endowment, annual gift giving and student enrollment. He has led fund-raising for Schauffler Hall, Carma J. Rowe Science Hall, McMaster Physical Education Center and the Pilgrim Library.

Most recently, he was awarded the college's most prestigious honor, the Pilgrim Medal. This tribute was in recognition of Dr. Ludwig's nearly two decades of unselfish and highly productive dedication to the university. I must note that prior to assuming the presidency of Defiance College, Dr. Ludwig had already achieved a lifetime of service to the YMCA, church, community and higher education, both at home and abroad.

Mr. Speaker, we have often heard that America works because of the unselfish contributions of her citizens. I know that Ohio is a much better place to live because of the dedication and countless hours of effort given by Dr. Ludwig during these past 19 years. While Marvin may be leaving his official capacities and president of the university, I know he will remain active in its well-being.

I ask my colleagues to join me in paying a special tribute to my friend, Dr. Marvin Ludwig's record of personal accomplishments and wishing him, his wife Ruth, and his family all the best in the years ahead.

GAY RIGHTS

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. OWENS. Mr. Speaker, 25 years ago this week, police in New York raided a gay establishment, The Stonewall Inn. This was not an uncommon occurrence, as police frequently moved to close down places where gay people congregated. But what made the Stonewall experience unique, was that for the first time the patrons fought back. For 3 days thousands of gay men, lesbians, and their supporters took to the streets of Greenwich Village and gave birth to the present-day gay rights movement. This weekend over a hundred thousand people, joined in spirit by millions more who will not be able to attend, will gather to commemorate this important event in gay history.

We should use this time to appreciate the quest of gay people for equal, not special, protection under the law. Who would have imagined 25 years ago that openly gay men and women could work as doctors, lawyers, college professors, professional athletes, and performers, as well as serve on corporate boards, at the White House, and even as Members of Congress. The importance of this new visibility can not be underestimated.

We must never forget though, how much farther there still is to go. Two recent major victories for gay people only emphasize this distance. A lesbian mother was recently re-awarded custody of her young son, after he had been removed from her home simply because she was carrying on a committed relationship with a woman. There were no other reasons—no parental neglect, no abuse of any kind.

A higher court overturned the previous court's ruling, and gave her back her child. Another court recently ruled that Margarethe Cammermayer had been unjustly kicked out of the U.S. Armed Forces. Cammermeyer, an Army nurse, was awarded the Bronze Star for her service in Vietnam and was voted Army Nurse of the Year in 1985. During an interview she did not deny being a lesbian, and her exemplary career abruptly came to an end. I laud the court's opinion and the country should be grateful to have back the service of Colonel Cammermeyer. While I stress these are victories, it is a shame they are matters the high courts must decide. Isn't it a basic right for a loving mother to have possession of her son or for a patriotic American to serve his or her country? We still have a long way to go.

As chairman of the House Subcommittee on Select Education and Civil Rights which oversees the Equal Employment Opportunity Commission, I am all too aware of the rampant discrimination gay men and lesbians face in the work place. Last week I presided over hearings on gay discrimination and heard firsthand testimony from those suffering its effects. These men and women lost employment not because of job performance or company cutbacks, but simply because of their sexual orientation. We cannot tolerate discrimination of anyone be they women, black, Christian, Moslem, disabled, or gay. I also must commend such New York City companies as Montefiore Hospital, Showtime, Time-Warner, Planned Parenthood, and others, who have undertaken strong antidiscrimination policies and extended the same benefits to all of their employees.

We should all applaud and respect the gay and lesbian activists for many reasons. They have showed political acumen, extreme creativity, and racial inclusiveness in their fight. On the anniversary of Stonewall, I especially commend them on their spirit. Like Rosa Parks, they have refused to sit in the back of America's bus anymore, and have stood up for what it is right. It is also important that we not underestimate the extreme courage it takes to come out of the closet in a hostile world. Even though the gay community has suffered tremendous losses, especially in this time of plague, they have never given up the fight. Their unfailing commitment to fight for what is just is exactly what this country was founded on, and I extend my best wishes to these very patriotic Americans.

THE ACCESS TO MEDICAL TREATMENT ACT

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. DEFAZIO. Mr. Speaker, today I am introducing, with Representatives NORTON, HINCHEY, FURSE, OWENS, PALLONE, and LIPINSKI, the Access to Medical Treatment Act. This legislation will allow greater freedom of choice in the realm of medical treatments by making alternative treatments more accessible to the public.

The Access to Medical Treatment Act represents a significant departure from the current paternalistic practice of medicine. It is based on two beliefs about our current health care system: First, the system limits patients' choices of medical treatments to conventional modalities; and second, the system effectively discourages the development of alternative therapies that could help treat illnesses that often are unresponsive to conventional medicine. This act opens up the health care system and market, under controlled conditions, to informed consumers.

There is a compelling need for this legislation. I have met many doctors who could better treat their patients with this legislation and many patients who desperately want more treatments available to them. Former Congressman Berkley Bedell knows first-hand the importance of this legislation and served as a catalyst for its development. While in Congress, Berkley Bedell acquired a well-deserved reputation for intellectual honesty and commitment to principle. Sometimes he appeared out of step with conventional opinion and subsequently proved to be ahead of his time. He questioned the status quo and asked if there was a better way to accomplish a task.

Congressman Bedell's Lyme disease forced him to leave the House at the end of the 100th Congress. After trying several unsuccessful rounds of conventional treatment consisting of heavy doses of antibiotics costing him thousands of dollars, he turned to an alternative treatment. He credits this treatment with curing his disease. This treatment, which is actually a veterinary treatment, consisted of nothing more than drinking processed whey from a cow's milk. After 2 months of taking regular doses of this processed whey, his symptoms disappeared. He estimates that the total cost for this alternative treatment was no more than a few hundred dollars.

In spite of Congressman Bedell's amazing recovery, and stories from others who found this same method successful, the treatment can no longer be administered because it has not gone through the FDA approval process. This is just one example, highlighted by an eminent individual, of the numerous treatments that may prove beneficial but cannot be tried without enactment of this legislation.

Shortly after Congressman Bedell recovered from Lyme disease, he discovered he had prostate cancer. Again, he found conventional treatments unsuccessful and turned to alternative medicine. This time he had to leave the country to obtain treatment because the FDA precluded his access to the treatment at home. Once again, alternative therapy proved successful for Mr. Bedell, and he has been free of cancer for 4 years.

Mr. Speaker, there are Berkley Bedells all across our country who are desperate for cures that conventional medicine simply does not seem to effectively provide. The tragedy is that individual practitioners, scientists, smaller companies, and others who lack the financial resources and expertise to confront the arduous and costly FDA approval process to get these nonharmful and possibly helpful or even lifesaving treatments on the market. The expense of the Food and Drug Administration [FDA] approval process precludes all but large pharmaceutical companies from undertaking this endeavor.

The Access to Medical Treatment Act gives patients the right to obtain nonharmful alternative treatments that have not been approved by the FDA from licensed medical doctors, chiropractors, osteopaths, and naturopaths. The intent of this bill is merely to extend freedom of choice to medical consumers under controlled situations and grant individuals access to alternative treatments that are currently off-limits. Practitioners who now use alternative, nonharmful treatments risk losing their licenses for trying to heal their patients with unconventional treatments. The bill's purpose is twofold: First, to allow increased opportunities for the trial of alternative, non-FDA approved treatments that may generate effective new approaches to treating illness; and second, to increase access to alternative, nonharmful treatments.

As with any effort to challenge the status quo there is skepticism about the implications of opening up the market to alternative treatments. We have worked hard to develop a bill that gives patients and their health care practitioners the freedom necessary to treat their illnesses while including the protections necessary to safeguard consumers from dangerous treatments and unqualified practitioners.

It is not my intention to dismantle the FDA or to weaken its authority to regulate the safety and efficacy of most drugs in this country. This legislation does not attack the FDA for the valuable role is plays in helping America maintain a top notch, high-quality health care system. Unfortunately, the expensive and extensive FDA approval process does prevent low-cost, alternative treatment from gaining access to the market.

The FDA would remain solely responsible for protecting the health of the Nation from unsafe and impure drugs. Before a treatment receives the Government's stamp of approval and has a claim of efficacy attached, it must make is through the FDA approval process.

This bill requires full disclosure to patients of the contents and possible side effects of treatments. In addition, the strict claims section in this bill mandates that patients are notified that the drug has not been proven safe of efficacious by the Federal Government.

The medical treatments prescribed must have no evidence of causing an adverse impact on individuals' health. However, if any treatment is found to cause harm, the treatment must be immediately reported to the Secretary of Health and Human Service and it cannot be utilized again.

Finally, the greatest concern expressed about this proposal is the issue of consumer protection. This is an essential part of this legislation and I, as much as anyone, want to protect sick and vulnerable individuals from negligent charlatans who would prey on their misfortunes and fears for personal gain. The Access to medical Treatment Act is armed with these protections.

In order to protect consumers, this bill limits those qualified to administer treatments to properly licensed chiropractors, medical doctors, naturopaths, and osteopaths. Most importantly, the bill strictly regulates the circumstances under which claims regarding the efficacy of a treatment can be made. It prohibits all advertising and labeling claims and any other claims by individuals for whom the underlying intent of promoting the treatment might be linked to personal financial gain.

There can be no marketing of any treatment administered under this bill. This eliminates the incentive for anyone to try and use this bill as a bypass to the process of obtaining FDA approval.

I want to protect consumer safety, but I also want to promote consumer freedom of choice. Individuals, especially those facing life-threatening and debilitating illness, should have the option of trying alternative treatments so long as they are informed of possible side effects and there is no evidence that the treatment is harmful. Opening the health care system to alternative treatments can help patients, complement conventional treatments, contain costs, and generate new ways to treating illness. This choice is one for the consumer, not the Federal Government.

Mr. Speaker, it is my hope that after debate and possible revisions from other Members that this legislation will increase the number of possible solutions available to patients.

INTRODUCTION OF CHILD LABOR DETERRENCE ACT OF 1994

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. BROWN of California. Mr. Speaker, last year, Senator TOM HARKIN and I introduced companion versions of legislation to ban the importation of products which are made, whole or in part, by children who are under the age of 15 and who are employed in either industry or mining. That legislation is H.R. 1397 and S. 616 and it is referred to as the Child Labor Deterrence Act of 1993. It has met with growing bipartisan support in both Houses of the Congress. It already has 25 House cosponsors and 16 Senate cosponsors.

Equally important, the potential for this legislation to achieve positive results can already be seen in several foreign countries. It has prompted some national governments and selected industries in developing countries to take the first tentative steps toward enforcement of national child labor laws and to address the most egregious forms of exploitation of children in the workplace such as bonded child labor in south Asia.

Specifically, the Philippine Government has introduced legislation to raise the minimum age for work.

In Bangladesh, the prospect of the enactment of this legislation—fostered by a dramatic TV exposé of young children working in garment factories making apparel that the Wal-Mart stores sold in America—has prompted pledges from the garment industry to provide schooling for those children.

In India, some carpet producers and exporters are coming forward to link up with nongovernmental organizations to establish credible means for ensuring that the hand-knotted carpets they market are not made by children. Furthermore, mass marches of antichild labor forces are building pressure on that government for national policies that meet the needs of impoverished families, thereby reducing an important inducement for the commercial exploitation of children in the workplace.

Last year the labor supplemental agreement to NAFTA put in place the provisions for possible sanctions to be invoked in cases involving child labor in the production of goods for export.

At the same time, other developed countries are witnessing a similar outcry against child labor imports. Last summer the European parliament passed a resolution calling upon the European commission to carry out an investigation into community imports of products manufactured in rehabilitation camps in China and products resulting from children's work. They also called upon the European commission to propose that the European council put a stop to such imports.

Very soon Frau Brigitte Adler, a Social Democratic Party [SPD] member of the German Bundestag, will introduce counterpart legislation to our bill. It is expected to receiving the backing of more than 120 German Parliamentarians from all across the political spectrum.

Furthermore, a coalition of German, French, Belgian, and Dutch Parliamentarians are planning to push similar legislation for adoption in the European union yet this year.

While awaiting coordinated governmental action, concerned consumers are taking matters into their own hands to ferret out imports made by child labor and to mount consumer education campaigns and boycotts against the purchase of such items. Again, in Germany, a strong consumer boycott against the purchase of imported hand-knotted carpets made by children is in full swing. Partially in response, the German Association of Carpet Importers has voluntarily committed themselves to paying at least a 2-percent surcharge on the value of every carpet they import and those funds are being set aside for the construction of schools and stipends and to meet other basic human needs of children who are freed from the looms in south Asia.

In stark contrast, the oriental rug importers in the United States so far have declined to support this legislation or to dip into their own great wealth to replace the children of the looms with skilled adult artisans who could be paid livable wages. Unlike their German counterparts, American rug importers appear unwilling to contribute one penny from their own profits to help finance positive alternatives for these children who work in virtual slavery.

I also want to call the attention of my colleagues to a growing international consensus to curb trade in child labor products.

Last fall, the Dutch economist and Nobel Laureate Jan Tinbergen convened an unprecedented seminar in Amsterdam on child labor and the exploitation of children worldwide. The testimony presented by child welfare advocates from Asia, Latin America, and Africa galvanized the Nobel laureates into action.

On January 1, 1994, 76 distinguished Nobel laureates, including Lech Walesa, Bishop Desmond Tutu, Mikhail Gorbachev, and many notable economists, issued a New Year's Day appeal for action to curb child labor and other forms of child exploitation. I ask that the full text of their message be reprinted following this statement. But I especially want my colleagues to note that among the actions cited is a call for the west to consider making economic support for countries dependent upon their commitment to the elimination of child exploitation.

I have been in close communication with the Nobel laureates and we are cooperating closely on both legislative and nonlegislative measures to curb exploitation of children in the workplace around the world.

At an unprecedented public hearing in the United States on international child labor that was convened at the U.S. Labor Department just over 2 months ago, 112 Nobel laureates, now including Mother Theresa, Nelson Mandela, and Rigoberta Menchu, the Dalai Lama, and others, announced their plans to link the work of their newly established organization, Childright Worldwide, with legislative and nonlegislative initiatives to stop child exploitation. More specifically, they expressed a strong desire to work with us on this legislation to facilitate its refinement, enactment, and enforcement.

I am very pleased to join with Senator HARKIN today in introducing the Child Labor Deterrence Act of 1994. This bill retains the key provisions of the earlier version we sponsored last year. It would require the U.S. Secretary of Labor to compile and maintain a list of industries in foreign countries that use child labor in the production of exports to the United States and elsewhere. Once the Secretary of Labor identifies a foreign industry, the U.S. Treasury Secretary is instructed to prohibit the importation of such products from an identified industry. However, the import ban would not apply if a foreign exporter and his/her corresponding U.S. importer submit to regular child labor inspections, sign certificates of origin, and take other reasonable steps to ensure that the products imported from identified foreign industries are not products of child labor. In addition, the President is urged to seek an agreement with other Governments to secure an international ban on trade in products made by child labor.

But this bill improves upon the earlier version in at least a couple of ways.

First, it builds upon some very promising developments that should make it easier to enforce this law, thus rewarding socially responsible businessmen in the marketplace at the expense of unscrupulous or uncaring exporters and importers.

We should link up and encourage those leaders inside and outside of government in developing countries who want to work with us to expand socially responsible trade that benefits workers and consumers in developing and developed countries alike.

For example, in India face-to-face negotiations between nongovernmental organizations dedicated to the eradication of child labor and carpet exporters have yielded an unprecedented system called the rugmark initiative which offers a credible means for inspecting looms and labeling those hand-knotted carpets which are made for export free of child labor. This means that for the first time U.S. importers with confidence could reasonably be expected to require that their foreign suppliers provided them only with carpets produced and reliably labeled to be free of child labor. Accordingly, our legislation encourages exporters and importers to take the reasonable step of making full use of such inspection and labeling systems as they become available on the ground in foreign countries which host industries identified with egregious child labor problems.

Second, it is entirely fitting and proper that the U.S. contribute financially to positive alternatives for the development of the children freed from the looms and other exploitative working conditions. Fortunately, the International Labor Organization [ILO] and UNICEF, in south Asia especially, are taking the lead in this regard. Our bill authorizes U.S. contributions to support these long overdue efforts.

We stand ready to listen to and respond to disparate points of view about ways in which to further improve this legislation in timely fashion. But let there be no doubt that we are firmly resolved to see it through to enactment. It is clear to us that the specter of the possible loss of access to the lucrative U.S. market via enactment of this legislation is what has prompted traffickers in child labor exports inside and outside of government circles to sit up and take notice. We will not rest until real economic incentives are put in place for foreign governments to seriously enforce their own child labor laws and for exporters and importers to stop enriching themselves from the toil and suffering of defenseless children.

AMSTERDAM,
January 1, 1994.

DEAR FRIENDS: At this time of the year, we want to draw your attention to the many children on this earth who will not, and probably never will, enjoy celebrating holidays. For they are, in a very real sense, little slaves.

Last year we conducted a hearing on child labour and the exploitation of children world-wide. We invited the foremost experts from Asia, Latin America and Africa to testify on this global issue before a panel of Nobel Laureates. The facts they presented were shocking to us all.

Over two hundred million children—equivalent to the total population of Britain, France, Germany and the Netherlands—are forced to work daily like adults. They are robbed of their childhood, of education, of health, of play and the chance of a human future.

Children are a cheap workforce. They always have been. They work in the family, in fields and in factories—even in many parts of Europe to this day, despite a century of legislation banning the practice. International conventions outlaw child labour, and most countries have laws setting a minimum working age, usually about 15 years. But it is one thing to pass a law, another to enforce it.

It is not for the industrialized world to sit in judgement on the developing world or other cultures. In many cases, the child's contribution to the family income is essential to his or her survival. In many more, the occupational skills acquired will ensure future work. But, increasingly, the exploitation of child work is at too high a cost—rendering their future worthless.

That's one reason why 154 countries have signed the UN Convention on the Rights of the Child. It seeks to determine a child's essential rights, which transcend culture and economic need. Along with health, education and a decent standard of living, it cites protection and respect, freedom of expression and movement above all the opportunity to develop to the full each child's personality and talents. Well regulated work training does not preclude those objectives, exploitative employment over long hours in unhealthy conditions does.

For millions of children throughout Asia, Latin America and Africa, many as young as five, life offers nothing but the endless round of toil on the streets and in sweatshops. As poor countries try to pay their debts by chasing export orders, the use and abuse of cheap labour to keep down costs becomes systematic. This in turn stores up trouble for those countries, leaving adult labour unemployed or under-employed, and under-developing the labour potential for the future: the children, burnt out before they are grown. Far from disappearing, the problem seems to be worsening, and is now apparently spreading in Eastern Europe and the countries of the former Soviet Union.

Data here is hard to come by, as with the other intolerable evil of child exploitation: prostitution. We live in a world where millions of children, as young as six or seven, are forced to sell their bodies, often to Western tourists.

Faced with such colossal misery, what can we do? What can the world do? In the first place, the world should come to know, as we had to learn, that it allows so many of its children to live in such miserable and hopeless conditions. To this end, an international organization that focuses and reports on child labour and child exploitation, modelled on Amnesty International, would be of great value. Certainly we, undersigned Nobel Laureates, will support such an organization and any initiative to stop child exploitation.

Secondly, global organizations such as the United Nations, UNICEF, UNESCO, ILO, WHO, the IMF and the World Bank should be encouraged persistently to condemn child exploitation wherever it occurs in the world. So should associations of interest like the European Union and the Commonwealth, and individual nation states. We need to appeal to the humanity of political leaders and opinion formers.

Thirdly, if all else fails, the West could make economic support for countries dependent upon their commitment to the elimination of child exploitation. This could work at every level. Businesses can refuse to deal with companies which exploit children, and should be pressurized to do so by shareholders. Consumers can refuse to buy cheap shoes, garments, carpets and other products prone to child exploitation, unless it is reliably attested that no children were involved in their production.

Respect for the laws of the countries involved and for their people will usually ensure the best for their children. Traders exploiting dependent suppliers, just like tourists exploiting child prostitutes, should be held answerable in their own countries' courts. No-one believes that the world-wide problem of child exploitation can be solved overnight. But with a cooperative, coordinated approach like this there is a glimmer of hope of these children—with your support.

We wish you happy holidays and a joyful, healthy New Year. We hope you will support our aim that all the children enslaved and exploited in the world at this moment will one day be able to go to school, to celebrate holidays and to enjoy many future Happy New Years.

Sidney Altman, Nobel Prize for Chemistry.

Oscar Arias Sanchez, Nobel Prize for Peace.

Kenneth J. Arrow, Nobel Prize for Economics.

Julius Axelrod, Nobel Prize for Physiology or Medicine.

Georg Bednorz, Nobel Prize for Physics.

Baruj Benacerraf, Nobel Prize for Physiology or Medicine.

J. Michael Bishop, Nobel Prize for Physiology or Medicine.

Nicolaas Bloembergen, Nobel Prize for Physics.

Baruch S. Blumberg, Nobel Prize for Physiology or Medicine.

Herbert C. Brown, Nobel Prize for Chemistry.

Adolf Butenandt, Nobel Prize for Chemistry.

Camilo Jose Cela, Nobel Prize for Literature.

Subramanyan Chandrasekhnr, Nobel Prize for Physics.

Stanley Cohen, Nobel Prize for Physiology or Medicine.

Elias J. Corey, Nobel Prize for Chemistry.

Gerard Debreu, Nobel Prize of Economics.

Johann Deisenhofer, Nobel Prize for Chemistry.

Christian Je Duve, Nobel Prize for Physiology or Medicine,

Richard R. Ernst, Nobel Prize for Chemistry.

William A. Fowler, Nobel Prize for Physics.

Kenlchi Fukui, Nobel Prize for Chemistry.

Mikhail S. Gorbachev, Nobel Prize for Peace.

Dudley Herschbach, Nobel Prize for Chemistry.

Gerhard Herzberg, Nobel Prize for Chemistry.

Dorothy Hodgkin, Nobel Prize for Chemistry.

Roald Hoffmann, Nobel Prize for Chemistry.

David H. Hubel, Nobel Prize for Physiology or Medicine.

François Jacob, Nobel Prize for Physiology or Medicine.

Jerome Karle, Nobel Prize for Chemistry.

Henry W. Kendall, Nobel Prize for Physics.

Lawrence R. Klein, Nobel Prize for Economics.

Klaus von Klitzing, Nobel Prize for Physics.

Leon M. Lederman, Nobel Prize for Physics.

Yuan T. Lee, Nobel Prize for Chemistry.

Jean-Marie Lehn, Nobel Prize for Chemistry.

Wassily Leontief, Nobel Prize for Economics.

Rita Levi-Montalcini, Nobel Prize for Physiology or Medicine.

Mairead Maguire, Nobel Prize for Peace.

James Meade, Nobel Prize for Economics.

Simon van der Meer, Nobel Prize for Physics.

Cesar Milstein, Nobel Prize for Physiology or Medicine.

Franco Modigliani, Nobel Prize for Economics.

Nevill Matt, Nobel Prize for Physics.

Joseph E. Murray, Nobel Prize for Physiology or Medicine.

Erwin Neher, Nobel Prize for Physiology or Medicine.

George H. Palade, Nobel Prize for Physiology or Medicine.

Linus Pauling, Nobel Prize for Chemistry (1954), Nobel Prize for Peace (1962).

Adolfo Perez Esguivel, Nobel Prize for Peace.

Max Ferdinand Perutz, Nobel Prize for Chemistry.

Vladimir Prelog, Nobel Prize for Chemistry.

Ilya Prigogine, Nobel Prize for Chemistry.

Burton Richter, Nobel Prize for Physics.

Richard Roberts, Nobel Prize for Physiology or Medicine.

Heinrich Rehrer, Nobel Prize for Physics.

Adbus Salam, Nobel Prize for Physics.

Paul A. Samuelson, Nobel Prize for Economics.

Frederick Sanger, Nobel Prize for Chemistry (1958 and 1980).

Arthur L. Schawlow, Nobel Prize for Physics.

Glenn T. Scaborg, Nobel Prize for Chemistry.

Phillip A. Sharp, Nobel Prize for Physiology or Medicine.

William F. Sharpe, Nobel Prize for Economics.

Kai Sieghahn, Nobel Prize for Physics.

Herbert A. Simon, Nobel Prize for Economics.

Robert M. Solow, Nobel Prize for Economics.

Roger W. Sperry, Nobel Prize for Physiology or Medicine.

Jack Steinberger, Nobel Prize for Physics.

Howard M. Tenin, Nobel Prize for Physiology or Medicine.

Jan Tinbergen, Nobel Prize for Economics.

James Tobin, Nobel Prize for Economics.

Susumu Tonegawn, Nobel Prize for Physiology or Medicine.

Desmond Tutu, Nobel Prize for Peace.

Unicef (James P. Grant), Nobel Prize for Peace.

John Vane, Nobel Prize for Physiology or Medicine.

George Wald, Nobel Prize for Physiology or Medicine.

Lech Walesa, Nobel Prize for Peace.

Maurice Willons, Nobel Prize for Physiology or Medicine.

Since January 12 more Laureates, including Nelson Mandela and Mother Theresa, have joined this initiative that has been launched by the 90-year-old Laureate Jan Tinbergen.

HEALTH CARE REFORM VOTES—EDUCATION AND LABOR COMMITTEE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. Michel. Mr. Speaker, I submit for the RECORD rollcall votes on health care reform which took place in the Education and Labor Committee on June 22, 1994.

COMMITTEE ON EDUCATION AND LABOR

Full Committee

HEALTH CARE MARKUP, JUNE 22, 1994

The following recorded votes were taken on June 22, 1994 in the Committee on Education and Labor during full Committee consideration of Chairman Ford's mark, H.R. 3600, Health Security Act of 1994:

1. An amendment by Rep. Unsoeld to establish and authorize funding for another new national training program for Community Health Advisors, in order to improve and assist access to health care in low-income and rural areas. The amendment was agreed to 27-15-1.

DEMOCRATS

Mr. Ford, yea.
Mr. Clay, yea by proxy.
Mr. Miller (CA), yea by proxy.
Mr. Murphy, yea by proxy.
Mr. Kildee, yea.
Mr. Williams, yea.
Mr. Martinez, yea by proxy.
Mr. Owens, yea by proxy.
Mr. Sawyer, yea by proxy.
Mr. Payne, yea by proxy.
Mrs. Unsoeld, yea.
Mrs. Mink, yea by proxy.
Mr. Andrews, not voting.
Mr. Reed, yea.
Mr. Roemer, yea.
Mr. Engel, yea by proxy.
Mr. Becerra, yea.
Mr. Scott, yea by proxy.
Mr. Green, yea by proxy.
Ms. Woolsey, yea by proxy.
Mr. Romero-Barcelo, yea.
Mr. Klink, yea.
Ms. English, yea by proxy.
Mr. Strickland, yea by proxy.
Mr. De Lugo, yea.
Mr. Faleomavaega, yea by proxy.
Mr. Baesler, yea.
Mr. Underwood, yea by proxy.

REPUBLICANS

Mr. Goodling, nay.
Mr. Petri, nay by proxy.
Mrs. Roukema, nay.
Mr. Gunderson, nay.
Mr. Armey, nay by proxy.
Mr. Fawell, nay by proxy.
Mr. Ballenger, nay.
Ms. Molinari, nay by proxy.
Mr. Barrett, nay.
Mr. Boehner, nay.
Mr. Cunningham, nay by proxy.
Mr. Hoestra, nay by proxy.
Mr. McKeon, nay.
Mr. Miller (FL), nay.
Mr. Castle, nay.

2. An amendment by Rep. McKeon to strike Subtitle G of the Chairman's mark which authorizes a comprhensive school health education program, school-based health services through school clinics, and a federal loan program to pay for capital costs of school based health clinics. The amendment was defeated 13-29-1.

DEMOCRATS

Mr. Ford, nay.
Mr. Clay, nay by proxy.
Mr. Miller (CA), nay by proxy.
Mr. Murphy, nay by proxy.
Mr. Kildee, nay.
Mr. Martinez, nay.
Mr. Owens, nay by proxy.
Mr. Sawyer, nay by proxy.
Mr. Payne, nay by proxy.
Mrs. Unsoeld, nay.
Mrs. Mink, nay by proxy.
Mr. Andrews, nay by proxy.
Mr. Reed, nay.
Mr. Roemer, nay.
Mr. Engel, nay by proxy.
Mr. Becerra, nay.
Mr. Scott, nay by proxy.
Mr. Green, nay.
Ms. Woolsey, nay by proxy.
Mr. Romero-Barcelo, nay.
Mr. Klink, nay.
Ms. English, nay by proxy.
Mr. Strickland, nay.
Mr. De Lugo, nay.
Mr. Faleomavaega, nay by proxy.
Mr. Baesler, nay.
Mr. Underwood, nay by proxy.

REPUBLICANS

Mr. Goodling, yea.
Mr. Petri, yea by proxy.
Mrs. Roukema, yea.
Mr. Gunderson, yea.
Mr. Armey, yea by proxy.
Mr. Fawell, yea by proxy.
Mr. Ballenger, yea.
Ms. Molinari, nay.
Mr. Barrett, yea.
Mr. Boehner, yea.
Mr. Cunningham, yea by proxy.
Mr. Hoekstra, yea by proxy.
Mr. McKeon, yea.
Mr. Miller (FL), yea.
Mr. Castle, present, not voting.

3. An amendment by Rep. Boehner relating to supplemental health plans that would allow individuals to obtain coverage for services that may already be included in the comprehensive benefits package. The amendment was defeated 16-24-3.

DEMOCRATS

Mr. Ford, nay.
Mr. Clay, nay by proxy.
Mr. Miller (CA), nay by proxy.
Mr. Murphy, nay by proxy.
Mr. Kildee, present, not voting.
Mr. Williams, present, not voting.
Mr. Martinez, nay.
Mr. Owens, nay by proxy.
Mr. Sawyer, nay by proxy.
Mr. Payne, nay by proxy.
Mrs. Unsoeld, nay.
Mrs. Mink, nay by proxy.
Mr. Andrews, nay.
Mr. Reed, nay.
Mr. Roemer, present, not voting.
Mr. Engel, nay by proxy.
Mr. Becerra, nay by proxy.
Mr. Scott, nay by proxy.
Mr. Green, nay.
Ms. Woolsey, nay.
Mr. Romero-Barcelo, nay.
Mr. Klink, nay.
Ms. English, nay by proxy.
Mr. Strickland, nay.
Mr. De Lugo, nay by proxy.
Mr. Faleomavaega, nay by proxy.
Mr. Baesler, yea.
Mr. Underwood, nay by proxy.

REPUBLICANS

Mr. Goodling, yea.
Mr. Petri, yea by proxy.
Mrs. Roukema, yea.
Mr. Gunderson, yea by proxy.
Mr. Armey, yea by proxy.
Mr. Fawell, yea.
Mr. Ballenger, yea.
Ms. Molinari, yea.
Mr. Barrett, yea.
Mr. Boehner, yea.
Mr. Cunningham, yea by proxy.
Mr. Hoekstra, yea by proxy.
Mr. McKeon, yea.
Mr. Miller (FL), yea.
Mr. Castle, yea.

4. An amendment by Rep. Roukema to provide that no WIC funds may be made available to provide benefits to individuals not lawfully in the United States. The amendment was defeated 17-26.

DEMOCRATS

Mr. Ford, nay.
Mr. Clay, nay.
Mr. Miller (CA), nay.
Mr. Murphy, nay.
Mr. Kildee, nay.
Mr. Williams, nay.
Mr. Martinez, nay by proxy.
Mr. Owens, nay.
Mr. Sawyer, nay.
Mr. Payne, nay by proxy.
Mrs. Unsoeld, nay by proxy.
Mrs. Mink, nay.
Mr. Andrews, yea.
Mr. Reed, nay.
Mr. Roemer, yea by proxy.
Mr. Engel, nay by proxy.
Mr. Becerra, nay.
Mr. Scott, nay by proxy.
Mr. Green, nay.
Ms. Woolsey, nay.
Mr. Romero-Barcelo, nay by proxy.
Mr. Klink, nay.
Ms. English, nay by proxy.
Mr. Strickland, nay.
Mr. de Lugo, nay.
Mr. Faleomavaega, nay by proxy.
Mr. Baesler, nay.
Mr. Underwood, nay by proxy.

REPUBLICANS

Mr. Goodling, yea.
Mr. Petri, yea.
Mrs. Roukema, yea.
Mr. Gunderson, yea by proxy.
Mr. Armey, yea by proxy.
Mr. Fawell, yea.
Mr. Ballenger, yea.
Ms. Molinari, yea.
Mr. Barrett, yea by proxy.
Mr. Boehner, yea by proxy.
Mr. Cunningham, yea by proxy.
Mr. Hoekstra, yea by proxy.
Mr. McKeon, yea by proxy.
Mr. Miller (FL), yea.
Mr. Castle, yea.

5. An amendment by Rep. Ballenger to strike provisions that require a health care employer who replaces another health care employer through merger, consolidation, acquisition or contract, to provide employees

who would otherwise be displaced a right to continued employment. The amendment was defeated 15-27-1.

DEMOCRATS

Mr. Ford, nay.
Mr. Clay, nay.
Mr. Miller (CA), nay by proxy.
Mr. Murphy, nay by proxy.
Mr. Kildee, nay.
Mr. Williams, nay
Mr. Martinez, nay by proxy.
Mr. Owens, nay by proxy..
Mr. Sawyer, nay.
Mr. Payne, nay by proxy.
Mrs. Unsoeld, nay.
Mrs. Mink, nay.
Mr. Andrews, nay.
Mr. Reed, nay.
Mr. Roemer, nay by proxy.
Mr. Engel, nay by proxy.
Mr. Becerra, nay.
Mr. Scott, nay by proxy.
Mr. Green, nay.
Ms. Woolsey, nay.
Mr. Romero-Barcelo, nay by proxy.
Mr. Klink, nay.
Ms. English, nay by proxy.
Mr. Strickland, nay.
Mr. de Lugo, nay.
Mr. Faleomavaega, nay by proxy.
Mr. Baesler, yea.
Mr. Underwood, nay by proxy.

REPUBLICANS

Mr. Goodling, yea by proxy.
Mr. Petri, yea by proxy.
Mrs. Roukema, yea.
Mr. Gunderson, yea.
Mr. Armey, yea by proxy.
Mr. Fawell, yea.
Mr. Ballenger, yea.
Ms. Molinari, yea.
Mr. Barrett, yea by proxy.
Mr. Boehner, yea by proxy.
Mr. Cunningham, yea by proxy.
Mr. Hoekstra, yea by proxy.
Mr. McKeon, yea by proxy.
Mr. Miller (FL), yea by proxy.
Mr. Castle, yea by proxy.

6. An amendment by Rep. Ballenger to strike the provision that would require a health care employer to recognize the exclusive bargaining agent and to assume the collective bargaining agreement of a predecessor employer if a majority of its employees were previously covered by the agreement and if there has been no substantial change in operations. The amendment would also strike the provision which assumes joint employer status whenever employees of a contractor to a health care employer work on the premises and are functionally integrated with the operations of that employer. The amendment was defeated 14-27-2.

DEMOCRATS

Mr. Ford, nay.
Mr. Clay, nay by proxy.
Mr. Miller (CA), nay by proxy.
Mr. Murphy, nay by proxy.
Mr. Kildee, nay.
Mr. Williams, nay.
Mr. Martinez, nay by proxy.
Mr. Owens, nay by proxy.
Mr. Sawyer, nay.
Mr. Payne, nay by proxy.
Mrs. Unsoeld, nay.
Mrs. Mink, nay.
Mr. Andrews, nay.
Mr. Reed, nay.
Mr. Roemer, nay by proxy.
Mr. Engel, nay by proxy.
Mr. Becerra, nay.
Mr. Scott, nay by proxy.
Mr. Green, nay by proxy.
Ms. Woolsey, nay.
Mr. Romero-Barcelo, nay by proxy.
Mr. Klink, nay.
Ms. English, nay by proxy.
Mr. Strickland, nay.
Mr. de Lugo, nay.
Mr. Faleomavaega, nay by proxy.
Mr. Baesler, not voting.
Mr. Underwood, nay by proxy.

REPUBLICANS

Mr. Goodling, yea.
Mr. Petri, yea by proxy.
Mrs. Roukema, not voting.
Mr. Gunderson, yea.
Mr. Armey, yea by proxy.
Mr. Fawell, yea.
Mr. Ballenger, yea.
Ms. Molinari, yea.
Mr. Barrett, yea by proxy.
Mr. Boehner, yea by proxy.
Mr. Cunningham, yea by proxy.
Mr. Hoekstra, yea by proxy.
Mr. McKeon, yea by proxy.
Mr. Miller (FL), yea by proxy.
Mr. Castle, yea by proxy.

7. An amendment by Rep. Fawell to strike a provision which requires the payment of Davis-Bacon wages on construction or renovation projects financed under H.R. 3600 through loans or loan guarantees from the federal government. The amendment was defeated 14-17-2.

DEMOCRATS

Mr. Ford, nay.
Mr. Clay, nay by proxy.
Mr. Miller (CA), nay by proxy.
Mr. Murphy, nay by proxy.
Mr. Kildee, nay.
Mr. Williams, nay.
Mr. Martinez, nay by proxy.
Mr. Owens, nay by proxy.
Mr. Sawyer, nay.
Mr. Payne, nay by proxy.
Mrs. Unsoeld, nay by proxy.
Mrs. Mink, nay.
Mr. Andrews, nay.
Mr. Reed, nay.
Mr. Roemer, nay by proxy.
Mr. Engel, nay by proxy.
Mr. Becerra, nay by proxy.
Mr. Scott, nay by proxy.
Mr. Green, nay by proxy.
Ms. Woolsey, nay by proxy.
Mr. Romero-Barcelo, nay by proxy.
Mr. Klink, nay.
Ms. English, nay by proxy.
Mr. Strickland, nay.
Mr. de Lugo, nay by proxy.
Mr. Faleomavaega, nay by proxy.
Mr. Baesler, not voting.
Mr. Underwood, nay by proxy.

REPUBLICANS

Mr. Goodling, yea.
Mr. Petri, yea by proxy.
Mrs. Roukema, not voting.
Mr. Gunderson, yea.
Mr. Armey, yea by proxy.
Mr. Fawell, yea.
Mr. Ballenger, yea.
Ms. Molinari, yea.
Mr. Barrett, yea by proxy.
Mr. Boehner, yea by proxy.
Mr. Cunningham, yea by proxy.
Mr. Hoekstra, yea by proxy.
Mr. McKeon, yea by proxy.
Mr. Miller (FL), yea by proxy.
Mr. Castle, yea by proxy.

8. An amendment by Rep. Gunderson to strike that section of the Act establishing two new and duplicative skills upgrading and job retraining programs for individuals in the health care field impacted by health care reform. The amendment was defeated 14-27-2.

DEMOCRATS

Mr. Ford, nay by proxy.
Mr. Clay, nay by proxy.
Mr. Miller (CA), nay by proxy.
Mr. Murphy, nay by proxy.
Mr. Kildee, nay.
Mr. Williams, nay.
Mr. Martinez, nay by proxy.
Mr. Owens, nay by proxy.
Mr. Sawyer, nay.
Mr. Payne, nay by proxy.
Mrs. Unsoeld, nay by proxy.
Mrs. Mink, nay.
Mr. Andrews, nay.
Mr. Reed, nay by proxy.
Mr. Roemer, nay by proxy.
Mr. Engel, nay by proxy.
Mr. Becerra, nay by proxy.
Mr. Scott, nay by proxy.
Mr. Green, nay by proxy.
Ms. Woolsey, nay by proxy.
Mr. Romero-Barcelo, nay by proxy.
Mr. Klink, nay by proxy.
Ms. English, nay by proxy.
Mr. Strickland, nay.
Mr. de Lugo, nay by proxy.
Mr. Faleomavaega, nay by proxy.
Mr. Baesler, not voting.
Mr. Underwood, nay by proxy.

REPUBLICANS

Mr. Goodling, yea by proxy.
Mr. Petri, yea by proxy.
Mrs. Roukema, not voting.
Mr. Gunderson, Yea.
Mr. Armey, yea by proxy.
Mr. Fawell, yea.
Mr. Ballenger, yea by proxy.
Ms. Molinari, yea.
Mr. Barrett, yea by proxy.
Mr. Boehner, yea by proxy.
Mr. Cunningham, yea by proxy.
Mr. Hoekstra, yea by proxy.
Mr. McKeon, yea by proxy.
Mr. Miller (FL), yea by proxy.
Mr. Castle, yea.

9. An amendment by Rep. Fawell to strike the provisions of Title X that would impose new federal rules on where and by whom medical care that is paid by workers' compensation policies will be provided. The amendment was defeated 16-27.

DEMOCRATS

Mr. Ford, nay.
Mr. Clay, nay.
Mr. Miller (CA), nay by proxy.
Mr. Murphy, nay.
Mr. Kildee, nay.
Mr. Williams, nay.
Mr. Martinez, nay.
Mr. Owens, nay by proxy.
Mr. Sawyer, nay.
Mr. Payne, nay by proxy.
Mrs. Unsoeld, nay.
Mrs. Mink, nay.
Mr. Andrews, nay.
Mr. Reed, nay.
Mr. Roemer, nay.
Mr. Engel, nay by proxy.
Mr. Becerra, nay by proxy.
Mr. Scott, nay by proxy.
Mr. Green, nay.
Ms. Woolsey, nay.
Mr. Romero-Barceló, nay by proxy.
Mr. Klink, nay.
Ms. English, nay by proxy.
Mr. Strickland, nay by proxy.
Mr. de Lugo, nay.
Mr. Faleomavaega, nay by proxy.
Mr. Baesler, yea.
Mr. Underwood, nay by proxy.

REPUBLICANS

Mr. Goodling, yea.
Mr. Petri, yea by proxy.

Mrs. Roukema, yea.
Mr. Gunderson, yea.
Mr. Armey, yea by proxy.
Mr. Fawell, yea.
Mr. Ballenger, yea.
Ms. Molinari, yea by proxy.
Mr. Barrett, yea.
Mr. Boehner, yea by proxy.
Mr. Cunningham, yea by proxy.
Mr. Hoekstra, yea by proxy.
Mr. McKeon, yea.
Mr. Miller (FL), yea.
Mr. Castle, yea.

10. An amendment by Rep. Fawell to preserve uniformity of benefits and ERISA plan administration. This amendment would restore in several respects the type of uniformity that is currently served by ERISA preemption which is eliminated by certain provisions under H.R. 3600 as contained in the Chairman's mark. In particular, this amendment would (1) eliminate the provision which would allow states to require benefits in excess of the comprehensive benefit package for corporate and regional alliances, (2) eliminate the requirement that fee-for-service plans under corporate alliances use the negotiated fee schedules applicable to regional alliances, (3) preserve current ERISA preemption rules during the transitional insurance reform period, and (4) eliminate the application to corporate alliances of the single-payer State-wide and regional alliance options. Under the Chairman's mark, corporate alliances are redefined as "experience rated plans" and regional alliances are redefined as "consumer purchasing cooperatives" and "community rating areas." The amendment was defeated 15–27–1.

DEMOCRATS

Mr. Ford, nay.
Mr. Clay, nay.
Mr. Miller (CA), nay.
Mr. Murphy, nay.
Mr. Kildee, nay.
Mr. Williams, nay.
Mr. Martinez, nay.
Mr. Owens, nay.
Mr. Sawyer, nay.
Mr. Payne, nay by proxy.
Mrs. Unsoeld, nay.
Mrs. Mink, nay.
Mr. Andrews, nay by proxy.
Mr. Reed, nay.
Mr. Roemer, nay.
Mr. Engel, nay.
Mr. Becerra, nay by proxy.
Mr. Scott, nay by proxy.
Mr. Green, nay.
Ms. Woolsey, nay by proxy.
Mr. Romero-Barceló, nay.
Mr. Klink, nay.
Ms. English, nay.
Mr. Strickland, nay.
Mr. de Lugo, nay.
Mr. Faleomavaega, nay by proxy.
Mr. Baesler, present, not voting.
Mr. Underwood, nay by proxy.

REPUBLICANS

Mr. Goodling, yea.
Mr. Petri, yea by proxy.
Mrs. Roukema, yea.
Mr. Gunderson, yea.
Mr. Armey, yea by proxy.
Mr. Fawell, yea.
Mr. Ballenger, yea.
Ms. Molinari, yea by proxy.
Mr. Barrett, yea by proxy.
Mr. Boehner, yea.
Mr. Cunningham, yea by proxy.
Mr. Hoekstra, yea by proxy.
Mr. McKeon, yea.
Mr. Miller (FL), yea.
Mr. Castle, yea.

11. An amendment by Rep. Fawell to keep health care costs from exploding by striking malpractice/tort-like damages and to delete preferential treatment of multiemployer plans. The amendment was defeated 15–27–1.

DEMOCRATS

Mr. Ford, nay.
Mr. Clay, nay.
Mr. Miller (CA), nay.
Mr. Muprhy, nay.
Mr. Kildee, nay.
Mr. Williams, nay.
Mr. Martinez, nay.
Mr. Owens, nay.
Mr. Sawyer, nay.
Mr. Payne, nay by proxy.
Mrs. Unsoeld, nay.
Mrs. Mink, nay.
Mr. Andrews, Not Voting.
Mr. Reed, nay.
Mr. Roemer, nay.
Mr. Engel, nay.
Mr. Becerra, nay by proxy.
Mr. Scott, nay by proxy.
Mr. Green, nay.
Ms. Woolsey, nay by proxy.
Mr. Romero-Barceló, nay.
Mr. Klink, nay.
Ms. English, nay.
Mr. Strickland, nay.
Mr. de Lugo, nay.
Mr. Faleomavaega, nay by proxy.
Mr. Baesler, nay.
Mr. Underwood, nay by proxy.

REPUBLICANS

Mr. Goodling, yea.
Mr. Petri, yea by proxy.
Mrs. Roukema, yea.
Mr. Gunderson, yea.
Mr. Armey, yea by proxy.
Mr. Fawell, yea.
Mr. Ballenger, yea.
Ms. Molinari, yea by proxy.
Mr. Barrett, yea by proxy.
Mr. Boehner, yea by proxy.
Mr. Cunningham, yea by proxy.
Mr. Hoekstra, yea by proxy.
Mr. McKeon, yea.
Mr. Miller (FL), yea.
Mr. Castle, yea.

12. An amendment by Rep. Gunderson to provide employers with 50 or more employees with the opportunity to choose between community-rated health plans (i.e. "Regional Alliances") and experience-rated health plans (i.e. "Corporate Alliances"), including self-insured health plans. In addition, the amendment would require the Secretary of Labor to develop an appropriate risk adjustment program for all self-insured employers in the event there is significant adverse risk selection against community-rated health plans. The amendment was defeated 19–23–1.

DEMOCRATS

Mr. Ford, nay.
Mr. Clay, nay by proxy.
Mr. Miller (CA), nay by proxy.
Mr. Murphy, present, not voting.
Mr. Kildee, nay.
Mr. Williams, nay.
Mr. Martinez, nay.
Mr. Owens, nay by proxy.
Mr. Sawyer, nay.
Mr. Payne, nay by proxy.
Mrs. Unsoeld, nay.
Mrs. Mink, nay.
Mr. Andrews, yea.
Mr. Reed, nay.
Mr. Roemer, nay.
Mr. Engel, nay.
Mr. Becerra, nay by proxy.
Mr. Scott, nay.
Mr. Green, yea.
Ms. Woolsey, nay.
Mr. Romer-Barceló, nay.
Mr. Klink, nay.
Ms. English, nay by proxy.
Mr. Strickland, yea.
Mr. de Lugo, nay.
Mr. Faleomavaega, nay by proxy.
Mr. Baesler, yea.
Mr. Underwood, nay, by proxy.

REPUBLICANS

Mr. Goodling, yea.
Mr. Petri, yea.
Mrs. Roukema, yea.
Mr. Gunderson, yea.
Mr. Armey, yea by proxy.
Mr. Fawell, yea.
Mr. Ballenger, yea by proxy.
Ms. Molinari, yea by proxy.
Mr. Barrett, yea.
Mr. Boehner, yea by proxy.
Mr. Cunningham, yea.
Mr. Hoekstra, yea.
Mr. McKeon, yea by proxy.
Mr. Miller (FL), yea.
Mr. Castle, yea.

HEALTH CARE REFORM VOTES, WAYS AND MEANS COMMITTEE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. MICHEL. Mr. Speaker, I submit for the RECORD the rollcall votes on health care reform which took place in the Ways and Means Committee on June 29, 1994.

The following recorded votes were taken on June 29, 1994, in the Committee on Ways and Means during consideration of Acting Chairman Gibbons' substitute proposal for H.R. 3600, The Health Security Act of 1994:

An "en bloc" amendment offered by Mr. Rostenkowski, Mr. Pickle, Mr. Rangel, Mr. Cardin, Mr. Payne, Mr. Jefferson, and Mr. Brewster consisting of several members proposals. The amendment reduced the 100% health insurance deduction for self-employed individuals (to be phased in by 1998) in the Chairman's Mark to an 80% deduction. It used that revenue to (a) preserve the tax-exemp status of certain nursing facilities accepting a high proportion of Medicaid patients, (b) a special tax deduction for one insurance company, Group Health Insurance, (c) a tax-exemption for some unidentified "high-risk health insurance pools," (d) tax incentives for providers in medically underserved areas (similar to those in the Clinton health plan), (e) special "capital financial assistance" for "certain academic health centers," and (f) a new "Undergraduate Medical Education Trust Fund." The spending proposals passed by voice vote. A separate vote was requested on the funding item, the reduction in the health insurance deduction for the self-employed. Passed 22–15.

DEMOCRATS

Mr. Gibbons, yea.
Mr. Rostenkowski, yea.
Mr. Pickle, yea.
Mr. Rangel, yea.
Mr. Stark, yea.
Mr. Jacobs
Mr. Ford of Tennessee, yea.
Mr. Matsui, yea.
Mrs. Kennelly, yea by proxy.

Mr. Coyne, yea.
Mr. Andrews of Texas, yea.
Mr. Levin, yea.
Mr. Cardin, yea.
Mr. McDermott, yea.
Mr. Kleczka, yea.
Mr. Lewis of Georgia, yea.
Mr. Payne of Virginia, yea.
Mr. Neal of Massachusetts, yea.
Mr. Hoagland, yea.
Mr. McNulty, yea.
Mr. Kopetski, nay.
Mr. Jefferson, yea.
Mr. Brewster, yea.
Mr. Reynolds, yea by proxy.

REPUBLICANS

Mr. Archer, nay.
Mr. Crane, nay.
Mr. Thomas of California, nay.
Mr. Shaw, nay.
Mr. Sundquist, nay.
Mrs. Johnson of Connecticut, nay.
Mr. Bunning, nay.
Mr. Grandy, nay.
Mr. Hougton, nay.
Mr. Herger, nay.
Mr. McCrery, nay.
Mr. Hancock, nay.
Mr. Santorum, nay.
Mr. Camp, nay.

The amendment offered by Mr. Andrews (along with Mr. Ford, Mr. Jacobs, Mr. Lewis & Mr. McDermott) to raise the cigarette tax by $1.25 per pack with similar increases for other tobacco products. The additional revenue funds (a) a tobacco farmer relief fund, (b) various public health initiatives, (c) additional long-term care, and (d) additional medicare payments for certain tobacco related illnesses. Defeated 31–7.

DEMOCRATS

Mr. Gibbons, nay.
Mr. Rostenkowski, nay.
Mr. Pickle, nay.
Mr. Rangel, nay.
Mr. Stark, nay.
Mr. Jacobs, yea.
Mr. Ford of Tennessee, yea.
Mr. Matsui, nay.
Mrs. Kennelly, nay.
Mr. Coyne, nay.
Mr. Andrews of Texas, yea.
Mr. Levin, nay.
Mr. Cardin, yea.
Mr. McDermott, yea.
Mr. Kleczka, nay.
Mr. Lewis of Georgia, yea.
Mr. Payne of Virginia, nay.
Mr. Neal of Massachusetts, nay.
Mr. Hoagland, nay.
Mr. McNulty, nay.
Mr. Kopetski, nay.
Mr. Jefferson, nay.
Mr. Brewster, nay.
Mr. Reynolds, nay by proxy.

REPUBLICANS

Mr. Archer, nay.
Mr. Crane, nay.
Mr. Thomas of California, nay.
Mr. Shaw, nay.
Mr. Sundquist, nay.
Mrs. Johnson of Connecticut, yea.
Mr. Bunning, nay.
Mr. Grandy, nay.
Mr. Houghton, nay by proxy.
Mr. Herger, nay.
Mr. McCrery, nay.
Mr. Hancock, nay.
Mr. Santorum, nay.
Mr. Camp, nay.

The amendment offered by Mr. Bunning to delete the 45 cents per pack cigarette tax and other related tobacco taxes in the Chairman's Mark. Defeated 26–12.

DEMOCRATS

Mr. Gibbons, nay.
Mr. Rostenkowski, nay.
Mr. Pickle, nay.
Mr. Rangel, nay.
Mr. Stark, nay.
Mr. Jacobs, nay.
Mr. Ford of Tennessee, nay.
Mr. Matsui, nay.
Mrs. Kennelly, nay.
Mr. Coyne, nay.
Mr. Andrews of Texas, nay.
Mr. Levin, nay.
Mr. Cardin, nay.
Mr. McDermott, nay.
Mr. Kleczka, nay.
Mr. Lewis of Georgia, nay.
Mr. Payne of Virginia, yea.
Mr. Neal of Massachusetts, nay.
Mr. Hoagland, nay.
Mr. McNulty, nay.
Mr. Kopetski, nay.
Mr. Jefferson, nay.
Mr. Brewster, nay.
Mr. Reynolds, nay by proxy.

REPUBLICANS

Mr. Archer, yea.
Mr. Crane, yea.
Mr. Thomas of California, yea.
Mr. Shaw, nay.
Mr. Sundquist, yea.
Mrs. Johnson of Connecticut, nay.
Mr. Bunning, yea by proxy.
Mr. Grandy, yea.
Mr. Houghton, nay.
Mr. Herger, yea.
Mr. McCrery, yea.
Mr. Hancock, yea.
Mr. Santorum, yea.
Mr. Camp, yea.

The amendment offered by Mr. Grandy to provide a permanent 100% deduction for health insurance premiums paid by self-employed individuals, retroactive to January 1, 1994. The amendment was funded by taxing the income portion of workers' compensation payments similar to the current law treatment of unemployment compensation and disability payments. Defeated 25–13.

DEMOCRATS

Mr. Gibbons, nay.
Mr. Rostenkowski, nay.
Mr. Pickle, nay.
Mr. Rangel, nay.
Mr. Stark, nay.
Mr. Jacobs, nay by proxy.
Mr. Ford of Tennessee, nay by proxy.
Mr. Matsui, nay.
Mrs. Kennelly, nay.
Mr. Coyne, nay.
Mr. Andrews of Texas, nay.
Mr. Levin, nay.
Mr. Cardin, nay.
Mr. McDermott, nay.
Mr. Kleczka, nay by proxy.
Mr. Lewis of Georgia, nay by proxy.
Mr. Payne of Virginia, nay.
Mr. Neal of (Mass), nay.
Mr. Hoagland, nay.
Mr. McNulty, yea.
Mr. Kopetski, nay.
Mr. Jefferson, nay.
Mr. Brewster, yea.
Mr. Reynolds, nay by proxy.

REPUBLICANS

Mr. Archer, yea.
Mr. Crane, yea.
Mr. Thomas of California, yea.
Mr. Shaw, yea.
Mr. Sundquist, yea.
Mr. Johnson of Connecticut, yea.
Mr. Bunning, yea.
Mr. Grandy, yea.
Mr. Houghton, yea.
Mr. Herger, nay.
Mr. McCrery, nay.
Mr. Hancock, nay.
Mr. Santorum, yea.
Mr. Camp, "yea."

An amendment offered by Mr. Archer to provide for medical malpractice reform. A 100 percent tax on medical malpractice recoveries that violate medical malpractice reform guidelines (i.e., medical malpractice suits not complying with the dispute resolution requirements in the amendment would be imposed on non-economic damages in excess of $350,000 and certain other types of punitive damages) and a refundable tax credit to persons paying such recoveries. Defeated 23–15.

DEMOCRATS

Mr. Gibbons, nay.
Mr. Rostenkowski, nay by proxy.
Mr. Pickle, nay.
Mr. Rangel, nay.
Mr. Stark, nay.
Mr. Jacobs, nay.
Mr. Ford of Tennessee, nay.
Mr. Matsui, nay.
Mrs. Kennelly, nay by proxy.
Mr. Coyne, nay.
Mr. Andrews of Texas, nay.
Mr. Levin, nay.
Mr. Cardin, nay.
Mr. McDermott, nay.
Mr. Kleczka, nay.
Mr. Lewis of Georgia, nay.
Mr. Payne of Virginia, nay.
Mr. Neal of Massachusetts, nay.
Mr. Hoagland, nay.
Mr. McNulty, yea.
Mr. Kopetski, nay.
Mr. Jefferson, nay.
Mr. Brewster, nay.
Mr. Reynolds, nay by proxy.

REPUBLICANS

Mr. Archer, yea.
Mr. Crane, yea by proxy.
Mr. Thomas of California, yea.
Mr. Shaw, yea.
Mr. Sundquist, yea.
Mrs. Johnson of Connecticut, yea.
Mr. Bunning, yea.
Mr. Grandy, yea.
Mr. Houghton, yea.
Mr. Herger, yea.
Mr. McCrery, yea.
Mr. Hancock, yea.
Mr. Santorum, yea.
Mr. Camp, yea by proxy.

HEALTH CARE REFORM VOTES

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. MICHEL. Mr. Speaker, I submit for the RECORD the rollcall votes on health care reform which took place in the Education and Labor Committee on June 23, 1994.

COMMITTEE ON EDUCATION AND LABOR

Full Committee

HEALTH CARE MARKUP, JUNE 23, 1994

The following recorded votes were taken on June 23, 1994, in the Committee on Education and Labor during full Committee consideration of Chairman Ford's mark, H.R. 3600, Health Security Act of 1994, and H.R. 3960, American Health Security Act:

1. An amendment by Representative Klink to exclude abortion services from the comprehensive benefits package, unless such

services are necessary are to save the life of the mother or are provided in connection with cases of forcible rape or incest. The amendment was defeated 17–25–1.

DEMOCRATS

Mr. Ford, nay.
Mr. Clay, nay.
Mr. Miller (CA), nay by proxy.
Mr. Murphy, yea.
Mr. Kildee, yea.
Mr. Williams, nay.
Mr. Martinez, nay.
Mr. Owens, nay by proxy.
Mr. Sawyer, nay.
Mr. Payne, nay.
Mrs. Unsoeld, nay.
Mrs. Mink, nay.
Mr. Andrews, nay.
Mr. Reed, nay by proxy.
Mr. Roemer, yea.
Mr. Engel, nay.
Mr. Becerra, nay.
Mr. Scott, nay.
Mr. Green, nay.
Ms. Woolsey, nay.
Mr. Romero-Barceló, nay.
Mr. Klink, yea.
Ms. English, nay.
Mr. Strickland, nay.
Mr. de Lugo, nay.
Mr. Faleomavaega, nay by proxy.
Mr. Baesler, yea.
Mr. Underwood, yea.

REPUBLICANS

Mr. Goodling, yea.
Mr. Petri, yea.
Mrs. Roukema, nay.
Mr. Gunderson, present, not voting.
Mr. Armey, yea by proxy.
Mr. Fawell, yea.
Mr. Ballenger, yea.
Ms. Molinari, nay.
Mr. Barrett, yea.
Mr. Boehner, yea by proxy.
Mr. Cunningham, yea by proxy.
Mr. Hoekstra, yea by proxy.
Mr. McKeon, yea.
Mr. Miller (FL), yea.
Mr. Castle, nay.

2. An amendment by Representative Klink to preserve States' constitutional authority to restrict abortions. The amendment was defeated 20–23.

DEMOCRATS

Mr. Ford, nay by proxy.
Mr. Clay, nay.
Mr. Miller (CA), nay by proxy.
Mr. Murphy, yea.
Mr. Kildee, yea.
Mr. Williams, nay.
Mr. Martinez, nay.
Mr. Owens, nay by proxy.
Mr. Sawyer, nay.
Mr. Payne, nay by proxy.
Mrs. Unsoeld, nay.
Mrs. Mink, nay.
Mr. Andrews, nay.
Mr. Reed, nay by proxy.
Mr. Roemer, yea.
Mr. Engel, nay.
Mr. Becerra, nay by proxy.
Mr. Scott, nay by proxy.
Mr. Green, nay.
Ms. Woolsey, nay.
Mr. Romero-Barceló, nay.
Mr. Klink, yea.
Ms. English, nay.
Mr. Strickland, yea.
Mr. de Lugo, nay.
Mr. Faleomavaega, nay by proxy.
Mr. Baesler, yea.
Mr. Underwood, yea.

REPUBLICANS

Mr. Goodling, yea.
Mr. Petri, yea.
Mrs. Roukema, nay.
Mr. Gunderson, yea.
Mr. Armey, yea by proxy.
Mr. Fawell, yea.
Mr. Ballenger, yea.
Ms. Molinari, nay.
Mr. Barrett, yea.
Mr. Boehner, yea by proxy.
Mr. Cunningham, yea by proxy.
Mr. Hoekstra, yea by proxy.
Mr. McKeon, yea.
Mr. Miller (FL), yea.
Mr. Castle, yea.

3. An amendment by Representative Roemer to allow employers with at least 500, but no more than 1,000 employees to elect to choose between community-rated health plans (i.e. "Regional Alliances") and experienced-rated health plans (i.e. "Corporate Alliances"), including self-insured health plans. The amendment was defeated 18–24–1.

DEMOCRATS

Mr. Ford, nay.
Mr. Clay, nay by proxy.
Mr. Miller (CA), nay.
Mr. Murphy, yea.
Mr. Kildee, nay.
Mr. Williams, nay.
Mr. Martinez, nay.
Mr. Owens, nay.
Mr. Sawyer, nay.
Mr. Payne, nay.
Mrs. Unsoeld, nay.
Mrs. Mink, nay.
Mr. Andrews, yea.
Mr. Reed, nay.
Mr. Roemer, yea.
Mr. Engel, nay.
Mr. Becerra, nay.
Mr. Scott, nay.
Mr. Green, yea.
Ms. Woolsey, nay.
Mr. Romero-Barceló, nay.
Mr. Klink, nay by proxy.
Ms. English, nay.
Mr. Strickland, nay.
Mr. de Lugo, nay.
Mr. Faleomavaega, nay by proxy.
Mr. Baesler, yea.
Mr. Underwood, nay.

REPUBLICANS

Mr. Goodling, yea.
Mr. Petri, yea.
Mrs. Roukema, nay.
Mr. Gunderson, yea by proxy.
Mr. Armey, yea by proxy.
Mr. Fawell, yea.
Mr. Ballenger, yea.
Ms. Molinari, yea.
Mr. Barrett, yea.
Mr. Boehner, yea by proxy.
Mr. Cunningham, present, not voting.
Mr. Hoekstra, yea.
Mr. McKeon, yea by proxy.
Mr. Miller (FL), yea.
Mr. Castle, yea.

4. A motion by Representative Williams to favorably report H.R. 3600, as amended. The motion was agreed to 26–17.

DEMOCRATS

Mr. Ford, yea.
Mr. Clay, yea by proxy.
Mr. Miller (CA), yea.
Mr. Murphy, yea.
Mr. Kildee, yea.
Mr. Williams, yea.
Mr. Martinez, yea.
Mr. Owens, yea.
Mr. Sawyer, yea.
Mr. Payne, yea.
Mrs. Unsoeld, yea.
Mrs. Mink, yea.
Mr. Andrews, nay.
Mr. Reed, yea.
Mr. Roemer, yea.
Mr. Engel, yea.
Mr. Becerra, yea.
Mr. Scott, yea.
Mr. Green, yea.
Ms. Woolsey, yea.
Mr. Romero-Barceló, yea.
Mr. Klink, yea.
Ms. English, yea.
Mr. Strickland, yea.
Mr. de Lugo, yea.
Mr. Faleomavaega, yea by proxy.
Mr. Baesler, nay.
Mr. Underwood, yea.

REPUBLICANS

Mr. Goodling, nay.
Mr. Petri, nay.
Mrs. Roukema, nay.
Mr. Gunderson, nay by proxy.
Mr. Armey, nay by proxy.
Mr. Fawell, nay.
Mr. Ballenger, nay.
Ms. Molinari, nay.
Mr. Barrett, nay.
Mr. Boehner, nay.
Mr. Cunningham, nay.
Mr. Hoekstra, nay by proxy.
Mr. McKeon, nay.
Mr. Miller (FL), nay.
Mr. Castle, nay.

5. A motion by Representative Miller (CA) to report without recommendation H.R. 3960, as amended. The Motion was agreed to 22–21.

DEMOCRATS

Mr. Ford, yea.
Mr. Clay, yea by proxy.
Mr. Miller (CA), yea.
Mr. Murphy, yea.
Mr. Kildee, yea.
Mr. Williams, yea.
Mr. Martinez, yea.
Mr. Owens, yea.
Mr. Sawyer, yea.
Mr. Payne, yea.
Ms. Unsoeld, yea.
Ms. Mink, yea.
Mr. Andrews, nay.
Mr. Reed, yea.
Mr. Roemer, nay.
Mr. Engel, yea.
Mr. Becerra, yea.
Mr. Scott, yea.
Mr. Green, yea.
Ms. Woolsey, yea.
Mr. Romero-Barceló, yea.
Mr. Klink, yea.
Ms. English, nay.
Mr. Strickland, nay.
Mr. De Lugo, yea.
Mr. Faleomavaega, yea by proxy.
Mr. Baesler, nay.
Mr. Underwood, yea by proxy.

REPUBLICANS

Mr. Goodling, nay.
Mr. Petri, nay by proxy.
Ms. Roukema, nay.
Mr. Gunderson, nay by proxy.
Mr. Armey, nay by proxy.
Mr. Fawell, nay by proxy.
Mr. Ballenger, nay by proxy.
Ms. Molinari, nay.
Mr. Barrett, nay.
Mr. Boehner, nay by proxy.
Mr. Cunningham, nay.
Mr. Hoekstra, nay by proxy.
Mr. McKeon, nay by proxy.
Mr. Miller (FL), nay by proxy.
Mr. Castle, nay by proxy.

HEALTH CARE REFORM VOTES

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 30, 1994

Mr. MICHEL. Mr. Speaker, I submit for the RECORD the roll call votes on health care reform which took place in the Ways and Means Committee on June 23, 1994.

The following recorded votes were taken on June 23, 1994 in the Committee on Ways and Means during consideration of Acting Chairman Gibbon's substitute proposal for H.R. 3600, the Health Security Act of 1994:

An amendment by Mr. Thomas striking the provision allowing States to develop a program that manages all health care benefits under a guaranteed National benefit package through a single-payer system. Defeated 22-16.

DEMOCRATS

Mr. Gibbons, nay.
Mr. Rostenkowski, nay.
Mr. Pickle, nay.
Mr. Rangel, nay by proxy.
Mr. Stark, nay.
Mr. Jacobs, nay.
Mr. Ford (TN), nay.
Mr. Matsui, nay.
Mrs. Kennelly, nay.
Mr. Coyne, nay.
Mr. Andrews (TX), yea.
Mr. Levin, nay.
Mr. Cardin, nay.
Mr. McDermott, nay.
Mr. Kleczka, nay.
Mr. Lewis (GA), nay.
Mr. Payne (VA), nay.
Mr. Neal (MASS), nay.
Mr. Hoagland, yea.
Mr. McNulty, nay.
Mr. Kopetski, nay.
Mr. Jefferson, nay.
Mr. Brewster, nay.
Mr. Reynolds, nay.

REPUBLICANS

Mr. Archer, yea.
Mr. Crane, yea by proxy.
Mr. Thomas (CA), yea.
Mr. Shaw, yea.
Mr. Sundquist, yea.
Mrs. Johnson (CT), yea.
Mr. Bunning, yea.
Mr. Grandy, yea.
Mr. Houghton, yea.
Mr. Herger, yea.
Mr. McCrery, yea.
Mr. Hancock, yea.
Mr. Santorum, yea.
Mr. Camp, yea.

An amendment by Mr. Archer striking provisions that supercede current law which allows self insured employer health plans to operate without regard to a state mandate, single payer system, state payer system or variations pre-emption of states regulating multi-state employer health plans. Defeated 24-14.

DEMOCRATS

Mr. Gibbons, nay.
Mr. Rostenkowski, nay.
Mr. Pickle, nay.
Mr. Rangel, nay.
Mr. Stark, nay.
Mr. Jacobs, nay.
Mr. Ford (TN), nay.
Mr. Matsui, nay.
Mrs. Kennelly, nay.
Mr. Coyne, nay.
Mr. Andrews (TX), nay.
Mr. Levin, nay.
Mr. Cardin, nay.
Mr. McDermott, nay.
Mr. Kleczka, nay.
Mr. Lewis (GA), nay.
Mr. Payne (VA), nay.
Mr. Neal (MASS), nay.
Mr. Hoagland, nay.
Mr. McNulty, nay.
Mr. Kopetski, nay.
Mr. Jefferson, nay.
Mr. Brewster, nay.
Mr. Reynolds, nay.

REPUBLICANS

Mr. Archer, yea.
Mr. Crane, yea by proxy.
Mr. Thomas (CA), yea.
Mr. Shaw, yea.
Mr. Sundquist, yea.
Mrs. Johnson (CT), yea.
Mr. Bunning, yea.
Mr. Grandy, yea.
Mr. Houghton, yea.
Mr. Herger, yea.
Mr. McCrery, yea.
Mr. Hancock, yea.
Mr. Santorum, yea.
Mr. Camp, yea.

An amendment by Mr. Jefferson requiring health plans to accept the participation of any provider who is qualified under the terms of the plan and willing to accept a health plan's operating terms including, but not limited to, the plan's fee schedule, covered expenses, and quality standards. The amendment would not prevent plans from instituting credentialing criteria, requiring fee discounts, matching provider availability to the needs of the plan's patients, or other measures designed to maintain quality and control costs. Dedicated group and staff model HMO's would be exempted. Adopted 20-17.

DEMOCRATS

Mr. Gibbons, yea.
Mr. Rostenkowski, nay.
Mr. Pickle, nay.
Mr. Rangel, yea.
Mr. Stark, yea.
Mr. Jacobs, yea.
Mr. Ford (TN), yea.
Mr. Matsui, nay.
Mrs. Kennelly, nay.
Mr. Coyne, yea.
Mr. Andrews (TX), nay.
Mr. Levin, nay.
Mr. Cardin, nay by proxy.
Mr. McDermott, yea.
Mr. Kleczka, yea.
Mr. Lewis (GA), yea by proxy.
Mr. Payne (VA), nay.
Mr. Neal (MA), nay.
Mr. Hoagland, nay.
Mr. McNulty, yea.
Mr. Kopetski, yea by proxy.
Mr. Jefferson, yea.
Mr. Brewster, yea.
Mr. Reynolds, yea.

REPUBLICANS

Mr. Archer, yea.
Mr. Crane, yea by proxy.
Mr. Thomas (CA), nay.
Mr. Shaw, yea.
Mr. Sundquist.
Mrs. Johnson (CT), nay.
Mr. Bunning, nay.
Mr. Grandy, nay.
Mr. Houghton, nay.
Mr. Herger, nay.
Mr. McCrery, yea.
Mr. Hancock, nay.
Mr. Santorum, yea.
Mr. Camp, yea.

An amendment by Mr. Grandy to permit associations, such as voluntary employer purchasing groups, to be formed for the purpose of purchasing health insurance. Defeated 23-14.

DEMOCRATS

Mr. Gibbons, nay.
Mr. Rostenkowski, nay by proxy.
Mr. Pickle, nay.
Mr. Rangel, nay.
Mr. Stark, nay.
Mr. Jacobs, nay.
Mr. Ford (TN), nay.
Mr. Matsui, nay.
Mrs. Kennelly, nay.
Mr. Coyne, nay.
Mr. Andrews (TX), nay.
Mr. Levin, nay.
Mr. Cardin, nay by proxy.
Mr. McDermott, nay.
Mr. Kleczka, nay.
Mr. Lewis (GA), nay by proxy.
Mr. Payne (VA), nay.
Mr. Neal (MA), nay.
Mr. Hoagland, nay.
Mr. McNulty, nay.
Mr. Kopetski, nay by proxy.
Mr. Jefferson, nay.
Mr. Brewster, nay.
Mr. Reynolds, nay.

REPUBLICANS

Mr. Archer, yea.
Mr. Crane, yea by proxy.
Mr. Thomas (CA), yea.
Mr. Shaw, yea.
Mr. Sundquist, yea by proxy.
Mrs. Johnson(CT), yea.
Mr. Bunning, yea.
Mr. Grandy, yea.
Mr. Houghton, yea by proxy.
Mr. Herger, yea.
Mr. McCrery, yea.
Mr. Hancock, yea.
Mr. Santorum, yea.
Mr. Camp, yea.

SENATE—*Friday, July 1, 1994*

(Legislative day of Tuesday, June 7, 1994)

The Senate met at 8:20 a.m., on the expiration of the recess, and was called to order by the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Commit thy way unto the Lord; trust also in him; and he shall bring it to pass.—Psalm 37:5.

Almighty God, in the regular rhythm of the Senate schedule, the days and hours before a legal holiday adjournment are loaded with pressure. At times like this we are grateful for strong, fair, patient, honorable leadership. We ask for our leaders today a special dispensation of divine grace and wisdom. Cover them with Your love and peace. Guide them through the milieu of amendments, debates, and rollcall votes in these final hours.

Gracious Father in Heaven, may this Independence Day recess be a time for personal and family blessing. Enable the Senators to meet all the commitments that have been made and yet have time for personal rest and relaxation. Prepare them for the arduous schedule which awaits them upon their return.

We pray this in the name of Him who said, "My peace I give unto you." Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 1, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CAMPBELL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADERSHIP TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 2182 which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strength for such fiscal year for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Johnston Amendment No. 1840, to restore funding for the National Defense Sealift Fund and reduce funding for the LHD-7 Amphibious Ship.

(2) Dole/Lieberman Amendment No. 1851, to terminate the United States arms embargo applicable to the Government of Bosnia and Herzgovina.

(3) Nunn/Warner Modified Amendment No. 1852, to express the sense of the Congress that the United States should work with NATO Member nations and members of the United Nations Security Council to endorse the efforts of the contact group to bring about a peaceful settlement of the conflict in Bosnia and Herzegovina.

(4) Levin Amendment No. 2142, to strike out the funds for a B-2 Bomber Industrial Base Program and make available such funds for environmental restoration activities at military installations approved for closure.

(5) Warner Amendment No. 2143, to eliminate the disparity between effective dates for military and civilian retiree cost-of-living adjustments for fiscal year 1995.

AMENDMENT NO. 1852, AS MODIFIED

AMENDMENT NO. 1851, AS MODIFIED

The ACTING PRESIDENT pro tempore. The time until 9:10 a.m. shall be for debate on amendment No. 1852, as modified, and amendment No. 1851, as modified. The Chair recognizes the Senator from Georgia.

Mr. NUNN. Mr. President, it is my understanding, as the Chair just reported, we will be on the Bosnia amendment and the time is controlled.

Will the Chair remind the Senate as to how the time is controlled?

The ACTING PRESIDENT pro tempore. The time will be controlled by the Senator from Georgia and the minority leader.

Mr. NUNN. I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut [Mr. LIEBERMAN] is recognized.

Mr. LIEBERMAN. Mr. President, I yield myself 4 minutes from the time controlled by the minority leader.

The ACTING PRESIDENT pro tempore. The Senator is recognized.

Mr. LIEBERMAN. Mr. President, those of us who are supporting the amendment offered by the Senator from Kansas and myself and several other bipartisan cosponsors, have reached some conclusions about the war in the Balkans which has gone on now for almost 3 years, killing over 200,000 people, creating 2 million refugees, and it is that the Serbs are the aggressors; that an aggression by one nation against another nation has occurred; and that the Serbs have carried out a consistent pattern of brutal, barbaric acts including the systematic use of rape as an instrument of war, random killings of a nature that raise itself to genocidal because it is directed against noncombatants, civilians, simply because of who they are, which in this case is Bosnian Moslems.

Mr. President, those of us who submit and support this amendment feel that the United States has an interest in this conflict, first, in standing up against aggression by one nation against another; second, in not standing idly by while genocidal acts occur; and, third, in acknowledging that what happens in Europe has twice drawn us into world wars in this century and we have a strategic interest in preserving order there, particularly in the aftermath of the collapse of the Soviet Union with all the potential for ethnic conflict elsewhere as has occurred in the Balkans now.

We also feel that while we have an interest in the Balkans, it is not sufficient to justify sending American soldiers there. It is sufficient to support lifting the arms embargo so that the victims of aggression and genocidal acts will at least have the means with which to defend themselves. To deny them that is an invalid act, contrary to international law, contrary to the best moral principles upon which this country is founded.

The administration is opposing the amendment that we have introduced, and that troubles me. It disappoints me because the administration itself adopted last year a policy of lift and strike to combat Serbian aggression in the Balkans—lift the embargo and strike from the air. And the intention of this amendment is simply to carry out that policy.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The House of Representatives a while ago adopted a similar amendment by 66 votes. This Chamber on May 10 adopted two amendments, one like ours demanding the unilateral lifting of the embargo, the other suggesting a multilateral lifting under certain conditions. Some of our colleagues voted for both amendments on the theory that they were making a statement: that they preferred the embargo to be lifted multilaterally but would support unilateral lifting if necessary, and they wanted to give the administration time to carry out that policy.

Mr. President, that vote occurred in this Chamber on May 10. It is now July 1 and nothing has happened to bring about a multilateral lifting of this policy. So we are here again today with two choices. In my opinion the choices are clear. Only one amendment, the amendment that Senator DOLE and I have introduced, with several bipartisan colleagues, lifts the arms embargo. It requires it. The other amendment is a sense of the Congress with no effect in law. The other amendment is full of conditions. The other amendment endorses the carving up of Bosnia and puts America in a position to have to send American soldiers to keep a peace which will be unstable.

Mr. President, the Bible tells us that the sound of the trumpet should be certain on who will follow us into battle.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. LIEBERMAN. I yield myself an additional 30 seconds.

Only one amendment sounds a certain trumpet. That is our amendment. The second is uncertain and responds to the cries of the people of Bosnia for help with a face turned essentially in the other direction.

I urge my colleagues to support the Dole-Lieberman amendment and oppose the Nunn-Warner amendment.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. JEFFORDS. Mr. President, I believe I have been allocated 2 minutes for the Dole-Lieberman amendment.

The ACTING PRESIDENT pro tempore. The Senator is recognized for 2 minutes.

Mr. JEFFORDS. Mr. President, I rise to speak on behalf of the Dole-Lieberman amendment, as originally introduced with my cosponsorship, to require the immediate lifting of the United Nations arms embargo on Bosnia.

That embargo, I believe, fails the tests of legality, of morality, and of statesmanship. It is neither consistent with American traditions or values, nor with our long-term interests. And the strategy of which it is a part will not bring lasting peace to the region.

The embargo flies in the face of article 51 of the U.N. Charter, which grants to every State the inherent right of self-defense. With 72 percent of its territory occupied by Serbian-supported militias, there is no denying that Bosnia has been the victim of externally inspired aggression and has every right under international law to defend itself.

It has been asserted that the United States must not lift the embargo unilaterally because to do so would violate a Security Council resolution. But, Mr. President, that resolution has validity only insofar as it is consistent with the United Nations' own charter.

The charter exists to implement international law, not to empower the Security Council to override that law or the charter's own provisions. One may attempt to argue political reasons against unilateral U.S. action, but it strains credibility to claim a legal barrier.

As mandated by the Security Council, the embargo was directed against Yugoslavia at a time when Bosnia did not even exist as an independent State. It is a legal absurdity to assert that the same embargo extends to a new nation, internationally recognized, which is no longer a part of Yugoslavia and, indeed, is the object of attack by the regime against which the embargo was levied in the first place.

In moral terms, this embargo is an abomination. It denies a small State the means to defend itself against aggression. It denies a people the wherewithal to fend off violent assaults intended to wipe them off the map by murder or forced flight. It binds the victim while benefiting a predatory regime and its proxies, whose leaders have been denounced by our own Government as war criminals.

If the embargo itself is immoral, it is the instrument of an even more bankrupt policy, namely the effort to impose an unjust peace on the victims of aggression. United States diplomacy is focused now on persuading the Bosnians—among others—to accept a territorial settlement, the so-called 51/49 map, which consolidates and legitimizes a large portion of Serb conquests. Maintenance of the embargo serves to weaken the Bosnians' resistance to these efforts. Such a strategy is inconsistent with our deepest values and ideals as a nation, and it is in total opposition to our historical tradition. The defenders of the embargo maintain that lifting it will bring more fighting and suffering to Bosnia. They are probably right. But the implication of their argument is that submitting to aggression is preferable to paying the price of freedom. We have here, Mr. President, the modern equivalent of the "better Red than dead" thesis of the 1950's. It is the sort of proposition which the American people have always rejected with the contempt it deserves. And we cannot in good conscience seek to impose it on others.

Mr. President, the embargo and current United States policy on Bosnia also fail the test of realism and statesmanship. An unjust peace imposed on Bosnia will not long endure. Rather, it will sow the seeds of renewed conflict as soon as the Bosnians bind up their wounds and arm themselves—as they eventually will, whether or not a formal embargo persists.

The region of ex-Yugoslavia has long been a cockpit of strife—and the suffering and atrocities associated with the current war have contributed further to deeply rooted national and ethnic antagonisms. It is sad, but true, that the only real guarantee of a durable peace in ex-Yugoslavia—or at least an extended interval of peace—is a stable balance of power or a state of mutual exhaustion among the contending parties. It is clear from their valiant struggle, which reflects their past history, that the Bosnians are defiant of adversity and far from exhausted. And no stable balance of power exists or can exist so long as the embargo conveys an artificial—and inevitably temporary—advantage on Serbia and its proxies. Consequently, no unjust peace settlement imposed on Bosnia under the shadow of the embargo will endure. The embargo has already begun to erode in some respects and will melt away more quickly, in substance if not in form, as soon as a settlement is reached. Serbia's military advantage will erode as Bosnia arms itself, and the stage will have been set for another war.

If lifting the embargo now leads to further strife, it also makes it likely that the outcome of that conflict—and the peace that follows—will be more durable than anything produced by a sham settlement imposed from the outside. Whether it is more just can only be decided by the fortunes of war when the Bosnians no longer have one hand tied behind their backs. But one thing is certain: an imposed settlement along the lines now proposed offers neither justice nor peace. What it offers is merely a brief respite from the political inconvenience this war represents for the leaderships of those Western countries which are pushing this plan.

Even that, however, is likely to prove illusory. It is clear that an imposed settlement will require the presence of massive outside military forces to separate the parties and monitor a ceasefire, and that such a force is unlikely to materialize without the large-scale participation of the United States. The figure most quoted is 25,000 U.S. troops. Are the American people—or this Congress—prepared to tolerate, much less support, the dispatch of thousands of Americans to sit on an ethnic powder keg which may explode in their midst and will certainly explode the moment they depart? And to do this all in the name of defending a status quo founded on brutal Serb consquest? I think not, Mr. President. America will have no part of such an expeditionary force, and because it will not, the current effort to impose a settlement based on the 51/49 map will collapse of its own weight.

Mr. President, in our careers as legislators we are called upon to cast many votes. A rare few of those decisions go beyond the conduct of the Nation's business to define the essence of the Nation's conscience. In so doing, they define as well how posterity will judge our own careers as public men and women and what we stood for in this Chamber. This is such an occasion—and an opportunity to stand up for both moral principle and practical realism. I urge my colleagues to join me in voting to lift immediately the United States embargo on Bosnia.

Mr. President, in summary, I urge the immediate lifting of the U.N. arms embargo on Bosnia. The embargo violates fundamental international law and the United Nations Charter granting every State the right of self-defense.

Some claim we must not act unilaterally lest we violate a Security Council resolution, but that resolution is valid only so far as it is consistent with the United Nations' own charter and is not where Bosnia is concerned.

In moral terms, this embargo is an abomination. It denies a nation and a people the means to fend off violent assaults intended to wipe them off the map by murder and forced flight.

It binds the victims while benefiting the aggressor, and is the instrument of an even more bankrupt policy which seeks to impose an unjust peace on the victims of aggression.

Those who argue that lifting the embargo will bring more fighting and suffering in Bosnia are probably right. But the implication of their argument is that submitting to aggression is preferable to paying the price of freedom.

This is a proposition that American people have always rejected with the contempt that it deserves. The embargo and current policies also fail the test of realism. An unjust peace imposed on Bosnia will not endure. The region has long been a cockpit of strife. Sadly, the only real guarantee of a durable peace is a stable balance of power or a state of mutual exhaustion. The Bosnians are far from exhausted, and no stable balance of power can exist so long as the embargo conveys an artificial—and inevitably temporary—advantage on Serbia and its proxies.

Mr. President, an imposed settlement will require a massive outside force which is unlikely without U.S. participation. I do not believe Americans will tolerate the dispatch of thousands of our soldiers to sit on an ethnic powder keg which may explode in their midst, and will certainly explode the moment they depart, all in the name of maintaining a status quo based on brutal Serb conquest, and an imposed embargo violating international law.

America will have no part of such an expeditionary force, and because it will not, the current effort to impose a settlement will collapse of its own weight.

Mr. LIEBERMAN. Mr. President, I yield 3 minutes to the Senator from Arizona.

The ACTING PRESIDENT pro tempore. The Senator from Arizona [Mr. DECONCINI] is recognized for 3 minutes.

Mr. DECONCINI. Mr. President, I thank the Senator from Connecticut for his leadership in this area, along with the Senator from Kansas.

I have some hesitation, I guess, in the sense that I want to see this administration succeed in its efforts in Bosnia, but I rise in support of the Dole-Lieberman amendment.

Mr. President, as Chairman of the Helsinki Commission and Vice Chairman for the last roughly 10 years, I have had the occasion to visit the Balkans, and particularly Bosnia and Herzegovina, on four different occasions.

I have seen the most unfair treatment of an independent sovereign state of almost any place in the world that I can think of in recent history. Here is a nation that has been recognized by most nations, including the United States. And after it was recognized as an independent sovereign nation, an embargo and sanctions that were imposed on a former nation, called Yugoslavia, which no longer exists, were imposed on Bosnia. There is no longer a Yugoslavia as we knew it. That country has been divided democratically. And part of that division of course is Serbia, Croatia, and Bosnia and Herzegovina.

Now that embargo is being enforced by the United Nations, with support of the United States. It is not right. There is no justification for it, and we should not impose this on these people. We should impose an embargo on the Serbs and in the past were considering one on the Croats for some of their past atrocities. But now the Croats have made peace, and they have decided to be part of an independent country known as Bosnia and Herzegovina. But the Serbs refused.

We must lift the arms embargo and let those people defend themselves and act with dignity; and yes, if they die, they die for their independence, their families, their country, and for what they believe in.

That is easy for me to say because I do not have to go there and die. But how many of us in this country would stand by, or in this body would stand by, if another foreign country took 70 percent of our territory or even 1 percent of our territory? Would we permit that? We would not. We would fight. We would ask other nations to help, and we would be against any efforts to impose an embargo or sanctions on us that prohibited us from defending ourselves and regaining our territory.

Now the United States is part of imposing a peace settlement that solidifies roughly 51 percent to the aggressor, to the country which committed genocide, the country that has caused ethnic cleansing and has murdered and raped people for the last 3 years.

Mr. President, it is time to face this issue. It is genocide, just as it was during the Second World War. People ignored it then; people cannot ignore it now. We see it. We read it. I have talked to people.

I sat as close as that chair to a man who is 54 years old, a Bosnian, who came out of a concentration camp, a death camp, who saw his mother left on the mountain because he was afraid she would be murdered and raped if he brought her down. And he is sure she is dead. He saw his wife and sister murdered, and one of them raped. He saw his brother beat to death over 2 days in the same concentration camp. Those are real people; those are real people.

Who were the aggressors there? The Serbians, the Bosnian-Serbians; and the Serbian-Serbians armed those Bosnian-Serbians. We cannot continue, Mr. President, to accept this in this country.

Mr. President, I rise to state my unequivocal support for the Dole-Lieberman amendment to the Defense authorization bill.

As we consider the amendments, I urge my colleagues to look at what has really happened in Bosnia and Herzegovina. Military confrontation has been relatively rare; more characteristic of this conflict is the senseless, continual shelling of innocent civilians who have been herded into destroyed cities and overcrowded villages by the Serb militants' ethnic cleansing campaigns. It has been estimated that 80 to 85 percent of the casualties have been civilians, and the number of children killed is about equal to that of combatants.

This can hardly be called a war at all. Aggression and genocide are more accurate descriptions. "Warring factions" misses the reality of the well armed-versus-the defenseless. "Settling old ethnic scores" overlooks the resolve of those surviving to maintain a multiethnic society even in the face of genocide and an unwillingness of the West to assist.

At present, the Bosnian people and their representatives feel abandoned. They desperately want to remain part of Europe. But, in the face of threat to their continued existence, only the Islamic world willingly offers them the assistance they need. In their desperation, they are also more determined than ever to defend their country, despite the arms embargo.

Yes, the Bosnians are recently able to take some offensive action against Serb positions. But we, in response, now pressure all sides to make peace, after the Serbs have taken and consolidated their holdings on over 70 percent of the country? Why are we now pressing for peace at any cost? Would we not fight to liberate territory taken from us? Would we accept an internationally imposed division of our country?

Lifting the arms embargo increases the likelihood that the Bosnians and the Serbs will accept an agreement that is more balanced and viable. It also increases our ability to influence the Bosnians to ensure that liberation, and not revenge, is their objective.

Will lifting the arms embargo on Bosnia and Herzegovina unilaterally violate international law? No, because the embargo is legally invalid. The United Nations Charter supersedes Security Council resolutions, and under article 51 of the charter Bosnia and Herzegovina has the right to self-defense, including the right to receive weapons necessary to defend itself.

Will lifting the embargo lead others to act unilaterally in areas contrary to U.S. interests? It would be hard for them to make the case for doing so. We are justifying our call on the basis of the sovereign right to self-defense, as stated in the U.N. Charter. Aggressor or repressive States like Iraq, Libya, Haiti, Serbia, and North Korea cannot be compared with Bosnia and Herzegovina, a country victimized by aggression. A case for the invalidity of U.N. embargoes on these countries cannot be made.

Will lifting the embargo Americanize the Bosnian war? Not at all. It is precisely because the United States and other European powers have refused to stop Serb aggression and genocide that recourse must be made to give the Bosnians the means to do so.

Will it hurt the Bosnian peace process? No. At present, the Serb militants have no incentive to give up any of the 72 percent of Bosnia and Herzegovina they now control. Arming the Bosnians will convince the Serb militants to stop playing their games, negotiate in good faith and implement the resulting agreement. It will also foster a viable Bosnian State for the future. It is the present course that has allowed the conflict to go on with no end in sight, and the death toll to reach the 200,000 level.

Will it allow the the Bosnians to seek revenge? There is a risk here, but the risk is greater if we press the Bosnians instead to accept defeat and the loss of their country. Faced with destruction, the Bosnians have become more committed than ever to maintaining a multiethnic state. Only a feeling of abandonment generates the desperation that leads to acts of revenge, as well as to greater influence from Islamic extremists.

Does lifting the embargo mean taking sides in a complex war? Yes, but keeping an embargo on Bosnia and Herzegovina knowing that the Serb militants have the preponderance of weaponry at their disposal is tantamount to siding with the Serbs. Moreover, supporting a victim's right to self-defense when facing aggression is a position of principle, not of favoritism.

Now, those opposed to Dole-Lieberman have brought senior officials from the Clinton administration and European governments before the Senate to allege the opposte point of view on these questions. I appreciate hearing these views, but I also view the effort as potentially dangerous. Nothing can justify what the Serb militants have done in Bosnia and Herzegovina, but these militants have sought to justify their efforts, with some success, by saying it was our fault for recognizing Bosnian independence. The arguments made by opponents of Dole-Lieberman—that the Serbs will react negatively and fighting will intensify—are those that will then be used by Mr. Karadzic, Mr. Mladic, and Mr. Milosevic.

They will be encouraged in their aggression, as they will sense that the United Nations and Europe will blame the U.S. Congress for what they do, rather than stand against further aggression.

Is the unilateral lifting of the embargo our optimal choice for standing against aggression? For me, it definitely is not, but it is better than our current policy.

In a recent article, even the Bosnian Prime Minister, Haris Silajdzic, asserts that it would be best for the international community to take direct action to stop Serb aggression. But he, too, concludes that the political will to do so remains shamefully absent.

From the beginning, selective but substantial airstrikes by NATO should have been used to try to stop the Serbs. My guess is that it would have stopped them, but, even if it had not, it would have leveled the playing field. Followed by an arming of the Bosnians if necessary, we would not have had to confront ground troop deployments, nor the mess we have right now.

But U.N. representatives even refuse to enforce the resolutions passed by the Security Council, such as those being violated by recent Serb activity in the Sarajevo and Gorazde exclusion zones. Given this dismal situation, there is no excuse for not letting the Bosnians defend themselves.

Of course, we would all prefer to see the arms embargo wrongfully imposed on Bosnia and Herzegovina lifted multilaterally, but that, unfortunately, seems unlikely at present as well. It is not good enough for a President to say he supports lifting the arms embargo. While the administration is unable to get anybody to go along, its efforts have been half-hearted at best.

This is all the more shameful in light of the broad consensus that the arms embargo was desired by the Serbian leaders who controlled all the weapons, and should never have been imposed on Bosnia in the first place. Instead, State Department efforts focus on trying to convince the Congress not to push this issue, and those of us who are pushing it are accused of bumper sticker diplomacy.

This feckless stance convinces me that the Congress must act by supporting a unilateral lifting if necessary. Otherwise, nothing more will be done.

I urge my colleagues to do what is principled here, and to vote for this amendment to the Defense authorization bill.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. NUNN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Georgia [Mr. NUNN] is recognized.

Mr. NUNN. Mr. President, what is the time remaining on each side?

The ACTING PRESIDENT pro tempore. The Senator from Georgia has 22 minutes and 8 seconds; the minority has 12 minutes and 6 seconds.

Mr. NUNN. Mr. President, I will certainly share my time if someone comes in. I will begin making remarks. If someone comes in that would like to be recognized, I will be glad to yield.

Mr. President, there is one part of this debate that I think has been virtually overlooked; that is, what is the U.S. obligation under the U.N. Security Council Charter? I am not one of those who believes that the United Nations is right on everything, and that we ought to be signing up pledges of allegiance to everything the United Nations does. That body has made an awful lot of mistakes. But I believe when you sign an international charter and you are part of the organization, you ought to have consciousness of the obligations that you have subscribed to.

Mr. President, the Security Council of the United Nations has broad authority under the charter, and it makes it very clear under that charter that the U.N. Security Council has responsibility in the international peacekeeping areas where they assume jurisdiction.

We have heard over and over again about article 51. That article says, as the proponents of the Dole-Lieberman amendment have noted over a period of time, that "Nothing in this present charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a member of the United Nations * * *" That is where the quotation usually stops; that is where we stop hearing about it. But the rest of that sentence says, "comma," "until the Security Council has taken measures necessary to maintain international peace and security."

Mr. President, the way I interpret it, that means until the Security Council has acted in an area. That does not necessarily mean they have absolutely succeeded. It means until they have acted.

What has the Security Council done in regard to Bosnia and Herzegovina? We have heard this in testimony before our committee, and I have seen it in op-ed pieces over and over again. Well, this action by the Security Council was taken before there was a Bosnia, and therefore is not binding on Bosnia. We have heard that argument on the floor. We have said we have heard it in a valid resolution.

Mr. President, what the people who are basically advocating that line of reasoning have omitted from their presentation, but it is an absolute crucial, I think, omission, is that the Security Council on at least 12 occasions since Bosnia became a sovereign nation or sovereign state has reaffirmed its action on the arms embargo, and the United States has voted for that. This is not something that was done over our veto, or we were not absent; we were voting for that. So the proponents of this resolution, my friend from Connecticut and my friend from Michigan, are among the strongest proponents of acting multinationally—particularly the Senator from Michigan—through the United Nations and Security Council. But the Senator and no one on this side of the argument has explained at all how we get around our obligation under the Security Council. We are basically about to pass a law—the Dole-Lieberman resolution—that defies the Security Council resolution and our obligation under that resolution.

I am one who has said over and over again that I think the embargo has been a mistake. I think they ought to be in the Security Council every day saying that it ought to be changed; it does not make sense. I do not see how we can cavalierly forget about the fact that we are obligated under that charter and we have taken that pledge. In effect, this resolution violates the charter of the Security Council and our obligation.

On January 8, 1992, after there was a Bosnia, the Security Council reaffirmed its Resolution 713 of 1991, September 25, and in paragraph 6 of that resolution in 1992, after there was a Bosnia, "reaffirm the embargo applied in paragraph 6 of Resolution 713, 1991 and in paragraph 5 of Resolution 724, 1991, and decides that the embargo applies in accordance with paragraph 33 of the General Secretariat's report."

And that report specifically states, in part, that "the arms embargo would continue to apply to all areas that have been part of Yugoslavia, decisions on the recognition of independent certain republics notwithstanding."

I do believe that those advocating passing this resolution have some obligation to tell us why we are not violating our own obligation and why we are not violating the Charter of the United Nations. Maybe there are a lot of people—maybe a majority of people do not care about that. But I think it is going to be hard to come back and talk about that on the other side of another question when there are different circumstances. It is going to be hard to point to Russia, France, Great Britain, or any other country, and say, "Why do you not abide by what you said in the Security Council?" when we ourselves are about to pass a resolution which would defy that obligation. Maybe somebody can explain it. But I have certainly seen no explanation of this anywhere of how we basically rationalize this course.

Mr. President, I am not going to repeat all of the arguments I have made on this resolution. I know the majority leader will be here in a few minutes to make his presentation. I will repeat briefly what I have said in the past. I believe the arms embargo has been a mistake. But I believe that the way you lift that embargo is enormously important, not only in Bosnia, but also around the world. We have vital interests in Korea. I am not one of these who believes that problem has gone away. I do not believe that we may not have more difficulty. If we have more difficulty in North Korea, what we are going to do first, I trust and I believe, is go to the Security Council and ask them for sanctions against North Korea.

We have 38,000 troops in North Korea. If we do not have any international cooperation, and if the North Koreans defy the obligations under the IAEA, which they have, and if they continue to move toward being a nuclear state, then we may have to take serious steps. If there are no sanctions involved, if there are no courses involved short of actual military steps, then, of course, we may have to take those military steps.

Mr. President, I cannot conceive of the United States unilaterally defying the Charter of the United Nations Security Council resolution and its own vote in Bosnia, and then going straight back to the Security Council and saying to China, Russia, France, and Britain, who oppose what this resolution does here, "We want you to help us on North Korea." I cannot conceive of how we would do that with any degree of success.

So what we are doing, in my opinion, here is we are in a very understandable effort to "do something" on Bosnia, and we are forgetting the worldwide implications of what we do.

Mr. President, I think it is important that we understand, also, that lifting the embargo unilaterally—and perhaps this is just being used as leverage to get the White House to be more assertive in a multinational way. If that is the motivation here, then I have some understanding of that. But if this is a serious resolution to say we really ought to, in law, require the lifting of the embargo, then somebody better think through how military forces are going to carry it out, because right now the United States is participating in an air protective zone. We are flying every day to protect that zone. We have flown thousands of sorties over there protecting the air zone. How does anyone believe we are going to get supplies in during an emergency situation, because if we lift the embargo unilaterally, the military and intelligence analysis is that the Bosnian Serbs, and even those in Serbia, will become very assertive, and the Bosnian Government will need immediate relief. And if we fly immediate relief in there and we do it in defiance of the United Nations and in defiance of NATO and in defiance of our allies, what are we going to do about the air cover we are participating in? Are we going to say to our F–15 and F–16 pilots do not shoot down the C–130's delivering arms, or are we going to say, "Pull out of that," or are our British and French partners going to say, "We give up. We are going to get out of the no fly zone"? Probably the latter. Certainly, one of those courses. We are not going to shoot down our own aircraft.

What are we going to do then when the British and French people pull out of the no fly zone? Who has the airplanes? It is not the Bosnian Moslems; it is the Serbs that have the airplanes. Then what are we going to do in America? Are we going to ask the British and French to help us now protect the Bosnian Moslems from the airplanes that we were flying the no fly zone over, but they are now going after the Moslems? Are we then going to do it ourselves and get in an air war? In my opinion, we will have to. In my opinion, we will also have to be prepared—and maybe we should have done this all along; there has been a case for it to some extent. We are going to have to go after strategic targets in Serbia, if the Serbs take action against the Bosnian Moslems with aircraft. And we have basically said to our colleagues and friends and allies that we are no longer going to participate in any kind of collective action.

If we are marching off on our own, make no mistake about it, Mr. President, we are going to have to get in an air campaign of very significant proportions. We are going to have to take it, in my opinion, straight to Serbia. There are not enough good targets in these villages under attack; there are very limited targets. The lucrative targets are in Serbia. Are we ready to do that? If we are, go right ahead and pass this resolution.

If we are ready to do it, we also better be prepared for what the Russians are going to do. Do I think they will get into the war? No, I do not. I do believe they will immediately lift the embargo on Serbia. I think they will lift the economic embargo within a week after we pass anything like this into law. When they do that, what we are going to have is the Bosnian Government beleaguered and outgunned and outarmed because we cannot get arms in there fast enough, individually and unilaterally, to protect them. They are going to be outgunned and outarmed, and they are going to have no air power, and they are going to have the United States as the ally—not the French, British, or the Russians. We are going to be defying all of those.

It is going to be the United States. The same thing will apply at sea. We now have a collective embargo at sea. We are blocking goods from coming into the former Yugoslavia. What is going to happen there if we thumb our nose at the resolution and say we are going it alone, that we are tired of our allies, and we are defying the United Nations and defying the NATO alliance and basically do it ourselves? Are we going to go pull out of the sea embargo? If so, the squeeze on Serbia is over.

So the net result of this is going to be not to strengthen the Bosnians, which we intend and certainly believe the proponents of this amendment intend this, but rather strengthening the other side.

This resolution, if it passes in the form of law and gets signed into law, in my view, would be disastrous because it would be done unilaterally. If we do it collectively and if we do it in a careful way with our allies, if we lift that embargo, that is an entire different matter. I think that is the way to go.

For one thing, if there is a peace accord, even if it does not last, in my view, then we ought to be lifting the embargo then and making sure that the sovereign State of Bosnia can protect itself. For another thing, we ought to be multilaterally advocating that the Bosnian Serbs defy the safe zones. We ought to be saying to our allies for goodness sake they are defying the United Nations resolution. Let us go in together and give the Bosnian Government a chance to defend itself with antitank weapons, with defensive weapons like mortars. That can be done collectively. Doing it collectively can be done, in my opinion, but I do not think it can be done unilaterally, not without severe damage.

Mr. President, the last way that I think we can lift the embargo and do it in good conscience and do it with our allies is if the Bosnian Serbs do not agree to a just settlement. If they do not agree to a just settlement that then, in my view, at some point in the not too distant future we ought to be advocating strongly with our allies and United Nations that we basically collectively lift the embargo.

My point, Mr. President, is I can see the good will and see the absolutely sincerity of the people who are pushing this resolution. A lot of my instincts are with them, because I think the embargo has been counterproductive.

Mr. President, if we do this unilaterally not only will we regret it, the Bosnian Government will regret it because they are going to be outgunned. The implications of lifting this embargo unilaterally is that this becomes America's war. Lifting this unilaterally carries with it a very serious moral obligation to follow through.

If we lift this unilaterally, we had better be prepared for at least a very serious air campaign against Serbia itself. That is the only kind of logical military consistency that can make sense. Even an air campaign against Serbia will not prevent some of these settlements from being overrun.

Mr. President, in an evolutionary way, the embargo is already being lifted because we have recognized Croatia, but it is being done in a very evolving way. Croatia and Bosnia have merged together now. It may be temporary. It may not last. But arms are now getting through. More substantial arms are getting through than they have in the past.

But we have not done it in defiance of the United Nations. We have not done it in a way that breaks up the no-fly zone. We have not done it in a way that breaks the embargo on Serbia. And we have not done it in a way that inflames the nationalist opinion in Russia and puts our allies and the people in Russia that we try to deal with in a very friendly way in a very awkward position so that they are the targets of not only extreme nationalists but also the broad body of public opinion that in my view would demand that the embargo be lifted against Serbia itself if the United States takes this action.

So for all those reasons, Mr. President, I think people ought to think very seriously about what we are doing here. This is not a sense-of-the-Senate resolution. The alternative is the Nunn-Warner-Mitchell-Kassebaum amendment which is the sense-of-the-Senate resolution. But this is law. That is what we are talking about.

Mr. President, I yield such time as the Senator from Virginia may desire.

The ACTING PRESIDENT pro tempore. The Senator from Georgia has 5 minutes remaining.

The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, the Senator from Georgia has what time remaining?

The ACTING PRESIDENT pro tempore. Five minutes.

Mr. WARNER. Five minutes remaining.

Mr. NUNN. The majority leader has a little time also.

Mr. WARNER. Mr. President, I associate myself with the remarks of the Senator from Georgia. I have joined him as a principal cosponsor.

The points that he made I agree with wholeheartedly. A unilateral lifting of the embargo would have far-reaching implications on our ability to continue to enforce sanctions on Iraq.

In all likelihood it would, if not done in conjunction with our allies, deter any reasonable efforts to get the parties to reconcile their differences and to reach some type of a peace accord to which they would all sign.

Lastly, a unilateral lifting would undoubtedly increase the killing if it is genocide, and indeed we all deplore the tragedy of the genocide that is taking place. It would increase.

I recommended to the distinguished chairman of the committee that our committee invite those representatives from nations which are on the ground today and have been for some period of time, contributing their forces to the UNPROFOR efforts.

My recommendations regarding these witnesses originated with my visit to the Foreign Office in Great Britain, where I received extensive, excellent briefings from the professional civil servants who have been following the important contributions, military and diplomatic, for years in this tragic conflict.

Further, I express my great respect and appreciation to Ambassador Robin Renwick, who has represented, with distinction, the views of his Government, Great Britain.

During the hearings on the morning of June 23d, the Armed Services Committee received testimony from the following witnesses: General Martinez Esparaza, Deputy Under Secretary of Defense for Policy, Ministry of Defense, Spain; Jean Claude Mallet, Director of Strategic Policy, Ministry of Defense, France; Rupert Smith, Major General, Director of Strategic Policy, Ministry of Defense, United Kingdom; and Honorable Anders Troldborg, Deputy Minister of Defense, Denmark.

These witnesses described the consequences they foresee if the United States should move unilaterally to lift the arms embargo in Bosnia. I ask unanimous consent that the statements from these witnesses be included in the RECORD.

During the afternoon session, the committee was privileged to hear from Ejup Ganic, Member of the Presidency, the Republic of Bosnia and Herzegovina; and Vice President of the Federation of Bosnia and Herzegovina, as well as a number of distinguished Americans; former Ambassador for Strategic Arms Limitation Talks, Max Kampelman; former Assistant Secretary of Defense for International Security Policy, Richard Perle, and former Assistant Secretary of Public Affairs, Department of State, Hodding Carter. All of these witnesses spoke eloquently regarding the need to lift the embargo to enable the Bosnian Moslems to defend themselves.

I ask unanimous consent that Vice President Ganic's statement also be included in the RECORD. I anticipate that several of my colleagues may want to include in the RECORD the statements of the other witnesses who appeared in the afternoon session.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF GEN. MARTINEZ ESPARZA, DEPUTY UNDER SECRETARY OF DEFENSE FOR POLICY, MINISTRY OF DEFENSE, SPAIN; ACCOMPANIED BY GEN. LUIS FELIU

General ESPARZA. Thank you, Mr. Chairman.

First of all, on behalf of my Minister of Defense, Mr. Garcia Vargas——

Chairman NUNN. If you could pull that mike up just as close as you can, the microphone, and talk directly into it.

General ESPARZA. On behalf of my Minister of Defense, Mr. Garcia Vargas, I would like to thank you, Mr. Chairman, for your kind invitation to come here so we have the opportunity to present our views on this important and delicate subject to you and your colleagues.

Mr. Chairman, I would like to introduce to the committee General Feliu, who was Deputy Commander of UNPROFOR in Bosnia-Herzegovina from July '93 to February '94. I feel that it was a good idea to bring him here, and he will be prepared to answer any questions you may wish to address to him.

Chairman NUNN. General, you left in 1994, February of '94? What was your position? You were Deputy Commander?

General FELIU. I was Deputy Commander in UNPROFOR in Bosnia-Herzegovina.

Chairman NUNN. Good, Thank you. I would want everyone to know that, and you would be willing to answer questions. Thank you.

General ESPARZA. Thank you, sir.

Mr. Chairman, the basic objectives of the United Nations, the European Union, and Spain, in Bosnia, I think are to ensure the delivery of humanitarian assistance, first; then, to protect the declared safe areas; and, lately, to create the conditions which will facilitate a negotiated settlement by supporting the case-fire, dispersing of forces, the reconstruction of cities, and the return to normal life.

What are the present effects of the arms embargo? We think that it helps to keep a combat level intensity far lower than what could be expected if all parties, including the Muslims, had access to all types of weapons. The embargo, therefore, facilitates the control of heavy weapons by UNPROFOR, the supervision of the case-fire, the suppressing of forces, and the establishment of safe areas. In sum, Mr. Chairman, the embargo contributes to the achievement of our objectives.

What would the consequences be of a lifting of the arms embargo on the Muslims? First of all, the Bosnian Serbs would immediately declared UNPROFOR as a hostile force, and they would not feel obligated to respect any previous commitment or arrangements with the United Nations or the contact group. It is difficult indeed to predict the specific actions which the Bosnian Serbs might take against UNPROFOR and humanitarian agencies. Their related force would feel legitimated, and even compelled, to support the Bosnian Serbs in full.

The Russian Federation would find itself in a difficult situation. It would lack the justification to continue pressuring the Bosnian Serbs to accept a negotiated solution. And it would probably favor a lifting of the sanctions on the Serbs.

We are absolutely sure that the Bosnian Serbs would initiate an offensive against the Muslims, primarily in the safe areas, before the Muslims would have time to receive any weapons at all. The battles would worsen, thus interfering with humanitarian aid and the free movement of UNPROFOR.

The Muslims themselves would encounter serious difficulties, even with heavy weapons, in recovering the territory to which they aspire. And the possible territorial gains would be minimum, if any, and would not justify the heavy losses in human lives.

In these conditions, Mr. Chairman, UNPROFOR would find itself immediately forced to abandon the safe areas, to withdraw from Serb territory, and quite probably from all of the Bosnia-Herzegovina. The humanitarian agencies would accompany UNPROFOR in its withdrawal. Public opinion in the European countries contributing with forces to UNPROFOR would understand, and would certainly support this withdrawal.

On the other hand, Mr. Chairman, we think that there would also be consequences for the fragile Croatian-Muslim Federation established with the decisive support of the United States. What would the Croatians' reaction be? Would they be willing to follow the Muslims in their offensive? Would the Muslims continue to accept the conditions of the Federation once they are armed? Would it be possible to uphold the arms embargo on the Croatians in a unified army of the Federation?

On what and how would the embargo be lifted? On tanks and army heavy weapons only? On placing helicopters also? On ammunition and fuel supplies that we have to reach the territory of the Muslims? How would the Muslims be supplied? By land only, or by air and sea, as well? Through which countries? Through Croatia and Serbia? What to do then with the Operation Deny Flight if we supply them by air, that operation that establishes an air exclusion zone, and with the Operation Safeguard on the naval embargo? Would continue these operations to be applicable? Would these operations be applied only to the other parties and not to the Muslims? Would NATO and Western European Union be able to reach the necessary consensus to apply the embargo to only some of the parties?

Mr. Chairman, I think that there are a number of questions that have a difficult answer. But if in addition the United States lifts the embargo unilaterally, I think that you will agree with me that this would mean some movement of Washington away from its European allies. The decision would create probably, Mr. Chairman, divisive tensions with NATO, and I am sure you are award that the U.S. would have to accept full responsibility for the consequences of the situation provoked within Bosnia-Herzegovina by lifting the arms embargo to the Muslims. And if UNPROFOR withdraws from Bosnia, obviously, those European countries which withdraw their forces from Bosnia would not be prepared, I think, to send forces again. And I wonder, would the United States be prepared to send forces in that case?

In summary, Mr. Chairman, the entire negotiating process would collapse, and there would not be a further opportunity to solve the problem by diplomatic means for a long time. The result would be war, interruption of humanitarian assistance, and the detention of the reconstruction works. Several European countries, Mr. Chairman, are making great efforts to reconstruct two emblematic cities, Sarajevo and Mostar, and to restore normal activities in and around those cities. We think that the best way to contribute to the improvement of the situation of the Muslim population and to a solution of the conflict is to preserve in these normalization efforts, building mutual confidence, reactivating economic activity, and showing the population that the achievement of peace will have its rewards.

The Spanish forces in Mostar are witnessing the process and are contributing actively to this process of normalization. There is restoration of water and electricity supplies, the reconstruction of bridges, roads, railways, the resumption of essential public services—telephone communications, postal services, public transportation, hospital care, schools, airport activities—especially in the Muslim side of the city, and that effort is proving to be the best weapon to put an end to the conflict, Mr. Chairman.

But then what are the alternatives? What else can we do? We believe, Mr. Chairman, that the only action left is to exert maximum political pressure by the United States, the Russian Federation, and the European Union, and of course United Nations, to attain the signatures of all the parties to a final agreement.

Thank you, Mr. Chairman.

Chairman NUNN. Thank you very much, General Esparza.

Major General Smith?

If you would pull that microphone very close and talk into it. It is very sensitive.

STATEMENT OF JEAN CLAUDE MALLET, DIRECTOR OF STRATEGIC POLICY, MINISTRY OF DEFENSE, FRANCE

Mr. MALLET. Mr. Chairman, Senators, I am here on behalf and with the personal trust of the French Minister of Defense Francois Leotard, who decided to answer positively to the invitation launched by your, Mr. Chairman, and by your ranking minority leader. I am certain you realize, through this unprecedented gesture, the importance France attaches to your present debate and its potential consequences.

I will give you an in-depth view of the French Government's studies to the issue of lifting of the embargo. It must not be seen or understood that we have just rejected this as a slogan that would not be accepted in France. It has triggered in-depth studies, particularly in the Ministry of Defense.

I have the honor to represent in front of you—

Chairman NUNN. You said particularly the Ministry of Defense?

Mr. MALLET. Particularly, yes.

Chairman NUNN. Okay, thank you.

Mr. MALLET. I have the honor to represent in front of you a country which has devoted a considerable amount of effort—political, financial, and human—in the Bosnian crisis, sometimes at the expense of the lives of its soldiers since we have had to see about 20 deaths—20 deaths exactly—and about 300 casualties since we first sent military observers in July 1991 at the request of the European Union and CSCE, observers, monitors, ground troops, up to 6,000 now, a naval battle group, AWACS, reconnaissance, and combat aircraft, even the French Gendarmerie on the Danube are present in and around former Yugoslavia.

This important involvement stems from at least three categories of motives: First, we feel the future of European security is in many respects at stake again with this crisis in the Balkans; second, humanitarian tragedies have triggered, in particular in the summers of 1992 and 1993, an increased effort; and third, we have thought that we needed to design a containment policy in order to avoid the spill-over of the conflict in neighboring countries. 67 percent of the UNPROFOR forces are European.

Mr. Chairman, you have asked us to address two questions: Why have we been resisting the Bosnian Government appeals for the lifting of the arms embargo; what prospects do we see today for the peace process? Up to a point, those two questions are very clearly closely connected.

I am convinced that the lifting of the embargo would mean the end of any peace process and prospect for a very long period of time. The lifting of the embargo is nothing but a war-helping and nearly war-making measure. It would ruin, without doubt, any present efforts to build a new momentum towards a peace plan supported, as you have stressed yourself Mr. Chairman, by the United States, Russia, and the European Union powers. I will come back to that later.

The lifting of the embargo—that is my second point—would mean inevitably the withdrawal of UNPROFOR and trigger the resumption of a fierce violence and war throughout Bosnia. In that sense, it would be a tremendous drawback from what has been achieved on the ground in particular since August 1993.

Third, the lifting of the embargo means doubtless increased deeper inevitable involvement of the allies, and among them foremost of the United States of America in a war-like situation. Before dealing with these points, I would like to say a word on the issue of unilateral lifting, which I understand has been a matter of debate here.

With due respect, Mr. Chairman and Senators, I do not think unilateral lifting, from an international point of view, means leadership. But it is a sure recipe for international disorder in the post-Cold War world. Let me just remind you briefly, the text of the Security Council resolution of September 1991, which is today the legal basis of the arms embargo. It reads in its paragraph 6 that the Council has decided on the basis of Chapter VII of the Charter that the member states will immediately enforce a general and complete embargo, and I quote, until the Security Council decides otherwise, end of quotation.

We have, then, together subscribed to a text which imposes on us to come back to the Security Council of which U.S. and France and Great Britain in particular are prominent members, if we wanted to change this piece of international law. Could the United States, as such, and as a permanent member of the Security Council and as a member state of the United Nations, decide solely to place itself above the law it has contributed to create? Could it consider such a clear resolution as a worthless sheet of paper?

This could probably mean the end of the game in the Security Council in the new context, a year before the celebration of the 50th anniversary of the United Nations Charter signature on the 26th of June 1949. It could mean after such a precedent that other members of the Council, permanent or not, could see themselves free not to abide by the resolutions they vote in the highest international body, the body which authorizes or not the use of force and is responsible for peacekeeping. So in that case, in that hypothesis, who is next after U.S.? It would mean, of course, or probably, a tremendous crisis with your European allies and your Russian partner.

Now, if we turn to the lifting of the embargo itself per se, what do we see? We see first, as has been pointed out, a quick, almost immediate decision to withdraw the United Nations forces in this theater, at least in the French Government opinion which I think is shared both by the United Nations and or allies and partners. Some could say now, does the international community, do the Muslims really care about that? Let me dwell a little bit on UNPROFOR.

Our forces are presently accomplishing a series of missions thanks to which the situation has slowly been stabilized since August 1993. I will just give you a few highlights of these missions:

Humanitarian aid has arrived, and since January 1994, for the first time in the history of this conflict, humanitarian needs are matched by humanitarian flows, and these needs have been met since January 1994. I have charts at your disposal on this.

In the meantime, interposition between the warring factions have multiplied. In Central Bosnia, in Sarajevo, in Gorazde, there the blue helmets stand between two camps and avoid the resumption of fighting.

Third, they are guarding heavy weapons storages, and this is another mission to which a lot of personnel have to be devoted. There are, of course, a few violations of this rule, and things can be improved. But there it is. In several places, particularly Sarajevo, heavy weapons have been withdrawn or stored. Do we want them back in the battlefield?

Fourth, monitoring of the ceasefire or cessation of hostilities is, of course, another mission which requires an important number of units.

So, the lifting of the embargo would make all of these missions impossible for UNPROFOR because it means the contrary.

Humanitarian aid delivery means freedom of movement on roads; free access to airports. Roads and airports would be the place through which heavy weapons would have to be delivered. They would then immediately be the targets of war operations in order for one party to secure the deliveries and for the other party to interdict those deliveries. Communication axes, airfields, would be quickly the target of attacks.

Interposition missions would have to be abandoned for two reasons: first, the resumption of large-scale battles in these sensitive places in which they have to be met; second, the loss of the impartial image of UNPROFOR in the eyes of the Serbs. If we accept weapons deliveries for their enemies we take sides. Withdrawal of UNPROFOR from these places would trigger now battles in all places, Sarajevo, Central, Eastern, Northern Bosnia. I have charts to show you where UNPROFOR is now located in interposition missions.

Some object that the Muslims are the best place to judge. But you must be aware of their wishes. Prime Minister Siladzic repeated them to the French Government a few weeks ago. The Bosnian Government wants both, both the lifting of the embargo and the maintenance of UNPROFOR presence. Why? First, of course, because the Bosnian Government would like to see UNPROFOR and the allies side by side with them—and that is natural, we can understand that—but also because they know in spite of all that our presence, our corresponding policy, has been a help since at least a year. Let me give you a few illustrations of what happened in the past 10 months.

Humanitarian aid has been progressively and is now surely a success. I have said that. The creation of the safe areas in June 1993 has in effect stopped the Serb progression and offensives, in particular in the Eastern enclaves. The situation in Sarajevo is tremendously improved, as you have said, Senator, since the ultimatum of last February, and the Serbs are no more in a position to seize the Bosnian capital as they were during last winter.

During autumn and winter, the Muslim army extended its hold in Central Bosnia, and you could see on maps the progress they made between July 1993 and February 1994 to control a wider space in Central Bosnia. So, on the whole, it must be admitted that the presence of UNPROFOR has corresponded to a period during which the situation of the Muslims has improved on several aspects. But the lifting of the embargo, which would trigger new combats and very likely an offensive by the Serbs to anticipate Bosnian moves before the Bosnian army gets stronger, would inevitably be the signal for our withdrawal.

This is not the only consequence. The logic in which we, and foremostly you the United States, would be thrown in is therefore a new buildup of war. I do not see how the United States, having decided or supported the lifting of the embargo, could stay out of the crisis. On the contrary, your country would have to commit itself even more.

Either in effect such a decision is simply a buzz word, a leitmotif, a slogan, you have no intention to be part of the game which is complex and far from here, and this can be understood—but then why interfere with the present efforts on the ground—or it means that you want to help the Muslims and then the United States cannot stop there. You would have to offer air protection, at least for a while, at the scale of the whole battlefield, not only the safe areas as today.

These strikes would accelerate UNPROFOR's dramatic withdrawal. You would have to help directly or indirectly the Bosnians so that they are trained to use heavy weapons, tanks, et cetera, on a large scale; you would have to commit yourself to avoid any extension of the conflict, in particular if the Serbian army, led by Belgrade, felt itself in a position to support the Bosnian Serbs. Large-scale air campaign, military assistance, containment, these obligations lead certainly to an ever-increased involvement of the United States of America and some of its allies, not the other way around.

I hope these explanations are a help for you to understand why we have been so reluctant to consider the option of lifting of the arms embargo. In our view, this measure pertains to the worst-case scenario and should not be envisaged without having explored at length all the other options. I understand the American administration has come to similar conclusions recently. In our view, it is now time to give all its chances to the peace process which has been relaunched for several weeks.

The French Government policy has always been to build up a consensus between the United States, the Europeans, and the Russians, in order to arrive at a balanced and shared view of a peace settlement. Considerable time and political involvement have been devoted in recent weeks to this objective since the ultimatum of Sarajevo and Gorazde. In that perspective, President Clinton's visit in Europe on the 50th birthday of the D-Day and talks in Paris are considered by my Minister and my Government as a success for both countries. We are close to an agreement on a map, a series of measures, incentives, and disincentives accompanying the plan, and a schedule.

This convergence of the United States, European Union, and Russia, is vital if we want a settlement, if we want peace. If it is put at risk, if the parties think that we are divided, they will exploit this weakness and this at our and your and their expense. On territorial percentages, on the map, on the definition of incentives, we are now closer than ever. If we are united, there is a chance to bring this conflict if not at once to a complete stop at least to a beginning of a settlement. Reiterating the leitmotif of the arms embargo is raising false expectations and is a source of serious misunderstandings and divisions with the Europeans and the Russians.

In 1994, as we are celebrating the liberation of my country by American troops with the help of French resistance and of the free French, I would like to see the United States of America and its European partners side by side in this resolution of what we consider to be a major crisis. If we achieve unity of vision, if we commit ourselves together both politically and, when the time comes, in the field, we can help to bring peace back in the Balkans.

Believe me, lifting the arms embargo is the worst way to get involved and stuck in the present drama.

Thank you.

STATEMENT OF RUPERT SMITH, MAJOR GENERAL, DIRECTOR OF STRATEGIC POLICY, MINISTRY OF DEFENSE, UNITED KINGDOM

General SMITH. Mr. Chairman, thank you for the opportunity to put the military consequences of lifting the arms embargo from the point of view of the United Kingdom. If we were to take Bosnia-Hercegovina alone, we currently provide the commander in Sarajevo and some 3,500 men deployed between the southwest of Bosnia-Hercegovina and to Maglaj in the northwest, and the enclave of Gorazde in the east.

What follows is predicted on the following:

That the United Kingdom's and the United Nations' aims are to achieve a negotiated peace settlement, to ameliorate as far as possible the consequences of the war on the populations, and to contain the conflict.

That the achievements by the military deployments and actions to date are not to be risked as in themselves they are important objectives on the way to achieving an overall solution of peace in the Balkans. And these achievements are:

The conflict has been contained to Bosnia-Hercegovina and Croatia. There is a stable ceasefire between the Muslim and Croat elements within Bosnia-Hercegovina. Negotiations between Muslim and Croat are underway over the territory, but they are likely to be protracted. The humanitarian crises are, to a large extent, resolved, at least for the time being. And UNPROFOR, where it is deployed, has very largely prevented ethnic cleansing or genocide.

There is a fragile cessation of hostilities around Sarajevo, allowing normal life to begin again, and a very fragile cessation of hostilities between the Bosnian Serb Army and the Bosnian Muslim and Croat forces has existed since the 10th of June.

That the United Nations sanctions all military operations in the theater and commands those on the land. The maritime and air operations commanded by NATO are through the dual-key arrangements in support of the United Nations land operations.

That the factions are fighting over the ownership of territory on ground that favors the defense and concealment.

And that Bosnia-Hercegovina in the face of the NATO no-fly zone, the routes all lie through Croatia, and some involve running the NATO WEU blockade in the Adriatic.

The military consequences of lifting the embargo would be that the Croatians would take their cut of the supplies passing through their territory, thus altering the balance of forces in the Krajinas, and risking containment.

The Bosnian Croats may well consider that a qualitative as well as quantitative improvement in the Bosnian Muslim arms will alter the current balance against them, particularly in artillery. And this may threaten the Muslim-Croat ceasefire and the new federation.

The Bosnian Serbs, faced with an imminent alteration in the balance of forces, may well conduct a rapid preemptive attack, threatening the existing ceasefires. The Krajina Serbs may do likewise.

Where these or this attack would fall is speculative, but if we take the eastern enclaves just as an example, some 119,000 people would be put at risk. Where would they go? What price ameliorating the humanitarian situation now?

The Bosnian Serbs, Muslim and Croat, knowing replenishment is in the offing, may intensive their actions immediately, also risking the ceasefire.

And here I must say that I do not think that rearming the Bosnian Government forces will lead to their victory. I can say that it will lead to an upsurge in bloody fighting.

The Bosnian Serbs may seek a preemptive improvement in their technology, particularly against United Nations and NATO countermeasures. And this could risk the drawing in of Serbia in providing these weapon systems.

The United Nations and nongovernmental organization hostages may well be taken, as we have seen before in the circumstances that surrounded the events of Gorazde and Sarajevo earlier this year.

UNPROFOR may come under direct attack. Its isolated detachments and the fact that many of its bases are in range of Bosnian Serb artillery make it particularly vulnerable.

Again, to take those eastern enclaves, 1,000 United Nations troops drawn from the Dutch, the French, Ukrainians, Norwegians, and ourselves would be at risk.

Air power would then be required to halt the Bosnian Serb attacks where it is mandated to be used. And there will be great command and control difficulty in conducting this in concert with UNPROFOR. This will not be a simple operation for NATO.

There will be a heightened probability of fratricidal engagement or friendly fire incidents. There will be a difficulty in acquiring targets that need to be attacked to achieve the objective of halting the Serb attacks. The tendency is likely to be to attack what can be attacked, thus spreading the conflict further.

This mission of halting Serb attacks is likely to involve more resources than are currently deployed for the existing close air support and safe area missions. And the circumstances where air attacks are mandated will not necessarily suit the requirements to defeat a Bosnian Serb offensive.

UNPROFOR is unsuitable, by its composition and equipment, let alone its mandate, for operations to prevent or stop those preemptive attacks by any of the factions. The attacks are most unlikely to be halted in their totality by air power alone. If the attacks persist or if the Bosnian Serbs merely hold their ground in the face of Muslim attacks, we are likely to be shown again that air power cannot hold or take ground—the object for which the factions are fighting.

The United Nations and NATO will be seen as definitely partial, and because UNPROFOR are deployed, employed and equipped for a mission different from that which will exist after the embargo is lifted, they will become vulnerable and elements will be at greatly increased risk.

The mission of the air forces to provide protection and support for UNPROFOR is different from that required for stopping the Serb attacks. It is unlikely that there will be sufficient resources to conduct both of those missions simultaneously successfully.

Who is to provide these extra resources to NATO, the United States?

These consequences will lead to negating the previous achievements, will intensify and prolong the conflict, exacerbate the humanitarian situation, risk spillage, and inevitably draw in more forces and resources. And I suggest that if the United States has lifted the embargo, the moral responsibility for providing those forces will lie with the United States.

Finally, I will touch on the subjects of withdrawing UNPROFOR.

UNPROFOR, or elements of the force, will need to start to withdraw, since it is difficult to see how they could continue their mission with acceptable risk, if at all. The terrain is difficult and limited routes exist on the only way out to Split in Croatia. It would take time to extract the whole force. The time taken to withdraw would be such that if speed is essential, much equipment and infrastructure would have to be abandoned.

Giving notice of lifting the embargo so as to withdraw even into garrisons would involve abandoning the current mission and give the opportunities for the preemptive attacks by all factions on each other and possibly on UNPROFOR. The difficulties of withdrawal would be greatly exacerbated if the Bosnian Croats and Muslims started fighting again, for that would lie across the withdrawal routes, and if, as Mr. Mallet covered, the lines of communication became the object of the Serbs' preemptive attacks.

Throughout this, there would be a need for adequate air cover, and possibly maritime support throughout the withdrawal. And again, this throws into doubt the adequacy of the resources available to cover these separate missions.

In sum, from the military point of view, the proposal to unilaterally lift the arms embargo confounds the United Nations' ability to achieve its aims, directly risks what has already been achieved and makes it difficult or impossible for UNPROFOR to continue to operate in Bosnia-Hercegovina.

Thank you very much, Mr. Chairman.

STATEMENT OF HON. ANDERS TROLDBORG, DEPUTY MINISTER OF DEFENSE, DENMARK

Mr. TROLDBORG. Mr. Chairman, the Danish Minister of Defense Mr. Hans Haekkerup, as asked me first of all to thank you, Mr. Chairman, and your important committee for inviting my country to be heard here today. We see this as a clear recognition of a common responsibility on the two sides of the Atlantic for the development in the Balkans.

The Danish Government is extremely concerned about the situation in the former Yugoslavia. A total of some 1400 men and women from Danish Armed Forces are today serving as UN peacekeepers in Croatia, Bosnia-Hercegovina, and Macedonia. Denmark is a small country with five million people. If you compare this to America it would correspond to a U.S. contribution of some 70,000 soldiers.

In Bosnia-Hercegovina Danish UNPROFOR forces have recently been involved in direct ground action. As this committee may know, our squadron of main battle tanks has had to answer in a robust way in order to exercise the right of self defense of UN forces.

We think we have long ago passed the point where a fair and just solution could be found. If the Muslim side should regain their former territory it would be necessary to roll back the Bosnian-Serb side, and such a solution cannot be achieved by lifting the arms embargo or by using air power. A rollback of the Bosnian-Serb side would require an enormous number of ground troops, and no country or organization seems prepared to commit that number of troops to that purpose.

We do not see a purely military solution to this conflict. There is no acceptable alternative to a negotiated settlement. Any solution not generally accepted by the parties will inevitably lead to new conflicts. In our view, a unilateral American lifting of the arms embargo would question the vital ability of the Atlantic alliance to act together in the new security environment. In the context of the situation in Bosnia-Hercegovina, we believe that the lifting of the arms embargo would have the effect of pouring gasoline on fire and mean an all-out war. It would also make it more difficult to maintain solidarity among UN members in other embargo cases.

Seen from a military perspective, it must be anticipated that lifting of the arms embargo would immediately result in massive Bosnian-Serb attacks to gain more terrain before the Muslims could obtain the weapons and be trained in their use. This could especially endanger the survival of the enclaves Srebrenica, Zepa, and Gorazde. Furthermore, it may cause the conflict to spill over to neighboring countries. Serbia might involve itself more directly in the conflict, it would force other major actors on the international scene to support the Bosnian-Serb side more actively, and it would most probably also mean the collapse of the peace negotiations. And here, the United States, Russia, and European Union have decided to combine their diplomatic efforts. If the Muslim side gets more weapons, it will be a signal to all parties, and not only to the Serb side, that the outcome of the conflict will be decided on the battlefield and not by negotiations.

The UN personnel presently in Bosnia-Hercegovina is neither organized nor is it equipped to take an active part in such a conflict. It would thus raise the question of the withdrawal of the entire UNPROFOR. We are convinced that many troop-contributing nations would give priority to the safety of their personnel and would feel inclined to withdraw their troops. Furthermore, the UNHCR and the NGO's working in the area would surely have to stop the delivery of humanitarian aid and also withdraw their relief workers. The consequences of such a development need hardly to be spelled out.

As a representative of a nation which attaches the greatest importance to NATO, I must warn against the potential for disruption of our alliance. Such a split, if it were to occur, would be very serious to all of us. As allies, we may no longer face an imminent military threat, but in the face of serious instability on the European Continent we must maintain NATO solidarity.

Thank you, Mr. Chairman.

Chairman NUNN. Thank you, Mr. Troldborg.

Mr. Mallet.

STATEMENT TO THE SENATE ARMED SERVICES COMMITTEE—DR. EJUP GANIC, VICE PRESIDENT, THE REPUBLIC OF BOSNIA AND HERZEGOVINA—JUNE 23, 1994

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE,

On behalf of the Republic of Bosnia and Herzegovina thank you for this opportunity to testify on the issue that is so vital to our future; the arms embargo on our country. I arrived this morning from Sarajevo to be here for the Senate's consideration of legislation of the arms embargo.

Just two days before, Mozart's Requiem was performed by the Sarajevo Philharmonic Orchestra conducted by Mr. Zubin Mehta, in the burnt-out building of the National Library that was almost totally destroyed by the heavy artillery of the Yugoslav army.

It has been three years since the Yugoslav army led by Serbian generals, and under political control of the Belgrade regime, launched aggression on those republics of the former Yugoslavia in which people voted to join the western democracies. Most of the aggression and destruction has been perpetrated against the Bosnian country and people. As a result of the arms embargo imposed on former Yugoslavia, we have over two hundred thousand of our civilians killed in Bosnia and Herzegovina, close to 2 million displaced and about 66% of our territory occupied. Crimes against humanity have been committed by the Yugoslav army and their allies and surrogates. The arms embargo against the legitimate and recognized Government of the Republic of Bosnia and Herzegovina was the policy—in effect the "therapy" that the international community imposed on Bosnia for the last two years to respond to aggression. This therapy created a catastrophe for my country. It has failed simply because the patient is dying. This therapy has to be changed.

The illegal and invalid arms embargo has deprived us of our right of self-defense. This right to self-defense was taken from us, and with it the ability to protect our citizens, and defend the sovereignty and integrity of our country. Belgrade and its well-armed surrogates ignored their pledges, signatures, and promises they made in all negotiations—at the London conference, in Geneva, New York, Brussels, Athens—because they wanted to and knew they could dictate events in the negotiating process by telling us, straight to our face—we have arms, you don't—that is the reality. If you want your homes back, your land back, you have to push us back out.

Bosnia and Herzegovina is a small European country of multiethnic character, which existed as a state in various forms, for close to one thousand years. Before the aggression on Bosnia, we asked the United Nations, most specifically, Mr. Cyrus Vance, Special Representative of the UN Secretary General at that time, to deploy UN troops on the borders of Bosnia and Herzegovina and therefore to prevent aggression from being initiated against this multiethnic country. The request was turned down. I recall that one of Vance's advisers told me: You have to have war first. There will be casualties and then some kind of cease fire, at least temporarily, and then we would come. He was unfortunately right.

About two weeks ago, the world celebrated the D-day. We saw many, now older American veterans, who took part in that heroic battle against fascism. We also saw many European leaders shaking hands and taking pictures with them. These same European leaders we saw during the D-day celebration once again seem unable or unwilling to assume the task of confronting fascism. Fifty years after the defeat of fascism, what is happening in Bosnia today is fascism again, this time of the Belgrade regime. The Belgrade regime planned and executed massive ethnic cleansing with genocide, with brutalities not seen in Europe since the end of World War II. Massive rapes of women and girls, and other forms of terror had been instilled to drive the population out, taking over their private property, destroying historical buildings, industrial infrastructure, cultural and religious monuments, so that the population might never return. This repression and genocide against the non-Serbian population is the program of creating a "Greater Serbia" through the idea of ethnic purity. Unfortunately, fifty years later in Europe, we have fascism again on the rise. I ask if the world is prepared to act and stop the Serbian fascism as was done fifty years ago. At least say no to fascism by letting us defend ourselves.

We are asking you to lift the arms embargo so that we may defend ourselves and secure a durable peace. We have not lost the war. The Serbs tried by all means to destroy our country and finish with us, but they have not succeeded, yet. Our people are talented and educated, and with our bare hands we resist and still hold under our control the major cities and vital industrial areas. We organized our army to defend in every cell of our society. Unfortunately, not more than thirty percent of the soldiers have light weapons.

We are asking you to lift the arms embargo in order to create conditions for peace and for negotiations through balance in weaponry. We had in fact asked you to lift the arms embargo from the first day of aggression. You said that the peace was coming. Now, more than two years later the Serbian troops, loyal to Belgrade regime occupy 66% of the territory, they killed more than two hundred thousand people, and we are asking again, we are begging you to lift the arms embargo because the peace is not possible under the present environment of weapons imbalance. It is NOT too late. Lift the arms embargo with a program to achieve peace. We need arms to survive, not for victory, because of the losses that we had and genocide we went through, we can never talk about victory.

We repeat over and over again: We are not asking for your troops to fight for us on the ground. That is our job and our task. But please, do not combine any more big words with small deeds. God will not forgive you if you do nothing. Doing nothing creates tragedy in Bosnia every day.

For almost twenty-six months, your Administration is in something like Hamlet—like dilemma: to be or not to be. But this Hamlet-like dilemma, and the spirit of hesitation have unfortunately allowed for dead bodies all over, as in Shakespeare's tragedies. Stop this Hamlet's dilemma because there is no more space for dead bodies in Bosnia. The peace that we have been waiting for the last twenty six months is not coming without your action.

The United Nations are responsible for ineffective results. Its resolutions are being ignored. The UN declared "safe areas" have become the most unsafe places in Bosnia and Herzegovina. Remember Gorazde, over one hundred NATO jets were on the disposal of the Secretary General and his Special Representative, Mr. Akashi, to protect this safe areas and give a lesson to the Serbs that the buck stops somewhere. Mr. Akashi, supported by many of the same political leaders who sat before you today, first allowed the Serbian tanks to penetrate the safe area lines established by the UN itself by declaring that there was no real danger to the civilian population because the tasks were too

> far from the potential victims. Then, when the Serbian tanks came within a few yards of the Gorazde hospital and other residential areas, the same man claimed that it was technically not possible to confront the tanks because they were too close to the residential areas and the civilian victims. The Serbian generals instructed by the Belgrade regime, did not allow General Michael Rose to go to Gorazde and declared him the voluntary prisoners of their army until they destroyed most of Gorazde. Some UN generals who spoke openly like General Razek and General Morillon, that the peace will not come in Bosnia as long as the situation is handled by those who oppose lifting the arms embargo were immediately sent home.
>
> America is a country of hard-working people. If you cannot help us, then do not prevent the lifting of the arms embargo. We know that Americans are against ethnic cleansing, against genocide, against massive rapes and torture of our people. We know that Americans are and have always been against fascism. Oppose fascism of the Belgrade regime on Bosnia. No consensus is required to oppose fascism.
>
> We count on American democracy, we count on the moralism of American people and their commitment to legality. We are looking to the United States Congress for America's leadership. We hope for the proper action from America. The ethnic cleansing as imposed by Belgrade regime destabilized the world. Only in the stable world, will the United States of America continue to prosper.
>
> Mr. Chairman, distinguished audience.
>
> Every day in Bosnia we pray for peace. We are hard working people, we are a part of the European civilization. We do not need anyone to work for us, we do not need money from anybody. We need a chance to survive.
>
> At one time I was a lucky Bosnian. As an MIT student, many years ago, I learned from my American roommates that the ethnic purity concept was always fascism for American people. Much of Europe, including its most economical advanced Member States, still do not practice or even understand the concept of a multiethic state. While your nation strives to perfect this idea, too many European leaders still avoid it as an undesirable contamination of their culture or history. The leadership of American people, demonstrated today in this room is a hope for all generations in Bosnia for a better future.
>
> Thank you and I am at your disposal for any questions you might have. I just came from Sarajevo after 26 hours of flight, to be here with you today, and I am the one who feels privileged.

Mr. WARNER. Mr. President, I will take a few moments to quote from the statements of several of these witnesses.

First, the representative from Spain, and I quote:

> The Russian Federation would find itself in a difficult situation. It would lack the jurisdiction to continue pressuring the Bosnian Serbs to seek the negotiated solution, and it would probably favor the lifting of the sanctions on the Serbs. And therefore, to the extent to which Russia has been a participant in the peace process that would cease with the unilateral lifting.

He continues:

> We are absolutely sure the Bosnian Serbs would initiate the offensive against the Muslims primarily in the safe areas before the Muslims would have the time to receive any weapons at all.

The representative from France stated:

> The lifting of the embargo means doubtless increase, deeper inevitable involvement of the allies and among them foremost the United States in a warlike situation.
>
> Before dealing with these points, I would like to say a word on the issue of unilateral lifting, which I understand has been a matter of debate here in the United States. With due respect, I do not think unilateral lifting from an international point of view means leadership, but it is a sure recipe for international disorder in the post-cold war world.
>
> Let me just remind you briefly the text of the Security Council resolution of September 1991 which is today the legal basis of the arms embargo. It reads in paragraph 6 that the Council has decided on the basis of Chapter 7 of the Charter that the member states will immediately enforce a general and complete embargo, and I quote, "until the Security Council decides otherwise."
>
> We have then together subscribed to a text which imposes on us to come back to the Security Council of which the U.S., France, and Great Britain particularly are prominent members, if we wanted to change this piece of international law. So the United States as such and as a permanent member of the Security Council and a member state of the United Nations decide solely to place itself above the law, it has contributed to create, could it consider such a clear resolution as the worth of a sheet of paper, the answer being no.

As the chairman said, if this action were taken unilaterally this war would be stamped "Made in the USA." This testimony is unequivocal to the point that these forces would be severely hampered in their withdrawal. The weapons intended for the Bosnian Moslems would be intercepted by the Croatians. They would take a cut of the weapons. We do not know what quantity or what quality of weapons eventually would go to the Moslems.

I want to add also the statement from General Smith who represented Great Britain. He said as follows.

> I do not think that rearming the Bosnian Government forces will lead to their victory. I can say that it will lead to an upsurge in the bloody fighting. United Nations and nongovernmental hostages may well be taken, as we have seen before in the circumstances that surrounded the defense of Gorazde and Sarajevo this year. UNPROFOR may come under direct attack.

Consistent from each of the witnesses from the UNPROFOR forces was that this conflict will be enlarged, it will spread and in all likelihood it will become one in which the United States will be drawn into in a very major way.

I want to acknowledge the help on this matter from the Ambassador from Her Majesty's Government, Sir Robin Renwick, who has been exceedingly helpful to this Senator and other Senators in getting a prospective from the United Kingdom.

I urge the Senate to consider the Nunn-Warner amendment as the action this body should take at this critical point in time.

Mr. President, I see the distinguished Senator from Kansas seeking recognition, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Senator from Kansas [Mrs. KASSEBAUM].

Mrs. KASSEBAUM. Mr. President, how much time do I have?

The ACTING PRESIDENT pro tempore. The minority leader has 11 minutes and 50 seconds.

Mr. LIEBERMAN. Mr. President, I wonder if the Senator from Georgia would enter into a unanimous consent to extend the time available by 6 minutes equally divided between the Senators.

Mr. NUNN. I have no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, I would ask for a couple minutes and ask my full remarks be made a part of the RECORD.

Mr. NUNN. Mr. President, I yield 3 minutes I have to the Senator from Kansas.

The ACTING PRESIDENT pro tempore. The Senator from Kansas [Mrs. KASSEBAUM] is recognized for 3 minutes.

Mrs. KASSEBAUM. Mr. President, as Congress speaks on this most important and difficult issue, as we have done so many times in the past couple of years, we must do so with great care and deliberation. Not only do our actions matter here but just as importantly our words, and there are two major pieces of legislation before us, as has been pointed out. One is the sense-of-the-Senate resolution, the Nunn-Warner amendment, of which I am a cosponsor, and the amendment of Senator DOLE.

The Republican leader has anguished over this situation in Bosnia and Herzegovina for many years. There is no doubt about the sincerity of those who were supporters of the Dole amendment.

But I think we must analyze carefully the two proposed amendments that are before us and ask ourselves what consequences might be the result of the action of one or the other.

My serious reservations about the Dole amendment are twofold. One—and this has been stated here frequently already on the floor—is that the unilateral action in lifting the embargo will set a dangerous precedent; and, second, that unilaterally lifting the arms embargo would lead to a serious rift between our NATO allies.

I really feel, Mr. President, that at that particular juncture we do Americanize the conflict in Bosnia and Herzegovina. There is no question but that the Bosnian Moslems have been disadvantaged from the beginning. However, I strongly believe that the Nunn-Warner amendment offers a far more constructive approach. Support for the peace process and working for the multilateral lifting of the embargo represents the most responsible policy at this time.

Mr. President, this is a very important issue before us. We cannot just lightly take a vote on these amendments as something that will not have consequences. We must think carefully about the ramifications of this. They are two very different approaches to an enormously important issue.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. LIEBERMAN. I yield to the Senator from Michigan.

Mr. LEVIN. Mr. President, two points.

First, it has been argued that lifting the embargo would be bad for the Moslems. Letting the Moslems defend themselves, we are told, is going to lead to all kinds of terrible consequences to the Bosnian Moslems and the other Bosnians who are patriots to the Moslem government. We are told that if the embargo is lifted, that means the U.N. personnel are going to be leaving; that is going to be bad for the Moslems. Letting them defend themselves, we are told, is going to have harmful consequences for them.

It seems to me we ought to listen to what is in their interest relative to the lifting of the embargo. Will the removal of the forces be something which is good or bad for the Moslem government? The answer is, they have said, "If allowing us to defend ourselves means that the U.N. peacekeepers must leave, so be it." They have specifically said, "Please, thank you for your help, but let us defend ourselves. United Nations, if you must leave so we can defend ourselves, leave with our blessing, leave with our thanks, but let us defend ourselves. Leave."

It is a fundamental right under the United Nations Charter.

Now the other problem with the Nunn resolution is it eliminates the prospect of a unilateral lifting of the embargo, unlike the Mitchell resolution that we voted on a few months ago which at least had the possibility that we would consider a unilateral lifting by its own terms back in May 1994. The Mitchell amendment said that the President would consult with the Congress relative to the possibility of lifting the embargo unilaterally. That is specifically in the Mitchell amendment.

The pending Nunn amendment precludes the possibility that the embargo will be lifted unilaterally and therefore tells the Serbs, "Have no fear."

The Russians have a veto over what we are going to do under the Nunn amendment, because, under the Nunn amendment, we have to go back to the Security Council to get an embargo lifted, and that means there is a veto over it. And the Serbs are told by the Nunn amendment, "Have no fear. There will not be a lifting of this embargo."

That is the worst signal we can give to the Serbs. It means we are not going to see a negotiated settlement which is fair. It means there is more likely going to be a partition imposed which will not be a permanent, fair solution but a partition which will lead to the deepening and widening of this war.

So I hope that the Nunn amendment is defeated and that the Dole amendment and resolution is adopted.

I yield the floor.

Mr. WARNER. Would the Senator just yield to the Senator from Virginia to point out that Senator NUNN and I have modified the amendment—if the Senator will refer to page 3—to incorporate the language from the original amendment by the distinguished Senator from Maine, the majority leader. Therefore, I think the Senator is mistaken.

Mr. LEVIN. If that amendment, modified late last night, provides right now a unilateral lifting of the embargo, that is a change from all the rhetoric we all hear about.

The PRESIDING OFFICER (Mr. DORGAN). Who yields time?

Mr. LIEBERMAN. Mr. President, I yield 5 minutes to the Senator from Arizona [Mr. McCAIN].

The PRESIDING OFFICER. The Senator from Arizona [Mr. McCAIN] is recognized for 5 minutes.

Mr. McCAIN. Mr. President, the Senator from Michigan just brought up an excellent point about the incredible intellectual arrogance of deciding for a country what is best for it, especially a country that has had 200,000 people killed, 2 million displaced, and is experiencing an ongoing tragedy. In other words, the sponsors of this amendment know better—know better—what is in the best long-term interests of a people who have had 200,000 people killed and 2 million people displaced.

The Vice President of Bosnia, before the Senate Armed Services Committee, stated it in far more graphic and compelling terms than I ever could, Mr. President. And I quote from his testimony.

> We are asking you to lift the embargo in order to create conditions for peace and for negotiations through balancing weaponry. We had, in fact, asked you to lift the arms embargo from the first day of aggression. You said that peace was coming. Now, more than 2 years later, the Serbian troops loyal to the Belgrade regime occupy 66 percent of the country, they killed more than 200,000 people, and we are asking again, we are begging you, to lift the arms embargo because the peace is not possible under the present environment of weapons imbalance.

Mr. President, please, everyone in this body, pay attention to these words from the Vice President of Bosnia, not someone who sits here comfortably in Washington, DC, not someone who is a grand strategist and thinker, but from one who has seen 200,000 of his countrymen killed, slaughtered in some of the most outrageous crimes of genocide—crimes which are well known to this body.

He said:

> We repeat over and over again, we are not asking for your troops to fight for us on the ground. That is our job and our task. But please do not combine any more big words with small deeds. God will not forgive you if you do nothing. Doing nothing creates tragedy in Bosnia every day.

Mr. President, I would not mind listening to the general from Spain. I am sure the Spanish are well-known for their great military strategy and tactics. But I would much rather listen to the freely elected, democratic leadership of a country that is experiencing virtually unprecedented acts of genocide, rape, and murder.

The Nunn-Warner amendment says,

> If the Bosnian Serbs, while the contact group's peace proposal is being considered and discussed, attack the safe areas designated by the United Nations Security Council, the partial lifting of the arms embargo on the Government of Bosnia and Herzegovina and the provision to that Government of defensive weapons and equipment appropriate and necessary to defend those areas.

Yesterday's New York Times carries a quote from Brigadier General Ridgeway, the British commander of U.N. Forces in Southwest Bosnia, in which he says. "There is no peace in Bosnia and no cease-fire."

I say to the sponsors of this amendment, General Ridgeway, the British commander of U.N. Forces in Southwest Bosnia, says there is no peace and there is no cease-fire. So part B of the Nunn-Warner amendment should be operative, and we should lift the embargo anyway. The conditions on the ground will not improve if we support a settlement that is unjust and unworkable. It is unjust because we are going to cede half the country to the Bosnian Serbs and provide them with a reward for their naked aggression, and it is unworkable because it is unjust.

Should we ask any nation in the world to give up half their country because they have been the subject of aggression? I say no. The Nunn-Warner amendment—by ratifying the contact partition plan—says yes.

The Nunn-Warner amendment is fundamentally flawed in that it agrees to a peace settlement that ratifies naked aggression.

Mr. President, finally, I would like to say that the idea of it being America's war if we allow these people to defend themselves is spurious. They believe they can defend themselves. They are not asking for our help. Let them try it. For the last 2 years they have experienced the embargo and lost 200,000 of their countrymen, had 2 million displaced, and experienced the horrible things that do not need repeating here on the floor.

Finally, the United Nations is in violation of its own charter. The charter says every Nation has a right to defend itself. To compare an arms embargo on Bosnia with that of Libya, Iraq, and Iran, which are outlaw nations, bears no relation to reality. If someone chooses to say that if we lift an arms embargo on a country which, by the way, was not even designated in the resolution—Yugoslavia was designated in the resolution—that we will have to lift other embargoes, I would say we would be doing the United Nations a favor by lifting the arms embargo. The United Nations, by imposing an arms embargo on a nation which is innocent in order to prevent it from defending itself, is in violation of its own charter.

I hope the Senate will not send a mixed message today. I hope we will strongly support the Dole-Lieberman amendment and defeat the Nunn-Warner amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut.

Mr. LIEBERMAN. I yield 3 minutes to the Senator from Alabama, Mr. SHELBY.

Mr. SHELBY. Mr. President, "An international police force in a society of sovereign states is a contradiction in terms."

Although Prof. Hans Morgenthau made this statement nearly 50 years ago, the quotation could have easily emerged from any of the congressional debates regarding the conflicts in the former Yugoslavia, particularly those relating to discussions on the fate of Bosnia.

When the Senate sent its now infamous May 12 mixed message on lifting the arms embargo against the Republic of Bosnia and Herzegovina, it required the Bosnian people to wait further on the international community—the society of sovereign states—to decide its fate while relying on the inept and inadequate protection of U.N. peacekeepers—an international police force. I was recuperating from surgery on May 12 and therefore did not have a voice in that debate. However, today I am adding my voice to those of my colleagues who have called for a unilateral lifting of the arms embargo against the Republic of Bosnia and Herzegovina and I am pleased to be a cosponsor of the Dole-Lieberman amendment.

Mr. President, there is no need to reiterate the countless atrocities committed by the Serbians against the moslem population of Bosnia. These horror stories have been recounted and replayed time and again in the news media and within this Chamber. Nor do we need to discuss the overwhelming arms advantage of the Serbian forces. This fact is well-known. The question we must ponder is whether we will continue to deny the Bosnian Moslems the right and means to defend themselves against their tormentors.

When the Senate accepted the Mitchell amendment on May 12, it required the Bosnians to wait once more on the international community to decide its fate and protect its people. That amendment required the President to seek a multilateral lifting of the arms embargo.

Even if the President had made an intensive effort to have NATO and the U.N. Security Council endorse a lifting of the embargo, which he has not, I remain convinced that such efforts would have been fruitless. Because of their very composition, international organizations will rarely reach consensus or act decisively without strong leadership from one or more member nations.

For over 2 years, the Bosnian Moslems have suffered while NATO and the United Nations have reversed themselves, made idle threats, and failed to come up with a coherent policy on Bosnia that would end the conflict. Our multinational organizations have failed to resolve the simplest of problems in this situation. Therefore, I am absolutely certain that they will never agree on a contentious question like lifting the arms embargo.

World leadership often requires unilaterial action. The United States cannot continue to defer its leadership role to fractious and increasingly ineffective international organizations. Sovereign nations will rarely reach a consensus without strong-willed leadership. For years the United States has provided that leadership, in many cases acting unilaterally or with the support of a limited number of nations. The lifting of the arms embargo against Bosnia is exactly the type of situation where we must and should act unilaterally in a leadership role.

Mr. President, make no mistake about it, I do not see an immediate, pressing national security interest in Bosnia. I cannot find a compelling reason to commit U.S. Forces to a centuries old, local ethnic conflict. However, I refuse to accept the argument that we should be complicit in thwarting the ability of the Bosnian people to defend themselves.

The international community has shown itself incapable of defending the Bosnians. And although casualties are now over 200,000, many members of the international community, particularly within Europe, maintain that lifting the arms embargo will worsen the conflict. I cannot imagine how this conflict could worsen for the Bosnian people. Can we in good conscience, Mr. President, avoid taking this one step that might bring some balance to this horrible one-sided conflict while simultaneously issuing another vacuous internationalist promise to the Bosnians that the international community will protect them? Such promises are old and hollow. Mr. President, the Moslem population of Bosnia must be allowed to defend itself. Article 51 of the U.N. Charter states this right to national self-defense clearly as a matter of international law.

Throughout my tenure in the House and now the Senate, through both Democratic and Republican administrations, I have always been reluctant for the Congress to dictate foreign policy to the President. With respect to the arms embargo, however, there is both a moral and commonsense imperative to lift this embargo and to do it with or without the approval of the various international organizations. If this leadership will not come from the White House, then a reluctant Congress must lead. The United Nations and NATO have shown themselves incapable of protecting the Bosnian Moslems. We cannot expect these people to wait any longer on these collective bodies to reach a consensus or to take decisive action. I urge my colleagues to join me in support of the Dole-Lieberman amendment.

The PRESIDING OFFICER. Who yields time? There are 2 minutes and 50 seconds remaining.

Mr. LIEBERMAN. Mr. President, I yield myself that time to address, very briefly, the exchange between the Senator from Michigan and the Senator from Virginia about the fact that the Nunn-Warner amendment was modified last night to put back in some of the language that was in the earlier Mitchell amendment.

That language does create a situation where the President—after following a series of steps before the United Nations, if they fail, and the Serbs break the peace—can then come and consult with Congress. Those are very tentative words that are part of a sense of the Congress, not an act of Congress such as the amendment that I am cosponsoring with the Senator from Kansas.

As the Senator from Michigan has said, even looking at this language which slightly opens the door to unilateral lifting of the arms embargo in the Nunn-Warner amendment, matching that with what has been said on the floor by the proponents of the amendment this morning and before, it seems to me the Senate has only one choice. If you want to lift the arms embargo the only effective choice is to vote for the Dole-Lieberman amendment. The other simply does not do it.

Second, there has been discussion about the impact of lifting this embargo on other embargoes, such as the ones against Iraq and Libya. I would say in one sentence, we have to be able to distinguish between embargoes that punish aggressors and embargoes that punish victims, such as the embargo of arms sales and transfers to the Bosnians. The latter is an immoral embargo.

Let us listen, as my colleagues have said, to the words of the duly elected leadership of Bosnia—not decide what is best for them—as Mr. Ganic, told the Armed Services Committee last week:

> We repeat, over and over again, we are not asking for your troops to fight for us on the

ground. That is our job and our task. We are begging you to lift the arms embargo. But please do not combine any more big words with small deeds.

Mr. President, only one of these two amendments before the Senate combines big words with big deeds and that is the one that allows and orders the unilateral lifting of the arms embargo.

Finally, I ask unanimous consent to have printed in the RECORD two letters; one from the former Secretary of State George Shultz supporting the Dole-Lieberman amendment, and a similar letter from Ambassador Max Kampelman. I urge my colleagues to support the amendment and I yield any time remaining.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

JUNE 30, 1994.

DEAR SENATORS: I urge you to vote today for the Dole-Lieberman amendment to end the Bosnian arms embargo and against the Nunn-Warner amendment.

The issue is clear: American leadership is needed to create a sustainable and just peace in Bosnia. The Dole-Lieberman amendment calls upon the President to end the arms embargo against the Bosnian government. Passage of this amendment would strengthen the President's hand, both with our allies and the aggressors, in obtaining a lasting settlement at the negotiating table.

At first, our allies will protest, but they will follow American will and leadership. More than 100 UN-member nations are already on record in favor of restoring Bosnia's inherent right to self-defense. By the same token, rogue nations will not seek to violate valid UN embargoes because the resolutions legally enacted against the aggressor regimes in power in Iraq, Haiti, Libya, and Serbia are not at all analogous to an invalid, illegal embargo imposed against the victimized nation of Bosnia.

In addition to ensuring the maintenance of this invalid embargo, the Nunn-Warner amendment would preserve the status-quo of failed American and European policies in Bosnia. Indeed, this amendment actually endorses the Bosnian carve-up plan prepared by the latest international "Contact Group" (the United States, West European powers, and Russia, at whose request the group was formed). It should give all of us pause that, by the President's own admission, if this type of plan is accepted, the United States will introduce tens of thousands of U.S. ground troops as peacekeepers in Bosnia. The Serbs would see our troops as peacemakers. The Bosnian Army and people would see them as apartheid police sent to keep Bosnians in their newly proscribed "homeland." It is difficult to imagine a more dangerous scenario.

Three years of genocide and flaunting of international law demonstrate that it is wishful thinking on the part of the Administration to think that the Serbs will comply with this plan, even if they actually sign it.

In any case, however, this plan to reward Serbian aggression and ethnically divide a country with one thousand years of multiethnic history is fatally flawed and will not work.

I urge you to cast your votes today in support of the rule of law our values as a nation and against genocide and brutal aggression. I urge you to defeat Nunn-Warner and vote in favor of Dole-Lieberman.

Sincerely,

GEORGE SHULTZ.

Washington, DC, June 30, 1994.

Hon. ROBERT J. DOLE,
Hon. JOSEPH I. LIEBERMAN,
U.S.Senate,
Washington, DC.

DEAR SENATORS: It is my understanding that the President as well as his associates and members of the Cabinet have been personally and extensively involved in persuading the Senate to vote against the proposal submitted by you to end the arms embargo against Bosnia-Herzegovina. it is not easy for any of us to resist the urgings of our President, and I am reluctant to do so, but I regret to say it appears he has once against been misled by his advisors and moved in a direction which is contrary to American interests, values and prospects for peace and stability in Europe.

The urgings include a belief that a peace agreement is imminent in the Balkans. We have heard this for three years, a period during which our lack of resolve has permitted hundreds of thousands of people to be victims of unlawful aggression and transformed more than 1 million human beings into refugees. We, obviously, all hope that peace will come to the area, but the current peace talks and the present position of our government in preparing for those talks will result in rewarding the Serbian aggressor at the expense of the Bosnian victim. It is true we do not wish the Serbians to enjoy the total fruits of their aggression, but we are preparing to legitimize a result which will permit them to keep approximately 50% of the territory they have immorally, illegally and brutality seized. Such a "peace" cannot be a lasting or stabilizing one. It is certainly not a fair one.

American foreign policy must be committed to the principles of the UN Charter and the Helsinki Final Act, which declare all military aggression by one state against another to be contrary to the rules of responsible international behavior and thus illegal. Our current policy runs in the opposite direction, in spite of our rhetoric.

The only way to achieve a lasting and equitable peace is to establish a level field so that Bosnia (in federation with Croatia) can defend itself, restore its dignity and sit down as an equal partner with the Serbian aggressor in an effort to resolve the issues between them. It would be most unfortunate for the U.S. Senate to lose its opportunity today to assert its determination to restore balance in the area and add meaning to the principle of non-aggression, on which European stability and our security depend.

You are aware that in this statement, I speak not only for myself, but also for the Action Council for Peace in the Balkans. Our Steering Committee includes liberals and conservatives, Democrats and Republicans. Among its members are: Morton Abramowitz, Fouad Ajami, Richard Allen, William Brock, Zbigniew Brzezinski, Frank Carlucci, Hodding Carter, Walter Cronkite, David Dinkins, Frank Fahrenkopf, Geraldine Ferraro, Henry Louis Gates, Leslie Gelb, Barbara Jordan, Max Kampelman, Lane Kirkland, Jeane Kirkpatrick, John Lehman, Alfred Moses, Edmund Muskie, Aryeh Neier, Paul Nitze, John O'Sullivan, Martin Peretz, Richard Perle, Norman Podhoretz, Eugene Rostow, Donald Rumsfeld, Carl Sagan, Albert Shanker, George Shultz, Henry Siegman, John Silber, Helmut Sonnenfeldt, Susan Sontag, George Soros, Paul Volcker, John Whitehead, Elie Wiesel, Albert Wohlstetter, Elmo Zumwalt. Our roster also includes a number of Members of the Senate and the House of Representatives. The list continues to grow.

Sincerely,

MAX M. KAMPELMAN.

Mr. PELL. Mr. President, as I said during debate on the arms embargo last week, we have been down this road several times before. We have debated and voted previously, and in my view, we need not and should not take up this issue again, particularly as the President heads to the Group of Seven summit next week where he and his colleagues are expected, among other things, to endorse a plan to end the Bosnia conflict.

If we adopt the Dole amendment, the outcome would be disastrous. Since the House of Representatives has already passed a similar amendment to the Defense Department authorization bill, we would be forcing the President to take very damaging action. There would be no turning back, no margin of error. And it would be the Congress that bore the ultimate responsibility for implementing a new, ill-conceived policy.

During the Reagan and Bush administrations, several of my Republican colleagues frequently made the excellent point that our President deserved our support during times of major diplomatic discussions and initiatives. That principle applies to the current President as it did to the previous ones. At times of delicate international negotiations, any President deserves bipartisan backing. The national interest should be above partisan squabbling.

In Naples, President Clinton will meet not only with the other G–7 leaders, but with Russian President Yeltsin. Obviously, their agenda is not limited to Bosnia, but rather includes a wide range of pressing international economic and political issues.

The points for and against lifting the arms embargo unilaterally have already been made. I would simply say at this juncture, urging unilateral action would be a reckless step that would undermine U.S. credibility and interests. I would urge my colleagues to oppose the Dole amendment.

Mr. KERRY. Mr. President, once again we are engaged in a debate over the question of unilaterally lifting the United States arms embargo against Bosnia. Proponents of that approach argue, as they have in the past, that the only real issue here is whether or not the United States is going to support the right of Bosnians to self-defense.

I submit that this is not the issue. No one questions the right of the Bosnians to self-defense. The issue is whether or not the United States should adopt a unilateral course of action that abandons our neutrality, divides us from our allies, and holds out the real possibility of expanding and perpetuating the war—a war that has already raged for more than 2 years.

Senators should not delude themselves. The consequences of adopting this amendment are serious and far reaching. If we lift the United States arms embargo unilaterally, as this amendment directs the President to do in response to a request for assistance from the Government of Bosnia, we will no longer be a neutral party. We will have taken sides.

The Bosnian Moslems will regard us as their patron and protector. They, in turn, will be seen as our client by the Bosnian Serbs and their supporters in Belgrade and Moscow. If we unilaterally lift the arms embargo and provide arms to the Bosnian Moslems, the Russians, as they have already indicated, will respond by arming their traditional historic allies, the Serbs. Other nations will be encouraged to violate the United Nations-imposed arms embargo on Bosnia. The result will be more weapons, more war, more killing, more deaths.

The prospects for a diplomatic solution—which have been more promising since the Russians joined the contact group—will be more remote. Moreover, the United Nations peacekeeping operation in Bosnia will come to a halt. Our NATO allies have made it absolutely clear that they are not in favor of lifting the arms embargo at this time. We should respect their judgment. After all, they are the ones with peacekeepers on the ground, not the United States.

Let me remind my colleagues that our allies have over 16,000 troops in the former Yugoslavia. France has over 5,500 and Britain more than 3,400. Canada and the Netherlands each have more than 2,000. Spain has nearly 1,500 on the ground and the Belgium has more than 1,000. The United States, as I said, has none.

If we lift the embargo unilaterally, the threat to these peacekeepers could increase dramatically. In the face of that possibility, the odds are high that our allies will withdraw their forces. Withdrawal would be catastrophic for the international humanitarian relief effort in towns like Sarajevo, Gorazde, Srebrenica and Zepa where Bosnian civilians are surrounded by Serb forces. We would wind up in the contradictory position of trying to help the Bosnian Moslems defend themselves while at the same time contributing to the demise of the international effort that is helping them to survive. Many would point the finger at us and say now it is our responsibility to protect and feed threatened civilians. How many in this body are prepared to assume that role? Few, if any, I suspect.

Proponents of lifting the arms embargo unilaterally argue that a stable peace can be established only if the Bosnian Moslems negotiate from a position of strength on the ground. This argument is based on the assumption that the Bosnian Moslems will be more victorious with more weapons at hand. That may be true. Certainly the Serbs are more powerful and better equipped at present. However, I question whether weapons alone will tip the balance.

Over the last 25 months, the Bosnian Serbs have proven their determination to fight it out, even in the face of extreme odds. I am not at all convinced that they will retreat if confronted with a better equipped Bosnian Moslem force. And if they don't, the fighting will be more intense and prolonged.

Mr. President, I understand the desire of Members of this body to do something to level the playing field in this conflict. I also understand the frustration that many have over the failure to resolve the conflict at the negotiating table. But breaking from our allies and following a course of action that threatens to expand the war and undermine the international community's collective effort to resolve this problem is not the answer.

Mr. BRADLEY. Mr. President, I rise in support of the Dole-Lieberman amendment to lift the arms embargo against the Republic of Bosnia and Herzegovina. Given the House's approval of a similar amendment to this bill, this promises to be the decisive Senate vote on Bosnia. I would therefore like to explain my thinking in some detail.

Our overriding goal in Bosnia must be to end the fighting. There have been opportunities over the past 4 years to pursue more ambitious goals, such as preventing the outbreak of violence in what was Yugoslavia, rolling back ethnic cleansing, or restoring Bosnia's territorial integrity. But these fell by the wayside as the United States and our European allies failed to take decisive action and the conflict continued, leaving us in June 1994 with only one feasible goal, ending the fighting.

The fighting will end only when the Serbs stop their aggression. That will only happen when they have all the land they want, or when they meet the reality or threat of sufficient countervailing force to make further gains too costly. I can see only two sources of such countervailing force, Western militaries or the Bosnian Government's own military. However, it is clear that neither the United States nor our NATO allies will deploy sufficient military force to stop the Serbs. Thus, we have no reasonable alternative to removing impediments to the Bosnian Government's efforts to field sufficient force itself.

The federation agreement between the Bosnian Government and the Bosnian Croats was an important step in this direction. It changed the dynamic of the situation, not only by ending government/Croat fighting, but also by putting Serb gains in the Croatian Krajina at risk. The use and threat of NATO force through limited air strikes has also helped somewhat. But, in the final analysis, the Bosnian Government will not be able to field sufficient countervailing force until the arms embargo against it is lifted.

Last month, the Senate voted to lift the embargo. While the details of our votes may have been muddled, the message was clear. The clock was ticking, and if the administration did not incorporate lifting the embargo into its strategy, Congress would act. However, the administration has not pushed to get the embargo lifted in the United Nation Now, time is up. The embargo must go. Congress must take the initiative and act to lift the embargo unilaterally.

This is not a cost-free step. After 4 years of missteps in the Balkans, there are no cost-free steps. The status quo certainly is not cost free. The only question is whether the costs of lifting the embargo unilaterally outweigh the benefits.

Opponents of this amendment have asserted that the costs do in fact outweigh the gains. I disagree. Let me explain why by looking at the most important objections raised by opponents of this amendment.

First, there is the argument that lifting the embargo unilaterally would destroy the peace process. It is true that the contact group countries have agreed on a proposal to partition Bosnia, with 51 percent of the land going to the government/Croatian federation and 49 percent to the Bosnian Serbs. As a carrot to entice the Serbs to accept this result, the group has held out the prospect of a lifting of sanctions against Serbia proper.

The problem, of course, is that the Bosnian Serbs have no incentive to agree. They already hold over 70 percent of the land, outgun their opponents, face no real threat of countervailing force, and have not been stopped by sanctions against Serbia. I would argue that, far from undercutting the contact group plan, action to permit the Bosnian Government to defend itself would provide the Serbs an important incentive to accept it. Either the Serbs give back 20 percent of the land today, or face the prospect of the Bosnian Government perhaps taking back even more by force in the future.

A related objection is that we would damage the peace process by destroying the contact group itself. Let's be realistic here. The Europeans, Americans, and Russians are all participating in the group because of their realization that continued fighting is not in their interests. That calculation of national interest should not change because of the prospect of a better balance of firepower between the warring parties. In any event, the goal is to end the fighting, not to give others a veto over American foreign policy.

Second, some argue that lifting the embargo would put UNPROFOR troops at risk. This is a call for the troop contributing countries to make. If they judge the risk too great, they should withdraw their forces.

These brave troops are doing wonderful humanitarian work on an immediate basis, but at the risk of becoming obstacles to decisive action to end the fighting. The fighting is the greater humanitarian problem, because it is the immediate cause of the suffering. We cannot allow UNPROFOR perversely to lead to continued suffering.

A third objection is that we would be taking sides. Let's look at the facts. We have slapped an embargo on Serbia, which we enforce with warships. NATO aircraft have shot down Bosnian Serb planes and bombed Bosnian Serb positions. UNPROFOR has clashed with Bosnian Serb fighters.

The point is not whether we take sides, but whether we get sucked into the conflict militarily. If we do not allow the Bosnian Government to defend itself, we will face increased pressures to intervene with our troops.

The fourth, and most troubling, objection is that unilateral action by Congress would undercut the ability of the United Nations to implement and enforce sanctions. I will not go into the question of whether an embargo applied against Yugoslavia legally applies to the Republic of Bosnia-Herzegovina. The point is that the United Nation resolution has become an excuse for inaction in the face of genocide. That simply is not acceptable.

Opponents of this amendment argue that it would undercut actual and potential United Nation sanctions against such international outlaws as Iraq and North Korea. I do not agree. Let's remember what the United Nations is and is not. The United Nations is a forum for coordination and legitimization of national policies. It is not a sovereign supranational entity that forces member nations to take actions they believe to be against their national interests.

For example, United Nation sanctions will remain on Iraq until it is no longer in the interests of the international community to keep them. When a critical mass decides that Iraq has fulfilled its responsibilities, the sanctions will be lifted. A country might point to the unilateral lifting of the Bosnia arms embargo by the United States as a cover for agitating to have the Iraq sanctions lifted, but it would only be a cover. Its decision would be based on its underlying interests. Unilateral United States action on Bosnia would not change these underlying interests, if the argue for keeping the embargo, it will be kept. If they argue against the embargo, they are unlikely to continue to abide by it regardless of what the United States does unilaterally.

Similarly, China will not enforce sanctions against North Korea to please the United Nations. If China agrees to and implements sanctions, it will do so only—I repeat, only—if China's leadership believes that sanctions are in China's interests.

Mr. President, I have gone on at some length because our vote on this measure is in fact a vote on a certain vision of America's role in the world. We have interests, including moral interests, in the world. We have responsibilities. And we have instruments for securing our interests and bearing our responsibilities.

We have an interest in stability in the Balkans. We have a responsibility to end the genocide. And we have the instrument in lifting the arms embargo on the Bosnian Government. Multilaterally if possible, by ourselves if we must, but the embargo must be lifted.

Mr. MCCONNELL. Mr. President, this week we took note of an important anniversary—June 25, 1950. Forty-four years ago this week, Kim Il-song invaded South Korea. In a lightning strike the North reached the end of the Korean Peninsula beginning a war which cost the United States over 55,000 lives.

Now as we consider this amendment on Bosnia, I can't help but look back and think what would the world look like today if we denied the South the right of self-defense—what if we had decided to cede the territory to Russian, Chinese, and North Korean aggression?

Well, if President Clinton had been in office I think that decision might have been made. I think it is possible that the perimeter of American security interests defined by Secretary of State Acheson excluding Korea would have been allowed to stand. In the years between the surrender of forces south of the 38th parallel at the close of World War II and 1950, from Washington's perspective, responsibility for Korea's sovereignty and future was turned over to the United Nations. At the time, the chairman of the Senate Foreign Relations Committee endorsed the widely held view that Korea held no political, economic, or strategic interest unique to the United States—Korea was a United Nation issue.

The parallels to events in Bosnia today are eerie. How quickly we have dismissed responsibility and leadership for the crisis in Bosnia, discarding the matter to the United Nations.

Today, an independent nation, Bosnia, is under siege. Day in and day out women and children, the young and old suffer. But the crime in their suffering, the tragedy is they have been denied the right to defend themselves.

In an attempt to stop the war an arms embargo was imposed on the former Yugoslavia. Since that U.N. embargo was imposed, Yugoslavia has disintegrated and five independent nations have emerged.

Unfortunately, the embargo remains in place to the great disadvantage and destruction of Bosnia.

Serbia, well-armed and with historic aggressive ambitions, has pounded Sarajevo, devastated Goradze, and torn Tuzla apart.

And U.N. bureaucrats battle NATO commanders over when, where, and what the bombing targets should be. Unfortunately, the victors in this battle are Boutros Ghali, Special Envoy Akashi, and General Rose who seem to have gained control over the fate and lives of American soldiers and airmen.

Confusion in the chain of command, the chaos in the agenda was particularly evident during the siege of Goradze. As NATO commanders were pressing air strikes to defend Goradze the U.N. Special Envoy stopped the aircraft mid-mission. Apparently, Secretary Christopher was so frustrated he called to protest this bureaucratic meddling. Secretary General Boutros Ghali would not take his call.

So we've reached a bureaucratic standoff as Bosnia dies.

I think Senators DOLE and LIEBERMAN are right. The United States must exercise leadership. We can't rewrite Bosnia's sorry history—nor our tragic role in contributing to this genocide.

But, we can turn a page, we can change Bosnia's future. We can lift the embargo and save what's left of Bosnia.

Mr. DODD. Mr. President, I rise to say a few words about the events taking place in the former Yugoslavia and the legislation that we are considering at the present time.

I'd like to begin by commending the distinguished minority leader, Senator DOLE, as well as my colleagues from Connecticut, Senator LIEBERMAN, for insisting that this matter be brought to the attention of the Senate. Their efforts have made it certain that the issue of Bosnia and the plight of the Bosnian people are given the treatment and the consideration they deserve.

Mr. President, the amendment that has been proposed by Senator DOLE and Senator LIEBERMAN raises important and difficult questions that warrant the careful consideration of every Member of this body. In all candor, I must say that I find myself in agreement with much of what this legislation seeks to do.

Like the sponsors of this amendment, I have watched as the Bosnian Moslems have been forced from their homes and subjected to murder, rape and unspeakable horrors. Like the sponsors of this amendment, I have watched as the Bosnian Moslems have become the victims of a cruel and deliberate policy of aggression and ethnic genocide.

Like the sponsors of this amendment, I am frustrated by the apparent inability of the international community to bring an end to the war and bring an end to suffering of the Bosnian people. And like the sponsors of this amendment, I am certainly convinced that the arms embargo on the Bosnian Moslems has only worsened and prolonged this dreadful conflict—and that the time has come for the embargo to be lifted.

To be candid, Mr. President, it is easy to see the appeal of the amendment by the distinguished minority leader. After all, this amendment merely gives effect to a sentiment that many of us have certainly felt: Just lift the embargo, do it right now, and don't worry about what the rest of the world thinks.

Mr. President, I wish I could endorse the solution that is proposed in this amendment. Regrettably, however, I cannot. Despite the very best intentions of its proponents and its supporters in this Chamber, the policy this amendment proposes would be a dangerous course for this Nation, and a dangerous precedent for the future of multilateral cooperation.

One year from now, Mr. President, in the year 1995, we will celebrate the 50th anniversary of the United Nations Charter. Happily, that anniversary comes about at a time when the age-old dream of that charter is finally within our grasp. The Soviet Empire is gone. The cold war is over. A collection of countries that was once hopelessly divided along political and ideological lines is now starting to think and act like a community of nations.

We are finally nearing the day when nations will come together to meet their common challenges, when multilateral action will be a reality and no longer a far-flung dream. Already we have gained a glimpse of the possibilities. Thirty-two nations came together to turn back Saddam Hussein. A majority of 15 members of the Security Council agreed to impose multilateral sanctions on Iraq, on Libya, on Haiti.

The United Nations and its many related agencies have provided humanitarian relief in Rwanda and Sudan, have monitored elections from Cambodia to El Salvador, and have dispatched peacekeeping troops to all corners of the world.

None of this has been perfect or painless or has come without cost. Certainly there have been setbacks. Certainly there have been disappointments. Certainly we all would have liked to see the United Nations move more quickly and more effectively in a number of places, not least of which in the former Yugoslavia. On that there can be no doubt or disagreement.

But I also think most of us would agree that the potential for international cooperation and coordination is far greater today than it has been in many, many years. We should think very long and hard before taking any action that could undo that very noble and very meaningful promise.

That brings us, Mr. President, to the issue of the former Yugoslavia. Three years ago, in September 1991, the U.N. Security Council voted unanimously to impose an arms embargo on Yugoslavia—including, of course, what was then the Yugoslav Republic of Bosnia-Herzegovina. The United States voted for this resolution and pledged to abide by its terms.

Now we are being told by the sponsors of this resolution that because we no longer agree with this arms embargo, all we need to do is to ignore it. We are being told that we can simply wash our hands of our commitment to the United Nations and walk away from a policy that we helped to develop and we helped to put into place. We are being told we can do this without consulting with our allies or with our many other partners in the international community.

Just imagine for a second, Mr. President, the kind of Pandora's Box this would open. What if Turkey, or Jordan, were to decide that the U.N. arms embargo against Iraq was no longer in their interest? Would that give them the unilateral right to ignore the arms embargo?

What if Canada, or Venezuela, were to decide that they no longer felt themselves bound by the U.N. trade embargo against Haiti? Would it be acceptable for them to ignore that embargo as well?

What will we do when the British, or the French, decide to pull out their peacekeeping forces from Bosnia? What will we say when Russia decides to ignore the arms embargo on Serbia? How will we respond when China refuses to go along with sanctions on North Korea, if sanctions ever prove to be needed? What possible standing would we have to tell these countries otherwise?

There are some in this Chamber who have argued that the U.N. arms embargo is illegal, that it violates Bosnia's right of self defense under article 51 of the United Nation Charter. I have heard compelling arguments made on both sides of that question. I do not presume to have a definitive answer.

What I do know is this: Simply because we may think the arms embargo is illegal, that does not make the arms embargo illegal. Nor does it give us the right to ignore the embargo, any more than any of us would have the right to ignore a domestic law if we thought it was unconstitutional. Making ourselves the judge and jury of the United Nations serves nobody's interests, Mr. President. Not those of the United Nations. Not those of the international community. And certainly not ours.

Today in the former Yugoslavia, there is an active effort under way to bring the warring parties to the peace table and bring about a negotiated end to the conflict. There is a peace proposal that is on the table at this very moment, one that has gained the endorsement of all the major international powers.

It is a process that is fraught with difficulty and in the end it might very well fail, just as so many efforts in Bosnia have failed in the past. But I think it is worth giving a chance, Mr. President. And I am certain it is better than walking away from everything the international community has accomplished in the former Yugoslavia, not to mention the rest of the world.

Walk away from NATO and the United Nations now, and we walk away from 14,000 troops keeping the peace in Croatia and a multilateral force that is standing guard along the border of Macedonia. Walk away now, and we walk away from the only source of dialogue between the warring factions, a dialogue that has helped to prevent a wider war and even more bloodshed. Walk away now, and we walk away from an airlift of humanitarian assistance that has kept people alive in besieged areas of Bosnia for 2 years, longer even than the famous Berlin airlift of 1948.

If you think that things cannot get worse in the former Yugoslavia, imagine what will happen when the peacekeeping troops are gone and the humanitarian assistance flights are stopped. Imagine what will happen when the Serbian forces are given access to more weaponry and ammunition from Russia. Imagine what will happen when the only lines of communication between the warring factions are severed. The result will only be more chaos, more bloodshed, and more loss of innocent life.

Mr. President, I do not mean to suggest that the international community has done everything it can in the former Yugoslavia. Clearly there is more that the U.N. and other international organizations can and should be doing to bring a halt to the aggression by Serbian forces. But make no mistake, Mr. President—lifting the embargo unilaterally will not fix what is wrong with the international effort. It will simply destroy that international effort altogether. And that is not in anyone's interest, least of all the people of Bosnia.

Mr. President, fortunately there is an alternative to the Dole amendment, and that is contained in the amendment put forward by the distinguished chairman of the Armed Services Committee, Senator NUNN, along with Senator WARNER. Their proposal calls on the United States to work with the members of NATO and the United Nations to preserve "an economically, politically, and militarily viable Bosnian state."

The amendment also makes clear that if the Bosnian Serbs do not constructively respond to peace negotiations, the President is urged to immediately lend his backing in the United Nation. Security Council to a resolution that would lift the arms embargo against Bosnia. If the Security Council fails to pass such a resolution, the President is urged to consult with the Congress with 5 days regarding unilateral termination of the embargo.

Mr. President, regardless of what anyone in this Chamber thinks of the proposal that is presently before us, there can be no disagreement over one fact: What is happening in Bosnia today is an unthinkable tragedy. Thousands of innocent civilians have been killed and countless more have been tortured, raped, or brutally uprooted from their homes.

The aggression and the genocide in Bosnia must be stopped. No human being with a conscience or a heart could possibly think otherwise.

But the question before us this morning is not whether we approve of genocide or even whether we approve of all the actions that have been taken in Bosnia by the United Nations and by our partners in the international community. The question before us is whether we can do more to help Bosnia by working in cooperation with the international community, or by going it alone.

Yes, Mr. President, let us stand up against genocide and ethnic cleansing. Let us stand up against aggression and the victimization of innocent civilians. Let us lift the embargo against the Bosnian people if that should prove necessary and let them defend themselves.

But let us not take an action here in this Chamber that would destroy everything the international community has done to protect innocent lives and to keep the conflict in Bosnia from spreading even further. And let us not take an action that would seriously undermine the credibility of NATO and the United Nations, not to mention our own credibility as a supporter of those important institutions.

Let there be no doubt, Mr. President: Lifting the embargo unilaterally would certainly do both of these things. That would not be in the interest of the United States. That would not be in the interest of the international community. And that would surely not be in the interest of the people of Bosnia.

For these reasons, Mr. President, I urge the adoption of the Nunn-Warner amendment.

AMENDMENT NO. 2142

The PRESIDING OFFICER. The time of the Senator has expired. Under the previous order amendment No. 1851 and amendment No. 1852 are set aside and the Senate will resume consideration of amendment No. 2142 of the Senator from Michigan, regarding funding for the B-2 bomber. There are 44 minutes remaining, 32 minutes under the control of the Senator from Michigan and 12 minutes under the control of the Senator from Georgia.

Who yields time? The Chair recognizes the Senator from Michigan.

Mr. LEVIN. Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 4 minutes.

Mr. LEVIN. Mr. President, the amendment which I have offered on behalf of a large bipartisan group, including Senators GLENN, MCCAIN, COHEN, LEAHY, and others, would strike the $150 million which the committee added on for a B-2 industrial base program, so-called, an amount not requested by the administration, for which there is no militarily validated purpose. It would use that money instead to restore a part of the base cleanup fund which we borrowed for the California earthquake emergency.

After that earthquake there was an emergency and we said we had to move immediately. What we did is we moved $500 million from the base cleanup fund into that emergency effort. What this amendment would do would be to say that we are not going to keep the B-2 road open. That was closed 2 years ago by this Congress. It was closed last year by this Congress. We capped the program at 20 B-2 bombers.

Three different Secretaries of Defense have said we should cap the B-2 bomber program at 20, two Presidents have said we should cap the B-2 program at 20. This amendment of mine leaves that program capped and does not open the road to more B-2 bombers. It says we resolved that question, now let us not reopen it, add money to that B-2 industrial base program, when we need that money so badly elsewhere. And one of the places we need it, where we have made a commitment to the people of this country to restore the money, is that base cleanup fund.

We have told people where there are bases that are closing, we will move promptly to provide for the reuse of those bases and we will provide promptly for the cleanup. What we have done, effectively, is borrow $500 million from that fund.

Yes, the 1995 budget request of the administration is fully funded. But the 1994 funds are the ones that were borrowed. And the 1995 request came to us before we used the $500 million from this fund for the California earthquake.

The administration specifically supports my efforts to restore these funds and specifically opposes the use of $150 million for the so-called B-2 industrial base fund.

We have letters from Secretary of Defense, Bill Perry, the father of stealth, who has said we cannot afford more bombers, and we do not need more B-2 bombers. And this is what Secretary Perry wrote:

> One of the most difficult questions we have thus far faced in our strategic planning about our defense industrial base is the one about Stealth bomber production capacity.

And in his letter he said:

> Given my deep personal convictions about the military importance of stealth for nearly 2 decades, you can well imagine why I have wanted to make sure we get this one right, and I believe that we have.

And then he goes on in this letter to describe why he does not support adding $150 million to the B-2 line.

The PRESIDING OFFICER. The Senator has consumed 4 minutes.

Mr. LEVIN. I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Chair would advise Members of the Senate that the Senator from Michigan has 27 minutes 50 seconds remaining and the Senator from Georgia has 12 minutes remaining.

Mr. NUNN. Mr. President, I would yield 3 minutes to the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii [Mr. INOUYE] is recognized for 3 minutes.

Mr. INOUYE. Mr. President, I rise this morning to oppose the amendment just offered by the Senator from Michigan. As the Senator indicated, his amendment would delete $150 million which the bill authorizes for the express purpose of maintaining the tools and facilities on the last American line for bomber production.

A key element of the U.S. industrial base for the production of modern bomber aircraft would be lost were the amendment to be adopted.

Mr. President, I would like to say that I have no quarrel with the Senator from Michigan on the need to fund base closure activities. The bill before the Senate does just that. If we examine the bill before the Senate, we find that the bill already includes $2.676 billion for base closure activities. That is the President's request, and this bill fully funds that request. On the other hand, if the amendment is adopted, our Nation's industrial base for bombers will be lost forever because the amendment eliminates any funds to preserve the capacity to produce any more bombers.

Our Nation's foremost expert on bomber and stealth technology recently testified before the Defense Appropriations Subcommittee, and this is what he said:

> We don't have anything in our program to sustain a bomber industrial base. That is a weakness of this program that we're presenting to you and you may rightly challenge and criticize that assumption.

He went further to say:

> The most logical way of maintaining a bomber industrial base is to continue to build more B-2's. That's not only because that's the best, the most cost-effective bomber we can describe to you right now but because we could make a very good use of the extra B-2's if we had them.

That is the testimony of the Secretary of Defense. Let us give the Department of Defense an opportunity to study and analyze the bomber force before we make this fateful decision.

The testimony of the Secretary of Defense is that there is a weakness in the budget presented to the Congress, that it fails to protect the bomber industrial base. And, it is the Secretary who says the best way to sustain the industrial base is to build more B-2 bombers, because DOD could make very good use of extra B–2's, if we had them.

Mr. President, I am a strong B–2 supporter and my colleagues know that. I recognize that the B–2 is the best bomber ever produced and, though it is expensive, I believe we should purchase more. The country learned many lessons from Desert Storm; one of the most significant lessons learned is that stealth works. The success of the F–117 in that war demonstrated to the entire world the advantages of stealth technology in military aircraft. The B–2 is the next technological leap; it is the stealth bomber.

The B–2 bomber is a marvel of American technology. It has the capability to take off from bases in the United States and fly anywhere in the world, penetrate virtually any airspace, deliver a devastating blow, and return to the United States without stopping. In this era, when the United States is deploying fewer troops overseas at fewer locations, the global reach of the B–2 is essential to deterrence and to war fighting.

Mr. President, the B–2 is essential. No other weapon can do the job. With mid-air refueling, the B–1B and B–52 can fly long ranges, but they cannot penetrate heavily defended airspace. Even the F–117 does not have the capability of the B–2 in that arena.

Mr. President, as we debate this issue, I would ask my colleagues to bear in mind that the American public is increasingly reluctant to support U.S. interests abroad, if that means intervention and the possible loss of American life. If is self-evident that the best way to protect those who must go into harm's way is to provide them the best equipment to reduce casualties and deaths. "Improved survivability" is the term employed by the experts; in my generation it was known as returning home alive.

Many of my colleagues are probably not aware that the Rand Corp. has been examining the war fighting effectiveness of the bomber force structure. Among its conclusions, Rand notes that a fleet of 38 B–2 bombers and 40 B–52's would be as effective as a fleet of 20 B–2's, 40 B–52's, and 60 B–1 bombers. That means that 18 additional B–2's could do the job of 60 B–1's. Millions of dollars could be saved through reduced military personnel and operations and maintenance costs; hundreds of lives would no longer be put at risk.

I am convinced the results of a comprehensive cost and operational effectiveness analysis will show that, in the long run, it would be more cost effective to purchase more B–2 bombers than to continue to fix and upgrade the existing conventional bombers and maintain the fighter escorts and electronic warfare capability which is required to support conventional bombers.

Mr. President, I do not make my argument on costs alone. The bottom up review concluded that 100 bombers are required to handle one MRC. It also assumed a force structure of 184 bombers. However, the Air Force plans to retain only 107 total bombers in its inventory, not more than 80 of which are to be ready for combat. Exactly how this force structure will fulfill the requirements for fighting two nearly simultaneous major regional contingencies has not been answered to my satisfaction by any DOD official.

Considering the uncertainties of force structure and cost effectiveness, I believe all my colleagues should agree it makes great sense to maintain the capacity to build additional B–2 bombers.

Mr. President, this amendment asks the wrong questions and provides the wrong answers. We know that, if the amendment is adopted, the last bomber production line in the United States will be terminated—a key element of the defense industrial base will be irretrievably lost. What we don't know is how much alternative force structures cost and how do these costs compare to the acquisition and operation of more B–2 bombers.

On both of these counts, I urge my colleagues to defeat the Levin amendment.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. I yield 5 minutes to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine [Mr. COHEN] is recognized for 5 minutes.

Mr. COHEN. Mr. President, I have enormous respect for the Senator from Georgia and the Senator from Hawaii, but I must say that even conceding this is a wonderful flying machine, the question is: "Can we afford it?" Now we are talking about maintaining an industrial base fund, not just for 1 year but for next year, the year after that, and ad infinitum until we decide we need more B–2 bombers. So it is not simply $150 million this year. We have to calculate well into the future.

Now, according to the manufacturer of the aircraft, they could probably construct another 20 B–2's for an estimated $12 billion. However, the Air Force and the Pentagon's Office of Strategic Systems indicates it would probably cost $19 billion, and I would submit that is probably an underestimate as well.

But assuming we are willing to pay another $19 billion, the next question is what about the need?

Now, the Senator from Michigan [Mr. LEVIN], has already quoted extensively from the words of Secretary Perry and Deputy Secretary Deutch. I do not know if he has quoted from the Secretary of the Air Force, but Sheila Widnall says she is not impressed with the idea of preserving a bomber industrial base and she would not trade anything in her budget to get more B–2's.

In an interview in Aerospace Daily this week she said:

> "I think one can make industrial base arguments for almost every system we're building. But * * * I think the aerospace industry has never relied on the argument of the industrial base" to remain fresh and at the leading edge of technology.
>
> Although the Air Force "obviously * * * would love to have more B–2's * * * they're very expensive, and in terms of the limited budget we do not have" the resources to buy more than those already planned. "I don't see how we could do it," Widnall said. "We would have to give up something that we consider to be a higher priority."

Well, what is the higher priority? The Air Force says there is no higher priority than what they have in the budget. Some advocates say, well, let us just retire the B–1 bomber fleet. One writer suggests let us retire all the B–52's, all of our ICBM's, a carrier battle group or, alternatively, a mechanized army division in order to sustain more B–2 productions.

Well, if we eliminate the B–1's and B–52's, that undercuts the argument we do not have enough bombers. Giving up another mechanized division would weaken the already questionable ability under the Bottom-Up Review to fight nearly two simultaneously regional contingencies. So these arguments do not seem to hold much water in terms of whether it is worth the costs when the need has not been identified by those who are in charge of the programs.

I would like to go just one step further and question what the mission is. We have had from the very beginning a question about what the B–2 bomber was going to be used for. Initially, the B–2 was going to be a nuclear bomber hunting down mobile ICBM's in the Soviet Union. And when the Air Force was forced to back away from that claim, it was justified on the grounds that it was the only means to attack deeply buried Soviet command and control bunkers. And when that was shown to be inaccurate, it was justified as the only way to penetrate Soviet air defenses even though we have invested billions in stealthy air cruise missiles.

When the Soviet Union dissolved, it was justified as an ideal conventional bomber for regional wars. You might think the B–2 is a bit overqualified for some of the Third World countries' but do not worry, it turns out that the B–2 is not quite as stealthy as originally planned.

But now we are told by Mr. George Donahue, Rand's Vice President of Project Air Force:

> B–2's by themselves probably don't bring enough firepower to stop the kind of armored invasions we have talked about. * * * What we want to do is use the B–2's to make initial attacks, suppress defenses, and then help the B–1's penetrate. * * * The B–2's help the B–1's find targets, help them locate defenses and avoid them, and then the B–1's come in, drop their bombs and get out safely. . . The B–2's in this role are helping to manage the

battle. In fact, they are performing roles rather similar to what JSTARS and AWACS do, say, later in the war.

If this is to be the role of the B-2—supporting the B-1, which would conduct the real bombing missions—then before another dime is committeed to the program, B-2 advocates have the obligation to explain why using the B-2 in this role would be more cost-effective than alternative options for supporting the B-1's operations.

Before approving the committee's position, we should have in hand trade-off analyses showing that the B-2 is better suited and cheaper than using JSTARS, AWACS, electronic warfare aircraft, SEAD—or suppression of enemy air defense—aircraft, overhead assets, and the means to support the B-2.

What we are seeing is yet another page in the constantly shifting arguments for the B-2 bomber, now the B-2 support aircraft.

Some B-2 advocates point out that the B-2 has taken on many new roles during its long lifetime. But that was after it was deployed. Having successfully performed the mission for which it was designed, it was repeatedly modified to conduct new roles.

In the case of the B-2, we have seen missions assigned and abandoned repeatedly before the B-2 has entered the force. Unlike the B-2, the constantly changing justification of the B-2 is not a result of its flexibility and capability but because each succeeding justification turned out to be unpersuasive.

BRAC RESTORATION

The other half of this amendment is that it would shift $150 million toward meeting the enormous costs of environmental cleanup of our defense facilities around the Nation, and specifically for the cleanup of those bases affected by the 1993 base closure round.

Our ability to clean up closing bases so that the property can be released to the local communities for reuse is being hampered by our decision in February to rescind more than $500 million in BRAC funds in order to pay for the Los Angeles earthquake emergency supplemental. This was nearly half of this year's cleanup funding for the third BRAC round.

DOD officials have testified that the funding shortfall in the BRAC cleanup account "will delay the closure of some bases" and that funds "will need to be restored to keep the BRAC process on schedule and to realize full savings from the infrastructure reductions."

The Deputy Secretary of Defense, John Deutch, wrote the sponsors of the amendment 2 weeks ago to support the restoration of the rescinded BRAC funds "to speed economic recovery of closure communities."

The Federal Government must fulfill its responsibility to clean up the potentially hazardous wastes at many of our bases. It is incumbent upon DOD and all Federal agencies to meet the cleanup standards that the private sector is forced to comply with. The Department of Defense must have the funds to restore these sites.

We must ensure that all defense facilities are good neighbors and that they do not contaminate ground water or fisheries, or expose communities to hazardous toxic wastes. We cannot, in the process of defending our country, permanently pollute our communities.

Economic recovery from base closure is difficult enough without the burden of potentially hazardous waste. The Federal Government cannot allow reuse efforts to be frustrated by the presence of environmental hazards.

Ninety-three defense installations are currently on the Superfund National Priorities List, and 14 more have been proposed for addition to the list. Two bases in my home State of Maine are on the list, and a third has been proposed for addition. There are armed services Superfund sites in over 40 States, and every State has installations that are affected by the Defense Environmental Cleanup Program. Some of the wastes at these sites are unique to military activities, while others are similar to wastes generated by industrial and commercial sectors.

The DOD facilities on the National Priorities List include bases that have been closed, some that are in the closure process, and many that are currently active. While this amendment will only directly affect the funding for bases closed in the 1993 BRAC process, increasing funding for one cleanup account may help to maintain current funding levels for the cleanup of currently active installations and bases closed in other BRAC rounds.

In summary, Mr. President, the Department of Defense opposes the unrequested $150 million added for the B-2 and supports the restoration of funds for BRAC cleanup.

I urge my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator has consumed 5 minutes.

Who yields time?

Mr. LEVIN. Mr. President, I yield 5 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas [Mr. BUMPERS] is recognized for 5 minutes.

Mr. BUMPERS. I thank the distinguished Senator.

Mr. President, nobody in this body should be deluded about what this debate is about. This debate is about buying 20 more B-2 bombers, which we do not need. The offer of 20 more B-2 bombers at a cost of $19 billion or slightly less than $1 billion each, whereas the original 20 are going to cost $12 billion, is a titillating offer.

But we should also think, as we should think about every weapons system, do we need them? If they were going to sell those planes to us for $500 million each, would it be a good investment? The answer is no. We voted in 1992 and 1993 to cap the number of B-2 bombers at 20. If we put $150 million in, as the committee has suggested, to keep the bomber line on standby, you are going to be asked every year, as far as the eye can see, for $150 million each year to keep that line open.

We had B-52's. The chart of the Senator from Georgia is a very interesting chart. I am not quarreling with it. But there is one thing it does not show on the chart; that is, we have 94 B-52H's—yes, the old workhorse B-52—94 of them. They talk about how many people are at risk in the B-2 because it is so stealthy. Nobody in the old workhorse B-52 is at risk. It is a standoff bomber that fires cruise missiles. The cruise missile is pilotless, and it is accurate.

The other thing that I think perplexes me more than almost anything else is that we can never kill anything around here, no matter how outmoded the original purpose for building it might have been.

I can remember, No. 1, when we started out on the B-2. I remember Bill Perry coming to my office. He was in the Defense Department under Jimmy Carter. He came to my office and described the B-2 for me. I was so excited I could hardly breathe at the thought of this top-secret bomber. It was going to cost between $300 million and $400 million. Do you remember the outrage in this country when it was discovered the thing was going to cost $500 million? There is hardly a whimper today when it is costing $2 billion, four times as much. That is what the announcement was back when everybody in the country was standing on their head because it was going to cost $500 million.

Second, on the mission, the B-2, just like the liquid metal reactor, started because the Soviet Union was our bitter enemy. We wanted a B-2 bomber that could penetrate the defenses of the Soviet Union. Now it is not a strategic bomber. For $2 billion you are getting a conventional bomber. We do not talk about bombing the Soviet Union anymore. Oh, we still have all these nuclear weapons and cruise missiles, and so on. But it is now a conventional bomber at $2 billion a whack.

Mr. President, why do we want to spend $150 million, not just this year? But make no mistake about it, we are embarking on a $150 million expenditure to keep that line on standby until someday somebody is going to make the argument here: Yes, we do need to buy another 20 B-2 bombers. Then we are going to be committing ourselves to a company which says they will sell us another 20 for $900 million each, or $950 million each. That is the same company that promised to sell us the original 100 for between $300 million and $400 million.

Again, Lucy Brown is holding the ball for Charlie Brown to kick and pulling the ball out from under him just before he gets to it. It just happens time and time again.

We voted to cap the B-2 at 20. We ought to stick with that.

Mr. President, I yield the floor.

I yield such time as I may have remaining back to the distinguished floor manager.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, I will just take a couple of minutes of my time.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, the Senator from Arkansas is right that the B-52's can indeed be used as standoff bombers. That is what we are going to have to use them for unless we get some more B-2's. The difficulty and the problem with the Senator's presentation is he acts as if the standoff weapons do not cost anything.

Mr. President, the standoff weapons, when you have to use them without having B-2's go in first, you are going to have to use them in such quantities that they are going to cost more than the B-2's would cost, if you add them up. If you look at the Air Force assumptions, 100 nonstealthy bombers, an average sortie rate per bomber of .7 per day, that is 70 bomber sorties per day, 20 weapons per bomber sortie, each standoff weapon that the Senator gives as his answer, averages about $1 to $1½ million if you count 20 of them on that basis. That is compared to what it would cost if you can fly directly over and use the JDAM* weapon of 40,000.

So you standoff and shoot from a distance with a B-52. That costs you about $1½ million apiece. We do not have them yet. That is what we do in this development. We used the whole inventory we had of Tomahawk missiles in the Persian war. We used them at the beginning.

If you multiply this out, just simple math, for each day we use standoff weapons in a war, it will cost us about $2.2 billion. It takes us 1 week to achieve air superiority. You have spent $15.7 billion. But that is not in the headlines, and nobody really has quantified all of this.

So what the Senator is arguing is correct. We can use standoff weapons on the B-52 and on B-1 because they cannot fly in over the target. The problem is those cost a fortune, and we are going to have to use them sparingly. It is not an argument against standoff weapons. We need them. But if we do not have the B-2 going in and clearing the way with the hard targets, we are going to spend more money on the standoff weapons the Senator from Arkansas wants than we would spend to build an adequate number of B-2's, and it is going to go on and on.

Mr. President, I reserve the remainder of my time.

Mr. BUMPERS. Mr. President, will the Senator from Michigan yield 1 minute?

Mr. LEVIN. Yes.

Mr. BUMPERS. Mr. President, let me respond to the Senator from Georgia in this way by saying, No. 1, the Senator is still anticipating a nuclear war with the Soviet Union. I am not. But I am not naive enough to say that we should not prepare for all eventualities. What I am saying is the threat that we have known all of these years is gone. Our bombers are not even on alert.

No. 2, if we were going to discard the B-52's and eliminate what he considers to be the staggering costs of operating those, that would be one thing. But we are not. You buy additional B-2's, and all you are doing is piling that cost on top of the cost that we are going to have anyway. The Strategic Air Command says the B-52 is good until the year 2030. That is 36 years from now. We are not going to throw a bomber like that away. We are going to continue to maintain them, and all we are going to do by buying 20 more is just put more costs on top of cost.

Mr. NUNN. Mr. President, I think we are talking about past each other. The Senator could not listen to the earlier debate. I understand that, with the hour that it was. But we have been talking all the time about the conventional role of the B-2—conventional, not nuclear. The Senator's remarks about Russia and the Soviet Union have nothing to do basically with this debate.

The other point the Senator made, I do not know where he gets the point about throwing away the B-52's. The B-2 is necessary to make the B-52 extend the life that long because the B-52 cannot fly over the target until somebody has cleared the way. That other has to be a standoff weapon or it has to be a stealthy bomber.

So this is complementary to the B-52, not in lieu of the B-52. We want to keep those in inventory. I have reservations myself about the B-1. We are trying to test that out.

But the Senator's point on the B-52 is totally opposite of the point that has been made here. The B-52 is going to be enhanced by having the B-2's because it can then fly over the targets and use smart weapons that cost $40,000 each instead of $1.5 million each.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, I yield 5 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. I thank the distinguished Senator from Michigan.

I listened to the debate here last night. I am delighted to hear the Senator from Georgia has some reservations about the B-1. I wish he had those same reservations when we had the debate on the B-1, because many of us raised questions about the amount of money we were spending on what appeared to be a "flying Edsel." The Air Force lobbied hard for the B-1 and they found themselves with a bomber they wish they did not have. They are spending billions of dollars to maintain, to crew, to equip, and incidentally, to fix all the flaws in it. If the B-1 was a "flying Edsel," the B-2 is a "flying Fort Knox."

It seems to be a case where we have forgotten that the cold war is over. It has ended. The Berlin Wall is down, and Russia wants to become part of the NATO alliance. But, incredibly, we are still figuring out how we are going to build a B-2 bomber that can get under Russia's defenses and bomb Moscow, if necessary. As I said earlier, I hope they do not bomb Moscow on the same day we are delivering the foreign aid that was voted for by this Chamber, because the message would be, unfortunately, mixed.

In a town famous for euphemisms, the bomber industrial base we speak of is the weakest disguise yet for what is simply a $150 million life support system for the B-2 bomber. It is time to pull the plug on the B-2, because the bomber industrial base is just another coined phrase to keep the vault door open to the B-2 at the U.S. Treasury. The "flying Fort Knox" wants a key to Fort Knox.

Last year, when I brought up an amendment to cap the B-2 at 20 planes, everybody from the distinguished Senator from Georgia, and others, said, "Well, let us not have this debate. We will put this divisiveness behind us because we are going to cap it at 20." The Air Force solemnly promised, "We are going to cap this sucker at 20, do not worry about it." But, now, as many of us suggested at that time, the Senate is voting to give a $150 million skeleton key to keep the B-2 alive. Even though we voted to cap it at 20 planes, even though the Air Force promised to cap it at 20, they figured that was last year and by now everybody will have forgotten the issue.

This is nothing more than a downpayment on spending billions of dollars on planes that the Department of Defense does not want to buy in the first place.

We are always going back home on weekends, and I am sure everybody back home on the 4th of July will say that we are here to make the tough decisions. Well, we can make a tough decision for the taxpayers of America or an easy decision for the lobbyists of a couple of mega-corporations. I think we ought to do it for the taxpayers of America. We should not vote today to retain our present fleet of bombers and exercise an option to spend billions more to supplement a commodity that is already overstocked. Let us see some truth in budgeting before we spend $150 million. Let us read the fine print.

Northrop tells us each additional plane will cost only $600 million. Such a bargain. The planes cost $600 million, but that reportedly does not include the tools needed for routine maintenance and the operating manuals to explain the operation and repair of this complex machinery. We are talking about a $1 billion airplane.

The cold war is over. Most Americans are adjusting to this reality. It would be nice if the U.S. Senate did the same. Let us end the era of work programs for defense contractors. Passing a defense budget that reflects a post-cold war defense policy would go a long way toward restoring the credibility of Washington and of our Government. We have an opportunity to do that by cutting programs rather than keeping them on a life support system.

Mr. President, to summarize, sometimes it seems that the world changes just about everywhere except within the walls of this Chamber. When the cold war was heated, Senators promoting costly weapons systems would express concern over the penurious budget submitted by the Pentagon.

Surely, they would argue, that the Defense Department was being too cautious, underestimating the funds necessary to ward off the growing might of the Soviet bloc.

The cold war has ended, the Berlin Wall is down and Russia wants to become a part of the NATO alliance. But, incredibly, we now argue whether the Pentagon should stop building expensive weapons like the B-2 that were intended for use against the evil empire.

In a town that is famous for euphemisms, the bomber industrial base is the weakest disguise yet for what is simply a $150 million life support system for the B-2 bomber.

Mr. President, it is time to pull the plug and let the B-2 expire. The bomber industrial base is just another coined phrase to keep the vault door open to the B-2 at the U.S. Treasury.

Proponents of the bomber industrial base argue that to save millions already invested in this flying Fort Knox—we should invest $150 million more. That's an argument that might be raised in bankruptcy court—but it has no place here.

The fact is that this special provision will be nothing more than a downpayment on spending billions of dollars on planes that the Department of Defense does not want to buy in the first place.

For months, the Northrop Corp. has been assuring Members of Congress and committee staff that the B-2 production line is withering away.

Supporters of the B-2 argue that the Air Force has a policy of folly. Air Force officials intend to drastically reduce our bomber force as the last B-2 rolls off the assembly line. The Air Force plans to cut the U.S. bomber force to 107 aircraft by the end of fiscal year 1995.

So, what is the solution proposed by the Armed Services Committee? The Air Force has been instructed not to mothball a single B-1 or B-52, and the committee added $150 million from the till to finance the B-2 recovery.

The American people send us here to make tough decisions—but I suggest this is an easy one—bordering on the obvious.

We should not vote today to retain our present fleet of bombers and exercise an option to spend billions more to supplement a commodity that is already overstocked.

Proponents of the bomber industrial base candidly admit that they are proposing a downpayment on 20 additional bombers. If we insist on exceeding the 107 bombers that satisfy Air Force strength requirements what is wrong with the bombers we already have? Is it not more of a waste to build new B-2's when we have spent billions on the B-1 program and upgraded our fleet of B-52's.

The $150 million bomber industrial base proposal won't even yield us a valid cost estimate on what the extra 20 B-2 bombers will cost.

Northrop tells us that each additional plane will cost only—only $600 million! They make it sound like a bargain! Tell that to the taxpayers of this Nation—and be sure to include Northrop's track record on past cost estimates.

Let us see some truth in budgeting before we spend $150 million. Let us read the fine print to the taxpayers. The planes cost $600 million but that reportedly does not include the tools needed for routine maintenance and the operating manuals to explain the operation and repair of this complex machinery.

The Senate should make decisions on when to spend millions of dollars based on independent estimates, not contractor estimates.

Finally, Mr. President, I want to raise a question about the issue of industrial base. Nobody questions that our country needs to protect our ability to build sophisticated weapon systems as the defense budget declines. We have a responsibility to preserve important defense technology.

I am not certain that "bomber industrial base" however meets this criteria. Is our interest in preserving knowledge or protecting defense industry shareholders?

I would strongly support an initiative to assist the aerospace industry. We must maintain our commercial and military edge—but we can not be giving $150 million handouts to corporations while waiting for them to meet their revenue expectations.

The cold war is over. I think most Americans are adjusting to this reality. It is time for the U.S. Senate to do the same, and end the era of work programs for defense contractors.

Passing a defense budget that reflects a post cold war defense policy would go a long way to restoring the credibility of our Government in Washington. We have an opportunity to do that by cutting off programs rather than keeping them on a life support system.

The PRESIDING OFFICER. The Chair advises the Senate that the Senator from Michigan has 11 minutes, and the Senator from Georgia has 5 minutes 45 seconds.

Who yields time?

Mr. GLENN. Mr. President, may I have 3 minutes.

Mr. LEVIN. I yield 3 minutes to the Senator from Ohio.

Mr. GLENN. Mr. President, I regret that I have to oppose some of our committee's views on this particular item and support the Senator from Michigan, because I basically support the B-2 bomber. I supported its development, and support the aerodynamic development of the flying wing that we have never been able to really use successfully in this country. That has been developed here. The stealth characteristics go along with it. Aerodynamic characteristics. The more we learn about that, it allows us to lift more into the air with less airframe weight involved. It has those advantages.

Mr. President, I must support the proposal by the Senator from Michigan because just for the expense of this airplane, as the distinguished Senator from Vermont just said, by the time you build the hangars for it—it requires special hangars—by the time you do all the things that have to be required for this, it comes out to probably $1 billion per airplane. As much as I would like to have the B-2, we just cannot afford it. It is a matter of cost. That is the reason I started switching my votes from support to opposition to the B-2 almost 3 years ago.

The Stealth does buy us time in military strategy, because it will be a while before radar designs catch up with the stealth characteristics, where the airplane can be seen again. And that can be done. It is expensive to do that, but the stealthy design is against current day radars, and it cannot guarantee that same kind of stealthy characteristic into the indefinite future.

There is the talk about $150 million to "keep the line warm." Well, line warm for what? We have B-52's and we have the B-1's that the Air Force says is the backbone of the bomber fleet now. I know we have the charts here that show how many conventional aircraft the Stealth bomber could replace. But the point you have to remember is that we already have those airplanes. It is not as though we were trying to decide today to buy B-2's, or B-52's, or B-1's; we already have the B-52's and

B-1's. They are a given. We have them now, at no expense. Whether the Stealth will replace 20, 30, or 40 of those, you still come up with retiring good aircraft—you still replace good aircraft with a B-2 that is going to cost us probably—when you talk about hangars and support—at least a billion dollars per airplane.

What does the Pentagon think about this? And what does the Defense Department want to do on this? Well, here is Mr. Perry, our Secretary of Defense. He said earlier this year:

> We should recognize now that any additional money added to sustain the B-2 line would be only the tip of the budget wedge. The large amounts required either to buy more B-2's or to sustain the B-2 production line, without producing more planes, would have to be taken from more pressing military priorities.

Mr. President, that summarizes the whole argument. The Secretary of Defense says if they do not want to keep the line open, it is the tip of the budget wedge. We would be keeping a line open to spend money for a potential of production that we do not see in the future. As much as I admire the lift capacity and the stealthy characteristics, I think right now it is something we cannot afford. I say that as one who supported the B-2 from inception, up to where I felt it got flat too expensive to buy. We have aircraft to do the conventional bombing roles, and if we were buying new aircraft, we could replace them with B-2's. We are not. We have them in surplus and are laying them up, sending them into storage right now, even though they are still good aircraft.

So much as I did support the B-2 in earlier days, I must say now that I have to vote with the Senator from Michigan and support his views on this.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator has consumed the additional 2 minutes.

Who yields time?

The Senator from Michigan controls 5 minutes 50 seconds, and the Senator from Georgia controls 5 minutes 10 seconds.

Mr. NUNN. Mr. President I yield 3 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona, [Mr. MCCAIN], is recognized for 3 minutes.

Mr. McCAIN. Thank you, Mr. President.

I rise in support of the amendment of the Senator from Michigan, [Mr. LEVIN], and I also hope the colleagues would heed the words of Senator GLENN who probably has more knowledge of this kind of business and practical experience than certainly any Member of this body or many living Americans.

Mr. President, we are asking again to maintain an industrial base. I have had representative after representative come to my office and sit down with me and say we need to maintain the bomber industrial base, we need to maintain the fighter industrial base, we need to maintain the missile industrial base. Whatever it is, that industrial base needs to be maintained.

I would love to maintain all those industrial bases. The harsh reality we are facing is that the defense budget has been cut between 35 and 40 percent and the cold war is over.

As we all know, a couple years ago a very extensive Bottom-Up Review was conducted by the best minds that we could gather inside and outside the defense establishment of this country, led by former Secretary Les Aspin and General Colin Powell. Their conclusions were that we needed no more than 20 B-2 aircraft.

Recently the Department of Defense has again gone back and reviewed the bomber requirements, and they state the Department has continuously examined the role of the B-2 in every aspect from a war-fighting perspective within the context of ongoing analysis of the bomber force and no requirement has emerged from this analysis to change the recommendation in the Bottom-Up Review for 20 B-2 aircraft.

We are cutting weapons systems and procurement that were recommended in the Bottom-Up Review. Now we are making a $150 million down payment on what could turn out to be a $12 billion expenditure.

Mr. President, there is also the question that perhaps Senator GLENN can address better than I can. But a bomber is an airplane. We did not need to maintain a bomber industrial base for the Northrop Corp., which builds the B-2. The last time they built a bomber was 40 years ago. Boeing has not built a bomber in over 30 years.

Mr. President, a bomber is an airplane. As long as we have aircraft modernization, construction, and advancements made, then we will be able to build bombers.

Mr. President, if this were 4 years ago, no one would be a more vociferous and stronger supporter of the B-2. The cold war is over. We now have different priorities. Those priorities are articulated, I think, very well, generally speaking, in the Bottom-Up Review. We should support it. We should support the Pentagon and make the tough decision, which is to finally let the bomber force grow cold.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Chair will advise the time is being charged against both sides.

The Senator from Georgia.

Mr. NUNN. Mr. President, I want to yield most of the remaining time to the Senator from Nebraska. I do want to take just a moment though.

Two times during this debate, people have said that I basically said a year ago that this debate was over. I want to read exactly what I said, Mr. President.

This was September 10, 1993, the CONGRESSIONAL RECORD, and I wish to make it very clear what I said. I said:

> Mr. President, it is no secret that I do not believe that limiting the B-2 to 20 was the wise decision. I have said that before. I will say it again. But if we are going to have more than 20 B-2's, it would have to only be done after very thorough deliberation and debate. In my view it should only be done if there are tradeoffs of the largest savings that the B-2 renders us as opposed to the alternative means of delivering long-range strike power.

Which is what we have been debating.

> But the Senator has an amendment which is now the official position of this administration. It was the official position of the previous administration. It is not my own view, but if we are going have a different view on it, it should be fully debated and at that stage we would deal with this matter as we would have to deal with it. So I do not want the Senator to think that I agree with the substantive position. But I do not think there is any difference between this amendment and what the administration's position is at this point in time.

That was the dialog with Senator LEAHY.

Senator LEAHY responded:

> Mr. President, the Senator from Georgia and I are in total agreement on the point that if we are going to go further, if there is reason for it for national security, it should be debated at that point. We are in agreement on that.

I wanted to clarify the RECORD on what I said, I hope, all along in this matter.

I yield the remainder of my time to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska, [Mr. EXON], is recognized for 3 minutes 20 seconds.

Mr. EXON. I thank the Chair and I thank the leader of the committee.

I hope we can focus on the reasons that the Armed Services Committee took the action that it did. Basically, we provided $150 million to keep the option open to buy more B-2's in the future. I have not committed this Senator to stay that course.

I think it is perfectly legitimate for the argument to go on about this as a down payment on the future. But I have not made that decision myself as of yet. The $150 million that is thrown around indicates it is a waste of money. The fact of the matter, as I said many times on the floor on this debate, the actual number is $75 million, because half of the $150 million will go for parts that we would otherwise have to buy in the future anyway to build the 20 bombers already authorized.

So we are talking about $75 million as an insurance policy to give us a year to try to straighten out what I think is a totally confused policy with regard to bombers by the Air Force.

To back up that point, I want to quote briefly from an article called

"Inside the Air Force," which I believe came out this morning. Among other things, it demonstrates the total disarray with regard to the Clinton administration and the Pentagon with regard to what they think are the proper mix of forces, and that is what we are talking about with regard to the B–2.

In this report it simply says that the ongoing national posture review, which is under the direction of the Secretary of Defense, which is expected to be completed this fall, is an option under which the Air Force would build 40 B–2's, an option. It goes on to say that the Defense Department did not request funds for the controversial bomber on the Senate floor, but the Air Force and the DOD leaders have privately made it known that they welcome additional B–2 funding, but they are not willing to expend political capital by formally requesting the funds.

Mr. President, I simply say that this Senator, the chairman of the subcommittee of jurisdiction, is simply saying because beyond any questionable doubt the closed hearings we held where we called the Department of Defense people in clearly indicated to those who were there and those who listened that only 100 bombers to fight a two-front war probably is not enough.

The questions that we asked were not answered by the people who were supposed to be in the know.

I simply say that this Senator recommended the expenditure of $75 million as an insurance policy, if you will, to give us a year to try to straighten out what I feel is a faulty total bomber and total mix force as presently presented to us by the Department of Defense and the administration.

I yield the remainder of my time, and I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan who has 2 minute 20 seconds.

Mr. LEVIN. I yield that time to myself.

Mr. President, in direct response to the suggestion of my good friend from Nebraska [Senator EXON], this is what Secretary Perry said:

> I carefully considered your suggestion that we should add money to support the B–2 production line beyond what would be needed to complete the 20 authorized planes. For several reasons, I still believe our decision not to do so is still the right one. We should recognize now that any additional money to sustain the B–2 line would only be the tip of a budget wedge.

That is what we are voting on here. It is not just $150 million, although that is a pretty large sum of money for anything except the defense budget. We are voting on a funding wedge that will lead us into the future of untold billions of dollars.

Two votes in the Congress said cap it at 20; three Secretaries of Defense said cap it at 20; two Presidents said cap the B–2 at 20.

My good friend, Senator NUNN, as part of the debate in 1992 said: "Let us conclude the B–2 program at 20 as requested and put this divisive issue finally behind us."

Senator EXON said: "Let us give it a decent burial as far as new procurement is concerned by cuts at 20."

Senator THURMOND said: "Let us complete the B–2 bomber at 20."

It is time to make a final commitment and cease this annual debate.

The $150 million added by the Armed Services Committee reopens this debate again. It does what the Air Force does not want. The Chief of Staff of the Air Force, General McPeak, says:

> We are not asking for more B–2's. Quite frankly, the problem is the price, the cost. It is very expensive. So on the forward financial planning assumptions we are making, we do not see the headroom to drive more B–2's in there.

Like that Energizer bunny, this B–2 just keeps going and going and going. Let us keep our commitment to cap it at 20.

Mr. DOLE. Mr. President, I rise in opposition to the Levin amendment to terminate vital funding necessary to preserve our B–2 bomber industrial base, and foreclose forever the option to continue production of the most advanced aircraft in the history of aviation. As has been pointed out, this debate is about our national security industrial base. Some want to trivialize what this means by calling it a "jobs program." No doubt about it, millions of Americans have or will lose their jobs as President Clinton's massive defense cuts take a greater and greater toll. But in my view, the issue is a matter of preserving options in a very dangerous and unstable world. The broader question is whether America will choose to remain strong, or whether we will head down the old path of dismantling our defense and thus our ability to lead.

Since the end of the cold war, America has discovered that new threats and greater instability have replaced the classic East-West confrontation that existed over the past 40 years. Clearly, the world remains a dangerous place, and new challenges to peace and American security emerge nearly every day.

The world is far more complex than it was just a few years ago. In my view, America cannot afford to foreclose our options. The Levin amendment does just that.

America has invested heavily in the B–2 bomber to make it the most technologically sophisticated and most flexible weapon system the world has ever seen. This achievement is a credit to American ingenuity and American commitment to strength. Thousands of people have dedicated their genius and skill to design and build the B–2. No doubt about it, we must preserve this national resource. We simply must retain the ability to produce the B–2.

Too many of my colleagues forget that when you slash away at the defense budget, you are slashing away at people, communities, and entire industries which must ultimately respond to the next challenge that will come. The people of California know the impact of these cuts very well. The loss in economic terms has been astronomical, but the erosion in our national security cannot be as easily quantified—until it is too late.

I have long supported the B–2 bomber program, and I will continue to support it because I believe that America needs this aircraft. I urge my colleagues to join me in opposing the Levin amendment. This is not the time to foreclose on our ability to keep America strong.

THE B–2: 1995 DOD AUTHORIZATION

Mr. BOND. Mr. President, I rise today in support of the fiscal year 1995 Defense authorization bill and the provision of $150 million to preserve for another year the only bomber industrial capacity we have in this country, the B–2 industrial base. Next year the Nuclear Posture Review, the independent Roles and Missions Commission report, the report mandated by this bill, on bomber force structure tradeoffs, and operational readiness tests on the B–1B will have been completed. These reports will give the Department of Defense, the administration, and the Armed Services Committee a clearer picture of the demands and needs to our bomber industrial base. To allow our B–2 bomber industrial base to deteriorate before these findings are presented would be, in my opinion, irresponsible.

The Bottom-Up Review concluded that, under the most likely to scenarios, threats to U.S. interests and national security will be regional, short-warning scenarios in which long-range bombers and carrier-based tactical aircraft would be the most critical U.S. forces available early in a conflict. As the centerpiece of U.S. attack capability, the Bottom-Up Review called for a force structure of 184 bombers. In addition, the Air Force "Bomber Roadmap" of June 1992 identified a requirement of 184 total bombers, armed with precision conventional munitions, to deal with a single major regional contingency.

Mr. President, despite the Bottom-Up Reviews determination that it takes 100 bombers to fight one major regional contingency [MRC] the United States should retain the capability to deal with not one but two nearly simultaneously major regional contingencies, the DOD budget request funds only 100 bombers during fiscal year 1995, and only 80 thereafter. These funding proposals are unacceptable to achieve the goals of the Bottom-Up Review. Four recent independent studies have all found that the planned DOD force structure of 80 to 100 nonstealthy bombers with only 20 B–2's is inadequate to deal with two major regional contingencies.

It appears as if our hollow foreign policy is now going to be backed up by a hollow military capability.

Mr. President, not only would our current military capability be threatened by this year's DOD budget request, but the future capability of U.S. offensive operations will be severely damaged.

The production base for bombers in this country is rapidly disappearing. On Tuesday, March 1, 1994, the Secretary of Defense, Dr. Perry testified before the Senate Appropriations Committee and I quote:

> We don't have anything in our program to sustain a bomber industrial base. This is a weakness of this program that we are presenting to you.

Dr. Perry went on to say,

> The most logical way of maintaining a bomber industrial base was to continue to build more B-2s. That's not only because that is the best, most effective bomber we can describe to you right now, but because we could make a very good use of the extra B-2s if we had them.

Many in Congress remember Dr. Perry when he was the Deputy Secretary of Defense for Research and Engineering in the late 1970's.

Others remember him as being the father of stealth technology. No doubt he was largely instrumental in the development of the B-2 Stealth bomber. To be sure, Dr. Perry recognizes the value of the unique contribution the B-2 bomber makes to the defense of our country. And he has said so, time and again.

Mr. President, in his Senate confirmation hearing before the Senate Armed Services Committee, Dr. Perry also said the B-2 bomber would be his and I quote "platform of choice" for the delivery of precision conventional munitions in a regional defense strategy. He also stated that the current inventory of 20 B-2's is "too thin" to meet the regional defense mission requirements of the Defense Department.

This is why, Mr. President, preserving the B-2 industrial base is so important to our national security structure and the readiness of our Armed Forces today and in the future.

Unfortunately, Congress, as evidenced by past actions, has proven incapable of planing ahead, of keeping military capability and readiness posture during peace time at a sufficient and responsible level. After both World War II and the Korean war, U.S. Armed Forces were critically hindered in the Korean and Vietnam wars that followed, because our industrial base had not only deteriorated but was completely gone for certain weapons.

To underscore this important point, the Chairman of the Joint Chiefs of Staff, General John M. Shalikashvili, testified in February of this year—

> I think all of us would have difficulty explaining how we measure the readiness of our industrial base, which is crucial to our ability to sustain ourselves in prolonged major operations. This has been a problem throughout this century; and we have been shocked time and again to discover that when we most need to mobilize, vital areas are paralyzed or have atrophied so far that we have to rebuild from a dead start.

Mr. President, it is incredible to me that the Department of Defense and this administration are willing to allow our bomber industrial base to deteriorate at the same time that they are seeking sanctions on North Korea and facing the real possibility of a future conflict on the Korean Peninsula.

Since the cold war has ended, defense spending has gone down, and it should have. However, the United States must be able to maintain readiness and offensive capability if it wants to continue to influence world affairs. In fact, it is arguable that defense spending has already been cut to a point where the ability of the United States to project credible strength is of serious concern.

Mr. President, the post-cold-war reality is such that the constraints that used to face dictatorships and aggressive nations are no longer in place. The North Koreas, the Iraqs and Irans, and the warlords and military regimes of this world, are no longer under the direct control of the Soviet Union. As a result, hotspots are emerging all over the world and the United States is going to need a far reaching, quick strike ability to respond and protect our national security interests.

The Center for Security Policy recently released a statement detailing why the B-2 bomber is essential to U.S. power projection in the post-cold-war era. The following facts, taken from this statement, in my mind, all illustrate the importance of Stealth bombers as a rapid response, low cost-of-life approach to protecting and projecting our national security interests.

First, the contraction of our forward-based defenses only increases the value of long-range manned bombers. The fact that the United States is increasingly becoming a home-based force with relatively small overseas deployments and forward bases compounds these realities.

Second, the need to minimize the number of U.S. service personnel put in harm's way in the course of such operations is growing.

Third, in the post-cold-war world, a premium will be placed on those military systems with considerable inherent flexibility and those with an ability to respond to emerging dangers quickly. It seems probable that strategic warning in the future will often be ambiguous and in any event less available than heretofore. As a result, significant U.S. power projection capability must be ready to go at a moment's notice.

Fourth, the experience of Desert Storm demonstrated the high value of precision-guided munitions and "stealthy" weapons-delivery systems. In fact, no Stealth aircraft were lost during the gulf war due to the advantages of surprise, capability, and mobility.

And last: Experience with building and maintaining the gulf war coalition suggests that effective multilateral solutions to international problems may only be available to the extent that the United States is in a position credibly to act unilaterally against threats to its interests and stability. And that coalition warfare in the future is likely to place an even greater emphasis on the United States, unique ability to contribute power projection and precision strike capabilities.

Mr. President, the B-2 bomber meets every one of these five new realities of the post-cold-war world. The B-2 has none of the shortcomings of the B-1 or B-52. It is the world's most capable bomber. It can go anywhere in the world without air support. Launching from bases within the United States, the B-2 can reach anywhere in the world.

Most importantly, it can enter enemy territory and perform its mission without the need for support aircraft. The use of stealth technology, as proven in Desert Storm, will allow the B-2 to reach the enemy's most valued targets without detection.

If America's vital interests dictate a quick and effective show of force or projection of power, the B-2 is the U.S. military's most responsive weapon system. No ship, tank, or aircraft can match the immediate projection of conventional power and presence.

Mr. President, without the $150 million to preserve a portion of the bomber industrial base for this coming year, our future ability to develop Stealth bombers may be jeopardized.

The production of Stealth bombers is an exacting task, one that requires a work force with special skills. Once skilled work forces have been dissipated, it will take many years to requalify a manufacturing capability and cost significant amounts.

This $150 million appropriation would sustain key long-lead parts suppliers, halt the dismantlement of critical tooling, preserve a production capability for spare parts within the lower-tier vendor structure, and retain critical elements of the work force supplier. If Congress were to not appropriate these funds today and then decide next year to buy additional B-2's, this year's $150 million investment will cost $600 to $800 million next year.

To conclude, Mr. President, Gen. John Loh, Commander, Air Combat Command, testified the current bomber force could not support even one major regional contingency until 1999. A Rand Corp. study supports General Loh's assessment that U.S. heavy bombers lack the size, capability, and modernization to secure U.S. interests through the year 2000. To quote General Loh:

> The bomber industrial base provides the Nation with a unique capability, and I believe it should be preserved.

The general stated, and I quote again:

> I believe it is unique because when you look at aircraft like the B-2 with its very large composite structures, with its materials that are used in it, the manufacturing processes, the material processes that are used to measure its radar cross section for large aircraft, that these are unique to that class of aircraft, to large bomber aircraft.
>
> These same technologies are not resident if you were to try to use a large commercial transport technology. So I believe that the industrial base that produced the aircraft like the B-2, represents a significant national resource that will wither away over the next couple of years if it is not retained.

The B-2 can allow the United States to reduce defense spending and still project power credibly, effectively, and quickly. Let us learn from past mistakes and not vote to erode further our bomber industrial base. Let us not get caught off guard again and then be forced to spend more money than would have been necessary, if we had prudently kept the industrial base going.

Mr. President, I commend Senator NUNN for including this provision in his bill. I urge my Senate colleagues to support Senator NUNN's Defense authorization bill as provided.

Mr. DORGAN. Mr. President, I am voting today for sufficient funds to keep open for 1 year the production line for the B-2 bomber.

It is important to note these funds will not actually build any additional bombers. It will be used to build about $75 million worth of spares that will be needed for the current bomber fleet. The other $75 million will keep the production line open until the Pentagon and Congress determine whether they want to make any additional bombers.

My vote to keep the production line open is not a signal that I would vote next year to build additional bombers. That decision is one I will make after evaluating the various studies underway about the bomber force.

I have voted in the past to limit the production of B-2 bombers to 20. I have not changed my view at this point, but I am persuaded by Senator NUNN and others that this is the only chance to use the production line to produce some spares during these coming months and to keep the production line open for the potential of additional production if it is determined in the coming year that that would be a wise course.

I am willing to support retention of that potential, but I am not yet persuaded that we need to purchase additional B-2 bombers.

Mr. President, Senator CONRAD and I would like to engage in a colloquy with the distinguished chairman of the Armed Services Committee, Senator NUNN, and the distinguished chairman of the Defense Appropriations Subcommittee, Senator INOUYE, on the matter of U.S. strategic forces. We first wish to commend Chairman NUNN for his able leadership in bringing to the Senate a responsible Defense authorization bill which provides key support for B-52 bombers and Minuteman III missiles as important elements of our Nation's strategic defense.

Mr. NUNN. I thank my colleagues and would be pleased to engage in a colloquy.

Mr. INOUYE. I, too, would be happy to discuss important defense issues with my colleagues.

Mr. DORGAN. May I first ask Chairman NUNN if he shares our view that a robust and balanced strategic triad consisting of heavy bombers, intercontinental ballistic missiles, and submarine launched ballistic missiles is still needed for our national defense?

Mr. NUNN. My colleagues and I do indeed share the view that a balanced triad best serves our strategic deterrence needs. Knowing of my colleagues' particular interest in the B-52 bomber force, I would say that the B-52's still provide the most visible leg of our national resolve. They remain survivable when placed on nuclear alert status, and they afford conventional warfighting flexibility as they presently carry a wider range of conventional and nuclear munitions than any of our other bombers.

Mr. CONRAD. I am pleased to hear this. Would my colleagues from Georgia and Hawaii then agree that it is prudent to make investments in B-52 modernization?

Mr. NUNN. I would generally concur that we should provide adequate funding to modernize the capability of B-52's, particularly with conventional air-launched cruise missiles, which are also included in the committee bill.

Mr. INOUYE. I agree that the Nation needs to preserve our existing bomber force structure and intend to provide the necessary appropriations to retain the existing B-52 fleet. I will also endeavor to keep as many of those aircraft in full active status as possible. We must maintain significant numbers of B-52's if we want to maintain current capabilities and preserve our option to improve on those capabilities in a cost-effective manner over the next decade.

Mr. DORGAN. Then the chairmen share our view that the administration's budget request creates a bomber gap in our ability to respond to two major regional contingencies, as outlined in the Bottom-Up Review?

Mr. NUNN. Yes. Recognizing that there are a number of analyses still in progress, my best judgment today is that we will need to retain a heavy bomber force of some 184 aircraft, including 94 B-52's currently in the inventory, to meet these requirements.

Mr. INOUYE. I, too, believe we need to increase our bomber force beyond that recommended by the administration.

Mr. CONRAD. Would the chairmen then conclude that we need to retain at least two B-52 bases for the foreseeable future in order to support a force of this size?

Mr. NUNN. I would concur with that assessment. I would further state it is prudent defense planning not to locate all B-52 assets at a single base.

Mr. INOUYE. The Senators from North Dakota raise an excellent point. We will need two bases to house a B-52 force of the size I believe should be retained.

Mr. DORGAN. There is some concern that providing funding for procurement of additional B-52 bombers could crowd out the money for operating a robust force of B-52's.

Mr. NUNN. Let me assure my colleagues that the resources for B-52's and B-2's, respectively, help us to achieve important military objectives. The procurement of additional B-2 bombers should not be seen as competing for funding for operating, maintaining, and modernizing a substantial B-52 force.

It is important to note that the bombers do not compete, but instead complement each other in combat operations. Stealthy B-2's are needed to economically and assuredly suppress enemy air defenses so that B-52 bombers can attack targets with relatively inexpensive short-range precision munitions. There is a synergistic relationship: B-2's provide the defense suppression for subsequent strikes by B-52's without the support of tactical theater fighters or the use of expensive, standoff, precision weapons.

Mr. INOUYE. My colleague from Georgia has stated it very well. In effect, a limited number of B-2's extend the life of more numerous B-52's by first taking out hard targets and suppressing enemy air defenses. The B-2 force also saves money by reducing the numbers of standoff munitions needed in cases where the B-52 would face inordinate risks from energy attacks.

The key point is that we will increasingly depend on military forces based in the United States to defend our national interests around the world. The ability to project power globally depends to a great measure on maintaining a robust heavy bomber force of B-52's and B-2's.

May I conclude by saying that I understand that strategic forces have a strong impact on my colleagues' home State of North Dakota. However, this is much bigger than a parochial matter—this is a matter of national security. I compliment Senators CONRAD and DORGAN for their efforts on behalf of our Nation's defense.

Mr. NUNN. I, too, want to congratulate my colleagues from North Dakota for making a spirited and cogent case for the retention of a balanced triad which includes substantial forces of both B-52 bombers and Minuteman III missiles.

Mr. DORGAN. I thank the chairmen for their remarks and for their outstanding leadership on national defense issues.

Mr. CONRAD. I greatly appreciate the insights of the distinguished chairmen and thank them for their courtesies.

AMENDMENT NO. 2143

The PRESIDING OFFICER. Under the previous order, amendment No. 2142 is laid aside and the Senate will now resume consideration of amendment No. 2143 offered by the Senator from Virginia [Mr. WARNER], regarding cost-of-living adjustments for the military. Debate is limited on this to 20 minutes, divided equally between the Senators from Virginia and West Virginia.

Who yields time?

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Virginia [Mr. WARNER].

Mr. WARNER. Mr. President, the Senator from Virginia, as I understand it, has 10 minutes under his control. I see the distinguished chairman of the Appropriations Committee is here. The Senator from Virginia had an opportunity to speak last night. I will speak again this morning, but in deference to our distinguished senior colleague, I would presume he would want to go first.

Mr. President, I am mistaken.

I should then proceed with reference to the COLA amendment.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I will take but a minute or two. I see my distinguished colleague from Ohio, Mr. GLENN, and I understand that there are other Senators who wish to speak. We are going to be very tight on the time allocation.

Mr. President, I now ask unanimous consent that Senator BURNS of Montana be added as a cosponsor of the COLA amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, make no mistake the Warner-Sarbanes COLA equity amendment is about keeping promises to our servicemembers. It is not about programs, or possible precedence.

The Warner-Sarbanes amendment would authorize, subject to appropriations, for fiscal year 1995 the sum of $376 million to the Department of Defense Military Retirement Fund. It is identical to the amendment proposed by Representative MORAN which was included in the House version of the DOD authorization bill.

I emphasize, this is a 1-year fix that will allow the administration and Congress an opportunity to resolve this inequity. The Office of Management and Budget and the Budget Committee both have indicated their willingness to work to resolve this matter.

Mr. President, the Department of Defense authorization bill authorizes $263 billion, the Warner-Sarbanes COLA equity amendment authorizes $376 million, 0.14 percent of the total DOD budget. As a 16-year member of the Armed Services Committee, I am confident that there are offsets to be found in nonreadiness discretionary accounts.

Mr. President, although Chairman NUNN opposes our amendment, I note that the chairman of the Subcommittee on Force Requirements and Personnel, Senator SHELBY, supports the Warner-Sarbanes amendment. Additionally, the chairman and ranking member of the Military Readiness and Defense Infrastructure Subcommittee, Senators GLENN and MCCAIN, support the Warner-Sarbanes amendment.

Mr. President, I am sure my colleagues will agree that these key members of the Senate Armed Services Committee would not support Warner-Sarbanes if readiness was the bill payer.

In summary, everyone—DOD, OMB, the Budget Committee and the Armed Services Committee—agree that there is an inequity between military and civilian COLA's and this inequity presents a morale problem within the active duty and retired military community.

Mr. President, I urge my colleagues to fix this Defense problem with Defense funds. The Warner-Sarbanes amendment is the only Defense fix.

Mr. President, the issue here is not about programs. It is not about precedents. It is about people.

I spoke earlier today with one of the chiefs of the armed services, who last night, along with the other chiefs, signed a letter. I assume that that letter may be a salute and a march off, but it does not come from the hearts of the chiefs. They know this COLA amendment is most necessary—the sum of $376 million compared to the $263 billion-plus of the overall budget is a modest sum—and sends a very clear, loud message to all men and women wearing the uniform today; that is, it puts in question their future retirement should they elect to be career. And that is unfair.

Year after year, the military retirees are the ones who are singled out to bear the greater brunt of the cuts as we try and struggle with the deficit reduction measures.

Mr. President, at this time I yield to the Senator from Ohio.

How much time do I have remaining, Mr. President?

The PRESIDING OFFICER (Mr. GRAHAM). The Senator has 6 minutes remaining.

Mr. WARNER. I yield 3 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 3 minutes.

Mr. GLENN. Thank you, Mr. President. I appreciate the yielding of time from my distinguished colleague from Virginia.

As chairman of the Committee on Governmental Affairs and a member of the Senate Committee on Armed Services, I have long supported equity between the retirement systems of military and Federal civilian retirees.

However, in the process of marking up S. 2182, the Department of Defense Authorization Act, the Armed Services Committee voted to recommend that a committee amendment be offered during floor consideration of this act that would equalize COLA dates for military and civil service retirees by moving the dates for military retiree COLA's forward and the dates for civil service COLA's back in each fiscal year from 1995 through 1998.

Adoption of such a proposal, would completely rewrite last year's budget reconciliation bill by—in effect—increasing instructions to the Governmental Affairs Committee and decreasing instructions to the Senate Armed Services Committee.

Now that is unprecedented. In effect, we are robbing one retirement system to pay for another retirement system, and that is simply wrong. To propose increasing military retiree COLA's at the expense of civilian retiree COLA's—deliberately changing budget reconciliation instructions already acted on and across committee lines—is not equitable.

Last year, the Committee on Governmental Affairs, produced savings by delaying civilian retiree COLA's by 3 months. We also eliminated the lump sum retirement benefit for civilian retirees for a savings of $8.614 billion over 5 years. This lump sum benefit was a repayment of employees' own contributions to their retirement system. Our Federal civilian retirement systems are quite different from military retirement in that employees contribute a portion of their salary for their benefits. They are also different in terms of age and years of service requirements.

I am sure the argument is going to be made here that we cannot afford to do this because of our budgeting processes here, because of what money is in what funds, and we do not want to set any precedent what we put into entitlement from other funds, and so on.

I agree with that. But try to explain that to some of these retirees who have paid into the fund and are now going to be dealt with unfairly. It is just not fair to them.

I support the recommendation by Senators WARNER and SARBANES. The Federal and military communities are unanimous in their opposition to the Armed Services Committee's proposal or any alternative that would provide

COLA's to one group of retirees at the expense of another. This is why military, Federal employee, and postal associations and unions are supporting the Warner-Sarbanes amendment.

I have a "Dear Colleague" letter that Senator ROTH and I put on all the desks last night. An attachment to that is a list of some 30 or more different groups that support the Warner-Sarbanes proposal.

The Warner-Sarbanes amendment would rectify the COLA disparity between the two systems in 1995 by shifting the COLA for military retirees to April through a reduction in the non-readiness accounts in the defense budget. This will equalize COLA treatment of both military and civilian retirees. As you may know, the Warner-Sarbanes amendment was included in the House-passed DOD reauthorization bill.

For many years, Social Security, the Civil Service, and the military retirement systems have used the same adjustments for inflation. Last year's budget reconciliation bill changed COLA's for Federal civilian retirees in one way and military in another. That is what we have been trying to avoid. Social Security was left untouched. I have consistently supported equitable COLA treatment between the three systems, and I favor raising the COLA for military retirees. However, I do not believe that the proposal being recommended by the distinguished chairman of the Armed Services Committee is the appropriate solution to COLA equity. In the interest of restoring equity and fairness, I urge the Senate to support the Warner-Sarbanes amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WARNER. Mr. President, we must run a very tight time schedule.

I thank my distinguished colleague from Ohio.

Mr. President, how many minutes do we have remaining?

The PRESIDING OFFICER. The Senator controls 2 minutes 28 seconds.

Mr. WARNER. I wish to allow the Senator from Maryland, and the Senator from South Carolina, and indeed the Senator from Texas, to speak, and I want to allocate the time as judiciously as I can.

The Senator from Maryland is the principal cosponsor. He was here until 1 in the morning

If the Senator could take a minute.

Mr. SARBANES. Mr. President, I say to the Senator that I will try to do it in less than a minute, because we do want the benefit of the comments of our colleagues.

Mr. President, I very strongly support this amendment. We have to bring the military retirees forward to April 1.

In the total complex of the money allocated for the Defense budget, it is reasonable to do this. This is related to the Defense function. It is not outside the Defense function, because it has an important impact on the morale of people now in Defense and an important impact on people thinking about getting into Defense, if you are not going to cover the retirement situation and provide these COLA's. We have done it consistently. We should continue to do it.

I very much hope Members will vote for the amendment pending before the Senate.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. WARNER. Mr. President, I thank the distinguished Senator from Maryland. He has been along on this amendment from the very first day. I now yield to the Senator from Texas 30 seconds.

Mrs. HUTCHISON. Mr. President, I appreciate so much the senior Senator from Virginia giving me this time. I understand that it is bad precedent to use discretionary money for this kind of entitlement. But sometimes you have to go outside the boundaries of what is absolutely rational and say we have to be fair. We must be fair. Our military retirees have put their lives on the line. We cannot let them down.

The PRESIDING OFFICER. The 30 seconds of the Senator has expired.

Mr. WARNER. I yield the remainder of my time to the distinguished ranking member of the Armed Services Committee, the Senator from South Carolina.

Mr. THURMOND. Mr. President. The amendment Senator WARNER and I offer is a reasonable method to correct an inequity in the effective dates of the annual cost-of-living adjustments between Federal civilian retirees and military retirees.

As a general rule, I do not support pay raises or COLA's for anyone until the budget is balanced. As long as we are faced with a large budget deficit, I do not think anyone should expect a pay raise. However, I do not want the military to be forced to carry the burden alone. As long as others are receiving annual increases, we must give the military similar increases.

Last year, when we had to determine how to adjust the cost of living allowances for military retirees as part of the budget reconciliation, we talked about the inequity between COLA adjustment for civilians and military retirees. When the budget reconciliation got to the floor we were not able to correct the difference between the civilian and military retirement adjustment dates.

This year, both military and civilian retirees received their annual cost of living adjustments on April 1. Unless we act, next year civilian retirees will receive a COLA adjustment on April 1, and military retirees will not receive their increase until October 1. Not only will we have let the military retirees down, but we will not have been fair to them. The House has addressed this matter in their bill in the same manner we advocate here.

I know some Members may not endorse the concept of paying an entitlement from discretionary funds, but that is the only source available to this committee. We will not have a budget reconciliation this year, so we have no other option within the jurisdiction of the Armed Services Committee. The initiative only addresses one year. Perhaps, next year, we can find a solution in a budget reconciliation act, if one is necessary. Until that opportunity presents itself, I support keeping the military retirement COLA adjustments equitable with civilians.

I urge my colleagues to support this amendment.

Mr. WARNER. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from West Virginia.

THE MANDATORY MONSTER

Mr. BYRD. Mr. President, last year, in reconciliation instructions from the Budget Committee, the Armed Services Committee was directed to save $2.4 billion in mandatory spending over the 5 years, from fiscal year 1994 to 1998. The Budget Committee assumed that the Armed Services Committee could reduce cost-of-living adjustments for retirees under 62 to achieve these savings. The Armed Services Committee rejected this approach and instead recommended delaying COLA's for all military retirees. Ultimately the Congress agreed to the recommendation of the Armed Services Committee. Under the provisions of the 1993 Omnibus Budget Reconciliation Act, the COLA which would have been paid to military retirees on January 1 will be delayed until October 1. The savings from this delay amount to $376 million in budget authority and outlays during fiscal year 1995.

The amendment offered by the distinguished Senator from Virginia [Mr. WARNER] and the distinguished Senator from Maryland [Mr. SARBANES] seeks to undo this reconciliation provision. The proponents no longer believe it is right to delay cost-of-living adjustments for military retirees. I agree with the proponents. I do not want to delay retiree benefits, but how do they propose we pay for not doing so? The amendment leaves it up to the Appropriations Committee, which I chair, to decide whether and how the increased benefit should be funded. The proponents would have the Department of Defense Appropriations Bill cut other programs to pay for the increased benefit, but they do not say which programs. Let us be clear about this point, the proponents want to cut defense—a move most military retirees would oppose.

Let me say that again. The proponents want to cut defense, a move that most military retirees would oppose if they understood what is going on here.

And most Senators are not listening when we come in here at night and debate a matter—I was supposed to start my part in the debate last night at 10:30 or 11 o'clock. Does that make sense? Who is listening at 10:30 or 11, other than perhaps somebody on the west coast and they have had their attention drawn to other matters in recent days. And then I was told: You can wait until tomorrow morning. You will have 10 minutes.

It reminds me of the days when I was in the House of Representatives. On one occasion, I was promised 10 minutes by the manager of a bill but by the time it came to my turn, I had 30 seconds left. Well, nobody is listening. But at least, for the RECORD, the proponents would have the Department of Defense appropriations bill cut other programs to pay for the increased benefit. But they do not say which program. They want to cut defense, a move that most military retirees would oppose, to pay for military COLA's.

It is hard for me to believe this can be right. How many times have we been told that we cannot cut defense any further? How many times, my friends, the proponents of this amendment—how many times have they said you cannot cut defense further? How many times have we heard the same colleagues decry the growth in entitlement spending? Here we are, with discretionary spending, which includes nondefense and defense, over the next 5 years we are going to operate under a freeze. We are going to be operating virtually under a freeze with an increase of only $6 billion in discretionary spending over the period, whereas mandatory spending will increase over that same period by $824 billion.

Yet, the proponents of this amendment are saying do not take it out of mandatory. That will only be growing $824 billion over the next 5 years. Take it out of discretionary, which includes defense. That is operating under a freeze.

It does not make sense. We do not have the money. Whatever cuts are made will be painful. The committee could choose to recommend additional military personnel cuts to fund the increase—a reduction of this magnitude, namely $376 million, would require releasing another 21,000 military from the force next year.

The proponents write, in their letter, that they would not take the cuts out of "readiness" funds. They do not say where the money should come from. Or which programs should be out. That decision is to be made by the Appropriations Committee. They do not say. They say it will not be taken out of "readiness" accounts. The amendment does not say that. It reminds me of the messenger's words in Shakespeare's King Henry VI:

> One would have lingering wars with little
> cost;
> Another would fly swift, but wanteth wings;
> A third thinks, without expense at all,
> By guileful fair words peace may be obtain'd.

Mr. President, the committee might choose to eliminate funding for the CVN-76 aircraft carrier. This would save $2.4 billion in budget authority, but would only save $168 million in outlays. This is less than one-half of the outlays required to pay for the military retirement COLA increase. The Department of Defense Appropriation Bill would have to cut not only the carrier, but two of the three Navy DDG-51 class destroyers as well, in order to generate $376 million in outlay savings.

The 1990 Budget Enforcement Act gave us a tool to control entitlements called PAYGO. That legislation said entitlement increases could only be funded if offsets were found in other mandatory spending, or if revenues were increased. This amendment seeks to circumvent the only tool we have to control entitlements. I must say to my colleagues that I am all for supporting military retirees COLA's, but this is not the right way to do it. This is a slippery slope, and if we choose to go down this path, we are letting entitlement spending off the hook. We will have emasculated the provisions of PAYGO and we will be putting deficit reduction at risk.

The amendment by the Senators from Virginia and Maryland is a well-meaning amendment and it is a seductive amendment. It promises only fairness to our well-deserving military retirees, by eliminating "disparity between effective dates for military and civilian retiree cost-of-living adjustments for 1995." Who can fault the logic? I cannot. Are civilian retirees somehow more deserving of an earlier increase in their retirement pay due to cost-of-living expenses than military retirees? Of course not. But like many well-meaning, logical, seductive proposals that come before this body, here is one with pernicious—pernicious results.

The sponsors of the amendment, the distinguished Senators from Virginia and Maryland, are attempting to force the use of discretionary funds, which are under the jurisdiction of the Appropriations Committee and which are extremely constrained, to pay for a roll back in the 1995 delay in military COLAs from October 1, to April 1.

But that is not the only problem with this amendment. It is not just that our discretionary budget has been bled white, while the march of the full range of our nation's entitlement programs is climbing steeply into the stratosphere over the next five years. It is not just that $376 million will be stripped from the discretionary budget to pay for the amendment. It is the precedent that this amendment sets by changing mandatory requirements into discretionary responsibilities and encouraging Senators to attempt to authorize further new entitlement programs in the same manner in other authorization bills. The technique is simple—authorize a new entitlement program in an authorization bill, subject to appropriations. This is a blatant circumvention of the Budget Enforcement Act restriction on legislating new or increased entitlements without providing offsets to cover the costs. It is a blatant attempt to ease the restrictions agreed upon in last year's reconciliation act.

Furthermore, are my colleagues aware that this amendment is good for only one year, and that the COLA inequity which it attempts to address continues through 1998; three additional years? If this precedent is allowed to stand, and the COLA adjustments such as the one proposed by the sponsors of this amendment are made again in the three additional out-years and paid for out of our discretionary accounts, they will total $2.4 billion. This is nearly half the growth for all discretionary spending, defense and non-defense, over the next five years. This seems foolish on its face, Mr. President.

I must repeat that I am all for supporting military retiree COLA's, but this is not the way to do it. This is a bad deal for the retirees and for the budget and we would be well advised to find another way.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BYRD. Mr. President, I ask unanimous consent that there be printed in the RECORD a letter from the Joint Chiefs of Staff in opposition to this amendment. The letter is signed by the Chairman of the Joint Chiefs and Vice Chairman and General Gordon R. Sullivan, Admiral Jeremy M. Boorda, General Merrill A. McPeak, and General C.E. Mundy, Jr., all opposed to this amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE JOINT CHIEFS OF STAFF,
Washington, DC.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We are writing in regard to the proposed Cost of Living amendment to the Defense Authorization Bill. The inequality between military and civilian cost of living adjustments (COLA) presents a moral problem within the active duty and retired military populations. We urge reconsideration of this imbalance.

However, in seeking this correction we are also concerned about the loss of readiness attendant with a cut in O&M funds. Reductions in this account would have significant impact. We urge resolution of the COLA inequity which is not at the expense of the President's proposed defense programs.

Sincerely,

John M. Shalikashvili Chairman of the Joint Chiefs of Staff; Gordon R. Sullivan, General, USA; Chief of Staff, U.S. Army; Merrill A. McPeak General, USAF Chief of Staff, U.S. Air Force; W.A. Owens, Vice Chairman of the Joint Chiefs of Staff; Jeremy M. Boorda Admiral, USN Chief of Naval Operations; C.E. Mundy, Jr., General, USMC, Commandant of the Marine Corps.

Mr. BYRD. I also ask unanimous consent that there be printed in the RECORD a letter from Leon Panetta, former Director of the Office of Management and Budget, addressed to Mr. NUNN, dated June 29, in opposition to the amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, June 29, 1994.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you know, the defense authorization bill passed by the House on June 9 contained a provision that would adjust the affective date for cost-of-living adjustments (COLAs) for military retirees to the same date as for civilian retirees. We understand that your committee considered this issue during your markup of the authorization bill, and that Senator Warner intends to offer a similar amendment on the floor of the Senate during consideration of your bill. I am writing to let you know that the Administration does not support the Warner amendment.

We fully recognize the inequity—created by congressional action last year—of the current situation where cost-of-living adjustments for military retirees lag similar adjustments for civilian employees. The Warner amendment is unacceptable, however, for two reasons. First, the amendment would create a loophole in the basic process insuring discipline in reducing deficits. Current budget guidelines require increases in so-called mandatory spending to be offset by cuts in comparable mandatory accounts. The Warner amendment would create a dangerous precedent by financing increases in entitlements through cuts in discretionary programs. In effect, the Warner amendment undermines the basic "pay as you go" precept for mandatory spending. If enacted, this amendment would open wide the defense budget and other discretionary funds to finance politically-popular entitlement programs.

Second, as you know well, the President has insisted that the defense budget not be out further. The Warner amendment, no matter how well intentioned would reduce resources currently budgeted for high priority defense programs. Moreover, since the Warner amendment would involve $375 million in outlays, this would necessitate offsetting cuts of $500 million in readiness-related O&M funding, or as much as $2 billion in procurement if readiness funding is to be insulated from the effects of the amendment. The President cannot support cuts in his defense program of that magnitude, no matter how deserving the cause.

For these two reasons, I request your support in defeating the Warner amendment.

Sincerely,

LEON PANETTA,
Director.

Mr. NUNN. Mr. President, I am concerned that the Senate may be inclined to adopt the Warner amendment without thinking through the consequences of such an action. I would like to pose a few questions to the distinguished chairman of the Appropriations Committee, who is unmatched in his knowledge of the rules of the Senate and his concern for the integrity of those rules and the integrity of the Senate.

I have been advised that the House Budget Committee has determined that there is no Budget Act point of order against the Warner amendment, which was included in the House bill, and that the Senate Budget Committee has come to the same conclusion. I have also been informed that the Congressional Budget Office shares this view. Is that the Senator's understanding?

Mr. BYRD. Mr. President, the Senator is correct in his understanding about the amendment included in H.R. 4301, the House-passed Defense authorization bill. Both the House Budget Committee and the Congressional Budget Office examined the amendment, and the House Budget Committee determined that there would be no Budget Act point of order in the House. The chairman of the Senate Budget Committee has not officially stated his committee's position on the amendment and the Senate has not yet acted on the amendment. However, it does not appear that a point of order under the Congressional Budget Act of 1974 would lie against the amendment in the Senate.

The amendment of the Senator would leave it up to the discretion of the appropriations process whether a cost of living adjustment or COLA would be paid to military retirees 6 months earlier than mandated under current law. Because the amendment itself does not actually increase the entitlement, it would circumvent the pay-as-you-go requirement on mandatory spending included in the 1990 Budget Enforcement Act.

Mr. NUNN. Of course one reason there is no point of order against the Warner amendment is that there is no COLA in the Warner amendment. This amendment, and the identical provision in the House bill, promises a COLA but does not provide one. It says there will be a COLA in April instead of October if the Appropriations Committee can find the money.

But I also understand that if the DOD appropriations bill actually followed through on the actions contemplated by this amendment, that there would also be no point of order against that appropriations measure with regard to this particular provision. In other words, it is not merely the first stage of the process that has no point of order; the whole process would escape a point of order. Does the Senator from West Virginia share that understanding also?

Mr. BYRD. The Appropriations Committee would be well within the rules to appropriate funds to pay the increased COLA. If the authorization bill passes the Senate with such an amendment, there would be no point of order under the Budget Act against a DOD appropriation bill that funds such a COLA adjustment, as long as the bill is otherwise within its 602(b) allocation.

Mr. NUNN. Since the Warner amendment does not actually commit the Government to paying an earlier COLA, maybe some people feel it is no different than fully funding Head Start in an authorizing bill, knowing the money is not really there to back it up.

Does the chairman of the Appropriations Committee believe this amendment is simply a harmless expression of support for military retirees?

Mr. BYRD. No, I do not. In fact, I want to make clear to the chairman of the Armed Services Committee that this is not the same as authorizing funds for a discretionary program and leaving it up to the discretion of the appropriations process to determine whether the funding level for the program should be approved. This amendment authorizes what has up to this point been an entitlement program, one that must be paid, but now it would be left up to the Appropriations Committee to determine whether the enhanced benefit should be paid.

I think all Senators should be aware that if this amendment is adopted, it means other Defense programs will have to go unfunded or be cut to pay for this increase. More important, if the Senate adopts this approach, this will only be the beginning.

Mr. NUNN. The Senator has touched on the crucial issue here. It is my understanding that because there is no point of order against this amendment, it is basically possible to use this procedure to get around the pay-as-you-go process and fund any entitlement, under the discretionary caps, not as a mandatory program, but by cutting discretionary spending.

For example, you could offer amendments to fund the first year of a new health care entitlement by cutting the space station. Or the next time a President refuses to extend unemployment benefits without a mandatory offset, you could go find a discretionary offset instead, maybe by claiming the savings from cutting still more Federal employees.

I ask the Senator from West Virginia, does he agree that this principle goes much farther than whether you ought to be able to cut the Defense budget to fund one particular entitlement program that has some relationship to defense. Does not this procedure put any discretionary program at risk from any mandatory program?

Mr. BYRD. The Senator is correct. If this approach is supported by the Senate, then other entitlements could also be made subject to appropriations. This opens the door for any entitlement program to be made discretionary and to be allowed to compete with other discretionary programs within the ceiling on discretionary funds. I should say to those on the other side of this issue, who are concerned about cuts in defense, that this approach is a guarantee that there will be additional cuts in defense, a guarantee.

Mr. NUNN. It seems to me that the procedures of the Warner amendment could get us into trouble, and increase voter cynicism, by making it easy to promise what you may not be able to deliver.

For example, under this procedure you can, as the House bill does, promise a group something—in this case, COLA equity. You may not have actually found the cuts to pay for it, as is the case with the Warner amendment. But you can put this type of language in an authorizing bill, promising benefits you may not have the money to pay for, and get the word out to your group that you have a way to take care of them, and get their hopes up and get them to call and write in support of your language.

But you are really leaving it up to someone else to pay for it. And if the Appropriations Committee cannot find the money, then all those people who had their hopes up will blame the Appropriations Committee for not funding entitlement benefits that are not their responsibility to fund in the first place.

I ask the chairman of the Appropriations Committee if he is concerned about that prospect.

Mr. BYRD. I share the Senator's concern. Congress is criticized, dare I say vilified in the daily press, for failing to make tough spending choices. While I disagree with the accusations in the media, I agree that adoption of this amendment is the "business as usual" approach for which the Congress is so often attacked. The amendment would promise to pay a benefit, but fail to allocate funds for that purpose. It leaves it up to somebody else; namely, the Appropriations Committee, to do the dirty work of making other cuts to fund this increase.

Mr. NUNN. I would also like to ask the Senator from West Virginia if he shares my concern that this procedure could end up haunting us by allowing people to get their foot in the door on all sorts of mandatory benefits by using floor amendments to appropriations bills to fund these new benefits, for example, more generous prescription drug coverage. These new benefits could be funded just for 1 year, like the COLA is in the Warner amendment.

We all know what would happen. A program that is in reality an entitlement would be started up for 1 year as a discretionary program. Once the program is in place, people will still feel entitled to this new benefit—what do they care whether we call it discretionary or mandatory? So you will be able to start up a new entitlement program on an appropriations bill. But unlike the pay as you go process, you will not need 5 years' worth of offsets. You will only need to offset the first year of your temporary entitlement.

But the pressure will be on all of us to keep funding this new program. I ask the Senator from West Virginia, can he envision all the requests he will be getting to find the money to keep funding new discretionary entitlement programs, in addition to all the requests he already gets to fund the current discretionary programs?

Mr. BYRD. I fear that the Senator is absolutely correct. A new benefit program would be authorized as a discretionary program and the pressure could build for the Congress to cut other worthwhile programs to cover the new benefit.

The Senator well knows that the Appropriations Committee gets literally thousands of requests every year for discretionary funds. Many if not most of the requests the committee receives are for increases above the current level. The Senator is also aware that the amounts allocated in the 5-year spending plan have already put the squeeze on discretionary spending. As the Senator may recall, mandatory programs under the fiscal year 1995 budget resolution are projected to grow by a total of $824 billion over the 1994–99 period. During this period, the cumulative increase just for military and civilian retirement programs will be $47 billion of that amount. During that same period, the budget resolution permits a scant $6 billion cumulative increase in all discretionary outlays. That means the Congress will not have even enough money to continue to operate the Government at its current level during the next 5 years.

It is already very challenging for the committee to meet the needs of the country, to make the necessary investment in our children and our country's infrastructure. If the Congress is to redesignate entitlements as discretionary programs this could cripple the Appropriations Committee's ability to fund the needed discretionary programs.

Mr. NUNN. Finally, I am concerned that starting a new budget procedure that allows direct spending programs currently under the jurisdiction of authorizing committees to be funded in appropriations bills could harm both the authorizing committees and the Appropriations Committee.

I would be interested to hear the observations of the Senator from West Virginia on this point.

Mr. BYRD. The chairman of the Armed Services Committee makes a very good point. The authorizing committees should not look at this approach as a panacea for its budgetary troubles, because it will radically alter the status quo on entitlements. If the Appropriations Committee is called upon to determine which entitlements are ultimately funded, the authorizing committee can be sure that it will be the priorities of the members of the Appropriations Committee that have precedence, and not those of the authorizing committees.

The Senator from Virginia [Mr. WARNER] has 11 seconds.

Mr. WARNER. Mr. President, in that brief 11 seconds, this message. There are three categories of individuals primarily that receive COLA treatment from the Federal system.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WARNER. Civil service was not cut. Civilians got 9 months, military 3 months. That is not equitable. This amendment is for 1 year to correct that out, and it is the responsibility of the Congress.

I ask unanimous consent to put in the RECORD a list of those organizations which oppose the amendment by the distinguished chairman.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

FEDERAL CIVILIAN AND MILITARY ORGANIZATIONS THAT OPPOSE THE NUNN COLA EQUITY SUBSTITUTE TO THE DEFENSE AUTHORIZATION BILL

The Retired Officers Association.
Non Commissioned Officers Association.
Air Force Sergeants Association.
National Association for Uniformed Services.
The Retired Enlisted Association.
Enlisted Association of the National Guard Association of the U.S.
Marine Corps Reserve Officers Association.
National Military Family Association.
Commissioned Officers Association.
Marine Corps League.
CWO and WO Association, U.S. Coast Guard.
Jewish War Veterans of the U.S.
United Armed Forces Association.
Naval Enlisted Reserve Association.
Navy League of the U.S.
The Military Chaplains Association.
U.S. Army Warrant Officers Association.
U.S. Coast Guard CPO Association.
National Guard Association of the U.S.
Naval Reserve Association.
Reserve Officers Association.
Air Force Association.
Association of Military Surgeons.
Fleet Reserve Association.
Association of the U.S. Army.
American Federation of Government Employees.
American Federation of State, County and Municipal Employees, AFL–CIO.
American Foreign Service Association.
American Psychiatric Association.
American Postal Workers Union.

Federally Employed Women.
Federal Managers Association.
Fund for Assuring an Independent Retirement.
Graphic Communications International Union.
International Association of Fire Fighters.
International Federation of Professional and Technical Engineers.
International Union of Operating Engineers.
Laborers' International Union of North America.
Military Sea Transport Union.
National Association of Air Traffic Specialists.
National Association of ASCS County Office Employees.
National Association of Federal Veterinarians.
National Association of Government Employees.
National Labor Relations Board Union.
National League of Postmasters of the United States.
National Postal Mail Handlers Union.
National Association of Letter Carriers.
National Association of Postal Supervisors.
National Association of Postmasters of the United States.
National Association of Retired Federal Employees.
National Federation of Federal Employees.
National Rural Letter Carriers Association.
National Treasury Employees Union.
Organization of Professional Employees of the Department of Agriculture.
Overseas Education Association.
Patent Office Professional Association.
Public Employee Department AFL–CIO.
Senior Executives Association.
Service Employees International Union.

Mr. MACK. Mr. President, my vote on the Warner amendment was about simple fairness. America's military retirees must never be treated as second-class citizens. Rather than holding back military retirees' COLA's for 6 months after civilian retirees have received theirs, Senator WARNER's amendment treats everybody equally.

By the same token, it hardly makes sense to penalize civilian Federal retirees for our desire to treat military retirees equitably. Thus, the Warner amendment was the best, and fairest, solution to this problem.

I remain concerned about funding this COLA advancement out of DOD's operations and maintenance funds. Unfortunately, O&M has become the traditional source for funding new programs and initiatives, even though deep O&M cuts, especially in this time of huge and ill-conceived slashes to the overall Defense budget, can directly impact the readiness of out fighting forces. I sincerely hope another source can be found in conference.

Mr. PRYOR. Mr. President, I rise to support the amendment offered by the Senator from Virginia [Mr. WARNER] and the Senator from Maryland [Mr. SARBANES]. As chairman of the Subcommittee on Federal Services, Post Office and Civil Service, I must oppose any attempt to unfairly place the burden of equalizing the military retiree COLA's on the backs of Federal retirees. At the same time, I have a strong desire to see that justice is done to our Nation's military retirees.

Mr. President, I have received countless letters and phone calls from my constituents, as well as Federal and military retiree groups. Both groups feel that military retirees have been treated unfairly and that something must be done to bring military retiree COLA's in line with Federal retirees.

Mr. President, the Warner-Sarbanes amendment accomplishes just that. The Warner-Sarbanes amendment attains equity between the two COLA's by taking discretionary funds from the Department of Defense and transferring them to entitlement accounts. Although this may not be a perfect solution, it is the best that presents itself today. I am also happy that Senators WARNER and SARBANES are looking forward and trying to solve this problem in the long term. I look forward to working with my colleagues in this effort and I urge my colleagues to support this amendment.

Ms. MIKULSKI. Mr. President, I am here today to voice my strong support for restoring equal and fair treatment to military and civilian retirees. I rise in support of the Warner-Sarbanes amendment, which will correct the inequity between civilian and military retiree cost-of-living adjustments.

As a result of last year's budget reconciliation law, retiree COLA's have been delayed from January 1 to April 1. But starting next year, military retiree COLA's will be further delayed until October 1. This added delay of military COLA's is divisive and unfair to those who have loyally served our country. We have an opportunity today to fix this inequity; to right this wrong, through the Warner-Sarbanes COLA equity amendment.

The amendment will shift the cost-of-living adjustment for military retirees from October 1 to April 1, bringing it in line with the civilian retiree cost-of-living adjustment. It will restore equal treatment to military and civilian retirees, without robbing one group to pay the other.

By contrast, the other COLA amendment would steal from the pockets of Federal retirees in order to fill the pockets of military retirees. It would set the COLA date at July 1, partially restoring the military retiree COLA but further delaying the civilian COLA. I do not believe this to be equity. Rather, the Nunn amendment would create divisiveness, pitting retirees in competition with each other for their benefits.

Mr. President, I respect and greatly admire those that have dedicated their lives and careers to serving our great country. Retirees who have served their fellow Americans on the battlefield and in our communities through public service all deserve the benefits they have been promised. I believe that all of these men and women should be rewarded fairly and equally. It is not fair or right to punish service to one's country. Nor is it right to reward one type of service at the expense of another.

Mr. President, the Warner-Sarbanes amendment restores equal COLA treatment to all these dedicated retirees. It is not a matter of taking from one group to give to another. It is a matter of simple fairness and equality. That is why I cosponsored the Warner-Sarbanes COLA equity legislation, and why I urge my colleagues to join me in supporting the COLA equity amendment right now.

Mr. MOYNIHAN. Mr. President, I unequivocally support regular cost-of-living adjustments, or COLA's, to Federal retirees and I oppose efforts to delay, cut, or eliminate them. Those who have worked hard in service to our country deserve to receive full COLA's. Therefore, the amendment offered by Senators WARNER and SARBANES is appealing. Nonetheless, I feel that providing COLA's is an issue which deserves a more permanent solution. I applaud the Senators who have offered this proposal to address the situation, however, I agree with the president pro tempore that funding such programs using discretionary funds is an unfortunate precedent. Fully funding COLA's is important and we should be able to solve these funding issues up front and in a proper manner, without having to search for stopgap measures each year.

Mr. BROWN. Mr. President, I am pleased to be a cosponsor of the Warner amendment to end the current disparity in cost-of-living adjustment payment dates for military and civil service retirees.

Since 1969, military and civil service retirees have been treated the same, receiving COLA's of identical percentages on identical dates. However, as the result of legislation passed last year, which I opposed, starting in 1995 military retirees will be required to wait longer for their annual COLA adjustment.

Under current law, civil service retirees' COLA's will be adjusted April 1, 1995, while military retirees will have to wait until the following October 1 for theirs.

Unequal treatment of military and civilian retiree COLA's is unfair and sends the wrong message to members of our Armed Forces. Restoring equality is fair and helps ensure that good people will stay in the service.

The Warner amendment restores COLA equity between the two groups by moving military retirees' 1995 COLA adjustment date from October 1 to April 1, the same as civil service retirees.

The Warner amendment also requires, in effect, that its $376 million cost for 1995 be paid for by making reductions elsewhere in the $270 billion defense budget. This ensures there will be no overall increase in Federal spending or the budget deficit as a result of the amendment.

Enactment of the Warner amendment will take care of the COLA disparity for 1995. However, because of the parameters of the DOD bill, the amendment cannot address the unequal treatment military retirees' COLA's also will receive in 1996–1998 under existing law. As a cosponsor of the original Warner bill, S. 1805, which would end the COLA disparity for all these years, I will work through the budget process next year to address the remaining years.

The PRESIDING OFFICER. All time having expired, the Republican leader is recognized for 5 minutes.

AMENDMENT NO. 1851

Mr. DOLE. Mr. President, I know that a number of my colleagues want to start voting right at 10:30 or shortly thereafter because of other obligations so I will try to condense my statement.

Since last January, the Senate and the House have voted on several amendments or bills which urged or required the President to unilaterally lift the arms embargo on Bosnia and Herzegovina. Since then the administration has neither moved to unilaterally lift the embargo, nor pushed our allies or the U.N. Security Council to move to lift the embargo. Even though that was a pledge that we had last time we had the vote: Oh, we are going to get the United Nations to do something. Nothing has happened.

In fact, since January the administration has moved further from the views of the Congress and closer to the position of some of our NATO allies, namely, the British and French, and now supports the ethnic partition of Bosnia. Under the so-called contact group proposal—and I have a map of that right here. Imagine sending American troops over. This is going to be Bosnia, according to the contact group, the blue part. I guess they are going to have little roads into those areas. Do you want to send 40,000 Americans over there, a few thousand there, a few thousand here, a few thousand here, a few thousand here, a few thousand here? That is the contact group proposal. Bosnia would be left with 51 percent and 49 percent would be awarded to the aggressor Serbs, that is, if they withdraw from the 70 percent of Bosnia they now occupy. And that is a big if.

I want to draw attention, as I said, to the map here. It was published earlier this week by the New York Times and shows basically what the deal would be like. The Bosnian Government would get 51 percent of Bosnia in several pieces—as I pointed out 1, 2, 3, 4, 5 pieces. Presumably, these pieces would be joined by a road or air corridor here or there. As everyone can see by this map, Bosnia would become an island nation surrounded by Serbian-controlled land. And to enforce this partition settlement, the administration is going to ask the Congress to send as many as 25,000 troops because this plan cannot be implemented without United States ground troops.

Mr. President, this map alone reveals why the contact group proposal is unworkable, unjust, and impermanent. It is a proposed settlement the Nunn-Warner amendment endorses.

I cannot believe we would endorse a settlement like this, but that is precisely what the Nunn-Warner amendment does.

Now, the Nunn-Warner amendment was modified last night to include vague language calling on the President to propose or support a U.N. Security Council resolution terminating the arms embargo if—another big if—the Serbs do not "respond constructively." I do not know what "respond constructively" means, Mr. President, but I do know that last year when the Bosnians signed the Vance/Owen peace plan and the Serbs did not, the United States did not go to the United Nation Security Council to seek a lifting of the arms embargo. In fact, since the Clinton administration took office, it has not proposed a resolution in the Security Council to lift the arms embargo on Bosnia. Even though they talk about doing that—if you just vote one more time, we will go to the U.N. and ask them to lift the arms embargo—they have not done it in the past nor are they going to do it in the future.

So let us be clear. Unlike the last time, this debate is not about the unilateral versus the multilateral lifting of the arms embargo. The administration does not even support the multilateral lifting of the arms embargo anymore. This time the debate is about whether to support Bosnia's right to self-defense or to support the ethnic partition of Bosnia and the deployment of United States troops to enforce it.

So it seems to me we are not trying to tell our allies what to do. I think the real question is how dare we tell the Bosnians what to do. They are people, too, and they are doing all the suffering in Bosnia. If you have been there, you have seen it. The Bosnians not only have the most troops on the ground but they also have women and children who are being killed because their forces do not have sufficient weapons.

The Washington Post reported yesterday that Vice President GORE scolded the visiting Bosnian vice president for his efforts to lobby United States Congress to lift the United States arms embargo on Bosnia. Did Vice President GORE also complain to the British, the French, Danish and Spanish for sending representatives to tesify before the Senate Armed Services Committee against lifting the arms embargo? Are we to assume now that the Europeans, the United Nations and the United States have the right to tell the Bosnians what to do? We are not trying to tell anybody what to do. We appreciate our allies, the British, the French. We also appreciate the Bosnians, and they are the ones who are suffering every day and every day and every day.

We are not dying, so we can all stand here and say, oh, well, we do not want to do this. We do not want to upset our allies. They are not dying. We are not dying. The Bosnians are dying. And while we regret the soldiers serving in the U.N. protection forces have been killed, they always have the option of leaving. The Bosnians do not—Bosnia and Herzegovina is their country.

Yesterday, I received a letter from Lady Thatcher. She begins,

> I am writing these lines to say how strongly I support the proposal that the United States should lift its embargo against Bosnia.

She concludes by saying that,

> As on so many occasions, it falls to the United States to give the leadership required to uphold that fundamental right which precedes the U.N. Charter—the right to self-defense.

I ask unanimous consent that the entire letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MARGARET, THE LADY THATCHER,
HOUSE OF LORDS,.
London, 29th June 1994.

DEAR SENATOR DOLE: I am writing these lines to say how strongly I support the proposal that the United States should lift its arms embargo against Bosnia.

Right from the beginning of Serbia's war of aggression—first against Solvenia, then Croatia and now Bosnia—the embargo has worked in the interests of the aggressor. It has thus prolonged the war. The Serbs inherited the great majority of the armaments of the old Jugoslav National Army, one of the most powerful in Europe. The victims, by contrast, were deprived of the means to defend themselves. There will be no end to war in Bosnia until the aggressor is convinced that the balance of advantage has swung against him. With the Washington Agreement between the Bosnians and the Croats some of the conditions for that have been created. One thing more, however, is needed: the arms embargo against Bosnia must be lifted.

There is no moral or practical justification for the UN embargo. Even its legality is questionable. As on so many occasions, it falls to the United States to give the leadership required to uphold that fundamental right which precedes the U.N. Charter—the right to self-defense.

Kind regards.

Yours sincerely,

MARGARET THATCHER.

Mr. DOLE. As Prime Minister, Margaret Thatcher was a true leader and a staunch supporter of NATO. She is right. This debate is about leadership—American leadership to support the very principles and values we hold so dear.

The bottom line is that the arms embargo is immoral and illegal. And so, our choice is clear: support the Bosnians' fundamental right to self-defense and lift the embargo—or support sending thousands of United States troops to partition Bosnia. History will judge our actions here today.

Mr. President, I placed the Thatcher letter on every desk, along with a letter from George Schultz, former Secretary of State, who also supports lifting the arms embargo. I hope these letters will be carefully read by my colleagues.

The PRESIDING OFFICER. The minority leader's 5 minutes have expired.

Mr. DOLE. I thank the Chair.

The PRESIDING OFFICER. The majority leader is recognized for 5 minutes.

Mr. MITCHELL. Mr. President, there are many ironies in the debate now underway. A little more than a month ago the Senate debated and voted on this very subject. One may ask, why are we debating it again so soon? Does it have anything to do with the events in Bosnia and the former Yugoslavia themselves? The answer is no. The Defense Department bill happens to be on the floor of the Senate and so because of that event, completely unrelated to the realities on the ground where the fighting has and is occurring, we are debating this amendment—the same debate we had a month ago, the same vote we had a month ago. That is not the way to make policy.

Second, I wish to read to my colleagues from a copy of an analysis of the effect of the unilateral lifting of the arms embargo by the United States by the American Ambassador to NATO, the person who is most responsible for our dealing with our NATO allies.

Support for NATO is broad and deep in the Senate. Many of those who are for this amendment say they are for NATO but in fact support for this amendment will seriously undermine our relationship with our NATO allies.

Second, we focus a lot of attention here on foreign policy—Bosnia, Haiti, and other places. The most important relationships are between the United States, its principal allies in Western Europe, and Asia, and with Russia. This will seriously undermine our relations with Russia. Third, if we now unilaterally lift this arms embargo, we give a green light to all of those who want to get out of the sanctions against Iraq. And the Turks have made it clear they will do so, the sanctions against Libya, the sanctions against Cuba, the sanctions against Haiti and possibly the sanctions, if needed, against North Korea. The very people voting for this amendment who want to unilaterally lift sanctions in Bosnia would be against others doing the same thing with other sanctions. But in this case, we cannot say one thing and do another. Other people will watch what we do, and follow.

The American Ambassador to NATO said that, if this resolution passes, there would be an immediate and severe increase in tensions with our NATO allies now contributing troops in Bosnia. The chances of effective cooperation with the United Kingdom, France, and Russia in pursuit of a peaceful settlement will be reduced dramatically. There will be a severe blow to U.S. leadership in NATO. Our ability to exercise effective leadership in NATO and former Yugoslavia would vanish. We could not assure agreement to provide air support for the Bosnians if the Serbs launch a major offensive.

Let this be a marker. If this resolution passes and the embargo is lifted, the war will inevitably widen. There will be many more deaths, much more ethnic cleansing, and then it will be an American war and we will be back here with requests to send Americans over there to do something about it. That is something we have been completely unwilling to do.

Here we are in the U.S. Senate with some Members of this Senate making statements that are insulting and demeaning to our NATO allies when, in fact, it is they who are shouldering the burden in the former Yugoslavia. Right at this moment, there are nearly 15,000 of our allies' troops in that region, and nearly 10,000 British and French alone. They have suffered nearly 1,000 wounded, and 50 killed. There are no Americans. Yet, here we are preaching to them telling them how wrong and weak-kneed they are when in fact they are willing to do that which we have been unwilling to do. There is not a single Member of this Senate who would vote to send a single American combat ground troop to former Bosnia; not one, including those who will vote for this resolution, who will make tougher and brave-sounding speeches, and insult the very people who have their men and women on the line.

The PRESIDING OFFICER. The majority leader's 5 minutes have expired.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the full text of a statement contained in a letter from the U.S. Permanent Representative on the North Atlantic Council to Senator NUNN with the enclosure be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. PERMANENT REPRESENTATIVE
ON THE NORTH ATLANTIC COUNCIL,
July 1, 1994.

Hon. SAM NUNN.
U.S. Senate, Washington, DC.

DEAR SAM: In response to your request, I am enclosing my analysis of some of the effects of our position at NATO—and on developments regarding Bosnia—if the United States were to undertake a unilateral lifting of the arms embargo in Bosnia-Hercegovina.

I salute you for your leadership on this issue.

With best regards,
Sincerely,
BOB HUNTER.

NEGATIVE CONSEQUENCES OF UNILATERAL LIFTING OF ARMS EMBARGO BY THE UNITED STATES

An immediate and severe increase in tensions with NATO allies now contributing troops to UNPROFOR in Bosnia.

Chances of effective cooperation with the United Kingdom, France, and Russia in pursuit of a peaceful settlement will be reduced dramatically.

A severe blow to U.S. leadership of NATO, including erosion of support for key U.S. initiatives, such as partnership for peace.

Our ability to exercise effective leadership in NATO on former Yugoslavia—and thus the likelihood of any effective NATO action on enforcement of UN decisions or on eventual implementation—would vanish. We could not assure agreement to provide air support for the Bosnians if the Serbs launched a major offensive.

Likely withdrawal of UNPROFOR within 1–3 months. The decision to withdraw could be taken almost immediately by the United Kingdom, France, Spain and Russia, and it is likely that the UNSC would elect not to continue the operation with remaining—mostly Islamic—troop contributors.

A destabilizing effect on our relations with Russia. Yeltsin would come under intense and probably irresistible pressure to make large, overt arms shipments to Serbia.

Over 3–6 months, a noticeable erosion in enforcement of economic sanctions against Serbia.

In the short and medium term, deterioration in the Bosnian Government's military and political position. The BIH forces will suffer some reverses if the Serbs, as is likely, launch offensives against Sarajevo, Tuzla, Bihac, and eastern enclaves. This time, however, they will have less and less international support.

An increase in Serbian harassment, hostage-taking, and other measures directed against Western, and especially American, civilians.

Likely severe worsening of conditions for the civilian population; a greatly diminishing flow of humanitarian aid, more ethnic cleansing, more flows of refugees.

A probable need for the United States to go it alone in providing military support to the Bosnian Government.

Mr. MITCHELL. Mr. President, I want to take 1 minute of my leader time to conclude.

This is a fateful time in the Balkans. The contact group made up of the United States, our European allies, and Russia is trying to bring about a peaceful settlement. The adoption of this resolution will undermine and terminate that effort. There will then inevitably be a wider war, and it will be an American war. The British and French have made it clear that, if this passes, they are going to pull their forces out. We will not send anybody there to replace them. In that vacuum will come more death, more destruction, more violence, and a much greater demand for American participation. We do not want that on our hands. We should not. We should vote for the Nunn-Warner resolution. It is a sensible policy for the United States, and for peace in the region.

Mr. President, I thank my colleagues.

I yield the floor.

VOTE ON AMENDMENT NO. 2142

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the Levin amendment.

Mr. MITCHELL. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the Levin amendment. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 45, nays 55, as follows:

[Rollcall Vote No. 179 Leg.]

YEAS—45

Baucus
Biden
Boxer
Bradley
Brown
Bryan
Bumpers
Byrd
Chafee
Cohen
Daschle
DeConcini
Feingold
Glenn
Graham
Harkin
Hatfield
Hollings
Jeffords
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Mathews
McCain
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Packwood
Pell
Pryor
Reid
Riegle
Rockefeller
Roth
Sarbanes
Sasser
Simon
Wellstone
Wofford

NAYS—55

Akaka
Bennett
Bingaman
Bond
Boren
Breaux
Burns
Campbell
Coats
Cochran
Conrad
Coverdell
Craig
D'Amato
Danforth
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feinstein
Ford
Gorton
Gramm
Grassley
Gregg
Hatch
Heflin
Helms
Hutchison
Inouye
Johnston
Kassebaum
Kempthorne
Kerrey
Lieberman
Lott
Lugar
Mack
McConnell
Murkowski
Nickles
Nunn
Pressler
Robb
Shelby
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner

So, the amendment (No. 2142) was rejected.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, the vote which was just completed was conducted under the regular 15-minute schedule.

Several Senators have other commitments. To accommodate them, I am going to now ask unanimous consent that the succeeding votes in this sequence of votes be for 10 minutes.

I encourage all Senators to remain on the floor and make certain that the clerk notes their vote so that no Senator leaves thinking he or she voted when in fact the vote had not been recorded. That way we can get through this in a way to expedite the proceedings and accommodate the largest number of Senators.

However, Senators should know that further votes will occur on this bill. We are going to complete action on this bill before we recess. Any Senator who leaves during the sequence of votes runs the risk of missing other votes as they are necessary to complete action on this bill.

Senator NUNN advises me that he knows of at least 2 votes.

Mr. President, I now ask unanimous consent that the remaining votes of this sequence be for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON AMENDMENT NO. 1852

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on the Nunn Bosnia amendment. This is a 10-minute vote.

The yeas and nays are requested.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 52, nays 48, as follows:

[Rollcall Vote No. 180 Leg.]

YEAS—52

Akaka
Baucus
Bingaman
Boren
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cohen
Conrad
Danforth
Daschle
Dodd
Dorgan
Exon
Faircloth
Feinstein
Ford
Glenn
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Leahy
Mathews
Metzenbaum
Mikulski
Mitchell
Murray
Nunn
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Simon
Warner
Wellstone
Wofford

NAYS—48

Bennett
Biden
Bond
Boxer
Bradley
Brown
Coats
Cochran
Coverdell
Craig
D'Amato
DeConcini
Dole
Domenici
Durenberger
Feingold
Gorton
Gramm
Grassley
Gregg
Hatch
Helms
Hutchison
Jeffords
Kempthorne
Kohl
Lautenberg
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Moynihan
Murkowski
Nickles
Packwood
Pressler
Roth
Shelby
Simpson
Smith
Specter
Stevens
Thurmond
Wallop

So the amendment (No. 1852) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 1851

The VICE PRESIDENT. Under the previous order, the Senate will now proceed to vote on the Dole Bosnia amendment.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced, yeas 50, nays 50, as follows:

[Rollcall Vote No. 181 Leg.]

YEAS—50

Bennett
Biden
Bond
Boxer
Bradley
Brown
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeConcini
Dole
Domenici
Durenberger
Faircloth
Feingold
Gorton
Gramm
Grassley
Hatch
Helms
Hutchison
Jeffords
Kempthorne
Kohl
Lautenberg
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Moynihan
Murkowski
Nickles
Packwood
Pressler
Robb
Roth
Shelby
Simpson
Smith
Specter
Stevens
Thurmond
Wallop

NAYS—50

Akaka
Baucus
Bingaman
Boren
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Conrad
Danforth
Daschle
Dodd
Dorgan
Exon
Feinstein
Ford
Glenn
Graham
Gregg
Harkin
Hatfield
Heflin
Hollings
Inouye
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Leahy
Mathews
Metzenbaum
Mikulski
Mitchell
Murray
Nunn
Pell
Pryor
Reid
Riegle
Rockefeller
Sarbanes
Sasser
Simon
Warner
Wellstone
Wofford

So the amendment (No. 1851) was rejected.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2143

The VICE PRESIDENT. Under the previous order, the Senate will now proceed to vote on the Warner COLA amendment. The yeas and nays have not been ordered. All those in favor will say——

Mr. WARNER. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. The yeas and nays are requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mrs. FEINSTEIN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 88, nays 12, as follows:

[Rollcall Vote No. 182 Leg.]

YEAS—88

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Campbell
Chafee
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Heflin
Helms
Hollings
Hutchison
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Murkowski
Murray
Nickles
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Roth
Sarbanes
Sasser
Shelby
Simpson
Smith
Specter
Thurmond
Wallop
Warner
Wellstone
Wofford

NAYS—12

Boren
Byrd
Coats
Danforth
Hatfield
Inouye
Moseley-Braun
Moynihan
Nunn
Rockefeller
Simon
Stevens

So the amendment (No. 2143) was agreed to.

Mr. WARNER. Madam President, I move to reconsider the vote.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Later the following occurred.)

CHANGE OF VOTE—AMENDMENT NO. 2143

Mr. DECONCINI. Mr. President, on rollcall vote No. 182, I voted "no." It was my intention to vote "aye." Therefore, I ask unanimous consent that I be permitted to change my vote. This will not in any way change the outcome of the vote.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. NUNN. Madam President, I ask unanimous consent that I be able to speak for 2 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. NUNN. Madam President, there was another amendment at the desk, and had this amendment been defeated, that was an amendment that would have been offered. That amendment would have accomplished the equity between military and civilians by having both sacrifice some.

The amendment which the Senate overwhelmingly endorsed basically takes the money out of the defense budget. The Senate has spoken on this subject. My good friend from Hawaii will now have to try to find the money in the Appropriations Committee. If there is money to pay for this, we will have to pay for it. We have simply indicated that sentiment. The sentiment of the Senate is very clear, so I will not offer the amendment that would have treated this matter in a different way. It would be inconsistent with this amendment. I think this result shows very clearly that it would not pass. So I will not offer that amendment. That will allow us to go, I suppose, to the next rollcall vote.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, I would like to be recognized for 1 minute. I voted against this amendment that has just been adopted because I believe it would require the Appropriations Committee to reduce the end strength of our military. It is unfortunate, and I think we must put the Senate on notice that we will find some way to accommodate equity in these COLA's, without requiring a reduction in the already very fragile military defense force that we have today.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Madam President, I ask unanimous consent to speak for 1 minute on the amendment that was just agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, I want to associate myself with the remarks of the Senator from Alaska, and other, that have been made here. This was an extraordinarily difficult decision for me, because I so strongly believe that we need to support those who have served in uniform.

By the same token, we were presented here with a choice that requires a very tough decision. I join the Senator from Alaska, and others, in trying to find a way to bring equity between Federal civilian retirees and military retirees, but not at the expense of digging into those active forces now that are being strained almost beyond their ability to perform their task and provide for our national security. I do not want to dip into discretionary funds that go to readiness and active duty.

I regret that we had this tough vote a few moments ago, but hope we can find a satisfactory resolution. I appreciate the intent of the Senator from Virginia. I think it is something that we all support. We know that we have to fund this, and it is a tough decision to make now rather than later.

LEGISLATIVE BRANCH APPROPRIATIONS ACT FOR FISCAL YEAR 1995—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on the conference report accompanying H.R. 4454, which the clerk will report.

The assistant legislative clerk read as follows:

> The committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4454) making appropriations for the legislative branch for the fiscal year ending September 30, 1995, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of June 28, 1994.)

Mr. REID. Mr. President, I am pleased to recommend to the Senate the conference report on H.R. 4454, making appropriations for the legislative branch for fiscal year 1995, and for other purposes.

The conference report and joint explanatory statement provide a detailed description of the agreements we are recommending. I will take only a few moments of the Senate's time to summarize the highlights.

The conference agreement provides a total of $2,367,421,100 in budget authority for the legislative branch in fiscal 1995. This is $55,712,500 in budget authority and $4,130,000 in outlays under the subcommittee's 602(b) allocation and $142,282,400 less than the President's budget request. It is also $1,375,000, less than the amount recommended in the bill that was passed by the Senate on June 16, 1994.

These reductions were achieved notwithstanding the need to provide contingency funding for higher pay costs than were assumed in the House version of the bill. If the Congress does not approve a 2-percent COLA and 1.05-percent locality adjustment for the Washington-Baltimore area, the total provided in the bill will be reduced by $10,489,000 under section 311.

The conferees also agreed to the substance of Architect of the Capitol Human Resources Act and to modified language amending section 207 of P.L. 102–392. The language adopted incorporates high volume "duplicating" within the definition of printing for purposes of procurement from external sources and includes a class of work exemption.

In closing, let me once again recognize Chairman FAZIO, the ranking member, Mr. YOUNG, and the other House conferees. Meeting these gentlemen in conference is always a pleasurable experience. My thanks to them and their capable staff.

Much of the credit for what we have accomplished in this bill belongs to my ranking member, Senator MACK and the other Senate conferees. The Senate is particularly fortunate that Senator MACK serves as ranking member of this subcommittee. He is committed to the welfare of this institution and of the legislative branch in general. His ideas and advice are invariably sensible and constructive.

The Senate delegation on the legislative bill, of course, always includes our full committee chairman, Senator BYRD, and his colleague and ranking member, Senator HATFIELD. Both personify what it means to be a Senator. Their guidance and assistance are invaluable.

Finally, I wish to acknowledge the work of our committee staff: Jerry Bonham, the majority clerk on the subcommittee, Jim English, the majority staff director for the full committee, Mary Dewald, the chief clerk for the full committee, Elizabeth Blevins, staff assistant for the full committee, and Keith Kennedy, the minority staff director for the full committee who, fortunately, is also assigned to this Subcommittee.

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 4454, the legislative branch appropriations bill and has found that the bill is under its 602(b) budget authority allocation by $56 million and under its 602(b) outlay allocation by $4 million.

I compliment the distinguished manager of the bill, Senator REID, and the distinguished ranking member of the Legislative Branch Subcommittee, Senator MACK, on all of their hard work.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the legislative branch appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 4454—FISCAL 1995 LEGISLATIVE BRANCH APPROPRIATION—CONFERENCE BILL

[In millions of dollars]

Bill summary	Budget authority	Outlays
Discretionary totals:		
New spending in bill	2,367	2,174
Outlays from prior years appropriations		206
Permanent/advance appropriations	0	0
Supplementals	0	−(*)
Subtotal, discretionary spending	2,367	2,380
Mandatory totals	92	92
Bill total	2,459	2,472
Senate 602(b) allocation	2,515	2,476
Difference	−56	−4
Discretionary totals above (+) or below (−)		
President's request	−142	−77
House-passed bill	−31	19
Senate-reported bill	−2	3
Senate-passed bill	−1	−1
Defense	0	0
International Affairs	0	
Domestic Discretionary	2,367	2,380

Mr. LAUTENBERG. Mr. President, the conference report on the legislative branch appropriation bill for fiscal year 1995 makes some necessary reforms, and I commend Senators REID and MACK for their contributions to that effort. This bill will stop unsolicited mass mailings, which I support. It also reduces spending on the Senate itself. We will spend almost $6 million less on the Senate next year than we did this year. Since fiscal year 1992, spending on the Senate has declined by 12 percent in constant dollars.

Mr. President, overall spending on the legislative branch will increase under this legislation after going down slightly over the past few years. Mr. President, I applaud the reductions we have made in the past, and the reforms included in this bill, but I will vote against the conference report because I believe we should cut funding for the legislative branch.

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. JEFFORDS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second.

There is a sufficient second.

The yeas and nays are ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 73, nays 27, as follows:

[Rollcall Vote No. 183 Leg.]

YEAS—73

Akaka
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cochran
Cohen
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Feinstein
Ford
Glenn
Gorton
Graham
Grassley
Harkin
Hatfield
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Leahy
Levin
Lieberman
Mack
Mathews
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Wallop
Wellstone
Wofford

NAYS—27

Baucus
Brown
Coats
Conrad
Coverdell
Craig
Faircloth
Feingold
Gramm
Gregg
Hatch
Heflin
Helms
Hutchison
Kempthorne
Kohl
Lautenberg
Lott
Lugar
McCain
McConnell
Metzenbaum
Nickles
Pressler
Roth
Smith
Warner

So the conference report was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President, today, we approved the budget for fiscal year 1995 for the legislative branch of Government. We have appropriated $2.4 billion to operate Congress, the General Accounting Office, the Government Printing Office, the Library of Congress, the Botanic Gardens, the Congressional Budget Office, the Architect of the Capitol, and the Office of Technology Assessment. On its face, this bill is a 4.1-percent increase over the fiscal year 1994 appropriation, but it is important to note the steps that were taken by the Senate to continue our efforts to limit spending.

The fiscal year 1995 appropriation for the Senate is $5.8 million less than last year. That is a reduction of 1.3 percent. The Senate is the only account within this appropriations bill that has gone down.

I am especially pleased that we have eliminated funding for unsolicited, franked mass mailings. This action alone allowed us to reduce our spending by $5 million. Of course, Senators still will be able to answer inquires from constituents and provide them with updates on matters in which they have expressed concern. But we have ended the practice of papering our States with so-called postal patron newsletters that too often find their way, unread, into trash bins. Perhaps, the House will follow the Senate's lead by taking similar steps next year.

In this bill, the Senate takes an important step toward increasing accountability. Every year beginning in 1995, the published report by the Secretary of the Senate will contain a statement of each Senator's office allotment, expenditures, and year-end balance. Our constituents will be able to see for themselves how we use our official funds.

There are two programs that have received increases that I wholeheartedly support. First, the Library Of Congress' National Library Service Program for the Blind and Physically Handicapped has received an increase of $2.3 million. The National Library Service provides recordings of books and magazines on cassettes and discs, as well as equipment to play the recordings, to individuals with disabilities that impede their access to printed material. This is an extremely important and valuable service. The additional funds will be used to repair and update the playback equipment.

Second, $1.5 million was restored in the conference report to permit the Government Printing Office to complete its work on providing Government information to Federal depository libraries through electronic online services. The GPO Access System will provide direct, on-line access to the CONGRESSIONAL RECORD and the Federal Register.

I am pleased that the Senate has continued its efforts to keep spending down. I believe that more can and should be done to limit spending on the legislative branch and hope that next year, the House will follow the Senate's example and make a greater effort to cut unnecessary spending on itself.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

AMENDMENT NO. 1840

Mr. NUNN. Madam President, what is the pending business?

The PRESIDING OFFICER. The pending business is amendment number 1840.

Mr. NUNN. Madam President, that is the Johnston amendment.

The PRESIDING OFFICER. That is the Johnston modified amendment.

Mr. NUNN. I would suggest that we see if we could dispose of that amendment. I hope we could do it by voice vote.

Mr. President, the amendment that is now pending is the Johnston-Feinstein amendment. I do not see any need for a rollcall vote. I believe that amendment is going to be agreed to. We have already had a lot of discussion and some debate on that amendment, so I would ask that it be voted on by the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I would ask if the distinguished chairman and ranking member could possibly work with us during the vote so we could have some idea as to whose amendment is coming from where. There are several Senators with amendments, at least four or five on this side and several on the other side. Hopefully, I ask the distinguished chairman and ranking member, we could work out some order of amendments so we would have some idea, rather than all of us coming here and sitting around.

Mr. NUNN. Mr. President, we will work on that. I appreciate the suggestion.

Mr. MCCAIN. I have no objection.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 1840) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 2146

(Purpose: To improve the reporting and investigation of sexual misconduct cases involving Department of Defense personnel)

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 2146.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the end of title X, add the following:

Subtitle _—Investigations of Sexual Misconduct

SEC. 1081. DIRECTOR OF SPECIAL INVESTIGATIONS.

(a) ESTABLISHMENT.—Chapter 4 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 143. Director of Special Investigations

"(a) APPOINTMENT.—There is a Director of Special Investigations who is appointed by the Secretary of Defense from among civilians who have a significant level of experience in criminal investigations. The Director reports directly to the Secretary of Defense.

"(b) SENIOR EXECUTIVE SERVICE POSITION.—The position of Director of Special Investigations is a Senior Executive Service position. The Secretary shall designate the position as a career reserved position under section 3132(b) of title 5.

"(c) DUTIES.—Subject to the authority, direction, and control of the Secretary of Defense, the Director of Special Investigations shall perform the duties set forth in this section and such other related duties as the Secretary may prescribe.

"(d) DATA COMPILATION AND REPORTING.—(1) The Director shall obtain, compile, store, monitor, and (in accordance with this section) report information on each allegation of sexual misconduct of a member of the armed forces or of a dependent of a member of the armed forces against a member of the armed forces, against a dependent of a member of the armed forces, or against a civilian not a dependent of a member of the armed forces that is received by a member of the armed forces or an officer or employee of the Department of Defense in the official capacity of that member, officer, or employee.

"(2) The information compiled pursuant to paragraph (1) shall include the following:

"(A) The number of complaints containing an allegation referred to in paragraph (1) that are received as described in that paragraph.

"(B) The number of such complaints that are investigated.

"(C) In the case of each complaint—

"(i) the organization that investigated the complaint (if investigated);

"(ii) the disposition of the complaint upon completion or other termination of the investigation; and

"(iii) the status or results of any judicial action, nonjudicial disciplinary action, or other adverse action taken.

"(D) The number of complaints that were disposed of by formal adjudication in a judicial proceeding, including—

"(i) the number disposed of in a court-martial;

"(ii) the number disposed of in a court of the United States;

"(iii) the number disposed of in a court of a State or territory of the United States or in a court of a political subdivision of a State or territory of the United States;

"(iv) the number disposed of by a plea of guilty;

"(v) the number disposed of by trial on a contested basis; and

"(vi) the number disposed of on any other basis.

"(E) The number of complaints that were disposed of by formal adjudication in an administrative proceeding.

"(3) The Director shall make the information obtained and compiled under this subsection available to the Secretary of Defense, the Secretaries of the military departments, Congress, any law enforcement agency concerned, and any court concerned.

"(e) DIRECT INVESTIGATIONS.—The Director shall investigate each allegation of sexual misconduct referred to in subsection (d)—

"(1) that is made directly, or referred, to the Director, including such an allegation that is made or referred to the Director by—

"(A) a commander of a member of the armed forces alleged to have engaged in the sexual misconduct or to have been the victim of the sexual misconduct;

"(B) an investigative organization of the Department of Defense; or

"(C) a victim of the alleged misconduct who is a member of the armed forces or a dependent of a member of the armed forces; or

"(2) that the Secretary directs the Director to investigate.

"(f) OVERSIGHT AND QUALITY CONTROL OF OTHER INVESTIGATIONS.—(1) The Director shall monitor the conduct of investigations by units, offices, agencies, and other organizations within the Department of Defense regarding allegations of sexual misconduct.

"(2) In carrying out paragraph (1), the Director may inspect any investigation conducted or being conducted by any other organization within the Department of Defense, review the records of an investigation, and observe the conduct of an ongoing investigation.

"(3) The Director may report to the Secretary on any investigation monitored pursuant to in paragraph (1). The report may include the status of the investigation, an evaluation of the conduct of the investigation, and an evaluation of each investigator and the investigative organization involved in the investigation.

"(g) POWERS.—In the performance of the duties set forth or authorized in this section, the Director shall have the following powers:

"(1) To have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available in the Department of Defense which relate to the duties of the Director.

"(2) To request such information or assistance as may be necessary for carrying out the Director's duties from any Federal, State, or local governmental agency or unit thereof.

"(3) To require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the Director's duties, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court.

"(4) To serve subpoenas, summons, and any judicial process related to the performance of any of the Director's duties.

"(5) To administer to or take from any person an oath, affirmation, or affidavit whenever necessary in the performance of the Director's duties, which oath, affirmation, or affidavit when administered or taken by or before an employee designated by the Director shall have the same force and effect as if administered or taken by or before an officer having a seal.

"(6) To have direct and prompt access to the Secretary of Defense, the Secretary of a military department, and any commander when necessary for any purpose pertaining to the performance of the Director's duties.

"(7) To obtain for any victim of sexual misconduct referred to in subsection (d)(1), from any facility of the uniformed services or any other health care facility of the Federal Government or, by contract, from any other source, medical services and counseling and other mental health services appropriate for treating or investigating—

"(A) injuries resulting from the sexual misconduct; and

"(B) other mental and physiological results of the sexual misconduct.

"(h) REFERRALS FOR PROSECUTION.—(1) The Director may refer any case of sexual misconduct described in subsection (d)(1) to—

"(A) a United States Attorney, or another appropriate official in the Department of Justice, for prosecution; or

"(B) to an appropriate commander within the armed forces for action under chapter 47 of this title (the Uniform Code of Military Justice) or other appropriate action.

"(2) The Director shall report each such referral to the Secretary of Defense.

"(i) STAFF.—(1) The Director shall have—

"(A) a staff of investigators who have extensive experience in criminal investigations;

"(B) a staff of attorneys sufficient to provide the Director, the criminal investigators, and the Director's other staff personnel with legal counsel necessary for the performance of the duties of the Director;

"(C) a staff of counseling referral specialists; and

"(D) such other staff as is necessary for the performance of the Director's duties.

"(2) To the maximum extent practicable, the staff of the Director shall be generally representative of the population of the United States with regard to race, gender, and cultural diversity.

"(j) REPORTS TO DIRECTOR.—Each member of the armed forces and each officer or employee of the Department of Defense who, in the official capacity of that member, officer, or employee, receives an allegation of sexual misconduct shall submit to the Director a notification of that allegation together with such information as the Director may require for the purpose of carrying out the Director's duties.

"(k) ANNUAL REPORT ON SEXUAL MISCONDUCT.—The Secretary of Defense shall submit to Congress an annual report on the number and disposition of cases of sexual misconduct by members of the armed forces and officers and employees of the Department of Defense.

"(l) DEFINITIONS.—In this section:

"(1) The term 'sexual misconduct' includes the following:

"(A) Sexual harassment, including any conduct involving sexual harassment that—

"(i) in the case of conduct of a person who is subject to the provisions of chapter 47 of this title (the Uniform Code of Military Justice), comprises a violation of a provision of subchapter X of such chapter (relating to the punitive articles of such Code) or an applicable regulation, directive, or guideline regarding sexual harassment that is prescribed by the Secretary of Defense or the Secretary of a military department; and

"(ii) in the case of an employee of the Department of Defense or a dependent subject to the jurisdiction of the Secretary of Defense or of the Secretary of a military department, comprises a violation of a regulation, directive, or guideline referred to in clause (i) that is applicable to such employee or dependent.

"(B) Rape.

"(C) Sexual assault.

"(D) Sexual battery.

"(2) The term 'complaint', with respect to an allegation of sexual misconduct, includes a report of such allegation.".

(b) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 4 of such title is amended by adding at the end the following:

"143. Director of Special Investigations.".

SEC. 1082. CRIMINAL FAILURE TO REPORT SEXUAL MISCONDUCT.

(a) OFFENSES.—Chapter 109A of title 18, United States Code, is amended—

(1) by redesignating section 2245 as section 2246;

(2) by inserting after section 2244 the following new section:

"§ 2245. Failure to report sexual misconduct

"(a) FAILURE TO ACT ON ALLEGATION OF CRIMINAL SEXUAL MISCONDUCT.—An officer or employee of the Department of Defense or a member of the Armed Forces of the United States who, in the official capacity of the officer, employee, or member—

"(1) receives an allegation of criminal sexual misconduct of a member of the Armed Forces of the United States or of a dependent of a member of the Armed Forces of the United States against a member of the Armed Forces of the United States, against a dependent of a member of the Armed Forces of the United States, or against a civilian not a dependent of a member of the Armed Forces of the United States;

"(2) is required by law to determine whether to initiate an investigation of, or to determine whether to take disciplinary action in the case of, the allegation; and

"(3) fails to submit a notification of the allegation to the Director of Special Investigations of the Department of Defense and to the immediate employment supervisor or immediate commander, as the case may be, of the alleged offender, shall be imprisoned not more than 10 years, fined under this title, or both.

"(b) FAILURE TO ACT ON ALLEGATION OF CIVIL SEXUAL MISCONDUCT.—An officer or employee of the Department of Defense or a member of the Armed Forces of the United States who, in the official capacity of the officer, employee, or member—

"(1) receives an allegation of civil sexual misconduct of a member of the Armed Forces of the United States or of a dependent of a member of the Armed Forces of the United States against a member of the Armed Forces of the United States, against a dependent of a member of the Armed Forces of the United States, or against a civilian not a dependent of a member of the Armed Forces of the United States;

"(2) is required by law to determine whether to initiate an investigation of, or to determine whether to take disciplinary action in the case of, the allegation; and

"(3) fails to submit a notification of the allegation to the Director of Special Investigations of the Department of Defense and to the immediate employment supervisor or immediate commander, as the case may be, of the alleged offender,

shall be imprisoned not more than 1 year, fined under this title, or both."; and

(3) in section 2246, as redesignated by paragraph (1)—

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

"(6) the term 'criminal sexual misconduct' means engaging in a sexual act or sexual contact in circumstances such that the act or conduct constitutes a criminal offense under this chapter, other Federal law, or State law; and

"(7) the term 'civil sexual misconduct' means engaging in a sexual act, sexual conduct, or other activity of a sexual nature in violation of a statute, rule, order, or other lawful authority that prohibits the activity but does not authorize imposition of a sentence of imprisonment for a violation.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking the item relating to section 2245 and inserting the following:

"2245. Failure to report sexual misconduct.
"2246. Definitions for chapter.".

(c) CONFORMING AMENDMENT.—Section 506(f)(3)(B) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756(f)(3)(B)) is amended by striking out "section 2245(1)" and inserting in lieu thereof "section 2246(1)".

SEC. 1083. PERSONNEL ADMINISTRATION MATTERS.

(a) PERFORMANCE EVALUATIONS AND BENEFITS.—(1) The Secretary of Defense shall prescribe in regulations a requirement that the commitment of an officer or employee of the Department of Defense and a member of the Armed Forces of the United States to the elimination of sexual harassment in the officer's, employee's, or member's place of work or duty and at installations and other facilities of the Department of Defense be one of the factors considered in—

(A) the preparation of the evaluations of the officer's, employee's, or member's performance of work or duties;

(B) the determination of the appropriateness of a promotion of the officer, employee, or member; and

(C) the determination of the appropriateness of selecting the officer, employee, or member to receive a financial award for performance of work or duties.

(2) The Secretary shall submit to Congress an annual report on the implementation of the regulations required by paragraph (1). The report shall contain an assessment of the effects of the implementation of such regulations on the number, extent, and seriousness of the cases of sexual harassment in the Department of Defense. The annual report under this paragraph shall be separate

from the annual report required by section 143(k) of title 10, United States Code, as added by section 1081.

(b) ELIGIBILITY FOR PROMOTIONS AND AWARDS.—The Secretary of Defense and the Secretary of the military department concerned may not approve for presentation of a financial award for performance of work or duties or for promotion any officer or employee of the Department of Defense or any member of the Armed Forces of the United States who—

(1) has been convicted of a criminal offense involving sexual misconduct; or

(2) has received any other disciplinary action or adverse personnel action on the basis of having engaged in sexual misconduct.

SEC. 1084. PROTECTION OF PERSONS REPORTING SEXUAL HARASSMENT.

(a) REGULATIONS OF THE SECRETARY OF DEFENSE.—The Secretary of Defense shall prescribe regulations that prohibit officers and employees of the Department of Defense from retaliating or taking any adverse personnel action against any other officer or employee of the Department of Defense or any member of the Armed Forces of the United States for reporting sexual misconduct by an officer or employee of the Department of Defense or a member of the Armed Forces or for providing information in an investigation, disciplinary action, or adverse personnel action in the case of an allegation of sexual misconduct by any other such officer, employee, or member. The regulations shall include sanctions for violation of the regulations.

(b) REGULATIONS OF A SECRETARY OF A MILITARY DEPARTMENT.—(1) The Secretary of each military department shall prescribe regulations that prohibit members of the armed force under the jurisdiction of that Secretary from retaliating or taking any adverse personnel action against any officer or employee of the Department of Defense or any member of the Armed Forces of the United States for reporting sexual misconduct by any other officer or employee of the Department of Defense or any other member of the Armed Forces or for providing information in an investigation, disciplinary action, or adverse personnel action in the case of an allegation of sexual misconduct by any other such officer, employee, or member.

(2) A violation of the regulations prescribed pursuant to paragraph (1) shall be punishable under section 892 of title 10, United States Code (article 92 of the Uniform Code of Military Justice).

SEC. 1085. SEXUAL MISCONDUCT DEFINED.

In this subtitle, the term "sexual misconduct" has the meaning given that term in section 143(l) of title 10, United States Code, as added by section 1081.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. DECONCINI. Yes, I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the call of the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, the Senator from Minnesota, Mr. WELLSTONE, was here and wanted to make a statement. I was going to yield to him so I will proceed.

Mr. President, I sent an amendment to the desk that I take very seriously and I hope my colleagues will bear with me while I talk about it for just a few minutes.

Women in the U.S. Armed Forces are being subjected daily to sexual harassment ranging from verbal abuse to forcible rape. Who does the harassing. Men whom these women trust as fellow comrades-in-arms or—even worse—superiors who use their authority to sexually coerce lower echelon military women and then intimidate them into silence.

When victims of such abuse attempt to report it to higher military officials, they find their experience discounted as of minor importance, or as part of being in the military. The Tailhook scandal is only one example of the military's efforts to cover up and discount the magnitude of the sexual abuse problems of military women. Hundreds of individual, if not thousands of incidents occur every year. Both the incidents themselves and the subsequent cavalier treatment of the victims are unconscionable and can not be tolerated.

Mr. President, I sat in horror 2 years ago as I heard Reservist Jackie Ortiz testify before the Committee on Veterans Affairs. Ms. Ortiz was sodomized by her company first sergeant while on duty in 18 miles northwest of the Iraqi border during Operation Desert Storm. Ms. Ortiz immediately reported the incident. Instead of providing the immediate medical attention she required, her commanders placed her on unneeded guard duty for 6 straight hours and, then for 12 hours at a time. When the CID investigator finally arrived, Jackie was subjected to 6 hours of interrogation during which she was required to describe the incident in graphic detail time after time after time. For the next 2½ months, Jackie remained under the command of her attacker, requiring face to face confrontation almost daily, and continued denial of medical attention. Despite the first sergeant's later confession, he received a promotion and was allowed to retire. Jackie received counseling from the Chaplain, the tentmate of the company physician.

This is a real honest to goodness story, what happened to one of our military personnel in the Persian Gulf war.

The committee that held those hearings under the distinguished chairman, Senator Cranston, also heard appalling testimony indicating that one study conducted by Dr. Jessica Wolfe showing that nearly 29 percent of 113 Vietnam Era women had fallen victim to attempted or actual sexual assault, and that the rate is probably higher for war zone service. This is more than double the experience of American women as a whole. Not one of these women was raped by the enemy.

Mr. President, it is true that the survey sample was small, but I am afraid Dr. Wolfe's study accurately reflects what is going on in the military and we must put a stop to it. The fact that no reliable data exists highlights the shocking indifference to this problem. Even if the 29 percent incident rate of that survey is ignored, the 1988 Department of Defense own study of women who were on active duty indicated that 5 percent of the respondents reported actual rape or attempted rape or sexual assault. Even if one applies that very conservative estimate to all women in the military, as many as 11,000 military women would have been victims in 1 year alone.

Mr. President, the Department of Defense does not have comparable crime records for the various services and the services themselves do not maintain consistent data on sexual violence. Moreover, the DOD has yet to request sufficient funds to achieve timely compliance with the National Incident-Based Reporting System. While I applaud the efforts to date of Assistant Secretary of Personnel and Readiness Dorn on the integration of the various services' criminal data reporting systems, I am advised that the Department has not developed a specific plan or identified resources to achieve compliance with by June 1, 1995, as required by the Uniform Federal Crime Reporting Act of 1988.

Mr. President, I had thought, since the hearings before the Veterans Committee and the introduction of my bill in the 102d Congress calling for an independent Office of Criminal Investigations, that the military could have made some progress in the reeducation of its personnel.

In response to the Tailhook affair, the Navy Department reported then that it had implemented stand down orders which included meaningful programs to sensitize those "good ole' boys". The Secretary of the Navy unequivocally stated that the incidence of sexual misconduct, no matter how slight would quote, "not be tolerated." The transformation of the Navy appeared, for the moment, to be genuinely under way. However, the cultural change was short-lived. Almost a year later negative signs resurfaced and the long-awaited inspector general's report remained stalled for months in a quagmire of doubletalk about the lack of a Secretary of the Navy of general counsel to release the report. That is the reason, we were told, that the report could not be released.

While Air Force Secretary Widnall did come to the rescue of Sergeant Martinez in early June, the fact that a rescue had to occur underscores the basic problem here. No apology was provided and her superiors have not been reprimanded for retaliation against her for simply testifying before the House Armed Service Committee on harassment in the military. Moreover, her career is irreparably scarred. In the words of Sgt. Martinez herself, "there's nothing to prevent something like this from happening again."

Boy, that is an understatement. I ask unanimous consent that at this point in the Record I may insert some articles from the Washington Post and New York Times.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Washington Post, June 8, 1994]

Marine Corps Drops Final Tailhook Case

The Marine Corps has dismissed the last pending military case stemming from the Tailhook scandal of sexual misconduct at a naval aviators' convention.

Lt. Gen. Charles C. Krulak dismissed the case against an unidentified officer for insufficient evidence, according to a Marine spokesman, 2nd Lt. Michael Neumann. Neumann declined to provide further details.

The dismissal, which took place last week, ends the year-long Marine Corps investigation into actions of its aviators at the 1991 Tailhook convention in Las Vegas.

More than 80 women allegedly were assaulted or harassed by drunken Marine and Navy aviators at the convention, according to Pentagon investigators.

The Navy ended its investigation in February. The Pentagon had referred 119 cases to Vice Adm. J. Paul Reason, the Navy's top Tailhook authority. None of those cases resulted in a successful court-martial.

The Marine Corps reviewed 21 cases referred by Pentagon investigators, and developed one additional case after reviewing the Pentagon findings.

Eight cases were settled in nonjudicial hearings. The Marine Corps declined to say what punishments were given.

Nine officers underwent extensive counseling, and one officer received "adverse material" in his personnel file and resigned. The other cases were dropped.

[From the Washington Post, Feb. 10, 1994]

Remaining Tailhook Case Is Dismissed

Quantico, VA, February 9.—The remaining case stemming from the drunken debauchery at the 1991 Tailhook convention was dismissed because of insufficient evidence, an attorney said today.

Of 140 cases stemming from the scandal, no one has been court-martialed. About 50 Navy and Marine officers received administrative discipline.

Quantico Marine Corps Base said Lt. Gen. Charles C. Krulak had adjudicated the case against a Marine Corps lieutenant colonel accused of misconduct without imposing punishment. It did not identify the colonel, but the attorney for Marine Lt. Col. Cass D. Howell identified his client as the defendant.

Howell's attorney, David L. Beck of Knoxville, Tenn., said all charges against Howell were dismissed Tuesday because of insufficient evidence.

"We're just pleased with the results," Beck said. "He's maintained his innocence throughout."

Howell had been charged with lying and obstructing justice during the Tailhook probe. He also had been charged with assaulting a Tailhook investigator and with spending a night during the convention at the Las Vegas Hilton with a woman other than his wife.

Pentagon investigators concluded that 83 women were assaulted or molested at the convention. Many of the women were molested on the hotel's third floor, where men lined the hallway and grabbed women as they tried to pass.

Krulak handled the cases against Marines charged in Tailhook. On Tuesday, a military judge, Capt. William T. Vest Jr., dismissed Tailhook charges against three Navy officers.

Vest concluded that despite denials by Chief of Naval Operations Frank B. Kelso II, Kelso witnessed sexual misconduct at the Tailhook convention. Vest also said that Kelso tried to limit the investigation of Tailhook to junior officers to protect himself.

The dismissals could mean that no one will face court-martial for Tailhook.

The admiral handling Navy Tailhook cases, Vice Adm. J. Paul Reason, has until Friday to decide whether to appeal Vest's decision to throw out the charges against the three Navy officers.

[From the New York Times, June 10, 1994]

Air Force Sergeant in a Sex Complaint Tells of Reprisals

(By Eric Schmitt)

Washington, June 9.—Just a week after the Navy was forced to apologize to a lieutenant who had suffered retaliation for reporting sexual harassment to her superiors, the Air Force today found itself in a similarly embarrassing spot.

House members were furious and senior Air Force officials were scrambling to head off potential trouble after an Air Force sergeant said her commander had retaliated against her after she returned from testifying before Congress in March about sexual harassment.

The sergeant, Zenaida Martinez, a 27-year-old military police officer at Mildenhall Air Base in England, said in a telephone interview today that shortly after she returned from Washington, base officials interrogated her about discussions she had had with civilian lawyers to prepare for the March 9 hearing before the House Armed Services Committee.

She refused to tell investigators anything, citing lawyer-client privilege. As a result, she said, her superiors in England last week told her that she was under a criminal investigation for actions related to travel expenses, namely, taking a $200 taxi from a London airport instead of a free military shuttle bus. The sergeant said she had taken the taxi after an airport official told her she had missed the last bus to the base.

Air Force officials in Washington refused to comment today on whether the base's decision to start a criminal inquiry into the cab fare was appropriate or to explain why her actions could have been a criminal violation.

The investigation into Sergeant Martinez's travel expenses was directed by the base's inspector general, Col. Dennis Adams, whom she has sued. The lawsuit accuses him of failing to investigate her earlier allegations of sexual harassment and reprisals for reporting the harassment—the very reason she was summoned to testify.

"This is astounding," said Representative Patricia Schroeder, a Colorado Democrat on the House Armed Services Committee. "This looks to me like a classic case of reprisal. I can't believe this just goes on and on and on."

After a day filled with high-level meetings, Air Force Secretary Sheila E. Widnall today invited Sergeant Martinez for a private meeting in Washington as early as Monday to discuss the matter. "I want to assure her of our commitment to eliminate all forms of discrimination, including sexual harassment, and to eliminate any actual or perceived reprisal," Ms. Widnall said in a statement.

But the Air Force has refused to cancel the criminal inquiry, saying it is sufficient for now to put it on hold, even though senior Air Force officials do not dispute the sergeant's version of events. Even if Ms. Widnall resolves the matter, the Defense Department's Inspector General has agreed to Sergeant Martinez's request to review the entire incident.

"IT'S ALL DISAPPOINTING"

"I'm happy to go meet with the Secretary, but this whole thing is not what I imagined when I joined the Air Force," said Sergeant Martinez, who enlisted in 1986. "It's all disappointing and disheartening."

With the example of the Navy's action on a similar case looming large, Ms. Widnall and her top aides are clearly trying to extricate themselves from the embarrassing episode.

"On a case with this much visibility, the base commander should have made his staff car available," a senior Air Force official said, voicing exasperation.

Navy Secretary John H. Dalton last week personally apologized to Lieut. Darlene Simmons, a Navy lawyer who testified at the same hearing with Sergeant Martinez, for the harassment she experienced and the retaliation from her commanders after she reported it.

Sergeant Martinez's troubles all started in 1990, when she said her master sergeant solicited her for sex, offering to "discuss my 'career' after hours." When he persisted, Sergeant Martinez said, she reported him to her commander but encountered only "delays and diversions."

Two years later, she said another sergeant in her unit harassed her by "explicitly describing the benefits of having a sexual relationship with him." The man "made me understand that if I refused, my career would suffer."

When she did rebuff his advances, she said, the tires on her car were slashed and wheel bolts loosened. "The more complaints I made, the more trouble I got into with my chain of command in the squadron," Sergeant Martinez told lawmakers in March.

Sergeant Martinez said that she was given poor grades on evaluation and that her chances for promotion plummeted. She said she discovered that documents accusing her of poor conduct had been placed in her personnel file without her knowledge. The sergeant said she then learned she was the focus of the official inquiry, not the men whom she reported to.

Mr. DeCONCINI. Mr. President, the list of known sexual assault and harassment casualties reads near as long as the call of quorum of the Senate—Lt. Paula Coughlin, Specialist Alexis Colin, Sgt. Zenaida Martinez, Lt. Darlene Simmons, Staff Sergeant Carol

Furman, Private Pamela Clemm, Reservist Jackie Ortiz and Seaman Apprentice Mary Kelley Richard, Specialist Barbara Franco. Countless others have contacted my office, but requested that their identity be withheld after they have seen how other women had been treated. Actually, they said to me in more than one case how they felt they had been tortured by their professed comrades in arms for coming forward and reporting these abuses.

Mr. President, as most Members in this body know, at least 83 women and 7 men were sexually harassed and physically abused during Tailhook's 35th annual convention. About half the 140 cases were dismissed for lack of evidence, 40-45 received letters of reprimand, but no courts martial were taken. Thirty-two Navy admirals and one Marine general were cited for failure to stop the abuses; all but two received nonpunitive letters of reprimand. Seven admirals lost their commands, were disciplined, or took early retirements in Tailhook's wake. And just 3 weeks ago today, the Marine Corps announced the dismissal of the last pending military case arising from the Tailhook scandal of sexual misconduct.

Mr. President, when I heard that not one person accused of sexual misconduct went to trial, much less convicted, it sent a cold chill up my spine, and I will not forget it. I felt deeply saddened for the women in uniform who are victims and who will be victims and may be victims right now. Mr. President, who will these defenders of our liberty turn to now that they know that even all the publicity in the world nor a massive IG investigation will not help to guarantee their safety and most surely will not protect their careers, if they are a victim and the chances are very great that they will be.

Sadly, the problem can be summed up into one tiny phrase, the U.S. military "still just doesn't get it", and that is the essence of my concern.

Mr. President, before I begin the explanation of my simple bill, I need to quickly dismiss a memorandum in opposition to my amendment produced by the same office whose Tailhook investigation yielded no court martials which was circulated to some Senate offices, but not mine. As I am almost certain that my friend and colleague from Georgia will submit this memo for the RECORD, I would like to take a couple of moments to rebut the points made in this flawed analysis of the bill.

First, this memorandum argues that my legislation would usurp and disrupt the operations of the DOD Inspector General and cause confusion as to which office has primary criminal and civil investigative jurisdiction. This argument grossly exaggerates the intent of this legislation beyond reasonable bounds and greatly offends me. This new Office of Special Investigations has no independent authority to conduct investigations. This legislation clearly states in unequivocal terms in section 143, paragraph (c) that "subject to the authority, direction and control of the Secretary of Defense, the Director of this office shall perform the duties set forth in this section * * *." This section dictates that this office shall only obtain, compile, store, monitor, and report information on each allegation of misconduct. In other words, it audits the investigations conducted by military and DOD entities with such primary jurisdiction. In short, this argument in the memorandum signed by DOD Deputy Inspector General Derek J. Vander Schaaf is clear misreading of this proposed legislation.

And I am disappointed that it would result in this kind of subterfuge to oppose a legislative solution to the outlandish problem within our military.

Last, the memorandum claims that this new office could serve no beneficial purpose and would duplicate the Defense criminal investigative organizations oversight functions of IG, DOD. Mr. President, the IG, DOD, is incapable of providing any meaningful analysis given it lacks the raw data required to competently satisfy those responsibilities. No entity currently has such information; it does not exist and the DOD has yet to request the estimated $37 million required to integrate the various Defense criminal investigative organizations data. So here we have an instance where DOD has not even asked for the funds to implement what we have told them to do. Moreover, no entity can fulfill this function until it has adequate data until from military officials receiving the initial report from the victim.

Until those officials receiving the reports are under the threat of criminal or civil penalties for failure to provide such data as this legislation requires, I contend this data will never exist or be produced because it has not been, and not even the money has been asked for so that it could be forthcoming.

The IG, DOD also does not possess the funding resources or manpower to provide the specialized training required to respond to the deficiencies in the individual services branch investigative organizations. In short, the memorandum circulated here to discredit this amendment to some Senate offices—but not the courtesy to send one to me, we had to scrape and find one by accident almost—fails to offer any reasonable argument in opposition to the pending legislation.

I am offended by its characterization and sweeping misstatements of fact. I hope the Senator from Georgia might not even rely on it.

Mr. President, I began my work on this problem well before the Tailhook scandal blanketed the airwaves and front pages across this Nation in the spring of 1992. I was troubled by the number of constituents—we have many bases and defense establishments in Arizona—who were seeking my assistance because their chain of commands were unwilling to help victims of sexual misconduct and harassment. I approached the issue as I would any other. I sought the counsel of experts in the field. My staff was briefed by dozens of law enforcement investigators and prosecutors. As a former county attorney and member of the Judge Advocate General Corps of the U.S. Army, I also brought some firsthand experience.

While the scandal served as a catalyst for more inquiry, it considerably hampered my investigation and retarded the receipt of crucial data on sexual violence. From the beginning, I sensed that the principal problem was systemic both in terms of investigation and prosecution.

Some policymakers, including the House Armed Services chairman then, Chairman Aspin, had called for stripping the services of jurisdiction over these types of crimes, taking away all jurisdiction over sexual harassment or sexual misconduct. I did not concur with such actions because I thought it would be counterproductive. We need to work within the military and within the Defense Department.

I also believe such a proposal would undermine military readiness and delay responsiveness to the problem in the chain of command. Most importantly, my experience as a former prosecutor had long ago taught me that the immediate investigations and evidence collection are of paramount importance to effective law enforcement in developing a case, if there is one to be developed. Thus, the various proposals for elimination of local jurisdiction over such investigation would be prohibitively expensive and would actually hinder, not enhance, prosecution.

Mr. President, I instead sought to enhance the ability of each of the military investigators by creating a cooperative, supplemental investigative cadre of seasoned, experienced, Federal-civilian investigators to assist in an investigation when called upon, and, more importantly, to audit the handling of such cases.

The legislation before the Senate today, in my judgment, is the product of many years of effort of trying to put together something real. Make no mistake. This legislation will not solve the problem of sexual misconduct and harassment and rape in the military. If it had been in place in 1991, I do not believe that the Tailhook scandal would have occurred.

However, Mr. President, in my search for a solution I unveiled one of the biggest problems; that the virtual dearth of raw data on sexual misconduct is not available. I discovered that despite numerous congressional directives, reliable data on the problem of rape, other sexual assaults, and sexual harassment against military personnel and civilians by military personnel, no uniform collected data existed anywhere.

In fact, the Senate Armed Services Committee itself criticized the Department of Defense in 1983 for its utter failure and apathy over the collection of crime data. In its report, report No. 980-53, at page 6, lines 30–32, it states that the committee "was concerned about the need for an improved data base for analyzing military justice issues. The committee experts from the Department of Defense working with the Code of Military Justice Committee suggested the establishment of a uniform process and format to collect such data on key operational military justice indicators that will permit useful analysis of military justice trends and issues."

It is too bad that in 1983 we did not legislate something. Maybe this would not have occurred.

Mr. President, I ask unanimous consent to insert a copy of the charter of the data collection working group of the Joint Service Committee on Military Justice at an appropriate place in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHARTER OF THE DATA COLLECTION WORKING GROUP OF THE JOINT-SERVICE COMMITTEE ON MILITARY JUSTICE

PURPOSE

The purpose of this chapter is to state the purpose for which the Working Group is appointed and the goals which the Working Group seeks to achieve.

BACKGROUND

In S. Rep. No. 53, 98th Cong., 1st sess. 6, 30–32 (1983), the Senate Armed Services Committee stated that it "was concerned about the need for an improved data base for analyzing military justice issues. The Committee expects the Secretary of Defense, working with the Code Committee, to establish a uniform process and format to collect data on key operational military justice indicators that will permit useful analysis of military justice trends and issues." Consequently, the General Counsel, Department of Defense, directed the Joint Service Committee on Military Justice to establish a separate working group to study the matter and to make recommendations to the Code Committee not later than 30 June 1994.

CHARTER

The separate working group shall hereafter be known as the Data Collection Working Group of the Joint Service Committee on Military Justice. Its short title will be the "Data Collection Working Group." The Data Collection Working Group will be composed of representatives of the following: The Judge Advocates General, the Director, Judge Advocate Division, USMC, and the General Counsel of the Coast Guard.

It shall be the function of the Data Collection Working Group to study each service's military justice data collection system and to evaluate the systems in light of the concern expressed in S. Rep. No. 53. The Group shall endeavor to identify the existing major information problems or difficulties related thereto, and submit recommendations for establishing a uniform process and format among the services for collecting data on key operational military justice indicators, which will produce information permitting useful analysis by the Secretary of Defense, the armed services, and Congress, of military justice problems, trends, and issues.

Mr. DECONCINI. Mr. President, however, due to the tireless pursuit and patience of some in my staff, particularly Tim Gearan, and two interns, Matt Burnham and Neal Effron and a law school professor that was extremely helpful, seeking data to conduct a study on rape, I believe we have been able to piece together landmark evaluation of criminal sexual misconduct by military personnel. The preliminary finding of this study was prepared by Duke University law professor Madeline Morris.

The findings raise serious questions about the problem of sexual misconduct in the military. The findings show that after controlling for age and gender, rates of violent crime appeared lower among the military than among the civilian population. However, in the most recent available data—and, believe me, it is hard to come by, as I pointed out—dating 1986 through 1992, the rate of reduction in the military rape rate is far less than among civilians. Actually, it is several times less, and the difference is highly significant.

In contrast, the rate of reduction for murder, non-negligent manslaughter, or aggravated assault, is consistent with the civilian rate of reduction. The preliminary finding of the study which has been validated by some of the country's best statisticians, including an FBI statistician, raises the urgent question of why are military services less effective in reducing rape than in reducing other violent crimes?

The amendment I have offered today that is pending, would provide the raw data necessary to answer many of the questions raised by Professor Morris.

Mr. President, I ask unanimous consent to enter a statement by Professor Morris in support of this legislation into the RECORD at the appropriate place.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF PROF. MADELINE MORRIS, DUKE LAW SCHOOL, ON THE DECONCINI AMENDMENT TO THE NATIONAL DEFENSE AUTHORIZATION ACT OF 1994 TO ESTABLISH WITHIN THE OFFICE OF THE SECRETARY OF DEFENSE THE POSITION OF DIRECTOR OF SPECIAL INVESTIGATIONS AND FOR OTHER PURPOSES

I

Sexual abuse—including sexual harassment, sexual assault, and rape—by members of our armed forces is a cause for serious concern. Several recent commentators have suggested that the problem of sexual abuse within the U.S. military is one of substantial proportions.[1] Several witnesses at hearings before the Senate Committee on Veterans' Affairs in 1992 stated that the extent of sexual assault within the U.S. military is underestimated because reporting is informally discouraged, and because reports that are made are too frequently swept aside.[2]

In fact, too little is known about the extent of sexual assault by military personnel because little data collection has been done on the issue.[3] A large-scale study of active duty military personnel conducted by the Defense Manpower Data Center in 1988 found that five percent of the female and one percent of the male personnel responding stated that they had been the victims of actual or attempted rape or sexual assault during the previous year.[4] The study indicates that the majority of perpetrators of all forms of sexual abuse reported were other military personnel.[5] However, the purpose of the study was to measure victimization of military personnel. It therefore did not seek to estimate rates of sexual abuse perpetration by military personnel. It thus did not, for example, examine sexual assault of civilians, American or otherwise, by military personnel.

A 1989 Navy study of sexual harassment rendered similar results to the 1988 Defense Manpower Data Center study.[6] However, it too sought to measure victimization of rather than perpetration by military personnel. For that reason, the Navy study shared with the Defense Manpower Data Center study the limitations noted above.

A series of articles, cumulatively entitled "Rape in the Ranks: An Investigation into Rape in the U.S. Armed Forces," was published by the Orange County Register in 1992. These materials address the issue of perpetration of rape by military personnel,[7] and make some comparisons with civilian rates.[8] However, the materials are not purported to represent a systematic study nor to control for the gender and age differences in military and civilian populations. For those reasons, the Orange County Register materials, while providing some insights, must be viewed with caution.

I am currently completing a study comparing the rape proneness of military and civilian populations.[9] Toward that end, the study compares the rates of rape and other violent crime by male U.S. military personnel and civilians, in peacetime and during World War II (WWII).[10] Some preliminary findings from that study follow.[11]

The study of military and civilian crime rates during World War II (WWII) allows for a measurement of rape proneness of military personnel in the combat context. The WWII data suggest that rape rates follow different patterns from the rates of other violent crimes in war, rising in peak violent crime periods very disproportionately to the rates of homicide and aggravated assaults.

Specifically, during the breakout across France, August and September, 1944, the average monthly murder/non-negligent manslaughter rate of U.S. Army personnel in the European Theater of Operations (ETO) was about half (47%) of the U.S. male civilian rate, and the average monthly ETO aggravated assault rate was about one sixth (18%) of the U.S. male civilian rate. During the same period, the ETO rape rate was 2.86 times the U.S. male civilian rate. (All crime rate comparisons are made after controlling for the age structures of the two populations.)

The relative crime rate pattern during the breakout into Germany was very similar to

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Footnotes at end of article.

the pattern during the breakout across France. The rates of all three types of crimes examined rose to even higher levels during the German breakout than during the French breakout. But the relative relationship of the three crime rates was strikingly similar to the two periods: In each instance the increase in rape was far greater than that in either murder/non-negligent manslaughter or aggravated assault. During the period of the breakout across Germany, March and April, 1945, the average monthly ETO murder/non-negligent manslaughter rate was essentially equal to the U.S. male civilian rate, and the average monthly ETO aggravated assault rate was about one quarter (27%) of the male civilian rate. During the same period, the ETO rape rate was 3.66 times the male civilian rate.

The wartime data might seem to suggest that perhaps some feature of combat itself tends to elevate rape rates far more than rates of other violent crime. However, study of peacetime data suggests that the features of combat cannot fully explain the phenomenon of rape proneness in military organizations.

The results of the peacetime (1987–92)[12] study, in short, are as follows. First, the rates of violent crime (murder/non-negligent manslaughter, aggravated assault, and rape) are lower, after controlling for age, among the male military than among the male civilian population. Second, however, the diminution in military rape rates from civilian rape rates is less—several times less—than the diminution in the rates of the other violent crimes. In other words, military rape rates are reduced far less from civilian levels than military rates of other violent crime.

During the period 1987–1992, on yearly average, the Army's murder/non-negligent manslaughter rate was about a fifth (19%) of the civilian rate, its aggravated assault rate was about a sixth (18%) of the civilian rate, and its rape rate was approximately half (47%) of the civilian rate. For the Navy, on yearly average, the murder/non-negligent manslaughter rate was one fourteenth (7%) of the civilian rate, the aggravated assault rate was one twenty-fifth (4%) of the civilian rate, and the rape rate was approximately one fifth (19%) of the civilian rate. For the Marine Corps, on yearly average, the murder/non-negligent manslaughter rate was approximately one eighth (13%) of the civilian rate, the aggravated assault rate was one twenty-fifth (4%) of the civilian rate, and the rape rate was approximately one fourth (27%) of the civilian rate. For the same years, the Air Force murder/non-negligent manslaughter rate was one twentieth (5%) of the civilian rate, its aggravated assault rate was one fiftieth (2%) of the civilian rate, and its rape rate was one fifth (20%) of the civilian rate.

Thus, military rape rates are diminished far less from civilian levels than are military rates of other violent crime. To simplify presentation, I have combined the murder/non-negligent manslaughter and aggravated assault data into an index of "other-violent-crime." Military populations' diminution of other-violent-crime rates from civilian levels can now usefully be compared with their diminution of rape rates from civilian levels.

On yearly average, the diminution in other-violent-crime in the Army exceeded the diminution in rape by a multiple of 2.62. That is, the Army's ratio of other-violent-crime diminution to rape diminution was 2.62:1. Or, put differently, the Army diminution in rape rates from civilian levels was only 38% of the Army diminution of other-violent-crime from civilian levels. The diminution in other-violent-crime in the Navy exceeded the diminution in rape by a multiple of 4.93. Thus, the Navy diminution in rape rates from civilian levels was only 20% of the Navy diminution of other-violent-crime from civilian levels. The diminution in other-violent-crime in the Marines exceeded the diminution in rape by a multiple of 5.61. Thus, the Marine diminution in rape rates from civilian levels was only 18% of the Marine diminution of other-violent-crime from civilian levels. And the diminution in other violent-crime-in the Air Force exceeded the diminution in rape by a multiple of 11.03. So the Air Force diminution in rape rates from civilian levels was only 9% of the Air Force diminution of other-violent-crime from civilian levels.

Regression analyses performed on these data determined that, for each military service, the difference between the diminution of rape and of other-violent-crime was statistically significant. Thus, while the particulars differ between the different services, all of the services show the same overall pattern of diminishing all violent crime rates including rape from civilian levels but diminishing rape rates significantly less than the rates of other violent crime. These data raise the question why military rates of murder/non-negligent manslaughter and aggravated assault are diminished so dramatically from civilian levels but military rape rates are diminished so much less.

In sum, in the peacetime period studied, military rape rates were diminished substantially less from civilian levels than were other violent crime rates. And in WWII, during peak violent crime periods, rape rates were increased very substantially over civilian rates, while the rates of other violent crime remained below or essentially equal to civilian rates. Thus, in war, military rape rates were increased far more than other violent crime rates, and in peacetime, military rape rates were reduced from civilian levels far less than other violent crime rates.

These data suggest that rape has been and continues to be a more intractable problem among military personnel than are other violent crimes. This finding underscores the need for a serious effort to bring the rates of sexual abuse including rape into line with the very low rates of other violent crime among our military service personnel.

II

Notwithstanding the few studies that have been done to date on the issue of sexual abuse by military personnel and the anecdotal evidence such as that provided by witnesses at the June 30, 1992 hearings of the Senate Committee on Veterans' Affairs, there remains a dearth of information on the extent of sexual abuse within the services, and on the handling and disposition of sexual abuse cases.

In order appropriately and effectively to address the problem of sexual abuse by military personnel, it is essential to have reliable information on the nature and scope of the problem. For that reason, the annual report on sexual misconduct, to be prepared by the Office of Special Investigations as proposed in the DeConcini Amendment, will be a tremendously important part of any serious remedial effort.

The need for an annual report on sexual misconduct such as that proposed in the DeConcini Amendment will continue even once the Defense Incident Based Reporting System (DIBRS) is in place. The Uniform Federal Crime Reporting Act of 1988[13] provides that all federal agencies shall keep crime records and information in a uniform manner, to be specified by the Attorney General. The Attorney General has required reporting in conformity with the National Incident Based Reporting System (NIBRS) (which the Department of Defense will implement as DIBRS). DIBRS is expected to collect information on criminal and non-criminal sexual misconduct (and other offenses) in all four services, from the law enforcement through the investigation, prosecution, and corrections stages.[14] The DIBRS program has not yet been implemented, but will be in the coming years. Once the DIBRS system is in place, it will substantially facilitate—but by no means render redundant—the data compilation and reporting functions that the Office of Special Investigations will fulfill in preparing the annual report on sexual misconduct in the armed forces.

III

The DeConcinci Amendment also provides for several important functions in addition to data collection. As provided in the Amendment, the Office of Special Investigations would provide oversight of all sexual abuse investigations. The Amendment also provides for criminal sanctions for failure to fulfill legal obligations to act on allegations of sexual abuse, provides protection against retaliation for reporting sexual abuse, and also makes commitment to the elimination of sexual abuse a factor for consideration in performance evaluations of personnel. All of those provisions of the Amendment would be independently significant and, also, together would send an important message that sexual abuse by military personnel is viewed as a serious matter which will be treated seriously.

In sum, the DeConcini Amendment to the National Defense Authorization of 1994 is in my view a very valuable step in the handling of sexual abuse within our military services. Though the Amendment will not alone eliminate sexual abuse by military personnel, it will contribute significantly to reducing the incidence of such conduct, and to improving the handling of such cases when they do arise.

FOOTNOTES

[1] See generally Senate Hearing 922, 102 Cong., 2d Sess., June 30, 1992 (including testimony of numerous military, veteran, and academic witnesses on the extent of sexual assault of U.S. military women by U.S. military men).

[2] See Senate Hearing, *supra* note 1 at 12, 13 (testimony of Diana Danis), 24 (testimony of Jacqueline Ortiz), 26 (testimony of Barbara Franco), 28, 33–34, 38–39 (testimony of Kelley Richard).

[3] See Senate Hearing, *supra* note 1 at 10 (testimony of Diana Danis regarding the lack of incidence data on rape in military); Gary Warner, Rape In Military: Vexing Problem but Difficult to Measure, Orange Cnty. Register, July 11, 1992, p. A1; 1990 Navy Women's Study Group, An Update Report on the Progress of Women in the Navy III–28 (1990) ("The incidence, the reporting, and the actions taken regarding sexual assault/rape are not fully captured in any Navy data base."). Cf. 1990 Navy Women's Study Group, *Id.* at III–23 ("The lack of a data base and a common punitive charge for sexual harassment inhibits command oversight and trend analysis.").

[4] Melanie Martindale, Sexual Harassment in the Military: 1988 xiii (1988). The "actual or attempted rape or sexual assault" category, though rather broad, was not further subdivided in the study.

[5] See *Id.* at 35.

[6] See Amy L. Culbertson et al., Assessment of Sexual Harassment in the Navy: Results of the 1989 Navy-wide Survey (1992).

[7] See, e.g., Gary Warner, Navy Rape Reports Tripled in Five Years, The Orange Cnty. Register, May 18, 1992, p. A–1.

[8] See, e.g., Gary A. Warner, Army Rape Rate 50 Percent Higher than the Nation's, The Orange Cnty. Register, Dec. 30, 1992, p. A–1.

[9] I use the term "rape proneness" to refer to proclivity, predisposition, tendency, or likelihood to rape. A rape prone individual or group would thus be one with a likelihood to commit rape under some set of circumstances. Defined in this way, rape proneness is meaningful only as a relative concept, comparing the rape proclivity of one individual or group to that of another. While it is meaningless to ask in the abstract, "is the military population 'rape prone'?", it does make sense to ask whether a military population is more or less prone to rape than its civilian counterpart—and that is the question pursued in the study.

[10] World War II was chosen for study because it is the most recent war other than Vietnam in which the U.S. was engaged for a prolonged period and in which troops had extensive contact with civilians. Contact with civilians in Korea and in the Persian Gulf was limited. Vietnam was not chosen for study because it may have been unusual in its levels of low troop morale which would presumably influence crime rates.

[11] Because the study is still in the process of completion, findings are subject to revision.

[12] The "peacetime" period studied is 1987–1992. That period includes of course January and February of 1991, during which there was active fighting in the Persian Gulf War. That combat period, however, had no discernable effect on the relevant crime rates. Regression analyses performed on the data excluding 1991 produced essentially equivalent results to those produced when including the 1991 data.

[13] 28 U.S.C. 534 (West 1993)

[14] Telephone interview with David F. Shutler, Lt. Col. U.S.A.F., Deputy Director, Legal Policy, Requirements and Resources, June 27, 1994.

Mr. DECONCINI. Mr. President, the aftermath of rape may become even more disabling than the incident itself. I found this to be true when I was a prosecutor, and as a result commenced the first example in Arizona of a victim witness program where we provided counseling, paid for by Pima County, for rape victims. Fear, anxiety, concern about personal safety, pregnancy, disease, are common immediately following an incident. Rape victims may become severely depressed, have suicidal thoughts, and experience social dysfunctions which affect not only personal quality of life, but also their work performance. Thirty-one percent of all rape victims in America develop what is known as rape-related post-traumatic stress disorder, similar to PTSD experienced by combat personnel.

Mr. President, I am not one that takes a great deal of time when I offer amendments. I am one that always, I believe, wanted to enter into time agreements. But this disturbs me, Mr. President, and I know it is infringing on the time of other people and where they may want to go.

I have tried to get hearings on this legislation for more than 2 years. I feel I need to talk about it, because there have been no hearings on this legislation. Moreover, I asked the Secretary of Defense during hearings before the Defense Subcommittee on Appropriations over 2 years ago for comments on my bill. Today marks another day where I will wait in frustration for a response to those questions asked over 2 years ago.

Women relive the trauma in an ongoing and intrusive basis. They are subject to daytime memories and nightmares, accompanied by intense psychological distress. Many deliberately restrict contact with the outside world in order to avoid remedies of reminders of the trauma. Compared with women who have never been raped, those with RR–PTSD are 13.4 times more likely to have major alcohol problems and 26 times more likely to have major drug abuse problems.

Trauma and other psychological disorders resulting from rape itself are compounded by an apparently permissive environment which encourages or at least does not adequately discourage the sexual mistreatment of military women. As stated earlier, the Senate Committee on Veterans' Affairs heard testimony on June 30, 1992, from three women veterans who, after being forcibly raped, were further brutalized by the indifference of higher echelon officers to whom they had turned for help. One, in fact, was demoted, while her abuser was promoted. Another woman, a career military person, was raped on two separate occasions during her time serving this country.

These data lend credence to the increasing skepticism felt by the American public, and especially by the women who serve in our military, about the military's ability to police itself in the area of sexual misconduct. Clearly, a focused effort is required to redress the problem of sexual misconduct by military personnel. Something has to be done. I believe something will be done.

The amendment I am offering today to the Defense authorization bill creates an Office of Special Investigations at the Department of Defense level. This new office will have oversight and audit jurisdiction over all reports of sexual harassment, abuse, and assault, and other related offenses by active-duty military personnel against other active-duty personnel and civilians. The Secretary of Defense is also empowered to direct the new office to investigate or assist in the investigation of cases being conducted by any military investigative service.

Military victims of sexual assault will also be able to address their complaints directly to this office, rather than through the military chain of command, which we know does not work. In turn, this office would make the appropriate referral back to the chain of command and defense criminal investigative organizations. Most victims I have talked to simply do not believe that their allegations will be taken seriously and/or pursued vigorously by their supervisors in a male-dominated profession. We need to assure them that will be done.

The Office of Criminal Investigations will have a separate investigative staff with, to the fullest extent possible, professional expertise in sexual assault investigations. It will be independent and will have absolute authority to collect evidence and compel testimony and, when requested, secure appropriate, immediate medical treatment and psychological counseling for victims of sexual abuse.

A principal element of the office will be the collection of data so we can get a better handle on the extent of the problem, including the number of cases that go to prosecution. The cost of operating this new office and staff is modest and expected to be no more than $1 million to possibly $4 million per year. This includes an office, a staff of approximately 15 to 20 support personnel and investigators, computer capability for a data base, equipment, travel, and medical and psychiatric support availability.

This amendment would also establish a new Federal crime for failure by any commanding officer to promptly notify this new Office of Investigations of any report of sexual misconduct. Failure by a commanding officer to report sexual misconduct would be a felony punishable by imprisonment for up to 10 years.

Mr. President, no other aspect of this bill is more important than the criminalization of the coverup of sexual misconduct. Without this provision, any data collected on reports will continue to be inaccurate and perpetuate an institutional culture of coverups of sexual violence against military women that has been going on probably since women have been in the military. Are we going to stand by when there are over 200,000 fighting women who are defending our liberties and not do anything? We have an opportunity to do something. This is a tough measure, but I think it is long overdue.

Mr. President, not one organization that represents women in the military opposes this legislation. In fact, the executive committee of WANDAS WATCH, a leading organization representing only women on active duty, endorses this legislation.

I ask unanimous consent that a memorandum of June 22, 1994, from Susan Barnes, an authorized spokesperson and founder of this group, Standing Watch for Women Active in our Nation's Defense, their Advocates and Supporters, in support of this legislation, and the amendment, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[Memorandum from WANDAS WATCH]

Re: Proposed amendments to FY 1995, Defense Authorization Act.
To: Tim Gearan.
From: Susan Barnes.
Date: 6/22/94.

Thanks for your call and the copy of Senator DeConcini's bill. We are delighted that the Senator is taking an interest in this important issue and are pleased to say that we support the bill.

Our Executive Committee met last evening to review Senator DeConcini's bill. We concluded that it would be a step in the right direction provided that it is accompanied by a requirement that the Department of Defense without further delay issue a stronger set of regulations to deal with the problem of reprisals for reporting sexual harassment.

From the scores of complaints that WANDAS is now getting as the result of the support we are providing to Air Force Sergeant Zenaida Martinez, we know right now that the Whistleblowers Act (10 USC §1034) is not working in its present form. Unfortunately, although the current House amendment to that Act was intended as a "first step" toward a resolution of the problems highlighted by the military women who testified at the HASC hearing in March, it is not strong enough to rise to even that level,[1] and our fear is that without more this year, the military services will feel free to return to their old practices and continue to sweep the problem of sexual harassment and other forms of gender bias under the rug.

The lawsuit we brought for Sgt. Martinez to force DoD and the Air Force to comply with the Whistleblowers Act recently resulted in a procedural ruling from the Court that demonstrated that complainants under the Whistleblowers Act have no protection from ongoing reprisals for reporting unlawful complaints while the investigation drags on (a principal motivator of the foot dragging is the fact that the investigation is usually conducted by the very command against which the complaint has been made.) The recent reprisals suffered by Sergeant Martinez as the result of her Congressional testimony is but the latest example that proves that the current law is not working.

Typically under the Whistleblowers Act the Department of Defense Inspector General refers sexual harassment cases back to the IG for the service of the complainant. The DoD IG's stated reason for doing this is that the DoD IG gets too many complaints to handle them all at the DoD level. In the Martinez case, we argued that the Whistleblowers Act does not permit the DoD IG's practice of referring the investigation back to the chain of command. The Judge ruled against us on that important point, and we will appeal; however, it appears that the true solution lies in legislative reform. That is why we believe that the approach taken by Senator DeConcini's bill has merit, although we all understand that it is not intended to solve all the problems.

Senator DeConcini's bill in combination with ours could make a big difference and additional amendments to the Whistleblowers Act. Major revisions of the Whistleblowers Act also are imperative. The Government Accountability Project is currently circulating some proposals in that regard, and WANDAS WATCH supports them.

In the past month I have had three discussions with Congresswoman Schroeder directly on these issues and, of course, a number of discussions with her staff. It is my understanding from those discussions that Mrs. Schroeder will support an effort on the Senate side to strengthen the bill that came out of the House to the extent that protocol permits her to do so. It was Mrs. Schroeder who suggested that we take our bill to improve DoD regulations to AF Secretary Widnall when we met with her last week. We did so, and Secretary Widnall has transmitted our proposal to Secretary Dorn (her co-chair on the joint task force) who in turn is circulating it to interested people in the Pentagon.

We have sent our proposal to several Senators whom we hope might be willing to take leadership roles to assure that Congress does something meaningful this year. We appreciate Senator DeConcini's willingness to "step up to the plate."

Mr. DECONCINI. Mr. President, a great number of women choose to serve their country through careers in the military. American service women should not be subjected to this type of humiliation. They should not experience a sense of vulnerability engendered by the current permissive military environment. They should not be subjected to the terror and long-term incapacitation resulting from sexual assault. And they should not be subject to indifference from supervisors who are responsible for their safety.

We need to send a message to our military that such an environment and such a behavior will not be tolerated. We can fix the problem by establishing an independent unit with jurisdiction over these offenses.

I urge my colleagues to support this amendment.

Mr. NUNN. Mr. President, will the Senator yield for a brief question? I have a second-degree amendment prepared, and I would like to send it to the desk, if I could.

I do not want to rush anybody. But if we each want 20, 30, or 40 minutes on each amendment that I have heard of, now we are going to be here tonight, tomorrow, Sunday, and from now on. So if people are going to get anxious around here, saying why can we not have shorter speeches, I know everybody wants to present their full point of view, but we are going to have a difficult time finishing this at a reasonable hour tonight unless we all cooperate and make our points as briefly as possible.

MILITARY CULTURE MUST CHANGE IF SEXUAL HARASSMENT IS TO STOP

Mr. WELLSTONE. Mr. President, I rise to express my support for this amendment, designed to be an important step toward combating sexual harassment in the military, and for the efforts of Senators MURRAY, MOSELEY-BRAUN, DECONCINI and others involved in this effort. I have been impressed by their willingness to press the Pentagon hard in its handling of sexual harassment cases. It is long past due for Congress to take a closer look at the Pentagon's policies—and their enforcement of those policies—in this area.

I believe Senator DECONCINI's proposal to establish an independent investigative body within the Office of the Secretary of Defense deserves careful consideration. It may be time to establish such an independent office in the wake of the Tailhook investigations and other less notorious—but no less significant—cases of sexual harassment within the Armed Forces. Sexual harassment cases must be investigated and prosecuted as fairly, efficiently, and effectively as possible. That is still not being done consistently. I am concerned that Pentagon officials are still not doing enough to vigorously enforce their own policies on this matter.

I am particularly concerned about a case that I have been working on together with Senator DURENBERGER and Congressman VENTO involving a Minnesotan, Lt. (jg.) Rebecca Hansen. Her story has been told recently in several recent articles in the New York Times, the Washington Post, and elsewhere, so I will not rehearse it here.

Lieutenant Hansen's case illustrates some of the myriad problems that are typically found in investigations involving sexual harassment or threats of reprisal and other forms of intimidation by military personnel, including administrative delays, insensitivity by colleagues, investigative carelessness, conflicting interpretations of military standards, and a lack of strong oversight by top military officials. Her case, and others like it, remind us all of the distance we still must travel to change a military culture which too often tolerates sexual harassment and abuse of some of its members. This must change.

I urge my colleagues to support this amendment, which I have cosponsored, to require the Pentagon to toughen its policies on sexual harassment, and to urge the Commission that is currently reviewing Pentagon policies in this area to assess and report to Congress on the merits of the proposal to establish a separate investigative body within the Office of the Secretary to deal exclusively with these cases.

AMENDMENT NO. 2147 TO AMENDMENT NO. 2146

Mr. NUNN. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for himself, Mrs. MURRAY, and Ms. MOSELEY-BRAUN, proposes an amendment numbered 2147 to amendment No. 2146.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, strike out everything after "subtitle" down through the end of the amendment and insert in lieu thereof the following:

—DISCRIMINATION AND SEXUAL HARASSMENT

SEC. . DEPARTMENT OF DEFENSE POLICIES AND PROCEDURES ON DISCRIMINATION AND SEXUAL HARASSMENT.

(a) MILITARY DEPARTMENT POLICIES.—(1) Subject to paragraph (2), the Secretary of the Navy and the Secretary of the Air Force shall review and revise the regulations of the Department of the Navy and the Department of the Air Force, respectively, relating to equal opportunity policy and complaint procedures to ensure that such regulations are substantially equivalent to the regulations of the Army on such matters.

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[1] Sergeant Martinez, who is a very articulate young woman, wrote a statement outlining her concerns about the bill. I enclose a copy of her statement and our press release.

(2) In revising regulations pursuant to paragraph (1), the Secretary of the Navy or the Secretary of the Air Force, as the case may be, may make such additions and modifications as the Secretary of Defense determines appropriate to strengthen the regulations beyond the substantial equivalent of the Army regulations in accordance with—

(A) the recommendations of the Department of Defense Task Force on Discrimination and Sexual Harassment; and

(B) the experience of the Army, Navy, Air Force, and Marine Corps regarding equal opportunity cases.

(3) The Secretary of the Army shall review the regulations of the Department of the Army relating to equal opportunity policy and complaint procedures and revise the regulations as the Secretary of Defense considers appropriate to strengthen the regulations in accordance with the recommendations and experience described in subparagraph (A) and (B) of paragraph (2).

(b) REQUIREMENTS REGARDING REPORT OF TASK FORCE ON DISCRIMINATION AND SEXUAL HARASSMENT.—(1) The Department of Defense Task Force on Discrimination and Sexual Harassment shall transmit the report of the task force to the Secretary of Defense not later than October 1, 1994.

(2) The Secretary of Defense shall transmit to Congress the report of the task force not later than October 10, 1994.

(3) Not later than 45 days after receiving the report, the Secretary of Defense shall—

(A) review the recommendations for action contained in such report;

(B) determine which recommendations the Secretary approves for implementation and which recommendations the Secretary disapproves; and

(C) submit to Congress a report that—

(i) identifies the approved recommendations and the disapproved recommendations; and

(ii) explains the reasons for each such approval and disapproval.

(4) The Secretary of Defense shall implement the approved recommendations not later than April 1, 1995.

The Advisory Board on the investigation capability of the Department of Defense should consider and include in its report—

(1) whether the Department of Defense should establish a separate unit to oversee all matters relative to allegations of discrimination or sexual misconduct in the Department of Defense; and

(2) whether additional data collection and reporting procedures are needed to enhance the ability of the Department of Defense to deal with sexual misconduct.

(d) The Secretary of Defense shall ensure that regulations governing consideration of equal opportunity matters in performance evaluations include consideration of an individual's commitment to elimination of discrimination or of sexual harassment.

Mr. NUNN. Mr. President, this amendment that I sent to the desk on behalf of myself and the Senator from Washington [Mrs. MURRAY] and the Senator from Illinois, [Ms. MOSELEY-BRAUN], is an amendment that deals with the same kinds of problems the Senator from Arizona is addressing.

The difference is that this amendment basically takes the approach of dealing with what we already see happening at the Pentagon, building on a firm foundation. The Army has proposed certain regulations that have been carefully examined.

I believe the Senators from Illinois and Washington will describe that.

In addition to that part of the amendment, which is the heart of the amendment—it is their amendment really—that we have incorporated as a second degree, I do address the provision that the Senator from Arizona has in his amendment, but we do so in a way that gives us some flexibility when we receive the report from the advisory commission that has been reported by the President under the authorization bill last year and is headed up by Mr. Charles Ruff. And that commission is supposed to report in all of this area in December.

The reason I send this to the desk in the form of a substitute is frankly I think that the Senator from Arizona has such a sweeping amendment that I am not sure of the implications of it.

The Senator on page 9 of his amendment says:

> Each member of the armed forces and each officer or employee of the Department of Defense who, in the official capacity of that member, officer, or employee, receives an allegation of sexual misconduct shall submit to the Director a notification of that allegation together with such information as the Director may require for the purpose of carrying out the Director's duties.

Mr. President, we have millions of people working in the Department of Defense. We have school teachers all over the world working for the Department of Defense.

This amendment, as I read it, makes the failure to report any allegation of sexual misconduct, any allegation of sexual misconduct, a criminal offense by the individual who does not report it to the Director, to one person in Washington.

This does not give any room for something that may be handled at the local level. People may think this is absurd, but I read this amendment to mean that if some third grade student comes in and says that someone told her a dirty joke or told him a dirty joke and that school teacher frankly does not report that to Washington that school teacher is guilty of a criminal offense.

We want to deal with this problem, but we do not want to turn it into an administrative nightmare. I do not see how any individual could possibly fulfill the job that has been described in the first-degree amendment. They would be receiving allegations every day by the thousands perhaps, if this amendment is read literally.

How many times a day in the whole Department of Defense does someone complain to someone else about sexual misconduct?

I do not know where you draw the line on that. The judgment that would have to be made out in the field would be staggering.

So I think we need to take this step by step and deal with it in the way we are trying to deal with it and make sure we send a message that this conduct will not be permitted and will be dealt with. But we better think before we make a criminal offense out of failure to report to Washington every single incident that may happen in the field throughout the whole world. That, I think, is something we better put up a little warning light on.

Mr. President, I yield to my colleagues. I yield the floor and hope they will explain the amendment because it is their amendment, in essence.

Mr. DECONCINI. Mr. President, I wonder if the Senator could get us copies of the amendment.

Mr. NUNN. Yes, I will get the Senator a copy.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, I rise in strong support of the substitute amendment proposed by Senator NUNN, Senator MURRAY, and myself.

Actually, Mr. President, the good news in all of this is that the climate of opinion and the culture in this institution regarding issues of discrimination and sexual harassment has so changed and so been heightened that we have competing—maybe not competing—we are congruent, but we all have these different proposals to deal with the problem that 2 years ago was not even recognized as existing.

I commend Senator DECONCINI, who raised this issue months ago with me, at least, on the train one day. I know his sincere concern. I appreciate the passion of his remarks in that regard.

We have tried to work together to come up with a not just congruent approach but come up with the same approach, and we have not really done that because we felt that it made sense in my opinion to reward initiatives that are already being taken to provide a remedy, a redress, a process for dealing with sexual harassment and discrimination, equal opportunity complaints.

The Army has adopted such a process, and it is a process that so far is working. It is being improved over time, but it has already adopted such a process. It is a process that gives an individual the opportunity to speak, to have a hot line in the first instance, to file a formal complaint if it gets to that and only if it gets to that, because sometimes there could be confusion. But if there is a need for a formal complaint or the individual decides he or she is not getting attention that they require, they can file a formal complaint.

That formal complaint—and I think this is interesting and positive about the process that is in place by the Army now—is that it can go to any number of people, including the individual's doctor, the individual's chaplain or minister, the individual's direct housing referral office, the EEO adviser, the Equal Employment Opportunity adviser, the inspector general, the judge advocate general, the military police or criminal investigator in the chain of command.

So there are a number of options for an individual who has suffered from what he or she believes to be discrimination, either based on sex or on gender or on race. And I think that is an important initiative for the Army to have taken.

The initiative of the second-degree amendment, Mr. President, essentially says we are going to take the Army's attempted experiment, the Army's procedure, which is shown to be a good procedure that has safeguards and time lines for reporting, 3 days for the complaint to be acted upon, 14 days for the decisionmaking, 7 days for appeal, if you do not like the decision, and then finally even further, a cooling off kind of period, a period in which there is final resolution. There is time lines and a process that is broad based. There is a process that allows for a number of different kinds of approaches in this very important and sensitive area.

This process makes sense to us and is one that the second-degree amendment seeks to apply across the forces, the various Armed Forces. It says that the initiative the Army has taken in this regard should be recognized, should be supported, and we will give the other services an opportunity to pick up the same initiative so there will be a consistent, coherent process among all of the services for dealing with complaints of sexual harassment and denial of equal opportunity. We think that consistency makes sense.

Further the second-degree amendment goes on and picks up where Senator DECONCINI left off and says we will also take a look at whether or not a separate, freestanding agency is required in this area.

So it really kind of says we are going to give the services the opportunity to develop inhouse something that works for military personnel and that preserves military readiness and is sensitive to the issue of discrimination and denial of equal opportunity and sexual harassment at the same time, and I think it makes sense for us as a body, Mr. President, to support that, to encourage that kind of initiative and to allow it to go forward and put it in place in all the other services.

We understand that the Navy has already adopted or suggested they are going to adopt the Army approach. The other armed services can adopt the Army approach. So a woman in the military, for example, will not have to worry that there is one process over here, another process over there, and that if different branches of the service all have different rules, we have one set of rules for all of our military personnel and that, again, it seems to me to make sense.

Mr. President, again, I congratulate and commend and thank Senator NUNN for his sensitivity and for listening and for helping us get to this point. I think he has come up with something that is a workable compromise that addressed the concerns expressed by Senator DECONCINI, the concerns expressed by the military leadership, the concerns expressed by the women of this body, because all the women of this body had cosponsored Senator MURRAY and my amendment to begin with.

So what Senator NUNN has done here is come up with a response that is responsive and responsible and that relates to and I think in a positive way says we are going to do this constructively as opposed to being in opposition to the military opposed to using a hammer they are going to use a glove and work on this issue in a way that will give real meaningful recourse to the women and men of the military who want to have some avenue for remedy of their sexual harassment or equal opportunity complaints.

Mr. DECONCINI. Mr. President, will the Senator from Illinois yield for a question?

Ms. MOSELEY-BRAUN. Yes.

Mr. DECONCINI. I wonder if the Senator from Illinois will answer this. She made a statement that was of interest to me that the Army has adopted these regulations, and I believe that the distinguished Senator said it is working. I question that it is working. I hope it works, but I am advised it has only been effective since April 1, 1994. And I wonder on what basis the Senator from Illinois can think what this is really doing about the sexual harassment problem and sexual misconduct problem even within the Army.

Ms. MOSELEY-BRAUN. I respond to the Senator from Arizona that the association of women, the WANDA's—I do not know exactly what the acronym stands for. We will look it up. The women's organization for military personnel supports this approach.

And the Senator is correct. The final part of this, the cooling off period and the post-appeal part of the process, is new and started in April. But the Army has been working on this since September of last year, 1993, and, I say to my friend, the Senator from Arizona, if anything, that, I think, undergirds and underscores the case made for the second-degree amendment. The Army came up with the process. They worked on it. The women worked with the issue. They said, "Well, we need further refinement there," and they went to this final 35-day period so they refined it.

The second-degree amendment says, well, we are going to take a step further and make this across the board and we will take a look at whether or not we need to go further and make even further adjustment. So this is a work in progress. It seems to me it is better to go with a work in progress that shows this kind of attention and applauds the initiative of the military to take that step, rather than go with a kind of draconian hammer approach and say let us throw out something; they are trying to do the right thing here, let us throw it out.

Mr. DECONCINI. Will the Senator yield for another question?

Ms. MOSELEY-BRAUN. Let me just conclude.

Again, I appreciate the passion and the commitment that the Senator from Arizona has demonstrated here. But, as he mentioned in his speech, having been a lawyer, having been a prosecutor, having handled cases like this, I come from a similar background. Having handled cases like this, I think that, if we have an opportunity here to give the military some opportunity to work out a positive process in a constructive way, then we ought to support that initiative. If it turns out it does not work, then maybe it will be appropriate to go with heavyhanded legislation and, you know, dictate from here.

But given the fact they have worked this out already, I think it would be appropriate for us to incorporate that approach in the second-degree amendment.

Mr. DECONCINI. Will the Senator yield for another question?

Ms. MOSELEY-BRAUN. Yes.

Mr. DECONCINI. I thank the Senator. I appreciate her optimism that the military is now going to really adopt and do something when all the history is that this has not occurred. I cannot really believe for a moment the military is going to respond near as effectively.

The executive committee of WANDAS WATCH stated, in a memorandum to my staff, Mr. Gearan, on June 22, that: "Our executive committee met last evening to review Senator DECONCINI's bill." The exact bill that is before the Senate. "We concluded that it would be a step in the right direction, provided that it is accompanied by a requirement that the Department of Defense, without further delay, issue a strong set of regulations to deal with the problem of reprisals for reporting sexual harassment."

So this organization, I just want to advise my friend from Illinois, who specifically supports this legislation in conjunction with whistleblower protections akin to the approach taken by my friend from Illinois, Senator MOSELEY-BRAUN.

But my question goes to the statement I believe the Senator from Illinois made that the amendment that the distinguished chairman has offered here says, let us take a look at this through this commission and see whether or not we need an independent office.

And this study that is going to come back—I wonder if the Senator really believes, really believes, that there is a chance, a chance, that any Defense Department board or task force would ever come back with a criminal penalty for failure to report sexual harassment, because I do not believe they will.

Ms. MOSELEY-BRAUN. I say to my friend, the Senator from Arizona, the difficulty with this debate is that we are really on the same side and it kind of gets to be very difficult to have people on the same side parsing an issue in a way that makes sense.

I have the exact same interests and the exact same goals that you do with this. The only question and the only difference between your legislation and the second-degree amendment is a matter of approach. The approach that we have in this legislation is an approach that has received support that comes out of the military itself, that so far is working and probably may have to go further. It may have to go to the point of having criminal penalties, et cetera, added. It may have to get to that.

But it just seems to me, as a matter of timing, it makes sense to take the approach incrementally, to take the approach in a way that responds to the issue in a constructive, proactive way.

There is an old expression, you know, the cure for a headache is not a bullet to the brain. It seems to me if you are going to cure this headache, we need to take the steps that have been demonstrated already and that I think are constructive.

I yield to the Senator from Washington.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER (Mrs. BOXER). The Senator from Washington.

Mrs. MURRAY. I thank the Chair and I thank my colleague league from Illinois.

Madam President, I am happy to join my colleague, Senator MOSELEY-BRAUN, and the chairman in support of this amendment which we do believe is a good first step, and I assure you it is a first step, in addressing the problem of sexual harassment in our Nation's armed services.

I am pleased to note that all 7 women of the Senate—Democrat and Republican—are cosponsors of the original amendment that the chairman has now incorporated into this broader amendment addressing sexual harassment.

I want to take this opportunity to thank the Senator from Arizona for his work on this issue. As a cosponsor of his original amendment, I know that this is an approach that he has worked long and hard on, and I support him in that. And I assure him that we believe that the second-degree amendment that is before us is only a first step. We are going to be watching it very carefully. He raised very good and legitimate concerns and it is up to all of us, if this second-degree amendment passes, to assure that those are put in place and, if not, to do continued work on it.

But most importantly, let me take this opportunity to thank Air Force Sgt. Zenaida Martinez, Navy Lt. Darlene Simmons, Marine Corps S. Sgt. Carol Fuehrman, former Army private Pamela Klemm, former Navy lieutenant Paula Coughlin, and other women like them who have had the courage to come forward—at great personal and professional risk—to speak out on this problem, and to offer meaningful solutions.

It is because of—and on behalf of—these women that I speak out on the problem of sexual harassment in our military.

We know that women in civilian life have a tough enough time when it comes to dealing with sexual harassment in the workplace. But for women in the military, the situation is even more difficult. Women in the military do not have a strong Federal law to protect them like title VII, nor do they have an outside judicial system to turn to.

We recently met with the Joint Chiefs to discuss this problem, and I believe the message is beginning to be heard at the highest levels—finally.

I am extremely proud of our Armed Forces. Our Nation's military force remains the best trained, most capable military in the world. However, I know that Defense Secretary Perry and the Joint Chiefs agree with me that sexual harassment, like discrimination of any kind, undermines the readiness of our forces.

The Pentagon's own statistics show that across the services, more than 60 percent of military women report having experienced sexual harassment.

The Pentagon has long known that this problem is pervasive, and simply has not done anything about it. A Department-wide "zero-tolerance" policy was issued in 1988. Notwithstanding this policy, the DOD, the Navy, and the Air Force have not taken any significant actions to enforce it.

In fact, the Pentagon only formed its Task Force on Sexual Harassment after four military women testified at a highly publicized House hearing about their services' refusal to punish sexual harassment and the reprisals they suffered for reporting it.

The Army, to its credit, has taken the problem more seriously, and has conducted a thorough review of its regulations. As a result of that review, the Army came out with a pretty good set of regulations, which, although not perfect, address many of the concerns our military women have raised.

Today, we are building on this positive development.

This approach uses the new regulations on sexual harassment adopted by the Army as the baseline. We require the Air Force and Navy to develop regulations that are equal or better than the Army regulations. Obviously, each service has special circumstances that have to be accommodated, and that is accounted for in the legislation.

Right now the current system of separate regulations for the different services is not working. Only the Army has studied the problem seriously and has taken broad action. The regulations issued by the Air Force and Navy have no real protection against reprisals for reporting discriminations. Only the Army has a strong statement in its regulations against reprisals for reporting discrimination violations.

Adopting the Army's regulations as a minimum standard will not fix all of the problems, but it will be a meaningful first step. The Army's regulations have incorporated many of the changes that the military women who have spoken out on this problem have said are needed.

Our goal is to begin a process that will lead us to a uniformed sexual harassment and discrimination policy for all of the services, and a standard grievance procedure.

Let me be clear—the approach we are supporting today will not end the problem of sexual harassment in the military. It is, however, a good and meaningful first step. What we begin today, we will add to tomorrow.

I want our Nation's military women to be assured that we are with them on this, and we are with them for the long haul.

Ms. MOSELEY-BRAUN. Madam President, Senator MURRAY and I are proud to propose this amendment, which has the support of all of the women Senators on both sides of the aisle. This amendment will improve the process of addressing, and fairly and aggressively resolving, equal opportunity complaints including sexual harassment across all branches of the armed services.

This amendment will require all four services to implement the regulations of the U.S. Army related to the handling of equal opportunity complaints, including sexual harassment complaints.

Mr. President, since the Tailhook Convention in 1991, the public has become aware of the problems of sexual harassment and sexual misconduct in the military. I abhor discrimination anywhere, but sexual harassment in the military is especially intolerable because the unit suffers, and readiness suffers.

Teamwork and unit cohesiveness are vital to military preparedness. The ability of a unit to perform suffers when one highly trained member of the team is harassing another member of the team.

The Army has recognized this, and has developed a set of regulations that address how sexual harassment and other equity complaints are investigated. But the goal is not just the investigation. The goal is to change behavior by having a clear process for handling complaints, and promoting a culture of zero tolerance by actions, not words.

Why is this legislation needed? The Department of Defense's own statistics show that across the services more than 60 percent of military women report having experienced sexual harassment. A recent report of the Department of Defense Inspector General showed that the services have taken no meaningful action to deter reprisals. Only 6 percent of the case files examined by the IG in the IG's review of the handling of actual cases in 1993 found that the Service involved took any action to detect or deter reprisals.

Only the Army has studied the problem seriously and has taken sweeping action. Air Force and Navy regulations have no real protection against reprisals for reporting discrimination. The current system of separate regulations for separate services is not working.

In September 1993, the Army implemented new regulations for investigating an equal opportunity complaint. Let me explain how it works.

A member of the Army with a sexual harassment complaint fills out the equal opportunity complaint form explaining the nature of her complaint, and her requested remedy. The form itself guides the investigation step by step, because as the investigation goes through each stage, an additional part of the form is filled out. The form also creates a paper trail, so that no one in the chain of command or elsewhere can bury an investigation or lose a file.

One of the most important aspects of the Army regulations is that they set up strict deadlines for the completion of each stage of the investigation. The deadlines ensure that the complaint is investigated quickly and thoroughly. If the investigator fails to complete each stage of the investigation on time, the investigator is required to go up his or her chain of command to get an extension.

Under Army regulations, the person who investigates the complaint is not in the direct chain of command. If a complaint occurs in a company, the investigator would likely come from a unit other than the unit one step higher in the direct chain of command. This change provides for greater objectivity. When investigators come from within the chain of the command, the complaint may be seen as a reflection of the commander, and the way he or she runs the company. There can be a tendency to cover up complaints, instead of addressing the problems. Taking the investigations out of the direct chain of command is therefore critical.

Finally, the Army regulations protect the women who make the complaint from reprisals. We learned during hearings held by the House Armed Services Committee that women commonly face reprisals for making sexual harassment complaints. There is a pattern of referring people who complain to a psychologist for counseling, in order to discredit her complaint. This must stop. Sexual harassment is not the victim's fault.

The Army regulations are a work in progress and are continually being reviewed and fine tuned as the service gains experience investigating complaints. This regular review of the regulations and how they are working in the field is extremely important. I have written this amendment to allow the services flexibility to implement regulations appropriate to the conditions of each branch of the military. But make no mistake. The Army regulations should be seen as a minimum standard, and this amendment is a first step.

We have a commitment to ensure that all of the members of the Armed Forces can serve and excel to their maximum ability. We must send a clear message that sexual harassment or any other harassment will not be tolerated.

I urge the Senate to adopt this amendment. It puts the Senate on record that we will work with the military to root out sexual harassment and make our fighting force the best it can be.

Mr. NUNN. Madam President, first, let me congratulate the Senator from Illinois and the Senator from Washington for what I think is a very responsible approach here. They have not only presented their ideas, but they have worked with the Department of Defense in a spirit of cooperation. They are building on a foundation and encouraging this effort rather than, as the Senator from Illinois said, hitting people over the head with a hammer. Sometimes you have to use a hammer, but when people are really trying and when they are really moving forward and doing their level best to get on top of a very difficult situation, a very important situation, I think that is the way to proceed.

We are going to be watching this report very carefully. In the second-degree amendment we have incorporated the ideas of the Senator from Arizona in terms of asking the commission that is going to be reporting to take a look at what the Senator is proposing. So it is part of this second-degree amendment. It does not go as far as the Senator did, but his ideas are conveyed there.

It is my hope that we can dispose of this matter now and move on to another amendment. I know the Senator from Oklahoma would like to present an amendment. I wonder if we can agree to the second-degree amendment being accepted?

Mr. DECONCINI. Will the Senator yield?

Mr. NUNN. I will be glad to yield.

Mr. DECONCINI. Madam President, I can see where we are going here. But I must say with all due respect to the authors of the second-degree amendment, in my judgment—it is only one person's opinion and maybe only 1 out of 100—it is long overdue for the hammer and not the glove. If anybody here has talked to female members of the military, like I have and, I suspect, many of my colleagues have—do you know why you have talked to them, at least if they have come to you since you have been in Congress? It is because we are the only ones who will raise the issue. To leave this within the military, which historically disregards it and abuses the people who are the victims and who file the complaints, is just absolutely naive in my judgment.

But I realize where the votes are here. I understand the strong feelings of, "Let's try it. Let's work with the military. Let's give them a chance. And let's ask them to put together some data so maybe we can find out. And let's have an appeal process here within the military." So the military will all of a sudden wake up and say, "Hey, maybe we better take these seriously. Maybe we better keep some data. Maybe we better reprimand somebody. Maybe we ought to prosecute them."

That has not happened. We saw rape and sodomy just in this last war experience that this country went through. And what happened? The victim was brutalized—6 hours she had to explain the procedures and sexual acts that were committed by her commanding sergeant; 6 hours she was humiliated. What happened to the commanding officer after he confessed? He got promoted and got to retire. Tell me, that is what we want? Tell me that there is no need for a hammer?

Madam President, I cannot let an opportunity for a hammer go by. It is long overdue. Members in this body know it is long overdue.

I have been guilty, too. I have been in this body for 18 years and I have not offered this amendment until 2 years ago—or a year and a half ago, when I finally put it together where I could get enough data where I thought we could argue the case. May I suggest to the distinguished chairman—I know he wants to get on with it—that we have a rollcall vote on the second-degree amendment.

Mr. NUNN. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Madam President, I am going to vote against this amendment, not because this amendment is necessarily a bad amendment. It is better than zero—no question about it. But it does not do anything for women in the military to set up anything independent and to provide some real penalty for sexual harassment and for failure of reporting sexual harassment. I may be the only vote against this because at least this is an improvement. I suggest to the Senators from Washington and Illinois that it is an improvement and it is a step in the right direction and it is the first step, perhaps. But I, in conscience, cannot let it go any longer. I think it is time for a hammer. I am prepared to vote.

Mr. NUNN. Madam President, I think we are prepared to vote. I would say when the hammer hits it needs to be the right hammer and it needs to hit in the right spot. We have used hammers before.

I say to the Senator from Arizona, in spite of the considerable improvement that must be done in the military in this area, in the courts of the military, and the appellate courts in the military, only the narcotics and drug cases exceed the sexual cases that are now in the courts. So I would not agree that nothing is being done.

Madam President, I hope we could come to a vote. The yeas and nays have been ordered.

Mr. HATFIELD. Mr. President, today I was unexpectedly delayed in my effort to reach the Senate floor to cast my vote or the Nunn second degree amendment to the DeConcini amendment No. 2146. Had I cast my vote, I would have done so in support of Senator NUNN's amendment, numbered 2147. I support the efforts of both Senators DECONCINI and NUNN to provide stronger prohibitions on sexual harassment in the Armed Forces.

The PRESIDING OFFICER. The question occurs on amendment No. 2147.

The clerk will call the roll. The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Texas [Mr. GRAMM], the Senator from Oregon [Mr. HATFIELD], the Senator from North Carolina [Mr. HELMS], and the Senator from Alaska [Mr. MURKOWSKI], are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 93, nays 3, as follows:

[Rollcall Vote No. 184 Leg.]

YEAS—93

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Grassley
Gregg
Harkin
Hatch
Heflin
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wellstone
Wofford

NAYS—3

DeConcini
Durenberger
Kerrey

NOT VOTING—4

Gramm
Hatfield
Helms
Murkowski

So, the amendment (No. 2147) was agreed to.

Ms. MOSELEY-BRAUN. I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to reconsider the vote was agreed to.

The PRESIDING OFFICER. If there is no objection, amendment No. 2146, as amended, is agreed to.

So the amendment (No. 2146), as amended, was agreed to.

AMENDMENT NO. 2148

(Purpose: To prohibit Department of Defense funds from being provided to institutions of higher education that deny access for military recruiting purposes)

Mr. NICKLES. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for himself, Mr. THURMOND, Mr. LOTT, Mr. MACK, Mr. MCCAIN, Mr. COATS, Mr. BENNETT, Mr. BROWN, Mr. FAIRCLOTH, Mr. GRASSLEY, Mr. SMITH, and Mr. BOND, proposes an amendment numbered 2148.

Mr. NICKLES. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. MILITARY RECRUITING ON CAMPUS.

(a) DENIAL OF FUNDS.—(1) No funds available to the Department of Defense may be provided by grant or contract to any institution of higher education that has a policy of denying, or which effectively prevents, the Secretary of Defense from obtaining for military recruiting purposes—

(A) entry to campuses or access to students on campuses; or

(B) access to directory information pertaining to students.

(2) Students referred to in paragraph (1) are individuals who are 17 years of age or older.

(b) PROCEDURES FOR DETERMINATION.—The Secretary of Defense, in consultation with the Secretary of Education, shall prescribe regulations that contain procedures for determining if and when an educational institution has denied or prevented access to students or information described in subsection (a).

(c) DEFINITION.—For purposes of this section, the term "directory information" means, with respect to a student, the student's name, address, telephone listing, date and place of birth, level of education, degrees received, and the most recent previous educational institution enrolled in by the student.

Mr. NICKLES. Madam President, I will be brief. I wish to thank Senator NUNN and Senator THURMOND for their cooperation.

This amendment is very simple, very direct, and it is very similar to legislation or an amendment that was adopted in the House. This amendment would deny Department of Defense research funds to universities that deny recruiters access to their campus. There was a study requested, and the Department of Defense found 140 institutions of higher education that, for some reason or another, whatever reason, have denied recruiters access to their campus.

This amendment says if they did deny recruiters access, then, therefore, they would not be eligible to receive Department of Defense research and development grants or funds.

This is cosponsored by Senators THURMOND, LOTT, MACK, MCCAIN, COATS, BENNETT, BROWN, FAIRCLOTH, GRASSLEY, SMITH, and BOND. It was adopted in the House by a vote of 271 to 176. I appreciate the cooperation of Senator THURMOND and Senator NUNN in accepting it.

Let me say that I wish all of my colleagues could have attended a recent hearing held by the Senate Appropriations Defense Subcommittee which looked into our problems of recruitment. The hearing made two points regarding recruiting that are pertinent to this debate.

The first point is that the propensity of America's youth to join the military is on the decline as documented in the 1993 Youth Attitude Tracking Survey, known as YATS, which was issued in January of this year.

The YATS showed that among 22- to 24-year-old men, 14 percent of them were likely to join the service in 1992. In 1993, that figure is down to 11 percent. In the cover memo on the YATS, Edwin Dorn, the Assistant Secretary of Defense for Readiness, states the 3-point drop from 1992 to 1993 is statistically significant.

Madam President, it is easy to see that if the propensity for America's college-age youth to join the service has dropped, recruiters will have to visit more schools in order to meet the recruiting requirements for new talent.

It was made perfectly clear in that hearing that military recruiters are barely reaching their goals of bringing new talent into the military. In fact, even in downsizing, an Army recruiter testified that his recruiting unit was not meeting its recruiting goals. With schools putting restrictions on military recruiters, it makes it even harder for them to meet their goals.

These hearings also exposed that there is a perception among many college and university placement offices that the military is not hiring. We all know this is not the case, yet this perception goes unquestioned in many cases. This is due, in part, because approximately 140 institutions of higher learning do not allow recruiters on campus to explain to its students that the military is still in search of young, bright, and energetic graduates.

My colleagues understand that we depend upon an All-Volunteer Force to defend the freedoms we enjoy. To maintain a quality all-volunteer force, military recruiters need access to the best students in America. Today this is simply not the case.

I remind my colleagues of the Army recruiter who stated before the Senate committee that his unit is not meeting its goals, and policies that bar recruiters from campus just compound the problem.

This amendment is necessary because it addresses readiness. Readiness starts with recruiting, and if the military does not have access to some of the most talented students in our country, then we are not doing our best to defend America. I believe this is a great disservice. If this amendment is adopted and some schools change their policy, then the pool of available talent to the All-Volunteer Force will be increased.

As critical as our personnel needs are, I also find it very hypocritical for these institutions that bar military recruiters from their campuses to have an open wallet policy to DOD grants and research money. However, when it comes to allowing the Pentagon an opportunity to hire the young men and women its budget helped to educate and inspire, these institutions have a closed-door policy.

While some Members of this body would approve of this policy, there is none who could find it consistent or nondiscriminatory. Do you really want to vote for retaining this inconsistent and hypocritical practice? I certainly hope not. This amendment is an opportunity to stop this practice.

Let me add that this amendment does not infringe upon an institution's right to take a stand on issues. If they choose to bar military recruiters, they may continue to do so. However, it does prevent an institution from accepting DOD money for research and then turning away the recruiters when they come to campus.

Some may claim this amendment will chill academic freedom. Not so. In fact, true academic freedom would result if these institutions allowed military recruiters to come to campus and permitted the students to decide with whom they will or will not interview.

In short, this amendment attempts to make the widest array of talent in our Nation's institutions of higher learning available to DOD recruiters. By doing so we will increase the readiness level of our military, and restore recruiting to many of our Nation's campuses.

A vote for this amendment is a vote for readiness.

Mr. THURMOND. Madam President, Senator NICKLES' amendment is a positive step toward keeping our college campuses open to military recruiters.

Some colleges have decided to prohibit military recruiters access to their campus; deny them access to the students and certain student records. At the same time, many of these colleges and universities accept millions of dollars in contracts and grants from the Department of Defense. This is an example of having your cake and eating it too.

Madam President, I think we all agree that the quality of our Armed Services has never been better. All of us have supported the efforts of the military services to recruit from groups who have high school educations or better. Those college or university administrators and any State officials who assist in barring military recruiters from a campus are denying the military the opportunity to explain the extraordinary opportunities available in the military today. They also deny those students who may be interested in serving their country easy access to information upon which they could base a career decision.

The Nickles amendment is not different from the policy decision any major corporation might make if their personnel were barred from an institution. It is not unfair to refuse to pay money to an institution which denies access to their facilities. It is just good business.

I urge my colleagues to vote for the amendment.

Thank you Madam President.

Mr. SIMPSON. Mr. President, I rise today to offer my strong support for the Nickles amendment regarding the issue of defense funding for universities that do not allow military recruiting on their campuses.

This amendment would not allow funds available to the Department of Defense to be provided by grant or contract to any educational institution that has a policy of denying, or which effectively prevents, the Secretary of Defense from obtaining access to campuses for military recruiting purposes.

I truly do understand—and I share—the most valid concerns that the Senator from Oklahoma has regarding this issue. The quality of recruits in all of our branches of the Armed Forces is down significantly. The quantity of recruits and enlistees is also measurably down since 1992. One way to shore up that decline is to allow recruiting at universities around our Nation. If universities do not allow the Department of Defense to recruit on their campuses, I do not believe those same universities should be allowed to ask for grants and other contracts from the Department of Defense. I also understand the economic impact that this amendment may very well have on some educational institutions.

However, universities can not have both ways. Our national security is the primary responsibility of the Federal Government. We must do what we can to support a strong military, and universities should assist in that process—not hinder it.

Mr. NUNN. Madam President, I urge acceptance of the amendment.

The PRESIDING OFFICER. The question occurs on amendment No. 2148.

The amendment (No. 2148) was agreed to.

Mr. NICKLES. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, I have an amendment which has 53 cosponsors regarding antipersonnel landmines. I have discussed it with the distinguished manager of the bill.

Two years ago I sponsored legislation that would have imposed a 1-year moratorium on the export of antipersonnel landmines. That legislation was signed into law by President Bush. Last year, my amendment to extend the U.S. export moratorium an additional 3 years, to overlap with a U.N. conference on landmines that is scheduled to begin next year, was adopted by the Senate on a rollcall vote of 100–0.

That amendment called on the President to seek an international export ban, and further limits on the production and use of landmines. Last year I introduced on behalf of the United States a resolution at the United Nations calling for an international export ban. That resolution passed the U.N. General Assembly unanimously. It put all countries on record endorsing a halt to the export of landmines worldwide. Again, a tremendous step, with broad support for stopping the scourge of landmines.

According to the administration, close to 20 countries have since either announced or adopted export bans similar to the one we passed here in the U.S. Senate.

Madam President, each month over 1,200 people, most of them innocent civilians, are killed or injured by landmines. One hundred million of these tiny explosives, many of which can be produced for $3 apiece and are often no bigger than a shoe polish can, are strewn in over 60 countries—100 million unexploded landmines in 60 countries. Each one waits silently, hidden by a few inches of sand or dust, for an unsuspecting person, often a child, to step on it. That child loses a leg, an arm, an eye or often their life.

Landmines are unique because no matter how sophisticated, they are indiscriminate weapons. They cannot tell the difference between a combatant and a civilian or an elderly person and a child. But they can make whole areas of land uninhabitable, and they can be an effective force multiplier for the most rag-tag Third World army. You can have an ill-equipped, ill-trained, ill-prepared army, but they can be an enormous, potent force because they have landmines and they can use them as weapons of terror against innocent civilians or against anybody else.

A $3 landmine can blow the leg off a child as well as it can blow the leg off the most highly trained, well-equipped American soldier or peacekeeper, medical aide, or missionary.

Some say it is naive to think that by acting ourselves we can get others to act likewise. I strongly disagree. Our export moratorium showed what U.S. leadership can do. It inspired countries like Germany, South Africa, and France to follow the United States example. Italy is one of the world's largest producers and exporters of landmines. Last week, the Italian Defense Minister called for a ban on the production and export of antipersonnel mines. So has the Vatican; so has the Swedish Parliament. When the Swedish Parliament called for this, it was not just an empty gesture. Sweden was a major landmine producer.

Our moratorium inspired a U.N. conference to review the outdated landmine protocol next year, and meetings to prepare for that conference have already begun in Geneva.

It is interesting, Madam President, that a year ago the press hardly paid any attention despite the fact that landmines may have killed and maimed more civilians than all the chemical and nuclear weapons combined. What a difference a year makes. There is hardly a major newspaper in this country that has not reported on the landmine scourge.

Two weeks ago, in an effort to keep the momentum going, I introduced here in the Senate, with 53 original cosponsors, the Landmine Protection Moratorium Act. That legislation would impose a 1-year moratorium on U.S. Government production and procurement of antipersonnel landmines. Its purpose is simple. It is intended to show the world that the United States is going to lead by example, and we are going to not only have the moral leadership but we are going to challenge other countries that produce these weapons to join us in stopping the carnage they cause.

Over half the Senate has cosponsored this bill, and a number of Senators who have not yet cosponsored it have assured me they will vote for it. I think this is powerful proof of the depth of support in the Senate for dramatic action to deal with this problem. Republicans and Democrats, conservatives and liberals and moderates, all have joined as cosponsors.

I believe that nothing short of a total ban on these weapons is going to stop their widespread use and slaughter of civilians and of children.

Madam President, I have gone to refugee camps. I have gone to places where they use the Leahy War Victims Fund. I have gone to rudimentary hospitals in the Third World, and I have seen what landmines do. My wife is a nurse. She told me she had never seen anything in her experience to compare to the trauma caused to children from landmines.

A total ban is a long-term goal, and there are many interim measures that could help reduce the toll. We need strong, enforceable limits on production, use, and transfer of landmines.

If the United States continues to show the kind of bold leadership that captures the world's attention and forces other countries to answer why they too should not act forcefully to deal with this problem, the negotiations will succeed. Otherwise, we will see cosmetic changes, or measures which do not get at the heart of the problem. There is no escaping the fact that dozens of countries produce landmines, and a $3 Serbian mine is as effective, and some might argue more effective, as the most sophisticated self-neutralizing U.S. mine.

Mr. President, it was my intention to offer my landmine production moratorium as an amendment to the Defense authorization bill, which we are debating today. I am convinced I have the votes to win. There is also strong support in the House for identical legislation that is sponsored by Congressman LANE EVANS. He has been a strong leader in this field.

But I have decided not to offer this amendment at this time. It is a difficult decision, and I have made it for a number of reasons.

The administration, thanks to Secretary Warren Christopher, Ambassador Madeleine Albright, Ambassador Alan Holmes, Ambassador Thomas McNamara, and others, has become seriously engaged on this issue. We have had discussion in my office and in their offices, here and in New York at the United Nations.

There are some in the Pentagon who oppose any action that would in any way limit their ability to produce, stockpile, or use landmines, or probably any other weapon. But that is not the administration's position.

I met recently with Ambassador Alan Holmes and Ambassador Thomas McNamara. They described the two-track strategy the administration is pursuing. As an interim measure, the administration is seeking support from other landmine exporting nations to get an international export ban, and the administration is also conducting a policy review of broader options to deal with the problem of civilian casualties from landmines, and there are thousands and thousands of civilian casualties. Far more civilians are killed and maimed by landmines than combatants. Last year, I met with Secretary Christopher at length on this subject.

According to a letter jointly signed by Secretary of Defense Perry and Secretary of State Christopher, which I received this week, the options being considered range from a total ban on these weapons to limits on their production, stockpiling, and use.

Ambassadors Holmes and McNamara urged me to hold off offering my amendment at this time, to give the administration a chance to complete its policy review and to seek support from other nations for these measures. They said their process will take time and that a U.S. production moratorium could derail their efforts.

Madam President, I have said time and again that the United States cannot solve the landmine problem alone, not when there are landmines in 60 countries and 100 million of them waiting to be exploded, to kill and maim. Only U.S. leadership and international cooperation can solve it.

I have also said this is a long-term effort. I want to support any serious efforts the administration is making.

But while I commend Ambassadors Holmes and McNamara for their attention to this issue—and I do commend them, and I will hold off for now to give them a chance to show what they can do—I want to issue a warning.

We know we could have passed this today, but I am willing to hold back to enable them to move forward. However, I am very concerned that the administration may try to solve this problem with an elaborate, unenforceable international control regime that favors high-tech mines over others, which would not have a snowball's chance in hell of working. We are not dealing with countries like the United States and Great Britain and others who can afford all these highly sophisticated and expensive landmines and delivery systems. We are dealing with a problem, in 60 countries, of inexpensive mines.

I am also concerned that United States may not be showing the kind of leadership in Geneva that I and a majority of Republicans and Democrats in the Congress are calling for. Apparently, the administration is proposing that the focus of the U.N. Conference on the Landmine Protocol be limited only to the use of landmines—only to the use—when they have to be addressing the broader issues of production, stockpiling, and transfer. I am very concerned the administration is pursuing an overly narrow approach that can result in only superficial changes to the already flawed landmine protocol. That would be an unacceptable result.

The U.N. review conference is a unique opportunity, and squabbles over whether this is an issue of arms control or humanitarian law should not prevent a discussion of a broad range of options covering all the issues. Nor should the administration's plans to pursue an export regime or other controls, separate and apart from the landmine protocol, preclude trying to accomplish as much as possible in the U.N. conference.

Finally, Madam President, I urge the administration to undertake a credible, independent analysis of the military utility of these weapons, compared to the immense economic and social damage they cause. Consider the danger these weapons pose for U.S. troops, whether in combat or on peacekeeping missions in places like Bosnia or Somalia. Consider what incentive there is for poor countries to stop producing $3 mines which do not self-neutralize, when we keep producing and using our sophisticated mines.

Over half the Senate is standing ready to support a halt on U.S. production of antipersonnel landmines. During the coming months I and others will be listening closely to what the administration says in Geneva, and watching what it does here at home. This is a crucial year, and the test will be whether the administration can cast aside the conventional wisdom. Imagine a world without these weapons, and then believe that it is possible to get there and figure out how to do it. I believe it is possible. think of the benefits it would bring not just to the people of countries like Cambodia, Angola, and Nicaragua, but to our own soldiers.

Mr. President, I want to thank the cosponsors of my legislation, and people everywhere who have called and written to me to express their support for it.

I ask unanimous consent that the letter from Secretary Perry and Secretary Christopher be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, DC, June 28, 1994.

DEAR SENATOR LEAHY: We are writing to express our strong support for your leadership in addressing the problem of civilian casualties from anti-personnel landmines. As you know, the Clinton Administration is committed to redressing this problem and looks forward to continuing to work cooperatively with you.

We are committed to working toward an effective international anti-personnel landmine control regime. The Administration is conducting an intensive policy review to determine the parameters of what the United States would propose for a regime, both in the near term and the longer term. A broad spectrum of options is under discussion, ranging from a total ban on APL to export controls on all types of APL, production and/or stockpiling restrictions, and transparency measures. We expect whatever initial controls can be agreed upon will be strengthened over time, and as we assess the regime's international support and the effectiveness of its implementation.

While we have been strongly supportive of the current export moratorium, we are concerned that the legislation you are considering, which would ban U.S. production/procurement of anti-personnel landmines, would be counterproductive to the goal we all share of developing as quickly as possible an effective anti-personnel landmine control regime. Pursuing this legislation now would prejudge the U.S. negotiating position, restricting our ability to conduct effective consultations with countries critical to a control regime. It also could impede our diplomatic efforts to build support both for the export moratorium and an eventual regime.

A control regime is just one aspect of our comprehensive approach to the complex landmine problem. We will continue to expand our demining programs, to work for successful ratification of the Convention on Conventional Weapons, and to achieve our goals for significantly strengthening the Convention, particularly its protocol on landmine use. Together, these efforts represent a comprehensive strategy to address the widespread humanitarian problems caused by indiscriminate and irresponsible use of anti-personnel landmines.

Sincerely,

WARREN CHRISTOPHER,
Secretary of State.
WILLIAM J. PERRY,
Secretary of Defense.

Mr. LEAHY. I thank the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Madam President, I have chatted with the floor leader of the bill, and we worked out three amendments that appear to have the agreement of both Democratic and Republican leaders on these issues, and I will then describe them in an amendment that we have talked about, which senator SIMON and I will offer together.

AMENDMENT NO. 2149

(Purpose: To establish additional United States policy concerning burdensharing in NATO and to require additional information to be included in the annual burdensharing report)

Mr. BROWN. Madam President, I rise to send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN] proposes an amendment numbered 2149.

Mr. BROWN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 200, between lines 8 and 9, insert the following:

SEC. 1017. BURDENSHARING POLICY AND REPORT.

(a) POLICY.—It is the policy of the United States that the North Atlantic Treaty Organization (NATO) allies should assist the United States in paying the incremental cost incurred by the United States for maintaining members of the Armed Forces in assignments to permanent duty ashore in Europe solely for performing United States obligations for support of NATO.

(b) IMPLEMENTATION.—The President shall take all necessary actions to ensure the effective implementation of the burdensharing policy set forth in subsection (a).

(c) REPORT.—The Secretary of Defense shall include in the annual burdensharing report required by section 1002(d) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note) the following matters:

(1) A specific enumeration and description of the United States military resources and military personnel assigned to permanent duty ashore in Europe primarily in support of NATO and an analysis of the cost of providing and maintaining such resources and personnel in such assignment primarily for that purpose.

(2) A specific enumeration and description of the United States military personnel assigned to permanent duty ashore in Europe primarily in support of other United States interests in other regions of the world and an analysis of the cost of providing and maintaining such resources and personnel in such assignment primarily for that purpose.

(3) A specific enumeration and description of the offsets to United States costs of providing and maintaining United States military resources and military personnel in Europe that the United States has previously received from other NATO member nations, set out by country and by type of assistance, including both "in-kind" assistance and direct cash reimbursement, and the projected offsets for the five fiscal years following the fiscal year in which the report is submitted.

(4) A detailed identification of the costs associated with maintaining United States military personnel in assignments to permanent duty ashore in Europe for NATO and the difference in cost that would result from stationing such personnel at military bases within the United States and continuing to assign to such personnel the mission to perform United States obligations under NATO.

(5) A comparison of the defense spending by each NATO member country as a percentage of Gross Domestic Product (GDP) beginning in 1985 and the projected future defense spending as a percentage of Gross Domestic Product through 2000.

(6) A review of all actions taken by the United States to ensure the effective implementation of the United States burdensharing policy set forth in subsection (a).

(d) INCREMENTAL COST DEFINED.—In this section, the term "incremental cost", with respect to maintaining members of the Armed Forces in assignments to permanent duty ashore in Europe, includes the cost of transportation to and from duty stations in Europe, any variation in the cost of housing and food as compared to the cost of housing and food for members of the Armed Forces stationed in the United States, and any additional expenditures associated with infrastructure necessary to support United States forces in Europe.

Mr. FORD. Madam President, will the distinguished Senator yield for a question?

Mr. BROWN. Certainly.

Mr. FORD. I understand that the Senator has three amendments that he believes are acceptable.

Mr. BROWN. Yes.

Mr. FORD. I am trying to help expedite this and am acting on behalf of Senator NUNN. Could we have a copy of the amendments or the numbers so that we could be prepared and we might expedite their consideration?

Mr. BROWN. Yes.

Mr. FORD. I thank the Senator.

Mr. BROWN. Madam President, this particular amendment deals with burden-sharing. There is a provision in the House bill that provides very strong terms with regard to burden-sharing, including an automatic formula.

As I examined the question of burden-sharing, it struck me that there were some questions that we simply did not have the information on or the mechanics to proceed.

Let me be specific. There was a question of whether or not we had a clear idea as to what portion of our troops in Europe were focused on providing services and defense for Europe and what portion were there for our convenience to serve other parts of the world.

So, part of the report that is asked for here is to help us identify costs that are particular to NATO, at least, I believe are ones that they ought to share in the cost of, and what portions of those costs are not related to NATO and are for our convenience to serve other parts of the world. This will require that to be added to the burden-sharing report.

It also sets forth a definition of the incremental cost; that is, a request to identify the additional costs the United States suffers because the troops are stationed in Europe rather than having them stationed in the United States. This is also an item that I think is essential if we are going to insist on burden-sharing from our European allies.

It also clearly calls for delineation of defense costs; that is, a comparative cost between the U.S. effort and our European allies.

We believe these are necessary items to move forward. It is not as strong a burden-sharing amendment as appears in the House bill, but it is one, I think, that gives us a solid basis for moving ahead with what I consider to be meritorious efforts; that is, insisting our allies share in the burden of the defense.

Madam President, my understanding is that this has been cleared on both sides.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator from Kentucky.

Mr. FORD. Madam President, it is acceptable on the Democratic side. However, I might make one point. It may be extremely difficult for the Pentagon to separate U.S. station costs in Europe into NATO and non-NATO categories. But the reporting amendment is acceptable, and I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2149) was agreed to.

Mr. BROWN. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2150

(Purpose: To ensure that the President of the Republic of China on Taiwan can enter the United States on certain occasions)

Mr. BROWN. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN] for himself and Mr. SIMON proposes an amendment numbered 2150.

Mr. BROWN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section—

"**SEC. . Visas for Officials of Taiwan.**

Section 4(b)(6) of the Taiwan Relations Act (22 U.S.C. 3302(b)(6)) is amended—

(1) by inserting "(A)" immediately after "(6)"; and

(2) by adding at the end the following:

"(B) Whenever the president of Taiwan or any other high-level official of Taiwan shall apply to visit the United States for the purposes of discussions with United States federal or state government officials concerning:

(i) Trade or business with Taiwan that will reduce the U.S.-Taiwan trade deficit;

(ii) Prevention of nuclear proliferation;

(iii) Threats to the national security of the United States;

(iv) The protection of the global environment;

(v) The protection of endangered species; or

(vi) Regional humanitarian disasters.

The official shall be admitted to the United States, unless the official is otherwise excludable under the immigration laws of the United States.".

Mr. BROWN. Madam President, this measure is proposed by both Senator SIMON and myself. It deals with the question of visas for visiting officials in Taiwan. We think it is helpful in laying out critical areas where visas are appropriate. It is my understanding it has been cleared on both sides.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Madam President, the amendment is acceptable on this side.

Mr. COATS. Madam President, we have also looked at the amendment and find it acceptable.

The PRESIDING OFFICER. Is there further debate on the amendment? If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2150) was agreed to.

Mr. COATS. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2151

(Purpose: To require a study on the convergence of the Geosat and EOS altimetry programs)

Mr. BROWN. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN] proposes an amendment numbered 2151.

Mr. BROWN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 249, between 7 and 8, insert the following:

SEC. 1068. STUDY ON CONVERGENCE OF GEOSAT AND EOS ALTIMETRY PROGRAMS.

(a) REQUIREMENT.—The Secretary of the Navy and the Administrator of the National Aeronautics and Space Administration shall jointly conduct a study on the convergence of the National Aeronautics and Space Administration Earth Observing System Altimetry mission with the Navy Geosat Follow-On program. The study shall assess whether a converged system, which may involve minor modifications to the Geosat Follow-On satellite, could—

(1) satisfy the needs of the Earth Observing System program for altimetry data;

(2) reduce the expenses of the National Aeronautics and Space Administration in satisfying such needs;

(3) be available in time to serve as the follow-on to the Topex/Poseidon mission; and

(4) continue to meet the requirements of the Navy for altimetry data at no additional cost to the Navy.

(b) CONSULTATION.—In concluding the study, the Secretary and the Administrator shall consult with appropriate members of the scientific community.

(c) REPORT.—The Secretary and the Administrator shall submit to the Committees on Armed Services, Commerce, Science and Transportation and the Committees on Armed Services and Science, Space, and Technology of the House of Representatives a report on the results of the study conducted under subsection (a), together with the recommendations of the Secretary and the Administrator thereon. The Secretary and the Administrator shall submit not later than February 15, 1995.

Mr. BROWN. Madam President, this amendment calls for a study. It looks at the convergence of the National Aeronautics and Space Administration Earth observing system altimetry mission with the Navy Geostat follow-on program. We believe that there is a potential here for savings with the comparison and analysis of the purposes of both programs. The purposes of the study, I think, will be cost savings and a coordination of these two important systems. I believe it has been cleared on both sides.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Madam President, I understand NASA supports this, and we recommend that the Senate accept this amendment calling for a study.

Mr. COATS. Madam President, the minority staff and members also have examined this amendment and find it acceptable.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2151) was agreed to.

Mr. COATS. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2152

(Purpose: To make Poland, Hungary, and the Czech Republic eligible for allied defense cooperation with NATO countries, and for other purposes)

Mr. BROWN. Madam President, I rise to offer my last amendment, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN] for himself, Mr. SIMON, and Mr. ROTH proposes an amendment numbered 2152.

Mr. BROWN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the end of subtitle B of title X, add the following:

SEC. 1017. ADDITIONAL COUNTRIES ELIGIBLE FOR PARTICIPATION IN ALLIED DEFENSE COOPERATION.

(a) SHORT TITLE.—This section may be cited as the "NATO Participation Act".

(b) TRANSFER OF EXCESS DEFENSE ARTICLES.—The President may transfer excess defense articles under the Foreign Assistance Act of 1961 or the Arms Export Control Act to Poland, Hungary, and the Czech Republic.

(c) LEASES AND LOANS OF MAJOR DEFENSE EQUIPMENT AND OTHER DEFENSE ARTICLES.—Section 63(a)(2) of the Arms Export Control Act (22 U.S.C. 2796b) is amended by striking "or New Zealand" and inserting "New Zealand, Poland, Hungary, or the Czech Republic".

(d) LOAN MATERIALS, SUPPLIES, AND EQUIPMENT FOR RESEARCH AND DEVELOPMENT PURPOSES.—Section 65(d) of the Arms Export Control Act (22 U.S.C. 2796(d)) is amended—

(1) by striking "or" after "United States)" and inserting a comma; and

(2) by inserting before the period at the end the following: ", Poland, Hungary, or the Czech Republic".

(e) COOPERATIVE MILITARY AIRLIFT AGREEMENTS.—Section 2350(e)(1)(B) of title 10, United States Code, is amended by striking "and the Republic of Korea" and inserting "the Republic of Korea, Poland, Hungary, and the Czech Republic".

(f) PROCUREMENT OF COMMUNCIATIONS SUPPORT AND RELATED SUPPLIES AND SERVICES.—Section 2350(d)(1)(B) is amended by striking "or the Republic of Korea" and inserting "the Republic of Korea, Poland, Hungary, or the Czech Republic".

(g) STANDARDIZATION OF EQUIPMENT WITH NORTH ATLANTIC TREATY ORGANIZATION MEMBERS.—Section 2457 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(g) It is the sense of the Congress that in the interest of maintaining stability and promoting democracy in Eastern Europe, Poland, Hungary, and the Czech Republic, those countries should, on and after the date of enactment of this subsection, be included in all activities under this section related to the increased standardization and enhanced interoperability of equipment and weapons systems, through coordinated training and procurement activities, as well as other means, undertaken by the North Atlantic Treaty Organization members and other allied countries."

(h) INCLUSION OF OTHER EUROPEAN COUNTRIES EMERGING FROM COMMUNIST DOMINATIONS.—The President should recommend legislation to the Congress making eligible under the provisions of law amended by this section such other European countries emerging from communist domination as the President may determine if such countries—

(1) have made significant progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law; and

(2) are likely, within 5 years of such determination, to be in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area.

Mr. FORD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Madam President, I rise to speak briefly on the amendment proposed by my colleague, Senator BROWN, that I am pleased to be a cosponsor of.

That amendment basically says that if the President of the United States wants to provide excess military equipment to Poland, Hungary, and the Czech Republic, the President can do that.

There is, in these three countries, some concern about the stability of the giant to the east, Russia. No one, I think, for a moment believes that Poland is going to invade Russia, or Hungary is going to invade Russia, or the Czech Republic will. I do think the great threat to the world today is instability. We have changed from a world where the nuclear threat because of the confrontation of two giant nuclear powers is the great threat. It is now instability. And these three countries, Poland, Hungary, and the Czech Republic, have established solid viable democracies.

I had an opportunity to work with the Polish Government. I can remember when the Presiding Officer in 1989 joined me as a cosponsor of the Polish aid bill, which helped Poland get a big start in their process of becoming a democracy. I think it is important that we extend these kinds of gestures.

This leaves it up to the President. I think Senator BROWN has crafted this very, very carefully. I think it is a good, solid amendment. I understand there may be some concern in the State Department that it is viewed as an anti-Russian amendment. Frankly, there is no reason that there should be any fear on the part of the Russians. I do not view it as an anti-Russian amendment. I am sure my colleague, Senator BROWN, does not view it as an anti-Russian amendment. It is a chance for the United States to help lend some stability to countries that have some genuine fears.

I hope this can get worked out. I am sure Senator BROWN is amenable to language changes that do not just gut the amendment. But I think we ought to be moving in the direction the Brown-Simon amendment suggests.

AMENDMENT NO. 2153 TO AMENDMENT 2152

(Purpose: To make Poland, Hungary, and the Czech Republic eligible for allied defense cooperation with NATO countries, and for other purposes)

Mr. MCCAIN. Madam President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered No. 2153 to amendment 2152.

Mr. MCCAIN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all and insert:

SEC. 1017. ADDITIONAL COUNTRIES ELIGIBLE FOR PARTICIPATION IN ALLIED DEFENSE COOPERATION.

(a) SHORT TITLE.—This section may be cited as the "NATO Participation Act".

(b) TRANSFER OF EXCESS DEFENSE ARTICLES.—The President may transfer excess defense articles under the Foreign Assistance Act of 1961 or the Arms Export Control Act to Poland, Hungary, and the Czech Republic.

(c) LEASES AND LOANS OF MAJOR DEFENSE EQUIPMENT AND OTHER DEFENSE ARTICLES.—Section 63(a)(2) of the Arms Export Control Act (22 U.S.C. 2796b) is amended by striking "or New Zealand" and inserting "New Zealand, Poland, Hungary, or the Czech Republic".

(d) LOAN MATERIALS, SUPPLIES, AND EQUIPMENT FOR RESEARCH AND DEVELOPMENT PURPOSES.—Section 65(d) of the Arms Export Control Act (22 U.S.C. 2796d(d)) is amended—

(1) by striking "or" after "United States)" and inserting a comma; and

(2) by inserting before the period at the end the following: ", Poland, Hungary, or the Czech Republic".

(e) COOPERATIVE MILITARY AIRLIFT AGREEMENTS.—Section 2350c(e)(1)(B) of title 10, United States Code, is amended by striking "and the Republic of Korea" and inserting "the Republic of Korea, Poland, Hungary, and the Czech Republic".

(f) PROCUREMENT OF COMMUNICATIONS SUPPORT AND RELATED SUPPLIES AND SERVICES.—Section 2350f(d)(1)(B) is amended by striking "or the Republic of Korea" and inserting "the Republic of Korea, Poland, Hungary, or the Czech Republic".

(g) STANDARDIZATION OF EQUIPMENT WITH NORTH ATLANTIC TREATY ORGANIZATION MEMBERS.—Section 2457 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(g) It is the sense of the Congress that in the interest of maintaining stability and promoting democracy in Eastern Europe, Poland, Hungary, and the Czech Republic, those countries should, on and after the date of enactment of this subsection, be included in all activities under this section related to the increased standardization and enhanced interoperability of equipment and weapons systems, through coordinated training and procurement activities, as well as other means, undertaken by the North Atlantic Treaty Organization members and other allied countries.".

(h) INCLUSION OF OTHER EUROPEAN COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—The President should recommend legislation to the Congress making eligible under the provisions off law amended by this section such other European countries emerging from communist domination as the President may determine if such countries—

(1) have made significant progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law; and

(2) are likely, within 5 years of such determination, to be in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area and Europe.

Mr. McCAIN. Madam President, I say to my friends from Kentucky and Georgia, I am sending that amendment at the request of Senator BROWN who asked that I submit a second-degree amendment in order to preclude a second-degree amendment from the managers of the bill. Basically, it is to fill up the tree. I have no further comment on the amendment.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Madam President, the amendment I think is quite straightforward. What we are attempting to do is include Poland, Hungary, and the Czech Republic specifically in discretionary areas that many other countries now enjoy in their relationship with the United States.

Those are specifically, if the President decides it is in our interests, the ability to transfer excess defense articles; if it is the President's decision that it is in our national defense interests to lease and loan defense equipment and other defense articles; and again, if it is the President's decision it is in our national interests and security interests, to loan materials and supplies and equipment for research and development purposes as well.

Right now this discretionary authority lies within the powers of the President for such countries as Bahrain, Senegal, Oman, and Morocco. What we would decide is whether or not we would place Poland, the Czech Republic, and Hungary as these other nations.

Let me emphasize, it is not mandatory. It does not force the President or the Congress to move anything in this area. But it does give specific reference to these three Republics, putting them on a par—where it can be done.

Why should we be concerned about it? Every American remembers the tragedies that these countries have been through in this century. No one could forget the tragedy they have faced with the invasion of Nazis during World War II and with the also tragic takeover by Soviet interests in the cold war period following World War II.

For these countries, national security and concerns about their independence are not simply something they speculate about; it is something they have lived through. It is a nightmare they have come to understand. They have a keen and abiding interest in ensuring that the freedom and democracy that sometimes Americans take for granted is ensured for their children and their grandchildren.

Perhaps most hard to believe for Americans is that they not only look to America with pride and with friendship, but they look to us to ensure that they will be able to cooperate with America in ensuring the freedom of this world continues on. We are sent heartrending letters from Americans of Polish decent.

I ask unanimous consent at this time to have printed in the RECORD a letter I received from the President of the Polish American Congress, and also from the Ambassador from Poland.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

POLISH AMERICAN CONGRESS,
Chicago, IL, June 17, 1994.

Hon. HANK BROWN,
U.S. Senator,
Washington, DC.

DEAR SENATOR BROWN: I have just received from Myra Lenard of the Washington Polish American Congress office a copy of the Amendment to the Foreign Relations Authorization Act which is cited as the Brown-Simon Amendment: NATO Participation Act of 1994.

On behalf of the Polish American community I extend my sincere gratitude to you Senator Brown for all your efforts in this regard. This amendment will not only help Poland, but also maintain stability and promote democracy in Eastern Europe. This amendment will ease the transition of Poland into NATO by having Poland be included in the activities of NATO forces.

This amendment is being extensively reported in the Polish Daily News (Dziennik Zwiazkowy), radio station WPNA and other local Polish-American press.

We will make every effort to assist passage of this amendment in support of your efforts. Thank you again and we look forward to a favorable vote in the Senate.

Sincerely,

EDWARD J. MOSKAL,
President.

EMBASSY OF THE
REPUBLIC OF POLAND,
Washington, DC, June 22, 1994.

Hon. HANK BROWN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BROWN: I would like to express words of appreciation and gratitude for planning to introduce, together with Senator Paul Simon of Illinois, an Amendment to make Poland, Hungary and the Czech Republic eligible for allied defense cooperation with NATO countries. I believe this legislation is crucial for Polish and Central European new security arrangements. It will in an important way stimulate integration with NATO and create excellent opportunity for developing Polish-American cooperation and trade exchange.

As the Polish Minister of Foreign Affairs Mr. Andrzej Olechowski declared at the NATO Ministerial meeting in Istanbul last week: "the results achieved by Poland and other countries in building democracy and a market economy, their commitment to NATO values, rapid growth of their interdependence with Western countries and institutions call into questions the rationale for maintaining unchanged the present membership in the Alliance. In fact these new democracies fulfill or will soon fulfill criteria for NATO membership set up in the Washington Treaty. Moreover, their membership in NATO should be considered not only as a response to their legitimate security aspirations but also as an important condition for European stability".

Your skillfully prepared amendment Senator, fully corresponds with the Polish view on security arrangements in Europe and can be very beneficial for the United States, Poland, and the NATO Pact.

Thank you again for your significant initiative.

With my highest regards,

JERZY KOZMINSKI,
Appointed Ambassador.

Mr. BROWN. Madam President, I think Members will have an opportunity to review these letters and many, many others in their own files in the months ahead. I think they articulate some anxiety, the concern, and deep interest that Americans who have come from these countries have, as well as the existing citizens of Poland, Hungary, and the Czech Republic.

Let me emphasize, while this provides for permission only and discretion in the hands of the President, that it is extremely important. It is important because these countries have become concerned when the United States was not active in urging their admittance to NATO. Our stance, the official stance of the United States, has been they may be eligible for membership in the future but at this point full membership should not be granted to them.

What it does is raise what I believe is an unfounded concern, but a concern in these citizens that the United States may not be willing to work toward their independence; that the United States may be unwilling to stand up and ensure that they enjoy the freedoms that are so important to their people.

Clearly, I think every Member of this Chamber would not want to see the freedoms of these republics jeopardized. They have made enormous progress, not only toward bringing democracy about in their countries, but privatizing their economies. Thus the importance of this amendment. By simply saying to these countries that we are going to put you on the list, and using their names where we can cooperate with them, it sends a new message to them. It sends a message we are interested in their security and their safety, and we are interested, at least in the long run, in cooperating with them.

Should we try and coordinate our communication systems with them? I think we should. But, again, that is simply an option for the President.

Should we try to coordinate the kind of military equipment we use with them? I think we should. But again this is simply an option for them.

Should we send them a signal that we care about them and we do not want them to slip under the dark cloud of another Iron Curtain regardless from which direction it comes? I think we should.

No American can look at the tragedy that those countries have suffered in the past half century and not feel an urgent need to reassure them and to encourage them. The last thing we want is for people in Eastern Europe to think that they are forced back into the old ways because the free countries of the world are not willing to stand beside them.

This amendment more than anything else sends a signal of hope, of interest, of concern. I think it is a signal that is sorely needed. I believe every American has an interest in securing the peace and the freedom of Eastern Europe, and in a small way this signal will encourage those who have sacrificed so much to bring freedom to their country.

I yield the floor.

The PRESIDING OFFICER. Speaking as a Senator from Maryland, I ask the Senator to add me as a cosponsor to the amendment.

Mr. MCCAIN. Madam President, I ask my friend, there is obviously some controversy and discussion surrounding his amendment, and I wonder if for the sake of moving forward he would agree and the managers would agree to temporarily setting aside this amendment while we try to work something out and we move on to another amendment. I wonder if that would be agreeable to, first of all, the Senator from Colorado.

Mr. BROWN. I would be happy to do that. Obviously, this is something that we should be able to reach agreement on.

Mr. MCCAIN. I ask the Senator from Georgia, the distinguished chairman, if that would be agreeable.

Mr. NUNN. Madam President, this amendment is opposed by the Foreign Relations Committee according to what we have heard. It would be very helpful if, while we are trying to get them over here to speak to the authors of the amendment to see if something could be worked out, we could temporarily set this amendment aside and let it recur as the pending business after we get another amendment done.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Madam President, I think that is a very good suggestion by the Senator from Arizona. There are some considerations—I think a lot of people are sympathetic with what the Senator is trying to do. There is a process here that I think needs to be examined and given some time so that perhaps we can come up with an acceptable modification to which everyone can agree.

Mr. MCCAIN. Madam President, in light of that, I ask unanimous consent that the pending Brown amendment and the McCain second-degree amendment be temporarily set aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

AMENDMENT NO. 2154

(Purpose: To limit the total amount that may be obligated or expended for procurement of the first and second *Seawolf* submarines)

Mr. MCCAIN. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 2154.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 22, between lines 9 and 10, insert the following new section:

SEC. 122. SEAWOLF SUBMARINE PROGRAM.

(a) LIMITATION OF COSTS.—Except as provided in subsection (b), the total amount obligated or expended for procurement of the SSN-21 and SSN-22 Seawolf submarines may not exceed $4,673,371,000.

(b) AUTOMATIC INCREASE OF LIMITATION AMOUNT.—The amount of the limitation set forth in subsection (a) is increased by the following amounts:

(1) The amounts of outfitting costs and post-delivery costs incurred for the submarines referred to in such subsection.

(2) The amounts of increases in costs attributable to economic inflation.

(3) The amounts of increases in costs attributable to compliance with changes in Federal, State, or local laws.

Mr. MCCAIN. Madam President, I had intended to ask for a rollcall vote on this amendment. I do not. I am in deep sympathy with all of my colleagues who would like to depart on this holiday weekend and also to the distinguished managers of the bill who are obviously trying to get done. Under normal circumstances, I would spend a lot of time on this amendment. But I would like to take as short a time as possible. And also while I am on this amendment, I wish to mention the situation as far as military construction is concerned, and then I would ask for a voice vote. I believe that this amendment is acceptable to both sides.

Madam President, also I would like to point out I do not intend to offer an amendment to kill the *Seawolf* submarine at this time. I do not intend to because, frankly, there is no money authorized in this bill for the third *Seawolf* submarine, and so I do not intend to offer that amendment. I would state to my friends and colleagues, though, that next year there will be a requirement for additional authorization for a third *Seawolf* submarine. I will vociferously and energetically oppose that next year.

At this time, however, I am going to try to bring the tremendously escalating costs associated with the *Seawolf* submarine under control, and I am very disappointed to tell my colleagues that last year we had a similar amendment pass by voice vote, which in itself means that no one objected to it, and yet the amendment was dropped in conference with the other body, and in the intervening time the costs of the *Seawolf* submarine went up again.

Let me try to explain a little bit about the costs of the submarines and how basically the cost is out of control. Initially, the cost of the *Seawolf* submarine was estimated at $1.6 billion. Today, that figure has risen to $2.4 billion, an increase of $740 million. The cost of the SSN-22, the other one, was originally estimated at $1.7 billion, and that cost is nearly $2.3 billion, an increase of $560 million. The total cost of these two submarines has increased $1.3 billion—B, billion dollars—since the program began, a 38-percent cost increase.

Madam President, the Congress has authorized and appropriated nearly $4.7 billion to buy two submarines. Two submarines have cost $4.7 billion.

I was not surprised, I must say, Madam President, when I received a letter from the Secretary of the Navy on June 9 stating that the cost of these two submarines had increased by another $125.5 million. When will it stop? Next year, Congress will be asked to approve funding for a third *Seawolf* submarine, currently estimated to cost $2.3 billion. I will oppose that authorization because I believe it would be throwing good money after bad. I also suspect that by the time the Senate debates authorizing the third submarine, the cost will have increased yet again.

I will summarize the rest of my statement, Madam President, by saying in a time of declining defense budgets, which have seen a 35-percent cut since 1985 and another 10 percent cut is envisioned by 1999, we cannot afford to pay another dime for any militarily unnecessary luxury like the *Seawolf* submarine. I urge my colleagues to support the amendment.

I understand that my colleagues from Connecticut will propose a second-degree amendment to the pending amendment. Their amendment would increase the cost cap in this amendment by $86 million, the amount of the Navy's most recent cost increase, which will be permissible under the specific terms of the amendment. I have no objection to incorporating that change in the amendment, and I would urge its adoption. I would expect one of the Senators from Connecticut over here pretty soon.

In the meantime, Madam President, I wish to bring to the attention of the Senate that nearly $200 million in unrequested military construction costs are part of this bill. The bill before the Senate today already includes $545 million for military construction projects which were not included in the administration's request. These add-ons were requested by individual Members of the Senate for projects in their own States. Funding for these projects was made available at the expense of other high-priority programs like pay, readiness and training, and weapons systems modernization.

I oppose the addition of all $545 million additional in military construction add-ons in the readiness subcommittee. I propose an amendment to transfer the funds to combat readiness and training. So these $545 million in add-ons are included in the bill before the Senate. And I now understand that the Senate will be asked to give perfunctory approval to another 26 projects totaling $190.8 million.

Madam President, this has to stop, and I ask the distinguished chairman of the committee and the ranking member, when do we stop adding milcon money and at the same time cut the defense budget?

I remind my colleagues that due to the passage of the Exon-Grassley amendment, $500 million was taken out of the defense appropriations, and yet in both the appropriating committee and in the authorizing committee we are adding hundreds of millions of dollars in military construction projects. Meanwhile readiness suffers, training suffers, recruiting suffers, and depot-level maintenance backlogs continue to rise. If you ask any military commander in the field, they will tell you that military construction projects are their last priority, not their first.

Madam President, we are doing a great disservice to the people of this country in the expenditure of their hard-earned tax dollars by continuing to add on military construction project after military construction project.

Madam President, again, for the last 10 years the defense budget has declined every year. Defense budget authority has declined by almost 41 percent since 1985. At the same time, military construction budget authority has been reduced by only 29 percent. We have a terrible mismatch of infrastructure funding with a top line decline in the defense budget far more serious than that of the military construction budget.

In the past 5 years, from fiscal year 1990 through 1994, Congress added over $4.4 billion in unrequested military construction projects to the defense budget. This equates to $880 million every year in projects designated for Members' districts or States. It has to stop. Senator GLENN and I have set up a set of criteria for inclusion of additional military construction projects. I hope that the distinguished chairman and ranking member would adopt that as one of the rules of our committee.

I hope and pray that we can bring this to a stop. If for some reason the Defense budget turns around and we see increases, my objections to these additional MILCON projects will be dramatically reduced, although we will still need an orderly process that is based on merit as opposed to geography.

Before I yield, maybe my friend, the distinguished chairman of the committee, would like to respond.

Mr. NUNN. Madam President, I would say to my friend from Arizona that, No. 1, we have not agreed to any amendments here on the floor on MILCON that I know of. There are amendments that are being proposed. They are being worked at the staff level. I believe Senator GLENN's staff is involved in it from our side. There are amendments that are being presented, as they always are. We are trying to apply the same criteria to those amendments as we did to the amendments we considered in the committee. Those criteria were suggested by the Senator from Arizona. So we are working that way.

Any amendment that would be presented here would have to meet those criteria or we will not agree to them. Of course, Members have a right to present amendments. We have a right to say they have to go to a rollcall vote, and we have a right to say that we will not accept them unless they meet the criteria. That is what we are working on right now.

Mr. McCAIN. I thank the chairman. I will ask for a voice vote at the appropriate time after my friend from Connecticut speaks.

I yield the floor.

AMENDMENT NO. 2155 TO AMENDMENT NO. 2154

(Purpose: To increase the maximum amount.)

Mr. DODD. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, and Mr. LIEBERMAN, proposes an amendment numbered 2155 to amendment numbered 2154.

Mr. DODD. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On the first page, line 7, strike out "$4,673,371,000" and insert in lieu thereof "$4,759,571,000".

Mr. McCAIN. Madam President, is this amendment being offered in the second degree?

Mr. DODD. Madam President, this amendment is being offered in the second degree to the amendment offered by the Senator from Arizona.

Madam President, this amendment is fairly straightforward. It seeks to cap the reasonable costs of the *Seawolf* submarine program while providing the Navy and the contractor—in this case the Electric Boat Division of General Dynamics—with the necessary flexibility to deal with uncontrollable changes that could occur in this program.

I believe that our colleague and friend from Arizona has had the opportunity to see this amendment. We have circulated it, and I believe this modification is acceptable. I would like to take a minute or two and explain to my colleague the purpose and the rationale for it.

Madam President, when the *Seawolf* submarine program was first proposed as the future Navy attack submarine technology for our country, the Pentagon and we envisioned a fleet of some 26 of these submarines. Today, that number has been reduced to just three.

As a consequence of that revision, it would naturally follow that the per-unit cost of the reduced fleet would go up. That is something I think most of our colleagues are familiar with. That is precisely what has happened to this program. Obviously, the more units you build the unit cost comes down. When you reduce the number from 26 to three, the cost per unit would be higher than you originally envisioned. That is a typical research and design cost that would normally be spread across 26 submarines. It must now be placed on top of just three. That is a very difficult pill to swallow. But, nonetheless, those are the facts.

The program is now in its final phase. Deputy Secretary Deutch, in a significant program decision dated June 23, 1994, has in fact decided to move forward with a new attack submarine design that will be smaller, less expensive, and ultimately quieter than the *Seawolf* class submarine. Clearly we are on a new course.

Madam President, I am not disputing at all the amendment for a cost cap on this *Seawolf* submarine program. Frankly, I commend my colleague from Arizona. We have our disagreements with a threshold question on the *Seawolf*. But as far as this particular amendment goes, I think it is a constructive amendment to try to contain the costs of these programs.

I should add very quickly, however, that I do so with strong reservations about cost capping major weapon systems procurements without a clear road map for future modernization. In essence, we must be certain that the actions taken to curtail spending do not tie the hands of senior military planners with respect to future force planning.

I understand and share the concern of my colleague from Arizona about escalating Navy construction costs in a declining budget environment. Therefore, Madam President, I offer, along with my colleague from Connecticut, Senator LIEBERMAN, this second-degree amendment that would increase the Senator's cost cap by some $86 million, and would retain the identical exceptions language as proposed by my colleague from Arizona.

Madam President, we do not do this lightly. I remain vitally concerned about the future of this Nation's submarine construction capability. I remain very concerned with attempts to squeeze programs to the point of near death.

This amendment, I think, is a fair compromise. It seeks to cap the costs of the ongoing *Seawolf* program while maintaining adequate funding and authority for the Department of Defense, should uncontrollable costs increases occur.

I thank my colleague from Arizona for his support of this amendment, and strongly urge our colleagues to support it. I hope that we can adopt this amendment and then move on with the completion of this program and the next generation of submarines.

Allow me to yield the floor to my colleague from Connecticut.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Thank you, Madam President. I will speak very briefly.

Madam President, I rise to support the second-degree amendment of my colleague, the senior Senator from Connecticut. There is no secret to the fact that I believe in the *Seawolf* submarine. It is the world's best submarine and it should be a part of our strategic inventory because it is needed militarily and it provides the necessary bridge to production of a new attack submarine which will have *Seawolf* stealth but will be smaller and have a lower price tag.

No one who believes in protecting our national security wants to do this. Everyone recognizes that we have crying needs in this country—both in defense areas and domestic programs. We all want to make sure that taxpayer dollars are spent effectively, efficiently, wisely, and yes, frugally.

I strongly support the *Seawolf* program. I want to see three ships produced as this administration has decided it must if we are going to meet our military needs and be able to produce globally competitive nuclear attack submarines in the next century.

But I do not favor unlimited or uncontrolled spending. No one believes that authorization of a defense program should be seen as a blank check from the Federal Treasury and I do not believe that is what the Navy or the producer of the *Seawolf* want or expect. We all want to produce *Seawolf* submarines and every other piece of defense equipment at a cost which is reasonable and affordable. We have seen in the demise of the old Soviet Union what happens when a country fails to control its defense spending. We are not in a similar position here.

I disagree with the Senator from Arizona about the way this program has been and is being managed. I am concerned, as we all are, about the costs of this system and other technologically advanced defense systems, but I believe that this program is being managed professionally and in a fiscally responsible manner. I believe the record to date fully bears this out.

Thus, when my colleague from Arizona made it known that he was planning on offering an amendment to cap the costs of SSN–21 and SSN–22, I chose to work with him to achieve our common goals of controlling costs, enforcing fiscal discipline, and protecting our scarce defense and national resources. I believe we have come up with a cap which is responsible and will permit this vital program to be completed successfully. The contractor is fully prepared to abide by these amendments.

I should note for the record that the Navy has not agreed to either of these amendments. Their position is understandable. Construction of these incredibly complex submarines takes 6 years; technology changes in that time period, especially in electronics, and the Navy understandably wants to keep its options open to be able to issue change orders to obtain technological improvements when they occur. The Navy believes that some additional clarification of exceptions to the cap are needed to protect their ability to affect necessary changes in design or production due to submarine safety, personnel safety, valid programmatic reasons to support ship delivery, resolution of legitimate contractor and subcontractor claims, and the ability of the Government to meet its contractual liability. I do not believe that this amendment precludes the Navy from making necessary changes for these valid reasons. It will, however, require the Navy to return to the Congress to explain the proposed changes, the cost, and their rationale. This increases the administrative burden on the program managers in many respects, but I believe this is an acceptable price to pay for the potential benefit of increased protection of taxpayer dollars.

Our second-degree amendment allows for the same increases in costs as did the Senator from Arizona—those which are due to factors which are beyond the control of the Navy or the contractor: inflation and changes in law. It also does not include the outfitting and post-delivery costs which are incurred when these ships go to sea. We have changed none of this from the Senator's underlying amendment.

Our only change to the underlying amendment is that we have altered the imposed cap by $86.2 million to account for increases which are now known and certified by the Navy due to factors which are allowed by the exceptions I have just mentioned and that Senator from Arizona recognizes are necessary. Specifically, $34.8 million in inflation and labor index changes and $51.4 million in changes required to workman's compensation and negotiated benefits. This data comes to us in a letter addressed to Senator McCAIN dated June 9, 1994, signed by the Secretary of the Navy, John Dalton.

The Secretary says in this letter that this data is the best estimate of the cost for SSN–21 and 22 and will be reflected in the fiscal year 1994 ship cost adjustment report which will be delivered to the congressional defense committees shortly.

Madam President, I believe that what we are doing here today in both the underlying and second-degree amendments is responsible and reasonable. I appreciate the forthright way in which my colleague from Arizona has worked with the Navy and the Armed Services Committee. We clearly have significant differences on other aspects of this important national security program, but there is no difference in our belief that responsible government is good government and we are pleased we have been able to jointly develop mechanisms to be accountable for the way we spend taxpayer dollars.

I will support our second-degree amendment and the underlying amendment as modified and urge my colleagues to do the same.

I ask unanimous consent that the letter from the Secretary of the Navy be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE SECRETARY,
DEPARTMENT OF THE NAVY,
Washington, DC, June 9, 1994.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: The current best estimate of cost for SSN 21 and SSN 22 is $4,799B, which is an increase of $125.5M from the $4,673B which was reported in 1993 for the annual Ship Cost Adjustment. This increase change, which will be reflected in the FY 1994 Ship Cost Adjustment, is due to:

Increases to which the contractor is legally entitled to which are beyond control of the government:

	Millions
Inflation/labor indices	$34.8
Workmans Comp/Fringe Benefits	51.4
Contractually mandated adjustments due to negotiated changes or requests for equitable adjustment	39.3
Total	125.5

Examples of contract increases to which the contractor is legally entitled which are beyond the control of the government may include items such as:

The Government's pre-determined share of any further allowable increases between contract target price and ceiling price,

Contractually mandated price increases for changes resulting from compliance with changes in federal law [e.g., environmental laws] and/or escalation in specified labor and material costs,

The difference between actual experience and the historically conservative OMB inflation estimates mandated for budget purposes and,

The settlement of legitimate contractor claims or requests for equitable adjustments.

Sincerely,

JOHN H. DALTON,
Secretary.

Mr. LIEBERMAN. Madam President, this is I believe the successful completion of a dialog that began in the Armed Services Committee between the Senator from Arizona and this Senator. Obviously, we have a disagreement on the underlying program, the SSN *Seawolf* Submarine Program. But we have no disagreement on the desire to make sure that this program comes in at the lowest cost possible for the taxpayers.

I enthusiastically support the *Seawolf* program. It will produce the three finest attack submarines ever made. They will be out in the waters for the next 40 years protecting us and those who follow us, performing a very wide array of missions.

Building these *Seawolf*s is the most cost efficient way to preserve the submarine industrial base, which everyone agrees we need to preserve, to build the next generation of attack submarines, which everyone agrees we need to build.

But no one should be given an open and blank checkbook. The amendment that we have agreed on with the second-degree amendment puts reasonable constraints on the Navy and the contractor in the construction of SSN-21 and 22. Therefore, I support the second-degree amendment and am pleased to join with both my colleague from Connecticut and my friend and colleague from Arizona in doing so.

I thank the Chair.

I yield the floor.

Mr. PELL. Madam President, I rise to support the second-degree amendment offered by my colleagues from Connecticut.

As many of my colleagues know, the administration has already decided to cap the *Seawolf* Program at three submarines, a great reduction from the 26 previously envisioned. As a result of this reconfiguration, the per-unit cost of each of the three submarines has obviously increased.

I believe the amendment by my colleagues from Connecticut is fair and reasonable. It also accomplishes the goal sought by the Senator from Arizona, and that is to ensure the efficient, cost-effective production of these submarines.

Madam President, I believe this amendment is a fair compromise and achieves the result we all desire. It caps the cost of the first two *Seawolf* submarines, which have been previously authorized and appropriated by Congress, while ensuring adequate funding for the successful completion of the program.

I urge my colleagues to support this amendment.

Mr. MCCAIN. Madam President, I thank both Senators from Connecticut for their agreement on bringing about cost caps to this very expensive program. I would remind them that the procurement cost total to date for two *Seawolf* submarines has been $10.4 billion. That includes R&D and all of that. But one must admit that that is a significant amount of money to spend for two submarines. In fairness, if a third one were built, the number would be around 12.

I would also suggest that we will save the debate on the merits of the weapons system for next year.

I would like to thank the distinguished chairman and ranking member of the committee for adopting new sets of criteria for inclusion of military construction projects, and also for land transfers. I believe that we, as a committee, can function more efficiently and in a more cost-conscious fashion with the adoption of both of those. I appreciate the chairman and ranking member for adopting those.

I say to my friends from Connecticut that I will be leaving this afternoon to attend the commission of a ship named after my father and my grandfather. Given the incredible labors of the Senators from Connecticut in behalf of the third *Seawolf* submarine, I will be suggesting that the third *Seawolf* submarine be named the Dodd-Lieberman or the Lieberman-Dodd, whichever is appropriate.

Mr. DODD. Will my colleague yield on that particular point? I wanted to suggest, as our colleague from Arizona has been extremely aggressive in these last several years on the *Seawolf* Program, Senator LIEBERMAN, my colleague from Connecticut, and I were going to suggest that they offer an amendment that we name the next *Seawolf John McCain*, in exchange for which he might move on to some other construction program.

But, Madam President, I would be remiss, in all seriousness—and I apologize for not raising it myself. The father of our colleague from Arizona and his grandfather served this Nation of ours with incredible distinction. The fact that a ship in Bath, ME, is being dedicated, christened in the name and in honor of his father and grandfather is an honor that is long overdue. Both his father and his grandfather would be deeply proud of the service of their son and grandson in this body. I congratulate him.

Mr. MCCAIN. I thank my dear friend from Connecticut for these very kind remarks.

Madam President, I do not believe there is any more debate.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2155) was agreed to.

Mr. DODD. Madam President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there further debate on the first-degree amendment, as amended?

The question is on agreeing to the amendment, as amended.

The amendment (No. 2154) was agreed to.

Mr. DODD. Madam President, I move to reconsider the vote.

Mr. LIEBERMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Madam President, although this amendment will not be included in the Senate's version of the 1995 DOD authorization bill, I fully expect this issue to be addressed by the conferees.

Under the Base Realignment and Closure Commission, Tooele Army Depot in Utah [TEAD] was realigned. This realignment will actually result in closure for many of the depot's functions. Yet, since TEAD is being realigned and not closed, employees are not eligible for automatic restoration of annual leave payments and housing relocation assistance. This definitional technicality is resulting in a great disparity and injustice to many of the employees of TEAD. Call it a realignment or a closure, the effect is the same.

The fact that in most cases, a major realignment of an installation results in the same adverse impact on the employees of the installation as does a base closure, this issue should be addressed. I believe there is no sound basis for distinguishing between base closures and major base realignments so far as concerns the leave restoration provision of title 5. As a constituent pointed out:

> You take the maintenance and supply functions away from Sacramento Army Depot and you have a depot closure. You take the same functions away from TEAD, and you have some functions (ammunition and chemical) remaining, so you have a depot realignment. In both cases you are losing roughly the same missions and the number of people. . . .

All of TEAD's industrial missions are closing. The only part that will remain is the south area, a separate part of the base located 15 miles away where 42 percent of the Nation's obsolete chemical munitions are stored. There will be virtually no possibility for employees at the industrial area to transfer to the southern area.

Complicating the issue, is the Defense Logistics Agency [DLA] employees who are hosted by TEAD. DLA employees will be given the full benefits of automatic restoration of annual leave and housing relocation assistance. In a few cases, we have the ironic situation of a working couple at Tooele: one spouse working for the Army as a civilian who is not eligible, and the other working for the DLA who is eligible. The reason DLA is giving its employees the automatic benefits is that the 1993 BRAC listed DLA's warehousing activities at Tooele as being disestablished, which has been interpreted to mean closure.

It would seem reasonable to designated TEAD employees working in functions or activities anticipated to be closed or severely curtailed be recognized under Public Law 102-484 and be authorized for leave restoration. This would allow personnel and the commander of the base with some needed flexibility.

In light of the 1995 defense base closures, it is essential that we correct this inequity now to avoid greater problems later. people and their families are being negatively impacted by the 1993 BRAC decisions. The employee benefits packages were instituted to assist Defense Department civilians who would be separated because of those decisions.

I look forward to having this issue addressed in conference, and thank the chairman for his assurances.

Mr. NUNN. Madam President, I say to my friend that we have talked about this issue and he brought it to my attention. I looked at it briefly, and I will be delighted to work with him and to keep in touch with him as we go to conference on this. I will listen to his views, and I assure him he will have my attention as we move into conference on this bill.

Mr. BENNETT. I thank the chairman.

AMENDMENT NO. 2156

(Purpose: To express the sense of the Senate concerning the training and modernization of the Reserve components)

Mr. BUMPERS. Madam President, I send an amendment to the desk on behalf of myself and Mr. FORD, Mr. BOND, Mr. AKAKA, Mr. BINGAMAN, Mr. BUMPERS, Mr. DASCHLE, Mr. DECONCINI, Mr. DODD, Mr. DORGAN, Mr. FEINGOLD, Mr. FORD, Mr. HOLLINGS, Mr. INOUYE, Mr. KOHL, Mr. LAUTENBERG, Mr. MATHEWS, Ms. MIKULSKI, Mr. PELL, Mr. PRYOR, Mr. ROBB, Mr. SARBANES, Mr. SHELBY, Mr. WELLSTONE, Mr. WOFFORD, Mr. DURENBERGER, Mr. JEFFORDS, Mr. LUGAR, Mr. BURNS, and Mrs. BOXER and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. FORD, Mr. BOND, Mr. AKAKA, Mr. BINGAMAN, Mr. BUMPERS, Mr. DASCHLE, Mr. DECONCINI, Mr. DODD, Mr. DORGAN, Mr. FEINGOLD, Mr. HOLLINGS, Mr. INOUYE, Mr. KOHL, Mr. LAUTENBERG, Mr. MATHEWS, Ms. MIKULSKI, Mr. PELL, Mr. PRYOR, Mr. ROBB, Mr. SARBANES, Mr. SHELBY, Mr. WELLSTONE, Mr. WOFFORD, Mr. DURENBERGER, Mr. JEFFORDS, Mr. LUGAR, Mr. BURNS, and Mrs. BOXER, proposes an amendment numbered 2156.

Mr. BUMPERS. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 126, insert after line 21 the following:

SEC. 514. SENSE OF THE SENATE CONCERNING THE TRAINING AND MODERNIZATION OF THE RESERVE COMPONENTS.

(a) Findings, the force structure specified in the Pentagon's Bottom Up Review assumes increased reliance on the reserve components of the Armed Forces;

(b) the mobilization of the reserve components for the Persian Gulf War was handicapped by training, readiness, and equipment shortfalls;

(c) the mobilization of the Army reserve components for the Persian Gulf War was handicapped by lack of a standard readiness evaluation system, which resulted in a lengthy reevaluation of training and equipment readiness of Army National Guard and Reserve units before they could be deployed;

(d) funding and scheduling constraints continue to limit the opportunity for combat units of the Army National Guard to carry out adequate maneuver training;

(e) funding constraints continue to handicap the readiness and modernization of the reserve components and their interoperability with the active forces;

(f) Now, Therefore, it is the Sense of the Senate that the Department of Defense should establish a standard readiness and evaluation system and that it should provide in its annual budget submissions adequate resources to ensure that National Guard and reserve units are trained and modernized to the standards needed for them to carry out the full range of missions required of them under the Bottom-Up Review.

Mr. BUMPERS. Madam President, I think the distinguished floor manager is familiar with this amendment. It is a sense-of-the-Senate resolution. It says:

> It is the sense of the Senate that the Department of Defense should establish a standard readiness and evaluation system and that it should provide in its annual budget submissions adequate resources to ensure that National Guard and Reserve units are trained and modernized to the standards needed for them to carry out the full range of missions required of them under the Bottom-Up Review.

The genesis of this amendment is that a number of our National Guard units, including the 142d Field Artillery of Arkansas, when sent to Fort Hood prior to deployment to Desert Storm, had only about 50 percent of the equipment they needed. I know that we cannot provide everything to avoid this kind of deficiency. But this is a sense-of-the-Senate resolution. It is designed to let the Pentagon know that they should do their very best to comply with the Bottom-Up Review.

Mr. NUNN. Madam President, let me make sure I understand the Senator's amendment. I believe this is an amendment that expresses the sense of the Senate that the Department of Defense would establish a standard readiness and evaluation system and provide adequate resources to ensure that National Guard and Reserve units are trained in the same standard as active forces, and the DOD should allocate sufficient resources to modernize the Reserve components to carry out the full range of missions assigned to them in the Bottom-Up Review. Is that capturing, pretty much, the amendment?

Mr. BUMPERS. Yes.

Mr. NUNN. I urge adoption of the amendment.

Mr. BUMPERS. Before we do that, I ask unanimous consent that Senator PELL be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (No. 2156) was agreed to.

AMENDMENT NO. 2157

(Purpose: To reduce the amount of guidance systems provided for the Trident II Missile Program)

Mr. BUMPERS. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 2157.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike line 23 on page 14 and insert in lieu thereof the following: "pedoes, $2,322,539,000, of which no more than $535,300,000 are authorized to be appropriated for procurement of 18 Trident II missiles and 14 Mark-6 guidance systems."

Mr. BUMPERS. Madam President, if I could have the attention of the floor manager, this will only take a few minutes. It is a complicated amendment, but not if you understand it. I think if I could take 5 minutes of the chairman's time, I believe that he and the committee will be willing to accept this amendment.

Mr. NUNN. If the Senator will yield for a question. Just in the possible eventuality that the Senator is not persuasive to the managers and we have to oppose the amendment, would the Senator be willing to have a rather brief time limit on both sides?

Mr. BUMPERS. Yes, of course.

Mr. NUNN. Would the Senator prefer to wait on the time agreement?

Mr. BUMPERS. I would like to explain the amendment and get the chairman's reaction to it.

Madam President, every Trident II missile that we have on our submarines has a guidance system. That guidance system is the MK-6, commonly referred to as a Mark 6. Let me pause a moment to say that this amendment tracks precisely the recommendation of GAO, which has a draft report ready on this matter. The final GAO report has not been issued, but I can tell you that everything I am going to say in this debate is exactly what GAO has said regarding these guidance systems that we use on each one of our missiles.

A Trident submarine has 24 missiles on board. Each one of those missiles, in order to hit its target, has to have a guidance system. That guidance system normally costs about $8.3 million. But the Navy has already bought some advance components so it is now spending $6.6 million on each in fiscal year 1995. My amendment proposes to cut the procurement of those guidance systems in 1995 from 30 to 14, thereby saving $106 million. I might digress to say that we just adopted the Warner amendment with a big majority to restore military retiree COLA's, and I can tell you that this committee, when they get to conference with the House, is going to be looking for ways to fund that COLA.

I do not put this money in base cleanup. I do not transfer it anywhere. I give it to the committee to try to meet what GAO says are more pressing needs.

But here is how simple this is: When the Trident submarines go to sea, they take a few spare guidance systems just in case the guidance system fails on one of those missiles.

But let me point out that while my amendment cuts the number of spares on each Trident submarine from six spares to four, during a 2-year period, by adopting this amendment, you will increase the chance by six-tenths of 1 percent that 1 missile out of the 24 missiles on a submarine will fail in the years 2017 to 2018. That is a 2-year period, 22 to 24 years down the pike. If you adopt this amendment, during that 2-year period these 10 Trident submarines might have to reduce the number of spares on board from six to four.

In the last 20 years, during 658 submarine patrols with the Trident I missile, on one occasion—and only on one occasion—have they had four failures. That one occasion did not affect their capability. It simply used up all the spares they had and that has happened 1 time out of 658 patrols.

Here is the GAO figure. If you do not remember anything else I say, please remember this. If you adopt my amendment to save this $106 million, here is what you will be doing to our readiness on our Trident submarines. In the years 2017 and 2018—that is a 2-year period, only in that 2-year period—you will increase the chance of the failure of one missile on one submarine by six-tenths of 1 percent.

If you do what the Pentagon wants to do, that is, have six spares on every submarine, you will have a 0.99979 assurance of total readiness. If you want to do what I am suggesting and what GAO has suggested, you will reduce that readiness to 0.99318, or roughly seven-tenths of 1 percent in one 2-year period 24 years from now on one missile on one submarine.

If that is not worth risking $106 million on, at a time when the Defense Department needs this money for much, much more pressing things, and which does not reduce their readiness one whit, I do not know what we can do around here.

Madam President, everybody in this body knows that over the 20-year period that I have been in the U.S. Senate, I have taken on some major issues. I felt very strongly about some of them. I was disappointed about the B-2 vote this morning. But when it comes to pure common sense, intellectual honesty, defense readiness, the Senate will never have a better opportunity to save $106 million for virtually no risk whatever.

I yield the floor, Madam President.

The PRESIDING OFFICER (Mrs. MURRAY). The Senator from Arkansas.

Mr. BUMPERS. Madam President, since nobody wishes to respond at the moment, let me just make one other point.

In addition to what I have just said, I want to point out that even under my amendment, the Navy will still have 121 guidance systems onshore. When a submarine comes back from patrol, if they have had a guidance failure, they simply take that guidance system to be repaired. You do not throw these away. These are not disposable. They are highly repairable. We repair them all the time.

But if a submarine comes in from patrol and they find one of the guidance systems has failed during that patrol, they simply hand it to the mechanics, take a new one and put it on board. And the people onshore take the defective one and repair it, usually in a fairly short time.

The GAO has not validated the Navy's need for 120 onshore. But if you want to talk about redundancy, I am telling you, I am not disturbed by that one whit. They can keep their 120 guidance systems onshore.

The Navy is asking for 30 guidance systems in fiscal year 1995. I am saying 14 is not only more than adequate, but that we can save all this money and, in addition, I am saying that if we cut their purchases of MK-6's to 16 in 1995, they are probably going to come back the following year and ask for 12 more, and I am not going to resist that.

These figures and facts are not mine. They come from the GAO. If this body wants to vote for a bird nest on the ground it will never have a better opportunity.

I yield the floor.

The PRESIDING OFFICER. the Senator from Georgia.

Mr. NUNN. Mr. President, I will ask my friend from Arkansas whether the following is accurate, because it has been presented to me as being the case, that the Senator's argument and the GAO paper depends on three or four key assumptions that are crucial to the case that is being made here.

First of all, it is my understanding that one assumption that this saving is based on is that the Trident submarines are retired after precisely 30 years of service life, that is, they will not be kept on past their normal service lives. Is that correct?

Mr. BUMPERS. The Senator is correct.

Mr. NUNN. So if you kept the Trident beyond 30 years, you would then have guidance systems that were no longer in production. That would cost a great deal of money and that would not be available because you would not have bought them.

Mr. BUMPERS. The guidance systems would not be in production then anyway. Presumably, it would not because the Navy has said they want 30 next year and they have not even asked for any in the next year, 1996. But if they do ask for an additional 12 in 1996, that is likely to be all they will ever ask for.

Mr. NUNN. You are cutting down the number of them until presumably they would not be available. You would not have as many available if something went wrong or the Tridents did not have a longer service life. Is that right?

Mr. BUMPERS. No, that is not entirely right.

We lose irreversibly one guidance system a year. Some of our Trident submarines have been in service now for what?—14 or 15 years?

We have 120 guidance systems onshore, plus all those on missiles, plus all these spares, about six per submarine, and we are going to only lose one a year. And if that is the case, you are going to have a lot more guidance systems 30 years from now than you could possibly use. You could extend the life of those submarines by 5 years, and that is probably going to be the maximum you are ever going to extend their usefulness. But if you extend the life of those submarines for 5 years, you are not going to suffer one bit. You are not going to buy additional MK-6's, so you simply start using up the 120 onshore, if you need to, and even that is a remote possibility.

Mr. NUNN. I say to my friend from Arkansas I am informed we use four a year just for the Trident test missiles we fire.

Mr. BUMPERS. Yes, they do use about four a year in tests. They do not have to use four a year, but they do.

Mr. NUNN. That is the plan they have.

Mr. BUMPERS. Just a minute.

Mr. NUNN. If I understand it—

Mr. BUMPERS. Senator, my amendment takes that into consideration. The 120 that we have onshore is in addition to the 4 the Navy uses each year for test purposes.

Mr. NUNN. I understand also, and I pose this in a form of a question to my friend from Arkansas, that the saving that he is postulating here also depends on the failure rate of the Mark 6 guidance units never increasing above the units it is today. It is relatively new.

Mr. BUMPERS. The Senator is correct. He is talking about the failure rates. I used the illustration a moment ago and the GAO used this in their report that only one time have we ever had four that failed on one submarine. Even if those four failures had occurred after my amendment became law, that still would not have decreased our effectiveness and our readiness one scintilla. And bear in mind, those four failures were not a loss, because all four were repaired.

Mr. NUNN. It is also my understanding that the Senator's amendment and the GAO report are based on the assumption that guidance repair time for failed units does not ever exceed the norm established on the basis of our current experience? In other words, everything remains the same.

Mr. BUMPERS. The Senator is correct. And that is an absolutely gilt-edged assumption.

Mr. NUNN. I also understand the rate of irreparable damage to the much more complex MK-6 guidance system will not be any higher than what we experienced on the more robust Mark-5 unit?

Mr. BUMPERS. I say to the Senator, the Navy uses the same methodology for the Mark-5 and the Mark-6. I know what the failure rate on the Mark-6 has been. Of course, that is what my amendment deals with.

You can build in redundancy and redundancy and redundancy, and I have tried to build in as much redundancy in this as would make any sense at all and still save $106 million.

I can almost guarantee that we will never have a single missile fail if this amendment is adopted. Based on the 658 patrols I alluded to earlier, we certainly could not anticipate a failure. And even if we did suffer the loss, that cuts our warheads from 3,500 to 3,492. Hardly a devastating loss.

Mr. NUNN. I think it is unfortunate that they have not gotten any response to the GAO report, but the information I have gotten informally is that basically, if the Senator is correct on all the assumptions—in other words, if all the best-case assumptions occur, the Senator is absolutely correct—we could save that much money.

But if any of these assumptions are not correct, and they are all based on an early kind of sampling, based on the early life of this guidance system, if any of them are not correct, what we have done—in effect, we are as if somebody bought an automobile and nobody is going to make the batteries on that automobile after the initial purchase. And, therefore, the owner of the automobile tries to buy enough batteries to last a lifetime, knowing that if they did not hit it right, if they did not guess right, that they were not going to be able to find any more batteries unless they went back into production on something that is completely out of production.

Of course, batteries are common and you can buy batteries anywhere, so people do not try to anticipate that when they buy a car.

But when you are buying a Trident and nobody is going to make these things anymore and the guidance systems are not going to be made, then if you base the most optimistic assumptions here and something goes wrong and you do not have enough guidance systems, if any of these assumptions go wrong, then you are in real trouble. That is the opposition to the amendment.

Mr. BUMPERS. Let me make a couple of points.

No. 1, you could say the same thing about any missile. We are buying Trident II missiles right now, and in my opinion, in excess of what we ought to be buying. But if perchance we decided to go—this is a separate amendment and the Senator is familiar with my position on that—but if we decided to go with 12 missiles per submarine with eight warheads, rather than 24 missile with four warheads, as the Senator knows we would already have a lot more missiles than we would need. And anyway I assume that at some point, we are going to shut the line down.

You can say this about virtually any weapons system we have. If we try to keep the line open on every weapon we want, we will never, never, have enough money for the real things we need in defense. We will never upgrade the National Guard and the Reserve along the lines of the amendment that I just offered awhile ago on behalf of Senator FORD and Senator BOND and myself.

We simply cannot debate every issue on the assumption that we have to keep the line open for 20 or 30 years because we might need it.

Now, here we are with what I believe, and what GAO believes, is a legitimate assumption that you are not only going to have enough under my amendment, but that you are going to have more than you could possibly need over the next 25 to 30 years.

I have done my very best on this to be as honest as I could be in the numbers. They are taken from GAO's report. I admit I am no expert on this.

I know the Senator does not want to jeopardize readiness and I do not, either. The only disagreements we have ever had are on redundancy. And here we have so much built-in redundancy on this.

Let me make one other point. That is, the House of Representatives put some words in their bill, but they did not do anything to cut Mark-6 purchases. The reason they did not is because they had asked for the GAO report. But the GAO report was not out at the time they adopted their defense bill.

I do not know how this will turn out, but I would make one suggestion, and that is—and, you know, you will have my concurrence on this—if you accept the amendment and you go to conference with the House, you might do two or three things. No. 1, you will have had an opportunity to get the Navy's response to this. They can give you the whole rationale for why GAO is wrong, and I would like to see that myself. I mean, I am not infallible and GAO is not infallible and the Navy is not infallible.

But I would like to ask the distinguished floor manager, who has a lot of native intelligence about things like this and has been doing this for a long time, if, in that keen mind of the Senator from Georgia, he concluded that GAO really is on to something here and that the Navy's response is weak, feeble, and not viable, that the Senator was going to be on our side on this. Because I know the Senator is going to have to be scrounging for money, as I say, just to meet the Warner amendment.

Mr. NUNN. The Senator from Arkansas is entirely correct on that.

I would suggest an alternative course. Rather than accept the amendment—we have right now an informal word that it would be a very high-level risk kind of set of assumptions—I would prefer we both try to get an answer out of the Navy and the Department of Defense and work together and have this addressed on the appropriations bill when in comes up. Because I do not see that we ought to basically adopt the amendment and then assume that in conference it might not be needed. I much prefer just to wait for another bill.

The Senator makes a case here, and it is a persuasive case if the Senator's assumptions are correct. But the assumptions are based on the first couple of years of experience of a new system for which we simply do not know the failure rate or risk factors. And that is what GAO based it on, and you cannot fault their analysis.

What you can fault, though, is their assumptions. And their assumptions may not be right. It may be they are right. If they are, then we ought to make the adjustments. But at this stage, it is just impossible to tell that. At least, I do not know it. I do not think anybody knows it on the floor of the Senate now. I do not think anybody could make that judgment.

Mr. BUMPERS. I say to the Senator, I am told that Mark-6 has been in use now for 4 or 5 years. My amendment is based on the failure rate during that period of time.

Let me just, if I may, read into the RECORD, for your attention and for the RECORD, a part of the appendix of the GAO report.

"The number of spare MX-6 guidance systems needed on board a patrol submarine was calculated based on the average number of initial unit failures per patrol per quarter over the past 2 years. Navy officials chose this method, claiming that it, one, weighs all patrols equally regardless of length; two, provides a conservative figure"—

Let me repeat that.

"Provides a conservative figure; and, three, has proven successful in estimating spares for prior programs such as the Trident I. The Navy's guidance system operational readiness goal is to have adequate spares available 99.9 percent of the time."

Now, that is the Navy's goal.

The Navy also included a 99 percent confidence level factor in its calculations because, according to Navy officials, it provided a more conservative result and helped ensure that sufficient spares would be available even in the event of unforeseen future systems problems. Based on this methodology, the Navy calculated that six spare guidance systems are required on each submarine.

Madam President, the GAO did not fully accept all of the Navy's assumptions because the Navy could not back up what they wanted with what their experience had been. There was nothing in the Navy criteria to justify six guidance systems per missile. But let me stress that. Under my amendment, in only 2 years—and that is 24 years from now—in only 2 years, the year 2017 and 2018, will there be four MK6's on board each submarine instead of six.

Mr. NUNN. Madam President, what I would like to propose to my friend from Arkansas—he may be correct here. GAO might be correct here. I simply cannot make the judgment, nor can I say to my colleagues on the floor in good conscience that I believe he is correct, because I really do not have enough response from the Navy or Department of Defense to the GAO report. But my understanding is that the Navy goes for a high percentage of readiness because they are not sure of their assumptions. If assumptions go wrong, and you have gone for 80 percent readiness and your assumption is wrong, all of a sudden you are down a whole lot lower than that.

What I would like to suggest to my friend, as a way to bringing this to conclusion and perhaps agreement—if not we come to a vote—that we fence $106 million and basically require the Secretary of Defense to examine the GAO report, examine the Navy response to that report, and he not expend that money unless he believes it is essential, after looking at those reports, to the national security.

But let him make the decision after he examines that. I just do not think the Senate is capable of making that decision. I know I am not capable of saying to my friends on the floor of the Senate today, we know exactly what the assumptions are and how they are going to play out. This is pretty intricate business here and there is a lot at stake.

Mr. THURMOND. Will the Senator yield?

Mr. BUMPERS. I have enough respect for the Senator——

Mr. THURMOND. Will the Senator from Arkansas yield?

Mr. BUMPERS. I will be glad to yield.

Mr. THURMOND. I am willing to go along with the suggestion made by the able chairman. If my colleague does not accept that, I suggest we just have a vote to move on.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Madam President, I want to make one other observation. That is that if you want to, you can save up to $318 million on guidance systems if you are willing to reduce the operational readiness on one missile on one submarine in that same 2-year period to .31253. Then, there would be a chance that you might have a submarine someplace in the next 20 years that would have one missile out of its 24 that would not fire. But rather than try to save $318 million, I have tried to comply with precisely the recommendations of the GAO, cut it off at 0.7-percent risk in one 2-year period on one missile on one submarine.

I do not mind telling you, I am astounded that we would spend money like that for that kind of built-in redundancy.

I want to say to the Senator from Georgia that I respect his knowledge and I respect his integrity on these issues. All I want to say is that once we get the Navy response, he and I sit down and discuss it; just an honest discussion, and ask ourselves if this is a place we can and should save $106 million? Or should we blow $106 million just to satisfy ourselves on redundancy?

The appropriations process is going to be coming along. We will have an opportunity then. In the Senator's request of the Navy, I would like the Senator to attach some urgency to it, because you never know when that appropriations process will be finished. We have in the past, as the Senator knows, passed appropriations bills before an authorization bill came out.

All I am saying is that I would like to put some urgency to the request to the Navy so we can get that information back here before the appropriations process, so if the Senator and I still have a basic disagreement, we can look at it then. I do not think we have a disagreement now, I think the Senator is simply saying I want to hear the Navy's side on it before I make that decision.

Mr. NUNN. That is right. The Senator is correct.

In fact, I say to my friend from Arkansas, the suggestion I made I believe will convey the sense of urgency. Because if you fence the money, that means they cannot spend it until the Secretary of Defense makes the certification, and he would have to have the response from the Navy there. So the Navy has every incentive to accelerate that response.

If we go this way, I think you have that sense of urgency built into the approach. But I would also be glad to sit down with the Senator, and the Senator from South Carolina, and the Navy people involved, or the people from the Secretary of Defense involved, and try to understand this completely and make a decision on it while we are in conference. Or if not, on the appropriations bill.

Mr. BUMPERS. With that understanding, Madam President, I will withdraw my amendment.

Mr. NUNN. Would the Senator like to have an amendment, or have us draw one up to reflect this fencing? That is not done now.

Mr. BUMPERS. If my colleague would do that and just run it by me, I would appreciate it very much.

Mr. NUNN. I appreciate the Senator's willingness to do that.

The PRESIDING OFFICER. Does the Senator seek unanimous consent to withdraw his amendment? Does the Senator from Arkansas seek unanimous consent to withdraw his amendment?

Mr. BUMPERS. I am sorry?

Mr. FORD. You want to withdraw your amendment?

Mr. BUMPERS. I ask unanimous consent to withdraw my amendment, Madam President.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 2157) was withdrawn.

AMENDMENT NO. 2158

(Purpose: To modify the requirements for transfers of Army M1A1 tanks)

Mr. FORD. On behalf of myself, Senator BOND, Senator NUNN, and Senator THURMOND, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kentucky [Mr. FORD], for himself, Mr. BOND, Mr. NUNN, and Mr. THURMOND, proposes an amendment numbered 2158.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 247, line 6, insert ", at no expense to the Army," after "Marine Corps".

On page 247, line 10, insert "of the Army" after "Secretary"

On page 247, beginning on line 11, strike out "not less than" and all that follows through line 12 on such page, and insert in lieu thereof "84 M1A1 tanks selected by the Secretary of the Army.".

On page 247, beginning on line 20, strike out "may not" and all that follows through line 24 on such page, and insert in lieu thereof "shall transfer not more than one M1A1 tank to the National Guard for each M1A1 tank transferred to the Marine Corps until the Secretary has transferred the total number of tanks required in subsection (b). The tanks transferred to the Marine Corps shall be in a material condition comparable to the material condition of the tanks transferred to the National Guard.".

Mr. FORD. Madam President, during the Senate Armed Services Committee consideration of the 1995 defense authorization bill, an amendment was offered requiring the Army to transfer between 84 and 124 M1A1 tanks to the Marine Corps. The amendment would have also effectively stopped the modernization of the National Guard, as Congress had directed a few years ago.

As cochairman of the National Guard Caucus I, and my fellow cochairman, Senator BOND from Missouri, believe this language should not be included as a part of this legislation because it violated the Goldwater-Nickles Act.

In addition, there is not a valid Joint Chiefs of Staff requirement for the transfer of these tanks from the Army to the Marine Corps.

The amendment at the desk is a compromise reached with the help of the chairman of the Armed Services Committee and its ranking member.

The amendment would place a cap of 84 M1A1 tanks to be given to the Marine Corps as they become excess to the active duty Army. The amendment would also direct the Secretary of the Army to transfer an M1A1 tank on a one-for-one basis to the Marine Corps and to the National Guard. Furthermore, Madam President, it directs that this transfer of tanks to the Marine Corps will be made at no expense to the Army.

The amendment would require the transfer of plain M1A1 tanks from active Army, not M1A1 common tanks. This will assure that these M1A1 tanks would not have to be taken from active duty Army units.

And so, Madam President, I ask unanimous consent that the remainder of my remarks be included in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I am deeply concerned about the provisions in this bill, directing the transfer of M1A1 tanks from the Army to the Marine Corps. The bill directs that any M1A1 tanks exceeding the active army requirements shall be transferred to the Marine Corps until their requirements have been met. It also specifies that the army may not transfer any additional M1A1 tanks to the Army National Guard until the total requirements of the Marine Corps are satisfied.

I am not concerned about the relative priority of assigning equipment to the various military components. But I am troubled that this bill ignores the fact that the Department of Defense has previously addressed this issue in Colin Powell's Roles and Missions Report of February 1993.

The roles and missions report stated that the Marine Corps would retain enough tank battalions to support amphibious operations and to outfit three maritime prepositioning squadrons. It directed the Army to provide any additional tank support required. However, the report did not identify any Marine Corps equipment shortfall or direct the Army to transfer any tanks.

Since this time, Congress has directed establishment of a Commission to review roles, missions and functions of the armed services. That review is not scheduled to be completed until next year.

The Chief of Staff of the Army is on record strongly opposing the provisions in this bill. He has stated there is a validated requirement in the Army which is greater than the number of M1A1 and M1A2 tanks which will be available and has urged the Chairman, Joint Chiefs of Staff be given the opportunity to review and resolve this issue.

I'd like to take a moment to discuss the problems of this provision.

The Marine Corps contends that it has a requirement for 443 M1A1 tanks, but their current inventory only totals 271 tanks. However, the Marines have not requested, justified, nor have the Joint Chiefs approved a Marine requirement for additional tanks. In fact, none of the CINC's of the unified and specified commands has identified a tank shortage in the Marine Corps Maritime Preposition Squadron Forces.

While it's true that the total Army inventory of tanks exceeds 7,000, and the army intends to transfer 1,500 tanks to the National Guard as M1A2 upgrades are completed at the rate of 120 per year, this is part of a modernization plan following Desert Storm. Congress has directed the Army to modernize the Enhanced Readiness Brigades in the National Guard with the same priority applied to the active forces.

And it's my understanding that at the same time the Army began its modernization program, the Marine Corps canceled its remaining buy of M1A1 tanks and retired more than 600 M60 series tanks from its inventory. One might assume this action constituted Marine Corps realignment to a lighter, more mobile force that would fight jointly with heavy force augmentation provided by the Army.

We are not raising any objection to the 2-year plan to provide M1A1's to the Marine Corps Reserve in exchange for M1A2 upgrades. Clearly, the Department of Defense believes the Marine Reserve battalions will experience difficulty in training with only the eight tanks they currently have, and this action does not lessen the Army's warfighting capability nor disrupt the services' modernization plan for the National Guard.

But the Department does object to the transfer of 84—maybe as much as 124—tanks, because the requirement has not been validated by the CINC's, OSD or the Chairman, Joint Chiefs of Staff.

And finally, the Department of Defense agrees with the argument with the active Marine Corps could very well see action in a conflict before some Army National Guard units.

However, the Department defers to the language of the Goldwater-Nichols Act which charged the Chairman of the Joint Chiefs of Staff to review service acquisitions that should emanate from requirements identified by the CINC's of the unified and specified commands.

Madam President, the Senator from New Hampshire, Senator SMITH, is on his way, should be here momentarily, and Senator BOND. I understand that Senator SMITH wishes to say a few words. But we have worked out an agreement, and I do not think it will be too long.

The PRESIDING OFFICER. Who seeks recognition?

Mr. FORD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Madam President, I had planned to offer an amendment with my good friend, the Senator from Kentucky, to strike section 1066 of this bill.

As the Senator has described, this section currently in the measure directs the Army to transfer up to 124 of the M1A1 heavy armored tanks from its active duty, first-to-deploy units to the Marine Corps.

As has accurately been pointed out very well by my distinguished colleague and cochair of the National Guard Caucus, this provision ignores the process established in the Goldwater-Nichols law for consideration of this issue. It bypasses consideration by our most senior military experts. It bypasses consideration by the blue ribbon roles and missions commission which we established just last year, and it sets a very bad precedent for future similar efforts.

The provision in the bill currently is opposed by the Chairman of the Joint Chiefs of Staff, General Shalikashvili; the Chief of Staff of the Army, General Sullivan, and the White House.

For my part, I think we ought to be paying some attention to the opinion of these senior military leaders. They are the people best able to make decisions about which services and which units should have specific tanks. That is why we set up the process, whereby the JCS is designated the appropriate authority to make these decisions.

It does not make sense to overrule their decisions, take the authority away from them as the current provision would do.

Now, I am not here to argue about whether or not the Marine Corps should have tanks or whether they have this version of tank or that version of tank or whether they should get them before Army units or after. These are not judgments that I am qualified to make. And I am willing to make a good guess that most of my colleagues in this body are not qualified to make them either. The people who are most qualified to make them are our most senior military leaders, the Joint Chiefs of Staff. That is why we gave them the authority to do so in the Goldwater-Nichols bill and subsequent legislation.

Section 1066 would substitute in our judgment—and in my opinion, even worse—the opinion of the General Accounting Office for that of our military leaders. That just does not make any sense to me. I have had enough experience with the GAO to know they are wrong quite often, sometimes more wrong than right, particularly when they are as far afield from traditional accounting questions as this area of military strategy. I do not want to take a chance that the GAO knows a whole lot more about military strategy and tactics than the Joint Chiefs of Staff.

On that point, I would note that the Office of the Secretary of Defense did not concur with the findings of the GAO report on which this section is based. Specifically, OSD stated, "A Marine Corps and Joint Staff position on overall tank allocation priorities and funding requirements has not been established. Until that occurs, there is no solid basis for further transfer of M1A1 tanks from the Army to the Marine Corps." That is from the GAO report, page 11.

Madam President, I would state again that I have no objection to the Marines getting additional tanks. I want the Marines, and all of the services, to have the equipment they need to do their job and return home safely. At the same time, however, I would note that the Marines have not asked for tanks in this year or in future years. I certainly understand that these are tough budget times and that money is tight. But that means the services have to make tough choices, not force other services to pay for their equipment.

Returning to the OSD response to the GAO report, they note that,

> The Marine Corps has not formally requested that additional tanks be transferred from the Army to meet its requirements. Each Service normally establishes its own equipment priorities, based on their respective roles and missions, and then develops procurement plans based on those priorities and available funding. The Army has previously determined that modern Abrams tanks were of sufficient priority to warrant inclusion in funding plans. The Navy and Marine Corps, however, have determined that procurement of additional tanks was not warranted based on overall priorities and funding constraints.

It seems pretty clear to me, Madam President, that if the Marines had such a dire need for tanks, they would have asked for some. But they have not.

Now let me turn for a moment to the issue of whether or not the Army has "excess" tanks. The proponents of this provision argue that the Army has over 7,000 tanks and that it certainly will not hurt them to give just a few to the Marines.

Well, that is true. The Army does have a lot of tanks, but most of them are older M1 tanks, not M1A1's, and certainly not the M1A1 common tanks specified in this provision.

Let me focus on that for just a moment. Section 1066 requires that the Army transfer M1A1 "common" tanks to the Marines. The word "common" is significant because it designates a version of the M1A1 with special characteristics, most notably heavy armor made of depleted uranium.

The Army has only 834 of these common tanks. Not 7,000. And all but a few of these M1A1 common tanks are currently deployed in the Army's first-to-deploy active-duty units. There are 327 in the 1st Cavalry Division at Fort Hood, TX. There are 87 more at Fort Hood with the 2d Armored Division, and 129 in the 3d Armored Cavalry Regiment at Fort Bliss, TX. And there are 267 in the 24th Mechanized Infantry Division at Fort Stewart and Fort Benning, GA.

These are the units that will deploy first the next time we go to war. And this provision would require that they give up their tanks to the Marines with the likely result that they would be replaced by less capable M1A1 tanks without the heavy armor.

The significance of these units can be illustrated by looking at the gulf war experience. The 24th Mechanized was the first Army Armored Division to deploy, arriving in Saudi Arabia in September. And the 1st Cavalry, another early deploying unit, played the key role of feinting a move up the middle of the front thereby allowing the VII Corps to make its now-famous "Hail Mary" sweep around the Iraqi forces.

So I just want to make sure that Senators understand that the tanks we are talking about here are not surplus tanks; they are not coming out of excess stocks in Europe; they are not coming out of the National Guard; they are coming out of the Army's contingency forces, the first to fight when we go to war.

So that is where we stand on the M1A1 common tank specified in this amendment. What about the basic M1A1? Once again, the Army does not have a surplus. In a June 22, 1994, letter to Chairman NUNN, Army Chief of Staff General Sullivan wrote, "The Army does not have any excess M1A1 tanks." That is supported by OSD which, in commenting on the GAO report, characterized the number of M1A1 tanks as "an insufficient quantity to meet current Army requirements." That is from the GAO report, page 13.

I would like now to turn to another issue that is raised by the language in section 1066, the role of the National Guard.

Section 1066 would prohibit the Army from transferring M1A1 tanks to the Guard until the Marine Corps has received its full requirement of tanks. Setting aside for a moment the fact that I am not sure there is currently any validated requirement for Marine Corps tanks, the prohibition on transfers to the Guard is a major problem.

The President's Bottom-Up Review directed that there will be 15 enhanced readiness combat brigades in the Army National Guard which "will be organized and resourced so that they can be mobilized, trained, and deployed more quickly to the fast-evolving regional conflicts that we expect in the future." That is from the BUR, page 94. The report envisions that these enhanced brigades will reinforce active combat units by deploying within 90 days of the initial deployment.

These enhanced brigades are going to play a clear role in any future conflict. The simple fact is that we are cutting so much of the Active Army structure, that we will not be able to conduct significant military operations in the future without using the Guard. For that reason, it is essential that these enhanced brigades have the same first-line equipment and training as the active units with which they will serve. That means they need to be replacing older tanks with M1A1's. Section 1066 would delay that modernization.

The central point of all of this is that this measure, 1066, is not the right way to do business. If the Marines need tanks, they should request them as every service does for equipment it needs. That request should be considered by the Joint Staff and submitted to Congress. The whole process should be conducted in an above-board manner which gives all interested parties the opportunity to air their interests. Section 1066 did not do that, and for that reason, as I stated earlier, I had planned to move to strike it.

Over the past several days Senator FORD and I have been working with the chairman and the ranking member and the Senator from New Hampshire to try to find a way to address the concerns of all Senators. The compromise before us now is a result of those talks. Clearly, this is not a perfect compromise for my part. I continue to believe it is a sorry mistake to circumvent the judgment of the Joint Chiefs of Staff and substitute the opinion of the General Accounting Office. But like all compromises, it cannot make everyone happy. It can only split the difference. This compromise essentially does that.

I hope personally when this bill goes to conference, the conferees will see fit to recede to the language in the House bill. That language directs this problem to the Joint Chiefs of Staff where it belongs.

I express my thanks to the chairman of the committee, Senator NUNN, and to the ranking member, Senator THURMOND, for their efforts to work this issue out. I express my appreciation to Senator SMITH for his willingness to work with us, and I urge all Senators to support this compromise amendment.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. NUNN. Madam President, could I inquire? Could we get a time limit on this amendment?

Mr. SMITH. I do not object to that, I say to my chairman. I anticipate at the most 30 minutes and probably less.

Mr. NUNN. Would that be equally divided?

Mr. FORD. Madam President, may I say to the chairman on my amendment that I believe the Senator from Missouri has concluded his statement. I am through with mine. So we would not need any time. The only time that would be necessary would be for the distinguished Senator from New Hampshire, whatever he thinks he needs; 30 minutes, and he may not use all of it.

Mr. SMITH. Yes. I would say to the Senator from Kentucky that if someone else wishes to speak, we have reached an agreement on this amendment. I am not rising in opposition to it, but rising in support of it. Therefore, I do not see any reason that we could not have a time agreement.

Mr. FORD. May I ask the floor manager? Could we have 30 minutes, 25 and 5 for Senator BOND and me?

Mr. SMITH. That is acceptable to me.

ORDER OF PROCEDURE

Mr. FORD. Madam President, I ask unanimous consent that a time agreement be entered into on my amendment of 25 minutes to the distinguished Senator from New Hampshire, Mr. SMITH, and 5 minutes equally divided to Senator BOND of Missouri and myself; and no second-degree amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SMITH. Madam President, I did not have the opportunity to speak to the Senator from Kentucky. But I would like to have the yeas and nays on the amendment, even though we are in agreement, to help strengthen the position somewhat in the conference.

At this point, Madam President, I ask for the yeas and nays on the Ford amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There does not appear to be a sufficient second.

Mr. SMITH. Madam President, first of all, I want to thank Senator FORD, Senator BOND, Senator THURMOND, and Senator NUNN for working with me to work out a compromise on this amendment. I think the compromise is reasonable. Although I would prefer the committee language, I am not going to oppose the amendment offered by my colleagues.

I want to give a brief overview on what the issue is here so that my colleagues can understand the issue. The Marine Corps has a requirement for 443 M1A1 tanks. They currently only have 271 in their inventory. There is a shortfall of about 172 M1A1's against the requirement. The breakdown of this 172-tank shortfall is 84 for the deployment on maritime prepositioning forces, 40 for the sustainment, and 48 for the Marine Corps Reserve.

The total Army inventory of tanks, including active, Guard, and Reserve is more than 7,000 tanks. The Army intends to transfer 1,500 of these tanks to the National Guard by the year 2003, and plans to upgrade existing M1 tanks to the M1A2 configuration at the rate of about 120 per year. The Army is going to have ample tanks.

The Armed Services Committee bill directs, and this amendment would direct, that 84 of these M1A1 tanks will go to the active duty Marine Corps. This will be sequenced one for one—one to the Guard, one to the Marine Corps—until the 84 tanks are reached, and then the rest will go to the National Guard.

Under the DOD plan, the total Army inventory of tanks in 1997 will be 6,828. And under our plan, it will be 6,744, a very minimal difference. That is why I believe that the committee position, slightly amended by the Ford amendment, is reasonable.

Let me quickly go through the historical precedent regarding tank transfers. During the late 1970's when the Marine Corps was making a transition from the M48 to the M60 tank, the Marine Corps transferred approximately 400 tanks to Army for use in both the National Guard and for foreign military sales. Those tanks were purchased by the Marine Corps and transferred to the Army at no cost. So we do have some precedent the other way around.

In the late 1970's, the Marine Corps had a requirement for 1,078 M60 tanks. However, due to funding constraints, the Marine Corps was only able to procure 576 of the required 1,078. With the implementation of the maritime preposition concept in the early 1980's, the Marine Corps solicited the support of the Army to fulfill a portion of its short shortfall. From 1983 to 1984, the Army transferred 140 excess M60's to the Marine Corps to facilitate loading of the maritime prepositioning force.

The procurement of the M1A1 by the Marine Corps was approved in 1985. However, funding constraints and later the determination by the Chairman of the Joint Chiefs that the United States had enough tanks, prevented the Marine Corps from buying the full complement that they now required.

With the ongoing drawdown of Army forces in Europe, and the Army's identification of excess tanks available, the Marine Corps began negotiating with the Army about the potential transfer of M1A1s. To its credit, the Army agreed to the transfer of 50 of those tanks to satisfy the Marine Corps frontline active requirement. However the Marine Corps still remains 172 tanks short of fulfilling its requirement.

The armed services bill with this amendment will simply continue the spirit of cooperation between these two forces. That is it.

Additionally, I would emphasize to my colleagues, the bill authorizes about $216 million over 2 years to upgrade existing M1 Army tanks to the M1A2 configuration and in return transfer M1A1s to the Marine Corps Reserves on a one-per-one basis to remedy the terrible tank shortfall in the Marine Corps Reserve. That is the history.

The first question that needs an answer is why did the Marine Corps not buy the tanks? Those who oppose the committee's position have said they should have bought them when they had the chance.

There are some good reasons why they did not buy them. First of all, 3 years ago the Chairman of the Joint Chiefs, then Colin Powell, stated clearly that the United States had enough tanks. Additionally, the Marine Corps did not have the money within their budget to purchase additional tanks at $3 million to $4 million per unit, especially when the chairman said the United States had enough already.

The Army has said that these tanks were bought with Army money, and for that reason the Marine Corps should not get them. This is not Army money. It is not Marine Corps money. It is taxpayer money. It is money for the national security of the United States. They were bought for use in repelling a massive Soviet attack in Europe.

That is no longer a realistic scenario. Future conflicts are likely to be regional, not global. And we are relying upon prepositioned forces out there ready to strike in a moment's notice or react in a moment's notice.

To its credit, the Armed Services Committee recognized this and made the tank issue an urgent priority. By transferring this modest number of tanks, 84, to the Marine Corps preposition force, the committee acted responsibly I believe. And the amendment, I think, although it is slightly different, supports that responsible action.

The committee position stands on its own merits. The reality is that within the current budget environment we simply cannot afford to base our defense policy on parochial considerations, be they National Guard, strictly Army, or strictly Marine Corps.

The point is the Army has literally thousands of tanks that are excess to their requirement. Transferring only 84 of these tanks out of 1,500 is not unreasonable, and will not affect the operational base of the Army.

The committee should be commended for its leadership on this issue.

It has been suggested that the Marine Corps does not need the tanks; that they do not need an M1A1 tank, and could instead turn all of its M1A1s over to the Army in return for the lesser M1 tanks. But again, this is a nonstarter. The Marine Corps decision to replace the M60 tank with the M1A1 came after careful analysis and years of research into alternative capabilities such as the M1 and the light armored vehicle.

It became clear that the lethality needed to support the Marine Corps was only available by increasing the size of the tank gun from the 105-millimeter gun to the 120 millimeter in the M1A1. The Marine Corps did not buy the M1 because it represented only a marginal upgrade from the M60, and did not include the 120-millimeter gun. The Marine Corps made a conscious decision to wait for the enhanced lethality and survivability of the M1A1 and its 120-millimeter gun.

The M1A1 tank is the Marine Corps' only survivable and sustainable offensive combat vehicle that can defeat enemy tank forces and survive in the full spectrum of potential combat. As long as the Marine Corps has the expressed directed mission to conduct forcible entry and operations against hostile and armed forces, the M1A1 is essential.

The 105 millimeter family of ammunition had reached its maximum potential in lethality because of the ballistics. The M1A1 transition was predicated on its lethality, and the additional antihelicopter and antibunker capability. These are facts.

Regarding the issue of a Joint Chiefs' study, we, in the Senate, have a responsibility to exercise our oversight responsibilities. I take those very seriously. Deferring this issue to the Joint Chiefs ignores the problem and leaves our troops deployed in harm's way without the equipment they need to protect themselves.

The role of Congress in equipping the Armed Forces to accomplish their missions is based on the U.S. Constitution, not the Goldwater-Nichols Act. The Senate routinely settles these types of issues for the Joint Chiefs—routinely we do this. Every year we exercise our constitutional responsibility to raise and maintain the Armed Forces. This year, for example, we are going to decide how many helicopters will be built for the Army, how many F-18's and Aegis destroyers for the Navy and C-17 aircraft for the Air Force. We decide the conditions to be met before ships can be transferred, before they are retired and whether they will be in the active or ready reserve. We make the decisions from a position above the fray of interservice rivalries. That is our job. I think the chairman of the Armed Services Committee and ranking member do that job very well.

The Chairman of the Joint Chiefs does not ask that we let him decide all of these issues. Why is a transfer of tanks any different? This bill includes $216 million over 2 years to buy an additional 48 M1A1's for the Army. The Goldwater-Nichols Act was as designed to streamline the command structure, make management more cooperative and efficient, and, increase the authority of the combatant commanders. It also increased the role of the JCS Chairman.

However, I can assure my colleagues it did not eliminate Congress' constitutional prerogative and role in this process. The issue is not whether we have the right to decide the issue. We do, absolutely. The issue is whether for political and parochial considerations we would want to abandon our responsibilities.

In February 1993, Colin Powell, chairman of the JCS, recommended to Congress that the Marine Corps retain enough tank battalions to support amphibious operations and fill three maritime pre-positioning squadrons. The Marine Corps requirement for these tanks, which was clear in the recommendation of Chairman Powell to fill these squadrons, has been pending 15 months. The new Chairman of the Joint Chiefs has never specifically endorsed the requirement, that is true. I daresay he has not specifically endorsed hundreds of existing service requirements. Does that mean we have to stop authorizing every procurement until he has formally certified it? I say no.

Over the last 3 years, the Marines transferred over 150 artillery pieces to the Army, self-propelled artillery pieces. The Marine Corps purchased them from their own budget. We have precedent for exchanging materials back and forth between the services.

Now, let me go to another point, Madam President. Some say, "why not let the Army provide all tank support?" It is a very good question. The Marine Corps is a synergistic force which consistently trains under the philosophy of maneuver warfare and operates in a combined arms manner. This synergism provides the Nation an expeditionary power projection, and if a Marine Corps maritime pre-positioning squadron is 2 days steaming from a conflict, with the equipment and supplies to sustain itself for 30 days, do we want to make them wait offshore for a period of who knows how long, before the Army can ship a brigade of tanks in? No. Should we tell the Army that their air defense and helicopter support should come from the Air Force and the Air Force only? I believe not.

The Marine Corps is the Nation's premier 911 force and principal forcible entry capability. Having an indigenous M1A1 capability within the Marine air-ground task force is essential to meeting those requirements. Subcontracting this out exclusively to the Army is not a realistic approach.

Let me go to the issue of the National Guard. I want to highlight how many tanks the Guard will have under the Armed Services Committee recommendation and the amendment. The National Guard will have a total of 438 M1A1's and 1,489 M1's in their inventory in 1994. Even after the transfer of the 84 M1A1 to the Marine Corps, the National Guard will possess 717 M1A1's and 2,000 M1's by 1997. The bottom line is that we are not hurting the National Guard at all. I want my friends in the Guard to understand that. That is not the case.

Let us go to the bottom line. Those who go to battle first must have the equipment that they need to defend themselves and to execute their mission. That is essential in warfare. The Marine Corps forward-deployed forces are our Nation's 911 force, as I said. They must act on an emergency basis. They will certainly engage in conflict before the National Guard will. This is not a rap on the Guard. It is a fact. The Marine pre-positioned forces deployed today, right now, out in the fleet, have only 52 percent of the tanks they need—52 percent. They have 30 tanks in their squadrons, and they need 58.

I ask my colleagues, if it was your son or daughter out there in the Marine Corps who was forward deployed in harm's way, with only half the tanks they needed, would you like the tanks to go to the National Guard or to the Marine Corps MPF ships? I think that answer is pretty easy. The bottom line is that they only need 84 out of 1,500. That is all.

I do not think that is an unreasonable position for the Senate to take. We are only talking about 84 tanks. The Guard will still get 1,416 tanks, and the Army will still have nearly 7,000 in their total inventory. The Marines will get 84 tanks, and their forward deployed forces will have the equipment they need to protect our young men and women out there on the front line. These tanks, as I said earlier, Madam President, are owned by the American taxpayer. This should not be a battle between two services, and I regret that it somehow got to that point before the compromise. There is plenty of history where we have exchanged tanks in the past, and other military equipment as well, between the services.

I urge my colleagues to support the amendment offered by the Senator from Kentucky. It is a very reasonable amendment. I appreciate his willingness to work with me to develop this. I want to close on one point.

I will read from a letter I received from the former commandant of the Marine Corps during the Persian Gulf conflict General Gray, in a handwritten note at the bottom of a letter he sent to me yesterday, said this, and I ask my colleagues to heed his words:

> Sir, I am often asked why the Marines need tanks. Your Marine tank battalions are the Nation's only tank battalions trained and equipped for forcible entry amphibious operations. In Desert Storm, Marine tanks helped destroy or capture 1,040 enemy tanks, 608 enemy personnel carriers, 432 enemy artillery weapons, and controlled 20,000 enemy POW's. They were vital to the breakthrough into Kuwait. Thanks again. Semper Fidelis.

Well, I cannot improve on that. He is the former commandant of the Marine Corps and was there when the Persian Gulf war broke out. I think he knows what he is talking about. This is a reasonable provision and a reasonable amendment. Again, I appreciate the cooperation of my colleagues.

I also encourage my colleagues to enthusiastically support it. I hope the chairman would vigorously oppose, along with the ranking member, any attempt to take this language out in the conference report. Again, Madam President, before yielding the floor, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. NUNN. Madam President, could I ask the Senator from New Hampshire to accept the word of the managers that we will work very closely with him in the committee on this? Of course, he will be on the conference, because he has worked very hard on it. I think he has lots of good ideas and a good sense of priority here.

Also, I would be working with the Senator from Missouri and the Senator from Kentucky, because I believe they have very strong feelings about the National Guard.

We have to make some sense out of this whole thing and some sense of priorities in the right way.

If we could avoid a rollcall vote, I think it would be very helpful. We have Senators around here who have amendments. We have Senators who want to make speeches. We have amendments we want to work out. If we take a rollcall vote, we are going to spend another 30 minutes. It will delay us.

I do not believe, I say honestly to the Senator, on a workout like this a rollcall vote is going to make any difference. I think we can stipulate among the three of us to work this out that, if there were a rollcall vote, it would be about 98 to nothing.

Mr. FORD. If there are 98 here.

Mr. NUNN. If there are 98 here.

But if we have a rollcall vote, there would probably be less people here in a few minutes. We just need the time.

I will abide by whatever the Senator from New Hampshire wants to do.

Mr. SMITH. Madam President, let me say to my chairman, who I have the greatest respect for, when he says he will enthusiastically support the matter in the conference committee, that is good enough for me. I look forward to being able to work with him in the conference, and I will accept the chairman's leadership on this point and retract my request for the yeas and nays.

Mr. NUNN. I thank the Senator from New Hampshire.

The PRESIDING OFFICER. Who yields time?

MARINE CORPS TANK ISSUE

Mr. SMITH. Mr. President, I wonder if the distinguished chairman of the Armed Services Committee would join me in a colloquy regarding the Marine Corps tank issue.

Mr. NUNN. I would be happy to accommodate the Senator from New Hampshire.

Mr. SMITH. The Armed Services Committee bill transfers 84 M1A1 common tanks from the Army to the Marine Corps to remedy a terrible shortfall within the Marine Corps Maritime Preposition Force Squadrons. This decision was based on a careful evaluation of the Marine Corps requirement, and a survey of the tanks which will come available for reissue as a result of downsizing and the Army modernization program.

Mr. NUNN. The distinguished Senator from New Hampshire is correct.

Mr. SMITH. Mr. President, during the course of the past week, our distinguished colleagues from Kentucky and Missouri have raised some very strong concerns over the issue of transferring 84 M1A1 common tanks out of the Army inventory. It has been suggested that the transfer of M1A1 common tanks, as opposed to other variations of the M1A1, could have the unintended affect of delaying the active Army's modernization program.

Senators FORD and BOND have suggested a compromise that would remove the reference to common tanks in this section, and authorize the transfer of 84 M1A1 tanks to the Marine Corps on a one-for-one basis as M1A1's are transferred to the National Guard.

Although I strongly support the position of the Armed Services Committee, as reflected in the pending legislation, I am sensitive to the concerns that have been raised concerning the issue of common tanks. Before deciding on this issue, I would like to solicit the input of the distinguished chairman and ranking member of the committee.

Since this amendment would modify the Armed Services Committee position, I would ask if the distinguished chairman supports this compromise?

Mr. NUNN. I am happy to respond to my colleague. I supported the Armed Services Committee position on this issue, and I think the Senator from New Hampshire has done our Nation a great service by focusing the Senate's attention on the Marine Corps tank situation. I believe that the compromise is consistent with the Armed Services Committee position, and strikes an appropriate balance between the Marine Corps needs and the ongoing Army modernization program.

Mr. SMITH. I appreciate the comments of my colleague from Georgia, and I thank him for his leadership. One further matter, that I believe is absolutely essential, is the issue of conference. As we know from experience, it can often be very difficult to find common ground with our House counterparts during the defense authorization conference. This issue, in particular, will require our vigilant and unwavering attention.

If the Senate adopts this compromise, will they aggressively fight to preserve the tank transfer in conference?

Mr. NUNN. Let me assure the Senator from New Hampshire. I fully support the transfer of 84 M1A1 tanks to the Marine Corps. If the Senate includes this provision in the bill, I will do everything in my power to preserve it in conference.

Mr. SMITH. I thank my colleague for his assistance. I am absolutely committed to seeing this issue through and I appreciate the support of the distinguished chairman. With the assurance that the Senator from Georgia supports this transfer, and will do everything in his power to preserve it in conference, I will support this modification to the Armed Services Committee bill.

Mr. FORD. Madam President, I think that it is all right for Senator BOND, and under the circumstance we will have a vote. I am willing to yield back my time if he is.

I yield back the 5 minutes.

Does Senator SMITH yield back his time? Then we can go to the vote.

Mr. SMITH. I do.

Mr. FORD. All time has been yielded back.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2158) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Colorado.

ADDITIONAL COSPONSOR

Mr. BROWN. Madam President, I ask unanimous consent to add Senator MIKULSKI as a cosponsor of the Brown-Simon amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Who seeks recognition?

Mr. NUNN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FEINGOLD). Without objection, it is so ordered.

AMENDMENT NO. 2159

(Purpose: To require the President to submit to the Senate as a treaty any international agreement that modifies or establishes new legal obligations for the United States under the Anti-Ballistic Missile Treaty.)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. NUNN. Is this the ABM amendment?

Mr. WARNER. Yes. And I would like to speak to that amendment, and at the appropriate time I would be glad to discuss it with the managers.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, Mr. THURMOND, Mr. DOLE, Mr. WALLOP, Mr. SMITH, and Mr. KEMPTHORNE, proposes an amendment numbered 2159.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of subtitle C of title II, add the following:

SEC. 224. SENATE ADVICE AND CONSENT ON AGREEMENTS THAT MODIFY OR ESTABLISH NEW LEGAL OBLIGATIONS FOR THE UNITED STATES UNDER THE ANTI-BALLISTIC MISSILE TREATY.

(a) REQUIREMENT FOR ADVICE AND CONSENT OF SENATE.—Whenever the President negotiates an international agreement that would substantively modify the ABM Treaty or establish new legal obligations for the United States under the ABM Treaty, the United States shall not be bound by such agreement unless the agreement is entered into pursuant to the treaty making power of the President under the Constitution (which includes a requirement for advice and consent of the Senate).

(b) AGREEMENTS INCLUDED.—Among the international agreements covered by subsection (a) are the following agreements:

(1) Any agreement regarding the succession of the independent States of the former Soviet Union to the commitments of the former Soviet Union under the ABM Treaty.

(2) Any agreement that sets forth a demarcation between theater missile defense systems and antiballistic missile systems for purposes of judging compliance of theater missile defense systems with the ABM Treaty.

(3) Any agreement that imposes limitations on antiballistic missile systems or components more restrictive than the limitations already set forth in the ABM Treaty.

(c) ABM TREATY DEFINED.—In this section, the term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed in Moscow on May 26, 1972, with related protocol, signed in Moscow on July 3, 1974.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. WARNER. Mr. President, if I could do one thing, I ask unanimous consent that the Senator from Idaho [Mr. KEMPTHORNE], be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Georgia.

Mr. NUNN. Mr. President, I have not seen the amendment. I know the Senator from Virginia has been working on this amendment for some time. I do not know whether we can agree to the amendment or whether it is going to be objected to. I do not know what the view of the State Department is, or the Foreign Relations Committee.

This is an important amendment. It would be my intent, if we cannot work it out, to offer a second-degree amendment to that. Now, I know the Senator, if he gets the floor again, can offer a second-degree amendment to it. I would prefer not to get into that kind of situation. I would also prefer not to have to simply waste time here by putting in a quorum call.

So I would like to ask unanimous consent that I be permitted to offer a second-degree amendment to the Warner amendment.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. I believe, Mr. President, I had the floor.

In the nature of a parliamentary inquiry, I think I was recognized, Mr. President.

The PRESIDING OFFICER. The Senator from Georgia has the floor.

Mr. WARNER. All right.

Mr. President, I was not trying in any way to play a game with my good friend. I simply sent the amendment to the desk and asked for its immediate consideration, and what has happened has happened. It was my understanding I had lost the right to the floor and I had not intended to build a tree and thereby make it bulletproof.

What I am hoping to do is to persuade the managers that this amendment could be accepted without a vote, and that the Senator from Georgia, if he sees fit, could bring forth an amendment to his liking and that, likewise, could be accepted. And then, at an appropriate time, in a conference scenario, after we have had the benefit of consultation with other interested Senators and other interested committees, we might be able to resolve it in a conference format. That had been my hope.

I had been watching the floor and I sort of got the impression that the managers did not desire at this time rollcall votes. That was the intention of the Senator from Virginia.

Mr. NUNN. Mr. President, I say to my friend from Virginia, we do not mind rollcall votes where there is a disagreement. What I was trying to discourage was a rollcall vote where there was agreement. We are going to take more rollcall votes.

AMENDMENT NO. 2160 TO AMENDMENT NO. 2159

(Purpose: To provide a substitute)

Mr. NUNN. Mr. President, I believe the best way to handle this, Mr. President, if I have the floor, is to send an amendment in the second degree to the desk and ask that it be reported. I will be glad to consult with the Senator from Virginia to try to see if we can work this out.

But I have not seen his amendment. I have seen two or three versions of it, and I am not sure whether we can or not.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] proposes an amendment numbered 2160 to amendment No. 2159.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On the first page, strike out all after the first word, and insert in lieu thereof the following:

CLARIFICATION OF SCOPE ABM TREATY LIMITATIONS WITH REGARD TO THEATER MISSILE DEFENSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The Anti-Ballistic Missile Treaty limits the development, testing, and deployment of defensive systems capable of intercepting strategic ballistic missiles systems and prohibit the deployment of nationwide anti-ballistic missile systems.

(2) The ABM Treaty was not intended to, and does not, apply to or limit research, development, testing, or deployment of missile defense systems, system upgrades, or system components that are designed to counter modern theater ballistic missiles unless those systems, system upgrades, or system components are tested against or have demonstrated capabilities to counter modern strategic ballistic missiles.

(3) In November 1993, the United States entered into discussions in the Standing Consultative Commission (SCC) with Russia and the other independent States of the former Soviet Union to differentiate between strategic missile defenses, which are strictly limited by the ABM Treaty, and antitactical ballistic missile technologies, which are permitted but not technically defined.

(4) The threat of proliferation of ballistic missiles to additional countries is a real threat.

(5) There is a shared interest among nations to be able to counter that threat.

(6) It is necessary that the ABM Treaty be clarified to make it clear that the treaty permits theater missile defenses that are capable of countering theater missiles already deployed.

(7) Executive branch officials have testified before Congress that it would not bypass Congress in clarifying for purposes of the ABM Treaty a differentiation between strategic and theater missile defense systems and that executive branch officials would consult closely with Congress before the United States agrees in the Standing Consultative Committee to such a clarification.

(b) SUBMISSION OF PROPOSED AGREEMENT TO SENATE.—The President shall submit to the Senate the final clarification to the ABM Treaty, agreed upon between or among the nations referred to in subsection (a)(3), that defines theater missile defense systems before the clarification becomes effective so that the Senate can make a determination on whether the agreed clarification would substantively modify the ABM Treaty or establish new legal obligations for the United States in a manner that would require the advice and consent of the Senate under section 2 of article II of the Constitution.

(c) TREATY DEFINED.—In this section, the terms "Anti-Ballistic Missile Treaty" and "ABM Treaty" mean the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed in Moscow on May 26, 1972, with related protocol, signed in Moscow on July 3, 1974.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I know the Senator from Massachusetts has a very important matter he wants to discuss that does not directly relate to this bill. I hope he would be recognized. When someone has an amendment on this bill, he has assured me he would yield back so it may be considered.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the chairman of the Armed Services Committee and, indeed, at the time somebody wants to proceed forward—I know we want to finish this bill—I will not tie up the floor.

REGARDING THE RTC

Mr. KERRY. Mr. President, I have come to the floor on a number of different occasions over the past few years to express my deep concerns about the operations of the Resolution Trust Corporation in handling various aspects of the savings and loan bailout that has cost us literally billions of dollars.

While there are many aspects of the RTC's operations that clearly have major deficiencies, I continue to believe that one of the biggest stories that has not been focused on, either by the media or by the Congress, lies in the RTC's handling of lawsuits against savings and loan wrongdoers in Texas.

Under two administrations, beginning in the last administration and continuing now, sadly, the RTC has failed to properly investigate and recover hundreds of billions of dollars lost by Texas savings and loans. Last year the General Accounting Office found that Texas savings and loans accounted for 41 percent of the Nation's entire savings and loan bailout cost. The GAO found that more than 57 percent of the estimated national losses from insider criminal fraud in to S&L's, or about $2.1 billion, occurred in Texas.

Yet, with $2.1 billion in outright fraud in Texas, the RTC has recovered less than $12 million from savings and loan officers, insiders and attorneys to reimburse the taxpayers. And the total reimbursement is about $90 million in all.

On the face of it those numbers sound like somebody is either negligent, taking a dive, avoiding responsibility, or dumb.

The GAO found in June of 1992 that staffing shortages and reorganizations at the RTC had disrupted the RTC's program for recovering money from S&L wrongdoers. But beyond the GAO's findings, people inside the RTC have continued to come forward to the Senate to warn us that the agency was wasting billions of dollars and not properly investigating cases—cases against people whose actions caused massive savings and loan losses.

In September, at a time when the national press seemed to have forgotten about the savings and loan debacle, in the days before Whitewater—which somehow made it interesting again for people to write about it—the Senate Banking Committee took testimony for about 5 hours from RTC whistleblowers. During that hearing the whistleblowers charged that the RTC was responsible for billions of dollars in negligence losses, waste fraud and abuse.

Several specifically alleged that the RTC's efforts to reclaim funds for taxpayers from the S&L insiders were woefully inadequate and even fraudulent.

The witnesses testified under oath that a series of reorganizations at the RTC had brought a collapse of the Government's ability to investigate major savings and loan wrongdoers. They testified that in case after case where collectively billions of dollars in losses were at stake, the Government never issued a single subpoena for records to enable them to determine whether someone had done something wrong.

I have been told by numerous RTC investigators in the months since that hearing that the results of this lack of subpoena were catastrophic. According to the RTC's own investigators, no attorney who recommended a professional liability case in Texas before 1993 is still handling a case. Every attorney who once handled such cases has been transferred, fired or has quit. They say that not one RTC professional liability case in Texas reached a jury in 5 years. They report that in 86 of the 137 RTC probes of failed Texas thrifts, no subpoenas were issued.

This apparent neglect took place despite Congress explicitly giving the RTC the power in FIRREA to issue those very subpoenas for the purpose of following the money trail. As Gannett News Service Reporter John Hanchette recently noted, by comparison, Whitewater Special Prosecutor Robert Fiske has issued more than 160 subpoenas for his probe of the tiny Madison Guaranty S&L in Arkansas which lost taxpayers about $60 million—less than some individual loans in the Texas cases.

Now, $60 million is obviously a lot of money, but, unfortunately, in terms of the savings and loan losses, it does not even rank up there with the smallest of the big ones. And as I previously noted, there are 193 savings and loans that have been resolved by the Resolution Trust Corporation that were larger in terms of taxpayers' loss, and in some cases the losses were at the level of billions of dollars.

My concern, Mr. President, is not with the issue of whether or not we ought to investigate Whitewater. We already know that we ought to. We voted to do it, and we are going to do it. But I am still concerned that while the Senate is spending extraordinary resources and energy to duplicate a portion of an investigation already being conducted by Robert Fiske, we are failing to properly investigate something that is far more important to the Nation and to the taxpayers, which is the RTC's handling of lawsuits against S&L wrongdoers in Texas.

Now, last fall in response to these kinds of allegations, then RTC Acting Chief Roger Altman asked a team of Treasury, RTC, and Secret Service officials to go down to Texas and meet with the RTC investigators firsthand and find out what went wrong.

This April, the RTC released a report based on these interviews, which found that there had not been a failure to pursue these cases by the RTC. But within days of the release of the report my office began to hear from the very people who had been interviewed by the team from Washington. They said that the report released by the RTC did not reflect what they had told the team from Washington, and they alleged that the report was a whitewash and warned that materials provided to the Senate by the RTC constituted a coverup. They alleged that the problems were continuing and that the failures to investigate savings and loan wrongdoers in Texas were costing the taxpayers a fortune.

The most senior and experienced of these contacting my office was a fellow named Bill De Pugh, the manager of the Dallas investigations office from mid-1992 to the end of 1993, a man with 37 years experience investigating white collar crime. De Pugh is a former chief of IRS Criminal Investigations in Manhattan. He was the IRS liaison to Interpol and Associate Director of Operations of the Department of Defense Criminal Investigations Service investigating defense contractor fraud.

De Pugh is a career Government investigator with no political ax to grind, who came out of retirement to work for the RTC as a matter of serving his country. Last month, De Pugh wrote to the Senate to report that having reviewed the RTC report, he believes the mission could only have been to cover up the situation. He begged the Senate to look into the Texas situation, contending that "it is far more important than Whitewater."

Since writing this letter to the Senate, De Pugh has been effectively relieved of his responsibilities by the RTC, transferred to another office, and told that his services are no longer needed by the agency. It is a pattern, Mr. President, that we have seen before, and it is one that other whistleblowers reported to us at our hearing. Once an RTC whistleblower has gone public with criticism of the RTC, the agency's next move seems to be to transfer them to another office, and put them in a warehouse doing menial work or otherwise punishing them for having dared to suggest that the RTC is not doing its job.

Beyond Mr. De Pugh, another dozen or so of the 50 people interviewed in Dallas—amounting to 25 percent of the total—have contacted my office by letter and telephone to warn that De Pugh, like those who testified before the Banking Committee, is telling the truth.

They have informed me that "the information presented to you in the administration's report on Texas recoveries is inaccurate and a major misstatement of the facts presented."

These RTC investigators claim that they identified claims where the RTC should have pursued cases against S&L wrongdoers, and they say that they were prevented from properly investigating cases. They say that lawsuits were not properly filed. They listed some 20 institutions where such claims could have been made and were not, in cases involving at a minimum hundreds of millions of dollars in potential recoveries for the taxpayers.

According to the Texas investigators, even in cases where initial investigations were adequate, cases were sometimes not brought because the statute of limitations expired before a case had been made properly.

For example, Mr. President, there is the case of San Antonio Savings Association, the 14th largest savings and loan failure in the Nation, which lost over $1 billion, according to the RTC. At San Antonio, RTC investigators wanted subpoenas to document the most important aspects of the case that they wanted to bring. And according to the investigators, the RTC's lawyers never responded to the requests of the investigators for the subpoenas and they wound up closing the case on San Antonio Savings, no subpoenas were issued, no funds were recovered.

To give the Senate and the public a better idea of the stakes involved, Mr. President, and of the kinds of losses involved, I wish to just mention a couple of these savings and loans involved.

The whistleblowers identified to us one institution, Meridian Savings & Loan of Arlington, TX. Meridian was an S&L smaller than Madison Guaranty in Little Rock, AR. Meridian actually managed to lose $455 million on a base of $51 million. In other words, Mr. President, Meridian lost 892 percent of its assets—892 percent of its assets. It lost almost nine times its assets—a staggering statistic—which suggests at least a minimum question of whether or not someone involved with the management or oversight was at least negligent. Yet the Government issued just three subpoenas in conjunction with Meridian, compared with 160 issued with respect to Whitewater. And those subpoenas that were issued, the three were in a subsidiary investigation of attorney malpractice, not against any of the officers or the directors. Not a penny was recovered from one of the officers or directors.

According to RTC investigators in Texas, the failure was not the RTC investigators' fault. The RTC investigators recommended issuing subpoenas. They say they wanted subpoenas. But they say their superiors in Washington did not want subpoenas, and so the subpoenas were not issued and the investigations were not adequately made.

Then there is the Gill Savings & Loan of San Antonio, the 10th largest savings and loan failure in the United States. It had almost $1 billion in assets, but according to the RTC it lost over $1.4 billion, or $400 million more than it had in assets.

How much money does that represent? Well, the equivalent of the annual budget of the entire Federal Bureau of Investigation was lost. That is a lot of money. But despite losing the entire budget of the Federal Bureau of Investigation, the RTC has not filed suit to recover one penny from an insider, an officer or a director.

Now, some might assert that that is because there was no claim that could be made against anyone connected to Gill. Well, maybe that is true. Maybe there was no claim. But Gill was the subject of a criminal case which the Government lost, after it was thrown out by a judge who said the Government had not come close to proving its criminal case. And it is true that a lot of information was certainly developed by the Government about Gill from a warehouse of files that were subpoenaed in the criminal case.

Maybe—just maybe—there was no civil case to be made, Mr. President, but that is not the point. The point is that the investigators of the RTC themselves are saying that there are serious questions about how the case was handled and about why there was not an initial investigation into the matter.

According to them, an internal audit of the investigations regarding Gill showed that case reviews were written supporting negligence claims by the RTC, which were delivered to the public liabilities counsel in Washington. But despite the fact they argued in favor of bringing the case, no case was brought.

The RTC investigators say that the documents advocating the bringing of the lawsuit in the Gill case were then lost by the Washington staff, lost and did not resurface. They say that the RTC in Washington took the position that the case files were never sent to Washington at all, since the RTC in Washington had no record of them. They then say that the copies of the cases were not maintained by the investigative staff in Texas either.

So what is the end result? There are no records at all about one of the largest of the losses in the savings and loan industry.

I cannot personally verify this charge. I do not have the ability to do that personally. But I do know that these are the kinds of allegations that raise enormous doubts about the capacity of the RTC to turn to the American people and say that they have done this in a responsible and accountable manner.

I ask my colleagues where the RTC's policy of withholding documents regarding closed cases leaves this institution in terms of its ability to conduct oversight? What does it say about the state of accountability of this enormous agency that we specifically charged with accounting to the American people for the money trail?

Mr. President, the scandal regarding the RTC's handling of cases in Texas alleged by the RTC's own investigators is really worse than anything that I think we have heard with regard to any of the other public discussions of S&L's thus far. The problem began an administration ago but they continue today. I believe that even today far too little is being done to change the direction of the problem. Instead many of the very people who conducted the policies or made the policies that led to this catastrophe in the first place are still in place. Unfortunately, they continue to engage in what the investigators themselves say is an inadequate process of accountability.

I would turn my colleagues' attention to University Savings of Houston. This was the second largest savings and loan failure in the United States. Its failure cost the taxpayers $2.4 billion, or 93 percent of the assets of this savings and loan. How many subpoenas did the RTC issue to determine whether bad acts by officers or directors contributed to University Savings' $2.4 billion in losses? According to all available information that we have been able to accrue, not one subpoena, Mr. President, not one subpoena to find out what happened to 93 percent of the assets of a $2.4 billion savings and loan. How much money was recovered by the RTC to date from the insiders, officers, and directors who handled University Savings and permitted it to lose $2.4 billion? So far, Mr. President, not 1 penny, $2.4 billion lost, not one subpoena, not 1 penny recovered.

It is possible truly to go on and on. The Security Federal Savings of Texarkana lost nearly $500 million, more than 200 percent of its assets; no subpoena issued; not a penny recovered from officers or directors;

Universal Savings of Houston; this thrift lost more than $250 million, more than 200 percent of its assets; no subpoena issued; not a penny in recovery from the officers or directors;

First South Savings of Port Neches, TX; $.5 billion in taxpayer losses; some 167 percent of its assets; not one subpoena and no recoveries.

A member of the Dallas RTC legal department wrote to me this week to report the following. Let me quote. This is from an investigator in the Dallas RTC legal office:

> The laxness in pursuing cases borders on criminal negligence; the obfuscation when asked to produce records or respond to inquiries, [and] the attempts to quiet criticism by issuing gag orders * * * all are incidents which I have witnessed.
>
> Many statutes of limitations have run on cases that should have been better handled * * * One of the attorney's caseloads is so light that he spends the day reading a novel hidden behind a legal journal * * *. Three attorneys and five paralegals have left the RTC in recent months because of their absolute disgust * * * the degree of intimidation to which employees are subjected should never be tolerated, yet management seemingly operates with impunity accountable to no one.

Mr. President, that is really an extraordinary statement coming from one of the legal investigators.

This whistleblower advised me that the American taxpayers had sustained what is in the whistleblower's words "staggering losses" because of the "shoddy" methods used in the operation of the PLS program in Dallas. The whistleblower concludes:

> Just as tragic is the loss of the integrity and dedication of the many honest, hard-working employees who have fallen victim to the petty, abusive tactics of a management now caught in its shortcomings and which exerts all its time and energy in trying to bury the evidence and punish employees who have dared to voice concern when they witness such obvious wrong-doing.
>
> It is obvious that local [RTC] management, as well as their superiors on the highest levels, have a great deal to lose if you continue to investigate the real basis for the Texas S&L scandal.

These kinds of allegations from current Government employees suggest that we have a very grave situation in Texas in connection with the S&L cleanup.

They raise the question as to whether the RTC took a dive in these cases in 1992 because important people in Texas did not want to be sued, or did not want their friends to be sued, and they had the political clout with the RTC to make sure that outcome was achieved. They raise the question that if this took place then, others may still be trying to hide what happened in 1994.

Still other investigators say that some cases that were brought by the RTC which the Agency lost were lost because the cases were brought despite the fact that the RTC hadn't permitted its staff to properly investigate them first. So while real wrongdoers are escaping liability, some of those who have been sued have had to spend fortunes defending themselves against cases that weren't properly investigated and therefore should not have been brought. And when this happens, not only is injustice created to the individuals involved, but the Government spends a lot of money and recovers nothing.

Proper investigations are key to making decent cases. So when the investigators say they are being prevented from conducting proper investigations, this suggests a failing at the RTC which is fundamental.

I do not know that Presidential politics lead to what took place in 1992. I hope it didn't. It is possible that the failure to recover taxpayer funds in Texas is a result of incompetence at the RTC, and not outright wrongdoing. But I do know that the U.S. Treasury is taking a bath as a result of the outcome, and I know that I can't get to the bottom of it so long as the RTC continues to prevent me from obtaining the necessary documents to determine what happened.

The record will show that we have been trying for months to obtain from RTC the underlying documents, including the witness interviews, that would enable the Senate to reach an independent judgment about what went wrong in Texas. So far, the RTC has stonewalled us, claiming the Congress has no right to see the information we have requested.

The RTC has also refused to provide us information on closed cases. We sought to find out why the Government had not recovered a penny from insiders on some savings and loans with staggering losses, often amounting to many times the thrift's entire assets.

The RTC's response was that if it provided the information, it would be unfair to people who they didn't sue, by raising the question of whether they should have been sued. Accordingly, they told the Senate in effect to "go take a hike" with our questions.

Putting it all together, the RTC's handling of cases against S&L insiders over two administrations, one Republican, one Democratic, appears to constitute a far broader scandal than anything we have seen to date in connection with Whitewater.

If one looks only at the worst 50 savings and loans in Texas, those with a high loss ratio, low recoveries, and few subpoenas, we see institutions with total assets at closing of over $12 billion and total losses to the taxpayers of more than $11.7 billion.

The $11.7 billion in losses is an astonishing figure. It exceeds the combined 1992 earnings of 19 of the 30 Dow Jones Industrial companies, including Boeing, J.P. Morgan, Texaco, Eastman Kodak, Dupont, McDonalds, Disney, Allied Signal, American Express, Goodyear, Westinghouse, Woolworth, Caterpillar, Bethlehem Steel, ALCOA, International Paper, Union Carbide, United Technologies, and Minnesota Mining and Manufacturing, plus Ford Motor and Chrysler.

The loss ratio on these 50 S&Ls is 95 percent. The RTC will only net a nickel for every dollar on the sale of the assets of these thrifts, with the taxpayers paying the remaining 95 cents.

The RTC issued a total of 27 subpoenas over a 5-year period investigating the forgotten 50. That is less than one-fifth the subpoenas Robert Fiske has issued in 4 months in connection with the failure of just 1 S&L, Madison, whose losses amount to less than ½ of 1 percent of the 50 S&Ls involved here.

As of March 15, 1994, the RTC had recovered $42,000 from the S&L insiders who ran these 50 Texas savings and loans into the ground. That amounts to about 30 minutes interest on the cost of these 50 failed thrifts—interest the taxpayers will likely pay forever.

As President Bush's Commission on Financial Institution Reform, Recovery and Enforcement found in its report on the origins and causes of the S&L debacle:

> The situation was most out of control in Texas, which became the breeding ground for imprudent and abusive practices. The S&L's it chartered were allowed to engage in high-risk activities virtually without limit, and supervision and examination were essentially nonexistent for several years. It was no accident that over 40 percent of all taxpayer losses came from Texas S&Ls.

That is why Texas was responsible for more than 57 percent of the losses connected to criminal referrals made in connection with RTC losses—losses amounting to more than $2 billion lost to pure fraud and looting.

Yet despite having 57 percent of all the S&L insider criminal fraud amounting to over $2 billion, the RTC has only recovered $11 million from Texas insiders as of the end of March.

In conclusion, Mr. President, if you believe the RTC's own investigators, the handling of S&L recovering in Texas by the RTC has constituted a second looting of the Treasury, following the initial looting which took place in the S&L debacle itself.

The RTC's own investigators have written me and called my office to tell us that the real S&L scandal is not in Arkansas, but in Texas. I have struggled to get the RTC and the administration to recognize this and to respond appropriately. I regret that to date, my efforts appear to have failed, and too many of the people who have shared information with me and my office have suffered retaliation at the hands of RTC's management.

The biggest mistake this institution has made in a long time was in agreeing to fund the RTC's continued operations last year without insisting on comprehensive changes in its management and management structure first. What we received instead were promises of change, and legislative changes that mandated solutions, without guaranteeing that the RTC would actually implement the mandates.

In the case of Texas' liability recoveries at least, the promises of reform were not fulfilled. It is the taxpayers, as well as those at the RTC who want to do the job they were hired for, who have taken it on the chin.

In the days to come I would hope others in this institution would join with me in attempting to get answers on the billions in lost dollars at the RTC in Texas from those whose wrongdoing contributed to the S&L debacle, despite the continued frustrations we face in dealing with the RTC, we must continue to try to force the RTC to do a better job in recovering money for the taxpayers in its remaining months of existence.

Mr. President, I thank the distinguished chairman for letting me use this quorum call. I would simply say to my colleagues that there is an extraordinary story of lack of accountability and a major issue that we ought to consider if we are going to spend the kind of time that we have been spending with respect to other savings and loans.

Mr. BOND. Would the Senator yield for a question?

Mr. KERRY. I am happy to yield for a question.

Mr. BOND. Mr. President, I commend my colleague from Massachusetts. I had left with him yesterday a letter suggesting we jointly request the Banking Committee to hold hearings on what went on in Texas. I would just ask if my colleague agrees with me that we should have hearings in the Banking Committee on this matter which he has laid out so fully and eloquently today.

Mr. KERRY. Let me say to my friend that I have joined in signing a letter. I talked to the chairman previously. We have very few resources, as he well knows. But my hope is we would be able to pursue this. The American people deserve to have answers.

Mr. BOND. I agree with my colleague. I thank him.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The Senate continued with the consideration of the bill.

Mr. BROWN. Mr. President, I call up the Brown-Simon amendment.

The PRESIDING OFFICER. Is the Senator calling that amendment back before the Senate?

Mr. BROWN. I am.

The PRESIDING OFFICER. That is the regular order.

Mr. BROWN. Mr. President, I ask unanimous consent to withdraw the amendment and substitute a sense-of-the-Senate resolution dealing with the same subject with wording that I believe is acceptable to both sides.

The PRESIDING OFFICER. Without objection, amendments Nos. 2152 and 2153 are withdrawn.

The amendments, Nos. 2152 and 2153, were withdrawn.

AMENDMENT NO. 2161

Mr. BROWN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN], for himself, Mr. SIMON, Mr. ROTH, Ms. MIKULSKI, and Mr. LEVIN, proposes an amendment numbered 2161.

Mr. BROWN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill add the following new section—

SEC. . SENSE OF THE SENATE CONCERNING PARTICIPATION IN ALLIED DEFENSE COOPERATION.

It is the Sense of the Senate that the President should use existing authorities to the greatest extent possible to authorize the provision of the following types of assistance and cooperation to countries like Poland, Hungary and the Czech Republic who are making significant progress in working with NATO:

(a) Excess defense articles as defined in the Foreign Assistance Act of 1961 and the Arms Control Export Act;

(b) Loan materials, supplies and equipment for research and development purposes;

(c) Leases and loans of major defense equipment and other defense articles;

(d) Cooperative military airlift agreements;

(e) The procurement of communications support and related supplies and services;

(f) Actions to standardize equipment with North Atlantic Treaty Organization members.

Mr. BROWN. Mr. President, the amendment is offered in behalf of myself and Senator SIMON, Senator ROTH, Senator MIKULSKI, and Senator LEVIN.

It is basically a sense of the Senate and expresses our strong interest in democracy and progress in those countries in Eastern Europe, specifically Poland, Hungary, and the Czech Republic; and, it also expresses our interest in developing further contacts with NATO.

My understanding is that it has been cleared by both sides.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. WARNER. Mr. President, I would like to ask the distinguished Senator to be listed as a cosponsor.

Mr. BROWN. I thank the Senator. I ask unanimous consent that Senator WARNER be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate?

Mr. NUNN. Mr. President, I thank the Senator from Colorado for sending this substitute amendment to the desk. This is a sense of the Senate, as he has observed. It is different from the original amendment that he submitted, and yet I think it carries out his overall objective in setting forth the sense of the Senate that the President should use existing authorities to the greatest extent possible to authorize the provision of certain types of assistance and cooperation in countries like Poland, Hungary, and the Czech Republic for making significant progress in working with NATO.

The reason I suggest this amendment be adopted is that it does express, I think, an important sense of the Senate relating to the partnership from these. It makes it clear that Hungary, the Czech Republic, and Poland are countries that are making significant progress. But it does not single out these countries. It says countries like these, because there are others also making progress. I think that the best way for the Partnership for Peace to work is for the countries within that partnership to all proceed in connection with NATO and not to have those countries right here on the floor of the Senate selected in terms of who is making the most progress. I think that has to be determined within NATO and be determined by the United States as well as our allies and determined in accordance with the criteria NATO and the Partnership for Peace are working on. There is very strong sentiment toward Poland, Hungary, and the Czech Republic here. We watch them with great pride as they move toward democracy and toward a free market. But we also are watching with pride other countries in terms of the Partnership for Peace that are making progress.

I think this is an amendment we should accept. I thank the Senator.

Mr. WARNER. Mr. President, if I could add a few words of endorsement. I think the President and the others made a proper decision with respect to the timing and hope for the eventual admission of these countries and others to the Partnership for Peace. However, those nations are at this point in time very short on resources with which to create within their own structure and nations armed forces such that they can become really full partners some day of the NATO alliance. This would be an interim record. I would hope this type of materiel, military equipment and so forth, would further strengthen the ability of our Nation and other nations to work with them in training exercises and to begin to recognize their inherent ability to create such security forces as they feel are necessary for their respective security and for eventual inclusion in NATO.

I thank the Chair.

Mr. BROWN. Let me add this: I deeply appreciate the support the sense of the Senate received. It does not diminish in any way, my enthusiasm for seeing that we reach out a hand of friendship and freedom to those countries in Eastern Europe.

I want to emphasize something here as well. While it may have been an inappropriate time to get a record vote on the original resolution, it in no way indicates that we do not intend to pursue that option. I am one that happens to believe that it is terribly important for us to not let this moment in history pass by and not do everything humanly possible to make sure they do not slip under the dark clouds of totalitarianism. I think prompt action on our part can preclude that. A delay on our part can encourage it. The last thing we want to do is see their freedom which has been so desperately fought for in this century slip under a cloud again.

To the extent we can move ahead with these measures, it is a step forward. These countries are anxious to develop communication systems compatible with us, equipment systems that are compatible with us, contacts that are compatible with us. I think it is one of the bright lights developing in world affairs.

Mr. NUNN. I urge adoption of the amendment.

Mr. PELL. Mr. President, I am sympathetic to the objectives of this amendment—to encourage the President to use existing authorities to provide excess defense articles and other benefits to our friends participating in NATO's Partnership for Peace. This amendment specifically mentions Poland, Hungary, and the Czech Republic as examples of countries eligible to receive certain types of assistance and cooperation. Each of those countries has made substantial progress in working with NATO. Poland, for example, where President Clinton will travel next week, will be the site of the first military exercise under Partnership for Peace later this year.

While I agree that those countries, all three of which are members of NATO's Partnership for Peace, are extremely deserving of military cooperation and benefits, I would point out that many other countries are actively working with NATO. This amendment does not limit the provision of assistance to other countries that are members of Partnership for Peace. In fact, it encourages the President to extend the same benefits to each of those other countries.

I believe it is important not to draw unnecessary lines in a newly undivided Europe. The administration has worked very hard to be inclusive in developing NATO's Partnership for Peace. For example, Russia joined the partnership with no special conditions—on the same terms as other countries. If we begin to differentiate now, we undermine the concept of a whole and free Europe. Accordingly, I welcome the inclusive spirit of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2161) was agreed to.

Mr. BROWN. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Before the Senator from Colorado leaves the floor, is this the NATO amendment that I had cosponsored with the Senator?

Mr. BROWN. Indeed, it is, and I ask unanimous consent that the Senator's name be added as a cosponsor on the sense-of-the-Senate measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I would like to indicate that I totally concur in the remarks made by the distinguished Senator from Colorado. I think he is absolutely correct. I hope we move expeditiously in this regard as a nation.

Mr. President, shortly, I am going to offer an amendment regarding spousal and child abuse in the military. Before I do that, I want to indicate that I previously had filed an amendment, an intent to offer an amendment, with reference to the language in this bill on the single stage rocket technology. I do not intend to do that.

I will say to the distinguished chairman and ranking member that, obviously, the difference between the Senate bill on this and the House bill on this subject and the appropriations bill in the House seemed to be at different ends of the world, with the House clearly indicating they want to continue the program for single stage rocket technology within the Defense Department at a $40 to $50 million a year cost and not transfer it to NASA.

In this bill before us there is language both saying we will not spend the $40 million that is already appropriated for this program, and the program will go to NASA. I am very hopeful when conference ensues, between those two extremes, a reasonable compromise will ensue. It seems to me, based on what I can find out from the House, that such a compromise will have to be the case and concurrence somewhere in the middle will have to result. Knowing that, I do not want to burden the Senate with a vote. We would need one because I do not believe the managers would accept it. That is my explanation on why I will not call that amendment up on behalf of myself and Senator BINGAMAN.

Mr. President, our Nation's ability to use space for national security, civil, and commercial purposes depends on the strength of our national launch systems. Other nations are focused on developing their own independent access to space, and they now lead in terms of responsive, economical, and competitive launch systems.

But what about the United States? I believe it is in the Nation's long-term national security and economic security interest to regain preeminence in the area of space launch technology and operations.

There are widely divergent views on what to be done; however, there seems to be a general consensus that reusable launch vehicle technology will provide the cheapest and most reliable form of transportation.

We have reusable vehicles for traveling on land, sea, and air, and we need them for traveling in space. Scientists and engineers all over this great Nation tell me the technology is now available and that it just needs to be demonstrated.

The Defense Department has already flown five successful test flights of a reusable test vehicle, called the DC–X, and I think we need to support this vitally important program with continued funding.

We are on the verge of opening a whole new frontier in the use of space including the new emerging market for vast constellations of low earth orbit communication satellites that will be an important part of the new information highway. Its companion program, a cheap, reliable, and reusable form of space transportation infrastructure, is an essential part of this new frontier.

The Defense Department has done an outstanding job of managing the single stage rocket technology program, and I believe they should continue this effort. The Air Force says they need to do a core technology program that includes unique technologies to single stage rocket technology. I believe that we ought to let the Department of Defense and the Air Force continue to manage this program.

The DC–X has given the United States a 3-year edge over our international competitors. To retain this lead we must continue to move ahead with this program of advanced technology flight demonstrators for reusable single stage to orbit launch systems, and I encourage those who want to regain American preeminence in space transportation to support maintaining this program within the Department of Defense.

Mr. President, let me indicate that while a great deal is being said in the United States these days by our citizens and our people about spousal abuse, about violence in the families, I hope everybody understands that the men and women in the military are not immune from these kinds of difficult problems.

As a matter of fact, just for the record, I, once again, want to speak to a serious situation we had in the military that is about two-thirds fixed. We need to fix an additional one-third today, and we will do that.

Frankly, until the fiscal year 1993 defense authorization bill, we had a situation in the U.S. military where if a spouse was beaten by her husband and she turned him in and he was found within the processes of the military to be guilty of that, her husband could be—as in a case I brought to the Senate floor—dishonorably discharged, and even if they had served together as a family for 20 years, before that dishonorable discharge, at the moment of the discharge, he is consistent with the history of our military understanding of dishonorable discharge, he is separated from any and all rights and privileges with the defense and military of the United States, which, incidentally, carried with it the situation where the spouse was thus entitled to nothing. If she had been entitled with her two children in a case I brought to the Senate, some kind of sharing in his pension rights, to hospital rights, perhaps commissary rights, the dishonorable discharge precluded her and her children from getting anything.

Frankly, that may have been years ago a good part of the military desire to keep their people only tied to the military if they were honorably discharged. But what actually is happening, and we knew it was, is that spousal abuse was not being reported because you can understand that if someone is abused and she knows that if she turns the abuser in and he is discharged, she will get nothing.

So what we had was a situation where we were almost inviting domestic violence to go unreported as to the children who might be abused or a spouse who might be abused. So in due course, after a lot of arm twisting, the Defense Department went along with language in the defense authorization bill in 1993 that essentially covers 20-year veterans and longer, such that if spousal abuse or violence occurs and they are discharged, the spouses and the children are entitled to a portion of the military members' retirement pay and other benefits. That is a good law.

I thank the committee for ultimately doing that in conference after a long and difficult effort to get the military to acknowledge that we ought to do this.

Now, in 1993 we also put in a study asking the Defense Department to study in detail the issues and to also tell us what was happening with reference to situations where the military member that is accused has not been in the service for 20 years but rather from 1 to 20 years because we do not have anybody covered there. In other words, at the end of 14 years, abuse could occur, a spouse could turn in the offending member who could be dishonorably discharged, and that 13-year military relationship would be totally severed with the spouse being entitled to absolutely nothing.

So what we are trying to do is to get the Defense Department to give us a total evaluation of this, including the evaluation of whether we should add health care and commissary and medical benefits to these 1- to 20-year service members who might be discharged dishonorably for child abuse or wife abuse.

I regret to tell the Senate that even though we have been urging the Department of Defense to complete the report that we asked them to do in the 1993 authorization bill, and I wrote Secretary Edwin Dorn, who was in charge of Personnel and Readiness on February 25, 1994, the indication was a followup letter. It took until May to get a followup letter, and then he said it would be ready near the end of May.

I also asked the Chairman of the Joint Chiefs at a hearing if he would expedite it, and I was told we would get it by May 27.

Mr. President, I ask unanimous consent that those letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, February 25, 1994.

Hon. EDWIN DORN,
Assistant Secretary of Defense, Personnel and Readiness, the Pentagon, Washington DC.

DEAR ASSISTANT SECRETARY DORN: I commend you and your staff on your efforts to comply with Public Law 102–484, which requires a study to provide statistics on abuse-related separations from military service and actions taken or planned to be taken by the Department of Defense to reduce or eliminate disincentives to report the abuse to the appropriate authorities.

Last Friday, my staff had the opportunity to discuss the status and direction of the study with Col. John Mollino of Legislative Affairs and Col. Will Hatcher. My staff informs me that they are well on their way to producing a meaningful study that will greatly assist in illustrating where the problems lie, what the disincentives are, and what can be done to correct the current situation.

I have one concern that I bring to your personal attention. The study, which is being prepared, will not be ready in its final form until mid-to-late June. Unfortunately, this gives us little time to adequately analyze the findings during the fiscal year 1995 Defense Appropriations hearings process.

Anything that you might do to expedite this process would be greatly appreciated.

Once again, thank you for your dedication and support on this issue. I look forward to continuing our work together on the behalf of military members, spouses and dependents.

Sincerely,

PETE V. DOMENICI,
U.S. Senator.

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, 21 April 1994.

Hon. PETE V. DOMENICI,
U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: Based on your recent inquiry to me on the Secretary of Defense's report regarding benefits to family members following the separation of the service member for spouse or child abuse, my staff has been working with the Department of Defense study director. Through allocation of additional resources and speeding the coordination process, we have been able to expedite delivery of a final report from the original June 30 delivery date to May 27.

Because of your interest in this matter, my staff will ensure that you get a personal copy of the report as soon as it is available. Your continuing concern for our people and their welfare is appreciated. If I can be of any further assistance, please don't hesitate to call. With best wishes,

Sincerely,

JOHN M. SHALIKASHVILI,
Chairman of the Joint Chiefs of Staff.

UNDER SECRETARY OF DEFENSE,
PERSONNEL AND READINESS,
Washington, DC, May 4, 1994.

Hon. PETE V. DOMENICI,
U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: I have taken the following actions to expedite the abuse victim study the Department is conducting to reduce or eliminate disincentives to reporting abuse of family members:

First, the contractor has agreed to accelerate the analysis of the Task II data from the intake victim abuse surveys and of the Task III personnel records analysis, once the collection phases from these two tasks are completed. Second, this coordination process will be completed concurrently with the Services as each task report is completed rather than waiting for the final report of the three task reports. This will require more staff effort, but will shorten the time required for the coordination process.

Together these actions will move the completion date up to the end of May, rather than the end of June as originally planned. I look forward to continuing our work together on behalf of military members and their families.

Sincerely,

LABERT V. CONTE
(For Edwin Dorn).

FY93 DOD AUTHORIZATION BILL, PUBLIC LAW 102–484

Covers Abused Military Spouses and Children whose member has served at least 20 years and is eligible for retirement benefits.

Up to 50 percent of retirement benefits can be claimed by abused spouse or child when the 20-yr. military member is dishonorably discharged from the service for the abuse.

Health care, commissary, medical, and dental benefits covered.

Requires broad study of all issues (including the under 20-yr. members).

FY94 DOD AUTHORIZATION BILL, PUBLIC LAW 103–160

Gives Secretary "authority" to cover all abused military spouses and children whose member is dishonorably discharged for abuse, regardless of time in service.

Provides up to three years of transitional benefits (based upon present Dependent Indemnity Compensation pay scale).

No health care etc.

Ensures spouses and children receive retirement pay and other benefits during the military member's appeals process. (PVD Amendment)

FY95 DOMENICI AMENDMENT

Directs Secretary to implement program to cover all abused military spouses and children whose member is dishonorably discharged from the service for abuse.

Directs same.

Provides health care, commissary, dental, and medical for transition period.

Ensures spouses and children whose member has under 20 years service receive transitional benefits during the appeals process.

Mr. DOMENICI. Mr. President, I tell the Senate we still do not have the report today. I really believe unless there is some absolute necessity not to do this that we ought to get it and we ought to get it soon.

Mr. President, I ask unanimous consent to print in the RECORD two additional accounts that relate we do have child abuse and wife abuse and domestic violence in the military. Time magazine has an article, and I would like it to be made a part of record, where they do go through the increases that are occurring in these particular problems in the military and a story found that I think is quite accurate on domestic violence on the rise in the military. This comes in a New York Times article. I ask that those two follow the letters that I just asked to be made a part of the record.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

MILITARY STRUGGLING TO STEM AN INCREASE IN FAMILY VIOLENCE

(By Eric Schmitt)

Washington, May 22—In a trend that has Pentagon officials deeply worried, domestic violence in military families has increased steadily since the late 1980's, according to Defense Department figures.

The number of confirmed spouse abuse cases climbed to 18.1 per 1,000 spouses last year, from 12 cases per 1,000 in 1988. At the same time, substantiated cases of child abuse have increased slightly to 6.6 per 1,000 children, from 6 per 1,000.

In a grim illustration of the most severe problems, an average of one child or spouse dies each week at the hands of a relative in uniform. Over the last six years, an average of 37 children have died each year as a result of abuse in military families. In 1993, the figure was 38 deaths.

Last Wednesday, in the most recent incident of such violence, Master Sgt. David W. Reynolds, a 20-year Army veteran and member of the Army's Old Guard ceremonial unit, fatally shot his estranged wife, Denise, in a parking lot in Falls Church, Va., and then shot himself to death.

Shaken by this troubling trend, the armed forces are rushing to add more aggressive prevention programs to existing treatment, and to conduct detailed surveys of military families to pinpoint early signs of trouble. But Pentagon officials argue that budget constraints are hampering their ability to address the problem fully.

Military experts say the increase in cases of domestic violence can be attributed in part to heightened awareness of the problem throughout society and to improved reporting techniques. But the mounting stresses of life in a military buffeted by shrinking numbers, wrenching social changes, more frequent deployments and nagging uncertainty about careers have also fed family tensions, these officials say.

"There's no question that the downsizing has had a real impact on the active-duty military and their families," said Peter J. McNelis, a former Army colonel who now heads the Military Family Institute at Marywood College in Scranton, Pa. "You can't talk to anyone without getting the sense they're tense and feel that the system is letting them down."

Congress has also expressed concern. At a closed meeting last week to address the equality of women in the military and steps to prevent sexual harassment, female Senators and the senior leaders of the armed forces traded concerns about domestic violence in military families.

NEEDS TO BE REALISTIC

Part of the problem is that "there's a let's-sweep-it-under-the-rug attitude about all this," said Senator Barbara Boxer, Democrat of California. "The military needs to be realistic and admit there is a problem."

The rate of child abuse in the military is less than half of that in the general population, largely because drug and alcohol abuse is less prevalent in the military and because military families are shielded from the kind of abject poverty that is also associated with child abuse.

Trends in reported spouse abuse are more difficult to compare because there are no reliable national statistics on the problem. But an Army survey of 55,000 soldiers at 47 bases indicates that one of every three families has suffered some kind of domestic violence, from slapping to murder. That was twice the rate found in groups of civilians the Army surveyed for comparison. The results of the survey, a continuing study started in 1989, were first reported last week by Time magazine.

Delores F. Johnson, head of the Army's Family Advocacy Program, said the Army was startled by the figures, but she cautioned against drawing definitive conclusions from them. "The one-in-three figures certainly are alarming," she said. "But before we go off the deep end, we want to do further analysis of the data."

The military services have had programs in place to deal with domestic violence since the early 1980's, for the practical reason that stresses at home tend to spill over to the battlefield, hurting military readiness, recruiting and retention.

With family violence cases continuing to rise, despite an increase in budgets for treatment to $79 million this year from $15 million in 1989, the military is now trying to improve its prevention programs with these efforts:

In June the Army will begin assigning trained civilian counselors to hundreds of units, down to the battalion and company level.

The Pentagon has established a panel that is reviewing child deaths at three major military hospitals in Colorado, California and Washington State. It will eventually investigate child deaths in all military families for signs of abuse.

The Defense Department has commissioned a yearlong study of 7,000 adolescent children of service members at 25 bases to identify stress-creating family problems.

But just as in civilian life, spouses in the military are often reluctant to report abuse, fearing even more violent attacks or that revealing abuse could imperil the service member's career and the family's finances. Congress has ordered the armed services to investigate disincentives to reporting domestic violence.

Sandra G. Rosswork, manager of the Navy's Family Advocacy Program acknowledged, "It's a tough marketing job to get the word out to families that help is available and there are no negative consequences to careers."

Military and civilian social workers say child abuse in military families, as in the civilian population, ranges from neglect to battering, while spouse abuse often involves yelling and pushing, assaults and threats.

The majority of the reported cases involve mid-level enlisted personnel like sergeants in the Army, Marine Corps and Air Force, and petty officers in the Navy. But social workers say abuse also reaches into the officer corps.

AN EQUAL OPPORTUNITY PLAGUE

"We see people of all ranks because domestic violence crosses all lines," said William Duke, director of the family violence care center for Cumberland County, N.C., which includes Fort Bragg. "It's an equal-opportunity plague on our society."

Today's military has more married couples and more children than at any other time in its history. The percentage of married service members has increased to 58 percent this year from 47 percent in 1980.

"The combination of high work demands, separation from an extended family, many times in a foreign country, and financial stress is a formula for family stress and sets up a formula for family violence," said Gary Bowen, a professor of social work at the University of North Carolina and an expert on military families.

CONCERNS IN MARINE CORPS

It was such concerns that led the Marine Corps to try last year to phase out enlistment by married men and women, a policy that was rescinded almost as soon as it was announced to widespread criticism. The policy directive said that an inordinate number of Marine Corps marriages were failing under the pressures of military life, in "an all too familiar pattern" that could "result in decreased performance and require command attention."

Both the Marines and some other experts point in particular to the youth of both partners in military marriages. When a 19-year-old marine marries a 17-year-old and then they get moved around the country, trouble is more likely.

"A lot of spousal abuse is the result of people getting married young and not knowing their partners well," said Rita Campbell, the director of a shelter for battered women near Fort Stewart, Ga.

Ginny Powell, a clinical social worker at the Navy's family advocacy center in San Diego, said: "In many cases the parents themselves were abused or neglected. Many of them are now immature parents."

ARMY TRAINING CITED

Although some family specialists, both civilian and military, say that troops trained for combat often bring combative behavior home with them, military officials deny any link. "While we train soldiers to be aggressive, they're not trained to be abusers," said Col. Jim Schile, an Assistant Deputy Secretary of the Army for Morale, Welfare, Recreation and Family programs.

At any rate, overt violence is not the only type of abuse found in military families. In San Diego last June, a neighbor reported a case of child neglect involving the 4-month old daughter of a 22-year-old petty officer and his 20-year-old wife. By the time civilian authorities arrived, however, it was too late.

"The child looked like someone from the Sudan who just starved to death," said Lieut. Comdr. Norma Jones, director of the Navy family advocacy center in San Diego. "It was a family that fell through the cracks."

The parents were convicted of second-degree murder earlier this month and face prison terms of 15 years of life.

This summer, the Navy will train family counselors in a new program to help children who have witnessed spouse abuse in their home.

"It's becoming clear," said Ms. Rosswork of the Navy's Family Advocacy Program' "that if we want to prevent domestic violence, then we need to start doing something pro-active with children currently in homes where there's domestic violence."

[From Time, May 23, 1994]

THE LIVING ROOM WAR

(By Mark Thompson)

(As the U.S. military shrinks, family violence is on the rise. Can the Pentagon do more to prevent it?)

WASHINGTON.—Jeromy Willis, an Air Force enlisted man and ex-Army marksman, had been trained to kill the enemy. But when the cold war ended and his base faced closure and his career began looking less secure and his marriage came under strain, the enemy started looking a lot like his wife Marie. First he tried to kill her with a flaming propane torch. Weeks later he tried to strangle her. She fled to her mother's home in Rhode Island, and the Air Force confined Jeromy to his base in Myrtle Beach, South Carolina. But when Marie returned to press charges against her husband, he had somehow learned of her supposedly secret appointment. Outraged that she was ruining his career Jeromy confronted Marie inside the waiting room of the base legal office early last year. He fired a pawnshop pistol into her chest. As horrified witnesses watched her yellow dress turn crimson, she screamed, "Jeromy, no!" And then he fired a second round into her brain.

Marie Willis became another victim of an alarming increase in domestic violence on America's military bases. The rise in abuse of spouses and children, researchers and the Pentagon believe, may be connected to the painful reduction in U.S. fighting forces following the end of the cold war. In 1986, there were 27,783 reported cases of violence in military families; last year there were 46,287. Now, a confidential—and unprecedented—Army survey obtained by Time suggests that spousal abuse is occurring in one of every three Army families each year—double the civilian rate. Each week someone dies at the hands of a relative in uniform, and nearly 1,000 formal complaints of injury are lodged against family members in the service. Untold thousands may suffer in silence.

Over the past year there has been gory evidence of the home-front carnage. A soldier in Washington state killed his wife, packed her body into a suitcase and threw it off a bridge. In Southern California a Marine who was a hero in the Persian Gulf War shot and killed his newly divorced wife and their five-year-old daughter. In North Carolina an airman hacked his wife to pieces, wrapped her remains in plastic garbage bags and stored them in the refrigerator. In Hawaii a sailor killed his baby daughter, stuffing her into a duffel bag and tossing her into Pearl Harbor. A soldier in Germany, angered at his wayward spouse, decapitated her G.I. lover and placed the severed head atop his wife's nightstand.

The new Army survey offers an unvarnished and quantifiable look at the problem. "The rates of marital aggression are considerably higher than anticipated," declared the researchers, who have questioned more than 55,000 soldiers at 47 bases since 1989, and continue to do so.The growing number of victims seeking help "is soon likely to exceed treatment resources." And the problem isn't restricted to low-level or poorly performing soldiers. "Often those in the most responsible and stressful positions," the report says referring to noncommissioned officers, "appear to be more likely to be involved in abusive episodes." The violence ranges from kicking, biting and punching to attacks with knives and guns.

The Army's efforts to curb such violence—through counseling and other help—are rarely mandatory. That, says the study, leads to two critical failings: few soldiers take advantage of the help, and the worst abusers don't participate. Researcher Peter Neidig, whose company, Behavioral Science Associates in Stony Brook, New York, is conducting the Army survey, believes similar levels of domestic abuse exist in the other services. While Neidig believes the Army is ahead of the civilian world in confronting the issue, Army officials admit they are only starting to understand the extent of the problem. "We were being very reactionary, explains Delores Johnson, who heads the service's program to combat such abuse. Rather than trying to prevent it, the Army emphasized medical and legal help after the violence occurred. "We're just beginning to take a look at what prevention means," says Johnson. The Army study, which is designed to identify groups at high risk of domestic violence, found evidence that abuse tends to escalate at bases scheduled to shut down. "We're very interested in that," Johnson says, "because we're in the middle of downsizing." Pentagon officials also say their efforts to encourage military families to report such abuse has played a role in the rising number of reported cases.

But the military is spending only $80 million of the $120 million it says it needs this year to fight domestic abuse. That $40 million gap is less than the price of one of the three dozen F/A-18 fighters the Navy is buying in 1994. The shortfall, officials concede, means most of the money will still go toward the medical and legal bills of those already ensnared in domestic terror, instead of focusing on prevention.

Gail McGinn, a top Pentagon personnel official, says the military family's nomadic existence contributes to the problem. Most move every three years, ripping the military family from the support network of relatives and friends that civilian families count on when times get tough. The long absences of the breadwinner—on lengthy cruises, battlefield exercises or peacekeeping missions—add to familial stress. The military drawdown, from 2.2 million troops in 1987 to 1.5 million in 1997, compounds the problem. Soldiers and sailors who once dreamed of a secure, 20-year career and a handsome facing a truncated career, no pension and bleak employment prospects in the civilian world.

"Everybody is wondering about what their own careers and their own finances will be, and of course, financial issues are major contributors to family violence," McGinn says. "There's a lot of tension." Outside experts point to other factors. Compared with civilian society, the military population is younger and drawn from lower socioeconomic ranks, and consequently more violence prone. Alcohol abuse is relatively high, pay tends to be poor and the military attracts men who have authoritarian tendencies.

Also boosting the opportunity for such violence is the fact that nearly 58 percent of the military are married, perhaps the highest proportion in history. According to Pentagon figures, abuse is largely confined to mid-level enlisted personnel like Air Force, Army and Marine sergeants and Navy petty officers. They're old enough to be married and have children—and the resulting debts—but often earn less than $20,000 a year.

Some military training contributes to a misogynist attitude, says Joan Zorza, director of the National Battered Women's Law Project in New York City. "A man is criticized by being told he's acting like a woman—a 'pussy'—to humiliate him and make him tougher," she says. "That often translates into seeing women as not being important and therefore easier to oppress."

An earlier study had already found a correlation between combat jobs and domestic violence. Troops trained to fight are more likely to batter children than their uniformed colleagues in noncombat jobs, according to a 1979 study of 985 case of child abuse among Air Force personnel by the University of New Hampshire, "There's a spillover from what one does in one sphere of life in one role to what one does in other roles," says Murray Straus, a University of New Hampshire family-violence expert who worked on the study. "If you're in an occupation whose business is killing, it legitimizes violence."

The inherent lack of autonomy in a military job also sets the stage for abuse. "It's all about control," says Cindy Zamora, the wife of an Army tanker. She now lives in a shelter for battered women in Killeen, Texas, just outside huge Fort Hood. She moved there after her husband bit her, beat her and threatened her with a knife. "There's a lot of women in here married to soldiers whose sergeants protect them if they're good soldiers," she says. "They can't control their superiors on the job, so they control us." Although her husband admitted under oath last month in a Texas courtroom that he is married to two women, he remains in the Army. "He was under a lot of stress and was nervous about being kicked out," she says. "He said if he didn't get his sergeant's stripes, I was going to get hurt." She's angered that he remains in the Army in good standing even as it investigates his bigamy. "The military knows he has two wives, but he's still in the Army," she says. "They just sweep it under the rug."

Katherine Coleman was married to an Army major and psychologist. "It's a myth that domestic violence doesn't happen in officers' families," says Coleman, now divorced and living in San Antonio, Texas. Her husband went so far as to draft a prenuptial pact detailing sexual obligations and rules governing outside friendships. She recalls him cornering her in the kitchen or bathroom and not letting her leave until she gave in to his demands. "We argued once for four hours in the kitchen, and he wouldn't let me out," she says. "I had to urinate on the kitchen floor." But she had power over him too. "He hit me a couple of times until I told him his career would be over if he did it again," Coleman says. He remains in the Army, training its mental-health workers.

The men involved in such episodes aren't eager to discuss them. But some acknowledge that the prospect of watching lifelong dreams shatter as the military shrinks can make them lash out in rage and frustration. "It stresses you out, but you can't hit the officers," an Army man says. "So you wait till you get home and take out on her and the kids." Another soldier will only say of his wife that "we abused each other." In fact, the Army survey suggests that spousal abuse usually involves violence by both partners. But women, it notes, are far more likely than men to be injured.

The military has reacted to the problem by creating counseling programs and discipline boards. Military families are told to report any instances of domestic violence they witness, even if it occurs outside their family. But few abused spouses are willing to risk their family's financial future by seeking help through Army channels, because such complaints often end up on the desk of the abuser's commander. "The military needs to do something to ensure the confidentiality of spouses so the wife can go and get help without hurting his career," says Phyllis Lonneman, a Kentucky attorney representing a woman charged with the slaying of her Army husband in August after years of alleged abuse. "It doesn't matter how good or bad the military's programs are if the spouses are afraid to use them."

And the abuser's commander often isn't sympathetic to the battered spouse, according to Sadonna Polhill, who is the top caseworker at the Killeen shelter. "They'll tell the wife, 'This is a bunch of bull—quit making these accusations because you're ruining your husband's career,'" she says. "They try to make the one who's being battered at fault." Anxiety over their husbands' careers has led to a sharp drop in the number of women—from 85% to 50% over the past two years—who permit the shelter's staff to alert military officials to the women's visits. "A lot of that has to do with the pressures on the soldiers and their families," Polhill says. "And many are deathly afraid of their husbands."

While many civilian domestic-violence experts praise the strides the military has made in dealing with the problem, they say follow-through is often lacking. A Pentagon investigation last year surveyed 13 Pentagon prisons to see how many were complying with a 1982 federal law obligating them to alert crime victims, including abused spouses, when perpetrators are released. Not a single one was. In a 1990 case, a Kentucky woman, Andrea Turner, was murdered by her husband three days after his release from a military prison. The killer, who had been locked up for abusing her, said he shot her five times in the back because she ruined his Army career. She had made plans to move secretly to a new home before his official release date, but the military neglected to tell her that he was getting out two months early because of accumulated military leave. "It was a nightmare," one Army official involved in the case says. "Nobody told her."

The problem isn't limited to spouses. Child abuse is also on the rise, leading the Pentagon to create a child death-review task force that will eventually probe all child deaths in the U.S. military to determine if abuse is to blame. "After a child dies, people say it was an accident," says Army Colonel Will Hatcher, who is helping to launch the program. "But we want to go back and check." For several months the task force has been examining child deaths at the Fitzsimons Army Medical Center in Colorado and at hospitals at the Bremerton naval base in Washington and Travis Air Force base in California.

Despite the Pentagon's intentions, its sometimes haphazard efforts offer little comfort to victims and their families. Jeromy Willis, for example, was sentenced to life imprisonment for the murder of his wife and is now serving time at Fort Leavenworth, Kansas. Yet Marie Willis' family remains bitter, because the military ignored so many warnings that a tragedy was afoot. Her family says Jeromy was confined to base twice because he tried to kill Marie, but he was allowed to roam freely on the base when the Air Force invited and paid for her to return there and testify against him. "Abused people should not rely on the military for protection" says her father, Eugene Mello, himself an Air Force veteran. Her mother, Marie Mello, puts it more simply: "The Air Force was an accomplice in my daughter's death."

Mr. DOMENICI. Now, Mr. President, I have discussed the amendment that I am sending to the desk at this moment and ask that it be immediately read. It has been discussed with Senator NUNN and Senator NUNN's staff and Senator THURMOND and Senator THURMOND's staff.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside.

AMENDMENT NO. 2162

(Purpose: To require the establishment of the program previously authorized for payment of transitional compensation to dependents of members separated for dependent abuse and to improve the benefits provisions)

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 2162.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 128, between lines 2 and 3, insert the following new section:

SEC. 522. TRANSITIONAL COMPENSATION AND OTHER BENEFITS FOR DEPENDENTS OF MEMBERS SEPARATED FOR DEPENDENT ABUSE.

(A) REQUIREMENT.—subsection (a) of section 1058 of title 10, United States Code, as added by section 554(a)(1) of Public Law 103-160 (197 Stat. 1663), is amended—

(b) COMMENCEMENT AND DURATION OF BENEFITS.—Subsection (e) of such section is amended to read as follows:

"(e) COMMENCEMENT AND DURATION OF PAYMENT.—(1) Payment of transitional compensation under this section—

"(A) in the case of a member convicted by a court-martial for a dependent-abuse offense may commence as of the date of the approval of the court-martial sentence by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice) if the sentence, as approved, includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances; and

"(B) in the case of a member being considered under applicable regulations for administrative separation from active duty in accordance with such regulations (if the basis for the separation includes a dependent-abuse offense) may commence as of the date on which the separation action is initiated by a commander of the member pursuant to such regulations, as determined by the Secretary concerned.

"(2) Transitional compensation with respect to a member may be paid for a period of 36 months, except that, if as of the date on which payment of transitional compensation commences the unserved portion of the member's period of obligated active duty service is less than 36 months, the period for which transitional compensation is paid shall be equal to the greater of—

"(A) the unserved portion of the member's period of obligated active duty service; or

"(B) 12 months.

"(3)(A) If a member is sentenced by a court-martial to receive punishment that includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances as a result of a conviction by a court-martial for a dependent-abuse offense and each such punishment applicable to the member under the sentence is remitted, set aside, or mitigated to a lesser punishment that does not include any such punishment, any payment of transitional compensation that has commenced under this section on the basis of such sentence in that case shall cease.

"(B) If administrative separation of a member from active duty is proposed on a basis that includes a dependent-abuse offense and the proposed administrative separation is approved by competent authority under applicable regulations, payment of transitional compensation in such case shall cease.

"(C) Cessation of payments under subparagraph (A) or (B) shall be effective as of the first day of the first month following the month in which the Secretary concerned notifies the recipient of such transitional compensation in writing that payment of the transitional compensation will cease. The recipient may not be required to repay amounts of transitional compensation received before that effective date (except to the extent necessary to recoup any amount that was erroneous when paid).".

(c) HEALTH, COMMISSARY, AND OTHER BENEFITS.—Section (e) is further amended—

(1) by redesignating subsection (j) and (k) as subsections (k) and (*l*), respectively; and

(2) by inserting after subsection (i) the following new subsection (j):

"(j) HEALTH COMMISSARY, AND OTHER BENEFITS.—(1) A dependent or former dependent entitled to payment of monthly transitional compensation under this section shall, while receiving payments in accordance with this section, be entitled to receive medical and dental care, to use commissary and exchange stores, and to receive any other benefit that a dependent of a member of the armed forces is entitled to receive on the basis of being a dependent of a member of the armed forces to the same extent and in the same manner as a dependent of a member of the armed forces on active duty for a period of not more than 30 days.

"(2) If a dependent or former dependent eligible or entitled to receive a particular benefit under this subsection is eligible or entitled to receive that benefit under another provision of law, the eligibility or entitlement of that dependent or former dependent to such benefit shall be determined under such other provision of law instead of this subsection.".

(c) CONFORMING AMENDMENTS.—(1) The heading for such section is amended to read as follows:

"§ 1058. Dependents of members separated for dependent abuse: transitional compensation and other benefits".

(2) The table of sections at the beginning of chapter 53 of such title is amended by striking out the item relating to section 1058 (as added by section 554(a)(2) of Public Law 103–160 (107 Stat. 1066)) and inserting in lieu thereof the following:

"1058. Dependents of members separated for dependent abuse: transitional compensation and other benefits.".

Mr. DOMENICI. Mr. President, I rise today to offer an amendment that will significantly contribute to the efforts I have made over the last 2 years, which the Senate Armed Services Committee have supported, relative to the issue of military spouse and child abuse. My colleagues will recall in 1992 I introduced the "Abused Military Dependents Protection Act." This legislation was adopted in the fiscal year 1993 Defense Authorization Bill, Public Law 102–484.

Prior to my legislation, abused military spouses and their dependents whose military member had served the requisite number of years to earn retirement benefits, but was dishonorably discharged from the service for spouse or child abuse, were not eligible to receive any of the retirement benefits the military member (and in my view the spouse and family) had earned. Section 653(e) of Public Law 102–484 ensures that abused military spouses and their children whose military member is dishonorably discharged for spouse or child abuse will have access of up to 50 percent of the member's retirement benefits, as well as access to health care, commissary, and other privileges which they would have otherwise maintained if the member was not dishonorably discharged.

As important, I included language in Public Law 102–484 requiring a comprehensive study by the Department of Defense to provide statistics on abuse related to separations from military service on a force-wide basis and without regard to the number of years of military service of the member. In addition, the study will examine the entire scope of family violence and the actions taken or planned to be taken by the Department of Defense to reduce or eliminate disincentives, including the socioeconomic impact on a force wide basis, for dependent members of the Armed Forces abused by the member to report abuse to the appropriate authorities.

Regretfully, Mr. President, the Department of Defense has not yet submitted its report. In a letter dated May 4, 1994, the Assistant Secretary of Defense for Personnel and Readiness informed me that I would have the report in late May. Unfortunately, and while I understand it should be delivered momentarily, I have yet to see it. Frankly, I am disappointed. I have tried very hard to obtain this report because I knew that it would be very helpful in answering more completely the full scope of the problem and possible future remedies.

Nevertheless, Mr. President, I rise today to take another step forward in the fight against military spouse and child abuse. Admittedly, this amendment is limited in scope, but I know it will be helpful to hundreds of abused spouses and their children.

Mr. President, the amendment I am offering today will authorize health care, commissary, and other benefits that are authorized by the original legislation I introduced in fiscal year 1993 that is now part of Public Law 102–484. Unfortunately, the legislation that was passed last year in section 554 of Public Law 103–160 does not contain these benefits. My amendment will make last year's section of Public Law 103–160 consistent with my original legislation, now section 653 of Public Law 102–484.

Mr. President, military spouse abuse is a serious problem. At this point, I would like to ask unanimous consent to place in the RECORD articles from Time magazine and the New York Times entitled, "The Living Room War: As the U.S. military shrinks, family violence is on the rise. Can the Pentagon do more to prevent it?," and, "Military Struggling to Stem Increase in Family Violence." These articles make it clear that spouse abuse continues to increase, and we need to do more about it. Time magazine reports:

> In 1986 there were 27,783 reported cases of violence in military families; last year there were 47,287. Now a confidential—and unprecedented—Army survey obtained by Time suggests that spousal abuse is occurring in one of every three Army families each year—double the civilian rate.

The New York Times reports:

> In a grim illustration of the most severe problems, an average of one child or spouse dies each week at the hands of a relative in uniform. Over the last six years, an average of 37 children have died each year as a result of abuse in military families. In 1993, the figure was 38 deaths.

Mr. President, the amendment I am offering today is critical to ensuring that the fear factor associated in reporting domestic violence cases in the military is significantly reduced. Too often in the past, abused military spouses and their children have had no option but to endure the abuse. My legislation provides them with a "way out" without risking financial ruin.

The soon-to-be released study will provide us the information we will need to make additional changes in the system next year, but the time for delay has passed. We can no longer afford to wait. Military spouses and children are dying. We must direct the Department of Defense to implement this program so that we can continue our responsible efforts to deal with this problem. I have gratefully, appreciated the Senate Armed Services Committee's support on this issue over the last 3 years, and I look forward to their continued support, and the support of all of my colleagues.

Mr. President, this amendment says for those situations of 1 year to 20 years of service and a dishonorable discharge during any of those periods for any military member convicted of domestic violence, either spousal or child, that the spouse, the nonoffending child and children will receive benefits.

It also says that those benefits will add to them health care, commissary, dental, and medical for this transition period.

The law right now says that we will have a 3-year payment to them for 3 years of benefits for the transition. We are adding these new covered items—health care, commissary, dental, and medical—to the existing law.

Frankly, I was going to try to make this mandatory in the original amendment, but I am not doing that because I have the assurance of the chairman that he is going to join me here on the floor urging that the military take care of this responsibility.

Clearly, it is something they ought to do and ought to do as quickly as possible. They have not yet started the program for the 1- to 20-year military members that was adopted last year in the defense authorization bill. The DOD authorization conference report that passed the Senate last year included language that gives the Secretary authority to cover abused spouses and children of 1- to 20-year military members who were discharged because of these violations, and it gives their spouse and their children some benefits. They are not even carrying that out yet.

We add a few benefits here today, and perhaps this colloquy on the floor of the Senate will cause them to take it serious enough to get it started as quickly as possible.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, first, let me congratulate the Senator from New Mexico for addressing his amendment in a very consistent and, I think, very effective way on this problem which he has identified and which he has taken the lead in legislative activities to try to deal with, the problem that the Senator from New Mexico is addressing, the disincentive that has been built into the overall military benefits package for spouses and children.

When a spouse is being abused or children are being abused by a military member, there is a disincentive that has existed for them reporting that and having it dealt with.

I think the whole Nation has seen in the last several weeks a great deal of attention on this question of spousal abuse, without referring to any case, the need to deal with it at the very beginning, and to have it reported when it takes place or when children are abused.

Yet in the military there has been a disincentive because immediately if your spouse is reported for any kind of abuse, then basically your transitional benefits have not been there, you have not had benefits because that individual may be kicked out of the military, and then the spouse and the children also suffer.

So this amendment reemphasizes the dedication of the Senator from New Mexico and the importance the Senate of the United States attaches to this problem.

It is my understanding that the military is about to come out with their full implementation of this. But this amendment makes it clear that the Senate of the United States is going to follow this closely and insist that it be done.

I join the Senator in expressing my support for this concept. This amendment, as I understand it, authorizes certain additional transition assistance for spouses and children that are found in this situation, so that the bottom line is they are not discouraged from making timely reports of spousal or children abuse.

This amendment does not make this program mandatory. I think the Senator from New Mexico perhaps more than anybody in the Senate understands that we do not need new entitlement programs no matter how worthy they are. So this keeps it out of the entitlement or mandatory program category. But it does, I think, merit the support of the U.S. Senate.

So I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment of the Senator from New Mexico.

So the amendment (No. 2162) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, while Senator NUNN, the chairman, is on the floor, let me say to him a few hours ago there was a very difficult vote here on the floor with reference to a cost-of-living index and the way we would treat some of our veterans with reference to cost-of-living index versus the way we were paying civilians or how we were handling civilians or others.

I did not know that we had finished the debate last night but just for a few minutes this morning. So I did not have anything to say. But I want to say to the Senate I believe the Warner amendment, in principle, is absolutely right. So I voted for it.

In fact, I have never thought we should treat the men and women—those who are discharged from the military and get pensions of any type or VA benefits—I did not think we should treat them any differently than civilians or even Social Security recipients. I thought they all should be treated the same.

In fact, I have introduced legislation to that effect and have had many, many supporters for it years ago.

So in principle, we were right in voting it in. But I also want to say that to create a new entitlement and not call it one, but rather say we will pay it out of appropriated accounts, is just not the way to conduct business here.

For many, and this Senator is one, I am worried when we take a $300 million or $400 million cut in defense. In fact, I think we all came to the floor, I say to Senator NUNN, on the so-called Exon-Grassley amendment. We did not want further cuts in the allocation of defense. And even when that amendment went through in its fullest, it probably would have been a half a billion dollars or maybe $750 million that we would have taken out. But here in one fell swoop we are going to have to fund about $360 million, which is what I understand this entitlement is worth.

I want to pledge to the Senate and to all of those concerned about defense that I am going to use every bit of my available knowledge and information about these processes to find a way to pay for that COLA addition, but not to pay it out of the ongoing annual defense program, because I think it will affect the personnel and operations and maintenance in a very, very dramatic way.

We have to find a way to pay for entitlements like entitlements are paid for out of the entitlement pools that the U.S. Government is paying for entitlements in this country. We cannot let this precedent, which is a bad precedent, now take hold, and actually pay for it out of the operating accounts of an appropriation budget.

So I will spend as much energy and effort and as much of my staff's talent, working with others, seeking to find a way to do this without further decimating the defense operations, and maintenance, and the personnel of the military who are living day by day defending us.

I think the veterans would tell us to do it another way. So we owe it to them to try.

I thank Senator NUNN for his efforts and I hope together we will be able to find a way to do it.

Mr. NUNN. Mr. President, I welcome the remarks of my friend from New

Mexico. I hope, too, there are alternative ways to accomplish this purpose.

I agree that there should be equity in these COLA's I do not agree that the military should be singled out. And they have been, and that is regrettable.

I made a very long speech on the subject last night and I will not repeat it today. If the Warner amendment had failed, I did have an amendment that I was going to propose which would equalize the COLA sacrifice between military and civilians. That, too, might have failed, and probably would have failed. But it is clear, after the Senate adopted the Warner amendment, that the amendment I was going to propose was not consistent with that amendment. So there was no need to go back over the same ground again.

But what we have done here is we have taken an entitlement restraint that was in last year's budget bill and we have decided that we are going to compensate that, make it whole, for the people on military retirement. And we have done it by taking it right out of the defense bill. That is what has been done in this authorization bill.

What has not been done is the money has not been found.

I have seen some of the letters put out by the national organizations. They say it can come out nonreadiness accounts. I went through that very clearly today. It either comes out of readiness, or it comes out of procurement, or research and development, or it comes out of force structure. No one has identified where this money is going to come from. So it has not been appropriated. It has not gone through the appropriations.

The amendment I would have proposed would have taken care of this for 4 years with some sacrifice, but about half the sacrifice the American people are now being asked to undertake.

This amendment only calls for 1 year, if they find the money. So the money has to be found for 3 more years. There is a total of $2.2 billion. We only dealt with $370-some-odd million this time.

In order to get $370 million out of procurement, you do not want to do it to programs that are already underway, so you do it out of the front-end of procurement programs just getting started. In order to do that, because of the slow spendout rate on initial programs like ships, to get $376 million in outlays, which is what we are talking about, expenditures this year, you have to cut about $8 billion in procurement. So if we do this every year we are talking about astounding cuts in the overall defense of our country.

We already are on a downslide. We are already cutting defense too much. So I welcome the comments of the Senator from New Mexico and I welcome his help. I hope this program can be worked out.

I have managed, I am sure, to offend every group around town during the course of my opposition to this amendment. But that is all right, too, because at some point you have to tell the facts as they are. And the people out there in the field who contact me, military retirees, are astounded when they find out what they are advocating has to come out of the defense budget. That is not what they want. The organizations here in town, like every other organization—and they are certainly no different in this respect—are seriously guarding every single penny in entitlement programs.

It is no mystery why entitlement programs are running away from us. It is not just health care. That is the main culprit. But the reason is because people are very vigilant in protecting those programs.

It is no mystery why we have the kind of deficits we have. All you have to do is look at the charts—and I will not go back through those again. But I think the exercise we have been through in the last 24 hours on this particular matter is as clear a demonstration as anyone will find about why we have the fiscal problems we have in this country today.

So I welcome the assistance of the Senator from New Mexico here. I am sure, if anyone can find a way to do this without damaging the defense of the country, and maintaining the equity and fairness to the military retirees, and without increasing the deficit, I am sure he will find a way. But that is not an easy path to probe. I will be working with him to try to accomplish that.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. HARKIN). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I would just add to this.

As you look at what is being contemplated between now and the end of the year, or now and the end of the year for health care, and maybe 6 months into next year for welfare reform, I do not have the exact numbers, but you see we have a law that if you want to add to an entitlement, you have to subtract from an entitlement, or you have to pay for that increase with taxes.

My best estimate over the next 5 years, between welfare reform and health care reform, is that we probably are going to cut entitlements of one type or another in excess of $150 billion between Medicare, Medicaid, and those that we want to either cut or end as part of welfare reform.

Frankly, it seems to me, if we are going to reduce entitlements that much for those programs, maybe a small portion right off the top ought to go to pay for the COLA's for veterans. That might be one way to look at it. And I will explore that before too much more time expires.

I yield the floor.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, what is the pending business on the floor of the Senate, if I might inquire?

The PRESIDING OFFICER. The Nunn amendment to the Warner amendment is the pending business.

Mr. PRYOR. Mr. President, I ask unanimous consent the pending amendment be set aside temporarily so I may proceed with an amendment which I am sure is going to require some debate—I hope not much debate.

I am going to make a very short opening statement. I know Senators are trying to leave for the Fourth of July break, and I will be very brief.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2163

(Purpose: To prohibit government-to-government transfers of the Airborne Self-Protection Jammer [ASPJ], or any related software, abroad)

Mr. PRYOR. Mr. President, today I rise to offer an amendment with Senator ROTH of Delaware to prohibit the U.S. Government-sponsored sale of the very troubled airborne self-protection jammer. This is known as the ASPJ, and Senator ROTH and I do not want to see the foreign military financing program go forward with this sale abroad.

The Senate has heard me on this issue on several occasions with my colleague, Senator ROTH. I originally intended to offer an amendment banning any sale, either FMS or commercial, of the ASPJ but, Mr. President, today I have a much more modest proposal that I hope will be accepted by the Senate. Our amendment that we offer today simply forbids any use of the FMS to export the ASPJ.

The ASPJ dates back to the 1970's, when our country first decided we needed to update and improve our radar jammer technology. After years and years of problems, the system actually failed its operational tests. Then-Deputy Secretary of Defense Atwood wrote, in July of 1989, that the ASPJ "* * * has not satisfactorily passed the test relative to cost, performance, or reliability. This is a clear case of not meeting the exit criteria for a transition from the full-scale development phase to the production phase." That was by Deputy Secretary Atwood.

In subsequent investigations by the inspector general, the Pentagon Operational Test Director, and the General Accounting Office, all found that the

ASPJ was tested fairly, the jammer badly flunked its operational test, and that the ASPJ should not be produced. The U.S. Air Force came forward and said: We no longer desire to have this particular radar jammer on U.S. Air Force planes.

In December 1992, the Defense Secretary killed this entire $2 billion program. Despite the fact that the ASPJ has failed operational tests, and despite the fact that the DOD terminated production of the ASPJ in December of 1992, the ASPJ is one of those weapons systems that refuses to die.

We have heard about a cat with nine lives. Mr. President, this is a turkey with nine lives.

The latest episode in the ASPJ saga involves the potential sale of the ASPJ to foreign countries, specifically Switzerland and Finland. Are these sales from the manufacturer or the contractor to the Governments? No, these are Government-to-Government sales. FMS sales, if I may be more specific.

Originally, I was told that the ASPJ would not be sold abroad. I received two letters from the then Under Secretary of Defense assuring me that the ASPJ would not be approved for sale under the FMS program. Last September, Mr. Deutch wrote, and I quote:

> I am not approving ASPJ for the Foreign Military Sales Program.

In March 1994, Mr. Deutch again wrote me, and I quote:

> The department's position remains that foreign military sales funds will not be used to cover sales of ASPJ to foreign countries because the department does not want to apply a warranty on a system that will not be procured for U.S. aircraft.

I repeat that, Mr. President, because I think it encapsulates what our Department of Defense's position was in March 1994.

> The department's position remains that foreign military sales funds will not be used to cover sales of ASPJ to foreign countries because the department does not want to apply a warranty on a system that will not be procured for U.S. aircraft.

Only a few months later, it now appears that the Department of Defense has changed its tune. At a hearing that I held on March 22 of this year, I was assured that while sale of the ASPJ abroad would be allowed, I was also assured at the same hearing that these exports were so-called commercial sales, not Government-to-Government sales. This means that the contractors, and not the U.S. Government, would become the exporter of these units. I was told by Miss Colleen Preston, the Deputy Under Secretary of Defense for Acquisition Reform on March 22 before the Federal Services Subcommittee of the Governmental Affairs Committee:

> What we have done is said to foreign customers that the ASPJ may be sold as a commercial item by the company to the contractor or another Government.

This is our own Deputy Under Secretary of Defense for Acquisition Reform, Colleen Preston. She concludes:

> However, because the system did not pass operational testing, DOD will not allow a purchase of the ASPJ system as an FMS sale.

Frankly, Mr. President, this amazes me. This radar jammer that costs $2.5 to $3 million per system, this jammer that failed operational tests, this jammer that the Air Force says it does not want, this jammer that is so bad that the Pentagon canceled it, is being sold now by our Government to foreign countries.

I was not happy to hear that a failed system was being sold abroad. I originally intended to offer an amendment to block all commercial sales. I am not doing that today. I must say that I was relieved that at least the U.S. Government was not providing the jammer to these other particular countries.

However, DOD has changed its tune again. In direct contradiction to this testimony before our subcommittee, as well as a contradiction to the letters from Deputy Secretary John Deutch assuring me that ASPJ would not be sold through the FMS program, the Pentagon now plans to sell the software component, which is the heart of the system, of the ASPJ, and integrate the ASPJ through the FMS system. Contractors will export only the ASPJ hardware, which is basically nothing more than the box that the software is in.

In short, Mr. President, while the ASPJ contractors are going to be responsible for exporting the hardware on the ASPJ, the U.S. Government will be the exporter of the all-important ASPJ software. And this software, which is the brains and the heart of the ASPJ, is what could not pass muster, it could not pass tests, it could not get by the operational testers in all of the tests conducted between 1989 and 1992. This jammer simply does not work. It has never worked.

According to the General Accounting Office in a report entitled "Use of FMS in Proposed Commercial Sales of Airborne Self-Protection Jammer," I quote:

> While the United States is relieved of any legal or financial liability for problems occurring under a foreign military sale, it would be expected to resolve contract disputes. Foreign Government officials state that they expect items to meet the specifications included in the LAO [letters of offer and acceptance] to look at the United States rather than the contractor to ensure performance.

Mr. President, who is going to be holding the bag if these systems do not work, according to the General Accounting Office? My interpretation is the old U.S. taxpayer. If we sell the ASPJ through the FMS system, the U.S. Government has a long-term obligation. GAO goes on to say:

> Use of separate procedures for hardware and software sales might make such disputes more contentious because experience has shown that it is often difficult to trace system performance problems to a discrete hardware or software problem.

Our simple amendment, offered by the distinguished Senator from Delaware, Senator ROTH, and myself, does nothing to stop the export of the ASPJ systems to foreign countries. While I personally think that we would be better off selling this system to our enemies and not our friends, this comes down to a case, I think, of caveat emptor: "Let the buyer beware."

What this amendment does say in its simplicity and in its directness and, hopefully, speaking to a theme of common sense, is that the ASPJ contractors—Westinghouse and ITT—and not the U.S. taxpayers should bear the full burden of this particular export.

We know that the jammer does not work. It has never worked. Our amendment says that the Government should not be in the position of selling a failed weapon system to other nations. I am urging my colleagues to support this amendment offered by Senator ROTH and myself.

Mr. President, in conclusion, let me state a suggestion. We today have 95 of these $3 million radar jammers stored somewhere in a warehouse. It would be my suggestion that Westinghouse and ITT—who I think have hired almost every high-paid lobbyist in Washington, DC, to defeat this amendment—it is my suggestion that we call up Westinghouse, we call up ITT and we say, "Ladies and gentleman, we have 95 of these systems. We would like to sell them back to you. We will discount these systems 15, 20, 30 percent." We have already paid them a good price for them. They made them; they manufactured them. They have gotten their money. So let them buy them back, let the taxpayer recoup some money, and then if Westinghouse and ITT want to go to the State Department and get a license that costs $200, then they can go to Finland, Switzerland, South Korea or wherever, and they can sell these 95 ASPJ's. The taxpayer will have recouped some money and we will be rid of this system that has not worked now for over 20 years.

A second suggestion, Mr. President, if that suggestion is not accepted by Westinghouse or by the Department of Defense, ITT, and all the other parties. If you want to create some jobs and think the ASPJ is good, that it works; you think our allies will buy this system even though it does not work, that is fine and good. Go out and start manufacturing these ASPJ's. Build all you want. But the conractors should take the risk. Do not burden the American taxpayer further. We have already spent well over $2 billion for a system that does not work.

The amount of money we have spent on this system Mr. President—and I just left the Finance Committee where we are about to be arguing about long-term health care—could begin to fund long-term health care, what we have spent on this system that has never worked and is not going to work, that our own Air Force says they will not put on an Air Force plane.

Mr. President, I hope our colleagues will not vote to continue to make the Government party to selling this system abroad to friendly nations, making the taxpayers potentially obligated for the obligations or troubles that are going to occur relative to these foreign military sales. Let us stop the Government's involvement in this matter and let us return to common sense.

Mr. President, at this point I am going to yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I rise in very strong opposition to this amendment. I am mystified by this continuous fixation on the part of some Members of this body with the ASPJ. It is really the ardor of the zealot that is involved here with respect to this amendment, and let me go through and just try to detail why.

Also let me say to my good friend from Arkansas, I do not know where these high-paid lobbyists he referred to are. None of them have come to see me. The people we talk to from Westinghouse are the Westinghouse people. I know that it makes for good rhetoric and a lot of theater on the floor of the Senate to make that allegation. But to the best of my knowledge, there is no substance to it I want to say to the distinguished Senator from Arkansas. I know it is a nice rhetorical debating flourish to make that assertion, but as far as I know there is no substance to it, and I certainly have not encountered it. People we have been talking to are the Westinghouse people, of course, a significant employer and a very responsible corporate citizen in our State and in many other States in the country.

Now, the Senator from Arkansas has in effect knocked the ASPJ off the American procurement list. Some of us differ with him on that. We think the testing was inadequate, that it was not accurate, and that it needed to be redone. We think the ASPJ is a state-of-the-art system which could serve our own forces very well indeed. But that issue is not the issue that is now before us.

What we are now faced with is not the question of the U.S. procurement of the ASPJ. It is, rather, the question of whether this system can be sold to friendly countries that are fully aware of all of the things that the Senator from Arkansas is asserting on the floor. In fact, to be certain that they are aware of them, he has been in touch with them himself in order to make sure it is brought to their attention.

Now, the two countries involved here are Finland and Switzerland, both neutral countries but both close friends of the United States.

The Department of Defense has adopted a policy which they have adhered to prohibiting foreign military sales of the ASPJ until the system passes U.S. operational testing.

However, Westinghouse was granted a license by the Department of Defense to market the ASPJ hardware under a direct commercial license, with the software and integration remaining eligible under FMS.

Now, I must say to the Senator, I resent this reference to the hardware as just a box. It is a very sophisticated box. It takes a lot of technical skill in order to put it together. And it represents a significant technological achievement, I would say to my colleague.

Now, the Senator may want to put it down, but I do not think it is fair to a lot of highly skilled engineers and scientists and technical people who produce that item. Now, operating in good faith under DOD's marketing license, Westinghouse and ITT have been negotiating with Switzerland and Finland, both neutral nations but with longstanding friendly relations with the United States, for the sale of the ASPJ and its integration software under the limits imposed by the Department of Defense.

In fact, it has been a very difficult political decision on the part of both Finland and Switzerland to buy fighter aircraft made in this country and to reject their European counterparts.

Let it be very clear. One of the things that is at issue here is where is this acquisition going to be made—in the United States or in Europe? At the moment at least, if the distinguished Senator from Arkansas does not prevail here, the acquisition is going to be made in the United States. If he prevails, I think it is pretty clear it is going to be made in Europe. One would think that given that an acquisition is going to be made, you would want to market U.S. products abroad. But that is not the case with the proposer of this amendment.

Now, I know that behind it lies an assumption, well, if this line keeps producing, they may come back and try to get U.S. sales—I assume that is the motivation here—hence the effort to block this sale, although I think there is really no argument whatever against this sale.

However, the question here is simply are we going to prevent U.S. companies that have developed state-of-the-art systems from selling them competitively abroad? Why would we drive Finland and Switzerland to make their acquisitions in Europe rather than make them in the United States?

Now, Finland and Switzerland are aware of all of the goings on that have surrounded the ASPJ. They are aware of the test results, which many of us think were erroneous and should be redone. The Senator from Arkansas thinks not, and he used those test results to kill the U.S. procurement. Nevertheless, these countries want to go ahead. They know the history of this system. There is no concealment or deception here. In fact, the Senator from Arkansas has been in touch with these countries in order to make sure they know about it.

The system meets their needs. If we now block the sale, these countries will go to a foreign supplier.

Mr. PRYOR. Mr. President, if my friend from Maryland will just yield for one quick observation, I am not even going to ask him a question.

My friend from Maryland has mentioned on two occasions in his speech, Mr. President, that the Senator from Arkansas has been in touch with these countries. The Senator from Arkansas has never been in touch with any country about this sale. The General Accounting Office I think has put them on notice as to the test results. And I would appreciate the Senator taking that——

Mr. SARBANES. Did the GAO do that at the Senator's instance?

Mr. PRYOR. I do not know. I have no knowledge. I do not recall asking the GAO to contact these countries. I imagine they did it on their own. I do not know who asked the GAO to contact these countries.

Mr. SARBANES. It was not at the Senator's instance?

Mr. PRYOR. No.

Ms. MIKULSKI. Will the Senator yield? Did the Senator not write letters to these countries? Did the Senator write letters to these countries?

Mr. PRYOR. This Senator did not request GAO that these countries be contacted by the General Accounting Office.

I would be glad to read into the RECORD—and I apologize for interrupting my friend.

Mr. SARBANES. No, no. If the Senator is being misrepresented, he ought to interrupt and we ought to get it straight. Our report is that the GAO contact with these countries to bring these matters to their attention was in effect at the instance of the Senator from Arkansas.

Mr. PRYOR. That GAO planned interviews to respond to a letter from Senator ROTH and myself which included questions such as: "Did the Department of Defense violate the policy of our own Defense Department in attempting to go forward with these sales?"

I do not know how the Senator from Maryland draws a conclusion that I contacted these governments or that I suggested that GAO contact them. The Senator from Arkansas did not do that.

I just wanted my friend from Maryland to be aware of that.

Mr. SARBANES. Mr. President, both of these countries are aware of the

ASPJ test results. They want to buy it. They regard it as the best system in the world. They see the system meeting their needs.

If this sale is blocked, it is going to go to European competitors. The net result is that system will not be allowed to be marketed anywhere. Our allies are the friendly neutral countries, such as Finland and Switzerland.

The GAO recently finished a study—yet another study at the request of the ASPJ opponents—which concluded that the software sale done through the FMS program is consistent with the U.S. Department of Defense standard practice and would not present either a national security problem or a problem of U.S. financial liability.

Here is what you have. The hardware is not going to be done through FMS; that will be on a commercial basis. The software and integration will be done through FMS. Because of the sensitivity of the mission computer software source code, that has to be done that way. It cannot be done on a commercial basis. But that is because of the sensitivity of the computer software source code.

As the GAO said, this is being done consistent with the Department of Defense standard practice. It does not present a national security problem. It does not present questions of U.S. financial liability.

The Finns and the Swiss undertook to purchase the F-18's with the understanding they would get a complete weapons system package including the key equipment to identify, prioritize, and jam enemy threat signals. They want the ASPJ. They know all the facts about the ASPJ, facts which the Senator from Arkansas has laid out on the record time and time again, and which have influenced the decision in this country about the acquisition. Despite all of that, they want to go ahead. They perceive it as a state-of-the-art system, and they want to proceed with it. It is being done consonant with U.S. law and FMS restrictions.

This amendment which would terminate the negotiations over this sale would be ill-advised. It would merely shift hundreds and hundreds of jobs out of this country and into Europe.

I very strongly urge my colleagues to defeat the amendment.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I, too, join with my colleague, my senior Senator from Maryland, in rising to oppose the Pryor amendment.

I oppose the amendment of the Senator from Arkansas because it is bad for the security of our country, bad for our allies, and a bad business decision for our country.

The Senator from Arkansas wants to prevent the sale of ASPJ through foreign military sales. He says his amendment will not prevent commercial sales but, Mr. President, it most certainly will. The U.S. Government for security reasons will not permit the sale of defense systems software commercially. Our Government requires that all software for security systems like these be sold as foreign military sales. Do you know? We do this for good reason. Why? Because it will ensure that the United States of America keeps control over the software and the secrets contained in the software. Our allies insist that software be sold and integrated as foreign military sales. They want the assurances provided by a foreign military sale that the system is integrated properly, that it is updated to meet the threat posed by potential foes, and they want their equipment to have the same characteristics as ours so they can operate with us.

Integration of the foreign military sales does not guarantee ASPJ system performance. But it does verify aircraft safety issues. It has been a long-term U.S. policy to provide hardware commercially. But for national security and for safety of flight reasons, integration in software is provided by way of the FMS program.

Why does the Pryor amendment single out the ASPJ, Mr. President? It makes no sense to restrict the sale of software and the integration of the ASPJ to foreign military sales. But we do not do that for other electronic warfare systems.

This amendment hurts the ability of American business to compete. If a foreign government cannot purchase the software from the U.S. Government government-to-government, then they are going to turn to software manufacturers outside the United States.

Who are these foreign governments? They are not evil empires. They are not Darth Vaders. They are Switzerland. They are South Korea where just a few weeks ago we were terrified that we could be going to war. We voted in this body on the fact that we should be ready to repel any invasion of South Korea.

Let me tell you. If we are out there flying on the 38th or 39th parallel, I would like the South Koreans to have the jammer.

Much has been said about how flawed the jammer is; that it is a "Heck, no, turkey," and that this debate would be portrayed as we Senators standing up for the taxpayer, and then two Senators from Maryland, hacks advocating pork barrel for some corporate guy. That is not the case. All you need to do is read Aviation Week and Space Technology, which I know many of the Senators do. On January 4, 1993, they wrote an editorial on this.

I ask unanimous consent that this editorial and the subsequent article by Phil Klass that talks about the jammer also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Aviation Week and Space Technology, Jan. 4, 1993]

DON'T KILL THE ASPJ JAMMER, FIX IT!

On December 10, most U.S. Navy combat flight crews probably were focused on the holiday season and therefore oblivious to the fact that death warrants may have been issued for some of them. On that day, the Navy notified ITT and Westinghouse it was terminating the ALQ-165 Airborne Self-Protection Jammer program. Intended to protect F/A-18s and F-14Ds against modern antiaircraft missiles, the ASPJ development effort was dropped "for the convenience of the government." This is a serious mistake that needs to be corrected.

The Navy said it terminated ASPJ because it had failed its operational test and evaluation and that provisions in the Fiscal 1993 Defense Authorization Act left no alternative (see p. 27). In reality, it seems Navy and Pentagon officials abandoned the ASPJ ship to avoid further antagonizing Sen. David Pryor (D.-Ark.), and his close friend, President-elect Bill Clinton. Pryor, who has waged a long vendetta against ASPJ, chairs the Governmental Affairs Committee's subcommittee on federal services, post office and civil service. He opened subcommittee hearings on ASPJ last March by characterizing it as a "faulty radar jammer" and "an embarrassing example of Pentagon mismanagement, blatant inconsistencies and internal deception."

After spending $1.5 billion and 15 years to develop the world's most capable airborne self-protection jammer, after several limited-production contracts to demonstrate the system could be built and after the most rigorous testing and debugging any EW system has undergone prior to full-scale production, the program was killed because it failed to pass operational tests.

Did ASPJ fail to detect or respond properly to simulated enemy radars on the Air Force and Navy test ranges? Hardly. Those who have seen the data say the system detected 98% of nearly 300 threat-emitters it encountered. And each time, ASPJ correctly identified the type of threat, selected the proper countermeasures and radiated appropriate jamming signals.

ASPJ's problems arose when actual flight test data were used in simulations intended to model a variety of real-world combat scenarios. This permitted more threats to be generated than the Navy and Air Force could afford to install on their EW ranges. But, did this make the simulation unrealistic enough to skew the assessment of ASPJ effectiveness? We think it may have.

During the simulations, ASPJ-equipped aircraft had to demonstrate a 30% greater survivability than aircraft without jammers. But in one simulation scenario, 90% of the "naked" aircraft survived, which meant 117% of the ASPJ-equipped aircraft had to survive if ASPJ was to achieve the required Measure of Effectiveness.

Through nearly 500 hrs. of operational flight tests, the ASPJ hardware had nine failures. There were an additional 12 "no-fault-later-found" removals attributed to loose connections in aircraft mounting racks. During operational tests, ASPJ's built-in-test (BIT) experienced some false alarms, but the latest BIT software was not installed. Operational testers also complained they lacked instruction manuals, but the contractors had delivered the manuals two years earlier.

Pryor notwithstanding, it would have been more logical to analyze deficiencies identified during the tests, correct them and delay fullscale production of the system for a year. This more sensible approach would have enabled the Navy to outfit a substantial portion of its F/A-18 fleet and F-14Ds before the end of the decade.

The Navy now is back at square one. Several alternatives exist—such as the Loral ALQ-178 or Raytheon ALQ-187—but time will be needed to adopt them to the F/A-18 and F-14D. And because neither has the broad capabilities of ASPJ, the Navy will have to downgrade its requirements. In the meantime, F/A-18s and F-14Ds will have to depend on the Lockheed Sanders ALQ-126B, which was developed more than 20 years ago to meet the less sophisticated threats of the 1970s.

If the U.S. faces another Desert Storm situation in the coming decade and Navy combat crews have to cope with modern threats, Pryor's comments at this hearing could haunt him: "The public should be mad at government today," he said. ". . . when a failed system like the ASPJ is put into a jet fighter, it risks the life of the brave American pilot who it is supposed to be protecting. The Pentagon should be ashamed." If Navy pilots fly into another Desert Storm situation without an ASPJ-type jammer, others will share the Pentagon's shame.

There still is time for Defense Secretary Richard B. Cheney—who has demonstrated his willingness to bite the bullet by terminating the Navy's A-12 program—to delay the ASPJ termination, convene an expert panel to assess corrective actions and get on with fixing ASPJ.

[From Aviation Week and Space Technology, Jan. 4, 1993]

ASPJ CUT LEAVES FIGHTERS EXPOSED

(By Philip J. Klass)

The U.S. Navy's decision to terminate the AN/ALQ-165 Airborne Self Protection Jammer program leaves its F/A-18s and F-14Ds vulnerable to recent-vintage radar-guided missiles until the end of this decade or later.

The action was triggered by a report from the Pentagon's director of operational test and evaluation that ASPJ failed to demonstrate the required "measure of effectiveness" (MOE) in combat simulation studies. Other, less consequential short-comings also were cited.

However, during the flight test portion of the operational evaluation at USAF and Navy electronic warfare ranges, ASPJ reportedly detected 98% of the nearly 300 enemy radar-type emitters it encountered. Every detected threat was correctly identified by type, and the system reacted by transmitting the intended jamming/deception signal, according to one electronic warfare specialist.

The decision to terminate the program, on which the Pentagon has spent about $1.5 billion—rather than defer full-scale production until simulation results could be independently evaluated and minor deficiencies corrected—resulted from provisions in the Fiscal 1993 Defense Authorization Bill.

By the time the bill emerged, Senate and House conferees had learned the preliminary results of operational tests. The bill said that if ASPJ failed to pass operational tests "none of the funds available to the Department of Defense for fiscal year 1993 or any fiscal year before Fiscal 1993 may be used for the procurement of the Airborne Self Protection Jammer system except for the payment of the costs of terminating existing contracts * * *."

ITT Avionics and Westinghouse, which jointly developed ASPJ starting in 1981, have nearly completed delivery of 100 systems under Lot 1 of a Limited Rate Initial Production (LRIP) contract and were about to start delivery of Lot 2 for 36 more systems. Pentagon lawyers interpreted the authorization bill language to mean that they could not pay for Lot 2 systems.

The termination order, "for the convenience of the government," was issued Dec. 10. The action is expected to result in layoffs of 400-500 employees at ITT and a comparable number at Westinghouse.

The Senate-House conference report said, "The conferees continue to believe the Navy needs a jammer system" and recommended that the Navy should "determine if the existing ASPJ program might be restructured to provide an effective and suitable system, or if elements of the ASPJ program might be adapted for use in a new jammer program. If such a course proves impossible, the Navy should * * * procure an alternative jammer system."

The General Accounting Office is surveying electronic warfare manufacturers for potential ASPJ replacements. Two leading candidates are the Loral ALQ-178, a version of which is used in Israeli and Turkish air force F-16s, and the Raytheon ALQ-187, an advanced version of the Aspecs system developed for Greek F-16s. But neither system presently offers the full capabilities of ASPJ, such as being able to counter coherent pulse-Doppler interceptor radars.

According to one former Pentagon EW specialist, "by the time the Navy develops specifications for an ASPJ replacement, holds a competition, flight tests the contenders and selects a winner, five years will have elapsed. Add another two years to get into production and modify F/A-18s in the fleet to accept the new jammer, and it could be well into the 21st century before the fleet is equipped."

Critics of the simulation scenario and criteria note that an ASPJ-equipped aircraft was required to demonstrate a 30% increase in survivability over a "naked" (unequipped) aircraft. In one simulation scenario, where the naked aircraft came in at very low altitude and all enemy early warning radars were assumed to have been countered by standoff-jammer aircraft, the naked aircraft achieved 90% survivability.

If ASPJ were to meet its specified 30% increase in survivability, "117% of the aircraft had to survive the mission. In other words, 17% more aircraft had to return than were launched to attack the target—which obviously is impossible. Thus, ASPJ had failed to meet the specified MOE," according to one observer.

One of ASPJ's harshest congressional critics has been Sen. David Pryor (D.-Ark.), who has held several hearings on the jammer. Last spring he accused top Pentagon officials of violating an earlier commitment by authorizing follow-on Lot 2 LRIP production for $89.3 million before receiving the results of operational tests (AW&ST Apr. 13, 1992, p. 62).

At the hearing, Under Secretary of Defense for Acquisition Donald J. Yockey defended the Lot 2 contract award. However, he restated his earlier commitment not to approve full-scale production until ASPJ had successfully completed operational tests.

When the results of the operational evaluation, conducted by the Navy's VX-5 test squadron at China Lake, Calif., were circulated in the Pentagon, the Navy's ASPJ program office requested an opportunity to challenge test report conclusions. But this request was rejected. When word of possible termination reached commanders of the Atlantic and Pacific fleets, both reportedly sent in messages confirming their support for ASPJ.

Acting Navy Secretary Sean O'Keefe, in his previous position as Pentagon comptroller, had not been an ASPJ supporter. It was recognized that Pryor, a close friend of President-elect Bill Clinton, would be an influential voice with the new Administration. One industry observer speculates that "top Navy brass decided that the service, whose image had suffered because of the Tailhook scandal and its handling of the A-12 program, needed to placate Pryor to enhance its relations with the new Administration."

In response to a request by the Korean air force, which earlier expressed interest in buying ASPJs for its F-16s, the USAF's F-16 System Program Office has evaluated the recent ASPJ test report. Based on Navy operational test data and the results of current USAF tests of ASPJ in an F-16 the F-16 SPO reportedly has endorsed the system's operational effectiveness. ITT and Westinghouse are expected to try to sell ASPJ to Finland and to Switzerland for use on their F/A-18s.

Ms. MIKULSKI. What did they say? They say:

On Dec. 10, most U.S. Navy combat flight crews probably were focused on the holiday season and therefore oblivious to the fact that death warrants may have been issued for some of them. On that day, the Navy notified ITT and Westinghouse it was terminating the ALQ-165 Airborne Self-Protection Jammer program. Intended to protect F/A-18s and F-14Ds against modern antiaircraft missiles, the ASPJ development effort was dropped "for the convenience of the government."

This editorial goes on to say:

This is a serious mistake that needs to be corrected.

They said:

The Navy said it terminated ASPJ because it had failed operational test and evaluation and that provision in Fiscal 1993 Defense Authorization left no alternative. In reality, it seems Navy and Pentagon officials abandoned the ASPJ ship to avoid further antagonizing Sen. David Pryor of Arkansas.

This is the editorial from Aviation Week and Space Technology. This is not Senator BARB MIKULSKI who has never, ever been in the pocket of some high-paid lobbyist. The people are my advisers. And I turn to the technical people.

What do they say? They say this:

Did ASPJ fail to detect or respond properly to simulated enemy radars on the Air Force and Navy test ranges? Hardly. Those who have seen the data say the system detected 98% of nearly 300 threat-emitters it encountered. And each time, ASPJ correctly identified the type of threat, selected the proper countermeasures and radiated appropriate jamming signals.

So this technology is able to play offense and defense.

They say further that:

ASPJ's problems arose when actual flight test data were used in simulations intended to model a variety of real-world combat scenarios. This permitted more threats to be generated than the Navy and Air Force could afford to install on their EW ranges. But, did this make the simulation unrealistic enough

> to skew the assessment of ASPJ effectiveness? We think it may have.
>
> During the simulations, ASPJ-equipped aircraft had to demonstrate a 30% greater survivability than aircraft without jammers.

But in one simulation scenario, 90 percent of the "naked" aircraft survived, which meant 117 percent of the ASPJ-equipped aircraft had to survive if ASPJ was to achieve this measure of effectiveness.

I could go on about this, but the editorial says:

> Pryor notwithstanding, it would have been more logical to analyze deficiencies identified during the tests, correct them, and get full-scale production of the system for a year.

Why do they say that?

> If the United States faces another Desert Storm situation in the coming decade and Navy combat crews have to cope with modern threats, PRYOR's comments at his hearing could haunt him: "The public should be mad at Government today," he said. ". . . when a failed system like the ASPJ is put into a jet fighter, it risks the life of the brave American pilot it is supposed to be protecting."

Those who analyzed the technology say that putting it in will protect those Navy pilots as in Desert Storm. It will protect the Norwegian pilots, it will protect the Swiss pilots, and it will protect the South Korean pilots. But only if the foreign military sales are allowed to go forward.

And the sham, the smokescreen, this illusion of compromise by doing it commercially is there. Every Senator here knows that we cannot lose control of our software because of the secrets it contains. I hope that we will defeat the Pryor amendment and that we will settle this issue once and for all. I hope one day the jammer is back on American aircraft. But, for God's sake, allies, knowing the history of this Senate debacle and debate, derailing, and obstructionism, I think they ought to be able to buy it according to the same rules of the game we have established for everyone else.

I could go on with GAO reports and so on. I know the hour is late. I did not pick this fight. I want to yield the floor now and see what the chairman of the committee wants. If they want a longer fight, I am prepared to do it. For the people who work here and at Westinghouse and at ITT, for the Navy pilots having to rely on this, I am willing to stand here all night and all day tomorrow to jam the Pryor amendment.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I think it is time for the Senate to go home and celebrate the Fourth of July. I want to say to my good friend Senator MIKULSKI and my friend Senator SARBANES from Maryland that I, too, feel the pain when they are talking about a loss of jobs. If they are talking about Westinghouse or ITT, wherever the facilities are located, I understand and share the pain. I remind the Chair and our colleagues today that in the State of Arkansas, the county that has been hardest hit by defense cutbacks has been the County of Ouachita, my hometown, my home county. We have been hit so hard that our unemployment rate is the highest in the State of Arkansas.

Mr. President, this cannot become a jobs program, and I hope it will not become a jobs program. I want to repeat once again the statement from Mr. John Deutch in a letter sent to Senator ROTH and myself on the 15th of March this year when he concluded his list with regard to the ASPJ by stating finally:

> The Department of Defense remains committed to the policy of no foreign military sales or commitments for foreign sales of Defense systems prior to the successful completion of OT&E and the specific approval of the Under Secretary of Defense for Acquisition and Technology.

This policy, according to Mr. Deutch, of March 15, 1994, remains in effect today.

Mr. President, also, I would like to answer our colleagues from Maryland, our very good friends, I might add, by stating that as of March of this year, the Department of Defense said the ASPJ could be sold through commercial sales. They did not think FMS was necessary. Software codes can be scrambled and, according to the GAO report, the Swiss and the Fins will buy the F-18's from the United States regardless of the ASPJ purchase.

Also, I think it is worth noting that my friends from Maryland have both questioned whether or not the testing was fairly done or whether the results were fair. Let me state for the benefit of our colleagues that our own independent Office of Operational Testing has said, "No, this system does not work." Our own inspector general of the Department of Defense said, "No, this system does not work." The arm of this great institution, the General Accounting Office, has stated time and time and time again that, "No, this system does not work."

Once again, Senator ROTH and I are not trying to ban commercial sales. If ITT and Westinghouse want to reengineer these lines and continue manufacturing the ASPJ software and hardware and sell these systems overseas, this amendment would do nothing to impede the free enterprise system. But it would remove the American taxpayer, who has already been out well over $2 billion for these systems that do not work, it would remove the American taxpayer from further liability in this particular area of the radar jammer.

Mr. President, one final word, and it is somewhat of a personal word. This is to my friend from Maryland, Senator SARBANES, who implied on the floor a few moments ago that this Senator from Arkansas had become a zealot on this issue. How many times, Mr. President, have I watched my good friend in his eloquence; how many hours with charts and graphs and a pointer stick has he eloquently stated what the deficit situation is, our budgetary situation, our fiscal situation, the international monetary problems. And I have listened to him, I have watched him, I have admired him, I have respected him, and I have followed him time and time and time again. But I have never—never once—thought he was a zealot. I might have thought he was a passionate individual, a caring Senator, but never a zealot for taking the floor of the U.S. Senate and expressing that passion on what he believes in so deeply. I just hope my colleague and good friend will allow the Senator from Arkansas that same passion to express himself on an issue that he feels as deeply about as the Senator from Maryland feels about his issue.

Mr. President, I yield the floor.

Mr. LAUTENBERG. Mr. President, I have great respect for the work my good friend from Arkansas has done in the area of defense procurement. He has been a crusader for the "fly before you buy" principle which saves our Government time, money and, most importantly, lives.

More than anyone else, Senator PRYOR is responsible for creating the position of the Pentagon's Director of Operational Test and Evaluation [DOT&E], which has helped ensure objective evaluation of new systems independent of undue influence of industry, the military services, and weapons developers in DOD's acquisition community.

But in this case we disagree. Mr. President, what I argue for is the American manufacturer's right to market and export its product as long as prospective buyers have access to enough information about the test results to make an informed decision.

I understand Finland is very interested in the ASPJ for its new United States-supplied F-18's. Finland is well aware of the ASPJ's test results and has been consulting with both DOD and the contractors prior to making their final decision. I also understand Switzerland and South Korea are potential customers.

Mr. President, DOD's longstanding position has been to approve marketing and commercial sale of systems which have completed OT&E—successfully or not—to qualified customers. Such is the case with Finland and the others. I believe my colleague from Arkansas has no more interest in thwarting this legitimate American business than I do.

Where we part ways is on the question of whether the integration of the hardware and software into U.S.-origin aircraft should be accomplished via a Foreign Military Sales [FMS] case—in other words, government to government.

As then Under Secretary of Defense for Acquisition Deutch wrote to Senator BRADLEY and me in February:

> It has long been the DOD view that when significant modifications or integration efforts on U.S. military aircraft are made, we should control and/or oversee that process. Crucial issues involving safety of flight, aircraft performance and security strongly recommended DOD involvement.

Mr. President, I think these are sound reasons for maintaining control over system integration via the FMS process. As Navy officials point out—and I now quote from a draft GAO report on the ASPJ requested by Senator PRYOR and ROTH:

> The F-18 is a highly integrated aircraft in which all systems such as radars, avionics, mission control, navigation, and jammers are linked together through the aircraft's operational flight program. These systems undergo continuous updating and modification due to changes in threat or technology. A change in one system could have a cascading and possibly negative effect on the others. As a result, close government oversight of both the aircraft and ASPJ's software components is required.

The GAO preliminary report goes on to agree that authorization for FMS transfer of the ASPJ software is a standard practice.

If I understand my friend from Arkansas' concerns correctly, I believe he is worried that even this peripheral U.S. Government involvement implies some form of warranty or official support for a failed system. I can fully understand and sympathize with that concern.

But I accept the word of current Deputy Secretary of Defense Deutch, who wrote to Senator PRYOR in March, saying:

> The Department's position remains that Foreign Military Sales (FMS) funds will not be used to cover sales of ASPJ to foreign countries because the Department does not want to imply a warranty in a system that will not be procured for U.S. aircraft.

With regard to integration, Deutch goes on to say:

> Consideration of any FMS support for integration of a commerically purchased system into an American FMS item will be made on a case-by-case basis. The intention is not to promote the sale of any commercial system—on that the Department's policy is quite clear.
>
> Instead, the integration of any commercial procurement will be considered only if such support is essential to support the FMS American aircraft. Practical considerations of safety of flight, aircraft performance, and security can also affect the decision to integrate commercially procured systems under FMS.

Mr. President, the GAO report requested by Senators PRYOR and ROTH did not find any violation of U.S. policy in the decision to allow FMS integration of ASPJ. Specifically, GAO found no breaching of what is commonly called the Yockey policy, which requires specific approval of the Under Secretary of Defense for Acquisition before the foreign military sale of any major weapons system that has not successfully completed operational test and evaluation. To again quote the GAO report:

> DOD's decision to permit the sale of the ASPJ software through FMS procedures * * * does comply with the Yockey policy because the Office of the Under Secretary of Defense for Acquisition approved the sale. In implementing this decision, Navy officials noted that national security, safety of flight concerns, and the interactive nature of the jammer and aircraft software components dictated the need to sell the ASPJ's software and integration into the aircraft through the FMS process.
>
> This decision was consistent with longstanding DOD policy on the need to protect classified information and address all safety-of-flight concerns.

If the DOD is prevented from integrating the ASPJ software via FMS, Finland and other prospective buyers are almost certain to look elsewhere for their jammers. I understand that the Finns' second choice is produced overseas.

Mr. President, Senator PRYOR's amendment would thus take business away from an American business in New Jersey and drive it overseas. I applaud the Senator's principles regarding procurement, but in the case of software integration, I think the DOD makes a compelling case. I also accept Dr. Deutch's assurance that such integration does not imply official warrenty or support for the ASPJ. I urge my colleagues to vote against this amendment.

Mr. BRADLEY. Mr. President, I rise in opposition to the Pryor amendment to restrict overseas marketing of the airborne self-protection jammer [ASPJ].

The manufacturers of the ASPJ have played by the rules in marketing their product abroad. They have provided full information on the system's performance to potential buyers and have accepted the Defense Department's ruling that FMS funds could not be used to purchase the system. Despite these obstacles, several foreign countries are interested in purchasing the ASPJ for their F-18 aircraft.

These countries legitimately want assurances they will be able to secure FMS for integrating ASPJ into their F-18 aircraft, for the reasons I have already described. They do so knowing that the U.S. Government bears no responsibility for their choice, even with FMS funding for integration. Indeed, under the contract, it is the contractor, not the U.S. Government, that bears responsibility for any problems.

I can, therefore, see no justification for Congress now to try to insert itself into the process and prevent foreign sales of the ASPJ by banning use of FMS.

The Department of Defense has posed no obstacle to exporting the ASPJ. In a letter to me of February 2, 1994, then-Under Secretary of Defense for Acquisition John Deutch stated:

> After the status of the U.S. ASPJ program was determined, munitions licenses were approved for foreign commercial sale of the ASPJ. * * * to have refused to approve them after that determination would have unfairly penalized your constituent, particularly in light of strong international interest in the system.

The ASPJ has not been a trouble-free program. I needn't go into the details of the disputed tests. The point is that the manufacturers have successfully marketed the ASPJ, foreign governments are interested in buying it, DOD has no objection, and we have an obligation not to impede a legitimate sale.

Mr. ROTH. Mr. President, live fire and operational testing are keys to the Congress' fly-before-buy policy. The policy states that a weapon should not be produced until testing shows that it works. Independent operational and live fire testing are objective checks and balances on the Defense buying system. In a system where bureaucratic interests carry more weight than results, realistic tests are vital to making sure weapons work before they are given to those who must depend on them in battle.

I am concerned about the office of operational testing not having a director since the Clinton administration took office. Without a director, there is no one in the Pentagon to fight against those that want to procure weapons even if they do not work. Almost every month last year, the GAO identified weapons programs that are being produced even though they have not proven their worth, and in some cases have failed, in operational tests.

Mr. President, too many systems have been circumventing the congressional policy of fly-before-buy. There are 183 weapons that currently require operational testing to determine whether they can fulfill their mission requirements and are suitable for fielding. I asked the GAO to give me an accounting of the commitment represented by those programs. The GAO obtained data for 107 of those programs. The 107 programs represent $872 billion in taxpayer dollars.

Unfortunately, many of these programs are entering production, and continuing to be produced, before they have proven their worth. Recently, I received a new GAO report on a special computer system that the Army is buying despite the fact that it failed operational testing. Current Pentagon practice allows anywhere from 25 to 100 percent of the production to be completed before the Pentagon knows if a system works. This is clearly at odds with the Congress' policy of fly-before-buy.

Mr. President, it has been over 10 years since Senator PRYOR and I first joined forces to convince our colleagues to adopt the policy of fly-before-buy. Throughout the 1980's, we were successful in getting testing legislation put into law. We were able to get the Congress to establish an independent office of operational testing and evaluation to implement the fly-before-buy policy. Now, it is time to make improvements in that legislation.

Earlier this week, I received a new General Accounting Office report that Senator PRYOR and I commissioned. This report recommended ways to streamline the operational testing statutes, while preventing the production of weapons that do not work. Senator PRYOR and I had hoped to use the GAO's findings in an amendment prepared for the fiscal year 1995 defense authorization bill. Unfortunately, there has been insufficient time to fully develop the legislative proposal. However, I intend to continue to work with the Senator from Arkansas to improve the operational testing laws.

I still believe that live and operational testing are the keys to judging results. Several provisions of the Federal Acquisition Streamlining Act that I authored would integrate such testing early in the acquisition process. The legislation that Senator PRYOR and I are working on is needed to more fully implement that approach. Adopting this approach would reduce the difficulties associated with finding problems late in the acquisition process. It would reveal serious design problems before money was wasted producing systems that do not work and have to be fixed.

There is a strong push for Congress to enact procurement reform legislation, and the administration has endorsed a bill that includes proposals to weaken the testing statutes. The Senate's procurement reform bill contains provisions developed by Senator PRYOR and me, with the help of our colleagues on the Armed Services Committee. However, the House versions of the defense authorization and procurement reform bills contain provisions that will weaken the bill.

In March, Senator PRYOR held hearings on the testing legislation, including the proposals made by the House bills. At that hearing, which I attended, we received testimony strongly opposing the provisions in the bill. In other hearings on procurement reform, the General Accounting Office and the Defense inspector general strongly opposed the provisions relating to operational and live fire testing.

I intend to watch these legislative proposals very closely. In this regard, we have had a good working relationship with our colleagues from Armed Services. Accordingly, the Senate passed several important testing reforms as part of the Federal Acquisition Streamlining Act.

Mr. NUNN. Mr. President, in just a moment I will be asking —in fact, I think I will do it right now because I think the question is pertinent at the moment.

Do we need a rollcall vote on this amendment? Senator SMITH, a little while ago, was gracious enough not to ask for a rollcall. Of course, that amendment was being agreed to. I am not sure who is going to prevail in this amendment if it is a voice vote. We are trying to expedite this bill. I ask my colleague from Arkansas whether he needs a rollcall vote?

Mr. WARNER. If I might add a word, I say to my chairman and others listening that I have talked to Mr. SMITH, and indeed he did, as a matter of convenience to the Senate, forego the clear option he had to have a rollcall vote. And if there is a necessity to have it here, I would like to state that it seems to me he has a right to reinstate his amendment and consider a rollcall vote.

Mr. PRYOR. Mr. President, I certainly have no objection to the Senator from New Hampshire having a rollcall vote on his amendment—I have been told we are going to be here all night, so I have been in the Finance Committee markup—if he wants to have a rollcall vote. Looking at the geography and lay of the land, I think if I had a voice vote, I do not think the Senator from Arkansas would prevail. I do not know what would happen if we had a rollcall vote, but I think my chances would be better. I do not want to inconvenience the Senate, and I hope I am not one who is being an obstructionist.

But I would like for a rollcall vote to be had on this particular amendment.

Mr. NUNN. Mr. President, the Senator is certainly not an obstructionist. He has a right to have a rollcall vote. I think based on that we should have a rollcall vote.

I will speak only 1 minute on the amendment.

Mr. President, I agree with the Senators from Maryland on this amendment. It is, of course, important from my point of view in terms of the precedent because the F-18 aircraft software is classified as secret. The U.S. Government under classified materials needs to maintain control of both the F-18 and ASPJ software for security reasons.

Because of that, the FMS process is the appropriate mechanism to handle it. I think the U.S. Government should basically not be precluded from handling these foreign military sales under FMS.

I do not believe we should arbitrarily deny sales of defense products that our allies in their own opinion want to buy. The potential foreign customers have been provided, as far as I know, full disclosure of the operational test results. The contractors agreed to accept full liability for any problems of maintenance or performance.

As far as I am concerned, this is a legitimate business proposition that we should not interfere with on the floor of the Senate. I see no reason to. If foreign countries wanted to buy another jammer commercially, we would manage that sale through FMS even if it had not passed the full operational evaluation.

I agree with the Senators from Maryland on this one, and I have to disagree with my friend from Arkansas.

I am prepared to move to table the amendment after the Senator from South Carolina makes a comment, or I would give the Senator an up-or-down vote on the amendment.

Mr. THURMOND. Mr. President, I will take 1 minute.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise to oppose the Pryor amendment to restrict the transfer of airborne self-protection jamming equipment to foreign purchasers of American fighter planes, such as the F-18.

Mr. President, the ASPJ passed its developmental tests, and foreign buyers of American-made aircraft want to acquire the system to provide protection for those aircraft. We should let them buy it. In some cases, such as Korea, we have made agreements to let them buy the equipment. We should not cancel those agreements because we disagree over American test standards.

I urge my colleagues to oppose the Pryor amendment to restrict the transfer of airborne self-protection jamming equipment, to foreign governments.

I yield the floor, Mr. President.

Mr. PRYOR. Mr. President, have I properly sent the amendment to the desk? The amendment has been sent to the desk, is that correct?

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR] for himself and Mr. ROTH proposes an amendment numbered 2163.

Mr. PRYOR. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 200, between lines 8 and 9, insert the following new section:

SEC. 1017. PROHIBITION ON GOVERNMENT-TO-GOVERNMENT TRANSFERS OF AIRBORNE SELF-PROTECTION JAMMERS (ASPJ) (AND RELATED SOFTWARE) ABROAD.

Notwithstanding any other provision of law, the Airborne Self-Protection Jammer (ASPJ), or any software or other component thereof, may not be sold or financed under the Arms Export Control Act to any foreign country.

Mr. PRYOR. Mr. President, I ask for the yeas and nays on No. 2163.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. NUNN. Mr. President, I move to table the amendment.

The PESIDING OFFICER. The Senator from Georgia moves to table the amendment.

Mr. PRYOR. I believe the yeas should be ordered.

Mr. NUNN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. PRYOR. Mr. President, Senator ROTH and I planned to offer an amendment that would at long last truly bring "Fly Before You Buy" to fruition. However, due to the time constraints in considering the fiscal year 1995 DOD authorization bill, we will offer the amendment today.

Our amendment, called the Fly Before You Buy Act of 1994, would ensure that major weapon systems are tested and proven before they are purchased and sent to our troops. Fly Before You Buy would be accomplished by conducting operational testing earlier in the life of new weapons, and by ensuring that we limit the number of units produced until testing has been successfully completed.

Fly Before You Buy is not a new concept. It was first promoted in the wake of the Vietnam War, after thousands of American soldiers lost their lives because of weapons that failed to perform as expected.

Mr. President, the Congress and the Department of Defense have taken steps to promote Fly Before You Buy. In 1983, Congress passed legislation creating an independent operational testing office in the Pentagon. This office has been charged with making sure weapons are tested and proven before they reach our fighting forces. The DOD's operational testing office has become the internal champion of Fly Before You Buy.

Operational tests are specifically designed to prove that military hardware will perform as expected in combat. There is one major problem, Mr. President. Our acquisition community is waiting too long to conduct operational testing. In fact, many new weapons are currently being built and sent to our troops before any operational testing can be conducted. Mr. President, this is not Fly Before You Buy.

Mr. President, current law allows weapons to be sent into combat without any operational testing. We will never be able to truly practice Fly Before You Buy until we change the law that guides the acquisition of new weapons.

Operational testing is of little or no use if it is conducted after the weapon system has been purchased. We simply cannot afford to buy now and fix later. Time and time again, DOD has purchased weapons before operational testing has shown that they work.

Mr. President, 100 percent of the Air Force's B-1B bombers were purchased before operational testing for a total cost of $23 billion. Sixty-four percent of the Air Force's ALQ-135's, a radar jammer, were bought before operational testing was completed. Mr. President, let me repeat that: the Air Force planned to buy 514 jammers. 331 or 64 percent were produced before operational tests proved that they work. The total cost of the ALQ135 is $1 billion. The list goes on: The Navy purcahsed 37 percent of its T-45 trainer aircraft before operational testing (total cost $2.7 billion); the Air Force purchased 33 percent of its C-17 airlift plane before operational testing (total cost $15 billion). Mr. President, this cannot be allowed to continue.

The General Accounting Office has prepared a report on the use of operational testing at DOD, entitled "Low-Rate Initial Production Used to Buy Weapons Systems Prematurely." GAO found that DOD allows low-rate production to begin without the performance of any operational testing. In other words, under current law, we can buy all the weapons that we want without ever triggering operational testing. GAO says that this has resulted in the procurement of substantial inventories of unsatisfactory weapons requiring costly modifications to achieve satisfactory performance and, in some cases, the deployment of substandard systems to combat forces.

Mr. President, I mentioned earlier that 37 percent of the Navy's T-45 plane were bought before operational testing. This plane needed major design changes. Tests showed it needed a new engine and new wings, Mr. President. These planes are sitting on an air field waiting for the contractor to come back, take the original wings off, and attach new, improved, workable wings to these planes.

I also mentioned that 33 percent of the Air Force's C-17's were purchased before operational testing. GAO found that the C-17's reliability is significantly less than expected and it does not meet its payload and range specifications. In other words, Mr. President, it cannot carry as much or go as far as the Air Force thought it would. GAO also noted that while the wings, flaps, and slats are all being fixed, other problems continue to be identified.

The GAO recommends that Congress require that certain operational testing requirements be met before low rate production begins and that Congress put a limit on the number of units produced during low rate production.

Mr. President, that is exactly what the Fly Before You Buy Act does. It contains two simple but important changes to the way DOD conducts its business: First, it says that an early operational test must be done before low-rate production begins and second, that no more than 10 percent of the total number of weapons to be built can actually be produced before final operational tests are completed.

Our amendment would force earlier operational testing. If the acquisition proponents believe the system is ready for low-rate production, they first have to check the initial operational test results. If the operational test results are favorable and the system is allowed to move into low-rate production, then our amendment would allow the establishment of a production line but at a slower, lower rate of production. We should not be producing most or all of the weapons in low-rate production, before operational testing is complete.

One of the questions that has been asked of me regarding this amendment is how can operational testing go forward if the production line is not up and running? The answer is quite simple. Production units are not necessary for initial operational testing. Currently, operational testing is almost performed on "production verification units", what you and I would call a prototype, Mr. President. In other words, the system that is developed and used during developmental testing can be used for the early phase of operational testing.

Another concern has been raised: will this amendment slow down the process of getting weapons to our troops? The answer again is simple: No. 1, I admit our amendment might slow down the access to flawed, unproven weapons. Our amendment would force early operational testing before low-rate production begins and weapons start rolling off the production line. It would prevent another C-17 or T-45, where planes sit and wait for new wings and in the end will speed up getting good weapons into the field.

This amendment could save money by identifying flaws in the system design before most or all of the weapons have been produced. It could eliminate many of the costly and time-consuming retrofitting that we currently see in so many of our weapon systems.

Two of our best known military experts, the Chairman and the Ranking Minority Member of the Senate Armed Services Committee both supported this concept in statements made in 1990. Senator SAM NUNN said:

> In the past we spent billions and billions of dollars because we rushed weapons systems into production before they had been tested. We now have time to do it: We have time to do it right. I support a fly before you buy policy.

Senator STROM THURMOND stated:

> Fly before you buy will provide us more capable equipment at less cost. It will enhance the credibility of the procurement process and will give us more bang for the buck.

Mr. President, this amendment would put real teeth in Congress' commitment to Fly Before You Buy. Meaningful, early operational testing would finally be a reality.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Georgia to lay on the table the amendment of the Senator from Arkansas. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MITCHELL. I announce that the Senator from California [Mrs. BOXER], the Senator from Colorado [Mr. CAMPBELL], the Senator from Connecticut [Mr. DODD], the Senator from Kentucky [Mr. FORD], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Ohio [Mr. METZENBAUM], the Senator from Alabama [Mr. SHELBY], and the Senator from Illinois [Mr. SIMON], are necessarily absent.

Mr. DOLE. I announce that the Senator from Utah [Mr. BENNETT], the Senator from Colorado [Mr. BROWN], the Senator from Maine [Mr. COHEN], the Senator from New York [Mr. D'AMATO], the Senator from Texas [Mr. GRAMM], the Senator from North Carolina [Mr. HELMS], the Senator from Arizona [Mr. MCCAIN], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON] would vote "yea."

The PRESIDING OFFICER (Mr. BRYAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 68, nays 14, as follows:

[Rollcall Vote No. 185 Leg.]

YEAS—68

Akaka
Baucus
Bingaman
Bond
Boren
Bradley
Breaux
Bryan
Burns
Byrd
Chafee
Coats
Cochran
Conrad
Coverdell
Craig
Danforth
Daschle
DeConcini
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feinstein
Glenn
Gorton
Graham
Gregg
Hatch
Heflin
Hollings
Hutchison
Inouye
Jeffords
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Lautenberg
Levin
Lott
Lugar
Mack
McConnell
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Reid
Riegle
Robb
Rockefeller
Sarbanes
Specter
Stevens
Thurmond
Wallop
Warner
Wofford

NAYS—14

Biden
Bumpers
Feingold
Grassley
Harkin
Hatfield
Kohl
Leahy
Mathews
Pryor
Roth
Sasser
Smith
Wellstone

NOT VOTING—18

Bennett
Boxer
Brown
Campbell
Cohen
D'Amato
Dodd
Ford
Gramm
Helms
Johnston
Lieberman
McCain
Metzenbaum
Murkowski
Shelby
Simon
Simpson

So the motion to lay on the table the amendment (No. 2163) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I know Senators want to know what the best estimate is, and the best estimate I have now is that we can finish this bill in another couple of hours if we get cooperation and if we do not get bogged down on a long debate on an amendment.

There are two or three amendments out that people disagree on, and even if the managers were to agree with them they would still be disagreed to. One of them involves the gulf war problem and the Veterans' Affairs Committee is now working with Senator RIEGLE on that. Senators ROCKEFELLER and RIEGLE are working on that, and I believe we would be best served by letting them work for a few minutes on that one because they may be able to come to some agreement.

In the meantime we have a number of amendments that have been agreed to on both sides—both sides, Democrats and Republicans. I propose we bring those up now. But I do not want to interfere with anyone who may want to bring up an amendment, particularly one that may be contested, because everyone would like to get the rollcall votes over with as soon as possible, including the managers.

So it would be my intent to begin going through some amendments that have been agreed to on both sides. But if anyone has an amendment they feel compelled to offer at this point in time we certainly would be amenable to that.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina, Mr. THURMOND, is recognized.

Mr. THURMOND. Mr. President, if anyone has an amendment and desires a rollcall, I wish they would let it be known now so we can make plans. A great many Senators want to catch planes. I have to catch a plane at 7:10, if we are not going to have any more rollcalls. I am sure the others feel the same way. We can take up these amendments with no contests after that. But if nobody else wants a rollcall we will go ahead now with these amendments.

The PRESIDING OFFICER. The Chair will inform the Senate that the question that next occurs, unless set aside, is the Nunn second-degree amendment, No. 2160, to the Warner amendment No. 2359.

The Senator from Delaware, Mr. BIDEN, is recognized.

Mr. BIDEN. Mr. President, the Senator from Massachusetts, Mr. KERRY, and I, and others I suspect, have been somewhat unprepared for an amendment by our distinguished friend from Virginia on the ABM Treaty. I understand there has been an attempt to work out the amendment of our friend from Virginia, Senator WARNER. But I have just seen the language of the amendment, as has the distinguished Senator from Massachusetts. Clearly I do not speak for him, but I suspect he feels as I do.

We have a serious, serious problem with what seems to be an amendment of the ABM Treaty on the floor at this moment, from our perspective.

I am delighted to attempt, along with the Senator from Massachusetts, to try to clarify this matter. Maybe we have misunderstood it. But if it is as it appears—although it has been years and years and years; I have been here 22 and I do not think I have ever done this in a late hour—I would be very reluctant to go to a vote on this amendment tonight.

I may be mistaken about how I read this amendment. So what I would like to do, if the Warner amendment is the pending business, is maybe move on to something else for a few minutes and give the Senator from Massachusetts and myself, and others who may have an interest, an opportunity to confer with our friend from Virginia.

Again, I want to move this along as rapidly as anyone else. One of the paragraphs seems pretty profound, but I may be mistaken.

I thank the Senator. I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I ask unanimous consent that the Warner amendment be temporarily laid aside so we can take up amendments that have been cleared on both sides.

Mr. WARNER. Reserving the right to object.

Mr. NUNN. I urge the Senators from Delaware and Virginia to get together to see if we can work this out.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, momentarily I would like to reserve the right to object so I can address my colleague from Delaware.

The Warner amendment was not intended in any way to be an amendment to the ABM Treaty. This is a subject which I and a number of other Senators, particularly the Senator from Wyoming [Mr. WALLOP] and the Senator from New Hampshire [Mr. SMITH] and others have been working on for some period of time.

It is a very simple principle which we are endeavoring to achieve. The Senator from Virginia sent an amendment to the desk. The Senator from Georgia, quite properly, second degreed it. We have worked with the Senator from Georgia and have reached a new draft which the Senator from Virginia is prepared to accept.

In the course of preparing ourselves to bring it to the Senate, it was discovered, in a very objective and fair way, that there could be a constitutional issue in the revised amendment respecting the rights of the executive branch versus the legislative branch. I was endeavoring to say to Senators that we would leave the revised amendment with this constitutional question, and in good faith, I and others would try to work it out in the context of a conference between the House and the Senate, at which time customarily, members of the Foreign Relations Committees of both branches of Congress participate in those conferences.

In that way, we would convenience the Senate so as to not bring up at this late hour an issue which I feel is very important and one on which I feel very strongly.

Having said that, in a few sentences, the purpose of the Warner amendment, now amended by the Senator from Georgia, is simply to guarantee that this body in no way forgoes its authority under the Constitution—namely, the advise and consent clause—to have such review as this body determines is necessary of any revisions to the ABM Treaty now being negotiated between the United States and Russia with two of the other new countries participating as if they were partners. But, nevertheless, primarily between the United States and Russia.

Mr. BIDEN. Will the Senator yield?

Mr. WARNER. Momentarily. As it relates to the theater ballistic systems, in 1972, when the ABM Treaty was adopted, no one—and I repeat, no one—had in mind theater ballistic missiles.

At that time, quite properly, the full concentration of all involved was on the strategic systems.

Each Senator now understands fully the evolution of technology where today we have theater ballistic systems. We saw it in the gulf. The Scud missile inflicted the greatest degree of damage of any weapons systems on our troops and, therefore, it is imperative, in my judgment, that this country move forward, as it is, with a series of systems to ensure that we have a deterrence and, indeed, a defense against future theater ballistic systems.

The purpose of the amendment is to preserve the right of the U.S. Senate to review any agreement, particularly that one now being negotiated within the framework of the SCC, known as the Standing Consultative Commission. That is the purpose of the Commission.

Mr. BIDEN. Will the Senator yield?

Mr. WARNER. I saw the distinguished manager seeking recognition. Perhaps he would like to speak, and then I will be glad to address the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I will just suggest to my colleagues on this amendment that they have a discussion, because I believe if they have a discussion, we have a chance of working something out. I do not think we are going to get it worked out in dialog.

The Senator from New Jersey has an amendment and has to go back to the Finance Committee in just a few minutes for their markup. I believe he would be willing to enter into a 30-minute time agreement equally divided with no amendments—we may want to reserve the right to a second-degree amendment on that. Anyway, we can work that out. I would like to be able to go ahead with that amendment, if we can.

Mr. KERRY. The Senator from Virginia reserved the right to object, and I am not sure whether he said he would not object at this point in time.

Mr. WARNER. Mr. President, I would not object. I simply wish to express to the Senate as a body the subject of the discussion which will now take place between myself and other Senators who are interested.

Mr. KERRY. Mr. President, I would just like the Senator from Virginia to note that neither the Senator from Delaware nor I disagree about the interpretation with respect to theater defenses and, obviously, we want them. The danger is that the language, as currently framed, embraces the notion that the Senate might be codifying an actual breakout from the treaty because it, in fact, embraces the notion, referring to currently deployed missiles.

And because China has sold some missiles to Saudi Arabia, which currently pushed the envelope of what is theater versus strategic, you run into a possibility of ratifying the notion that those missiles are, therefore, within our interpretation of the ABM treaty which would, in effect, nullify the ABM Treaty or present enormous problems of interpretation.

So it is our hope that we can articulate what the Senator from Virginia wants without doing violence to the ABM Treaty itself.

Mr. WARNER. Mr. President, I am quite agreeable to meet with all Senators on this subject who are interested.

The PRESIDING OFFICER. There is a unanimous consent proposal that is pending before the Senate to temporarily set aside the Nunn amendment. Is there any objection? Without objection, it is so ordered.

Mr. NUNN. Mr. President, the Senator from New Jersey, I believe, has an amendment. Could the Senator just very briefly describe the amendment so I can determine if we need to reserve the right to a perfecting amendment?

Mr. BRADLEY. The amendment would eliminate the Selective Service System.

Mr. NUNN. Pure and simple. It is elimination.

Mr. President, I ask unanimous consent there be a 30-minute period of time, equally divided, on the Bradley amendment on Selective Service, with no second-degree amendments in order; and that the vote occur at the expiration of 30 minutes on or in relation to the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. ROCKEFELLER. Will the Senator yield? I have an amendment in the Finance Committee at 7 o'clock. I need 3 minutes. I wonder if the Senator from New Jersey would be willing to——

Mr. NUNN. If we can get the unanimous consent agreement, we can yield to the Senator from West Virginia.

The PRESIDING OFFICER. Is there objection to the unanimous consent proposal propounded by the Senator from Georgia? Without objection, it is so ordered.

The Senator from West Virginia, Mr. ROCKEFELLER.

Mr. NUNN. I ask that the Senator from West Virginia be recognized for a time equally divided between the two.

Mr. ROCKEFELLER. A period which might exceed slightly more than 3 minutes, but not by much.

Mr. President, I want to give my thanks to the Senator from Virginia for working this out. It is an excellent amendment.

This is an amendment that the ranking Member, Senator MURKOWSKI, Senator JEFFORDS, and Senator DODD support. It has the support of the VFW, the American Legion and the AmVets, and these are the only Veterans Service Organizations we have contacted so far. So it has good support.

As the Presiding Officer knows, thousands of Persian Gulf war veterans are ill as a result of being over there.

This amendment would support two comprehensive studies, one an epidemiological study, and, secondly, research on something called pyridostigmine bromide, an experimental drug which was given to 400,000 Persian Gulf war troops. It will also support research on the causes, treatment and possible transmission of gulf war illnesses.

We had a hearing back on May 6. On that day, my own veterans committee staff, which has been working for 9 months on this, promised that we would follow this through.

Senator RIEGLE has also been active on this issue and his suggestions are incorporated in this amendment.

In any event, what we know is that in the gulf war we had toxic chemicals which when combined with other chemical agents can be dangerous. Some of these are insecticides which are commonly used by U.S. soldiers all across this world, and they are used in homes all across America.

New research, which is not yet published, shows that the use of this experimental drug pyridostigmine could have made commonly used insecticides, which were used in the Persian Gulf war, potentially 10 times more lethal. DOD should do this research as soon as possible, and they want to. Since these insecticides are found everywhere, we need to move forward quickly.

The $20 million for this amendment will help us learn how to treat the soldiers who were affected by this and also will teach us more that we absolutely need to know.

I hope that the amendment will be accepted by both sides.

That would conclude my remarks.

It is my understanding that Senator RIEGLE, who has been an integral part of working out this arrangement, is not here at this point. Unfortunately, I have to leave at this point because I have to get back to the Finance Committee.

I will take the advice of the Senator from Georgia, the Chairman of Armed Services Committee, and I will simply postpone the vote on this.

AMENDMENT NO. 2164

(Purpose: To prohibit registration under the Selective Service System and to terminate the activities of civilian local boards, civilian appeal boards, and similar local agencies of the Selective Service System.)

The PRESIDING OFFICER. The Senator from New Jersey is recognized pursuant to the previous unanimous consent agreement.

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY), for himself, Mr. HATFIELD, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. KERRY and Mr. BUMPERS, proposes an amendment numbered 2164.

Mr. BRADLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 128, between lines 2 and 3, insert the following new section:

SEC. 522. TERMINATION OF ACTIVITIES UNDER SELECTIVE SERVICE SYSTEM.

(a) TERMINATION OF REGISTRATION REQUIREMENT.—

(1) TERMINATION.—Section 3 of the Military Selective Service Act (50 U.S.C. App. 453) is amended by adding at the end the following new subsection:

"(c) After September 30, 1994, no person shall be required to present himself for and submit to registration under this section.".

(b) TERMINATION OF ACTIVITIES OF SELECTIVE SERVICE SYSTEM BOARDS.—Section 17 of the Military Selective Service Act (50 U.S.C. App. 467) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of this Act, after September 30, 1994—

"(1) the President may not appoint a person as a member of a civilian local board, civilian appeal board, or similar local agency of the Selective Service System; and

"(2) any such board established as of that date may not meet.".

Mr. BRADLEY. Mr. President, I offer this amendment on behalf of myself and the distinguished Senator from Oregon, Senator HATFIELD, Senator FEINGOLD, Senator KERRY, Senator FEINSTEIN, and Senator BUMPERS. It is an amendment that would prohibit draft registration and terminate the activities of the Selective Service boards.

Last year, 41 Senators voted for an amendment we offered to the fiscal year 1994 VA/HUD Appropriations Act which would have eliminated all but termination funding for the Selective Service System. The arguments we made then are every bit as relevant today. I will not repeat them in detail, but it is still worthwhile to review them briefly.

I yield myself 8 minutes.

The Selective Service System is a dinosaur in the post-Soviet world. It is made obsolete by two welcome developments—the All-Volunteer Army, and the end of the Soviet threat.

Our All-Volunteer Force is a remarkable success story. Backed by reserves, it is capable of handling the types of conflicts we are likely to see, the Somalias, the Bosnias, and yes, the Desert Storms of the foreseeable future. Desert Storm provided that our volunteer force backed by Reserves, can put a half-million men on the ground and support them, without resorting to conscription.

We will not need a flood of draftees for any conflict we are likely to fight in the foreseeable future. I do not ask you to take my word for this; the Pentagon's own "1993–1999 Defense Planning Guidance Scenario Set" found that only 1 to 7 scenarios lasted long enough to require—or allow for—conscription. This was a scenario involving a reunified, rearmed Soviet Union.

Such a conflict is simply not on the horizon. Were this scenario to develop we would have a long lead time, both to try to counteract this development by diplomatic and economic means, and to develop a system to identify our 18 year olds, without paying millions of dollars per year in the meantime.

Finally, the Selective Service System is not performing well. A November 1992 study by the U.S. Army Forces Integration Agency uncovered severe overstaffing, poor morale, and overgrazing in the work force. It found employees reading newspapers and magazines, and freely admitting that they had no meaningful work to perform while on duty.

In last year's debate, opponents of our effort to cut funding for the Selective Service System cited a number of arguments. Let us look at these arguments in light of another 9 months' experience.

One argument was "civic responsibility." According to this line of reasoning, we should encourage our young men to register as an act of patriotism. Mr. President, if we define good citizenship by the one-time act of filling out a card on our 18th birthday, we are in deep trouble.

Civic responsibility is voting. It is paying taxes. It is being informed about the important issues shaping our communities, our country, and our world. I would argue that it lies for us in voting only for responsible spending.

Mr. President, civic responsibility means participating in our communities and taking responsibility for ourselves and our fellow citizens. I might note that this type of civic responsibility is not limited to young men turning 18 years old, but is open to every adult, man and woman, every day.

Another objection we heard last September was the quite legitimate concern that, if the unthinkable did come to pass and we needed to identify our 18-year-old men, we would need the Selective Service's records. Well, the Defense Department itself has put that concern to rest. In a report to the President and Congress dated last December, DOD noted that the Selective Service System already identifies young men who do not comply by obtaining names from records kept by State drivers license bureaus, high schools, country voter registrars, Social Security, DOD, HHS, Department of Transportation, INS, the Office of Personnel Management, and the Postal Service. Given these sources of information, we do not need to spend millions of dollars every year collecting postcards.

A more serious concern we heard last year was that, while draft registration might not be necessary, we should wait for the administration to review the issue. Well, the administration has spoken—twice—and the result only confirms what we have been saying. We do not need the Selective Service.

The Secretary of Defense's December 1993 report, provides a wealth of evidence that draft registration serves no useful purpose. In the interests of time, let me just quote one passage:

> Peacetime draft registration could be suspended with no effect on military mobilization requirements, little effect on the time it would take to mobilize, and no measurable effect on military recruitment. * * * suspending peacetime registration could be accomplished with limited risk to national security.

That is the DOD's own document.

The May 18, 1994, letter from President Clinton following an NSC review of this issue falls into the same trap. After finding that "tangible military requirements alone do not currently make a mass call-up of American young men likely," it tries to justify continued registration with three weak arguments: First, registration is a cheap insurance policy; second, abolition would send the wrong signal to potential adversaries; and third, registration provides a link between civilians and the All-Volunteer Force.

Mr. President, I do not think these arguments fly. The DOD report that I have quoted demolishes the insurance policy argument. Not only does it conclude that registration is not necessary for military mobilization requirements, but it also lists alternative ways to identify draft eligible men that I mentioned earlier.

The administration's resolve argument is also off the mark. America does not demonstrate its resolve by asking its young men to fill in a postcard on their 18th birthday. America shows its resolve through vigorous goal-oriented foreign and security policy.

Finally, I simply do not believe that civilian support for our military depends on draft registration. If that were true, that would be a sad commentary on our society. No. I believe that civilian support for our brave servicemen and servicewomen comes from an understanding and appreciation of the vital job that they do. It does them a disservice to claim that draft registration is a significant underpinning of America's support for its military.

Mr. President, I know I have gone on too long. But there are so many arguments against wasting our money on the Selective Service System that I would like to close with one more direct quotation from the Department of Defense report:

> The end of the cold war and the dissolution of the Soviet Union have permitted downsizing the military and reducing its demands on the Federal Treasury. With reduced force levels, combined with two decades of successful experience with raising and maintaining an All-Volunteer Force, improved total force policy, recent victorious wartime experiences, and the quality of active and reserve personnel, it is highly unlikely that we will have to reinstate the draft in the foreseeable future. Consequently, peacetime draft registration could be suspended without irreparable damage to national security.

Mr. President, let us on the Senate floor stop temporizing and show some leadership and prove to our constituents that we can eliminate at least one outdated program.

Mr. President, I reserve the remainder of my time.

How much time remains?

The PRESIDING OFFICER. Four minutes and 48 seconds under the control of the Senator from New Jersey.

Mr. BRADLEY. I would like to yield 3 minutes to the distinguished Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 3 minutes.

Mr. HATFIELD. Mr. President, after considerable footdragging, the Pentagon in February finally completed its study of peacetime draft registration.

To quote from the Pentagon's report:

> Peacetime draft registration could be suspended with no effect on military mobilization requirements, little effect on the time it would take to mobilize, and no measurable effect on military recruitment. Suspending peacetime registration could be accomplished with limited risk to national security considering the low probability of the need for conscription.

Despite the fact that the Pentagon told the President and Congress that there is no military requirement for draft registration, the President announced that he has decided to continue this requirement.

President Clinton's decision is deeply disappointing. In his letter to Congress the President argues that taxpayers should continue to pay $23 million a year on an unnecessary program because it is an insurance policy against underestimating a threat our Armed Forces may face.

The United States of America retains the finest-equipped, best trained military in the world. Our Nation spends one-half of its total discretionary budget on defense and spends over $30 billion more on its military than the combined defense budgets of the other 15 NATO countries, Japan and Russia.

The war with Iraq proved that our All-Volunteer Force works and the Pentagon expects minimal or no effect on mobilization or recruiting if draft registration is eliminated.

And yet the President tells us that "terminating the Selective Service System and draft registration now could send the wrong signal to our potential enemies who are watching for signs of U.S. resolve."

I do not understand this logic. How does forcing America's 18-year-old men—men only, not all Americans—to the post office to register for the draft send a signal to a potential enemy? And who is this enemy?

The President's transmittal to Congress goes on to argue that, "as fewer and fewer members of our society have direct military experience, it is increasingly important to maintain the link between the All-Volunteer Force and our society at large."

Like many fellow Senators, I am a veteran. I volunteered for duty during World War II. Yet I find abhorrent the message that the threat of conscripted service is somehow the best way we, as a nation, can instill patriotism. Our Nation was founded upon the principles of individual liberty and our Nation has responded with honor and duty when our national security was threatened.

Mr. President, I am deeply disappointed with the notion that once again this program is being promoted as a symbol of national security and an integral part of our military manpower system. It is not. The draft will not aid our Nation in times of crisis. We do not send men from the recruiting station to the battlefield. They must have training.

Our insurance policy in times of crisis are the Guard and the Reserve. The Pentagon report to Congress calculated that suspension of draft registration would increase the induction period from 13 to 43 days. That report concluded that such a delay is acceptable. And our experience in the war with Iraq was that the total force structure is sound.

Yet the President has turned aside the military's own analysis and ignored the fact that draft registration is a relic of the past. He has embraced weak and subjective justifications for continued registration at the expense of our children's liberty. Many young Americans will be punished for their failure to register, whether they forget or whether they purposely fail to sign up.

In testimony before the Senate Appropriations Committee, an official from the American Civil Liberties Union warned that draft registration is a "heavy intrusion into the lives of Americans when the government requires them to sacrifice years of their lives, and possibly their lives themselves, against their will. This intrusion cannot be taken lightly even when the country is involved in a large-scale conflict."

As testimony to Congress has indicated, there exists grave constitutional concerns, including the argument that compulsory service violates the prohibition of involuntary servitude and the possible violation of the first amendment guarantee of freedom of association.

In the many times I have debated this issue, I also have raised the matter of equity. We know that during the Vietnam War, minorities were drafted disproportionately. We know that men and women are not treated equally by the draft. And those who do not choose to register for reasons of conscience are either deemed lawbreakers or must go through a rigorous or sometimes onerous process to prove their belief.

The fate of the Selective Service program, which is not even funded by the Department of Defense, is indicative of our unwillingness to see our national security needs as they really are. Are we really so vulnerable that it is better to continue to run roughshod over the rights of our young men than to end a program which even the Pentagon says is unnecessary? I think of the words of the late Senator Robert Taft, who spoke eloquently about individual liberty and against compulsory service. Just before America entered World War II, Senator Taft said:

> If the emergency is as great as alleged, then we should adopt a completely socialized state and place ourselves and our property at the disposal of the Government. This is fascism. It could only be justified if it were the

> only possible alternative to the subjugation of the United States by fascism from without.

Even when considering our most important task, the retention of our national defense, we, as Federal representatives, should be vigilant against the creep of authoritarianism. Our Nation is separated from those under the fist of totalitarianism by our freedom and by our long history of voluntary support of our national defense structure.

Only when we have become mired in an insupportable war have we turned to conscription. The Vietnam war remains one of the most tragic examples of the use of the draft to continue an action which failed to have the support of the American people. Draft registration is not a symbol of national strength. The draft is a symbol of weakness: Either a weakness of purpose or weakness of our willingness to safeguard our liberty above all else.

I urge my colleagues to join me and Senator BRADLEY in ending this wasteful program.

Mr. President, let me highlight two or three points.

The Pentagon itself has indicated peacetime draft registration could be suspended without any military mobilization requirement impact. In effect, they said we could have the induction period extended from 13 to 45 days if it had to be indicated later on.

This is an opportunity to save some $23 million in our appropriations because here is the Pentagon saying it is not necessary. Second, I do not understand the President's logic when he says it is an insurance policy against underestimating a threat our Armed Forces may face.

Mr. President, this actually carries no basic logic to it for the simple reason of who our enemies are. Who are our adversaries? Today, if we want to look at what we are spending, we are spending over half of our discretionary funds in our budget for military purposes. We are spending $30 billion more for military and defense preparation than all of the NATO allies, plus Japan.

So I do not understand this logic. Plus the fact: How are a few recruiting people going to have an important message to our so-called adversaries of registering at the Post Office?

It is not an insurance policy for emergencies. We do not send recruits or draftees from the draft station to the battlefield. There has to be a period of training. So what we rely upon in emergencies are the Guards and the Reserve.

So this idea that somehow a draft system is an answer to emergencies is just not valid.

Mr. President, lest we think that this is a matter of philosophy, let me suggest that the most powerful statement ever made on the question of the draft was made by the high apostle of conservatism, the late Robert Taft of Ohio, one of the truly great Senators who is honored out there today in our reception room.

Listen to what Robert Taft said as we were getting ready to go into World War II, and all those arguments about the draft and so forth. He said:

> If the emergency is as great as alleged, then we should adopt a completely socialized state and place ourselves and our property at the disposal of the Government. This is fascism. It could only be justified if it were the only possible alternative to the subjugation of the United States by fascism from without.

Those are pretty strong words.

Mr. President, I submit that this is not needed at this time. It is a time to save money.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. Mr. President, I yield 5 minutes to the distinguished Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 5 minutes.

Ms. MIKULSKI. Mr. President, I oppose the amendment offered by the Senator from New Jersey, and I do it because the President of the United States is for Selective Service. The House of Representatives voted recently in behalf of Selective Service. They defeated a simpler amendment offered by Congressman DELLUMS that paralleled the Bradley amendment. It was defeated 273 to 125.

This time last year, the distinguished Senator from New Jersey offered in my Appropriations Committee, the VA, HUD, Independent Agencies, which appropriates the funds for the Selective Service an amendment to strike Selective Service. It was defeated 58 to 41. In respect for him, I asked—and others who felt the same way, the distinguished Senator from Oregon, the distinguished Senator from New Jersey, and 39 others—for the President of the United States to make a determination whether he felt it was in our national security interests to continue the Selective Service in light of the end of the cold war.

The answer came back from the White House in a letter addressed to the House of Representatives and to all of us on May 18, 1994 in which the President of the United States asked that Selective Service be continued, and that we fund it at the request of $23 million.

He says it is important to our defense needs and "Maintaining the SSS and draft registration provide a hedge against unforeseen threats and a relatively low-cost insurance policy."

The President believes that "Terminating the SSS and draft registration now could send the wrong signal to our potential enemies who are watching for signs of U.S. resolve."

And he says, "As fewer and fewer members of our society have direct military experience, it is increasingly important to maintain the link between the All-Volunteer Force and our society at large."

I will not read the entire letter of President Clinton, but I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, DC, May 18, 1994.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER, on February 18 of this year I transmitted then Secretary of Defense Aspin's report on the continued requirement for peacetime draft registration. At that time, I advised you that peacetime draft registration. At that time, I advised you that draft registration and the Selective Service System (SSS) would be continued while the National Security Council conducted an interagency review of the SSS.

That review has now been completed. I have decided that it is essential to our national security to continue draft registration and the Selective Service System. While tangible military requirements alone do not currently make a mass call-up of American young men likely, there are three reasons I believe we should maintain both the SSS and the draft registration requirement:

Maintaining the SSS and draft registration provide a hedge against unforeseen threats and a relatively low cost "insurance policy" against our underestimating the maximum level of threat we expect our Armed Forces to face.

Terminating the SSS and draft registration now could send the wrong signal to our potential enemies who are watching for signs of U.S. resolve.

As fewer and fewer members of our society have direct military experience, it is increasingly important to maintain the link between the All-Volunteer Force and our society at large. The Armed Forces must also know that the general population stands behind them, committed to serve, should the preservation of our national security so require.

As part of this decision, I am directing the Secretary of Defense to update our mobilization requirements and timeliness for the SSS based upon current threat scenarious, re-examine the timeliness for how quickly manpower must be provided, consider the possibility of selective call-up of skilled personnel (such as medical personnel) and continue to review the arguments for and against continuing to exclude women from registration now that they can be assigned to combat roles other than ground combat.

I believe our FY 1995 request of $23 million is essential to our defense needs and urge Congress to approve this request. At the same time, we will continue to seek additional economies and operating efficiencies at the Selective Service System.

Sincerely,

BILL CLINTON.

Ms. MIKULSKI. Mr. President, therefore, the Pentagon and the task force chaired by the National Security Council, and now the President of the United States, endorse the maintenance of Selective Service for the reasons that the President has outlined.

The Selective Service involves over 11,000 volunteers and considerable infrastructure. If peacetime registration is terminated, the Selective Service should not be dismantled until a better, efficient use of those resources could be determined.

The Selective Service does more than register 18-year olds for the draft. It also keeps other forms of registration and data in which we call up, for example, health personnel so that in the event of a national disaster, a catastrophic situation, possibly another earthquake or several hurricanes affecting the east coast, we would be able to mobilize much needed health personnel and emergency management people.

We need the personnel and Selective Service to be fit for duty for our military needs and other ancillary materials that they keep that would help mobilize us for other risks affecting the United States of America.

Let me conclude on the night before the Fourth of July when we celebrate the Declaration of Independence: We ask so little and we give so much as a nation. We no longer convey the sense of patriotism, a sense of civic obligation that for every opportunity there is an obligation, for every right there is a responsibility, and calling people forth to register for the draft says that somewhere along the line you have to know that there is a United States of America, and maybe someday you will be called upon to defend not only the Constitution but the very territory of the United States of America.

The registration is an important tool for conveying citizenship.

Probably on another issue, we will talk about women registering. This is not the time for debate on that issue.

But registration is such a modest, modest request to be able to convey, number one, a readiness, the ability to mobilize, the ability to organize, that I encourage the Bradley amendment be adopted, that the Selective Service System continue to stand, and for those who have given so much, we should also say: Of those to whom much has been given, much should be asked.

Mr. GLENN. Mr. President, I yield 4 minutes to the Senator from Indiana, Senator COATS.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Indiana is recognized for 4 minutes.

Mr. COATS. Mr. President, if Senator BRADLEY's amendment were adopted, we would effectively end the registration under Selective Service on September 30, 1994. Selective Service has been serving the Nation since it was established in 1940, although conscription goes all the way back to the Civil War.

Since 1940, the Selective Service System has been allowed to lapse several times. Each time, Congress and the American people have recognized later that when faced with a crisis, we needed a system which could support the transition from peace to war when the country was thrust into a world crisis.

In the event of full mobilization or national emergency, the Selective Service System will have the first registrants reporting for duty within 13 days and would provide an additional 100,000 inductees within 30 days. The purpose of peacetime registration is to provide a capability for rapid augmentation of the total force.

Mr. President, last year, the Secretary of Defense completed a study of the continued requirement for draft registration. The bottom line was that the registration should be continued pending a further review. That further review was undertaken and completed in May of this year, and the bottom line conclusion was the same: continue the Selective Service System. Quotes from the review are going to be made on this floor, but the conclusion needs to be stated.

The conclusion is: retain the system.

Mr. President, I do not often quote favorably the President of the United States from this floor, but he sent a letter to us dated May 18, 1994, which says:

> That review has now been completed. I have decided that it is essential to our national security to continue draft registration and the Selective Service System for three reasons:
>
> 1. Maintaining the Selective Service and draft registration provides a hedge against unforeseen threats and a relatively low-cost "insurance policy" against our underestimating the maximum level of threat we expect our Armed Forces to face.
>
> 2. Terminating this Selective Service System now could send the wrong signal to our potential enemies who are watching for signs of U.S. resolve.
>
> 3. As fewer and fewer members of our society have direct military experience, it is increasingly important to maintain the link between the All-Volunteer Force and our society at large.

Mr. President, for reasons stated here this evening, for the fact that the House of Representatives, by a more than 2-to-1 margin, has concluded we should retain the system. For the reasons stated by the President in his letter to this body, I believe we should reject the amendment offered by Senator BRADLEY.

The request that is made for continuation of Selective Service is essential to our defense needs, and I urge Congress to approve the request submitted to us by the President of the United States, and I urge rejection of the Bradley amendment.

Mr. GLENN. I yield 5 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, Senator BRADLEY's amendment would terminate the Selective Service System and the requirement for any person to register for the draft effective on September 30, 1994.

Mr. President, the Selective Service System is needed to undergird the national military strategy. It is consistent with the concept of service to the Nation. It is an important backstop against an unexpected need for large numbers of military personnel. In the President's words,

> Maintaining the Selective Service System and draft registration provide a hedge against unforeseen threats and a relative low cost "insurance policy" against our underestimating the maximum level of threat we expect our Armed Forces to face.

The Selective Service System is just one of the signals this country sends to potential adversaries around the world that we are ready and able to protect our vital national interests. It also represents a responsibility to rally to the defense of the Nation for our young men, if needed. This is a small part of the responsibility of full citizenship in a free nation. A full 97 percent of America's young men comply with the requirement to register. I am not surprised that our young men accept this important responsibility. It is the American way.

The Secretary of Defense studied the continued requirement for the Selective Service. The study concluded that the Selective Service System should be continued in order to provide the infrastructure necessary to reestablish the capacity to garner age-eligible personnel in a timely manner, when necessary. I also concluded that the Selective Service has a symbolic value beyond its practical value. This symbolic value demonstrates to friend and foe, as well as our own youth, that America is willing to make broad sacrifices to maintain freedom. On February 18, 1994, the President concurred with this study and ordered an interagency review of the requirement for peacetime draft registration.

On May 18, 1994, the President announced the results of this second review. He decided that it is essential to national security to continue draft registration and the Selective Service System. The President cited three specific reasons for his decision. First, he said the Selective Service System is a low-cost insurance policy against unexpected threats. Second, he said terminating the Selective Service System would send the wrong message to potential enemies. Last, it is important to maintain a link between the All-Volunteer Force and our society at large. This last reason is the responsibility of full citizenship of which I spoke earlier.

Mr. President, there are many examples of Government waste. Any Member of the Senate can point to several without detailed study. The Selective Service is a valuable part of the national defense team and is certainly not a waste of taxpayer dollars.

I urge my colleagues to vote against the amendment.

Mr. GLENN. Mr. President, I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Ohio has 39 seconds remaining.

The Senator from New Jersey has 1 minute 36 seconds remaining.

Mr. BRADLEY. Mr. President, if we cannot eliminate this program, I do not know what program we can eliminate. The Selective Service System is overmanned, overgraded. People in levels 13, 14, and 15 are performing jobs that levels 7, 8 and 9 can perform. There is poor morale and antiquated equipment. There are 267 full-time jobs. That is what this is all about.

The arguments offered in support of it—civic responsibility? If we are reduced to having a Selective Service System where somebody 18 years old fills out a card and that is the limit of his civic responsibility, where are we in terms of being a hedge against the future, when the only possible hedge it could be against, that the All-Volunteer Army could not counter, is a rejuvenated, hostile, reconstituted Soviet Union? It is not in the cards.

In terms of a signal, I do not really think filling out postcards sends a very threatening or ominous signal to anyone.

There was a remark made that it was on the eve of July 4; on the eve that we celebrate the Declaration of Independence we do not want to eliminate the Selective Service System.

Mr. President, July 4 celebrates not only the Declaration of Independence but the Revolutionary War. There was no draft in the Revolutionary War.

On the eve of the battle of Princeton, George Washington with the troops in tattered clothes, he did not have a draft. He asked them would one good man step forward. One did. Another did. And enough stepped forward to win the Revolutionary War.

We do not need the draft. It should be abolished. Save the money.

Mrs. FEINSTEIN. Mr. President, I rise today as an original cosponsor of Senator BRADLEY'S amendment to terminate the Selective Service System.

While I believe that maintaining a strong and prepared military must be a top priority for this country, I do not believe that it is necessary to continue spending millions of dollars each year to preserve a cold-war relic that requires all young men to register for the draft. This is particularly true during this time of tight budgets. It is crucial that we invest our scarce defense dollars in cost-effective, versatile programs that are vital to U.S. national security in the post-cold-war world.

In a December 1993 report issued by the Defense Department, the Secretary of Defense stressed that

> Because of the reduced global threat together with improved total force readiness and the Department's proven ability to maintain a quality volunteer force, the effects of eliminating draft registration on our ability to meet mobilizations requirements are expected to be minimal.

The report goes on to say that

> Peacetime draft registration could be suspended with no effect on military mobilization requirements, little effect on the time it would take to mobilize, and no measurable effect on military recruitment.

In the case of a national emergency, the Defense Department report lists several alternative ways to identify draft-eligible men that are already in use and that will ensure greater compliance. For example, Social Security records, driver's licenses, DOD records, INS documents, and the U.S. Postal Service are all viable options that will cut Government bureaucracy and save U.S. taxpayers over $20 million in fiscal year 1995 alone.

Just as I see this amendment as one way to reinvent Government into a more efficient and cost-effective entity, I also see it as a chance to follow through on the efforts of the Defense Department, the President, and Congress to reinvent out military into a strong, modern-day force. We should spend our defense dollars on higher Defense Department priorities to ensure the readiness of our troops and modernization of our weapons.

I urge my colleagues to support this amendment to terminate a draft registration system no longer needed in today's world, one that costs the U.S. taxpayer tens of millions of dollars annually.

Mr. GLENN. Mr. President, I yield myself the remainder of our time.

Mr. President, I ask unanimous consent that the President's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, DC, May 18, 1994.

Hon. ALBERT GORE, Jr.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: On February 18 of this year, I transmitted then Secretary of Defense Aspin's report on the continued requirement for peacetime draft registration. At that time, I advised you that draft registration and the Selective Service System (SSS) would be continued while the National Security Council conducted an interagency review of the SSS.

That review has now been completed. I have decided that it is essential to our national security to continue draft registration and the Selective Service System. While tangible military requirements alone do not currently make a mass call-up of American young men likely, there are three reasons I believe we should maintain both the SSS and the draft registration requirement.

First, maintaining the SSS and draft registration provide a hedge against unforeseen threats and a relatively low cost "insurance policy" against our underestimating the maximum level of threat we expect our Armed Forces to face.

Second, terminating the SSS and draft registration now could send the wrong signal to our potential enemies who are watching for signs of U.S. resolve.

Third, as fewer and fewer members of our society have direct military experience, it is increasingly important to maintain the link between the All-Volunteer Force and our society at large. The Armed Forces must also know that the general population stands behind them, committed to serve, should the preservation of our national security so require.

As part of this decision, I am directing the Secretary of Defense to update our mobilization requirements and timelines for the SSS based upon current threat scenarios, re-examine the timelines for how quickly manpower must be provided, consider the possibility of selective call-up of skilled personnel (such as medical personnel) and continue to review the arguments for and against continuing to exclude women from registration now that they can be assigned to combat roles other than ground combat.

I believe our FY 1995 request of $23 million is essential to our defense needs and urge Congress to approve this request. At the same time, we will continue to seek additional economies and operating efficiencies at the Selective Service System.

Sincerely,

BILL CLINTON.

Mr. KERRY. Mr. President, I congratulate Senators BRADLEY and HATFIELD for this amendment to abolish the Selective Service System and end the anachronistic requirement for all 18-year-old men to register for the draft. This outdated program costs U.S. taxpayers millions of dollars a year while doing virtually nothing to enhance our national security.

Arguments that the draft provides a low-cost insurance policy, or that ending the draft would send a signal of weakness to our enemies, or potential enemies since we no longer have a superpower adversary, simply do not hold water. The Secretary of Defense, in a December 1993 report, concluded that draft registration could be suspended with "no effect on military mobilization requirements, little effect on the time it would take to mobilize, and no measurable effect on military recruitment." The National Security Council also reviewed the registration process and concluded that current military requirements make a mass callup unlikely.

As for sending a signal of weakness, it is our real military capabilities that will impress our potential enemies, not an expensive list of names. We should concentrate our efforts on maintaining the most capable, highly trained, and well equipped fighting force in the world. And we have built exactly that with the All Volunteer Force, not by conscripting young men as do many other countries. Ensuring that we keep our military strong and capable is exactly what the Senate is doing in acting on this bill.

Instead of contributing to the readiness of our military, the current Selective Service System siphons off precious dollars that could be used to support our troops in the field. This amendment will save an estimated $23 million a year that can then be channeled into the active duty military to meet real national security requirements.

I should point out that I have no opposition to the concept of using the draft in a national emergency. I would strongly support the swift reactivation of a registration process if the world situation pointed toward a possible prolonged conflict. But such a likelihood is so remote at this point as to be almost unimaginable. However, if such a scenario were to arise in the next few years the Defense Department has already explored various other effective ways of identifying draft age men, such as Social Security records and drivers license applications.

Once again I commend the sponsors of this amendment for challenging the status quo and moving to eliminate the needless expenditure of millions of dollars a year.

Mr. GLENN. Mr. President, I was in the Senate gallery, as a young teenager, when they passed the draft act many, many years ago.

I remember being very impressed with it then. It served us well through the years.

It may have some problems, as the Senator from New Jersey indicates but, by and large, I think it serves us pretty well, and we have some 11,000 volunteers in it.

I can also remember the pride I took in signing up under the Selective Service. Maybe we decry such feelings today. But I felt that and carried that card with me and was quite proud of it.

So, I think for all the reasons that have been given by my colleagues on this side we should oppose this, and I move to table the amendment of the Senator from New Jersey.

Mr. BRADLEY. Mr. President, I ask for the yeas and nays

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Ohio to lay on the table the amendment of the Senator from New Jersey. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MITCHELL. I announce that the Senator from California [Mrs. BOXER], the Senator from Colorado [Mr. CAMPBELL], the Senator from Connecticut [Mr. DODD], the Senator from Kentucky [Mr. FORD], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Ohio [Mr. METZENBAUM], the Senator from Alabama [Mr. SHELBY], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. DOLE. I announce that the Senator from Utah [Mr. BENNETT], the Senator from Missouri [Mr. BOND], the Senator from Colorado [Mr. BROWN], the Senator from Maine [Mr. COHEN], the Senator from New York [Mr. D'AMATO], the Senator from Texas [Mr. GRAMM], the Senator from North Carolina [Mr. HELMS], the Senator from Arizona [Mr. MCCAIN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 30, as follows:

[Rollcall Vote No. 186 Leg.]

YEAS—50

Akaka
Biden
Bingaman
Breaux
Bryan
Burns
Byrd
Coats
Cochran
Conrad
Coverdell
Craig
Danforth
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Glenn
Gorton
Graham
Gregg
Hatch
Heflin
Hollings
Hutchison
Inouye
Kassebaum
Kempthorne
Lott
Lugar
Mack
McConnell
Mikulski
Nunn
Pell
Pressler
Pryor
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Smith
Stevens
Thurmond
Wallop
Warner

NAYS—30

Baucus
Boren
Bradley
Bumpers
Chafee
Daschle
DeConcini
Feingold
Feinstein
Grassley
Harkin
Hatfield
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Mathews
Mitchell
Moseley-Braun
Moynihan
Murray
Nickles
Packwood
Reid
Wellstone
Wofford

NOT VOTING—20

Bennett
Bond
Boxer
Brown
Campbell
Cohen
D'Amato
Dodd
Ford
Gramm
Helms
Johnston
Lieberman
McCain
Metzenbaum
Murkowski
Shelby
Simon
Simpson
Specter

So the motion to lay on the table the amendment (No. 2164) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NUMBERED 2160 AND 2159

Several Senators addressed the Chair.

Mr. WARNER. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Texas, Mrs. HUTCHISON.

Mr. KERRY. Parliamentary inquiry.

Mr. WARNER. Parliamentary inquiry. What is the pending matter before the Senate?

The PRESIDING OFFICER. Does the Senator from Texas wish to make an inquiry?

Mrs. HUTCHISON. I yield, Mr. President.

The PRESIDING OFFICER. Yield for an inquiry?

Mrs. HUTCHISON. Yes.

The PRESIDING OFFICER. The pending questions are amendments No. 2160 and No. 2159.

Mr. WARNER. Mr. President, if I could clarify through the Chair, the pending business as I understand it is the Warner underlying amendment as amended by the second-degree amendment of the Senator from Georgia. That is the pending business before the body?

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. I wish to accommodate other Senators in their inquiry to the Chair. However at a certain point in time I would like to clarify the status of the pending business for the benefit of the Senate.

Mrs. HUTCHISON. Mr. President, will the Senator from Virginia yield for a question?

Mr. WARNER. Mr. President, absolutely.

Mrs. HUTCHISON. Will the Senator from Virginia be willing to lay the amendment aside for a quick amendment that is acceptable to both sides?

Mr. WARNER. Mr. President, I will be delighted to accommodate the distinguished Senator from Texas. I would, however, wish to advise the Senator that there are about four Senators at the moment focusing on the pending business. In deference to them, I would like to know what their wishes were before I acceded to that request.

Mr. President, my understanding is I believe several Senators, namely myself, the Senator from Delaware, the Senator from Massachusetts, and the Senator from Georgia, and such others who may be interested—and I know the Senator from Wyoming is—we are about to reach an agreement, I believe, with respect to the text of an amendment which the Senator from Virginia would send to the desk as a modification to the underlying amendment. Shortly thereafter I presume the Senate would like to turn its attention to that business so it can go on with the other amendments.

It may well be we could accommodate the Senator from Texas in the period of time it takes to reconcile any differences that remain among the four of us.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, let me just make a statement. I am perfectly willing to wait for the pending business that is on the floor to be finished if it is ready to be finished. But I would like to have recognition immediately thereafter. I did have permission from the manager of the bill to do so, not knowing that the amendment might be ready.

Mr. DECONCINI. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Will the Chair please advise the Senator from Arizona who has the floor?

The PRESIDING OFFICER. The Senator from Texas has the floor.

Mr. DECONCINI. Mr. President, so the Senator from Texas has the floor?

The PRESIDING OFFICER. That is correct.

Mr. DECONCINI. She can proceed as she so wants?

Mr. WARNER. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. It is the understanding of the Senator from Virginia I had the floor pursuant to the matter before the Senate, and I then yielded to the Senator from Texas to hear her inquiry to the Chair, and the same for the Senator from Wyoming. I do not know that I lost the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized, and giving inquiry to the Senator from Virginia.

Mr. WARNER. Mr. President, has there been unanimous consent to waive the pending business? Parliamentary inquiry.

The PRESIDING OFFICER. The pending amendments were set aside, but they never recurred.

Several Senators addressed the Chair.

Mr. KERRY. Mr. President, point of parliamentary inquiry?

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for an inquiry.

Mr. KERRY. Mr. President, it is my understanding that they were set aside prior to the previous vote, but on the disposition of the previous vote that the amendment of the Senator from Virginia is now the pending business before the Senate and has not been set aside at this point; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KERRY. If the pending business is the amendment of the Senator from Virginia, and the Senator from Texas has agreed already that she would be willing to let the Senator from Virginia proceed, it would seem to me we could quickly resolve this by proceeding to the pending business with the understanding by unanimous consent that the Senator from Texas would proceed immediately to have the floor on the completion of the pending business. Is that correct?

Mrs. HUTCHISON. Mr. President, I so move.

Mr. KERRY. I ask unanimous consent.

The PRESIDING OFFICER. Is there objection to the request?

Mr. WARNER. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. If I may restate what I have understood, and consistently understood, to be the pending business, it is the amendment of the Senator from Virginia, as amended by an amendment in the second degree from the Senator from Georgia.

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. And further that there has been no unanimous consent granted by the Chair to lay that aside? In which case I will proceed now to address the pending amendment.

Mr. DECONCINI. Parliamentary inquiry, Mr. President, just to clarify for the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Texas has the floor.

Mr. DECONCINI. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Arizona is recognized for an inquiry.

Mr. DECONCINI. Not withstanding what the Senator from Virginia said, and I understand the pending business is the WARNER amendment as amended, but the Senator from Texas has the floor. Then there is a unanimous consent request by the Senator from Massachusetts that the Senator from Texas yield so that the pending business can be taken up; is that correct?

The PRESIDING OFFICER. The Senator from Massachusetts began to make a request.

Mr. NUNN. Mr. President, I think we can solve all of this if the Senator from Virginia is recognized, and we can deal with his amendment. We do not need unanimous consent.

Mrs. HUTCHISON. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized by the Chair.

AMENDMENT NO. 2159, AS MODIFIED

Mr. WARNER. Mr. President, with the cooperation of the Senators from Massachusetts, Delaware, and Georgia, I am prepared to send to the desk an amendment and ask that the underlying amendment of the Senator from Virginia be so modified.

The PRESIDING OFFICER. Is there objection to the modification?

Without objection, the amendment is so modified.

The amendment, with its modification, is as follows:

At the end of subtitle C of title II, add the following:

SEC. 224. SENATE ADVICE AND CONSENT ON AGREEMENTS THAT MODIFY THE ANTI-BALLISTIC MISSILE TREATY.

(a) REQUIREMENT FOR ADVICE AND CONSENT OF SENATE.—Whenever the President negotiates an international agreement that would substantively modify the ABM Treaty, the United States shall not be bound by such agreement unless the agreement is entered into pursuant to the treaty making power of the President under the Constitution (which includes a requirement for advice and consent of the Senate).

(b) ABM TREATY DEFINED.—In this section, the term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed in Moscow on May 26, 1972, with related protocol, signed in Moscow on July 3, 1974.

Mr. WARNER. Mr. President, the amendment at the desk represents an amendment sent by the Senator from Virginia, and I believe the Senator from Georgia still remains to be the principal cosponsor; am I correct?

Mr. NUNN. I will be pleased to be a cosponsor, if the Senator from Virginia so desires.

Mr. WARNER. I think the Senator from Delaware desires to be a cosponsor; am I correct?

Mr. BIDEN. That is correct, I say to my friend from Virginia.

Mr. WARNER. And do I understand the Senator from Massachusetts wishes to be a cosponsor?

Mr. KERRY. Will the Senator yield for a question?

Mr. WARNER. Yes.

Mr. KERRY. I believe that in order to perform this correctly, the Senator from Georgia would have to withdraw the second-degree amendment first.

Mr. WARNER. I thought that was implicit in the request of the Senator from Virginia. Very well.

Mr. NUNN. I withdraw the second-degree amendment.

Mr. WARNER. I thank the Senator from Massachusetts.

The PRESIDING OFFICER. The amendment is withdrawn.

So the amendment (No. 2160) was withdrawn.

Mr. WARNER. Mr. President, pending before the Senate is an amendment, and I shall add additional cosponsors: Senators WALLOP, THURMOND, DOLE, and SMITH.

I shall read the amendment very briefly:

(a) REQUIREMENT FOR ADVICE AND CONSENT OF THE SENATE.—Whenever the President negotiates an international agreement that would substantively modify the ABM Treaty, the United States shall not be bound by such agreement unless the agreement is entered into pursuant to the treaty making power of the President under the Constitution (which includes a requirement for advice and consent of the Senate).

(b) ABM TREATY DEFINED.—In this section, the term "ABM Treaty" means: the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed in Moscow on May 26, 1972, with related protocol, signed in Moscow on July 3, 1974.

Mr. President, to save time, the Senator from Virginia has had more than adequate opportunity to state his objective. It is a matter of record. I, therefore, yield the floor so other Senators can speak to this matter.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I think the Senator from Delaware and I also have no need to give any lengthy explanation. We are very appreciative to the manager of the bill and to Senator WARNER for working with us to come to an agreement as to how best to protect the interests of the ABM Treaty and the Senate's prerogatives therefor. We thank both of them for their efforts on this. We have made our point.

I ask unanimous consent, as a matter of courtesy, that the Senator from Texas be recognized at the completion of this business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I think this is a good amendment. We have worked on it for the last several hours. We had good minds from the Foreign Relations Committee and the Armed Services Committee working together. The Senator from Massachusetts and the Senator from Delaware have spent an enormous amount of time in the treaty business.

I think this is the amendment we need to adopt. I think it will give us an opportunity to look carefully at whatever the administration produces and then the Senate of the United States can make a judgment about how to proceed on that.

I am sure all of us will be watching that very carefully because it is of great importance. I urge the adoption of the amendment.

Mr. WARNER. Mr. President, I wish to thank my colleagues.

I express my appreciation to the members of the Armed Services Committee staff, Tom Moore and Mr. Eric Thoemmes.

Mr. WALLOP. Mr. President, I rise in strong support of the amendment by the Senator from Virginia. This amendment would affirm a basic Senate prerogative—the requirement for Senate advice and consent of arms control treaties.

Since November 1993, the administration has been engaged in negotiations with the former Soviet Union to update and clarify specific provisions of the ABM Treaty. First, the administration is attempting to identify who, in fact, this treaty is with—a question left unanswered since the dissolution of the Soviet Union. In an attempt to deal with this dilemma, the administration has proposed that the treaty be multilateralized, to include any former Soviet State that wants to become a party to the ABM Treaty.

The second area of negotiation has to do with defining the demarcation between antiballistic missile systems, which are limited by the treaty, and theater missile defense systems, which the treaty does not specifically limit. On this point the treaty itself is extremely ambiguous—it states merely that it is prohibited to give non-ABM systems "capabilities" to counter "strategic ballistic missiles" or test them in "an ABM mode." But the treaty does not define any of these key terms.

Mr. President, as a general principle and for specific reasons that relate to these two areas of negotiation, I believe that the administration must seek the Senate's concurrence on these important matters. In my view, any agreement that substantively modifies or creates new legal obligations for the United States under the ABM Treaty must be submitted to the Senate as a treaty for its advice and consent to ratification.

As they now stand, the administration's proposals on theater missile defense demarcation and treaty succession would, in fact, represent substantive changes to the ABM Treaty or new legal obligations for the United States under the treaty. Let me address each of these briefly.

There can be no question that the administration's approach to succession would constitute a clear and substantive change to the treaty. It would fundamentally alter the rights and obligations of the original treaty partners. Moreover, such a change has broad implications for U.S. policy well beyond the narrow limits of the ABM Treaty. For example, multilateralizing the treaty would have the effect of perpetuating the old boundaries of the Soviet Union, and give Russia extraterritorial rights and a military presence coextensive with the former Soviet Union.

In examining relevant precedents, it also is abundantly clear that such a major change to the treaty would require Senate advice and consent. In 1974, for example, when the ABM Treaty was changed by protocol to reduce its limitations from two permitted deployment sites to one, the agreement was submitted to the Senate, which advised ratification on November 10, 1975. When the START Treaty was in a similar situation as the ABM Treaty now faces, the sides negotiated a multilateral protocol, which was submitted for advice and consent as part of the START I ratification package. These precedents are clear and compelling.

The TMD demarcation issue is less clear than the succession issue. Whether a TMD demarcation agreement constitutes a substantive modification of the ABM Treaty or entails new legal obligations for the United States under the treaty depends on the form of the agreement. It certainly would be possible to clarify this issue without making a single change to the text of the ABM Treaty itself. Moreover, it would be possible to make this clarification without establishing new legal obligations for the United States under the ABM Treaty.

In fact, the proposal that the United States presented in November 1993 on this subject did not, in my view, establish any new legal obligations for the United States under the ABM Treaty. It very simply clarified a key term in the treaty—that is, what constitutes a strategic ballistic missile. Such clarifications have taken place on several occasions over the years in the standing consultative commission without Senate approval.

I would also note that the administration's November 1993 proposal on TMD Demarcation was consistent with the congressional finding contained in last year's Defense Authorization Act, which states that TMD systems are not prohibited by the ABM Treaty unless they "are tested against or have demonstrated capabilities to counter modern strategic ballistic missiles." In other words, as a practical matter, Congress has already given its advice and consent to a TMD demarcation agreement based on the so-called "demonstrated capabilities standard," which does not include specific performance limitations on TMD systems or components.

Unfortunately, the administration has now complicated matters by accepting such specific performance limitations. These are no longer clarifications. They are new, binding limitations on missile defense systems not previously constrained by the ABM Treaty. I would note that the ABM Treaty does not even limit ABM interceptors in this manner. In effect, this approach creates a fundamentally new treaty—an ABM/TMD Treaty. Such a radical departure from the existing limitations will certainly require Senate advice and consent.

The Senate has every reason to guard its constitutional prerogatives in the area of treaty ratification. As the chairman of the Armed Services Committee will recall from our 1987 debate on the Nunn-Levin amendment, this body has traditionally taken these matters extremely seriously. As the chairman stated on the floor at that time, allowing the President to reinterpret a treaty, subsequent to ratification, without the Senate's approval, would reduce the Senate to, in the chairman's words, "A potted plant. * * * An ornament in the national security arena, adorning but not influencing."

If we still take this responsibility seriously, as I believe we must, then the Warner amendment should be adopted.

Mr. WARNER. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2159), as modified, was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

AMENDMENT NO. 2165

(Purpose: To authorize transfer and use of not more than $43,000,000 for purchase of up to seven roll-on/roll-off vessels for the Ready Reserve Force of the National Defense Reserve Fleet)

Mrs. HUTCHISON. Mr. President, I send an amendment to the desk on behalf of myself and Senators SARBANES and MIKULSKI and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for herself, Mr. SARBANES, and Ms. MIKULSKI, proposes an amendment numbered 2165.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 110, between lines 19 and 20, insert the following:

SEC. 357. ROLL-ON/ROLL-OFF VESSELS FOR THE READY RESERVE FORCE.

(a) TRANSFER AUTHORIZED.—To the extent provided in appropriations Acts, in order to provide for purchase of up to seven roll-on/roll-off vessels for the Ready Reserve Force of the National Defense Reserve Fleet maintained under section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), the Secretary of Defense may transfer to the Maritime Administration not more than $43,000,000 out of funds authorized by this Act to be appropriated to the Department of Defense for fiscal year 1995, other than funds for procurement of national defense features for vessels.

(b) USE BY MARITIME ADMINISTRATION.—Funds transferred to the Maritime Administration pursuant to subsection (a) shall be used only for the purpose set forth in such subsection.

Mrs. HUTCHISON. Mr. President, the amendment grants the Department of Defense the authority to reprogram $43 million for the procurement of roll-on/roll-off ships for the ready reserve. The congressionally mandated mobility requirement study called for the acquisition of 19 ready reserve force roll-on/roll-off ships. This would bring the ready reserve force roll-on/roll-off to a total of 36.

These ships are essential, Mr. President, to early deploying heavy divisions that must move from the continental United States to a distant theater of operations. This just gives some flexibility in the Department of Defense.

I thank the managers of the bill, and I urge the adoption of the amendment.

Mr. SARBANES. Mr. President, I am pleased to join with my colleague from Texas [Mrs. HUTCHISON], in offering this amendment to the defense authorization measure.

I thank Senator HUTCHISON for her work on this important issue and I want to express my sincere appreciation to the chairman, Senator NUNN, and the ranking minority Member, Senator THURMOND, for allowing the consideration of this amendment.

The "Mobility Requirement Study" emphasized our need for a strategic mobility program. According to the recommendations released in early 1992, it is imperative that we increase our Ready Reserve Force of roll-on/roll-off ships to a total of 36.

With funding from fiscal 1993, 12 ships have been added to the force for a total of 29. The amendment we are offering today, along with funding already provided to the Maritime Administration, will allow the acquisition of the seven additional ships needed to complete the fleet. They will give our Armed Forces the surge capability to move Army heavy divisions to a regional conflict anywhere around the world.

The Principal Deputy Under Secretary of Defense for Acquisition and Technology reiterated the need for these ships on Tuesday. In a letter to the distinguished chairman, Secretary Longuemare stated:

> Acquisition of used RO/ROs for the RRF is the only near-term means to meet the DoD surge sealift capability shortfall which is critical to early combat force deliveries. These forces must be available in the early stages of a conflict to secure ports and airfields necessary for the continued buildup of combat forces.

The amendment we are offering simply allows the Department of Defense to transfer funds from any source except the National Defense Features Program to the Maritime Administration for the purchase of up to seven roll-on/roll-off vessels for the Ready Reserve Force. It requires that such transfer be made within 60 days after passage of an appropriations measure for fiscal 1995 and mandates that the Maritime Administrator obligate the funds by September 30, 1995.

Our amendment does not in any way change the committee's intention, specified in the report to accompany the authorization, to provide additional funding to the National Defense Features Program. That program, while still conceptual, appears to have potential to provide sustainment sealift following the initial surge. It cannot replace, however, our need for early surge and it is for that reason that I have joined in offering this amendment to secure that critical capability in our Ready Reserve Force.

Mr. President, while I share the hope of every Member of the Senate that our men and women in uniform will never face another conflict, I know that we must be ever on guard. I am pleased that we are considering this amendment that will provide us with the capability to respond quickly to regional threats whenever and wherever they occur. I again thank the chairman and urge adoption of the amendment.

Mr. NUNN. Mr. President, I rise to support the amendment of the Senator from Texas. I believe the additional sealift represented by the ships that could be added by this amendment would help our deployment capability, which is one of our most serious needs.

This does, through the normal procedures, permit the reprogramming of these funds to the sealift requirement, and this is, of course, assuming the Secretary of Defense makes that kind of decision and defines that reprogramming of those funds. I hope that will be available.

I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2165) was agreed to.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

ORDER OF PROCEDURE

Mr. DECONCINI. Mr. President, on behalf of the Senator from New York [Mr. D'AMATO] and myself, I rise today with a deep sense of sadness and regret to inform Members of this body that a young, dedicated, and experienced Drug Enforcement Administration agent, Mr. Richard Fass, was killed in the line of duty in Phoenix last night during the course of an attempted arrest with some drug dealers.

I discussed this with the manager of the bill, so I ask unanimous consent that the pending legislation before the body be set aside and I be permitted to offer a resolution that has been cleared on both sides on this particular matter.

The PRESIDING OFFICER. Is there objection?

Mr. NUNN. Mr. President, could I just inquire of the Senator from Arizona, has this been cleared?

Mr. DECONCINI. This has been cleared.

Mr. NUNN. Because this is not part of our bill. It is a separate matter. Who has cleared this? Has it been cleared with the respective committees?

Mr. DECONCINI. On both sides of the aisle, with Mr. ROTH and Mr. GLENN on the committees of jurisdiction, and with the majority and minority leaders.

Mr. NUNN. I thank the Senator.

MEMORIAL TO DEA AGENT RICHARD FASS

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 237) in memorial to Agent Richard Fass.

Mr. DECONCINI. Mr. President, on behalf of Senator D'AMATO and myself, I rise today with a deep sense of sadness and regret to inform the members of this body that a young, dedicated, and experienced Drug Enforcement Administration agent, Richard Fass, was killed in the line of duty.

At 6:40 p.m. last night, in Phoenix, AZ, Agent Fass, acting in an undercover capacity, attempted to purchase illegal narcotics from two suspects. Agent Fass was shot four times and died, leaving behind his wife Theresa, four children, ages 6 through 16, and his parents. The tragic death of Agent Fass represents the 26th line-of-duty death for agents of the Drug Enforcement Administration.

Our hearts and prayers go out to the family of Agent Fass, the family of the Drug Enforcement Agency, and the entire law enforcement community whom I know share deeply in the pain and suffering of this tragedy.

Just a few blocks from this building stands the marble walls of the Law Enforcement Memorial. Over 13,000 names are engraved on those walls. Sadly, new names are added each year, serving as a grim reminder of the dangers faced and sacrifice made by the Nation's law enforcement community.

Agent Fass died last night, a hero. He has paid the ultimate price in service to his Nation. All the words we say will never remove the pain or sadness felt by his family or his colleagues.

As we approach the conference on the crime bill we must remember that it will be the law enforcement officer that will ultimately be tasked with carrying out the many initiatives and provisions of the laws we enact. We are in desperate need of a strong crime bill that protects our citizens, but it must also, adequately support and properly protect the law enforcement officer. If we are to embark on a comprehensive law enforcement initiative, then the entire law enforcement community—State, local, and Federal officers, must be provided with all of the tools and resources required to carry out their mission. These public servants deserve our support in the laws which we enact, the resources which we provide and compensation we authorize. They deserve all of these things and they deserve it, now. Please do not delay. Please champion their cause. Over 13,000 names are etched on the memorial wall and we are faced, once again, with another death and the sad addition of another name.

Mr. President, I urge the adoption of the resolution.

Mr. President, I thank my colleagues and thank the distinguished chairman for allowing me the privilege to have considered this resolution.

Mr. NUNN. Mr. President, I urge adoption of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 237) and its preamble are as follows:

S. RES. 237

Whereas, Richard Fass, a Drug Enforcement Administration agent was slain in the line of duty in Phoenix, Arizona last night;

Whereas, to date, 26 DEA agents have been killed in the line of duty;

Whereas over 13,000 names have been placed on the Law Enforcement Memorial honoring law enforcement officers from all across the country who have been killed in the line of duty;

Whereas the entire law enforcement family shares in the pain and the grief when a fellow officer is lost;

Whereas it helps to ease the pain and suffering when fellow officers are present to share the loss;

Whereas current law permits active military officers to travel in an official capacity to funerals of fellow colleagues killed in the line of duty:

Whereas the nation mourns the loss of this fine, young, and dedicated law enforcement officer;

Whereas the Senate sends it condolences to the family of Richard Fass; Now, therefore, be it

Resolved by the Senate, That the Administration should submit legislation to the Congress which authorizes Federal law enforcement officers to be excused from duty without loss or reduction in pay, leave, or credit for service, to attend the funeral of a fellow Federal law enforcement officer who was killed in the line of duty and in the interim, the Attorney General should exercise her authority to permit DEA personnel to attend the funeral or related services of agent Richard Fass.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2166

(Purpose: To prohibit the acquisition of Milstar satellites Nos. 5 and 6 and accelerate development of the Advanced EHF satellite communications system)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 2166.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike line 21 on page 27 and insert in lieu thereof the following:

"(3) For the Air Force, $12,290,296,000, of which no funds may be appropriated for parts and other costs associated with acquisition of Milstar satellites numbers 5 and 6, and at least $39,500,000 shall be authorized to be appropriated to accelerate development of the Advanced EHF satellite communications system."

Mr. BUMPERS. Mr. President, last year, in the Senate, there was a very strong sentiment for budget deficit reduction. The people back home had convinced the Members of this body, indeed, all the Members of Congress, that they were dead serious about getting our national debt and our annual budget deficits under control. Nevertheless, last fall during the appropriations process we were really only able to kill two programs that had a deficit reduction impact, the advanced solid rocket motor and the superconducting super collider.

Today, I heard the Senator from New Mexico [Mr. DOMENICI], stand behind his desk and say that he had voted for the Warner amendment which would restore the COLA's for military retirees and put them on a par with civil service retirees to begin collecting their cost-of-living increase April 1, 1995.

But, the Senator added, he would not have voted for it if he thought it was going to come out of the defense budget.

Now, Mr. President, I sit on the Appropriations Committee. I chair the Subcommittee of Appropriations on Agriculture, and I and the members of my subcommittee have just gone through a very traumatic experience of trying to come up with a bill that would come within our allocation, which out of $13.8 billion represents almost a $700 million cut below a freeze.

Half the Members of this body came to me before we marked up that bill and said, oh, Senator, I have to have this fish laboratory in my State. I have to have this poultry lab in my State. I have to have this and that and the other—mostly buildings and research projects—in my State. I need $10 million, which, I can tell you, because of the budget constraints we are under, is laughable. There is not $10 million in my subcommittee budget for anybody.

This morning I offered an amendment, mostly for discussion, to try to save the easiest $106 million the Senate will ever get an opportunity to save. I agreed with the Senator from Georgia because I would have lost if we went to a rollcall vote—nobody enjoys losing—to an amendment which simply prevents the Navy from buying a number of guidance systems for Trident missiles unless the Secretary of Defense asserts they are absolutely necessary.

Now I wish to discuss for a minute this amendment dealing with what we call Milstar. I daresay there are precious few Members of this body who do not serve on the Armed Services Committee and the Defense Appropriations Subcommittee who even know what Milstar is.

I can tell you what it is. It is between $30 billion—not millions, billions. It is a satellite communications system. It is a system by which the Department of Defense puts satellites overhead to communicate with the forces in the field. It was begun as a concept in 1981—and listen to this, Mr. President—to fight a 6-month nuclear war with the Soviet Union.

That was the rationale for Milstar in 1981—to be able to communicate with our forces during a 6-month nuclear war with the Soviet Union. To sensible people it was laughable then to think about a 6-month nuclear war. But like everything else, we started out building it for that purpose. And now that there is no threat of a nuclear war and we have become closer allies with Russia every day, it has not slowed the project up one whit.

We are still feverishly building the Milstar system at an unbelievable cost. I will describe just briefly, Mr. President, what it is.

(Mr. MATHEWS assumed the Chair.)

This year, 1994, we deployed the first satellite called Milstar I. It is up there now. The first power system has already failed. It is now operating on backup power. The first power system failed within a week after it was launched and placed in orbit. We all hope that the backup power system does not go out, because if it does there is another $1 billion or so down the drain.

We are going to launch the second Milstar I in 1995. We will have two of them up there then.

Then Milstar II, of which there will be four satellites. The first one will be launched in 1999, and the second one launched in the year 2000. The third one in 2001, and the fourth one in 2002.

Mr. President, this morning people had a chance to do something meaningful. We debated the B-2 bomber, which the Defense Department does not want. At that time, I said we cannot kill a system around here that the Defense Department wants; now we are to the point where we cannot kill what they do not want.

The budget deficit and the politics of deficit spending is not what it was last year because the deficit is going down. There are a lot of people in this body who want the deficit as an issue, not a problem to solve, but an issue you go back home and talk to the chamber of commerce about. But, in any event, the Pentagon said we do not want the B-2, and the Senate said we do not care what you want, we are going to make you take it anyway.

Last year the Defense Department went through what is called a Bottom-Up Review under the aegis of then-Defense Secretary Aspin. Here on this chart are the people who did the Bottom-Up Review on satellite communications. These are not babes in the woods. These are professionals who understand communications: Mitre, Lincoln Labs, Aerospace, Applied Physics Lab. That is who the Pentagon assigned to study Milstar and report back on the Bottom-Up Review.

Here is what they reported back. They said, "Plan now for transition to an advanced extra high frequency system." Do not complete the Milstar system, that is what the people who know more about this system than anybody, said we ought to do.

The follow-on system to the Milstar is called Milstar III. It will be smaller and cheaper than Milstar I and Milstar II. The first one would normally be launched in the year 2006. These people say launch it in the year 2003, advance it 3 years, and do not deploy the last four of the six satellites you plan to deploy.

They went ahead to say, if you do that, you only accept a "moderate risk." But then they said, if you will do this the way we recommend, not only is the risk moderate, but from fiscal year 1994 to fiscal year 1999, you would save $2.35 billion. And in the years fiscal year 1994 to fiscal year 2011, you will save $4.75 billion.

Mr. President, I make no bones about it. That would be my preference. I would kill this sucker in a New York minute, if I had my way. I will tell you in a moment why I would do it, and why it would save all that money, and why we would not be jeopardized if we did it. You think about that: $4.75 billion we could save if we took the advice of the very people that the Pentagon appointed to tell us what to do.

Mr. President, GAO has also studied this system. You think about the professionals saying we ought to kill it now, and advance the extra high frequency follow-on system to the year 2003. But the GAO said do not be quite that dramatic. Just cancel the last two, number 5 and number 6, Milstar II satellites. If you do that, you will save $1.5 billion between now and the end of the century.

I want the Senator from Virginia and the Senator from New Mexico to tell me how we are going to pay for that COLA this morning. I voted for it too. But I am willing to pay for it. Everybody else wants to write to the veterans of this country, and say, "I am your best new friend because I voted to move your COLA up to April 1, 1995." If somebody in that group happened to write back, and say, "That is awfully nice of you, but how do you intend to pay for it?" They will say, as Will Rogers said, "Heat up the Atlantic to make the German U-boats surface." That is just one of those little details we will have to work out.

Here is the simple chance to go through a very low risk change to the Milstar program, and save $1.5 billion.

Mr. President, I will tell you something else. Technically this system ain't all it is cracked up to be. You can understand what they are saying on Milstar. But if you understand Donald Duck, you will understand it a lot better because human speech sounds like quacking. You can understand it. But as I say, if you are a duck, you will understand it better.

Let me tell you that all I am suggesting is we cancel the last two satellites. That is the minimum thing to do; save this money. But one other thing: Do you know what you are getting for all of this $30 billion expenditure? The Milstar II that we are going to launch in 1998 will carry what is called 192 low-data channels. Each one of those last four will carry 192 low-data channels. Milstar has substantial amounts of anti-jamming equipment on it. We have another system up there right now called DSCS. The Iraqis did not even try to jam it during Desert Storm. It worked pretty well. But do you know what the DSCS system carries? Thousands, and thousands of messages per satellite. This one carries 192 for phone and teletype messages and 32 medium-data channels. That is the kind of a channel you can transmit imagery with. You can transmit like a FAX machine. So that is what you are going to get, 224 messages simultaneously for Milstar II, at an unbelievable cost.

Mr. President, here are the different alternatives that have been presented either by the people who did the Bottom-Up Review or by the General Accounting Office. The professionals whom I referred to a moment ago looked at all four of these options:

Kill the Milstar program now and save $6 billion between now and 2000.

Cancel Milstar II and accelerate the advanced extra high frequency system to 2003, save $3.5 billion.

Cancel Milstar II, accelerate the advanced EHF to 2000, save $2.4 billion.

Cancel the last two Milstar satellites, advance the follow-on system to 2003, and save $1.5 billion.

The professionals opted for this one: Cancel Milstar II now, advance the extra high frequency, follow on Milstar III, and save $3.5 billion.

Senator WARNER's amendment on COLA's for veterans would be a piece of cake if we did that. But it would also be a piece of cake if we did what the General Accounting Office and DALE BUMPERS says we ought to do—that is, to cancel the last two, advance the follow-on system to 2003, and save $1.5 billion.

Mr. President, if I am any judge of what this body will do either tonight or during the appropriations process, people will come storming through that door over there; they still will not know one thing about Milstar; they will walk down to the floor of the Senate, and they will ask the floor managers, "What is your vote on this?" The manager will say, "Well, I have moved to table. The Bumpers amendment would threaten our national security. He says there are savings, but there really are not," or whatever. I might get 30 votes, but if everybody is in a really good mood, I might get 40 votes, and we will go right on spending either $3.5 billion or $1.5 billion which we have to borrow to spend for a system that is questionable technically and economically is absolutely unaffordable.

Mr. President, let me close by saying one other thing. The Air Force does not want the system. They do not want it. Do you know why they are going ahead with it? Because the Secretary of Defense said, "Do not even think about it. Do not even consider accelerating Milstar III until we are ready to think about it in 2006." I am a fan of Bill Perry's. I have disagreements with him, but generally I think he is a good Secretary of Defense.

But you think about that. The Air Force, in charge of building the system, said, "We do not even want it," and the Secretary of Defense says, "Do not say that out loud."

But coming back to where I started—and I know I am not likely to prevail tonight, and I am not likely to prevail in the appropriations process, because it is impossible, No. 1, to communicate what I have said on the floor tonight to every Member of the U.S. Senate. But I must emphasize, Mr. President, that this is not me talking. I am repeating what the most knowledgeable people in America have said about Milstar. The most knowledgeable people in America have said: Advance the smaller, cheaper extra high frequency system, Milstar III, to the year 2003, save yourself $3.5 billion.

And the General Accounting Office, whom we all turn to for expert advice, said they have an alternative with even lower risk. If you do what we say, you lower the risk from moderate to something less than that—we will call it a low risk. They say just cancel the last two Milstars, advance the extra high frequency, and save yourself $1.5 billion.

If this were the Mafia, they would say, "This is an offer you cannot refuse."

I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska [Mr. EXON], is recognized.

Mr. EXON. Mr. President, the Senator from Arkansas and this Senator have worked together on many, many attempted cuts in the defense program and in other areas. In fact, I think that the Senator from Arkansas would concur because he wrote me a letter not too long ago listing the Senator from Nebraska as one of the leading supporters of all the Members of the U.S. Senate who have cooperated with him in trying to cut programs. I only say that to cite my credentials as a budget-cutter on things that I think are not necessary.

I happen to feel that the Senator from Arkansas, with all good intentions, is chasing windmills on this particular measure. We have given it a great deal of consideration in the Armed Services Committee and especially in the strategic subcommittee that I chair. I will simply point out that I listened very carefully to the Senator from Arkansas when he was talking about $13 billion here and $17 billion there. But when we come right down to it, I simply say that if the amendment were accepted, then the Senator himself has said that we would have a savings of $1.5 billion, as I understood his presentation—which was a good one—if you believe that Milstar should be restructured in the manner that the Senator from Arkansas has outlined.

So let us get this straight. This is not a multibillion dollar savings that the Senator is attempting with the amendment, as I understand it, that he has sent to the desk, but rather about $1.5 billion. That is a lot of money, but I want to try and put this in proper perspective.

The Senator has made some suggestions that we considered very carefully in the Armed Services Committee. We had a meeting with the GAO and looked at their report, and I think the Senator would agree with me that the GAO report, basically, as I think the Senator from Arkansas indicated, would knock out Nos. 5 and 6 satellites in this system.

What the Senator is recommending, which we looked at somewhat favorably early on before we held all of our hearings, before we listened to the experts that we tend to rely on on these kinds of matters, what the Senator from Arkansas would be betting on is that with the changes that he has recommended, we would be betting on an untried and unproven technology that the chairman of the Joint Chiefs of Staff, the Secretary of Defense, and our Commander at STRATCOM headquarters have all told me is not a sure bet, nor in their opinion is it a safe bet.

We could go into a lot of great detail on this, but I will simply say that I do not criticize those whom the Senator from Arkansas said, when the vote comes, when they come through that door, and come down here and ask the chairman of the Armed Services Committee what their vote should be, and I think he is very accurate; he probably would not prevail.

But the question is, have we looked at this in the Armed Services Committee? Yes, we have in great detail.

With the tight budget that we have today, that the Secretary of Defense and the Chairman of the Joint Chiefs, the STRATCOM headquarters, and all of the other CINC's around the world who strongly support this proposition as we have it, and say it is necessary, I do not think it is too wrong for those who have not followed in great detail to come to the chairman of the Armed Services Committee, in this case Senator NUNN, and say: How should we vote on this?

Senator NUNN can speak better for himself than I can, but I know that we have coordinated our efforts on this. We have taken a look at the realistic situation as it is, not as we would like to see it.

We believe that with the tight budget that is facing the Secretary of Defense, the Chairman of the Joint Chiefs and all of the CINC's that make up the decisionmaking process would not be throwing the money away on a Milstar program that they did not think was basically essential to protect our soldiers on the front line of battle in the field.

That is what the restructured Milstar program that was restructured basically at the direction of the Armed Services Committee is all about.

The Senator from Arkansas has mentioned that the Air Force is no longer solidly behind this program. I agree with him. That is why we think this program is so important, that we have decided that the Air Force's lack of interest in this program is such that it would be far better to transfer this program over, in this instance, to the Navy to proceed with it in the future.

Why has the Air Force lost its enthusiasm for this program? I think it is quite justified from the Air Force's perspective. Originally, the Milstar program, as accurately and correctly described by the Senator from Arkansas, was one that was featured and centered on the former Soviet Union in the case of an all-out 6-month war, or shorter.

At that time, under that original proposal, there would be computers in every bomber that was involved in our force because at that time it was essentially an Air Force program for Air Force response in the time of war.

The program, as I said earlier, has been refashioned, has been reduced by billions and billions of dollars, and is strongly supported, not like it was by the Air Force. And I emphasize again I agree with the Senator from Arkansas that the Air Force is no longer solidly behind this program for the reason that the Air Force would like to have the money that they have to buy more airplanes, possibly like the B-2 bomber that was referenced in the remarks by the Senator from Arkansas.

So it is true that the Air Force has lost interest in this, but for the reasons that I have cited I do not believe that the opposition of the Air Force, which I understand and have tried to fairly and adequately describe here on the floor of the Senate, is not a reason that we should take the gamble that the Senator from Arkansas suggests we take by expediting the program, and in the event that it would work we would save $1.5 billion.

I talked specifically about this with the Chairman of the Joint Chiefs of Staff, General Shalikashvili. He absolutely said, "Senator, there is no reason that I can give you why we would abandon this program that I believe has a good chance of working eventually as we provided for and bet on something in the future that I am not sure of."

Therefore, I would simply hope that when the vote comes on this, we will vote down the amendment offered by the Senator from Arkansas, and I may have further to say on this later.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I just will make a couple points.

First, one of the great tragedies of this whole thing is there are very few people here, even on the Armed Services Committee and on Defense appropriations, who know that we have already spent $12 billion on this program and will spend $17 billion more. You are talking about a $30 billion communications system, and surely to goodness, as we look around, because the Warner amendment over the years—nobody knows this better than the chairman of the committee—is not just $300 million next year. In the outyears, it runs into billions. I know the Senator is greatly concerned about that, as am I.

But I want to make one final point, Mr. President: Even though the deficit is headed south and the good news is the deficit this year is going to be even $35 billion more than we had anticipated, but we have been on this bill for 3 days and we have not cut one dime. On the contrary, we have added billions by the Warner amendment.

Mr. President, I ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. The Senator has that right.

Without objection, the amendment is withdrawn.

So the amendment (No. 2166) was withdrawn.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I think we are ready to take a number of cleared amendments.

I will ask my colleague from South Carolina if he is prepared to take a number of these cleared amendments. I think we have a number of them we worked out on both sides.

AMENDMENT NO. 2167

(Purpose: To direct the Office of Personnel Management to conduct a study and, if feasible, establish an interagency placement program for Federal employees affected by reduction in force actions, and for other purposes.)

Mr. NUNN. Mr. President, on behalf of Senator LAUTENBERG, I send an amendment to the desk and ask it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN), for Mr. LAUTENBERG, for himself, Mr. WOFFORD, and Mr. BRADLEY, proposed an amendment numbered 2167.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 249, insert between lines 7 and 8 the following:

SEC. . INTERAGENCY PLACEMENT PROGRAM FOR FEDERAL EMPLOYEES AFFECTED BY REDUCTION IN FORCE ACTIONS.

(a) STUDY AND REPORT.—(1) No later than 6 months after the date of the enactment of this Act, the Office of Personnel Management, in consultation with the Department of Defense, shall conduct a study and submit a report to the Congress on—

(A) the feasibility of establishing a mandatory interagency placement program for Federal employees affected by reduction in force actions; and

(B) any action taken by the Office of Personnel Management under subsection (b).

(2) In conducting the study under this section, the Office of Personnel Management, in consultation with the Department of Defense, shall seek comments from all Federal agencies.

(b) AGREEMENTS TO ESTABLISH INTERAGENCY PLACEMENT PROGRAM.—(1) If, during the 6-month period after the date of the enactment of this Act, the Office of Personnel Management, in consultation with the Department of Defense, determines that a Government-wide interagency placement program for Federal employees affected by reduction in force actions is feasible, the Office of Personnel Management may enter into an agreement with each agency that agrees to participate, to establish such a program. A program established under this subsection shall not be required to be an interagency placement program as defined under subsection (c)(3).

(2) If the Office of Personnel Management makes a determination to establish a program as provided under paragraph (1), the Office shall include in the report submitted under subsection (a) each agency that decides not to participate in the program and the reasons of the agency for the decision.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "agency" means an "Executive agency" as defined under section 105 of title 5, United States Code, and—

(A) includes the United States Postal Service and the Postal Rate Commission; and

(B) does not include the General Accounting Office;

(2) the term "Federal employees affected by reduction in force actions" means Federal employees who—

(A) are scheduled to be separated from service under a reduction in force pursuant to—

(i) regulations prescribed under section 3502 of title 5, United States Code; or

(ii) procedures established under section 3595 of title 5, United States Code; or

(B) are separated from service under such a reduction in force; and

(3) the term "interagency placement program" means a program that provides a system to require the offer of a position in an agency to an employee of another agency affected by a reduction in force action, if—

(A) the position cannot be filled through a placement program of the agency in which the position is located;

(B) the employee to whom the offer is made is well qualified for the offered position;

(C)(i) the classification of the offered position is equal to the classification of the employee's present or last held position; or

(ii) the basic rate of pay of the offered position is equal to the basic rate of pay of the employee's present or last held position; and

(D) the geographic location of the offered position is within the commuting area of—

(i) the residence of the employee; or

(ii) the location of the employee's present or last held position.

Mr. LAUTENBERG. Mr. President, I rise today to introduce an amendment on behalf of myself and Senator WOFFORD. Our efforts are motivated by a desire to help the Federal workers who lose their jobs as a result of Government downsizing and by a desire to make sure the Government is not automatically deprived of the talent and commitment of these workers.

Let me outline the problem we face and the weaknesses in our present efforts to address it.

As our Federal Government continues to downsize—272,000 civilian positions will be eliminated over the next 5 years—increasing numbers of talented, skilled, and dedicated Federal employees will lose their jobs. In an effort to be responsive to their human needs and to continue to use their talents in public service, different agencies have developed their own placement programs to assist former employees. The DOD's Priority Placement Program [PPP] is, by far, the most successful placement program in the Government. Since PPP's inception in 1965, over 100,000 Defense employees have been successfully placed elsewhere in the Department.

But in a 1992 report, the General Accounting Office [GAO] noted that the PPP was not able to meet demand for placements because fewer job opportunities were available. This remains the case—there are presently more than 17,000 registrants in the program. The placement rate for the PPP has declined, falling from a high of 48 percent in 1989 to 23 percent in 1991. The decline in this percentage can be expected to continue during the next 5 years.

Employees of the Department of Defense are not the only Federal workers to be confronted with difficulties in finding suitable Federal employment after becoming dislocated as a result of a reduction in force. Although DOD will reduce the largest number of civilian employees over the next few years, most Federal agencies will be impacted by this drawdown.

OPM currently operates two government-wide placement programs that supplement other Federal agencies efforts. According to a 1992 GAO report, OPM's program had 4,433 registrants and made 110 placements in fiscal year 1991. Although OPM has made some improvements to its programs since 1992, there clearly remains a need for a coordinated, mandatory, interagency placement program.

Senator WOFFORD and I introduced legislation that would require OPM to establish such a program within 6 months. We would like to have offered that bill as an amendment to S. 2182; however, there are some who do not believe that the timing is right for a mandatory Government-wide placement program. Working with the distinguished chairman of the Armed

Services Committee, the Governmental Affairs Committee, and the administration, we believe we have crafted an approach which will offer meaningful help to Federal workers without imposing arbitrary deadlines on the Government.

Here is what our amendment would do. It requires the Office of Personnel Management [OPM] to study whether a mandatory interagency placement program for Federal employees affected by reduction in force actions is feasible. Six months after the National Defense Authorization Act is enacted, OPM will report back to Congress with its findings.

The program that this amendment requires OPM to study, would not supersede intra-agency placement programs. Only when an agency is unable to fill a position internally through its own placement program will the interagency placement program go into effect. When this occurs, an agency would be required to offer this position to a RIF'd Federal employee who is well qualified, located within the commuting area of the position, and has either the same job classification or basic rate of pay as the offered position.

In compiling this study, OPM will have sought comments from all Federal agencies. Those Federal agencies who are opposed to an interagency placement program are required to explain their opposition.

If OPM determines that such a program is feasible, it may begin its implementation within this 6-month period. It can do so on a Governmentwide basis, if all agencies agree, or it can begin a more limited program with just the agencies that do not object to participating. The point is that we can begin to provide some real help to Government workers within 6 months.

Before I conclude my remarks Mr. President, I want to explain why I believe this program is necessary.

Mr. President, we want to reinvent Government. We have to reduce Federal employment. But we do not need to arbitrarily sacrifice the skills and dedication of these employees. By facilitating a Federal employee's effort to maintain a position with the Federal Government through the creation of a mandatory interagency placement program, I believe that this program will minimize the disruption created by reinvention and maximize the ability of existing Federal workers to continue to make a contribution to this country. I hope and expect that 6 months after this bill is enacted, OPM will report to Congress that such a program is feasible and necessary and that the implementation of a mandatory interagency placement program has begun.

Mr. NUNN. Mr. President, this amendment has been cleared on both sides of the aisle. It would require the Office of Personnel Management, OPM, in consultation with DOD, to conduct a study of the feasibility of establishing a nationwide interagency placement program for Federal workers affected by reductions in force.

Mr. President, I urge the adoption of the amendment.

Mr. THURMOND. Mr. President, we have no objection to this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2167) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2168

(Purpose: To provide for the payment by the Department of Defense of certain stipulated civil penalties)

Mr. NUNN. Mr. President, this is an amendment on behalf of myself and Senator THURMOND. The amendment would authorize Secretary of Defense to pay stipulated fines and penalties in the amount of $500,000 assessed by the Environmental Protection Agency at the West Virginia Ordnance works.

I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. THURMOND, for himself and Mr. NUNN, proposes an amendment numbered 2167.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 110, between lines 19 and 20, insert the following:

SEC. 357. PAYMENT OF CERTAIN STIPULATED CIVIL PENALTIES.

Of the funds authorized to be appropriated by section 301(17), the Secretary of Defense may pay not more than $500,000 to the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code of 1986 (26 U.S.C. 9507) as payment of stipulated civil penalties assessed under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

Mr. THURMOND. I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2168) was agreed to.

AMENDMENT NO. 2169

(Purpose: To authorize the conveyance of the Babbitt Housing Site, Hawthorne Army Ammunition Plant, Nevada)

Mr. NUNN. Mr. President, on behalf of the Senator from Nevada, Senator REID, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. REID, proposes an amendment numbered 2169.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 306, between lines 7 and 8, insert the following:

(F) A parcel of property, including any improvements thereon, consisting of approximately 440 acres located at the Hawthorne Army Ammunition Plan, Mineral County, Nevada, and commonly referred to as the Babbitt Housing Site.

On page 311, between lines 22 and 23, insert the following:

(F) In the case of the parcel referred to in subparagraph (F) of that subsection, by conveying without consideration all right, title, and interest of the United States in and to the parcel to the government of Mineral County, Nevada.

Mr. NUNN. Mr. President, this would convey 440 acres of property of the former location of the Babbitt Housing Area at the Hawthorne Army Ammunition Plant for economic development.

The purpose of this amendment is to expedite the conveyance to local government in order to generate redevelopment. The conveyance would be subject to GSA expedited process the committee adopted in the markup.

Mr. REID. Mr. President, I ask that the Senate consider an amendment to the fiscal year 1995 Defense Authorization bill to transfer ownership of the site of the former Babbitt House Area at Hawthorne Army Ammunition Plant. Under my amendment, the property would be transferred to Mineral County, NV, with the understanding that this land would be used to encourage economic redevelopment.

Hawthorne Army Ammunition Plant is the major employer in Mineral County, NV. However, over the past 15 to 20 years the ammunition production mission has been gradually eliminated at Hawthorne. This has resulted in corresponding reductions in employment which have had a serious economic impact on Mineral County. Because this is a rural county, recovery from this loss of jobs is extremely difficult.

The ammunition plant previously used this site as a family housing area. However, the reductions in employment and the physical deterioration of the facilities have made it uneconomical for the Army to retain the housing area. The Army has demolished the housing units and is in the final stages of removing debris from the site. The Army has sent a letter stating they no longer need this property.

Last year's Defense Authorization Act included provisions that encouraged land transfers to allow local governments to maximize their economic redevelopment opportunities after being impacted by Base Closure and Realignment actions. I ask that similar opportunities be given to Mineral County, NV. Even though the reductions at Hawthorne Army Ammunition Plant are not a result of the recent Base Closure and Realignment process, the local economic impacts are just as severe. This county has been suffering economic hardships for many years because of reductions at this military installation. Therefore, I feel that we should give this rural county the same chance that are given to communities impacted by more recent actions.

The Babbitt Housing site is located on a U.S. highway just outside the community of Hawthorne, NV. It is ideally located for future economic development. Therefore, I urge the Senate to approve this amendment.

Mr. THURMOND. Mr. President, I offer on behalf of myself and Senator NUNN an amendment that would enable the Secretary of Defense to pay a penalty to the Hazardous Substance Superfund. The Under Secretary of Defense for Acquisition and Technology failed to request this authority in the budget submission. The authority to pay this penalty is necessary for the Army to fulfill its obligations in this important area. The Secretary of Defense must ensure the services have the authority they need to comply with federal law and meet their legal obligations.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2169) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2170

(Purpose: To authorize procurement of equipment for the Joint Training, Analysis and Simulation Center for the United States Atlantic Command)

Mr. NUNN. Mr. President, this amendment I send to the desk would authorize up to $10.5 million within the total authorized for other procurement, Navy, to allow the U.S. Atlantic Command to begin procurement of command, control, communications, and computer equipment for the Joint Training, Analysis and Simulation Center. This amendment does not add to the overall bill.

I send the amendment to the desk and ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. GLENN, for himself, Mr. ROBB, and Mr. WARNER, proposes an amendment numbered 2170.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the end of Division A, Title I, Subtitle A, insert the following new section:

"SEC. . JOINT TRAINING, ANALYSIS AND SIMULATION CENTER.

Of the funds authorized to be appropriated for other procurement for Navy $10,500,000 shall be available for procurement of command, control, communications, and computer equipment for Joint Training, Analysis and Simulation Center for the United States Atlantic Command.

Mr. GLENN. Mr. President, this amendment would authorize up to $10.5 million in fiscal year 1995 for the Navy to begin procurement of equipment to outfit the new Joint Training, Analysis and Simulation Center for U.S. Atlantic Command. The amendment does not add funds to the bill—it simply authorizes the Navy to use funds within the Other Procurement, Navy account to initiate this exciting new simulation center.

Earlier this year, the Subcommitee on Military Readiness and Defense Infrastructure which I chair visited the Norfolk Naval complex to discuss readiness concerns with frontline operating units. During our visit, we met with Adm. Paul David Miller, the Commander in Chief of U.S. Atlantic Command to discuss readiness within USACOM.

During that discussion, Admiral Miller briefed the subcommittee on the Command's plans for a Joint Traning, Analysis and Simulation Center. The purpose of this Center will be to provide cost-effective joint training to support U.S. Atlantic Command's program for training joint task forces through simulation.

Mr. President, earlier this year the Defense Science Board Task Force on Readiness, chaired by former Army Chief of Staff General Shy Meyer, found that the Defense Department did not have good systems for measuring joint readiness. This task force urged DOD to "provide greater emphasis on the joint forces perspective of readiness."

In my view, this new Joint Training, Analysis and Simulation Center is exactly the kind of effort that is called for by the Defense Science Board Task Force on Readiness. This Center will serve to improve and measure joint readiness, and provide a laboratory for the improvement of joint tactics, throughout U.S. Alantic Command.

This new facility will be located in the building which was constructed for the Naval Undersea Warfare Center in Suffolk, VA. This building is under long-term lease to the Navy. Since the Naval Undersea Warfare Center is leaving this building as a result of the BRAC process, the use of the facility as the site for the Joint Training, Analysis and Simulation Center will make cost-effective use of this facility.

Mr. President, I ask unanimous consent that a letter from Mr. Louis Finch, the Deputy Under Secretary of Defense (Readiness), to Senator NUNN describing the Joint Training, Analysis and Simulation Center be included in the RECORD at the conclusion of my remarks.

I urge my colleagues to support this amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE
UNDER SECRETARY OF DEFENSE,
Washington, DC, June 23, 1994.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your recent inquiries regarding the Joint Training, Analysis and Simulation Center (JTASC). The purpose of this Center is to provide cost-effective joint training to support the United States Atlantic Command's (USACOM) program for training joint task forces via simulation. This program will serve to improve and measure joint readiness, provide a laboratory for the improvement of joint tactics, and establish a secure CONUS joint environment for the demonstration of new technologies. It will occupy and use as a hub for these efforts the facility in Suffolk, Virginia, that is being vacated by the Naval Undersea Warfare organization.

To ensure there is no duplication of efforts, the JTASC fully intends to coordinate its efforts with those of the Services and other joint training efforts including those of the Joint Warfighting Center and the Armed Forces Staff College in Tidewater, Virginia, and those of the United States Special Operations Command for Special Operations Forces. It is my understanding that $10.548 million is required to finance the initial phase of this effort which is to procure command, control, communications and computer equipment for the Center.

Thank you for inquiry on this cost-effective program to improve joint readiness and other defense matters.

Sincerely,

LOUIS C. FINCH,
Deputy Under Secretary of Defense, (Readiness).

Mr. NUNN. Mr. President, I urge its adoption.

I know Senator THURMOND will have a view on this and other amendments.

Mr. THURMOND. Mr. President, I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2170) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2171

(Purpose: To provide for the oversight of safety and the enforcement of safety-related standards at defense nuclear facilities)

Mr. THURMOND. Mr. President, on behalf of Senator COHEN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for Mr. COHEN, proposes an amendment numbered 2171.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 371, between lines 6 and 7, insert the following:

SEC. 3159. SAFETY OVERSIGHT AND ENFORCEMENT AT DEFENSE NUCLEAR FACILITIES.

(a) FINDINGS.—Congress finds the following:

(1) Effective oversight of matters relating to nuclear safety at defense nuclear facilities and enforcement of nuclear safety standards at such facilities are critical to ensuring the safety of the public and the workers at such facilities.

(2) The Department of Energy has not devoted adequate attention historically to matters relating to nuclear safety at defense nuclear facilities.

(b) SAFETY AT DEFENSE NUCLEAR FACILITIES.—The Secretary of Energy shall take appropriate actions to ensure that—

(1) officials of the Department of Energy who are responsible for independent oversight of matters relating to nuclear safety at defense nuclear facilities and enforcement of nuclear safety standards at such facilities maintain independence from officials who are engaged in management of such facilities;

(2) the independent, internal oversight functions carried out by the Department include, at the minimum, activities relating to—

(A) the assessment of the safety of defense nuclear facilities;

(B) the assessment of the effectiveness of Department program offices in carrying out programs relating to the environment, safety, health, and security at defense nuclear facilities;

(C) the provision to the Secretary of oversight reports that—

(i) contain validated technical information; and

(ii) provide a clear analysis of the extent to which line programs governing defense nuclear facilities meet applicable goals for the environment, safety, health, and security at such facilities; and

(D) the development of clear performance standards to be used in assessing the adequacy of the programs referred to in subparagraph (C)(ii);

(3) the Department has a system for bringing issues relating to nuclear safety at defense nuclear facilities to the attention of the officials of the Department (including the Secretary of Energy) having authority to resolve such issues in an adequate and timely manner; and

(4) an adequate number of qualified personnel of the Department are assigned to oversee matters relating to nuclear safety at defense nuclear facilities and enforce nuclear safety standards at such facilities.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Energy shall submit to the congressional defense committees a report describing—

(1) the actions that the Secretary has taken or will take to fulfill the requirements set forth in paragraphs (1), (2), and (3) of subsection (b);

(2) the actions in addition to the actions described under paragraph (1) that the Secretary could take in order to fulfill such requirements; and

(3) the respective roles with regard to nuclear safety at defense nuclear facilities of the following officials:

(A) The Associate Deputy Secretary of Energy for Field Management.

(B) The Assistant Secretary of Energy for Defense Programs.

(C) The Assistant Secretary of Energy for Environmental Restoration and Waste Management.

Mr. THURMOND. Mr. President, this amendment would provide the oversight of defense nuclear facilities of the Department of Energy by requiring the Secretary to provide for independent oversight of nuclear safety.

NUCLEAR SAFETY OVERSIGHT

Mr. COHEN. Mr. President, shortly after taking office last year, the Clinton administration undertook a significant reorganization of the Department of Energy. Some elements of DOE's reorganization plan were commendable. Others, however, caused me some concern, particularly the fate of the Nuclear Safety Office.

Under DOE's reorganization, the Nuclear Safety Office was folded into the Office of Environment, Safety and Health. The Office of Nuclear Safety is responsible for providing independent safety oversight of DOE's nuclear facilities. It is the only inhouse check on nuclear safety that is independent of those who manage DOE nuclear facilities.

Partly in response to criticisms from Members of Congress and others, DOE transferred the Nuclear Safety Office intact, without reducing its staffing, at least initially. While this was a welcome decision, the reorganization had other effects on nuclear safety oversight that were of continuing concern.

In order to have a sound basis for evaluating this matter, last April I asked the General Accounting Office to review DOE's restructuring of nuclear safety oversight and evaluate whether the proposed changes would improve or detract from DOE's ability to ensure nuclear safety.

What the GAO found is disconcerting. After its year-long review, it reached three basic conclusions:

First, DOE does not currently have an adequate number of qualified staff to oversee nuclear safety.

Second, DOE does not have a mechanism to ensure that nuclear safety issues are elevated up the chain of command until they are resolved. As a result, DOE may fail to take action to correct known safety problems, "potentially posing unnecessary risks to workers and the public." This organizational flaw is particularly important because nuclear safety oversight officials told GAO that some DOE nuclear plant managers have become less responsive since the reorganization was adopted last year.

Third, most importantly, GAO found that the independence of the nuclear safety oversight officials is compromised because they are now being directed to provide management assistance to those they oversee. The regulators are, in effect, being told to become part of plant management, undermining their ability to regulate in an objective, independent manner.

Mr. President, the amendment I am offering does not seek to reverse DOE's reorganization. But it would direct DOE to take corrective action in the three problem areas identified by GAO so that nuclear safety oversight officials the tools they need to protect the public health and safety.

INADEQUATE STAFFING

First, my amendment would direct the Secretary of Energy to ensure that an adequate number of qualified personnel are assigned to perform independent nuclear safety oversight. It leaves the Secretary the discretion to determine the proper staffing levels, but requires her to report on actions she takes to ensure adequate staffing.

ELEVATING SAFETY ISSUES

With regard to the second problem, my amendment would direct the Secretary to ensure that DOE has a system for bringing nuclear safety issues to the attention of officials, including the Secretary, having the authority to resolve them in an adequate and timely manner.

One might think that, surely, this must already be the case, but GAO found that:

> Because of limitations in DOE's existing methods for elevating (nuclear safety) issues, senior line management and the Secretary may not even be aware of significant nuclear safety issues identified by the Nuclear Safety Office.

Getting safety issues resolved is not merely a theoretical concern. GAO interviews of nuclear safety oversight officials in the field revealed that "in some cases line management does not adequately respond to the Nuclear Safety Office's findings of significant safety problems." Moreover, some safety oversight officials report that "line management's responsiveness to the findings of the (nuclear safety office) representatives has declined over the last year," since DOE reorganized.

COMPROMISING INDEPENDENCE

Finally, the most disturbing finding of the GAO is that the independence of the Nuclear Safety Office is being compromised.

Under well-established regulatory principles, DOE's nuclear safety oversight officials should be clearly independent of the nuclear facility operators they oversee and regulate. Failure to ensure independence can result in safety being sacrificed to other priorities.

As noted in the GAO report:

> According to the National Research Council * * * independent internal oversight is still essential to 'provide a second set of eyes' to monitor compliance and ensure that any issues are resolved before an accident or other adverse event occurs. In addition, the International Atomic Energy Agency and the Nuclear Regulatory Commission have emphasized that regulation of nuclear safety requires independence.

But the GAO found that such independence may be impaired because nuclear safety oversight officials are being required to provide wide-ranging assistance to nuclear plant operators they oversee. After identifying safety problems, oversight staff are helping plant operators correct those problems. In fact, oversight staff have been instructed to place equal importance on assisting management as on safety oversight.

By helping plant operators correct their safety problems, the oversight staff is undermining its ability to be an independent judge of plant operators' actions. As the GAO noted:

> Senior (safety and health) Office officials may be less inclined to report on and penalize poor nuclear safety performance by line management if, at the same time, their staff are helping line management to solve nuclear safety problems.

Mr. President, DOE's reorganization is forcing the Nuclear Safety Office to become a coach and a player at the same time it is supposed to be the referee. While DOE may claim the team plays better as a result, how can we now trust the referee's calls?

The answer is unclear, at best.

These concerns are not limited to the GAO. Last month, the Defense Nuclear Facilities Safety Board pointedly raised similar questions with DOE. The five-member Safety Board was created by Congress in 1988 to provide external independent oversight, outside the authority of DOE, of safety at defense nuclear facilities.

In a May 6 letter to Secretary O'Leary, the Safety Board questioned whether DOE is adhering to such principles as the "clear separation of line management responsibilities and functions from independent oversight functions." Citing "the potential conflicts of interest" involved, the Safety Board also questioned "the inherent problems * * * of having the (safety and health) office provide both technical support to the line (management) and also conduct independent oversight."

A companion document issued by one Safety Board member noted that "The congressionally mandated test for adequacy as regards protection of the public health and safety at defense nuclear facilities is that practices be comparable to those in commercial nuclear power" and the rhetorically asked "does DOE provide for comparably clear and distinct separation of the responsibilities of line (management) and internal oversight organizations?"

The answer, as the GAO found and DOE acknowledges, is absolutely not.

My amendment would seek to correct the nuclear safety oversight staff's loss of independence by directing the Secretary of Energy to take appropriate actions to ensure that nuclear safety oversight officials maintain independence from those who manage defense nuclear facilities.

I discussed this matter with senior DOE officials, including Under Secretary Charles Curtis and Assistant Secretary for Environment, Safety and Health Tara O'Toole. They assure me that, in a revision to its reorganization, DOE intends to create a separate Oversight Office that will be separated by a "Chinese wall" from assistance activities. This intent is confirmed by correspondence from Energy Secretary Hazel O'Leary, who writes that "'independent oversight will be assigned to a separate Office having no responsibility for assistance activities."

While these seemingly unamibiguous statements are consistent with the intent and language of my amendment, what is not clear is whether this new structure will provide for genuine independence and separation of oversight from line management.

The Safety Board has directed DOE to report to it by August 4 on DOE's reorganization, with special emphasis on the independence of nuclear safety oversight. Because of the possibility that DOE's report to the Safety Board could be delayed and since my amendment also addresses the issues of staffing and processes for elevating safety issues, this amendment requires a one-time report from DOE. These reports should shed much light on whether this new reorganization plan will ensure genuine independence of oversight, as required by this amendment.

I intend to carefully review these reports as well as consult with Safety Board members about them to determine whether the new Oversight Office and other arrangements effectively ensure such independence.

If it turns out that they do not, I anticipate taking action at that time to ensure that this amendment's requirement for independence of oversight is adhered to by DOE.

Mr. President, I would also note that at DOE's request, I have added a provision to my amendment specifying certain minimum authorities to be exercised by oversight officials. These include such things as the authority to assess safety and assess the performance of DOE program offices in carrying out effective environmental, safety, health and security programs, as well as to develop performance measures for such assessments. This provision does not seek to limit the authority of other DOE officials, such as those in line management, who are responsible for conducting self-assessments of safety and performance. But it does ensure that oversight officials have the tools required to do their job.

Mr. President, safety should be the highest priority of DOE. Regrettably, however, nuclear safety has traditionally ranked low in DOE's priorities.

A member of the Defense Nuclear Facilities Safety Board recently asked DOE a series of questions, including:

> Why should Congress and the public believe DOE has acted responsibly in establishing a weaker organizational arrangement than that of the (Navy's) Naval Reactors (program) for inherently risky weapon activities like disassembling nuclear weapons? Would they in the event of an accident?
>
> In the event of an accident or serious disarray in safety matters at a defense nuclear facility, would an objective investigation from outside DOE find the current organization sound from a safety point of view; or would DOE management be found to have been negligent?

While posed rhetorically as questions, the implicit answers seem obvious.

By helping to restore the integrity of the nuclear safety oversight system within DOE, this amendment could reduce the risk of such an accident and help ensure that we will not be found to have been negligent. I urge its adoption.

Mr. President, I ask unanimous consent to insert in the RECORD excerpts from the GAO report, the letter from the Defense Nuclear Facilities Safety Board to Secretary O'Leary, another document from a Safety Board member, an article published in the New York Times regarding this matter, and an editorial supporting my amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NUCLEAR SAFETY: UNRESOLVED ISSUES COULD IMPAIR DOE'S OVERSIGHT EFFECTIVENESS

To be effective, the organization responsible for the independent oversight and enforcement of nuclear safety within DOE must posses certain basic characteristics. These include (1) adequate authority, (2) independence from line management, and (3) an adequate number of technically qualified staff. Although the Secretary has given the ES&H Office additional authority, the Office does not have a systematic approach in place for raising safety concerns up the management chain of command—and ultimately to the Secretary—if necessary to ensure their adequate resolution. Furthermore, it is not year clear whether the ES&H Office will have adequate independence and a sufficient number of qualified staff to effectively perform the Office's nuclear safety oversight and enforcement functions.

ES&H OFFICE'S ABILITY TO ELEVATE SAFETY ISSUES REMAINS LIMITED

In 1989, the National Research Council recommended that, whenever DOE overseers find safety problems at the Department's facilities, they should bring the matters to responsible line managers for resolution. If these line managers do not take adequate actions to correct the identified problems, the oversight office should have the authority to raise its concerns up the management chain of command, and ultimately to the Secretary, if necessary. The ES&H Office has some capability to elevate safety issues up the chain of command and, ultimately, to the Secretary. However, no overall systematic approach exists for elevating issues, and the existing methods for doing so do not ensure that safety issues will always be elevated up the DOE hierarchy when necessary. As a consequence, line management—contractors, DOE field office officials, and DOE headquarters officials—may not take adequate or timely actions to correct safety problems identified by the Nuclear Safety Office, potentially posing unnecessary risks to workers and the public.

Because of limitations in DOE's existing methods for elevating issues, senior line management and the Secretary may not be aware of significant nuclear safety issues identified by the Nuclear Safety Office.

The ES&H Office also has some informal methods for elevating nuclear safety issues to the Secretary because the Assistant Secretary for ES&H has access to the Secretary and may raise such issues with her. According to ES&H Office officials, if the Office has a concern about any safety issue and cannot reach agreement with line management about appropriate action, the Assistant Secretary for ES&H can seek the Secretary's involvement, although this is occurring less frequently now than in the past. However, these informal methods do not provide assurance that oversight officials will always be successful in obtaining the Secretary's involvement.

Although officials in the headquarters ES&H Office state that line management has become more cooperative under the new administration, in some cases line management does not adequately respond to the Nuclear Safety Office's findings of significant safety problems. We asked the Nuclear Safety Office's senior representatives at DOE sites for their assessment of the performance of line management in correcting the nuclear safety problems they had identified. Most responded that this performance has been mixed; in some cases, line managers have performed well in correcting problems cited, but in other cases they have not. Some noted that, while line managers generally correct individual safety deficiencies cited, such as unlabeled waste containers, they tend to respond less adequately to findings of significant weaknesses in safety programs, such as inadequate monitoring by management of safety conditions. Some also noted that line management's responsiveness to the findings of the representatives has declined over the last year.

RECENT CHANGES COULD IMPAIR THE INDEPENDENCE OF THE ES&H OFFICE

The ES&H Office's independence from DOE's line management is important for the Office to carry out its nuclear safety oversight functions as well as its responsibilities, under the Price Anderson Amendments Act of 1988, for enforcing nuclear safety regulations. Past reviews of DOE by the National Research Council and us have stressed the importance of independent internal oversight. According to the National Research Council, although line management is responsible for ensuring compliance with environmental, safety, and health standards, independent internal oversight is still essential to "provide a second set of eyes" to monitor compliance and ensure that any issues are resolved before an accident or other adverse effect occurs. In addition, LAEA and NRC have emphasized that the regulation of nuclear safety requires independence. In 1988, LAEA recommended that nuclear regulatory bodies be functionally autonomous and that their independence in evaluating safety issues not be compromised. In 1990, NRC issued, as guidance for the agency's activities, five "Principles of Good Regulation," one of which was independence. According to the NRC Commissioner who was the principal author of these principles, independence is important because it enables regulators to withstand pressures to sacrifice safety for mission or production concerns and therefore helps to "maintain a solid course of safety."

Recently, the Secretary of Energy has begun to change the role of the ES&H Office. The Secretary has stated that her vision is for a Department "less founded on punitive oversight and more based upon mutual trust and cooperation." While the Secretary has declared that she wants the ES&H Office to continue conducting independent oversight of line management's performance, she has also emphasized that she wants the Office to place equal importance on providing expert advice and assistance to line management.

While the ES&H Office's new emphasis on providing assistance to and collaborating with line management may help to improve line management's safety performance, it could impair the Office's ability to independently oversee and regulate nuclear safety within DOE. Oversight conducted by the ES&H Office is the only departmental source of information about safety performance at DOE facilities that is independent of line management. By expanding its assistance activities, the Office may have less staff available to perform this oversight function. For example, the Acting Deputy Assistant Secretary for Nuclear Safety told us that the members of his staff assigned to help establish the lessons learned program at the Hanford Site could never be used to assess this program in the future because they "own" it. In addition, senior Office officials may be less inclined to report on and penalize poor nuclear safety performance by line management if, at the same time, their staff are helping line management to solve nuclear safety problems.

CONCLUSIONS

The ES&H Office lacks a systematic approach for elevating concerns about line management's responsiveness to findings up the organizational hierarchy, and ultimately to the Secretary, in order to enhance the visibility of these concerns. Experiences of the former Director of the Nuclear Safety Office demonstrate that, without a systematic approach for elevating issues to the Secretary, attempts by oversight officials to obtain access to the Secretary may not be successful. An institutionalized approach for elevating such concerns, along with existing informal methods for doing so, can help ensure that, regardless of changes in administrations and styles of management, senior line managers and the Secretary are made aware of significant unresolved safety problems and become involved in resolving those problems before any adverse effects occur.

The Secretary's vision for a more cooperative DOE, working together as a team, is laudable. However, the ES&H Office's new emphasis on assisting line management could impair the Office's ability to independently oversee and regulate nuclear safety within DOE. Independent internal oversight of operations at DOE facilities is important in order to provide the "second set of eyes" that the National Research Council envisioned and to ensure that problems are identified and addressed before workers or the public are placed at risk. The Office of Enforcement, in particular, needs to be able to independently pursue enforcement activities. By separating its assistance functions organizationally from its oversight and enforcement functions, the ES&H Office could help to ensure that the independence of its oversight and enforcement activities is not compromised or does not give the appearance of being compromised. Further, in developing the approach to be used by its new Office of Oversight, the ES&H Office needs to place priority on ensuring the independence of its oversight activities.

Finally, although the ES&H Office plans to increase its staffing levels, it is not yet clear whether the ES&H Office will have an adequate number of qualified staff to carry out its nuclear safety oversight and enforcement functions. The Office's expansion of its assistance activities could limit the number of staff available for these functions.

RECOMMENDATIONS

We recommend that the Secretary of Energy establish a systematic approach for the ES&H Office to elevate safety issues up the chain of command, and ultimately to the Secretary, when necessary to obtain their adequate and timely resolution. Such an approach should include (1) the routine issuance of formal reports on significant unresolved issues to senior line officials and the Secretary and (2) direction to the ES&H Office to notify the Secretary when significant unresolved issues require the Secretary's involvement. Ensure the independence of the ES&H Office's oversight and enforcement functions by separating these functions organizationally from the Office's assistance functions and by developing an oversight approach that places a priority on independence; and ensure the availability in the ES&H Office of an adequate number of qualified staff to oversee nuclear safety and enforce nuclear safety standards by determining the number of staff needed to perform these functions and reassigning staff accordingly.

DEFENSE NUCLEAR FACILITIES,
SAFETY BOARD,
Washington, DC, May 6, 1994.

Hon. HAZEL R. O'LEARY,
Secretary of Energy, Washington, DC.

DEAR SECRETARY O'LEARY: The Board is required by statute to address three specific topics in its fifth annual report to Congress:

(1) An assessment of the degree to which overall administration of the Board's activities are believed to meet the objectives of Congress in establishing the Board;

(2) Recommendations for continuation, termination, or modifications of the Board's functions and programs, including recommendations for transition to some other independent oversight arrangement if it is advisable; and

(3) Recommendations for appropriate transition requirements in the event that modifications are recommended. [42 U.S.C. 2286e(d)].

To fulfill this obligation, the Board must assemble information from many sources including the Department of Energy (DOE).

The Board recognizes that under your leadership the Department has been undergoing a major reorganization with respect to its management of defense nuclear facilities.

This reorganization has affected the roles and responsibilities of the various offices responsible for nuclear safety at DOE, and extends to the contracting process as well as to line management and independent oversight assignments. To carry out its statutory duty, the Board must understand in detail how certain aspects of this reorganization affect the Department's programs for assuring public and worker safety, for minimizing risk to life and property, and for protecting the environment.

The Board has determined that the Department should provide a report, pursuant to 42 U.S.C. 2286b(d), on two subjects described in detail below. This information, which is necessary for development of the fifth annual report, is also consistent with the thrust of Board Recommendation 92–5 regarding the Board's need to keep apprised of changes affecting safety in the defense nuclear complex. The report need not be organized strictly according to the topics listed. However, the report should clearly indicate where each listed topic is covered.

The DOE Report, pursuant to section 2286b(d) regarding reporting requirements, should be transmitted no later than 90 days after receipt of this letter.

I. Nuclear Health and Safety Management Program

In this area, the report should:

A. Provide a comprehensive exposition of the functions DOE deems necessary for an effective nuclear safety management program. This should consider:

1. Applicable provisions of the Atomic Energy Act and the Price-Anderson Act,

2. Comparable Federal nuclear safety programs (Naval Reactors, Nuclear Regulatory Commission),

3. Areas highlighted by Congress in establishing the functions of the Board, and

4. Integration of public and worker safety programs, including radiological and non-radiological components.

B. Provide a brief summary description of the basic safety management system that the DOE currently has in place for satisfying its responsibilities under the Atomic Energy Act "to protect or to minimize danger to life and property". The description should include:

1. A flow diagram that depicts the considerations of safety during the life cycle of a defense nuclear facility through the major stages of: design, construction, operation, decontamination and decommissioning, and environmental restoration.

2. The DOE process for establishing the safety management plans for specific facilities, including a discussion of how the management plan is adjusted as a facility transitions from one stage to the next.

3. The principal safety elements (rules, regulations, orders, standards, and other requirements) that are applicable at each of the above stages.

4. The relationship between orders and standards identified in Requirements Identification Documents (RIDS) and nuclear safety regulations enforceable under the Price-Anderson Act Amendments; indicate how compliance and enforcement will be assured for both types of requirements.

5. The adaptation of the basic safety management system for defense nuclear facilities to the assembly and disassembly of weapons and the conduct of weapons testing.

C. Provide views on the advisability and feasibility of establishing a DOE complex-wide self-appraisal capability modeled on that used by the Institute for Nuclear Power Operations (INPO).

II. Nuclear Safety Responsibilities and Organizational Arrangements

In this area, the report should:

A. Define the safety responsibilities of all organizations which have such responsibilities for defense nuclear facilities, including DOE Headquarters, field offices, contractors, and oversight organizations. The responsibilities of the following Headquarters positions should be addressed: Under Secretary, Assistant Secretaries for Defense Programs, Environmental Management, Environment, Safety and Health, the Associate Deputy Secretary for Field Management, and the Directors for the Office of Laboratory Management and the Office of Intelligence and Security. Where safety responsibility has been assigned and then delegated, this should be indicated.

B. State the principles embodied in assignments of safety responsibility for defense nuclear facilities, and compare them to parallel principles applied in commercial nuclear practice. Examples for such principles are: clear separation of line management responsibilities and functions from independent oversight functions and responsibilities; quality assurance group reporting directly to high-level management.

C. Identify potential conflicts of interest in existing safety assignments, and what actions (if any) are planned to eliminate these conflicts. For example, analyze the inherent problems, whether real and perceived, of having a single organizational element (ES&H) provide both technical support to the line and also conduct independent oversight of DOE compliance and enforcement programs. Another typical conflict of interest is the assignment of both line management and quality assurance functions to the same individual or group.

D. Describe in detail how the Office of Environment, Safety and Health will carry out independent oversight functions in light of its assigned functions to assist line organizations. Indicate how this Office will simultaneously assist line management, assess performance, and conduct enforcement actions at the same facility. Explain the actions to be taken by this office in performance-based safety compliance assessments at defense nuclear facilities, where performance is measured against DOE safety orders, regulations, and other standards and requirements of the contract.

E. List special measures, if any, which have been taken or will be taken to ensure that safety responsibilities for defense nuclear facilities are well-defined and understood throughout the Department, and its contractor organization.

F. Differentiate the relative roles of the contractor, DOE line management, and DOE oversight in executive safety management functions such as development and issuance of safety policies, orders, rules, standards and guides.

G. Provide an appraisal of the Department's current organization and capabilities relative to the safety functions identified in Item IA, and delineate changes needed to strengthen the nuclear safety management program.

If the Department wishes further information on either the intent of this report or its desired content, the Board is available for further discussions. Alternatively, your staff should feel free to contact Mr. Robert M. Andersen, the Board's General Counsel, for further guidance.

Sincerely,

JOHN T. CONWAY,
Chairman.

QUESTIONS REGARDING THE DOE ORGANIZATION PROMULGATED BY THE SECRETARY, DEPARTMENT OF ENERGY, IN JUNE, 1993

QUESTIONS ABOUT THE CURRENT DOE ORGANIZATION

About Safety Principles

1. Is the DOE organization based on the following principles?

The line organization is responsible for achievement of safety.

Confirmation that safety is being achieved must be provided independently by an organization entirely separate from the line.

Assignments of responsibility must be set forth clearly in writing, devoid of ambiguity and vagueness, at all levels from the Secretary down to and including the contractor.

These written assignments must be clearly understood and implemented and confirmed as such.

2. If the organization is not based on these principles, on what principles is it based?

About Organizational Objectives

3. Two stated objectives of the current organization are to:

assign more responsibility to field organizations and away from headquarters, and to

provide assistance to line organizations by the ASEH organization.

What specific measures are needed to implement these generally-stated objectives and which of them have been put in place during the year that has ensued since the organization was established? What measures have been planned, but await implementation?

About Administration

4. Before the current organization was announced about a year ago the safety responsibilities of the various organizations involved were embodied in documents of many kinds: Orders, directives, memoranda of understanding, operations manuals, and the like.

Has a systematic effort been undertaken by the organization responsible for administering the Orders and directives system to assure that documents of the kind referred to have been revised so as to be consistent with the new organization?

If so, what is the status of this effort?

About Conformance with National Standards

5. National Standard ANSI/ANS 3.2–188, "Administration Controls and Quality Assurance for the Operational Phase of Nuclear Power Plants," includes the following provision under Section 3.2: Assignment of Authority and Responsibility

"lines for authority, responsibility and communication for the plant operating and support organization shall be established and defined."

Does the current DOE organization meet this requirement and other accepted standards governing commercial nuclear practice?

6. A further provision of ANS/ANS 3.2 is as follows:

"The organizational structure and the functional responsibility assignments shall be such that: (1) Attainment of program objectives is accomplished by those who have been assigned responsibility for performing work. (2) Verification of conformance to established program requirements is accomplished by knowledgeable individuals who do not have responsibility for performing or directly supervising the work."

Is the planned use of EH personnel to "assist line organizations" in consonance with separation of functions intended by this provision?

About Staffing

7. What changes in staffing have been made to achieve the objectives of the current organization? Specifically, how many individuals

have been permanently reassigned from headquarters in DP and in EM to field organizations? How many positions (as distinguished from individuals)?

Congressional Mandated Test

8. The Congressionally-mandated test for adequacy as regards protection of public health and safety at defense nuclear facilities is that practices be comparable to those in commercial nuclear power. Are the principles on which the current DOE organization is based comparable to those in the commercial nuclear industry? For example, does DOE provide for comparably clear and distinct separation of the responsibilities of line and internal oversight organizations?

Associate Deputy Secretary for Field Management

9. Are the nuclear safety responsibilities of the Associate Deputy Secretary for Field Management (ADSFM) defined?

10. If so, have they been documented? Where?

11. The ADSFM has responsibilities for allocation of personnel and funding among field offices. Does this not endow ADSFM with a large influence on safety? Will ADSFM have the technical personnel qualified to judge among competing demands from field offices?

12. The Board was informed by one operations officer manager that ADSFM will prepare his performance appraisal. Presumably this applies to other managers of field organizations which report to ADSFM. Does this not give ADSFM *de facto* influence in safety matters?

13. To whom will differences between ADSFM and program assistant secretaries be referred for resolution?

14. Have memoranda of understanding or other arrangements concerning their respective safety responsibilities been prepared? If not, will they be prepared?

15. It seems evident that ADSFM has some safety responsibilities; likewise, the reorganization places heightened responsibilities on operations offices. Have these entirely new relationships been defined in writing? Will they be?

16. The Facility Representative (FR) ". . . is responsible to oversee the operating contractor to ensure safety of the workers and public." DOE Orders 5000.3B and 5490.19 define a FR as ". . . the primary point of contact with the contractor and will be responsible to the appropriate DOE Program Secretarial Officer (PSO) and Head of Field Organizations." In a letter dated September 10, 1993, Secretary O'Leary stated "The Office of Field Management is responsible for managing the Department's Facility Representative Program and will provide the centralized directions and guidance necessary to ensure a consistent approach across the complex. Is there not potential for conflict between Assistant Secretaries with program responsibilities and ADSFM which derive from this arrangement?

17. FM is the Office of Primary Interest for DOE Orders 4330.4A *Maintenance Management Program, 4700.1 Project Management System, and 6430.1A General Design Criteria.*

What are FM's responsibilities for ensuring the adequacy and implementation of these orders which relate to safety?

Are they in possible conflict with the responsibilities of line organizations in these safety-related matters?

Assistant Secretaries with Program Responsibilities (ASPRs)

18. Have the safety responsibilities of ASPRs been defined?

19. Some DOE documents obtained by the Board state or imply that responsibilities of ASPRs *remain unchanged*. Moreover, under the new organization, some key officials in headquarters assert that they intend to act as if there were no change. As previous questions indicate, there are clear indications that responsibilities of ASPRs have, in fact, changed. What has been done to clarify conflicting views among ADSFM, ASPRs, and operations offices?

20. Have the changes intended by current organization as between ASPRs and field organizations been addressed formally, as, for instance by memoranda of understanding?

21. The Board is aware that ASEM recognizes the need to define the respective responsibilities of EM headquarters and field organizations and has begun the definition process. When will this process be completed?

Office of Laboratory Management (OLM)

22. Does OLM have *any* assigned responsibility for safety?

23. Is it not reasonable to assume that matters involving OLM may arise (e.g., maintaining weapons personnel capability in laboratories) which affect safety? Does this not pose the likelihood that at least four DOE organizational units will be involved in matters affecting safety: ADSFM, ASPR, OLM, and Albuquerque Operations Office?

Office of Intelligence and Security (OIS)

24. What are responsibilities of OIS for emergency preparedness aspects of nuclear safety? Have they been defined?

25. Discussions with DOE gave evidence of uncertainties about relationships among the emergency preparedness unit, and ADSFM, ASPRs and Operations offices. How and when will these be clarified?

Assistant Secretary for Environment, Safety, and Health (ASEH)

26. Should not a basic responsibility of ASEH be to assure the Secretary independently, that assignment of nuclear safety lines of authority and responsibilities are well defined, are coherent and unambiguous, and are clearly understood among the organizations involved.

Does ASEH recognize this as a basic responsibility?

Has ASEH satisfied itself that these requirements have been met or that satisfactory progress is being made in meeting them?

27. The ASEH organization includes the organizational unit responsible for the content and development of nuclear safety standards; it also includes the unit responsible for independently confirming that they are being met by line organizations. How is the possible conflict implicit in this arrangement being addressed?

28. Specifically, for example, ASEH is responsible for the adequacy of DOE nuclear safety Orders and directives. They are known to be in need of improvement. The ASEH also is responsible for effecting such improvements. Who is responsible for independent confirmation that adequate progress is being made? (The far-reaching importance of nuclear safety Orders and directives to the DOE system for achieving safety makes this organization conflict a substantial one.)

29. The ASEH has stated that a function of EH is to assist line organization in safety matters. Does this not create a conflict of interest between providing assistance and making independent assessments in the matters and issues?

30. ASEH informed a Congressional Subcommittee that "Our approach is the 'teaming approach' which Tom Grumbly (EM) and EH are using to begin to apply sound worker protection practices at EM sites."

How will EH make independent oversight assessments of EM safety performance while carrying out a "teaming approach" with EM?

31. ASEH provided the Board on April 21 with the Work Plan of the Radiation Control Program Evaluation Team. With respect to organization, the Plan said: "A coherent and easily understood organizational chart should be prepared" and commented as follows: "Currently, there is no clear description of the organization which would allow an outside viewer to understand the hierarchical pattern as well as existing functional arrangements."

When will an organization chart be prepared?

For such recommendations of the Team as are approved by DOE, who will issue directions for their implementation?

32. ASEH discussed site representatives with the House Subcommittee on Oversight and Investigation on March 17, 1994 and indicated that "protocols" for them would be prepared. Are these protocols in place?

33. The Board understands that a reorganization of EH is about to be announced. Will the issues raised above be clarified or resolved by the new organization?

General

34. A recent GAO report exhibits a pronounced concern about the reporting relationships between ASPRs and operations offices. Have any written responses been made to these concerns, as, for example to GAO or Congress.

35. If ADSFM has responsibilities affecting safety (and this appears to be self-evident), will it need personnel with technical qualifications? How would this need be met, given that ASPRs and operations offices all have serious shortages of technically qualified personnel?

36. The GAO report referred to earlier stated that "over 90 percent of 114 senior DOE managers" believed that "organizational lines of authority and responsibilities" need to be clarified. And this was evident to GAO even before the new organization was established. What measures will be taken to correct this situation? What organization has the principal (lead) responsibility for correcting it? Does it recognize that it has this responsibility? What has been done to date?

37. What senior official, at a level above those who are themselves responsible for the problems implicit in the questions above, is responsible for seeing to it that they are resolved?

38. The current organization was established a year ago. Why have so many of the issues implicit in the questions cited above remained unresolved? Have the impediments to resolved them been removed?

39. What would be comparison between the Naval Reactors organization and that for other defense-related facilities show as regards strength in protecting public health and safety? Is there any doubt which is stronger?

40. The strength of the Naval Reactors organization as regards safety is due to strong direction and control from headquarters. In contrast, the current DOE organization intends that safety responsibility be shifted away from weak headquarters organizations to equally weak field ones. What evidence is there that the shift will work?

41. How does DOE rationalize having two organizational arrangements, which differ so

much in features which affect safety, as that for naval reactors and other defense facilities?

42. A decades-old criticism of DOE safety programs is that they rely too much on contractors. The previous DOE organization tried to correct this, in part by strengthening headquarters authority and capability. Why was this direction reversed? After a year is there any evidence of improvement?

43. When Secretary O'Leary and the Board appeared recently before the Senate Committee on the Armed Services, Senator Exon, presiding, characterized the Naval Reactors program as a "model one." Also, the Naval Reactor program is the only defense-related one excluded by Congress from Board oversight. Taking this as generally representative of Congressional attitudes, why should Congress and the public believe DOE has acted responsibility in establishing a weaker organizational arrangement than that of Naval Reactors for an inherently hazardous weapon activities like disassembling nuclear weapons? Would they in event of an accident?

44. Has DOE issued any instructions or directives which clarify or interpret the current organization since it was announced a year ago? Identify them.

45. Has any systematic attempt been made to ascertain whether safety responsibilities are understood clearly at all levels in headquarters and field organizations? If yes, with what results? If not, explain not having done so?

46. Commitments to the Board were made informally over a period of many months that the new organization would be explained so to answer Board questions. These commitments, made by the Secretary, Assistant Secretary (EM), and Assistant Secretary (EH), have not been met.

What is to be read into this failure to meet commitments concerning a matter of serious safety impact. Does it suggest there may be structural or other weaknesses in the organization which make it difficult to answer the questions posed? In any event, should not the Board have been informed as to why the commitments were not kept?

47. In the event of an accident or serious disarray in safety matters at a defense nuclear facility, would an objective investigation from outside DOE find the current organization sound from a safety point of view; or would DOE management be found to have been negligent?

48. Would it help DOE to convene a group of professionals, experienced in managing or regulating nuclear facilities, to review the current organization with respect to safety at defense nuclear facilities?

49. Would it not be prudent to obtain such advice before an accident with the objective of preventing it, rather than afterward to analyze its causes?

50. DOE has had difficulty in implementing Board Recommendation 90-2, regarding standards, issued over four years ago. Field organizations have shown far less understanding of the importance of this safety matter than headquarters organizations. Why shift responsibility to the field in such matters, when the need is to strengthen headquarters ability to elicit performance by the field?

[From the New York Times, June 21, 1994]

FLAWS FOUND IN INSURING SAFETY OF NUCLEAR BOMB PLANTS

(By Matthew L. Wald)

The ability of the Department of Energy to identify nuclear safety problems at its bomb plants and bring them to the attention of top officials was significantly reduced by a reorganization last year, a study by the General Accounting Office, an investigative arm of Congress, has found.

The department contended that the reorganization under Energy Secretary Hazel R. O'Leary had made operations more efficient and had created a more cooperative atmosphere. But the Congressional investigators said it had ended the arms-length, independent position of internal safety regulators. And when safety officials disagree about a procedure or a physical problem in the weapons complex, the report said, "No overall systematic approach exists for elevating issues, and the existing methods for doing so do not insure that safety issues will always be elevated up the D.O.E. hierarchy when necessary."

Identifying safety problems is a special problem for the department, which is mostly self-regulated. The department acknowledged in the mid-1980's that it had lost control of its weapons-production complex and that resulting environmental problems would cost tens of billions of dollars.

SECRETARY DEFENDS CHANGES

But Energy Secretary O'Leary said in a telephone interview yesterday that the reorganization, integrating safety experts with line managers, was helping to clean up the department's environmental and safety problems. Before, she said: "We had lots of oversight but no action as a result of the oversight. We need to get outcome as opposed to reports and studies."

Tara O'Toole, the Assistance Secretary of Energy for environment, safety and health, said in a telephone interview yesterday that the department's top officials had a good system for identifying, discussing and solving problems. She added that she now had influence over how money was spent to solve problems by all operating departments. "That's where you get authority in Government," she said, "not by bursting into the Secretary's office—which I have also done, by the way."

Safety officials' access to the Secretary has been a sore point in the department. When Mrs. O'Leary, took office last year, the department had an internal Office of Nuclear Safety that was independent of other divisions and reported directly to the Secretary. But Mrs. O'Leary moved that operation into the Office of Environment, Safety and Health.

The man who headed the safety office at the time, Steven Blush, sent Mrs. O'Leary a bitter letter of resignation in April 1993, saying that he had lost access to her because of the management structure she had established. As a result, he said, he had been unable to point out a plutonium contamination problem at the Lawrence Livermore National Laboratory in Livermore, Calif. The situation required immediate evacuation of some workers there, he said, because managers of the laboratory were not adequately dealing with the situation.

PREVIOUS SYSTEM

Mr. Blush was hired in the Bush Administration by Energy Secretary James D. Watkins, a retired admiral Mr. Watkins had modeled the department after the Navy's nuclear submarine program, of which he was a veteran, so that it provided for direct reporting to him of safety problems.

But current officials of the department question how well that worked. According to Dr. O'Toole, before the reorganization, safety responsibility was spread among five different officers. "Senior nuclear managers would get together and scream at each other," she said. "They would scream at each other in Admiral Watkins's presence, and he would reach a decision. I don't call that a process."

Mrs. O'Leary, a lawyer and former utility company executive, has concentrated on policy decisions rather than specific engineering questions.

The General Accounting Office report, which was requested by Senator William S. Cohen, Republican of Maine, is the second in the last few weeks to question the reorganization. The Defense Nuclear Facilities Safety Board, an advisory group, raised similar concerns in a letter to Mrs. O'Leary on May 6.

Senator Cohen said he planned to offer an amendment to the Defense Authorization Bill, which could reach the Senator floor this afternoon, to restore the separation between regulators and managers. The report said that Mrs. O'Leary wanted nuclear safety officials "to place equal importance on providing expert advice and assistance to line management," and that those officials, formerly regulators, were now using a "mentoring approach" in some areas. But that, the report said, made it difficult for them to regulate.

Senator Cohen said in a statement that the reorganization "is forcing the Nuclear Safety office to become a coach and a player at the same time it is supposed to be the referee."

While the Congressional report was short on specifics, it did give one example of how the new arrangements could limit the effectiveness of safety regulators. One Energy Department official told the investigators that his staff had helped establish a "lessons learned" program at the Hanford Nuclear Reservation near Richland, Wash., to evaluate past incidents as a guide to preventing them in the future. But those staff members could never assess the quality of the lessons learned program, he said, because having helped create it, they now "own" it.

But Mrs. O'Leary and Dr. O'Toole said that in such a case, the mentors would never be sent back to evaluate the program they had set up. Dr. O'Toole said it was essential that safety regulators be involved in operations because the department could never establish safety expertise in each of its many line operations.

Mrs. O'Leary said the department was in the middle of a major expansion of its safety force, and had added site representatives at two places that never had them: the Fernald Field Materials Center, near Cincinnati, one of the most polluted of the weapons plants, and Pantex, near Amarillo, Tex., where nuclear weapons are now being dismantled.

Under Mr. Watkins, the department was still running various chemical processing plants and preparing to reopen a nuclear reactor to make bomb fuel, but it has since given up nearly all processing activities. Nevertheless, the problems may be getting worse, department officials say.

"D.O.E. facilities may be becoming less safe, because of aging infrastructure, and the huge inventory we've accumulated," Dr. O'Toole said. "Things aren't O.K. now that we've stopped making bombs."

"Hazards, you name them and we've got them," she said.

Mr. NUNN. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2171) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2172

(Purpose: To provide for use of foreign contributions for the George C. Marshall European Center for Security Studies, and to waive charges for participants in activities of such Center)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], proposes an amendment numbered 2172.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. GEORGE C. MARSHALL EUROPEAN CENTER FOR SECURITY STUDIES.

(a) USE OF CONTRIBUTIONS.—Funds received by the United States Government from the Federal Republic of Germany as its fair share of the costs of the George C. Marshall European Center for Security Studies shall be credited to appropriations available to the Department of Defense for the George C. Marshall European Center for Security Studies. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Center for the same purposes and the same period as the appropriations with which merged.

(b) WAIVER OF CHARGES.—(1) The Secretary of Defense may waive reimbursement of the costs of conferences, seminars, courses of instruction, or similar educational activities of the George C. Marshall European Center for Security Studies for military officers and civilian officials of cooperation partner states of the North Atlantic Cooperation Council or the Partnership for Peace if the Secretary determines that attendance by such personnel without reimbursement is in the national security interest of the United States.

(2) Costs for which reimbursement is waived pursuant to paragraph (1) shall be paid from appropriations available for the Center.

Mr. NUNN. Mr. President, this amendment relates to the George C. Marshall Center for security studies. The amendment has been proposed by the Department of Defense. The Marshall Center was the brainchild of General John Galvin who as the commander in chief, U.S. European Command, and NATO's Supreme Allied Commander recognized the need for a center in which military and civilian defense officials of Eastern Europe and the former Soviet Union could become familiar with the manner in which defense matters are dealt with in democracies with market economies. General Galvin's concept has been nurtured by his two successors, General Shalikashvili and General Joulwan and has been endorsed by Secretaries of Defense Cheney, Aspin, and Perry.

The amendment accomplishes two things. First of all, it enables the Department of Defense to accept and use funds contributed by the German Government for the operation of the Marshall Center. The Marshall Center is in Garmisch, Germany and the German Government is co-administrator of the center. Second, the amendment would allow the Secretary of Defense to waive reimbursement from the countries of Eastern Europe and the former Soviet Union for the cost of the courses and seminars at the Marshall Center if the Secretary determines that such is in the national security interest of the United States. The countries of Eastern Europe and the former Soviet Union are not presently able to pay those costs. NATO countries, who have been invited to send one student for each course, will pay the expenses for their students.

Mr. President, I believe this is a very important program and I strongly recommend the adoption of the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, we have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2172) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2173

(Purpose: To authorize the appointment by the Secretary of Energy of certain scientific, engineering, and technical personnel)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senator GLENN.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. GLENN, proposes an amendment numbered 2173.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 370, strike out line 3 and all that follows through page 371, line 6, and insert in lieu thereof the following:

SEC. 3158. AUTHORITY FOR APPOINTMENT OF CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL.

(a) AUTHORITY.—(1) Nothwithstanding any provision of title 5, United States Code, governing appointments in the competitive service and General Schedule classification and pay rates, or any other provision of law, the Secretary of Energy may—

(A) establish and set the rates of pay for not more than 200 positions in the Department of Energy for scientific, engineering, and technical personnel whose duties will relate to safety at defense nuclear facilities of the Department; and

(B) appoint persons to such positions.

(2) The rate of pay for a position established under paragraph (1) may not exceed the rate of pay payable for Level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(3) To the maximum extent practicable, the Secretary shall appoint persons under paragraph (1)(B) to the positions established under paragraph (1)(A) in accordance with the merit system principles set forth in section 2301 of such title.

(b) OPM REVIEW.—(1) The Secretary shall enter into an agreement with the Director of the Office of Personnel Management under which agreement the Director shall periodically evaluate the use of the authority set forth in subsection (a)(1).

(2) If the Director determines as a result of such evaluation that the Secretary of Energy is not appointing persons to positions under such authority in a manner consistent with the merit system principles set forth in section 2301 of title 5, United States Code, the Director shall notify the Secretary of that determination.

(3) Upon receipt of a notification under paragraph (2), the Secretary shall—

(A) take appropriate action to appoint persons to positions under such authority in a manner consistent with such principles; or

(B) cease appointment of persons under such authority.

(c) TERMINATION.—(1) The authority provided under subsection (a)(1) shall terminate on September 30, 1997.

(2) An employee may not be separated from employment with the Department of Energy or receive a reduction in pay by reason of the termination of authority under paragraph (1).

Mr. NUNN. Mr. President, this amendment would strike the current provision in the bill providing DOE with the authority to hire under exceptions to civil services laws and include a substitute provision.

I urge the adoption of the amendment.

Mr. THURMOND. Mr. President, we have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2173) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table. The motion to lay on the table was agreed to.

AMENDMENT NO. 2174

(Purpose: To require a study on the feasibility and advisability of beaming high power laser energy to satellites)

Mr. NUNN. Mr. President, on behalf of the Senator from California [Mrs. FEINSTEIN], I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mrs. FEINSTEIN, proposes an amendment numbered 2174.

Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 59, between lines 9 and 10, insert the following new section:

SEC. 250. STUDY ON BEAMING HIGH POWER LASER ENERGY TO SATELLITES.

(a) STUDY.—(1) The Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall jointly carry out a study to determine the cost, feasibility, and advisability of the development and utilization of a system to deliver energy to satellites by beaming high power laser energy from ground sources.

(2) In determining the cost, feasibility, and advisability of the system referred to in paragraph (1), the Secretary and the Administrator shall take into account the impact on the environment of the development and utilization of the system and the effect, if any, of the development and utilization of the system on the arms control efforts or obligations of the United States.

(3) In carrying out the study, the Secretary and the Administrator shall consider the development of a space energy laser (SELENE) system using a free electron laser at the Naval Air Weapons Station, China Lake, California.

(b) REPORT.—The Secretary and the Administrator shall jointly submit to the congressional defense committees a report on the study required under subsection (a). The Secretary and the Administrator shall submit the report not later than July 1, 1995.

Mrs. FEINSTEIN. Mr. President, I urge my colleagues to support this amendment to require a study on the feasibility and advisability of beaming high power laser energy to satellites for peaceful purposes. In particular, one such proposal is the Space Energy Laser—SELENE—project, located at China Lake Naval Air Warfare Center in California.

SELENE is an innovative proposal to develop a land-based powerplant to supply electrical power through laser light conversion to orbiting satellites. This power will extend the lifetime of satellites in orbit and make it feasible to insert smaller satellites into geostationary orbit at reduced cost. The system consists of a powerful free electron laser and a large adaptive optic telescope to beam laser power through the atmosphere to satellites in geosynchronous orbit. I understand that the concept of beaming laser power through the atmosphere has already been experimentally demonstrated.

Most of the commercial satellites over the United States could be reached by a laser/telescope system located on the Naval Air Weapons Center at China Lake. Additionally, I believe China Lake would be an ideal location for SELENE because it has 260 clear days per year, more than any other feasible site in the United States; astronomical seeing is excellent, and the area is entirely surrounded by restricted airspace. In addition, SELENE would benefit California and the China Lake area by potentially bringing over 300 jobs and an annual operating budget of $50 million to the region.

The Department of Defense should study the SELENE project and other innovative proposals, and conduct an environmental impact statement at the China Lake site. Further, because the SELENE project could be extremely beneficial to military, civil, and commercial users, a cooperative agreement with NASA should also be explored. This innovative proposal could lead to reduced satellite costs for both industry and Government, and would increase U.S. competitiveness.

I urge my colleagues to support this amendment so that the Congress will be better informed and better able to make decisions on high power laser energy projects, such as SELENE, that could provide long-term benefits to the United States and the entire international community.

Mr. NUNN. Mr. President, this amendment requires the Secretary of Defense to study the cost and feasibility of the space energy laser at China Lake Naval Air Weapons Station.

I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2174) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2175

(Purpose: To improve the authority for Army industrial facilities to sell manufactured articles and services to persons outside the Department of Defense)

Mr. THURMOND. Mr. President, on behalf of Senator NICKLES, I send an amendment to the desk and ask for its immediate consideration. This is an amendment to authorize industrial funds for facilities to engage in the sale of nondefense goods and services.

Mr. President, I understand this amendment has been cleared by both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for Mr. NICKLES, proposes an amendment numbered 2175.

Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 27, between lines 9 and 10, insert the following:

SEC. 143. SALES AUTHORITY OF WORKING-CAPITAL FUNDED ARMY INDUSTRIAL FACILITIES.

Section 4543(a) of title 10, United States Code, is amended—

(1) in the matter above paragraph (1), by striking out "nondefense-related commercial";

(2) by striking out "and" at the end of paragraph (3);

(3) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

(4) by adding at the end the following new paragraphs:

"(5) the Secretary of the Army determines that the articles or services are not available from a commercial source located in the United States;

"(6) the purchaser of an article or service agrees to hold harmless and indemnify the United States, except in cases of willful misconduct or extreme negligence, from any claim for damages or injury to any person or property arising out of the article or service;

"(7) the article to be sold can be manufactured, or the service to be sold can be substantially performed, by the industrial facility with only incidental subcontracting and it is in the public interest to manufacture such article or perform such service; and

"(8) the sale will not interfere with performance of the military mission of the industrial facility.".

Mr. NICKLES. Mr. President, I want to thank the Senate Armed Services Committee members and staff for working closely with me on this amendment.

It will allow Army industrial facilities to do defense related work outside DOD if no commercial source is available to do the work in the United States. This is important because current law would prevent this from happening.

Current law could have forced the Army to purchase goods or services abroad if they could not be made or provided commercially in the United States. With this provision, these facilities will keep this work in the United States.

Once again, I thank the committee members and staff for their cooperation and assistance in having this amendment included in the bill.

Mr. NUNN. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2175) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2176

(Purpose: To authorize the Secretary of Defense to designate up to three industrial facilities of the Armed Forces to sell unique articles and services to persons outside the Department of Defense.)

Mr. NUNN. Mr. President, on behalf of the two Senators from California, Senator BOXER and Senator FEINSTEIN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN), for Mrs. BOXER, for herself and Mrs. FEINSTEIN, proposes an amendment numbered 2176.

Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 110, between lines 19 and 20, insert the following:

SEC. 357. SALE OF ARTICLES AND SERVICES OF INDUSTRIAL FACILITIES OF THE ARMED FORCES TO PERSONS OUTSIDE DEPARTMENT OF DEFENSE.

(a) AUTHORITY TO SELL OUTSIDE DOD.—The Secretary of Defense may sell in accordance with this section to persons outside the Department of Defense articles and services produced in working-capital funded industrial facilities of the Armed Forces that are not available from any United States commercial source.

(b) DESIGNATION OF PARTICIPATING INDUSTRIAL FACILITIES.—The Secretary may designate up to three facilities referred to in subsection (a) as the facilities from which articles and services produced in such facilities may be sold under this section.

(c) CONDITIONS FOR SALES.—A sale of articles or services may be made under this section only if—

(1) the Secretary of Defense determines that the articles or services are not available from a commercial source in the United States;

(2) the purchaser agrees to hold harmless and indemnify the United States, except in cases of willful misconduct or extreme negligence, from any claim for damages or injury to any person or property arising out of the articles or services;

(3) the articles or services can be substantially performed by the industrial facility concerned with only incidental subcontracting and that performance is in the public interest;

(4) the Secretary determines that the sale of the articles or services will not interfere with the military mission of the industrial facility concerned; and

(5) the sale of the goods and services is made on the basis that it will not interfere with performance of work by the industrial facility concerned for the Department of Defense.

(d) METHODS OF SALE.—(1) The Secretary shall permit a purchaser of articles or services under this section to use advance incremental funding to pay for the articles or services.

(2) In the sale of articles and services under this section, the Secretary shall—

(A) charge the purchaser, at a minimum, the variable costs, capital improvement costs, and equipment depreciation costs that are associated with the articles or services sold;

(B) enter into a firm, fixed-price contract or, if agreed by the purchaser, a cost reimbursement contract for the sale; and

(C) develop and maintain (from sources other than appropriated funds) working capital to be available for paying design costs, planning costs, procurement costs, and other costs associated with the articles or services sold.

(e) DELEGATION OF AUTHORITY.—The Secretary may delegate the authority to sell articles and services in accordance with this section to the commander of each industrial facility designated pursuant to subsection (b) in accordance with regulations prescribed by the Secretary.

(f) DEPOSIT OF PROCEEDS.—Proceeds from sales of articles and services under this section shall be credited to the funds, including working capital funds and operation and maintenance funds, incurring the costs of performance.

(g) RELATIONSHIP TO ARMS EXPORT CONTROL ACT.—Nothing in this section shall be construed to affect the application of the export controls provided for in section 38 of the Arms Export Control Act (22 U.S.C. 2778) to items which incorporate or are produced through the use of an article sold under this section.

(h) DEFINITIONS.—In this section:

(1) The term "advance incremental funding", with respect to a sale of articles or services, means a series of partial payments for the articles or services that includes—

(A) one or more partial payments before the commencement of work or the incurring of costs in connection with the production of the articles or the performance of the services, as the case may be; and

(B) subsequent progress payments that result in full payment being completed as the required work is being completed.

(2) The term "variable costs", with respect to sales of articles or services, means the costs that are expected to fluctuate directly with the volume of sales and—

(A) in the case of articles, the volume of production necessary to satisfy the sales orders; or

(B) in the case of services, the extent of the services sold.

Mrs. FEINSTEIN. Mr. President, I rise today, an original cosponsor of this amendment, to give depot maintenance facilities the authority to provide goods and services to non-Department of Defense [DOD] customers. This is an important amendment, particularly for McClellan Air Force Base, which is a premiere Air Logistics Center in Sacramento, CA.

The ability to provide such goods and services to non-DOD customers would achieve many goals, including: Enhance commercialization of dual-use technologies; promote economic growth and create jobs; sustain and support capabilities needed for defense applications; increase utilization of defense assets which will lower operating costs to DOD and ultimately the American taxpayer; share the costs of maintaining the industrial base; remove barriers that prevent sharing of expensive-to-duplicate capabilities; and provide State and local governments and commercial interests with access to capabilities that are not available in the commercial sector.

Depot maintenance facilities like McClellan AFB have a great deal of dual-use capability. Unfortunately, much of this capability is not fully utilized because under current law depot facilities are restricted to supporting non-Federal customers in only research and development functions.

This legislation permits the Secretary of Defense to designate up to three depot maintenance facilities, like McClellan AFB, as pilot bases with the authority to provide goods or services—not just research and development—that are not available in the private sector. The legislation contains a number of conditions that will ensure this new authority is not abused and that private sector interests are protected.

The articles or services provided under the new authority cannot be available from a commercial source in the United States—this will ensure that the depot facilities will not be competing with the private sector. Also, the sale of the articles or services by the depot facilities cannot interfere with the military mission or related work performance of the facilities. In other words, the military mission of the depots will remain the primary mission, as it should.

This legislation makes sense for the depot facilities, the potential customers of the dual-use capabilities, and the American taxpayer. In addition, for McClellan AFB in Sacramento, it could mean increased workload and less excess capacity. I strongly support this amendment and urge its adoption.

Mrs. BOXER. Mr. President, the amendment I have just sent to the desk authorizes the Secretary of Defense to allow up to three Armed Forces industrial facilities to sell goods and services to sources outside the Department of Defense. The amendment specifies that such sales can only be made when the Secretary of Defense determines that the transaction is in the public interest and when the goods or services in question are not available from a commercial source located in the United States. This final provision is very important because it guarantees that military depots will not compete for business with the private sector.

This amendment will allow unique technologies with dual-use applications to be shared with the private sector. It is by any measure a win-win proposition for all concerned.

Let me give an example of how this amendment may be applied.

In 1989, the McClellan Nuclear Radiation Center was built at a cost of $16 million. The MNRC was created to provide real-time nondestructive analysis of aircraft structures and components. Because of its unique configuration, the MNRC can detect very low levels of corrosion within metallic structures. The MNRC is the only facility in the United States that can provide large structure, real-time neutron radiography.

Recently, a major commercial airline was experiencing problems with a particular joint in several aircraft. Its most sophisticated diagnostic tests were unable to identify the problem. The airline asked the leadership at McClellan to try to solve this mystery. By utilizing the unique capabilities of the MNRC, they were able to identify the problem and the airline was able to fix it, ensuring safer aircraft for the flying public. The company was so impressed that it offered to pay the Air Force to use the MNRC on a regular basis, but because of existing laws and regulations that prohibit military depots from selling goods and services outside the DOD, McClellan had to decline the offer.

The MNRC can also be used to produce medical isotopes that are used in cancer research and therapy. Currently, companies must often use foreign suppliers for irradiation services because of the lack of advanced reactors in the United States. The University of California at Davis considers the MNRC such valuable cancer-fighting tool that it wants to establish a research and patient treatment center at McClellan. Again, UC Davis and the patients at the treatment center would pay the Government for the privilege of using the MNRC. However, restrictive laws and regulations prohibit the MNRC from selling its unique services outside the DOD, even for such a clearly valuable purpose.

Mr. President, it simply makes no sense to prohibit military depots from using their unique facilities to advance the public interest. It is especially nonsensical when commercial sources are willing to pay fair market value to purchase these unique goods and services. The money raised could be used to reduce the budget deficit or reinvest in critical technologies in both the civilian and military sectors.

I am grateful that the chairman of the Armed Services Committee has decided to accept this amendment and I want to thank him and his staff for providing a number of useful suggestions.

Mr. NUNN. Mr. President, this amendment would authorize the Secretary of Defense to designate up to three DOD industrial facilities to sell articles and services in DOD facilities to persons outside DOD as long as those sources are not available from any U.S. commercial source.

I urge the adoption of the amendment.

Mr. THURMOND. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2176) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2177

(Purpose: To provide transition assistance to certain workers affected by reductions in United States exports of defense articles and services)

Mr. NUNN. Mr. President, on behalf of Senator PRYOR and Senator BINGAMAN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] for Mr. PRYOR, for himself and Mr. BINGAMAN, proposes an amendment numbered 2177.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 188, between lines 6 and 7, insert the following new section:

SEC. 924. ASSISTANCE FOR CERTAIN WORKERS DISLOCATED DUE TO REDUCTIONS BY THE UNITED STATES IN THE EXPORT OR DEFENSE ARTICLES AND SERVICES.

(a) ASSISTANCE UNDER DEFENSE CONVERSION ADJUSTMENT PROGRAM.—Section 325 of the Job Training Partnership Act (29 U.S.C. 1662d) is amended—

(1) in subsection (a)—

(A) by striking out "or by closures of United States military facilities" in the first sentence and inserting in lieu thereof ", by closures of United States military facilities, or by reductions in the export of defense articles and defense services as a result of United States policy (including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements)"; and

(B) by striking out "or by closures of United States military facilities" in the second sentence and inserting in lieu thereof ", by closures of United States military facilities, or by reductions in the export of defense articles and defense services as a result of United States policy";

(2) in subsection (d), by striking out "or by the closure of United States military installations" and inserting in lieu thereof ", by closures of United States military facilities, or by reductions in the export of defense articles and defense services as a result of United States policy (including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements)"; and

(3) by adding at the end the following new subsection:

"(f) DEFINITION.—For purposes of this section, the term 'defense articles and defense services' means defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).".

(b) ASSISTANCE UNDER DEFENSE DIVERSIFICATION PROGRAM.—Section 325A of the Job Training Partnership Act (29 U.S.C. 1662d-1) is amended—

(1) in subsection (b)(3)(A), by striking out "or the closure or realignment of military installation" and inserting in lieu thereof ", the closure or realignment of a military installation, or reductions in the export of defense articles and defense services as a result of United States policy (including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements)";

(2) in subsection (k)(1), by striking out "or by the closure of United States military installations" and inserting in lieu thereof ", the closure of United States military installations, or reductions in the export of defense articles and defense services as a result of United States policy (including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements)"; and

(3) in subsection (o), by adding at the end the following new paragraph:

"(3) DEFENSE ARTICLES AND DEFENSE SERVICES.—The term 'defense articles and defense services' means defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).".

Mr. NUNN. This amendment would revise the eligibility rules for the defense conversion work retrainer programs under the Job Training Partnership Act. The coverage would be expanded to cover workers who were dislocated because of reductions in the export of defense articles and defense services through U.S. policy.

I urge the adoption of the amendment.

Mr. THURMOND. Mr. President, we have no objection.

JTPA SERVICES FOR DISLOCATED DEFENSE EXPORT WORKERS

Mr. PRYOR. Mr. President, a great deal of attention has been focused on the plight of workers who have lost their jobs because of base closures or because of defense plant closures due to reductions in Pentagon procurement. The amendment I am currently offering would assist another group of defense workers who are dislocated due to U.S. Government policy, namely those workers who produce defense goods and services for export.

As all of us know, a company must get the approval of the Federal Government to export weapons. Sometimes this authority is not granted, and as a result, companies must shut down production lines and layoff their workers. As U.S. weapons procurement falls, more and more defense contractors are looking for overseas markets for their products, so I imagine layoffs related to prohibited exports are increasing.

These layoffs are the result of Government policy decisions just as the layoffs resulting from a base closure or reduced Pentagon procurement are. These workers have lost their jobs, not because they failed to compete effectively in the market, but because the conditions for their employment which were tied to Government policy, have disappeared. For this reason, I believe these laid off defense export workers deserve the same training and employment services under the JTPA program that other defense dislocated workers receive.

There is another, even more compelling argument for making these JTPA benefits available, namely it helps reduce the pressure for weapons exported by creating alternatives for the workers involved in the weapons production. We have all heard the economic arguments that are sometimes used to justify weapons exports. If the foreign sales aren't approved, we are told, hundreds or thousands of workers will lose their jobs, and families and communities will be devastated. Few arguments are more persuasive with Members of Congress.

Nevertheless, these foreign sales only exacerbate the arms proliferation problem threatening global security. One only has to look at the bloodshed in Rwanda, Bosnia, or the Middle East to appreciate the misery that arms proliferation is causing for poor, innocent people all across the globe. I regret our country's participation in the blooming trade, and I fear that it is becoming the policy of our country to become the arms merchant to the world. This amendment will make it easier for us to reverse this policy by making it less painful for us to deny permission to companies to export their weapons.

This amendment does not authorize any new expenditures. Congress has already appropriated money in years past which remains available to provide JTPA services to defense impacted workers. The amendment will help bring equity to defense export workers and it will make it a little easier for us to put a check on deadly defense exports. I ask my colleagues' support for this amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2177) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2178

(Purpose: To revise the notice requirements applicable to pending or actual terminations of defense programs)

Mr. NUNN. Mr. President, on behalf of the Senator from Arkansas, Mr. PRYOR, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN) for Mr. PRYOR, for himself, Mr. KENNEDY, Mr. HOLLINGS, Mr. METZENBAUM, Mr. BINGAMAN, Mr. PELL, and Mrs. BOXER, proposes an amendment numbered 2178.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 249, between lines 7 and 8, insert the following new section:

SEC. 1068. CHANGES IN NOTICE REQUIREMENTS UPON PENDING OR ACTUAL TERMINATION OF DEFENSE PROGRAMS.

(a) TIME FOR NOTICE REQUIREMENT AFTER SUBMISSION OF BUDGET.—Subsection (a) of section 4471 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102-484; 106 Stat. 2753; 10 U.S.C. 2501 note) is amended—

(1) by striking out "As soon as reasonably practicable" and inserting in lieu thereof "Not later than 90 days"; and

(2) by striking out "and not more than 180 days after such date,".

(b) TIME FOR NOTICE REQUIREMENT AFTER ENACTMENT OF APPROPRIATIONS ACT.—Subsection (b) of such section is amended—

(1) by striking out "as soon as reasonably practicable" and inserting in lieu thereof "not later than 90 days"; and

(2) by striking out "and not more than 180 days after such date,".

(c) TIME FOR NOTICE REQUIREMENT ON WITHDRAWAL OF NOTIFICATION.—Subsection (f)(1) of such section is amended in the second sentence by striking out "as soon as reasonably practicable" and inserting in lieu thereof "not later than 90 days".

Mr. NUNN. Mr. President, this amendment would change current requirements of the Secretary of Defense to notify defense contractors of the pending defense program reductions terminations from 180 to 90 days. I urge the adoption of the amendment.

Mr. THURMOND. We have no objection.

EARLY NOTICE OF DEFENSE CONTRACT TERMINATION

Mr. PRYOR. Mr. President, this amendment represents another installment in our efforts to make the path of defense conversion easier for our Nation to travel. Right now, an average of 1,000 workers a day are losing their jobs due to reductions in defense spending. Aerospace employees in California, shipbuilders in New England, even missile workers in my own hometown of Camden, AR, have gotten their pink slips as defense contracts have been cut unexpectedly and production lines closed. Too often these layoffs usher in a lengthy period of unemployment, financial hardship, and emotional turmoil for these workers before they find new jobs and get back on their feet.

This amendment is designed to address the problem of unexpected layoffs and the lengthy periods of unemployment that usually follow by providing defense workers with early notice of defense contract terminations. Under the amendment, the Secretary of Defense will be required to notify prime defense contractors within 90 days after the submission of the President's budget or the enactment of an appropriations bill of the likely termination of major defense contracts. Prime contractors are in turn required to notify sub-contractors of the termination, who are then required to notify employees.

This early notification will obviously give workers more time to begin looking for a new job or to make other plans. The real significance of this amendment, however, is that when the early notification is given, it makes the affected workers eligible for the training, adjustment assistance, and employment services of the federal Job Training Partnership Act. Early access to these services lessens the time that these workers will be unemployed, thereby easing the blow of the contract termination.

This recommendation for early termination notice was made by the Senate Democratic Defense Reinvestment Task Force, which I chair, in 1992. This recommendation was enacted in the fiscal year 1993 DOD Authorization bill, and the requirement at that time was for a 30-day notice of contract termination. This period of time was found to be too short for the Department of Defense to comply with, so last year the notice requirement was increased to 180 days. This amendment attempts to strike a reasonable balance by setting the notice requirement at 90 days, which will give the DOD adequate time to insure compliance, while providing affected workers the vital early notice that they need.

This amendment will not cost the Government anything, it will not disrupt DOD operations in any way, but it will make a big difference in the lives of the defense workers who helped this country win the cold war. This may seem like a small, and even annoying, detail to some personnel at the DOD, but it is a very significant matter for defense workers who will be losing their jobs, and we owe them this much consideration. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2178) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2179

(Purpose: To authorize the transfer of the vessel Guadalcanal (LPH 7) to the Intrepid Museum Foundation upon decommissioning of such vessel)

Mr. NUNN. Mr. President, on behalf of Senator MOYNIHAN and Senator D'AMATO, the Senators from New York, Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] for Mr. MOYNIHAN, for himself and Mr. D'AMATO, proposes an amendment numbered 2179.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. TRANSFER OF OBSOLETE VESSEL GUADALCANAL.

(a) AUTHORITY.—Notwithstanding subsections (a) and (d) of section 7306 of title 10, United States Code, but subject to subsections (b) and (c) of that section, upon the decommissioning of the USS *Guadalcanal* (LPH 7), the Secretary of the Navy may transfer the Guadalcanal to the not-for-profit organization Intrepid Museum Foundation, New York, New York.

(b) LIMITATIONS.—The transfer authorized by section (a) may be made only if the Secretary determines that the vessel Guadalcanal is of no further use to the United States for national security purposes.

(c) TERMS AND CONDITIONS.—The Secretary may require such terms and conditions in connection with the transfer authorized by this section as the Secretary considers appropriate.

Mr. NUNN. This amendment offered on behalf of Senator MOYNIHAN and Senator D'AMATO authorizes the Secretary of Navy to transfer the obsolete vessel *Guadalcanal* to the not-for-profit organization Intrepid Museum Foundation, New York.

I urge the adoption of the amendment.

Mr. THURMOND. We have no objection.

TRANSFER OF THE U.S.S. GUADALCANAL

Mr. MOYNIHAN. Mr. President, as we debate a defense authorization bill that reduces defense spending for the 10th consecutive year, I rise to offer an amendment that would in a small but significant way mitigate the effects of the declining budget. Among the ships scheduled to be decommissioned in coming months and years is the U.S.S. *Guadalcanal*. She still has some useful life in her hull, and rather than leave her to be scrapped this amendment would transfer ownership of the *Guadalcanal* to the Intrepid Museum Foundation in New York City. There she will be put to good use as a heliport, and as an important addition to the outstanding museum now occupying the U.S.S. *Intrepid*.

The first *Guadalcanal* was launched in June 1943, less than a year after the onset of the bloodiest battles in the Pacific theater and less than a year before I enlisted in the Navy. That ship commemorated the 6-month struggle for a toehold in the Solomon Islands, a battle fought on land, sea, and air for a strip of land 90 miles long and 25 miles wide. It cost 1,500 American lives and 5,000 casualties.

The *Guadalcanal* distinguished herself in the Atlantic, earning three battle stars and sharing in the Presidential Unit Citation awarded to Anti-Submarine Task Group 22.3 on June 4, 1944, the *Guadalcanal* became the first American ship since 1815 to board and capture an enemy vessel when her troops boarded a disabled German U-boat before the crew could scuttle it. The *Guadalcanal* towed the U-boat to Bermuda, and the intelligence information from the captured sub was vital in protecting United States shipping the final year of the war.

The current *Guadalcanal* was commissioned July 20, 1963, one of seven assault carriers in the *Iwo Jima* class designed to land troops and supplies by means of assault transport helicopters. In the 1960's she sailed mostly in the Caribbean, but also served as the recovery ship for the *Gemini 10* and *Apollo 9* spaceflights. More recently, the *Guadalcanal* served off Lebanon, in the Persian Gulf during Desert Storm, and off Somalia.

The *Guadalcanal* has done her job for three decades. In retirement, I propose that she continues to see helicopters take off and land, now for peaceful purposes, while continuing to remind us of her legacy and the sacrifices that brought us to a time of lessened threat and conflict. The Intrepid Museum will operate her as a much-needed heliport in midtown Manhattan. The venture should prove quite successful. Profits will be used to support the activities of the Intrepid Foundation, which are to operate a floating museum that brings to life much of the Nation's military history at sea and in the air, as well as the space program.

The Intrepid Museum has demonstrated its ability to maintain and operate a decommissioned vessel such as this one. The Navy supports this transfer, and Mayor Giuliani welcomes it. I hope my colleagues will agree that it is an ideal next stage in the career of a proud and distinguished ship. I ask unanimous consent that letters from Admiral Natter, Deputy Mayor Reiter, and Larry Solinski of the Intrepid Foundation be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OFFICE OF LEGISLATIVE AFFAIRS,
DEPARTMENT OF THE NAVY,
Washington, DC, June 23, 1994.

Hon. DANIEL P. MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: I am writing to convey Navy support for your proposed amendment to the Fiscal Year 1995 Defense Appropriation Bill concerning transfer of USS GUADALCANAL to the Intrepid Museum Foundation. It is our intention to effect this transfer at no cost to the government. We look forward to continuing to work with the Foundation as this project moves forward.

As always, if I can be of any further assistance, please let me know.

Sincerely,

R.J. NATTER,
Rear Admiral, U.S. Navy.

OFFICE OF THE MAYOR,
THE CITY OF NEW YORK,
New York, NY, June 23, 1994.

Re proposal to use the Guadalcanal as a heliport.

Senator DANIEL P. MOYNIHAN,
405 Lexington Ave.,
New York, NY.

DEAR SENATOR MOYNIHAN: I am writing to express the City's support for the proposal by the Intrepid Museum to use the Guadalcanal as a heliport. A rare opportunity exists to satisfy both the City's heliport needs and ensure that the Guadalcanal is preserved and memorialized.

The process of securing all the necessary city, state and federal approvals, as well as funding, for the project has just begun. The City plans to work closely with the Intrepid, the local community and elected officials to make this proposal a reality.

Any assistance you can provide would be greatly appreciated.

Sincerely,

FRAN REITER,
Deputy Mayor.

INTREPID SEA, AIR, AND SPACE MUSEUM,
New York, NY, June 24, 1994.

Senator DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: The Intrepid Sea Air Space Museum is in the unique position to provide an invaluable service to the City of New York and needs your help.

For some time, the City has been searching for a practical alternative plan to solve its heliport problem. Of the four existing heliports, two are under pressure to close down and another must reduce its operations by half. At issue is safety, noise and a public park. Because of safety and the land congestion on Manhattan, a spacious heliport in midtown is not possible. What is needed is a floating barge with a hangar, flight deck and support facilities which could be anchored in mid-town, yet be vehicle accessible and far enough away from congestion to provide an acceptable level of safety. Cost to do this however, puts it well beyond economic feasibility.

In December 1993, we discovered that the U.S. Navy is taking USS GUADALCANAL, LPH-7, out of active service and immediately scrapping her. Valued at 401 million dollars, GUADALCANAL was the first built-for-the-purpose helicopter carrier, considerably smaller and efficient to run, compared to the big carriers. Surprisingly, she will not be put in reserve at all, but go directly to scrap with all of her systems in good working order. If someone could afford to build her, she is exactly what is needed for Manhattan's heliports.

The city has no expertise at managing and preserving historic ships. However, as the world's largest naval museum, the Intrepid has substantial ability to do so. By locating GUADALCANAL at the end of the Intrepid's pier, all of the noise, safety and access issues are solved and the communities are happy.

GUADALCANAL also becomes the least expensive plan to implement, roughly 7.5 million dollars for conversion and site prep. Just building a helicopter landing platform in the river without any support facilities is 12–14 million dollars.

Given time, the project is guaranteed success. But time is not available, the ship is being stricken as a cost saving on Sept. 1. She's already begun her "take down" period. A task force has been set up, co-chaired by the Governor's and Mayor's offices to expedite the permit and approval basis. The Navy is comfortable as long as the Intrepid maintains the ship as part of our collection.

GUADALCANAL's facilities will be able to absorb the closures and reduction of the existing heliports and even anticipated growth. She also has facilities which could prove invaluable: 300 bed hospital, berthing for 1800, shop facilities and electricity generating equipment. We are actively studying electrical generation and providing a site for a New York State Veterans Foundation.

Her compact size and efficiency make GUADALCANAL ideal for the proposed use of a unrestricted municipal heliport. Any excess income would provide support to the Intrepid Museum to preserve the entire collection. This is especially critical since the loss of considerable NYS support because of the recession.

Our critical path is the 7.5 million capital construction to set up the municipal heliport for which we need Congressional support.

Once this is secure, the GUADALCANAL becomes a significant symbol of conversion of an obsolete, yet valuable, military asset into much needed civilian use while preserving the vessel's significance as part of the museum.

It is a rare opportunity to reuse something that would otherwise be scrapped.

Please call if you have any questions, we hope that your good office can help to make this happen both for the Intrepid and New York.

Sincerely,

LAWRENCE SOWINSKI,
Executive Director.

Mr. D'AMATO. Mr. President, I want to join with my distinguished colleague, the senior Senator from New York, in supporting the transfer of the U.S.S. *Guadalcanal* (LPH–7) to the Intrepid Museum Foundation. Amphibious assault ships are, and have long been, central to the Marine Corps' ability to strike rapidly and stealthily from the sea. It is fitting indeed that the *Guadalcanal* be memorialized at the Intrepid Museum. All that the Marines are today traces back to that tiny island and a handful of men in a shoestring operation that began the long road to Tokyo. I commend my colleague for both his sense of history and his commitment to protecting and promoting the proud heritage of the U.S. Navy and Marine Corps.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2179) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2180

(Purpose: To authorize funds for planning and design for military construction for the consolidation of the operations of the Defense Finance and Accounting Service)

Mr. NUNN. Mr. President, on behalf of the Senator from Ohio [Mr. GLENN] I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. GLENN, for himself and Mr. THURMOND, proposes an amendment numbered 2180.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 270, line 21, strike out "$3,230,058,000" and insert in lieu thereof "$3,236,058,000".

On page 271, line 25, strike out "$45,960,000" and insert in lieu thereof "$51,960,000".

On page 274, below line 25, add the following:

SEC. 2408. PLANNING AND DESIGN FOR CONSTRUCTION IN SUPPORT OF CONSOLIDATION OF OPERATIONS OF THE DEFENSE FINANCE AND ACCOUNTING SERVICE.

Of the amount authorized to be appropriated by section 2405(a)(7), $6,000,000 shall be available for planning and design activities relating to military construction in support of the consolidation of operations of the Defense Finance and Accounting Service.

Mr. NUNN. This amendment adds $6 million to the defense agencies planning and design account for planning and design activities to support the DFAS site consolidation plans.

I urge the adoption of the amendment.

DEFENSE FINANCE AND ACCOUNTING SERVICE PLANNING AND DESIGN AMENDMENT

Mr. GLENN. Mr. President, the amendment I am proposing will provide funds for planning and design activities to support the construction requirements for the consolidation of the Defense Finance and Accounting Service [DFAS] operations.

In May of this year, the Secretary of Defense approved plans to consolidate the DFAS operations at five centers and 20 satellite locations. Several of the sites selected in the consolidation plans require modifications to accommodate DFAS activities. Actual construction funds for these renovation activities will be requested beginning in fiscal year 1997. However, $6 million is required in fiscal year 1995 in order to properly plan and design these construction requirements.

Adopting this amendment will allow the DFAS consolidation plans to proceed at a quickened pace and will facilitate the Department's efforts to put its financial house in order. I urge the adoption of the amendment.

DEFENSE FINANCE AND ACCOUNTING CENTER DESIGN AND PLANNING

Mr. THURMOND. Mr. President, after almost a 1-year delay in consolidating the Defense Finance and Accounting Service operations, the Department announced their consolidation plan in early May of this year. What had originally been contemplated as 5 mega centers turned out to be 5 major centers and 20 satellite locations. Despite the delay, I applaud the Department's decision, especially since it included a site in Charleston, SC.

Now that a decision on the location of the accounting centers has finally been announced, our communities are faced with further delay because the Department did not anticipate the planning and design funding for the increased number of satellite locations. This amendment would provide $6 million to support planning and design work at 12 satellite sites. The funds for the remaining sites are already included in the budget request.

Mr. President, this amendment will assist communities across the Nation and expedite efficiency in the finance and accounting system. I urge adoption of the amendment.

Mr. President, we have no objection to the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2180) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2181

(Purpose: To require the Assistant Secretary of Defense (Health Affairs) to use certain cost experience in prescribing standards, limitations, and requirements relating to cost of pediatric care under any managed care system established for the Department of Defense)

Mr. THURMOND. Mr. President, on behalf of Senator WARNER, I send to the desk an amendment that directs the Department of Defense to study costs of providing pediatric care in the Tidewater, VA Tricare Catchment and establish a baseline for pediatric care costs. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] for Mr. WARNER, proposes an amendment numbered 2181.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 170, after line 24, insert the following:

SEC. 710. COST ANALYSIS OF TIDEWATER TRICARE DELIVERY OF PEDIATRIC HEALTH CARE TO MILITARY FAMILIES.

(a) COST ANALYSIS REQUIRED.—Not later than July 1, 1995, the Assistant Secretary of Defense (Health Affairs) shall determine the amount of the expenditures made by the Department of Defense for pediatric care for each of fiscal years 1992, 1993, and 1994 under the program for delivery of health care services in the Tidewater region of Virginia carried out pursuant to section 712(b) of Public Law 102–190 (105 Stat. 1402). The Assistant

Secretary shall determine the total amount of such expenditures and the amount of such expenditures for each case.

(b) USE OF ANALYSIS.—In establishing any managed care system involving the furnishing of pediatric care by the Department of Defense (including the furnishing of pediatric care under the Civilian Health and Medical Program of the Uniformed Services), the Assistant Secretary shall consider the amounts determined under subsection (a) in determining the appropriate standards, limitations, and requirements to apply to the cost of pediatric care under the system.

PROVISION OF PEDIATRIC CARE COST ANALYSIS FOR THE TIDEWATER TRICARE PROGRAM

Mr. WARNER. Mr. President, this amendment requires a cost analysis of the delivery of pediatric health care under the Tidewater Tricare Program operating in the Hampton Roads region of Virginia.

These figures will be used to provide a baseline for the potential establishment of a capitated pediatric network demonstrating the feasibility of reducing total costs while improving access and quality. Analysis will be conducted by Tidewater Tricare based on demonstrated costs and need. The pediatric network should include all appropriate Military Treatment Facilities [MTF's] and community resources.

The pediatric network would be established only after the Assistant Secretary of Defense for Health Affairs certifies to Congress that the baseline costs for pediatrics have been fully identified, and that the capitated network would have a positive impact on costs, access and quality in the region.

The Tidewater Tricare Program has been very successful in developing a multiservice approach to the delivery of health care to military families in my state. I believe Tidewater Tricare can serve as a model on which the Department of Defense can base the implementation of the lead agent concept throughout the 12 national regions as mandated by the Congress.

If we are to achieve the goals of managed care in the Military Health Care System, it is essential that we have baseline data from which to proceed. My amendment can serve as the first step in achieving a national military capitated pediatric network that fully manages the care of all eligible children both within and outside the existing direct care system.

Mr. President, I thank the chair, the managers of the bill, and express by deep appreciation for the support of all of my Senate colleagues.

Mr. NUNN. Mr. President, I urge adoption of the amendment.

Mr. THURMOND. Mr. President, we approve.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2181) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2182

(Purpose: To increase the authorization of appropriations for functions of the Army for support of military family housing)

Mr. THURMOND. Mr. President, I send an amendment to the desk on behalf of Senator COATS that adds $60 million to the Army family housing operations accounts fund to cover a shortfall in the maintenance of family housing and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] for Mr. COATS, proposes an amendment numbered 2182.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 252, line 15, strike out "$1,668,086,000" and insert in lieu thereof "$1,728,086,000".

On page 253, line 11, strike out "$1,007,708,000" and insert in lieu thereof "$1,067,708,000".

ADDITIONAL FAMILY HOUSING FUNDING

Mr. COATS. Mr. President, I offer the following amendment for consideration.

As the defense budget has come down, one of the many factors of military life which has been effected is safe and secure housing for our personnel. No single quality of life issue matches the importance of proper shelter for our soldiers, sailors, airmen, and Marines, and their families.

During the last few years, the military has experienced a growing shortfall in the family housing operations and maintenance accounts. The challenge to our services in this changing fiscal and operational environment is to ensure suitable housing for service members. As funds for operations and maintenance shrink, much of the effort toward major repair, rehabilitation, and preventative maintenance has dwindled or has been eliminated altogether.

Within the services there is no flexibility to solve this funding problem. They have no authority to transfer funds between the military construction [MILCON] and family housing accounts.

The only other alternative available to them is to close housing units which cannot be economically repaired. This solution, however, does not save money. It merely shifts the bill from the family housing account to other military personnel accounts for moving expenses, temporary lodging allowances [TLS], and the basic allowance for quarters [BAQ] and variable housing allowance [FHA].

In the Army, the funding shortfall in fiscal year 1995 will be $60 million due to the deferral of required but not absolutely essential maintenance. The Army's housing inventory will decrease only 15 percent in the fiscal year 1985 to fiscal year 1999 timeframe, but funding for family housing will decrease by 35 percent. Some examples of the shortfalls, just within this service, are:

Fort Dix, NJ—the repair of a fire damaged unit was deferred; maintenance in the 4th quarter of the current year will be limited to emergency repairs only.

Fort Benning, GA—waiting time for housing increased by 5 months; interior painting extended to once in 5 years eliminate noncritical maintenance and repair.

Carlisle Barracks, PA—56 housing units awaiting funds for asbestos removal; Army War College students will paint their own quarters upon change of occupant.

Fort Huachuca, AZ—canceled the self-help program; eliminated exterior painting; reduced common area upkeep by half, resulting in increased habitats for snakes and vermin.

Fort Knox, KY—deferred lead-based paint removal; deferred freeze-damage repairs.

Fort Sill, OK—eliminated routine maintenance; eliminated interior painting and preventative maintenance.

I offer my amendment to increase the amount of funds available to the Army's family housing operations and maintenance account by $60 million.

This is done in an effort to stem the deterioration of the existing inventory of military housing units available to our military members.

Quality housing for their families is a very important element in the morale, performance and commitment of our service members. I urge my colleagues to support this amendment.

Mr. THURMOND. This has been cleared on both sides.

Mr. NUNN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2182) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2183

(Purpose: To authorize the Secretaries of the military departments to provide housing cost reimbursements or lodging in kind for Reserves performing annual training duty or inactive duty training)

Mr. THURMOND. Mr. President, I offer on behalf of Senator NICKLES and Senator LOTT, an amendment which authorizes the Secretary to reimburse Reserve citizens for costs incurred when they must occupy Government quarters during Inactive Reserve training. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) for Mr. NICKLES, for himself and Mr. LOTT, proposes an amendment numbered 2183.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 158, after line 24, insert the following:

SEC. 655. PAYMENT FOR TRANSIENT HOUSING FOR RESERVES PERFORMING CERTAIN TRAINING DUTY.

Section 404 of title 37, United States Code, is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following new subsection (j):

"(j)(1) In the case of a member of a reserve component performing annual training duty or inactive-duty training who is not otherwise entitled to travel and transportation allowances in connection with such duty under subsection (a) of this section, the Secretary concerned may reimburse the member for housing service charge expenses incurred by the member in occupying transient government housing during the performance of such duty.

"(2) Any payment or other benefit under this section shall be provided in accordance with regulations prescribed by the Secretaries concerned.

"(3) The Secretary may pay service charge expenses under paragraph (1) out of funds appropriated for operation and maintenance for the reserve component concerned.".

Mr. NICKLES. Mr. President, I want to thank the Senate Armed Services Committee members and staff for working closely with me on this amendment.

Its purpose is to clarify the authority to spend appropriated funds to pay military transient housing service charges as they relate to reserve duty. Reservists are currently billed for their quarters while they are temporarily residing in Government housing during periods of annual active duty or inactive duty training.

This amendment is important because without it reservists may be forced to pay for housing out of their own pockets while on training assignments. This could lead to a lack of drill participation and this would impact readiness and reserve retention.

Once again, I thank the committee members and staff for their cooperation and assistance in having this amendment included in the bill.

Mr. NUNN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2183) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2184

(Purpose: To require the Secretary of Defense to conduct a study of spousal abuse by Armed Forces personnel)

Mr. NUNN. Mr. President, on behalf of the Senator from California, Senator BOXER, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN) for Mrs. BOXER, for herself, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Mrs. FEINSTEIN, and Mr. BRADLEY, proposes an amendment numbered 2184.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of subtitle G of title X, add the following:

SEC. 1068. STUDY OF SPOUSAL ABUSE INVOLVING ARMED FORCES PERSONNEL.

(a) FINDINGS.—Congress makes the following findings:

(1) The Department of Defense has sponsored several highly successful programs designed to curtail spousal abuse.

(2) The readiness of the Armed Forces would be enhanced by eliminating all forms of spousal abuse involving members of the Armed Forces.

(3) Available data on the frequency and causes of spousal abuse involving members of the Armed Forces is not comprehensive for the Armed Forces.

(b) STUDY AND REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall conduct a study on spousal abuse involving members of the Armed Forces of the United States and submit to Congress a report on the results of the study.

(c) CONTENT OF REPORT.—The report shall contain the following matters:

(1) The frequency of spousal abuse involving members of the Armed Forces.

(2) A discussion of the possible causes of such spousal abuse.

(3) A discussion of the procedures followed in responding to incidents of such spousal abuse.

(4) An analysis of the effectiveness of those procedures.

(5) A review of the existing programs for curtailing such spousal abuse.

(6) A strategy for the entire Armed Forces for curtailing spousal abuse involving members of the Armed Forces.

Mrs. BOXER. Mr. President, this amendment requires the Secretary of Defense to conduct a study on the problem of spousal abuse in the military and report back to the Congress within 6 months. I am honored to have as cosponsors of this amendment all the Democratic women of the Senate as well as the Senator from New Jersey [Mr. BRADLEY].

The military reflects the problems we have in civilian life, so it should come as no surprise to anyone that there is a spousal abuse epidemic in the Armed Forces. Domestic abuse in the military is on the rise. In the Army, the total number of cases reported has increased by 26 percent over the past 5 years.

The Department needs to address this crisis head-on. It is far too important to sweep under the rug. But while the magnitude of the problem is disturbing, I believe that the Armed Forces are uniquely positioned to address it. Military leaders can send the message down through the ranks that family violence of any kind will not be tolerated. The Pentagon leadership must demand that Commanding Officers take action on all incidents of spousal abuse, and Commanding Officers must provide a safe environment for military families. They must demand that the soldiers, sailors, and airmen and women under their command treat all their colleagues with respect.

The report required by this amendment will address the frequency of spousal abuse in the Armed Forces and discuss the causes of that abuse. The report will analyze the current programs for eliminating spousal abuse and, perhaps most importantly, the amendment requires the development of a comprehensive strategy for eliminating spousal abuse in the military.

It is my hope that this final requirement will focus the Pentagon leadership on this problem. There are a number of programs designed to combat family violence in the military—some of them are highly successful—but I believe that a department wide approach is required.

I understand that this amendment has been cleared on both sides, and I ask for its immediate consideration.

FAMILY ADVOCACY PROGRAM

Mrs. BOXER. As the Chairman knows, I am very concerned with the problem of spousal abuse in the armed services and I have offered an amendment requiring the Department of Defense to conduct a study on the issue and transmit its findings to the Congress.

It is my understanding that the Family Advocacy Program, the Department's principal program for the treatment and prevention of family violence in the armed services, is funded by the Department of Defense Domestic and Overseas Schools Program. I ask the Senator from Georgia, is my understanding correct?

Mr. NUNN. The Senator from California is correct.

Mrs. BOXER. It is my further understanding that the House version of the Department of Defense Authorization Act reauthorized the Department of Defense Domestic and Overseas Schools Program, which fully funds the administration's request of $79.2 million for the Family Advocacy Program.

Mr. NUNN. The administration's request of $79.2 million for the Family Advocacy Program represents an increase of $1.3 million over last year.

Mrs. BOXER. Although the Senate bill does not specifically address funding the Department of Defense Domestic and Overseas Schools program or the Family Advocacy Program, it reauthorizes the both programs and fully funds the President's budget request in that area.

Mr. NUNN. The Senator from California is correct. Although the Senate committee did not specifically address the Family Advocacy Program, I do not believe that indicates any lack of support on behalf of the members of the committee. On the contrary, the committee has always been supportive of efforts to improve family stability.

Mrs. BOXER. I thank the Senator for his comments. The report required by my amendment will include an evaluation of the effectiveness of programs designed to curtail spousal abuse in the Armed Forces. If that report recommends adjustments in the Family Advocacy Program, will the Senator consider implementing the recommendations in the next fiscal year?

Mr. NUNN. I would certainly consider the recommendations of the report required by the Senator's amendment. I look forward to reviewing it.

Mr. BRADLEY. Mr. President, I am pleased to rise in support of the amendment offered by the Senator from California, [Mrs. BOXER]. Like her, I was shocked by the statistics recently released on spousal abuse in our military. You have all seen them. I do not need to repeat them.

Mr. President, violence in America goes deeper and comes closer to many families, civilian and military, than we would like to admit. Domestic violence, in particular, is America's dark little secret.

A few weeks ago a woman told me the following story: Her husband used to beat her regularly. She wanted to leave, but feared the consequences for herself and her children. One day her 2-year-old witnessed her husband strangling her. Finally, that incident was the catalyst for the woman to seek refuge with her 2-year-old and her 4-year-old in a shelter for battered women. A few days later, the 2-year-old got mad at the 4-year-old. The mother turned to see what was the matter and witnessed the 2-year-old going for the throat of the 4-year-old. I have thought often about that image of violence being passed on from one generation to another.

"The most dangerous place to be," a policeman recently said, "is in one's home between Saturday night at 6 p.m. and Sunday at 6 p.m." He forgot to add, "Especially if you're a woman." A 10-year study found that in cases where the identity of the killer in known over one half of all women murdered in America were killed by a current or former male partner or by a male family member. Several studies have shown that women who have been victims of domestic physical assault may comprise up to 19 to 30 percent of injured women seen in emergency departments. These studies also show that violence against women in the home causes more total injuries in America than rape, muggings, and car accidents combined. Sudden, stark, incomprehensible, family violence doesn't just happen. It builds in a cycle of aggression and forgiveness and blame until it explodes. And the battered spouse is almost never a man.

To counter domestic violence, we need to get it out of the closet and then help women find a way out of a brutal environment. Domestic violence is a problem at all income levels. It is more than a serious health care problem, it is a social sickness, a tragedy that is destroying families, and an experience that spreads violence to future generations.

That is why this amendment is so important. It builds on the military's own efforts by mandating a study of both the causes of spousal abuse in the military and an analysis of current procedures for responding to this problem.

But studying the problem is not enough. Every man's home may be his castle, but it is not his torture chamber in which he can beat someone less physically strong without consequences. Many men will deny the impulse and the existence of the behavior. Like drunks that have not quite reformed, they promise their partners and the world that the latest episode of violence will be the last episode of violence. Too often they go back on their word, and the cycle of aggression, seeking forgiveness, blaming the victim, and committing aggression starts over again.

When a woman is the victim of domestic violence, she must have a place to go. There should be a counseling hotline so that experienced professionals can guide her to an appropriate place. Above all, there must be enough battered-spouse shelters with enough resources for relocation to give women some idea of where they can escape the fear of a threatening phone call or knock on the door in the middle of the night.

But we have to do more than give women a place after they are beaten. We have to prevent the violence in the first place. I suggest that every health professional—doctors, nurses, physician's assistants, social workers, military and civilian—be trained to recognize domestic violence and to ask female patients about it. Asking the question hopefully will free women from considering beatings as a family matter that they are not sanctioned to discuss, even with their doctor. At a minimum, domestic violence should not be treated as a preexisting condition to deny women health insurance.

But it is not just up to health care professionals. If we are going to stop domestic violence, each of us, in our own spheres of influence—home, work, PTA, Little League—has an obligation to acknowledge it occurs, recognize it when we see it, and say something about it. It is so much easier to overlook it, turn the other way, regard it exclusively as a family matter, pretend we do not have any responsibility. But if we are going to prevent it, we all do.

With this amendment, Senator BOXER is not singling out the military for special blame or responsibility. But, as the figures show, the problem exists in military families and is growing at an alarming rate. This amendment, then, is one small piece in what must be a broader national strategy to bring the problem of spousal abuse out of the closet and address this dirty little secret.

Mr. NUNN. This amendment would require the Secretary of Defense to conduct a study of spousal abuse by Armed Forces personnel and report the findings to Congress within 180 days. I urge the adoption of the amendment.

Mr. THURMOND. We have no objection.

The PRESIDING OFFICER. Is there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2184) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2185

(Purpose: To authorize certain service schools to award masters degrees and to establish a Board of Advisors for the Marine Corps University)

Mr. NUNN. Mr. President, for myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] proposes an amendment numbered 2185.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 188, between lines 6 and 7, insert the following:

Subtitle D—Professional Military Education

SEC. 931. AUTHORITY FOR MARINE CORPS UNIVERSITY TO AWARD THE DEGREE OF MASTER OF MILITARY STUDIES.

(a) AUTHORITY TO AWARD.—(1) Chapter 609 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 7102. Marine Corps University: master of military studies

"(a) AUTHORITY.—Upon the recommendation of the Director and faculty of the Marine Corps Command and Staff College, the

President of the Marine Corps University may confer the degree of master of military studies upon graduates of the college who fulfill the requirements for the degree.

"(b) REGULATIONS.—The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of the Navy.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7102. Marine Corps University: master of military studies.".

(b) EFFECTIVER DATE.—The authority provided by section 7102(a) of title 10, United States Code, as added by subsection (a), shall become effective on the date on which the Secretary of Education determines that the requirements established by the Command and Staff College of the Marine Corps University for the degree of master of military studies are in accordance with generally applicable requirements for a degree of master of arts.

SEC. 932. BOARD OF ADVISORS OF MARINE CORPS UNIVERSITY.

(a) BOARD.—(1) Chapter 609 of title 10, United States Code, as amended by section 931, is further amended by adding at the end the following new section:

"§ 7103. Marine Corps University: Board of Advisors

"(a) IN GENERAL.—A Board of Advisors to the President of the Marine Corps University is constituted annually of—

"(1) the chairman of the Committee on Armed Services of the Senate, or the designee of the chairman; and

"(2) six persons designated by the Secretary of the Navy.

"(b) TERMS.—(1) The persons designated by the Secretary of the Navy shall serve for 3 years each except that any member whose term of office has expired shall continue to serve until the successor to the member is designated.

"(2) Members may be reappointed for one or more successive terms.

"(3) If a member of the Board dies or resigns, the official who designated that member shall designate a successor to serve for the unexpired portion of the term of the member.

"(c) VISITS.—The Board shall visit the Marine Corps University semiannually upon the call of the President of the Marine Corps University. With the approval of the President of the University, the Board, or any of its members, may make other visits to the University in connection with the duties of the Board or to consult with the President of the University.".

(2) The table of sections at the beginning of such chapter, as amended by section 931, is further amended by adding at the end the following new item:

"7103. Marine Corps University: Board of Advisors.".

(b) INITIAL DESIGNATIONS OF MEMBERS.—Of the members of the Board of Advisors of the Marine Corps University initially designated under section 7103(a)(2) of title 10, United States Code, as added by subsection (a)—

(1) two shall be designated for a term of 3 years;

(2) two shall be designated for a term of 2 years; and

(3) two shall be designated for a term of 1 year.

SEC. 933. AUTHORITY FOR AIR UNIVERSITY TO AWARD THE DEGREE OF MASTER OF AIRPOWER ART AND SCIENCE.

(a) AUTHORITY TO AWARD.—(1) Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9317. Air University: master of airpower art and science

"(a) AUTHORITY.—Upon the recommendation of the faculty of the School of Advanced Airpower Studies of the Air University, the Commander of the university may confer the degree of master of airpower art and science upon graduates of the school who fulfill the requirements for the degree.

"(b) REGULATIONS.—The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of the Air Force.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9317. Air University: master of airpower art and science.".

(b) EFFECTIVE DATE.—The authority provided by section 9317(a) of title 10, United States Code, as added by subsection (a), shall become effective on the date on which the Secretary of Education determines that the requirements established by the School of Advanced Airpower Studies of the Air University for the degree of master of airpower art and science are in accordance with generally applicable requirements for a degree of master of arts or a degree of master of science.

Mr. NUNN. Mr. President, this amendment would establish a Board of Advisors for the Marine Corps University and authorize the Marine Corps University and Air University to confer masters degrees to certain graduating students.

I urge adoption of the amendment.

Mr. THURMOND. We have no objection.

Mr. NUNN. Mr. President, this is an amendment that would establish a Board of Advisors for the Marine Corps University and authorize the Marine Corps University and the Air University to confer master degrees to certain graduating students. This degree granting authority would become effective upon the determination of the Secretary of Education that the requirements established by these universities are in accordance with generally applicable requirements for masters degrees, and the Secretaries of the Navy and the Air Force would be responsible for enacting regulations to implement these authorities.

Mr. President, the universities in question have developed graduate-level curricula that support this degree granting authority. A professional master's degree with civilian accreditation will enhance the quality and status of these important schools, and culminate the efforts of these universities to broaden and improve military education.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2185) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2186

(Purpose: To strike out section 246 (relating to live-fire survivability testing of F-22 aircraft) and insert a substitute)

Mr. COATS. Mr. President, on behalf of Senator ROTH and Senator PRYOR, I offer an amendment that would require the Secretary of Defense ask the National Research Council of the National Academy of Sciences to conduct a study on the desirability of waiving the requirement for full-scale, full-up testing of the F-22 survivability. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana (Mr. COATS), for Mr. ROTH, for himself and Mr. PRYOR, proposes an amendment numbered 2186.

Mr. COATS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 52, beginning with line 20, strike out all through page 53, line 20, and insert in lieu thereof the following:

SEC. 246. STUDY REGARDING LIVE-FIRE SURVIVABILITY TESTING OF F-22 AIRCRAFT.

(a) REQUIREMENT.—The Secretary of Defense shall request the National Research Council of the National Academy of Sciences to conduct a study regarding the desirability of waiving for the F-22 aircraft program the survivability tests required by section 2366(c) of title 10, United States Code, and to submit to the Secretary and Congress, within 180 days after the date of the enactment of this Act, a report containing the conclusions of the Council regarding the desirability of waiving such tests.

(b) CONTENT OF REPORT.—The report shall contain the following matters:

(1) Conclusions regarding the practicality of full-scale, full-up testing for the F-22 aircraft program.

(2) A discussion of the implications regarding the affordability of the F-22 aircraft program of conducting and of not conducting the survivability tests, including an assessment of the potential life cycle benefits that could be derived from full-scale, full-up live fire testing in comparison to the costs of such testing.

(3) A discussion of what, if any, changes of circumstances affecting the F-22 aircraft program have occurred since completion of the milestone II program review to cause the program manager to request a waiver of the survivability tests for the F-22 aircraft program that was not requested at that time.

(4) The sufficiency of the F-22 aircraft program testing plans to fulfill the same requirements and purposes as are provided in subsection (e)(3) of section 2366 of title 10, United States Code, for realistic survivability testing for purposes of subsection (a)(1)(A) of such section.

(5) Any recommendations regarding survivability testing for the F-22 aircraft program that the Council considers appropriate on the basis of the study.

Mr. ROTH. Mr. President, live fire testing is a key component of the Congress's fly-before-buy policy. Live fire testing is an objective check and balance on the Defense buying system.

In the 1980's, Senator PRYOR and I successfully led the fight to ensure that survivability was built into the design of platforms such as planes, tanks, and aircraft. The law states that survivability must be tested using a system in full combat configuration unless a program manager requests a waiver prior to the full-scale design phase. In a system where bureaucratic interests carry more weight than results, realistic tests of a weapon's protection for its crew are vital to those who must depend on the weapon in battle. The waiver process allows for other than testing of the combat configuration if the Secretary of Defense determines that survivability is adequately addressed by the program manager's plans for the design phase.

Mr. President, I am concerned about the implementation of the live fire and lethality testing statutes. All major aircraft being developed by the Pentagon are avoiding tests for survivability and vulnerability. In the recent hearings on procurement reform bills, the General Accounting Office and the Defense Inspector General opposed the acquisition streamlining proposals that would weaken the current law.

In 1992, the National Academy of Sciences' National Research Council assembled a distinguished team of experts in live fire testing at the request of the Secretary of Defense. The team was asked to make a determination about whether Defense Department regulations correctly implement the live fire testing law, 10 U.S.C. 2366. The team surveyed its application to new aircraft programs and produced its report last fall. The National Research Council found that the law "makes a valuable contribution to vulnerability assessment and to the design of survivable aircraft."

Since that report was produced, the Air Force asked Congress to waive the live fire testing laws for the F-22 Fights program. The F-22 is the Air Force's next generation fighter jet, slated to replace the F-15 in air-to-air combat missions. It will incorporate stealth technology, composites, computerized flight controls. The total program cost is expected to top $70 billion. At this level of spending, a small improvement in survivability can generate significant savings, while overlooking a small vulnerability can have cost billions.

The F-22 is currently in the final design phase, and the final design will need to be tested to see how easily it can be shot down. The program manager did not request a waiver as provided in the live fire testing laws prior to entering the final design phase. However, the program manager now wants to obtain a waiver and consequently has asked Congress to exempt the F-22 from the statutes.

Mr. President, I have no reason to believe that the program manager is making his request in bad faith. His staff already has found a major flaw in the design of the wings whereby a single hit by a 30mm bullet would have shattered the wing. As a result of such component-level tests, the F-22 program manager believes that key flaws will be addressed and testing of an aircraft configured for combat will not be necessary. Moreover, the program office estimates that about $250 million could be saved by not conducting full-up tests, and there would be little additional value from such testing.

It seems to me that the F-22 program manager should have requested a waiver within the law's guidelines, if he believed the costs outweighed its benefits. Then, the Secretary of Defense would have done the technical assessment required. Instead, he wants Congress to make this determination. Congress does not have sufficient technical insight into the trade-offs that need to be considered. In addition, the Pentagon's director of live fire testing has done calculations that show the cost of testing, at about a third of a percent of the total program cost, would be covered if even small design fixes resulted. Finally, this could set a bad precedent—the Congress being asked to do technical assessments and to waive the testing laws on major programs that the laws were intended to address.

The amendment that Senator PRYOR and I are proposing would give an independent organization the task of making recommendations on the waiver of testing for F-22. It is our intention that the National Research Council's distinguished team that prepared last year's report on live fire testing be reconstituted for this effort. They are well aware of the law, as well as the aircraft technologies involved here.

I want to thank the distinguished chairman of the Armed Services Committee and Senator THURMOND for their cooperation on this matter. I appreciate their support in getting this amendment adopted.

Mr. NUNN. I urge the amendment be adopted.

Mr. COATS. The administration has indicated support for this provision, and I urge the Senate adopt this amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2186) was agreed to.

Mr. COATS. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2187

(Purpose: To express the sense of the Senate that the Senate Committee on Armed Services should hold hearings related to the procedures used by the Department of Defense's investigative organizations when investigating the death of a member of the Armed Forces who, while serving on active duty, died from a cause determined to be self-inflicted)

Mr. COATS. Mr. President, on behalf of Senator DOLE I offer an amendment which expresses the sense of the Senate that the Armed Services Committee should hold hearings related to DOD procedures for investigating the death of a service member from a cause determined to be self-inflicted. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. COATS] for Mr. DOLE, proposes an amendment numbered 2187.

Mr. COATS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following new section:

SEC. . REVIEW OF THE PROCEDURES USED BY DEPARTMENT OF DEFENSE INVESTIGATIVE ORGANIZATIONS WHEN CONDUCTING AN INVESTIGATION INTO THE DEATH OF A MEMBER OF THE ARMED FORCES WHO, WHILE SERVING ON ACTIVE DUTY, DIED FROM A CAUSED DETERMINED TO BE SELF-INFLICTED.

SENSE OF CONGRESS.—It is the sense of Congress that, upon receipt of the report required by section 1185 of the National Defense Authorization Act for Fiscal Year 1994, the Senate Committee on Armed Services should review that report and hold hearings related to the procedures employed by Department of Defense investigative organizations when conducting an investigation into the death of a member of the Armed Services who, while serving on active duty, died from a cause determined to be self-inflicted.

Mr. NUNN. I urge adoption of the amendment.

Mr. DOLE. Mr. President, this is an amendment which expresses the sense of the Senate that the Senate Armed Services Committee should hold hearings related to the procedures used by the Department of Defense's investigative organizations when they investigate the death of any member of the Armed Forces who, while serving on active duty, died from what appears to be a self-inflicted cause.

Last week, I met with two of my constituents, Royal and Linda Shults of Atchison, KS. The story they related to me was extremely disturbing. However, it is one that I think is important to bring before the Senate. On July 2, 1992, Allen Shults was found dead in his living quarters at Keesler Air Force Base. The Air Force Office of Special Investigations determined that his death was due to asphyxia, induced by self-inflicted hanging. However, Mr. and Mrs. Shults soon learned that the official explanation of their son's death didn't fit with the facts. In fact, by conducting their own investigation, Mr. and Mrs. Shults have uncovered evidence of a material deficiency in the Air Force's original investigation.

Unfortunately, the Shultses are not alone. There are families from all over the country, from California to Maine and from Minnesota to Texas who can identify with Mr. and Mrs. Shults. These families have come together to form "Until We Have Answers," a nationwide organization made up solely of relatives of military personnel whose deaths occurred mysteriously and have been ruled self-inflicted. Each of these families tells of rushed, incomplete, and often fumbled investigations conducted by DOD investigative organizations.

I am particularly concerned that, in an effort to close these cases quickly and to prevent embarrassment to local commanders and the armed services, deaths are often ruled self-inflicted without full and complete investigation.

We owe the families of our military personnel more. This matter deserves the attention of the Armed Services Committee and I am pleased that the chairman and the ranking member have agreed to accept this amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2187) was agreed to.

Mr. COATS. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion of the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2188

(Purpose: To require a study and report on fiscal relief for certain Medicare-eligible military retirees who incur Medicare late enrollment penalties)

Mr. COATS. Mr. President, on behalf of Senator COHEN, I offer an amendment which requires a study and report on financial relief for Medicare-eligible military retirees adversely affected by the closing of a military treatment facility with base closings.

I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. COATS] for Mr. COHEN, proposes an amendment numbered 2188.

Mr. COATS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 167, beginning with line 14, strike all through page 170, line 7, and insert the following:

SEC. 708. STUDY AND REPORT ON FINANCIAL RELIEF FOR CERTAIN MEDICARE-ELIGIBLE MILITARY RETIREES WHO INCUR MEDICARE LATE ENROLLMENT PENALTIES.

(a) STUDY.—The Secretary of Defense, in consultation with the Secretary of Health and Human Services, shall conduct a study regarding possible financial relief from late enrollment penalties for military retirees and dependents of such retirees who reside within the service area of a base closure site and who have failed to timely enroll in medicare part B due to reliance upon the military treatment facility located at such site.

(b) REPORT.—Not later than March 31, 1995, the Secretary of Defense shall report to Congress the results of the study under paragraph (1). Such report shall also—

(1) identify by base closure site the number of military retirees within a 65-mile catchment area who have failed to enroll in medicare part B and are subjected to late enrollment penalties;

(2) determine the estimated aggregate amount of the penalties by base closure site;

(3) describe the characteristics of the population that are subject to the penalties, such as age and income level;

(4) address the appropriateness of waiving such penalties;

(5) identify the Department of Defense funds that should be used to pay the penalties if waiving such penalties is not recommended;

(6) outline a program for a special medicare part B enrollment period for affected retirees living near bases already closed and bases which are designated for closure in the future; and

(7) include legislative recommendations for implementing a program which removes the financial burden from the medicare-eligible beneficiaries who have been or will be adversely impacted by base-closure actions.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "base closure" means a base closure under a base closure law (within the meaning given such term in section 2825(d) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 2687 note)).

(2) The term "medicare part B" means the public health insurance program under part B of title XVIII of the Social Security Act.

(3) The term "military treatment facility" means a facility of a uniformed service referred to in section 1074(a) of title 10, United States Code, in which health care is provided.

Mr. COHEN. Mr. President, it is my hope that this amendment will help us ultimately to provide a measure of financial relief to military retirees who are facing significant increases in their out-of-pocket health costs due to a base closing in their area and the resultant loss of the medical facilities upon which they had come to depend for their care. This issue has been raised again and again in community meetings in my State as we have attempted to assess the impact of the closing of Loring Air Force Base, and I know that it is of concern to thousands of military retirees in other parts of the country as well.

Many retirees have purposely selected their retirement homes based upon their proximity to military health care, commissary, exchange and other facilities. In fact, the Retired Officers' Association estimates that almost 70 percent of its members deliberately located near military installations so that they would have ready access to health care services.

Military retirees do become eligible for Medicare when they turn 65. However, many of those living near bases have continued to rely upon military facilities for their health care needs and have elected not to enroll in Part B. Military health care has many advantages over Medicare, particularly for low-income retired enlisted personnel. There are no premiums, copayments or deductibles and prescription drugs are generally provided free of charge. Those retirees who elected not to enroll in Part B are therefore understandably concerned that, not only will they lose access to the free health care services they believe they were promised, but also that they are going to be socked with a substantial financial penalty for late enrollment—in addition to the new premiums, deductibles, and copayments—when they do enroll in Medicare.

The burden of this late enrollment penalty will be particularly heavy for the retired enlisted personnel who make up the bulk of the military retiree population and who have average annual incomes of between $12,000 and $15,000 a year. For the 75-year old retired E-7 and his wife, living on a retirement income of about $13,000 a year, coming up with the $986.40 a year to cover their Medicare monthly premiums will be difficult. To impose a late-enrollment penalty on this couple would be almost usurious, exacting far more than the proverbial "pound of flesh." It would effectively double their annual out-of-pocket costs for premiums alone to almost $2,000, or 15 percent of their total income. And the older the retiree, the greater the penalty is likely to be.

The amendment I am offering requires the Secretary of Defense, in conjunction with the Secretary of Health and Human Services, to conduct a study of military retirees living in base closure areas to determine the extent to which they are affected by the Part B penalty and to make recommendations for ways to relieve them of this financial burden. It is my intent that Congress take action on these recommendations next year in order to provide a measure of financial relief for retirees who have been or will be adversely affected by base closure actions, and I urge my colleagues to join me in supporting the amendment.

Mr. NUNN. I urge the adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2188) was agreed to.

Mr. COATS. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2189

(Purpose: To require a study on the offset of veterans disability compensation by the amount of any separation benefits or incentives received by members of the Armed Forces upon separation from the Armed Forces)

Mr. COATS. Mr. President, I offer, on behalf of Senator THURMOND, for Senator JEFFORDS, an amendment that directs the comptroller general to study and report on the offset of VA disability payments from voluntary separation and special separation bonus payments.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. COATS], for Mr. JEFFORDS, proposes an amendment numbered 2189.

Mr. COATS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 158, below line 24, add the following:

SEC. 655. STUDY OF OFFSET OF DISABILITY COMPENSATION BY RECEIPT OF SEPARATION BENEFITS AND INCENTIVES.

(a) STUDY.—(1) The Comptroller General shall carry out a study of the offset of the amount of disability compensation from the Department of Veterans Affairs that is received by an individual separated from the Armed Forces by the amount of any of the following benefits:

(A) Separation pay under section 1174 of title 10, United States Code.

(B) A special separation benefit under a special separation benefits program carried out under section 1174a(a) of such title.

(C) A voluntary separation incentive under section 1175 of such title.

(2) In carrying out the study, the Comptroller General shall—

(A) determine the purposes for the availability of the benefits referred to paragraph (1);

(B) determine the justifications for the offset referred to in that paragraph;

(C) assess the effect of the offset by—

(i) determining the number of members of the Armed Forces who will separate from the Armed Forces during the period beginning on the date of the enactment of this Act and ending on September 30, 1999;

(ii) determining the number of such members who will be provided a benefit referred to in that paragraph, and the average amount of the benefit to be provided;

(iii) determining the number of such members who will be entitled to disability compensation from the Department of Veterans Affairs, and the average monthly amount of the compensation to which the members will be entitled; and

(iv) evaluating the extent, if any, to which the offset affects the capacity of members who are separated from the Armed Forces to meet financial obligations (including obligations relating to housing and medical care) of such members that arise as a result of the service of the members in the Armed Forces or the separation of such members from that service;

(D) determine the extent, if any, to which the offset of disability compensation by the amount of a benefit referred to in subparagraph (B) or (C) of paragraph (1) reduces the effectiveness of the benefits in meeting the purposes determined under subparagraph (A) of this paragraph; and

(E) determine the cost of the repeal of the offset.

(b) REPORT.—(1) The Comptroller General shall submit to the Committees on Armed Services and the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the results of the study required under subsection (a). The report shall include the recommendations of the Comptroller General on improvements to the provision of the benefits referred to in subsection (a)(1).

(2) The Comptroller General shall submit the report not later than 180 days after the date of the enactment of this Act.

Mr. JEFFORDS. Mr. President, on May 25 of this year I introduced a bill, S. 2151, the Military Voluntary Separation Act of 1994, which would amend title 10 of the United States Code to repeal the requirement that amounts paid to a member of the Armed Forces under the Special Separation Benefits Program of the Department of Defense, or under the Voluntary Separation Incentive Program of the Department, be offset from amounts subsequently paid to that member by the Department of Veterans Affairs as disability compensation.

I introduced this legislation because I believe a great injustice has been done to our Nation's veterans. The fact that these service members are not allowed to receive their separation bonuses and VA compensation concurrently is unjust. I see these two forms of income as having no link which would justify an offset. SSB and VSI separation compensation are for services rendered and compensation for assisting the Department of Defense in its downsizing. Veterans' disability compensation pay is compensation for a physical or mental disability incurred from service. By definition these are very different issues.

The separation incentive bonuses offered by DOD are part of our Nation's Federal buyout program which is a separate issue from disability compensation.

In looking at this issue, I am particularly concerned about Persian Gulf war veterans who chose to take a separation incentive bonus not realizing down the road they may incur a disability from their service and would not be able to receive their full compensation until their separation bonus was paid out.

On top of this I am concerned as to whether or not DOD took any steps to help members who separate with the SSB or VSI bonus to adjust to civilian life. I have here with me a copy of DOD's Voluntary Separation Incentives booklet, which explains the SSB and VSI programs and answers anticipated questions regarding the programs. Nowhere in the booklet does it mention that if a service member chose one of these separation incentives and then incurred a service-related disability that he or she would not be able to receive both their bonus and VA compensation concurrently. The booklet does clearly state, however, that "the voluntary separation programs are not early retirement programs. They are intended to ease career changes for relatively young men and women who are likely to proceed immediately to new careers in the civilian sector which offer appropriate health care and other benefits."

It is important that Congress examine the offset rationale of these programs and look at possible policy changes to correct this injustice.

I am offering an amendment today which will call for a GAO report to be done on the issue of concurrent receipt of SSB/VSI/Involuntary Separation and VA compensation. Specifically, the study will concentrate on three main issues:

First, explanation and rationale of the current programs.

Second, examination of the impact of the current program, for example: How many service members who take a separation bonus do not return to work after they separate from their service, and is this in any way related to their disability? How has the offset provision affected securing voluntary separation from the Military?

Third, recommendations for policy changes, including a cost estimate if the offset was repealed.

I plan to continue to research the impact of the SSB and VSI programs. I am hopeful that a GAO report will provide Congress with the necessary information to guide this body in further policy decisions relating to separation incentives.

These men and women chose to devote their lives to serving our country. We need to make sure they are receiving the compensation and assistance they deserve.

Mr. COATS. I understand the amendment has been cleared on both sides. I urge the adoption of the amendment.

Mr. NUNN. I urge the adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2189) was agreed to.

Mr. COATS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2190

(Purpose: To ensure that bomber aircraft of the Air Force are not prematurely retired)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of

Senator BINGAMAN and Senator DOMENICI and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] for Mr. BINGAMAN, for himself, and Mr. DOMENICI, proposes an amendment numbered 2190.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, between lines 2 and 3, insert the following:

SEC. 132. RETIREMENT OF BOMBER AIRCRAFT.

No funds authorized to be appropriated by this Act or any other Act may be obligated or expended during fiscal year 1995 for retiring, or preparing to retire, any B-52H, B-1B, or F-111 bomber aircraft.

Mr. BINGAMAN. Mr. President, I rise to offer an amendment with my colleague from New Mexico, Senator DOMENICI, regarding U.S. bomber forces. This amendment would prohibit the expenditure of Department of Defense funds to retire B-52H, B-1B, or F-111 bomber aircraft in fiscal year 1995.

In the report accompanying this bill, the Armed Services Committee put down a clear marker regarding the bomber force structure. The Committee points out that current DOD budget planning for the bomber force is below the minimum level necessary to deal with two nearly simultaneous major regional conflicts as laid out in the bottom-up review. The committee report also notes that the Department has been unable to offer "a coherent and consistent" explanation for the discrepancies between the bomber force needs identified by the bottom-up review and its own budget guidance.

In response to this situation, the committee directed in report language that the Department preserve all bomber force structure options for 1 year while additional bomber force structure and effectiveness studies are completed. This amendment would simply put this prohibition into law.

Mr. President, this amendment is meant to convey that Congress is not willing to forgo the bomber force structure we need to face future contingencies. Our amendment would retain the current structure for the B-52 and B-1 bomber forces, as the committee has recommended, and add a prohibition on expenditures leading to the retirement of the F-111 bomber aircraft.

We have added the F-111 because of recent statements by the Secretary of the Air Force that indicate the Air Force is looking toward retirement of this aircraft beginning in fiscal year 1996, despite a clear decision by Secretary Perry last fall to retain the F-111 in the force structure until at least 1999. The F-111 should be retained because it is a proven long-range hard-target killer with many years of service life remaining as a result of recent upgrades. It can deliver more smart bombs deeper than any other Air Force tactical aircraft. Without the loss of a single aircraft, it was used during the gulf war to destroy some of Iraq's most hardened command bunkers and the Al Almadi oil pumping facility and had the highest kill ratio for tanks and bridges. This is a capability we may need in future conflicts, and will not have until a new family of precision-guided weapons [JDAM] is developed and deployed into the bomber force at the end of the decade at the earliest.

The Air Force has previously stated that it needs the F-111 to fill this gap. Earlier this year Air Force Chief of Staff McPeak, indicated in an interview that Aviation Week and Space Technology that the F-111, with its precision-guided missile capability, would be needed to fill the emerging bomber gap—the same gap identified by the Armed Services Committee in the report language I quoted above. The Under Secretary of the Air Force, Rudy DeLeon, made a similar statement during his confirmation process before the Senate Armed Services Committee. Despite this, it was reported in the media on Monday that the Air Force would recommend retiring the F-111 in its fiscal year 1996 budget submission, on an action that would leave us with both a shortfall in the bomber force structure and a shortfall in tactical bombers to help bridge the gap.

Mr. President, this amendment would seek to address this issue by maintaining the existing force structure during fiscal year 1995 while additional analyses regarding our future bomber force needs are completed. The amendment tracks with the committee's report and intentions.

This afternoon Senator DOMENICI, Congressman RICHARDSON, and I met with Deputy Secretary Deutch on the F-111 issue, and he told us that the current DOD plan is to retain the aircraft through 1999 because of its unique capability. He told us that there would be a strong burden of proof on the Air Force to justify any proposal for early retirement. I am confident that he and Secretary Perry will reject the new Air Force proposal, just as they rejected a similar proposal last year, and just as they did in similar circumstances several months ago when the Air Force proposed terminating the Milstar program.

This amendment is a strong signal to the Air Force regarding Congress' position on bomber force structure. It is a straightforward amendment on an important issue. I believe that it has been cleared on both sides and I want to express my appreciation for the support of Senator NUNN and Senator THURMOND for the amendment. I urge my colleagues to support it.

Mr. DOMENICI. I rise today to join my colleague, Senator BINGAMAN, to offer an amendment that will prohibit the expenditure of any of the funds authorized to be appropriated for the Department of Defense in fiscal year 1995 for the purpose of retiring, or preparing to retire, any F-111 and other bomber aircraft.

Senator BINGAMAN and I met with Deputy Secretary of Defense Deutch this afternoon. The Secretary informed us that because other DOD bombers lack precision guided munitions carrying capability the F-111's still provide a unique capability that will not be able to be duplicated in the near future.

The Air Force has submitted its Program Objective Memorandum [POM] to the Secretary of Defense and it deletes the funding for the F-111's in fiscal year 1996. The Secretary of Defense will be reviewing the Air Force's plan and will make the final decision at some point in the near future.

In our meeting today, Secretary Deutch stressed that a "big burden of proof" is on the Air Force to convince the Secretary of Defense that the F-111's should be retired before the President's Bottom Up Review says they should be retired. I do not believe retiring the F-111's would be a wise decision, and I do not believe that the Air Force has any aircraft that is currently capable of duplicating the F-111.

It is my hope that this amendment will send a clear message to the Secretary of the Air Force. The Bottom Up Review says that this unique aircraft is necessary to carry out the mission of the Department of Defense through fiscal year 1999. As a member of the Senate Defense Appropriations Subcommittee, I intend to have similar language included in the Defense appropriations bill.

I understand that this amendment has been cleared by both sides. I thank the chairman and ranking member of the committee for their support, and I yield the floor.

Mr. NUNN. Mr. President, this amendment would put into law the prohibition in the committee report language directing the Department of Defense not to retire bomber aircraft during fiscal year 1995. It is consistent with the committee direction.

It has been cleared on both sides. I urge its adoption.

Mr. COATS. We have no objection to the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2190) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COATS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2191

(Purpose: To extend the authority to issue surety bonds for certain environmental programs)

Mr. COATS. Mr. President, on behalf of Senator THURMOND and Senator NUNN, I send to the desk an amendment to extend the current provision for the issuance of surety bonds for the Department of Defense environmental cleanups. This would extend the period of authorization for issuance of these bonds from December 31, 1995 to December 31, 1999.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana (Mr. COATS) for Mr. THURMOND, for himself, and for Mr. NUNN, proposes an amendment numbered 2191.

Mr. COATS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 68, following line 20, insert the following:

SEC. 323. EXTENSION OF AUTHORITY TO ISSUE SURETY BONDS FOR CERTAIN ENVIRONMENTAL PROGRAMS.

(1) Section 2701(j) of title 10, United States Code, is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 1999".

Mr. THURMOND. Mr. President, I offer an amendment that would extend the current provision which provides for the issuance of surety bonds for Department of Defense environmental cleanups. This amendment would extend the authorized period from December 31, 1995 to December 31, 1999.

This provision would ensure that providers of surety bonds will not be exposed to liability beyond the terms and conditions of the bond. This is important because providers will not issue surety bonds if they will be liable for damages outside the terms and conditions of their bonds. This liability would effectively prohibit providers from issuing bonds. The surety bonds are essential for contractors who would obtain performance bonds for cleanup work.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2191) was agreed to.

Mr. COATS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2192

(Purpose: To require certain documentation and assessments in order to assess the extent to which technology and industrial base programs attain the policy objectives for such programs)

Mr. COATS. Mr. President, on behalf of Senator MCCAIN of Arizona, I send an amendment to the desk that would require the Department of Defense to include an explanation in the award files for the technical reinvestment project of the relevance of each funded proposal for the national security objectives found in 10 U.S.C. 2501.

The amendment would also require the General Accounting Office to conduct an assessment of the projects funded to date under the TRP and their relevance to those national security objectives.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. COATS], for Mr. MCCAIN, proposes an amendment numbered 2192.

Mr. COATS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 181, after the matter following line 16 and before line 17, insert the following:

SEC. 825. DOCUMENTATION FOR AWARDS FOR COOPERATIVE AGREEMENTS OR OTHER TRANSACTIONS UNDER THE DEFENSE TECHNOLOGY REINVESTMENT PROGRAM.

At the time of the award for a cooperative agreement or other transaction under a program carried out under chapter 148 of title 10, United States Code, the head of the agency concerned shall include in the file pertaining to such agreement or transaction a brief explanation of the manner in which the award advances and enhances a particular national security objective set forth in section 2501(a) of such title or a particular policy objective set forth in section 2501(b) of such title.

SEC. 826. COMPTROLLER GENERAL ASSESSMENT OF EXTENT TO WHICH TECHNOLOGY AND INDUSTRIAL BASE PROGRAMS ATTAIN POLICY OBJECTIVES.

Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress an assessment of the extent to which awards for cooperative agreements and other transactions under programs carried out under chapter 148 of title 10, United States Code, have been made specifically to advance and enhance a particular national security objective set forth in section 2501(a) of such title or to achieve a particular policy objective set forth in section 2501(b) of such title.

Mr. MCCAIN. Mr. President, I rise today to offer an amendment to the national defense authorization bill under consideration. The amendment involves the Technology Reinvestment Project or TRP.

The TRP was established in fiscal year 1993 to help develop dual-use technologies with both military and commercial applications, and to help small defense firms diversify into commercial markets. For fiscal year 1993–94 combined funding was in excess of $1 billion and this bill would provide an additional $625 million in funding.

The Technology Reinvestment Program has the potential to make an important contribution to our defense conversion effort and I strongly support it in concept. In reviewing the awards for last year, however, I identified successful proposals which, on their face, had no apparent link to the national security and defense objectives which underlie the TRP. Several examples of such program awards will suffice to demonstrate my concern: $15.8 million to demonstrate the feasibility of providing medical facilities with the ability to directly access the medical data bases of other hospitals; and $7.6 million to improve the efficiency of electrical power distribution.

I am sure these are very worthwhile projects, and perhaps each can be shown to be directly relevant to national security and defense, but the connection is not apparent, at least not to me. As enunciated in 10 U.S.C. 2501(a), TRP awards can be directed toward any of the following policy objectives:

Supplying and equipping the force structure of the armed forces;

Sustaining production, maintenance, repair, and logistics for military operations;

Maintaining advanced research and development activities to provide the armed forces with systems capable of ensuring technological superiority over potential adversaries;

Promoting defense industrial base surge capacity for national emergencies; and

Furthering the missions of the Department of Defense through defense reinvestment, diversification, and conversion.

If the goals of the TRP are to be served and abuses prevented, it is necessary that the link to particular policy objectives be demonstrated and articulated. To this end, the amendment, I am proposing today would require that the Department of Defense include an explanation in their award files detailing the relevance of each funded proposal to particular policy objectives.

Further, now that the TRP has been in existence for 2 years, fiscal year 1993–94, it would be appropriate for the Government Accounting Office to review the program and assess its progress in light of stated policy objectives. My amendment would request such a study.

It is imperative that we establish a sound and solid defense industrial base for the post-cold war era. Technology reinvestment must form a central part of this effort. Senate oversight to ensure that such funds are being directed properly to the areas where they can do the most good is essential and I ask my colleagues to support this amendment.

Mr. COATS. I understand the amendment has been cleared.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2192) was agreed to.

Mr. COATS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2193

(Purpose: To require a study on the establishment of a land management and training center at Fort Riley, KS)

Mr. COATS. Mr. President, on behalf of Senator DOLE, I send an amendment to the desk to authorize a study on whether to establish a Department of Defense center for the study of land management and land management training. Such a center would facilitate coordination between the Department of the Interior and the Department of Defense.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. COATS], for Mr. DOLE, proposes an amendment numbered 2193.

Mr. COATS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 110, between lines 19 and 20, insert the following:

SEC. 357. STUDY OF ESTABLISHMENT OF LAND MANAGEMENT AND TRAINING CENTER AT FORT RILEY, KANSAS.

(a) STUDY.—The Secretary of the Army shall carry out a study of the feasibility and advisability of establishing at Fort Riley, Kansas, a center for the land management activities and land management training activities of the Department of Defense.

(b) REPORT.—The Secretary shall submit to the congressional defense committees a report on the study required under subsection (a). The Secretary shall submit the report not later than May 1, 1996.

Mr. DOLE. Mr. President, I rise today to offer an amendment which requires the Secretary of the Army to study the feasibility of establishing a land management and training center. The Department of Defense manages more than 25 million acres of training lands that must be maintained to provide realistic training conditions. However, according to Army estimates, approximately 18,000 acres of Army training land is lost annually because of degradation due to overuse that renders the damaged training land impassable.

It has been estimated that the cost of rehabilitating these lands is $77 million annually, a cost which exceeds the current land rehabilitation and maintenance [LRAM] budget of all installations. In my view, the loss of training land and the cost associated with rehabilitation of that land could be significantly reduced through improved management of training and the coordination of military training and land management activities. Additionally, land management research, installation-specific consultation, technical assistance, and implementation of new education and training programs will lower the Pentagon's land management cost and ensure that our troops have available to them the land necessary for realistic training. My amendment simply would require the Secretary of the Army to study the feasibility of establishing a center to provide the vehicle for integrating these elements into an effective land management resource for military trainers and installation managers.

The training lands on military installations are required to support realistic training exercises, because without high quality lands on which to train, the readiness of combat units may be compromised. If training lands cannot support the training mission, the investment in the entire installation is in jeopardy. Training lands must be maintained in a condition of high quality for a number of reasons. I will not go into them all here now, but allow me to mention two.

First, the quality of the training lands directly affects the quality of training on those lands. For example, damaged lands may hinder or prevent realistic maneuvers. Second, the quality status of the training lands directly affects the costs of conducting training exercises. Increased repair costs to vehicles, increased training downtime associated with increased service time for equipment, and increased injuries to troops are all examples of how poor training lands increases the costs of training.

This amendment provides the Army with the means to develop a plan for addressing its growing costs associated with managing its training lands. I urge my colleagues to support this amendment.

Mr. COATS. Mr. President, I understand this has been cleared on both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2193) was agreed to.

Mr. COATS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2194

(Purpose: To designate a site for the relocation of the public education facility of the Armed Forces Institute of Pathology, and for other purposes)

Mr. COATS. Mr. President, on behalf of Senator HATFIELD, I send an amendment to the desk to authorize the relocation of the National Museum of Health and Medicine from the Walter Reed Army Medical Center to a site on the Mall in the District of Columbia.

This site should be selected in accordance with applicable procedures of the District of Columbia, the General Services Administration, the National Capital Planning Commission, and the Commission on Fine Arts.

No funds are authorized in this amendment for the construction of a museum building.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. COATS], for Mr. HATFIELD, proposes an amendment numbered 2194.

Mr. COATS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . PUBLIC EDUCATION FACILITY OF THE ARMED FORCES INSTITUTE OF PATHOLOGY.

(a) PURPOSE.—It is the purpose of this section to—

(1) display and interpret the collections of the Armed Forces Institute of Pathology currently located at Walter Reed Medical Center; and

(2) designate a site for the relocation of the public education facility of the Armed Forces Institute of Pathology so that it may serve as a central resource of instruction about the critical health issues which confront all American citizens.

(b) SITE OF FACILITY.—The public education facility of Armed Forces Institute of Pathology shall be located on or near the Mall on land owned by the Federal Government or the District of Columbia in the District of Columbia.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority or responsibilities of the National Capital Planning Commission or the Commission of Fine Arts.

(d) DEFINITION.—As used in this section, the term "the Mall" means—

(1) the land designated as "Union Square", United States Reservation 6A; and

(2) the land designated as the "Mall", United States Reservations 3, 4, 5, and 6.

(e) SENSE OF THE CONGRESS.—

(1) FINDINGS.—Congress finds that—

(A) the National Museum of Health and Medicine Foundation, Inc. (a private, nonprofit organization having for its primary purpose the relocation to the Mall and revitalization of the National Museum of Health and Medicine), the Armed Forces Institute of Pathology, and the Public Health Service have jointly supported planning to relocate the Museum to a site on land that is located east of and adjacent to the Hubert H. Humphrey Building (100 Independence Avenue, Southwest, in the District of Columbia); and

(B) the National Museum of Health and Medicine Foundation, Inc., is deserving of the encouragement and support of the American people in its effort to relocate the National Museum of Health and Medicine to a site on land that is located east of and adjacent to the Hubert H. Humphrey Building, and in its effort to raise funds for a revitalized Museum to inspire increasing numbers of Americans to lead healthy lives through improved public understanding of health and the medical sciences.

(2) LOCATION.—It is the sense of the Congress that, subject to appropriate approvals by the National Capital Planning Commission and the Commission of Fine Arts, the National Museum of Health and Medicine should be relocated to a site on land that is located east of and adjacent to the Hubert H. Humphrey Building for the purpose of educating the American public concerning health and the medical sciences.

Mr. NUNN. Mr. President, I wonder if Senator HATFIELD would be willing to describe for the Senate the amendment he is offering to the fiscal year 1995 Defense Authorization bill regarding the public education facility of the Armed Forces Institute of Pathology.

Mr. HATFIELD. This amendment designates a site on or near the National Mall for the National Museum of Health and Medicine. This museum will incorporate into its exhibits the public collections of the Armed Forces Institute of Pathology.

Mr. NUNN. Does the Senator's amendment involve any expenditure of Department of Defense funds for the design, engineering or construction of the National Museum of Health and Medicine or any commitment for such spending in the future?

Mr. HATFIELD. It does not. The amendment is for the sole purpose of setting aside Federal property for the new site for this museum. To amplify this point briefly, the Army Medical Museum, which contained the public collections that are now part of the Armed Forces Institute of Pathology, was on the Mall until 1968. Before it was moved to its current location at the Walter Reed Medical Center, this was one of the most visited museums in Washington. The Army Medical Museum was renamed the National Museum of Health and Medicine in 1988. I believe that the relocation of this facility to the Mall will greatly enhance public access to important information and displays relating to health.

Mr. NUNN. Is it the Senator's understanding that the sponsors of this project, the National Museum of Health and Medicine Foundation headed by former Surgeon General C. Everett Koop, intend to raise the money needed for the construction of this facility from private sources?

Mr. HATFIELD. That is my understanding.

Mr. NUNN. The Department of Defense currently provides $1.5 million per year to maintain the collection of the Armed Forces Institute of Pathology. This is a longstanding, and, in my view, appropriate expenditure of DOD funds. I oppose any additional appropriation for the Department of Defense to fund architecture, engineering, or construction of this museum public facility.

Mr. HATFIELD. I want to assure the Senator that I understand his previously stated opposition to earmarking DOD spending on behalf of museum projects. As I said earlier, I expect Dr. Koop and the foundation to raise the funds necessary for this project from the private sector. I do not intend to seek future DOD additional appropriations on behalf of the National Museum of Health and Medicine for design and construction of the new facility, or when constructed, for operation of the museum beyond current services Defense Department funding for the Museum.

Mr. NUNN. Mr. President, I believe that the amendment proposed by Senator HATFIELD is an important step toward enhancing a Federal museum for the purpose of educating the public on health related issues. I am pleased to accept the amendment.

Mr. COATS. Mr. President, I understand the amendment has been cleared by both sides.

Mr. NUNN. Mr. President, I urge adoption of the amendment. This is a very important amendment. I talked with Senator HATFIELD about it several times. They are raising the money for this Museum of Health and Medicine to be moved privately. The Department of Defense is in favor of this, but the Department of Defense feels strongly that it should not be called on to provide construction money for this museum. That was part of the colloquy between Senator HATFIELD and myself making that clear.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2194) was agreed to.

Mr. COATS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2195

(Purpose: To make funds available for procurement of portable ventilators for the Defense Medical Facility Office, Fort Detrick, MD)

Mr. COATS. Mr. President, on behalf of Senator DOLE, I send an amendment to the desk that would authorize the Army to purchase new ruggedized, light weight medical ventilators for field deployment. These are used to assist injured patients in breathing. These would also be purchased with commercial American-made sources, and they are American-made devices.

I ask for immediate consideration on this amendment.

The PRESIDING OFFICER. The clerk will report.

The legislation clerk read as follows:

The Senator from Indiana [Mr. COATS], for Mr. DOLE, proposes an amendment numbered 2195.

Mr. COATS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 110, between lines 19 and 20, insert the following:

SEC. 357. PROCUREMENT OF PORTABLE VENTILATORS FOR THE DEFENSE MEDICAL FACILITY OFFICE, FORT DETRICK, MARYLAND.

Of the funds authorized to be appropriated by section 301(5), $2,500,000 shall be available for the procurement of portable ventilators for the Defense Medical Facility Office, Fort Detrick, Maryland.

Mr. DOLE. Mr. President, I rise today to introduce an amendment which authorizes the procurement of medical ventilators for the Armed Services. As my colleagues probably are aware, these devices are used to help a person breathe in a diversity of circumstances, anything from normal lung stiffness to collapsed lungs. In the past, ventilators, which are standard equipment in ambulances, operating rooms, and medic helicopters, have had problems adapting to this wide range of circumstances. Many were not made for use on all ages of people, or for ventilating progressively more difficult lung states, or, due to the weight of the device and its lack of ruggedness, for use in less technically supported environments.

Since 1986, the Army has funded, off and on, development of a lightweight man-portable ventilator. However, due to shifting requirements, the services have not settled on a standard design. Recently, because of our operations in Somalia, the military made a stop-gap procurement of ventilator units that were later recalled by the FDA.

During operation Desert Storm, military medical facilities were seriously lacking ventilators. The GAO testified that, on average, only 60 percent of the needed medical equipment was deployed to Desert Storm. In addition, the Armed Services' medical facilities are using ventilators that are up to 20 years old, and it has been reported that two naval hospital ships were equipped with ventilators up to 25 years old.

Mr. President, we certainly owe the men and women who put their lives on the line to guarantee our freedom the best medical equipment available. My amendment provides $2.5 million to authorize procurement of nondevelopmental, lightweight, portable, ruggedized ventilators which can be used for any sized human with any known lung dysfunction. These ventilators will allow the military to meet this critical need now. I ask my colleagues to support this amendment.

Mr. NUNN. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2195) was agreed to.

Mr. COATS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2196

(Purpose: To amend subchapter II of chapter 73 of title 10, United States Code, to prevent cost-of-living increases in the survivor annuity contributions of uniformed services retirees from becoming effective before related cost-of-living increases in retired pay become payable)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senator ROBB and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. ROBB, for himself and Mr. MCCAIN, proposes an amendment numbered 2196.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 138, between lines 11 and 12, insert the following:

SEC. 634. COST-OF-LIVING INCREASES IN SBP CONTRIBUTIONS TO BE EFFECTIVE CONCURRENTLY WITH PAYMENT OF RELATED RETIRED PAY COST-OF-LIVING INCREASES.

(a) SURVIVOR BENEFIT PLAN.—Section 1452(h) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(h)"; and

(2) by adding at the end the following new subsection:

"(2)(A) Notwithstanding paragraph (1), when the initial payment of an increase in retired pay under section 1401a of this title (or any other provision of law) to a person is later than the effective date of that increase by reason of the application of subsection (b)(2)(B) of such section, then the amount of the reduction in the person's retired pay shall be effective on the date of that initial payment of the increase in retired pay rather than the effective date of the increase in retired pay.

"(B) Subparagraph (A) may not be construed as delaying, for purposes of determining the amount of a monthly annuity under section 1451 of this title, the effective date of an increase in a base amount under subsection (h) of such section from the effective date of an increase in retired pay under section 1401a of this title to the date on which the initial payment of that increase in retired pay is made in accordance with subsection (b)(2)(B) of such section 1401a.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to retired pay payable for months beginning on or after the date of the enactment of this Act.

Mr. ROBB. Mr. President, I rise today to offer an amendment to correct an inequity in the contributions military retirees make to the Survivor Benefits Program. I'm pleased to note that Senator JOHN MCCAIN joins me as a cosponsor.

As a result of last year's Omnibus Budget Reconciliation Act, COLA's for military retirees were delayed until April 1994. While I was not pleased with that decision, and will work to correct that small part of the OBRA, I voted for the overall package because I'm firmly committed to reducing our budget deficit. The bill did just that by almost $500 billion over 5 years.

Contributions to the Survivor Benefits Program are a fixed percentage of the military retiree's base pay. However, the Department of Defense has announced that it intends to increase contributions to the Survivor Benefits Program effective this past December because the legislation did not delay COLA's in the benefits received under the plan. While it is accurate that survivors' COLA's were not delayed, military retiree COLA's were, and therefore the retiree's base pay has not yet been increased.

I believe that it is patently unfair to attempt to raise contributions to the Survivor Benefit Program when the base pay on which it is figured hasn't yet been raised. I know that when I considered the issue of military retiree COLA's, I expected that contributions to the Survivor Benefits Program would not increase until the retiree's base pay increased as well; indeed, that is the law.

This seems like a clear case of the Department of Defense not interpreting the law as Congress intended, and the amendment I'm introducing here today will correct that. This amendment explicitly ties contributions to the Survivor Benefits Program to the retiree's base pay, no matter when the effective date of the retiree's COLA may be.

Mr. President, I believe that we must take this corrective action in the name of equity for our military retirees. When they opted to enroll in this program to ensure the economic security of their survivors, they were told that their contribution would be a certain percentage of their base pay. We shouldn't allow this commitment to be changed on them now, and I encourage the speedy consideration and enactment of this amendment for the benefit of our military retirees who are being charged for increased survivor benefits even as we speak.

I thank the Chair.

Mr. NUNN. Mr. President, this amendment would preclude annual increases in the premiums military retirees pay to participate in the Survivors Benefit Plan before annual cost-of-the-living increases in retired pay are payable.

I urge its adoption.

Mr. COATS. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2196) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COATS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2197

(Purpose: To provide for assignment of employees of federally funded research and development centers and Federal employees between Federal agencies and federally funded research and development centers)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senators BINGAMAN, DOMENICI, SASSER, KEMPTHORNE, CRAIG, and MATHEWS.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. BINGAMAN, for himself, Mr. DOMENICI, Mr. SASSER, Mr. CRAIG, Mr. KEMPTHORNE and Mr. MATHEWS, proposes an amendment numbered 2197.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection , it is so ordered.

The amendment is as follows:

At the end of subtitle G of title X, add the following:

SEC. 1068. ASSIGNMENTS OF EMPLOYEES BETWEEN FEDERAL AGENCIES AND FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

(a) AUTHORITY.—Section 3371(4) of title 5, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) a federally funded research and development center.".

(b) PROVISIONS GOVERNING ASSIGNMENTS.—Section 3372 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(e) Under regulations prescribed pursuant to section 3376 of this title—

"(1) an assignment of an employee of a Federal agency to another organization or an institution of higher education, and an employee so assigned, shall be treated in the same way as an assignment of an employee of a Federal agency to a State or local government, and an employee so assigned, is treated under the provisions of this subchapter governing an assignment of an employee of a Federal agency to a State or local government, except that the rate of pay of an employee assigned to a federally funded research and development center may not exceed the rate of pay that such employee would be paid for continued service in the position in the Federal agency from which assigned; and

"(2) an assignment of an employee of an other organization or an institution of higher education to a Federal agency, and an employee so assigned, shall be treated in the same way as an assignment of an employee of a State or local government to a Federal agency, and an employee so assigned, is treated under the provisions of this subchapter governing an assignment of an employee of a State or local government to a Federal agency.".

Mr. BINGAMAN. Mr. President, the amendment I am offering today on behalf of myself, Senator DOMENICI, Senator SASSER, Senator CRAIG, Senator

KEMPTHORNE, and Senator MATHEWS would amend the Intergovernmental Personnel Act to allow employees of all Federally Funded Research and Development Centers [FFRDC's] to utilize the Intergovernmental Personnel Act to be placed in Federal agencies and Federal employees to use the act to be placed at all FFRDC's. It is meant to solve a problem which has arisen at three of those FFRDC's run by the Department of Energy, namely Sandia National Laboratories, Idaho National Engineering Laboratory, and Oak Ridge National Laboratory.

On April 21, I introduced S. 2040, a bill almost identical to the amendment I am offering today, which was referred to the Governmental Affairs Committee. I deeply appreciate the prompt request for executive branch comment, which was made by Senator PRYOR, chairman of the Subcommittee on Federal Services, Post Office, and Civil Service.

In the last 2 weeks Senator PRYOR has received comments from the Department of Defense, the Department of Energy, and the Office of Personnel Management. The DOD and DOE comments express strong support for the legislation. The OPM comments express no objection to the purpose of the bill, but ask that a small change be made adding the words "or an institution of higher education" at two points in the bill so that all assignments under this program would be covered by the same rules. The amendment I am offering reflects the change requested by OPM. I ask unanimous consent that each of those letters appear in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BINGAMAN. Mr. President, I have also made a change requested by the ranking minority member of the Subcommittee on Federal Services, Post Office, and Civil Service, Senator STEVENS. The amendment would clarify that a Federal employee on assignment through the IPA program to an FFRDC may not be paid more than the salary he or she is entitled to in his or her civil service position.

I would advise the managers that I have cleared this amendment with Senator PRYOR, Senator STEVENS, Senator GLENN, and Senator ROTH on the Governmental Affairs Committee and I believe the amendment has been cleared on both sides on the Armed Services Committee as well.

It is very appropriate to offer this amendment on the defense bill because the main beneficiaries of this change will be the Departments of Defense and Energy, although other agencies, such as the Commerce Department, the Arms Control and Disarmament Agency and the intelligence community will also benefit from my amendment.

Let me briefly describe the problem which I am trying to address in this amendment. Almost all FFRDC's currently can utilize the Intergovernmental Personnel Act because they are run by universities or non-profit entities. That was the case at Sandia National Laboratories until last October 1 when management was turned over from AT&T, which had managed the lab for over 40 years, to Martin Marietta. The change in contractors also brought a change in the nature of the contract, consistent with contract management reform at DOE. The contract change has made Sandia employees ineligible to participate in the IPA program.

Sandia employees have long served with distinction in a host of Federal agencies under the Intergovernmental Personnel Act. I have just mentioned some of those agencies. They bring special expertise in a broad range of technical areas to the executive branch. Unfortunately, unless this amendment is passed, that long history of service will be disrupted starting this fall.

The reason is that the new contract with Martin Marietta is a fixed-fee contract, whereas the old contract with AT&T was a no-profit, no-fee contract. The resulting disruption in the IPA program for Sandians is clearly an unintended consequence of contract management reform at the Department of Energy.

The amendment will also immediately allow employees of two other institutions in similar circumstances, Oak Ridge National Laboratory and Idaho National Engineering Laboratory, to utilize the IPA mechanism to be placed in Federal agencies. In light of the thrust of management reform at the Department of Energy, which is toward the use of for-profit contracts with private sector contractors, as opposed to continued use of university or non-profit contractors, I believe many of the other DOE FFRDC's will soon also require the statutory change I am proposing to be able to utilize the Intergovernmental Personnel Act.

I urge the adoption of the amendment.

THE SECRETARY OF ENERGY,
Washington, DC, June 17, 1994.

Hon. DAVID PRYOR,
Chairman, Subcommittee on Federal Services, Post Office, and Civil Service, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for Department of Energy views on S. 2040, a bill to amend title 5, United States Code, to provide for the assignment of employees between Federally Funded Research and Development Centers and Federal agencies.

The Department strongly supports S. 2040. This legislation would provide Federal agencies, like the Departments of Energy and Defense, with a valuable tool for executing critical programs, especially highly technical programs, while holding down permanent Federal employment levels. This bill would expand existing authority to assign temporarily employees of all Federally Funded Research and Development Centers to Federal agencies. Temporary assignments such as this have long been authorized between Federal agencies and State and local governments and educational institutions, including those laboratories operated for the Federal government by university and non-profit organizations. Although other Federal Funded Research and Development Centers are similarly funded and operated, current statutory limitations will not allow us to utilize the expertise of their employees for temporary assignment with the Federal agencies. This amendment would enable Federal agencies to make greater use of this valuable personnel resource found in all Centers.

If you would like further information, your staff should contact Ms. Mary Louise Wagner, Deputy Assistance Secretary for Senate Liaison.

The Office of Management and Budget advises that from the standpoint of the President's program, there is no objection to the submission of this report to the Committee.

Sincerely,

HAZEL R. O'LEARY.

DEPARTMENT OF DEFENSE,
OFFICE OF GENERAL COUNSEL,
Washington, DC, June 17, 1994.

Hon. DAVID PRYOR,
Governmental Affairs Committee,
U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: This is in response to your request for the views of the Department of Defense on S. 2040, a bill, "To amend title 5, United States Code, to provide for assignment of employees of federally funded research and development centers and Federal employees between Federal agencies and federally funded research and development centers."

S. 2040 is especially necessary at this time as it would allow intergovernmental personnel currently assigned to the Department of Defense to complete their assignments. It also would ensure continuation of the expertise and assistance from the National Laboratories directly to the Department of Defense. It has been a longstanding practice to utilize the services of intergovernmental personnel from the Department of Energy weapons labs. These highly trained and experienced individuals provide excellent service in dealing with the myriad of technical and administrative tasks that confront the Department of Defense. They also help train our military personnel in the latest technology. The direct assistance that these individuals bring to the Department is invaluable in assuring that the best possible technical input is used by Department policy makers. These individuals also help bridge the gap between the Department of Energy and the Department of Defense through staff coordination and to assure that the best possible information to deal with nuclear safety, reliability and security is available. The added technical dimension that these individuals bring has continued to assure the safety, reliability and security of the Nation's nuclear deterrent.

The Department of Defense strongly supports this legislation. The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of these views to the Committee.

Sincerely,

STEPHEN W. PRESTON,
Acting General Counsel.

OFFICE OF PERSONNEL MANAGEMENT, OFFICE OF THE DIRECTOR,
Washington, DC, June 24, 1994.
Hon. DAVID PRYOR,
Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: This is in response to your request for the views of the Office of Personnel Management on S. 2040, a bill "To amend title 5, United States Code, to provide for assignment of employees of federally funded research and development centers and Federal employees between Federal agencies and federally funded research and development centers."

S. 2040 would extend the current provisions of law providing for intergovernmental mobility assignments to include federally funded research and development centers. Thus, the bill would permit assignment of employees between contractor-operated National Laboratories and Federal agencies. The Office of Personnel Management has no objection to the purpose of the bill. However, we do recommend that the new subsection (e) that would be added to section 3372 of title 5, United States Code, be amended to include assignments to and from institutions of higher education, so that all assignments under the mobility program would be covered by the same rules.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report.

Sincerely,

JAMES B. KING,
Director.

Mr. NUNN. Mr. President, this amendment would allow employees at not-for-profit federally funded research and development centers to be detailed to Federal agencies, and vice versa, under the provisions of the Intergovernmental Personnel Act.

I urge the adoption of the amendment.

Mr. COATS. We have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2197) was agreed to.

Mr. COATS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2198

(Purpose: To provide for selection of senior judge advocates by selection boards)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] proposes an amendment numbered 2198.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert the following at the end of subtitle A of Title V:

SEC. . SELECTION FOR DESIGNATED JUDGE ADVOCATE POSITIONS.

(a) To the extent that selection for the positions described in subsection (b) is not governed by Chapter 36 of title 10, United States Code, the Secretary of Defense shall prescribe regulations to ensure that officers selected to serve in such positions are selected for such service by boards governed, insofar as practicable, by the procedures prescribed for selection boards under Chapter 36 of title 10, United States Code.

(b) The positions referred to in subsection (a) are—

(1) the Judge Advocate General and Assistant Judge Advocate General of the Army,

(2) the Judge Advocate General and Deputy Judge Advocate General of the Navy,

(3) the Staff Judge Advocate to the Commandant of the Marine Corps, and

(4) the Judge Advocate General and Deputy Judge Advocate General of the Air Force.

Mr. NUNN. Mr. President, this amendment requires the Secretary of Defense to ensure that officers selected to serve in senior JAG positions are chosen by impartial boards of officers.

I believe this amendment has been cleared on both sides. I urge its adoption.

Mr. COATS. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2198) was agreed to.

Mr. COATS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2199

(Purpose: To exempt the provision of intelligence or other assistance to foreign officials from civil or criminal liability in connection with the destruction of an aircraft in a foreign country suspected to be engaged in drug trafficking)

Mr. NUNN. Mr. President, on behalf of Senator KERRY, I send an amendment to the desk and ask it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. KERRY, proposes an amendment numbered 2199.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. PROVISION OF INTELLIGENCE AND OTHER ASSISTANCE WHERE DRUG TRAFFICKING THREATENS NATIONAL SECURITY.

(a) Notwithstanding any other provision of law, it shall not be unlawful for authorized employees or agents of a foreign country to damage, render inoperative, or destroy an aircraft in that country's territory or airspace, or to attempt to do so, if that aircraft is reasonably suspected to be primarily engaged in illicit narcotics trafficking, provided that the President of the United States prior to the actions described in this subparagraph being taken has determined,

(1) that such actions are necessary because of the extraordinary threat posed by drug trafficking to the national security of that country, and

(2) that the country has appropriate procedures in place to protect against innocent loss of life in the air and on the ground, which shall at a minimum include effective means to identify and warn aircraft prior to the use of force.

(b) It shall not be unlawful for authorized employees or agents of the United States to provide assistance, including but not limited to operational, intelligence, logistical, technical and administration assistance, for the actions of foreign countries set forth in subsection (a), nor shall the provision of such assistance give rise to any civil action seeking money damages or any other form of relief against the United States or its agents or employees.

Mr. NUNN. Mr. President, this amendment would provide that it shall be unlawful for a foreign country to damage, render inoperative, or destroy drug trafficking aircraft or for U.S. officials to provide assistance for such actions if the President determines that such actions are necessary because of a national security threat posed to the country involved and that the country has taken appropriate measures to protect innocent aircraft.

Mr. President, this is a very important amendment and I believe it is necessary for me to explain why I can support it.

The United States has historically been the world's leading proponent of international efforts to protect civil aircraft. The United States has led the way in ensuring that international law recognizes the importance of protecting civil aircraft in flight.

On first blush, this amendment would appear to be inconsistent with our traditional approach and the requirements of international law. But on closer examination, I believe that it is consistent with international law because it carves out an extremely narrow exception—an exception that is based on the national security threat posed by drug trafficking to Colombia and Peru—and because it also requires that action be taken to protect innocent aircraft.

I believe that illegal drug traffickers, who are using their massive resources to corrupt government officials and to threaten those whom they cannot corrupt, and, who are in league with insurgents, pose a real national security threat to the Governments of Colombia and Peru. If I did not believe that those governments and the rule of law in their societies were threatened by drug trafficking, I would oppose this amendment.

The amendment also requires the President to determine that the governments concerned have appropriate procedures in place to protect innocent aircraft. I would have to oppose this amendment if it did not have such a requirement. I understand that the Administration will insist that action against civilian aircraft be limited to certain designated areas of the host countries, that notice to airmen (NOTAMs) be issued to put all pilots on notice as to the designated areas, and that specific actions will be taken to identify and warn prior to the use of force against civil aircraft.

Accordingly, because of the extraordinary circumstances that exist today and that pose a real national security threat to Colombia and Peru and because of the requirement that the President must determine that appropriate procedures are in place to protect innocent aircraft, I can support this amendment.

Mr. THURMOND. Mr. President, I support the amendment from the Senator of Massachusetts because of the strong belief I hold that we must do all we can to combat the scourge of drugs that threatens our country today. It is clear that our Nation's crime increase stems from narcotics trafficking that is so prevalent in our major metropolitan cities and is extending into every town and city in our Nation.

This amendment states that it is not unlawful for foreign countries who are fighting drug traffickers to attack aircraft suspected of carrying drugs if our President has determined that the national security of the subject country is threatened by the drug trafficking operations, and the country has appropriate procedures to protect against shooting down innocent aircraft.

This amendment also provides that it shall not be unlawful for U.S. personnel to provide assistance, including intelligence information, to foreign countries who meet the above conditions.

Mr. President, I have been informed that the administration supports this amendment. I have already indicated my support for this amendment; however, I want to express some concerns.

This amendment can only be applied to domestic law. The actions taken against aircraft suspected of carrying drugs could be a violation of international law and could subject the United States Government to claims before the World Court.

Aircraft employed by foreign countries in drug interdiction operations may not be equipped with sophisticated radars and other target acquisition equipment which would enable them to minimize the possibility of shooting down an innocent aircraft.

Let me emphasize again Mr. President, that I am supporting this amendment with these extraordinary provisions because I believe that the drug problem we face is extraordinary. I believe that illegal drugs threaten the fabric of our Nation and certainly threaten the national security of many foreign nations—especially the source countries for illegal drugs.

It is my hope that this legislation will strengthen our ability to join with other countries to more effectively fight the narco-traffickers who are doing so much harm to so many young people through the world.

Mr. KERRY. Mr. President, on May 1, the administration, without warning, shut off the provision of radar information to Colombia and Peru to track air shipments by drug traffickers over South American airspace.

The decision was made because lawyers in the United States Department of Defense, later joined by lawyers at the Department of Justice, concluded that United States officials could theoretically be sued if the Governments of Colombia or Peru used the information to shoot down a civilian aircraft and someone was killed.

While I understand the Government lawyers' concerns about the theoretical liability problem, this decision had several immediate negative consequences. It damaged U.S. international narcotics-control efforts, represented poor public policy, and brought about an unnecessary, self-inflicted wound in our international efforts to fight drugs.

Prior to May 1, drug traffickers carrying cocaine on planes flying north through Colombian and Peruvian airspace had to worry about being tracked by Governments there, with their planes, crews, and cargo being seized at their destination, or being intercepted and forced down along the route.

Since May 1, drug traffickers flying through Colombia and Peru have flown the friendly skies, care free, moving literally tons of dope ultimately bound for the United States.

Indeed, my office has already heard from informants in the region who report that there has been a free-for-all over Colombian and Peruvian airspace since we stopped sharing the information. They say that the skies are open, and the drug spigots have been turned on.

Unfortunately, the decision to halt the sharing of surveillance information simultaneously rewarded drug traffickers, punished those cooperating with us, and threatened fundamental U.S. interests. We ended one of the few strategies against drug trafficking that was actually working. We made hypocrites of ourselves in the eyes of our Latin American partners. We allowed drug traffickers to fly cocaine shipments out of Colombia and Peru with impunity.

The highly theoretical concern that someday, someone, somehow, might sue a U.S. official as a result of a force-down was permitted to trump common sense, with the result that today, people all over this country may be exposed to additional cocaine in their communities.

Over the past 4 years, the United States built for radar stations in the Andean region where most of the world's cocoa leaf is grown. The radars have worked in conjunction with AWACS surveillance planes to provide United States and Latin American Governments with detailed information on the routes of the hundreds of small planes suspected of transporting coca leaf and cocaine base from Peru, Ecuador, Bolivia, and Colombia.

The program became fully operational in 1993. It allowed the Colombian Air Force to identify 600 suspected drug flights last year, compared with the 250 suspected flights it was able to identify in 1992. The information provided by the radar stations and the surveillance flights was primarily used to identify and then to destroy clandestine airstrips, drug labs, and warehouses used by the cartels. Of the 27 planes that were destroyed, most were on the ground.

In Peru, a very aggressive force-down policy has been in place for 3 years. In Peru, by some counts an estimated 30 airplanes owned by drug traffickers have actually been shot down. Another 190 have been tracked and stopped. Despite the anxieties of the Government lawyers who decided to shut down the U.S. assistance on May 1, to date, not a single liability suit against the United States or any U.S. official has been filed in connection with these legitimate law enforcement activities.

Given the success of the Peruvian model, the Colombian Government adopted a force-down policy early this year. The policy had strict rules of engagement.

Under those rules, first an aircraft is detected by any one of four military radars located at San Andres, Guajira, Araracuara, or Leticia. This signal is received at the national defence military headquarters in Bogota, where it is analyzed, and it is verified whether the aircraft is legally in transit. If this is not the case, Colombian officials order the nearest air base to send A-37, Kfir, Mirage, Ob-10, or Tucano fighter planes to intercept it. When radio communication is not possible, the intercepting aircraft must use the following visual signals: First, move from side to side and turn its navigation lights on and off to warn the aircraft it has been intercepted. Second, abruptly move away from the intercepted aircraft making a 90-degree turn upwards to tell it to continue. Third, lower the landing gear leaving the landing lights on. Then raise the landing gear to notify the aircraft it must land. Fourth, repeatedly turn all lights on and off. If the aircraft does not respond, it may be then shot down.

As the Colombian Defense Minister summarized this policy, no plane would be forced down until Colombia had exhausted "all visual and sign procedures. * * * Against an aircraft which does not identify itself, which has no flight plan and which does not comply with signals given by air force planes which intercept it."

I believe this Colombian policy is clear, strict, fair, and reasonable in responding to the threat of the approximately 600 drug planes a year that have been detected in illegally traversing Colombian airspace.

But this policy concerned some of the United States Government's lawyers, who saw the theoretical potential for someone to sue the United States or United States officials if the Colombians made a mistake—even if we had nothing to do with the Colombian decision. This initial judgment was confirmed by other Government attorneys in the Justice Department, who argued that U.S. officials could be prosecuted in foreign courts for providing information that another country then used to shoot a plane down.

So on May 1, the Pentagon—without anyone apparently bothering to inform President Clinton—suspended the flights, without warning the host Governments, citing the risk of liability to the U.S. Government.

It is important to note that even lawyers disagree as to whether the Pentagon's legal interpretation is reasonable. As Lally Weymouth wrote in a recent column in the Washington Post, several former Bush and Reagan administration officials regard this reading of the law as overbroad in the extreme. They believed there was no problem in providing the radar information so long as U.S. personnel were not knowingly involved in a decision taken by a host country to shoot down a plane.

Now, as an attorney who was once in the private practice of law, I can tell you there is a doctrine known as sovereign immunity. And what sovereign immunity does is essentially make it impossible for someone to sue U.S. officials for civil wrongs, unless the Congress has explicitly created authorization for such a suit through waiving immunity. There has been no such waiver in connection with the United States providing information that leads to the shootdown of drug planes by a foreign government. So it would seem to this lawyer that sovereign immunity would provide ample protection to the United States for any liability in connection with a foreign shootdown.

But some of the Government's lawyers concluded otherwise, and the sharing of information with Colombia and Peru was stopped.

One would think that to whatever extent the lawyers had a legitimate concern, they had options besides unilateral suspension. There have been any number of legislative vehicles on the floor of the Senate over the past 6 weeks which could have been used for a legislative fix. Instead, they cut off at the knees a program that was working. They did not consult with our allies—they did not consult with our Ambassadors—and it appears they did not consult with the highest levels of the administration, either, let alone the U.S. Congress.

I first learned of the shift in policy at a private meeting in early May with the Colombian Ambassador to the United States, Mr. Gabriel Silva, who complained to me with, justifiable distress, that our decision was providing aid and comfort to the Cali cartel, and helping them move dope into our country.

I immediately expressed my dismay over the policy to senior administration officials, and learned to my surprise, that neither the United States Ambassador to Colombia nor Peru had even been advised about the policy change prior to the cutoff of information.

Alvin Adams, United States Ambassador in Peru, in a May 3 cable explicitly complained that he received no word in advance.

"I have been through a lot in 27 years of service," Ambassador Adams wrote, according to a newspaper account. "Of the little I can remember in my advanced middle age, this is—in my ken of experience—a standout."

"We were just beginning to make the narcos uncomfortable," one Customs Service official familiar with the intelligence flights told the Dallas News.

Key officials in Colombia and Peru have also been justificably critical of this decision by the United States, referring to it as evidence of hypocrisy and confusion.

As the Dallas News reported, "this is a shock, and it sends a terrible signal to Latin America," according to a Colombian official. The newspaper quoted the official as warning that Bogota is fed up with Washington. The Colombian official said that the program had benefited both sides, and was a key element in the war on drugs, and that the shut-down showed the United States was "pulling out of the war."

Colombia's Air Force commander lodged a protest with the United States over the unilaterally suspension of radar operations, complaining about the lack of consultation, as well as the policy. The situation was made worse when United States officials suggested we could continue to provide the radar information, if Colombia agreed not to shoot drug traffickers' planes down.

As the Washington Post quoted an angry Colombian official in a telephone interview, "The U.S. cannot decide what we do in our airspace. That's a sovereign decision and we're not going to change it. If the U.S. doesn't cooperate with us, we'll request its radars to be withdrawn".

As press accounts have confirmed, many United States officials side with Colombia in the dispute. "We're telling the Colombians they cannot shoot down planes in their own airspace, which is like another government telling us we cannot shoot down planes flying over the White House," said one State Department official, quoted by the Dallas News.

A month ago, senior policymakers in the administration told me they agreed the decision was wrong, and promised to take action to remedy it.

On June 21, President Clinton signed a proposal to allow U.S. officials to help foreign governments provide this information in circumstances when drug traffickers pose a national security threat to the host country and has appropriate procedures to protect innocent aircraft from attack.

However, despite the President making this decision, the administration has confirmed that the President will not resume intelligence sharing until and unless the law is changed.

Accordingly, I believe the Senate needs to act without further delay, to put our Government on the side of interdiction again.

This amendment, which has been reviewed by the administration and which has its support, provides the following:

> Notwithstanding any other provision of law, it shall not be unlawful for authorized employees or agents of a foreign country to damage, render inoperative, or destroy an aircraft in that country's territory or airspace, or to attempt to do so, if that aircraft is reasonably suspected of being primarily engaged in illicit narcotics trafficking.

This declaration of lawfulness only applies when the President of the United States has determined that the actions are necessary in that country because of the extraordinary threat posed by illicit narcotics trafficking to the national security of that country, and that the country has appropriate procedures in place to protect against the innocent loss of life in the air and on the ground, which shall at a minimum include effective means to identify and warn aircraft prior to the use of force.

In addition, the amendment provides for immunity against civil or criminal liability for U.S. officials to provide assistance under such circumstances.

In short, it makes it a matter of law that U.S. officials need not worry about being sued for providing information gathered by radars and AWACS planes to the Colombians and the Peruvians to go after drug traffickers smuggling cocaine in airplanes, so long as reasonable procedures to protect innocents are in place. It also provides protection in U.S. courts against foreign officials being sued for a shoot down under circumstances where the shoot down is of a plane reasonably suspected to be engaged in drug trafficking, and reasonable procedures to protect innocents are in place.

Under this amendment, the President's determination that a country meets the standards indicated—that a country faces an extraordinary drug threat and has adequate protective procedures in place—is not reviewable by the courts. This is consistent with past court decisions, such as the case of Dalton versus Specter, that such Presidential decisions are not reviewable.

Under this amendment, there will be no basis for concern about the extradition of any U.S. Government employees or agents in cases where such persons are accused of crimes involving the shooting down of civil aircraft, or the aiding and abetting thereof.

The term "assistance" is intended to be interpreted broadly in this amendment, which lists a number of types of assistance, but is not limited to the specific types listed.

And the amendment also balances the legitimate concern of protecting the innocent with the need to go after drug traffickers.

In order to be covered by this amendment, the President must determine not only that a foreign country faces an extraordinary threat from narcotrafficking, but also that it has appropriate procedures in place to protect aircraft from the improper use of force. At a minimum, the amendment requires that the foreign country have effective means to identify and warn suspect aircraft prior to the use of force.

Other steps that the President may require are clear designation of areas in which use of force might be applied, formal notice to civil aviators, a prohibition on any use of force against commercial passenger airliners on scheduled flight plans, prior visual identification and radio warnings, and the firing of warning shots.

The amendment applies to aircraft reasonably suspected of being primarily engaged in illicit narcotic trafficking. This would not, for example, include a commercial passenger aircraft on a scheduled route which happens to have, in addition to its passengers, some illicit narcotics on board. It would, however, encompass an aircraft being used at the time for narcotrafficking, even if the aircraft is ordinarily otherwise used for lawful purposes.

I agree that this is a balanced approach, and I urge the Senate to adopt this language.

But before we vote on this amendment, I want to address directly the position advanced by some that in the absence of this amendment, if Peru or Colombia shoots down a drug plane, they have violated international law.

The contention that under current law, liability could attach is based on an interpretation of the Montreal and Chicago conventions on civil aviation. Under these conventions, governments are not permitted to use force against civilian aviation.

But precisely because of the breadth of that proposition, the United States explicitly refused to ratify the portions of the convention that might create liability. We withheld our consent to the portion of the international law that has been asserted as the justification for the claims that a shoot down in which we participated might be illegal.

Moreover, the Chicago convention's article 1 explicitly recognizes the basic rule that "every state has complete and exclusive sovereignty over the airspace above its territory."

Under the circumstances, there is substantial legal justification for a position that there is no potential for civil or criminal liability for any american official even without a change in current law.

This is precisely the position of Peru, which also withheld its consent from the provisions of the conventions that would theoretically create the possibility of liability.

Meanwhile, the Government of Colombia, which did ratify the conventions, interprets them so that it believes its policy is within the confines of international law.

The Chicago Convention also has been interpreted to give the explicit rights to governments to declare states of emergency in certain aviation zones, and to suspend ordinary air travel rights in such zones. Once warning has been given that such a zone has been created, a state is entitled to protect itself, if it believes necessary, by shooting down a plane.

Now in the case of Peru and Colombia, both Governments have considered flights of cocaine to pose that kind of a threat to their Governments. Frankly, I agree with them that the threat is real and fundamental. So under the Chicago Convention, their actions would appear to be legal under international law.

So the notion that in sharing information with Peru and Colombia we are somehow violating international civil aviation law—taking these international conventions in their totality—is a matter on which lawyers can disagree on. It should not have been the basis for our making or not making policy against the drug cartels.

As I have mentioned, I believe that sovereign immunity already protects the United States. But to deal with the concerns of the Government lawyers who feel otherwise, I would hope the Senate would, with the passage of this amendment, make the immunity so explicit that not even lawyers can argue about it.

Adoption of this amendment on a vehicle certain to become law would also send the message to Latin America that we are not abandoning the effort against narcotics.

As the Phoenix Gazette editorialized on June 1:

> Lacking real-time intelligence from the United States, there's no way for Peru or Colombia to know where a drug-filled aircraft is flying or has landed. If these countries can't force a drug trafficker plane to land, the result will be an inability to prevent the movement of massive amounts of pre-processed cocaine from Peru to Colombia. In the end, more cocaine will enter the United States.

As A.M. Rosenthal of the New York Times has written in his column of June 17, entitled "Saving the President," the cut-off of information on drug planes by the United States is "an error that has to be reversed if [President Clinton's] word is to be trusted in Latin America."

This amendment would swiftly reverse this error, put our Government back in the business of providing information to Latin American countries about the movements of drug planes, and help deny the drug traffickers open skies. I ask that the full text of this amendment be printed at the conclusion of my statement. I ask for the yeas and nays.

Mr. NUNN. I urge adoption of the amendment.

The PRESIDING OFFICER. Do I hear objection?

Mr. COATS. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2199) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. COATS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2200

(Purpose: To provide transfer authority for improving counterproliferation activities of the United States)

Mr. COATS. Mr. President, on behalf of Senator DOMENICI, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from Indiana [Mr. COATS], for Mr. DOMENICI, for himself, and Mr. BINGAMAN, proposes an amendment numbered 2200.

Mr. COATS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 208, after line 24, insert the following:
>
> (c) ADDITIONAL AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) In addition to the transfer authority provided in section 1001, upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1995 to counterproliferation programs, projects, and activities identified as areas for progress by the Joint Committee for the Review of Counterproliferation Programs established by section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1845). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of this subsection may not exceed $100,000,000.

(3) The authority provided by this subsection to transfer authorizations—

(A) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(B) may not be used to provide authority for an item that has been denied authorization by Congress.

(4) A transfer made from one account to another under the authority of this subsection shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(5) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this subsection.

Mr. DOMENICI. I want to thank the managers of the defense authorization bill, Chairman NUNN and Senator THURMOND, for accepting this amendment. I believe it will assist the Department of Defense in protecting our national security.

The amendment deals with the fact that more and more nations are acquiring, or are seeking to acquire, chemical, biological, and nuclear weapons, and the means to deliver them. These weapons are commonly known as weapons of mass destruction because a single weapon can kill hundreds or thousands of people.

Despots and dictators already have chemical and biological weapons and some are racing toward a nuclear capability. It is even possible that these weapons could soon be in the hands of international thugs, terrorists, or transnational criminal gangs. The truth is, the proliferation of weapons of mass destruction represents a very real threat to the security of this Nation as well as American interests around the globe. And, unless we develop a capability to deal with this reality, we are placing the security of our Nation and its people at serious risk.

Proliferation is a problem most observers fear from rogue nations like Iran, Iraq, Libya, and North Korea. Notwithstanding the fate of democracy and political reform in the former Soviet Union, we must not forget Russian and Ukrainian abilities to produce and deploy weapons of mass destruction. Despite the efforts of this administration we have not yet been able to negotiate a system of strict accountability over the nuclear and chemical weapons in the former Soviet Union.

There has been more talk than action to prevent loose nukes, and the feared brain drain of Soviets capable of building nuclear and chemical weapons. Efforts by the Defense and Energy Departments to deal with the brain drain have been delayed time and again. In fact, recent press reports show that a number of former Soviet scientists are now on the North Korean payroll.

The capacity to assemble nuclear, chemical, and biological weapons and their means of delivery is spreading well beyond Russia, China, India, and Israel. This is simply unacceptable. While some of our colleagues are still fighting a rear-guard action over issues related to future nonproliferation it is time to recognize the extent of the proliferation that has already happened.

The bottom line is that the proliferation of weapons of mass destruction is the most perilous and profound security problem the United States faces in this post-cold war era. The threat is real.

To deal with this threat, last December, then Secretary of Defense Aspin outlined the beginnings of the Defense Counterproliferation Initiative. The Defense Department has since moved toward the development of a comprehensive strategy. It must become a national strategy. Nothing less than a comprehensive, national strategy will be necessary for the success of this initiative.

The strategy became clearer in May of this year when the Department of Defense provided an interagency report to the Congress on nonproliferation and counterproliferaion activities and programs. The report was presented to a very distinguished group of policymakers, scientists, and military professionals at the Los Alamos National Laboratory on May 6. Attendees included the distinguished chairman, Senator NUNN, Deputy Secretary Deutch, and Vice Chairman of the Joint Chiefs of Staff Admiral Owens.

The report argues that the Nation should devote an additional $400 million per year to address shortfalls in our counterproliferation efforts. These shortfalls are identified as areas for progress. At the conclusion of my remarks I would like to include the report's transmittal letter from Deputy Secretary John Deutch and a table showing the 14 areas.

It is clear to me that a viable counterproliferation strategy must be broad-based and embrace all policy instruments including deterrence, active and passive defenses, and, if necessary, military interdiction. I believe the counterproliferation initiative should coalesce into a broad-based, integrated national effort, much like the containment policy that guided us through the cold war's first decades.

The DOD report to the Congress moves us in this direction. But the problem is urgent. I believe we should get moving on the program before 1996. Further, from a management perspective, I believe it would be better to ramp up to the annual funding level identified in the report on a more reasonable progression.

The amendment that has been accepted by the managers gives the Department of Defense great flexibility to jump start this important initiative. It allows the Department of Defense to spend up to $100 million dollars to address the counterproliferation shortfalls identified in the Deputy Secretary's report.

I believe we should devote serious resources to the effort this year and the amendment allows that to happen.

I want to thank the managers again for accepting this amendment.

I ask unanimous consent the abovementioned material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE DEPUTY SECRETARY OF DEFENSE,
Washington, DC May 1, 1994.

MEMBERS OF CONGRESS: Section 1605 of the FY94 Defense Authorization Act directs the Department of Defense to lead an interagency study of nonproliferation activities currently underway in Executive Branch agencies. This letter transmits the required report prepared in a collaborative effort by the Departments of Commerce, Energy, State, and Defense; the Chairman of the Joint Chiefs of Staff, the intelligence Community, the Arms Control and Disarmament Agency, the Office of Science and Technology Policy, and the National Security Council.

President Clinton has identified countering the proliferation of weapons of mass destruction and their delivery systems as "one of the most urgent priorities." A great deal has been accomplished by this administration toward meeting this challenge, and the study provides a welcome opportunity to report to Congress on current activities, progress that has been made, and opportunities for improvement.

The terms of reference for the study as specified in the authorizing legislation required a thorough review of all activities underway in the relevant agencies that are directly or indirectly related to nonproliferation or to counterproliferation. Our charge was to focus on technologies and programs that contribute to nonproliferation and counterproliferation capabilities.

Our review found that federal agencies have achieved significant progress:

1. Through its Nonproliferation Center, the Intelligence Community has established effective interagency procedures to identify intelligence needs for early detection of nonproliferation threats.

2. The Department of Energy maintains an extraordinarily competent and broad technology base that has the potential to make major contributions to nonproliferation and counterproliferation technologies.

3. The Department of Defense has developed an entirely new approach for focusing counterproliferation programs in the areas of technology and acquisition, intelligence programs, and military planning.

4. The Departments of State and Commerce are working on new, expedited export control procedures to support nonproliferation efforts.

5. The Arms Control and Disarmament Agency has strengthened its capability to coordinate arms control and disarmament research through the Arms Control Research Coordinating Committee and Annual Report to Congress on Arms Control Research.

Many agency programs that are not exclusively directed at proliferation make important contributions to this objective, such as reconnaissance systems, theater missile defense systems, and political reporting. But we also found that agencies have different management practices and procedures that make it difficult to compare easily their proliferation efforts. Thus, this initial study should not be viewed as the final word in identifying gaps or overlaps among agency program efforts. The report does, however, identify fourteen priority areas for additional effort that we believe have the greatest potential for making a contribution to our proliferation technology efforts. Approximately $400 million per year are required to pursue these initiatives. The group assumed that this requirement could be addressed within budget planning ceilings of the agencies for FY96 and later years.

Our effort also identified several areas where additional progress is necessary. First, certain technologies are not currently being pursued adequately; an example is biological agent detectors. Second, generally it has proved easier to develop promising new technology ideas than to field useful new capability. This reflects the absence of a common program structure that enables management and application of resources government-wide to achieve desired ends. It is important to assure that agency efforts are not too fractionated and that a critical mass exists for development and deployment of needed capability. Third, the reorientation of national security programs to the post Cold War world, including to our nonproliferation objectives, is still incomplete. Fourth, our study demonstrates the value of interagency attention and coordination to nonproliferation and counterproliferation technology efforts that are being pursued by several agencies. We describe an ongoing interagency process that can continue the coordination and oversight activity that this Congressionally mandated study has begun.

Sincerely,

JOHN M. DEUTCH.

Figure 1—Recommended increases in annual investment (for FY96 and later) for non/counterproliferation areas for progress

[In millions of dollars]

Real time detection and characterization of BW/CW agents including stand-off	75
Underground structures detection and characterization	75
Hard underground target defeat including advanced non-nuclear weapons (lethal or non-lethal) capable of holding counterforce targets at risk with low collateral effects	40
Detection and tracking of shipments and control and accountability for stocks of WMD-related materials and personnel including worldwide WMD and dual-use item tracking	25
Capability to detect, locate and render harmless WMD in US	10
Enhancement of collection and analysis of intelligence	25
Support of chemical weapons convention and biological weapons convention	10
Support of conclusion of a verifiable comprehensive test ban treaty	10
Capability to detect, locate and disarm, with high assurance and in a timely fashion, outside the United States WMD hidden by a hostile state or terrorist in a confined area	15
Passive defense capabilities enabling military operations to continue in contaminated conditions—actual or threatened (low cost, lightweight)	15
Rapid production of protective BW vaccines	15
Detection and interception of low flying/stealthy cruise missiles	50
Transparency and control of foreign fissile material	15
Safe disposition for foreign missile- and WMD-related materials (except fissile material)	20
Intercept capability in boost phase	(1)
Prompt mobile target kill	(1)

[1] Adequately funded.

Mr. BINGAMAN. Mr. President, I am pleased to join Senator DOMENICI in sponsoring this amendment to provide Secretary Perry an additional $100 million in reprogramming authority to implement the recommendations of the Joint Review Committee on Counterproliferation for additional research in this critical area. Secretary Deutch submitted the recommendations of the Joint Review Committee, which he chaired, on May 2. That report looked toward additional expenditures of up to $400 million in fiscal year 1996 in this area. Our amendment will allow Secretary Perry and Secretary Deutch to jumpstart that initiative if they can find sources of funds for these important research efforts within their budget.

Mr. President, I believe that the central national security problem which this Nation faces following the collapse of the Soviet empire is the proliferation of weapons of mass destruction and of effective delivery vehicles for such weapons, particularly ballistic and cruise missiles. I commend former Secretary Aspin and Secretary Perry and the chairman of the Armed Services Committee, Senator NUNN, for recognizing this and moving out to address the issue.

On May 6 and 7 we had a very timely conference to discuss this issue and Dr. Deutch's report at Los Alamos National Laboratory. I commend Senator DOMENICI for initiating the idea for the conference and appreciate Senator NUNN's and Dr. Deutch's willingness to participate in the conference. That was obvious testimony to the importance attached to this issue in both the executive and legislative branches. The conference allowed us to build on the solid foundation which the report had made to defining a major Clinton administration initiative in this critical area.

Congressional reporting requirements are often greeted in the executive branch with about as much enthusiasm as the bubonic plague. And often, I must admit, that's probably the right degree of enthusiasm. But sometimes a reporting requirement comes along at just the right time and helps catalyze executive branch focus in a critical area. The requirement which Senator NUNN put in title XVI of last year's defense authorization bill for the nonproliferation and counterproliferation report submitted by Dr. Deutch clearly is in this latter category.

Let me conclude by making a couple of points on the counterproliferation initiative outlined in the Deutch report. First, as someone who has followed our nonproliferation policy, particularly in the nuclear and missile areas, fairly closely over the years, I was happy to see the emphasis in the report on our Government's nonproliferation activities. Several of the 14 priority areas identified in the report for additional funding will clearly strengthen our efforts to stem the tide of proliferation and allow us to demonstrate leadership in the multilateral arms control and export control regimes aimed at curbing proliferation.

There is sometimes a sense that use of the word "counterproliferation" connotes a diminution in our efforts to control proliferation before it happens and a focus instead on defeating proliferant states on the battlefield. I know that that was neither Secretary Aspin's nor Secretary Perry's intent in first using the word. I think a fair reading of this report makes it clear that that is not what is intended or contemplated. We will continue to do all we can to show leadership in the various multilateral control regimes, including trying to construct an effective COCOM successor regime.

But these regimes, although effective if we show the necessary leadership, are also imperfect, as our experience in Iraq demonstrated and as our ongoing concerns in North Korea illustrate as well. There are clearly nations which put their economic interests ahead of preventing proliferation and there are clearly willing recipients of critical weapons technologies. So it is entirely appropriate for our CINC's to seek the tools they will need to deal with the sort of contingencies they may face as we enter the 21st century. Being prepared to counter proliferation when it occurs does not and should not diminish our focus on preventing it in the first place.

The second point I will make is that I believe that this report has created the opportunity for a very effective partnership among the Department of Defense, the Department of Energy, and the intelligence community. The Department of Energy's weapons laboratories have a long history of contributing to our national security well beyond the narrow nuclear weapons area because of the depth and breadth of their technical resources, particularly their people. As Judge Bill Clark's blue ribbon panel on our Nuclear Weapons Program pointed out in 1985 when they recommended a memorandum of understanding between DOD and DOE to involve the labs to a greater degree in conventional munitions research, these laboratories can and should make broad contributions to our national security.

At the conference we heard that a similar memorandum of understanding on proliferation technologies is currently under discussion between the two agencies and I believe such an approach is entirely appropriate and can ensure that we make the best use of our limited overall resources in this critical area. We clearly need to bring our best capabilities to bear in tackling this crucial problem. All three DOE laboratories have long and successful histories of contributing to our non-proliferation efforts, and all three stand ready to build on that record of accomplishment.

Mr. President, I urge the adoption of the amendment.

Mr. COATS. Mr. President, I understand the amendment has been cleared by both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2200) was agreed to.

Mr. COATS. Mr. President, I move to reconsider the vote.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2201

(Purpose: To provide for the use of certain funds available for counterproliferation activities)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia Mr. NUNN, for himself and Mr. BINGAMAN, purposes an amendment numbered 2201.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 208, below line 24, add the following:

(c) USE OF FUNDS FOR TECHNOLOGY DEVELOPMENT.—(1) Of the funds authorized to be appropriated by section 201(4) for a counterproliferation technology project in Program Element 602301E—

(A) $5,000,000 shall be available for a program to detect, locate, and disarm weapons of mass destruction that are hidden by a hostile state or terrorist or terrorist group in a confined area outside the United States; and

(B) $10,000,000 shall be available for the training program referred to in paragraph (3).

(2) The Secretary of Defense shall make funds available for the program referred to in paragraph (1)(A) in a manner that, to the maximum extent practicable, ensures the effective utilization of existing resources of the national weapons laboratories.

(3)(A) The training program referred to in paragraph (1)(B) is a training program carried out jointly by the Secretary of Defense and the Director of the Federal Bureau of Investigation in order to expand and improve United States efforts to deter the possible proliferation and acquisition of weapons of mass destruction by organized crime organizations in Eastern Europe, the Baltic countries, and the former Soviet Union.

(B) The funds available under paragraph (1)(B) for the program referred to in subparagraph (A) may not be obligated or expended for that program until the Secretary of Defense and the Director of the Federal Bureau of Investigation jointly submit to the congressional defense committees a report that—

(i) identifies the nature and extent of the threat posed to the United States by the possible proliferation and acquisition of weapons of mass destruction by organized crime organizations in Eastern Europe, the Baltic countries, and the former Soviet Union;

(ii) assesses the actions that the United States should undertake in order to assist law enforcement agencies of Eastern Europe, the Baltic countries, and the former Soviet Union in the efforts of such agencies to prevent and deter the theft of nuclear weapons material; and

(iii) contains an estimate of—

(I) the cost of undertaking such actions, including the costs of personnel, support equipment, and training;

(II) the time required to commence the carrying out of the program referred to in paragraph (1); and

(III) the amount of funds, if any, that will be required in fiscal years after fiscal year 1995 in order to carry out the program.

Mr. NUNN. I offer an amendment that would provide for the use of funds available for counterproliferation technology projects at the Advanced Research Projects Agency for two programs: $5 million for a program to detect, locate and disarm weapons of mass destruction, and $10 million for a joint DOD–FBI Law Enforcement Training Program to expand and improve efforts to deter the possible proliferation of weapons of mass destruction by organized crime organizations in Eastern Europe Baltic countries and the former Soviet Union.

This amendment has been cleared on both sides.

I ask unanimous consent that Senator BINGAMAN be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I rise to offer an amendment that would provide $5 million for a program to detect, locate, and disarm in a confined area, weapons of mass destruction which are clandestinely employed by a hostile state or terrorist, against U.S. military forces outside the United States, or possibly in the United States; and, $10 million for a joint DOD–FBI Law Enforcement Training Program to expand and improve efforts to deter the possible proliferation of nuclear weapons by crime organizations in Eastern Europe, the Baltic countries and the former Soviet Union.

The possibility of criminal trafficking of nuclear materials is a growing problem related to the dramatic growth of criminal activity emanating from the former Soviet Union, the Baltic countries and Eastern European nations.

In addition to the traditional crime threats posed to the United States by organized crime groups in the former Soviet Union, the Baltic countries, and Eastern European nations, the possible theft of nuclear materials by these organized crime groups makes it imperative for the United States to act to prevent the proliferation of illegally acquired nuclear weapons/components and related materials, and in particular to prevent these materials from entering the United States.

There is an urgent need for the United States to develop a program to deal effectively with the threat that foreign organized crime elements in the former Soviet Union, the Baltic countries, and Eastern European nations may be able to steal nuclear weapons, nuclear weapons components, and weapons-grade nuclear materials, and other weapons of mass destruction.

The nuclear threat, with its potential for widespread disaster poses a grave, long-term organized crime danger to the security of the United States.

The best available information to date indicates that there have been no diversions of weapon's grade nuclear materials. However, there have been a significant number of cases involving the theft and smuggling of relatively low-grade nuclear materials from within the former Soviet Union.

Enhanced law enforcement efforts must be taken now to guard against nuclear weapons or weapons-grade material from falling into the hands of outlaw nations, organized gangs, or terrorist bands planning to carry out a catastrophic attack.

Training programs are required to assist the law enforcement agencies of the countries of the former Soviet Union, the Baltic countries, and Eastern European nations to expand and improve their own efforts against the possible proliferation of nuclear proliferation by organized crime.

Lastly, in the event that these weapons of mass destruction are stolen either by organized crime elements or terrorist groups and employed clandestinely against military bases overseas, or, find their way to the United States, we need the capability to detect, locate, and disable them in a confined area. Mr. President, the report by the Joint Review Committee on Nonproliferation and Counterproliferation Activities and Programs has identified this capability as a technology shortfall.

Mr. President, given the threat posed by the proliferation of weapons of mass destruction, it is imperative for the United States to act to prevent the proliferation of illegally acquired nuclear weapons/components and related materials, and in particular to prevent these materials from entering the United States. We must also have the capability to detect, locate and disarm the weapons of mass destruction, in the event prevention fails.

Mr. COATS. Mr. President, we have no objection to the amendment. I urge its immediate adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2201) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. COATS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2202

(Purpose: To authorize the Secretary of Defense to provide assistance to promote public participation in defense environmental restoration activities)

Mr. NUNN. On behalf of Senator KOHL, I send an amendment to the desk and ask it be reported.

The PRESIDING OFFICER (Mr. EXON). The Clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. KOHL, for himself, Mr. FEINGOLD, and Mr. PRYOR, proposes an amendment numbered 2202.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 325, between lines 4 and 5, insert the following:

SEC. 2847. ASSISTANCE FOR PUBLIC PARTICIPATION IN DEFENSE ENVIRONMENTAL RESTORATION ACTIVITIES.

(a) ESTABLISHMENT OF RESTORATION ADVISORY BOARDS.—Section 2705 of title 10, United States Code, is amended by adding after subsection (c) the following:

"(d) RESTORATION ADVISORY BOARD.—(1) In lieu of establishing a technical review committee under subsection (c), the Secretary may permit the establishment of a restoration advisory board in connection with any installation (or group of nearby installations) where the Secretary is planning or implementing environmental restoration activities.

"(2) The Secretary shall prescribe regulations regarding the characteristics, composition, funding and establishment of restoration advisory boards pursuant to this subsection, if the Secretary decides to use this authority. Prescription of regulations shall not be a precondition to establishment of a restoration advisory board or impact restoration advisory boards established prior to the date of enactment of this section.

"(3) The Secretary may provide for the payment of routine administrative expenses of a restoration advisory board from funds available for the operation and maintenance of the installation (or installations) for which the board is established or from the funds available under subsection (e)(4).".

(b) ASSISTANCE FOR CITIZEN PARTICIPATION ON TECHNICAL REVIEW BOARDS AND RESTORATION ADVISORY BOARDS.—Such section is further amended by adding after subsection (d), as added by subsection (a), the following:

"(e) ASSISTANCE FOR CITIZEN PARTICIPATION.—(1)(A) Subject to subparagraph (B), the Secretary shall make available under paragraph (4) funds to facilitate the participation of individuals from the private sector on technical review committees and restoration advisory boards for the purpose of ensuring public input into the planning and implementation of environmental restoration activities at installations where such committees and boards are in operation.

"(B) A committee or advisory board for an installation is eligible for funding assistance under this subsection only if the committee or board is composed of individuals from the private sector who reside in a community in the vicinity of the installation and who are not potentially responsible parties with respect to environmental hazards at the installation.

"(2) Individuals who are local community members of a technical review committee or restoration advisory board may use funds made available under this subsection only—

"(A) to obtain technical assistance in interpreting scientific and engineering issues with regard to the nature of environmental hazards at an installation and the restoration activities proposed or conducted at the installation; and

"(B) to assist such members and affected citizens to participate more effectively in environmental restoration activities at the installation.

"(3) The members of a technical review committee or restoration advisory board may, employ technical or other experts in accordance with regulations prescribed under subsections (d) and (e)(1) of Title 10, United States Code as added by this section.

"(4)(A) Subject to subparagraph (B), the Secretary shall make funds available under this subsection using funds in the following accounts:

"(i) In the case of a military installation not closed pursuant to a base closure law, the Defense Environmental Restoration Account established in section 2703(a) of this title.

"(ii) In the case of a technical review committee or restoration advisory board established for a military installation to be closed, the Department of Defense Base Closure Account 1990 established under section 2906(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

"(B) The total amount of funds available under this subsection for fiscal year 1995 may not exceed $7,500,000.".

(c) INVOLVEMENT OF COMMITTEES AND BOARDS IN DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.—Such section is further amended by adding after subsection (e), as added by subsection (b), the following:

"(f) INVOLVEMENT IN DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.—If a technical review committee or restoration advisory board is established with respect to an installation, the Secretary shall consult with and seek the advice of the committee or board on the following issues:

"(1) Identifying environmental restoration activities and projects at the installation.

"(2) Monitoring progress on these activities and projects.

"(3) Collecting information regarding restoration priorities for the installation.

"(4) Addressing land use, level of restoration, acceptable risk, and waste management and technology development issues related to environmental restoration at the installation.

"(5) Developing environmental restoration strategies for the installation.".

(d) IMPLEMENTATION REQUIREMENTS.—Not later than 180 days after the date on which the Secretary announces a decision to establish restoration advisory boards, the Secretary of Defense shall—

(1) prescribe the regulations required under subsections (d) and (e)(1) of title 10, United States Code, as added by this section; and

(2) take appropriate actions to notify the public of the availability of funding under subsection (e) of such section, as so added.

(e) The Secretary shall report to the Committees on Armed Services of the Senate and the House of Representatives by May 1, 1996, on the establishment of restoration advisory boards and funds expended for assistance for citizen participation.

Mr. NUNN. Mr. President, this amendment would authorize the Secretary of Defense to create Restoration Advisory Boards at military bases that are being cleaned up and would direct the Secretary to make up to a total of $7 million available in fiscal year 1995 funds to provide financial assistance to the Restoration Advisory Boards to allow them to hire independent technical assistance.

I urge adoption of the amendment.

Mr. KOHL. Mr. President, this amendment should be of interest to any Senator who has a military base with environmental contamination in his or her State. According to the Defense Department's latest report to Congress on the Defense Environmental Cleanup Program, that includes practically every member of this body.

As the Defense Department downsizes or closes bases, there is a growing fear among citizens that environmental cleanup of toxic wastesites will be rushed and that, faced with tight budgets, the Defense Department may make decisions about the cleanup of these sites which are detrimental to the health and well being of citizens living nearby. This fear has become even more acute with the realization that the cost of cleaning up the 13,000 plus Defense toxic wastesites across the country could cost as much as $25 billion.

This amendment attempts to protect the interests of local communities in the cleanup process and give them the means to participate in the difficult decisions about environmental cleanup which lie ahead. It is similar to a bill I introduced on the same subject but I have made a number of changes to address concerns raised by the distinguished chairman and ranking member on the Readiness Subcommittee, and by the Department of Defense and I thank them for their assistance in helping move this initiative forward.

Let me repeat—the Department of Defense supports this amendment. This legislation puts into statute the establishment of citizen advisory boards by the Defense Department and lays out criteria for the make up of these boards. Most important, however, it permits the Defense Department to provide funding to the citizen advisory boards to allow them to obtain independent technical assistance.

By setting a cap on overall spending for technical assistance funding, this amendment does not direct significant funds away from cleanup itself.

This amendment will not delay cleanup of bases, rather it will facilitate environmental cleanup. By ensuring that the views of local citizens can be heard, we can prevent strained relations between civilians and the military and the delays that often arise because of these tensions.

This amendment is not designed to fund more studies. I think we all agree that there have been plenty of studies.

Finally, this bill would not require new spending. Instead, it permits the Department of Defense to spend up to $7.5 million from the defense environmental restoration account and the 1990 base realignment and closure account for this purpose. And let me emphasize, to address the concerns of the Department of Defense, this is completely discretionary.

Mr. President, this is a small price to pay for peace of mind. And, in the long run, investing the local community in the cleanup process will save millions of dollars that might have been spent in litigation down the road.

This bill could have tremendous impact across the country. In my own State, where there is not a large military presence, there are 278 contaminated sites at 47 installations and formerly used Defense sites.

Let me just provide a little background for Senators who may not be familiar with the history of this initiative.

Two years ago, all the parties involved in the cleanup of Federal environmental contamination came together under the auspices of the Keystone Foundation. For the first time, Federal, State, local, and Indian tribal officials, and community, environmental, and labor organizations, came up with a series of recommendations acceptable to everyone to improve public participation in the cleanup of these hazardous sites. These recommendations can be found in the interim report of the Federal Facilities Environmental Restoration Dialog Committee.

The Defense Department endorsed the Keystone recommendations and has been working to implement them.

The cornerstone of this effort is the creation of citizen advisory boards at each installation. These boards are made up of community members selected to give local input on cleanup issues to the Federal agency having jurisdiction over the site. In a pilot program the Defense Department has directed each of the services to assist communities in setting up citizen advisory boards at five installations with environmental contamination.

In an effort to make these boards more independent and give them credibility in their communities, the Keystone participants recommended that the Federal agencies provide technical assistance grants to the boards, much like EPA does at Superfund sites, so the boards can hire experts to help them understand complex environmental impact statements and technical and engineering information provided to them by the Federal Government.

Badger Army Ammunition Plant which is located in Baraboo, WI, is one of five installations designated by the Army to participate in the pilot program to implement the Keystone recommendations. Subsequent to its selection, a citizen advisory board made up of a cross-section of citizens who have been affected or could be affected by the environmental contamination at Badger was created to provide policy and technical advice on key cleanup decisions.

The Board at Badger has been frustrated by its ability to receive technical assistance funding from the Department of Defense to hire independent technical advisers. Instead, the Army has encouraged the board to use the technical advisers employed by the Army. Yet, the environmental contractors working for the Army are not permitted to speak directly to members of the board when they have questions. All questions have to go through the Army.

Although I have no doubt that the Army is operating in good faith, preventing the citizen advisory board from receiving independent guidance on technical matters violates the spirit of the Keystone process and puts the entire credibility of the board at stake. Our amendment would correct this problem.

This bill is about empowering citizens who have taken on the difficult task of working side by side with the military to make sure that clean really means clean. Above all, this bill is about building trust between the Federal Government and our local communities.

I urge my colleagues to support this effort so we can get on with the business of cleaning up our bases and making our communities, the water, the soil and the air, safe for our children.

Mr. COATS. Mr. President, we have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2202) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. COATS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2203

(Purpose: To establish as a civil service position the position of athletic director at the U.S. Military Academy, the U.S. Naval Academy, and the U.S. Air Force Academy, and to provide for the establishment of nonappropriated fund accounts for the athletic programs of the academies)

Mr. NUNN. Mr. President, on behalf of the Senator from West Virginia [Mr. BYRD] I send an amendment to the desk and ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. BYRD, proposes an amendment numbered 2203.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. ADMINISTRATION OF ATHLETICS PROGRAMS AT THE SERVICE ACADEMIES.

(a) UNITED STATES MILITARY ACADEMY.—(1) Chapter 403 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4357. Administration of athletics program

"(a) The position of athletic director of the Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill such position as an active duty assignment.

"(b) Under regulations prescribed by the Secretary of the Army, the Superintendent of the Academy shall establish and administer a nonappropriated fund account for the athletics program of the Academy. The Superintendent shall credit to such account all revenue received from the conduct of the athletics program of the Academy and all contributions received for such program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4357. Administration of athletics program.".

(b) UNITED STATES NAVAL ACADEMY.—(1) Chapter 603 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 6975. Administration of athletics program

"(a) The position of athletic director of the Naval Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill such position as an active duty assignment.

"(b) Under regulations prescribed by the Secretary of the Navy, the Superintendent of the Naval Academy shall establish and administer a nonappropriated fund account for the athletics program of the Naval Academy. The Superintendent shall credit to such account all revenue received from the conduct of the athletics program of the Naval Academy and all contributions received for such program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"6975. Administration of athletics program.".

(c) UNITED STATES AIR FORCE ACADEMY.—(1) Chapter 903 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9356. Administration of athletics program

"(a) The position of athletic director of the Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill such position as an active duty assignment.

"(b) Under regulations prescribed by the Secretary of the Air Force, the Superintendent of the Academy shall establish and administer a nonappropriated fund account for the athletics program of the Academy. The Superintendent shall credit to such account all revenue received from the conduct of the athletics program of the Academy and all contributions received for such program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9356. Administration of athletics program.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 240 days after the date of the enactment of this Act.

Mr. NUNN. Mr. President, this amendment would require that the service academy athletic directors be civil service positions and that the academy athletic programs be administered through nonappropriated fund accounts.

I urge adoption of the amendment.

Mr. BYRD. Mr. President, the media is again reporting on purported scandals at the Naval Academy. This time, the stories concern the Naval Academy Athletic Association's purchase of a condominium for the Naval Academy's athletic director and an alleged all-expenses paid Army-Navy football game weekend junket for Naval Academy officials and supporters, at a time when academy sports programs were being cut. The director of the Naval Academy Athletic Association has defended the decisions that were made. I do not offer a judgment on the actions or the allegations. I would observe, however, that given the unique institutional arrangement between the Naval Academy and the NAAA N-triple A, as the athletic association is called, the appearance of impropriety is difficult to avoid.

The unique institutional arrangement between the Naval Academy and the NAAA is almost a century old. The NAAA, a tax-exempt organization created to promote and support Naval Academy athletics, receives no Government funds. Its revenues, derived from sales of tickets, television rights to Navy football games, membership dues, and investments, provide the NAAA with a $7 million dollar a year budget. From this, the NAAA pays the Naval Academy's athletic director's salary, some other Academy athletic officials' salaries, and provides full or partial funding for most Academy athletic programs. The athletic director, who oversees all Naval Academy sports programs as well as coaching the football game, is provided a residence within the Naval Academy grounds in Government-provided housing. The NAAA's budget is reviewed and approved by a board of control and by the Naval Academy's Commandant of Midshipmen and the Superintendent of the Academy.

This does not sound very scandalous. However, the athletic director of the Naval Academy has another job. He is also the director of the NAAA. The associate director of athletics at the Naval Academy is also the treasurer of the NAAA. The condominium that the NAAA purchased as an investment currently serves as the residence of the athletic director while his residence on the Naval Academy is being renovated. A second residence purchased by the NAAA as an investment in 1982 was until recently rented to the Naval Academy's associate director of athletics, and treasurer of the NAAA, for $600 per month. According to his rebuttal to a June 13 Baltimore Sun article, the athletic director argued that purchasing a condominium for his use while his other residence was being renovated made sound fiscal sense, much wiser than renting. As investments, these property purchases may be sound, but having the stewards of the investment decisions benefit from the purchases so directly raises troublesome questions about conflicts of interest.

In 1993, the NAAA recommended the elimination of four varsity sports that cost some $250,000 a year to maintain. A fifth varsity sport was reduced to club status, ending its financial support by the NAAA. According to the athletic director, quoted in the Baltimore Sun on June 13, the recommendations were based upon "brigade and fan interest, availability of competition, and revenue potential" as well as finances. None of those decision factors, I would point out, relates to the role of sports in developing leadership, teamwork, or physical endurance in our Nation's future military leaders. That list of decision factors also does not indicate whether the Review Board created in 1992 to protect minor sports concurred in the recommendation.

This situation illustrates some of the pitfalls and potential problems that can arise when conflicts of interest and lack of objective oversight of athletic budgets dominate an athletic program. It is a situation that, while unique to the Naval Academy among the military academy constellation, is not unique to military academies. The highly regarded March 1991 report of the prestigious Knight Foundation's Commission on Intercollegiate Athletics, "Keeping Faith with the Student-Athlete: A New Model for Intercollegiate Athletics," examined the growing abuses in college sports and proposed a reform agenda. Prominent among the report's recommendations is that "no extra-institutional organization should be responsible for any operational aspect of an intercollegiate athletics program. All funds for athletics should be channeled into the university's financial system and subjected to the same budgeting procedures applied to similarly structured departments and programs." This conclusion by the major national commission reviewing the state of intercollegiate athletics should be accorded important weight.

Because of the Service academies' position as federally operated institutions, it seems highly persuasive to me that the concept of financial integrity should be a basic tenet of their athletic programs. The Air Force Academy and the Army's Military Academy at West Point already abide by this tenet. Their athletic directors are also civil service or active duty military personnel, with no dual roles as directors of non-governmental athletic associations.

Therefore, I am offering an amendment that brings into conformity the practice of the Naval Academy with that of the other Service academies and that satisfies the principle of public accountability and financial integrity. This amendment requires that all revenue generated by the athletic program and associated activities at each Academy be placed in a nonappropriated fund account under the control of the Service and the Department of Defense. The receipts from ticket sales, television rights and the lucrative results of intercollegiate athletic events will go directly into the budget of the academies.

Additionally, this amendment directs the Academies to fill the positions of athletic director, the primary policymaker for the athletic department, with either a civil servant or a military officer, and not an employee of an outside organization.

This amendment will codify existing relationships between athletic associations and institutions at the Air Force Academy and at West Point. The Naval Academy should also recognize and correct the relationships between itself and the Naval Academy Athletics Association. The amendment provides for a transition period of 240 days, or 8 months, after the date of enactment of this bill, in order to establish the fund and transition the athletic director position. While it may be difficult to end a long-established practice, the long-term interests of the Naval Academy will be better served by an arrangement that avoids even the appearance of impropriety, and promotes the concept of public scrutiny and accountability.

Mr. COATS. Mr. President, we have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2203) was agreed to.

Mr. COATS. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2204

(Purpose: To revise the composition of the Commission on Roles and Missions of the Armed Forces)

Mr. NUNN. Mr. President, on behalf of Senator FORD, I send an amendment to the desk and ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. FORD, for himself and Mr. BOND, proposes an amendment numbered 2204.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 185, between lines 7 and 8, insert the following new section:

SEC. 913. REVISION IN COMPOSITION OF COMMISSION.

(a) REVISION.—Section 952(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 111 note; 107 Stat. 1738) is amended—

(1) in the first sentence of paragraph (1), by striking out "seven" and inserting in lieu thereof "eight"; and

(2) in paragraph (2)—

(A) by inserting "(A)" before "The Commission"; and

(B) by adding at the end the following new subparagraph:

"(B) The additional member of the Commission appointed under this paragraph after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995 shall have previous military experience and management experience with the reserve components.".

(b) APPOINTMENT.—The Secretary of Defense shall make the appointment required as a result of the amendments made by subsection (a) not later than 15 days after the date of the enactment of this Act.

Mr. NUNN. Mr. President, this amendment would add one additional member to the Roles and Missions Commission. This amendment would require that the new member shall have previous military experience and management experience with the Reserve components.

I urge adoption of the amendment.

Mr. FORD. Mr. President, last year, in the National Defense Authorization Act for fiscal year 1994, Congress directed establishment of a commission to review and report on the allocation of roles, missions, and functions of the Armed Forces.

The intent was to ensure that we have effective post cold war defense forces, with proper alignment of roles and missions.

The Commission is not expected to report until April or May of next year.

While the guidance for establishment of the Commission specifically referred only to the Armed Forces, the role of the National Guard and Reserve components should have been considered a significant element of such a review.

The bill we are considering recognizes that omission by adding a provision that will specifically include the Guard and Reserve components in the conceptual framework of the Commission's review and directs that the Commission address the roles, missions, and functions of the Reserve components within the total force.

Unfortunately, the bill does not specify that the Commission itself must include at least one member representing the National Guard and Reserve.

My amendment would direct that an additional Commission member be added who has previous military and management experience with the Reserve components.

This provision will ensure that the peculiar requirements and benefits of Guard and Reserve components are recognized and considered in the final report.

I urge support for this amendment and I thank the chairman and ranking member for their support.

Mr. COATS. Mr. President we have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2204) was agreed to.

Mr. COATS. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2205

Mr. NUNN. Mr. President, on behalf of Senator Sarbanes, I send an amendment to the desk and ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. SARBANES, for himself, Mrs. KASSEBAUM, Mr. PELL, and Mr. HELMS, proposes an amendment numbered 2205.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 198, line 3, insert before "(f)" the following:

"(3) Funds may not be provided under this section for a fiscal year for any country which was not eligible in that fiscal year for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961.

"(4) Funds may not be used under this section for the provision of military education or training, defense articles, or defense services to any country."

Mr. NUNN. This amendment adds two additional limitations to the statutory structure for the Military-to-Military Contacts program.

I urge adoption of the amendment.

Mr. COATS. Mr. President, we have no objection to that amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2205) was as agreed to.

Mr. COATS. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2206

(Purpose: To express the Sense of the Senate that the Administration has not adequately funded the Department of Defense's Future Year Defense Program and that the Secretary of Defense should undertake a comprehensive review of the Bottom-Up Review and the Future Years Defense Program and, upon completion of that review, establish required funding levels and priorities, and for other purposes)

Mr. COATS. Mr. President, on behalf of Senator DOLE, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. COATS], for Mr. DOLE, for himself, Mrs. HUTCHISON, Mr. KEMPTHORNE, Mr. COATS, Mr. THURMOND, Mr. SIMPSON, and Mr. WARNER, proposes an amendment numbered 2206.

Mr. COATS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following new section:

SEC. . REVIEW OF THE BOTTOM UP REVIEW AND THE FUTURE YEAR DEFENSE PROGRAM AND ESTABLISHMENT OF NEW FUNDING REQUIREMENTS AND PRIORITIES.

(a) FINDINGS.—Congress finds as follows:

(1) Whereas the Administration commissioned the Bottom Up Review to properly structure the Armed Forces of the United States for the Post-Cold War Era;

(2) Whereas the Secretary of Defense has testified that the Department of Defense's Future Years Defense Program includes $20 billion more in program funding requests during fiscal years 1996 through 1999 than the defense funding levels in the Administration's budget can support;

(3) Whereas, the Secretary of the Navy has testified that the Department of the Navy will only operate 330 ships rather than the 346 ships required by the Bottom Up Review;

(4) Whereas, in January 1994, in his Annual Report to the President and the Congress, the Secretary of Defense reported that the Air Force will field approximately 100 heavy bombers rather than the 184 required by the Bottom Up Review;

(5) Whereas the Department of Defense's plans for a major regional contingency in the Far East call for 5 Army divisions and the plans for a major regional contingency in Southwest Asia call for 7 Army divisions, while the Bottom Up Review plans for an Army of only 10 active divisions;

(6) Whereas the Administration's budget assumes the Department of Defense will save at least $6 billion from procurement reform;

(7) Whereas the first and second rounds of the Base Realignment and Closure Commission have not yet achieved the level of savings initially estimated, and the 1995 base

closure round may cost significantly more than is assumed in the Administration's budget;

(b) SENSE OF CONGRESS.—It is the Sense of Congress:

Mr. COATS. Mr. President, this amendment expresses the sense of the Senate that the Department of Defense review the assumptions and conclusions of the Bottom-Up Review and report on the force structure required for an adequate defense.

Mr. DOLE. Mr. President, this amendment is simple and straight forward. The legislation expresses the sense-of-the-Senate that the Department of Defense should reexamine the Bottom-Up Review and President Clinton's future years defense program and report to both the Congress and the President on the force structure required to provide for an adequate defense for our Nation. It further states that it is the sense-of-the-Senate that the President's budget should adequately fund that plan. The reason I have raised this question is that despite all of the rhetoric, we have neither. According to the military experts, the force represented in the Bottom-Up Review is inadequate to meet our stated national security needs. And according to the administration's own experts, even that force is massively under funded.

We have just concluded that commemoration of the 50th anniversary of the landings at Normandy. Many of the Members of this body participated in commemorative events either in Europe or here at home. I think its appropriate for us to debate our defense budget while our reflections on the sacrifices of 50 years ago are fresh in our minds.

THE PRESIDENT'S PROMISES

I have heard the President's pledge for a strong defense, his pledge to field the best equipped fighting force, and his pledge of support of our fighting men and women. The President has stated that he would cut defense no further. He has endorsed the Bottom-Up Review as the guiding document for our Armed Forces for the post-cold-war era. And he has assured us that the Bottom-Up Review Force is adequate for fighting two major regional contingencies, or MRCs, nearly simultaneously.

MORE HIDDEN DEFENSE CUTS

While I have listened to the President's statements, I am concerned about the impact of his actions. In the state of the union address on January 25, 1994, President Clinton stated that the budget he would send to Congress would draw the line against further defense cuts. Let's be clear what this means. It means that the President remained committed to the huge cut of over $127 billion which he sent the Congress last year. The President's 5-year defense plan calls for an additional decline in defense spending of 10 percent in real terms. Regarding these additional cuts, the distinguished chairman of the Armed Services Committee said, "if these additional hidden reductions are not reversed, I believe that they will seriously erode the future capability of our military services." I share the distinguished chairman's view and that is what this amendment is all about—to put the Senate on record on this point.

The fact is, we are entering the 10th consecutive year of defense cuts. The defense budget before us, as reflected in this bill represents a reduction of approximately 33 percent over the 1985 defense budget. By the end of the administration's future years defense program, defense spending will have fallen by 43 percent over fiscal year 1985. We are not cutting defense—we are gutting it.

BUTTOM-UP REVIEW IS UNDERFUNDED

The Bottom-Up Review was commissioned by this administration to properly structure our Armed Forces for the cold-war era. This force is what the administration has told the American people is the minimum needed to ensure our national security. However, according to the administration's own defense experts, the future years defense program simply will not fund the force outlined in this plan. According to the Armed Services Committee's report, "* * * as the Secretary of Defense testified before the committee, the Defense Department's future years defense program actually included $20 billion more in program funding during fiscal years 1996 through 1999 than the Defense funding levels in the administration's own budget can support." In other words, the Secretary of Defense is saying that the administration has underfunded its own defense plan, which the Secretary has called the "Bottom Line" for "America's future security," by $20 billion. Let me add that the $20 billion figure is in dispute. Many defense experts believe the shortfall to be much greater—between $50 and $100 billion. Whatever the exact figure, the fact is that President Clinton's defense budget doesn't support his own force structure.

The committee report goes on to state that if the overall defense budget is not increased in fiscal year 1996, "funding for programs currently included in the Defense Department's planned fiscal year 1996 budget will have to be cut."

The impact is direct. The Secretary of the Navy testified that the Department of the Navy will operate only 330 ships, as opposed to the 346 ships called for in the Bottom-Up Review. Additionally, as the chairman has pointed out, the President's budget request would have funded only 100 bombers during fiscal year 1995 and only 80 bombers in the out years. This, despite the Bottom-Up Review's requirement for 184 bombers. While I appreciate the committee's action to prevent further retirement of heavy bombers in fiscal year 1995 and the commitment of funds to preserve the bomber industrial base, I am concerned by the fact that the President's budget would not have adequately funded the minimum number of bombers required for this Nation's security. It is a fact that the Bottom-Up Review is underfunded and it appears that this administration, while making statements about commitment to a strong defense and demonstrations of support for our troops, is willing to do little if anything to address that problem. The result is the exposure of our fighting men and women to a greater level of risk.

THE BOTTOM-UP REVIEW FORCE IS INSUFFICIENT

The administration's assurances that the Bottom-Up Review Force structure is sufficient to fight and win two major regional contingencies nearly simultaneously is not supported by the facts. Of the most glaring deficiencies is the fact that the number of army divisions called for by the President's strategy will not meet the military's stated needs for fighting and winning a major regional contingency in the Far East and a major regional contingency in Southwest Asia. During the gulf war, the United States deployed seven divisions plus two armored cavalry regiments to Southwest Asia. Recently, General Luck testified that a major regional contingency on the Korean Peninsula would require at least 400,000 troops to reinforce the U.S. Forces already assigned to South Korea. If the United States had to face these two wars "nearly simultaneously," the Army would not be able to deploy all the troops required. Remember that at the same time the United States is fighting these major regional conflicts, it also would have to maintain at least one division in Europe to meet our NATO requirements. And we can't forget the humanitarian missions and peacekeeping operations to which this administration has committed us. The fact is that the administration's Army force structure will not allow us to fight and win two MRCs nearly simultaneously and meet all of our other responsibilities.

I remind my colleagues of the administration original policy of sizing U.S. Forces for what was termed a "win-hold-win" strategy. This strategy held that if the United States were fighting a regional conflict, and during that fight, a second regional conflict broke out, U.S. Forces would hold off the second aggressor until the first had been defeated. I think you will also recall that this notion was so widely discredited that the administration quickly announced that it had abandoned it. However, in my view, the force structure outlined in the Bottom-Up Review, is simply "win-hold-win," with a new label. Like "win-hold-win," the

Bottom-Up Review assumes a late redeployment of critical assets, such as intelligence, command, and control, and air capabilities—that includes bombers, from the first contigency to the second "as circumstances permitted." In fact, the forces required by the Bottom-Up Review strategy and the forces required to implement win-hold-win are remarkably similar. As Dr. Dov Zakheim testified before the House Armed Services Committee, ". . . there is no difference at all with respect to the force levels postulated for the Air Force under the two supposedly different strategies." Closer inspection reveals that the current force structure not only is insufficient for the Bottom-Up Review strategy, it would not even meet the requirements or "win-hold-win." The Air Force that was to be the foundation of "win-hold-win." But, as I have already pointed out, the Clinton administration requested funding adequate for only 100 bombers in the coming fiscal year. Dr. Zakheim went on to say, "since bombers were essential to the effectiveness of the 'win-hold-win' strategy, the cut in bomber forces calls into question whether the administration can do more than support a conflict in but a single theater." The assurance that the current force structure can meet two MRC's is absurd.

In summary, the funding plan does not support the force structure, and the force structure won't do the job.

During World War II, it took this Nation and our Allies almost 2 years to amass the troops and material needed for victory. However, the simple fact of the matter is that we will never again have that kind of time to prepare for war. And you can be sure our enemies have learned from the mistake of Saddam Hussein, the next time we face an aggressor, that aggressor will not allow us with 6 months to prepare for the fight.

Look at the war in Bosnia, Saddam Hussein in Iraq, the nuclear buildup in Iran, and the situation on the Korean Peninsula. It should be obvious to all of us that the world is still a dangerous place. The amendment I have proposed would simply state the sense-of-the-Senate that we want a review of proposed defense spending and the Bottom-Up Review Force structure to ensure that we are ready to meet whatever threat may await us. I urge my colleagues to support this amendment.

Mr. NUNN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2206) was agreed to.

Mr. COATS. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2207

(Purpose: To require the Secretary of Defense to submit to the congressional defense committees estimates of the total cost of procurement of 20 additional B-2 bomber aircraft)

Mr. NUNN. Mr. President, on behalf of the Senator from Vermont [Mr. LEAHY], I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. LEAHY, proposes an amendment numbered 2207.

On page 26, between lines 13 and 14, insert the following:

(e) ESTIMATES OF TOTAL COST REQUIRED.—(1) Not later than January 15, 1995, the Secretary of Defense shall submit to the congressional defense committees two estimates of the total cost of acquisition of 20 additional B-2 bomber aircraft, including the cost of research, development, test and evaluation and the cost of related military construction.

(2) The Secretary shall assume for purposes of making one of the estimates that such aircraft will be procured at the rate of 2 aircraft in each of fiscal years 1997 and 1998, 3 such aircraft in each of fiscal years 1999 through 2002, and 4 such aircraft in fiscal year 2003. The Secretary shall assume for purposes of making the other estimate that such aircraft will be procured at an annual rate of 2.5 aircraft beginning in fiscal year 1997.

(3) In addition to stating the estimates in terms of estimated total actual cost, the Secretary shall state the estimates in terms of fiscal year 1995 constant dollars.

Mr. NUNN. Mr. President, this amendment requires the Department of Defense to provide to the congressional defense committees estimates of the cost to acquire another 20 B-2 bombers under two different production rate assumptions.

Mr. President, this is information the committee and the Congress will need to obtain.

I wish to make it clear that this is on behalf of Senator LEAHY, who opposed the program, but the information will be informative to all of us.

Mr. LEAHY. Mr. President, earlier today, the Senate defeated an amendment that I cosponsored which would have cut $150 million and close the B-2 production line. As the sponsor of the amendment last year that capped the B-2 program at 20 planes, I strongly oppose spending one additional dime of taxpayer dollars on keeping the B-2 assembly line warm.

The $150 million the Senate approved today is a downpayment for 20 additional B-2 bombers. Incredibly, these funds were approved without any independent estimates on how much these planes will cost.

The amendment I offer this evening does just that. This measure requires the Department of Defense to provide Congress with detailed estimates by January 1, 1995 on how much more the B-2 is going to raid the U.S. Treasury.

I thank the Chairman of the Armed Services Committee for working with me on this amendment. I urge the adoption of the amendment.

Mr. COATS. Mr. President, I do not believe we have any objection to that amendment. I urge its immediate adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2207) was agreed to.

Mr. COATS. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2208

(Purpose: To provide for the review of cost growth in certain Department of Defense contracts and cost comparison studies for certain Department of Defense contracts)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of the Senator from Arkansas, Mr. PRYOR, and ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. PRYOR, proposes an amendment numbered 2208.

On page 110, between lines 19 and 20, insert the following new sections:

SEC. 357. REVIEW BY DEFENSE INSPECTOR GENERAL OF COST GROWTH IN CERTAIN CONTRACTS.

(a) REVIEW.—The Inspector General of the Department of Defense shall carry out a review of a representative sample of existing contracts for the performance of commercial activities which resulted from a cost comparison study conducted by the Department of Defense under Office of Management and Budget Circular A-76 (or any other successor administrative regulation or policy) to determine the extent to which the cost incurred by a contractor under any such contract has exceeded the cost of the contract at the time the contract was entered into.

(b) REPORT.—Not later than April 1, 1995, the Inspector General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the results of the review carried out under subsection (a).

SEC. 358. COST COMPARISON STUDIES FOR CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES.

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410l. Contracts for advisory and assistance services: cost comparison studies

"(a) REQUIREMENT.—(1)(A) Before the Secretary of Defense enters into a contract described in subparagraph (B), the Secretary shall determine whether Department of Defense personnel have the capability to perform the services proposed to be covered by the contract.

"(B) Subparagraph (A) applies to any contract of the Department of Defense for advisory and assistance services which contract will have a value in excess of $100,000.

"(2) If the Secretary determines that such personnel have that capability, the Secretary shall conduct a study comparing the cost of performing the services with Department of Defense personnel and the cost of performing the services with contractor personnel.

"(b) WAIVER.—The Secretary of Defense may, pursuant to guidelines prescribed by the Secretary, waive the requirement under subsection (a)(2) to perform a cost comparison study based on factors that are not related to cost.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2410l. Contracts for advisory and assistance services: cost comparison studies.".

(b) PROCEDURES FOR CONDUCT OF STUDIES.—The Secretary of Defense shall prescribe the following procedures:

(1) Procedures for carrying out a cost comparison study under subsection (a)(2) of section 2410*l* of title 10, United States Code, as added by subsection (a), which may contain a requirement that the cost comparison study include consideration of factors that are not related to cost, including the quality of the service required to be performed, the availability of Department of Defense personnel, the duration and recurring nature of the services to be performed, and the consistency of the workload.

(2) Procedures for reviewing contracts entered into after a waiver under subsection (b) of such section to determine whether the contract is justified and sufficiently documented.

(c) EFFECTIVE DATE.—Section 2410*l* of title 10, United States Code, as added by subsection (a), shall take effect 180 days after the date of the enactment of this Act.

Mr. NUNN. Mr. President, this amendment would provide for review of cost growth in certain DOD contracts and cost comparison studies in certain DOD contracts.

Mr. PRYOR. Mr. President, the amendment has two parts which are designed to ensure that the taxpayers are to paying excessive amounts of money to private contractors. I am delighted that this amendment is already include in the House version of this bill. I am hopeful that this reform will quickly become the law of the land.

Mr. President, not long ago, the Senate passed the Acquisition Reform Act which was intended to make our federal procurement system easier for the government to operate and to make it easier for contractors to deal with the government. While I supported that legislation, it is important to recognize that in addition to making our system simpler, we should also strive to make it more efficient and accountable.

As I have stated, my amendment has two parts. The first section requires the DOD Inspector General to review a portion of the existing service contracts at DOD to determine if these contracts have experienced excessive overruns. This requirement is necessary due to the simple fact that all too many GAO reports, IG reports, and hearings like the one I have held on government contracts have documented that too often contract awarded to save money actually end up costing more than the federal employees that were replaced.

Mr. President, this requirement does not prevent DOD from contracting out any services. But, it gives us some independent oversight over these contracts once they are awarded. Perhaps if the contractors and DOD know that the IG will be checking up on these contracts, then the taxpayers will not be forced to pay for the excessive cost growth that occurs all too often when government work has been farmed out to contractors.

The second part of my amendment addresses those types of contracts that are not now subject to a cost comparison. I am speaking about consulting services or, as they are sometimes called, advisory and assistance services. If DOD wants to contract for lawn mowing services, they do a cost comparison between contractors and Federal employees. However, if DOD wants to contract for planning, managing, analyzing and other such services, then there is no requirement that they first compare the cost of using Federal employees versus contractors. This makes absolutely no sense.

Mr. President, again, this requirement to conduct a cost-comparison does not prohibit DOD from awarding any contract. However, for the first time, DOD and others will at least begin asking a very basic question before awarding consulting contracts. Will it cost more to use Federal workers or private contractors to perform this work? This is information that any manager should have before making a decision that will cost the taxpayers large sums of money.

Mr. President, this requirement does allow DOD to consider other factors not related to cost when they are performing these comparisons. For example, these other issues could include the availability of DOD personnel, whether the work is a one-time requirement, or a recurring need.

Mr. President, this amendment sets the dollar threshold for conducting a cost-comparison at $100,000. I think this is a reasonable figure. When the Senate was considering the Acquisition Streamlining bill, there was much discussion of the need to raise the small purchase threshold from $25,000 to $100,000 in order to reduce the paperwork burden on the agencies. The Senate was informed that the vast majority of contract actions, close to 90 percent, were under this threshold. This means that the agencies could now begin to focus on the major contracts over $100,000. I think the same logic applies to cost-comparisons for consulting contracts.

In conclusion, Mr. President, these two requirements will provide DOD and the Congress with much needed information on the cost of using private contractors. This is a small but important step to take towards a more efficient and accountable government. I urge the adoption of this amendment.

Mr. COATS. Mr. President, we have no objection to that.

The PRESIDING OFFICER. The question is an agreeing to the amendment.

The amendment (No. 2208) was agreed to.

Mr. COATS. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2209

(Purpose: To increase the authorization of appropriations for the Army for ammunition in order to provide for an interim bunker defeating capability until the short-range attack weapon is fielded, and to reduce the amount provided for C–135 aircraft modifications)

Mr. NUNN. Mr. President, on behalf of Senators DECONCINI, FORD, and MCCAIN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The Senator from Georgia [Mr. NUNN], for Mr. DECONCINI for himself, Mr. FORD, and Mr. MCCAIN, proposes an amendment numbered 2209.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, line 15, strike out "$840,361,000" and insert in lieu thereof "$848,122,000".

On page 15, line 9, strike out "$6,602,994,000" and insert in lieu thereof "$6,592,194,000".

On page 21, between lines 15 and 16, insert the following:

SEC. 115. BUNKER DEFEAT MUNITION MISSILES.

(a) AUTHORITY.—The Secretary of the Army may acquire up to 6,000 type classified standard bunker defeat munition weapons.

(b) FUNDING.—Funds authorized to be appropriated for the Army for fiscal year 1994 shall be available for acquisition of bunker defeat munition weapons in accordance with subsection (a) as follows:

(1) Of the amount authorized to be appropriated by section 101(4), $7,761,000.

(2) Of the amount authorized to be appropriated by section 201(1), $2,600,000.

On page 27, line 19, strike out "$5,149,708,000" and insert in lieu thereof "$5,152,308,000".

Mr. DECONCINI. Mr. President, on behalf of Senator FORD and Senator MCCAIN, I offer an amendment to the fiscal year 1995 National Defense Authorization bill. Our amendment would authorize completion of research and development, and initial procurement, of the Army's Bunker Defeat Munition.

After submission of the budget request, but prior to the committee's markup of the bill, the Army decided to terminate the Bunker Defeat Munition, or BDM, in favor of another weapon known as the short-range attack weapon, or SRAW, that would be integrated with a warhead known as the multi-purpose individual munition, or

MIPM. The SRAW has been under development by the Marine Corps; the MIPM has been under development by the Army. The Army's decision to terminate BDM reflects a decision to develop the SRAW/MIPM jointly with the Marine Corps. This Army decision was welcome to the Armed Services Committee because the Congress last year had directed the Army and the Marine Corps to integrate these two programs and proceed rapidly to develop and field the weapon.

The Army recommended termination of BDM because of budget constraints, the belief that the SRAW/MIPM would be a more effective weapon, and because the Army hopes that SRAW/MIPM would be available in just a few years.

I understand the committee's position and the budget constraints facing the Army. However, since the Army Headquarters in the Pentagon made this decision, Senator FORD, Senator MCCAIN, and I have been informed that the Airborne Corps and Forces Command have appealed to the army for an interim, limited procurement of BDM weapons. Our military forces have encountered situations in Operation Just Cause, Operation Desert Storm, and in Somalia where existing weapons were shown to be inadequate. Our rapid-deployment forces have an urgent need for an improved capability to breach bunkers, walls, earthen fortifications, and urban fortifications. BDM could be ready for production in a short period and could provide an improved capability until the SRAW/MIPW is fielded.

Our amendment is designed to provide that capability. The amendment would authorize additional funds to complete development and begin production of BDM. It would also establish a legislative cap on the number of BDM weapons that the Army could acquire, to emphasize the point that this weapon will provide a limited, interim capability only.

As an offset, we understand that the Air Force recently terminated a KC-135 tanker refueling system, which would make available more than enough funds to pay for this BDM initiative.

I understand that the amendment is acceptable to both sides. I appreciate the assistance from the committee.

Mr. MCCAIN. Mr. President, I am pleased to cosponsor an amendment to the Fiscal Year 1995 National Defense Authorization Bill. The amendment would restore the $10.4 million requested for the Bunker Defeat Munition Program.

The urgent requirement for a bunker defeat munition was established based on the lessons learned in Operations Just Cause, Urgent Fury, Desert Storm, and Desert Shield; and was reinforced during Operation Restore Hope. Additionally, the Bunker Defeat Munition fully meets the FORSCOM requirements for an interim individual munition to defeat bunkers.

The fiscal year 1995 request reflects Congressional direction. Congress provided funding in fiscal years 1992–1994 to conduct a competitive evaluation of bunker defeat munition candidates; and the fiscal year 1994 Defense Authorization Conference included language directing the Army to pursue a limited, interim program for a bunker-defeat system.

The Army decision earlier this year to terminate the program was based on erroneous affordability assumptions and abandons a simple, cost effective solution. The BDM program testing has been highly successful and the program is on schedule. It can be fielded in the first quarter of fiscal year 1996. It is therefore apparent that the Army decision to cancel the BDM was premature and would leave the Army without an interim capability to defeat field fighting positions for at least another five or six years and wastes the $14 million that has already been spent on the program.

My understanding is that this amendment is acceptable to both sides. The time and attention of the committee to this matter is greatly appreciated.

Mr. NUNN. Mr. President, this amendment authorizes funds to complete R&D and begin production of a bunker-defeating weapon for the Army. It caps total procurement of the weapon at 6,000 rounds.

Mr. COATS. We have no objection.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2209) was agreed to.

AMENDMENT NO. 2210

(Purpose: To express the sense of Congress on providing for a twelfth Naval Amphibious Ready Group, and to authorize the Secretary of Navy to take certain actions to facilitate the establishment of such Amphibious Ready Group)

Mr. COATS. Mr. President, in behalf of Senator LOTT, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. COATS], for Mr. LOTT, for himself, Mr. SHELBY, Mr. COCHRAN, and Mr. HEFLIN, proposes an amendment numbered 2210.

Mr. COATS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 22, between lines 9 and 10, insert the following:

SEC. 122. NAVAL AMPHIBIOUS READY GROUPS.

(a) FINDINGS.—Congress makes the following findings:

(1) Extensive and compelling testimony from uniformed military and Department of Defense leadership has been received which supports a military requirement for twelve Amphibious Ready Groups.

(2) An official Department of Navy report required by the Fiscal Year 1993 National Defense Authorization Act clearly stipulates that a seventh LHD is required in order for the Navy to achieve a force structure of twelve Amphibious Ready Groups.

(3) The Department of Navy has identified funds for the purchase of LHD–7 in outyear budget projections.

(4) A significant shortfall in amphibious shipping and amphibious lift exists, both in the FY–95 budget request and in outyear force structure projections.

(5) Amphibious Assault Ships (LHDs) provide an important contingency capability and are uniquely suited to respond to world crises and to provide assistance after natural disasters.

(6) Twelve Amphibious Ready Groups are the correct number to sustain forward deployment and contingency requirements of the Navy.

(b) SENSE OF CONGRESS.—If is the sense of Congress that the Secretary of the Navy should, plan for, and budget to provide for, the attainment of a twelfth Amphibious Ready Group as soon as possible. Further, the Secretary of the Navy should extend the existing contract option on the LHD–7 Amphibious Assault Ship in order to achieve twelve Amphibious Ready Groups.

(c) LHD–7 CONTRACT OPTION EXTENSION.—

(1) The Secretary of the Navy is authorized to extend the existing contract option for the LHD–7 Amphibious Assault ship if the Secretary determines that the extension would be in the best interest of the United States.

(2) The Secretary of Navy shall immediately begin negotiations to extend the existing contract option for the LHD–7 Amphibious Assault Ship Program.

(3) On and after the date that is 30 days after the date on which the Secretary notifies Congress of an intention to do so, the Secretary may use such program funds authorized to be appropriated for other Navy programs for such contract. The notification shall include a description of the intended use of the funds.

(d) REPORT REQUIREMENT.—The Secretary of the Navy shall report to the Congress, after December 31, 1994, but before March 31, 1995, Department of the Navy intentions related to contract execution of the existing contract option for the LHD–7 Amphibious Assault Ship. The report shall include an explanation of the Department's actions related to the attainment of a twelfth Amphibious Ready Group and the costs and benefits of extending the existing contract option on the LHD–7 Amphibious Assault Ship.

Mr. COATS. Mr. President, this is an amendment that expresses the sense of the Congress that the Navy should plan for and budget to provide for the attainment of the 12th Amphibious Ready Group. It authorizes the Secretary of the Navy to extend the existing contract option for LHD 7, directs the Secretary of the Navy to negotiate an extension of the contract option, and it authorizes the Secretary of the Navy to recommend a reprogramming of Navy funds for such contracts.

Mr. LOTT. Mr. President, during the Armed Services Committee consideration of the defense authorization bill, I offered an amendment which added money to the Ship Construction Navy

Account for the LHD–7. The Navy currently holds a firm fixed-price option on LHD–7 which is set to expire on December 31, 1994.

The Armed Services Committee agreed, by a vote of 14–6, to keep this option alive. Most everyone knows that the LHD–7 was funded by the Committee with moneys requested for the sealift program. Last week, during consideration of the Johnston amendment, I stated my interest in restoring money to the sealift account—but I also remained dedicated to preserving the Navy's options related to the LHD–7.

This amendment, which I am offering on behalf of myself, Senator COCHRAN, Senator SHELBY and Senator HEFLIN, achieves my objective of keeping the LHD–7 option alive. This amendment, which has been cleared on both sides, is a good amendment. It authorizes the Secretary of the Navy to extend the existing contract option on the LHD–7 and declares that Congress is firmly and unalterably committed to the Navy requirement for twelve Amphibious Ready Groups. In addition, the amendment reaffirms the compelling testimony presented by Navy and DOD personnel that the United States must have LHD–7 if we are going to reach our 12 Amphibious Ready Group requirement.

The LHD serves as the premier warship in the amphibious fleet. Today, LHDs are deployed across the globe, protecting U.S. national security interests. One LHD is sailing off Haiti, supporting the Naval embargo and refugee processing in accordance with United States objectives. Another LHD is sailing off the coast of Somalia, ready at a moment's notice to assist in the evacuation of United States and humanitarian personnel should their lives be placed in danger. In addition, over the previous 6 months, LHDs have supported U.S. and NATO operations in the Adriatic related to the ongoing unrest in Bosnia.

Under the Navy's new strategy "* * * From the Sea," LHD's become the capital ship of the fleet geared toward brown-water operations, operations which are critical to success in regional contingencies. Given the validated military requirement for 12 Amphibious Ready Groups and the fact that seven LHDs are required to reach this force structure, this amendment is a significant achievement because it:

Authorizes the Secretary to extend the contract option on LHD–7; and

Authorizes the Secretary to execute this option if he determines it to be in the best interests of the United States.

I would also point out that in testimony before the Senate Armed Services Committee, the Secretary of the Navy, John Dalton, testified that the Navy wants the ship, needs the ship, but just could not afford this ship at this time. The Secretary's testimony, while significant and clear, is only a small part of the justification for proceeding on this ship now. General Mundy, Commandant of the Marine Corps, stated that "Twelve Amphibious Ready Groups are the minimum number required."

General Hoar, Commander in Chief of the U.S. Central Command testified that we need "LHD–7 and 12 Amphibious Ready Groups to ensure that we maintain the Naval posture that is the backbone of our forward presence." In a required Navy report, signed by the Chief of Naval Operations, Admiral Kelso in March 1993, the Navy stated, "The Navy's goal is 12 ARGs. * * * An additional LHD, the seventh, would be required to fully support the 12 ARG goal. * * *"

UNANIMOUS-CONSENT REQUEST

Mr. President, in order to more fully explain the requirement for LHD–7 and the importance of this amendment, I ask unanimous consent that accompanying this statement, Admiral Kelso's report and a chart documenting the extensive testimony supporting LHD–7 be included in the RECORD.

Mr. President, this amendment authorizes the Secretary to maintain his options on LHD–7. This amendment advances the cause of LHD–7 by authorizing the Secretary to take specific actions—actions which if not taken will result in the Navy and Marine Corps failing to meet their stated military requirements.

I urge the adoption of this amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, DC, April 7, 1993.

Hon. SAM NUNN,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am responding to Senate Armed Services Committee Report 102–352, which directed Navy to report on alternatives to meet amphibious lift goals in light of other expensive programs and declining budgets, and to report on options for maintaining combat logistics capability for the projected reduced fleet.

I am enclosing a copy of our study on amphibious lift alternatives which was prepared by the Chief of Naval Operations' staff with assistance from Headquarters, United States Marine Corps. We concluded that pursuing construction of a new design "LPD like" ship, called LX90 is the best alternative, providing the proper balance of affordability and capability to meet the 2.5 Marine Expeditionary Brigade goal for the years ahead. This conclusion was reviewed and approved by the Defense Acquisition Board in January 1993.

I regret to inform you that due to the recent budget decisions on force structure, the study on combat logistics capabilities is being reworked. That report should be provided by April 15, 1993.

I am sending similar letters to Chairmen Dellums, Inouye and Murtha. If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

FRANK B. KELSO, II,
Secretary of the Navy, Acting.

REPORT TO CONGRESS ON AMPHIBIOUS SHIPPING REQUIREMENTS—SUBMITTED BY THE DEPARTMENT OF THE NAVY, MARCH 1993

A. PURPOSE

The Senate Armed Services Committee Report for the Fiscal Year 1993 Defense Authorization Act directed the Secretary of the Navy to report to the defense committees on various alternatives to meet the amphibious lift goal. The Committee expressed concern over the approaching end-of-service life of a large percentage of the current amphibious force, the declining amphibious lift goal, and the viability of the Navy's amphibious shipbuilding plan in an era of decreasing resources.

The Secretary of the Navy was directed to submit a report to the defense committees that assesses five alternatives for meeting amphibious shipping requirements.

Extending the service lives of existing ships.

Purchasing different types of amphibious ships to fill the requirement.

Purchasing and using some number of commercial-type vessels to augment amphibious vessels in the assault.

Changing the relative portions of the assault force carried in the assault echelon (AE) versus the assault follow-on echelon (AFOE).

Expanding the portion of the Marine Corps forces supported by prepositioning ships.

This report provides background and a summary assessment of each alternative. The Navy, with OSD review and concurrence, concludes that the best shipbuilding alternative is a new-construction amphibious ship, currently identified as LX, and that the current doctrine vis-a-vis AE/AFOE and prepositioning is better than the two alternatives examined.

B. BACKGROUND

The Service's fiscally constrained amphibious lift goal is 2.5 Marine Expeditionary Brigades (MEBs). This force must be structured with the flexibility to construct Amphibious Ready Groups (ARGs) to fulfill requirements for forward deployments. The Navy's goal is 12 ARGs consisting of at least three ships; a large helicopter deck ship (LHA, LHD), a ship with secondary aviation support capability (LPD, new LX), and one or more ships as required to support ARG lift requirements (LSD, LST, LKA). Amphibious lift is traditionally measured by assessing five carrying capacities: troops, vehicles, cargo, VTOL spots, and LCAC spots. However, the lift fingerprints must be properly combined for a ship to effectively support a combatant force. For example, the secondary aviation capability of the current LPD and the planned LX is critical to allowing ARGs to be split into two forces, a capability that has been used many times in the past. The Service currently meets the MEB and ARG goals and, despite the large number of ships scheduled to retire, plans on continuing to maintain 2.5 MEBs of lift into the 2020s through an achievable amphibious ship construction program.

As of 1 January 1993 there were 60 active amphibious ships (including 2 LCCs that do not contribute to the lift goal) and 8 ships appropriated or under construction (4 LDHs, 4 LSDs). Forty-five of these ships are scheduled to retire between now and 2007. The block obsolescence problem the Committee highlights is a specific concern that the Navy is addressing. Figure 1 shows the lift capability of the current force (including appropriated ships) using the planned retirement schedule; the display assumes no further ships are authorized. Without additional ships, the lift shortfall becomes critical in 2004.

The Navy has long recognized the block obsolescence problem and began planning in 1988 by approving a Tentative Operational Requirement (TOR) for a ship class (LX) to replace vessels retiring during the next decade. In 1990, the Defense Acquisition Board (DAB) approved Milestone 0 for the LX and directed a Cost and Operational Effectiveness Analysis (COEA) to study the best means to meet lift goals through Fiscal Year 2010. The LX COEA examined the cost of alternative LX ship designs to maintain wartime and peacetime forward presence amphibious lift goals. The operational effectiveness of the alternatives was examined in terms of suitability for MEB and ARG operations; support of the ship-to-shore buildup of Marines with landing craft and helicopters; and survivability against enemy threats. The COEA showed that in addressing the future lift shortfall, the Navy should not replace retiring amphibious ships on a one-for-one basis. Rather, we should make up the shortfall by replacing smaller and frequently single-dimension ships with medium sized, multidimensional ships. The new ships must provide both a full service aviation capability for several helicopters and over-the-horizon (OTH) surface assault capability similar to the capabilities currently provided by LPD class ships.

The Navy plans to procure 12 LX-class ships in addition to the eight LHD and LSD class ships authorized or under construction. These 20 ships (under construction or planned) coupled with the 15 ships remaining from the current force will result in a 35-ship amphibious force in 2008—11 LHA/LHDs, 12 LSD41/LSD49s, and 12 LXs. This compact, flexible force will support 11 Amphibious Ready Groups (ARGs) for forward presence and provide in excess of 2.5 MEBs lift, with the exception of a minor vehicle lift shortfall after 2007, as indicated in Figure 2. An additional LHD, the seventh, would be required to fully support the 12 ARG goal, but is unaffordable under the current fiscally constrained shipbuilding plan. The Defense Acquisition Board reviewed the COEA ad shipbuilding plan and gave Milestone I approval for LX program development in January 1993.

DOCUMENTATION OF LHD-7 REQUIREMENT

Gen Mundy, Commandant, USMC; 12 Apr 94—Testimony to SASC, Regional Defense Subcommittee; "12 ARGs are the minimum required."

Gen Hoar, CINC CENTCOM; 3 Mar 94—Testimony to SASC; We need "LHD-7 & 12 ARGs to ensure that we maintain the Naval posture that is the backbone of our forward presence."

Adm Owens, Vice Chairman, JCS, Chairman, JROC; 9 Feb 94—Testimony to SASC; 12 ARGs "is the number we should continue to use as our goal."

Adm Kelso, CNO; Mar 1993—Required Report; "The Navy's goal is 12 ARGs. . . ." "An additional LHD, the 7th, would be required to fully support the 12 ARG goal. . . ."

USMC Publication; 1994—Concepts & Issues, Page 2-6; "USMC needs 12th Big Deck (LHD) to support worldwide Forward presence. . . ."

Navy Publication; Aug 1993—Naval Surface Forces, Page 13; Sustaining 12 ARGs is a "top-level objective."

Adm Arthur, VCNO; 11 Dec 92; "Navy/Marine goal of 12 ARGs validated by JROC and is needed to support 3 forward deployed ARGs mandated by JCS."

Adm Jeremiah, Vice Chairman, JCS; 31 Aug 92; "JROC determined Navy must maintain amphibious lift capability to support both crisis response and our forward presence requirements (12 ARGs)."

Mr. COCHRAN. Mr. President, I am pleased there is authorizing language included in this bill to permit funds to be appropriated to keep the option to build LHD-7 alive. The importance of this ship to the Navy and Marine Corps has been strongly stated at hearings and is clearly spelled out in the report accompanying this bill.

I appreciate the support of the managers and all others interested in this ship.

Mr. NUNN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If there is no further debate, the question is on agreeing to the amendment of the Senator from Mississippi.

The amendment (No. 2210) was agreed to.

Mr. COATS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2211

(Purpose: To establish conditions on certain contracts between the Federal Government and lessees and transferees of certain Department of Energy property)

Mr. COATS. Mr. President, in behalf of Senator THURMOND, who has offered this on behalf of Senator BOND, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. COATS], for Mr. BOND, proposes an amendment numbered 2211.

Mr. COATS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 371, between lines 6 and 7, insert the following

SEC. 3159. CONDITIONS ON CONTRACTS BETWEEN THE FEDERAL GOVERNMENT AND CERTAIN LESSEES AND TRANSFEREES OF DEPARTMENT OF ENERGY PROPERTY.

(a) CONDITIONS.—Notwithstanding any other provision of law, the head of a department or agency of the United States may require as a condition of a contract with an entity described in subsection (b) that such entity certifies to the head of the department or agency the following:

(1) That no officer, director, employee, or agent of the entity has utilized in the preparation of the bid or solicitation for the contract—

(A) any records or systems of records of the Federal Government that are covered by section 552a of title 5, United States Code;

(B) any information or data of the Federal Government that has not been released or otherwise made generally available for preparation of bids or proposals on the contract; or

(C) any commercial information or data of another entity that has not been released or otherwise made generally available for that purpose.

(2) That the entity has returned, destroyed, or otherwise disposed of all documents received from the Federal Government by reason of any earlier * * *

Mr. COATS. Mr. President, this amendment would require certain DOD contractors to certify that they have had no access to privileged information DOD contracts.

Mr. NUNN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Missouri.

The amendment (No. 2211) was agreed to.

Mr. COATS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, I know that all Senators are anxious to know what we plan from here on.

I can give them a report to the best of my knowledge. We have just handled 44 amendments, and these have been worked out over the last several days. So they are now part of the bill.

There are several more amendments that are being cleared. I know of only one more amendment that could require a rollcall vote. That is the one that is about to be presented by Senator WALLOP.

My understanding is it will require a rollcall vote. I do not know the context of amendment now except in a general fashion. I will be working with others on the amendment. But we certainly can have and probably will have one more rollcall vote.

The Senator from Wyoming has indicated to me that he does not intend to take a lot of time on this amendment, but that he prefers not to have a time agreement at this point.

Mr. President, that is where we are at the moment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming.

Mr. WALLOP. Mr. President, I can assure the Senator from Georgia that it is not my intention by not entering into a time agreement to spend a lot of time. My honest feeling is that we can perhaps do this more quickly without a time agreement than with one.

AMENDMENT NO. 2212

(Purpose: To require a thorough evaluation of the risks and costs of a potential deployment of United States forces to the Golan Heights for peacekeeping operations before any such deployment)

Mr. WALLOP. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Wyoming [Mr. WALLOP] proposes an amendment numbered 2212.

Mr. WALLOP. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 219, after line 19, insert the following:

SEC. 1033. DEPLOYMENT OF UNITED STATES FORCES FOR PEACEKEEPING OPERATIONS ON THE GOLAN HEIGHTS.

(a) LIMITATION.—None of the funds authorized to be appropriated for the Department of Defense by this or any other Act may be expended for support of any deployment of personnel of the Armed Forces of the United States to the Golan Heights as part of a multilateral peacekeeping force, as a unilateral peacekeeping force, or in conjunction with a peace agreement between Israel and Syria that results in the withdrawal of the Israeli Defense Force from the Golan Heights until the Secretary of Defense submits to Congress, in consultation with the Joint Chiefs of Staff, a written report on a potential deployment and the limitation in this subsection ceases to be effective by operation of subsection (d).

(b) CONTENT OF REPORT.—The report shall contain the following matters:

(1) An evaluation of potential risks or threats to United States forces from acts of terrorism, civil unrest, limited armed conflict, or attacks by paramilitary groups presently occurring in south Lebanon, or similar or related potential acts.

(2) An estimate of the size of the United States armed force necessary to deploy for the peacekeeping mission and the types of military equipment and material necessary to deploy for such mission, and an estimate of the near-term and long-term costs of the deployment and of the performance of the peacekeeping mission.

(3) An analysis of the availability of the personnel, funds, equipment, and other resources necessary for performance of the mission.

(4) An assessment of the potential effects of the long-term assignment of a substantial United States armed force to the Golan Heights on United States global war fighting and strategic capabilities outlined in the Bottom-Up Review of the Department of Defense prepared by direction of the Secretary of Defense in 1993.

(5) An analysis of the responsibilities resulting from, and the implications of, a United States deployment on the Golan Heights with regard to sharing strategic intelligence and warning with Israel, Syria, or both Israel and Syria.

(6) An estimate of the likely duration of the deployment and the conditions under which the deployed United States forces would be withdrawn from the Golan Heights.

(7) An evaluation of alternatives that could make the deployment unnecessary.

(c) UNCLASSIFIED VERSION REQUIRED.—The Secretary of Defense shall submit to Congress an unclassified version of any classified report submitted under this section.

(d) CONDITION FOR TERMINATION OF LIMITATION.—(1) The limitation on use of funds in subsection (a) shall cease to be effective at the end of 30 days of continuous session of Congress after the date on which Congress receives a report under subsection (a) unless, within such 30-day period, Congress enacts a joint resolution disapproving deployment of personnel of the Armed Forces of the United States to the Golan Heights.

(2) For purposes of paragraph (1)—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

Mr. WALLOP. Mr. President, the Senator from Wyoming has not been on the floor. Is this the pending business? Do I need to set something aside?

The PRESIDING OFFICER. The Senator is correct.

Mr. WALLOP. Mr. President, the time has come for Congress to begin considering a range of issues having to do with the administration's apparent willingness to see United States forces deployed on the Golan Heights as part of the Middle East peace settlement.

Mr. President, before any such commitment is reached or finalized, Congress and the American people deserve to be consulted and informed.

So in this regard with respect to the administration and the Congress, I rise to offer an amendment that would require the Secretary of Defense, in consultation with the Joint Chiefs of Staff, to submit a report to Congress clarifying the most significant issues that should be addressed before consensus can be reached on this matter.

My amendment would prohibit the expenditure of funds appropriated for their deployment until 30 days after the Congress receives this required report.

My amendment makes no judgment regarding the merits of a United States deployment on the Golan Heights, or the return of this territory by Israel to Syria. That is not the business of Congress, and it is not the intention of the amendment. It is not intended either to inhibit or to promote any particular outcome in this regard. It simply requires that the Congress be given information that it needs to be a genuine participant in the formulation of U.S. policy in this area.

My amendment would not only satisfy Congress' need for information but it is consistent with the administration's recently released policy on peacekeeping operations.

According to the White House report on this subject, published in May of this year—Mr. President, I show for the benefit of the Senate this document called "The Clinton Administration's Policy on Reforming Multilateral Peace Operations." According to this report on this subject, "Congress and the American people must be genuine participants in the processes that support U.S. decisionmaking on new and ongoing peace operations."

Let me restate that. "Congress and the American people must be genuine participants in the processes that support U.S. decisionmaking on new and ongoing peace operations."

If the President, and if the administration, meant these words, if they are to have any meaning at all, my amendment should be welcomed at both ends of Pennsylvania Avenue.

The questions in my amendment require the Secretary of Defense, or essentially those that are raised by the administration's own stated policy—again, according to its May 1994 report, when U.S. forces are involved in "peace operations," the following factors are to be considered: Whether participation advances U.S. interests, and both the unique and general risks to American personnel have been weighed and are considered acceptable; whether personnel funds and other resources are available; whether U.S. participation is necessary for the operation's success; whether the role of U.S. forces is tied to clear objectives and an end point for U.S. participation can be identified; whether domestic and congressional support exists or can be marshaled; and whether command and control arrangements are acceptable.

In addition to these considerations, Mr. President, the administration's policy states that if there is a chance that U.S. forces may be required to engage in what they call "peace enforcement"—that is, actually confront hostilities—the following factors must be considered: whether there exists a determination to commit sufficient forces to achieve clearly a defined objective; whether there exists a plan to achieve those objectives decisively; and whether there exists a commitment to reassess and to adjust as necessary the size, competition, and disposition of our forces to achieve our objectives.

Mr. President, it is my hope that the administration would view these factors as more than issues that need casual consideration. It is my hope that when they produced this document, they intended for it to be followed, that it was a statement of policy. Our experience in Somalia made clear that such considerations should be elevated to the level of requirements that must be fulfilled prior to U.S. engagement.

In any event, Congress deserves to know how the administration views these matters prior to the deployment of U.S. forces as part of any peace operation. This is absolutely essential if these operations are to gain and sustain domestic support. And if we are to avoid in the future foreign policy fiascoes, such as those that have already taken place in Somalia, Bosnia, and

Haiti, if the administration is serious about making Congress and the American people genuine participants in the processes that support U.S. decisionmaking on new and ongoing peace operations, they should then embrace my amendment. These are their words; this is their plan; this is their published policy. This is merely a reflection of that.

Some have argued that it is premature to seek the kinds of answers posed by my amendment. Mr. President, I argue that it is overdue. Administration officials have publicly and repeatedly stated at congressional hearings, in speeches, and elsewhere, that the U.S. would be willing to send our forces to the Golan Heights as part of an Israeli peace settlement. Perhaps we will, and perhaps we should. But questions that the administration itself poses need to be answered, and Congress needs to be a participant. So the time is now for the administration to begin to make Congress what they wished in their policy—to be a genuine participant in this decision.

In terms of timing, and whether it is premature to issue a report, let me note that my amendment does not require that a report be done by any date certain. It simply states that before any funds may be expended for deployment for U.S. forces, Congress must have 30 days to evaluate such a report. In this regard, the report could be submitted this year, it could be submitted next year, or any other time in the future, for that matter. This gives the administration time to consider evolving political and strategic circumstances. But, at the same time, it protects Congress' need for detailed information prior to the deployment of U.S. forces.

Mr. President, it has also been argued that any amendment on this subject, even one that simply requests information, as does mine, could upset the delicate negotiations that are now ongoing. But, Mr. President, if the outcome of these negotiations is in any way contingent upon an American commitment to deploy Americans for the purposes of the Golan Heights, it is essential for the negotiators and for our own administration to know whether such a commitment is realistic and sustainable.

The word of the United States is on the line. It has nearly been pledged, Mr. President, and it has been pledged without asking Congress, or informing Congress of the nature of the risk that may be taking place.

Our commitment in the world must be a sustainable commitment, and in order for that to take place, Congress is entitled to know, and must know, what the risks are, what the benefits are, what our purpose is, how do we get in, and how do we get out. This type of an assessment is every bit as much in Israel's interest as it is in our own.

The worst thing we could do for Israel, or the peace process, would be to make an unrealistic commitment, or to consider a deployment that is not up to the task. Before Israel is to withdraw from a strategically vital piece of land, it must know with certainty that the vacuum created will be filled. I have no objection to our being considered as the means, or part of the means, to filling that. But we who must pay for—in treasure and blood—the privilege of this, are entitled to know before making that commitment.

We saw what happened in Somalia when the United States engaged our forces prior to adequately preparing them—or the American people, for that matter—for the challenges they would face. As the result of an American domestic outcry, they were withdrawn as quickly as they were deployed. We must not permit this to happen on the Golan Heights. No Israeli withdrawal would be preferable to one based on a hollow or unsustainable U.S. security guarantee.

So, Mr. President, before the Congress and the American people are in a position to evaluate how realistic it is for the United States to make a commitment of its own forces as peacekeepers or peace enforcers on the Golan Heights, we must have the basic information requested in this amendment. The administration, again I say, should welcome this opportunity to put the horse before the cart; to put in place their own policy, which was stated in May of this year.

So before our country and our people get into the business of guaranteeing the borders of friends and allies against hostile neighbors, we should think long and hard about the potential consequences of such an action. In this regard, I urge the Senate to recall comments made by Winston Churchill on the practical aspects of the Munich agreement of 1938, which consisted of a Franco-British guarantee on the border of Germany and Czechoslovakia. He remarked that:

> While a policy of guaranteeing foreign borders is always hazardous, it may be justified in cases where the borders to be guaranteed have just been strengthened.

But as Churchill also noted:

> To make a border indefensible and then guarantee it is the height of folly. The guarantor sponsors the deal primarily to avoid military confrontation, but does so in a way that ensures that any confrontation would occur on even more unattractive terms. The interest of the guarantor becomes to find every reason not to deliver on his pledge. This encourages potential aggressors and dispirits the party whose borders are guaranteed.

Finally, when war comes, the guarantor must face the military realities he tried to avoid by sponsoring a militarily mindless diplomatic deal. We must never allow our close friend and vital ally, Israel, to be placed in such a situation. If adopted, my amendment assures us the process by which this would never happen. To our friend and ally, this is important; to our own people, this is important; to America's reputation in the world, this is important.

I urge adoption of my amendment.

Mr. NUNN. Mr. President, I understand Senator WALLOP's concern that the Congress be fully consulted before making a commitment to deploy U.S. military forces to the Golan Heights. I believe, however, this amendment is premature, based primarily on the strong, strong letter I received from Secretary of State Warren Christopher, dated June 24, 1994. He notes that since the Madrid conference of 1991, successive U.S. administrations—not simply the Clinton administration, but also the Bush administration—have assured Israel and Syria that the U.S. would be prepared to help guarantee border security arrangements in support of an Israeli-Syrian agreement.

The Secretary goes on to say that it is clearly premature to be discussing this issue prior to a formal request, which has not been made.

He then states:

> In the event we are requested to play a role in the issue of border security, such a request would be considered only after full consultation with the Congress and in accordance with our constitutional processes.

The Secretary requests that we avoid legislation which has the effect of prohibiting U.S. participation in peacekeeping operations in the Golan, which the Wallop amendment would do.

Mr. President, in light of Secretary Christopher's announcement that no formal request of the United States has been made to date and that any such request would be considered by the administration after full consultation with the Congress, I really do not believe this amendment is required. Although I can see a downside to the amendment, I do not see really an upside to the amendment.

It may not do any harm, but it could. I believe it is much better to face this question when that question properly arises and we do have the assurance of the Secretary of State that the Congress would be fully consulted on this matter, and in his own words such a request would be considered only after consultation with the Congress and in accordance with our constitutional processes.

Mr. WALLOP. Will the Senator yield for a question?

Mr. NUNN. I am glad to yield for a question.

Mr. WALLOP. Apparently the Secretary or his people have not read the amendment that is stated. This does not prohibit nor does it have the effect of prohibiting U.S. participation, and it does not ask for the report to be made directly or in any other time. It merely says that before such a commitment is made, that the Congress receives the report, be fully consulted, and that the funds be fenced for 30 days. It requires the United States to do nothing today or tomorrow. The timing of it would be entirely up to them. It prohibits nothing. Would you agree with that by reading the amendment?

Mr. NUNN. I would say to the Senator from Wyoming, the way I read the amendment, it does require a report, and a rather narrow report.

Mr. WALLOP. But at no particular time, is that not the case? Just prior to the commitment to deploy these troops, is that not the case?

Mr. NUNN. Let me just read the amendment because that is the best evidence. It says:

> None of the funds authorized to be appropriated for the Department of Defense by this or any other Act may be expended for support of any deployment of personnel of the Armed Forces of the United States to the Golan Heights as part of a multilateral peacekeeping force, as a unilateral peacekeeping force, or in conjunction with a peace agreement between Israel and Syria that results in the withdrawal of the Israeli Defense Force from the Golan Heights until the Secretary of Defense submits to Congress, in consultation with the Joint Chiefs of Staff, a written report on a potential deployment and the limitation in this subsection ceases to be effective by operation of subsection (d).

And then subsection (d) says here "Condition for Termination of Limitation":

> The limitation on use of funds in subsection (a) shall cease to be effective at the end of 30 days of continuous session of Congress after the date on which Congress receives a report under subsection (a), unless, within such 30-day period, Congress enacts a joint resolution disapproving deployment of personnel of the Armed Forces of the United States to the Golan Heights.

And it goes on to state that if the continuity of session is broken, and so forth.

I would say to the Senator that this does not preclude, as I read the amendment, the deployment of peacekeeping forces. But what it does is it sets up a potential obstacle to that and it sets up a thorough report.

Frankly, I think all the information in the report is relevant and would be something we want in a normal process of consultation. I would have to talk to him, but I would think the State Department and the Secretary of State would be reluctant to set up something that appeared to be a hurdle in the eyes of those who are struggling in the Middle East to make peace and to come to some agreement between Israel and Syria, because someone in the Middle East might not read the amendment the same as we would read it here and might say, well, if it has to go to Congress and Congress has 30 days, if we go out on the limb and make an agreement that we may very well end up having the role played by the United States blocked by the Congress.

I think it is the misreading of this amendment in the Middle East that would be the most dangerous side of the amendment.

I do believe that the information that the Senator has asked for is all relevant information and would be things that we would have to consider.

I just urge our colleagues not to pass an amendment like this that could be misread by people in the Middle East who are, particularly in Israel, going out in terms of their effort to secure peace and a settlement.

I just would not want it to be misread or anyone to think that the Congress of the United States was saying, at 9:30 at night, with very little consideration of this on this bill, that we are basically posing an obstacle to them getting some kind of settlement, which we all hoped for over the years.

Mr. WALLOP. Mr. President, if the Senator will yield for a question, surely there should be a hurdle. Surely the President of the United States should not be able, without consulting the Congress and without giving us some means of controlling that commitment, to commit U.S. forces to a situation of extraordinary danger without such a report in our hand and without the ability of the Congress to act on it.

I mean, that is not inconsistent with anything I have ever heard the distinguished chairman say about the commitment of U.S. forces. It is not meant to say that we cannot negotiate such a thing, but it is meant to say that we do follow what the President himself, in his report, said we should follow.

Mr. NUNN. Mr. President, I understand where the Senator is coming from. I understand his concerns. But, given the assurances of the Secretary of State, I just do not believe this amendment is necessary. I believe it could cause problems, and I do not see the necessity of it.

Mr. WALLOP. Mr. President, will the Senator yield for one more question?

Mr. NUNN. I am glad to yield for a question.

Mr. WALLOP. Does the Secretary of State set forth a procedure in there by which the Congress can act before this commitment is made permanent?

One of the things that worries me is that the Secretary of State, the President of the United States, and others, have acted as though this commitment has already been made. But if the Secretary of State lays down the procedure by which we can act before the commitment is ultimately made, perhaps that is all right, but I did not detect it.

Mr. NUNN. I think the Senator makes a correct point there. I do not think the Secretary lays down any detailed procedure here. I do think he makes a firm commitment and he makes it very clear that they are going to basically consult with the Congress and not make anything effective until such time as Congress has been completely consulted.

I cannot conceive of that mission being undertaken by our country, signed off on by the President and Secretary of State, without extensive consultation and advanced consultation with Congress. But exactly how the consultation will take place, no; the Secretary does not say that.

Mr. WALLOP. In fact, I would say that I can conceive of it because they have been saying it, and that is one of the reasons.

This is not meant to prohibit either the President or the Secretary of State or the United States from entering into an agreement and a commitment. It is only to ask the President and his Secretary of State to fulfill the promise they made to the American people in the report of May of this year.

Mr. NUNN. I understand the Senator's position on that, and I think that I believe he is reading the amendment that way. I am just not at all sure it will be read that way around the world.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I thank the Chair.

Mr. President, I want to respond to the Senator from Wyoming and the amendment that he has proposed.

We are talking at a time when two countries that have been at war since 1948, over 45 years, seem to be talking—though not directly; through intermediaries—about making peace.

It is possible that peace is overtaking the area. But the steps we see day to day—the arrangement with the PLO, the possible conclusion of an agreement with Jordan—each one of these steps is a step over a chasm. And when we talk about having a condition put down before an agreement can be executed, it lends another moment of instability.

In my view, the Senator from Wyoming, in terms of the process, is not incorrect. I think that we should be consulted before troops go out. I think we ought to know about the extent of harm that might befall our troops. I think we ought to get a better idea how long we may be committed to an action.

But, Mr. President, there is no treaty. This is certainly premature. The Secretary of State says so.

I have a note from Senator PELL, who asks that we include his statement in the RECORD. Senator PELL is the chairman of the Foreign Relations Committee. He says:

> I oppose this amendment, which could have a very negative impact on U.S. foreign policy interests in the Middle East. The amendment would prevent the use of DOD funds—

And he describes what the amendment would do. In the next paragraph he says:

> This amendment is unnecessary; President Clinton has already committed in writing to consult with Congress before making any

> commitments to Syria or Israel in a peace accord.
>
> Moreover, the amendment prejudges the outcome of the Syrian-Israeli peace talks * * *
>
> It might also diminish the incentive for the Syrian Government to sign a peace agreement * * *

Mr. President, just to be sure, I will submit this statement for the RECORD so that there is not any editorializing or paraphrasing by myself.

I ask unanimous consent to print Senator PELL's statement in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Amendment on the Use of U.S. Troops in Golan Settlement

I oppose this amendment, which could have a very negative impact on U.S. foreign policy interests in the Middle East.

The amendment would prevent the use of DoD funds to support the deployment of U.S. troops to guarantee a Syrian-Israeli peace agreement, unless the Secretary provides certain information to the Congress.

This amendment is unnecessary; President Clinton has already committed in writing to consult with Congress before making any commitments to Syria or Israel in a peace accord.

Moreover, the amendment prejudges the outcome of the Syrian-Israeli peace talks and would have very significant consequences in the Middle East. It would send a negative signal to the Rabin government in Israel, which has made courageous sacrifices in seeking peace with its neighbors.

It might also diminish the incentive for the Syrian government to sign a peace agreement with Israel.

Finally, I would note that neither Syria nor Israel has asked the United States to send troops to the Golan Heights. If we pass this amendment, we would be limiting U.S. options before any proposals are even on the table.

There is no compelling reason to pass this amendment now, but in light of the reasons I just outlined, there are a number of good reasons to defeat it. I therefore urge my colleagues to vote against the amendment.

Mr. LAUTENBERG. Senator PELL says:

> Finally, I would note that neither Syria nor Israel has asked the United States to send troops to the Golan Heights. If we adopt this amendment, we would be limiting U.S. options before any proposals are even on the table.

Mr. President, I think that pretty well describes it.

There is all kinds of symbolism attached to discussions that go on in the Middle East, and anything that suggests a precondition or a condition that is not part of a discussion I think could be very upsetting.

I think that this is a poor time. We are at the current hour on a Friday night before the Independence Day holiday. It is obvious, by virtue of the votes that have been taken here now, that we do not have a full complement of Senators here. Many people felt that we would not have any further votes.

But whoever does remain ought to certainly take into account that we have an opportunity to witness an incredible peace agreement being initiated, and we ought not to interfere in any way. This suggests that there is a kind of a precondition by structuring permission to have to be obtained before we can participate. I think we ought to be hands off, except for whatever we can do behind closed doors to help the process. I think it would be a negative influence. I think it is poorly timed, and I hope that we will be able to defeat this amendment.

I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I join the distinguished Senator from New Jersey. I wish I did not have to, because I believe that the Senator from Wyoming has nothing really but the best interests in his heart in wanting to put forward this legislation.

I do believe that it effectively sets up a series of questions, many of which are not answerable in advance, and all of which could cause serious problems right now.

There are many in the Middle East who, kindly put, are mischief makers to the peace process. I think specifically on pages 2 and 3, subsection 1, 4, and subsection 5 present the real opportunities for mischief to be made to really delay what is the most pivotal peace process in the Middle East, that between two longstanding enemies, Syria and Israel.

How can one really evaluate the potential risk or threat from acts of terrorism? If they say this is a criteria, clearly there are those that will go out of their way to show that they can in fact commit acts of terrorism.

Even without this we have had acts of terrorism in the United States at the World Trade Center. I think, in a sense, this resolution could precipitate some things that are better left unprecipitated.

It seems to me that even to have to state the degree to which one would utilize intelligence information and implications of utilizing that intelligence information is something that one does not know prior to any kind of military maneuver.

If one is smart, you use intelligence and you use it fast and you use it wisely and you use it well and that is part of a military commander's decision. I do not really believe it should be the decision of the Senate of the United States.

I think that at this time, and particularly this weekend, with Mr. Arafat going to Gaza, with the unpredictability of both sides to the reaction of the trip, for us to pass a resolution that has this kind of scope and could be possibly provocative would be a terrible mistake.

I do want to thank, though, the Senator from Wyoming. I do know he means well and I do know this is put forward in a most sincere way. But, regretfully, I would strongly oppose this resolution.

I thank the Chair and I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, with all due respect to the sponsor of the amendment, I could not help but think earlier this week when I read an op-ed piece in the New York Times just about the time the foreign operations bill was on the floor that we might see an amendment of this nature. And I thought it would be precipitous at best to have this amendment on the foreign operations bill or the defense authorization bill.

We are talking about prejudging what might or might not happen as we go forward in the Middle East to bring about a real peace settlement.

I yield to nobody in my antipathy toward the country of Syria. I feel it is a terrorist nation, a nation that trained, protected, and helped the terrorists who blew up the Marine barracks in Beirut, killing almost 250 brave Marines, during, incidentally, a time that the toughest, most hawkish administration since I have been in the Senate was in office. Yet the White House gave strict orders that the sentries should not even have live ammunition in their weapons; the same hawkish administration that made sure that the things that might have protected those Marines were not in place, tank traps and so forth.

But, be that as it may, Syria was involved in the murder of those Marines.

But, we have finally the possibility of peace in the Middle East. We have seen years of efforts at peace by both the Israelis and the Palestinians finally begin to bear fruit. I cannot believe there is any Member of this body that does not believe today that the Prime Minister of Israel and the Chairman of the Palestinians, Mr. Arafat, have really taken an historic step, not to make themselves friends of each other, because they never will be. Prime Minister Rabin and Chairman Arafat will never be friends. They will probably never really trust each other and they will never forgive each other.

But they are making it possible for the children of Israelis and the children of Palestinians to live in an era when there may actually be peace, when there may no longer be the fear that they will die simply because they are Israelis or they are Palestinians.

Should we not, as a country that has been more involved in that part of the world than any nation on Earth, stand ready to help the parties in any way that we can to bring about lasting peace, not just for the generations in power on either side today, but for the children that will be there tomorrow and into the next century?

Should we not, as the United States, a country that spends tens of billions of dollars, plus so much of our efforts, diplomatic, strategic and otherwise in that area, should we not do everything possible to help them? That means not closing any doors in advance.

The Senator from New Jersey is right. The Senator from California is right. Let us not close doors before those doors are even opened. Let us not put locks on doors that might be opened in the future.

That is for the parties to decide. And when they do, then, if the United States is to play a role, let them come to us at that time and then let us decide, as a great and powerful Nation and one with so much of an interest here—let us decide then on the facts before us what we are going to do. But let us not make the decision tonight at 10 minutes of 10 on a Friday night when already one-fifth of the Senate has left this body to go back to their home States.

There is no treaty between Syria and Israel. So we cannot decide today about a multilateral peacekeeping force in the Golan Heights. We cannot say to the parties that are there that we are going to close off any options before we are even asked to be involved. If we are asked to be involved—and I think both the Senator from Wyoming and I may well agree on this—if we are asked to be involved I believe it is a legitimate question for the U.S. Senate, whether we should be involved.

I suggest it would be good for our country and our administration for us to stand here and debate that issue. But we have not been asked.

Mr. President, I suspect most of the people who are here listening to this debate in the galleries or back home do not realize that we have American troops in a peacekeeping force in that part of the world. When Egypt and Israel signed what was a historic document, a peace treaty—again not signed because both sides loved each other, but because they saw the benefits of peace—we sent American troops there who have stayed there. And it worked. It worked because both sides knew those American troops were a tripwire as much as anything else. And we have spent so much of our efforts, so much of our time bringing the parties this close together. Let us not close off any option.

I will have some very strong views on this floor if we are asked to trust the Syrians or do anything with them. But until that day comes let us not reject any options.

So, Mr. President, as the distinguished Senator from Georgia, my good friend with whom I have served now for 20 years knows, a number of these amendments that were not on my foreign operations bill, were going to be on his—or vice versa. I would say to my good friend from Georgia, that he got this one. But he also got my speech which I would have given in opposition to it, had it been on my bill.

I yield to my friend from Georgia.

Mr. NUNN. I would say based on world events, there will be some of these left over to you when we get your bill back up.

I do not want to cut anyone off but I know people in their offices and people who are trying to get out of town—either tonight or early in the morning—would like to bring this debate to a conclusion because this is the last amendment that, I believe, is going to be contested.

I think we have about 10 or 12 other amendments being worked out. I believe most of those can be worked out. I think after this vote we will be able to basically tell people—depending on what the leader wants to do on final passage—there will be no more votes.

We may have a vote on final passage but that will not take long.

So I would say to my friend from Wyoming, I do not want to push him because I know this is an important amendment. But if he is about ready to bring this debate to a close I will give him the final word here. I do not know if the Senator from Michigan wants to speak.

Mr. WALLOP. Mr. President, I do not have long. I would like to answer some of the points that were brought up.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, I particularly thank the Senator from California for realizing that, in the view of the Senator from Wyoming, this is a pro-Israel amendment.

Mr. NUNN. Could I ask my friend from Wyoming, if he would be willing to vote at 10:15? That will give 20 minutes.

Mr. WALLOP. Yes. Absolutely. That is longer than I need.

UNANIMOUS-CONSENT AGREEMENT

Mr. NUNN. There are some people who need to get back here. Is there objection to voting at 10:15 by anyone here on the floor? If not—I do not see anyone who objects—I ask unanimous consent that the vote on, or in relation to, Senator WALLOP'S amendment occur at 10:15 p.m., with no second-degree amendments in order thereto, and that the time between then and now be equally divided between Senator WALLOP and myself.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming is recognized.

Mr. WALLOP. On the 28th of June in the New York Times, Abe Rosenthal, a friend of mine, had a column called "Americans on the Golan: Will Congress Debate the Issues?" I will just read three short paragraphs from it.

> There are two issues. The second is whether it is wise to commit U.S. troops as peacekeepers to the heights, one of the world's more dicey pieces of strategic real estate.
>
> But first to be decided is whether Congress has not only the right but the obligation to study the risks and benefits beforehand.

It goes on to say,

> Essentially—but sending U.S. troops to the edgy Golan is American business. Recent history shows that it is far better now for the U.S. and its allies if the American public has a good idea of what it is getting into. That happened before the Persian Gulf—but not before Vietnam.
>
> If I were an Israeli, I think I would oppose asking for U.S. troops. Israel's strength as a small ally is that it has not asked that foreign lives be put at risk for Israel.
>
> Inevitably, the payoff for an American detachment on the heights would be loss of Israeli freedom of action for the kind of military pre-emption that has helped protect the country so far.

Mr. President, I ask unanimous consent the entire piece be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 28, 1994]

AMERICANS ON THE GOLAN

(By A.M. Rosenthal)

This is the time for Americans and Israelis to start talking in their own countries about whether American troops should be stationed on the Golan Heights.

That was the opening of this column on Nov. 30, 1993. Now the Clinton Administration says it expects to send U.S. troops to the heights as part of an international force if Syria and Israel come to a peace agreement. But still there has been no debate in Congress and none scheduled.

There are two issues. The second is whether it is wise to commit U.S. troops as peacekeepers to the heights, one of the world's more dicey pieces of strategic real estate.

But first to be decided is whether Congress has not only the right but the obligation to study the risks and benefits beforehand.

Israel's Labor Government wants peace with Syria quickly. Over a few years, Israel would turn back the mountain ridge and high plateau from which Syria fired down on Israeli villages for 20 years—until Israel captured the Golan in 1967.

The present Israeli Government feels that prize of peace is worth the risk. Prime Minister Yitzhak Rabin believes that peace with hard-line Syria could open the way to peace with many more Muslim countries.

The Syrians stall—unwilling to give the full diplomatic recognition Israel demands, even for those coveted heights on the road to Damascus. But one day President Hafez al-Assad is likely to grab the deal, a bargain.

Israel tells him that its political clock is running out. Israel will hold an election in 1996 and campaigning will start in 1995. Many Israelis oppose giving back the heights. The Labor Party wants to put the heights controversy behind it by campaign time.

None of the three governments involved want a Congressional debate about U.S. troops. Whatever President Assad knows about public discussion he detests. And, like most American governments, the Clinton Administration prefers to present diplomatic done deals before getting involved in Congressional headaches.

For the Israeli Government, a U.S. commitment about troops is critical to rounding up Israeli voters. So Israeli officials and the American Israel Public Affairs Committee argue hard against Senate legislation, expected to be introduced this week, to order a

Defense Department study before a commitment is made.

The report would include assessments of how large the U.S. force might grow, the risk that Iranian-paid Holy War military groups in Lebanon would target American soldiers, possibly with secret Syrian approval, and how long the American commitment might last.

Israeli Laborites see this movement for debate as coming from Israeli and American opponents of the current peace negotiations. To some extent that is true. But it also comes from U.S. friends of Israel simply concerned about the impact on U.S.-Israeli relations if American troops take serious casualties under a commitment made without advance Congressional backing.

I think Israel should be getting much more than handshakes and promissory notes from Arab nations in exchange for land. But I also think that any risk Israelis take for peace are essentially up to them.

Essentially—but sending U.S. troops to the edgy Golan is American business. Recent history shows that it is far better now for the U.S. and its allies if the American public has a good idea of what it is getting into. That happened before the Persian Gulf—but not before Vietnam.

If I were an Israeli, I think I would oppose asking for U.S. troops. Israel's strength as a small ally is that it has not asked that foreign lives be put at risk for Israel.

Inevitably, the payoff for an American detachment on the heights would be loss of Israeli freedom of action for the kind of military pre-emption that has helped protect the country so far.

As an American friend of Israel, I am queasy about Israel becoming more dependent on the U.S. On an issue of this importance, Congressional discussion could clear up legitimate doubts, or confirm them.

Israel and Americans who oppose Congressional consideration will probably win—a bad victory. Today, the movement for debate comes from American friends of Israel. If that is blocked, some soon tomorrow the demand will come from her enemies.

Mr. WALLOP. Mr. President, one of the reasons why I raise this is because, notwithstanding the claims of the Senator from Vermont and the Senator from New Jersey and others that it is premature—on the 14th of June, in front of the House Foreign Affairs Committee, Assistant Secretary of State for Near East Affairs, Robert Pelletreau said, "I think it is fair to say at this point that an international presence on the Golan, as part of security arrangements, is envisaged. And I think there is a large expectation that the United States will be part of that international presence."

These are not daydreams of the Senator from Wyoming, these are statements from this administration.

I would say to the Senator from Vermont, the last I looked this was the defense authorization, and the last I thought, that this was the place where you dealt with the commitment of U.S. troops and expenditure of U.S. funds?

Mr. LEAHY. If the Senator will yield briefly?

Mr. WALLOP. Actually, I will yield on time not allotted to me.

The PRESIDING OFFICER. Who yields time, so we can keep track?

Mr. LEVIN. I yield 30 seconds to the Senator from Vermont.

Mr. LEAHY. The fact is, this amendment was going to come up in the foreign operations bill, had that bill stayed on the floor. We were told that it would. I am not suggesting that the Senator has no right to bring it up on this bill. I just think it is a mistake to bring it up at this time, prior to any request by either Israel or Syria for this kind of help.

Mr. WALLOP. I thank the Senator for his clarification. I do believe that it is appropriate to be on the defense authorization because, after all, this is a moment in time when military capability, authorized by this, may or may not be committed.

Mr. President, I am not trying to do anything that the administration itself has not said was its policy. But, one of the things I ask the Senate to consider is, when they say in their report of May of this year that participation in U.N. and other peace operations—in addition to the factors listed above, "We will consider the following factors: Participation advances U.S. interests and both the unique and general risks of American personnel have been weighed and are considered acceptable."

For heaven's sake my colleagues, is it to be the view of those opposing this amendment that we ought not to weigh the unique and general risks to American personnel and consider them acceptable?

This is not being put in play as a means of stopping the peace process. Far from it. But is anybody here to tell me that the negotiators are able to make a commitment of the United States before involving the Congress and before getting the sense of whether or not these things can take place?

Mr. President, it is sincere and in Israel's interest that they be able to depend upon us if we commit. Surely the Senators from California, New Jersey, and others, will admit, that if the United States makes a commitment, we have to be able to be dependent in that commitment.

In a democracy, how can it be that we can be dependable if we put off until the end the political commitment that is so necessary to sustain the military and a security commitment?

In other words, we have somehow or another to find the means by which the word of the United States can be relied upon by all parties, and including having brought the Congress in prior to the time American blood is to be shed, or exposed.

The Senator from Vermont was talking about, we are closing off options for the children of tomorrow having this opportunity. Of course they are going to have the opportunity, but is that opportunity to be guaranteed solely with American blood without asking the Congress in advance?

If the commitment has not been made, there is no problem. Nothing happens. There is nothing. In fact, if they make the commitment, nothing happens until such time as they wish to duly send the troops, and then they have to answer the questions that the President himself has said are the policy of the United States.

That is not too much to ask. It is only 30 days. Weighing the risks to Americans is in the interest of Israel; weighing the risks to Americans is in the interest of Syria; weighing the risks to Americans is in the interest of American families committing them. But most of all, the reputation of the United States is on the line when that commitment is made, and we cannot be blackmailed into it and sustain it in a democracy. We must be participants in advance.

Nothing about this amendment has anything more than that. It does not prohibit peace negotiations, but surely it does not say that the negotiator of the United States is able to commit without getting the guarantees of political support and sustainability from the Congress of the United States.

Mr. President, I retain whatever time I may have.

Mr. NUNN. Mr. President, I yield to the Senator from Michigan the remainder of my time.

The PRESIDING OFFICER (Mr. LEAHY). The Senator from Michigan has 8 minutes and 40 seconds under his control.

Mr. LEVIN. I yield to the Senator from New Jersey 4 minutes.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I thank the Senator from Michigan. I do not think I will need 4 minutes.

But somehow or another, Mr. President, when a debate like this takes place, often it starts to go astray, and when it does, we begin to invite other things. I do not know who has an exclusive here on whether or not we are going to put our troops in danger and making judgments upon that.

Every one of us has the right and the obligation to be certain that if we put our troops someplace, that we provide them with the material and the cover to take care of them. Unfortunately, sometimes we have not done that and the Senator from Wyoming is right to be on the alert.

But, on the other hand, here is an agreement that has yet to be drawn, the inference drawn from a hearing in which a State Department representative says that there might be an international presence, and certainly the United States would play a part, in the judgment of that individual. Perhaps so.

But we are here to protect the people's interest, and I have no problem in believing the President of the United States has enough judgment and enough character to stand up when he sends a letter from his Secretary of the Department of State and says that he intends to do that. Obviously that is not good enough word for the Senator from Wyoming.

Nevertheless, we tread where we ought not. There is an agreement very carefully studied, very carefully negotiated that could fall apart at any moment, and bloodshed is not new in that area.

Mr. President, the last thing we need to do is contribute to any instability, any uncertainty about what an agreement might look like. I would caution all of our colleagues here, let us stay out of this for the moment. The dialog has taken place; we understand it. Now we can vote upon it and make certain that everyone is aware, that the record clearly contains a concern about those whom we might station there, whom we might send there.

But I do not think we ought to preempt a treaty unless we want to make this generic and say that any time we send our troops into conflict that there has to be consultation. There is something, for the information of all, called the War Powers Act that calls for us to get involved at a time when we expose our people to harm's way.

But tonight it does sound—and I believe the Senator from Wyoming when he says he intends this to be friendly to Israel. I think what it has to be is friendly to the world and friendly to the United States, and we ought to make sure that our friendship exists by stepping out when it is not yet our turn to become involved. I thank the manager.

The PRESIDING OFFICER [Mr. WOFFORD]. Who yields time? The Senator from Michigan.

Mr. LEVIN. How much time do I have remaining?

The PRESIDING OFFICER. Five minutes and 10 seconds.

Mr. LEVIN. I yield myself 4 minutes.

Mr. President, this resolution would introduce into the most delicate of negotiations a significant element of uncertainty. I do not think it is even too strong to say that this could—this could—be a monkey wrench in negotiations which we have been trying to promote.

Now why is that? We have a War Powers Act. We have procedures on the books. When American troops might be put in harm's way, we have a statute which has certain requirements in it. That applies everywhere in the world under all circumstances from the perspective of American law.

Then, all of a sudden, precipitously, without any prior consideration by the committees that have jurisdiction, we have an amendment on the floor on a Friday night at 10 o'clock, when at least 20 Senators are not here and are not even aware of this, we have an amendment being offered which suddenly, in one place in the world, introduces new procedures, new hoops, new restrictions. The one place in the world where the negotiations for peace are probably the most significant of any peace negotiations going on now, at least to American security and American foreign policy and American interests; the one place in the world, in the Middle East, new procedures are introduced, a new restriction, a new requirement that can only be read as a complication. We have a process that applies everywhere in the world—it is called the War Powers Act—before the President of the United States can introduce troops when there is a prospect of combat.

That is what the Congress has passed; that is the law of the land. I urge us to follow the strong recommendation of the Secretary of State. He has written Chairman NUNN a letter urging us—urging us—not to take steps that will make progress more difficult, and those are his words.

He is referring to an amendment, which I think quite clearly is the amendment of the Senator from Wyoming, that would place restrictions, restrictions that are not placed on him otherwise, restrictions that the War Powers Act did not place on him, restrictions that are not placed on him anywhere else in the world but in the most difficult, delicate and, I believe, most important of all negotiations occurring at this time.

So let us not place this restriction on funds. The Secretary of State has made a commitment in this letter that in the event we are requested to play a role—notice, in the event we are requested to play a role on the issue of border security, such a request would be considered only after full consultation with the Congress and in accordance with our constitutional processes.

I ask unanimous consent that the full letter of Secretary of State Christopher be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, DC, June 24, 1994.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: It has come to my attention that the Senate may soon consider an amendment to the fiscal year 1995 Department of Defense authorization bill which may have the effect of prohibiting United States participation in peacekeeping operations in the Golan.

The nature of border security arrangements in the Golan must be decided by Israel and Syria, in the context of their bilateral negotiations. Since the Madrid Conference in 1991, successive U.S. Administrations have assured Israel and Syria that the United States would be prepared to help guarantee border security arrangements in support of an Israeli-Syrian agreement, subject to our Constitutional process, and that the Administration is willing to consider a U.S. force presence on the Golan should the parties make a request. Moreover, in the past the United States has participated in arrangements such as the MFO in the Sinai which have been instrumental in helping Egypt and Israel reach a lasting agreement. Foreclosure of the option on a U.S. presence would be perceived by both parties as a lessening of our support. It would very likely cause a major disruption in the peace process, since we would no longer be able to provide our full support for security arrangements the parties may deem necessary to underpin a peace agreement. Without the possibility of such an assurance, a peace agreement may simply not be possible.

We ask that you take whatever steps are appropriate to ensure that this issue is not included in this, or other pieces of legislation. Notwithstanding our assessment that such a proposal may raise grave Constitutional concerns regarding the President's duties as Commander in Chief and his authority to conduct foreign relations, it is clearly premature to be discussing this issue prior to a formal request. As co-sponsor of the peace process we must put ourselves in the position to taking steps that will make progress more difficult, or even block it entirely. In the event we are requested to play a role on the issue of border security, such a request would be considered only after full consultation with the Congress and in accordance with our Constitutional processes.

With best regards,

Sincerely,

WARREN CHRISTOPHER.

Mr. LEVIN. Mr. President, I hope this amendment will be defeated if it is not tabled. It introduces an element of uncertainty and confusion, an element which does not exist in any other negotiations going on in the world from the perspective of this Congress. It applies only in the Middle East and only in the Golan Heights, and of all places where I would think we ought to be promoting negotiations and not adding new restrictions and allowing the State Department to play the kind of role that it is playing constructively to promote negotiations it should be in the Middle East. We should not be introducing this note of uncertainty which could end up to be a monkey wrench in critical negotiations.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. Mr. President, I yield myself the remainder of my time, which is?

The PRESIDING OFFICER. Two and one-half minutes.

Mr. WALLOP. Mr. President, let me begin by saying that the Senator from New Jersey said that we have the obligation when we deploy our troops to provide them with material and cover, and, indeed, we do. But the greatest obligation we have as a nation is to provide them with a sustainable political commitment because no amount of material or cover is going to protect them once deployed if we do not have that here.

Now, notwithstanding the arguments that have been made, this is less than the War Powers Act and is intended to be. And this is not an inhibition to further negotiations, nor is it intended to be. But this is a reflection of President Clinton's policy, and it is not to inhibit negotiations but, in fact, Mr. President, to enhance them because if our negotiator cannot make certain that his commitment can be delivered, that negotiator has nothing with which to negotiate.

But more to the point, it is said "in the event we are to play a role." That is a quote from the Secretary's letter. We do not have any requirement for the Secretary to do a single thing except in the event that we are to play a role. But in that event, Mr. President, we are entitled to know what the risks and the unique characteristics of the involvement are. That is all this amendment asks.

Now, these are not new rules, as the Senator from Michigan said, and these are not new procedures. These are things which the administration has said are its policy.

Now, are we to believe that the policy statement published in May of this year is not a reflection of the administration's policy? And, if not, when will we have the one that is a reflection of it?

All this amendment seeks to do is to reflect what the Secretary of State, the Assistant Secretary of State, others—I believe the Vice President—have said in statements that there is a coming commitment of deployment of U.S. troops in the Golan.

Now, if that is not the case, they should not be saying it. If it is the case, they should be preparing for it—nothing more, nothing less. This has no ulterior motive than to try to say that when the United States is prepared to give its word, it is prepared to back it up with a sustainable political commitment.

Mr. President, I yield back the remainder of our time.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I note the statement of the Senator from Wyoming that this is less than the War Powers Act.

Now, if it is less than the War Powers Act, it is not necessary because we already have the War Powers Act. If it is more than the War Powers Act, it introduces that note of uncertainty here and here alone, which is going to be the disturbing influence in those negotiations.

If it is less than the War Powers Act, it is not needed. If it is more than the War Powers Act, it is dangerous, and, in any event, it introduces an element of uncertainty and confusion into negotiations which need our support and do not need us to introduce an element of uncertainty.

I yield back whatever time I have.

Mr. WALLOP. Will the Senator from Michigan yield for just one question?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LAUTENBERG. Regular order.

Mr. MITCHELL. Mr. President, does the Senator have a question he wishes to ask?

Mr. WALLOP. I was merely——

Mr. MITCHELL. I ask unanimous consent the Senator be permitted to ask the question.

Mr. WALLOP. I will be very brief, Mr. President.

I ask the Senator from Michigan or the chairman, is it not the case that no President of either party has ever engaged in the War Powers Act in a peacekeeping operation? That is why it is less and that is why it is relevant.

Mr. NUNN. I would have to say to the Senator I cannot give him a precise answer on that tonight. I would have to go back and do some research. I would not want to venture on that one. I would say that I would take his word for it.

Mr. President, I think we are ready to vote.

Mr. MITCHELL. Mr. President, will the Senator yield?

Mr. NUNN. Certainly.

Mr. MITCHELL. Mr. President, I am advised that this is the last amendment which will require a recorded vote, and that there will be no request for a record vote on final passage. I am going to ask that question now so that if no Senator responds, I will take that to mean there will be no recorded vote on final passage so that Senators can regard this as the last vote prior to the recess.

So is there any request by any Senator for a recorded vote on final passage of the bill?

Hearing no response, therefore, there will not be a request for a recorded vote on final passage, and we are going to final passage right away. I wish to make that clear. There will be a few amendments that will be accepted and not require recorded votes. So we are going on good faith here in attempting to accommodate as many Senators as possible. We will finish the bill tonight. It will be passed by a voice vote so that everybody has that understanding. Accordingly, this will be the last rollcall vote.

Mr. NUNN. Mr. President, are the yeas and nays ordered on the amendment?

The PRESIDING OFFICER. They are ordered.

The question now is on agreeing to amendment No. 2212.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MITCHELL. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from California [Mrs. BOXER], the Senator from Colorado [Mr. CAMPBELL], the Senator from Connecticut [Mr. DODD], the Senator from Kentucky [Mr. FORD], the Senator from Hawaii [Mr. INOUYE], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Nebraska [Mr. KERREY], the Senator from Massachusetts [Mr. KERRY], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Ohio [Mr. METZENBAUM], the Senator from Maryland [Ms. MIKULSKI], the Senator from Rhode Island [Mr. PELL], the Senator from Alabama [Mr. SHELBY], the Senator from Illinois [Mr. SIMON], and the Senator from Minnesota [Mr. WELLSTONE] are necessarily absent.

Mr. DOLE. I announce that the Senator from Utah [Mr. BENNETT], the Senator from Missouri [Mr. BOND], the Senator from Colorado [Mr. BROWN], the Senator from Maine [Mr. COHEN], the Senator from New York [Mr. D'AMATO], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Texas [Mr. GRAMM], the Senator from New Hampshire [Mr. GREGG], the Senator from North Carolina [Mr. HELMS], the Senator from Arizona [Mr. MCCAIN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 3, nays 67, as follows:

[Rollcall Vote No. 187 Leg.]

YEAS—3

Nickles
Thurmond
Wallop

NAYS—67

Akaka
Baucus
Bingaman
Boren
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Chafee
Coats
Cochran
Conrad
Coverdell
Craig
Danforth
Daschle
DeConcini
Dole
Domenici
Dorgan
Durenberger
Exon
Feingold
Feinstein
Glenn
Gorton
Graham
Grassley
Harkin
Hatch
Hatfield
Heflin
Hollings
Hutchison
Jeffords
Kassebaum
Kempthorne
Kohl
Lautenberg
Leahy
Levin
Lott
Lugar
Mack
Mathews
McConnell
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Smith
Stevens
Warner
Wofford

NOT VOTING—30

Bennett
Biden
Bond
Boxer
Brown
Campbell

Cohen
D'Amato
Dodd
Faircloth
Ford
Gramm
Gregg
Helms
Inouye
Johnston
Kennedy
Kerrey
Kerry
Lieberman
McCain
Metzenbaum
Mikulski
Murkowski
Pell
Shelby
Simon
Simpson
Specter
Wellstone

So the amendment (No. 2212) was rejected.

FREE ELECTRON LASER

Mr. ROBB. I rise to engage in a colloquy with my colleague regarding the development of a high-average-power Free Electron Laser [FEL] at the Continuous Electron Beam Accelerator Facility [CEBAF] in Newport News, VA.

As my colleague knows, CEBAF is a national nuclear physics user facility managed by the Southeastern Universities Research Association for the U.S. Department of Energy. Its mission is to enable members of the physics community to conduct frontier basic research in nuclear physics and supporting disciplines. CEBAF is a pioneer in the development of superconducting radiofrequency technology and uses the most advanced application of this technology in the electron beam accelerator.

Through experimentation with this technology, CEBAF scientists discovered that it is particularly adaptable to driving high-average-power free electron lasers. This discovery is important because the development of such a free electron laser could be tremendously useful to the military, science and industry. In fact, it has already undergone peer review and has passed with flying colors.

The next step for CEBAF is to build and demonstrate an industrial laser which can be used to develop and test processes for manufacturing.

Does my colleague from Georgia with his knowledge of the Technology Reinvestment Program believe that the CEBAF free electron laser is a project that could merit funding through the TRP?

Mr. NUNN. I say to my colleague from Virginia that the CEBAF free electron laser project does indeed seem to be the very type of technology that the TRP was created to advance. I look forward to working with my friend from Virginia to ensure that this worthy project receives every consideration in the TRP competition.

A TIME FOR SOUND JUDGMENT

Mr. DORGAN. Mr. President, I rise to comment on our policy toward North Korea and to discuss my vote on a recent amendment offered by the Senator from Arizona [Mr. McCAIN]. I reluctantly opposed his amendment, and I would like to explain why.

The McCain amendment raised a critical issue: what our government's policy should be in dealing with North Korea, a nation that has seemed bent on breaking its nuclear nonproliferation treaty commitments.

And the amendment itself contained a good bit of common sense. Whatever new talks may occur, we should unquestionably be prepared to support our ally, South Korea, in deterring or even repelling an armed attack by North Korea. I would also urge that we should be vigilant to a fault in preventing the production and export of nuclear weapons by North Korea. Furthermore, if North Korea reneges on its nonproliferation treaty obligations, I would support the imposition of international sanctions.

On the other hand, I find it troubling that so many of my colleagues feel compelled to engage in what could be seen as verbal saber rattling. I am concerned that so many need to second-guess the President at a very sensitive moment in our relations with Pyongyang.

As the Senate debated Senator McCAIN's amendment, the Clinton administration was mounting a major diplomatic effort to secure support for economic sanctions against North Korea. Yet former President Carter, in another example of his willingness to work for the cause of peace, took on a very delicate parallel mission at the same time. There has been criticism of this trip and of President Clinton's policy. However, with hindsight, we see that the Administration may have been on the right track.

The two Koreas are working to schedule a historic summit meeting to discuss the nuclear proliferation issue. North Korea has stated that it will allow international inspectors to remain on the job. And North Korea has offered to halt its nuclear development program.

I do not think this means that the crisis is over. However, these steps may hint at an eventual resolution of the crisis in Korea.

Lastly, let me echo the comments of Senator EXON, the distinguished chairman of the Armed Services Subcommittee on Nuclear Defense and Arms Control. He incisively argued against approving such a sensitive resolution without first having considered it at a Senate hearing. Equally remarkable, Senator McCAIN sought to attach his amendment to the Federal Aviation Administration reauthorization bill.

There is a time for everything in its season. But this is the season for sound judgment, not ill-considered resolutions. Therefore, I was constrained to oppose the amendment.

AMENDMENT NO. 2148

Mr. MOYNIHAN. Mr. President, earlier today the chairman and ranking member of the Armed Services Committee urged the Senate to accept an amendment offered by Senator NICKLES which prohibits the Department of Defense from providing funds to any institution of higher learning which will not permit military recruiting on campus. A similar amendment was adopted by the House by a nearly 100 vote margin. The Nickles amendment had the sponsorship of a substantial number of Senators, including the ranking member of the committee.

Mr. President, my colleagues should understand that this amendment was designed among other things to punish institutions which refuse to permit recruiting by the Department of Defense because it discriminates against individuals on the basis of their sexual orientation. It is a statewide policy in New York not to permit discriminatory practices and the State University of New York adheres to that policy.

It was clear that Senate support for the amendment was—as in the House—overwhelming and that a rollcall vote would not alter the outcome. Particularly given the fact that the chairman and the ranking member of the Armed Services Committee urged the Senate to adopt the amendment. A lengthy debate would not have altered this foreordained outcome.

I urged the authors of the amendment and the managers of the bill to accept a modification of the amendment which would exempt institutions which have acted pursuant to a mandatory statute, rule, regulation or court order. This would have permitted institutions to comply with the New York rule without becoming the victims of reprisal. But the sponsors of the legislation would not accept the modification.

Some have argued that an institution which does not permit recruiting should not accept research funds. Nonsense. The Department of Defense discriminates in recruiting. So far as I am aware it does not discriminate in distributing research grants. Would not the New York State policy of refusing to condone discrimination apply to research grants as well as recruiting if they were awarded on a discriminatory basis?

Mr. President, opposition to discriminatory policies in the military is widespread. It has been denounced by no less a stalwart than our most distinguished former colleague Barry Goldwater.

I cannot but believe that we will revisit this issue. The legislation will not take immediate effect. It calls for regulations to be promulgated.

The provision the Senate has adopted today will weaken our military. It will keep research funds out of the hands of some of the Nation's finest educational institutions.

Mr. President, schools should not be punished for taking a principled stand on recruiting. Today my colleagues are compounding the error of excluding competent persons from the armed services by also withholding research funds from some of our most competent researchers.

FEDERAL PROCUREMENT REFORM

Mr. BINGAMAN. Mr. President, I rise to commend Defense Secretary Perry for moving out on the regulatory side of procurement reform. Wednesday he signed a memorandum to the Department, directing the maximum use of commercial products and commercial specifications in future procurement actions. By the same token, he directed that the use of unique, detailed military specifications [MILSPECS] only be by exception. I applaud Secretary Perry for his courage and vision.

The action Secretary Perry took is an important step in the continuing process of Federal procurement reform. This action was specifically recommended in February 1993 by the Acquisition Law Advisory Panel, chartered by language in section 800 of the fiscal year 1991 Defense authorization.

The Panel recognized that while many changes were needed in statutes to empower reform in the executive branch, the heart of acquisition reform ultimately lies in cutting through the underbrush of excessive regulation and specification that plagues the procurement system.

Mr. President, there should be no illusion about how hard it is going to be to effect real procurement reform. But it is critical to quit talking about all the procurement horror stories and start taking action to prevent them. The time for action has come. Secretary Perry is uniquely qualified to take the necessary actions. Wednesday's memo demonstrates again his willingness to do his part. The House's action earlier this week to pass their acquisition reform bill shows that Congress is willing to do its part.

This year both houses have now passed bills based in large part on the section 800 panel report recommendations. We are moving to change the body of federal procurement law to make it easier to contract with small and women-owned or controlled business, expedite contracting, and save time and money by buying commercial items, whenever possible.

I hope that we can complete action on S. 1587, Senator GLENN's procurement reform bill, before the August recess. In doing so, we will be reinforcing Secretary Perry's commitment to buy commercial items and use commercial specifications.

Certainly, there will be some cases where it is necessary for the government to use MILSPECS. In the case of a unique combat weapons system, which must operate under the harshest conditions, military specifications for many components can protect lives, as well as taxpayers' interest. But in the vast majority of Government procurements, the use of commercial products and commercial specifications is the most inexpensive and sensible choice.

The Defense Department is the biggest purchaser in the Government, so the use of commercial items in Defense Department procurements has the potential to save billions of tax dollars. The market place and level of customer sales determine the quality and price of the product for the Government.

No more will the Services have to pay for wasteful layers of bureaucracy and paperwork associated with the old MILSPEC system. We should see fewer $500 coffeepots and be able to buy cookies from the same distributor as the local market, instead of from those willing to cook from 20 pages of Government specifications.

Secretary Perry has taken an important, indeed crucial step to implement our reform efforts, by making the procurement of commercial items and use of commercial specifications the first choice. Hereafter, program managers will have to justify their need for noncommercial items and MILSPECS to higher-ups.

The burden of proof will be on those who advocate MILSPECS, whereas in the past, it has been on those who advocated commercial specifications. I'm glad he stepped out on this issue and am confident that he and the DOD will lead the way on acquisition reform.

Mr. CONRAD. Mr. President, I rise to comment briefly on S. 2182, the fiscal year 1995 Defense authorization bill. First, I want to commend Senators NUNN and THURMOND for doing an excellent job of maintaining U.S. defense capabilities within tight budget restrictions. S. 2182 authorizes $263.3 billion, $300 million below the President's request, but roughly in line with the limits imposed by the 1993 Budget Act.

S. 2182 funds key modernization initiatives as well as a significant increase in military readiness accounts in an effort to ensure that our forces are properly trained and equipped to do their job. The bill also includes a 2.6 percent pay raise for military personnel, 1 percent above the budget request. I am pleased with this increase and believe it is necessary to provide the men and women of our armed forces with the adequate compensation they deserve.

S. 2182 authorizes 1.526 million active duty personnel and 995,300 reserves—over 2.5 million highly trained, capable, and motivated men and women dedicated to defending our country. They are equipped with the world's most advanced weapons, and we continue to modernize our forces. I am convinced that the military forces authorized in this legislation are strong enough to guarantee our security at home and our interests around the world.

The committee has made an especially important decision to maintain a strong long-range bomber force and reject the sharp cuts in the force proposed in the budget. The Department of Defense budget request reduced the bomber force from the current number of over 190 total B-52, B-1, and B-2's to 126. The core of the proposed cuts was a reduction of the B-52H force from 94 to less than 50. Cutting so many B-52's would leave us unable to fulfill the conventional requirements identified in the Bottom Up Review and the nuclear requirements necessary to retain a credible deterrent.

The Pentagon's Bottom Up Review [BUR] identified a requirement for 100 deployable heavy bombers for a major regional contingency [MRC]. The 126 total bombers proposed for fiscal year 1995 would not provide 100 deployable bombers, meaning we could not even meet the requirements for one MRC, much less the two nearly simultaneous conflicts assumed in the BUR. In fact, the BUR recommended a total bomber force of up to 184 aircraft. The fiscal year 1995 budget submission is not even close to this number.

The most cost-effective way to maintain our bomber force capability is to retain more bombers, especially B-52's. The B-52H is reliable, flexible, and does not require multibillion dollar upgrades to be conventionally capable. Only the B-52 can deliver air-launched cruise missiles [ALCM's], the Have Nap precision attack missile, Harpoon antiship missiles, and 12 different types of sea mines. The B-52 can also be easily modified to carry advanced precision-guided munitions currently under development.

In addition to its conventional mission, the B-52 plays a key role in our country's strategic nuclear deterrent. The B-52 is tasked to carry roughly a quarter of our Nation's strategic arsenal and is the only leg of the nuclear Triad that can easily be recalled and relocated. The administration has not fully recognized this nuclear role in its plans. Adm. Henry Chiles, Commander of the U.S. Strategic Command, expressed his concern with the proposed B-52 cut when he stated before the Senate Armed Services Committee in April, "I * * * have concerns about future bomber force adequacy if B-52 numbers are severely reduced." I am told that STRATCOM would like to have 32 B-52's reserved for a nuclear role. We can only accomplish this if we retain more B-52's.

The Senate Armed Services Committee has recognized the shortfall in the proposed bomber force and has taken strong action to retain our bomber capabilities. I commend the Armed Services Committee for its actions. The committee has retained the entire force of B-52's and required the Air Force upgrade them all to carry advanced precision guided munitions. S. 2182 also contains funding to acquire additional precision-guided munitions and to convert ALCM's to a conventional role, a move that will enhance the capability of B-52's. All of these actions will improve our capabilities in the near term, while more advanced munitions are being developed.

I also commend the committee for including a provision requiring that all

500 Minuteman III missiles be retained until Congress has fully reviewed the final results of the ongoing Nuclear Posture Review [NPR]. It would be imprudent to take down our ICBM's prematurely, and any decision affecting the makeup of our strategic forces must involve Congress. I fully expect that Congress will be briefed and consulted prior to the release of final NPR conclusions. Personally, I believe that we should continue to maintain a land-based ICBM force as a part of the Nuclear Triad. Discussion of sharp cuts in the Minuteman III force should be delayed until START II is fully ratified and implemented.

Mrs. HUTCHISON. Mr. President, I rise in support of S. 2182. The post-cold-war era has brought about tremendous changes in our security environment. Shaping our military forces to meet the new and the old challenges requires strong leadership of the type that the senior senators from Georgia and South Carolina have provided to the committee.

As we draw down our military forces to the lowest levels since just prior to the outbreak of World War II, we must be mindful that the threats we face are still global in nature and that the readiness and training requirements of a smaller military must be more rigorous to meet the various threats we must face.

Mr. President, I am very concerned that cuts in our defense spending will leave us with a military force structure that is incapable of conducting two major regional contingencies at the same time. This would be disastrous, not only for the United States, but also for our allies.

Right now the United States has the 12th largest army in the world. We have never had the largest army in the world even though we do have the best. While I do not advocate that we have the world's largest army, I think it is useful to have some perspective that the world's 12th largest army could find itself fighting a war in two or more places at the same time. That, without question, is demanding extraordinary capability from a very small force. We are quite fortunate, that we do have the world's best Navy, Air Force, and Marine Corps.

Mr. President, despite recent well publicized attempts at personal diplomacy in Korea, the situation remains serious. North Korea's nuclear weapons program continues unabated threatening the peace and stability of the region. The U.S. Congress has a duty and an obligation to ensure that our forces stationed in Korea and those who may be sent there in the event of hostilities are well equipped and well trained.

When Kim Il Song launched the Korean war 44 years ago the first United States forces to arrive at the scene were under the command of Lt. Col. Brad Smith and they were known therefore as Task Force Smith. The soldiers of Task Force Smith were brave soldiers but were disastrously ill equipped, their antitank projectiles literally bounced off North Korea tanks and Task Force Smith suffered horrendous casualties. As the current military draw down began Army Chief of Staff, Gen. Gordon Sullivan recalled the dark days at the beginning of the Korean war and warned that there must be no more Task Force Smiths. By this he meant that never again should we send soldiers into combat unless they are well trained and properly equipped with the best weapons available.

The tragedy of Task Force Smith was, in many respects, unfortunately repeated in Somalia in 1993, when the commander on the ground requested tanks and armored personnel carriers and his request was delayed and delayed here in Washington and never approved. As we learned in the hearings in the Senate Armed Services Committee, as a direct result of that lack of response to the request of the commander on the ground, soldiers did not have the equipment they needed when they had to fight.

Today our forces in Korea are faced with a dangerous and uncertain threat. We must learn the lessons of Somalia and do all we can to ensure that there are no more Task Force Smiths and no more lapses like Somalia. In Korea, we must ensure that our commander has everything he needs to deter the North Koreans from starting another Korean war and, should deterrence fail, everything he needs to decisively defeat a North Korean attack. Nowhere do our forces face a greater likelihood of armed conflict than on the Korean Peninsula.

Unlike Somalia, where the United States had no strategic national interests, Korea is important to the United States. South Korea is a long time ally and its security is critical to stability throughout Northeast Asia. And we must take firm action to assure that the Nuclear Non-Proliferation Treaty is not ignored by North Korea. Nuclear proliferation in North Korea must not be tolerated or surely it will not stop there. A nuclear game of one upmanship will surely be provoked.

There can be no higher priority than United States forces in South Korea. This time there must be no equivocation, and even if it is up to Congress, we must provide our forces in South Korea with everything they need.

Mr. President, in closing, I must state my deep concern for the continued decline in our defense expenditures. I fear that we are repeating the mistakes made in the 1970's. Since 1985, our defense spending will decline by 40 percent in real terms by the end of the current 5-year defense plan. In my opinion, the primary responsibility of the Congress is to provide for the common defense. We must be careful that we not fail in our constitutional responsibility with regard to the defense of this Nation. I will support this bill today, but we must assess carefully next year if we are moving too fast in the downsizing of our military and are therefore hurting our readiness.

Mr. President, on April 19, 1951, Gen. Douglas MacArthur appeared before a joint session of the Congress. One of the most memorable line from his address was, "In war there is no substitute for victory." As we again face a potential conflict on the Korean Peninsula, we should remember that in peace there is no substitute for preparedness. Thank you, Mr. President.

PERSIAN GULF SYNDROME: MORE RESEARCH IS NEEDED

Mr. DASCHLE. Mr. President, it was almost 4 years ago that then-President George Bush ordered the deployment of American service men and women to the Persian Gulf. And less than a year later, these soldiers were given a hero's welcome upon their return home. Kuwait had been liberated, and relatively few lives had been lost in the process.

But the effects of the Persian Gulf War did not end there. Not for the men and women who are now disabled by illness.

We have all heard about their "mystery" illness, which has become known as Persian Gulf Syndrome. Common symptoms include extreme fatigue, joint and muscle pain, short-term memory loss, diarrhea, unexplained rashes, night sweats, headaches and bleeding gums. In addition, women veterans have experienced chronic or recurring yeast infections and menstrual irregularities.

So far, doctors have been unable to come up with a single diagnosis that would explain such a wide variety of symptoms.

We do not know for sure why these veterans are ill. What we do know, however, is that they were potentially exposed to a wide range of toxins and environmental hazards during their service in the Gulf. The list includes possible exposures to: smoke from oil well fires set by retreating Iraqi soldiers; industrial chemicals and pesticides; depleted uranium used in munitions; diseases endemic to the Persian Gulf; vaccines to prevent anthrax and botulism; antinerve agent pills; and chemical and/or biological agents. One toxin alone could be causing these symptoms, or they could be the result of two or more toxins working together. At this point, we simply do not know.

One thing is certain, however. More research on Persian Gulf Syndrome is needed.

We must not sit by while veterans get progressively sicker. Instead, we must try to find out why they are sick and how we can best treat their illnesses.

I do want to acknowledge that many research efforts are underway to determine the cause or causes of these illnesses. But I am not convinced that we are doing all we can to get to the bottom of this problem.

Already, we know that two important types of research are needed. It's my hope that the Senate will approve funding for them today.

First, we should authorize an epidemiological study of Gulf War veterans and their immediate family members. This will allow researchers to study their illnesses thoroughly, as well as consider whether these illnesses are being transmitted from veterans to their spouses and children.

Second, we should authorize funding for research into the health effects of pyridostigmine bromide, an antinerve agent that was distributed to the almost 700,000 American soldiers who fought in the Gulf War. This drug was meant as a proactive response to the possible use of chemical weapons by Saddam Hussein.

The issue we must investigate is this: is pyridostigmine bromide, a drug meant to protect against the health effects of chemical weapons exposure, actually a cause of the debilitating health problems our Gulf War veterans are suffering from today?

Pyridostigmine bromide has long been used in the treatment of Graves' disease, a neurological disorder. However, it has not been proven to be safe or effective for repeated use by healthy persons under any circumstances.

In order to administer this unapproved drug to almost 700,000 healthy soldiers, the Department of Defense obtained a waiver from the Food and Drug Administration. The FDA based its decision on two assurances from DOD.

First, DOD pointed to 10 years of military research as evidence that this drug is safe. Second DOD promised to inform all soldiers about the investigational nature of the drug and to administer it on a voluntary basis.

We now know that the Defense Department's claim of safety was not supported by its own research. We know that our soldiers were not adequately warned about the risks of taking this drug. And we know that at least some soldiers were ordered by their superiors to take this drug.

We know all this because of an extensive investigation by the staff of the Senate Veterans' Affairs Committee into the use of pyridostigmine bromide during the Gulf War. The findings of this investigation were released during a committee hearing on May 6.

The Veterans Committee staff found that in almost all of the Defense Department studies cited as evidence of pyridostigmine bromide's safety, the subjects had been screened to weed out those who might be hypersensitive to the drug. Yet during the Gulf War, this drug was passed out indiscriminately to all soldiers, regardless of their medical makeup.

The Veterans Committee staff reported other troubling findings: DOD scientists concluded that pyridostigmine may actually make individuals more vulnerable to certain chemical agents; recent research indicates that when used in combination with pyridostigmine, the pesticide DEET becomes 10 times more toxic than when it is used alone. DEET and many other pesticides were widely used during the Gulf War; and the side effects associated with use pyridostigmine are strikingly similar to the symptoms reported by ill Gulf War veterans.

Clearly, the possible role of pyridostigmine bromide in the illnesses of our Gulf War veterans needs to be thoroughly investigated. Independent research into both the long-term health effects of this drug and the synergistic effects of pyridostigmine bromide and pesticides or other environmental hazards should be undertaken.

Mr. President, I believe that authorizing more research into the health effects of Gulf War service is just one of the steps that the Congress should take to help these ailing veterans. Additionally, we must ensure that these veterans receive the health care and compensation that they deserve.

Title 38 now guarantees Gulf War veterans free priority health care for conditions that may be related to toxic exposures during service. Unfortunately, many veterans have reported that this legal guarantee of care is often not adhered to by the VA in practice.

Specifically, veterans have encountered VA doctors who do not give much credence to the possibility that their illnesses may be attributable to various toxins. They also report having to wait several weeks for a doctor's appointment and then several hours before they get to see that doctor. This clearly does not qualify as priority care.

VA is working to change this, however. Secretary Brown recently issued a directive to all VA medical center directors that instructs them to provide Gulf War veterans with timely and compassionate care, to assist them in applying for a Persian Gulf health registry examination, and to provide medical staff with the latest information on Gulf War illnesses. The directive also contains a clinical protocol which is to be followed when a VA doctor is unable to diagnose a veteran's illness.

Many Gulf War veterans are also having trouble paying their bills because they are too sick to work. Unfortunately, however, those veterans suffering from undiagnosed illnesses are not currently eligible for compensation from the VA.

I recently introduced legislation to correct this problem. My bill, S. 2178, would require the VA to provide compensation to veterans disabled by undiagnosed illnesses which become manifest to a degree of 10 percent or more within 3 years of leaving active duty. Further, it would specify that VA must pay this compensation until such time as it can show that a veteran's illness is unrelated to his or her Gulf War service.

I wish to thank Senators AKAKA, DECONCINI, CAMPBELL, MOSELEY-BRAUN and KENNEDY for cosponsoring this legislation, and I invite our colleagues to join us in this effort.

Finally, I know that many of my colleagues may be concerned about the cost of additionally research or of compensation for undiagnosed illnesses. In these days of tight budgets, this is an understandable concern.

I would simply point out, however, that the costs of war do not end simply because both sides have put down their weapons.

So again, Mr. President, we must not ignore the plight of our veterans who are suffering from Persian Gulf Syndrome. I hope that the Senate will fund the research required to get to the bottom of the debilitating illness and will provide ailing Gulf War veterans with the assistance they need and deserve.

In 1991, they stood tall for freedom. It is time for their Government to stand up for them.

NATO

Mr. LEVIN. Will the distinguished Chairman of the Committee on Armed Services yield for a question?

Mr. NUNN. I yield to the Senator from Michigan.

Mr. LEVIN. As the distinguished chairman is aware, the Subcommittee on Coalition and Reinforcing Forces of the Committee on Armed Services held joint hearings this year with the European Affairs Subcommittee of the Foreign Relations Committee. These hearings contributed excellent insights on the future of the NATO alliance and other important issues.

Our plan this year was to have a short portion of the committee report devoted to these hearings. In fact the staff prepared an excellent summary of the hearings which was to have been incorporated into the report. Unfortunately, the language was inadvertently left out of the committee report. Would the distinguished chairman allow the NATO language to be printed in the RECORD as a part of the Senate deliberations on our bill?

Mr. NUNN. I thank the distinguished Senator for bringing this to my attention. I would certainly support the Senator's recommendation.

Mr. LEVIN. I thank the Chairman. I recommend that the following language be made a part of the RECORD:

NORTH ATLANTIC TREATY ORGANIZATION

The committee has closely followed historic developments in the North Atlantic Treaty Organization (NATO) since the end of the Cold War. In the Joint Declaration of Twenty-Two States, signed in 1990, the NATO allies and the members of the then-Warsaw Pact (including the Soviet Union) declared that they were no longer adversaries and affirmed their commitment "to refrain from the threat or use of force against the territorial integrity or political independence of any State." Russia and other former Soviet states reaffirmed these principles in the 1992 Helsinki Summit Declaration and subsequent CSCE documents.

Last January, NATO heads of state approved President Clinton's plan to further recognize the new political and security realities in Europe with the Partnership for Peace program. Many nations from the former Warsaw Pact, both eastern European and former Soviet republics, have enthusiastically applied to participate in the program, viewing it as the road to greater security and economic cooperation with the West. Partnership for Peace provides a foundation for stronger, eventually permanent, political and military ties between NATO and its eastern neighbors, without drawing new lines to replace the old Iron Curtain. The Partnership establishes a cooperative, work-oriented relationship between the alliance and potential new members. It provides an opportunity for current NATO member nations to gain confidence in the readiness and ability of Partners to fulfill the obligations and mutual security guarantees of the North Atlantic Treaty through direct contact and practical cooperation. NATO's openness to expanding its membership eventually creates an important incentive for the newly independent republics of eastern Europe and the former Soviet Union to foster freedom and democracy.

Recognizing that these developments have closely interrelated security and political ramifications, the Armed Services Subcommittee on Coalition Defense and Reinforcing Forces has held joint hearings on the subject of NATO's future with the Foreign Relations Subcommittee on European Affairs, soliciting the views of a broad range of policy experts with many years of combined experience in European security issues. While their views, and those of committee members, vary on the proper timing for extension of full NATO membership to other nations in Europe, all agree that much work remains to build a solid, larger and more relevant NATO alliance on this new foundation of the Partnership for Peace.

The committee notes that while the public clearly understood NATO's original mission of providing for the common defense of western Europe, it has almost no knowledge of NATO's role in the stability of Europe after the Cold War. The changes to NATO's mission, pronounced at various ministerial meetings in Europe, are distant echoes at best to a public unattuned to alliance pronouncements and preoccupied with economic problems, crime, and America's involvement in Somalia. In recent years, the NATO infrastructure account, which funds critical alliance projects essential to NATO's integrated military force structure, has suffered from this lack of attention to NATO's role in the stability of Europe and the newly independent nations on its perimeter. The committee strongly recommends the authorization of the full $219.0 million requested by the administration to meet United States obligations to the NATO infrastructure fund.

With all of these factors in mind, the committee strongly encourages the Department to work toward demonstrating significant progress toward in the coming year, especially in the following areas:

INTEGRATION OF NEW DEMOCRACIES AND RELATIONSHIP WITH RUSSIA

The committee expects the Partnership for Peace program to show substantial evidence of progress toward integration of additional nations into the working structure of NATO. NATO's charter provides procedures for the addition of new members at any time upon the assent of current member nations. Even as NATO's Members debate the precise timing of full membership expansion, there can and should be concrete progress toward integration of Partners through joint activities and expanded consultation.

The committee notes with approval the Administration's efforts to encourage stronger bilateral ties between NATO and Russia, especially at the military-to-military level, and encourages the Department to pursue aggressively policies that increase security cooperation and decrease competition between the Alliance and Europe's largest nation.

MULTINATIONAL PEACEKEEPING

In addition to pursuing integration of nations through Partnership for Peace, the committee encourages the Department and its representatives to work through NATO's institutions swiftly to modernize NATO doctrine and practice. This effort has lagged since the adoption of new strategic principles at the 1990 NATO summit in London, and the adoption of a new strategic concept which recognized "increased opportunities for the successful resolution of crises at an early stage." As former SACEUR General John Galvin has observed, NATO declared its intention to move away from the concept of forward defense and become more multinational, more mobile, more flexible, more ready for rapid response in time of crisis. The Alliance should be ready to respond to situations requiring peacekeeping operations, as well as humanitarian and natural disasters.

The crisis in Yugoslavia has evoked historic responses from NATO, including multinational enforcement of a blockade at sea, a no-fly zone in the air and close air support for United Nations forces on the ground. NATO has fired the first shots in anger in its history and caused casualties. Whether NATO's responses are viewed as insufficient or excessive, they underscore the urgent need for further development of the doctrine, procedures and new internal structure which the London and Rome summits promised. These developments will, in turn, require changes in NATO's operational capabilities, command and control procedures, equipment and personnel priorities. The concept of combined joint task forces, recently endorsed by NATO, is an important step in the right direction which should be fleshed out at the earliest opportunity. Alliance action to prevent or respond to aggression will continue to require, first and foremost, the combined political will of many nations. But the committee encourages the Department to provide strong leadership in rapidly adapting NATO's institutions to conduct multinational peacekeeping and peace enforcement operations more effectively in the future, so that the Alliance will be ready when there is political will to act.

FOSTERING DEMOCRACY

The U.S. should also take a more urgent approach to using NATO forums and related institutions to prevent ethnic and regional unrest in Eastern Europe that poses a threat to democracy and human rights on the continent, and could pose a security threat to NATO allies of the United States. The committee notes that the Partnership for Peace framework agreement requires each participating nation to recommit itself to the basic principles of respect for borders and international law, adherence to internationally-recognized standards of human rights and civilian control of the military. As former CSCE Ambassador Max Kampelman has testified, inaction by NATO at the outbreak of hostilities in the former Yugoslavia severely undermined these principles. The committee encourages the Administration to take into consideration the demonstrated performance of each state in making good on these commitments, and encourages NATO to be willing to reduce or terminate its cooperation with a partner state if its performance is lacking. Toward this end, the Department should consider recommending that NATO seek a periodic public accounting or report by the Council of Europe, Conference of Security and Cooperation in Europe, or other monitoring body on the human rights and democratic principles performance of partners.

ADVANCED BATTERY TECHNOLOGY RESEARCH

Mr. KOHL. I would like to address a question to the distinguished chairman on the issue of advanced battery technology research. As he may recall, in the FY94 conference report to the FY94 Defense authorization bill, the conferees agreed that portable power is vitally important to the soldier in the field and they called for a strong program in battery research, with an emphasis on low cost, recyclable and pollution-tolerant battery systems. The following programs are central to that effort: the advanced non-metallic rechargeable battery system, the safe rechargeable battery for the SEAL Delivery Vehicle, low cost reusable alkaline batteries for Sincgars radio, low rate "AA" lithium carbon monoflouride batteries for Navy applications, high rate "AA" lithium carbon monoflouride batteries for Army applications, the "AA" zinc air battery for military applications, and the no lead added zinc carbon cell.

Mr. NUNN. I appreciate the Senator from Wisconsin drawing the Senate's attention to these vital programs. As the Senator may know, we have included funds in our bill for battery research.

Mr. KOHL. I would like to urge the Chairman to give every consideration during the Defense authorization conference to the advanced battery technology programs I mentioned.

Mr. NUNN. I agree that we need to ensure that we provide the services with the funds to develop the next generation of batteries, and I will work in conference to see that we fund those programs that are most essential to that effort.

MANUFACTURING TECHNOLOGY FOR THE ADVANCED RESEARCH PROJECTS AGENCY

Mr. BYRD. Mr. President, I would like to address a question to the distinguished Chairman of the Committee on Armed Services. Would the distinguished Chairman agree that the $371.1 million the Committee has recommended for Manufacturing Technology for the Advanced Research

Projects Agency, (ARPA), $4.0 million is available for the Institute for Advanced Flexible Manufacturing Systems?

Mr. NUNN. The distinguished Senator from West Virginia is correct, and I believe that the Department of Defense will continue this important program. It is my understanding that the Institute for Advanced Flexible Manufacturing Systems has been working with the Department of Defense for several years and that the department has been pleased with the results of the research conducted at the institute.

Mr. BYRD. Will the distinguished Chairman work with our colleagues in the House of Representatives to ensure that this project is included in the conference report?

Mr. NUNN. As the distinguished Senator is aware, we can never foresee the outcome of the conference. As I recall, however, this program has done well in the conference discussions in previous years and we will certainly give it every consideration this year.

THE ELECTRIC AND HYBRID VEHICLE TECHNOLOGY PROGRAM

Mrs. BOXER. Mr. President, as we debate the Department of Defense Authorization Act, I would like to take this opportunity to bring to the Senate's attention a part of this bill which has important implications both for the advancement of military technology, the defense conversion efforts of our industries and for better air quality for us all.

The Electric and Hybrid Electric Vehicle Technology Program administered by the Advanced Research Projects Agency develops vehicle energy technologies. The purpose of this program is to support the development of electric and hybrid-electric vehicles and to explore their potential to enable the armed forces as well as the commercial sector to achieve energy cost savings and comply with environmental goals in a safe, affordable high performance vehicle. These are truly "dual use" technologies, offering benefits for both the military and commercial markets.

These technologies involve power generation such as fuel cells and free-piston engine generators with the capability of using multiple fuels, power control technologies that use advanced motor and controller designs; energy storage devices such as flywheels, high energy density batteries and efficient battery charging; and strong, affordable composites for use in vehicle manufacturing.

These developments are what some scientists are calling spin-on technologies because progress on the civilian side to provide clean fuel vehicles also have military applications.

By reducing the amount of heat given off by the propulsion systems and operating quietly on battery power, the electrically powered vehicles are expected to be less vulnerable to detection in combat situations. This could lead to nearly silent vehicles for use in scouting enemy terrain or armored personnel carriers without exhaust pipes to escape detection by infrared detectors. In addition, some of the more advanced weaponry in the future will require mass electrical storage.

The goal for these military vehicles is to achieve ranges of 300 miles using hybrid electric vehicle systems, which are a combination of electric and conventional fuels, while maintaining current speed, acceleration and other performance requirements.

A company in Georgia has used an ARPA grant to develop a computer-controlled battery charger that could provide faster charging for military vehicles in wartime and for commercial electric vehicles now.

At McClellan Air Force Base in California, defense conversion companies and other high-tech companies are developing energy efficient, low cost and strong fiber composite materials for military and civilian vehicles. FMC Corporation, which built the Bradley Fighting Vehicle, is developing an electric drive test vehicle.

There are many more examples coast-to-coast that I won't take the time to detail here. But it is important to remember that advances in electric vehicles is also important for non-combat military vehicles. There are more than 136,000 vehicles in the Air Force, Army, and Navy. That's more than a quarter of all vehicles in the federal fleet. Many of these operate in communities with severe air quality. Placing a significant number of such clean fuel vehicles in these communities would enhance our efforts to improve the environment.

Mr. President, I would like to ask the distinguished chairman of the Senate Armed Services Committee if he would be willing to answer questions, of a clarifying nature, regarding proposed authorizations for dual-use electric and hybrid vehicles?

Mr. NUNN. I would be pleased to respond to the Senator's questions.

Mrs. BOXER. Of the $30 million authorized to be appropriated in fiscal year 1995 for electric and hybrid vehicles in section 142 of the bill, $15 million is designated for procurement of electric and hybrid-electric vehicles for military and commercialization of such vehicles for noncombat uses.

The chairman may be aware that the U.S. electric utility industry is currently undertaking a program known as EV America that is intended to commercialize electric vehicles through cost-sharing partnerships with the Federal Government to purchase electric vehicles and the placement and testing of those vehicles in private and government fleets of which the Department of Defense is the largest fleet operator in the Federal Government.

I would like to ask the chairman does the committee intend that this funding could be used to support a program for a private sector, cost-sharing effort to commercialize electric vehicles for nonmilitary uses, such as the EV America demonstration program?

Mr. NUNN. The Senator is correct. Such a cost-sharing activity, as you describe, would be eligible.

Mrs. BOXER. Finally, it is my understanding that section 231 of the bill authorizes $35 million in the Technology Reinvestment Project [TRP] for projects involved in demonstrating agile manufacturing enterprises.

Mrs. BOXER. As the chairman is no doubt aware, one of the most critical technological advances required to reduce the production cost of electric vehicles is the ability to incorporate flexible manufacturing principles into their production. A highly successful, California-based advanced transportation technology consortium, CALSTART, has developed a program to demonstrate agile manufacturing techniques through the creation of an agile manufacturing plant at northern California's Alameda Naval Station, which is scheduled for closure.

Is it the understanding of the chairman that such a demonstration would be particularly suited to receive funding pursuant to the TRP agile manufacturing program?

Mr. NUNN. Yes, it is and I expect that the Department will consider this critical program carefully during its competitive review of TRP proposals.

Mrs. BOXER. I wish to thank the distinguished chairman for his informative responses and his continuing leadership on these important programs.

HIGH ALTITUDE AURORAL RESEARCH PROGRAM (HAARP)

Mr. STEVENS. Mr. President, I would like to raise a matter addressed on page 86 of the committee report accompanying S. 2182 with the distinguished chairman of the committee, Senator NUNN, and the ranking member, the senior Senator from South Carolina, Senator THURMOND.

I very much appreciate the authorization of funding to continue research conducted by the Air Force Geophysics Laboratory and the Office of Naval Research through the High Altitude Auroral Research Program, known as HAARP. I concur wholeheartedly with the committee's description of this project and the level of funding included for fiscal year 1995.

The last section of the committee report on this matter has resulted in some uncertainty over how the Air Force and Navy may proceed on this project, and I hope that the chairman and the ranking minority member of the Armed Services Committee can assist in removing any ambiguity.

The Air Force has made clear that development of the HAARP research facility will hinge on the results of testing and utilization of the subscale components now undergoing installation. The committee, and the Congress need to understand the expected schedule and cost to execute the HAARP initiative.

Is it the intent of the committee that funds for fiscal year 1995 be held back until the Department of Defense commits itself to funding the full-scale facility in the fiscal year 1996 budget request?

Mr. NUNN. I would respond to the Senator that the clear intent of the committee is that the funds can be obligated if the Secretary of Defense informs the Congress that, if the trials are successful, the project will be included in the future years defense plan, and full funding for the project will be requested in budget requests in future years. Is that the understanding of the Senator from South Carolina?

Mr. THURMOND. The Senator is correct. The committee did not intend that the entire cost for a full-scale facility be included in the budget request for the single year 1996.

Mr. STEVENS. I thank the Senators, and further ask whether it was the intent of the committee that, prior to the obligation of such funds as may be appropriated pursuant to this authorization, the Secretary of Defense provide the committee with a report detailing the anticipated future cost of the HAARP facility, and the schedule for construction and need for additional authorization and appropriation in future years?

Mr. NUNN. The Senator from Alaska is correct. Recognizing the limited construction season available at the HAARP site, the committee understands that this project will proceed incrementally, and subject to the results of planned testing and evaluation. The Secretary's report, detailing the anticipated future costs and objective schedule for the HAARP facility will trigger the release of funds authorized for fiscal year 1995 for the HAARP initiative. The Secretary should submit this report by February 1, 1995.

Mr. THURMOND. I join the chairman of the committee in endorsing this project, and concur that the Secretary's report should indicate the anticipated future costs and schedule for the HAARP facility.

Mr. STEVENS. Mr. President, I thank my two colleagues for their consideration of this matter, and their clarification of the committee's report. I look forward to working with them on this matter.

SECTION 2826

Mr. CHAFEE. I would like to engage the sponsor of section 2826 of S. 2181 in a colloquy concerning certain language in that section. As the Senator from Nebraska is aware, section 2826 authorizes the conveyance to the Hall County, NE, Board of Supervisors of property located in Hall County, NE, the site of the Cornhusker Army Ammunition Plant. Specifically, I would like to obtain his interpretation of the language in subsection (b), which states:

> The Secretary may not carry out the conveyance authorized under subsection (a) until the Secretary completes any environmental restoration required with respect to the property to be conveyed.

My understanding is that the Cornhusker Army Ammunition Plant, in Hall County, NE, has been listed on the national priorities list, and thus cleanup of contamination at this site is governed by the Federal Superfund Program, as established by the Comprehensive Environmental Restoration, Compensation and Liability Act or CERCLA. Under section 120(h) of CERCLA, the Secretary must, among other things, include in any deed transferring the Cornhusker site a covenant warranting that first, all remedial action necessary to protect human health and the environment has been taken before the date of transfer, and second, any additional remedial action found to be necessary after the date of transfer shall be conducted by the United States. Does the Senator from Nebraska agree that the phrase "completes any environmental restoration required" means compliance with CERCLA, including section 120(h)?

Mr. EXON. Yes, the Cornhusker Army Ammunition Plant is subject to all requirements of CERCLA.

Mr. CHAFEE. I thank the Senator from Nebraska. Thank you, Mr. President.

ANTIBOYCOTT PROVISIONS OF THE EXPORT ADMINISTRATION ACT

Mr. LEVIN. Mr. President, I rise to speak on a problem that has come to my attention concerning sales of military equipment to foreign nations and the antiboycott provisions contained in the Export Administration Act. Those provisions prohibit foreign nations from requiring U.S. persons to help them boycott countries or companies from boycotted countries that are friendly to the United States.

Mr. President, in the case of foreign military sales from the United States to foreign governments, our Government does not help foreign nations with their boycotts. But if a foreign country wants to purchase equipment through the foreign military sales channel and the Defense Department will not direct a sole source contract that has the same effect as a boycott, the foreign country has another channel to achieve the same goal. They can separate out the specific item of boycott interest and direct a U.S. company to buy it from a specific company, thereby excluding the boycotted company.

Although this option is apparently not a technical violation of our current laws against boycotts, it is not right. It permits a backchannel means of perpetuating a practice we all find reprehensible, as the antiboycott provisions of the Export Administration Act make clear.

Mr. President, I want to close off this possibility, and I want to work with the chairman of the Senate Banking Committee, Senator RIEGLE, whose committee which has jurisdiction over the antiboycott provisions of the Export Administration Act is in the process of reauthorizing that act, to help resolve this problem.

Mr. RIEGLE. I wish to thank my colleague from Michigan for bringing this matter to my attention and I share his concerns. The Senate and the House yesterday extended the current Export Administration Act for a 60-day period, since the act was scheduled to expire yesterday. During the period of interim extension, I plan to work with my friend from Michigan to see if we can find an appropriate way to resolve this problem with some germane language to the Export Administration Act.

END OF EMBARGO LONG PAST DUE

Mr. WELLSTONE. Mr. President, today we again consider alternative approaches to ending the UN-sponsored arms embargo on Bosnia-Herzegovina. We do so just a few short weeks after the Senator approved, by narrow margins, another pair of conflicting amendments on this issue. The first required the President to lift the embargo unilaterally, the second multilaterally. Believe it or not, the Senate approved them both.

At that time, I indicated that my patience regarding the embargo had worn thin. In my floor statement, I said:

> The senseless slaughter of innocent noncombatants, and the persistent ethnic cleansing campaigns, must be stopped by forceful NATO and UN action. We cannot continue to allow the UN and Bosnian Muslim forces to bear the brunt of persistent Serb harassment and attack. To do this, I believe we must lift the embargo—now. If possible, we should do it with the assent of the international community, in full recognition of the implications of that action.
>
> That has not always been my position. For many months, I opposed lifting the arms embargo. But I returned from my sobering trip last December convinced that the embargo policy is no longer sustainable. We must send a strong signal of our willingness to at least allow the Bosnian Muslims to defend themselves.

I still believe this, with all my heart. The genocidal violence that has wracked the Balkans must be stopped, and if we are unwilling to send U.S. troops to intervene in the war (and I believe that would be a serious mistake) then we should at least be willing to allow the Bosnian Muslims to better defend themselves. The arms embargo has unfairly, even though unintentionally, penalized the Bosnian victims of this conflict. It should be lifted now. But I do not believe that we should lift it unilaterally in the midst of delicate negotiations involving our allies and the warring parties, before taking into account the potentially grave implications of that decision for those negotiations, and thus for peace in the region. Requiring the President to unilaterally lift the embargo now could scuttle the last—albeit dim—hopes for peace in the Balkans for a very long time.

But despite progress toward a peace plan, prepared by the UN-sponsored "contact group" and scheduled to be finalized by U.S., Russian, and European foreign ministers in Geneva on July 5, we are now here debating these amendments. We are debating them now not because of anything happening in Bosnia, but because the Defense bill happens to be on the Senate floor. That is not the way to make policy. We should be developing or re-assessing U.S. policy in relation to the changing military and political situation in the Balkans, not the schedule of the Senate.

During the past week, I have consulted with many people about this issue—regional experts, concerned constituents, administration officials, and others. I have heard personally from President Clinton and his senior foreign policy advisors, and I understand the grave implications of this vote from the President's perspective for the peace discussions now underway. I urged the Majority Leader to make several key changes in the—amendment to reflect new developments in the peace discussions, to reiterate the requirement that the President shall promptly propose a resolution in the Security Council to terminate the arms embargo and, if that effort failed, to consult Congress within 5 days regarding its unilateral termination by the U.S. He agreed to make these changes.

In addition, I asked the Administration for a letter which outlined its plans for the future, and clarified U.S. intentions with respect to lifting the embargo. I ask unanimous consent that a copy of this letter be printed in the RECORD following my remarks. A key commitment made in the letter, from my perspective, was an agreement to consult with Congress immediately regarding the unilateral termination of the embargo should the peace negotiations collapse due to continued Serb resistance. With that assurance, I agreed to vote for the Nunn-Mitchell-Warner amendment, which included my changes, despite my serious doubts about the prospects for a peaceful solution. Even with those doubts, however, I do not believe we can afford to allow this last chance for peace to slip away. I have tried to responsibly weigh the risks for peace, and the profound consequences of our lifting the embargo unilaterally for the people of the Balkans and for the peace discussions as called for in the Dole amendment, and have concluded that it would severely undermine prospects for the negotiations.

But as I have said before, if the international community is unwilling to act to lift the embargo, and is unwilling to intervene more forcefully by military and other means to protect humanitarian aid delivery and noncombatant populations in the enclaves, then we must act to lift the embargo unilaterally, and provide certain limited and defensive military materiel, in the form of the heavy artillery and mortars which they lack, to the Bosnian Muslims. It is unjust and immoral to allow them to continue to be pounded by Serb attacks without adequate means of protecting themselves.

I will vote for the Nunn-Warner-Mitchell amendment, and against the Dole amendment, for the reasons I have described. Despite our differences, I know that my colleagues on both sides of this debate continue to share the same goal: to stop the killing and stabilize the situation in Bosnia so that a more just peace can be sought under the auspices of the international community. With the changes I have secured in the amendment, and the assurances I have received from the administration, I urge my colleagues to join me in supporting the Nunn-Mitchell-Warner amendment and opposing the Dole amendment.

DEPARTMENT OF STATE,
Washington, DC, July 1, 1994.

Hon. GEORGE J. MITCHELL,
U.S. Senate.

DEAR SENATOR MITCHELL: I am writing to reaffirm the Administration's support for lifting the international arms embargo on the former Yugoslavia imposed by United Nations Security Council Resolution 713 of September 25, 1991. It has been our long-held view that the arms embargo has unfairly and unintentionally penalized the victim in this conflict and that the Security Council should act to remedy this injustice. At the same time, as you know, there has been no international consensus to take this step and acting unilaterally to lift the embargo would have grave policy implications that we would all have to be prepared to live with, were we to take this course.

That said, in recent days the efforts of the Contact Group have helped to move us significantly closer to an international consensus for lifting the embargo in the event the Bosnian Serbs remain the obstacle to a peace settlement. While there are still some very minor refinements to be made, they will be ironed out early next week, and the peace proposal will be reviewed by foreign ministers in Geneva on July 5 and presented to the parties very shortly afterward as a reasonable basis for a peaceful settlement. Along with this proposal, it is expected that the parties will be presented with a package of incentives and disincentives designed to maximize the chances of their accepting the proposed compromise.

This package embodies a phased approach that seeks to steadily escalate pressure on the Serbs to agree to the major territorial concessions required by the Contact Group proposal. Due to our very strong insistence, this package includes lifting the arms embargo as one of the possible consequences of a Bosnian Serb rejection of the territorial proposal. In this regard, if we determine after consulting with our Allies and Russia that the Contact Group negotiations have not produced the results we seek, you can be sure that we will take the lead in pressing for implementation of this part of the incentives package. To this end, we would take immediate steps to propose or support a resolution at the United Nations Security Council to terminate the arms embargo on Bosnian and Herzegovina. Further, if the Security Council for some reasons fails to pass such a resolution, the Administration would consult with Congress immediately thereafter regarding possible further action, including unilateral termination of the arms embargo as called for in the Mitchell amendment to S. 2042 of May 12, 1994.

I hope this clarification of the Administration's intentions regarding the arms embargo on the former Yugoslavia is helpful to you as the Senate considers the implications of unilateral action on the Bosnian arms embargo. The Administration strongly prefers the alternative you have introduced with Senators Nunn, Warner, Kassebaum and Robb to that introduced by Senator Dole and others.

Sincerely,

STROBE TALBOTT,
Acting Secretary.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Madam President, I announced earlier that there would be no rollcall vote on final passage of this bill, and that will be the case. There will be no more rollcall votes this evening.

The next rollcall vote will occur on Tuesday, July 12. I will have a more detailed announcement on it momentarily. In response to questions by some Senators during this vote, we will have a recorded vote on the conference report when this measure comes back from conference. So Senators will have an opportunity to vote on the conference report on this measure. I thank the chairman and ranking member for a truly outstanding job in pushing this very difficult bill through to this stage. I appreciate their efforts and the cooperation of all Senators.

Mr. NUNN. Madam President, I thank the leader and, of course, I say, as I have said so many times, without the leader basically making his time available to arrange time agreements and to consult with Senators and to take all the steps that are necessary—not seen, but are absolutely essential—to make a bill like this one go through, we could not do it.

So I say to the leader, my friend, Senator MITCHELL from Maine, I thank him very much and all of his very capable staff and all of the floor staff. The floor staff is absolutely superb. We are blessed on both sides of the aisle with very capable people on the floor staff.

We are not through yet, but I thank all of my staff. Arnold Punaro, David Lyles, Andy, John, the whole crowd in the back there, Dick, P.T., Monica, Danny, Frank, and Rick; they all do a terrific job, and we are very grateful to them. We are blessed with a professional, superb staff that are not only qualified in every respect, but have unquestioned integrity. I am thankful to all of them. I know Senator THURMOND feels the same as I do about the capable staff.

COMMAND OF U.S.S. "JOHN S. McCAIN"

Mr. NUNN. Madam President, tomorrow at the highly accomplished shipyard at Bath Iron Works in Bath, ME, a very important ceremony will take place. We will have two of our Senators there, two members of the Armed Services Committee, Senator COHEN and Senator McCAIN. The ceremony taking place is the commissioning of the Aegis destroyer, the *John S. McCain*.

This is the second major naval combatant named in honor of the McCain family, which includes three great Navy heroes: Our own distinguished colleague, Senator JOHN S. McCAIN; his father, John S. McCain, Jr.; and his grandfather, Adm. John S. McCain. Admiral McCain, Jr. and Admiral McCain, Sr. will be the names the ship will bear.

The ship will be appropriately homeported in Pearl Harbor in the Pacific where all three McCains served with such great distinction.

The senior Adm. John S. McCain served as a carrier task force commander in World War II; his son Adm. John S. McCain, Jr., was Commander in Chief of the U.S. Pacific Command. His son, retired Navy captain and now U.S. Senator JOHN S. McCAIN fought in the Vietnam conflict and, we all know, was shot down and was a prisoner of war.

Cindy McCain is the sponsor of the ship. I know an impressive contingent from the Senate will join her and her husband at this exciting event for the McCain family, marking an important addition to our defense capability.

I know all my colleagues in the Senate join me in saluting the McCain family, sending our best wishes and congratulations on this important occasion and wishing the U.S.S. *John S. McCain* (DDG-56) "fair winds and following seas."

I know we will all be with them tomorrow in spirit.

Mr. MITCHELL. Madam President, I thank the distinguished chairman for his comments.

I had the pleasure of attending and speaking at the launching of the U.S.S. *John S. McCain* at the Bath Iron Works, Maine's largest employer, and one of the greatest contributors to the national defense with an outstanding record of superb shipbuilding for over a century.

In the 15 years I have served in the Senate, I have attended all but one of every launching and commissioning that has happened at the Bath Iron Works. I regret very much I will be unable to attend tomorrow's commissioning because I will be in a meeting of the Senate Finance Committee at which time we are marking up the health care bill.

I assure my colleagues and my friends at Bath Iron Works I would much prefer to be in Bath tomorrow, but that will not be possible.

We hope to complete action on the health care bill in the Finance Committee tomorrow.

So I extend my best wishes to all concerned and my congratulations especially to our colleague and friend, Senator McCain.

Mr. NUNN. Madam President, I believe Senator THURMOND maybe would like to make a statement now and we have a number of cleared amendments, and then we are about to wind this one down.

Mr. LEVIN. Madam President, will the Senator from South Carolina yield?

Mr. THURMOND. I am pleased to yield.

The PRESIDING OFFICER. The Senator from Michigan [Mr. LEVIN] is recognized.

ADVANCED FIELD ARTILLERY SYSTEM

Mr. LEVIN. Madam President, I rise to speak on the Advanced Field Artillery System, or AFAS. This is an issue that was treated during the Committee markup, in the Subcommittee that I chair, and because of new developments it is important to review the language in the Subcommittee report that is now part of the Committee's report.

Madam President, the AFAS system is our next generation field artillery system, and the program has undergone numerous changes during the last year. The Armed Services Committee approved full funding for the program, but the Committee report noted two basic concerns. The first concern was the Army's reliance on a liquid propellant gun technology that is not mature. The second concern was the lack of an acquisition strategy by the Army and the lack of Pentagon approval of such a strategy.

Because of these concerns, the Subcommittee I chair recommended that the Army delay issuing the Request For Proposals (or RFP) until: First, the Defense Acquisition Board reviews the program later this year; second, the Army justifies its reliance on the LP gun technology, and third, the Pentagon has approved the Army's acquisition strategy.

Madam President, in light of numerous developments since our markup, the recommendation is no longer necessary. I am concerned that the language in our report may cause the Pentagon to believe that the Committee does not fully support the AFAS program and thus may withhold funds from the program, or delay it in a manner that undermines the program. I want to state that the Committee did fully fund the program, which reflects its strong support, and would not want to see the program cut or delayed in such a manner.

Madam President, I wish to describe briefly the reasons why. Earlier this year, the Army had a draft acquisition strategy for the AFAS that was flawed. I worked with the Department of the Army and of Defense to help correct that strategy. The Armed Services Committee staff also reviewed this issue and recommended a course of action, including a delay in issuing the Army draft RFP.

The Army then changed its acquisition strategy to achieve many of the important objectives lacking in the first Army acquisition strategy. At the time of our markup, the Army had not finalized its new acquisition strategy, as the Committee report notes. But since then, the Army has adopted an acquisition strategy that is sound, and which the Department of Defense approves.

In addition, the Army has taken important steps to establish an alternative technology for the AFAS gun, called "Unicharge," that will provide an important fallback in case the liquid propellant gun technology does not prove successful.

So, Madam President, the Committee's two primary concerns have been addressed since our markup, and I wish to express my view as Chairman of the relevant subcommittee that it is not necessary that the Army delay issuing the Request For Proposals. The developments that have taken place since our markup satisfy my primary concerns about the program. I believe the Army should issue the RFP when it is ready to do so, and I believe the Subcommittee would agree with my assessment.

I thank the Senator.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Madam President, I wish to associate my remarks with the able chairman of the Armed Services Committee in what he had to say concerning of passage of this bill and also concerning the McCain family, who have rendered a great service to our Nation. Three generations have served, and we are very proud of them.

Madam President, we have completed many long and arduous hours of debate on this Defense bill; therefore, I will be brief in my closing comments.

It has been my privilege to have served on the Senate Armed Services Committee since 1959, the last 21 years with my friend and colleague, the able Chairman of the Armed Services Committee, Senator NUNN. Together, we have worked on many defense bills—always with the goal to provide resources and the best technology for the finest Armed Forces in the world.

Although it does not provide everything we both wanted, and in my judgment, is bare bones, this bill will allow our Armed Forces to provide a defense that meets the needs of the coming fiscal year.

Madam President, as I said in my opening statement on this bill, the budget level we considered is the lowest in terms of percentage of gross domestic product since 1948. It represents 17 percent of the Federal budget, which is the lowest since 1940. Despite these startling statistics as well as the comments of our service chiefs that we are on the razor's edge in terms of readiness, the administration is calling for another 10 percent reduction in the Defense budget over the next 4 years. During the debate on this bill, the Senate vetoed several amendments that would have had an adverse impact on readiness. I am putting the administration on notice that we will also veto future Defense budgets that put readiness at risk.

Madam President, the successful conclusion of the bill was achieved by the hard work of many people: the Senators who brought up the many thoughtful and productive amendments; the Senate floor staff, on both sides, who skillfully guided our debate; my colleagues on the Armed Services Committee; and Senator NUNN, whose skillful leadership and management of this bill made it appear deceptively easy. I thank each of them for their hard work and contribution in finalizing the national defense authorization bill for fiscal year 1995.

I also want to express my appreciation to Mr. Greg Scott and Mr. Charlie Armstrong, from the Legislative Counsel's Office, for their work on drafting and correcting the bill and the many amendments that were considered during this process. They do not get much visibility, but they deserve a great deal of the credit for the successful completion of this bill.

Finally, Madam President, I want to recognize the hard work of the Armed Services Committee staff. Under the leadership of Richard Reynard and Arnold Punaro, the staff worked untold hours in preparing briefing/background papers and assembling information so that the Senate could make the decisions that we reached today.

I ask unanimous consent that a list of the entire Armed Services Committee staff be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

SENATE ARMED SERVICES COMMITTEE STAFF

MINORITY

Dick Reynard, Charlie Abell, Les Brownlee, Chris Cimko, Menge Crawford, Don Deline, Jon Etherton, Pamela Kidd, Melinda Koutsoumpas, George Lauffer, Steve Madey, Jack Mansfield, Tom Moore, Joe Pallone, Steve Saulnier.

MAJORITY

Arnold Punaro, Kathy Bognovitz, Jamie Bond, Monica Chavez, Dick Combs, Kelli Corts, Christ Cowart, Madelyn Creedon, Rick DeBobes, Marie Dickinson, John Douglass, Debra Duncan, Andy Effron, Rick Finn, Dave Fuchs, Danny Ginsberg, Shelly Gough, Creighton Greene, P.T. Henry, Bill Hoehn, Julie Kemp, David Lyles, Kirk McConnell, Mike McCord, Frank Norton, Kathleen Paralusz, Cindy Pearson, Jeff Record, Jacki Spivey, Christy Still, Jan Wise.

Mr. THURMOND. Madam President, it is to the Senate's credit that we completed the Defense bill before the Fourth of July recess. What an appropriate way to celebrate the birth of our great Nation by restating our ongoing commitment to its security. I wish everyone a glorious Fourth of July and look forward to bringing before the Senate the conference report on this bill.

As I understand it is agreeable that we will have a final rollcall vote on the conference report.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I thank the Senator from South Carolina and thank him for his superb job as usual on this defense bill. Without him, we could not pass this bill. Without him, we would not have the kind of defense bill that we do.

Madam President, one of the highlights of my year and I suppose one of the highlights of my last several years was going to the Normandy commemoration this year, seeing the veterans there who had sacrificed so much and risked so much 50 years ago.

Senator THURMOND did not get to go. I believe he was probably the only World War II veteran who was attending a high school graduation of one of his own children. But that is the reason he did not get to go.

But our committee rejoiced with him when we returned by having a very private committee celebration of his participation in Normandy.

The interesting thing about our colleague from South Carolina is when he joined up to go into World War II he was already 41 years old at the time. I doubt that that happened on very many occasions. He not only volunteered to go to war, he volunteered to take perhaps the most dangerous mission anyone volunteered for. That was to be in one glider that went in in the Normandy invasion.

We represented Senator THURMOND at Normandy at this 50 year anniversary but not nearly so well as he represented this country 50 years ago in his service, his courage and his dedication.

He has continued that same pattern of courage and dedication and absolute commitment to our Nation's security in his entire public career.

So, Senator THURMOND, we are grateful to you and we continue to be grateful for your service, not only now but everything you have done over the years for this country. You have been a wonderful public servant and you are a tremendous colleague here on the floor and in this committee.

Mr. THURMOND. Madam President, I thank the chairman for his kind remarks.

I have been in the Senate now almost 40 years and I want to say I have not served with a more able chairman of the Armed Services Committee than our able chairman now. We have had many fine chairmen, but none have served more ably and been more dedicated than Senator NUNN.

Mr. NUNN. I thank my friend and colleague.

Madam President, I believe we are prepared to go through a number of other amendments that have been worked out on both sides of the aisle.

AMENDMENT NO. 2213

(Purpose: To strike section 3154, relating to the transfer of the responsibility for the production of tritium from the Department of Energy to the Defense Nuclear Agency)

Mr. NUNN. Madam President, the first amendment that I send to the desk is an amendment on behalf of Senator JOHNSTON. I ask that the amendment be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. JOHNSTON, proposes an amendment numbered 2213.

Mr. NUNN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 366, line 5, strike "TRITIUM PRODUCTION." and all that follows through page 367, line 15 and in lieu thereof insert: "Nuclear Weapons Council Membership. Section 179(a)(1) title 10, United States Code, is amended to read as follows: '(3) Two senior representatives of the Department of Energy appointed by the Secretary of Energy.'"

Mr. NUNN. Madam President, this amendment would strike the section in the bill transferring responsibility for new tritium production from the Department of Energy to the Defense Nuclear Agency.

In addition, the amendment would add an additional representative from the Department of Energy to the Nuclear Weapons Council, bringing the DOE membership on the Council to two.

Madam President, this is a provision that we have talked about a great deal. Our committee is not satisfied with what the Department of Energy has done in this area. Senator JOHNSTON knows that.

We have talked to the Secretary of Energy about it. We have gotten certain commitments that we hope will be completely implemented and fulfilled from the Department of Energy. So we are reluctantly agreeing to change this provision in our bill which would have transferred responsibility from the Department of Energy to the Defense Nuclear Agency for tritium production.

I know Senator THURMOND has a statement on this. He at this stage has some reluctance on this amendment, but I would defer to him for any comment on this amendment.

This amendment is not yet agreed to, Madam President. I hope the Senator from South Carolina will agree, but at this stage he has certain reservations.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Madam President, this amendment troubles me very much, and it should trouble all Senators. Before I begin, I want to commend the distinguished Senators from Georgia and Nebraska for their perceptive insight into the mess at DOE. I was very much heartened when the Senator from Nebraska included in his subcommittee markup this provision to transfer responsibility for tritium production from DOE to DOD. I was heartened because I feel that we can trust the Department of Defense to do everything it can to ensure that the nuclear stockpile does not wither away for lack of tritium, whereas I believe that the Department of Energy no longer deserves our trust in this matter. It is so important, so imperative, to the Department of Energy to allow its policy to be molded and formed by so-called stakeholders such as the Natural Resources Defense Council and other anti-military special interest lobbies. It is so important to them to have the cachet of antinuclear groups that DOE is willing to put us at risk of losing our nuclear stockpile by cunningly devised deferral and delay.

Madam President, I wish to be more specific about these DOE plans.

First, Mrs. O'Leary truly has surrounded herself with a team of professional antinuclear activists. It appears that all her close advisors have worked for most of their professional lives to rid the world—or at least the United States—of all things nuclear. It appears she has no advisors who are seasoned, experienced veterans of work in the trenches of national security. It appears that the men who built our successful nuclear deterrent have no impact and are ignored. It is said that one of the first things Mrs. O'Leary did at DOE was to take down the pictures of nuclear warships, like the *Nautilus*. That was a symbolic indication of what was to come.

Second, DOE keeps delaying the start of a new tritium source. Last year, DOE told us that they needed to begin construction of a new reactor by the year 1999. This week, they say it is 2000. Are we going to see a delay of 1 year per year? I would not be surprised. They are looking for every excuse not to start a reactor. I understand that; I understand why Mrs. O'Leary's league of antinuclear activists cannot bring themselves to start building a reactor. How could they face their professional peers? In fact, I am willing to go on record today with a prediction that the environmental impact statement on new tritium production capacity, due next spring, will choose the alternative of trying to use an existing commercial light-water reactor to make tritium for nuclear weapons. That way, this antinuclear crowd will not have to put a nuclear reactor in their DOE budget; and, what is even better, making tritium in a commercial reactor will immediately become a focus of attack for blurring the civil-military barrier more acrimony, and more delay.

Third, it does not matter to the policy team at DOE that they are putting us at risk of running out of tritium. As it is, their "best case," that they can have tritium production by 2009, only works if they eat into our tritium reserve. But what happens if we need more tritium than they plan? DOE admits, in the report on New Tritium Production Capacity submitted June 24, that "the date by which new tritium production capacity would be needed can move up or back * * * by several years." Madam President, I ask that this report, and the accompanying letter from the Secretary of Energy, be placed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. THURMOND. If this happens, and DOE admits that it could, we run out of tritium. We start losing nuclear weapons at the rate of hundreds per year. Madam President, why wouldn't DOE do the natural thing in a case like this: Accelerate their new production reactor program to avoid this disaster? That would mean that these former denizens of antinuclear lobbying groups would have to advise the Secretary to start a new reactor now, before it is too late. I cannot believe they will ever do that.

Fourth, even in the face of an emergency, this Department of Energy will never seek exemptions to the National Environmental Policy Act for any nuclear activities. This is particularly galling to South Carolinians. We have dangerous radioactive solutions in our canyons there. We have aluminum-clad fuel sitting corroding in pools of water. Rocky Flats, in Colorado, has plutonium metal in unsafe, inflammable form. But will DOE declare an emergency to circumvent an environmental impact statement so they can process these materials to a safe form? No, of course not; not for a nuclear project. They will enforce enormously expensive procedures to make radiation exposures as low as reasonably achievable on other projects; but here, where radiation exposure is clearly higher due to DOE's failure to act, they do nothing. But, let it be a pet project of theirs, let it be an environmental project to build a water system for a town in Colorado, let it be the importation of foreign reactor fuel to store at Savannah River, then DOE declares an exemption to NEPA, so that no EIS is needed. It is all right for this Department of Energy to declare NEPA exemptions for projects that pass their test of "no nukes."

Madam President, I do not trust DOE. Many Senators do not trust DOE. If they want to earn our trust, they will have to show us that the man in charge of national security programs, Secretary Curtis, is not dominated by antinuclear policy advisors and can fix this program.

So, Madam President, I am disappointed that the chairman has decided to remove this provision which would put our nuclear defense in safe hands again. Recently, so I am told, the chairman, the Senator from Nebraska, and the Senator from Louisiana met with the Secretary of Energy and her deputy on this matter, and received assurances that DOE would not continue to allow its national security policy to be dominated by antinuclear extremists.

EXHIBIT 1

THE SECRETARY OF ENERGY,
Washington, DC, June 24, 1994.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Enclosed is the second annual report to Congress on the Development of New Tritium Production Capacity under section 3134 of the National Defense Authorization Act for Fiscal Year 1993. The four technologies assessed to be technically adequate for the new tritium capacity are: the heavy water reactor, the modular high-temperature gas-cooled reactor, the light water reactor and the proton linear accelerator. With regard to light water technology, the Department is evaluating both advanced light water designs for a new facility and potential use of existing commercial reactors if a new facility is not constructed. This report considers only options requiring new construction.

Based on the current stockpile projections outlined in the FY 1994–FY 1999 Nuclear Weapons Stockpile Memorandum approved by the President on March 1, 1994, the Department estimates that a new tritium production source should begin operations in fiscal year 2009. To meet this date, construction should begin by approximately fiscal year 2000 to 2001 for the reactor technologies and in fiscal year 2003 for a proton linear accelerator.

Further reductions in the weapons stockpile and reduction of working inventory levels of tritium could be indicated by the Department of Defense Nuclear Posture Review. This would provide additional time before a new tritium production source is needed. In that event, a revision of the estimated dates associated with new tritium production capacity will be provided to Congress. New estimates could be provided, for example, in the report required by section 3145 of the National Defense Authorization Act for Fiscal Year 1994, which relates to tritium contingency options.

The Department of Energy and the Department of Defense are continuing to work together to assure that sufficient levels of tritium are available to support stockpile requirements and that a contingency plan is available to address unforeseen tritium needs.

If you have further questions, please call me, or have a member of your staff contact D. Vic Reis, Assistant Secretary for Defense Programs. He can be reached on 202-586-2179.

Sincerely,

HAZEL R. O'LEARY.

REPORT TO CONGRESS ON THE DEVELOPMENT OF NEW TRITIUM PRODUCTION CAPACITY

UNDER SECTION 3134 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993

JUNE 1994 APPENDIX A

EXECUTIVE SUMMARY

Section 3134 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484) requires the Secretary of Energy to provide annually a report to Congress on the development of new tritium production capacity. This is the second report responding to that direction.

This report provides a revised estimate of the date by which new production capacity will be necessary and a revised estimate by which construction of such capacity should begin, based on current assumptions. As in the previous report, part of the five-year tritium reserve would be depleted to bridge a two-year shortfall after which the reserve would be replenished. The report discusses uncertainties associated with current assumptions and the impact on the date for a new production capacity and the associated date for construction. This report also addresses the relationship of new tritium production capacity with the plutonium disposition options and discusses the ongoing planning for tritium schedule contingencies.

Based on the current stockpile projections outlined in the approved FY 1994-FY 1999 Nuclear Weapons Stockpile Plan, the Department estimates that new production capacity should begin operations in fiscal year 2009. To meet this date, construction should begin by about fiscal years 2000 to 2001 for the reactor technologies and in fiscal year 2003 for a proton linear accelerator. Further reductions in the weapons stockpile and reduction of working inventory levels of tritium could provide additional time before a new tritium production capacity is needed.

The Nuclear Weapons Complex Reconfiguration Programmatic Environmental Impact Statement will be addressing these technologies in detail to support eventual decisions on the technology and location for a new tritium production source. The Draft Programmatic Environmental Impact Statement will be available for public comment beginning March 1995.

I. INTRODUCTION

A primary mission of the Department of Energy is to support national security by maintaining the nuclear weapons stockpile, including providing nuclear materials to meet national defense requirements as determined by the President. Tritium, a radioactive gas with a decay half life of 12.3 years, is one of the nuclear materials most critical to the Nation's nuclear deterrent. Because tritium must be replenished, the Nation's nuclear defense program requires a steady, assured supply to ensure its availability for the enduring stockpile. Currently, the United States does not have any tritium production capacity available.

This is the second of the annual reports responding to the requirement contained in section 3134 of Public Law 102-484 for a report on the new tritium production capacity of the Department of Energy. The previous report (Ref 1-1) described the bases for the selection of the four methods (technologies) for the production of tritium and assessed the capability of potential suppliers to support the technologies. The selections were based on assessments of the technical risk of each technology and considered such factors as cost, safety, enviromental impacts, and technical maturity. The previous report also included estimates of the dates for the availability of a new production capacity and for the initiation of construction of the new capacity, based on assumptions at the time.

This report provides a revised estimate of the date by which new production capacity will be necessary and a revised estimate by which construction of such capacity should begin, based on current assumptions. As in the previous report, part of the five-year tritium reserve would be depleted to bridge a two-year shortfall after which the reserve would be replenished. The report discusses uncertainties associated with current assumptions and the impact on the date for a new production capacity and the associated date for construction. This report also addresses the relationship of new tritium production capacity with the plutonium disposition options and discusses the ongoing planning for tritium schedule contingencies.

This report will be submitted annually until the construction of the new tritium production capacity is completed, as required by secton 3134.

2. DATE FOR NEW PRODUCTION CAPACITY

The date for a new production capacity is based on an analysis that considers such factors as the current tritium supply, the estimated size and composition of the active stockpile, the need to maintain the five-year reserve, the tritium decay rate, non-defense uses of tritium and the amount of tritium recovered from decommissioned weapons. The analysis appears at Appendix A (classified).

Based upon current assessment of the stockpile needs outlined in the approved fiscal years 1994-99 Nuclear Weapons Stockpile Memorandum, delivery of required quantities (⅜ goal quantity[1]) of new tritium to the stockpile is estimated to be required by fiscal year 2011, or one year later than previously reported. To achieve this goal, the new production capacity would need to start producing tritium by approximately fiscal year 2009.

The date by which new production capacity would be needed is significantly influenced by the projection of the size and composition of the enduring stockpile in the next century, which are uncertain factors. The Nuclear Weapons Stockpile Memorandum may be affected by the Nuclear Posture Review being conducted by the Department of Defense in response to a changing international environment. In addition to the uncertainties related to the size and composition of the enduring stockpile, other significant assumptions relate to tritium requirements for non-defense needs, the need to maintain a five-year reserve of tritium to support the enduring stockpile, and the assumption of indefinite cessation of nuclear testing. Based on the particular selection of parameters for all of the uncertain factors, the date by which new tritium production capacity would be needed can move up or back from fiscal year 2011 by several years.

3. DATE FOR THE CONSTRUCTION OF NEW PRODUCTION CAPACITY

The four technologies (methods) considered for the new production capacity are: (1) A heavy water reactor; (2) a high temperature gas-cooled reactor; (3) a light water reactor; and (4) a proton linear accelerator. The estimated duration of construction for these technologies differ in relation to the complexity of construction. The previously reported construction start[2] dates for these technologies were based on a conservative schedule, allowing for contingencies in the pre-construction, construction, and pre-operational phases.

Based on the date of fiscal year 2011 for the need for new tritium production capacity cited in the above section, the projected construction start dates would be approximately fiscal years 2000 to 2001 for the reactor technologies and fiscal year 2003 for the proton linear accelerator. In addition, the previous report cited that construction of the technologies would have to be preceded by approximately five years of research, development, testing, contractor selection, engineering, regulatory review and site selection.

The Department of Energy is preparing an Environmental Impact Statement on a new tritium production capacity. A Draft Programmatic Environmental Impact Statement is expected to be issued by March 1, 1995, and a Final Programmatic Environmental Impact Statement will be issued to enable the Secretary of Energy to issue a Record of Decision on the site and technology for a new tritium production capacity by the end of calendar year 1995. The Department of Energy has prepared a Tritium Supply Plant Roadmap (Ref 3-1) to provide a comprehensive planning tool to support the decision process leading towards a new tritium production capacity.

The Department of Energy is undertaking a statistical risk-based approach to attempt to quantify the incremental risk assumed by deferring the initiation of construction and preconstruction activities. This approach will permit more flexibility in the decision process in an era of budget constraints in determining a date for the start of construction. Complementary to accommodating uncertainties in meeting the date for a new tritium production capacity, the Department of Energy is preparing a Tritium Contingency Report (See section 6).

4. METHODS AVAILABLE FOR THE PRODUCTION OF TRITIUM

The technologies (methods) selected in the previous report and still considered technically adequate are: (1) A heavy water reactor; (2) a high temperature gas-cooled reactor; (3) a light water reactor; and (4) a proton linear accelerator. Of the technologies selected in the previous report, the Department of Energy assessed that the proton linear accelerator technology needed to be further developed to approach the level of detail available for the reactor technologies. The Department of Energy continues to develop engineering and cost data for the proton linear accelerator to reduce the technical risk associated with this option. The information that is being developed includes preparing a pre-conceptual design and performing testing relating to accelerator performance and environmental and safety characteristics.

5. CAPABILITY OF POTENTIAL SUPPLIERS

The previous report concluded that sufficient industrial support exists to establish new production reactor capacity, provided sufficient lead time is available and foreign vendors can be used where required. This conclusion is unchanged.

6. ACTIONS TO ADDRESS TRITIUM SCHEDULE CONTINGENCIES

In conjunction with the Department of Defense, the Department of Energy is assessing potential contingency actions to be taken in the event that new production capacity is

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Footnotes at end of article.

not in place in time to satisfy tritium demand requirements. These contingencies address mitigating a potential shortfall in our tritium inventory which could arise as outcomes of events such as those listed in Section 2. A formal report previously submitted to the Congress examines tritium supply and demand contingency options.

7. RELATIONSHIP TO PLUTONIUM DISPOSITION OPTIONS

In reports accompanying the fiscal year 1993 and 1994 Energy and Water Development Appropriations Acts, the Department of Energy was requested to study the viability of reactor options for the disposition of excess plutonium in conjunction with the potential to produce tritium collaterally. Based on its early reviews, the Department of Energy concluded in Ref 7-1 that three different reactor concepts could be used to dispose of plutonium and collaterally produce tritium. The Secretary in January created a Department-wide project to review all options available for the disposition of plutonium, including reactors. The selection of a preferred alternative for plutonium disposition will be made in time to be included in the draft Programmatic Environmental Impact Statement covering disposition of plutonium when the draft is published for public comment. This is scheduled for August 1995. If a reactor were to be selected for the plutonium disposition mission its ability to perform the tritium production mission also could be evaluated. Subsequent to the selection of generic technologies, additional time may be required to support site and specific technology selections. The Department of Energy will continue to assess the possibility and plan accordingly.

8.0 REFERENCES

1–1. Report to Congress on the Development of New Tritium Production Capacity, U.S. Department of Energy, June 1993.

3–1 Tritium Supply Plant Roadmap, U.S. Department of Energy, Office of Weapons Complex Reconfiguration Program, Draft C, December 28, 1993.

7–1 Plutonium Disposition Study, U.S. Department of Energy, July 2, 1993.

FOOTNOTES

[1] The "goal quantity" refers to the new production capacity determined to have been required in 1988 to support the nuclear weapons stockpile requirements. The present goal is now 3/8 of the 1988 goal.

[2] Start of construction is defined here as the placing of concrete for the first major tritium supply structure. Site preparation and clearing work would be required approximately one to two years earlier.

Mr. NUNN. Madam President, I hope the Senator from South Carolina will agree to this amendment. I know that it gives him a great deal of trouble. I have talked at length with Senator JOHNSTON, the head of the Energy Committee, on this. I know that he has talked to the Senator from South Carolina. He has pledged to me to monitor this very carefully and he has pledged to see that the Department of Energy, to the extent that he can as committee chairman, carries out its commitments and exercises much more dedication and vigilance in this area than they have in the past.

So I hope that the Senator will be willing to accept this amendment.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Madam President, in view of the assurances given to the Senators I mentioned, I am willing to yield to the opinion of the chairman, whose advice has been so wise in the past. But I assure the Senate and DOE that I will be watching.

Mr. NUNN. I thank the Senator frcm South Carolina.

Madam President, the Defense authorization bill for fiscal year 1995 contained a provision that would transfer the responsibility for the production of tritium to the Defense Nuclear Agency. This transfer would occur beginning in fiscal year 1996 and would include the responsibility for new production of tritium that would be required after 2009. As contemplated under the provision, the Department of Energy would retain all of the tritium handling responsibility, by the DNA would be responsible for manufacturing the tritium. Once produced by the DNA, the tritium would be delivered to the DOE for weapons replenishment and other purposes.

This provision is clearly a departure from the past practice and, understandably, not supported by the Department of Energy.

The situation which the United States is currently facing is also a departure from past practice. There is a very real concern that the Department of Energy may, for the first time, not be able to meet its future tritium production requirements.

Tritium is a key component to maintaining a reliable nuclear weapons stockpile. Unlike the other materials in nuclear weapons—plutonium and uranium—tritium decays very rapidly and must be replaced. Half of any given quantity of tritium disintegrates in 12.3 years.

We still need a supply of tritium beginning after 2008. The important and far reaching arms control agreements, such as START I and START II have allowed a reduction in the amount of tritium that is needed and have pushed into the future the date when new tritium is required. But even though that the amount is reduced to less than half that of what was contemplated just 6 years ago, and the time when the new tritium is needed has been extended to 2009, the DOE must still begin to plan to meet the reduced requirement on a timely basis.

Several years ago we were able to defer the tritium production plans. But we are now at the end of that deferral period. Planning must resume.

The Congress, through the Armed Services Committee and the Energy and Water Appropriations Committee has an obligation to ensure that the nuclear weapons stockpile is adequately funded and maintained.

For that reason I am concerned that the Department focus serious effort and attention on tritium production. Over the past few weeks, Senator EXON and Senator JOHNSTON and I have discussed the tritium issue with Secretary O'Leary and are cautiously optimistic that the DOE will actively and seriously engage in planning for and meeting future tritium production requirements.

Mr. JOHNSTON. I fully agree with the Senator from Georgia that we need a new tritium source and that the Department of Energy needs to begin planning for it now. Were I to agree that the Department of Energy is unable or unwilling to provide that source, I would support transferring the responsibility to an agency that would do the job.

But I am not convinced that the situation justifies so drastic a solution at this point. To the contrary, I suspect that transferring DOE's tritium responsibilities to the Defense Nuclear Agency, which has no experience in this line of work, could well delay the day when a new tritium source comes on line.

The Defense Nuclear Agency is now engaged in nuclear weapons effects research and testing. It has no expertise in producing tritium. It has no facilities for producing this material. It has never built or operated a tritium production reactor. It has never tried to get a license from the Nuclear Regulatory Commission to build or operate a reactor. It may not be fully covered by the Price-Anderson Act indemnification scheme.

Tritium production would become an anomaly within the weapons complex. The Department of Defense would still be dependent upon DOE to design, test, manufacture, assemble, and retire warheads, of which tritium would be only one of many component parts. Indeed, DOE would still be responsible for handling and processing the tritium that is produced by DNA.

Giving the Defense Department responsibility for producing tritium also runs counter to the need to maintain civilian control of the production of nuclear weapons materials, which has been bedrock principle of our nuclear weapons program for nearly 50 years. While the military has gained custody over finished weapons over the years, the production responsibility and control of the technical expertise has remained in civilian hands in the Department of Energy and should continue to do so.

I think we should be spending our time and effort fixing what is wrong at the Department of Energy rather than starting from scratch with another agency.

This provision has already helped focus the Department of Energy's attention on the problem. The Department is now in the process of evaluating potential tritium sources and will complete the NEPA process on a new source next year. The administration has committed to request funds for new tritium supply in next year's budget. The Secretary of Energy has given us her personal assurances that the Department will meet its national security responsibilities.

I would urge the managers of the bill to accept these assurances and agree to strike the transfer provision. Leave the tritium production responsibility where it is and let the committee of jurisdiction work together to see that the Department fulfills it.

Mr. EXON. As chairman of the Armed Services Subcommittee responsible not only for the Department of Energy National Security Programs, but all of the Strategic Programs at the Department of Defense, an assured future supply of tritium is a key concern. I am pleased that the Department of Energy is committed to its National Security Mission, including the production of tritium. Secretary of Energy O'Leary has recently reaffirmed her commitment to national security and to begin the process for planning a new supply of tritium.

The second annual tritium production report recently submitted by the Department lays out tentative schedules for addressing the tritium production issue. In this report DOE indicates that new tritium production must be in place to produce tritium by 2011. Production by 2011, while eating into the reserve of tritium, would fulfill the Department's responsibilities for tritium production.

In the report, DOE also indicates that the nuclear posture review now in progress, may change the tritium requirements. While, it clearly would be beneficial to DOE, from a planning and budgetary perspective, if the nuclear weapons stockpile was reduced to below START II stockpile levels, this is not a certainty. We must keep in mind that as welcome as additional multilateral reductions in nuclear weapons would be, the START II agreement has not been ratified.

Thus, until there is a significant change in our nuclear posture we have no choice but to work to ensure that there is an adequate supply of tritium in the future.

If the nuclear posture review requires an increase in the amount of tritium required or we need the tritium sooner than anticipated, the Department should be prepared to submit a reprogramming request, if necessary, to address an acceleration of the requirement.

Mr. NUNN. Senator JOHNSTON, Senator EXON, Senator THURMOND, and I, remain concerned about the tritium supply and the Department of Energy's ability to meet its national security obligations. However, with the personal assurances and the commitment of both Secretary of Energy O'Leary and Under Secretary Curtis, that they will carry out the necessary planning and other activities to ensure an adequate supply of tritium, I have reluctantly agreed to remove the provision, which would transfer responsibility for tritium production to the Defense Nuclear Agency, from the authorization bill is appropriate at this time. We will work closely with the Department of Energy on this issue and hold them to the time commitments for completion of the environmental impact statements and other preconditions to selection of a technology and a site for tritium production during the course of the coming year.

To assist the Department in its work on tritium as well as the overall issue of nuclear weapons, we also believe that it would be appropriate for the Under Secretary of Energy to be a member of the Nuclear Weapons Council. The amendment that we offer would also strike the provision from the authorization bill and place an additional representative from the Department of Energy on the Nuclear Weapons Council.

Madam President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2213) was agreed to.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

DIRECT TRANSFER OF PROPERTY

Mr. DORGAN. Madam President, I believe the chairman of the committee has an amendment I had filed. I believe it had not been cleared; am I correct about that?

Mr. NUNN. We have seen that. I do not have it before me. I say to my colleague, I do not have it with me, but we can get it in a moment.

Mr. DORGAN. If I might just inquire of the chairman, I might say to the chairman that amendment dealt with direct transfer of property of two military installations in North Dakota, one 4 acres and one 12 acres, on which there were a limited number of units; one was 24 apartments and the other was 21 houses.

As I understood it, the committee had decided that, under direct transfer of facilities, they were going to develop an expedited procedure or some different kind of process this year versus last year.

I did not like that because of the time restraint, and it is very important these be transferred. The fact is, the most important was abandoned in 1981 and declared surplus then. It is a 12-acre tract with 24 apartments that a city desperately needs in order to attract some economic development. They have a plant coming in from Canada, and they need places to house their people and time is of the essence.

But I am told a procedure is established that it is not something that can be done for a direct transfer.

I was surprised, then, about a half hour ago, to listen to the proceedings on the floor and find that, by unanimous consent, or at least an amendment was passed that provides for the direct transfer of a ship that has been decommissioned to a nonprofit organization.

I do not come here to name the ship or name the amendment or complain about that. It is between the sponsors and the committee, and it is fine with me.

It just seems to me, as I was listening to that, that there are two different standards in the committee.

I ask the chairman whether we might be comforted in the future that we might have a single standard on transfers of Government property. If we say there must be safeguards in the direct transfer, and there are different processes on direct transfer of the kind of property we discussed, I would ask if we could not have some comfort that the same would be true with other kinds of Government property in which direct transfer requests are made here in the Congress.

Mr. NUNN. In response, I would say, Madam President, that the ship transfer that the Senator has alluded to is subject to the terms and conditions that the Secretary of Navy determines. The Secretary generally determines whether the recipient is financially responsible and whether the recipient can maintain the vessel in conditions befitting the history of the ship and crew. That is title 10, section 7306.

I understand the Senator's frustration, but the distinction here is that a ship that has basically finished its service has no other use, and land is in a different category. Land has some other use.

This is a very sort of novel use in that this particular ship is going to be used for a stationary, as I understand it, helicopter landing near New York City.

So I believe the city has made arrangements with the Secretary of the Navy for the expenses to be paid by the city, and so forth.

So I do not think it can be compared accurately with the land transfer.

Now, I am not the best spokesman on this particular procedure, because Senator GLENN, as the Senator knows, is chairman of the subcommittee dealing with this. He and his subcommittee have set down certain procedures, and I believe those procedures are what they have followed here.

I am told that from the date of passage of this bill, it will take about 125 days under that expedited procedure for your transfer to be completed under the normal procedure.

I know that is not as expedited as the Senator would like. I can try to get Senator GLENN back here, or have him convey his understanding of this. But at this stage, he would oppose the amendment that has been submitted.

Mr. DORGAN. I am well aware of that. I am not making a legislative proposal to the Senator at this point. I would simply observe that property is property. It occurs to me that we have two different procedures. And frustration does not begin to describe my emotion when I see the transfer of 4 acres of land in the middle of North Dakota that has been abandoned for years held up because we have some special procedure. And then to see the transfer of a ship, for which, incidentally, there are other uses—scrap metal, which produces revenue which goes to reduce the deficit. I am not suggesting that ought to be the mission of the ship. But I am just saying property is property. It occurs to me the committee has two different standards on how it transfers. One it transfers directly on the floor of the Senate; the other, because a different procedure was adopted, it is dealt with differently.

I urge the chairman to evaluate that and perhaps have a system the next time one comes to the floor in which we transfer property under similar circumstances, or with similar guidelines.

Mr. NUNN. We will take a look at that, I say to my friend from North Dakota. I understand his frustration here. I want to discuss it with Senator GLENN.

I think the thing that should be kept in mind, however, is that once this procedure for the Senator's particular parcel of land is undertaken—unless there is some Federal agency or State agency that wants the land—then the land will be made available to the local governmental body free of charge. So there is no distinction on that in terms of the way we are handling it.

In the case of the ship, there were no other Federal agencies that would basically have any interest in that ship. I do not think we have ever had the same transfer provisions for ships as we have for land. As a matter of fact, the Navy had just agreed with several foreign governments to turn over some ships they considered excess, including Australia and two or three other governments—Morocco, Brazil—and they had already had all their plans made and had crews here and so forth to receive those ships. And our committee has blocked that, much to the frustration of those countries, because we felt the Navy had not done the kind of assessment they needed to do in terms of what they were giving up.

We felt that those ships still had considerable useful life and the mission they had, had not been really completed. So we have temporarily—we may work that out—blocked all of those ship transfers. So we do not take ship transfers lightly. But in this particular case of the ship going to New York, the Navy convinced us that there was no further use of this ship and there was no Federal use of this ship.

But the Senator's point is taken and I will certainly discuss it with Senator GLENN. I think everyone is interested, particularly where military bases have closed—everyone has a very keen interest in seeing the process be expedited. Because the economic activity has already suffered. If the land is not transferred in a prompt, expeditious fashion, you really have problems with economic development.

So I understand the point of the Senator. We will consider it and we will be glad to work with him. I will discuss it with Senator GLENN when I am able to meet with him.

Mr. DORGAN. Mr. President, I appreciate that. I might say exactly the same conditions apply to these small parcels of land of 12 acres and 4 acres. Nobody else is going to want them so one could make the same case as was made with this ship, but unfortunately it could not be because we have two different procedures. This is transferred directly this evening without a problem and the other is held up. There certainly ought to be, in my judgment, a de minimus rule of some type.

I fully agree and concur with the approach of Senator GLENN and with the chairman's approach if somebody wants to transfer an air base someplace, or giant buildings. We are talking about 4 acres and time is of the essence. They have a critical time period on these two very small installations. Incidentally, one was abandoned in 1981 in a community of 450 people.

I fully understand the circumstances. I am not quarreling with the transfer of this ship. This was probably done with good judgment between whomever was involved in the agreement. I am just saying what happened here makes no sense to me and it is one thing to have foreign governments frustrated that they could not get our ships. It is another thing to frustrate me because somebody else transfers property that, it might well be, should be transferred but we cannot transfer 4 acres that needs to be transferred timely when nobody else in the world wants those 4 acres of land and somebody does.

I hate to take the Senator's time. He is a good chairman. There are plenty of ways to stymie the will of the Senate and play games. I do not intend to do that ever. But I do intend to tell you about a procedure that I think is unfair.

I yield the floor.

Mr. NUNN. I will be certain to communicate that to the Senator from Ohio.

Mr. President, we have a number of amendments that I believe have been agreed to on both sides. I know my colleague from Texas is representing the minority here. I believe the first amendment is an amendment by Senator ROTH. It will be presented by my colleague from Texas.

AMENDMENT NO. 2214

(Purpose: To express the sense of the Congress regarding the ability of the North Atlantic Treaty Organization to operate beyond its geographic boundaries)

Mrs. HUTCHISON. Mr. President, I offer on behalf of Senator ROTH, an amendment that expresses the sense of the Congress in support of out-of-area operations by NATO. I understand this amendment has been cleared by both sides.

Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for Mr. ROTH, proposes an amendment numbered 2214.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At an appropriate place in the bill add the following new section

SEC. .

(a) FINDINGS.—The Congress makes the following findings:

(1) The North Atlantic Treaty Organization has served as a bulwark of peace, security, and democracy for the United States and the members of the alliance since 1949.

(2) The unswerving resolve of the member states of the North Atlantic Treaty Organization to mutual defense against the threat of communist aggression was central to the demise of the Warsaw Pact.

(3) The North Atlantic Treaty Organization is the most successful international security organization in history, and is well suited to help marshal our cooperative political, diplomatic, economic, and humanitarian efforts, buttressed by credible military capability aimed at deterring conflict, and thus contributing to international peace and security.

(4) The threat of instability in Eastern and Central Europe, as well as in the Southern and Eastern Mediterranean, continues to pose a fundamental challenge to the interests of the member states of the North Atlantic Treaty Organization.

(5) North Atlantic Treaty Organization assets have been deployed in recent years for more than the territorial defense of alliance members; and the Rome Summit of October 1991 adopted a new strategic concept for the North Atlantic Treaty Organization that entertained the possibility of operations beyond the alliance's self-defense area.

(6) In Oslo in July 1992, and in Brussels in December 1992, the alliance embraced the deployment of North Atlantic Treaty Organization forces to peacekeeping operations under the auspices of the United Nations or the Conference on Security and Cooperation in Europe.

(7) The North Atlantic Treaty Organization should attempt to cooperate with and seek a mandate from international organizations such as the United Nations when considering responses to out of area crises.

(8) Not all members of the international community share a commonality of interests that would ensure timely action by the United Nations Security Council.

(9) The security interests of the member countries of the North Atlantic Treaty Organization must not be held hostage to indecision at the United Nations or a veto by a permanent member of the Security Council.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) it should be the policy of the United States that, in accordance with article 53 of the U.N. Charter, the North Atlantic Treaty Organization retains the right of autonomy of action regarding missions in addition to collective defense should the United Nations Security Council or the Conference on Security and Cooperation in Europe fail to act;

(2) while it is desirable to work with other international organizations and arrangements where feasible in dealing with threats to the peace, the North Atlantic Treaty Organization is not an auxiliary to the United Nations or any other organization; and

(3) the member states of the North Atlantic treaty Organization reserve the right to act collectively in defense of their vital interests.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2214) was agreed to.

AMENDMENT NO. 2215

(Purpose: To strike out section 334, relating to retirement credit for Federal employees for former service in a nonappropriated fund instrumentality of the United States, and substitute a requirement for a study to determine the level of interest among employees in obtaining such retirement credit)

Mrs. HUTCHISON. Mr. President, I offer on behalf of Senator COATS and Senator SHELBY an amendment that requires the Department of Defense to study the impact of authorizing portability of retirement credit for certain former nonappropriated fund employees.

I understand this amendment has been cleared by both sides. I ask for its immediate consideration

Mr. NUNN. This amendment has been cleared by both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] for Mr. COATS, for himself, and Mr. SHELBY, proposes an amendment numbered 2215.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 75, beginning with line 9, strike out all through page 79, line 13, and insert in lieu thereof the following:

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study to determine the level of interest among employees of the Department of Defense referred to in subsection (b) in obtaining credit under the Civil Service Retirement and Disability System or the Federal Employees' Retirement System for former service described in such subsection as an employee of a nonappropriated fund instrumentality of the United States.

(b) EMPLOYEES CONCERNED.—The employees referred to in subsection (a) are employees who, for at least 12 months during the period beginning on January 1, 1966, and ending on December 31, 1986, performed services as an employee described in section 2105(c) of title 5, United States Code, conducting a program described in section 8332(b)(16)(A) of such title.

(c) CONDUCT OF STUDY.—In carrying out the study under subsection (a), the Secretary shall—

(1) provide an opportunity for all employees referred to in that subsection to express interest in obtaining retirement credit for the former service in a nonappropriated fund instrumentality of the United States; and

(2) inform such employees that deposits to the Civil Service Retirement and Disability Fund would be required of the interested employees under section 8334(c) of title 5, United States Code, or section 8411(f) of such title.

(d) REPORT.—Not later than February 1, 1995, the Secretary shall submit to Congress a report on the results of the study required by subsection (a). The report shall contain the following matters:

(1) An analysis of the issues, to include existing legal rights of the employees described in paragraph (b) above under the Civil Service Retirement Disability System or the Federal Employees' Retirement System.

(2) An analysis of the inequities, if any, that may have been caused by conversion from employment by nonappropriated fund instrumentalities of the United States to employment by the Department of Defense.

(3) The number of full time and part time employees described in paragraph (b) above that are affected by any inequities described in paragraph 2.

(4) The Department of Defense recommendations, if any, to redress any inequities described in paragraph 2, and

(5) The cost to the federal government of any recommendations described in paragraph 4.

PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2215) was agreed to.

AMENDMENT NO. 2216

(Purpose: To require a review of, and report on, Department of Defense programs relating to regional security and host nation development in the Western Hemisphere)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. GRAHAM, proposes an amendment numbered 2216.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 200, between lines 8 and 9, insert the following:

SEC. 1017. REVIEW AND REPORT REGARDING DEPARTMENT OF DEFENSE PROGRAMS RELATING TO REGIONAL SECURITY AND HOST NATION DEVELOPMENT IN THE WESTERN HEMISPHERE.

(a) FINDINGS.—Congress makes the following findings:

(1) The political environment in the Western Hemisphere has been characterized in recent years by significant democratic advances and an absence of international strife; but democracy is fragile in some nations of the region.

(2) It is desirable for the Department of Defense to perform a positive role in influencing regional armed forces to make positive contributions to the democratic process and to domestic development programs.

(3) Congress receives a number of annual reports relating to specific authorities granted to the Secretary of Defense under title 10, United States Code, such as the authorities relating to the conduct of bilateral or regional cooperation programs under section 1051, participation of developing countries in combined exercises under section 2110, and the training of special operations forces with friendly forces under section 2011.

(4) The annual reports are replete with statistics and dollar figures and generally lacking in substance.

(5) Congress does not receive annual reports with respect to other authorities of the Secretary of Defense, such as that relating to Latin American cooperation under section 1050 of title 10, United States Code.

(6) Testimony before Congress, including in particular the testimony of the Commander in Chief, United States Southern Command, and the Commander in Chief, United States Atlantic Command, has emphasized the conduct of a large number of complementary programs under the leadership and supervision of those two commanders to foster appropriate military roles in democratic host nations and to assist countries in developing forces properly trained to address their security needs, including needs regarding illegal immigration, insurgencies, smuggling of illegal arms, munitions, and explosives across borders, and drug trafficking.

(7) Most of the programs referred to in paragraph (6) provide excellent and often unique training and experience to the United States forces involved.

(8) The expansion of the military-to-military contact program to the Western Hemisphere will provide another tool to encourage a democratic orientation of the defense establishments and military forces of countries in the region.

(9) There is a need to conduct a comprehensive review of the several authorities in title 10, United States Code, for the Secretary of Defense to engage in cooperative regional security programs with other countries in the Western Hemisphere in order to determine whether the authorities continue to be appropriate and necessary, particularly in the light of the changed circumstances in the region.

(10) There is a need to conduct a comprehensive review of the various programs carried out pursuant to such authorities to ensure that such programs are designed to meet the needs of the host nations involved and the regional objectives of the United States.

(11) There is a need to assess the strengths and weaknesses of the various regional security organizations, defense forums, and defense education institutions in the Western Hemisphere in order to identify any improvements needed to harmonize the defense policies of the United States and those of friendly nations of the region.

(b) REPORT REQUIRED.—Not later than May 1, 1995, the Secretary of Defense, shall—

(1) carry out a comprehensive review and assessment of the matters referred to in paragraphs (9), (10), and (11) of subsection (a); and

(2) after consultation with the Chairman of the Joint Chiefs of Staff and the commanders of the combatant commands responsible

for regions in the Western Hemisphere, submit to the Committees on Armed Services of the Senate and House of Representatives a report on regional defense matters.

(c) CONTENT OF REPORT.—The report shall contain a detailed and comprehensive description, discussion, and analysis of the following matters:

(1) The Department of Defense plan to support United States strategic objectives in the Western Hemisphere.

(2) The external and internal threats to the national security of the nations of the region.

(3) The various regional security cooperative programs carried out by the Department of Defense in the region in 1994, including training and education programs in the host nations and in the United States and defense contacts set forth on a country-by-country basis, the statutory authority, if any, for such programs, and the strategic objectives served.

(4) The various regional security organizations, defense forums, and defense education institutions that the United States maintains or in which the United States participates.

(5) An assessment of the contribution that such programs, defense contacts, organizations, forums, and institutions make to the advancement of regional security, host nation security and national development, and the strategic objectives of the United States.

(6) The changes made or to be made in the programs, organizations, forums, and institutions as a result of the comprehensive review.

(7) Any recommended legislation considered necessary to improve the ability of the Department to achieve its strategic objectives.

(d) CLASSIFICATION OF REPORT.—The report shall be submitted in an unclassified form and may, if necessary, have a classified supplement.

Mr. NUNN. This amendment requires the Secretary of Defense, after a comprehensive review and consultation with the JCS Chairman and the regional combatant commanders, to submit a report not later than May 1, 1985 to the Armed Services Committee on the Department's plan and programs to support U.S. strategic objectives for the Western Hemisphere.

I urge adoption of the amendment.

Mrs. HUTCHISON. No objection.

Mr. GRAHAM. Mr. President, this is an amendment to the legislation currently under consideration, the Defense Authorization Act for fiscal year 1995. I am very interested in the issues of national development and regional security in the western hemisphere, and the role which the militaries of our hemispheric neighbors can play in the achievement of development and security. I believe that our Nation has the ability and a strong national interest in pursuing a strategy to foster growth and stability in this hemisphere. Our Nation can and should take a leadership role in facilitating the building up of the capabilities of the militaries in this hemisphere to assist their nations in meeting the needs of their people, and collectively, in the creation of a multinational mechanism for regional stability and security.

Mr. President, currently, our military is beginning to explore ways in which it can assist these nation's governments and peoples. We should understand that military organizations can often contribute in very tangible and valuable ways to the domestic needs of nations. Let me cite a couple of examples to illustrate my point. On Monday, June 6th of this year, an earthquake that registered 6.4 on the Richter scale shook parts of the South American continent. By Friday, June 10, rescue workers in Colombia had identified more than 500 dead, as aid workers dug through the rubble, debris, and mud to recover lost bodies. According to Colombian President Cesar Gaviria, 12 helicopters were used to carry out rescue operations in the nation's mountainous regions. These helicopters belonged to the police and the army, and were normally used for operations involving counterdrug operations. According to President Gaviria, the police and the army were the only institutions capable of efficiently delivering aid to where it was needed.

This is consistent with our own experience. In the aftermath of Hurricane Andrew, our nation had to call on our own military to assist in providing relief for the thousands left homeless or without utilities or other basic necessities.

I cite these examples to highlight the productive, non-traditional roles that militaries, our own and foreign, historically have and do play in assisting citizens when they are faced with non-military crises.

Mr. President, our military personnel have skills which are useful for responding to domestic needs both during periods of crisis, and in times of peace, as in providing the services associated with the Army Corps of Engineers and the Coast Guard. Developing this capability in Western Hemispheric militaries should be a priority in our military to military contacts, including training and military equipment and supplies.

I do not suggest that the armed services should abandon its traditional military role. However, I do believe that by fostering programs which assist foreign nations to help themselves domestically, we can enhance the prospects for democracy, peace and stability in those nations.

And by doing so, we can lessen the possibility of a regional military crisis in the Western Hemisphere, especially a crisis driven by an assault on a democratically elected government. The very existence of a regional capability to defend democracy renders it less likely that these nations will be placed in jeopardy.

Mr. President, I believe that our Nation has the opportunity to exercise a leadership role in creating such a regional security arrangement. We should use all tools that we have at our disposal—political, economic, diplomatic, and military—to assist in this worthwhile cause of enhancing regional peace, human rights, democracy, and stability. I see an opportunity for us to take advantage of our current military to military contacts with other nations in Latin America to help in this regard. I also believe that our military's involvement and visibility in host Latin American nations can also be a use vehicle for sharing our tradition, of the military being under civilian management, with our Latin American allies.

Mr. President, it is for these reasons that I am proposing the amendment offered today.

I have worked closely with the distinguished chairman of the Senate Armed Services Committee and he has been very supportive of my initiative. Additionally, this amendment has the endorsement of the Office of the Secretary of Defense and the Joint Staff who have had the opportunity to review it. In fact, the Joint Staff indicate its desire to progress in this direction, and that there are already some programs established that are leading that way. However, I believe that if we are to accomplish these things in a comprehensive and meaningful way, it is necessary for us to thoroughly assess where we are and where we want to go.

My amendment calls for such an assessment, as well as a report to the House and Senate Armed Services Committees, by the Secretary of Defense in consultation with the Joint Chiefs of Staff.

Mr. President, I urge my colleagues to support this important and much needed legislation.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2216) was agreed to.

AMENDMENT NO. 2217

(Purpose: To express the sense of the Congress regarding the violations of genocide in Rwanda, and the need to expedite assistance in protecting populations at risk in Rwanda)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. WELLSTONE, for himself, Mr. SIMON, Mr. MOYNIHAN, Mrs. KASSEBAUM, Mr. FEINGOLD, Mr. JEFFORDS, Mr. LEAHY, Mr. KENNEDY, Mr. DURENBERGER, and Ms. MOSELEY-BRAUN, proposes an amendment numbered 2217.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . GENOCIDE IN RWANDA.

(a) FINDINGS.—The Congress finds that—

(1) since April 6, 1994, elements of the Rwandan government forces, and their allied militias, have organized the massacres of more than 200,000 Rwandan civilians, of both Tutsi and Hutu ethnic origin;

(2) an estimated 2 million Rwandans have been internally displaced, and at least 500,000 have fled to neighboring countries;

(3) on April 26, 1994, the Senate agreed to Senate Resolution 207, deploring the massacres and urging prompt resolution of this crisis;

(4) the potential exists for retaliatory acts to be committed by elements within the Rwandan Patriotic Front against civilians;

(5) on June 8, 1994, the United Nations Security Council expanded and reinforced the United Nations Assistance Mission for Rwanda (UNAMIR) to 5,500 troops with a mandate to protect civilians;

(6) on June 22, 1994, the United Nations Security Council voted unanimously to support the deployment of military forces from France and Senegal for a temporary operation that would contribute to the security and protection of populations at risk in Rwanda.

(b) POLICY.—The Congress—

(1) calls upon the President to acknowledge that Acts of genocide have been committed in Rwanda;

(2) urges the President to support the establishment of an impartial commission of experts to examine and analyze the evidence submitted of breaths of the Convention on Genocide, and other grave violations of international humanitarian law, committed in Rwanda;

(3) commends the Department of Defense for logistical help already provided and urges the Secrtary of Defense to further expedite all United States military contributions to the humanitarian effort in Rwanda.

(4) implores the President to take the lead in the international community to expedite commitments of the necessary resources for, and to organize the speedy training and deployment of, the reinforced UNAMIR operation, with the mandate of protecting civilian populations at risk in Rwanda;

(5) strongly urges the President and the international community to expedite assistance needed for humanitarian operations in Rwanda, and neighboring states, for the support of Rwandan refugees;

(6) commends France and Senegal for cooperating with the Secretary General towards the fulfillment of the objectives of the United States in Rwanda; and

(7) urges France and Senegal pursuant to the United Nations Security Council resolution of June 22, 1994, to maintain the humanitarian character of * * *.

Mr. NUNN. Mr. President, this amendment expresses several findings about the situation in Rwanda and calls on the President to take certain actions.

I urge the adoption of the amendment.

Mrs. HUTCHISON. We have no objection.

GENOCIDE IN RWANDA

Mr. SIMON. Mr. President, I rise today to submit an amendment expressing the sense of the Congress regarding the violations of genocide in Rwanda, and the need to expedite assistance in protecting populations at risk in Rwanda.

I introduce this amendment today because of the mounting humanitarian crisis in Rwanda and its impact on neighboring countries. Over 500,000 refugees have fled Rwanda soil for safe haven and security in Tanzania, Uganda, Burundi, and even Zaire. Reports have estimated that 2 million Rwandans are internally displaced from the massacres.

I call upon the President to acknowledge that genocide has been committed in Rwanda. And strongly urge the President to work with U.N. Secretary General Boutros Ghali, and OAU Secretary General Salim Salim, to expedite the commitments of resources to respond to this massive tragedy.

There have been increasing reports of environmental contamination due to rotting corpses, and the spread of diseases which have been the cause of alarming concern by the international community. Of the letters that I receive on the Africa region, correspondence on Rwanda has eclipsed that of South Africa and Somalia combined.

The scale of the massacres (between 200,000–500,000) are such that the African continent has never witnessed in such a short period of time. Those killed have included: government opponents, human rights workers, and members of the Tutsi ethnic group. There is additional concern for the long-term political future of this country, if indeed the entire Rwandan opposition has been destroyed, political reconciliation in this bleeding country will be extremely difficult.

Finally, the international community, must not ignore its duty to assist those that are crying out for help in Rwanda. We must do what we can to assist those in need.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2217) was agreed to.

AMENDMENT NO. 2218

(Purpose: To ensure effective Congressional oversight of overseas military base support carried out by NATO host countries for the United States a payments-in-kind for release of United States overseas military facilities to such countries)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. LAUTENBERG, for himself, Mr. SASSER, Mr. PRESSLER, and Mr. DASCHLE, proposes an amendment numbered 2218.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 200, between lines 8 and 9, insert the following:

SEC. 1017. PAYMENTS-IN-KIND FOR RELEASE OF UNITED STATES OVERSEAS MILITARY FACILITIES TO NATO HOST COUNTRIES.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States has invested $6,500,000,000 in military infrastructure in North Atlantic Treaty Organization (NATO) countries.

(2) As part of an overall plan to reduce United States troop strength in Europe from 323,432 in 1987 to 100,000 by the end of 1996, the Department of Defense plans to close or reduce United States military presence at 867 military sites overseas.

(3) Most of the overseas military sites announced for closure are in Europe where the United States has already closed 434 such sites.

(4) When the United States closes military sites in Europe, the United States brings the military personnel home but leaves buildings, roads, sewers, and other real property improvements behind.

(5) Some allies have agreed to pay the United States for the residual value of the real property improvements left behind.

(6) Although the United States military drawdown has been rapid since 1990, European allies have been slow to pay the United States the residual value of the sites released by the United States.

(7) As of 1994, the United States has recouped only $33,300,000 in cash, and most of that was recovered in 1989.

(8) Although the United States has released to Germany over 60 percent of the military sites planned for closure by the United States in that country and the current value of United States facilities to be returned to the German government is estimated at approximately $2,700,000,000, the German government has budgeted only $25,000,000 for fiscal year 1994 for payment of compensation for the United States investment in such improvements.

(b) POLICY.—It is the sense of Congress that—

(1) the President should redouble efforts to recover the value of the United States investment in the military infrastructure of NATO countries;

(2) the President should enter into negotiations with the government of each NATO host country with a presumption that payments to compensate the United States for the negotiated value of improvements will be made in cash and deposited in the Department of Defense Overseas Military Facility Investment Recovery Account;

(3) the President should enter into negotiations for payments-in-kind only as a last resort and only after informing the Congress that negotiations for cash payments have not been successful; and

(4) to the extent that in-kind contributions are received in lieu of cash payments in any fiscal year, the in-kind contributions should be used for projects which are identified as ones of the Department of Defense.

(c) REQUIREMENTS AND LIMITATIONS RELATING TO PAYMENTS-IN-KIND.—(1) Subsection (e) of section 2921 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2687 note) is amended—

(A) by inserting "(1)" after "NEGOTIATIONS FOR PAYMENTS-IN-KIND.—";

(B) by striking out "a written notice" and all that follows and inserting in lieu thereof "to the congressional defense committees (and one additional copy to each of the Subcommittees on Defense of the Committees on Appropriations of the Senate and the House of Representatives) a written notice regarding the intended negotiations."; and

(C) by adding at the end the following new paragraph:

"(2) The notice shall contain the following:

"(A) A justification for entering into negotiations for payments-in-kind with the host country.

"(B) The types of benefit options to be pursued by the Secretary in the negotiations.

"(C) A discussion of the adjustments that are intended to be made in the future-years defense program or in the budget of the Department of Defense for the fiscal year in which the notice is submitted or the following fiscal year in order to reflect costs that it may no longer be necessary for the United States to incur as a result of the payments-in-kind to be sought in the negotiations.".

(2) Such section is amended by adding at the end the following new subsection:

"(h) CONGRESSIONAL OVERSIGHT OF PAYMENTS-IN-KIND.—(1) Not less than 30 days before concluding an agreement for acceptance of military construction or facility improvements as a payment-in-kind, the Secretary of Defense shall submit to Congress a notification on the proposed agreement that contains the following matters:

"(A) A description of the military construction project or facility improvement project, as the case may be.

"(B) A certification that the project is needed by United States forces.

"(C) An explanation of how the project will aid in the achievement of the mission of those forces.

"(D) A certification that, if the project were to be carried out by the Department of Defense, appropriations would be necessary for the project and it would be necessary to provide for the project in the next future-years defense program.

"(2) Not less than 30 days before concluding an agreement for acceptance of host nation support or host nation payment of operating costs of United States forces as a payment-in-kind, the Secretary of Defense shall submit to Congress a notification on the proposed agreement that contains the following matters:

"(A) A description of each activity to be covered by the payment-in-kind.

"(B) A certification that the costs to be covered by the payment-in-kind are included in the budget of one or more of the military departments or that it will otherwise be necessary to provide for payment of such costs in a budget of one or more of the military departments.

"(C) A certification that, unless the payment-in-kind is accepted or funds are appropriated for payment of such costs, the military mission of the United States forces with respect to the host nation concerned will be adversely affected.".

Mr. NUNN. Mr. President, this amendment modifies existing reporting requirements on U.S. negotiations for payments-in-kind for overseas military facilities to include a discussion of adjustments to the 5-year defense plan in order to reflect costs the Department may no longer be necessary for the U.S. to incur as a result of the payments-in-kind.

I urge the adoption of the amendment.

Mr. SASSER. Mr. President, I rise today to cosponsor an amendment offered by my good friend from New Jersey, Senator LAUTENBERG, dealing with the establishment of a Congressional oversight process for "Payment-in-Kind" military construction projects that are accepted in lieu of cash for residual value payments for overseas bases disposed of by the Department of Defense.

The Department of Defense has notified the Congress that they have concluded negotiations and have agreed to accept over $200 million worth of overseas military construction projects paid for by the host country in lieu of cash payments of residual value claims. While I firmly believe that it should be a policy of this government that residual value claims should be paid for in cash, I am also a realist and understand that cash payments will not always be forthcoming.

In the case of Germany, the U.S. has released over 60 percent of the military sites planned for closure, with a current estimated residual value of $2.7 billion. To date, the U.S. has only received $50 million in cash for these properties with little hope of any substantial cash payments in the near future. As a matter of fact, the German government budgeted only $25 million for payments of residual value claims in 1994. It is my opinion that while they recognize their legal obligations in reference to residual value, there is very little desire on the part of the German Federal Government to provide cash payments to the United States to meet their obligations. The German budget situation is as bad if not worst than ours. There is an ever growing resentment among West Germans in reference to the amount of money it is costing to reunite with the former East Germany. Taxes are and will continue to rise in Germany and the economic slowdown continues into its second full year. The German Federal Government is also conducting a "fire sale" of federal property in both East and West Germany, their own version of base closure. Understanding these facts, it is very unlikely that the German Federal Government will budget for any more than a token amount for residual value cash payments over the next few years.

In this environment, the German Government is trying to satisfy some of their residual value payments by paying for "payment-in-kind" military construction projects for United States forces in Germany. This is more palatable to the German Government because there is no direct cash payment to the United States and the payment-in-kind projects are done by German companies to United States standards.

I believe we should support these payment in kind projects only as a last resort when our demand for cash payments have not and most likely will not be met. As this amendment states, cash payments for residual value claims should be our policy.

To date, Mr. President, the Department of Defense has had a free hand to negotiate and to agree to payment in kind military construction projects, military construction projects on U.S. bases which have had no congressional review. Senator LAUTENBERG's amendment proposes a notification procedure by which, I believe, our congressional oversight responsibilities are protected while at the same time allowing the Department to move forward to optimize our return on our past investments in overseas military construction. I commend my colleague for his leadership on this issue and his very even handed approach to this issue.

Mr. President, this amendment directs the Department to notify Congress at least 30 days prior to concluding an agreement with a foreign government for acceptance of military construction facility improvements as a payment in kind. As the chairman of the Military Construction Subcommittee of Appropriations, I would expect that this notification should be in the form of a 30 day notification reprogramming action, a procedure which is very familiar to both the Department and the Congress.

Mr. President, I compliment Senator LAUTENBERG for his diligence on this issue that is so important to get our deficit down and to provide relief to the nation's taxpayers. He has raised the issue of burden sharing and residual value payments time and time again in the Defense Appropriations Committee. I know he met with United States Ambassador to Germany, Richard Holbrooke, to personally urge the administration to do more to secure residual value payments from the allies. He successfully fought to preserve the position of Ambassador for Burden Sharing.

Senator LAUTENBERG recognizes that it's important to keep the Western Alliance strong and in tact, but that our allies must assume more of the burden for the collective defense. He understands that if our economy is to grow and be strong, we need to invest our past resources here at home as our allies have been doing in past years.

His commitment to ensuring that residual value payments will be used to offset stated budget priorities and help bring spending and the deficit down is admirable. He is absolutely correct. He has been a leader in the Senate in efforts to encourage the allies to pay a greater share of the defense burden. His contribution to the debate and process has been enlightening and constructive.

Mr. President, I am informed by staff that this amendment has been agreed to by the Comptroller of the Department of Defense and is acceptable to the committee and I urge its adoption.

Mr. LAUTENBERG. Mr. President, in past years I have offered amendments to address the issue of burden sharing—the effort to get our allies to pay a greater share of the cost of stationing

U.S. troops in Europe to defend our common interests. Earlier this year, I persuaded the Congress to maintain a Special Ambassador for Burdensharing. I have tried to persuade the Congress that our European allies ought to pay for 75 percent of what it costs to station our troops in Europe to save the American taxpayer $9.6 billion over 5 years. I will continue that fight.

Today, however, I want to focus on an area of burden sharing that could save the American taxpayers between $1 and $2.7 billion in the upcoming years. I want to focus on an aspect of burden sharing that sounds technical, but is very tangible. It's called residual value payments. That isn't a household world, but it will save U.S. households money. Because these residual value payments should result in the American people getting the cash that our allies—mostly the German Government—owe us.

Residual value payments refer to the money the United States is supposed to get from the German Government and other European allies in exchange for the infrastructure we leave behind in Europe as we withdraw our troops and turn our bases over to their governments. It refers to the billions of dollars they owe the American taxpayer in return for the capital we invested in military bases in Europe.

Let me start, Mr. President, by setting the scene. Throughout the cold war, we stationed half a million American troops in Europe. In order to make sure that their military and human requirements were met, we spent billions of dollars on physical necessities: sewers, roads, housing, school buildings, and so on.

It was a necessary investment, one that the American people supported, and paid for. But now, as we withdraw our troops, we are leaving those facilities behind. The sewers and roads and houses we built for American troops will be there for German or French or Spanish or British citizens to use.

We are not talking about nickels and dimes here, Mr. President. The United States invested $6.5 billion on infrastructure in NATO countries. But as tensions ease, our deployment has been reduced. We plan to cut U.S. troop strength in Europe from 323,432 in 1987 to 100,000 by the end of 1996. As a consequence, we plan to close or reduce our presence at 867 military sites overseas. Most of those sites are in Europe, where America has already closed 434 military sites.

Ever since this draw down started, we have been trying to get our allies to pay for the physical structures we are leaving behind.

We have not been very successful in that effort.

Despite an investment of $6.5 billion, we have recouped only $33.3 million in cash, and most of that was recovered in 1989.

Although we have already turned over 60 percent of the military sites scheduled for closure in Germany to that Government, and although the value of those sites is estimated to be approximately $2.7 billion, the German Government has only budgeted $25 million this year to compensate the United States for its investment.

Equally distressing is the fact that there is an increasing tendency for our allies to try to discharge their debt by offering us "in-kind contributions" rather than cash. In this context, an "in-kind" contribution means that our allies build something—at their expense—that otherwise the Pentagon would have built—at our expense—as part of our overall security planning. In-kind contributions, while appreciated, do not meet our needs as well as cash. We can use cash payments to cut defense spending, reduce the deficit, or to lower taxes.

It is a little more complicated to do that with in-kind contributions.

What we need to do is turn these in-kind contributions into cash. I'm confident we can do that if we ensure they will be used, instead of tax dollars, for projects the Department of Defense has identified through the budget process as priorities.

In-kind contributions will help reduce the deficit if they result in reductions in the defense budget. They will help reduce the budget if we can get the allies to build a project for "free" that we would otherwise ask the taxpayers to build.

But under the current system, we don't know if the projects we accept through in-kind contributions are our highest budget priorities. We don't know that they are being used to offset costs that the taxpayers would otherwise be asked to incur by the Pentagon. They may benefit the host nation as much or more than they benefit us. Rather than being used to reduce the amount of money the U.S. Government needs to spend, in-kind projects are built in addition to those the American people have been asked to fund through the budget process.

That, Mr. President, is the problem. The amendment I am offering would turn these in-kind contributions into tangible savings.

Mr. President, my amendment has three goals. First, it emphasizes that we are interested in a more significant cash contribution from the allies. In other words, we want them to pay what they owe the American taxpayer and to do it in cash.

Second, if part of the burden sharing responsibility is to be met by in-kind contributions, my amendment would require that these offers of assistance be used in relation to projects specifically identified as priorities in the defense budget. This would relieve pressure on the Pentagon budget and the American taxpayer.

Third, it would guard against potential wasteful spending by requiring that only projects approved by Congress can receive in-kind contributions.

Let's look at the first goal: getting more cash.

Mr. President, I am aware that residual value negotiations are difficult. But I also believe the Department of Defense has been too willing to abandon negotiations for cash in favor of in-kind contributions. I am particularly concerned that the Administration will too easily accept in-kind contributions from Germany, where the DOD now says our investment on facilities to be turned over is $2.7 billion.

Germany clearly prefers in-kind contributions. Why wouldn't they? In-kind contributions create a public works program in Germany, creating jobs for their citizens.

The United States, though, should prefer cash payments. It is important to get our deficit down and provide relief to the Nation's taxpayers. Cash payments would help bring spending down, reduce the deficit, strengthen the economy, and help create jobs at home.

It is important to keep the Western Alliance strong and in tact, but our allies must assume more of the burden for the collective defense. While our economy has lagged, and unemployment claims have taken their toll on the American people, our allies have been given a free ride by our negotiators at the expense of the American people. While we continue to pour money into the defense of their nations, they pour money into their economies. We need to invest our resources here at home as our allies have been doing in past years.

Our negotiators need to change that. Unfortunately, U.S. negotiators have not been tough enough. They continually tell us that German economic problems and political considerations require them to settle for in-kind contributions.

That is not consistent with American interests or existing American policy. The Pentagon and our negotiators need to be tougher. My amendment states that, as a matter of policy, the administration should enter negotiations with each host nation with a presumption that residual value payments will be made in cash and deposited into the Department of Defense Overseas Military Facility Investment Recovery Account. My amendment also makes it clear that the administration should only enter into negotiations for in-kind payments as a last resort and only after negotiations for cash payments have failed.

The second goal of the amendment is to reduce American spending by applying in-kind contributions toward our stated budget requirements. If we have to accept in-kind payments, then I want to make sure that, rather than meeting the desires of the host nation, they are used to pay for projects our military has identified as our own priorities through the budget process. That way, we cut spending and the deficit.

Here is the point. Our allies have already agreed to pay—in-kind—for the cost of nearly $200 million worth of projects overseas. In my view, that means the American taxpayer should spend $200 million less as a result. But I don't think they are. Instead, they're being asked to spend exactly what would have been proposed had the administration not negotiated with the allies in the first place. That should change.

Under the current system, the Pentagon is not required to return directly to the U.S. taxpayers what it gets from other countries. It is not required to use the allies' in-kind contributions to bring requested spending levels down and reduce the deficit. The net result is more spending overall and less control of spending by the Congress. What the allies agree to build in Europe through in-kind contributions ought to be a substitute for other expenditures the Pentagon will make.

Mr. President, let me illustrate the problem. Look at overseas military construction spending. The administration has submitted a budget which asks the Congress to authorize and appropriate $22 million for military construction projects for next year. Although residual value negotiations should generate hundreds of millions of dollars worth of in-kind contributions, the Pentagon is not asking the Germans to build the projects already identified as important through the budget process. If it did, the Pentagon could save the taxpayers $22 million.

It's the same thing with the NATO infrastructure budget request. The Pentagon is asking the American taxpayers to spend almost $230 million in NATO countries next year. At the same time, it is seeking hundreds of millions of dollars worth of in-kind contributions from the allies for the debt they owe the American people. Why not let the allies pay for the $230 million worth of NATO infrastructure projects rather than the American people. Let's let the allies pick up the tab, and give the American taxpayer a break.

Mr. President, this issue and amendment go beyond the budget for fiscal year 1995. The administration recently notified the Congress that it will seek $200 million from Germany for each of 5 years for residual value payments. That's $1 billion. If the administration identifies $1 billion worth of projects already included in its future year budget plans, and asks the Germans to pay for those projects—as my amendment would require—we could save the American taxpayer $1 billion. That's $1 billion that could be applied toward deficit reduction.

Again, the point is that our allies are apparently not being asked to off-set hundreds of millions of dollars worth of requirements the administration has asked the Congress to fund in Europe or has identified through the budget process. Instead, the allies are being asked to pay for construction projects the Pentagon says it needs, but have never been identified as priorities in the budget. By requiring the Pentagon to ask the allies to cover the cost of projects that have been identified in the budget, we could save hundreds of millions of dollars—billions down the road.

My amendment would correct this problem by requiring that in-kind contributions be used to offset costs that would otherwise be incurred by the Department of Defense and the American taxpayer.

Under current law, the Pentagon is required to submit "a written notice to the congressional defense committees containing a justification for entering into negotiations for payments-in-kind with the host country * * *" before it seeks in-kind contributions. My amendment would require the Pentagon, at the time it submits this justification, to let us know how the budget will be adjusted to reflect costs that may no longer be incurred by the United States as a result of the residual value payment-in-kind being sought from the allies.

Thirty days before the Pentagon enters into an agreement with a host country to accept a burden sharing contribution in-kind, the amendment would require the Pentagon to notify the Congress and to certify that tax dollars will no longer be necessary as a result of the allies burden sharing in-kind contribution.

The third goal of the amendment is to protect against wasteful spending by requiring congressional approval of these burden sharing contributions made in-kind.

Mr. President, the Congress is required to approve military construction projects by law. It is not the role of the German Government or any foreign government to set our budget priorities. If residual value payments were secured in cash from the allies, the Congress would authorize and appropriate those funds. We could help bring defense spending down and reduce the deficit by applying those dollars to projects included in the administration's budget request. The Congress should play the same role in approving military construction projects secured as in-kind contributions.

There has been abuse in the system even with congressional oversight. Without congressional oversight and with billions of dollars worth of in-kind projects at stake, we do more than invite waste, fraud, and abuse—we virtually require it.

Look at what happened at the Ramstein Air Base in Germany in the late 1980's. In 1989 the Department of Defense Office of the Inspector General found that the Ramstein Air Base had inappropriately used taxpayer money at officers' clubs to buy a $6,800 snooker table, to buy party equipment—like cocktail, champagne, and wine glasses—and to upgrade the officers club.

I would like to keep Ramstein Air Base in a unique example. I fear it will be all too common unless we get control over the use of the purposes for which in-kind contributions can be used.

I am not suggesting that we shouldn't give our military the kind of facilities they deserve. That isn't the point. The point is simply that even with oversight, fraud can happen. Wasteful spending can slip through the cracks. The system can be abused. Imagine what could happen with little or no congressional oversight.

Under my amendment, the Congress will have a greater oversight and approval role. Currently, we have none. Thirty days before the Pentagon accepts a burden-sharing payment through an in-kind contribution, it must submit it to the Congress for review. I expect the notification mandated by this amendment to be submitted in a manner consistent with current notification reprogramming procedures. So does the Pentagon and in the context I ask unanimous consent that a letter from the Comptroller be printed in the RECORD at this point.

Given this system, we will have at least 30 days to scrutinize the project and have the opportunity to disapprove it we do not believe it is meritorious or in the national interest.

Mr. President, we have carried the burden of defending Europe for generations. We have created a safe environment that has allowed European economies to flourish. Maybe there is no way to get our allies to pay as much as they should. But, Mr. President, we must do better.

We must ensure that burden sharing in-kind payments reduce the Federal deficit. We must ensure that burden sharing in-kind payments benefit the United States, because our allies sure do benefit. Instead of paying us for what they are getting, they are in essence paying themselves: they are putting their people to work, they are improving structures they may ultimately inherit. They are making the decisions, and we are still footing the bill.

Mr. President, the Comptroller of the Department of Defense has worked closely with me on this amendment. He has been both constructive and cooperative, and I appreciate his input.

I urge my colleagues to support this amendment. It reiterates U.S. burden-sharing policies which look to our allies to pay their fair share for their defense. That fair share amounts to billions. It requires that our Government use contributions by the allies to reduce the deficit and bring our spending down. And, it puts us on record against potential wasteful spending of billions owed to the American people.

I ask unanimous consent a letter from Mr. Hamre be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMPTROLLER OF THE
DEPARTMENT OF DEFENSE,
Washington, DC, June 30, 1994.

Hon. FRANK LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: We have reviewed the text of your proposed amendment on residual value.

We believe that this amendment will satisfy the congressional concern that the Department is using residual value settlements to satisfy valid military requirements, while at the same time allowing the Department to obtain the maximum settlement possible. We do believe a relatively minor change, which has been provided to your staff, should be incorporated in your amendment.

The Department will comply with the notification requirements using procedures similar to those employed for the reprogramming of funds prior to the conclusion of any agreement.

Sincerely,
JOHN J. HAMRE.

Mr. PRESSLER. Mr. President, I rise in support of the amendment my colleague from New Jersey, Senator LAUTENBERG, has offered regarding burdensharing. This amendment would ensure effective congressional oversight with regard to the transfer of U.S. military bases to our NATO allies.

The United States has invested $6.5 billion in the military infrastructure of NATO countries. By the end of 1996, the Department of Defense will close or reduce U.S. presence at 867 overseas military bases. Most of our bases are located in Europe, where 434 U.S. military installations have been already closed.

When U.S. forces withdraw and U.S. military bases are turned over to the governments of host nations, we leave behind vast infrastructures consisting of buildings, roads, sewers, and other improvements. Through a series of negotiations conducted with our NATO allies, some have agreed to pay the United States for the value of what we leave behind. The key words in these negotiations has been "residual value," referring to the money the United States is supposed to receive in exchange for the infrastructure given to other governments. To date, our allies have been slow in providing residual value payments. We have recouped only $33.3 million in cash. Germany, for example, will assume $2.7 billion worth of infrastructure, but has budgeted only $25 million to pay for these assets.

This amendment urges the President to redouble efforts to recover the value of U.S. investment in the military infrastructure of NATO countries. It also supports a negotiation process that hopefully would result in a greater number of residual payments being made in cash rather than in in-kind payments. Additionally, this amendment says negotiations for payments in kind should be entered into only as a last resort and only after informing Congress. Should in-kind contributions be received as a substitute for cash payments, they should offset costs that otherwise would be incurred by the Department of Defense for overseas support.

The crux of this amendment is that it encourages our NATO allies to repay the United States for completed projects and remaining U.S.-built infrastructure in allied countries. As U.S. troops leave allied nations, it is important that our Government receive compensation for the completed projects. It is a question of fairness. These countries will continue to benefit from the use of these assets long after the U.S. presence is gone.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2218) was agreed to.

AMENDMENT NO. 2219

(Purpose: To provide $15,000,000 for procurement of aircraft survivability equipment for the Army and to reduce the amount provided for C–135 aircraft modifications)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. DODD, for himself, Mr. LIEBERMAN, and Mr. D'AMATO, proposes an amendment numbered 2219.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, line 11, strike out "$1,058,781,000" and insert in lieu thereof "$1,073,781,000".

On page 15, line 9, strike out "$6,602,994,000" and insert in lieu thereof "$6,587,995,000".

Mr. NUNN. This amendment authorizes $15 million to procure additional receivers for Army attack helicopters that warn when hostile forces have pointed a laser designator or rangefinder at the helicopter.

I urge adoption of the amendment.

Mr. DODD. Mr. President, on behalf of Senator LIEBERMAN and Senator D'AMATO, I offer an amendment to provide $15 million for procurement of laser warning systems for self-defense of Army helicopters, such as the Apache, the Cobra, and the OH–58.

The Army has been forced to terminate procurement of this important program due to budget constraints, leaving the Army with a shortfall of several hundred devices. These receivers not only warn helicopter pilots when hostile forces have aimed a laser designator or rangefinder on them; they also can be used in training and exercises to score hits and misses by other forces using harmless laser devices in lieu of actual weapons.

As an offset, the amendment would reduce the amount authorized for C–135 modifications. The Air Force recently terminated a KC–135 multipoint refueling system, making available at least $15 million.

I thank the Committee for their interest and cooperation on this matter.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2219) was agreed to.

AMENDMENT NO. 2220

(Purpose: To authorize funding for the small business defense conversion program of the Small Business Administration)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of the Senator from California, Mrs. FEINSTEIN, and the Senator from Arkansas, Mr. BUMPERS, and others. I ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mrs. FEINSTEIN, for herself, Mr. INOUYE, Mrs. BOXER, Mr. BUMPERS, Mr. LIEBERMAN, Mr. BINGAMAN, Mr. PELL, Mr. WOFFORD, Mr. KERRY, Mr. COHEN, and Mr. WOFFORD, proposes an amendment numbered 2220.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 47, after line 20, insert the following new section:

SEC. 235. SMALL BUSINESS DEFENSE CONVERSION GUARANTEED LOANS.

(a) AUTHORIZATIONS.—Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) in subsection (l), as added by section 405(3) of the Small Business Credit and Business Opportunity Enhancement Act of 1992—

(A) by striking "(l) There" and inserting "(3) There" and indenting appropriately; and

(B) by striking "subsection (k)", and inserting "paragraphs (1) and (2)";

(2) by redesignating subsection (k), as added by section 405(3) of the Small Business Credit and Business Opportunity Act of 1992, as subsection (l);

(3) in subsection (l), as so redesignated, by inserting after paragraph (1), the following new paragraph:

"(2) The Administration is authorized to make not more than $1,000,000,000 in loans on a guaranteed basis, in accordance with section 7(a)(21), such amount to remain available until expended.";

(4) in subsection (n)—

(A) by striking "(n) There" and inserting "(3) There" and indenting appropriately; and

(B) by striking "subsection (m)" and inserting "paragraphs (1) and (2)";

(5) in subsection (m), by inserting after paragraph (1), the following new paragraph:

"(2) The Administration is authorized to make not more than $1,000,000,000 in loans on a guaranteed basis, in accordance with section 7(a)(21), such amount to remain available until expended.";

(6) by redesignating subsection (o) as subsection (n); and

(7) in subsection (p)—

(A) by striking "(p) There" and inserting "(2) There", and indenting appropriately; and

(B) by striking "subsection (o)" and inserting "paragraph (1)".

(b) TECHNICAL CLARIFICATION.—Section 7(a)(21)(A) of the Small Business Act (15 U.S.C. 636(a)(21)(A)) is amended by striking "under the" and inserting "on a guaranteed basis under the".

(c) JOB CREATION AND COMMUNITY BENEFIT.—Section 7(a)(21) of the Small Business Act (15 U.S.C. 636(a)(21)) is amended by adding at the end the following new subparagraph:

"(E) In providing assistance under this paragraph, the Administration shall develop procedures to ensure, to the maximum extent practicable, that such assistance is used for projects that have substantial potential for stimulating new economic activity in communities most impacted by reductions in Federal defense expenditures.".

(d) AUTHORITY TO TRANSFER APPROPRIATIONS.—Of the amount authorized to be appropriated pursuant to section 201(4), $27,400,000 may be transferred by the Secretary of Defense, to the extent provided in an act appropriation funds for the Department of Defense, to the Small Business Administration for the purpose of providing loan guarantees under section 7(a)(21)(A) of the Small Business Act, such amount to remain available until expended.

Mr. NUNN. Mr. President, this amendment would establish a loan guarantee program to guarantee loans to small businesses that have been DOD contractors and have suffered a substantial reduction in revenues due to reductions in defense spending. The program will require $25 million appropriation to back up these loans.

I might add that this program was authorized in our original defense conversion legislation and had not been funded. So it is the hope the appropriators will see fit to fund this program this year.

I urge the adoption of the amendment.

Mrs. HUTCHISON. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2220) was agreed to.

AMENDMENT NO. 2221

(Purpose: To authorize funding to be made available for high resolution imaging of space objects using excimer lasers)

Mr. NUNN. Mr. President, I send to the desk an amendment on behalf of Senators KENNEDY, BINGAMAN, and DOMENICI.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN), for Mr. KENNEDY, for himself, Mr. BINGAMAN and Mr. DOMENICI, proposes an amendment numbered 2221.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 28, below line 22, add the following:

SEC. 204. HIGH RESOLUTION IMAGING.

Of the funds authorized to be appropriated pursuant to section 201(3), $10,000,000 shall be available for high resolution imaging of space objects using excimer lasers.

Mr. KENNEDY. Mr. President, my amendment would authorize $10 million for an Air Force program that is developing high resolution optical techniques, using excimer lasers, for space object imaging applications. The purpose of the technology is to create finely detailed images of satellites from the ground.

This technology has both defense and civilian applications. For defense purposes, the images can be used to determine the characteristics of hostile satellites, or to monitor the condition of our own satellites. On the civilian side, the technology can be used to inventory and monitor space debris and other objects in orbit that increasingly pose threats to our satellites and spacecraft. The next step in future years will be to develop high-power laser transmitters for imaging of more distant objects.

The excimer laser program is conducted by the Phillips Laboratory in New Mexico, which has developed an Advanced Imaging Testbed to demonstrate the technology on objects in low earth orbit. A small portion of the project is also carried out by Textron Defense Systems in Everett, Massachusetts.

I understand that this amendment has been accepted by both sides. I want to thank the Chairman of the Armed Services Committee and the Ranking Member for their cooperation on this amendment. I also want to thank Senator BINGAMAN and Senator DOMENICI for their support for this amendment.

Mr. NUNN. Mr. President, this amendment authorizes $10 million to continue development of a laser that can generate detailed images of satellites and other objects in space.

I urge the adoption of the amendment.

Mrs. HUTCHISON. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2221) was agreed to.

AMENDMENT NO. 2222

(Purpose: To require a GAO evaluation of the Uniformed Services University of the Health Sciences)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senator FEINGOLD, and I ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN), for Mr. FEINGOLD, for himself, Mr. BUMPERS, Mr. MATHEWS and Mr. GRASSLEY, proposes an amendment numbered 2222.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 186, add the following between lines 14 and 15:

"(c) Evaluation of the Uniformed Services University of the Health Sciences.

(1) *GAO Report.* By June 1, 1995, the Comptroller General of the United States shall submit to the appropriate Committees of the Congress a detailed report that—

i. compares the cost of obtaining physicians from the Uniformed Services University of the Health Sciences with other sources of military physicians;

ii. assesses the retention rate needs of the military for physicians in relation to the respective retention rates of Uniformed Services University of the Health Sciences physicians and physicians obtained from other sources and the factors which contribute to retention rates among military physicians obtained from all sources;

iii. reviews the quality of the medical education provided at the Uniformed Services University of the Health Sciences with the quality of medical education provided by other sources of military physicians;

iv. reviews the overall issue of the special needs of military medicine and how these special needs are being met by Uniformed Services University of Health Sciences physicians and physicians obtained from other sources;

v. assesses the extent to which the Uniformed Services University of the Health Sciences has responded to the 1990 report of the Inspector General of the Department of Defense and make recommendations as to resolution of any continuing issues relating to management and internal fiscal controls of the Uniformed Services University of the Health Sciences, including issues relating to the Henry M. Jackson Foundation for the Advancement of Military Medicine identified in the 1990 report; and,

vi. makes such recommendations as the Comptroller General deems appropriate.

Mr. FEINGOLD. Mr. President, this amendment calls for a comprehensive, independent review by the General Accounting Office on a broad range of issues regarding the Uniformed Services University of the Health Sciences. I am pleased to be joined in offering this amendment by Senators BUMPERS, MATHEWS, and GRASSLEY.

I became involved in this issue when I included a proposal to phaseout the university as part of an 82 point deficit reduction plan I proposed during my campaign for the Senate in 1992. Certainly, that proposal was not the first to include such a provision, nor has it been the last. Proposals to close down the school have been part of the Grace Commission recommendations, the Vice President's National Performance

Review, the Congressional Budget Office's spending and revenue options proposals, the Kerrey-Graham-Brown deficit reduction proposal, and the package of spending cuts put together by a group of Senators led by the Senator from Massachusetts [Mr. KERRY].

In addition, Mr. President, the House of Representatives has voted to close down the school on a number of occasions.

In the Senate, the Senator from Kentucky [Mr. FORD] tried to terminate the program 17 years ago. And this session I introduced legislation, S. 1562, to phase out the program, and I had considered pursuing termination of the program as part of the Defense appropriations bill later this year.

The Armed Services Committee, however, included language in the Defense authorization bill which requires, in effect, that the Uniformed Services University of the Health Sciences be kept open indefinitely.

Mr. President, I do not consider that language to be good public policy. To provide a kind of immortality to any program, effectively shielding it from legitimate scrutiny on a reasonably regular basis, is inappropriate.

At the same time, this program has been controversial from its inception, and I recognize that it is unfair to the school, to try to do its job, particularly in trying to recruit and retain quality faculty, under the atmosphere of uncertainty that has been generated by the continual efforts to shut the program down. Constantly being on the chopping block is not beneficial to anyone and I recognize that this was much of the motivation behind the Armed Services Committee language.

Many of us feel, however, there is a need for a comprehensive, independent review by the General Accounting Office of the institution on a broad range of issues. There has been no GAO review of the school since 1976—18 years ago—and in their own 1990 review of USUHS, the Department of Defense Inspector General specifically noted that though a number of cost related studies had been done, no studies had reviewed non-cost related issues, such as quality. The IG report said:

> * * * Future studies should consider these and other external variables to ensure a more comprehensive and conclusive finding that will enable the DOD and Congress to correctly assess the future mission and role of the USUHS in meeting the military health care requirements.

Mr. President, in this spirit, I am offering an amendment to have GAO carry out a thorough review of all issues surrounding USUHS. I will await the results of that study, and am willing to abide by GAO's evaluation.

I very much appreciate the cooperation of the proponents of the program, both on and off the Armed Services Committee, in working to perfect this amendment so that we can obtain the kind of independent, comprehensive evaluation that will help guide our decisions regarding this program. I recognize fully the importance on all sides of having this study done in a fair and careful manner.

Mr. SARBANES. Mr. President, I rise to express my strong support for the Uniformed Services University of the Health Sciences [USUHS]. I am pleased that my colleague from Wisconsin, Senator FEINGOLD has agreed to drop his proposal to strike the strong language that the Armed Services Committee included in the bill before us.

Both the Defense Appropriations Subcommittee and the Armed Services Subcommittee on Force Requirement and Personnel held hearings on this matter. Through the courtesy of my colleagues, Senator INOUYE and Senator SHELBY, I testified at both hearings which I believe established a very strong record in favor of the school.

I don't know if my friend from Wisconsin has had an opportunity to review the testimony from those hearings but I would certainly encourage him to do so.

Chairman INOUYE heard from the President and dean of the university as well as several graduates of USUHS. Chairman SHELBY took testimony from the Surgeon Generals from each of the three Services, several widely recognized medical educators, and Everett Alvarez, the distinguished former POW who now chairs the university's board of regents.

Mr. President, in my view, there is absolutely no justification for closing the only medical school in the United States that trains doctors to practice military medicine.

I want to commend the committee and my friend from Georgia, Senator NUNN, for including strong language in the bill before us that states that the Uniformed Services University of the Health Sciences may not be closed.

In Section 922, the bill states: The Uniformed Services University of the Health Sciences may not be closed.

And goes on to say: It is the sense of the Congress that the Secretary of Defense should budget for the ongoing operation of the Uniformed Services University of the Health Sciences as an institution of professional education that is vital to the education and training each year of significant numbers of personnel of the uniformed services for careers as uniformed services health care providers.

This language parallels the findings of the two Senate hearings that USUHS should not be closed. As I have stated before, the closure idea is a proposals in search of a rationale.

Mr. President, this university is named the F. Edward Herbert School of Medicine in honor of our former colleague whose vision led to its establishment in 1972. Since that time, almost 2,000 regular medical officers have graduated from the university. In addition to the time these officers spend in internships and residencies, they serve an obligation of 7 years in their respective service.

The university has done an extraordinary job in instilling a sense of commitment and duty in its graduates. More than 95 percent of those graduates are still serving today in the Air Force, the Army, the Navy, or the Public Health Service.

Also notable is the fact that, of those who have completed their required commitment and could leave for private practice, 89 percent continue to serve our Nation. This contrasts sharply with retention rates under 50 percent for the Health Professions Scholarship Program, the alternative source of military doctors.

These remarkable statistics reflect one of the goals of USUHS. These students are committed to a medical career in the military rather than merely repaying a required obligation. They take pride in serving our Nation.

During a recent visit to USUHS, I had the opportunity to talk with a number of current students. Mr. President I cannot describe the high level of enthusiasm that these young men and women have for serving their Nation. As soon as you sit down with them, you sense that these are top-notch students who will be a tremendous asset to our Armed Forces and the Public Health Service.

Approximately 50 percent of applicants have some type of prior military experience. After 4 years at the university, a remarkable 43 percent of graduates have chosen primary care in lieu of assignments considered more desirable by most medical school graduates.

The number of students pursuing specialized degrees such as master's degrees in public health and tropical medicine is further evidence that these students are interested in long-term service to our Nation.

Mr. President, these officers are trained to serve both in time of war and disaster.

In addition to military medicine, the curriculum at USUHS includes a heavy emphasis on disaster medicine, tropical medicine, preventive medicine, and on survival in extreme environments. Graduates of this university are serving with distinction around the globe and played an important role in our Desert Shield deployment.

It is imperative that our Armed Services have men and women trained in these specialty areas. In their fourth year, all students complete training in advanced trauma life support, advanced cardiac life support, and a major field exercise. These additional requirements are one reason why the USUHS curriculum is about 25 weeks longer than that of the typical medical school.

It is this important training that prepares USUHS graduates to be the leaders of the military health corps and the Public Health Service.

While the majority of physicians needed by the services can be recruited through the Armed Forces Health Professions Scholarship Program, USUHS provides, at a reasonable cost, a cadre of physician-leaders who are highly educated in military medical issues.

Only about 10 percent of the medical officer corps are USUHS graduates but it is these doctors who are best prepared to provide leadership among the medical ranks.

I understand that the Federal Government spends $98,396 on a scholarship program student for each year of obligated service. In comparison, USUHS students receive an equal or better level of education for $66,212 per year of obligated service.

Estimates released last November 15 by the Congressional Budget Office suggest that the potential savings from closing the university are greatly overstated. Instead of the $350 million listed in the National Performance Review proposal, CBO estimates that 5-year savings would total about $100 million.

Even if other medical schools could and would assume the task of providing the specialized education now available through USUHS, there are serious questions about whether or not any savings would be achieved in the long run.

Complementing the university's emphasis on training doctors is an extensive program to provide specialized medical support training to law enforcement officers, firefighters, and rescue personnel. These programs have been successfully run with Federal, State, and local governments across the country.

USUHS medical expertise has proved important at several recent crises including the riots in Los Angeles and the tragedy at Waco, TX. The University's Counter Narcotics Tactical Operations Medical Support Program has provided medical support training to over 1,000 personnel and is widely regarded as a national standard for tactical emergency services.

As I testified before the Senate Armed Services Committee and the Senate Appropriations Committee, I am concerned that elimination of the University would be a step backwards in the quality of care offered to our Armed Services.

I want to read for my colleagues a list of other Nations that currently have Government-run medical schools.

Algeria, Belgium, Bulgaria, France, Germany, Greece, India, Indonesia, Iran, Italy, Japan, Korea, Mexico, Pakistan, the People's Republic of China, Poland, Russia, South Africa, Taiwan, and Turkey. They have recognized the need for specialized training in military medicine and we must continue to do the same in the United States.

USUHS enjoys strong support in the medical and military communities. An impressive array of organizations have publicly advocated its continued operation including: American Academy of Family Practice; American Association of Academic Health Centers; American College of Physicians; American College of Surgeons; The American Legion; American Medical Association; American Veterinary Medical Association; Association of American Medical Colleges; Association of the United States Army; National Association for Uniformed Services; Organizations of Academic Family Medicine; Reserve Officers Association; The Military Coalition; and The Retired Officers Association.

Mr. President, I invite all of my colleagues to go out to USUHS, tour the facility, and meet with faculty and students. I am confident that they would be impressed with the quality of the students and the outstanding work which is being done there.

There is a continuing role for USUHS even in our changing defense landscape. The hearing record demonstrates the need to retain the university.

I want to close by again commending Chairman NUNN and the members of the Armed Services Committee for their strong support for USUHS. The bill reported by the committee wisely rejects the proposals to close this national resource and restores funding cuts that were proposed by the administration. I thank all members of the committee and the Senate for supporting this fine institution.

Mr. INOUYE. Mr. President, I look forward to an unbiased and objective report undertaken by GAO on the Uniformed Services University of the Health Sciences [USUHS]. This report should highlight features such as cost, quality of the program, and retention rates of graduates—all of which are appropriate areas for inquiry and important aspects of any medical training program. Additionally, it is hoped that when this study is performed, GAO will take into consideration the following statistics regarding retention rates comparing our military academies to USUHS graduates:

[In percent]

Grad. year	Naval Academy	AF Academy	U.S. Mil. Academy	USUHS
1980	50.9	47.4	38.6	89.7
1981	50.5	54.5	42.9	92.4
1982	52.4	57.5	39.0	98.1
1983	58.3	59.2	36.5	94.9

These statistics are striking. USUHS, the only medical school which trains physicians and nurses in the particular aspects of military medicine, has produced high quality military physicians whose special qualifications play an important part in fulfilling our promise to those we send into battle. In fact, it remains almost unbelievable that these physicians chose to remain in the military and to stand in harm's way when they could easily lead a more comfortable life outside of the military. USUHS graduates are truly extraordinary people—a rare breed that we are so fortunate to have in the defense of our Nation. Any physician will tell you that there is a profound difference between a regular physician and a military physician. A military physician must be in prime physical condition, must not only know medicine but must know military routine and the special aspects of military medicine as well, and must be able to withstand unusual circumstances. I invite those doing the study and my colleagues to review the compelling testimony at a recent hearing before the Subcommittee on Defense Appropriations of several USUHS graduates including one who was held captive as a prisoner of war in Desert Storm—this is the best example of the purpose of USUHS and its unique contributions.

We have said to our fighting forces that we will care for them on the battlefield; we have said to the soldier when you are at war, we will care for your loved ones; we have said to the sailor and the airman, your spouse and children will receive the best of medical care while you are away. Consequently, as we reduce the size of the military and its supporting infrastructure in proportion to the threats we now face, we must not forget the human side of the equation.

Today as we find ourselves once again in the throes of a military drawdown, we are faced with similar problems and situations that were prevalent in the 1970's. At that time, there were many in the Congress and throughout this land who were quite concerned with the condition of our military. That is when words such as "hollow army" were first heard. During that period, over one-third of our naval vessels were considered not ready for combat, not because the vessels were old and decrepit, some were brand new. They could not be sent into combat because the personnel necessary to man those ships were not combat ready. In recruiting, we were having a terrible time. A study was conducted and it was shown that we were in a very dangerous position, very simply because we did not have adequate medical support. We were not able to recruit and retain physicians. The problem was not that simple. The report showed that we could not go into any war because we did not have the appropriate medical personnel. How could we send men and women into combat without medical forces? As a result, in 1972 the Congress passed overwhelmingly the Uniformed Services Health Professional Revitalization Act which established two programs for military medical education: one is the scholarship program and the other is the Uniformed Services University of the Health Sciences [USUHS].

Since its inception in 1976, the Uniformed Services University of the Health Sciences has served to provide our Nation with military physicians and scientists who can readily adapt to adverse conditions as evidenced in our recent experience with Desert Storm. USUHS provides our Nation with a cadre of career oriented medical officers trained and educated to both practice military medicine and serve as uniformed medical leaders. I reemphasize the term "military physician", not just "physician in the military". There is a definite qualitative difference. USUHS is the only resource in the country that teaches the unique discipline of military medicine. Students receive a strong concentration in public health, preventive medicine, and leadership skills as well as combat casualty care, disaster medicine, and tropical medicine which prepares them for a unique role—rapid overseas deployment. This type of unique preparation could mean the difference between life and death for any serviceman.

The decision to close this fine military medical school for economic reasons could result in being very costly to us all. The tunnel vision approach being applied to the closure of USUHS is based solely on per capita cost. Attention has not been paid to the "value added" of USUHS graduates and their services. In fact, from a total of 1,836 USUHS graduates, 97 percent remain on active duty and provide valuable staffing in our military clinics and hospitals.

Graduates of USUHS are not only trained in the specifics of military medicine, but are men and women who usually make the military their career, men and women who serve longer than non-USUHS educated physicians. Studies indicate that 41 percent of USUHS graduates will remain in the military until retirement. This is an extraordinary statistic compared to the 6 percent of scholarship program graduates who choose to do the same.

Whatever the reasoning which has led to this attempt to once again resurrect this issue to challenge the existence of our Nation's only Federal medical school, we must stand behind Congress' initial sound decision to create a medical school dedicated to medical readiness and service to our Nation. I ask for your strong support to protect the Uniformed Services University of the Health Sciences from those who do not fully recognize the worth of our military medical school.

Mr. NUNN. Mr. President, this amendment would require the General Accounting Office to report not later than June 1, 1995, regarding the Uniformed Services University of the Health Sciences. The report will address the cost of obtaining physicians, the quality of medical education at the university, the special needs of military medicine, and the university's response to a previous DOD IG report.

I urge the adoption of the amendment.

Mrs. HUTCHISON. There is no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2222) was agreed to.

AMENDMENT NO. 2223

(Purpose: To limit joint development of an advanced threat radar jammer with a foreign government, other than a major ally of the United States, or with an entity controlled by a foreign government, other than such an ally)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senator FEINSTEIN and Senator BINGAMAN and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mrs. FEINSTEIN, for herself, Mr. BINGAMAN, Mr. ROTH and Mr. SASSER, proposes an amendment numbered 2223.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 59, between lines 9 and 10, insert the following:

SEC. 250. ADVANCED THREAT RADAR JAMMER.

(a) LIMITATION REGARDING JOINT DEVELOPMENT PROGRAM WITH CERTAIN FOREIGN ENTITIES.—The Secretary of Defense may not negotiate or enter into any agreement with, nor accept funds from, a foreign government or an entity controlled by a foreign government for a joint program for the development of an advanced threat radar jammer for combat helicopters until 30 days after the Secretary, in consultation with the Secretary of State, the Secretary of the Army, and the Director of the Defense Security Assistance Agency, conducts a comprehensive review of the program and submits a report on the results of that review to the congressional defense committees.

(b) MATTERS COVERED BY REVIEW AND REPORT.—The matters relating to the program referred to in subsection (a) that are required to be covered by the review and report are as follows:

(1) The legal basis for seeking for the program funds that are neither authorized to be appropriated nor appropriated.

(2) The consistency of the program with the Department of Defense policy that no foreign military sale of a defense system, and no commitment to foreign military sale of a defense system, be made before operational test and evaluation of the system is successfully completed and the Under Secretary of Defense for Acquisition and Technology has specifically approved the system for sale to a foreign government.

(3) The mission requirement for an advanced threat radar jammer for combat helicopters.

(4) An assessment of each threat for which an advanced threat radar jammer would be developed, particularly with regard to each threat to a foreign country with which the United States would jointly develop an advanced threat radar jammer.

(5) The potential for sensitive electronic warfare technology to be made available to potential adversaries of the United States as a result of United States participation in the program.

(6) The availability of other nondevelopmental items and less sophisticated technologies for countering the emerging radar detection threats to United States combat helicopters and combat helicopters of United States allies.

(7) A capability assessment of similar technologies available from other foreign countries and the consequences of proliferation of such technologies in regions of potential conflict.

(c) INAPPLICABILITY TO MAJOR ALLIES OF THE UNITED STATES.—This section does not apply with respect to a major ally of the United States.

(d) DEFINITIONS.—In this section:

(1) The term "entity controlled by a foreign government" includes—

(A) any domestic or foreign organization or corporation that is effectively owned or controlled by a foreign government; and

(B) any individual acting on behalf of a foreign government,

as determined by the Secretary of Defense. Such term does not include an organization or corporation that is owned, but is not controlled, either directly or indirectly, by a foreign government if the ownership of that organization or corporation by that foreign government was effective before October 23, 1992.

(2) The term "major ally of the United States" has the meaning given such term in section 2350a(i)(2) of title 10, United States Code.

Mrs. FEINSTEIN. Mr. President, I rise today on behalf of myself and Senators BINGAMAN, ROTH, and SASSER, to offer an amendment that would require the Secretary of Defense to report to Congress on a very important issue that involves not only congressional oversight of a defense program, but also proliferation concerns and stability in the Middle East—a Department of Defense proposal to codevelop the Advanced Threat Radar Jammer [ATRJ] with the United Arab Emirates [UAE].

I understand that the U.S. Army and Defense Security Assistance Agency [DSAA] are prepared to offer the UAE a proposal to codevelop the ATRJ—the Army's next generation radar receiver and jamming system. Under this proposal, the UAE would provide funding for research and development of the ATRJ and then be allowed to purchase the sophisticated systems for installation on recently acquired AH-64 Apache helicopters.

I and many of my colleagues are concerned about this proposal for several reasons. First, this agreement would establish an arrangement wherein a foreign nation would fund a U.S. defense program in an apparent circumvention of the normal authorization and appropriations process, and beyond the effective oversight of Congress. The Congress has repeatedly voiced its objections to executive branch efforts to solicit funds in support of U.S. foreign policy or defense initiatives that were not first made subject to the scrutiny of the legislative branch.

Second, I believe this agreement would undermine the President's own efforts to constrain weapons proliferation. It provides the UAE with a quantum improvement in its war fighting capability which could provoke other hostile nations to seek advanced systems to counter the new perceived UAE threat.

Third, this arrangement would violate a departmental policy, recently reaffirmed by the Deputy Secretary of Defense on March 15, 1994, which states that "the Department of Defense remains committed to the policy of no foreign military sales or commitments for foreign sales of defense systems prior to the successful completion of OT&E [operational test and evaluation], and the specific approval of the Under Secretary of Defense. This policy remains in effect today."

Finally, I am deeply concerned that if this new weapons system were introduced into a volatile region and ever fell into the hands of a U.S. adversary, its state-of-the-art jamming capability could pose a serious threat to U.S. forces. When fully operational, this system will be capable of friend or foe identification, pulsed radar jamming, extreme radio frequency sensitivity, and processing capability, as well as multiband situational awareness.

I see little justification for proceeding with an arrangement that is fraught with so many questionable funding practices and policy implications. While I and many of my colleagues believe that the United States shares an interest in the security of the UAE, the ATRJ would provide a level of jamming capability significantly greater than that processed by many of our close NATO and major non-NATO allies. The possible threats to the UAE are no greater than those faced by other nations in the region, none of which have been asked to participate in the ATRJ program.

I have already contacted the Defense Department on this issue, expressing my concern over the codevelopment of the ATRJ with the UAE. Unfortunately, I found the response to my concerns to be inadequate.

Therefore, I have offered this amendment that directs the Department of Defense not to proceed with the codevelopment of the ATRJ with any foreign entity until the Department has fully consulted with Congress, and evaluated both legal and policy implications. The amendment exempts our NATO and major non-NATO allies.

I urge my colleagues to support this commonsense amendment and I urge its adoption. I ask unanimous consent that my previous correspondences with DOD be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, April 13, 1994.

Lt. Gen. THOMAS RHAME,
Director, Defense Security Assistance Agency, Washington, DC.

DEAR GENERAL RHAME: I am concerned that the Department of Defense is considering a co-development program with the United Arab Emirates (UAE) for the Army's Advanced Threat Radar Jammer (ATRJ). This action follows the sale of AH-64 Apache helicopters to the UAE.

Apparently, the UAE would provide funding for research and development of the ATRJ and then be allowed to purchase the sophisticated systems for installation on the recently acquired Apache helicopters. Specifically, I am concerned that the proposed program could have serious implications for U.S. national security by providing the UAE with an ultra-sophisticated capability to detect enemy radar and equip UAE helicopters with an advanced, high-powered radar jamming system.

This precedent may represent a major departure from U.S. Middle East policy and our commitment to Israel's qualitative edge in its national defense. To my knowledge, ATRJ technology has not been offered to other U.S. allies and would likely surpass similar technologies currently employed by other countries. By allowing the UAE to assist with research and development costs, the Defense Department may be granting a foreign country access to the most advanced version of a weapon system used by U.S. forces. In addition, the ATRJ co-development program may cause a new round of high technology proliferation in a very volatile region of the world.

I urge you to fully investigate the ATRJ co-development program, and carefully consider the implications to U.S. national security and U.S. Middle East policy. Thank you for your attention to this matter and I look forward to your reply.

Sincerely yours,

DIANNE FEINSTEIN,
U.S. Senator.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, May 10, 1994.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: This responds to your April 13, 1994, letter concerning the electronic warfare (EW) suite for the United Arab Emirates' (UAE) AH-64 Apache helicopter program.

The UAE has for some time been considering several U.S. and foreign EW systems for its AH-64 Apache helicopters. The Department of Defense and the UAE are exploring a two-phased approach under which the UAE would purchase a standard U.S. Army EW suite for its short-term needs, with a possible cooperative development program providing hardware for its long-term requirements. These discussions are still at an early stage, and no final decisions have been reached.

It is premature to speculate about the configuration and capabilities of any hardware that may result from a cooperative program several years hence, though it assuredly would not exceed the capabilities of equipment in use with our own forces. Should the United States and the UAE agree on such a program, you can be assured that all sensitive technologies would be protected and precautions taken against unauthorized disclosures.

The central objectives of our security assistance programs throughout the region are to enhance the self-defense capabilities of our friends and allies and to build the interoperability that will enable us to fight together should it ever become necessary. If successfully implemented, this program will fulfill both these objectives by providing UAE aircraft with a defensive system that will be interoperable with U.S. systems and supportable through the U.S. logistics system.

I can assure you that our commitment to Israel's security remains unshakable. We would not even be considering such a program with the UAE if we believed that it would affect Israel's qualitative edge, which we are committed to maintaining. Please contact me if I can provide any additional information.

Sincerely,

THOMAS G. RHAME,
Lieutenant General, USA, Director.

Mr. BINGAMAN. Mr. President, I am pleased to join Senator FEINSTEIN and several other Senators in offering this amendment, which would put a halt to the Army's efforts to win funding from a foreign government which is not a NATO or major non-NATO ally to undertake an advanced threat radar jammer program until a series of questions are answered by the Secretary of Defense.

We are deeply disturbed by Army attempts to seek funding in this manner for the development of an advanced threat radar jammer [ATRJ] for combat helicopters outside the normal budget processes. We understand that the Army intends to share this sensitive, state-of-the-art technology with nations that are neither members of NATO nor major non-NATO allies and may be pursuing this effort outside the congressional authorization and appropriate processes.

We are aware that the Army is looking to a foreign government to provide research and development funding for the ATRJ. In exchange, the Army would permit the purchase of the system for installation in that country's recently acquired AH-64 Apache helicopters. When fully operational, the ATRJ system is intended to be capable of identification of friend or foe, pulsed radar jamming, extreme RF sensitivity and processing capability as well as multiband situational awareness.

The Senators offering this amendment are disturbed by this arrangement for several reasons:

First, this proposed agreement appears to establish an arrangement wherein a foreign nation, which is neither a NATO ally nor a major non-NATO ally, is funding a United States defense program in an apparent circumvention of the normal authorization and appropriations process and beyond the effective oversight of Congress.

Second, this proposed agreement appears to undermine the administration's efforts to constrain proliferation of sensitive technologies. Currently, Apache helicopters available for sale to foreign countries come equipped with a standard Foreign Military Sales [FMS] variant APR-39 threat warning receiver. The proposed ATRJ would represent a significant improvement in critical electronic warfare capabilities in a sensitive region. If this new system were to fall into the hands of a United States adversary, most notably Iraq or Iran, its state-of-the-art jamming capability could pose a serious threat to U.S. forces in the region.

Third, this proposed agreement appears to violate a departmental policy reaffirmed by Deputy Secretary Deutch on March 15, 1994, which states "the Department of Defense remains committed to the policy of no foreign military sales or commitments for foreign sales of defense systems prior to the successful completion of operational test and evaluation and the specific approval of the Under Secretary of Defense (Acquisition and Technology)."

Therefore, we are offering this amendment, the effect of which would be that all efforts to solicit funds from a government, which is neither a NATO ally nor a major non-NATO ally, to develop the ATRJ would be halted while the Secretary of Defense, in consultation with the Secretary of the Army, conducts a comprehensive review of the program. While this review is conducted we would expect that the Army would terminate all formal and informal discussions with any country interested in obtaining ATRJ technology.

Mr. President, the Army's actions clearly warrant the pause which our amendment would impose. There are far more questions at the moment than answers, and I suspect that this program may never get off the ground once it is subjected to close scrutiny. At a minimum, the Pentagon will have to address the concerns we have raised and tell us how they intend to deal with those concerns. I urge my colleagues to support the amendment.

Mr. NUNN. Mr. President, this amendment would limit the joint development of advanced threat radar jammer system with a foreign government, other than a major ally of the United States, until the Secretary of Defense conducts a comprehensive review program and submits a report to Congress on this review.

I urge the adoption of the amendment.

Mrs. HUTCHISON. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2223) was agreed to.

AMENDMENT NO. 2224

(Purpose: To provide for studies of the health consequences of military service and employment in the Southwest Asia theater of operations during the Persian Gulf War)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senator ROCKEFELLER and Senator RIEGLE and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. ROCKEFELLER, for himself, Mr. RIEGLE, Mr. DODD, Mr. JEFFORDS, Mr. DASCHLE, Mr. KOHL, Mr. BRADLEY, Mr. KERRY, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. CAMPBELL, and Mr. MATHEWS, proposes an amendment numbered 2224.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. STUDIES OF HEALTH CONSEQUENCES OF MILITARY SERVICE OR EMPLOYMENT IN SOUTHWEST ASIA DURING THE PERSIAN GULF WAR.

(a) EPIDEMIOLOGICAL STUDY.—

(1) IN GENERAL.—The Secretary of Defense shall award a grant under this subsection to one or more non-Federal entities selected for the award under subsection (c). The purpose of a grant is to permit the entity receiving the award to carry out the study described in paragraph (2).

(2) NATURE OF STUDY.—The purpose of the study referred to in paragraph (1) is to determine the nature and scope of the illnesses and symptoms suffered by the individuals referred in paragraph (3) as a result of service or employment in the Southwest Asia theater of operations during the Persian Gulf War.

(3) INDIVIDUALS COVERED BY STUDY.—Paragraph (2) applies to the following individuals:

(A) Individuals who served as members of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

(B) Individuals who were civilian employees of the Department of Defense in that theater during that period.

(C) Where appropriate, individuals who were employees of contractors of the Department in that theater during that period.

(D) Where appropriate, the spouses and children of individuals described in subparagraph (A).

(4) STUDY DESIGN.—The study required under this subsection shall be designed—

(A) to assess the extent, if any, of the association between—

(i) the illnesses and symptoms suffered by individuals referred to in paragraph (3);

(ii) the exposure of the individuals referred to in subparagraphs (A), (B), and (C) of that paragraph to chemical and biological agents, drugs and vaccines, endemic biological diseases, pesticides, toxins, and other potentially hazardous materials; and

(iii) the experiences of such individuals with stress-producing battlefield and wartime conditions;

(B) to identify risk factors for predicting the illnesses or symptoms relating to such exposure that will arise within 3 years of the arrival of an individual referred to in subparagraph (A), (B), or (C) of paragraph (3) in the Southwest Asia theater of operations;

(C) to determine—

(i) the incidence, prevalence, and nature of the illnesses and symptoms suffered by the individuals referred to in paragraph (3), including—

(I) the incidence, prevalence, and nature of the illnesses and symptoms of such individuals before the commencement of the period of the Persian Gulf War and the incidence, prevalence, and nature of the illnesses of such individuals after the end of that period; and

(II) the incidence, prevalence, and nature of the illnesses, symptoms, and birth defects of any children conceived by such individuals before the commencement of that period and of any children conceived by such individuals during or after the end of that period; and

(ii) the incidence, prevalence, and nature of illnesses and symptoms of other individuals or groups of individuals, if any, who may suffer from an illness or symptom as a result of the service or employment of any person or group of persons in the Southwest Asia theater of operations during the Persian Gulf War; and

(D) to evaluate a comparison sample or to evaluate any other matter that the Secretary or the entity determines appropriate to the purposes of the study.

(5) REPORTS.—

(A) INTERIM REPORTS.—Not later than each of July 1, 1995, and July 1, 1996, the Secretary shall submit to the congressional defense committees and the Committees on Veterans' Affairs of the Senate and the House of Representatives an interim report on the results of the study carried out under this subsection.

(B) FINAL REPORT.—Not later than January 1, 1998, the Secretary shall submit to the committees referred to in subparagraph (A) a final report on the results of the study.

(C) FORM OF REPORTS.—The reports submitted under this paragraph shall be submitted in unclassified form.

(b) STUDIES OF HEALTH CONSEQUENCES OF ADMINISTRATION OF PYRIDOSTIGMINE BROMIDE.—

(1) IN GENERAL.—The Secretary of Defense shall award a grant under this subsection to one or more non-Federal entities selected for the award under subsection (c). The purpose of a grant is to permit the entity receiving the award to carry out a study or studies to determine the following:

(A) The long-term health consequences of the administration of pyridostigmine bromide as an antidote enhancer for chemical nerve agent toxicity during the Persian Gulf War.

(B) The short-term and long-term health consequences of the administration of pyridostigmine bromide under the chemical nerve agent pretreatment program of the Department of Defense and exposure to pesticides, environmental toxins, and other hazardous substances during battlefield conditions that prevailed in the Southwest Asia theater of operations during the Persian Gulf War.

(2) STUDIES.—The Secretary shall provide that an entity awarded a grant under this subsection shall carry out a study described in paragraph (3) or (4).

(3) RETROSPECTIVE STUDY.—A study referred to in paragraph (2) is a retrospective study on members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf War in order to determine the following:

(A) The nature of the undiagnosed and chronic illnesses suffered by such members.

(B) The degree of association between such illnesses and—

(i) use of pyridostigmine bromide over a short period of time (as determined by the Secretary) during the Persian Gulf War;

(ii) use of pyridostigmine bromide over an extended period of time (as so determined) during that war; or

(iii) use of no pyridostigmine bromide.

(C) The degree of association between—

(i) such illnesses;

(ii) each extent of use of pyridostigmine bromide described in subparagraph (B);

(iii) receipt of other vaccinations or medications; and

(iv) exposure to pesticides, organo-phosphates, or carbamates.

(4) ANIMAL MODEL STUDY.—A study referred to in paragraph (2) is also a study using appropriate animal research models in order to determine whether use of pyridostigmine bromide in combination with exposure to pesticides or other organophosphates, carbamates, or relevant chemicals results in increased toxicity in animals and is likely to have a similar effect on humans.

(5) REPORTS.—

(A) ANIMAL STUDY REPORT.—Not later than January 1, 1996, the Secretary shall submit to the congressional defense committees and the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the study carried out under paragraph (4).

(B) INTERIM REPORTS ON RETROSPECTIVE STUDY.—Not later than each of July 1, 1995, and July 1, 1996, the Secretary shall submit to the committees referred to in subparagraph (A) an interim report on the results of the study carried out under paragraph (3).

(C) FINAL REPORT ON RETROSPECTIVE STUDY.—Not later than January 1, 1998, the Secretary shall submit to the committees referred to in subparagraph (A) a final report on the results of the study carried out under paragraph (3).

(D) FORM OF REPORTS.—The reports submitted under this paragraph shall be submitted in unclassified form.

(c) SELECTION OF STUDY ENTITIES.—

(1) IN GENERAL.—The Secretary of Defense shall select entities to which to award grants for the studies described in subsections (a) and (b) in accordance with this subsection.

(2) SUBMITTAL OF PROPOSALS.—An entity seeking to carry out a study under a grant under subsection (a) or (b) shall submit to the Secretary the following proposals:

(A) A proposal for a pilot study in order to determine the research design and research instrument to be used in the study.

(B) A proposal for the study.

(3) INDEPENDENT REVIEW.—The Secretary shall ensure that individuals described in paragraph (4)—

(A) review each proposal submitted to the Secretary under paragraph (2) for purposes of determining whether or not the proposal—

(i) addresses adequately the purposes of the study; and

(ii) meets the technical, scientific, and peer review requirements that apply to similar studies carried out under the direction of the Secretary of Health and Human Services; and

(B) submit to the Secretary recommendations for the selection by the Secretary of one or more entities to carry out the study.

(4) REVIEWING INDIVIDUALS.—Individuals referred to in paragraph (3) are any individuals who, as determined by the Secretary—

(A) are not employees of the Federal Government;

(B) have an expertise in epidemiology, toxicology, neurology, biology, biostatistics, post-traumatic stress disorder, or public health; and

(C) have no financial relationship with the Department of Defense or with any chemical company or pharmaceutical company whose productions may be addressed in the study.

(5) SELECTION.—The Secretary shall—

(A) select the entities that will carry out the studies described under subsections (a) and (b) from among the entities recommended for such selection under paragraph (3); and

(B) award such entities grants under the appropriate subsection.

(d) PERFORMANCE OF STUDIES.—

(1) PILOT STUDIES.—

(A) IMPLEMENTATION.—An entity to which the Secretary awards a grant for a study under subsection (a) or (b) shall carry out the pilot study for such study in accordance with the proposal for the pilot study submitted to the Secretary under subsection (c)(2)(A).

(B) RESPONSE TO RESULTS.—If an entity determines as a result of a pilot study under subparagraph (A) that revisions to the study proposed by the entity are necessary in order to meet the purposes of the study under this section, the entity shall submit to the Secretary a proposal for such revisions to the study.

(C) FINAL APPROVAL.—The Secretary shall—

(i) review any revisions to a proposal to a study that are submitted to the Secretary under subparagraph (B); and

(ii) approve the proposal for the study, as so revised, if the Secretary determines that the proposal meets the purposes of the study under this section.

(2) STUDIES.—An entity to which the Secretary awards a grant for a study under subsection (a) or (b) shall carry out the study in accordance the proposal for the study under this section.

(e) CONSULTATION.—The Secretary of Defense shall carry out this section in consultation with the Secretary of Veterans Affairs, the Secretary of Health and Human Services, the Administrator of the Environmental Protection Agency, the head of the Medical Follow-Up Agency of the Institute of Medicine, and the heads of other appropriate departments and agencies of the Federal Government.

(f) FUNDING.—Of the amount authorized to be appropriated pursuant to section 201, $10,000,000 shall be available for purposes of awarding grants for the studies described in subsections (a) and (b). Such funds shall be available for such purpose until expended.

(g) DEFINITION.—In this section, the term "Persian Gulf War" has the meaning given such term in section 101(33) of title 38, United States Code.

SEC. 1169. GRANTS FOR RESEARCH INTO THE HEALTH CONSEQUENCES OF THE PERSIAN GULF WAR.

(a) IN GENERAL.—(1) The Secretary of Defense shall award grants to appropriate nongovernmental entities for purposes of permitting such entities to carry out research to determine—

(A) the nature and causes of any illnesses suffered by the individuals referred to in paragraph (2) as a result of service or employment in the Southwest Asia theater of operations during the Persian Gulf War;

(B) the methods of transmission, if any, of such illnesses from such individuals to other individuals; and

(C) the appropriate treatment for such illnesses.

(2) The individuals referred to in paragraph (1)(A) are the following individuals:

(i) Individuals who served as members of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

(ii) Civilian employees of the Department of Defense who were employed by the Department in that theater of operations during that period.

(iii) Employees of contractors of the Department who were employed in that theater of operations during that period.

(iv) The spouses and children of the individuals referred to in clauses (i) through (iii).

(3) In carrying out research under this section, such entities shall give particular consideration to the following:

(A) Illnesses or other effects associated with exposure to depleted uranium particles, mycotoxins, genetically-altered organisms, petrochemical toxicity, pesticide poisoning, anthrax vaccines, botulinum toxoids, and other chemical hazards and agents.

(B) Endemic viral, fungal, bacterial, and rickettsial diseases (including diseases arising from biological warfare activities).

(C) Illnesses or other effects associated with ingestion of silica or sand.

(D) Assessment of risks to reproductive capacity arising from the illnesses and diseases referred to in subparagraphs (A) through (C).

(E) Pediatric disorders.

(F) Birth deficiencies.

(G) Post-traumatic stress disorder.

(H) Somatoform disorders.

(I) Chronic fatigue syndrome.

(J) Multiple chemical sensitivities.

(b) AWARD PROCESS.—(1) The Secretary of Defense shall award grants under this section in consultation with the Secretary of Health and Human Services.

(2) An entity seeking a grant under this section to carry out the research described in subsection (a)(1) shall submit to the Secretary a proposal for the research.

(3) The Secretary shall ensure that appropriate individuals who are not employees of the Federal Government—

(A) review each proposal submitted to the Secretary under paragraph (2) for purposes of determining that the proposal—

(i) addresses adequately the purposes of the research for which the proposal is submitted; and

(ii) meets the technical, scientific, and peer review requirements that apply to similar research carried out under the direction of the Secretary of Health and Human Services; and

(B) submit to the Secretary recommendations for the selection by the Secretary of one or more entities so determined as recipients of a grant under subsection (a).

(4) The Secretary shall award grants under this section to entities selected by the Secretary for that purpose from among the entities identified in the recommendations under paragraph (3)(B).

(5) In awarding an entity a grant under paragraph (4), the Secretary shall ensure that the entity—

(A) carry out the research covered by the grant in accordance with the proposal submitted to the Secretary under paragraph (2); and

(B) not expose human beings to hazardous agents or materials as a result of the research.

(c) REPORTS.—(1) The Secretary of Defense and the Secretary of Health and Human Services shall submit to the congressional defense committees and the Committees on Veterans' Affairs of the Senate and the

House of Representatives a report on the results of any research carried out under a grant awarded under this section.

(2) The Secretary of Defense and the Secretary of Health and Human Services shall submit a report under paragraph (1) on each of March 1, 1995, October 1, 1995, October 1, 1996, and October 1, 1997.

(3) Each report submitted under this subsection shall be submitted in unclassified form.

(d) FUNDING.—(1) Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for purposes of awarding grants under this section. Such funds shall be available for such purpose until expended.

(2) For each fiscal year in which activities under the study under this section will continue, the Secretary of Defense shall provide in the documents submitted to Congress in connection with the budget of the President for the fiscal year a request for such funds as the Secretary determines necessary in order to award grants under this section during that fiscal year.

SEC. 1070. COMPATIBILITY OF HEALTH REGISTRIES.

(c) COMPATIBILITY OF HEALTH REGISTRIES.—The Secretary of Defense shall take appropriate actions to ensure that—

(1) the data collected by and the testing protocols of the Persian Gulf War Health Surveillance System are compatible with the data collected by and the testing protocols of the Persian Gulf War Veterans Health Registry; and

(2) information on individuals who register with the Department of Defense is provided to the Department of Veterans Affairs for incorporation into the Persian Gulf War Veterans Health Registry.

Mr. RIEGLE. Mr. President, as you know, shortly after the 1991 Persian Gulf conflict, a small number of Gulf war veterans came forward complaining that they were suffering from an array of unusual symptoms. This array of symptoms has come to be known as Gulf War Syndrome. Standardized medical examinations were conducted on the individuals who originally came forward. Since no readily identifiable illnesses were discovered, their claims were discounted.

Then in 1992, the number of individuals coming forward with similar complaints began to grow to such an extent that Congress and a number of other governmental agencies began to become more concerned.

As a result the VA Persian Gulf Health Registry was created. Still, many of the veterans who came to the VA hospitals were often referred for psychiatric treatment since the physicians could not otherwise diagnose their illnesses. Others were diagnosed and treated symptomatically—often unsuccessfully—by physicians who failed to recognize the full scope of the illnesses.

Hundreds of veterans and members of the Armed Forces, from both the officer and enlisted corps, who served in the Gulf, have reported to us that chemical agents were detected with the onset of the air war, after Scud attacks, after explosions, in Iraqi and Kuwaiti minefields and in bunkers.

In July of 1993, the Czech Government announced that Czechoslovak chemical detection units assigned to the Gulf detected chemical agents there.

In December 1993, the French Government confirmed that they too detected chemical agents during the Persian Gulf conflict. there have been thousands of reports that camels, sheep, goats, birds, and insects in Iraq, Kuwait, and Saudi Arabia began suddenly dying shortly after the initiation of the air war suggesting that whatever exposures may have caused a cross-species contamination of mammals, birds, and insects, might have also been harmful to humans.

I have also learned that there is good reason to be concerned about the longterm health consequences of the administration of the cholinesterase inhibitors in the Nerve Agent Pretreatment Program—as a result of both their direct effects and the reported studies of the possible potentiating or synergistic effects of these drugs when combined with exposures to organophosphate nerve gases and pesticides.

In addition, I believe we must continue to examine the hazards associated with other environmental and occupational exposures such as depleted uranium, chemical agent resistant coating or CARC, pesticides, smoke from the oil fires, and others.

The Syndrome, contrary to previous reports has not only affected U.S. veterans. I have also been contacted by members of the Canadian, British, and Australian military all complaining of similar symptoms. Eighteen members of the 169-person Czech chemical decontamination unit are also reportedly complaining of similar symptoms.

Since September 1993, the number of veterans who have signed up for the VA Persian Gulf Registry examination has increased from 5,400 to over 24,000. I have received calls and letters from thousands of these veterans from throughout the United States complaining of ineffective treatment.

I have also been contacted by hundreds of active duty members of the U.S. Armed Forces who are sick. Many are reluctant to seek medical care for their illnesses fearing that they will be discharged. Others are fearful of coming forward because many of those who previously came forward were referred for psychiatric examinations. As the U.S. armed services is now an all volunteer force, this is an issue of some concern since their careers and, ironically, maintaining their health care coverage, depends on their remaining on active duty. Many members of their families are also ill.

The VA Persian Gulf Registry does not include any of the sick spouses and children. Over 75 percent of the spouses and 25 percent of the children conceived before the war by the sick vets who have contacted me are experiencing many of these symptoms. Sixty-five percent of their children conceived after the war are also experiencing health problems. Most commonly noted among the health problems of these infants are respiratory infections, ear infections, and rashes. In some cases, severe birth defects have been noted.

Nor does it include the sick Department of Defense civilians and contractors who served in the gulf, or the DOD civilians in the United States who became sick after decontaminating or cleaning equipment that was returned from the theater of operations.

These patterns of illnesses and exposures, along with reported observations of tens of thousands of dead sheep, goats, camels, birds, and insects suggests that immediate and extensive peer-reviewed open research is required.

This is a serious public health issue. I have been contacted by thousands of veterans from throughout the United States, and regrettably, I have received reports of many young men and women who have—after initially experiencing these symptoms—died from cancers or unexplained heart failures.

This amendment to the Senate Department of Defense authorization bill I am cosponsoring today with Senator ROCKEFELLER will authorize $20 million in funding to conduct an epidemiological survey on veterans, armed services personnel, and Department of Defense civilians who served in the Persian Gulf war, as well as their spouses and children; conduct research into the long-term medical hazards of the administration of pyridostigmine bromide in the chemical nerve agent pretreatment program during the Persian Gulf war; establish a research program to fund independent peer-reviewed research into the illnesses, treatment of the illnesses being experienced, and into determining if and how the illnesses are transmitted; and mandate the compatibility of Department of Defense and Department of Veterans Affairs registries.

We are letting the men and women who served this country, and who we celebrated with parades, down. This amendment asks for funding for scientific research at levels well below what we spend on other illnesses. We spent tens of billions of dollars to finance the conduct of the war. We must come to understand that the expense of war also includes our obligations to care for our soldiers and our veterans.

Ultimately, we will only learn the true scope and consequences of this issue when appropriate epidemiological testing and basic scientific research is conducted to determine the nature of the illnesses that these veterans, civilians, and their families are suffering. I ask today that no more or no less be done for the men and women who served this country in the Persian Gulf war, that we have done when other unidentified illnesses have surfaced. The conduct of this research totalling $20,000,000 could also ultimately result in a savings of billions of government and private-sector dollars in misdirected health care, disability and compensation benefits, and other social costs over several generations.

Mr. NUNN. Mr. President, this amendment would provide $20 million in funding for the conduct of important research into the causes and treatment of the Persian Gulf war illness. This amendment was worked out between Senator RIEGLE and the Veterans Committee and Senator ROCKEFELLER this afternoon.

I urge the adoption of the amendment.

Mrs. HUTCHISON. No objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2224) was agreed to.

AMENDMENT NO. 2225

(Purpose: To authorize a land conveyance of certain real property at the Defense Fuel Supply Point, Casco Bay, Maine)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senator MITCHELL and Senator COHEN and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. MITCHELL, for himself, and Mr. COHEN, proposes an amendment numbered 2225.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 306, between lines 7 and 8, insert the following:

(F) A parcel of real property, including any improvements thereon and the pier associated therewith, consisting of approximately 118 acres and located in Harpswell, Maine, the location of the Defense Fuel Supply Point, Casco Bay, Maine.

On page 311, between lines 22 and 23, insert the following:

(F) In the case of the parcel referred to in subparagraph (F) of that subsection, by conveying without consideration all right, title, and interest of the United States in and to the parcel to the Town of Harpswell, Maine.

Mr. MITCHELL. Mr. President, I am very pleased that the committee has shown its support for local economic development, and particularly for economic development in the town of Harpswell, ME, by inserting language to the Department of Defense Authorization Act for fiscal year 1995 which will require the Administrator of the General Services Administration [GSA] to screen certain parcels of land, prior to conveyance, to ensure that there are no preferential interests in the land. This provision may allow the town of Harpswell, and other communities, to acquire valuable property from the Department of Defense.

The town of Harpswell has shown great interest in a parcel known as the Defense Fuel Supply Point, Casco Bay, containing nearly 120 acres of storefront property and a pier, since the Department of the Navy closed this site 2 years ago. As a result of the closure Harpswell formed the Navy Fuel Depot Committee and charged it with exploring acquisition and possible future uses for the site. Recently, after a vote was taken at a town meeting, the town of Harpswell asked for my assistance in acquiring the property.

This provision will allow the site at Harpswell to go through the expedited screening process from the GSA. If no preferential interest is found during the screening process the Secretary of Defense may convey the parcel to the Administrator of GSA for transfer to the town of Harpswell, at no cost. The entire screening process will be completed not later than 125 days after enactment of the Department of Defense Authorization Act for fiscal year 1995.

While Harpswell may receive rights to this property, it will not be responsible for cleaning any environmental contamination caused by the Defense Fuel Supply Point, Casco Bay. The town will not take possession of this land until it meets with Federal and State environmental regulations.

By expediting the screening process this provision will allow the town of Harpswell to move forward in planning for its future. Some of the ideas I have heard for use of this land include a new town dock, a public recreation area, a marine research facility, a business park, and others. Within 125 days of enactment of this law the town of Harpswell will know if it can include the property at the Defense Fuel Supply Point, Casco Bay, in a comprehensive plan for its future.

Again, I thank the chairman for the support he has shown for the future of the town of Harpswell, ME.

Mr. NUNN. Mr. President, this amendment authorizes the Secretary of Navy to convey for no consideration, 118 acres of real property and improvements located in the former Defense Fuel Supply Point in Casco Bay, ME, to the city of Harpswell subject to the General Services Administration expedited screening process.

I say to my friend from North Dakota, if he is still listening tonight, that this is the same procedure applied to the majority leader that was applied in the case of the North Dakota property.

Mrs. HUTCHISON. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2225) was agreed to.

AMENDMENT NO. 2226

(Purpose: To provide for a study of the improvement of highway safety at the highway on the Hawthorne Army Ammunition Plant, Nevada)

Mr. NUNN. Mr. President, on behalf of Senator REID and Senator BRYAN, I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. REID, for himself, and Mr. BRYAN, proposes an amendment numbered 2226.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 254, between lines 14 and 15, insert the following:

SEC. 2106. HIGHWAY SAFETY AT HAWTHORNE ARMY AMMUNITION PLANT, NEVADA.

(a) STUDY.—The Secretary of the Army shall carry out a study of traffic safety on the highway at the Hawthorne Army Ammunition Plant, Nevada. In carrying out the study, the Secretary shall—

(1) evaluate traffic safety on the highway, including traffic safety with respect to the rail and truck crossing of the highway at the Plant;

(2) evaluate the feasibility and desirability of constructing a vehicle bridge over the rail and truck crossing; and

(3) determine whether any construction required to improve traffic safety on the highway be funded as a military construction project or as a defense access road construction project.

(b) ARCHITECTURAL AND ENGINEERING SERVICES AND CONSTRUCTION DESIGN.—If the Secretary determines as a result of the study under subsection (a) that construction of a vehicle bridge over the rail and truck crossing referred to in paragraph (1) of that subsection is feasible and desirable, the Secretary should—

(1) obtain architectural and engineering activities and carry out construction design with respect to the construction of the bridge; or

(2) request that the Secretary of Transportation carry out the construction of the bridge as project for the construction of a defense access road under section 210 of title 23, United States Code.

Mr. REID. Mr. President, I am offering an amendment to the Defense authorization bill to eliminate a potential safety hazard at the Hawthorne Army Ammunition Plant in Nevada.

Explosive laden trains and trucks currently must cross Route 95 using an at-grade crossing. This creates the potential for a significant accident. Fortunately, there have not been any serious accidents, but as traffic increases on Route 95 the chances of a major accident continually increase.

This highway is the major road between Las Vegas and Reno. As the popularity of these two vacation destinations increases, there will be a corresponding increase in traffic on U.S. Highway 95. A large portion of this increased traffic will be tourists who are not familiar with this road and, therefore, are not likely to expect the crossing or be aware of it like the regular users of the highway.

The existing crossing also causes increased costs and reduced efficiency at the ammunition plant. This crossing connects the two major portions of the installation. Security guard stations must be maintained on both sides of the highway. In addition, trucks and trains carrying explosives must observe extra safety precautions when crossing the highway.

My amendment directs the Secretary of the Army to evaluate a project that will eliminate the safety hazard and improve the operating efficiency at Hawthorne Army Ammunition Plant. A new highway bridge will allow explosive laden trucks and trains to cross under U.S. Highway 95. This will eliminate the chance of a collision involving highway traffic and will allow the plant to eliminate the security check points at the current crossing.

Mr. NUNN. Mr. President, this amendment directs the Secretary of the Army to conduct a study of traffic safety on the highway at the Hawthorne Army Ammunition Plant in Nevada.

I urge adoption of the amendment.

Mrs. HUTCHISON. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2226) was agreed to.

AMENDMENT NO. 2227

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senator LEVIN and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. LEVIN, proposes an amendment numbered 2227.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 63, after line 25, insert the following:

SEC. 307. AIR NATIONAL GUARD FIGHTER AIRCRAFT.

(a) FINDINGS.—Congress makes the following findings:

(1) The Bottom-Up Review force structure proposal would accomplish most of the remaining reductions in the total number of Air Force general purpose fighter wings by reducing the Air National Guard and Air Force Reserve fighter force from 10 wings to 7 wings.

(2) The current plan for implementing the reduction referred to in paragraph (1) is to reduce the number of fighter aircraft in each Air National Guard fighter unit from 24 or 18 primary aircraft authorized to 15 primary aircraft authorized and to convert some Air National Guard fighter units to other purposes.

(3) The number of Air National Guard Combat Readiness Training Centers in operation during fiscal year 1995 should not be less than the number of such centers in operation at the end of fiscal year 1994.

(4) The Commission on Roles and Missions of the Armed Forces established by section 952 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 111 note; 107 Stat. 1738) is required to submit to Congress a report under section 954(b) of such Act on possible changes to existing allocations among the Armed Forces of military roles, missions, and functions.

(5) The Commission is not expected to submit the report until at least the middle of fiscal year 1995.

(6) The report of the Commission should contain a review of and recommendations on the assignment of roles and missions to units of the Air National Guard and the Air Force Reserve in relation to active component units that are the counterparts to such units and on requirements for resources for training of such units.

(b) REQUIREMENT.—

(1) After submission of the report referred to in paragraph (3), the Secretary of Defense shall review its findings on the role and requirements for general purpose fighter units of the Air National Guard, and shall complete within 30 days a study which recommends the appropriate level of primary aircraft authorized (PAA) for such units, following which, if the Secretary determines changes in that level are appropriate, he may notify the Congress of his determination and he may seek any reprogramming of funds that he considers appropriate to ensure that such changes are implemented.

Mr. NUNN. Mr. President, this amendment would require the Secretary of Defense to review the findings of the Commission on Roles and Missions and to complete a study of the appropriate level for primary aircraft authorized in the Air National Guard general purpose fighter units.

I urge the adoption of the amendment.

Mrs. HUTCHISON. No objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2227) was agreed to.

AMENDMENT NO. 2228

(Purpose: To state the sense of the Senate on the activities of the Secretary of Defense in assisting communities in responding to the closure of a military installation under a base closure law)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senator PRYOR, from Arkansas, and ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. PRYOR, for himself, Mr. KENNEDY, Mrs. FEINSTEIN, Mr. HOLLINGS, Mr. METZENBAUM, Mr. PELL, Mrs. BOXER and Mr. RIEGLE, proposes an amendment numbered 2228.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 289, between lines 12 and 13, insert the following:

SEC. 2813. SENSE OF SENATE ON THE ACTIVITIES OF THE SECRETARY OF DEFENSE IN SUPPORT OF COMMUNITIES AFFECTED BY BASE CLOSURES.

(a) FINDINGS.—The Senate makes the following findings:

(1) The closure or realignment of a major military installation can cause severe economic disruption to the host community for the installation.

(2) Communities affected by the closure of a major military installation under a base closure law dedicate significant time, effort, and resources to planning for the economic redevelopment of the installation.

(3) The Federal Government can ease the disruption caused by the closure of a military installation by working cooperatively with the host community for the installation to implement the community's redevelopment plan for the installation.

(4) In recent years, the Federal Government has not always provided sufficient assistance to communities affected by the closure of a military installation under a base closure law in the efforts of such communities to provide for the economic redevelopment of the installation.

(5) In July 1993, the President issued a five-point plan for revitalizing base closure communities which emphasized the economic recovery of communities affected by the closure of a military installation under a base closure law.

(6) In November 1993, Congress agreed to the provisions of subtitle A of title XXIX of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1909), and the amendments made thereunder, in order to implement the plan referred to in paragraph (5) and to provide other assistance to communities attempting to redevelop military installations approved for closure under a base closure law.

(7) The Secretary of Defense is accepting public comment on the guidelines for implementation of the provisions of law referred to in paragraph (6).

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary of Defense should—

(1) ensure that the regulations implementing the provisions of subtitle A of title XXIX of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1909), and the amendments made thereunder, reflect the intent of Congress that, to the maximum extent practicable, the Secretary take into consideration the redevelopment plans of affected communities when taking actions or implementing decisions on the closure of a military installation approved for closure under a base closure law;

(2) ensure that the regulations implementing such provisions reflect the intent of Congress to encourage and promote cooperation and dialogue between the Federal Government and communities affected by the closure of an installation throughout the base closure process; and

(3) develop a system of incentives or awards to encourage Department of Defense personnel to provide greater assistance to and cooperation with communities affected by the closure of an installation during the ongoing effort of revitalizing the economy of such communities.

Mr. PRYOR. Mr. President, this amendment expresses the sense of the Senate that the Department of Defense should support the redevelopment efforts of military base closure communities as much as possible.

Last year I offered an amendment to the Defense Authorization bill which made it possible for the Department of Defense to cooperate much more closely with base closure communities and to support their redevelopment efforts. Changing attitudes at the Pentagon is a lot harder than changing the law, however, and that is why I am offering this amendment to once again send the message loud and clear that the Congress expects the DOD and the services to help base closure communities.

Just last week I helped organize a large meeting at which representatives of base closure communities gave the DOD feedback on the regulations they have proposed, to implement last year's amendment. Communities are upset that these regulations do not seem to reflect Congressional intent that community reuse plans should receive priority consideration when the DOD disposes of base properties. Communities are worried that the services will ignore their carefully designed reuse plans for the bases and go for a quick sale that will not be in the best interest of the community or bring in as much revenue for the DOD as the community reuse plan would. Communities are also upset about the potential for the DOD to continue removing valuable fixtures and equipment from bases on very slim pretense, when these items can greatly enhance the redevelopment potential of the base.

More than any single provision of law or regulation, or any item of property, it is the attitude displayed by DOD personnel that is most crucial to a successful base closure. Service members and DOD employees who truly consider community revitalization part of their mission can make the closure process a springboard for the community's redevelopment.

With this amendment, the Senate can send the message loud and clear that community redevelopment is a central part of the closure mission. We want community support and cooperation reflected in the regulations which are now out for public comment, and we want it reflected in a can-do spirit on the part of each DOD employee and service member involved in the closure process.

Finally, with this amendment we will be encouraging the DOD to develop a system of incentive or rewards to encourage the very type of cooperative behavior I have referred to above. It is perfectly understandable why some base closure personnel aren't more supportive of community redevelopment—they have no incentive to act that way. They won't live in the communities after the bases are closed. Their jobs won't disappear if the base isn't redeveloped. They won't get promoted or make any more money if the redevelopment is successful.

The Department of Defense should tie the fortunes of base closure personnel more closely to the communities they serve by rewarding them for helping the communities. These rewards could take the form of monetary prizes or positive consideration at promotion time. Most importantly, I believe community input should be the primary determinant of who gets these awards, because the communities are the customers we want to be served well in this case.

I had considered requiring the DOD to create such an incentive system, but if this system is to be successful, I believe it must have genuine internal support at the Pentagon and be designed by DOD personnel. I believe this incentive system would be a valuable management tool for the Pentagon which will help make the base closure process go more smoothly. I hope the Department sees it this way and embraces the idea.

Another round of base closures is currently slated for announcement in March of 1995. The 1995 round will be bigger than the three previous rounds put together. It is imperative that we get the base closure and redevelopment process running smoothly before the 1995 round of closures, and this amendment will put the Senate clearly on record of supporting a process that is more supportive of communities.

I ask my colleagues' support for the amendment.

Mr. NUNN. Mr. President, this amendment expresses the sense of the Senate that the Department of Defense should support the redevelopment efforts of the military base closure communities as much as possible.

I urge the adoption of the amendment.

Mrs. HUTCHISON. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2228) was agreed to.

AMENDMENT NO. 2229

(Purpose: To ensure that the fiscal year 1996 future-years defense program is timely submitted to Congress and is consistent with the fiscal year 1996 budget submitted to Congress by the President)

Mrs. HUTCHISON. Mr. President, I send an amendment to the desk on behalf of Senator GRASSLEY and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for Mr. GRASSLEY, proposes an amendment numbered 2229.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 190, after line 20, insert the following:

SEC. 1004. SUBMISSION OF FUTURE-YEARS DEFENSE PROGRAM IN ACCORDANCE WITH LAW.

If, as of the end of the 90-day period beginning on the date on which the President's budget for fiscal year 1996 is submitted to Congress, the Secretary of Defense has not submitted to Congress the fiscal year 1996 future-years defense program and, after consultation with the Inspector General of the Department of Defense, a certification that such program satisfies the requirements of section 221(b) of title 10, United States Code, then during the 30-day period beginning on the last day of such 90-day period the Secretary may not obligate more than 10 percent of the fiscal year 1995 advance procurement funds that are available for obligation as of the end of that 90-day period. If, as of the end of such 30-day period, the Secretary of Defense has not submitted to Congress the fiscal year 1996 future-years defense program together with such a certification, then the Secretary may not make any further obligation of fiscal year 1995 advance procurement funds until such program and certification are submitted to Congress. If the Secretary submits to Congress the fiscal year 1996 future-years defense program, together with such a certification, during the 30-day period described in the first sentence, the limitation on obligation of advance procurement funds prescribed in that sentence shall cease to apply effective as of the date of the submission of such program and certification.

Mr. GRASSLEY. My amendment addresses the plans/reality mismatch between the 5-year defense plan FYDP and the President's budget.

I know this is a matter of concern to Senator NUNN and I was provided valuable assistance from his committee staff in drafting this amendment. I thank him for his able counsel.

This is also an issue in which I have worked closely with Senator SASSER. Senator SASSER has been a leader on this matter, holding hearings in the past, and I hope this year also.

Let me say that colleagues on my side of the aisle, particularly Senator LOTT and Senator THURMOND, have also been leaders in focusing attention on this important issue.

As many of my colleagues know, there is a discrepancy of at least $20 billion between the fiscal year 1995 FYDP and the President's 5-year budget. The Pentagon tries to wish away this problem through a negative budget number called "future adjustments."

This budget gimmick damages our ability to make informed cost-efficient procurement decisions. In addition, the funding discrepancy between what the Pentagon and the President plan to spend prevents Congress from receiving a realistic picture of our planned force structure. Senator NUNN was right when he commented last year that the plans/reality mismatch brings, quote "chaos" to the Pentagon.

I am especially worried that DOD continues to believe that this $20 billion gap is only due to inflation. This is in direct contradiction to the analysis of the Congressional Budget Office in a letter to me of June 23, 1994 which states, and I quote:

CBO concluded that the future adjustments to budget authority indicate funding problems beyond the question of inflation estimates.

Let me say though, that this budget gimmick is not unique to this administration. Unfortunately, this magic asterisk of "future adjustments" has been around for many, many years.

These budget games are illegal. They violate the intent of section 221 of title 10 which requires DOD to submit FYDP numbers that are consistent with the President's budget.

Unfortunately, like many laws Congress passes, this one has been completely ignored. But this law is too important to allow it to be disregarded by the Pentagon. Therefore, my amendment requires a minor penalty if the DOD does not comply with the law.

This amendment will restrict the obligation of fiscal year 1995 advance procurement funds until the Inspector General of the Department of Defense certifies that the Secretary is in compliance within section 221.

This amendment provides a mechanism for bringing DOD into compliance with the law governing the preparation and submission of the FYDP.

I encourage my colleagues to support this amendment which is a small step toward honesty in the budget process and also establishes a minor penalty if DOD refuses to comply with this commonsense law.

Mrs. HUTCHISON. Mr. President, this amendment requires the Secretary of Defense to certify that the future years defense plan complies with the statute and is submitted within 90 days of the budget submission.

I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2229) was agreed to.

AMENDMENT NO. 2230

Mr. NUNN. Mr. President, on behalf of the Senator from Arkansas, Senator BUMPERS, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. BUMPERS, proposes an amendment numbered 2230.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At an appropriate place in the bill, insert the following new section:

SEC. . Limitation on obligation of funds for Mark-6 guidance sets for Trident II missiles.

(a) LIMITATION.—Until the certification in subsection (b) has been provided to the congressional defense committees, funds appropriated for fiscal year 1995 for the Navy may not be obligated to procure more than 14 Mark-6 guidance sets for Trident II missile.

(b) CERTIFICATION.—Before the Secretary of Defense may obligate funds for Mark-6 guidance sets in addition to the 14 sets authorized in subsection (a), he shall certify to the congressional defense committees that failure to procure such additional units would pose an unacceptable risk to the long-term readiness and reliability of the Trident II missile program.

WARNER AMENDMENT ON COLA ADJUSTMENT.

Mr. COATS. Mr. President, Senator WARNER's amendment has a worthwhile goal. I too seek equity in the effective dates of annual cost-of-living adjustments for both Federal civilian and military retirees for fiscal year 1995 only.

I cannot, however support the methodology which the distinguished Senator from Virginia has chosen to provide that equity. Using discretionary funds to pay for an increase in an entitlement is not a sound fiscal practice. Once we have taken this step, once the precedent is established, the temptation to do it again and again will be overwhelming.

Entitlement growth is arguably the greatest budgetary problem we face. If we can get entitlements under control and figure out a politically acceptable method to keep their growth under control, we will be well on the way to getting the national budget and the deficit under control.

Last year, the Congress, in the joint resolution on the budget, decided to reduce the cost-of-living adjustments for both Federal civilian and military retirees. The task of deciding how to do that was referred to the committees of jurisdiction—the Governmental Affairs Committee for civilians and the Armed Services Committee for the military. Each committee arrived at a solution which entailed delaying the COLA's sufficiently to realize the required savings. Unfortunately, the two committees did not do the same thing and an inequity was born.

I can remember discussing the impending inequity during the Armed Services Committee markup of legislation to be included in the 1993 Omnibus Budget Reconciliation Act. The committee recognized that this was a problem, but as it is this year, the solution was outside the jurisdiction of any single committee. My colleagues may recall the debate on the Reconciliation Act last year. I certainly remember the long debates and the late night vote with the Vice President casting the deciding vote. Somewhere in that debate, we overlooked the COLA inequity and the different effective dates were enacted into law.

Mr. President, I have talked with active military personnel, retired military personnel, and representatives of the associations which represent both groups. They all agree this inequity is bad and needs to be rectified. The recurring message I got from these meetings was that they understood the necessity of reducing the deficit and were willing to sacrifice. What they asked is that they not sacrifice while others did not or that the sacrifice be shared equally.

Today we will debate Senator NUNN's alternative which equalizes the COLA's using a different methodology. The Nunn COLA alternative does everything the military personnel and their associations asked of me and it deals with the entire 4 year period of inequity. It will equalize the sacrifice but it will not use any discretionary funds from the already constrained defense budget. I hope other Senators will listen to the debate on both proposals and support the one which protects entitlement growth, does not take already scarce resources from the readiness accounts, and equalizes the COLA dates completely.

I urge my colleagues to support the Nunn proposal.

Mr. COATS. Mr. President, I would like to commend the chairman and the ranking member of the Armed Services Committee for their efforts in guiding this bill through some tough decisions. Some very serious concerns with regard to the health, welfare, and readiness of our Armed Forces, however, still remain—and I feel they must be addressed.

When presented with last year's budget, this body emphasized that every effort must be made to match our forces to the changing requirements of the post-cold-war world—The fall of communism and the demise of the Soviet Union dictated reduced levels of defense spending. Thus, last year's bill reflected yet another year of declining defense budgets. It provided Congress with multiple signs of declining readiness as well.

While none would argue that a refocusing of priorities is in order, such refocusing should be based on capabilities and requirements, not an arbitrary budget figure.

Last year, the term "too-far, too fast" was used by many to describe the rapid decline of our military capability. As evidenced by the committee's evaluation of the administration's plan for our continued drawdown, the Bottom-Up Review, the phrase still fits.

Our military is no longer on the razor's edge of readiness. Based on extensive testimony from military leaders at all levels, and real world facts and figures, readiness has now slipped beyond the point where the United States is capable of responding to two nearly simultaneous regional conflicts, and perhaps is not even capable of mounting one operation on the scale of Desert Shield and Desert Storm.

According to the Department of Defense, 100 heavy bombers are needed to fulfill the warfighting requirements during one major regional conflict.

From fiscal year 1995 to fiscal year 1999, the number of heavy bombers will drop below 110. That's well below the number needed to fight and win two regional conflicts at roughly the same time.

As to strategic lift, General Hoar, Commander-in-Chief, Central Command has stated that requirements during the Somalia relief effort stressed the Air Force's strategic lift capability to the point where it could not even simutaneously support a small multinational exercise on the same continent—never mind an operation of the magnitude that would be required to sustain a mission in North Korea.

Yet current events—like the continuing crisis with North Korea, possible future actions in Bosnia and Haiti, and numerous hot spots around the globe—tell us that the world, while changed, is not any less dangerous, but perhaps more.

Whether or not we retain the ability to respond to conflicts that pose a threat to our vital national interest will depend not only on the effect these declining budgets have on our military, but on how and where our men and women are deployed.

Which brings me to the two chief areas of concern I want to discuss: military personnel and military commitments.

Mr. President, we've been told that the goal of the Bottom-Up Review is to ensure that the United States retains the ability to fight two regional wars at roughly at same time.

But, Mr. President, war is not an abstract term. Wars require people. And the key factor in our Nation's ability to fight wars is the quality, training, and morale of our military men and women. The most advanced weapons and technology in the world will not win wars without qualified and motivated people.

While the Department of Defense maintains that we will not repeat the mistakes that were made during the 1970's, when the last major defense drawdown produced an understaffed, poorly equipped, and demoralized hollow force, that is exactly the road down which we are marching today.

Mr. President, this year, against a three percent inflation rate, the Administration proposed a 1.6 percent increase in pay. That 1.4 percent difference represents a direct decrease in pay for our military men and women. Moreover, it comes at a time when, by all best estimates, the military has fallen 20 percent behind their civilian counterparts in salaries.

Mr. President, between 70 to 80 percent of all enlisted men and women earn less than $30,000 a year—including food and housing allowances. Forty-five percent of the Army and 46 percent of the Marine Corps earn less than $20,000 per year.

Each month, an estimated 17,000 members of our Armed Forces receive food stamps—and the number is rising. According to the Department of Defense, the total value of food stamps redeemed at military commissaries in 1992 increased from $24.5 million to $27.4 million. Over 50 percent of military spouses have full-time jobs just to help pay the bills.

But food and salaries are not the only problems our military families face. The severe shortage of family housing is another key area that must be addressed, and one that will require a long-term commitment.

Mr. President, nothing is more compelling to a soldier, sailor, airman, or marine than to ensure that his family is well cared for and securely housed during extended periods away from home.

As Army Chief of Staff General Sullivan described it, military personnel "are willing to place their lives on the line, work long hours under demanding conditions, accept a lower pay scale than comparable civilian jobs, and ask their families to make sacrifices."

But in return, he said, they expect the Nation to take care of their families.

Yet, more and more, we hear stories about junior enlisted men sleeping in automobiles to be with their families because no family housing is available. Routine plumbing, exterior painting and other noncritical maintenance is being abandoned, and family units are being closed, rather than upgraded or repaired. At Fort Huachuca, Arizona, where common area upkeep has been reduced by half, the result is increased habitats for snakes and vermin.

Senator McCAIN described this situation as "our military poor." I'd put it more bluntly: Are we the new slum landlords of our military men and women?

Mr. President, something must be done to correct this deplorable situation. And in that regard, I intend to later introduce an amendment that addresses the housing problem.

Not surprisingly, there are also signs that the quality of our troops is declining—a situation that threatens readiness even further.

Today, only 94 percent of new enlistees are high school graduates, compared with 97 percent in the past. What's more, the Pentagon's 1993 youth survey—a survey which annually measures the inclination of about 10,000 16- to 25-year-olds to enlist—found that the number of young people who were considering joining the military had declined 2 percent since 1992, and 7 percent since 1989–90.

Even more alarming is the fact that after a decade of striving, and succeeding, in reducing from 57 percent to zero the number of category IV recruits—those in the lowest educational category—the military is once again accepting category IV recruits. In 1993, the number was already up to two percent.

Mr. President, despite downsizing, it is essential that the military continue to be able to attract high-caliber recruits. Yet since 1989, we have cut the overall service recruiting budgets by 60 percent; and advertising budgets by 40 percent.

Yet, important as these concerns are, people are just part of the equation when it comes to readiness. What the military does with those people is the other part.

When it comes to an effective fighting force, military commitments are where the rubber meets the road. That's where it all comes together.

In 1990, the U.S. Navy was working toward a 600-ship fleet. Today, although it is operating with the same level of commitments worldwide, it has only 346 ships. Said one navy veteran, "They are doing 18 hours a day. What more can they ask of these guys, when there are 360 places to be in, and only 346 ships?"

Two years ago, 22,000 marines were deployed overseas for 6 months or more in fast-response and forward-placed units. Today, 24,000 men and women are deployed—even though the corps has been reduced by 22,000 during that same period of time.

"The end of the cold war notwithstanding," said Marine Commandant Gen. Carl Mundy, "the operating tempo for marines has not diminished—it's even picked up a couple of percentage points."

General Mundy also stressed that the practice of deploying as many as 30 percent of marines away from home will ultimately wear out both marines and gear, drive down retention rates, and end up with units that are not combat-ready.

Like the marines, the Air Force has also increased its operating tempo, but mostly as a result of humanitarian and peacekeeping tasking. About 80,000 U.S. troops were used to support U.N. peacekeeping missions last year. Yet, these nontraditional defense assignments have adversely affected the military's ability to train constructively for its primary mission: warfighting.

Each year, according to Air Force Secretary Sheila Widnall, all aircrews spend more than 170 days deployed. Some even spend up to 170 days deployed—despite the goal, determined by our experience with previous "hollow force" shortcomings, of 60- to 120-day deployments.

Lengthy periods of time spent away from home have a direct impact on the military's ability to effectively retrain and prepare for the next operational assignment.

Like the Air Force, Marine Corps units are also not receiving required training in warfighting skills because they are being chopped up for peacekeeping and humanitarian assignments.

According to testimony we received in committee, the only way Navy ships were able to meet their operational and training commitments was to use the people and spare parts collected for the rapid decommissioning of other ships and units.

Mr. President, in the past, the committee has asked that more emphasis be placed on sustaining readiness. Yet to date, we have done little more than apply bandaids to a festering wound.

In his January 25 State of the Union Address President Clinton said, "The budget I send to Congress draws the line against further defense cuts." Yet, the administration's long range plans call for an additional 11-percent drop in defense outlays between 1995 and 1999.

Mr. President, the contrast with past years is striking. This year, the Navy will buy 6 ships; in 1990, they bought 20. This year, the military will buy 127 planes; in 1990, they bought 511. By this fall, only one contractor will be able to produce fixed wing combat aircraft. No new tanks will be bought in 1995.

Yet our commitments have not declined. We are simply asking more and more of fewer and fewer people.

Mr. President, all the issues I have discussed, and the examples I have used, do not represent some futuristic glimpse of tomorrow's military. They represent the current status of our forces. Today. And now is the time to address these issues.

To quote former Secretary of Defense Melvin Laird, "Current readiness cannot be sacrificed to future capability. Given the current state of international affairs, the future may be now."

Mr. Tony Cordesman was a little more graphic. He predicted that the only way Congress and the Pentagon will understand and pay attention to the readiness issue is "when readiness is measured in body bags."

Mr. President, I hope we do not wait to see that come to pass.

I thank the chair, and yield the floor.

Mr. NUNN. Mr. President, during this afternoon's discussion on the Mark-6 guidance unit for the Trident II missile, Senator Thurmond and I suggested to Senator BUMPERS, the following compromise:

The Navy would be allowed to purchase 14 of the requested 30 Mark-6 guidance sets, and the other 16 guidance sets would be fenced; the Secretary of Defense would be permitted to remove the fence if, after a careful review of the GAO report and the Navy's response, he determines that failing to acquire the fenced guidance sets would lead to an unacceptable degradation of the Trident missile system reliability.

The amendment has been cleared on both sides. I urge its adoption.

Mrs. HUTCHISON. No objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2230) was agreed to.

AMENDMENT NO. 2231

(Purpose: To establish criteria for Senate consideration of authorization of military construction projects not included in the annual budget request)

Mrs. HUTCHISON. Mr. President, I send to the desk an amendment on behalf of Senators MCCAIN, GLENN, and THURMOND.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for Mr. MCCAIN for himself, Mr. GLENN, and Mr. THURMOND, proposes an amendment numbered 2231.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

SEC. . SENSE OF THE SENATE ON AUTHORIZATION OF FUNDS FOR MILITARY CONSTRUCTION PROJECTS NOT REQUESTED IN THE PRESIDENT'S ANNUAL BUDGET REQUEST.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that, to the maximum extent practicable, the Senate should consider the authorization for appropriation of funds for a military construction project not included in the annual budget request of the Department of the Defense only if:

(1) the project is consistent with past actions of the Base Realignment and Closure process;

(2) the project is included in the military construction plan of the military department concerned incorporated in the Future Years Defense Program;

(3) the project is necessary for reasons of the national security of the United States; and

(4) a contract for construction of the project can be awarded in that fiscal year.

(b) VIEWS OF THE SECRETARY OF DEFENSE.—In considering these criteria, the Senate should obtain the views of the Secretary of Defense. These views should include whether funds for a military construction project not included in the budget request can be offset by funds for other programs, projects, or activities, including military construction projects, in the budget request and, if so, the specific offsetting reductions recommended by the Secretary of Defense.

Mrs. HUTCHISON. This amendment is a sense of the Senate to establish criteria for military construction projects to be added to the bill.

ON MILITARY CONSTRUCTION ADD-ONS

Mr. MCCAIN. Mr. President, I rise to offer an amendment which will ensure that, in the future, military construction dollars are spent wisely for the highest priority projects with the greatest utility to national security. The amendment establishes criteria for reviewing Senators' requests for funding for military construction projects not included in the President's budget request.

The amendment expresses the sense of the Senate that military construction projects not included in the President's defense budget request should consider approving projects only if four criteria are met. These criteria are: The project is consistent with past actions of the Base Realignment and Closure process; the project is included in the 5-year military construction plan of the military department concerned; the project is necessary for reasons of the national security of the United States; and a contract for construction of the project can be awarded in that fiscal year.

In addition, the amendment requires the Senate to consult with the Secretary of Defense and to obtain his views concerning the relative merits of military construction projects which were not included in the Department of Defense budget request. The Secretary will be asked to comment on the four criteria outlined above, and will also be asked to provide an offsetting reduction from another military construction project, or from any other program in the defense budget.

When these steps have been accomplished, the Senate will then be able to make an informed decision whether to authorize and appropriate funds for any of these unrequested projects.

The amendment addresses the process of evaluating Members' requests for additional military construction funding. I stress that I am not condemning every project added by Congress as unnecessary or wasteful. Many of the unrequested projects recommended in this bill may very well be meritorious and militarily necessary. But I believe that it is essential that the Senate formalize the specific criteria to be used in reviewing each request.

I feel very strongly that reductions should be taken in other military construction projects to offset the costs of these new projects. This year, the Senate Armed Services Committee asked the Department of Defense to identify offsetting reductions for the unrequested projects included in the bill. DOD failed to do so in any but a very few cases. But what incentive does the Department have to offer up cuts in other programs when they know full well that Congress will add the projects anyway? This amendment expresses the Senate's view that DOD should be asked to identify specific offsets for military construction add-ons. I trust DOD will do so in the future.

Mr. President, last week, the Senate Governmental Affairs Committee held a hearing on the Department of Defense process of budgeting for military construction projects. At that hearing, I asked the Department of Defense Inspector General to comment on the process of congressional add-ons to the military construction budget request. Mr. VanDer Schaaf commented that every military construction project in the Department is suspect and that military construction projects should be minimized until the Base Realignment and closure process is completed. I fully agree with the inspector general's comments, and I urge my colleagues to heed his caution.

In addition, as a result of that hearing, I intend to ask, with the concurrence of Senator GLENN, that the General Accounting Office conduct an audit of all military construction projects underway and planned in the Department of Defense 5-year plan to ensure that these projects are being executed in a timely and fiscally responsible fashion. I also will ask the GAO to review the Department's process of reviewing congressional add-ons to the military construction budget with respect to the criteria established in this amendment. Unfortunately, I believe it is necessary to acquire an independent assessment of DOD's ability to screen out unnecessary projects and to prioritize all projects within the amount of money allocated for military construction each year.

Mr. President, the criteria in this amendment are essentially the same as those I proposed to my collleagues in April of this year. I realize that this procedure represents a significant change in the Congress' review of the military construction budget. However, I firmly believe that Congress must exercise restraint in adding unrequested military construction projects to ensure that limited defense dollars are spent for high priority military requirements necessary to our ability to fight and win any future conflict.

As I have stated to this body many times, I am seriously concerned about the deleterious impact of the rapidly declining defense budget on the readiness of our military forces, as well as on the daily lives of the men and women who serve in our Armed Forces and their families. The practice in Congress of adding unrequested programs and projects to the defense budget only serves to exacerbate the difficulty of stretching scarce defense dollars to fund military requirements. We must exercise restraint in our fiscal practices and instill discipline in our review of Members' requests for approval of unrequested military construction projects.

For the past 10 years, the defense budget has declined every year. Defense budget authority has declined since 1985 by almost 41 percent. At the same time, however, military construction budget authority has been reduced only 29 percent. This mismatch of infrastructure funding with the topline decline in the defense budget accounts for the pork factor of unnecessary military construction projects. Congress' proclivity for adding politically advantageous spending to an already stretched defense budget has contributed greatly to this funding gap. It is time to move forward with the base closure process and to permit DOD to maintain its overall budget priorities.

I doubt that many of my colleagues are fully aware of the magnitude of the congressional add-ons in the military construction budget in recent years. Let me provide some enlightening information.

In the past 5 years, from fiscal year 1990 through 1994, Congress added over $4.4 billion in unrequested military construction projects to the Defense budget. This equates to $880 million every year in special interest projects designated for Members' districts or States. And every dollar added for these pork barrel projects had to come from some other program—weapons procurement, military research and development, combat training, or other high-priority military requirements.

This year, the fiscal year 1995 budget resolution cut $500 million in outlays from the overall discretionary spending account, all of which was taken from the defense bills in the Appropriations Committees' allocations. Then, to compound the problem, the Appropriations Committees cut the allocation for the Defense Subcommittee and increased the allocation to the Military Construction Subcommittee by $490 million. This transfer was made solely to accommodate congressional add-ons.

True to form, the House of Representatives has already passed both the fiscal year 1995 Defense authorization bill and the fiscal year 1995 military construction appropriations bill, which include $695 million in Member add-ons. The fiscal year 1995 Defense authorization bill before the Senate today includes approximately $545 million in add-ons requested by Senators. The pork barrel is again being filled to the brim.

Mr. President, the $½ billion in the bill before the Senate does little, in my view, to enhance our national security. It goes a long way, however, to improving the political stature of the projects' proponents in their home states.

Let me say that I applaud and appreciate the efforts of Senator GLENN in shifting funds from nonreadiness-related programs to fund depot maintenance and real property maintenance in all of the Services. In this bill, $778 million is added to the O&M budget for programs related to military readiness.

However, serious shortfalls remain. The Air Force has reported that the depot maintenance backlog is currently at $868 million, and the Army's depot maintenance account is only funded at 62 percent of requirements. The Marine Corps is suffering severe cutbacks in combat training and in sustainability because funds and time are being redirected to support peacekeeping operations. Navy afloat inventories have been reduced 40 percent since 1989 as a result of a desire to save money on spare parts by centralizing storage ashore; but this means that a ship at sea requiring repairs will now have to sit idly while the necessary parts are transported to their location. The Army's aviator training budget is funded at only 76 percent of requirements, a level insufficient to make any progress in redressing the shortfall in skilled Army aviators identified in Operation Desert Storm. Cuts in base operations funding have reduced the standard of living of our troops, which translates quickly into lowered morale and reduced readiness.

All of these examples point to the need to increase operation and maintenance funding. The $545 million in Member add-ons for unrequested military construction projects would go a long way toward offsetting the cuts in these vital readiness accounts.

I firmly believe that military readiness must take precedence over military construction pork. I had initially intended to propose an amendment to strike out all of the unrequested military construction projects contained in this bill, and to transfer the $545 million to the operation and maintenance accounts to ensure our future military readiness. However, I am a realist. I fully recognize that the Senate is not currently inclined to put the brakes on its pork barrel spending race. Therefore, I chose instead to work with the chairman of the Readiness Subcommittee, Senator GLENN, and the distinguished chairman and ranking minority member of the Senate Armed Services Committee to reach an agreement on a set of criteria which would be used in the future to evaluate unrequested military construction projects. This amendment reflects our consensus on the appropriate set of criteria.

Mr. President, this amendment requires a comprehensive review, by both the Department of Defense and the Senate, of any military construction project not included in the budget request for which funding is requested by an individual Senator. These reviews will ensure that only the most meritorious and militarily necessary projects are funded.

It is time to stop the congressional building spree. I urge my colleagues to vote for the amendment.

Mr. THURMOND. Mr. President, I rise in support of Senator MCCAIN's sense of the Senate amendment establishing criteria for evaluating military construction projects requested as additions to Services' military construction programs. I want to congratulate the Senator from Arizona for his earnest efforts in this endeavor and in his continuing fight to provide for the readiness of our forces.

The amendment before us would formalize the process that the Subcommittee on Military Readiness and Defense Infrastructure has used for this bill to evaluate Members' military construction project requests. By including the criteria in this bill, we are advising Members and the American people that each of the projects added to the military construction program must meet a valid military requirement. It opens the process and takes away some of the negative innuendoes that are associated with the military construction projects added by the Congress.

Mr. President, I want to emphasize that in my judgment, this amendment does not take away any congressional prerogatives. It merely provides us with a mechanism to better evaluate the projects that are requested to be included in the military construction authorization. The Congress will still have the final say on whether or not a project is added to the defense bill.

To highlight the importance of congressional adds to the Services military construction programs, let me briefly make two points about the projects that we are adding to the defense bill this year.

First, the Department of Defense reduced the Services' military construction request by almost $1 billion to meet final budget targets. There was very little consideration of the Services priorities.

Testimony by all the Services indicated that DOD's MILCON request defers high priority projects and is approximately $2 billion below the 1994 budget. For example, the Air Force stated that it deferred $80 to $90 million in new mission and force realignment projects as a result of the DOD cuts.

Second, these projects are important to readiness. Family housing and maintenance facilities are as important to the readiness of our military as weapons and training.

If a military family is living in below-standard housing while the soldier is deployed elsewhere, it will have an adverse impact on readiness. There is no doubt that if our soldiers have to maintain sophisticated equipment in substandard facilities, it will not be maintained as well as it could have been in the proper facilities.

Mr. President, the projects added by the Armed Services Committee all meet the criteria in Senator MCCAIN's amendment. They add to the readiness of our Armed Forces and maximize the precious fiscal resources available to defense.

Again, I congratulate Senator MCCAIN for his good government provision and I urge my colleagues to support the amendment.

Mr. GLENN. Mr. President, I join Senator MCCAIN in sponsoring an amendment which would express the sense of the Senate that, to the maximum extent practicable, the Senate should consider the authorization of appropriation of funds for a military construction project not included in the annual budget request of the Department of Defense only if:

First, the project is consistent with past actions of the base realignment and closure process;

Second, the project is included in the 5-year military construction plan of the military department concerned;

Third, the project is necessary for reasons of the national security of the United States; and

Fourth, a contract for construction of the project can be awarded in that fiscal year.

In considering these criteria, the Senate should obtain the views of the Secretary of Defense. These views should include whether funds for a military construction project not included in the budget request can be offset by funds for other programs, projects or activities, including military construction projects, in the budget request, and, if so, the specific offsetting reductions recommended by the Secretary of Defense.

Mr. President, every military construction project added by the committee to the fiscal year 1995 budget request already meets the criteria contained in this sense-of-the-Senate resolution.

The criteria I just outlined were developed by the Subcommittee on Military Readiness and Defense Infrastructure this year to guide their review of military construction programs.

The committee bill includes additions to the military construction budget of $573 million, including $545 million in member requests, offset by $273 million in reductions, for a net increase to the budget of $300 million.

This year, in the final stages of preparing the fiscal year 1995 budget, OSD reduced the military construction accounts by approximately $1 billion to meet the final budget targets. As a result, the fiscal year 1995 military construction request is $1.1 billion below last year's level, a reduction of almost 15 percent in real terms. OSD officials have consistently said that the only reason for this large reduction in military construction in fiscal year 1995 was the need "to absorb a departmentwide inflation increase" in fiscal year 1995.

All of the services complained in our hearings this year that the sharp cut in military construction funding in the fiscal year 1995 budget request would make it increasingly difficult to meet their facility modernization goals.

The Committee identified savings of approximately $1.5 billion in the fiscal year 1995 budget in the O&M area of the budget, principally because the drawdown of civilian personnel is occurring faster than anticipated in the current fiscal year.

If DOD had known about the civilian personnel savings when they put their budget together, they would not have made the last-minute, deep cuts in their budget request for military construction programs.

The committee received a letter this week from Deputy Secretary Deutch, that I would like to make part of the RECORD, in which he makes this very point:

> As I understand from your mark up, you determined that certain funds in our initial request for civilian personnel would not be needed and the committee directed that they be spent on military construction projects. Frankly, had we been able to forecast these reductions in civilian personnel last November when we were preparing the fiscal year 1995 budget submission, we could have avoided the deep reductions in military construction that we ultimately had to propose.

Secretary Deutch then offered his overall assessment actions of the committee's actions in the military construction portion of this bill. He said:

> We welcome the disciplined approach the Committee took to reviewing additional military construction projects in fiscal year 1995. My staff has confirmed that all of the additional projects are executable in fiscal year 1995 and are consistent with past Base Realignment and Closure actions. I especially appreciate your limiting the additional projects to those which are included in our five year plan.

The civilian personnel savings identified by the committee were applied to other areas of the budget that the committee thought were underfunded.

Almost $800 million for high priority readiness programs such as depot maintenance; real property maintenance; support to operating tempo; and recruiting.

Another $400 million went to pay the costs of increasing the military pay raise from 1.6 percent to 2.6 percent.

$300 million of these savings went to increase the military construction request for high priority military construction projects in the areas of readiness; soldier welfare; new missions; and environmental compliance. I ask unanimous consent to include a representative list of military construction projects we added, Mr. President.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

READINESS

1. Advanced tactical airlift center, St Joseph, MO.
2. Vehicle maintenance shop, Fort Campbell, KY.
3. Live fire maneuver range, Fort Knox, KY.
4. Squadron operations facility, Bangor, ME.
5. Communications/electronics training facility, Camp Riley, OR.

SOLDIER WELFARE:

1. Student pilot dorm, Luke AFB, AZ.
2. DOD dependent school (section 6), Naval Surface Warfare Center, Dahlgren, VA.
3. Family housing (replace 126 units), Fort Riley, KS.
4. Child care center, Kirtland AFB, NM.
5. Family housing renovation, Fort Richardson, AK.
6. Child development center, Andrews AFB, MD
7. Dormitory, Nellis AFB, NV.

NEW MISSION

1. T-1 Jayhawk maintenance support facility, Columbus AFB, MS.

2. Parking apron renovation, Mountain Home AFB, ID.
3. Army strategic deployment center, Charleston, SC.
4. Munitions maintenance and storage facility, Great Falls, MT.

ENVIRONMENTAL COMPLIANCE:

1. Fuel storage complex, Richmond, VA.
2. Water distribution system, Kirtland AFB, NM.
3. Water supply system, Camp Smith, NY.
4. Water treatment plant, Wright-Patterson AFB, OH.

Mr. GLENN. In concluding, I urge my colleagues to support this sense of the Senate and help maintain discipline in this process.

I yield the floor.

Mrs. HUTCHISON. I understand this amendment has been cleared by both sides, and I urge its adoption.

Mr. NUNN. I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2231) was agreed to.

AMENDMENT NO. 2232

(Purpose: To authorize the use of certain funds for the construction of military projects and family housing)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senators BOXER, BOREN, BUMPERS, CAMPBELL, DECONCINI, D'AMATO, DASCHLE, FAIRCLOTH, FEINSTEIN, FORD, HARKIN, HATFIELD, JOHNSTON, KEMPTHORNE, NICKLES, PRESSLER, SASSER, SPECTER, STEVENS, WELLSTONE, and WALLOP, and I ask for its immediate consideration. This is on behalf of Senator THURMOND and myself.

The PRESIDING OFFICER. Clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for himself, Mr. THURMOND, Mrs. BOXER, Mr. BOREN, Mr. BUMPERS, Mr. CAMPBELL, Mr. DECONCINI, Mr. D'AMATO, Mr. DASCHLE, Mr. FAIRCLOTH, Mrs. FEINSTEIN, Mr. FORD, Mr. HARKIN, Mr. HATFIELD, Mr. JOHNSTON, Mr. KEMPTHORNE, Mr. NICKLES, Mr. PRESSLER, Mr. SASSER, Mr. SPECTER, Mr. STEVENS, Mr. WELLSTONE, and Mr. WALLOP, proposes an amendment numbered 2232.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 249, line 21, strike out "$393,550,000" and insert in lieu thereof "$396,750,000".

On page 249, in the table below line 24, strike out "$5,300,000" in the "Amount" column with respect to the item relating to Fort Knox, Kentucky, and insert in lieu thereof "$8,500,000".

On page 252, line 15, strike out "$1,668,086,000" and insert in lieu thereof "$1,671,286,000".

On page 252, line 18, strike out "$393,550,000" and insert in lieu there of "$396,750,000".

On page 254, line 22, strike out "$224,180,000" and insert lieu thereof "$239,265,000".

On page 254, in the table below, line 25, above the line relating to California insert.

Arizona	Yuma Marine Corps Air Station	$15,085,000

On page 258, line 2, strike out "$1,492,264,000" and insert in lieu thereof "$1,507,349,000".

On page 258, line 5, strike out "$224,180,000" and insert in lieu thereof "$239,265,000".

On page 262, line 1, strike out "$398,904,000" and insert in lieu thereof $412,004,000".

On page 262, in the table below line 4, insert:

(a) after the item relating to Eielson Air Force Base, insert.

	Elmendorf Air Force Base	$5,000,000

(b) after the item relating to Peterson Air Force Base, insert

	United States Air Force Academy	$3,600,000

(c) after the item relating to Pope Air Force Base, insert

North Dakota	Ellsworth Air Force Base	$4,500,000

On page 264, line 1, strike out "$163,348,000" and insert in lieu thereof "#$172,310,000".

On page 264, in the table below line 3, after the item relating to Edwards Air Force Base, insert

	Los Angeles Air Force Base	50 units	$8,962,000

On page 266, line 1, strike out "$1,572,801,000" and insert in lieu thereof "$1,594,863,000".

On page 266, line 5, strike out "$398,904,000" and insert in lieu thereof "$412,004,000".

On page 266, line 24, strike out "$234,393,000" and insert in lieu thereof "$243,355,000".

On page 268, line 18, strike out "$397,700,000" and insert in lieu thereof "$413,700,000".

On page 268 in the table below line 20, after the item relating to Eglin Auxiliary Field No. 9, Florida insert

	Fort Bragg, North Carolina	$16,000,000

On page 270, line 21, strike out "$3,230,058,000" and insert in lieu thereof "$3,246,058,000".

On page 270, line 24, strike out "$136,700,000" and insert in lieu thereof "$152,700,000".

On page 276, line 15, strike out "$146,447,000" and insert in lieu thereof "$180,312,000".

On page 276, line 16, strike out "$16,470,000" and insert in lieu thereof "$37,870,000".

On page 276, line 18, strike out "$6,955,000" and insert in lieu thereof "$17,355,000".

On page 276, line 21, strike out "$224,053,000" and insert in lieu thereof "$240,003,000".

On page 276, line 23, strike out "$28,190,000" and insert in lieu thereof "$43,840,000".

On page 277, line 10, strike out "$286,693,000" and insert in lieu thereof "$287,958,000".

Mr. NUNN. This amendment will authorize for appropriation funds for military construction and military family housing projects. All of the projects included in this amendment have been thoroughly reviewed and meet the criteria the committee established in reviewing and evaluating military construction projects added to the budget request for fiscal year 1995.

HERMISTON ARMORY

Mr. HATFIELD. Mr. President, I rise today to offer an amendment which would provide funding for the Hermiston Armory.

The Hermiston Armory has been in the planning process for over a decade. Company B, 3d Battalion, 116th Cavalry (Armor) is being reorganized. The unit reorganization, as part of a round out brigade with the 4th Infantry division, is the primary reason for adding this facility. The unit is currently in leased space. It is not cost effective nor adequate for the Oregon Guard's training needs. It also should be noted that this facility will serve a growing and vibrant community as a primary community center.

This facility borders the Umatilla Army Depot. This depot is closing. This armory will be used to enhance the readiness for the community. There are tremendous programs going on in the community that require many meetings with members of the local community. This armory will serve many functions.

I thank the chairman, the ranking member, as well as the chairman and ranking member of the Military Readiness and Defense Infrastructure Subcommittee. This is a difficult task that requires much insight and patience. I look forward to working with this Committee when we take up the defense appropriation.

The motion to lay on the table was agreed to.

Mr. JOHNSTON: Mr. President, this amendment authorizes $2.8 million for the rehabilitation of the Ruston National Guard Armory in Ruston, Louisiana. This is a critical project to sustain the readiness of the 527th Engineer Battalion, a unit that was mobilized and deployed to the Persian Gulf during Desert Storm. The unit is not affected by force reductions under Quick Silver. The project calls for renovation/construction of approximately 57,000 square feet for administrative, supply, storage, vault, training and maintenance requirements of an engineer battalion headquarters and an engineer construction company.

Mr. President, I can assure my colleagues that this project is sufficiently designed and can and will be executed during fiscal year 1995. I yield the floor.

Mr. HARKIN. Mr. President, this amendment provides $6.2 million for two necessary military construction projects at the Des Moines Air National Guard; $2.3 million of that sum is for an engineering and supply facility.

The current facilities are undersized and environmentally deficient. In addition, the existing building lies within the FAA building restriction line. Its continued presence will interfere with the airport's certification as a category II instrument landing site. Funding for an ILS II was provided in the fiscal year 1994 Transportation appropriations bill.

The remaining $3.9 million is for a Des Moines Air Guard munitions maintenance and storage complex. It is part of the conversion from A–7 to F–16 aircraft. The existing facility provides only 60 percent of the space needed for sufficient training and proper munitions storage. It cannot be expanded.

I appreciate the attention shown to these important needs of the Air Guard in Des Moines by Senators NUNN, THURMOND, and SASSER. I urge the adoption of the amendment.

JOINT MOBILITY RAMP AND UTILITY PROJECTS AT ELMENDORF AFB

Mr. STEVENS. Mr. President, this amendment would provide funding for phase II of the Joint Mobility Center at Fort Richardson and Elmendorf Air Force Base. It also will provide funding for utility upgrades at Elmendorf Air Force Base.

Last year, the Congress provided funds to establish a joint Army/Air Force Deployment Center, to serve Fort Richardson and Elmendorf Air Force Base. That project is now proceeding. Further site surveys indicate that additional ramp reconstruction will be required to fully support utilization by C–5 and C–17 aircraft.

This amendment provides $4 million to complete all necessary ramp maintenance and repair concurrent with construction of this new facility. Currently, the new joint mobility complex will be adjacent to three existing hardstands capable of handling C–141 aircraft only. All shipments via C–5 aircraft must be trucked or bussed to a ramp located one mile away if you use the available taxiways. If the taxiways are not available it is a distance of 2 miles by road.

The use of transport vehicles on taxiways will disrupt aircraft operations and create serious foreign object damage hazards. Use of the roadway creates greater security and safety problems than already exists. This ramp will help eliminate these problems.

Regarding the second part of this amendment, the Army-Air Force Exchange System [AAFES] and the Defense Commissary Agency [DECA] are working to better utilize facilities at installations around the world. AAFES and DECA are planning to construct a new combined facility to serve Elmendorf AFB and Fort Richardson in Alaska. An upgrade of utilities is necessary prior to work on this new facility.

The present location of the Base Exchange and Commissary provides no room for expansion. Parking conditions are overcrowded. This is due to the close proximity of the base gymnasium. Also the present facility size is inadequate to handle the amount of merchandise delivered and sold at Elmendorf AFB.

This amendment provides $1 million to prepare the base for new facilities that will provide a better standard of living for our service members and retirees from the surrounding area.

I thank the chairman, the ranking member, as well as the chairman and ranking member of the Military Readiness and Defense Infrastructure Subcommittee. This is a difficult task that requires much knowledge and wisdom. I look forward to working with this committee when we take up the defense appropriation.

Mr. President, in case there is any confusion this amendment authorizes an additional $5.0 million for the Military Construction, Air Force account. This consists of $4 million for a ramp at the Joint Mobility Center and $1 million for utility projects. Both of these projects are located at Elmendorf AFB.

MILITARY CONSTRUCTION AMENDMENT

Mr. WALLOP. Mr. President, this amendment would add $6,233,000 in military construction funds for the Army National Guard. These funds are to provide a major utilities upgrade at Camp Guernsey, WY. This facility is an important training site for the entire region. Active and Reserve forces from many States use this vital training facility year round.

Despite the large volume of activity at Camp Guernsey, the basic infrastructure there is woefully substandard. The basic utilities are so degraded that significant fire and other dangers are now a fact of everyday life. Without this project, this dangerous situation will only worsen.

Mr. President, this is a worthy project that deserves the Senate's approval. I urge my colleagues to support it.

Mr. DECONCINI. Mr. President, this amendment will meet an urgent, unmet need for bachelor enlisted quarters at the Yuma Marine Corps Air Station. These critically needed facilities will provide adequate billeting for up to 450 enlisted personnel.

Currently, transient, rotational, and deployed personnel at Yuma MCAS are billeted in antiquated wooden facilities constructed in 1954. The lack of suitable facilities requires doubling up of personnel in rooms during the Marine Aviation Weapons and Tactics Squadron One semiannual weapons and tactics instructor course which teaches pilots to become instructors in aerial combat tactics. My amendment would authorize $15.085 million to fully fund this project—which meets the four criteria agreed to by members of the Senate Armed Services Committee for proceeding with military construction projects.

I offer this amendment after carefully considering the military construction requirements submitted to the services by the military bases remaining in my State. There are a great many projects needed at these facilities which have been and continue to be delayed. I would like to see them all funded, but that is not realistic. Tough choices have to be made. The defense budget is tight and cuts in spending are inevitable.

These are difficult times for the military. We are uncertain which bases will remain open. Military families are being asked to make deeper sacrifices, greater time is spent training away from families, even retiree COLA's are being delayed—this at a time when our Armed Forces are being called upon to perform more missions, and more varied missions, than ever before. That is why this amendment is so important.

Yuma is a high quality Marine Corps facility which demands tough sacrifices from the men and women stationed there. It is also one of the hottest spots in the Nation, so quality quarters are a necessity. My amendment would meet this urgent need, even at the cost of further delaying other projects elsewhere in Arizona. Some people might call this "pork," but to the men and women who will be served by these quarters, they will call it "home."

I urge that the amendment be adopted and I thank the chairman and the ranking member for their consideration of this amendment.

MILITARY CONSTRUCTION AMENDMENT, IDAHO AIR NATIONAL GUARD

Mr. KEMPTHORNE. Mr. President, my amendment would authorize $4 million for a military construction project for the Idaho Air National Guard at Gowen Field. Now many of my colleagues have heard me talk about the Idaho Air National Guard before. These guardsmen have performed two 6-month deployments to Southwest Asia to enforce the no fly zone over southern Iraq. I make this point because some people seem to think that helping the National Guard is wasting the taxpayers' money. Well, I'm here to tell you that members of the Idaho Guard have been on the frontlines defending freedom and I want to do what I can to insure that these men and women have the training, the equipment, and the facilities they need to do their job.

In this regard, the Air Guard at Gowen Field has a 40-year-old hanger with electrical, heating, life safety code, and fire code deficiencies. Ad hoc alterations and systematic deficiencies have greatly reduced the useful space in the hangar. A renovated and updated hangar is needed to facilitate the proper maintenance of the aircraft stationed at Gowen Field. The project is a mission/readiness oriented project that is in the budget for 1997. I ask my colleagues to move this project forward to 1995 so that we can address the safety problems at the hangar as soon as possible.

I understand the budgetary pressures facing the defense budget but I believe we must make investments to maintain the facilities we plan to rely upon in the future to defend our Nation's interests.

Mr. SASSER. Mr. President, the additional funds provided by this amendment will provide for two important construction projects for the Tennessee Air National Guard.

The amendment will provide $2,300,000 for a much needed vehicle maintenance complex at the Nashville Metropolitan Airport. This will provide the 118th Airlift Wing with a properly configured building in which to repair and maintain organizational vehicles such as sweepers, snowplows, refueler vehicles, and trucks. Also, this amendment will provide $3,500,000 for a flight simulation facility at the Memphis International Airport. This regional training facility is needed to house a C–141 flight simulator that is being relocated from an active duty Air Force base, and will accommodate training of Air National Guard C–141 pilots and copilots.

NIAGARA INTERNATIONAL AIRPORT FUEL SYSTEMS MAINTENANCE HANGAR

Mr. D'AMATO. Mr. President, the proposed fuel systems maintenance hangar is an essential element of the Air Force Reserve modernization plan for Niagara International Airport [IAP].

The current fuel systems maintenance hangar is a 40-year-old wood truss building. Dry rot has led to rapid deterioration of the structure, calling for constant, and increasingly expensive upkeep. Demolition and replacement of the current hangar was originally scheduled for fiscal year 1995, but was slipped to fiscal year 1996 due to funding constraints.

I should note that the 914th Tactical Airlift Group based at Niagara IAP was one of the few Air Force Reserve C–130 units deployed to the Persian Gulf during Desert Shield/Desert Storm. The unit served proudly without accident or loss of life, delivering vital supplies throughout the theatre.

I look forward to working with my armed services colleagues to make this hangar replacement a reality.

Mr. DASCHLE. Mr. President, this amendment would authorize the construction of phase II of a consolidated three-phase administration support complex known as Rushmore Center at Ellsworth Air Force Base in South Dakota.

I would like to begin by commending Chairman NUNN and the members of the Senate Armed Services Committee for their diligent work on the fiscal year 1995 DOD authorization bill and for the past support they have given the Rushmore Center. When the Senate Armed Services Committee considered the fiscal year 1994 DOD authorization bill last year, it authorized $6.2 million to construct phase I of Rushmore Center. I truly appreciated that support and was pleased the final version of the fiscal year 1994 military construction appropriations bill also included funding for the project.

As I mentioned, Rushmore Center is a consolidated administration support complex. Officials at Ellsworth Air Force Base have proposed this important project as a logical step-by-step approach to rehabilitate and replace some of their older facilities through self-help programs, operations and maintenance [O&M] facility projects, and military construction projects. While Ellsworth has experienced growth in the number of its facilities, it has also experienced a decline in O&M funding available to maintain them. Therefore, Ellsworth officials have developed a plan to consolidate, where possible, and to demolish those facilities that are well beyond their expected lifetimes.

Funding for phase II of Rushmore Center is critical to Ellsworth's ability to achieve these objectives. Rushmore Center will allow Ellsworth to consolidate virtually all base support functions, and demolish ten World War II facilities. Moreover, I would like to point out that the construction of the Rushmore Center will allow Ellsworth to build less, but more efficient, square footage than it will tear down. Needless to say, the O&M savings accruing to such projects are substantial.

Although Ellsworth has been successful in articulating the need for the Rushmore Center, it was unable to get the entire project funded in the fiscal year 1994 budget. As a result, Ellsworth officials have proposed to phase in the project over 3 years. Phase I required $6.2 million; phase II will require $4.5 million; and phase III will require approximately $7.4 million.

With phase I behind us, Senator PRESSLER and I are requesting authorization for phase II be included in the fiscal year 1995 DOD authorization bill. I strongly believe that the Rushmore Center is essential to the future of Ellsworth Air Force Base. Moreover, I am confident that its construction will bring many functions that are currently scattered throughout the base in substandard structures into one attractive, customer service-oriented setting. I strongly urge my colleagues to support this important amendment.

MILITARY CONSTRUCTION PROJECT AT TINKER AIR FORCE BASE, OK

Mr. NICKLES. Mr. President, I want to thank the Armed Services Committee for helping put this important project in the Defense authorization bill.

This $10.2 million upgrade for a ramp and a fuel hydrant system for the 507th Fighter Group at Tinker Air Force Base is essential because the 507th is in the process of transitioning from F–16's to KC–135's. Obviously, the size and weight difference in these planes requires that these changes be made. This upgrade will allow the 507th to operate their new planes in a safe and efficient manner.

If the ramp is not upgraded, the unit will not be able to access the assigned parking ramp. Additionally, the use of truck refueling, instead of the hydrant system, will result in a slow response time preventing the unit from supporting its operational and training requirements. This in turn impacts the overall readiness of our military.

The announcement of the transition from F–16's to KC–135's was made too late by the Air Force to be included in the President's request for military construction. Therefore, it was necessary to have this project added to the bill for the reasons stated above.

Once again, I thank the members and staff of the Senate Armed Services Committee for working to include this project in the bill.

SUPPORT FOR LOS ANGELES AIR FORCE BASE MILCON

Mrs. FEINSTEIN. Mr. President, this amendment authorizes approximately $9 million for the construction of 50 units of family housing at Los Angeles Air Force Base [AFB].

After the President's fiscal year 1995 budget request was submitted to Congress, the Air Force identified a need for authorization and appropriation of approximately $9 million in fiscal year 1995 to construct 50 units of family housing at Los Angeles AFB. Secretary Widnall stated that the Air Force requires 150 new units for Los Angeles AFB and plans to phase the construction in two increments—the first phase calls for the construction of 50 units. The Secretary stated that the first phase should be completely designed and ready for contract in fiscal year 1995.

This project will help to alleviate the housing shortage encountered by personnel at Los Angeles AFB and will assure a high quality of life for military personnel and their dependents stationed at the important base.

I strongly support this amendment and I urge its adoption. I now ask unanimous consent that a letter from Secretary Windall to one of my House colleagues in support of this authorization be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SECRETARY OF THE AIR FORCE,
Washington, DC, May 6, 1994.

Hon. JANE HARMAN,
House of Representatives,
Washington, DC.

DEAR MS. HARMAN: Thank you for your April 26, 1994, letter on Los Angeles Air Force Base. As a result of the drawdown in the Los Angeles area, we explored all existing excess housing as a possible solution to our long-standing shortage at Los Angeles Air Force Base. We carefully considered using excess military family housing available from the Navy. However, this housing does not meet the needs of the Air Force due to its age, condition, location and cost to renovate. Upgrade of existing housing is not economically feasible under current Congressional language which requires replacement if the cost of renovation of existing housing exceeds 70 percent of new housing costs.

We have also explored other avenues through the Department of Housing and Urban Development and have been unsuccessful in identifying excess units that meet our requirements. The Air Force desires a single housing "community" to support Los Angeles Air Force Base and the Fort MacArthur site is the best location to meet our needs.

As you know, we have signed the lease with the Los Angeles Unified School District for the property offered by the Governor and Mayor. Our requirement remains 150 units and the plan is to phase the construction in two increments, 50 units programmed for $8 million and 100 units programmed for $16 million. The early planning, design and environmental work is underway and I expect the first phase to be completely designed and ready for contract award late in Fiscal Year 1995.

I will keep you informed of our progress on this important military family housing initiative.

Sincerely,

SHEILA E. WIDNALL.

Mrs. BOXER. Mr. President, this amendment authorizes two important military construction projects for the Army National Guard. The first project would upgrade the existing natural gas and electrical distribution systems at the Los Alamitos Armed Forces Reserve Center. This facility supports over 900 full-time and 4,100 part-time citizen-soldiers. The current natural gas and electrical distribution systems were originally installed from 1942 to 1950, and are now in extreme stages of deterioration. Over 80 percent of the gas valves are inoperative, and most of the electrical wires are frayed and substandard. This project will cost $6,847,000.

The second project would authorize the construction of a combat pistol qualification course at Camp Roberts, CA. The California National Guard does not currently have a facility to train and qualify soldiers to the required standard. This vitally needed project will cost $952,000.

AIR FORCE ACADEMY MILITARY CONSTRUCTION PROJECT

Mr. KEMPTHORNE. Mr. President, the proposed amendment would authorize $3.6 million in military construction at the U.S. Air Force Academy. The project would renovate and enlarge a dormitory used by cadets at the Academy.

As most of my colleagues may know, many of the facilities at the Air Force Academy are 35 years old and in desperate need of repair and modernization. The dormitory project now before the Senate falls into this category.

The dormitory does not meet current fire and safety standards and asbestos must be removed as part of the renovation. The dormitory has an inadequate ventilation system in the gang latrines and the rooms which adds to the health and safety risks. The buildings have not received any major upgrades since they were built between 1959 and 1962.

This year I became a member of the Board of Visitors of the U.S. Air Force Academy and I looked into the issue of the deteriorating facilities at the Academy.

The proposed project is in the Air Force's 1996 budget but I think that if we can find the funds, we should try to address the health and safety standards at this facility this year.

I want to thank the managers of the bill for their consideration of my amendment and I hope they can accept it.

TO ENSURE COLA EQUITY

Mr. ROBB. Mr. President, the Senate is a body of laws and rules. We create them and our actions are governed by them.

Unfortunately, those rules sometimes lead to unintended consequences. Such is the case with the cost-of-living increases paid to civilian and military Federal retirees. The Senate heard considerable debate on this issue last night and this morning.

The Omnibus Budget Reconciliation Act of 1993—one of the rules we live by—required that civilian and military retiree COLA's be delayed to achieve deficit reduction targets. But civilian and military pay come from different accounts, overseen by different committees. Because those accounts are very different in size, and because those committees have very different demands on that money, each was required to make an independent decision. And each did the best it could.

But the result of playing by those rules was that the traditional parallel between civilian and military COLA's was broken. The civilian COLA's were delayed a total of 9 months during fiscal years 1994 to 1998; military COLA's were delayed a total of 39 months in the same period.

Senator WARNER's amendment, passed this morning, resolves the effects of this disparity for fiscal year 1995. My amendment builds on that by setting a ground rule for the next round of budgeting, following the expiration of the current OBRA in fiscal year 1998, that both civilian and military COLA's will be effective upon the earlier date of the two.

Mr. President, the issue here is fairness. When two people serve this Nation for equal periods and with equal merit, their retirement should not depend on the cut of clothes they wore. My amendment would set a new rule above all others: That the Senate puts fairness first.

Thank you, Mr. President. I yield the floor.

ELLSWORTH AFB CONSTRUCTION PROJECT

Mr. PRESSLER. Mr. President, today I voice my support of the Daschle-Pressler amendment to the National Defense Authorization Act for fiscal year 1995.

This amendment, submitted by my South Dakota colleague and I, will authorize the second part of a three-phase military construction project to enable Ellsworth Air Force Base in our home State of South Dakota to consolidate administrative support, demolish substandard facilities, and reduce long-term utility and maintenance costs. Currently, Ellsworth Air Force Base needs to replace buildings that were constructed during World War II and the Korean war. These building have deteriorated past their useful lives and pose a health and safety hazard. Also, the problem of widely dispersed buildings adds to the inefficiency and high cost of utilizing and maintaining such facilities.

Mr. President, the concentration of our Nation's heavy bomber force at Ellsworth Air Force Base is substantial. The B-1 bomber is crucial to the ability of the United States to project the air power needed to secure our national defense and project American power into the next century. If the Air Force is to function with maximum effectiveness and within the limited resources now allocated for defense, our personnel support must be efficient also. I am a cosponsor of this amendment because it illustrates Ellsworth's commitment to be cost-efficient and does not undermine the future development and success of the B-1 bomber.

Mr. President, upgrading facilities at Ellsworth will ensure its place in the Air Force's long range strategic planning. I intend to work with my colleague, Senator DASCHLE, in ensuring appropriate investments in Ellsworth. The new construction project will help streamline administrative functions and help provide long-term flexibility for future mission shifts and requirements. Efficient administrative support facilities at Ellsworth help make the base a stronger component of our Nation's defense.

SUPPORT FOR AUTHORIZATION OF FORT IRWIN MILCON

Mrs. FEINSTEIN. Mr. President, this amendment authorizes a National Guard military construction project that was fully appropriated in fiscal year 1994. This amendment would authorize $1,265,000 for the construction of maintenance pad covers at Fort Irwin, CA.

Many California National Guard facilities are substandard, and authorization of military construction projects are critical to providing armories and support facilities with the resources needed to accomplish both Federal and State missions.

Fort Irwin provides vehicle and equipment maintenance support to the majority of National Guard units in southern California. Currently, there is a severe shortage of space which makes it necessary for employees to work outside in extremely harsh conditions. Construction of maintenance pad covers will provide the necessary work space to permit vehicle and equipment maintenance during extreme weather conditions. The maintenance pad covers will allow work to proceed in an efficient manner in a much safer working environment.

This amendment would merely authorize a project that has already been appropriated, and I urge its adoption.

THE PSYCHOLOGICAL OPERATIONS GROUP AT FT. BRAGG, NC

Mr. FAIRCLOTH. Mr. President, I am requesting that the 4th Psychological Operations Group at Fort Bragg, North Carolina receive $16 million in order to modernize their current World War II era facility.

Currently the 4th POG soldiers work in converted facilities which are grossly inadequate, undersized, and have significant health and safety hazards.

This $16 million would be appropriated to modernize the Company Operations Complex. The World War II temporary buildings, which this project replaces, are in dangerous conditions with exposure to asbestos, lead based paint, and high levels of lead in the water. There have been documented cases where floors, roofs, and ceilings have collapsed and fires have started due to electrical overloads.

As the Army's only active component psychological unit, they played a significant role in the success of Operation Just Cause in Panama, Desert Shield/Storm in the gulf, and Restore Hope in Somalia.

With the increasing role that they are playing in all U.S. missions, they require a larger facility that is more accommodating.

Mrs. HUTCHISON. Mr. President, I believe there are no other Senators who wish to debate this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2232) was agreed to.

AMENDMENT NO. 2233

(Purpose: To make technical amendments)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] proposes an amendment numbered 2233.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, line 12, strike out "$723,909,000" and insert in lieu thereof "$693,909,000".

On page 14, line 15, strike out "$840,361,000" and insert in lieu thereof "$870,361,000".

On page 18, line 5, insert before "Funds" the following: "(a) LEASE AUTHORIZED.—".

On page 18, after line 24, insert the following:

(b) WAIVER AUTHORITY.—Section 1024(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1460) is amended by striking out "section 1439(b)(2)" and inserting in lieu thereof "section 1439".

On page 27, line 4, strike out "set forth in title VI of" and insert in lieu thereof "and requirements set forth in".

On page 106, strike out lines 15 through 21, and insert in lieu thereof the following:

of section 2535 of title 10, United States Code, is amended by striking out subparagraph (G) and inserting in lieu thereof the following:

On page 106, line 25, strike out "transfer," and all that follows through "training school" on page 107, line 1, and insert in lieu thereof "transfer to a nonprofit educational institution or training school, on a nonreimbursable basis, of any such property already in the possession of such institution or school".

On page 107, line 6, strike out "SEPTEMBER 30," and insert in lieu thereof "DECEMBER 31,".

On page 107, line 8, strike out "September 30," and insert in lieu thereof "December 31,".

On page 123, line 13, strike out "of an Alaska Native" and all that follows through "a person in," on line 15 of such page, and insert in lieu thereof "or recognition of an individual referred to in subsection (c) in".

On page 123, line 16, strike out "person" and insert in lieu thereof "individual".

On page 123, line 22, strike out "(1) Subsection (b)(5) applies to an Alaska Native" and insert in lieu thereof "Subsection (b)(5) applies to a member of the Alaska Army National Guard".

On page 123, line 25, strike out "Alaska." and insert in lieu thereof "Alaska, by paved road.'.".

On page 124, strike out lines 1 through 4.

On page 252, line 15, strike out "$1,668,086,000" and insert in lieu thereof $1,731,286,000".

On page 270, line 21, strike out "$3,230,058,000" and insert * * *.

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. TECHNICAL AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) Section 113(e)(2) is amended by striking out "section 104" and inserting in lieu thereof "section 108".

(2) Section 133a(b) is amended by striking out "Under Secretary of Defense for Acquisition" and inserting in lieu thereof "Under Secretary of Defense for Acquisition and Technology".

(3) Section 580a(a) is amended by striking out "the date of the enactment of this section" and inserting in lieu thereof "November 30, 1993,".

(4)(A) The section 1058 added by section 554(a) of Public Law 103–160 (107 Stat. 1663) is redesignated as section 1059.

(B) The item relating to that section in the table of sections at the beginning of chapter 53 is revised to conform to the redesignation made by subparagraph (A).

(5)(A) The section 1058 added by section 1433(b) of Public Law 103–160 (107 Stat. 1834) is redesignated as section 1060.

(B) The item relating to that section in the table of sections at the beginning of chapter 53 is revised to conform to the redesignation made by subparagraph (A).

(6) Section 1141 is amended by striking out "on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1994" and inserting in lieu thereof "after November 29, 1993,".

(7) Section 1151(h)(3)(B)(v) is amended by inserting "school" after "For the fifth".

(8)(A) The heading of section 1482a is amended so that the first letter of the fifth word is lower case.

(B) The item relating to that section in the table of sections at the beginning of chapter 75 is revised to conform to the amendment made by subparagraph (A).

(9) Section 2399 is amended—

(A) in subsections (b)(5) and (c)(1), by striking out "section 138(a)(2)(B)" and inserting in lieu thereof "section 139(a)(2)(B)";

(B) in subsection (e)(3)(B), by striking out "solely as a representative of" and inserting in lieu thereof "solely in testing for";

(C) in subsection (g), by striking out "section 138" and inserting in lieu thereof "section 139"; and

(D) in subsection (h)(1), by striking out "section 138(a)(2)(A)" and inserting in lieu thereof "section 139(a)(2)(A)".

(10) Section 2502(d) is amended by striking out "Executive" and inserting in lieu thereof "executive".

(11)(A) Sections 2540 and 2541, as added by section 822(a) of Public Law 103–160 (107 Stat. 1705), are redesignated as sections 2539a and 2539b, respectively.

(B) The items relating to those sections in the table of sections at the beginning of subchapter V of chapter 148 are revised to conform to the redesignations made by subparagraph (A).

(12) Section 2865(a)(4) is amended by adding a period at the end.

(13) Sections 3022(a)(1), 5025(a)(1), and 8022(a)(1) are amended by striking out "section 137(c)" and inserting in lieu thereof "section 135(c)".

(14) Section 9511 is amended by striking out "In this subchapter" and inserting in lieu thereof "In this chapter".

(b) PUBLIC LAW 103–160.—Effective as of November 30, 1993, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160) is amended as follows:

(1) Section 507(d)(3) (107 Stat. 1647) is amended by inserting "note" after "10 U.S.C. 1293".

(2) Section 551(a)(1) (107 Stat. 1661) is amended by striking out "Section" and inserting in lieu thereof "Chapter".

(3) Section 554(b) (107 Stat. 1666) is amended—

(A) in paragraph (1), by striking out "Section 1058 of title 10, United States Code, as added by subsection (a)," and inserting in lieu thereof "The section of title 10, United States Code, added by subsection (a)(1)"; and

(B) in paragraph (2), by striking out "1058".

(4) Section 931(c)(1) (107 Stat. 1734) is amended by inserting closing quotation marks before the period at the end.

(5) Section 1314(3) (107 Stat. 1786) is amended by striking out "adding at the end" and inserting in lieu thereof "inserting after subsection (f)".

(6) Section 1433(d) (107 Stat. 1835) is amended by striking out "Section 1058 of title 10, United States Code, as added by subsection (a)," and inserting in lieu thereof "The section of title 10, United States Code, added by subsection (b)(1)".

(7) Section 1606(b)(4) (107 Stat. 1847) is amended by striking out "section 1604(e)" and inserting in lieu thereof "section 1605(e)".

(8) Section 2912(b)(2) (107 Stat. 1925) is amended by striking out "section 637(d)(1)" and inserting in lieu thereof "section 8(d)(1)".

(9) Section 2926(d) (107 Stat. 1932) is amended by striking out "Subsection (d)(1)(2)(C)(iii)" and inserting in lieu thereof "Subsection (d)(2)(C)(iii)".

(c) OTHER LAWS.—(1) Section 921 of Public Law 102–190 (10 U.S.C. 201 note; 105 Stat. 1452) is amended by striking out "section 136(b)(3)" in subsection (a) and inserting in lieu thereof "section 138(b)(3)".

(2) Section 908(c) of title 37, United States Code, is amended by striking out "section 1058" and inserting in lieu thereof "section 1060".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. NUNN. Mr. President, in the period since bill was reported to the Senate on June 14, we have identified a number of technical and clarifying amendments that are needed to be made to the bill. These changes are embodied in the technical amendment that is now pending. This amendment has been cleared on both sides. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2233) was agreed to.

Mr. NUNN. Mr. President, in reference to all of the amendments we have just passed, I ask that they be reconsidered en bloc.

Mrs. HUTCHISON. I move to lay that motion on the table.

The motions to lay on the table were agreed to.

Mr. NUNN. I thank the Chair.

AMENDMENT NO. 2162

Mr. NUNN. Mr. President, I ask unanimous consent that amendment No. 2162 previously adopted be amended on page 2 by striking out lines 2 through 10 and inserting in lieu thereof "by amending subsection (e) to read as follows:"

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2234

(Purpose: To express the Sense of the Senate that the Bottom-Up Review should in no way be seen as limiting the size of the force military commanders planning a campaign on the Korean Peninsula may request and for other purposes)

Mrs. HUTCHISON. Mr. President, there is one more amendment before we finish that we wanted to offer, the Dole amendment. So, Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for Mr. DOLE, proposes an amendment numbered 2234.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following new section:

SEC. . MILITARY PLANNING FOR THE SIZE AND STRUCTURE OF A FORCE REQUIRED FOR A MAJOR REGIONAL CONTINGENCY ON THE KOREAN PENINSULA.

(a) FINDINGS.—Congress finds as follows:

(1) Whereas the Administration commissioned the Bottom-Up Review to properly size and structure the Armed Forces of the United States for the Post-Cold-War Era;

(2) Whereas the Bottom-Up Review itself cites the need for the Armed Forces of the United States to be large enough to prevail in two major regional conflicts, similar in nature to the 1991 war against Iraq, "nearly simultaneously;"

(3) Whereas the Bottom-Up Review gives special consideration to a scenario that hypothesizes that the two "nearly simultaneous" conflicts would occur in Korea and the Persian Gulf;

(4) Whereas the United States sent 7 Army divisions, the equivalent of 10 Air Force tactical fighter wings, 70 heavy bombers, 6 Navy aircraft carrier battle groups, and 5 Marine Corps brigades to the Persian Gulf to fight the war against Iraq;

(5) Whereas the Bottom-Up Review asserts that the forces needed to fight two conflicts similar to that with Iraq can be drawn from a total military force of between 15 and 16 Army divisions, 20 Air Force tactical fighter wings, 184 heavy bombers, 11 active Navy aircraft carriers (along with one reserve/training carrier), and the equivalent of 12 Marine Corp brigades;

(6) Whereas the Bottom-Up Review recognizes that approximately 100,000 members of the United States Armed Forces will be stationed in Europe;

(7) Whereas the Bottom-Up Review recognizes that sizeable numbers of U.S. forces could be involved in peace enforcement and intervention operations at any one time;

(8) Whereas the Bottom-Up Review makes no specific recommendation as to the number of forces to be held in reserve to provide a rotation base either to relieve troops in the event one or both hypothetical conflicts result in lengthy deployments or to replace combat losses;

(9) Whereas military planners calculate that the number of U.S. forces needed to help defeat an invasion of South Korea by North Korea may exceed 430,000 U.S. military personnel;

(10) Whereas the size of the force military planners may request to help defend South Korea could exceed the levels that are consistent with the recommendations of Bottom-Up Review if the existing and future force requirements for a presence in Europe, possible peace enforcement operations, and an adequate rotation base, as well as a second regional conflict, must be fulfilled simultaneously;

(b) SENSE OF CONGRESS.—It is the Sense of Congress:

(1) that the force structure identified in of the Bottom-Up Review may not be used to limit the size or structure of the force United States military commanders may request in preparation for a major regional contingency on the Korean peninsula;

(2) and that the Chairmen and Ranking Members of the House and Senate Committees on Armed Services and Chairmen and Ranking members of the House and Senate Appropriations Subcommittees on Defense should receive regular briefings from the Department of Defense of the situation on the Korean peninsula;

(3) and that the conclusions of the Bottom-Up Review should be continuously examined in light of the lessons learned from preparation for a major regional contingency on the Korean peninsula and from other military operations.

Mrs. HUTCHISON. This amendment on behalf of Senator DOLE expresses the sense of the Senate that reinforcements to South Korea should not be burdened by force levels in the Bottom-Up Review.

Mr. DOLE. Mr. President, on October 7, 1993, the administration acknowledged that a request for tanks and armored personnel carriers from the commander of United States forces in Somalia had been denied. The purpose of this request was to protect American lives—the lives of American soldiers engaged in peacekeeping operations in Somalia. The failure to respond to the on-scene commander's requests, which we later discovered were numerous and repeated, was a key factor in the deaths of 18 U.S. soldiers.

I know that none of us want to see a repeat of this tragedy. When we send our military personnel into harm's way, we owe them every bit of support they request; and our commanders should not be barred from requesting the support they need. They are the experts, and the ultimate responsibility for the safety of their troops lies with them.

The amendment I have just introduced expresses the sense of the Senate that the force structure allocations outlined in the Bottom-Up Review or other planning documents should in no way limit the size or structure of the needs deemed necessary by commanders responsible for planning or engaged in United States operations in Korea.

Let me be clear, no one wants war on the Korean Peninsula. However, we have to be prepared if it comes, and right now our military planners are preparing for that contingency. Over the past several months there have been many newspaper articles and magazine stories speculating on the United States response to aggression by North Korea. One thing is clear, depending on the duration and intensity of a second Korean war, United States military planners preparing for the conflict would certainly ask for forces much larger than those allocated by the Bottom-Up Review for a single regional contingency. The Bottom-Up Review force for 1 major regional contingency consists of 4 or 5 divisions, 4 or 5 Marine brigades, 10 Air Force wings, 100 bombers, and 4 to 5 aircraft carrier battle groups. Now compare this to the force used during Desert Storm. The United States sent 7 Army divisions, the equivalent of 10 Air Force tactical fighter wings, 70 heavy bombers, 6 Navy aircraft carrier battle groups, and 5 Marine Corps brigades.

Because of the difficult terrain, a ground war on the Korean Peninsula is likely to be much more challenging than Desert Storm. With nearly 90 percent of South Korean and United States troops in Korea positioned within 35 miles of the DMZ, a second Korean war would be very costly for all sides.

Certainly, the scenario of a second Korean war is one we all hope never becomes reality. But it is a possibility, and we must be prepared for it. This amendment will help ensure that our military commanders are provided with all of the support they need. I urge my colleagues to support the amendment.

Mrs. HUTCHISON. I understand this amendment has been cleared by both sides.

Mr. NUNN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2234) was agreed to.

Mrs. HUTCHISON. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2235

(Purpose: To amend titles 5 and 10, United States Code, to ensure equal treatment of civilian and military retirees when cost-of-living adjustments are delayed by law for budgetary or other reasons)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of the Senator from Virginia, Mr. ROBB.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. ROBB, proposes an amendment numbered 2235.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 138, between lines 11 and 12, insert the following:

SEC. 634. REQUIREMENT FOR EQUAL TREATMENT OF CIVILIAN AND MILITARY RETIREES IN THE EVENT OF DELAYS IN COST-OF-LIVING ADJUSTMENTS.

(a) CIVIL SERVICE ANNUITIES.—(1) Section 8340 of title 5, United States Code, is amended—

(A) in subsection (b), by striking out "Except as provided in subsection (c)" and inserting in lieu thereof "Except as provided in subsections (c) and (h)"; and

(B) by adding at the end the following new subsection:

"(h)(1) Whenever, by law, there is a difference between the date on which a cost-of-living adjustment under this section is to take effect and the date on which a corresponding cost-of-living adjustment of the retired pay of members and former members of the uniformed services under section 1401a of title 10 is to take effect, then, notwithstanding subsection (b) and any other provision of law, the date on which the cost-of-living adjustment under this section takes effect shall be the earlier of the two dates.

"(2) Whenever, by law, there is a difference between the first month for which a cost-of-living adjustment taking effect under this section is payable and the first month for which a corresponding cost-of-living adjustment of the retired pay of members and former members of the uniformed services taking effect under section 1401a of title 10 is payable, then the first month for which the cost-of-living adjustment under this section is first payable shall (notwithstanding the effective date provided for such adjustment in subsection (b) of this section or in any other law) be the earlier of the two months.

"(3) For purposes of this subsection, a cost-of-living adjustment of the retired pay of members and former members of the uniformed services under section 1401a of title 10 corresponds to a cost-of-living adjustment under this section when, without regard to any provision of law other than subsection (b) of this section and section 1401a(b)(1) of title 10, the cost-of-living adjustments under this section and under section 1401a of title 10 would take effect on the same date.".

(2) Section 8462 of title 5, United States Code, is amended—

(A) in subsection (b)(1), by striking out "Except as provided in subsection (c)" and inserting in lieu thereof "Except as provided in subsections (c) and (f)"; and

(B) by adding at the end the following new subsection:

"(f)(1) Whenever, by law, there is a difference between the date on which a cost-of-living adjustment under this section is to take effect and the date on which a corresponding cost-of-living adjustment of the retired pay of members and former members of the uniformed services under section 1401a of title 10 is to take effect, then, notwithstanding subsection (b)(1) and any other provision of law, the date on which the cost-of-living adjustment under this section takes effect shall be the earlier of the two dates.

"(2) Whenever, by law, there is a difference between the first month for which a cost-of-living adjustment taking effect under this section is payable and the first month for which a corresponding cost-of-living adjustment of the retired pay of members and former members of the uniformed services taking effect under section 1401a of title 10 is payable, then the first month for which the cost-of-living adjustment under this section is first payable shall (notwithstanding the effective date provided for such adjustment in subsection (b)(1) of this section or in any other law) be the earlier of the two months.

"(3) For purposes of this subsection, a cost-of-living adjustment of the retired pay of members and former members of the uniformed services under section 1401a of title 10 corresponds to a cost-of-living adjustment under this section when, without regard to any provision of law other than subsection (b)(1) of this section and section 1401a(b)(1) of title 10, the cost-of-living adjustments under this section and under section 1401a of title 10 would take effect on the same date.".

(b) UNIFORMED SERVICES RETIRED PAY.—Section 1401a of title 10, United States Code, is amended—

(1) in subsection (b)(1), by inserting (except as provided in subsection (i))" after "Effective on December 1 of each year"; and

(2) by adding at the end the following new subsection:

"(i)(1) Whenever, by law, there is a difference between the date on which a cost-of-living adjustment under this section is to take effect and the date on which a corresponding cost-of-living adjustment of annuities of retired employees of the United States under section 8340 or 8462 of title 5 is to take effect, then, notwithstanding subsection (b) and any other provision of law, the date on which the cost-of-living adjustment under this section takes effect shall be the earlier (or earliest) such date.

"(2) Whenever, by law, there is a difference between the first month for which a cost-of-living adjustment taking effect under this section is payable and the first month for which a corresponding cost-of-living adjustment of annuities of retired employees of the United States taking effect under section 8340 or 8462 of title 5 is payable, then the first month for which the cost-of-living adjustment under this section is first payable shall (notwithstanding the effective date provided for such adjustment in subsection (b)(1) of this section or in any other law) be the earlier (or earliest) such month.

"(3) For purposes of this subsection, a cost-of-living adjustment of annuities of retired employees of the United States under section 8340 or 8462 of title 5 corresponds to a cost-of-living adjustment under this section when, without regard to any provision of law other than subsection (b)(1) of this section and sections 8340(b) and 8462(b)(1) of title 5, the cost-of-living adjustments under this section and under sections 8340 and 8462 of title 5 would take effect on the same date.".

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on October 1, 1998.

Mr. NUNN. Mr. President, this amendment would ensure that Federal civilian retirees and military retirees are treated equitably when cost of living adjustments are delayed by law for budgetary or other reasons. This amendment would take effect on October 1, 1998.

Mrs. HUTCHISON. We have no objections.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2235) was agreed to.

Mrs. HUTCHISON. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, I urge third reading of the bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. NUNN. Mr. President, I urge passage of the bill.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (S. 2182), as amended, was passed.

The text of S. 2182 will appear in a future edition of the RECORD.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mrs. HUTCHISON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, I send to the desk an amendment to the title.

The title was amended so as to read:

"To authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense programs of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.".

Mr. NUNN. Mr. President, I ask unanimous consent that S. 2182, as amended, be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE BILLS EN BLOC

Mr. NUNN. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration en bloc of the following bills: S. 2206 through S. 2211, Calendar Order Nos. 476 through 481; that all after the enacting clause of each of these bills be stricken and that the appropriate portion of S. 2182 and S. 1587, as amended, be inserted in lieu thereof according to the schedule which I am sending to the desk; that these bills be advanced to third reading and agreed to; that the motion to reconsider en bloc be laid on the table; and, that the above actions occur without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bills (S. 2206 through S. 2111), as amended, were deemed read a third time, and passed as follows:

FEDERAL ACQUISITION STREAMLINING ACT OF 1994

The text of S. 2206 will appear in a future edition of the RECORD.

FEDERAL ACQUISITION STREAMLINING REFORM ACT OF 1994

The text of S. 2207 will appear in a future edition of the RECORD.

DEPARTMENT OF DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The text of S. 2208 will appear in a future edition of the RECORD.

MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 1995

The text of S. 2209 will appear in a future edition of the RECORD.

DEPARTMENT OF ENERGY NATIONAL SECURITY ACT FOR FISCAL YEAR 1995

The text of S. 2210 will appear in a future edition of the RECORD.

OMNIBUS NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The text of S. 2211 will appear in a future edition of the RECORD.

THE NATIONAL DEFENSE AUTHORIZATION ACT OF 1995

Mr. NUNN. Mr. President, with respect to H.R. 4301, the House-passed version of the National Defense Authorization Act for fiscal year 1995, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4301; that all after the enacting clause be stricken, and that the text of S. 2182, as amended, be substituted in lieu thereof; that the bill be advanced to third reading and passed; that the title of S. 2182 be substituted for the title of H.R. 4301; that the Senate insist on its amendments to the bill and the title, and request a conference with the House and on the disagreeing votes of the two Houses; that the Chair be authorized to appoint conferees; that the motion to reconsider the above-mentioned votes be laid upon the table; and, that the foregoing occur without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of S. 2181, as amended, will appear in a future edition of the RECORD.

The PRESIDING OFFICER (Mr. AKAKA) appointed Mr. NUNN, Mr. EXON, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. GLENN, Mr. SHELBY, Mr. BYRD, Mr. GRAHAM, Mr. ROBB, Mr. LIEBERMAN, Mr. BRYAN, Mr. THURMOND, Mr. WARNER, Mr. COHEN, Mr. MCCAIN, Mr. LOTT, Mr. COATS, Mr. SMITH, Mr. KEMPTHORNE, Mr. FAIRCLOTH, and Mrs. HUTCHISON, conferees on the part of the Senate.

SENATE ACTION AFTER THE HOUSE ACTS ON A SENATE-PASSED BILL

Mr. NUNN. Mr. President, I ask unanimous consent that with respect to S. 2182 and S. 2206 through S. 2211, as just passed by the Senate, that, if the Senate receives a message with regard to any one of these bills from the House of Representatives, the Senate disagree with the House on its amendment or amendments to the Senate-passed bill, and agree to or request for a conference with the House on the disagreeing votes of the two Houses, whichever is appropriate; that the Chair be authorized to appoint conferees; and, that the foregoing occur without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

THANKS TO THE STAFF

Mr. NUNN. Mr. President, before I on behalf of the leader ask certain unanimous-consent requests and wrapup matters, I want to again thank the staff on the majority side and the minority side for superb work. I want to particularly note on the majority side P.T. Henry, Dick Combs, Danny Ginsberg, Creighton Greene, Rick Finn, Madelyn Creedon, Kathy Bognovitz, Arnold Punaro, and John Douglass, Richard DeBobes, Andrew Effron, William Hoehn, Julie Kemp, David Lyles, Kirk McConnell, Michael McCord, and Frank Norton.

They are all here on the Chamber, and I am very grateful to each of them; also to those who are back in the offices working very diligently. We thank them also.

I express my appreciation to Dick Reynard, and Les Brownlee, and the entire staff on the minority side. They are true professionals, and they are a pleasure to work with. We are grateful to all of you. You do a great job. We appreciate it.

Mr. MCCAIN. Mr. President, the Senate has just voted to approve the fiscal year 1995 Defense Authorization bill. I oppose this bill for the following reasons.

I fear that we are cutting defense too fast and too deep. This year is the tenth consecutive year of declining defense budgets. I agree that reductions in defense spending were appropriate following the collapse of the Soviet Union and the Warsaw Pact. But since 1985, defense spending has declined 35 percent, with another 10 percent reduction planned by 1999 under the Clinton budget. The magnitude of the reductions in budget and force structure contained in this bill are a matter of grave concern.

In addition, the Clinton administration has not provided adequate resources to fund the force levels required to support the forces or the strategy which underlie this bill. The Secretary of Defense has testified that a shortfall of $20 billion exists in the 5 year defense plan because of underfunded inflation costs. Many other analysts agree that defense is underfunded by at least $60 billion; some estimate that figure is closer to $100 billion. This bill does nothing to redress these budgetary shortfalls.

Mr. President, lack of adequate funding means that military commanders must make difficult choices between combat training or vehicle maintenance, between operations or modernization, between readiness and quality-of-life for our military men and women. Training foregone cannot be recovered without additional funding. Lowered morale is difficult to restore. Without adequate funding, these deficiencies combine to adversely affect readiness.

The readiness problems of the hollow force of the 1970's were caused primarily by the fact that the nation broke faith with its military. A similar breach of faith is occurring today. Active duty and retiree pay is underfunded. The services are not receiving the training necessary to preserve the combat edge they had when they went into Desert Storm. There is no depth to logistics support now, and there is no indication this situation will improve. The exceptional force of dedicated professionals, which we all worked so hard to rebuild from the hollow force, is again in a downward spiral. I object to permitting the dismantling of our military force.

One of the most objectionable portions of this bill is that which deals with military construction. Included in this bill are nearly $800 million in authorizations for military construction projects which were not included in the President's budget request. These projects were requested by Members of the Senate. They were not subjected to the scrutiny of the Senate Armed Services Committee during its review of such projects, and they were not therefore assessed in relation to other military construction projects or other defense spending areas. These projects were added merely because a Senator requested funding for them. This is a glaring example of Congressional pork barrel spending.

Mr. President, there are many programs and policies contained in this bill which I support. In particular, I applaud the efforts of the Chairman of the Readiness Subcommittee, Senator GLENN, to tighten up the Committee's review of military construction addons, and his efforts to direct budgetary savings to high-priority readiness accounts like real property maintenance and depot level maintenance. I also thank the Committee members for including expedited procedures to ensure that conveyances of Federal land are reviewed under GSA's standards. The vast majority of the programs authorized in this bill are meritorious programs which will serve to enhance our national security.

Yet I cannot support a bill which essentially endorses the continued decline in defense spending. I cannot vote in favor of a bill which allows the military readiness of our Armed Forces to be sacrificed for pork barrel spending.

Therefore, I register my vote in opposition to the fiscal year 1995 Defense authorization bill. I will continue to work to ensure that scarce defense dollars are spent wisely and for the programs which most effectively meet our national security needs.

MORNING BUSINESS

Mr. NUNN. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein for up to 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE AMERICAN PROMENADE IN ISRAEL

Mrs. FEINSTEIN. Mr. President, I rise today to make some brief remarks on a United States-Israeli cooperative project.

The American Promenade in Israel is a privately-funded project to construct a lasting monument to the unique friendship between the United States and Israel. It has found the support of top Israeli officials, including Prime Minister Yitzhak Rabin, former Prime Ministers Yitzhak Shamir and Shimon Peres, and Likud Chairman Benjamin Netanyahu, as well as members of both parties in both houses of the U.S. Congress and numerous governors.

The American Promenade has been designed by California architect David Collins to be a national park located at the gateway to Jerusalem overlooking the Tel Aviv-Jerusalem highway. A botanical garden in the park will contain Biblical and State trees, flowers, and wildflowers. There will also be 50 marble, 20-foot high monuments bearing the flags and official seals of the 50 States. There will be a stainless steel time capsule with a glass-lined interior to house buried historical materials. The capsule will be opened in the year 2048 during Israel's 100th anniversary celebrations.

An outstanding personality from each State will be honored by the Joint Commission on the American Promenade in Israel as a founding father, and his or her name will be permanently inscribed on the monument along with the names of the current Governor and the U.S. Senators. The founding father for the State of California will be Mr. David Shapell.

As a project that has bipartisan support both in Israel and the United States, the American Promenade reaffirms the special relationship between our country and the only Western democracy in the Middle East.

THE GROWING THREAT TO PRESS FREEDOM AROUND THE WORLD

Mr. PELL. Mr. President, I am concerned that, despite the perception that we live in a global village in the age of information, exchange of information, which ought to be free and open, instead is becoming increasingly restricted.

I have recently been made aware of some alarming statistics that reflect this trend. According to the Committee to Protect Journalists [CPJ], last year around the world, a record 124 journalists were imprisoned, 56 journalists were killed in the line of duty, and there were more than 700 violations of press freedoms. As astonishing as these numbers are, they are believed to be an underestimate.

Some countries responsible for assaults on the press are, predictably, authoritarian regimes such as China which has the largest number of imprisoned journalists. Other violator countries, such as Turkey, are multiparty, constitutional governments.

What the 27 violator countries have in common, as described by CPJ, is that their governments "openly assert their right to control the content of reporting on politics, economics, national security, cultural and religious tensions, and myriad other topics," and that "the press in almost all of these countries is more cautious about challenging authority as a direct result of these prosecutions."

Attacks on journalists demand our attention because they are increasing in number, lead to intimidation and self-censorship, and, inevitably, challenge the open exchange of and access to information.

In many countries, threats to press freedom, and to reporters, result from the collapse of civic authority and from the growing power of religious extremism and competing national and ethnic groups.

Some journalists are killed in the crossfire of opposing forces in armed conflicts, and we have come to recognize this as an unavoidable risk of the war correspondent. However, the deliberate targeting of journalists because their news reporting is judged by one group to serve the interests of an opposing ethnic group or extremist faction is an increasingly common and dangerous phenomena.

According to CPJ, "Bosnia is proving to be even more hazardous for war correspondents than Vietnam. Europe and the republics of the former Soviet Union had 21 fatalities, the year's largest number."

In much of the world, a free press is the exception, not the rule. A controlled press, operated directly by the government or indirectly by self-censoring journalists, is the norm. Information in these countries is a means to control, rather than to inform.

In Rwanda, the twisting of information via the Hutu government-controlled radio "Mille Collines" has been used to incite genocide against the Tutsi minority and continues to broadcast a message of "ethnic cleansing" while the death count climbs to half a million.

In Turkey, newly enacted laws give the government sweeping authorities to restrict the media. After a series of aggressive court actions, the alleged torture and beatings of news staff, the disappearance of a reporter while on assignment and the murder of three others, the government and police have finally forced the closure of a major newspaper representing a pro-Kurdish viewpoint.

In Bangladesh, criminal charges were filed against a prominent independent secular journalist, Taslima Nasreen, and her editors for allegedly publishing materials to which some religious leaders took offense. Ms. Nasreen has gone into hiding, and the Bangladeshi police are conducting a nationwide hunt to arrest her.

In Somalia, rebel gunmen killed four journalists covering the U.N. intervention—A.P. photographer Hansi Krauss, Reuters photographers Hos Mania and Dan Eldon, and Reuters sound technician Anthony Macharia. Their murders virtually brought a halt to any television or on-the-spot coverage of the conflict.

In an egregious act of censorship, the Government of Indonesia on June 21 revoked the publishing license of three of that country's most respected news publications, allegedly for sowing discord and threatening national stability. In response, hundreds of people joined in peaceful demonstration in front of government offices, many were beaten by Indonesian security forces, and more than 50 people were arrested.

In our own country, where a free press is taken for granted, three Haitian journalists have been murdered since 1991. Serge Simon, a Haitian journalist who fled to the United States after being beaten for a report on military corruption in Haiti, said:

> The murders did what they were meant to do—intimidate pro-Aristide supporters in the United States. We expected something different in the United States.

While we cannot compel other nations to adopt the guarantee provided in our Constitution's first amendment, or to live up to their obligations under article 19 of the Universal Declaration of Human Rights, we must forthrightly and repeatedly send the same message to heads of state, rebel strongmen, and religious zealots alike—that the censoring of news and the threatening of lives of journalists are not legitimate forms of state authority.

Persecution of journalists and violations of press freedom cannot be tolerated by the international community. The cause of journalists in prison must be joined to that of political prisoners in general, and their release should be pressed for with equal vigor.

The muscle of international condemnation must be brought to bear against those responsible for these policies. Those who kill journalists must be brought to justice, whether in Indonesia, Turkey, Rwanda, or elsewhere, as well as here in the United States.

A news article in the June 28 Washington Post headlined: "Reporter Who Fled Zaire Starts a New Life in U.S.," tells us of the persecution of one brave journalist forced from his homeland for chronicling the repressive acts of his government. The United States has provided asylum for this man and his family who had fled from Zaire to save their lives.

This country can do more than address the aftermath of injustice. As it works to promote democratic values around the world and to develop closer political and economic ties with our allies, the Clinton administration should support the free and open exchange of information, and forcefully condemn information censorship and assaults on the press.

Governments should be urged to take sustained action to protect free speech. Senator DENNIS DECONCINI, Chairman of the Commission on Security and Cooperation in Europe, in a speech in the Senate, June 23, proposed such steps to the Government of Turkey. Among Senator DECONCINI's eight proposals were: abolish restrictions on free expressions, and lift constraints on dissemination of Kurdish language television and radio broadcasts, point, music, and other mediums.

Symbolic gestures by the administration, such as an invitation to the White House, or a simple one-line statement of regret from the State Department, as was the case for Indonesia, are simply not sufficient to register our concern and are likely to be ignored by violator countries.

Offenses against the press should be considered serious human rights violations, to be dealt with by high-level pressure and other appropriate remedies. We can begin at the World Bank's Consultative Group meeting of bilateral donors in July by calling for an end to International Financial Institution [IFI] funding for Indonesia unless action is taken to rescind the banning orders issued by Indonesia's Information Ministry.

Mr. President, before there can be a global village, we have to secure freedom of the press and information and protection for journalists at the level of the local village. The technological advances that make possible the new information age will remain a dream and disappointment for millions of people unless information freedom is made secure at the local and country level.

TRIBUTE TO COL. ANTHONY LENTINI

Mr. JOHNSTON. Mr. President, in speaking at college commencements this year, I have been urging graduates to consider a career in public service. Many young people no longer think of a government career as desirable, perhaps because in recent years government employees, both civilian and military, have been given very little praise and a lot of criticism. So I am pleased to have this opportunity to praise the accomplishments of a native Louisianian whose exemplary career in public service extends back nearly 50 years, to World War II, and who has just retired as Director of the VA Regional Office in New Orleans, Col. Anthony J. Lentini.

Tony Lentini is a native of Kenner, LA, and a graduate of Loyola University where, coincidentally, one of those commencement addresses took place. He is a combat veteran of World War II and Korea, and served during the Vietnam era in the office of the Secretary of the Army as a legislative liaison officer with the U.S. Congress. Members of Congress and their staffs who worked with him then and later, after he joined the staff of the Administrator of Veterans Affairs, found him unfailingly accessible, knowledgeable, and helpful. During the 20 years he has been Director of the New Orleans regional office, he has been of immense help to my office and to the entire Louisiana delegation and we will all miss him sorely.

In addition to serving his country, Tony has served his State and his city, as president of the New Orleans Federal Business Association as a longtime member of the board of trustees of United Way for the Greater New Orleans Area and as president of the Committee on Alcoholism and Drug Abuse for the Greater New Orleans Area. I am pleased to say that his efforts have not gone unnoticed. He received the 12th annual Rabbi Emil W. Leipziger Award as an outstanding United Way Volunteer, as well as numerous awards for Outstanding Service to Veterans from, among others, the Disabled American Veterans, the VFW, AMVETS, and the American Legion. The Republic of Italy has conferred on him the title of "Cavaliere" for his good work in promoting cultural awareness in the American-Italian community.

For half a century, Tony Lentini has been fighting for Americans, first on the battlefield, and later, for the rights and benefits of all those who served in the military. As St. Paul says, he has fought a good fight and now he has finished the course. On behalf of all Louisianians, I want to wish Tony and his family every success and happiness in the years ahead, and thank him for everything he has done for his country and his fellow soldiers.

SPEECH OF FEDERAL BUREAU OF INVESTIGATION DIRECTOR FREEH

Mr. DOMENICI. Mr. President, in my role as ranking Republican on the Appropriations Subcommittee on Commerce-Justice-State, it has been my pleasure to get to know the Director of the FBI, Louis Freeh. He is a forceful, determined Director who brings years of experience as an agent and a prosecutor to the position of Director.

Director Freeh is currently on a trip to Germany, the Slovak Republic, Hungary, Poland, Lithuania, Ukraine, and Russia to establish cooperative relationships with the law enforcement officials of those countries. He realizes that, in a post-cold-war, interdependent world, it is vital that we work together to control organized crime and international terrorism.

Organized crime recognizes no borders. In addition, in the wake of the crumbling of traditional state structures in Eastern Europe and the former Soviet Union, organized crime is quickly attempting to fill the vacuum. In some regions it has become the de facto government.

This is not only a problem for the countries of Europe and Asia; it is a growing problem for the United States and for our citizens and companies operating abroad. Indeed, these crime organizations are beginning to operate in the United States as well.

On Tuesday Director Freeh gave a speech in Berlin that outlines the crime problems being faced by Eastern Europe and the former Soviet Union.

He outlines three areas of concern. First, the possibility of the diversion of nuclear materials to criminal or terrorist organizations, or to outlaw nations; second, the growth of organized crime throughout Eastern Europe and the former Soviet Union; and third, the resurgence of hate crimes.

However, Director Freeh is not merely attempting to share American know-how with these countries; he realizes we have much to learn to solve our own crime problems. Most importantly, he is offering them a partnership with the law enforcement organizations of the United States in a cooperative effort to attack crime and terrorism. He proposes turning many of the people and resources that were committed to the cold war to the important goal of defeating our common enemies in the crime world.

I believe the Director is making a vitally important effort. I commend him for his vision, and I ask unanimous consent that his speech be reprinted in the RECORD so that we can all benefit from his insights.

Mr. President, I yield the floor.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH OF LOUIS J. FREEH, DIRECTOR, FEDERAL BUREAU OF INVESTIGATION, AT THE ROTES RATHAUS (BERLIN CITY HALL), BERLIN, GERMANY, JUNE 28, 1994

I want to express the gratitude of the United States Government for the opportunity to meet with German officials to discuss grave crime problems of such great concern to both of our countries.

We deeply appreciate the work of parliamentary State Secretary Lintner in making the arrangements for the round table discussions that have just been concluded.

We are equally grateful to Mayor Diepgen and the Berlin Senate for their assistance, especially for approving the Rotes Rathaus as the site of our discussions

The talks here today launch a series of discussions with law enforcement officials of 11 European nations.

Our delegation hopes to build substantially on the foundations of joint efforts already begun with some countries and to create new cooperative programs against crime with nations with which we now have relatively few law enforcement ties.

Moreover, President Clinton, Attorney General Reno, Secretary of State Christopher and Secretary of Defense Perry fully support this trip and I will report back to the President who, as you know, will make an historic trip to this city on July 12.

The makeup of the United States delegation shows how seriously my country views these new efforts to build cooperation against a wide range of existing and potential crimes.

One member is Ronald K. Noble, the Assistant Secretary of the Treasury for Law Enforcement, who supervises such important agencies as the United States Customs Service, the Bureau of Alcohol, Tobacco and Firearms, and the Secret Service. We are fortunate that he will continue to have those important law enforcement responsibilities as Under Secretary of the Treasury for Enforcement, to which he is being promoted.

Another member of our delegation is Ambassador Robert S. Gelbard, Assistant Secretary of Sate for International Narcotics Matters, he leads the efforts of the Department of State in dealing with diplomatic processes to develop international cooperation in attacking drugs and other serious crime problems.

A third important member of our group is Thomas A. Constantine, the Administrator of the Drug Enforcement Administration, which is the lead agency in the United States in the fight against drug trafficking.

And I am Director of the Federal Bureau of Investigation, which has responsibilities for investigating organized crime, violent crime, and a wide range of other offenses.

Our visit here today would not have been possible without the encouragement and support of an American official with whom German officials have close working relationships—Ambassador Richard Holbrooke.

His contributions in the fight against our common cause problems will become even more notable because he is in the process of being nominated by President Clinton to be the Assistant Secretary of State for European Affairs.

It is fitting for us to begin our series of talks with European nations by coming here to Germany.

Last year, President Hans Zachert kindly invited me to Germany shortly after I became Director of the FBI. We had very productive discussions, and I also met then with Interior Minister Kanther and Parliamentary State Secretary Lintner.

Discussions and briefings I received from the BKA gave me valuable insights into German law enforcement's experience with organized crime groups from both Italy and Eastern Europe.

I want to stress at the beginning that I have not embarked upon this journey to criticize European nations because they have crime problems or to pretend the United States has none.

To the contrary, the United States faces enormous crime problems. Organized crime has been a national plague since the 1920's. Consumption of illicit drugs occurs on a scale that is an international scandal. The number of violent crimes is the shame of the civilized world.

We have come here for the best of reasons. We want to learn from the countries of Europe.

We want to share with Europe the bitter lessons we have learned in the United States.

We want to offer all possible assistance in working with the countries of Europe in developing new joint programs against crime problems that harm all of us now and may cause untold suffering in the future.

Our concerns focus on three major problems:

First, the possibility that nuclear weapons or nuclear materials may be stolen in parts of the former Soviet Union and wind up in the hands of terrorists or rouge nations;

Second, the growth and spread of organized crime in Russia and other parts of Eastern Europe—organized crime that can inflict vast suffering and even erode the stability of governments;

Third, a resurgence of hate crimes that are a threat to decent people everywhere.

The police in the United States, Europe, and other parts of the world are facing new and difficult challenges—and the problems may well grow even worse in the years ahead.

Traditionally, each nation has policed its own problems, with relatively few cooperative programs of any magnitude crossing borders.

What we might term trans-national policing really did not exist until some 10 years ago.

It began far behind the success of international crime. Law enforcement in much of the world is still behind.

Among other things, we must clearly recognize the dangers that international crimes poses to all nations and take steps to repel it and eventually defeat it.

The struggle will not be easy.

Thirty years ago, it was considered a significant event when a few kilograms of heroin were smuggled into a country.

Today, crime syndicates can rapidly set up whole new drug distribution structures in different parts of the world before the criminal justice system even detects them.

The police forces of the civilized nations, those nations seeking to live under the rule of law, must develop a new sense of purpose.

There must be new levels of cooperation among nations, and law enforcement must become more international in scale if we are to cope with unprecedented crime at unprecedented levels.

Change. That is the key word on which police departments of every nation must focus.

Policing is vastly different today than it was in the 1970's. It will be far different, too, in the soon-to-arrive 21st century.

Police in the United States have had close relations for some time with England, Italy, Germany, and Canada.

But there must be an expansion of international policy cooperation—not just a few nations, but the world community of law-abiding nations joined together against the common enemy of crime.

Nations may have differences in ideology or politics or economics. But as we are seeing clearly now, criminals do not recognize borders except to manipulate them. Criminals do not look at any system of laws or ideology except to exploit them.

In the United States, when we talk about police officers, we usually use the word "cop." What we need world-wide are cop-to-cop relationships that transcend borders and narrow interests, cop-to-cop relationships that focus on protecting the law-abiding people of all nations. Equally important are the relationships of prosecutors and other criminal justice professionals. It must be a team effort.

The priority must be on detection, investigation, and apprehension—in short, on solid investigative work based on nation-to-nation cooperation.

Priorities for such cooperation include efforts against drug trafficking, organized crime, murder, extortion, a range of other violent crimes, and theft of agents of mass destruction—whether they be stolen nuclear weapons or stolen chemical or biological weapons or their highly dangerous components.

No matter what differences nations may have in ideology or politics, there is a fundamental need to build these cop-to-cop programs. Criminals will do anything to achieve their own ends and care nothing about the politics of the people they destroy.

Professional law enforcement officials of every law-abiding nation urgently need the legal framework and tools to transform the concept of international law enforcement from a catch-word into a reality.

No one needs to give up their national autonomy. I am speaking here of cooperation.

To give one example, what if a police officer or prosecutor in nation A discovers a plot by a gang in his country to kidnap or murder a child who is a resident of nation B? The official in nation A is going to call a counterpart in nation B and save the life of the intended murder victim.

This has nothing to do with ideology or politics.

It has everything to do with what every truly professional police officer and criminal justice official in any country recognizes as his basic responsibility: The rule of law and the protection of the innocent and law-abiding.

Let me explain what I mean by a professional police or criminal justice official. He, or she, is free of corruption. Is fair. Is more dedicated to gather evidence and arresting felons and protecting people than anything else.

These officials dedicate themselves to fight crime. No matter what other differences may exist, policemen and criminal justice officials of all nations have a common enemy—and the common enemy is crime.

Law enforcement professionals have recognized this for a long time.

It's time for everyone else to do the same.

Criminal organizations are growing and spreading. Crime groups are branching out and going into partnership with other crime groups on an unprecedented scale. Crime groups develop working relationships, deals, cartels, joint ventures, mergers—anything that will help them make money, kill their opponents, neutralize the police, and in effect begin to destroy governments.

Organized crime groups are working to supplant governments—and any government that ignores that fact does so at its own peril.

Organized crime cares nothing about the improvement of life for the people. Organized crime groups do not care if their efforts lower the standard of living, enslave vast numbers to drugs, reduce the amount of food available to whole populations, stifle education, or threaten human health through large-scale poisoning of the environment.

To combat all of these threats, law enforcement professionals in all countries must develop new levels of cooperation.

I view the law enforcement professional as someone who is effective, honest, aboveboard, open, and dedicated to the well-being of the public.

At the opposite end of the scale is the secret-policeman—who cares nothing for the rule of law, the sanctity of human life, or the true rights of the people.

Law enforcement professionals cannot function properly unless they are respected by the people they are sworn to protect.

History teaches us that no police force has ever been successful for very long unless it has the support of the people. In a totalitarian nation, the secret police may think they are succeeding because the people fear them, and in the short run such secret police may be successful in some things.

But in the long run, secret police defeat themselves because they receive no respect, no real support, and they find themselves largely unable to obtain the truth or reliable witnesses or compelling evidence. In fact, in a very short time secret police, like dictatorships, so warp reality that they would not recognize the truth if it fell on them.

An inscription in the courtyard of the FBI in Washington, D.C., captures something of the needed philosophy. It says: "The Most Effective Weapon Against Crime is Cooperation . . . The Efforts of All Law Enforcement Agencies With The Support and Understanding of the American People."

In the past, the FBI did not always live up to that important message. But we are determined now to cooperate with other law enforcement agencies and other nations, and to work always for the enhanced safety and betterment of people.

Nations that value freedom are faced with exceptionally difficult crime problems. Some observers have even suggested that the forces of decency will not win. But I believe the opposite—that the rule of law will prevail. History shows that freedom is now the prevailing tide.

Fifty years ago, Western Europe was in ruins following World War II but its people were determined. With their own hard work, and a helping hand from others, the nations of Western Europe were able to rebuild. And as an integral part of that rebuilding, they retained democratic systems.

In showing what free people could accomplish under the most difficult circumstances, an example was set for all to see. It was a subtle but crucial factor in the eventual fall of communism in Eastern Europe.

Where communism once existed, we see now the emergence of democratic nations and the far-reaching impulse for freedom. However, democracy cannot exist without hard work. Democracy must be nurtured and protected.

In that complex process of democracy, law enforcement must play a crucial role.

I firmly believe that what is needed today is a new approach, a new dimension in cooperation by nations against the worst kinds of lawlessness. I think of it as an international alliance against crime.

It would be an unprecedented program: The nations of Europe and the United States would do everything within their power to assist each other, 24 hours a day, against the very worst crimes.

Where large-scale crime problems now exist, we would all summon the needed expertise information, and cooperation to jointly fight to solve them. Where new crime problems are erupting, we would all join together quickly to defeat them before they assume massive proportions.

One important focus of these efforts for a new international alliance against crime must be on the nations that have emerged from the breakup of the old Soviet Union and on the newly-freed nations once in the category of iron curtain countries.

This new international alliance also must develop greater law enforcement ties with all of the countries of Western Europe—nations that also face growing crime problems, especially drug use.

In the United States, critics said decades ago that we were doing law enforcement on the cheap. The ghastly toll of violent crime and drug use that followed show clearly the folly of doing far too little much too late.

We are making strong efforts to repel crime but the problems are grave. For example, in 1992, the last year for which figures are available, there were nearly two million violent crimes reported to police in the United States.

That dread total includes 23,700 murders, 109,000 forcible rapes, 672,000 robberies, and 1.1 million aggravated assaults.

Now you may see more clearly why I emphasize that I am not criticizing the countries of Europe for having crime problems. The United States has crime problems that sometimes seem beyond belief.

In the final analysis, each nation must develop its own remedies and help fashion its own salvation. But there is much that all of the liberty-loving nations can do to help each other.

The United States must help set an example by tough enforcement: for example, the nation's high level of drug consumption helps to fuel the increases in organized crime power in much of the world. That simply will not do. We must sharply and permanently reduce trafficking and drug use.

As a step that can be taken now, the United States must use its expertise to help other nations to improve their crime-fighting and crime-reduction capabilities.

This is the way a new international alliance against crime could deliver the most immediate benefits. We will provide the best of our technical assistance to other nations. They will provide their best technical assistance to us.

In doing so, we can all aid immeasurbly in the priority task of building new democratic institutions that will prevail even in the worst storms.

Despite the magnitude of its own crime problems, the United States has developed police techniques that could be of great value to many nations.

Here are a few examples:

New investigative techniques to fight violent crime.

New techniques to solve complex money-laundering and financial crimes.

Development of intelligence systems needed to fight organized crime successfully.

Systems to prevent and discover police or government corruption.

New forensic techniques.

The great crime-solving ability of DNA tests.

And the knowledge of how to set up large-scale, automated finger-print systems.

The United States also can make even more significant contributions in the future in our on-going programs to train at our Federal law enforcement academies the policemen and other criminal justice personnel from a number of European countries.

In doing those things, we can help in the fight against a common enemy—organized crime that is growing in parts of Eastern Europe and spreading into Western Europe and the United States.

Why do we place a priority on cooperation against crime?

The perils are great. We don't want organized crime from Russia and Eurasia gaining a powerful position in the United States. Neither do we want to see such organized crime ruining nations in Europe. We have had a tragic experience with organized crime in our country—watching it become an almost indelible part of our society. We don't need more such problems—and neither do the countries of Europe.

The Eastern European nations must also help themselves. They must have a resolve to fight crime that cannot be thwarted. They also must make adequate resources available to their own police departments.

We need to do as much as possible to make certain there is adequate training, equipment, laws, and democratic systems in those nations where police departments have been rising out of the ruins of former governments whose rule was based on terror.

There are clear differences between the two systems. The old systems were based on repression, on an absence of human rights. The new systems are based on freedom and respect for the rights of all and the protection of the public.

The old secret-police systems were like something out of a Kafka novel, and we hope they are gone forever. Wishing will not make it so. But hard work on the part of all of those who love liberty will make it possible for democracy and the rule of law to flourish.

Even with the cold war over, we know that a need continues to maintain our national security.

At the same time, it may be possible for all of the former cold war adversaries to divert to priority law enforcement and crime reduction projects a fraction of their cold war budgets.

For example, I know that in the United States we have another national need as great as national security—and that is the urgent and growing priority to more effectively protect our domestic security and our people from the ravages of crime.

A fraction of the funds from their cold war budgets also would be money well spent by other governments in protecting their people against crime and in making certain that new democratic institutions thrive.

It also might be possible for nations to devote to anti-crime programs some of the personnel and some of the technology that formerly were used in the cold war.

There are the best of reasons for all of us joining together in these efforts.

The common enemy of crime has grown to terrible dimensions. Unchecked, it might some day even rival the atrocities of old ideologies now abandoned.

If we need an example of how bad crime might get, we have only to summon the example of a nuclear weapon falling into the hands of terrorists or a terrorist nation.

If that should happen, virtually any nation on Earth could be the target of that nuclear weapon, or of the next one that might be stolen. Even a terrorist nation might come to realize that it could in turn be the target of another group of terrorists.

We must ask ourselves who these nuclear terrorists might be. They might be a terrorist country. Or they might be revolutionaries. Or they might be people driven by racial or religious or political hatreds.

We must ask ourselves what the potential targets of these terrorists might be. There would be many potential targets. Every government has its enemies. Where might the first terrorist nuclear weapon be detonated? We only need look at the map of the world. The dreaded nuclear blast might occur anywhere—in your city or mine.

The key factor in defeating crime and terrorism is cooperation by all of the world's nations.

We know that decency and democracy and the rule of law eventually can prevail, even after the greatest of tragedies. And for an example we have to look no further than the great city where we meet today.

Berlin and Germany rose from the ashes of Nazi rule in World War II. East Germany and East Berlin survived the long twilight of communism. Now, for the first time in its history, Germany is united, free and democratic. What a great honor to be welcomed in this historic city which will soon be your capital again.

Vast resources were used in Berlin during the cold war. Thousands of police guarded the wall—on both sides. It was policeman against policeman. Let me raise one possibility for the types of actions we all might pursue.

All of the countries of Europe could use some of those cold war resources against crime. They could join together to fight all of the catastrophic crime problems—drugs, violence, corruption, terrorism. And the United States and other nations will join you in the effort.

If we do not form our international alliance against crime to meet these problems head-on, international criminal groups will succeed. Once entrenched, they are difficult to defeat.

As we begin this historic law enforcement trip to bring our friendship and assistance to eleven countries, we look forward to providing practical cop-to-cop assistance and support to our new partners. The only requirement for this commitment is that we all remain dedicated to the democratic rule of law and renounce the practice of secret and repressive policing.

I am not suggesting that the nations of Europe are the only ones with crime problems, past or present, or that some European nations are alone in denial of human rights.

In the nuclear area, for example, there have been stories for years that nuclear materials have been stolen in the United States. And the United States simply has to do a better job in making sure no thefts occur in the future.

In another area of serious concern, Europe has had its share of "ISMS" that have led to terrible injustices. Today, the neo-nazis or skinheads or other groups cause serious concern.

But the problem is not Germany's alone.

In the United States, there also have been grave injustices. For example, some police in our South failed for decades to protect blacks and others. The Ku Klux Klan and other groups committed grave crimes and intimidated law-abiding citizens, often without being bothered by police.

All of that changed, of course, when Congress began to pass civil rights laws and the FBI finally began tough enforcement programs against those who terrorized blacks, Jews, catholics, and others in the South.

Even now, hate crimes are a serious problem in the United States. The FBI has started a program to gather statistics on hate crimes. The latest figures, just being released, show that more than 7,600 hate crime incidents were reported to police in the United States in 1993.

The thing that all of us must do is to learn all of the lessons of the past and then apply them in developing the best possible law enforcement systems.

Police must be dedicated to the protection of the people. They must be honest. They must be free of any kind of corruption or taint. They must believe in the rule of law, and they must be willing to stand in the bright light of public scrutiny.

People who are newly free are like people who have a long history of freedom: they do not want to give up liberty and democracy. They do not want to go back to the bad old days.

But free people are demanding. They want to be safe to enjoy the blessings of democracy. They are not willing to exchange political slavery for the slavery of drugs or of a dictatorship of fear imposed by organized criminals.

Where there is no rule of law, there is only chaos. Out of chaos can come only dictatorship. Out of dictatorship can come only terror, fear, suffering, death.

The choices are very clear. We can let the forces of darkness win by default. Or we can create police and law enforcement systems that protect the people, defeat the criminal gangs, and ensure the benefits of freedom.

We have no time to waste. The enemy has already broken through the gate. The life-and-death problems are upon us.

TRIBUTE TO MARY ALLEN JOLLEY

Mr. HEFLIN. Mr. President, Mary Allen Jolley, director of economic and community affairs for the University of Alabama, is retiring after more than 30 years of devoted service to her State and the Nation. She has a lengthy list of outstanding accomplishments, especially in the field of education, the cause to which she has devoted much of her life.

I know that some here recall Mary's days on Capitol Hill, where she worked for Representative Carl Elliott as administrative assistant as well as chief clerk of the Subcommittee on Special Education and the Committee on Education and Labor. From 1961 to 1963, she was the assistant staff director for President Kennedy's panel of consultants on vocational education, which formulated the basis for the Vocational Education Amendments of 1963. As associate executive director for governmental relations, she linked the American Vocational Association to the Federal agencies and the Congress and coordinated national education groups with interests in vocational education. In Washington, she also served as director of public affairs for the American Home Economics Association from 1973 to 1976, acting as liaison between the association and its legislative interests. Her record speaks volumes as a testament to Mary's competence, expertise, and vast knowledge of the workings of Government.

Until 1985, Mary held the position of vice president for development at the Trident Technical College in Charleston, SC. Some of her special projects at this 2-year community institution included planning and funding programs assisting women in entering nontraditional careers and a center for adult retraining. Mary's work for community development in South Carolina earned her several honors, including a Tribute to Women Award from the YWCA of Greater Charleston and a United Way of America award for service to the Greater Charleston community. The Governor of South Carolina officially thanked her for her work in that State by granting her the Order of the Palmetto in 1985.

At the University of Alabama, where Mary earned her degree years earlier, she functioned as liaison between the university and State and local opportunities for growth and development. While working in Tuscaloosa, she also served as a consultant to volunteer boards in the area and as a member of the President's Advisory Council for Minority Affairs. Relentless in her quest for community development, Mary took her work to Montgomery as acting director of the Governor's Office of Alabama Children and Families, where she created the innovative concept of listening sessions for community discussion and education.

No award or honor can begin to adequately capture the essence of Mary Jolley's lifelong service to the State of Alabama and the Nation. She is an extraordinary woman who has excelled in several different fields. I join her many friends and colleagues in saying a very loud thanks for a job well done. I extend my very best to her for a happy and healthy retirement.

TO CREATE A COMMISSION ON THE ROLES AND CAPABILITIES OF THE U.S. INTELLIGENCE COMMUNITY

Mr. DECONCINI. Mr. President, I join with Senators WARNER and GRAHAM to introduce a bill to create a Commission on the Roles and Capabilities of the U.S. Intelligence Community.

I give Senator WARNER, the distinguished vice chairman of the Select Committee on Intelligence, and Senator GRAHAM, who has made an extremely valuable contribution as a member of the Committee, the lion's share of the credit for this initiative. They have for some time now believed such an effort is needed.

I have come to agree with them. Indeed, it had been my hope that the executive branch itself might have initiated such a review, but this has not happened, and, on reflection, I believe this bill represents a better way to go. A review conducted entirely within the executive branch would simply lack the requisite credibility.

Mr. President, there have been significant changes in the intelligence community since the end of the cold war. There have been personnel reductions and reallocations of resources carried out by individual agencies.

But what we are thus far lacking and what is, in my opinion, sorely needed, is an overall revalidation of the roles and capabilities of the intelligence community in the post-cold war world. We need to have an objective, hard-headed look at the fundamentals: at what we expect intelligence agencies to do, at what levels they should be resourced, at what capabilities they must retain for the future. Everything should be on the table.

I do not think this can be achieved by the executive branch looking at itself, nor do I think the congressional oversight committees have the capability to do what is needed.

What we are proposing today is a bipartisan commission with 11 members. Seven would come from the private sector and be appointed by the President. Four would come from the Congress: two from the Senate and two from the House. The President would designate a chairman from among the private members. The Commission would be empowered to hire its own staff and not have to rely on staff from the intelligence agencies.

The end result of its work would be a report to the President and the Congress. To the extent possible, the report would be unclassified and made available to the public. There would necessarily be a classified supplement which would could not be made public but which would be provided the President and the intelligence committees.

We think the Commission should be given sufficient time to do its job. These are difficult issues and should not be assessed in a rush. The bill provides that the final report of the Commission be submitted by December 31, 1996, in time for the new administration—Democrat or Republican—to act upon its recommendations. Given the time which will be required for the appointment and security processing of the members of the Commission, we think this will allow a year and half up to 2 years for the Commission to do its substantive work. We believe it will take this amount of time.

Mr. President, in my tenure on the Intelligence Committee and in particular during these last 2 years when I have served as chairman, it has become increasingly clear to me that the political consensus that we once had for this function has eroded and continues to erode. We need a new consensus. We need a new rationale—a revalidation of the approach we have been taking by a group of objective, hard-headed people, with no ax to grind and no stake in the outcome. This is what we contemplate in this Commission.

I am convinced it will serve the interests of both the executive and legislative branches, and urge my colleagues to support it.

TRIBUTE TO TERESA RICH

Mr. PRESSLER. Mr. President, I would like to take a few moments to honor one of my constituents for her outstanding efforts in the field of elementary education. Teresa Rich, a combination first- and second-grade teacher at Wilson Elementary School in Rapid City, SD, has been named Outstanding Teacher for 1994 by the US West Foundation.

This honor is a reflection of Teresa's dedication and devotion to the education profession. For over 16 years she has shaped the lives and minds of students in the Rapid City School District. Her creative and innovative teaching methods have had a positive impact on hundreds of tomorrow's leaders.

South Dakota's students consistently rank high when compared with other States on national tests like the SAT, ACT, and others. South Dakota teachers do a first-rate job of educating our young people, usually with limited budgetary resources. I always have believed that education represents one of the wisest possible investments we can make for our future well-being. Teachers like Teresa Rich are a key ingredient in any successful education system.

Teresa's spirit of helping others has been acknowledged by this prestigious award. It is not only an honor for her, but for Wilson Elementary School and the entire Rapid City School District. I congratulate her and request the attached article dated June 6, 1994, from the Rapid City Journal be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Rapid City Journal, June 6, 1994]

WILSON TEACHER NAMED OUTSTANDING

Teresa Rich, a combination first- and second-grade teacher at Wilson Elementary School, was named South Dakota Outstanding Teacher for 1994 by the US West Foundation.

"Mrs. Rich strives to maintain the highest standards, looks after the smallest detail, and goes the extra mile to provide her students with the challenging and rewarding educational environment," wrote state Sen. Michael Deidrich, R-Rapid City, who nominated Rich for the award.

Rich believes in bringing learning to life through hands-on activities, such as building a 10-foot-by-15-foot house in the classroom while studying weights and measures.

Building the house was part of a whole unit based on the story of the Gingerbread Man, and is an example of how she develops teaching units, incorporating math, science and social studies elements around a central theme, according to a news release from US West.

The students bake gingerbread cookies and, after they "ran away," the class tracked them on a map. Following the adventures of the gingerbread cookies, the students learned about their community, their state and different countries.

Rich has been a teacher with the Rapid City School District for 16 years, the last four at Wilson Elementary. She will receive a $15,000 cash award to fund a thematic teaching proposal.

Rich says the award is an honor for herself. Wilson Elementary School and the entire Rapid City School District.

The award was part of the US West Foundation's "Reaching Beyond Classroom Walls" program, designed to recognize and reward teachers who stretch students' imaginations by going beyond in-class instruction.

MICHAEL MILKEN'S FIGHT AGAINST PROSTATE CANCER

Mr. HATFIELD. Mr. President, as we continue to debate the issues relating to health care reform, I would like to take a moment to insert in the RECORD an article from the June 5 issue of the New York Times Magazine regarding Michael Milken's current fight against prostate cancer. While I do not know Mr. Milken, I was struck, after reading this article, by his choice of turning his personal misfortune into a public service crusade.

Mr. Milken was once a Wall Street wizard who ultimately pled guilty to a variety of securities-law violations. He was diagnosed with prostate cancer on the very day he was released from prision, after serving 22 months. Within 2 months, of his diagnosis, he founded CapCURE, a prostate cancer research foundation dedicated to finding a cure for this disease through the promotion and support of medical research.

Michael Milken's courageous battle with prostate cancer reminds us that disease is indiscriminate. Disease is not a problem of the old or the poor, but a tragedy that could strike any one of us at any time. This prospect becomes all the more frightening when we are confronted with a disease that has no cure, but no disease must remain incurable.

CapCURE focuses on research for the cure to prostate cancer, because it is only through research that we can improve the prognosis of those with deadly diseases. With all that medical research can do for us, we must do more for medical research. In order to improve the level of health care we can provide, as well as to ultimately reduce costs, research must be a vital component of any package which is billed as comprehensive health care reform. I am pleased to inform my colleagues that a proposal advanced by my colleague Senator HARKIN and myself is gaining momentum and has now been attached, in various forms, to the major moving health care reform vehicles in the Senate.

Our call for a National Fund for Health Research has been endorsed by well over 250 advocacy groups and a bipartisan group of cosponsors. Together, this informal coalition agrees that only through enhanced research can our health care system improve in the areas of prevention and cost efficiency, a fact which I ask my colleagues to keep in mind throughout the health care debate.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 5, 1994]

FIGHTING A HOSTILE TAKEOVER: MICHAEL MILKEN

(By Tom Teicholz)

On March 2, 1993, Michael Milken was supposed to become a free man.

Once the most powerful player on Wall Street, Milken, whose innovative use of high-yield securities—junk bonds—raised billions for companies like MCI and Turner Broadcasting, has just been released from a Hollywood halfway house, after serving 22 months in prison for securities-law violations. He had pleaded guilty to only 6 felony counts (he had been indicted on 98), none having to do with insider trading or racketeering. Nevertheless, when it was revealed that he earned $550 million in a single year, his image had been cast: he was blamed for all the country's economic woes—layoffs, the failure of the S&L's, the national debt. In the end, he paid more than $1 billion in fines and settlements and was banned from the securities industry for life. When his imprisonment ended, seven years after the investigation into his dealings began, it looked as if Milken had survived the worst.

But on the very day he was released, Milken, then 46, learned he had prostate cancer, a disease estimated to have afflicted 165,000 American men last year, resulting in 35,000 deaths. Though Milken looks fit and has no symptoms, the cancer has spread to his lymph nodes, and when that happens there is no consistently effective treatment.

For a man used to controlling his fate, Milken was devastated by the diagnosis. Still, true to his nature, he refused to let it defeat him. He became determined to mastermind (and finance) a cure. In a matter of days after the diagnosis, he had contacted physicians all over the country. Within weeks he had met with leading researchers, and within two months he had created a foundation, Cap Cure (The Association for the Cure of Cancer of the Prostate), to which the Milken family's foundation has pledged $5 million for each of the next five years. (The foundation has already financed 30 programs at 24 academic centers) All this while performing court-ordered full-time community service, trying to spend more time with his family, writing his memoirs and receiving treatments for a disease that could kill him within a year.

For this interview, we met several times over the last few months at the offices of Cap Cure and the Milken family foundation in Santa Monica, Calif., and at his home in the San Fernando Valley. Milken was by turns personable and maddening: it was hard not to admire him for what he hopes to accomplish, yet his unapologetic view of his past bordered on the naïve, as if he could not understand why the world fails to see him as he sees himself.

Q: In early 1993, shortly after you were released from prison in Northern California to a Hollywood halfway house, your own internist gave you a complete physical and told you that you were fine. He also checked your prostate and found no cause for concern. But while you were in prison, several friends, including Steve Ross, found out they had prostrate cancer, so you insisted on taking a P.S.A.—prostate-specific antigen—blood test. What happened next?

A: On the day that I was officially released from the halfway house, I received a call from that same doctor who told me that all my blood tests had come back perfect. But the very last thing he said was: "Except you have this elevated P.S.A." Around 22.

Q: Which is very elevated.

A: Right. Within hours, I got a little paperback that says if you have a P.S.A. over 20, the odds that you have prostate cancer are over 90 percent. I immediately started calling close friends who had dealt with prostate cancer. After talking to everyone, I identified Dr. Stuart Holden, here in L.A. at Cedars-Sinai Medical Center, as one of the leading urologists in the country. I had a blood test in his office, and the results were confirmed.

I was a little depressed, but I think a conscious effort that I made, and this might be a link to the previous seven years—it is a link—is that I wanted to do something different. When the investigation began in 1986, I knew I wasn't involved in insider trading, and I didn't take the charges seriously. So this time I decided to take a very aggressive approach.

Q: What did you do?

A: I discovered they were having a conference of prostate cancer scientists in Houston. I wanted to attend and see for myself what was going on. I had to get permission to travel out of the state, because I'm on probation.

Q: And what did you learn at this conference?

A: The very first slide I saw was this epidemiology study that showed that Alameda County, Calif., has the highest incidence of prostate cancer of any place in the United States.

Q: Alameda County being next to the location of the prison camp where you were incarcerated. Are you saying your prostate cancer was caused by being in prison?

A: It might not have helped me. It has also made me wonder whether a study should be conducted of all the men who have been housed there. My guess is not too many of them are getting P.S.A. exams. But I'm going to try to undertake a study of that issue.

Q: What happened next at the conference?

A: A few slides later, I saw the curves on life expectancy. And I'm in the one-to-two-year life-expectancy chart. I then had to take a break.

Q: Did you wonder, why you? Why now?

A: Well, the story of Job comes to mind. Job was always saying: "Why me?" But I had that for seven years.

Q: Did you feel as if you were being punished?

A: Well, it's easy to find things in that story that I could identify with. I've had a lot of challenges. And I forget the quote—it may be Martin Luther King. It really stuck with me that the measure of a man is not how far he's traveled, but how high are the hills he's had to climb. So essentially I view prostate cancer as, I just got another mountain.

Q: After returning from the conference you met with many of the nation's most prominent prostate cancer doctors and scientists. What did you learn from them?

A: How little money is being spent on prostate cancer and why something takes a decade to accomplish that I believe should take a year. For me 15 seconds was a long time. I had to make decisions—yes, no, buy, sell—based on everything I ever knew. But in medicine, last year for the first time in 15 years they introduced a new drug for epilepsy—15 years! I can't wait 15 years for a prostate cancer cure. If people are dying every 15 minutes, forget me. Essentially Cap Cure was born from that trip.

Q: What course of treatment did you decide upon?

A: I went on hormones and over several weeks, my P.S.A went from 24 to 0. At the same time I began my Eastern medicine. I began a friendship with Deepak Chopra [the author of "Ageless Body, Timeless Mind"], and today we are very close.

Q: And you decided to do visualization and meditation?

A: I began his meditation process. Then I arranged to go back to Lancaster Maharishi Ayur-Veda Health Center [a facility in Massachusetts where Deepak Chopra was medical director]. I went there with my wife, Lore, and Michael Jackson, who was very concerned about my health. After I returned home I had a doctor from Colorado who was very into Ayurveda Indian herbal medicine come live with me for the next three of four weeks. It involved meditating in the morning and exercising in the evening. I tried to change the way I ate. I have plastered up in my kitchen the proverb that says it's better to eat a stone sitting down that a banana standing up. I rented a house at the beach. I did substantially change my life style for six months between March and September?

Q: What changed in September:

A: Well, first my P.S.A. had come down. My lymph nodes had shrunk by 90 percent, and my prostate had shrunk dramatically. So I had responded as well as anyone to this hormonal treatment, far better than anticipated. But tests showed I still had prostate cancer cells.

I started radiation in November. It's very dehumanizing. In order to hold you in the proper postion during radiation they have to create molds of you. I've got my tushy mold at home. At the hospital sometimes I would be lying face down in an uncomfortable position for an hour and a half. I would then actually meditate on the radiation table.

Q: How is Cap Cure going about finding a cure for prostate cancer?

A: Say I'm going to build a factory and have it operational in two years, what do I have to do? What takes the longest? What approvals do I need? I've been focusing on the development of the cure in the same way. The difference between a professional soccer team and young kids is that all the kids run to the ball instead of staying in their positions. We want people in gene therapy to work in gene therapy; people in immunology, there; people in chemotherapy, there.

Q: Let's talk about your career in finance if we could, and some of what happened to you as a consequence of it. One thing no one will argue about is that although you didn't invent junk bonds, your use of them did create revolution on Wall Street. What do you see as your lasting achievement?

A: What I accomplished was to change the flow of capital to those people that had ability rather than those people who were born with money or worked for large companies. My ability was to see the relationships of different parts of society and to try to figure out where value lies and how to finance it.

Q: In the last year have you gained any new understanding of who you were 10 years ago?

A: I knew who I was 10 years ago and I know who I am now. Consistently, I've always felt the best investor was the social scientist. I was focused on letting people feel they had a chance to participate. And I think I was very successful in doing that. My other feeling was that many of the ills of society will never be taken care of effectively unless people have a job.

Q: Those are noble sentiments. But many of your clients—Ronald Perelman, Saul Steinberg, Asher Edelman, to name but a few—were raiders. Their business—and yours—was hostile takeovers.

A: You used the word "raiders." What is a raider? Nelson Peltz was defined as a raider. Why? He made a higher offer. If you wanted to go buy a painting at an auction tomorrow and my assistant Katie was willing to make a higher offer, does that make her a raider? G.E. has just made an offer for the Kemper Corporation. Are they raiders?

Q: But there is a social cost to those decisions—jobs were lost, pensions too. So how can you talk about creating jobs?

A: You're talking about things that are totally false.

Q: Well, then correct me.

A: You're talking about millions of jobs that were created in the last two decades. All the net jobs created by quote, "junk" companies. Raiders didn't eliminate jobs in America. What cost jobs were the companies that didn't improve their businesses.

Q: You feel you've been unjustly portrayed. But what should we say about Michael Milken? Do we say that he was someone who worked at Drexel Burnham Lambert and provided financing for companies? Do we say that he's someone who—

A: Who went to prison camp?

Q: Who pleaded guilty?

A: My view is that you have to take a longer view. Let history be the judge.

Q: Why did you decide to plead guilty? Your wife, your friends even your brother advised against it.

A: That's probably too broad a statement. We had a vote in the family and it wasn't 100 percent. The question was, "How do you get this behind you?" There were so many misconceptions that I felt I had to find a way to end the situation. Today I feel that was the correct decision.

Q: As part of your plea bargain, the prosecutors wanted you to make certain admissions of guilt. You told the court that "certain of our transactions [with arbitrageur Ivan Boesky] involved reciprocal accommodations, some of which violated the law." What does that mean?

A: I engaged in what one would consider a normal business contact, that no one thought was criminal. Since then many firms have signed consent decrees for similar activities, many of them involving far more dollars and more securities. And those consent decrees did not bar anyone from the industry as a penalty. There were no fines. No companies were put out of business.

Q: But are you saying that these were not crimes?

A: I've never said that. I said they were wrong. But I don't think anyone knew.

Q: Let me read you a quote from Robert Sobel's book "Dangerous Dreamers": "What Milken's defenders and critics alike have ignored is that crucial element of motivation. What prompted him to take the chances he did? Why would a person of such talents, imagination and wealth assume such risks?" And then he quotes from "Howards End": "Why do people who have enough money try to get more money?"

A: Money had nothing to do with my motivation. I think the issue is passion. Do you have a passion for something? And as I see it, wealth is really a byproduct of creating something of value.

Q: That brings us to the $550 million question. Why should anyone make that much money in one year, as you did in the mid-80's?

A: We received a percentage of the profits. In 1986, the profits of my department approached $2 billion. The percentage we received was about two-thirds of what you would have received at other Wall Street firms. Compensation is a byproduct of investing your money.

Q: Why didn't you take your case seriously?

A: I knew I had not been involved in insider trading. If Ivan Boesky was involved in insider trading, it wasn't with me. I knew I paid my taxes. I even paid my maid's Social Security—not doing so is against the law—but I haven't seen too many people prosecuted for that.

Q: What about prison? Were you terrified? Was entering prison your lowest point?

A: I don't consider it my lowest point at all. Was it frightening? No. I viewed it as, "How are you going to get this thing behind you?" Taking out the trash isn't demeaning. Scrubbing the floor isn't demeaning. Making a caricature of me and my ideas and beliefs, that's pretty demeaning. The worst part was the separation from family and from the feeling that I could do something constructive.

Q: You were banned from the securities industry for life. Do you miss being in your business?

A: Not at all. By 1986 I was really focused on foreign countries, their debt, real estate. I was very involved in education. I was moving away from being involved in day-to-day trading.

Q: Do people still call to ask you for favors?

A: It occurred in prison constantly. When I talked to people on the phone, they'd all be asking me for favors. You know, Mike, I'm sorry about what happened to you—but could you get me in this hotel? Or I have this problem, could you give me your advice? Or could you help my daughter or son get a job? That has never stopped, even today.

Q: You are uniquely positioned to comment on health care—as a patient, as a financier, as someone hoping to finance a cure for prostate cancer. What should the Administration do about health care costs?

A: The 10 largest pharmaceutical companies have lost collectively $60 billion in market value in the last year and a half. People are cutting research and freezing hiring, and the potential for breakthrough research is being limited. But I believe research is the best way to reduce health care costs. In other words, if you could eliminate 10,000 surgeries a year at $8,000 a surgery, that's $80 million. If you don't invest in research you're going to have an escalation of health care costs, not a decrease.

Q: I keep trying to find ways that your recent experience has changed you. Clearly, not wearing the toupee is a sign that you're a different person.

A: I didn't view it as a cover-up before, and I don't view it as an uncovering today. It became a way of personally attacking me. But being a patient means giving up enormous personal control, dignity, privacy.

Q: What happens to you now?

A: I'm at a crossroads. In the two hours that we're talking today, eight men will die of prostate cancer in the United States. Every day, your body produces cancer cells. In the normal person your immune system is effectively dealing with them. So why would a body produce cancer cells that your immune system does not deal with? I remember I gave a talk in the temple when I was 13 or 14, and my theory was that God was within you. There is this inner strength you focus to get your immune system going. My point is that I've got to help myself. Today I'm living with cancer rather than dying of cancer.

Q: Although people often characterize you as the embodiment of the 80's, you sound very much like a personification of the 60's: you want to change the world. At the same time, you also have the naïveté associated with the 60's.

A: That's the romanticism of growing up in California. The romanticism that what is right will, in the end, turn out to be true; that you can solve any problem and that if you have cancer, it's not a death sentence.

Q: Even if everything you publish doesn't change people's perceptions, for whatever reasons, can you live with people forever calling Mike Milken the junk-bond king?

A: I believe the truth comes out. Someday, they're going to invent a time machine and be able to go back and look at the trading desk and see what Mike was actually doing, and what he wasn't doing. But my first goal is to make sure I have a natural course of life.

Q: And if you only have a year left?

A: I can't even contemplate that. No matter what happens, I'm just not going to lie down and not put up a fight. Everything else will take care of itself.

WHITEWATER

Mr. DOLE. Mr. President, although I have not had an opportunity to review independent counsel Robert Fiske's interim report, I do want to commend him for his apparent diligence in completing the first phase of his investigation.

Of course, there are some who would misuse Mr. Fiske's report to suggest that congressional hearings are no longer necessary. The bottom line, however, is that Congress and Mr. Fiske have different responsibilities: Mr. Fiske's job is criminal investigation. Congress' job is full public disclosure.

Even Mr. Fiske admits that the rules on grand jury secrecy prevent him from publicly disclosing anything more than the results of his investigation into the White House-RTC-Treasury meetings. So, absent a congressional hearing, the American people will remain in the dark about what actually went on behind the scenes at the White House. And while Mr. Fiske finds insufficient evidence of criminal wrongdoing, he expresses no opinion as to whether the meetings violated any ethical rules or standards. That is what congressional hearings should determine.

As the New York Times pointed out today, in an editorial entitled "Not Criminal, Just Reprehensible":

> * * * an action does not have to rise to the level of criminality to be labeled stupid, irresponsible and improper behavior by government officials. That is the only way to describe the three meetings at the heart of Mr. Fiske's inquiry.

Mr. President, the American people deserve a full airing of the entire Whitewater affair. Notwithstanding what Mr. Fiske may or may not conclude, Republicans will continue to insist that Congress fulfill its own oversight responsibilities.

Mr. President, I ask unanimous consent that the New York Times editorial be inserted in the RECORD immediately after my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 1, 1994]

NOT CRIMINAL, JUST REPREHENSIBLE

The "Washington" phase of the special prosecutor's Whitewater inquiry is nearly finished. Questions about the behavior of the former White House counsel, Bernard Nussbaum, remain unanswered. And the truly important part—the "Arkansas" phase—is still to come.

Even so, senior officials at the Treasury Department and White House can breathe easier now that Robert Fiske has concluded that they did not act "with the intent to corruptly influence" a Federal investigation into whether funds deposited in Madison Guaranty Savings and Loan were diverted to President Clinton's 1984 gubernatorial campaign and the Whitewater Development Company.

Mr. Fiske asserts that these officials did not criminally obstruct justice as defined in Section 1505 of the U.S. Code. But an action does not have to rise to the level of criminality to be labeled stupid, irresponsible and improper behavior by government officials. That is the only way to describe the three meetings at the heart of Mr. Fiske's inquiry.

On Sept. 29 and Oct. 14, 1993, Jean Hanson, Treasury's General Counsel, briefed White House officials on the Resolution Trust Corporation's investigation into Madison, which had resulted in criminal referrals naming the Clintons as possible beneficiaries of illegal activities at the Arkansas savings and loan. Then, last Feb. 2, Roger Altman, Deputy Treasury Secretary, gave White House aides a "heads up" on the same investigation.

Lloyd Cutler, brought in by Mr. Clinton to stir through the ethical wreckage at the White House, said he was "pleased" by Mr. Fiske's conclusion—although he did have the minimal grace to concede that "some of these contacts may have been inadvisable." That description is inadequate to the point of silliness. What was going on was that Mr. Nussbaum, Mr. Altman and Ms. Hanson, along with White House aides like George Stephanopoulos and Harold Ickes, were meddling in the Cabinet departments to try to control inquiries into the President's finances. Though their behavior has now been judged legal, the fact remains that the Administration from its first days has shown a reckless tendency to put the President's desire for a question-free existence ahead of the independence of law enforcement and regulatory officials.

The clumsy handling of the late Vincent Foster's records in a case in point. On that count, Mr. Nussbaum is not out of the woods yet. Mr. Fiske will report soon on Mr. Nussbaum's dispersal of Whitewater files left behind by Mr. Foster, the deputy White House counsel whose death Mr. Fiske has now ruled a suicide.

Nor are the Clintons out of the woods. With the Washington inquiries virtually over, Mr. Fiske turns now to the task that will determine his credibility as a special prosecutor. That involves Madison Guaranty, Whitewater and all those not-so-long-ago dealings of an ambitious political couple and the interesting friends who were so eager to do them financial favors.

ISSUANCE OF POSTAL STAMP HONORING RAOUL WALLENBERG

Mr. PELL. Mr. President, I rise to register my support for the issuance of a commemorative postal stamp in honor of Raoul Wallenberg.

Wallenberg's heroic efforts to save the lives of Jews during the Holocaust are now legendary. He saved the lives of 100,000 Hungarian Jews, earmarked to face almost certain extermination in the Nazi death camps, by issuing them fabricated passports and identification papers.

Wallenberg was a Swedish citizen of Lutheran faith, but his courageous lifesaving actions transcend all divisions of creed and nationality. In recognition of his heroism, Wallenberg was made an honorary citizen of the United States in 1981, by an act of Congress which I am proud to have originated. Winston Churchill is the only other person in history to be made an honorary American citizen.

It is especially appropriate to include Wallenberg's name on the 1995 list of postal stamp honorees because 1995 marks the 50th anniversary of his tragic and mysterious disappearance. In 1945, Wallenberg was arrested by the occupying Russian Army in Budapest, Hungary, and he has not been seen or heard from since.

I am pleased to join the Members of Congress, Governors, religious and civil rights leaders, and countless ordinary Americans who are crusading to have Raoul Wallenberg's name included on the 1995 list of postal stamp honorees. It is an altogether fitting way to keep alive the memory of this valiant humanitarian.

I call on the Citizen's Stamp Advisory Committee and the Postmaster General to heed our calls for action and place the name of Raoul Wallenberg on the 1995 commemorative stamp list.

TAX POLICIES THAT DISCOURAGE RISK-TAKING

Mr. LUGAR. Mr. President, I rise today to share with my colleagues in the Senate a letter I recently received from a small business owner from Buck Creek, IN.

Small businesses have been the primary engine of job growth over the last decade. Yet despite the importance of small businesses to our economy, the Federal Government has adopted tax policies that discourage risk-taking by Americans who create jobs through their capital, their ideas, and their entrepreneurial energy.

During the last year I have frequently spoken about the heavy tax burden that small business owners are asked to endure and the negative effects of the 1993 Clinton tax plan on small business job formation. Yet the most convincing testimony on these matters has come from small business owners who are striving to provide good jobs for their employees and a good living for their families. Beth Muehlhausen, the owner of Baker's Peak in West Lafayette, IN, is one such person. I ask that this letter be inserted in the RECORD.

DEAR SENATOR LUGAR: This is a letter of inquiry. I am at an impasse, and seek your council.

As a mother of four children, I have sought to provide them with an environment in their formative years conducive to the building of strong character. The future will need adults who are decisive, confident, caring, honest and moral. This commitment to the family required that I prioritize the childrens' needs by being a full-time Mom. Contrary to popular belief, I hold to old-fashioned ideals that say a mother is best equipped to train and raise her children. Only tentatively did I enter the workforce on a part-time basis when my last child entered kindergarten in 1987.

My husband and I have supported Christian education for our children during their elementary and junior high years at Lafayette Christian School, a private, parent-owned, non-denominational Christian school. The high level of academic success and personal spiritual and ethical development of our four very unique children has proven the commitment to the school extremely successful—though it has not been without sacrifice and severe financial burden.

As in every family, the years bring change and readjustments—and when our oldest entered college in 1991, I looked for more regular employment to help defray expenses. My husband's conscientious commitment as a Purdue professor, finally with tenure and a Ph.D., provided us with a reasonable level of security at that point. However, we were still struggling to avoid debt, and had the most expensive years of child-rearing still ahead. My college training had been in the field of education also. I graduated from Purdue with a degree in secondary English education in 1971—but never used my degree, as my decision to "stay home" was strong. Going back to update educationally after so many years would be time consuming and costly, I knew. So, I took a job with "Baker's Peak"—a small custom bakery, deli, and caterer, utilizing my cake decorating and food preparation skills developed in the years at home in my own kitchen.

A year and a half ago the shop went up for sale. With the help of an inheritance left me following my father's death in 1992, I was able to purchase the store. It continues to be a "scratch" shop; we create almost any baked good or food item in any quantity. Although the business has far outgrown the building we occupy, we continue to produce at a breakneck pace. Obviously the public is tired of prepared and fast food options and appreciates our product. We have established a wonderful reputation. Owning and managing the business has proven rewarding; we influence lots of lives in a positive manner. The stress level is acute in proportion; I work long and hard for my profits. My health has suffered. I've felt encouraged as the recent months went by, however, because I felt that at least I was going to be able to make a significant difference for my family, as well as for my eight hard-working part-time employees, who make excellent wages—between $6 and $9 an hour.

Recently I reviewed our family's financial status, and projected needs for the coming months. Next fall we will be supporting one child in Christian school, two in college, and one in public high school. The usual car payments, house payments, and insurance-of-teenage-driver payments will be there. I felt confident we could handle the challenges without going into debt as we had in years past.

Last week, tax-time rendered a terrific blow. After consulting with a professional "tax man", our worst fears were confirmed. I would pay income tax totaling 45% of my net earnings. I reeled from the news; it seemed the unemployment tax, payroll tax on my employees' generous salaries, and sales tax had already supported the government to a great extent. I was not prepared for more than a 28 to 30%-or-so-rate.

I saw a bumper sticker recently that said, "THE SMALL BUSINESS—AMERICA'S LATEST ENDANGERED SPECIES". Along with the death of the small business comes the death of an American ideal—hard work, quality control, and personal accountability to the customer. Too bad! And any more governmental intrusion—in the form of health-care, or governmental intrusion—in the form of health-care, or whatever—will effectively kill businesses like mine, and financially destroy their owners and owners' families. How sad. Devotion to honesty and sweat of the brow are no longer rewarded. Or even applauded. Instead, I feel penalized. Or, worse yet, victimized. The most difficult issue to face—and accept—is that I am working to the limit of my ability and strength in every possible way in order to be a responsible citizen and provide the best that I can for my family, my employees, and the community at large. However, much of my effort is going to support welfare, not for the truly needy, but for those who have come to expect a "free ride"—abortion clinics where irresponsible and immoral behavior is accepted and condoned—or other governmental agencies in which I have little confidence.

And so I face a frustrating and formidable problem. Ethically, I will not cheat on taxes. Also, I will not be quick to diminish the amount of business that we do, thus destroying jobs and disappointing the expectations of the public. My only choice is to keep on keeping on working and working and working—for what? This is truly an agonizing situation.

The system is killing me. Have I any recourse?

I eagerly anticipate your response.

Sincerely,

BETH MUEHLHAUSEN.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, before we ponder today's bad news about the Federal debt, let's have a little pop quiz: How many million would you say are in a trillion. And when you figure that out, just consider that Congress has run up a debt exceeding $4½ trillion.

To be exact, as of the close of business on Thursday, June 30, the Federal debt stood—down to the penny—at $4,645,801,898,177.58. This means that every man, women and child in America owes $17,819.74, computed on a per capita basis.

Mr. President, to answer the question—how many million in a trillion?—there are a million, million in a trillion. I remind you, the Federal Government, thanks to the U.S. Congress, owes more than $4½ trillion.

SEIJI OZAWA CONCERT HALL INAUGURATED IN TANGLEWOOD

Mr. KENNEDY. Mr. President, each summer a spectacular migration occurs in Massachusetts, as music lovers follow the beloved Boston Symphony Orchestra to the Berkshires in the beautiful western part of our State for the music festival at Tanglewood. The symphony takes up residency in the Berkshires for 9 weeks of superb music in that magnificent mountain setting.

The creative arts are a major industry in western Massachusetts, with outstanding organizations such as the Williamstown Theater Festival, Jacob's Pillow, Clark Art Institute, Shakespeare & Co., and many others.

Tanglewood is named for "Tanglewood Tales," a collection of stories for children adapted from Greek mythology by Nathaniel Hawthorne and written at a nearby cottage in 1853. The yearly festival now adds $50 million to the economy of the Berkshires each year. The fans keep coming. In its first season in 1937, the audiences numbered 30,000. In 1993, more than 10 times that number—a record 350,000—attended the musical performances. The youngest, under 12, come for free.

Tanglewood is both a music festival and a training program, especially for young musicians who have a unique opportunity to study with some of the most talented artists of our time. Many of the Nation's best known singers, musicians, and composers also come to perform, to study, to learn, and to be a part of the unique atmosphere. At Tanglewood in the summer, the hills are literally alive with the sound of music.

Conductors who are alumni of the Tanglewood Music Center include Leonard Bernstein, Lorin Maazel, Zubin Mehta, and the current BSO conductor, Seiji Ozawa.

For half a century, the Tanglewood Music Center has offered intensive training in music, including the Fellowship Program, the Conducting Class, and the Phyllis Curtin Seminar. More recently, a cooperative program with Boston University's School for the Arts has been available for high school musicians. An additional program, "Days in the Arts," or "DARTS," offers 400 Massachusetts fifth and sixth graders from across the State an opportunity to experience the arts. Also, the Tanglewood Teachers Institute of the Boston Music Education Collaborative trains classroom and music teachers in the Boston public schools.

This year is especially notable, because on July 7 the symphony will inaugurate its new concert hall, an 1,180-seat facility on the grounds of Tanglewood. The hall, designed by William Rawn Associates of Boston, will provide a new home for solo and chamber performances. It will be named in honor of Seiji Ozawa, the symphony's outstanding music director. The hall is an especially appropriate tribute. Maestro Ozawa came to the United States in 1960 to study music in Lenox, MA. Tanglewood was so renowned that Ozawa, as one of the most talented young musicians in the world, traveled here from Japan to study music with the masters.

Fortunately for the Boston Symphony, Seiji Ozawa has been a fixture ever since at Tanglewood, and he has been music director for the symphony since 1974. Our symphony is one of the finest in the Nation as a result of his leadership and commitment.

All of us in Massachusetts are delighted that this new concert hall will bear his name. It is a fitting monument to Maestro Ozawa, and a well-deserved recognition of the enduring promise of the Tanglewood Music Center.

It is an honor to take this opportunity to congratulate Seiji Ozawa, all the members of the Boston Symphony Orchestra, and the countless people from Massachusetts and throughout the Nation who have made this magnificent concert hall the latest chapter in the brilliant musical legacy of Tanglewood.

I urge my colleagues in Congress to visit the Berkshires this summer.

They'll find that the beauty of the setting and the quality of the music are unparalleled in the world.

HONORING THE MEMORY OF MORRIS SIEGEL

Mr. DODD. Mr. President, on Thursday, June 2, 1994, Morris Siegel died at the age of 78, and the city of Washington lost its premiere sportswriter and one of its most colorful and lovable personalities.

Morrie Siegel covered sports for this town for almost half a century. He did it in a manner and a style reminiscent of the legendary sportswriters of the past.

But as his friends Ben Bradlee, former editor-in-chief of the Washington Post, and Shirley Povich, dean of Washington's sportswriters and the man who gave Morrie his first job here at the Post in 1946, have said, Morrie was more than just a sportswriter: he was a real newspaperman. No one worked harder to get the story, and no one took greater delight in scooping the competition. His sources were vast, varied, and impeccable. His writing had the wit and color of Runyon; the clarity and simplicity of Hemingway.

Like the legends of his field, he did not just work the sidelines and the locker rooms in search of a story. He worked the trains and planes, the hotel lobbies and coffee shops, the restaurants and bars here in Washington and around the country. It was in those restaurants and bars—often after-hours joints—that Morrie found and wrote some of his best and most colorful stories. And it was in those same places that the legend of Mo Siegel was born and grew to gargantuan proportions.

At his table on any given night, and often into the wee hours of the morning, could be found politicians, lawyers and judges, sports heroes and writers, celebrities and movie stars, bookies and gamblers. There they would sit, hour upon hour in rapt attention as Mo convulsed them with stories of "the famous people who know me." His gift for storytelling was epic. Name a famous or an infamous character from the present or past and Mo could recount in uproarious detail times they had spent together.

No one had a quicker wit. Once at a Washington Senators game, to which he had been invited by a group of sportswriters, Earl Warren, after thanking his hosts for their company and hospitality, added that if there was anything he could do for them in return, they should not hesitate to call. Without missing a beat, Mo whipped out a parking ticket he had received, shoved it into Warren's hand and asked the Chief Justice of the U.S. Supreme Court to get it fixed for him.

One of Morrie's son Michael's favorite one-liners of his father's happened one night when Morrie arrived late to a dinner at which he was the master of ceremonies. It was just at the end of the Persian Gulf war and the crowd was getting restless and a bit surly because of the delay. Undaunted, Morrie bounded up to the microphone and quickly won them over by explaining, "I would have been here on time but my cabdriver kept trying to surrender to me."

That and more was the public Mo Siegel—a marvelous writer, a gifted raconteur, a true newspaperman. That and more was the private Morrie Siegel. It's true that he could be a bit cantankerous at times, but he was always a joy to be with. You could not have a better friend. He was loyal and loving. Your problems were his concerns, and your happiness was his delight. If you did something for him, he could not find enough ways to express his thanks. To those of us in public life who have become forced to be guarded and suspicious of the media, even when we are relaxing with the press, Morrie was a rare gem. He was completely trustworthy—a value that is not too common around this town.

The true loves of his life were his children, Leah and Michael, and his former wife, Myra MacPherson, who continued to be his best friend, even after their divorce. How he continually marveled at Myra's talent as a writer and mother. How he trumpeted Leah's career and recent marriage.

How proud he was of Michael's work in government and politics. It was their love for their friend and father that gave Morrie the strength to fight the cancer that ravaged him these past 6 years, and it was their love that allowed him to continue to file his stories and regale his friends up to the moment he died with Leah holding his hand.

On the Monday following his death, his family, friends and colleagues filled to overflowing the Washington Hebrew Congregation for a final tribute to Morrie. Speaker after speaker recalled tales by Siegel and tales of Siegel. For two solid hours the room rocked with laughter—not usually the case in such a place at such a time. But it was the only fitting way to remember Morrie and the utter joy he brought to those he touched and loved.

The next morning in the Post, Tony Kornheiser ended his moving and magnificent farewell to Morrie by writing:

> Isn't laughter wonderful?
>
> Father John Myslinski, who had the task of following Russell (political humorist Mark Russell) quoted a religious philosopher who wrote, "Joy is the ineffable sign of the presence of God."
>
> And if that is true, God was in the house yesterday, laughing with the rest of us who loved Mo Siegel.

Michael closed the celebration by saying to all how proud he and Leah are to be the kids of Morris Siegel. Mr. President, I am equally proud to have been his friend.

TRIBUTE TO LT. GEN. WILLIAM M. KEYS, U.S. MARINE CORPS

Mr. NUNN. Mr. President, I want to congratulate Lt. Gen. William M. Keys, USMC, the Commander of U.S. Marine Corps Forces, Atlantic, on the occasion of his upcoming retirement from the Marine Corps.

The thrust of his 34 distinguished years of military service can be summed up in an old Marine saying, "Marines live by deeds and not by days." He has been chosen to and excelled at every level of command available to the Marine infantryman, and he has held positions of significant responsibility in which the prestige of the United States and the reputation of the Marine Corps were clearly borne on his shoulders in times of crisis. The choices he has made in his career clearly denote an individual who does not shrink from difficult and dangerous assignments but who actually thrives on them, especially those that offer the challenge of leading marines in combat. He has not only been repeatedly recognized for personal valor on the battlefield with the Nation's second highest award, but also for a cool-headed leadership style that has become his hallmark throughout the corps. He has also earned the nickname of "Bulldog Keys" for his leadership ability.

Whether commanding a Marine rifle company in the Republic of Vietnam in 1966 or leading the illustrious 2d Marine Division in liberation of Kuwait City in 1991, Lt. Gen. Keys could always be found at the front of his troops, where he dominated the situation through his imposing moral, intellectual, and physical presence. In those times of uncertainty, strain, and exhaustion, his marines could find solace and strength in his forceful, confident manner and selfless example.

Mr. President, Lieutenant General Keys has continued to lead from the front in his most recent assignment of great responsibility where he commanded one-half of the Marine Corps' operating forces. Responding with great flexibility and innovation to the innumerable changes resulting from the post-cold-war world, Lieutenant General Keys has enhanced the Marine Corps ability to operate jointly with its sister services and with our Allies in future conflicts and crises. The effect on his ideas and initiatives will be of long-lasting impact and importance to the Marine Corps of the future.

Mr. President, I ask our colleagues to join me in congratulating General Keys as he ends his distinguished career of devoted service to our country. As a proud son of Pennsylvania, he is a man of immense talent, energy, and patriotism who no doubt will continue to serve the public good for many years to come in whatever endeavor he decides to enter. I know all of us thank him for his dedication, professionalism, and selfless service to the United States of

America and to the men and women of our Marine Corps.

I ask unanimous consent that his official biography be printed in the RECORD at this point.

There being no objection, the biography was ordered to be printed in the RECORD, as follows:

LIEUTENANT GENERAL WILLIAM M. KEYS, USMC

Lieutenant General William M. Keys is the Commander, U.S. Marine Corps Forces, Atlantic; Commanding General, Fleet Marine Force, Atlantic; Commanding General, II Marine Expeditionary Force; Commander, Marine Striking Force, Atlantic; Commander, U.S. Marine Corps Forces, South (Designate); and the Commanding General, Fleet Marine Force, Europe (Designate). He was advanced to this present grade and assumed his duties on June 25, 1991.

A native of Fredericktown, PA., General Keys was commissioned a second lieutenant in the U.S. Marine Corps upon his graduation from the U.S. Naval Academy with a B.S. degree in June 1960. His professional military education includes The Basic School, Amphibious Warfare School and the Command and Staff College, all at Quantico, VA. General Keys is also a graduate of the National War College in Washington, D.C., and holds an M.S. degree from American University, and an honorary Ph.D. in Public Service from Washington and Jefferson College.

Designated an infantry officer, General Keys has served at every level of operational command: initially as a platoon leader with 3d Battalion, 2d Marine Regiment; as a company commander with the 1st Battalion, 9th Marine Regiment in Vietnam; as Commanding Officer, 3d Battalion, 5th Marine Regiment; as Regimental Commander of the 6th Marines; and as Commanding General, 2d Marine Division during Desert Storm combat operations in Southwest Asia. There he led the Division in its successful assault across the Kuwaiti border, breaching Iraqi barriers and minefields, and into Kuwait City. He also served an early tour with the Marine Detachment aboard USS Long Beach, and a second tour in Vietnam as an advisor to the Vietnamese Marine Corps.

He has held the following principal staff assignments: Infantry Officers' Monitor, Personnel Management Division, Headquarters Marine Corps; Marine Corps Liaison Officer to the U.S. Senate; Special Projects Directorate in the Office of the Commandant; Aide de Camp to the Assistant Commandant of the Marine Corps; Deputy Director, and subsequently Director, Personnel Management Division, Manpower and Reserve Affairs Department, HQMC; and the Deputy, Joint Secretariat, Joint Chiefs of Staff, Washington, D.C.

General Keys' decorations and medals include: the Navy Cross; Distinguished Service Medal; Silver Star Medal; Legion of Merit with Combat "V"; Bronze Star with Combat "V"; Defense Meritorious Service Medal; Combat Action Ribbon; Presidential Unit Citation; Navy Unit Commendation; Meritorious Unit Commendation; National Defense Service Medal; Vietnam Service Medal with four bronze stars; Republic of Vietnam Cross of Gallantry with Palm and Silver Star; Republic of Vietnam Armed Forces Honor Medal (First Class); Republic of Vietnam Meritorious Unit Citation (Gallantry Cross Color); Republic of Vietnam Meritorious Unit Citation (Civil Actions Color); and the Republic of Vietnam Campaign Medal.

MAJ. GEN. PAUL E. STEIN, DIRECTOR, LEGISLATIVE LIAISON

Mr. NUNN. Mr. President, on behalf of the members and staff of the Armed Services Committee, I want to take this opportunity to personally thank Maj. Gen. Paul E. Stein for his distinguished service to our committee and the U.S. Senate as director, Air Force legislative liaison. General Stein will be promoted to the rank of lieutenant general today and will become the next Superintendent of the U.S. Air Force Academy. He testified before the committee on his nomination and demonstrated a solid grasp of the issues and the challenges ahead in this new position.

For the past 2 years, General Stein's thorough understanding and detailed knowledge of all aspects of Air Force operations and the intricacies involved in the legislative process have provided positive results for both the Armed Services Committee and the Air Force. General Stein is known for his high integrity and strong leadership, all of which allowed him to coordinate and supervise highly successful legislative liaison action. During his tenure, the Air Force liaison team provided timely, accurate, and high quality information on Air Force issues and programs to congressional offices.

We all have been extremely fortunate to have General Stein as our legislative link to the Secretary and Chief of Staff of the Air Force. He has been an outstanding Air Force ambassador on Capitol Hill and has served with distinction. General Stein has earned our grateful appreciation for a job well done.

Mr. President, I know my colleagues on the Armed Services Committee and in the Senate join me in thanking General Stein for his service to the Senate and to the Nation. We congratulate General Stein on his promotion and his new position. We extend our best wishes to him and his family for continued success.

WATCHING AND WAITING: THE CONFIRMATION OF DAVID BIRENBAUM AS U.S. REPRESENTATIVE FOR U.N. MANAGEMENT AND REFORM

Mr. PRESSLER. Mr. President, last Friday, June 24, 1994, the nomination of Mr. David Birenbaum to be U.S. Representative for United Nations Management and Reform was confirmed by the Senate. I want everyone to know that action did not have my consent. In fact, it was only through Cloakroom staff error that the nomination was cleared. It was not cleared by me, my staff, nor by other Senators who have supported me in this matter. I do not blame anyone specifically. Errors do occur from time to time. Everyone should realize, however, that Mr. Birenbaum has become the U.S. Representative because of the situation I have just described.

Before clearing this nomination, Senator HELMS and I had a few more questions for Mr. Birenbaum. In fact, a letter incorporating those few questions was ready for signature when the Senate acted last Friday. In view of the circumstances in which this nomination was cleared for consideration erroneously, I intend to submit the additional questions to Mr. Birenbaum and have called upon him to respond. I trust he will do so.

Since "60 Minutes" aired a segment on U.N. mismanagement last September, this issue has gained momentum in Congress. U.N. management and peacekeeping reform are necessary to ensure that the United Nations functions more efficiently and effectively. Consequently, it is imperative that the newly confirmed U.S. Representative for U.N. Management and Reform not only be highly qualified, but also management-oriented.

I have become concerned about David Birenbaum's prior activities as a consultant to the U.S. U.N. Mission. In his capacity as a consultant to Ambassador Albright since 1993, Mr. Birenbaum has advised the U.S. Mission regarding the creation of a permanent, U.N.-sponsored criminal court. A staunch opponent of the establishment of a permanent international criminal court, I have been concerned about the details of Mr. Birenbaum's consultancy and his willingness to make U.N. management and reform his top priority.

Mr. President, I would think that David Birenbaum would have discussed his consultancy during this April 21, 1994, Senate confirmation hearing. While he mentioned on his formal Senate Foreign Relations Committee application that he served as a consultant to the U.S. Mission, he did not discuss his specific activities with regard to the creation of an international criminal court. I am curious why Mr. Birenbaum did not explain his consultancy in his testimony, as it would have demonstrated past involvement with the United Nations. I would think Mr. Birenbaum would have viewed his consultancy as an indication of his familiarity with the United Nations and its operations. Yet, he still chose not to raise this issue in his testimony before the committee.

As a result, along with our colleague from North Carolina, Senator HELMS, I sent a letter to Mr. Birenbaum with a request for specific information about his activities as a consultant to the U.S. Mission. Additionally, Senator HELMS and I sent a letter to Secretary of State Warren Christopher regarding the State Department's official description of the responsibilities involved in the post of U.S. Representative for U.N. Management and Reform. Both the response from Mr. Birenbaum and the response on behalf of the State

Department offered only pat answers. According to the letter from Wendy Sherman, Assistant Secretary for Legislative Affairs at the State Department, in answer to our questions about Mr. Birenbaum's potential involvement with the establishment of an international criminal court:

> Responsibility within the State Department for U.S. policy towards an International Criminal Court (ICC) rests with the Office of the Legal Adviser (L) in Washington. USUN's own legal adviser works closely with L and reports directly to Ambassador Albright. Ambassador Albright's counsel in her Washington office also participates in matters related to the ICC. We cannot rule out the possibility that one or another of these offices may ask Mr. Birenbaum to comment on an ICC-related issue.

This is hardly an official State Department assurance that David Birenbaum will not be devoting his time to issues relating to the court. It is more of an acknowledgement that David Birenbaum very well may be given the opportunity to work on the court's creation.

Mr. President, I ask unanimous consent to place the letter to David Birenbaum, his response, and the letter to Secretary Christopher and his response in the RECORD at the end of my remarks.

Recently, I have reviewed an unclassified copy of the executive summary of President Clinton's Decision Directive on Reforming Multilateral Peace Operations (PDD 25). Thus far, I have seen only the executive summary of PDD 25, as the full text of PDD 25 remains classified. I am pleased, however, that the executive summary notes the administration's support for much needed management reforms in the United Nations.

While the President's acknowledgement of the seriousness of this issue in PDD 25 is an excellent step in addressing the United Nations' rampant management abuses, continued pressure and insistence from the President, Ambassador Albright, and now David Birenbaum, are absolutely necessary to ensure that management reforms are taken seriously by U.N. Secretary-General Boutros Ghali and representatives from other Member States in the General Assembly.

I urge my colleagues to continue supporting for tough U.N. management reforms and to keep a watchful eye on the efforts of the U.S. Representative for U.N. Management and Reform. If the United Nations is to be an effective international body, U.S. support and funding are necessary. However, if the United Nations fails to reform and continues to mismanage peacekeeping operations, the United States cannot remain silent. We must not continue down the same wasteful spending paths that are notoriously synonymous with the United Nations.

I am the sort of Senator who—if David Birenbaum performs well in the job—will not begrudge him and will praise his reform efforts. In fact, I have just sent a letter of praise to someone in a Federal agency whose nomination I originally opposed. I wish David Birenbaum success as our newest reform leader at the United Nations.

Mr. President, I ask unanimous consent to place excerpts from Mr. Birenbaum's April 21, 1994, confirmation hearing in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPTS FROM THE U.S. SENATE FOREIGN RELATIONS COMMITTEE HEARING ON THE NOMINATION OF DAVID BIRENBAUM TO BE REPRESENTATIVE OF THE U.S. TO THE UNITED NATIONS FOR MANAGEMENT AND REFORM, APRIL 21, 1994

Senator PRESSLER. Do you think he [Boutros Boutros-Ghali] has proceeded in the direction of reform since he has come?

Mr. BIRENBAUM. I am trying to answer that question. I said I think in some ways he has and in other ways he has not. He has, by initially supporting and then establishing the Office of Inspection and Investigation which I thought was a positive step, not a complete step, not a perfect step. It requires further action, and we are committed to accomplishing that action, but nonetheless it is a positive step toward the direction of reform.

He also reformed the Secretariat. I think he cut some 16 positions initially, high level positions. There has been, I believe, some backsliding since then. There are two high level . . .

Senator PRESSLER. What has become of those 16 positions you mentioned?

Mr. BIRENBAUM. I do not know.

Senator PRESSLER. Where did those people go?

Mr. BIRENBAUM. I do not know the answer to that question. I know the positions were cut. There was a reorganization of the Secretariat.

Senator PRESSLER. But the people are still in the U.N.?

Mr. BIRENBAUM. I do not know what has happened to them.

Senator PRESSLER. Would you find out what has happened to them?

Mr. BIRENBAUM. Yes

Senator PRESSLER. They did not leave?

Mr. BIRENBAUM. I do not know the status of those individuals.

Senator PRESSLER. But you brought it up.

Mr. BIRENBAUM. They do not hold the position that they had previously, which was one of the objectives that he sought to accomplish. In addition . . .

Senator PRESSLER. Since you raise that point, I think you will find that those 16 people were reshuffled, that they are collecting as much money as ever.

Mr. BIRENBAUM. Well, that may be . . .

Senator PRESSLER. Then why would that be a reform?

Mr. BIRENBAUM. Well, if by reform we mean to make more effective the management of the Secretariat, the fact that those individuals are still present in the United Nations. . . .

Senator PRESSLER. But they are still in the Secretariat.

Mr. BIRENBAUM. That does not necessarily mean, it seems to me, that the restructuring, which has as its objective to make the management system more effective, is not for real. There have been any number of studies which, so far as I can tell, are quite well-funded, that recommend that fewer people report to the Secretary General than had been the case.

Senator PRESSLER. These are not reform.

Mr. BIRENBAUM. If I may complete my response, please.

Senator PRESSLER. Yes, but I just want to get the specific reforms you are citing. He has reassigned 16 people within the same Secretariat.

Mr. BIRENBAUM. I do not know whether they are in the Secretariat. It is a very large institution. But what I am saying here is that there were a very considerable number of people who were reporting to the Secretary General, and indeed there were a number of studies that I have seen that criticized this on the basis that the Secretary General cannot possibly effectively manage if he has so many people reporting to him. Also, there were overlapping responsibilities, and so coordination was a major problem and a major headache. Now, I think one of the reforms that he instituted initially was in the direction of regularizing these reporting relationships and reconfiguring the Secretariat so that now there are, as I understand it, six departments as distinguished from whatever the number was before, certainly much greater than that.

Now, is this complete reform? Is this sufficient? Is this the end of the story? Of course not, but I think it represented a positive step that he took when he first became Secretary General.

Do I think this suggests that he is a great reformer and we do not have to push him and that everything is going to be fine? I do not. I think there is a great deal that we need to do. We need to push him very hard, and if I am conformed in this position, it would be my objective to do exactly that.

Senator PRESSLER. But in all honesty, if you will look at that reasoning of 16 people and the reshuffling, if you consider that reform, we have a serious disagreement.

Mr. BIRENBAUM. Well, one has to define terms. Reform is, of course, not a self-defining term. I do know, and indeed there is one study that I would refer you to, because it was chaired by Senator Kassebaum and Chairman Hamilton, and it was sponsored by the Stimson Center—it examined some of these issues particularly with respect to peacekeeping.

One of the points that was made, and I thought it was a valid point, is that any Secretary General who is going to be an effective administrator on reform, and certainly who wants to accomplish that objective and certainly is going to be able to run the business better, ought to have fewer people reporting to him, and that it is important to consolidate functions so as to avoid a lot of overlapping, confused and decentralized decision making, which leads to many problems at the United Nations. I think the initial reform that he undertook was aimed in that direction. Does that mean staff cutbacks, getting rid of people, etc? That is a different objective, and I do not know that it does mean that. I do not know that these people were relieved of the position that they previously held are no longer with the United Nations. If you have knowledge that they are still there, I do not challenge that.

Senator PRESSLER. What have Boutros-Ghali's views been with regard to the Office of the Inspector General position?

Mr. BIRENBAUM. Well, as you know, he supported the position of the Office of Inspections and Investigations, and I believe that, I do not know what his position will be on our proposal for a General Assembly resolution to provide now a legal basis and statutory basis, if you will, for the Office of an Independent Inspector General. I do not know what his position is on that.

Senator PRESSLER. Well, he has expressed strong opposition to it publicly.

Mr. BIRENBAUM. I am not aware of this opposition publicly to the establishment of the Office of Inspector General.

Senator PRESSLER. Would you check on his statements on that and put them in the record?

Mr. BIRENBAUM. Yes.

Senator PRESSLER. Since the President said that we must say no to peacekeeping operations how many operations have been established or renewed since the President's statement?

Mr. BIRENBAUM. I do not know the answer to that question.

Senator PRESSLER. How many operations have been abolished or countries denied peacekeeping assistance during the same period of time?

Mr. BIRENBAUM. I do not know that any have been abolished, but I do understand that the United States has successfully resisted peacekeeping proposals which have come before the Security Council or were on the verge of coming before the Security Council.

Senator PRESSLER. To its credit, the administration has initiated efforts to reform planning, management, and budgeting of U.N. peacekeeping operations. What specific proposals have been submitted to the U.N., and which committees?

Mr. BIRENBAUM. I do not know the status of proposals that we have made. I do know that there are a number of management reforms in the area of peacekeeping that we have, that the administration, I am sorry, has conceived. I do not know the status of them, as far as their presentations to committees are concerned.

Senator PRESSLER. Now, last year the Secretary General established an Office of Inspections and Investigations. How does this office compare—or what does this office do, first of all?

Mr. BIRENBAUM. Well, I think as far as the scope of the responsibility is concerned it is similar to the Office of Inspector General that we have in mind. The difference, however, is that we want first of all, and I think most importantly, to have a statutory foundation which underpins the Office of Inspector General. That does not exist now. This Office of Inspections and Investigations was created by act of the Secretary General. What the Secretary General does, of course, he can undo or modify in his discretion, if that is not acceptable.

There are a number of other very important aspects of our proposal for the establishment of an independent Inspector General Office that differentiate that office from the current Office of Inspection and Investigation. In particular there is the issue of the appointment and removal authority. Right now it rests with the Secretary General. Our proposal would require that any appointment or removal decision made by the Secretary General be subject to ratification by vote of two-thirds of the General Assembly, which is very important constraint and one that we are insisting upon in connection with our resolution or will be, I should say, when it is introduced.

We also want to make sure that the budget for the Office of Inspector General is treated separately and not in normal course, which again reinforces the independent status and stature of the Office of Inspector General.

And one other point I would make in this connection, because I think it is also very important, and that is that the Inspector General would have the title of Under Secretary, not Assistant Secretary which is the current rank that the incumbent has within the U.N. system.

Senator PRESSLER. So in other words you consider the Office of Inspections and Investigations as a whitewash, basically, is what you are saying?

Mr. BIRENBAUM. No, I am not saying that, Senator. I am saying I think it is a useful step but it is only that, and that we need to make sure that there is a statutory foundation which supports the independence of the functioning of the Inspector General. That will be terribly important.

Senator PRESSLER. Well, but if it is a useful step, you just have laid out all these things that it cannot do that the Inspector General could do. What can the Office of Inspections and Investigations, what have they done, if it is a useful step?

Mr. BIRENBAUM. Well, he can conduct investigations. He has, I think, power commensurate with the position of an independent Inspector General.

Senator PRESSLER. Have you seen any reports from it?

Mr. BIRENBAUM. I have not seen any reports from it, but then I think it has only been in existence for a fairly short time. But rather than critique what the Secretary General has done which was an act taken on his own authority, he obviously cannot himself enact a resolution of the General Assembly that requires General Assembly. It seems to me to be, now at least for us, terribly important to focus on what it is that we want the General Assembly to do by way of making sure that this is the kind of Office of Inspector General that we want, and then take the actions necessary and appropriate to secure action by the General Assembly in short period of time, and that is I believe the present policy.

Senator PRESSLER. I am just using your words. You said this was a useful step.

Mr. BIRENBAUM. Yes.

Senator PRESSLER. What has resulted?

Mr. BIRENBAUM. Well, I cannot tell you what has resulted except for the establishment of the office and the constitution.

Senator PRESSLER. Then how do you know it is a useful step, then?

Mr. BIRENBAUM. Because it is a useful step to establish an Office of Inspections and Investigations within the United Nations system with powers of investigation and the responsibilities of auditing and monitoring and evaluation this office has.

Senator PRESSLER. Well, how many people are in this office? How many people are in this Office of Inspections and Investigations?

Mr. BIRENBAUM. I do not know the population, although I do know that it combined a number of operations that had existed before then in a fairly uncoordinated way, which is another aspect of the positive step as I have characterized it. But I do not want to get hung up on this because I share your view that what we need at the United Nations is a truly independent Inspector General, basically on the American model. And that is the administration policy.

Senator PRESSLER. Well, yes, I am in agreement there. But according to my information this Office of Inspections and Investigations is not different from the previous internal oversight mechanisms and that it does not have autonomy from the Secretary General and it just has absolutely no power at all and has not done anything.

Mr. BIRENBAUM. I do not know what it has done. But I do know that as a matter of the instruments that constitute it it does have authority and it also has a reporting responsibility. Now, I left that out because it is very important, I think to us, in terms of fashioning the resolution which we would like to present to the General Assembly that it be very clear that the Inspector General report to the General Assembly through the Secretary General and that his report not be altered by the Secretary General that the membership will have undiluted the recommendations and analysis of an independent Inspector General and take whatever action it deems necessary.

Senator PRESSLER. But the present office cannot go directly to the UNGA. The Secretary General has to sign off before it goes to the UNGA, which makes it just an instrument of his office. Is that not true?

Mr. BIRENBAUM. I am not sure.

Senator PRESSLER. The head of the OII cannot issue criticism of the Secretary General's management practices to the UNGA unless he signs off.

Mr. BIRENBAUM. If you will give me a moment, I think I can answer that question. I think that is right, that the OII, the head of the OII, does not report directly but reports to the Secretary General and the Secretary General files a report based on the activities of the OII to the General Assembly. That is one of the changes that we are insisting on. That is one of the responsibilities or powers that we would like to have the Inspector General possess, that is, the power to report to the General Assembly through the Secretary General with no alteration.

Senator PRESSLER. It is my understanding that the State Department is prepared to accept with some modifications that the OII, that is the Office of Inspections and Investigation, meets the requirements of an OIG, that is an Office of Inspector General. There appear to be serious differences between the two concepts in the areas of appointment, reporting, operating authority, staffing and budgeting levels. Under these circumstances, how would the administration defend the OII as meeting the requirements for an OIG outlined by the President in his statement to the United nations General Assembly?

Mr. BIRENBAUM. Well, I do not know. I guess I would not accept the premise of that question, that is, the Department of State or the administration is prepared to accept an OII with minor tinkering. My understanding of the position of the policy of the administration is that it supports enthusiastically and will aggressively seek to have established a truly independent IG, and that it does have reporting and removal responsibilities that I have outlined.

Senator PRESSLER. Now, when he assumed office, Secretary General Boutros Boutros-Ghali announced plans for a sweeping reorganization and a reform of U.N. operations and programs. What progress has been achieved since Boutros-Ghali took office?

Mr. BIRENBAUM. Well, Senator, apart from the discussion that we had a few minutes ago I do not know that I have anything to add.

Senator PRESSLER. And that discussion was that you felt that the Office of OII was a useful step?

Mr. BIRENBAUM. I thought that the establishment of the Office of OII was a useful step and that I thought that the reconfiguration of the secretariat was a useful step. Those are two postiive steps.

Senator PRESSLER. Have either of those resulted in less fraud, theft, or waste, or resulted in a change in the personnel policies?

Mr. BIRENBAUM. I cannot answer that, Senator.

Senator PRESSLER. Could you find out? I mean if it is a useful step we need to know what some of the results have been. Is that a fair question?

Mr. BIRENBAUM. No, I do not think it is a fair question to ask whether it has resulted in the diminution of fraud. How do you measure that? I think as far as fraud, waste, and abuse is concerned, as you pointed out, this is a very serious and real problem. It should not exist and it is intolerable. It is intolerable at any time, and particularly now when governments are strapped for funds and the United Nations responsibilities have become so much more important. That is one reason, not the only reason, but one reason, why the administration is so strongly committed to the establishment of an independent Inspector General function. It will be his responsibility to look into instances of that.

Senator PRESSLER. I very much appreciate that, and they came to that conclusion under very heavy pressure from Congress because a couple of years ago they were very much opposed to it, or a year and a half ago.

Let me ask you this, either here or for the record, if you feel there has been some reform under Boutros Boutros-Ghali? He announced all of these plans, and indeed you can have a reorganization or you can create an office. But is it a fair question to ask you to cite one or two things that have resulted in improvements in the functioning of the U.N.?

Mr. BIRENBAUM. I think certainly it is a fair question, and I am not sure that I can give you a complete catalog, if there is a catalog to be made of the positive results that have ensued as a consequence of reform measures that he supported. The only reform measures that come to my mind are the ones that I have indicated. I can certainly ask for an inventory of other reform measures, if you like, and I can make that available to you. I am not sure one can connect that with particular results. That is very hard. But I can seek to provide you with more information on this point.

Senator PRESSLER. All right. You mentioned that 16 positions were eliminated. At the same time, the Secretary General has created a number of special representative positions, usually at the rank of Under Secretary General. How many special representatives are now funded by the U.N.?

Mr. BIRENBAUM. I do not know the answer to that question.

Senator PRESSLER. My question then is what is the function of each of these and their salary level, and if you will submit it for the record you will find that they are at a very high level. Indeed, the bureaucracy has expanded rather than decreased.

Now, did the U.S. approve or support the establishment or funding of each or any one of these additional new high-level conditions?

Mr. BIRENBAUM. I do not know the answer to that.

Senator PRESSLER. Do you consider that part of Boutros-Ghali's reform?

Mr. BIRENBAUM. Well, you are asking me if something happened. I do not know whether it happened or not. And whether the United States Government supported it, I cannot say. And whether that is part of reform is all part of the same package. Frankly, I do not know what has happened in this connection and I cannot say whether it is part of reform, now knowing what these functions are.

Senator PRESSLER. Well, I would not have asked this question except you brought up that he had eliminated 16 high-level positions.

Mr. BIRENBAUM. Yes. But I want to be clear about that, and I think there has been some confusion between us on this issue. I am not touting this as an instance of cost-saving, necessarily. What I was suggesting to you is that it is an indication of a desire to reconfigure the management structure of the Secretariat, and that is an objective, if one has in mind sound management practices, that makes some sense, whether it results in cost-saving or not.

Now, there is a further decision as to what should happen to the people who have been removed from high-level positions that they held previously as a consequence of the management reconfiguration within the Secretariat. I do not know the answer to that. I do not know what happened to these individuals. I do not know whether the jobs that they are doing are jobs that they should be doing. I just cannot answer that.

Senator PRESSLER. Okay. I keep going around in circles here became I am trying to identify these. You have told me that you believe that Boutros-Ghali has made some progress and reforms. You cited the 16 and you said this reconfiguration or whatever it is that he has done is a reform. But yet we see that none of these people left and that we have created a number of special representative positions at the rank of Under Secretary General. And so it has become even more proliferated. Who do these people report to?

Mr. BIRENBAUM. I do not know that that is correct, the premise of your question, that is, that the 16 people who were removed from the position they had previously are now Under Secretary Generals with different reporting responsibility. I do not know whether that is correct or not.

Senator PRESSLER. Well, I understand that they report to him.

Mr. BIRENBAUM. I just do not know.

Senator PRESSLER. So the number of people reporting to Boutros-Ghali has been reduced?

Mr. BIRENBAUM. That is what I have been informed. That is what I have seen or read.

Senator PRESSLER. How many people report directly to him?

Mr. BIRENBAUM. I do not know the answer to that question, but I do know there are six separate departments that were created which reduced immediately the number of department heads reporting to the Secretary General. I do not know exactly how many people report to him now.

Senator PRESSLER. What is the current total number of high level positions at the U.N.?

Mr. BIRENBAUM. I do not know the answer to that question.

Senator PRESSLER. What criteria exists to determine if these positions are at the appropriate level or if they are even necessary?

Mr. BIRENBAUM. I do not know the answer to that question.

Senator PRESSLER. So we need criteria?

Mr. BIRENBAUM. Yes. I think one very important responsibility as far as reform is concerned is in the field of personnel, and I believe the mission will be making a proposal in that regard.

There will be proposals and classifications and all of that.

Senator PRESSLER. Does the establishment of a high-level position require General Assembly approval?

Mr. BIRENBAUM. I do not know. I do not know the answer to that.

Senator PRESSLER. Can you find out how many posts receive General Assembly approval prior to their establishment?

Mr. BIRENBAUM. Well, I can inquire about that.

Senator PRESSLER. That should not be hard to figure out.

Mr. BIRENBAUM. It would be. Certainly, there would have to be, it would have to be in the budget, which is approved by the General Assembly. Now, how this process functions, in terms of authorizing positions, I do not know.

Senator PRESSLER. This Secretary General created a whole number of new special representative positions, usually at the rank of Under Secretary General, during this period of time when you feel he was making steps towards reform. Did he have those approved?

Mr. BIRENBAUM. I do not know.

Senator PRESSLER. Would you find out and answer for the record?

Mr. BIRENBAUM. Yes.

Senator PRESSLER. Now, if you are not a member of the ACABQ, nor a member of the other expert bodies associated with United Nations administrative and budgetary issues, and not on the Fifth Committee, what will your role be at the United Nations?

Mr. BIRENBAUM. Well, I concede my role to be multidimensional. One is I will surely have supervisory responsibility with respect to the way in which the United Nations presently functions. And, in that connection, the person whom I will certainly work with. I would expect to work with the person who does sit on the Fifth Committee now. I am not saying that that will not be my responsibility to sit on that Committee or not. I, frankly, at this stage do not know whether that is a function that I would be asked to perform, or whether it would be appropriate. I really cannot answer that question.

Another very important component of the portfolio, which I would hold if confirmed to this position, has to do with reforming the United Nations, meaning on a going forward basis, not just making sure that the rules as they exist now are complied with. That is very important. But I think no less important is helping to conceive of a plan for a thorough going, serious reform of the United Nations in many of its dimensions, in many of its practices.

I would want, with you and the others who are concerned about this in Congress, to help develop a meaningful, substantial and comprehensive reform agenda, and then to work for its acceptance and implementation. Because I think what is, is not good enough.

Senator PRESSLER. Yes. But how do you envisage your job just on a daily basis? I mean, you are not a member of the Advisory Committee on Administrative and Budgetary Questions. You are not a member of the Fifth Committee. You are not a member of any of the other expert bodies associated with the United Nations administrative or budgetary issues. What will you do?

Mr. BIRENBAUM. Well, I do have people who are in all of those capacities reporting to me. And I would expect to make sure. I would expect to supervise them and work with them in the discharge of their responsibilities. In addition to that, as I said, I think there is an enormous amount of work to be done.

Senator PRESSLER. The person who goes to the Fifth Committee will report to you?

Mr. BIRENBAUM. Well, frankly, I do not know whether that person will report to me or not. What I do know is that I will work that person.

Senator PRESSLER. Now, it is my understanding that currently two U.S. United Nations Ambassadors are involved in United Nations reform. Ambassador Inderfurth is responsible for reform of the Security Council and peacekeeping operations. Ambassador Victor Marrero follows reform in the economic and social areas. If appointed, will responsibility for these issues be transferred to you?

Mr. BIRENBAUM. Well, I think I responded that I really do not know how I will relate to Ambassador Inderfurth and Ambassador Marrero. That will have to be worked out. I have not tried to do that as yet.

Senator PRESSLER. But as one who follows these matters somewhat, here we are confirming, and this is not your decision, somebody in the State Department made this decision. But could you please, for the record submit, would you ask the State Department, but I will ask you. I am trying to get a definition of what your job is going to be compared to Ambassador Inderfurth's and Ambassador Marrero. They have these divisions of responsibility up there, and what is yours going to be, that is what I am trying to get to here.

Mr. BIRENBAUM. I understand that, Senator.

Senator PRESSLER. Is that a fair question, if we are sending an ambassador someplace?

Mr. BIRENBAUM. Of course it is a fair question, but I think one should understand that in the area that we are talking about, namely reform, there is a necessary overlap between somebody whose responsibility is reform oriented rather than subject matter oriented, and the people who are already working and who have responsibility for particular subject matters such as ECOSOC, such as peacekeeping management reform.

Now, I do not want to leave you with the impression, because it would surely not be accurate, that no one has been doing anything by way of pursuing reform pending my arrival there. That surely is not the case. There have been certain steps taken with respect to reforming the ECOSOC operation, which Ambassador Marrero has been responsible for. And, of course, Ambassador Inderfurth has been deeply engaged in reforming the management of peacekeeping operations.

Now, how I will relate when I get there, if I am confirmed, to what they are actually doing now, and have been doing for some period of time, I am not sure that I can answer you. And I am sure, frankly, that that is something one should try to map out with such precision and specificity. I think it would be much better to see whether one cannot work out, which would be my expectation, a collegial and cooperative way of working together on what will be a common objective, namely reform.

Senator PRESSLER. How many ambassadors do we have up at the U.N.?

Mr. BIRENBAUM. I believe in New York there are five.

Senator PRESSLER. We have five. Ed Zorinsky, who passed away, God bless his soul, a Senator from Nebraska, used to always try to get the jobs of some of these ambassadors defined before we sent them, but I find myself struggling. I mean with these other two ambassadors already doing this function, are they going to drop out of that area?

Mr. BIRENBAUM. No, no certainly not.

Senator PRESSLER. So there will be three ambassadors working on reform.

Mr. BIRENBAUM. Well, that depends on how you look at it. One could say that Ambassador Albright herself is a fourth ambassador working on reform because, of course, the chief of mission is responsible for all of our efforts, including reform. What I am saying is that there is an overlap, and it seems to me not to be extraordinary or difficult or terribly confusing. The word reform is not self-defined, it can be all encompassing, it can be limited, and I am not sure that at this point it makes a great deal of sense to try to flesh it out with great specificity right now.

I think it is much better, it is very clear that there is a hard-core set of reform responsibilities that would come to me, that I will be responsible for. There are also a lot of other reform areas which presently are being worked by other people who are there because they fall under their subject matter jurisdiction, if you would like. ECOSOC is an example and so is peacekeeping.

I would expect to work on a cooperative basis with the ambassadors who have primary responsibility in those areas. There is a difference between subject-matter responsibility and, if you like, proceed. Reform is more of a procedural nature.

U.S. SENATE,
Washington, DC, June 13, 1994.

Mr. DAVID BIRENBAUM,
Washington, DC.

DEAR MR. BIRENBAUM: We have reviewed with great concern and security your nomination to be Deputy Permanent Representative to the United Nations for Management and Reform. In doing so, we have been interested in knowing what duties as you performed during your tenure as a "consultant" to U.S. Permanent Representative, Madeleine Albright.

Neither in your formal Foreign Relations Committee forms nor during your confirmation hearing, did you explain what your consultancy to the United Nations involved. A December 14, 1993, White House press release describing your nomination indicated you "served as a public member of the U.S. Delegation to the UN Commission on Human Rights, and as a consultant to the U.S. Mission to the United Nations on the proposal to establish an international criminal court." Not once have you mentioned that you consulted Ambassador Albright on the creation of a permanent, UN-sponsored international criminal court nor have you—to the best of our knowledge—disclosed financial information in conjunction with either your consultancy or your service as a Public Member of the U.S. Delegation to the UN Conference on Human Rights. As opponents of the establishment of a permanent international court, your involvement with this issue is of grave concern to us.

Prior to floor consideration on your nomination, we would appreciate receiving specific answers to questions regarding your position as a consultant to the UN and your interest in the creation of a permanent international criminal court. We would like to obtain detailed responses to the following questions:

What functions did you perform as a consultant to Ambassador Albright? How long did you serve as a consultant? How did you become involved as a consultant to the U.S. Mission? Was this at Ambassador Albright's request? Were you paid for your work as a consultant? Where you paid when you served as a Public Member of the U.S. Delegation to the U.N. Conference on Human Rights in 1993?

Do you support the creation of the international criminal court? As a consultant, did you promote the establishment of an international criminal court? If so, what functions did you perform in the promotion of the court?

If confirmed, what would be your involvement with regard to the creation of a permanent court? Do you plan to promote the establishment of an international criminal court if confirmed? Do you intend to devote a substantial amount of your efforts on the progress of the court or will you focus on UN reform and management?

Did you consult the U.S. Mission with regard to the Yugoslav War Crimes Tribunal? If so, what specifically is your view on progress toward the establishment of the Tribunal?

As supporters of a more effectively managed United Nations, it is of utmost importance to us that a qualified overseer and reformer be confirmed for the position to which you have been nominated. It has been our understanding that your job as U.S. Representative and Reform is to focus exclusively on management and administrative functions at the United Nations. We are concerned that you envision your duties for this UN position as parallel to your previous work consulting the United Nations on the establishment of a permanent criminal court. The effective management of the United Nations—not the creation a UN-sponsored criminal court—should be a priority issue to which you should devote great energy.

We look forward to receiving your responses to the questions we have raised and to discussing these matters with your further.

Sincerely,

JESSE HELMS.
LARRY PRESSLER.

FRIED, FRANK, HARRIS,
SHRIVER & JACOBSON,
Washington, DC, June 20, 1994.

Hon. LARRY PRESSLER,
U.S. Senate,
Washington, DC.

DEAR SENATOR PRESSLER: Thank you for your letter of June 13. I am pleased to have this opportunity to reassure each of you as to my dedication to the vital cause of improved U.N. management and reform. My answers to the questions which you raised are given in the attachment.

Should you wish to discuss these matters, I am available to meet with you at any time.

Sincerely,

DAVID E. BIRENBAUM.

FUNCTIONS AND RESPONSIBILITIES—REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS FOR U.N. MANAGEMENT AND REFORM

The U.S. Representative for U.N. Management and Reform is charged with the principal oversight of all matters relating to U.N. reform, budget management, fraud and mismanagement, procurement practices and interaction with U.S. business.

The U.S. Representative carries the rank of Ambassador, to highlight the importance that the U.S. attaches to U.N. management and reform issues. The incumbent will shape and advance U.S. interests before those bodies charged with budget and management matters, in particular the Fifth Committee, one of the main committees of the U.N. General Assembly, charged with oversight of Administrative and Budgetary matters.

In addition to pursuing issues related to sound management and needed reform, the U.S. Representative insures that American companies are provided with opportunities to compete fairly for U.N. procurements of material and services. In this regard, the U.S. Representative works closely with New York-based Department of Commerce officials.

The U.S. Representative for U.N. Management and Reform reports to the Chief of Mission, who is the U.S. Representative to the United Nations.

QUESTIONS SUBMITTED BY SENATORS HELMS AND PRESSLER TO AMBASSADOR-DESIGNATE DAVID E. BIRENBAUM, JUNE 13, 1994

1. Q. What functions did you perform as a consultant to Ambassador Albright?

A. I provided legal advice to the Mission (with the assistance of other lawyers at my firm) concerning the proposal before the U.N. for the establishment of an international criminal court, in particular the draft statute for such a court prepared by a working group of the International law Commission. I also assisted in presenting the Mission's position to other U.S. government agencies.

2. Q. How long did you serve as a consultant to the U.S. Mission?

A. I served as a consultant from May 18, 1993 until the present.

3. Q. How did you become involved as a consultant to the U.S. Mission? Was this at Ambassador Albright's request?

A. I was asked by Ambassador Albright to consult with the U.S. Mission.

4. Q. Were you paid for your work as a consultant?

A. My firm received a fixed fee of $2500 and reimbursement of incurred expenses not to exceed $1500.

5. Q. Were you paid for your work as a Public Member of the U.S. Delegation to the U.N. Conference on Human Rights in 1993?

A. My work as a Public Member of the U.S. Delegation to the U.N. Conference on Human Rights was performed without charge. I was reimbursed for incurred expenses in accordance with established government procedures.

6. Q. Do you support the creation of an international criminal court?

A. I believe that an international criminal court could make a useful contribution to the prosecution of crimes of an "international character." I would only support such a court if it were clear that it will safeguard U.S. law enforcement interests and assure due process of law to those charged.

7. Q. As a consultant, did you promote the establishment of an international criminal court? If so, what functions did you perform in the promotion of the court?

A. I did not promote the establishment of an international criminal court with the Congress or the public. My sole function was providing internal advice to Ambassador Albright and her staff and assisting them in discussions with other members of the Executive Branch.

8. Q. If confirmed, what would be your involvement with regard to the creation of a permanent court? Do you plan to promote the establishment of an international criminal court if confirmed? Do you intend to devote a substantial amount of your efforts on the progress of the court or will you focus on U.N. reform and management?

A. I have attached a description of the responsibilities of the U.S. Representative to the United Nations for U.N. Management and Reform. If confirmed, I would devote myself to carrying out those responsibilities to the best of my ability and on a full time basis. In response to your specific question whether, if confirmed, I intend to devote a substantial amount of my efforts to the progress of the court, the answer is no. I intend to focus on U.N. reform and management.

9. Q. Did you consult the U.S. Mission with regard to the Yugoslav War Crimes Tribunal? If so, what specifically is your view on progress toward the establishment of the Tribunal?

A. My consultancy did not include the Yugoslav War Crimes Tribunal. My only involvement with regard to this Tribunal was to participate in a meeting of experts convened by Ambassador Albright on May 13, 1993, before Resolution 827 (1993), providing for the establishment of the War Crimes Tribunal, was adopted by the Security Council and prior to commencement of my consultancy. The purpose of the meeting was to review the report of the U.N. Secretary-General called for by Resolution 808 (1993).

U.S. SENATE,
Washington, DC, June 14, 1994.

Hon. WARREN M. CHRISTOPHER,
Secretary of State,
Washington, DC.

DEAR MR. SECRETARY: We are encouraged by the creation of the new position at the United Nations designed specifically to address UN mismanagement. This post—U.S. Representative for Management and Reform—can serve as a focal point in meeting the UN Inspector General requirements outlined in Section 401 of the recently signed Foreign Relations Authorization Act.

As strong supporters of both UN reform and the establishment of an independent UN Inspector General's Office, we are interested in knowing what duties David Birenbaum—if confirmed—will perform in this newly created management post. We are concerned over David Birenbaum's nomination, having learned that he consulted the U.S. Mission in 1993 with regard to the establishment of a permanent international criminal court.

While Mr. Birenbaum mentioned that he served as a consultant to the U.S. Permanent Representative to the United Nations in 1993, he never indicated—at any time during his confirmation hearing nor in his formal Foreign Relations Committee application—that he consulted the U.S. Mission on the establishment of the court. However, a December 14, 1993, White House press release indicated that Mr. Birenbaum "served as a public member of the U.S. Delegation to the UN Commission on Human Rights, and as a consultant to the U.S. Mission to the United Nations on the proposal to establish an international criminal court." We are concerned that Mr. Birenbaum may envision his post as involving responsibilities paralleling those during his tenure as a consultant on the criminal court.

Recently, the Administration submitted a report pursuant to Section 517 of the Foreign Relations Authorization Act to the Senate Foreign Relations Committee regarding the progress of the international court's establishment. According to this report, the Administration currently is reviewing the International Law Commission (ILC) draft statute for the creation of a permanent UN-sponsored court. U.S. officials are preparing comments to the ILC draft so they can be considered during the current session of the ILC. If confirmed will Mr. Birenbaum be a part of this review process, given his past consulting experience? Would this be one of the responsibilities of the new U.S. Representative for UN Management and Reform?

We would appreciate your specific description of the functions for the position of U.S. Representative for Management and Reform. What are the responsibilities of this post? We need assurances that the position to which David Birenbaum has been nominated will not involve work toward the creation of a permanent international court.

We need to ensure that David Birenbaum will concern himself solely with the effective management and needed fiscal reform of the United Nations. It is important for us to know that nominees are not only qualified for their respective posts, but that they do not fulfill duties which are not within the scope of the positions to which they have been confirmed. We would appreciate your prompt attention to this matter.

Sincerely,

JESSE HELMS,
Senator.
LARRY PRESSLER,
Senator.
BENJAMIN A. GILMAN,
Representative.

U.S. DEPARTMENT OF STATE,
Washington, DC, June 20, 1994.

Hon. LARRY PRESSLER,
U.S. Senate,
Washington, DC.

DEAR SENATOR PRESSLER: Thank you for your letter of June 14 to Secretary Christopher regarding the responsibilities of the United States Representative to the United Nations for UN Management and Reform. As you know, the President has nominated Mr. David Birenbaum to fill this position.

Mr. Birenbaum will—if confirmed—be part of a team working under the direction of Permanent Representative Madeleine Albright. Each of the five Ambassadors accredited to our mission (USUN) in New York has a set of responsibilities which are clearly spelled out and to which they devote their full energies. Occasions do arise, of course, in which they must fill in for one another, or where responsibilities overlap. Ambassador Albright seeks to take full advantage of the experience and abilities of all those at the mission in furthering American objectives at the UN.

The U.S. Representative for UN Management and Reform will be charged with principal responsibility for oversight of all matters relating to UN reform, budget management, fraud and mismanagement, procurement practices and interaction with the American business community.

We have re-titled and re-defined, this Ambassadorial position to highlight our interest—which we know you strongly share—in improving the efficiency and effectiveness of United Nations operations and programs. To this end, the U.S. Representative will work to shape and implement strategies to achieve our reform objectives and to establish budget priorities at the UN that reflect our own interests.

In response to the concerns expressed in your letter, we can assure you that Mr. Birenbaum's past consultancy and current expertise on the International Criminal Court will not impede his efforts in behalf of UN reform.

Responsibility within the State Department for U.S. policy towards an International Criminal Court (ICC) rests with the Office of the Legal Adviser (L) in Washington. USUN's own legal advisor works closely with L and reports directly to Ambassador Albright. Ambassador Albright's counsel in her Washington office also participates in matters related to the ICC. We cannot rule out the possibility that one or another of these offices may ask Mr. Birenbaum to comment on an ICC-related issue. We can assure you, however, that any response he might make to such a request would not come at the cost of attention of other duties.

You should also know that the Administration has completed its review of the International Law Commission's draft statute for the creation of an ICC. Thus, Mr. Birenbaum would not have the opportunity in his position in New York to review or prepare comments to this draft.

In closing, let me reiterate our desire to see Mr. Birenbaum confirmed soon. We need the strongest possible team working in New York for UN reform.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary,
Legislative Affairs.

A TONY FOR McCARTER

Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to this year's recipient of the Tony Awards for Outstanding Regional Theater. With innovative staging, significant artistic accomplishments and extraordinary performance, the McCarter Theatre, located in Princeton, NJ, has finally been recognized for its continuing contributions to the development of American culture.

McCarter has a long history of dynamic production techniques, risky strategies, and top-notch performance which make every show an exciting experience for its audience. Even after 35 years of productions, the actors, the sets, and the entire presentation continue to delight and enchant audiences.

Under the artistic direction of Emily Mann, the theater has received both regional and national notoriety. In its many productions—ranking from works such as Joyce Carol Oates' newest comedy, to a review of music by Irving Berlin—the McCarter succeeds in living up to the expectations of its audiences. With an electric mix of classical and modern plays, the McCarter incorporates the best playwrights, actors, and set design available.

With the notable leadership of the board of directors, and the unflagging dedication of cast members, set designers, and directors, the theater has always been a New Jersey treasure. Now that they have won a Tony, however, the McCarter can finally become the national treasure that it has always deserved to be.

HONORING MELVIN GRELL

Mr. DURENBERGER. Every life has passages which our parents used to call phases as they adjusted to our growth. As I reflect on mine, each passage has a person to whom my successful passage can be attributed. It is my God who gives me power, but he always uses another to achieve his end.

Today, Mr. President, I rise to honor a guiding force in my life, Melvin Grell, upon his retirement this month after 37 years of service with American Family Insurance.

Some young 4-H'er asked me the other day when I had first wanted to be a Senator. And I recall that it was sometime after I was sworn in. Almost the same thing is true of my going to law school back in 1956.

I really didn't want to go to law school or to be a lawyer, but a friend in the Army encouraged me to take an entrance exam, which I did, and I was accepted at the University of Minnesota Law School and graduated there in 1959.

But I doubt I would have been successful in my profession and in what it has led me to without the help of a friend, roommate and at times, a soulmate and playmate.

Mel Grell was born to be an important part of my life in Pierz, MN. He went to school there, and we met first when he earned his degree at St. John's University near my home. We met again at the University of Minnesota from 1957 to 1959 while we resided at the Gamma Eta Gamma law fraternity at 914 Fourth Street SE. in Minneapolis, MN. Together we rebuilt the house, the fraternity and to some degree, our ambitions.

Mel had gone to law school just before I did and it was he and his friends who helped me provide some leadership to rebuilding the fraternity and the fraternity house. He was able to keep my nose in the books and my head in the right place while we enjoyed the friends of one's graduate years and the joy of having a good time.

It was at this period of time that Mel was building a career for himself and for the law department at American Family Insurance, although he didn't necessarily look at the latter as his purpose in life.

But what I will always remember about Mel Grell is his commitment to love his God, his family and others as he would love himself. His commitment to God was also a commitment to his Catholic Church. He knew the powers and the hierarchy in Rome in particular and talked humorously about the political powers that ran the Church. But his personal faith was even deeper than his roots in Catholic country in Morrison County.

His roots in Pierz and his family were deep. His mother was his life. Every weekend was spent at their home in Pierz with her and with other family members. Everybody in what is today an enlarging rural family speaks lovingly of "Uncle Melvin".

I suspect it is the same at American Family Insurance and I regret that I am unable to celebrate with them the graduation of their friend and mine, Melvin Grell, into the retirement phase of his life. The love we all have for a man who gives never to receive, knows no bounds. So, Mr. President, we celebrate the life of a special Minnesotan and we wish him Godspeed, good health and long life.

REPORT ON TRAVEL BY SENATOR SPECTER

Mr. SPECTER. Mr. President, during the Memorial Day recess, I had the opportunity to travel from May 26 through June 7, 1994, to North Atlantic Assembly meetings in Oslo, Norway, and then on to Moscow, Russia; Almaty, Kazakhstan; Bishkek, Kyrgyzstan; Tashkent and Samarkand Uzbekistan; Ashgabat, Turkmenistan and the D-day ceremonies in France. I believe it is worthwhile to share with my colleagues some of my impressions from that trip.

NORTH ATLANTIC ASSEMBLY

At the North Atlantic Assembly meeting, considerable attention was given to the question of admitting countries from the former Eastern bloc such as Hungary, Poland, the Czech Republic, and the Slovakian Republic to membership in NATO and the alternative of more limited participation in the so-called Partnership For Peace. Nations from the former Eastern bloc were understandably interested in becoming a part of NATO to enjoy the guarantee of collective security. Obviously, there is reluctance to grant NATO membership because of the potential obligation for NATO nations, including the United States, to defend those nations if attacked by Russia.

There has also been considerable concern about the Russian reaction to the inclusion of the former Eastern bloc countries in NATO. Such an expansion of NATO might result in the isolation of Russia and nationalist dissidents in Russia might use such expansion of NATO to argue in favor of reconstituting the former USSR. In light of those difficulties, the lesser status of Partnership For Peace has been proposed which provides a lesser status and can include Russia as well.

The issues of the expanded membership in NATO or the Partnership For Peace raise the underlying question of what NATO's mission should be now that the cold war is over and its principal opponent, the Warsaw Pact, has been disbanded.

In a conversation with former Russian Ambassador Lukin, now chairman of the foreign affairs committee of the Russian Parliament, I asked for his views on the appropriate mission of NATO now that the cold war has ended. With a smile he replied that it was like a movie he once saw where the French, under King Louis XIV, were confronting the Germans in battle. When the Germans left the field it caused Louis XIV to proclaim "My enemy has betrayed me." Mr. Lukin was suggesting that NATO's role was really over.

During later aspects of our trip to the Central Asian States of the former Soviet Union, the issue of Partnership For Peace was discussed. Kazakhstan, Kyrgyzstan, and Turkmenistan have joined the Partnership For Peace and Uzbekistan has signaled its willingness to do so. It may be that NATO will undertake a changed mission with inclusion of Russia, former Eastern bloc countries and Newly Independent

States in the Partnership For Peace and perhaps ultimately in a revised NATO.

At the North Atlantic Assembly meeting there was considerable discussion of Bosnia and Herzegovina. The draft report on "NATO Peacekeeping and the Former Yugoslavia" noted the folly of issuing threats which, when not carried out do serious damage to the credibility of threatening governments. The report further noted the indispensable quality of leadership by the United States and further commented on the timidity and uncertainty of NATO, the Western European Alliance and the United Nations.

The Economic Committee of the North Atlantic Assembly spent considerable time discussing the final draft of the agreement of the Uruguay round signed on April 15, 1994. The Committee noted the projected increase in global income by up to $700 billion.

One area of significant concern is the change in the GATT rules on antidumping where there will be a reduction or elimination in the ability of many countries to use their national antidumping laws. This could be especially problemsome to the United States where so many of our industries (steel, textiles, glass, etc.) have been victimized by dumping, where the exporting nation sells more cheaply in the United States than in their home markets, and where the exporting countries engage in substantial subsidies. Those questions and many others will obviously have to be carefully considered when the GATT proposal is considered by the Congress.

RUSSIA

In Moscow we had an opportunity to meet with the former President of the USSR, Mikhail Gorbachev, who was robust and voluble during the course of a 1-hour meeting. Mr. Gorbachev said that it was very important for the United States to be supportive of Russia and for the United States to be active internationally even though there is an obvious tendency after the cold war to look to domestic affairs. Mr. Gorbachev emphasized that it was in the national self-interest of the United States to do so.

On the subject of NATO expansion and the Partnership For Peace, former President Gorbachev was emphatic that the new alliances should not be under the old umbrella of NATO which was antagonistic to the USSR, but instead should be under the umbrella of CSCE or a newly formed European Security Council.

Mr. Gorbachev emphasized the need for Russia to gain capital and urged the United States to help supply that capital. He noted that there had been a flight of capital from Russia in the past few years and said that this was very harmful.

He further expressed his concern that any instability in Russia could be an opening for Russian nationalists to come to power. When asked if he planned to run again for the political office he replied with a curt "nyet?"

While in Moscow, we met with the former Chief Judge of the Russian Constitutional Court, Valery Dmitriyevich Zorkin. Judge Zorkin advised that Russian courts were not functioning and that he had not undertaken any judicial duties on the Constitutional Court since we met with him on October 10, 1993, because that court had been dissolved. He further advised the Russian Government was functioning only by executive decree.

Judge Zorkin was very pessimistic about the future of the Russian economy. He noted that a great deal of capital had left Russia as part of the free economy and that the sight regions of Russia could not be managed by the Government. He said there had been a dramatic decrease in industrial productivity with some 50 percent of the machinery not being utilized.

On the political side, Judge Zorkin expressed the opinion that there was no real democracy in Russia now nor would there be in the near future because the Russian society was not sufficiently developed to have a viable democracy. He expressed his concern that the armed forces might be more active in the next election.

While in Moscow, we also met with a number of officials to discuss the proposed arrangement for scrapping Russian naval vessels at the Philadelphia Naval Yard. Our meetings included Russian Ministry of Defense officials: Col. Alexander Letunov, First Deputy to Lieutenant General Zobnin; Capt. Genadi Volkov and Col. Dimitri Rogozin; Mr. Boris Ivanov, affiliated with Russian-American Enterprises, Inc.; and Capt. Peter Galbraith and Col. Gary Rubus, of the U.S. Embassy.

Colonel Letunov advised that Russia was prepared to go forward with the sale of their ships for salvage and that it was now up to the United States to search for contracts to carry out the purchase of the Russian ships. Colonel Letunov advised that the Letter of Agreement was in effect and that it was his expectation that there would be an experiment with one ship to see if the environmental cleanup was possible; that Russia would look for the highest offer and was already dealing with other countries including Great Britain, India, Spain, Italy, Japan, Germany, Turkey, and Norway; that the other countries had not expressed the same concern about the environmental cleanup which had been insisted upon by U.S. officials; and that there are over 500 ships now on the market for sale under a presidential decree to sell the ships for hard currency.

From these meetings, it appears that the Russian officials are prepared to move ahead with this sale of Russian warships. The issue of feasibility for the environmental cleanup has yet to be determined and there is the significant open question as to whether prospective purchasers from other countries will offer more money if, in fact, those countries are not concerned about the environmental cleanup which will obviously be expensive to meet U.S. standards.

I advised the Soviet officials that a feasibility study had been undertaken by officials of the City of Philadelphia and that members of the Pennsylvania Congressional Delegation had met with ranking officials of the Department of Defense in an effort to implement the transfer of Russian warships to the Philadelphia Naval Yard for salvage purposes.

KAZAKHSTAN

Kazakhstan is a large nation stretching approximately 2,000 miles from the Caspian Sea in the west to China in the east and more than 1,000 miles in a north-south direction. The country has special significance because there are approximately 100 SS18's each with multiple warheads located in Kazakhstan. The United States has agreed to pay Kazakhstan directly under agreement for their destruction.

Kazakhstan's Foreign Minister Saydabayev stressed problems which his country was having with Russia and urged United States support to guarantee the democratic development of the Newly Independent States. He emphasized that the reputation of the United States is outstanding in the world and said that Kazakhstan needed economic aid in order to succeed with their market economy.

The Foreign Minister emphasized that Kazakhstan was proceeding with privatization as rapidly as possible. Coupons were being distributed to citizens who could then use them for purchasing housing or shops or on a collective basis for acquiring a share of larger businesses.

We met separately with a large group of businessmen who described very extensive privatization occurring in Kazakhstan. Philip Morris, for instance, had bought a tobacco factory, and Nabisco had bought a large candy factory.

One matter involved a coal project with a group known as Partners in Economic Reform, Inc. The project director, Allen Irving, described his company's efforts to help to mine coal with modern procedures including worker protection. That corporation has a distinguished board of directors including Lane Kirkland, Richard Trumka, and W.J. Usery.

We had a fascinating meeting with Defense Minister Nurmagambetov, age 70, a very distinguished soldier who had been awarded medals as Hero of the USSR and Hero of Kazakhstan. He advised that he did not think that Kazakhstan faced a military threat either from China or Russia; and that there was no threat from Islamic Fundamentalism because Kazakhstan, although significantly Moslem, was a secular society.

He reminisced about his first encounter with Americans on July 1, 1945, when Americans and Russians embraced with their forces met in Berlin. He said it was unfortunate that an era of mistrust developed after Churchill's iron curtain speech in Fulton, MO, the formation of NATO, and United States military action in Korea and Vietnam. He welcomed our visit, saying that such contacts contributed to trust and understanding.

KYRGYZSTAN

In Kyrgyzstan, the Speaker of the Parliament Sherimkulov expressed the opinion that if Boris Yeltsin could succeed on his economic reforms for 2 years, then there will be stability in Russia.

He expressed concern about the economic development in Kyrgyzstan saying it would take much longer than many had thought, that it was not a matter for 2 or 3 years, but it would take decades for the market economy to take hold.

Kyrgyzstan's Acting Foreign Minister Jekshenkulov said that his country was having substantial problems with privatization because of the absence of foreign investment. He noted that some 120,000 Russians had left Kyrgyzstan last year, weakening their country.

When asked whether Russia would succeed with democracy and a market economy, Minister Jekshenkulov expressed some concerns. He commented that he had met Zhirinovskiy in 1989 at a youth conference and that while people were disinclined to take him too seriously, he had a certain grassroots appeal because he had talked of nationalism as opposed to bureaucracy. When asked if he thought Zhirinovskiy would come to power, the Minister said that it all depends upon what Yeltsin does.

Minister for Trade Iordan acknowledged the difficulty of implementing privatization. He noted the psychology of telling people for 70 years that everything belonged to the State with the sudden change of now telling them to change to a system with private property.

UZBEKISTAN

In Uzbekistan we were scheduled to meet with three citizens who were identified as being opponents of the Government. That meeting did not take place as scheduled because, as reported by Ambassador Henry L. Clarke, two of the individuals scheduled to appear were detained by the Uzbek Government. Ambassador Clarke further advised that this type of detention prevented similar meetings during visits by then-Ambassador Strobe Talbott and with former National Security Council Adviser Zbigniew Brzezinski.

When I received Ambassador Clarke's report, I requested that he immediately notify the Ministry of Foreign Affairs. When we heard nothing later in the morning, we went to the Ministry of the Interior where we requested to see the Minister. When we were advised that he was out of the city, we reported the incident to the Chief of Staff.

Since we heard nothing until the scheduled meeting at 4 o'clock that afternoon with President Karimov, I raised the issue with President Karimov and presented him with a formal letter of protest.

President Karimov advised that there must have been some mistake and promised to investigate the matter fully. Before proceeding on other matters, President Karimov and I discussed the issue of human rights and then the prospects for free parliamentary elections in Uzbekinstan. President Karimov said that there would be elections later this year for Parliament, with the multiparty system under procedures which had been established in collaboration with the CSCE, Britain, and France.

President Karimov expressed concern about the rise of nationalism in Russia and said if nationalists found a leader, then the reforms in Russia and elsewhere in the former Soviet Union may be doomed. He noted that Zhirinovskiy says what many people in Russia think. He commented that Yeltsin used to talk of equality and the absence of any territorial claims by Russia, but that Yeltsin no longer says those things. He complained that Uzbekistan was treated very badly when under the control of the USSR which took 70 to 80 tons of gold and enormous quantities of cotton from his country each year.

On the subject of Iran and the potential expansion of Islamic Fundamentalism, President Karimov stated that his country would oppose that, but added that he was concerned about the expanding relationships between Turkmenistan and Iran.

We had a cordial meeting with Foreign Minister Saidkasymov who greeted us with the saying that "a guest is to be treated better than a father." I replied that it was a wonderful saying so long as my two sons didn't hear about it.

Uzbekistan Foreign Minister Saidkasymov said that privatization was going reasonably well in his country because Uzbekistan had a history for private activity in the past. He pointed out that in the Communist era, 50 percent of the bread came from the private sector and 80 percent of fruits and vegetables were grown on plots of land owned by individuals.

TURKMENISTAN

In Turkmenistan, our scheduled meeting with President Niyazov was not held because he was unavailable due to his late return after his 14-hour return trip from Indonesia. In the President's absence, we met with Shikh Muradov, Deputy Chief of the Cabinet of Ministers in Charge of Foreign Affairs and National Security who advised that he thought Russia would go ahead with its reform. He expressed confidence that Turkmenistan would work out its problem on shipping natural gas to Iran under an arrangement agreed to by Russia, Turkey, Iran, and Turkmenistan. He discounted any threat from Islamic Fundamentalism saying the relationship between Turkmenistan and Iran over the years would preclude fundamentalism making inroads there.

Of all the countries in the Central Asian States, Turkmenistan appears to have made the least progress toward human rights. Mr. Muradov said that security was paramount and they were not ready for democratization. The next presidential election, originally scheduled for 1997, has been rescheduled for the year 2002. This action is hardly consistent with any movement toward democratization.

Comments were made throughout the region that the Central Asian States could not be judged by U.S. standards on democracy and human rights. President Karimov summed up the regional sentiment when he said the "U.S. should help us, not push us."

HONORING CURTIS L. CARLSON

Mr. DURENBERGER. While I regret that a commitment to the health-care-giving communities in Moorhead and Duluth on July 7 makes it impossible for me to be with his family and friends on this day, I rise to salute in anticipation of their celebration the 80th anniversary of the birth of Curtis L. Carlson.

In spirit, we will celebrate with him the anniversary of his birth into the journey of life; as a celebration of the journey itself with all its joys, victories and accomplishments.

Mr. Carlson is yet another great figure in our society who began with little, yet accomplished so much. Curt Carlson rose from humble origins to seeping successes in family and business; achieving community and nationwide admiration.

As a boy in Morningside, MN, Curt subcontracted paper routes to his younger brothers and neighborhood boys while managing the largest paper route in town. In 1938 he married Arleen, whom he met while attending the University of Minnesota, and with whom he recently celebrated their 56th wedding anniversary. Working side-by-side with Arleen in the same year, he started the Gold Bond Stamp Co. in Minneapolis, signaling the beginnings of a brilliant entrepreneurial career based on the premise that incentive motivates high achievement.

The $50 he borrowed to start his first company has since grown into a multinational corporation that this year will see $11 billion in global revenue.

Curt's hospitality, marketing and travel companies and its franchises now employ 100,000 people worldwide, and he recently made an agreement that will form the largest travel company in the world.

Curt has been called a "passionate Minnesotan" with a great love for our State and the people who live and work in it. The son of Swedish immigrants, his activities have ranged back to the homeland his parents shared with thousands of his fellow Minnesotans. He has been bestowed the Medal of Honor by the King of Sweden, is a member of the Swedish Roundtable and was once named "Swedish American of the Year."

In Minnesota he involved himself with unsurpassed vigor and generosity. He was an original supporter of the Hubert H. Humphrey Institute and chaired the largest-ever private fundraising campaign for the University of Minnesota. Founded in his name was the Carlson School of Management, with Curt has promised will soon be the top management school in the Nation.

Some of his proudest accomplishments are embodied in his family, including two daughters, seven grandchildren and eight great-grandchildren. His spectacular daughters, Barbara Carlson Gage and Marilyn Carlson Nelson, vice chair of Carlson Cos., have not only grown to play vital roles in the family business, but possess the same qualities that continue to guide Curt through his long and prosperous life.

Thank you, Mr. President. I yield the floor.

STATEMENT OF THE AMERICAN JEWISH COMMITTEE ON THE PEACE PROCESS IN THE MIDDLE EAST

Mr. DODD. Mr. President, I want to commend to the attention of my colleagues a statement that was recently released by the American Jewish Committee on the subject of the Middle East peace process. The statement is a strong affirmation of the peace process and I would hope that each of my colleagues would have an opportunity to read it.

Mr. President, the peace process has not been an easy journey for the people of Israel, nor has it been without its difficulties for Israel's many supporters here in the United States. Israeli citizens continue to be the subject of ruthless and wanton terrorist attacks by extremists opposed to the accord. Delays and disagreements have continued to emerge over the agreement's interpretation and implementation. And with few exceptions, Israel's Arab neighbors refuse to recognize Israel and have maintained an economic boycott against the Jewish State.

Mr. President, the statement by the American Jewish Committee accurately takes into account the difficulties that have emerged since the peace process was begun. But equally important, the statement also offers an eloquent reminder of what is ultimately at stake in the Middle East peace process: "a new order in the Middle East in which Arab and Jew can coexist, prosper and know peace." As Israel and its supporters continue to work through the details and the dynamics of this agreement, that is an important message to keep in mind.

Mr. President, I ask unanimous consent that the statement by the American Jewish Committee appear in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE MIDDLE EAST PEACE PROCESS

STATEMENT OF THE AMERICAN JEWISH COMMITTEE—JUNE 20, 1994

The Declaration of Principles signed by Israel and the Palestine Liberation Organization on September 13, 1993, and the implementation accord concluded by the two parties on May 4, 1994, marked critical steps toward the fulfillment of Israel's long-held objective of achieving a secure peace with its Arab neighbors. The Israel-PLO accords and related documents were the first public and tangible agreements to grow out of the Middle East peace process inaugurated at Madrid by the United States and the former Soviet Union in October 1991; the success of these and future agreements in resolving key issues in the Arab-Israeli conflict will measure the ultimate ability of the peace process to change the course of Middle East history and afford Israel the security and regional acceptance it has been denied since its founding.

Two successive democratic governments of Israel, with differing views of the role of land in safeguarding security, have initiated and maintained Israel's full participation in the Middle East peace process. That they have done so, amidst vigorous domestic debate on the relative risks of compromise and status quo in Israel's relations with its Arab neighbors, reflects the deep yearning of the Israeli public for peace.

The Israeli Government's present course to peace is not without risks. Even as it negotiates with its neighbors and offers to compromise on vital security matters, Israel is subject to terrorist attacks and bellicose propaganda directed or sanctioned by Arab states; politically and economically, through persistent diplomatic isolation and the continuing Arab economic boycott, too many doors in the region remain closed to Israel. At the same time, the peace process has resulted in significant contacts across that chasm of rejectionism, with a number of Arab states engaging in a preliminary economic and political dialogue with Israel; Egypt, Israel's partner in peace since the Camp David Accords, has helped advance such dialogue, and played a generally constructive role in furthering talks between Israel and the PLO. But the Arab world's overall response to, and support for, the peace process has been disappointingly tentative, contrary to the interests of the region as a whole.

Although the peace process has only begun to yield agreements between Israel and its negotiating partners—with initial accords with the Palestinians and new understandings on economic relations with Jordan, but little evidence of movement on the Syrian track—Israel has, nevertheless, reaped substantial benefits from the negotiating process. Israel's diplomatic horizons have widened considerably; more than 40 states have established or renewed relations with Israel since the Madrid conference. New economic ties, encouraged by political change and the prospect of greater stability in the Middle East, have yielded mutually beneficial links between Israel and a growing number of states. In the United Nations General Assembly and other UN bodies, the peace process has begun to break down the wall of hostility erected by the Arab states and maintained by decisive majorities in world forums since 1967, opening a new, if belated, era of international acceptance.

Israel is waging its campaign for peace on many fronts: internally, in disputes over the pace and terms of agreements, as the Government seeks to allay public concerns over the long-term viability of present formulations for peace; in the self-rule areas, where armed Palestinian factions challenge the authority of PLO administrators, and throughout the territories, where Jewish settlers and Israeli troops remain at risk; and internationally, as it pursues negotiations with the Arab states while expanding its circle of political and economic interaction outside the region, both gaining from and contributing to the universal advance of democracy, technology and free markets. As Israel's campaign for peace advances, obstacles and threats persist. Ceaseless terrorist activity continues in southern Lebanon, unchecked by a weak government in Beirut. A cautious monarchy in Jordan makes tentative gestures toward peace, and a recalcitrant leadership in Syria signals a desire for peace while standing back from concessions at the bargaining table and providing a haven for terrorists. Elsewhere in the region, radical Islamic forces bent on Israel's destruction continue to make advances, and the relentless pursuit by Iran, Iraq, Libya and others of non-conventional weapons that would put Israel and the entire region at peril continues unabated.

The American Jewish Committee, cognizant of the risks in any peace process but convinced of the fundamental merit of the present undertaking, strongly supports Israel is this vital campaign for peace. In our view, there is no viable, long-term alternative to reconciliation with the Arab world in which Israel's security needs are recognized and assured. In that context, we affirm our belief that a settlement to the Arab-Israeli conflict, negotiated under the present framework, must maintain an undivided Jerusalem as the eternal capital of Israel and the capital of no other state.

The American Jewish Committee applauds the Government of Israel for its bold pursuit of the deepest desire of the Israeli citizenry since the founding of the Jewish state—to live in peace. We know that many of the risks Israel takes in this difficult but essential process can only be offset by the actions of others:

The PLO, having pledged to renounce terror against Israel, must honor that commitment and enforce the laws of civil society in the self-rule areas it controls in accordance with its agreements with Israel; must establish democratic institutions and practices to strengthen the foundation for political and economic progress; must fulfill its pledge to eliminate language in its charter that calls for the destruction of Israel; and must abide by agreed timetables to defer certain long-term issues—including the rights of Palestinian inhabitants of Jerusalem, the final status of the territories, and refugees—until after the present negotiated period of confidence-building.

Syria, Jordan and Lebanon must demonstrate their commitment to full peace treaties with Israel, cease support for and halt the activities of terrorists operating openly in their midst, and accelerate their engagement in negotiations.

The Arab world and Muslim governments in general must cease the costly and counterproductive economic boycott of Israel and enter a new era of normalized relations.

The international community must reward those who work for peace in the Middle East as it guards against state-sponsored terrorism, the proliferation of weapons of mass destruction in the hands of unstable regimes often headed by radical elements, and the advance of Islamic extremism and the social and political conditions that fuel it. In that regard, international assistance for Palestinian development in the self-rule areas is needed to build the economic base for political stability. The United Nations has a particular obligation to strike down political resolutions adopted over the years and continually reintroduced that are hostile to Israel and inimical to the cause of peace in the Middle East.

The United States, Israel's partner in democracy and long-term strategic ally, has played the central role in creating the global and regional climate for resolution of the Arab-Israeli conflict, and in structuring the framework for bilateral and multilateral talks. American leadership in the pursuit of peace in the Middle East is positive, principled and irreplaceable. American steadfastness in friendship and support buttresses Israel's resolve—and minimizes its risks—as the peace process advances.

Conceived in Jerusalem and Washington, and nurtured in world capitals from Madrid to Moscow, Oslo to Cairo, the Middle East peace process has altered the landscape of a troubled region and raised the hopes and expectations of its inhabitants. The American Jewish Committee, in strong support of a negotiated settlement that will end the Arab-Israeli conflict and fulfill those hopes, commends the sponsors of the peace process; we share their vision, and that of Israel, for a new order in the Middle East in which Arab and Jew can coexist, prosper and know peace.

Adopted by the Board of Governors, June 20, 1994.

EXPLANATION FOR ABSENCE

Mr. DODD. Mr. President, I wanted to let my constituents and colleagues know that I was necessarily absent last week due to a serious illness in my family.

ANTI-BALLISTIC MISSILE TREATY

Mr. PELL. Mr. President, I am very pleased that an agreement was reached on a modification to Senator WARNER's amendment regarding the Anti-Ballistic Missile Treaty. I appreciate his willingness to accommodate the concerns raised by members of the Foreign Relations Committee.

The amendment, as modified, underscores the Senate's constitutionally mandated role in the treaty process. It reinforces my view, and I believe the view of many of my colleagues, that any substantive modification or reinterpretation of the ABM Treaty would require Senate approval. This is the appropriate position for the Senate to take.

Mr. President, this is not a partisan issue. I raised the same concerns in January, when I wrote the President regarding proposals his administration was making with respect to the ABM Treaty as follows:

> The proposed changes raise issues regarding the relationship between the Senate and the Executive Branch with respect to treaty making and interpretation. In particular, questions arise as to the proper role of the Senate in the event that the United States and Russia were to agree to change the Treaty and whether the proposed changes would reverse an interpretive understanding reached between the Senate and the Executive Branch when the Treaty was ratified.

Mr. President, the issue at hand is the role of this institution in the treaty-making process. I urge my colleagues to support a strong and appropriate Senate role by supporting this amendment.

FACES OF THE HEALTH CARE CRISIS

Mr. RIEGLE. Mr. President, I rise again today in my continuing effort to put real faces on the health care crisis confronting our country. I want to tell you about Ruth Ristola a 56-year-old woman from Ontonagon, a small town located in the Upper Pennisula of Michigan.

Ruth's health has suffered as a result of chronic respiratory problems ever since her childhood bouts with pleurisy and whooping cough. She now struggles with asthma, environmental sensitivities, and recurring episodes of pneumonia. Her fragile health has made it impossible for her to find affordable insurance, and crucial surgery has left her thousands of dollars in debt and dependent on government assistance to live.

Ruth and her children first lost their insurance coverage in 1978. That year, her husband filed for divorce and Ruth and her two children, then age 11 and 16, were refused continued coverage under his comprehensive health insurance policy. Ruth lost everything in the divorce except her home, which she subsequently sold on a land contract. Because her ex-husband did not pay his court-ordered child support, the land contract payments of $660 month provided the family's only income.

In the 15 years since then, Ruth has tried several times to purchase health insurance for herself and her children. In 1980, she bought an affordable health insurance policy that provided minimal benefits. But the company canceled her policy just 2 months later when she filed her first claim, because they did not want to cover treatment for her respiratory conditions.

Fortunately, her children were healthy and Ruth was able to manage the usual childhood illnesses and injuries. However, it was not always easy. Ruth recalls when one of her children had a tooth knocked out—she had to hold a garage sale just to raise enough money to have her child's mouth examined.

Ruth, however, faced far more serious and costly health problems. From November 1981 to July 1983, Ruth incurred $25,000 of hospital bills for emergency services, inpatient treatment and outpatient therapy for pneumonia and other respiratory problems. That's an average of $1,250 every month.

Because she did not have health insurance, Ruth was forced to drain her modest savings, and then make monthly payments against this substantial debt. These payments, combined with her asthma prescription drug costs, consumed 30 percent of Ruth's total monthly income. Almost 2 years later, in June 1985, she received a lump sum final payment on her house and used it to pay the hospital the remaining $16,000 she owed.

Later that summer, she tried again to purchase individual insurance through Blue Cross Blue Shield. They offered her a premium of $400 per month, and they would not cover any pre-existing conditions for the first 2 years. Clearly, this kind of coverage was neither affordable nor useful, and so Ruth was still without insurance coverage.

Unfortunately, Ruth faced further medical problems the very next year. She had an emergency appendectomy in October 1986, during which surgeons discovered both a calcium-filled gall bladder and a large uterine tumor. Sadly, Ruth had to have a hysterectomy, and have her gall bladder removed. In order to pay her $10,000 hospital bill, she had to spend the rest of her house sale income.

Her savings now completely gone and without further resources, Ruth finally turned to the State in 1988. Michigan does not offer cash assistance, but she did qualify for limited outpatient medical and drug coverage, as well as food stamps and subsidized housing. However, Ruth's State assistance did not cover any inpatient hospital care, so she continued to go without complete insurance protection.

Ruth faced more surgery in 1992 when her scar tissue from the previous operation herniated. As a result of this operation, Ruth cannot lift or move anything weighing more than 25 pounds without potentially tearing her abdominal wall. After Ruth's surgery, the hospital waived all their charges except for the surgeon's fees, so she is back to paying $20 a month on a bill of $1,400.

Ruth's health conditions and her need for government provided health insurance limit her work options, but she continues to work as much as she can. Because her lungs function better in the clean air of Michigan's Upper Peninsula, Ruth has made a conscious decision not to move to larger towns even though they offer better employment opportunities. Since 1989, Ruth has worked as manager and curator of a small museum through a local nonprofit organization, which does not offer health insurance. So Ruth's income for full-time work is limited to just $2,400 a year—because to make more would mean losing her State medical coverage. She has had to make a choice that too many Americans face: she must remain poor to have access to medical care.

Ruth is a proud and independent woman who has raised two fine children under the most difficult of circumstances. She has spent over $47,000, or 64 percent of her total income for the last 14 years on medical and hospital debts. These costs have required her to raise her children on less than $2,000 a year.

Mr. President, our present health care system has failed this woman and her family. Her chronic medical frailties have left her uninsurable, taken all of her resources and forced her to remain poor, all because we do not guarantee every American affordable coverage. Pre-existing condition exclusions and high prices for individual coverage leave mothers like Ruth no alternative but impoverishment and overwhelming debt. I will work with my colleagues here in the Senate to ensure that we help individuals like Ruth, this year, with comprehensive health care reform legislation.

ON THE INDEPENDENT COUNSEL PANEL

Mr. FAIRCLOTH. Mr. President, late this afternoon—only minutes before 5 o'clock on a Friday afternoon preceding a holiday weekend—Attorney General Janet Reno petitioned the Independent Counsel Panel of the U.S. Court of Appeals to name Robert Fiske as independent counsel in the Whitewater affair.

Earlier in the day I sent a letter by courier to Ms. Reno, asking that she not do that. Instead, I asked her to recommend that a truly independent counsel be named.

Mr. President, I ask unanimous consent that that letter be included in the RECORD at this time.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 1, 1994.

Hon. JANET RENO,
Attorney General of the United States, U.S. Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL RENO: As you know, the President yesterday signed into law the reauthorization of the Independent Counsel Act. In signing it, he referred to the act as "foundation stone for the trust between the government and our citizens."

In your attached letter to me of January 11, 1994, in which you outlined your opposition to appointing a special counsel, you wrote that "Any such counsel appointed by me would not be regarded as truly independent . . ."

Now that the Independent Counsel Act has been reauthorized, given the appearance of not being truly independent which you referenced, it would be higly improper for you to recommend to the Independent Counsel Panel of the U.S. Court of Appeals that the current special counsel, Robert Fiske, be appointed Independent Counsel.

The "Washington Post" put it well when it said that "Its purpose is to ensure investigations free from political interference or the appearance of such interference." However, you put it best when you told me in your November 4, 1993 testimony to the Senate Banking Committee, ". . . I support that in every way possible to avoid any appearance of conflict . . ."

Further, in addition to appearances, very real questions about Mr. Fiske's independence have been raised. Prior to your appointment of him as special counsel, Mr. Fiske collaborated on at least one high-level Clinton appointment—The Director of the FBI, who is now overseeing criminal investigations involving a number of Clinton Administration officials.

Mr. Fiske also enjoyed a professional relationship with Bernard Nussbaum former White House Legal Counsel and current subject of the Fiske probe—which included Mr. Nussbaum referring clients to Mr. Fiske, Mr. Nussbaum recommending Mr. Fiske for a job with former Iran/Contra prosecutor Lawrence Walsh, and Mr. Nussbaum and Mr. Fiske being involved on the same side in at least two legal cases.

Mr. Fiske also collaborated with the President's Lawyer, Robert Bennett, in the defense of Clark Clifford and Robert Altman in the BCCI case. As you know, your Deputy Attorney General, Jamie Gorelick also attempted to get the money to pay Mr. Fiske's and Mr. Bennett's bills from the trustee of First American/BCCI. Further, BCCI has been implicated in various allegations surrounding the Whitewater affair, including allegations concerning possible illegal activities in Mena, Arkansas, and questionable activities surrounding the Arkansas Development Finance Authority.

I am also told that Mr. Fiske served as legal counsel to the firm which initially sold the land to the Clinton's Whitewater partnership, a possible conflict of interest which many obviously find quite troubling.

Given both the appearance of lack of independence which you referenced, and the relationship between Mr. Fiske and the Clinton Administration, Mr. Fiske should not be appointed Independent Counsel. While a new, truly independent counsel, might choose to retain Mr. Fiske in some capacity in order to insure continuity, his appointment as Independent Counsel would guarantee that the current cloud of doubt and suspicion hanging over his appointment would remain.

Therefore, I urge you not to recommend the appointment of Robert Fiske as Independent Counsel, and I urge you to actively encourage the Independent Counsel Panel of the U.S. Court of Appeals to appoint a new, truly independent, counsel that will enjoy the confidence of those who seek truth and justice, regardless of party.

Sincerely,

LAUCH FAIRCLOTH,
U.S. Senate.

Mr. FAIRCLOTH. Mr. President, very real questions about Mr. Fiske's independence have been raised. Prior to his appointment as special counsel, Mr. Fiske collaborated on at least one high-level Clinton appointment—the Director of the FBI, who is now overseeing criminal investigations involving a number of Clinton administration officials.

Mr. Fiske also enjoyed a professional relationship with Bernard Nussbaum—former White House Legal Counsel and current subject of the Fiske probe—which included Mr. Nussbaum referring clients to Mr. Fiske. Mr. Nussbaum also recommended Mr. Fiske for a job with former Iran/Contra prosecutor Lawrence Walsh, and Mr. Nussbaum and Mr. Fiske have been involved on the same side in at least two legal cases.

Robert Fiske also collaborated with the President's lawyer, Robert Bennett, in the defense of Clark Clifford and Robert Altman in the BCCI case. Deputy Attorney General Jamie Gorelick also attempted to get the money to pay Mr. Fiske's and Mr. Bennett's bills from the trustee of First American/BCCI.

Further, Mr. President, BCCI has been implicated in various allegations surrounding the Whitewater affair, including allegations concerning possible illegal activities in Mena, AR, and questionable activities surrounding the Arkansas Development Finance Authority.

I am also told that Mr. Fiske served as legal counsel to the firm which initially sold the land to the Clinton's Whitewater partnership, a possible conflict of interest which many obviously find quite troubling.

Mr. President, given the relationship between Mr. Fiske and the Clinton administration, Mr. Fiske should not be appointed independent counsel. While a new, truly independent counsel, might choose to retain Mr. Fiske in some capacity in order to insure continuity, his appointment as independent counsel would guarantee that the current cloud of doubt and suspicion hanging over his appointment would remain.

Therefore, I urge the Independent Counsel Panel of the U.S. Court of Appeals to appoint a new, truly independent, counsel that will enjoy the confidence of those who seek truth and justice, regardless of party.

PROGRESS TOWARDS PEACE IN GUATEMALA

Mr. LEAHY. Mr. President, for over 40 years the cold war cast its shadow over Central America. In Guatemala, government forces and the Guatemalan

National Revolutionary Unity [URNG] have been engaged in a bloody conflict dating to the early 1960's. It is the longest civil conflict in the Western Hemisphere.

During this period, tens of thousands of people have been killed, tortured and disappeared. The majority were civilians. Many were Mayan Indians, who were caught in the middle of a war in which they were victimized by both sides.

In recent years, attempts have been made to bring this tragic conflict to an end. Negotiations between the parties have been sporadic, but until this year there was little progress.

On March 29 in Olso, Norway, in a dramatic breakthrough, a Human Rights accord was agreed to by the Guatemalans to prevent future violations of human rights. Then on June 17, the parties signed an accord to deal with the return of refugees and other displaced persons who had lost or left their homes during the struggle. Following that, another accord was signed on June 23, establishing a commission to address the human rights abuses.

This is a historic achievement of all the Guatemalan people, and a positive sign for future United States relations with Guatemala. United Nations mediator Jean Arnault deserves great credit for his pivotal role in assisting the parties to reach these agreements. His fairness and skill were recognized by both parties who selected him to be the sole international member of the human rights commission, with two other people he will select with the approval of the parties.

The United States is also involved in supporting the process as a member of the group of countries that are friends of the peace process in Guatemala. Along with representatives from Colombia, Mexico, Spain, Norway, and Venezuela, the administration assisted in reaching agreement by meeting with the parties between negotiating sessions to review the issue and to help search for common ground.

This agreement should encourage those who seek a peaceful resolution of the conflict in neighboring Chiapas, Mexico, as well as reason to hope that progress towards lasting peace in El Salvador and Nicaragua will continue.

I also want to congratulate Guatemalan President De Leon Carpio, who has achieved that none of his predecessors were able to do. The leaders of the URNG also deserve praise. I urge both parties to finalize these accords before the year's end.

I also want to emphasize that we must not forget the thousands of people who died in this conflict and those who were forced to flee their homes. There are 40,000 refugees of Mayan descent living in squalid camps in the south of Mexico. Every effort must be made to enable these people to return to their homes without fear, as soon as possible. I will be among those who will be closely watching how the peace accords are implemented.

The talks are scheduled to resume in the near future. The agenda is ambitious. The series of topics to be covered will include various socioeconomic issues and the status of the agricultural sector, strengthening of civilian government and the Army's role in a democratic society, and the integration of the URNG into the country's political life. The goal is to deal with these issues by the end of the year, as well as negotiate a ceasefire and plans for demobilization of combatants.

Mr. President, I again want to congratulate the parties and all those involved in these very encouraging developments towards peace in Guatemala.

THE DEATH OF "MAMA" LUCY LOPEZ

Mr. BINGAMAN. Mr. President, I rise today on the occasion of the loss of one of New Mexico's great citizens, "Mama" Lucy Lopez of Los Vegas, New Mexico.

Known throughout NM as Mama Lucy, Mrs. Lopez was a mother of six, and ran the Plaza Hotel and a restaurant in historic west Las Vegas. Among her children is Jesus Lopez who carries on the family involvement in politics as the Chair of the San Miguel County Democratic Party. Mama Lucy's was long a required stop for politicians campaigning in northern New Mexico and no one who visited, including many students from the local university, left with an empty stomach or without being touched by the warmth of this woman. Like many northern New Mexicans of her time, Mama Lucy had been through difficult times, but her boundless kindness, spirit and zest for life saw her and those around her through the tough times.

Mama Lucy became a symbol for many of the political changes that swept New Mexico in the early 1970's. A progressive movement was begun at her restaurant, led by young politicians who got their start talking around a home cooked meal. Their vision has helped move New Mexico in the direction of change. They would be the first to acknowledge the contributions of this wonderful woman.

Mr. President while the occasion of the death of Mama Lucy is sad, she will always be remembered for the kindness and warmth that she showed to all. She will be missed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. NUNN. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1021, 1022, 1023, 1024, 1026, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1034, 1035, 1036, 1037, 1038, 1039, 1040, and all nominations placed on the secretary's desk in the Foreign Service.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that upon confirmation, the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

FEDERAL ELECTION COMMISSION

Lee Ann Elliott, of Virginia, to be a Member of the Federal Election Commission for a term expiring April 30, 1999. (Reappointment)

Danny Lee McDonald, of Oklahoma, to be a Member of the Federal Election Commission for a term expiring April 30, 1999. (Reappointment)

DEPARTMENT OF STATE

David M. Ransom, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Bahrain.

Joseph Edward Lake, of Texas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Albania.

Ronald E. Neumann, of Virginia, of a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic and Popular Republic of Algeria.

Mary Ann Casey, of Colorado, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Tunisia.

Raymond Edwin Mabus, Jr., of Mississippi to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Saudi Arabia.

George Charles Bruno, of New Hampshire, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belize.

Elizabeth Frawley Bagley, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Portugal.

Brian J. Donnelly, of Massachusetts, to be Ambassador Extraordinary and Extraordinary and Plenipotentiary of the United States of America to Trinidad and Tobago.

Clay Coinstantinou, of New Jersey, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Luxembourg.

INTER-AMERICAN FOUNDATION

Maria Otero, of the District of Columbia, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 1994.

Maria Otero, of the District of Columbia, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 2000. (Reappointment)

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

Michael Marek, of Illinois, to be United States Alternate Executive Director of the International Bank for Reconstruction and Development for a term of two years.

AFRICAN DEVELOPMENT FOUNDATION

Ernest Gideon Green, of the District of Columbia, to be a Member of the Board of Directors of the African Development Foundation for the remainder of the term expiring September 22, 1995.

DEPARTMENT OF THE TREASURY

Ronald K. Noble, of New York, to be Under Secretary of the Treasury for Enforcement. (New Position)

DEPARTMENT OF LABOR

Cynthia A. Metzler, of the District of Columbia, to be an Assistant Secretary of Labor. (New Position)

DEPARTMENT OF EDUCATION

Fredric K. Schroeder, of New Mexico, to be Commissioner of the Rehabilitation Services Administration, Department of Education.

NATIONAL SCIENCE FOUNDATION

Anne C. Petersen, of Minnesota, to be Deputy Director of the National Science Foundation.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Judith O. Rubin, of New York, to be a Member of the National Council on the Arts for a term expiring September 3, 1998.

Colleen Jennings-Roggensack, of Arizona, to be a Member of the National Council on the Arts for a term expiring September 3, 1996.

Rachel Worby, of West Virginia, to be a Member of the National Council on the Arts for a term expiring September 3, 1998.

John Haughton D'Arms, of Michigan, to be a Member of the National Council on the Humanities for a term expiring January 26, 2000.

Darryl J. Gless, of North Carolina, to be a Member of the National Council on the Humanities for a term expiring January 26, 1998.

Ramon A. Gutierrez, of California, to be a Member of the National Council on the Humanities for a term expiring January 26, 2000.

Charles Patrick Henry, of California, to be a Member of the National Council on the Humanities for a term expiring January 26, 2000.

Thomas Cleveland Holt, of Illinois of be a Member of the National Council on the Humanities for the remainder of the term expiring January 26, 1998.

Martha Congleton Howell, of New York, to be a Member of the National Council on the Humanities for a term expiring January 26, 2000.

Nicolas Kanellos, of Texas, to be a Member of the National Council on the Humanities for a term expiring January 26, 2000.

Bev Lindsey, of Arkansas, to be a Member of the National Council on the Humanities for a term expiring January 26, 2000.

Robert I. Rotberg, of Massachusetts, to be a Member of the National Council on the Humanities for a term expiring January 26, 2000.

Harold K. Skramstad, of Michigan, to be a Member of the National Council on the Humanities for a term expiring January 26, 2000.

IN THE FOREIGN SERVICE

Foreign Service nominations beginning Arthur F. Salvaterra, and ending Bruce T. Muller, M.D., which nominations were received by the Senate and appeared in the Congressional Record of May 24, 1994.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

MODIFICATION OF THE JOHN HEINZ SENATE FELLOWSHIP PROGRAM

Mr. NUNN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 238, a resolution to modify certain provisions of the John Heinz Senate Fellowship Program submitted earlier today by myself, Senator DOLE, Senator WOFFORD, and others; that the resolution be agreed to, the motion to reconsider be laid upon the table; further, that any statements thereon appear in the RECORD at the appropriate place, as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 238) was agreed to as follows:

S. RES. 238

Resolved, That Senate Resolution 356, agreed to October 7, 1992 (102d Congress, 2d Session) is amended by striking sections 2 through 5 and inserting the following:

"SEC. 2. FINDINGS.

"The Senate finds that—

"(1) Senator John Heinz believed that Congress has a special responsibility to serve as the guardian for those who cannot protect themselves;

"(2) Senator Heinz dedicated much of his congressional career to improving the lives of senior citizens and children;

"(3) it is especially appropriate to honor the memory of Senator Heinz through the creation of a Senate fellowship program which encourages the identification and training of new leadership in child protection, health, welfare, and education policy and which brings experts having firsthand experience in children's issues to the assistance of Congress in order to help advance the development of public policy in issues that affect children; and

"(4) as Senator Heinz was an outspoken advocate for rights of the older Americans, it is fitting to recognize his legacy by fostering the professional development of those who, like Senator Heinz, seek to enhance the quality of life for seniors and by bringing experts with firsthand experience in issues concerning the elderly to the assistance of Congress to help formulate legislation affecting seniors.

"SEC. 3. FELLOWSHIP PROGRAM.

"(a) IN GENERAL.—In order to encourage the identification and training of new leadership in issues affecting children and seniors and to advance the development of public policy with respect thereto, there is established a John Heinz Senate Fellowship Program (referred to in this resolution as the "fellowship program"). The fellowship program shall, in alternate years, provide for the selection of fellows experienced in working with issues relating to children or the elderly.

"(b) SENATE FELLOWSHIPS.—The Heinz Family Foundation, a Pennsylvania nonprofit corporation, shall select Senate fellowship program participants.

"(c) SELECTION PROCESS.—The Heinz Family Foundation shall—

"(1) broadly publicize the availability of the fellowship program;

"(2) develop and administer an application process for Senate fellowships;

"(3) conduct a screening of applicants for the fellowship program; and

"(4) select participants without regard to race, color, religion, sex, national origin, age, or disability.

"SEC. 4. COMPENSATION; NUMBER OF FELLOWSHIPS; PLACEMENT.

"(a) COMPENSATION.—The Secretary of the Senate (referred to in this resolution as the "Secretary") is authorized, from funds made available under section 5, to appoint and fix the compensation of each eligible participant selected under section 3 for a period determined by the Secretary. The period of employment for each participant shall not exceed 1 year.

"(b) NUMBER OF FELLOWSHIPS.—No more than 2 fellowship participants shall be so employed during each calendar year. Any individual appointed pursuant to this resolution shall be subject to all laws, regulations and rules in the same manner and to the same extent as any other employee whose pay is disbursed by the Secretary of the Senate.

"(c) PLACEMENT.—The Secretary, after consultation with the Majority Leader and Minority Leader of the Senate, shall assist with the placement of eligible participants in positions in the Senate that are, within practical considerations, supportive of the fellowship participants' areas of expertise. Fellows shall be considered as employees of the office or committee in which they are placed.

"SEC. 5. FUNDS.

"The funds necessary to compensate eligible participants under this resolution shall be made available for five years to the Secretary and paid from the contingent fund of the Senate, out of the account of Miscellaneous Items. Not to exceed $71,000 shall be available for each year of the fellowship program.

"SEC. 6. EFFECTIVE DATE.

"The fellowship program shall terminate 5 years from the date of adoption of this section.".

Mr. MITCHELL. Mr. President, the purpose of this resolution is to make minor modifications to Senate Resolution 356, a resolution agreed to by the Senate on October 7, 1992, to establish the John Heinz Senate Fellowship Program.

Under this program, individuals are selected to work for up to 1 year in the offices of Senators or Senate committees. These fellowship participants are selected on the basis of their expertise in issues affecting children or the elderly. As stated in the "Findings" of Senate Resolution 346, "Senator Heinz dedicated much of his congressional career to improving the lives of senior citizens and children."

The submitted resolution technically conforms the original authorizing resolution with certain laws that may relate to the employment of program participants.

FEDERAL ACQUISITION STREAMLINING ACT

Mr. NUNN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on (S. 1587) a bill to revise and streamline the acquisition laws of the Federal Government, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1587) entitled "An Act to revise and streamline the acquisition laws of the Federal Government, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Acquisition Improvement Act of 1994".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—CONTRACT FORMATION

Subtitle A—Competition Statutes

PART I—ARMED SERVICES ACQUISITIONS

SUBPART A—COMPETITION REQUIREMENTS

Sec. 1001. References to Federal Acquisition Regulation.
Sec. 1002. Establishment or maintenance of alternative sources of supply.
Sec. 1003. Clarification of approval authority for use of procedures other than full and open competition.

SUBPART B—PLANNING, SOLICITATION, EVALUATION, AND AWARD

Sec. 1011. Source selection factors.
Sec. 1012. Solicitation provision regarding evaluation of purchase options.
Sec. 1013. Prompt notice of award.
Sec. 1014. Post-award debriefings.
Sec. 1015. Protest file.
Sec. 1016. Agency decisions on protests.
Sec. 1017. Award of multiple contracts.

SUBPART C—KINDS OF CONTRACTS

Sec. 1021. Repeal of requirement for secretarial determination regarding use of cost type or incentive contract.

SUBPART D—MISCELLANEOUS PROVISIONS FOR THE ENCOURAGEMENT OF COMPETITION

Sec. 1031. Repeal of requirement for annual report by advocates for competition.

PART II—CIVILIAN AGENCY ACQUISITIONS

SUBPART A—COMPETITION REQUIREMENTS

Sec. 1051. References to Federal Acquisition Regulation.
Sec. 1052. Establishment or maintenance of alternative sources of supply.
Sec. 1053. Clarification of approval authority for use of procedures other than full and open competition.

SUBPART B—PLANNING, SOLICITATION, EVALUATION, AND AWARD

Sec. 1061. Solicitation, evaluation, and award.
Sec. 1062. Solicitation provision regarding evaluation of purchase options.
Sec. 1063. Prompt notice of award.
Sec. 1064. Post-award debriefings.
Sec. 1065. Protest file.
Sec. 1066. Agency decisions on protests.
Sec. 1067. Award of multiple contracts.

SUBPART C—KINDS OF CONTRACTS

Sec. 1071. Repeal of agency head determination regarding use of cost type or incentive contract.
Sec. 1072. Multiyear contracting authority.
Sec. 1073. Severable services contracts crossing fiscal years.

PART III—ACQUISITIONS GENERALLY

Sec. 1091. Policy regarding consideration of contractor past performance.
Sec. 1092. Repeal of requirement for annual report on competition.
Sec. 1093. Discouragement of nonstandard contract clauses.

Subtitle B—Truth in Negotiations

PART I—ARMED SERVICES ACQUISITIONS

Sec. 1201. Stabilization of dollar threshold of applicability.
Sec. 1202. Exceptions to cost or pricing data requirements.
Sec. 1203. Right of United States to examine contractor records.
Sec. 1204. Consistency of time references.
Sec. 1205. Repeal of superseded provision.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 1251. Revision of civilian agency provisions to ensure uniform treatment of cost or pricing data.
Sec. 1252. Repeal of obsolete provision.

Subtitle C—Research and Development

Sec. 1301. Competition requirement for awards of grants and contracts to nonprofit organizations.

Subtitle D—Procurement Protests

PART I—PROTESTS TO THE COMPTROLLER GENERAL

Sec. 1401. Protest defined.
Sec. 1402. Review of protests and effect on contracts pending decision.
Sec. 1403. Decisions on protests.
Sec. 1404. Regulations.

PART II—PROTESTS IN PROCUREMENTS OF AUTOMATIC DATA PROCESSING

Sec. 1431. Revocation of delegations of procurement authority.
Sec. 1432. Authority of the General Services Administration Board of Contract Appeals.
Sec. 1433. Periods for certain actions.
Sec. 1434. Dismissals of protests.
Sec. 1435. Award of costs.
Sec. 1436. Dismissal agreements.
Sec. 1437. Matters to be covered in regulations.
Sec. 1438. Definition of protest.
Sec. 1439. Oversight of acquisition of automatic data processing equipment by Federal agencies.

Subtitle E—Policy, Definitions, and Other Matters

PART I—ARMED SERVICES ACQUISITIONS

Sec. 1501. Congressional defense procurement policy.
Sec. 1502. Definitions.
Sec. 1503. Delegation of procurement functions.
Sec. 1504. Determinations and decisions.
Sec. 1505. Restrictions on undefinitized contractual actions.
Sec. 1506. Repeal of requirement relating to production special tooling and production special test equipment.
Sec. 1507. Regulations for bids.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 1551. Definitions.
Sec. 1552. Delegation of procurement functions.
Sec. 1553. Determinations and decisions.
Sec. 1554. Repeals.
Sec. 1555. Cooperative purchasing.

TITLE II—CONTRACT ADMINISTRATION

Subtitle A—Contract Payment

PART I—ARMED SERVICES ACQUISITIONS

Sec. 2001. Contract financing.
Sec. 2002. Repeal of vouchering procedures section.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 2051. Contract financing.

PART III—ACQUISITIONS GENERALLY

Sec. 2061. Interest penalty on contract closeout lag-time.

Subtitle B—Cost Principles

PART I—ARMED SERVICES ACQUISITIONS

Sec. 2101. Allowable contract costs.
Sec. 2102. Repeal of authority for contract profit controls during emergency periods.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 2151. Allowable contract costs.
Sec. 2152. Revision of cost principle relating to entertainment, gift, and recreation costs for contractor employees.

PART III—ACQUISITIONS GENERALLY

Sec. 2161. Travel expenses of government contractors.

Subtitle C—Audit and Access to Records

PART I—ARMED SERVICES ACQUISITIONS

Sec. 2201. Consolidation and revision of authority to examine records of contractors.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 2251. Authority to examine records of contractors.

Subtitle D—Cost Accounting Standards

Sec. 2301. Repeal of obsolete deadline regarding procedural regulations for the Cost Accounting Standards Board.

Subtitle E—Administration of Contract Provisions Relating to Price, Delivery, and Product Quality

Sec. 2401. Clarification of provision relating to quality control of certain spare parts.
Sec. 2402. Contractor guarantees regarding weapon systems.

Subtitle F—Claims and Disputes

Sec. 2501. Certification of contract claims.
Sec. 2502. Shipbuilding claims.

TITLE III—MAJOR SYSTEMS AND SERVICE SPECIFIC STATUTES

Subtitle A—Major Systems Statutes

Sec. 3001. Weapon development and procurement schedules.
Sec. 3002. Selected Acquisition Report requirement.
Sec. 3003. Unit cost report requirement.
Sec. 3004. Requirement for independent cost estimate and manpower estimate before development or production.
Sec. 3005. Baseline description.
Sec. 3006. Repeal of requirement for competitive prototyping for major programs.
Sec. 3007. Repeal of requirement for competitive alternative sources for major programs.

Subtitle B—Testing Statutes

Sec. 3011. Authorization of less than full-up testing.
Sec. 3012. Limitation on quantities to be procured for low-rate initial production.
Sec. 3013. Operational test and evaluation of defense acquisition programs.

Subtitle C—Civil Reserve Air Fleet

Sec. 3021. Definition of contractor.
Sec. 3022. Consolidation of provisions relating to contractual commitment of aircraft.
Sec. 3023. Use of military installations by contractors.

Subtitle D—Miscellaneous

Sec. 3051. Regulations on procurement, production, warehousing, and supply distribution functions.
Sec. 3052. Repeal of requirements regarding product evaluation activities.

Sec. 3053. Codification and revision of limitation on lease of vessels, aircraft, and vehicles.

Sec. 3054. Repeal of application of Public Contracts Act to certain naval vessel contracts.

TITLE IV—SIMPLIFIED ACQUISITION THRESHOLD AND SOCIOECONOMIC, SMALL BUSINESS, AND MISCELLANEOUS LAWS

Subtitle A—Simplified Acquisition Threshold

PART I—ESTABLISHMENT OF THRESHOLD

Sec. 4001. Establishment of simplified acquisition threshold.

Sec. 4002. Federal acquisition computer network architecture.

Sec. 4003. Implementation in Armed Services.

Sec. 4004. Implementation in civilian agencies.

PART II—SIMPLIFICATION OF PROCEDURES

Sec. 4011. Procedures for purchases below micro-purchase threshold.

Sec. 4012. Procurement notice.

Sec. 4013. GAO test and report on performance of simplified acquisition threshold.

PART III—INAPPLICABILITY OF LAWS TO ACQUISITIONS NOT IN EXCESS OF SIMPLIFIED ACQUISITION THRESHOLD

SUBPART A—GENERALLY

Sec. 4021. Inapplicability of future enacted procurement laws to contracts not exceeding the simplified acquisition threshold.

SUBPART B—ARMED SERVICES ACQUISITIONS

Sec. 4031. Inapplicability of certain provisions of law.

Sec. 4032. Conforming amendments relating to inapplicability of certain provisions of law.

SUBPART C—CIVILIAN AGENCY ACQUISITIONS

Sec. 4041. Inapplicability of certain provisions of law.

Sec. 4042. Conforming amendments relating to inapplicability of certain provisions of law.

SUBPART D—ACQUISITIONS GENERALLY

Sec. 4051. Conformance of certain procurement integrity requirements.

Sec. 4052. Inapplicability of the Drug-Free Workplace Act of 1988.

PART IV—CONFORMING AMENDMENTS

Sec. 4071. Armed Services acquisitions.

Sec. 4072. Civilian agency acquisitions.

Sec. 4073. Office of Federal Procurement Policy Act.

PART V—REVISION OF REGULATIONS

Sec. 4081. Revision required.

Subtitle B—Socioeconomic and Small Business Laws

Sec. 4101. Small business provisions.

Sec. 4102. Payment protections for subcontractors and suppliers.

Sec. 4103. Extension of test program for negotiation of comprehensive small business subcontracting plans.

Sec. 4104. Small Business Procurement Advisory Council.

Sec. 4105. Maximum practicable opportunities for apprentices on Federal construction projects.

Subtitle C—Miscellaneous Acquisition Laws

Sec. 4151. Restriction on use of noncompetitive procedures for procurement from a specified source.

Sec. 4152. Repeal of obsolete provision.

TITLE V—STANDARDS OF CONDUCT

Sec. 5001. Contracting functions performed by Federal personnel.

Sec. 5002. Repeal of executed requirement for study and report.

Sec. 5003. Interests of Members of Congress.

Sec. 5004. Waiting period for significant changes proposed for acquisition regulations.

Sec. 5005. Repeal of superseded and obsolete laws.

TITLE VI—DEFENSE TRADE AND COOPERATION

Sec. 6001. Exception to Buy American Act for micro-purchases.

Sec. 6002. Policy on purchase of foreign goods.

Sec. 6003. Consolidation of miscellaneous procurement limitations.

Sec. 6004. Repeal of obsolete and redundant provisions.

TITLE VII—COMMERCIAL ITEMS

Subtitle A—Definitions and Regulations

Sec. 7001. Definitions.

Sec. 7002. Regulations on acquisition of commercial items.

Subtitle B—Armed Services Acquisitions

Sec. 7101. Establishment of new chapter in title 10.

Sec. 7102. Definitions.

Sec. 7103. Preference for acquisition of commercial items.

Sec. 7104. Exception to cost or pricing data requirements for commercial items.

Sec. 7105. Principle of construction with future laws.

Sec. 7106. Inapplicability of certain provisions of law.

Sec. 7107. Conforming amendments relating to inapplicability of certain provisions of law.

Subtitle C—Civilian Agency Acquisitions

Sec. 7201. Definitions.

Sec. 7202. Preference for acquisition of commercial items.

Sec. 7203. Exception to cost or pricing data requirements for commercial items.

Sec. 7204. Principle of construction with future laws.

Sec. 7205. Inapplicability of certain provisions of law.

Sec. 7206. Conforming amendments relating to inapplicability of certain provisions of law.

Subtitle D—Acquisitions Generally

Sec. 7301. Conforming amendment relating to inapplicability of certain provisions of law.

Sec. 7302. Flexible deadlines for submission of offers of commercial items.

Sec. 7303. Additional responsibilities for advocates for competition.

Sec. 7304. Provisions not affected.

Sec. 7305. Comptroller General review of Federal Government use of market research.

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 8001. Test program.

Sec. 8002. Study of participation by certain small businesses in Federal procurement.

Sec. 8003. Furtherance of contract goal for small disadvantaged businesses and certain institutions of higher education.

Sec. 8004. Education and training.

Sec. 8005. Department of Defense acquisition of intellectual property rights.

Sec. 8006. Sense of Congress on negotiated rulemaking.

Sec. 8007. Vendor and employee excellence awards.

Sec. 8008. Codification of accounting requirement for contracted advisory and assistance services.

Sec. 8009. Technical and clerical amendments.

TITLE IX—EFFECTIVE DATES AND REGULATIONS

Sec. 9001. Effective dates.

Sec. 9002. Regulations.

Sec. 9003. Evaluation by the Comptroller General.

TITLE I—CONTRACT FORMATION

Subtitle A—Competition Statutes

PART I—ARMED SERVICES ACQUISITIONS

Subpart A—Competition Requirements

SEC. 1001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(A), by striking out "modifications" and all that follows through "note)" and inserting in lieu thereof "Federal Acquisition Regulation"; and

(2) in subsection (g)(1), by striking out "regulations modified" and all that follows through "note)" and inserting in lieu thereof "Federal Acquisition Regulation".

SEC. 1002. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS.—Section 2304(b) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) A determination under paragraph (1) may not be made for a class of purchases or contracts."; and

(3) in paragraph (4), as redesignated by paragraph (1), by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraphs (1) and (3)".

(b) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES.—Section 2304(b)(1) of such title is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(D) would ensure the continuous availability of a reliable source of supply of such property or service;

"(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

"(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.".

SEC. 1003. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: "or by an official referred to in clause (ii), (iii), or (iv)".

Subpart B—Planning, Solicitation, Evaluation, and Award

SEC. 1011. SOURCE SELECTION FACTORS.

(a) CONTENT OF SOLICITATION.—Section 2305(a) of title 10, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(i)—

(i) by striking out "(and significant subfactors)" and inserting in lieu thereof "and significant subfactors",

(ii) by inserting after "price-related factors" the following: "and subfactors", and

(iii) by inserting after "nonprice-related factors" the following: "and subfactors"; and

(B) in subparagraph (B)(ii), by striking out subclause (I) and inserting in lieu thereof the following:

"(I) either a statement that the proposals are intended to be evaluated with, and award made

after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) unless discussions are determined to be necessary; and"; and

(2) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3)(A) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, an agency head—

"(i) shall clearly establish the relative importance assigned to the evaluation factors and subfactors, including the quality of the product or services to be provided (including technical capability, management capability, prior experience, and past performance of the offeror);

"(ii) shall include cost or price to the Federal Government as an evaluation factor that must be considered in the evaluation of proposals; and

"(iii) shall disclose to offerors whether all evaluation factors other than cost or price, when combined, are—

"(I) significantly more important than cost or price;

"(II) approximately equal in importance to cost or price; or

"(III) significantly less important than cost or price.

"(B) The regulations implementing clause (iii) of subparagraph (A) may not define the terms 'significantly more important' and 'significantly less important' as specific numeric weights that would be applied uniformly to all solicitations.

"(4) Nothing in this subsection prohibits an agency from—

"(A) providing additional information in a solicitation, including numeric weights for all evaluation factors and subfactors; or

"(B) stating in a solicitation that award will be made to the offeror that meets the solicitation's mandatory requirements at the lowest cost or price.".

(b) AUTHORITY TO APPLY AMENDMENTS EARLY.—The head of an agency may apply the amendments made by this section to solicitations issued before the effective date specified in section 9001(a) and to contracts awarded pursuant to those solicitations. The head of the agency shall publish in the Federal Register notice of any such earlier date of application at least 10 days before that date.

SEC. 1012. SOLICITATION PROVISION REGARDING EVALUATION OF PURCHASE OPTIONS.

Section 2305(a) of title 10, United States Code, as amended by section 1011, is further amended by adding at the end the following new paragraph:

"(4) The head of an agency, in issuing a solicitation for a contract to be awarded using sealed bid procedures, may not include in such solicitation a clause providing for the evaluation of prices under the contract for options to purchase additional supplies or services under the contract unless the head of the agency has determined that there is a reasonable likelihood that the options will be exercised.".

SEC. 1013. PROMPT NOTICE OF AWARD.

(a) SEALED BID PROCEDURES.—Paragraph (3) of section 2305(b) of title 10, United States Code, is amended—

(1) in the last sentence, by striking out "transmitting written notice" and inserting in lieu thereof "transmitting, in writing or by electronic means, notice"; and

(2) by adding at the end the following: "Within three days after the date of contract award, the head of the agency shall notify, in writing or by electronic means, each bidder not awarded the contract that the contract has been awarded.".

(b) COMPETITIVE PROPOSALS PROCEDURES.—Paragraph (4)(B) of such section is amended in the second sentence—

(1) by striking out "transmitting written notice" and inserting in lieu thereof "transmitting, in writing or by electronic means, notice"; and

(2) by striking out "shall promptly notify" and inserting in lieu thereof ", within three days after the date of contract award, shall notify, in writing or by electronic means,".

SEC. 1014. POST-AWARD DEBRIEFINGS.

Section 2305(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5)(A) When a contract is awarded by an agency on the basis of competitive proposals, an unsuccessful offeror, upon written request received by the agency within five days after the date of receipt of notification of the contract award, shall be debriefed and furnished the basis for the selection decision and contract award. The head of the agency shall debrief the offeror within, to the maximum extent practicable, five days after receipt of the request by the agency.

"(B) Such debriefing shall include, at a minimum, the following:

"(i) The agency's evaluation of the significant weak or deficient factors in the offeror's offer.

"(ii) The overall evaluated cost of the offer of the offeror awarded the contract and the overall evaluated cost of the offer of the debriefed offeror.

"(iii) The overall ranking of all offers and the total technical and cost scores of all offers.

"(iv) A summary of the rationale for the award.

"(v) In the case of an offer by the debriefed offeror that includes a commercial item that is an end item under the contract, the makes and models of similar commercial items included in the offer of the offeror awarded the contract.

"(vi) Reasonable responses to questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

"(C) The debriefing shall not include point-by-point comparisons of the debriefed offeror's offer with other offers and shall not disclose any information that is exempt from disclosure under section 552 of title 5.

"(D) Each solicitation for competitive proposals shall include a statement that information described in subparagraph (B) may be disclosed in post-award debriefings.

"(E) The contracting officer shall include a summary of the debriefing in the contract file.".

SEC. 1015. PROTEST FILE.

Section 2305 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) PROTEST FILE.—(1) If, in the case of a solicitation for a contract issued by, or an award or proposed award of a contract by, the head of an agency, a protest is filed pursuant to the procedures in subchapter V of chapter 35 of title 31 and an actual or prospective offeror so requests, a file of the protest shall be established by the procuring activity and reasonable access shall be provided to actual or prospective offerors.

"(2) Information exempt from disclosure under section 552 of title 5 may be redacted in a file established pursuant to paragraph (1) unless an applicable protective order provides otherwise.

"(3) Regulations implementing this subsection shall be consistent with the regulations regarding the preparation and submission of an agency's protest file (the so-called 'rule 4 file') for protests to the General Services Board of Contract Appeals under section 111 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 759).".

SEC. 1016. AGENCY DECISIONS ON PROTESTS.

Section 2305 of title 10, United States Code, as amended by section 1015, is further amended by adding at the end the following new subsection:

"(f) DECISIONS ON PROTESTS.—If, in connection with a protest, the head of an agency determines that a solicitation, proposed award, or award does not comply with the requirements of law or regulation, the head of the agency—

"(1) may take any action set out in subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31; and

"(2) may pay costs described in paragraph (1) of section 3554(c) of title 31 within the limits referred to in paragraph (2) of such section.".

SEC. 1017. AWARD OF MULTIPLE CONTRACTS.

Section 2305 of title 10, United States Code, as amended by section 1016, is further amended by adding at the end the following new subsection:

"(g) AWARD OF MULTIPLE CONTRACTS.—In procuring any supply or service using competitive procedures, the head of an agency may award more than one contract for the same supply or service in any case in which the head of the agency determines that it is in the best interests of the Federal Government to award those contracts for the purpose of maintaining a continuous source for the supply or service.".

Subpart C—Kinds of Contracts

SEC. 1021. REPEAL OF REQUIREMENT FOR SECRETARIAL DETERMINATION REGARDING USE OF COST TYPE OR INCENTIVE CONTRACT.

Subsection (c) of section 2306 of title 10, United States Code, is repealed.

Subpart D—Miscellaneous Provisions for the Encouragement of Competition

SEC. 1031. REPEAL OF REQUIREMENT FOR ANNUAL REPORT BY ADVOCATES FOR COMPETITION.

Subsection (c) of section 2318 of title 10, United States Code, is repealed.

PART II—CIVILIAN AGENCY ACQUISITIONS

Subpart A—Competition Requirements

SEC. 1051. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended—

(1) in subsection (a)(1)(A), by striking out "modifications" and all that follows through "of 1984" and inserting in lieu thereof "Federal Acquisition Regulation"; and

(2) in subsection (g)(1), by striking out "regulations modified" and all that follows through "of 1984," and inserting in lieu thereof "Federal Acquisition Regulation".

SEC. 1052. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS.—Section 303(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(b)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) A determination under paragraph (1) may not be made for a class of purchases or contracts."; and

(3) in paragraph (4), as redesignated by paragraph (1), by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraphs (1) and (3)".

(b) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES.—Section 303(b)(1) of the Federal Property and

Administrative Services Act of 1949 (41 U.S.C. 253(b)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(D) would ensure the continuous availability of a reliable source of supply of such property or service;

"(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

"(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.".

SEC. 1053. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 303(f)(1)(B)(i) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)(i)) is amended by inserting before the semicolon at the end the following: "or by an official referred to in clause (ii), (iii), or (iv)".

Subpart B—Planning, Solicitation, Evaluation, and Award

SEC. 1061. SOLICITATION, EVALUATION, AND AWARD.

(a) Content of Solicitation.—Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a) is amended—

(1) in subsection (b)(1), by amending subparagraph (A) to read as follows:

"(A) all significant factors and significant subfactors which the executive agency reasonably expects to consider in evaluating sealed bids (including price) or competitive proposals (including cost or price, cost- or price-related factors and subfactors, and noncost- or nonprice-related factors and subfactors); and";

(2) in subsection (b)(1)(B), by inserting "and subfactors" after "factors";

(3) in subsection (b)(2)(B), by striking out clause (i) and inserting in lieu thereof the following:

"(i) either a statement that the proposals are intended to be evaluated with, and award made after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) unless discussions are determined to be necessary; and"; and

(4) by adding at the end the following new subsection:

"(c)(1) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, an executive agency—

"(A) shall clearly establish the relative importance assigned to the evaluation factors and subfactors, including the quality of the product or services to be provided (including technical capability, management capability, prior experience, and past performance of the offeror);

"(B) shall include cost or price to the Federal Government as an evaluation factor that must be considered in the evaluation of proposals; and

"(C) shall disclose to offerors whether all evaluation factors other than cost or price, when combined, are—

"(i) significantly more important than cost or price;

"(ii) approximately equal in importance to cost or price; or

"(iii) significantly less important than cost or price.

"(2) The regulations implementing subparagraph (C) of paragraph (1) may not define the terms 'significantly more important' and 'significantly less important' as specific numeric weights that would be applied uniformly to all solicitations.

"(3) Nothing in this subsection prohibits an executive agency from—

"(A) providing additional information in a solicitation, including numeric weights for all evaluation factors and subfactors; or

"(B) stating in a solicitation that award will be made to the offeror that meets the solicitation's mandatory requirements at the lowest cost or price.".

(b) Evaluation and Award.—Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) in subsection (a), by inserting ", and award a contract," after "competitive proposals";

(2) in subsection (c), by inserting "in accordance with subsection (a)" in the second sentence after "shall evaluate the bids"; and

(3) in subsection (d)—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) An executive agency shall evaluate competitive proposals in accordance with subsection (a) and may award a contract—

"(A) after discussions with the offerors, provided that written or oral discussions have been conducted with all responsible offerors who submit proposals within the competitive range; or

"(B) based on the proposals received and without discussions with the offerors (other than discussions conducted for the purpose of minor clarification), provided that, as required by section 303A(b)(2)(B)(i), the solicitation included a statement that proposals are intended to be evaluated, and award made, without discussions, unless discussions are determined to be necessary."; and

(B) by striking out paragraphs (2) and (3) and by redesignating paragraph (4) as paragraph (2).

(c) Authority To Apply Amendments Early.—The head of an executive agency may apply the amendments made by this section to solicitations issued before the effective date specified in section 9001(a) and to contracts awarded pursuant to those solicitations. The head of the executive agency shall publish in the Federal Register notice of any such earlier date of application at least 10 days before that date.

SEC. 1062. SOLICITATION PROVISION REGARDING EVALUATION OF PURCHASE OPTIONS.

Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a), as amended by section 1061(a)(4), is further amended by adding at the end the following new subsection:

"(d) An executive agency, in issuing a solicitation for a contract to be awarded using sealed bid procedures, may not include in such solicitation a clause providing for the evaluation of prices under the contract for options to purchase additional supplies or services under the contract unless the executive agency has determined that there is a reasonable likelihood that the options will be exercised.".

SEC. 1063. PROMPT NOTICE OF AWARD.

(a) Sealed Bid Procedures.—Subsection (c) of section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) in the last sentence, by striking out "transmitting written notice" and inserting in lieu thereof "transmitting, in writing or by electronic means, notice"; and

(2) by adding at the end the following: "Within 3 days after the date of contract award, the executive agency shall notify, in writing or by electronic means, each bidder not awarded the contract that the contract has been awarded.".

(b) Competitive Proposals Procedures.—Paragraph (2) of such section, as redesignated by section 1061(b)(3)(B), is amended in the second sentence—

(1) by striking out "transmitting written notice" and inserting in lieu thereof "transmitting, in writing or by electronic means, notice"; and

(2) by striking out "shall promptly notify" and inserting in lieu thereof ", within 3 days after the date of contract award, shall notify, in writing or by electronic means,".

SEC. 1064. POST-AWARD DEBRIEFINGS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection (e):

"(e)(1) When a contract is awarded by an executive agency on the basis of competitive proposals, an unsuccessful offeror, upon written request received by the executive agency within 5 days after the date of receipt of notification of the contract award, shall be debriefed and furnished the basis for the selection decision and contract award. The executive agency shall debrief the offeror within, to the maximum extent practicable, 5 days after receipt of the request by the executive agency.

"(2) Such debriefing shall include, at a minimum, the following:

"(A) The executive agency's evaluation of the significant weak or deficient factors in the offeror's offer.

"(B) The overall evaluated cost of the offer of the offeror awarded the contract and the overall evaluated cost of the offer of the debriefed offeror.

"(C) The overall ranking of all offers and the total technical and cost scores of all offers.

"(D) A summary of the rationale for the award.

"(E) In the case of an offer by the debriefed offeror that includes a commercial item that is an end item under the contract, the makes and models of similar commercial items included in the offer of the offeror awarded the contract.

"(F) Reasonable responses to questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the executive agency.

"(3) The debriefing shall not include point-by-point comparisons of the debriefed offeror's offer with other offers and shall not disclose any information that is exempt from disclosure under section 552 of title 5, United States Code.

"(4) Each solicitation for competitive proposals shall include a statement that information described in paragraph (2) may be disclosed in post-award debriefings.

"(5) The contracting officer shall include a summary of the debriefing in the contract file.".

SEC. 1065. PROTEST FILE.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended by adding at the end the following new subsection:

"(h) Protest File.—(1) If, in the case of a solicitation for a contract issued by, or an award or proposed award of a contract by, an agency head, a protest is filed pursuant to the procedures in subchapter V of chapter 35 of title 31, United States Code, and an actual or prospective offeror so requests, a file of the protest shall be established by the procuring activity and reasonable access shall be provided to actual or prospective offerors.

"(2) Information exempt from disclosure under section 552 of title 5, United States Code, may be redacted in a file established pursuant to paragraph (1) unless an applicable protective order provides otherwise.

"(3) Regulations implementing this subsection shall be consistent with the regulations regarding the preparation and submission of an agency's protest file (the so-called 'rule 4 file') for protests to the General Services Board of Contract Appeals under section 111 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 759).".

SEC. 1066. AGENCY DECISIONS ON PROTESTS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b), as amended by section 1065, is further amended by adding at the end the following new subsection:

"(i) DECISIONS ON PROTESTS.—If, in connection with a protest, an executive agency determines that a solicitation, proposed award, or award does not comply with the requirements of law or regulation, the executive agency—

"(1) may take any action set out in subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31, United States Code; and

"(2) may pay costs described in paragraph (1) of section 3554(c) of such title within the limits referred to in paragraph (2) of such section.".

SEC. 1067. AWARD OF MULTIPLE CONTRACTS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252b), as amended by section 1066, is further amended by adding at the end the following new subsection:

"(j) AWARD OF MULTIPLE CONTRACTS.—In procuring any supply or service using competitive procedures, an executive agency may award more than one contract for the same supply or service in any case in which the executive agency determines that it is in the best interests of the Federal Government to award those contracts for the purpose of maintaining a continuous source for the supply or service.".

Subpart C—Kinds of Contracts

SEC. 1071. REPEAL OF AGENCY HEAD DETERMINATION REGARDING USE OF COST TYPE OR INCENTIVE CONTRACT.

Section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)) is amended by striking out the second sentence.

SEC. 1072. MULTIYEAR CONTRACTING AUTHORITY.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 304 the following new section:

"SEC. 304A. MULTIYEAR CONTRACTS.

"(a) AUTHORITY.—An executive agency may enter into a multiyear contract for the acquisition of property or services if—

"(1) funds are available and obligated for such contract, for the full period of the contract or for the first fiscal year in which the contract is in effect, and for the estimated costs associated with any necessary termination of such contract;

"(2) the executive agency determines that—

"(A) the need for the property or services is reasonably firm and continuing over the period of the contract; and

"(B) a multiyear contract will serve the best interests of the United States by encouraging full and open competition or promoting economy in administration, performance, and operation of the agency's programs; and

"(3) such contract is awarded on a fully competitive basis.

"(b) TERMINATION CLAUSE.—A multiyear contract entered into under the authority of this section shall include a clause that provides that the contract shall be terminated if funds are not made available for the continuation of such contract in any fiscal year covered by the contract. Amounts available for paying termination costs shall remain available for such purpose until the costs associated with termination of the contract are paid.

"(c) CANCELLATION CEILING NOTICE.—Before any contract described in subsection (a) that contains a clause setting forth a cancellation ceiling in excess of $10,000,000 may be awarded, the executive agency shall give written notification of the proposed contract and of the proposed cancellation ceiling for that contract to the Congress, and such contract may not then be awarded until the end of a period of 30 days beginning on the date of such notification.

"(d) MULTIYEAR CONTRACT DEFINED.—For the purposes of this section, a multiyear contract is a contract for the purchase of property or services for more than one, but not more than five, program years. Such a contract may provide that performance under the contract during the second and subsequent years of the contract is contingent upon the appropriation of funds and (if it does so provide) may provide for a cancellation payment to be made to the contractor if such appropriations are not made.

"(e) RULE OF CONSTRUCTION.—Nothing in this section is intended to modify or affect any other provision of law that authorizes multiyear contracts.".

SEC. 1073. SEVERABLE SERVICES CONTRACTS CROSSING FISCAL YEARS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303G the following new section:

"SEC. 303H. SEVERABLE SERVICES CONTRACTS FOR PERIODS CROSSING FISCAL YEARS.

"(a) AUTHORITY.—An executive agency may enter into a severable contract for procurement of services for a period that begins in one fiscal year and ends in the next fiscal year if (without regard to any option to extend the period of the contract) the contract period does not exceed one year.

"(b) AVAILABILITY OF FUNDS.—To the extent provided in appropriations Acts, funds obligated for a contract entered into under the authority of subsection (a) shall remain available until no longer needed to pay for such contract.

"(c) SEVERABLE CONTRACT DEFINED.—In this section, the term 'severable contract' means a contract that contains a clause that makes the effectiveness of the contract for periods after the end of the fiscal year in which the performance of the contract begins subject to the availability of appropriations.".

PART III—ACQUISITIONS GENERALLY

SEC. 1091. POLICY REGARDING CONSIDERATION OF CONTRACTOR PAST PERFORMANCE.

(a) POLICY.—Section 2 of the Office of Federal Procurement Policy Act (41 U.S.C. 401) is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(14) establishing policies and procedures that encourage the consideration of contractors' past performance in the selection of contractors.".

(b) GUIDANCE REQUIRED.—Section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405) is amended by adding at the end the following:

"(j)(1) Congress makes the following findings:

"(A) Past contract performance of an offeror is one of the relevant factors that a contracting official of an executive agency should consider in awarding a contract.

"(B) It is appropriate for a contracting official to consider past contract performance of an offeror as an indicator of the likelihood that the offeror will successfully perform a contract to be awarded by that official.

"(2) The Administrator shall prescribe for executive agencies guidance regarding consideration of the past contract performance of offerors in awarding contracts. The guidance shall include—

"(A) standards for evaluating past performance with respect to cost (when appropriate), schedule, compliance with technical or functional specifications, and other relevant performance factors that facilitate consistent and fair evaluation by all executive agencies;

"(B) policies for the collection and maintenance of information on past contract performance that, to the maximum extent practicable, facilitate automated collection, maintenance, and dissemination of information and provide for ease of collection, maintenance, and dissemination of information by other methods, as necessary; and

"(C) policies for ensuring that offerors are afforded an opportunity to submit information on past contract performance and that such information submitted by offerors is considered.

"(3) The Administrator shall prescribe for all executive agencies the policy regarding the period for which information on past performance of offerors may be maintained and considered.

"(4) In the case of an offeror with respect to which there is no information on past contract performance or with respect to which information on past contract performance is not available, the offeror may not be evaluated favorably or unfavorably on the factor of past contract performance.".

SEC. 1092. REPEAL OF REQUIREMENT FOR ANNUAL REPORT ON COMPETITION.

Section 23 of the Office of Federal Procurement Policy Act (41 U.S.C. 419) is repealed.

SEC. 1093. DISCOURAGEMENT OF NONSTANDARD CONTRACT CLAUSES.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

"SEC. 29. NONSTANDARD CONTRACT CLAUSES.

"The Federal Acquisition Regulatory Council shall promulgate regulations to discourage the use of a nonstandard contract clause on a repetitive basis. The regulations shall include provisions that—

"(1) clearly define nonstandard clauses; and

"(2) require prior approval for the use of a nonstandard clause on a repetitive basis by an official at a level of responsibility above the contracting officer.".

Subtitle B—Truth in Negotiations

PART I—ARMED SERVICES ACQUISITIONS

SEC. 1201. STABILIZATION OF DOLLAR THRESHOLD OF APPLICABILITY.

(a) DOLLAR THRESHOLD STABILIZATION FOR OFFERORS FOR PRIME CONTRACTS.—Paragraph (1)(A) of section 2306a(a) of title 10, United States Code, is amended—

(1) in clause (i), by striking out "and before January 1, 1996,"; and

(2) in clause (ii), by striking out "or after December 31, 1995,".

(b) ADJUSTMENT OF DOLLAR THRESHOLD.—Such section is further amended by adding at the end the following new paragraph:

"(7) The dollar amount in each of subparagraphs (A), (B), (C), and (D) of paragraph (1) shall be adjusted on October 1 of each year divisible by 5 to the equivalent amount in constant fiscal year 1993 dollars (rounded to the nearest $10,000).".

SEC. 1202. EXCEPTIONS TO COST OR PRICING DATA REQUIREMENTS.

(a) EXCEPTIONS.—Subsection (b) of section 2306a of title 10, United States Code, is amended to read as follows:

"(b) EXCEPTIONS.—(1) This section shall not be applied to a contract or subcontract, or a modification to a contract or subcontract—

"(A) for which the price agreed upon is based on—

"(i) adequate price competition;

"(ii) established catalog or market prices of commercial items or of services regularly used for other than Federal Government purposes, as the case may be, that are sold in sufficient quantities to the general public; or

"(iii) prices set by law or regulation; or

"(B) in an exceptional case when the head of the procuring activity, without delegation, determines that the requirements of this section may be waived and justifies in writing the reasons for such determination.

"(2) The Federal Acquisition Regulation (issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall provide clear standards for determining whether the exceptions provided in paragraph (1)(A) apply. In the case of the exception provided in paragraph (1)(A)(i), the regulations shall specify the criteria to be used to determine whether adequate price competition exists. In the case of the exception provided in paragraph (1)(A)(ii), the regulations shall preclude the consideration of sales to the Federal Government, including the percentage of an item's overall sales that are made to the Federal Government, when determining whether the item has been sold in sufficient quantities to the public.".

(b) LIMITATION ON AUTHORITY.—Subsection (c) of such section is amended to read as follows:

"(c) AUTHORITY TO REQUIRE COST OR PRICING DATA ON BELOW-THRESHOLD CONTRACTS.—When cost or pricing data are not required to be submitted by subsection (a), such data may nevertheless be required to be submitted by the head of the procuring activity, but only if the head of the procuring activity determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract. In any case in which the head of the procuring activity requires such data to be submitted under this subsection, the head of the procuring activity shall justify in writing the reason for such requirement. The head of the procuring activity may not require such data to be submitted under this subsection for any contract or subcontract, or modification to a contract or subcontract, covered by the exceptions in subsection (b). The head of the procuring activity may not delegate the functions under this subsection.".

SEC. 1203. RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.

Subsection (f) of section 2306a of title 10, United States Code, is amended to read as follows:

"(f) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section, the head of an agency shall have the authority provided by section 2313(a)(2) of this title.".

SEC. 1204. CONSISTENCY OF TIME REFERENCES.

Section 2306a of title 10, United States Code, is amended—

(1) in subparagraphs (A)(ii) and (B)(ii) of subsection (d)(4), by inserting "or, if applicable consistent with paragraph (1)(B), another date agreed upon between the parties" after "(or price of the modification)"; and

(2) in subsection (g), by inserting "or, if applicable consistent with subsection (d)(1)(B), another date agreed upon between the parties" after "(or the price of a contract modification)".

SEC. 1205. REPEAL OF SUPERSEDED PROVISION.

Subsection (c) of section 803 of Public Law 101–510 (10 U.S.C. 2306a note) is repealed.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 1251. REVISION OF CIVILIAN AGENCY PROVISIONS TO ENSURE UNIFORM TREATMENT OF COST OR PRICING DATA.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended—

(1) in section 304, by striking out subsection (d); and

(2) by inserting after section 304A, as added by section 1072, the following new section:

"SEC. 304B. COST OR PRICING DATA: TRUTH IN NEGOTIATIONS.

"(a) REQUIRED COST OR PRICING DATA AND CERTIFICATION.—(1) An executive agency shall require offerors, contractors, and subcontractors to make cost or pricing data available as follows:

"(A) An offeror for a prime contract under this title to be entered into using procedures other than sealed-bid procedures shall be required to submit cost or pricing data before the award of a contract if—

"(i) in the case of a prime contract entered into after the date of the enactment of the Federal Acquisition Improvement Act of 1994, the price of the contract to the United States is expected to exceed $500,000; and

"(ii) in the case of a prime contract entered into on or before the date of the enactment of the Federal Acquisition Improvement Act of 1994, the price of the contract to the United States is expected to exceed $100,000.

"(B) The contractor for a prime contract under this chapter shall be required to submit cost or pricing data before the pricing of a change or modification to the contract if—

"(i) in the case of a change or modification made to a prime contract referred to in subparagraph (A)(i), the price adjustment is expected to exceed $500,000;

"(ii) in the case of a change or modification made to a prime contract that was entered into on or before the date of the enactment of the Federal Acquisition Improvement Act of 1994, and that has been modified pursuant to paragraph (6), the price adjustment is expected to exceed $500,000; and

"(iii) in the case of a change or modification not covered by clause (i) or (ii), the price adjustment is expected to exceed $100,000.

"(C) An offeror for a subcontract (at any tier) of a contract under this title shall be required to submit cost or pricing data before the award of the subcontract if the prime contractor and each higher-tier subcontractor have been required to make available cost or pricing data under this section and—

"(i) in the case of a subcontract under a prime contract referred to in subparagraph (A)(i), the price of the subcontract is expected to exceed $500,000;

"(ii) in the case of a subcontract entered into under a prime contract that was entered into on or before the date of the enactment of the Federal Acquisition Improvement Act of 1994, and that has been modified pursuant to paragraph (6), the price of the subcontract is expected to exceed $500,000; and

"(iii) in the case of a subcontract not covered by clause (i) or (ii), the price of the subcontract is expected to exceed $100,000.

"(D) The subcontractor for a subcontract covered by subparagraph (C) shall be required to submit cost or pricing data before the pricing of a change or modification to the subcontract if—

"(i) in the case of a change or modification to a subcontract referred to in subparagraph (C)(i) or (C)(ii), the price adjustment is expected to exceed $500,000; and

"(ii) in the case of a change or modification to a subcontract referred to in subparagraph (C)(iii), the price adjustment is expected to exceed $100,000.

"(2) A person required, as an offeror, contractor, or subcontractor, to submit cost or pricing data under paragraph (1) (or required by the head of the procuring activity concerned to submit such data under subsection (c)) shall be required to certify that, to the best of the person's knowledge and belief, the cost or pricing data submitted are accurate, complete, and current.

"(3) Cost or pricing data required to be submitted under paragraph (1) (or under subsection (c)), and a certification required to be submitted under paragraph (2), shall be submitted—

"(A) in the case of a submission by a prime contractor (or an offeror for a prime contract), to the contracting officer for the contract (or to a designated representative of the contracting officer); or

"(B) in the case of a submission by a subcontractor (or an offeror for a subcontract), to the prime contractor.

"(4) Except as provided under subsection (b), this section applies to contracts entered into by an agency head on behalf of a foreign government.

"(5) For purposes of paragraph (1)(C), a contractor or subcontractor granted a waiver under subsection (b)(2) shall be considered as having been required to make available cost or pricing data under this section.

"(6) Upon the request of a contractor that was required to submit cost or pricing data under paragraph (1) in connection with a prime contract entered into on or before the date of the enactment of the Federal Acquisition Improvement Act of 1994, the agency head that entered into such contract shall modify the contract to reflect subparagraphs (B)(ii) and (C)(ii) of paragraph (1). All such modifications shall be made without requiring consideration.

"(7) The dollar amount in each of subparagraphs (A), (B), (C), and (D) of paragraph (1) shall be adjusted on October 1 of each year divisible by 5 to the equivalent amount in constant fiscal year 1993 dollars (rounded to the nearest $10,000).

"(b) EXCEPTIONS.—(1) This section shall not be applied to a contract or subcontract, or a modification to a contract or subcontract—

"(A) for which the price agreed upon is based on—

"(i) adequate price competition;

"(ii) established catalog or market prices of commercial items or of services regularly used for other than Federal Government purposes, as the case may be, that are sold in sufficient quantities to the general public; or

"(iii) prices set by law or regulation; or

"(B) in an exceptional case when the head of the procuring activity, without delegation, determines that the requirements of this section may be waived and justifies in writing the reasons for such determination.

"(2) The Federal Acquisition Regulation (issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall provide clear standards for determining whether the exceptions provided in paragraph (1)(A) apply. In the case of the exception provided in paragraph (1)(A)(i), the regulations shall specify the criteria to be used to determine whether adequate price competition exists. In the case of the exception provided in paragraph (1)(A)(ii), the regulations shall preclude the consideration of sales to the Federal Government, including the percentage of an item's overall sales that are made to the Federal Government, when determining whether the item has been sold in sufficient quantities to the public.

"(c) AUTHORITY TO REQUIRE COST OR PRICING DATA ON BELOW-THRESHOLD CONTRACTS.—When cost or pricing data are not required to be submitted by subsection (a), such data may nevertheless be required to be submitted by the head of the procuring activity, but only if the head of

the procuring activity determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract. In any case in which the head of the procuring activity requires such data to be submitted under this subsection, the head of the procuring activity shall justify in writing the reason for such requirement. The head of the procuring activity may not require such data to be submitted under this subsection for any contract or subcontract, or modification to a contract or subcontract, covered by the exceptions in subsection (b). The head of the procuring activity may not delegate the functions under this subsection.

"(d) PRICE REDUCTIONS FOR DEFECTIVE COST OR PRICING DATA.—(1)(A) A prime contract (or change or modification to a prime contract) under which a certificate under subsection (a)(2) is required shall contain a provision that the price of the contract to the United States, including profit or fee, shall be adjusted to exclude any significant amount by which it may be determined by the agency head that such price was increased because the contractor (or any subcontractor required to make available such a certificate) submitted defective cost or pricing data.

"(B) For the purposes of this section, defective cost or pricing data are cost or pricing data which, as of the date of agreement on the price of the contract (or another date agreed upon between the parties), were inaccurate, incomplete, or noncurrent. If for purposes of the preceding sentence the parties agree upon a date other than the date of agreement on the price of the contract, the date agreed upon by the parties shall be as close to the date of agreement on the price of the contract as is practicable.

"(2) In determining for purposes of a contract price adjustment under a contract provision required by paragraph (1) whether, and to what extent, a contract price was increased because the contractor (or a subcontractor) submitted defective cost or pricing data, it shall be a defense that the United States did not rely on the defective data submitted by the contractor or subcontractor.

"(3) It is not a defense to an adjustment of the price of a contract under a contract provision required by paragraph (1) that—

"(A) the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted by the contractor or subcontractor because the contractor or subcontractor—

"(i) was the sole source of the property or services procured; or

"(ii) otherwise was in a superior bargaining position with respect to the property or services procured;

"(B) the contracting officer should have known that the cost and pricing data in issue were defective even though the contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the contracting officer;

"(C) the contract was based on an agreement between the contractor and the United States about the total cost of the contract and there was no agreement about the cost of each item procured under such contract; or

"(D) the prime contractor or subcontractor did not submit a certification of cost and pricing data relating to the contract as required under subsection (a)(2).

"(4)(A) A contractor shall be allowed to offset an amount against the amount of a contract price adjustment under a contract provision required by paragraph (1) if—

"(i) the contractor certifies to the contracting officer (or to a designated representative of the contracting officer) that, to the best of the contractor's knowledge and belief, the contractor is entitled to the offset; and

"(ii) the contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification), or, if applicable consistent with paragraph (1)(B), another date agreed upon between the parties, and that the data were not submitted as specified in subsection (a)(3) before such date.

"(B) A contractor shall not be allowed to offset an amount otherwise authorized to be offset under subparagraph (A) if—

"(i) the certification under subsection (a)(2) with respect to the cost or pricing data involved was known to be false when signed; or

"(ii) the United States proves that, had the cost or pricing data referred to in subparagraph (A)(ii) been submitted to the United States before the date of agreement on the price of the contract (or price of the modification) or, if applicable under paragraph (1)(B), another date agreed upon between the parties, the submission of such cost or pricing data would not have resulted in an increase in that price in the amount to be offset.

"(e) INTEREST AND PENALTIES FOR CERTAIN OVERPAYMENTS.—(1) If the United States makes an overpayment to a contractor under a contract with an executive agency subject to this section and the overpayment was due to the submission by the contractor of defective cost or pricing data, the contractor shall be liable to the United States—

"(A) for interest on the amount of such overpayment, to be computed—

"(i) for the period beginning on the date the overpayment was made to the contractor and ending on the date the contractor repays the amount of such overpayment to the United States; and

"(ii) at the current rate prescribed by the Secretary of the Treasury under section 6621 of the Internal Revenue Code of 1986; and

"(B) if the submission of such defective data was a knowing submission, for an additional amount equal to the amount of the overpayment.

"(2) Any liability under this subsection of a contractor that submits cost or pricing data but refuses to submit the certification required by subsection (a)(2) with respect to the cost or pricing data shall not be affected by the refusal to submit such certification.

"(f) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section, an executive agency shall have the authority provided by section 304C(a)(2).

"(g) COST OR PRICING DATA DEFINED.—In this section, the term 'cost or pricing data' means all facts that, as of the date of agreement on the price of a contract (or the price of a contract modification) or, if applicable consistent with subsection (d)(1)(B), another date agreed upon between the parties, a prudent buyer or seller would reasonably expect to affect price negotiations significantly. Such term does not include information that is judgmental, but does include the factual information from which a judgment was derived.".

SEC. 1252. REPEAL OF OBSOLETE PROVISION.

Section 303E of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253e) is repealed.

Subtitle C—Research and Development

SEC. 1301. COMPETITION REQUIREMENT FOR AWARDS OF GRANTS AND CONTRACTS TO NONPROFIT ORGANIZATIONS.

Subsections (a) and (b) of section 2361 of title 10, United States Code, are amended by inserting "or nonprofit organization other than a federally funded research and development center (FFRDC)" after "college or university" each place it appears.

Subtitle D—Procurement Protests

PART I—PROTESTS TO THE COMPTROLLER GENERAL

SEC. 1401. PROTEST DEFINED.

(a) IN GENERAL.—Paragraph (1) of section 3551 of title 31, United States Code, is amended to read as follows:

"(1) The term 'protest' means a written objection by an interested party to any of the following:

"(A) A solicitation or other request by a Federal agency for offers for a contract for the procurement of property or services.

"(B) The cancellation of such a solicitation or other request.

"(C) An award or proposed award of such a contract.

"(D) A termination or cancellation of an award of such a contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract.".

(b) TECHNICAL AMENDMENTS.—Section 3551 of such title is further amended—

(1) in paragraph (2)—

(A) by inserting "The term" after "(2)"; and

(B) by striking out "; and" and inserting in lieu thereof a period; and

(2) in paragraph (3), by inserting "The term" after "(3)".

SEC. 1402. REVIEW OF PROTESTS AND EFFECT ON CONTRACTS PENDING DECISION.

(a) PERIODS FOR CERTAIN ACTIONS.—Section 3553 of title 31, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking out "one working day of" and inserting in lieu thereof "one day after"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking out "25 working days from" and inserting in lieu thereof "35 days after"; and

(ii) in subparagraph (C), by striking out "10 working days from" and inserting in lieu thereof "15 days after"; and

(2) in subsection (c)(3), by striking out "thereafter" and inserting in lieu thereof "after the making of such finding".

(b) SUSPENSION OF PERFORMANCE.—Subsection (d) of such section is amended to read as follows:

"(d)(1) A contractor awarded a Federal agency contract may, during the period described in paragraph (4), begin performance of the contract and engage in any related activities that result in obligations being incurred by the United States under the contract unless the contracting officer responsible for the award of the contract withholds authorization to proceed with performance of the contract.

"(2) The contracting officer may withhold an authorization to proceed with performance of the contract during the period described in paragraph (4) if the contracting officer determines in writing that—

"(A) a protest is likely to be filed; and

"(B) the immediate performance of the contract is not in the best interests of the United States.

"(3)(A) If the Federal agency awarding the contract receives notice of a protest in accordance with this section during the period described in paragraph (4)—

"(i) the contracting officer may not authorize performance of the contract to begin while the protest is pending; or

"(ii) if contract performance was authorized in accordance with paragraph (2) before receipt

of the notice, the contracting officer shall immediately direct the contractor to cease performance under the contract and to suspend any related activities that may result in additional obligations being incurred by the United States under that contract.

"(B) Performance and related activities suspended pursuant to subparagraph (A)(ii) by reason of a protest may not be resumed while the protest is pending.

"(C) The head of the procuring activity may authorize the performance of the contract (notwithstanding a protest of which the Federal agency has notice under this section)—

"(i) upon a written finding that—

"(I) performance of the contract is in the best interests of the United States; or

"(II) urgent and compelling circumstances that significantly affect interests of the United States will not permit waiting for the decision of the Comptroller General concerning the protest; and

"(ii) after the Comptroller General is notified of that finding.

"(4) The period referred to in paragraphs (2) and (3)(A), with respect to a contract, is the period beginning on the date of the contract award and ending on the later of—

"(A) the date that is 10 days after the date of the contract award; or

"(B) the date that is 5 days after the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required.".

SEC. 1403. DECISIONS ON PROTESTS.

(a) PERIODS FOR CERTAIN ACTIONS.—Section 3554(a) of title 31, United States Code, is amended—

(1) in paragraph (1), by striking out "90 working days from" and inserting in lieu thereof "120 days after";

(2) in paragraph (2), by striking out "45 calendar days from" and inserting "60 days after";

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following new paragraph (3):

"(3) An amendment to a protest that adds a new ground of protest, if timely raised, should be resolved, to the maximum extent practicable, within the time limit established under paragraph (1) of this subsection for final decision of the initial protest. If an amended protest cannot be resolved within such time limit, the Comptroller General may resolve the amended protest through the express option under paragraph (2) of this subsection.".

(b) GAO RECOMMENDATIONS ON PROTESTS.—

(1) IMPLEMENTATION OF RECOMMENDATIONS.—Section 3554 of title 31, United States Code, is further amended in subsection (b) by adding at the end the following new paragraph:

"(3) If the Federal agency fails to implement fully the recommendations of the Comptroller General under this subsection with respect to a solicitation for a contract or an award or proposed award of a contract within 60 days after receiving the recommendations, the head of the procuring activity responsible for that contract shall report such failure to the Comptroller General not later than 5 days after the end of such 60-day period.".

(2) FEDERAL AGENCY PAYMENT OF COSTS.—Subsection (c) of such section is amended to read as follows:

"(c)(1) If the Comptroller General determines that a solicitation for a contract or a proposed award or the award of a contract does not comply with a statute or regulation, the Comptroller General may recommend that the Federal agency conducting the procurement pay to an appropriate interested party the costs of—

"(A) filing and pursuing the protest, including reasonable attorney's fees and consultant and expert witness fees; and

"(B) bid and proposal preparation.

"(2) If the Comptroller General recommends under paragraph (1) that a Federal agency pay costs to an interested party, the Federal agency shall—

"(A) pay the costs promptly out of funds available to or for the use of the Federal agency; or

"(B) if the Federal agency does not make such payment, promptly report to the Comptroller General the reasons for the failure to follow the Comptroller General's recommendation.

"(3) If the Comptroller General recommends under paragraph (1) that a Federal agency pay costs to an interested party, the Federal agency and the interested party shall attempt to reach an agreement on the amount of the costs to be paid. If the Federal agency and the interested party are unable to agree on the amount to be paid, the Comptroller General may, upon the request of the interested party, recommend to the Federal agency the amount of the costs that the Federal agency should pay.".

(3) REPORT.—Subsection (e) of such section is amended to read as follows:

"(e)(1) In any case in which a Federal agency fails to implement fully a recommendation of the Comptroller General under subsection (b) or (c), the Comptroller General shall promptly submit a report on the matter to the Committee on Governmental Affairs and the Committee on Appropriations of the Senate and to the Committee on Government Operations and the Committee on Appropriations of the House of Representatives. The report shall include—

"(A) a comprehensive review of the pertinent procurement, including the circumstances of the failure of the Federal agency to implement a recommendation of the Comptroller General; and

"(B) a recommendation regarding whether, in order to correct an inequity or to preserve the integrity of the procurement process, the Congress should consider—

"(i) private relief legislation;

"(ii) legislative rescission or cancellation of funds;

"(iii) further investigation by the Congress; or

"(iv) other action.

"(2) Not later than January 31 of each year, the Comptroller General shall transmit to the Congress a report containing a summary of each instance in which a Federal agency did not fully implement a recommendation of the Comptroller General under subsection (b) or (c) during the preceding year. The report shall also describe each instance in which a final decision in a protest was not rendered within 120 days after the date the protest is submitted to the Comptroller General.".

(4) REQUIREMENT FOR PAYMENT IN ACCORDANCE WITH PRIOR GAO DETERMINATIONS.—Amounts to which the Comptroller General declared an interested party to be entitled under section 3554 of title 31, United States Code, as in effect immediately before the date of the enactment of this Act, shall, if not paid or otherwise satisfied by the Federal agency concerned before such date, be paid promptly out of funds available to or for the use of the Federal agency.

(c) RECOVERY OF COSTS FOR FRIVOLOUS PROTESTS.—Section 3554 of title 31, United States Code, is further amended by adding at the end the following new subsection:

"(f) If the Comptroller General expressly finds that a protest or a portion of a protest is frivolous or has not been brought or pursued in good faith, the Comptroller may recommend that the protester or other interested party who joins the protest be liable to the United States for payment of all or that portion of the United States costs, for which such a finding is made, of reviewing the protest, including the fees and other expenses (as defined in section 2412(d)(2)(A) of title 28) incurred by the United States in defending the protest. The Federal Acquisition Regulation shall provide guidance under which the head of an agency may initiate action to obtain such costs, unless (A) special circumstances would make such payment unjust, or (B) the protester obtains documents or other information for the first time, after the protest is filed with the Comptroller General, which establishes that the protest or a portion is frivolous or has not been brought in good faith and the protester then promptly withdraws the protest or portion of the protest.".

(d) RESTRICTION ON ACCESS TO CERTAIN INFORMATION.—Section 3553(f) of title 31, United States Code, is amended—

(1) by inserting "(1)" after "(f)"; and

(2) by adding at the end the following:

"(2)(A) The Comptroller General may issue protective orders which establish terms, conditions, and restrictions for the provision of any document to a person under paragraph (1), that prohibit or restrict the disclosure by the person of information described in subparagraph (C) that is contained in such a document.

"(B) The penalties specified under section 27(i) of the Office of Federal Procurement Policy Act shall apply to the disclosure of information described in subparagraph (C) in violation of a term, condition, or restriction in a protective order under this paragraph by a person that is subject to the protective order.

"(C) Information referred to in subparagraphs (A) and (B) is procurement sensitive information, trade secrets, or other proprietary or confidential research, development, or commercial information.

"(D) A protective order under this paragraph shall not be considered to authorize the withholding of any document or information from the Congress or an executive agency.".

SEC. 1404. REGULATIONS.

(a) COMPUTATION OF PERIODS.—Section 3555 of title 31, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (d); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) The procedures shall provide that, in the computation of any period described in this subchapter—

"(1) the day of the act, event, or default from which the designated period of time begins to run not be included; and

"(2) the last day after such act, event, or default be included, unless—

"(A) such last day is a Saturday, a Sunday, or a legal holiday; or

"(B) in the case of a filing of a paper at the General Accounting Office or a Federal agency, such last day is a day on which weather or other conditions cause the closing of the General Accounting Office or Federal agency, in which event the next day that is not a Saturday, Sunday, or legal holiday shall be included.".

(b) ELECTRONIC FILINGS AND DISSEMINATIONS.—Such section, as amended by subsection (a), is further amended by inserting after subsection (b) the following new subsection:

"(c) The Comptroller General may prescribe procedures for the electronic filing and dissemination of documents and information required under this subchapter. In prescribing such procedures, the Comptroller General shall consider the ability of all parties to achieve electronic access to such documents and records.".

(c) REPEAL OF OBSOLETE DEADLINE.—Subsection (a) of such section is amended by striking out "Not later than January 15, 1985, the" and inserting in lieu thereof "The".

PART II—PROTESTS IN PROCUREMENTS OF AUTOMATIC DATA PROCESSING

SEC. 1431. REVOCATION OF DELEGATIONS OF PROCUREMENT AUTHORITY.

Section 111(b)(3) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(b)(3)) is amended by inserting before the period at the end of the third sentence the following: ", including the authority to revoke a delegation of authority with respect to a particular contract after award of the contract, except that the Administrator may revoke a delegation after the contract is awarded only when there is a finding of a violation of law or regulation in connection with the contract award.".

SEC. 1432. AUTHORITY OF THE GENERAL SERVICES ADMINISTRATION BOARD OF CONTRACT APPEALS.

The first sentence of section 111(f)(1) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(1)) is amended to read as follows: "Upon request of an interested party in connection with any procurement that is subject to this section (including any such procurement that is subject to delegation of procurement authority), the board of contract appeals of the General Services Administration (hereafter in this subsection referred to as the 'board') shall review, as provided in this subsection, any decision by a contracting officer that is alleged to violate a statute, a regulation, or the conditions of a delegation of procurement authority.".

SEC. 1433. PERIODS FOR CERTAIN ACTIONS.

(a) Suspension of Procurement Authority.—(1) Section 111(f)(2)(B) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(2)(B)) is amended—

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(B) by inserting "(i)" after "(B)"; and

(C) by adding at the end the following:

"(ii) A suspension under this subparagraph shall not preclude the Federal agency concerned from continuing the procurement process up to but not including award of the contract if the Board determines such action is in the best interests of the United States.".

(2) Section 111(f) of such Act (40 U.S.C. 759(f)) is amended in paragraph (3) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A)(i) If, with respect to an award of a contract, the board receives notice of a protest under this subsection within the period described in clause (ii), the board shall, at the request of an interested party, hold a hearing to determine whether the board should suspend the procurement authority of the Administrator or the Administrator's delegation of procurement authority for the protested procurement on an interim basis until the board can decide the protest.

"(ii) The period referred to in clause (i) is the period beginning on the date on which the contract is awarded and ending at the end of the later of—

"(I) the tenth day after the date of contract award; or

"(II) the fifth day after the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required.

"(iii) The board shall hold the requested hearing within 5 days after the date of the filing of the protest.".

(b) Final Decision.—Paragraph (4)(B) of such section 111(f) is amended—

(1) by striking out "45 working days" and inserting in lieu thereof "65 days"; and

(2) by adding at the end the following: "An amendment which adds a new ground of protest should be resolved, to the maximum extent practicable, within the time limits established for resolution of the initial protest.".

SEC. 1434. DISMISSALS OF PROTESTS.

Section 111(f)(4) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(4)) is amended by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) The board may dismiss a protest that the board determines—

"(i) is frivolous;

"(ii) has been brought in bad faith; or

"(iii) does not state on its face a valid basis for protest.

"(D) The board may impose appropriate procedural sanctions, including dismissal of the protest, if the board determines that the board's process has been willfully abused during the course of a protest.

"(E) If the board makes a determination under subparagraph (C), the board may impose appropriate sanctions. Such sanctions may include imposition of liability on the protester, or other interested party who joins the protest, for payment to the United States of all or that portion of the United States costs, for which such a finding is made, of reviewing the protest, including the fees and other expenses (as defined in section 2412(d)(2)(A) of title 28, United States Code) incurred by the United States in defending the protest. The Federal Acquisition Regulation shall provide guidance under which the head of an agency may initiate action to obtain such costs, unless (i) special circumstances would make such payment unjust, or (ii) the protester obtains documents or other information for the first time, after the protest is filed with the board, which establishes that the protest or a portion is frivolous or has been brought in bad faith and the protester then promptly withdraws the protest or portion of the protest.".

SEC. 1435. AWARD OF COSTS.

(a) Award.—Section 111(f)(5) of the Federal Property and Administration Services Act of 1949 (40 U.S.C. 759(f)(5)) is amended by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) Whenever the board makes such a determination, it may, in accordance with section 1304 of title 31, United States Code, further declare an appropriate prevailing party to be entitled to the cost of filing and pursuing the protest (including reasonable attorney's fees and consultant and expert witness fees), and bid and proposal preparation.".

(b) Definition of Prevailing Party.—Section 111(f)(9) of such Act (40 U.S.C. 759(f)(9)) is amended by adding at the end the following:

"(C) The term 'prevailing party', with respect to a determination of the board under paragraph (5)(B) that a challenged action of a Federal agency violates a statute or regulation or the conditions of a delegation of procurement authority issued pursuant to this section, means a party that demonstrated such violation.".

SEC. 1436. DISMISSAL AGREEMENTS.

Section 111(f)(5) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(5)), as amended by section 1435, is further amended by adding at the end the following new subparagraphs:

"(D) Any agreement that provides for the dismissal of a protest and involves a direct or indirect expenditure of appropriated funds shall be submitted to the board and shall be made a part of the public record (subject to any protective order considered appropriate by the board) before dismissal of the protest. If a Federal agency is a party to a settlement agreement, the submission of the agreement submitted to the board shall include a memorandum, signed by the contracting officer concerned, that describes in detail the procurement, the grounds for protest, the Federal Government's position regarding the grounds for protest, the terms of the settlement, and the agency's position regarding the propriety of the award or proposed award of the contract at issue in the protest.

"(E) Payment of amounts due from an agency under subparagraph (C) or under the terms of a settlement agreement under subparagraph (D) shall be made from the appropriation made by section 1304 of title 31, United States Code, for the payment of judgments. The Federal agency concerned shall reimburse that appropriation account out of funds available for the procurement.".

SEC. 1437. MATTERS TO BE COVERED IN REGULATIONS.

Section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)) is further amended—

(1) by inserting after paragraph (6) the following:

"(7)(A) The board shall adopt and issue such rules and procedures as may be necessary to the expeditious disposition of protests filed under the authority of this subsection.

"(B) The procedures shall provide that, in the computation of any period described in this subsection—

"(i) the day of the act, event, or default from which the designated period of time begins to run not be included; and

"(ii) the last day after such act, event, or default be included, unless—

"(I) such last day is a Saturday, a Sunday, or a legal holiday; or

"(II) in the case of a filing of a paper at the board, such last day is a day on which weather or other conditions make the board or Federal agency inaccessible, in which event the next day that is not a Saturday, Sunday, or legal holiday shall be included.

"(C) The procedures may provide for electronic filing and dissemination of documents and information required under this subsection and in so providing shall consider the ability of all parties to achieve electronic access to such documents and records."; and

(2) by striking out paragraph (8).

SEC. 1438. DEFINITION OF PROTEST.

Section 111(f)(9) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(9)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) The term 'protest' means a written objection by an interested party to any of the following:

"(i) A solicitation or other request by a Federal agency for offers for a contract for the procurement of property or services.

"(ii) The cancellation of such a solicitation or other request.

"(iii) An award or proposed award of such a contract.

"(iv) A termination or cancellation of an award of such a contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract."; and

(2) by capitalizing the first letter of the first word in subparagraph (B).

SEC. 1439. OVERSIGHT OF ACQUISITION OF AUTOMATIC DATA PROCESSING EQUIPMENT BY FEDERAL AGENCIES.

Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is amended by adding at the end the following new subsection:

"(h) Data Collection.—(1) The Administrator shall collect and compile data regarding the procurement of automatic data processing equipment under this section. The data collected and compiled shall include, at a minimum, with regard to each procurement the following:

"(A) The procuring agency.

"(B) The contractor.

"(C) The automatic data processing equipment and services procured.

"(D) The manufacturer of the equipment procured.

"(E) The amount of the contract, to the extent that the amount is not proprietary information.

"(F) The type of contract used.

"(G) The extent of competition for award.

"(H) Compatibility restrictions.

"(I) Significant modifications of the contract.

"(J) Contract price, to the extent that the price is not proprietary information.

"(2) The head of each Federal agency shall report to the Administrator in accordance with regulations issued by the Administrator all information that the Administrator determines necessary in order to satisfy the requirements in paragraph (1).

"(3) The Administrator—

"(A) shall carry out a systematic, periodic review of information received under this subsection;

"(B) shall use such information, as appropriate, to determine the compliance of Federal agencies with the requirements of this section; and

"(C) may take appropriate corrective action regarding an agency's authority to lease and purchase automatic data processing equipment upon any substantial failure by the head of the agency to report to the Administrator in accordance with this subsection.

"(4) The Administrator shall take appropriate corrective action upon failure of a Federal agency to comply with the terms of any delegation of authority to lease or purchase automatic data processing equipment or failure to comply with any applicable law or regulation.

"(5) The Administrator shall require in the regulations implementing this subsection that (A) data collected pursuant to this subsection be drawn from existing Federal agency information; and (B) no new or additional information reporting requirements may be imposed on offerors or contractors to collect such data.".

Subtitle E—Policy, Definitions, and Other Matters

PART I—ARMED SERVICES ACQUISITIONS

SEC. 1501. CONGRESSIONAL DEFENSE PROCUREMENT POLICY.

Section 2301 of title 10, United States Code, is amended to read as follows:

"§2301. Congressional defense procurement policy

"(a) The Congress finds that in order to ensure national defense preparedness; conserve fiscal resources; enhance science and technology, research and development, and production capability; provide for continued development and preservation of an efficient and responsive defense industrial base; and ensure the financial and ethical integrity of defense procurement programs, it is in the interest of the United States that property and services be acquired for the Department of Defense in the most timely, economic, and efficient manner consistent with achieving an optimum balance among efficient processes, full and open access to the procurement system, and sound implementation of socioeconomic policies. It is therefore the policy of Congress that—

"(1) full and open competitive procedures shall be used by the Department of Defense in accordance with the requirements of this chapter;

"(2) to the maximum extent practicable, the Department of Defense shall acquire commercial items to meet its needs and shall require prime contractors and subcontractors, at all levels, which furnish other than commercial items, to incorporate to the maximum extent practicable commercial items as components of items being supplied to the Department;

"(3) when commercial items and components are not available, practicable, or cost effective, the Department of Defense shall acquire, and shall require prime contractors and subcontractors to incorporate, nondevelopmental items and components to the maximum extent practicable;

"(4) property and services for the Department of Defense may be acquired by any kind of contract, other than cost-plus-a-percentage-of-cost contracts, but including multiyear contracts, that will promote the interest of the United States and will provide for appropriate allocation of risk between the Government and the contractor with due regard to the nature of the property or services to be acquired;

"(5) contracts, when appropriate, shall provide incentives to contractors to improve productivity through investment in capital facilities, equipment, flexible manufacturing processes, and advanced and dual-use technology;

"(6) contracts for advance procurement of components, parts, and materials necessary for manufacture or for logistics support of a weapon system should, if practicable, be entered into in a manner to achieve economic-lot purchases and more efficient production rates;

"(7) procurement protests and disputes shall be fairly and expeditiously resolved through uniform interpretation of relevant laws and regulations;

"(8) the head of an agency shall use advance procurement planning and market research and develop contract requirements in such a manner as is necessary to obtain full and open competition with due regard to the nature of the property or services to be acquired, but may restrict competitions to suppliers of commercial items to foster accomplishment of this objective; and

"(9) the head of an agency shall develop and maintain an acquisition career management program to ensure a professional acquisition work force in accordance with the requirements of chapter 87 of this title.

"(b) Further, it is the policy of Congress that procurement policies and procedures for the agencies named in section 2303 of this title shall, in accordance with the requirements of this title—

"(1) be issued in accordance with and conform to the requirements of sections 22 and 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b and 421);

"(2) promote and implement the Congressional policies in subsection (a) and in section 2 of the Office of Federal Procurement Policy Act (41 U.S.C. 401);

"(3) be implemented to support the requirements of such agencies in time of war or national emergency as well as in peacetime;

"(4) promote responsiveness of the procurement system to agency needs by—

"(A) simplifying and streamlining procurement processes, and

"(B) providing incentives to encourage contractors to take actions and make recommendations that would reduce the costs of property or services to be acquired;

"(5) facilitate the acquisition of commercial items and commercial components at or based on commercial market prices, without requiring contractors to change their business practices; and

"(6) promote the acquisition and use of commercial items, commercial components, and nondevelopmental items by requiring descriptions of agency requirements, whenever practicable, in terms of functions to be performed or performance required.

"(c) Further, it is the policy of Congress that purchases and contracts entered into under this chapter should be placed with small business concerns and concerns that are small disadvantaged businesses in conformance with section 2323 of this title and subsection (g) of section 15 of the Small Business Act (15 U.S.C. 644).

"(d) It is also the policy of Congress that qualified nonprofit agencies for the blind or severely handicapped (as defined in section 2410d(b) of this title) shall be afforded the maximum practicable opportunity to provide approved commodities and services (as defined in such section) as subcontractors and suppliers under contracts awarded by the Department of Defense.".

SEC. 1502. DEFINITIONS.

Section 2302 of title 10, United States Code, is amended—

(1) by striking out paragraphs (3) and (7);

(2) by redesignating paragraph (6) as paragraph (12);

(3) by redesignating paragraphs (2), (4), and (5) as paragraphs (5), (8), and (9), respectively;

(4) by inserting after paragraph (1) the following new paragraphs:

"(2) The term 'procurement' has the same meaning provided such term in section 4(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(2)).

"(3) The term 'procurement system' has the same meaning provided such term in section 4(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(3)).

"(4) The term 'standards' has the same meaning provided such term in section 4(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)). ";

(5) by inserting after paragraph (5) (as so redesignated) the following new paragraphs:

"(6) The term 'full and open competition' has the same meaning provided such term in section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)).

"(7) The term 'responsible source' has the same meaning provided such term in section 4(7) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(7)). "; and

(6) by inserting after paragraph (9) (as so redesignated) the following new paragraphs:

"(10) The terms 'item', 'item of supply', and 'supplies' have the meaning provided in section 4(10) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(10)).

"(11) The term 'simplified acquisition threshold' has the meaning provided that term in section 4A of the Office of Federal Procurement Policy Act.

"(12) The terms 'commercial item', 'nondevelopmental item', 'component', and 'commercial component' have the meanings provided those terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).".

SEC. 1503. DELEGATION OF PROCUREMENT FUNCTIONS.

(a) CONSOLIDATION OF DELEGATION AUTHORITY.—(1) Section 2311 of title 10, United States Code, is amended to read as follows:

"§2311. Assignment and delegation of procurement functions and responsibilities

"(a) IN GENERAL.—Except to the extent expressly prohibited by another provision of law, the head of an agency may delegate, subject to his direction, to any other officer or official of that agency, any power under this chapter.

"(b) PROCUREMENTS FOR OR WITH OTHER AGENCIES.—Subject to subsection (a), to facilitate the procurement of property and services covered by this chapter by each agency named in section 2303 of this title for any other agency, and to facilitate joint procurement by those agencies—

"(1) the head of an agency may, within his agency, delegate functions and assign responsibilities relating to procurement;

"(2) the heads of two or more agencies may by agreement delegate procurement functions and assign procurement responsibilities from one agency to another of those agencies or to an officer or civilian employee of another of those agencies; and

"(3) the heads of two or more agencies may create joint or combined offices to exercise procurement functions and responsibilities.

"(c) APPROVAL OF TERMINATIONS AND REDUCTIONS OF JOINT ACQUISITION PROGRAMS.—(1) The Secretary of Defense shall prescribe regulations that prohibit each military department participating in a joint acquisition program approved by the Under Secretary of Defense for Acquisition and Technology from terminating or substantially reducing its participation in such program without the approval of the Under Secretary.

"(2) The regulations shall include the following provisions:

"(A) A requirement that, before any such termination or substantial reduction in participation is approved, the proposed termination or reduction be reviewed by the Joint Requirements Oversight Council of the Department of Defense.

"(B) A provision that authorizes the Under Secretary of Defense for Acquisition and Technology to require a military department whose participation in a joint acquisition program has been approved for termination or substantial reduction to continue to provide some or all of the funding necessary for the acquisition program to be continued in an efficient manner.".

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2311 and inserting in lieu thereof the following:

"2311. Assignment and delegation of procurement functions and responsibilities.".

(b) CONFORMING REPEAL.—(1) Section 2308 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item related to section 2308.

SEC. 1504. DETERMINATIONS AND DECISIONS.

Section 2310 of title 10, United States Code, is amended to read as follows:

"§2310. Determinations and decisions

"(a) INDIVIDUAL OR CLASS DETERMINATIONS AND DECISIONS AUTHORIZED.—Determinations and decisions required to be made under this chapter by the head of an agency may be made for an individual purchase or contract or, except to the extent expressly prohibited by another provision of law, for a class of purchases or contracts. Such determinations and decisions are final.

"(b) WRITTEN FINDINGS REQUIRED.—(1) Each determination or decision under section 2306(g)(1), 2307(c), or 2313(c) of this title shall be based on a written finding by the person making the determination or decision. The finding shall set out facts and circumstances that support the determination or decision.

"(2) Each finding referred to in paragraph (1) is final. The head of the agency making such finding shall maintain a copy of the finding for not less than 6 years after the date of the determination or decision.".

SEC. 1505. RESTRICTIONS ON UNDEFINITIZED CONTRACTUAL ACTIONS.

(a) CLARIFICATION OF LIMITATION.—Subsection (b) of section 2326 of title 10, United States Code, is amended—

(1) in the subsection heading, by striking out "AND EXPENDITURE";

(2) in paragraph (1)(B), by striking out "or expended";

(3) in paragraph (2), by striking out "expend" and inserting in lieu thereof "obligate"; and

(4) in paragraph (3)—

(A) by striking out "expended" and inserting in lieu thereof "obligated"; and

(B) by striking out "expend" and inserting in lieu thereof "obligate".

(b) WAIVER AUTHORITY.—Such subsection is further amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph (4):

"(4) The head of an agency may waive the provisions of this subsection with respect to a contract of that agency if such head of an agency determines that the waiver is necessary in order to support a contingency operation.".

(c) INAPPLICABILITY OF RESTRICTIONS TO CONTRACTS WITHIN THE SIMPLIFIED ACQUISITION THRESHOLD.—Subsection (g)(1)(B) of such section is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

SEC. 1506. REPEAL OF REQUIREMENT RELATING TO PRODUCTION SPECIAL TOOLING AND PRODUCTION SPECIAL TEST EQUIPMENT.

(a) REPEAL.—Section 2329 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title is amended by striking out the item related to section 2329.

SEC. 1507. REGULATIONS FOR BIDS.

Section 2381(a) of title 10, United States Code, is amended by striking out "(a) The Secretary" and all that follows through the end of paragraph (1) and inserting in lieu thereof the following:

"(a) The Secretary of Defense or the Secretary of a military department may—

"(1) prescribe regulations for the preparation, submission, and opening of bids for contracts; and".

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 1551. DEFINITIONS.

Section 309 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259) is amended by adding at the end the following new subsections:

"(d) The term 'simplified acquisition threshold' has the meaning provided that term by section 4A of the Office of Federal Procurement Policy Act.

"(e) The terms 'commercial item', 'nondevelopmental item', 'component', and 'commercial component' have the meanings provided such terms by section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).".

SEC. 1552. DELEGATION OF PROCUREMENT FUNCTIONS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1301, is further amended by adding at the end the following new section:

"SEC. 312. ASSIGNMENT AND DELEGATION OF PROCUREMENT FUNCTIONS AND RESPONSIBILITIES.

"(a) IN GENERAL.—Except to the extent expressly prohibited by another provision of law, the head of an executive agency may delegate, subject to his direction, to any other officer or official of that agency, any power under this title.

"(b) PROCUREMENTS FOR OR WITH OTHER AGENCIES.—Subject to subsection (a), to facilitate the procurement of property and services covered by this title by each executive agency for any other executive agency, and to facilitate joint procurement by those executive agencies—

"(1) the head of an executive agency may, within his executive agency, delegate functions and assign responsibilities relating to procurement;

"(2) the heads of two or more executive agencies may by agreement delegate procurement functions and assign procurement responsibilities from one executive agency to another of those executive agencies or to an officer or civilian employee of another of those executive agencies; and

"(3) the heads of two or more executive agencies may create joint or combined offices to exercise procurement functions and responsibilities.".

SEC. 1553. DETERMINATIONS AND DECISIONS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1552, is further amended by adding at the end the following new section:

"SEC. 313. DETERMINATIONS AND DECISIONS.

"(a) INDIVIDUAL OR CLASS DETERMINATIONS AND DECISIONS AUTHORIZED.—Determinations and decisions required to be made under this title by an agency head may be made for an individual purchase or contract or, except to the extent expressly prohibited by another provision of law, for a class of purchases or contracts. Such determinations and decisions are final.

"(b) WRITTEN FINDINGS REQUIRED.—(1) Each determination under section 305(c) shall be based on a written finding by the person making the determination or decision. The finding shall set out facts and circumstances that support the determination or decision.

"(2) Each finding referred to in paragraph (1) is final. The executive agency making such finding shall maintain a copy of the finding for not less than 6 years after the date of the determination or decision.".

SEC. 1554. REPEALS.

The laws of the United States are amended to read as if the following sections of law had not been enacted:

(1) Section 630 of Public Law 102–393.

(2) Section 401 of Public Law 103–123.

SEC. 1555. COOPERATIVE PURCHASING.

Subsection (b) of section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481), is amended to read as follows:

"(b)(1) The Administrator shall, as far as practicable, provide any of the services specified in subsection (a) of this section to any other Federal agency, mixed-ownership Government corporation (as defined in section 9101 of title 31, United States Code), or the District of Columbia, upon its request.

"(2)(A) The Administrator may provide for the use of Federal supply schedules of the General Services Administration by any of the following entities upon request:

"(i) A State, any department or agency of a State, and any political subdivision of a State, including a local government.

"(ii) The District of Columbia.

"(iii) The Commonwealth of Puerto Rico.

"(iv) The government of an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))).

"(B) Subparagraph (A) may not be construed to authorize an entity referred to in that subparagraph to order existing stock or inventory from federally owned and operated, or federally owned and contractor operated, supply depots, warehouses, or similar facilities.

"(C) In any case in which an entity listed in subparagraph (A) uses a Federal supply schedule, the Administrator shall require the entity to reimburse the General Services Administration for any administrative costs of using the schedule.

"(3)(A) Upon the request of a qualified nonprofit agency for the blind or other severely handicapped that is to provide a commodity or service to the Federal Government under the Javits-Wagner-O'Day Act, the Administrator may provide any of the services specified in subsection (a) to such agency to the extent practicable.

"(B) A nonprofit agency receiving services under the authority of subparagraph (A) shall use the services directly in making or providing an approved commodity or approved service to the Federal Government.

"(C) In this paragraph:

"(i) The term 'qualified nonprofit agency for the blind or other severely handicapped' means—

"(I) a qualified nonprofit agency for the blind, as defined in section 5(3) of the Javits-Wagner-O'Day Act (41 U.S.C. 48b(3)); and

"(II) a qualified nonprofit agency for other severely handicapped, as defined in section 5(4) of such Act (41 U.S.C. 48b(4)).

"(ii) The terms 'approved commodity' and 'approved service' mean a commodity and a service, respectively, that has been determined by the Committee for Purchase from the Blind and Other Severely Handicapped under section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47) to be suitable for procurement by the Federal Government.

"(iii) The term 'Javits-Wagner-O'Day Act' means the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 46–48c), that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77).".

TITLE II—CONTRACT ADMINISTRATION

Subtitle A—Contract Payment

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2001. CONTRACT FINANCING.

(a) Reorganization of Principal Authority Provision.—Section 2307 of title 10, United States Code, is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"§2307. Contract financing";

(2) by inserting "Payment Authority.—" after "(a)" in subsection (a);

(3) by inserting "Payment Amount.—" after "(b)" in subsection (b);

(4) by inserting "Security for Advance Payments.—" after "(c)" in subsection (c);

(5) by inserting "Conditions for Progress Payments.—" after "(d)" in subsection (d); and

(6) by striking out "(e)(1) In any case" and inserting in lieu thereof "(g) Action in Case of Fraud.—(1) In any case".

(b) Terminology Correction.—Such section is further amended in subsection (a)(2) by striking out "bid".

(c) Effective Date of Lien Related to Advance Payments.—Such section is further amended in subsection (c) by inserting before the period at the end of the third sentence the following: "and is effective immediately upon the first advancement of funds without filing, notice, or any other action by the United States".

(d) Conditions for Progress Payments.—Such section is further amended in subsection (d)—

(1) in the first sentence of paragraph (1), by striking out "work, which" and all that follows through "accomplished" and inserting in lieu thereof "work accomplished that meets standards established under the contract"; and

(2) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) This subsection applies to a contract for an amount equal to or greater than the simplified acquisition threshold.".

(e) Conditions for Payments for Commercial Items.—Such section is further amended by inserting after subsection (d) the following new subsection (e):

"(e) Conditions for Payments for Commercial Items.—(1) Payments under subsection (a) for commercial items may be made under such terms and conditions as the head of the agency determines are appropriate or customary in the commercial marketplace. The head of the agency shall obtain adequate security for such payments. If the security is in the form of a lien in favor of the United States, such lien is paramount to all other liens and is effective immediately upon the first payment, without filing, notice, or other action by the United States.

"(2) Advance payments made under subsection (a) for commercial items may include payments, in a total amount of not more than 15 percent of the contract price, in advance of any performance of work under the contract.

"(3) The conditions of subsections (c) and (d) do not apply to payments made for commercial items in accordance with this subsection.".

(f) Navy Contracts.—Such section is further amended by inserting after subsection (e), as added by subsection (e) of this section, the following new subsection (f):

"(f) Certain Navy Contracts.—(1) The Secretary of the Navy shall provide that the rate for progress payments on any contract awarded by the Secretary for repair, maintenance, or overhaul of a naval vessel shall be not less than—

"(A) 95 percent, in the case of a firm considered to be a small business; and

"(B) 90 percent, in the case of any other firm.

"(2) The Secretary of the Navy may advance to private salvage companies such funds as the Secretary considers necessary to provide for the immediate financing of salvage operations. Advances under this paragraph shall be made on terms that the Secretary considers adequate for the protection of the United States.

"(3) The Secretary of the Navy shall ensure that, when partial, progress, or other payments are made under a contract for construction or conversion of a naval vessel, the United States is secured by a lien upon work in progress and on property acquired for performance of the contract on account of all payments so made. The lien is paramount to all other liens.".

(g) Clerical Amendment.—The table of sections at the beginning of chapter 137 of title 10, United States Code, is amended by striking out the item relating to section 2307 and inserting in lieu thereof the following:

"2307. Contract financing.".

(h) Repeal of Superseded Provisions.—

(1) Progress payments under certain navy contracts.—

(A) Repeal.—Section 7312 of title 10, United States Code, is repealed.

(B) Clerical amendment.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7312.

(2) Advancement of payments for navy salvage operations.—

(A) Repeal.—Section 7364 of such title is repealed.

(B) Clerical amendment.—The table of sections at the beginning of chapter 637 of such title is amended by striking out the item relating to section 7364.

(3) Partial payments under navy contracts—

(A) Repeal.—Section 7521 of such title is repealed.

(B) Clerical amendment.—The table of sections at the beginning of chapter 645 of such title is amended by striking out the item relating to section 7521.

(4) Navy research contracts.—Section 7522 of such title is amended—

(A) by striking out subsection (b); and

(B) by redesignating subsection (c) as subsection (b).

SEC. 2002. REPEAL OF VOUCHERING PROCEDURES SECTION.

(a) Repeal.—Section 2355 of title 10, United States Code, is repealed.

(b) Clerical Amendment.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2355.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2051. CONTRACT FINANCING.

(a) Reorganization of Principal Authority Provision.—Section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255) is amended—

(1) by striking out the section heading and the section designation and inserting in lieu thereof the following:

"SEC. 305. CONTRACT FINANCING.";

(2) by inserting "Payment Authority.—" after "(a)" in subsection (a);

(3) by inserting "Payment Amount.—" after "(b)" in subsection (b); and

(4) by inserting "Security for Advance Payments.—" after "(c)" in subsection (c).

(b) Terminology Correction.—Such section is further amended in subsection (a)(2) by striking out "bid".

(c) Effective Date of Lien Related to Advance Payments.—Such section is further amended in subsection (c) by inserting before the period at the end of the third sentence the following: "and is effective immediately upon the first advancement of funds without filing, notice, or any other action by the United States".

(d) Revision of Civilian Agency Provision To Ensure Uniform Requirements for Progress Payments.—

(1) In general.—Such section is further amended by adding at the end the following new subsections:

"(d) Conditions for Progress Payments.—(1) The executive agency shall ensure that any payment for work in progress (including materials, labor, and other items) under a contract of an executive agency that provides for such payments is commensurate with the work accomplished that meets standards established under the contract. The contractor shall provide such information and evidence as the executive agency determines necessary to permit the executive agency to carry out the preceding sentence.

"(2) The executive agency shall ensure that progress payments referred to in paragraph (1) are not made for more than 80 percent of the work accomplished under the contract so long as the executive agency has not made the contractual terms, specifications, and price definite.

"(3) This subsection applies to a contract for an amount equal to or greater than the simplified acquisition threshold.

"(e) Conditions for Payments for Commercial Items.—(1) Payments under subsection (a) for commercial items may be made under such terms and conditions as the executive agency determines are appropriate or customary in the commercial marketplace. The executive agency shall obtain adequate security for such payments. If the security is in the form of a lien in favor of the United States, such lien is paramount to all other liens and is effective immediately upon the first payment, without filing, notice, or other action by the United States.

"(2) Advance payments made under subsection (a) for commercial items may include payments, in a total amount of not more than 15 percent of the contract price, in advance of any performance of work under the contract.

"(3) The conditions of subsections (c) and (d) do not apply to payments made for commercial items in accordance with this subsection.

"(f) Action in Case of Fraud.—(1) In any case in which the remedy coordination official of an executive agency finds that there is substantial evidence that the request of a contractor for advance, partial, or progress payment under a contract awarded by that executive agency is based on fraud, the remedy coordination official shall recommend that the executive agency reduce or suspend further payments to such contractor.

"(2) An executive agency receiving a recommendation under paragraph (1) in the case of a contractor's request for payment under a contract shall determine whether there is substantial evidence that the request is based on fraud.

Upon making such a determination, the executive agency may reduce or suspend further payments to the contractor under such contract.

"(3) The extent of any reduction or suspension of payments by an executive agency under paragraph (2) on the basis of fraud shall be reasonably commensurate with the anticipated loss to the United States resulting from the fraud.

"(4) A written justification for each decision of the executive agency whether to reduce or suspend payments under paragraph (2), and for each recommendation received by the executive agency in connection with such decision, shall be prepared and be retained in the files of the executive agency.

"(5) Each executive agency shall prescribe procedures to ensure that, before the executive agency decides to reduce or suspend payments in the case of a contractor under paragraph (2), the contractor is afforded notice of the proposed reduction or suspension and an opportunity to submit matters to the executive agency in response to such proposed reduction or suspension.

"(6) Not later than 180 days after the date on which an executive agency reduces or suspends payments to a contractor under paragraph (2), the remedy coordination official of the executive agency shall—

"(A) review the determination of fraud on which the reduction or suspension is based; and

"(B) transmit a recommendation to the executive agency whether the suspension or reduction should continue.

"(7) Each executive agency who receives recommendations made by a remedy coordination official of the executive agency to reduce or suspend payments under paragraph (2) during a fiscal year shall prepare for such year a report that contains the recommendations, the actions taken on the recommendations and the reasons for such actions, and an assessment of the effects of such actions on the Federal Government. Any such report shall be available to any Member of Congress upon request.

"(8) An executive agency may not delegate responsibilities under this subsection to any person in a position below level IV of the Executive Schedule.

"(9) In this subsection, the term 'remedy coordination official', with respect to an executive agency, means the person or entity in that executive agency who coordinates within that executive agency the administration of criminal, civil, administrative, and contractual remedies resulting from investigations of fraud or corruption related to procurement activities.".

(2) Relationship to Prompt Payment Requirements.—The amendment made by paragraph (1) is not intended to impair or modify procedures required by the provisions of chapter 39 of title 31, United States Code, and the regulations issued pursuant to such provisions of law, that relate to progress payment requests, as such procedures are in effect on the date of the enactment of this Act.

PART III—ACQUISITIONS GENERALLY

SEC. 2061. INTEREST PENALTY ON CONTRACT CLOSE-OUT LAG-TIME.

Section 3903(a)(1) of title 31, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (A);

(2) by inserting "or" after the semicolon at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

"(C) in any case in which the Government delays making final payment under the contract for more than one year after the date on which the contractor completes all obligations under the contract (including submission to the Government of final incurred costs for all years covered by the contract), the date on which the contractor completes such obligations;".

Subtitle B—Cost Principles

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2101. ALLOWABLE CONTRACT COSTS.

(a) Extension of Coverage to Coast Guard and NASA; Other Miscellaneous Amendments.—Section 2324 of title 10, United States Code, is amended as follows:

(1) Subsection (a) is amended—

(A) by inserting after "(a)" the following: "Indirect Cost That Violates a FAR Cost Principle.—";

(B) by striking out "Secretary of Defense" and inserting in lieu thereof "head of an agency";

(C) by striking out "Department of Defense" and inserting in lieu thereof "agency"; and

(D) by striking out "the Department of Defense Supplement" and inserting in lieu thereof "applicable agency supplement".

(2) Subsection (b) is amended—

(A) by inserting after "(b)" the following: "Penalty for Violation of Cost Principle.—";

(B) in subparagraph (B) of paragraph (1) by striking out "regulations issued by the Secretary" and inserting in lieu thereof "provisions in the Federal Acquisition Regulation"; and

(C) by striking out "Secretary" each place it appears and inserting in lieu thereof "head of the agency".

(3) Subsection (c) is amended—

(A) by inserting after "(c)" the following: "Waiver of Penalty.—"; and

(B) by striking out "The Secretary shall prescribe regulations providing" in the first sentence and inserting in lieu thereof "The Federal Acquisition Regulation shall provide".

(4) Subsection (d) is amended—

(A) by inserting after "(d)" the following: "Applicability of Contract Disputes Procedure to Disallowance of Cost and Assessment of Penalty.—"; and

(B) by striking out "the Secretary" and inserting in lieu thereof "the head of an agency".

(5) Subsection (e) is amended—

(A) by inserting after "(e)" the following: "Specific Costs Not Allowable.—";

(B) in subparagraph (D) of paragraph (1), by striking out "regulations of the Secretary of Defense" and inserting in lieu thereof "provisions of the Federal Acquisition Regulation";

(C) in subparagraph (M) of paragraph (1), by striking out "regulations prescribed by the Secretary of Defense" and inserting in lieu thereof "the Federal Acquisition Regulation";

(D) in subparagraph (A) of paragraph (2), by inserting "of Defense" after "Secretary" the first place it occurs;

(E) in subparagraph (C) of paragraph (2), by striking out "head of the agency" in the first sentence and inserting in lieu thereof "Secretary of Defense";

(F) in subparagraph (A) of paragraph (3), by striking out "regulations prescribed by the Secretary" and inserting in lieu thereof "the Federal Acquisition Regulation"; and

(G) by amending paragraph (4) to read as follows:

"(4) The provisions of the Federal Acquisition Regulation implementing this section may establish appropriate definitions, exclusions, limitations, and qualifications.".

(6) Subsection (f) is amended—

(A) in paragraph (1)—

(i) by striking out "(1)" and all that follows through "The amendments" and inserting in lieu thereof the following: "Required Regulations.—The Federal Acquisition Regulation shall contain provisions on the allowability of contractor costs. Such provisions", and

(ii) by striking out "These regulations" and inserting in lieu thereof "The regulations"; and

(B) in paragraphs (2), (3), and (4)—

(i) by striking out "defense" before "contract auditor" each place it appears, and

(ii) by striking out "regulation" each place it appears and inserting in lieu thereof "Federal Acquisition Regulation".

(7) Subsection (g) is amended to read as follows:

"(g) Applicability of Regulations to Subcontractors.—The regulations referred to in subsections (e) and (f)(1) shall require prime contractors of a covered contract, to the maximum extent practicable, to apply the provisions of such regulations to all subcontractors of the covered contract.".

(8) Subsection (h) is amended—

(A) by inserting after "(h)" the following: "Contractor Certification Required.—";

(B) by striking out "by the Secretary" in paragraph (1) and inserting in lieu thereof "in the Federal Acquisition Regulation"; and

(C) by striking out "Secretary of Defense" in paragraph (2) and inserting in lieu thereof "head of the agency".

(9) Subsection (i) is amended by striking out "The submission to the Department of Defense" and inserting in lieu thereof "Penalties for Submission of Cost Known as Not Allowable.—The submission to an agency".

(10) Subsection (j) is amended—

(A) by inserting after "(j)" the following: "Contractor To Have Burden of Proof.—"; and

(B) by striking out "United States Claims Court" and inserting in lieu thereof "United States Court of Federal Claims".

(11) Subsection (k) is amended—

(A) by inserting after "(k)" the following: "Proceeding Costs Not Allowable.—";

(B) in paragraph (2), by striking out "decision by the Department of Defense—" and inserting in lieu thereof "decision—"; and

(C) in paragraph (4)—

(i) by inserting after "head of the agency" the following: "or Secretary of the military department concerned",

(ii) by striking out "under regulations prescribed by such agency head" and inserting in lieu thereof "in accordance with the Federal Acquisition Regulation",

(iii) by inserting "or Secretary" after "agency head", and

(iv) by inserting before the period at the end the following: "or military department".

(b) Covered Contract Defined.—Such section is further amended by striking out subsections (l) and (m) and inserting in lieu thereof the following:

"(l) Definitions.—In this section:

"(1)(A) The term 'covered contract' means a contract for an amount in excess of $500,000 that is entered into by the head of an agency, except that such term does not include a fixed-price contract without cost incentives or any contract for the purchase of commercial items.

"(B) The dollar amount in subparagraph (A) shall be adjusted on October 1 of each year divisible by 5 to the equivalent amount in constant fiscal year 1993 dollars (rounded to the nearest $10,000).

"(2) The term 'head of the agency' or 'agency head' does not include the Secretary of a military department.

"(3) The term 'agency' means the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration.".

(c) Regulations.—The regulations of the Secretary of Defense implementing section 2324 of title 10, United States Code, shall remain in effect until the Federal Acquisition Regulation is revised to implement the amendments made by this section.

SEC. 2102. REPEAL OF AUTHORITY FOR CONTRACT PROFIT CONTROLS DURING EMERGENCY PERIODS.

(a) Repeal.—Section 2382 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2382.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2151. ALLOWABLE CONTRACT COSTS.

Section 306 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256) is amended to read as follows:

"SEC. 306. ALLOWABLE COSTS.

"(a) INDIRECT COST THAT VIOLATES A FAR COST PRINCIPLE.—An executive agency shall require that a covered contract provide that if the contractor submits to the executive agency a proposal for settlement of indirect costs incurred by the contractor for any period after such costs have been accrued and if that proposal includes the submission of a cost which is unallowable because the cost violates a cost principle in the Federal Acquisition Regulation (referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)) or an executive agency supplement to the Federal Acquisition Regulation, the cost shall be disallowed.

"(b) PENALTY FOR VIOLATION OF COST PRINCIPLE.—(1) If the executive agency determines that a cost submitted by a contractor in its proposal for settlement is expressly unallowable under a cost principle referred to in subsection (a) that defines the allowability of specific selected costs, the executive agency shall assess a penalty against the contractor in an amount equal to—

"(A) the amount of the disallowed cost allocated to covered contracts for which a proposal for settlement of indirect costs has been submitted; plus

"(B) interest (to be computed based on provisions in the Federal Acquisition Regulation) to compensate the United States for the use of any funds which a contractor has been paid in excess of the amount to which the contractor was entitled.

"(2) If the executive agency determines that a proposal for settlement of indirect costs submitted by a contractor includes a cost determined to be unallowable in the case of such contractor before the submission of such proposal, the executive agency shall assess a penalty against the contractor in an amount equal to two times the amount of the disallowed cost allocated to covered contracts for which a proposal for settlement of indirect costs has been submitted.

"(c) WAIVER OF PENALTY.—The Federal Acquisition Regulation shall provide for a penalty under subsection (b) to be waived in the case of a contractor's proposal for settlement of indirect costs when—

"(1) the contractor withdraws the proposal before the formal initiation of an audit of the proposal by the Federal Government and resubmits a revised proposal;

"(2) the amount of unallowable costs subject to the penalty is insignificant; or

"(3) the contractor demonstrates, to the contracting officer's satisfaction, that—

"(A) it has established appropriate policies and personnel training and an internal control and review system that provide assurances that unallowable costs subject to penalties are precluded from being included in the contractor's proposal for settlement of indirect costs; and

"(B) the unallowable costs subject to the penalty were inadvertently incorporated into the proposal.

"(d) APPLICABILITY OF CONTRACT DISPUTES PROCEDURE TO DISALLOWANCE OF COST AND ASSESSMENT OF PENALTY.—An action of an executive agency under subsection (a) or (b)—

"(1) shall be considered a final decision for the purposes of section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605); and

"(2) is appealable in the manner provided in section 7 of such Act (41 U.S.C. 606).

"(e) SPECIFIC COSTS NOT ALLOWABLE.—(1) The following costs are not allowable under a covered contract:

"(A) Costs of entertainment, including amusement, diversion, and social activities, and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities).

"(B) Costs incurred to influence (directly or indirectly) legislative action on any matter pending before Congress or a State legislature.

"(C) Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of any false certification) brought by the United States where the contractor is found liable or had pleaded nolo contendere to a charge of fraud or similar proceeding (including filing of a false certification).

"(D) Payments of fines and penalties resulting from violations of, or failure to comply with, Federal, State, local, or foreign laws and regulations, except when incurred as a result of compliance with specific terms and conditions of the contract or specific written instructions from the contracting officer authorizing in advance such payments in accordance with applicable provisions of the Federal Acquisition Regulation.

"(E) Costs of membership in any social, dining, or country club or organization.

"(F) Costs of alcoholic beverages.

"(G) Contributions or donations, regardless of the recipient.

"(H) Costs of advertising designed to promote the contractor or its products.

"(I) Costs of promotional items and memorabilia, including models, gifts, and souvenirs.

"(J) Costs for travel by commercial aircraft which exceed the amount of the standard commercial fare.

"(K) Costs incurred in making any payment (commonly known as a 'golden parachute payment') which is—

"(i) in an amount in excess of the normal severance pay paid by the contractor to an employee upon termination of employment; and

"(ii) is paid to the employee contingent upon, and following, a change in management control over, or ownership of, the contractor or a substantial portion of the contractor's assets.

"(L) Costs of commercial insurance that protects against the costs of the contractor for correction of the contractor's own defects in materials or workmanship.

"(M) Costs of severance pay paid by the contractor to foreign nationals employed by the contractor under a service contract performed outside the United States, to the extent that the amount of severance pay paid in any case exceeds the amount paid in the industry involved under the customary or prevailing practice for firms in that industry providing similar services in the United States, as determined under the Federal Acquisition Regulation.

"(N) Costs of severance pay paid by the contractor to a foreign national employed by the contractor under a service contract performed in a foreign country if the termination of the employment of the foreign national is the result of the closing of, or the curtailment of activities at, a United States facility in that country at the request of the government of that country.

"(O) Costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State, to the extent provided in subsection (k).

"(2)(A) Pursuant to the Federal Acquisition Regulation and subject to the availability of appropriations, an executive agency, in awarding a covered contract, may waive the application of the provisions of paragraphs (1)(M) and (1)(N) to that contract if the executive agency determines that—

"(i) the application of such provisions to the contract would adversely affect the continuation of a program, project, or activity that provides significant support services for employees of the executive agency posted outside the United States;

"(ii) the contractor has taken (or has established plans to take) appropriate actions within the contractor's control to minimize the amount and number of incidents of the payment of severance pay by the contractor to employees under the contract who are foreign nationals; and

"(iii) the payment of severance pay is necessary in order to comply with a law that is generally applicable to a significant number of businesses in the country in which the foreign national receiving the payment performed services under the contract or is necessary to comply with a collective bargaining agreement.

"(B) An executive agency shall include in the solicitation for a covered contract a statement indicating—

"(i) that a waiver has been granted under subparagraph (A) for the contract; or

"(ii) whether the executive agency will consider granting such a waiver, and, if the executive agency will consider granting a waiver, the criteria to be used in granting the waiver.

"(C) An executive agency shall make the final determination regarding whether to grant a waiver under subparagraph (A) with respect to a covered contract before award of the contract.

"(3) The provisions of the Federal Acquisition Regulation implementing this section may establish appropriate definitions, exclusions, limitations, and qualifications. Any submission by a contractor of costs which are incurred by the contractor and which are claimed to be allowable under Department of Energy management and operating contracts shall be considered a 'proposal for settlement of indirect costs incurred by the contractor for any period after such costs have been accrued', as used in this section.

"(f) REQUIRED REGULATIONS.—(1) The Federal Acquisition Regulation shall contain provisions on the allowability of contractor costs. Such provisions shall define in detail and in specific terms those costs which are unallowable, in whole or in part, under covered contracts. The regulations shall, at a minimum, clarify the cost principles applicable to contractor costs of the following:

"(A) Air shows.

"(B) Membership in civic, community, and professional organizations.

"(C) Recruitment.

"(D) Employee morale and welfare.

"(E) Actions to influence (directly or indirectly) executive branch action on regulatory and contract matters (other than costs incurred in regard to contract proposals pursuant to solicited or unsolicited bids).

"(F) Community relations.

"(G) Dining facilities.

"(H) Professional and consulting services, including legal services.

"(I) Compensation.

"(J) Selling and marketing.

"(K) Travel.

"(L) Public relations.

"(M) Hotel and meal expenses.

"(N) Expense of corporate aircraft.

"(O) Company-furnished automobiles.

"(P) Advertising.

"(2) The Federal Acquisition Regulation shall require that a contracting officer not resolve any questioned costs until the contracting officer has obtained—

"(A) adequate documentation with respect to such costs; and

"(B) the opinion of the contract auditor on the allowability of such costs.

"(3) The Federal Acquisition Regulation shall provide that, to the maximum extent practicable, a contract auditor be present at any negotiation

or meeting with the contractor regarding a determination of the allowability of indirect costs of the contractor.

"(4) The Federal Acquisition Regulation shall require that all categories of costs designated in the report of a contract auditor as questioned with respect to a proposal for settlement be resolved in such a manner that the amount of the individual questioned costs that are paid will be reflected in the settlement.

"(g) APPLICABILITY OF REGULATIONS TO SUBCONTRACTORS.—The regulations referred to in subsections (e) and (f)(1) shall require prime contractors of a covered contract, to the maximum extent practicable, to apply the provisions of such regulations to all subcontractors of the covered contract.

"(h) CONTRACTOR CERTIFICATION REQUIRED.—(1) A proposal for settlement of indirect costs applicable to a covered contract shall include a certification by an official of the contractor that, to the best of the certifying official's knowledge and belief, all indirect costs included in the proposal are allowable. Any such certification shall be in a form prescribed in the Federal Acquisition Regulation.

"(2) An executive agency may, in an exceptional case, waive the requirement for certification under paragraph (1) in the case of any contract if the agency—

"(A) determines in such case that it would be in the interest of the United States to waive such certification; and

"(B) states in writing the reasons for that determination and makes such determination available to the public.

"(i) PENALTIES FOR SUBMISSION OF COST KNOWN AS NOT ALLOWABLE.—The submission to an executive agency of a proposal for settlement of costs for any period after such costs have been accrued that includes a cost that is expressly specified by statute or regulation as being unallowable, with the knowledge that such cost is unallowable, shall be subject to the provisions of section 287 of title 18, United States Code, and section 3729 of title 31, United States Code.

"(j) CONTRACTOR TO HAVE BURDEN OF PROOF.—In a proceeding before a board of contract appeals, the United States Court of Federal Claims, or any other Federal court in which the reasonableness of indirect costs for which a contractor seeks reimbursement from the United States is in issue, the burden of proof shall be upon the contractor to establish that those costs are reasonable.

"(k) PROCEEDING COSTS NOT ALLOWABLE.—(1) Except as otherwise provided in this subsection, costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State are not allowable as reimbursable costs under a covered contract if the proceeding (A) relates to a violation of, or failure to comply with, a Federal or State statute or regulation, and (B) results in a disposition described in paragraph (2).

"(2) A disposition referred to in paragraph (1)(B) is any of the following:

"(A) In the case of a criminal proceeding, a conviction (including a conviction pursuant to a plea of nolo contendere) by reason of the violation or failure referred to in paragraph (1).

"(B) In the case of a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of contractor liability on the basis of the violation or failure referred to in paragraph (1).

"(C) In the case of any civil or administrative proceeding, the imposition of a monetary penalty by reason of the violation or failure referred to in paragraph (1).

"(D) A final decision—

"(i) to debar or suspend the contractor,

"(ii) to rescind or void the contract, or

"(iii) to terminate the contract for default,

by reason of the violation or failure referred to in paragraph (1).

"(E) A disposition of the proceeding by consent or compromise if such action could have resulted in a disposition described in subparagraph (A), (B), (C), or (D).

"(3) In the case of a proceeding referred to in paragraph (1) that is commenced by the United States and is resolved by consent or compromise pursuant to an agreement entered into by a contractor and the United States, the costs incurred by the contractor in connection with such proceeding that are otherwise not allowable as reimbursable costs under such paragraph may be allowed to the extent specifically provided in such agreement.

"(4) In the case of a proceeding referred to in paragraph (1) that is commenced by a State, the executive agency that awarded the covered contract involved in the proceeding may allow the costs incurred by the contractor in connection with such proceeding as reimbursable costs if the executive agency determines, in accordance with the Federal Acquisition Regulation, that the costs were incurred as a result of (A) a specific term or condition of the contract, or (B) specific written instructions of the executive agency.

"(5)(A) Except as provided in subparagraph (C), costs incurred by a contractor in connection with a criminal, civil, or administrative proceeding commenced by the United States or a State in connection with a covered contract may be allowed as reimbursable costs under the contract if such costs are not disallowable under paragraph (1), but only to the extent provided in subparagraph (B).

"(B)(i) The amount of the costs allowable under subparagraph (A) in any case may not exceed the amount equal to 80 percent of the amount of the costs incurred, to the extent that such costs are determined to be otherwise allowable and allocable under the Federal Acquisition Regulation.

"(ii) Regulations issued for the purpose of clause (i) shall provide for appropriate consideration of the complexity of procurement litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States as a party, and such other factors as may be appropriate.

"(C) In the case of a proceeding referred to in subparagraph (A), contractor costs otherwise allowable as reimbursable costs under this paragraph are not allowable if (i) such proceeding involves the same contractor misconduct alleged as the basis of another criminal, civil, or administrative proceeding, and (ii) the costs of such other proceeding are not allowable under paragraph (1).

"(6) In this subsection:

"(A) The term 'proceeding' includes an investigation.

"(B) The term 'costs', with respect to a proceeding—

"(i) means all costs incurred by a contractor, whether before or after the commencement of any such proceeding; and

"(ii) includes—

"(I) administrative and clerical expenses;

"(II) the cost of legal services, including legal services performed by an employee of the contractor;

"(III) the cost of the services of accountants and consultants retained by the contractor; and

"(IV) the pay of directors, officers, and employees of the contractor for time devoted by such directors, officers, and employees to such proceeding.

"(C) The term 'penalty' does not include restitution, reimbursement, or compensatory damages.

"(l) COVERED CONTRACT DEFINED.—(1) In this section, the term 'covered contract' means a contract for an amount in excess of $500,000 that is entered into by an executive agency, except that such term does not include a fixed-price contract without cost incentives or any contract for the purchase of commercial items.

"(2) The dollar amount in paragraph (1) shall be adjusted on October 1 of each year divisible by 5 to the equivalent amount in constant fiscal year 1993 dollars (rounded to the nearest $10,000).".

SEC. 2152. REVISION OF COST PRINCIPLE RELATING TO ENTERTAINMENT, GIFT, AND RECREATION COSTS FOR CONTRACTOR EMPLOYEES.

(a) COSTS NOT ALLOWABLE.—The costs of entertainment, gifts, or recreation for employees of a contractor or members of their families that are provided by the contractor to improve employee morale or performance or for any other purpose are not allowable under a covered contract unless, within 120 days of the date of the enactment of this Act, the Federal Acquisition Regulatory Council prescribes amendments to the Federal Acquisition Regulation specifying circumstances under which such costs are allowable under a covered contract. At a minimum, such amendments shall ensure that costs specifically not allowable under the entertainment cost principle (FAR 31.205–14) are not allowable under any other cost principle.

(b) DEFINITIONS.—In this section:

(1) The term "employee" includes officers and directors of a contractor.

(2) The term "covered contract" has the meaning given such term in section 2324(l) of title 10, United States Code (as amended by section 2101(b)), or section 306(l) of the Federal Property and Administrative Services Act of 1949 (as added by section 2151).

(c) EFFECTIVE DATE.—The provisions of subsection (a), including any amendments to the Federal Acquisition Regulation prescribed under that subsection, shall take effect in accordance with section 9001.

PART III—ACQUISITIONS GENERALLY

SEC. 2161. TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS.

Section 24(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 420) is amended by inserting after "Under any contract" the following: "requiring submission of cost or pricing data or the negotiation of final indirect costs".

Subtitle C—Audit and Access to Records

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2201. CONSOLIDATION AND REVISION OF AUTHORITY TO EXAMINE RECORDS OF CONTRACTORS.

(a) AUTHORITY.—

(1) IN GENERAL.—Section 2313 of title 10, United States Code, is amended to read as follows:

"§2313. Examination of records of contractor

"(a) AGENCY AUTHORITY.—(1) The head of an agency, acting through an authorized representative, is authorized to inspect the plant and audit the records of—

"(A) a contractor performing a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of such contracts, made by that agency under this chapter; and

"(B) a subcontractor performing any cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable subcontract or any combination of such subcontracts under a contract referred to in subparagraph (A).

"(2) The head of an agency, acting through an authorized representative, is authorized, for the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted pursuant to section 2306a of this title with respect to a contract or

subcontract, to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;

"(C) pricing of the contract or subcontract; or

"(D) performance of the contract or subcontract.

"(b) DCAA SUBPOENA AUTHORITY.—(1) The Director of the Defense Contract Audit Agency (or any successor agency) may require by subpoena the production of any records of a contractor that the Secretary of Defense is authorized to audit or examine under subsection (a).

"(2) Any such subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of an appropriate United States district court.

"(3) The authority provided by paragraph (1) may not be redelegated.

"(4) The Director (or any successor official) shall submit an annual report to the Secretary of Defense on the exercise of such authority during the preceding year and the reasons why such authority was exercised in any instance. The Secretary shall forward a copy of each such report to the Committees on Armed Services of the Senate and House of Representatives.

"(c) COMPTROLLER GENERAL AUTHORITY.—(1) Except as provided in paragraph (2), each contract awarded after using procedures other than sealed bid procedures shall provide that the Comptroller General and his representatives are authorized to examine any records of the contractor, or any of its subcontractors, that directly pertain to, and involve transactions relating to, the contract or subcontract.

"(2) Paragraph (1) does not apply to a contract or subcontract with a foreign contractor or foreign subcontractor if the head of the agency concerned determines, with the concurrence of the Comptroller General or his designee, that the application of that paragraph to the contract or subcontract would not be in the public interest. However, the concurrence of the Comptroller General or his designee is not required—

"(A) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its records available for examination; and

"(B) where the head of the agency determines, after taking into account the price and availability of the property and services from United States sources, that the public interest would be best served by not applying paragraph (1).

"(3) Paragraph (1) may not be construed to require a contractor or subcontractor to create or maintain any record that the contractor or subcontractor does not maintain in the ordinary course of business or pursuant to another provision of law.

"(d) LIMITATION ON PREAWARD AUDITS RELATING TO INDIRECT COSTS.—The head of an agency may not perform a preaward audit to evaluate proposed indirect costs under any contract, subcontract, or modification to be entered into in accordance with this chapter in any case in which the contracting officer determines that the objectives of the audit can reasonably be met by accepting the results of an audit conducted by any other department or agency of the Federal Government within one year preceding the date of the contracting officer's determination.

"(e) LIMITATION.—The authority of the head of an agency under subsection (a), and the authority of the Comptroller General under subsection (c), with respect to a contract or subcontract shall expire three years after final payment under such contract or subcontract.

"(f) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section does not apply to the following contracts:

"(1) Contracts for utility services at rates not exceeding those established to apply uniformly to the public, plus any applicable reasonable connection charge.

"(g) FORMS OF ORIGINAL RECORD STORAGE.—Nothing in this section shall be construed to preclude a contractor from duplicating or storing original records in electronic form.

"(h) USE OF IMAGES OF ORIGINAL RECORDS.—The head of an agency shall not require a contractor or subcontractor to provide original records in an audit carried out pursuant to this section if the contractor or subcontractor provides photographic or electronic images of the original records and meets the following requirements:

"(1) The contractor or subcontractor has established procedures to ensure that the imaging process preserves the integrity, reliability, and security of the original records.

"(2) The contractor or subcontractor maintains an effective indexing system to permit timely and convenient access to the imaged records.

"(3) The contractor or subcontractor retains the original records for a minimum of one year after imaging to permit periodic validation of the imaging systems.

"(i) RECORDS DEFINED.—In this section, the term 'records' includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.".

(2) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 137 of title 10, United States Code, is amended to read as follows:

"2313. Examination of records of contractor.".

(b) REPEAL OF SUPERSEDED PROVISION.—

(1) REPEAL.—Section 2406 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2406.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2251. AUTHORITY TO EXAMINE RECORDS OF CONTRACTORS.

(a) AUTHORITY.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1251(2), is further amended by inserting after section 304B the following new section:

"SEC. 304C. EXAMINATION OF RECORDS OF CONTRACTOR.

"(a) AGENCY AUTHORITY.—(1) The head of an executive agency, acting through an authorized representative, is authorized to inspect the plant and audit the records of—

"(A) a contractor performing a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of such contracts, made by that executive agency under this title; and

"(B) a subcontractor performing any cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable subcontract or any combination of such subcontracts under a contract referred to in subparagraph (A).

"(2) The head of an executive agency, acting through an authorized representative, is authorized, for the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted pursuant to section 304B with respect to a contract or subcontract, to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;

"(C) pricing of the contract or subcontract; or

"(D) performance of the contract or subcontract.

"(b) COMPTROLLER GENERAL AUTHORITY.—(1) Except as provided in paragraph (2), each contract awarded after using procedures other than sealed bid procedures shall provide that the Comptroller General and his representatives are authorized to examine any records of the contractor, or any of its subcontractors, that directly pertain to, and involve transactions relating to, the contract or subcontract.

"(2) Paragraph (1) does not apply to a contract or subcontract with a foreign contractor or foreign subcontractor if the executive agency concerned determines, with the concurrence of the Comptroller General or his designee, that the application of that paragraph to the contract or subcontract would not be in the public interest. However, the concurrence of the Comptroller General or his designee is not required—

"(A) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its records available for examination; and

"(B) where the executive agency determines, after taking into account the price and availability of the property and services from United States sources, that the public interest would be best served by not applying paragraph (1).

"(3) Paragraph (1) may not be construed to require a contractor or subcontractor to create or maintain any record that the contractor or subcontractor does not maintain in the ordinary course of business or pursuant to another provision of law.

"(c) LIMITATION ON PREAWARD AUDITS RELATING TO INDIRECT COSTS.—An executive agency may not perform a preaward audit to evaluate proposed indirect costs under any contract, subcontract, or modification to be entered into in accordance with this title in any case in which the contracting officer determines that the objectives of the audit can reasonably be met by accepting the results of an audit conducted by any other department or agency of the Federal Government within one year preceding the date of the contracting officer's determination.

"(d) LIMITATION.—The authority of an executive agency under subsection (a), and the authority of the Comptroller General under subsection (b), with respect to a contract or subcontract shall expire three years after final payment under such contract or subcontract.

"(e) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section does not apply to the following contracts:

"(1) Contracts for utility services at rates not exceeding those established to apply uniformly to the public, plus any applicable reasonable connection charge.

"(f) FORM OF ORIGINAL RECORD STORAGE.—Nothing in this section shall be construed to preclude a contractor from duplicating or storing original records in electronic form.

"(g) USE OF IMAGES OF ORIGINAL RECORDS.—An executive agency shall not require a contractor or subcontractor to provide original records in an audit carried out pursuant to this section if the contractor or subcontractor provides photographic or electronic images of the original records and meets the following requirements:

"(1) The contractor or subcontractor has established procedures to ensure that the imaging process preserves the integrity, reliability, and security of the original records.

"(2) The contractor or subcontractor maintains an effective indexing system to permit timely and convenient access to the imaged records.

"(3) The contractor or subcontractor retains the original records for a minimum of one year after imaging to permit periodic validation of the imaging systems.

"(h) RECORDS DEFINED.—In this section, the term 'records' includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254) is amended by striking out subsection (c).

Subtitle D—Cost Accounting Standards

SEC. 2301. REPEAL OF OBSOLETE DEADLINE REGARDING PROCEDURAL REGULATIONS FOR THE COST ACCOUNTING STANDARDS BOARD.

Section 26(f)(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(3)) is amended in the first sentence by striking out "Not later than 180 days after the date of enactment of this section, the Administrator" and inserting in lieu thereof "The Administrator".

Subtitle E—Administration of Contract Provisions Relating to Price, Delivery, and Product Quality

SEC. 2401. CLARIFICATION OF PROVISION RELATING TO QUALITY CONTROL OF CERTAIN SPARE PARTS.

The second sentence of subsection (a) of section 2383 of title 10, United States Code, is amended to read as follows: "In establishing the appropriate qualification requirements, the Secretary of Defense shall use the Department of Defense qualification requirements that were used to qualify the original production part unless the Secretary determines in writing—

"(1) that there are other requirements sufficiently similar to those requirements that should be used instead; or

"(2) that any or all such requirements are unnecessary.".

SEC. 2402. CONTRACTOR GUARANTEES REGARDING WEAPON SYSTEMS.

(a) REPEAL OF REQUIREMENT FOR REPORT ON WAIVERS.—Subsection (e) of section 2403 of title 10, United States Code, is amended—

(1) by striking out "(1)"; and

(2) by striking out paragraph (2).

(b) PROVISIONS TO BE ADDRESSED BY REGULATIONS.—Subsection (h) of such section is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) The regulations shall include the following:

"(A) Guidelines for negotiating contractor guarantees that are reasonable and cost effective, as determined on the basis of the likelihood of defects and the estimated cost of correcting such defects.

"(B) Procedures for administering contractor guarantees.

"(C) Guidelines for determining the cases in which it may be appropriate to waive the requirements of this section.".

Subtitle F—Claims and Disputes

SEC. 2501. CERTIFICATION OF CONTRACT CLAIMS.

(a) DOD CERTIFICATION REQUIREMENT IN CONFLICT WITH GOVERNMENT-WIDE REQUIREMENT.—

(1) REPEAL.—Section 2410 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2410.

(b) REPEAL OF SUPERSEDED PROVISION.—Section 813(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2453), is repealed.

(c) RESTRICTION ON LEGISLATIVE PAYMENT OF CLAIMS.—Section 2410e of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) RESTRICTION ON LEGISLATIVE PAYMENT OF CLAIMS.—In the case of a contract of an agency named in section 2303(a) of this title, no provision of a law enacted after the date of the enactment of the Federal Acquisition Improvement Act of 1994 that directs the payment of a particular claim under such contract, a particular request for equitable adjustment to any term of such contract, or a particular request for relief under Public Law 85–804 (50 U.S.C. 1431 et seq.) regarding such contract may be implemented unless such provision of law—

"(1) specifically refers to this subsection; and

"(2) specifically states that this subsection does not apply with respect to the payment directed by that provision of law.".

SEC. 2502. SHIPBUILDING CLAIMS.

(a) INCREASE IN TIME PERIOD DURING WHICH ADJUSTMENTS TO SHIPBUILDING CLAIMS MAY BE MADE.—Section 2405 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "entered into after December 7, 1983,"; and

(B) by striking out "occurring more than 18 months before the submission of the claim, request, or demand." and inserting in lieu thereof the following: "occurring—

"(1) in the case of a contract entered into after December 7, 1983, and before the date of the enactment of the Federal Acquisition Improvement Act of 1994, more than 18 months before the submission of the claim, request, or demand; and

"(2) in the case of a contract entered into on or after the date of the enactment of the Federal Acquisition Improvement Act of 1994, more than 6 years before the submission of the claim, request, or demand.".

(b) RESUBMISSION WITH CORRECTED CERTIFICATION.—Subsection (c) of such section is repealed.

TITLE III—MAJOR SYSTEMS AND SERVICE SPECIFIC STATUTES

Subtitle A—Major Systems Statutes

SEC. 3001. WEAPON DEVELOPMENT AND PROCUREMENT SCHEDULES.

(a) DEADLINE AND PURPOSE.—Subsection (a) of section 2431 of title 10, United States Code, is amended—

(1) in the first sentence—

(A) by striking out "at the same time" and inserting in lieu thereof "not later than 45 days after"; and

(B) by striking out "a written report" and inserting in lieu thereof "budget justification documents"; and

(2) in the second and third sentences, by striking out "report" and inserting in lieu thereof "documents".

(b) ADDITIONAL MATTERS TO BE INCLUDED.—Subsection (b) of such section is amended—

(1) by striking out "include—" and inserting in lieu thereof "include each of the following:";

(2) by capitalizing the first letter of the first word in each of paragraphs (1), (2), and (3);

(3) by striking out the semicolon at the end of paragraphs (1) and (2) and inserting in lieu thereof a period;

(4) by striking out "; and" at the end of paragraph (3) and inserting in lieu thereof a period; and

(5) by amending paragraph (4) to read as follows:

"(4)(A) The most efficient production rate, the most efficient acquisition rate, and the minimum sustaining rate, consistent with the program priority established for such weapon system by the Secretary concerned.

"(B) In this paragraph:

"(i) The term 'most efficient production rate' means the maximum rate for each budget year at which the weapon system can be produced with existing or planned plant capacity and tooling, with one shift a day running for eight hours a day and five days a week.

"(ii) The term 'minimum sustaining rate' means the production rate for each budget year that is necessary to keep production lines open while maintaining a base of responsive vendors and suppliers.".

SEC. 3002. SELECTED ACQUISITION REPORT REQUIREMENT.

(a) DEFINITION OF PROCUREMENT UNIT COST.—

(1) DEFINITION.—Paragraph (2) of section 2432(a) of title 10, United States Code, is amended—

(A) in clause (A), by striking out "for a fiscal year" and all that follows through "such program in such fiscal year";

(B) in clause (B), by striking out "with such funds during such fiscal year." and inserting in lieu thereof a period; and

(C) by striking out the last sentence.

(2) CONFORMING AMENDMENTS.—Section 2433 of such title is amended—

(A) in subparagraph (B) of subsection (c)(1), by striking out "current" before "procurement unit cost";

(B) in subsection (d), by striking out "current" before "procurement unit cost" each place it appears; and

(C) in subsection (e), by striking out "current" before "procurement unit cost" both places it appears.

(b) EXCLUSION OF FIRM, FIXED-PRICE CONTRACTS.—Subsection (a) of section 2432 of such title is amended in paragraph (3) by inserting before the period at the end the following: "and that is not a firm, fixed price contract".

(c) DEFINITION OF FULL LIFE-CYCLE COST.—Such subsection is further amended in paragraph (4) by striking out "has the meaning" and all that follows through the end of the paragraph and inserting in lieu thereof the following: "means all costs of development, procurement, military construction, and operations and support, without regard to funding source or management control.".

(d) NOTICE OF PROPOSED CHANGES IN SAR.—Subsection (c) of such section is amended in paragraph (2) by striking out the second sentence and inserting in lieu thereof the following: "Whenever the Secretary of Defense proposes to make changes in the content of a Selected Acquisition Report, the Secretary shall submit a notice of the proposed changes to such committees. The changes shall be considered approved by the Secretary, and may be incorporated into the report, only after the end of the 60-day period beginning on the date on which the notice is received by those committees.".

(e) ELIMINATION OF CERTAIN SAR REQUIREMENTS.—Such subsection is further amended in paragraph (3) by striking out subparagraph (C).

(f) UNIFORM IMPLEMENTATION OF LIFE-CYCLE COST ANALYSIS.—Such subsection is further amended—

(1) by striking out paragraph (5); and

(2) by adding at the end of subparagraph (A) of paragraph (3) the following: "The Secretary of Defense shall ensure that this subparagraph is implemented in a uniform manner, to the extent practicable, throughout the Department of Defense.".

(g) DEADLINE REVISION.—Subsection (f) of such section is amended by striking out "60 days" in the first sentence and inserting in lieu thereof "45 days".

(h) ELIMINATION OF PRELIMINARY REPORT.—Such subsection is further amended by striking out the second sentence.

(i) TERMINOLOGY CORRECTIONS.—Such section is further amended as follows:

(1) Subsection (b)(3)(A) is amended by striking out "full scale development or" in clause (i).

(2) Subsection (c)(3) is amended by striking out "full-scale engineering" in subparagraph (A) and inserting in lieu thereof "engineering and manufacturing".

(3) Subsection (h)(1) is amended by striking out "full-scale engineering" both places it appears and inserting in lieu thereof "engineering and manufacturing".

SEC. 3003. UNIT COST REPORT REQUIREMENT.

(a) Revision of Baseline Report Definitions.—

(1) Revision.—Section 2433(a) of title 10, United States Code, is amended—

(A) in paragraph (2)—

(i) by striking out "Baseline Selected Acquisition Report" and inserting in lieu thereof "Baseline Estimate"; and

(ii) by striking out "Selected Acquisition Report in which" and all that follows through the end of the paragraph and inserting in lieu thereof "cost estimate included in the baseline description for the program under section 2435 of this title."; and

(B) by striking out paragraph (4).

(2) Conforming amendments.—Section 2433 of such title is further amended—

(A) in subsection (c)(1), by striking out "Baseline Report" in subparagraphs (A) and (B) and inserting in lieu thereof "Baseline Estimate"; and

(B) in subsection (d), by striking out "Baseline Report" in paragraphs (1) and (2) and inserting in lieu thereof "Baseline Estimate".

(b) Contents of Unit Cost Report.—Section 2433(b) of such title is amended in paragraph (3) by striking out "Baseline Report was submitted." and inserting in lieu thereof "contract was entered into.".

(c) Elimination of Certain Unit Cost Report Requirement.—Section 2433(c) of such title, as amended by subsection (a), is further amended—

(1) by striking out paragraph (2);

(2) by striking out "(1)" after "(c)"; and

(3) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

(d) Constant Base Year Dollars.—Section 2433(f) of such title is amended by striking out "include expected inflation" and inserting in lieu thereof "be stated in terms of constant base year dollars (as described in section 2430 of this title)".

(e) Contents of SAR.—Subparagraph (I) of section 2433(g)(1) of such title is amended to read as follows:

"(I) The type of the Baseline Estimate that was included in the baseline description under section 2435 of this title and the date of the Baseline Estimate.".

SEC. 3004. REQUIREMENT FOR INDEPENDENT COST ESTIMATE AND MANPOWER ESTIMATE BEFORE DEVELOPMENT OR PRODUCTION.

(a) Content and Submission of Estimates.—Subsection (b) of section 2434 of title 10, United States Code, is amended to read as follows:

"(b) Regulations.—The Secretary of Defense shall prescribe regulations governing the content and submission of the estimates required by subsection (a). The regulations shall require—

"(1) that the independent estimate of the full life-cycle cost of a program—

"(A) be prepared by an office or other entity that is not directly responsible for carrying out the development or acquisition of the program; and

"(B) include all costs of development, procurement, military construction, and operations and support, without regard to funding source or management control; and

"(2) that the manpower estimate include the total personnel required—

"(A) to operate, maintain, and support the program upon full operational deployment; and

"(B) to train personnel to carry out the activities referred to in subparagraph (A).".

(b) Terminology Correction, Etc.—Subsection (a) of such section is amended—

(1) by striking out "full-scale engineering development" and inserting in lieu thereof "engineering and manufacturing development"; and

(2) by striking out "cost of the program, together with a manpower estimate, has" and inserting in lieu thereof "full life-cycle cost of the program and a manpower estimate have".

SEC. 3005. BASELINE DESCRIPTION.

(a) In General.—Section 2435 of title 10, United States Code, is amended to read as follows:

"§2435. Baseline description

"(a) Baseline Description Requirement.—(1) The Secretary of a military department shall establish a baseline description for each major defense acquisition program under the jurisdiction of such Secretary.

"(2) The baseline shall include sufficient parameters to describe the cost estimate (referred to as the 'Baseline Estimate' in section 2433 of this title), schedule, and performance of such major defense acquisition program.

"(3) No amount appropriated or otherwise made available to the Department of Defense for carrying out a major defense acquisition program may be obligated without an approved baseline description unless such obligation is specifically approved by the Under Secretary of Defense for Acquisition and Technology.

"(4) A baseline description for a major defense acquisition program shall be established—

"(A) before the program enters engineering and manufacturing development; or

"(B) before the program enters production and deployment.

"(b) Regulations.—The Secretary of Defense shall prescribe regulations governing—

"(1) the content of baseline descriptions;

"(2) the submission of reports on deviations of a program from the baseline description by the program manager to the Secretary of the military department concerned and the Under Secretary of Defense for Acquisition and Technology;

"(3) procedures for review of such deviation reports within the Department of Defense; and

"(4) procedures for submission to, and approval by, the Secretary of Defense of revised baseline descriptions.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 144 of such title is amended by amending the item relating to section 2435 to read as follows:

"2435. Baseline description.".

SEC. 3006. REPEAL OF REQUIREMENT FOR COMPETITIVE PROTOTYPING FOR MAJOR PROGRAMS.

(a) Repeal.—Section 2438 of title 10, United States Code, is repealed.

(b) Clerical Amendment.—The table of sections at the beginning of chapter 144 of such title is amended by striking out the item relating to section 2438.

SEC. 3007. REPEAL OF REQUIREMENT FOR COMPETITIVE ALTERNATIVE SOURCES FOR MAJOR PROGRAMS.

(a) Repeal.—Section 2439 of title 10, United States Code, is repealed.

(b) Clerical Amendment.—The table of sections at the beginning of chapter 144 of such title is amended by striking out the item relating to section 2439.

Subtitle B—Testing Statutes

SEC. 3011. AUTHORIZATION OF LESS THAN FULL-UP TESTING.

Section 2366(c) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (4);

(2) by designating the second sentence of paragraph (1) as paragraph (3) and in that paragraph by striking out "such certification" and inserting in lieu thereof "certification under paragraph (1) or (2)"; and

(3) by inserting before paragraph (3) (as so designated) the following new paragraph:

"(2) In the case of a covered system (or covered product improvement program for a covered system), the Secretary may waive the application of the survivability and lethality tests of this section to such system or program and instead allow testing of the system or program in combat by firing munitions likely to be encountered in combat at components, subsystems, and subassemblies, together with performing design analyses, modeling and simulation, and analysis of combat data, if the Secretary certifies to Congress that the survivability and lethality testing of such system or program otherwise required by this section would be unreasonably expensive and impracticable.".

SEC. 3012. LIMITATION ON QUANTITIES TO BE PROCURED FOR LOW-RATE INITIAL PRODUCTION.

Section 2400(a) of title 10, United States Code, is amended—

(1) in paragraph (2)—

(A) by striking out "paragraph (1)" and inserting in lieu thereof "this section"; and

(B) by striking out "full-scale engineering development" and inserting in lieu thereof "engineering and manufacturing development";

(2) by redesignating paragraph (4) as paragraph (5) and in that paragraph by inserting after the first sentence the following: "If the quantity exceeds 10 percent of the total number of articles to be produced, as determined at the milestone II decision with respect to that system, the Secretary shall include in the statement the reasons for such quantity."; and

(3) by inserting after paragraph (3) the following new paragraph (4):

"(4) The quantity of articles of a major system that may be procured for low-rate initial production may not be less than one operationally configured production unit unless another quantity is established at the milestone II decision.".

SEC. 3013. OPERATIONAL TEST AND EVALUATION OF DEFENSE ACQUISITION PROGRAMS.

(a) Authority To Use Different Procedures.—Section 2399(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5) The Secretary of Defense may, for a particular major defense acquisition program, prescribe and apply operational test and evaluation procedures other than those provided under subsection (a) and paragraphs (1) through (3) of this subsection if the Secretary transmits to Congress, before the Milestone II decision is made with respect to that program—

"(A) a certification that such testing would be unreasonably expensive and impracticable; and

"(B) a description of the actions taken to ensure that the system will be operationally effective and suitable when the system meets initial operational capability requirements.".

(b) Cross Reference Corrections.—Section 2399 of such title is further amended—

(1) in subsection (b)(6) (as redesignated by subsection (a)(1)) and subsection (c)(1), by striking out "section 138(a)(2)(B)" and inserting in lieu thereof "section 139(a)(2)(B)"; and

(2) in subsection (h)(1), by striking out "section 138(a)(2)(A)" and inserting in lieu thereof "section 139(a)(2)(A)".

Subtitle C—Civil Reserve Air Fleet

SEC. 3021. DEFINITION OF CONTRACTOR.

Section 9511(8) of title 10, United States Code, is amended—

(1) by striking out "or" at the end of clause (A); and

(2) by inserting before the period at the end the following: ", or (C) who owns or controls, or will own or control, new or existing aircraft and who, by contract, commits some or all of such aircraft to the Civil Reserve Air Fleet".

SEC. 3022. CONSOLIDATION OF PROVISIONS RELATING TO CONTRACTUAL COMMITMENT OF AIRCRAFT.

Chapter 931 of title 10, United States Code, is amended—

(1) in subsection (a) of section 9512, by inserting "AUTHORITY TO CONTRACT.—" after "(a)";

(2) in subsection (c) of section 9512, by striking out "(c)" and inserting in lieu thereof "(d) AUTHORITY TO CONTRACT AND PAY DIRECTLY.—";

(3) in subsection (b) of section 9512, by striking out "(b)" and inserting in lieu thereof "(c) TERMS AND REQUIRED REPAYMENT.—";

(4) by redesignating subsection (a) of section 9513 as subsection (b) and transferring such subsection (as so redesignated) to section 9512 and inserting such subsection after subsection (a);

(5) by redesignating subsection (b) of section 9513 as subsection (e) and transferring such subsection (as so redesignated) to the end of section 9512;

(6) in subsection (b) of section 9512, as redesignated and transferred to such section by paragraph (4)—

(A) by striking out "under section 9512 of this title" and inserting in lieu thereof "entered into under this section", and

(B) by inserting "CONTRACT REQUIREMENTS.—" after "(b)";

(7) in subsection (c) of section 9512, as redesignated by paragraph (3), by striking out "the terms required by section 9513 of this title and";

(8) in subsection (e) of section 9512, as redesignated and transferred to such section by paragraph (5)—

(A) by striking out "under section 9512 of this title" and inserting in lieu thereof "entered into under this section", and

(B) by inserting "COMMITMENT TO CIVIL RESERVE AIR FLEET.—" after "(e)"; and

(9) by striking out the heading of section 9513.

SEC. 3023. USE OF MILITARY INSTALLATIONS BY CONTRACTORS.

(a) AUTHORITY.—Chapter 931 of title 10, United States Code, as amended by section 3022, is further amended by adding at the end the following new section 9513:

"§9513. Use of military installations by Civil Reserve Air Fleet contractors

"(a) CONTRACT AUTHORITY.—(1) The Secretary of the Air Force—

"(A) may, by contract entered into with any contractor, authorize such contractor to use one or more Air Force installations designated by the Secretary; and

"(B) with the consent of the Secretary of another military department, may, by contract entered into with any contractor, authorize the contractor to use one or more installations, designated by the Secretary of the Air Force, that is under the jurisdiction of the Secretary of such other military department.

"(2) The Secretary of the Air Force may include in the contract such terms and conditions as the Secretary determines appropriate to promote the national defense or to protect the interests of the United States.

"(b) PURPOSES OF USE.—A contract entered into under subsection (a) may authorize use of a designated installation as a weather alternate, as a technical stop not involving the enplaning or deplaning of passengers or cargo, or, in the case of an installation within the United States, for other commercial purposes. Notwithstanding any other provision of the law, the Secretary may establish different levels and types of uses for different installations and may provide in contracts under subsection (a) for different levels and types of uses by different contractors.

"(c) HOLD HARMLESS REQUIREMENT.—A contract entered into under subsection (a) shall provide that the contractor agrees to indemnify and hold harmless the Air Force (and any other armed force having jurisdiction over any installation covered by the contract) from any action, suit, or claim of any sort resulting from, relating to, or arising out of any activities conducted, or services or supplies furnished, in connection with the contract.

"(d) RESERVATION OF RIGHT TO EXCLUDE CONTRACTOR.—A contract entered into under subsection (a) shall provide that the Secretary concerned may, without providing prior notice, deny access to an installation designated under the contract when the Secretary determines that it is necessary to do so in order to meet military exigencies.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 9513 and inserting in lieu thereof the following:

"9513. Use of military installations by Civil Reserve Air Fleet contractors.".

Subtitle D—Miscellaneous

SEC. 3051. REGULATIONS ON PROCUREMENT, PRODUCTION, WAREHOUSING, AND SUPPLY DISTRIBUTION FUNCTIONS.

(a) IN GENERAL.—Section 2202 of title 10, United States Code, is amended to read as follows:

"§2202. Regulations on procurement, production, warehousing, and supply distribution functions

"The Secretary of Defense shall prescribe regulations governing the performance within the Department of Defense of the procurement, production, warehousing, and supply distribution functions, and related functions, of the Department of Defense.".

(b) CLERICAL AMENDMENT.—The item relating to section 2202 in the table of sections at the beginning of chapter 131 of such title is amended to read as follows:

"2202. Regulations on procurement, production, warehousing, and supply distribution functions.".

SEC. 3052. REPEAL OF REQUIREMENTS REGARDING PRODUCT EVALUATION ACTIVITIES.

(a) REPEAL.—Section 2369 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2369.

SEC. 3053. CODIFICATION AND REVISION OF LIMITATION ON LEASE OF VESSELS, AIRCRAFT, AND VEHICLES.

(a) LIMITATION.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2401 the following new section:

"§2401a. Lease of vessels, aircraft, and vehicles

"The Secretary of Defense or the Secretary of a military department may not enter into any contract with a term of 18 months or more, or extend or renew any contract for a term of 18 months or more, for any vessel, aircraft, or vehicle, through a lease, charter, or similar agreement, unless the Secretary has considered all costs of such contract (including estimated termination liability) and has determined in writing that the contract is in the best interest of the Government.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2401 the following new item:

"2401a. Lease of vessels, aircraft, and vehicles.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 9081 of Public Law 101–165 (103 Stat. 1147; 10 U.S.C. 2401 note) is repealed.

SEC. 3054. REPEAL OF APPLICATION OF PUBLIC CONTRACTS ACT TO CERTAIN NAVAL VESSEL CONTRACTS.

(a) REPEAL.—Section 7299 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7299.

TITLE IV—SIMPLIFIED ACQUISITION THRESHOLD AND SOCIOECONOMIC, SMALL BUSINESS, AND MISCELLANEOUS LAWS

Subtitle A—Simplified Acquisition Threshold

PART I—ESTABLISHMENT OF THRESHOLD

SEC. 4001. ESTABLISHMENT OF SIMPLIFIED ACQUISITION THRESHOLD.

(a) ESTABLISHMENT.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by inserting after section 4 the following new section:

"SEC. 4A. SIMPLIFIED ACQUISITION THRESHOLD.

"(a) IN GENERAL.—The simplified acquisition threshold for purposes of Federal acquisitions is (except as provided in subsection (b)) the amount of $25,000, as adjusted pursuant to subsection (c).

"(b) AGENCIES WITH FACNET CAPABILITY.—In the case of an executive agency, or a procuring activity of an executive agency, for which there is in effect a certification under 2302b(c) of title 10, United States Code, or section 302B(c) of the Federal Property and Administrative Services Act of 1949 with respect to implementation of a FACNET capability, the simplified acquisition threshold is the amount of $100,000, as adjusted pursuant to subsection (c).

"(c) PERIODIC ADJUSTMENT FOR INFLATION.—The dollar amount in effect under subsection (a) shall be adjusted on October 1 of each year divisible by 5 to the equivalent amount in constant fiscal year 1990 dollars (rounded to the nearest $1,000). The dollar amount in effect under subsection (b) shall be adjusted on October 1 of each year divisible by 5 to the equivalent amount in constant fiscal year 1993 dollars (rounded to the nearest $1,000).

"(d) SPECIAL RULE FOR CONTINGENCY OPERATIONS.—In the case of a contract to be awarded and performed, or a purchase to be made, outside the United States in support of a contingency operation (as defined in section 101(a)(13) of title 10, United States Code), the amounts in effect under subsections (a) and (b) shall be two times the amounts otherwise applicable.".

(b) CONFORMING AMENDMENT TO DEFINITION.—Section 4 of such Act is amended by striking out paragraph (11).

SEC. 4002. FEDERAL ACQUISITION COMPUTER NETWORK ARCHITECTURE.

(a) FEDERAL ACQUISITION COMPUTER NETWORK ARCHITECTURE.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 1092, is further amended by adding at the end the following new section:

"SEC. 30. FEDERAL ACQUISITION COMPUTER NETWORK (FACNET) ARCHITECTURE.

"(a) IN GENERAL.—(1) The Administrator shall establish a program for the development and implementation of a Federal acquisition computer network architecture (hereinafter in this section referred to as 'FACNET'). The Administrator shall assign a program manager for FACNET and shall provide for overall direction of policy and leadership in the development, coordination, installation, operation, and completion of implementation of FACNET by executive agencies.

"(2) In carrying out paragraph (1), the Administrator shall consult with appropriate Federal agencies with applicable technical and *functional expertise, including the Office of Information and Regulatory Affairs, the National Institute of Standards and Technology, the General Services Administration, and the Department of Defense.*

"(3) The Administrator shall carry out paragraph (1) not later than the date that is 5 years after the date of the enactment of the Federal Acquisition Improvement Act of 1994.

"(b) Functions of FACNET.—The FACNET architecture shall provide for the following functions:

"(1) Government functions.—Allow executive agencies to do the following electronically:

"(A) Provide widespread public notice of solicitations for contract opportunities issued by an executive agency and of orders to be made by the agency.

"(B) Allow responses to solicitations and requests for information to be submitted to the procuring activity through such system.

"(C) Allow public notice of contract awards to be provided through such system.

"(D) In cases in which it is practicable, allow questions regarding solicitations to be answered through such system.

"(E) Allow orders to be made through such system.

"(F) In cases in which it is practicable, make payments to contractors by bank card, electronic funds transfer, or other automated methods.

"(G) Archive data relating to each procurement action made using such system.

"(2) User functions.—Allow private users to do the following electronically:

"(A) Access notice of solicitations for contract opportunities issued by an executive agency and of orders to be made by the executive agency.

"(B) Selectively access and review solicitations and orders issued by the executive agency.

"(C) Respond to solicitations and notices of orders issued by the executive agency.

(D) Receive orders from the executive agency.

"(E) Access information on contract awards made by the executive agency.

"(F) In cases in which it is practicable, receive payment by bank card, electronic funds transfer, or other automated means.

"(3) General functions.—

"(A) Allow the electronic exchange of procurement information between the private sector and the Federal Government.

"(B) Employ nationally and internationally recognized data formats that serve to broaden and ease the electronic interchange of data.

"(C) Allow convenient and universal user access through a single point of entry.

"(c) Architecture Defined.—For purposes of this section, the term 'architecture' means an evolving description of all functions to be performed to achieve the mission of streamlining procurement through electronic commerce, the system elements and interfaces needed to perform the functions, and the designation of performance levels of those system elements.

"(d) Annual Report to Congress.—The Administrator shall evaluate progress by executive agencies in implementing the FACNET under this section. The Administrator shall submit to the Congress, on the date that is one year after the date of the enactment of the Federal Acquisition Improvement Act of 1994 and on that date in each of the 5 years thereafter, a report on the overall progress by the executive branch and by each executive agency in implementing this section.".

(b) Technical Amendments.—Section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended—

(1) in subsection (a)(1)(A), by striking out "notice" in the matter following clause (ii) and inserting in lieu thereof "notice of solicitation"; and

(2) in subsection (d), by striking out "a notice under subsection (e)" in the first sentence and inserting in lieu thereof "a notice of solicitation under subsection (a)".

SEC. 4003. IMPLEMENTATION IN ARMED SERVICES.

(a) Establishment in Title 10.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2302 the following new sections:

"§2302a. Simplified acquisition threshold

"(a) Simplified Acquisition Threshold.—For purposes of acquisitions by agencies named in section 2303 of this title, the simplified acquisition threshold is as specified in section 4A of the Office of Federal Procurement Policy Act.

"§2302b. Implementation of FACNET capability

"(a) Implementation of FACNET Capability.—(1) The head of each agency named in section 2303 of this title shall implement the Federal acquisition computer network ('FACNET') capability required by section 30 of the Office of Federal Procurement Policy Act. In the case of the Department of Defense, the implementation shall be by the Secretary of Defense for the Department of Defense as a whole. For purposes of this section, the term 'head of an agency' does not include the Secretaries of the military departments.

"(2) In implementing the FACNET capability pursuant to paragraph (1), the head of an agency shall consult with the Administrator for Federal Procurement Policy.

"(b) Designation of Agency Official.—(1) The Secretary of Defense shall designate the Under Secretary of Defense for Acquisition and Technology to have responsibility for implementation of FACNET capability throughout the Department of Defense.

"(2) The head of each agency named in paragraph (5) or (6) of section 2303 of this title shall designate a program manager to have responsibility for implementation of FACNET capability for that agency and otherwise to implement this section. Such program manager shall report directly to the senior procurement executive designated for the agency under section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)).

"(c) Certification of FACNET Capability.—(1) When the senior procurement executive of an agency or, in the case of the Department of Defense, the Under Secretary of Defense for Acquisition and Technology, determines that a procuring activity of the agency has implemented an interim FACNET capability (as defined in subsection (e)), the executive or the Under Secretary shall certify to the Administrator for Federal Procurement Policy that such activity has implemented an interim FACNET capability.

"(2) When the head of an agency, with the concurrence of the Administrator for Federal Procurement Policy, determines that the agency has implemented a full FACNET capability (as defined in subsection (f)), the head of the agency shall certify to Congress that the agency has implemented a full FACNET capability.

"(3) The head of each agency shall provide for implementation of both interim FACNET capability and full FACNET capability, with priority on providing convenient and universal user access as required by section 30(b)(3)(C) of the Office of Federal Procurement Policy Act, in that agency as soon as practicable after the date of the enactment of the Federal Acquisition Improvement Act of 1994.

"(d) Higher Simplified Acquisition Threshold When FACNET Capability Certified.—A certification to the Administrator for Federal Procurement Policy or Congress under subsection (c) shall be considered to be a certification for purposes of the higher simplified acquisition threshold under section 4A(b) of the Office of Federal Procurement Policy Act, except that a certification under paragraph (1) of subsection (c) shall not constitute such a certification in the case of solicitations issued after the end of the five-year period beginning on the date of the enactment of the Federal Acquisition Improvement Act of 1994.

"(e) Implementation of Interim FACNET Capability.—A procuring activity shall be considered to have implemented an interim FACNET capability if—

"(1) with respect to each procurement expected to be in an amount greater than the micro-purchase threshold and less than the simplified acquisition threshold, the procuring activity has implemented the FACNET functions described in paragraphs (1)(A) and (2)(A) of section 30(b) of the Office of Federal Procurement Policy Act; and

"(2) with respect to each procurement expected to be in an amount greater than the micro-purchase threshold and less than the simplified acquisition threshold, the procuring activity issues notices of solicitations through a system with those functions for all contracting opportunities other than in cases covered by section 18(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)).

"(f) Implementation of Full FACNET Capability.—(1) An agency shall be considered to have implemented a full FACNET capability if (except in the case of procuring activities (or portions thereof) of the agency for which the head of the agency determines that implementation is not cost effective or practicable) the agency has implemented all of the FACNET functions described in section 30(b) of the Office of Federal Procurement Policy Act.

"(2) For purposes of paragraph (1), an agency may not be considered to have implemented a full FACNET capability if—

"(A) the head of the agency has determined that implementation of FACNET capability is not cost effective or practicable in the case of certain procuring activities (or portions thereof) of the agency; and

"(B) the percentage of the procurement actions in amounts greater than the micro-purchase threshold executed by the procuring activities (or portions thereof) referred to in subparagraph (A) for the preceding fiscal year is greater than 25 percent of the total number of procurement actions in amounts greater than the micro-purchase threshold executed by the agency for that year.

"(g) Procuring Activities Originally Excluded in Certification.—(1) If the head of an agency, in certifying under subsection (c) that the agency has implemented a full FACNET capability, determines that such implementation is not cost effective or practicable in the case of any procuring activity (or portion thereof) of that agency, then that certification shall not apply under section 4A(b) of the Office of Federal Procurement Policy Act to any procurement action by that procuring activity (or portion thereof).

"(2) If the head of an agency determines that an interim or a full FACNET capability has subsequently been implemented for that procuring activity (or portion thereof), the head of the agency shall make a certification to the Administrator for Federal Procurement Policy in the same manner as a certification under paragraph (1) or (2) of subsection (c), as applicable, and such certification shall have the same effect with respect to that procuring activity (or portion thereof) as if made under such paragraph of subsection (c).".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 137 of such title is amended by inserting after the item relating to section 2302 the following new items:

"2302a. Simplified acquisition threshold.

"2302b. Implementation of FACNET capability.".

SEC. 4004. IMPLEMENTATION IN CIVILIAN AGENCIES.

Title III of the Federal Property and Administrative Services Act of 1949 is amended by inserting after section 302 the following new sections:

"SEC. 302A. SIMPLIFIED ACQUISITION THRESHOLD.

"(a) SIMPLIFIED ACQUISITION THRESHOLD.—For purposes of acquisitions by executive agencies, the simplified acquisition threshold is as specified in section 4A of the Office of Federal Procurement Policy Act.

"SEC. 302B. IMPLEMENTATION OF FACNET CAPABILITY.

"(a) IMPLEMENTATION OF FACNET CAPABILITY.—(1) The head of each executive agency shall implement the Federal acquisition computer network ('FACNET') capability required by section 30 of the Office of Federal Procurement Policy Act.

"(2) In implementing the FACNET capability pursuant to paragraph (1), the head of an executive agency shall consult with the Administrator for Federal Procurement Policy.

"(b) DESIGNATION OF AGENCY OFFICIAL.—The head of each executive agency shall designate a program manager to have responsibility for implementation of FACNET capability for that agency and otherwise to implement this section. Such program manager shall report directly to the senior procurement executive designated for the agency under section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)).

"(c) CERTIFICATION OF FACNET CAPABILITY.—(1) When the senior procurement executive of an executive agency determines that a procuring activity of the agency has implemented an interim FACNET capability (as defined in subsection (e)), the executive shall certify to the Administrator for Federal Procurement Policy that such activity has implemented an interim FACNET capability.

"(2) When the head of an executive agency, with the concurrence of the Administrator for Federal Procurement Policy, determines that the executive agency has implemented a full FACNET capability (as defined in subsection (f)), the head of the executive agency shall certify to Congress that the agency has implemented a full FACNET capability.

"(3) The head of each executive agency shall provide for implementation of both interim FACNET capability and full FACNET capability, with priority on providing convenient and universal user access as required by section 30(b)(3)(C) of the Office of Federal Procurement Policy Act, in that executive agency as soon as practicable after the date of the enactment of the Federal Acquisition Improvement Act of 1994.

"(d) HIGHER SIMPLIFIED ACQUISITION THRESHOLD WHEN FACNET CAPABILITY CERTIFIED.—A certification to the Administrator for Federal Procurement Policy or Congress under subsection (c) shall be considered to be a certification for purposes of the higher simplified acquisition threshold under section 4A(b) of the Office of Federal Procurement Policy Act, except that a certification under paragraph (1) of subsection (c) shall not constitute such a certification in the case of solicitations issued after the end of the five-year period beginning on the date of the enactment of the Federal Acquisition Improvement Act of 1994.

"(e) IMPLEMENTATION OF INTERIM FACNET CAPABILITY.—A procuring activity shall be considered to have implemented an interim FACNET capability if—

"(1) with respect to each procurement expected to be in an amount greater than the micro-purchase threshold and less than the simplified acquisition threshold, the procuring activity has implemented the FACNET functions described in paragraphs (1)(A) and (2)(A) of section 30(b) of the Office of Federal Procurement Policy Act; and

"(2) with respect to each procurement expected to be in an amount greater than the micro-purchase threshold and less than the simplified acquisition threshold, the procuring activity issues notices of solicitations through a system with those functions for all contracting opportunities other than in cases covered by section 18(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)).

"(f) IMPLEMENTATION OF FULL FACNET CAPABILITY.—(1) An executive agency shall be considered to have implemented a full FACNET capability if (except in the case of procuring activities (or portions thereof) of the executive agency for which the head of the agency determines that implementation is not cost effective or practicable) the executive agency has implemented all of the FACNET functions described in section 30(b) of the Office of Federal Procurement Policy Act.

"(2) For purposes of paragraph (1), an executive agency may not be considered to have implemented a full FACNET capability if—

"(A) the head of the executive agency has determined that implementation of FACNET capability is not cost effective or practicable in the case of certain procuring activities (or portions thereof) of the executive agency; and

"(B) the percentage of the procurement actions in amounts greater than the micro-purchase threshold executed by the procuring activities (or portions thereof) referred to in subparagraph (A) for the preceding fiscal year is greater than 25 percent of the total number of procurement actions in amounts greater than the micro-purchase threshold executed by the executive agency for that year.

"(g) PROCURING ACTIVITIES ORIGINALLY EXCLUDED IN CERTIFICATION.—(1) If the head of an executive agency, in certifying under subsection (c) that the agency has implemented a full FACNET capability, determines that such implementation is not cost effective or practicable in the case of any procuring activity (or portion thereof) of that executive agency, then that certification shall not apply under section 4A(b) of the Office of Federal Procurement Policy Act to any procurement action by that procuring activity (or portion thereof).

"(2) If the head of an executive agency determines that an interim or a full FACNET capability has subsequently been implemented for that procuring activity (or portion thereof), the executive agency shall make a certification to the Administrator for Federal Procurement Policy in the same manner as a certification under paragraph (1) or (2) of subsection (c), as applicable, and such certification shall have the same effect with respect to that procuring activity (or portion thereof) as if made under such paragraph of subsection (c).".

PART II—SIMPLIFICATION OF PROCEDURES

SEC. 4011. PROCEDURES FOR PURCHASES BELOW MICRO-PURCHASE THRESHOLD.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 4001, is further amended by inserting after section 4A the following new section:

"SEC. 4B. PROCEDURES APPLICABLE TO PURCHASES BELOW MICRO-PURCHASE THRESHOLD.

"(a) REQUIREMENTS.—(1) The head of each executive agency shall ensure that procuring activities of that agency, in awarding a contract with a price exceeding the micro-purchase threshold, comply with the requirements of section 8(a) of the Small Business Act (15 U.S.C. 637(a)) and section 2323 of title 10, United States Code, or section 315 of the Federal Property and Administrative Services Act of 1949, as applicable to that agency.

"(2) The authority under part 13.106(a)(1) of the Federal Acquisition Regulation (48 C.F.R. 13.106(a)(1)), as in effect on November 18, 1993, to make purchases without securing competitive quotations does not apply to any purchases with a price exceeding the micro-purchase threshold.

"(b) EXCLUSION FOR MICRO-PURCHASES.—A purchase by an executive agency with an anticipated value of the micro-purchase threshold or less is not subject to the Act of March 3, 1933, commonly referred to as the 'Buy American Act' (41 U.S.C. 10a–10c).

"(c) APPLICABILITY OF CERTAIN PROVISIONS.—For purposes of section 27, only subsections (a) and (b) shall apply with respect to purchases below the micro-purchase threshold. In applying such subsection (a), a contractor that enters into a contract under the micro-purchase threshold shall be considered to be a competing contractor. In applying such subsection (b), a civil officer or employee, and any member of the Armed Forces, who has authority to enter into contracts but whose contracting authority is limited to the amount of the micro-purchase threshold or less shall be considered to be a procurement official.

"(d) IMPLEMENTATION THROUGH FAR.—This section shall be implemented through the Federal Acquisition Regulation.

"(e) MICRO-PURCHASE THRESHOLD DEFINED.—For purposes of this section, the micro-purchase threshold is the amount of $2,500, adjusted on October 1 of each year divisible by 5 to the equivalent amount in constant fiscal year 1993 dollars (rounded to the nearest $100).".

SEC. 4012. PROCUREMENT NOTICE.

(a) CONTINUATION OF EXISTING NOTICE THRESHOLDS.—Subsection (a) of section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended as follows:

(1) Paragraph (1) is amended—

(A) by striking out "the small purchase threshold" each place it appears and inserting in lieu thereof "the simplified acquisition threshold";

(B) by striking out "(c)—" in the matter preceding subparagraph (A) and inserting in lieu thereof "(c):";

(C) by striking out "an executive" at the beginning of subparagraphs (A) and (C) and inserting in lieu thereof "An executive";

(D) by striking out the semicolon at the end of subparagraph (A) and inserting in lieu thereof a period; and

(E) by amending subparagraph (B) to read as follows:

"(B) An executive agency intending to solicit bids or proposals for a contract for property or services for a price expected to exceed $10,000 but not to exceed the simplified acquisition threshold shall post a notice of solicitation described in subsection (b). The notice shall be posted at the contracting office issuing the solicitation or shall be made available through an electronic system with a FACNET capability that at least meets the requirements of paragraphs (1)(A) and (2)(A) of section 30(b). The notice shall be posted for a period of not less than 10 days, except that in the case of a posting made through an electronic system with such a FACNET capability, the posting may be for a period of less than 10 days as prescribed in the Federal Acquisition Regulation.".

(2) Paragraph (3)(B) is amended by inserting after "(B)" the following: "in the case of a contract or order for an amount expected to exceed the simplified acquisition threshold,".

(b) OPPORTUNITY FOR ALL RESPONSIBLE POTENTIAL OFFERORS.—Such subsection is further amended by adding at the end the following:

"(4) An executive agency intending to solicit offers for a contract for which a notice of solicitation is required to be posted under paragraph (1)(B) shall ensure that all potential offerors are permitted to respond to the solicitation for the contract within the period of time specified in the solicitation for the submission of offers.".

(c) Establishment of Deadline for Submission of Offers.—Such subsection is further amended by adding after paragraph (4), as added by subsection (b), the following new paragraph:

"(5) An executive agency shall establish a deadline for the submission of all bids or proposals in response to a notice of solicitation with respect to which no such deadline is provided by statute.".

(d) Exceptions.—Subsection (c) of such section is amended by adding at the end the following new paragraph:

"(4)(A) The requirements of subsection (a)(1) shall not apply in the case of an acquisition for which notice is accomplished through the use of FACNET, as described in section 30 and certified under section 2302a of title 10, United States Code, or section 302A of the Federal Property and Administrative Services Act of 1949.

"(B) The Federal Acquisition Regulation shall provide for minimum periods of time for submission of offers for acquisitions described in subparagraph (A). Such periods shall provide offerors a reasonable opportunity to respond.

"(C) A notice of solicitation of bids or proposals for an acquisition described in subparagraph (A) shall include the matter described in subsection (b).".

SEC. 4013. GAO TEST AND REPORT ON PERFORMANCE OF SIMPLIFIED ACQUISITION THRESHOLD.

(a) Performance Test.—The Comptroller General of the United States shall collect data and assess the effects of the simplified acquisition threshold, as established in section 4A of the Office of Federal Procurement Policy Act, on the participation of small business concerns (including small business concerns owned and controlled by socially and economically disadvantaged individuals) in procurement awards of less than $100,000 and the benefits and detriments, if any, to the procuring activities of the various Executive agencies.

(b) Data To Be Collected.—Data collected under subsection (a) shall include data regarding whether the establishment of the simplified acquisition threshold has improved the acquisition process in terms of reduced paperwork, financial or other savings to the Federal Government, and any increase in the number of contractors participating in the contracting process.

(c) Period.—Data shall be collected for purposes of subsection (a) during the period beginning with the first full fiscal year quarter after the effective date of the amendments made by section 3001 and ending on September 30, 1997.

(d) Report.—By March 1, 1998, the Comptroller General shall submit to Congress a report on the effects of the establishment of the simplified acquisition threshold by the amendments made by section 3001.

PART III—INAPPLICABILITY OF LAWS TO ACQUISITIONS NOT IN EXCESS OF SIMPLIFIED ACQUISITION THRESHOLD

Subpart A—Generally

SEC. 4021. INAPPLICABILITY OF FUTURE ENACTED PROCUREMENT LAWS TO CONTRACTS NOT EXCEEDING THE SIMPLIFIED ACQUISITION THRESHOLD.

(a) Armed Services.—Section 2302a of title 10, United States Code, as added by section 4003(a), is amended by adding at the end the following new subsection:

"(b) Construction With Future Enactments.—A provision of law enacted after the date of the enactment of the Federal Acquisition Improvement Act of 1994 shall not be construed as applicable to purchases of property or services by an agency named in section 2303 of this title for an amount not in excess of the simplified acquisition threshold unless that provision of law specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.".

(b) Civilian Agencies.—Section 302A of the Federal Property and Administrative Services Act of 1949, as added by section 4004(a), is amended by adding at the end the following new subsection:

"(b) Construction With Future Enactments.—A provision of law enacted after the date of the enactment of the Federal Acquisition Improvement Act of 1994 shall not be construed as applicable to purchases of property or services by an executive agency for an amount not in excess of the simplified acquisition threshold unless that provision of law specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.".

Subpart B—Armed Services Acquisitions

SEC. 4031. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

Section 2302a of title 10, United States Code, as amended by section 4021, is further amended by adding at the end the following new subsection:

"(c) Inapplicability of Certain Provisions of Law.—The following provisions of law (and regulations prescribed under such provisions) shall not apply to any contract in an amount not greater than the simplified acquisition threshold:

"(1) Section 2306(b) of this title (relating to prohibition on contingent fees).

"(2) Section 2313 of this title (relating to examination of books and records of contractor).

"(3) Section 2384(b) of this title (relating to requirement to identify suppliers and sources of supplies).

"(4) Section 2393(d) of this title (relating to prohibition against doing business with certain offerors of contractors).

"(5) Section 2402 of this title (relating to prohibition on limitation of subcontractor direct sales).

"(6) Section 2408(a) of this title (relating to prohibition on persons convicted of defense-contract related felonies).

"(7) Section 2410b of this title (relating to contractor inventory accounting system standards).

"(8) Section 2534 of this title (relating to miscellaneous limitations on procurement).

"(9) Section 27(e) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)).

"(10) The Drug-Free Workplace Act of 1988 (subtitle D of title V of Public Law 100–690; 41 U.S.C. 701 et seq.).".

SEC. 4032. CONFORMING AMENDMENTS RELATING TO INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) Inapplicability of Requirement for Contract Clause Regarding Contingent Fees.—Section 2306(b) of title 10, United States Code, is amended by adding at the end the following: "This subsection does not apply to a contract that is for an amount not in excess of the simplified acquisition threshold.".

(b) Inapplicability of Authority To Examine Books and Records of Contractors.—Section 2313 of title 10, United States Code, as amended by section 2201, is further amended by adding at the end of subsection (e) the following:

"(2) A contract that is for an amount not in excess of the simplified acquisition threshold.".

(c) Inapplicability of Requirement To Identify Suppliers and Sources of Supplies.—Section 2384(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The regulations prescribed pursuant to paragraph (1) do not apply to a contract for an amount that does not exceed the simplified acquisition threshold.".

(d) Inapplicability of Prohibition Against Doing Business with Certain Offerors or Contractors.—Section 2393(d) of title 10, United States Code, is amended in the second sentence by striking out "above" and all that follows and inserting in lieu thereof "in excess of the simplified acquisition threshold.".

(e) Inapplicability of Prohibition on Limiting Subcontractor Direct Sales to the United States.—Section 2402 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) This section does not apply to a contract that is for an amount not in excess of the simplified acquisition threshold.".

(f) Inapplicability of Prohibition on Persons Convicted of Defense-Related Felonies.—Section 2408(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) In this subsection, the term 'defense contract' means a contract in an amount in excess of the simplified acquisition threshold.".

(g) Inapplicability of Contractor Inventory Accounting System Standards.—Section 2410b of title 10, United States Code, is amended—

(1) by inserting "(a)" before "The Secretary"; and

(2) by adding at the end the following:

"(b) The regulations prescribed pursuant to subsection (a) shall not apply to a contract that is for an amount not in excess of the simplified acquisition threshold.".

(h) Inapplicability of Miscellaneous Procurement Limitations.—Section 2534 of title 10, United States Code, is amended by adding at the end the following:

"(g) Inapplicability to Contracts Under Simplified Acquisition Threshold.—This section does not apply to a contract for an amount that does not exceed the simplified acquisition threshold.".

Subpart C—Civilian Agency Acquisitions

SEC. 4041. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

Section 302A of the Federal Property and Administrative Services Act of 1949, as amended by section 4021(b), is further amended by adding at the end the following new subsection:

"(c) Inapplicability of Certain Provisions of Law.—The following provisions of law (and regulations prescribed under such provisions) shall not apply to any contract entered into by an executive agency in an amount not greater than the simplified acquisition threshold:

"(1) Sections 303G, 304(a), and 304C of this Act.

"(2) Section 27(e) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)).

"(3) The Drug-Free Workplace Act of 1988 (subtitle D of title V of Public Law 100–690; 41 U.S.C. 701 et seq.).".

SEC. 4042. CONFORMING AMENDMENTS RELATING TO INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) Inapplicability of Prohibition on Limiting Subcontractor Direct Sales to the United States.—Section 303G of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253g) is amended by adding at the end the following new subsection:

"(c) This section does not apply to a contract for an amount that is not in excess of the simplified acquisition threshold.".

(b) Inapplicability of Requirement for Contract Clause Regarding Contingent Fees.—Section 304(a) of the Federal Property *and Administrative Services Act of 1949 (41 U.S.C. 254(a)) is amended by adding at the end the following: "The preceding sentence does not apply to a contract for an amount that is not in excess of the simplified acquisition threshold.".*

(c) Inapplicability of Authority To Examine Books and Records of Contractors.—Section 304C of the Federal Property and Administrative Services Act of 1949, as added by section 2251(a), is amended by adding at the end of subsection (e) the following:

"(2) A contract that is for an amount not in excess of the simplified acquisition threshold.".

Subpart D—Acquisitions Generally

SEC. 4051. CONFORMANCE OF CERTAIN PROCUREMENT INTEGRITY REQUIREMENTS.

Subsection (e)(7)(A) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended by inserting after "$100,000" the following: "or the simplified acquisition threshold, whichever is greater".

SEC. 4052. INAPPLICABILITY OF THE DRUG-FREE WORKPLACE ACT OF 1988.

Section 5152(a)(1) of the Drug-Free Workplace Act of 1988 (subtitle D of title V of the Anti-Drug Abuse Act of 1988; Public Law 100–690; 41 U.S.C. 701(a)(1)) is amended by striking out "of $25,000 or more from any Federal agency" and inserting in lieu thereof "in excess of the simplified acquisition threshold (as defined in section 4A of such Act) by any Federal agency".

PART IV—CONFORMING AMENDMENTS

SEC. 4071. ARMED SERVICES ACQUISITIONS.

(a) Simplified Acquisition Procedures.—Section 2304(g) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "small purchases of property and services" and inserting in lieu thereof "purchases of property and services for amounts not in excess of the simplified acquisition threshold";

(2) by striking out paragraph (2);

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(4) in paragraph (2), as so redesignated—

(A) by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold"; and

(B) by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures"; and

(5) in paragraph (3), as so redesignated, by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures".

(b) Solicitation Content Requirement.—Section 2305(a)(2) of such title is amended by striking out "small purchases)" in the matter preceding subparagraph (A) and inserting in lieu thereof "a purchase for an amount not in excess of the simplified acquisition threshold)".

(c) Cost Type Contracts.—Section 2306(e)(2)(A) of such title is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

(d) Cross Reference Amendment.—Section 9005 of Public Law 102–396 (10 U.S.C. 2441 note) is amended in the first sentence by striking out "small purchases covered by section 2304(g)" and inserting in lieu thereof "purchases for amounts not in excess of the simplified acquisition threshold covered by section 2304(g)".

SEC. 4072. CIVILIAN AGENCY ACQUISITIONS.

(a) Simplified Acquisition Procedures.—Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)) is amended—

(1) in paragraph (1)—

(A) by striking out "small purchases of property and services" and inserting in lieu thereof "purchases of property and services for amounts not in excess of the simplified acquisition threshold", and

(B) by striking out "regulations modified, in accordance with section 2752 of the Competition in Contracting Act of 1984," and inserting in lieu thereof "Federal Acquisition Regulation";

(2) by striking out paragraph (2);

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(4) in paragraph (2), as so redesignated—

(A) by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold"; and

(B) by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures";

(5) in paragraph (3), as so redesignated, by striking out "small purchase procedures" and inserting in lieu thereof "the simplified procedures"; and

(6) by striking out paragraph (5).

(b) Solicitation Content Requirement.—Section 303A(b) of such Act (41 U.S.C. 253a(b)) is amended by striking out "small purchases)" in the matter preceding paragraph (1) and inserting in lieu thereof "a purchase for an amount not in excess of the simplified acquisition threshold)".

(c) Cost Type Contracts.—Section 304(b) of such Act (41 U.S.C. 254(b)) is amended in the third sentence by striking out "either $25,000" and inserting in lieu thereof "either the simplified acquisition threshold".

SEC. 4073. OFFICE OF FEDERAL PROCUREMENT POLICY ACT.

Section 19(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 417(a)) is amended by striking out "procurements, other than small purchases," and inserting in lieu thereof "procurements for amounts in excess of the simplified acquisition threshold".

PART V—REVISION OF REGULATIONS

SEC. 4081. REVISION REQUIRED.

(a) Federal Acquisition Regulation.—(1) Not later than one year after the date of the enactment of this Act, the Federal Acquisition Regulatory Council established by section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall—

(A) review the Federal Acquisition Regulation to identify regulations that are applicable to acquisitions in excess of a specified amount that is less than $100,000 (other than such an amount that is specified by law); and

(B) amend the regulations so identified to provide that such regulations do not apply to acquisitions that are not in excess of the simplified acquisition threshold.

(2) Paragraph (1)(B) does not apply in the case of a regulation for which such an amendment would not be in the national interest, as determined by the Council.

(b) Supplemental Regulations.—Not later than 90 days after the date on which the review required by subsection (a)(1)(A) is completed, the head of each executive agency that has issued regulations, policies, or procedures referred to in section 25(c)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(2)) shall—

(1) identify any such regulation, policy, or procedure that is applicable to acquisitions in excess of a specified amount that is less than $100,000; and

(2) pursuant to section 22 of such Act (41 U.S.C. 418b), publish amendments to the regulations so identified to provide that each such regulation, policy, or procedure does not apply to acquisitions that are not in excess of the simplified acquisition threshold.

(c) Relationship to Other Authority.—None of the amendments to regulations made pursuant to subsections (a) and (b) apply to or in any way diminish the authority of the civil rights enforcement programs enforced by the Department of Labor.

(d) Definitions.—In this section:

(1) The term "simplified acquisition threshold" has the meaning given such term in section 4A of the Office of Federal Procurement Policy Act, as added by section 4001.

(2) The term "executive agency" has the meaning given such term in section 3(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 472(b)).

Subtitle B—Socioeconomic and Small Business Laws

SEC. 4101. SMALL BUSINESS PROVISIONS.

Section 6(d) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)) is amended—

(1) by striking out "and" at the end of paragraph (7);

(2) by redesignating paragraph (8) as paragraph (10); and

(3) by inserting after paragraph (7) the following new paragraphs:

"(8) developing policies, in consultation with the Administrator of the Small Business Administration, that ensure that small businesses and small businesses owned and controlled by socially and economically disadvantaged persons are provided with the maximum practicable opportunities to participate in procurements that are conducted for amounts below the simplified acquisition threshold;

"(9) developing policies that will promote achievement of goals for participation by small businesses and small businesses owned and controlled by socially and economically disadvantaged individuals;".

SEC. 4102. PAYMENT PROTECTIONS FOR SUBCONTRACTORS AND SUPPLIERS.

(a) Regulations.—

(1) In General.—The Administrator for Federal Procurement Policy shall prescribe in regulations the requirements described in paragraph (2).

(2) Procedures Relating to Compliance with Payment Terms.—(A) Under procedures established in the regulations, upon the assertion by a subcontractor or supplier of a contractor performing a Government contract that the subcontractor or supplier has not been paid by the prime contractor in accordance with the payment terms of the subcontract, purchase order, or other agreement with the prime contractor, the contracting officer may determine the following:

(i) With respect to a construction contract, whether the contractor has made progress payments to the subcontractor or supplier in compliance with chapter 39 of title 31, United States Code.

(ii) With respect to a contract other than a construction contract, whether the contractor has made progress or other payments to the subcontractor or supplier in compliance with the terms of the subcontract, purchase order, or other agreement with the prime contractor.

(iii) With respect to either a construction contract or a contract other than a construction contract, whether the contractor has made final payment to the subcontractor or supplier in compliance with the terms of the subcontract, purchase order, or other agreement with the prime contractor.

(iv) With respect to either a construction contract or a contract other than a construction contract, whether any certification of payment of the subcontractor or supplier accompanying the contractor's payment request to the Government is accurate.

(B) If the contracting officer determines that the prime contractor is not in compliance with any matter referred to in clause (i), (ii), or (iii) of subparagraph (A), the contracting officer may, under procedures established in the regulations—

(i) encourage the prime contractor to make timely payment to the subcontractor or supplier; or

(ii) reduce or suspend progress payments with respect to amounts due to the prime contractor.

(C) If the contracting officer determines that a certification referred to in clause (iv) of subparagraph (A) is inaccurate in any material respect, the contracting officer shall, under procedures established in the regulations, initiate appropriate administrative or other remedial action.

(D) This paragraph shall apply with respect to any Government contract, other than a Department of Defense contract, that is in effect on the date of promulgation of the regulations under this subsection or that is awarded after such date.

(b) INAPPLICABILITY TO CERTAIN CONTRACTS.—The regulations prescribed under this section shall not apply to the following contracts:

(1) A contract that is for an amount not in excess of the simplified acquisition threshold (within the meaning of section 4A of the Office of Federal Procurement Policy Act).

(2) A contract for the acquisition of commercial items (as that term is defined in section 4(12) of the Office of Federal Procurement Policy Act).

(c) AMENDMENTS TO ARMED SERVICES PROVISION.—Section 806 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 10 U.S.C. 2301 note) is amended by striking out subsection (c) and inserting in lieu thereof the following:

"(c) INAPPLICABILITY TO CERTAIN CONTRACTS.—Regulations prescribed under this section shall not apply to the following contracts:

"(1) A contract that is for an amount not in excess of the simplified acquisition threshold (within the meaning of section 4A of the Office of Federal Procurement Policy Act).

"(2) A contract for the acquisition of commercial items (as that term is defined in section 2281 of title 10, United States Code).".

SEC. 4103. EXTENSION OF TEST PROGRAM FOR NEGOTIATION OF COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLANS.

Section 834(e) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 15 U.S.C. 637 note) is amended by striking out "September 30, 1994." in the second sentence and inserting in lieu thereof "September 30, 1997.".

SEC. 4104. SMALL BUSINESS PROCUREMENT ADVISORY COUNCIL.

(a) ESTABLISHMENT.—There is hereby established an interagency council to be known as the "Small Business Procurement Advisory Council" (hereinafter in this section referred to as the "Council").

(b) DUTIES.—The duties of the Council are—

(1) to serve as a forum for discussion of issues and problems relating to, and ideas for improvement of, small business procurement matters within the Federal Government;

(2) to provide information to other departments and agencies of the Federal Government about small business procurement; and

(3) to issue advisory reports to the Office of Federal Procurement Policy and the Small Business Administration on small business procurement matters.

(c) MEMBERSHIP.—The Council shall be composed of the following members:

(1) The Administrator for Federal Procurement Policy (or the designee of the Administrator).

(2) The Administrator of the Small Business Administration (or the designee of the Administrator).

(3) The Director of the Minority Business Development Agency.

(4) The head of each Office of Small and Disadvantaged Business Utilization in each Federal agency having procurement powers.

(d) COCHAIRMEN.—The Council shall be cochaired by the Administrator for Federal Procurement Policy and the Administrator of the Small Business Administration.

(e) MEETINGS.—The Council shall meet at the call of the chairmen, but not less often than four times a year and once each quarter.

(f) DIRECTOR.—The Chief Counsel for Advocacy of the Small Business shall serve as the director of the Council. The director may not vote on matters before the council except in the case of a tie vote among the members. The duties of the director shall be determined by the chairmen of the Council. The Chief Counsel for Advocacy shall receive no additional pay by reason of the counsel's service as director of the Council.

(g) ANNUAL REPORT.—(1) Not later than 30 days after the end of each fiscal year, the Council shall submit to Congress a report detailing the activities of the Council during the preceding fiscal year in carrying out this section.

SEC. 4105. MAXIMUM PRACTICABLE OPPORTUNITIES FOR APPRENTICES ON FEDERAL CONSTRUCTION PROJECTS.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) contractors performing Federal construction contracts should, to the maximum extent practicable, give preference in the selection of subcontractors to subcontractors participating in apprenticeship programs registered with the Department of Labor or with a State apprenticeship agency recognized by such Department; and

(2) contractors and subcontractors performing Federal construction contracts should provide maximum practicable opportunities for employment of apprentices who are participating in or who have completed such apprenticeship programs.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit to the Congress a report on the extent to which contractors and subcontractors performing Federal construction contracts have increased subcontractor participation in registered apprenticeship programs.

Subtitle C—Miscellaneous Acquisition Laws

SEC. 4151. RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES FOR PROCUREMENT FROM A SPECIFIED SOURCE.

(a) ARMED SERVICES ACQUISITIONS.—Section 2304 of title 10, United States Code, as amended by section 1005, is further amended—

(1) in subsection (c)(5), by inserting "subject to subsection (k)," after "(5)"; and

(2) by adding at the end the following new subsection:

"(k)(1) It is the policy of Congress that no legislation should be enacted that requires a procurement by an agency to be made from a specified non-Federal Government source.

"(2) A provision of law may not be construed as requiring a procurement by an agency to be made from a specified non-Federal Government source unless that provision of law—

"(A) specifically refers to this subsection;

"(B) specifically identifies the particular non-Federal Government source from which the procurement is to made; and

"(C) specifically states that the procurement from that source is required by such provision of law in contravention of the policy set forth in paragraph (1).".

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended—

(1) in subsection (c)(5), by inserting "subject to subsection (h)," after "(5)"; and

(2) by adding at the end the following new subsection:

"(h)(1) It is the policy of Congress that no legislation should be enacted that requires a procurement by an executive agency to be made from a specified non-Federal Government source.

"(2) A provision of law may not be construed as requiring a procurement by an executive agency to be made from a specified non-Federal Government source unless that provision of law—

"(A) specifically refers to this subsection;

"(B) specifically identifies the particular non-Federal Government source involved; and

"(C) specifically states that the procurement from that source is required by such provision of law in contravention of the policy set forth in paragraph (1).".

SEC. 4152. REPEAL OF OBSOLETE PROVISION.

Section 308 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 258) is repealed.

TITLE V—STANDARDS OF CONDUCT

SEC. 5001. CONTRACTING FUNCTIONS PERFORMED BY FEDERAL PERSONNEL.

(a) AMENDMENT OF OFPP ACT.—The Office of Federal Procurement Policy Act, as amended by section 1091, is further amended by inserting after section 22 the following new section 23:

"SEC. 23. CONTRACTING FUNCTIONS PERFORMED BY FEDERAL PERSONNEL.

"(a) LIMITATION ON USE OF CONTRACT ADVISORY AND ASSISTANCE SERVICES.—(1) An executive agency may not provide for an evaluation or analysis of any aspect of a proposal submitted for an acquisition by that executive agency to be conducted by a person who is not an employee of an executive agency or a member of the Armed Forces unless the executive agency determines that employees or members with adequate training and capability to perform the evaluation or analysis are not readily available within the agency or another Federal agency, as determined in accordance with standards and procedures prescribed in the Federal Acquisition Regulation.

"(2) In the administration of this subsection, the executive agency shall determine in accordance with the standards and procedures set forth in the Federal Acquisition Regulation whether—

"(A) a sufficient number of employees within the executive agency or another Federal agency are readily available to perform a particular evaluation or analysis for the executive agency making the determination; and

"(B) the readily available employees have the training and capabilities necessary to perform the evaluation or analysis.

"(b) DEFINITION.—For purposes of this section, the term 'employee' has the meaning given such term in section 2105 of title 5, United States Code.".

(b) REQUIREMENT FOR GUIDANCE AND REGULATIONS.—

(1) IN GENERAL.—The Federal Acquisition Regulatory Council established by section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall—

(A) review part 37 of title 48 of the Code of Federal Regulations as it relates to the use of advisory and assistance services; and

(B) provide guidance and promulgate regulations regarding—

(i) what actions Federal agencies are required to take to determine whether expertise is readily available within the Federal Government before contracting for advisory and technical services to conduct acquisitions; and

(ii) the manner in which Federal employees with expertise may be shared with agencies needing expertise for such acquisitions.

(2) DEFINITION.—In paragraph (1), the term "employee" has the meaning given such term in section 2105 of title 5, United States Code.

SEC. 5002. REPEAL OF EXECUTED REQUIREMENT FOR STUDY AND REPORT.

Section 17 of the Office of Federal Procurement Policy Act (41 U.S.C. 415) is repealed.

SEC. 5003. INTERESTS OF MEMBERS OF CONGRESS.

Section 3741 of the Revised Statutes (41 U.S.C. 22) is amended to read as follows:

"SEC. 3741. No member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or accepted by or on behalf of the United States, or to any benefit to arise thereupon.".

SEC. 5004. WAITING PERIOD FOR SIGNIFICANT CHANGES PROPOSED FOR ACQUISITION REGULATIONS.

Section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b) is amended—

(1) by striking out "30 days" in subsection (a) and inserting in lieu thereof "45 days"; and

(2) by adding at the end of subsection (d) the following new paragraph:

"(3) A policy, regulation, procedure, or form described in subsection (a) may (notwithstanding that subsection) take effect earlier than 45 days after the date of publication thereof in the Federal Register pursuant to subsection (b) if the officer authorized to issue the procurement policy, regulation, procedure, or form determines that compelling circumstances make compliance with the 45-day requirement under subsection (a) impracticable. However, the policy, regulation, procedure, or form may not take effect earlier than 30 days after the publication date except as provided in paragraph (1).".

SEC. 5005. REPEAL OF SUPERSEDED AND OBSOLETE LAWS.

(a) REPEAL.—The following sections of title 10, United States Code, are repealed: sections 2207, 2397, 2397a, 2397b, and 2397c.

(b) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of chapter 131 of such title is amended by striking out the item relating to section 2207.

(2) The table of sections at the beginning of chapter 141 of such title is amended by striking out the items relating to sections 2397, 2397a, 2397b, and 2397c.

TITLE VI—DEFENSE TRADE AND COOPERATION

SEC. 6001. EXCEPTION TO BUY AMERICAN ACT FOR MICRO-PURCHASES.

Section 2 of title III of the Act of March 3, 1933 (41 U.S.C. 10a), commonly referred to as the "Buy American Act", is amended by adding at the end the following: "This section shall not apply to manufactured articles, materials, or supplies procured under any contract the award value of which is less than or equal to the micro-purchase threshold under section 4B of the Office of Federal Procurement Policy Act.".

SEC. 6002. POLICY ON PURCHASE OF FOREIGN GOODS.

(a) IN GENERAL.—Section 2533 of title 10, United States Code, is amended to read as follows:

"§2533. Policy on the purchase of foreign goods

"(a) DETERMINATION UNDER BUY AMERICAN ACT.— In determining whether application of the Buy American Act is inconsistent with the public interest, the Secretary of Defense shall give adequate consideration to the following:

"(1) The bids or proposals of small business firms in the United States which have offered to furnish American goods.

"(2) The bids or proposals of all other firms in the United States which have offered to furnish American goods.

"(3) The balance of payments of the United States.

"(4) The cost of shipping goods which are other than American goods.

"(5) Any duty, tariff, or surcharge which may enter into the cost of using goods which are other than American goods.

"(6) The need to ensure that the Department of Defense has access to advanced state-of-the-art commercial technology.

"(7) The need to protect the national technology and industrial base, to preserve and enhance the national technology employment base, and to provide for a defense mobilization base.

"(8) The need to maintain the same source of supply for spare and replacement parts either for an end item that qualifies as an American good or to maintain or foster the integration of the military and commercial industrial base.

"(9) National security interests of the United States.

"(b) In this section, the term 'goods which are other than American goods' means—

"(1) an end product that is not mined, produced, or manufactured in the United States; or

"(2) an end product that is manufactured in the United States but which includes components mined, produced, or manufactured outside the United States the aggregate cost of which exceeds the aggregate cost of the components of such end product that are mined, produced, or manufactured in the United States.".

(b) CLERICAL AMENDMENT.—The item relating to section 2533 in the table of sections at the beginning of subchapter V of chapter 148 of such title is amended to read as follows:

"2533. Policy on purchase of foreign goods.".

SEC. 6003. CONSOLIDATION OF MISCELLANEOUS PROCUREMENT LIMITATIONS.

Section 2534 of title 10, United States Code, is amended—

(1) by striking out subsections (a) through (f);

(2) by redesignating subsection (g), as added by section 4032, as subsection (d); and

(3) by inserting after the section heading the following:

"(a) LIMITATION ON CERTAIN PROCUREMENTS.—The Secretary of Defense may procure an item listed in subsection (b) only if the item is manufactured by an entity that is part of the national technology and industrial base (as defined in section 2491(1) of this title).

"(b) COVERED ITEMS.—Subsection (a) applies to the following:

"(1) BUSES.—Multipassenger motor vehicles (buses).

"(2) CHEMICAL WEAPONS ANTIDOTE.—Chemical weapons antidote contained in automatic injectors (or components for such injectors), but only if the company that manufactures the item not only manufactures it in the United States but also meets the following requirements:

"(A) The company is an existing producer under the industrial preparedness program at the time the contract is awarded.

"(B) The company has received all required regulatory approvals.

"(C) The company has the plant, equipment, and personnel to perform the contract in existence in the United States at the time the contract is awarded.

"(3) VALVES AND MACHINE TOOLS.—(A) Items in the following categories:

"(i) Powered and non-powered valves in Federal Supply Classes 4810 and 4820 used in piping for naval surface ships and submarines.

"(ii) Machine tools in the Federal Supply Classes for metal-working machinery numbered 3405, 3408, 3410 through 3419, 3426, 3433, 3438, 3441 through 3443, 3445, 3446, 3448, 3449, 3460, and 3461.

"(B) Contracts for the procurement of items described in subparagraph (A) include contracts—

"(i) for the use of such items in any property under the control of the Department of Defense, including Government-owned, contractor-operated facilities; and

"(ii) entered into by contractors on behalf of the Department of Defense for the purposes of providing such items to other contractors as Government-furnished equipment.

"(C) In any case in which a contract for items described in subparagraph (A) includes the procurement of more than one Federal Supply Class of machine tools or machine tools and accessories, each supply class shall be evaluated separately for purposes of determining whether the limitation in this subsection applies.

"(D) This paragraph is effective through fiscal year 1996.

"(4) AIR CIRCUIT BREAKERS.—Air circuit breakers for naval vessels.

"(5) SONOBUOYS.—Sonobuoys.

"(6) BALL BEARINGS AND ROLLER BEARINGS.—Ball bearings and roller bearings, in accordance with subpart 225.71 of part 225 of the Defense Federal Acquisition Regulation Supplement, as in effect on October 23, 1992. This paragraph is effective through fiscal year 1995.

"(c) EXCEPTIONS.—The Secretary of Defense may waive the limitation in subsection (a) with respect to the procurement of an item listed in subsection (b) if the Secretary determines that any of the following apply:

"(1) Application of the limitation would cause unreasonable costs or delays to be incurred.

"(2) United States producers of the item would not be jeopardized by competition from a foreign country and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

"(3) Application of the limitation would impede cooperative programs entered into between the Department of Defense and a foreign country and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

"(4) Satisfactory quality items manufactured by an entity that is part of the national technology and industrial base (as defined in section 2491(1) of this title) are not available.

"(5) Application of the limitation would result in the existence of only one source for the item that is an entity that is part of the national technology and industrial base (as defined in section 2491(1) of this title).

"(6) The procurement is for an amount less than the simplified acquisition threshold and simplified purchase procedures are being used.

"(7) Application of the limitation is not in the national security interests of the United States.

"(8) Application of the limitation would adversely affect a United States company.

"(d) PRINCIPLE OF CONSTRUCTION WITH FUTURE LAWS.—A provision of law may not be construed as modifying or superseding the provisions of this section, or as requiring funds to be limited, or made available, by the Secretary of Defense to a particular domestic source by contract, unless that provision of law—

"(1) specifically refers to this section;

"(2) specifically states that such provision of law modifies or supersedes the provisions of this section; and

"(3) specifically identifies the particular domestic source involved and states that the contract to be awarded pursuant to such provision of law is being awarded in contravention of this section.".

SEC. 6004. REPEAL OF OBSOLETE AND REDUNDANT PROVISIONS.

(a) REPEAL OF REQUIREMENT FOR POLICY GUIDANCE.—Title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.), commonly referred to as the "Buy American Act", is amended in section 4(g) (41 U.S.C. 10b–1(g)) by striking out paragraphs (2)(C) and (3).

(b) REPEAL OF REPORTING REQUIREMENT.—Section 9096(b) of Public Law 102–396 (106 Stat. 1924; 41 U.S.C. 10b–2(b)) is repealed.

(c) REPEAL OF STUDIES OF WAIVERS.—Section 306 of the Trade Agreements Act of 1979 (19 U.S.C. 2516), relating to studies of certain employment effects and procurement effects of a waiver of the Buy American Act, is repealed.

TITLE VII—COMMERCIAL ITEMS

Subtitle A—Definitions and Regulations

SEC. 7001. DEFINITIONS.

(a) DEFINITIONS.—Section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403) is amended by adding at the end the following new paragraphs:

"(12) The term 'commercial item' means any of the following:

"(A) Any item of a type customarily used in the course of normal business operations for other than Federal Government purposes, that—

"(i) has been sold, leased, or licensed to the general public or to domestic State, or local government entities; or

"(ii) has been offered for sale, lease, or license to the general public or to domestic State, or local government entities.

"(B) An item intended to be used in the course of normal business operations for other than Federal Government purposes that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirements under a Federal Government solicitation.

"(C) Any item that, but for—

"(i) modifications of a type customarily available in the commercial marketplace, or

"(ii) minor modifications made to meet Federal Government requirements,

would satisfy the criteria in subparagraph (A) or (B).

"(D) Any combination of items meeting the requirements of subparagraph (A), (B), or (C) that are of a type customarily combined and sold in combination to the general public.

"(E) Installation services, maintenance services, repair services, training services, and other services if such services are procured for support of an item referred to in subparagraph (A), (B), (C), or (D) and if the source of such services—

"(i) offers such services to the general public and the Federal Government contemporaneously and under similar terms and conditions; and

"(ii) offers to use the same work force for providing the Federal Government with such services as the source uses for providing such services to the general public.

"(F) Services offered and sold competitively, in significant quantities, in the commercial marketplace at established catalog prices or standard rates and under standard commercial terms and conditions.

"(G) Any item, combination of items, or service referred to in subparagraphs (A) through (F) notwithstanding the fact that the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor.

"(13) The term 'nondevelopmental item' means any of the following:

"(A) Any previously developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement.

"(B) Any item of supply described in subparagraph (A) that requires only minor modification or modification of the type customarily available in the commercial marketplace in order to meet the requirements of the procuring department or agency.

"(C) Any item of supply currently being produced that does not meet the requirements of subparagraph (A) or (B) solely because the item is not yet in use.

"(14) The term 'component' means any item supplied to the Federal Government as part of an end item or of another component.

"(15) The term 'commercial component' means any component that is a commercial item.".

(b) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) by striking out "Act—" in the matter preceding paragraph (1) and inserting in lieu thereof "Act:";

(2) by capitalizing the first letter of the first word in each of paragraphs (1) through (11);

(3) by striking out the semicolon at the end of each of paragraphs (1), (2), (3), (5), (6), (7), (8), and (9) and inserting in lieu thereof a period; and

(4) by striking out "; and" at the end of paragraphs (4) and (10) and inserting in lieu thereof a period.

SEC. 7002. REGULATIONS ON ACQUISITION OF COMMERCIAL ITEMS.

(a) IN GENERAL.—The Federal Acquisition Regulation shall provide regulations to implement paragraphs (12) through (15) of section 4 of the Office of Federal Procurement Policy Act, chapter 136 of title 10, United States Code, and sections 314 through 314D of the Federal Property and Administrative Services Act of 1949.

(b) TERMS AND CONDITIONS.—The regulations prescribed under subsection (a) shall contain a set or sets of terms and conditions to be included in contracts for the acquisition of commercial end items. Such terms and conditions shall, to the maximum extent practicable, include only those contract clauses that are—

(1) required to implement provisions of law applicable to commercial item acquisitions; or

(2) consistent with standard commercial practice.

(c) TERMS AND CONDITIONS FOR COMPONENTS.—Such regulations shall provide that a prime contractor furnishing commercial items or items other than commercial items as items or components shall not be required to apply to any of its divisions, subsidiaries, affiliates, subcontractors, or suppliers that are furnishing commercial items as components any clause, term, or condition except those that are—

(1) required to implement provisions of law applicable to subcontractors furnishing commercial items; or

(2) determined to be consistent with standard commercial practice.

(d) MARKET ACCEPTANCE.—The regulations prescribed under subsection (a) shall provide that, under appropriate conditions, the agency head may require an offeror to demonstrate, as a condition for being considered responsive, that the items offered meet, among other criteria, market acceptance criteria, unless such item has been satisfactorily supplied to an executive agency under current or recent contracts for the same or similar requirements.

(e) USE OF FIXED PRICE CONTRACTS.—The regulations prescribed under subsection (a) shall include a requirement that firm, fixed price contracts, or fixed price contracts with economic price adjustment provisions, be used for the acquisition of commercial items and components.

(f) TERM OF CONTRACTS.—The regulations prescribed under subsection (a) shall provide that, to the extent practicable, contracts for acquisition of commercial items shall not require contract performance for a term longer than customary industry practice for the item being acquired. A contracting officer may include in a contract provisions for economic price adjustment if an extended period of performance under the contract cannot be avoided.

(g) CONTRACT QUALITY REQUIREMENTS.—The regulations prescribed under subsection (a) shall include provisions that—

(1) permit, to the maximum extent practicable, a contractor under a commercial items acquisition to use the existing quality assurance system of the contractor as a substitute for compliance with an otherwise applicable requirement for the Government to inspect or test the commercial items before the contractor's tender of those items for acceptance by the Government;

(2) require that, to the maximum extent practicable, the executive agency take advantage of warranties (including extended warranties) offered by offerors of commercial items and use such warranties for the repair and replacement of commercial items; and

(3) set forth guidance regarding the use of past performance of commercial items and sources as a factor in contract award decisions.

(h) DEFENSE CONTRACT CLAUSES.—

(1) REPEAL OF DOD AUTHORITY.—Section 824(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 2325 note) is repealed.

(2) SAVINGS PROVISION.—Notwithstanding subsections (b) and (c), a contract of the Department of Defense entered into before October 1, 1994, and a subcontract entered into before such date under such a contract, may include clauses developed pursuant to paragraphs (2) and (3) of section 824(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 2325 note).

Subtitle B—Armed Services Acquisitions

SEC. 7101. ESTABLISHMENT OF NEW CHAPTER IN TITLE 10.

(a) ESTABLISHMENT.—Part IV of subtitle A of title 10, United States Code, is amended by inserting before chapter 137 the following new chapter 136:

"CHAPTER 136—PROCUREMENT OF COMMERCIAL ITEMS

"Sec.
"2281. Definitions.
"2282. Preference for acquisition of commercial items.
"2283. Exception to cost or pricing data requirement for commercial items.
"2284. Principle of construction with future laws.
"2285. Inapplicability of certain provisions of law.".

(b) CLERICAL AMENDMENT.—The tables of chapters at the beginning of subtitle A of title 10, United States Code, and the beginning of part IV of such subtitle are amended by inserting before the item relating to chapter 137 the following new item:

"136. Procurement of Commercial Items
2281".

SEC. 7102. DEFINITIONS.

Chapter 136 of title 10, United States Code, as added by section 7001, is amended by adding after the table of sections the following:

"§2281. Definitions

"In this chapter:

"(1) The terms 'commercial item', 'nondevelopmental item', 'component', and 'commercial component' have the meanings provided in section 4 of the Office of Federal Procurement Policy Act.

"(2) The term 'head of an agency' means the Secretary of Defense, the Secretary of Transportation, and the Administrator of the National Aeronautics and Space Administration.

"(3) The term 'agency' means the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration.".

SEC. 7103. PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS.

(a) IN GENERAL.—Chapter 136 of title 10, United States Code, as amended by section 7102, is further amended by adding after section 2281 the following new section:

"§2282. Preference for acquisition of commercial items

"(a) PREFERENCE.—The head of an agency shall ensure that, to the maximum extent practicable—

"(1) requirements of the agency with respect to a procurement of supplies or services are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that commercial items may be procured to fulfill such requirements; and

"(3) such requirements are fulfilled through the procurement of commercial items.

"(b) IMPLEMENTATION.—The head of an agency shall ensure that procurement officials in that agency, to the maximum extent practicable—

"(1) acquire commercial items to meet the needs of the agency;

"(2) require prime contractors and subcontractors at all levels under the agency contracts to incorporate commercial items as components of items supplied to the agency;

"(3) modify requirements in appropriate cases to ensure that the requirements can be met by commercial items;

"(4) state specifications in terms that enable and encourage bidders and offerors to supply commercial items;

"(5) revise the agency's procurement policies, practices, and procedures not required by law to reduce any impediments in those policies, practices, and procedures to the acquisition of commercial items; and

"(6) require training of appropriate personnel in the acquisition of commercial items.

"(c) EXISTING OR PRIOR SOURCES OF NONDEVELOPMENTAL ITEMS.—(1) Notwithstanding subsection (a), an agency may, until five years after the date of the enactment of the Federal Acquisition Improvement Act of 1994, determine that it is in the Government's interests to permit existing or prior sources of nondevelopmental items to participate in a competition for a commercial item in a case in which a nondevelopmental item will compete with a commercial item under the same terms, conditions, and evaluation and award criteria.

"(2) Nondevelopmental items furnished by an existing or prior source that must be modified to meet the requirements of a solicitation for commercial items may be offered under such a solicitation, but only in a case in which the modifications—

"(A) are necessary to comply with the Government's solicitation requirements; and

"(B) do not significantly alter the function or essential physical characteristics of the items to be supplied.

"(3) The policies, procedures, solicitation provisions, and contract clauses applicable to commercial items under this chapter also shall apply to nondevelopmental items furnished by an existing or prior source that is permitted to participate in a competition conducted under this title.

"(d) PRELIMINARY MARKET RESEARCH.—(1) The head of an agency shall conduct market research appropriate to the circumstances—

"(A) before developing new specifications for a procurement by that agency; and

"(B) before soliciting bids or proposals for a contract in excess of the simplified acquisition threshold.

"(2) The head of an agency shall use the results of market research to determine whether there are commercial items available that—

"(A) meet the agency's requirements;

"(B) could be modified to meet the agency's requirements; or

"(C) could meet the agency's requirements if those requirements were modified to a reasonable extent.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 2325 of title 10, United States Code, is repealed. The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2325.

SEC. 7104. EXCEPTION TO COST OR PRICING DATA REQUIREMENTS FOR COMMERCIAL ITEMS.

(a) IN GENERAL.—Chapter 136 of title 10, United States Code, as amended by section 7103, is further amended by adding after section 2282 the following new section:

"§2283. Exception to cost or pricing data requirements for commercial items

"(a) EXEMPTION FROM SECTION 2306a IF PRICE BASED ON ADEQUATE PRICE COMPETITION OR ESTABLISHED PRICES.—In any procurement of a commercial item, when the agreed-upon price of the commercial item is based on adequate price competition or on established catalog or market prices of items sold in sufficient quantities to the general public—

"(1) the procurement shall be exempt from section 2306a of this title; and

"(2) to the maximum extent practicable, the head of the agency conducting the procurement may not require any additional information from the offeror to determine price reasonableness.

"(b) REQUIREMENT TO DETERMINE PRICE REASONABLENESS FOR NONCOMPETITIVE PROCUREMENTS.—In any case in which it is not practicable to conduct a procurement of a commercial item on a competitive basis and the procurement is not covered by subsection (a) or by an exception in subsection (b) of section 2306a of this title, the contracting officer shall use price analysis to determine whether the price of the contract is fair and reasonable. If the contracting officer is able to determine through price analysis that the price is reasonable, the procurement shall be exempt from section 2306a of this title. Price analysis under this subsection shall be conducted by developing or obtaining from the offeror or contractor, or from another source or sources, in accordance with standards and procedures set forth in Federal Acquisition Regulations, information on prices at which the same or similar items have been sold in the commercial market that is adequate for evaluating the reasonableness of the price of the contract.

"(c) AUTHORITY TO REQUEST COST OR PRICING DATA WHEN PRICE REASONABLENESS CANNOT BE DETERMINED.—In any case in which a contracting officer is unable to determine under subsection (b) that a price is reasonable, the contracting officer, with the prior approval of the head of the procuring activity, may require cost or pricing data under section 2306a of this title.

"(d) RIGHT TO AUDIT.—(1) The head of an agency is authorized to audit all documentation provided by an offeror under subsection (b) or (c) and all books and records of the offeror directly relating to such documentation, except that, if the offeror has made no representation as to the completeness of the documentation supplied, the head of the agency is not authorized to audit for completeness.

"(2) The authority under this subsection shall expire—

"(A) one year after the date of commencement of performance of the contract, or one year after the date of commencement of performance of the modification of the contract, with respect to which the information was provided; or

"(B) on such other date agreed upon by the parties at the time of contract award or contract definitization.

"(e) LIMITATIONS ON REQUESTS FOR DATA.—The Federal Acquisition Regulation shall establish reasonable limitations on requests under this section for sales data relating to commercial items.

"(f) FORM OF INFORMATION.—In conducting a price analysis, or in requiring any additional information from an offeror, a contracting officer may request only that information from an offeror that is in the form regularly maintained by the offeror in commercial operations, adequate to demonstrate the market price of the item or items, or otherwise needed to establish a fair and reasonable price.

"(g) CONFIDENTIALITY.—All documentation received from an offeror, if not otherwise in the public domain and if requested by the offeror and marked as proprietary, shall be treated by the Government as confidential and exempt from disclosure to the extent permitted by section 552 of title 5.".

(b) CROSS REFERENCE.—Section 2306a of title 10, United States Code, is amended by adding at the end the following new subsection:

"(h) EXCEPTIONS REGARDING COMMERCIAL ITEMS.—For provisions relating to exceptions for procurements of commercial items, see section 2283 of this title.".

SEC. 7105. PRINCIPLE OF CONSTRUCTION WITH FUTURE LAWS.

Chapter 136 of title 10, United States Code, as amended by section 7104, is further amended by adding after section 2283 the following new section:

"§2284. Principle of construction with future laws

"A provision of law enacted after the date of the enactment of the Federal Acquisition Improvement Act of 1994 may not be construed as applicable to purchases of commercial items by an agency unless that provision of law specifically refers to this section and specifically states that such provision of law modifies or supersedes a provision of this chapter.".

SEC. 7106. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) INAPPLICABLE PROVISIONS.—Chapter 136 of title 10, United States Code, as amended by section 7105, is further amended by adding after section 2284 the following new section:

"§2285. Inapplicability of certain provisions of law

"(a) PROVISIONS INAPPLICABLE TO PRIME CONTRACTORS.—The following provisions of law (and regulations prescribed under such provisions) shall not apply to any contract entered into by an agency for the procurement of a commercial item:

"(1) Section 2306(b) of this title (relating to prohibition on contingent fees).

"(2) Section 2320 of this title (relating to rights in technical data).

"(3) Section 2321 of this title (relating to validation of proprietary data restrictions).

"(4) Section 2324 of this title (relating to allowable costs).

"(5) Section 2384(b) of this title (relating to requirement to identify suppliers and sources of supplies).

"(6) Section 2393(d) of this title (relating to prohibition against doing business with certain offerors or contractors).

"(7) Section 2402 of this title (relating to prohibition on limitation of subcontractor direct sales).

"(8) Section 2408(a) of this title (relating to prohibition on persons convicted of defense contract-related felonies).

"(9) Section 2410b of this title (relating to contractor inventory accounting system standards).

"(10) Section 843 of Public Law 103–160 (107 Stat. 1720) (relating to reports of defense contractors of dealings with terrorist countries).

"(11) Section 26 of the Office of Federal Procurement Policy Act (41 U.S.C. 422) (relating to cost accounting standards board).

"(12) Section 27(e) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)) (relating to procurement integrity).

"(13) The Drug-Free Workplace Act of 1988 (subtitle D of title V of Public Law 100–690; 41 U.S.C. 701 et seq.).

"(b) PROVISIONS INAPPLICABLE TO SUBCONTRACTORS AND OTHER ENTITIES.—

"(1) LAWS INAPPLICABLE.—The following provisions of law (and regulations prescribed under such provisions) shall not apply to any entity described in paragraph (2):

"(A) Each provision of law listed under subsection (a).

"(B) Section 2534 of this title (relating to miscellaneous limitations on procurement).

"(2) COVERED ENTITIES.—Paragraph (1) applies to each of the following:

"(A) Any division, subsidiary, or affiliate of a prime contractor (other than the division, subsidiary, or affiliate that is contracting with the Government under the prime contract) or of a subcontractor of a prime contractor, if such division, subsidiary, or affiliate is furnishing a commercial item to the prime contractor or subcontractor for purposes of carrying out the prime contract or subcontract.

"(B) Any subcontractor or supplier of a prime contractor, if the subcontractor or supplier is furnishing a commercial item to the prime contractor for purposes of carrying out the prime contract.".

SEC. 7107. CONFORMING AMENDMENTS RELATING TO INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) INAPPLICABILITY OF REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT FEES.—Section 2306(b) of title 10, United States Code, as amended by section 4032(a), is further amended by inserting before the period at the end of the sentence added by that section the following: "or to a contract for the acquisition of commercial items".

(b) INAPPLICABILITY OF REGULATIONS ON RIGHTS IN TECHNICAL DATA.—Section 2320 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) The regulations prescribed under subsection (a) shall not apply to contracts for the purchase of commercial items.".

(c) INAPPLICABILITY OF REQUIREMENT FOR VALIDATION OF PROPRIETARY DATA RESTRICTIONS.—Section 2321(a) of title 10, United States Code, is amended by inserting before the period at the end the following: ", other than a contract for supplies or services that are commercial items".

(d) INAPPLICABILITY OF REQUIREMENT TO IDENTIFY SUPPLIERS AND SOURCES OF SUPPLIES.—Paragraph (2) of section 2384(b) of title 10, United States Code, is amended to read as follows:

"(2) The regulations prescribed pursuant to paragraph (1) do not apply to a contract that requires the delivery of supplies that are commercial items.".

(e) INAPPLICABILITY OF PROHIBITION AGAINST DOING BUSINESS WITH CERTAIN OFFERORS OR CONTRACTORS.—Section 2393(d) of title 10, United States Code, as amended by section 4032(d), is further amended by adding at the end the following: "The requirement shall not apply in the case of a subcontract for the acquisition of commercial items.".

(f) INAPPLICABILITY OF PROHIBITION ON LIMITATION OF SUBCONTRACTOR DIRECT SALES.—Section 2402 of title 10, United States Code, as amended by section 4032(e), is further amended by adding at the end the following new subsection:

"(d) An agreement between the contractor in a contract for the acquisition of commercial items and a subcontractor under such contract that restricts sales by such subcontractor directly to persons other than the contractor may not be considered to unreasonably restrict sales by that subcontractor to the United States in violation of the provision included in such contract pursuant to subsection (a) if the agreement does not result in the United States being treated differently with regard to the restriction than any other prospective purchaser of such commercial items from that subcontractor.".

(g) INAPPLICABILITY OF PROHIBITION ON PERSONS CONVICTED OF DEFENSE-RELATED FELONIES.—Section 2408(a) of title 10, United States Code, is amended by adding at the end of paragraph (4), as added by section 4032(f), the following: "The term does not include a contract for the purchase of commercial items.".

(h) INAPPLICABILITY OF CONTRACTOR INVENTORY ACCOUNTING SYSTEM STANDARDS.—Section 2410b of title 10, United States Code, is amended by adding after subsection (b), as added by section 4032(g), the following:

"(c) The regulations prescribed pursuant to subsection (a) shall not apply to a contract for the purchase of commercial items.".

Subtitle C—Civilian Agency Acquisitions

SEC. 7201. DEFINITIONS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1553, is further amended by adding after section 313 the following new section:

"SEC. 314. DEFINITIONS RELATING TO PROCUREMENT OF COMMERCIAL ITEMS.

"As used in this title, the terms 'commercial item', 'nondevelopmental item', 'component', and 'commercial component' have the meanings provided in section 4 of the Office of Federal Procurement Policy Act.".

SEC. 7202. PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 7201, is further amended by adding after section 314 the following new section:

"SEC. 314A. PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS.

"(a) PREFERENCE.—The head of each executive agency shall ensure that, to the maximum extent practicable—

"(1) requirements of the agency with respect to a procurement of supplies or services are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that commercial items may be procured to fulfill such requirements; and

"(3) such requirements are fulfilled through the procurement of commercial items.

"(b) IMPLEMENTATION.—The head of each executive agency shall ensure that procurement officials in that executive agency, to the maximum extent practicable—

"(1) acquire commercial items to meet the needs of the executive agency;

"(2) require prime contractors and subcontractors at all levels under the executive agency contracts to incorporate commercial items as components of items supplied to the executive agency;

"(3) modify requirements in appropriate cases to ensure that the requirements can be met by commercial items;

"(4) state specifications in terms that enable and encourage bidders and offerors to supply commercial items;

"(5) revise the executive agency's procurement policies, practices, and procedures not required by law to reduce any impediments in those policies, practices, and procedures to the acquisition of commercial items; and

"(6) require training of appropriate personnel in the acquisition of commercial items.

"(c) EXISTING OR PRIOR SOURCES OF NONDEVELOPMENTAL ITEMS.—(1) Notwithstanding subsection (a), the head of an executive agency may, until five years after the date of the enactment of the Federal Acquisition Improvement Act of 1994, determine that it is in the Government's interests to permit existing or prior sources of nondevelopmental items to participate in a competition for a commercial item in a case in which a nondevelopmental item will compete with a commercial item under the same terms, conditions, and evaluation and award criteria.

"(2) Nondevelopmental items furnished by an existing or prior source that must be modified to meet the requirements of a solicitation for commercial items may be offered under such a solicitation, but only in a case in which the modifications—

"(A) are necessary to comply with the Government's solicitation requirements; and

"(B) do not significantly alter the function or essential physical characteristics of the items to be supplied.

"(3) The policies, procedures, solicitation provisions, and contract clauses applicable to commercial items under this chapter also shall apply to nondevelopmental items furnished by an existing or prior source that is permitted to participate in a competition conducted under this title.

"(d) PRELIMINARY MARKET RESEARCH.—(1) The head of an executive agency shall conduct market research appropriate to the circumstances—

"(A) before developing new specifications for a procurement by that executive agency; and

"(B) before soliciting bids or proposals for a contract in excess of the simplified acquisition threshold.

"(2) The head of an executive agency shall use the results of market research to determine whether there are commercial items available that—

"(A) meet the executive agency's requirements;

"(B) could be modified to meet the executive agency's requirements; or

"(C) could meet the executive agency's requirements if those requirements were modified to a reasonable extent.".

SEC. 7203. EXCEPTION TO COST OR PRICING DATA REQUIREMENTS FOR COMMERCIAL ITEMS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 7202, is further amended by adding after section 314A the following new section:

"SEC. 314B. EXCEPTION TO COST OR PRICING DATA REQUIREMENTS FOR COMMERCIAL ITEMS.

"(a) EXEMPTION FROM SECTION 304B IF PRICE BASED ON ADEQUATE PRICE COMPETITION OR ESTABLISHED PRICES.—In any procurement of a commercial item, when the agreed-upon price of the commercial item is based on adequate price competition or on established catalog or market prices of items sold in sufficient quantities to the general public—

"(1) the procurement shall be exempt from section 304B of this title; and

"(2) to the maximum extent practicable, the executive agency may not require any additional information from the offeror to determine price reasonableness.

"(b) REQUIREMENT TO DETERMINE PRICE REASONABLENESS FOR NONCOMPETITIVE PROCUREMENTS.—In any case in which it is not practicable to conduct a procurement of a commercial item on a competitive basis and the procurement is not covered by subsection (a) or by an exception in subsection (b) of section 304B, the contracting officer shall use price analysis to determine whether the price is fair and reasonable. If the contracting officer is able to determine through price analysis that the price is reasonable, the procurement shall be exempt from section 304B of this title. Price analysis under this section shall be conducted by developing or obtaining from the offeror or contractor, or from another source or sources, in accordance with standards and procedures set forth in Federal Acquisition Regulations, information on prices at which the same or similar items have been sold in the commercial market that is adequate for evaluating the reasonableness of the price of the contract.

"(c) AUTHORITY TO REQUEST COST OR PRICING DATA WHEN PRICE REASONABLENESS CANNOT BE DETERMINED.—In any case in which a contracting officer is unable to determine under subsection (b) that a price is reasonable, the contracting officer, with the prior approval of the head of the procuring activity, may require cost or pricing data under section 304B.

"(d) RIGHT TO AUDIT.—(1) An executive agency is authorized to audit all documentation provided by an offeror under subsection (b) or (c) and all books and records of the offeror directly relating to such documentation, except that, if the offeror has made no representation as to the completeness of the documentation supplied, the executive agency is not authorized to audit for completeness.

"(2) The authority under this subsection shall expire—

"(A) one year after the date of commencement of performance of the contract, or one year after the date of commencement of performance of the modification of the contract, with respect to which the information was provided; or

"(B) on such other date agreed upon by the parties at the time of contract award or contract definitization.

"(e) LIMITATIONS ON REQUESTS FOR DATA.—The Federal Acquisition Regulation shall establish reasonable limitations on requests under this section for sales data relating to commercial items.

"(f) FORM OF INFORMATION.—In conducting a price analysis, or in requiring any additional information from an offeror, a contracting officer may request only that information from an offeror that is in the form regularly maintained by the offeror in commercial operations, adequate to demonstrate the market price of the item or items, or otherwise needed to establish a fair and reasonable price.

"(g) CONFIDENTIALITY.—All documentation received from an offeror, if not otherwise in the public domain and if requested by the offeror and marked as proprietary, shall be treated by the Government as confidential and exempt from disclosure to the extent permitted by section 552 of title 5.".

(b) CROSS REFERENCE.—Section 304B of the Federal Property and Administrative Services Act of 1949, as added by section 1251, is amended by adding at the end the following new subsection:

"(h) EXCEPTIONS REGARDING COMMERCIAL ITEMS.—For provisions relating to exceptions for procurements of commercial items, see section 314B of this title.".

SEC. 7204. PRINCIPLE OF CONSTRUCTION WITH FUTURE LAWS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 7203, is further amended by adding after section 314B the following new section:

"SEC. 314C. PRINCIPLE OF CONSTRUCTION WITH FUTURE LAWS.

"A provision of law enacted after the date of the enactment of the Federal Acquisition Improvement Act of 1994 may not be construed as applicable to purchases of commercial items by an executive agency unless that provision of law specifically refers to this section and specifically states that such provision of law modifies or supersedes sections 314 through 314D of this title.".

SEC. 7205. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 7204, is further amended by adding after section 314C the following new section:

"SEC. 314D. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

"(a) PROVISIONS INAPPLICABLE TO PRIME CONTRACTORS.—Procurements of commercial items shall not be subject to the following provisions of law (or regulations prescribed under such provisions):

"(1) Section 303G of this Act (relating to prohibition on limitation of subcontractor direct sales).

"(2) Section 304(a) of this Act (relating to prohibition on contingent fees).

"(3) Section 26 of the Office of Federal Procurement Policy Act (41 U.S.C. 422) (relating to cost accounting standards board).

"(4) Section 27(e) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)) (relating to procurement integrity).

"(5) The Drug-Free Workplace Act of 1988 (subtitle D of title V of Public Law 100–690; 41 U.S.C. 701 et seq.).

"(b) PROVISIONS INAPPLICABLE TO SUBCONTRACTORS AND OTHER ENTITIES.—

"(1) LAWS INAPPLICABLE.—Each provision of law listed under subsection (a) (and regulations prescribed under each such provision) shall not apply to any entity described in paragraph (2).

"(2) COVERED ENTITIES.—Paragraph (1) applies to each of the following:

"(A) Any division, subsidiary, or affiliate of a prime contractor (other than the division, subsidiary, or affiliate that is contracting with the Government under the prime contract) or of a subcontractor of a prime contractor, if such division, subsidiary, or affiliate is furnishing a commercial item to the prime contractor or subcontractor for purposes of carrying out the prime contract or subcontract.

"(B) Any subcontractor or supplier of a prime contractor, if the subcontractor or supplier is furnishing a commercial item to the prime contractor for purposes of carrying out the prime contract.

SEC. 7206. CONFORMING AMENDMENTS RELATING TO INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) INAPPLICABILITY OF PROHIBITION ON LIMITING SUBCONTRACTOR DIRECT SALES TO THE UNITED STATES.—Section 303G of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253g), as amended by section 4042(a), is further amended by adding at the end the following new subsection:

"(d) An agreement between the contractor in a contract for the acquisition of commercial items and a subcontractor under such contract that restricts sales by such subcontractor directly to persons other than the contractor may not be considered to unreasonably restrict sales by that subcontractor to the United States in violation of the provision included in such contract pursuant to subsection (a) if the agreement does not result in the Federal Government being treated differently with regard to the restriction than any other prospective purchaser of such commercial items from that subcontractor.".

(b) INAPPLICABILITY OF REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT FEES.—Section 304(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)), as amended by section 4042(b), is further amended by inserting before the period at the end of the sentence added by section 4042(b) the following: "or to a contract for the acquisition of commercial items".

Subtitle D—Acquisitions Generally

SEC. 7301. CONFORMING AMENDMENT RELATING TO INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) COST ACCOUNTING STANDARDS BOARD.—Section 26(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 422) is amended in paragraph (2) by striking out "where the price negotiated" and all that follows through "(B)" and inserting in lieu thereof "(A) for the procurement of commercial items, or (B) for which the price negotiated is based on".

(b) CERTIFICATION REQUIREMENTS.—Subsection (e)(7)(A) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)(7)(A)), as amended by section 4051, is further amended by inserting before the period at the end the following: ", for the procurement of goods and services other than commercial items".

(c) DRUG-FREE WORKPLACE ACT OF 1988.—Section 5152 of the Drug-Free Workplace Act of 1988 (subtitle D of title V of Public Law 100–690; 41 U.S.C. 701 et seq.), as amended by section 4054, is further amended by inserting after the matter inserted by such section 4057 the following: ", other than a contract for the procurement of commercial items as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)),".

SEC. 7302. FLEXIBLE DEADLINES FOR SUBMISSION OF OFFERS OF COMMERCIAL ITEMS.

Section 18(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)) is amended by adding at the end the following new paragraph:

"(4) The Administrator shall prescribe regulations defining limited circumstances in which flexible deadlines can be used under paragraph (3) for the submission of bids or proposals for the procurement of commercial items.".

SEC. 7303. ADDITIONAL RESPONSIBILITIES FOR ADVOCATES FOR COMPETITION.

(a) RESPONSIBILITIES OF THE ADVOCATE FOR COMPETITION.—Section 20(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(c)) is amended to read as follows:

"(c) The advocate for competition for each procuring activity shall be responsible for promoting full and open competition, promoting the acquisition of commercial items, and challenging barriers to such acquisition, including such barriers as unnecessarily restrictive statements of need, unnecessarily detailed specifications, and unnecessarily burdensome contract clauses.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 28 of such Act (41 U.S.C. 424) is repealed.

SEC. 7304. PROVISIONS NOT AFFECTED.

Nothing in this title shall be construed as modifying or superseding, or as intended to impair or restrict, authorities or responsibilities under—

(1) section 315 of the Federal Property and Administrative Services Act of 1949 or section 2323 of title 10, United States Code;

(2) section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), popularly referred to as the "Brooks Automatic Data Processing Act";

(3) title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.), popularly referred to as the "Brooks Architect-Engineers Act";

(4) section 8(a) of the Small Business Act (15 U.S.C. 637(a)) or any other provision of that Act; or

(5) the Act of June 25, 1938 (41 U.S.C. 46–48c), that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77), commonly referred to as the "Javits-Wagner-O'Day Act".

SEC. 7305. COMPTROLLER GENERAL REVIEW OF FEDERAL GOVERNMENT USE OF MARKET RESEARCH.

(a) REPORT REQUIRED.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report on the use of market research by the Federal Government in support of the procurement of commercial items and nondevelopmental items.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) A review of existing Federal Government market research efforts to gather data concerning commercial and other nondevelopmental items.

(2) A review of the feasibility of creating a Government-wide data base for storing, retrieving, and analyzing market data, including use of existing Federal Government resources.

(3) Any recommendations for changes in law or regulations that the Comptroller General considers appropriate.

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 8001. TEST PROGRAM.

(a) IN GENERAL.—The Administrator for Federal Procurement Policy (in this section referred to as the "Administrator") may conduct a program of tests of alternative and innovative procurement procedures. To the extent consistent with this section, such program shall be conducted consistent with section 15 of the Office of Federal Procurement Policy Act (41 U.S.C. 413). No more than 6 such tests shall be conducted under this authority.

(b) DESIGNATION OF AGENCIES.—Each test conducted pursuant to subsection (a) shall be limited to not more than 2 specific contracting activities in an agency designated by the Administrator. Each agency so designated shall select the contracting activities participating in the test with the approval of the Administrator and shall designate a procurement testing official who shall be responsible for the conduct and evaluation of tests within that agency.

(c) TEST REQUIREMENTS.—Tests conducted under subsection (a)—

(1) shall be developed and structured by the Administrator or by the agency senior procurement executives designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act in close coordination with the Administrator;

(2) shall be for a period of not greater than 4 years;

(3) shall be limited to specific programs of agencies or specific acquisitions;

(4) may not include any test with a total estimated life-cycle cost to the Federal Government greater than $100,000,000;

(5) shall include—

(A) a test by the National Aeronautics and Space Administration of simplified procurement procedures for acquisitions with an estimated annual total obligation of funds of $500,000 or less;

(B) a test by the General Services Administration of expedited methods for procuring automatic data processing equipment commodities; and

(C) a test by at least one agency of streamlined procedures for competition among interested sources participating in the tailoring of a solicitation for the purchase of commercial products; and

(6) shall not include any procurement the cost of which is expected to exceed $5,000,000 (including options).

(d) LIMITATION ON TOTAL VALUE OF CONTRACTS UNDER PROGRAM.—

(1) LIMITATION.—The Administrator shall ensure that the total amount obligated under contracts awarded pursuant to the program under this section does not exceed $600,000,000.

(2) MONITORING.—The Administrator shall monitor the value of contracts awarded pursuant to the program under this section.

(3) PROHIBITION ON AWARDS IN EXCESS OF LIMIT.—No contract may be awarded under the program under this section if the award of the contract would result in obligation of more than $600,000,000 under contracts under this section.

(e) PROCEDURES AUTHORIZED.—Tests conducted under this section may include any of the following procedures:

(1) Publication of agency needs before drafting of a solicitation.

(2) Screening of sources and competition among capable vendors.

(3) Issuance of draft solicitations for comment.

(4) Streamlined solicitations, with a minimized number of evaluation factors and information required from vendors, abbreviated periods for submission of offers, and page limitations on offers.

(5) Limitation of source selection factors to—

(A) cost to the Federal Government;

(B) past experience; and

(C) quality of the contents of the offer.

(6) Evaluation of proposals by small teams of highly qualified people, limited to 30 days.

(7) Competition among sources of preevaluated products.

(8) Alternative notice and publication requirements.

(9) A process in which—

(A) the competitive process is initiated by a notice in the Commerce Business Daily synopsizing the needs of the executive agency conducting the test, in functional and performance terms, with other specifications provided for guidance only;

(B) the notice invites interested sources to submit information or samples showing their product's suitability for those needs (with price quotations) or, if appropriate, showing the sources' technical capability, past performance, product supportability, or other qualifications (with appropriate consideration to rates and other cost-related factors);

(C) contracting officials develop a request for proposals (including appropriate specifications and evaluation criteria) after reviewing the submittals made by interested sources and, if the officials determine necessary, after consultation with those sources; and

(D) the contract is awarded after a streamlined competition limited to all sources that timely provided product information in response to the notice or, if appropriate, to those sources determined most capable based on those qualification-based factors included in an invitation to submit information pursuant to subparagraph (B).

(f) TEST PLAN.—Not later than 60 days before implementing any test program under this section, the Administrator shall—

(1) provide a detailed test plan, including lists of any regulations that are to be waived, and any written determination under subsection (g)(1)(B) to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate;

(2) provide a copy of the plan to the appropriate authorizing committees of the House of Representatives and the Senate; and

(3) publish the plan in the Federal Register and provide an opportunity for public comment.

(g) WAIVER OF PROCUREMENT REGULATIONS.—

(1) IN GENERAL.—For purposes of a test conducted under subsection (a), the Administrator may waive—

(A) any provision of the Federal Acquisition Regulation that is not required by statute; and

(B) any provision of the Federal Acquisition Regulation that is required by a provision of law described in paragraph (2), the waiver of which the Administrator determines in writing to be necessary to conduct any test of any of the 9 procedures described in subsection (e).

(2) PROVISIONS OF LAW DESCRIBED.—The provisions of law referred to in paragraph (1) are the following:

(A) Section 2304 of title 10, United States Code.

(B) Section 2305 of title 10, United States Code.

(C) Section 2319 of title 10, United States Code.

(D) Section 3709 of the Revised Statutes (41 U.S.C. 5).

(E) Section 3710 of the Revised Statutes (41 U.S.C. 8).

(F) Section 3735 of the Revised Statutes (41 U.S.C. 13).

(G) Subsections (e), (f), and (g) of section 8 of the Small Business Act (15 U.S.C. 637).

(H) Section 310 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 260).

(I) Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253).

(J) Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a).

(K) Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b).

(L) Section 303C of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253c).

(M) Section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)).

(N) Section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416).

(3) PROPOSAL FOR ADDITIONAL WAIVER.—If the Administrator determines that the conduct of a test requires the waiver of a law not listed in paragraph (2) or requires approval of an estimated dollar amount not permitted under subsection (c)(4), the Administrator may propose legislation to authorize the waiver or grant the approval. Before proposing such legislation, the Administrator may provide and publish a test plan as described in subsection (f). If Congress does not authorize the waiver or grant the approval within 120 days after the date of receipt of the proposal, the proposal shall be deemed to be withdrawn. A proposal not approved within such 120 days may be resubmitted to Congress under this paragraph at any time.

(h) REPORTS AND REVIEWS.—

(1) ADMINISTRATOR.—The Administrator shall report to the Congress on the results of each test conducted under subsection (a).

(2) COMPTROLLER GENERAL.—The Comptroller General of the United States shall review each test conducted under subsection (a) and report to the Congress on each test and shall report annually to the Congress on the conduct of and results of all tests conducted under subsection (a).

(i) EXPIRATION OF AUTHORITY.—The authority to conduct tests under this section and to award contracts under such tests shall expire on October 1, 1998. Contracts entered into before October 1, 1998, pursuant to a test shall remain in effect, notwithstanding the expiration of the authority to conduct the test under this section.

(j) FEDERAL AVIATION ADMINISTRATION ACQUISITION PILOT PROGRAM.—(1) The Administrator shall delegate to the Secretary of Transportation authority to conduct a test of alternative and innovative procurement procedures in carrying out acquisitions for one of the modernization programs under the Airway Capital Investment Plan prepared pursuant to section 44501(b) of title 49, United States Code.

(2) The authority delegated under paragraph (1) shall include authority for the Secretary of Transportation—

(A) to apply any amendment or repeal of a provision of law made in this Act to the pilot program before the effective date of such amendment or repeal; and

(B) to apply to a procurement of noncommercial items under such program—

(i) any authority provided in this Act (or in an amendment made by a provision of this Act) to waive a provision of law in the case of commercial items, and

(ii) any exception applicable under this Act (or an amendment made by a provision of this Act) in the case of commercial items,

before the effective date of such provision (or amendment) to the extent that the Secretary determines necessary to test the application of such waiver or exception to procurements of noncommercial items.

(3) Paragraph (2) applies with respect to—

(A) a contract that is awarded or modified after the date occurring 45 days after the date of the enactment of this Act; and

(B) a contract that is awarded before such date and is to be performed (or may be performed), in whole or in part, after such date.

(4) The Administrator may use the waiver authority provided under subsection (g) to waive the applicability of any provision referred to in paragraph (1) of that subsection to the program designated by the Secretary of Transportation under this subsection.

(k) DEPARTMENT OF DEFENSE ACQUISITION PILOT PROGRAMS.—

(1) IN GENERAL.—The Secretary of Defense is authorized to designate the following defense acquisition programs for participation in the defense acquisition pilot program authorized by section 809 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2430 note):

(A) FIRE SUPPORT COMBINED ARMS TACTICAL TRAINER (FSCATT).—All contracts directly relating to the procurement of a training simulation system, including related hardware, software, and subsystems, to perform collective training of field artillery gunnery teams, with development of software as required to generate the training exercises.

(B) JOINT DIRECT ATTACK MUNITION (JDAM I).—All contracts directly relating to the development and procurement of a strap-on guidance kit, using an inertially guided, Global Positioning System updated guidance kit to enhance the delivery accuracy of 1000-pound and 2000-pound bombs in inventory.

(C) COMMERCIAL-DERIVATIVE AIRCRAFT (CDA).—

(i) All contracts related to acquisition or upgrading of commercial-derivative aircraft for use in meeting future Air Force airlift, tanker, and airborne warning and control system requirements.

(ii) For purposes of this subparagraph, the term "commercial-derivative aircraft" means any of the following:

(I) Any aircraft that is of a type customarily used in the course of normal business operations for other than Federal Government purposes, that has been issued a type certificate by the Administrator of the Federal Aviation Administration, and that has been sold or leased for use in the commercial marketplace or that has been offered for sale or lease for use in the commercial marketplace.

(II) Any aircraft that, but for modifications of a type customarily available in the commercial marketplace, or minor modifications made to meet Federal Government requirements, would satisfy the criteria in subclause (I).

(D) COMMERCIAL-DERIVATIVE ENGINE.—The commercial derivative engine program with respect to all contracts directly related to the acquisition of (i) commercially derived engines (including spare engines), logistics support equipment, technical orders, management data, and initial spare parts for use in supporting the purchase of commercial-derivative aircraft to meet future Air Force airlift and tanker requirements, including engine replacement and upgrades.

(2) CONDUCT OF DEFENSE ACQUISITION PROGRAMS.—In the case of each defense acquisition program designated under paragraph (1) for participation in the Defense Acquisition Pilot Program, the Secretary of Defense shall—

(A) develop guidelines and procedures for carrying out the program and the criteria to be used in measuring the success of the program;

(B) evaluate the potential costs and benefits which may be derived from the innovative procurement methods and procedures tested under the program; and

(C) develop the methods to be used to analyze the results of the program.

(3) SPECIAL AUTHORITY.—The authority delegated under paragraph (1) may include authority for the Secretary of Defense—

(A) to apply any amendment or repeal of a provision of law made in this Act to the pilot programs before the effective date of such amendment or repeal; and

(B) to apply to a procurement of noncommercial items under such programs—

(i) any authority provided in such Act (or in an amendment made by a provision of such Act) to waive a provision of law in the case of commercial items, and

(ii) any exception applicable under such Act (or an amendment made by a provision of such Act) in the case of commercial items,

before the effective date of such provision (or amendment) to the extent that the Secretary determines necessary to test the application of such waiver or exception to procurements of noncommercial items.

(4) APPLICABILITY.—(A) Paragraph (3) applies with respect to—

(i) a contract that is awarded or modified during the period described in subparagraph (B); and

(ii) a contract that is awarded before the beginning of such period and is to be performed (or may be performed), in whole or in part, during such period.

(B) The period referred to in subparagraph (A) is the period that begins 45 days after the date of the enactment of this Act and ends on September 30, 1998.

SEC. 8002. STUDY OF PARTICIPATION BY CERTAIN SMALL BUSINESSES IN FEDERAL PROCUREMENT.

(a) STUDY.—The Administrator for Federal Procurement Policy shall conduct a study of—

(1) the degree of participation by small businesses owned and controlled by socially and economically disadvantaged individuals in procurements conducted by executive agencies, other than agencies in the Department of Defense; and

(2) the extent of compliance by those executive agencies with the goals for participation by such businesses required by Office of Federal Procurement Policy policy letter 91-1, relating to Government-wide small business and small disadvantaged business goals for procurement contracts.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall submit a report on the study required under subsection (a) to the Committee on Government Operations and the Committee on Small Business of the House of Representatives, and to the Committee on Governmental Affairs and the Committee on Small Business of the Senate. The report shall include recommendations to facilitate the provision of authority to executive agencies, other than agencies in the Department of Defense, to conduct procurement set asides for small businesses owned and controlled by socially and economically disadvantaged individuals, and on improved outreach programs to increase the participation by such businesses in procurements conducted by those executive agencies.

SEC. 8003. FURTHERANCE OF CONTRACT GOAL FOR SMALL DISADVANTAGED BUSINESSES AND CERTAIN INSTITUTIONS OF HIGHER EDUCATION.

Section 2323 of title 10, United States Code, is amended to read as follows:

"§2323. Contract goal for small disadvantaged businesses and certain institutions of higher education

"(a) GOAL.—(1) Except as provided in subsection (d), a goal of 5 percent of the amount described in subsection (b) shall be the objective of the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration in each of fiscal years 1987 through 2000 for the total combined amount obligated for contracts and subcontracts entered into with—

"(A) small business concerns, including mass media and advertising firms, owned and controlled by socially and economically disadvantaged individuals (as such term is used in section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and regulations issued under that section), the majority of the earnings of which directly accrue to such individuals;

"(B) historically Black colleges and universities; and

"(C) minority institutions (as defined in paragraphs (3), (4), and (5) of section 312(b) of the Higher Education Act of 1965 (20 U.S.C. 1058)), including any nonprofit research institution that was an integral part of a historically Black college or university before November 14, 1986.

"(2) The head of the agency shall establish a specific goal within the overall 5 percent goal for the award of prime contracts and subcontracts to historically Black colleges and universities and minority institutions in order to increase the participation of such colleges and universities in the program provided for by this section.

"(3) The Federal Acquisition Regulation (issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall provide procedures or guidelines for contracting officers to set goals which agency prime contractors that are required to submit subcontracting plans under section 8(d)(4)(B) of the Small Business Act (15 U.S.C. 637(d)(4)(B)) in furtherance of the agency's program to meet the 5 percent goal specified in paragraph (1) should meet in awarding subcontracts, including subcontracts to minority-owned media, to entities described in that paragraph.

"(b) AMOUNT.—

"(1) DEPARTMENT OF DEFENSE.—With respect to the Department of Defense, the requirements of subsection (a) for any fiscal year apply to the combined total of the following amounts:

"(A) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for procurement.

"(B) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for research, development, test, and evaluation.

"(C) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for military construction.

"(D) Funds obligated for contracts entered into with the Department of Defense for operation and maintenance.

"(2) COAST GUARD.—With respect to the Coast Guard, the requirements of subsection (a) for any fiscal year apply to the total value of all prime contract and subcontract awards entered into by the Coast Guard for such fiscal year.

"(3) NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.—With respect to the National Aeronautics and Space Administration, the requirements of subsection (a) for any fiscal year apply to the total value of all prime contract and subcontract awards entered into by the National Aeronautics and Space Administration for such fiscal year.

"(c) TYPES OF ASSISTANCE.—(1) To attain the goal specified in subsection (a)(1), the head of the agency shall provide technical assistance to the entities referred to in that subsection and, in the case of historically Black colleges and universities and minority institutions, shall also provide infrastructure assistance.

"(2) Technical assistance provided under this section shall include information about the program, advice about agency procurement procedures, instruction in preparation of proposals, and other such assistance as the agency head considers appropriate. If the resources of the agency are inadequate to provide such assistance, the agency head may enter into contracts with minority private sector entities with experience and expertise in the design, development,

and delivery of technical assistance services to eligible individuals, business firms and institutions, acquisition agencies, and prime contractors. Agency contracts with such entities shall be awarded annually, based upon, among other things, the number of minority small business concerns, historically Black colleges and universities, and minority institutions that each such entity brings into the program.

"(3) Infrastructure assistance provided by the Department of Defense under this section to historically Black colleges and universities and to minority institutions may include programs to do the following:

"(A) Establish and enhance undergraduate, graduate, and doctoral programs in scientific disciplines critical to the national security functions of the Department of Defense.

"(B) Make Department of Defense personnel available to advise and assist faculty at such colleges and universities in the performance of defense research and in scientific disciplines critical to the national security functions of the Department of Defense.

"(C) Establish partnerships between defense laboratories and historically Black colleges and universities and minority institutions for the purpose of training students in scientific disciplines critical to the national security functions of the Department of Defense.

"(D) Award scholarships, fellowships, and the establishment of cooperative work-education programs in scientific disciplines critical to the national security functions of the Department of Defense.

"(E) Attract and retain faculty involved in scientific disciplines critical to the national security functions of the Department of Defense.

"(F) Equip and renovate laboratories for the performance of defense research.

"(G) Expand and equip Reserve Officer Training Corps activities devoted to scientific disciplines critical to the national security functions of the Department of Defense.

"(H) Provide other assistance as the Secretary determines appropriate to strengthen scientific disciplines critical to the national security functions of the Department of Defense or the college infrastructure to support the performance of defense research.

"(4) The head of the agency shall, to the maximum extent practical, carry out programs under this section at colleges, universities, and institutions that agree to bear a substantial portion of the cost associated with the programs.

"(d) APPLICABILITY.—Subsection (a) does not apply to the Department of Defense—

"(1) to the extent to which the Secretary of Defense determines that compelling national security considerations require otherwise; and

"(2) if the Secretary notifies Congress of such determination and the reasons for such determination.

"(e) COMPETITIVE PROCEDURES AND ADVANCE PAYMENTS.—To attain the goal of subsection (a):

"(1)(A) The head of the agency shall—

"(i) ensure that substantial progress is made in increasing awards of agency contracts to entities described in subsection (a)(1);

"(ii) exercise his utmost authority, resourcefulness, and diligence;

"(iii) in the case of the Department of Defense, actively monitor and assess the progress of the military departments, Defense Agencies, and prime contractors of the Department of Defense in attaining such goal; and

"(iv) in the case of the Coast Guard and the National Aeronautics and Space Administration, actively monitor and assess the progress of the prime contractors of the agency in attaining such goal.

"(B) In making the assessment under clauses (iii) and (iv) of subparagraph (A), the agency head shall evaluate the extent to which use of the authority provided in paragraphs (2) and (3) and compliance with the requirement in paragraph (4) is effective for facilitating the attainment of the goal.

"(2) To the extent practicable and when necessary to facilitate achievement of the 5 percent goal described in subsection (a), the agency head shall make advance payments under section 2307 of this title to contractors described in subsection (a). The Federal Acquisition Regulation shall provide guidance to contracting officers for making advance payments to entities described in subsection (a)(1) under such section.

"(3) To the extent practicable and when necessary to facilitate achievement of the 5 percent goal described in subsection (a), the agency head may enter into contracts using less than full and open competitive procedures (including awards under section 8(a) of the Small Business Act) and partial set asides for entities described in subsection (a)(1), but shall pay a price not exceeding fair market cost by more than 10 percent in payment per contract to contractors or subcontractors described in subsection (a). The agency head shall adjust the percentage specified in the preceding sentence for any industry category if available information clearly indicates that nondisadvantaged small business concerns in such industry category are generally being denied a reasonable opportunity to compete for contracts because of the use of that percentage in the application of this paragraph.

"(4) To the extent practicable, the agency head shall maximize the number of minority small business concerns, historically Black colleges and universities, and minority institutions participating in the program.

"(5) The agency head shall prescribe regulations which provide for the following:

"(A) Procedures or guidance for contracting officers to provide incentives for prime contractors referred to in subsection (a)(3) to increase subcontractor awards to entities described in subsection (a)(1).

"(B) A requirement that contracting officers emphasize the award of contracts to entities described in subsection (a)(1) in all industry categories, including those categories in which such entities have not traditionally dominated.

"(C) Guidance to agency personnel on the relationship among the following programs:

"(i) The program implementing this section.

"(ii) The program established under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

"(iii) The small business set-aside program established under section 15(a) of the Small Business Act (15 U.S.C. 644(a)).

"(D) With respect to an agency procurement which is reasonably likely to be set aside for entities described in subsection (a)(1), a requirement that (to the maximum extent practicable) the procurement be designated as such a set-aside before the solicitation for the procurement is issued.

"(E) Policies and procedures which, to the maximum extent practicable, will ensure that current levels in the number or dollar value of contracts awarded under the program established under section 8(a) of the Small Business Act (15 U.S.C. 637(a)) and under the small business set-aside program established under section 15(a) of the Small Business Act (15 U.S.C. 644(a)) are maintained and that every effort is made to provide new opportunities for contract awards to eligible entities, in order to meet the goal of subsection (a).

"(F) Implementation of this section in a manner which will not alter the procurement process under the program established under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

"(G) A requirement that one factor used in evaluating the performance of a contracting officer be the ability of the officer to increase contract awards to entities described in subsection (a)(1).

"(H) Increased technical assistance to entities described in subsection (a)(1).

"(f) PENALTIES AND REGULATIONS RELATING TO STATUS.—(1) Whoever for the purpose of securing a contract or subcontract under subsection (a) misrepresents the status of any concern or person as a small business concern owned and controlled by a minority (as described in subsection (a)), shall be punished by imprisonment for not more than one year, or a fine under title 18, or both.

"(2) The Federal Acquisition Regulation shall prohibit awarding a contract under this section to an entity described in subsection (a)(1) unless the entity agrees to comply with the requirements of section 15(o)(1) of the Small Business Act (15 U.S.C. 644(o)(1)).

"(g) INDUSTRY CATEGORIES.—(1) To the maximum extent practicable, the head of the agency shall—

"(A) ensure that no particular industry category bears a disproportionate share of the contracts awarded to attain the goal established by subsection (a); and

"(B) ensure that contracts awarded to attain the goal established by subsection (a) are made across the broadest possible range of industry categories.

"(2) Under procedures prescribed by the head of the agency, a person may request the Secretary to determine whether the use of small disadvantaged business set asides by a contracting activity of the agency has caused a particular industry category to bear a disproportionate share of the contracts awarded to attain the goal established for that contracting activity for the purposes of this section. Upon making a determination that a particular industry category is bearing a disproportionate share, the agency head shall take appropriate actions to limit the contracting activity's use of set asides in awarding contracts in that particular industry category.

"(h) COMPLIANCE WITH SUBCONTRACTING PLAN REQUIREMENTS.—(1) The Federal Acquisition Regulation shall contain regulations to ensure that potential contractors submitting sealed bids or competitive proposals to the agency for procurement contracts to be awarded under the program provided for by this section are complying with applicable subcontracting plan requirements of section 8(d) of the Small Business Act (15 U.S.C. 637(d)).

"(2) The regulations required by paragraph (1) shall ensure that, with respect to a sealed bid or competitive proposal for which the bidder or offeror is required to negotiate or submit a subcontracting plan under section 8(d) of the Small Business Act (15 U.S.C. 637(d)), the subcontracting plan shall be a factor in evaluating the bid or proposal.

"(i) ANNUAL REPORT.—(1) Not later than December 15 of each year, the head of the agency shall submit to Congress a report on the progress of the agency toward attaining the goal of subsection (a) during the preceding fiscal year.

"(2) The report required under paragraph (1) shall include the following:

"(A) A full explanation of any progress toward attaining the goal of subsection (a).

"(B) A plan to achieve the goal, if necessary.

"(3) The report required under paragraph (1) shall also include the following:

"(A) The aggregate differential between the fair market price of all contracts awarded pursuant to subsection (e)(3) and the estimated fair market price of all such contracts had such contracts been entered into using full and open competitive procedures.

"(B) An analysis of the impact that subsection (a) shall have on the ability of small

business concerns not owned and controlled by socially and economically disadvantaged individuals to compete for contracts with the agency.

"(C) A description of the percentage of contracts (actions), the total dollar amount (size of action), and the number of different entities relative to the attainment of the goal of subsection (a), separately for Black Americans, Native Americans, Hispanic Americans, Asian Pacific Americans, and other minorities.

"(j) DEFINITIONS.—In this section:

"(1) The term 'agency' means the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration.

"(2) The term 'head of an agency' means the Secretary of Defense, the Secretary of Transportation, and the Administrator of the National Aeronautics and Space Administration.".

SEC. 8004. EDUCATION AND TRAINING.

Section 6(d)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(5)) is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the semicolon at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) establish policies and procedures for the establishment and implementation of education and training programs authorized by this Act, including the establishment and implementation of training, in conjunction with the General Services Administration, for critical procurement personnel designed to increase the participation of small business concerns owned and controlled by socially and economically disadvantaged individuals, women, and other minorities in procurement activities conducted by an executive agency.".

SEC. 8005. DEPARTMENT OF DEFENSE ACQUISITION OF INTELLECTUAL PROPERTY RIGHTS.

Section 2386 of title 10, United States Code, is amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) Technical data and computer software.

"(4) Releases for past infringement of patents or copyrights or for unauthorized use of technical data or computer software.".

SEC. 8006. SENSE OF CONGRESS ON NEGOTIATED RULEMAKING.

(a) FINDINGS.—The Congress finds the following:

(1) The use of negotiated rulemaking or similar policy discussion group techniques is an appropriate tool for—

(A) fostering effective implementation of, and compliance with, laws and regulations;

(B) avoiding litigation; and

(C) achieving more productive and equitable relationships between the Federal Government and the regulated segments of the private sector.

(2) The use of negotiated rulemaking or similar techniques in Federal procurement regulations could be appropriate given the extreme complexity and intricate interactions between buyer and seller in Federal procurements.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, in prescribing acquisition regulations, the Federal Acquisition Regulatory Council should consider using negotiated rulemaking procedures in accordance with sections 561 through 570 of title 5, United States Code, or similar techniques intended to achieve the benefits described in subsection (a)(1).

SEC. 8007. VENDOR AND EMPLOYEE EXCELLENCE AWARDS.

Section 6(d) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)) is amended—

(1) by striking out the period at the end of paragraph (10) (as redesignated by section 4011(b)(2)) and inserting in lieu thereof a semicolon; and

(2) by adding at the end the following new paragraphs:

"(11) providing for a Government-wide award to recognize and promote vendor excellence; and

"(12) providing for a Government-wide award to recognize and promote excellence in officers and employees of the Federal Government serving in procurement-related positions.".

SEC. 8008. CODIFICATION OF ACCOUNTING REQUIREMENT FOR CONTRACTED ADVISORY AND ASSISTANCE SERVICES.

(a) FUNDING TO BE IDENTIFIED IN BUDGET.—Section 1105 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) The Director of the Office of Management and Budget shall establish the funding for consulting services for each department and agency as a separate object class in each budget annually submitted to the Congress under this section.

"(2)(A) In paragraph (1), except as provided in subparagraph (B), the term 'advisory and assistance services' means the following services when provided by nongovernmental sources:

"(i) Management and professional support services.

"(ii) Studies, analyses, and evaluations.

"(iii) Engineering and technical services.

"(B) In paragraph (1), the term 'advisory and assistance services' does not include the following services:

"(i) Routine automated data processing and telecommunications services (as defined in the Federal Information Resources Management Regulation prescribed by the Administrator of General Services) unless such services are an integral part of a contract for the procurement of advisory and assistance services.

"(ii) Architectural and engineering services.

"(iii) Technical support of research and development activities.

"(iv) Research on basic mathematics or medical, biological, physical, social, psychological, or other phenomena.".

(b) REPEAL OF SOURCE LAW.—Section 512 of Public Law 102–394 (106 Stat. 1826) is repealed.

(c) REPEAL OF SUPERSEDED PROVISIONS.—

(1) DOD SPECIFIC LAW.—Section 2212 of title 10, United States Code, is repealed.

(2) GOVERNMENT-WIDE LAW.—Section 1114 of title 31, United States Code, is repealed.

(3) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 131 of title 10, United States Code, is amended by striking out the item relating to section 2212. The table of sections at the beginning of chapter 11 of title 31, United States Code, is amended by striking out the item relating to section 1114.

SEC. 8009. TECHNICAL AND CLERICAL AMENDMENTS.

(a) TABLE OF CONTENTS AMENDMENTS.—

(1) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—The first section of the Office of Federal Procurement Policy Act (41 U.S.C. 401 note) is amended to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Office of Federal Procurement Policy Act'.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Declaration of policy.
"Sec. 3. Findings and purpose.
"Sec. 4. Definitions.
"Sec. 4A. Simplified acquisition threshold.
"Sec. 4B. Procedures applicable to purchases below micro-purchase threshold.
"Sec. 5. Office of Federal Procurement Policy.
"Sec. 6. Authority and functions of the Administrator.
"Sec. 7. Administrative powers.
"Sec. 8. Responsiveness to Congress.
"Sec. 9. Effect on existing laws.
"Sec. 10. Effect on existing regulations.
"Sec. 11. Authorization of appropriations.
"Sec. 12. Delegation.
"Sec. 14. Access to information.
"Sec. 15. Tests of innovative procurement methods and procedures.
"Sec. 16. Executive agency responsibilities.
"Sec. 18. Procurement notice.
"Sec. 19. Record requirements.
"Sec. 20. Advocates for competition.
"Sec. 21. Rights in technical data.
"Sec. 22. Publication of proposed regulations.
"Sec. 23. Contracting functions performed by Federal personnel.
"Sec. 24. Travel expenses of Government contractors.
"Sec. 25. Federal Acquisition Regulatory Council.
"Sec. 26. Cost Accounting Standards Board.
"Sec. 27. Procurement integrity.
"Sec. 28. Advocate for the Acquisition of Commercial Products.
"Sec. 29. Nonstandard contract clauses.
"Sec. 30. Federal acquisition computer network (FACNET).".

(2) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—The first section of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 471 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Federal Property and Administrative Services Act of 1949'.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Declaration of policy.
"Sec. 3. Definitions.

"TITLE I—ORGANIZATION

"Sec. 101. General Services Administration.
"Sec. 102. Transfer of affairs of Bureau of Federal Supply.
"Sec. 103. Transfer of affairs of the Federal Works Agency.
"Sec. 104. Records management: Transfer of the National Archives.
"Sec. 106. Redistribution of functions.
"Sec. 107. Transfer of funds.
"Sec. 109. General supply fund.
"Sec. 110. Information Technology Fund.
"Sec. 111. Automatic data processing equipment.
"Sec. 112. Federal information centers.

"TITLE II—PROPERTY MANAGEMENT

"Sec. 201. Procurement, warehousing, and related activities.
"Sec. 202. Property utilization.
"Sec. 203. Disposal of surplus property.
"Sec. 204. Proceeds from transfer or disposition of property.
"Sec. 205. Policies, regulations, and delegations.
"Sec. 206. Surveys, standardization, and cataloging.
"Sec. 207. Applicability of antitrust laws.
"Sec. 208. Employment of personnel.
"Sec. 209. Civil remedies and penalties.
"Sec. 210. Operation of buildings and related activities.
"Sec. 211. Motor vehicle identification and operation.
"Sec. 212. Reports to Congress.

"TITLE III—PROCUREMENT PROCEDURE

"Sec. 301. Declaration of purpose.
"Sec. 302. Application and procurement methods.

"Sec. 302A. Simplified acquisition threshold.
"Sec. 302B. Implementation of FACNET capability.
"Sec. 303. Competition requirements.
"Sec. 303A. Planning and solicitation requirements.
"Sec. 303B. Evaluation and award.
"Sec. 303C. Encouragement of new competition.
"Sec. 303D. Validation of proprietary data restrictions.
"Sec. 303F. Economic order quantities.
"Sec. 303G. Prohibition of contractors limiting subcontractor sales directly to the United States.
"Sec. 303H. Severable services contracts for periods crossing fiscal years.
"Sec. 304. Contract requirements.
"Sec. 304A. Multiyear contracts.
"Sec. 304B. Cost or pricing data: truth in negotiations.
"Sec. 304C. Examination of records of contractor.
"Sec. 305. Contract financing.
"Sec. 306. Allowable costs.
"Sec. 307. Administrative determinations and delegations.
"Sec. 309. Definitions.
"Sec. 310. Statutes not applicable.
"Sec. 311. Cooperative agreements for basic, applied, and advanced research.
"Sec. 312. Assignment and delegation of procurement functions and responsibilities.
"Sec. 313. Determinations and decisions.
"Sec. 314. Definitions relating to procurement of commercial items.
"Sec. 314A. Preference for acquisition of commercial items and other nondevelopmental items.
"Sec. 314B. Pricing documentation for commercial items.
"Sec. 314C. Principle of construction with future laws.
"Sec. 314D. Inapplicability of certain provisions of law.
"Sec. 315. Contract goal for small disadvantaged businesses and certain institutions of higher education.

"TITLE IV—FOREIGN EXCESS PROPERTY

"Sec. 401. Disposal of foreign excess property.
"Sec. 402. Methods and terms of disposal.
"Sec. 403. Proceeds; foreign currencies.
"Sec. 404. Miscellaneous provisions.

"TITLE VI—GENERAL PROVISIONS

"Sec. 601. Applicability of existing procedures.
"Sec. 602. Repeal and saving provisions.
"Sec. 603. Authorization for appropriations and transfer of authority.
"Sec. 604. Separability.
"Sec. 605. Effective date.

"TITLE VIII—URBAN LAND UTILIZATION

"Sec. 801. Short title.
"Sec. 802. Declaration of purpose and policy.
"Sec. 803. Disposal of urban lands.
"Sec. 804. Acquisition or change of use of real property.
"Sec. 805. Waiver during national emergency.
"Sec. 806. Definitions.

"TITLE IX—SELECTION OF ARCHITECTS AND ENGINEERS

"Sec. 901. Definitions.
"Sec. 902. Policy.
"Sec. 903. Requests for data on architectural and engineering services.
"Sec. 904. Negotiation of contracts for architectural and engineering services.
"Sec. 905. Short title.".

(b) AMENDMENTS FOR STYLISTIC CONSISTENCY.—

(1) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended so that the section designation and section heading of each section of such Act is in the same form and typeface as the section designation and heading of this section.

(2) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—The Federal Property and Administrative Services Act of 1949 (41 U.S.C. 471 et seq.) is amended so that the section designation and section heading of each section of such Act is in the same form and typeface as the section designation and heading of this section.

(c) REPEALS OF EXECUTED PROVISIONS.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended—

(1) by striking out section 13; and

(2) by striking out the first section 15.

(d) CROSS REFERENCE CORRECTIONS.—Section 3552 of title 31, United States Code, is amended—

(1) by striking out "section 111(h)" and inserting in lieu thereof "section 111(f)"; and

(2) by striking out "759(h)" and inserting in lieu thereof "759(f)".

(e) CONSISTENCY OF TERMINOLOGY WITH CUSTOMARY USAGE.—Section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)) is amended by striking out "per centum" each place it appears and inserting in lieu thereof "percent".

(f) ENACTMENT OF POPULAR NAMES OF CERTAIN ACTS.—

(1) BROOKS ARCHITECT-ENGINEERS ACT.—Title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541–544) is amended by adding at the end the following new section:

"SEC. 905. SHORT TITLE.

"This title may be cited as the 'Brooks Architect-Engineers Act'.".

(2) BROOKS AUTOMATIC DATA PROCESSING ACT.—Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is amended by adding at the end the following new subsection.

"(h) This section may be cited as the 'Brooks Automatic Data Processing Act'.".

(3) BUY AMERICAN ACT.—The Act of March 3, 1933 (41 U.S.C. 10a–10c), commonly referred to as the "Buy American Act", is amended by adding at the end the following new section:

"SEC. 5. This Act may be cited as the 'Buy American Act'.".

(4) JAVITS-WAGNER-O'DAY ACT.—The Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 46–48c), that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77), is amended by adding at the end the following new section:

"SHORT TITLE

"SEC. 7. This Act may be cited as the 'Javits-Wagner-O'Day Act'.".

TITLE IX—EFFECTIVE DATES AND REGULATIONS

SEC. 9001. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall apply with respect to any contract for which a solicitation for bid or proposal is issued after—

(1) 30 days have expired after the issuance in final form of revisions to the Federal Acquisition Regulation pursuant to section 9002; or

(2) 270 days have expired after the date of the enactment of this Act;

whichever is earlier.

(b) SPECIFIC EFFECTIVE DATES.—(1) Titles III and VI of this Act, and the amendments made by such titles, shall take effect on the date of the enactment of this Act.

(2) Subtitle D of title I of this Act, and the amendments made by such subtitle (relating to procurement protests), shall apply with respect to any protest filed after the expiration of the 90-day period beginning on the date of the enactment of this Act.

SEC. 9002. REGULATIONS.

Not later than 240 days after the date of the enactment of this Act, the Federal Acquisition Regulation (referred to in section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c))) shall be revised, in final form, to implement this Act and the amendments made by this Act.

SEC. 9003. EVALUATION BY THE COMPTROLLER GENERAL.

(a) EVALUATION RELATING TO ISSUANCE OF REGULATIONS.—Not later than 180 days after the issuance in final form of revisions to the Federal Acquisition Regulation pursuant to section 9002, the Comptroller General shall submit to Congress a report evaluating compliance with such section 9002.

(b) EVALUATION OF IMPLEMENTATION OF REGULATIONS.—Not later than 18 months after issuance in final form of revisions to the Federal Acquisition Regulation pursuant to section 9002, the Comptroller General shall submit to Congress a report evaluating the effectiveness of the regulations implementing this Act in streamlining the acquisition system and fulfilling the other purposes of this Act.

Mr. NUNN. Mr. President, I move that the Senate disagree with the House amendment to the Senate bill, and request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The motion was agreed to, and the Presiding Officer (Mr. AKAKA) appointed Mr. GLENN, Mr. NUNN, Mr. BUMPERS, Mr. SASSER, Mr. EXON, Mr. LEVIN, Mr. PRYOR, Mr. BINGAMAN, Mr. SHELBY, Mr. DORGAN, Mr. ROTH, Mr. THURMOND, Mr. STEVENS, Mr. WARNER, Mr. COHEN, Mr. PRESSLER, Mr. MCCAIN, and Mr. SMITH, conferees on the part of the Senate.

CORRECTION ON AMENDMENT NO. 2104 TO H.R. 4426

Mr. NUNN. Mr. President, I ask unanimous consent that amendment No. 2104 to the committee amendment on page 2, line 21 to H.R. 4426, the Foreign Operations Appropriations bill, that was adopted by the Senate on June 29, 1994, be corrected as follows:

Section (c) finding: Subsection 4, line 4: The figure should be 1,200,000,000 and not 1,200,000.

The PRESIDING OFFICER. Without objection, it is so ordered.

FISHERMEN'S PROTECTIVE ACT AMENDMENTS

Mr. NUNN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 497, S. 2243, the Fishermen's Protection Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2243) to amend the Fishermen's Protection Act of 1967 to permit reimbursement of fishermen for fees required by a foreign government to be paid in advance in order to navigate in the waters of that foreign country whenever the United States considers that fee to be inconsistent with international law, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2236

(Purpose: To make an amendment in the nature of a substitute)

Mrs. HUTCHISON. Mr. President, on behalf of Senator STEVENS, I send to the desk a substitute amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for Mr. STEVENS, proposes an amendment numbered 2236.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. FINDINGS.

The Congress finds that—

(1) customary international law and the United Nations Convention on the Law of the Sea guarantee the right of passage, including innocent passage, to vessels through the waters commonly referred to as the "Inside Passage" off the Pacific Coast of Canada;

(2) Canada has recently announced that it will require all commercial fishing vessels of the United States to pay 1,500 Canadian dollars to obtain a "license which authorizes transit" through the Inside Passage off the Pacific Coast of Canada;

(3) this action is inconsistent with international law, including the United Nations Convention on the Law of the Sea, and in particular Article 26 of that Convention, which specifically prohibits such fees, and threatens the safety of United States commercial fishermen who may seek to avoid the fee by traveling in less protected waters;

(4) the Fishermen's Protective Act of 1967 provides for the reimbursement of vessel owners who are forced to pay a license fee to secure the release of a vessel which has been seized, but does not permit reimbursement of a fee paid by the owner in advance in order to prevent a seizure;

(5) Canada has announced that the license fee may only be paid in two ports on the Pacific Coast of Canada, and must be paid in person or in advance by mail;

(6) significant expense and delay would be incurred by a commercial fishing vessel of the United States that had to travel from the point of seizure back to one of those ports in order to pay the license fee required by Canada, and the costs of that travel and delay cannot be reimbursed under the Fishermen's Protective Act as presently enacted;

(7) the Fishermen's Protective Act of 1967 should be amended to permit vessel owners to be reimbursed for fees required by a foreign government to be paid in advance in order to navigate in the waters of that foreign country, provided the United States considers that fee to be inconsistent with international law;

(8) the Secretary of State should seek to recover from Canada any amounts paid by the United States to reimburse vessel owners who paid the transit license fee;

(9) the United States should review its current policy with respect to anchorage by commercial fishing vessels of Canada in waters of the United States off Alaska, including waters in and near the Dixon Entrance, and should accord such vessels the same treatment that commercial fishing vessels of the United States are accorded for anchorage in the waters of Canada off British Columbia;

(10) the President should ensure that, consistent with international law, the United States Coast Guard has available adequate resources in the Pacific Northwest and Alaska to provide for the safety of United States citizens, the enforcement of United States law, and to protect the rights of the United States and keep the peace among vessels operating in disputed waters;

(11) the President should continue to review all agreements between the United States and Canada to identify other actions that may be taken to convince Canada that continuation of the transit license fee would be against Canada's long-term interests, and should immediately implement any actions which the President deems appropriate until Canada rescinds the fee;

(12) the President should immediately convey to Canada in the strongest terms that the United States will not now, nor at any time in the future, tolerate any action by Canada which would impede or otherwise restrict the right of passage of vessels of the United States vessels in a manner inconsistent with international law; and

(13) the United States should redouble its efforts to seek expeditious agreement with Canada on appropriate fishery conservation and management measures that can be implemented through the Pacific Salmon Treaty to address issues of mutual concern.

SEC. 2. AMENDMENT TO THE FISHERMEN'S PROTECTIVE ACT.

The Fishermen's Protective Act of 1967 (P.L. 90-482), as amended, is further amended by adding at the end the following new section:

"SEC. 11. (a) In any case on or after June 15, 1994, in which a vessel of the United States exercising its right of passage is charged a fee by a government of a foreign country to engage in transit passage between points in the United States (including a point in the exclusive economic zone or in an area over which jurisdiction is in dispute), and such fee is regarded by the United States as being inconsistent with international law, the Secretary of State shall reimburse the vessel owner for the amount of any such fee paid under protest.

"(b) In seeking such reimbursement, the vessel owner shall provide, together with such other information as the Secretary of State may require—

"(1) a copy of the receipt for payment;

"(2) an affidavit attesting that the owner or the owner's agent paid the fee under protest; and

"(3) a copy of the vessel's certificate of documentation.

"(c) Requests for reimbursement shall be made to the Secretary of State within 120 days of the date of payment of the fee, or within 90 days of the date of enactment of this section, whichever is later.

"(d) Such funds as may be necessary to meet the requirements of this section may be made available from the unobligated balances of previously appropriated funds remaining in the Fishermen's Guaranty Fund established under section 7 and the Fishermen's Protective Fund established under section 9. To the extent that requests for reimbursement under this section exceed such funds, there are authorized to be appropriated such sums as may be needed for reimbursements authorized under subsection (a).

"(e) The Secretary of State shall take such action as the Secretary deems appropriate to make and collect claims against the foreign country imposing such fee for any amounts reimbursed under this section.

"(f) For purposes of this section, the term 'owner' includes any charterer of a vessel of the United States.

"(g) The provisions of this section shall remain in effect until October 1, 1995.".

SEC. 3. REAUTHORIZATION.

(a) Section 7(c) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(c)) is amended by striking "The amount fixed by the Secretary shall be predicated upon at least 33⅓ per centum of the contribution by the Government.".

(b) Section 7(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)) is amended by striking "October 1, 1993" and inserting in lieu thereof "October 1, 2000".

SEC. 4. TECHNICAL CORRECTION.

(a) Section 15(a) of Public Law 103-238 is amended by striking "April 1, 1994," and inserting "May 1, 1994.".

(b) The amendment made by subsection (a) shall be effective on and after April 30, 1994.

Mrs. MURRAY. Mr. President, 2 weeks ago Canada began collecting a $1,100 fee from United States fishing boats sailing each way through Canadian waters between Alaska and Washington State. The Canadian action was precipitated by a breakdown in the negotiations with the United States over the Pacific Salmon Treaty. In the first week, about 200 boats had been forced to pay the Canadian fee.

Senator STEVENS and I have both already introduced various bills to respond to the fee problem by reimbursing the owners of the boats through the Fishermen's Protective Act. Since that time, we have worked together to refine our bills into this legislation to provide relief to these fishermen as quickly as possible. As I just mentioned, this bill is a bipartisan effort between the Senators from the Pacific Northwest, Alaska, and the administration.

The National Security Council has affirmed its support for financial reimbursement to boat owners through the Fishermen's Protective Act. I have worked closely with the Office of Management and Budget to ensure that it had no objections to this bill.

Last week Vice President GORE met with Canadian Ambassador Chretien about restarting the stalled negotiations over the Pacific Salmon Treaty. The Vice President promised to continue to be personally involved in these important negotiations. The Canadian Ambassador said that he felt that the elevation of these negotiations is a very positive sign. I hope that the Government of Canada responds quickly to this new commitment by the administration, lifts the fees, and joins us again at the negotiating table.

Mrs. HUTCHISON. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2236) was agreed to.

Mrs. HUTCHISON. Mr. President, I move to reconsider the vote and to lay that on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

(The text of S. 2243, as passed, will appear in a future edition of the RECORD.)

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mrs. HUTCHISON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL LABOR RELATIONS ACT AND RAILWAY LABOR ACT AMENDMENTS OF 1993

MOTION TO PROCEED

Mr. MITCHELL. Mr. President, I move to proceed to Calendar No. 162, S. 55, a bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send to the desk a cloture motion on the motion to proceed.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

> We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to Calendar #162, S. 55, a bill to amend the National Labor Relations Act to prevent discrimination based on participation in labor disputes.
>
> Edward Kennedy Don Riegle, John Glenn, Paul Simon, Barbara Boxer, Daniel K. Akaka, Carl Levin, Bob Graham, Russell D. Feingold, Howard M. Metzenbaum, Paul Wellstone, Claiborne Pell, Ben Nighthorse Campbell, Carol Moseley-Braun, Jay Rockefeller, Pat Leahy.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the vote on the motion to invoke cloture on the motion to proceed occur at 2:30 p.m., on Tuesday, July 12, and that the mandatory live quorum, as required under rule XXII, be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that if a second cloture vote is needed on the motion to proceed, it occur on Wednesday, July 13 at 10 a.m., and the mandatory live quorum, as required under rule XXII, be waived. I further ask unanimous consent that if cloture is not invoked on Wednesday, the motion to proceed be withdrawn, and the Senate then resume consideration of Calendar No. 471, H.R. 4426, the Foreign Operations appropriations bill under the conditions and limitations of a previous unanimous consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees and withdrawals.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE CONTINUATION OF EXPORT CONTROL REGULATIONS—MESSAGE FROM THE PRESIDENT—PM-130

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Pursuant to section 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b), I hereby report to the Congress that I have today exercised the authority granted by this Act to continue in effect the system of controls contained in 15 C.F.R., Parts 768–799, including restrictions on participation by U.S. persons in certain foreign boycott activities, which heretofore have been maintained under the authority of the Export Administration Act of 1979, as amended, 50 U.S.C. App. 2401 *et seq.* In addition, I have made provision for the administration of section 38(e) of the Arms Export Control Act, 22 U.S.C. 2778(e).

The exercise of this authority is necessitated by the expiration of the Export Administration Act on June 30, 1994, and the lapse that would result in the system of controls maintained under that Act.

In the absence of control, foreign parties would have unrestricted access to U.S. commercial products, technology, technical data, and assistance, posing an unusual and extraordinary threat to national security, foreign policy, and economic objectives critical to the United States. In addition, U.S. persons would not be prohibited from complying with certain foreign boycott requests. This would seriously harm our foreign policy interests, particularly in the Middle East.

Controls established in 15 C.F.R. 768–799, and continued by this action, include the following:

—National security export controls aimed at restricting the export of goods and technologies, which would make a significant contribution to the military potential of certain other countries and which would prove detrimental to the national security of the United States.

—Foreign policy controls that further the foreign policy objectives of the United States or its declared international obligations in such widely recognized areas as human rights, antiterrorism, regional stability, missile technology nonproliferation, and chemical and biological weapons nonproliferation.

—Nuclear nonproliferation controls that are maintained for both national security and foreign policy reasons, and which support the objectives of the Nuclear Nonproliferation Act.

—Short supply controls that protect domestic supplies, and antiboycott regulations that prohibit compliance with foreign boycotts aimed at countries friendly to the United States.

Consequently, I have issued an Executive order (a copy of which is attached) to continue in effect all rules and regulations issued or continued in effect by the Secretary of Commerce under the authority of the Export Administration Act of 1979, as amended, and all orders, regulations, licenses, and other forms of administrative actions under the Act, except where they are inconsistent with sections 203(b) and 206 of the International Emergency Economic Powers Act.

The Congress and the Executive have not permitted export controls to lapse since they were enacted under the Export Control Act of 1949. Any termination of controls could permit transactions to occur that would be seriously detrimental to the national interests we have heretofore sought to protect through export controls and restrictions on compliance by U.S. persons with certain foreign boycotts. I believe that even a temporary lapse in this system of controls would seriously damage our national security, foreign policy, and economic interests and undermine our credibility in meeting our international obligations.

The countries affected by this action vary depending on the objectives sought to be achieved by the system of controls instituted under the Export Administration Act. Potential adversaries may seek to acquire sensitive U.S. goods and technologies. Other countries serve as conduits for the diversion of such items. Still other countries have policies that are contrary to U.S. foreign policy or nonproliferation objectives, or foster boycotts against friendly countries. For some goods or technologies, controls could apply even to our closest allies in order to safeguard against diversion to potential adversaries.

It is my intention to terminate the Executive order upon enactment into law of a bill reauthorizing the authorities contained in the Export Administration Act.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 30, 1994*.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 3:55 p.m., a message from the House of Representatives, delivered by Mr. Johnson, a deputy parliamentarian, announced that the Speaker has signed the following enrolled bills:

H.R. 4581. An Act to provide for the imposition of temporary fees in connection with the handling of complaints of violations of the Perishable Agricultural Commodities Act, 1930.

H.R. 4635. An Act to extend the Export Administration Act of 1979.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3009. A communication from the Executive Director of the Thrift Depositor Protection Oversight Board, transmitting, pursuant to law, the annual report for calendar year 1993; to the Committee on Banking, Housing, and Urban Affairs.

EC-3010. A communication from the Executive Director of the Thrift Depositor Protection Oversight Board, transmitting, pursuant to law, the annual report of the audited financial statements for the Resolution Trust Corporation for calendar year 1993; to the Committee on Banking, Housing, and Urban Affairs.

EC-3011. A communication from the Comptroller General of the United States and the Inspector General of the Department of Education, transmitting, pursuant to law, the report of internal controls and compliance with laws and regulations for fiscal year 1993; to the Committee on Governmental Affairs.

EC-3012. A communication from the Office of the District of Columbia Auditor, transmitting, pursuant to law, the report entitled "D.C. General Hospital's Internal Controls Over Procurement Need Improvement"; to the Committee on Governmental Affairs.

EC-3013. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of the Office of the Inspector General for the period October 1, 1993 through March 31, 1994; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FORD, from the Committee on Rules and Administration, with an amendment in the nature of a substitute:

S. 1824. A bill to improve the operations of the legislative branch of the Federal Branch, and for other purposes (Rept. No. 103-297).

By Mr. BAUCUS, from the Committee on Environment and Public Works, without amendment:

H.R. 2457. A bill to direct the Secretary of the Interior to conduct a salmon captive broodstock program (Rept. No. 103-298).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

H.R. 1036. A bill to amend the Employee Retirement Income Security Act of 1974 to provide that such Act does not preempt certain State laws (Rept. No. 103-299).

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute:

S. 1614. A bill to amend the Child Nutrition Act of 1966 and the National Lunch Act to promote healthy eating habits for children and to extend certain authorities contained in such Acts through fiscal year 1998, and for other purposes (Rept. No. 103-300).

S. 2095. A bill to reform the Federal Crop Insurance Program, and for other purposes (Rept. No. 103-301).

By Mr. BAUCUS, from the Committee on Environment and Public Works, without amendment:

S. 2185. A bill to require the Secretary of the Treasury to transfer to the Administrator of General Services the Old U.S. Mint in San Francisco, and for other purposes (Rept. No. 103-302).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MITCHELL (for himself, Mr. LEAHY, Mr. WELLSTONE, Mr. FEINGOLD, Mr. KENNEDY, Mr. DECONCINI, Mr. METZENBAUM, Mr. SARBANES, Mr. MACK, Mr. LEVIN, and Mr. HELMS):

S. 2260. A bill to provide conditions for renewing nondiscriminatory (most-favored-nation) treatment for the People's Republic of China; to the Committee on Finance.

By Mr. LAUTENBERG:

S. 2261. A bill to amend section 922 of title 18, United States Code, to make unlawful a person's failure to comply with firearm purchase requirements after moving to a new State of residence; to the Committee on the Judiciary.

By Mrs. MURRAY (for herself and Mr. BRADLEY):

S. 2262. To amend the Elwha River Ecosystem and Fisheries Restoration Act to provide greater flexibility in the expenditure of funds, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GORTON:

S. 2263. A bill to authorize extension of the time limitation for a FERC- issued hydroelectric license; to the Committee on Energy and Natural Resources.

By Mr. DORGAN (for himself, Mr. LEAHY, Mr. CONRAD, Ms. MIKULSKI, Mr. DECONCINI, Mr. FEINGOLD, Mr. KOHL, Mr. JEFFORDS, Mr. RIEGLE, Mr. SIMON, Mr. WELLSTONE, and Mr. METZENBAUM):

S. 2264. A bill to provide for certain protections in the sale of a short line railroad, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. JOHNSTON (for himself, Mr. MATHEWS, Mr. HATFIELD, Mr. NICKLES, and Mr. BENNETT):

S. 2265. A bill for the relief of Nguyen Quy An and his daughter, Nguyen Ngoc Kim Quy; to the Committee on the Judiciary.

By Mr. BRADLEY (by request):

S. 2266. A bill to amend the Recreation Management Act of 1992, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BROWN:

S. 2267. A bill to enable all able-bodied Federal prisoners to work; to the Committee on the Judiciary.

By Mr. WOFFORD (for himself, Mr. BRADLEY, Mr. RIEGLE, Mrs. BOXER, Mr. METZENBAUM, Mr. CAMPBELL, Mr. HARKIN, Mr. KENNEDY, Mr. DODD, Mr. KERRY, Ms. MIKULSKI, Mr. LEAHY, and Mr. LEVIN):

S. 2268. A bill to provide for the establishment of a working group on trade-related worker rights and labor standards as part of the General Agreement on Tariffs, and Trade, and for other purposes; to the Committee on Finance.

By Mr. INOUYE:

S. 2269. A bill to protect Native American cultures and to guarantee the free exercise of religion by Native Americans; to the Committee on Indian Affairs.

By Mr. BAUCUS:

S. 2270. A bill to authorize the Secretary of the Interior to transfer 40 acres of land on the Northern Cheyenne Indian Reservation, Montana, to Lame Deer High School District No. 6, Rosebud County, Montana, and for other purposes; to the Committee on Indian Affairs.

By Mr. BREAUX:

S. 2271. A bill to provide for the transfer of certain tuna fishing vessels documented in the United States to foreign registry; to the Committee on Commerce, Science, and Transportation.

By Mr. DECONCINI (for himself and Mr. BIDEN):

S. 2272. A bill to amend chapter 28 of title 35, United States Code, to provide a defense to patent infringement based on prior use by certain persons, and for other purposes; to the Committee on the Judiciary.

By Mr. HOLLINGS:

S. 2273. A bill to reduce Government spending by $100,000,000,000 each fiscal year until a balanced Federal budget is achieved; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. SARBANES:

S. 2274. A bill to provide for the application of a 6-year statute of limitations to certain claims filed by Federal employees under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.); to the Committee on Governmental Affairs.

By Mr. EXON (for himself and Mr. Packwood):

S. 2275. A bill to amend subtitle IV of title 49, United States Code, relating to interstate commerce; to the Committee on Commerce, Science, and Transportation.

By Mr. GLENN:

S.J. Res. 207. A joint resolution designating January 16, 1995, as "National Good Teen Day"; to the Committee on the Judiciary.

By Mr. WOFFORD (for himself and Mr. Bond):

S.J. Res. 208. A joint resolution designating the week of November 6, 1994, through November 12, 1994, "National Health Information Management Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DeConcini (for himself and Mr. D'Amato):

S. Res. 237. A resolution to memorialize D.E.A. agent Richard Fass; considered and agreed to.

By Mr. MITCHELL (for himself, Mr. Dole, Mr. Wofford, Mr. Specter, Mr. Stevens, and Mr. Nunn):

S. Res. 238. A resolution to modify certain provisions of Senate Resolution 356 relating to the John Heinz Senate Fellowship Program; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MITCHELL (for himself, Mr. Leahy, Mr. Wellstone, Mr. Feingold, Mr. Kennedy, Mr. DeConcini, Mr. Metzenbaum, Mr. Sarbanes, Mr. Mack, Mr. Levin, and Mr. Helms):

S. 2260. A bill to provide conditions for renewing nondiscriminatory (most-favored-nation) treatment for the People's Republic of China; to the Committee on Finance.

UNITED STATES-CHINA ACT OF 1994

Mr. MITCHELL. Mr. President, last year President Clinton issued an executive order which renewed most-favored-nation trading status for China while setting reasonable and obtainable standards on emigration, illegal prison labor exports, human rights, trades and nuclear nonproliferation as conditions for future renewal.

I supported the President's action in sending a firm signal to the Communist Chinese leaders that the people of the United States strongly believe in fundamental American principles of human rights and fair trade and want our relations with other nations to reflect those values.

While I continue to support the President's goal of promoting international human rights, I disagree with his decision to delink human rights considerations from future renewal of MFN status for China.

I do not believe the Government of China has met the standards set forth in the President's Executive order.

The human rights situation has deteriorated in the last year and there is compelling evidence that China continues to export prison-made products to the United States in clear violation of our laws.

It has been alleged that it is in the best interests of our country to delink China's record on human rights from MFN because it promotes American business with China's 1.2 billion people and the third largest economy in the world. And we are told that last year United States exports to China supported over 150,000 American jobs. Some would conveniently have us believe that we need China's market more than they need ours.

But what is the reality of this market and our trade relationship.

Last year the Communist Chinese Government's exports to the United States amounted to over $31 billion nearly 40 percent of their total exports, while American exports to China totaled only $8.8 billion, less than 2 percent of our total worldwide exports. Our trade deficit with China is second only to our trade deficit with Japan and growing at a faster rate.

China's only trade surplus with a major industrialized trading partner is with the United States. China obviously needs our market much more than we need theirs, because other major trading partners are unwilling to import quantities of low-wage Chinese products.

The administration calculates that each $1 billion of last year's $8 billion net exports to China supports 20,000 jobs, using this calculation it has been optimistically stated that over 150,000 American jobs result from our trade with China. But, by the same argument, each $1 billion of our $23 billion trade deficit with China causes American workers to lose jobs? The AFL-CIO estimates that 460,000 American jobs were lost last year because of our large trade deficit with China. It's not a good deal for America to gain 150,000 jobs and lose 460,000 jobs.

The trade in nonrubber footwear provides a good example of how Chinese imports have affected United States industry. Imports of Chinese nonrubber footwear have increased from 143 million pairs in 1989 to 622 million pairs in 1993, a 335 percent increase. During this same period, U.S. production has dropped from 221 million pairs to 164 million pairs. And American employment has fallen from 77,300 workers in 1989 to 61,500 workers in 1993.

The Chinese footwear industry has overwhelmed the United States companies and workers because the low wages paid in Chinese enterprises enable them to produce shoes at extremely low costs.

In 1993, the customs value of nonrubber footwear imported from China was $6.23 a pair which was about one-half the costs of footwear from all other sources, and approximately one-quarter of the United States costs. Over the past 4 years, the U.S. footwear industry has lost both production and employees. We cannot continue to ignore the devastating impact that these low-cost Chinese imports have on United States industry and jobs.

Now some have suggested that we must grant unconditional MFN status to China because we need their help with respect to the possibility of development by North Korea of a number of nuclear weapons.

My response to that is threefold: First, within days of the President's announcement of his decision on China, the Chinese Government stated that it would not support sanctions against North Korea. There's been no evidence of any cooperation.

Second, in any event, I believe the issue of conditioning MFN because China has failed to meet the conditions of the President's executive order stands on its own merits, and should not be dependent on the North Korean issue one way or the other.

Third and most important, I find it incredible that anyone would suggest that we must make concessions to China to induce it to take actions which are in its obvious self-interest. China, as all nations, will ultimately act out of its self-interest. I have never heard a single person suggest that it is in China's self-interest to have a nuclear-armed North Korea with the capacity to deliver those nuclear weapons within a range that includes China.

I've not heard a single person make that argument, and therefore, why anyone would suggest that we are somehow now compelled to make concessions to China to induce it to do something which is obviously in its self-interest doesn't make any sense.

The experience of recent years has been that each concession to the Chinese Communist regime encourages its intransigence. I believe this will be the unfortunate result of the decision to delink human rights from MFN. It will confirm for the Chinese Communist regime the success of its policy of repression on human rights and manipulation on trade. It is likely to produce a result that is the opposite of what the President intends.

I therefore intend to offer legislation which supports the intent and requirements of the President's May 28, 1993 executive order by placing conditions on the renewal of MFN trading status for China.

This legislation requires that during the next year goods produced, manufactured, or exported by the Chinese People's Liberation Army, defense industrial trading companies and certain categories of goods exported by Chinese State-owned enterprises may not be granted nondiscriminality MFN trade treatment.

Favorable nondiscriminatory MFN tariff rates would remain in force for goods exported by private and joint venture enterprises.

When enacted into law, this legislation will affect the costs of about $5 billion of China's exports to the United States. It will not affect United States exports to China.

I do not believe the American people want to buy goods produced by the People's Liberation Army [PLA], the same army which massacred hundreds of defenseless Chinese students and workers in Tiananmen Square 5 years ago.

Nor do I believe the American people wish to continue to have their consumer dollars subsidizing the profits of the Chinese military controlled defense industrial trading companies such as China North Industries Corporation [NORINCO], which last year shipped nearly 500,000 military rifles and 993 metric tons of furniture to the United States under most-favored-nation nondiscriminatory tariffs.

Many of these American consumer's dollars that are flowing to the Communist People's Liberation Army and its trading companies are being used to purchase and develop sophisticated weapons for use by the Chinese military.

Also, removing most-favored-nation trade status from goods produced by low-paid Chinese military personnel working in state-owned factories will help level the competitive playing field for the thousands of American workers who are losing their jobs because the companies that employ them are unable to compete against such as unfair advantage.

I'm offering this legislation because I believe the United States has a responsibility and right to ask that Chinese Communist leaders make the significant progress called for in the President's Executive order, to abide by international standards of human rights, and to cease unfair trade practices including the illegal export of prison labor products to our country, before we grant them unconditional renewal of a trade status which is so disproportionately advantageous to the Chinese Communist regime.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2260

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-China Act of 1994".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress makes the following findings:

(1) In Executive Order 12850, dated May 28, 1993, the President established conditions for renewing most-favored-nation treatment for the People's Republic of China in 1994.

(2) The Executive order requires that in recommending the extension of most-favored-nation trade status to the People's Republic of China for the 12-month period beginning July 3, 1994, the Secretary of State shall not recommend extension unless the Secretary determines that such extension substantially promotes the freedom of emigration objectives contained in section 402 of the Trade Act of 1974 (19 U.S.C. 2432) and that China is complying with the 1992 bilateral agreement between the United States and China concerning export to the United States of products made with prison labor.

(3) The Executive order further requires that in making the recommendation, the Secretary of State shall determine if China has made overall significant progress with respect to—

(A) taking steps to begin adhering to the Universal Declaration of Human Rights;

(B) releasing and providing an acceptable accounting for Chinese citizens imprisoned or detained for the nonviolent expression of their political and religious beliefs, including such expressions of beliefs in connection with the Democracy Wall and Tiananmen Square movements;

(C) ensuring humane treatment of prisoners, and allowing access to prisons by international humanitarian and human rights organizations;

(D protecting Tibet's distinctive religious and cultural heritage; and

(E) permitting international radio and television broadcasts into China.

(4) The Executive order requires the executive branch to resolutely pursue all legislative and executive actions to ensure that China abides by its commitments to follow fair, nondiscriminatory trade practices in dealing with United States businesses and adheres to the Nuclear Nonproliferation Treaty, the Missile Technology Control Regime guidelines and parameters, and other nonproliferation commitments.

(5) The Government of the People's Republic of China, a member of the United Nations Security Council obligated to respect and uphold the United Nations charter and Universal Declaration of Human Rights, has over the past year made less than significant progress on human rights. The People's Republic of China has released only a few prominent political prisoners and continues to violate internationally recognized standards of human rights by arbitrary arrests and detention of persons for the nonviolent expression of their political and religious beliefs.

(6) The Government of the People's Republic of China has not allowed humanitarian and human rights organizations access to prisons.

(7) The Government of the People's Republic of China has refused to meet with the Dalai Lama, or his representative, to discuss the protection of Tibet's distinctive religious and cultural heritage.

(8) It continues to be the policy and practice of the Government of the People's Republic of China to control all trade unions and suppress and harass members of the independent labor union movement.

(9) The Government of the People's Republic of China continues to restrict the activities of accredited journalists and Voice of America broadcasts.

(10) The People's Republic of China's defense industrial trading companies and the People's Liberation Army engage in lucrative trade relations with the United States and operate lucrative commercial businesses within the United States. Trade with and investments in the defense industrial trading companies and the People's Liberation Army are contrary to the national security interests of the United States.

(11) The President has conducted an intensive high-level dialogue with the Government of the People's Republic of China, including meeting with the President of China, in an effort to encourage that government to make significant progress toward meeting the standards contained in the Executive order for continuation of most-favored-nation treatment.

(12) The Government of the People's Republic of China has not made overall significant progress with respect to the standards contained in the President's Executive Order 12850, dated May 28, 1993.

(b) POLICY.—It is the policy of the Congress that, since the President has recommended the continuation of the waiver under section 402(d) of the Trade Act of 1974 for the People's Republic of China for the 12-month period beginning July 3, 1994, such waiver shall not provide for extension of nondiscriminatory trade treatment to goods that are produced, manufactured, or exported by the People's Liberation Army or Chinese defense industrial trading companies or to nonqualified goods that are produced, manufactured, or exported by state-owned enterprises of the People's Republic of China.

SEC. 3. LIMITATIONS ON EXTENSION OF NONDISCRIMINATORY TREATMENT.

(a) IN GENERAL.—Notwithstanding any other provision of law—

(1) if nondiscriminatory treatment is not granted to the People's Republic of China by reason of the enactment into law of a disapproval resolution described in subsection (b)(1), nondiscriminatory treatment shall—

(A) continue to apply to any good that is produced or manufactured by a person that is not a state-owned enterprise of the People's Republic of China, but

(B) not apply to any good that is produced, manufactured, or exported by a state-owned enterprise of the People's Republic of China,

(2) if nondiscriminatory treatment is granted to the People's Republic of China for the 12-month period beginning on July 3, 1994, such nondiscriminatory treatment shall not apply to—

(A) any good that is produced, manufactured, or exported by the People's Liberation Army or a Chinese defense industrial trading company, or

(B) any nonqualified good that is produced, manufactured, or exported by a state-owned enterprise of the People's Republic of China, and

(3) if nondiscriminatory treatment is or is not granted to the People's Republic of China, the Secretary of the Treasury should

consult with leaders of American businesses having significant trade with or investment in the People's Republic of China, to encourage them to adopt a voluntary code of conduct that—

(A) follows internationally recognized human rights principles,

(B) ensures that the employment of Chinese citizens is not discriminatory in terms of sex, ethnic origin, or political belief,

(C) ensures that no convict, forced, or indentured labor is knowingly used,

(D) recognizes the rights of workers to freely organize and bargain collectively, and

(E) discourages mandatory political indoctrination on business premises.

(b) DISAPPROVAL RESOLUTION.—

(1) IN GENERAL.—For purposes of this section, the term "resolution" means only a joint resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: "That the Congress does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to the Congress on ________ with respect to the People's Republic of China because the Congress does not agree that the People's Republic of China has met the standards described in the President's Executive Order 12850, dated May 28, 1993.", with the blank space being filled with the appropriate date.

(2) APPLICABLE RULES.—The provisions of sections 153 (other than paragraphs (3) and (4) of subsection (b)) and 402(d)(2) (as modified by this subsection) of the Trade Act of 1974 shall apply to a resolution described in paragraph (1).

(c) DETERMINATION OF STATE-OWNED ENTERPRISES AND CHINESE DEFENSE INDUSTRIAL TRADING COMPANIES.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall determine which persons are state-owned enterprises of the People's Republic of China and which persons are Chinese defense industrial trading companies for purposes of this Act. The Secretary shall publish a list of such persons in the Federal Register.

(2) PUBLIC HEARING.—

(A) GENERAL RULE.—Before making the determination and publishing the list required by paragraph (1), the Secretary of the Treasury shall hold a public hearing for the purpose of receiving oral and written testimony regarding the persons to be included on the list.

(B) ADDITIONS AND DELETIONS.—The Secretary of the Treasury may add or delete persons from the list based on information available to the Secretary or upon receipt of a request containing sufficient information to take such action.

(3) DEFINITIONS AND SPECIAL RULES.—For purposes of making the determination required by paragraph (1), the following definitions apply:

(A) CHINESE DEFENSE INDUSTRIAL TRADING COMPANY.—The term "Chinese defense industrial trading company"—

(i) means a person that is—

(I) engaged in manufacturing, producing, or exporting, and

(II) affiliated with or owned, controlled, or subsidized by the People's Liberation Army, and

(ii) includes any person identified in the United States Defense Intelligence Agency publication numbered VP-1920-271-90, dated September 1990.

(B) PEOPLE'S LIBERATION ARMY.—The term "People's Liberation Army" means any branch or division of the land, naval, or air military service or the police of the Government of the People's Republic of China.

(C) STATE-OWNED ENTERPRISE OF THE PEOPLE'S REPUBLIC OF CHINA.—(i) The term "state-owned enterprise of the People's Republic of China" means a person who is affiliated with or wholly owned, controlled, or subsidized by the Government of the People's Republic of China and whose means of production, products, and revenues are owned or controlled by a central or provincial government authority. A person shall be considered to be state-owned if—

(I) the person's assets are primarily owned by a central or provincial government authority;

(II) a substantial proportion of the person's profits are required to be submitted to a central or provincial government authority;

(III) the person's production, purchases of inputs, and sales of output, in whole or in part, are subject to state, sectoral, or regional plans; or

(IV) a license issued by a government authority classifies the person as state-owned.

(ii) Any person that—

(I) is a qualified foreign joint venture or is licensed by a governmental authority as a collective, cooperative, or private enterprise; or

(II) is wholly owned by a foreign person, shall not be considered to be state-owned.

(D) QUALIFIED FOREIGN JOINT VENTURE.—The term "qualified foreign joint venture" means any person—

(i) which is registered and licensed in the agency or department of the Government of the People's Republic of China concerned with foreign economic relations and trade as an equity, cooperative, contractual joint venture, or joint stock company with foreign investment;

(ii) in which the foreign investor partner and a person of the People's republic of China share profits and losses and jointly manage the venture;

(iii) in which the foreign investor partner holds or controls at least 25 percent of the investment and the foreign investor partner is not substantially owned or controlled by a state-owned enterprise of the People's Republic of China;

(iv) in which the foreign investor partner is not a person of a country the government of which the Secretary of State has determined under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) to have repeatedly provided support for acts of international terrorism; and

(v) which does not use state-owned enterprises of the People's Republic of China to export its goods or services.

(E) PERSON.—The term "person" means a natural person, corporation, partnership, enterprise, instrumentality, agency, or other entity.

(F) FOREIGN INVESTOR PARTNER.—The term "foreign investor partner" means—

(i) a natural person who is not a citizen of the People's Republic of China; and

(ii) a corporation, partnership, instrumentality, enterprise, agency, or other entity that is organized under the laws of a country other than the People's Republic of China and 50 percent or more of the outstanding capital stock or beneficial interest of such entity is owned (directly or indirectly) by natural persons who are not citizens of the People's Republic of China.

(G) NONQUALIFIED GOOD.—The term "nonqualified good" means a good to which chapter 39, 44, 48, 61, 62, 64, 70, 73, 84, 93, or 94 of the Harmonized Tariff Schedule of the United States applies.

(H) CONVICT, FORCED, OR INDENTURED LABOR.—The term "convict, forced, or indentured labor" has the meaning given such term by section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

(I) VIOLATIONS OF INTERNATIONALLY RECOGNIZED STANDARDS OF HUMAN RIGHTS.—The term "violations of internationally recognized standards of human rights" includes but is not limited to, torture, cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by abduction and clandestine detention of those persons, secret judicial proceedings, and other flagrant denial of the right to life, liberty, or the security of any person.

(J) MISSILE TECHNOLOGY CONTROL REGIME.—The term "Missile Technology Control Regime" means the agreement, as amended, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on an annex of missile equipment and technology.

(d) SEMIANNUAL REPORTS.—The Secretary of the Treasury shall, not later than 6 months after the date of the enactment of this Act, and the end of each 6-month period occurring thereafter, report to the Congress on the efforts of the executive branch to carry out subsection (c). The Secretary may include in the report a request for additional authority, if necessary, to carry out subsection (c). In addition, the report shall include information regarding the efforts of the executive branch to carry out subsection (a)(3).

SEC. 4. PRESIDENTIAL WAIVER.

The President may waive the application of any condition or prohibition imposed on any person pursuant to this Act, if the President determines and reports to the Congress that the continued imposition of the condition or prohibition would have a serious adverse effect on the vital national security interests of the United States.

SEC. 5. REPORT BY THE PRESIDENT.

If the President recommends in 1995 that the waiver referred to in section 2 be continued for the People's Republic of China, the President shall state in the document required to be submitted to the Congress by section 402(d) of the Trade Act of 1974, the extent to which the Government of the People's Republic of China has made progress during the period covered by the document, with respect to—

(1) adhering to the provisions of the Universal Declaration of Human Rights,

(2) ceasing the exportation to the United States of products made with convict, force, or indentured labor,

(3) ceasing unfair and discriminatory trade practices which restrict and unreasonably burden American business, and

(4) adhering to the guidelines and parameters of the Missile Technology Control Regime, the controls adopted by the Nuclear Suppliers Group, and the controls adopted by the Australia Group.

SEC. 6. SANCTIONS BY OTHER COUNTRIES.

If the President decides not to seek a continuation of a waiver in 1995 for the People's Republic of China under section 402(d) of the Trade Act of 1974, the President shall, during the 30-day period beginning on the date that the President would have recommended to the Congress that such a waiver be continued, undertake efforts to ensure that members of the General Agreement on Tariffs and

Trade take a similar action with respect to the People's Republic of China.

By Mr. LAUTENBERG:

S. 2261. A bill to amend section 922 of title 18, United States Code, to make unlawful a person's failure to comply with firearm purchase requirements after moving to a new State of residence; to the Committee on the Judiciary.

THE INTERSTATE GUN CONTROL ENFORCEMENT ACT

• Mr. LAUTENBERG. Mr. President, today I am introducing legislation, the Interstate Gun Control Enforcement Act, to ensure that firearm owners cannot evade gun control protections when they move to another State.

The bill would make it unlawful to transport a firearm into a State without complying with any State laws that require a permit to purchase a firearm. The prohibition would apply to individuals who intend to reside in the new State for more than 30 days. Violations would be punishable by up to 5 years in prison and fines of up to $5,000.

Mr. President, the need for this legislation became apparent in light of a horrifying crime that occurred recently in Saddle Brook, NJ. Four people were playing cards at a motel when, without warning, they were shot by a complete stranger. The individual charged in the crime, Henry Levy, apparently didn't know the people he allegedly was shooting. Nor did he have any real provocation to start the assault. Instead, from all indications, the shooting was a result of a delusion.

Levy apparently believed that the people he was shooting were somehow harrassing his daughter. When he began shooting, he reportedly shouted "I hate everybody", and "They are trying to get my family." Yet officials believe there is no evidence that his daughter was being harrassed. Apparently, it was all in his head.

According to officials involved, Henry Levy had a history of mental illness. He was under the care of a psychiatrist and was taking drugs for his ailment. In the past, he had been treated for his psychiatric problems at a hospital. Clearly, if these facts are true—and there seems little dispute about it—Henry Levy is a man who should never have been able to get a gun. Anyone with such a history of mental problems should be kept as far from dangerous weapons as possible. Unfortunately, the system didn't work. Henry Levy got his gun. And the result was a terrible tragedy.

Mr. President, there is no way to reverse the consequences of this shooting for the victims and their families. But what we can and must do is closely evaluate what happened, and then do everything we can to prevent this kind of incident from happening in the future.

While many questions still remain about this shooting, the incident highlights at least one weakness in current law that should be addressed. New Jersey has some of the strongest gun control laws in the Nation. To buy a gun in New Jersey, an individual must obtain a permit to purchase the firearm. To obtain such a permit, an individual must undergo a thorough background check, and law enforcement officers can deny the permit if they conclude that the applicant would pose a threat to public safety. That is a pretty strong law, and it has stopped many dangerous people from obtaining deadly weapons.

However, there is a class of people living in New Jersey who own guns, but who have not been subject to this rigorous background check, people who have moved to New Jersey and brought guns in from other States.

Henry Levy apparently was such an individual. According to media reports, the gun in question was purchased in Arizona, where gun control laws are much weaker than in New Jersey. Therefore, Levy did not undergo the same kind of rigid background check that he would have undergone had he sought a permit in New Jersey.

Levy, unfortunately, is not alone. Many people move into our State, and bring their guns with them, without undergoing the same kind of background check that would be necessary if they bought their gun in New Jersey. The result is that New Jerseyans are being put at risk.

This legislation would address this weakness in current law by making it a Federal crime for an individual to transport a gun across State lines, with the intent to reside in the second State for at least 30 days, if the individual does not apply within 10 days for a permit to purchase, or an equivalent permit. Then, if the application is denied, the individual must relinquish the firearm within 5 business days. These requirements would apply only in those States that require a permit to purchase a firearm.

Mr. President, I recognize that under the new Brady Act, law enforcement officials are supposed to conduct background checks on prospective handgun purchasers. However, the Brady Act doesn't go nearly far enough.

First, under the Brady Act, investigations of prospective handgun purchasers are limited to five business days. This often is insufficient to conduct a thorough investigation. In New Jersey, for example, to obtain a permit to purchase, applicants must undergo in-depth background checks that can take months. Law enforcement officials use this time to contact references, check criminal records, and conduct very thorough investigations.

Second, the Brady Act leaves law enforcement officials with limited authority to reject prospective purchases. So long as an individual is not a member of a class specifically prohibited from receiving firearms, and has not violated other legal requirements, applications may not be denied. By contrast, New Jersey law enforcement officials may reject applications if they determine that granting a permit to purchase "would not be in the interests of the public health, safety or welfare."

This broad discretion to prevent gun transfers to dangerous individuals is especially important in the case of individuals who have a history of mental problems. Under current Federal law, guns may not be transferred to individuals who have been "adjudicated as a mental defective" or "committed to a mental institution." However, many individuals with serious psychiatric problems are not covered. New Jersey's law, unlike Federal law, prevents gun transfers to such individuals, if they pose a threat to public safety.

Mr. President, the people of New Jersey have decided that they want to be protected from mentally unstable people with guns. The problem, however, is that current laws still allow such people to bring guns into New Jersey from other States, where it's much easier to obtain dangerous weapons.

This bill is designed to ensure that when a State establishes requirements for gun purchase permits, those State laws will not be circumvented by individuals who bring guns with them from out-of-State.

Mr. President, if it were up to me, I would go much further than this proposal, and establish many of New Jersey's strong gun laws on a nationwide basis. Unfortunately, as a practical matter, that is unlikely to happen in the near future. The opponents of gun control have too much power, and the votes just are not there, at least not yet.

I plan to continue doing all I can to change that political dynamic, and convince my colleagues to support much tougher gun control laws. But in the meantime, I also intend to pursue more narrow approaches that may have a more realistic chance of adoption. The fact that this bill directly affects only States with permit to purchase requirements should help facilitate its prompt enactment.

Mr. President, I would like to express my appreciation to John Fahy, the prosecutor of Bergen County, NJ, for his assistance in the development of this legislation. I appreciate his cooperation, and I wish him the best of luck in pursuing justice in the Saddle Brook shooting.

I ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2261

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Interstate Gun Control Enforcement Act of 1994".

SEC. 2. FAILURE TO COMPLY WITH FIREARM PURCHASE REQUIREMENTS IN NEW STATE OF RESIDENCE.

Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection.

"(v)(1) It shall be unlawful for any person to transport or cause to be transported into a State and thereafter to possess in the State a firearm any part or component of which has been transported in or has been the object of a transaction affecting interstate commerce if—

"(A) the law of the State into which the firearm is transported requires a person to obtain a permit to purchase a firearm; and

"(B)(i) within 10 business days after entering the State with intent to reside in the State for a period of more than 30 days, the person does not submit an application for such a permit, or another permit for which the standards and procedures for approval are equivalent to a permit to purchase; or

"(ii) such an application has been denied, and a period of more than 5 business days has elapsed since the person received notice of the denial.".•

By Mrs. MURRAY (for herself and Mr. BRADLEY):

S. 2262. To amend the Elwha River Ecosystem and Fisheries Restoration Act to provide greater flexibility in the expenditure of funds, and for other purposes; to the Committee on Energy and Natural Resources.

ELWHA RIVER ECOSYSTEM RESTORATION ACT

• Mrs. MURRAY. Madam President, I introduce legislation that is very important to resolving a long-standing natural resource dispute in my State. It is a bill which, if approved, will enable a project to go forward that will protect jobs on the Olympic Peninsula, preserve the treaty rights of certain tribes, and restore the once-magnificent salmon runs to the Elwha River.

Congress passed the Elwha River Ecosystem and Fisheries Restoration Act of 1992—Public Law 102-494—in an effort to end a protracted legal struggle over the relicensing of two small power dams on the Elwha River in, and adjacent to, the Olympic National Park. The struggle arose from the fact that these two dams, installed just after the turn of this century before enactment of the Federal Power Act, cut off salmon runs of tremendous productivity and cultural value from their spawning grounds in the upper reaches of the Elwha watershed. Pursuant to Public Law 102-495, the Park Service, working in conjunction with other Federal agencies and a local native American tribe, was required to complete a study on the procedural options for restoring salmon runs to the river.

In May of this year, the Park Service completed a feasibility study on restoring salmon runs to the Elwha River pursuant to Public Law 102-495, the Elwha River Ecosystem and Fisheries Restoration Act. This study concludes it would be feasible to restore the salmon runs by removing the dams. Such course of action would enable the Federal Government, the Lower Elwha S'Klallam Tribe, and certain private interests to avoid lengthy, contentious, and expensive litigation. The Senate Appropriations Committee has provided $3.5 million in fiscal year 1995 for the Park Service to conduct an environmental impact statement on the acquisition and removal of the two dams in order to restore the Elwha River salmon.

Assuming the EIS is concluded successfully, proceeding with dam removal in future years would force the Federal Government to incur significant costs. However, I believe the costs of such action would be less than exposing the Government to a costly, court-imposed settlement. I am introducing this bill today to repair a flaw in the original legislation that would preclude the Secretary of the Interior from using the financial resources of all agencies under his jurisdiction to address this issue.

Specifically, the bill would strike language in the current law that requires the Secretary to limit his use of funds for Elwha restoration to the agencies under the jurisdiction of the Assistant Secretary for Fish, Wildlife, and Parks. There are other agencies within the Department, such as the Bureau of Reclamation, that have significant expertise in engineering and public works. I believe it is appropriate for the Secretary to have the ability to use this expertise to address this issue; fundamentally, the Secretary would be upholding native American treaty rights the Department is legally responsible for defending.

Madam President, there is another important consideration this bill seeks to address. There is a pulp mill in the town of Port Angeles that draws electric power from the dams in question. Public Law 102-495 provides access to alternate energy sources if the dams are removed. If the EIS is affirmative, and if the Secretary is unable to see this project through, the pulp mill's access to energy would be called into question. If action is forced through litigation to remove the dams—a very real possibility—the jobs at this mill would be threatened.

Therefore, to protect these high-wage jobs, to uphold native American treaty rights, and to restore a cultural resource of immense value, it is very important for the U.S. Senate to ensure the Department of Interior has the resources necessary to implement Public Law 102-495. I urge my colleagues to support this bill and ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2262

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELWHA RIVER ECOSYSTEM AND FISHERIES RESTORATION EXPENDITURES.

Section 9 of the Elwha River Ecosystem and Fisheries Restoration Act (Public Law 102-495; 106 Stat. 3178) is amended—

(1) by striking "for expenditure through the Assistant Secretary for Fish, Wildlife, and Parks"; and

(2) by striking "for expenditure through the National Marine Fisheries Service".•

By Mr. DORGAN (for himself, Mr. LEAHY, Mr. CONRAD, Ms. MIKULSKI, Mr. DECONCINI, Mr. FEINGOLD, Mr. KOHL, Mr. JEFFORDS, Mr. RIEGLE, Mr. SIMON, Mr. WELLSTONE, and Mr. METZENBAUM):

S. 2264. A bill to provide for certain protections in the sale of a short line railroad, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SHORT LINE RAILROAD TRANSFERS LEGISLATION

• Mr. DORGAN. Mr. President, today I introduce legislation that will close a loophole being used by railroad companies to avoid providing compensation for workers who lose their jobs as a result of the company selling short lines. I am pleased that my colleagues Senators LEAHY, CONRAD, MIKULSKI, DECONCINI, FEINGOLD, KOHL, JEFFORDS, RIEGLE, SIMON, WELLSTONE, and METZENBAUM are joining me today as original cosponsors. This bill is similar to legislation that Representative SANDERS has introduced in the House of Representatives. His bill, H.R. 3866, already has over 120 cosponsors.

Under current law, when workers are displaced because their companies abandon lines or merge with another company, the Interstate Commerce Commission [ICC] will require that workers are protected under the transaction. However, in cases where a company sells a short line to another entity, the workers are not protected because of a loophole in the law. Since the law provides for only discretionary authority with respect to this type of short line sales, some companies have taken advantage of the loophole and have created sham transactions to rid themselves of existing obligations to their employees. The result is that thousands of jobs have been lost without any accompanying protections for the displaced workers.

I would like to point out just a couple of examples. In 1986 when the Chicago & North Western [C&NW] decided to sell 965 miles of its lines across South Dakota and Minnesota, a paper company, the DM&E, was created to purchase and operate those lines with $500,000 seed money from the C&NW.

Workers were told their jobs were to be abolished and there would be no conditions imposed to protect them. Some employees affected under this transaction were over 50 years old with 25 or

30 years of service; 2,000 C&NW workers were affected by the sale and D&ME began service with about 100 to 150 workers.

It is interesting to note that when D&ME applied to the ICC for approval of the sale, it informed the agency that it was to be wholly independent of C&NW. Later when Union Pacific Railroad acquired control of C&NW, suddenly DM&E changed its story by claiming that it had been controlled by C&NW since its inception. This is a case of abuse of a section 10901 transaction as employees were left with either no jobs or jobs at lower wages.

Another example involves a 1990 transaction by the Southern Pacific [SP] involving branch lines in Oregon. The SP determined that it could substantially reduce its cost of operations by ridding itself of the expense of operating and maintaining these branch lines while retaining all of the traffic generated by those lines for business on its trunkline system.

The SP contracted with Genesse and Wyoming [G&W], an Eastern holding company of short line railroads, to operate and maintain the branch lines. G&W then created a paper railroad, the Willamette & Pacific, which leased all of SP's branch lines west of its north-south trunklines. Two other independent operators, the Willamette Valley and Mollala Valley, acquired the SP's less desirable lines east of the north-south trunkline. All this was accomplished through the section 10901 loophole.

But there was more to this deal. The leases effectively prohibited, by use of contractual penalties, the three lessees from dealing with any railroad other than the SP and the leases contained economic incentives to maintain or improve the level of traffic flowing to and from the SP. Meanwhile, the jobs of all the SP employees who had operated or maintained equipment used on the branch lines were abolished without the protective conditions normally provided employees in lease cases. Thus, while revenues were preserved for the SP, the new railroads employed far fewer workers, at lower wages, and with few contract protections.

For the SP the end result was that it was able to rid itself of the cost of operating and maintaining 260 miles of branch lines while retaining all the traffic and revenues. In short, because of the misuse of section 10901 the carriers involved in these transactions were allowed to void collective-bargaining agreements, eliminate jobs, evade statutory obligations to employees, and cut workers' wages and benefits.

My legislation would close this loophole and ensure that when companies apply for ICC approval of a short line, the same worker protections that apply in cases of approved abandonments and approved mergers will apply to short lines. Under this bill, railroad companies cannot use the existing loophole to avoid labor protections by setting up phony sales of short lines.

Critics of this legislation will contend that this bill would impose excessive costs to short line transactions by requiring a carrier to provide affected workers 1 year of pay or 6 years of employment. That is not the case. I am not encouraging that level of protection with this legislation. The law does provide up to 6 years of protective payments or assured employment by the selling company in transfers subject to ICC approval.

I want to be clear that this bill does not address what severance pay might be appropriate. It simply addresses when it is required.

Carriers' costs are very sensitive in rural areas like North Dakota and I am mindful of this. Nevertheless, I do think that workers do make a good case that if the ICC is going to provide labor protections for workers affected by mergers, abandonments, and other transfers, then the ICC should provide similar protections for short line sales as well, just as it did prior to the mid-1980's. At that time the ICC was requiring labor protections for short line sales. It has only been in the last decade that protections were not provided in short line sales and the Sanders legislation that I am introducing would restore that situation.

In introducing this legislation I want to make it clear to my colleagues that I hope this bill will serve as a starting point for negotiations between workers and carriers. It is my hope that ultimately, some agreement can be reached where affected workers are assured some protection—which they deserve—and carriers have some assurance that the costs of these protections will not be unreasonable.

While protective levels and their duration may be debated, I feel strongly that it is unreasonable and unfair to allow railroads to create sham transactions to get rid of workers and leave the workers without any protection at all. That is plain unfair, and that's what I want to correct with this legislation.

I urge my colleagues to support this legislation and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2264

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT LINE CONSTRUCTION, ACQUISITION, AND OPERATION.

Section 10901 of title 49, United States Code, is amended—

(1) in subsection (c)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) the Commission shall, in any order approving an application under this section, require a fair and equitable arrangement for protection of the interests of railroad employees who may be affected thereby no less protective of and beneficial to the interests of such employees than those established pursuant to section 11347 of this title."; and

(2) by striking subsection (e).

SECTION 2. FINANCIAL ASSISTANCE TO AVOID ABANDONMENT AND DISCONTINUANCE.

Section 10905 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(g) No sale or offer of financial assistance shall be approved unless the Commission certifies a fair and equitable arrangement for the protection of the interests of employees who may be affected by such approval no less protective of and beneficial to the interests of such employees than those established pursuant to section 11347 of this title.".●

● Mr. LEAHY. Mr. President, I am pleased to join Senator DORGAN in introducing this legislation to plug a loophole in the Interstate Commerce Act that railroad companies have been running trains through for the past 12 years. Some railroad companies are forming paper corporations to avoid providing fair and equitable financial arrangements to workers displaced by the sale of a railroad. These financial arrangements, called labor protection benefits, provide railroad workers who lose their jobs with essential support while they make the transition to other work.

More and more railroad companies get around this labor protection requirement by selling off small chunks of their lines to form regional railroads, or short line railroads. Today, short line railroads account for 24 percent of U.S. railroad trackage, up from 6 percent only two decades ago. From 1950 to 1980, 75 new short line railroads were formed. From 1980 to 1988, 190 new short line railroads, almost 24 per year, were formed. That's about 10 times faster than the historical average.

This explosion of short line railroads was created by the Interstate Commerce Commission [ICC].

When Congress passed the Staggers Rail Act of 1980 to promote competition among railroads, it gave the ICC discretion under section 10901 of the act to impose labor protection benefits. It was designed to be available for the sale of small railroads only. In other railroad sales, and when a railroad is abandoned, Congress required the ICC to award labor protection benefits to all employees displaced by the sale or abandonment.

Congress concluded that the ICC, as the independent Federal agency with expertise in railroad sales, should weigh the facts of each sale to decide if labor protection under section 10901 was appropriate. Congress reasoned that the ICC's railroad experience would be the best guide to determine when it was fair and equitable to impose the costs of labor protection benefits in small railroad sales.

Since 1982, the ICC has refused to impose labor protection benefits in any railroad sale under section 10901. In fact, the ICC issued regulations in 1985 that exempt short line sales from virtually any review. Under these regulations, the ICC has made this section available to all nonrail carrier buyers—companies that did not provide rail transportation until after the ICC approved their purchase of a railroad. The regulations require the ICC to automatically approve section 10901 sales after 7 days.

Under this "Alice in Wonderland" backward procedure, the ICC may—but is not required to—review a short line railroad sale after the agency has already approved it and the sale has occurred. The ICC has ruled that when it reviews a section 10901 approval, it may award labor protection benefits only if it finds exceptional circumstances. You may ask what are these circumstances? Who knows? The ICC has never found exceptional circumstances in the hundreds of railroad sales under this law.

The railroad industry knows that the ICC has never imposed labor protection benefits under this law, and many have exploited this hands-off approach.

I am all too familiar with this exploitation. In my home State, the Central Vermont Railway, the CV, may become the latest short line victim under this loophole. The CV has been headquartered in St. Albans, VT since 1843, establishing St. Albans' reputation as the railroad city. Today the railroad is still the heart and soul of this smalltown community and provides almost 200 Vermonters with quality jobs. But this could all change under a proposed deal that was announced just last month.

The owners of the CV, CN North America, and the Grand Trunk Corp. plan to sell CV's assets to Railtex, Inc. of San Antonio, TX. To fit through this loophole and breeze by the ICC, Railtex intends to form a new corporate subsidiary to buy the CV. Although Railtex operates 23 regional railroads and its stock is publicly traded as a rail company, its new paper corporation would claim to be a nonrail carrier under the law. Railtex plans to claim nonrail carrier status while it negotiates with the CV over long-term agreements on prices, schedule, marketing, and other critical factors governing the future operation of the railroad.

After the 7 days, Railtex would then take control of the CV under the ICC's automatic approval process and fire all the CV's employees. Railtex's new paper corporation would hire 70 to 80 new employees, possibly among them some of the workers it had just fired. Employees of Railtex's new paper corporation would be forced to accept limited or no union representation, wage cuts, radically altered pension plans and work rules. And it is unclear what—if any—severance benefits would be offered to the CV's fired workers. What kind of a deal is that for the 178 loyal CV employees and their families?

In the past, the ICC merely rubber stamped its approval of deals like the proposed CV sale. This bill would change that. The legislation introduced today deletes the ICC's discretion in awarding labor protection benefits under section 10901. Under the bill, the ICC would be forced to award labor protection benefits in all railroad sales.

I have no illusions about this legislation. It is not perfect. I have concerns that the imposition of labor protection benefits in all railroad sales may hurt the chances of some small railroads from ever being sold. The added cost of labor protection benefits may scuttle the sale of these railroads and eventually leave to a few lines being abandoned. Abandoned rail lines hurt everyone—the company, the workers and the surrounding community. I hope the Senate Transportation Committee and Surface Transportation Subcommittee will closely examine the potential for any increase in abandoned railroads under this bill.

But even with these concerns, I support this bill because it sends a message to the ICC: Business as usual is unacceptable. The ICC must start doing its job and stop rubber stamping questionable deals. The time has come for the ICC to start considering the impact of short line railroad sales on rail workers and their families.•

• Mr. JEFFORDS. Mr. President, I join Senator DORGAN in introducing S. 2264 because I believe that there is something amiss in the process by which short line railroads are being sold off by main line carriers and then bought up and operated by newly created, nonrail companies. It is my hope that this bill can help to clarify the proper policy which should be applied in these situations.

For the past decade or more, the railroad industry, like many other American industries, has undergone a substantial amount of consolidation and change. This has occurred across the Nation, affecting virtually every region of the country. Recently, the issue has come home to roost in my own State of Vermont in the form of the situation regarding proposed sale of the Central Vermont Railway.

Mr. President, this is a very complex area of law and there clearly is much more that we need to learn about this issue.

When such a sale is proposed, one of the issues to be resolved is whether the labor protective provisions are to be applied. These protections—which call for as much as 6 years of severance pay and benefits continuation—appear to be unique to the railroad industry. Certainly, there is nothing similar in the general body of labor law applicable to other American industries.

The Interstate Commerce Commission is charged with the responsibility of overseeing such short line sales and making the determination whether labor protections should be invoked. It does so pursuant to statutory authority and longstanding interpretive decisions and regulations. However, the range of the ICC's options is very much dependent on the type of filing made by the parties to the sale. If the sale is presented as being from one rail carrier to another—under section 11343 or similar provisions of the act—the Commission has no discretion, it must award full protection at the level mandated by the New York Dock standard. On the other hand, if the filing is made on the basis of the sale being from a rail carrier to a noncarrier—under section 10901—the FCC has much greater discretion. The agency then can first determine whether this is a transaction in which labor protections are at all appropriate. Then, assuming they are deemed appropriate, the ICC can decide what level of protections should be imposed, with an unlimited range of options from zero up through the full New York Dock standard.

Given this procedural reality, and the fact that the ICC has never ordered New York Dock protections on a filing presented under section 10901, it is no surprise that most such sales are presented by the buyer and seller under that section. The cost savings in the deal are simply too large for them to ignore.

The rail unions understandably are of the opinion that the section 10901 filing procedure is being misused by these companies to avoid the labor protections which Congress enacted for the benefit of rail employees. Further, they contend that 10901 was never intended to be used as extensively as is now taking place, so that Congress should amend the act to correct this practice. The bill which we introduce today would do just that by requiring New York Dock protections to be imposed in carier-to-noncarrier transactions as well as those between carriers.

In sponsoring this measure, I am mindful of the fact that the imposition of New York Dock standard protections may have the effect of killing some sales of marginal lines. Often short lines are being sold off precisely because they are barely profitable, or outright money losers, within the main line systems. In some measure, the option of a section 10901 sale is an alternative to the abandonment of these lines by the main line companies. Obviously, given the loss of jobs and negative economic impact on the surrounding communities that go along with abandonments, this is not a result that anyone wishes to see.

It is my hope, Mr. President, that this matter can be given quick attention by Congress, including a thorough investigation of the issues of whether the current law is being abused, whether the ICC should be stripped of the authority to impose labor protections short of the full New York Dock standard, and whether the New York Dock protections lead to more railroad abandonments, job losses and economic disruption.

In that regard, I am preparing to conduct a field hearing in St. Albans, VT next week to examine these issues as they relate to the proposed sale of the Central Vermont Railway. I hope that my colleagues on the Commerce Committee will follow up on this with their own hearings and investigation. This matter deserves their time and attention.•

By Mr. BRADLEY (by request):

S. 2266. A bill to amend the Recreation Management Act of 1992, and for other purposes; to the Committee on Energy and Natural Resources.

RECREATION MANAGEMENT ACT OF 1992 AMENDMENTS OF 1994

• Mr. BRADLEY. Mr. President, I am pleased today to introduce legislation on behalf of the administration to amend the Recreation Management Act of 1992 to provide the Secretary of the Interior with law enforcement authority to fulfill the Secretary's responsibility for protecting facilities and natural and cultural resources on Bureau of Reclamation lands and the many visitors who use Reclamation recreation resources.

Let me provide some background on the need for these amendments to the Recreation Management Act. Public Law 161 (Act of June, 17, 1902) directs the Secretary of the Interior to examine, survey for, locate, and construct irrigation works for the storage, diversion and development of water for reclamation of arid and semiarid lands in the 17 Western States. This law set aside a special fund within the U.S. Treasury to be known as the "reclamation fund" for use in carrying out these duties. While the Secretary is instructed to restore to public use any of the lands withdrawn and not required for projects, Public Law 161 provides that title to and management and operation of the reservoirs and the works necessary for their protection and operation will remain with the Federal Government unless Congress provides otherwise. The Secretary is authorized to perform any and all acts and to make any necessary rules and regulations to carry out the provisions of Public Law 161.

On October 30, 1992, Public Law 102–575 was enacted as the Reclamation Projects Authorization and Adjustment Act of 1992. Under section 2805(a)(2)(B) of that Act, the Commissioner of the Bureau of Reclamation is directed to make any regulations necessary to insure the protection, comfort, and well being of the public using reclamation lands. Section 2805(a)(2)(C) charges the Commissioner with making the necessary regulations for insuring the protection of resource values.

While the Secretary, in Public Law 161, was given the responsibility for protection of land and physical resources and structures and in Public Law 102–575 responsibility for protection of the visitor and resources, neither public law gave the Secretary or the Commissioner the authority to accomplish the given tasks. This bill and the resulting regulations are an attempt to rectify this inconsistency.

Of the 301 projects that the Bureau of Reclamation [BOR] has completed, the BOR now participates in the management of forty-four. These projects comprise about 600,000 acres and receive over 4 million visits annually. Although the Reclamation program covers the 17 Western States, the BOR directly manages only eight projects. Visitation to these areas vary from a few thousand annually, like Little Wood Reservoir in Idaho, to that of Lake Berryessa, in California, that has a visitation of over 1 million.

As the economics of down sizing and cost tightening filters down to the States and its subdivisions (mostly sheriff's offices), the availability of competent support is harder and harder to assure. While acres managed and visitation often show valid cause for law enforcement, the distances to adequate support is often an added burden. In cases like Lake Berryessa, the local law enforcement offices have told the BOR that they will no longer afford any protection or patrol because the visitation is mainly from outside their jurisdiction and they are too busy taking care of their own constituents.

Recently, several State and local cooperating agencies have informed the BOR that they were becoming financially burdened to the point of no longer being able to afford the operation of their project reservoirs. At the present time, the States or their political subdivisions manage over 1.5 million acres of land and water under agreements with the BOR. As some of these projects are returned to the BOR, they come with visitor facilities and an established visitation that expect management of the project.

To further complicate the matter, many of the Reclamation project sites have concentrations of prehistoric resources. These archeological resources need particular protection from vandalism, inadvertent destruction, and outright theft. A recent case of inappropriate off-road vehicle use became an issue at the American Falls Reservoir, in Idaho, when the BOR asked for law enforcement aid from the National Park Service [NPS]. The BOR found that the NPS could not help the BOR except by using deputy U.S. Marshals. While this particular incident was successfully concluded, through the cooperation of the Marshal's Service, this avenue of operation is neither correct nor expedient.

This legislation addresses the issues of authority, jurisdiction, and techniques of accomplishing the protection responsibilities laid out in Public Laws 161 and 102-575. The bill in no way restricts the operations of either the State or its political subdivisions or that of other Federal agencies in their law enforcement actions. Instead, it supplements these activities with onsite personnel for quicker response in visitor emergencies and a more thorough protection of facilities and natural and cultural resources.•

By Mr. BROWN:

S. 2267. A bill to enable all able-bodied Federal prisoners to work; to the Committee on the Judiciary.

FEDERAL PRISONERS-TO-WORK ACT

• Mr. BROWN. Mr. President, I read an article not long ago written by a Federal prisoner. The article described life in prison as being devoid of any meaning, of any positive influences and of any hope of improvement. He described prisoners watching TV all day, cheering the bad guys and booing the cops. Our criminal justice system basically locks prisoners up for a while, allows the negative influences to take root and grow, and then releases them into society to prey once again.

Today, I am introducing a bill today that would go a long way toward addressing this problem. This bill would enable all Federal prisoners to work.

There is already an existing work program in prison, but due to statutory limits and increasing populations, the numbers of prisoners who work in these programs has decreased from 50 percent to below 25 percent.

With so few prisoners working, inmates are robbed of the dignity that comes with being useful; the inmates miss a golden opportunity to learn a skill, to learn how to take orders, to learn how to live under a schedule, to learn how to interact with others. As a consequence, when inmates are released into society, with empty pockets, no skills and no diligence, they quite naturally fall into predatory criminal behavior again.

The prison work bill would expand the opportunity for work in prisons by enabling Federal prisons to manufacture and sell goods for disaster relief, to recycle and sell products nobody else can recycle because of the costliness, to sell their excess equipment to private companies, to make and sell goods nobody else can because of the labor-intensive nature, and to conduct prison business without all the redtape.

In so doing, we could put our Federal prison inmates to work. Work is the best way to turn someone around and make them a contributing member of society. Imagine this: No longer would prisoners laze around and watch TV; instead, they would be put to hard, meaningful work. Prisoners would come out of prison with a job skill and some hard-earned money to make the transition back into society.

If you question how well this would work, look at the statistics: 89 percent of the inmates who worked in these programs successfully completed their halfway house stay—in other words, almost 9 out of 10 did not recidivate; 85.5 percent of the inmates who worked in these programs found full-time work while at the halfway house. That makes them 25 percent more likely to find work than other inmates.

The authors of the prison work study stated that:

> Inmates who participated in (prison) work and other vocational programming during their imprisonment showed better adjustment, were less likely to be revoked at the end of their first year back in the community, were more likely to be employed in the halfway house and community, and earned slightly more money in the community than inmates who had similar background characteristics, but who did not participate in work and vocational training programs.

As we hear all the rhetoric about new crime control measures, I hope we can look in our own back yard and make the Federal prison system a place where we don't just bring in a bad criminal one year and release an even worse criminal a few years later.

In addition to putting prisoners to work, we can provide cheap goods to the Government. By selling products to the Government and elsewhere, prison work programs pay for themselves as well as some of the incarceration and security costs. To date, prison workers have manufactured wiring for the Patriot missile, helmets and blankets for Operation Desert Storm, and desks for Federal office buildings. Prison inmates become proud of their labor—I have heard of inmates who felt deeply about their input into Operation Desert Storm. This kind of meaningful work is second to none in turning criminals into productive citizens.•

By Mr. WOFFORD (for himself, Mr. BRADLEY, Mr. RIEGLE, Mrs. BOXER, Mr. METZENBAUM, Mr. CAMPBELL, Mr. HARKIN, Mr. KENNEDY, Mr. DODD, Mr. KERRY, Ms. MIKULSKI, Mr. LEAHY, and Mr. LEVIN):

S. 2268. A bill to provide for the establishment of a working group on trade-related worker rights and labor standards as part of the General Agreement on Tariffs, and Trade, and for other purposes; to the Committee on Finance.

WORKER RIGHTS AND LABOR STANDARDS TRADE ACT OF 1994

• Mr. WOFFORD. Mr. President, today I'm introducing legislation to direct the administration to work to establish a standing committee in the World Trade Organization to examine the relationship between trade and internationally recognized worker rights.

Improvements in worker rights and labor standards internationally are fundamentally related to the success of free trade. Trade is not and should not be viewed as an end in itself. It should be conducted in a way that improves living standards of workers as well as benefit consumers and producers.

And as Secretary of Labor Bob Reich recently stated:

> If a country pursues policies that hold down living standards and limit to a narrow elite the benefits of trade and development, the promise of open commerce is perverted and drained of its rationale.

Former Secretary of Labor Bill Brock once described the relationship of trade and worker rights as follows:

> Those countries which are flooding world markets with goods made by children, or by workers who can't form free trade unions or bargain collectively, or who are denied even the most minimum standards of safety and health . . . are doing more harm to the principle of free and fair trade than any protectionist groups I can think of.

The concept of worker rights and trade being intertwined is long standing in U.S. policy. The earliest congressional attention to the issue came in 1890, when the McKinley Tariff prohibited imports manufactured by convict labor. During the last 10 years, the United States has applied a labor standard to several trade laws: in 1983, to the Caribbean Basin Initiative; in 1984, to the Generalized System of Preferences; in 1985, to the Anti-Apartheid sanctions against South Africa and to the operations of the Overseas Private Investment Corporation; in 1988, to the Omnibus Trade and Competitiveness Act; and most recently the North America Free Trade Agreement.

Addressing international labor standards and worker rights in the General Agreement on Trade and Tariffs is not new either. The commitment goes as far back as the Havana Charter in 1948, which stated "the members recognize that unfair labor conditions, particularly in production for export, create difficulties in international trade and accordingly, each member shall take whatever action may be feasible and appropriate within its territory." And the GATT allows countries to restrict imports made with prison labor.

The U.S. has pursued the issue of improving labor rights in the GATT. In the 1988 Trade Act, Congress enacted into law a provision that made worker rights a principle United States negotiating objective in the Uruguay round of trade negotiations, which were just completed and the results of which we now are reviewing. Specifically, it called upon U.S. negotiators to the GATT "to promote respect for worker rights; to secure a review of the relationship of worker rights to GATT articles, objectives, and related instruments with a view to ensuring that the benefits of the trading system are available to all workers; and to adopt, as a principle of the GATT, that denial of worker rights should not be a means for a country or its industries to gain competitive advantage in international trade." The Clinton administration had some success in achieving this goal. The legislation I am introducing today would direct them to keep going.

Mr. President, we've had the bipartisan tradition in the United States to pursue improved living standards and democratic values world-wide. This legislation comes out of that tradition. The goal of this legislation is not to impose a single, identical standard for all Nations. Rather, the goal of this legislation is to further the development of a global consensus for the need to safeguard workers and the tools to enforce that consensus.

We have a domestic imperative for pursuing this agenda. American workers cannot afford to tolerate a trading system that puts them in competition with workers who are denied basic rights. In too many circumstances, international trade is an excuse for depressing working standards and denying worker rights here at home or for shutting down plants and moving them abroad, such as that done by Leslie Fay in Northeast Pennsylvania.

We also have a responsibility to workers all around the world. The suffering some adults and children have to endure to make a living is unconscionable. With decent and appropriate labor standards, trade can truly help improve their living standards and promote more democratic economic development.

Mr. President, I ask unanimous consent that the full text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2268

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Worker Rights and Labor Standards Trade Act of 1994".

SEC. 2. ESTABLISHMENT OF WORKING GROUP ON WORKER RIGHTS.

(a) ACTION BY THE PRESIDENT.—The President shall seek the establishment as part of the GATT of a working group to examine the relationship for fundamental, internationally recognized worker rights to the articles, objectives, and related instruments of the GATT.

(b) OBJECTIVES OF WORKING GROUP.—The objectives of the working group described in subsection (a) are—

(1) to explore ways to link the conduct of international trade and respect for fundamental, internationally recognized worker rights;

(2) to examine the economic impact of trade distortions that are attributable to the systematic denial of fundamental, internationally recognized worker rights;

(3) to consider and develop information on the incidence and effects of systematic, trade-distorting worker rights practices and ways to address such practices; and

(4) to establish a procedure for preventing any country or industry from gaining a competitive advantage in international trade through the systematic denial of fundamental, internationally recognized worker rights.

(c) ESTABLISHMENT OF STANDING COMMITTEE ON WORKER RIGHTS WITHIN THE WORLD TRADE ORGANIZATION.—At such time as the World Trade Organization becomes effective, the President shall seek the establishment in the World Trade Organization of a standing committee on worker rights to which the functions and objectives of the working group described in section 3 shall be transferred.

Sec. 4. DEFINITIONS.

For purposes of this Act:

(1) The term "fundamental, internationally recognized worker rights" shall have the meaning as defined in section 502(a)(4) of the Trade Act of 1974.

(2) GATT.—The term "GATT" means the General Agreement on Tariffs and Trade.•

By Mr. INOUYE:

S. 2269. A bill to protect native American cultures and to guarantee the free exercise of religion by native Americans; to the Committee on Indian Affairs.

NATIVE AMERICAN CULTURAL PROTECTION AND FREE EXERCISE OF RELIGION ACT OF 1994

• Mr. INOUYE. Mr. President, I introduce legislation that is fundamental to the sovereignty of the Indian nations and which is in furtherance of the policy established in the "Joint Resolution American Indian Religious Freedom" enacted by Congress in 1978. For, Mr. President, what can be more fundamental to sovereignty than the freedom to practice one's culture, one's religion, and one's traditions?

This measure is intended to protect native American cultures, and guarantees the free exercise of religion by native Americans that President Clinton spoke so eloquently of when he addressed the tribal leaders at the White House on April 29, 1994. This legislation will not only affirm but will give validity and credibility to the first principle that President Clinton stated must guide relationships between the United States and Indian nations—that first principle is one of respect for Indian values, Indian religions, Indian identity, and Indian sovereignty.

As my esteemed colleagues may be aware, during President Clinton's remarks at that historic meeting with Indian tribal leaders, he acknowledged the unique government-to-government relationship the United States has enjoyed throughout our history with the Indian nations of this country. He pledged to fulfill the trust obligations of the Federal Government, and reaffirmed this Nation's commitment to self-determination for tribal governments. He vowed to honor and respect tribal sovereignty. And, he promised to continue his efforts to protect the rights of native Americans to practice their religions as they wished.

The President also stated that the first principle in every relationship between the United States and the Indian nations of this country must be to respect the right of Indian people to remain who they are and to live the way that they want to live. Even more importantly, he acknowledged his understanding that for many native Americans, traditional religious and ceremonies are the essence of native American culture and existence.

The President made it abundantly clear that no agenda for religious freedom will be complete until native American traditional religious practices have received the protection that they deserve. He also stated that legislation is needed to protect those native American religious practices that are threatened by Federal action. And, he acknowledged that a law which protects the rights of native Americans to fully exercise their religion in a manner they choose is long overdue.

Mr. President, the measure I am introducing today will provide that long overdue protection of which President Clinton spoke so passionately.

Mr. President, the meaning of "religion" for native Americans has a substantially different connotation than religions which are based on European concepts. This legislation recognizes the importance of traditional cultural practices and spiritual beliefs to native Americans, and embraces the concept that religion is deeply intertwined with the very fabric of native American cultural identity and ways of life. This legislation further recognizes that because native American traditional cultural practices are so intertwined with religious practices, and because the spiritual beliefs and traditional ceremonial practices of native Americans are such an integral part of life itself, culture and religion cannot be separated.

The legislation also takes into account the inherent differences that exist among native American traditional cultures and respects the diverse customs, ceremonies, and traditions of native American religious practices and spiritual beliefs. The bill addresses native American cultural and religious practices in four areas: sacred sites, prisoner's rights, the sacramental use of peyote, and the use of eagle feathers and other animals and plants within the context of traditional cultural practices.

First, the legislation provides protection of native American sacred sites and puts into place a mechanism for resolving disputes. Native Americans believe that certain locations are most sacred and believe that these sites should be protected. There are currently over 44 sacred sites that are threatened by tourism, development, and resource exploitation.

Second, the legislation extends protection to native Americans for the sacramental use of peyote. Currently, the religious use of peyote, which is central to the ceremonies of the native American church, is protected under the laws of 28 States. But in the remaining 22 States, the religious use of peyote is a crime punishable by law despite Drug Enforcement Agency exemptions for native American church members.

Third, the legislation protects the rights of native American prisoners to the same extent as prisoners of other religious faiths. Many native American prisoners are denied access to spiritual leaders, and denied the opportunity to practice their religions, despite the fact that other prisoners are consistently provided access to priests, ministers, rabbis, and other religious leaders. There are also prison requirements that conflict with native American cultural and religious customs.

Finally, the legislation facilitates native American access to and use of eagle feathers and plants for religious ceremonial purposes. While eagle feathers and parts of other sacred plants and animals are sometimes used in cultural and religious ceremonies, native Americans face criminal prosecution if they are in possession of eagle parts or feathers due to the Bald and Golden Eagle Protection Act. This legislation would permit the use of lawfully obtained eagle feathers.

The bill also provides clear, legally enforceable authority for the protection of native American cultures and the free exercise of religion by native Americans.

In addressing the many problems that face native American communities today, it is imperative that we should first address the issue of spirituality and cultural traditions—the very soul of most native American communities. It is essential for native American people across this country to be free to practice their cultural and religious ceremonies and to preserve their values and traditions for future generations.

As you may recall, on May 25, 1993, I introduced legislation that would provide for the protection of native American religious freedom. Prior to the introduction of that bill, the Committee on Indian Affairs held six field hearings in various regions of the country on the draft bill. Following introduction of the bill, two additional hearings were held here in Washington, DC. In addition to the hearings, the committee has worked steadily with the American Indian Religious Freedom Coalition and the administration to review and refine the bill. Throughout the past year, numerous meetings were held with members of the coalition and administration representatives to identify issues and areas of concern, and to discuss provisions and proposals relating to the bill. I am greatly encouraged by the progress of the past year. It is this progress and the results from the meetings with the administration and coalition that has guided my decision to introduce a new bill which is a reflection of the progress made over the past year.

Mr. President, it is clear that there must be a rebalancing of governmental interests to assure the protection of native American cultural and religious practices. The legislation I am introducing today would create this balance. The cultural and religious rights of native Americans have not been adequately protected or respected, and as the trustee of the native peoples of this land, I believe that it is incumbent upon the United States to correct this deficiency. I urge careful consideration and swift passage of this important measure in the 103d session of the Congress.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2269

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Native American Cultural Protection and Free Exercise of Religion Act of 1994".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Policy.
Sec. 3. Definitions.

TITLE I—PROTECTION OF NATIVE AMERICAN SACRED SITES

Sec. 101. Findings.
Sec. 102. Federal Lands Access.
Sec. 103. Land management decisions; planning, identification, and notice.
Sec. 104. Consultation.
Sec. 105. Administrative Proceeding.
Sec. 106. Tribal authority over Native American sacred sites on Indian lands.
Sec. 107. Application of other laws.
Sec. 108. Confidentiality.
Sec. 109. Criminal sanctions.

TITLE II—TRADITIONAL USE OF PEYOTE

Sec. 201. Findings.
Sec. 202. Traditional use of peyote.

TITLE III—PRISONERS' RIGHTS

Sec. 301. Rights.

TITLE IV—CULTURAL AND RELIGIOUS USE OF EAGLES AND OTHER ANIMALS AND PLANTS

Sec. 401. Cultural and Religious use of eagles.
Sec. 402. Other animals and plants.

TITLE V—JURISDICTION AND REMEDIES

Sec. 501. Jurisdiction and remedies

TITLE VI—MISCELLANEOUS

Sec. 601. Savings clause.
Sec. 602. Severability.
Sec. 603. Authorization of appropriations.
Sec. 604. Regulations.
Sec. 605. Protections.
Sec. 606. Effective Date.

SEC. 2. POLICY.

"It is the policy of the United States, in furtherance of the policy established in the joint resolution entitled "Joint Resolution American Indian Religious Freedom", approved August 11, 1978 (42 U.S.C. 1996), to protect and preserve the inherent right of any Native American to believe, express, exercise and practice his or her traditional culture and religion, including, but not limited to, access to any Native American sacred site, use and possession of sacred objects, and the freedom to worship through ceremonial and traditional rites."

SEC. 3. DEFINITIONS.

For the purposes of this Act—

"(1) The term "adverse impact" means any action or any potential action which has the effect or which will have the effect of—

"(a) altering, disturbing, desecrating or destroying a Native American sacred site;

"(b) inhibiting, infringing upon or interfering with Native American traditional cultural practices; or

"(c) imposing a burden upon the free exercise of a Native American religion.

"(2) The term "aggrieved party" means any Native American, Indian tribe, Native Hawaiian organization, Native American practitioner or Native American traditional leader as defined by this Act, and to whom the provisions of this Act apply.

"(3) The term "consultation" means, at a minimum, agency-initiated outreach activities which will result in a meaningful process for face-to-face deliberations and conferral with all Indian tribes, Native Hawaiian organizations and Native American traditional leaders that should be consulted and which is conducted in a realistic manner that is cognizant of the cultural values, socioeconomic factors and administrative structures, if any, of the Indian tribes or Native Hawaiian organizations with an interest in the land in question.

"(4) The term "covered federal activity" means—

"(a) any new or reauthorized project, program or activity, or any new phase of existing projects, programs and activities, under the direct or indirect jurisdiction of a federal agency including but not limited to—

"(1) those carried out by or on behalf of the agency, on federal or state lands, or involving navigable waters;

"(2) those activities on federal or state lands, or involving navigable waters, requiring a federal permit, license or approval;

"(3) those taking place on federal or state lands, or involving navigable waters, subject to state regulations pursuant to a delegation or approval by a federal agency;

"(4) those carried out with more than de minimis federal financial assistance;

"(5) renewals, reauthorizations, relicensing, and similar decisions;

"(6) regular and cyclical review of land management plans by agencies;

"(7) programs funded by federal highway funds;

"(8) activities subject to licensing by the Federal Energy Regulatory Commission, or the Nuclear Regulatory Commission;

"(9) the siting of hazardous, low-level nuclear or transuranic waste or toxic waste disposal, and disposal facilities, and the disposal of such materials; or

"(10) those activities that would not be covered federal activities by virtue of section 3(4)(b)(1), if an Indian tribe affirmatively elects to have the provisions of this Act apply to a particular covered federal activity on Indian lands which are subject to the tribe's jurisdiction;

"(b) The term "covered federal activity" does not include:

"(1) Regulations, projects, activities, or programs operated, approved, or sponsored by Indian tribes, including, but not limited to, those projects, activities, or programs which are funded in whole or in part by federal funds pursuant to contract, compact, grant or agreement, or which require federal permits, licenses or approvals, unless the Indian tribe invokes section 3(4)(a)(10);

"(2) ongoing and continuing activities underway prior to enactment of this Act, or activities for which a final commitment has been made prior to enactment of this Act and for which substantial funds have been spent or implementation is substantially underway;

"(3) routine activities that an agency determines through negotiations with Indian tribes or Native Hawaiian organizations to be unlikely to affect Native American sacred sites or traditional cultural practices, and maintenance activities involving structures or projects existing at the time of enactment of this Act or later constructed in compliance with this Act which do not change the size or scale or the existing use of those projects or structures;

"(4) activity on state land with de minimis federal funding and no other federal role;

"(5) any actions on private lands, other than those enumerated in subsection (a), even though those actions are subject to federal permit, license, or approval, or state regulation of private lands under a federal delegation of authority, or conducted with de minimis federal funding; or

"(6) direct federal loans and federal loan guarantees to private entities.

"(5) The term "federal agency" means any agency, department, or instrumentality of—

"(A) the United States; or

"(B) a State, in the case of a covered federal activity described in paragraph (4)(a)(3).

The term "governmental agency" does not include an agency, department, or instrumentality of an Indian tribe.

"(7) The term "Indian" means an individual who is a member of an Indian tribe; an Alaska Native, or an individual who meets the definition in section 809(b) of the Indian Health Care Improvement Act (25 U.S.C. 1679(b)), except that an Indian community need not be served by a local program of the Indian Health Service in order to qualify as an Indian community for purposes of this definition.

"(8) The term "Indian lands" means all lands within the limits of any Indian reservation notwithstanding the issuance of any patent; public domain Indian allotments; all other lands title to which is either held in trust by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation; all dependent Indian communities; and all fee lands owned by an Indian tribe.

"(9) The term "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. §1601 et seq.)), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(10) The term "land" or "lands" mean surface and subsurface land within the jurisdiction of the United States or the respective States, including submerged land of any kind of interest therein, and all water and waterways occupying, adjacent to, or running through the land.

"(11) With respect to the cultural protections provided under this Act, the term "Native American" means any Indian or Native Hawaiian.

"(12) With respect to the cultural protections provided under this Act, the term "Native American practitioner" means any Native American who practices a Native American religion as part of a Native American traditional culture.

"(13) With respect to the cultural protections provided under this Act, the term "Native American religion" means any traditional religion which is practiced by Native Americans, the origin and interpretation of which is deeply embedded or rooted in a Native American traditional culture.

"(14) With respect to the cultural protections provided under this Act, the term "Native American Sacred Site" means any geophysical or geographical area or feature which is sacred by virtue of its traditional cultural or religious significance or ceremonial use, or by virtue of a ceremonial or cultural requirement, including a religious requirement, that a natural substance or product for use in Native American traditional ceremonies be gathered from that particular location.

"(15) The term "Native American traditional culture" means the traditional practices, customs, belief systems, lifeways, ceremonies, and rituals, including religious practices and beliefs, that are integral to and unique aspects of Native American cultural traditions and heritage.

"(16) With respect to the cultural protections provided under this Act, the term Native American traditional leader" means any Native American practitioner who is recognized by an Indian tribe or traditional tribal community or Native Hawaiian community as being responsible for performing duties relating to the cultural traditions, including religious traditions of the tribe or traditional tribal community or Native Hawaiian community or as having a leadership role in an Indian tribe or traditional tribal community or Native Hawaiian community based upon its traditional cultural or ceremonial practices, including religious practices.

"(17) With respect to the cultural protections provided under this Act, the term "Native Hawaiian" means any individual who is a descendant of the aboriginal Polynesian people who, prior to 1778, occupied and exercised sovereignty and self-determination in the area that now comprises the State of Hawaii, and who is recognized as eligible for the special programs and services provided by the United States to Native Hawaiians because of their status as Native Hawaiian or Native Americans.

"(18) With respect to the cultural protections provided under this Act, the term "Native Hawaiian organization" means any organization which is composed primarily of Native Hawaiians, and serves and represents the traditional cultural interests of Native Hawaiians and whose members—

(A) practice a Native American culture, including a Native American religion, or conduct traditional ceremonial rituals, or

(B) utilize, preserve and protect Native American sacred sites.

"(19) The term "public land" means any land as defined in section 3(10) of this Act which is owned by the United States, or the respective States, or political subdivisions thereof, but shall not include Indian lands as defined in section 3(8).

"(20) The term "State" means any State of the United States and any and all political subdivisions thereof, and the District of Columbia.

TITLE I—PROTECTION OF NATIVE AMERICAN SACRED SITES

SEC. 101. FINDINGS.

"The Congress finds that—

"(1) the traditional cultural practices, including religious practices, of Native Americans are integral and inseparable parts of their cultures, traditions and heritages which greatly enhance the vitality of Native American communities and tribes and the well-being of Native Americans in general;

"(2) the European concept that religion is an activity or belief that is separate from all other aspects of daily life, or that religion is separable from culture, is a concept that has no application in the traditional cultures of Native Americans;

"(3) throughout American history, the manifestation of Native American traditional cultures, including the free exercise of Native American religions, has been infringed upon, interfered with, and even prohibited by the Federal Government and the devastating impact of these governmental actions continues to the present day;

"(4) the United States has a unique, government-to-government relationship with Indian tribes and a special historic trust relationship which permits the United States to take measures to protect against interference with the continuing cultural cohesiveness and integrity of Indian tribes and Native American traditional cultures;

"(5) as part of the historic federal-Indian trust relationship it is the intent of the United States to pursue enforceable Federal policies which will protect the Native American community and tribal vitality and cultural integrity, and which will not inhibit, interfere with or infringe upon Native American traditional cultural practices or impose a burden on the free exercise of Native American religions;

"(6) many Native American traditional cultures, including Native American religions, hold certain lands or natural formations in the United States to be sacred, and in order for those sites to be in a condition appropriate for cultural use, including religious or ceremonial use, the physical environment, water, plants and animals associated with those sites must be protected;

"(7) such Native American sacred sites are an integral and vital part of, and inextricably intertwined with, many Native American traditional cultures, including Native American religions, and the practices associated with such traditional cultures;

"(8) the traditional use and gathering, harvesting, or maintaining of natural substances or natural products for cultural purposes, including religious and ceremonial purposes, are an integral and vital part of, and are inextricably intertwined with, many Native American traditional cultures, including Native American religions;

"(9) many of these Native American sacred sites are found on lands which were part of the aboriginal territory of Indians or Native Hawaiians, but which now are held by the United States, or are the subject of federal activities;

"(10) governmental land use decisions have the potential to have an adverse impact on Native American traditional cultural practices, including Native American religions;

"(11) many Native American traditional cultural practices, including religious and ceremonial practices, require a measure of privacy and isolation; and certain traditional cultural ceremonies and activities cannot be performed if non-participants can observe the practices or ceremonies or activities, even from a distance, and in some situations the lack of privacy or isolation inhibits, infringes upon, interferes with, or precludes certain Native American traditional cultural practices, including traditional religious practices;

"(12) some Indian tribes, such as the Pueblos of New Mexico, as well as some aspects of Native Hawaiian culture, have traditional cultural and religious tenets which prohibit disclosure of information concerning their sacred sites and their traditional beliefs and practices, mandate secrecy and impose internal sanctions to enforce those prohibitions, making it impossible for them to identify the manner in which any particular governmental activity would have an adverse impact on their traditional cultures or impose a burden on the free exercise of their religions;

"(13) lack of sensitivity to, or understanding of, Native American traditional cultures, including Native American religions has resulted in the absence of a coherent policy for the protection of Native American sacred sites and the failure to consider the impacts of federal activities upon Native American sacred sites;

"(14) the Supreme Court of the United States, in the case of Lyng v. Northwest Indian Cemetery Protective Association, 485 U.S. 439 (1988) ruled that the free exercise clause of the First Amendment does not restrict the Government's management of its lands, even if certain governmental actions would infringe upon or destroy the ability to practice religion, so long as the Government's action does not compel individuals to act in a manner which is contrary to their religious beliefs;

"(15) the Supreme Court's holding in the case of Lyng v. Northwest Indian Cemetery Protective Association creates a chilling and discriminatory effect on Native American traditional cultures and on the free exercise of Native American religions;

"(16) the Congress has enacted numerous laws which regulate and restrict the discretion of federal agencies for the sake of environmental, historical, economic, and cultural concerns, but has never enacted a judicially-enforceable law comparably restricting agency discretion for the sake of the site-protective requirements specifically associated with the protection of Native American traditional cultural practices, including the free exercise of Native American religions;

"(17) the lack of a judicially-enforceable federal law and of a coherent federal policy to accommodate the uniqueness of Native American traditional cultures, including Native American religions, results in unique and adverse impacts on Native American traditional cultures, burdens the free exercise of Native American religions, and impairs the vitality of Indian tribes, traditional tribal communities, and Native Hawaiian communities; and

"(18) the Congress has the authority to enact laws to assure the protection and preservation of Native American traditional cultures, including the free exercise of Native American religions, based upon the special trust relationship, and pursuant to section 8, Article I of the United States Constitution and the First, Fifth, and Fourteenth Amendments to the United States Constitution.

"SEC. 102. ACCESS TO FEDERAL LANDS.

"(a) IN GENERAL.—Native American practitioners shall be permitted access to federal lands at all times for Native American traditional cultural, ceremonial or religious purposes, including access to gather, harvest, or maintain natural substances or natural products for Native American traditional cultural purposes.

"(b) Federal agencies may take reasonable and narrowly tailored measures to assure that access and use of lands under this Act do not—

"(1) have a direct, significant and negative impact upon specific national security interests or the implementation of the Endangered Species Act; or

"(2) present an immediate threat of serious bodily harm to any person or immediate and serious harm to the environment.

Where other feasible means are available for avoiding adverse impacts on Native American sacred sites, Native American traditional cultural practices, and the free exercise of Native American religions, those means shall be utilized before access is restricted.

"(c) Terms of access may be included in a memorandum of agreement pursuant to section 104(a)(3)(B).

"(d) LIMITATIONS AGAINST VEHICLES.—Paragraph (a) does not authorize the use of motorized vehicles or other forms of mechanized transport in roadless areas where such use is prohibited by law.

"(e) TEMPORARY PROTECTIVE MEASURES.—Upon the request of an Indian tribe, a Native Hawaiian organization or a Native American traditional leader, the Secretary of the department whose land is involved, or a local land manager where such authority has been delegated, may from time to time temporarily close to the general public use of one or more specific portions of Federal land and may take such other reasonable and temporary measures as necessary in order to protect the privacy of traditional cultural, ceremonial or religious activities in such areas by Native Americans. Any such measures shall be taken so as to affect the smallest practicable area for the minimum period necessary for such purposes.

"SEC. 103. FEDERAL LAND MANAGEMENT, IDENTIFICATION OF LANDS, PLANNING AND NOTICE

"(a) IN GENERAL.—Each Federal agency shall manage any lands under its jurisdiction in a manner that complies with the provisions of this Act.

"(b) IDENTIFICATION OF LANDS BY SECRETARY.—

"(1) IN GENERAL.—(A) For the purpose of assuring that a governmental agency properly determines whether a proposed covered federal activity will have an adverse impact on a Native American sacred site and which affected parties should be provided notice of a proposed activity, the head of each land managing agency, in conjunction with the Secretary of the Interior and tribal governments and Native Hawaiian organizations, shall identify land areas with which a tribe or Native Hawaiians have aboriginal, historic, cultural or religious ties.

"(B) For purposes of this section, within 90 days following the date of enactment of this Act, Native Hawaiian organizations shall notify the Secretary of their desire to receive notice of proposed covered federal activities.

"(2) As part of its obligations pursuant to this section, within 90 days following the date of enactment of this Act, the Secretary of the Interior shall contact all Indian tribes, and Native Hawaiian organizations to request a broad geographic description of the lands as to which each Indian tribe or Native Hawaiian organization desires notice of covered Federal activity and, upon receipt of responses from Indian tribes and Native Hawaiian organizations, shall provide such land descriptions to all federal agencies.

"(3) Within 18 months following the date of enactment of this Act, the Secretary shall establish a list of all Indian tribes and Native Hawaiian organizations who have responded and the lands they have identified. Such lists shall not be published but shall be made available to agencies for the purpose of identifying Indian tribes and Native Hawaiian organizations and areas for which notice of covered federal activities shall be provided.

"(4) While the list is being developed, each federal land managing agency shall also research its own sources, including agency contacts with Indian tribes, Native Hawaiian organizations, or Native American traditional leaders and written sources, to collect information as to Native American traditional cultures and religions potentially affected by activities on land which it manages and shall make a good faith effort to identify and notify Indian tribes, Native Hawaiian organizations, and Native American traditional leaders who have an interest in proposed covered federal activities.

"(5) ONGOING IDENTIFICATION.—Nothing in this section shall preclude an agency or a tribal government or a Native Hawaiian organization from continuing to conduct an ongoing identification process, which may supplement the process required by this subsection.

"(c) PLANNING PROCESS.—Each federal agency managing lands under its jurisdiction including, but not limited to, activities pursuant to the National Forest Management Act (16 U.S.C. 1600 et seq.), and the Federal Land Policy and Management Act (43 U.S.C. 1701 et seq.), shall as part of its planning process—

"(1) consult, during the earliest possible part of the planning process, with Indian tribes, Native Hawaiian organizations and Native American traditional leaders who have notified the agency of their interest in the land in question pursuant to subsection (b);

"(2) in addition to the notices required in regard to covered federal activity required by subsection (d), provide for notice of all covered federal activity with the potential to have an adverse impact on land areas specified by an Indian tribe or Native Hawaiian organization, in writing, as land areas that are of direct interest to the Indian tribe or Native Hawaiians, whether or not the agency believes that such activity will or may have an adverse impact on a Native American sacred site;

"(3) ensure that its land management plans are consistent with the provisions and policies of this Act; and

"(4) maintain the confidentiality of specific details of a Native American traditional culture or religion or the significance of a Native American sacred site to that culture or religion in accordance with the procedures specified in sections 107 and 108 of this Act.

"(d) NOTICE AND DOCUMENTATION—DUTY OF AGENCIES.

"(1) NOTICE TO TRIBES OR NATIVE HAWAIIAN ORGANIZATIONS.—Before a governmental agency proceeds on lands identified pursuant to subsection (b) with any covered federal activity that may have an adverse impact on a Native American sacred site, the governmental agency shall consult with potentially-affected Indian tribes, Native Hawaiian organizations and Native American traditional leaders, and after the consultation has occurred and the agency has taken into account the information obtained through that process, formally provide a written notice containing a geographical description of the lands affected by the activity (including information on metes and bounds of the lands in question, where available), a map illustrating the lands affected and a description of the proposed action to each Indian tribe, Native Hawaiian organization, or Native American traditional leader which has been identified pursuant to this section as having an interest in the land affected by the proposed covered federal activity and any other Indian tribe, Native Hawaiian organization or Native American traditional leader known by the agency that may have an interest in the land affected by the proposed covered federal activity.

"(2) The governmental agency shall fully document the efforts made to provide the information to Indian tribes, Native Hawaiian organizations, and Native American traditional leaders as required by this section or any applicable regulations, guidelines, or policies.

"(e) RESPONSE TO NOTICE.—

"(1) IN GENERAL.—Within 90 days of receiving the notice provided under subsection (d), or within the time limit of any comment period permitted or required by any federal law applicable to the covered federal activity, whichever is later, an Indian tribe, Native Hawaiian organization, or Native American traditional leader invoking the protection of this title may provide notice in writing to the government agency that the proposed covered federal activity may have an adverse impact on a Native American sacred site.

"(2) MODIFICATION OF TIME.—Such time period may be extended by the agency at its discretion, including at the request of a noticed party, or may be extended or shortened by an agreement negotiated pursuant to section 104(a)(3)(B).

"(3) NO DUTY TO RESPOND.—Paragraph (1) does not impose a duty upon any Indian tribe, Native Hawaiian organization, or Native American traditional leader to respond to any notice under this section.

"(4) ADDITIONAL INFORMATION.—The Indian tribe or Native Hawaiian organization or its designee acting pursuant to paragraph (1) may also provide the agency with information as to any Native American traditional leaders or practitioners who should be included in the notice and consultation requirements of this section and section 104.

"(f) RESPONSE PERIOD AND LIMITATION ON ACTIVITY FOLLOWING NOTICE.—

"(1) In order to allow a full investigation of a proposed covered federal activity no action to approve, commence, or complete an activity that is subject to this section shall be taken by a governmental agency for a period of 90 days following the date on which notice is provided under subsection (d) to Indian tribes, Native Hawaiian organizations or Native American traditional leaders unless or until—

"(A) the period of consultation required under section 104 has been completed;

"(B) a sacred sites protection agreement pursuant to section 104(a)(3)(B) has been entered into by the affected Indian tribe or tribes or Native Hawaiian organization and the governmental agency; or

"(C) all parties entitled to such notice consent to a shorter time period.

"(2) During the notice and consultation periods under section 103 and section 104, the governmental agencies responsible for the covered federal activity may continue to engage in planning, studies, or other preparatory matters provided that such activities do not constitute a commitment to proceed with the proposed activity or project.

"(3) During the 90 day period following formal notice to Indian tribes, Native Hawaiian organizations and Native American traditional leaders, the governmental agency shall have the continuing duty to seek to consult with Indian tribes, Native Hawaiian organizations and Native American traditional leaders potentially affected by the proposed covered federal activity.

"SEC. 104. CONSULTATION.

"(a) IN GENERAL.—

"(1) EFFECT OF NOTICE.—In order to allow a full investigation of the consequences of a proposed covered federal activity, if an Indian tribe, Native Hawaiian organization or Native American traditional leader responds in writing within 90 days of receiving notice as provided in section 103(e), or within the time limit of any comment period permitted or required by any federal law which is applicable to the covered federal activity, whichever is later, the governmental agency shall immediately discontinue such activity until the agency performs the duties described in paragraphs (3) and (4).

"(2) AFTER ACTION DISCOVERY.—If after a covered federal activity is underway—

"(A) the governmental agency becomes aware that the activity may have an adverse impact on a Native American sacred site, the agency engaged in the activity shall immediately discontinue such activity until the agency performs the duties set forth in paragraphs (3) and (4); or

"(B) an Indian tribe or Native Hawaiian organization that did not receive notice and did not know of the covered federal activity, becomes aware that the activity may have an adverse impact on a Native American sacred site and notifies the governmental agency, the agency engaged in the activity shall immediately discontinue such activity until the agency performs the duties set forth in paragraphs (3) and (4).

"(3)(A) CONSULTATION.—The governmental agency shall consult with any interested party with a direct interest in the Native American traditional culture or religion in question concerning the nature of the adverse impact, and consult about alternatives which can be identified that would minimize or prevent the adverse impact, including any alternatives identified by an Indian tribe, Native Hawaiian organization or Native American traditional leader that has filed a written objection under this subsection.

"(B) NEGOTIATED AGREEMENTS.—(i) Upon the request of an Indian tribe or tribes or Native Hawaiian organization, each federal agency or agencies involved in covered federal activities shall enter into negotiations to identify appropriate land management procedures for addressing that tribe's or that Native Hawaiian organization's interest in the protection and preservation of its sacred sites and to avoid any adverse impact on such sites as may be located on public lands within the jurisdiction of such agencies. Consistent with the public mission of such agencies and the responsibility of the United States to support Indian tribes and tribal members and Native Hawaiians in the preservation of their sacred sites, each federal agency is authorized to enter into sacred sites protection agreements with Indian tribes or Native Hawaiian organizations for the purpose of memorializing the land management procedures that result from consultations and negotiations. Such agreements may supersede the planning provisions of section 103(c), the notice provisions of section 103(d), the consultation provisions of section 103(d)(1) and section 104, and the access provisions of section 102 of this Act as they relate to Indian tribes or Native Hawaiian organizations that are parties to such an agreement if the agreement specifically and explicitly includes a provision overriding those sections of the Act, or any parts thereof. The agreements may also include provision for the delegation by federal agency officials of land management responsibilities to the Indian tribe(s) or Native Hawaiian organization(s) for designated public lands described in the agreement.

"(ii) In the case of Indian tribes, where such a delegation of management functions is included in such agreements, the federal agency and the tribe may also agree to use the procedures and regulations employed under the Indian Self-Determination Act, Public Law 93-638. The agreement may also address the application of all or part of title I of this Act to Indian lands within the tribe's jurisdiction.

"(4) *Response to Comments*.—If there is no resolution of the claims asserted by an aggrieved party pursuant to subsection (3), the governmental agency shall prepare and make available to an Indian tribe, a Native Hawaiian organization or a Native American traditional leader who has been involved in the consultation process, a document responding to the comments received. The document shall—

(i) set forth the adverse impact which has been asserted by the aggrieved party,

(ii) assess whether the interest of the government in proceeding with the action is compelling; and

(iii) assess whether, based on an analysis of the alternatives to the proposed action, including any alternatives offered by an Indian tribe, Native Hawaiian organization or Native American traditional leader that the proposed activity is the least restrictive means of furthering that compelling interest.

Where an agency determines to commence a covered federal activity, notwithstanding notice from an aggrieved party pursuant to section 104(a), it shall issue a written opinion providing the basis for its decision. The issuance of this decision shall constitute final agency action for purposes of judicial review pursuant to section 501, unless the agency establishes additional administrative review procedures under section 105.

"(5) ADDITIONAL INFORMATION.—In any case where the governmental agency is also required to prepare a document analyzing the impact of a covered federal activity or a decision pursuant to the National Environmental Policy Act (43 U.S.C. 4321 et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.) or any other applicable law, such agency may incorporate the analysis required by this section into the contents of the document.

"(b) CASES WHERE SECRECY IS REQUIRED.—

"(1) IN GENERAL.—In the case of those Indian tribes or Native Hawaiians whose traditional cultural or religious tenets prohibit disclosure of information concerning their Native American sacred sites or cultural or religious beliefs or practices, and mandate secrecy and internal sanctions to enforce those prohibitions, and where the tribal government of the affected Indian tribe or a Native Hawaiian organization so certifies and invokes this subsection—

"(A) the tribal government or Native Hawaiian organization shall not be required to reveal the location of the Native American sacred site or in what manner the covered federal activity would have an adverse impact on the site or any information concerning their cultural or religious beliefs or practices;

"(B) the tribal government or Native Hawaiian organization shall not be required to explain in what manner any proposed alternative is or is not less intrusive upon the Native American cultural or religious practice or sacred sites which may be adversely impacted than the original proposed covered federal activity; and

"(C) in engaging in consultation and preparing any document required by this Act, the governmental agency shall not be required to include an analysis of adverse impacts upon the sacred site or the use thereof or the Indian tribe's or Native Hawaiian organization's cultural or religious beliefs and practices.

"(2) AFTER CONSULTATION.—If after consultation—

"(A) the governmental agency agrees to pursue a less intrusive alternative proposed by the Indian tribe or Native Hawaiian organization or some other alternative to which the Indian tribe or Native Hawaiian organization agrees; or

"(B) if no reasonable alternative acceptable to the tribe or Native Hawaiian organization is identified, the governmental agency shall be deemed to have met its obligation under sections 104 and 105 to consider and pursue the least intrusive alternative under this Act in regard to the objection raised to the covered federal activity by the Indian tribe or Native Hawaiian organization invoking this subsection.

"(C) RESPONSE TO COMMENTS.—If there is no resolution of the claims asserted by a tribe or Native Hawaiian organization pursuant to this subsection, the governmental agency shall prepare and make available to the tribe or Native Hawaiian organization a document responding to the comments received. The document shall—

(i) set forth the adverse impact which is asserted by the Indian tribe or Native Hawaiian organization;

(ii) assess whether the interest of the government in proceeding with the activity is compelling;

(iii) assess whether based on an analysis of the alternatives the activity is a reasonable means of furthering that compelling interest; and

(iv) assess whether the alternatives identified in 104(b)(2) are reasonable.

Where an agency determines to commence a covered federal activity, notwithstanding notice from an aggrieved party pursuant to 104(a) and (b) it shall issue a written opinion providing the basis for its decision. The issuance of this decision shall constitute final agency action for purposes of judicial review pursuant to section 501, unless the agency establishes additional administrative review procedures under section 105.

"(c) RULE OF CONSTRUCTION.—Where the provisions of subsection (b) have been invoked, those requirements shall control in all circumstances and shall supersede any conflicting provisions in this Act or any other provision of law.

"(d) DISCLOSURE REQUIRED.—Within 30 days of receipt of any written objection under subsection (a) or (b), the governmental agency proposing the covered federal activity which gave rise to that notice shall make available to the aggrieved party, all plats, maps, plans, specifications, socioeconomic, environmental, scientific, archaeological or historical studies, and comments and information in that agency's possession directly relating to said activity. The agency may withhold—

(i) attorney work product prepared in anticipation of litigation; and

(ii) information the release of which would jeopardize the litigating position of the United States on behalf of another tribe.

"(e) SPECIAL RULE FOR PUEBLOS.—In the case of a proposed covered federal activity affecting the management, use, or preservation of public land, or any other activity or violation under this Act involving potential adverse impacts on any of the Indian pueblos of New Mexico or any of their sacred sites, the only party who may file an objection or participate in consultation under this section, or file an action under section 105 or 501, shall be the governor of the affected pueblo or the governor's designee.

"(f) EMERGENCY PROVISION.—The process required by sections 103 and 104 shall not apply if the governmental agency determines that adherence to the process will—

"(1) have a direct, significant and negative impact upon specific national security interests or the implementation of the Endangered Species Act; or

"(2) present an immediate threat of serious bodily harm to any person or immediate and serious harm to the environment.

"SEC. 105. ADMINISTRATIVE PROCEDURES.

"(a) IN GENERAL.—A governmental agency, shall, by regulation, establish an administrative procedure to implement the requirements of this title.

"(b) EXHAUSTION REQUIREMENT.—An aggrieved party must use a procedure established under paragraph (a) before filing an action in a federal district court pursuant to section 501 of this Act.

"(c) BURDEN ON AGENCY.—

"(1) In the case of any administrative proceeding in which an aggrieved Indian tribe or Native Hawaiian organization objects to the covered federal activity or an action by a state on the grounds that it is or will have an adverse impact on a Native American sacred site, the governmental agency shall have the burden of proving by a preponderance of the evidence that a covered federal activity does not or will not have an adverse impact on a Native American sacred site.

"(2) The governmental agency's determination that a covered federal activity does not pose or will not have an adverse impact on a Native American sacred site, shall constitute a final agency action for purposes of judicial review under section 501 of this Act.

"(3)(A) If a governmental agency determines that a covered federal activity does pose or will have an adverse impact on a Native American sacred site, the governmental agency shall have the burden of proving by a preponderance of the evidence that the covered federal activity—

(i) is in furtherance of a compelling governmental interest;

(ii) is a reasonable means of furthering that compelling governmental interest; and

(iii) in circumstances set forth in section 104(b)(1), the alternatives identified under section 104(b)(2) are not reasonable.

"(B) The agency determination under this paragraph shall constitute final agency action for purposes of judicial review under section 501 of this Act.

"(d) FAILURE OF AGENCY TO MEET BURDEN.—

"(1) The governmental agency shall retain its burden of proof at all stages of any proceeding or decision-making process pursuant to this Title.

"(2) If a governmental agency does not meet its burden of proof under this section, it shall not proceed with the proposed covered federal activity.

"(3) For purposes of this section the phrase 'burden of proof' means the burden of production and the burden of persuasion.

"(e) FOR PURPOSES OF THIS SECTION.—

"(1) a finding of an adverse impact does not require that an aggrieved party be coerced to act contrary to religious beliefs or traditional cultural practices, and may include consideration of disturbing the integrity of a sacred site;

"(2) land management activities, undertakings and actions which have the potential to have an adverse impact on a Native American sacred site, or which make a Native American traditional cultural practice or exercise of a Native American religion more difficult shall be deemed to constitute an adverse impact; and

"(3) government ownership of land, by itself, does not establish a compelling government interest.

"(f) SPECIAL RULE FOR NATIVE AMERICAN PRACTITIONERS.—For purposes of any administrative proceeding conducted under this section, Native American practitioners may elect to provide testimony about their beliefs in camera or in some other protective procedure.

"SEC. 106. NATIVE AMERICAN SACRED SITES ON INDIAN LANDS.

"(a) JURISDICTION OF TRIBES.—Indian tribes may regulate and protect Native American sacred sites located on Indian lands within their jurisdiction. Nothing in this Act shall be construed to alter, increase or decrease the existence or scope of tribal jurisdiction or the application of tribal law regarding protection of or access to Native American sacred sites on Indian lands. Nothing in this Act shall be construed to grant authority to one Indian tribe to regulate Native American sacred sites which are within the jurisdiction of another Indian tribe.

"(b) TRIBAL OPTION.—None of the provisions of title I of this Act shall apply on Indian lands unless the tribe with jurisdiction over those lands affirmatively elects to have those provisions apply to all or any part of the lands affected or potentially affected. Where an Indian tribe elects to have the provisions of title I apply to all or any part of its lands, the Indian tribe shall notify the Secretary of the Interior regarding the lands to be subject to the provisions of title I and the Secretary shall publish the information in the Federal Register.

"(c) DUTY TO NOTIFY.—This section does not relieve a governmental agency of any duty pursuant to section 103 to notify an Indian tribe of a covered federal activity on Indian lands which may result in changes in the character or use of a Native American sacred site.

"(d) NATIONAL SECURITY.—The provisions of this section shall not apply if the President determines that national security concerns are directly affected by a covered federal activity.

"(e) DISPUTES BETWEEN TWO OR MORE TRIBES.—(1) When a governmental agency proposes a covered federal activity on Indian lands of one Indian tribe which may result in changes in the character or use of a Native American sacred site of another Indian tribe, and the Indian tribe whose sacred site is affected and the Indian tribe on whose land the site is located agree and so request, the Secretary of the Interior shall convene a committee of tribal representatives for the purpose of entering into negotiations concerning the nature of any adverse impact on the character or use of a Native American sacred site and alternatives that would minimize or prevent such an adverse impact.

"(2) The committee shall consist of tribal representatives of the affected Indian tribe or tribes and tribal representatives of the Indian tribe upon whose lands the sacred site is located, and committee members shall be selected by the respective Indian tribes.

"(3) The committee shall be convened for the duration of the consultation and negotiation period and shall meet at the call of the Secretary upon the request of the affected Indian tribe or tribes and the Indian tribe upon whose lands the sacred site is located.

"SEC. 107. APPLICATION OF OTHER LAWS.

"(a) IN GENERAL.—Nothing in this title shall be construed to deprive any person or entity of any other rights which might be provided under the laws, regulations, guidelines, or policies of the Federal, State, and tribal governments, including but not limited to the National Historic Preservation Act (16 U.S.C. 470 et seq.), to receive notice of, comment upon, or otherwise participate in the decision-making process regarding a covered federal activity.

"(b) EXISTING PROCEDURES.—To the maximum extent possible, the procedures required by this Act shall be incorporated into existing procedures applicable to the management of federal lands and decision making processes of federal agencies engaged in covered federal activities.

"SEC. 108. CONFIDENTIALITY.

"(a) IN GENERAL.—Notwithstanding any other provision of law, whenever information has been obtained as a result of or in connection with a proceeding pursuant to sections 105 or 501 or consultation pursuant to sections 103 and 104, all references pertaining to specific details of a Native American traditional cultural practice or religion, or the significance of a Native American sacred site, or the location of that sacred site, shall not be released by a governmental agency or court to any party or the general public pursuant to the Freedom of Information Act (5 U.S.C. 552) or any other applicable law.

"(b) SUPPLEMENTATION OF RECORD.—The governmental agency or court shall supplement the record described in subsection (a) to include the general results and conclusions of the administrative proceeding pursuant to section 105 or judicial review process pursuant to section 501 to the extent necessary to provide other interested parties with sufficient information to understand the nature of, and basis for, a decision by the governmental agency or court.

"(c) EXCEPTION.—This section shall not apply where all parties to a proceeding (excluding the United States government) waive its application, and in the case of a Native Hawaiian sacred site, where the information is sought by a Native Hawaiian organization for the purpose of protecting such site.

"(d) OTHER LAW.—Indian tribes or Native Hawaiian organizations seeking to maintain the confidentiality of information relating to Native American sacred sites may also seek redress through existing laws requiring that certain information be withheld from the public, including, but not limited to the National Historic Preservation Act (16 U.S.C. 470w-3) and the Archaeological Resources Protection Act (16 U.S.C. 470hh).

"SEC. 109. CRIMINAL SANCTIONS.

"(a) DAMAGING SACRED SITES.—

"(1) INITIAL VIOLATION.—Any person who intentionally damages, defaces, desecrates or destroys a Native American sacred site located on land as defined in section 3(10) of this Act with knowledge that it is a sacred site, except as part of an approved covered federal activity authorized by a governmental agency with the authority to approve such activity, shall, upon conviction, be fined not more than $10,000, or imprisoned not more than 1 year, or both.

"(2) SUBSEQUENT VIOLATIONS.—In the case of a second or subsequent violation, a person shall be fined not more than $100,000, or imprisoned not more than 5 years, or both.

"(b) RELEASE OF INFORMATION.—

"(1) INITIAL VIOLATION.—Any person who intentionally releases any information knowing that it is required to be held confidential pursuant to this title shall, upon conviction, be fined not more than $10,000, or imprisoned not more than 1 year, or both.

"(2) SUBSEQUENT VIOLATIONS.—In the case of a second or subsequent violation, be fined not more than $100,000, or imprisoned not more than 5 years, or both.

TITLE II—TRADITIONAL USE OF PEYOTE

"SEC. 201. FINDINGS.

"The Congress finds that—

"(1) some Indian people, such as members of the Native American Church, have used the peyote cactus in religious ceremonies for sacramental and healing purposes for many generations, and such uses have been significant in perpetuating Indian tribes and cultures by promoting and strengthening the unique cultural cohesiveness of Indian tribes;

"(2) since 1965, this religious ceremonial use of peyote by Indians in bona fide religious ceremonies of the Native American Church has been protected by Federal regulation, which exempts such use from Federal laws governing controlled substances, and the Drug Enforcement Administration has manifested its continuing support of this Federal regulatory system;

"(3) the State of Texas encompasses virtually the sole area in the United States in which peyote grows, and for many years has administered an effective regulatory system which limits the distribution of peyote to Indians for ceremonial purposes;

"(4) while 28 States have enacted laws which protect the ceremonial use of peyote by Indians, 22 others have not; as a result of the diverse state laws, Indians from different tribes located in different states, as well as from different tribes within the same state, are treated differently regarding the religious use of peyote. Legislation is therefore needed to assure comprehensive, equal and uniform protection of the religious use of peyote by Indians throughout the United States, without regard to state or reservation of residence, or tribal affiliation;

"(5) the traditional ceremonial use by Indians of the peyote cactus is integral to a way of life, and the use of peyote plays a significant role in combating the scourge of alcohol and drug abuse among some Indian people;

"(6) the United States has a unique, government-to-government relationship with Indian tribes and a special historic federal-Indian trust relationship, which permits the United States to take measures to protect against interference with the continuing cultural cohesiveness and integrity of Indian tribes and cultures; and as part of this relationship it is the intent of the Federal government to pursue enforceable Federal policies which will protect Indian community and tribal vitality and cultural integrity, and which will not inhibit or interfere with the free exercise of Native American religions;

"(7) general prohibitions against the abusive use of peyote, without an exception for the bona fide religious use of peyote by Indians, lead to discrimination against Indians by reason of their religious beliefs and practices;

"(8) the Supreme Court of the United States, in the case of *Employment Division* v. *Smith*, 494 U.S. 872 (1990), held that the First Amendment does not protect Indian practitioners who use peyote in Indian religious ceremonies, and raised uncertainty as to whether this religious practice would be protected under the compelling State interest standard; and

"(9) the lack of adequate and clear legal protection for the religious use of peyote by Indians may serve to stigmatize and marginalize Indian tribes and cultures and increase the risk that they will be exposed to discriminatory treatment.

"SEC. 202. TRADITIONAL USE OF PEYOTE.

"(a) IN GENERAL.—Notwithstanding any other provision of law, the use, possession, or transportation of peyote by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a Native American religion is lawful and shall not be prohibited by the Federal Government or any State. No Indian shall be penalized or discriminated against on the basis of such use, possession or transportation, including, but not limited to, denial of otherwise applicable benefits under public assistance programs.

"(b) REGULATION AUTHORIZED.—This section does not prohibit—

"(1) such reasonable regulation and registration by the Drug Enforcement Administration of those persons who import, cultivate, harvest or distribute peyote, as may be consistent with the purpose of this title;

"(2) military commanders restricting the use or ingestion of peyote by active duty personnel within a reasonable period, but not to exceed 48 hours, prior to the performance of official duties in circumstances where safety or military readiness may be adversely affected by such use or ingestion;

"(3) regulations by the Secretary of Transportation restricting the use or ingestion of peyote by transportation workers in safety sensitive positions, as defined by the Secretary within a reasonable period, but not to exceed 48 hours, prior to the performance of official duties, in circumstances where public safety may be adversely affected by such use or ingestion; or

"(4) regulations by law enforcement administrators restricting the use or ingestion of peyote by sworn law enforcement personnel within a reasonable period, but not to exceed 48 hours, prior to the performance of official duties in circumstances where public safety may be adversely affected by such use or ingestion.

"(c) TEXAS LAW.—This section does not prohibit application of the provisions of section 481.111(a) of Vernon's Texas Health and Safety Code Annotated, in effect on the date of enactment of this Act, insofar as those provisions pertain to the cultivation, harvest or distribution of peyote.

"(d) This section shall not be construed as requiring prison authorities to permit, nor shall it be construed to prohibit prison authorities from permitting access to peyote by Indians while incarcerated within federal or state prison facilities.

"(e) For purposes of this title, the term "Indian" means a member of an Indian tribe as defined in section 3(9).

"TITLE III—PRISONERS' RIGHTS

"SEC. 301. RIGHTS.

"(a) IN GENERAL.—

"(1) ACCESS.—Notwithstanding any other provision of law, Native American prisoners who practice a Native American culture or religion shall have, on a regular basis comparable to that access afforded prisoners who practice Judeo-Christian religions or any other religions, access to—

"(A) Native American traditional leaders who shall be afforded the same status, rights and privileges as religious leaders of Judeo-Christian religions or any other religions;

"(B) subject to paragraph (6), items and materials utilized in cultural or religious ceremonies; and

"(C) Native American cultural or religious facilities.

"(2) MATERIALS.—Prison authorities shall treat items and materials utilized in cultural or religious ceremonies, including traditional foods for cultural or religious diets, identified by a Native American traditional leader, in the same manner as the religious items and materials utilized in ceremonies of the Judeo-Christian religions or any other religions.

"(3) HAIR.—

"(A) RIGHT OF PRISONER.—Except in those circumstances where subparagraph (B) applies, Native American prisoners who desire to wear their hair according to the customs of a Native American culture or religion may do so provided that the prisoner demonstrates that—

"(i) the practice is rooted in Native American cultural or religious beliefs; and

"(ii) these beliefs are sincerely held by the Native American prisoner.

"(B) DENIAL OF REQUEST.—If a Native American prisoner satisfies the criteria in paragraph (3)(A), the prison authorities may deny such request only where they can satisfy the criteria of section 3 of the Religious Freedom Restoration Act (P.L. 103–141).

"(4) DEFINITION OF 'CULTURAL OR RELIGIOUS FACILITIES'.—The term 'cultural or religious facilities' includes sweat lodges, tepees, and access to other secure, out-of-doors locations within prison grounds if such facilities are identified by a Native American traditional leader to facilitate a cultural or religious ceremony.

"(5) DISCRIMINATION PROHIBITED.—No Native American prisoner shall be penalized or discriminated against on the basis of Native American cultural or religious practices, and all prison and parole benefits or privileges extended to prisoners for engaging in cultural or religious activities shall be afforded to Native American prisoners who participate in Native American cultural or religious practices.

"(6) SCOPE OF TITLE.—This title shall not be construed as (i) requiring prison authorities to permit nor shall it be construed to prohibit prison authorities from permitting access to peyote or Native American sacred sites; or (ii) altering applicable requirements for exhaustion of administrative remedies.

"(b) ATTORNEY GENERAL INVESTIGATION.—

"(1) IN GENERAL.—The Attorney General shall investigate, in consultation with Native American traditional leaders and ex-offenders with corrections experience as may be recommended by Indian tribes and Native Hawaiian organizations, and federal and State prison administrators, the conditions of Native American prisoners in the federal and State prison systems with respect to their ability to engage in traditional cultural ceremonies and practices, including the free exercise of Native American religions.

"(2) REPORT.—Not later than 36 months after the date of enactment of this Act, the Attorney General shall submit to the Congress a report containing—

"(A) an assessment of the recognition, protection, and enforcement of the rights of Native American prisoners to practice their cultures or religions under this Act in federal and state prisons where Native Americans are incarcerated; and

"(B) specific recommendations for the promulgation of regulations to implement this Act.

"TITLE IV—CULTURAL AND RELIGIOUS USE OF EAGLES AND OTHER ANIMALS AND PLANTS

"SEC. 401. CULTURAL AND RELIGIOUS USE OF EAGLES.

"(a) IN GENERAL.—Within 1 year after the date of enactment of this Act, the Director of the United States Fish and Wildlife Service (hereafter in this section referred to as the 'Director') shall, in consultation with Indian tribes and Native American traditional leaders, develop a plan to—

"(1) ensure the prompt disbursement from Federal repositories of available bald or golden eagles, or their parts, nests, or eggs for the traditional cultural or religious use of Indians upon receipt of an application from an Indian practitioner;

"(2) provide that sufficient numbers of bald or golden eagles are allocated to Indian practitioners to meet the demonstrated need where they are available by reason of accidental deaths, natural deaths, or takings permitted by Federal law;

"(3) simplify and shorten the process by which permits are authorized for the taking, possession, and transportation of bald or golden eagles, or their parts, nests, or eggs for the traditional cultural or religious use of Indians;

"(4) establish a mechanism for tribal disbursement of dead eagles discovered within the exterior boundaries of their own reservation to Native American traditional cultural or religious practitioners; and

"(5) establish a mechanism for tribal contacts with regional and national offices of the U.S. Fish and Wildlife Service on fish and wildlife resource issues.

"SEC. 402. OTHER ANIMALS AND PLANTS.

"Within two years after the enactment of this Act, the Secretaries of Interior, Agriculture, Commerce and Treasury, and the Administrator of the General Services Administration shall, in consultation with Indian tribes, Native Hawaiian organizations and Native American traditional leaders, establish a joint uniform set of administrative procedures to govern the disposition of surplus wildlife and plants or parts thereof which have been confiscated, gathered or are otherwise under the jurisdiction and control of their respective agencies. To the fullest extent allowed under existing statutory authority, the uniform procedures shall be designed to increase the availability of natural products to Native American traditional cultural and religious practitioners.

"TITLE V—JURISDICTION AND REMEDIES

"SEC. 501. JURISDICTION AND REMEDIES.

"(a) IN GENERAL.—

"(1) An aggrieved part shall have the right to file suit against the United States or a State in the appropriate district court to enforce the provisions of this Act.

"(2) Any appropriate United States district court shall have original jurisdiction over a civil action for—

"(A) equitable relief; or

"(B) damages arising from any violations of this Act.

"(3) Nothing herein shall be construed to deprive Indian tribes of jurisdiction they would otherwise have under section 106 of this Act or any other Federal law.

"(b) FACTUAL FINDINGS.—

"(1) If an action is filed in a United States district court after exhaustion of administrative remedies under section 105, the court shall not defer to agency factual findings except where such findings are based on a formal hearing on the record.

"(2) The court shall review de novo agency legal determinations concerning the extent of any adverse impact, whether the government's interest is compelling and whether a particular alternative is the least restrictive.

"(c) For purposes of an action alleging a violation of the rights protected under title I of this Act and consistent with section 106 of this Act:

"(1) BURDEN ON AGGRIEVED PARTY.—Except as provided in subsection 501(d), the aggrieved party shall have the burden of establishing that the covered Federal activity or an action by a State having an impact upon the management, use or preservation of public land, is or will have an adverse impact on a Native American sacred site.

"(2) BURDEN ON AGENCY.—If the aggrieved party meets its burden of proof under paragraph (1), the agency may proceed with the action only if it is determined by clear and convincing evidence that the covered Federal activity—

"(A) is in furtherance of a compelling government interest; and

"(B) is the least restrictive means of furthering that compelling interest.

"(3) For purposes of decisions pursuant to title I—

"(A) a finding of adverse impact does not require that an aggrieved party be coerced to act contrary to religious beliefs or traditional cultural practices, and may include consideration of disturbing the integrity of a sacred site;

"(B) land management activities, undertakings and actions which have the potential to have an adverse impact on a Native American sacred site, or which make a Native American traditional cultural practice or the exercise of a Native American religion more difficult shall be deemed to constitute an adverse impact; and

"(C) government ownership of land, by itself, does not establish a compelling government interest.

"(d) CASES WHERE SECRECY IS REQUIRED.—In the case of any proceeding in which an aggrieved Indian tribe or Native Hawaiian organization relies on section 104(b), if an Indian tribe or Native Hawaiian organization objects to the covered federal activity or an action by a State on the grounds that it is or will have an adverse impact on a Native American sacred site, the governmental agency shall have the burden of proving by a preponderance of the evidence that the covered federal activity—

"(1) is in furtherance of a compelling government interest;

"(2) is a reasonable means of furthering that compelling interest; and

"(3) the alternatives identified under section 104(b)(2) are not reasonable.

"(e) FAILURE OF AGENCY TO MEET BURDEN.—

"(1) The governmental agency shall retain its burden of proof at all stages of any proceeding or decision-making process pursuant to title I of this Act.

"(2) If a governmental agency does not meet its burden of proof under this section, it shall not proceed with the proposed activity.

"(3) For purposes of this section the phrase 'burden of proof' means the burden of production and the burden of persuasion.

"(f) SPECIAL RULE FOR NATIVE AMERICAN PRACTITIONERS.—Native American practitioners may elect to provide testimony about their beliefs in camera or in some other protective procedure.

"(g) SOVEREIGN IMMUNITY.—Neither the sovereign immunity of the United States nor of any State, including immunity derived from the Eleventh Amendment to the United States Constitution, shall be a bar or defense to any civil action brought pursuant to this section to enforce the provisions of this Act, including any grant of attorney's fees pursuant to subsection (h) of this section, and such immunities are hereby waived.

"(h) ATTORNEY'S FEES.—An aggrieved party who is a prevailing party in any administrative or judicial proceeding brought pursuant to this Act shall be entitled to attorney's fees, expert witness fees, and costs under the provisions of section 504 of title 5, United States Code, and section 2412 of title 28, United States Code.

"TITLE VI—MISCELLANEOUS

"SEC. 601. SAVINGS CLAUSE.

"(a) Nothing in this Act shall be construed as abrogating, diminishing, or otherwise affecting—

"(1) the intent rights of any Indian tribe;

"(2) the rights, express or implicit, of any Indian tribe which exist under treaties, Executive Orders and laws of the United States;

"(3) the inherent right of Native Americans to maintain their cultural integrity and religions;

"(4) the trust responsibility of the United States or any legal obligation or remedy resulting therefrom;

"(5) the right and ability of any Indian tribe upon whose Indian lands a Native American sacred site is located to determine, exclusively pursuant to its own tribal law, whether any other Indian tribe or Native American practitioner shall have a property right in that site or have the authority to limit or prohibit covered federal activities affecting that site;

"(6) any traditional cultural or free exercise of religion claim of any person that does not fall within the scope of this Act;

"(7) the right of Native Americans to obtain protection for the practice of their traditional cultures or religions under any other federal, state or tribal law or constitution; or the authority and responsibility of any governmental agency to provide protection for Native American sacred sites and the practice of Native American traditional cultures and religions under other laws or constitutions, such as the National Historic Preservation Act; and

"(8) the authority of federal land and program managers to provide for notice to and consultation with other religious and cultural groups not encompassed by this Act for the purpose of protection of cultural, religious, environmental and historical sites and resources under other authority.

"(b) This Act is supplemental to the Religious Freedom Restoration Act of 1993, and is not intended to be limited by that Act, or to limit in any way, rights available under that Act, including the application of that Act to activities which may have an adverse impact upon a Native American sacred site, whether or not said activities are explicitly covered by this Act.

"SEC. 602. SEVERABILITY.

"If any title or section of this Act, or any provision or portion thereof, is declared to be unconstitutional, invalid, or inoperative in whole or in part, by a court of competent jurisdiction, such title, section, provision or portion thereof shall, to the extent it is not unconstitutional, invalid, or inoperative, be enforced and effectuated, and no such determination shall be deemed to invalidate or make ineffectual the remaining provisions of the title, section, or provision.

"SEC. 603. AUTHORIZATION OF APPROPRIATIONS.

"There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, including such sums as may be necessary for expenses of Native Americans for consultations with the Attorney General provided in section 301(b)(1).

"SEC. 604. REGULATIONS.

"(a) The head of each land managing agency, in consultation with Indian tribes and

Native Hawaiian organizations, shall promulgate regulations relating to—

"(1) Federal planning processes pertaining to the management, use or preservation of land; and

"(2) notice to and consultation with Indian tribes, Native Hawaiian organizations, and Native American traditional leaders as required by sections 103 and 104 of this Act.

"(b) The head of each land managing agency shall consult with the Secretary of the Interior to assure maximum possible consistency in regulations promulgated pursuant to this Act.

"(c) The regulations shall be sufficiently flexible to enable consultation to address the unique needs of Indian tribes, Native Hawaiian organizations, Native American traditional leaders and Native American practitioners. Notices and procedures provided for in sections 103 and 104 shall not await completion of regulations.

"SEC. 605. PROTECTIONS.

"(a) The protections of this Act shall be afforded only to bona fide persons who are defined in subsections (7), (11), (12), (16) and (17) of section 3 of this Act, and to members of Indian tribes as defined in section 3(9) of this Act.

"(b) For purposes of determining the bona fide nature of any of the persons defined in section 3, or the bona fide nature of any Native American traditional cultural practice or Native American religion, the Secretary is authorized to consult with Indian tribes, Native Hawaiian organizations, Native American practitioners and native American traditional leaders.

"SEC. 606. EFFECTIVE DATE.

"(a) This Act takes effect on the date of its enactment. Application and enforcement of this Act does not depend upon the promulgation of regulations by any governmental agency. However, with respect to notice and review provisions under sections 103 and 104, agencies shall have a period of six months from enactment to establish applicable procedures.

"(b) Except as provided in section 104(a)(2) and section 3(4)(b)(2), this Act does not require any federal agency to reconsider any final action or decision that it made prior to enactment of this Act or that it made in compliance with the provisions of this Act, although this shall not bar application of the Act to new phases of existing projects.".•

By Mr. BAUCUS:

S. 2270. A bill to authorize the Secretary of the Interior to transfer 40 acres of land on the Northern Cheyenne Indian Reservation, MT, to Lame Deer High School District No. 6, Rosebud County, MT, and for other purposes; to the Committee on Indian Affairs.

NORTHERN CHEYENNE HIGH SCHOOL ACT

• Mr. BAUCUS. Mr. President, I am introducing legislation which is a big step forward for high school students and their families on the Northern Cheyenne Reservation. The passage of this bill gives congressional approval for a land transfer between the Northern Cheyenne Tribe and a recently approved high school district on their reservation in Lame Deer, MT.

Frankly, I cannot think of any school that is more richly deserving. Since the mid-1980's members of the Northern Cheyenne Tribe have actively worked to have a State high school for their reservation. Of seven Indian reservations in Montana, they are the only one that does not have its own high school.

Most of us enjoy the luxury of sending our children to a school in our own neighborhood. But Northern Cheyenne students travel from 45 to 125 miles per day to attend high school. A high school on the reservation will not only decrease the distance students travel to school, but it will increase community and parental involvement and it will help reduce the student dropout rate.

Moreover, the creation of this high school will strengthen the spirit of the community. And it will help sustain the cultural integrity of the Northern Cheyenne Tribe.

Mr. President, I am a strong supporter of the Northern Cheyenne Tribe's efforts to build their own high school. And I urge the Senate to pass this legislation quickly in order that construction may proceed. I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2270

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

As used in this Act:

(1) SCHOOL DISTRICT.—The term "School District" means the Lame Deer High School District No. 6., Rosebud County, Montana.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) TRIBE.—The term "Tribe" means the Northern Cheyenne Tribe.

SEC. 2. NORTHERN CHEYENNE LAND TRANSFER.

(a) CONVEYANCE OF LANDS.—Notwithstanding any other provision of law, the Secretary shall convey by patent to the School District all right, title, and interest of the United States and the Tribe in the lands described in subsection (b) for use by the School District only for the purposes of constructing and operating on the lands a public high school and related facilities.

(b) DESCRIPTION OF LANDS.—

(1) GENERAL LEGAL DESCRIPTION.—The lands described in this paragraph are within the Northern Cheyenne Indian Reservation, as follows: The W½ of SE¼ and the E½ of SW¼ of section 10, township 3 south, range 41 east, M.P.M.

(2) NARRATIVE DESCRIPTION.—Such lands may be described as follows: Beginning at the south ¼ corner of such section 10, thence south 89 degrees 56 minutes west 393.31 feet, on and along the south line of such section 10 to the true point of beginning, thence south 89 degrees 56 minutes west 500 feet, on and along such section line, thence north 00 degrees 00 minutes east, 575.0 feet, thence north 54 degrees 9 minutes 22 seconds east, 2,382.26 feet, thence south 23 degrees 44 minutes 21 seconds east, 622.56 feet, thence south 51 degrees 14 minutes 40 seconds west, 2,177.19 feet, to the true point of beginning containing in all 40.0 acres, more or less.

SEC. 3. PATENT.

The patent issued by the Secretary under this Act shall be issued subject to the following conditions:

(1) Title to all coal and other minerals, including oil, gas, and other natural deposits, within the lands described in section 2(b) shall remain with the Secretary to be held in trust for the Tribe, as provided in Public Law 90-424 (82 Stat. 424).

(2) The lands described in section 2(b) conveyed to the School district may be used only by the School District and only for the purposes of constructing and operating on the lands a public high school related facilities.

(3) If, on the termination of the 8-year period beginning on the date of issuance of the patent, classes have not commenced in a permanent public high school facility established on the lands described in section 2(b) conveyed to the School District, or if such classes commence at the facility during such period, but the facility subsequently permanently ceases operating as a public high school—

(A) all right, title, and interest to the lands described in section 2(b) conveyed to the School District, free and clear of all liens and encumbrances, shall automatically revert to the Secretary to be held in trust for the Tribe; and

(B) the Secretary shall void the patent and the patent shall have no further force or effect.

(4)(A) At any time after the conclusion of any litigation pending as of the date of enactment of this Act (including any trial and, if any, appellate proceedings) that challenges the decision made by the Superintendent of Public Instruction for the State of Montana on November 9, 1993, granting the petition to create the School District, and with the prior approval of the Superintendent of Public Instruction—

(i) the Tribe shall have the right to request the Secretary to void the patent in accordance with subparagraph (C); and

(ii) if the Tribe makes such request and meets the requirements of subparagraph (C), the Tribe may enter into a lease with the School District pursuant to the Act of August 9, 1995 (69 Stat. 539, chapter 615; (25 U.S.C. 415(a))—

(I) covering the lands described in section 2(b);

(II) of a term of 25 years, with a right to renew for an additional 25-year period; and

(III) under which the lands described in section 2(b) shall be leased rent free to the School District for the exclusive purpose of constructing and operating a public high school and related facilities on such lands.

(B) Any lease entered into pursuant to subparagraph (A) shall, notwithstanding subparagraph (A)(II), terminate upon the termination of the period specified in paragraph (3) if, by such date, classes have not commenced in a permanent public high school facility established on the lands described in section 2(b) conveyed to the School District, or if, during such period, such classes commence at the facility, but the facility subsequently permanently ceases operating as a public high school.

(C) If the Tribe seeks and obtains approval of the Superintendent of Public Instruction of the State of Montana, the Tribe may enter into a lease, if the lease is signed by the Tribe and approved by the Secretary. Such lease shall comply with the requirements of this paragraph. At such time as the Tribe enters into a lease under this paragraph, the Secretary shall void the patent, and, subject to the leasehold interest offered to the School District, title to the lands described in section 2(b), free and clear of all liens and encumbrances, shall automatically revert to the Secretary in trust for the Tribe.

(C) The Tribe may at any time irrevocably relinquish the right of the Tribe to enter into a lease under this paragraph by resolution of the Northern Cheyenne Tribal Council that explicitly provides for the relinquishment of the right.

SEC. 4. EFFECT OF ACCEPTANCE OF PATENT.

Upon the acceptance by the School District of a patent issued by the Secretary under this Act, the School District, and any party who may subsequently acquire any right, title, or interest in the lands described in section 2(b) by or through the School District, shall be subject to the terms and conditions set forth in paragraphs (1) through (4) of section 3.•

By Mr. DECONCINI (for himself and Mr. BIDEN):

S. 2272. A bill to amend chapter 28 of title 35, United States Code, to provide a defense to patent infringement based on prior use by certain persons, and for other purposes; to the Committee on the Judiciary.

PATENT PRIOR USER RIGHTS ACT OF 1994

• Mr. DECONCINI. Mr. President, I introduce the Patent Prior User Rights Act of 1994. This bill is the product of many hours of hard work and represents a compromise that I believe is acceptable to all interested parties. The purpose of the bill is to clarify the rights of prior users, vis-a-vis patent holders. Prior users are persons who commercially use or are making serious preparations to use commercially a process that becomes the subject of a patent filed later by another. Currently, the law is unclear about their ability to continue to use the first person's process if another receives the patent on the process.

Mr. President, the problem this bill seeks to address occurs when a legitimate inventor decides for any number of reasons not to secure a patent on a process he or she is using in his or her business. Maybe the inventor decides to hold the process as a trade secret. Maybe the invention involves an adjustment to an existing process. Maybe the inventor can't afford the costs of obtaining a patent, including the associated legal fees. Maybe the inventor did not believe the invention was patentable, or maybe the inventor could not get a patent on the process for some reason. Well, a second inventor can come along and independently invent the process or reverse engineer the product and discover the process. This second inventor can then apply for a patent. Since the first inventor did not publicly disclose the process, in some circumstances, the second inventor can receive a patent on the process. This can result in the inequitable situation where the patent holder can prevent the first inventor from using a process critical to his or her business.

Clearly, a legitimate inventor-patentee should be able to enjoy the rewards for disclosing his or her invention to the public. At the same time, someone who legitimately has been using the invention before the patentee filed his patent application should be allowed to continue its use.

The bill I am introducing today resolves the inequities that might otherwise result from the patenting of technology already in use by others. It will promote sound public policy by clearly defining the rights of prior users as well as patent holders. Prior users will have a legal defense to a patent holder's claim of infringement and will be allowed to continue using the process.

The needs of the patentees, and their right to profit from their efforts, have been considered and accommodated in this bill. Accordingly, before prior user rights may be successfully asserted certain requirements must be met. First, the prior user must, in good faith, have commercially used the process or product in the United States, or made effective and serious preparation to do so. Second, such use must have occurred before the filing date or priority date of the competing patent application, whichever comes first. Third, no prior user right may be based on information obtained, directly or indirectly, from the patentee or the patentee's agents. Fourth, the use of the process must not have been abandoned.

In addition, the scope of the prior user right is significantly limited. Only that subject matter claimed in the patent that has been commercially used or for which there has been effective and serious preparation for its use in the United States before the critical date is protected. Prior user rights may only be assigned in connection with the transfer of an entire business enterprise. However, the right to make or use variations or improvements, including variations in the quantity or volume of such use, are allowed as long as such variations or improvements do not infringe additional claims of the patent.

This bill will create incentives for manufacturers to develop and produce superior processes more efficiently. No longer will manufacturers feel they may be put out of business in the future by developing a process or product and failing to obtain a patent. Prior users will be assured of protection from such challenges and can proceed without fear of later reprisals.

This bill is based on principles widely recognized throughout the world community. It provides U.S. inventors with a right already provided in the United Kingdom, Germany, and the vast majority of industrialized nations. These countries have long recognized the need for prior user rights, and we would be wise now to do the same.

During consideration of legislation I introduced last Congress on the need to harmonize our patent laws, the issue of prior user rights was raised. The research-based university community objected to the idea of prior user rights. Their concern was that such rights could interfere with their ability to license their patents. I believe these concerns have been addressed. By recognizing the needs of prior users and patentees alike, the prior user rights bill clarifies the rights of both parties and seeks to be fair.

I conclude today by urging Senate approval of the Patent Prior User Rights Act. Considerations of fairness, public policy, and the needs of the international economy all strongly support this legislation.

Mr. President, I am hopeful that all concerns about this legislation have been resolved and that this bill can become enacted this year.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2272

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patent Prior User Rights Act of 1994".

SEC. 2. DEFENSE TO PATENT INFRINGEMENT BASED ON PRIOR USE.

(a) IN GENERAL.—Chapter 28 of title 35, United States Code, is amended by adding at the end thereof the following new section:

"§ 273. Rights based on prior use; defense to infringement

"(a) DEFINITIONS.—For purposes of this section, the term—

"(1) 'commercially used' means the use interstate or intrastate commerce, including the use of processes, equipment, tooling, and intermediate materials in the design, testing or production of commercial product whether or not such processes, equipment, tooling, and intermediate materials are normally accessible, available, or otherwise known to the public;

"(2) 'effective and serious preparation' means that a person, in the United States, has—

"(A) reduced to practice the subject matter for which rights based on prior use are claimed; and

"(B) made serious plans, and a substantial investment or much of the investment necessary for the subject matter to be commercially used; and

"(3) 'critical date' means the filing date or the priority date, whichever occurs first, of the application for patent.

"(b) IN GENERAL.—A person shall not be liable as an infringer under a patent granted to another with respect to any subject matter claimed in the patent that such person had, acting in good faith, commercially used in the United States or made effective and serious preparation therefor in the United States, before the critical date.

"(c) LIMITATION OF DEFENSE.—Subject to subsection (d), rights based on prior use under this section extend only to the claimed invention that the person claiming rights based on prior use was in possession of prior to the critical date.

"(d) CERTAIN VARIATIONS AND IMPROVEMENTS NOT AN INFRINGEMENT.—The rights based on prior use under this section shall include the right to make and use variations or improvements, including variations in the quantity or volume of such use. Such variations or improvements may not infringe additional claims of the patent.

"(e) Qualifications.—(1) The rights based on prior use under this section are personal and shall not be licensed or assigned or transferred to another except in connection with the assignment or transfer of the entire business or enterprise to which the rights relate.

"(2) A person may not claim rights based on prior use under this section if the activity under which such person claims the rights was—

"(A) based on information obtained or derived from the patentee or those in privity with the patentee; or

"(B) abandoned on or after the critical date, except that for abandonment which occurs after the critical date, rights based on prior use may be used as a defense to infringement for that period of activity which occurred prior to abandonment if such activity would otherwise, in the absence of abandonment, have been allowed under this section.

"(3) The rights based on prior use under this section are not a general license under all claims of the patent, but are restricted in scope to cover only that subject matter claimed in the patent that has been commercially used, or for which there has been effective and serious preparation, in the United States, before the critical date.

"(f) Burden of Proof.—In any action in which a person claims a defense to infringement under this section the burden of proof for establishing the defense shall be on the person claiming rights based on prior use.".

(b) Technical and Conforming Amendment.—The table of sections for chapter 28 of title 35, United States Code, is amended by adding at the end thereof the following:

"273. Rights based on prior use, defense to infringement.".

SEC. 3. EFFECTIVE DATE.

The provisions of this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.•

By Mr. SARBANES:

S. 2274. A bill to provide for the application of a 6-year statute of limitations to certain claims filed by Federal employees under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.); to the Committee on Governmental Affairs.

FAIRNESS FOR FEDERAL EMPLOYEES ACT

• Mr. SARBANES. Mr. President, I introduce legislation to reverse a very destructive ruling by the General Accounting Office [GAO] to apply a retroactive change in the statute of limitations from 6 years to 2 years for Federal employees to file back pay claims under the Fair Labor Standards Act [FLSA].

GAO's recent action goes against longstanding Federal policy and GAO's own interpretation of the appropriate statute of limitations for overtime pay claims under the FLSA. In fact, beginning with the Transportation Systems Center ruling in 1978, GAO has consistently held that the statute of limitations for Federal employees to file claims under the FLSA is 6 years.

In accordance with this policy, the Office of Personnel Management and other Federal agencies have notified employees through regulations and bulletins, that they must file their FLSA claims within 6 years from the date they accrue. In fact, many agencies continue to advise employees that they have 6 years from the date of injury to file their claims.

The underlying question regarding the appropriate length of the statute of limitation for FLSA claims is one of continuing debate. However, under no circumstances should GAO apply the proposed change retroactively. This action is manifestly unjust to the thousands of employees who have claims pending and who have based their actions on the explicit directions and procedure set forth in official Government documents and publications.

I ask my colleagues, what message do we send to these individuals and I submit to the entire Federal service, if the institutions of the Government they serve, so capriciously and arbitrarily strip them of the rights and due process which they have been previously guaranteed? I would submit it is a very negative and damaging message that may have a serious impact on employee morale and, consequently, recruitment and retention.

Furthermore, as a policy matter, I would assert that this is no way to conduct our Nation's business. For GAO to adopt and retroactively apply this change in the statute of limitation goes against all well established principles of statutory interpretation, administrative law, and due process of law.

Mr. President, the bill I am introducing today requires the Comptroller General of the United States to continue to apply a 6-year statute of limitation to any FLSA pay claims that have been filed before or have arisen before the date of enactment of this legislation. This will preserve the current policy and 20-year history of applying a 6-year statute to back pay claims made by Federal employees.

This legislation is endorsed by the Federal Law Enforcement Officers Association which represents, among others, special agents and investigators at the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, the U.S. Marshals Service, the Bureau of Alcohol, Tobacco, and Firearms, and the U.S. Secret Service. The bill is also endorsed by all of the major employee organizations including the National Treasury Employees Union, the American Federation of Government Employees, and the Public Employees Department of the AFL–CIO.

Mr. President, there is no credible defense or rationale for GAO to make retroactive changes, without notification, to longstanding Government policy and procedure. If implemented, GAO's decision would not only deprive literally thousands of employees of the due process they have been previously guaranteed but it also threatens to set a dangerous precedent that any Government policy, irrespective of merit, may be subject to such sudden and arbitrary reversal.

I submit that we cannot afford to proceed down such a potentially damaging path. I urge my colleagues to support this measure.•

By Mr. EXON (for himself and Mr. Packwood):

S. 2275. A bill to amend subtitle IV of title 49, United States Code, relating to interstate commerce; to the Committee on Commerce, Science, and Transportation.

THE TRUCKING REGULATORY REFORM ACT

• Mr. EXON. Mr. President, I introduce the Trucking Regulatory Reform Act of 1994. This legislation pursues a comprehensive trucking regulatory reform agenda which is designed to meet the legitimate concerns about the expense of trucking regulation expressed by both Houses of Congress.

This legislation was crafted after close consultations with the bipartisan membership of the Interstate Commerce Commission. It will improve surface transportation efficiency, save taxpayer dollars, protect the public interest, and preserve transportation safety.

On the same day—June 16, 1994—the two Houses of Congress through separate votes outlined policies on surface transportation which if taken together could wreak havoc on transportation safety, efficiency and availability. Almost simultaneously, the Senate voted to preempt State trucking regulations in favor of uniform Federal regulation and the House voted to eliminate funding for the Interstate Commerce Commission, the agency which administers Federal trucking regulation.

These two policies are now on a collision course. If the Senate favors intrastate trucking deregulation, it cannot allow the Interstate Commerce Commission to die.

The legislation I introduce today is a compromise proposal designed to draw the Congress back from the brink of rash and unreasonable action. It is an effort to pursue needed reform in Federal trucking regulation and at the Interstate Commerce Commission while at the same time preserving the much needed safety, dispute resolution and independent functions of the Commission.

This compromise represents fundamental reform in trucking regulation. It also offers the Congress an opportunity to save real money, rather than just shuffle expense from one agency to another.

There are five basic elements of this reform package. Under this proposal:

First, the filed rate obligation would be eliminated for individual truck companies;

Second, entry review would be streamlined and limited to insurance and safety matters;

Third, the ICC would be given exemption authority over any trucking matter under its jurisdiction after a proper showing;

Fourth, the Secretary of Transportation would be required to report to the Congress on the feasibility and efficiency of merging the ICC with the Federal Maritime Commission or other independent regulatory agency; and

Fifth, the Secretary of Transportation and the Interstate Commerce Commission would be required to review the operations of the Commission and report to the Congress whether further efficiencies can be achieved.

This reform proposal builds on the success of the negotiated rates act which this Congress enacted last year ending the nightmare of the undercharge claims from bankrupt trucking companies. The effective administration of that landmark legislation depends on the continued existance of an independent Interstate Commerce Commission.

I am also asking the Senate Appropriations Committee to consider this reform agenda when it takes up the transportation appropriations bill. It is my preliminary estimate that if this reform agenda were adopted, $50 million over 5 years could be saved.

As chairman of the Surface Transportation Subcommittee, an authorizing committee, I do not generally favor legislation on an appropriations bill. However, the harsh, rash, and what could prove to be expensive action of the House of Representatives to defund the ICC without dealing with any Commission functions makes this approach necessary.

I submit that few in this body have a stronger record on deficit reduction. The bill I introduce today will produce meaningful budget savings because it will lead to the elimination ICC functions.

The Congress should not legislate by sniper fire. Bits and pieces of transportation regulation are being shot off with little thought about the overall context or how any one action affects overall transportation policy.

Reason must be restored to the debate on U.S. transportation policy, especially the future role of the ICC. At risk is the world's most efficient, productive and competitive transportation networks. People, goods, and commodities move across our great land with an ease which is the envy of all the nations of the world. Our Nation's transportation system is built on the notion that competition will produce quality service at affordable prices. But that competition is tempered with concern for fairness, the public interest, and the public safety.

I urge my colleagues to build on the success of the negotiated rates act, not be fooled by budgetary sleight of hand and carefully review this compromise proposal.

I ask unanimous consent that the text of the Trucking Regulatory Reform Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Trucking Industry Regulatory Reform Act of 1994".

SEC. 2. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. PURPOSE.

The purpose of this Act is to enhance competition, safety, and efficiency in the motor carrier industry and to enhance efficiency in government.

SEC. 4. TRANSPORTATION POLICY.

Section 10101(a)(2) (relating to transportation policy) is amended—

(1) by redesignating subparagraphs (A) through (I) as subparagraphs (C) through (K), respectively, and

(2) by inserting before subparagraph (C) (as so redesignated) the following: "(A) encourage fair competition, and reasonable rates for transportation by motor carriers of property; (B) promote Federal regulatory efficiency in the motor carrier transportation system and to require fair and expeditious regulatory decisions when regulation is required;".

SEC. 5. EXEMPTIONS.

(a) IN GENERAL.—Section 10505 (relating to authority to exempt rail carrier transportation) is amended—

(1) by inserting ", or a motor carrier providing transportation of property other than household goods," after "rail carrier providing transportation" in subsection (a),

(2) by inserting "section 10101 or" before "section 10101a" in subsection (a)(1) and subsection (d), and

(3) by inserting ", or a motor carrier providing transportation of property other than household goods," after "rail carrier" in subsection (f).

(b) CLERICAL AMENDMENTS.—

(1) The caption of section 10505 is amended by inserting "and motor carrier" after "rail carrier".

(2) The chapter analysis for chapter 105 is amended by inserting "and motor carrier" after "rail carrier" in the item relating to section 10505.

SEC. 6. TARIFF FILING.

(a) AUTHORITY TO ESTABLISH RATES.—Section 10702(b) (relating to authority for carriers to establish rates, classifications, rules, and practices) is amended by inserting ", except a motor contract of property other than household goods," after "A contract carrier".

(b) PROHIBITION OF TRANSPORTATION WITHOUT TARIFF.—Section 10761(a) (relating to transportation prohibited without tariff) is amended—

(1) by inserting "(except a motor common carrier providing transportation of property other than household goods)" after "chapter 105 of this title", and

(2) by striking out "That carrier" in the second sentence and inserting "A carrier subject to this subsection".

(c) GENERAL TARIFF REQUIREMENT.—Section 10762(a)(1) (relating to general tariff requirement) is amended—

(1) by inserting "(except a motor common carrier providing transportation of property other than household goods)" after "A motor common carrier" in the second sentence,

(2) by inserting "(except a motor common carrier providing transportation of property other than household goods) after "carriers" in the third sentence, and

(3) by striking the last sentence and inserting the following: "A motor contract carrier of property is not required to publish or file actual or minimum rates under this subtitle.".

(d) PROPOSED RATE CHANGES.—Section 10762(c)(2) (relating to rate changes) is amended by inserting "(except a motor contract carrier of property)" after "contract carrier".

(e) EFFECT ON NEGOTIATED RATES ACT.—Section 10762 (relating to general tariff requirements) is amended by adding at the end thereof the following new subsection:

"(g) Nothing in this section shall affect the application of the provisions of the negotiated Rates Act of 1993 (or the amendments made by that Act) to undercharge claims for transportation provided prior to the date of enactment of the 'Trucking Industry Regulatory Reform Act of 1994'.".

SEC. 7. MOTOR COMMON CARRIER LICENSING.

(a) IN GENERAL.—Section 10922 (relating to certification of motor and water carriers) is amended—

(1) by redesignating subsections (b) through (l) as through (m), respectively, and by inserting after subsection (a) the following new subsection:

"(b)(1) Except as provided in this section, the Commission shall issue a certificate to a person authorizing that person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of property if the Commission finds that the person is able to comply with—

"(A) this subtitle, the regulations of the Commission, and any safety requirements imposed by the Commission,

"(B) the safety fitness requirements established by the Secretary of Transportation in consultation with the Commission pursuant to section 215 of the Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2512), and

"(C) the minimum financial responsibility requirements established by the Commission pursuant to section 10927 of this title.

"(2) In making a finding under paragraph (1), the Commission shall consider and, to the extent applicable, make findings on, any evidence demonstrating that the applicant is unable to comply with the requirements of subparagraph (A), (B), or (C) of that paragraph.

"(3) The Commission, pursuant to section 215 of the Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2512), shall find any applicant for authority to operate as a motor carrier under this section to be unfit if the applicant does not meet the safety fitness requirements under paragraph (1)(B) of this subsection and shall deny the application.

"(4) A person may protest an application under this subsection to provide transportation only on the ground that the applicant fails or will fail to comply with this subtitle, the regulations of the Commission, the safety requirements of the Commission, or the safety fitness or minimum financial responsibility requirements of paragraph (1) of this subsection.".

(b) PUBLIC CONVENIENCE AND NECESSITY.—Section 10922(c) (relating to public convenience and necessity) as redesignated by subsection (a), is amended—

(1) by striking "carrier of property" in paragraph (1) and inserting "carrier of household goods",

(2) by striking paragraphs (4) and (6) and redesignating paragraphs (5), (7), (8), and (9) as (4), (5), (6), and (7), respectively,

(3) by striking "carrier holding authority under paragraph (4)(D) of this subsection" in paragraph (4) (as redesignated) and inserting "motor carrier providing transportation of shipments weighing 100 pounds or less transported in a motor vehicle in which no one package exceeds 100 pounds",

(4) by inserting "of household goods" after "No motor common carrier" in paragraph (5) (as redesignated),

(5) by inserting "of household goods" after "No motor common carrier" in paragraph (6) (as redesignated), and

(6) by striking "Notwithstanding the provisions of paragraph (4) of this subsection, the provisions" in paragraph (7) (as redesigned) and inserting "The provisions".

(c) CERTIFICATE SPECIFICATIONS.—Section 10922(f)(1) (relating to specifications for certificate), as redesignated by subsection (a) of this section, is amended by inserting "of household goods or passengers" after "motor common carrier".

(d) PUBLIC CONVENIENCE AND NECESSITY.—Section 10922(h)(1) (relating to public convenience and necessity), as redesignated by subsection (a) of this section, is amended by inserting "of household goods or passengers" after "motor common carrier".

SEC. 8. MOTOR CONTRACT CARRIER LICENSING.

(a) AUTHORITY TO ISSUE PERMITS.—Section 10923(a) (relating to authority to issue permits) is amended by inserting "of household goods or passengers" after "motor contract carrier".

(b) HOUSEHOLD GOODS PERMITS.—Section 10923 (relating to permits of motor and water contract carriers and household goods freight forwarders) is amended by redesignating subsections (b) through (e) as (c) through (f), respectively, and by inserting after subsection (a) the following new subsection:

"(b)(1) Except as provided in this section and section 10923 of this title, the Commission shall issue a permit to a person authorizing the person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor contract carrier of property other than household goods if the Commission finds that the person is able to comply with—

"(A) this subtitle, the regulations of the Commission, and any safety requirements imposed by the Commission,

"(B) the safety fitness requirements established by the Secretary of Transportation in consultation with the Commission pursuant to section 215 of the Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2512), and

"(C) the minimum financial responsibility requirements established by the Commission pursuant to section 10927 of this title.

"(2) In deciding whether to approve the application of a person for a permit as a motor contract carrier of property other than household goods the Commission shall consider any evidence demonstrating that the applicant is unable to comply with this subtitle, the regulations of the Commission, safety requirements of the Commission, or the safety fitness and minimum financial responsibility requirements of subsection (b)(1).

"(3) The Commission, pursuant to section 215 of the Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2512), shall find any applicant for authority to operate as a motor carrier of property other than household goods under this subsection to be unfit if the applicant does not meet the safety fitness requirements of paragraph (1)(B) of this subsection and shall deny the application.

"(4) A person may protest an application under this subsection to provide transportation only on the ground that the applicant fails or will fail to comply with this subtitle, the regulations of the Commission, safety requirements of the Commission, or the safety fitness or minimum financial responsibility requirements of paragraph (1).".

(c) APPLICATION FILING REQUIREMENTS.—Section 10923(c) (relating to application filing requirements), as redesignated by subsection (b) of this section, is amended—

(1) by striking "motor contract carrier of property" in paragraphs (3) and (4) and inserting "motor contract carrier of household goods",

(2) by striking paragraph (5) and redesignating paragraphs (6) and (7) as (5) and (6), respectively, and

(3) by striking "motor carriers of property" in paragraph (5) (as redesignated) and inserting "motor carriers of household goods".

(d) CONDITIONS OF TRANSPORTATION OR SERVICE.—Section 10923(e) (relating to conditions of transportation or service), as redesignated by subsection (b) of this section, is amended—

(1) by inserting "of passengers or household goods" after "contract carrier" in paragraph (1), and

(2) by striking "each person or class of persons (and, in the case of a motor contract carrier of passengers, the number of persons)" in paragraph (2) and inserting "in the case of a motor contract carrier of passengers, the number of persons,".

SEC. 9. REVOCATION OF MOTOR CARRIER AUTHORITY.

Section 10925(d)(1) (relating to effective periods of certificates, permits, and licenses) is amended—

(1) by striking "if a motor carrier or broker" in subparagraph (A) and inserting "if a motor carrier of passengers, motor common carrier of household goods, or broker",

(2) by striking "and" at the end of subparagraph (A),

(3) by redesignating subparagraph (B) as (D) and inserting after subparagraph (A) the following new subparagraphs:

"(B) if a motor contract carrier of property, for failure to comply with section 10701, 10924(e), or 10927(b) or (d) of this subtitle;

"(C) if a motor common carrier of property other than household goods, for failure to comply with section 10701, 10702, 10924(e), or 10927(b) or (d) of this subtitle; and".

SEC. 10. STUDY OF MERGER OF FEDERAL MARITIME COMMISSION AND INTERSTATE COMMERCE COMMISSION.

The Secretary of Transportation shall study the feasibility of a merger of the operations and responsibilities of the Federal Maritime Commission and the Interstate Commerce Commission with respect to the cost savings that might be achieved by such a merger, the efficient allocation of resources, the elimination of unnecessary functions, and responsibility for regulatory functions. The Secretary shall report his findings to the Congress within 6 months after the date of enactment of this Act.

SEC. 11. STUDY OF ADDITIONAL REFORMS.

The Interstate Commerce Commission, in consultation with the Secretary of Transportation, shall prepare and submit to the Congress with six months after the date of enactment of this Act a report identifying and analyzing all regulatory responsibilities of the Commission. The Commission shall make recommendations to the Congress on the basis of the study concerning specific statutory functions of the Commission that could be changed to enhance competition, safety, and efficiency in the motor carrier industry and to enhance efficiency in government.•

By Mr. GLENN:

S.J. Res. 207. A joint resolution designating January 16, 1995, as "National Good Teen Day"; to the Committee on the Judiciary.

NATIONAL GOOD TEEN DAY

• Mr. GLENN. Mr. President, I introduce a joint resolution designating January 16, 1995, as "National Good Teen Day." This day will commemorate those positive contributions that our Nation's youth make every day to our society.

The original concept of "Good Teen Day" was created by Mr. Robert Viencek, an English teacher at Salem City Schools in Salem, OH. The Salem City Schools first commemorated this day on January 16, 1992. The first national observance of this day occurred on January 16, 1993.

Despite many negative stereotypes of American teens, the majority of our teenagers aspire to be integral and productive members of our society and will successfully reach that goal. Each of us was once a teenager. Teenagers represent the future of our great Nation and should be recognized for their contributions. Mr. TRAFICANT has introduced similar legislation in the House. Mr. President, I ask that the Senate designate January 16, 1995, as "National Good Teen Day."

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

Whereas the Salem City Schools in Salem, Ohio, have proclaimed January 16, 1992, as "Good Teen Day";

Whereas both the Congress and the President have proclaimed January 16, 1993, and January 16, 1994, as "National Good Teen Day";

Whereas there are more than 24,000,000 teenagers in the United States according, to the 1990 census;

Whereas our Nation's teenagers represent an important part of our society, and the many physical and emotional changes and character-building experiences which teenagers go through are an important concern to society;

Whereas it is easy to stereotype teenagers as either those who have problems or those who excel;

Whereas teenagers should not simply be recognized for their intelligence, abilities, skills, and talents, but also for the good which is inherent in all human beings;

Whereas teenagers are unique individuals, and should be encouraged to develop the good as well as the potential for growth and future success that is within each of them;

Whereas a day should be set aside to focus on the positive qualities of America's youth; and

Whereas teenagers are the future of this great country: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 16, 1995, is designated "National Good Teen Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that day by recognizing the teenagers of the United States and by participating in appropriate ceremonies and activities.•

By Mr. WOFFORD (for himself and Mr. BOND):

S.J. Res. 208. A joint resolution designating the week of November 6, 1994, through November 12, 1994, "National Health Information Management Week"; to the Committee on the Judiciary.

NATIONAL HEALTH INFORMATION MANAGEMENT WEEK

• Mr. WOFFORD. Mr. President, today I am offering a Senate joint resolution with Senator BOND designating the week of November 6–12, 1994 as "National Health Information Management Week." The purpose of this joint resolution is to recognize the importance that high quality health information plays in keeping America's health care system the best in the world.

Collection and dissemination of health information will be an important component of whatever health reform legislation this Congress passes. Establishing an electronic data network to manage this information will be essential: To reduce administrative costs by eliminating the paperwork burden and standardizing how information is exchanged, to improve the quality of care by making accurate and timely clinical data available online and at the point of service delivery, and to provide consumers with better information for choosing health plans and doctors.

Another important aspect of managing health information is protecting the privacy of personally identifiable health information. The rapid changes expected in information technology over the next few years make it imperative that health reform legislation safeguard the confidentiality of patient medical records.

Because of my commitment to these two aspects of health reform—proper management of health information and protecting personal privacy—I introduced an amendment with Senator DODD that was accepted in the final health reform legislation approved by the Senate Labor and Human Resources Committee. That amendment would establish a private/public sector framework for developing a health care data network to manage health information. The framework for this information infrastructure was based on S. 1494, introduced by Senators BOND and RIEGLE, both of whom I commend for their leadership in the areas of health information management and the simplification of health administration. The amendment I offered to the Labor Committee bill would also establish strong privacy protections to safeguard personal health information that are effective immediately upon enactment of health reform. These protections are drawn from S. 2129, introduced by Senator LEAHY, who I commend for his personal commitment to the privacy issue.

It is my commitment to the proper management of health information that leads me to offer this joint resolution today. Leaders in the field of health information management have demonstrated a commitment to and expertise in managing the growing need for better health care data while at the same time protecting patient confidentiality. The achievements and innovations made by professionals in this field are largely responsible for this country being a world leader in health information technology.

I ask my colleagues to join me and my colleague Senator BOND in cosponsoring this Senate Joint Resolution to designate the week of November 6–12, 1994 as "National Health Information Management Week." This joint resolution will allow us to pay proper recognition to the important role of health information in America's health delivery system and those who manage and safeguard this information.•

ADDITIONAL COSPONSORS

S. 277

At the request of Mr. SIMON, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 277, a bill to authorize the establishment of the National African American Museum within the Smithsonian Institution.

S. 359

At the request of Mr. DECONCINI, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Illinois [Mr. SIMON], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 359, a bill to require the Secretary of Treasury to mint coins in commemoration of the National Law Enforcement Officers Memorial, and for other purposes.

S. 1478

At the request of Mr. PRYOR, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1478, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to ensure that pesticide tolerances adequately safeguard the health of infants and children, and for other purposes.

S. 1570

At the request of Mr. WELLSTONE, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 1570, a bill to amend title 18, United States Code, to prevent persons who have committed domestic abuse from obtaining a firearm.

S. 1887

At the request of Mr. BAUCUS, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1887, a bill to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

S. 1908

At the request of Mr. ROCKEFELLER, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 1908, A bill to provide for a study of the processes and procedures of the Department of Veterans Affairs for the disposition of claims for veterans' benefits.

S. 2030

At the request of Mr. ROTH, the names of the Senator from Utah [Mr. HATCH] and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 2030, a bill to amend the Internal Revenue Code of 1986 to limit the tax rate for certain small businesses, and for other purposes.

S. 2044

At the request of Mr. BURNS, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 2044, a bill to provide that funds available to the Department of Agriculture for the prescription of final regulations relating to certain law enforcement activities of the Forest Service be utilized instead for the improvement of trails on National Forest System lands for the purpose of improving the access of individuals with disabilities to such lands.

S. 2062

At the request of Mr. INOUYE, the names of the Senator from Louisiana [Mr. BREAUX] and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of S. 2062, a bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to permit the movement in interstate commerce of meat and meat food products and poultry products that satisfy State inspection requirements that are at least equal to Federal inspection standards, and for other purposes.

S. 2074

At the request of Mr. MCCAIN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 2074, a bill to increase the special assessment for felonies and improve the enforcement of sentences imposing criminal fines, and for other purposes.

S. 2111

At the request of Mr. BREAUX, the name of the Senator from Idaho [Mr.

CRAIG] was added as a cosponsor of S. 2111, a bill to foster further development of the Nation's telecommunications infrastructure and protection of the public interest, and for other purposes.

S. 2257

At the request of Mr. BAUCUS, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Oklahoma [Mr. BOREN], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 2257, a bill to amend the Public Works and Economic Development Act of 1965 to reauthorize economic development programs, and for other purposes.

SENATE JOINT RESOLUTION 90

At the request of Mr. ROBB, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of Senate Joint Resolution 90, a joint resolution to recognize the achievements of radio amateurs, and to establish support for such amateurs as national policy.

SENATE JOINT RESOLUTION 165

At the request of Mr. COCHRAN, the names of the Senator from New York [Mr. MOYNIHAN], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of Senate Joint Resolution 165, a joint resolution to designate the month of September 1994 as "National Sewing Month."

SENATE JOINT RESOLUTION 167

At the request of Mr. SIMON, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Senate Joint Resolution 167, a bill to designate the week of September 12, 1994, through September 16, 1994, as "National Gang Violence Prevention Week."

SENATE JOINT RESOLUTION 198

At the request of Mr. PRYOR, the names of the Senator from Georgia [Mr. NUNN], the Senator from Oklahoma [Mr. NICKLES], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Joint Resolution 198, a joint resolution designating 1995 as the "Year of the Grandparent".

AMENDMENT NO. 2143

At the request of Mr. WARNER the names of the Senator from Montana [Mr. BURNS], and the Senator from Idaho [Mr. KEMPTHORNE] were added as cosponsors of Amendment No. 2143 proposed to S. 2182, an original bill to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

At the request of Mr. BROWN his name was added as a cosponsor of Amendment No. 2143 proposed to S. 2182, supra.

At the request of Mr. ROBB his name was added as a cosponsor of Amendment No. 2143 proposed to S. 2182, supra.

SENATE RESOLUTION 237—RELATING TO THE DEATH OF RICHARD FASS

Mr. DECONCINI (for himself and Mr. D'AMATO) submitted the following resolution which was considered and agreed to:

S. RES. 237

"Whereas, Richard Fass, a Drug Enforcement Administration agent was slain in the line of duty in Phoenix, Arizona last night;

"Whereas, to date, 26 DEA agents have been killed in the line of duty;

"Whereas, over 13,000 names have been placed on the Law Enforcement Memorial honoring law enforcement officers from all across the country who have been killed in the line of duty;

"Whereas, the entire law enforcement family shares in the pain and the grief when a fellow officer is lost;

"Whereas, it helps to ease the pain and suffering when fellow officers are present to share the loss;

"Whereas, current law permits active military officers to travel in an official capacity to funerals of fellow colleagues killed in the line of duty;

"Whereas, the nation mourns the loss of this fine, young, and dedicated law enforcement officer;

"Whereas, the Senate sends its condolences to the family of Richard Fass: Now, therefore, be it

"*Resolved by the Senate*, That the Administration should submit legislation to the Congress which authorizes Federal law enforcement officers to be excused from duty without loss or reduction in pay, leave, or credit for service, to attend the funeral of a fellow Federal law enforcement officer who was killed in the line of duty and in the interim, the Attorney General should exercise her authority to permit DEA personnel to attend the funeral or related services of agent Richard Fass."

SENATE RESOLUTION 238—RELATIVE TO THE JOHN HEINZ SENATE FELLOWSHIP PROGRAM

Mr. MITCHELL (for himself, Mr. DOLE, Mr. WOFFORD, Mr. SPECTER, and Mr. STEVENS) submitted the following resolution; which was considered and agreed to:

S. RES. 238

Resolved, That Senate Resolution 356, agreed to October 7, 1992 (102d Congress, 2d Session) is amended by striking sections 2 through 5 and inserting the following:

"SEC. 2. FINDINGS.

"The Senate finds that—

"(1) Senator John Heinz believed that Congress has a special responsibility to serve as the guardian for those who cannot protect themselves;

"(2) Senator Heinz dedicated much of his congressional career to improving the lives of senior citizens and children;

"(3) it is especially appropriate to honor the memory of Senator Heinz through the creation of a Senate fellowship program which encourages the identification and training of new leadership in child protection, health, welfare, and education policy and which brings experts having firsthand experience in children's issues to the assistance of Congress in order to help advance the development of public policy in issues that affect children; and

"(4) as Senator Heinz was an outspoken advocate for rights of the older Americans, it is fitting to recognize his legacy by fostering the professional development of those who, like Senator Heinz, seek to enhance the quality of life for seniors and by bringing experts with firsthand experience in issues concerning the elderly to the assistance of Congress to help formulate legislation affecting seniors.

"SEC. 3. FELLOWSHIP PROGRAM.

"(a) IN GENERAL.—In order to encourage the identification and training of new leadership in issues affecting children and seniors and to advance the development of public policy with respect thereto, there is established a John Heinz Senate Fellowship Program (referred to in this resolution as the "fellowship program"). The fellowship program shall, in alternate years, provide for the selection of fellows experienced in working with issues relating to children or the elderly.

"(b) SENATE FELLOWSHIPS.—The Heinz Family Foundation, a Pennsylvania nonprofit corporation, shall select Senate fellowship program participants.

"(c) SELECTION PROCESS.—The Heinz Family Foundation shall—

"(1) broadly publicize the availability of the fellowship program;

"(2) develop and administer an application process for Senate fellowships;

"(3) conduct a screening of applicants for the fellowship program; and

"(4) select participants without regard to race, color, religion, sex, national origin, age, or disability.

"SEC. 4. COMPENSATION; NUMBER OF FELLOWSHIPS; PLACEMENT.

"(a) COMPENSATION.—The Secretary of the Senate (referred to in this resolution as the "Secretary") is authorized, from funds made available under section 5, to appoint and fix the compensation of each eligible participant selected under section 3 for a period determined by the Secretary. The period of employment for each participant shall not exceed 1 year.

"(b) NUMBER OF FELLOWSHIPS.—No more than 2 fellowship participants shall be so employed during each calendar year. Any individual appointed pursuant to this resolution shall be subject to all laws, regulations and rules in the same manner and to the same extent as any other employee whose pay is disbursed by the Secretary of the Senate.

"(c) PLACEMENT.—The Secretary, after consultation with the Majority Leader and Minority Leader of the Senate, shall assist with the placement of eligible participants in positions in the Senate that are, within practical considerations, supportive of the fellowship participants' areas of expertise. Fellows shall be considered as employees of the office or committee in which they are placed.

"SEC. 5. FUNDS.

"The funds necessary to compensate eligible participants under this resolution shall be made available for five years to the Secretary and paid from the contingent fund of the Senate, out of the account of Miscellaneous Items. Not to exceed $71,000 shall be available for each year of the fellowship program.

"SEC. 6. EFFECTIVE DATE.

"The fellowship program shall terminate 5 years from the date of adoption of this section.".

AMENDMENTS SUBMITTED

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

GORTON (AND MURRAY) AMENDMENT NO. 2145

(Ordered to lie on the table.)

Mr. GORTON (for himself and Mrs. MURRAY) submitted an amendment intended to be proposed by them to the bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 276, line 16, strike out "$16,470,000" and insert in lieu thereof "$26,870,000".

On page 313, between lines 16 and 17, insert the following:

SEC. 2828. LAND CONVEYANCE, NAVAL RESERVE CENTER, SEATTLE, WASHINGTON.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the City of Seattle, Washington (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, together with improvements thereon, consisting of approximately 5.09 acres, the location of the Naval Reserve Center, Seattle, Washington.

(b) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a), the City shall pay to the United States an amount equal to the fair market value (as determined by the Secretary) of the portion of the real property to be conveyed under subsection (a) that is described in paragraph (2).

(2) Paragraph (1) applies to the portion of the parcel of real property referred to in subsection (a) that consists of approximately 3.67 acres and was acquired by the United States from a party other than the City.

(c) CONDITION.—The conveyance authorized by subsection (a) shall be subject to the condition that the City accept the real property in its condition at the time of conveyance.

(d) REQUIREMENTS RELATING TO CONVEYANCE.—(1) The Secretary may not make the conveyance authorized by subsection (a) until the commencement of the use by the Navy of a Naval Reserve Center that is a suitable replacement for the Naval Reserve Center located on the property to be conveyed. by the Navy of a Naval Reserve Center that is a suitable replacement for the Naval Reserve Center located on the property to be conveyed.

(2) The Secretary may not commence construction of a facility to be the replacement facility under paragraph (1) for the Naval Reserve Center until the Secretary completes an environmental impact statement with respect to the construction and operation of the facility to be the replacement facility.

(e) PAYMENT FOR COMMERCIAL USE.—If at any time after the conveyance under this section the City ceases utilizing the real property conveyed under subsection (a) for public purposes, and uses such real property instead for commercial purposes, the City shall pay to the United States an amount equal to the excess, if any, of—

(1) an amount equal to the fair market value (as determined by the Secretary) of the real property referred to in subsection (b)(2), and any improvements thereon, at the time the City ceases utilizing the real property for public purposes, over

(2) the amount determined by the Secretary under subsection (b)(1).

(f) USE OF PROCEEDS.—(1) The Secretary shall deposit in the special account established under section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(2)) the amount received from the City under subsection (b)(1) and the amount, if any, received from the City under subsection (e).

(2) Notwithstanding subparagraph (A) of such section 204(h)(2), the Secretary shall use the entire amount deposited in the account referred to in paragraph (1) for the purposes set forth in subparagraph (B) of such section 204(h)(2).

(g) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

DECONCINI AMENDMENT NO. 2146

Mr. DECONCINI proposed an amendment to the bill S. 2182, supra; as follows:

At the end of title X, add the following:

Subtitle _—Investigations of Sexual Misconduct

SEC. 1081. DIRECTOR OF SPECIAL INVESTIGATIONS.

(a) ESTABLISHMENT.—Chapter 4 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 143. Director of Special Investigations

"(a) APPOINTMENT.—There is a Director of Special Investigations who is appointed by the Secretary of Defense from among civilians who have a significant level of experience in criminal investigations. The Director reports directly to the Secretary of Defense.

"(b) SENIOR EXECUTIVE SERVICE POSITION.—The position of Director of Special Investigations is a Senior Executive Service position. The Secretary shall designate the position as a career reserved position under section 3132(b) of title 5.

"(c) DUTIES.—Subject to the authority, direction, and control of the Secretary of Defense, the Director of Special Investigations shall perform the duties set forth in this section and such other related duties as the Secretary may prescribe.

"(d) DATA COMPILATION AND REPORTING.—(1) The Director shall obtain, compile, store, monitor, and (in accordance with this section) report information on each allegation of sexual misconduct of a member of the armed forces or of a dependent of a member of the armed forces against a member of the armed forces, against a dependent of a member of the armed forces, or against a civilian not a dependent of a member of the armed forces that is received by a member of the armed forces or an officer or employee of the Department of Defense in the official capacity of that member, officer, or employee.

"(2) The information compiled pursuant to paragraph (1) shall include the following:

"(A) The number of complaints containing an allegation referred to in paragraph (1) that are received as described in that paragraph.

"(B) The number of such complaints that are investigated.

"(C) In the case of each complaint—

"(i) the organization that investigated the complaint (if investigated);

"(ii) the disposition of the complaint upon completion or other termination of the investigation; and

"(iii) the status or results of any judicial action, nonjudicial disciplinary action, or other adverse action taken.

"(D) The number of complaints that were disposed of by formal adjudication in a judicial proceeding, including—

"(i) the number disposed of in a court-martial;

"(ii) the number disposed of in a court of the United States;

"(iii) the number disposed of in a court of a State or territory of the United States or in a court of a political subdivision of a State or territory of the United States;

"(iv) the number disposed of by a plea of guilty;

"(v) the number disposed of by trial on a contested basis; and

"(vi) the number disposed of on any other basis.

"(E) The number of complaints that were disposed of by formal adjudication in an administrative proceeding.

"(3) The Director shall make the information obtained and compiled under this subsection available to the Secretary of Defense, the Secretaries of the military departments, Congress, any law enforcement agency concerned, and any court concerned.

"(e) DIRECT INVESTIGATIONS.—The Director shall investigate each allegation of sexual misconduct referred to in subsection (d)—

"(1) that is made directly, or referred, to the Director, including such an allegation that is made or referred to the Director by—

"(A) a commander of a member of the armed forces alleged to have engaged in the sexual misconduct or to have been the victim of the sexual misconduct;

"(B) an investigative organization of the Department of Defense; or

"(C) a victim of the alleged misconduct who is a member of the armed forces or a dependent of a member of the armed forces; or

"(2) that the Secretary directs the Director to investigate.

"(f) OVERSIGHT AND QUALITY CONTROL OF OTHER INVESTIGATIONS.—(1) The Director shall monitor the conduct of investigations by units, offices, agencies, and other organizations within the Department of Defense regarding allegations of sexual misconduct.

"(2) In carrying out paragraph (1), the Director may inspect any investigation conducted or being conducted by any other organization within the Department of Defense, review the records of an investigation, and observe the conduct of an ongoing investigation.

"(3) The Director may report to the Secretary on any investigation monitored pursuant to in paragraph (1). The report may include the status of the investigation, an evaluation of the conduct of the investigation, and an evaluation of each investigator and the investigative organization involved in the investigation.

"(g) POWERS.—In the performance of the duties set forth or authorized in this section, the Director shall have the following powers:

"(1) To have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available in the Department of Defense which relate to the duties of the Director.

"(2) To request such information or assistance as may be necessary for carrying out the Director's duties from any Federal, State, or local governmental agency or unit thereof.

"(3) To require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the Director's duties, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court.

"(4) To serve subpoenas, summons, and any judicial process related to the performance of any of the Director's duties.

"(5) To administer to or take from any person an oath, affirmation, or affidavit whenever necessary in the performance of the Director's duties, which oath, affirmation, or affidavit when administered or taken by or before an employee designated by the Director shall have the same force and effect as if administered or taken by or before an officer having a seal.

"(6) To have direct and prompt access to the Secretary of Defense, the Secretary of a military department, and any commander when necessary for any purpose pertaining to the performance of the Director's duties.

"(7) To obtain for any victim of sexual misconduct referred to in subsection (d)(1), from any facility of the uniformed services or any other health care facility of the Federal Government or, by contract, from any other source, medical services and counseling and other mental health services appropriate for treating or investigating—

"(A) injuries resulting from the sexual misconduct; and

"(B) other mental and physiological results of the sexual misconduct.

"(h) REFERRALS FOR PROSECUTION.—(1) The Director may refer any case of sexual misconduct described in subsection (d)(1) to—

"(A) a United States Attorney, or another appropriate official in the Department of Justice, for prosecution; or

"(B) to an appropriate commander within the armed forces for action under chapter 47 of this title (the Uniform Code of Military Justice) or other appropriate action.

"(2) The Director shall report each such referral to the Secretary of Defense.

"(i) STAFF.—(1) The Director shall have—

"(A) a staff of investigators who have extensive experience in criminal investigations;

"(B) a staff of attorneys sufficient to provide the Director, the criminal investigators, and the Director's other staff personnel with legal counsel necessary for the performance of the duties of the Director;

"(C) a staff of counseling referral specialists; and

"(D) such other staff as is necessary for the performance of the Director's duties.

"(2) To the maximum extent practicable, the staff of the Director shall be generally representative of the population of the United States with regard to race, gender, and cultural diversity.

"(j) REPORTS TO DIRECTOR.—Each member of the armed forces and each officer or employee of the Department of Defense who, in the official capacity of that member, officer, or employee, receives an allegation of sexual misconduct shall submit to the Director a notification of that allegation together with such information as the Director may require for the purpose of carrying out the Director's duties.

"(k) ANNUAL REPORT ON SEXUAL MISCONDUCT.—The Secretary of Defense shall submit to Congress an annual report on the number and disposition of cases of sexual misconduct by members of the armed forces and officers and employees of the Department of Defense.

"(l) DEFINITIONS.—In this section:

"(1) The term 'sexual misconduct' includes the following:

"(A) Sexual harassment, including any conduct involving sexual harassment that—

"(i) in the case of conduct of a person who is subject to the provisions of chapter 47 of this title (the Uniform Code of Military Justice), comprises a violation of a provision of subchapter X of such chapter (relating to the punitive articles of such Code) or an applicable regulation, directive, or guideline regarding sexual harassment that is prescribed by the Secretary of Defense or the Secretary of a military department; and

"(ii) in the case of an employee of the Department of Defense or a dependent subject to the jurisdiction of the Secretary of Defense or of the Secretary of a military department, comprises a violation of a regulation, directive, or guideline referred to in clause (i) that is applicable to such employee or dependent.

"(B) Rape.

"(C) Sexual assault.

"(D) Sexual battery.

"(2) The term 'complaint', with respect to an allegation of sexual misconduct, includes a report of such allegation.".

(b) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 4 of such title is amended by adding at the end the following:

"143. Director of Special Investigations.".

SEC. 1082. CRIMINAL FAILURE TO REPORT SEXUAL MISCONDUCT.

(a) OFFENSES.—Chapter 109A of title 18, United States Code, is amended—

(1) by redesignating section 2245 as section 2246;

(2) by inserting after section 2244 the following new section:

"§ 2245. Failure to report sexual misconduct

"(a) FAILURE TO ACT ON ALLEGATION OF CRIMINAL SEXUAL MISCONDUCT.—An officer or employee of the Department of Defense or a member of the Armed Forces of the United States who, in the official capacity of the officer, employee, or member—

"(1) receives an allegation of criminal sexual misconduct of a member of the Armed Forces of the United States or of a dependent of a member of the Armed Forces of the United States against a member of the Armed Forces of the United States, against a dependent of a member of the Armed Forces of the United States, or against a civilian not a dependent of a member of the Armed Forces of the United States;

"(2) is required by law to determine whether to initiate an investigation of, or to determine whether to take disciplinary action in the case of, the allegation; and

"(3) fails to submit a notification of the allegation to the Director of Special Investigations of the Department of Defense and to the immediate employment supervisor or immediate commander, as the case may be, of the alleged offender,

shall be imprisoned not more than 10 years, fined under this title, or both.

"(b) FAILURE TO ACT ON ALLEGATION OF CIVIL SEXUAL MISCONDUCT.—An officer or employee of the Department of Defense or a member of the Armed Forces of the United States who, in the official capacity of the officer, employee, or member—

"(1) receives an allegation of civil sexual misconduct of a member of the Armed Forces of the United States or of a dependent of a member of the Armed Forces of the United States against a member of the Armed Forces of the United States, against a dependent of a member of the Armed Forces of the United States, or against a civilian not a dependent of a member of the Armed Forces of the United States;

"(2) is required by law to determine whether to initiate an investigation of, or to determine whether to take disciplinary action in the case of, the allegation; and

"(3) fails to submit a notification of the allegation to the Director of Special Investigations of the Department of Defense and to the immediate employment supervisor or immediate commander, as the case may be, of the alleged offender,

shall be imprisoned not more than 1 year, fined under this title, or both."; and

(3) in section 2246, as redesignated by paragraph (1)—

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

"(6) the term 'criminal sexual misconduct' means engaging in a sexual act or sexual contact in circumstances such that the act or conduct constitutes a criminal offense under this chapter, other Federal law, or State law; and

"(7) the term 'civil sexual misconduct' means engaging in a sexual act, sexual conduct, or other activity of a sexual nature in violation of a statute, rule, order, or other lawful authority that prohibits the activity but does not authorize imposition of a sentence of imprisonment for a violation.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking the item relating to section 2245 and inserting the following:

"2245. Failure to report sexual misconduct.
"2246. Definitions for chapter.".

(c) CONFORMING AMENDMENT.—Section 506(f)(3)(B) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756(f)(3)(B)) is amended by striking out "section 2245(1)" and inserting in lieu thereof "section 2246(1)".

SEC. 1083. PERSONNEL ADMINISTRATION MATTERS.

(a) PERFORMANCE EVALUATIONS AND BENEFITS.—(1) The Secretary of Defense shall prescribe in regulations a requirement that the commitment of an officer or employee of the Department of Defense and a member of the Armed Forces of the United States to the elimination of sexual harassment in the officer's, employee's, or member's place of work or duty and at installations and other facilities of the Department of Defense be one of the factors considered in—

(A) the preparation of the evaluations of the officer's, employee's, or member's performance of work or duties;

(B) the determination of the appropriateness of a promotion of the officer, employee, or member; and

(C) the determination of the appropriateness of selecting the officer, employee, or member to receive a financial award for performance of work or duties.

(2) The Secretary shall submit to Congress an annual report on the implementation of the regulations required by paragraph (1). The report shall contain an assessment of the effects of the implementation of such regulations on the number, extent, and seriousness of the cases of sexual harassment in the Department of Defense. The annual report under this paragraph shall be separate

from the annual report required by section 143(k) of title 10, United States Code, as added by section 1081.

(b) ELIGIBILITY FOR PROMOTIONS AND AWARDS.—The Secretary of Defense and the Secretary of the military department concerned may not approve for presentation of a financial award for performance of work or duties or for promotion any officer or employee of the Department of Defense or any member of the Armed Forces of the United States who—

(1) has been convicted of a criminal offense involving sexual misconduct; or

(2) has received any other disciplinary action or adverse personnel action on the basis of having engaged in sexual misconduct.

SEC. 1084. PROTECTION OF PERSONS REPORTING SEXUAL HARASSMENT.

(a) REGULATIONS OF THE SECRETARY OF DEFENSE.—The Secretary of Defense shall prescribe regulations that prohibit officers and employees of the Department of Defense from retaliating or taking any adverse personnel action against any other officer or employee of the Department of Defense or any member of the Armed Forces of the United States for reporting sexual misconduct by an officer or employee of the Department of Defense or a member of the Armed Forces or for providing information in an investigation, disciplinary action, or adverse personnel action in the case of an allegation of sexual misconduct by any other such officer, employee, or member. The regulations shall include sanctions for violation of the regulations.

(b) REGULATIONS OF A SECRETARY OF A MILITARY DEPARTMENT.—(1) The Secretary of each military department shall prescribe regulations that prohibit members of the armed force under the jurisdiction of that Secretary from retaliating or taking any adverse personnel action against any officer or employee of the Department of Defense or any member of the Armed Forces of the United States for reporting sexual misconduct by any other officer or employee of the Department of Defense or any other member of the Armed Forces or for providing information in an investigation, disciplinary action, or adverse personnel action in the case of an allegation of sexual misconduct by any other such officer, employee, or member.

(2) A violation of the regulations prescribed pursuant to paragraph (1) shall be punishable under section 892 of title 10, United States Code (article 92 of the Uniform Code of Military Justice).

SEC. 1085. SEXUAL MISCONDUCT DEFINED.

In this subtitle, the term "sexual misconduct" has the meaning given that term in section 143(l) of title 10, United States Code, as added by section 1081.

NUNN (AND OTHERS) AMENDMENT NO. 2147

Mr. NUNN (for himself, Mrs. MURRAY, Ms. MOSELEY-BRAUN, and Mr. ROBB) proposed an amendment to amendment No. 2146 proposed by Mr. DECONCINI to the bill S. 2182, supra; as follows:

On page 1, strike out everything after "Subtitle" down through the end of the amendment and insert in lieu thereof the following:

SEC. . DEPARTMENT OF DEFENSE POLICIES AND PROCEDURES ON DISCRIMINATION AND SEXUAL HARASSMENT.

(a) MILITARY DEPARTMENT POLICIES.—(1) Subject to paragraph (2), the Secretary of the Navy and the Secretary of the Air Force shall review and revise the regulations of the Department of the Navy and the Department of the Air Force, respectively, relating to equal opportunity policy and complaint procedures to ensure that such regulations are substantially equivalent to the regulations of the Army on such matters.

(2) In revising regulations pursuant to paragraph (1), the Secretary of the Navy or the Secretary of the Air Force, as the case may be, may make such additions and modifications as the Secretary of Defense determines appropriate to strengthen the regulations beyond the substantial equivalent of the Army regulations in accordance with—

(A) the recommendations of the Department of Defense Task Force on Discrimination and Sexual Harassment; and

(B) the experience of the Army, Navy, Air Force, and Marine Corps regarding equal opportunity cases.

(3) The Secretary of the Army shall review the regulations of the Department of the Army relating to equal opportunity policy and complaint procedures and revise the regulations as the Secretary of Defense considers appropriate to strengthen the regulations in accordance with the recommendations and experience described in subparagraphs (A) and (B) of paragraph (2).

(b) REQUIREMENTS REGARDING REPORT OF TASK FORCE ON DISCRIMINATION AND SEXUAL HARASSMENT.—(1) The Department of Defense Task Force on Discrimination and Sexual Harassment shall transmit the report of the task force to the Secretary of Defense not later than October 1, 1994.

(2) The Secretary of Defense shall transmit to Congress the report of the task force not later than October 10, 1994.

(3) Not later than 45 days after receiving the report, the Secretary of Defense shall—

(A) review the recommendations for action contained in such report;

(B) determine which recommendations the Secretary approves for implementation and which recommendations the Secretary disapproves; and

(C) submit to Congress a report that—

(i) identifies the approved recommendations and the disapproved recommendations; and

(ii) explains the reasons for each such approval and disapproval.

(4) The Secretary of Defense shall implement the approved recommendations not later than April 1, 1995.

(c) The Advisory Board on the investigative capability of the Department of Defense should consider and include in its report—

(1) whether the Department of Defense should establish a separate unit to oversee all matters related to allegations of discrimination or sexual misconduct in the Department of Defense; and

(2) whether additional data collection and reporting procedures are needed to enhance the ability at the Department of Defense to deal with sexual misconduct.

(d) The Secretary of Defense shall ensure that regulations governing consideration of equal opportunity matters in performance evaluations include consideration of an individual's commitment to elimination of discrimination or of sexual harassment.

NICKLES (AND OTHERS) AMENDMENT NO. 2148

Mr. NICKLES (for himself, Mr. THURMOND, Mr. LOTT, Mr. MACK, Mr. MCCAIN, Mr. COATS, Mr. BENNETT, Mr. BROWN, Mr. FAIRCLOTH, Mr. GRASSLEY, Mr. SMITH, Mr. SIMPSON and Mr. BOND) proposed an amendment to the bill S. 2182, supra; as follows:

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. MILITARY RECRUITING ON CAMPUS.

(a) DENIAL OF FUNDS.—(1) No funds available to the Department of Defense may be provided by grant or contract to any institution of higher education that has a policy of denying, or which effectively prevents, the Secretary of Defense from obtaining for military recruiting purposes—

(A) entry to campuses or access to students on campuses; or

(B) access to directory information pertaining to students.

(2) Students referred to in paragraph (1) are individuals who are 17 years of age or older.

(b) PROCEDURES FOR DETERMINATION.—The Secretary of Defense, in consultation with the Secretary of Education, shall prescribe regulations that contain procedures for determining if and when an educational institution has denied or prevented access to students or information described in subsection (a).

(c) DEFINITION.—For purposes of this section, the term "directory information" means, with respect to a student, the student's name, address, telephone listing, date and place of birth, level of education, degrees received, and the most recent previous educational institution enrolled in by the student.

BROWN AMENDMENT NO. 2149

Mr. BROWN proposed an amendment to the bill S. 2182, supra; as follows:

On page 200, between lines 8 and 9, insert the following:

SEC. 1017. BURDENSHARING POLICY AND REPORT.

(a) POLICY.—It is the policy of the United States that the North Atlantic Treaty Organization (NATO) allies should assist the United States in paying the incremental cost incurred by the United States for maintaining members of the Armed Forces in assignments to permanent duty ashore in Europe solely for performing United States obligations for support of NATO.

(b) IMPLEMENTATION.—The President shall take all necessary actions to ensure the effective implementation of the burdensharing policy set forth in subsection (a).

(c) REPORT.—The Secretary of Defense shall include in the annual burdensharing report required by section 1002(d) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note) the following matters:

(1) A specific enumeration and description of the United States military resources and military personnel assigned to permanent duty ashore in Europe primarily in support of NATO and an analysis of the cost of providing and maintaining such resources and personnel in such assignment primarily for that purpose.

(2) A specific enumeration and description of the United States military resources and military personnel assigned to permanent duty ashore in Europe primarily in support of other United States interests in other regions of the world and an analysis of the cost of providing and maintaining such resources and personnel in such assignment primarily for that purpose.

(3) A specific enumeration and description of the offsets to United States costs of providing and maintaining United States military resources and military personnel in Europe that the United States has previously

received from other NATO member nations, set out by country and by type of assistance, including both "in-kind" assistance and direct cash reimbursement, and the projected offsets for the five fiscal years following the fiscal year in which the report is submitted.

(4) A detailed identification of the costs associated with maintaining United States military personnel in assignments to permanent duty ashore in Europe for NATO and the difference in cost that would result from stationing such personnel at military bases within the United States and continuing to assign to such personnel the mission to perform United States obligations under NATO.

(5) A comparison of the defense spending by each NATO member country as a percentage of Gross Domestic Product (GDP) beginning in 1985 and the projected future defense spending as a percentage of Gross Domestic Product through 2000.

(6) A review of all actions taken by the United States to ensure the effective implementation of the United States burdensharing policy set forth in subsection (a).

(d) Incremental Cost Defined.—In this section, the term "incremental cost", with respect to maintaining members of the Armed Forces in assignments to permanent duty ashore in Europe, includes the cost of transportation to and from duty stations in Europe, any variation in the cost of housing and food as compared to the cost of housing and food for members of the Armed Forces stationed in the United States, and any additional expenditures associated with infrastructure necessary to support United States forces in Europe.

BROWN (AND OTHERS) AMENDMENT NO. 2150

Mr. BROWN (for himself, Mr. Simon, and Mr. Murkowski) proposed an amendment to the bill S. 2182, supra; as follows:

At the appropriate place in the bill, add the following new section—

"SEC. . VISAS FOR OFFICIALS OF TAIWAN.

Section 4(b)(6) of the Taiwan Relations Act (22 U.S.C. 3302(b)(6)) is amended—

(1) by inserting "(A)" immediately after "(6)"; and

(2) by adding at the end the following:

"(B) Whenever the president of Taiwan or any other high-level official of Taiwan shall apply to visit the United States for the purposes of discussions with United States federal or state government officials concerning:

(i) Trade or business with Taiwan that will reduce the U.S.-Taiwan trade deficit;

(ii) Prevention of nuclear proliferation;

(iii) Threats to the national security of the United States;

(iv) The protection of the global environment;

(v) The protection of endangered species; or

(iv) Regional humanitarian disasters.

The official shall be admitted to the United States, unless the official is otherwise excludable under the immigration laws of the United States.".

BROWN AMENDMENT NO. 2151

Mr. BROWN proposed an amendment to the bill S. 2182, supra; as follows:

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. STUDY ON CONVERGENCE OF GEOSAT AND EOS ALTIMETRY PROGRAMS.

(a) Requirement.—The Secretary of the Navy and the Administrator of the National Aeronautics and Space Administration shall jointly conduct a study on the convergence of the National Aeronautics and Space Administration Earth Observing System Altimetry mission with the Navy Geosat Follow-On program. The study shall assess whether a converged system, which may involve minor modifications to the Geosat Follow-On satellite, could—

(1) satisfy the needs of the Earth Observing System program for altimetry data;

(2) reduce the expenses of the National Aeronautics and Space Administration in satisfying such needs;

(3) be available in time to serve as the follow-on to the Topex/Poseidon mission; and

(4) continue to meet the requirements of the Navy for altimetry data at no additional cost to the Navy.

(b) Consultation.—In conducting the study, the Secretary and the Administrator shall consult with appropriate members of the scientific community.

(c) Report.—The Secretary and the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report on the results of the study conducted under subsection (a), together with the recommendations of the Secretary and the Administrator thereon. The Secretary and the Administrator shall submit the report not later than February 15, 1995.

BROWN (AND OTHERS) AMENDMENT NO. 2152

Mr. BROWN (for himself, Mr. Simon, Mr. Lugar, Ms. Mikulski, and Mr. Roth) proposed an amendment to the bill S. 2182, supra; as follows:

At the end of subtitle B of title X, add the following:

SEC. 1017. ADDITIONAL COUNTRIES ELIGIBLE FOR PARTICIPATION IN ALLIED DEFENSE COOPERATION.

(a) Short Title.—This section may be cited as the "NATO Participation Act".

(b) Transfer of Excess Defense Articles.—The President may transfer excess defense articles under the Foreign Assistance Act of 1961 or the Arms Export Control Act to Poland, Hungary, and the Czech Republic.

(c) Leases and Loans of Major Defense Equipment and Other Defense Articles.—Section 63(a)(2) of the Arms Export Control Act (22 U.S.C. 2796b) is amended by striking "or New Zealand" and inserting "New Zealand, Poland, Hungary, or the Czech Republic".

(d) Loan Materials, Supplies, and Equipment for Research and Development Purposes.—Section 65(d) of the Arms Export Control Act (22 U.S.C. 2796d(d)) is amended—

(1) by striking "or" after "United States)" and inserting a comma; and

(2) by inserting before the period at the end the following: ", Poland, Hungary, or the Czech Republic".

(e) Cooperative Military Airlift Agreements.—Section 2350c(e)(1)(B) of title 10, United States Code, is amended by striking "and the Republic of Korea" and inserting "the Republic of Korea, Poland, Hungary, and the Czech Republic".

(f) Procurement of Communications Support and Related Supplies and Services.—Section 2350f(d)(1)(B) is amended by striking "or the Republic of Korea" and inserting "the Republic of Korea, Poland, Hungary, or the Czech Republic".

(g) Standardization of Equipment With North Atlantic Treaty Organization Members.—Section 2457 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(g) It is the sense of the Congress that in the interest of maintaining stability and promoting democracy in Eastern Europe, Poland, Hungary, and the Czech Republic, those countries should, on and after the date of enactment of this subsection, be included in all activities under this section related to the increased standardization and enhanced interoperability of equipment and weapons systems, through coordinated training and procurement activities, as well as other means, undertaken by the North Atlantic Treaty Organization members and other allied countries.".

(h) Inclusion of Other European Countries Emerging From Communist Domination.—The President should recommend legislation to the Congress making eligible under the provisions of law amended by this section such other European countries emerging from communist domination as the President may determine if such countries—

(1) have made significant progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law; and

(2) are likely, within 5 years of such determination, to be in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area.

McCAIN (AND OTHERS) AMENDMENT NO. 2153

Mr. McCAIN (for himself, Mr. Roth, and Ms. Mikulski) proposed an amendment to amendment No. 2152 proposed by Mr. Brown to the bill S. 2182, supra; as follows:

SEC. 1017. ADDITIONAL COUNTRIES ELIGIBLE FOR PARTICIPATION IN ALLIED DEFENSE COOPERATION.

(a) Short Title.—This section may be cited as the "NATO Participation Act".

(b) Transfer of Excess Defense Articles.—The President may transfer excess defense articles under the Foreign Assistance Act of 1961 or the Arms Export Control Act to Poland, Hungary, and the Czech Republic.

(c) Leases and Loans of Major Defense Equipment and Other Defense Articles.—Section 63(a)(2) of the Arms Export Control Act (22 U.S.C. 2796b) is amended by striking "or New Zealand" and inserting "New Zealand, Poland, Hungary, or the Czech Republic".

(d) Loan Materials, Supplies, and Equipment for Research and Development Purposes.—Section 65(d) of the Arms Export Control Act (22 U.S.C. 2796d(d)) is amended—

(1) by striking "or" after "United States)" and inserting a comma; and

(2) by inserting before the period at the end the following: ", Poland, Hungary, or the Czech Republic".

(e) Cooperative Military Airlift Agreements.—Section 2350c(e)(1)(B) of title 10, United States Code, is amended by striking "and the Republic of Korea" and inserting "the Republic of Korea, Poland, Hungary, and the Czech Republic".

(f) Procurement of Communications Support and Related Supplies and Services.—Section 2350f(d)(1)(B) is amended by striking "or the Republic of Korea" and inserting "the Republic of Korea, Poland, Hungary, or the Czech Republic".

(g) Standardization of Equipment With North Atlantic Treaty Organization Members.—Section 2457 of title 10, United States

Code, is amended by adding at the end the following new subsection:

"(g) It is the sense of the Congress that in the interest of maintaining stability and promoting democracy in Eastern Europe, Poland, Hungary, and the Czech Republic, those countries should, on and after the date of enactment of this subsection, be included in all activities under this section related to the increased standardization and enhanced interoperability of equipment and weapons systems, through coordinated training and procurement activities, as well as other means, undertaken by the North Atlantic Treaty Organization members and other allied countries.".

(h) INCLUSION OF OTHER EUROPEAN COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—The President should recommend legislation to the Congress making eligible under the provisions of law amended by this section such other European countries emerging from communist domination as the President may determine if such countries—

(1) have made significant progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law; and

(2) are likely, within 5 years of such determination, to be in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area and Europe.

MCCAIN (AND BOND) AMENDMENT NO. 2154

Mr. MCCAIN (for himself and Mr. BOND) proposed an amendment to the bill S. 2182, supra; as follows:

On page 22, between lines 9 and 10, insert the following new section:

SEC. 122. SEAWOLF SUBMARINE PROGRAM.

(a) LIMITATION OF COSTS.—Except as provided in subsection (b), the total amount obligated or expended for procurement of the SSN–21 and SSN–22 Seawolf submarines may not exceed $4,673,371,000.

(b) AUTOMATIC INCREASE OF LIMITATION AMOUNT.—The amount of the limitation set forth in subsection (a) is increased by the following amounts:

(1) The amounts of outfitting costs and post-delivery costs incurred for the submarines referred to in such subsection.

(2) The amounts of increases in costs attributable to economic inflation.

(3) The amounts of increases in costs attributable to compliance with changes in Federal, State, or local laws.

DODD (AND LIEBERMAN) AMENDMENT NO. 2155

Mr. DODD (for himself and Mr. LIEBERMAN) proposed an amendment to amendment No. 2154 proposed by Mr. MCCAIN to the bill S. 2182, supra; as follows:

On the first page, line 7, strike out "$4,673,371,000" and insert in lieu thereof "$4,759,571,000".

BUMPERS (AND OTHERS) AMENDMENT NO. 2156

Mr. BUMPERS (for himself, Mr. FORD, Mr. BOND, Mr. PELL, and Mr. BRADLEY) proposed an amendment to the bill S. 2182, supra; as follows:

On page 126, insert after line 21 the following:

SEC. 514. SENSE OF THE SENATE CONCERNING THE TRAINING AND MODERNIZATION OF THE RESERVE COMPONENTS.

(a) The force structure specified in the Pentagon's Bottom Up Review assumes increased reliance on the reserve components of the Armed Forces;

(b) The mobilization of the reserve components for the Persian Gulf War was handicapped by training, readiness, and equipment shortfalls;

(c) The mobilization of the Army reserve components for the Persian Gulf War was handicapped by lack of a standard readiness evaluation system, which resulted in a lengthy reevaluation of training and equipment readiness of Army National Guard and Reserve units before they could be deployed;

(d) Funding and scheduling constraints continue to limit the opportunity for combat units of the Army National Guard to carry out adequate maneuver training;

(e) Funding constraints continue to handicap the readiness and modernization of the reserve components and their inter operability with the active forces;

(f) Now, therefore, it is the Sense of the Senate that the Department of Defense should establish a standard readiness and evaluation system and that it should provide in its annual budget submissions adequate resources to ensure that National Guard and reserve units are trained and modernized to the standards needed for them to carry out the full range of missions required of them under the Bottom-Up Review.

BUMPERS AMENDMENT NO. 2157

Mr. BUMPERS proposed an amendment to the bill S. 2182, supra; as follows:

Strike line 23 on page 14 and insert in lieu thereof the following: "pedoes, $2,322,539,000, of which no more than $535,300,000 are authorized to be appropriated for procurement of 18 Trident II missiles and 14 Mark–6 guidance systems."

FORD (AND OTHERS) AMENDMENT NO. 2158

Mr. FORD (for himself, Mr. BOND, Mr. NUNN, and Mr. THURMOND) proposed an amendment to the bill S. 2182, supra; as follows:

On page 247, line 6, insert ", at no expense to the Army," after "Marine Corps".

On page 247, line 10, insert "of the Army" after "Secretary".

On page 247, beginning on line 11, strike out "not less than" and all that follows through line 12 on such page, and insert in lieu thereof "84 M1A1 tanks selected by the Secretary of the Army.".

On page 247, beginning on line 20, strike out "may not" and all that follows through line 24 on such page, and insert in lieu thereof "shall transfer not more than one M1A1 tank to the National Guard for each M1A1 tank transferred to the Marine Corps until the Secretary has transferred the total number of tanks required in subsection (b). The tanks transferred to the Marine Corps shall be in a material condition comparable to the material condition of the tanks transferred to the National Guard.".

WARNER (AND OTHERS) AMENDMENT NO. 2159

Mr. WARNER (for himself, Mr. THURMOND, Mr. DOLE, Mr. WALLOP, Mr. SMITH, Mr. NUNN, Mr. BIDEN, Mr. KERRY, and Mr. KEMPTHORNE) proposed an amendment to the bill S. 2182, supra; as follows:

At the end of subtitle C of title II, add the following:

SEC. 224. SENATE ADVICE AND CONSENT ON AGREEMENTS THAT MODIFY OR ESTABLISH NEW LEGAL OBLIGATIONS FOR THE UNITED STATES UNDER THE ANTI-BALLISTIC MISSILE TREATY.

(a) REQUIREMENT FOR ADVICE AND CONSENT OF SENATE.—Whenever the President negotiates an international agreement that would substantively modify the ABM Treaty or establish new legal obligations for the United States under the ABM Treaty, the United States shall not be bound by such agreement unless the agreement is entered into pursuant to the treaty making power of the President under the Constitution (which includes a requirement for advice and consent of the Senate).

(b) AGREEMENTS INCLUDED.—Among the international agreements covered by subsection (a) are the following agreements:

(1) Any agreement regarding the succession of the independent states of the former Soviet Union to the commitments of the former Soviet Union under the ABM Treaty.

(2) Any agreement that sets forth a demarcation between theater missile defense systems and antiballistic missile systems for purposes of judging compliance of theater missile defense systems with the ABM Treaty.

(3) Any agreement that imposes the limitations on antiballistic missile systems or components more restrictive than the limitations already set forth in the ABM Treaty.

(c) ABM TREATY DEFINED.—In this section, the term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed in Moscow on May 26, 1972, with related protocol, signed in Moscow on July 3, 1974.

NUNN AMENDMENT NO. 2160

Mr. NUNN proposed an amendment to the amendment No. 2159 proposed by Mr. WARNER to the bill S. 2182, supra; as follows:

On the first page, strike out all after the first word and insert in lieu thereof the following:

SEC. . CLARIFICATION OF SCOPE ABM TREATY LIMITATIONS WITH REGARD TO THEATER MISSILE DEFENSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The Anti-Ballistic Missile Treaty limits the development, testing, and deployment of defensive systems capable of intercepting strategic ballistic missiles systems and prohibits the deployment of nationwide antiballistic missile systems.

(2) The ABM Treaty was not intended to, and does not, apply to or limit research, development, testing, or deployment of missile defense systems, system upgrades, or system components that are designed to counter modern theater ballistic missiles unless those systems, system upgrades, or system components are tested against or have demonstrated capabilities to counter modern strategic ballistic missiles.

(3) In November 1993, the United States entered into discussions in the Standing Consultative Commission (SCC) with Russia and

the other independent states of the former Soviet Union to differentiate between strategic missile defenses, which are strictly limited by the ABM Treaty, and antitactical ballistic missile technologies, which are permitted but not technically defined.

(4) The threat of proliferation of ballistic missiles to additional countries is a real threat.

(5) There is a shared interest among nations to be able to counter that threat.

(6) It is necessary that the ABM Treaty be clarified to make it clear that the treaty permits theater missile defenses that are capable of countering theater missiles already deployed.

(7) Executive branch officials have testified before Congress that it would not bypass Congress in clarifying for purposes of the ABM Treaty a differentiation between strategic and theater missile defense systems and that executive branch officials would consult closely with Congress before the United States agrees in the Standing Consultative Committee to such a clarification.

(b) SUBMISSION OF PROPOSED AGREEMENT TO SENATE.—The President shall submit to the Senate the final clarification to the ABM Treaty, agreed upon between or among the nations referred to in subsection (a)(3), that defines theater missile defense systems before the clarification becomes effective so that the Senate can make a determination on whether the agreed clarification would substantively modify the ABM Treaty or establish new legal obligations for the United States in a manner that would require the advice and consent of the Senate under section 2 of article II of the Constitution.

(c) TREATY DEFINED.—In this section, the terms "Anti-Ballistic Missile Treaty" and "ABM Treaty" mean the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed in Moscow on May 26, 1972, with related protocol, signed in Moscow on July 3, 1974.

BROWN (AND OTHERS) AMENDMENT NO. 2161

Mr. BROWN (for himself, Mr. SIMON, Mr. ROTH, Mr. LEVIN, Mr. WARNER, Mr. DOMENICI, and Mr. DOLE) proposed an amendment to the bill S. 2182, supra; as follows:

At the appropriate place in the bill add the following new section:

"SEC. . SENSE OF THE SENATE CONCERNING PARTICIPATION IN ALLIED DEFENSE COOPERATION.

It is the sense of the Senate that the President should use existing authorities to the greatest extent possible to authorize the provision of the following types of assistance and cooperation to countries like Poland, Hungary, and the Czech Republic who are making significant progress in working with NATO:

(a) Excess defense articles as defined in the Foreign Assistance Act of 1961 and the Arms Export Control Act;

(b) Loan materials, supplies and equipment for research and development purposes;

(c) Leases and loans of major defense equipment and other defense articles;

(d) Cooperative military airlift agreements;

(e) The procurement of communications support and related supplies and services;

(f) Actions to standardize equipment with North Atlantic Treaty Organization members.

DOMENICI AMENDMENT NO. 2162

Mr. DOMENICI proposed an amendment to the bill S. 2182, supra; as follows:

On page 128, between lines 2 and 3, insert the following new section:

SEC. 522. TRANSITIONAL COMPENSATION AND OTHER BENEFITS FOR DEPENDENTS OF MEMBERS SEPARATED FOR DEPENDENT ABUSE.

(a) REQUIREMENT.—Subsection (a) of section 1058 of title 10, United States Code, as added by section 554(a)(1) of Public Law 103-160 (197 Stat. 1663), is amended—

(b) COMMENCEMENT AND DURATION OF BENEFITS.—Subsection (e) of such section is amended to read as follows:

"(e) COMMENCEMENT AND DURATION OF PAYMENT.—(1) Payment of transitional compensation under this section—

"(A) in the case of a member convicted by a court-martial for a dependent-abuse offense, may commence as of the date of the approval of the court-martial sentence by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice) if the sentence, as approved, includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances; and

"(B) in the case of a member being considered under applicable regulations for administrative separation from active duty in accordance with such regulations (if the basis for the separation includes a dependent-abuse offense), may commence as of the date on which the separation action is initiated by a commander of the member pursuant to such regulations, as determined by the Secretary concerned.

"(2) Transitional compensation with respect to a member may be paid for a period of 36 months, except that, if as of the date on which payment of transitional compensation commences the unserved portion of the member's period of obligated active duty service is less than 36 months, the period for which transitional compensation is paid shall be equal to the greater of—

"(A) the unserved portion of the member's period of obligated active duty service; or

"(B) 12 months.

"(3)(A) If a member is sentenced by a court-martial to receive punishment that includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances as a result of a conviction by a court-martial for a dependent-abuse offense and each such punishment applicable to the member under the sentence is remitted, set aside, or mitigated to a lesser punishment that does not include any such punishment, any payment of transitional compensation that has commenced under this section on the basis of such sentence in that case shall cease.

"(B) If administrative separation of a member from active duty is proposed on a basis that includes a dependent-abuse offense and the proposed administrative separation is disapproved by competent authority under applicable regulations, payment of transitional compensation in such case shall cease.

"(C) Cessation of payments under subparagraph (A) or (B) shall be effective as of the first day of the first month following the month in which the Secretary concerned notifies the recipient of such transitional compensation in writing that payment of the transitional compensation will cease. The recipient may not be required to repay amounts of transitional compensation received before that effective date (except to the extent necessary to recoup any amount that was erroneous when paid).".

(c) HEALTH, COMMISSARY, AND OTHER BENEFITS.—Section (c) is further amended—

(1) by redesignating subsections (j) and (k) as subsections (k) and (*l*), respectively; and

(2) by inserting after subsection (i) the following new subsection (j):

"(j) HEALTH, COMMISSARY, AND OTHER BENEFITS.—(1) A dependent or former dependent entitled to payment of monthly transitional compensation under this section shall, while receiving payments in accordance with this section, be entitled to receive medical and dental care, to use commissary and exchange stores, and to receive any other benefit that a dependent of a member of the armed forces is entitled to receive on the basis of being a dependent of a member of the armed forces to the same extent and in the same manner as a dependent of a member of the armed forces on active duty for a period of not more than 30 days.

"(2) If a dependent or former dependent eligible or entitled to receive a particular benefit under this subsection is eligible or entitled to receive that benefit under another provision of law, the eligibility or entitlement of that dependent or former dependent to such benefit shall be determined under such other provision of law instead of this subsection.".

(c) CONFORMING AMENDMENTS.—(1) The heading for such section is amended to read as follows:

"§ 1058. Dependents of members separated for dependent abuse: transitional compensation and other benefits".

(2) The table of sections at the beginning of chapter 53 of such title is amended by striking out the item relating to section 1058 (as added by section 554(a)(2) of Public Law 103-160 (107 Stat. 1066)) and inserting in lieu thereof the following:

"1058. Dependents of members separated for dependent abuse: transitional compensation and other benefits.".

PRYOR (AND ROTH) AMENDMENT NO. 2163

Mr. PRYOR (for himself and Mr. ROTH) proposed an amendment to the bill S. 2182, supra; as follows:

On page 200, between lines 8 and 9, insert the following new section:

SEC. 1017. PROHIBITION ON GOVERNMENT-TO-GOVERNMENT TRANSFERS OF AIRBORNE SELF-PROTECTION JAMMERS (ASPJ) (AND RELATED SOFTWARE) ABROAD.

Notwithstanding any other provision of law, the Airborne Self-Protection Jammer (ASPJ), or any software or other component thereof, may not be sold or financed under the Arms Export Control Act to any foreign country.

BRADLEY (AND OTHERS) AMENDMENT NO. 2164

Mr. BRADLEY (for himself, Mr. HATFIELD, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. KERRY, and Mr. BUMPERS) proposed an amendment to the bill S. 2182, supra; as follows:

On page 128, between lines 2 and 3, insert the following new section:

SEC. 522. TERMINATION OF ACTIVITIES UNDER SELECTIVE SERVICE SYSTEM.

(a) TERMINATION OF REGISTRATION REQUIREMENT.—

(1) TERMINATION.—Section 3 of the Military Selective Service Act (50 U.S.C. App. 453) is amended by adding at the end the following new subsection:

"(c) After September 30, 1994, no person shall be required to present himself for and submit to registration under this section.".

(b) TERMINATION OF ACTIVITIES OF SELECTIVE SERVICE SYSTEM BOARDS.—Section 17 of the Military Selective Service Act (50 U.S.C. App. 467) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of this Act, after September 30, 1994—

"(1) the President may not appoint a person as a member of a civilian local board, civilian appeal board, or similar local agency of the Selective Service System; and

"(2) any such board established as of that date may not meet.".

HUTCHISON (AND OTHERS) AMENDMENT NO. 2165

Mrs. HUTCHISON (for herself, Mr. SARBANES, and Ms. MIKULSKI) proposed an amendment to the bill S. 2182, supra; as follows:

On page 110, between lines 19 and 20, insert the following:

SEC. 357. ROLL-ON/ROLL-OFF VESSELS FOR THE READY RESERVE FORCE.

(a) TRANSFER AUTHORIZED.—To the extent provided in appropriations Acts, in order to provide for purchase of up to seven roll-on/roll-off vessels for the Ready Reserve Force of the National Defense Reserve Fleet maintained under section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), the Secretary of Defense may transfer to the Maritime Administration not more than $43,000,000 out of funds authorized by this Act to be appropriated to the Department of Defense for fiscal year 1995, other than funds for procurement of national defense features for vessels.

(b) USE BY MARITIME ADMINISTRATION.—Funds transferred to the Maritime Administration pursuant to subsection (a) shall be used only for the purpose set forth in such subsection.

BUMPERS AMENDMENT NO. 2166

Mr. BUMPERS proposed an amendment to the bill S. 2182, supra; as follows:

Strike line 21 on page 27 and insert in lieu thereof the following:

"(3) For the Air Force, $12,290,296,000, of which no funds may be appropriated for parts and other costs associated with acquisition of Milstar satellites numbers 5 and 6, and at least $39,500,000 shall be authorized to be appropriated to accelerate development of the Advanced EHF satellite communications system."

LAUTENBERG (AND OTHERS) AMENDMENT NO. 2167

Mr. NUNN (for Mr. LAUTENBERG, for himself, Mr. WOFFORD, and Mr. BRADLEY) proposed an amendment to the bill S. 2182, supra; as follows:

On page 249, insert between lines 7 and 8 the following:

SEC. ___. INTERAGENCY PLACEMENT PROGRAM FOR FEDERAL EMPLOYEES AFFECTED BY REDUCTION IN FORCE ACTIONS.

(a) STUDY AND REPORT.—(1) No later than 6 months after the date of the enactment of this Act, the Office of Personnel Management, in consultation with the Department of Defense, shall conduct a study and submit a report to the Congress on—

(A) the feasibility of establishing a mandatory interagency placement program for Federal employees affected by reduction in force actions; and

(B) any action taken by the Office of Personnel Management under subsection (b).

(2) In conducting the study under this section, the Office of Personnel Management, in consultation with the Department of Defense, shall seek comments from all Federal agencies.

(b) AGREEMENTS TO ESTABLISH INTERAGENCY PLACEMENT PROGRAM.—(1) If, during the 6-month period after the date of the enactment of this Act, the Office of Personnel Management, in consultation with the Department of Defense, determines that a Government-wide interagency placement program for Federal employees affected by reduction in force actions is feasible, the Office of Personnel Management may enter into an agreement with each agency that agrees to participate, to establish such a program. A program established under this subsection shall not be required to be an interagency placement program as defined under subsection (c)(3).

(2) If the Office of Personnel Management makes a determination to establish a program as provided under paragraph (1), the Office shall include in the report submitted under subsection (a) each agency that decides not to participate in the program and the reasons of the agency for the decision.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "agency" means an "Executive agency" as defined under section 105 of title 5, United States Code, and—

(A) includes the United States Postal Service and the Postal Rate Commission; and

(B) does not include the General Accounting Office;

(2) the term "Federal employees affected by reduction in force actions" means Federal employees who—

(A) are scheduled to be separated from service under a reduction in force pursuant to—

(i) regulations prescribed under section 3502 of title 5, United States Code; or

(ii) procedures established under section 3595 of title 5, United States Code; or

(B) are separated from service under such a reduction in force; and

(3) the term "interagency placement program" means a program that provides a system to require the offer of a position in an agency to an employee of another agency affected by a reduction in force action, if—

(A) the position cannot be filled through a placement program of the agency in which the position is located;

(B) the employee to whom the offer is made is well qualified for the offered position;

(C)(i) the classification of the offered position is equal to the classification of the employee's present or last held position; or

(ii) the basic rate of pay of the offered position is equal to the basic rate of pay of the employee's present or last held position; and

(D) the geographic location of the offered position is within the commuting area of—

(i) the residence of the employee; or

(ii) the location of the employee's present or last held position.

THURMOND (AND NUNN) AMENDMENT NO. 2168

Mr. NUNN (for himself and Mr. THURMOND) proposed an amendment to the bill S. 2182, supra; as follows:

On page 110, between lines 19 and 20, insert the following:

SEC. 357. PAYMENT OF CERTAIN STIPULATED CIVIL PENALTIES.

Of the funds authorized to be appropriated by section 301(17), the Secretary of Defense may pay not more than $500,000 to the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code of 1986 (26 U.S.C. 9507) as payment of stipulated civil penalties assessed under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

REID AMENDMENT NO. 2169

Mr. NUNN (for Mr. REID) proposed an amendment to the bill S. 2182, supra; as follows:

On page 306, between lines 7 and 8, insert the following:

(F) A parcel of property, including any improvements thereon, consisting of approximately 440 acres located at the Hawthorne Army Ammunition Plant, Mineral County, Nevada, and commonly referred to as the Babbitt Housing Site.

On page 311, between lines 22 and 23, insert the following:

(f) In the case of the parcel referred to in subparagraph (F) of that subsection, by conveying without consideration all right, title, and interest of the United States in and to the parcel to the government of Mineral County, Nevada.

GLENN (AND OTHERS) AMENDMENT NO. 2170

Mr. NUNN (for Mr. GLENN for himself, Mr. ROBB, and Mr. WARNER) proposed an amendment to the bill S. 2182, supra; as follows:

At the end of Division A, Title I, Subtitle A, insert the following new section:

"SEC. . JOINT TRAINING, ANALYSIS AND SIMULATION CENTER.

Of the funds authorized to be appropriated for other procurement for the Navy, $10,500,000 shall be available for procurement of command, control, communciations and computer equipment for a Joint Training, Analysis and Simulation Center for the United States Atlantic Command.

COHEN AMENDMENT NO. 2171

Mr. THURMOND (for Mr. COHEN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 371, between lines 6 and 7, insert the following:

SEC. 3159. SAFETY OVERSIGHT AND ENFORCEMENT AT DEFENSE NUCLEAR FACILITIES.

(a) FINDINGS.—Congress finds the following:

(1) Effective oversight of matters relating to nuclear safety at defense nuclear facilities and enforcement of nuclear safety standards at such facilities are critical to ensuring the safety of the public and the workers at such facilities.

(2) The Department of Energy has not devoted adequate attention historically to

matters relating to nuclear safety at defense nuclear facilities.

(b) SAFETY AT DEFENSE NUCLEAR FACILITIES.—The Secretary of Energy shall take appropriate actions to ensure that—

(1) officials of the Department of Energy who are responsible for independent oversight of matters relating to nuclear safety at defense nuclear facilities and enforcement of nuclear safety standards at such facilities maintain independence from officials who are engaged in management of such facilities;

(2) the independent, internal oversight functions carried out by the Department include, at the minimum, activities relating to—

(A) the assessment of the safety of defense nuclear facilities;

(B) the assessment of the effectiveness of Department program offices in carrying out programs relating to the environment, safety, health, and security at defense nuclear facilities;

(C) the provision to the Secretary of oversight reports that—

(i) contain validated technical information; and

(ii) provide a clear analysis of the extent to which line programs governing defense nuclear facilities meet applicable goals for the environment, safety, health, and security at such facilities; and

(D) the development of clear performance standards to be used in assessing the adequacy of the programs referred to in subparagraph (C)(ii);

(3) the Department has a system for bringing issues relating to nuclear safety at defense nuclear facilities to the attention of the officials of the Department (including the Secretary of Energy) having authority to resolve such issues in an adequate and timely manner; and

(4) an adequate number of qualified personnel of the Department are assigned to oversee matters relating to nuclear safety at defense nuclear facilities and enforce nuclear safety standards at such facilities.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Energy shall submit to the congressional defense committees a report describing—

(1) the actions that the Secretary has taken or will take to fulfill the requirements set forth in paragraphs (1), (2), and (3) of subsection (b);

(2) the actions in addition to the actions described under paragraph (1) that the Secretary could take in order to fulfill such requirements; and

(3) the respective roles with regard to nuclear safety at defense nuclear facilities of the following officials:

(A) The Associate Deputy Secretary of Energy for Field Management.

(B) The Assistant Secretary of Energy for Defense Programs.

(C) The Assistant Secretary of Energy for Environmental Restoration and Waste Management.

NUNN AMENDMENT NO. 2172

Mr. NUNN proposed an amendment to the bill S. 2182, supra; as follows:

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. GEORGE C. MARSHALL EUROPEAN CENTER FOR SECURITY STUDIES.

(a) USE OF CONTRIBUTIONS.—Funds received by the United States Government from the Federal Republic of Germany as its fair share of the costs of the George C. Marshall European Center for Security Studies shall be credited to appropriations available to the Department of Defense for the George C. Marshall European Center for Security Studies. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Center for the same purposes and the same period as the appropriations with which merged.

(b) WAIVER OF CHARGES.—(1) The Secretary of Defense may waive reimbursement of the costs of conferences, seminars, courses of instruction, or similar educational activities of the George C. Marshall European Center for Security Studies for military officers and civilian officials of cooperation partner states of the North Atlantic Cooperation Council or the Partnership for Peace if the Secretary determines that attendance by such personnel without reimbursement is in the national security interest of the United States.

(2) Costs for which reimbursement is waived pursuant to paragraph (1) shall be paid from appropriations available for the Center.

GLENN AMENDMENT NO. 2173

Mr. NUNN (for Mr. GLENN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 370, strike out line 3 and all that follows through page 371, line 6, and insert in lieu thereof the following:

SEC. 3158. AUTHORITY FOR APPOINTMENT OF CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL.

(a) AUTHORITY.—(1) Notwithstanding any provision of title 5, United States Code, governing appointments in the competitive service and General Schedule classification and pay rates, or any other provision of law, the Secretary of Energy may—

(A) establish and set the rates of pay for not more than 200 positions in the Department of Energy for scientific, engineering, and technical personnel whose duties will relate to safety at defense nuclear facilities of the Department; and

(B) appoint persons to such positions.

(2) The rate of pay for a position established under paragraph (1) may not exceed the rate of pay payable for Level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(3) To the maximum extent practicable, the Secretary shall appoint persons under paragraph (1)(B) to the positions established under paragraph (1)(A) in accordance with the merit system principles set forth in section 2301 of such title.

(b) OPM REVIEW.—(1) The Secretary shall enter into an agreement with the Director of the Office of Personnel Management under which agreement the Director shall periodically evaluate the use of the authority set forth in subsection (a)(1).

(2) If the Director determines as a result of such evaluation that the Secretary of Energy is not appointing persons to positions under such authority in a manner consistent with the merit system principles set forth in section 2301 of title 5, United States Code, the Director shall notify the Secretary of that determination.

(3) Upon receipt of a notification under paragraph (2), the Secretary shall—

(A) take appropriate actions to appoint persons to positions under such authority in a manner consistent with such principles; or

(B) cease appointment of persons under such authority.

(c) TERMINATION.—(1) The authority provided under subsection (a)(1) shall terminate on September 30, 1997.

(2) An employee may not be separated from employment with the Department of Energy or receive a reduction in pay by reason of the termination of authority under paragraph (1).

FEINSTEIN AMENDMENT NO. 2174

Mr. NUNN (for Mrs. FEINSTEIN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 59, between lines 9 and 10, insert the following new section:

SEC. 250. STUDY ON BEAMING HIGH POWER LASER ENERGY TO SATELLITES.

(a) STUDY.—(1) The Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall jointly carry out a study to determine the cost, feasibility, and advisability of the development and utilization of a system to deliver energy to satellites by beaming high power laser energy from ground sources.

(2) In determining the cost, feasibility, and advisability of the system referred to in paragraph (1), the Secretary and the Administrator shall take into account the impact on the environment of the development and utilization of the system and the effect, if any, of the development and utilization of the system on the arms control efforts or obligations of the United States.

(3) In carrying out the study, the Secretary and the Administrator shall consider the development of a space energy laser (SELENE) system using a free electron laser at the Naval Air Weapons Station, China Lake, California.

(b) REPORT.—The Secretary and the Administrator shall jointly submit to the congressional defense committees a report on the study required under subsection (a). The Secretary and the Administrator shall submit the report not later than July 1, 1995.

NICKLES AMENDMENT NO. 2175

Mr. THURMOND (for Mr. NICKLES) proposed an amendment to the bill S. 2182, supra; as follows:

On page 27, between lines 9 and 10, insert the following:

SEC. 143. SALES AUTHORITY OF WORKING-CAPITAL FUNDED ARMY INDUSTRIAL FACILITIES.

Section 4543(a) of title 10, United States Code, is amended—

(1) in the matter above paragraph (1), by striking out "nondefense-related commercial";

(2) by striking out "and" at the end of paragraph (3);

(3) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

(4) by adding at the end the following new paragraphs:

"(5) the Secretary of the Army determines that the articles or services are not available from a commercial source located in the United States;

"(6) the purchaser of an article or service agrees to hold harmless and indemnify the United States, except in cases of willful misconduct or extreme negligence, from any claim for damages or injury to any person or property arising out of the article or service;

"(7) the article to be sold can be manufactured, or the service to be sold can be substantially performed, by the industrial facility with only incidental subcontracting and it is in the public interest to manufacture such article or perform such service; and

"(8) the sale will not interfere with performance of the military mission of the industrial facility.".

BOXER (AND FEINSTEIN) AMENDMENT NO. 2176

Mr. NUNN (for Mrs. BOXER, for herself, and Mrs. FEINSTEIN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 110, between lines 19 and 20, insert the following:

SEC. 357. SALE OF ARTICLES AND SERVICES OF INDUSTRIAL FACILITIES OF THE ARMED FORCES TO PERSONS OUTSIDE DEPARTMENT OF DEFENSE.

(a) AUTHORITY TO SELL OUTSIDE DOD.—The Secretary of Defense may sell in accordance with this section to persons outside the Department of Defense articles and services produced in working-capital funded industrial facilities of the Armed Forces that are not available from any United States commercial source.

(b) DESIGNATION OF PARTICIPATING INDUSTRIAL FACILITIES.—The Secretary may designate up to three facilities referred to in subsection (a) as the facilities from which articles and services produced in such facilities may be sold under this section.

(c) CONDITIONS FOR SALES.—A sale of articles or services may be made under this section only if—

(1) the Secretary of Defense determines that the articles or services are not available from a commercial source in the United States;

(2) the purchaser agrees to hold harmless and indemnify the United States, except in cases of willful misconduct or extreme negligence, from any claim for damages or injury to any person or property arising out of the articles or services;

(3) the articles or services can be substantially performed by the industrial facility concerned with only incidental subcontracting and that performance is in the public interest;

(4) the Secretary determines that the sale of the articles or services will not interfere with the military mission of the industrial facility concerned; and

(5) the sale of the goods and services is made on the basis that it will not interfere with performance of work by the industrial facility concerned for the Department of Defense.

(d) METHODS OF SALE.—(1) The Secretary shall permit a purchaser of articles or services under this section to use advance incremental funding to pay for the articles or services.

(2) In the sale of articles and services under this section, the Secretary shall—

(A) charge the purchaser, at a minimum, the variable costs, capital improvement costs, and equipment depreciation costs that are associated with the articles or services sold;

(B) enter into a firm, fixed-price contract or, if agreed by the purchaser, a cost reimbursement contract for the sale; and

(C) develop and maintain (from sources other than appropriated funds) working capital to be available for paying design costs, planning costs, procurement costs, and other costs associated with the articles or services sold.

(e) DELEGATION OF AUTHORITY.—The Secretary may delegate the authority to sell articles and services in accordance with this section to the commander of each industrial facility designated pursuant to subsection (b) in accordance with regulations prescribed by the Secretary.

(f) DEPOSIT OF PROCEEDS.—Proceeds from sales of articles and services under this section shall be credited to the funds, including working capital funds and operation and maintenance funds, incurring the costs of performance.

(g) RELATIONSHIP TO ARMS EXPORT CONTROL ACT.—Nothing in this section shall be construed to affect the application of the export controls provided for in section 38 of the Arms Export Control Act (22 U.S.C. 2778) to items which incorporate or are produced through the use of an article sold under this section.

(h) DEFINITIONS.—In this section:

(1) The term "advance incremental funding", with respect to a sale of articles or services, means a series of partial payments for the articles or services that includes—

(A) one or more partial payments before the commencement of work or the incurring of costs in connection with the production of the articles or the performance of the services, as the case may be; and

(B) subsequent progress payments that result in full payment being completed as the required work is being completed.

(2) The term "variable costs", with respect to sales of articles or services, means the costs that are expected to fluctuate directly with the volume of sales and—

(A) in the case of articles, the volume of production necessary to satisfy the sales orders; or

(B) in the case of services, the extent of the services sold.

PRYOR AMENDMENT NO. 2177

Mr. NUNN (for Mr. PRYOR) proposed an amendment to the bill S. 2182, supra; as follows:

On page 188, between lines 6 and 7, insert the following new section:

SEC. 924. ASSISTANCE FOR CERTAIN WORKERS DISLOCATED DUE TO REDUCTIONS BY THE UNITED STATES IN THE EXPORT OF DEFENSE ARTICLES AND SERVICES.

(a) ASSISTANCE UNDER DEFENSE CONVERSION ADJUSTMENT PROGRAM.—Section 325 of the Job Training Partnership Act (29 U.S.C. 1662d) is amended—

(1) in subsection (a)—

(A) by striking out "or by closures of United States military facilities" in the first sentence and inserting in lieu thereof ", by closures of United States military facilities, or by reductions in the export of defense articles and defense services as a result of United States policy (including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements)"; and

(B) by striking out "or by closures of United States military facilities" in the second sentence and inserting in lieu thereof ", by closures of United States military facilities, or by reductions in the export of defense articles and defense services as a result of United States policy";

(2) in subsection (d), by striking out "or by the closure of United States military installations" and inserting in lieu thereof ", by closures of United States military facilities, or by reductions in the export of defense articles and defense services as a result of United States policy (including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements)"; and

(3) by adding at the end the following new subsection:

"(f) DEFINITION.—For purposes of this section, the term 'defense articles and defense services' means defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).".

(b) ASSISTANCE UNDER DEFENSE DIVERSIFICATION PROGRAM.—Section 325A of the Job Training Partnership Act (29 U.S.C. 1662d-1) is amended—

(1) in subsection (b)(3)(A), by striking out "or the closure or realignment of a military installation" and inserting in lieu thereof ", the closure or realignment of a military installation, or reductions in the export of defense articles and defense services as a result of United States policy (including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements)";

(2) in subsection (k)(1), by striking out "or by the closure of United States military installations" and inserting in lieu thereof ", the closure of United States military installations, or reductions in the export of defense articles and defense services as a result of United States policy (including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements)"; and

(3) in subsection (o), by adding at the end the following new paragraph:

"(3) DEFENSE ARTICLES AND DEFENSE SERVICES.—The term 'defense articles and defense services' means defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).".

PRYOR (AND OTHERS) AMENDMENT NO. 2178

Mr. NUNN (for Mr. PRYOR, for himself, Mr. KENNEDY, Mr. HOLLINGS, Mr. METZENBAUM, Mr. BINGAMAN, Mr. PELL, and Mrs. BOXER) proposed an amendment to the bill S. 2182, supra; as follows:

On page 249, between lines 7 and 8, insert the following new section:

SEC. 1068. CHANGES IN NOTICE REQUIREMENTS UPON PENDING OR ACTUAL TERMINATION OF DEFENSE PROGRAMS.

(a) TIME FOR NOTICE REQUIREMENT AFTER SUBMISSION OF BUDGET.—Subsection (a) of section 4471 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 106 Stat. 2753; 10 U.S.C. 2501 note) is amended—

(1) by striking out "As soon as reasonably practicable" and inserting in lieu thereof "Not later than 90 days"; and

(2) by striking out "and not more than 180 days after such date,".

(b) TIME FOR NOTICE REQUIREMENT AFTER ENACTMENT OF APPROPRIATIONS ACT.—Subsection (b) of such section is amended—

(1) by striking out "as soon as reasonably practicable" and inserting in lieu thereof "not later than 90 days"; and

(2) by striking out "and not more than 180 days after such date,".

(c) Time for Notice Requirement on Withdrawal of Notification.—Subsection (f)(1) of such section is amended in the second sentence by striking out "as soon as reasonably practicable" and inserting in lieu thereof "not later than 90 days".

MOYNIHAN (AND D'AMATO) AMENDMENT NO. 2179

Mr. NUNN (for Mr. Moynihan, for himself, and Mr. D'Amato) proposed an amendment to the bill S. 2182, supra; as follows:

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. TRANSFER OF OBSOLETE VESSEL GUADALCANAL.

(a) Authority.—Notwithstanding subsections (a) and (d) of section 7306 of title 10, United States Code, but subject to subsections (b) and (c) of that section, upon the decommissioning of the USS Guadalcanal (LPH 7), the Secretary of the Navy may transfer the Guadalcanal to the not-for-profit organization Intrepid Museum Foundation, New York, New York.

(b) Limitations.—The transfer authorized by section (a) may be made only if the Secretary determines that the vessel Guadalcanal is of no further use to the United States for national security purposes.

(c) Terms and Conditions.—The Secretary may require such terms and conditions in connection with the transfer authorized by this section as the Secretary considers appropriate.

GLENN (AND THURMOND) AMENDMENT NO. 2180

Mr. NUNN (for Mr. Glenn, for himself, and Mr. Thurmond) proposed an amendment to the bill S. 2182, supra; as follows:

On page 270, line 21, strike out "$3,230,058,000" and insert in lieu thereof "$3,236,058,000".

On page 271, line 25, strike out "$45,960,000" and insert in lieu thereof "$51,960,000".

On page 274, below line 25, add the following:

SEC. 2408. PLANNING AND DESIGN FOR CONSTRUCTION IN SUPPORT OF CONSOLIDATION OF OPERATIONS OF THE DEFENSE FINANCE AND ACCOUNTING SERVICE.

Of the amount authorized to be appropriated by section 2405(a)(7), $6,000,000 shall be available for planning and design activities relating to military construction in support of the consolidation of operations of the Defense Finance and Accounting Service.

WARNER AMENDMENT NO. 2181

Mr. THURMOND (for Mr. Warner) proposed an amendment to the bill S. 2182, supra; as follows:

On page 170, after line 24, insert the following:

SEC. 710. COST ANALYSIS OF TIDEWATER TRICARE DELIVERY OF PEDIATRIC HEALTH CARE TO MILITARY FAMILIES.

(a) Cost Analysis Required.—Not later than July 1, 1995, the Assistant Secretary of Defense (Health Affairs) shall determine the amount of the expenditures made by the Department of Defense for pediatric care for each of fiscal years 1992, 1993, and 1994 under the program for delivery of health care services in the Tidewater region of Virginia carried out pursuant to section 712(b) of Public Law 102–190 (105 Stat. 1402). The Assistant Secretary shall determine the total amount of such expenditures and the amount of such expenditures for each case.

(b) Use of Analysis.—In establishing any managed care system involving the furnishing of pediatric care by the Department of Defense (including the furnishing of pediatric care under the Civilian Health and Medical Program of the Uniformed Services), the Assistant Secretary shall consider the amounts determined under subsection (a) in determining the appropriate standards, limitations, and requirements to apply to the cost of pediatric care under the system.

COATS AMENDMENT NO. 2182

Mr. THURMOND (for Mr. Coats) proposed an amendment to the bill S. 2182, supra; as follows

On page 252, line 15, strike out "$1,668,086,000" and insert in lieu thereof "$1,728,086,000".

On page 253, line 11, strike out "$1,007,708,000" and insert in lieu thereof "$1,067,708,000".

NICKLES (AND LOTT) AMENDMENT NO. 2183

Mr. THURMOND (for Mr. Nickles, for himself, and Mr. Lott) proposed an amendment to the bill S. 2182, supra; as follows:

On page 158, after line 24, insert the following:

SEC. 655. PAYMENT FOR TRANSIENT HOUSING FOR RESERVES PERFORMING CERTAIN TRAINING DUTY.

Section 404 of title 37, United States Code, is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following new subsection (j):

"(j)(1) In the case of a member of a reserve component performing annual training duty or inactive-duty training who is not otherwise entitled to travel and transportation allowances in connection with such duty under subsection (a) of this section, the Secretary concerned may reimburse the member for housing service charge expenses incurred by the member in occupying transient government housing during the performance of such duty.

"(2) Any payment or other benefit under this section shall be provided in accordance with regulations prescribed by the Secretaries concerned.

"(3) The Secretary may pay service charge expenses under paragraph (1) out of funds appropriated for operation and maintenance for the reserve component concerned.".

BOXER (AND OTHERS) AMENDMENT NO. 2184

Mr. NUNN (for Mrs. Boxer for herself, Ms. Mikulski Ms. Moseley-Braun, Mrs. Murray, Mrs. Feinstein, and Mr. Bradley) proposed an amendment to the bill S. 2182, supra; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1068. STUDY OF SPOUSAL ABUSE INVOLVING ARMED FORCES PERSONNEL.

(a) Findings.—Congress makes the following findings:

(1) The Department of Defense has sponsored several highly successful programs designed to curtail spousal abuse.

(2) The readiness of the Armed Forces would be enhanced by eliminating all forms of spousal abuse involving members of the Armed Forces.

(3) Available data on the frequency and causes of spousal abuse involving members of the Armed Forces is not comprehensive for the Armed Forces.

(b) Study and Report Required.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall conduct a study on spousal abuse involving members of the Armed Forces of the United States and submit to Congress a report on the results of the study.

(c) Content of Report.—The report shall contain the following matters:

(1) The frequency of spousal abuse involving members of the Armed Forces.

(2) A discussion of the possible causes of such spousal abuse.

(3) A discussion of the procedures followed in responding to incidents of such spousal abuse.

(4) An analysis of the effectiveness of those procedures.

(5) A review of the existing programs for curtailing such spousal abuse.

(6) A strategy for the entire Armed Forces for curtailing spousal abuse involving members of the Armed Forces.

NUNN AMENDMENT NO. 2185

Mr. NUNN proposed an amendment to the bill S. 2182, supra; as follows:

On page 188, between lines 6 and 7, insert the following:

Subtitle D—Professional Military Education

SEC. 931. AUTHORITY FOR MARINE CORPS UNIVERSITY TO AWARD THE DEGREE OF MASTER OF MILITARY STUDIES.

(a) Authority To Award.—(1) Chapter 609 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 7102. Marine Corps University: master of military studies

"(a) Authority.—Upon the recommendation of the Director and faculty of the Marine Corps Command and Staff College, the President of the Marine Corps University may confer the degree of master of military studies upon graduates of the college who fulfill the requirements for the degree.

"(b) Regulations.—The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of the Navy.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7102. Marine Corps University: master of military studies.".

(b) Effective Date.—The authority provided by section 7102(a) of title 10, United States Code, as added by subsection (a), shall become effective on the date on which the Secretary of Education determines that the requirements established by the Command and Staff College of the Marine Corps University for the degree of master of military studies are in accordance with generally applicable requirements for a degree of master of arts.

SEC. 932. BOARD OF ADVISORS OF MARINE CORPS UNIVERSITY.

(a) Board.—(1) Chapter 609 of title 10, United States Code, as amended by section 931, is further amended by adding at the end the following new section:

"§ 7103. Marine Corps University: Board of Advisors

"(a) IN GENERAL.—A Board of Advisors to the President of the Marine Corps University is constituted annually of—

"(1) the chairman of the Committee on Armed Services of the Senate, or the designee of the chairman; and

"(2) six persons designated by the Secretary of the Navy.

"(b) TERMS.—(1) The persons designated by the Secretary of the Navy shall serve for 3 years each except that any member whose term of office has expired shall continue to serve until the successor to the member is designated.

"(2) Members may be reappointed for one or more successive terms.

"(3) If a member of the Board dies or resigns, the official who designated that member shall designate a successor to serve for the unexpired portion of the term of the member.

"(c) VISITS.—The Board shall visit the Marine Corps University semiannually upon the call of the President of the Marine Corps University. With the approval of the President of the University, the Board, or any of its members, may make other visits to the University in connection with the duties of the Board or to consult with the President of the University.".

(2) The table of sections at the beginning of such chapter, as amended by section 931, is further amended by adding at the end the following new item:

"7103. Marine Corps University: Board of Advisors.".

(b) INITIAL DESIGNATIONS OF MEMBERS.—Of the members of the Board of Advisors of the Marine Corps University initially designated under section 7103(a)(2) of title 10, United States Code, as added by subsection (a)—

(1) two shall be designated for a term of 3 years;

(2) two shall be designated for a term of 2 years; and

(3) two shall be designated for a term of 1 year.

SEC. 933. AUTHORITY FOR AIR UNIVERSITY TO AWARD THE DEGREE OF MASTER OF AIRPOWER ART AND SCIENCE.

(a) AUTHORITY TO AWARD.—(1) Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9317. Air University: master of airpower art and science

"(a) AUTHORITY.—Upon the recommendation of the faculty of the School of Advanced Airpower Studies of the Air University, the Commander of the university may confer the degree of master of airpower art and science upon graduates of the school who fulfill the requirements for the degree.

"(b) REGULATIONS.—The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of the Air Force.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9317. Air University: master of airpower art and science.".

(b) EFFECTIVE DATE.—The authority provided by section 9317(a) of title 10, United States Code, as added by subsection (a), shall become effective on the date on which the Secretary of Education determines that the requirements established by the School of Advanced Airpower Studies of the Air University for the degree of master of airpower art and science are in accordance with generally applicable requirements for a degree of master of arts or a degree of master of science.

ROTH (AND PRYOR) AMENDMENT NO. 2186

Mr. COATS (for Mr. ROTH, for himself, and Mr. PRYOR) proposed an amendment to the bill S. 2182, supra; as follows:

On page 52, beginning with line 20, strike out all through page 53, line 20, and insert in lieu thereof the following:

SEC. 246. STUDY REGARDING LIVE-FIRE SURVIVABILITY TESTING OF F-22 AIRCRAFT.

(a) REQUIREMENT.—The Secretary of Defense shall request the National Research Council of the National Academy of Sciences to conduct a study regarding the desirability of waiving for the F-22 aircraft program the survivability tests required by section 2366(c) of title 10, United States Code, and to submit to the Secretary and Congress, within 180 days after the date of the enactment of this Act, a report containing the conclusions of the Council regarding the desirability of waiving such tests.

(b) CONTENT OF REPORT.—The report shall contain the following matters:

(1) Conclusions regarding the practicality of full-scale, full-up testing for the F-22 aircraft program.

(2) A discussion of the implications regarding the affordability of the F-22 aircraft program of conducting and of not conducting the survivability tests, including an assessment of the potential life cycle benefits that could be derived from full-scale, full-up live fire testing in comparison to the costs of such testing.

(3) A discussion of what, if any, changes of circumstances affecting the F-22 aircraft program have occurred since completion of the milestone II program review to cause the program manager to request a waiver of the survivability tests for the F-22 aircraft program that was not requested at that time.

(4) The sufficiency of the F-22 aircraft program testing plans to fulfill the same requirements and purposes as are provided in subsection (e)(3) of section 2366 of title 10, United States Code, for realistic survivability testing for purposes of subsection (a)(1)(A) of such section.

(5) Any recommendations regarding survivability testing for the F-22 aircraft program that the Council considers appropriate on the basis of the study.

DOLE AMENDMENT NO. 2187

Mr. COATS (for Mr. DOLE) proposed an amendment to the bill S. 2182, supra; as follows:

At the appropriate place insert the following new section:

SEC. . REVIEW OF THE PROCEDURES USED BY DEPARTMENT OF DEFENSE INVESTIGATIVE ORGANIZATIONS WHEN CONDUCTING AN INVESTIGATION INTO THE DEATH OF A MEMBER OF THE ARMED FORCES WHO, WHILE SERVING ON ACTIVE DUTY, DIED FROM A CAUSE DETERMINED TO BE SELF-INFLICTED.

SENSE OF CONGRESS.—It is the Sense of Congress that, upon receipt of the report required by section 1185 of the National Defense Authorization Act for Fiscal Year 1994, the Senate Committee on Armed Services should review that report and hold hearings related to the procedures employed by Department of Defense investigative Organizations when conducting an investigation into the death of a member of the Armed Services who, while serving on active duty, died from a cause determined to be self-inflicted.

COHEN AMENDMENT NO. 2188

Mr. COATS (for Mr. COHEN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 167, beginning with line 14, strike all through page 170, line 7, and insert the following:

SEC. 708. STUDY AND REPORT ON FINANCIAL RELIEF FOR CERTAIN MEDICARE-ELIGIBLE MILITARY RETIREES WHO INCUR MEDICARE LATE ENROLLMENT PENALTIES.

(a) STUDY.—The Secretary of Defense, in consultation with the Secretary of Health and Human Services, shall conduct a study regarding possible financial relief from late enrollment penalties for military retirees and dependents of such retirees who reside within the service area of a base closure site and who have failed to timely enroll in medicare part B due to reliance upon the military treatment facility located at such site.

(b) REPORT.—Not later than March 31, 1995, the Secretary of Defense shall report to Congress the results of the study under paragraph (1). Such report shall also—

(1) identify by base closure site the number of military retirees within a 65 mile catchment area who have failed to enroll in medicare part B and are subjected to late enrollment penalties;

(2) determine the estimated aggregate amount of the penalties by base closure site;

(3) describe the characteristics of the population that are subject to the penalties, such as age and income level;

(4) address the appropriateness of waiving such penalties;

(5) identify the Department of Defense funds that should be used to pay the penalties if waiving such penalties is not recommended;

(6) outline a program for a special medicare part B enrollment period for affected retirees living near bases already closed and bases which are designated for closure in the future; and

(7) include legislative recommendations for implementing a program which removes the financial burden from the medicare-eligible beneficiaries who have been or will be adversely impacted by base-closure actions.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "base closure" means a base closure under a base closure law (within the meaning given such term in section 2825(d) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 2687 note)).

(2) The term "medicare part B" means the public health insurance program under part B of title XVIII of the Social Security Act.

(3) The term "military treatment facility" means a facility of a uniformed service referred to in section 1074(a) of title 10, United States Code, in which health care is provided.

JEFFORDS AMENDMENT NO. 2189

Mr. COATS (for Mr. JEFFORDS) proposed an amendment to the bill S. 2182, supra; as follows:

On page 158, below line 24, add the following:

SEC. 655. STUDY OF OFFSET OF DISABILITY COMPENSATION BY RECEIPT OF SEPARATION BENEFITS AND INCENTIVES.

(a) STUDY.—(1) The Comptroller General shall carry out a study of the offset of the amount of disability compensation from the Department of Veterans Affairs that is received by an individual separated from the Armed Forces by the amount of any of the following benefits:

(A) Separation pay under section 1174 of title 10, United States Code.

(B) A special separation benefit under a special separation benefits program carried out under section 1174a(a) of such title.

(C) A voluntary separation incentive under section 1175 of such title.

(2) In carrying out the study, the Comptroller General shall—

(A) determine the purposes for the availability of the benefits referred to paragraph (1);

(B) determine the justifications for the offset referred to in that paragraph;

(C) assess the effect of the offset by—

(i) determining the number of members of the Armed Forces who will separate from the Armed Forces during the period beginning on the date of the enactment of this Act and ending on September 30, 1999;

(ii) determining the number of such members who will be provided a benefit referred to in that paragraph, and the average amount of the benefit to be provided;

(iii) determining the number of such members who will be entitled to disability compensation from the Department of Veterans Affairs, and the average monthly amount of the compensation to which the members will be entitled; and

(iv) evaluating the extent, if any, to which the offset affects the capacity of members who are separated from the Armed Forces to meet financial obligations (including obligations relating to housing and medical care) of such members that arise as a result of the service of the members in the Armed Forces or the separation of such members from that service;

(D) determine the extent, if any, to which the offset of disability compensation by the amount of a benefit referred to in subparagraph (B) or (C) of paragraph (1) reduces the effectiveness of the benefits in meeting the purposes determined under subparagraph (A) of this paragraph; and

(E) determine the cost of the repeal of the offset.

(b) REPORT.—(1) The Comptroller General shall submit to the Committees on Armed Services and the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the results of the study required under subsection (a). The report shall include the recommendations of the Comptroller General on improvements to the provision of the benefits referred to in subsection (a)(1).

(2) The Comptroller General shall submit the report not later than 180 days after the date of the enactment of this Act.

BINGAMAN (AND DOMENICI) AMENDMENT NO. 2190

Mr. NUNN (for Mr. BINGAMAN, for himself, and Mr. DOMENICI) proposed an amendment to the bill S. 2182, supra; as follows:

On page 25, between lines 2 and 3, insert the following:

SEC. 132. RETIREMENT OF BOMBER AIRCRAFT.

No funds authorized to be appropriated by this Act or any other Act may be obligated or expended during fiscal year 1995 for retiring, or preparing to retire, any B–52H, B–1B, or F–111 bomber aircraft.

THURMOND (AND NUNN) AMENDMENT NO. 2191

Mr. COATS (for Mr. THURMOND, for himself, and Mr. NUNN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 68, following line 20, insert the following:

SEC. 323 EXTENSION OF AUTHORITY TO ISSUE SURETY BONDS FOR CERTAIN ENVIRONMENTAL PROGRAMS.

(1) Section 2701(j) of Title 10, United States Code, is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 1999".

MCCAIN AMENDMENT NO. 2192

Mr. COATS (for Mr. MCCAIN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 181, after the matter following line 16 and before line 17, insert the following:

SEC. 825. DOCUMENTATION FOR AWARDS FOR COOPERATIVE AGREEMENTS OR OTHER TRANSACTIONS UNDER THE DEFENSE TECHNOLOGY REINVESTMENT PROGRAM.

At the time of the award for a cooperative agreement or other transaction under a program carried out under chapter 148 of title 10, United States Code, the head of the agency concerned shall include in the file pertaining to such agreement or transaction a brief explanation of the manner in which the award advances and enhances a particular national security objective set forth in section 2501(a) of such title or a particular policy objective set forth in section 2501(b) of such title.

SEC. 826. COMPTROLLER GENERAL ASSESSMENT OF EXTENT TO WHICH TECHNOLOGY AND INDUSTRIAL BASE PROGRAMS ATTAIN POLICY OBJECTIVES.

Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress an assessment of the extent to which awards for cooperative agreements and other transactions under programs carried out under chapter 148 of title 10, United States Code, have been made specifically to advance and enhance a particular national security objective set forth in section 2501(a) of such title or to achieve a particular policy objective set forth in section 2501(b) of such title.

DOLE AMENDMENT NO. 2193

Mr. COATS (for Mr. DOLE) proposed an amendment to the bill S. 2182, supra; as follows:

On page 110, between lines 19 and 20, insert the following:

SEC. 357. STUDY OF ESTABLISHMENT OF LAND MANAGEMENT AND TRAINING CENTER AT FORT RILEY, KANSAS.

(a) STUDY.—The Secretary of the Army shall carry out a study of the feasibility and advisability of establishing at Fort Riley, Kansas, a center for the land management activities and land management training activities of the Department of Defense.

(b) REPORT.—The Secretary shall submit to the congressional defense committees a report on the study required under subsection (a). The Secretary shall submit the report not later than May 1, 1996.

HATFIELD AMENDMENT NO. 2194

Mr. COATS (for Mr. HATFIELD) proposed an amendment to the bill S. 2182, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . PUBLIC EDUCATION FACILITY OF THE ARMED FORCES INSTITUTE OF PATHOLOGY.

(a) PURPOSE.—It is the purpose of this section to—

(1) display and interpret the collections of the Armed Forces Institute of Pathology currently located at Walter Reed Medical Center; and

(2) designate a site for the relocation of the public education facility of the Armed Forces Institute of Pathology so that it may serve as a central resource of instruction about the critical health issues which confront all American citizens.

(b) SITE OF FACILITY.—The public education facility of Armed Forces Institute of Pathology shall be located on or near the Mall on land owned by the Federal Government or the District of Columbia in the District of Columbia.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority or responsibilities of the National Capital Planning Commission or the Commission of Fine Arts.

(d) DEFINITION.—As used in this section, the term "the Mall" means—

(1) the land designated as "Union Square", United States Reservation 6A; and

(2) the land designated as the "Mall", United States Reservations 3, 4, 5, and 6.

(e) SENSE OF THE CONGRESS.—

(1) FINDINGS.—Congress finds that—

(A) the National Museum of Health and Medicine Foundation, Inc. (a private, nonprofit organization having for its primary purpose the relocation to the Mall and revitalization of the National Museum of Health and Medicine), the Armed Forces Institute of Pathology, and the Public Health Service have jointly supported planning to relocate the Museum to a site on land that is located east of and adjacent to the Hubert H. Humphrey Building (100 Independence Avenue, Southwest, in the District of Columbia); and

(B) the National Museum of Health and Medicine Foundation, Inc., is deserving of the encouragement and support of the American people in its effort to relocate the National Museum of Health and Medicine to a site on land that is located east of and adjacent to the Hubert H. Humphrey Building, and in its effort to raise funds for a revitalized Museum to inspire increasing numbers of Americans to lead healthy lives through improved public understanding of health and the medical sciences.

(2) LOCATION.—It is the sense of the Congress that, subject to appropriate approvals by the National Capital Planning Commission and the Commission of Fine Arts, the National Museum of Health and Medicine should be relocated to a site on land that is located east of and adjacent to the Hubert H. Humphrey Building for the purpose of educating the American public concerning health and the medical sciences.

DOLE AMENDMENT NO. 2195

Mr. COATS (for Mr. DOLE) proposed an amendment to the bill S. 2182, supra; as follows:

On page 110, between lines 19 and 20, insert the following:

SEC. 357. PROCUREMENT OF PORTABLE VENTILATORS FOR THE DEFENSE MEDICAL FACILITY OFFICE, FORT DETRICK, MARYLAND.

Of the funds authorized to be appropriated by section 301(5), $2,500,000 shall be available for the procurement of portable ventilators for the Defense Medical Facility Office, Fort Detrick, Maryland.

ROBB (AND MCCAIN) AMENDMENT NO. 2196

Mr. NUNN (for Mr. ROBB, for himself, and Mr. MCCAIN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 138, between lines 11 and 12, insert the following:

SEC. 634. COST-OF-LIVING INCREASES IN SBP CONTRIBUTIONS TO BE EFFECTIVE CONCURRENTLY WITH PAYMENT OF RELATED RETIRED PAY COST-OF-LIVING INCREASES.

(a) SURVIVOR BENEFIT PLAN.—Section 1452(h) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(h)"; and

(2) by adding at the end the following new subsection:

"(2)(A) Notwithstanding paragraph (1), when the initial payment of an increase in retired pay under section 1401a of this title (or any other provision of law) to a person is later than the effective date of that increase by reason of the application of subsection (b)(2)(B) of such section, then the amount of the reduction in the person's retired pay shall be effective on the date of that initial payment of the increase in retired pay rather than the effective date of the increase in retired pay.

"(B) Subparagraph (A) may not be construed as delaying, for purposes of determining the amount of a monthly annuity under section 1451 of this title, the effective date of an increase in a base amount under subsection (h) of such section from the effective date of an increase in retired pay under section 1401a of this title to the date on which the initial payment of that increase in retired pay is made in accordance with subsection (b)(2)(B) of such section 1401a.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to retired pay payable for months beginning on or after the date of the enactment of this Act.

BINGAMAN (AND OTHERS) AMENDMENT NO. 2197

Mr. NUNN (for Mr. BINGAMAN, for himself, Mr. DOMENICI, Mr. SASSER, Mr. CRAIG, Mr. KEMPTHORNE and Mr. MATHEWS) proposed an amendment to the bill S. 2182, supra; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1068. ASSIGNMENTS OF EMPLOYEES BETWEEN FEDERAL AGENCIES AND FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

(a) AUTHORITY.—Section 3371(4) of title 5, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) a federally funded research and development center.".

(b) PROVISIONS GOVERNING ASSIGNMENTS.—Section 3372 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(e) Under regulations prescribed pursuant to section 3376 of this title—

"(1) an assignment of an employee of a Federal agency to an other organization or an institution of higher education, and an employee so assigned, shall be treated in the same way as an assignment of an employee of a Federal agency to a State or local government, and an employee so assigned, is treated under the provisions of this subchapter governing an assignment of an employee of a Federal agency to a State or local government, except that the rate of pay of an employee assigned to a federally funded research and development center may not exceed the rate of pay that such employee would be paid for continued service in the position in the Federal agency from which assigned; and

"(2) an assignment of an employee of an other organization or an institution of higher education to a Federal agency, and an employee so assigned, shall be treated in the same way as an assignment of an employee of a State or local government to a Federal agency, and an employee so assigned, is treated under the provisions of this subchapter governing an assignment of an employee of a State or local government to a Federal agency.".

NUNN AMENDMENT NO. 2198

Mr. NUNN proposed an amendment to the bill S. 2182, supra; as follows:

Insert the following at the end of subtitle A of Title V:

SEC. . SELECTION FOR DESIGNATED JUDGE ADVOCATE POSITIONS.

(a) To the extent that selection for the positions described in subsection (b) is not governed by Chapter 36 of title 10, United States Code, the Secretary of Defense shall prescribe regulations to ensure that officers selected to serve in such positions are selected for such service by boards governed, insofar as practicable, by the procedures prescribed for selection boards under Chapter 36 of title 10, United States Code.

(b) The positions referred to in subsection (a) are—

(1) the Judge Advocate General and Assistant Judge Advocate General of the Army,

(2) the Judge Advocate General and Deputy Judge Advocate General of the Navy,

(3) the Staff Judge Advocate to the Commandant of the Marine Corps, and

(4) the Judge Advocate General and Deputy Judge Advocate General of the Air Force.

KERRY AMENDMENT NO. 2199

Mr. NUNN (for Mr. KERRY) proposed an amendment to the bill S. 2182, supra; as follows:

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. PROVISION OF INTELLIGENCE AND OTHER ASSISTANCE WHERE DRUG TRAFFICKING THREATENS NATIONAL SECURITY.

(a) Notwithstanding any other provision of law, it shall not be unlawful for authorized employees or agents of a foreign country to damage, render inoperative, or destroy an aircraft in that country's territory or airspace, or to attempt to do so, if that aircraft is reasonably suspected to be primarily engaged in illicit narcotics trafficking, provided that the President of the United States prior to the actions described in this subparagraph being taken has determined:

(1) that such actions are necessary because of the extraordinary threat posed by drug trafficking to the national security of that country, and

(2) that the country has appropriate procedures in place to protect against innocent loss of life in the air and on the ground, which shall at a minimum include effective means to identify and warn aircraft prior to the use of force.

(b) It shall not be unlawful for authorized employees or agents of the United States to provide assistance, including but not limited to operational, intelligence, logistical, technical and administration assistance, for the actions of foreign countries set forth in subsection (a), nor shall the provision of such assistance give rise to any civil action seeking money damages or any other form of relief against the United States or its agents or employees.

DOMENICI AMENDMENT NO. 2200

Mr. COATS (for Mr. DOMENICI) proposed an amendment to the bill S. 2182, supra; as follows:

On page 208, after line 24, insert the following:

(c) ADDITIONAL AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) In addition to the transfer authority provided in section 1001, upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1995 to counterproliferation programs, projects, and activities identified as areas for progress by the Joint Committee for the Review of Counterproliferation Programs established by section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1845). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of this subsection may not exceed $100,000,000.

(3) The authority provided by this subsection to transfer authorizations—

(A) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(B) may not be used to provide authority for an item that has been denied authorization by Congress.

(4) A transfer made from one account to another under the authority of this subsection shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(5) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this subsection.

NUNN (AND BINGAMAN) AMENDMENT NO. 2201

Mr. NUNN (for himself and Mr. BINGAMAN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 208, below line 24, add the following:

(c) USE OF FUNDS FOR TECHNOLOGY DEVELOPMENT.—(1) Of the funds authorized to be appropriated by section 201(4) for a counterproliferation technology project in Program Element 602301E—

(A) $5,000,000 shall be available for a program to detect, locate, and disarm weapons of mass destruction that are hidden by a hostile state or terrorist or terrorist group in confined area outside the United States; and

(B) $10,000,000 shall be available for the training program referred to in paragraph (3).

(2) The Secretary of Defense shall make funds available for the program referred to in paragraph (1)(A) in a manner that, to the maximum extent practicable, ensures the effective utilization of existing resources of the national weapons laboratories.

(3)(A) The training program referred to in paragraph (1)(B) is a training program carried out jointly by the Secretary of Defense and the Director of the Federal Bureau of Investigation in order to expand and improve United States efforts to deter the possible proliferation and acquisition weapons of mass destruction by organized crime organizations in Eastern Europe, the Baltic countries, and the former Soviet Union.

(B) The funds available under paragraph (1)(B) for the program referred to in subparagraph (A) may not be obligated or expended for that program until the Secretary of Defense and the Director of the Federal Bureau of Investigation jointly submit to the congressional defense committees a report that—

(i) identifies the nature and extent of the threat posed to the United States by the possible proliferation and acquisition of weapons of mass destruction by organized crime organizations in Eastern Europe, the Baltic countries, and the former Soviet Union;

(ii) assesses the actions that the United States should undertake in order to assist law enforcement agencies of Eastern Europe, the Baltic countries, and the former Soviet Union in the efforts of such agencies to prevent and deter the theft of nuclear weapons material; and

(iii) contains an estimate of—

(I) the cost of undertaking such actions, including the costs of personnel, support equipment, and training;

(II) the time required to commence the carrying out of the program referred to in paragraph (1); and

(III) the amount of funds, if any, that will be required in fiscal years after fiscal year 1995 in order to carry out the program.

KOHL (AND OTHERS) AMENDMENT NO. 2202

Mr. NUNN (for Mr. KOHL, for himself, Mr. FEINGOLD, and Mr. PRYOR) proposed an amendment to the bill S. 2182, supra; as follows:

On page 325, between lines 4 and 5, insert the following:

SEC. 2847. ASSISTANCE FOR PUBLIC PARTICIPATION IN DEFENSE ENVIRONMENTAL RESTORATION ACTIVITIES.

(a) ESTABLISHMENT OF RESTORATION ADVISORY BOARDS.—Section 2705 of title 10, United States Code, is amended by adding after subsection (c) the following:

"(d) RESTORATION ADVISORY BOARD.—(1) In lieu of establishing a technical review committee under subsection (c), the Secretary may permit the establishment of a restoration advisory board in connection with any installation (or group of nearby installations) where the Secretary is planning or implementing environmental restoration activities.

"(2) The Secretary shall prescribe regulations regarding the characteristics, composition, funding and establishment of restoration advisory boards pursuant to this subsection, if the Secretary decides to use this authority. Prescription of regulations shall not be a precondition to establishment of a restoration advisory board or impact restoration advisory boards established prior to the date of enactment of this section.

"(3) The Secretary may provide for the payment of routine administrative expenses of a restoration advisory board from funds available for the operation and maintenance of the installation (or installations) for which the board is established or from the funds available under subsection (e)(4).".

(b) ASSISTANCE FOR CITIZEN PARTICIPATION ON TECHNICAL REVIEW BOARDS AND RESTORATION ADVISORY BOARDS.—Such section is further amended by adding after subsection (d), as added by subsection (a), the following:

"(e) ASSISTANCE FOR CITIZEN PARTICIPATION.—(1)(A) Subject to subparagraph (B), the Secretary shall make available under paragraph (4) funds to facilitate the participation of individuals from the private sector on technical review committees and restoration advisory boards for the purpose of ensuring public input into the planning and implementation of environmental restoration activities at installations where such committees and boards are in operation.

"(B) A committee or advisory board for an installation is eligible for funding assistance under this subsection only if the committee or board is composed of individuals from the private sector who reside in a community in the vicinity of the installation and who are not potentially responsible parties with respect to environmental hazards at the installation.

"(2) Individuals who are local community members of a technical review committee or restoration advisory board may use funds made available under this subsection only—

"(A) to obtain technical assistance in interpreting scientific and engineering issues with regard to the nature of environmental hazards at an installation and the restoration activities proposed or conducted at the installation; and

(B) to assist such members and affected citizens to participate more effectively in environmental restoration activities at the installation.

"(3) The members of a technical review committee or restoration advisory board may employ technical or other experts in accordance with regulations prescribed under subsections (d) and (e)(1) of Title 10, United States Code and added by this section.

"(4)(A) Subject to subparagraph (B), the Secretary shall make funds available under this subsection using funds in the following accounts:

"(i) In the case of a military installation not closed pursuant to a base closure law, the Defense Environmental Restoration Account established in section 2703(a) of this title.

"(ii) In the case of a technical review committee or restoration advisory board established for a military installation to be closed, the Department of Defense Base Closure Account 1990 established under section 2906(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

"(B) The total amount of funds available under this subsection for fiscal year 1995 may not exceed $7,500,000.".

(c) INVOLVEMENT OF COMMITTEES AND BOARDS IN DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.—Such section is further amended by adding after subsection (e), as added by subsection (b), the following:

"(f) INVOLVEMENT IN DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.—If a technical review committee or restoration advisory board is established with respect to an installation, the Secretary shall consult with and seek the advice of the committee or board on the following issues:

"(1) Identifying environmental restoration activities and projects at the installation.

"(2) Monitoring progress on these activities and projects.

"(3) Collecting information regarding restoration priorities for the installation.

"(4) Addressing land use, level of restoration, acceptable risk, and waste management and technology development issues related to environmental restoration at the installation.

"(5) Developing environmental restoration strategies for the installation.".

(d) IMPLEMENTATION REQUIREMENTS.—Not later than 180 days after the date on which the Secretary announces a decision to establish restoration advisory boards, the Secretary of Defense shall—

(1) prescribe the regulations required under subsections (d) and (e)(1) of title 10, United States Code, as added by this section; and

(2) take appropriate actions to notify the public of the availability of funding under subsection (e) of such section, as so added.

(e) The Secretary shall report to the Committee on Armed Services of the Senate and the House of Representatives by May 1, 1996, on the establishment of restoration advisory boards and funds expended for assistance for citizen participation.

BYRD AMENDMENT NO. 2203

Mr. NUNN (for Mr. BYRD) proposed an amendment to the bill S. 2182, supra; as follows:

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. ADMINISTRATION OF ATHLETICS PROGRAMS AT THE SERVICE ACADEMIES.

(a) UNITED STATES MILITARY ACADEMY.—(1) Chapter 403 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4357. Administration of athletics program

"(a) The position of athletic director for the Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill such position as an active duty assignment.

"(b) Under regulations prescribed by the Secretary of the Army, the Superintendent of the Academy shall establish and administer a nonappropriated fund account for the athletics program of the Academy. The Superintendent shall credit to such account all revenue received from the conduct of the athletics program of the Academy and all contributions received for such program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4357. Administration of athletics program.".

(b) UNITED STATES NAVAL ACADEMY.—(1) Chapter 603 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 6975. Administration of athletics program

"(a) The position of athletic director of the Naval Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill such position as an active duty assignment.

"(b) Under regulations prescribed by the Secretary of the Navy, the Superintendent of the Naval Academy shall establish and administer a nonappropriated fund account for the athletics program of the Naval Academy. The Superintendent shall credit to such account all revenue received from the conduct of the athletics program of the Naval Academy and all contributions received for such program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"6975. Administration of athletics program.".

(c) UNITED STATES AIR FORCE ACADEMY.—(1) Chapter 903 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9356. Administration of athletics program

"(a) The position of athletic director of the Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill such position as an active duty assignment.

"(b) Under regulations prescribed by the Secretary of the Air Force, the Superintendent of the Academy shall establish and administer a nonappropriated fund account for the athletics program of the Academy. The Superintendent shall credit to such account all revenue received from the conduct of the athletics program of the Academy and all contributions received for such program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9356. Administration of athletics program.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 240 days after the date of the enactment of this Act.

FORD (AND BOND) AMENDMENT NO. 2204

Mr. NUNN (for Mr. FORD for himself and Mr. BOND) proposed an amendment to the bill S. 2182, supra; as follows:

On page 185, between lines 7 and 8, insert the following new section:

SEC. 913. REVISION IN COMPOSITION OF COMMISSION.

(a) REVISION.—Section 952(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 111 note; 107 Stat. 1738) is amended—

(1) in the first sentence of paragraph (1), by striking out "seven" and inserting in lieu thereof "eight"; and

(2) in paragraph (2)—

(A) by inserting "(A)" before "The Commission"; and

(B) by adding at the end the following new subparagraph:

"(B) The additional member of the Commission appointed under this paragraph after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995 shall have previous military experience and management experience with the reserve components.".

(b) APPOINTMENT.—The Secretary of Defense shall make the appointment required as a result of the amendments made by subsection (a) not later than 15 days after the date of the enactment of this Act.

SARBANES (AND OTHERS) AMENDMENT NO. 2205

Mr. NUNN (for Mr. SARBANES for himself, Mrs. KASSEBAUM, Mr. PELL and Mr. HELMS) proposed an amendment to the bill S. 2182, supra; as follows:

On page 198, line 3, insert before "(f)" the following:

"(3) Funds may not be provided under this section for a fiscal year for any country which was not eligible in that fiscal year for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961.

"(4) Funds may not be used under this section for the provision of military education or training, defense articles, or defense services to any country."

DOLE (AND OTHERS) AMENDMENT NO. 2206

Mr. COATS (for Mr. DOLE for himself, Mrs. HUTCHISON, Mr. KEMPTHORNE, Mr. COATS, Mr. THURMOND, Mr. SIMPSON, Mr. STEVENS, Mr. DOMENICI, Mr. SMITH, Mr. LOTT, Mr. MACK, Mr. WALLOP, Mr. MCCAIN, Mr. CRAIG, Mr. COCHRAN, Mr. BURNS, and Mr. WARNER) proposed an amendment to the bill S. 2182, supra; as follows:

At the appropriate place insert the following new section:

SEC. . REVIEW OF THE BOTTOM UP REVIEW AND THE FUTURE YEAR DEFENSE PROGRAM AND ESTABLISHMENT OF NEW FUNDING REQUIREMENTS AND PRIORITIES.

(a) FINDINGS.—Congress finds as follows:

(1) Whereas the Administration commissioned the Bottom Up Review to properly structure the Armed Forces of the United States for the Post-Cold War Era;

(2) Whereas the Secretary of Defense has testified that the Department of Defense's Future Years Defense Program includes $20 billion more in program funding requests during fiscal years 1996 through 1999 than the defense funding levels in the Administration's budget can support;

(3) Whereas, the Secretary of the Navy has testified that the Department of the Navy will only operate 330 ships rather than the 346 ships required by the Bottom Up Review;

(4) Whereas, in January 1994, in his Annual Report to the President and the Congress, the Secretary of Defense reported that the Air Force will field approximately 100 heavy bombers rather than the 184 required by the Bottom Up Review;

(5) Whereas the Department of Defense's plans for a major regional contingency in the Far East call for 5 Army divisions and the plans for a major regional contingency in Southwest Asia call for 7 Army divisions, while the Bottom Up Review plans for an Army of only 10 active divisions;

(6) Whereas the Administration's budget assumes the Department of Defense will save at least $6 billion from procurement reform;

(7) Whereas the first and second rounds of the Base Realignment and Closure Commission have not yet achieved the level of savings initially estimated, and the 1995 base closure round may cost significantly more than is assumed in the Administration's budget;

(b) SENSE OF CONGRESS.—It is the Sense of Congress:

LEAHY AMENDMENT NO. 2207

Mr. NUNN (for Mr. LEAHY) proposed an amendment to the bill S. 2182, supra; as follows:

On page 26, between lines 13 and 14, insert the following:

(e) ESTIMATES OF TOTAL COST REQUIRED.—(1) Not later than January 15, 1995, the Secretary of Defense shall submit to the congressional defense committees two estimates of the total cost of acquisition of 20 additional B–2 bomber aircraft, including the cost of research, development, test and evaluation and the cost of related military construction.

(2) The Secretary shall assume for purposes of making one of the estimates that such aircraft will be procured at the rate of 2 aircraft in each of fiscal years 1997 and 1998, 3 such aircraft in each of fiscal years 1999 through 2002, and 4 such aircraft in fiscal year 2003. The Secretary shall assume for purposes of making the other estimate that such aircraft will be procured at an annual rate of 2.5 aircraft beginning in fiscal year 1997.

(3) In addition to stating the estimates in terms of estimated total actual cost, the Secretary shall state the estimates in terms of fiscal year 1995 constant dollars.

PRYOR AMENDMENT NO. 2208

Mr. NUNN (for Mr. PRYOR) proposed an amendment to the bill S. 2182, supra; as follows:

On page 110, between lines 19 and 20, insert the following new sections:

SEC. 357. REVIEW BY DEFENSE INSPECTOR GENERAL OF COST GROWTH IN CERTAIN CONTRACTS.

(a) REVIEW.—The Inspector General of the Department of Defense shall carry out a review of a representative sample of existing contracts for the performance of commercial activities which resulted from a cost comparison study conducted by the Department of Defense under Office of Management and Budget Circular A-76 (or any other successor administrative regulation or policy) to determine the extent to which the cost incurred by a contractor under any such contract has exceeded the cost of the contract at the time the contract was entered into.

(b) REPORT.—Not later than April 1, 1995, the Inspector General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the results of the review carried out under subsection (a).

SEC. 358. COST COMPARISON STUDIES FOR CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES.

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410l. Contracts for advisory and assistance services: cost comparison studies

"(a) REQUIREMENT.—(1)(A) Before the Secretary of Defense enters into a contract described in subparagraph (B), the Secretary shall determine whether Department of Defense personnel have the capability to perform the services proposed to be covered by the contract.

"(B) Subparagraph (A) applies to any contract of the Department of Defense for advisory and assistance services which contract will have a value in excess of $100,000.

"(2) If the Secretary determines that such personnel have that capability, the Secretary shall conduct a study comparing the cost of performing the services with Department of Defense personnel and the cost of performing the services with contractor personnel.

"(b) WAIVER.—The Secretary of Defense may, pursuant to guidelines prescribed by the Secretary, waive the requirement under subsection (a)(2) to perform a cost comparison study based on factors that are not related to cost.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2410l. Contracts for advisory and assistance services: cost comparison studies.".

(b) PROCEDURES FOR CONDUCT OF STUDIES.—The Secretary of Defense shall prescribe the following procedures:

(1) Procedures for carrying out a cost comparison study under subsection (a)(2) of section 2410*l* of title 10, United States Code, as added by subsection (a), which may contain a requirement that the cost comparison study include consideration of factors that are not related to cost, including the quality of the service required to be performed, the availability of Department of Defense personnel, the duration and recurring nature of the services to be performed, and the consistency of the workload.

(2) Procedures for reviewing contracts entered into after a waiver under subsection (b) of such section to determine whether the contract is justified and sufficiently documented.

(c) EFFECTIVE DATE.—Section 2410*l* of title 10, United States Code, as added by subsection (a), shall take effect 180 days after the date of the enactment of this Act.

DECONCINI (AND OTHERS) AMENDMENT NO. 2209

Mr. NUNN (for Mr. DECONCINI for himself, Mr. FORD, and Mr. MCCAIN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 14, line 15, strike out "$840,361,000" and insert in lieu thereof "$848,122,000".

On page 15, line 9, strike out "$6,602,994,000" and insert in lieu thereof "$6,592,194,000".

On page 21, between lines 15 and 16, insert the following:

SEC. 115. BUNKER DEFEAT MUNITION MISSILES.

(a) AUTHORITY.—The Secretary of the Army may acquire up to 6,000 type classified standard bunker defeat munition weapons.

(b) FUNDING.—Funds authorized to be appropriated for the Army for fiscal year 1994 shall be available for acquisition of bunker defeat munition weapons in accordance with subsection (a) as follows:

(1) Of the amount authorized to be appropriated by section 101(4), $7,761,000.

(2) Of the amount authorized to be appropriated by section 201(1), $2,600,000.

On page 27, line 19, strike out "$5,149,708,000" and insert in lieu thereof "$5,152,308,000".

LOTT (AND OTHERS) AMENDMENT NO. 2210

Mr. COATS (for Mr. LOTT for himself, Mr. SHELBY, Mr. COCRHAN and Mr. HEFLIN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 22, between lines 9 and 10, insert the following:

SEC. 122. NAVAL AMPHIBIOUS READY GROUPS.

(a) FINDINGS.—Congress makes the following findings:

(1) Extensive and compelling testimony from uniformed military and Department of Defense leadership has been received which supports a military requirement for twelve Amphibious Ready Groups.

(2) An official Department of Navy report required by the Fiscal year 1993 National Defense Authorization Act clearly stipulates that a seventh LHD is required in order for the Navy to achieve a force structure of twelve Amphibious Ready Groups.

(3) The Department of Navy has identified funds for the purchase of LHD-7 in outyear budget projections.

(4) A significant shortfall in amphibious shipping and amphibious lift exists, both in the FY-95 budget request and in outyear force structure projections.

(5) Amphibious Assault Ships (LHDs) provide an important contingency capability and are uniquely suited to respond to world crises and to provide assistance after natural disasters.

(6) Twelve Amphibious Ready Groups are the correct number to sustain forward deployment and contingency requirements of the Navy.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Navy should, plan for, and budget to provide for, the attainment of a twelfth Amphibious Ready Group as soon as possible. Further, the Secretary of Navy should extend the existing contract option on the LHD-7 Amphibious Assault Ship in order to achieve twelve Amphibious Ready Groups.

(c) LHD-7 CONTRACT OPTION EXTENSION.—

(1) The Secretary of Navy is authorized to extend the existing contract option for the LHD-7 Amphibious Assault ship if the Secretary determines that the extension would be in the best interest of the United States.

(2) The Secretary of Navy shall immediately begin negotiations to extend the existing contract option for the LHD-7 Amphibious Assault Ship Program.

(3) On and after the date that is 30 days after the date on which the Secretary notifies Congress of an intention to do so, the Secretary may use such program funds authorized to be appropriated for other Navy programs for such contract. The notification shall include a description of the intended use of the funds.

(d) REPORT REQUIREMENT.—The Secretary Navy shall report to the Congress, after December 31, 1994, but before March 31, 1995, Department of the Navy intentions related to contract execution of the existing contract option for the LHD-7 Amphibious Assault Ship. The report shall include an explanation of the Department's actions related to the attainment of a twelfth Amphibious Ready Group and the costs and benefits of extending the existing contract option on the LHD-7 Amphibious Assault Ship.

BOND AMENDMENT NO. 2211

Mr. COATS (for Mr. BOND) proposed an amendment to the bill S. 2182, supra; as follows:

On page 371, between lines 6 and 7, insert the following

SEC. 3159. CONDITIONS ON CONTRACTS BETWEEN THE FEDERAL GOVERNMENT AND CERTAIN LESSEES AND TRANSFEREES OF DEPARTMENT OF ENERGY PROPERTY.

(a) CONDITIONS.—Notwithstanding any other provision of law, the head of a department or agency of the United States may require as a condition of a contract with an entity described in subsection (b) that such entity certifies to the head of the department or agency the following:

(1) That no officer, director, employee, or agent of the entity has utilized in the preparation of the bid or solicitation for the contract—

(A) any records or systems of records of the Federal Government that are covered by section 552a of title 5, United States Code;

(B) any information or data of the Federal Government that has not been released or otherwise made generally available for preparation of bids or proposals on the contract; or

(C) any commercial information or data of another entity that has not been released or otherwise made generally available for that purpose.

(2) That the entity has returned, destroyed, or otherwise disposed of all documents received from the Federal Government by reason of any earlier * * *

WALLOP AMENDMENT NO. 2212

Mr. WALLOP proposed an amendment to the bill S. 2182, supra; as follows:

On page 219, after line 19, insert the following:

SEC. 1033. DEPLOYMENT OF UNITED STATES FORCES FOR PEACEKEEPING OPERATIONS ON THE GOLAN HEIGHTS.

(a) LIMITATION.—None of the funds authorized to be appropriated for the Department of Defense by this or any other Act may be expended for support of any deployment of personnel of the Armed Forces of the United States to the Golan Heights as part of a multilateral peacekeeping force, as a unilateral peacekeeping force, or in conjunction with a peace agreement between Israel and Syria that results in the withdrawal of the Israeli Defense Force from the Golan Heights until the Secretary of Defense submits to Congress, in consultation with the Joint Chiefs of Staff, a written report on a potential deployment and the limitation in this subsection ceases to be effective by operation of subsection (d).

(b) CONTENT OF REPORT.—The report shall contain the following matters:

(1) An evaluation of potential risks or threats to United States forces from acts of terrorism, civil unrest, limited armed conflict, or attacks by paramilitary groups presently occurring in south Lebanon, or similar or related potential acts.

(2) An estimate of the size of the United States armed force necessary to deploy for the peacekeeping mission and the types of military equipment and material necessary to deploy for such mission, and an estimate of the near-term and long-term costs of the deployment and of the performance of the peacekeeping mission.

(3) An analysis of the availability of the personnel, funds, equipment, and other resources necessary for performance of the mission.

(4) An assessment of the potential effects of the long-term assignment of a substantial United States armed force to the Golan Heights on United States global war fighting and strategic capabilities outlined in the Bottom-Up Review of the Department of Defense prepared by direction of the Secretary of Defense in 1993.

(5) An analysis of the responsibilities resulting from, and the implications of, a United States deployment on the Golan Heights with regard to sharing strategic intelligence and warning with Israel, Syria, or both Israel and Syria.

(6) An estimate of the likely duration of the deployment and the conditions under which the deployed United States forces would be withdrawn from the Golan Heights.

(7) An evaluation of alternatives that could make the deployment unnecessary.

(c) UNCLASSIFIED VERSION REQUIRED.—The Secretary of Defense shall submit to Congress an unclassified version of any classified report submitted under this section.

(d) CONDITION FOR TERMINATION OF LIMITATION.—(1) The limitation on use of funds in subsection (a) shall cease to be effective at the end of 30 days of continuous session of Congress after the date on which Congress receives a report under subsection (a) unless, within such 30-day period, Congress enacts a joint resolution disapproving deployment of personnel of the Armed Forces of the United States to the Golan Heights.

(2) For purposes of paragraph (1)—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

JOHNSTON AMENDMENT NO. 2213

Mr. NUNN (for Mr. JOHNSTON) proposed an amendment to the bill S. 2182, supra; as follows:

On page 366, line 5, strike "TRITIUM PRODUCTION." and all that follows through page 367, line 15 and in lieu thereof insert;

"Nuclear weapons council membership. Section 179(a)(1) title 10, United States Code, is amended to read as follows: '(3) Two senior representatives of the Department of Energy appointed by the Secretary of Energy.' "

ROTH AMENDMENT NO. 2214

Mrs. HUTCHISON (for Mr. ROTH) proposed an amendment to the bill S. 2182, supra; as follows:

At an appropriate place in the bill add the following new section

SEC. .

(a) FINDINGS.—The Congress makes the following findings:

(1) The North Atlantic Treaty Organization has served as a bulwark of peace, security, and democracy for the United States and the members of the alliance since 1949.

(2) The unswerving resolve of the member states of the North Atlantic Treaty Organization to mutual defense against the threat of communist aggression was central to the demise of the Warsaw Pact.

(3) The North Atlantic Treaty Organization is the most successful international security organization in history, and is well suited to help marshal our cooperative political, diplomatic, economic, and humanitarian efforts, buttressed by credible military capability aimed at deterring conflict, and thus contributing to international peace and security.

(4) The threat of instability in Eastern and Central Europe, as well as in the Southern and Eastern Mediterranean, continues to pose a fundamental challenge to the interests of the member states of the North Atlantic Treaty Organization.

(5) North Atlantic Treaty Organization assets have been deployed in recent years for more than the territorial defense of alliance members; and the Rome Summit of October 1991 adopted a new strategic concept for the North Atlantic Treaty Organization that entertained the possibility of operations beyond the alliance's self-defense area.

(6) In Oslo in July 1992, and in Brussels in December 1992, the alliance embraced the deployment of North Atlantic Treaty Organization forces to peacekeeping operations under the auspices of the United Nations or the Conference on Security and Cooperation in Europe.

(7) The North Atlantic Treaty Organization should attempt to cooperate with and seek a mandate from international organizations such as the United Nations when considering responses to out of area crises.

(8) Not all members of the international community share a commonality of interests that would ensure timely action by the United Nations Security Council.

(9) The security interests of the member countries of the North Atlantic Treaty Organization must not be held hostage to indecision at the United Nations or a veto by a permanent member of the Security Council.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) it should be the policy of the United States that, in accordance with article 53 of the U.N. Charter, the North Atlantic Treaty Organization retains the right of autonomy of action regarding missions in addition to collective defense should the United Nations Security Council or the Conference on Security and Cooperation in Europe fail to act;

(2) while it is desirable to work with other international organizations and arrangements where feasible in dealing with threats to the peace, the North Atlantic Treaty Organization is not an auxiliary to the United Nations or any other organization; and

(3) the member states of the North Atlantic Treaty Organization reserve the right to act collectively in defense of their vital interests.

COATS (AND SHELBY) AMENDMENT NO. 2215

Mrs. HUTCHISON (for Mr. COATS for himself and Mr. SHELBY) proposed an amendment to the bill S. 2182, supra; as follows:

On page 75, beginning with line 9, strike out all through page 79, line 13, and insert in lieu thereof the following:

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study to determine the level of interest among employees of the Department of Defense referred to in subsection (b) in obtaining credit under the Civil Service Retirement and Disability System or the Federal Employees' Retirement System for former service described in such subsection as an employee of a nonappropriated fund instrumentality of the United States.

(b) EMPLOYEES CONCERNED.—The employees referred to in subsection (a) are employees who, for at least 12 months during the period beginning on January 1, 1966, and ending on December 31, 1986, performed service as an employee described in section 2105(c) of title 5, United States Code, conducting a program described in section 8332(b)(16)(A) of such title.

(c) CONDUCT OF STUDY.—In carrying out the study under subsection (a), the Secretary shall—

(1) provide an opportunity for all employees referred to in that subsection to express interest in obtaining retirement credit for the former service in a nonappropriated fund instrumentality of the United States; and

(2) inform such employees that deposits to the Civil Service Retirement and Disability Fund would be required of the interested employees under section 8334(c) of title 5, United States Code, or section 8411(f) of such title.

(d) REPORT.—Not later than February 1, 1995, the Secretary shall submit to Congress a report on the results of the study required by subsection (a). The report shall contain the following matters:

(1) An analysis of the issues, to include existing legal rights of the employees described in paragraph (b) above under the Civil Service Retirement and Disability System or the Federal Employees' Retirement System.

(2) An analysis of the inequities, if any, that may have been caused by conversion from employment by nonappropriated fund instrumentalities of the United States to employment by the Department of Defense.

(3) The number of full time and part time employees described in paragraph (b) above that are affected by any inequities described in paragraph 2.

(4) The Department of Defense recommendations, if any, to redress any inequities described in paragraph 2, and

(5) The cost to the federal government of any recommendation described in paragraph 4.

GRAHAM AMENDMENT NO. 2216

Mr. NUNN (for Mr. GRAHAM) proposed an amendment to the bill S. 2182, supra; as follows:

On page 200, between lines 8 and 9, insert the following:

SEC. 1017. REVIEW AND REPORT REGARDING DEPARTMENT OF DEFENSE PROGRAMS RELATING TO REGIONAL SECURITY AND HOST NATION DEVELOPMENT IN THE WESTERN HEMISPHERE.

(a) FINDINGS.—Congress makes the following findings:

(1) The political environment in the Western Hemisphere has been characterized in recent years by significant democratic advances and an absence of international strife; but democracy is fragile in some nations of the region.

(2) It is desirable for the Department of Defense to perform a positive role in influencing regional armed forces to make positive contributions to the democratic process and to domestic development programs.

(3) Congress receives a number of annual reports relating to specific authorities granted to the Secretary of Defense under title 10, United States Code, such as the authorities relating to the conduct of bilateral or regional cooperation programs under section 1051, participation of developing countries in combined exercises under section 2110, and the training of special operations forces with friendly forces under section 2011.

(4) The annual reports are replete with statistics and dollar figures and generally lacking in substance.

(5) Congress does not receive annual reports with respect to other authorities of the Secretary of Defense, such as that relating to Latin American cooperation under section 1050 of title 10, United States Code.

(6) Testimony before Congress, including in particular the testimony of the Commander in Chief, United States Southern Command, and the Commander in Chief, United States Atlantic Command, has emphasized the conduct of a large number of complementary programs under the leadership and supervision of those two commanders to foster appropriate military roles in democratic host nations and to assist countries in developing forces properly trained to address their security needs, including needs regarding illegal

immigration, insurgencies, smuggling of illegal arms, munitions, and explosives across borders, and drug trafficking.

(7) Most of the programs referred to in paragraph (6) provide excellent and often unique training and experience to the United States forces involved.

(8) The expansion of the military-to-military contact program to the Western Hemisphere will provide another tool to encourage a democratic orientation of the defense establishments and military forces of countries in the region.

(9) There is a need to conduct a comprehensive review of the several authorities in title 10, United States Code, for the Secretary of Defense to engage in cooperative regional security programs with other countries in the Western Hemisphere in order to determine whether the authorities continue to be appropriate and necessary, particularly in the light of the changed circumstances in the region.

(10) There is a need to conduct a comprehensive review of the various programs carried out pursuant to such authorities to ensure that such programs are designed to meet the needs of the host nations involved and the regional objectives of the United States.

(11) There is a need to assess the strengths and weaknesses of the various regional security organizations, defense forums, and defense education institutions in the Western Hemisphere in order to identify any improvements needed to harmonize the defense policies of the United States and those of friendly nations of the region.

(b) REPORT REQUIRED.—Not later than May 1, 1995, the Secretary of Defense, shall—

(1) carry out a comprehensive review and assessment of the matters referred to in paragraphs (9), (10), and (11) of subsection (a); and

(2) after consultation with the Chairman of the Joint Chiefs of Staff and the commanders of the combatant commands responsible for regions in the Western Hemisphere, submit to the Committees on Armed Services of the Senate and House of Representatives a report on regional defense matters.

(c) CONTENT OF REPORT.—The report shall contain a detailed and comprehensive description, discussion, and analysis of the following matters:

(1) The Department of Defense plan to support United States strategic objectives in the Western Hemisphere.

(2) The external and internal threats to the national security of the nations of the region.

(3) The various regional security cooperative programs carried out by the Department of Defense in the region in 1994, including training and education programs in the host nations and in the United States and defense contacts set forth on a country-by-country basis, the statutory authority, if any, for such programs, and the strategic objectives served.

(4) The various regional security organizations, defense forums, and defense education institutions that the United States maintains or in which the United States participates.

(5) An assessment of the contribution that such programs, defense contacts, organizations, forums, and institutions make to the advancement of regional security, host nation security and national development, and the strategic objectives of the United States.

(6) The changes made or to be made in the programs, organizations, forums, and institutions as a result of the comprehensive review.

(7) Any recommended legislation considered necessary to improve the ability of the Department to achieve its strategic objectives.

(d) CLASSIFICATION OF REPORT.—The report shall be submitted in an unclassified form and may, if necessary, have a classified supplement.

WELLSTONE (AND OTHERS) AMENDMENT NO. 2217

Mr. NUNN (for Mr. WELLSTONE for himself, Mr. SIMON, Mr. MOYNIHAN, Mrs. KASSEBAUM, Mr. FEINGOLD, Mr. JEFFORDS, Mr. LEAHY, Mr. KENNEDY, Mr. DURENBERGER, and Ms. MOSELEY-BRAUN) proposed an amendment to the bill S. 2182, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . GENOCIDE IN RWANDA.

(a) FINDINGS.—The Congress finds that—

(1) since April 6, 1994, elements of the Rwandan government forces, and their allied militias, have organized the massacres of more than 200,000 Rwandan civilians, of both Tutsi and Hutu ethnic origin;

(2) an estimated 2 million Rwandans have been internally displaced, and at least 500,000 have fled to neighboring countries;

(3) on April 26, 1994, the Senate agreed to Senate Resolution 207, deploring the massacres and urging prompt resolution of this crisis;

(4) the potential exists for retaliatory acts to be committed by elements within the Rwandan Patriotic Front against civilians;

(5) on June 8, 1994, the United Nations Security Council expanded and reinforced the United Nations Assistance Mission for Rwanda (UNAMIR) to 5,500 troops with a mandate to protect civilians;

(6) on June 22, 1994, the United Nations Security Council voted unanimously to support the deployment of military forces from France and Senegal for a temporary operation that would contribute to the security and protection of populations at risk in Rwanda.

(b) POLICY.—The Congress—

(1) calls upon the President to acknowledge that acts of genocide have been committed in Rwanda;

(2) urges the President to support the establishment of an impartial commission of experts to examine and analyze the evidence submitted of breaches of the Convention on Genocide, and other grave violations of international humanitarian law, committed in Rwanda;

(3) commends the Department of Defense for logistical help already provided and urges the Secretary of Defense to further expedite all United States military contributions to the humanitarian effort in Rwanda.

(4) implores the President to take the lead in the international community to expedite commitments of the necessary resources for, and to organize the speedy training and deployment of, the reinforced UNAMIR operation, with the mandate of protecting civilian populations at risk in Rwanda;

(5) strongly urges the President and the international community to expedite assistance needed for humanitarian operations in Rwanda, and neighboring states, for the support of Rwandan refugees;

(6) commends France and Senegal for cooperating with the Secretary General towards the fulfillment of the objectives of the United Nations in Rwanda; and

(7) urges France and Senegal pursuant to the United Nations Security Council resolution of June 22, 1994, to maintain the humanitarian character of * * *

* * * * *

LAUTENBERG (AND OTHERS) AMENDMENT NO. 2218

Mr. NUNN (for Mr. LAUTENBERG, Mr. SASSER, Mr. PRESSLER, and Mr. DASCHLE) proposed an amendment to the bill S. 2182, supra; as follows:

On page 200, between lines 8 and 9, insert the following:

SEC. 1017. PAYMENTS-IN-KIND FOR RELEASE OF UNITED STATES OVERSEAS MILITARY FACILITIES TO NATO HOST COUNTRIES.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States has invested $6,500,000,000 in military infrastructure in North Atlantic Treaty Organization (NATO) countries.

(2) As part of an overall plan to reduce United States troop strength in Europe from 323,432 in 1987 to 100,000 by the end of 1996, the Department of Defense plans to close or reduce United States military presence at 867 military sites overseas.

(3) Most of the overseas military sites announced for closure are in Europe where the United States has already closed 434 such sites.

(4) When the United States closes military sites in Europe, the United States brings the military personnel home but leaves buildings, roads, sewers, and other real property improvements behind.

(5) Some allies have agreed to pay the United States for the residual value of the real property improvements left behind.

(6) Although the United States military drawdown has been rapid since 1990, European allies have been slow to pay the United States the residual value of the sites released by the United States.

(7) As of 1994, the United States has recouped only $33,300,000 in cash, and most of that was recovered in 1989.

(8) Although the United States has released to Germany over 60 percent of the military sites planned for closure by the United States in that country and the current value of United States facilities to be returned to the German government is estimated at approximately $2,700,000,000, the German government has budgeted only $25,000,000 for fiscal year 1994 for payment of compensation for the United States investment in such improvements.

(b) POLICY.—It is the sense of Congress that—

(1) the President should redouble efforts to recover the value of the United States investment in the military infrastructure of NATO countries;

(2) the President should enter into negotiations with the government of each NATO host country with a presumption that payments to compensate the United States for the negotiated value of improvements will be made in cash and deposited in the Department of Defense Overseas Military Facility Investment Recovery Account;

(3) the President should enter into negotiations for payments-in-kind only as a last resort and only after informing the Congress that negotiations for cash payments have not been successful; and

(4) to the extent that in-kind contributions are received in lieu of cash payments in any fiscal year, the in-kind contributions should be used for projects which are identified on costs of the Department of Defense.

(c) REQUIREMENTS AND LIMITATIONS RELATING TO PAYMENTS-IN-KIND.—(1) Subsection (e) of section 2921 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2687 note) is amended—

(A) by inserting "(1)" after "NEGOTIATIONS FOR PAYMENTS-IN-KIND.—";

(B) by striking out "a written notice" and all that follows and inserting in lieu thereof "to the congressional defense committees (and one additional copy to each of the Subcommittees on Defense of the Committees on Appropriations of the Senate and the House of Representatives) a written notice regarding the intended negotiations."; and

(C) by adding at the end the following new paragraph:

"(2) The notice shall contain the following:

"(A) A justification for entering into negotiations for payments-in-kind with the host country.

"(B) The types of benefit options to be pursued by the Secretary in the negotiations.

"(C) A discussion of the adjustments that are intended to be made in the future-years defense program or in the budget of the Department of Defense for the fiscal year in which the notice is submitted or the following fiscal year in order to reflect costs that it may no longer be necessary for the United States to incur as a result of the payments-in-kind to be sought in the negotiations.".

(2) Such section is amended by adding at the end the following new subsection:

"(h) CONGRESSIONAL OVERSIGHT OF PAYMENTS-IN-KIND.—(1) Not less than 30 days before concluding an agreement for acceptance of military construction or facility improvements as a payment-in-kind, the Secretary of Defense shall submit to Congress a notification on the proposed agreement that contains the following matters:

"(A) A description of the military construction project or facility improvement project, as the case may be.

"(B) A certification that the project is needed by United States forces.

"(C) An explanation of how the project will aid in the achievement of the mission of those forces.

"(D) A certification that, if the project were to be carried out by the Department of Defense, appropriations would be necessary for the project and it would be necessary to provide for the project in the next future-years defense program.

"(2) Not less than 30 days before concluding an agreement for acceptance of host nation support or host nation payment of operating costs of United States forces as a payment-in-kind, the Secretary of Defense shall submit to Congress a notification on the proposed agreement that contains the following matters:

"(A) A description of each activity to be covered by the payment-in-kind.

"(B) A certification that the costs to be covered by the payment-in-kind are included in the budget of one or more of the military departments or that it will otherwise be necessary to provide for payment of such costs in a budget of one or more of the military departments.

"(C) A certification that, unless the payment-in-kind is accepted or funds are appropriated for payment of such costs, the military mission of the United States forces with respect to the host nation concerned will be adversely affected.".

DODD (AND OTHERS) AMENDMENT NO. 2219

Mr. NUNN (for Mr. DODD for himself, Mr. LIEBERMAN, and Mr. D'AMATO) proposed an amendment to the bill S. 2182, supra; as follows:

On page 14, line 11, strike out "$1,058,781,000" and insert in lieu thereof "$1,073,781,000".

On page 15, line 9, strike out "$6,602,994,000" and insert in lieu thereof "$6,587,994,000".

FEINSTEIN (AND OTHERS) AMENDMENT NO. 2220

Mr. NUNN (for Mrs. FEINSTEIN for herself, Mr. INOUYE, Mrs. BOXER, Mr. BUMPERS, Mr. LIEBERMAN, Mr. BINGAMAN, Mr. PELL, Mr. WOFFORD, Mr. KERRY, and Mr. COHEN), proposed an amendment to the bill S. 2182, supra; as follows:

On page 47, after line 20, insert the following new section:

SEC. 235. SMALL BUSINESS DEFENSE CONVERSION GUARANTEED LOANS.

(a) AUTHORIZATIONS.—Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) in subsection (l), as added by section 405(3) of the Small Business Credit and Business Opportunity Enhancement Act of 1992—

(A) by striking "(l) There" and inserting "(3) There" and indenting appropriately; and

(B) by striking "subsection (k)", and inserting "paragraphs (1) and (2)";

(2) by redesignating subsection (k), as added by section 405(3) of the Small Business Credit and Business Opportunity Act of 1992, as subsection (l);

(3) in subsection (l), as so redesignated, by inserting after paragraph (1), the following new paragraph:

"(2) The Administration is authorized to make not more than $1,000,000,000 in loans on a guaranteed basis, in accordance with section 7(a)(21), such amount to remain available until expended.";

(4) in subsection (n)—

(A) by striking "(n) There" and inserting "(3) There" and indenting appropriately; and

(B) by striking "subsection (m)" and inserting "paragraphs (1) and (2)";

(5) in subsection (m), by inserting after paragraph (1), the following new paragraph:

"(2) The Administration is authorized to make not more than $1,000,000,000 in loans on a guaranteed basis, in accordance with section 7(a)(21), such amount to remain available until expended.";

(6) by redesignating subsection (o) as subsection (n); and

(7) in subsection (p)—

(A) by striking "(p) There" and inserting "(2) There", and indenting appropriately; and

(B) by striking "subsection (o)" and inserting "paragraph (1)".

(b) TECHNICAL CLARIFICATION.—Section 7(a)(21)(A) of the Small Business Act (15 U.S.C. 636(a)(21)(A)) is amended by striking "under the" and inserting "on a guaranteed basis under the".

(c) JOB CREATION AND COMMUNITY BENEFIT.—Section 7(a)(21) of the Small Business Act (15 U.S.C. 636(a)(21)) is amended by adding at the end the following new subparagraph:

"(E) In providing assistance under this paragraph, the Administration shall develop procedures to ensure, to the maximum extent practicable, that such assistance is used for projects that have substantial potential for stimulating new economic activity in communities most impacted by reductions in Federal defense expenditures.".

(d) AUTHORITY TO TRANSFER APPROPRIATIONS.—Of the amount authorized to be appropriated pursuant to section 201(4), $27,400,000 may be transferred by the Secretary of Defense, to the extent provided in an act appropriation funds for the Department of Defense, to the Small Business Administration for the purpose of providing loan guarantees under section 7(a)(21)(A) of the Small Business Act, such amount to remain available until expended.

KENNEDY (AND OTHERS) AMENDMENT NO. 2221

Mr. NUNN (for Mr. KENNEDY for himself, Mr. BINGAMAN, and Mr. DOMENICI) proposed an amendment to the bill S. 2182, supra; as follows:

SEC. 204. HIGH RESOLUTION IMAGING.

Of the funds authorized to be appropriated pursuant to section 201(3), $10,000,000 shall be available for high resolution imaging of space objects using excimer lasers.

FEINGOLD (AND OTHERS) AMENDMENT NO. 2222

Mr. NUNN (for Mr. FEINGOLD for himself, Mr. BUMPERS, Mr. MATHEWS, and Mr. GRASSLEY) proposed an amendment to the bill S. 2182, supra; as follows:

On page 186, add the following between lines 14 and 15: "(c) Evaluation of the Uniformed Services University of the Health Sciences.

(1) GAO report.—By June 1, 1995, the Comptroller General of the United States shall submit to the appropriate Committees of the Congress a detailed report that—

i. compares the cost of obtaining physicians from the Uniformed Services University of the health Sciences with other sources of military physicians;

ii. assesses the retention rate needs of the military for physicians in relation to the respective retention rates of Uniformed Services University of the Health Sciences physicians and physicians obtained from other sources and the factors which contribute to retention rates among military physicians obtained from all sources;

iii. reviews the quality of the medical education provided at the Uniformed Services University of the Health Sciences with the quality of medical education provided by other sources of military physicians;

iv. reviews the overall issue of the special needs of military medicine and how these special needs are being met by Uniformed Services University of Health Sciences physicians and physicians obtained from other sources;

v. assesses the extent to which the Uniformed Services University of the Health Sciences has responded to the 1990 report of the Inspector General of the Department of Defense and make recommendations as to resolution of any continuing issues relating to management and internal fiscal controls of the Uniformed Services University of the Health Sciences, including issues relating to the Henry M. Jackson Foundation for the Advancement of Military medicine identified in the 1990 report; and,

vi. makes such recommendations as the Comptroller General deems appropriate.

FEINSTEIN (AND OTHERS) AMENDMENT NO. 2223

Mr. NUNN (for Mrs. FEINSTEIN, for herself, Mr. BINGAMAN, Mr. ROTH, and

Mr. SASSER) proposed an amendment to the bill S. 2182, supra; as follows:

On page 59, between lines 9 and 10, insert the following:

SEC. 250. ADVANCED THREAT RADAR JAMMER.

(a) LIMITATION REGARDING JOINT DEVELOPMENT PROGRAM WITH CERTAIN FOREIGN ENTITIES.—The Secretary of Defense may not negotiate or enter into any agreement with, nor accept funds from, a foreign government or an entity controlled by a foreign government for a joint program for the development of an advanced threat radar jammer for combat helicopters until 30 days after the Secretary, in consultation with the Secretary of State, the Secretary of the Army, and the Director of the Defense Security Assistance Agency, conducts a comprehensive review of the program and submits a report on the results of that review to the congressional defense committees.

(b) MATTERS COVERED BY REVIEW AND REPORT.—The matters relating to the program referred to in subsection (a) that are required to be covered by the review and report are as follows:

(1) The legal basis for seeking for the program funds that are neither authorized to be appropriated nor appropriated.

(2) The consistency of the program with the Department of Defense policy that no foreign military sale of a defense system, and no commitment to foreign military sale of a defense system, be made before operational test and evaluation of the system is successfully completed and the Under Secretary of Defense for Acquisition and Technology has specifically approved the system for sale to a foreign government.

(3) The mission requirement for an advanced threat radar jammer for combat helicopters.

(4) An assessment of each threat for which an advanced threat radar jammer would be developed, particularly with regard to each threat to a foreign country with which the United States would jointly develop an advanced threat radar jammer.

(5) The potential for sensitive electronic warfare technology to be made available to potential adversaries of the United States as a result of United States participation in the program.

(6) The availability of other nondevelopmental items and less sophisticated technologies for countering the emerging radar detection threats to United States combat helicopters and combat helicopters of United States allies.

(7) A capability assessment of similar technologies available from other foreign countries and the consequences of proliferation of such technologies in regions of potential conflict.

(c) INAPPLICABILITY TO MAJOR ALLIES OF THE UNITED STATES.—This section does not apply with respect to a major ally of the United States.

(d) DEFINITIONS.—In this section:

(1) The term "entity controlled by a foreign government" includes—

(A) any domestic or foreign organization or corporation that is effectively owned or controlled by a foreign government; and

(B) any individual acting on behalf of a foreign government,

as determined by the Secretary of Defense. Such term does not include an organization or corporation that is owned, but is not controlled, either directly or indirectly, by a foreign government if the ownership of that organization or corporation by that foreign government was effective before October 23, 1992.

(2) The term "major ally of the United States" has the meaning given such term in section 2350a(i)(2) of title 10, United States Code.

ROCKEFELLER (AND OTHERS) AMENDMENT NO. 2224

Mr. NUNN (for Mr. ROCKEFELLER, for himself, Mr. RIEGLE, Mr. DODD, Mr. JEFFORDS, Mr. DASCHLE, Mr. KOHL, Mr. BRADLEY, Mr. KERRY, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. CAMPBELL, and Mr. MATHEWS) proposed an amendment to the bill S. 2182, supra; as follows:

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. STUDIES OF HEALTH CONSEQUENCES OF MILITARY SERVICE OR EMPLOYMENT IN SOUTHWEST ASIA DURING THE PERSIAN GULF WAR.

(a) EPIDEMIOLOGICAL STUDY.—

(1) IN GENERAL.—The Secretary of Defense shall award a grant under this subsection to one or more non-Federal entities selected for the award under subsection (c). The purpose of a grant is to permit the entity receiving the award to carry out the study described in paragraph (2).

(2) NATURE OF STUDY.—The purpose of the study referred to in paragraph (1) is to determine the nature and scope of the illnesses and symptoms suffered by the individuals referred in paragraph (3) as a result of service or employment in the Southwest Asia theater of operations during the Persian Gulf War.

(3) INDIVIDUALS COVERED BY STUDY.—Paragraph (2) applies to the following individuals:

(A) Individuals who served as members of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

(B) Individuals who were civilian employees of the Department of Defense in that theater during that period.

(C) Where appropriate, individuals who were employees of contractors of the Department in that theater during that period.

(D) Where appropriate, the spouses and children of individuals described in subparagraph (A).

(4) STUDY DESIGN.—The study required under this subsection shall be designed—

(A) to assess the extent, if any, of the association between—

(i) the illnesses and symptoms suffered by individuals referred to in paragraph (3);

(ii) the exposure of the individuals referred to in subparagraphs (A), (B), and (C) of that paragraph to chemical and biological agents, drugs and vaccines, endemic biological diseases, pesticides, toxins, and other potentially hazardous materials; and

(iii) the experiences of such individuals with stress-producing battlefield and wartime conditions;

(B) to identify risk factors for predicting the illnesses or symptoms relating to such exposure that will arise within 3 years of the arrival of an individual referred to in subparagraph (A), (B), or (C) of paragraph (3) in the Southwest Asia theater of operations;

(C) to determine—

(i) the incidence, prevalence, and nature of the illnesses and symptoms suffered by the individuals referred to in paragraph (3), including—

(I) the incidence, prevalence, and nature of the illnesses and symptoms of such individuals before the commencement of the period of the Persian Gulf War and the incidence, prevalence, and nature of the illnesses of such individuals after the end of that period; and

(II) the incidence, prevalence, and nature of the illnesses, symptoms, and birth defects of any children conceived by such individuals before the commencement of that period and of any children conceived by such individuals during or after the end of that period; and

(ii) the incidence, prevalence, and nature of illnesses and symptoms of other individuals or groups of individuals, if any, who may suffer from an illness or symptom as a result of the service or employment of any person or group of persons in the Southwest Asia theater of operations during the Persian Gulf War; and

(D) to evaluate a comparison sample or to evaluation any other matter that the Secretary or the entity determines appropriate to the purposes of the study.

(5) REPORTS.—

(A) INTERIM REPORTS.—Not later than each of July 1, 1995, and July 1, 1996, the Secretary shall submit to the congressional defense committees and the Committees on Veterans' Affairs of the Senate and the House of Representatives an interim report on the results of the study carried out under this subsection.

(B) FINAL REPORT.—Not later than January 1, 1998, the Secretary shall submit to the committees referred to in subparagraph (A) a final report on the results of the study.

(C) FORM OF REPORTS.—The reports submitted under this paragraph shall be submitted in unclassified form.

(b) STUDIES OF HEALTH CONSEQUENCES OF ADMINISTRATION OF PYRIDOSTIGMINE BROMIDE.—

(1) IN GENERAL.—The Secretary of Defense shall award a grant under this subsection to one or more non-Federal entities selected for the award under subsection (c). The purpose of a grant is to permit the entity receiving the award to carry out a study or studies to determine the following:

(A) The long-term health consequences of the administration of pyridostigmine bromide as an antidote enhancer for chemical nerve agent toxicity during the Persian Gulf War.

(B) The short-term and long-term health consequences of the administration of pyridostigmine bromide under the chemical nerve agent pretreatment program of the Department of Defense and exposure to pesticides, environmental toxins, and other hazardous substances during battlefield conditions that prevailed in the Southwest Asia theater of operations during the Persian Gulf War.

(2) STUDIES.—The Secretary shall provide that an entity awarded a grant under this subsection shall carry out a study described in paragraph (3) or (4).

(3) RETROSPECTIVE STUDY.—A study referred to in paragraph (2) is a retrospective study on members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf War in order to determine the following:

(A) The nature of the undiagnosed and chronic illnesses suffered by such members.

(B) The degree of association between such illnesses and—

(i) use of pyridostigmine bromide over a short period of time (as determined by the Secretary) during the Persian Gulf War;

(ii) use of pyridostigmine bromide over an extended period of time (as so determined) during that war; or

(iii) use of no pyridostigmine bromide.

(C) The degree of association between—

(i) such illnesses;

(ii) each extent of use of pyridostigmine bromide described in subparagraph (B);

(iii) receipt of other vaccinations or medications; and

(iv) exposure to pesticides, organophosphates, or carbamates.

(4) ANIMAL MODEL STUDY.—A study referred to in paragraph (2) is also a study using appropriate animal research models in order to determine whether use of pyridostigmine bromide in combination with exposure to pesticides or other organophosphates, carbamates, or relevant chemicals results in increased toxicity in animals and is likely to have a similar effect on humans.

(5) REPORTS.—

(A) ANIMAL STUDY REPORT.—Not later than January 1, 1996, the Secretary shall submit to the congressional defense committees and the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the study carried out under paragraph (4).

(B) INTERIM REPORTS ON RETROSPECTIVE STUDY.—Not later than each of July 1, 1995, and July 1, 1996, the Secretary shall submit to the committees referred to in subparagraph (A) an interim report on the results of the study carried out under paragraph (3).

(C) FINAL REPORT ON RETROSPECTIVE STUDY.—Not later than January 1, 1998, the Secretary shall submit to the committees referred to in subparagraph (A) a final report on the results of the study carried out under paragraph (3).

(D) FORM OF REPORTS.—The reports submitted under this paragraph shall be submitted in unclassified form.

(c) SELECTION OF STUDY ENTITIES.—

(1) IN GENERAL.—The Secretary of Defense shall select entities to which to award grants for the studies described in subsections (a) and (b) in accordance with this subsection.

(2) SUBMITTAL OF PROPOSALS.—An entity seeking to carry out a study under a grant under subsection (a) or (b) shall submit to the Secretary the following proposals:

(A) A proposal for a pilot study in order to determine the research design and research instrument to be used in the study.

(B) A proposal for the study.

(3) INDEPENDENT REVIEW.—The Secretary shall ensure that individuals described in paragraph (4)—

(A) review each proposal submitted to the Secretary under paragraph (2) for purposes of determining whether or not the proposal—

(i) addresses adequately the purposes of the study; and

(ii) meets the technical, scientific, and peer review requirements that apply to similar studies carried out under the direction of the Secretary of Health and Human Services; and

(B) submit to the Secretary recommendations for the selection by the Secretary of one or more entities to carry out the study.

(4) REVIEWING INDIVIDUALS.—Individuals referred to in paragraph (3) are any individuals who, as determined by the Secretary—

(A) are not employees of the Federal Government;

(B) have an expertise in epidemiology, toxicology, neurology, biology, biostatistics, post-traumatic stress disorder, or public health; and

(C) have no financial relationship with the Department of Defense or with any chemical company or pharmaceutical company whose productions may be addressed in the study.

(5) SELECTION.—The Secretary shall—

(A) select the entities that will carry out the studies described under subsections (a) and (b) from among the entities recommended for such selection under paragraph (3); and

(B) award such entities grants under the appropriate subsection.

(d) PERFORMANCE OF STUDIES.—

(1) PILOT STUDIES.—

(A) IMPLEMENTATION.—An entity to which the Secretary awards a grant for a study under subsection (a) or (b) shall carry out the pilot study for such study in accordance with the proposal for the pilot study submitted to the Secretary under subsection (c)(2)(A).

(B) RESPONSE TO RESULTS.—If an entity determines as a result of a pilot study under subparagraph (A) that revisions to the study proposed by the entity are necessary in order to meet the purposes of the study under this section, the entity shall submit to the Secretary a proposal for such revisions to the study.

(C) FINAL APPROVAL.—The Secretary shall—

(i) review any revisions to a proposal to a study that are submitted to the Secretary under subparagraph (B); and

(ii) approve the proposal for the study, as so revised, if the Secretary determines that the proposal meets the purposes of the study under this section.

(2) STUDIES.—An entity to which the Secretary awards a grant for a study under subsection (a) or (b) shall carry out the study in accordance the proposal for the study under this section.

(e) CONSULTATION.—The Secretary of Defense shall carry out this section in consultation with the Secretary of Veterans Affairs, the Secretary of Health and Human Services, the Administrator of the Environmental Protection Agency, the head of the Medical Follow-Up Agency of the Institute of Medicine, and the heads of other appropriate departments and agencies of the Federal Government.

(f) FUNDING.—Of the amount authorized to be appropriated pursuant to section 201, $10,000,000 shall be available for purposes of awarding grants for the studies described in subsections (a) and (b). Such funds shall be available for such purpose until expended.

(g) DEFINITION.—In this section, the term "Persian Gulf War" has the meaning given such term in section 101(33) of title 38, United States Code.

SEC. 1069. GRANTS FOR RESEARCH INTO THE HEALTH CONSEQUENCES OF THE PERSIAN GULF WAR.

(a) IN GENERAL.—(1) The Secretary of Defense shall award grants to appropriate nongovernmental entities for purposes of permitting such entities to carry out research to determine—

(A) the nature and causes of any illnesses suffered by the individuals referred to in paragraph (2) as a result of service or employment in the Southwest Asia theater of operations during the Persian Gulf War;

(B) the methods of transmission, if any, of such illnesses from such individuals to other individuals; and

(C) the appropriate treatment for such illnesses.

(2) The individuals referred to in paragraph (1)(A) are the following individuals:

(i) Individuals who served as members of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

(ii) Civilian employees of the Department of Defense who were employed by the Department in that theater of operations during that period.

(iii) Employees of contractors of the Department who were employed in that theater of operations during that period.

(iv) The spouses and children of the individuals referred to in clauses (i) through (iii).

(3) In carrying out research under this section, such entities shall give particular consideration to the following:

(A) Illnesses or other effects associated with exposure to depleted uranium particles, mycotoxins, genetically-altered organisms, petrochemical toxicity, pesticide poisoning, anthrax vaccines, botulinum toxoids, and other chemical hazards and agents.

(B) Endemic viral, fungal, bacterial, and rickettsial diseases (including diseases arising from biological warfare activities).

(C) Illnesses or other effects associated with ingestion of silica or sand.

(D) Assessment of risks to reproductive capacity arising from the illnesses and diseases referred to in subparagraphs (A) through (C).

(E) Pediatric disorders.

(F) Birth deficiencies.

(G) Post-traumatic stress disorder.

(H) Somatoform disorders.

(I) Chronic fatigue syndrome.

(J) Multiple chemical sensitivities.

(b) AWARD PROCESS.—(1) The Secretary of Defense shall award grants under this section in consultation with the Secretary of Health and Human Services.

(2) An entity seeking a grant under this section to carry out the research described in subsection (a)(1) shall submit to the Secretary a proposal for the research.

(3) The Secretary shall ensure that appropriate individuals who are not employees of the Federal Government—

(A) review each proposal submitted to the Secretary under paragraph (2) for purposes of determining that the proposal—

(i) addresses adequately the purposes of the research for which the proposal is submitted; and

(ii) meets the technical, scientific, and peer review requirements that apply to similar research carried out under the direction of the Secretary of Health and Human Services; and

(B) submit to the Secretary recommendations for the selection by the Secretary of one or more entities so determined as recipients of a grant under subsection (a).

(4) The Secretary shall award grants under this section to entities selected by the Secretary for that purpose from among the entities identified in the recommendations under paragraph (3)(B).

(5) In awarding an entity a grant under paragraph (4), the Secretary shall ensure that the entity—

(A) carry out the research covered by the grant in accordance with the proposal submitted to the Secretary under paragraph (2); and

(B) not expose human beings to hazardous agents or materials as a result of the research.

(c) REPORTS.—(1) The Secretary of Defense and the Secretary of Health and Human Services shall submit to the congressional defense committees and the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the results of any research carried out under a grant awarded under this section.

(2) The Secretary of Defense and the Secretary of Health and Human Services shall submit a report under paragraph (1) on each of March 1, 1995, October 1, 1995, October 1, 1996, and October 1, 1997.

(3) Each report submitted under this subsection shall be submitted in unclassified form.

(d) FUNDING.—(1) Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for purposes of awarding grants under this section. Such funds shall be available for such purpose until expended.

(2) For each fiscal year in which activities under the study under this section will continue, the Secretary of Defense shall provide in the documents submitted to Congress in connection with the budget of the President for the fiscal year a request for such funds as the Secretary determines necessary in order to award grants under this section during that fiscal year.

SEC. 1070. COMPATIBILITY OF HEALTH REGISTRIES

(a) COMPATIBILITY OF HEALTH REGISTRIES.—The Secretary of Defense shall take appropriate actions to ensure that—

(1) the data collected by and the testing protocols of the Persian Gulf War Health Surveillance System are compatible with the data collected by and the testing protocols of the Persian Gulf War Veterans Health Registry; and

(2) information on individuals who register with the Department of Defense is provided to the Department of Veterans Affairs for incorporation into Persian Gulf War Veterans Health Registry.

MITCHELL (AND COHEN) AMENDMENT NO. 2225

Mr. NUNN (for Mr. MITCHELL, for himself, and Mr. COHEN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 306, between lines 7 and 8, insert the following:

(F) A parcel of real property, including any improvements thereon and the pier associated therewith, consisting of approximately 118 acres and located in Harpswell, Maine, the location of the Defense Fuel Supply Point, Casco Bay, Maine.

On page 311, between lines 22 and 23, insert the following:

(F) In the case of the parcel referred to in subparagraph (F) of that subsection, by conveying without consideration all right, title, and interest of the United States in and to the parcel to the Town of Harpswell, Maine.

REID (AND BRYAN) AMENDMENT NO. 2226

Mr. NUNN (for Mr. REID, for himself, and Mr. BRYAN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 254, between lines 14 and 15, insert the following:

SEC. 2106. HIGHWAY SAFETY AT HAWTHORNE ARMY AMMUNITION PLANT, NEVADA.

(a) STUDY.—The Secretary of the Army shall carry out a study of traffic safety on the highway at the Hawthorne Army Ammunition Plant, Nevada. In carrying out the study, the Secretary shall—

(1) evaluate traffic safety on the highway, including traffic safety with respect to the rail and truck crossing of the highway at the Plant;

(2) evaluate the feasibility and desirability of constructing a vehicle bridge over the rail and truck crossing; and

(3) determine whether any construction required to improve traffic safety on the highway be funded as a military construction project or as a defense access road construction project.

(b) ARCHITECTURAL AND ENGINEERING SERVICES AND CONSTRUCTION DESIGN.—If the Secretary determines as a result of the study under subsection (a) that construction of a vehicle bridge over the rail and truck crossing referred to in paragraph (1) of that subsection is feasible and desirable, the Secretary should—

(1) obtain architectural and engineering activities and carry out construction design with respect to the construction of the bridge; or

(2) request that the Secretary of Transportation carry out the construction of the bridge as project for the construction of a defense access road under section 210 of title 23, United States Code.

LEVIN AMENDMENT NO. 2227

Mr. NUNN (for Mr. LEVIN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 63, after line 25, insert the following:

SEC. 307. AIR NATIONAL GUARD FIGHTER AIRCRAFT.

(a) FINDINGS.—Congress makes the following findings:

(1) The Bottom-Up Review force structure proposal would accomplish most of the remaining reductions in the total number of Air Force general purpose fighter wings by reducing the Air National Guard and Air Force Reserve fighter force from 10 wings to 7 wings.

(2) The current plan for implementing the reduction referred to in paragraph (1) is to reduce the number of fighter aircraft in each Air National Guard fighter unit from 24 or 18 primary aircraft authorized to 15 primary aircraft authorized and to convert some Air National Guard fighter units to other purposes.

(3) The number of Air National Guard Combat Readiness Training Centers in operation during fiscal year 1995 should not be less than the number of such centers in operation at the end of fiscal year 1994.

(4) The Commission on Roles and Missions of the Armed Forces established by section 952 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 111 note; 107 Stat. 1738) is required to submit to Congress a report under section 954(b) of such Act on possible changes to existing allocations among the Armed Forces of military roles, missions, and functions.

(5) The Commission is not expected to submit the report until at least the middle of fiscal year 1995.

(6) The report of the Commission should contain a review of and recommendations on the assignment of roles and missions to units of the Air National Guard and the Air Force Reserve in relation to active component units that are the counterparts to such units and on requirements for resources for training of such units.

(b) REQUIREMENT.—

(1) After submission of the report referred to in paragraph (3), the Secretary of Defense shall review its findings on the role and requirements for general purpose fighter units of the Air National Guard, and shall complete within 30 days a study which recommends the appropriate level of primary aircraft authorized (PAA) for such units, following which, if the Secretary determines changes in that level are appropriate, he may notify the Congress of his determination and he may seek any reprogramming of funds that he considers appropriate to ensure that such changes are implemented.

PRYOR (AND OTHERS) AMENDMENT NO. 2228

Mr. NUNN (for Mr. PRYOR, for himself, Mr. KENNEDY, Mrs. FEINSTEIN, Mr. HOLLINGS, Mr. METZENBAUM, Mr. PELL, Mrs. BOXER, and Mr. RIEGLE) proposed an amendment to the bill S. 2182, supra; as follows:

On page 289, between lines 12 and 13, insert the following:

SEC. 2813. SENSE OF SENATE ON THE ACTIVITIES OF THE SECRETARY OF DEFENSE IN SUPPORT OF COMMUNITIES AFFECTED BY BASE CLOSURES.

(a) FINDINGS.—The Senate makes the following findings:

(1) The closure or realignment of a major military installation can cause severe economic disruption to the host community for the installation.

(2) Communities affected by the closure of a major military installation under a base closure law dedicate significant time, effort, and resources to planning for the economic redevelopment of the installation.

(3) The Federal Government can ease the disruption caused by the closure of a military installation by working cooperatively with the host community for the installation to implement the community's redevelopment plan for the installation.

(4) In recent years, the Federal Government has not always provided sufficient assistance to communities affected by the closure of a military installation under a base closure law in the efforts of such communities to provide for the economic redevelopment of the installation.

(5) In July 1993, the President issued a five-point plan for revitalizing base closure communities which emphasized the economic recovery of communities affected by the closure of a military installation under a base closure law.

(6) In November 1993, Congress agreed to the provisions of subtitle A of title XXIX of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1909), and the amendments made thereunder, in order to implement the plan referred to in paragraph (5) and to provide other assistance to communities attempting to redevelop military installations approved for closure under a base closure law.

(7) The Secretary of Defense is accepting public comment on the guidelines for implementation of the provisions of law referred to in paragraph (6).

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary of Defense should—

(1) ensure that the regulations implementing the provisions of subtitle A of title XXIX of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1909), and the amendments made thereunder, reflect the intent of Congress that, to the maximum extent practicable, the Secretary take into consideration the redevelopment plans of affected communities when taking actions or implementing decisions on the closure of a military installation approved for closure under a base closure law;

(2) ensure that the regulations implementing such provisions reflect the intent of Congress to encourage and promote cooperation and dialogue between the Federal Government and communities affected by the closure of an installation throughout the base closure process; and

(3) develop a system of incentives or awards to encourage Department of Defense personnel to provide greater assistance to

and cooperation with communities affected by the closure of an installation during the ongoing effort of revitalizing the economy of such communities.

GRASSLEY AMENDMENT NO. 2229

Mrs. HUTCHISON (for Mr. GRASSLEY) proposed an amendment to the bill S. 2182, supra; as follows:

On page 190, after line 20, insert the following:

SEC. 1004. SUBMISSION OF FUTURE-YEARS DEFENSE PROGRAM IN ACCORDANCE WITH LAW.

If, as of the end of the 90-day period beginning on the date on which the President's budget for fiscal year 1996 is submitted to Congress, the Secretary of Defense has not submitted to Congress the fiscal year 1996 future-years defense program and, after consultation with the Inspector General of the Department of Defense, a certification that such program satisfies the requirements of section 221(b) of title 10, United States Code, then during the 30-day period beginning on the last day of such 90-day period the Secretary may not obligate more than 10 percent of the fiscal year 1995 advance procurement funds that are available for obligation as of the end of the 90-day period. If, as of the end of such 30-day period, the Secretary of Defense has not submitted to Congress the fiscal year 1996 future-years defense program together with such a certification, then the Secretary may not make any further obligation of fiscal year 1995 advance procurement funds until such program and certification are submitted to Congress. If the Secretary submits to Congress the fiscal year 1996 future-years defense program, together with such a certification, during the 30-day period described in the first sentence, the limitation on obligation of advance procurement funds prescribed in that sentence shall cease to apply effective as of the date of the submission of such program and certification.

BUMPERS AMENDMENT NO. 2230

Mr. NUNN (for Mr. BUMPERS) proposed an amendment to the bill S. 2182, supra; as follows:

At an appropriate place in the bill, insert the following new section:

SEC. 4. Limitation on obligation of funds for Mark–6 guidance sets for Trident II missiles.

(a)—LIMITATION. Until the certification in subsection (b) has been provided to the congressional defense committees, funds appropriated for fiscal year 1995 for the Navy may not be obligated to procure more than 14 Mark–6 guidance sets for Trident II missiles.

(b)—CERTIFICATION. Before the Secretary of Defense may obligate funds for Mark–6 guidance sets in addition to the 14 sets authorized in subsection (a), he shall certify to the congressional defense committees that failure to procure such additional units would pose an unacceptable risk to the long-term readiness and reliability of the Trident II missile program.

MCCAIN (AND OTHERS) AMENDMENT NO. 2231

Mrs. HUTCHISON (for Mr. MCCAIN, for himself, Mr. GLENN, and Mr. THURMOND) proposed an amendment to the bill S. 2182, supra; as follows:

At the appropriate place in the bill, add the following new section:

SEC. XXXX—SENSE OF THE SENATE ON AUTHORIZATION OF FUNDS FOR MILITARY CONSTRUCTION PROJECTS NOT REQUESTED IN THE PRESIDENT'S ANNUAL BUDGET REQUEST

(a) SENSE OF THE SENATE.—It is the sense of the Senate that, to the maximum extent practicable, the Senate would consider the authorization for appropriation of funds for a military construction project not included in the annual budget request of the Department of the Defense only if:

(1) the project is consistent with past actions of the Base Realignment and Closure process;

(2) the project is included in the military construction plan of the military department concerned incorporated in the Future Years Defense Program;

(3) the project is necessary for reasons of the national security of the United States; and

(4) a contract for construction of the project can be awarded in that fiscal year.

(b) VIEWS OF THE SECRETARY OF DEFENSE.—In considering these criteria, the Senate should obtain the views of the Secretary of Defense. These views should include whether funds for a military construction project not included in the budget request can be offset by funds for other programs, projects, or activities, including military construction projects, in the budget request and, if so, the specific offsetting reductions recommended by the Secretary of Defense.

NUNN (AND OTHERS) AMENDMENT NO. 2232

Mr. NUNN (for himself, Mr. THURMOND, Mrs. BOXER, Mr. BOREN, Mr. BUMPERS, Mr. CAMPBELL, Mr. DECONCINI, Mr. D'AMATO, Mr. DASCHLE, Mr. FAIRCLOTH, Mr. FEINSTEIN, Mr. FORD, Mr. HARKIN, Mr. HATFIELD, Mr. JOHNSTON, Mr. KEMPTHORNE, Mr. NICKLES, Mr. PRESSLER, Mr. SASSER, Mr. SPECTER, Mr. STEVENS, mr. WELLSTONE, and Mr. WALLOP) proposed an amendment to the bill S. 2182, supra; as follows:

On page 249, line 21, strike out "$393,550,000" and insert in lieu thereof "$396,750,000".

On page 249, in the table below line 24, strike out "$5,300,000" in the "Amount" column with respect to the item relating to Fort Knox, Kentucky, and insert in lieu thereof "$8,500,000".

On page 252, line 15, strike out "$1,668,086,000" amd insert in lieu thereof "$1,671,286,000".

On page 252, line 18, strike out "$393,550,000" and insert in lieu thereof "$396,750,000".

On page 254, line 22, strike out "$224,180,000" and insert in lieu thereof "$239,265,000".

On page 254, in the table below line 25, above the line relating to California insert

Arizona, Yuma Marine Corps Air Station, $15,085,000.

On page 258, line 2, strike out "$1,492,264,000" and insert in lieu thereof "$1,507,349,000".

On page 258, line 5, strike out "$224,180,000" and insert in lieu thereof "$239,265,000".

On page 262, line 1, strike out "$398,904,000" and insert in lieu thereof $412,004,000".

On page 262, in the table below line 4, insert:

(a) after the item relating to Eielson Air Force Base, insert

Elmendorf Air Force Base, $5,000,000.

(b) after the item relating to Peterson Air Force Base, insert

United States Air Force Academy, $3,600,000.

(c) after the item relating to Pope Air Force Base, insert

North Dakota, Ellsworth Air Force Base, $4,500,000.

On page 264, line 1, strike out "$163,348,000" and insert in lieu thereof "$172,310,000".

On page 264, in the table below line 3, after the item relating to Edwards Air Force Base, insert

Los Angeles Air Force Base, 50 units, $8,962,000.

On page 266, line 1, strike out "$1,572,801,000" and insert in lieu thereof "$1,594,863,000".

On page 266, line 5, strike out "$398,904,000" and insert in lieu thereof "$412,004,000".

On page 266, line 24, strike out "$234,393,000" and insert in lieu thereof "$243,355,000".

On page 268, line 18, strike out "$397,700,000" and insert in lieu thereof "$413,700,000".

On page 268 in the table below line 20, after the item relating to Eglin Auxiliary Field No. 9, Florida insert

Fort Bragg, North Carolina, $16,000,000.

On page 270, line 21, strike out "$3,230,058,000" and insert in lieu thereof "$3,246,058,000".

On page 270, line 24, strike out "$136,700,000" and insert in lieu thereof "$152,700,000".

On page 276, line 15, strike out "$146,447,000" and insert in lieu thereof "$180,312,000".

On page 276, line 16, strike out "$16,470,000" and insert in lieu thereof "$37,870,000".

On page 276, line 18, strike out "$6,955,000" and insert in lieu thereof "$17,355,000".

On page 276, line 21, strike out $224,053,000" and insert in lieu thereof "$240,003,000".

On page 276, line 23, strike out "$28,190,000" and insert in lieu thereof $43,840,000".

On page 277, line 10, strike out "$286,693,000" and insert in lieu thereof "$287,958,000".

NUNN AMENDMENT NO. 2233

Mr. NUNN proposed an amendment to the bill S. 2182, supra; as follows:

On page 14, line 12, strike out "$723,909,000" and insert in lieu thereof "$693,909,000".

On page 14, line 15, strike out "$840,361,000" and insert in lieu thereof "$870,361,000".

On page 18, line 5, insert before "Funds" the following: "(a) LEASE AUTHORIZED.—".

On page 18, after line 24, insert the following:

(b) WAIVER AUTHORITY.—Section 1024(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1460) is amended by striking out "section 1439(b)(2)" and inserting in lieu thereof "section 1439".

On page 27, line 4, strike out "set forth in title VI of" and insert in lieu thereof "and requirements set forth in".

On page 106, strike out lines 15 through 21, and insert in lieu thereof the following: of section 2535 of title 10, United States Code, is amended by striking out subparagraph (G) and inserting in lieu thereof the following:

On page 106, line 25, strike out "transfer," and all that follows through "training school" on page 107, line 1, and insert in lieu thereof "transfer to a nonprofit educational institution or training school, on a nonreimbursable basis, of any such property already in the possession of such institution or school".

On page 107, line 6, strike out "SEPTEMBER 30," and insert in lieu thereof "DECEMBER 31,".

On page 107, line 8, strike out "September 30," and insert in lieu thereof "December 31,".

On page 123, line 13, strike out "of an Alaska Native" and all that follows through "a person in," on line 15 of such page, and insert in lieu thereof "or recognition of an individual referred to in subsection (c) in".

On page 123, line 16, strike out "person" and insert in lieu thereof "individual".

On page 123, line 22, strike out "(1) Subsection (b)(5) applies to an Alaska Native" and insert in lieu thereof "Subsection (b)(5) applies to a member of the Alaska Army National Guard".

On page 123, line 25, strike out "Alaska." and insert in lieu thereof "Alaska, by paved road.'.".

On page 124, strike out lines 1 through 4.

On page 252, line 15, strike out "$1,668,086,000" and insert in lieu thereof $1,731,286,000".

On page 270, line 21 strike out $3,230,058,000" and insert "$3,252,058,000".

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. TECHNICAL AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) Section 113(e)(2) is amended by striking out "section 104" and inserting in lieu thereof "section 108".

(2) Section 133a(b) is amended by striking out "Under Secretary of Defense for Acquisition" and inserting in lieu thereof "Under Secretary of Defense for Acquisition and Technology".

(3) Section 580a(a) is amended by striking out "the date of the enactment of this section" and inserting in lieu thereof "November 30, 1993,".

(4)(A) The section 1058 added by section 554(a) of Public Law 103–160 (107 Stat. 1663) is redesignated as section 1059.

(B) The item relating to that section in the table of sections at the beginning of chapter 53 is revised to conform to the redesignation made by subparagraph (A).

(5)(A) The section 1058 added by section 1433(b) of Public Law 103–160 (107 Stat. 1834) is redesignated as section 1060.

(B) The item relating to that section in the table of sections at the beginning of chapter 53 is revised to conform to the redesignation made by subparagraph (A).

(6) Section 1141 is amended by striking out "on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1994" and inserting in lieu thereof "after November 29, 1993,".

(7) Section 1151(h)(3)(B)(v) is amended by inserting "school" after "For the fifth".

(8)(A) The heading of section 1482a is amended so that the first letter of the fifth word is lower case.

(B) The item relating to that section in the table of sections at the beginning of chapter 75 is revised to conform to the amendment made by subparagraph (A).

(9) Section 2399 is amended—

(A) in subsections (b)(5) and (c)(1), by striking out "section 138(a)(2)(B)" and inserting in lieu thereof "section 139(a)(2)(B)";

(B) in subsection (e)(3)(B), by striking out "solely as a representative of" and inserting in lieu thereof "solely in testing for";

(C) in subsection (g), by striking out "section 138" and inserting in lieu thereof "section 139"; and

(D) in subsection (h)(1), by striking out "section 138(a)(2)(A)" and inserting in lieu thereof "section 139(a)(2)(A)".

(10) Section 2502(d) is amended by striking out "Executive" and inserting in lieu thereof "executive".

(11)(A) Sections 2540 and 2541, as added by section 822(a) of Public Law 103–160 (107 Stat. 1705), are redesignated as sections 2539a and 2539b, respectively.

(B) The items relating to those sections in the table of sections at the beginning of subchapter V of chapter 148 are revised to conform to the redesignations made by subparagraph (A).

(12) Section 2865(a)(4) is amended by adding a period at the end.

(13) Sections 3022(a)(1), 5025(a)(1), and 8022(a)(1) are amended by striking out "section 137(c)" and inserting in lieu thereof "section 135(c)".

(14) Section 9511 is amended by striking out "In this subchapter" and inserting in lieu thereof "In this chapter".

(b) PUBLIC LAW 103–160.—Effective as of November 30, 1993, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160) is amended as follows:

(1) Section 507(d)(3) (107 Stat. 1647) is amended by inserting "note" after "10 U.S.C. 1293".

(2) Section 551(a)(1) (107 Stat. 1661) is amended by striking out "Section" and inserting in lieu thereof "Chapter".

(3) Section 554(b) (107 Stat. 1666) is amended—

(A) in paragraph (1), by striking out "Section 1058 of title 10, United States Code, as added by subsection (a)," and inserting in lieu thereof "The section of title 10, United States Code, added by subsection (a)(1)"; and

(B) in paragraph (2), by striking out "1058".

(4) Section 931(c)(1) (107 Stat. 1734) is amended by inserting closing quotation marks before the period at the end.

(5) Section 1314(3) (107 Stat. 1786) is amended by striking out "adding at the end" and inserting in lieu thereof "inserting after subsection (f)".

(6) Section 1433(d) (107 Stat. 1835) is amended by striking out "Section 1058 of title 10, United States Code, as added by subsection (a)," and inserting in lieu thereof "The section of title 10, United States Code, added by subsection (b)(1)".

(7) Section 1606(b)(4) (107 Stat. 1847) is amended by striking out "section 1604(e)" and inserting in lieu thereof "section 1605(e)".

(8) Section 2912(b)(2) (107 Stat. 1925) is amended by striking out "section 637(d)(1)" and inserting in lieu thereof "section 8(d)(1)".

(9) Section 2926(d) (107 Stat. 1932) is amended by striking out "Subsection (d)(1)(2)(C)(iii)" and inserting in lieu thereof "Subsection (d)(2)(C)(iii)".

(c) OTHER LAWS.—(1) Section 921 of Public Law 102–190 (10 U.S.C. 201 note; 105 Stat. 1452) is amended by striking out "section 136(b)(3)" in subsection (a) and inserting in lieu thereof "section 138(b)(3)".

(2) Section 908(c) of title 37, United States Code, is amended by striking out "section 1058" and inserting in lieu thereof "section 1060".

DOLE AMENDMENT NO. 2234

Mrs. HUTCHISON (for Mr. DOLE) proposed an amendment to the bill S. 2182, supra; as follows:

At the appropriate place insert the following new section:

SEC. . MILITARY PLANNING FOR THE SIZE AND STRUCTURE OF A FORCE REQUIRED FOR A MAJOR REGIONAL CONTINGENCY ON THE KOREAN PENINSULA.

(a) FINDINGS.—Congress finds as follows:

(1) Whereas the Administration commissioned the Bottom-Up Review to properly size and structure the Armed Forces of the United States for the Post-Cold War Era;

(2) Whereas the Bottom-Up Review itself cites the need for the Armed Forces of the United States to be large enough to prevail in two major regional conflicts, similar in nature to the 1991 war against Iraq, "nearly simultaneously;"

(3) Whereas the Bottom-Up Review gives special consideration to a scenario that hypothesizes that the two "nearly simultaneous" conflicts would occur in Korea and the Persian Gulf;

(4) Whereas the United States sent 7 Army divisions, the equivalent of 10 Air Force tactical fighter wings, 70 heavy bombers, 6 Navy aircraft carrier battle groups, and 5 Marine Corps brigades to the Persian Gulf to fight the war against Iraq;

(5) Whereas the Bottom-Up Review asserts that the forces needed to fight two conflicts similar to that with Iraq can be drawn from a total military force of between 15 and 16 Army divisions, 20 Air Force tactical fighter wings, 184 heavy bombers, 11 active Navy aircraft carriers (along with one reserve/training carrier), and the equivalent of 12 Marine Corps brigades;

(6) Whereas the Bottom-Up Review recognizes that approximately 100,000 members of the United States Armed Forces will be stationed in Europe;

(7) Whereas the Bottom-Up Review recognizes that sizable numbers of U.S. forces could be involved in peace enforcement and intervention operations at any one time;

(8) Whereas the Bottom-Up Review makes no specific recommendation as to the number of forces to be held in reserve to provide a rotation base either to relieve troops in the event one or both hypothetical conflicts result in lengthy deployments or to replace combat losses;

(9) Whereas military planners calculate that the number of U.S. forces needed to help defeat an invasion of South Korea by North Korea may exceed 430,000 U.S. military personnel;

(10) Whereas the size of the force military planners may request to help defend South Korea could exceed the levels that are consistent with the recommendations of Bottom-Up Review if the existing and future force requirements for a presence in Europe, possible peace enforcement operations, and an adequate rotation base, as well as a second regional conflict, must be fulfilled simultaneously;

(b) SENSE OF CONGRESS.—It is the Sense of Congress:

(1) that the force structure identified in the Bottom-Up Review may not be used to limit the size or structure of the force United States military commanders may request in preparation for a major regional contingency on the Korean peninsula;

(2) and that the Chairmen and Ranking members of the House and Senate Committees on Armed Services and Chairman and Ranking members of the House and Senate Appropriations Subcommittees on Defense should receive regular briefings from the Department of Defense on the situation on the Korean peninsula;

(3) and that the conclusions of the Bottom-Up Review should be continuously examined in light of the lessons learned from preparation for a major regional contingency on the Korean peninsula and for other military operations.

ROBB AMENDMENT NO. 2235

Mr. NUNN (for Mr. ROBB) proposed an amendment to the bill S. 2182, supra; as follows:

On page 138, between lines 11 and 12, insert the following:

SEC. 634. REQUIREMENT FOR EQUAL TREATMENT OF CIVILIAN AND MILITARY RETIREES IN THE EVENT OF DELAYS IN COST-OF-LIVING ADJUSTMENTS.

(a) CIVIL SERVICE ANNUITIES.—(1) Section 8340 of title 5, United States Code, is amended—

(A) in subsection (b), by striking out "Except as provided in subsection (c)" and inserting in lieu thereof "Except as provided in subsections (c) and (h)"; and

(B) by adding at the end the following new subsection:

"(h)(1) Whenever, by law, there is a difference between the date on which a cost-of-living adjustment under this section is to take effect and the date on which a corresponding cost-of-living adjustment of the retired pay of members and former members of the uniformed services under section 1401a of title 10 is to take effect, then, notwithstanding subsection (b) and any other provision of law, the date on which the cost-of-living adjustment under this section takes effect shall be the earlier of the two dates.

"(2) Whenever, by law, there is a difference between the first month for which a cost-of-living adjustment taking effect under this section is payable and the first month for which a corresponding cost-of-living adjustment of the retired pay of members and former members of the uniformed services taking effect under section 1401a of title 10 is payable, then the first month for which the cost-of-living adjustment under this section is first payable shall (notwithstanding the effective date provided for such adjustment in subsection (b) of this section or in any other law) be the earlier of the two months.

"(3) For purposes of this subsection, a cost-of-living adjustment of the retired pay of members and former members of the uniformed services under section 1401a of title 10 corresponds to a cost-of-living adjustment under this section when, without regard to any provision of law other than subsection (b) of this section and section 1401a(b)(1) of title 10, the cost-of-living adjustments under this section and under section 1401a of title 10 would take effect on the same date.".

(2) Section 8462 of title 5, United States Code, is amended—

(A) in subsection (b)(1), by striking out "Except as provided in subsection (c)" and inserting in lieu thereof "Except as provided in subsections (c) and (f)"; and

(B) by adding at the end the following new subsection:

"(f)(1) Whenever, by law, there is a difference between the date on which a cost-of-living adjustment under this section is to take effect and the date on which a corresponding cost-of-living adjustment of the retired pay of members and former members of the uniformed services under section 1401a of title 10 is to take effect, then, notwithstanding subsection (b)(1) and any other provision of law, the date on which the cost-of-living adjustment under this section takes effect shall be the earlier of the two dates.

"(2) Whenever, by law, there is a difference between the first month for which a cost-of-living adjustment taking effect under this section is payable and the first month for which a corresponding cost-of-living adjustment of the retired pay of members and former members of the uniformed services taking effect under section 1401a of title 10 is payable, then the first month for which the cost-of-living adjustment under this section is first payable shall (notwithstanding the effective date provided for such adjustment in subsection (b)(1) of this section or in any other law) be the earlier of the two months.

"(3) For purposes of this subsection, a cost-of-living adjustment of the retired pay of members and former members of the uniformed services under section 1401a of title 10 corresponds to a cost-of-living adjustment under this section when, without regard to any provision of law other than subsection (b)(1) of this section and section 1401a(b)(1) of title 10, the cost-of-living adjustments under this section and under section 1401a of title 10 would take effect on the same date.".

(b) UNIFORMED SERVICES RETIRED PAY.—Section 1401a of title 10, United States Code, is amended—

(1) in subsection (b)(1), by inserting (except as provided in subsection (i))" after "Effective on December 1 of each year"; and

(2) by adding at the end the following new subsection:

"(i)(1) Whenever, by law, there is a difference between the date on which a cost-of-living adjustment under this section is to take effect and the date on which a corresponding cost-of-living adjustment of annuities of retired employees of the United States under section 8340 or 8462 of title 5 is to take effect, then, notwithstanding subsection (b) and any other provision of law, the date on which the cost-of-living adjustment under this section takes effect shall be the earlier (or earliest) such date.

"(2) Whenever, by law, there is a difference between the first month for which a cost-of-living adjustment taking effect under this section is payable and the first month for which a corresponding cost-of-living adjustment of annuities of retired employees of the United States taking effect under section 8340 or 8462 of title 5 is payable, then the first month for which the cost-of-living adjustment under this section is first payable shall (notwithstanding the effective date provided for such adjustment in subsection (b)(1) of this section or in any other law) be the earlier (or earliest) such month.

"(3) For purposes of this subsection, a cost-of-living adjustment of annuities of retired employees of the United States under section 8340 or 8462 of title 5 corresponds to a cost-of-living adjustment under this section when, without regard to any provision of law other than subsection (b)(1) of this section and sections 8340(b) and 8462(b)(1) of title 5, the cost-of-living adjustments under this section and under sections 8340 and 8462 of title 5 would take effect on the same date.".

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on October 1, 1998.

FISHERMEN'S PROTECTIVE ACT AMENDMENTS

STEVENS AMENDMENT NO. 2236

Mrs. HUTCHISON (for Mr. STEVENS) proposed an amendment to the bill (S. 2243) to amend the Fishermen's Protective Act of 1967 to permit reimbursement of fishermen for fees required by a foreign government to be paid in advance in order to navigate in the waters of that foreign country whenever the United States considers that fee to be inconsistent with international law, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. FINDINGS.

The Congress finds that—

(1) customary international law and the United Nations Convention on the Law of the Sea guarantee the right of passage, including innocent passage, to vessels through the waters commonly referred to as the "Inside Passage" off the Pacific Coast of Canada;

(2) Canada has recently announced that it will require all commercial fishing vessels of the United States to pay 1,500 Canadian dollars to obtain a "license which authorizes transit" through the Inside Passage off the Pacific Coast of Canada;

(3) this action is inconsistent with international law, including the United Nations Convention on the Law of the Sea, and in particular Article 26 of that Convention, which specifically prohibits such fees, and threatens the safety of United States commercial fishermen who may seek to avoid the fee by traveling in less protected waters;

(4) the Fishermen's Protective Act of 1967 provides for the reimbursement of vessel owners who are forced to pay a license fee to secure the release of a vessel which has been seized, but does not permit reimbursement of a fee paid by the owner in advance in order to prevent a seizure;

(5) Canada has announced that the license fee may only be paid in two ports on the Pacific Coast of Canada, and must be paid in person or in advance by mail;

(6) significant expense and delay would be incurred by a commercial fishing vessel of the United States that had to travel from the point of seizure back to one of those ports in order to pay the license fee required by Canada, and the costs of that travel and delay cannot be reimbursed under the Fishermen's Protective Act as presently enacted;

(7) the Fishermen's Protective Act of 1967 should be amended to permit vessel owners to be reimbursed for fees required by a foreign government to be paid in advance in order to navigate in the waters of that foreign country, provided the United States considers that fee to be inconsistent with international law;

(8) the Secretary of State should seek to recover from Canada any amounts paid by the United States to reimburse vessel owners who paid the transit license fee;

(9) the United States should review its current policy with respect to anchorage by commercial fishing vessels of Canada in waters of the United States off Alaska, including waters in and near the Dixon Entrance, and should accord such vessels the same treatment that commercial fishing vessels of the United States are accorded for anchorage in the waters of Canada off British Columbia;

(10) the President should ensure that, consistent with international law, the United States Coast Guard has available adequate resources in the Pacific Northwest and Alaska to provide for the safety of United States citizens, the enforcement of United States law, and to protect the rights of the United States and keep the peace among vessels operating in disputed waters;

(11) the President should continue to review all agreements between the United States and Canada to identify other actions that may be taken to convince Canada that continuation of the transit license fee would be against Canada's long-term interests, and should immediately implement any actions which the President deems appropriate until Canada rescinds the fee;

(12) the President should immediately convey to Canada in the strongest terms that the United States will not now, nor at any time in the future, tolerate any action by Canada which would impede or otherwise restrict the right of passage of vessels of the United States vessels in a manner inconsistent with international law; and

(13) the United States should redouble its efforts to seek expeditious agreement with Canada on appropriate fishery conservation and management measures that can be implemented through the Pacific Salmon Treaty to address issues of mutual concern.

SEC. 2. AMENDMENT TO THE FISHERMEN'S PROTECTIVE ACT.

The Fishermen's Protective Act of 1967 (P.L. 90–482), as amended, is further amended by adding at the end the following new section:

"SEC. 11. (a) In any case on or after June 15, 1994 in which a vessel of the United States exercising its right of passage is charged a fee by the government of a foreign country to engage in transit passage between points in the United States (including a point in the exclusive economic zone or in an area over which jurisdiction is in dispute), and such fee is regarded by the United States as being inconsistent with international law, the Secretary of State shall reimburse the vessel owner for the amount of any such fee paid under protest.

"(b) In seeking such reimbursement, the vessel owner shall provide, together with such other information as the Secretary of State may require—

"(1) a copy of the receipt for payment;

"(2) an affidavit attesting that the owner or the owner's agent paid the fee under protest; and

"(3) a copy of the vessel's certificate of documentation.

"(c) Requests for reimbursement shall be made to the Secretary of State within 120 days of the date of payment of the fee, or within 90 days of the date of enactment of this section, whichever is later.

"(d) Such funds as may be necessary to meet the requirements of this section may be made available from the unobligated balances of previously appropriated funds remaining in the Fishermen's Guaranty Fund established under section 7 and the Fishermen's Protective Fund established under section 9. To the extent that requests for reimbursement under this section exceed such funds, there are authorized to be appropriated such sums as may be needed for reimbursements authorized under subsection (a).

"(e) The Secretary of State shall take such action as the Secretary deems appropriate to make and collect claims against the foreign country imposing such fee for any amounts reimbursed under this section.

"(f) For purposes of this section, the term 'owner' includes any charterer of a vessel of the United States.

"(g) The provisions of this section shall remain effect until October 1, 1995.".

SEC. 3. REAUTHORIZATION.

(a) Section 7(c) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(c)) is amended by striking "The amount fixed by the Secretary shall be predicated upon at least 33⅓ per centum of the contribution by the Government.".

(b) Section 7(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)) is amended by striking "October 1, 1993" and inserting in lieu thereof "October 1, 2000".

SEC. 4. TECHNICAL CORRECTION.

(a) Section 15(a) of Public Law 103–238 is amended by striking "April 1, 1994," and inserting "May 1, 1994.".

(b) The amendment made by subsection (a) shall be effective on and after April 30, 1994.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will be holding a markup on Thursday, June 30, 1994, beginning at 3:40 p.m., in 485 Russell Senate Office Building on S. 1757, the American Health Security Act; S. 1936, the Indian Integrated Resources Management Planning Act; S. 2067, to elevate the position of Director of Indian Health Service to Assistant Secretary of Health and Human Services, to provide for the organizational independence of the Indian Health Service within the Department of Health and Human Services and for other purposes; Indian education amendments to S. 1513, Improving America's Schools Act; and, for other purposes.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and administration will meet at 9:30 a.m., in SR–301, Russell Senate Office Building, on Thursday, July 28, 1994. The committee will hold a hearing to receive testimony on Senate Resolution 230, introduced by Senator WOFFORD, to designate and assign two permanent Senate offices to each State.

Senators who wish to testify or submit a statement for the hearing record are requested to have their staff contact Gail Martin, chief clerk (x40299) or Mark Mackie, minority counsel (x43448).

For further information regarding this hearing, please contact Ms. Martin.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. PRESIDENT. I ask unanimous consent that the Committee on Finance be permitted to meet today, Friday, July 1, 1994, at 11:45 a.m., to consider the Health Security Act of 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TELECOMMUNICATIONS: THE NEW FRONTIER

• Mr. DASCHLE. Mr. President, we are standing at the threshold of a new frontier. This frontier is being defined and redefined by the rapid development and deployment of telecommunications technology. Change is rapid and dramatic not only because of the technology itself, but also because of its potential to touch tangibly each and every American through the development of what is commonly referred to as the "information highway."

As a nation, we are benefiting from the advantages of universal telecommunications service, and this concept continues to serve as the compass leading to a better future. Telecommunications has the power to change the way we learn, work, and play, and, by means of these changes, to improve our lives. What's more, this technology offers rural Americans the chance to level the playing field in business, health care, and education like never before. Already we have seen many examples of advanced communications technologies providing a host of benefits to rural America.

I would like to applaud the efforts of all those who have offered proposals and suggestions for enhancing the development of the information highway. In particular, Senator HOLLINGS, chairman of the Senate Commerce Committee, deserves great credit for putting this issue on our legislative radar screen. And Senators BREAUX and PACKWOOD have focused on issues that merit further attention in this debate.

I believe those interested in our Nation's telecommunications future share the same goals—universal service, open access to networks, and increased competition in the marketplace. The question we all must ponder is how to most effectively, and fairly, achieve them. I am hopeful that we can work together to craft and enact a proposal that will further these objectives.

Increasing competition within the phone, cable, and other communications networks is one of the most fundamental steps we can take to expedite the construction of the information highway. While almost everyone seems to agree on this point, significant differences arise when the discussion falls to how best to accomplish this goal.

The issue of relative market power and the quality of the telecommunications "playing field" is an important issue that deserves serious reflection. Nevertheless, it is imperative that we move quickly to open the doors to increased competition in all markets. Senators BREAUX and PACKWOOD have taken this issue head on by proposing that all competitors be treated equally from the start under the rules governing entry into other markets. I believe there is merit to their basic argument. My objective is to achieve competitive balance as part of any final legislative determination.

In my view, the Breaux-Packwood proposal makes the most progress toward opening markets and increasing competition. The Hollings bill, meanwhile, makes a particularly strong contribution toward the goal of universal service. It is my hope that the Senate can work together in a bipartisan effort to craft a compromise that draws on the strengths of all proposals that have been offered.

To this end, I would like to commend the House of Representatives on their success in passing comprehensive and bipartisan telecommunications legislation earlier this week. Their decisive action has shown that it is possible, through careful consultation and compromise, to craft legislation in this area that is considered workable by a broad range of interests.

Congress' job is to set the policy that will allow and enhance the rapid development of the information highway and enable us to bring advanced telecommunications technology into more homes, schools, hospitals, and small businesses than ever before. I look forward to constructive debate on these issues, and am hopeful that we can work together to formulate a policy that is fair, judicious, and sensitive to the legitimate concerns of all parties involved. We have an enormous challenge ahead of us. I am confident, however, that we are up to the task, and I pledge my commitment to this effort.•

PROPERTY RIGHTS TYRANNY

• Mr. CRAIG. Mr. President, we in this great Nation have held certain truths to be self-evident since the Declaration of Independence was signed in 1776. This hallowed document often stands in the shadow of the other great treatise of our founding, the Constitution. But there is a cause across the West and spreading to every State in the Union which makes it necessary to pull the Declaration back into the glaring light of public scrutiny. That cause is private property rights.

As we celebrate our Declaration of Independence from the tyranny of England this Fourth of July, the truths Thomas Jefferson and others declared to be self-evident should ring out across the country.

All of us are created equal. That principle remains as profound as the day Jefferson wrote it. But there is one group of people in Idaho, and across this Nation who are not treated equally. Private property owners are the victims of an increasing tyranny. Where our forefathers experienced the tyranny of the sovereign, property owners across the Nation feel the tyranny of the bureaucracy today.

Listen to the petitions against King George of England:

> He has erected a multitude of New Offices, and sent hither swarms of Officers to harass our People, and eat out their substance.

I find it a disturbing truth that this statement used to describe the causes of our revolution more than 200 years ago also exposes the unchecked growth of the Government bureaucracy and the torrent of new regulations we see today.

The evidence is overwhelming and is being added to relentlessly. The Supreme Court announced a decision just last week in the Dolan versus City of Tigard, OR, case. The court ruled the city went too far in trying to force a plumbing shop owner to give up 10 percent of her land. The city, claiming benevolence, demanded the property for a greenway and bike path project or Mrs. Dolan would not get a building permit to expand her shop and contribute more to the local economy. This is just the latest in a series of government encroachments being documented in the Federal courts across this country.

The British king was also accused of granting his Parliament in London the powers of lawmaking rightly belonging to the legislative assemblies in the colonies. The Declaration states, "He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; * * *"

This startling statement also describes scores of innocent landowners threatened today with fines and court orders until they give portions of their land to the government in the name of preservation. This insidious form of government coercion, whether by the City of Tigard, or by gun-toting Federal Fish and Wildlife Service agents is nothing short of a grievous violation of the principles we've esteemed for more than two centuries.

Our Declaration of Independence also condemns King George: "For imposing Taxes on us without our Consent." And yet, private farm and rangeland is taken out of production with no compensation under wetlands, or endangered species regulations. I say to the patriotic Americans everywhere in this great country, this defines taxation without representation, one of the most important core issues in our revolution.

Another of the self-evident truths is that all are endowed with certain "unalienable Rights": Life, Liberty, and the pursuit of Happiness.

As I travel across my State I see countless loggers and their families being systematically denied the pursuit of happiness. They are the good, decent, hardworking Americans in the forests of Idaho and other parts of the country whose livelihood has been stolen from them.

The Congress voted to protect plants and animals under the Endangered Species Act. The unelected bureaucrats have extended that protection beyond the scope of what Congress intended. As a result, owls are valued more highly than people who have the explicit right to pursue their own happiness.

In a similar scenario, farmers are afraid to allow parts of their land to lie fallow for regeneration. They fear a puddle might form somewhere, leading Federal agents to come and declare that land unusable by humans. These farmers are good stewards of the land, who because of the poor stewardship of the Government and the hopeless intrusion into liberty, live in fear that any given day they'll hear a knock at their door and be handed a paper which could put them off their land.

The Congress voted to protect navigable waterways from pollution. The unelected bureaucrats say that includes the low spots in all farmers' fields. The end result threatens the livelihood of people who work the land and could come to threaten our precious food supply and the pursuit of happiness for many, many other Americans.

The same men who meticulously documented the tyrannies of their day wrote a prescription for the tyrannies of ours:

> * * * That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or abolish it, and to institute new Government * * *

The Senate Private Property Rights Caucus begins the process of altering the increasingly regulatory nature of our Government. Just as the Declaration of Independence documented the oppression of King George, we seek to illustrate the tyranny of the bureaucracy. The Caucus signals a break with big government infringements and a return to the practices of life, liberty and the pursuit of happiness.

The goals of the Caucus are best summed up in the Declaration,

> That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed * * *

It's time to take back the power seized by bureaucrats and return it to the hands of the people. We seek to sow again the seeds of democracy in this great land on the anniversary of our defining moment in history.•

A VICIOUS CIRCLE

• Mr. SIMON. Mr. President, recently, Elizabeth Bettendorf wrote an article for the State Journal-Register about spousal abuse.

It is a well-written article that opens the eyes of any sensitive reader.

Among other things, she points out that in Sangamon County, where Springfield, IL is located, in 1993, there were 1,161 orders of protection issued by the courts for domestic situations. In the State of Illinois, there were 42,964.

I ask to insert into the RECORD her article, as well as a column I wrote that also mentions the statistics from her article.

[From the State Journal-Register, June 26, 1994]

LOVE AND RAGE

(By Elizabeth Bettendorf)

In the flash of the Polaroid camera, the bruises on Ann Tavender's body turn the deep, furious purple of overripe plums. On her neck, chest, upper bicep and right eye, welts bulge and darken as the blood clots beneath her pale flesh.

Strands of dark hair trickle above the swollen crescent beneath her eye, and her gaze droops downward as if she is embarrassed, startled by the click of the shutter.

Around her neck, bruises have blossomed into the shape of fingerprints where she says her abuser tried to choke her after she refused to have sex with him and another woman. She says she met him after her divorce, after she lost her job as a waitress at a country club and moved into a cheap motel.

"You're dead, bitch," was his parting promise as Tavender gunned her 1984 Grand Marquis out of the parking lot of an apartment building.

Nine months later, Tavender, armed with a hard-earned order of protection, is a nonresidential client at the Sojourn Shelter and Service, a Sangamon County-based haven for abused women and their children.

"I had black eyes all the time," she says, studying the four snapshots taken shortly after she was released from the hospital. "I think he thought the bruises were like an owner's mark that showed he was a man."

In the shadow of the recent made-for-TV arrest of ex-football star O.J. Simpson, accused of fatally stabbing his former wife and her companion, the picture of domestic violence becomes even more blurred, almost baffling.

"The thing about O.J. is that people are suddenly aware that domestic violence can exist at any level of society and that it can be fatal," explains Alice Nathan, director of Sojourn Shelter and Service. "Though the majority of our cities are lower-income, just about every profession in this community—doctors, lawyers, business owners—have been here as clients."

Founded in 1975, the shelter, now in a Victorian medical clinic turned apartment house, features dormitory-style rooms where clothes packed in a hurry are stacked in plastic garbage bags.

Its a serene place, with a farmhouse-style kitchen where a pot of coffee seems to perpetually simmer, and where children watch "101 Dalmatians" in the rose-colored parlor while their mothers sleep on the sofa.

The address is a well-kept secret, revealed only to clients or those on official business.

"They helped me get housing and furniture and sent me to different agencies to get help with my utilities," says Sherri Spencer, who fled West Virginia after her relationship turned violent.

Spencer is a gregarious, soft-hearted women who smells of Ciara cologne and whose fingernails are gnawed to nubs. She says her father, a construction company owner, used to punch her mother's face so badly that often the children didn't recognize her. Once, she says, at a gas station on North Grand Avenue, he banged his wife's head repeatedly against a wall until she started bleeding.

Sherri herself was kicked so hard by a man when she was nine months pregnant that her water broke. She eventually ended the relationship, and last year, while living in West Virginia, began dating a cafeteria cook she had known as a teenager. After they were engaged in March, he, too, turned mean without warning, she says.

"At first he seemed so nice—he bought me a crock pot and shower curtain for my apartment," she recalls. "He didn't drink, smoke or mess with drugs. One day we were shopping for rafts for the children in the Big Lots store, and right there, in front of everybody, he punched me in the face because he didn't like something I said."

Sherri, who first stayed at the shelter several years ago, packed her few belongings into a U-Haul trailer and headed back to Springfield and Sojourn, where she is now living. She plans to enroll in nursing school this fall so she can get off public aid and support her three children.

"I want to get out of the system," she says. "I want to support my family, but I can't do it on $4.25 an hour."

Between July 1, 1992, and June 30, 1993, the shelter's handful of volunteers and 15-person staff offered solace, support and education to 516 women, three men and 309 children. About half the adult clients appeared in court with Sojourn legal advocates to seek orders of protection. More than 70 percent of the clients were white and between the ages of 18 and 44. Forty-seven percent identified their husbands as their abusers; 20 percent said they had been sexually abused.

Sojourn's 13-member board of directors, comprising police officers, battered women, politicians, business owners and professionals, regularly deals with domestic violence issues that linger despite public education and tougher laws.

With an operating budget last year of $443,000—made up of federal grants and programs, United Way funding, contributions and other sources—Sojourn seeks to derail the disruptive cycle of its clients' lives.

By helping women navigate the county's web of social service agencies, offering wisdom about domestic violence, or just lending a shoulder to lean on, primary advocate Marilyn Hume does just that.

At Sojourn's regular group meetings, where topics range from manipulation to legal rights, Humes occasionally asks women who have not yet left violent husbands or boyfriends to sketch detailed pictures of their houses so they can safely escape.

"I tell them I want to know every window and door," Humes says. "Can you get from one room to another without getting hurt? If it's not safe—and a large majority of these women don't even have phones—bide your time. Wait until he falls asleep or passes out. Then pray like hell he doesn't catch you."

Brenda Davis wasn't so lucky. She says her abuser barged into her bedroom at 6 a.m., ripped her nightgown from her small, wispy body and raped her repeatedly. Her injuries were so severe that she says she couldn't urinate for two weeks.

"Over and over and over," she says in her soft, southwestern twinged accent, a pack of Marlboros beside her on the sofa. "I kept crying for help, but no one heard me. When he got up, I was bloody, but he wouldn't let me take a shower. He threw me on the kitchen floor, and he raped me again. When I locked myself in the bathroom, he punched in the door and came after me."

Davis' worry-grooved face is feathered with tears and mascara. She can't help crying when she talks about her physical abuse because she says it's all she has ever known.

At Sojourn she can quilt together the pieces of a life that has been turbulent and repetitive. An Army veteran and skilled mechanic who has worked as a waitress and supervised a housekeeping crew, Davis wears a black and electric-pink T-shirt emblazoned with the proclamation: "I Suffer From P.M.S: Putting Up With Men's S---."

Davis, who has four children, says she can no longer count on both hands the number of times she has been punched, kicked or slapped with such fury that she wanted to die. Once, locked in a bedroom and threatened with a rifle, she jumped from a second-story window and broke her ribs.

Her oldest daughter, now 20, is involved in a violent relationship too, Davis says.

At 42, she has been married three times and lived with a man for eight years. All of her relationships started out the same way—sweetly.

One husband, "a real romantic," served her filet mignon by candlelight on their first date and regularly sent her roses. He, too, turned violent, she says.

Sherri Spencer recalls being hurled down on the bed and straddled on a second date because the man was wildly jealous that she had spent the evening with a girlfriend.

"He said: 'You will not go out without me again,'' Spencer recalls."It was like a compliment, I thought: 'He cares, he really cares. He really, truly loves me.'"

When Kim Daugherty, a petite, brown-eyed convenience store clerk, met Jim Shaw at a Fourth of July Eagles Club dance, "he treated her like a queen," recalls her mother, Barbara Crenshaw.

First came the opal and ruby necklace, the gold chain and watches, then the Saturday night games of Uno with Kim and her three children. The couple bowled twice a week, played on a dart team and even won a trip to Las Vegas.

"He didn't even drink in front of the kids," muses Crenshaw. But then Shaw turned jealous and Kim tried to break off the relationship.

On May 31, Shaw shot Kim in the head outside a Southern View Tavern and then turned the .25 caliber handgun on himself.

He died; she didn't.

Today, Kim, 28, is semi-conscious at Memorial Hospital, the bullet still lodged on the left side of her brain. Her left arm is paralyzed, and she is fed through a tube. Her beautiful long, brown hair was so matted and tangled with blood that the nurses had to cut it off, Crenshaw says.

About a week and a half before the shooting, Crenshaw says Shaw showed up at the apartment that Crenshaw and Daugherty share in Chatham Hills, demanding to see Kim, who wasn't at home.

"He pushed his way through the front door, pushed my son on the couch and threw the phone at him and started looking through the rooms of the apartment," recalls Crenshaw, who is caring for her grandchildren while her daughter is in the hospital. "My youngest grandaughter started screaming and screaming. She was very upset. I know he scared her to death."

Perhaps the most overlooked victims in the pattern of domestic violence are the children, O.J. Simpson's young son and daughter—usually mentioned only in passing—are living with the maternal grandparents while their father's fate is decided.

At the east end of Sojourn's grassy back yard—littered with tricycles, Hula-Hoops, a yellow and red play-house, a Weber grill—there is a spacious outbuilding-turned-classroom, where children may play Chutes and Ladders or draw on a green chalkboard easel. Julie Alberts, the shelter's children's coordinator, regularly deals with the burden of despair, fear and guilt lugged around by children who grow up in violent homes.

"Kids are affected in a lot of ways," she says. "Most have real low self-esteem, can't make decisions or resolve conflict in a nonviolent way. Their stress is so outrageous that many kids can't describe how they feel because they're too afraid to talk about it."

Alberts, who encourages the children to paint and draw pictures of their fears, produces a stack of artwork created over the years by kids who stayed at the shelter. The images are so profoundly disturbing "that no child should ever have to endure this," says Alice Nathan.

In one picture, scratched tensely on a sheet of typing paper, a black Magic Marker stick figure shoots his wife in the head with a gun. Blood-red droplets cluster on the page like cherries.

"No No!" she cries.

In another, a farmer wearing a wide-brimmed hat and blue jeans drives a sickle into the ground. Behind him, a car has run over his wife in the driveway. She is frowning, and her dark hair is flattened.

"The boy who drew this became violent toward his mother, also," says Alberts grimly.

Often the children have been injured when they tried to intervene to protect their mothers, says Alberts, who tries to give them a sense of control.

"We teach them to dial 911, to curl up in a ball and put their heads in their stomachs," she says. "Yes, they're probably going to get hurt, but not as badly."

Why such a damning cycle of abuse continues in certain families is a perplexing question, but not one without answers. Not unlike an alcoholic in the final stages of liver disease, "many women know it they stay in the relationship, they will die from the abuse—but if they try to leave it they will die also," says Nathan. "It's not a simple situation at all."

Often, despite the perpetual violence, there is still an attraction between a couple. And many women are simply reluctant to venture out on their own again.

"There are so many reasons for staying in an abusive relationship—psychological, sociological, economic, or just plain survival," Nathan explains. "Sometimes, a woman has nowhere to go because her family says, "You've made your bed, now lie in it.' What if he's threatened to hunt her down and kill her? Or what if he tries to leave and take the kids? In so many households, the belief is still that the husband is the boss and the wife is submissive and that it's OK to hit a woman."

The Springfield Police Department maintains a pro-arrest policy in domestic violence situations, according to Deputy Chief of Investigations Jim Cimarossa.

In 1993, the department fielded more than 1,600 reports involving orders of protection, battery and domestic disturbances (a category that can include "someone shouting at their neighbor over the fence, Cimarossa says).

According to the Illinois State Police, 1,161 orders of protection—all involving domestic situations—were filed in Sangamon County in 1993. In all of Illinois, 42,964 orders were filed in the same period, mostly by women.

Jennifer Florence, a Sojourn client, knew all about orders of protection. She is buried in the shade of a tall pine tree amidst a cluster of graves called God's Garden at Oak ridge Cemetery.

More than a week after her June 14 funeral, parched bouquets of yellow carnations and baby's breath tied with dark red velvet ribbon are still strewn over the freshly turned earth. A single wilted red rose pokes up from the head of the grave, and a pink tissue is still crumpled in the same place it was tossed the day of the funeral.

Florence, a 31-year-old secretary, was 4½ months pregnant at the time of her death. She left behind three small children. Terrell, 10, Titus, 3, and Tiffany, 23 months.

On June 9, as she lay dying from gunshot wounds in her legs and chest, Tony Shoultz, her longtime boyfriend and father of her children, was arrested in a stairwell at the Union Baptist Church on Monroe Street.

Their tempestuous relationship can be traced to 1984, when Shoultz allegedly pushed and threatened her in front of their infant son. Florence obtained her first order of protection against Shoultz then. She obtained her final order of protection last fall.

Shoultz has been charged with first-degree murder and with the intentional homicide of an unborn child. He pleaded not guilty Thursday.

Jennifer's death cannot be undone, says her mother, June Florence.

"Jennifer was a beautiful person and full of love, but Tony didn't allow her to function at all," she says. "She tried to get away from him a million times. He beat her, held guns to her head and knives to her throat. But he always lured her back with kisses, flowers and I'm sorry.'"

Jennifer spent her last day on earth in the company of her mother, who picked her up at a drugstore near Sojourn and drove her to the family's home on 14th street. There they talked and ate a breakfast of eggs, waffles, sausage and coffee.

"I noticed that Jennifer looked like she was getting sick," June recalls. "She was thin and little incoherent, and well, when it's your child you know something's wrong. All day she kept saying, 'Mom, I have to go.' Looking back. I think God was already calling her. Tony had pulled her into this circle and she couldn't get out."

BRENTWOOD SLAYINGS AWAKEN NATION TO DOMESTIC VIOLENCE

Out of the tragedy that surrounds the O.J. Simpson charges, something good may emerge.

Just as the Clarence Thomas/Anita Hill hearings made us much more sensitive to the problems of sexual harassment, so the deaths of two people who may have been killed by a celebrity can awaken us to the problems of domestic violence.

The problem is much more widespread than most of us knew.

In Sangamon County, Ill., where Springfield, the state capital, is located, 1,161 orders of protection involving domestic situations were issued by the courts last year, according to an excellent article on the problem by Elizabeth Bettendorf in the State Journal-Register of that city.

Statewide there were 42,964 orders. And a much higher number of cases of spousal abuse never reached the courts.

Years ago a respected attorney startled me in a conversation when he said, "You have to beat up your wife once in a while to keep her respect." When I related this to a friend, he told me of an engineer who told him that he occasionally batters his wife "to maintain authority in the home." I am sure neither of these cases reached the courts.

The Nicole Simpson case made headlines and riveted the nation to the O.J. Simpson car surveillance. But when Jennifer Florence of Springfield, Ill., a 31-year-old secretary and mother of three, was killed—and there have been thousands like her—it did not register on the national television screen.

What can be done? Let me suggest four steps:

1. Bring the problem out into the open. If you or a friend or a relative are involved in an abuse situation (almost always men attacking women or abuse of children), don't hide it. Hidden problems tend to grow. Physical abuse within a domestic situation is not normal behavior.

2. Men and women brought up in homes were there has been physical abuse of spouses or children are likely to abuse their spouses and/or children. If that was your experience, you may need professional help.

3. Don't abuse your children. It is conduct they are likely to pass on to their children.

4. If you are in a home situation where you are either abused or are the abuser, seek help. Inquire from a social agency or a religious leader or your physician or the police where you can go for help. You must protect yourself and others.

5. Women should find the phone number and address of a center for abused spouses where they can go if violence erupts. In an emergency, call that center if you do not have transportation.

6. Judges need to become more sensitive on these matters. Part of the crime bill that may emerge from Congress is a Violence Against Women provision that Sen. Joe Biden, D-Del., is the chief sponsor of and I am cosponsoring. It includes a provision I inserted to offer sensitivity training for the judges of the nation, who are overwhelmingly male and often not as understanding of domestic abuse cases (as well as rape and other problems women have) as they should be.

Finally, there are centers for women who face these special problems. They need support from government agencies, but almost all of them are also dependent on charitable contributions. All of us can help.●

PLO-TERRORIST ACTS

● Mr. GORTON. Mr. President, last fall the PLO agreed to take two long overdue steps toward establishing peace with Israel: it would renounce the use of terrorism and other acts of violence, and it would recognize Israel's right to exist.

Those commitments are a bare-minimum to insure that this process moves forward. Without them, Israel can hardly be expected to negotiate with the PLO, much less give the Palestinians the concessions they seek. Without them, the Palestinians have offered the Israelis little in these negotiations.

But a State Department report released on June 1 shows that the PLO has not fulfilled its commitments. This report, combined with others released by the State Department, reveal that of the 89 attacks against Israelis between September and May, the PLO denounced only four, and in those it merely expressed regret. In no cases did a PLO official unequivocally denounce attacks against Israelis. Instead, officials simply said that such attacks threaten the peace process.

Indeed they do. Terrorist acts—like that at Hebron—can derail talks for months. But they can terminate talks if they are not dealt with properly. Mr. Arafat is one of the few voices with the ability to limit Palestinian violence. As long as he remains silent, he virtually urges it to continue.

Moreover, these failures occurred before the Gaza-Jericho autonomy agreement took effect last month. Now, Mr. Arafat must not only condemn such attacks, he must investigate and prosecute those responsible. Can Israelis expect justice if they are victimized in or near Jericho or Gaza? Or will Mr. Arafat still refuse to search out and punish those responsible?

And, what is to happen to Mr. Arafat's credibility as we face the more difficult steps in these negotiations? Already, he has threatened the peace by incorrectly telling his supporters that Israel has promised the Palestinians the right to take control of East Jerusalem. He recently called for a Jihad to recapture Jerusalem, and he has called the Israeli-PLO agreement temporary. If he cannot pass this so-called confidence-building stage of the peace agreement without flaunting his commitments and inciting his supporters, how can we expect him to negotiate toward a responsible final settlement?

He has called into question his willingness to accomplish these tasks, and as a broker in this agreement, I believe the United States should be monitoring his compliance closely. We should have a mechanism for watching his efforts and noting where the PLO has come up short.

The State Department's report should be such a mechanism. Through it, we should present an adequate standard for the PLO to meet before it can rely on our aid through the UN, and in turn, our role, in the peace process.

Instead, I am disappointed to say, much of the State Department's June report has been devoted to making excuses for Mr. Arafat's failure to comply with his September commitments. It explains that he does not have operational control over many of the groups responsible for these killings and that he had no foreknowledge of the attacks.

This does not hold Mr. Arafat to a high enough standard. Clearly, Mr. Arafat could help end some of this violence. Of course, his is a weak coalition, but he has nonetheless delivered autonomy to Jericho and Gaza, and is the undisputed leader of the Palestinian people. And even if he cannot directly stop the violence, he can renounce it, and perhaps inhibit it. It's illuminating to contrast Mr. Arafat's reactions to Arab violence against Jews and Israel's reaction to Jewish violence against Arabs. In responding to the Hebron massacre, the Israeli Government, which was not responsible for the Hebron massacre, quickly renounced that attack, compensated victims, created an independent investigative and review panel, arrested dangerous Israelis, and took other items to increase security for Arab worshippers.

But, most importantly, Mr. Arafat must comply with his September commitments if we are ever to move forward with this tenuous peace process.

Both sides have described this agreement as a series of steps that will be used to build confidence between the two sides before the most difficult subjects are breached. Without an adequate trust having been established in those areas, those final issues will see little movement. If Mr. Arafat ever hopes to attain the goals that he has sought in this peace process, he should be doing everything in his power to comply with the letter of both the September and the May agreements now.

Mr. President, actions speak louder than words. Mr. Arafat must show by his actions that he and his followers are committed to pursuing peace. During the past few months Mr. Arafat's words of peace and moderation have been contradicted by Mr. Arafat's actions.

I urge the administration and my colleagues to watch Mr. Arafat's actions. That, more than words, will tell us if peace is truly their ultimate goal.

If the actions of Mr. Arafat and the PLO fail to show greater compliance with last September's agreement, I will strongly urge my colleagues and the administration to reevaluate the United State's support to the PLO that is provided for under the terms of that agreement.•

THE CIVIL RIGHTS ACT OF 1964

• Mr. RIEGLE. Mr. President, I rise today to commemorate the 30th anniversary of one of the most important and far-reaching laws ever passed by this body. On July 2, 1964, President Lyndon Johnson signed the Civil Rights Act into law just 5 hours after it had passed the House of Representatives. In doing so, President Johnson helped to facilitate and encourage one of the great revolutions of our age: the legal recognition of African-Americans as full and equal participants in American society.

It must be very difficult for young Americans today to comprehend how formidable were the barriers to civil rights in 1964. Although almost 100 years had passed since the end of the Civil War and the enactment of the 13th, 14th, and 15th amendments to the Constitution, the promise of equality under the law that those amendments embodied had gone largely unfulfilled. Throughout the United States, black Americans were routinely denied equal access to restaurants, hotels, housing, and public accommodations generally.

The capstone of this Jim Crow system was the denial to African-Americans of that equality of economic opportunity which is a necessary predicate to any group's full participation in the larger society. Black Americans were consigned to both physical and cultural ghettos, denied equal access to institutions which most of us take for granted. From great corporations to the corner grocery, flagrant hiring discrimination abounded. While a rising sea of prosperity was lifting all boats, African-Americans were left stranded on the shore.

Thirty years ago this week, with one stroke of his pen, President Johnson removed the legal foundations of Jim Crow by signing the 1964 Civil Rights Act into law. This was an act of great political courage, the foundations for which had been laid by the Kennedy administration. But it never would have been possible without countless preceding acts of even greater courage on the part of civil rights workers like Martin Luther King, Jr., who sacrificed their very lives for the cause of equal opportunity and dignity among the races.

At present, we are in danger of becoming complacent about the gains that we have made in the extension of civil rights to all Americans. Distracted by small squabbles, we sometimes lose sight of the larger goals and aspirations that animated the movement in its earlier days.

Racial misunderstanding and bigotry are far from extinction; racial tensions occasionally flare into overt violence. But the gains we have made are undeniable. Over the past 30 years, we have made significant strides toward legal equality between the races. In spite of the racial conflicts that continue to plague our Nation, we are continuing to make strides toward a more just and a more tolerant society.

Mr. President, I believe that we can best commemorate the 30th anniversary of the 1964 Civil Rights Act by rededicating ourselves to the task of bringing about a society in which, as Dr. King said, men and women are judged by the content of their characters and not by the color of their skin.•

JUST DO IT

• Mr. MURKOWSKI. Mr. President, there is a popular advertisement slogan that says, "Just Do It." Most often this phrase is not one that comes to mind when we think of Federal employees. We have been led to believe that they are stale naysayers. Well, Mr. President, that is not always the case. As evidenced by a recent Wall Street Journal article, there are innovative Federal employees who care about their jobs and the people they are supposed to serve. They go the extra step.

The article describes how Roger A. Story, a Department of Veterans Affairs benefits counselor in New York City convinced Chase Manhattan Corp. to open checking accounts for several thousand homeless veterans. This was, by no means, an easy task. The beneficial results are: they won't have to go to check-cashing shops and pay a fee to cash their benefits checks; they are encouraged to save their money; they are not as susceptible to losing their money on the street; and, more important than interest, they earn some self-esteem. One measure of the success of this effort is that Chase Manhattan now holds over $2 million in deposits from these accounts.

There are no Federal manuals that told Mr. Story to go to Chase Manhattan. There are no regulations that told Mr. Story to come up with this way to help homeless veterans. He used the often overlooked manual of common sense.

Roger A. Story is not the only Federal employee to "Just Do It." There are many of them around the country, who manage, in spite of Washington's red tape and ingrained bureaucracy, to make real differences in the lives of our citizens. You do not hear much about them and, unlike Mr. Story, they seldom make the news. They are imaginative, caring, and dedicated. They are today's heroes.

Mr. President, if there are no objections, I would like to submit the newspaper article to be included in the Record.

The article follows:

[From the Wall Street Journal, June 23, 1994]

Bank Helps Homeless Veterans by Letting Them Open Accounts

(By G. Bruce Knecht)

Floyd Teasley Jr. knows what it means not to have a bank account.

For years, the 60-year-old veteran of the Korean War took his government pension check to a check-cashing shop that took a percentage of his money as a fee. Worse, since he was homeless until a year ago, he had no place to deposit his money except in his pocket. "It was bad," he says. "Usually I blew the money on drink, and it would be gone."

But Mr. Teasley's life is now on the upswing, and part of the reason is the bank account he opened two years ago. The account costs him $5 a month, but now his pension checks arrive electronically and without deductions. Better still, Mr. Teasley says the account enabled him to rent a one-bedroom apartment on June 1, 1993. He remembers the date with beaming pride.

While the problems of the homeless cannot be washed away with bank accounts, Mr. Teasley's experience suggests that banking services can help. The fact is that Mr. Teasley didn't have to be homeless. With a combination of his pension and federal rent subsidies, he can readily afford to pay the $230 rent on the one-bedroom apartment he found just off the Grand Concourse in New York City's borough of the Bronx. But Mr. Teasley says he couldn't have done it without a bank. "I could never be sure that I'd have enough money to pay the rent," he says.

Mr. Teasley opened his account after John A. Story, an unusually dedicated benefits counselor with the New York office of the Department of Veteran Affairs, persuaded Chase Manhattan Corp. to offer accounts to several thousand homeless vets who live in New York. Convinced that access to the banking system could help at least some of them, Mr. Story had approached several banks. Except for Chase, they all said no.

Banks have never offered accounts to people who lack proper identification or even home addresses, resulting in a vexing Catch-22 problem for the homeless. "If we're going to ask people to function like members of society before you give them a bank account, we're fooling ourselves," says John M. Imperiale, a community-investment officer with Chase. "Having a normal life without a bank account is virtually impossible."

Indeed. People who are deprived of banking services suffer in ways that people who take banks for granted can hardly imagine. Check cashers are the first problem. They take at least 1% cut of the checks they cash, and that includes those issued by presumably credit-worthy government agencies. And carrying cash is hardly the best form of cash management, frequently leading to irresponsible spending and robberies.

The problems are magnified when poor people receive lump-sum payments from insurers or government agencies. Mr. Story says a vet named Phillip Witherspoon lost $21,000 in cash the same day he received a check from the VA. Another vet died of a drug overdose the same day he cashed a $7,000 government check.

Since the first accounts at Chase were established in April 1992, Mr. Story says that 350 vets have opened accounts and that their balances now exceed $2 million. The surprising large amount is mostly the result of the lump-sum payments that some vets receive for injuries; several vets have more than $10,000 in their accounts.

Juan R. Martinez, a 43-year-old who earned three Purple Hearts during the time he operated an M–79 grenade launcher in Vietnam, had never been inside a bank before he opened an account at Chase's branch on Manhattan's Seventh Avenue and 24th Street several months ago. Working off and on as baker and driver, Mr. Martinez's life has had a number of ups and downs since he left the service in 1969. In 1990, he was imprisoned for transporting three pounds of cocaine. Now on parole, he is staying with friends while he hopes to find a room in a single-room-occupancy hotel, the low-rent residences familiarly called SROs.

"When I got my money in Vietnam, I just spent it. When I got out, I did the same thing," Mr. Martinez says. "And when I had no money . . . Well, you know how your mind works when you have no money. That's how I got in jail."

Mr. Martinez opened his account with $100; and thanks to the monthly $253 disability payments he receives from the VA, his balance has climbed to more than $600. Along the way, he says he has developed a new sense of responsibility. "I am careful about money now," he says. "It's great to know that I can just go to the bank and get some money if I need it."

Joe Green Jr., who won a Bronze Star for his service as a combat medic in Vietnam, says his automated-teller-machine card makes him feel better about himself. "It makes me feel like I'm getting back into the mainstream of society," he says. Mr. Green, now 46, lives in an SRO on 119th Street and Madison Avenue. Saving a portion of his biweekly public-assistance checks, he hopes that he will eventually be able to rent an apartment.

Chase, which charges its standard fees to homeless vets, recently began granting them credit cards. Credit lines will be limited to the amount of money card holders have in their bank accounts.

While borrowing money at the card's 17.9% rate instead of using money in their accounts that earns just 2% does not make financial sense, it will allow them to take another step into the world of finance. "We are trying to give people a chance to re-establish, or in many cases establish, credit ratings," Mr. Story says.●

TRIBUTE TO MINNESOTA STUDENT GOING TO JAPAN

● Mr. WELLSTONE. Mr. President, today I would like to offer my congratulations to Amber Hojstad, who will be a junior at Champlin Park High School in Champlin, MN. Recently, I recommended Amber to participate in Sony Electronics Inc.'s Student Project Abroad. I am proud to announce that Amber has been accepted for the program. She will spend 2 weeks in Japan studying advanced technology and the Japanese culture with Sony's Student Project Abroad.

As most of my colleagues know, I was a professor at Carlton College before being elected to the U.S. Senate. While at Carlton College, I encouraged students to combine their classroom work with real world experience gained outside the confines of the classroom. I felt that if students took the initiative and explored ways to apply their classroom instruction, they would be better prepared to enter the work force than those who restricted studies solely to their textbooks. It is for this reason that I was particularly pleased to have the opportunity to nominate Amber to the SSPA program. It is another example of better preparing our students for the challenges of an increasingly competitive interdependent world.

Amber is ranked 14th in a class of over 500 students and has maintained a straight A average. In addition to her academic studies, Amber is involved in the marching band and the swim and ski teams; she is active with her church and in her community; and she participated at the Minnesota Academy of Science State Fair 2 years in a row.

Amber's teachers say she exemplifies the best in scholarship, self-discipline, character and persistence, and I believe she will represent Minnesota and the United States very proudly in Japan.

The Sony Student Project Abroad is a 2-week program for American high school students who have a keen interest and ability in science and mathematics. The program features tours of manufacturing facilities, presentations on design and engineering, visits to historical and cultural points of interest, and a home-stay with a Japanese host family.

Amber will have the opportunity to travel to Japan with the Sony Student Project Abroad. Some 200 from all over the United States have already reaped the benefits of this extraordinary educational experience. The program encourages the pursuit of study in science and math, areas which are critical to America's competitive future. The program also introduces American teenagers to the culture and people of Japan, one of our leading trade partners.

The United States and Japan have an increasing need and desire to broaden the experiences of their young people. Sony's Student Project Abroad opens these students' eyes to the unlimited possibilities of applying math and science. It also allows American students to experience, firsthand, Japanese culture.

Mr. President, I believe this is a wonderful learning opportunity for Amber and for the other students, and I commend Sony for its efforts.•

JOHN W. DOUGLAS RECEIVES THE GOLER BUTCHER AWARD

• Mr. SIMON. Mr. President, John Douglas is the son of a former U.S. Senator, who was one of the finest to ever serve in this body, Paul Douglas.

Recently, he received an award titled, "Goler Butcher Award" from the International Human Rights Law Group.

He richly deserves that award for a whole series of things he has done through the years.

His immediate contribution was to be one of those who monitored the election in South Africa.

His statement in accepting the award is a tribute to the people of South Africa, black and white, who have shown restraint and a willingness to see that their democracy really works.

In a world where there is sometimes not as much hope as we would like, John Douglas's statement stands out.

Particularly interesting is this sentence:

> There was a young Afrikaner—the son of a large landowner—who proved to be a meticulous and fair-minded presiding officer at a voting station where virtually all of the voters were black, many were illiterate and some had never held a pencil before.

The entire statement is one I hope some of my colleagues and their staffs will read, and I ask to insert it into the RECORD at this point.

INTERNATIONAL HUMAN RIGHTS LAW GROUP

(By John W. Douglas)

Thank you, Greg, for those generous remarks.

Distinguished guests, ladies and gentlemen.

I accept this award with pleasure. It is a great honor—particularly so since it is in the name of Goler Butcher who made so many valuable contributions to human rights, including her years of work, with your Board member Gay McDougall, on independence for Namibia and democracy for South Africa.

In many ways, however, there should be a reversal of roles tonight. It is I who should be paying tribute to the Law Group because I have received so much in the way of opportunities and fulfillment from you, including the missions to Chile during the Pinochet years.

Your organization deserves great credit for its tireless efforts to unlock the best in the human potential. Despite the roadblocks, that march for human rights continues—towards the assurance of basic dignity and respect for every individual everywhere. Where is there a better calling?

The vistas which human rights missions can provide were never more compelling than those which some of us encountered as observers for a sister organization during the recent, historic election in South Africa.

In a primarily rural area 150 miles west of Johannesburg—an area which is near the Botswana border and where the population is overwhelmingly black—our group witnessed dramatic expressions of some of the finest of human qualities—dignity, resolve, generosity, and tenacity. The scenes were riveting.

On the first special voting day—for the aged and infirm—there were some individuals in wheelbarrows, others on stretchers, waiting patiently for long hours so they could finally act as citizens in the country of their birth.

Some individuals in their seventies were helping others in their nineties get to the voting stations.

There was a dwarf—whose legs were little more than stumps—and who, with fierce determination, moved ever so slowly toward the ballot booth.

There was a young Afrikaner—the son of a large landowner—who proved to be a meticulous and fair-minded presiding officer at a voting station where virtually all of the voters were black, many were illiterate and some had never held a pencil before.

Elsewhere, in the East Rand industrial belt, voters stood peaceably, even respectfully, next to others with whom they had been fighting only days before.

And all over the country, the security forces, so oppressive as apartheid's enforcers in the recent past, now performed with evenhanded skill.

The South African election was a tribute to many things, and certainly to the human spirit. For observers it was a deeply moving experience.

And for South Africa, the massive, peaceful voter turnout was, in and of itself, a unifying force. It sealed a consensus for the new, democratic dispensation. It opened the door to national redemption.

That election also should drive home to all the world the over-arching importance of free and fair elections—of the right of every individual to take part fairly in the selection of his or her national government.

Article 21 of the 1948 Universal Declaration of Rights had asserted that entitlement to democratic governance through ,"periodic and genuine elections." Although the UN initially adopted that principle only as a goal worthy of aspiration, subsequent events have raised it to the position of a customary, international norm.

Today, the concept of "free and fair" elections is, indeed, widely accepted. The idea has permeated previously closed societies such as Malawi, Nepal and Mongolia, not to even mention Russia and Central Europe. It has become a potent political slogan.

Thus, the primary challenge now is not so much to broaden adoption of the principle—desirable though that is—but, rather, to translate the principle into every day practice. This will entail a long struggle, during which it will help us to remember that while free and fair elections do not guarantee respect for the individual, they do remain an essential part of any viable human rights regime. They make it far easier to secure and retain other individual rights.

What is needed now—besides the restoration of President Aristide in Haiti—are breakthroughs in a select number of other recalcitrant countries—the countries which, like Burma and Nigeria, profess adherence to periodic and genuine elections but deny them in practice. Breakthroughs in such states would pave the way for progress in the even more hard-line countries.

All this will require planning and hard work—both scholarly and political—in determining where, when, and how to proceed. It will require disciplined choices as to how the international human rights community can best convey the essentials of democratic elections within local political cultures.

In this endeavor organizations such as the Law Group and its allies should take the lead—most importantly in encouraging international collaboration. This is a field where private organizations can play the most effective roles.

The South African election was such a brilliant success. Let us learn from it and do our best to build upon it.

Thank you very much.•

THE SPECIAL OLYMPICS

• Mr. LIEBERMAN. Mr. President, who among us has not watched the excitement of athletic competition and been inspired by the dedication and hard work which is so evident in the performance of the athletes we are watching? I venture to guess that all of us have done this; I know that I certainly have throughout my life. Whether it is the coordinated performance of our favorite baseball, basketball, football, or soccer team or the individual efforts of a gymnast, swimmer, tennis player, or track runner, there is a fundamental spirit which is evident that proves how hard work, perseverance, and sacrifice can pay enormous personal dividends when a personal best is achieved, or a new record is set, or a championship is won.

Some 25 years ago, a very special woman, Eunice Kennedy Shriver, was inspired by the drive and enthusiasm she saw in a very special group of athletes and she envisioned a world-class sporting event where these athletes could gather, compete, and achieve their personal bests. Since setting out this vision, there have been eight such competitions which have brought these athletes together from all over the world to celebrate sport and to demonstrate to the world and themselves that they are world-class athletes.

I am, of course, speaking of the Special Olympics—the competition which serves as the culmination of year-round training and athletic competition for individuals with mental retardation. Through the program which leads to these games, these men and women are provided opportunities to develop fitness, demonstrate courage, experience joy and participate in sharing gifts, skills, and friendship with their families, other Special Olympics athletes, and their communities.

From July 1 to 9, 1995, over 6,700 athletes from more than 135 countries will join 2,000 coaches, 15,000 family and friends, 45,000 volunteers, 1,500 media representatives, and over half a million spectators in the Ninth Special Olympics World Summer Games. The State of Connecticut is honored to host this event this year just as Minnesota did in 1991 and Indiana did in 1987. The games will take place at facilities provided by Albert Magnus College, Quinnipiac College, Southern Connecticut State University, the University of New Haven, and Yale University. This will be the largest sports event in the world in 1995 and the 1995 Special Olympics World Games Organizing Committee has sought help from volunteers throughout the country, the State of Connecticut, local governments, and the Federal Government. The organizing committee is a 501(c)(3) charity. As such it must rely on corporate sponsorships, philanthropic donations, and individual contributions to finance the event.

The response to calls for help has been heartening. Corporate sponsors, foundations, service organizations, individual citizens who make small dollar contributions or generous contributions of their time, and the Federal Government have all answered the call in an effort to make these games a great success—not for commercial interests, not for big endorsement contracts which do not wait at the finish line for these Special Olympians, but for the sheer demonstration that the human spirit is alive and will overcome adversity to achieve personal satisfaction. The White House welcomed the 1995 Special Olympics World Games Organizing Committee as a participant in the activities of the Federal Task Force organized to support the 1996 Olympic Games and the 1994 World Cup Games. Recognizing that the Americans With Disabilities Act applies to each and every function of government, the administration supports the inclusion of the 1995 Special Olympics World Games in Federal efforts to support more traditional sports events.

Putting together and managing the Special Olympics is no small task. Thus it is that the organizing committee has turned to the resources of local, State, and Federal Governments for help. The Congress has provided authorization in the past for the Department of Defense to provide "in-kind" support to international sporting events that have taken place in the United States. The Olympic Games in Los Angeles and Lake Placid, and the World University Games in Buffalo are recent examples. Similar support is being provided to the Atlanta Committee for the Olympic Games and World Cup USA which is currently going on.

The Special Olympics Organizing Committee has identified specific needs which it cannot fulfill by other means—providing security and traffic support, medical support, emergency ordinance disposal, water resupply, and some limited transportation—and is cooperating with the Department of Defense to attain them. Some of these functions can be performed by the Connecticut National Guard in conjunction with training and the leadership of the Connecticut National Guard is eager to perform them. The Department of Defense has been working with the organizers and has projected that the maximum authorization to support the entire request is $3 million. All of these items will be provided as "in-kind" goods and services. The organizers are not seeking and do not want the Department of Defense to give monetary support. The effort is to use DOD resources to do what these resources do best and would do if called upon in a military action. This will in no way attrit the readiness of our forces or deplete DOD funds on causes not related to national security. The organizers believe—as I do and the administration does—that this is an appropriate use of a limited amount of DOD assets for a very limited period of time on an activity which could not go on without this support. DOD assets will be utilized as the last resort to supplement the efforts of volunteers, and local and State resources.

Security is a particular area of concern to the organizing committee. At the moment, some twenty heads of state are anticipated to be on hand at various times during these Special Olympics World Games. This provides special security concerns and problems.

These games will be the largest Special Olympics World Games in history and the largest sports event in the world in 1995. Their consolidation in a single urban area and their high visibility and symbolic importance adds significantly to the security concerns of the organizers. Security support to protect against the possibility of international terrorism, to provide assistance with crowd control, and to implement emergency ordinance disposal is critical if the games are to be conducted in a safe environment. DOD support has traditionally been rendered in these sorts of areas and the Special Olympics World Games request is neither unique nor burdensome.

Mr. President, the authorization for $3 million in nonreimbursable support which the Armed Services Committee has included in this bill is justified, appropriate, and in keeping with the traditions and values of this country. It will not affect the readiness or deplete the resources of U.S. forces—if it did, I could not support it. Without this authorization, these games will not go on. I ask for the support of my colleagues for this authorization so that the 1995 Special Olympics World Games can fulfill the vision of its founders some 25 years ago and can live up to its them of "Sport. Spirit. Splendor."•

PEACEMAKING NOW A PUBLIC PROCESS

• Mr. SIMON. Mr. President, I have long been an admirer of Shimon Peres, the former Prime Minister of Israel, who now serves as Foreign Minister.

Recently, he had an op-ed piece in the Los Angeles Times talking about peace in the Middle East and the necessity for creating a situation where we do not solve our problems through military means.

The item is vintage Shimon Peres.

I urge my colleagues and their staffs who did not read the original in the Los Angeles Times to read it, and I ask to insert it into the RECORD at this point.

PERSPECTIVE ON THE MIDDLE EAST: PEACEMAKING NOW A PUBLIC PROCESS

(By Shimon Peres)

(Among Israelis and Palestinians, the media achieved what armies can't do—establish a minimum of trust)

JERUSALEM.—Until recently, negotiations on Israeli security and the occupied territories had been a process that involved only two parties, the Israeli government and the Palestinian leadership. The most important party, the people of Gaza, the Palestinan people themselves—so many of whom are young and angry—were on the sidelines. Now, with the creation of a Palestinian entity, they have been brought into the process as legitimate "public opinion." With Israeli public opinion, they are the critical third party of the equation.

While watching TV recently, I was struck by the change this new role of public opinion and the media will have on our future. The man who was appointed by the Palestinian leaders to be in charge of Gaza is a young man, an angry man, who was in prison for 20 years. He had made a name for himself for being tough and violent. Then, in his new leadership role, he appeared on Israeli television dressed like someone who had just flown down from London. He spoke eloquently and with respectability because, through the TV medium, he was speaking to all the people of Gaza, whose trust and support he needed. He thus had to broaden, perhaps even temper, his message, for it is now his job to persuade his people that the peace process will work for them, and he must mobilize them in that cause.

From the bitter closure of prison to the openness of television—in this I see the key innovation of our age: The media and the public judgment they bring to bear on governments and leaders have become an increasingly critical force in diplomacy between states and in negotiations among parties at conflict. The greatest change in our time has not been effected by armies or states of international organizations; it has been driven by the spread of information.

What brought down communism in Russia? An anti-communist party? A coup d'etat by the army? Invasion by a foreign force? No. Communism was brought down by Communists who could no longer separate their people with an Iron Curtain from images of other parts of the world that were moving forward as they stagnated under repression. The truth could no longer be hidden.

Our first priority in this new media-driven context is to make the very complicated treaty with the Palestinians a reality. There will be mistakes and setbacks. Sadly, we will have to walk through corridors of blood and tear and misunderstanding yet ahead. We will have to face uninvited disturbances and situations for which we are not prepared.

But the decision to make an agreement on Jericho and Gaza was the right one, and we will see it through. If we had tried to do more, we would have achieved nothing. If we had tried to do less, we wouldn't have a partner. So we've selected enough land to have a partner and excluded enough complications to make an agreement.

The public is also a partner in our negotiations with Syria. We know that it is hard to reach an agreement with the Syrians. But when you reach agreement, the Syrians are very good keeping it. However, when we can arrive at the point where they are willing to make an agreement that they will keep remains an enigma.

What Syrian President Hafez Assad would basically like us to do is to commit ourselves completely and fully to withdrawal from the Golan. Then he would be willing to negotiate with us about the phasing of that process.

That is very hard, almost impossible, for us to accept as a democratic country. When Assad says that he is for the normalization of relations, he cannot forget that normalization begins with the way you negotiate.

At the end of the 20th Century, you cannot negotiate just by emissary. The negotiating team—in Israel primarily, since Assad tightly controls his people—is the whole nation and not just a delegation, because everybody here is watching television and listening to the radio and they want to be sure that the partner we are negotiating with is serious, openly serious, about peace. In a democratic state like Israel, our negotiations are necessarily bound, through the media, by the judgments of public opinion.

Now U.S. Secretary of State Warren Christopher is leading the attempt to open up and equalize the negotiations with Syria through establishing a quid pro quo wherein the process will be gradual on both sides. The Syrians have to understand that our public will not allow us to jump through all the hoops while they stand by, reluctant and watching us jump.

All of this fits within the larger aims of Israel in these new times: We are not just seeking peace in the Middle East, but a peaceful Middle East founded in the new realities of economic interdependence and the open flow of information.

We have seen in Israel that territorial security means little without peace; we are vulnerable both to long-range missiles from afar and to the knife of an angry Palestinian in the alley behind our house. To prosper economically, we need to consume and trade with the neighbors in our region. Peace is the only route to security and prosperity.

A peaceful Middle East can only be built in the minds of peoples that must live with each other side by side. That trust will be built or destroyed in public opinion and communicated by the media.

The hunting season in history is over. It is no longer important how many generals killed how many people. In the age we live in, what armies can achieve is no longer important. What is important is that which armies can no longer achieve.•

REMARKS ON THE FIRST ANNIVERSARY OF THE MASSACRE AT 101 CALIFORNIA STREET

• Mrs. FEINSTEIN. Mr. President, 1 year ago today, the lives of several families from the San Francisco Bay Area were changed forever. They had the misfortune of being in the wrong place at the wrong time, when a grievance killer went on a rampage with a semi-automatic military-style assault weapon. Sadly, this American tragedy could have happened anywhere in the United States, at any time of the day.

The wrong place was a gleaming office tower called 101 California Street in San Francisco. The wrong time was midday, when an unstable former businessman named Gian Luigi Ferri stepped off an elevator with two TEC–DC9 assault pistols equipped with "hellfire" triggers, more than 500 rounds of ammunition—including Black Talon bullets made infamous in the Long Island railroad shooting—and began rapidly and indiscriminately mowing down anyone and everyone in this path.

Eight people died. Six people were wounded in this massacre.

I have spoken many times to urge my colleagues in both Houses of Congress to help end the carnage by ending easy over-the-counter access to assault weapons—by stopping the free flow of these weapons of war to our streets. The Senate and the House, I am very proud to say, have both done so. Neither Chamber, however, has yet fully discharged its responsibility by sending the President a crime bill that includes a ban on the future manufacture of semi-automatic assault weapons.

As the days go by without such bill, assault weapons continue to kill and maim.

It is human nature to want to see something good come from a tragedy.

Nothing will bring back the victims of the 101 California shooting: Allen Berk, John Scully, David Sutcliffe, Jack Berman, Jody Sposato, Shirley Mooser, Donald Merrill; and Debbie Fogel.

These men and women cannot and must not have died in vain. Their families cannot and must not suffer in vain.

It is time for the crime bill conference to produce a report. It is time that both Houses of Congress take up and pass it. And it is time that the President sign it, as he is eager to do, into law.

I hope this anniversary is a chance for us to reflect—and is another reminder to Congress that it must act now.•

THE HOUSING SITUATION IN NEW MEXICO—WHY THE HOUSING BILL IS IMPORTANT

• Mr. DOMENICI. Mr. President, housing in New Mexico is diverse. The State's needs are complicated and they vary from country to country and even from neighborhood to neighborhood.

The State takes great pride in being the home to the oldest condominium in the country, the 600 year old Taos Pueblo. The State has many pre-1800 Spanish colonial adobe buildings which are still occupied. We have many victorian buildings constructed while the railroad was being built. This makes the State a wonderful place for individuals interested in architectural history but adds to the challenge faced by housing policymakers and program administrators.

Some parts of the State are growing a new subdivision every month. In other parts of the State there is a substantial amount of vacant, substandard, yet preservable, housing. The decline of the mining industry has placed an added economic burden in Grant, Cibola, McKinley Colfax, and Taos Counties. New Mexico is a major oil producing State and times are not good in oil patch. This has a direct impact on affordable housing needs particularly, as they relate to loss of homes due to foreclosures. The situation in Indian country is another set of problems entirely. The situation there is beyond crisis.

Housing prices for low-income individuals are out of reach for people in many counties based on the housing affordability measures used by HUD.

Affordable rental units are out of reach for many New Mexicans in the very-low and low-income families. Very-low income families are paying more than they can really afford for housing. The affordability gap ranges from $9 to $239 per month. The three counties with the biggest affordability gap include Sante Fe—$239, Taos—$224, and McKinley—$186. Also, Guadalupe—$164, Valencia—$159, and Bernalillo—$92.

Let me recite some of the usual indicators used to measure housing needs.

OLD AND NEEDING REHABILITATION

One out of every four homes throughout the State are more than 50 years old. In Harding, Union, and Mora Counties close to 50 percent of the houses are older than 50 years old. The State officials presume that if a house is older than 30 years old it needs rehabilitation. Using this assumption, which is the best they can do with the data that they have, there are 272,166 New Mexico housing units in need of rehabilitation.

CROWDING OUT

There is the greatest need of housing along the Rio Grande corridor in Santa Fe, and counties, and in Lincoln County which attracts a lot of seasonal visitors. This is caused by substantial immigration and crowding out of existing low-income families. In Santa Fe affordable housing is extremely scarce.

I have been working with the RTC and the city to turn the Pueblo Hermosa apartment building into 45 affordable housing units. There were over 500 applicants to date. Of them 200 have met the income qualifications. Clearly the need and the demand is staggering.

Housing in Santa Fe has always been expensive. There isn't much water. As a result there isn't room for everyone who wants to move there and it is getting harder and harder for the people who have family roots there to remain. The artists tell me that they are now being crowded out as well. They can't afford the real estate prices or the rents for the studio space they need. It is ironic that some people move to Santa Fe to have artists as neighbors and yet the artists are being crowded out by the high prices the newcomers are willing to pay.

Crowding out isn't unique to Santa Fe. The Las Cruces-Dona County area is also experiencing this effect. The Santa Teressa border crossing and the expansion of the maquiladora plants are bringing new people to the area all the time.

This area is also home to some of New Mexico's best farmland. We have world famous chilies, onions, pecans, and peanuts. Housing needs for seasonal agricultural workers increases during peak planting and harvesting seasons.

As Cannon Air Force base expands, Portales and Clovis will also experience crowding out. The very low- and low-income families will be the ones who suffer the most.

OVERCROWDED

On a statewide average 11 percent of the households are living in overcrowded conditions. The county with the greatest overcrowding problem is McKinley County where 32 percent of the households are living in overcrowded conditions.

HARD CHOICES FOR SOME COMMUNITIES

On the streets of Silver City and Las Vegas one can see many historical buildings in dire need of restoration. These communities face the dilemma of historical preservation versus affordable housing.

A FEW OTHER KEY INDICATORS BY COUNTY

In Cibola, McKinley, and San Juan Counties, it is estimated that 85 percent of all housing units are in need of rehabilitation.

In McKinley County 71.8 percent of the residents are native Americans. Seventeen percent of the housing stock lacks plumbing. In Mora County 23 percent lack plumbing and in Catron County 22 percent lack plumbing.

In McKinley County 32 percent of the units are overcrowded using HUD's definitions.

San Juan County is 36.7 percent native American.

The Navajo Housing Authority Project in New Mexico has 2,493 individuals and families on waiting lists for a place to live. The housing authority can't meet this need. For example, it only had 12 openings for those on the waiting list in 1993.

Hispanics represent the majority of the population in Mora—85 percent; Guadalupe—84.3 percent; San Miguel—79.4 percent; Rio Arriba—72.6 percent, and Taos—64.9 percent.

STATE'S DELIVERY SYSTEM FOR THE VERY LOW- AND LOW-INCOME FAMILIES

According to the State's Comprehensive Affordable Housing Strategy report [CHAS] prepared by the State of New Mexico the "housing delivery system for low and very-low income families in the State of New Mexico is characteristic of many efforts nationwide to improve social and economic conditions among the poor; these efforts are typically fragmented without clear long-term goals and without formal coordination * * *"

The State has an excellent New Mexico State Housing Authority.

There are several well functioning regional housing authorities as well.

PUBLIC HOUSING IN NEW MEXICO

There are 46 local Public Housing Agencies [PHAS]—1965 was an important year because HUD's Operation Breakthrough made housing more a statewide government activity. Until 1965 only large cities were addressing low-income housing needs.

PAST IS PROLOG—NEW MEXICO DATA ON VARIOUS PROGRAMS REAUTHORIZED IN THIS BILL

FmHA and FHA provide homeownership loans and/or loan guarantees. During the last 12 years, FmHA has provided 5,744 homeownership loans and 773 home repair loans and/or grants.

The New Mexico HUD/FHA office has insured 160,000 properties totaling more than $4.95 billion in home mortgages. Over 1,100 subdivisions have been approved with over 270 builders and 230 lenders currently participating in the FHA single family program in New Mexico.

The New Mexico CDBG Small Cities program through its housing component, has funded the rehabilitation of over 1,329 owner-occupied units statewide—since when, since the program began? In fiscal year 1994, $1.8 million in State CDBG funds will be utilized for rehabilitation of low-income owner occupied housing statewide. Each small city will receive an average of $150,000 out of the fiscal year 1994 funds.

There are approximately 19,449 federally assisted rental units in New Mexico. These are broken down as follows: 4,835—Public housing rental units; 15—Turnkey III; 515—Section 8 Mod-Rehab; 2,326—Section 8 Vouchers; 7,132—Section 8 Certificates; 2,798—FmHA Section 515; 1,572—Section 202, and 6,598—Low Income Housing.

In 1994 the programs reauthorized in this bill provide some important resources to New Mexico. It is receiving approximately $35.5 million for fiscal year 1994 under current law. More specifically New Mexico is receiving: $3.3 million for the HOME program; $1.2 million from HOPE I; $1.4 million from HOPE III; $12.7 million from CDBG of which $1.8 million will be committed; $429 thousand for Emergency Shelter Grants (ESG); $300 thousand for PATH grants; $7.7 million for Section 8 Rental Vouchers; $369 thousand for Rental Certificates; $3.3 million for Capital Improvement for public housing [CIAP] replaced by Comprehensive Grant program; $359 thousand for lead based paint; $300 thousand for Shelter Plus care; $115 thousand for Supplemental Assistance for Facilities to Assist the Homeless [SAFAH]; $3.7 million for Public Housing Comprehensive Grant; and $350 thousand for Housing Opportunities for Persons with AIDS Program [HOPWA].

THIS HOUSING BILL IS IMPORTANT TO NEW MEXICO

The Housing bill the Banking Committee is working on is important to New Mexico. The legislation's focus is housing for the very low income and low income families. Over 40 percent of the families living in every region of New Mexico meet that HUD definition. Measured another way, seven counties in New Mexico have median family incomes under $20,000.

This bill has programs designed to help 7 out of 10 families in Mora and Sierra Counties, 6 out of 10 households in Guadalupe, Sandoval, Roosevelt, Catron, Torrance, Rio Arriba, Taos, Socorro, and Union counties; and one out of every two people in Quay, DeBaca, Curry, Harding, Grant, McKinley, Chaves, Colfax, and Hidalgo counties. Now I don't want to get everyone's hopes up. Unfortunately, there is not enough money to go around, but we hope this bill will make the money go farther and make the programs work better.

This bill reauthorizes our homeless programs, the Indian and public housing programs, makes changes in FHA, HOPE and HOME, section 8 rental assistance, low income housing preservation, renewal of section 8 public housing subsidies, creates a new Leveraged Investment for Tomorrow Program [LIFT], provides additional colonias assistance and rural housing programs section 515 rural rental housing program. I will say more about the bill when the Senate considers it later in July.

I believe that housing should encourage private investment. As Robert Kennedy said, "To ignore the potential contribution of private enterprise is to fight the war on poverty with a single platoon, while great armies are left to stand aside." A current cabinet member, Mike Espy, also expressed a good philosophy: "Whoever controls your home controls your life." He is correct and for this reason, we should encourage privatization. Vouchers are a good step in the right direction. I am pleased that this bill includes an increased authorization for the FmHA vouchers.

However, housing has become one of the most heavily regulated sectors of the American economy. There is a growing web of laws, rules, regulations and red tape. I wish this bill were doing more to undo some of that regulation because it would lower the price paid by millions of families who've spent their lives working and saving for the time when they could become homeowners. That will be part of my agenda for next Congress.●

CHAMPION FOR THE DISABLED

● Mr. SIMON. Mr. President, our colleague Senator HARKIN, chairman of the Subcommittee on Disability Policy, made remarks recently to the Council of State Administrators of Vocational Rehabilitation. He discussed the reasons why the programs authorized under the Rehabilitation Act are essential to the ability to meet the goals and objectives of the Americans with Disabilities Act.

I appreciate my colleague's continued championing of this successful and vitally important program. He knows he has my support in efforts to keep the Rehabilitation Act strong and effective.

I urge my colleagues to read the Senator's remarks, which follow.

The remarks follow:

REMARKS BY TOM HARKIN

COUNCIL OF STATE ADMINISTRATORS OF VOCATIONAL REHABILITATION—MAY 10, 1994

Thanks for that kind introduction.

Thanks also to Joe Owens, your executive director and Jack Duncan, your General Counsel. CSAVR is very fortunate to have two such effective persons representing your organization in Washington.

I understand that one of your own, Fred Schroeder, will be nominated to serve as our next Commissioner of the Rehabilitation Services Administration. Fred, congratulations and best of luck. You can count on my personal commitment and support to enable you and Judy to succeed in making the state/federal vocational rehabilitation program achieve the goal of gainful employment for its clients.

Almost four years ago, President Bush signed into law the Americans with Disabilities Act. To me, the ADA sends a simple, but powerful message—disability is a natural part of the human experience that in no way diminishes the fundamental right of people with disabilities to:

Live independently;
Enjoy self-determination;
Make choices;
Contribute to society;
Pursue meaningful careers, and
Enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of American society.

The ADA sets the promise of equal opportunity. But title I of the Rehabilitation Act—the state/federal vocational rehabilitation program—is the means to turn the promise of equal employment opportunity into a reality.

For many people with disabilities, a positive vocational rehabilitation can be the most important experience in their lives. Hyperbole? I think not. I believe that work fulfills the needs of an individual to be productive, promotes independence, enhances self-esteem, and allows for participation in the mainstream of life in America. My words? No, the words of the Rehabilitation Act.

Every day people with disabilities enter your agency's offices. Most come to you because they want to work; some lack the skills or education they need; others lack the confidence. With your staff's support, expertise, and encouragement you help these clients achieve their dreams, consistent with their strengths, resources, priorities, abilities, and capabilities.

Employment is a powerful outcome. This means being satisfied with nothing less than ensuring that your clients enter or retain full-time or, if appropriate part-time competitive employment in the integrated labor market, including supportive employment.

Aim high. Challenge your staff to achieve meaningful employment outcomes. Insist on high expectations. Expand your staff's conception of what is achievable. And never lose sight of the prize—employment.

Some of you are saying to yourself, "Sounds good to me, but what about the waiting lists of people who I can't serve because of a lack of federal resources."

I want to be honest with you. Each year, I fight for significant increases for this program. Each year I secure increases that are substantially more than proposed by the Executive branch and by the other body.

I commit to you my continuing support for this program; but you need to help me. You need to get the other body to include in its appropriation bill more than the minimum required by law; you need to work with the Administration to get them to propose more than the minimum required by law. I can't succeed without your help.

In closing, I urge you to continue your efforts to maximize each client's potential. Let's transform yesterday's impossibilities into tomorrow's employment realities for people with disabilities.●

ORDERS FOR MONDAY, JULY 11, 1994

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 1 p.m., on Monday July 11; and that when the Senate reconvenes on that day, the Journal of proceedings be deemed to have been approved to date; the call of the calendar be waived, and no motions or resolutions come over under the rule; that the morning hour be deemed to have expired; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 2 p.m., with Senators permitted to speak therein for up to 10 minutes each; that at 2 p.m., Monday, the motion to proceed to S. 55 be the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL MONDAY, JULY 11, 1994, AT 1 P.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now move that the Senate stand adjourned until 1 p.m., Monday, July 11, as provided for under the provisions of House Concurrent Resolution 263.

The motion was agreed to; and at 12 midnight the Senate adjourned until Monday, July 11, 1994, at 1 p.m.

NOMINATIONS

Executive nominations received by the Senate July 1, 1994:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

GILBERT F. CASELLAS, OF PENNSYLVANIA, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 1999, VICE TONY E. GALLEGOS, TERM EXPIRING.

FEDERAL MARITIME COMMISSION

HAROLD JENNINGS CREEL, JR., OF VIRGINIA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 1999, VICE DONALD ROBERT QUARTEL, JR., RESIGNED.

DELMOND J.H. WON, OF HAWAII, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 1997, VICE FRANCIS J. IVANCIE, TERM EXPIRED.

NATIONAL TRANSPORTATION SAFETY BOARD

SUSAN BERLA PERRY, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR THE TERM EXPIRING DECEMBER 31, 1998, VICE SUSAN M. COUGHLIN, RESIGNED.

FEDERAL EMERGENCY MANAGEMENT AGENCY

HARVEY G. RYLAND, OF FLORIDA, TO BE DEPUTY DIRECTOR OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY, VICE JERRY D. JENNINGS, RESIGNED.

DEPARTMENT OF JUSTICE

DENNIS H. BLOME, OF IOWA, TO BE U.S. MARSHAL FOR THE NORTHERN DISTRICT OF IOWA FOR THE TERM OF 4 YEARS VICE JAMES P. JONKER.

DANIEL C. DOTSON, OF UTAH, TO BE U.S. MARSHAL FOR THE DISTRICT OF UTAH FOR THE TERM OF 4 YEARS, VICE EUGENE H. DAVIS, TERM EXPIRED.

DEPARTMENT OF THE TREASURY

STUART L. BROWN, OF MARYLAND, TO BE AN ASSISTANT GENERAL COUNSEL IN THE DEPARTMENT OF THE TREASURY (CHIEF COUNSEL FOR THE INTERNAL REVENUE SERVICE), VICE ABRAHAM N.M. SHASHY, JR., RESIGNED.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be admiral

VICE ADM. RICHARD C. MACKE, [redacted] U.S. NAVY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be vice admiral

VICE ADM. MICHAEL P. KALLERES [redacted] U.S. NAVY.

IN THE MARINE CORPS

THE FOLLOWING-NAMED NAVAL ACADEMY GRADUATES TO BE APPOINTED PERMANENT SECOND LIEUTENANTS IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

NAVAL ACADEMY GRADUATES

To be second lieutenants

NED M. BEIHL
CHARLES C. COX
GARY M. DEVINGER
SCOTT C. HURT
ERNEST E. ROBINSON

CONFIRMATIONS

Executive nominations confirmed by the Senate June 30, 1994:

FEDERAL ELECTION COMMISSION

LEE ANN ELLIOTT, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 1999.

DANNY LEE MCDONALD, OF OKLAHOMA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 1999.

DEPARTMENT OF STATE

DAVID M. RANSOM, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICAN TO THE STATE OF BAHRAIN.

JOSEPH EDWARD LAKE, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ALBANIA.

RONALD E. NEUMANN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DEMOCRATIC AND POPULAR REPUBLIC OF ALGERIA.

MARY ANN CASEY, OF COLORADO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TUNISIA.

RAYMOND EDWIN MABUS, JR., MISSISSIPPI, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF SAUDI ARABIA.

GEORGE CHARLES BRUNO, OF NEW HAMPSHIRE, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BELIZE.

ELIZABETH FRAWLEY BAGLEY, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PORTUGAL.

BRIAN J. DONNELLY, OF MASSACHUSETTS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO TRINIDAD AND TOBAGO.

CLAY CONSTANTINOU, OF NEW JERSEY, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO LUXEMBOURG.

INTER-AMERICAN FOUNDATION

MARIA OTERO, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 1994.

MARIA OTERO, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 2000.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

MICHAEL MAREK, OF ILLINOIS, TO BE UNITED STATES ALTERNATE EXECUTIVE DIRECTOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF TWO YEARS,

AFRICAN DEVELOPMENT FOUNDATION

ERNEST GIDEON GREEN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 22, 1995,

DEPARTMENT OF THE TREASURY

RONALD K. NOBLE, OF NEW YORK, TO BE UNDER SECRETARY OF THE TREASURY FOR ENFORCEMENT.

DEPARTMENT OF LABOR

CYNTHIA A. METZLER, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF LABOR.

DEPARTMENT OF EDUCATION

FREDRIC K. SCHROEDER, OF NEW MEXICO, TO BE COMMISSIONER OF THE REHABILITATION SERVICES ADMINISTRATION, DEPARTMENT OF EDUCATION,

NATIONAL SCIENCE FOUNDATION

ANNE C. PETERSEN, OF MINNESOTA, TO BE DEPUTY DIRECTOR OF THE NATIONAL SCIENCE FOUNDATION,

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

JUDITH O. RUBIN, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 1998,

COLLEEN JENNINGS-ROGGENSACK, OF ARIZONA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 1996,

RACHEL WORBY, OF WEST VIRGINIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 1998,

JOHN HAUGHTON D'ARMS, OF MICHIGAN, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2000,

DARRYL J. GLESS, OF NORTH CAROLINA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 1998,

RAMON A. GUTIERREZ, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2000,

CHARLES PATRICK HENRY, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2000.

THOMAS CLEVELAND HOLT, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR THE REMAINDER OF THE TERM EXPIRING JANUARY 26, 1998.

MARTHA CONGLETON HOWELL, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2000.

NICOLAS KANELLOS, OF TEXAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2000.

BEV LINDSEY, OF ARKANSAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2000.

ROBERT I. ROTBERG, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2000.

HAROLD K. SKRAMSTAD, OF MICHIGAN, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2000.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING ARTHUR F. SALVATERRA, AND ENDING BRUCE T. MULLER, M.D., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 24, 1994.

WITHDRAWALS

Executive messages transmitted by the President to the Senate on July 1, 1994, withdrawing from further Senate consideration the following nominations:

U.S. NAVY

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601, WHICH WAS FORWARDED ON APRIL 21, 1994:

To be admiral

ADM. STANLEY R. ARTHUR, U.S. NAVY [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTIONS 601 AND 5035, WHICH WAS FORWARDED ON MAY 3, 1994:

To be vice chief of naval operations

VICE ADM. RICHARD C. MACKE, U.S. NAVY [redacted]

SENATE—*Monday, July 11, 1994*

The Senate met at 1 p.m., and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The Senate will be led in prayer by the Senate Chaplain, the Reverend Dr. Richard C. Halverson.

Dr. Halverson.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *the powers that be are ordained of God.*—Romans 13:1.

Living Father, revive the Senate. Infuse it with new life. Dissolve the frustration, the disappointment, the disenchantment.

Ignite the fire that burned in the Senators' hearts when first they convinced the people to send them here. Restore the faith, the sense of purpose, the enthusiasm, the dream, the vision.

Mighty God, from whom comes all authority, the world waits for the Senate to be the powerful, intelligent, deliberative, legislative leaders so desperately needed today in the Nation and the world. Let it be true, dear Lord. Let it be true.

In Jesus' name. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Also under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 2 o'clock p.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

No Senator seeks recognition.

The Chair, in his capacity as a Senator from the State of West Virginia, notes the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator is recognized for not to exceed 5 minutes.

Mr. COVERDELL. Mr. President, I ask unanimous consent to speak for 10 minutes.

The PRESIDENT pro tempore. Is there objection? Hearing no objection, the Senator from Georgia is recognized for not to exceed 10 minutes.

THE FLOODS IN GEORGIA

Mr. COVERDELL. Mr. President, I have just returned from my flood-ravaged State. I suspect that anybody who has ever witnessed such a national disaster of these proportions cannot but be terribly affected in grieving for the ache being experienced and felt by so many of our fellow citizens.

In particular, I know everybody in our country joins me in offering sympathy to those families who have lost loved ones and those that will lose members of their family in these tragic circumstances we are confronted with in our region of the State.

I would like to take just a moment to thank my colleagues, in particular, from South Carolina and Florida and the midwestern Senators who have called to express their concern and worry about the citizens of my State and region. I want to thank the President for being so prompt in declaring a national disaster and emergency in Georgia.

I also want to take just a moment to thank the many heroes and heroines that none of us will ever know—the person that reached out and grabbed one person about to be lost in the marauding waters; the individuals, nameless, that showed up to fill sandbags to protect a critical water plant, a key facility in one of the many jurisdictions that have been so ravaged by these floods; and, as most would appreciate, that unique American quality, that neighbor-to-neighbor value of our countrymen that causes them to appear from nowhere to help another neighbor in trouble.

It is happening throughout our region—thousands upon thousands of people that have stepped forward with no call, no call to arms, on their own, there at the water's edge, trying to help those that have been so severely harmed by this disaster.

I think it worthy of noting the scope of the damage. Georgia is the largest State east of the Mississippi and nearly one-third of her land mass has been directly affected by these floods. It is just hard to imagine 2 feet of water dropping from the skies in a 24-hour period. We have at latest count around 2,000 roads that have been severed by the flood; 100 Federal highways; Interstates I–75 and I–16, vital links north and south for our entire Nation, have been ravaged and severed by the force of these unpredicted waters.

Currently, somewhere between 40,000 and 50,000 people have been evacuated and are living in temporary shelters. One out of four Georgians has been affected by the flood itself. I have just had a report come to me that in Albany, which is one of the many affected cities, 23 square miles are now under water, 22,800 people have been directly impacted and 8,500 homes are in flood waters.

As you travel and look down across these bleak rooftops, I think everybody can empathize to think of all the personal letters, the home effects that are cherished and gathered over the years of a family's life. To see it all washed away just deepens the ache that we know these people are experiencing.

I am convinced from my review of the area that we are going to be confronted with—I know this is of particular interest to the President pro tempore—a need for supplemental appropriations. I think that is almost indisputable as we look at the growing value of the losses. The number I have heard offered as a preliminary number is in the range of $200 million. I personally think it will be double that. Of course our sympathy goes out to the States in the West that are experiencing another kind of disaster with the fires ravaging in Colorado and California. I am convinced the national disaster list of 31 counties in our State will grow by at least another 5 to 10 counties before we are through with the assessment.

As difficult as the last few days have been—and they have been exceedingly difficult—unfortunately we have to look at local officials or involved citizens and say to them this is just the beginning. Not many have thought about what happens to those in the shelters when the water goes down, when you go to the home that is pushed off its foundation, the soybean crop that has been under water for 5 days, mud-filled homes, businesses closed, cash registers that have been shut down for weeks, the loss of the water system, the loss of the sewer system, an inability to provide the basic necessities of human life. The buildback is going to be a long and arduous one. It is going to require the patience of those directly involved.

But more important, it is going to call for unprecedented coordination among Federal officials. Again, I want to compliment the Director of the Federal Emergency Management Agency and all Federal agencies and the executive branch for their attention to this disaster. They have worked well with our Governor's office and local officials. But now comes the long period I have alluded to. We will have many sister counties and sister States that will offer support: Clothing, personal effects, housing, trucks, earth-moving equipment. But that is going to require enormous coordination. I have dedicated my office and all our energies to working with Federal and State officials to be a participant in facilitating coordination, making sure the will of the country—which is so enormous and so encouraging—is not lost, as it tries to move to be of assistance to these citizens.

Already we can see the signs of strain—strain because we are dealing with public officials who have not slept in 72 hours. We are dealing with a rush of offers of good will and support which can overrun the capacity of those with the best intentions, trying to deal with this major disaster.

So I call on the President, call on the Federal agencies: Agriculture, IRS, HUD, the Small Business Administration—to make every effort to be prepared for the long haul, this long build-out period. And I call on local officials and all of our Federal delegation to do the same. We should be as one because this problem is so severe, affecting so many lives and futures. This is the time for the ultimate form of neighbor-to-neighbor work in coordination.

In closing, Mr. President, let me simply again thank all of my colleagues who have expressed sympathy, all the local officials, and again the unsung heroes and heroines who have done so much to reduce what would have been far, far worse without this neighborly support.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The question of a quorum having been noted, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Missouri [Mr. BOND], is recognized for not to exceed 5 minutes.

HEALTH CARE REFORM

Mr. BOND. Mr. President, a Boy Scout leader approached an elderly lady who had just been helped across the street by one of his Scouts, so the story goes. When the Scout leader inquired if the Scout had rendered good and courteous service, the lady replied: "He was very nice, but I did not want to cross the street."

In the battle over health care reform, I have been an advocate of achieving universal coverage by requiring every citizen to take responsibility for their health care coverage, either obtained at work, through a Government program, or by the individual's purchase of a health care policy assisted by tax credits and/or deductions. In fact, an individual requirement lies at the heart of the Clinton health reform package. Every individual would have to have health care coverage for which the individual would be responsible for at least a portion, or the individual, if not employed, would have to purchase the health care policy themselves.

The so-called employer mandate alone in the Clinton plan does not achieve universal coverage without the requirement that the individual participate and, if self-employed, buy that coverage for himself or herself and the family.

The employer mandate is simply a thinly disguised way of hiding health care costs by imposing what amounts to a payroll tax on employees, and that, in my view, would significantly curtail job creation and cost millions of jobs.

As I have traveled around my State of Missouri in recent weeks, I have heard more and more people telling me that while they want to fix what is wrong with health care, they also do not want to be told by Government that they have to purchase a certain package of health care insurance. In effect, they are saying that we do not want to cross that street, as the lady told the Scoutmaster.

There are three basic reasons why universal health care coverage, or significantly increased health care coverage, is very desirable.

First, much human suffering could be alleviated, lost time avoided and health care costs reduced if everyone received regular, primary, and preventive health care. When people do not have health care, they too often wait until late stages of an illness to seek health care, often in an expensive emergency room and have to have much more costly treatments which may or may not be effective.

Much of that problem can be solved by eliminating the tax inequities which discourage and penalize farmers, ranchers, other self-employed people and employees who do not receive health care coverage at work from obtaining their own coverage.

In addition, under the Chafee health plan, the HEART proposal which I helped draft, and most of the other plans, low-income individuals would be provided with subsidies to enable them to purchase health care coverage.

A recent study by Lewin-VHI suggested that a system of tax equality and low-income assistance could achieve coverage for significantly over 90 percent of Americans even without a mandate. For those initially who do not choose to receive health care, education, effective public advocacy and economic incentives can significantly raise the level of coverage under a voluntary system.

The second problem with a lack of universal coverage when it is accompanied by insurance market reform, such as most plans now before us include, is what is referred to as adverse risk selection. Most proposals before Congress would eliminate the ability of health care insurers or other providers to refuse to cover preexisting illnesses and to discriminate against those who are sick. If a person could wait until he was very sick to purchase insurance on his way to the hospital, then the cost of insurance could be driven further out of reach of many citizens who would be faced with the high premiums for health insurance policies purchased only by sick people.

This adverse risk selection can be dealt with by limiting the coverage of preexisting conditions to allow insurance companies to impose a waiting period to cover preexisting illnesses for people who have chosen not to purchase insurance. Under that provision, there would be less an incentive to delay the purchase of insurance until illness strikes.

A third frequently cited problem with a lack of universal coverage is the phenomenon of cost shifting. When a hospital, a physician or other health care provider provides basic care to people who cannot or will not pay, these costs have to be shifted onto the bills of the middle-class patients and others who pay their bills personally or through health insurance.

Some estimates indicate that as high as 30 percent of health insurance premiums or other health care charges on paying customers are imposed to pay for the uncompensated care given to those who have inadequate coverage or no coverage at all.

One of the greatest villains in this piece is the Federal Government. Under pressure from Congress to save on health care costs, arbitrary price controls have been placed on the amount reimbursed for patients under Medicare and Medicaid. We do that when we ratchet down the payments made for Medicare and Medicaid patients.

As a result of the underpayment by the Federal Government, ratcheting down the reimbursement for Medicare and Medicaid, which amounts to about $15 billion a year in cost shifting and the uncompensated care that must be provided by the health care system, charges for private patients are about 130 percent of their costs in most areas of the country.

It seems to me that if the Federal Government makes fully deductible the cost of a reasonable health insurance policy, provides a 100-percent subsidy for health care premiums for those at the poverty level and below, and declining subsidies with those just above the poverty level, the health care consumers and providers would be in a better position to protect themselves against uncompensated care. If an impoverished patient seeks health care and has no coverage, then the health care provider could require that he or she apply for the subsidies available to participate in a health care program. For those who have ample resources but have not chosen to purchase health care, the health care provider could insist prior to providing such care, other than an emergency setting, that the patient must make arrangements to pay for the health care charges. Under a system with full tax deductibility plus subsidies, the likelihood of uncompensated care and its amount should be substantially reduced.

Apparently my colleagues in this body and in the House are hearing similar complaints from constituents who do not want to be faced with a Government directive saying that they must purchase health care. That is why the Senate Finance Committee has come forward with a bipartisan compromise that provides for Federal assistance but no requirement that people purchase health care policies. It seems to me that there are not the votes to impose individual mandates in this body, as I have talked with colleagues and I have listened to their comments on the floor.

Another way, of course, to provide universal coverage is to have the Government provide health care for everybody. I do not believe that there is anywhere near a majority for that, and even that Government-provided health care does not ensure that it will be utilized by those who need it.

We have seen the shocking statistics of the large number of children under 2 in this country who have not had their recommended immunizations. In my State in our two largest cities, only 50 percent and 30 percent of infants have been fully immunized. Thus, 50 percent and 70 percent of infants have not been fully immunized, even though vaccines are widely available through Medicaid and public health departments for parents who could not afford to buy them. The failure to obtain immunizations strongly indicates that these infants are also not receiving the vitally important well-baby preventive care that should be among the highest priority preventive programs that we have.

A pediatrician who practices in rural Missouri tells me that his office must triple book Medicaid patients. That is, book three Medicaid patients for children at each given hour because roughly two out of the three Medicaid-recipient parents who make appointments do not show up.

Senator DALE BUMPERS of Arkansas introduced an amendment to cut welfare payments—AFDC—to parents who fail to immunize their children. Although the amendment was overwhelmingly adopted in this body, it never made it out of the House-Senate conference.

A bipartisan welfare reform measure, S. 2009, which I have introduced with Senator TOM HARKIN, would require AFDC recipients to sign family responsibility agreements obligating them to obtain health care including immunizations for their children. Failure to sign the agreement or to comply with its provisions would lead to a reduction and ultimately termination of AFDC payments.

In my view, we can correct many of the things that are wrong in health care without damaging the health care system, as I believe the Clinton plan or the plan reported out of the Senate Labor Committee would do. I believe that a significant majority in this body can be mustered for a health care proposal that does take the necessary steps of reforming the insurance market, providing for fair tax treatment, offering subsidies for low-income people, setting standards for electronic filing, processing of health care claims to reduce administrative costs, lessening the cost of malpractice litigation, and reducing defensive medicine.

If we are willing to recognize the realities of health care and listen to the people we represent, I am convinced Congress can pass health care reform that will remedy the flaws in the current system. This can be done without destroying the benefits we receive from having a high-quality health care system that is run by the private sector.

I look forward to working with my colleagues in this body and, we hope, ultimately in the House, to achieve a workable compromise that achieves what is needed in health care and does not fix that which is not broken.

I thank the Chair.

TRAGEDY IN COLORADO

Mr. CRAIG. Mr. President, I am terribly saddened by the wildfire tragedy near Glenwood Springs, CO, which took the lives of 14 firefighters last week. My deepest sympathies go out to the families and friends of all who were lost.

Two of these, Jim Thrash and Roger Roth, were experienced smokejumpers who were dispatched to the fire from our smokejumper base at McCall, ID. Jim had jumped out of McCall for 15 seasons, and Roger for 3. Both were highly regarded for their knowledge and skill as firefighters. Coworkers at the McCall Smokejumper Base and the community at large mourn their loss.

This tragedy strikes me personally, as I knew Jim Thrash in his capacity as president of the Idaho Outfitters and Guides Association. Jim and his wife Holly established their own hunting guide business in 1983, and they have been active in the organization through the years. I have met with both Jim and Holly on issues related to the management of natural resources in Idaho. Their advice has been very helpful to me.

Jim's 14-year commitment to his Forest Service career, his professional leadership and his devotion to family are commendable. His accomplishments will continue to benefit the community and all those who knew him.

My thoughts will be with him and his family as well.

Mr. President, I am submitting a memorial to Jim. I ask unanimous consent it be printed in the RECORD.

There being no objection, the memorial was ordered to be printed in the RECORD, as follows:

JIM THRASH (1949–1994)

Idaho Outfitters and Guides Association (IOGA) President Jim Thrash was one of at least a dozen firefighters killed while fighting fire near Glenwood Springs, Colorado on Wednesday, July 6. Apparently, Jim was caught when flames, fanned by a sudden shift in winds, jumped the fire line that was being established. The fire was moving at a rate that did not allow some of the firefighters time to deploy their fire shelters. Details on the tragedy are still being pieced together.

Jim has been a Forest Service smoke jumper based out of McCall, Idaho for the past 14 summers with 213 career jumps. In 1985, Jim and Holly purchased and began a hunting business on the Payette National Forest. Their business later expanded to include a whitetail deer clientele on the Nez Perce National Forest. Jim was also one of Idaho's most respected bighorn sheep outfitters.

Jim wasted no time in becoming involved in IOGA (1983) and quickly established himself as a good listener and reasoned voice. Beginning in 1988, Jim served two terms as a Board of Director, was elected Vice President in 1992 and became President in 1993.

Jim personified volunteerism and leadership within the Association and believed strongly in the diversity of IOGA. He worked behind the scenes to encourage the membership to serve on a committee, seek an elected position or pursue a nomination to the Licensing Board. He was consistently proactive and a savvy negotiator regarding issues and concerns at the state and national levels. Jim was a champion of IOGA's Code of Ethics. He was a thoughtful and articulate leader for the industry at the Legislature, in Fish and Game matters, and in his role as chairman of the Wilderness Committee, Jim also was IOGA's chief spokesman in the ongoing effort to monitor and work with the Idaho Outfitters and Guides Licensing Board. Active with national wildlife conservation organizations, he was recently chosen by his peers to be the chairman of the Foundation for North American Wild Sheep outfitter advisory board.

Like all outfitters and guides, he was at home in the backcountry. He practiced what he preached when it came to responsible, shared use of our public lands and waters. He knew, understood and respected the role of fire in the ecosystem. Needless to say, his leadership will be sorely missed.

Jim was a very devoted husband and father. Like many outfitter spouses, Holly shared the day-to-day duties of running Salmon Meadows Lodge-Warren Outfitters and providing quality service. Jim leaves two children a ten year old daughter, Ginny, and seven year old son, Nathan. Jim's parents were visiting the family at their home near New Meadows at the time of the tragedy. Jim is also survived by a sister, Loretta Beecher.

Decisions on IOGA tributes, memorials and remembrances are pending. Holly asks that

Jim's many friends and acquaintances in the outfitting world contact the IOGA office (208/342-1438) for additional information.

LEGITIMIZING KIM IL-SONG

Mr. DOLE. Mr. President, last Saturday upon hearing of the death of North Korea's President Kim Il-song, President Clinton offered condolences to the North Koreans on behalf of the American people. By personally offering friendly condolences on behalf of the American people and failing to mention the criminal history of Kim Il-song's dictatorship, President Clinton helped to lend legitimacy to the North Korean regime.

Let us not forget, Kim Il-song was not just the leader of another country. He was the dictator of one of the most evil and repressive regimes of this century—a regime opposed to every value and principle our great Nation stands for; a regime hostile to any notion of human rights; a regime that has threatened our friends, the South Koreans, and our interests in the region for decades.

Historically Kim Il-song is in the same league as Joseph Stalin—having enslaved the North Koreans in his own brutal brand of communism. And, even though Joseph Stalin was the dictator of a country we recognized and were allied with during the Second World War, the Eisenhower administration only sent perfunctory condolences from the State Department when he died.

Finally, let us not forget that the sufferings of the American people during the Korean war: 54,000 Americans lost their lives—54,000 families lost their loved ones. Over 100,000 Americans were wounded and over 5,000 are missing.

So, it seems to me that we need to keep things in perspective. Yes, we want to see the North Korean nuclear crisis resolved. However, that does not mean that we should be insensitive to the generation of Americans who suffered as a result of the Korean war, in particular our Korean war veterans and their families. Nor should we ignore the threat posed to present and future generations by North Korea's nuclear program.

The bottom line is that Kim Il-song was a brutal dictator of a government that is neither a friend, nor an ally of the United States—a government whose policies and actions have threatened and continue to threaten U.S. security and interests.

TRIBUTE TO CAROLINE McKISSICK BELSER DIAL

Mr. THURMOND. Mr. President, established in 1801 and located in the center of my State's capital city, the University of South Carolina is one of the Southeast's oldest and most prominent educational institutions. For almost two centuries, it has educated young men and women from not only South Carolina, but from throughout the United States and the world.

The heart of the university is an area known as the Horseshoe. This is the site of the original campus and it contains a number of historic buildings that serve as dormitories, a library, and a museum. Also among these buildings is the beautifully restored president's house, where distinguished visitors to the university, including American Presidents and the Pope, have been entertained.

The woman most credited with renovating the president's house is Caroline McKissick Belser Dial, who resided in those quarters with her then husband, President J. Rion McKissick, from 1936-44. Since her days as the first lady of the university, Mrs. Dial has always been known to South Carolinians for her devotion to Carolina, and she has been one of the university's strongest supporters over the years. I am saddened to report that this fine and gracious woman passed away last week at the age of 93, and while Mrs. Dial will be greatly missed by all those who knew her, she will never be forgotten. Her contributions to the University of South Carolina have forever strengthened that institution and have benefited my State.

Mr. President, I would like to take this opportunity to extend my deepest condolences to the family and friends of Mrs. Dial; and, to request unanimous consent that a copy of an article about Mrs. Dial that appeared in a recent issue of the State newapaper be included in the RECORD following my remarks.

FORMER USC FIRST LADY, LONGTIME SUPPORTER DIES

(By Warren Bolton)

Caroline McKissick Belser Dial was a University of South Carolina Gamecock—one of the most graceful and supportive ever—until her death Wednesday at age 93, those who knew her say.

Dial is credited with transforming the University of South Carolina's president's house into a showplace for entertaining dignitaries and other visitors while she was the wife of the late J. Rion McKissick. McKissick served as USC president from 1936 until his death in 1944.

Even after McKissick's death, Dial, known as "Miss Caroline," continued to show her ardent love and support for the university and was considered one of its most gracious benefactors.

"She was somebody who was literally involved with the university all of her life up until the time of her passing," USC Vice Provost George Terry said. "She was a constant benefactor and supporter of the institution."

Born in Sumter on July 15, 1900, Dial was the daughter of late George William and Caroline Hutchison Dick. After McKissick's death, she married Irvine Belser. In 1976, she married George Louis Dial.

A memorial service will be held at 3 p.m. Sunday at Rutledge Chapel at USC.

As the wife of USC's president, Dial had a flair and polish that impressed students and visitors when they came to the campus, said Daniel W. Hollis, professor emeritus at the university and Dial's son-in-law.

He recalls being awestruck as a freshman in 1938.

"She was a very strikingly handsome lady, dressed beautifully. She radiated style and class, particularly for us bushers from the boondocks," Hollis said. "She was very popular with the students. We were all charmed by her."

Dial, an outgoing woman, decorated the president's home and added the president's rose garden to the grounds. Many of the functions held at the president's house today were started by Dial, Hollis said.

"She was the first president's wife to open up the house and make it the center of entertaining and welcomed students and alumni in," Hollis said. "She just opened up a new dimension of the president's house."

Dial served the university and the public diligently, Terry and Hollis said.

In addition to making an untold number of visits to the university to attend meetings and other functions, Dial also made frequent stops at the South Caroliniana and Thomas Cooper libraries to view her extensive gamecock collections.

She collected everything from ceramics to photos, "literally anything with the picture of a gamecock," Terry said. "She had probably more gamecocks, more different type gamecocks, than any person on the face of the earth."

The hood ornament of her car was a gamecock.

Dial served on many boards at the university, Terry said. She also was a leader in civic affairs around the state.

Dial was chairwoman emeritus of the Board of Visitors at her death. It was a position she held for decades. She was the last living member of the founders of the South Caroliniana Society. She funded a chair in the USC history department.

In 1947, she organized Palmetto Girl's State in South Carolina on USC's campus, which introduces high school seniors to public office.

She was honored as a Distinguished USC Alumnus and awarded an honorary doctor of laws degree from USC. In 1984, the McKissick Library was rededicated as the McKissick Museum in her honor to include her with J. Rion McKissick in recognition of her contributions to the school.

Dial, of 15 Heathwood Circle, graduated from Winthrop College in 1921 and taught at several schools in North Carolina and South Carolina.

Surviving are stepsons, George Louis Dial Jr., and Irvine F. Belser Jr.; stepdaughters, May Belser Douglass, Anne Belser Boas, Catherine Belser Barnhardt, Harriet Belser Deas, Peggy Belser Hollis and Mildred Belser Reid; nieces and nephews.

TRIBUTE TO JAMES L. ISENOGLE

Mr. JOHNSTON. Mr. President, on July 2, 1994, this country lost one of its best public servants and a great man. From 1957 until his retirement in 1987 James L. Isenogle served the United States as an officer of the National Park Service. His legacy, however, will continue to serve the Park Service, Louisiana, and this Nation for many years to come.

Jim Isenogle was the first superintendent of the Jean Lafitte National

Historical Park and Preserve in Louisiana. It was in large part thanks to Jim that so many historically and biologically rich areas of Louisiana are being preserved and maintained for future generations. The Lafitte Park complex includes not only the Barataria wetlands south of New Orleans, but also the Chalmette battlefield and a string of institutions celebrating the cultures of the Acadians, Italians, Germans, Spanish, and native Americans who settled in south Louisiana and added diversity to what can be called the Louisiana Culture Gumbo.

We were very fortunate to have had Jim Isenogle's talent, vision, patience, and commitment for a time. It was because of Jim's extraordinary capability that the Jean Lafitte Park truly is as the New York Times once described it "America's most unique park."

He cared deeply about the land, but he also cared deeply about people. Jim worked hard to give them dignity and recognition and to include everyone in the park, which he firmly believed was truly for the people.

In beginning to establish the Jean Lafitte Park, many would have concentrated on natural resource protection alone; that would have been a legacy by itself. But from the beginning, Jim aggressively led the effort to implement immediately the mandate in the legislation to include cultural interpretation in the park. Through Jim's insight, the first cooperative agreement was signed to establish the Islenos Unit in St. Bernard Parish. This unit not only tells the story of, but also celebrates the many contributions of the too often forgotten Canary Islanders to Louisiana's cultural, economic, and political development. Jim reached out to them, and found a way to include them in the park and in the history of the area.

Jim reached out to others as well. He began a Black History Month Program in 1982—long before such programs were expected—and established a contact point in Armstrong Park to begin a dialog which has helped lay the foundation for what we hope will be a new park celebrating jazz in New Orleans. One of the first posters he commissioned was of George "Big Chief Jolly" Landry, head of the Wild Tchopitoulas Mardi Gras Indian Tribe, forging the way for a farsighted and sensitive cultural interpretation program.

With Jim's help and leadership, the foundation was also laid for the development of the three Acadian cultural centers in Eunice, Lafayette, and Thibodaux. In his life of full service he also made great contributions in Pennsylvania, Utah, and Colorado, and he participated in studies for parks including sites in Florida and Alaska. Jim was recognized for his great contributions by the Park Service with two commendations and by the Department of the Interior with the Meritorious Service Award.

James Isenogle has left us a great legacy and a great challenge. He created the vision for the Jean Lafitte National Historical Park and Preserve; it is up to us to see that we implement and continue to develop it to keep this vision alive. He will be truly missed.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty and responsibility of Congress to control Federal spending. Congress has failed miserably in that task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,618,832,031,822.90 as of the close of business Friday, July 8. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $17,716.29.

THE BLACK CRIME GAP

Mr. DOLE. Mr. President, freedom from crime is the most important civil rights issue for the 1990's.

In an article appearing in today's Wall Street Journal, Prof. John Diiulio, Jr., points out that while the "poverty gap between blacks and whites may be shrinking, the crime gap is growing." According to Professor Diiulio, in 1992 the violent-crime victimization rate for blacks was the highest ever recorded. Blacks suffer disproportionately at the hands of parolees who have slipped through the revolving prison door—legally—only to commit more violence and destroy more lives.

No doubt about it, white racism still persists in America. Our criminal justice system is not perfect. Unfortunately, justice is not always meted out in a colorblind fashion, as it should be. But whatever these shortcomings may be, they pale in importance when matched against the carnage inflicted on the black community by violent crime each year. Fighting crime is, and should be, our No. 1 civil rights priority.

Mr. President, I ask unanimous consent that the article by Professor Diiulio be reprinted in the RECORD immediately after my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, July 11, 1994]

THE BLACK CRIME GAP

(By John J. DiIulio, Jr.)

The poverty gap between blacks and whites may be shrinking, but the crime gap is growing. No group of Americans is more devastated by crime than black inner-city citizens and their children. No wonder black urban residents overwhelmingly cite crime as the single biggest problem in their neighborhoods.

In 1992, the violent-crime victimization rate for blacks was the highest ever recorded. Some 113 out of 1,000 black teenage males were victims of violent crimes. This compared with 95 for black teenage females, 90 for white teenage males and 55 for white teenage females. The rate was 80 for young (age 20–34) black men, compared with 52 for young white men. And the rate was 35 for adult (age 35–64) black males vs. 18 for adult white males. The chances that a black male teenager would be victimized by violent crime were 6.2 times that of a white adult male, 7.5 times that of a white adult female, 18.8 times that of an elderly white male and 37.6 times that of an elderly white female.

Black residents of cities are most at risk. From 1987 to 1989, the average rate of violent-crime victimization among city residents was 92% higher than among rural residents, and 56% higher than among suburban residents. In 1992 the rate at which black males in central cities experienced violent crimes was 2.5 times the rate at which nonmetropolitan white males experienced them. Even within central-city populations, the rate at which black males experienced violent crimes was 53% higher than the rate for white males (up from 31% higher in 1989).

CRIMINAL DATA

Now let's look at the data about those who commit crimes.

Statistics show that the vast majority of violent crime is intraracial. About 84% of violent crimes committed by blacks are committed against blacks, while 73% of violent crimes committed by whites are committed against whites.

In 1991 black youths were arrested for weapons-law violations at a rate triple that of white youths. In the same year, the violent-crime arrest rate for black youths was five times higher than that of white youths (1,456 vs. 283 per 100,000). From 1976 to 1991, the murder rate among white youths was stable at two to three per 100,000. Between 1976 and 1986 the murder rate for black youths fluctuated between around seven and 10, then rose steadily to about 14 in 1988, 18 in 1990 and 20 in 1991.

The tragedy of thousands of black youths killed by black youths might be expected to concentrate hearts and minds on the question of how to stop the violence. Instead, this national tragedy has been trivialized by those who spout errant nonsense about racial disparities in the justice system.

In fact, once one controls for such characteristics as the offender's criminal history or whether an eyewitness to the crime was present, racial disparities melt away. To cite a typical example, a 1991 study of adult robbery and burglary defendants in 14 large urban jurisdictions found that a defendant's race or ethnic group bore almost no relation to conviction rates or other key outcome measures.

In 1980, 46.6% of state prisoners and 34.4% of federal prisoners were black. As the prison population increased during the 1980s, the percentage of blacks changed little. By 1990 48.9% of state prisoners and 31.4% of federal prisoners were black. Compared with white prisoners of the same age, black prisoners are more likely to have committed crimes of violence. In 1988 the median time served in confinement by violent offenders was 24 months for whites vs. 25 months for blacks. For crimes of violence, the mean sentence for whites was 110 months vs. 116 months for blacks, while the mean time in confinement differed by only four months (33 months for whites vs. 37 months for blacks).

At the federal level, a 1993 study showed that the imposition from 1986 to 1990 of stiffer penalties for drug offenders, especially crack cocaine traffickers, did not result in racially disparate sentences. The amount of the drug sold, the offenders' prior criminal records, whether weapons were involved, and other characteristics that federal law and sentencing guidelines establish as valid considerations accounted for all the observed variation in sentencing.

In short, the best available evidence indicates that race is not a significant variable in determining whether a criminal is arrested, sentenced to probation or prison, or given a long or short term.

Of course, American justice is not yet fully color-blind. But rather than celebrate our progress in approximating this ideal, some prefer to focus attention on whatever evidence of racial disparities they can muster.

For example, there are hundreds of post-1969 studies of minorities in the juvenile justice system. Barely two dozen, however, actually offer evidence of any overall pattern of racial discrimination. But based on an interpretation of 46 of 250 of these studies, a much-cited "research summary" published by the federal Office of Juvenile Justice and Delinquency Prevention last December asserted that there was "substantial" evidence of racial discrimination against minority juvenile offenders. This report was drafted in October 1989, peer reviews were ready in February 1991 and the report itself was not published until December 1993. But the report's postscript states that because of "time pressures" and "numerous requests for the final document," OJJDP "decided not to update the research" or "make any major substantive changes." Congressional overseers should see to it that OJJDP, a bureaucratic bastion of sociological cant on crime that has enjoyed large budgetary increases under Attorney General Janet Reno, straightens house.

There is also some evidence that blacks who kill whites are more likely to be sentenced to death than blacks who kill blacks. This is the focus of the Racial Justice Act, which some House Democrats have made the perverse price of their support for the proposed crime bill. But most of the evidence centers on pre-1972 rural Southern jurisdictions; it is hardly conclusive.

The black crime gap is real, not rhetorical or racist, and black Americans' rising fear of crime at a time of declining crime rates nationwide must be addressed. There are at least three things that government can do.

First, give low-income people vouchers so they can protect their homes against crime. The private foundations that have spent tens of millions of dollars to analyze inner-city problems have never spent a penny on such mundane things as deadbolt locks for public-housing residents or private security for public housing complexes. Uncle Sam should also lend a hand in erecting gates on crime-plagued inner city streets, automatically evicting drug dealers from public housing, installing metal detectors in public schools and cutting aid to cities that don't zone away liquor stores in areas where they serve as magnets of crime and disorder.

Second, redirect existing police personnel to high-crime neighborhoods, add new police manpower and target it on the same neighborhoods, and empower police to work with law-abiding residents and community leaders, aggressively check disorders (vagrancy, graffiti, public drunkenness, aggressive panhandling) that are associated with crime and citizens' fear of crime, and last but not least, arrest the bad guys, charging them to the full extent of the law.

Third, follow through with truth-in-sentencing and related measures, and start keeping track of how many citizens from which neighborhoods are victimized or murdered each year by the roughly 3.5 million probationers and parolees. The federal government can tell us how many prisoners are in various treatment programs. But it cannot tell us how many poor black children have been gunned down by plea-bargained violent criminals. Existing data are limited, but we know that about one-quarter of those arrested for murder are on probation or parole at the time of the offense. Blacks suffer disproportionately from crimes by parolees and probationers since many violent and repeat offenders call the inner city home.

A CIVIL-RIGHTS ISSUE

Inner-city crime must be understood as a civil-rights issue. The little Linda Browns of today's urban neighborhoods are being deprived of basic governmental protections and civil rights. It is a contorted conception of civil rights that requires government action against segregated schools but does not require it against violence-ridden ones. It is an empty jurisprudence that sees a civil-rights interest in enabling children to attend the local public school of their choice but sees none in enabling children to walk to school without having to dodge stray bullets or run from drug dealers.

In a speech last November to black pastors, President Clinton imagined that if the Rev. Martin Luther King Jr. could return to the pulpit today, he would say: "I fought to stop white people from being so filled with hate that they would wreak violence on black people. I did not fight for the right of black people to murder other black people with reckless action." Amen.

TRIBUTE TO DAVID J. LUCIER

Mr. CHAFEE. Mr. President, I rise today to salute David J. Lucier, a certified public accountant who was recently honored by the Small Business Administration as the 1994 Rhode Island Small Business Accountant Advocate of the year.

After gaining experience in several Rhode Island C.P.A. firms and a large jewelry manufacturer, Mr. Lucier started his own accounting firm. Today, this firm provides accounting and business consulting services to small and medium-sized businesses including manufacturing, retailing, and construction.

The success of Mr. Lucier's firm is, without a doubt, a result of his personal interest in his clients' success and his understanding of the issues facing small businesses in today's world. Mr. Lucier also works as a consultant for the Small Business Development Center, providing accounting management, and marketing assistance to struggling small businesses.

Presently, he is serving as the honorary chairman of the business advisory group of the Providence Chamber of Commerce and vice president and director of the North Central Chamber of Commerce in Rhode Island.

Mr. President, David Lucier is an outstanding member of Rhode Island's business community. I ask my colleagues to join me in congratulating him on receiving the 1994 Rhode Island Small Business Accountant Advocate Award.

TRIBUTE TO RUTH ANN MYERS

Mr. DECONCINI. Mr. President, I rise to pay tribute to Ruth Anne Myers for her 32 years of Federal service with the Immigration and Naturalization Service [INS]. Ms. Myers is to be commended for her many accomplishments throughout her career, including her most recent achievements in Arizona during her tenure as District Director of the INS in Phoenix.

Prior to coming to Arizona, Ms. Myers accumulated a distinguished record of service to the INS in a number of capacities throughout the world. Among her many accomplishments, I would like to particularly recognize Ms. Myers' participation in the 1962 Cuban Bay of Pigs prisoner exchange, in the 1975 Operation Babylift of Vietnamese orphans, in 1981 representing the INS with the U.N. High Commission for Refugees in Africa, and in 1982 with Cambodian refugee processing. Ms. Myers also served in administrative capacities in 1986 in Minnesota and 1990 in Texas, and was Chief of Staff for the INS Commissioner in 1988 and 1989.

During Ms. Myers' tenure as District Director in Phoenix, new INS facilities were built throughout the area, including the district office in Phoenix, the Phoenix Sky Harbor International Airport, with suboffices in Reno and Las Vegas, NV, the ports of entry at Douglas, Nogales, Sasabe, and San Luis, and service processing centers [SPC's] at Florence and Eloy. Under her direction, the Florence SPC received accreditation in 1993 by the American Correctional Association for meeting detention standards and to date holds the record for the highest score obtained by any INS facility for meeting such standards. In addition, because of Ms. Myers leadership, the Phoenix district became one of the first in the Nation to be totally computer automated, including ports of entry and all suboffices. Furthermore, Ms. Myers has been extremely visible in various community groups in Arizona and throughout the Nation to communicate a better understanding to the public of the mission of the INS and to promote a positive image.

Mr. President, Ruth Anne Myers exemplifies the very finest tradition of career Federal service. I am proud to recognize her life and accomplishments on behalf of my constituency and all Americans.

THE 75TH ANNIVERSARY OF THE DELAWARE STATE FAIR

Mr. BIDEN. Mr. President, this month we are celebrating a proud and important occasion in my State, the 75th anniversary of the Delaware State Fair.

I've had the pleasure and privilege of being an annual participant in the Delaware State Fair for more than 20 years, almost a third of its proud history. In that time, a lot has changed about our annual gathering in Harrington, with the fair's ever-increasing stature attracting more visitors and more entertainers of national and international renown each year.

Yet the foundation of the Delaware State Fair has remained very much the same. It is a foundation that has been built and maintained by people whose extraordinary personal commitment has ensured not only the fair's endurance but its success and its meaning to our State. To give you an idea of the level of dedication I'm talking about, there have been just three fair managers during my 20-plus-years association with the event. And there are many others who make a similar commitment, year in and year out, and whose efforts make everyone else's enjoyment possible, from the staff, to the board of directors and superintendents, to the exhibit area and event volunteers.

Organizations, too, like 4-H and Future Farmers of America, have made a sustained and defining contribution to the Delaware State Fair. Long before offering substance abuse prevention programs won a place among our national priorities long before there were seminars on how to combat the negative influences of today's world on our young citizens, such organizations were at work in our communities, and at the Delaware State Fair. The constancy and quality of their involvement have contributed not only to the fair's growth and appeal, but also to its value and character.

I use words like "character," "value," and "meaning" in describing the Delaware State Fair, because this anniversary represents more than the 75th recurrence of a successful and enjoyable public event. It represents the endurance of a cherished spirit, a defining sense of community. We celebrate not only what the fair is, but also how it makes us feel.

The State fair, is, truly, Delaware's annual reunion. It brings us together in celebration of the best that our State has to offer—the products of our farms, our homes, our community organizations, and our stores. It is a celebration of the talents, skills, and creativity of our citizens, a vibrant expression of why Delawareans have so much to be proud of.

It is an occasion that renews our bond to one another not only as fellow citizens but as members of a true State family. After 75 years of growth and change, the Delaware State Fair remains a family-made, family-oriented event, centered around the values and relationships that matter most.

It inspires a remarkable feeling of community—not a naive or simple or nostalgic diversion, but a genuine and lingering feeling of shared pride, shared purpose, and shared hope. In this annual gathering of family and friends, we not only enjoy ourselves, we rediscover ourselves, and we rediscover the promise of what a community of neighbors can be at its best.

So as we in Delaware mark the 75th anniversary of our State fair, Mr. President, we celebrate the annual renewal of a spirit that deserves to be celebrated every day and in every community. And we do so with gratitude to the people who have kept that spirit at the foundation of the Delaware State Fair, and shared it with all of us, for so many years.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. DORGAN). The Chair advises the Members of the Senate morning business is now closed.

NATIONAL LABOR RELATIONS ACT AND RAILWAY LABOR ACT AMENDMENTS

MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the motion to proceed to S. 55, which the clerk will report.

The assistant legislative clerk read as follows:

> Motion to proceed to the consideration of S. 55, a bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes.

The Senate resumed consideration of the motion to proceed.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, today we begin debate on S. 55, the Workplace Fairness Act. This legislation would ban the hiring of permanent striker replacements, but ultimately it is about much more than that. It is about fairness to workers. It is about restoring a degree of balance to labor-management relations. And it is about preserving our collective bargaining system.

The Workplace Fairness Act has the strong support of our President. It passed the House of Representatives last year by a substantial margin. A majority of the Senate supports it as well. I want to emphasize that point. A majority of the Members of this body are in favor of this legislation. Most importantly, according to a recent poll by Fingerhut/Powers, the American people support it by a margin of more than two-to-one.

So why is not this bill about to become a law? Because the Republican leadership opposes this bill, and is blocking the Senate from even debating it.

I have been in the Senate for 19 years, and while I strongly disagree with the Republican leadership's position, I must say that I am not surprised. In fact, the Republican Party has a long and rich tradition of turning its back on American workers.

In the past two decades, the GOP has consistently served as the tool of America's corporate giants, ignoring the needs of America's working families. The Republican Party has fought the battle for the National Association of Manufacturers. It has stood shoulder to shoulder with the U.S. Chamber of Commerce. It has fought for other big business groups. But when it comes to fighting for American workers, the Republican Party is nowhere to be found.

In fact, when the chips are down, the Republican Party is consistently against fairness in the workplace. Just take the last 5 years as an example. In 1989, the Republican Party fought against minimum wage legislation, turning its back on millions of low-wage workers struggling to make ends meet. In 1990, the Republican Party fought against civil rights legislation, turning its back on women, minorities, older workers, and the disabled who suffered harm from intentional discrimination or harassment on the job.

In 1991, in the midst of a serious recession, the Republican Party fought against an extension of unemployment compensation benefits, turning its back on millions of working families hard hit by layoffs and plant closings. In 1992, the Republican Party fought against this very bill, after it had passed the House of Representatives, turning its back on thousands of workers who lost their jobs for exercising their Federal right to strike.

In 1993, the Republican Party fought against the Family and Medical Leave Act, turning its back on workers who need time off to care for sick or dying family members. And this year, consistent with its previous actions, the Republican leadership has talked about filibustering health care reform, turning its back on 37 million Americans who have no health care at all, and on all working Americans who are fed up with spiralling health care costs.

So it is no surprise that today, the Republican leadership, as a policy matter, is fighting against the Workplace

Fairness Act. A majority of the American people and the Congress support this bill, but the Republican Party is blocking the Senate from even moving to the point of debating it. We are on a motion to proceed to be able to get to the point of debating the merits of the bill, but the Republican Party is filibustering the motion to proceed.

The Republican Party has turned its back once again on working families in this country.

Let me make it clear. Not every Republican Senator has opposed these measures, and I am grateful for the support some have given. In fact, some have had to rise above their own colleagues to stand up and vote for some of these measures that I previously mentioned, and there will be some in on the opposite side of the aisle who will vote to make it possible to proceed forward with this debate. But as a policy matter the Republican Party's position is against even moving forward to debate this legislation. But time after time after time, when the interests of American workers have been before this body, the Republican Party leadership has turned its back. It may be a "no" vote, it may be a filibuster, it may be a Presidential veto, but the result is the same: The Republican Party gives a leg up to big business and corporate greed, while American workers get the cold shoulder.

The Workplace Fairness Act is not just about restoring the right to strike—it is about the very survival of the American labor movement. For decades, American workers have helped make this country a great and progressive nation. But the growing practice of hiring permanent striker replacements has stripped workers of the economic leverage they once had, and crippled the American labor movement.

Today, we are at a critical juncture. I would say to my colleagues, you have two choices: You can restore the right to strike, or you can turn your backs on the working men and women of this great Nation. The American people are watching, and they want to know: Which side are you on?

First, I would ask my colleagues, are you on the side of history? Since 1935, our Federal labor law has expressly protected the right to strike as an integral part of our collective bargaining system. For decades, workers were free to exercise this right without fear of losing their jobs. With this economic balance, workers were an equal partner in a fast-growing American economy.

In the last decade, however, all that has changed. The General Accounting Office has reported that employers hire or threaten to hire permanent replacements in one out of every three strikes. This year, the Bureau of National Affairs reported that an incredible 82 percent of employers indicated that if struck, they would attempt to replace their work force to keep operating, or would consider doing so. More specifically, roughly one-third said they would definitely hire replacements, and half said they would consider doing so. Finally—and this is a critical point—of the employers who said they would hire replacements, or consider doing so, more than 1 in 4 said the replacements would be permanent.

True, this deplorable practice was first suggested by the Supreme Court in 1938 in the Mackay Radio case. But for decades, employers virtually never hired permanent replacements. Instead, they valued their workers and counted on them to return after a strike.

In the merger-crazed 1980's, however, this union-busting practice exploded. A new breed of employer emerged, one that does not hesitate to replace its union work force. These employers treat loyal workers—many of whom have given 10, 20, 30, and in some cases, 40 years of their working lives to build a successful enterprise—as just another commodity to be used up and tossed aside.

This issue is of critical importance to working Americans, but the Republican Party does not even think it deserves to be debated by the Senate—that is why the Republican leadership is filibustering this bill.

If you are on the side of history, you must vote to restore the historical balance between labor and management that existed for decades before this despicable practice developed.

Second, I would ask my colleagues, are you on the side of fairness? The very purpose of our Federal labor policy is to enable workers to join together to improve their wages and working conditions. As part of that policy, our Federal labor law expressly protects the right to strike. But what good is that right if you can lose your job for exercising it?

In the last few years, tens of thousands of American workers have lost their jobs at companies like Eastern Air Lines, International Paper, Greyhound, Phelps Dodge, and dozens of other companies. Hundreds of thousands more have refrained from exercising their right to engage in collective action because of the threat of permanent replacement.

There is no shortage of examples. At Diamond Walnut in California, workers earning between $5 and $10 an hour agreed to cut their own pay by up to 40 percent when the company was struggling. They were not making much. They were making between $5 and $10 an hour. They agreed to cut their own wages by up to 40 percent because the company was in tough times. But after their sacrifices turned the company around, the company demanded even more givebacks, leaving workers with no choice but to strike.

I do not understand the attitude of a company like Diamond Walnut, a name that is very well known in this country; how they could ask their workers to give back part of their wages, accept the givebacks that they gave them in order to help the company survive, and then turn around and fire the workers when they had to go on strike in order to regain some of the losses that they had given up. Then the company hired permanent replacements. Hundreds of loyal workers have been left out in the cold for 3 years, losing their jobs for exercising what they thought was a protected right.

Thanks, Diamond Walnut. You are sure a great employer. And anybody who buys Diamond walnuts knowing of these conditions has to have their head examined.

Similarly, in Hope, AR, 300 low-wage workers at Champion Parts Rebuilders were permanently replaced after the company demanded sweeping cuts in health benefits. At first, the workers did not want to strike, so they offered to take substantial health insurance cuts. But the company absolutely refused to budge from its position, which would have left many workers unable to afford health coverage at all. The workers continued to negotiate for 5 months after the contract expired, but finally found themselves with no choice but to strike. The company hired permanent replacements several days later.

For these and thousands of other hard-working Americans, the practice of hiring permanent striker replacements has had a devastating impact. It is absurd to force workers to choose between their right to strike and their livelihoods. But that is just what the Republican Party is doing today, by preventing the Senate from even debating this legislation, when a majority of the Senate and the House and the American people support it. If you are on the side of fairness, you must vote for the Workplace Fairness Act.

And not permitting this Senate to move on to get to the substance of the legislation itself is an impropriety and certainly does not serve the Republican Party well, except as they serve the U.S. Chamber of Commerce and the National Association of Manufacturers.

Third, I would ask my colleagues, are you on the side of collective bargaining? Since 1935, our national labor policy has favored the resolution of labor disputes through collective bargaining. As the Supreme Court has recognized, Congress specifically protected the right to strike as "an economic weapon which in great measure implements and supports the principle of the collective bargaining system." Although the right to strike is exercised in less than 1 percent of all bargaining negotiations, it serves to bring the employer to the table.

Without a meaningful right to strike, collective bargaining becomes little more than collective begging. As Secretary of Labor Robert Reich said in his testimony before Congress, "management that has the option of simply eliminating the other side has little commitment to finding a mutually satisfactory resolution of differences." No matter what the opponents of the Workplace Fairness Act say, there is one very simple, indisputable fact: The hiring of permanent replacements triggers longer and more bitterly divisive struggles, and turns a limited dispute about wages and working conditions into a much broader, and much more destructive conflict about every worker's job. That is why the average strike lasts several times longer when the employer hires permanent replacements.

Some employers have actually used the practice of hiring permanent striker replacements to attack the very concept of collective action. More specifically, these employers have precipitated strikes in order to replace striking workers, and decertify the union once and for all. For example, in a study covering strikes between 1983 and 1994, the steelworkers found that in two-thirds of the strikes involving permanent replacements, the union was decertified or the plant was closed, destroying the bargaining relationship altogether.

In short, the hiring of permanent replacements creates an imbalance of power that jeopardizes the continued effectiveness of the American labor movement. Without an effective labor movement, our collective bargaining system cannot work. That does not seem to trouble the Republican leadership, which has fought this legislation at every turn. If you are on the side of collective bargaining, you must give back to workers the economic leverage to make collective bargaining work.

Fourth, I would ask my colleagues, are you on the side of competitiveness? In the coming years, we must meet the tremendous challenges of the new global economy. But we cannot hope to compete in world markets if those who labor cannot work with those who manage.

Hiring permanent replacements sends an unmistakable message that workers are disposable, reducing employee morale and lowering productivity. The practice can tear a community part, as was the case in Jay, ME, several years ago when International Paper disposed of second and third generation workers like so many paper cups.

It is no wonder that our principal competitors—including Germany, Canada, France, and Japan—have long recognized that using permanent replacements is unwise, as a matter of both public policy and good business. A majority of the Senate recognizes this too—but because of the Republican leadership filibuster, we may never get to vote on this issue. If you are on the side of competitiveness, you must ensure that workers and managers can face these global challenges as partners, rather than adversaries.

Let me take a moment to tell you what the Workplace Fairness Act does, and what it does not do. The act prohibits the hiring of permanent striker replacements, or other discrimination against workers engaged in a lawful economic strike.

Does it preclude employers from operating during a strike? Absolutely not. Employers would be free to operate during strikes, using temporary replacements or managerial personnel, or subcontracting or transferring work, as they have done successfully for 59 years under the National Labor Relations Act.

Does it beckon workers to strike? Of course not. Those who say S. 55 will trigger many more strikes do not have a clue about what a strike means for workers. The right to strike is labor's most effective weapon, but workers are loathe to exercise it. Striking means foregoing wages, walking the picket line, and exhausting the family's life savings. It is a decision of last resort, and not one taken lightly. That is why S. 55 would not trigger a flood of strikes.

Fifth, I would ask my colleagues, are you on the side of democracy? Our democracy is premised on the principle of majority rule. As I have said, a substantial majority of the House has already passed this bill, and a majority of this body supports it as well. Two years ago, the Members of this body never got a chance to vote on it, because of a Republican-led filibuster. This year, we face the same tactics of obstruction.

If the last election taught us anything, it is that Americans are tired of gridlock. American workers deserve a vote on this bill. If it passes, the President will sign it. If it does not pass, so be it. But let the Senate decide, based on the democratic principle of majority rule. So if you are on the side of democracy, you must vote for cloture, and allow this measure to stand or fall on its merits.

Finally, I would ask my colleagues this fundamental question: Are you on the side of the American labor movement? That is ultimately what is at stake here. The labor movement was built on some of this country's highest ideals—fairness, social justice, and the right to earn a decent living. And the labor movement has won many battles over the years—for fair wages, safe workplaces, basic benefits and a secure retirement—not just for their members, but for all working Americans.

But the future of our labor movement depends on restoring the right to strike as an effective economic weapon. In turn, a healthy labor movement will restore balance to labor-management relations, facilitate greater labor peace, and contribute much toward ensuring U.S. competitiveness in world markets.

That is why the American people support this bill, by more than 2 to 1 according to the most recent poll. That is why the House of Representatives passed it. That is why a majority of the Senate and the President of the United States support it. But today, the Republican leadership is blocking the Senate from even debating the bill. Once again, the Republican Party has turned its back on America's working families, siding instead with big business and corporate greed.

For America's hard-working men and women, whose hours are growing longer and whose paycheck is growing smaller, this is an issue of basic fairness. This week, they are asking each one of us, "which side are you on?"

The PRESIDING OFFICER. The Chair recognizes the Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I rise in strong opposition to S. 55, which, as the Senator from Ohio has said, is legislation which will prohibit the hiring of permanent replacements during an economic strike. The implications of this, as the Senator from Ohio pointed out, go beyond just the stark words of this legislation.

Two years have passed since the Senate last considered this bill. If anything, the passage of time has only confirmed that this measure is ill-considered and ill-founded. Frankly, I do not believe that there are any changes that could possibly be made to salvage this bill. No matter how you dress it up, S. 55 will turn 50 years of labor law on its head, creating new incentives for longer strikes that will wreak havoc on our economy.

More strikes, more disruptions in the workplace, and more antagonism between labor and management will only add to the uncertainty about our economic future, at a time when workers are seeking more stability and greater job security.

This bill is not about turning our backs on the American worker. This bill is about trying to assure that there will be a greater sense of stability and security in the workplace.

This bill does not destroy the right to strike. The right to strike is certainly retained. But that is one side of the coin. Just as an employer's right to hire permanent replacement workers has, for 50 years, been the other side of the coin. Now some are trying to say, "No, that is not fair. It should be just one way, not two sides of the coin."

Our current Federal law already establishes an appropriate balance between the interests of labor and management. On the one hand, the law guarantees labor the right to strike—and that is as it should be. But the law balances this right against an employer's right to operate his or her business. On rare occasions, this may require hiring permanent replacements. This balance provides a key element to stable labor relations—an incentive towards settling labor disputes. Mr.

President, we all wish to see the settling of disputes and cooperation between labor and management.

Companies have invested large amounts of time and energy into developing the skills of their work force. Their institutional memory, their knowledge, skills and abilities, are not something that can be easily replaced.

Businesses will not replace their work force knowing that they will have to retrain replacements at great cost, unless there is no alternative. The decision to strike and the decision to hire permanent replacements both carry great risk.

These choices, although painful, are precisely the incentives that lead both labor and management to settle, without disruption, the overwhelming number of contract negotiations. The competing rights of the parties, and the hardships that they impose, are what compel management and labor—far more often than not—to resolve their differences at the bargaining table.

By contrast, S. 55 will overturn a half-century of established Federal labor law. The bill would upset the delicate balance that has worked so well. It would, for the first time, create the unqualified right for labor to walk off the job, for any reason, without advanced notice, no matter how unreasonable the demands.

Current law draws a distinction between workers who strike because their employers are violating the law, and workers who strike because they are dissatisfied with their wages and benefits. Workers who strike because their employer commits an unfair labor practice cannot be replaced. However, if a union strikes over demands for higher wages or greater benefits, an employer may have to resort, ultimately, to permanent replacements in order to keep the business open and in operation.

S. 55 would eliminate this critical distinction in the law. Under this bill, workers may strike for any reason with complete impunity, even if their demands for wages and benefits are completely unreasonable. Simple common sense tells us that this will lead, I would argue, to more strikes.

The Senator from Ohio said that anyone who makes that statement does not know what this is all about. But I suggest that S. 55 would create a great sense of uncertainty and antagonism at the very time that we most need to restore a sense of security in our workplace. The ability to strike for wages and benefits without risk or adverse consequences is bound to encourage—not discourage—the use of strikes, with devastating effect on our economy.

In fact, this conclusion is borne out by the evidence of what has occurred in Canada, where several provinces have banned replacements. According to one comprehensive study, a prohibition of replacement workers in Quebec significantly increased both the incidence and duration of strikes.

The fact is, that over the past 25 years, under our current system we have witnessed a dramatic decrease in the number of strikes. In 1974 there were 424 major strikes. By 1984, that number had declined to 62. And in 1993, there were just 35 major strikes, an all-time low.

The current system, I believe, works well. It could work even better if, indeed, labor and management recognized the importance of cooperation in resolving their differences instead of ever greater antagonism.

In fact, the Dunlop Commission, appointed by President Clinton to study worker-management relations, recently concluded that:

> In most workplaces with collective bargaining, the system of labor/management negotiations works well. Conflict is relatively low, and unions and firms have developed diverse forms of new cooperative arrangements. * * * The relations among workers, their unions, and management in these workplaces are well regarded by these parties.

Even the Secretary of Labor has recognized that "The vast majority of collective bargaining contracts are settled without strikes * * *."

I suggest, if the system is not broken, why are we trying to fix it?

The Senator from Ohio has said we will not have time to debate this issue. We have today, tomorrow, the next day—and potentially the next day after that—during which we will be debating this issue. I hope that during the course of this debate arguments both pro and con will be made which will help the American people to understand what is at stake.

Hiring permanent replacements is hardly a standard practice. A recent General Accounting Office report found that only 3 percent of striking workers were permanently replaced in 1989. We should not ban this seldom-used practice when the consequences will be devastating to the vast majority of our Nation's workers.

Mr. President, in response to the Senator from Ohio on the issue of Diamond Walnut, I would like to go through a bit of the history at Diamond Walnut.

Another relatively recent strike that highlights the dangers, I suggest, of S. 55 becoming law, is the one that happened at Diamond Walnut. The Teamsters struck Diamond Walnut, a California agricultural cooperative, on September 4, 1991, at the beginning of the annual walnut harvest. All the crop must be harvested immediately to avoid spoilage. Diamond Walnut is a cooperative, owned by more than 2,000 growers who own, on the average, 36 acres of walnut orchards. We are talking about family farms, not some huge, enormous agribusiness.

The union timed this strike to place maximum pressure on Diamond Walnut. The only way to avoid the devastating losses of an entire year's crop was to hire permanent replacements.

The labor relations history is important. Diamond Walnut found itself in an uncompetitive labor cost situation in 1985 and negotiated wage rate reductions, as was mentioned by the Senator from Ohio.

Nevertheless, Diamond Walnut remained an industry leader in employee compensation. So while they reduced their compensation, they were still paying more than their competition. In 1991, negotiations centered on health care employee copayments, with Diamond Walnut suggesting that workers pay about 9 percent of that burden. The company also wanted to implement a profit-sharing plan as part of the compensation package.

Mr. President, I think it might be helpful to look at the wage and benefit package that was offered by Diamond Walnut and that the Teamsters rejected in 1991, because it was a very generous package.

According to Diamond Walnut management, a "general laborer" at Diamond Walnut earned about $6 per hour and would have received a 10-cent-per-hour raise. Competitors, mostly nonunion we would assume, paid $4.99 per hour. The union demanded $7 per hour. So Diamond Walnut was paying $1 per hour more than its competitors, and the union wanted the company to pay $2 an hour more than its competitors.

The situation was equally troubling for "machine operators." Diamond Walnut paid $10 per hour; the union demanded $11 per hour. Diamond Walnut competitors were paying $6.30 per hour. After the strike, the company implemented their final offer, which was $10.10 an hour.

Diamond Walnut paid highly competitive wages, but that was not good enough for the union business representative. So they ordered a strike.

Mr. President, health care was an important issue in the Diamond Walnut strike. Health care costs had increased from 74 cents per hour to $2.21 per hour from 1988 to 1990. Something had to be done.

Diamond Walnut asked their employees to pay about 9 percent of their monthly health care costs, which was $12 per month for individuals and $33 per month for families, with no deductible. Before the strike, the union plan had $100 per individual and $300 per family yearly deductibles.

I ask my colleagues to note that this proposed health care copayment was well below the 20 percent copayment that the Clinton health care plan envisions.

Diamond Walnut also proposed several improvements to the health care plan, including the addition of an annual physical for $20; eye exams for $10; out-of-pocket limit reduced from $2,100 to $1,000 for individuals; $6 for generic prescription drugs; and a modification of the maximum benefit from $1 million to unlimited amounts.

The union chose to walk away from this offer. That was their choice. But should we say to the small farmers who belonged to the Diamond Walnut cooperative and to the thousands of workers who will lose their jobs if this legislation passes, that the union can shut you down even when you are paying well above the market rate of compensation? That was really the issue here.

Mr. President, the Caterpillar Co. and Diamond Walnut strikes are both excellent examples of how out of touch union leaders can be with the best interests of their membership. Both Caterpillar and Diamond Walnut offered generous contract proposals, but the union leadership thought the union should hold out for more.

I suggest in both these instances that the workers probably were ill-served by their union leaders. Nevertheless, our Federal law should not bail out these leaders for their mistakes, because the system worked just as it should have in each of these strikes.

That is not to say that there are not two sides to every labor dispute. Management does not always recognize the value of their employees. There have been times in the past when that was certainly true. But I believe we must also recognize that union leadership has not always acted in their members' best interest.

Our economy is just now recovering from a recession. We have seen a long-term restructuring of our economy. Americans are anxious about their jobs. They are concerned about having a job to go to in the week ahead, let alone the next year. They are not interested in legislation that promotes strikes and costs jobs. They want legislation that promotes real job growth.

Over the past several months, we have heard a great deal about the jobless recovery. Even as our economy expands, our blue chip companies continue to downsize their work forces. President Clinton has stated that his top priority at the G-7 summit in Naples will be to create jobs. Regrettably, S. 55 will not help us meet that goal.

S. 55 will adversely affect our Nation's competitiveness. Companies must respond to the needs of the marketplace. Yet, S. 55 will force U.S. companies to engage in global competition with one arm tied behind their backs.

I know that unions have had a tough time over the past two decades, but the fact is our whole economy has been in transition. Employers and workers have all had a difficult time. My concern is that striker replacement legislation will force companies to adopt uncompetitive labor contracts, and this will lead to further layoffs and further downsizing.

A Kansas City Star editorial called the striker replacement bill "an ill-considered time bomb" that, if passed, would be "one of the most irresponsible acts of the modern Congress." I would like to quote at length from that editorial because I think it states the case so well:

> The long-term damage a striker replacement law would do to this country's competitiveness is beyond calculation * * * If organized labor is given the leverage to push up wages faster than productivity, it will surely use that leverage. If companies can never replace employees who refuse to work, unions will steadily undermine the very trends that are erasing America's labor disadvantage relative to developing countries.
>
> Organized labor cannot have it both ways. It is inconsistent to complain that jobs are moving off-shore and then lobby for measures that will, over time, undermine the course that makes American workers more productive. If a striker replacement ban becomes law, it will increase the incentive of employers to move work to overseas labor markets that are more flexible—and less hostile.

Mr. President, rather than encouraging more strikes, more divisiveness, and more antagonism between labor and management, we should be seeking ways to encourage greater cooperation. I can think of nothing more beneficial.

But if S. 55 becomes law, it will turn the clock back to an era in which everyone loses, not only the workers but the economy as well.

I oppose S. 55 and urge my colleagues to vote "no" on the cloture motion, which I suggest is not just a procedural vote in this instance but a vote on the merits of the bill itself. And during the course of these days of debate, I hope that not only my colleagues here on the Senate floor, but all those who are listening, will listen carefully. The consequences of our action on this particular bill will go far in determining what kind of work force and what type of security and stability we will have in our labor market in future years. I feel strongly, Mr. President, that S. 55 will work to the detriment of the future of our labor force.

I thank the Chair. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is noted. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I listened with interest to my colleague from Kansas talk about how much better it would be if we do not change the law and how this is so necessary to permit permanent replacements in order to protect employers of this country and the economy of this country.

I previously pointed out that our major industrial competitors in the world already protect strikers and do not permit the bringing in of permanent replacements. But the fact is—and I think we ought to be realistic about this—we live by the laws of this country going all the way back to the Mackay Radio decision, which was a decision in the thirties that made it possible for employers to bring in permanent striker replacements. But employers did not do that. They had an ethic about them. They were decent employers. Then some of the leveraged buyout artists and the fast-buck boys came in and started buying up companies. And as soon as they came in, they started terminating worker pension rights, taking the excess pension funds, and then deciding they were going to cut back on wages so that they could make up for the debts they had in buying up the companies.

Now, why did they do that? What happened for the 50 years when permanent striker replacements were permissible but were not used? I will tell you what happened. There was a wonderful President, a President who was really concerned about workers, who came into office. That President was supported in his election effort by two unions. One was the Teamsters Union and the other was PATCO, the Professional Air Traffic Controllers.

Now, between the time he was elected and shortly after he took office or thereabouts—and I do not remember the specific times—those PATCO employees went out on strike. It was an illegal strike. They did not have the right to do so. But that wonderful defender of the American worker, President Ronald Reagan, what did he do to this union that supported him? Bang, he fired them all. And suddenly the employers of this country said, well, if the President can do that, so can we.

And so a practice that had not been used for the past 50 years, although it was legal to do so, suddenly became the rule of thumb, and today more and more employers are using this procedure of bringing in striker replacements. It is an unfair, inhumane procedure. It is a procedure that says we do not care how many years you have worked for us. We do not care how hard you fought to make our machines operative. We do not care how cooperative you have been in the last 10, 20, or 30 years. We are going to fire you if you go on strike.

I remember conducting a hearing up in New York at the New York Daily News. Those employees did not even go on strike. I remember testimony before our committee which said: "I wasn't on strike. I walked outside to take a smoke and I couldn't get back into the plant because the company said I was on strike. But I wasn't on strike."

The companies have used this whole concept of permanent striker replacements to break unions. My distinguished colleague from Kansas quotes an editorial from the Kansas City Star. I would like her to point out to me once—not twice, once—in the history of this Nation that the Kansas City Star was ever on the side of working people. The Kansas City Star is a retrogressive newspaper that has been consistently Republican, consistently antiworker, consistently antiunion. And the fact that they write an editorial saying that this is the right thing to do does not make it so. I think the paper ought to come forward and start to get common with this century. It has not been in this century for many years. And with all due respect to the fact that it is the leading paper in the Senator's State, I have to say to her that quoting that paper and making it right to use striker replacements is very irritating to this Senator, as is quite obvious at this point.

Let me make it clear. When we talk about Diamond Walnut, Diamond Walnut, that great employer that was so concerned about bringing in permanent replacements, they really talk out of both sides of their mouth. When they took the permanent replacements on, they made each of them sign a statement that says the following:

> I understand that the company has the same right to terminate my employment at any time and for any reason and without any notice.

What a wonderful employer Diamond Walnut is. They bring in permanent replacements and then say to them, "Oh, but you are not permanent. We can fire you at a moment's notice."

Now, I would guess that the Republicans will win on this issue because there are enough of them to keep this matter from moving forward toward the vote. But the reality is that a majority of the Members of the Senate do not believe that bringing in permanent striker replacements is the right thing to do.

It is only by reason of the rules of the Senate that make it possible to filibuster and require 60 votes in order to cut off that filibuster that Republicans are saying they will not even permit us to get into the substance of the legislation. What we are on now is a motion to proceed, and a motion to move forward with respect to the whole issue rather than to debate the issue itself of striker replacement. The legislation is not yet before the body.

So I say to my colleague from Kansas, for whom I have tremendous respect, this is an embarrassing situation for the Republicans. It is an embarrassing situation to say that we are consistently against American working people, we consistently carry the hod for the U.S. Chamber of Commerce, the National Association of Manufacturers, and so many other right-wing groups. It is time in this Senator's opinion for my colleagues on the other side of the aisle to catch up with the present and realize that there is a desire in this country by the people in this country to move forward; that harmonious labor relations make good business, make for a strike-free enterprise system.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota [Mr. WELLSTONE].

Mr. WELLSTONE. Thank you, Mr. President.

Mr. President, I would just echo the sentiments of the distinguished Senator from Ohio. I hope that we will in fact get a chance to have a discussion and a debate in the U.S. Senate about this piece of legislation, S. 55, which I think is one of the most important workplace fairness pieces of legislation ever to be introduced in the Senate. I commend Senator METZENBAUM for his leadership, most importantly because the bill is designed to combat an unfair labor practice which strikes at the very heart of the collective bargaining process: the permanent replacement of striking workers.

Mr. President, during the hearings that we had in the labor subcommittee of the Labor and Human Resources Committee, many men and women came in and talked in very personal terms about what this legislation meant to them. I have seen some of this out in Minnesota as well. It is really quite heartbreaking when you think about what our country is about, which I think is fair wages and decent working conditions, and making sure that working people get a fair shake, to see people who go out on strike be permanently replaced, to see people afraid to go out on strike because they know they will be permanently replaced, to see an erosion of any kind of fair balance of power between management and labor. Too often, working people do not feel like they are in a position to really negotiate because they are put in the impossible position of being forced to go out on strike and then being permanently replaced.

What has happened is that the right to strike has become the right to be fired in the United States. This piece of legislation which is now being filibustered on the floor of the U.S. Senate is an attempt to restore some fairness and balance to labor-management relations.

During the 1980's, as a January 1991 General Accounting Office study and other studies have observed, the use of permanent replacement has increased dramatically. Private sector employers emboldened—as Senator METZENBAUM said—by what happened with PATCO in the early 1980's have used the permanent replacement of striking workers as a way of abrogating collective bargaining agreements and bringing in new hires often screened for their antiunion biases.

Mr. President, the process is fairly simple: require major and unreasonable concessions of a union. Force them to strike, then permanently replace them with workers unsympathetic to the union, and then move to decertify the union.

We should call this what it is, Mr. President: "Outright union busting." That is what has been going on in our country. Twenty years ago, Mr. President, this approach was used by just a few renegade American employers. But as Senator METZENBAUM has already said on the floor of the Senate today, given all the mergers and acquisitions, the leveraged buyouts and the rise of a new breed of employer, not locally owned businesses but firms who make business decisions halfway across the country or halfway across the world, too often communities no longer matter, workers are expendable, and collective bargaining agreements are essentially being torn up.

Mr. President, there are an estimated 14,000 workers covered by the NLRA that are replaced each year by American employers, and thousands more under the Railway Labor Act.

The GAO report indicates that from 1985 to 1991, employers hired permanent replacements in 1 out of every 6 strikes, and threatened to hire replacements in 1 out of every 3. But ultimately, this is not a quibble about the numbers. The essential point is this: all workers engaged in legal economic strikes must be protected from permanent replacement.

Mr. President, during this debate we are going to hear from some urging us not to meddle with "the delicate balance of labor-management relations established over 50 years." But I think we should be frank. This is an attempt to restore some balance. From my own point of view, I think that it is extremely important that we have high levels of productivity. I think it is extremely important that employers and employees are partners. I think it is extremely important that there be high morale. But that cannot be the case when all too often some employers—I think the good employers do not have any problem with this at all—force people out of work and them permanently replace them.

Mr. President, the debate boils down to this: We must restore two principles which have undergirded the collective bargaining process established by the Railway Labor Act, and the National Labor Relations Act, in the 1930's.

The two principles: one, employees have a right to pursue their interests collectively without fear of employer reprisal; and, two, the representation questions must be separated from the substantive issues in disputes, and a Government-supervised procedure should be established to ensure fair representation. Remaining substantive disputes are to be resolved through the collective bargaining process. But this system can work only if the right to strike, in the words of the National Labor Relations Act, is not "interfered with or impeded or diminished in any way." Sadly, this is no longer the case. It is no longer the case in the face of all attempts today on the floor of the Senate to focus attention away from the central issue that is before us today: The right to organize and bargain collectively. That is what is at issue here.

It is no longer the case in the face of efforts today to point to this legislation as special interest legislation. It is no longer the case in the face today of attempts to present this bill as a "solution in search of a problem."

Mr. President, I have seen people in Minnesota recently going out on strike. They did not want to. They felt they had no other choice. Then they were permanently replaced. It is all over for them and their families.

When you see all the people who can no longer bargain, can no longer bargain collectively, and have no way of getting decent wages and decent working conditions, this is hardly a solution in search of a problem. This problem is all too real in the face of an alarming increase in hard hitting antiunion activity among some employers and their hired consultants.

It is helpful to remember these two principles. Workers have a right to organize without being retaliated against for exercising that right, and they have a right to negotiate decent wages, decent benefits, and decent health and safety conditions through collective bargaining. Those are the rights that have been so severely undercut by what has been going on in this country for more than the last decade.

Mr. President, let me just go through for a moment the legislative history of Section 7 of the National Labor Relations Act which, in the words of its author, Senator Wagner, are described as "an omnibus guaranty of freedom for American workers." The purpose of this act is clearly stated and quite unequivocal.

> Employers shall have the right to self-organization, to join, form, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other forms of mutual aid or protection.

It sounds simple and straightforward, and it is. Again, in section 8 of the act we see that it provides explicit assurances that workers who engage in the concerted union activities protected by section 7 will not be subject to employer reprisals. It says:

> It shall be an unfair labor practice for an employer * * * to interfere with, restrain, or coerce employees in the exercise of their rights guaranteed in section 7.

Even more specifically, it prohibits employers "by discrimination in regard to hire or tenure of employment or any term or condition of employment, to encourage or discourage membership in any labor organization * * *."

It goes on, and section 2 states that employees do not lose their status when their "work has ceased as a consequence of, or in connection with, any current labor dispute."

Given these protections, Mr. President, the notion that permanent replacement is somehow practically different from being fired is not only untenable, but it is ludicrous. We say on the one hand that a company cannot fire people for going out on strike, but, on the other hand, a company can permanently replace them. It ignores the central, practical reality of such labor-management disputes. In either case, whatever you call it, the employee loses his or her job because he or she has exercised the right to strike.

Mr. President, this piece of legislation—I will give a short history of this, because I see my colleagues, Senator SIMON and Senator COHEN, on the floor here. This legislation simply overturns the judicially-created "permanent strike replacement doctrine" first stated in Labor Board versus Mackay Radio in 1938 and amplified in other cases in the 1980's. This decision said that a company cannot fire those workers who had gone out on strike, but a company can permanently replace them. It is absurd logic. It has resulted in some truly bizarre and, I think, very tragic results.

Mr. President, to those who argue that this is a solution in search of a problem, to those who argue that this bill is unnecessary, to those who are unwilling to even let us proceed and have a debate for several days or weeks or whatever it takes to pass this piece of legislation, for those who say that we should not pass this piece of legislation because we do not need to do anything to restore some kind of balance and fairness in labor-management relations, let me invite them to smaller cities and towns in Minnesota where I went to talk to working people who have been permanently replaced by their employers. Let me invite them out to CF Industries in Pine Bend, MN, where many workers have been permanently replaced, again, for exercising their legal right to strike.

I say to my colleague from Illinois, I went out to CF Industries several weeks ago knowing that we were going to have this debate. I had to pinch myself to remind myself that this is 1994. I felt like it was in the 1930's and we had turned the clock back. These were a group of people together on a Sunday morning, it was raining, and they were out there with their spouses and children. Without going into a long history of this strike, they were essentially given no other choice but to go out on strike. They were permanently replaced the day they went out on strike. These were people who had done extremely well in terms of productivity. The fertilizer company had done extremely well in terms of its profits. These were people who worked for the company for a long period of time. These were people who wanted nothing more than to work and to make a decent wage to support their families.

As the rain came down and I looked at the fences and at the security guards and was wondering, is this the United States of America in 1994? I asked them: "Why did you go out on strike?" They said that it just came to the point where it was a matter of dignity, just in terms of the way they were treated by a company for whom they had worked for years—although a different management was brought in. They said, "We simply could not work under those conditions. We are men and women of dignity, worth, and substance. We could not work under those conditions. We had to take on what we felt were very unfair conditions." When they spoke up and when they tried to negotiate and tried to reach a settlement, the company said no, no. They believed that CF Industries wanted them to go out on strike because, given the current law, they could permanently replace them. That is precisely what they did. That is what this debate today is all about.

So to the workers of Hormel Meat Packing in Austin, to the employees at Quality Tool, to the employees at Union Brass and Metal Manufacturing in Saint Paul, to the employees at Jennings Red Coach Restaurant—these are all people who were permanently replaced—Midwest Motor Freight in Roseville, or Fargo/Moorhead, to the "Hibbing Seven," seven women who were permanently replaced for years and finally won their jobs back in Hibbing, MN, to all of those men and women in my State, much less other strikers that we hear about—New York Daily News, Pittston Coal, Eastern Airlines, Greyhound, Ravenswood Aluminum—let me simply say that I think it is really an injustice that we cannot proceed and go on with a full debate, whenever the final vote is, if we do not get the 60 votes.

I think it will be a real injustice if this piece of legislation gets filibustered. I think it will be a real injustice to "regular" people, which I do not use in a pejorative sense—whether they are in unions or whether they are not in unions, by the way—because I feel, for working people, there ought to be a way that they have decent representation. There ought to be fairness for them. I think this would not only be important for working people in this country, moderate and middle income, whether in unions or not; I frankly think it is the key as to how we compete in the international economic market.

I mean that sincerely, because when we look at our competitors, I kind of lose patience with people who say that if we pass S. 55, we will not be able to compete. Look at the other advanced economies in the world: Japan, Germany, France, Belgium, Greece, Italy, Netherlands, Sweden, Canada; all of those countries do not permit the permanent replacement of workers. I think one of the things they have done well is they built up a partnership. I thought we were talking about employees becoming more involved in the decisionmaking, not being shut out completely.

I thought we were talking about people who build a partnership where there is a real stake, a real sense of ownership of the company. I thought we were talking about how we build higher levels of morale. I thought we were talking about how to have a skilled work force that believes in the companies, and the companies that believe in that work force.

I am telling you, Mr. President, this is not just an issue of justice to working people; this is an issue of how we as a country compete in the international arena. We are an advanced economy. We do not compete by depressing wages. We do not compete by unsafe working conditions. We do not compete with an unhealthy work force. We do not compete with low morale. We do not compete when we have some companies—thank goodness not all—that make the workers expendable, force them out on strike and permanently replace them.

We compete when we have the framework set up through this kind of legislation that brings employees and employers together, brings workers and management together, and restores fairness in the workplace.

I think that is what this legislation is about. There is not a piece of legislation I feel more strongly about. I have seen what this means in human terms in my State. I do not want to continue to see people driven out, squeezed out, permanently replaced. I do not want that to be part of what our country is about.

I hope my colleagues will not filibuster this. We have a majority of the Senate supporting this bill on the floor. We have majority support in the country. I hope we can go forward with this piece of legislation. I urge my colleagues strongly to vote "aye" on the motion to proceed to the Workplace Fairness Act.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Maine.

Mr. COHEN. Mr. President, I have listened to the arguments of my colleagues on the other side. I must say the way in which the debate has been characterized is if you are for fairness for working people then you will vote for S. 55; if you are for unfairness for working people, you will oppose it; if you favor helping working people, you will vote for S. 55; if you are opposed to helping working people, then you will vote against it.

I must say I find this characterization not only simplistic but fundamentally wrong.

Over the years, I have supported and worked to help the working people of my State.

I supported the Worker Adjustment and Retraining Notification Act, for example, which requires employers to provide advance notice to workers who will be laid off, as well as passage of the Job Training Partnership Act, which provides training to those who have been laid off. I also supported extending emergency unemployment compensation benefits to the long-term unemployed and an increase in the minimum wage.

Creating new jobs and maintaining existing ones are two of the most important tasks facing Maine's citizens and elected officials. To this end, I have worked vigorously to keep the Portsmouth Naval Shipyard open and to bring its facilities up to date. This modernization, in which I played a large part, was a major factor in the Pentagon's decision to keep the yard open and thus preserve thousands of many Maine jobs.

In addition, I helped bring two new Federal programs—the Jobs Corps and the Defense Finance and Accounting Service [DFAS] to the area around Loring Air Force Base. Together they should create 850 to 900 new jobs, and the Job Corps is expected to spend an additional $4 to $6 million on local services.

Like labor, I also am concerned about the future of the Nation's maritime industry, which is in a serious state of decline that threatens our national security. To combat this trend, I have consistently opposed efforts to weaken cargo preference requirements, long a cornerstone of our maritime policy, which require goods purchased by the U.S. Government to be shipped on U.S.-flagged vessels.

Most recently, I supported legislation in the Senate Judiciary Committee to allow baseball players the right to sue owners under antitrust laws. All other sports allow players this right. In the case of baseball, I believed that the relationship between the players' union and management was out of balance, and I agreed with labor's position. Despite my support of numerous labor positions, today we are told if you are against S. 55 you must be fundamentally opposed to working people.

Again, I want to reiterate the simplistic nature of that particular argument and the erroneous conclusion.

I disagree with organized labor on the issue of striker replacement. In 1992, I joined a number of my colleagues in opposing similar legislation. At that time, I was disturbed by the intransigence of both labor and management in addressing the issue of permanently replacing striking workers. I suggested that further consideration should be given to establishing a more cooperative and harmonious relationship between labor and management.

Clearly, a strike represents the ultimate failure of opposing parties to compromise. In the end, everyone suffers. The workers and their families suffer because of lost wages and lost opportunities; the employer who has to spend time and money hiring and retraining the replacements also suffers.

We have heard a lot of talk of how important it is to maintain productivity, efficiency, and high morale. An employer can hardly do that if he or she is simply resorting to replacing striking workers on a permanent basis. And, given that both sides want to avoid a strike, my hope was that over the past 2 years both labor and management would see the mutual benefit in reaching a compromise on the issue of permanently replacing striking workers.

Unfortunately, I must say we are no further along today than in 1992. Both labor and management continue to insist vehemently that there is no room for compromise on this issue.

While certainly not perfect, the current law regarding striking workers is preferable than the legislation now before us. Unlike the striker replacement legislation, for example, current law creates economic incentives to bring both labor and management to the bargaining table. Workers who are on strike to protest wages or benefits will be more willing to negotiate with management if they know that at some point they might be replaced by others who are willing to accept those conditions. The striker replacement legislation, on the other hand, places all the bargaining chips on the side of labor. Labor unions could strike and return to their jobs at any point in time, and management would be left to hire temporary workers only—assuming they could find people who would be willing to work on a temporary basis in a very hostile and highly charged environment.

At the same time, current law preserves strong incentives for businesses to negotiate at the bargaining table. Companies have a tremendous amount of time and money invested in their employees. Like labor, they recognize that a well-trained work force is a company's most valuable asset.

In addition, it is costly, inefficient, and demoralizing to new workers who come on board as the permanent replacements because they know that somewhere down the line they too might be summarily fired or let go if they refuse to accept the conditions that they may find to be either economically unjust or fundamentally unfair. So knowing this, companies, I believe, would prefer to reach an agreement with their current employees rather than train permanent replacements.

Current law also creates an incentive for management to negotiate in good faith with striking employees. For example, if striking employees unconditionally offer to return to their jobs and the employer does not reinstate them because permanent replacements have been hired, an employer may be liable for back pay if the National Labor Relations Board finds that the workers were striking over unfair labor practices. Moreover, if an employer reinstates its striking workers, the individuals who were told they were permanent replacements also may have a right to sue.

Federal law should not distort these economic incentives for both labor and management to reach agreements. Federal laws should neither tip the scale in favor of striking workers nor penalize workers for exercising their right to strike.

In the past 2 years, I have met on nearly 20 occasions with a number of individuals from my State on both sides of this issue. Since April, I have heard from approximately 2,800 constituents and about 4,600 others who have expressed concerns on this issue. And I tried to make clear to all concerned that I do not believe that striker replacement legislation—at least this bill—offers the sort of balance that exists with current law.

I know there is concern that management either threatens or has an implied threat that if anyone goes out on strike they are immediately going to be replaced. If that is the case, if the replacement on a permanent basis of the striking workers becomes the rule rather than the exemption, I must tell my colleagues I would not hesitate to reconsider my position on this or any other modified legislation.

We have been through such a strike with the International Paper Co. in Jay, ME. Let me tell my colleagues it has torn that small town asunder where families do not even talk to each other anymore because of the way in which it was handled. I must say both labor and management misjudged and mishandled that entire situation. There were families who were thrown out of work, replaced by relatives, and others coming up from different parts of the country. The strike has made that town a place which does not bear much resemblance to a place it used to be.

So I understand some of the heartaches and hardship that can be created by such a situation. But I must say I still believe that employers should resort and will resort only as a last measure to hiring permanent replacements for strikers. If they turn to it as a first resort, then I believe it does undercut the right to strike in this country.

I would send a message to employers as well as to labor that I continue to hope that employers will work in a cooperative way with the employees to settle disputes without resorting to replacing striking workers. Moreover, I hope that management and labor will do everything possible to address some of the animosity that seems to exist at some worksites around this country. Our competitiveness in the international economy depends on it. And the well-being of our work force demands it.

If employers choose to simply summarily replace workers without a good-faith effort to end the strike on terms that are mutually agreeable, then I think they would invite legislation such as S. 55 and it will receive support of an overwhelming majority.

Mr. President, I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I am pleased to stand up and support S. 55.

I would like to use a word that our colleague from Minnesota, Senator WELLSTONE, used—"balance." This is what is lacking in our situation today.

In the past, when you had a Democratic President, the National Labor Relations Board had a slight tilt toward labor. When you had a Republican President, there has been a slight tilt toward management. But, basically, the National Labor Relations Board has been pretty balanced.

I do not say this as a partisan now, because I think privately many of my colleagues on the other side would agree with me. Then, when Ronald Reagan got elected President, it went way out of balance, and not only that went out of balance, but the whole business of labor-management relations went out of balance, and we have been hurt.

We are now at the point where 16 percent of our working force belongs to organized labor. No other Western industrialized country has that kind of a small percentage. And, if you accept the governmental unions, it is down to 11.8 percent; one-third of Canada, less than that from Western Europe and Japan.

I am not suggesting that this is solely because of this, but there has been slippage in our standard of living. There is no question our deficit has been a big part of that. That deficit has caused interest rates to be excessive; it has caused 37 to 55 percent of our trade deficit, according to the studies, and that has discouraged industrial development in South Dakota, in Illinois, in Kansas, in Idaho, in Minnesota, and the other States. But the combination has been devastating.

As late as 1986, the average manufacturing wage per hour in the United States was higher than any other country. Now there are 13 countries higher than the United States. The average manufacturing wage in Germany, for example, is approximately $7 an hour higher than it is in the United States of America. That is hard to believe. I was stationed in Germany in the Army after World War II when the Germans were desperately poor. Things have changed dramatically. And it is not because there is some magic in Germany. It is because of flawed policy. Things have gotten out of balance.

Part of this getting out of balance is that companies which had the ability for a long time to permanently replace workers now are taking advantage of that. The self-restraint is gone. And when self-restraint leaves on one side, it too easily leaves on the other side, too.

I am not saying that labor unions are all right and management is all wrong. There is a lack of self-restraint on both sides.

But where are the places you can legally fire your strikers and have permanent replacements? Great Britain, Singapore, Hong Kong. That is it. You cannot do it in Canada. You cannot do it in France. You cannot do it in our industrialized countries. In Quebec, you cannot even have temporary replacements.

And if there are permanent replacements, then there is a bitterness in the community that hurts in ways that none of us can measure.

Right now, we have a strike in Illinois at Caterpillar. This hurts many communities, but particularly Peoria, IL. I have been urging both sides to come together. I have been on the phone to both sides. But if there should be permanent striker replacements at Caterpillar, let me tell you, there would be violence in that community. I do not advocate it; no union official advocates it; no Caterpillar official advocates it. But there would be violence. Just as certain as I am standing here, that would be the case.

We have to have balance, and this bill moves us in the direction of balance.

Is this bill a substitute for better labor-management relations? Obviously, it is not. What you need is labor and management sitting down, working together.

Just a few days ago, I was visiting the Sunstrand Corp., whose corporate office is in Rockford, IL. It was not very many years ago when Sunstrand had terrible labor-management relations. But I sat down with the corporate officers and right there in that board room was the president of the UAW, as we talked about various aspects of Sunstrand and what they are trying to do and not do.

Let me add that, whether this is adopted or not, we need some changes in labor law in this country to help balance things. I think we have to recognize that things have gone out of balance.

Up to the north in Canada, if you want to organize a plant, for example, you have to have a majority of the people sign a card and pay a dollar, and it is automatically organized. Here, the process can drag out for as much as 7 years to get organized. I think we have to modify that so that if a majority of workers clearly evidence they want to have a union represent them, that we move quickly on that. This cannot drag out.

Second, right now, even if the NLRB recognizes that a plant is organized, then the company can just negotiate endlessly on that first contract. I think we have to say, for the first contract after a plant is organized, that they have 60 days, 90 days, to work out a contract, and if they do not, then there is binding arbitration for that first contract so we can get things going.

Third, there has to be reasonable penalties for firing people who are active in trying to organize a company. Back a few years ago, there might be a few hundred people at the most fired during the course of a year because they advocated having a union in a company. Now, literally thousands are fired every year because the penalty is a slap on the wrist. It is back pay. But if, in the meantime, you have worked for McDonald's, or anyplace else, that pay is subtracted. So there is very little penalty for an organization.

Fourth, if you violate civil rights laws, then you cannot get a Federal Government contract. But if you have a pattern and practice of violating labor laws, you can still get a contract from the Federal Government. We should not be awarding Federal Government contracts to lawbreakers. It just seems to me that is basic.

There ought to be equal access for both sides when there is an attempt to organize. What happens now in some plants, let us just say you have a plant in Sioux Falls, SD, and in the plant there are 1,000 people. The company owners say, "Everybody has to show up at 10 o'clock. We are going to have a movie." And then they have an antiunion movie, and they give an antiunion lecture.

In most countries, the unions would then have equal access to those employees. That is not the case in our country. That just seems to me to make sense.

And then, finally, in the area of labor law reform, we ought to say to law firms and lawyers, and specifically to lawyers who advocate violating the law, that the National Labor Relations Board has the obligation of reporting that to State bar associations for possible disbarment. We should not—and this applies whether it is an advocacy to labor unions or to corporations—we should not be encouraging and tolerating people advocating breaking the law who should be guardians of the law, and that is our lawyers.

Senator WELLSTONE used another word besides "balance;" he used "partnership." That is what we have to create in labor-management relations. That partnership in our country is frayed, and I think this bill moves it back in the right direction.

I understand we may have a hard time getting the 60 votes because of the filibuster. I would just say to my friends who are inclined to vote against cloture, the filibuster is a good weapon if it is used selectively. If we keep on using it over and over and over and over again, we may reach the point where the Members and the American public will say you cannot let a minority stop the will of the majority here endlessly. It ought to be used rarely. We are using it over and over. It is the old story of somebody crying wolf, and if you cry wolf too often, pretty soon people do not believe you. If we use this filibuster too often, the day will come when it will be stopped.

Mr. President, you may be the next majority leader of this body. One of the questions you will have to face if you are elected to that position is the abuse of the filibuster. Let us be careful. Let us not use it unnecessarily. If we keep on using it excessively, it is going to go—no question about it.

Again, I hope we do not use the filibuster to stop the majority of Members of this body voting for legislation that I think is balanced, that is in the national interest.

I yield the floor.

The PRESIDING OFFICER (Mr. HEFLIN). The Senator from Idaho.

Mr. CRAIG. Mr. President, this afternoon, as I express my opposition to Senate bill S. 55, I think there are some very important statistics that deserve to be a part of the record.

For example, all of us have received in our offices a great amount of communications over this issue, an issue that has been a very high profile issue in the debate around the country over the last 1½ or 2 years. For example, in my office I have had 649 contacts from the citizens of my State—472, to date, have expressed their opposition to, 177 have expressed their support for, S. 55. That represents about 73 percent in opposition and about 27 percent in favor.

That is quite close to a CNN/Time poll which found that, when our citizens were asked if they favored Senate bill S. 55 as it related to prohibiting employers from hiring permanent replacements for striking workers, they spoke out by saying 60 percent "no" and 29 percent "yes." That was in 1992.

In 1991, the question was asked by Penn & Schoen, a polling firm which has done work for the AFL/CIO, "Should companies be permitted to operate during a strike using replacement workers?" And 63 percent of the public of our country said "yes," 25 percent said "no."

Then the poll went on to ask, "Once a strike has ended, should the replacements be fired?" And 54 percents said "no", 34 percent said "yes".

Clearly, from all of this polling information, Senate bill S. 55 does not have anywhere near the majority support of the American people. But I think what the polls also speak to is the attitude that our public has that can only be seen as an understanding of the need for a level playing field for both the employee and the employer.

We all know that a strike causes hardship on both sides, giving both sides, in essence, the incentive to negotiate. In many cases, S. 55 would give strikers the power to threaten the employer with a give in or get out of business kind of approach. This amounts to unilateral disarmament of employers at the bargaining table, and that kind of imbalance has never been granted either side in the kind of confrontation that can often go on, and can justly be allowed to go on, between employers and employees. Federal policy should promote negotiations, consultation, and conciliation. It should not emphasize confrontation and/or escalation in the use of an economic weapon against an employer.

That has been the principle of labor law in this country historically. S. 55, in my opinion, would largely upset that balance.

The argument is that employers hire replacements only as a last resort, and I think we believe that to be the case. Others would argue that once hired, replacements would be there permanently. General Accounting Office studies of strikes in 1985 and 1989, found that only 3 to 4 percent of strikers are replaced with workers who may or may not get to keep their jobs at the end of a strike. These studies also clearly demonstrate that two-thirds of the replaced strikers are reinstated within the year.

Current law already protects the basic rights of both parties in employer-employee negotiations. For example, it is illegal to fire a striker for striking. It is illegal for an employer to provoke a strike with the intent to bust a union. Strikers get preferred rehire status when a strike is over. An employer cannot hire a replacement worker for less than the last bona fide offer made to the strikers.

Strikers can be replaced only during an economic strike, a term used and defined in court decisions and the National Labor Relations Act, and it is defined in this way: An economic strike is one over pay, benefits, and the usual, negotiated terms and conditions of employment.

Strikers cannot be replaced except by explicitly temporary workers when a strike is over unfair labor practices.

If an employer is found to have committed an unfair labor practice, strikers must be reinstated with back pay and interest. What these facts say very clearly is that current law already protects the basic rights of both parties in that a balanced playing field that should be what we strive for in labor negotiations.

During a strike, strikers can take other jobs as long as they are not substantially equivalent to the work being struck. Strikers retain prestrike seniority. Replacement workers must be represented by the same union that continues to represent the strikers. Replacement workers may not vote to decertify a union until at least a year after a strike has started, and such a vote will be delayed longer if unfair labor practice complaints are filed and must be heard.

In many cases, strikers benefit from compensation from union strike funds and State unemployment insurance.

Once again, let me emphasize that the American people, in all instances, in labor negotiations want a balanced, level playing field. Current law offers that. S. 55 radically tips the scales away from the relationship that has historically brought stability and accuracy and responsibility in labor relations. To balance these protections of employers, employers are allowed to stay open and stay in business during a strike by hiring replacement workers. In other words, there has to be a balance so they can hire replacement workers with full-fledged employee rights, including the possibility—I repeat, the possibility—of permanent status.

Under current law, if a strike is over unfair labor practices or if an employer commits such practices, permanent replacements are prohibited. S. 55 does not change that.

S. 55 would take away the right of good employers to stay in business during a strike. Employers who are bargaining in good faith, who are dealing fairly and honestly with their employees and who are being struck over economic issues, those are the good employers. S. 55 would be worse than the old adage of throwing the baby out with the bath water. Only good employers would lose legal rights in this instance.

I assume the best motives on the part of the supporters of S. 55, but the facts tell us something about its real purpose, and that it seems to be misguided in its purpose. This bill is not about stopping bad employers or protecting jobs. As we just said, it is the good employers that would get penalized. It is not about ensuring the level playing field I have spoken of while protecting the basic rights of the bargaining parties. What it is about is determining the outcome in advance of a strike. It is about tilting the playing field in one direction in advance in all cases regardless of the specific circumstances in each individual case.

In essence, it can be responsibly argued that S. 55 would promote strikes. In Canada, some provinces prohibit hiring replacements and some do not. In 1990, the University of Toronto study for the Journal of Labor Economics found that prohibiting replacements produces more strikes and longer strikes. That is clearly not in the best public interest; just look at the recent strike we had with the truckers.

S. 55 could destroy jobs by promoting more strikes. One trucking company estimates that the recent strike will cost it 20 percent of its business permanently. That means it will never have the work it needs to rehire about 20 percent of its drivers. S. 55 would only make things worse in most regards.

There are other circumstances this bill does not take account of, Mr. President. Due to factors of geography, the area labor market, the skills involved, and safety knowledge concerned, temporary replacements are often just not an option. As it is, replacements now are hired only with the prospect of long-term employment. Under current law, negotiated settlements often could result in the firing of permanent replacements and the rehiring of the strikers. And that seems to be what we have always seen. The reason, of course, is because of those very individualized circumstances of each case.

What I am suggesting, because of what I know of current labor law, is that this type of legislation just does not fit in with our sense of what it takes to have a growth economy, does not fit with the fact that it is our responsibility to promote positive policies that create economic growth and development, that actually stimulate and produce jobs for our economy and do not, instead, destroy them or damage them.

So for the next few minutes, I would like to talk about some of the policies of this administration, their promotion and support of S. 55 in the context of jobs: Jobs and job creation. That is what we all really ought to be about. This Senate ought to cautiously screen the public policy that it promotes with the goal of economic growth and development in mind. S. 55 simply does not fit in that matrix. It is not a promoter of that kind of a relationship that promotes economic growth. It is a promoter of confrontation. For example, it is found, as I mentioned, in Canada that the S. 55 approach actually promotes strikes and prolongs strikes because there is little or no will to settle; that the employer is held hostage.

Our President was speaking in Europe to the economic jobs summit that was held in March of this year in Detroit, MI, between the 14th and the 15th. At that time, as he spoke in Europe, he spoke of jobs and job creation, and here is what he said:

> We simply must figure out how to create more jobs and how to reward people who work both harder and smarter in the workplace.

Mr. President, we agree with that statement. All policy ought to be used or, I should say, all policy ought to be formed by screening it through that kind of statement. But I suggest, Mr. President, that if we are to emulate European labor practices and European labor law, the result would be just the reverse; that it could not fit; that it is time we clearly recognize that it is the European policy of which striker replacement is a substantial part, and that it would not serve our country well. All we have to do is look at the economics of Western Europe to make that argument sound.

So, Mr. President—and I mean President Clinton, not the Presiding Officer—while you were talking about job creation and yet promoting the passage of S. 55, you were doing several other things that are not consistent with economic growth, that are not consistent with job creation in the way that we as a government ought to be promoting it. For example, you enacted the biggest tax increase in America's history, which has been and will be discouraging new business investment and job creation by raising corporate and individual tax rates. You signed the family and medical leave mandate. Again, we believe that will cost the working men and women of our country a substantial number of jobs. And you have proposed a massive overhaul of the health care system, and there are an awful lot of statistics out there—and you by your own admission suggested it in your early days of promoting it—that it would cost in its initial phase over 600,000 jobs across this country and that they would not be replaced because jobs that would be created under your proposal would be in a different setting, in a different workplace, and a different skill would be required; you have proposed worker training and unemployment insurance reforms that would cost between $3 billion and $9 billion per year to the employer; you have asked consideration of a hike in the minimum wage from $4.25 to $4.75, again a disincentive to hire teenagers and the poor and the inner-city unemployed. And you have moved ahead in my region of the country very aggressively with new environmental regulation, in the instance of logging in Oregon, to the tune of thousands of jobs. You are now supporting a mining law reform that, if it went through in the form that your Secretary of the Interior Bruce Babbitt has proposed, could cost 35,000 to 40,000 jobs across the public-land West. Your logging policies in my State will cost jobs. You just joined a battle with me in this Chamber on a policy, Mr. President, through the advocacy of your Secretary of Energy in opposing the integral fast reactor. We were successful in defeating you. But that, again, would have been over 1,200 jobs across this country.

So, Mr. President, as we talk about growth and economic development in this country, why are we putting S. 55 up front? Why are you saying that this is a No. 1 policy or one of the legislative priorities of your administration, along with major tax increases, along with the overhaul of a health care system that would cost thousands of jobs, along with new environmental policy that will shut businesses down and turn people away from the workplace?

Let me suggest that there are basic principles to which we ought to adhere as a policymaking body of this country as it relates to job creation and a favorable climate in the workplace for the men and women who are seeking employment in this country.

Those principles, I believe, were effectively outlined in a position paper put forth some months ago by the Heritage Foundation. And let me for the next few minutes state those principles because they are the kind that we ought to be speaking to instead of arguing about S. 55 and radically changing the balance in the relationship and the negotiations between the employer and the employee.

Principle 1: European-style job training and employment practices have proven incapable of keeping unemployment low or raising the worker's overall standard of living.

And yet it was those types of employment standards and European-style job training programs that you proposed at the job summit in Detroit, MI, March 14 and 15.

Principle 2: High tax rates on employers and capital is the quickest way to insure high unemployment.

And yet we know the tax increase of last year went directly at medium- and small-sized businesses that are now the largest employers in our country in the composite.

Principle 3: Excessive financial and banking regulations, which restrict the amount of capital firms can obtain, greatly limits business and job expansion.

And, once again, the kinds of rules and regulations that are now pouring out of this Government, all in the name of the environment or in the name of better practices or certainly in the name of Federal mandates, that say that business and Government ought to conduct itself in certain ways at the local level, do nothing but restrict the economic climate in our country and make more difficult the creation of jobs.

Principle 4: Increasing the regulatory burden and mandating numerous employee benefits is a recipe for job destruction.

That I just spoke to, like the Family and Medical Leave Act—again, a job destroyer, very destructive in the workplace.

Principle 5: Sustained job growth results from competitive, efficient industries that are free of excessive Government interference.

Those are the industries in 21st century America that offer the working men and women of our country the greater opportunity, the better work climate, and clearly the unique chance for advancement and career fulfillment.

Those are the kinds of issues that this Senate ought to be addressing. Instead, we are stepping backwards into a century-old attitude that somehow labor deserves the upper hand and that, if this one side is granted the upper hand, somehow all of the relationships are improved. History has shown that is simply not the case; that when people come to the table to negotiate, that table must be level. There must be equal balance on either side, equality on both sides. S. 55 would destroy that equality.

HEALTH REFORM AND JOBS: THE CLINTON PLAN

Mr. CRAIG. Mr. President, several studies have been performed examining how the Clinton health security plan would affect jobs in America. Leading economists predict that employer mandates, Government subsidies, and other aspects of the Clinton plan will result in serious wage reduction and job loss.

To avoid these adverse effects, Mr. President, reforms cannot place intolerable burdens on employers, but rather must further expand and improve the current system, allowing the market to develop naturally.

When President Clinton introduced his health reform plan last year, his administration stated that as many as 600,000 people could initially lose their jobs, if everything works as planned. Since then, other studies have predicted job loss anywhere from 624,000 to 3.8 million. In addition, as many as 23 million workers could experience lower wages, lower benefits, or reductions in hours worked. Any President who could stand before the American people and advocate a policy that would put people out of work amazes me.

Mr. President, employer mandates will obviously place burdens on many employers who do not currently offer health insurance to their workers. The President's solution to ease this new burden is to provide subsidies from the Federal Government.

According to the Clinton health plan, employer contributions must equal 80 percent of a "weighted average premium," and the individual employees would pay the difference between the 80-percent employee contribution and the actual premium. However, the proposal also places limits on the percentage of the payroll spent on health insurance premiums.

No employer will be required to pay more than 7.9 percent of the payroll; if health premiums exceed this amount, the Federal Government will make up the difference. This is the essence of the President's Federal subsidies.

But the regulations are more complex than this, and Federal subsidies may only add to the difficulties created by an employer mandate.

Liability is further limited as the number of employees falls and average wage decreases, creating a potentially serious problem. Employee liability as outlined in the Clinton plan provides a great incentive for cutting back employees and disincentive for hiring.

For example, if a company has 49 employees with an average wage of $20,000, hiring the 50th person would cost the employer more than $9,000. Accordingly, a company with 50 employees earning an average wage of $20,000 will save over $9,000 by dismissing 1 worker.

Mr. President, the Federal subsidies are designed to protect jobs by releaving financial pressures placed on employers. However, the combined effect of incentives for fewer workers with lower incomes and increased competition among employers to attract skilled workers will escalate employer-employee tension.

In addition, to avoid expanding entitlements and thus adding to the Federal deficit, the Clinton plan places caps on these Federal subsidies. For example, the Congressional Budget Office predicts that small businesses would require $58 billion in subsidies under the Clinton plan in the year 2000, although the subsidies are capped at $4.1 billion.

To maintain the level of Federal subsidies the President has promised, the Federal Government would be forced into even greater deficit spending to make up the difference in cost; on the other hand, if the Federal Government remains true to its caps and is forced to cut back on subsidies, financial pressure on employers will far exceed that predicted by the President, and job loss will be much greater than forecasted.

Mr. President, a large portion of the job losses will affect small businesses with fewer than 100 workers, and an overwhelming majority of those workers who would lose jobs currently make less than $40,000. In addition, job losses would disproportionately affect minorities. Most of the jobs will be lost in services, manufacturing, and retail businesses; all States will be hit hard, with an average job loss near 1 percent of the total work force throughout the country.

Whether the total number of jobs lost is closer to 600,000 or 4 million, almost all Americans will know someone who will have lost a job as a direct result of the Clinton health security plan.

In response to this projected job loss, the President claims his health security plan will create new jobs. However, this will not offset the initial shock of job loss. Jobs will not be replaced as soon as they are lost. Employers are often quick to recognize savings opportunities by releasing workers, but corporate expansion, on the contrary, is generally gradual. No wise businessperson welcomes possible liabilities, and additional workers in an unproven system appear to be exactly that.

In addition, the promised new jobs will affect a different group of workers. Job losses will affect a working population in services, manufacturing, and retail; new jobs will appear in health professional, policy, and administrative fields.

Mr. President, we should be protecting rather than jeopardizing jobs. The Consumer Choice Health Security Act (S. 1743), which I cosponsor, will do this. This bill is designed to guarantee high quality, accessible health care services.

I am particularly pleased with how this plan would enable us to move toward achieving universal access and comprehensive coverage. Refundable tax credits, based on the percentage of gross income spent on medical services, and the introduction of medical savings accounts are two features of this plan which will dramatically improve access without taking the choices from the consumer.

Mr. President, we can reform our health care system without the serious side-effects of job loss and decreased wages. In supporting health care reform, my goal has been to empower people, to let them choose their own health plans and doctors. Individuals are certainly better able to determine their needs than is the Federal Government.

We do not need extensive Government intervention to provide universal health care. On the contrary, excessive Government involvement only increases bureaucracy, reduces quality of services, and weakens a vibrant private business sector. The Federal Government functions best when simply developing the framework in which the market can work, and health care reform should focus on building this foundation.

Mr. President, I ask unanimous consent that the following materials be printed in the RECORD:

"Strike Bill Could Destroy Critical Workplace Balance"—an op-ed in today's Christian Science Monitor, by two former members of the National Labor Relations Board with more than 100 years experience, between them, in employer-employee relations;

"Preparing for the 'Jobs Summit': The 5 Principles of Job Creation"—a Backgrounder by the Heritage Foundation;

"Why Employer Mandates Hurt Workers"—a Brief Analysis by the National Center for Policy Analysis;

"F.Y.I.: The Jobs Impact of Health Care Reforms"—a Heritage Foundation Backgrounder;

A white paper prepared by the National Federation of Independent Business on the President's proposed "Health Security Act"; and

"Enraging Species Act"—a Wall Street Journal editorial from April 19, 1994.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, July 11, 1994]

STRIKE BILL COULD DESTROY CRITICAL WORKPLACE BALANCE

(By Howard Jenkins and John A. Penello)

For many years we served as representatives of the federal government in various capacities with the National Labor Relations Board (NLRB). We were appointed board members under both Republican and Democratic administrations. Together we represent more than 100 years of experience in labor-management relations.

While we did not always agree on the outcome of cases brought before the NLRB—member Jenkins's decisions were more often pro-union and member Penello's dissents were more often pro-employer—we agree that the Strike Bill would destroy the core principle of balance in collective bargaining.

The Strike Bill, which has passed the House and is expected to be voted on today by the Senate, would prohibit employers from defending their businesses by offering permanent jobs to replacement workers during a strike over economic issues such as pay raises and benefits.

Proponents of the Strike Bill claim that employers' use of permanent replacement workers during an economic strike is a recent phenomenon. This simply is not true. The National Labor Relations Act, enacted in 1935, provided a delicate balance that allows unions to strike over wage demands and allows employers to defend their businesses by hiring permanent replacement workers.

The striker-replacement legislation would destroy this core principle of United States labor law, which has been consistently supported by Democratic and Republican presidents and federal courts for over half a century.

In our experience, the balance of power inherent in these countervailing economic weapons is what has made the system work. Take away either the right to strike or the right to operate with permanent replacements, and the other party will be sure to overreach. We fear the striker replacement legislation will encourage confrontation and "risk-free" strikes, where economic strikers could make unreasonable demands and shut down employers with no risk of their own.

Some contend that the system is not balanced, that permanent replacement of economic strikers is the equivalent of being fired. Again, this isn't true. Even so-called "permanently replaced" strikers have continuing rights to reinstatement to all available future jobs. The NLRB developed adequate safeguards for economic strikes, one of which puts employers under an affirmative continuing obligation to first offer jobs to unreinstated economic strikers on a preferential basis before hiring new employees.

Furthermore, the actual number of workers replaced is minute. A Bureau of National Affairs study found nearly 40,000 economic strikers were replaced in 1991–1992, out of a US labor force of 125 million. That's less than .03 percent. Nearly 70 percent of these 40,000 strikers were later reinstated to their jobs. Also, the number of strikes in the US has been decreasing since 1947, the first year the US Department of Labor's Bureau of Labor Statistics began to maintain strike data.

Current collective bargaining is a fair and reasonable system that has worked for over 50 years. We see no compelling evidence to suggest that any changes to this law are needed or even wanted by the American people. In fact, a recent Gallup poll shows that 57 percent of Americans oppose a ban on permanent replacement workers.

The current debate in Congress reflects these facts. In an effort to save the Strike Bill, proponents of the legislation are searching for an acceptable compromise. However, none of the proposed compromises improve the original legislation. Any Strike Bill compromise would have the same result as the original legislation—risk free strikes.

Under the most discussed compromise proposal—a moratorium on hiring replacements—strikes would be limited to durations of four to 10 weeks. This would avoid few strikes, since most strikes last less than 10 weeks, and would do little to mitigate the devastating economic impact of the original bill.

Economic strikes were never intended by Congress to be risk-free. And the right to strike was never guaranteed to be successful in forcing an employer to accede to a union's bargaining demands. To the contrary, the core principle of our national labor law is a balance of rights and obligations, risks and reward, which, through the dynamics of collective bargaining, drives parties closer together toward labor contracts and peacefully negotiated settlements.

For these reasons and based upon our long experience in administering federal labor policy we must now speak out against the strike-replacement legislation—in any form. We believe the Strike Bill would imperil future decades of improving cooperation between labor and management and return us to the disruptive labor disputes of previous decades.

Strikes in the US are at an all-time low. In 1974 there were 424 strikes involving 1.8 million workers and 32 million lost workdays, compared with 1993, when there were only 35 major work stoppages involving 182,000 employees and 4 million lost workdays.

With the incidence of strikes at a record low, it is difficult to understand why Congress would pass legislation that would actually increase the number of strikes in America.

[From the Heritage Foundation Backgrounder, Mar. 11, 1994]

PREPARING FOR THE "JOBS SUMMIT": THE FIVE PRINCIPLES OF JOB CREATION

INTRODUCTION

Leaders from the major industrialized countries are scheduled to meet in Detroit, Michigan, on March 14–15, at the request of President Clinton, to discuss the causes of the persistently high levels of unemployment in their countries. Announcing the goals of the summit in Europe this January, President Clinton declared that, "We simply must figure out how to create more jobs and how to reward people who work both harder and smarter in the workplace."[1]

The President is right to focus on how to create more jobs in this country. Although he boasted during his State of the Union address that 1.6 million jobs were created in 1993, job growth, in fact, is much weaker than normal this long after a recession. Since World War II, total employment growth has averaged 9.2 percent 33 months after a recession. But since the bottom of the 1990–1991 recession, total employment in the United States has climbed by just 2.5 percent.[2] President Clinton would do well to ponder the anemic job growth in Europe, because European firms are encumbered with costly mandates and taxes on employment that have discouraged hiring and held back employment growth. The President should recognize that his Administration's policies are repeating the mistake of the Europeans, and contributing to slow growth of earnings and employment in the United States. For example, the Administration has:

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[1] Footnotes at end of article.

Enacted the biggest tax increase in American history, which will discourage new business investment and job creation by raising corporate and individual tax rates.

Signed the mandated Family and Medical Leave Act, which will raise labor costs and force employers to be far more selective about whom they hire, since they are required to offer certain employees more time off.

Proposed a massive overhaul of the health care system, which would raise labor costs by mandating that employers cover workers. According to Lewin-VHI, one of the country's leading health care econometrics firms, the Clinton health plan would mean that among firms now providing health insurance, 19.9 percent would see cost per employee rising $500–$1,000 per year, 51.6 percent would face cost increases per employee of $1,000–$2,500, while another 15.2 percent would face costs per employee of more than $2,500.[3]

Proposed worker training and unemployment insurance reform, that would cost between $3 billion and $9 billion per year.[4]

Considered a hike in the minimum wage from $4.25 to $4.75 an hour, which would further increase the disincentive to hire teenage and poor, inner-city unemployed individuals.

Moved ahead with an ambitious environmental regulatory agenda ranging from global warming to new logging policies.[5]

These policies signal an apparent misunderstanding of the employment and job policies that led to the creation of over 20 million new jobs in the 1980s.[6] Each of these new programs or proposed policies add to the three principal governmental barriers that discourage employers from creating new jobs: taxes, credit barriers, and regulatory and mandated benefit burdens. These barriers, which have steadily increased over the past few years in the United States, have discouraged business expansion and increased the cost of hiring new workers. Failure to reduce these barriers or—worse still—the imposition of new barriers, means that America will become a slow-growth economy.

President Clinton should realize that high wages and mandated benefits are ruining the European economies and leading to high unemployment rates. In fact, several European countries and Japan are now trying to lower their labor costs and dismantle their generous "safety nets." Instead of continuing to add more burdens on employers, President Clinton should take the opportunity of the summit to advocate five simple principles of job creation:

Principle #1: European-style job training and employment policies have proven incapable of keeping unemployment low or raising the worker's overall standard of living.

Principle #2: High tax rates on employers and capital is the quickest way to insure high unemployment.

Principle #3: Excessive financial and banking regulations, which restrict the amount of capital firms can obtain, greatly limit business and job expansion.

Principle #4: Increasing the regulatory burden and mandating numerous employee benefits is a recipe for job destruction.

Principle #5: Sustained job growth results from competitive, efficient industries that are free of excessive government interference.

Only by talking bluntly to the European allies and shunning "solutions" to the continuing problems of unemployment that will only slow wage growth, can President Clinton help the industrialized world to correct its economic ills. Adopting European-style employment policies, on the other hand, will lead only to European-style results.

UNDERSTANDING THE FIVE PRINCIPLES OF JOB GROWTH

Principle #1: European-style job training and employment policies have proven incapable of keeping unemployment low or raising the worker's overall standard of living.

During his speech announcing the jobs summit, President Clinton declared, "We Americans have a lot to learn from Europe in matters of job training and apprenticeship, of moving our people from school to work into good-paying jobs."[7] Undoubtedly, Americans have much to learn from the Europeans, but not about their employment policies.

The true effects of the European policies which the President and others glorify are best illustrated by the case of Germany. German workers enjoy roughly six weeks paid vacation each year, the shortest work week of any major industrial nation, high wages (averaging $26 an hour), and extensive health benefits mandated by the government. But as Ferdinand Protzman of The New York Times notes, "Unfortunately, [the German system] no longer works. Instead, the social contract that once made Germany's economy a model of stability has helped erode the nation's competitiveness as it struggles to recover from the worst recession in postwar history."[8]

Like many of its European neighbors, Germany is struggling with what has come to be known as "Eurosclerosis," which signifies a stagnant growth environment. As the chart on the following page shows, adherence to this model has brought the European Union (EU) slow growth and high unemployment. Unemployment has averaged almost 10 percent over the past decade in the major European countries, and is projected to average 12.1 percent in 1994 for the members of the EU. At the end of last year, approximately 32 million Europeans were jobless, which is roughly equivalent to the combined workforces of Spain and Sweden.[9] Overall, the U.S. rate of employment growth has far outstripped Europe. Observes C. Fred Bergsten, director of the Institute of International Economics, "The U.S. has kept labor costs down and created 40 million new jobs over the past 20 years. In Europe, wages have risen about 60 percent during that span but only 2 or 3 million jobs have been created."[10]

Peter Gumbel of The Wall Street Journal maintains this Eurosclerosis is caused by a "tangle of labor regulations and rising costs for employers [which] acts as a major disincentive to job-creation—and a powerful incentive to moving production elsewhere."[11] Not surprisingly, perhaps, some 30 percent of business surveyed recently by the German Chamber of Commerce say they are considering shifting production to a more hospitable business environment.

Beside the European burdens on employers which discourage job expansion, employment is also discouraged through extensive unemployment insurance programs. Explains David R. Henderson of the Hoover Institution, "A single 40-year-old previously employed at the average production worker's wage would get benefits equal to 59% of previous earnings in France, 58% in Germany and 70% in the Netherlands."[12] These benefits can be collected for many years as well. Hence, although the broad safety net available to displaced workers seems compassionate on the surface, it actually creates disincentives to full employment and a productive workforce. Absenteeism, for example, ran at 9 percent in Western Germany in 1992, 8.2 percent in France, and 12.1 percent in Sweden. By way of comparison, the U.S. rate is only 3 percent.[13]

Also overrated is the German job training system, which Clinton and his Labor Secretary, Robert Reich, seek to emulate. While the German educational system focuses on highly technical training for its future workers, the U.S. system focuses on generalized training. Some academics, such as Lester Thurow of MIT argue that the German approach has created a superior workforce which enjoys a better standard of living. But a recent comparison of the two systems by Kenneth A. Couch, of Syracuse University, disputes this belief. Couch concludes that, "an apprenticeship program by itself is unlikely to have widespread positive effects either on economic measures such as employment or indirectly related social problems."[14] For example, comparing German and American 24- to 33-year-old high school graduates without further education, Couch found roughly the same percentage were employed (with actually more Americans than Germans possessing manufacturing jobs), more of the Americans in the sample group were married, and slightly more Americans had children. Likewise, from 1983 to 1988, Couch found American workers outperformed their German counterparts overall. America experienced average annual employment growth during the period of 2.4 percent, versus Germany's meager 0.4 percent. And real GDP growth over the same period averaged 3.9 percent for America and 2.3 percent for Germany. Other European countries have fared no better relative to America.

If American policymakers choose to move toward a more technical-based educational system, the German approach thus is not the obvious model to follow. As Couch notes, "Emulating the German approach may in fact five us an educational system that will not perform better but will cost more than our current one."[15]

Following the Failed Model. European-style job training and employment policies which have been implemented in America have met with failure. Public employment programs have proven to be net job destroyers, since the amount of money required to create a public sector job is typically several times that of private sector job creation.[16] A recent study of public transit investment by John Semmens of the Chandler, Arizona-based Lassez Faire Institute, notes that for the $61.5 billion invested since 1965, only 800,000 jobs were created. If that same amount of money had been invested by private business through a corporate tax cut, 8 million jobs could have been created.[17] Likewise, Semmens found that 13 million to 20 million jobs would have been created if the $61.5 billion had instead been devoted to a capital gains tax cut, or an expansion of Individual Retirement Account investment in Treasury bills or common stocks.[18] Most important, instead of producing the high-wage, well-skilled jobs the current Administration calls for so frequently, public programs only provide low-wage, low-skill, temporary employment, which often costs taxpayers dearly in the process.

Further, it cannot be argued that government sponsored employment training policies provide European citizens with greater purchasing power and a higher standard of living than Americans. Purchasing power parity, which is the most accurate measure of comparative consumer power, shows that the U.S. consumers have a clear advantage over foreign citizens (see table at end of article). Following Europe's poor example, therefore, likely will lead not only to lower growth and fewer jobs, but also to a lower standard of living for American citizens.

The "Europeanization" of American Labor Market. Despite the failure of the European system to sustain employment and a higher standard of living, America's federal labor market policy is being molded to resemble German, French, and other European models. This "Europeanization" of the American labor market policy threatens to undermine industrial competitiveness, increase budgetary strains, and lower the average worker's standard of living.

Principle #2: High tax rates on employers and capital is the quickest way to insure high unemployment.

To hire additional workers, employers need capital. Capital fuels job creation by allowing employers to invest in the various means of production, including land, equipment, factories, new technologies, and labor. Capital can be acquired in one of two ways: saving it from profits or borrowing it. Examining each method of capital accumulation indicates why U.S. employers are finding it increasingly difficult to obtain the fuel for job creation.

The Current Tax Environment. Past recoveries show that the U.S. economy is performing below typical levels. Whereas employment in the previous post-war recoveries averaged 9.2 percent 33 months after the end of the recession, the current recovery has only seen approximately 2.5 percent growth over a similar period of time. One factor that aided recoveries during the early 1960s and early 1980s was a reduction in tax rates.

Unfortunately, the most recent recession, which followed the 1900 tax hikes, has been followed by tax rate increases. The Clinton tax plan adopted by Congress last year increased taxes on business and investment. The corporate tax rate on business, for example, was raised from 34 percent to 36 percent. Likewise, top individual rates moved up from 31 percent to as high as 42.5 percent. This is important since approximately 80 percent of small businesses pay taxes under the personal income tax code. The excessive taxation of capital gains also continues. The capital gains tax on individuals currently stands at 28 percent, up from 20 percent in 1986. As the chart on the following page shows, before this rate jump, new business incorporations had risen steadily throughout the 1980s. After the increase, start-ups fell immediately and sharply. The aggregate effect of these taxes is a huge barrier to job creation, as capital shifts from the hands of investors to the government.

The Effects of the Tax Barrier. High taxes reduce investment in businesses and slow job growth by encouraging individuals and firms to seek alternative investments with a more profitable return on their dollar. It should be no surprise that America's current savings and investment rates are lower than those required for robust, long-run economic growth. This is due directly to the trade-off investors face when contemplating increasing consumption versus saving or investing. Increasing consumption carries little penalty; few taxes or other disincentives exist for immediate purchases. But foregoing current consumption to invest assets represents an increasingly unattractive option if the rewards of profitability springing from investment are penalized with higher tax rates. Moreover, earnings in the U.S. are still penalized twice through taxation, first at the corporate level and then later at the individual level. Therefore, if an investor had $10,000 to spend or invest, spending currently would more than likely represent a more attractive choice than investing.

Taxes raise the cost of capital for industrial equipment and machinery. As the American Council for Capital Formation (ACCF) reports, "Recent research confirm[s] . . . that the volume of investment in equipment is a critical factor in the pace of economic growth and development. [I]nvestment in equipment is perhaps the single most important factor in economic growth and development."[19] Yet, ACCF points out that despite the beneficial effects of the tax-reducing Economic Recovery Act of 1981 on such investment, tax policy in the following years became heavily biased against such investment incentives. The tax acts of 1982 and 1986, which raised taxes, each resulted in an increase in the cost of capital for equipment as investors found such opportunities less attractive. Largely as a result of these high-tax policies, the total cost of capital for manufacturing equipment increased by 22.9 percent from 1981 to 1986. The most recent revisions of the tax code are likely to further discourage investment, and thereby increase barriers to expansion and job creation.

Hence, the potential for long-term job creation in the current tax environment is not encouraging, since entrepreneurs are less able to entice investors to risk their money on new business ventures. Because taxes create disincentives to invest in businesses, capital for future job creation is being produced at a lower rate.

Principle #3: Excessive financial and banking regulations, which restrict the amount of capital firms can obtain, greatly limit business and job expansion.

In recent years, the term "credit crunch" has been coined to refer to how difficult it has been for many businesses to obtain loans. One reason this crunch has occurred has been the sharp rise in banking regulation in recent years. In addition to $10.7 billion in general regulatory compliance costs in 1992, bankers face costs from lost interest payments on reserves they are required hold at the Federal Reserve, and deposit insurance premiums.[20]

The Effects of the Credit Barrier. How do these trends affect job creation? This regulatory burden has had a restrictive effect on credit growth in recent years. The American Bankers Association observes that over this same period, more than 40 major federal regulations affecting bank operations were promulgated.[21] Although estimates of the regulatory burden on banks are not available for previous recessionary periods, there is no doubt that the number of regulatory restrictions and burdens the banking industry faces have increased significantly over the past 20 years. Declares the American Bankers Association: "Hog-tying the banking system with regulatory red tape means two things—more expensive bank credit and less of it."[22]

Just as higher taxes restricted job creation by holding back entrepreneurs, so too has the credit crunch. Without easy access to credit, American firms are forced to postpone plans for job expansion. A 1993 survey of small and mid-size businesses by the Arthur Anderson Enterprise Group revealed that 38 percent of all businesses surveyed were unable to fulfill their capital needs. Perhaps more important, 58 percent of businesses that were in their first three years of operation have been unable to fulfill their capital needs. The same survey noted that, due to the lack of capital, 39 percent of the surveyed businesses were unable to expand operations and almost 20 percent of them reduced employment.[23] Limited access to capital has also made it more difficult for firms to purchase their own equipment, forcing an increasing number of small businesses to lease equipment, often at very high interest rates.[24]

In response to this problem, the Clinton Administration has called for new banking regulations governing how loans are made. The Administration hopes to boost the number of loans made through the Small Business Administration to "make SBA more responsive to those industries with the potential for creating a higher number of jobs, those involved in international trade, and those producing critical technologies."[25] But this is unlikely to be a solution to the underlying problem of restricted credit growth. The SBA loan program accounts for only a small percent of capital for new firms, and in any case tends to funnel dollars to favored businesses rather than the best investments.

Clinton's new plan to reform banking regulation through agency consolidation will not help either. Monopolizing regulatory power in the hands of one agency will make it easier for heavy-handed and manipulative policies to be implemented, thereby raising the regulatory burdens faced by banks. Lawrence Lindsey, a member of the Board of Governors of the Federal Reserve System, says, "Monopoly regulation is a bad idea. [It] will greatly harm both the banking industry and the economy, and lead to an unfortunate politicization of bank regulatory policy."[26]

Principle #4: Increasing the regulatory burden and mandating numerous employee benefits is a recipe for job destruction.

The number of regulations and mandated benefit requirements that employers are forced to comply with has grown steadily in recent years. Estimates of the total cost that regulations impose on the economy range from a low of $615 billion to a high of $1.7 trillion.[27] This burden translates into millions of foregone job opportunities.[28] For example, Michael Hazilla and Raymond Kopp have estimated that environmental regulations reduced aggregate employment by 1.18 percent as of 1990,[29] which means over one million jobs would have existed without the regulations.[30]

Regulation and mandated benefits take their toll indirectly. When the government increases this burden on the private sector by promulgating new rules, firms must adjust their behavior accordingly. This adjustment process may require an increase in worker training, paperwork requirements, or even retooling. Regardless of the adjustment method, costs will be incurred. The costs of adjustment directly affect the firm's profits since a greater than expected amount of earnings will be exhausted in compliance measures. In addition there may be extra costs associated with hiring new workers. As a result, firms will try to pass the costs of adjustment on to their consumers, or, if that is not possible due to competitive market conditions, scale back future production, investment, or new hiring. If the new compliance and adjustment costs are sufficiently high, firms may scale back existing production and lay off workers.

The Effects of the Regulatory and Mandated Benefits Barrier. Several studies point to the job-destroying effect of the regulation and mandated benefits explosion that has taken place in recent years.[31] With the passage of mandates included in the Clean Air Act Amendments of 1990, the Americans With Disabilities Act of 1990, and the Civil Rights Act of 1991, and the increases in the minimum wage in 1990 and 1991, the burdens on employers have ballooned.

The dramatic rise in the minimum wage alone, from $3.35 in 1989 to $3.80 in 1990 and $4.25 in 1991, helped push teenage unemployment to the highest rate in a decade. If the Clinton Administration proceeds with plans for a 50 cent hike in the minimum wage, and the labor market adjusts as it has in the past, there is likely to be an increase in the teenage unemployment rate of between 0.5 percent and 3 percent.

Another burdensome employer mandate will be the "employer trip reduction" requirement of the Clean Air Act. Starting this year, this will require employers in nine metropolitan areas to reduce the number of employees driving to work. Although no employment loss estimates are available, over 12 million employees will be covered by the act, making a difficult to believe that some jobs will not be affected.[32]

Whatever this intentions, civil rights employment mandates also take their toll. Peter Brimelow and Leslie Spencer of *Forbes* recently estimated the total cost of civil rights regulation to be $236 billion, which translates into a loss of 4 percent of GNP.[33]

The Family and Medical Leave Act of 1993, which grants employees as much as 12 weeks unpaid leave each year, discourages job creation. Because many employers will not be able to absorb the high costs and lost output resulting from mandatory worker leave, the policy will have the unintended consequence of encouraging struggling businesses not to hire individuals who might take advantage of the leave policy. The SBA has found the overall costs of this act to total as much as $1.2 billion.[34]

Other employer mandates that currently burden the labor market include the health care requirements found in the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), the prevailing wage requirements of the Davis-Bacon Act, and workers and unemployment compensation payments. These factors create added disincentives to job expansion since taking on an additional worker means steadily higher employer payroll burdens.

Employment Thresholds. In recent years, many legislators have come to realize that added regulation and mandates have a destructive effect on job growth, particularly in the small business sector. But, instead of attempting to craft more sensible policies or deregulate where possible, they tend to respond to small business concerns by adopting employment thresholds. Employment thresholds exempt smaller-sized businesses from certain regulations. For example, the Americans With Disabilities Act currently exempts all firms with fewer than 25 employees from the regulation; this will be lowered to cover firms with fewer than 15 employees after July 26, 1994. Other examples include the Family and Medical Leave Act, which exempts business with fewer than 50 employees and the Plant Closing Law, which exempts businesses below 100 employees.

These thresholds have the unfortunate side-effect of discouraging employers near the threshold from hiring new employees. Pointing to the Family and Medical Leave Act, Ruth Stafford, president of the Kiva Container Corporation, says, "Fifty is the magic number."[35] Her firm, like many others, plans to hold employment stable just under the 50 employee barrier using more temporary or part-time workers. This phenomenon is already being seen: according to the Bureau of Labor Statistics, temporary employment grew by 20 percent in 1993, up from 6 percent in 1990.

Principle #5: Sustained job growth results from competitive, efficient industries that are free of excessive government interference.

Steering America onto a path of greater job creation, low unemployment, and a higher standard of living will require a shift of current American economic policy. The three primary governmental barriers to job expansion—high taxes, limited credit through irrational financial regulations, and excessive regulations and added mandated benefits—all must be corrected. Adopting the European system would be a mistake. America should instead learn from history that where goods, services, labor, and wages have been allowed to move or fluctuate freely, prosperity, entrepreneurship, and high employment have been the result.

To put American back on the high-employment, high-wage track, President Clinton should take several specific and immediate steps to ensure American industries remain strong and competitive:

Step #1: Lower tax rates on businesses and capital. The effects of high tax rates on employers and capital are direct and damaging. Lowering both corporate tax rates and the capital gains tax rate (while indexing it for inflation) would provide an immediate and strong job stimulus by reducing the cost of hiring workers and unlocking the capital needed for business expansion.

Step #2: Reject all attempts to establish a European-style employment policy, especially expensive job training programs. High wages, sustained employment, and increased business activity should be guiding goals of public policy. Mandating them should not. Costly and ineffective job training programs should be ruled out as job-creating options. Americans need only look at the failure of European programs to understand why such an approach is a mistake. Such programs require massive amounts of public spending for the small number of jobs which are created.

Step #3: Cap federal spending. This will aid job creation by increasing the amount of private savings available for business investment.

Step #4: Enact comprehensive regulatory reform. The "hidden tax" of regulation and increased mandated benefits directly increase the cost of employing workers. The President and Congress should establish a federal regulatory budget and estimate the employment impact of regulations before they take effect. The regulatory budget would place a limit on the total cost that is imposed on the economy each year by new federal regulations. When the budget had been passed, no new regulations could be imposed—unless other rules were withdrawn.

Step #5: Adopt rational health care reform based upon consumer choice and not new employer mandates. No new policy action threatens to do as much damage to the labor market in the immediate future as does employer-based health care mandates. While reform is needed, it should not simply push the cost of comprehensive health coverage onto employers through expensive new payroll taxes. Accomplishing reform in this manner will result in the loss of millions of jobs.[36]

Step #6: Reform America's archaic financial and banking laws. Financial restrictions such as the McFadden Act of 1927, the Bank Holding Act of 1956, and the Glass-Steagall Act of 1933 retard bank stability and expansion and, therefore, limit the credit opportunities they can offer to businesses. Eliminating these impediments to financial efficiency would allow businesses to take advantage of expansionary opportunities by borrowing needed capital.

Step #7: Overhaul antiquated antitrust laws. America's outdated antitrust laws, such as the Sherman Antitrust Act of 1890 and the Clayton Antitrust Act of 1914, make it difficult for firms to enter into joint production alliances that could raise industrial efficiency and create new job opportunities.

Step #8: Pass product liability reform and other tort reform legislation. Currently, America's tort system saps private sector entrepreneurialism, hinders product innovation, and threatens the continuation of numerous businesses. Without reforms limiting punitive damages and streamlining costly cost procedures, an increasing number of jobs will be placed at risk.

Step #9: Continue to push for trade liberalization globally while eliminating domestic barriers to free trade. While the job gains will result from the wise actions already taken of passing the North American Free Trade Agreement (NAFTA) and General Agreement on Tariffs and Trade (GATT) agreements, further efforts should be made to expand free trade agreements while lowering the domestic barriers to imports.

Step #10: Encourage the use of privatization and contracting out whenever possible. Privatization and contracting out not only insure that services are delivered more efficiently for less money, they also allow private firms to raise capital and re-invest in more productive, long-term private sector jobs. Vice President Gore's National Performance Review failed to tap such methods of real government reform.[37] Undertaking such measures would encourage increased private sector employment while demonstrating that the Administration is serious about changing the way Washington works.

CONCLUSION

The Jobs Summit affords President Clinton the opportunity to outline the fundamental principles of job creation to the industrial nations of the world. Unfortunately, many nations, specifically in Europe and more recently the United States, have forgotten that low taxes, easy access to credit, rational regulations, and vigorous exposure to competition, are the foundation for a healthy, job-creating economy.

The most important lesson that President Clinton can bring back from Detroit is that government policies that increase the cost of hiring people mean that fewer people will be hired.

ADAM D. THIERER,
Policy Analyst.

FOOTNOTES

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[3] Lewin-VHI, *The Financial Impact of the Health Security Act* (Fairfax, VA: Lewin-VHI, 1993).

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[10] Quoted in Protzman, *op. cit.*

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[30] Laffer and Bord, *op. cit.*, p. 6.

[31] See Laffer, *op. cit.*, p. 7; Gary Anderson and Lowell Gallaway, "Derailing the Small Business Job Express," (Washington, D.C.: Joint Economic Committee, November 7, 1992); Lowell Gallaway and Richard Vedder, "Why Johnny Can't Work: The Causes of Unemployment," *Policy Review*, Fall 1992; Alan Reynolds, "Cruel Costs of the 1991 Minimum Wage," *The Wall Street Journal*, July 7, 1992, p. A14.

[32] See David Andrew Price, "Newest Mandate—Everyone Into the Carpool," *The Wall Street Journal*, November 8, 1993, p. A14.

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[34] Eileen Trzcinski and William T. Alpert, "Leave Policies in Small Business: Findings From the U.S. Small Business Administration Employee Leave Survey," Small Business Administration Office of Advocacy *Research Summary* Number 99, March 1991.

[35] Jeanne Saddler, "Small Firms Try To Curb Impact of Leave Law," *The Wall Street Journal*, August 5, 1993, p. B1.

[36] See Daniel J. Mitchell, "The Economic and Budget Impact of the Clinton Health Plan," Heritage Foundation *Backgrounder* No. 974, January 13, 1994.

[37] See Scott A. Hodge and Adam D. Thierer, "The National Performance Review: Falling Short of Real Government Reform," Heritage Foundation *Backgrounder* No. 962, October 7, 1993.

NOTE.—Nothing written here is to be construed as necessarily reflecting the views of The Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

U.S. Citizens Still Top World in Purchasing Power

[Per capital gross domestic product]

United States	$22,130
Switzerland	21,780
Germany	19,770
Japan	19,390
France	18,430
United Kingdom	16,340

NOTE.—Data are for 1990. Figures represent Purchasing Power Parities, which take into account exchange rates, inflation, and other currency differences.

Source: United Nations World Development Report, 1993.

LEGALLY REQUIRED BURDENS EMPLOYERS FACE

Payroll Taxes:

- [X] Social Security (FICA)
- [X] Unemployment

Other Taxes:

- [X] Corporate Income Tax
- [X] Sales Taxes

Mandated Benefits:

- [X] Minimum Wage Act of 1938
- [X] Worker's Compensation
- [X] Davis-Bacon Act of 1931 (Prevailing wage requirements)
- [X] Family and Medical Leave Act of 1993
- [X] Americans With Disabilities Act of 1990
- [X] Consolidated Omnibus Budget Reconciliation Act of 1985 (health benefits)
- [X] Equal Pay Act of 1963

Various Regulations:

- [X] Various environmental regulations (e.g. Clean Air Act)
- [X] Occupational Safety and Health Act of 1970
- [X] Equal Employment Opportunity Act of 1972
- [X] Age Discrimination Act of 1967
- [X] Fair Labor Standards Act of 1935 (overtime regulations)

[From the National Center for Policy Analysis Brief, Analysis No. 110, June 27, 1994]

WHY EMPLOYER MANDATES HURT WORKERS

Are employer mandates the best way to pay for health care reform? Virtually all studies of mandates conclude that they kill jobs. Even the Clinton administration agrees.

An Employer Mandate is Really an Employee Mandate. Economists generally agree that fringe benefits are earned by workers and that they substitute for wages. Employers cannot afford to pay more in total compensation than the value of a worker's output. So if labor costs go up because of mandates, the employer usually is forced to reduce wages by an offsetting amount.

Thus, requiring employers to provide health insurance is simply a disguised attempt to force workers to take health insurance rather than wages. Nominally, the proposed mandates apply to employers. Actually, they force workers to purchase health insurance, whether they want to or not.

Why Mandates Would Cost Jobs. When the government forces people to earn less and to pay for health insurance they may not want, working becomes less attractive. This is especially true for marginal workers—teenagers, working wives and the elderly—who may already be covered under some other policy. In addition, employers may not be able to substitute lower wages for health insurance for some employees because of the minimum wage law and other legal barriers. In that case, workers would simply lose their jobs.

Moreover, to the extent that the cost of mandated health insurance is not paid for by lower wages, it is a tax on capital. Taxes on capital reduce the amount of capital, which in turn reduces the demand for labor

Mandates Under the Clinton Plan. The Clinton plan's mandates would be especially onerous because:

Workers such as teenagers, part-time workers, two-worker families and elderly workers on Medicare would have to pay again for coverage they already have;

The Clinton plan's requirement of community rating would double the cost of health insurance for younger workers, who tend to place the lowest value on health insurance;

The plan would impose a disguised 7.9 percent tax on labor income;

Although there are subsidies for small businesses with low-income employees, the taxes needed to fund these subsidies also would cost jobs.

ESTIMATED JOB LOSS FROM THE CLINTON HEALTH PLAN

Study	Probable Job Loss	Potential Job Loss
ALEC	1.0 million	
State of California	2.6 million	3.7 million.
DRI/McGraw-Hill	659,000	908,000.
Employment Policies Institute	780,000–890,000	2.3 million.
JEC/GOP	710,000	807,000–1.2 million.
NCPA/Fiscal Associates	738,000*	
NFIB/CONSAD	850,000	3.8 million.
RAND	600,000	
Average	1.0 million	2.1 million.

*The NCPA study also includes an "Optimistic" forecast of 677,000 jobs lost.

The Clinton Administration's Estimates of Lost Jobs. The Clinton administration estimates that its health reform plan would cost 600,000 jobs, but says that most of these losses would be offset by job gains elsewhere in the economy. The administration has modest support among outside analysts. Economist Alan Kruger of Princeton University believes that only about 200,000 jobs would be lost. The Congressional Budget Office claims that the administration's proposal would "probably have only a small effect on low-wage employment." These administration-friendly analysts believe job loss would be minimal because the additional cost of health insurance premiums would be largely absorbed by lower wages and slower wage growth, thereby leaving labor costs essentially unchanged.

More Realistic Estimates of Lost Jobs. Eight major independent studies of the impact of employer mandates estimate job losses ranging from a low of 600,000 (the Rand Corporation) to a high of 3.8 million (CONSAD Research Corporation). The average predicted loss is 1 million jobs. [See the table.]

The range reflects the uncertainty about how an employer mandate would affect employers and workers. An employer insurance mandate would raise labor costs to employers, but they would pass much of those costs on to workers by lowering wages. The more employers are able to shift their increased labor costs to employees, the fewer jobs would be destroyed. For example:

The Rand study, which forecast the smallest job loss, assumes that 85 percent of the increased labor cost would be shifted back to workers in the form of reduced wages;

The Employment Policies Institute study assumes that 70 percent of the increased labor cost would be shifted back to lower wages;

The American Legislative Exchange Council study assumes wage shifting of both 62 percent and 85 percent.

Estimates of Lost Wages. The wages of highly-paid workers who already receive health benefits would be little affected by employer mandates. Because the wages of the lowest-paid workers cannot be cut very much, jobs then would be at great risk. The large in-between group would face significant wage reductions.

Five of the eight studies examine the wage effects of an employer mandate, using different approaches. The studies forecast these aggregate wage losses in 1998:

Employment Policies Institute: $27 billion;

State of California: $68 billion;

American Legislative Exchange Council: $93 billion;

National Center for Policy Analysis: $69 billion;

CONSAD Research Corporation: $28 billion.

Only the CONSAD study estimates the number of employees affected. It sets the number at 23 million, making the average wage loss $1,200 per worker in the in-between group. The Joint Economic Committee of Congress estimates that as many as 41 million workers would be affected, with the loss per affected worker ranging up to $2,300.

Estimates of the Economic Impact. Four of the major studies also consider the impact of an employer mandate on the economy as a whole. Their predictions:

DRI/McGraw-Hill: gross domestic product (GDP) will be down by $53 million in the year 2000;

The National Center for Policy Analysis: GDP will be down by $90 billion in 1998;

American Legislative Exchange Council: personal income will be down $112 billion by 1998;

State of California: GDP will cumulatively decrease $224 billion from 1995 through 1998.

Other Studies. The Joint Economic Committee of Congress has cataloged 40 studies of employer mandates. Only the eight studies examined here used econometric models to produce specific numbers on job loss. However, all 40 came to the same general conclusion: employer mandates destroy jobs and reduce wages.

[From the Heritage Foundation F.Y.I., July 6, 1993]

THE JOBS IMPACT OF HEALTH CARE REFORMS

(By Peter J. Ferrara, Senior Fellow)

INTRODUCTION

Only one major health care reform proposal guarantees secure and portable health insurance coverage for every American family while not destroying jobs, according to a recent study conducted for the National Federation of Independent Business (NFIB), the nation's largest association of small business owners. That reform proposal is The Heritage Foundation's Consumer Choice Health Plan.[1]

CONSAD Research Corporation, which conducted the study, is a major health care research firm based in Pittsburgh.[2] Its calculations are based on labor impact models developed for the U.S. Department of Health and Human Services. In the NFIB study, CONSAD concludes: "The Heritage Foundation's proposal is estimated to have no effect, severe or moderate, on employment." The other universal health care proposals analyzed by CONSAD were the "managed competition" plan developed by the so-called Jackson Hole Group, the employer mandate plan designed by California Insurance Commissioner John Garamendi, and the "play or pay" bill introduced in 1991 by the Democratic leadership in Congress. Each of these would lead to heavy job losses, because of the extra labor costs they would impose on firms. Another proposal examined by CONSAD, the Conservative Democratic Forum plan, would not cost jobs. But unlike the other plans modelled, including the Heritage proposal, it would not lead to universal coverage.

HOW JOBS WOULD BE AFFECTED BY MAJOR HEALTH REFORM PROPOSALS

Proposal	Jobs lost	Jobs at risk[1]
Heritage	No jobs lost	No jobs at risk.
Jackson Hole	900,000 to 1.5 million	16.3 million.
Garamendi	390,000 to 650,000	6.6 million.
Play or Pay	650,000 to 1.1 million	11.5 million.
CDF[1]	None[2]	None.[2]

[1] "At risk" means workers have a high probability of layoff or job elimination, and stand the greatest chance of substantial losses in wages and benefits.

[2] The CDF Plan, unlike the other proposals, would not achieve universal coverage.

THE HERITAGE PLAN

Under the Heritage Consumer Choice Health Plan, each worker would have the right to use the money currently paid by his or her employer for health coverage to purchase any other health insurance plan of the worker's choice, from any source. Any resulting savings would go directly to the family. In addition, the worker could direct these and other funds into a medical savings account to pay for future health expenses. These workers, as well as workers currently without employer-provided insurance, would receive a substantial tax credit for the payments made for family health insurance premiums, medical savings account contributions, or out-of-pocket health expenses. The credit would be "refundable," meaning that families near or below the tax threshold would receive the equivalent of the tax credit in the form of a voucher.

Through this market-oriented plan, consumers are given broad, powerful market incentives to consider the costs and benefits of different health insurance plans, and the medical services they buy directly. They would tend to avoid unnecessary health care. And since consumers would be far more directly concerned with costs, doctors, hospitals, and insurers would compete far more vigorously to reduce costs. Such market incentives and competition, not government price controls, are the most effective means for reducing cost.[3]

At the same time, the Heritage Plan would require each individual to purchase a basic catastrophic health plan, just as in most states automobile drivers are required to purchase at least a minimum liability insurance policy. This health insurance requirement is to protect other members of society from having to pay for the cost of care for the uninsured. Through the refundable credit, low-income Americans would be given government assistance to pay the premiums.

The Heritage Plan thus provides for universal coverage without imposing extra costs on employers—and so would not reduce employment.

CONSAD Estimate of Job Losses: No jobs lost or put at risk.

THE JACKSON HOLE PLAN

The ability of the Heritage Plan to achieve universal coverage while protecting jobs contrasts sharply with the managed competition proposal advanced by the Jackson Hole group of policy experts, including Professor Alain Enthoven of Stanford University, physician Paul Ellwood, and others.[4] This proposal would require all employers to purchase at least a set of standards federally designed health insurance plans for their employees and their families, through regional insurance cooperatives—or directly from insurers in the case of larger employers. The proposal seeks to steer workers into Health Maintenance Organizations (HMOs) or similar managed care networks in which the consumer's choice of doctors and services is limited. This proposal is typically called "managed competition," or the "Jackson Hole Plan."

The CONSAD study concludes that because of the cost of the mandate to employers, the managed competition proposal would put 16.3 million small business jobs, or almost 25 percent of all small business employment, "at risk." This means that workers would be subjected to prolonged layoffs, reduced compensation, or future job cutbacks and plant closings. The study estimates that between 900,000 and 1.5 million small business jobs would be lost once the proposal was implemented. These negative effects would occur because the mandated employer payments for health insurance would raise the cost of labor and, consequently, encourage many employers to reduce compensation or to cut jobs.

CONSAD Estimate of Job Losses: 900,000 to 1.5 million jobs directly lost; 16.3 million jobs put at risk.

THE GARAMENDI PLAN

Another proposal analyzed in the CONSAD study is advanced most prominently by the Insurance Commissioner of California, John Garamendi. This proposal would be similar to the managed competition proposal, but would finance the health insurance package through a payroll tax. Under the proposal, employers and employees would pay a combined 9 percent payroll tax to regional cooperatives, which would make available to families a range of plans meeting minimum specifications.

This proposal bears the closest similarities to the plan being developed by the Clinton Administration. The CONSAD study estimates that this proposal would put about 6.6 million small business jobs, or about 10 percent of all small business employment, at risk of reduced work or benefits, with from 390,000 to 650,000 jobs eliminated altogether. This loss again occurs because the payroll tax on employers raises the cost of labor. The study notes, incidently, that the proposed 9 percent payroll tax probably would be insufficient to finance the expected benefits, which would include workmen's compensation and health care for auto injuries. If a higher payroll tax were necessary, as is likely, it would cause larger job losses.

CONSAD Estimate of Job Losses: 390,000 to 650,000 jobs directly lost; 6.6 million jobs put a risk.

THE PLAY OR PAY PLAN

Another major proposal examined in the CONSAD study is the "play or pay" plan advanced in recent years by leading congressional Democrats.[5] This is the primary proposal for employer-mandated health insurance being considered in Congress. Under this proposal, employers have a choice: Either they must purchase health insurance providing at least certain specified benefits to their employees and their dependents, or pay a tax for similar coverage to be provided by the government.

The CONSAD study concludes that the additional labor costs imposed on many firms by this requirement would put 11.5 million small business jobs, or about 17 percent of all small business employments, at risk of reduced work or compensation. CONSAD estimates that from 650,000 to 1.1 million Americans would lose their jobs.

CONSAD Estimate of Job Losses: 650,000 to 1.1 million jobs directly lost; 11.5 million jobs put at risk

THE CDF PLAN

The final major proposal studied is a version of managed competition included in a bill (H.R. 5836) introduced by Representative Jim Cooper, the Tennessee Democrat, and other members of the Conservative Democratic Forum, a caucus of conservative Democrats in the House of Representatives. While similar to the Jackson Hole Group's proposal, this bill differs in a crucial respect: It would not require employers to pay for employees health insurance. It would require employers only to make such insurance available through regional cooperatives for purchase by workers if the employer did not choose to pay for it.

Since the CDF bill would not require any increase in labor costs, the CONSAD study found it would have no significant negative effect on employment or jobs. The bill, however, does not achieve universal coverage, unlike any of the others plans analyzed, since the uninsured likely would remain without insurance. The reason: Neither employee nor employer would have any new requirement or assistance to purchase coverage.

CONCLUSION

Most of the leading health care reform proposals, including the emerging Clinton plan, seek to finance expanded health insurance at least in part by imposing new financial obligations on employers. This method of finance has a political advantage. It hides must of the cost of coverage from those who will ultimately pay the cost—American workers. This cost is not just financial. By increasing the cost of labor in many firms, it would mean fewer jobs and reduced wages paid to those with jobs.

This effect is well understood by economists and business owners, if not, unfortunately, by the workers not affected. The CONSAD study actually quantifies these effects. The study indicates that three of the five major proposals examined—and by implication the emerging Clinton plan—would mean heavy job losses and put millions more jobs at risk.

There are only two plans that would not cost jobs. One is the proposal advanced by the Conservative Democratic Forum. But while it avoids jobs losses by not imposing a mandate on employers, it does not achieve universal coverage. There is only one plan that leads to universal coverage with no job losses. That is the Heritage Foundation Consumer Choice Health Plan.

FOOTNOTES

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[3] Edmund F. Haislmaier, "Why Global Budgets and Price Controls Will Not Curb Health Costs, Heritage Foundation Backgrounder No. 929, March 8, 1993.

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THE HEALTH SECURITY ACT—AN NFIB WHITE PAPER

EXECUTIVE SUMMARY

NFIB and its small business owners have been crying out for health care reform louder and longer than most. In 1986, NFIB members declared health care reform their number one priority. Since that time, we have been polling small business owners on various elements of reform schemes and we now have a fairly solid conception of what the small business community wants—and doesn't want—from health care reform.

Small business does not want the system envisioned by the Health Security Act.

Small business owners are in a unique position within the health care reform debate. On one hand, they are a primary "victim" of the current cost crisis and, on the other hand, they are being asked to fund the lion's share of the reform bill. According to HHS Secretary Shalala, the business community will fund approximately 60 percent of the new plan. Small firms will have to fund insurance coverage for their employees and dependents, a new cost for 55-60 percent of the American business community. According to Lewin/VHI, the proposed plan will cost American small business nearly $29 billion in new expenditures for the 80 percent mandate alone. NFIB estimates that at least two of every three employers would have increased health insurance costs if the Health Security Act were enacted, almost all of which would be small employers.

NFIB's contacts with small business owners—the people who create the jobs, meet payroll and make their business run every day—show significant fear of a huge new program affecting millions of businesses and hundreds of millions of Americans, supported by an unprecedented bureaucracy. The more details of the plan they see, the more concerned small business owners become.

In the beginning of the debate, President Clinton laid out two main goals with which nearly everyone agreed: providing coverage to the nation's uninsured and mitigating the cost crisis in health care. NFIB strongly supports these two critical goals, along with the President's six essential principles against which any reform plan should be measured. However, we believe the plan falls far short on the goal of reducing costs, and is untrue to the six principles:

Security: We believe the plan trades job security for health security.

Simplicity: The plan is extraordinary complex for the business owner and in overall structure.

Responsibility: Small business owners will bear a disproportionate share of the responsibility.

Choice: For the business owner, choice and flexibility are eliminated.

Quality: Caps on spending and excessive government control could reduce quality and innovation.

Savings: With a huge new bureaucracy in place, realization of savings is dubious.

In the beginning a requirement for employers to provide coverage for their employees and dependents seemed to some to be the simplest solution. However, the real life implications are fast becoming known. The attached sheet on public opinion about the employer mandate shows that the American public is not in favor of these types of restrictive requirements on businesses.

While nearly all provisions of the plan affect small business, the most critical can be broken down into five general categories:

Financing: NFIB does not believe that the funding for this plan is sound, nor do we find the estimates on target. The country cannot afford for the small business community to be the primary financing mechanism for a vast new entitlement program. In the event of a funding shortfall, every financial safety valve is connected to the business community and therefore to jobs. Given the choice of cutting the benefit package, raising taxes or passing on the cost to employers, the government's predictable choice will be the latter.

Subsidies: Small business owners, even those who believe they may be better off in the short term as a result of the proposed subsidies, do not find these promises credible. First, the subsidy levels have shifted several times since first announced and an overall cap has been imposed. Second, Administration officials have declared them temporary. Third, they may be practically meaningless. In the case of a shortfall by the state or an alliance, employers may be "assessed" again to make up the difference.

Mandate: While economists may not agree on everything, one thing they do agree on is the impact of payroll taxes on job creation. Payroll taxes are without a doubt the small business owner's biggest financial burden. In fact, most small firms now pay more in payroll taxes than they do in income taxes. Payroll taxes must be paid whether the firm is profitable or not, and they raise the cost of hiring and keeping employees. The 80 percent employer mandate is by definition a new broad-based payroll tax. The result: higher price reduction in benefits, fewer jobs created, potentially widespread layoffs and fewer business start ups.

Simplicity: Small business owners believe they will need an entire new employer benefits department to comply with the Health Security Act. Obviously, for most of the nation's small firms that is impossible. Contrary to what many lawmakers believe, the administrative burden for small firms under the President's proposal will expand markedly. Rather than spending productive time building and improving the business, business owners will be transformed into the government's administrative enforcer under the reform plan.

Expansion of Government: The Health Security Act proposes an unprecedented expansion of government bureaucracy to support the new system. While small business owners believe government has a role to play in health care reform, they see the proposed structure as far too expensive because it leaves virtually nothing in the health care sector outside of government control. Expanding government involvement in a program has never improved a program, nor brought down its overall costs.

NFIB believes the plan to be overpromised, underfunded, and a tremendous burden for business owners.

NFIB and its over 600,000 members across the country have been advocating comprehensive health care reform since 1986. Our positions on various aspects of reform plans have been established by our members through seven years of polling on the subject of health reform. In the 103rd Congress, reform plans supported by NFIB include the Managed Competition Act of 1993 (Senators Breaux and Durenberger), the Health Equity Access Reform Today Act of 1993 (Sen. Chafee, et. al) and plans introduced by Rep. Michel, Sen. Nickles and others.

THE CLINTON HEALTH REFORM PLAN

PROVISIONS CONCERNING SMALL BUSINESS

Employers are required to pay for 80 percent of coverage for employees and dependents.

The requirement that employers pay 80 percent of the health insurance costs for all employees and their dependents is no different than a new payroll tax. This is especially true for the 55-60 percent of the business community that does not provide health insurance. In fact, is the single largest payroll tax increase in history.

Employers must cover part time and seasonal workers, in addition to picking up Medicare costs for employees over age 65.

Payments made for two worker families are calculated so that both employers must pay, based on a complicated and bureaucratic formula (payment—80 percent of average weighted premium divided by the average number of workers per family type for that region).

Employers may be required to send payments to multiple alliances.

Alliances may require employers to pay by electronic transfer.

Recordkeeping and calculations to determine eligibility for the subsidy are complicated and cumbersome. For most small firms, fluctuating wages will make this a nightmare to determine.

Employers must provide alliance with all relevant identification and employment information for each employee, forward all relevant health plan and alliance information to their employees, report any and all changes in personnel to the purchasing alliance and track workers' family status.

Extensive records must be kept and made available to the alliance. At year end, businesses must reconcile their payments with the alliance to ensure compliance and must report information on wages and number of employees to ensure eligibility for subsidies.

Alliances can audit employers to ensure compliance.

The Clinton plan changes the tax treatment of certain earnings of an S corporation, significantly increasing the Medicare tax on many S corporation shareholders. Also, shareholder earnings will now be included in the calculation of payroll, reducing the small business subsidy for many.

The plan is likely to significantly narrow the definition of "independent contractor." The plan grants the Treasury Department the authority to issue new rules defining who is an employee for purposes of FICA, FUTA and the health plan premium. This substantial new power allows the IRS to override anything in current law except for the new safe harbor created by the plan.

Since the regional alliances will be responsible for collecting premiums from employers, they will have to make a determination as to which workers are independent contractors and which are employees. Problems may develop in cases where the regional alliance classifies a worker as an employee, but the IRS considers that worker to be an independent contractor.

States are permitted to opt out of the system and choose single payer for all or part of the state.

Employers may be required to pay additional amounts if a state or alliance fails to meet its budget target or collect the premiums it is owed.

The Administration's proposal establishes a standard benefits package that has been compared to those provided by "Fortune 500" companies. In addition, the National Board that will administer the system can add benefits to the package, as can individual states.

Alliances have the potential to become huge, government-run entities with significant regulatory powers.

The alliances will have strictly set boundaries, may not cross state lines and may not split MSAs. Since so many businesses operate across state lines or across MSAs, the employer may have to pay multiple alliances compounding the administrative complexity.

Employers would lose all control over their health insurance costs. Self insurance for forms under 5000 employees will not be allowed, and all ability to control benefits and premium costs will be low.

The national board is given extraordinary power, including determining per capita premium targets and alliance budgets, approving state systems, interpretation and upgrade of standard benefit package, and general oversight and enforcement.

The Administration's proposal is a massive top-down reorganization of the nation's health care system with an unprecedented level of government involvement and control over health care. With such a powerful National Health Board, potentially hundreds of Health Alliances, and dozens of new agencies proposed to run the system, the Administration's plan is government-intensive.

The plan sets up an infrastructure that could easily be used as a launching pad for a Canadian style, single payer health care system.

A 7.9 percent cap for large corporations with fewer than 5000 employees is a huge windfall for many big corporations that have allowed their health care costs to skyrocket. General Motors and Ford, for example, currently pay close to 20 percent of payroll in health costs. For the majority of larger firms with over 100 employees, overall costs will go down by about $14.5 billion. In addition, the Administration has recommended that the government pick up 80 percent of the health insurance costs of early retirees, another boon for large corporations.

The bill's malpractice language is weak, providing only for some alternative dispute resolution, a collateral source rule and a nominal limit on attorney's fees.

THE HEALTH SECURITY ACT

WHERE'S THE SIMPLICITY?

One of President Clinton's principles for health care reform is "simplicity." However, as we've seen it laid out, the plan seems anything but simple for the small business owner. In addition to the requirement to fund coverage for all employees and dependents, business owners must comply with far reaching and complex information reporting. Although the plan removes the responsibility for "shopping" for coverage, it has multiplied the employer's administrative burden.

Following is a list of employer administrative requirements:

Reporting: Prior to enrollment, the business owner must provide to the alliance identification and employment information for each employee.

Once a year the employer must furnish the following data to the alliance: number of months of full time equivalent employment for each employee and each class of enrollment, amount deducted from wages for the family share of premiums, total employer premium payment for the year for all employees in each alliance area, the number of full time equivalent employees for each class of enrollment (i.e. the number of single employees or employees with dependents) broken down by month, the amount of wages covered for each employee, any employer collection shortfall payments and any additional information specified by the Department of Labor.

Each month, the employer must apprise the alliance of any information on a change in an employee's employment status (such as a firing or hiring, wage increase, change for part time to full time, etc.), and any change in employee's family status (such as a divorce, marriage, new dependent).

For a new employee, the employer must provide identification information, home address, alliance area of residence, class of family enrollment (divorced, single, dependents), health plan employee is currently enrolled in, whether employee has moved from one area to another and any additional information the Board or the Department of Labor may specify.

Employers must provide to each employee information on the number of months of full time equivalent employment for each class of enrollment, the amount of wages attributable to qualified employment, the amount of covered wages, the total family share deducted from wages and any other information that the Department of Labor may specify. [If the employer paid premiums for employees to more than one alliance, information must be reported separately for each alliance.]

Payment Calculation: In order to calculate his or her contribution, the business owner must determine which "family status" category each employee fits into, track that throughout the year and pay 80 percent of the alliance's average weighted premium.

Payments made for two worker families are calculated so that both employers must pay, based on a complicated and bureaucratic formula (payment=80 percent of average weighted premium divided by the average number of workers per family type for that region).

Payments for part time workers are calculated pro-rata based on a 30 hour baseline. For example, for an employee working 10 hours a week, the employer must pay one-third of 80 percent of the average weighted premium for the employee's chosen plan.

In order to determine whether they qualify for a subsidy, an employer must calculate the company's average wages (total wages of qualified employees divided by the number of full time equivalent employees). This figure must be calculated each month, then payments must be reconciled at year end. Monthly fluctuations, common in small firms, make this an administrative nightmare.

Recordkeeping: Employers must keep extensive records of all these transactions and calculations and make them available to the alliance. At year end, all payments and wages must be reconciled and reported to the alliance.

Employers may be audited by the alliance.

A true understanding of the small business community would reveal that many of the smallest firms, subsidy or no, could crumble under the combined weight of the new administrative requirements and the 80 percent mandate. The administrative burdens of the proposal are just as much a tax as the requirement to pay 80 percent. The average small firm does not have a "green eyeshades" benefit administrator in its backroom and did not get into business to serve as a partner, or administrator, for the federal government. Where's the simplicity?

THE EMPLOYER MANDATE IS A TAX ON JOBS

"A majority of House members and the House parliamentarian view the employer mandate in the Clinton health reform plan as a form of tax revenue."—BNA Daily Report for Executives, November 1993.

The Health Security Act requires all employers to pay 80 percent of the health insurance costs for all current and future employees and their dependents and a pro-rated portion of this 80 percent requirement for part-time employees and their families. After reviewing the Health Security Act, NFIB reasserts what it has argued all along; the mandate-to-pay is a payroll tax increase that will result in job loss in the smallest weakest, newest businesses in the U.S. economy. We also assert the following: to maintain its reputation for honesty in federal budgeting, the Congressional Budget Office must determine that the 80 percent premium requirement is a tax.

How can the mandate be anything else? Title I of the bill places into the law the idea that the federal government will guarantee that all Americans have a certain set of health benefits. Title VI finances this legal guarantee by telling employers how much they must pay for health insurance, where they are to send the money and subjects them to audit and federal penalties if they do not comply. All of this makes the mandate no different than a tax. It must be called what it is and treated as such by Congress.

A payroll tax is the most onerous tax for a small business. It must be paid regardless of a firm's financial health. It raises the cost of hiring and/or keeping each employee. In the case of the health care employer mandate, it is not difficult to see which firms will be hit hardest. Three million firms employ four or fewer employees. These Main Street firms make up 60 percent of all American employers. Of these three million, 76 percent do NOT currently offer health insurance to their employees (HIAA data). Most of these firms do not provide insurance simply because they cannot afford it. They will be hit the hardest by the mandate, as will new businesses. Of all American employers, 55 percent to 60 percent do not provide health insurance. The 80 percent mandate will force the owners of the smallest businesses in the economy to pay for an untested system with no certainty of future costs.

NFIB estimates that at least two of every three employers would have increased health insurance costs if the Health Security Act were enacted, almost all of which would be small employers.

In a September Gallup Poll of NFIB members, 84 percent of small business owners opposed the employer mandate-to-pay. When asked how they would be affected by a 3.5 percent increase in payroll costs (the best deal many firms could get under the Clinton plan), one third of respondents said they would let employees go and nearly one half said they would be forced to raise prices. Every public study and survey of economists done on the employer mandate forecasts job loss (up to 3.1 million). Even the Clinton Administration has acknowledged that approximately 600,000 jobs could be lost. Europe is suffering chronic unemployment in part as a result of mandated benefits. Many advocates of universal coverage in both political parties have rejected the employer mandate to pay as an inefficient, risky way to achieve that goal. In short, health security need not come at the expense of job security.

SUBSIDIES AND PAYROLL CAPS: UNRELIABLE AND UNDESIRABLE

Ira Magaziner, the President's health care advisor, once declared that concerns about the job loss impact of the employer mandate to pay were "crazy." But on page 1051 of the Health Security Act comes the clearest admission to date that job loss concerns are not only not crazy, they are well founded.

On that page, Section 6123 of the bill outlines the small business subsidy scheme through which the required health premium costs for small firms (under 75 employees) would be limited to 3.5 percent to 7.9 percent of payroll. The federal government would pick up the rest. While NFIB appreciates this recognition that some small firms simply cannot afford to pay 80 percent of a government mandated "Fortune 500" health plan, these subsidies and payroll caps have so many weaknesses that small business owners view them as unreliable, undesirable and under-financed:

(1) The percentages of payroll at which mandated health care costs are capped would always be subject to change. In fact, just since the first unveiling of the President's plan, they already have.

Example: Mr. Smith owns a landscaping company and employs 26 people who on average make $15,000 a year. When the first draft of the President's plan was released on September 7th, his health care costs were capped at 3.8 percent of payroll. But what happened when concerns were raised that the health bill was not paid for? On October 4th, a new subsidy table came out which would have raised Mr. Smith's cap to 4.4 percent of payroll (BNA's Daily Health Care Report). When the Health Security Act was finally submitted to Congress in November, Mr. Smith's payroll cap rose again to 5.3 percent of payroll. In these two changes, Mr. Smith's already considerable mandated health care costs rose $5,850 per year. This process would only be magnified if the employer mandate were law and political and fiscal pressures mounted. Because of financing problems, the payroll caps are made of swiss cheese.

(2) While the bill "entitles" certain firms to payroll caps based on their size and average wage, it places a cap on the amount of funds that would be available for this entitlement. This means that if estimates for the cost of this entitlement are off, the "caps" of 3.5 percent to 7.9 percent are meaningless.

There is every reason to believe that the Administration estimates will be off. Neither the Bureau of Labor Statistics nor the Small Business Administration have current statistics of average wages by firm size, making it very difficult to know how many firms will be eligible for the subsidies. Lewin/VHI's recent financial analysis of the plan found the Administration's cost estimate for the subsidy to be off by $36 billion. Then there is history. In 1965, Medicare was estimated to cost $9 billion by 1990. It actually cost $116 billion. When cost estimates of the subsidy prove to be low, the payroll caps will prove meaningless.

(3) The Health Security Act allows the state and the National Health Board or Congress to adjust the already generous standard benefits package. Recent experience has clearly shown that a federal government fiscally restrained by huge deficits is inclined to pass and take credit for benefits for which it does not have to pay. If this should happen with the standard benefits package, the small business subsidy would cover less and the employer mandate would cost more.

(4) Fifty-five percent to 60 percent of U.S. employers do not currently offer health insurance to their employees. To them even a subsidized employer mandate will raise the cost of each employee by 3.5 percent to 7.9 percent.

(5) Small businesses do not want and have never asked for a government subsidy. They want a reformed, competitive health care market that reduces costs and offers them and their employees affordable insurance.

VOODOO ECONOMICS: FINANCING THE HEALTH SECURITY ACT

HHS Secretary Donna Shalala recently testified that business will fund about 60 percent of the Health Security Act, with the federal government and individuals picking up the rest. This makes the business community, more than 95 percent of which are small employers, the biggest stakeholder in the fiscal soundness of the proposal. Small business owners cannot afford to be the major financer for a litany of new open-ended entitlements. If the numbers do not add up, small business will be asked to pay more. Given the choice of cutting benefits, raising taxes or passing the cost on the employers, the latter is likely to be the choice.

Is the plan small business owners will be asked the pay for fiscally responsible? The answer is no.

Entitlements and obligations. The Health Security Act provides: (1) A "Fortune 500" health plan to 37 million uninsured Americans; (2) more generous health care benefits for the millions of Americans who have insurance but do not have a Fortune 500 plan; (3) new long term benefits for the elderly; (4) prescription drug benefits for the elderly; (5) subsidies to low income families and small firms to reduce the cost of mandates; (6) early retiree benefits; (7) deficit reduction; (8) 100 percent tax deduction for the self employed; and more.

Financing. These obligations are financed by: the employer mandate; a corporate alliance payroll tax; Medicare and Medicaid cuts; new tax revenues that result from post health care reform profits and a tobacco tax increase. NFIB believes that each of these financing mechanisms as well as the estimates of the costs of what they pay for are alarmingly off target.

For example, the plan forecasts with attempted precision a $71 billion windfall for business that would result from lower health care costs. But the employer mandate makes this impossible. As previously mentioned, 55 percent to 60 percent of employers do not currently offer health insurance to their employees. For this majority of American employers, health care costs will automatically rise, not go down. It is simply not credible to say that the health care program will produce a $71 billion revenue windfall when it imposes an economically damaging tax on a majority of employers.

A recent study by Lewin/VHI, considered the most definitive financial analysis of the

President's plan to date, finds that the costs will be significantly higher than the Administration projected. Lewin estimates the plan will cost the government $364 billion; the Administration estimated $286 billion. Similarly, Lewin finds the Administration's net deficit reduction figure to be overblown by 300 percent.

There are other problems. The plan depends on cuts in Medicare and Medicaid that experts both conservative and liberal, Republican and Democrat, believe are not achievable. The 1 percent corporate alliance payroll tax will produce less revenue than expected when big corporations find it more advantageous to simply join regional alliances.

But let us make the dubious assumption that all of the revenue and savings proposals produce exactly the amount of money they are supposed to generate. There is no reason to believe it will pay for all of the spending items listed above. Remember, in 1965, government actuaries who were projecting the 1900 cost of Medicare were off by more than 1,000 percent. The projection for Medicaid in that same year was off by nearly 8,000 percent.

What if the government's ability to predict cost has radically improved? What if the cost projections of all the listed entitlements and commitments for which the federal government must pay are off by only 50 percent? There would be at least a $190 billion shortfall. Small business owners cannot afford to be the major financing mechanism for this risky fiscal gambit. Small business employees won't be able to afford it either.

THE HEALTH SECURITY ACT AND THE EXPANSION OF GOVERNMENT

A majority of NFIB members have said in surveys that government has a role to play in the health care sector of our economy. And NFIB members have also stated that health care reform is their most important priority. But in terms of government involvement, the Health Security Act goes way too far. The Health Security Act, if enacted, would be the largest single expansion of government authority in the country's history.

The nearly $2 billion new bureaucracy that is included in the plan is alarming to small business owners but is only a small portion of the shadow that the Administration plan will cast over the private sector. A close look at the bill shows that there is no aspect of the nearly $1 trillion health care industry that is outside of government control.

Among other things, the National Health Board will set a health care budget for both the public and private sector, a budget equaling one seventh of the economy. It will set similar health care budgets for individual states and regional alliances. It can order reductions in payments by health alliances to health plans and, as a result, to doctors and hospitals. It can tell the Department of Health and Human Services to take over a noncomplying health alliance. It will determine how much insurance premiums can go up. It will interpret and adjust the standard benefits package. It will have a role in the pricing of breakthrough drugs. It will establish advisory commissions. And it will have broad rulemaking authority to carry out any aspect of the bill.

What about the regional alliances? They will not only negotiate health care prices on behalf of small business owners and individuals, as was the original purchasing cooperative concept. They will require alliance participation by every employer with fewer than 5,000 employs along with individuals. They will have the right to refuse health plans whose premiums are more than 20 percent higher than the average premium in the area. They will have the authority to reduce payments to health plans and providers when the alliance is over budget. They will have the responsibility of including failed corporate alliances, which would create an influx of thousands of employees at a time. The alliance will monitor (through audits) employer compliance with the employer mandate, average wage formulation and payroll caps. The alliance will preside over the individual and small business subsidy program. The alliance will have the authority to increase employer and individual payments when it anticipates a premium shortfall.

There are numerous other examples of the vast expansion of government's reach in the Health Security Act. Suffice it to say that small business owners do not accept the idea that health care reform can only come with government control of a health care budget that would be more than three times the size of the annual defense budget.

PUBLIC OPINION ON EMPLOYER MANDATES AND JOB LOSS

USA Today/CNN Gallup poll—11/1/93. 64 percent believe employers should be encouraged by tax breaks not required to pay health costs for their workers.

USA Today/CNBC survey of 55 economists—10/1/93. 78 percent say that enactment of President Clinton's health care plan would slow employment growth.

CBS/New York Times poll of 1136 adults—9/19/93. 41 percent believe the decision to provide health insurance to employees should be left up to the individual company.

47 percent believe that a proposal requiring all employers to provide coverage to all employees would kill jobs.

Wall Street Journal/NBC poll—9/21/93. 55 percent agree that the President's health care reform plan will force many small businesses to close.

Marttila & Kiley poll of 800 adults—10/18/93. 59 percent are concerned that President Clinton's plan will cause small business to eliminate jobs or hire fewer workers.

Mason-Dixon Political/Media Research poll of 818 registered voters—9/93. 49 percent oppose employer mandates for health insurance.

Washington Post poll of 1015 adults—10/12/93. 64 percent are concerned that the Clinton plan will cause employers to eliminate existing jobs.

73 percent believe the plan will hurt small business.

American Viewpoint survey of 1000 adults—11/12/93. 58 percent agree that employer mandates will cause job loss, fewer jobs created and lower pay.

National Association of Self-Employed survey of 500 members—11/19/93. 24 percent said an employer mandate would have a significant effect on wages and profits.

29 percent said an employer mandate would cause them to sharply cut wages and jobs.

25 percent said an employer mandate would cause them to close their doors.

SMALL BUSINESS OWNERS SPEAK OUT ON EMPLOYER MANDATED HEALTH INSURANCE

"I am a small-business owner (25 employees) working very hard along side my husband to build a future for ourselves.

"We do not have a profit margin to support the President's proposed 80 percent burden of health insurance costs. Even with the proposed subsidies, a 3.5 percent rise in payroll costs will seriously challenge our ability to stay in business. This is not an exaggeration. What options does a small business owner like myself have? We've considered cutting our staff, freezing all wage increases indefinitely and raising our prices. Also, we could not invest in new equipment, store upgrades and the hope of ever expanding our business—there would be no money left for these things. I haven't even mentioned the desire to eventually begin receiving an income from all of our hard work."—Diane M. Weidrick, Tipndi, Inc., DBA Tallmadge Dairy Queen, Cuyahoga Falls, OH.

"We employ approximately 100 people. Should this health care program be approved we have two alternatives. One, raise prices. Two, reduce our staff. Because we can't raise prices enough to make up $135,000 a year, we will be forced to install automatic dishwashers and lay off about 12 people who now wash dishes. Based on the Clinton's plan, we estimate our insurance increase would be $135,000.

"I wish the 'experts' in Washington could get their figures first hand. Come run our restaurant. Tell me where to get $135,000 extra to pay for health care."—Lynn McGarvey, Charco Broiler, Bellvue, CO.

"Our existing insurance costs are now 9.87 percent of our gross sales. If you take our present insurance costs and add the proposed new cost of a mandated health plan, it will increase our insurance costs to approximately 30.63 percent of our existing gross sales. There is no way this business can produce enough revenue to cover all insurance costs, pay all state, federal and local taxes and remain in business. If required to close, it will add nine more people to the unemployed group, having a small direct effect on our local economy."—Troy Elliott, Troy's Welding Inc., Albuquerque, NM.

"As a small business owner, I am greatly opposed to the mandatory insurance program. If this is enacted, I will have to cut my employee hourly wages to compensate for the higher insurance premiums I will be forced to pay.

"I will have to eliminate all part-time employees and to severely cut back on the full-time employees that I have in my employ. In our business at the present time, we are at a point that we need to add additional employees to our payroll. But so far we have refrained because of the threat of mandatory increases in employer contributions to insurance and also the threat of increased taxes. If these become enacted they will increase expenses for business which will further decrease the business base. And my business may be one of those that will have to be sacrificed for these mandates."—James K. Grieser, Grieser & Son, Inc., Wauseon, OH.

"Everyone of you [politicians] run for reelection on the premises of keeping Montanans employed. We do keep 70 Montana people employed year in and year out. If [honorable sirs] vote in a mandate on a health care system you are automatically adding a minimum of 10 people to the unemployment rolls."—Howard B. Hanger, Thriftway Family Market, Missoula, MT.

"Our business, employing 23 people, is a service business which provides meals to the elderly in North Louisiana parishes. Mandated health insurance, or an employer mandated tax plan to pay for health reform, will simply LOCK THE DOOR to this business. This cost cannot be passed on."—Gail Elkin, Bountiful Foods, Monroe, LA.

"I am close to having to close my doors now because of taxes. That means it could be the end of employment for 6 people if I am forced to pay out any more."—Violet K. Hinton, Attorney at Law, Battle Creek, MI.

"According to the premium amounts published under Clinton's proposals (assuming we pay 80 percent of $4200 family premiums for all 43 of our married employees), our medical premiums would increase $77,360/year. This represents an 84 percent increase! If our premium requirement is capped at 7.9 percent of payroll, our annual premium would increase $44,300. This would be a 48 percent increase!"—Jack Miner, Timber By-Products, Inc., Albany, OR.

"I am afraid for myself, my 240 employees, and the viability of my business. We have quite a few employees, but the average wage is under $20,000 a year. We are a small business, and our expansion and jobs will die from lack of profit. If we are put at a competitive disadvantage because we are over 75 employees, the business itself could be in peril."—David Evans, CRIC Ltd., Cedar Rapids, IA.

"Bridge Builders, Inc. is struggling to continue furnishing health care insurance for employees and families—with employees sharing one-half of the cost. Today, if we were required to do much more than we're already doing, then we may as well close the doors and let the government take care of us."—Dean I. Gillespie, Bridge Builders, Inc., McMinnville, TN.

A SMALL BUSINESS HEALTH REFORM AGENDA

Following is a list of guiding principles which NFIB believes any comprehensive reform plan should follow. Taken together, we believe these measures will increase access to affordable health coverage and help to contain cost increases. While the list is not all-inclusive, it does represent the result of numerous surveys of small business owners over the last several years.

Health insurance purchasing groups should be formed. By joining together to purchase health insurance, small businesses and individuals can reduce costs through administrative savings and risk-sharing.

Self-employed business owners should be allowed a permanent 100 percent tax deduction for health insurance premiums. Self-employed business owners such as sole proprietors, partnerships and S-corporations are allowed only a 25 percent deduction; that deduction is temporary. Expanding and making permanent the tax deductibility of premiums would enable many of the nearly five million uninsured self-employed to buy coverage for themselves and the millions they employ.

Insurance company practices should be reformed to make health insurance coverage easier and less expensive to buy. Being able to count on obtaining insurance with fairly stable premiums would enable more small business owners to purchase coverage for themselves and their employees. Specifically, any reforms in this arena should include elimination of the preexisting condition limitation, guaranteed access to policies regardless of medical condition, guaranteed renewable and portability.

Costly state benefits mandates and anti-managed care laws should be preempted. Enactment of certain state laws have significantly limited the availability of affordable health plans and discourage the growth of managed care systems. State mandates alone can raise the cost of insurance 30 percent. Pre-empting these mandates and repealing many restrictive state anti-managed care laws would allow small business owners easier access to affordable plans and greater access to cost-saving managed care arrangements.

A uniform, affordable standard benefits package should be developed in consultation with business, consumers, and state and local governments. However, regardless of who determines what is in a "basic standard benefits package," care must be taken to ensure that the plan is at a level necessary to assure adequate coverage and care, but remains affordable. As such, we should consider the packages developed by the most efficient and cost-effective health maintenance organizations. Developing "Fortune 500" type packages that are too generous will price them out of the reach of individuals and small business owners.

Attempts to control costs by imposing spending restraints or "global budgets" fail to address the root causes of the problem and should be avoided. Many have suggested the imposition of "global budgets"—caps on overall health care spending—in order to bring health expenditures under control. However, NFIB believes that global budgets are fundamentally unworkable and will lead to increased rationing of health care. Currently, most experts agree that we do not possess the relevant data on which to base such allocations. Further, global budgets do not address the root causes of health care inflation, nor do they provide any incentives to increase efficiency in delivery of care.

Changing our medical malpractice laws. The current malpractice crisis only adds to the already astronomical cost of treatments, services, medical devices and pharmaceuticals, and inhibits research and development of new products. We believe that serious reform of the medical liability system can reduce the overuse of excessive and costly defensive medicine and save about $30 billion a year.

Implementing administrative and paperwork reforms. As much as one quarter of every health care dollar in U.S. goes to paperwork and administrative costs. Economies of scale for small firms mean that more of their health care dollar—usually more than twice as much as large businesses—goes to cover paperwork and administrative costs. As such, simplifying paperwork requirements and reducing administrative costs must be a part of any health care reform.

Consumer information and education is essential. NFIB strongly believes that informed consumers make more cost-conscious decisions relating to their health care. Currently, part of the reason that health care costs are going up so rapidly is due to the fact that consumers have lost their buying power in the health care market. Most Americans are shielded from the true cost of their insurance coverage and the cost of medical care, largely because the premiums are borne by employers. As a result, there is little or no incentive to search out the highest quality health product at the lowest cost, a theory fundamental in the purchasing of most other goods.

While no health reform bill will be a perfect one, NFIB strongly believes that we need to enact a reform package that achieves three main objectives: (1), bring down the cost of health insurance; (2), stabilize the often unpredictable/fluctuating health insurance system for small firms and individuals; and (3), expand insurance coverage to more Americans.

NFIB members support the President's reform goals. They believe, however, that the plan proposes too much, too soon, through questionable and untested economic means. The Health Security Act will affect each and every business differently. A broad brush approach on an issue this critical to individuals and employers is unwise. Instead, Congress should consider the several comprehensive, viable alternatives that accomplish our three main objectives without placing an undue burden on small business, creating a huge new bureaucracy or damaging our economy.

[From the Wall Street Journal, Apr. 19, 1994]

ENRAGING SPECIES ACT

The Third Amendment to the Bill of Rights states that no soldier can "be quartered in any home, without the consent of the owner." Somehow, though, it apparently never occurred to the Founding Fathers that we might someday need an amendment against the arbitrary "quartering" of endangered species on private land. Good thing the Founders didn't live to see the day, ours, when property owners all over America would be told to idle their land and effectively use it only as a wildlife refuge.

Ambitious government "ecosystem management" plans are locking up millions of acres of private land—without compensation. Take the spotted owl, which has effectively halted most timber production in the Pacific Northwest. The Anderson & Middleton Logging Co. has been enjoined from harvesting any timber on 72 acres of its land in Washington state. No spotted owls live on its land, but two have been seen nesting on government land 1.6 miles away.

Residential owners are also affected: Marj and Roger Krueger spent $53,000 on a lot for their dream house in the Texas Hill Country. But they and other owners have been barred from building because the golden-cheeked warbler has been found in "the canyons adjacent" to their land.

The government justifies these restrictions by noting that the Endangered Species Act bars actions that "harm" critters protected under it. The U.S. Fish and Wildlife Service interprets that to include any action that results in "significant habitat modification" that could affect the "breeding, feeding or sheltering" patterns of a species. It has issued countless edicts barring even such ordinary uses of property as clearing brush or harvesting trees because they might "modify" nearby habitat.

Even some environmentalists have questioned if Congress intended such restrictions. Michael Bean, chairman of the Environmental Defense Fund's Wildlife Program, has noted "there are forceful arguments that such a broad interpretation" is "improper."

Last month, the U.S. Court of Appeals for the District of Columbia agreed. It invalidated the U.S. Fish and Wildlife regulation that prevented habitat modification on private land. The court ruled that the regulation "was neither clearly authorized by Congress nor a 'reasonable interpretation' of the statute."

The court's decision enraged radical environmentalists. They support a provision to the Marine Mammal Protection Act now before Congress that would explicitly allow the regulation of private land use and would bolster the Clinton Administration in its attempt, which it announced yesterday, to overturn the D.C. Court of Appeals decision.

The Senate refused to include such language in its version of the bill, but it may wind up adding it in conference if the House insists. Today, Rep. Gerry Studds will demand a House vote to insist the regulatory language be retained. Environmental groups, agitated by recent property rights victories in Congress, are determined to prevail this time.

The dispute over endangered species isn't over whether or not society should protect them. It's between a policy that refuses to set priorities and insists on preservation no

> matter what the costs to the human species or, alternatively, a more balanced approach.
>
> We are hard put to see how the species act can itself survive politically operating as an environmentalist land grab of other people's property. The seriousness of the claims for these various species might be better tested if the government had to compensate landowners for their losses. That approach isn't just our idea; it is the "takings" clause of the Fifth Amendment to the Bill of Rights.

Mr. CRAIG. Mr. President, once again let me close by saying today we have proven law in this country, law that has maintained the kind of balance that has historically brought the employee and the employer to the bargaining table with a sense that there was equality in the negotiating environment. That is what we ought to be promoting in policies for economic growth and development in this country, and this is why I stand strongly in opposition to S. 55.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. DECONCINI). The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I know my colleague from Iowa is here, and I inquire of him how long he is planning on speaking.

Mr. HARKIN. I am glad the Senator was recognized. I have quite a speech. It will be a long time.

Mr. NICKLES. I thank my friend and colleague. I will not be quite that long.

Mr. President, I wish to congratulate and compliment Senator KASSEBAUM and Senator COHEN as well as Senator CRAIG for their speeches. I think they made some excellent points in defining and outlining this debate on S. 55, the so-called striker replacement bill.

Mr. President, first let me just make a couple comments concerning some of the arguments made in favor of this legislation. I have heard my friend and colleague, Senator METZENBAUM, say that we needed to pass this legislation in order to restore the right to strike. This legislation does not do that. The right to strike already exists in current law. I have heard Senator WELLSTONE say we need to pass this legislation in order to have the right to organize and to bargain collectively. You do not need to pass this legislation to do that. Employees have the right to organize; they have the right to bargain collectively, and they also have the right to strike.

Passage of this legislation would undo over 50 years of labor management law, and would basically tell employers that they could not keep the doors open. They could not hire permanent replacement workers.

I might mention that some people have implied during the course of this debate that this is so imperative, so important because of the PATCO strike—because Ronald Reagan proved that workers were striking against the law and he fired those workers because they broke the law—that this has opened the door, and now employers are routinely referring to the practice of hiring permanent replacement workers.

That is not the case. Studies by GAO, both in 1985 and in 1989, said that only 3 to 4 percent of striking workers were permanently replaced.

I think it is important that we stick to facts. And the facts are that workers have the right to organize. They have the right to bargain. They also have the right to strike. Currently, employers have the right to hire permanent replacement workers during an economic strike. We should keep that right. If we do not, we are basically telling organized labor this is no longer a level playing field; they have not only the right to strike, but are guaranteed the right to win the strike. For over 50 years, that has not been the law, and it should not be the law.

Unions should have the right to go on strike and withhold their services. But likewise the employer has to have the right to hire permanent replacement workers and keep their doors open.

I heard my friend and colleague, Senator METZENBAUM from Ohio, state that Republicans are antiworker, that they opposed increases in the minimum wage, that they opposed the family and medical leave bill, and some were opposing the health care bill. I would disagree. I would disagree very strongly. But I look at some of the agenda that the Senator from Ohio was referring to, and I see some of that agenda with good titles being very antiworker, including the legislation that we have before us.

I think if we pass this bill that says you cannot hire permanent replacement workers during a strike, it is very antiworker because the net result of it would be we are going to have more strikes. A lot of people are going to lose jobs. Strikes costs jobs. Some people cannot survive during a strike.

I worked for a company during a strike. I can tell you that strikes are not pleasant. They are not fun. They are not fun for the employers, and they are not fun for the employees. We should be doing what we can to discourage strikes.

I hate to tell my friends, particularly the sponsors of this legislation, that this is a bill to encourage strikes. We have very few strikes percentagewise in the United States today. I think that is good. I hope we have less. But I can almost guarantee you that if this legislation passes, we are going to have more. We are going to have more labor unrest. We are going to have greater tensions. We are going to have greater battles between labor and management. There is going to be greater strife and less cooperation in the workplace.

I hate to see that happen. I hate to see that kind of conflict evolve between labor and management. That is going to be the result of this legislation. Basically we are going to be telling the employer you cannot hire a replacement worker during a strike. So organized leaders of organized labor are going to be saying, "Wait a minute. You can join our union, you can strike, and they cannot replace you. So we have tremendous clout. We have tremendous clout, if necessary, to bring this company to their knees in order to achieve our objectives through this labor battle or through this confrontation." So there will be more strikes. More people will lose their jobs.

What about the people that are depending on that company for parts for supplies? A lot of companies need that supplier to be able to provide jobs. And so, not only would there be a loss of jobs in the company that has a strike, there would be a loss of jobs in other companies which depend on the striking company for its business. I think that is the most devastating aspect of this bill.

So this bill, as I see it, is not a bill to protect strikers. This is a bill, if we are not careful, that will encourage strikes, cost jobs, put people out of work, and make us less competitive.

I might say, Mr. President, I read Labor Secretary Reich's letter to the Senate encouraging people to vote for this bill. I could not help but almost laugh to myself. In his letter he says:

> To compete effectively in the international economy, America needs a framework for labor relations that stimulates productivity and enables management to tap the maximum of employees' skills, talents and efforts.

I agree with that statement. But this bill does not do it. The Labor Secretary's letter continues. He says:

> We can turn our attention towards a more cooperative labor management future.

This bill does not do it. It does just the opposite. This bill should be entitled "A Bill to Encourage Labor Strife and Strikes." This legislation is going to tell one side, "Hey, you cannot lose. You can go on strike and you cannot lose your job, so you can withhold your services without risk. You have the right to bargain. You have the right to organize. You have the right to strike. So you can withhold services but they cannot replace you."

So the net result is a lot of companies will lose. Maybe they will give in to organized labor, if they can afford it. But if they cannot, they may cut jobs. They may lose competitiveness, they may lose future contracts, or they may close the doors. A recent Teamsters' strike—I remember reading that a truck firm closed down and thousands of jobs were lost. Why? Because they were involved in a strike, and they were not survivors in that strike.

Strikes, in my opinion, Mr. President, are a lose-lose situation. I do not see them as healthy. I want to discourage strikes, and I am afraid that this legislation before us will encourage strikes. It will encourage labor strife. Mr. President, I think it would be a serious mistake.

I also heard some of our colleagues say that, well, we are trying to restore balance between labor and management. Frankly, labor and management have been working off the National Labor Relations Board going all the way back to 1935, and have been under a ruling under a Supreme Court case going all the way back to 1938 that allows employers to hire replacement workers for an economic strike. So things have not changed.

It is the proponents of this legislation that are trying to change the balance. This balance in the United States has worked fairly well for over 50 years. We have strikes less often than most other countries. Why should we want to have more? There is an equilibrium between labor and management. This bill would greatly distort that.

Again, I think it would be a serious mistake, and ultimately will hurt workers. I do not see this legislation as being worker friendly. I think it is just the opposite. This bill is strike friendly. It is not worker friendly, and strikes are not friendly to workers.

So I urge my colleagues to vote against the motion to proceed to S. 55.

Mr. President, I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I am going to have quite a bit to say about this legislation, S. 55. I will take a little bit of time today and I hope to take some more time tomorrow, because I believe that the whole story on this bill and what it seeks to correct is really not being told. I hope to take, as I said, some time today and some time tomorrow to lay out the case both historically and in terms of what is happening economically and productivity-wise in this country as to why this legislation is sorely needed at this time.

Just sitting here listening to the last two speakers—both of them good friends of mine, both of them well-meaning individuals—talk about this legislation and the need for a level playing field, everything it seems has to be level between management and labor. Well, we all agree with that. That is what it ought to be. But I must ask how can you have a level playing field, or how can you form an equal partnership, so to speak, when you hold the gun at the head of one of the so-called partners? That can never lead to a level playing field nor any kind of equal type of footing or relationship. In fact, with the ability that the management has today, in order to fire or to get rid of their striking workers and have them permanently replaced, really takes away the right to strike. Not only does it take away that right, but it takes away the right to collectively bargain.

Again, I think if you ask any American—and we have heard some polls, data, proffered by the Senator from Idaho earlier—I think if you ask any American whether or not individual workers ought to have the right to bargain collectively for wages, hours, and conditions of employment, the vast majority of Americans would say yes. They probably never heard of the Wagner Act or the National Labor Relations Act. They have never heard of these. But I think inherently they would feel that free people working together ought to be able to join together in an association or union and to bargain with their employer for wages, hours, and conditions of employment.

I think the vast majority of Americans would support that, and I think the polls show that. But that right to bargain collectively becomes a hollow right when there is no right to strike, or when a laboring person comes to the bargaining table to bargain with management. There is only one thing that worker has to bring to that table, and that is the sweat of his or her brow, their expertise, their knowledge, their experience, but basically their labor. They have no money to bring, no economic clout. They only bring what they can do, and that is their labor.

So, therefore, the only chip they have to put on that table is their labor and the threat to withhold that labor if in fact management does not bargain in good faith and negotiate a binding contract.

Well, that right to withhold that labor is what is called the right to strike. The right to strike has been upheld many times by our courts. It is a thing I think most people would recognize that working people have.

I must ask, Mr. President, what kind of a right is it when, if you exercise that legal right, your employer can say goodbye; you are gone; we have replaced you with permanent replacement workers?

So, by definition, today in the United States of America, there is no legal right to strike. And because there is really no legal right to strike, there is no legal right to bargain collectively. And since there is no legal right to bargain collectively, there is no level playing field. In fact, there is really no playing field, let alone a level or uneven one. There is no playing field. Management says you bargain on our terms; you agree with what we want; or you can just go strike. And, by the way, if you strike, we will permanently replace you. If you are permanently replaced, that means you are out of work forever; you lose all your pension rights; you lose your seniority; you lose your job forever.

In fact, Mr. President, the right to strike today is, by any measure, a hollow right. It is a hollow right. In the past, we had people in the United States—African-Americans, for example, in many parts of the South—and, oh, sure, the Constitution guaranteed them the right to vote. They had the right to vote. But because of poll taxes and tests they had to take, to pass, in order to vote, they really did not have the right to vote. So it became a hollow right. We recognized that, and that is why we had to pass the Voting Rights Act, to make sure that the right to vote was not indeed just a hollow right.

So today in America the right to bargain collectively is really a hollow right. Sure, you can go through the motions, and unions do it. They can sit down and bargain. Take the recent experience with UAW and Caterpillar. They were going through a negotiation process on a new contract. Well, I am not going to interfere and say who was right or wrong, that type of thing. But all I know is that it broke down. The union went out on strike. The first thing the Caterpillar management said was that they were going to hire permanent replacement workers—holding that as a threat over the union employees. So, again, there really is no right to strike.

I guess there is a right to strike; I should correct that. There is a right for you to quit your job, because that is really what it amounts to. Labor only really has one right today in the bargaining field—the right to quit their jobs and walk away. So what has happened is that we have had a breakdown in this structure in America.

Mr. President, I was intrigued by an article that came out in the May 23, 1994, issue of Business Week. Business Week is not known for being a real advocate of unions and union labor. It is, as it says, a business magazine which caters to the business community. But it had a very interesting article in there. When I get through reading it, I will ask that it be printed in the RECORD. But first let me read some excerpts from it. It is entitled "Why America Needs Unions But Not The Kind It Has Now."

I see my good friend from Utah here, and there is a quote in the beginning of the article that says:

> There are always going to be people who take advantage of workers. Unions even that out, to their credit. We need them to level the field between labor and management. If you didn't have unions, it would be very difficult for even enlightened employers to not take advantage of workers on wages and working conditions, because of [competition from] rivals. I'm among the first to say I believe in unions.

It went on to say this quote is not from Senator KENNEDY or Labor Secretary Reich; it is Senator ORRIN HATCH of Utah. I do not know if it is an accurate quote or not. I am just quoting from the Business Week magazine.

But what the article goes on to say is that:

> * * * when pressed, even he concedes a point that's of growing concern to economists, administration officials, and some executives: Free-market economies need healthy unions. They offer "a system of checks and balances," as former Labor Secretary George P. Shultz has put it, by making managers focus on employees as well as on profits and shareholders.

Now, we have heard all this talk about leveling the playing field, have we not? Listen again to this, regarding George Shultz, a well-known Republican:

> The concern of Shultz and others is that the balance has shifted significantly. Since 1983, union membership has fallen 6 percent, to 16.6 million, or 15.8 percent of the workforce—the lowest since the Great Depression. Subtract Government employees, and unions represent a mere 11 percent of private-industry workers, a figure that by 2000 could plunge to 4 or 5 percent, some experts say.
>
> Labor's fabled bargaining and political clout largely has vanished, too.

The article says, if Senator HATCH is right: "* * * the drawbacks of deunionization should be appearing."

New research from respected economists at such schools as Harvard and Princeton shows that blue-collar wages trailed inflation in the 1980's partly because unions represented fewer workers. The resulting drag on pay for millions of people accounts for at least 20 percent of the widening gap between rich and poor, which has reached Depression-era dimensions.

The article goes on:

> The President's annual economic report, released earlier this year, cited these findings and called the new income disparities "a threat to the social fabric that has long bound Americans together."
>
> Experts cite weakening unions as a key reason for the 6-percentage-point slide in the 1980's in the share of employees with company pension plans, for the 7-point decline in those with employer health plans, and for a 125-fold explosion in unlawful-discharge suits now that fewer employees have a union to stick up for them.

The Business Week article goes on to say:

> The surprising implication, in fact, is that the U.S. might be better off, socially and perhaps even economically, with a healthier union movement.

Mr. President, that is pretty interesting coming from Business Week magazine.

What does that have to do with the bill in front of us? It has everything to do with this bill. I argue, as economists are arguing now, and some of them very conservative economists, that we must halt this slide into unionization in America; that we really need unions for higher productivity and wages and better skills.

And in order to stop that slide, we have to stop the practice of permanent replacing those workers who have gone out on strike.

This bill is a proworker, proproductivity, procompetitiveness bill that we have before us and we should have passed it long ago.

This Workplace Fairness Act, S. 55, restores a fundamental principle of labor-management relations, the right of workers to strike without having to fear the loss of their jobs.

Too often in today's workplace, workers are forced to choose between their jobs and their legal right to strike for better wages, benefits, and working conditions. That has not always been the case.

Again, in response to widespread abuses, union busting, in 1935 we passed the National Labor Relations Act, as I mentioned earlier the Wagner Act, signed into law by President Roosevelt. The Wagner Act guarantees workers the right to organize and bargain collectively and strike if necessary. It makes it illegal for companies to interfere with these rights. In fact, it specifically specifies the right to strike and states: "Nothing in this act—except as specifically provided herein—shall be construed so as to interfere with or impede or diminish in any way the right to strike."

Or affect limits or qualifications on that right.

If that is part of the law, what has happened? Well, historically what happened is that in 1938 the Supreme Court dealt the Wagner Act a mortal blow. We all know the case, the famous case of NLRB versus Mackay Radio and Telegraph Co. In that case the Supreme Court—and basically this was not even the ruling of the Supreme Court; the ruling had to do with something else—but in dicta, in sort of its discussion of the case, the Supreme Court said that Mackay Radio and Telegraph Co. could hire permanent replacement workers for those engaged in an economic strike.

And this has been taken sort of as law ever since then. But as speakers before me have pointed out, enlightened management at that time saw that it was in their best interests to not use that dicta, that reasoning of the Supreme Court in that case, which, by the way, the ruling in that case in fact found for the workers in terms of their rights to be reinstituted and the fact that the company itself had acted illegally in not permitting certain union activists to come back to work. But, as I said, this was in the discussion of it, and the Court went on a little bit further to give them the right to hire permanent replacements. But ever since then, companies have not done that because they recognized that it would upset this level playing field. For almost 40 years, nothing was done by management in any case to hire permanent replacements. But then it started happening in the 1980's.

Permanent replacement became a regular tool to break unions and shift the balance between workers and management.

More than 3,500 Continental Airline pilots replaced by Frank Lorenzo; 1,100 UAW members replaced at Colt Firearms; 6,000 TWA flight attendants lost their job to permanent replacements; 2,500 paper workers disposed of at International Paper mills; 35,000 pilots and machinists fired from their jobs. Thousands more working men and women who dared to try and exercise their legal rights have lost their jobs to permanent replacements.

Mr. President, where is the incentive for employers to bargain in good faith if they can displace those who disagree with them? Some employers go so far to advertise permanent replacements before they begin negotiations. In other words, it had always been a practice by companies in the past to perhaps stockpile raw materials, and things like that, in anticipation of a strike, and this has been a well-accepted practice. Unions recognize that. But now what they do is they stockpile scabs, just like they stockpile raw materials, and go out and advertise for permanent replacements, build up the rosters and dare the union to go out on strike.

These management actions over the past decade have undermined the legal right to strike. When you deny the right to strike, you deny the right to bargain for better wages, and when you destroy that, you destroy the very fundamental basis for organized labor in America. And in doing so, you destroy motivation, incentive, productivity, and competitiveness.

You destroy our best opportunity to move forward as a Nation into an era of high wage, high skilled, highly productive jobs that serve us well in the global marketplace.

Mr. President, I have more to say about this bill. But suffice it to say, this bill, more than anything else, is a bill that will once again get America started on the path of being competitive in the world market.

I recommend to my colleagues to read the Business Week article of May 23, 1994, to read it and to see what it says in there about the need for unions and what unions can do to help get us on the path toward higher productivity.

But with what we have in front of us now, with the permanent replacement to strikers, with the destruction of organized labor, I fear that we are on the path toward less competitiveness and less productivity, less motivation, and less incentives for workers in this country.

So that is a sad day. When we hear all this talk about level playing field, let us remember there is not even a playing field out there now. That field is gone. If we really want to truly have a level playing field, then we should pass this legislation and, Mr. President, it is clear that the votes are here in the Senate to pass this bill. We have a majority to pass it. But those who are so opposed to this bill are filibustering it and, therefore, we will probably not get to whether we vote on this bill or even amend it. There may be some amendments offered to this bill that might improve it. I do not know. But we probably will never get to that point because of the filibuster. It takes 60 votes to break the filibuster, and obviously it does not appear right now that we have those 60 votes. But I am hopeful that we do. I hope that those who are opposed to the bill will at least give us the right to bring it up, to debate it, to vote on it to amend it if necessary, and pass it. The House has passed the bill. It is clear that a clear majority in the House voted for it and passed it.

I think it is clear that a majority of the Senate would vote for it, too, if we only had the ability to get past the filibuster.

Mr. President, I ask unanimous consent to print, at the end of my remarks, the article from Business Week magazine of May 23, 1994.

There being no objection, the article was ordered to be printed in the Record, as follows:

Why America Needs Unions

(By Aaron Bernstein)

"There are always going to be people who take advantage of workers. Unions even that out, to their credit. We need them to level the field between labor and management. If you didn't have unions, it would be very difficult for even enlightened employers to not take advantage of workers on wages and working conditions, because of [competition from] rivals. I'm among the first to say I believe in unions."

Ted Kennedy spouting tired liberal dogma? Labor Secretary Robert B. Reich pandering to President Clinton's union backers? Nope. The speaker is Senator Orrin G. Hatch (R-Utah), labor's archrival on Capitol Hill for nearly two decades. Don't misunderstand: Hatch still opposes organized labor at nearly every turn. But when pressed, even he concedes a point that's of growing concern to economists, Administration officials, and some executives: Free-market economies need healthy unions. They offer "a system of checks and balances," as former Labor Secretary George P. Shultz has put it, by making managers focus on employees as well as on profits and shareholders.

The concern of Shultz and others is that the balance has shifted significantly. Since 1983, union membership has fallen 6%, to 16.6 million, or 15.8% of the workforce—the lowest since the Great Depression. Subtract government employees, and unions represent a mere 11% of private-industry workers, a figure that by 2000 could plunge to 4% or 5%, some experts say.

Labor's fabled bargaining and political clout largely has vanished, too. Pay increases for union members lagged those for nonunion ones from 1983 until the recession pummeled everyone in 1990. And as labor's 1993 defeat on the North American Free Trade Agreement shows, it delivers a lightweight's political punch compared with the days when "Clear it with Sidney" referred to the veto Franklin Delano Roosevelt supposedly gave clothing-union leader Sidney Hillman over FDR's 1944 running mate. In short, if Hatch is right, the drawbacks of deunionization should be appearing.

SCARY GAP

They are. New research from respected economists at such schools as Harvard and Princeton shows that blue-collar wages trailed inflation in the 1980s partly because unions represented fewer workers (charts). The resulting drag on pay for millions of people accounts for at least 20% of the widening gap between rich and poor, which has reached Depression-era dimensions. The President's annual economic report, released earlier this year, cited these findings and called the new income disparities "a threat to the social fabric that has long bound Americans together." The full scope of that threat remains to be seen, but the early signs are disturbing: Experts cite weakening unions as a key reason for the six-percentage-point slide in the 1980s in the share of employees with company pension plans, for the seven-point decline in those with employer health plans, and for a 125-fold explosion in unlawful-discharge suits now that fewer employees have a union to stick up for them.

The surprising implication, in fact, is that the U.S. might be better off, socially and perhaps even economically, with a healthier union movement. That could be true especially if the 86 unions of the AFL–CIO follow through on a February report that urges labor to become partners with management in boosting efficiency. This is an unprecedented endorsement of alternative systems—including self-managed workplace teams—that already have fed big efficiency gains at such companies as Ford, Xerox, and Scott Paper. "If unions help improve productivity with ideas like teams, they can justify higher wages and their existence," say Paul A. Samuelson, the father of neoclassical economics and professor emeritus at Massachusetts Institute of Technology.

The AFL–CIO's action, in fact, may help legitimize the most important development in U.S. labor relations in generations. Here and there, traditional adversarial bargaining, which evolved 60 years ago in response to Frederick W. Taylor's "scientific management" methods of dividing work into its simplest tasks, is being replaced by a more flexible, participative approach as companies flatten hierarchies. "Unions helped make Taylorism work in the '30s and '40s by institutionalizing its principles" in labor contracts, says MIT management professor Thomas A. Kochan. "We need to [do] that today through cooperative labor mechanisms."

PARTNERS

Xerox Corp. and its 6,200 U.S. copier assemblers, who belong to the Amalgamated Clothing & Textile Workers Union (ACTWU), are proving that this works. Three tries at teamwork since 1982 have fared so well that Xerox is bringing 300 jobs from abroad to a new plant in Utica, N.Y., where it expects higher quality and savings of $2 million a year. Xerox gives union officials internal financial documents and teaches them statistics in the same classes managers take. "I don't want to say we need unions if that means the old, adversarial kind," says Xerox CEO Paul A. Allaire. "But if we have a cooperative model, the union movement will be sustained and the industries it's in will be more competitive."

This view is spreading among the few dozen major companies developing partnerships with labor. "There's definitely a place in American society for unions," says David H. Hoag, chief executive of LTV Corp. In 1993, he signed a labor pact with the United Steelworkers (USW) that lets the union nominate a board member in return for backing teams and other efficiency measures. Declares Ernest J. Savoie, who heads Ford Motor Co.'s cooperative labor programs: "If unions were to disappear, the country would be in serious trouble."

Most employers couldn't agree less. Few American managers have ever accepted the right of unions to exist, even though that's guaranteed by the 1935 Wagner Act. Over the past dozen years, in fact, U.S. industry has conducted one of the most successful antiunion wars ever, illegally firing thousands of workers for exercising their rights to organize. The chilling effect: Elections to form a union are running at half the 7,000-a-year pace of the 1970's. And major strikes—involving 1,000 or more workers—have fallen from 200-plus a year to 35 in 1993. To ease up now, many executives feel, would be to snatch defeat from the jaws of victory.

Most managements detest unions out of a belief that they impede productivity and raise wage costs. That's partly true. Numerous studies have confirmed that unions reduce profits, especially in such industries as steel and autos, where workers got a healthy share of outsized, oligopolistic earnings in the '50s and '60s. Now that the oligopolies are being undercut by global competition and deregulation, "large employers no longer have oligopoly profits to share with unions," says Samuelson.

Still, unions are often blamed for more trouble than they've caused. In the 1970s, for instance, many executives believed that unions inflated prices by lifting wages above some presumed market level. Since then, however, more than 50 quantitative studies have concluded that the higher productivity of unionized companies offsets most of their higher costs. "It's a misreading of economic analysis to conclude that unions inherently cause inflation or unemployment," says Nobel laureate Gary S. Becker, a conservative economist at the University of Chicago. "Some kind of union behavior is bad, but unions that help workers bargain collectively instead of individually perform a legitimate role that's not counter to social efficiency."

George Shultz, now a fellow at Stanford University's Hoover Institution, goes further. "As a management person, if I don't have a union, I don't want one," he said in a 1991 speech to the National Planning Assn., a labor management group. "But . . . look at this more broadly. Free societies and free trade unions go together. Societies are missing something important if they do not have an organization in the private sector, such as a trade union movement" that gives workers the clout labor has exerted to help pass safety and pension laws.

Shultz's notion is taken for granted in most of the industrialized world. True, Europe's recession has set off nasty clashes between unions and companies bent on cost-cutting. Still, say European labor experts, most companies there continue to see unions as social partners, not enemies. What's more, every Western European country except Britain and Ireland has a legally mandated second channel, such as works councils, for advancing worker interests. These groups, usually elected by employees, provide input into many managerial decisions.

The Clinton Administration would make this the model for U.S. labor-management cooperation. A year ago, the Labor and Commerce Depts. appointed a 10-member commission composed primarily of academics. Headed by former Labor Secretary John T. Dunlop, it may ultimately suggest revising the Wagner Act to ease roadblocks to organizing. In return, some commission members want to amend the act to legalize teams in nonunion companies, which risk violating a prohibition against sham unions—groups that workers seem to run but actually are controlled by management.

AFL–CIO President Lane Kirkland will take this trade-off, leaving a divided business community to decide if teams are worth the risk of more union organizing. It isn't clear if it will take the chance. But even the National Association of Manufacturers—founder of the Council on a Union-Free Environment—may consider the idea. "Can you fix the management abuses without tilting the field too much back to labor?" asks NAM Industrial Relations Vice-President Randolph M. Hale. "I'm not sure, but I'm open to listening to the arguments."

"THREAT EFFECT"

While those issues are thrashed out, the effects of labor's decline pile up. Take inflation-adjusted pay. Historically, it has tracked productivity. But in the 1980s, output per worker jumped 12%, while real wages and benefits for all workers rose only 4%, according to the Bureau of Labor Statistics. Falling unionism was a major factor, several studies have found. Private-sector union workers on average earn 39% more in pay and benefits than nonunionized ones, according to the BLS. And as unions shrank, a rising share of workers had to settle for lower-paying nonunion jobs.

That particularly hurt the least educated. For instance, deunionization accounts for one-third of the 15% decline in real earnings of white male high school dropouts between 1979 and 1988, according to a 1991 study led by McKinley L. Blackburn of the University of South Carolina. Weaker unions account for half the 10% pay slump of black male high school grads in that period and two-thirds of the 3% decline for white female dropouts. And the study didn't measure smaller pay hikes nonunion workers got as the threat of unions subsided. "We ignored the threat effect, which would make the impact bigger," says Blackburn.

These figures portray the partial dismantling of the middle class. By pushing up blue-collar pay, unions helped narrow the gap between rich and poor after World War II. But now the trend has reversed. In 1988, white-collar men aged 25 to 64 earned 48% more than blue-collar men of the same age, up from 35% more in 1979, according to a 1991 study by Harvard University economist Richard B. Freeman. Nearly half the increase reflected falling unionization, Freeman found. And for all men aged 25 to 64, including service workers, deunionization caused at least 20% of the spike in male wage inequality in the '80s. Freeman's findings have been confirmed by recent studies by Princeton University economist David Card and George J. Borjas of the University of California at San Diego. "It's clear that deunionizing had an important impact," says Borjas, a political conservative who's no fan of unions.

Labor's decline has even hurt professionals. Traditionally, companies have pegged white-collar pay hikes to those won by their unionized workers. Nonunion employers did so indirectly, with salary surveys that cover unionized companies. In the '80s, professionals got fatter raises than union members. But they got a bigger share of a smaller pie.

If unions had represented one-third of the workforce in 1990, as they did in 1950, the bottom 80% of families—those earning up to $83,400 a year—would have received 61% of the nation's income, according to a 1993 study by economist Rudy Fichtenbaum at Wright State University in Dayton, Ohio. Instead, they got 56%. "White-collar workers think unions don't matter, but they're not on a separate boat from blue-collar ones," says Research Director Lawrence Mishel of the Economic Policy Institute (EPI), a Washington think tank partly funded by unions.

There's no way to tell whether the combined income of all U.S. workers would have been higher had unions not lost ground: No one has yet proved whether unions push up overall income or merely redistribute it. But it's clear who prospered in the '80s. The rent, dividends, and interest that owners of capital earned jumped 65%, according to an EPI analysis of Commerce Dept. figures. Wages and salaries, including white-collar ones, grew only 23%.

FRAYED FRINGES

As wages have gone, so have fringe benefits: Most workers have them largely because of unions, and they're disappearing partly because unions are weaker. Company-paid retirement plans, for instance, caught on after World War II, when federal wage and price controls prompted unions to demand pensions in lieu of pay. To keep unions at bay, nonunion employers followed suit, and pension plans multiplied. The trend reversed as the union threat shrank. The share of workers aged 25 to 64 with an employer-paid pension plan slid 6 points, to 57%, from 1979 to 1988, according to a 1992 study by Freeman and David E. Bloom, a Columbia University economist. "The single biggest reason for the decline," says Freeman—roughly 25%—"is deunionization."

The same goes for health insurance, which also became a standard benefit after unions pushed it during the war. Since 1980, the share of workers under 65 with employer-paid health care has plunged from 63% to 56%, according to the Employee Benefit Research Institute (EBRI), a Washington research group. Rising costs are a factor, but "coverage would not have dropped as much if unions had stayed strong," says EBRI research director William S. Custer.

Similarly, fewer workers now have grievance systems to protect against mistreatment. Forced to fend for themselves, they're filing unjust-dismissal suits, which have exploded from about 200 a year in the late 1970s to more than 25,000 a year now, experts estimate. "There's no question that protections for workers have gone down with the decline of unions," says Theodore J. St. Antoine, a University of Michigan professor who's an authority on such cases.

Of course, employers don't respond just to unions. They react as well to social trends and market forces, such as the women's movement or competition for skilled workers. For instance, the share of workers in midsize and large companies with unpaid maternity leave—for which unions haven't pushed hard—rose from 33% to 37% between 1988 and 1991, says the BLS. And some benefits, such as pensions and Social Security, have developed their own constituencies.

Unions are the guardians of others, however. Take safety regulations. The Occupational Safety & Health Administration under Reagan and Bush was hands-off agency—and workdays lost to injuries jumped from 58 to 100 workers in 1983 to 86 in 1991. Now, President Clinton is beefing up the agency, partly because of the support unions gave him. That's typical of interest-group politics, which experts say works best if all major interests in society are represented. Even Senator Hatch agrees: "We need unions to make sure that working people have a legitimate and consistent voice."

If unions are so important, why are they going the way of T. Rex? Certainly, labor itself hasn't helped. When global competition hit, most unions dismissed employers' demands for change as the same old handwringing by fat-cat bosses. And as their ranks thinned, unions were slow to tackle the costly and iffy job of aggressively organizing new industries.

In fact, the 1980s spotlighted the lackluster leadership that has plagued unions for years. They never developed an antidote to union-fighting tactics. And they found no rejoinder when President Reagan labeled labor's millions of middle-class constituents a special-interest group. The dour, cerebral Kirkland instead found soulmates among Reaganites who shared his hatred of communism. His failure to devise a domestic strategy left labor rudderless at its most crucial moment in half a century.

Still, even a brilliant leader would have struggled. The shift from factories to services spurred new jobs in industries that traditionally have been hard to unionize. The effects were compounded by industry's antiunion fervor in the face of global competition. Other industrialized countries have shifted to services, yet their unions haven't collapsed, Harvard's Freeman says. The difference, he adds, is the extraordinary opposition of U.S. managers.

For instance, employers illegally fired 1 of every 36 union supporters during organizing drives in the late 1980s, vs. 1 in 110 in the late '70s and 1 in 209 in the late '60s, according to an analysis of National Labor Relations Board figures by University of Chicago professors Robert J. LaLonde and Bernard D. Meltzer. Unlawful firings occurred in one-third of all representation elections in the late '80s, vs. 8% in the late '60s, they found. "Even more significant than the numbers is the perception of risk among workers, who think they'll be fired in an organizing campaign," says Harvard law professor Paul C. Weiler. Indeed, when managements obey the law, they don't defeat unions nearly as often. Union membership in the public sector, where federal, state, and local officials don't try so desperately to break or avoid unions, has risen by 23% since 1983, to 7 million last year.

The excuse on which industry based its assault—that U.S. labor costs were out of line internationally—was largely a bogus issue: Such comparisons sprang mostly from the ultrastrong dollar. Now that it's lower again, U.S. wages are below Europe's and Japan's.

BLUNDERBUSSES

Companies had a point, though, on productivity. Across the economy, it rose only 1% a year in the '70s and '80s, down from 3% in the '50s and '60s, meaning that it failed to offset wage growth. Bad management was a major culprit. But labor blundered, too: Its contracts made it hard for unionized employers to cut costs as quickly as nonunion companies when global competition undercut the pricing power of U.S. industry. As a result, the premium union members earn over nonunion workers rose from 10% to 15% in the 1960s, economists have found, to about 21% today. That's partly why corporate animosity toward unions continued even as annual factory productivity growth returned to 3% in the '80s and union pay lagged behind inflation.

This attitude may change only if labor embraces cooperation with unprecedented enthusiasm. Doing so will require unions to reinvent themselves as extensively as executives are reinventing the corporation. The unions of tomorrow will need to balance better wages with efforts to help employers win competitive battles. And in place of adversarial skills, labor leaders will need expertise in everything from management techniques to technology.

More fundamentally, unions will need to adopt a "we're-in-this-together" mentality instead of the "us-vs.-them" one that has characterized both sides of the industrial divide for decades. "We want a whole new approach to how labor and industry can work together," says Lynn Williams, a leading advocate of labor cooperation who retired in March as USW president. Such views received an important boost from the AFL–CIO's remarkably self-critical February report, titled. *The New American Workplace: A Labor Perspective*. It declares that new cooperative work methods "increase worker opportunities . . . bring greater democracy to the workplace . . . and improve the quality, and reduce the cost, of the goods and services."

This attitude already has begun to filter into industries as diverse as farm equipment, autos, electrical equipment, garments, mining, paper, steel, and telecommunications. Companies such as Deere, AT&T, and National Steel are creating completely new roles for both managers and union officials, who collaborate daily on everything from work assignments to marketing strategies. One early example of this new unionism is General Motors Corp.'s Saturn Corp., where teams of workers largely govern themselves and union officials are involved at every level of management.

PAPER COPIES

Another is Scott Paper Co., which four years ago took a startlingly different tack than the frontal assault International Paper Co. had mounted on the United Paperworkers Union in an effort to cut costs. Scott and the union formed a committee of 10 top officials from each side who pledged to "work together to meet the needs of employees, customers, shareholders, the union, and the community." They set up teams that give workers more decision-making power, a move so successful in reducing costs and boosting quality that other paper companies, such as Champion International Corp., are copying it. "The union can play a key role in our business," says Philip E. Lippincott, who retired as Scott's chief executive officer on Apr. 1.

It isn't easy for unions to make the transition. The days of sitdown strikes and company goons stamped generations of labor leaders with a profound suspicion of management. And recent antiunion battles exacerbated this. For instance, the United Auto Workers (UAW) advocated cooperation in 1973 at GM. But a dissident group sprang up to resist in the '80s, when GM shut some plants that didn't accept teams. And some unions fear that managers use teams to abolish hard-won work rules or dupe employees into working harder for no extra pay. Beyond that, some experiments in cooperation have left a bitter taste: An early-1980s effort between AT&T Co. and the Communications Workers of America (CWA) failed when lower-level officials weren't included and AT&T cut jobs.

Perhaps the hardest question for unions to deal with is why they're necessary for a high-performance workplace. What really makes empowerment succeed, after all, isn't unions per se, but employee trust and commitment. Teams lift productivity most in companies with four features, according to a 1990 review of two dozen studies by University of California at Berkeley economist David I. Levine and Laura D'Andrea Tyson, who now heads the Council of Economic Advisers. These include productivity bonuses, job security, steps to build group cohesiveness (such as limiting pay differences between workers and managers), and employee rights (such as protection from arbitrary firings). "A union is one way to do [all] that," says Levine, "although it's [not] the only way."

FUTURISTS

Still, employers that pull all this off, such as Motorola Inc. and Procter & Gamble Co., have formal mechanisms that protect employees much as unions do. These include no-layoff practices, grievance procedures, and profit sharing. Moreover, unions can be very helpful when they're willing. In fact, surveys by the General Accounting Office show that alternative work schemes are spreading at least as rapidly in unionized companies as in nonunion ones.

National Steel Corp., for example, began cooperation two years after Japan's NKK Corp. bought 70% of the No. 4 U.S. steelmaker in 1986. To build trust, the company adopted a no-layoff policy for all 9,500 union members with a year's seniority. Hourly workers act as foremen. And USW officers get data on everything from earnings to market conditions—to help them see what it takes to compete. The payoff: Despite recent operational problems that have hurt profits, the number of hours needed to make a ton of steel at National's main plant in Ecorse, Mich., has fallen by 33% since 1988, to 295—among the industry's best numbers. National has run ads proclaiming: "We're partners with labor because we can't imagine a future without them."

Even AT&T and the CWA are starting over. In December, 1992, they set up elaborate joint structures, such as councils of company and union officials at the local, regional, and national level. Now those are paying off. For instance, AT&T's long-distance unit wanted to evaluate technicians in Virginia for traits that make employees good at customer relations. Technicians feared that those who did poorly might be moved or fired. But instead of fighting the effort, the CWA won a guarantee of no forced layoffs or relocations. The profiling has helped to speed up AT&T's maintenance times, officials say, and now is being expanded to 1,600 technicians nationwide. "If we had tried to do that absent the union's involvement, we wouldn't have gotten as much cooperation from our technicians," says Stan Kabala, the unit's head.

The lesson: If organized labor can offer itself as a partner, it may win at least grudging acceptance and carve out a place in the global economy. If not, its slow fade will continue. And many employees, union and nonunion alike, will suffer, whether they know it or not.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I listened to a number of these remarks here, and I have a few things to say. This is a very, very important issue.

Mr. President, S. 55 is mistitled the Workplace Fairness Act. It is the latest attempt by some of my colleagues who have dedicated their life to overturning Supreme Court decisions they find objectionable.

When I first heard of this particular bill, which would overturn what has become known as the Mackay doctrine, I wondered which Supreme Court Justice had written the offending decision. Naturally, given the sense and level of outrage expressed by some in this body one would assume that the misguided jurist was an appointee of President Reagan or President Bush, perhaps Justice Scalia or even Chief Justice Rehnquist. But in fact the judicial offender in this instance was Justice Owen Roberts. That is correct. Justice Owen Roberts. The Supreme Court decision we are being asked to overturn was written in 1938. Today we are asked to overturn a decision that was issued more than 56 years ago, a decision that has stood without a challenge for more than a half century, a decision that has been endorsed by successive Congresses since that time.

It is interesting to note—in fact it is remarkable—that with all the problems facing our Nation today, the economic challenges, the budgetary crisis, health care, crime, despite all of these problems, some of my colleagues believe that it is more important for the Senate to correct what they perceive to be the mistakes of the pre-World War II era. The proponents of this bill have summarized the thrust of their legislation in the following manner: Employees cannot be disciplined or discharged for engaging in a strike but they can be permanently replaced. The proponents assert that because employers can hire permanent replacements for striking workers, employees are discouraged from going on strike. It is harder for unions to win strikes. It is more difficult for organized labor to shut down employers, and it causes greater economic destabilization.

Alarmed by these facts, the proponents have introduced S. 55. Its purpose is rather straightforward: Change the rules that have governed Federal labor law for the last 55 years so that unions will be able to win almost every time they go out on strike; change the rules so that unions can shut down any employer whenever they want, for how long they want, and as often as they want.

Union leaders understand that current law places risks on both management and labor during labor disputes. If employers act unreasonably, their employees can go on strike. And, unions understand that if their demands are unreasonable and they still go on strike, employers may hire permanent replacements.

Current law is based on the tried and true concept that, by making a strike risky for both sides in a collective bargaining dispute, both sides have a vested interest in finding reasonable solutions to their labor disputes.

Consequently, it is not difficult to understand the purpose of the legislation. Eliminate the risk for unions when they go on strike.

Eliminate the need for economic responsibility. You will inevitably make it easier for unions to go on strike and to win their strikes. By legislative fiat, S. 55 will provide unions with what they do not enjoy today—unrivaled economic power and control of the labor market. That is what they want.

Many of us in this Chamber recognize that the role of unions in the workplace has greatly diminished. Part of this has been due to economic realities. Part has been due to misguided leadership in the union movement. Part has been due to the passage of legislation that enhances employee benefits and protections. And, part of this diminution is due to a growing sophistication among employers and employees.

The relationships between labor and management have improved dramatically during this century, as employers have begun to understand the importance of maintaining positive relationships with their workers.

For all of these reasons, the AFL-CIO is no longer the economic power it was 50 years ago, 20 years ago, or even 10 years ago. But it is still a most formidable political power, if not the most formidable political power in this area.

No observer of Congress can deny that the AFL-CIO still wields much power in the Halls of the House and Senate.

In the past, the AFL-CIO liked to boast that they controlled the agenda of the U.S. Congress. While that may be a bit of an overstatement today, it is true that they still have the ability to demand that the bills they want Congress to vote on, will be voted on. This is a perfect illustration.

Consequently, the unions have decided that they will force Congress to change the rules that have governed Federal labor law for the last 55 years.

If they cannot win at the bargaining table like they did in the past, then they will just demand that Congress change the rules until they can win again.

The AFL-CIO is demanding that we tilt the balance so far in their favor that they can once again force employers to accept their demands, reasonable or unreasonable, without any need for economic responsibility on their part.

Does anyone in this body really believe that by making strikes risk-free for unions that there will not be more strikes? Does anyone really believe that the solution to our current economic problems—problems compounded by the internationalization of markets and skill shortages in the labor force—is to encourage the small percentage of American workers represented by unions to go on strike?

Do we as a body really want to tell the American people that we have finally found the answer to our economic woes, and it is to go on strike?

The proponents of S. 55 have also been a little loose with their explanation of current law.

Today, employees have the right to strike—the ultimate collective bargaining weapon that unions can bring to bear on an employer's business.

But, how an employer responds to that strike depends on what kind of strike it is.

If a strike is caused or prolonged by an employer's unfair labor practice, such as a failure to bargain in good faith, striking employees cannot be permanently replaced. Let me repeat myself. If a strike is caused or prolonged by an employer's unfair labor practice, such as a failure to bargain in good faith, striking employees cannot be permanently replaced.

In these instances, under the National Labor Relations Act, the employer is required to reinstate the strikers to their former positions and may be liable for substantial amounts of backpay.

If, on the other hand, the strike has nothing to do with any wrongdoing by the employer and is purely over economic terms, such as an increase in wages, an employer may take a variety of steps to withstand the strike, including hiring permanent replacements.

In these cases, strikers who have been replaced and seek to return to work retain their status as employees and must be reinstated as positions become available.

If the employer has done nothing more than resist a union's economic demands at the bargaining table, the law has always permitted employers to keep operating by hiring permanent replacements. In fact, as the Supreme Court has stated in Belknap versus Hale, the "very purpose of enabling an employer to offer permanent employment to strike replacements is to permit the employer to keep his business running during the strike."

S. 55, however, would say that an employer has no such right. No matter how outrageous or irresponsible the demands of the union, if the union goes out on strike, the employer has no right to hire permanent replacements. The employer's only right under S. 55 is to capitulate to the union's demands or hope the union returns to work before the business closes down for good.

Recognizing the absurdity of this scenario, for more than half a century, American labor law has provided both labor and management with a balanced set of rights.

Economic weapons and risk are critical elements of our national labor policy. As the Supreme Court has explained: "The presence of economic weapons in reserve, and their actual exercise on occasion by the parties, is part and parcel of the system that the Wagner and Taft-Hartley Acts have recognized." *NLRB* v. *Insurance Agents*, 361 U.S. 477, 489 (1960). And, as a leading labor law expert has noted, "[c]ollective bargaining evidently functions as a method of fixing terms and conditions of employment only because the risk of loss to both parties is so great that compromise is cheaper than economic strife." Charles J. Morris, "The Development Labor Law," second ed., at 996.

Under current law, employers' demands at the bargaining table are checked by the knowledge that their employees have a most powerful weapon—the strike—a weapon that could cause loss of profits and market share and could ultimately put them out of business.

Employee's demands, at the same time, are likewise checked by the knowledge that a call for a strike may be met by the hiring of so-called Mackay replacements.

The inherent uncertainty about what will happen when both sides resort to their ultimate weapons is an essential element in the dynamics of collective bargaining. Most importantly, it provides the strongest possible inducement for both groups to negotiate in good faith and to resolve their differences without resorting to such measures at all.

S. 55 proposes to change this level playing field on which labor and management have long operated.

A level playing field does not guarantee that parties bring either equivalent strength or wisdom to any particular labor dispute.

Nor does it guarantee that the results of any labor dispute, or the specific terms of any particular labor contract, are what any of us individually would think were either the most fair, most reasonable, or most prudent for either side.

Congress has never established itself, or the courts, as an arbitrator to determine the terms of collective bargaining agreements. Rather, the true level playing field that is part of our national labor policy was designed to foster a balance in the legal rights of the parties. Since the protection of the right to strike gave unions an extremely potent offensive weapon, the law also gives employers the defensive weapon of continuing to operate during a strike.

As described by former Solicitor of Labor and NLRB general counsel the late Peter Nash,

> The hiring of permanent replacements has long been recognized as constituting part of the legitimate self-help available to employers in a strike situation and allows the dispute between the employer and its employees "to be controlled by the free play of economic forces." *Machinists* v. *Wisconsin Employment Relations Comm.*, 427 U.S. 132, 140 (1976) (quoting *NLRB* v. *Nash-Finch*, 404 U.S. 138, 144 (1971).

If S. 55 became law, it would insulate striking employees from the risks that traditionally have acted as a check on the voluntary decision to strike over economic issues, and would free organized workers to command a price for their labor without regard to the market forces of supply and demand.

The Mackay doctrine, in contrast, serves as an important market check on opportunistic high demands of unions as well as on opportunistic low offers by employers who are prohibited under this existing doctrine from offering replacements a better deal than the one rejected by strikers.

As one expert has noted in this regard, "the willingness of workers to cross picket lines and offer their services on the basis of the employer's final offer tells something about the economic reasonableness of the union's demands." Estreicher, "Strikers and Replacements," 3 Labor Law 897, 902 (1987).

The result of overturning the longstanding Mackay doctrine would be an increase in the number of strikes, and an increase in the risk of anticompetitive collective-bargaining agreements.

Moreover, S. 55 would injure many nonstriking workers and their families, whose livelihoods depend on a functioning, economically viable employer. Customers, suppliers, and consumers would all suffer the burdens of the increased strike activity and the harmful economic impact that would be generated by this bill.

Let me talk a little bit about myths and realities.

The proponents of this legislation have attempted to justify their attack on the Mackay doctrine by promoting several myths about Federal labor law and strikes.

The first myth is a whopper. The proponents claim that the Mackay doctrine—a Supreme Court precedent of more than half a century—should be ignored, because it is only dicta.

As my colleagues know, dicta refers to opinions of a judge which do not embody the resolution or determination of the Court. In other words, something that is dicta is an opinion offered by the Court which is unnecessary or extraneous to the decision itself. Its elimination from a judicial decision would not alter the holding of the court.

In other words, the proponents are arguing that by overturning the Mackay doctrine they are not really overturning a Supreme Court decision but rather only taking issue with one justice's extraneous comment.

The Mackay doctrine, which has some of my colleagues in such high dudgeon, stems from a Supreme Court decision issued on May 16, 1938.

The case, *National Labor Relations Board* v. *Mackay Radio & Telegraph Co.*, 304 U.S. 333 (1938), grew out of a labor dispute between Mackay Radio and Telegraph and local No. 3, of the American Radio Telegraphists Association. Negotiations between the company and the union broke down, and the employees went out on strike. The company brought employees from its offices in other cities to take the places of the strikers. Subsequently, all but five of the strikers were taken back by the company.

The union filed charges with the National Labor Relations Board, charging that by failing to reinstate the five remaining strikers, the company was discriminating against them on account of their union activities. The Board, among other things, ordered the company to reinstate the five with back pay.

The Supreme Court was asked to review the Board's decision, which it upheld. One of the issues before the court was whether the Board lacked jurisdiction because the company was at no time guilty of any unfair labor practice. The Court noted that there was no evidence that the company was guilty of any unfair labor practice.

To explain its conclusion, the Court noted that the company was negotiating with the authorized representatives of the union. Then the Court addressed the issue of whether its use of replacements was an unfair labor practice. In responding to this issue, the Court outlined what thereafter became known as the Mackay doctrine:

> Nor was it an unfair practice to replace the striking employees with others in an effort to carry on the business. Although Section 13 provides, "Nothing in this Act shall be construed so as to interfere with or impede or diminish in any way the right to strike," it does not follow that an employer, guilty of no act denounced by the statute, has lost the right to protect and continue his business by supplying places left vacant by strikers. And he is not bound to discharge those hired to fill the place of strikers, upon the election of the latter to resume their employment, in order to create places for them. *NLRB* v. *Mackay Radio & Telegraph Co.*, 304 U.S. 333, 345–346 (1938).

Now I realize that one person's dicta is another's doctrine, but the Supreme Court was rather clear in its holding. Nothing in the Wagner Act, the National Labor Relations Act, prohibited an employer from hiring replacements for employees who have gone out on strike, and the employer is not required to fire those replacements once the strikers decide they wish to return to work.

What was Congress' reaction to the decision? The following year, Senator Wagner appeared before the Senate Education and Labor Committee and made the following statement:

> Every step that the Supreme Court has taken toward clarifying the meaning and defining the scope of the act has made it easier for workers and employers to deal successfully under its provisions.

This is hardly a statement one would expect from Senator Wagner if the Supreme Court's opinion in the Mackay decision had been viewed from its inception as incompatible with the basic rights and values of Federal labor law.

This mistaken assertion was made by the committee majority in the report accompanying S. 55. I can only surmise that the authors of the majority report have concluded that a statement by Senator Wagner, the author of the Federal statute, made a year after the Supreme Court's decision, has no merit. Perhaps they feel that the statement by Senator Wagner is also dicta.

In fact, Senator Wagner's assessment is relevant, because it underscores the fact that instead of being an aberration, the Mackay doctrine was consistent with the legislative history of the Wagner Act.

A memorandum prepared by the Senate Education and Labor Committee on S. 1958, Senator Wagner's bill, clarified the ability of employers to hire replacements. It states:

> S. 1958 provides that the labor dispute shall be current, and the employer is free to hasten its end by hiring a new, permanent crew of workers and running the plant on a normal basis.

And, there is more. During the floor debate on the House version of the Wagner Act, Representative Fletcher asked whether anything in this legislation would prevent employers from bringing in strikebreakers. The bill's floor manager, Representative Connery of Massachusetts replied,

> I do not think there is. The employers' rights under the law will be just as strong and secure after passage of this act as they were before.

Consequently, instead of being dicta, representing some unnecessary, extraneous viewpoint that was repudiated from the moment it was offered, the Mackay doctrine was an accurate articulation of congressional understanding of employer rights under the Wagner Act. The Supreme Court's opinion was not at odds with congressional intent. The two were consistent.

But, let us assume for a moment that the proponents' revisionist version of history is accurate.

If the Mackay doctrine was an aberration, something far removed from the intent of Congress and the body of judicial thought, then it is logical to assume that Congress would take immediate steps to correct this flawed doctrine at the appropriate time.

In 1959, Congress passed the Landrum-Griffin Act, which dealt directly with the issue of picketing, strikes, and voting rights for economic strikers.

Obviously, it would be hard to imagine a time more appropriate to correct something as abhorent as the Mackay doctrine, if the proponents are correct in their assertion that the doctrine was incompatible with basic rights and values of Federal labor law. But, it was not changed, and everybody knows that.

Instead, the Landrum-Griffin Act included a provision giving economic strikers the right to vote in an election held within 1 year after commencement of an economic strike if they have been replaced.

Congress gave those strikers the right to vote to prevent employers from getting rid of the union by hiring permanent replacements, and then holding an election immediately thereafter in which the permanent replacements but not the strikers could vote.

Even the most rabid proponent of this legislation would have to agree that there would have been no need for this provision in the Landrum-Griffin Act if Congress believed that an employer could not hire permanent replacements for economic strikers.

In sum, Mr. President, the Mackay doctrine was not "dicta." It did not thwart the will of Congress. On the contrary, it is obvious that Congress clearly believed that the Mackay doctrine was the correct expression of the law—that employers could hire permanent replacements for economic strikers.

In fact, contrary to the assertion that the Mackay rule is an aberration, the Supreme Court has affirmed it on numerous occasions over the past 50 years, at times by Justices not known for harboring an antiunion bias.

In 1963, in *NLRB* v. *Erie Resistor Corp.*, 373 U.S. 221, 232 (1963), against a challenge to Mackay, the Court stated, "We have no intention of questioning the vitality of the Mackay rule * * *"

In 1967, in *NLRB* v. *Fleetwood Trailer Co.*, 389 U.S. 375, 379 (1967), the Court stated that employers have,

> "legitimate and substantial business justifications" for refusing to reinstate employees who engaged in an economic strike * * * when the jobs claimed by the strikers are occupied by workers hired as permanent replacements during the strike in order to continue operations.

In 1983, the Court reaffirmed Mackay in *Belknap, Inc.* v. *Hale*, 463 U.S. 491, 504, n. 8 (1983), when it held,

> The refusal to fire permanent replacements because of commitments made to them in the course of an economic strike satisfies the requirement that the employer have a "legitimate and substantial justification" for its refusal to reinstate strikers.

As recently as 1989, Justice O'Connor, writing for the Court, applied Mackay to affirm the validity of TWA's permanent replacement of striking flight attendants. She wrote, "On various occasions [over the years] we have reaffirmed the holding of Mackay Radio."

The fundamental principles behind Mackay rest in the proposition that unions and employers are entitled to a level negotiating field in which each party is free to use the economic weapons available to it. There is a delicate balance in labor law that must be maintained, and Mackay Radio is part of the maintenance of that delicate balance.

On occasions, these principles are reaffirmed by the most unlikely members of the Court.

In a case involving a union challenging an employers' association's use of "freeze-outs," Justice William Brennan wrote for the Court:

> Although the [National Labor Relations] Act protects the right of employees to strike in support of their demands, this protection is not so absolute as to deny self-help by employers when legitimate interests of employees and employers collide. *Labor Board* v. *Truck Drivers Union*, 353 U.S. 87, 96 (1957).

Likewise, it was Justice Brennan, who in a subsequent case involving union strike tactics, again reaffirmed the Court's affirmation of the principles behind Mackay. In *Labor Board* v. *Insurance Agents*, 361 U.S. 477, 489–490 (1960), he wrote:

> The presence of economic weapons in reserve, and their actual exercise on occasion by the parties, is part and parcel of the system * * * two factors—necessity for good-faith bargaining between parties, and the availability of economic pressure devices to each to make the other party incline to agree on one's terms—exist side by side * * * and, at the same time, negotiation positions are apt to be weak or strong in accordance with the degree of economic power the parties possess * * *. And if [the government] could regulate the choice of economic weapons that may be used as part of collective bargaining, it would be in a position to exercise considerable influence upon the substantive terms upon which the parties contract.

As one can readily see, it is clear that S. 55 demands that we overturn a well-established precedent of labor law.

Far from being dicta, the Mackay doctrine is a clear expression of the law. It has been left unchanged by Congress for more than half a century. It has been upheld by the Supreme Court on a number of occasions.

In sum, the attempted minimization of the Mackay doctrine by the proponents of S. 55 will not stand the light of review.

Myth No. 2:

Well, the proponents of this bill are nothing if not advocates, and they are nothing if not resourceful. Faced with the rather obvious probability that they could not discredit the Mackay doctrine through a tortured legal analysis, they propagated yet another myth, a myth that brings this issue up to the present.

I suppose this myth was inevitable—namely, the idea that it is all President Reagan's fault.

The proponents argue that the hiring of permanent replacements was just not done before 1980. In other words, the Mackay doctrine was not a problem for more than 40 years because employers never exercised this legal right.

There was no reason for the unions and their friends in Congress to complain about the hiring of permanent replacements, because no permanent replacements were ever hired. It just was not done.

For those listening closely, they will not miss the significance of the date used by the bill's supporters. The proponents claim that it was not until the 1980's that the use of permanent replacements became so commonplace.

It was not until the Reagan administration that employers began racing out and hiring permanent replacements the first moment an employee went out on strike.

President Reagan, according to proponents, made it fashionable to use replacements when the members of PATCo, the air traffic controllers, broke the law that prohibits Federal employees from striking against the Federal Government.

When these employees went out on strike, they were permanently replaced by the President. According to the proponents, President Reagan's actions gave employers around the Nation the green light, and employers ever since have been replacing thousands upon thousands of employees.

I suppose it was only a matter of time until we got around to blaming Ronald Reagan.

I find it ironic that some of my colleagues routinely criticize President Reagan for doing so little, and then immediately turn around and blame him for everything they believe is wrong with the United States today. And they certainly find a lot that is wrong. For someone who is constantly criticized for being so inactive, President Reagan certainly seems to have accomplished a lot.

The only problem with the argument that the use of permanent replacements is a recent phenomenon is that it is wrong.

According to a study released by the Employment Policy Foundation, there are 251 National Labor Relations Board cases since 1938 where the Supreme Court's decision in Mackay was cited and permanent replacements were hired. All but 22 of these cases involved strikes that occurred before 1981.

Over the next several days, this body is likely to hear about a General Accounting Office report commissioned by the proponents of the legislation entitled, "Report to Congressional Requesters: Strikes and the Use of Permanent Strike Replacements in the 1970's and 1980's." GAO/HRD–91–2 (1991).

This report is purported to be the definitive proof of how widespread the problem of permanent replacements has become. According to the report, the GAO found that, in 1985, 4 percent of striking employees were replaced by Mackay replacements—4 percent. The report went on to conclude that this figure fell to 3 percent in 1989. And, these figures count as permanently replaced those strikers who returned or will return to their jobs as a result of vacancies, a strike settlement, or a National Labor Relations Board order in case of an unfair labor practice strike.

According to the report requested by proponents, 96 percent of all employees who went on strike in 1985 were not replaced by permanent replacements. In 1989, 97 percent of workers who went on strike were not permanently replaced.

This is the proponents' evidence of an employer community run amok. The fact is that the problem they are complaining about has decreased.

I might note that the number of affected strikers is less than one one-thousandth of 1 percent of all Americans in the civilian labor force.

So much for that myth.

Myth No. 3:

Another myth associated with S. 55 is the implication that the legislation would restore balance and fairness to our labor laws.

While the legislation clearly limits the actions an employer can take during a strike, it should be remembered that there is nothing in S. 55 which would impose a similar limitation on the rights of unions.

There is nothing in the bill that increases the economic risk of union members, nor are they forced under the bill to relinquish an equivalent right.

Economic strikers in some States have the right to collect unemployment compensation. They are not prevented from finding other employment during the strike. They are entitled to receive union strike benefits which might not be insignificant in some instances. Further, in some States strikers may be eligible for welfare benefits. Nothing in the legislation would change these rights.

Moreover, nothing in the bill would prohibit unions from engaging in destructive corporate campaigns or from running a company out of business. S. 55 would make no changes in the rights afforded to strikers, only in the rights afforded to employers.

So much for myth No. 3.

Let me go to myth No. 4.

Another myth disseminated by the proponents is that the Mackay doctrine corrupts the collective bargaining process.

In fact, S. 55 would itself corrupt the bargaining process because it would provide that the right to strike may be asserted free of any economic disadvantage.

The right to strike was never intended to make strikers the owners of their jobs.

As Justice Stewart explained in writing for the majority in the Supreme Court's opinion in 1965 in *American Ship Building Company* v. *NLRB*, 380 U.S. 300:

> [T]he right to bargain collectively does not entail any "right" to insist on one's position free from the sort of economic disadvantage which frequently attends bargaining disputes * * *. The right to strike as commonly understood is the right to cease work—nothing more.

Myth 5—other countries do it, they say.

Another argument trotted out by the proponents is that other industrialized countries like Japan, Germany, and Canada do not permit the hiring of permanent replacements. What the proponents like to skip over is the fact that most other countries do not simply reject the Mackay doctrine—they reject our entire industrial relations system.

In fact, a quick trip around the world reveals that American unions already enjoy several advantages over their international counterparts.

Would the proponents like to buy into the entire German labor relations system?

In Germany, more than one union can represent employees performing the same work. A strike in Germany becomes illegal whenever picketers use intimidation as a tactic. Strikes are forbidden in Germany if they would grievously wound a company, and all strikers are ineligible for unemployment benefits.

How would you like to have the German laws? So ours are far more fair to workers than the German labor laws.

In France, the law permits individual bargaining or unilateral employer action to supersede collective-bargaining agreement provisions. Moreover, French labor law eliminates any requirement that unions and management try to reach an agreement. In the Netherlands, courts are given broad judicial authority to enjoin strikes.

As to Canada, it is noteworthy that according to a recent study in the Journal of Labor Economics, after a ban on hiring striker replacements was passed in three Canadian provinces, more and longer strikes resulted.

Interestingly, the one policy that has a significant effect on reducing the incidence of strikes and the duration of strikes was a mandatory strike vote, a requirement which is not contained in our Federal labor laws.

So myth No. 5—"Other countries do it"—really does not apply here.

Let me go to myth No. 6—"employers don't need this right," they say.

The final justification for S. 55 is that employers have other options they can use to continue to operate a facility during a strike.

According to the proponents, these options include the hiring of temporary replacements, using supervisory or management personnel to run the plant, transferring or subcontracting work, or stockpiling in advance of the strike.

In 1991, the majority of the Senate Labor Committee observed that:

> * * * in light of * * * our recent chronically high unemployment rates, it is undoubtedly easier today to find temporary replacement workers for even skilled jobs than it was even 10 years ago, let alone 50 years ago.

What the proponents apparently do not believe is their own rhetoric—that many union workers are highly skilled employees, who provide the companies for which they work with a valuable service.

You cannot replace a skilled workforce overnight, nor can you expect a handful of supervisory and management personnel to maintain operations adequately during a strike for an indefinite period of time. There is an inevitable loss of organizational efficiency and control.

Apparently we have to state the obvious. If companies could operate without the striking employees, they would employ fewer people in the first place.

What the proponents apparently do not know is that many plants cannot just be shut down. You don't just turn off the lights in a chemical plant and lock the door behind you. In such instances, the shutdown must be performed in a very careful, orderly manner, using highly trained workers over a 2- to 3-week period. This is true even when the shutdown occurs not because of a strike but because of routine maintenance.

What the proponents apparently do not know is that the pool of unemployed workers who might temporarily assist employers during a strike do not possess the same skills as the striking union members. As the Society for Human Resource Management explained during the hearings on S. 55,

> An employer's challenge of recruiting temporary workers would be difficult enough if the pool of available workers was literate and possessed general skills. However that is not the case. Employers are confronted with a less educated and less skilled workforce and must frequently educate employees before they can even begin to train them for specific jobs.

What the proponents of the legislation apparently do not know is that there is not a pool of available skilled workers waiting to run the gauntlet of a picket line in order to work for what could be only a handful of days.

This is especially true for industries such as the airline industry. As the Air Transport Association of America emphasized in its hearing statement:

> Ready pools of skilled pilots and FAA certified mechanics simply do not exist for the airline industry. The training and skills needed to serve the public safety constitute such high standards that there is actually a labor scarcity. In this context, the long-standing Mackay rule is a fundamental protection that the employer needs in order to balance the unlimited power of the strike.

What the proponents of the legislation apparently do not know is that many small businesses cannot operate simply by using management and supervisory personnel.

Small businesses tend to be tightly run companies that are extremely efficient. If their employees go on strike, they shut down. There is no alternative.

Perhaps the most honest assessment of the fallacy of the proponents' assertion that there is a ready pool of qualified skilled labor ready and willing to be hired for an indefinite period of time and to run a gauntlet of harassment every day is the AFL–CIO. Listen to the statement of Walter Kamiat, associate general counsel of the AFL–CIO:

> Nothing we have said thus far is to deny that some particular employers may "need" to hire permanent replacements in order to prevail in a particular strike. This may be the case, for example, where striking workers are particularly skilled and the labor market is particularly tight.

Mr. Kamiat apparently is willing to admit a simple fact that has escaped the proponents of the legislation. Namely, some employers have to be able to hire permanent replacements or they will always lose. The unions will always win when they go out on strike. There will be no economic restraint on these unions to modify their demands. Their limit will only be their imagination.

The fact is, it is virtually impossible to replace a highly skilled workforce with competent people for an indefinite period of time, unless the employer can make an offer of permanent employment.

But, of course, that is why this bill makes every union decision to strike a no-lose decision.

Consequently, without any real check on the demands that can be made by organized labor, employers will have no viable alternative but to cave in and agree to every demand made by striking employees.

S. 55 is perhaps most condemnable for what it does not address. The proponents claim that they want to restore fairness to strikes. They want to correct the perceived flaws in our current labor laws.

What they have concocted is perhaps the most lopsided, special-interest oriented pieces of legislation that has been rammed through Congress in recent memory.

There is nothing in S. 55 about public safety, about the impact of prolonged strikes that place the public welfare and safety at risk.

What happens when employees at a nursing home go out on strike? What happens when workers at acute care hospitals go out on strike? Do the proponents really believe that by giving unions in the health care industry the ability to call strikes without economic risk that there will not be an increase in the disruption of health care services?

Do the proponents, who have expressed such great concern over the skyrocketing cost of health care in this Nation, believe that this legislation will have no impact on health care costs?

The committee report accompanying S. 55 actually had a section entitled, "Cost Estimate." It contains the following statement:

> The Committee is unable to determine the precise economic impact the legislation would have on affected individuals, consumers, and businesses, but the Committee believes that any such impact will be minimal.

The authors of the committee report must be the only people in the United States that cannot figure out the answer to that question.

The economic impact on affected individuals will be devastating. The economic impact on consumers will be devastating. The economic impact on businesses will be devastating.

And, some in this body still wonder why the American people feel that Congress has lost touch with reality. How can one honestly argue that by making strikes risk free for hospital unions, or for unions in any industry, costs will not go up?

Perusal of S. 55 will also find another issue not covered. For most Americans, mention the word "strike" and the word "violence" comes to mind.

Since it is inevitable that S. 55 will result in more strikes, what does the bill have to say about violence? Absolutely nothing.

What does S. 55 do to prevent random shootings like those that occurred during the Greyhound strike? Absolutely nothing.

What does S. 55 do to prevent the bombings and knifings that were such an integral part of the New York Daily News strike? Absolutely nothing.

What does S. 55 do about the pattern of unrestrained violence that breaks out every time the United Mine Workers goes on strike?

What does it do about the killing of Eddie York, an employee of an independent contractor, shot as he tried to leave a mine in West Virginia in July, 1993?

So, Mr. President, this is the so-called Workplace Fairness Act of 1994—a bill that would overturn more than 55 years of Federal labor law, a bill that encourages employees to go on strike, a bill that ignores union violence, a bill that pretends that it will have no economic impact, and a bill that in the name of fairness would benefit only one special interest group. It would benefit this group at the expenses of the rest of America's working men and women, at the expense of the free enterprise system, and at the expense of public health and safety.

We all know that our Nation faces serious social and economic problems. We all know that the Federal budget is a nightmare, and that the deficit is slowly choking the lifeblood from our Nation. We all know that there is a crisis of confidence in our Government, particularly with this Congress. And the proponents of S. 55 have unveiled their solution—go on strike.

Mr. President, I can think of no other bill before this body that is a better test of who is interested in preserving our free enterprise system and generating jobs and economic growth.

I can think of no other, single bill that is a better test of who is interested in preserving a balance in our Federal labor laws to ensure that the rights of employers and employees are equivalent.

I can think of no other single bill that is a better test of who is interested in preserving, fostering, and nurturing small business in this country.

I can think of no other single bill that is a better test of who is interested in preventing one special interest group from dictating the laws of our Nation.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. FORD). The Senator from New Mexico.

Mr. DOMENICI. Parliamentary inquiry. Is there any limits on speaking at this point?

The PRESIDING OFFICER. There is none. The Chair might have some feeling about it.

Mr. DOMENICI. I understand the Chair might not want to stay here all evening, and I do not intend to burden him with that either. I think I will speak about 10 minutes. I ask to be notified when I have used 10 minutes.

The PRESIDING OFFICER. We will be glad to do that.

Mr. DOMENICI. Mr. President, I have not indicated that will be the extent, but I would like to be reminded. I thank the Chair.

EMPLOYMENT GROWTH

Mr. DOMENICI. Mr. President, first I wish to talk about this employment growth comparison chart that I have here displayed. I know for many this will seem incredible, but it happens to be true. It is a comparison of North America and the European Community of countries—from 1974 through 1991, and from what I understand things have not changed much since then. Since 1991 employment trends have been moving in exactly the same direction. In fact, we know they are in 1992. We are not quite sure exactly where these lines would be for 1993 and 1994, but we think the trend is pretty obvious.

So let us look at what is happening to the jobs in North America in terms of the public and private sector.

Along the bottom of the graph we have the years 1974 up through 1991. On the side we have the number of new jobs created, measured in millions of jobs. Looking at that solid green line from 1974 to 1991, the level of new jobs in North America rises straight up. In all, a total of 30 million new jobs were created in the private sector: little companies, big companies, unionized companies, nonunionized companies, all private sector employment.

Public sector employment is the hash marked green line on the graph. During that entire period of time, jobs in the public sector rise by less than 5 million jobs—a very, very slow rate of rise compared to the private sector. So that the ratio of new private jobs to public jobs is enormous.

Thirty million new private sector jobs from 1974 to 1991—versus 5 million in the public sector, is a 6-to-1 ratio for North America. And the overwhelming proportion of these are in the U.S.A.

Let us look at the European Community, same period, 1974 to 1991. The solid green line shows about 2 million new private sector jobs. And in a number of years there are less jobs than the year before.

In fact, there are less private sector jobs in the European communities in 1984 than there were in 1974. There were even less private sector jobs in Europe in 1988 than in 1974. After that net jobs showed a slight increase. While American private sector jobs experience were going up dramatically, European jobs went up slightly.

Now let us look at the whole spectrum in 1974 to 1991. As I indicated, the net result of it is in millions of jobs. In total, there are few if any new private jobs in 1991 in the European Community over nearly a 2-decade period. Think what America would be like if we had no new private sector jobs for that length of time.

Mr. President, there may be some that would say, "So what? The jobs that we have would all be worth $38 an hour." That might be the case. There would be a lot of people unemployed though, and there would be no growth in the economy.

Now let us look at what happened to the public sector jobs in Europe. From 1974 until 1991, while there is really no increase in private sector jobs—in fact the sum private sector total is almost a wash, the public sector went up about 5 million.

So, we see about 5 million new jobs in the public sector, no new jobs in the private sector. In the United States—in Canada and the United States, essentially 30 million new private sector jobs versus about 5 or less in terms of the public sector; 6-to-1 ratio. Importantly, these ratios are about real numbers, real jobs, and real people.

Mr. President, the European Community—if anybody has been reading economic literature about what is going on in Germany, Italy, and France, I think it is fair to say that a bright economist here in the United States came up with a good name for what is going on. He says that the European economy has "Euro-sclerosis". That is a very nice descriptive word for a very, very sick economy—"Euro-sclerosis." The principal ingredient of "Euro-sclerosis" is no new private-sector jobs. Costs of their products are skyrocketing, unemployment is very, very high, and their products, except for some very exceptional ones, are getting less competitive, not more.

America used to look at West Germany and shiver. With their economy's competitiveness, they were going to beat us in every market. Interesting, now they are moving their automobile plants to America to make cars here because "Euro-sclerosis" has set in. The balance between management and labor has been such that government asks business to do more and more things for the social benefit of their workers and their country. Consequently, there is less and less flexibility on the part of the people who operate a business, large or small, to do what they must in order to be competitive and sell their products in the world market.

We have on the floor of the Senate an issue that is not about today or tomorrow, but about the long term. Does the United States want to engage in a long-term commitment that labor unions ought to be able to strike, and if wages cannot be agreed to, then if the plant ever opens again, strikers are entitled to get all of their jobs back. Business cannot employ anybody to take their place?

Frankly, it is not the kind of issue that some think of. But clearly this legislation takes great economic flexibility out of the American private sector, and in the long run moves us one step closer to the ailment that engulfs Europe. Soon we will have "sclerosis-Americana" or "U.S.A.-sclerosis," and we will say, "How come business cannot make it?" It will be because we tied their hands. When we do that, we end up hurting all workers.

In the United States, only 12 percent of the work force is unionized. But if you put this into existence and it begins to deny flexibility in terms of trying to succeed as a business, then obviously you hurt all who hope to prosper in the future. Ultimately the result is plain and simple: This legislation is antijobs, and antigrowth. In a very real sense, it moves us in the direction where, if we do this and a few more things recommended today—such as more OSHA regulations—we will establish the pattern that every time we find a social problem, we put the burden on the business community.

Another example is the business mandates associated with some health care plans. If we do that, it represents another giant step in the direction of imposing the same kinds of economic sclerosis on America that is bringing the relationship between private sector and public sector jobs to the European community. They are stuck with high unemployment, much higher than in the United States. They do not know what to do about it and their companies cannot grow.

Let me describe this bill as I see it. Currently, there are limitations on employers in unfair labor practice disputes with unions. We are not talking about taking away any of the union powers there. Employers cannot hire permanent replacements in disputes over workers' job rights and contract conditions. That remains unchanged. This legislation has nothing to do with that. This legislation will limit employers' options in disputes over economic issues, issues such as what wage rates a company ultimately can afford to pay, or about expanded benefit packages, and many other items that cost money.

The PRESIDING OFFICER. The Senator wished to be advised when 10 minutes had expired.

Mr. DOMENICI. I thank the Chair. I yield myself 5 more minutes, if the Chair will advise me when 5 minutes are up, please.

This legislation says the balance is changed. Under no circumstances will an employer be in a position where he could not settle because of economic terms. Otherwise, to get his business going, he has to hire everybody back that was there before. I think that this swing in the balance goes a little bit too far.

Proponents claim this is about employee and union rights. This would be true if the disagreement were indeed about unfair labor practices. But it is not. It is about economic interests in bargaining situations. This bill would change the bargaining balance in favor of unions and against employers, and, as I see it, against workers in general, and against consumers.

A recent study shows that the length and number of strikes would increase, hurting nonstriking workers and their families, and those in other firms and industries that depend on businesses remaining economically viable. If employment costs end up becoming higher than can be competitively justified, obviously we will be moving in the direction that I have just described as being festered with "Euro-sclerosis."

Many do not realize it, but, if we pass this legislation, we will be moving more businesses offshore rather than less. We will be making ourselves less competitive rather than more. Ultimately, there will be less jobs rather than more for American workers.

Clearly, the chart I have described is a clear indication of a less flexible labor market and what will happen. The OECD [the Organization of Economic Cooperation and Development] which encompasses the major free-market nations of the world, has documented the European problem. Net new jobs in the private sector from 1980 to 1988: None, zero. A decade-long rising trend of unemployment culminated in a current 10.5 percent unemployment right within the European Community. Unemployment is chronic with nearly 50 percent of the unemployed in the European Community out of work 12 months or more in 1991 compared to roughly 6 percent in the United States. OECD cites as a cause poorly functioning labor markets. Wages that are set higher than is consistent with the productivity of workers has led to rising unemployment. It hurts more than it helps.

OECD says more jobs could be created if there were fewer barriers to hiring, to layoffs, to arranging for terminations. Quoting from them, "What is needed is to mitigate the unintended side effects of policies that were designed to achieve equity objectives. In some cases, this may mean a more fundamental radical design of policies, together with considerable changes in attitudes and practices, especially in the fields of taxation, social policy, and collective bargaining."

I think we can all heed what is going on in other countries and is not working well. We can try at least in our positions of leadership not to repeat the mistakes that are so well known in other countries. In the name of doing something good we do not want to do something that will make things worse over the long run and for more people.

The Secretary General of the OECD summarizes the situation this way:

> The only way to achieve long-term success is to embrace change. Trying to slow the pace of change and artificially to protect uncompetitive activities would only make delayed adjustment more painful. All policies should be harnessed to promote adjustments to change while taking care to reinforce social cohesion.

I could not agree more. This legislation does not do that. It is not a job gainer. Ultimately, it is a job loser. While we have had this legislation before us on previous occasions, it has failed. Obviously, we are going to vote again, perhaps once, perhaps twice. I am hopeful that we will defeat it again.

Mr. President, I thank the Chair and I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized.

Mr. KENNEDY. Mr. President, for the third time in 2 years Senate will vote tomorrow on whether to end the filibuster by which a minority of the Members of this body are blocking action on the Workplace Fairness Act. I urge my colleagues to invoke cloture and allow us to vote on this important measure.

The basic principle behind the bill has strong public support. In the latest poll from Fingerhut Associates, 64 percent of respondents said that once a majority of workers have voted to strike, companies should not be allowed to hire permanent replacements to take their jobs.

The American people understand that this is a question of simple justice for workers.

If it's illegal for an employer to fire a worker for exercising the right to strike, it should be equally unlawful for an employer to be able to deprive a striking worker of his job by permanently replacing that worker. It's as simple as that.

The House has twice passed this bill by substantial margins. President Clinton campaigned in support of this bill.

It is time to get on with the public's business and bring this bill to a vote.

Repeatedly, when we are debating economic legislation and U.S. competitiveness in the world economy, Senators from both sides of the aisle praise the high productivity of American workers, their excellent skills, and their pride in their work.

Yet, much of the legislation we pass ignores the importance of treating American workers fairly.

This legislation is for the American worker. It will restore the balance of power intended between management and labor intended under the National Labor Relations Act.

That far-sighted act, signed into law by President Franklin D. Roosevelt in 1935 as a cornerstone of the New Deal, recognized the inherent inquality between the bargaining power of a lone worker seeking to improve wages and working conditions, and the bargaining power of the employer.

As part of comprehensive legislation enacting the fundamental goals of national labor policy, the act guaranteed the rights of workers to form and join labor organizations and to engage in collective bargaining with their employers.

As the Supreme Court stated in 1935, in a landmark opinion upholding the constitutionality of the National Labor Relations Act:

> Long ago we stated the reason for labor organizations. We said they were organized out of the necessities of the situation; that a single employee was helpless in dealing with an employer; that he was dependent ordinarily on his daily wage for the maintenance of himself and his family; that if the employer refused to pay him the wages that he thought fair, he was nevertheless unable to leave the employer's employ and resist arbitrary and unfair treatment; that union was essential to give laborers opportunity to deal on an equal basis with the employer.

Today, as much as ever, employees need the right to organize collectively to improve their wages and working conditions, and to enter into negotiations with their employers about how work should be arranged, so that the firm can achieve its productivity and profitability goals, while at the same time ensuring fair treatment for workers. But the right to organize and bargain collectively is only a hollow promise if management is allowed to use the tactic of permanently replacing workers who go on strike.

No one likes strikes—least of all the strikers, who lose their wages during any strike and risk the loss of health coverage and other benefits.

Because both workers and employers have a mutual interest in avoiding economic losses, the overwhelming majority of collective bargaining disputes are settled without a strike. But the right to strike provides a balance which ensures that a fair economic bargain is reached between employers and workers.

The labor laws give workers the right to join together to combine their strength, and the union movement has been responsible for many of the gains that workers have achieved in the past half century. The process of collective bargaining works. It prevents workers from being exploited, and it has created a productive balance of power between management and labor.

The cornerstone of collective bargaining is the right to strike. If that right is nullified by the practice of permanently replacing workers who go on strike, the entire process of collective bargaining is undermined.

Both the National Labor Relations Act and the Railway Labor Act explicitly prohibit employers from firing employees who exercise their right to strike.

But as a result of a loophole created by the Supreme Court half a century ago—but seldom used until recent years—the practice of permanently replacing striking workers allow employers to achieve the same result.

The ability to hire permanent replacement tilts the balance unfairly in favor of business in labor-management relations.

It is no surprise that business is lobbying hard to block this legislation. Hiring permanent replacements encourages intransigence by management in negotiations with labor. It encourages employers to replace current workers with new workers willing to settle for less—and to accept smaller paychecks and other benefits.

S. 55 will restore the balance that has been distorted in recent years. It amends the National Labor Relations Act and the Railway Labor Act to prohibit employers from permanently replacing employees who exercise their statutory right to strike.

By enacting this legislation, Congress can restore the original promise of these statutes that give workers the right to bargain collectively and participate in peaceful activity in furtherance of their goals, without fear of being fired.

The Supreme Court's decision in the Mackay Radio case in 1938 is the source of the current problem, even though the issue was not squarely raised in the case itself.

In Mackay, the Court ruled that it was unlawful for an employer to refuse to reinstate striking union leaders, when the employer had reinstated other striking union members. The Court refused to allow the employer to discriminate between strike leaders and other strikers. It ordered the employer to put the permanently replaced striking union leaders back to work.

In fact, the Supreme Court did not even have before it the issue of the legality of permanently replacing striking workers. But language in the decision condoning the employer's hiring of permanent replacements has been interpreted as permitting the practice, as long as the employer does not use it in a discriminatory way.

This aspect of the Mackay decision had no significant impact on labor relations for nearly half a century. Few employers resorted to permanent replacements, or even threatened to use the tactic.

In Mackay Radio, the Supreme Court Justices performed gymnastic feats. The Court set common sense and rational judgment right on its head.

The issue before the Court was the discrimination between two different types of striking workers. The Court said that strike leaders should not be discriminated against. But the Court mused in dicta that the law permitted the permanent replacement of striking workers. Rational or sensible interpretation of the National Labor Relations Act would not have come to that conclusion. But certainly, the Supreme Court has, in other instances, provided erroneous interpretations of laws the Congress has passed.

Much later in the mid-1980's after Congress thought it well established that we were not going to permit taxpayer funds to be used to discriminate against women and minorities in the area of higher education.

That principle was well understood throughout the country. Congress had determined that, as a country, we will not permit taxpayers' money to be utilized to support and to expand discrimination in education. And then the Supreme Court ruled in its Grove City decision. The Supreme Court said, well, as long as there was not discrimination in financial aid for university students, it did not make any difference if there was discrimination in other areas of the university. This was a most bizarre interpretation of what the Congress had intended.

And from that particular holding, we found that there was a whole series of conduct that was developing in our society which was moving completely contrary to what the American people and the Congress, had said. And that is, we were not going to permit taxpayers' money to be used to further discrimination in our society.

We have the aberration in the Grove City case, which Congress eventually overturned. Likewise we have this kind of aberration in the Court's treatment of the practice of permanently replacing striking workers. We are attempting to overturn that decision. Our desire to overturn Mackay Radio has the support of the majority of the Members of this body, Republican and Democrat, as well as the support of the majority in the other body.

Employers and workers had a mutual understanding that strikes are only temporary disruptions in ongoing satisfactory relationships. Businesses responded to strikes in various ways—by having supervisors perform the work, by hiring temporary replacements, or by shutting operations down.

Employers acted on the basis that their work force was valuable and not easily replaced, and that once the temporary labor dispute was over, the two sides would resume the collective bargaining relationship that brought benefits and stability to each.

What we have seen, Mr. President, over the recent times, as has been pointed out during the debate earlier this afternoon, is that the playing field has been changed. Those that want to continue the filibuster effectively say, "Well, it has really not been changed." But, of course, it has been changed in a very dramatic way.

One cannot just examine theories of labor-management relationships. We must listen to those real people who have testified before our committees. They are proud American individuals, hard-working Americans who were willing to go out and provide for their families, work 40 hours a week, and work overtime for 52 weeks of the year. Nonetheless, these workers felt compelled to go out on strike because there was either an economic right or advantage that was being taken away or a health care benefit that was being cut back that would have affected their children and their own lives. In some instances, these workers went out on strike because they recognized that they were entitled to share in some of the extraordinary profits that their employers were making.

Having exercised their right to strike, these workers were then effectively thrown out of a job and frequently blackballed from the opportunity to work in their own communities after having worked in those communities for their lifetimes. Many of the workers who have been permanently replaced had worked at their jobs for years, from their teens on into their twenties and thirties. Those jobs permitted them to have and support their families and they remained loyal workers to their companies—only to find that doors of the company nailed shut when they exercised their legal right to strike and tried to achieve economic justice for themselves and their families.

Mr. President, a phenomenon that we have recently seen has been a decline in unemployment over the last year. Yet, if you were to take a reading about the future from working families in my State of Massachusetts, they still have rather an ominous sense and feeling about the future.

Usually, if you had unemployment going down one point, people would say, "Things had begun to turn around. There was some hope for the future. Maybe my child, who has just graduated from high school, was going to be able to get a good job."

Then, if it goes down two points, people would say, "Well, my children who have graduated from high school or from a community college or have gone to a vocational school are going to be able to find a good job. And I know my neighbor down the road, who has worked a long time, had been displaced because of downsizing, but, look, we know that the total number of jobs available out there is going to be larger, there will be a new opportunity and a new era; things are going to get better."

And when the unemployment rate has gone down three points, as it recently has, in the past, people have generally been euphoric.

But not now, not in my State of Massachusetts, and not in most places in our country. And why? Why? I well tell you why.

It is because the American people understand that the jobs that are not there now are not the kind of jobs that were there 20, 30, 40, years ago. They are not the jobs that mean good opportunities for families to work and to provide for their children and their parents, to pay the mortgage, put the bread on the table and send their children on to higher education if those young people want that opportunity. People understand that the good jobs of a generation ago are frequently not available. They have been replaced by part-time jobs. And these jobs do not provide the decent kinds of incomes so that Americans can work and still stay out of poverty.

We had a social compact in the period of the 1930's, 1940's, 1950's, 1960's, 1970's, and into the 1980's, supported by Republicans and Democrats alike, that people who are willing to work are going to get paid and not have to be in poverty. That is going. It is going. It is going. It is going and gone.

People are receiving minimum wages today and in too many instances, despite working, they are also eligible to receive welfare benefits. That is wrong.

We are seeing that workers are at risk of losing their health benefits. They are frequently unable to upgrade their skills. And they know they will have to probably change their employment down the road and leave what they thought was a long-term job. They do not ask for a handout, but a helping hand up.

And it is those individuals who have the courage in the workplace to be able to stand up and say that this kind of treatment of workers is wrong who are responsible for bringing these issues to the public debate. It is workers who stand up for their rights who force us to confront these changes in our society.

Well, by not taking this action, it is only a period of time before those who are in the board rooms are able to isolate and target those individuals who are the leaders for advancing economic and social justice, progress, and stability in our society.

We do not have the great unrest that has existed in many other parts of the world. And I dare say a principal—not the only, but a principal reason is because of the existence of economic justice in our society. And this I must say, Mr. President, the prohibition of permanent replacements for striking workers is a fundamental tenet in terms of society's commitment to economic justice.

Finally, Mr. President, I am always interested in seeing what is happening in other parts of the world. Certainly we hear a great deal on this floor about how we have to have a level playing field with other countries; that otherwise, we will not be competitive internationally.

If you just go down the various lists down the various lists of our principal competitors—France, Germany and Italy, Belgium, Japan, the Netherlands, Sweden, and our closest neighbor, Canada—all these countries have variations in the kinds of protection they provide for workers' rights. But virtually none of them, none of them, give the kind of advantage to the employer to effectively discharge and dismiss those workers who are trying to advance their economic futures.

And the basic reason is because, in this particular instance, those societies understand the importance of a real balance, not an alleged balance—but a real balance, between the management and workers. Those societies understand how important collective bargaining and a real right to strike is in order to advance the economic status of those countries.

And so, Mr. President, I will look forward to further debate on this issue tomorrow.

I think this is one of the very important issues of fairness and equity. I can remember going back to 1988, when we had the plant closing legislation.

We heard the voices out here on the floor say, "Well, we cannot have that kind of plant closing legislation bill. That is going to interfere with the prerogative of the employer." There was the belief that it was all right for someone to work for 30 years in a plant and then come down to that plant on a Friday afternoon and find out that they could not come back on Monday because the plant is going to close down. For 30 years that individual and that family may have been dependent on that plant. In other countries, workers were provided notification. But in America, employers did not have to provide notification to workers of a plant closing.

Well—we had a great debate here.

I remember when we tried to get cloture on it. We failed the first time, 58, I think, to 35 or 36. Interesting enough, after people cast that vote, 6 days later it was 88 to 5 in favor of it.

Why? Because finally as an institution we understood what was out there among the American people and that was the issue of fairness: fairness to working men and women in this country.

Fairness is part of our whole value system. We hear a lot of about our value system and we listen to many speeches made on that system. We have made clear that part of the value system of fairness for workers is to require notice if the employers are going to leave. Another part of our value system is that we believe that employers should not expose their workers to dangers in the workplace.

Where I come from, in Massachusetts, we used to go through those plants and factories. You try to shake hands with someone who had worked on a shoe machine. More often than not, three or four of their fingers were gone but they are still back there working. Or they had slogged around in the toxic substance on the floor of those plants. The acid would eat the sole off your shoe that night. That would make us think of what was happening to these workers breathing those poisonous gases.

We say we ought to be able to compete and still have a safe workplace free, to the extent we can, from industrial accidents and toxic substances. We say that people ought to work at a decent wage if they are prepared to work, to work hard. They ought to be free from the toxins of subsistence wages. That is economic justice. We say people ought to be notified if their employer is going to shut down so at least they are able to look for some other work opportunities. They should be notified of a plant closing because they have loyally worked for that particular plant over those many years.

This issue is a fundamental issue of economic justice, as important as many of those matters—in many instances even more so. It is because the workers have the right to engage in collective bargaining and in strikes that they are able to bring the issues of economic justice to the fore.

Mr. President, I look forward to the cloture vote tomorrow. I am convinced that if the American people truly understood the importance of this question with regards to economic justice, this would be an overwhelming vote. A majority of the American people do support this legislation as does a majority of this body.

This issue, as others, has been distorted and misrepresented. But I still am very hopeful that when the final toll is taken, this institution will follow that path when it has been at its best, and it will vote for economic justice for the American worker.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BAUCUS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum can be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, S. 55 proposes sweeping changes in our Nation's labor law, overturning more than 50 years of experience and case law, and upsetting the fundamental economic balance Congress struck between labor and management when it passed the National Labor Relations Act—Wagner Act—in 1935.

Since the Mackay decision in 1938, the threat of business shutdowns has been tempered by the fact that strikers may be replaced. The National Labor Relations Act puts the players on equal playing field, guaranteeing employees that right to strike to enforce their bargaining demands while ensuring employers the ability to operate their businesses as best they can during a strike. Current law exposes both sides to risk.

The shared risk helps to drive the collective bargaining process which should be a shared goal in labor negotiations.

Proponents of this legislation argue that permanent replacements inhibit strikes and the effectiveness of strikes, and thus interfere fundamentally with the right to strike. It therefore seems to reason that if permanent replacements are banned we will be eliminating the only disincentive to strike, and may actually cause labor to look to strikes as the weapon of first choice rather than of last resort. Clearly this does not serve to foster meaningful negotiations or mutual compromise. If the outcome of a strike is guaranteed—Meaningful bargaining is virtually eliminated.

The problem facing labor and management today is not the level playing field in the collective bargaining process. It is the level playing field that will permit U.S. businesses to survive and to meet the challengers of global competition. If an employer cannot meet those challenges, then the question of where the balance of power is in an economic labor dispute is a moot point. If a business cannot compete, it does not pay wages or provide benefits or offer any semblance of employment security.

Employment security should be at the heart of this debate. What the bill's proponents fail to recognize is that most companies are far beyond the objectives of this bill in looking at the same issue. Talk to the most successful businesses in your State, and you will find that the hierarchical, authoritarian systems of the past are being abandoned and are being replaced by team concepts and total quality management.

There is a growing recognition that being a world class organization in today's economy requires every employee of a company to take responsibility for the quality of the product which ultimately reaches the customer. It requires that every employee understand that high productivity and high quality at the lowest possible cost is essential to competitive success.

To accomplish this overriding goal, businesses—managers and workers—are coming to grips with the fact that the job security of any individual worker is not tied to the right to strike, but to the ability of his or her employer to adapt to an environment characterized by constant change. And the ability of an employer to adapt is, in turn, dependent in large measure on how well trained and skilled its work force is.

S. 55 is not a job security bill, although its sponsors may want to characterize it as such. Its passage would destroy, rather than enhance, job security. It would enable labor to shutdown permanently many small companies. Such companies are financially unable to cease production for a long period of time and are rendered especially vulnerable by S. 55. Most press accounts portray this situation as involving a large, impersonal, powerful company and a small, weak union. However, the reverse is often reality. The company is small and struggling for economic survival, and the union is large and powerful with many resources at their command. The loss of small companies would severely damage our national economy and add to our unemployment. The pain created would touch numerous individuals, families, and whole communities and would undercut companies' ability to compete in the international marketplace.

But even if we focus on the larger industries in the United States, I fail to see how passage of this legislation is in the interest of labor or management. If we look at two industries—steel and automotive—what we see are major restructuring efforts that seek to create cost controls that are vital for their long term viability.

We need legislation to keep Americans working. However, this bill would result in making American products far too expensive to compete against Europe and Japan—countries that reject our entire collective bargaining system—or anywhere else in the world. S. 55 would literally destroy this new spirit of efficiency in American business and put us at a competitive disadvantage that would be impossible to overcome.

Current law maintains the parity necessary to provide incentives for both labor and management to negotiate a settlement helpful to both parties and to the national economy. S. 55 disrupts this needed balance. Labor's incentive to negotiate is lessened by the awareness that they can remain on strike indefinitely and at some time in the future return to a job that by law must be held open for them. Management would have no choice but to give in to employee demands.

Mr. Chairman, not only does this bill threaten American competitiveness, the legislation would effectively punish those who fail to join a union or honor a picket line. Workers in this Nation are guaranteed the right to strike and the right not to strike. If those who choose to honor the right not to strike or the right to refrain from union membership are penalized by being displaced by those who choose to strike, the right not to strike is invalidated.

This bill is a solution in search of a problem. There is no evidence that the use of permanent replacements has become widespread in the 1980's. Between 1985 and 1990 only 3 out of 20 strikes involved the use of permanent replacements, and in these cases only a small number of workers were actually replaced. The hiring of permanent replacements is not widespread and thus does not need to be addressed by any bill.

Rather than create greater rifts between labor and management, ways must be developed to increase the partnership between the two. Each needs the other. The well-being of our Nation depends on their working as a team.

In 1965, the Warren Court stated:

> The right to bargain collectively does not entail any right to insist on one's position free from economic disadvantage. * * * The right to strike as commonly understood is the right to cease work—nothing more.

S. 55 works against the development of the needed cooperation and team work by destroying the incentives to create an environment where bargaining to meet both sets of needs is conducted.

S. 55 depends the divisions between these two groups who must learn to work in tandem in order to meet the new set of demands created by the global economy.

CLOTURE MOTION

Mr. FORD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to Calendar No. 162, S. 55, a bill to amend the National Labor Relations Act to prevent discrimination based on participation in labor disputes.

Edward Kennedy, John Glenn, Barbara Boxer, Carl Levin, Russell D. Feingold, Ben Nighthorse Campbell, Carol Moseley-Braun, Jay Rockefeller, Pat Leahy, Don Riegle, Paul Simon, Daniel K. Akaka, Bob Graham, Howard Metzenbaum, Paul Wellstone, C. Pell.

MEASURES PLACED ON THE CALENDAR

The following measure was read the second time by unanimous consent and placed on the calendar:

S. 2205. A bill to amend the Social Security Act and the Internal Revenue Code of 1986 to provide improved access to quality long-term care services, to obtain cost savings through provider incentives and removal of regulatory and legislative barriers, to encourage greater private sector participation and personal responsibility in financing such services, and for other purposes.

MEASURES HELD AT THE DESK

The following resolution was read and ordered held at the desk:

S. Res. 240. Resolution honoring the United States 1994 World Cup soccer team.

REPORTS OF COMMITTEES

Under the authority of the order of the Senate of June 27, 1994, the following reports of committees were submitted on July 7, 1994:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 1170: A bill to amend the Mineral Leasing Act to provide for leasing of certain lands for oil and gas purposes (Rept. No. 103-303).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1897: A bill to expand the boundary of the Santa Fe National Forest, and for other purposes (Rept. No. 103-304).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 1348: A bill to establish the Quinebaug and Shetucket Rivers Valley National Heritage Corridor in the State of Connecticut, and for other purposes (Rept. No. 103-305).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 1919: A bill to improve water quality within the Rio Puerco watershed and to help restore the ecological health of the Rio Grande through the cooperative identification and implementation of best management practices which are consistent with the ecological, geological, cultural, sociological, and economic conditions in the region (Rept. No. 103-306).

The following reports of committees were submitted on today, July 11, 1994:

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S. Res. 239. An original resolution expressing the sense of the Senate regarding conditions for continued United States participation under the Convention on Biological Diversity.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. PELL, from the Foreign Relations: Treaty Doc. 103-20 Convention on Biological Diversity (Exec. Rept. 103-30).

TEXT OF COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT TO RATIFICATION

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention on Biological Diversity, with Annexes, Done at Rio de Janeiro June 5, 1992, and Signed by the United States in New York on June 4, 1993, subject to the following understandings:

(1) The Government of the United States of America understands that Article 3 references a principle to be taken into account in the implementation of the Convention.

(2) It is the understanding of the Government of the United States of America with respect to provisions addressing access to and transfer of technology that:

(a) "fair and most favorable terms" in Article 16(2) means terms that are voluntarily agreed to by all parties to the transaction;

(b) with respect to technology subject to patents and other intellectual property rights, Parties must ensure that any access to or transfer of technology that occurs recognizes and is consistent with the adequate and effective protection of intellectual property rights, and that Article 16(5) does not alter this obligation.

(3) It is the understanding of the Government of the United States of America with respect to provisions addressing the conduct and location of research based on genetic resources that:

(a) Article 15(6) applies only to scientific research conducted by a Party, while Article 19(1) addresses measures taken by Parties regarding scientific research conducted by either public or private entities;

(b) Article 19(1) cannot serve as a basis for any Party to unilaterally change the terms of existing agreements involving public or private U.S. entities.

(4) It is the understanding of the Government of the United States of America that, with respect to Article 20(2), the financial resources provided by developed country Parties are to enable developing country Parties to meet the agreed full incremental costs to them of implementing measures that fulfill the obligations of the Convention and to benefit from its provisions and that are agreed between a developing country Party and the institutional structure referred to in Article 21.

(5) It is the understanding of the Government of the United States of America that, with respect to Article 21(1), the "authority" of the Conference of the Parties with respect to the financial mechanism relates to determining, for the purposes of the Convention, the policy, strategy, program priorities and eligibility criteria relating to the access to and utilization of such resources.

(6) The Government of the United States of America understands that the decision to be taken by the Conference of the Parties under Article 21, Paragraph 1, concerns "the amount of resources needed" by the financial mechanism, and that nothing in Article 20 or 21 authorizes the Conference of the Parties to take decisions concerning the amount, nature, frequency or size of the contributions of the Parties to the institutional structure.

(7) The Government of the United States of America understands that although the provisions of this Convention do not apply to any warship, naval auxiliary, or other vessels or aircraft owned or operated by a State and used, for the time being, only on government non-commercial service, each State shall ensure, by the adoption of appropriate measures not impairing operations or operation capabilities of such vessels or aircraft owned or operated by it, that such vessels or aircraft act in a manner consistent, so far as is reasonable and practicable, with this Convention.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PELL:

S. Res. 239. An original resolution expressing the sense of the Senate regarding conditions for continued United States participation under the Convention on Biological Diversity; from the Committee on Foreign Relations; placed on the calendar.

By Mr. THURMOND (for himself, Mr. GRASSLEY, Mr. HELMS, Mr. LAUTENBERG, Mr. DECONCINI, Mr. JOHNSTON, Mr. MATHEWS, Mr. BAUCUS, Mr. COVERDELL, and Mr. WOFFORD):

S. Res. 240. A resolution honoring the United States 1994 World Cup soccer team; ordered held at the desk.

ADDITIONAL COSPONSORS

S. 277

At the request of Mr. SIMON, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 277, a bill to authorize the establishment of the National African-American Museum within the Smithsonian Institution.

S. 1208

At the request of Mr. WOFFORD, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1208, a bill to authorize the minting of coins to commemorate the historic buildings in which the Constitution of the United States was written.

S. 1408

At the request of Mr. LOTT, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1408, a bill to repeal the increase in tax on Social Security benefits.

S. 2007

At the request of Mr. WOFFORD, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 2007, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the end of World War II and General George C. Marshall's service therein.

S. 2012

At the request of Mr. FEINGOLD, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2012, a bill to amend the Civil Rights Act of 1964 and other civil rights laws to prohibit employers from requiring employees to submit claims relating to employment discrimination to mandatory arbitration.

S. 2120

At the request of Mr. INOUYE, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 2120, a bill to amend and extend the authorization of appropriations for public broadcasting, and for other purposes.

S. 2183

At the request of Mrs. HUTCHISON, the names of the Senator from Mississippi [Mr. LOTT], the Senator from South Carolina [Mr. THURMOND], the Senator from Florida [Mr. MACK], the Senator from Alabama [Mr. SHELBY], the Senator from Michigan [Mr. LEVIN], the Senator from South Dakota [Mr. DASCHLE], the Senator from Alabama [Mr. HEFLIN], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 2183, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the signing of the World War II peace accords on September 2, 1945.

S. 2265

At the request of Mr. JOHNSTON, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 2265, a bill for the relief of Nguyen Quy An and his daughter, Nguyen Ngoc Kim Quy.

SENATE JOINT RESOLUTION 182

At the request of Mr. JOHNSTON, the names of the Senator from Virginia [Mr. WARNER] and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 182, a joint resolution to designate the year 1995 as "Jazz Centennial Year."

SENATE JOINT RESOLUTION 206

At the request of Mr. WOFFORD, the name of the Senator from Tennessee [Mr. MATHEWS] was added as a cosponsor of Senate Joint Resolution 206, a joint resolution designating September 17, 1994, as "Constitution Day."

SENATE RESOLUTION 239—ORIGINAL RESOLUTION REPORTED EXPRESSING THE SENSE OF THE SENATE REGARDING CONDITIONS FOR CONTINUED U.S. PARTICIPATION UNDER THE CONVENTION ON BIOLOGICAL DIVERSITY

Mr. PELL, from the Committee on Foreign Relations, Reported the following original resolution; which was placed on the calendar:

S. RES. 239

Resolved,

SECTION. 1. UNITED STATES PARTICIPATION UNDER THE CONVENTION.

It is the sense of the Senate that, in formulating United States participation under the Convention on Biological Diversity, the President should ensure that—

(1) any proposal for funding of United States participation under the Convention includes specific offsets within the United States budget to ensure the United States budgetary deficit is not increased;

(2) a restructured Global Environmental Facility is the financing mechanism referred to in the Convention;

(3) further decisions under the Convention provide adequate and effective protections for intellectual property and are not weaker than those provided under the General Agreement on Tariffs and Trade, under United States laws, or under the laws of other developed countries;

(4) the United States has received a vote in all institutions, organizations, and mechanisms created under the Convention that is commensurate with the level of United States assessed contributions under the Convention;

(5) the biological safety protocol is submitted to the Senate for its advice and consent to ratification; and

(6) United States contributions under the Convention are solely dependent upon appropriations by the United States Congress and is not bound by assessments of organizations created under the Convention.

SEC. 2. PRESIDENTIAL REPORT.

It is the sense of the Senate that the President should provide a report one year after the date of entry into force of the Convention, and every year thereafter, to the Speaker of the House of Representatives and to the Chairman of the Committee on Foreign Relations of the Senate outlining the status of United States participation under the Convention and specifically explaining the status of the following:

(1) The costs of United States participation under the Convention during the preceding one year period, and the total amount of projected expenditures under the Convention for the subsequent five year period.

(2) The financing mechanism and whether it includes a restructured Global Environment Facility.

(3) Whether decisions under the Convention provide adequate and effective protections for intellectual property and, specifically, whether those protections provided under the Convention are weaker than those protections—

(A) provided under United States laws,

(B) provided in other developed countries, or

(C) provided under the Uruguay Round of the General Agreement on Tariffs and Trade.

(4) Whether the United States has received a vote in all aspects of the furtherance of goals under the Convention that is commensurate with the level of United States assessed contributions under the Convention.

(5) The biological safety protocol and whether it was adopted in consultation with the United States Senate and the United States biotechnology industry.

SEC. 3. DEFINITION.

As used in this resolution, the term "Convention" means the Convention on Biological Diversity, signed in New York on June 4, 1993.

SENATE RESOLUTION 240—HONORING THE U.S. 1994 WORLD CUP SOCCER TEAM

Mr. THURMOND (for himself, Mr. GRASSLEY, Mr. HELMS, Mr. WOFFORD, Mr. LAUTENBERG, Mr. DECONCINI, Mr. JOHNSTON, Mr. MATHEWS, Mr. BAUCUS, and Mr. COVERDELL) submitted a resolution, which was read and ordered held at the desk:

S. RES. 240

Whereas soccer is the faster growing team sport in the United States;

Whereas approximately 15,000,000 Americans participate in organized soccer;

Whereas both men and women play soccer;

Whereas soccer promotes sportsmanship and mutual admiration based on the talents, skills and determination of the players, regardless of a person's race, gender, sex, national origin, or socioeconomic background;

Whereas the United States is the host country of the 1994 World Cup soccer tournament;

Whereas approximately 31,000,000 people in the world will view the 1994 52-game World Cup soccer tournament;

Whereas the United States qualified for the Fédération International de Football Association (FIFA) World Cup in 1930, 1934, 1950, 1990, and 1994;

Whereas in 1991, the United States women's soccer team made history by winning the Inaugural Fédération Internationale de Football Association Women's World Championship in China;

Whereas, Tony Meola, Mike Lapper, Mike Burns, Cle Kooiman, Thomas Dooley, John Harkes, Hugo Perez, Ernie Stewart, Tab Ramos, Roy Wegerle, Eric Wynalda, Juergen Sommer, Cobi Jones, Frank Klopas, Joe-Max Moore, Mike Sorber, Marcelo Balboa, Brad Friedel, Claudio Reyna, Paul Caligiuri, Fernando Clavijo, and Alexi Lalas are members of the United States 1994 World Cup soccer team;

Whereas Bora Milutinovic is the head coach of the United States 1994 World Cup soccer team;

Whereas the United States 1994 World Cup soccer team staff consists of general manager Bill Nuttall, assistant coach Timo Liekoski, assistant coach Steve Sampson, assistant coach Sigi Schmid, goalkeeping coach Milutin Soskic, team administrator Renato Capobianco, press officer Dean Linke, trainer Ander Rudawsky, assistant trainer Hughie O'Malley, equipment manager Brian Fleming, assistant press officer Aaron Heifetz, press liaison Lisa Higgins, and team doctor Bert Mandelbaum, M.D.; and

Whereas the United States 1994 World Cup soccer team has represented America honorably and in the best spirit of America: Now, therefore, be it

Resolved, That the United States Senate commends the United States 1994 World Cup soccer team for its participation and outstanding efforts in the 1994 World Cup soccer tournament.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for my colleagues and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on S. 2151, a bill to direct the Secretary of the Interior to convey certain lands to the State of California, and for other purposes.

The hearing will take place on Tuesday, July 19, 1994, at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building, First and C Streets, NE., Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, Attention: Mr. Sam Fowler.

For further information, please contact Sam Fowler of the committee staff at 202/224-7569.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

SUBCOMMITTEE ON WATER AND POWER

Mr. BRADLEY. Mr. President, I would like to announce for my colleagues and the public that a hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on the following bills pending before the subcommittee:

S. 2253, to modify the Mountain Park Project in Oklahoma, and for other purposes;

S. 2262, to amend the Elwha River Ecosystem and Fisheries Restoration Act; and

S. 2266, to amend the Recreation Management Act of 1992.

The hearing will take place on Wednesday, July 27, 1994, at 2 p.m. in room SD-366 of the Dirksen Senate Office Building, First and C Streets, NE., Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit a written statement for the printed hearing record is welcome to do so. Please send your comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC, 20510, Attention: Leslie Palmer.

For further information, please contact Dana Sebren Cooper, counsel for the subcommittee at (202) 224-4531 or Leslie Palmer at (202) 224-6836.

ORDER TO RECESS

Mr. FORD. Mr. President, I ask unanimous consent that at the conclusion of the remarks of Senators THURMOND and SPECTER, the Senate stand in recess as ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL LABOR RELATIONS ACT AND RAILWAY LABOR ACT AMENDMENTS

MOTION TO PROCEED

Mr. THURMOND. Mr. President, I rise today to strongly oppose S. 55, the Striker Replacement Act.

This legislation could paralyze one of the very fundamental cornerstones of our country—the free market. S. 55 fundamentally alters over 50 years of labor law by shifting the existing labor-management balance of power to favor big labor and unions. It would guarantee workers that they cannot lose their jobs during a strike, and would prohibit employers from hiring permanent replacement workers in certain circumstances. In short, it takes the risk out of striking.

S. 55 runs directly counter to the underpinnings of current law, which encourages negotiations and conciliation. Employers come to the bargaining table with the knowledge that their employees have the right to strike which could cause them losses in profits and market share and could ultimately put them out of business. At the same time, employees come to the bargaining table knowing that if they do strike they may be replaced. These weapons available to both sides provide a strong incentive for both parties to negotiate in good faith and resolve their differences without resorting to strikes or replacements.

Unfortunately, the proponents of this bill want to change this level playing field. They would have us believe that the mere threat of replacement completely nullifies the power of a strike. They would also have us believe that union employees are helpless victims of oppressive management with no power to negotiate wages or benefits. Mr. President, I seriously doubt the AFL–CIO, the United Auto Workers' Union, or the National Education Association feel powerless when they are at the bargaining table.

Mr. President, I have heard from numerous constituents in my home State on the striker bill, and they are very concerned about its detrimental impact. I want to take a few minutes to read from portions of some of these letters. This letter is from Nils W. Lindbloom III, President of The Tool Shed, Inc. of Greenville, SC. He says:

> DEAR MR. THURMOND. I own a tool store in Greenville, SC and though I've lived here since 1977, I grew up in the steel mill towns of the Midwest (Gary, Cleveland, Pittsburgh). I know personally how unions can negatively affect business as I was threatened by fellow union workers to slow down my rate of work, because I was exceeding the expected production.
>
> Unions were originally established to protect employees from employer abuses such as child labor, sweat shops, etc., but now the unions run industry and in the long run will continue to hurt the U.S. in the global economy. Let's face it, millions of unemployed people in this land who want to work would love to drive a truck from point A to point B and do so safely for far less than $20 per hour. If I can find someone who can do it for less, I should be allowed to hire whom I choose (isn't that free enterprise)?
>
> Let the strikers start their own businesses, risk capital, work 70 hour weeks and educate themselves in their spare time if they want to a make a greater income.
>
> Now you have before you The Strike Bill (S. 55) which will promote more labor/management conflicts and give you unions unfair bargaining leverage. This legislation will give unions unfair advantages in organizing and collective bargaining. There will be increased strike activity if this legislation is enacted and this will lead to disruption of all chains of distribution dependent on the other.
>
> I urge you to vote NO on cloture, NO on the Strike Bill and vote NO on any amendment or compromise.

Now, this next letter is from Jim McDonald, Director of Human Resources, BI-LO. He said:

> S. 55 would * * * force employers to accept unreasonable union contract demands because they have no other way to continue operations.

That is just an excerpt from his letter.

Another letter from the American Furniture Manufacturers Association from Joseph G. Gerard. An excerpt is:

> It is also important to note that the legislation is counterproductive to economic stability and job creation. It is ironic that at a time when Congress and the Administration are exploring ways to cut the budget deficit and create more jobs, a bill is being considered that would breed strikes, destroy business operations and create economic uncertainty.

An excerpt from another letter. And this is from Lockheed Aeronautical Systems Co.:

> As you know, S. 55 would destroy the employer/employee balance, which has well served the collective bargaining process for decades, by removing all risk for unions in a strike situation. Current labor law prohibits the hiring of permanent replacement workers in strikes over unfair labor practices—but S. 55 would extend that prohibition to strikes arising out of economic issues. Such an extension would remove the major incentive for unions to negotiate and settle economic disputes, increasing the likelihood of more frequent and/or lengthy strikes with the attendant costs to business, Government and society in terms of competitiveness, lost jobs, and business failures/relocations.
>
> In over 50 years of collective bargaining with the International Association of Machinists and Aerospace Workers Lockheed has never used replacement workers. However, passage of this measure could severely jeopardize future negotiations both by Lockheed and other employees, threatening the overall stability, competitiveness, strength, and productivity of business in the United States.

Another letter from the National Council of Agricultural Employers:

> Although many agricultural employees are not covered by the National Labor Relations Act, the bill would have a serious impact on our ability to bring our products to market. A strike against a grain handling and milling company, a trucking company, a food processing or packaging company, a grocery concern or restaurant ultimately injures those who provide the food itself. If we can't get that food or agriculture commodity to the consumer, we may as well not produce it.

Another except from the same letter.

> Without the right to hire permanent replacement workers, a harvest time strike leaves no option but to accept economically unreasonable union demands or face financial ruin.

Another letter from International Paper:

> At our paper mill in Georgetown—

That is Georgetown, SC—

> we are the largest private employer in the county and we have a strong, positive working relationship with our employees.
>
> The passage of this bill would lead to more strikes and a decline in U.S. productivity. By forcing an employer to shut down during a strike, it creates greater potential for a company never to go back into business. The paper industry is a global market and this bill will give the advantage to our foreign competitors.

That is signed by George E. Payton, the manager of human resources, International Paper.

I also wish to point out that over 100 associations and organizations—representing a wide variety of interests—oppose this bill. Some of these include: the U.S. Chamber of Commerce, the Business Roundtable, the National Federation of Independent Businesses, the American Small Businesses Association, the Associated Builders & Contractors, the American Feed Industry Association, the National Association of Home Builders, Citizens for a Sound Economy, and many, many more.

Mr. President, in the Mackay Radio case in 1938, the Supreme Court ruled that when faced with an economic strike, an employer may carry on its business with replacement workers. The Court made clear that at the end of the strike, the employer is not required to displace any working employee that had attained permanent status.

The Supreme Court reaffirmed this decision in 1990 in the Curtis Matheson case. Once again, the Court stated that an employer is not required to discharge permanent replacement workers, to make room for returning strikers. Rather, the employer must only reinstate strikers as vacancies arise. Furthermore, the employer may not discriminate on the basis of union activity in determining which returning strikers to reinstate. The employer must base all reinstatement decisions upon nondiscriminatory factors such as skill or ability. As is evident, there are reasonable protections for strikers under existing law, and there are provisions for reinstatement as vacancies occur.

I will not repeat the entire history of the Mackay doctrine, except to point out that since that decision in 1938, neither the Supreme Court nor Congress has attempted to upset the balance of powers established—until now.

Mr. President, this legislation has been renamed the "Workplace Fairness Act." Fairness for whom? Obviously it is not fair for American business and those who support it. It is not fair to those workers who continue to operate during a strike. It is not fair to the American consumer.

This selected title is not only misleading it is downright deceptive. It implies that the employer is engaged in some form of unfair labor practice. If that is the case, then there is no reason to proceed further with this legislation. It is already unlawful for an employer to permanently replace a worker who is striking due to unfair labor practices.

Under present law, the employer who chooses to use permanent replacements during an economic strike operates under a heavy obligation to insure full compliance with the provisions of the National Labor Relations Act or else an economic strike will be declared an unfair labor strike. Therefore, the employer must insure that it takes no steps or engages in no activity which could convert the economic strike into an unfair labor practice strike.

We must keep in mind that employing replacements is simply not an attractive tool for anything other than to keep the business in operation while the parties put their proposals to the test of a strike. In making judgments on how or whether to continue operations during a strike, management factors into the equation the very real economic costs of replacements in recruiting, hiring, and training, It factors in morale costs such as the possible damage to the collective bargaining relationship that will result from the determination to use replacement workers. Current law puts very significant restrictions on the recruitment of replacements and on what management can offer to replacements. Current law also imposes significant penalties, such as back pay liability, on employers who violate these restrictions.

I would like to address a few arguments that the proponents of this legislation have raised surrounding this issue.

First, the proponents maintain that "a strike is evidence that everything has gone awry, that management has failed." They place the entire responsibility of a strike on the back of management. I wonder if the proponents of S. 55 ever think unions make unreasonable bargaining demands. I wonder if they have ever seen a strike they did not like.

Second, proponents gleefully argue that no other industrialized Nation engaging in rapid productivity growth allows permanent replacements. This simply is not true. Many industrialized countries permit employers to hire permanent replacements, including Australia, Austria, Hong Kong, Ireland, Norway, and the United Kingdom.

These proponents also frequently cite Germany and Canada as exemplary countries that do not permit permanent replacements. In fact, a majority of Canadian provinces, including Alberta, New Brunswick, Newfoundland, Nova Scotia, Prince Edward Island, and Saskatchewan, permit employers to hire permanent replacements. In Germany, unions may not make unreasonable bargaining demands that would grievously wound an employer. I doubt the proponents of this bill would support such a provision in American labor law. The merits of our system far exceed that of other foreign countries.

I wish those who cite other nations as such great states would stop bashing our workers. That is exactly what they are doing. It has been proven time and again that our employees produce more than any other in the world.

The proponents say they are only doing it to help our workers. However, I fail to see our workers leaving in droves to go to these utopian work places. Instead, I see our immigration services having to go to a lottery to allow others willing to work in our great Nation.

Are those who support this bill so shortsighted that they fail to see that an increase in strikes actually harms the business that cannot continue to efficiently produce and it harms the overall economy?

Finally, proponents of this bill would have us believe that the use of permanent replacements became a standard practice during the 1980's, and that Ronald Reagan was the first to ever contemplate the use of permanent striker replacements. This simply is not supported by the data. In a recent report by the General Accounting Office [GAO] requested by the bill's sponsors, the GAO found that, in 1985, only 4 percent of striking employees were replaced by Mackay case replacements. This decreased to 3 percent in 1989. The GAO data even includes as permanent replacements those strikers who returned or will return to their jobs either as a result of vacancies, a strike settlement, or a National Labor Relation Board order in the case of an unfair labor practice strike. The GAO study clearly demonstrates that this practice is not widespread.

Proponents of this bill would also have us condemn President Reagan for using permanent replacements in 1981 during the air traffic controllers strike. I would remind my colleagues that the PATCO strike which we have heard so much about in this debate was an illegal strike. Those PATCO employees decided to strike. Thereby putting American lives at risk. This was in direct violation of the law, and those who would make their actions heroic are simply condoning criminal activity.

Mr. President, the whole point of this legislation is to prop up the unions. The proponents see the decline in organized labor—their political supporters—and they want to keep it alive.

The chairman of the Subcommittee on Labor admits this fact when he stated that "the future of the American labor movement depends on restoring the right to strike as an effective economic weapon." Again, it is already unlawful for an employer to permanently replace a worker who is striking due to unfair labor practices. The effective economic weapon the chairman refers to is the ability of organized labor to drive our entrepreneurs to their knees during a strike which has no consequences to the employee.

The existing collective bargaining climate represents an appropriate and acceptable balance between labor and management. It has generally resulted in equitable contracts and relative labor peace. Any change in this current structure, in the absence of compelling need, is unwarranted. The proposed legislation would guarantee workers that they cannot lose their jobs during a strike, and would prohibit employers from hiring permanent replacement workers. This bill will have very negative effects on the general public and on all of the parties engaged in collective bargaining—not only on the picket line, but also at the bargaining table. I strongly urge my colleagues to oppose S. 55.

Mr. President, I ask unanimous consent that copies of the letters I previously referenced appear in the RECORD immediately following my remarks.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE TOOL SHED, INC.,
Greenville, SC, April 26, 1994.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR MR. THURMOND: I own a tool store in Greenville, SC and though I've lived here since 1977 I grew up in the steel mill towns of the Midwest (Gary, Cleveland, Pittsburgh).

I know personally how unions can negatively affect business as I was threatened by fellow union workers to slow down my rate of work, because I was exceeding the expected production.

Unions were originally established to protect employees from employer abuses such as child labor, sweat shops, etc., but now the unions run industry and in the long run will continue to hurt the U.S. in the global economy. Let's face it, millions of unemployed people in this land who want to work would love to drive a truck from point A to point B and would do so safely for far less than $20 per hour. If I can find someone who can do it for less I should be allowed to hire whom I choose (isn't that free enterprise)?

Let the strikers start their own businesses, risk capital, work 70 hour weeks and educate themselves in their spare time if they want to make a greater income.

Now you have before you The Strike Bill (S. 55) which will promote more labor/management conflicts and give unions unfair bargaining leverage. This legislation will give unions unfair advantages in organizing and collective bargaining. There *will* be increased strike activity if this legislation is enacted and this will lead to disruption of all chains of distribution dependent on the other.

I urge you to vote *NO* on cloture. NO on the Strike Bill and vote *NO* on any amendment or compromise.

Sincerely,

NILS W. LINDBLOOM III,
President.

DIXIE-NARCO,
Williston, SC, April 26, 1994.

Hon. STROM THURMOND,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR THURMOND: I understand that a vote on S. 55, the "Workplace Fairness Act," may come up soon in the Senate. We at Dixie-Narco again urge you to oppose this bill in any form.

By prohibiting employers from granting permanent replacement status to individuals who work during a strike, this bill upsets the delicate balance in labor law that has prevailed for five decades. It does this by removing the main risk strikers—the possibility that their employer could operate with permanent replacements. If this bill becomes law, it would greatly encourage strikes and would fundamentally alter labor-management relations. If these long-established principles of fairness are overturned, Dixie-Narco will be faced with higher costs and a diminished ability to compete in international markets.

You should be aware that this bill would allow unions to call risk-free strikes over almost any issue. In addition, companies like Dixie-Narco and our 850 union-free South Carolina employees will be affected by this bill in two ways: first, the resulting strikes against our unionized suppliers will eventually affect our ability to run our business; and second, this bill can only support the illusion fabricated by union organizers that unionization equals job security—raising the odds of a successful union organizing campaign in our Williston facility.

The favorable labor climate in South Carolina was a big factor in Dixie-Narco's 1989 decision to relocate to Williston, and we have been proud to be among the Governor's Award winners as a top job creator ever since. S. 55 represents a direct threat to the position from a Federal level. Labor organizers already operate on bushels of false promises—always promising to get more—even though they know they can't deliver anything that a company won't agree to give. Why give them yet another means of creating false hopes? Why tip the balance to such an absurd degree?

BI-LO, INC.,
Mauldin, SC, April 29, 1994.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: I am the Director of Human Resources at BI-LO, Inc., which employs over 17,000. I am writing you to urge you to vote against S. 55 anti-striker replacement legislation.

Over the past fifty years, federal labor law has crafted a delicate balance between employers and employees in labor negotiations which encourages both parties to settle their disputes at the bargaining table, not through disruptive tactics. S. 55 would effectively eliminate this balance and force employers to accept unreasonable union contract demands because they have no other way to continue operations.

Because S. 55 eliminates risk for both sides to find an accord in labor disputes the bill would substantially increase the number of strikes, adversely affecting the overall economic performance of the nation. Current labor law places a risk on both employers and employees for failing to reach an accord in a labor dispute. Employers risk the cost of losing valuable, skilled workers and incurring excessive costs during a strike to hire replacements. Unions risk the loss of jobs for their members. This bill, S. 55, would remove the risk to Unions for their failure to reach an agreement.

S. 55 would also harm innocent employees within the affected companies who have no dispute with the employer. They may permanently lose their jobs when employers are forced to shut down in the face of unreasonable demands for increased wages and benefits.

The true impact of S. 55 is contrary to the goal of the President's economic plan to restore and strengthen the nation's economy. I urge you to VOTE AGAINST S. 55, to support a filibuster of the bill and to accept no compromise. No compromise would be acceptable on this issue, because any changes made in the Senate version would no doubt be lost when House and Senate representatives meet to finalize the legislation.

Sincerely,

JIM MCDONALD,
Director of Human Resources.

AMERICAN FURNITURE MANUFACTURERS ASSOCIATION,
Washington, DC, May 2, 1994.

MEMORANDUM

To: All Members of the U.S. Senate.
From: Joseph G. Gerard.
Subject: AFMA Key Vote—S. 55, Striker replacement legislation.

The American Furniture Manufacturers Association (AFMA) is the largest furniture industry trade association in the United States. Over eighteen billion dollars in sales are produced annually by domestic furniture manufacturers, and sales by AFMA member companies make up the vast majority of that figure. Also, the AFMA members have home offices or facilities in almost every state and employ approximately 500,000 workers.

I am writing to express my strong opposition to any supposed "compromise" on S. 55, the striker replacement legislation. The vote on S. 55 will be an AFMA key vote for this election cycle.

The AFL-CIO is pushing for provision that would ban the use of replacement workers for four to 10 weeks following the start of a strike. Calling such a moratorium a "cooling off period" is preposterous—the only side doing the "cooling" is the business forced to shut down! The "compromise" would avoid a few strikes since most strikes last less than 10 weeks. And short strikes for highly competitive businesses like the American furniture manufacturing industry are devastating because most of the industry is comprised of small companies with very narrow profit margins.

Even with the supposed "compromise" S. 55 would play havoc with industry by overturning 50 years of labor law precedent that permits employers to replace economic strikers. By removing the risk that they may be replaced, even for shorter strikes, workers would have little incentive to bargain in good faith.

It is also important to note that the legislation is counterproductive to economic stability and job creation. It is ironic that at a time when Congress and the Administration are exploring ways to cut the budget deficit and create more jobs, that a bill is being considered that would breed strikes, destroy business operations and create economic uncertainty.

I strongly urge you to oppose striker replacement legislation and any sham compromise!!

LOCKHEED AERONAUTICAL SYSTEMS CO.,
Charleston, SC, May 2, 1994.

Hon. STROM THURMOND,
U.S. Senate, Russell Senate Office Bldg, Washington, DC.

DEAR SENATOR THURMOND: I am writing on behalf of Lockheed to express our strong opposition to S. 55, the Striker Replacement bill. Your past opposition is appreciated, and I urge you to maintain this position as the issue comes before the Senate again in the next few weeks, where it faces a likely filibuster.

As you know, S. 55 would destroy the employer/employee balance, which has well served the collective bargaining process for decades, by removing all risks for unions in a strike situation. Current labor law prohibits the hiring of permanent replacement workers in strikes over unfair labor practices - but S. 55 would extend that prohibition to strikes arising out of economic issues. Such an extension would remove the major incentive for unions to negotiate and settle economic disputes, increasing the likelihood of more frequent and/or lengthy strikes with the attendant costs to business, government, and society in terms of competitiveness, lost jobs, and business failures/relocations.

In over 50 years of collective bargaining with the International Association of Machinists and Aerospace Workers, Lockheed has never used replacement workers. However, passage of this measure could severely jeopardize future negotiations both by Lockheed and other employers, threatening the overall stability, competitiveness, strength, and productivity of businesses in the United States.

I respectfully urge you to vote "NO" on any compromise, "NO" on cloture, and "NO" on S. 55. Thank you for your consideration.

Sincerely,

BLAIR MADDOCK,
Charleston Plant Manager.

NATIONAL COUNCIL OF AGRICULTURAL EMPLOYERS,
Washington, DC, May 3, 1994.

Hon. STROM THURMOND,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR THURMOND: We the undersigned agricultural organizations are writing in strong opposition to S. 55, the Cesar Chavez Workplace Fairness Act, which would prevent employers from operating during a strike by hiring permanent strike replacements. We would also oppose any so-called "compromise" that may be offered to this bill, since any change in current law would alter the necessary balance between labor and management.

Although many agricultural employees are not covered by the National Labor Relations Act, the bill would have a serious impact on our ability to bring our products to market. A strike against a grain handling and milling company, a trucking company, a food processing or packaging company, a grocery concern or a restaurant ultimately injures those who provide the food itself. If we can't get that food or agricultural commodity to the consumer, we may as well not produce it.

Those of us involved in the production and processing of food are especially susceptible to strikes. History has shown that a well placed strike at a food processor/canner during the peak of harvest places both the grower and processor in a disastrous position. Because of the perishability of many agricultural commodities, a strike at a packing or processing facility places the entire crop and livelihood of the grower and packer/processor at risk. Without the right to hire permanent replacement workers, a harvest-time strike leaves no option but to accept economically unreasonable union demands or face financial ruin.

We urge the Senate to forego any further consideration of this damaging legislation.

National Council of Agricultural Employers.
American Farm Bureau Federation.
Agricultural Affiliates.
Agricultural Producers.
Agricultural Retailers Association.

INTERNATIONAL PAPER,
Georgetown, SC, June 14, 1994.
Hon. STROM THURMOND,
217 Russell Building, Washington, DC.

DEAR SENATOR THURMOND, the striker replacement bill, to be discussed on Thursday, is an important issue to International Paper. I request that you continue to oppose this bill and do what is possible to keep this bill from passing.

At our paper mill in Georgetown, we are the largest private employer in the county and we have a strong, positive working relationship with our employees.

The passage of this bill would lead to more strikes and a decline in U.S. productivity. By forcing an employer to shut down during a strike, it creates greater potential for a company never to go back into business. The paper industry is a global market and this bill would give the advantage to our foreign competitors.

Vote against the striker replacement bill.

GEORGE E. PAYTON,
Manager Human Resources.

COOPER INDUSTRIES,
Greenwood, SC, April 25, 1994.
Senator STROM THURMOND,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR THURMOND: As an employer of 200 employees of Cooper Power Systems' Greenwood Capacitor Products plant, I am writing to express strong opposition of S. 55, the striker replacement bill. In our view, this measure is unwarranted and will fundamentally change core principles of U.S. labor law. It will overturn more than 55 years of well-settled legal precedent and, in the end, lead to more strikes.

National labor policy, beginning with the Wagner Act of 1935, balances the rights of employers and employees. Unlike many of our international competitors, American workers have the unconditional right to strike. The Wagner Act also contemplated that employers could continue operations during economic strikers using permanent replacements, which was affirmed by the Supreme Court in 1938. This balance has encouraged successful negotiations and served the interests of employers, employees and the nation for more than half a century.

As written, S. 55 removes all risks to unions in a strike situation. Employers, on the other hand, would no longer have any effective recourse to strikes other than to accede to a union's demands or cease operations. Looking to the experience of Canada, where some provinces ban the use of permanent replacement workers, we believe S. 55 would lead to longer, more frequent strikes in the United States. A University of Toronto study in 1989 found that in provinces that prohibited striker replacement, the strikes were of greater frequency and duration than in other provinces.

The use of replacement workers has been relatively rare. The General Accounting Office and International Labor Organization concede there is no data to support the conclusion that replacement workers are frequently being used to resolve labor disputes.

We believe in fairness but feel that S. 55 would only benefit the less than 12 percent of workers represented by unions at the expense of the majority of employees and employers. A Congressional mandate that unions win every strike will unfairly advantage union organizing efforts. Accordingly, we respectfully urge you to vote "NO" on cloture, "NO" on any compromise, and "NO" on S. 55.

Sincerely,

R. G. ROCAMORA,
General Manager, Capacitor Products.

WINN DIXIE,
Greenville, SC, April 28, 1994.
Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: As you are aware, Senate Bill 55 has been introduced in the Senate which will lead to more strikes, resulting in increased unemployment and community disruption. This legislation is designed to make the strike a lethal weapon, tilting the balance at the bargaining table. At a time when job creation and economic growth are our nation's top priorities, it makes no sense to adopt a policy that will cost jobs and stifle growth.

As an employer in South Carolina, I urge you to work toward the defeat of Senate Bill 55.

(1) Vote no on the Striker Replacement Bill—This is a crucial issue that will affect the business environment and economy for years to come.

(2) Vote No on Cloture—The cloture votes will be the key votes on this bill. If you oppose the bill, you must vote No on Cloture.

(3) Vote No on any political compromises—Phony Compromises suffer from the same faults as the bill itself. The House has already passed the bill, and it is doubtful any compromise would survive the House-Senate Conference.

We appreciate your help in defeating Senate Bill 55.

Sincerely,

D.L. WHITFORD.

PEPPERIDGE FARM INC.,
Aiken, SC, April 7, 1994.
Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: Once again, Pepperidge Farm, Inc. urges that you vote NO on cloture and NO on final passage of S. 55, the Striker Replacement Bill. Pepperidge Farm is well aware the Senate is preparing to vote on this legislation, whether as a stand-alone measure or as an amendment to other legislation awaiting Senate approval. Pepperidge Farm, which manufactures Premium Baked Goods, has strongly opposed this legislation in the past and will continue to do so in any form!

For the wholesale baking industry, the issue is abundantly clear—if union employees have the right to leave their jobs over unresolved economic issues, then the employer has every right to protect the economic interests of the company and its shareholders by hiring permanent replacement employees. The option of using permanent replacements is every bit as essential to the nation's labor policy as the right of employees to strike. This change in the current "balance of power" between labor and management would render employers virtually helpless in the face of unreasonable union demands. The basic structure of labor-management relate as has worked well for more than 50 years. The baking industry's reasons for vehemently opposing a dramatic shift in that structure are clear, employer rights, like employee rights MUST be protected. As the Supreme Court said in 1938, "The right to strike is not unconditional. It must be balanced with the employer's right to stay in business."

Pepperidge Farm urges you to think carefully about the long-term ramifications of this legislation by opposing S. 55 in any form and voting NO on cloture.

Sincerely,

ERNEST R. ALLEN,
Plant Manager.

PYA/MONARCH, INC.,
April 21, 1994.
Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: I am writing on behalf of PYA/Monarch, Inc. to express our strongest opposition to the Striker Replacement Bill, S.55. If enacted this legislation will have a devastating effect no only on my company, but on the food distribution industry as a whole.

Our labor laws recognize two equal rights: my workers' unconditional right to strike and my company's right to stay open during a strike by hiring permanent replacement workers. The Striker Replacement Bill would destroy that balance by removing all risks for workers in a strike situation. My company, on the other hand, would no longer have any effective recourse to strikes other than to give in to workers' demands or shut down operations.

A "risk-free" strike bill would encourage employees to strike first and negotiate later, resulting in more strikes and more businesses closing their doors. The bill is a serious threat to my company. It would make us less competitive and would have a ripple effect on my non-striking customers, suppliers, workers, and also consumers.

I strongly urge you to oppose the Striker Replacement Bill. Please contact me if you have any questions.

Sincerely,

JAMES R. CARLSON,
President and CEO.

BURLINGTON MENSWEAR,
Bishopville, SC, April 26, 1994.
Re Opposition to S.55, striker replacement legislation.
Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: It is my understanding that the so-called Striker Replacement Bill (S.55) could be considered by the Senate at any time. I am very much opposed to this legislation because it removes the current balance that exists in collective bargaining and provides unions with virtual immunity to job loss should they strike. Employers would be left with the choice of giving in to a union's demands or going out of business.

Further, there is ample evidence from studies of countries where such laws exists that they contribute to more and longer strikes. How can a law which would cause this to happen be good for our country's economy? Clearly, it wouldn't.

Please do not support the above bill or allow any "compromise" bill to reach a conference committee where it can then be revitalized. This is bad law in any form.

Very truly yours,

WILLIAM R. HILL.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania [Mr. SPECTER], is recognized.

THE NOMINATION OF JUDGE STEPHEN BREYER TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT

Mr. SPECTER. Mr. President, I have sought recognition to comment briefly on the nomination of Judge Stephen Breyer for the Supreme Court of the United States. I am advised that we will not have opening statements tomorrow, so I thought it worthwhile to make a few comments this evening on that subject.

I have awaited a quorum call most of the afternoon, and the Senate was virtually in continuous business. I understand the hour is late and I shall be relatively brief, but I think these are important remarks.

In my view, the Senate has no duty which is more important than the confirmation of Supreme Court justices, and that is true because with so many 5 to 4 decisions, that fifth vote has enormous impact on every man, woman, and child in the United States and, very frequently, it has great impact on people around the world.

That fifth swing, deciding justice, for that case has much greater power than the President of the United States, where there are many checks and balances on what the President does. The President serves for 4 years, or perhaps 8, but the Supreme Court justices serve much longer—several decades, in many, many instances. So their confirmation is of great importance.

When the Constitution was drafted, the first article was devoted to the Congress; the second article was devoted to the executive branch, the President; and the third article was devoted to the judiciary. Since Marbury versus Madison was decided by the Supreme Court of the United States in 1803, the judiciary has been supreme. The judiciary has the final word, on a constitutional issue, that is it, in the absence of a constitutional amendment, which is very hard to enact. Even on nonconstitutional issues, the word of the Supreme Court is virtually the last word, although Congress may, but frequently does not, act.

The power of the Supreme Court has become even more important in an era of much judicial legislation, far beyond the traditional concept of the judicial role of interpreting the law. In many ways, the Supreme Court of the United States has become a super legislature. This is of enormous importance in an era in which many cases come before the court where new concepts of constitutional law are engrafted that have not been provided for either by the Founding Fathers in intent or on the face of the document. This really constitutes public policymaking by the Supreme Court.

In the United States today, the crime problem is of overwhelming importance. That proposition needs no amplification or embellishment. The death penalty is a very important deterrent to crime. More than 70 percent of the American people favor the death penalty. When the issue comes before this body, characteristically, 70-plus Senators vote in favor of it. But in case after case, there is engrafted by the Supreme Court new constitutional rules which are not found on the face of the document, and are not derived from the Founding Fathers' intentions, but are really matters of public policy.

We have vital interests, vital concerns on war powers. The Constitution vests the sole authority in the Congress of the United States to declare war. Yet, we see where there are conflicts which amount to wars, and it is very hard to get answers from the nominees when their confirmation is virtually assured on the appropriate meaning of the constitutional power to declare war or on any other question put to nominees.

It has been apparent in the 14 years that I have been present—and tomorrow will mark the ninth Supreme Court confirmation since my election in 1980, that nominees for the Supreme Court of the United States answer as many questions as they really feel compelled to in order to be confirmed. When the nomination or confirmation of a nominee is virtually assured, it is very hard to get answers from the nominees. When Judge Scalia, now Justice Scalia, appeared before the Judiciary Committee, he would not answer even basic questions as to whether the decision in Marbury versus Madison was established constitutional law and not subject to challenge. When Justice Rehnquist, now Chief Justice Rehnquist, appeared before the Judiciary Committee, he would not respond to questions as to whether the Congress could take away jurisdiction of the Supreme Court on constitutional issues.

A staff member on the Judiciary Committee acquainted me with an article written by William Rehnquist in the Harvard Law Record in 1958, long before William Rehnquist became a Supreme Court justice, in which he wrote that nominees should answer questions put to them by the Senate. When confronted with that article, he answered a few questions. He finally would answer a question saying that the Congress could not take away the jurisdiction of the Supreme Court on first amendment issues. And then he was asked about the fourth amendment and declined to answer; the fifth amendment, declined to answer; the sixth amendment, declined to answer. Then he was asked why he had answers to the first amendment and none on the fourth, fifth, and sixth. Again, he declined to answer.

Judge Souter, now Justice Souter, appeared before the Judiciary Committee and was asked questions relating to the critical constitutional questions of the authority of Congress to declare war contrasted with the President's authority as Commander in Chief, and I asked whether the Korean conflict was a war within the meaning of the Constitution, and Judge Souter declined to answer. The general rule is that a Senator can ask any question he or she chooses, and the nominee has the standing to decline to answer any question, but the one line which is out of bounds, perhaps, is to ask a question on a case which may come before the Court.

The Korean conflict case could not possibly come before the Court. In order to get some idea as to the thinking of Judge Souter on a very critical question that the Supreme Court of the United States may have to arbitrate between the Congress' authority to declare war versus the President's authority as Commander in Chief, that is a question which this Senator thought ought to be answered. But Judge Souter did not think so.

Last year, when Judge Ginsburg, now Justice Ginsburg, appeared before the Judiciary Committee, a number of Senators commented on how few questions she answered. When I asked her about the death penalty and whether she had any conscientious scruples against it, she in effect told me it was none of my business and none of the Senate's business. The issue of whether a juror has conscientious scruples against the death penalty is traditionally recognized as a very relevant question. In a death penalty case, if the prospective juror answers in the affirmative that he or she has conscientious scruples against the imposition of the death penalty, that is grounds for disqualifying the juror for cause, not a peremptory challenge where the prosecutor and the defendant have substantial latitude on striking jurors without any specific cause.

I make these references because they are illustrative of the difficulties of getting answers from nominees in a context where so many Senators comment in advance that the nominee is fine and the media reports, and accurately reports I think, that the confirmation of Judge Breyer is a foregone conclusion, which very dramatically limits the scope of the meaningfulness of the Judiciary Committee in the first instance and the Senate in the final instance performing this constitutional duty of confirmation, advice and consent, and this is the consent function in the face of a virtual coronation in advance.

We have seen instances, Mr. President, and I shall mention only two instances briefly, of the super-legislature in action.

The Civil Rights Act was enacted in 1964. Seven years later in the Griggs case the issue of business necessity on employment practices was decided by a unanimous Court with the opinion written by Chief Justice Burger. That decision stood for 18 years, ratified by congressional acquiescence without any action made to amend the Civil Rights Act of 1964. Then in 1989 the Wards Cove decision came down, and the Supreme Court of the United States in what really constituted super-legislative action changed the definition of business necessity requiring congressional action with the Civil Rights Act of 1991 to reinstate the law to what Congress had intended.

The Court interpreted that on public policy grounds. The Supreme Court in a matter of superlegislation changed the law.

The family planning provisions were enacted in the 1970 legislation, and a regulation interpreting that law was issued in 1971 by the Federal agency that had helped draft the law the previous year making it clear that doctors could counsel women on planned parenthood on the abortion option. Then in 1988 the regulation was changed and the Supreme Court of the United States in the Rust decision decided that that change was appropriate because there had been a change in public opinion notwithstanding the fact that by 17 years of acquiescence the Congress had in effect given its imprimatur that the earlier regulation was the appropriate interpretation of the law.

There is one other matter I want to comment on very briefly, Mr. President, and that is the trend on the Supreme Court to consist virtually exclusively of ex-judges. Eight of the current nine Supreme Court Justices came from appellate courts, seven from U.S. courts of appeal and one from a State appellate court, and Judge Breyer comes right in the same mold from a U.S. court of appeals.

Many of us were disappointed and said so publicly, and I publicly expressed my disappointment, in not having Secretary of the Interior Babbitt nominated to provide some diversity to the court—someone who had been a Governor, a Secretary of the Interior, and a Presidential candidate, to give some broader diversity of experience.

The need for diversity in experience was brought to the fore again recently when the Judiciary Committee held a confirmation hearing for Mr. Alexander Williams, who was nominated for the U.S. district court for the District of Maryland. He was opposed by the American Bar Association, which found him not qualified. This opposition raises the issue as to whether you have to be from a prominent law school and from a prominent law firm, a silk stocking lawyer, in effect, in order to become a Federal judge. And Charity Wilson, my staffer who wrote me a memo contrasting the pedigree of the Supreme Court justices, including the current nominee, Judge Breyer, made I thought a very telling analogy to the silk-stocking nominees who were characteristically approved by the American Bar Association and sit on the Federal courts with Mr. Alexander Williams who may have woolen socks, as Charity Wilson, my staffer, put it, "woolen socks with a hole in them."

I think there ought to be emphasis by this body, Mr. President, and that is why I take a moment or two now and will take a few moments during the confirmation hearings to comment about the context of the Court where we do not have Justices who have had experience as trial lawyers, as assistant district attorneys, or as public defenders, people who have litigated extensively or have extensive pro bono work with a real feel for what goes on in America.

It is true that the President has sole discretion in his nominating function, but it was equally true that the Senate has sole discretion in deciding what the confirmation standards should be. There are learned scholars, among them Justice Ginsburg, who commented about the equal standing of the Senate in making evaluations of the qualifications of judicial nominees.

I raise these questions, Mr. President, not thinking that they are likely to have any telling effect on the proceedings as to Judge Breyer tomorrow but to try to at least have one Senator express a view as to the importance of the position of the Supreme Court of the United States where that fifth vote has more power than the President and the practice of coronating in advance so that the nomination proceedings themselves do not have the impact or the meaning they ought to have by virtue of ruling out so many of the questions which nominees ought to answer. When I say ought to answer it is their decision and it is a balance, and the eight nomination proceedings from 1981 through 1993 show I think a pattern that the nominees answered as many questions that they feel they have to answer.

I would hope in the future that we would have some greater diversity on the Court. I would hope in the future that there will be greater diversity on nominations. I would hope in the future that Senators refrain from giving approval in advance or coronating nominees in advance so that we can do our duty, that we can really find out about these nominees and improve the caliber of the Supreme Court of the United States, as our fuunction is a very, very important one because the justices of that court do have the last word on the meaning of the Constitution.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

MEASURE HELD AT THE DESK-SENATE RESOLUTION 240

Mr. THURMOND. Mr. President, I send a resolution to the desk and ask unanimous consent that the resolution be held at the desk until the close of business tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING PARTICIPATION OF U.S. SOCCER TEAM IN 1994 WORLD CUP SOCCER TOURNAMENT

Mr. THURMOND. Mr. President, I rise today to submit a Senate resolution commending the participation of the U.S. soccer team in the 1994 World Cup soccer tournament.

I ask unanimous consent that Senator GRASSLEY, Senator HELMS, Senator WOFFORD, Senator LAUTENBERG, Senator DECONCINI, Senator JOHNSTON, and Senator MATHEWS be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair in his capacity as a Senator from Montana asks unanimous consent that he also be added as cosponsor.

Without objection, it is so ordered.

Mr. THURMOND. Mr. President, currently, the United States is hosting the world's most celebrated sports event, the 1994 World Cup. This honor was awarded on July 4, 1988, by the Federation Internationale de Football Association, otherwise known as FIFA, which is headquartered in Zurich, Switzerland. This is the first time in the 64-year history of the World Cup that America has been the host of this prestigious event.

I believe this tournament will stimulate interest in organized soccer in the United States. It is estimated that soccer ranks third in team sport popularity for youngsters under the age of 18, preceded only by basketball and volleyball.

My home State of South Carolina has benefited from the popularity of this sport. According to Fortune magazine, Umbro, a soccer apparel manufacturer, is owned by Stone Manufacturing Co. of Greenville, SC. Umbro's global sales exceed $300 million and are growing at an estimated rate of 70 percent per year. Also, according to Fortune magazine, the 1994 World Cup final series is expected to create approximately $4 billion in revenues from all sources.

Twenty-four teams from around the world have gathered in Boston, Chicago, Washington, Los Angeles, Detroit, Dallas, New York, San Francisco, and Orlando to participate in this 52-game tournament. The final game will be played on July 17 at the Rose Bowl in Pasadena, CA. Thousands of foreign visitors have come to America to support their teams and experience the

1994 World Cup. The number of spectators at each game is shattering all previous attendance records.

In 1990, approximately 1.3 billion people watched the 1990 World Cup final on television. This is three times the number of people that watched the 1969 landing on the Moon. It is projected that approximately 31 billion people will watch this distinguished tournament, with an estimated 2 billion people watching the championship game.

This year marks only the second time in tournament history that the United States has advanced to the second round of play. The last time the United States accomplished this feat was at the inaugural tournament in 1930. The current team, led by goal scorers Eric Wynalda and Ernie Stewart, has tied Switzerland 1 to 1, defeated a heavily favored Colombian team 2 to 1, and narrowly lost to Romania 1 to 0. By accumulating four tournament points, the team qualified for the second round. I would also like to add that 260,488 spectators attended these 3 games, and millions more followed the games by radio and television.

Mr. President, on July 4, Team America played Brazil. Some experts think Brazil is the best soccer team in the world. The United States soccer team fought valiantly until the 79th minute of play when Brazil's Bebeto scored the game's only goal. At the end of the hard fought game, the Brazilian team paid a high honor and tribute to the American players, fans, tournament sponsors, and support staff. The Brazilian players gathered in the center of the field to celebrate victory and carried with them the flag of the United States. Although the United States lost the game, I believe the team and the tournament is a success.

At this time, I ask unanimous consent that a list of the United States 1994 World Cup soccer team be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. Mr. President, soccer is played by men and women of all ages. It is the first truly integrated sport in America where boys and girls play on the same team through their elementary years and often in coed adult leagues.

Team sports promote understanding, tolerance, and appreciation of others. A person's appearance, size, skin color, personal beliefs, socio-economic status, and nationality are not indicative of his or her on-the-field talents. You often see people of very different backgrounds working together on the same team to accomplish a common goal. Soccer promotes sportsmanship and mutual admiration based on the talents, skills, and determination of the players.

The U.S. soccer team represents more than just a soccer team, it represents America. The players come from California, Florida, Illinois, New Jersey, Missouri, Massachusetts, Michigan, and Ohio. They include such colorful players as goalkeeper/captain Tony Meola, defender Alexi Lalas, and midfielder Cobi Jones. They are a diverse group of young men who have banded together and produced a winning team. I would like to commend them for representing the best in America.

We should applaud their efforts—both in striving to be the best and in capturing the hearts of Americans. They have exhibited the utmost in sportsmanship and have carried the American spirit forward with honor and dignity.

I urge my colleagues to join me in commending these fine young athletes, and to support this worthy measure.

EXHIBIT 1

U.S. WORLD CUP TEAM ROSTER

Number, name, and position	Hometown
1. Tony Meola, Goalkeeper	Kearny, NJ.
2. Mike Lapper, Defender	Huntington Beach, CA.
3. Mike Burns, Defender	Marlboro, MA.
4. Cle Kooiman, Defender	Ontario, CA.
5. Thomas Dooley, Defender	Mission Viejo, CA.
6. John Harkes, Midfielder	Kearny, NJ.
7. Hugo Perez, Midfielder	Mission Viejo, CA.
8. Ernie Stewart, Foward	Point Arena, CA.
9. Tab Ramos, Midfielder	Kearny, NJ.
10. Roy Wegerle, Midfielder	Tampa, FL.
11. Eric Wynalda, Midfielder	Westlake Vill., CA.
12. Juergen Sommer, Goalkeeper	Naples, FL.
13. Cobi Jones, Midfielder	Westlake Vill., CA.
14. Frank Klopas, Midfielder	Chicago, IL.
15. Joe-Max Moore, Midfielder	Irvine, CA.
16. Mike Sorber, Midfielder	St. Louis, MO.
17. Marcelo Balboa, Defender	Cerritos, CA.
18. Brad Friedel, Goalkeeper	Bay Village, OH.
19. Claudio Reyna, Midfielder	Springfield, NJ.
20. Paul Carligiuri, Defender	Diamond Bar, CA.
21. Fernando Clavijo, Defender	San Diego, CA.
22. Alexi Lalas, Defender	Detroit, Mi.

Mr. THURMOND. Mr. President, I also ask unanimous consent that Senator COVERDELL be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. I yield the floor.

BILL DEEMED READ THE SECOND TIME—S. 2205

The PRESIDING OFFICER. If there is no objection, S. 2205 is deemed read a second time and objection is made to further proceedings on the bill.

ORDERS FOR TOMORROW

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m., Tuesday, July 12; that following the prayer, the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that immediately thereafter, the Senate resume debate on the motion to proceed to S. 55; that on Tuesday, the Senate stand in recess from 12:30 p.m. to 2:15 p.m. for the respective party conferences; and that the time from 2:15 p.m. to 2:30 p.m. be equally divided and controlled between the opponents and proponents of the motion to proceed to S. 55; that as previously ordered, at 2:30 p.m., without intervening action, the Senate vote on the motion to invoke cloture on the motion to proceed to S. 55.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 10 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess.

Thereupon, the Senate, at 6:54 p.m., recessed until Tuesday, July 12, 1994, at 10 a.m.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 12, 1994, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 13

9:30 a.m.

Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings to examine current tourism policy activities.
SR-253

Environment and Public Works
Toxic Substances, Research and Development Subcommittee
To hold hearings on issues involving the reauthorization of the Toxic Substances Control Act.
SD-406

10:00 a.m.

Finance
To hold hearings on the Administration's welfare reform legislation.
SD-215

2:00 p.m.

Environment and Public Works
Superfund, Recycling, and Solid Waste Management Subcommittee
To hold hearings on S. 2227, to revise the Solid Waste Waste Disposal Act to provide congressional authorization of State control over transportation of municipal solid waste.
SD-406

JULY 14

9:30 a.m.

Energy and Natural Resources
To hold oversight hearings to examine the scientific and technological basis for radon policy.
SD-366

Rules and Administration
To hold oversight hearings on the operations of the Library of Congress.
SR-301

Indian Affairs
To hold hearings on proposed legislation relating to Native American cultural protection and free exercise of religion.
SD-G50

2:00 p.m.

Veterans' Affairs
Business meeting, to mark up proposed legislation to reform veterans' health care.
SR-418

JULY 15

9:30 a.m.

Environment and Public Works
To hold hearings on the designation of the National Highway System.
SD-406

JULY 19

2:00 p.m.

Indian Affairs
To hold hearings on S. 2230, to revise the Indian Gaming Regulatory Act.
SD-G50

2:30 p.m.

Labor and Human Resources
To hold hearings on S. 1702, to amend the Federal Food, Drug, and Cosmetic Act to ensure that human tissue intended for transplantation is safe and effective.
SD-430

JULY 20

9:30 a.m.

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Governmental Affairs
Federal Services, Post Office, and Civil Service Subcommittee
To hold hearings to examine the Federal role in child support enforcement.
SD-342

10:00 a.m.

Banking, Housing, and Urban Affairs
To hold hearings on monetary policy.
SD-538

Environment and Public Works
To hold hearings on proposals to reform current policies on floodplain management and flood control.
SD-406

JULY 21

9:30 a.m.

Commerce, Science, and Transportation
To hold hearings on issues relating to international fisheries.
SR-253

JULY 25

2:00 p.m.

Indian Affairs
To resume hearings on S. 2230, to revise the Indian Gaming Regulatory Act.
SD-106

JULY 27

2:00 p.m.

Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 2253, to modify the Mountain Park Project in Oklahoma, S. 2262, to amend the Elwha River Ecosystem and Fisheries Restoration Act, and S. 2266, to amend the Recreation Management Act of 1992.
SD-366

JULY 28

9:30 a.m.

Rules and Administration
To hold hearings on S. Res. 230, to designate and assign two permanent Senate offices to each State.
SR-301

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface **indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.**

SENATE—*Tuesday, July 12, 1994*

(Legislative day of Monday, July 11, 1994)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable PATTY MURRAY, a Senator from the State of Washington.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

In a period of silent prayer, let us remember the flood victims in Georgia, the thousands who have been affected, and let us remember those who respond in love to their needs.

"Blessed is the nation whose God is the Lord * * *."—Psalm 33:12.

Almighty God, we have come a long way since our birth as a Republic, but we have wandered somehow. Our Founding Fathers held freedom of religion to be fundamental. We have reduced their deep conviction into freedom from religion.

We have become technological giants—spiritual and moral dwarfs. We are sophisticated in scientific progress—primitive in spiritual development. We are knowledgeable in the ways of the world—ignorant in the way God. We live as though man is the center of the universe, and God a peripheral invention of pious enthusiasts. We are abundantly rich in material resources—abysmally poor in spiritual and moral capital.

Dear God, help us to get our act together before it is too late.

In the name of Him who is the Way, the Truth, and the Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 12, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PATTY MURRAY, a Senator from the State of Washington, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. MURRAY thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

NATIONAL LABOR RELATIONS ACT AND RAILWAY LABOR ACT AMENDMENTS

MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the motion to proceed to S. 55, which the clerk will report.

The legislative clerk read as follows:

> Motion to proceed to the consideration of S. 55, a bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes.

The Senate resumed consideration of the motion to proceed.

The ACTING PRESIDENT pro tempore. The majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Madam President, the Senate will now resume consideration of the motion to proceed to S. 55, the striker replacement bill. At 2:30 p.m. today, there will be a vote on a motion to invoke cloture on the motion to proceed to that bill.

If cloture is not invoked, that is to say if fewer than 60 Senators vote to end the filibuster and permit a vote on the bill, then debate will continue on that motion for the remainder of today, and another cloture vote will be held at 10 a.m. tomorrow. So the only vote today will be at 2:30, on cloture on the motion to proceed to S. 55. And another such vote will occur at 10 a.m. tomorrow if cloture is not invoked this afternoon.

Following disposition of S. 55, the Senate will resume consideration of the foreign operations appropriations bill. Under a unanimous-consent agreement previously reached on that bill, to be in order any amendment to the bill must be offered by 6 p.m. on Thursday. It is my intention and expectation that we will complete action on that bill on Thursday, remaining in session for however long it takes to do so.

Following consideration of that bill, the Senate will take up other appropriations bills, including the agriculture and interior appropriations bills.

During this legislative period, which is now scheduled to be completed at the close of business on August 12, we will have a very busy schedule. We have to act on as many appropriations bills as necessary. As I previously stated, it is my intention to proceed to and complete action on the elementary and secondary education reauthorization bill, health care reform, several nominations including the nomination of Judge Breyer to the Supreme Court, and conference reports on several measures including the crime bill, campaign finance reform, lobbying reform, procurement reform, and airport and airways improvement. Several of these matters I anticipate will be relatively noncontroversial and will not take a long period of time. But many of them will.

Last week, indeed a week ago today, I wrote to all Senators, as is my practice, setting forth the voting schedule for this legislative period. So there can be no misunderstanding, I ask unanimous consent that my letter and a nonexclusive list be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MITCHELL. I want to reemphasize what I stated in the letter and what I had previously stated publicly on several occasions prior to the time the letter was sent. And I quote from the letter:

> During that period, the Senate will be in session 5 days a week—Monday through Friday. There will be no rollcall votes on the first two Mondays of this legislative period—July 11 and July 18. On every other day, Senators should be prepared for rollcall votes, including numerous procedural votes, unless an announcement to the contrary is made on the floor.

Further quoting from the letter:

> During this coming legislative period, the Senate will have to complete action on several important measures prior to breaking for the August recess.

I then listed several which I have just stated this morning and then went on to say in the letter:

> With cooperation, we can complete these measures by August 12. But if we fail to do so, then this legislative period will be extended for as long as is necessary. * * *
>
> As is the current practice, Senators should be available to arrive on the Senate floor to vote within 20 minutes. An announcement will be made from the floor whenever a decision is made to end rollcall votes for the day.

Madam President, I thank all Senators for the cooperation we have had so far this year. I have attempted to accommodate as many Senators as possible in their individual schedules by setting the opening and closing of the

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Senate and the voting schedule in a manner that did accommodate the largest number of Senators, but it clearly will not be possible to do so during this legislative period.

So Senators should be prepared for lengthy sessions, 5 days a week, votes at any time beginning early Monday morning and continuing through late Friday evening. The letter explicitly did not include the closing time of 3 p.m. on Friday—unless agreement to the contrary is reached and announced from the floor.

So I thank my colleagues for their past cooperation and for what I hope and anticipate will be their cooperation during this legislative period. We have a lot to do but there is no reason why we cannot get it done if Senators will cooperate, come to the floor to offer their amendments, not engage in dilatory tactics, and cooperate in being present in the Capitol at any time so that we can proceed to vote as the opportunity arises during the consideration of various bills.

EXHIBIT 1

U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, DC, July 5, 1994.

DEAR COLLEAGUE: I am writing to set forth the voting schedule for the legislative period from Monday, July 11 through Friday, August 12.

During that period, the Senate will be in session five days a week—Monday through Friday. There will be no rollcall votes on the first two Mondays of this legislative period—July 11 and July 18. On every other day, Senators should be prepared for rollcall votes, including numerous procedural votes, unless an announcement to the contrary is made on the Floor.

On Monday, July 11, the Senate will convene at 1:00 p.m. On that day there will be debate only on a Motion to Proceed to S. 55, the Striker Replacement bill. A cloture vote on that Motion to Proceed will occur at 2:30 p.m. on Tuesday, July 12.

During this coming legislative period, the Senate will have to complete action on several important measures prior to breaking for the August recess. These measures include, but are not limited to, the following: Striker Replacement; the Elementary and Secondary Education Act; Health Care Reform; the Crime Bill Conference Report; available appropriations bills, nominations and other conference reports. With cooperation, we can complete these measures by August 12. But if we fail to do so, then this legislative period will be extended for as long as is necessary. If any other changes in this schedule are necessary, I will provide as much notice as is possible under the circumstances.

As is the current practice, Senators should be available to arrive on the Senate Floor to vote within 20 minutes. An announcement will be made from the Floor whenever a decision is made to end rollcall votes for the day.

I will contact you by August 12 regarding the voting schedule for the next legislative period.

Sincerely,

GEORGE J. MITCHELL.

NONEXCLUSIVE LIST FOR PRIOR TO AUGUST RECESS

Ten remaining appropriations bills.

Elementary and secondary education reauthorization, S. 1513, (Cal. No. 495).

Health care reform.

Export administration improvement bill, S. 2203, (Cal. No. 474).

Federal crop insurance reform bill, S. 2095, (Cal. No. 507).

Child Nutrition and School Lunch Act reauthorization, S. 1614 (Cal. No. 506).

Intelligence reauthorization, S. 2082, (Cal. No. 501).

EXECUTIVE CALENDAR

Judge Breyer's nomination.
Other nominations.
Possible treaties.

CONFERENCE REPORTS INCLUDING, BUT NOT LIMITED TO THE FOLLOWING

Crime bill, H.R. 3355.
Campaign reform, S. 3.
Lobbying reform, S. 349.
Procurement reform, S. 1587.

Mr. MITCHELL. Madam President, I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DURENBERGER. Madam President, in the legislative process in which we all engage, we too often find ourselves distracted from some of the human realities by sloganeering and political posturing. I know how difficult it is when I go home and somebody says, "Where do you stand on S. 9996," or H.R. blah, blah, blah, whatever the case may be. Somehow or another, people come to associate their problems with a Senate file number or some name easily pronounceable, probably one or two syllables, one or two words, something like that. We tend to lose sight of the realities that exist behind the personal needs that are expressed by each of these constituents.

The bill on the floor now is either known as S. 55 or the Workplace Fairness Act, or the striker replacement bill. We have been at this now, Madam President, for quite a number of years. On the recess, I thought I would go home and do a little reality check on S. 55, workplace fairness and striker replacement. So I met with a group of workers who were going through a real life labor-management crisis. They told me this is what S. 55 is all about. What I learned from them is just exactly how far the whole S. 55 debate really is from their personal concerns.

The workers I met with in this case were members of the Oil, Chemical and Atomic Workers International Union, Local 6-662. These workers were permanently replaced in April of this year within days—not weeks or months—within days of going on strike against their employer, CF Industries in Rosemount, MN.

CF Industries is a fairly large company originated through a number of large agricultural co-ops, and it is largely in the fertilizer business. It has operations around America, with 1,500 employees. Only 28 of those 1,500 employees are union members. They are all in Rosemount, MN—or they were all in Rosemount, MN. After more than 30 years of relatively good labor/management relations, after more than 20 years of service by some of these employees, they were put on the block within days of going on strike. CF Industries had been advertising for permanent replacements since January before the strike was even called. This, Madam President, is the real face of labor relations today. These are people who, to borrow a phrase from President Clinton, worked hard, played by the rules.

What solutions does the system have for them? Over the last year, and as recently as last Thursday, I have been meeting with working men and women who are members of labor unions. What I am hearing from them is a great deal of frustration. Some of the national labor leaders and some of the proponents of this bill have had a simple answer for 4 years. They say all of this frustration and all of this suffering will go away if Senators like me will just shut up and pass S. 55.

Madam President, would that it were so. I would like nothing more than to pass a bill that would accomplish all that the supporters claim for their bill, but it just is not so. We have a very broad problem in this country for laboring men and women. The frustration of union members and nonunion members alike is the very same source of frustration of the middle class in general: Loss of job security, disorientation caused by business restructuring, loss of benefits, failure to keep pace with the cost of living, tougher global competition, reductions in defense contracts, inflation that is going down across the board except for the vital services that workers need for their families, like education and health care.

This has given America's workers a lot with which to cope and adjust. Are we in Congress being genuinely helpful? They do not think so, and neither do I. We are talking a lot about the Workplace Fairness Act, but we are not talking much about workplace fairness, how we intend to cushion the real blows suffered by real people in a real workplace.

Just take a look at the 28 workers at CF Industries. They brought a claim of unfair labor practices under the National Labor Relations Act. In fact, they brought their first one last September, I think. The company, within 2 months, conceded, signed an agreement with the National Labor Relations Board, posted a la—well, I will not say that—posted a recognition of 94 things that they would not do anymore, knowing that in 60 days they can take the thing down, and it is business as usual, if that is what they want to do.

In connection with the strike in April of this year, the union brought another claim of unfair labor practice, under the NLRA, against the company. This week—that is, the second week in July—they get their very first hearing. So this week for these people the process begins. When will they get justice?

Well, the General Accounting Office has provided some statistics that are not very encouraging. In 1988, 30 percent of the unfair labor practice cases decided had been at the Board for more than 2 years; 15 percent had been at the Board for over 4 years. In 1989, 21 percent of the unfair labor practice cases decided had been before the Board for more than 2 years and 10 percent had been there for over 10 years—clearly, moving in the wrong direction.

I think that anybody who looks at the length of time it takes for working men and women to receive justice from our system would recognize that the system has to change. The National Labor Relations Board has to be more responsive. The alternative is a complete collapse of faith in the system on the part of both workers and management.

That, Madam President, is the problem we are trying to solve. Make the system responsive; make the system work. This is a problem that must be addressed by changes in America's labor laws, but the changes embodied in S. 55 are not the changes we need. In fact, this bill has become an impediment to the very changes that will help resolve the frustration of organized workers. With all due respect to the authors of the bill before us and their supporters and organized labor, by bringing the bill up one more time and by failing to work constructively on the kind of reform that can pass and ought to pass, working Americans have lost another year in their pursuit of real fairness in the workplace.

Let me illustrate for you just how this delay in enacting genuine reforms has hurt our workers. Last year, I introduced a bill that is known as S. 598. That bill would require the NLRB to expedite review of unfair labor practice charges in cases where striking workers have been permanently replaced. If that bill had passed last year, the striking workers of CFI would have already had their hearing before an administrative law judge. They would have been entitled to a ruling by the middle of August, a month from now, by the latest, and any appeal to the NLRB would be expedited.

Under S. 598, the entire process would have taken at the most 8 months and 15 days—at the most—not the 4 years, the 3 years, the 2 years that GAO tells us is now prevalent. But instead of moving forward with this kind of necessary reform, we continue this symbolic struggle over S. 55. The result for the 28 people in Rosemount, MN, and others around the country? Justice delayed. Justice delayed is justice denied.

Madam President, O.J. Simpson is getting his day in court before the workers at CFI do. And that is current law. Make no mistake, their lives are at stake, too. They need their jobs.

Every labor leader I have spoken with about my bill has said it would address the problems in the current system—not all of them, not go as far as a lot of them would want, but it would address the heart of the problems illustrated by what these workers at CFI are going through.

When I met with William Gould, President Clinton's nominee to the NLRB chairmanship, he said it was a good reform. He said it ought to be passed. The chairman of our committee said we ought to have a hearing on it. And that was what? A year ago.

My colleague from Vermont, Senator JEFFORDS, my colleague from Oregon, Senator PACKWOOD, and others have tried to work on reasonable solutions to the kinds of problems that are actually being encountered by people like those 28 workers at CFI. And yet at the Labor Committee we have had no hearings on my bill. We have had no hearings on any other alternatives to S. 55. In spite of the expressed willingness of other members of the committee and myself to work on real solutions to this problem, opponents have made no effort to break the deadlock, so here we are again, back to S. 55, the all-or-nothing labor law reform that is not going to pass this week, this year, or for years to come.

I have explained my opposition to S. 55 many times during Senate debate on this identical bill, and I will state it once again just for the record.

The problem with current labor law, as shown clearly by the situation at CFI in Minnesota, is that management in some cases can take extreme positions in labor negotiations even at the point of forcing a strike because the ability to hire permanent replacements has taken much of the risk for management out of strikes, if that is what they desire to do. I oppose S. 55 because it takes this very heavy club, the risk-free strike, out of the hands of management and hands it right over to labor.

As angry as I get at management like at CFI for pushing good people out of good jobs, I know from experience in Minnesota it can happen on the other side, too. It was not that many years ago that local P-9 called a strike against Hormel at its meatpacking plant in Austin, MN. It did not permanently replace workers when the strike was called. They took a 6-month strike in a town that is totally dependent on this packing house. And then they began to have to reopen the plant just to keep the community alive by replacing the workers. In that case, the union, under questionable leadership, simply refused to consider reasonable attempts to settle.

The Hormel situation was eventually solved, and today all of the striking workers who wanted to come back to the Hormel plant are back. Their wages are higher than they ever were before, and this company has one of the highest productivity records in the Nation. Without the right to permanently replace the workers after all reasonable attempts to settle had failed, Hormel could have been driven out of business, the community could have been driven out, and the loss to my State and communities in and around Austin, MN, could have been enormous.

Let me talk briefly on another example in an industry I know very well, the health care industry. While every industry will be affected by this legislation, the impact on the health care industry is of particular concern at a time when Congress is seeking solutions to skyrocketing health care costs. The Supreme Court's decision in American Hospital Association versus the NLRB cleared the way for NLRB regulations which most in the health care industry believe will result in increased unionization and the potential for strikes against the Nation's 4,000 acute care hospitals.

The regulations provide that in most hospitals unions can organize as many as eight different units of employees. As an article in the March 2, 1992, AFL-CIO News pointed out, the effect of these regulations already is being felt. According to the article, one union alone has won 20 of 28 elections involving skilled maintenance workers.

If we were to give the unions in the health care industry the ability to call strikes without risk, I fear the result would be severe disruption of health care services. Moreover, to avoid catastrophe, hospitals would be forced to agree to possibly excessive union demands. These in turn would be passed on to the health care consumer.

The potential effects of S. 55 on the industry were highlighted by a 1991 strike against Canonsburg General Hospital in Pennsylvania after management had offered employees a 9.1 percent wage increase. At first, the hospital tried to operate using temporary workers and management staff. But the resulting burnout threatened the health of the patients, and permanent replacements had to be hired.

Several months later, the union agreed to submit the dispute to arbitration in return for the hospital's reinstating the striking workers. Ultimately, the arbitrator adopted the original 9.1 percent wage increase that management had offered the employees prior to the strike.

These examples, Madam President, convince me it is shortsighted for us to consider S. 55 a solution to the problems that exist in labor-management relations today. It will only exchange one set of problems for another and bring no real fairness to the workplace, and that is why I oppose S. 55.

I understand my friend, the Senator from Ohio, yesterday inveighed against what he called the antilabor Republicans. Madam President, I will remind my colleague that I was there with labor on the civil rights bill. I was there with labor on Hatch Act reform. I was there with labor on the minimum wage. I have been there 70 times, as my colleague from Texas knows, on Davis-Bacon, and a variety of issues like that.

I will continue to be there with labor as we in Congress grapple with the rapidly changing problems of the work force. But I will not vote for a bad and a counterproductive bill. I will support the working people of Minnesota as they try to make a difference, not labor leaders with a letterhead trying to make a point. That is why I think we should revisit some of the reforms contained in S. 598. Let us get these unfair labor practice charges decided quickly.

Let us give workers the right to automatic reinstatement if unfair labor practices are found. That is real reform.

Last year I learned that a commission appointed by Labor Secretary Reich to conduct the so-called comprehensive review of labor management relations would not be studying this issue, but that Congress would have to address this broad revision without the benefit of the commission's recommendations. I thought at the time that this represented a lost opportunity in the history of labor relations.

So my hope is that when S. 55 again fails because it did not receive the required votes, that Congress will look at a solution to the permanent replacement issue against the full panoply of labor law changes recommended by the commission, and with the benefit of the commission's comprehensive recommendations on labor law reform. This issue is too important for posturing. The issue is no longer S. 55. The issue is; are we serious about a level playing field to protect the rights of all in the economy? Madam President, I say back to the drawing board.

Before I yield the floor, I want to simply address a special word of thanks to the Minnesota labor people who have challenged me and who have helped me understand this issue on a personal level—Bernie Brommer of the Minnesota AFL–CIO and members of the Minnesota AFL–CIO, who have been as persistent as any that I could imagine. I see my colleague from Minnesota smiling. These people do not let up. I think the first day I ever heard about S. 55 was from a member of a waiter staff in a bar where I happened to be attending for somebody's farewell party, or something like that. She said, "Where do you stand on S. 55?"

Our people in Minnesota who represent labor are without parallel anywhere in the country. There is Rick Johnson, who is President of the OCAW Local 662; Doug Greene, John Paulpick, and some of the other members of the unit that was at CF Industries.

Then, probably the organization in Minnesota that has been the most persistent—although they all have on this particular issue—the most informative, the most helpful, and I think, Madam President, in the long run the organization that will be the most frustrated by the inability of the Congress to deal realistically with these problems, will be Harold Yates, Wes Lane and a variety of business agents and others at the Teamsters in Minnesota.

So I thank them. I know my conclusion on this bill doesn't agree with theirs. But I must say that it is not because they did not try. If they were the national labor leaders of this country, they would have found a solution by now. We would not be down here on the floor without that kind of a resolution.

So if we can continue to work together on the issues with an open mind on all sides, I trust that day will not be far off when American workers get the justice they deserve. S. 55 is not it. I intend to vote for cloture.

Mr. WELLSTONE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. WELLSTONE. Thank you, Madam President.

Madam President, there are a couple of points that I would like to make that I think are important in this debate.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Madam President, first, let me ask unanimous consent that Mark Wellstone, who is an intern with me this summer, be allowed to be on the floor today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WELLSTONE. Madam President, let me ask unanimous consent that this letter from Arthur Potthoff from the OCAW, Oil, Chemical and Atomic Workers, in relation to the CF Industries strike and permanent replacement of workers, which Senator DURENBERGER has spoken about, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OIL, CHEMICAL AND ATOMIC
WORKERS
INTERNATIONAL UNION, AFL–CIO,
June 6, 1994.

Senator PAUL WELLSTONE,
Hart Office Building, Washington, DC.

DEAR SENATOR WELLSTONE: I am writing to express my appreciation for your appearance and remarks to the strikers and their families and supporters in Rosemount Sunday June 5, 1994.

The strikers at CF Industries have been through a lot in the last two years. I won't go into the history of the entire situation but the fight these people have taken on is not one motivated by the typical interests in bettering one's lot in life by improving wages and benefits. This conflict was brought about by the employers insistence on removing the Union security clause from their contract. As was told to you by the strikers, they were replaced before they went on strike. The company had advertised for and hired help as much as three weeks prior to the work stoppage commencing. They had brought supervisory personnel in from other locations two to three weeks prior to the strike and had trailers set up to provide housing and dining accommodations. This company knew they had pushed the people as far as they could and were prepared for the inevitable. So much for bargaining in good faith.

In a time when catch phrases like "becoming more competitive" seems to be so popular in American business we find it incredible that a company would choose their most productive facility to start this kind of a fight. Could it be that getting rid of the Union takes precedence over productivity? At CF apparently fear and intimidation take precedence over basic human dignity.

We want to thank you for taking time out of an already busy schedule to visit with these people. The OCAW is proud of them for their commitment and dedication and we're proud of you for recognizing the seriousness of their struggle and helping to add to the visibility of the situation. It has been frustrating for the strikers to get the message across that what they are fighting the good fight over is the right to bargain. The right to be guaranteed by virtue of contract language that they may have a say in their own destiny. Thanks again.

In Solidarity,

ARTHUR G. POTTHOFF,
Int'l. Rep. OCAW.

Mr. DURENBERGER. Madam President, will my colleague yield for 10 seconds for a correction?

Mr. WELLSTONE. Yes.

Mr. DURENBERGER. In the close of my statement, I indicated that I was going to vote for cloture on the particular bill. If you could not tell by the tenor of my comments, that was a mistake.

Mr. WELLSTONE. I do not know if I want to yield to the Senator for that.

[Laughter.]

Mr. DURENBERGER. I intend to vote against cloture, and I will not urge this on my colleague from Minnesota. We have strongly held different views on this subject. But I will certainly encourage it on the rest of my colleagues and ask for their support in voting against cloture on the bill.

Mr. WELLSTONE. Madam President, I want to just simply follow up on the remarks of my colleague from Minnesota about a level playing field. You can probably learn a lot more by just kind of being with people than you can in some of the debates we have on the floor, which is not a put down on my part about our debates. I think the words are important, but you just get a feel for people sometimes when you are just there with them.

I spoke yesterday about this particular strike at CF Industries. I could talk about a lot of others as well. But Madam President, I will not forget a visit out there Sunday morning about 3 or 4 weeks ago. It was about 10 in the morning. I went out there with Bernie Brommer, who is the president of the Minnesota AFL-CIO. But I think Bernie Brommer will agree. He is not the person supporting this equation, nor am I. It is the people. Here you have the workers and their spouses. I think that there were 27 of them. Actually what happened, this really fits into what this piece of legislation is all about. I quote from this letter from Mr. Potthoff.

> I won't go into the history of the entire situation but the fight these people have taken on is not one motivated by the typical interests in bettering one's lot in life by improving wages and benefits. This conflict was brought about by the employers insistence on removing the Union security clause from their contract. As was told to you by the strikers, they were replaced before they went on strike.

Literally, the day they went on strike they were all replaced. So here you have these workers and their family members, spouses and children. It is raining, there is kind of a fence outside of the plant, and security guards. I felt in some ways like it was the 1930's before there were any unions. These are people who want to work and want to support their families. But it just got to the point where, from the point of view of their own dignity, just in terms of the treatment at the workplace, and what this company was offering them, they had no other choice. And this is the same old kind of strategy.

By the way, it has been going on with a vengeance. Essentially what you do is require major and unreasonable concessions by a union, and then you force people out on strike. You replace them with workers unsympathetic to the union, and then you decertify the union. That is union busting. It is only turning the clock back a half a century.

My colleague is not on the floor now. So it is not a question of what kind of debate with my colleague, because I would want him to have the opportunity to respond in kind.

But I have to say that these workers would be the first to say it is a very bad idea. In fact, it is sort of a compelling proposal to really expedite the whole NLRB machinery. Justice delayed is clearly justice denied. Too often when it comes to the whole area of labor unfair practice, what happens is there is such a backlog, inadequate resources, people wait for years, in which case from a bottom line point of view, too often for companies it actually makes good sense to just basically violate the labor law. Then, by the time it comes to compensation, companies are ahead 4 or 5 years later, whatever the case might be.

I think Senator DURENBERGER's idea about expediting the process and his efforts to do so should be applauded. The point is that is not what we are debating right now. Actually, when I think about what these workers said to me at CF Industries—Senator DURENBERGER talked about that—or what Bernie Brommer and the other union people and nonunion people say, it is a little bit different.

This is the principle: When people go out on strike, they should not be permanently replaced. It just does not make any sense for us to be saying it is illegal for a company to fire someone because they go out on strike, but it is perfectly legal for them to permanently replace them. When we talk about a level playing field—just another quick Minnesota reference, and then let me broaden the scope of this discussion because this piece of legislation is so important in trying to in fact bring about some balance.

Senator DURENBERGER talked about the strike down at Austin. I was there during a good part of that. I saw with my own eyes kind of what happened. I do not know that it is true that all of the workers who want to come back to work have been able to do so. Nor do I think the wages and benefits are high for the people working there.

Part of what happened is not the question of people who were permanently replaced, but of people who really do not have the ability any longer to bargain for decent wages and decent working conditions, because they know what happens if a company says no and they should go out on strike—which is, of course, one of the rights of people, economic strikes included—they will be permanently replaced. We have seen a whole decade plus of depressed wages and health and safety conditions and working conditions. I think that is part of the disappearing middle class, Madam President.

I have to say that what happened in the P-9 Hormel strike in Austin, MN, is that the community was indeed torn apart. When people went out on strike, they were permanently replaced. And it was and still is very painful. It was painful to people in the community and it is painful for people in the community. That is why I think, if you look at the religious community, there is so much ecumenical support for S. 55. You have so many of the clergy, so many in the religious community—Christian, Moslem, Jewish, you name it—essentially saying, look, this is a matter of economic justice. This is a matter of how we build a partnership.

It is certainly pretty difficult to have high levels of morale and productivity and employees working with employers and workers with management, when people know that all too often—and this has been the pattern—what happens is that some of these companies, not all, but some of these companies, all too many of these companies, make sure that these workers are essentially presented with proposals they cannot accept. People are forced out on strike and then permanently replaced.

By the way, when we talk about people that are permanently replaced, we are not talking about people with great amounts of capital and wealth. That is why I think such a strong part of the religious community has been so supportive of this.

When we talk about a level playing field—here is a little bit of evidence for the RECORD. Let me talk about the trend. Before 1980, employers consciously avoided the use of permanent replacements. According to a 1982 study by the Wharton Business School, University of Pennsylvania, instead, they valued their workers and looked forward to their return after the strike. But since 1980, employers have increasingly resorted to hiring permanent replacements. Let me go through some kind of evidence that supports the Wharton School's position.

General Accounting Office study. The General Accounting Office issued a study of the use of permanent replacements in 1991 covering a sampling of strikes between 1985 and 1989. The great majority of participants in that study, both union and employer representatives, believed that "Permanent replacements were used far more often"—I am quoting—"in the late 1980's than the late 1970's." More specifically, the GAO found that employers hired permanent replacements, or threatened to hire them, in one out of every three strikes.

When I hear my colleagues talk about balance, a level playing field, that is what this piece of legislation attempts to do.

Anderson-Little study. "A recent survey of 632 permanent replacement strikes by Theresa Anderson-Little of Notre Dame confirms the GAO conclusions. She found that the average number of reported permanent replacement strikes quadrupled from 1974 to 1991." Quadrupled. "She also found that where the employer hired permanent replacements, strikes lasted seven times longer than the average strike duration for that period."

Graham study. Not Senator GRAMM from Texas, but another Graham study. The Economic Policy Institute reported recently on a study conducted in 1989 by University of Alabama Professor Cynthia Graham. The study focused on two samples during the time period 1984 to 1988. One involved 35 strikes across the country, and the other included 21 strikes in New York State. Graham found that employers hired permanent replacements in about 16 percent of the U.S. strike samples and about 24 percent of the New York strike samples. Temporary replacements were used less frequently. Significantly, Graham also found that strikes lasted substantially longer when permanent replacements were hired—an average of 363 days—than when temporary replacements were hired, an average of 72 days; or when no replacements were hired, an average of 64 days.

So much for the argument that, as a matter of fact, this somehow leads to better labor-management relations or less bitter strikes, and less costly strikes to the country.

AFL–CIO study. The AFL–CIO issued a study in 1991 on eight strikes during 1990 which involved 1,000 or more workers in which permanent replacements were hired. Strike data was compiled based on statistics obtained from the Bureau of Labor Statistics of 243,000 workers participating in these large strikes in 1990. Approximately 11 percent, over 25,000 workers, were permanently replaced. Notably, 69 percent of the strikers who were permanently replaced were trying to protect their existing health care benefits. That is worth repeating: 69 percent of the strikers who were permanently replaced were trying to protect their existing health care benefits, but they ended up losing their jobs. They ended up losing their jobs.

Again, when Senator DURENBERGER talked about the importance of streamlining and expediting, and I would assume adding resources to the whole NLRB machinery, great. I know Bill Gould, Chair of the Board now, is very committed to that. But we are talking about the reality of what all too often happens to workers in this particular case, many of whom really went out on strike, had no other choice but to try and fight for health care benefits for themselves and their families, and then were permanently replaced. That is the reality we are dealing with. That is the imbalance that we now have. That is the balance that we are trying to restore.

UAW study. In 1991, United Auto Workers surveyed their field offices and found 35 cases in which a strike occurred and replacements were hired since the mid-1980's. Permanent replacements were hired in 80 percent of these strikes.

Well, Madam President, I could go on, but I will conclude. The overwhelming weight of the evidence demonstrates that the hiring of permanent replacements is a pervasive problem in this country, and that it is tearing at the fabric of our society. Employers hire, or threaten to hire, permanent replacements in roughly one out of every three strikes. And where an employer does hire permanent replacements, the labor dispute is likely to last substantially longer, and the union is likely to suffer a substantial, if not fatal, defeat.

Unless we pass this piece of legislation, Madam President, the Workplace Fairness Act, the right to strike will remain a hollow promise. In fact, the right to strike has become the right to be fired. That is really what it has become. And the American labor unions will be irreparably damaged, the labor unions in this country.

I do not think that is the issue. The issue, as long as we are talking about a balance, is whether or not we are going to have a balance between those who have so much of the economic resources, so much of the wealth, who make the large contributions and have so much of the political power, and average citizens, working people, whether they are in unions or not.

This is all about fair labor practices. But that is another issue. In the case of unfair labor practices, at least in theory, nobody should be permanently replaced.

What this piece of legislation is about is decent wages, decent working conditions, the right to bargain collectively, and the whole question of whether or not average people, working people, will be able to get a fair shake. That is what this piece of legislation attempts to address.

Madam President, I just simply have to say one more time that I hope we will be able to proceed. I hope that this piece of legislation will not be filibustered.

Obviously, it is going to be a very difficult struggle, and there are those who say that the votes are not going to be here. I think it is extremely important that the people in the country understand how each and every one of us votes and then hold us accountable. I guess each one will vote what we honestly believe. I have no quarrel with that.

I have to say on the basis of what I have seen in my State of Minnesota, much less around the country, a lot of people who really desperately want to have decent wages and be able to give their children and families a decent life. All too often they have been forced on strike and permanently replaced.

I think we have to restore some balance. I think we have to restore some fairness. I think we have to make sure that working people, average families, have a fair chance. This piece of legislation goes to the most important set of issues for families in this country, bread-and-butter economic issues, bread-and-butter economic issues. That is what this piece of legislation is about, how we provide some protection to families.

Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. GRAMM. Madam President, I guess there are a lot of people who look at this issue and see it as a labor-management issue. Very few of us know all the intricate facets of the labor laws that have been passed in the country. Many people are confused by labor rights and management rights. Obviously, there have been a thousand and one studies on all the issues.

But today I want to address the fundamental issue that is involved in the so-called striker replacement bill.

Every once in a while you have an issue come along in the Senate that, while you can cloak it in very confusing terms, while you can debate it in the frame of reference of other issues that are also cloudy and confusing, stands on its own, and it appeals to our very basic philosophies in determining where we stand on that issue. The issue before us is one of those issues. In fact, this is as clear an issue as has ever been dealt with in the 9 years I have been in the Senate because the issue here is freedom. The issue here is the basic right of people to work and the basic right of people to employ.

Now, if I want to take a job, I have a right to go out and submit my resume, to submit an evaluation of my skills, and to apply for that job. If the employer believes that I am going to be productive enough, I will end up getting that job.

Once I am working in that job, I have a right to quit. I have a right to quit because I do not like the people I work for; I have a right to quit because I do not like the working conditions; I have a right to quit because I do not like the benefits; I have a right to quit because I do not believe that my full talents are being used or that I am being treated respectfully; or I have the right to quit because someone down the block or across the Nation offers me a better job with better working conditions and higher wages.

Those are the rights I have as a free American. And since there are a lot of people who are workers in America, those rights are almost never challenged.

But while I have a right to quit working for you, I do not believe that, in a free country, I have the right to prevent you from hiring someone else. You either believe in freedom or you do not. And I do. I believe freedom extends not just to people who happen to exist in large numbers in America, but it extends to people who exist in smaller numbers. I believe people who create jobs have rights. I believe the people who save their money, who accumulate capital, who take risks, who create jobs, who basically build the coop and the pond and put out the corn for the goose that lays the golden egg in America have rights.

So the fundamental issue here is this—no one disputes that if I want to quit my job, I have that right. This dispute is about whether, after having decided that I am going to withhold my labor and stop working for you because of my unhappiness on my job and because of a dispute, I have the right to effectively prevent you from hiring someone else.

I say I do not have that right. I believe that my freedom ends where your freedom begins and, while I can quit, while I can withhold my labor, while I can negotiate, I should not have, in a free society, the right to say to you that if I leave my job, you cannot hire someone else to take my place.

If we adopt this bill, that, in essence, is what we are doing because if I am able to come back at any moment and force you to fire whomever you hired to take my job, that person has no job security, that person has no rights, and as a result, in all probability, the company is not going to be able to find anyone to take that job since they know it is a temporary one.

So at issue here is not some complicated issue of labor law. It is not even a complicated issue of trying to balance the playing surface in competition, though I want to talk a little bit about that. What is at issue here is the basic freedom of people in the freest country in the history of the world.

I have a right to quit working for you. I have a right to withhold my labor, but I do not have a right to tell you that, after having withheld my labor, you cannot go out and hire someone else. I have no right to make the person you hire a second-class citizen and say that their claim to the right to work for this company is a lesser claim than my right to work for this company, when in fact I am the person individually or collectively who chose to leave.

Now, that is the real issue here, and all the other issues are unimportant. But I am going to talk about one of them, unimportant though it be, relative to freedom, and that is the whole issue of what the passage of this bill would really do to the American economy.

The passage of this bill would basically change the fundamental relationship between labor and management in America. It would basically give labor a tremendous increase in its powers. That is what this whole debate is about. This debate is a power grab by organized labor to infringe on the freedom of people to expand their power. And the negative side of it economically is that if this bill is passed, if organized labor knew that by striking they could prevent a company from hiring people to take their place, then the employer stands to lose everything and the employee, who at any moment can come back and demand the job back, stands to lose relatively little.

What we would have in America is a raft of labor disputes. We would have numerous strikes. We would have a tremendous labor blockage. We would have a disruption of the economy. We would have wage growth without relation to productivity. The net result would be a declining competitiveness for American industry on the world market and declining living standards.

So I think you can make a strong argument against this bill based on the economic well-being of the American people. You can make a strong argument against it based on the competitiveness of American products on the world market. You can make a strong argument against it in terms of what it will mean to our living standard.

For all those reasons it ought to be rejected. But they are relatively insignificant as compared to the big issue, and the big issue is freedom.

I believe in freedom. And I, like the Senator from Minnesota, am delighted that we are holding this vote today. I am delighted we are holding this vote today because as a result, all America will know where we stand on this issue. The essence of democracy is accountability, and today we take a stand, and the stand is either for or against freedom.

It is for the right of a free people to withhold their labor. It is also for the right of a free employer to hire someone to work if the person who had the job has chosen voluntarily not to extend that right to work. That is a basic freedom. It is a freedom that I believe we in this Congress and in this Government are sworn to preserve. As a result, I am happy that all the world will know where we stand on this issue.

I yield the floor

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, just a couple of quick points. I know the Senator from North Carolina wants to speak.

Listening to the Senator from Texas, it sounds to me, Mr. President, that the Senator's view is that if you should—it could be an economic issue, it could be an unfair labor practice—that if you leave work, somebody is physically forcing you to leave work, that you will never have an opportunity to get your job back.

I would just say to the Senator that could be his position but that is at odds with Federal labor policy that we have had in this country for 59 years. I mean, if we were to sort of take that definition of freedom, you could literally, because of an unfair labor practice, say, "I just simply can't accept this," and you leave work and we have this right to bargain collectively. That has been the very heart of it.

Under the Senator's standard, if you leave work, if you are on strike because of this, there is no way you could even go back to work. That is my first point.

And, I mean, if we want to turn the clock back 60 years, we can do so. Maybe that is what is at issue here. I certainly hope not.

That is why in the 1930's, with the Wagner Act, we moved forward with what I think was really something quite important. We talked about the right to organize and bargain collectively, so that there was some alternative to the terror of unemployment or unsafe working conditions or essentially being fired willfully and arbitrarily. That is what we tried to do.

My second point, Mr. President, is that we have some, I guess, different definitions of freedom. It is interesting, there was a poll conducted last month by Fingerhut-Powers. Respondents were asked whether employers should be permitted to hire permanent replacements for striking workers. Sixty-four percent responded that an employer should not, while 35 percent said they should. At least four previous polls produced similar results. In a 1992 Roper Poll, 72 percent of the respondents supported a ban on the hiring of permanent replacements. Only 14 percent said workers should not have the right to strike without fear of losing their jobs.

So the Senator has his own definition of freedom. But I think the vast majority of people in the country understand sort of who has huge amounts of capital and the wealth and power versus the position of regular working people and understand that there is another kind of freedom which is the freedom not to be exploited; freedom from hunger, the freedom to have a decent job, decent wages, decent working conditions; freedom not to work in unhealthy, unsafe conditions. That is what this piece of legislation is all about.

And, as far as the vote today, and so people in the country will know where each of us stands, yes, that is accountability. I agree with the Senator on that point. It is the only point I agree with him on.

But sometimes there is a disconnect between a filibuster effort, the 60-vote requirement, versus sentiment around the country. It could be, as a matter of fact is the case, just looking at the polling data, that most people, the vast majority of people think this is an issue of fairness. The Senate vote may go a different way. We may not have the 60 votes, given the filibuster. Thus, we will be accountable.

But let us not assume that because there is a successful filibuster, if that is what happens, that somehow this filibuster represents the position that most of the people in the country have about freedom as defined so narrowly. That is not the case.

I yield the floor

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I will be brief.

First of all, I just want to clarify a point. The point I made was not that you are guaranteed of losing your job permanently if you deny your labor.

Let me respond to this on the economic plane and then the freedom plane.

The point is that you stand a risk once you have said to your employer, "I will not work." You stand the risk that the employer, in exercising his freedom, will hire somebody else. And, as a result, we have a balance in the relationship between the employee and the employer which has made this country the richest, freest and happiest country in the history of the world.

What this bill would do is change that fundamental relationship by denying the employer the basic freedom to employ the capital that the employer has accumulated, to put that capital to work on his behalf and on behalf of the country.

In terms of freedom, I cannot believe that there would be a single Founding Father who would accept the argument, no matter how you couch it in labor law and in the rhetoric of the collectivization of the rights and opportunity, that if an employee withheld his labor and refused to work, that an employer should be denied the right, if that employer chose, to hire someone else to take that job and that the person who took that job should not have exactly the same rights and privileges as the person who refused to work in that job.

I think, when you state it in those terms, that it is a very, very simple and very straightforward principle.

Mr. WELLSTONE. Mr. President, just a quick, quick response and that will be it.

I am glad to hear the slight amendment of the original formulation because I thought I heard the Senator originally say that the point really was freedom and if you left your job and you went out on strike for whatever the reasons were, then there is no particular reason for you to believe you will be able to come back. In fact, it is up to the employer to decide whether he or she wants you back, period, whether it be unfair labor practice or anything else.

Now, on the second point, which has to do with the whole question of the richest, freest, greatest country in the world, I assume that each and every one of us loves this country. I do not think we would be in the Senate if this were not so. And certainly, given a different definition, and I would like to have another definition of freedom for a moment. I mean, my father left persecution in Russia and I am a first-generation American and I dearly love this country for the freedom and all that it is.

The question is not who loves the country. The question is what has, in fact, happened over the last decade and a half. And when we look at what has happened is we see increasing disparities of wealth and income, declining middle class. We see all too often people forced to go out on strike and then permanently replaced. That is really the reality. Let us get away from the theories.

Finally, on the Founding Fathers, I do not know what to say. As a former political science teacher, this sort of becomes an endless debate as to what were the real intentions of the Founding Fathers. I guess there really were not any Founding Mothers, which is a whole other issue.

But I would say, it sort of depends. But I have to believe that, given the views of some of the real greats like a Thomas Jefferson, who cared so much about yeomen farmers, and cared so much about making sure there was some real equality of opportunity, given all the trends that are taking place in the United States of America, I would be willing to argue we would get a lot of support. But that is sort of a debate that goes on and on.

But let me focus back again. This is all about the right to bargain collectively. It is all about workplace fairness. It all about restoring some balance. It is all about economic justice. It is all about making sure that we have some kind of partnership between business and labor. And, frankly, I think it is extremely important that we come down voting on behalf of working families. They deserve representation in the U.S. Senate. All too often they do not get the representation they deserve.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I focus on this from a little bit different perspective. We have heard the freedom aspect of it discussed.

Mr. President, I have spent the last 46 years of my life in the private sector. I have met a payroll every Friday of every week of those years, and will meet one this Friday. It is unfortunate for the American people that there are not more people in the Congress who know what it means to run a business. If there were, we would not even consider union-inspired Government power grabs like the strike bill before us.

Prohibiting employers from replacing striking workers is simply a bad idea, and it does not make common sense for American business or the working people. I have run businesses and hired people, as well as let them go. I know first hand how important it is to have flexibility in relations with employees.

And sometimes that means the flexibility to let someone go, if you cannot agree with them, and hire someone else who needs the job and with whom you can agree. By prohibiting replacement of striking workers, Congress would take away a basic and fundamental element of the free market and insert in its place an unnecessary and unwelcome third-party negotiator—big labor.

Mr. President, if we pass this bill, the entire balance of the U.S. labor market would be thrown into chaos. The U.S. Government would hand the keys to the American economy over to big labor. Union bosses would have a choke hold on the U.S. economy—and they will use it. Do not ever forget that. Union bosses would call strikes at will and force men and women off their jobs and onto the picket lines.

And make no mistake about it, big labor bosses do not have the economic health of the United States or the American worker at heart. They have a single goal—forcing more people to join the now dying unions in order to enrich their now depleted treasuries. The very same treasuries which give millions of dollars to fund the leftwing friends of labor who are in the Congress.

Mr. President, this country has come too far to return now to the days of forced unionism and widespread strikes, and widespread they would be if this were to become law. The United States is competitive and productive internationally today precisely because the drag of big labor is not as strong in this country as it is in other nations. While countries like Italy suffer endless strikes, our labor disputes are generally handled through bargaining and good-faith negotiation. That is the way they should be.

The American worker today is better paid, better trained, and more productive than any time in this country's history. All this has been achieved while the role of unions over the years has steadily declined. The private sector does not need big Government and big labor holding the hands of its employees. It is doing just fine without any more help from Washington. We have come too far to sacrifice the independence of the American worker to greedy union bosses hungry for additional dues, and that is what we are talking about doing.

Mr. President, it is obvious what the goal of this legislation is to anyone who has spent time in the private sector. The goal is to effectively create a system of compulsory unionism in the United States.

We talk about freedom. No longer would there be freedom. You would be forced into a union if you were going to work.

By giving the awesome power to the unions to totally shutdown American business and commerce we automatically give them the leverage to blackmail employers into closed-shop contracts. What this means is that millions of workers in right-to-work States like North Carolina will be forced against their will to join unions and pay union dues. They will be compelled against their will to financially support distant union hacks and their leftwing political causes, the very same men who are right now sitting across the street in their plush offices pulling every last string to get this bill passed. They will fail. If unions do not get this shot in the arm from big Government, they will continue to become even more irrelevant and marginalized in the modern economy. The bill is the unions' last dying gasp. Unions are dying—and good riddance.

Mr. President, the single best argument against this bill is the commonsense argument. The way things stand now, employees can strike, and when it becomes necessary, management can replace workers.

Management is extremely reluctant to replace workers and labor is generally reluctant to strike. That is what we are talking about, a balance, and we need to maintain this balance. It works and it makes common sense. But common sense is an uncommon thing in Washington, and nowhere is that better illustrated than in the debate over striker replacement.

Mr. President, this law would destroy the natural balance of the labor market and give all the bargaining power to unions. Every business in this country from auto factories to hospitals—no matter how big or how small—would immediately be subject to totally devastating and unnecessary strikes—all because the U.S. Congress did the unions' bidding. All because the Congress put in the fix and named the winners and the losers. Industry and commerce of this country will be the losers. The winners will be union bosses and labor-financed politicians. And as I say, the losers will be American workers and American ability to be competitive.

I thank the Chair and yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I will speak ever so briefly because I know our colleague from Colorado is anxious to speak. I do not know if the Senator from Kansas may want to respond as well.

I must say, without responding point by point to what the junior Senator from North Carolina had to say, I find his comments very revealing, which is to say, "Good riddance to unions, we'll just end the country of the cursed unions." I mean, that is the Senator's framework, and if it is the Senator's position that we should go back about half a century plus and have no unions and have working people not have representation and be able to bargain collectively, then so be it, that is his position.

That is where we were once upon a time, Mr. President. And as a matter of fact, what happened with unions in the 1930's—I guess it is all our own backgrounds.

Let me try not to use any labels—rightwing, leftwing or all the rest of it. Let me simply say, given my own background, what I know from my own parents and my own family is that before unions, as during the 1920's which then gave way to the decade of the 1930's, slave wages, unsafe working conditions—we have unsafe working conditions in a lot of our plants today, do we not, Mr. President? Unsafe working conditions. And what happened was, through unions and through the development of the labor movement of the thirties, the minimum wage—it is a difference of opinion we have—Social Security, the right to bargain collectively, the right to join a union, some alternative to the terror of being unemployed, some alternative to being summarily dismissed, some basic protections for those people who did not own these companies and did not have the wealth and the power, that is what labor was about. And by the way, it was more bread and more justice for people. I think it made the United States of America a better country.

Now, if the agenda in a filibuster of this piece of legislation is—and I paraphrase the Senator from North Carolina—good riddance, get rid of unions, great, let us know what the agenda is. Not great that that is the agenda, but I think it is great that people who follow this debate know what the agenda is. If that is the Senator's agenda, so be it. I do not know that there is much more to say.

Mr. FAIRCLOTH. I would like to respond to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. FAIRCLOTH. I do not want to move the Nation backward. I wish to move it forward. And I spent my life doing that, a major portion of it. This is not the thirties; I was here during the thirties. It is not the forties; I was here then. We have seen a constant decline in the power of the unions in this Nation for the very simple reason that they have imposed themselves upon the American worker and they have lost favor with the American worker. That is the reason for the decline in unionized workers today.

But the Senator makes a very appealing case, and I have one question, if I may ask. Has the Senator himself ever run a business or been responsible for a payroll?

Mr. WELLSTONE. No; I have not run a business. I have worked for businesses. I have not run a business.

Mr. FAIRCLOTH. The Senator has never been responsible for a payroll?

Mr. WELLSTONE. That is correct.

Mr. FAIRCLOTH. I yield the floor.

Mr. WELLSTONE. Mr. President, let me just respond by asking the Senator whether or not he has ever been a teacher?

Mr. FAIRCLOTH. No; I have never been a teacher. But I have taught.

Mr. WELLSTONE. Well, I have never run a small business, but I am very interested in small businesses.

Mr. President, just to finish this, let me give the Senator a slightly different interpretation about the decline of unions. No. 1, we have as a matter of record good riddance to unions, so we sort of know what the agenda is here.

But second of all, Mr. President, I think that is what this debate is all about. First of all, we saw mergers, leveraged buyouts, we saw different management, we see the rise of union-busting consultants, and all the rest of it.

The other problem, Mr. President, is that employers, if they want to, have an atomic bomb; that is permanent replacement. That is really what is going on here. I keep hearing my colleagues talk about balance. If an employer cannot fire someone for going out on strike but can permanently replace them—I have seen that in Minnesota, over and over again—they have an atomic bomb. Thus, it is very difficult for people to have the same kind of leverage and say that they had before.

Yes, people are worried about joining unions, they are worried about going out on strike, unions are busted, wages are depressed, working conditions are not good, and you have a declining middle class—this is not just about unions—but it is not because people have just decided that they are not interested in better wages or they do not want to work in unsafe workplaces, I would say to the Senator from North Carolina. It has something to do with this huge imbalance of power that has developed with a vengeance over the last decade plus. One side has an atomic bomb: Go out on strike; we permanently replace you. What is the incentive for that side to negotiate? Why would you negotiate when you know you can just permanently replace the people? Would it not be better to have some fairness, some balance? That is what we are trying to restore.

I yield the floor.

Mr. BROWN. Mr. President, I rise out of concern regarding S. 55, and I will try to make my remarks concise.

Some Members may approach this issue as advocates for unions. Others may approach it as advocates for management. Still others may think of the issue in terms of how it will affect U.S. competitiveness around the world. But I think most Americans think about this issue in terms of fairness—what is reasonable, what is fair, what makes sense, what kind of rights should workers have versus management.

We, as Americans, have good common sense in these matters. We have not thought of dividing power in this area strictly in terms of helping one side or the other. We have often thought about power in terms of making sure no one, either management or labor, has too much, just as we have thought about governments in those same respects. We Americans are suspicious of concentrations of power. It is part of what makes us so unique, and I believe it is part of what makes us so successful.

The dramatic changes in the labor laws in the 1930's were a simple effort to reduce and limit the power of management and to divide the power evenly. Some would say they went too far. Some would say they did not go far enough. But it was out of a sense of fairness and evenhandedness, and the conviction of most Americans, that reasonable differences in labor disputes can be resolved when both sides have significant bargaining power, when no one side has all the strength or the power, when both sides have to listen to each other.

In effect, what Americans tried to do was design the system in a way so that each side had input, each side had to be listened to. Most Americans have the conviction that we get better answers if both sides not only have strength and power, but also have an ability to make their point. That is really what this is all about.

In 1935, the National Labor Relations Act passed, and it did not guarantee economic strikers a return to their positions. This was made clear in 1938—as all Members are aware—when the Supreme Court held that, indeed, employers were prohibited from firing strikers. But they also made it clear in strikes that were of a nature that dealt with economic issues solely, strikers could be replaced. That is different than firing them. But ultimately over a long period of time it may have a similar impact.

I guess one would ask, if the division line of where you are allowed to replace a striker is whether it is over economic matters or unfair labor practices, what divides the two?

Well, it is not a clear line. A lot of things that are thought to be economic issues end up being unfair labor practices. Basically, what we are talking about is a strike can start off dealing with economic matters and be turned into one that deals with unfair labor practices. In other words, the ability to replace a striker is limited. In the first instance, it is limited because it can only apply to economic strikes. Second, it is even more limited because even with an economic strike, if the employer misbehaves and it is turned into an unfair labor practice strike, then that right to replace workers is lost as well.

There is a long list of activities an employer can engage in which will change it away from an economic strike to an unfair labor practice strike. I will not go into details on all of them, but some of them may surprise Members. It is not difficult to change a strike from an economic strike to an unfair labor practices strike.

The bottom line and the point of all of this is simply this: You cannot now replace strikers if they are striking over unfair labor practices. And if they are striking over economic matters, if the employer does not follow the rules clearly and specifically, you may well be barred from hiring permanent replacements as well.

So what we are talking about here is not firing someone. What we are talking about here is replacing them. We are not talking about replacing them in unfair labor practices strikes. We are only talking about them being allowed to be replaced in economic strikes that stay economic strikes, where there is no misbehavior.

The GAO did a study in 1990. The study estimated that permanent replacements were hired in only about 17 percent of the strikes for the period 1985–89. It is not a lot of years. It is only a couple. But the GAO study I think gives us some feel for what the issue is. In the strikes that dealt with economic matters, replacements were hired only 17 percent of the time. However, the GAO estimated that only 4 percent of all striking workers were permanently replaced in 1985 and only 3 percent in 1989. Why the difference? It is because when the union and the management got back together again, one of the things they negotiated about and talked about was the replacement workers. So the scope of the problem out of economic strikes that stay economic strikes is roughly 3 percent in 1989 and 4 percent in 1985.

There is a balancing here. The balancing is between the rights of the worker that went on strike and the rights of the worker that went to work in that job, that may have worked in that job a year, 2 years, or longer, and may have worked under difficult conditions. The way we now do it, and have done it since 1938 under the Supreme Court decision, was to say that the workers that were hired in the economic strike have the ability to keep their job.

Let me suggest that what we ought to be looking at here is a question of fairness and of balance. The Washington Post, not known for taking up conservative causes, describes this bill, and I quote from their April 27, 1993, editorial describing S. 55 as: "* * * ill-advised legislation whose likely long-term effect would be to hurt the U.S. economy far more than it would help."

I suspect the reason they take such a stand may be out of concern over what would happen in labor disputes if this were part of the law. At least my concern is what happens if one side has too much power and the other not enough. The Washington Post concludes:

> The ambiguity that has endured in the law for 55 years may be less of a defect than a virtue. * * * [N]either side in a labor dispute can expect to behave with impunity; the truth may be that the more risk both sides face in such disputes, the better.

Mr. President, my concerns come down to this. What is fair and what makes sense in getting people to work together in the long run? Let me ask some Members a question phrased the other way. What if we had before us a law that says it will be illegal for a striking worker to get a new job? How would Members feel about that? Would that be fair? Would it put pressure on settlement? Yes. Would it help one side? Yes. But how would you feel about it if we said working men and women who have felt the necessity to go on strike were prohibited from taking another job?

Mr. President, I can tell you how I feel on that. I would vote against that law. I think the essence of America and American labor law should be to be evenhanded—to create fairness and to leave the working men and women of this country with options, just as we ought to leave employers with options. To prohibit one side from seeking alternatives and not the other is neither evenhanded nor fair. To say that it would be illegal for someone to look for a new job when they went on strike, but not for an employer to seek new employees would be unfair.

Likewise, Mr. President, to say that the employee can go seek and find and take a new job but the employer may not find new workers would be unreasonable and unfair. My guess is long-term changes in the labor laws that lead to an imbalance of power and an unfairness in treating one side or the other are not going to last. The American people's sense of fairness wants working men and women to have the right to strike and the right to organize, and the employers' right to continue their business.

I have been a member of management, and I have been a member of a union; an active member of a union and an active member of management. It is helpful in understanding both sides. We should not come here as advocates of one side or the other. We ought to come here with a sense of fairness, of evenhandedness, and of willingness to make the rules apply to everybody.

If you are going to make it illegal for employers to hire replacements, do you want to apply that same philosophy to the workers? I hope not. I hope what we will say is that where the strike does not have anything to do with unfair labor practices by management, that management ought to have the same rights to seek alternatives as the workers do.

Ultimately, I think that is fairness, Mr. President. Ultimately, I think it is balanced. Ultimately, I think it blends the kind of framework to labor-management disputes that gives each side an incentive to reach a settlement, get back together, and work together again. That ought to be our purpose. Our purpose ought to be to make sure that they come out with a settlement, with an ability to work together again.

So I am going to vote against this measure. I am going to vote to continue the debate. But it is going to be a vote for fairness and for commitment to evenhandedness.

I want to commend the leadership of this body for having scheduled this vote, having deliberated on the bill. It is an important bill. It passed the House of Representatives. There appear to be a substantial number of Senators who favor it. It merits a hearing, and it merits a vote.

Mr. President, it is not good legislation because it is neither fair nor is it evenhanded.

I yield the floor, Mr. President.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I rise in favor of the vote to invoke cloture and to move ahead and pass S. 55 because it restores a fair balance between labor and management by putting an end to the practice of hiring workers through permanent replacement during union strikes.

It is interesting. We are here talking about strikes. In effect, we have today a legislative strike going on here. We have a procedural strike. It is called a filibuster, where certain Members have decided that this issue should not come to a vote. The reason that they are in effect striking and they do not want it to come to a vote is they know if it comes to a vote, it will pass the Senate, because there is a clear majority of Senators who are prepared to vote for S. 55 and pass it as it has already passed the House of Representatives.

But a determined minority, in order to prevent the majority from being able to pass the striker replacement bill, are invoking a tactic of using a filibuster which means then that we have to have 60 votes out of 100 Senators in order to stop the extended debate, the filibuster, and then bring it to a final vote where a majority in fact can rule and decide this issue.

So it is somewhat ironic that we are seeing the use of a filibuster as an effort to prevent a decision from being made on this issue. As I say, in its own way, it is kind of a procedural strike that is being imposed here upon us by some Members who, at the same time, are arguing against the right of workers to be able to withhold their work and strike in a situation where they feel that the wages or the working conditions are not satisfactory in a situation where they are presently employed.

It is ironic when you look around the world at the other advanced industrial countries that have already settled this issue. They have settled it the way that I am advocating we settle it, with S. 55. In the country of Japan today, if a worker goes out on strike, when the strike is over, that worker comes back and takes his job. They are not permanently replaced by a replacement worker. In Germany today—one of our major industrial competitors—their laws do not permit the permanent replacement of a worker who goes out on strike to try to get a fair shake with working conditions or with wages in that given situation. France, as well, is another country that has already solved this issue. So the main competitors we are dealing with around the world have already addressed and solved this problem for their workers in their country. And we ought to do it here.

In fact, for many years, it was a practice that was not engaged in. When a lawful strike would take place and workers would withhold their work for a period of time, at the end of that period of time, once the agreement was worked out, then those workers went back to work in the normal course of events. Of course, today, our practice allows a company during a strike to hire temporary replacement workers to come in and replace the striking workers in order to keep the operation going but with the understanding that at the end of that period of time, once the labor issues have been settled with the normal established work force of that company, the replacement workers who had been hired on a temporary basis would leave, and the permanent workers would come back and take their jobs on the basis of the revised contract.

Why is this important? Working people in this country do not have very much power. In fact, the most important power they have is the power of their ability to work, the talent they bring to the worksite, their seniority, their investment in a company, and the investment in the work skills they bring to the job assignment they hold. Therefore, their ability to have some degree of leverage and bargaining power in negotiating for wages and benefits and working conditions relates to whether or not they have the right to withhold their work. And it is fundamental, I think, in this country to understand that people have a right, in fact, to be able to withhold their work in a situation where there is a grievance or a bargaining process underway, until a bargain is struck between the workers, in a collection of workers, in a union, and the employer on the other side. It is a long-established practice in this country. It goes on all the time. It is a normal act of collective bargaining where this is done.

But, fundamentally, it comes down to the power of that individual worker, and the one final and major power that worker has is the work they can do and their ability to withhold that work when the conditions in the workplace are not as they should be, or where there is a bargaining process underway, where wages and benefits and working conditions are going to be decided. In those cases, it is entirely proper and within the law for the workers to withhold their work for a period of time, to have a strike that might last a few hours, maybe days, sometimes longer than that, but not often, until a bargain is struck between management on the one side and workers on the other side that really constitutes a fair working arrangement.

Why is that important? It has become more important because we are now in a world economy. So we are having to face off against workers not just in the other industrialized countries like in the case of Japan, Germany, and France, but we are having to deal with now workers in the underdeveloped world competing against our workers. In Mexico, I think it was a mistake for us to enact NAFTA, to create a common market with the Mexican workers with their low working standards and low wage levels. I am convinced that we are and will continue to lose jobs from here to there. But it plays back into this debate, because what we are seeing in Mexico, we are finding when workers down there try to take and bargain for better wages and working conditions, to get their wages up so there is not the temptation to move jobs down there from the United States, unless they are part of the Government-controlled union down there, they are fired, and permanent replacements are brought in to replace them, to take away that kind of pressure to get the wage levels up to a living level in Mexico.

We do not want that happening here in the United States. No Senator wants that for themselves. The problem is that we are so removed from the basic realities of so many people in this country that we have forgotten, I think, institutionally, what is involved for somebody who has to go out and make a living each day in a situation where they have to bargain for a wage and for working conditions with an employer.

In most cases, things work out pretty well. But where there is a difference of opinion and a dispute and it has to be worked out, then the right of a worker to withhold their work for a period of time and a proper and legal strike is an absolute right, as I see it, and a necessity for workers to be able to have and to know at the end of the day or at the end of the negotiating period, when they have worked out their agreement, that they will be able to take their jobs back and not have somebody else move in on a permanent replacement basis.

We have seen that problem in my own State of Michigan. We have seen it in the case of the Kroger grocery store situation, where a group of permanent replacement workers were brought in in order to break the union and sidestep the legitimate demands on the table by the work force at that time.

I think it is time to stop the work stoppage here in the Senate. Let us vote on it. Let us not hide behind a filibuster. Let us vote on it. Let us have an up-or-down vote. Let us have the workers have a chance to win or lose on the basis of a real vote on the real issue, not on the basis of a filibuster. Do not come in here and say workers cannot do a work stoppage when in fact Senators on the other side of this issue are engaging in a work stoppage themselves. A filibuster is a work stoppage. You cannot come in here and use that tactic and turn around and condemn the workers of the country because they use the work stoppage. You cannot do that. It is inconsistent and hypocritical.

The comparable situation would be if we could bring in a replacement Senator and put them in place of the Senators who are voting to maintain the filibuster and let the replacement Senator vote for cloture so we can get to a final vote on this issue, and after we have settled it, say to the Senator that has been replaced, sorry, you are out of here for good. We not only just replaced you for a period of time so we can settle this issue, but now you are out of a job, and we are going to keep the replacement Senator.

No, there is a double standard here. There is a double standard here, and you see it all the time on other issues, as well, when it comes down to economic justice and equity issues, where Senators will stand up and say it is alright to have a work stoppage in here and a filibuster and prevent a final vote, but we are not going to allow workers the same rights we want to have for ourselves here. That is not fair. That is not fair. We ought not to allow it to happen. We ought to vote for cloture.

I do not know, frankly, why the votes are not there. I realize we need 60 votes, and we ought to have 60. When the votes were not there on NAFTA, I saw an awful lot of work done to produce the votes, and the votes were produced by one means or another: arm twisting, persuasion, and a lot of favors were done; contracts were directed to different areas around the country, and so forth. Lo and behold, the votes were stacked up one by one until there were the votes to pass NAFTA.

Well, there ought to be the votes to stop a filibuster on striker replacement, on S. 55, and bring it to a vote. There ought to be the votes here to get that done. We ought to hang in there and force this issue until we have a chance for a majority rule. But the opponents of this bill are not willing to settle for majority rule. They are not willing to settle for majority rule. The reason they are filibustering is they know if we settle this on the basis of majority rule, they will lose and the workers will win.

If you talk about what erodes the faith of people in this country, in the system, in the Government, it is the question of whether they are going to get a fair shake, whether or not on an issue that is fundamental which relates to their job and their standard of living and their ability to support their family, the very essence of themselves in terms of their own work effort, to be told, sorry, even though you are in the majority, we are not going to give you the chance for an up-or-down vote.

We are not going to give you a chance to win. We are going to have a strike here in the Senate called a filibuster. We are going to keep it going, and we are going to prevent even a chance for a vote where you can win.

That to me is hypocrisy, to use the very tactic that you are condemning, to use the very tactic that you are condemning.

So let us do away with this filibuster strike here in the Senate. Let us have a vote. Let us have an up-or-down vote. Let us see where the votes are. Let us have an up-or-down vote.

I would say that there will be at least 55 votes for this measure to put an end to this replacement of striking workers on a permanent basis. I think there will be at least 55 votes, maybe more than that. That is a majority in this country. It ought to be enough to settle the issue. It has already passed the House of Representatives.

But, no, the opponents on this issue are not willing to let it be settled by majority vote because they want to hold out for themselves the very tactic they are condemning. They want to be able to take and engage in a legislative strike to keep this issue from coming to a vote.

I wish here we could at least have some temporary replacements, which the companies in America can do today. A company in America that is facing a strike can hire temporary workers to come in and take those jobs until the strike is settled. If we could do that here in the Senate, we could take some of those Senators that are refusing to let this come to a final vote, and we could have a replacement Senator come in here long enough to get the work done, long enough to stop the filibuster and at least get to a final passage vote. Then we could take the replacement Senator out of here and let the elected Senator come in and cast the final vote. And they can vote "yes" or "no" the way they want.

Mr. WARNER. Mr. President, will the Senator yield?

Mr. RIEGLE. Of course, I yield to my friend from Virginia.

Mr. WARNER. I thank the distinguished Senator.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from Virginia.

Mr. WARNER. Mr. President, I think in fairness to those who are watching his excellent presentation of his side of the case and asserting that this side of the aisle is invoking its right to filibuster, the Senator himself on June 29 of this year voted against cloture on product liability. Am I not correct on that?

Mr. RIEGLE. The Senator is partly correct. I might say, there were two votes on cloture. The first vote on cloture the Senator voted for cloture on that very issue. So the fact is that on one occasion I voted for cloture, and then I was prepared to vote for cloture the second time based on some changes that I sought in the legislation. I went to the managers of the bill. I asked for the changes. They were unwilling or unable to make them. So I was not willing to vote for it on the second occasion.

But, in fact, the first vote on cloture which is the one we are going to have here today I voted for cloture.

Mr. WARNER. I thank the Senator.

If I might raise the second question, the concern that I have is that the American people show in accurate polling data that a bare 29 percent of them desire the outcome that would be brought about by the bill that we are filibustering, only 29 percent.

We are using this filibuster to represent under the rules of the U.S. Senate the majority, the vast majority of the interest of the American people. Why, Mr. President? Because for nearly 60 years this balance between labor and management has worked in the interest of this country so that we are now today and have been through that period the largest industrial Nation in the world.

I ask the Senator why would he want to change 60 years of practice that has enabled us to become the largest industrial Nation in the world?

Mr. RIEGLE. The answer to that question is simply this. The practice for many years in this country up until essentially the firing of the air traffic controllers was to not engage in the permanent replacement of strikers. The general practice throughout the country was well-established. If a work force went out on strike, and once those issues were settled, those workers would come back, be rehired, the temporary workers who had taken their jobs in the meantime would then leave. That was the established practice.

It has only been in recent years, really in the last decade or so, that we have seen a real outbreak of situations where workers have been hired to come in and replace during a strike a striking work force but then to be kept on after the strike is over, to keep the replacement workers on a permanent basis and not allow the striking workers, even if they had 20 or 30 years of seniority in that particular job and company, to come back on the job.

So there really has been a change. What this attempts to do is restore what was the common practice just a few years ago in this country and what in fact is the common practice throughout the industrialized world.

Let me ask the Senator this question. Is there any serious doubt in the Senator's mind that if cloture is invoked and we stop the filibuster there are at least a majority of votes in here to pass this measure today?

Mr. WARNER. Mr. President, I would have to ask the managers of the bill to respond to that question. I do recognize that the votes are firm on this issue. But I am not prepared at this time to say that there is a simple majority here in the U.S. Senate for this proposition. But I would suggest the Senator place that question to the managers of the bill.

Mr. RIEGLE. Let me just say to the Senator you have enough Senators who declared publicly in support of the bill. You have over 51 Senators who have taken public positions that they favor the bill and will vote for the bill on final passage. So it is not a mystery.

The only thing that is a mystery is whether we are going to get to a final passage vote because we have to jump this strike here, this procedural strike called the filibuster, in the meantime.

Now, that is not fair. The workers should have a chance for an up-or-down vote here on the basis of a majority as opposed to having to have 60 out of 100.

Mr. WARNER. Mr. President, I say to the good friend, and he has been here several years longer than I, are there not times certain Senators recognizing that cloture cannot be obtained sometimes take the position of stating a public position which if faced with it they might have to resolve it in different way?

Mr. RIEGLE. The Senator says that there are some Senators who have said publicly they are for this measure and they think they are not going to have to vote up or down on it; in fact, when an up-or-down vote comes they are going to jump the fence and they will go the other way.

I hate to see there is such a Senator here. If so, we probably ought to find out who he or she is, would the Senator from Virginia not say?

Mr. WARNER. Mr. President, let us proceed with what we are doing at the present time. I thank my colleague for responding to my questions.

Mr. RIEGLE. Mr. President, I will finish here. There are other speakers on the floor wanting to speak.

Mr. HARKIN. Mr. President, will the Senator yield?

Mr. RIEGLE. I yield to the Senator from Iowa.

Mr. HARKIN. Mr. President, I listened to the Senator's eloquent comments and arguments on behalf of this bill and listened to the colloquy of my good friend from Virginia who cited poll studies. I cannot remember the figures he threw out. But it was indicative that perhaps the majority of the American people perhaps did not support this bill.

I rather doubt that the majority out there really understands what is involved in this bill, and that is why we ought to debate it and amend it so they do understand what is in it.

But I would point out to the Senator from Virginia that all recent polls, the Newsweek poll, the New York Times poll, the ABC poll, and the Washington Post poll show over 70 percent of the people of this country want universal health care coverage. I am wondering if the Senator from Virginia has signed on to that. A majority, over 53 percent, say that we ought to have employer mandates, including small businesses. Yet I wonder if the Senator from Virginia is prepared to support that.

So there is overwhelming support in the country for universal coverage and for employer mandates. I am sorry, employer mandates was 72 percent. I made a mistake on that.

So again, I think on an issue in which the American people inherently understand, that is health care—I do not mean to get off on a tangent here; I want to make the point. If someone is going to start arguing poll data let us keep it in mind when health care comes on for debate on this floor in a couple or 3 weeks, the overwhelming majority support universal coverage and they support employer mandates. I think we ought to keep that in mind. That was a little aside.

I thank the Senator from Michigan for his eloquent remarks on striker replacements. Again, I have more comments I would like to make on it. But the Senator from Michigan has been one of the great leaders in this Senate for many years on behalf of working people and in the interest of working people. What he is fighting for here today I think is a bill that is a pro-productivity, pro-competitiveness bill, one that is going to make us more competitive in the world markets.

Mr. RIEGLE. It is a national teamwork bill. You have to have teamwork in the workplaces. You cannot have a legitimate strike over differences of opinions and then settle it and not bring the existing work force back in. You just cannot throw all those people out on the street and bring in a replacement work force.

There is a public opinion poll that is only a month old on this very subject conducted by the Fingerhut/Powers organization, and they asked on this very question as to whether a company should be permitted to hire permanent replacement for striking workers. And 64 percent of the American people in the poll said "no."

The majority of the people clearly understand this issue because if you work for a living and you have to go into a work situation and what you take in the door each day are your talents, your experience, your seniority, your know-how, and you can be fired and have your job taken away from you and given to someone else simply on the basis of exercising your legal right in certain circumstances to strike over benefits or working conditions or unsafe working conditions or wages or whatever it happens to be, shipping your work out of the country, shipping your work to Mexico, shipping your work to Singapore, shipping your work to some other country if you have a strike over that issue which is legal and proper under the law and you know that you are going to lose your job and somebody else is going to be given your job, you are taking away the very essence of what a worker in America has to bring to the market place to earn a living to support his family.

We do not want to take that away from somebody. We ought to respect it. We ought to understand it. We should not be so remote from it as to understand its central meaning to an individual, a man or a woman worker, in their ability to support themselves and support their family. You do not come in and rip that away from somebody. You ought to be bending over backwards to protect it.

We talk about saying that we value work and we want to encourage work. Well, then you better understand the need to provide the kinds of understanding and support for people in the process of work, so that they can go in and they can bargain for a fair wage and fair working conditions and civilized circumstances, which is now the norm all around the world and which had been the norm in this country up until about a dozen years ago.

You have to respect work and you have to respect workers. That is what this bill is all about.

But for the Senate to take a strike here in the form of a filibuster and say, "Well, we are going to strike on this issue and we are not going to permit a vote on it; we are not going to let majority rule here," you are saying something to the workers of this country that I think is unfair. It is unfair to them, and I think, frankly, it is arrogant, because, in a sense, it says we are going to have a double standard. We can strike here in the form of a filibuster, but you cannot strike out there. You can lose your job, somebody else can take it, but nobody can touch us. That is a double standard. And it is just about as clear as you are ever going to see it right now on this issue right here, because a filibuster is a legislative strike by the Senate and it ought not to be permitted.

Let us vote cloture and let us vote S. 55.

I yield the floor.

Mr. WARNER. Mr. President, I rise today in strong opposition to S. 55, the so-called Anti-Striker Replacement Act now pending before the Senate.

The Cesar Chavez Workplace Fairness Act is anything but fair. If enacted and signed into law, American employers would be prohibited from defending their businesses by offering permanent jobs to replacement workers during a strike over economic issues, such as wages and health care. Instead, the employers of this great Nation would be forced to accede to unreasonable economic demands of unions or plainly go out of business.

According to Websters Dictionary, to be fair is to be "just to all parties in a proper and legal way." Tilting the delicate balance of labor relations in this country in favor of either management or labor is plainly unfair to the American people.

This delicate balance in labor relations dates back to 1935 when Congress enacted the National Labor Relations Act. It is my understanding that this legislation was passed with two central purposes: To assure that all employees have the right to engage in, or refrain from engaging in, collective bargaining; and, to reduce industrial conflict through a system of voluntary collective bargaining where both parties share a balance of gains and risks.

The right to engage in an economic strike has never been absolute, riskfree or guaranteed to succeed. This is only fair since economic strikes put both employers and employees at risk of financial ruin. Under our current system, this mutual risk enables management and labor to come to the bargaining table and work under equal pressure toward an agreement.

The proponents of S. 55 want to unnecessarily tilt the current balance in labor-management negotiations by changing a core principle of labor relations which has worked for over 50 years. The unions simply want the right to a risk-free strike, in effect guaranteeing the right to win every strike.

The question before the Senate today is quite simple. Does our Nation need more strikes or more jobs, more picket lines or more assembly lines? In the competitive global marketplace in which American companies must compete, the last thing we need is more strikes.

Banning the use of so-called permanent replacement workers would, in my view, impede job growth in the United States, facilitate numerous work stoppages, impose higher costs on U.S. industry, reduce incentives for capital investment, and finally, result in inflationary wages throughout our economy. Such legislation has no place on a national agenda aimed at improving the economy and creating jobs for all Americans.

To quote a June 13, 1993, editorial of the Richmond Times-Dispatch, "No State has been more diligent in protecting society from the excesses of unionism than Virginia." The Commonwealth of Virginia is a right-to-work State which guarantees every man and woman the freedom to choose whether or not they wish to join a union. Virginians do not have to pay union dues as a condition to earn a day's pay for a day's work.

While passage of S. 55 would not change the Virginia right-to-work laws, it would certainly make union organizing much easier in the Commonwealth. Nonunion companies in Virginia face the possibility of unions organizing their facilities by gathering a simple majority of employee signatures to stage a recognition strike. Since employers would be barred from hiring permanent replacement workers, the effect would be to lower the threshold for organizers, enabling them to unionize workers who would never choose to do so themselves under the secret ballot procedure now required by Federal law.

Finally, companies in Virginia want to remain open, to compete in the national and international marketplace. Industries from all over the Commonwealth have registered their opposition to S. 55: wholesale bakers, printers, general contractors, builders, grocers, roofers, retailers, manufacturers, florists, ship builders, and thousands more.

Mr. President, I stand in firm opposition to S. 55, to any compromise legislation and to any effort to invoke cloture on this measure.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I thank you.

Mr. President, I rise today to just issue some remarks on the issue at hand, the striker replacement bill. I have heard both sides of this issue ever since I came to the U.S. Senate. I have talked with both sides, both here and in the State of Montana.

I have tried to look at it from the perspective of just exactly what the Senator from Michigan alluded to, and that is fairness. But it has to be fair not only for my State but the Nation as a whole.

I would agree that labor has a right to strike or to withhold their labor. I would fight for those rights in this body. But an individual also has the right to market his talents, and he is prevented from doing so under this legislation if he is a member of that particular organization.

This is not a jobs bill, as much as some would like to portray it that way. It is an antijobs bill. And I firmly believe that.

Yes, labor unions have a right to strike. I will not dispute that. I am all for protecting those rights. But somebody has to stand up and say, "Wait a minute. The employers have a right, too. It is their investment. It is their market share that they lose."

Nobody likes to get caught up in a fracas between management and labor. It is the most antiproductive thing that we do here in our economy.

I think this bill will not only encourage unions to strike before negotiating, but I think that, by not allowing the operations to continue, businesses will close.

I have seen that happen in my State. Jobs are lost forever for everybody, not temporarily, but permanently. Companies hit with bitter strikes usually lose market share and with it goes that economic opportunity, not only with management but also in the labor market.

This is a bill that is the hammer that will strike the death blow to that delicate relationship between labor and management. In the 5½ years I have been here, I have worked to create jobs. And I am proud of the opportunities that I have helped to open up for the folks in my State. But this bill would threaten jobs, and I just cannot support that.

Think about this. The union leadership claim that they want to create a level playing field. I understand that, but I believe you have to be on the same field to begin with. Removing yourself from the negotiating table is removing yourself from the field of play. Even the AFL–CIO leadership recognizes this. In fact, in a report issued by their executive council last February, they say the time has come, and I quote:

> The time has come for labor and management to surmount past animosities and to forge the kind of partnership which can generate more productive, humane, and democratic systems of work organization.

Now, you think about this a little bit.

And even the Secretary of Labor has said this, that the leadership in unions needs this legislation to strap their membership to the mats. So this piece of legislation takes away some rights of the workers. That is the guy who has to pay the bills. He is the man who is providing the talent and the labor for American industry. He has a definite talent to market, and he is limited to do so in a period of strike by this bill.

A while ago, my good friend from Colorado alluded to the Washington Post editorial of April of 1993. And you would have to say the Post is not representing the great bastion of conservatism. The Post said this is ill-conceived and this bill should not ever see the light of day. And I just would have to agree with that.

It is an issue of rights. There must be a balance, no matter what side you are on. The employer has rights and the employee has rights. And in order to keep that balance, to ensure that we must keep people working and to ensure that our country keeps growing, we need to be fair and encourage both sides to communicate. That is something that is overlooked here.

By prohibiting employers from hiring permanent replacements—which is the worst case scenario; nobody likes to do that; nobody likes to replace the work force that they are comfortable with, that they like—you are tilting the table. There no longer exists a level playing field.

So I think the goal of this bill is power. It is not in the best interest of the working people of this country, which is the backbone of this country. Plain and simple, it is a power play. It is designed to make calling a strike and winning it as easy for the union leadership as flipping a switch. And if, heaven forbid, one of their members decides to go on working during the strike, if one of the members who has the talent to market goes on working, that is very bad according to this legislation.

So in the interest of jobs in Montana and this country—and, yes, we are the most competitive country in the world; let us face it, if it had not been for the labor movement, we would never have had this standard of living in America that we enjoy today; but this really tilts the table—so in the interest of jobs and economic stability in this great Nation, I will oppose the striker replacement bill. We simply cannot afford to let this bill become law.

Mr. President, I ask unanimous consent that the editorial from the Washington Post of Tuesday, April 27, 1993, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 27, 1993]

THE STRIKER REPLACEMENT BILL

George Bush made heavy use of the veto threat in his years in office, and not all the results were bad. The striker replacement bill he helped to block in the last Congress is an example. This is ill-advised legislation whose likely long-term effect would be to hurt the U.S. economy far more than it would help. Bill Clinton has promised organized labor to sign the bill if it is sent to him. It's a promise we wish he hadn't made and hope he doesn't get the chance to keep.

The legislation would take away the right of employers to hire permanent replacements for workers who strike over economic issues (as distinct from those who strike over allegedly unfair labor practices, to whom the law gives greater protection). Proponents say the legislation is necessary to protect the right to strike and recreate a level playing field in labor-management relations that was lost in recent years. Our contrary sense is that in the name of protecting labor's rights the bill would go too far and strip management of a right that it, too, must have if the system is to function fairly.

The law now is contradictory. The National Labor Relations Act of 1935 said strikers could not be fired. The Supreme Court said nonetheless in 1938 that employers were free to hire permanent replacements, and in subsequent court decisions that interpretation has survived. Mostly, labor and management have dealt with the contradiction by looking the other way. Management hasn't much used the permanent replacement power, and labor hasn't much contested it. But in recent years the power has been used in a number of high-visibility cases and has become a political symbol for both sides. The use occurred at a time when, for all kinds of reasons, labor was losing ground anyway, and it is asking the Democratic Congress and now the Clinton administration to help it recoup.

That isn't the job of either party. It's one thing to try to keep the collective bargaining system functioning fairly, quite another to get into the business of trying to ordain results. If the law is out of kilter in that the power to hire permanent replacements has been abused (as on occasion it has) to bust unions, then Congress should fix the abuse if it can, but not toss out the entire power. Occasions arise—one did in this newspaper's dealings with one of its unions in the 1970s—when strikers forfeit the right of return and a company ought to be able to hire permanent replacements.

The ambiguity that has endured in the law for 55 years may be less a defect than a virtue. It suggests that neither side in a labor dispute can expect to behave with impunity; the truth may be that the more risks both sides face in such disputes, the better. The House passed the bill by a largely party-line vote last year, and is expected to do so again. The Senate is the best hope for deflecting it. Here's an instance where the president really does need Republican help, and we hope he get it.

Mr. BURNS. I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I am pleased to join in support of S. 55. This bill simply tries to restore a measure of equality to Federal labor law. It just guarantees workers the right to strike without the fear of being permanently replaced.

I think a vote on the merits on this measure is long overdue. Even now that this legislation has at least been brought to the Senate floor for debate, the opposition is using parliamentary tools to prevent a vote on S. 55. They know and recognize that this bill would pass the Senate and be signed into law by President Clinton without the use of these filibuster tactics. I believe it does a great disservice to the working men and women of America to not allow cloture in this instance.

In my home State of Wisconsin, the abusive use of replacement workers by employers during strikes has a troubling history, and it is an issue with which I have been concerned for several years. In fact, I had the opportunity to be the author of Wisconsin's striker replacement bill and testified a few years ago before the House of Representatives on this issue. I am proud now to continue my support of that effort to pass a national striker protection law.

Of course, as the speakers today have indicated, the use of permanent replacement workers is a many-faceted issue. At the core, however, is this question: Should workers have the right to use the strike as an economic voice during times when negotiations with their employers break down?

The National Labor Relations Act of 1935 clearly guarantees the right of workers to organize and engage in concerted activities, and included in this is the essential right of the right to strike. If this is eliminated either directly or indirectly through the use of the tactic of using permanent replacement workers, the right to strike becomes essentially meaningless.

When I was growing up in Janesville, WI, a very proud town with a history going way back with the United Auto Workers, this country was enjoying a long period of prosperity. There seemed to be a balance then between labor and management. However, the economic declines of the 1970's and increased competition from abroad laid the groundwork for a dramatic shift from a rather cooperative environment to a somewhat hostile era of management-labor relations.

Back in 1938, the Supreme Court, in the Mackay decision, did allow the hiring of permanent replacement workers. That is true from a technical point of view under the law. However, the use of permanent replacement workers was never put into widespread practice until the 1980's when President Ronald Reagan led by example in firing 12,000 striking air traffic controllers. Until that time, workers and management had shared relatively equally in the risk and hardships of a strike. Workers lost income. Their families, and often whole communities, did face economic insecurity and, of course, the threat of losing their homes and their savings. At the same time, there was an incentive for management to come to agreement, as they struggled to maintain production, productivity, and market share with a limited work force.

So in those days, strikes were to be avoided by both sides, if possible, and that was the force that drove collective bargaining and peaceful negotiation for many, many years. For many years, even during strikes, labor and management were able to cooperate and come to an agreement. Now it should be no surprise that in the merger and acquisition frenzy of the 1980's, management found it had a new tool and, unfortunately, they used it quite frequently. Today, management now often advertises for permanent replacements the moment a strike begins, and the threat of permanently lost jobs casts a pall over that entire bargaining process which used to work pretty well.

So I have to take strong issue with the language on the floor suggesting, as did the junior Senator from North Carolina, that somehow what we are going to change here is some kind of a natural balance. What exists today is no natural balance. That is a myth. In fact, in my view, it is a serious distortion of the facts.

It is also not the case, as the senior Senator from Virginia suggested, that we are upsetting 60 years of labor-management tradition. It is just the opposite. For most of those years, employers usually did not use this unfortunate tactic, even though they technically could under the law.

So the truth is we had a better period of labor peace. I would say the central falsehood of the entire opposition to this bill is this myth that this has always been done, this is the way it has always been and we are somehow upsetting a natural balance. This is a very recent occurrence, a tragic occurrence that has caused many, many working families in this country to face economic destruction, or worse.

The power behind the use of permanent replacements is quite clear. Whether used as they were in Wisconsin prior to the passage of the National Labor Relations Act during the Northern Paper Co. strike of 1921, or more recently during the tragic International Paper Co. strike of 1987, permanent replacements produced the same result, and it was an intended result. And that result is the overwhelming defeat of organized labor. If that was the goal, in many cases that has been achieved.

As the power of the strike becomes more and more tenuous, the voice of the laborer in negotiations over his or her employment weakens considerably. Knowing that workers are unlikely to strike, Mr. President, employers are free to make greater, sometimes excessive demands.

I return to my hometown of Janesville, for a moment. Some of my first experiences in politics were at something called the Walter Reuther Hall in Janesville. There used to be some pretty happy events there—political events, back slapping and all that—in the sixties and seventies. But when I returned to Walter Reuther Hall in the late 1980's for what I thought would be a similar event, to campaign, I found what I can really only describe as a wake, a lot of sad, desperate faces who had what they thought was their part of the American dream being ripped away from them by the use of this new, excessive practice.

If the use of permanent replacements is allowed to continue, it is very possible that the voice of the working sector of this country will be silenced forever. My efforts and those of other States to pass legislation to correct this enormous flaw in Federal labor law has been thwarted by court interpretations such as the ruling on the Illinois Strike Breakers Act. The Federal court held that the general subject of conditions for replacement strikers or locked-out employees in an industry affecting interstate commerce is a matter which has been delegated to the National Labor Relations Board by Federal law.

So many State laws that have tried to deal with this have been struck down or vetoed due to this interpretation, making Federal action, the action we can take in this Chamber, far more critical.

During disputes between employer and employee, Government should act to ensure that both sides are playing on a level playing field. At such times, those actions have taken the form of police protection for strikers and nonstrikers, and other times they have taken the form of court proceedings. Today, Mr. President, the time has come for that action to take yet another form, and that form is an amendment to the National Labor Relations Act to prohibit the use of permanent replacements.

I might add that even if we pass S. 55, employers still have many options overcoming or surviving a strike. They can hire temporary employees, stockpile inventory in advance of a potential strike, or assign supervisors to take over some aspects of production. These options have always been available to employers, and they are in no way limited or taken away by this bill.

Finally, I would like to make an additional comment. Many times employers or individuals who dislike S. 55 use the term "organized labor" a little disparagingly in describing the moving force behind this legislation. But organized labor is merely the organized voice for middle-class families, single moms, individuals struggling to pay rent and young couples who hope to buy that first home. These are truly the people who seek protection under S. 55.

I would like to conclude, Mr. President, by just citing briefly from a recent article in the Washington Post entitled "Women and the Right to Strike," which pointed out that as a class, women and minorities are the ones most in need of S. 55's protection. They are overrepresented in low-skill, low-wage jobs where it is easy to find and train replacements, while they are also the most in need of those jobs simply to meet basic necessities.

The article told the story of the Jersey Shore Medical Center in Neptune, NJ, where they entered into the final phase of negotiations for their 680 registered nurses last November. They made an offer they could refuse, and they wanted to refuse it.

The hospital wanted to replace a wage system that included guaranteed, across-the-board step increases based on experience and seniority with a system of merit pay to be determined by the nurses' direct supervisor. There was no guarantee of the merit increases. The people in the union felt this would be harmful. The nurses felt it would create a competitive type of atmosphere in an institution where competition does not belong, and in a health care system where the President said you need a team.

> Our fear was also if someone made a mistake they might not reveal their mistake for fear it would impact their evaluation. We felt this type of system promotes a cutthroat type of relationship among nurses.

So what was the response of the hospital? The hospital promptly began hiring temporary and permanent replacements, offering plum shifts as incentives to about 125 new nurses.

The strike did not end until March 11. A compromise was finally reached, but the hospital was able to replace the striking workers because of the reactivation of that 1938 decision during the Reagan years.

The article concluded by saying the following:

> The issue is one of power, and in the next couple of weeks, we are going to see labor and business exercise all the power they have to win this fight.
>
> At stake is a woman's ability to strike over economic issues without putting her job at risk. It is labor's ultimate weapon, and it is not used lightly. Workers never recover the lost wages from a long strike. There are plenty of built-in incentives to keep both management and unions at the bargaining table. But we have seen enough situations in recent years to know that the playing field in labor negotiations isn't level these days. Ask the flight attendants. Ask the Diamond Walnut workers. Ask the 75 nurses still waiting to be called back to work at Jersey Shore. Chances are you'll be talking to a woman who is trying to support her family, and who needs more leverage in labor disputes than she has now.

Mr. President, I know there are others who wish to speak, but I feel very strongly on this particular issue, having followed it for several years and knowing that many people in Wisconsin and across the country, people in Leipsig, De Pere, Milwaukee, Madison, Eau Claire, and La Crosse have suffered a great deal by this recent practice, not the national law, not the natural order of things, but something that really only started to be used a great deal about 14 years ago.

I thank the Chair.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. I thank the Chair.

Mr. President, in Texas there is a saying that has become so accepted it is almost a cliche now: "If it is not broke, don't fix it."

The wisdom behind that remark should dispose of this controversy immediately. What is astounding to me is that a good number of my colleagues want to change the tenet of labor law that has not only served us well for the past half century, but it is working even better today than it ever has. We are truly trying to fix something in this bill that is not the least bit broken.

For well over 50 years, U.S. labor law has permitted employers to hire replacement workers during an economic strike on the same terms as last offered to the strikers, including permanent employment. The U.S. Supreme Court has recognized the right to replace economic strikers for more than half a century. The National Labor Relations Board and the Supreme Court have together created a stabilizing balance of power in which both sides in a labor dispute have a great deal at risk. They both incur significant incentives to settle labor disputes. A strike does not just occur. There are many negotiations that must occur before you get to the strike.

The replacement rule has worked well over its lifetime, and it is working today. Incidents of labor dispute are at a historic low. The number of strikes is down. Inflation is relatively under control. That benefits all segments of our society, especially the poor who are trying to make ends meet, especially those on fixed incomes, and especially those members of labor unions who have good jobs. In short, nothing is broken.

The historic balance between labor and management has never been better.

Mr. President, this strike bill would upset that balance by giving labor the unfettered power to shut down operations of any employer who failed to meet their terms. It would directly lead to several adverse consequences—more strikes, more labor disputes, greater inflation, costlier goods and services, and a reduction in the ability of American workers to compete in the world economy. It would cost American jobs and it would reduce our overall standard of living. In short, it would do exactly the opposite of what its proponents say it will do.

Mr. President, the strike bill would not only give unions unprecedented power over business, but it would overturn these 50 years of precedent—well settled law governing labor disputes.

One aspect of this unfair labor practice is to change existing law and require employers to allow striking employees to bump less senior, nonstriking employees at the end of a strike.

Mr. President, this bill requires employers in many instances to give favoritism against the very people that stayed and worked and helped make sure the business did not go under. This striker replacement bill is a radical departure from the clearly defined congressional intent and the consistently applied judicial precedent. In fact, through the years until now, every single President, every Republican and every Democrat, has supported the right of employers to offer jobs to replacement workers. Until now, the employer's right to defend against strikes and other concerted actions through hiring of permanent replacements has not been seriously challenged.

The Senator from Montana mentioned that the labor movement really has in the past provided for a higher standard of living in this country. I appreciate that. I think our labor unions in recent years have been very responsible. We have had some bad economic times in this country. And our labor unions have, by and large, stepped up to the line and worked with management. That is why relations are good right now. And that is good for all American workers. If you are for the working people of this country, you are against this bill because it is going to cause the loss of good jobs. It is going to cost more to do business in America. There will be companies shut down, and they can move to other countries to provide these jobs, to get labor more cheaply.

We do not want that. We do not want our jobs to move overseas. We want our good jobs, with our good benefits, to stay right here. But if we enact this bill today, we are going to take away that balance, which is going to cost more strikes. It is going to cause our businesses to have to leave this country. They will not be as competitive in the international marketplace. The bottom line is we are going to lose jobs, those good jobs that are quality jobs, that provide people the chance to do better for their children than they were able perhaps to have done in the past.

So this special interest legislation proposes a wholesale shift in the economic balance of power in labor disputes in our country. This will lead to more strikes, weaker businesses, diminished competitiveness, and loss of jobs. It will stifle the rights of current workers and stifle the ability to have freedom of choice by both employer and employee.

Mr. President, this bill is not good for America. It should be defeated. I hope my colleagues will do the responsible thing today and defeat this piece of legislation so that we will get this economy back on track, with labor and management working together in the spirit that has made this country strong.

I thank the Chair. I yield the floor.

Mr. SARBANES. Mr. President, I rise in very strong support of the cloture motion on which we will be voting shortly. I think it is important that the Senate be able to proceed to the substantive consideration of S. 55, the Workplace Fairness Act. This is a very important piece of legislation which ought to be considered by this Chamber on its merits. It would amend the National Labor Relations Act and the Railway Labor Act to prevent employers from hiring permanent striker replacements.

I am very frank to tell you that unless we can move toward enacting this legislation, I believe the whole principle of collective bargaining in this country will continue to be eroded and workers exercising their lawful right to strike will be confronted with permanently losing their jobs.

Mr. President, the National Labor Relations Act, enacted in 1935, expressly prohibits actions by employers that would undermine a worker's right to strike. It is true that in 1938, the Supreme Court decision in Mackay Radio authorized employers in some situations to hire permanent replacements for striking workers.

That ruling created an anomaly in our labor law that prohibits striking workers from being fired but allows them to be permanently replaced.

If one stops and thinks about that for a moment, there is obviously a basic contradiction, an inconsistency with respect to that dual approach.

The PRESIDING OFFICER. The Chair will observe that under the previous order, we are supposed to recess at 12:30.

ORDER OF PROCEDURE

Mr. SARBANES. Mr. President, I ask unanimous consent that the debate be allowed to continue for another 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Mr. President, for more than 40 years subsequent to the Mackay doctrine this contradiction in our labor law had little practical effect because most employers recognized the value of a stable and experienced work force and sought to avoid the heightened confrontation resulting from the hiring of permanent replacements. Therefore, while the Court made this ruling in 1938 about permanent replacements, no one seized upon it or sought to utilize it in an aggressive fashion in order to erode or undermine the principle of collective bargaining. However, in the 1980's many employers adopted a much more aggressive and hostile strategy toward employees participating in a lawful strike.

Furthermore, the Court in the Trans World Airlines decision in 1989 extended Mackay to employees under the Railway Labor Act and also allowed employers to give seniority and additional benefits to junior employees who crossed picket lines. Together, this more aggressive approach by employers and the expansion of the Mackay decision has resulted in a significant increase in the hiring of permanent replacements over the last decade with tens of thousands of striking workers permanently replaced and hundreds of thousands of others faced with this possibility.

So what has changed is the practical workings of our labor relations system because of the willingness now of many employers to aggressively use replacement workers. In effect, for some employers breaking the union has replaced negotiation as the primary strategy. This has dealt a severe blow to collective bargaining which over the years has been the driving force behind the improvements in working conditions, wages, and benefits for American workers.

It is interesting to note that the United States is one of the few industrialized nations that permits the permanent replacement of striking workers. In fact, I want to quote from a letter from the Director of the Federal Mediation and Conciliation Service to Chairmen KENNEDY and METZENBAUM dated May 27, 1994.

I ask unanimous consent that letter be printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1).

Mr. SARBANES. Director Wells states:

> I might add that we are one of the few industrialized nations which still permits permanent striker replacements without any limitations. I am often hard put to explain to our foreign labor, management, and government visitors that while unionized employees have the right to strike, if they do so, and the strike is economic, they can be permanently replaced by their employer.

Obviously, one would have a difficult time explaining this policy because it runs directly contrary to the protection of the right to strike which is provided for in the National Labor Relations Act.

It is obvious that the political and business leadership in these other countries understands that cooperative labor-management relations contribute greatly to both productivity and competitiveness.

This was borne out in a study by the MIT Commission on Industrial Productivity which found that competitiveness may hinge less on costs than on the speed at which a company is able to adapt to new technology and changing market conditions. Many analysts view this flexibility as the product of a labor-management relationship which encourages employee decisionmaking at the lines of production. What our competitors abroad have understood, and what American business understood in earlier decades, is that the use or threat of permanent replacements destroys the cooperation and trust that form the very basis for the effective working relationship between management and labor necessary to address important productivity' and competitiveness issues.

Director Wells in this letter pointed out:

> Hiring permanent replacements, or threats to do so, clearly makes bargaining far more difficult and contentious, significantly increasing the hostility between the parties. Resolution of the fundamental issues between them become even more problematic.
>
> As I have mentioned, the threat of permanent replacements can also severely damage the parties' relationship. Such threats occur more often, of course, than do actual replacements of strikers. These threats serve to destroy bargaining parity and create antagonisms for years to come.

Mr. President, finally, let me just make this observation. I think it is important to recognize that what is at issue here with a cloture vote is the necessity of producing 60 out of 100 Members in order to consider the legislation on its merits. I am prepared to predict here today that this constant use of the filibuster to frustrate the Senate from conducting its business will increasingly bring the Senate into disrepute because it effectively prevents the Senate from coming to grips with very important matters. A 60–40 vote is an incredible margin. You do not get those kinds of margins on any issue that has any degree of controversy to it.

I would remind Members that a contested election, if won 60–40, is considered as an overwhelming outcome. Yet now we have escalated the stakes to that level here in the Senate. In order to even consider important legislation, there is a constant engaging in a filibuster and the requirement to produce that kind of majority.

The recent exploitation of workers which has been going on in the recent decade under the anomaly provided for in the Mackay decision, is a possibility that was not exploited in the 40 years subsequent to the decision. I want to underscore this. What has changed in the labor-management relationship is this aggressive exploitation of the possible use of replacement workers, something that had not been done through the forties, fifties, sixties, and seventies. That is what changed the balance in labor-management negotiations. That is what is undermining collective bargaining. That is what I think threatens the ability to develop peaceful and cooperative labor-management relationships in this country.

I very much hope the body will vote to invoke cloture so we may get to S. 55 and consider this very important and desirable legislation on its merits.

I yield the floor.

EXHIBIT 1

FEDERAL MEDIATION AND
CONCILIATION SERVICE,
Washington, DC, May 27, 1994.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC

Hon. HOWARD M. METZENBAUM,
Chairman, Subcommittee on Labor, U.S. Senate, Washington, DC.

DEAR SENATORS KENNEDY AND METZENBAUM: This is in response to your letter of May 9, 1994, requesting my views on the impact of S.55, the Workplace Fairness Act. In particular, you posed three questions: (1) what is my assessment of the impact of the practice of hiring permanent striker replacements on the collective bargaining process; (2) with what frequency have employers engaged in this practice; and (3) what are my views regarding the likely impact of this legislation on strike occurrence?

Last year, the Federal Mediation and Conciliation Service (FMCS) assigned for possible mediation about 30,000 contract disputes and our mediators were actively involved in mediating nearly 7,000. Based upon this experience of involvement in thousands of collective bargaining disputes, I feel that we are in a position to form and present an informed opinion on the questions you have posed.

First, it is our experience that the use of striker replacements is destructive to the collective bargaining process. It chills meaningful bargaining. The threat to use striker replacements is likewise destructive. This is because the right to replace strikers really emasculates the right to strike expressly granted by section 13 of the National Labor Relations Act.

Simple common sense dictates that the right to replace workers exercising their lawful right to strike over economic issues of wages, hours, and working conditions destroys any semblance of equality in bargaining power. Since a principle goal of bargaining is for employers and employees to jointly address and resolve problems, the threat or actual replacement of striking employees is clearly counter-productive. Further, it often serves to prolong strikes and reduce the probability of settlement. Even when the parties reach agreement on wages and benefits, the issue of permanent replacements often remains on the table. It is very difficult to resolve because the employer risks civil law suits from replacement employees if he brings back all the strikers. It is equally difficult to get rank and file members to ratify an agreement if they do not have assurances of returning to work.

Hiring permanent replacements, or threats to do so, clearly makes bargaining far more difficult and contentious, significantly increasing the hostility between the parties. Resolution of the fundamental issues between them become even more problematic. A recent example is the long standing dispute between Diamond Walnut Growers, Inc. and the International Brotherhood of Teamsters. In this case, in which I have been personally involved, replacements were hired in 1991. The company is committed to keeping its replacements, the union is committed to returning its members to work, and the impact of what has happened and the bitterness generated remains with both sides as well as the local community.

As I have mentioned, the threat of permanent replacements can also severely damage the parties' relationships. Such threats occur more often, of course, than do actual replacements of strikers. These threats serve to destroy bargaining parity and create antagonisms for years to come.

Second, concerning the frequency of use of striker replacements, while FMCS does not maintain data on this point, I understand that other sources of information are available from the General Accounting Office as well as a recent study of Professor Michael H. LeRoy of the University of Illinois. Using National Labor Relations Board cases reporting hiring of striker replacements, Professor LeRoy provided an analysis of 165 strikes from 1935 to 1990. He noted that strikes since 1981 most closely resembled strikes occurring during the contentious 1938–47 period: they lasted longer, involved more strikers and more replacements than strikes in the 1950s, 1960s and 1970s. These data would suggest an increased use of replacements since 1981 along with longer lasting strikes than in the previous three decades.

Third, while there is no way to comment with certainty about any future event, it is our professional judgment that S. 55, if enacted, would not trigger a flood of strikes. The strike, as a tool, is not as effective as it once was. There is nothing to prevent an employer from assigning supervisors to perform the work, hiring temporary employees or volunteers, or stockpiling inventory so a strike has little or no effect. In addition, there is a significant trend in our nation toward labor-management cooperation and partnerships and increased use of collaborative processes, as demonstrated by such unions and employers as the Communications Workers of America and AT&T; the United Auto Workers and Ford, General Motors, and Chrysler; the Amalgamated Clothing and Textile Workers Union and Xerox, to name only a few. This trend toward union-management partnerships is growing and should continue to do so.

I might add that we are one of the few industrialized nations which still permits permanent striker replacements without any limitations. I am often hard put to explain to our foreign labor, management and government visitors that while unionized employees have the right to strike, if they do so, and the strike is economic, they can be permanently replaced by their employer.

Finally, I believe it is very significant to cite for the record that my predecessor, Bernard E. DeLury, a Republican appointed by President Bush and holding the position of Director of FMCS from 1990 to 1993, expressed a public opinion very similar to mine. He was quoted in a Daily Labor Report interview (October 21, 1991) as saying that the use of permanent replacements "exacerbates the collective bargaining process" by making it more "difficult" for the parties in collective bargaining to settle their differences over a new contract. Nor did he believe that a ban on permanent replacement of strikers would open the floodgates to more strikes in this country, adding that the relationship between management and labor has reached a more "mature" level.

Sincerely,

JOHN CALHOUN WELLS,
Director.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

ORDER OF PROCEDURE

Mr. GRASSLEY. Mr. President, since there are three Members that are waiting to speak, I ask unanimous consent that the time be extended for one-half hour.

The PRESIDING OFFICER. Is there objection to the unanimous consent request to extend the time an additional 30 minutes?

Without objection, it is so ordered.

Mrs. BOXER. Reserving the right to object.

The PRESIDING OFFICER. The Senator from California reserves the right to object.

Mrs. BOXER. Mr. President, how much time will the Senator from Iowa use?

Mr. GRASSLEY. I assume I will use about 12 minutes.

Mrs. BOXER. I would ask, if I might, through the Chair, how much time the Senator from Pennsylvania will use?

Mr. WOFFORD. Five, maximum six minutes.

Mrs. BOXER. I would ask unanimous consent that I be allowed to have 10 minutes at the conclusion of the remarks of the two Senators.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I would like to respond to the argument that was just made by our distinguished colleague, the senior Senator from Maryland, in regard to our current situation on cloture. Cloture is a very important legislative tool used to ensure that minority views are upheld and adequate attention is given to those views. Every Senator exercises cloture. The distinguished Senator from Maryland had an opportunity to exercise that right the last time we had a cloture vote on the issue of product liability.

So I think that cloture is something that we all legitimately use and, is within the traditions of the Senate.

Mr. SARBANES. Will the Senator yield on that point?

Mr. GRASSLEY. I will.

Mr. SARBANES. I simply say what is sauce for the goose is sauce for the gander. Obviously, Members use the cloture rule. My own view on the underlying proposition is that the cloture rule is being abused in this body, that it needs to be limited and restrained from its current position. Otherwise, the Senate is not going to be able to function as a responsible and responsive body dealing with issues that are of importance to the American people. I think we ought to be able to get at those issues and address them without requiring this supermajority of 60 people, which is actually frustrating the Senate—and, I think, the American public—from doing its business. Like the Senator, I have used it on occasion, too, but if I step back from it and take an objective look at it, I do not think it is good for the institution or for the country. I think we need to bring it under some restraint and control.

Mr. GRASSLEY. Mr. President, I thank my colleague for his rebuttal. I suppose it is illustrative of how we do business in this body.

Regarding S. 55, I rise in opposition to this legislation. Once again, we are challenging labor laws that have been very effective for well over a half century. These laws have created a harmonious balance between the rights of management and the rights of labor.

During the last 50 years, basic labor law has been challenged and changed on only two occasions. The first time was in 1947 with the Taft-Hartley Act. The second time was in 1959 with the Landrum-Griffin Act.

The infrequency of major, very substantial changes in labor law reflects the general agreement with and respect for our laws regarding labor-management relations. It also speaks well about the ability of the people writing these laws in the 1930's to write laws that have been effective for decades. So why make a change now? Has the climate changed so drastically to warrant a major amendment to the national labor relations act?

I do not know of any data that confirms that the balance has tipped in favor of management as opposed to labor. But here we are again debating a bill that I believe strikes at the heart of fair labor negotiations. This bill would ultimately tilt the balance in favor of labor.

This kind of change could destroy the economic balance in collective bargaining, cripple the economy, and hurt our international competitiveness. It would also negatively impact struggling businesses and their workers, both union and nonunion workers alike.

Today, I speak from a unique perspective, as a former union member, as well as now a Member of Congress. From 1962 until 1971, I was a member of the International Association of Machinists. I am proud of this membership and the years I spent on the assembly line. Despite my past affiliation, I cannot support the legislation we are debating today. It would strike a blow at fairness.

During my union membership, I had the opportunity of serving on the shop safety committee at our plant, and at one time I voted to go on strike, a strike that lasted about 5 weeks. I attended the meeting where our shop voted to go on strike. That vote was unanimous.

I felt then, as I feel now, that the ability to strike is a necessary tool. It is a tool that can be effectively used by our work force to reach an agreement that is satisfactory to an overwhelming majority of the people.

I also served at a time when our shop experienced a conflict between my union, the International Association of Machinists and the Sheet Metal Workers of America. My plant was called the Waterloo Register Co. We manufactured furnace registers, and we were one of the few plants of the Dynamics Corp. that was represented by the Machinists Union. Most of the other workers were represented by the Sheet Metal Workers Union. Consequently, a battle over representation developed.

In order to end the strife, our company wanted us to accept the representation of the Sheet Metal Workers Union. A hotly contested race ensued between the International Association of Machinists and the Sheet Metal Workers Union.

At that time, I was also a member of the Iowa legislature. I took a leave of absence from my job on the assembly line while the legislature was in session.

I recall driving the 110 miles from Des Moines, IA, our State capital, to Cedar Falls, where our plant was located, to cast my vote in that jurisdictional election.

It was a secret ballot, but I voted to maintain the representation of the Machinists Union. The machinists won, but by only a handful of votes.

The dispute, however, did not end. The battle between the two unions continued and, ultimately, the Waterloo Register factory closed down. We were all laid off. The plant has not existed since June 1971 because they could not operate under the strife caused by this battle.

I know what it is like to appear at union halls and debate whether or not to go on strike.

I remember the uncertainty I felt toward the future as I wondered about the families—not only mine, but the families of all of the workers and our responsibility to them.

I have seen the positive results that can come from labor-management relations even when the torment of a strike has been endured.

But I have also seen where union leadership does not represent the will of its members. I know this because I have seen how a dispute at the national level between two unions—the Machinists and Sheet Metal Workers—resulted in a loss of about 180 jobs and one entire plant at the Waterloo Register Co. in Cedar Falls. To the national union leaders, 180 jobs did not amount to a hill of beans, but those 180 jobs meant a lot to all of us who were working, trying to be productive and trying to ignore a national debate between the two unions fighting a jurisdictional battle.

The National Labor Relations Act has been the principal source of labor law in this country for more than 50 years. At the heart of this law is a worker's right to engage in concerted activity, including the right to strike. But the act also promotes collective bargaining as the preferred method of resolving those disputes.

As early as late 1930's, the issue that is at the center of this bill was raised: Whether or not business had the right to protect its operation by hiring replacement workers in the event of a strike.

In 1938, the Mackay case came before the Supreme Court, challenging this notion. The Supreme Court subsequently determined that a business may hire replacement workers during a strike in order to continue operating.

The Court recognized that labor has a very potent offensive weapon in its arsenal—its right to strike. But the Court also recognized that weapon must be balanced against a business' right to exercise its own defensive weapon—the right to continue operating. This effective balance has governed labor law for the last 50 years.

Many ask what the difference is between hiring replacement workers and firing striking workers. This issue was brought up on the floor yesterday. Some of my colleagues have even stated that the only right a worker has today is to "quit his job." I wholeheartedly disagree. The Mackay decision makes a clear distinction between the two forms of strike activity: Economic strikes and unfair labor practice strikes. Economic strikes occur over demands such as higher wages and better benefits. Unfair labor practice strikes result from allegations of unfair practices by the employer, such as bargaining in bad faith.

The Mackay decision clearly states that if a strike results from an unfair labor practice, the law protects those striking workers' jobs. The law requires employers to immediately reinstate the strikers to their former position, often with back pay. It is unlawful, then, for an employer to fire workers who have engaged in a lawful strike activity.

If, on the other hand, the strike is over economic terms, the law permits a employer to defend himself or herself by continuing to operate with replacement workers. If the employer simply resisted a union's demand over wages and benefits and a strike results, the law does not require employers to fire replacement workers at the end of that strike.

In the event striking workers would like to return to work, they are guaranteed preferential hiring rights and full reinstatement as vacancies occur.

But this bill would eliminate the critical distinction between an economic strike and an unfair labor dispute.

Obviously, labor and management have much at stake in the success or failure of their relationship. The risk of a failed relationship forces them to cooperate to the best of their ability to maintain that delicate balance. If this bill is enacted, this delicate, balanced relationship would be destroyed. Unions would be given complete control over the terms and conditions of employment, regardless of business' ability to comply with these demands. If a business could not comply with these demands, the union could call a strike and the business could cease to operate. Management would be stripped of their defensive weapons, and risk-free strikes would be guaranteed.

Proponents argue that this legislation is necessary because the practice of hiring replacement workers has become accepted and widely used—thus, they argue, tipping the balance in favor of management as opposed to labor. However, the data does not support this position.

In a 1991 GAO report, the GAO could not provide any comparison between the use of replacements in the 1970's and 1980's. The report did find, though, that in 1985, only 4 percent of all striking workers were replaced. This same statistic decreased to 3 percent in 1989. An extremely small portion of labor disputes actually result in a strike. A vast majority are able to resolve the dispute.

For example, from 1990 to 1991, only three-tenths of 1 percent of the cases that went before the Federal Mediation Board resulted in a strike. Data just does not demonstrate that hiring replacement workers has become a common management practice nor a trend.

Although there have been a few highly publicized strikes where replacement workers have been hired, the reality is that permanent replacement of striking workers is rarely used in practice. Full-scale replacement simply does not exist.

As I have mentioned, by confiscating a business' right to operate during a strike, businesses will be forced to accept bargaining agreements even if they are found to be unacceptable or financially impossible to sustain.

These businesses would be left with two choices: acquiesce to the demands, even if it would ultimately destroy their competitive edge, or resist the demands and be forced to shut down. Either choice would damage the health of large and small businesses alike.

Some say that businesses can sustain their operations during a strike by stockpiling, or by hiring temporary workers, or relying on management. That may be true in some cases. Maybe in some large, highly profitable, companies that would be absolutely a way of staying in business, but not indefinitely.

We have to realize many small rural and certainly struggling businesses could not sustain their operations following these suggestions. Unlike large firms, these firms could not afford to stockpile, or hire temporary workers. Rural areas have a limited pool of skilled workers.

As a farmer, I am keenly aware of the impact this bill could have on the agricultural community. Too many farmers are often paid once a year, and that is when they move their crops to market. If a crop could not be moved to market because of a transportation strike, or if the crop could not be processed because of a work stoppage at processing plants, the farmers would see their prices drop precipitously.

From the farmer's point of view, such labor relations disputes would often become another factor impacting market prices, over which he has little control or no control. Farmers would effectively join the list of people who would be harmed during a protracted labor dispute.

The enactment of this bill could ultimately injure nonstriking workers and their families, whose livelihoods depend on a functioning, economically viable employer. Likewise, consumers, suppliers, and customers would suffer the burdens of increased strike activity and the harmful economic impact that would be generated by the bill.

As the economy struggles to recover—and it has been since the 1991 recession—and as the economic market grows more global and obviously more competitive, we simply cannot afford to implement policies that will retard growth and work against competition. What may appear to be a victory would ultimately be a failure for all.

So I urge my colleagues to oppose this legislation and, therefore, to vote against cloture.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania [Mr. WOFFORD].

Mr. WOFFORD. Mr. President, a few years ago, Studs Terkel wrote a book called "Working." In it, he said that work "is more than a struggle for daily bread. It's a search for daily meaning."

American workers have always understood what he meant. Two weeks ago, I held a state wide teleconference with workers in Pittsburgh, Johnstown, Erie, and Pittston. They know what a good job means.

It is more than a paycheck. It is a source of dignity and pride. It is what holds our families and communities together. That is why we must do everything in our power to keep good jobs in this country and create new ones.

We are finally seeing signs of good life in our national economy. But there is no economic recovery for workers who are still losing their jobs and for those fighting to keep theirs. For them these are still hard times.

But there are some steps we can take to help them keep good jobs. One of the most important steps is protecting the hard-won right of working men and women to strike as a last resort.

That right is in jeopardy across the country as in Pennsylvania. More and more, employers are using permanent replacement workers to disrupt the collective bargaining process.

I have seen this happen in strikes in Pennsylvania. Hospital workers in Canonsburg, nursing home workers in Johnstown and Mount Carmel, and in 1984, industrial workers in Coraopolis and in Indianola have all lost their jobs to permanent replacement workers.

As Pennsylvania's Secretary of Labor and Industry for 4½ years, I saw the human hardships imposed on workers, their families, whole communities and on companies and unions alike, by the permanent replacement of workers who exercised their right to strike.

As the organizer of the Governor's office of labor-management cooperating with a mission to promote good labor-management partnership in Pennsylvania, I found that nothing set back the prospect of labor-management cooperation more than the use of permanent replacement workers.

That is why, on arriving in this body, one of the steps I took was to become a cosponsor of the Workplace Fairness Act and why I have been fighting for it since I came to the Senate and why I want us now to take it up and pass it on the floor of the Senate.

Mr. President, if the right to strike means only the right to lose your job, that is no right at all.

The Workplace Fairness Act says simply that workers who exercise their right to strike cannot be replaced permanently. It also would prevent companies, once a strike has been settled, from giving preferential treatment to workers who crossed the picket line.

The Workplace Fairness Act does not make strikes risk free. There is a great price workers pay in any strike. But what this bill will do is restore the rights of workers to exercise their collective bargaining rights without fear of reprisal.

It will make it possible for labor and management to come together on a level playing field, to resolve disputes fairly, and then to work together to make our companies stronger, more productive, and more competitive in the world.

This is a matter of basic fairness. To quote a recent Pittsburgh Post-Gazette editorial supporting this legislation: "Loyalty and progressive management cannot be legislated. Fairness and justice can be."

I ask unanimous consent that the Pittsburgh Post-Gazette editorial of May 31, 1994, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Pittsburgh Post-Gazette, May 31, 1994]

STRIKING A BALANCE—WORKERS WHO STRIKE SHOULD NOT RISK LOSING THEIR JOBS

When Diamond Walnut went through rocky economic times in the mid-1980s, its long-time, relatively well-paid, predominantly female workforce took pay cuts as high as 35 percent.

So when the company returned to health, earning $66 million in net profits over the last five years, the workers thought they should share more significantly in the bounty. Diamond Walnut disagreed. And when the workers went on strike in 1991 as the company prepared for its biggest harvest ever, permanent replacement workers were brought in.

The proponents of a bill that would outlaw the use of permanent replacements could hardly ask for a better poster child than the still-striking, permanently replaced Diamond Walnut workers. The women, many of them grandmothers who had put in 20 and 30 years with the company, had been earning some $30,000 before the pay cuts in the '80s. Now they are out of work—perhaps for the rest of their lives—and surviving for the time being on $200-a-week Teamster strike benefits.

They are victims in an era when organized labor has diminishing clout, a time in which the 56-year-old Supreme Court doctrine allowing the permanent replacement of striking workers finally came into its own. Although few strikers actually lose their jobs as the women at Diamond Walnut did, the threat of job loss has been made with increasing frequency since 1980 and its very existence upsets the delicate balance that should exist between labor and management.

The U.S. House of Representatives has approved a bill banning permanent replacement of strikers, and President Clinton has said he would sign such a measure. More than enough senators support the proposal to gain passage, but 60 are needed to break a promised filibuster that would prevent the measure from coming to a vote. Action is expected early next month. Pennsylvania's Sen. Harris Wofford strongly supports the bill and Sen. Arlen Specter has not taken a position on it or on how he would vote in case of a filibuster.

Simple fairness dictates that the decision to strike should not cost you your job. Striking can cause serious economic hardship and even emotional distress. It obviously wreaks havoc for the employer. It is not a tactic that should be used lightly. But it is, ultimately, the only leverage that workers bring with them to the negotiating table. Management's right to replace a striker permanently can render that tool useless.

The Diamond Walnut strikers in California had the company over a barrel at harvest time. But the managers could have brought in temporary workers to see them through, while negotiating seriously with their permanent employees. Instead they chose to cut their long-time employees loose, citing loyalty to the new young, mostly male, staff who brought them through a crisis. Apparently that loyalty outweighed the company's commitment to the women with decades of experience and sacrifice.

Loyalty and progressive management cannot be legislated. Fairness and justice can be. At a time when politicians wring their hands about the loss of decent, high-paying jobs, nothing could be more fair or just than to give workers a little more power in negotiating the terms of their own employment so that existing jobs can become (or remain) decent and well-paying.

Mr. WOFFORD. Mr. President, the best way to prevent the use of striker replacements of course is to prevent strikes.

From my experience as the Labor and Industry Secretary in Pennsylvania I assure you that the No. 1 cause of most strikes today is not wages but health benefits and who pays for them, and the efforts of companies to cut them back—or cut them out.

The skyrocketing cost of health care is eating away at the wages workers need to take care of their families. It's eating away at the bottom line of the companies in our States.

It has been nearly 50 years since Harry Truman first called for guaranteed private health insurance for all Americans. It is about time for the buck to stop. Right now. This summer. It is time for Congress to end the gridlock and guarantee every American the kind of guaranteed health benefits at work and choice of private health plans that Members of Congress have arranged for themselves.

If we do that, we will not have to fight so hard to protect the right to strike. That is a fight that we need to win in this Congress this year. But for today the battle to win is to take up and to pass this Workplace Fairness Act.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SARBANES). The Senator from California.

Mrs. BOXER. Mr. President, I certainly hope that when we vote in short order we will vote to proceed to the Workplace Fairness Act, because frankly without it the workers of our country and the workers of my home State of California essentially have no right to strike, despite the fact that this right is expressly granted to them under section 13 of the National Labor

Relations Act. If an employer has the right to hire a permanent replacement worker, you have no right to strike. It really is a paper right. It is a phony right.

If someone came over to you and said, "I have a great gift for you; here are two sleeves for your vest," that might sound like a very nice gift, but frankly those sleeves are worthless.

It is kind of like what has happened to the right to strike in this country. It is worthless. It sounds eloquent.

And, Mr. President, many Members of this Senate, who I know talked about the rights of workers when they rose up against communism in Poland and said, "We in America give our workers the right to strike, we in America respect the right to withhold one's labor," some of those very same people will not be voting to proceed on this bill. I think, if I might say, it does not make very much sense at all.

Mr. President, if I tell you you have the right to cross the street any time you want to cross the street, but I fail to tell you that that street is actually a freeway and if you attempt to cross the street you are going to be killed, you do not really have the right to cross the street, do you?

If I tell you, Mr. President, that you have the right to health care, but then I tell you it is going to cost you $2,000 a month and you earn about $25,000 a year, that is not any right. It is a phony right. It is a paper right. And that is what we have talking about here as we look at this very important legislation which really deserves to be heard and to be passed.

More than 400 nurses of the California Nurses Association found out about their right to strike on June 15, 1993, when they went on strike at the City of Hope Medical Center in Duarte, CA. The striking nurses were protesting contract demands that cut their vacations in half and reassigned large portions of their duties to lower paid and, in some cases, unlicensed personnel. The hospital management immediately that very day began to hire replacement workers.

Let us hear from a real person.

Carol Beecher-Hoban, a pediatric nurse, found out on her sixth anniversary of employment at the hospital that she would be permanently replaced. A single mom with two kids, without her job she was without health insurance for herself and her family. And, believe me, a registered nurse knows what it means to be without health insurance. She had to take two jobs, Mr. President, and sell her house to make ends meet, because she exercised her right under laws passed by this Congress. But yet, for doing so, exercising her right to withhold her labor, she was permanently replaced.

Then there is Betty Razor. She was a specialist in enterostomal therapy—that is, dealing with patients who have procedures like colostomies. It is very, very tough and stressful work. She was Nurse of the Year and Employee of the Year at the hospital. She went out on strike and the hospital replaced her in a snap.

Ms. Razor called my office this week to tell me how she felt. And I am quoting her:

> At first I said "oh, you're kidding." It did not seem like they could do that. I thought it was a ploy to make us knuckle under, and it was. They didn't just pick anyone to replace; they picked the cream of the crop. Everyone who had professional influence with other nurses were replaced. Five "Nurses of the Year" were replaced.
>
> I always felt that you strike because of the issues, and when you settle the issues, you go back to work. You do not win every issue. You compromise. That's how we do it in America. I never thought you would replace the workers. Why would you strike then?

Mr. President, that is what we are talking about here. Where is the right to strike? It is obviously there on paper, but it is not there in reality.

There are other instances in California which show the sheer inhumanity of hiring replacement workers.

I see the Senator from Ohio, who eloquently talked about the case of the Diamond Walnut workers in my State. About 400 members of the Teamsters Local 601 exercised their right to strike more than 2 years ago. They had grown frustrated after they had agreed to huge wage concessions in 1985 to help the company avoid bankruptcy. They felt betrayed when these concessions were not restored despite the company's renewed profitability.

We all want our companies to be profitable, Mr. President, but we want them to respect the workers who do the work, who sweat to do the work.

More than half of these striking workers were women. I have had the honor to meet many of them. We know that all these workers wanted was to be able to return to work and stay in their union.

Karen Nussbaum, director of the Labor Department's Women's Bureau, said:

> It seems punitive that they are being prevented from doing so. If a Workplace Fairness Act prohibiting permanent striker replacements were in place, these workers would be back on the job today.

That is what Ms. Nussbaum said in her report.

Mr. President, I only have another minute's worth of comments.

Punishment is what this is all about—punishment for exercising an American right. That is the real issue. The right to strike, to withhold one's labor is a very serious step to take. It is rough to go out on strike. It is not a party. You worry. You worry about your job. You worry about paying the bills. You worry about the future. It is a big step to take.

Today, we have a chance to stand up for the American worker, whether they are cracking walnuts in Stockton, or providing specialized nursing care in Duarte.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Shawn Hart, of Teamsters Local 542 in Chula Vista, CA.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

TEAMSTERS LOCAL 542,
Chula Vista, CA, May 18, 1994.

DEAR SENATOR: This letter is to ask for your support of S. 55, the Striker Replacement Bill.

I am a Teamster Local 542 Shop Steward at the San Diego Union Tribune newspaper which is one of the largest daily newspapers in the United States. It is owned by Helen Copley. There are four unions at the paper which represent over 1,200 workers.

My union, which represents eighty employees, has been without a contract for almost one year. The Union Tribune's final offer is less than our expired contract. We are being asked to accept a contract that would cut wages for new employees by $5 to $8 per hour and impose a three year wage freeze for existing employees. In addition, the proposed contract calls for the elimination of our union medical and pension plans which would be replaced by inferior company plans. At the negotiating table we've been told that the company is profitable and their offer isn't about money but about control.

The Communications Workers of America Local 9400, which represents over 200 employees, has been without a contract for a year and a half. The Union Tribune has taken the position in negotiations that all employees should be reduced from full-time to part time. This past October, 100 full time employees were reduced to part time and subsequently lost their medical benefits.

The Graphic Communication International Union, which represents 120 employees, has been without a contract for almost two years. The Union Tribune is proposing a contract with a wage freeze and is trying to remove seniority language as well as participation in their union pension plan.

The San Diego Newspaper Guild, which represents about 800 employees, contract expires in January 1995.

A group of 52 employees has chosen to decertify their union. These employees were given raises, 401K matching contributions, and lower co-payments for medical benefits. None of these monetary gains have been offered to any of the unions that are in negotiations with the Union Tribune. (See enclosed letter regarding decertification.) It is clear to everyone that the intention of the Union Tribune is to negotiate the unions into a position of impasse and try to decertify all of us.

The right to strike doesn't exist for us. The law firm of King and Ballow is representing the Union Tribune in negotiations. This firm specializes in negotiating newspaper contracts. Many of the negotiations they've been involved with have resulted in strikes or decertification of unions. (See enclosed article.) Management has told us that if we strike we'll be permanently replaced. When we threatened to strike, management placed ads in the newspaper for our jobs and mailed out letters telling everyone they would hire replacements. (See enclosed letter.) Management hired replacements at $15 per hour to sit and wait. They were ready to take our jobs. The Union Tribune published an editorial in the newspaper explaining why this legislation shouldn't be passed but omitting how they're using the labor law to break every union here. (See enclosed editorial.)

A group of 24 independent contractors formed the San Diego Newspaper Dealers Association. These men sold newspapers to grocery stores, 7-11's, and liquor stores who then resold them. The Union Tribune's proposed contracts to this Association amounted to reductions from their existing contracts. The Association refused to sign the proposed contracts. On the date the Association contracts expired, security guards and policemen denied entry into the Union Tribune and members of the Association were told they had been replaced. They've filed a lawsuit against the Union Tribune which is pending.

The 1,200 men and women at the Union Tribune await the debate in the Senate on the Striker Replacement bill. This legislation is of the utmost importance. Those of us who support this legislation are the people President Nixon referred to as the "silent majority."

Sincerely,

SHAWN M. HART.

Mrs. BOXER. Mr. President, that letter poignantly shows what is happening to some of these workers.

So let us make sure that the right to strike is not a meaningless, phony, and false promise. The Congress established the right to strike. The Congress must protect that right to strike. I hope that we will do that this afternoon.

I yield the floor

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that I might proceed as if in morning business for 10 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered

Mr. MOYNIHAN. Mr. President, before I do, I would like to congratulate the junior Senator from California for a very thoughtful and concise statement. She has my vote.

WORLD TRADE

Mr. MOYNIHAN. Mr. President, as the Senate returns from the Fourth of July recess, the President returns from an important, indeed in ways, historic visit to Western and Central Europe. We welcome him back, even as he and the other heads of the world's leading industrial democracies, the G–7, welcomed Mr. Yeltsin to their meeting in Naples. At the same time, we share what must be the President's disappointment that the G–7 as a group did not agree to his proposal to begin a review of remaining trade barriers to be placed on the agenda for the G–7 meeting next year in Halifax.

The President was kind enough to ask Ambassador Kantor to call me in New York last Wednesday to outline the proposal he was going to make. I could only speak for myself, but I assured the Ambassador, our distinguished friend, that the President had my full support, and that I could not doubt that the Committee on Finance would feel the same way.

Note that I referred to remaining trade barriers. There are more than a few to be sure. But the great fact of this moment is the successful completion of the Uruguay round of Multilateral Trade Negotiations, conducted under the auspices of the General Agreement on Tariffs and Trade. The negotiations took 7 years, culminating in the vast agreement reached last December in Geneva, and initialed in an international conference in Marrakesh this past April. It now remains for the Congress to enact implementing legislation so that an essentially new world trading system can go into effect January 1, 1995.

I have been involved with trade matters for some time, going back to the Long Term Cotton Textile Agreement negotiations in Geneva in 1962, which were crucial to the success of the Kennedy round, an agreement literally crucial to getting Congress to agree to give President Kennedy the authority to negotiate the Agreement that was subsequently named for him. Indeed, I can remember the GATT when it consisted of little more than Eric Wyndham White and a few French secretaries housed in a villa just above Geneva. We may hope that the new World Trade Organization keeps to that tradition of cordiality and frugality. Indeed, the venerable Harry Hawkins, who in the 1930's handled the Multilateral Trade Agreements program for Secretary of State Cordell Hull, did his best to teach me the subject more than 40 years ago. The GATT, of course, was an ad hoc arrangement put in place after the Senate Finance Committee refused to accede to the proposed International Trade Organization that was to institutionalize the Multilateral Trade Program as one of the post war institutions such as the World Bank, as it is generally known, and the International Monetary Fund.

Hence, I have had no difficulty seeing the Uruguay round as the culmination of 60 years of American trade policy pursued with remarkable consistency and bipartisanship from the time of President Roosevelt. Last Thursday, I notified members of the Committee on Finance that the committee would begin markup of the implementing legislation on Tuesday, July 19, 1 week from today.

The more then was it a blow to pick up Friday morning's Wall Street Journal and to read in the lead item of "Washington Wire" that "Clinton aides privately worry that Congress might not even get to the world trade pact this year." Mr. President, I have the complete text of the Wall Street Journal item, which I ask unanimous consent be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, July 8, 1994]

PROBLEMS NAG CLINTON ON GATT, EVEN AS HE PRAISES THE TRADE PACT ABROAD

GOP stalwarts Howard Baker and Lawrence Eagleburger organize a "strategy session" of business representatives to discuss fears that the agreement's new World Trade Organization could allow environmentalists to construct barriers blocking U.S. exports. A Baker memo says "a number" of his law firm's clients "have expressed concerns" about how the pact will be enforced.

Clinton and G–7 colleagues at this week's economic summit will pledge anew to ratify GATT this year. But Clinton aides privately worry that Congress might not even get to the world trade pact this year. GATT foes fuel the debate by spreading charges that the World Trade Organization would usurp U.S. sovereignty.

GATT still could be introduced and passed next year, if necessary.

Mr. MOYNIHAN. Mr. President, what is going on here?

Let me first state that there can be no questioning the accuracy of the Journal's report. Note the plural "Clinton aides." This is the journalistic practice of getting two sources to confirm a report.

Let me go on to state that, regrettably, this is nothing new. The health care debate has been plagued with press accounts of White House aides doubting this Senator, questioning that committee, detecting hidden motives—the while, of course, hiding themselves behind the anonymous leak.

Those leaks have not done the President's health care legislation any good.

If the pattern now takes hold as regards the implementing legislation for the Uruguay round, it could be ruinous.

The full Senate may not be aware of the work that has been going on in the Finance Committee, work which has brought us to the point of scheduling a markup next Tuesday.

That work began over 1 year ago, with the expiration on May 31, 1993, of the President's authority to negotiate in the Uruguay round and to have that agreement considered under fast-track legislative procedures. Without that authority, the negotiations were finished. The President requested an extension of the fast track and the Finance Committee, after careful consideration, granted the request by a vote of 18 to 2. The full Senate followed with its approval on June 30, 1993, by an equally resounding vote of 76 ayes and 16 nays. The legislation passed without amendment. Many said that could not be done; that the Senate would not refrain from amending when such an opportunity came along. And there were moments of doubt, I recall, as I asked Senators to defer amendments on trade issues of importance to them, given the greater importance of the Uruguay round. But we succeeded—the Congress delivered the authority to the President before he left for last year's G–7 summit in Tokyo.

Then last fall, immediately after passage of the NAFTA, I traveled to Geneva to be present for the final days of the Uruguay round negotiations. My purpose—to deliver a message on the importance of that agreement to the Committee on Finance.

My distinguished colleague, Senator ROCKEFELLER, was there as well and joined in pressing for what we made clear we would consider an acceptable agreement—an agreement which was, indeed, reached. I stayed 1 week. Our very able chief trade counselor, Marcia Miller, stayed there to aid in the effort to wind up that agreement, which was done with such success.

Well before the Uruguay Round Agreement was signed on April 15, the Committee on Finance was working with administration officials to draft the necessary legislation to bring United States law into conformity with that very considerable agreement. By the time of its signing, we had held four public hearings to review the agreement's provisions, and consider proposals for that legislation.

While the Uruguay round offers enormous benefits, it is also fair to say that it is enormously complex. The agreement itself runs to 22,000 pages, once the specific commitments of each country are included. Indeed, to date this year, the committee staff has held nearly 200 meetings reviewing proposals for the legislation with the administration, the Ways and Means Committee staff, and legislative assistants for Finance Committee members. Of these meetings, nearly half have involved drafting the legislation. When the committee begins its markup next Tuesday, it will work from a 130-page document describing the legislation. The bill itself runs to nearly 300 pages, before the committee has considered a single amendment, and clearly there will be some.

And I speak, of course, just of the work of the Committee on Finance. But there is also legislation to be drafted by the Committees on Agriculture, Commerce, Foreign Relations, Governmental Affairs, and Judiciary.

Could we have acted earlier? Could this markup have been held before now? One might cite as the cause of delay the committee's preoccupation with health care, a matter of great importance to this administration and to the country, and to the Senate. But, for the record, I must point out that the administration's proposals for the most complex elements of this legislation—the antidumping and countervailing duty amendments—have only just been completed. It was 1 week ago that the committee staff received the last of the administration's recommendations in this area. Indeed, the legislative drafting exercise on this part of the bill continues to take tortuously long and it is not yet complete.

And on the most fundamental issue of funding, we still have no formal administration proposal. Under the Budget Act, the legislation must include provisions to offset the tariff revenues lost because of the Uruguay round. We must accept that the Senate will not waive the Budget Act with respect to the requirement that we pay for the first 5 years of this revenue loss. We may not like that situation, but we are resigned to it.

I have accordingly asked the administration to meet with the committee on this matter of funding. If the committee does not hear a proposal from the administration this week, there will be no markup next Tuesday. We have to have the funding proposals this week. This argument was signed last November, initialed in April, and here we are in July.

The administration neglects to put forward these most necessary provisions, but it has suggested at the same time it would like other elements added to the legislation. It asks for 7 years of fast-track authority for undefined future trade agreements, new laws to govern trade with Russia, and NAFTA-like benefits for Caribbean countries. If the administration is concerned that the Congress might not get to the Uruguay round, then why is it proposing to slow down consideration with these additional, and I have to say controversial matters?

Mr. President, I am committed to acting on the Uruguay round this year. In a study entitled "Assessing the Effects of the Uruguay Round," the OECD concludes that, over the next 10 years, the U.S. gross domestic product will increase $160 billion as a result of the Uruguay round. A similar study, "Trade Liberalization: Global Economic Implications," produced jointly by the OECD and the World Bank, concludes that, once phased in, the round will add $213 billion per year to world GDP. Some dispute the magnitude of the gain, but none contest the basic proposition. I ask my colleagues, how can we afford to delay that gain?

Moreover, delay creates risks. It breeds opposition. I offer to you the fate, earlier cited, that befell the proposed International Trade Organization after World War II. Hostility in the Finance Committee; little enthusiasm in any quarter. Approval of the ITO languished, and in the end it died for lack of support.

One must not forget that the proposal for an International Trade Organization, and the reforms of Cordell Hull's reciprocal trade agreements program, were conceived to ensure that the history of the Smoot-Hawley Tariff Act of 1930 not repeat itself. After Congress and President Hoover enacted that infamous tariff increase, international trade plunged 60 percent in 2 years. Smoot-Hawley precipitated a trade war with political repercussions, as key states turned away from free trade and toward more regional arrangements. Britain with its Commonwealth, Japan and its Co-Prosperity Sphere. Then the breakdown of world peace followed the breakdown of world trade.

Our post-war leaders rightly believed that stronger international economic institutions were essential to prevent a repeat of the Smoot-Hawley disaster. When the United States failed to approve the International Trade Organization, the world was left with the GATT—an interim arrangement with little organizational structure, left to evolve ad hoc over the seven rounds of trade negotiations preceding the Uruguay round. Certainly not an international organization to stand alongside the World Bank and the International Monetary Fund as pillars of the post-war economic system.

With the Uruguay round, we have before us a proposal that would finally make good on the vision of our post-war leaders. The establishment of a World Trade Organization. And we have the basis of a hugely enlarged world trading system.

I understand there are concerns about the new organization, and they deserve to be heard. At the Finance Committee's March 16 hearing, consumer advocate Ralph Nader warned of a potential loss of American sovereignty. The Wall Street Journal tells us the business community fears that, in the name of environmental interests, the World Trade Organization will permit trade restrictions. I will invite Mr. Baker and Mr. Eagleburger to meet with the Committee on Finance so we might hear of those concerns as well. I have also met with Jerry Junkins, who is chairman and CEO of Texas Instruments and chairman of the Alliance for GATT NOW, which represents 200,000 companies who support the Uruguay round.

This is not the first time we have seen concerns such as these voiced about United States participation in international institutions. I cite, for example, the International Labor Organization. Created by the Treaty of Versailles, the ILO began its existence in 1919 right here in Washington—at the Pan American Union Building on Constitution Avenue—although it took 15 more years before Franklin Roosevelt and Frances Perkins finally led the United States into the ILO IN 1934. This year, it celebrates its 75th anniversary.

I speak of the ILO from experience. In 1975, when I was Permanent U.S. Representative to the United Nations, it fell to me to draft the letter giving the required 2-year notice of our intention to withdraw from the ILO—the proceedings of which had become preoccupied with anti-democratic and anti-Israel polemic. Two years later, as a freshman Senator, I moved our withdrawal in the Senate. That had the desired result, and in 1980 I moved our return to the ILO, which was done.

I have led the effort in this body to renew American interest in and respect for the ILO and its body of work. For 35 years, beginning in 1953, the United States failed to ratify a single ILO convention. We finally ended that stalemate by ratifying two conventions in February 1988—with support from Senator HATCH and others on the Republican side. A tremendous breakthrough. A clear signal that the United States was ready to participate actively in a new era of ILO history.

We ratified another convention—our tenth overall—in 1990. And with the ratification in 1991 of Convention 105 on the abolition of forced labor, the United States reached a milestone—finally adopting one of the ILO's core human rights conventions.

Let us move forward in a similar positive light with respect to the World Trade Organization. Should it, at some future point, not serve the best interests of the United States and the world trading system, we have the ability to withdraw, given 6 months notice. But let us not miss this historic opportunity to take a huge step forward on trade by engaging in leaks, distortions, and innuendo.

I can only ask and hope that the administration will see the urgency, that White House aides will stop undermining the President in this regard and that we go forward next Tuesday as scheduled.

I thank the Chair for his courtesy.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m., at which time the time until 2:30 p.m. will be equally divided and controlled between the opponents and proponents of the motion to proceed to S. 55. A vote on that motion is scheduled to occur at 2:30 p.m.

Whereupon, at 1:26 p.m., the Senate recessed until 2:15 p.m.; thereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. KOHL).

NATIONAL LABOR RELATIONS ACT AND RAILWAY LABOR ACT AMENDMENTS

MOTION TO PROCEED

The Senate continued with the consideration of the motion.

The PRESIDING OFFICER. Under the previous order, the time between now and 2:30 p.m. will be equally divided and controlled between the opponents and the proponents of the motion to proceed to S. 55.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah [Mr. HATCH].

Mr. HATCH. Mr. President, during the course of this debate, we have talked at length over the legal and other issues raised by the legislation. I wish to summarize what is really at stake here.

First, balance of power is at stake.

Much of this debate has been about the balance of power and whether or not it is currently level. The question is not economic balance, or whether in each dispute neither side has an advantage. Micromanaging the American economy and the millions of American workplaces is not the function of the U.S. Senate.

Balance of power under the law between labor and management is our responsibility, and I assert that current law lives up to our obligation. Labor has the right to strike. It is an awesome responsibility. Management has the right to continue operating—if necessary, by hiring permanent replacements. This delicate balance of power has existed for over 56 years, has been endorsed by Congress over that time, and must be maintained if we are going to have that delicate balance maintained between management and labor.

Second, more strikes and inflationary wage settlements are going to be the result if we pass this legislation.

One of the core arguments in favor of this legislation is that there are not enough strikes. Enactment of the strike bill would immediately correct that perceived problem. S. 55 encourages more work stoppages because unions would no longer risk the consequence of a bad strike decision. The ultimate risk of going out on strike—permanent replacement—would be removed, thus opening the flood gates to increased strikes.

This is not merely my estimation. In the early days of the historic labor law reform battle in the late 1970's, the Carter administration rejected a more limited ban on replacements during strikes over first contracts. That administration's reason for rejecting the provision: It would result in more strikes, force inflationary wage settlements, and shift the balance of power in favor of unions. I agree.

Third, there would be a deamatic impact on U.S. economy.

Passage of S. 55 would threaten U.S. economic growth—most importantly jobs—by spreading disruptions throughout the economy. It is important to remember that the striking workers and the company being struck are not the only entities being affected. Strikes—especially prolonged ones—jeopardize suppliers, distributors, freight lines, retailers, and their employees.

This bill will bestow powerful new economic leverage and the upper hand in bargaining to unions. Regardless of the reasonableness of bargaining demands, employers would have little option but to agree or go out of business. The direct result will be reduced productivity, higher prices for consumers, and fewer American jobs.

Fourth, let us talk about coerced union organizing.

Make no mistake about it, this is a coerced union organizing bill. The bill breaks the nondiscriminatory precedent of more than half a century by conferring special benefits only to unionized work forces or to those seeking representation. The legislation bans permanent replacements even in strikes at nonunion companies to force union bargaining even before there is a secret ballot election among workers. Regardless of the number of workers who sign union authorization cards, a minority of strikers could shut down an operation and force union recognition. The law should not countenance such coercion.

Fifth, this is antiworker legislation.

The legislation is antiworker in a very real sense. It puts in doubt the very jobs the unions seek to guarantee. It threatens the continued existence of many businesses. But the impact on workers is not limited to strikers alone. More strikes may increase costs and more disruptions and layoffs. The strike bill will result in nonunion personnel of the company shut down by the strike to be sent home without pay, without a means to feed their families. It will cause workers to lose their jobs and suppliers and customers if the business shuts down by a strike.

The strike bill, if it were to pass, would be devastating to all workers—as consumers and as workers—whether union or not.

Mr. President, just one more point. Several of my colleagues have maligned those of us who oppose this measure for filibustering this bill. The Senator from Michigan referred to their debate as a "work stoppage" in the Senate.

Well, Mr. President, I support the right of workers to strike. That has never been at issue. And I support the right of those in the minority to filibuster. I suggest to the Senator from Michigan that our employers—the American people—are perfectly capable of deciding whether or who should be permanently replaced in this body.

The minority in this body, I believe, speaks for the majority of the American people—60 percent, according to a Time poll. Moreover, given that the outcome of this legislation would be detrimental to this country, even the Washington Post alludes to the fact that the filibuster may be necessary to stop it.

Depending on the issue at hand, there is not a Senator here who has not voted both for and against cloture. So let us be honest about this. If you favor the bill, argue the merits.

I oppose this bill on the merits. That is why I am going to try to defeat this bill with every weapon at my disposal, and that includes extended educational dialog.

The Senator from Kansas [Mrs. KASSEBAUM] said it succinctly yesterday. I will repeat it now: A vote for cloture is a vote for this ill-conceived, economically dangerous, antiworker bill.

I hope our colleagues will vote against cloture and send a message throughout this country that we are not going to let this type of a power grab occur. I reserve the remainder of my time.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio [Mr. METZENBAUM] is recognized.

Mr. METZENBAUM. Mr. President, I yield myself 5 minutes, reserving 2½ minutes for the Senator from Massachusetts.

In a few minutes, the Senate will vote on whether to proceed to consider the Workplace Fairness Act, which would ban the hiring of permanent striker replacements. The Republican leadership is blocking this bill from being debated or voted on by the Senate. It is a policy matter for the Republicans, who say that workers of this country cannot have the right to strike without jeopardizing their jobs.

By this action, the Republican Party is, once again, turning its back on America's working families. Today, the right to strike is a cruel joke in America. Of what value is it to have the right to strike if you know somebody is going to come in and take your job away from you? Federal law protects the right to strike, but workers can lose their jobs if they exercise it.

This bill restores fairness to collective bargaining. It will enable workers and managers to work together to improve U.S. competitiveness. Every other industrial nation in the world protects the right of workers to strike, but not the United States, by reason of the fact that the Republicans are not willing to let this matter come to a vote on its merits.

Do not take my word for it. Listen to what the rest of the country is saying. The American people support this bill by a margin of over 2-to-1, according to a recent poll in April of 1994. But the Republican leadership still says no.

The House passed the bill by 239–190, but the Republican leadership still says no and says to their Members: Do not vote with the Democrats; do not permit the Democrats to protect workers' right to strike, or we will discipline you for your conduct.

President Clinton supports this measure, but the Republican leadership still says no.

Many State legislatures and local governments have recognized this problem, and some have enacted provisions to address it. But the Republican leadership still says no.

Advocates for women and minorities have universally endorsed this bill, recognizing the substantial contributions unions have made to the wages of working women and minorities. But the Republican leadership still says no.

The religious community has strongly supported the Workplace Fairness Act, but the Republican leadership still says no. A very broad cross-section of America supports this bill, but today the Republican leadership is blocking the Senate from considering the bill or voting on it.

Once again, the Republican Party is seen in the position of turning a cold shoulder to American workers, preferring to side with big business. The Republican party has a long history of fighting minimum wage, fighting job safety, opposing civil rights, opposing extended unemployment compensation, opposing family and medical leave legislation.

I say to the Republicans in the U.S. Senate: Let this measure go. Let the Members of the Senate vote on it in an up-or-down vote, and it will pass. That is what the people of this country want.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, do I understand we have 2½ minutes remaining?

The PRESIDING OFFICER. There are 3½ minutes remaining.

Mr. KENNEDY. Mr. President, arguments have been made here during the debate yesterday, and again early this afternoon, about what is really basically and fundamentally at issue, and that is economic justice and fairness for workers in America. We all recognize that strikes are not favored either by management or by employees. But the right to strike has been an integral part of the system of industrial relations that helped make America the greatest industrial democracy in the world.

That system of industrial relations has been tarnished and compromised significantly by the whole issue of permanent replacement of striking workers. Who are the workers who have been replaced? They are workers who are fighting for increased economic opportunity. They are workers who are fighting for safer working conditions. They are workers who are fighting for greater security for themselves and their families.

Over the last 20 years, and particularly beginning in the 1980's, we have seen a substantial increase in the use of permanent replacements. And it is no coincidence that over the same period of time, real wages have been declining and working people have been finding it more difficult to provide for their families, educate their children, put food on the table, pay the mortgage. The use of permanent replacements is part of a strategy being pursued by too many employers in this country—an effort to drive down costs by slashing wages and benefits and replacing higher-paid workers with low-wage workers, contingent workers and part-time workers.

We see what is happening all over the country. Newly organized workers making just over the minimum wage go on strike for a 5-percent wage increase and a grievance procedure to address unfair treatment—and they are permanently replaced.

Workers with 20 or 30 years seniority go on strike to prevent their employer from contracting out their jobs—and they are permanently replaced.

Working mothers struggling to balance the demands of their work with the needs of their families go on strike to protest mandatory overtime work—and they are permanently replaced. That is what is happening in the United States of America.

The use of permanent striker replacements has denied these workers the ability to exercise their rights in the struggle for economic justice. They deserve to have those rights restored. Virtually every other industrial nation of the world who we compete with protects striking workers from being permanently replaced, and we ought to give the same kinds of protections to American workers. That is the issue.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, first of all, the right to strike is not an issue. I will fight to my death to maintain that. The delicate balance between management and labor is.

Frankly unions have this awesome power, the right to strike. Now they want to do away with the only tool that the management people have or the business has, and that is to prevent a strike by having a right to hire permanent replacements. So the unions want the power to strike and they want the power to win every strike.

The only thing that keeps us together and keeps strikes down in this society is the fact that we have current labor laws that work.

The Washington Post, not noted for being against labor, noted for being for labor, basically said this in its editorial:

> The striker replacement bill may come up this week in the Senate, where at last count there appeared to be the votes to block it. We hope so. This is bad legislation that in the name of restoring balance to labor law and relations would in fact unbalance them and could well do lasting economic harm.

They summed it up. That is the way it is. I hope everybody will vote against cloture.

THE WORKPLACE FAIRNESS ACT: A CHANCE TO RESTORE THE BALANCE TO LABOR-MANAGEMENT RELATIONS

Mr. DASCHLE. Mr. President, for most of this century, the relationship between labor and management has been governed principally by the National Labor Relations Act [NLRA]. Since 1935, the NLRA has expressly protected the right of workers to strike over economic conditions. Moreover, the act promises workers that they cannot be discharged by their employer for exercising this right.

The central tenet of the act is its endorsement of collective bargaining as the preferred method for settling labor disputes. Through collective bargaining, labor and management can attempt to negotiate a peaceful resolution to their dispute.

As in any negotiation, each side must have bargaining power. In labor negotiations, management holds the cards with respect to wage levels and working conditions. The card held by workers is their right to withhold their labor—the right to strike.

Until recent years, the bargaining power of labor and management were relatively equal. Yet in an era where more and more employers are hiring individuals to permanently replace workers who decide to strike, the scales of power are no longer in balance. Instead, management has the upper hand.

Oddly enough, employers are not violating the NLRA when they hire replacement workers during a strike and promise to make those positions permanent. Rather, these employers are taking advantage of a true anomaly in Federal labor law, one which sets out a dubious distinction between firing a striking worker and permanently replacing that worker.

To the worker, however, it is of little comfort to know that he or she has been permanently replaced rather than fired. The result in both cases is essentially the same.

This legal anomaly stems from the 1938 Supreme Court decision in National Labor Relations Board versus Mackay Radio & Telegraph Co. In that case, the Court held that as company which rehires workers after a strike cannot discriminate against those individuals who had actively supported the strike. However, the Court went on to say—in dictum—that the NLRA permits a company to hire permanent replacement workers during a strike and to give them preference over workers who had participated in the strike.

For more than 40 years, this wrinkle in the law had little practical effect. However, that changed in the 1980's, with President Reagan's firing of the air traffic controllers involved in the PATCO strike and extension of the Mackay Radio doctrine by the Supreme Court.

Since 1981, tens of thousands of American workers have lost their jobs to permanent replacements, and hundreds of thousands have been threatened with the same fate. This tactic is now so common that the use or threatened use of permanent replacements occurs in one out of every three strikes.

It is time to bring labor-management negotiations back into balance. We know that the collective bargaining process cannot work if each side does not have a credible economic bargaining chip. When permanent replacements are used or threatened, the bargaining chip workers—their ability to halt the productivity and revenues of their employer by striking—is effectively eliminated.

The Workplace Fairness Act would give workers back their bargaining chip. By preventing the hiring of permanent replacement workers during a strike, this legislation would rid Federal labor law of the anomaly caused by Mackay Radio and restore a level playing field for labor-management negotiations.

Opponents of this legislation contend that employers need permanent replacement workers in order to keep their operations afloat during a strike. However, employers have other means at their disposal: hiring replacements on a temporary basis, having management personnel fill in for striking workers, subcontracting work and/or stockpiling inventory in advance. These options would protect businesses from having to shut down during a strike—and would protect their workers' jobs as well.

Opponents also argue that a ban on the hiring of permanent replacements would make strikes risk free for workers. Nothing could be further from the truth. Workers go without pay and without benefits during a strike, without any guarantee that the strike will leave them better off financially. This gamble is particularly risky because many workers are forced to deplete their savings while they wait for their representatives to resolve the dispute with management.

For almost 60 years, Federal law has encouraged labor and management to resolve their disputes through collective bargaining. Until the 1980's, this system worked well because both sides had relatively equal bargaining power. But that balance has been upset, giving management the upper hand in all negotiations.

Passage of the Workplace Fairness Act would tilt the balance back again, restoring a level playing field to labor-management negotiations. American workers certainly deserve no less.

WORKPLACE FAIRNESS ACT

Ms. MIKULSKI. Mr. President, I rise today in support of S. 55, the Workplace Fairness Act. I am a cosponsor of this bill and have been working for its passage for several years.

It is time to end the years of gridlock and filibusters on this issue and move to the issue itself. Let's stop these tactics of delay and deadlock. Recently, I voted for cloture on legislation even though I had reservations about some aspects of the bill. I believe in majority rule. I am for: cloture, action on the issues, and an end to gridlock. The American people are tired of Congress' inability to act because a minority of Senators are opposed. It is our duty to move forward with the issues—to end gridlock, filibusters and minority rule. I urge my colleagues to support cloture.

The main reason I support the workplace fairness legislation is that I support the right to strike. I can't support Solidarity's right to strike in the shipyards of Gdansk and not support the rights of American unions to strike here at home.

The Workplace Fairness Act will protect the right of Americans to strike by prohibiting employers from permanently replacing striking employees. This bill will also force managers to deal with the issues raised in the strike, not just replace workers who protest as a last resort. It will restore basic fairness to the bargaining process.

Strikes can mean economic ruin for both the workers and the company they rely on for work. There must also be equal pressure on both the workers and the company to compromise if a strike does occur.

I believe that allowing management the threat of replacing workers gives them an unfair advantage at the bargaining table. If strikers can be permanently replaced, there is considerably less pressure on businesses to settle with their workers. However, if businesses can hire only temporary replacements and workers have to face the social economic disruption of a strike, the pressure remains on both sides to work out their differences.

That is why I strongly support this legislation to prohibit the permanent replacement of striking workers. This legislation will restore fairness to the bargaining table, protect the right to strike and make it easier to resolve labor disputes fairly. Supporting this legislation is a matter of fairness to the American worker. I urge my colleagues to join me in seeking cloture and in passing this important legislation.

Mr. CAMPBELL. Mr. President, I rise today to express my strong support for S. 55, the Workplace Fairness Act.

Put simply, Mr. President, S. 55 is designed to protect the right of every worker. The right to strike without fear of employer reprisal, as all my colleagues are aware, is guaranteed by law. To me, Mr. President, it makes absolutely no sense to allow workers to strike, and then defeat the purpose of the right by allowing employers to hire permanent replacement workers.

The entire concept of collective bargaining is to provide a situation in which both employer and employee can negotiate labor terms with enough leverage on each side of the table so that neither side has an unfair advantage in the process. How can a union representative come to the bargaining table with any leverage if he or she knows that the employers can permanently replace workers if they decide to strike?

Since the early 1980's, employers have increasingly resorted to this exploitation of the collective bargaining process. Today, one out of every three employers threatens to, or does in fact, hire permanent replacement workers during strikes. Workers throughout the country are at the point where they are caught in limbo when choosing between their jobs and the right to strike.

Opponents of this bill argue that passage of this bill would dramatically increase the number of strike occurrences around the country. Mr. President, these same opponents should keep in mind that while the act of striking is the most potent ability labor has, workers view it only as a last resort.

Strikes are never risk free for labor. When workers strike, they give up their wages. Workers are sometimes forced to go to such extremities as having to use their life savings to keep their families fed without any guarantee that their disputes with management will be settled.

Opponents might also argue that passage of this bill would also lead to longer and more bitter strikes. Studies have shown that the hiring of permanent replacement workers only prolongs the collective bargaining process. If labor was guaranteed that they would not be permanently replaced, it would force the employer to come to the bargaining table. Without the ability to go on strike, collective bargaining is a lop-sided process that can only favor management.

In 1987, in my home State of Colorado, some 300 union workers at a Monfort plant in the town of Greeley were in a dispute with management over the unfair distribution of bonuses. The union workers decided to go on strike. Within 1 week, Mr. President, all 300 workers were permanently replaced.

Many big businesses and opponents of this bill fear that the United States ability to compete on a global market will be diminished if the striker replacement bill is passed. Perhaps Mr. President, we should be taking the example other highly successful industrialized nations such as Japan, Germany, France, and Canada—our biggest competitors—have set by banning the hiring of replacement workers.

In closing, Mr. President, I wish to remind my colleagues that the Workplace Fairness Act will truly equalize our Nation's collective bargaining process. It will allow management and labor to settle disputes much more efficiently and effectively. It will preserve the right of organized workers to strike and not his or her job.

Mr. SPECTER. Mr. President, striker replacement is the most controversial labor-management bill during my 14 years in the Senate.

In my judgment, the Senate should proceed to consider this matter to see if legislation would serve national public policy and accommodate, as best we can, the conflicting interests of the parties.

As I said last month on voting to invoke cloture on the product liability bill, I believe that the filibuster should be used very, very sparingly because of the fundamental principle that in a democracy, the majority rules—without having a super majority of 60 percent to even consider an issue.

There are a number of alternatives which have been suggested to S. 55. Whether any legislation should be enacted depends upon analysis, debate, and deliberation.

One suggested alternative proposal would call for arbitration in a situation where there is a dispute on finances or other factual questions. If the union declined to arbitrate, then strikers could be replaced. If the company declined to arbitrate, then strikers could not be replaced.

Another possible alternative would permit replacement of strikers where the union sought to improve compensation or working conditions but would prohibit striker replacement where the union sought to retain the status quo.

It is only when the Senate proceeds to consider such issues can there be a determination of whether legislation is in the public interest. This subject matter has attracted enormous attention from labor, management, and the public; and in my judgment, it ought to be at least considered by the Senate.

WILL THE SENATE VOTE TO UPSET THE BALANCE BETWEEN LABOR AND MANAGEMENT?

Mr. NICKLES. Mr. President, we are here today to decide the fate of the striker replacement bill (S. 55). This legislation would prohibit employers from hiring permanent replacements for striking workers during a strike over economic issues, such as pay or benefits.

Why is it so important that the Senate turn back this effort to rewrite this fundamental principle of U.S. labor law? The answer is straight forward: Banning the use replacement workers would disrupt the free flow of commerce in this country and create a chilling environment for resolving labor disputes. Ultimately the very people its proponents intend to help, the rank and file workers, will fall victim to the effects of this ill-conceived proposal.

The National Labor Relations Act of 1935 established and protected the right of a worker to strike. In 1938, the Supreme Court upheld the right of employers to hire permanent replacements and the court has maintained that stance for 50 years.

I recognize and support the right of workers to organize, to collectively bargain, and to strike. But I also support the rights of employers to keep their doors open. The Striker-Replacement legislation will encourage strikes, because its use will insure success, and it will force countless employers to close their doors, thus putting workers permanently out of a job.

The fact is that most employers in this Nation still view a strike as a potentially crippling development and will do all that they can reasonably do to avoid it—as will most union members. Perhaps this is one reason that the level of strike activity is so low—it is in everyone's interest for things to be worked out at the bargaining table.

It should also be noted that current law prohibits the hiring of permanent replacements by an employer who is guilty of any unfair labor practice. S. 55, however, expands that prohibition to instances of economic issues. Meaning a strike could be called for virtually any reason and the business would be powerless to keep operating unless it recedes to union demands.

The striker bill is antifree enterprise and will deal a significant blow to America's economy. This is not the time to upset the balance which has existed for 50 years between management and labor. This legislation is not in the long-term interest of employees or employers.

Proponents of striker replacement say that it will ban the hiring of permanent replacements, however the result will be far more detrimental—the creation of permanent layoffs.

Mr. President, I urge my colleagues to vote against cloture and ask unanimous consent that an editorial from the Tulsa World be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD as follows:

[From the Tulsa World, June 14, 1993]

A NO-PENALTY STRIKE

Quebec has a law prohibiting employers from hiring permanent new workers during a strike.

The idea is to make it easier to strike. And it works. Since the law went into effect, according to a study in the Journal of Labor Economics, the prohibition has had a perverse effect on labor-management relations in Quebec and has contributed to an increase in both the number and the duration of work stoppages.

Senators Ted Kennedy, D-Mass., and Howard Metzenbaum, D-Ohio, want a similar strike-encouragement law in the United States. Their so-called Striker Replacement Bill has been blocked twice in the Senate by filibusters, but it is up for consideration again.

There are sound economic arguments against the bill. By providing new incentive for strikes, the bill almost guarantees a rise

> in loss of work and decline in productivity. The cost will be picked up directly by U.S. industry and, indirectly, by U.S. consumers.
>
> But the most obvious reason this bill should be killed is that it is, quite simply, unfair. Its purpose is to rig the game in labor-management disputes in favor of unions.
>
> In theory at least, the government has always been considered a sort of referee or arbiter in labor disputes. Laws protect the right to strike and outlaw unreasonable strikebreaking tactics by employers.
>
> This bill makes the Federal Government a handicapper of employers and an ally of unions.
>
> Unions have gotten along without this unfair advantage for nearly a century. In recent years, the power and membership of unions, except for public employee organizations, have been in steady decline. Union officials want this bill to help them recover their lost clout.
>
> If the bill passes, strikes can be called at will over trivial issues with minimal risk to strikers. It denies others the right to apply for permanent employment and discriminates against workers who stay on the job by denying them promotions.
>
> This isn't a fair-labor law. It is an anti-jobs bill.

Mr. McCONNELL. Mr. President, I preface these remarks with a tribute to the folks from my State who have lobbied me over the past few years to support the striker bill. Countless times members of Kentucky union locals traveled hundreds of miles to the Capitol to make their voices heard. Since the 101st Congress, the striker bill has been at the top of the national unions' agendas and when called upon to lobby on its behalf they did so admirably. These men and women have been tenacious and passionate in the support of it. They have known almost from the outset where I stood buy they did not let up and I respect them for that. In the end, I will oppose S. 55 and cloture because a whole lot of other folks in Kentucky think it is a bad bill, including this Senator, not because of a lack of effort on their part.

Mr. President, I would also like to commend the able leadership of Senator KASSEBAUM. The Senator from Kansas has taken on the stewardship of one of the most contentious issues before the Senate, and in doing so has injected into the debate a degree of comity and rationality as only she can. No one can reasonably accuse Senator KASSEBAUM of a lack of compassion and empathy for the people this bill purports to assist. It is out of concern for Americans of all political persuasions—labor and nonlabor—that the Senator and I oppose S. 55.

It is my firm belief that defeating the striker bill is in the best interest of all Americans—including union rank-and-file. For over half a century, the Supreme Court's Mackay decision has provided balance in labor-management negotiations. Currently, workers are protected from being permanently replaced in the event of an unfair labor-practice strike. Employers may temporarily replace workers in these instances but must, when the strike is over, return strikers to their jobs.

However, in the event of an economic strike in which union members exercise their right to strike in order to secure a more lucrative package, under Mackay employers have the right to say: "no, sorry, we cannot afford your demands and will hire permanent replacements if you persist in striking." Employers only rarely have exercised this right, but it is an essential component in labor-management negotiation.

In any labor-management negotiation, a union's ultimate leverage is the frightening specter of a strike that could financially cripple the company. Conversely, a company's ultimate leverage is the specter of strikers being permanently replaced. Mutually assured destruction, in a sense.

Mr. President, it isn't pretty, but it is fair. Free enterprise is not risk-free, but it is fair. It is what we like to call around here a level playing field.

S. 55, Workplace Fairness Act—no truth-in-labeling there—would, in fact, be unfair. Armed with S. 55, unions could call strikes with no fear of losing jobs in the process, unless of course the company goes out of business. But at least workers would not have been replaced. Fair, right? Wrong.

It might seem fair to union members, on the surface. Where, Mr. President, is the fairness in this for business owners, stockholders, managers, nonunion members, consumers, and the legions who are affected when an industry suffers from strikes?

For instance, the American Farm Bureau Federation opposes S. 55. You might ask why farmers are so concerned about this bill. The federation opposes enhancing strike opportunities for striking workers handling or processing perishable agricultural commodities with short shelf-lives. The federation's 4 million farm and ranch families depend on transportation and processing—two heavily unionized industries—to get their commodities to market. And, needless to say, consumers count on these commodities getting to market.

What happens if American farmers and ranchers can't get their commodities to market? Grocery stores start looking a lot like the old Soviet Union. Bare cupboards. Astronomical prices.

That is illustrative of the reverberations that major strikes can cause throughout this country.

And what about union members—the very people this bill purports to protect? Protect from what? Perhaps under S. 55 they would not suffer the indignity or fear of being permanently replaced—rather a rare occurrence, by the way, according to a GAO study requested by supporters of the bill, which found that less than 3 percent of strikers were permanently replaced in 1989. How about the terror of being permanently unemployed?

What a consolation. Instead of losing your job by being replaced, you have the privilege of losing your job when the company goes under.

To subject businesses to crippling strikes, without permanent replacements as a recourse, hardly enhances competitiveness or employment prospects in the United States. It could, however, be a big favor to our trade competitors. They probably would love for us to pass this bill, to tie up our domestic producers in strikes so that they can flood our markets with imports.

This debate is about fairness. It is about working men and women and those who seek work. The fact is, S. 55 is unfair. And in the long run it would be extremely detrimental to all Americans.

In closing, Mr. President, it is not often that I am in sync with the Washington Post: However, today in an editorial opposing the striker bill they make some points worth noting:

> This is bad legislation that in the name of restoring balance to labor law and relations would in fact unbalance them and could well do lasting economic harm.
>
> Organized labor says the ban is necessary to protect the right to strike, which it claims is threatened. But this is not an effort to regain a lost right. Rather, it's an effort to regain lost power—the membership and clout that labor has lost in recent years for reasons having mainly to do with a weak competitive position in the world economy. A change in labor law won't solve that problem, and would likely make it worse.

There it is, Mr. President, the striker bill is being advanced under false pretenses. It is not fair. It would not help Americans. The Senate would do this country a great service by driving a stake through the heart of S. 55 with a resounding vote against invoking cloture tomorrow as it did this afternoon.

Mr. LIEBERMAN. Mr. President, I rise in support of this motion to allow this Chamber to proceed to consideration of S. 55, the Workplace Fairness Act. I very much believe that allowing us to proceed is a matter of fairness just as I believe that S. 55 is a matter of fairness.

Put simply, this bill permits employees to exercise their legal right to strike without fear of losing their jobs. The Workplace Fairness Act prohibits the hiring of permanent replacements for employees engaged in a strike over economic issues. In addition, this bill prohibits preferential treatment for workers who offer to return to work over those employees who continue to participate in a labor dispute.

To me, that seems like basic American fairness. The right of workers to strike is rendered all but meaningless if they can be permanently replaced. If employers can permanently continue operations with little or no pause, what incentives do they have to resolve the dispute? What is left of the right of workers to bargain collectively and strike if necessary? What will be left of their jobs? What will happen to their families which depend on those jobs?

In an increasing number of cases the right to strike has evolved into a right to lose your job to someone else. S. 55 is an attempt to restore balance to labor management relations. Under this legislation, employers will still have the option of hiring temporary workers to keep their operations going during a strike. This legislation does not err by tilting in favor of labor. It restores the balance between labor and management in negotiations.

I am joined in that belief by nearly two-thirds of the American public. And I am joined in that belief by the other body which has already approved this bill in a 239–190 vote.

Mr. President, because we can't be projobs and antibusiness, I look critically at proposals which tie business in governmental knots or impose unnecessary burdens on business. But we also should not be probusiness in a way that is antijobs, and what S. 55 tries to do is protect the jobs of working people who exercise their legal right to strike for economic reasons.

In fairness, I hope that we will proceed to consideration of this bill. In fairness, I hope that we will pass this bill. I thank the Chair.

S. 55, STRIKER REPLACEMENT BILL

Mr. JEFFORDS. Mr. President, it certainly is no surprise that at this relatively late stage of the 103d Congress we are returning to the legislative debate on banning the hiring of permanent replacements for economic strikers. This is an important issue, and one which generates unusually high levels of public interest. The large number of calls, letters, telegrams, and faxes received in my office from Vermont offer a broad testament to this fact. Undoubtedly, my colleagues from more populous States have experienced similar or greater levels of response from their constituents. And, when nonconstituent contacts are factored in, the volume of public concern on the issue far exceeds the norm.

President Clinton made his support of this legislation clear throughout the election campaign, and he and Secretary of Labor Reich have reaffirmed the Clinton administration's commitment to the bill on numerous occasions since. Clearly, the President will sign the bill if it gets to his desk. Since the House has passed its version of the bill, the only open question is whether S. 55 can make it out of the Senate. As presently drafted, I do not believe this bill should be passed, so I answer that question in the negative. Thus, I will vote no on both the cloture motions, and, if necessary, on the bill itself.

It seems that no traditional labor law issue so galvanizes the actions of the interested parties as does the legislative debate on striker replacements. While all can agree that this issue cuts to the very heart of the collective bargaining relationship, there is wide disagreement on whether passage of this legislation will help or hurt the institution of collective bargaining.

At the outset, Mr. President, we need to agree on whether there is a problem requiring a legislative solution before passing that solution into law. My difficulty with S. 55 is that I am not convinced there is a problem with the hiring of permanent striker replacements that requires any legislative solution, much less the specific solution advocated by this bill. As the present parliamentary situation attests, I am not alone in this conclusion. Moreover, even the data produced in support of this measure is at best inconclusive on whether use of permanent replacement is a growing trend in the business community or that it is any more prevalent now than it was in the past.

Mr. President, the impetus for this legislation is, to a large extent, driven by the celebrated cases where permanent replacements were used. Thus we have heard over the years about Eastern Airlines, Greyhound, and the New York Daily News to name a few. However, these and other examples of the use of permanent replacements do not suggest models of successful corporate strategies. To the contrary, many of these companies have suffered grinding reversals of their business fortunes, up to and including total business collapse, following the use of replacements. I do not believe that many companies will want to adopt a pattern of behavior which leads to such results. And again, of course, the statistics do not show that many have chosen to do so.

The Clinton administration has set in motion the process of taking a hard look at our system of labor laws. Toward that end, a blue ribbon Dunlop Commission was established with the mission of studying workplace cooperation and recommending ways of reforming worker/management relations to create an environment within which American business can prosper.

From the beginning of the debate on this issue, I have suggested that we need to open up a broad-based discussion on the way in which labor relations disputes are resolved. I am a supporter of the American system of collective bargaining and I believe, for the most part, that it does a good job. However, the simple truth is that system works better for everyone in times of economic expansion than it does in connection with the setbacks and retrenchment found during a recession. This elementary fact probably has more to do with any increase that may have occurred in replacement situations than does some fanciful conclusion about changes in employer attitudes brought on by President Reagan's handling of the air traffic controllers strike.

I for one would be willing to explore the options which exist in the area of alternative dispute resolution. We do have some history on this issue. There are segments of the American workforce where the right to bargain collectively does not include the right to strike. The majority of these are within the public sector. In those instances, various systems have been devised for resolving disputes on which the parties themselves cannot agree. Perhaps it is time to begin moving away from the ultimate labor warfare of strikes, lockouts and replacement workers and toward some alternative system of dispute resolution for more of the private sector.

Mr. President, this is not a new exercise that we engage in today. Elements found in the bill have been seen in legislative offerings at least as far back as the last big labor law reform effort in the 1970's. Further, a little more than two years ago the Senate debated and rejected this same legislation. The fact that there has been no evolution toward consensus in the bill's terms is a sad testament to our failure to address this issue realistically.

Given the long history of the underlying issues, and the ongoing involvement of the Dunlop Commission, there are many aspects of collective bargaining that we might productively reexamine. For example, it troubles me that unfair labor practice strikers must wait so long for a resolution of their charges. Further, it might be profitable to examine stronger sanctions against those who engage in unfair labor practices. And as one who supported labor law reform in the late 1970's, I am certainly open to suggestions on ways to streamline the process of deciding whether or not a group of workers wishes to organize.

With specific regard to permanent replacement of economic strikers, for the past few years I have stated that we should look at the special circumstances presented in concessionary bargaining situations and first contract negotiations. As I stated on the floor of the Senate during the 1992 debate, the situation presented by an employer's demand for contract give backs or concessionary bargaining demands may well be one in which the use of permanent replacements is not justified. Adoption of a restriction on this practice would address most, if not all of the instances of abuse presented to Congress as demonstrating the need for this legislation.

Similarly, in first contract negotiations, where there is no established bargaining relationship, I believe a third party intermediary could serve a useful role. Neither the Senate nor the House Labor Committees have examined these ideas in their processing of this bill. Rather, the limited amendments which the majority permitted to be offered in the House have been rejected, while in the Senate S. 55 has remained almost defiantly unchanged even in the face of obvious, and now fatal, opposition.

Perhaps the biggest resolution since the Mackay decision in 1938 has been the shrinking of our world. We were an insular power, one of many, and we emerged from World War II as the greatest economic power on the planet. This was not surprising given that our country was spared from damage during the war. Nor is it surprising that our pre-eminence has eroded in the decades that followed the war as other countries have rebuilt and retooled.

In 1938, we could afford to consider labor-management relations in isolation. In 1994, we no longer have that luxury.

The Dunlop Commission can and should look into all of these issues. Certainly I would support it in doing so. With the preliminary report recently issued by the Commission, it has begun this process. However, I view it as putting the cart before the horse in the extreme to create a commission to study the need for reform of our system of labor laws, but to exclude the issue of striker replacements from consideration by that commission. But that is precisely what was done in this instance in the false belief that S. 55 could be passed and signed into law without the need for further study or debate.

Passage of the present legislation will change the face of labor relations in this country. Clearly that is the intent, but is it in the best interest of the country? That is the question. I have yet to hear sufficiently compelling answers to prompt me to vote for this measure. Maybe those answers will be forthcoming in the next session of Congress when we may have more substantive hearings. Or maybe, as it should have in the first place, the Dunlop Commission will look into the issue as part of its comprehensive recommendations for labor law reform. Only those who control the agenda can decide whether these items will be added.

Accordingly, while I remain open to the possibility of passing meaningful and wise legislation in this area, S. 55 is not such legislation. Thus, I will again vote no on that bill today.

POSITION ON VOTE

Mr. WELLSTONE. Mr. President, I wanted to indicate for the record that I was necessarily absent for rollcall vote 187. Had I been present I would have voted "nay."

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 2:30 p.m. having arrived, under the previous order the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to Calendar #162, S. 55, a bill to amend the National Labor Relations Act to prevent discrimination based on participation in labor disputes:

Edward Kennedy, Don Riegle, John Glenn, Paul Simon, Barbara Boxer, Daniel K. Akaka, Carl Levin, Bob Graham, Russell D. Feingold, Howard M. Metzenbaum, Paul Wellstone, Claiborne Pell, Ben Nighthorse Campbell, Carol Moseley-Braun, Jay Rockefeller, Pat Leahy.

CALL OF THE ROLL WAIVED

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to the consideration of S. 55, the Workplace Fairness Act, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the role.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 53, nays 47, as follows:

[Rollcall Vote No. 188 Leg.]

YEAS—53

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Byrd
Campbell
Conrad
D'Amato
Daschle
DeConcini
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatfield
Heflin
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Pell
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Specter
Wellstone
Wofford

NAYS—47

Bennett
Bond
Boren
Brown
Bumpers
Burns
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
Danforth
Dole
Domenici
Durenberger
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Helms
Hollings
Hutchison
Jeffords
Kassebaum
Kempthorne
Lott
Lugar
Mack
Mathews
McCain
McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Pryor
Roth
Simpson
Smith
Stevens
Thurmond
Wallop
Warner

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 47, three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona is recognized.

NOMINATION OF JUDGE BREYER

Mr. McCAIN. Mr. President, I intend to make a very brief statement.

Mr. President, this morning the Senate Judiciary Committee began holding hearings on the nomination of Judge Stephen Breyer to be Associate Justice on the Supreme Court. I am hopeful that those proceedings will shed light on the record of Judge Breyer in the effort to fill this extremely important Supreme Court position with the best possible person.

The position of Associate Justice on our country's highest court is one that requires the complete public trust. The American people must have full faith and confidence in the Judiciary. I hope that Judge Breyer will be able to further the public's trust in these institutions.

Mr. President, there have been very serious charges raised regarding the appropriate use of taxpayer dollars for the construction of the Boston Courthouse. According to published reports, Judge Breyer personally played an active role in the design and site selection processes for this facility.

Mr. President, the cost of this extravagant courthouse continues to skyrocket. The courthouse was originally estimated to cost $163 million. However, due to cost overruns and other costs the taxpayers will now be paying $218 million for this Taj Mahal.

Additionally, architectural fees for the design of this shrine—originally budgeted at $8,633,000—have now exceeded $11 million. And unfortunately, we have no idea when the cost overruns will end.

These reports also have listed the following proposed expenditures: A six story atrium; 63 private bathrooms; 37 different law libraries; 33 private kitchens; custom-designed private staircases; $450,000 for a boat dock; $789,000 for original artwork; and $1.5 million for a floating marina with custom-made park benches, garbage cans, and street lights, and a 2.6-acre park.

I am concerned about how the taxpayers' money is being spent. Those responsible for public expenditures must be held accountable for their actions. Those who spend that money in a fashion that is not appropriate or that is called into question must be forthcoming in explaining their actions. Judge Breyer was the individual—or client—responsible for this project. That is why we must now ask these questions of Mr. Breyer.

Yesterday, I wrote to Judge Breyer asking him specific questions regarding the Boston Courthouse. Answering these questions in a forthcoming manner is crucial so that the Senate may consider this serious matter in the advise-and-consent process.

Mr. President, I do not in any way raise this issue to impugn Judge Breyer. I am not a member of the Judiciary Committee and therefore cannot ask questions of him directly during his confirmation hearing. But I do believe that the many questions surrounding the Boston Courthouse and Judge Breyer's role in designing that building and selecting this site must be fully and publicly aired. Anything less would be wrong and an abdication of our responsibilities.

Good judgment and discretion are indispensable assets to a Supreme Court Justice. We have an obligation to examine Judge Breyer's record and to determine if he has exercised good judgment not only in his judicial decisions, but in his administrative duties.

Mr. President, I ask unanimous consent that the letter I sent to Judge Breyer be printed in the RECORD. I am hopeful that Judge Breyer will soon clarify the concerns surrounding this subject.

There being no objection, the letter was ordered to be printed in the RECORD.

U.S. SENATE,
July 11, 1994.

Hon. STEPHEN BREYER,
U.S. Federal Courthouse, Boston, MA.

DEAR JUDGE BREYER: As you may know, I have been working to ensure that federal dollars spent on building projects are being used in the most cost efficient manner possible. As such, I have become very concerned about waste and extravagance at the new Boston Courthouse.

I would appreciate it if you would explain to me exactly what has transpired to date regarding the design and site selection of the Boston Courthouse. In your explanation, I would appreciate it is you would please answer the following questions:

1. What specifically was your role in the site selection and procurement of such site for the Boston Courthouse?

2. According to reports, the site chosen by a panel chaired by you originally ranked 11th out of 12 prospective sites, but that by the end of the process it ranked first. Is this accurate? What was your rationale for choosing the Fan Pier site over the other more highly rated sites studied?

3. According to the Washington Times, in 1989 the Boston Redevelopment Authority finished a study saying the city's crowded federal courthouse would be cheaper to relocate than to expand. The study listed four acceptable sites for a new courthouse, and ranked them by feasibility. The Fan Pier site—later selected by you—was rejected. Please comment, in light of other studies, why you selected the Fan Pier site.

4. In many cases when courthouses are built, sites are chosen that are already owned by the Federal government or that are owned by municipalities that are willing to deed the sites to the federal government at no cost. For example, the City of Phoenix recently donated land to the federal government for the proposed new Phoenix Courthouse. Noting the fact that the federal debt is looming near $4 trillion, what was the rationale for choosing a site that cost $34 million?

5. According to documents supplied to me by the General Services Administration, one of the risks of not proceeding with the Boston Courthouse is that GSA has already spent $34 million for the site and $13 million for design. I am very concerned that $47 million has already been spent on this project in a manner which makes it virtually impossible to build a courthouse on a site which would result in savings to the taxpayer. GSA documents reflect the fact that the court, referred to in their documents as the "client," is strongly pushing for the project to move forward as planned. Please comment on your role in this matter noting specifically what purchases or expenditures you may have personally approved or with which you were involved.

6. According to published reports, you have personally interviewed architects and played an active role in the design process for the Boston Courthouse. Accordingly, please comment on the need for and prudency of the following proposed expenditures which have been noted by the media: A six story atrium; 63 private bathrooms; 37 different law libraries; 33 private kitchens; custom designed private staircase; $450,000 for a boat dock; $789,000 for original artwork; and $1.5 million dollars for a floating marina with custom-made park benches.

7. GSA has stated that there is no leased space available in Boston that meets the client's needs. Why does the court believe that no site other than the one chosen will meet its needs? Please note with specifically the needs that the court believe must be met.

According to reports published in the Washington Times, you would not comment on this matter publicly because "you have not been giving any interviews or commenting while [the] confirmation process is ongoing."

As I know you can appreciate, the Senate has a Constitutional duty to advise and consent regarding certain nominations made by the President. I believe, therefore, it is crucial for the Senate to receive, as soon as possible, a full and public accounting on this issue and your role in developing the plans for the Boston Courthouse.

In advance, I thank you for your cooperation.

Sincerely,

JOHN MCCAIN,
U.S. Senator.

Mr. MCCAIN. I yield the floor.

NATIONAL LABOR RELATIONS ACT AND RAILWAY LABOR ACT AMENDMENTS

MOTION TO PROCEED

The Senate continued with the consideration of the motion.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

STRIKER REPLACEMENT BILL

Mr. PRESSLER. Mr. President, I rise today to express my strong opposition to S. 55, the striker replacement bill. I am opposed to this legislation because it would disrupt the careful balance between labor and management as provided for under current law. I am opposed to this bill because, in my view, it is bad for economic policy and growth. Above all, I am opposed to this bill because of the severe impact it could impose on the smallest members of the American business community and their employees, such as those comprising 99 percent of South Dakota's businesses.

As the ranking member of the Senate Small Business Committee, I work with entrepreneurs every day. I have heard their concerns and know their limits. Everything I have learned from business men and women tells me they cannot handle the day-to-day uncertainty this legislative proposal would impose of them.

Under current law, employees have the ultimate collective bargaining tool—the right to strike. In turn, employers have the right to use permanent replacements during strikes as long as they do not violate the unfair labor practices laws administered by the National Labor Relations Board. This has remained a well-established principle of labor law since 1938, when the U.S. Supreme Court recognized management's right to hire replacement workers.

Mr. President, I might at this point insert in the RECORD a progeny of American labor law.

PROGENY OF AMERICAN LABOR LAW

The National Labor Relations Act [NLRA] is the principal law that provides our basic labor policy. The two major components of the NLRA are the Wagner Act of 1935 and the Taft-Hartley Act of 1947.

The Wagner Act of 1935 was the first comprehensive Federal measure protecting union organizing and collective bargaining activities in private industry. The act established broad rights for collective actions by employees.

The Taft-Hartley Act of 1947 limited union power by preventing secondary boycotts. Further, it allows States to adopt right-to-work laws.

The Landrum-Griffin Act of 1959, increased union democracy by imposing financial disclosure requirements on unions.

Mr. President, I thing it is important to note the Wagner Act did not specifically address the issue of whether employees who strike for economic reasons are guaranteed return to their former positions at the end of the strike. This principle of hiring permanent replacement workers was established by the U.S. Supreme Court ruling in 1938 in the case of NLRB versus Mackay Radio and Telegraph Company. That decision established a distinction between two types of strikes—unfair labor practices strikes and economic strikes. The court ruled that employers may hire permanent replacements in cases of economic strikes, but banned the hiring of permanent replacements for strikes over unfair labor practices.

I think it is fascinating how we have maintained a balance between unions and management and how that balance is working to create jobs. I recall as a high school student studying the Landrum-Griffin Act of 1959 which is part of that progeny. I think these acts have provided our country with job growth and opportunities, with flexibility in decisions by employees and employers, and with benefits to employees. The American worker is, in many ways, the best in the world. Our workers have the most choices, are the most mobile and have the most training opportunities available in both the public and private sectors, when all other things are considered.

Employers currently are barred from hiring replacement workers during strikes over unfair labor practices. The proposed striker replacement bill would extend that ban to economic based strikes, such as those regarding wages, hours, and benefits. The result would be a substantial shift in the balance of power between labor and management. It effectively would guarantee that unions would win every strike. Unions could call virtually risk-free strikes over any issue. In short, employers, both large and small, would be left powerless to union demands.

Enactment of S. 55 would severely limit the ability of a business to operate during a labor dispute—perhaps forcing the business to fold. This would be true especially for businesses that produce perishable products. The striker replacement bill could affect packing, processing, transportation, distribution, and the retail sale of hundreds of agricultural goods, severely impacting production and sales.

Mr. President, small businesses have several special characteristics that leave them especially vulnerable to this striker replacement bill. First, many small firms operate on a razor-thin profit margin, which quickly can be legislated into nothingness. They do not enjoy the wide profit margins or the diversity of their large competitors. As a result, the bread and butter of small firms lies in their day-to-day operations. If daily operations are shut down for even a short time, their doors are in danger of closing forever. Not only would the employer be affected, but the employees also would face losing their jobs. If business operations are terminated, jobs are lost. Thus, enactment of the striker replacement bill would hurt not only businesses, but also the very workers it claims to protect.

Second, small businesses often are highly labor intensive. If only a few key employees walk out, production could grind to a halt. Small firms do not have the luxury of multiple-layered workforces. They do not have the middle management resources necessary to keep production running. Small firms in high-technology industries are especially vulnerable. Our Nation's best innovations are coming from small entrepreneurs, but their productive creativity will not continue if they are denied access to a highly skilled work force.

Hiring temporary workers is not a viable option for these small businesses. Small firms have neither the financial nor the personnel resources to locate and train employees, only to release them at a moment's notice. It also is highly unlikely the skilled workers needed would cross a picket line to join a small business on a temporary basis.

Third, small businesses that are not directly impacted by striking workers can be put out of business indirectly. This ripple effect is felt in several ways. Small firms cannot afford to stockpile inventory as retail giants can. Therefore, any breakdown in supply lines can seriously affect their day-to-day operations. Further, in communities dependent on a single, large employer, strike effects ripple throughout the local mom and pop operations. Local restaurants, drugstores, gas stations, and movie theaters can be put out of business by a strike at a large plant. The encouragement of strikes at any level will come back to haunt small business employees and employers.

Fourth, this bill would become an unfair union organizing tool that could be used to threaten small, nonunionized businesses. The legislation gives unions a distinct advantage by allowing them to guarantee nonunion employees a job if they join. Nonunion employers simply could not compete with a promise like that. This would leave even small nonunion firms with good labor track records susceptible to union disruption.

The bill gives even more power to unions by allowing them to represent nonunion employees who have not yet voted for union representation. Under S. 55, striking nonunion employees could not be replaced if a slim majority of them have signed union authorization cards. These cards often are signed in the presence of union representatives without any benefit of hearing the pros and cons that are aired during an election campaign. In other words, this bill would allow the union to represent all employees without a Government-sponsored secret ballot election, leaving democracy in the workplace open to coercion and intimidation.

Mr. President, I have described current law concerning the hiring of replacement workers and the impact of S. 55 should it be enacted. However, we also should consider current practices by management regarding the hiring of replacement workers. Are employers typically hiring replacements as a means to avoid negotiating with organized labor? Not according to a 1991 General Accounting Office [GAO] study.

The GAO study, Strikes and the Use of Permanent Strike Replacements in the 1970s and 1980s, estimates that employers announced they would hire replacements in about one-third of strikes in 1985 and 1989. However, the study also estimates that of the strikes for which permanent replacements were hired, only 4 percent of the striking workers were actually replaced in 1985, and only 3 percent in 1989. Does the replacement of 3 or 4 percent of striking workers demonstrate a need to jeopardize overall business stability?

Quite simply, current legal protections for strikers are adequate. This bill would encourage strikes and removes existing incentives to engage in a fair collective bargaining process. The right to strike is a well established principle of labor law. The right of an employer to stay in business during a strike is an equally important right. As I've already mentioned, these principles have been upheld by the Supreme Court for over 50 years.

Mr. President, the striker replacement bill effectively would end the ability of many small employers to stay in business. I cannot support legislation that could endanger small businesses and their employees in such a manner. I am committed to small business economic growth and job creation in South Dakota and across the Nation. I will continue to oppose legislation that would create more obstacles to their success. I urge my colleagues to oppose further action on this shortsighted striker replacement bill.

I might add, Mr. President, that employees would be hurt by this bill because there would be less jobs and because they would be forced to join a union, which some of them do not wish to do.

But I think if we look at the overall picture of U.S. labor, we will find that the U.S. worker has more flexibility, better wages and conditions, and more benefits than other countries of the world. U.S. employees are not frozen into one company or one job forever. That is something to remember.

UNITED STATES POLICY TOWARD HAITI

Mr. PRESSLER. Mr. President, I should like to make a few remarks regarding our policy toward Haiti.

I am very fearful that we are heading down the road toward invasion. Our policy toward Haiti should have three parts. First, we should announce there will be no invasion by the United States so they do not expect us to invade and put a new government into power.

Second, we should state clearly that there will be no mass emigration allowed from Haiti; that only standard, accepted, legal immigration and legal refugee procedures will be followed.

And third, we should work toward lifting the economic embargo on Haiti so that there is a chance for economic prosperity.

I say these three things about Haiti because our policy is very confused, and is making the situation worse.

We moved 2,000 marines down to the Caribbean making it look like we might invade. It remains unclear whether we will invade or not. The people of Haiti are expecting the United States to do something, they are expecting the United States to do it so they will not have to do it for themselves.

Let us remember that Haiti has been an economic basket case for 200 years. It has not known democracy. It is true that they had an election and they elected Mr. Aristide. But as soon as Mr. Aristide was in power, he did not rule like a Democrat. Instead, he ruled like a dictator. He abolished the Senate, essentially, or at least refused to have them confirm actions taken by the President, which is their right under the Constitution. He virtually abrogated the intent of the Constitution of the country by acting as a dictator and not following procedures of consultation and approval by the Senate and other bodies. Aristide ordered judges to impose sentences of death on certain people. He also advocated necklacing; a practice involving placing a gasoline-filled tire around the neck of his political enemies and lighting it.

Is this the man United States troops are going to put back into power in Haiti? Let us think a little bit more about it.

We have a great deal of inconsistency in the administration's policies regarding immigration.

Now, all of our parents and grandparents, our great-grandparents, our great-great-grandparents were immigrants, and I believe in emigration to the United States for the purpose of coming here to get a job in a field where people are needed. That is the traditional basis on which people came to the United States. People did not come here for welfare. They came to America because they wanted to work.

We now find ourselves in a situation where the administration has changed its policy so often that the people of Haiti not only are expecting an invasion, but they expect large numbers of Haitians will be able to come to the United States. We should state a clear, clear, clear policy that that is not going to happen. We should state the policy that the traditional law regarding immigration and refugee policy will be followed.

Mr. President, I am very concerned that our foreign policy regarding Haiti is being driven by the Black Caucus in the House of Representatives. I know that the President needs the votes of the Black Caucus to pass his health care bill. But for the first time, major foreign policy decisions are being made on a racial basis, and I find it very unfortunate.

I have read some of the statements of Black Caucus leaders, and I guess in some States a certain percentage of the vote comes from African-Americans. Somehow this administration believes that it must follow the lead of the Black Caucus with regard to foreign policy in Haiti. That is a great, great mistake.

It is my strongest conviction that we should carry out our foreign policy where there are clearly identified U.S. interests.

I predict when this Congress is in recess in August, the President will invade Haiti, when the Congress cannot react, when the Congress is out of town. There appears to be a trend among recent American Presidents to seek popularity by executing military operations in relatively small countries. Sometimes that is good and sometimes it is bad. Generally speaking, it is bad. I think that this President, in particular, is eager to execute a successful military operation, partly out of a desire to show a military machoism on which the American Presidency seems to thrive.

In this case, a U.S. military invasion would be a great mistake. I think the Clinton administration and the Congress should make it clear that there will be no invasion of Haiti, that there will be no mass emigration from Haiti allowed, and that we are for lifting the embargo.

During the congressional recess, the President should assure Congress that he will not invade Haiti, knowing that Congress is out of town and knowing therefore that there would be a minimum of opposition to such action. Senators such as myself would not have a vehicle on which to offer an amendment condemning such an act until September 12. I am fearful that we will see an invasion of Haiti during that recess.

Finally, Mr. President, I would plead that the President of the United States and the State Department not allow the Congressional Black Caucus to make foreign policy regarding Haiti. I know the President wants the votes of the Black Caucus to pass the health care bill and to pass several other pieces of legislation that are pending, and I know that such support has been threatened to be withdrawn if certain steps to invade Haiti are not taken. Perhaps never in our history has a group in Congress threatened to withhold their votes for domestic social legislation in exchange for the invasion of a foreign country. It is a very sad day when domestic votes in the House of Representatives are being threatened to be withheld unless the President sends the U.S. Marines into harm's way, on a mission that could not possibly be successful. Let us look at what happened in Somalia the last time we sent troops into a small country.

So, Mr. President, in conclusion, Haiti is going to have to solve its own problems. It has had those same problems for 200 years or longer. U.S. troops cannot institute democracy in that little country. The man the troops are most likely to install as leader, Mr. Aristide, is not a Democrat. He governed as a dictator. He was elected, but his record in governance is not as a Democrat, I think we should remember that.

Mr. President, I will conclude by asking unanimous consent to place some additional newspaper articles into the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Times, July 9, 1994]

CLINTON CAN'T SHAKE THE HAITI MORASS—CRITICS DIVERT ATTENTION FROM NAPLES SUMMIT

(By Rowan Scarborough)

President Clinton's zigzagging Haiti policy has followed him to Europe, dimming what was designed to be a series of shining moments for a president trying to establish foreign policy stature.

The press yesterday peppered Mr. Clinton with questions about the small, impoverished country as the president sought to keep attention on grander economic strategies being discussed among the world's most powerful leaders.

"This is not a fun thing to have other leaders aware of at this time," said Rep. Porter J. Goss of Florida, the chief GOP critic of the administration's Haitian policy. "What has happened, this is one of the times the White House spinmeisters have spun it back on themselves, and they have a big problem on their hands."

This week's events—an unexpected tidal wave of Haitian boat people, a corresponding shift in U.S. resettlement policy, and Panama backing out of a pledge to house 10,000 refugees—struck at such a bad time White House spokeswoman Dee Dee Myers asserted Haiti was not that important anyway.

"Haiti's not the most important foreign policy problem that we face," Miss Myers told reporters in Naples, where Mr. Clinton is attending the annual G-7 summit of industrialized nations.

Her sudden dropping of Haiti as a top priority came as the Pentagon openly talked about training young soldiers for possible combat on the military-run island.

"She has to say that," said a House aide who works the Haiti question. "On page 1 of the newspapers is Haiti and on Page 17 are his speeches in Europe."

Miss Myers' comment so angered Rep. Kweisi Mfume, Maryland Democrat and chairman of the Congressional Black Caucus, that the congressman called a press conference yesterday to roundly denounce the administration's shifting course.

"The president may not believe that this is the most important foreign policy issue facing the United States, but it has quickly become the most embarrassing," said Mr. Mfume, in his toughest criticism to date.

"The Congressional Black Caucus believes that our policy on Haiti is a policy of anarchy, one which changes by the moment, and in the past 72 hours has witnessed administration officials issuing statements filled with conflicting conditions," Mr. Mfume said.

Even before Miss Myers' remarks, the administration had spent the week reeling from developments related to the flood of boat people, including, chronologically, these events:

Faced with a sharp increase in the number of Haitians taking to rickety boats in a risk-filled try to reach the United States, William Gray III, the president's special envoy, announced those who seek asylum via the sea would no longer have any chance of resettling in America.

Critics say the administration itself triggered the flood by imposing harsh economic sanctions and establishing shipboard processing of refugees to determine if they qualify for U.S. entry as political refugees.

Panama abruptly pulled out of an agreement to provide a temporary "safe haven" for as many as 10,000 Haitians, sending Mr. Gray scurrying to find the additional capacity in other Caribbean nations.

Mr. Goss charged in an interview that the administration jumped the gun in announcing the deal before the Panamanian legislature reviewed—and killed—the deal.

Mr. Gray told reporters that Lt. Gen. Raoul Cedras and the junta that ousted elected president Jean-Bertrand Artistide in 1991 must leave power by the end of the year.

Said Mr. Mfume: "I thought it was a bit troubling considering the fact that it's almost a license, then, to continue to maim and to rape women as they are doing and to murder, and to know that they've got until New Year's Eve before they have to get serious."

The congressman called on the president to order "surgical air strikes" against the Haitian military. He declined to specify which type of targets, such as barracks or Gen. Cedras' headquarters.

While Mr. Mfume criticizes the president, Mr. Goss contends the Black Caucus is partly to blame.

"In my view, the bottom line is the White House is being responsive to domestic political pressure—that's really what's driving this—from the left, the Black Caucus," he said. "Those folks are determined Haiti should be treated just as Cuba is."

The United States automatically accepts all Cuban refugees under Cold War legislation that deems all the island's residents the victims of communist totalitarian rule.

"Haiti itself is a friendly neighboring country, and for us to be in a warlike state with them now is a foreign policy failure of extraordinary detail," Mr. Goss said.

"If we send in the military to remove Gen. Cedras, there are thousands of Cedrases that could take over."

[From the Washington Post, July 12, 1994]

DON'T INVADE HAITI

(By Lally Weymouth)

The order yesterday by Haiti's ruling regime expelling international observers from the country brings the United States one step closer to invading the poorest nation in the Caribbean. The expulsion of the United Nations-Organization of American States mission was denounced by a top U.N. official as a "provocation."

The ostensible purpose of a U.S. military operation would be to remove the generals who are now running Haiti and to reinstate Haiti's elected leader—the left-leaning, anti-American priest, Jean-Bertrand Aristide. The real aim, however, would be to stop the flow of Haitian immigrants to the United States and, as one administration official put it, to "win one" for President Clinton.

The operational plan—still opposed by high-ranking Pentagon officials—is for U.S. forces to invade, expel the military rulers who now govern Haiti and then quickly turn matters over to Aristide. Within about four weeks, a 10,000 to 12,000-man U.N. peacekeeping force would take control of the country. U.S. troops would participate in the U.N. force, which would be expected to remain in Haiti until February 1996, by which time a general election would have been held. The mission of the peace-keepers, as Washington sees it, would be to establish civil order, protect Aristide, remake the Haitian army and purge the police force.

American officials insist that at this late juncture, the only factor that could conceivably persuade President Clinton not to order the U.S. military into action would be the personal opposition of Aristide—the man in whose name the operation would be launched.

As the Clintonites see it, they are risking American lives to restore democracy to Haiti. But, claim officials, Aristide is himself undermining this very policy by refusing to give his blessing to an invasion and to a U.N. peace-keeping force. As things stand, Aristide is consenting only to a "surgical" coup. As a consequence, the Haitian priest has become a thorn in the side of President Clinton.

Moreover, the administration is finding it hard to put together a U.N. force without Aristide's extending his express approval for military action. Administration officials have endeavored—without success thus far—to persuade Aristide to formally ask the United Nations for official support.

Senior officials at the United Nations are privately expressing reluctance to send a U.N. peace-keeping force to Haiti. Worried by the cost of the undertaking, these international civil servants argue that it would take at least three months to organize a force the size that the U.S. is demanding. Indeed, one high-ranking U.N. official actually suggests turning the ill-defined mission back over to the United States—to prevent the U.N. from becoming involved in an expensive, vaguely defined operation that could well fail in the long term.

In return for voting for the Haiti operation in the U.N. Security Council, the Russian government is expected to demand what it calls "sphere of influence peace-keeping." This means that the Russians will seek U.N. blessing for the troops they have dispatched and the peace-keeping they have undertaken in Georgia. This could, of course, set a precedent for Russia's flexing its muscles in the future.

Currently, Aristide remains ambivalent about an American invasion of Haiti. He recently told National Public Radio, "I am against a military invasion." In the end his continuing unwillingness to co-operate with the administration may render it impossible for President Clinton to order U.S. forces into action.

If an invasion is launched, the Clinton administration will have to account for Aristide's long-standing and unmistakable anti-American sensibility. In a speech he made in Haiti just six years ago, he asked a huge mob: "Who is Satan, we or the Americans?" Answering his own question, he said, "The Americans." Aristide posed another question: "Who is the most satanic, the Americans or the American government?" His view? "The American government. . . . Down with Satan. Down with imperialism."

At least one high-ranking Clinton administration official argues for supporting Aristide on the grounds that his human rights record was far better than that of the present military rulers. Many disagree. Refugee expert Nina Shea of the Pueblo Institute suggests that "the tenor was the same. Under Aristide, the courts didn't function. There was no rule of law. Scores were settled through violence. Legislative bodies were silenced through threats of mob violence." In Shea's view, Aristide is no democrat.

Should President Clinton call off the invasion, he would do himself, Haiti and this country a favor. As Rep. Porter Goss (R-Fla.) contends, there is no national security consideration that justifies an invasion of Haiti. Clinton's Haiti policy, Goss observes, is "a mess caused by overattentiveness to domestic politics." President Clinton needs the Congressional Black Caucus's votes, Goss claims, to pass a health care bill.

Allen Weinstein, of the D.C.-based Center for Democracy, notes that right now the diplomatic effort is dead. Weinstein favors reviving it. Surely this would be a wise course—considering the cost of an invasion in blood and in money—not to mention the expense of a long-term U.N. peace-keeping force.

If North Korea's late Marxist dictator, Kim Il Sung deserved one last chance, how is it that Lt. Gen. Raoul Cedras doesn't merit the same treatment?

NATIONAL LABOR RELATIONS ACT AND RAILWAY LABOR ACT AMENDMENTS

MOTION TO PROCEED

The Senate continued with the consideration of the motion.

Mr. PELL addressed the chair.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Chair recognizes the Senator from Rhode Island [Mr. PELL].

Mr. PELL. During the past few months, Mr. President, many of my fellow Rhode Islanders have taken the time to share their thoughts with me on S. 55.

Many of the business men and women who have expressed their opposition to the bill have told me they are concerned the bill will tilt the balance of power in favor of labor. They are afraid they will be faced with only two choices; Acquiesce to union demands or go out of business. One person remarked that he considered this legislation to be blackmail.

I view this legislation differently. Currently, an employee must accept the wage and benefit increases their boss offers or be permanently replaced, an interesting synonym for being fired. That's not much of a choice, Mr. President. Once passed and signed into law, this measure will restore an appropriate balance to labor negotiations, a balance that has been in place for 58 years. As in strikes for unfair labor practices, those who strike for economic reasons will have their right to strike preserved and protected and employers will have the right to hire temporary replacements.

Mr. President, it is my sincere hope that in the near future, labor-management relations will change from confrontation to cooperation. If the companies of this Nation are to compete in the fast-paced global economy of the future, they will have to draw the very best from all portions of the company; including the men and women in the shop or on the production line. That change cannot take place however, without this bill becoming law.

As one who customarily votes for cloture, I have no hesitation in urging my colleagues to join me in voting for cloture.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, I think that yesterday and today we have had a good debate both pro and con on S. 55. There are some other speakers who wish to come down to the floor. But since they are not here yet, I would like to use an example which I think is illustrative in helping us understand some of the things that have been mentioned in the course of this debate.

The proponents of S. 55 argue that labor has lost the right to strike. They contend that allowing permanent replacement undermines collective bargaining and therefore undermines the right to strike. I would suggest that this is not the case. I would like to speak a bit about a good example of that.

The Teamsters national trucking strike illustrates why this contention is false. The Teamsters recently engaged in a 24-day work stoppage against 22 major trucking companies. Seventy-five thousand workers went on strike for over 3 weeks.

Teamsters President Ron Carey and his bargaining team negotiated a tentative agreement, which he characterized as a fair contract that he strongly recommended. The contract called for wage and benefit increases of $3.20 per hour over the 4-year term. According to a New York Times report, Teamsters typically make about $17 per hour. Carey told reporters:

> Our members can go back to work proud of what they've done for themselves, for their communities, and certainly for future generations. Our members won on the key issue, which was job security. * * * We stood up for the American dream. We drew the line, not just for Teamster members, but for all American workers. We said to the companies, "You're not going to destroy all full-time jobs in this country," and we made that point stick.

Mr. President, I take Teamster Ron Carey at his word when he says that through their strike, they drew the line and made that point stick. The trucking companies did not hire permanent workers to replace the striking workers. Ron Carey, the head of the Teamsters, believed that the strike was a success. And by the union's own admission, the workers won the strike. This was under current law, which those of us who oppose S. 55 would argue is balanced in ways that allowed both the employees and the employers to negotiate and engage in collective bargaining.

How then can S. 55 supporters claim that the right to strike is meaningless?

Our country just recently went through a prolonged national strike for over 3 weeks, and the union president claimed that the union beat management. The union successfully negotiated a contract, and no permanent replacements were threatened or hired.

But I suggest, Mr. President, that the strike had an impact and there was damage done on all sides. I heard from Kansas constituents who were members of the Teamsters Union who wanted me to do something about the strike. They said the union leadership was out of touch, and they were concerned about what they were being asked to do. Retailers lost customers, and suppliers could not move their products.

Some might say the strike produced too much economic pressure. Churchill Truck Lines, which is based in Missouri, was one of the 22 companies struck by the Teamsters. The company went out of business as a result of the strike, and more than 2,000 employees lost their jobs. In business since 1926, Churchill operated 96 terminals in 26 States. The company president indicated that "the economic impact of the strike and the economic impact of increased costs once the strike was settled led us to the decision that we could not operate."

I think, Mr. President, this strike severely strained Churchill Truck Lines. The strike worked so well, it put so much pressure on this particular company, that the company went out of business. This clearly refutes supporters of this bill who argue that the strike is no longer an effective weapon. Indeed, it certainly was in this instance. Tell that to the 2,000 workers at the Churchill Truck Lines who lost their jobs. They will tell you firsthand how well an economic strike works.

Those of us who have opposed S. 55 do not point to Churchill Truck Lines and conclude that unions should no longer have the right to strike. Unions use their economic strike weapon and sometimes—on rare occasions—it can wipe out the employer. But that is a decision for the parties to make themselves, and they should have that ability on both sides to make that decision.

We do not believe that simply because unions have the power to drive employers out of business, we should repeal the right to strike, even though I urge, Mr. President, as has been done during the course of this debate, that what we want to see in the American workplace is the ability for employees and employers to get together. That is what the whole purpose of labor law has been, not to cause aggravation and dissension and adversity, but to try to work together for the best interests of all involved.

I really wish that the supporters of S. 55 would recognize the irony of bringing striker replacement legislation to the Senate floor after we endured a successful national economic trucking strike that worked so well that it put a major truck company out of business.

This is why, Mr. President, I feel that for those of us who have opposed S. 55, we have done so in the belief that there is a better way to address the difficulties that one does encounter in the workplace. It only harms all concerned if we cannot do it in ways that address the future without trying to put companies out of business and create a further atmosphere of coercion and dissent and fear.

It has been said many times during the course of this debate that, indeed, what we need to strive for is balance and fairness. That, to me, is what this debate has been all about and why when we talk about S. 55 as the "workplace fairness bill," we miss the point completely and would only create an imbalance that does not allow the forces that are at work there, as illustrated by the strike of the Teamsters against the trucking industry, to work their will. But it takes a toll. It is not to say that we are trying to stop that process from working, but it is important to recognize the hardships that affect everybody when we handle disputes in such a way that we cannot resolve them to the benefit of all concerned.

I know that there were others who wished to speak. I just say that I think the vote recently taken indicates that there are many who have deep reservations about S. 55. But I hope that, in the course of the debate, we have recognized that there is much at stake here. There is much at stake for the labor force and for the competitiveness of our industries.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WELLSTONE). Without objection, it is so ordered.

THE RULING OF THE GERMAN HIGH COURT REGARDING OVERSEAS DEPLOYMENT OF THE GERMAN MILITARY

Mr. ROTH. Mr. President, I arise today to draw the attention of my colleagues to a most significant ruling issued today by the German high court, sitting in Karlsruhe. That court has ruled that the German Constitution, the basic law, contains no prohibition against the overseas deployment of the German military.

In effect, this means that the German military will be able to participate fully in United Nations peacekeeping operations, the operations of the Western European Union and in future NATO combined joint task forces. This departure constitutes a most significant step forward toward adapting NATO, in particular, to the new security needs of the post-cost-war world. To date, whenever NATO has contemplated broadening its mission beyond simple border defense, it has been hindered by the fact that Germany, one of its most military potent members, asserted that it was constitutionally prohibited from deploying troops outside NATO territory. That fundamental problem has now been resolved.

Shortly after the Clinton administration first took office, the President's permanent representative to the United Nations voiced U.S. support for an expansion of the permanent membership of the U.N. Security Council, particularly with a view to German and Japanese membership. At that time I introduced a Senate resolution, subsequently incorporated in the State Department authorization bill, stating that, while the United States should support German and Japanese Security Council membership, the initiative should proceed no further until both nations had made themselves ready to take on all of the responsibilities of permanent Security Council membership.

In particular, I was concerned that, at that time, both the German and Japanese Governments were asserting that their constitutions prevented their participation in U.N. military operations. Would the American people tolerate a situation where German and Japanese diplomats were voting in favor of operations which would place United States soldiers in harm's way while, simultaneously, they had no intention of having their own military participate in those operations? Such a departure, in my opinion, would have proved disastrous for our relations both with Germany and Japan.

The German High Court ruling has effectively addressed this problem and, in response, the Clinton administration must vigorously press the case for Germany's permanent membership in the Security Council. I am particularly concerned that Germany's proposed membership should not be delayed by Japan's failure similarly to address its constitutional situation. There is no reason why the two countries' applications should be regarded as inseparable. Germany has acted on its constitutional problem. It has done so forthrightly and it should be rewarded for its resolve.

Since the collapse of the Berlin Wall and the welcome unification of a too long divided Germany, Chancellor Kohl has repeatedly urged his countrymen to take a role in the international community consonant with their country's economic prowess. In the aftermath of Operation Desert Storm I, myself, traveled to Bonn at the suggestion of Germany's then-Ambassador to the United States Juergen Ruhfus, in order to press upon the German Government my observation that Germany's inability to participate in that undertaking had placed considerable strain upon United States-German relations.

In pressing the issue of the overseas deployment of the German military, the Chancellor has demonstrated his recognition that this is not simply a question of Germany asserting its international rights but also of taking on its international responsibilities.

By contrast, Japan is doing its utmost to avoid addressing its central constitutional problem. The current government, a coalition of the conservative LDP Party and its traditional rival, the Socialists, harbors vast internal policy differences. The differences over defense and security policy are particularly bitter, with the Socialists traditionally maintaining that Japan's self-defense forces are unconstitutional. Consequently, in order to retain power, the coalition is failing to discuss Japan's security obligations while the foreign ministry pushes for a permanent seat for Tokyo on the United Nations Security Council.

Japan's simultaneous hunt for enhanced status while it avoids internal discussion of the responsibilities intrinsic to that enhancement is not only curious, it is also dangerous. Consider the current situation in the Korean Peninsula. If the worst were to occur and war breaks out, the United States is treaty bound to fight alongside South Korea. In doing so, this Nation would, in effect, be defending Japan as well as South Korea. However, under current accepted Japanese interpretations of its constitution, Tokyo would be forbidden from putting its troops on the line in the event of such a war.

When the Korean war was over, and the accounting done, Americans would undoubtedly consider Japan a questionable ally. We would ask why our sons and daughters had to die to defend a country that refused to defend itself. Current circumstances and current Japanese aspirations demand that Japan address its constitutional situation as forthrightly as has Germany.

Before I close, I should note that I have already heard one commentator assert that the German high court's decision does not constitute the significant departure which it might appear, because the high court also ruled that future overseas deployments of the German military will require the approval of a majority in the Bundestag. I do not, in any way, believe that this provision undermines the significance of the high court's ruling. If any nation is to send its troops overseas, it needs to know that it enjoys the full support of its electorate, as expressed through the elected legislature.

I supported the proposal that the Congress vote prior to any initiation of hostilities with Iraq. More recently, I supported the Nickles-Cochran proposal that no U.S. troops be deployed on U.N. peacekeeping operations absent an affirmative vote of Congress. The involvement of the national legislature, be it the Congress or the Bundestag, in decisions to send forces overseas is not a demonstration of weakness. Rather, it is both a demonstration of mature democracies at work and a recognition of the major importance of the decision which is being taken. No civilized nation can blithely place its citizens in harm's way, whether they wear a uniform or not, and decisions to send troops into danger should, therefore, be thoroughly considered by both the executive and legislative branches of Government.

In closing, let me congratulate the German people for addressing this complex and troubling question and for resolutely taking up the burden of world citizenship. I trust that we will shortly see Germany occupying a permanent seat in the U.N. Security Council.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOLLOWING OUT AMERICA'S DEFENSES

Mr. HELMS. Mr. President, Tony Harrigan's name is pretty much a household word, certainly among those of us who have been so alarmed, and still are, and who have so strenuously opposed, and still do, the slash-and-burn policies that have led to dismantling so much of the defense capability of the United States.

Tony Harrigan has built a distinguished career in journalism as a respected editor and now as a research fellow at the National Humanities Institute in Washington. As I wrote to Tony this morning, I do not believe he has ever made a more significant contribution than when he penned his article for the July 11 issue of National Review, bearing the title: "Hollowing out

America's Defenses." The subtitle reads: "As President Clinton walked the Normandy beaches, did he think of the current state of our military?"

That is an excellent question, and I wish we knew the answer. But we do not.

In any event, I recommend that all Senators and every concerned American ponder that question.

I ask unanimous consent that the aforementioned article be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the National Review, July 11, 1994]

HOLLOWING OUT AMERICA'S DEFENSES

(As President Clinton walked the Normandy beaches, did he think of the current state of our military?)

(By Anthony Harrigan)

In the last 12 months American airmen were actively engaged over Bosnia. Marines landed in Burundi. U.S. forces were winding down a long and difficult mission in Somalia. American servicemen lost their lives over Northern Iraq. For good measure, the liberal hawks in Congress are calling for a U.S. invasion of Haiti.

And all this may be just a warmup. Russian President Boris Yeltsin already has toughened his foreign policy to appease the nationalists and the armed forces. The bear retains its claws. The former Soviet ballistic-missile-firing submarine force remains alive—and growing. Russia is continuing to build submarines even as it seeks massive aid from the United States.

Elsewhere nuclear proliferation headaches continue to grow. North Korea is suspected of planning a substantial nuclear-weapons program. Its forces on the border with South Korea have been augmented and placed on heightened alert. A North Korean general has visited Iran, another rogue state with sizable military ambitions. And Iran has signaled its intentions in the Persian Gulf and the Arabian Sea by negotiating for submarines.

In another ominous development, China is moving rapidly toward military superpower status. In April, the regime approved a 22 per cent increase in military spending. It plans to purchase Russian equipment more advanced than anything the Allies used in the Gulf War, including the T-800 gas turbine tank, a Patriot-type antimissile system, and a new rocket system. The Far Eastern Economic Review revealed last summer that more than 1,000 former Soviet military scientists are working for China. Its nuclear tests continue. Former U.S. ambassador James Lilley has said that this Chinese arms build-up has its sights set beyond China's borders—in other words, it's not defensive. Senator Larry Pressler says the new Chinese ballistic missile has a range of 7,400 miles and is a direct threat to the United States.

In short, everything that has happened on the world scene in the past year makes clear the need for the maintenance of American military might. Yet Clinton officials insist time and again that there is a peace dividend to be enjoyed. They're part of a liberal consensus that the strong defense structure created in the Reagan years can and should be scrapped.

The blueprint for the drawdown is the Clinton Administration's "Bottom-Up Review of Defense Needs and Programs" issued last September. Despite its title, the BUR is anything but a review of national-security threats and needs by service professionals. It is a top-down statement of the views of President Clinton and his political advisors. It is full of easy optimism. In citing "New Opportunities," then-Secretary of Defense Les Aspin didn't examine opportunities for strengthening national security but, instead, proposed that the U.S. "protect and advance our security with fewer resources, freeing excess resources to be invested in other areas vital to our prosperity." Instead of a security review, the BUR is a design for extracting a "peace dividend" from the hide of the nation's armed forces.

Senator John McCain, a member of the Armed Services Committee, sums up the new national-security situation succinctly: "We are going hollow. We are losing our ability to get there 'fustest with the mostest.'"

The areas where the United States faces serious deficiencies include maintenance of equipment in depots, manpower quality, manpower strength, and modernization of equipment. The Administration is failing to fund the upgrading of armor and artillery, fire support, mine warfare, long-range conventional-strike aircraft for the Navy, airlift for the Army, improved attack helicopters, improved munitions for the Air Force, improved conventional bomber and attack aircraft, and defenses against chemical and biological weapons.

TURNING THEIR BACKS

These needs are not addressed, or are muted, in the "Bottom-Up" Review. The purchase and deployment of new weapons is presented in a vague and uncertain manner. The need for new munitions is dismissed by an Administration that says existing munitions are adequate to the less ambitious tasks that are likely, a convenient sleight-of-hand.

Readiness is compromised by other Administration decisions such as using readiness funds to pay for humanitarian operations, which properly should come out of State Department or foreign-aid budgets. The services are deprived of almost $900 million in readiness funds in order to pay for global cooperation programs.

The readiness problems are innumerable. Here are a few:

Army. The U.S. Army Chief of Staff has said that "the Army is on the razor's edge of readiness." Manpower cuts are breaking up units and crews, and creating turbulence. Pay cuts are damaging morale. Funds for recruiting have been cut. Funds for maintaining operational tempo have been slashed 21 per cent from 1985. Operations and maintenance expenditures have been slashed 36 per cent. Modernization funds have been reduced 50 percent during the last five years.

Air Force. Funding for the Air Force—so important in Desert Storm—also has been slashed: 45 per cent for fighters and 41 per cent for bombers. It is unlikely that the Air Force will be given a new fighter until 2010. The U.S. has depended on the C-141 and C-5 transport planes for many years and desperately needs the new C-17. It will be provided, but in far smaller numbers than originally announced.

The Air Force has had its funds for exercises severely cut. Cuts also affect retention of personnel, maintenance, spare-parts availability, and other key readiness factors. Munitions are inadequate, and the Air Force has had to draw on war reserves.

Navy. The most revealing evidence of the Navy's "going hollow" is planned cuts in warships from 600 to 346, including a reduction in carrier strength from 15 to 12. But the Navy will continue to bear responsibilities from the Persian Gulf to the North Pacific and from the Adriatic to the Caribbean. And though the 346-ship level is the stated goal, the Navy has only enough money to maintain a 200-ship level. In addition, new weapons programs are grossly underfunded; the Navy will not have a replacement for its aging A-6 strike aircraft until 2010.

Critical problems exist in many specialized areas of naval operations. Mine warfare is a favorite tool of smaller naval powers, including rogue states, but the U.S. Navy has only 26 mine-warfare ships. The Navy's 40 amphibious vessels new in service, meanwhile, are to be replaced by 12 ships of the *LS* class. It is said that the amphibious-ship total will rise to 35 by 2008, but all sorts of Third World crises can materialize in the next 14 years. The Administration has also slashed the number of nuclear attack subs from roughly 80 to 40.

Marine Corps. The Marine Corps needs new helicopters to replace the aging machines now in service. Congress has authorized three combat-ready Marine Expeditionary Forces, but the Corps lacks the money to achieve this force level. The Marine Corps has had to use readiness funds to carry out humanitarian and peacekeeping operations in Somalia and Bangladesh. In the past year, the manning level of the Corps was reduced, but 9,000 more Marines were deployed overseas and for longer periods.

SDI level. If rogue states acquire nuclear weapons, the Strategic Defense Initiative unquestionably will be recognized as a strategic imperative. North Korea's acquisition of nuclear weapons surely will pose momentous questions for Japan. Will Japan decide to develop its own nuclear-weapons capability? Will it ask the United States to provide a ballistic-missile defense shield? But SDI has been drastically whittled away by the Clinton Administration.

Command Structure. As a result of defense "reform" legislation of the 1980s, the U.S. has moved toward a centralized, Prussian-style command system, which generations of American political leaders and military commanders strongly opposed. The Joint Chiefs of Staff have been stripped of their traditional access to the Commander-in-Chief, and the Chairman of the Joint Chiefs is now the sole military advisor to the President.

The folly of denying the Joint Chiefs their role as military advisors to the President was demonstrated in Somalia when U.S. servicemen were ambushed because they didn't have heavy armor. After the fact, President Clinton insisted the Joint Chiefs had been consulted. Later, he was proved wrong. They weren't because the JCS Chairman and the Secretary of Defense had no legal obligation to do so.

The first step is for Congress to restore the authority of the Joint Chiefs, bringing back the requirement that the White House consult them about military operations, and the right of the Chiefs to express their several views to the Commander-in-Chief. Lawmakers should also restore the Chiefs to operational control of their respective combat forces. Under such a system—the traditional system—operations such as the Somalia action would be under a task-force commander who would report to the Joint Chiefs.

The Joint Chiefs would be supported by a Joint Staff under their direction—undoubtedly a smaller Joint Staff than exists at present. When the Joint Staff was created in 1949, it was limited by law to 50 members. As of 1992, it was some 3,000 strong—and it reports directly to the Chairman of the JCS, not to the Joint Chiefs. Return of command authority to the service heads would eliminate the unnecessary layers of civilian officials who lack professional military experience. The presence of these civilian planners during Robert McNamara's reign at the Pentagon undoubtedly contributed to the U.S. failure in Vietnam, as they second-guessed experienced air and ground commanders.

Indeed, the McNamara heritage of interference with military commanders lives on. In Bosnia in April, U.S. airpower was used, as the phrase goes, to send a message. It didn't work, and understandably so. But U.S. planes chasing down symbolic targets of a tent or two evoked memories of McNamara risking American lives by sending U.S. aircraft after token targets, bypassing the militarily significant ones.

In the course of restoring the services' separate command authorities, Congress should revoke the fatally flawed Jointness Doctrine and the Unified Command Plan that implements it. The Jointness Doctrine amalgamates military forces when cooperation would be more efficient; it blurs the vital distinctions between different forms of military power, and could even wind up placing an Army general over naval forces, and admiral over combat infantry. The Unified Command Plan, meanwhile, changed the old Atlantic Command, a naval command, beyond recognition. It now includes almost every serviceman in the United States, an impossibly large mission without clear roles for the respective service components.

Compounding these long-standing problems, the 1994 defense authorization bill not only cuts funding for national security, but also functions as a Christmas tree for nondefense projects. The Defense Department is forced to pay out $5.4 billion for environmental clean-up work around military bases. Some $979 million in aid to former Soviet republics came out of defense funds, as well as $20 million for women's health issues.

The Roman philosopher Seneca once said: "Our plans miscarry because we have no aim. When a man does not know what harbor he is making for, no wind is the right wind." Tragically, this is the case with the United States today. The American future is being dribbled and bumbled away in different parts of the world. Military forces are being deployed without a master plan of what the United States hopes to achieve. Replacement stocks of matériel are being drawn down without adequate replacement programs. Tinpot dictators and even regional warlords outfox the government of the United States and cause us to engage in expensive and bloody operations. This lack of planning could result in the United States being plunged into another major war—and without the forces to wage it.

NATIONAL LABOR RELATIONS ACT AND RAILWAY LABOR ACT AMENDMENTS

The Senate continued with the consideration of the motion.

Mr. HELMS. Mr. President, I do hope that the cloture vote presently scheduled for tomorrow will serve as the "last rites" for this session of Congress for a very bad piece of legislation, S. 55.

Mr. President, it seems that bad ideas proposed in the Senate never die. They just fade away for a while, certain to be resurrected for the purpose of kowtowing to some special interest group. That is precisely the case with S. 55, the so-called Workplace Fairness Act, which would be more properly identifiable, I think, as the pushbutton strike bill, because with the push of a political button, big labor can prompt enough work stoppages and strikes to bring the American economy to its knees.

S. 55, in one form or another, with varying language, has been a perennial favorite with certain Members of Congress with strong political alliances to the labor union bosses. S. 55 fractures the delicate balance between workers and employers which has made the American workplace the job engine of the world.

Think of this, Mr. President: Since 1938, U.S. labor law has carefully balanced labor's right to withhold its services against management's rights to keep its doors open.

Contrary to the absurd claims of labor union bosses, management's right to replace striking workers has been seldom invoked. In fact, the most recent study by the GAO showed that although management has often threatened to use its legal rights, the threats were carried out in only 17 percent of all strikes and affected less than 4 percent of all striking workers.

Among other things, S. 55 denies employers the right to offer permanent jobs to new employees during a strike. Under this legislation as proposed, anybody hired during a strike would have to be fired. Also, employers would have to cancel any promotions or raises given during the strike. S. 55 would prohibit workers from doing anything but marching to the tune of the labor bosses. So just when millions of American workers are saying no to organized labor, along comes the Senator from Ohio and the Senator from Massachusetts, with the aid of President Clinton, to breathe life into the dying labor union movement.

It is not going to work, not even with the Congress as presently constituted, and I suspect that the Congress will be constituted a little bit differently come next year. We will see about that in November.

In any case, make no mistake about it, S. 55 is a dangerous bill. At stake is the right of every employer to keep his business operating during labor unrest. At stake is the future of millions of American workers who refuse to be coerced into joining labor unions. At stake is whether we will accelerate the flight of American companies to Mexico and the Far East because of out-of-kilter, coercive labor laws.

Ponder this question: Will any worker be willing to risk life and limb to cross a picket line and go to work if this bill should pass? I certainly think not. This legislation leaves workers with no practical alternative but to join a union at a time when Americans of all stripes are repeatedly rejecting the tactics of the labor union bosses.

The leaders of the AFL–CIO have acknowledged that they want this legislation to make their strike weapon as powerful as possible. But, Mr. President, a distinguished friend of mine, Walter Williams, who happens to be professor of economics at George Mason University, had an observation which was very interesting and very effective. Let me quote part of what he said.

Professor Williams observed:

> Unions' power comes from their ability through laws or violence to prevent businesses from hiring other workers. If they didn't have that ability, a strike would be just a massive resignation.
>
> The union struggle is not against employers, as popularly thought. It's against workers who are not union members. One way you see this is to ask: Who gets beat up during a strike? It's not owners or management; it's workers who've disagreed with the union and wish to work. The union labels these men and women trying to earn a livelihood "scabs." The National Right to Work Committee estimates that almost 6,000 violent incidents have occurred during strikes since 1975, including the 1990–1993 Greyhound bus strike, where buses were shot at 52 times.

As Professor Williams clearly illustrates, organized labor's objective is not to destroy employers outright. The union's top goal is to increase its membership rolls and to fill up the labor union coffers with forced union dues. This bill, S. 55, proposes to give the union the leverage to demand that all of a company's workers be forced to pay the bills the union leaders demand. Mr. President, what worker will be able to withstand threats, picket-line violence, and blacklisting to work at a job if he knows that, by law, the employer must punish or fire him as soon as the union says the strike is over? The answer to that is self-evident. Why should big labor end future strikes quickly and quietly? They will not do it, if this bill should pass, which thankfully I believe it will not. But under this proposed bill, union strikers cannot lose their jobs and the bosses cannot lose the massive dues paid to their unions.

The Clinton administration is in the White House partly because of the money and organization big labor was able to provide in 1992, as has been the case in every election in my memory. Fair enough. Big labor means big bucks for liberal politicians. Labor union political action committees gave $41.3 million to Democratic candidates in 1991 and 1992. But my friend Reed Larson of the National Right to Work Committee points out that $41 million of that $41.3 million was only the tip of the iceberg. And he is right. Unreported soft money contributions to the Democratic Party in the form of phone banks, get-out-the-vote drives, door-to-door canvassing, amounted to at least 10 times the value of that $41 million up-front money.

So maybe that is the reason you see certain Members of Congress and other politicians clamoring to do the bidding of labor union bosses every time a piece of legislation like this is proposed.

In any event, as I said earlier, Mr. Clinton is working overtime to make the AFL-CIO forget his support of NAFTA. During the campaign he said he was on the side of working Americans, "who work hard and play by the rules."

I almost wept when I heard him say that.

Unfortunately, the striker replacement bill shows once again that the President's political rhetoric is far from the reality of his actions. Even though Mr. Clinton himself is from a right-to-work State, as is the State of North Carolina, he has surrounded himself with advisers who have nothing but contempt for the right of the American worker to offer his skills to any employer without fear of coercion or retribution. The attitude of the Labor Secretary Robert Reich is clearly illustrative. In 1985, while he was an instructor at Harvard University, Mr. Reich had this to say about the workplace in America. These are his exact words.

> In order to maintain themselves unions have got to have some ability to strap their members to the mast. The only way unions can exercise countervailing power vis-a-vis management is to hold their members' feet to the fire when times get tough. Otherwise the labor union is only as good as it is convenient for any given member at any given time.

There may have been a more callous description of labor unions by an individual supporter of the labor union movement, but I cannot think of one.

Incidentally, Mr. Reich was correct in what he said. Now that Mr. Clinton and Mr. Reich are in charge they are doing everything they can to see that the Federal Government helps organized labor hold every American worker's feet to the fire. Mr. Clinton and Mr. Reich are not new Democrats. They are more like their socialist friends in the British Labor Party, an organization which constantly lives up to its name in that economically troubled country.

Under these circumstances, we should expect more strikes for longer periods of time. That is what happened in Canada once striker replacement legislation became law north of the border. According to the Journal of Labor Economics, the province of Quebec nearly went bankrupt from the loss of revenue from businesses that had to shut down because of increased strike activity.

I noted the Heritage Foundation reported the other day that the striker replacement law in Italy has cost that country 1,440 workdays per 1,000 workers every year compared with fewer than 100 days lost in the United States due to strikes.

Now this legislation, as proposed, if passed—and I do not think it will pass—will wreak havoc on the State of North Carolina. And, of course, I have a provincial interest in that. North Carolina has the longest right-to-work tradition of any State in the Union. Businesses—big and small—are rushing into North Carolina in part because of our excellent educational system, but also because employers in other States know that their workplace will be free from intimidation and outside agitation by labor bosses. It is no accident that North Carolina has the lowest unemployment rate of the 20 largest States in America. However, if a measure such as S. 55 should happen to pass, North Carolina's right-to-work tradition, which is more than 100 years old, as I pointed out earlier, would be swept away with one stroke of Bill Clinton's pen. And I am totally, unalterably opposed to that. So much for the Democrat who proposed so piously that he was going to stand by the working men and women "who work so hard and play by the rules."

Mr. President, on Monday Senators METZENBAUM and WELLSTONE asserted—and I want to be as charitable as possible, but the best description I can think of in reference to what they said is nonsense—that to be against this bill is to be against the worker. Nothing could be further from the truth. In any free country, workers must be free to organize themselves and to strike. That is a given, everybody agrees to that.

It is already illegal to fire strikers and hire replacements if a company engages in unfair or dangerous practices. But when workers do strike for higher pay or benefits, they take a risk, as they should, that their employers will not be able to find the skilled people to replace them. That they are sometimes, though rarely, replaced keeps sanity and stability in the workplace.

Even the Washington Post noted back on April 27, 1993, that the striker replacement bill, in the judgment of the Washington Post, if you can believe this, is,

> * * * ill advised legislation whose long-term effect would be to hurt the U.S. economy far more than it would help. * * * it's one thing to try to keep the collective bargaining system functioning, quite another to get into the business of trying to ordain a result.

And I am glad to say on this occasion to the Washington Post, "Amen," because I so seldom get a chance to do that.

In any event, because of the largest tax increase in American history and an explosion of job choking regulations, the Clinton administration and its acolytes in the Congress—House and Senate—have already produced a jobless recovery. We simply cannot afford to let them get away with their radical plans to wreck the American workplace. There is nothing, repeat nothing, fair about the Workplace Fairness bill. This legislation discriminates against the small businessmen who struggle to provide 90 percent of our jobs, by the way, it discriminates against employees who choose to remain on the job and, it discriminates against workers who just do not want to join a union. This bill gives striking union members exclusive rights to jobs they refuse to perform and that is not fair for any American, union member or otherwise. Rest assured, if this sort of legislation should ever pass, the big winners—the only winners, as a matter of fact—will be the big labor bosses who will get richer and fatter and perhaps some of the politicians down in Mexico City who are ready to welcome more and more American companies fleeing from more taxes and regulation.

In summation, Mr. President, striker replacement means higher labor costs, higher prices, lower productivity, and fewer jobs and that is all this economy needs to send it spiraling down into another recession. The Las Vegas Journal recently warned those who have bought into this Kennedy-Metzenbaum-Clinton labor plan, that they will "do well to steer clear as these dinosaurs race for the tarpit."

And I think that says it all.

Thank you, Mr. President.

I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I first want to thank the Senator from Kansas for graciously allowing me to proceed. He was here on the floor ahead of me. I thank the Senator for his graciousness.

Mr. President, I rise today in support of the motion to proceed to full Senate debate of S. 55, the ban on the permanent replacement of striking workers. This issue has been before the Congress for several years. It deserves the benefit of complete debate and I urge my colleagues who voted to prevent that debate to reconsider.

Many of my colleagues have already spoken on this important issue, so I will speak briefly.

Section 13 of the National Labor Relations Act of 1935, the law that has guided this country's labor law, expressly protects the right of American workers to strike, if necessary. But in 1938, the U.S. Supreme Court said that Mackay Radio and Telegraph Co. could hire permanent replacements. However, for almost 40 years permanent replacements were rarely used. But in the last decade, unfortunately, we have seen an increase in the use of permanent replacements allowed by the Mackay case.

American labor policy is based on maintaining the fragile balance between labor and management. The right to strike is a fundamental principle of the nation's labor policy. However, the right to strike means nothing if a worker is fired as a result. When workers vote to strike over wages or health benefits, they are not voting to permanently replace their employer—they are voting to withhold their labor while they continue to negotiate. If an employer permanently replaces a striking worker there is no hope for continued negotiations—no hope for compromise. The threat of being permanently replaced undermines the right to collectively bargain, to negotiate, to go on strike if necessary. It is that simple.

Neither management nor workers prefer dispute to resolution; no member of this body wants to encourage the frequency of strikes, the duration of strikes, or the bitterness of strikes. Workers want to be at work earning a decent living for their families. Management wants a business that is running at full steam. We all prefer successful collective bargaining and a strong partnership between labor and management.

That is the balance we are trying to restore with this bill. Let us debate it on its merits and vote it up or down. This is a matter of basic equity. Let us get on with it.

Mr. President, on another matter, I ask unanimous consent to speak as if in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

DON MACKEY

Mr. BAUCUS. Mr. President, last week, the Nation heard the news of the tragic fire in Glenwood Springs, CO, which took the lives of 14 Forest Service firefighters. Today I would like to share with the Senate the story of one of them: Don Mackey of Hamilton, MT at the foot of the Bitteroot Mountains.

Don Mackey was one of 10 smokejumpers from the Forest Service's northern region team, based in Missoula, who flew out to Colorado to help put down the Glenwood Springs fire. Put simply, his job as a smokejumper was to parachute out of low-flying planes to stop forest fires.

In his book "Young Men and Fire," the Montana writer Norman Maclean—who, by the way, also wrote the book "The River Runs Through It"—told the story of the last tragic forest fire, the Mann Gulch fire of 1949, just outside of Helena, MT. Mr. Maclean described the smokejumpers as follows:

> The Smokejumpers are * * * the crack firefighters of the Forest Service, the shock troops. Whenever fires are critical, which practically always means big, that's where they are, from Missoula, Montana, to Minnesota to New Mexico to Alaska, and they don't care how they get there—by plane, bus, horse, or on foot, just so it is the fastest way.

To be a smokejumper is to be part of an elite. You must have great physical strength. You must have high intelligence and rigorous training. And you must have extraordinary courage.

Don Mackey had all of that, and he had something more. He had a sense of duty, honor, and compassion. He had the qualities that make an ordinary man or woman a hero.

When the wind shifted out at Glenwood Springs last Wednesday afternoon, Don Mackey was safe. He was already at the top of the ridge. He could have stayed right there. But when the fire blew up, and he saw his crew trapped on the slope below, it was these qualities—strength, courage, honor, compassion—which led him from safety back into the burning woods.

Quentin Rhoades, one of the men he saved, tells how Mackey came down the ridge and brought eight firefighters out to a safe area. And then he turned back, once again, to save the rest. When he went back downhill the second time, the fire caught him.

"If he had stayed with us," says Rhoades, "he would have lived."

In the coming months, our task will be to do all we can to make sure this tragedy is never repeated. After the Mann Gulch fire in 1949 the Forest Service reviewed all its firefighting procedures, its training, and its technology. It learned some lessons and made some changes. And because of that, in all the years between Mann Gulch and Glenwood Springs, not one smokejumper died on a fireline.

It may be that in the coming months, we can learn a new set of lessons from the fire at Glenwood Springs. Or perhaps there was nothing anyone could have done to avoid it. There will be time to find the answers. But today we must join in sympathy and solidarity with the families of Don Mackey and all the victims of this fire.

And we must also join in gratitude to Don Mackey for the lives he saved at the price of his own. As the Scripture tells us:

> Greater love hath no man than this, that a man lay down his life for his friends.

Mr. President, all Montana mourns the loss of Don Mackey. All Montana shares his family's grief. But all Montana will remember this great hero with gratitude, with love and with pride.

I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DOLE. Mr. President, was leaders' time reserved?

The PRESIDING OFFICER. That is correct.

CRIME

Mr. DOLE. Mr. President, an American is murdered every 21 minutes, raped every 5 minutes, robbed every 46 seconds, assaulted every 29 seconds.

Each day, 14 Americans are murdered, 48 are raped, 578 are robbed, all by criminals who were arrested, convicted, sent to prison, and somehow released to our streets, the beneficiaries of liberal parole and probation policies. Despite all this carnage, Congress continues to dawdle, failing to pass a crime bill because of differences over the so-called Racial Justice Act.

Unbelievably—and I underscore this—unbelievably, neither President Clinton nor his Attorney General, Janet Reno, has taken a position on the act. Both are officially neutral even though the National Association of Attorneys General, the National Association of District Attorneys, the National Troopers Coalition, and other prominent law enforcement groups claim that the act would sound the death knell for the death penalty in America. If you support the death penalty, you cannot support the Racial Justice Act because the two are mutually exclusive.

Another crucial issue facing the crime conferees is the issue of funding. Will the crime bill strike the right balance? Will it devote enough resources to incarceration? Or will it opt for the root causes approach, pouring billions and billions of dollars into soft-on-crime, sixties-style, Great Society programs?

It appears the crime conferees are trying to resurrect last year's defeated stimulus package, disguising a hodgepodge of big dollar spending programs under the guise of anticrime legislation: $2 billion for something called the Local Partnership Act, whose funding formula happens to favor cities with high tax rates. So if you are a mayor in some city trying to keep taxes down, or members of a city council, you are going to get shortchanged in this formula. Wichita, KS, happens to be one which will be shortchanged because they have a lower tax rate because they try to run their city as they should.

Forty million dollars for a midnight sports program; $900 million for a model intensive grant program; more than $500 million for youth employment and skills program; and more than $1 billion for something called the ounce of prevention council which is supposed to coordinate all the other spending on job placement, recreation and outreach programs. In other words, a new program to coordinate programs. Boy, if that does not sound like the Federal Government at its best—another program, $1 billion, to coordinate all the other programs, and we do not know how much they cost.

Mr. President, on top of all this, add another $1.4 billion for drug courts, which are supposed to provide a nonpunitive approach to dealing with drug-related crimes. Instead of prison cells, prisoners are offered testing, treatment, alternative punishments, and aftercare. Unfortunately, participation in the drug court program is not limited to first-time, nonviolent offenders. Repeat and violent juvenile offenders are welcome.

Whatever the merits of these so-called prevention programs, the bottom line is that incarceration is the most effective crime stopper. A violent criminal—let me underscore, I am talking about violent criminals and only violent criminals—violent criminals kept behind bars cannot harm a single law-abiding citizen anywhere in America. Not one.

That is why the primary focus of this bill should be and must be locking up violent criminals and making certain they stay behind bars through what we call truth-in-sentencing provisions which passed the Senate with an overwhelming majority. A 15-year sentence should mean just that: 15 years, not just 5 years, not 10 years, not 3½ years. But truth in sentencing means 15 years if you are given a 15-year sentence. In some cases, you might get a little time off.

If truth in sentencing were a reality, Polly Klaas would still be alive today; Michael Jordan's father, Robert Jordan, would still be alive today, and Launice Smith, the 4-year-old gunned down in a Washington playground last year, would probably still be alive today.

Why? Because all were murdered by thugs with prior criminal records who somehow slipped through the revolving prison door legally and with tragic consequences. As the American Legislative Exchange Council recently pointed out:

> The single most effective thing the Congress of the United States could do this year in any anticrime legislation is to help us build enough prison capacity to lock up every violent offender and begin to achieve the goals of truth in sentencing * * *. Prisons are the most effective instruments of crime prevention that we have in the country. At the $13.5 billion authorization level, we can reasonably add 130,000 prison beds, enough to lock up every violent—

I want to keep underscoring the word "violent." We are not talking about the average run-of-the-mill crime, we are talking about violent offenders.

> —and move aggressively throughout the country to begin to reach the goals of truth in sentencing.

It is still an open question whether the Congress is up to the challenge. If the conference report contains the Racial Justice Act, or some version of it, or if we put all our money into these pie-in-the-sky programs, Great Society, new society, warmed-over programs that have not accomplished anything but more bureaucracy and dependency, then I think all bets are off and all bets should be off.

If the report comes up short on prison funding and fails to promote truth in sentencing, then the American people are going to be the big losers and some are going to lose more than you think. Some are going to lose their lives, and I think that is fairly important. Some will be raped, some will be robbed, some will be mutilated.

I do not care what survey or where you take the survey, whether it is Minnesota, South Carolina, Kansas, California, or New Mexico, No. 1 is crime. Crime. Health care generally ranks about fourth or fifth—3 to 6 percent. And if you ask the American people what is on their mind, it is how do we stop crime in my city, or my rural community, or wherever it may be. But it is generally about 20, 22, or 24 percent.

HEALTH CARE REFORM

Mr. DOLE. Mr. President, health care is a big problem, no question about it. It is going to be a big issue. I understand the majority leader indicated earlier today we are going to take it up in late July in the Senate. That may be or may not be, because I am not certain what will be coming up.

There is a piece by Robert J. Samuelson, who is a Democrat economist, in this week's Newsweek. It is entitled: "Our Health Care. Start Over." He gives you good reasons why we ought to start over. He just says at the start, "A bad bill would be worse than no bill at all."

I think he is exactly right, and I would certainly recommend this for the reading of all my colleagues on both sides of the aisle. Mr. Samuelson does not always agree with me; he has been a critic of some of the things I have done. But in this case, whether it is the Finance Committee bill or whether it is the so-called Kennedy bill, the Labor Committee bill, or the two or three bills the House passed out of committees, I think he is right. What he suggests is we ought to do it right. The American people want us to do it right. They are not interested in deadlines. They are not interested in who gains or who loses in politics in November 1994. They want to get it right. And they want us to take care of preexisting conditions that affect millions of people. They want us to take care of portability so they can move from one job to the other without losing their benefits.

There are a lot of things, probably 20 things we could have a voice vote on here today and pass, where everybody agrees. And if we do not do that, then we are denying literally millions of people opportunities they should have. Let small businesses go together, small businessmen, business women, pool their resources, get better deals from insurance companies, better coverage for their workers. Do not tell the American people you can only have one standard benefit package, as the administration does and as the Finance Committee bill does. One size fits all. You cannot buy any less. If you are a 22-year-old and do not have a family and want to buy a catastrophic plan, you cannot do that because that is less than the standard plan. The Government is going to tell you what you can buy. You cannot buy any less. You can buy more, but you cannot buy any less. And all that is discussed in this article by Mr. Samuelson.

Now, I have had an opportunity to travel some here lately, and there is no doubt about it: The opposition to the President's plan is growing in all parts of America, whether you be Democrat or an Independent or Republican, or whether you really do not care about politics at all. I guess when the President first announced his plan, he probably had 74 percent support. That is what a poll showed. The same poll shows 32, 33 percent now; some maybe 38, 39. So the President is now saying, well—he does not say it, but he says, well, my plan is not any good, but the other plans are not any good either.

Last week, or 10 days ago, 40 Republican Senators out of 44 said OK, let us put a plan out there so the American people know where we stand. We are not doing it in any partisan way because we are trying to attack Democrats. In fact, we were in touch with 14 of our Democrat colleagues and in touch with Democrats and Republicans in the House.

So I introduced, with Senator PACKWOOD, a bill that we think does the very things that Mr. Samuelson and other people talk about.

Preexisting condition. If somebody has cancer in the family, should you be denied coverage for the family? The answer is no. Take care of it. If you do not have the money, should somebody subsidize coverage? The answer is yes, and we take care of it. But we do not have employer mandates. We are not trying to put people out of work. The employer mandate is an employer tax. It is a tax on business. And in the State of Kansas, where 90 percent of your employers have 10 or fewer employees, small businessmen and small business women are the backbone of our economy; they are doing all they can for their employees, but there are limits.

So in the Dole-Packwood plan, there are no mandates, no new taxes, and no price controls. We think that is important. I have not had anybody write in and say to me, "We want more taxes," after the $265 billion tax increase imposed on the American public last year. And some say that is why the dollar is falling apart, because of the big tax increase.

The President said the Dole-Packwood plan does not do anything for the middle class. Well, I guess what I should say is the President is wrong. I want to take just a few minutes to set the record straight and list some of the ways in which our proposal helps average, hard-working Americans whose primary interests are keeping a job and providing for their families.

First of all, as I said, taxes. If there is one thing middle-class America is tired of, it is taxes. The Dole-Packwood plan does not contain 1 cent of new taxes, nor does it raise any existing tax. The same cannot be said about the President's plan or about the plan passed by the Senate Finance Committee 10 days ago. No one knows for certain what actually passed in the Finance Committee, but some estimates on the new taxes in the bill are as high as $500 billion over the next 5 years.

Quality. Quality is very important to the American people. Polls show that 85 percent of Americans are satisfied with the health care they receive. And the American health care system, while certainly not perfect, is the best in the world. The Dole-Packwood plan would maintain that quality by leaving control in the hands of the American people and their doctors. The President's plan would compromise that quality through more Government, more regulations, and more mandates.

No. 3, we do not increase the deficit, which also affects the middle class and everybody else in America. Americans are concerned about the future of their children, and if there is one thing that endangers that future, it is the Federal budget deficit. The Dole-Packwood plan provides a fiscal "fail-safe" mechanism to assure that reforms are implemented on a pay-as-you-go basis. If you do not have the money, you do not increase the benefits. And you do not raise taxes.

The Clinton plan, on the other hand, promises everything to everyone. Even the nonpartisan Congressional Budget Office has estimated the Clinton plan will add at least $70 billion to the deficit by the year 2000. And we always underestimate things around here, so who knows what the real figure is?

Choice is another thing I think affects the middle class, and everybody else. In today's market, people buy the insurance they think best fits their needs, as it should be in a free country. The President's plan makes it illegal for Americans to buy anything less than the standard plan the Government approves.

Can you imagine that? In a free country like America, you have to buy their plan. You cannot buy anything less in America. Nothing less. You have to take it. That is it. Now, to me, that is not what the American people may have voted for in 1992. If you took a survey now and asked the American people: Do you want a choice of plans; do you want the same choice that Members of Congress have—where we have 20 different options, you only get one. You can only have one. If you do not like it, that is tough. Oh, you can buy more, but you cannot buy any less.

Some of these standard benefit packages are very rich, and some of the benefits in those packages are never going to be used by some people in America. But you cannot say, well, I do not want this or I do not want that, because that is in the benefit package. You have to buy it. That is one size fits all.

As I said, you may be single; you may be 22 years of age; you may have a job; you may not have a lot of money; you may want catastrophic coverage; you may want a medical savings account where, if you put more money in a medical savings account, your employer does, and you do not spend it all, you get it back at the end of the year. It is yours. You do not have to pay tax on it. You put it in. If it is $2,000 and you only spend $1,000—it is first-dollar coverage—you get the other $1,000 back at the end of the year.

Not bad. You cannot do that in the administration's plan. We do not have any job-killing employer mandates. Americans want health care. But they do not want to pay for it with their jobs. My colleagues keep saying, "Oh, 73 percent of the American people said they want employer mandates." How many? They did not take the poll just with employers. If anybody said, "Do you want somebody else to pay for your insurance?" you probably would say, "Sure. Why not?" So 73 percent of the American people said let somebody else pay for it. I guess the other 27 percent must be the employers. It must be that small businessman and that small businesswoman in Kansas, California, or South Carolina or somewhere else. "You pay for it." So I am not surprised at that poll.

But the Clinton plan and many of the other plans contain employer mandates. Now they have a new thing they call trigger. It is a trigger. It says if we do not have employer mandates, if we do not reach a certain percentage of coverage by the year 2002, then we just automatically trigger a mandate. A mandate is an employer tax. It is a tax on your business.

In fact, I spoke this morning by phone with the National Restaurant Association. They are having town meetings all across America. They create a lot of jobs, lot of part-time jobs for a lot of young people who work after school and who are not out on the streets. They are worried about employer mandates. They want to provide all the coverage they can. But they do not want to have people have to leave their job because they cannot afford to pay. So mandates whether they are triggered or untriggered are bad. They are taxes. They ought to be called taxes.

Portability: Many Americans find it impossible or expensive to obtain health insurance if they have a family member who is already sick or who has health care problems. This is called a preexisting condition. And it is one of the reasons people get locked into a job and is because they do not want to leave. If somebody has a preexisting condition, you are covered in your present job. You do not dare leave because you cannot get coverage again. We are going to guarantee in the Dole-Packwood bill that you be able to get insurance at an affordable price and not risk losing that insurance if you change jobs which is very important.

A lot of people call it job lock. "I cannot leave my job because of the insurance." If you watch some of these programs, all of the anecdotes, these terrible stories about tragedies, about people who have preexisting conditions, or do not have portability, it ought to be fixed.

Fairness: The Clinton plan says that everyone should pay the same amount for health insurance, the process known as community rating. The Dole-Packwood plan sees this practice as unfair to younger people who most often use less health care. That is why Dole-Packwood allows variations in the price of insurance based on age.

Let me give you an example. New York, a great State, the Empire State. They tried this community rating. They tried what we call pure community rating. They tried it not long ago. The increased costs led about 25,000 young New Yorkers to drop their insurance in the first 9 months of enactment because they are paying 4, 5, or 6 times what they ought to be paying. Somebody has to defend the young people in America. They are the ones out there that are going to be the leaders of tomorrow and the workers of tomorrow—in fact, they are the workers of tomorrow. Why should a young American just starting out making $15,000 a year subsidize the health care of middle-aged professionals making $50,000 a year? It does not make any sense. That is what happens under the President's bill.

Small businesses. Small business men and women are the backbone of America's economy. The Dole-Packwood plan helps small business in many ways and here are three.

First, small businesses can join together in pools to provide more coverage at better rates with their employers.

Second, small business and those who are self-employed can enroll in the Federal Employees Health Benefit Program. We give those people the same choice that Members of Congress and the President now enjoy. If it is good enough for us, it ought to be good enough for them. Why cannot they have that right? To ensure that they should have that right, it is in our bill.

Third, if you are a self-employed small business person or individual who buys his own insurance, you cannot deduct health insurance costs. You can deduct up to 25 percent. Under our provision, the bill phases in tax deductibility up to 100 percent. If you are a rancher, if you are a small farmer, if you are a self-employed business man or woman, you will be able to deduct 100 percent of your insurance costs like everybody else. We are going to give you the same treatment as that received by anyone whose employer contributes to their health care insurance costs.

So does the Dole-Packwood proposal help the middle class? You bet it does. That is one of the reasons I am proud to cosponsor the legislation, and why it has earned the support of 40 Republican Senators and many outstanding organizations across America.

Madam President, I think my leader time has probably expired. But I would like to now speak briefly on the striker replacement motion.

The PRESIDING OFFICER. The Senator has that right.

NATIONAL LABOR RELATIONS ACT AND RAILWAY LABOR ACT AMENDMENTS OF 1993

MOTION TO PROCEED

The Senate continued with the consideration of the motion.

Mr. DOLE. Madam President, we have a lot of traditions here in Congress. One of the most well-established is traditionally giving bad legislation a great-sounding name. So if it is terrible legislation, give it a good-sounding name. Who can be against it?

Earlier this year we debated the Racial Justice Act, which in reality has little to do with civil rights, and a lot to do with abolishing the death penalty. Today, we are debating another bill with a misleading label. Who could be against the Workplace Fairness Act? That is the title. It is a terrible bill, but it has a great title. I guess maybe that happens in music sometimes. Maybe you get good titles and terrible lyrics. I do not know. But this bill ought to be called the strike promotion bill, or perhaps the Labor Power Grab Act of 1994.

The bottom line is that our system of collective bargaining has worked for over a half-century and continues to work well today. Just as an employer's demands are moderated by the knowledge that his or her employees are legally entitled to strike, which ought to be protected, so too are the demands of workers moderated by the knowledge that a strike may result in the hiring of permanent replacements. This uncertainty is an essential element of collective bargaining. Otherwise, somebody is going to be dominant. You are not going to have any good collective bargaining. It provides the strongest possible inducement for both groups—employer and worker alike—to negotiate in good faith and resolve their differences through compromise.

This balance between labor and management has been the hallmark of industrial relations in America since the passage of the National Labor Relations Act nearly 60 years ago and has served our country well, promoting economic growth, protecting the rights of working men and women, and preserving the industrial peace.

So as the old saying goes, "If it ain't broke, don't fix it." But unfortunately, that is exactly what some of my colleagues want to do. They want to fix the labor laws so the balance of power shifts to labor; organized labor, that is. They want to eliminate the risk factor from strikes by prohibiting the hiring of permanent replacements in economic strikes. This bill presents employers with an untenable "Hobson's Choice": Shut down the business, close down the factory, or accede to the union's demands, whether the demands are reasonable or not.

Without the prospect of permanent striker replacement, unions will resort to the strike weapon more and more frequently. Consumer prices will rise, jobs will be lost, communities will plunge into chaos. As Harvard Law School professor, David Westfall, pointed out, and I quote:

> Employees have the right to strike, but employers have the right to hire replacements. Without that right, employees would be free to strike repeatedly, no matter how excessive their demands in relation to prevailing wage rates, knowing that their jobs would always be waiting for them unless or until their employers eliminated their jobs or went out of business.

End quote; not my quote. It is a Harvard professor.

And, Mr. President, if you do not believe that strikes cost jobs, just ask the 2,000 former employees of Churchill Truck Lines, which shut its doors because it could not survive the recent Teamsters strike. The Teamsters strike put Churchill out of business, and it put its workers on the unemployment line.

Now, some of my colleagues want to paint the bleakest possible picture, making every employer out to be a vicious strikebreaker or unionbuster.

So the GAO did a study. They are supposed to be an impartial, nonpartisan—I doubt that sometimes—but instrument of Congress created by the Congress. But in this case, they found that a portion of striking workers for whom permanent replacements were hired was only 3 percent.

That means that 97 percent of all striking workers were not replaced on a permanent basis. So, contrary to the claims of some of my colleagues on the other side of the aisle, employers are not hiring permanent replacements to bust unions. There is no widespread abuse.

It is also important to distinguish between strikes called in response to an employer's unfair labor practice and economic strikes called over such issues as hours and wages. In unfair labor practice situations, strikers have a right to immediate reinstatement. That is current law. If a bad-apple employer engages in a practice that violates the National Labor Relations Act, then workers who go on strike must be rehired. "It is only in those situations where a strike has been called over economic issues that workers may be permanently replaced.

Madam President, in his 1992 campaign brochure "Putting People First," then-candidate Bill Clinton complained that "Washington is dominated by powerful interests and entrenched bureaucracy * * * too often those we elect to lead seem to respond more quickly to special interests than to the real problems of real people."

He got it right the first time. Let us talk about these special interests. The special interests are still here and are hard at work. This debate has been brought to you courtesy of the AFL-CIO, one of the biggest special interest groups in Washington and America.

During the 1990 election cycle, labor unions contributed a whopping $35 million to congressional candidates, with over 93 percent of the donations finding their way into Democrat campaigns. Two years later, in 1992, organized labor made political contributions exceeding $40 million. That is $75 million; that is a lot of money. Again, more than 90 percent of those contributions went to Democrat candidates.

In 1992, the Clinton-Gore campaign received more than $300,000 in reportable—and I underscore reportable—contributions from organized labor. And it is anybody's guess how many the Democratic National Committee benefited from labor "soft money," the millions in undisclosed, unregulated "stealth" contributions that escape the radar of our Federal campaign finance laws. We want to tighten that up, but it is not going to happen because our colleagues control the Congress, and they do not want to close that nice little loophole that means millions of dollars every year. So we are debating this because the special interests are hard at work. If the labor money machine were not working overtime, there would be no debate today, no striker replacement bill, and you can bank on that.

Finally, I just say that, occasionally—not too often—I find myself in agreement with the Washington Post. I will include an editorial from the Washington Post in the RECORD. The Post had it right when it editorialized that striker replacement was nothing more and nothing less than a "sop" to organized labor and a real threat to America's economic interests.

No doubt about it, There are many important issues deserving the Senate's attention—health care, crime, welfare reform, to name a few. And issues of health care will affect labor unions. I hope they are tuned in because they are going to find that Republicans are going to be standing with them, and many Democratic colleagues are going to be on the other side in some of the provisional attacks and that we have some of the better health care plans for organized labor.

I suggest that the vote today pretty well indicated what is going to happen to this legislation: nothing. It is not going to be brought to the Senate. It is going to be set aside for the rest of the year. I hope the vote tomorrow at 10 o'clock will be the same as today, where we received 47 votes, and I think 53 on the other side.

I ask unanimous consent that the Washington Post editorial be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 12, 1994]

THE STRIKER REPLACEMENT BILL

The striker replacement bill may come up this week in the Senate, where at last count there appeared to be the votes to block it. We hope so. This is bad legislation that in the name of restoring balance to labor law and relations would in fact unbalance them and could well do lasting economic harm. A Democratic majority in the House passed it last year as a sop to organized labor, and the president has said for the same propitiatory reasons that he would sign it if it were sent to him. He should have said no on the merits. It has now been left to the Senate to do so instead.

The bill would deny employers the right to hire permanent replacements when workers strike over economic issues. (Other rules apply to strikes over unfair labor practices.) Organized labor says the ban is necessary to protect the right to strike, which it claims is threatened. But this is not an effort to regain a lost right. Rather, it's an effort to regain lost power—the membership and clout that labor has lost in recent years for reasons having mainly to do with a weak competitive position in the world economy. A change in labor law won't solve that problem, and would likely make it worse.

The law is currently contradictory. The National Labor Relations Act said in 1935 that strikers could not be fired. The Supreme Court nonetheless held three years later that they could be permanently replaced. Mostly the matter thereafter was ignored. Management rarely used the replacement power, and labor rarely protested it. Labor says that the tactic has now become more common. That isn't clear—but it has been used in some highly visible recent cases, and those have been enough to make it a major issue.

Labor says the power has been abused to break unions. No doubt there have been such cases. But occasions also arise when strikers by their behavior forfeit the right of return and companies ought to hire permanent replacements. This newspaper faced such a breach in dealing with one of its unions in the 1970s. The goal of labor law is not to determine the outcome of disputes but to maintain a system of mutual deterrence in which neither side can act without risk. An obdurate company risks a strike; obdurate strikers risk replacement. Most of the time the balance works and produces rational results. This bill would destroy the balance and ought not pass.

Mr. DOLE. Madam President, I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. I want to commend the able Senator from Kansas on the remarks he just made on several subjects. I hope the American people will read what he had to say, will listen to him, and be heartened as to what he says. I hope President Clinton will also be challenged by the remarks made by the able Senator from Kansas, the Republican leader. It is very important that we act on a crime bill and many other things that our able leader just mentioned.

HONORING THE U.S. 1994 WORLD CUP SOCCER TEAM

Mr. THURMOND. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 240, now at the desk; that the resolution be agreed to and the motion to reconsider laid upon the table, and the preamble agreed to without objection; I further ask that the RECORD remain open for the remainder of the day so that other Senators will have the opportunity to cosponsor this resolution.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

So the resolution (S. Res. 240) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 240

Whereas soccer is the fastest growing team sport in the United States;

Whereas approximately 15,000,000 Americans participate in organized soccer;

Whereas both men and women play soccer;

Whereas soccer promotes sportsmanship and mutual admiration based on the talents, skills and determination of the players, regardless of a person's race, gender, sex, national origin, or socioeconomic background;

Whereas the United States is the host country of the 1994 World Cup soccer tournament;

Whereas approximately 31,000,000 people in the world will view the 1994 52-game World Cup soccer tournament;

Whereas the United States qualified for the Féderation Internationale de Football Association (FIFA) World Cup in 1930, 1934, 1950, 1990, and 1994;

Whereas, in 1991, the United States women's soccer team made history by winning the inaugural Féderation Internationale de Football Association Women's World Championship in China;

Whereas Tony Meola, Mike Lapper, Mike Burns, Cle Kooiman, Thomas Dooley, John Harkes, Hugo Perez, Ernie Stewart, Tab Ramos, Roy Wegerle, Eric Wynalda, Juergen Sommer, Cobi Jones, Frank Klopas, Joe-Max Moore, Mike Sorber, Marcelo Balboa, Brad Friedel, Claudio Reyna, Paul Caligiuri, Fernando Clavijo, and Alexi Lalas are members of the United States 1994 World Cup soccer team;

Whereas Bora Milutinovic is the head coach of the United States 1994 World Cup soccer team;

Whereas the United States 1994 World Cup soccer team staff consists of general manager Bill Nuttall, assistant coach Timo Liekoski, assistant coach Steve Sampson, assistant coach Sigi Schmid, goalkeeping coach Milutin Soskic, team administrator Renato Capobianco, press officer Dean Linke, trainer Ander Rudawsky, assistant trainer Hughie O'Malley, equipment manager Brian Fleming, assistant press officer Aaron Heifetz, press liaison Lisa Higgins, and team doctor Bert Mandelbaum, M.D.; and

Whereas the United States 1994 World Cup soccer team has represented America honorably and in the best spirit of America: Now, therefore, be it

Resolved, That the United States Senate commends the United States 1994 World Cup soccer team for its participation and outstanding efforts in the 1994 World Cup soccer tournament.

WORKPLACE FAIRNESS ACT

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. Madam President, today the U.S. Senate will vote on the motion to invoke cloture to proceed to S. 55, the Workplace Fairness Act. The time has come for the Members of the U.S. Senate to stand up and be counted. The time has come for all of us in this body to correct a significant imbalance that exists in labor law today, an imbalance that must be corrected if America is going to thrive in the increasingly competitive global marketplace.

Under our Federal labor law, an employee cannot be fired for exercising the right to strike. Congress guaranteed that right in 1935, with the passage of the National Labor Relations Act, which told every worker he or she had the right to organize labor unions, to bargain collectively with employers, and to strike in support of their bargaining demands, if necessary.

Unfortunately, based on a Supreme Court decision in the case of National Labor Relations Board versus Mackay Radio and Telegraph Co., that same employee who can't be fired can be permanently replaced. Now, I have yet to figure out a way to console an employee who just lost her job for going out on strike by telling her that she hasn't really been fired, she's only been permanently replaced.

This distinction makes absolutely no sense. It is newspeak—a distinction without a difference. Perhaps those in Congress who oppose this measure—those who plan to vote against cloture—could take a moment to explain the distinction to the Senate. Or, better yet, perhaps they can take a moment to explain this difference to Carol Little, a former employee of the Woodstock Die Cast Co. in Woodstock, IL.

In 1988, Woodstock workers went on strike to protest severe company cutbacks. At issue were a proposed reduction in wages and health insurance benefits, as well as a complete elimination of pension benefits, all at a time when the company was making a profit.

Many strike participants had 30 to 40 years of service in the plant and a majority had over 10 years of service. Carol Little, one of the 370 workers who went on strike was a typical Woodstock Die Cast worker. A 22-year veteran of the plant, she began working at Woodstock Die Cast in 1966. The job made it possible for her to support her children and disabled husband, while putting one son through college. As the family's primary breadwinner, she depended on the fair wages and benefits historically provided by Woodstock Die Co.

Within 2 days of the beginning of the strike, the company began advertising for and hiring permanent replacement workers. The company ultimately replaced 220 of the 370 strikers.

While the union provided hardship payments to workers facing severe financial problems, a number of strikers still lost their homes. Several of the striking Woodstock Die Cast workers were forced to file for bankruptcy. In addition, the practice of replacing strikers had severe repercussions throughout the community. The stress caused by the strike and the ensuing job losses contributed to an increase in the divorce rate among former Woodstock Die Cast employees. The most poignant example of tragic personal loss, however, is that of a 26-year-old striker who, in an act of hopelessness, took his own life after his wife left him.

Fortunately everything turned out OK for Carol Little. She was able to find another job and continue to support her family. But that does not obviate the strain of being replaced in a job where she had spent 22 years. And, unfortunately, not everyone was as fortunate as Carol Little.

But the tragic stories are not unique, Madam President. Similar stories could be told by the 85 workers replaced by Capitol Engineering in 1983; the 100 workers replaced by Calumet Steel in 1986; the 160 workers permanently replaced by Aircraft Gear Corp., in Chicago, IL, in 1990; and the 338 members of the Chicago Beer Wholesalers Association who were permanently replaced—to cite just a few examples.

The fact of the matter is, Madam President, there is no difference between permanently replacing a striking worker, or firing a striking worker. It is absolutely the same thing. As Thomas Donahue, secretary-treasurer of the AFL–CIO stated:

> Stripped of the legal niceties, the Mackay doctrine is a grant to employers of the "right" to punish employees for doing no more than unionizing and engaging in collective bargaining. Mackay takes back a large part of the Federal labor law's broad promise to employees that they are protected against employer retaliation if they choose to exercise their freedom to associate in unions. And it does so when that promise would have the most meaning: during a collective bargaining dispute. At that critical time, the Mackay doctrine sacrifices basic workers' rights in the interest of aggrandizing employer prerogatives.

Passing the striker replacement bill, S. 55, would correct this imbalance. For all the rhetoric that surrounds this debate over S. 55, the issue at stake is simple—should an employee have the right to strike without losing his or her job? It is that simple and straightforward. I believe, and S. 55 states, that the only possible answer to that question is yes.

Someday in the near future—I hope sooner rather than later—this body will send to the President for his signature a bill to reduce violent crime. And while the final form of this legislation has yet to be determined, it is certain to contain the so-called three strikes and you're out provision.

For workers, one might have to modify this slogan, since without S. 55 the rule will continue to be one strike and you're out—out of your job, out of your salary, out of your benefits, and out of hope.

This situation must change.

Madam President, since being elected to the Senate I have had the opportunity to speak to hundreds of workers about the importance of S. 55. Every time I do so I am, of course, preaching to the choir. Telling a group of UAW members, for example, about the importance of passing the striker replacement bill is like telling South Africans the importance of voting.

But I have also tried to get the same message through to members of the business community in Illinois. I hope I have been successful. America's employers have nothing to fear from the passage of S. 55. In the end, labor and management's interests really are the same. We will rise or fall, sink or swim together.

Workers are the most important asset that a business has. Without the business being viable the workers have no job. So we all have an interest in seeing to it that there is a healthy vital business climate that will allow American companies to employ people to create jobs and to be competitive. Passing S. 55 will not encourage workers to strike, nor will it have an anticompetitive effect. It will only restore balance to their relations with employers.

I have had employers write and tell me to vote against this bill because, if it passes, workers will start going out on strike at the drop of a hat. They fear workers strikes because they are being asked to work too much overtime or because they do not like the color of paint in the lunchroom or because they have nothing better to do that day. Those arguments trivialize the gravity of a strike and suggest that going out on strike is fun. Nothing could be further from the truth. Anyone who has ever been out on strike, or anyone who has had experience with working on a day-to-day job in a plant, or the like, knows the truth of the matter.

For the average American worker, going out on strike is not fun; it is a real risk, a risk to your economic security, your car, your home, your future, your children's futures and even in some cases as I have indicated your own life. All of it can be on the line. But striking is at times a necessary and important tool to enforce collective bargaining. Without the right to strike, collective bargaining has no teeth. The right to withhold one's labor is in the final analysis the most significant power a worker has to enforce other rights given by the law. Strikes are a last resort, used only after all other bargaining tools have failed, but they are also a legitimate resort, and they must remain a viable option, Collective bargaining cannot and will not be productive so long as management can, the minute employees exercise their right to strike, completely eliminate the entire work force. That is what the law recognized before NLRB versus Mackay. That is what S. 55 will recognize, again.

This bill does not prevent employers whose workers choose to strike from carrying on with their business. A company faced with a strike has a number of options. It can hire temporary replacements. It can rely on supervisory or management personnel to complete jobs. It can transfer work to another plant, subcontract work, or stockpile in advance of a strike.

In the final analysis, it hopefully will give rise to better labor-management relations because people will be brought to the table to talk to each other to work out their problems and to recognize the commonality of their interests and resolve these last ditch disputes in favor of working together in everyone's best interest.

In addition, the Supreme Court has long held that an employer lawfully may lock out his employees as a means of controlling the time of a work stoppage and gaining an advantage in bargaining. S. 55 will not take away any of those alternatives.

There are, of course, those who say that passage of the Workplace Fairness Act is unnecessary, that employers are no more likely to hire permanent replacement for their workers now than they were when the Mackay decision was originally issued. The facts, however, tell another story. Since 1980, employers have made far more frequent use of permanent replacements.

In 1990 the General Accounting Office released a study of the use of permanent replacements by employers in labor disputes covered by the NLRA in 1985 and 1989. The study found that in fully one-third of strikes examined employers indicated they intended to hire permanent replacements. In approximately 17 percent of strikes, employers actually did hire permanent replacements. The GAO estimated that approximately 14,000 striking workers were replaced in 1985, and 14,000 more in 1989. Of course, this figure doesn't cover employees covered by the Rail Labor Act, or RLA, such as the 8,000 pilots, machinists, and flight attendants replaced by Continental Airlines in 1985, or the 7,000 employees replaced by Eastern Airlines in 1989. An AFL-CIO study found that 11 percent of striking workers—26,450 individuals in all—were permanently replaced in 1990 alone.

And there is no indication that the use of permanent replacements is decreasing. In fact, in a 1992 survey conducted by the Bureau of National Affairs, 79 percent of employers polled stated that if a strike occurred in their business, they would either seek to replace the work force, or would seriously consider doing so.

Madam President, that is hardly modern management.

But what is even more important for us to realize is that the real issue is not ultimately how often the permanent replacement weapon is used. The truth is that the mere availability of this weapon to management distorts the collective bargaining process in many, many more labor disputes than those in which it is actually used. The mere existence of that threat, whether or not it is carried out, is enough to undermine the bargaining power of labor unions.

Madam President, I find it ironic that just last week President Clinton flew to Poland to meet with that country's president, a former shipyard worker named Lech Walesa. In 1981, a group of Polish ship workers in Gdansk, led by Mr. Walesa, staged a strike that was a precursor to the current democracy movement in Eastern Europe. Those strikes made explicitly clear what all of us in this body should know—the right to strike, to protest unfair wages or hours or working conditions—is fundamental to a truly democratic society. Yet while the President paid homage to this brave leader, workers in this country fear losing their jobs should they exercise those same rights.

Now I was not in the Senate at the time of the solidarity strikes in Poland. But I am certain that many of my colleagues who were took the floor of this Chamber and made eloquent speeches praising the courage of those striking workers. And they were certainly right to do so, Madam President. But they are today saying just the opposite when it comes to the fate of workers here in the United States. I only hope those same people will support the workers of America—just as they supported the workers of Poland—in the exercise of their democratic rights.

After 12 years of antagonism during previous administrations, the time has come to forge a new direction. The time has come for labor and management to work together. Our major industrial competitors, including Canada, Japan, Germany, and France, have recognized that banning the permanent replacement of strikers restores balance in the collective bargaining process and makes good economic sense. The time has come for us to do the same.

America's union workers are not simply another cost to be cut. They are human beings who are oftenimes struggling to provide for their families, to make ends meet. And under our Nation's labor laws, they have certain rights, including the right to strike. Congress thought they guaranteed that in 1935, when the National Labor Relations Act was passed. Unfortunately, they were wrong. But we can guarantee that today. We can acknowledge what everyone knows to be true: that absent the right to strike without being permanently replaced, collective bargaining does not work. If management can replace workers the minute they take to the picket line, workers do not have a right to bargain. They walk into every negotiation with a loaded gun at their heads.

Madam President, we are entering a new era in economic competition. All over the world, barriers to trade between nations are falling. We are witnessing the development of a truly global marketplace. I believe that America can lead the way in this marketplace. But if we are to succeed, if we are to retain our competitiveness into the 21st century, there must be a symbiosis between labor and management and government. By symbiosis I mean a mutually dependent relationship in which everyone benefits.

Passing this bill is the first step in restoring that delicate balance, a balance that will allow America to retain its competitive edge.

Among America's workers, all eyes are on the U.S. Senate. The time has come for us in this body to let our workers know where we stand.

I urge my colleagues to take the simple step to restore balance in collective bargaining and to support S. 55 and to support the working people of this country.

Thank you very much.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, we have heard much in the debate on S. 55 about the balance of power between labor and management in the American workplace. We have heard arguments about who has more power today, and how that balance of power might change if S. 55 were to be enacted. Such arguments fail to recognize the historic opportunity that is before us to improve the nature of labor-management relations in the United States.

The point of this entire debate is and should be to create a level playing field that contributes to labor-management peace and fairness in the workplace.

In order to do that, we need to build an environment of trust in the workplace, not an adversarial relationship between labor and management. That is why I have submitted an amendment that I believe would contribute to fairness and trust in the workplace and better enable labor and management to protect their legitimate rights and concerns.

Unfortunately, the Senate finds itself in a situation where there has not been any opportunity to discuss compromises. And if the cloture motion fails to pass, we will lose any opportunity to debate such compromises on the floor and lose an important opportunity to improve labor-management relations in our country.

It is my hope that those who voted against cloture today will reconsider their votes and allow us to at least proceed to the bill. Let them filibuster the bill if they insist, but at least let us proceed to its consideration. Let us consider compromises like mine, as well as other potential compromises that have been discussed among various Members of the Senate. Without cloture, none of these proposals will ever see the light of day.

My amendment is a modified version of the Packwood compromise that was offered the last time the Senate considered striker replacement legislation. The amendment is the kind of compromise the Senate should at least have the opportunity to debate.

The amendment I have filed is quite simple. It provides an opportunity for mediation of labor disputes in an effort to diffuse labor-management disputes. The amendment works in the following way:

First, the union must notify the employer and the Federal Mediation Service 7 days before commencing a strike that it agrees to accept the formation of a fact-finding panel consisting of three members—one chosen by the union, one by management, and the third member jointly by both parties. The panel has 45 days to hold the necessary meetings and issue its findings and recommendations.

Second, if the union does not give the 7 days notification, it does not receive the protection of the permanent replacement prohibition afforded to it in S. 55. If management does not accept the creation of the mediation panel, it is prohibited from hiring permanent replacement workers.

Third, if both labor and management agree to allow the panel to conduct hearings and issue a decision, then the current collective bargaining agreement, if any, or existing terms and conditions of employment, hold until 7 days after the panel reports. A strike by the union and a lockout or hiring of permanent replacement workers by the employer are prohibited during this period.

Fourth, the labor organization and the employer have 7 days after the panel's report to accept the panel's recommendations.

If both accept the recommendations of the panel to settle unresolved issues, the new collective bargaining agreement is effective immediately.

If the labor organization accepts and management does not, then management is prohibited from hiring permanent replacement workers during a strike.

If labor does not accept the panel's recommendations and then goes on strike, the employer may hire permanent replacements during a strike.

If both management and labor reject the panel's recommendations, then either side may request an additional 30 days of mediation by the special mediator, the mediator selected jointly by both parties for the panel.

If the additional 30 day mediation is successful, the dispute is resolved; if labor accepts the special mediator's recommendations, no replacements can be hired; if labor rejects the special mediator's recommendations, replacements can be hired. If both sides reject the panel and the special mediator's recommendations and if labor goes on strike, the employer may hire permanent replacement workers.

Finally, in cases where the union initially rejects the recommendations of the mediating panel or of the special mediator, if labor reverses its decision and decides to accept the recommendations, then the employer must stop hiring permanent replacements. Any replacements hired by the employer after that time cannot receive permanent status.

Madam President, this is too important an issue to be defeated by a no-compromises philosophy. It is clear that the votes are not there for cloture on S. 55 as it is currently before the Senate.

Madam President, I hope that we can proceed to the bill and get down to the work of hammering out an agreement that is fair to labor, an agreement that is fair to management, and an agreement that holds out the prospect of promoting labor peace in America. That would be in the best interest of all of the American people.

Madam President, I thank the Chair and I yield the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been noted. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Madam President, I want to speak in strong opposition to the striker replacement legislation which we will deal with again tomorrow. The Senate, of course, today and yesterday debated this highly extraordinary special-interest legislation. I am very interested in being a part of the effort to derail it. I think it is a cynical special-interest piece of legislation. And let me say why—because today, in so many of our industries, American workers play a very key role in the strategic decisions of their employing firms. Many workers are realizing that the long-term stability of the firm is the best way to achieve real job security—and most of those in management are realizing that a top-down, rigid management style is simply not the way to increase worker productivity.

I think, in these latter years, there has never been more of an accord between management and labor as to how you keep the door open, how you receive a good salary, and it is not the time for confrontation. But, sadly, the leaders of the ailing unions in America have decided that the only way to make their unions stronger is to resurrect the "we versus them" mentality, which most certainly makes America weaker.

In an attempt to ban "permanent" replacements, this bill would drive a permanent wedge between labor and management. An employer's right to seek to continue to operate, to continue to keep the door open during an economic strike, has always been a fundamental principle in U.S. labor relations. Of course, it is also recognized that employees have the right to engage in an economic strike in connection with collective bargaining. The issue this bill presents is whether an employer should continue to be allowed to hire permanent replacement workers during an economic strike.

And for 55 years the answer supplied by the U.S. Supreme Court to that question has unequivocally been "yes." The AFL–CIO, which in 1953 represented 35 percent of the private sector work force, now represents only 11.8 percent of the work force, and they want the answer to be "no."

The primary effect of S. 55 would be to disrupt the labor-management balance, restrain management from continuing its operations during an economic strike.

Madam President, if enacted, we will be exhibiting a blatant disregard for the legislative and judicial efforts that have maintained 55 years of stability and responsiveness in labor-management relations. Furthermore, we will be unleashing some truly greatly destructive forces on our economy.

I am proud to be a Senator representing a "right to work" State. There are 22 States, if I recall, which embrace the right-to-work laws, much to the chagrin of the AFL–CIO. Wyoming favors the rights of union and nonunion workers to decide whether—or not—to follow union orders to strike. S. 55 hurts the rights of nonstriking employees—including managers, supervisors, nonunion workers, and those who choose not to strike—by jeopardizing an employer's ability to continue operations during such a strike.

To attract replacement workers, especially considering the possible intimidation and physical dangers of crossing a picket line, an employer often must offer permanent employment. If the employer is barred from attracting replacement workers, the detrimental effects on business and its nonstriking employees could be devastating.

Madam President, I have alluded to acts of violence and intimidation by striking workers. There are honest, hardworking men and women who only seek the opportunity to work, and put food on their families' tables who are subjected to jeers, threats, ugly remarks, obscenities, demeaning labels and much worse. For instance, last year a man was shot to death for crossing a United Mine Workers picket line in West Virginia. In a civilized society, that is most repugnant and truly defies common sense.

Most of our Democratic colleagues have blindly accepted the AFL–CIO's assertion that "during the eighties"—they usually add "during the Reagan eighties," with their eyes bulging from their sockets—"during the Reagan eighties permanent replacements went through the roof."

It has a very nice political ring to it, but it is just not true. Nevertheless, it has become the sublime motivation for the proponents of this bill, and here are the facts. One paragraph. Robert Reich would tell you it is as true as ALAN SIMPSON of Wyoming will tell you it is true: A review of National Labor Relations Board cases in 1938 through 1989 reveals that there were 251 NLRB, National Labor Relations Board, cases involving permanent replacements; 229 of those occurred prior to 1981, and only 22 occurred between 1981 and 1989. In fact, the year 1948 represents the high water mark for permanent replacement cases. So there is no current "crisis" in the area of permanent replacement cases.

This is not some Republican orgy. You will note the rollcall vote earlier in the day. Very thoughtful Democrats, who I respect greatly, voted with the

Republicans, and some very thoughtful Republicans, who I respect greatly, voted with the Democrats.

So I will conclude by stating that what is truly at stake here is nothing less than American competitiveness. To compete globally, management and labor have to start playing on the same team. That means trying to achieve commitments by both management and labor to bargain in good faith, to begin to understand and trust one another. But in trying to get rid of "permanent replacements," the striker replacement bill will only create permanent suspicion and permanent hostility between labor and management.

I urge my colleagues to continue to oppose the bill and defeat the motion to invoke cloture.

I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FEINGOLD). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, is it in order for the Senator from New Mexico to speak for 5 minutes as in morning business?

The PRESIDING OFFICER. The Pastore rule has expired in this instance, and the Senator may, therefore, speak for as long as he wishes on any subject.

Mr. DOMENICI. I thank the Chair.

HAPPY 72ND BIRTHDAY TO SENATOR MARK HATFIELD

Mr. DOMENICI. Mr. President, I rise tonight for a very special and personal reason. Senator MARK HATFIELD from the State of Oregon is 72 years old today. I was going to say 72 years young because most people would not suspect that he is 72. But Senator HATFIELD is a friend of this Senator. He is also a friend of practically every Senator in this Chamber and many who have served and left. And today is his 72d birthday.

I spoke to a couple members of his family today, and I thought it might be appropriate just to come to the floor of the Senate and make sure that everybody knew that this very distinguished, wonderful human being was having a birthday today.

There are so many things that can be said about him in terms of his career—his career in the military as a Navy man, his career in his home State, his career as an educator and professor, and then his career here, where he now marks a point in history where no other person has served longer from the State of Oregon than Senator MARK HATFIELD.

I think people know that State is known for the longevity of its Senators in past history. But I do not think it is just a time served in the U.S. Senate that is important. I think it is the quality of this man because, obviously, he is a man of great faith, he is a man of great personal conviction, a marvelous family man and, yes, a man who is truly, truly responsible to this U.S. Senate.

The traditions of the Senate are respected and honored by Senator MARK HATFIELD. He works within them and clearly does a marvelous job for the people of his State and the people of this Nation.

I asked his office in coming to the floor, just to wish him this personal happy birthday from his friend from New Mexico, if they would put together a little bit of his background so we could spread it on the RECORD of the Senate today so, thus, it will be part of the U.S. Senate forever—an achievement record of MARK HATFIELD, what he has done in his life.

Obviously, as one looks it over, it is very, very interesting to see what he has accomplished. I might say, long before most people today who are environmentalists, part of environmental movements, MARK HATFIELD was a true environmentalist, kind of ahead of the pack, so to speak, without any question.

As far as peace and the concern that we ought to find better ways to accommodate that quality of life called peace as compared with war, there has been no stronger proponent that we find new and interesting and innovative ways to seek peace and find peace among nations and among people.

So today I ask the Chair to have printed in the RECORD a detailed account of the life of MARK HATFIELD, from his birth through 72 years of age. Obviously, everything that he has done in that remarkable time is not included, but many things are. For those who look at the history of the Senate, they need only look at today, July 12 of 1994, and they will find a very exciting biography of Senator MARK HATFIELD from the State of Oregon, a friend to many and this Senator's very personal friend.

I ask unanimous consent that the biography be printed in the RECORD.

There being no objection, the biography was ordered to be printed in the RECORD, as follows:

BIOGRAPHY OF SENATOR MARK O. HATFIELD

Mark Hatfield has been a student, teacher, and practitioner of the American political system for virtually his entire life. A veteran of the Pacific Theater in World War II, Mark Hatfield has dedicated his life to preventing and ending armed conflict and improving the human condition through a lifetime of public service.

EARLY POLITICAL CAREER

While teaching political science and serving as Dean of Students at his alma mater, Willamette University, Mark Hatfield began his political career in the Oregon Legislature in 1950. After two terms in the Oregon House of Representatives and two years in the Oregon Senate, he became the youngest Secretary of State in Oregon history in 1956 at age 34. He was elected Governor of Oregon in 1958 and became the state's first two-term governor in the Twentieth Century when he was re-elected in 1962. He has never lost an election.

U.S. SENATE SERVICE

In 1966, then-Governor Mark Hatfield was elected to the United States Senate as an outspoken critic of the war in Vietnam. In August of 1993, he became the longest serving U.S. Senator from Oregon, surpassing the previous record set by Senator Charles McNary.

A deeply religious man, Hatfield has always sought peaceful resolutions to world conflicts and domestic disputes. As a Lieutenant, j.g. in the U.S. Navy during World War II, Hatfield witnessed battles at Iwo Jima and Okinawa and was among the first U.S. servicemen to enter Hiroshima following the atomic bombing.

His experience during the war and his compassion for life have made him an ardent proponent for nuclear disarmament. Hatfields' tireless efforts to bring an end to the proliferation of nuclear weapons culminated in 1992 with the passage of legislation he authored calling for an end to U.S. nuclear testing.

From his position as the former Chairman and now Ranking Republican on the Senate Appropriations Committee, Senator Hatfield has provided for the development of major public works projects throughout Oregon and the Pacific Northwest.

The results of his efforts can be seen in the reforestation of millions of acres of federal forest lands, in the Portland Metropolitan area's light rail system, the new Bonneville Lock on the Columbia River, the Oregon Health Sciences University, the Marine Science Center in Newport, the University of Oregon, the Alsea Bay Bridge and numerous other projects around the state.

At the national level, Senator Hatfield constantly strives to remind his colleagues of what he calls "the desperate human needs in our midst." He has consistently opposed increases in defense spending and United States military involvement abroad while focusing on improving health, education, and social services programs throughout his tenure in the Senate.

He is known as an independent legislator who votes his conscience, a trait that has earned him bipartisan respect from his colleagues. Much of his success in the Senate can be attributed to his unique ability to work across party lines to build coalitions which secure the enactment of legislation.

ENERGY AND THE ENVIRONMENT

As a senior Republican member of the Senate Appropriations Subcommittee on Energy and Water Development as well as a senior member of the Energy and Natural Resources Committee, Senator Hatfield has always sought to protect the environment while preserving the economic fabric of Oregon and other states which rely heavily on natural resources.

The amount of protected federal wilderness area in Oregon has quadrupled to 2.1 million acres under legislation he has introduced since 1967.

Senator Hatfield's efforts to diversify and strengthen Oregon's economic base through the wise stewardship of its human and natural resources date back to his years as the state's Governor when his theme of "payrolls and playgrounds" was put into action.

In the first year of his Senate career, Hatfield sponsored legislation to create the Minam Wilderness in Northeast Oregon and co-sponsored legislation with Senator Wayne Morse to establish the Mt. Jefferson Wilderness. In subsequent years, Hatfield succeeded in passing the Oregon Wilderness Act (1984), the Columbia River Gorge National Scenic Area Act (1986), the landmark Oregon Wild and Scenic Rivers Act (1988) which provided protection for portions of 40 Oregon rivers, and the Newberry Crater National Monument (1990).

Senator Hatfield is identified as a leader in the area of conflict resolution and has sought to bring about regional solutions to natural resource conflicts.

Amid growing controversy over the management of federal forests in 1989, Senator Hatfield chaired a "summit" of representatives of the timber industry, the environmental community, Oregon's Governor and the state's entire congressional delegation to develop a plan to protect significant amounts of old growth timber while ensuring a predictable supply of timber to Oregon's mills. The compromise he negotiated resulted in a temporary solution to the region's emerging timber supply crisis and formed the foundation for a more permanent solution.

Senator Hatfield was also able to bring together an equally wide range of interests at the Salmon Summit in 1990. At the summit, representatives of the fisheries industry, environmental interests, local governments, and Native American tribes were able to negotiate a compromise to protect the salmon while preserving fishing rights. The "Salmon Summit" has led to the appropriation of over $100 million since 1990 to fund salmon recovery projects supported by this regional consensus process.

Senator Hatfield has also encouraged expanding research, development, and commercialization opportunities for efficient and renewable energy sources while pushing reduction of the nation's dependence on foreign oil. He has received numerous awards and recognitions from alternative energy concerns.

ARMS CONTROL AND FOREIGN POLICY

Arms control and foreign policy have been among Senator Hatfield's leading personal and legislative interests since he walked through the rubble of Hiroshima as a young U.S. Naval officer at the end of World War II. From his lone dissenting vote on resolutions at the 1965 and 1966 National Governors' Conferences supporting President Lyndon Johnson's policy in Vietnam to his staunch opposition to United States involvement in Kuwait in 1991, Senator Hatfield has stood—often alone—against policies which he believes unnecessarily seek military solutions to human problems.

Senator Hatfield is a leading advocate of international human rights. He is a prominent spokesperson for the world's 14 million refugees and has received numerous national and international awards for his work on their behalf.

A former chairman and active member of the Congressional Arms Control and Foreign Policy Caucus, Senator Hatfield authored the Harvest of Peace Resolution which calls for a 50 percent reduction in worldwide military spending and the redirection of the money saved into health, education and housing programs.

During the 1980's he worked to halt the nuclear arms race with bills such as the Nuclear Freeze Resolution, co-authored with Senator Ted Kennedy (D–MA). Often the only Republican Senator to receive a 100 percent voting record from arms control organizations like the Council for a Liveable World, Senator Hatfield has led the fight in the Senate against the MX Missile, the Stealth Bomber and underground nuclear testing. In October of 1992, President Bush signed into law the nuclear test ban crafted by Senators Hatfield, George Mitchell (D–ME) and James Exon (D–NE).

MEDICAL RESEARCH

Senator Hatfield has regularly called for the reordering of our nation's research priorities from activities focused on destroying life to those which enhance life, such as biomedical research. During his six years as chairman of the Senate Committee on Appropriations, funding for the National Institutes of Health increased by over $2.5 billion. He has been a leading proponent of research into Alzheimer's disease, working to increase research funds from $12.9 million in FY '80 to $291 million in FY '93.

Senator Hatfield has long sought to bring to the public an awareness of issues surrounding lesser known disorders such as Epidermolysis Bullosa (EB), Sudden Infant Death Syndrome (SIDS), and tinnitus. He has brought national attention to the widespread problem of sleep disorders both by helping to establish the National Center on Sleep Disorders Research at the National Institutes of Health and by supporting the nationally recognized research into sleep disorders being conducted at the Oregon Health Sciences University.

When the Department of Health and Human Services threatened to block the implementation of Oregon's innovative plan for health care financing, Senator Hatfield worked with the Oregon congressional delegation to obtain a federal waiver from the Secretary of Health and Human Services to allow Oregon to enact its plan.

He has also been a leader in the effort to examine the long term environmental and ethical implications surrounding the emerging advances in biotechnology. He has introduced legislation to establish a national commission on bioethics and in 1992 convened a panel of international experts on the subject.

OTHER STANDS

Senator Hatfield's many other legislative initiatives include his leadership role as lead Republican sponsor of the National Voter Registration Act, the "Motor Voter" bill, which President Clinton signed into law in 1993; his efforts to improve the technological literacy of American students through regional math and science education centers and through parental involvement in education; and his sponsorship of a national "bottle bill" modeled after Oregon's successful recycling system. Senator Hatfield is also known as a steadfast opponent of the death penalty as well as a leading critic of the line-item veto. He has worked to stabilize benefits to the elderly and disenfranchised and has been a leading advocate of nuclear waste clean-up efforts at Hanford Nuclear Reservation.

Senator Hatfield graduated from Salem High School and earned a Bachelor of Arts Degree from Willamette University in 1943.

Following World War II, Senator Hatfield earned a Master's Degree in political science from Stanford University in 1948 and later returned to Willamette University to serve as professor of political science and Dean of Students. He holds more than 80 Honorary Doctorate Degrees.

He has a passion for rare books and presidential history and is well known as an aficionado of Herbert Hoover and Abraham Lincoln. He has also befriended presidents with whom he has worked, including Richard Nixon, Gerald Ford, Jimmy Carter, Ronald Reagan, and George Bush.

Senator Hatfield is the author of three books: Not Quite So Simple (1967), Conflict and Conscience (1971), and Between a Rock and a Hard Place (1976). He is the coauthor of four additional books: Amnesty: the Unsettled Question of Vietnam (1976), The Causes of World Hunger (1982), Freeze! How You Can Help Prevent Nuclear War (1982), and What About the Russians? (1984).

OFFICES

Senator Hatfield has three offices, one in Washington and two in Oregon:

711 Hart Senate Office Building, Washington, D.C. 20510, (202) 224–3753.

727 Center Street NE, Suite 305, Special Districts Center, Salem, OR 97301, (503) 588–9510.

One World Trade Center, 121 SW Salmon Street, Suite 1420, Portland, OR 97204, (503) 326–3386.

Mr. DOMENICI. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL LABOR RELATIONS ACT AND RAILWAY LABOR ACT AMENDMENTS

MOTION TO PROCEED

The Senate continued with the consideration of the motion.

Mr. KERRY. Mr. President, I see the Senator from Kansas is here, too. I do not know if she is waiting to speak. I also see that the pages are busy removing the day's work from the desks, so the bewitching hour has obviously arrived in the Senate, and I am messing up everybody's plans, which is dangerous to do especially on the night of the All-Star game. But I would like to just take a few minutes, if I may, to discuss the measure that we wish was before us but on which we are once again in a filibuster, another motion to proceed.

I might comment parenthetically that one of the sad things about the Senate is that there seems to be such a continual resort to filibuster for almost everything. Someone informed me the other day that from 1776 until about 1980, we had a total of perhaps 150 filibusters, and from 1980 until the present we have had 150 or more filibusters. So it shows what has happened to the quality of deliberation within the Senate over the course of the last 14 years, 10 of which I have been privileged to be here. I believe all of us need to think hard about what it means to have majority rule and what it means to allow the Senate the opportunity to vote on measures.

This issue before us in the context of yet another filibuster is the question really about fundamental rights in America. I have thought about it because, as all of us here, I am troubled about what is happening in our economy. We are not creating enough jobs. We are certainly not creating enough of the kinds of high-wage, high-value-added product jobs that really raise the standard of living in a nation like ours. So increasingly we are forced to look for any kind of measure which might save us from some of the costs on our economy.

We are all more finely tuned to the notion of competitiveness and what it takes for business to be able to make it in this new international marketplace. Whatever effort that can be made to win at the margins must be made. In this country where our businesses, because of our standard of living, assume the costs of workman's compensation, liability insurance, environmental costs, planning, a host of other costs of doing business, obviously there is a certain incentive for people to look, as they have, over the course of the last years to lower cost of production.

So people see something like a bill to protect workers' rights, and there is an instantaneous reaction: "Gee. This is just one more of those congressionally-inspired efforts that gets in the way of business." I do not agree with that, Mr. President. I do not think that is a fair assessment of what is at stake here. I do not think that all of the arguments that have been put forward about the striker replacement protection are in fact, legitimate arguments. They are sham arguments that do not do justice to the great gains against and advances given to the middle class of this country, and to the working people over the course of the years by virtue of the courage exhibited by the labor movement.

Mr. President, I have listened very carefully to the arguments on both sides of this issue. It occurs to me that this really comes down to a very simple choice, not half as complicated as some people try to make it in the course of some of these sham arguments that have been made here. The question is really whether or not you believe that people ought to have sufficient bargaining power in the relationship between worker and management. The question is whether or not in that bargaining relationship a human being ought to have the right to say that, if my working conditions are not what I or we believe they ought to be, we or I have a right to strike. Obviously, the right to strike individually can be rendered meaningless. It is in the collective right to strike of workers in a plant and for a company or a series of plants and companies that you have some bargaining power.

It is also obvious through the history of labor relations in America that if people do not have the right to strike, they do not have bargaining power. Anyone who suggests otherwise ignores the reality. Sure, some people come to the floor and say, well, look at all the high-technology companies today. Those high-technology companies are not winning over union members. They are not gaining a whole lot of union membership or even union presence in those companies. Indeed, that is true. But I would respectfully say to those workers, most of whom do not have an inkling of this reality, that the reason they do not join unions today and the reason they do not have to join a union today is because of the battles that were fought by union members years ago.

If it were not for the fact that health care is part of most of those larger company's efforts today, you would not see a health care package being offered to most of those employees in these other companies. If it were not for fact they earned now the 5-day working week and a host of other benefits—you have safety within the workplace—they would not have those today. It is because a smart employer today knows that the way he keeps a union out of the plant is by offering those conditions of employment right up front. If you did not have those conditions of employment, or if you went back to the days where you had child labor in America, you would find all of a sudden people coming together organizing around the principle that they deserve better, coming together believing that it is only by having the ability of jointly objecting to the conditions of their labor that they would indeed be able to improve that labor. That is the history of the United States of America. I respectfully submit it will be the history of other countries as their people begin to gain in economic and political power.

All of us want balance in the relationship obviously. No striker should have the ability to hold a company hostage. I am not suggesting that. And I would not ask for that, Mr. President. I want a balance. But if you literally are told that if you go out on strike, your job can be replaced permanently by someone else, you have a choice. You have a choice between your job and the onerous conditions that you are working in. That is not an American choice. That is something we gave up long ago in this country.

Unfortunately, some people want to go back in time to a kind of robber baron capitalism where we do not care about the conditions that people are working in, as some have suggested in the course of these arguments. Here is an example of one argument. Someone had claimed that this act "forces an employer to shut down or curtail operations during a strike because few individuals are willing to accept the position for an undetermined period." That is one of the most ridiculous arguments I have heard in a long time on the floor of the Senate. The largest employer in the United States of America is a part-time employer today. In fact, more and more Americans are being forced to work in a situation where they go into itinerant labor from job to job, employment to employment. The truth is that every single one of us has heard and understands the term "scab." We know that temporary employees or "scabs" are available during any strike. In fact, they are becoming easier to find today as our work force becomes, in fact, increasingly flexible and mobile.

Mr. President, the truth is that under this act strikers can be temporarily replaced. No company is forced to stop working. You can bring people in as fast as you can find them. It is also true that under this act strikers will lose their pay. They will not be paid during the course of the strike. So they have to depend entirely on whatever reserves have been put away by their union or whatever reserves they have put away for whatever the duration of that strike is. It is still a risky undertaking for the individual.

They also have to take the risk that their employer in a very tough marketplace today may not survive the strike. That is a real risk today because if there are any of the downsides that others argue are the reason that you cannot allow these strikes to take place, they may not have a job to come back to, and they obviously have to balance that.

So it seems to me, Mr. President, that in an equation that is delicate in the marketplace where employees clearly have an enormous amount to consider before they strike, we have to remember the fundamental right in America of collective bargaining. It is a critical protection for workers in a free market economy, and the right to strike is an essential component of maintaining that free market economy. If an employer could simply fire a worker the moment he or she begins to strike, what good is the right to strike? It is basically being turned into a right to give up your job; a right to be fired; not a right to strike; not a right to try to bargain in the marketplace with some sense of fairness.

What this tries to do is take a marketplace imbalance that is flowing against a worker and bring it back to a state of equilibrium, Mr. President. I think that, if you look at that hard and fast, there are many reasons to come to the conclusion that that would not create more strikes in this country. Why? Mr. President, just as it takes two parties to negotiate, it takes two parties to create a strike. Every strike is, in fact, the measurement of a failed negotiation.

If you give workers a fraction more leverage, it is not going to make workers strike more often because of the nature of that balance anyway. In fact, I suggest that the opposite is true. This act will provide workers with the power to be able to avoid a strike because they will have more power in the balance of negotiation.

Let us be realistic. In any situation, if there is an absolute legitimate zaniness, or lack of reality, to whatever the request is on one side or the other, they have ample opportunity in today's world to gain the upper hand in the publicity and in the bargaining process of the court of public opinion. PATCO is an example of where a strike was taken in the presumption that they were going to gain from the public opinion. Given the levels of salaries and illegality and other problems, public opinion turned against them, and there was an enormous loss. A great many people have been educated in the last years about this balance.

It seems to me that strikes occur fundamentally when one party ignores the other party's concerns, or the counterpart's interests, and asks for more than they can get. When workers have so little leverage that their only power is to strike, that is when they strike. But if they have enough leverage to be able to work out those imbalances, they wind up not striking, and you actually have greater equilibrium and harmony in the workplace. That is why, with the exception of the United States over, I think, a brief period, every industrialized country in the world outlaws the permanent replacement of a striker during a strike.

So, Mr. President, protracted and contentious labor disputes not only hurt affected workers and businesses, they damage America's economy as a whole. This act, which I wish we were able to get to, would help facilitate an atmosphere of conciliation in a rapidly changing marketplace, with the balance of power shifted against the average worker. I believe it would have a positive effect on our marketplace, helping us to achieve greater competitiveness and considerably more creativity in our work force and in our marketplace. So I strongly support S. 55, and I hope Senators will not be deceived by arguments suggesting that this bill is something other than it is.

This bill does not prevent a company from hiring workers during a strike. It does not do anything except empower workers to try to argue from a position of equality. And to deny them that equality is to deny something that has long been at the center place of most of our aspirations in the American working place.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I would like to address myself briefly to the subject matter of this legislation.

Mr. President, once again the Senate has the opportunity to act on legislation of critical importance to the working men and women of this country.

The Senate is considering S. 55, the Workplace Fairness Act. This legislation is supported by a majority of Senators. Let me repeat that, a majority of Senators supports this legislation, but the Senate will not be able to vote on the legislation because, under the Senate rules, a minority of Senators can prevent the Senate from voting on a bill. Indeed, in this case, the minority is preventing the Senate from even considering the bill.

This legislation would codify the broad-based belief in this country that working people should not lose their jobs when they exercise their right to strike.

The arguments for and against S. 55 are well known and have been exhaustively discussed. But the analytical discussion of this legislation hides the real human cost of permanent replacement of striking workers.

My interest in this issue was heightened in 1988, from the dispute between the International Paper Co., and the United Paperworkers International Union, and the Brotherhood of Firemen and Oilers in my own State of Maine. Although this strike ended 5 years ago, the impact on the community of Jay, ME, has been long lasting. Deep scars remain in this town of 5,000 people.

The hiring of permanent replacements to the striking workers at International Paper Co., soon after the 1987 strike began, was a principal obstacle to settlement of the strike. It also is a lasting reminder of the divisive and bitter struggle in that town. To date, only 300 of the 1,270 workers who chose to exercise their right to strike in 1987 have been reinstated at the mill.

There has been a lot of information collected about the use and impact of the use of permanent replacement workers during a strike. In 1990, the U.S. General Accounting Office released its report on the "Trends in the Number of Strikes and Use of Permanent Strike Replacements in the 1980's." GAO looked at all strikes in the years 1985 and 1989. GAO found that in 17 percent of these strikes, permanent striker replacements were actually hired. In addition, GAO found that in about one-third of these strikes, employers announced that they would use permanent replacement workers during labor disputes. Therefore, in a significant number of labor disputes, striking workers were faced with actual or threatened replacement for exercising their right to strike.

Since 1992, a number of additional studies have been done on the impact of the use of permanent replacement workers. One study concluded that the average strike duration was seven times longer for strikes in which permanent replacements were used than for strikes in the United States in general.

But even these facts and figures do not show fully the devastating effects on communities of divisive labor disputes where strikers are permanently replaced or the threat of permanent replacement looms. In his testimony before the Senate Subcommittee on Labor on March 12, 1990, Mr. Charles Noonan, town manager of Jay, ME, provided the most compelling description of the impact of permanent replacements in a labor dispute:

> Although the economic effect of permanent replacements on a community is devastating, perhaps the greatest and long term impact is in the area of family and social well being. A strike divides a town; however, in a small town where the positions of labor and management are often distributed within the same family, the injection of permanent replacements and the corresponding loss of jobs deepens this division and makes the division permanent. * * * Although the strike has ended over two years ago, in most cases these divisions still exist. * * * For those union members who choose to resign the union and return to work and for supervisors who continued to operate the mill their lives were also severely disrupted. Social interactions and lifetime friendships were ended. * * * What Jay once was, a proud, caring community is now a divided, closed society which judges each individual on the basis of which side you may have taken in this labor dispute.

There is now sufficient factual data to show that the increased use of permanent replacement as a threat to workers has shifted the delicate balance in labor disputes. It also is clear that the impact of hiring permanent replacements can be devastating.

I am an original cosponsor of S. 55 in this Congress. I believe it is important legislation, and I believe that we must act now to restore to working people in this country their right to strike without losing their jobs.

I urge my colleagues to allow the Senate to vote on this legislation by voting to end the filibuster on this bill.

HEALTH CARE LEGISLATION

Mr. MITCHELL. Mr. President, I would like, if I might, to now make a few comments on the subject of health care.

The Senate Finance Committee and the Senate Labor Committee have both now reported bills to the Senate.

Over the next couple of weeks, I will be meeting personally with a large number of Senators, Democrats and Republicans, in an effort to determine the best way to proceed to put these two bills together in legislation which I will present to the full Senate for consideration later this month.

I continue to believe that the three essential elements of meaningful health care reform are, first, health insurance for all Americans; second, effective cost control; and, third, greater emphasis in our society on preventive and primary care.

I believe that the legislation that most nearly achieves these objectives is the legislation which the President has presented.

It is ironic, Mr. President, and Members of the Senate, that the opponents of the President's plan use polling results in support of their position when those polling results operate in their favor and then seek to discount the impact of polling results when they operate to their disadvantage.

This much is clear: With respect to the importance of health insurance for all Americans, which has now come to be known as universal coverage, an overwhelming majority of Americans, nearly three-fourths of Americans, support that principle. And that is the essential element in the President's bill—health insurance for every American.

Every Member of Congress, the President, every member of the Federal Government, every Federal employee is guaranteed health insurance.

What is good enough for the President, the Members of Congress, and for every Federal employee, ought to be good enough for every American—and that is the right to have health insurance. The right to have health insurance that is permanent, that cannot be taken away; that is the essential element.

The second one is cost control. Some of the bills offered, in contrast to those presented by the President, do not provide for any meaningful cost control. Arguments are being made that our colleagues want to protect small business. Mr. President, the best thing we can do for small business is to enact those reforms that will make health insurance affordable and attainable for them. Right now, on average, small businessmen and women pay 35 percent more for the same coverage for their employees than does large business. That is because of discrimination in the sale of products and because of excessive costs within our system.

If we adopt a system which provides for universal coverage and for effective cost control, costs will come down for small businessmen, enabling them to do what most of them already do and what the remainder want to do; that is, to provide health insurance for their employees. And 72 percent of Americans, again nearly three-fourths, favor shared responsibility between the employer and the employee. That is what the American system is built on now—shared responsibility. The employer pays a portion of it; the employee pays a portion of it. Right now, every Federal employee operates under such a system. On average, Federal employees pay 28 percent of the cost; the employer, the Government, pays 72 percent.

We should be making certain that every American has the guarantee of health insurance, as do all Federal employees, in a system in which there is shared participation by the employer and employee. That is the best thing we could do for small business.

Mr. President, I will be discussing this matter with individual Senators over the next few weeks, trying to figure out the best way to proceed, trying to put together a bill that I believe will attain these necessary objectives and that can pass the Senate. I look forward to much further and vigorous debate, to discussion with a lot of our colleagues. But I close with this remainder. The essential elements of reform are health insurance for all Americans, controlling the costs of health care, and placing much greater emphasis on primary and preventive care.

The alternative bills which have been offered here in the Senate by some of our colleagues who oppose the President's plan do not achieve those objectives. Therefore, I do not believe they can or will be adopted, and I do not believe they are what the American people want.

The American people want health insurance for all of our citizens; 78 percent in the latest poll want that. And the American people want effective cost control, an even larger majority wants that. Although there are no recent polling results, I believe the American people also overwhelmingly favor much greater emphasis on preventive and primary care as a way of producing better health for our citizens and also of controlling costs.

Mr. President, I will have much more to say on this subject in the next few weeks, but I wanted to make these remarks in light of some of the other comments made today. I look forward to further discussions with our colleagues. As I said literally dozens of times now since January, now that the two committees have reported, we are going to try to figure out the best way to put these bills together and bring it to the Senate floor this month for what I hope will be an enlightening debate and for what I hope ultimately will be meaningful reform legislation for the American people.

MORNING BUSINESS

W. GRAHAM CLAYTOR, JR.

Mr. NUNN. Mr. President, I noted with regret that Graham Claytor passed away at the age of 82 on May 14, 1994. I wanted to take a few minutes to commemorate the wide-ranging life and accomplishments of this remarkable individual.

I knew Graham Claytor primarily as a result of his outstanding service as Secretary of the Navy from 1977 to 1979 and as Deputy Secretary of Defense from 1979 to 1981. In those positions, he was responsible for several initiatives that continue to be very important today. He worked hard to strengthen our sealift capability and to preposition equipment on board ships in strategic locations overseas. He was involved in the creation of the Rapid Deployment Joint Task Force, the military command that preceded the current U.S. Central Command.

In addition to his accomplishments in the Department of Defense, Graham distinguished himself in a wide variety of other endeavors. He was born in Roanoke, VA, and grew up in Virginia and Philadelphia. In 1936, he graduated summa cum laude from Harvard University Law School, where he was president of the Harvard Law Review. After law school, he clerked for two noted jurists, U.S. Court of Appeals Judge Learned Hand and U.S. Supreme Court Justice Louis Brandeis.

In 1940, even before the United States entered World War II, Graham tried to join the Navy. Although he was initially rejected as too old, he persisted until he was finally accepted, and he served throughout the war. In the closing days of World War II, he was commander of the destroyer escort *Cecil J. Doyle* when a Japanese torpedo attack sunk the cruiser U.S.S. *Indianapolis*. Of the almost 1,200 servicemen aboard the *Indianapolis*, 881 died in one of the greatest single combat losses suffered by the U.S. Navy in World War II. During the rescue operation, Graham Claytor exposed his ship to possible attack by Japanese submarines in order to save almost 100 survivors of the *Indianapolis*.

After many years in private law practice, Graham turned his long-time avocation for railroading into his vocation when he became vice president of Southern Railway in 1963. He then began a long career in the railroad industry, culminating in his 11-year tenure as president of Amtrak. He is credited with turning Amtrak around by making it more like a commercial business. When he retired in 1993, ticket sales were covering 80 percent of Amtrak's operating costs, far higher than the 48 percent that was covered when he arrived.

Mr. President, Graham Claytor made a number of public and private contributions during his long, full life. I appreciate the opportunity to have known and worked with him. I would like to offer my condolences to his wife Frances Murray Claytor and to his children W. Graham Claytor III and Murray Claytor.

REMAIN VIGILANT: CONTINUING THE FIGHT AGAINST U.N. MALFEASANCE

Mr. PRESSLER. Mr. President, I have come to the Senate floor repeatedly both to praise and to admonish the United Nations. Peacekeeping operations, humanitarian aid, management and budgetary reform, procurement reform—I have raised questions about all of these U.N. issues. Some of my questions have been answered. Still, others remain.

Specifically, I have focused considerable effort on U.N. management and budgetary reform. As my colleagues know, for years I have been outspoken about the waste, fraud, and abuse that have become standard policy for U.N. managers. Most recently, I included language in the Foreign Relations Authorization Act, which President Clinton signed into law on April 30, 1994, to promote the creation of an independent Office of the Inspector General [OIG] at the United Nations. Additionally, President Clinton's acknowledgment of this measure in Presidential Decision Directive 25 [PDD 25] is an excellent step on behalf of the administration in addressing the United Nations' rampant management abuses.

As the General Assembly debates the adoption of a resolution to create an OIG, the administration should keep a watchful eye on the terms of any such resolution. The language I authored in the Foreign Relations Authorization Act regarding the establishment of an independent OIG should be followed closely as the General Assembly debates OIG resolutions. The language is clear and unequivocal.

Recently, I wrote to Ambassador Albright, urging her to work diligently to ensure the independence of the OIG. Ambassador Albright's insistence and pressure to reform U.N. mismanagement must be unwavering. Now is a critical time for Ambassador Albright to demonstrate to the General Assembly the U.S. commitment to end U.N. malfeasance. I ask unanimous consent to have printed in the RECORD the letter I recently sent to Ambassador Albright.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 7, 1994.

Hon. MADELEINE K. ALBRIGHT,
U.S. Representative to the United Nations, U.S. Mission to the United Nations, United Nations Plaza, New York, NY.

DEAR AMBASSADOR ALBRIGHT: I understand that the U.N. General Assembly currently is considering measures to meet the requirements of the Foreign Relations Authorization Act (P.L. 103-136) regarding the creation of an Office of the Inspector General (OIG). I urge you to monitor closely any UN Resolutions involving the OIG.

As you know, I was instrumental in crafting the language in the Foreign Relations Authorization Act which calls for the establishment of an independent UN Inspector General. If UN budgetary and management reform is to be meaningful, the terms of any UN resolution authorizing an independent OIG must be clear, unequivocal, and must reflect the Congressional intent of Section 401 of the Foreign Relations Authorization Act as well as President Clinton's position in Presidential Decision Directive 25 (PDD 25).

In Section 401, Congress outlined clearly its specifications for an OIG. This office should "conduct and supervise objective audits, inspections, and investigations relating to the programs and operations of the United Nations." Additionally, the Inspector General should report to the UN General Assembly any findings relating to UN management and operations. Above all, however, this office should remain independent and must not be subject to the control of UN bureaucrats.

I am concerned about the current OIG initiatives being debated by the General Assembly. Specifically, I am wary of any UN proposals to establish an OIG which draw from the existing Office of Inspections and Investigations (OII). It has been my understanding that the OII has not issued any reports to the General Assembly which were promised by Secretary-General Boutros Ghali. Furthermore, I question the overall effectiveness and objectivity of the OII. During a Senate Foreign Relations Committee hearing last week, I submitted questions to Secretary Christopher regarding the current status of both the OII and the OIG. I still am awaiting his reply.

Again, Ambassador Albright, I cannot stress enough the importance of establishing a strong, independent, reform office at the UN. As U.S. Permanent Representative to the UN, you should work to ensure that the General Assembly adopts a resolution reflective of the Congressional initiatives recently signed and endorsed by President Clinton. We must not forego the opportunity to help craft and influence the UN's creation of an OIG.

I look forward to continuing our efforts to bring rampant waste, fraud, and abuse to an end at the UN.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

Mr. PRESSLER. Mr. President, I am pleased also that PDD 25 acknowledges the United States should not pay more than 25 percent of assessed U.N. peacekeeping costs—another endorsement of language in the Foreign Relations Authorization Act. This assessment cap is extremely important to ensuring accountability at the United Nations. If the United Nations is to be an effective international body, United States support and funding are necessary. However, if the United Nations fails to reform and continues to mismanage operations, the United States cannot remain silent.

Mr. President, despite these efforts to reform the international world body, a recent United Nations Association occasional paper criticizes the creation of an independent U.N. inspector-general. Jeffrey Laurenti, in a paper entitled, "Strengthening U.N. Fiscal Oversight Machinery: The Debate on an Inspector-General," argues that the creation of an independent inspector-general is a reactionary move in the fight against U.N. waste, fraud, and abuse. According to Laurenti, who quoted the Panel of External Auditors:

> [T]he U.N. debate "has focused too much on the role of the internal oversight mechanisms in uncovering waste, fraud, corruption and compliance with rules and regulations." While acknowledging that this is admittedly "an essential element of control," the reality is that it is better to prevent waste, fraud, and abuse before they occur rather than detect them after the event.

While I agree that preventative actions should be taken to thwart U.N. mismanagement, I disagree strongly with Laurenti's assessment that reformers have placed too much emphasis on the creation of internal oversight mechanisms. If the United Nations were functioning efficiently in the first place, the need for fiscal oversight measures would be far less pressing. But, as we all know, that has not been the case. The United Nations has not operated efficiently for many years.

Laurenti went on to criticize congressional measures to withhold U.N. payments as a way to enforce the establishment of an OIG. According to Laurenti:

> * * * the withholding seems an extraordinary inversion of priorities; and the increasingly promiscuous resort to withholding is deepening resentment and resistance among other member states and risks becoming counterproductive.

Again, I disagree with Laurenti's analysis. As the largest contributor to the United Nations, the United States holds great financial leverage over the United Nations. Anymore, it seems that only money talks at the United Nations. The withholding of U.S. contributions speaks louder than any diplomatic words.

It frustrates me, as a supporter of the United Nations, to read a document from the U.N. Association that is so critical of congressional measures to end U.N. corruption. This organization wishes to paint idyllic pictures of the efficiency of the world body. Unfortunately, reality paints a grim picture of gross institutional inefficiency.

I urge my colleagues to maintain their support for U.N. management reform. We owe it to our constituents to make the most of their taxpayer dollars when Congress considers funding for U.N. operations.

DEDICATION OF U.S.S. "STETHEM" TO AN AUTHENTIC AMERICAN HERO

Mr. SARBANES. Mr. President, this Saturday at the west bank facility in Pascagoula, MS, Mrs. Patricia L. Stethem will christen the Aegis guided missile destroyer, the U.S.S. *Stethem* (DDG 63). The *Stethem* is named for her son Robert Dean Stethem, a courageous and heroic young Navy diver who was brutally murdered by Lebanese hijackers in 1985.

Robert was returning from an assignment in Greece when the plane he was on was seized by hijackers. He was rated as a diver and assigned to Navy Underwater Construction Team No. 1 in Norfolk, VA. In a moving editorial in the Washington Post on January 27, 1989, that paper paid tribute to Robert Stethem's heroism. Commenting on the trial of the hijacker, Mohammed Ali Hamadi, the Post concluded:

> The truth that emerges from the Frankfurt courtroom is an instructive one: It is a picture of one young man attempting each day to dissociate himself from acts that grow more shameful with each retelling and of another who offered his country as pure an example of courage as it could want.

Robert Dean Stethem was only 23 years old when he was murdered. To this day the pain of losing their son intrudes on the daily life of the Stethem family. Their home is filled with mementos of Robert. His community in southern Maryland where he grew up has remembered him by establishing the Robert D. Stethem Memorial Sports Complex in Waldorf, MD, in his honor.

As John F. Kennedy said:

> Stories of past courage can * * * teach, they can offer hope, they can provide inspiration. But they cannot supply courage itself. For this each man must look into his own soul.

Few people could find the courage to act as Robert Dean Stethem did in 1985. Mr. Stethem epitomized the very best this country has to offer, and it is an appropriate and fitting tribute to him that the Nation is now dedicating the U.S.S. *Stethem* to this authentic American hero.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty and responsibility of Congress to control Federal spending. Congress has failed miserably in that task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,620,363,003,746.37 as of the close of business yesterday, Monday, July 11. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $17,722.16.

HOMICIDES BY GUNSHOT IN NEW YORK CITY

Mr. MOYNIHAN. Mr. President, I rise, as has been my practice throughout this session of the 103d Congress, to announce to the Senate that during the last 2 weeks, 37 people were killed in New York City by gunshot, bringing this year's total to 518.

THE LOSS OF FIREFIGHTERS IN SOUTH CANYON, COLORADO

Mr. HATFIELD. Mr. President, some of you may know about the terrible tragedy that occurred near Glenwood Springs, CO last week. On Wednesday, July 6, 14 elite firefighters died when a wildfire exploded up a mountainside. This tragedy is a sad event for the whole Nation, and I ask my colleagues in the Senate to join me in expressing our deepest regrets to the friends, family, and loved ones of those who gave their lives in unselfish service to their country.

I am especially saddened for the nine young men and women from Oregon who perished in the fire: Bonnie Holtby, Jon Kelso, Tami Bickett, Scott Blecha, Levi Brinkley, Kathi Beck, Rob Johnson, Terri Hagen, and Doug Dunbar. These fine young men and women represented nearly half of a 20-person crew based in the central Oregon town of Princeville, but they were not alone. I also come to the floor today to join mourners in Idaho, Montana, Georgia, Colorado, and around the country who lost friends and loved ones in the fire.

Calling themselves the "Hot Shots," these elite firefighters were a special breed. The nine from Princeville came from a region especially susceptible to forest fires. But these Hot Shots were committed to fighting fires all over the country and served in States all over the West, where summer fires can be so dangerous. These young men and women came to Colorado directly from fires in California and Oregon. I know they took pride in being part of a national team and a national effort to protect our homes and communities from the terror of forest fires.

We have lost tremendous potential, hope, and energy with these young firefighters. There is so much I could say about the 4-point student, the father of two, or the ex-marine who dedicated themselves to fighting the worst forest fires around the West. They were trained to respond whenever and wherever troubles arose. I could mention many feats to illustrate how daring these Hot Shots were, or relate many tales of determination and training that saved lives and property throughout the West. But who will question the heroic spirit necessary to storm into a wild fire, carrying 40 pounds of equipment, pickaxes, shovels, and rakes? In this tragedy, we have lost some of our most courageous and able young men and women.

That such a horrible tragedy could strike such promising young adults only adds confusion and bewilderment to our sorrow. The Hot Shots were the most elite firefighters, trained to work in some of the most extreme conditions. An investigation is currently underway, and hopefully it will clear up some of the confusion. However, we may never understand why such a tragedy occurred when and where it did, and no answer could remove the agony of what has already happened.

Their memory reminds us of the dedication and team spirit that has helped rural communities in the West, and which sets an example for the Nation. I hope my colleagues join me in mourning for the lives our Nation has lost. Their efforts will never be forgotten. I also urge that investigation of this tragedy proceed with the utmost speed and attention.

ORDER TO PRINT ERRATA—103-292

Mr. CONRAD. Mr. President, I ask unanimous consent that an erratum of Senate Reports 103-292 be printed to reflect the changes I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

FISHERMEN'S PROTECTIVE ACT AMENDMENTS

The text of the bill S. 2243, to amend the Fishermen's Protective Act of 1967 to permit reimbursement of fishermen for fees required by a foreign government to be paid in advance in order to navigate in the waters of that foreign country whenever the United States considers that fee to be inconsistent with international law, and for other purposes, as passed by the Senate on July 1, 1994, is as follows:

S. 2243

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) customary international law and the United Nations Convention on the Law of the Sea guarantee the right of passage, including innocent passage, to vessels through the waters commonly referred to as the "Inside Passage" off the Pacific Coast of Canada;

(2) Canada has recently announced that it will require all commercial fishing vessels of the United States to pay 1,500 Canadian dollars to obtain a "license which authorizes transit" through the Inside Passage off the Pacific Coast of Canada;

(3) this action is inconsistent with international law, including the United Nations Convention on the Law of the Sea, and in particular Article 26 of that Convention, which specifically prohibits such fees, and threatens the safety of United States commercial fishermen who may seek to avoid the fee by traveling in less protected waters;

(4) the Fishermen's Protective Act of 1967 provides for the reimbursement of vessel

owners who are forced to pay a license fee to secure the release of a vessel which has been seized, but does not permit reimbursement of a fee paid by the owner in advance in order to prevent a seizure;

(5) Canada has announced that the license fee may only be paid in two ports on the Pacific Coast of Canada, and must be paid in person or in advance by mail;

(6) significant expense and delay would be incurred by a commercial fishing vessel of the United States that had to travel from the point of seizure back to one of those ports in order to pay the license fee required by Canada, and the costs of that travel and delay cannot be reimbursed under the Fishermen's Protective Act as presently enacted;

(7) the Fishermen's Protective Act of 1967 should be amended to permit vessel owners to be reimbursed for fees required by a foreign government to be paid in advance in order to navigate in the waters of that foreign country, provided the United States considers that fee to be inconsistent with international law;

(8) the Secretary of State should seek to recover from Canada any amounts paid by the United States to reimburse vessel owners who paid the transit license fee;

(9) the United States should review its current policy with respect to anchorage by commercial fishing vessels of Canada in waters of the United States off Alaska, including waters in and near the Dixon Entrance, and should accord such vessels the same treatment that commercial fishing vessels of the United States are accorded for anchorage in the waters of Canada off British Columbia;

(10) the President should ensure that, consistent with international law, the United States Coast Guard has available adequate resources in the Pacific Northwest and Alaska to provide for the safety of United States citizens, the enforcement of United States law, and to protect the rights of the United States and keep the peace among vessels operating in disputed waters;

(11) the President should continue to review all agreements between the United States and Canada to identify other actions that may be taken to convince Canada that continuation of the transit license fee would be against Canada's long-term interests, and should immediately implement any actions which the President deems appropriate until Canada rescinds the fee;

(12) the President should immediately convey to Canada in the strongest terms that the United States will not now, nor at any time in the future, tolerate any action by Canada which would impede or otherwise restrict the right of passage of vessels of the United States vessels in a manner inconsistent with international law; and

(13) the United States should redouble its efforts to seek expeditious agreement with Canada on appropriate fishery conservation and management measures that can be implemented through the Pacific Salmon Treaty to address issues of mutual concern.

SEC. 2. AMENDMENT TO THE FISHERMEN'S PROTECTIVE ACT.

The Fishermen's Protective Act of 1967 (P.L. 90–482), as amended, is further amended by adding at the end the following new section:

"SEC. 11. (a) In any case on or after June 15, 1994, in which a vessel of the United States exercising its right of passage is charged a fee by the government of a foreign country to engage in transit passage between points in the United States (including a point in the exclusive economic zone or in an area over which jurisdiction is in dispute), and such fee is regarded by the United States as being inconsistent with international law, the Secretary of State shall reimburse the vessel owner for the amount of any such fee paid under protest.

"(b) In seeking such reimbursement, the vessel owner shall provide, together with such other information as the Secretary of State may require—

"(1) a copy of the receipt for payment;

"(2) an affidavit attesting that the owner or the owner's agent paid the fee under protest; and

"(3) a copy of the vessel's certificate of documentation.

"(c) Requests for reimbursement shall be made to the Secretary of State within 120 days of the date of payment of the fee, or within 90 days of the date of enactment of this section, whichever is later.

"(d) Such funds as may be necessary to meet the requirements of this section may be made available from the unobligated balances of previously appropriated funds remaining in the Fishermen's Guaranty Fund established under section 7 and the Fishermen's Protective Fund established under section 9. To the extent that requests for reimbursement under this section exceed such funds, there are authorized to be appropriated such sums as may be needed for reimbursements authorized under subsection (a).

"(e) The Secretary of State shall take such action as the Secretary deems appropriate to make and collect claims against the foreign country imposing such fee for any amounts reimbursed under this section.

"(f) For purposes of this section, the term 'owner' includes any charterer of a vessel of the United States.

"(g) The provisions of this section shall remain in effect until October 1, 1995.".

SEC. 3. REAUTHORIZATION.

(a) Section 7(c) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(c)) is amended by striking "The amount fixed by the Secretary shall be predicated upon at least 33⅓ per centum of the contribution by the Government.".

(b) Section 7(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)) is amended by striking "October 1, 1993" and inserting in lieu thereof "October 1, 2000".

SEC. 4. TECHNICAL CORRECTION.

(a) Section 15(a) of Public Law 103–238 is amended by striking "April 1, 1994," and inserting "May 1, 1994.".

(b) The amendment made by subsection (a) shall be effective on and after April 30, 1994.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The text of the bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, as passed by the Senate on July 1, 1994, is as follows:

S. 2182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1995".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Congressional defense committees defined.
Sec. 4. General limitation.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense-wide activities.
Sec. 105. Reserve components.
Sec. 106. Chemical demilitarization program.
Sec. 107. Joint Training, Analysis and Simulation Center.

Subtitle B—Army Programs

Sec. 111. Multiyear procurement authority for M1A2 tank upgrades.
Sec. 112. Transfer of replacement Army tank to Marine Corps Reserve.
Sec. 113. Replacement surveillance system for Korea.
Sec. 114. Small arms industrial base.
Sec. 115. Bunker defeat munition missiles.

Subtitle C—Navy Programs

Sec. 121. Nuclear aircraft carrier program.
Sec. 122. Seawolf submarine program.
Sec. 123. Naval amphibious ready groups.

Subtitle D—Air Force Programs

Sec. 131. Settlement of claims under the C–17 aircraft program.
Sec. 132. Retirement of bomber aircraft.

Subtitle E—Other Matters

Sec. 141. Preserving the bomber industrial base.
Sec. 142. Dual-use electric and hybrid vehicles.
Sec. 143. Sales authority of working-capital funded Army industrial facilities.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
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SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

SEC. 4. GENERAL LIMITATION.

Notwithstanding any other provision of this Act, the total amount authorized to be appropriated for fiscal year 1995 under the provisions of this Act is $263,130,327,000, of which the total amount authorized to be appropriated for fiscal year 1995 under the provisions of—

(1) division A is $244,063,401,000;

(2) division B is $8,593,903,000; and

(3) division C is $10,473,023,000.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement for the Army as follows:

(1) For aircraft, $1,073,781,000.

(2) For missiles, $693,909,000.

(3) For weapons and tracked combat vehicles, $1,132,886,000.

(4) For ammunition, $870,361,000.

(5) For other procurement, $2,677,719,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement for the Navy as follows:

(1) For aircraft, $4,535,601,000.

(2) For weapons, including missiles and torpedoes, $2,428,539,000.

(3) For shipbuilding and conversion, $6,132,807,000.

(4) For other procurement, $3,310,217,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement for the Marine Corps in the amount of $528,857,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement for the Air Force as follows:

(1) For aircraft, $6,587,994,000.

(2) For missiles, $4,330,473,000.

(3) For other procurement, $6,961,153,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 1995 for Defense-wide procurement in the amount of $1,935,616,000.

SEC. 105. RESERVE COMPONENTS.

Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement of aircraft, vehicles, communications equipment, and other equipment for the reserve components of the Armed Forces as follows:

(1) For the Army National Guard, $85,000,000.

(2) For the Air National Guard, $270,000,000.

(3) For the Army Reserve, $75,000,000.

(4) For the Naval Reserve, $65,000,000.

(5) For the Air Force Reserve, $60,000,000.

(6) For the Marine Corps Reserve, $45,000,000.

SEC. 106. CHEMICAL DEMILITARIZATION PROGRAM.

(a) AUTHORIZATION.—There is hereby authorized to be appropriated for fiscal year 1995 the amount of $590,149,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare material of the United States that is not covered by section 1412 of such Act.

(b) LIMITATION.—Of the funds specified in subsection (a)—

(1) $363,584,000 is for operation and maintenance;

(2) $215,265,000 is for procurement; and

(3) $11,300,000 is for research and development efforts in support of the nonstockpile chemical weapons program.

(c) AUTHORITY FOR OBLIGATION OF UNAUTHORIZED APPROPRIATIONS.—The Department of Defense may obligate and expend $25,000,000 of the funds appropriated for research, development, test, and evaluation under the heading "CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE" in title VI of Public Law 103–139 (107 Stat. 1436) in accordance with the appropriation for such funds in that Act.

(d) IDENTIFICATION OF FUNDS FOR PROGRAM.—Section 1412(f) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(f)) is amended by striking out the last sentence and inserting in lieu thereof the following: "Funds for military construction projects necessary to carry out this section shall be set forth in the budget of the Department of Defense for any fiscal year as a separate account.".

SEC. 107. JOINT TRAINING, ANALYSIS AND SIMULATION CENTER.

Of the funds authorized to be appropriated for other procurement for the Navy, $10,500,000 shall be available for procurement of command, control, communications and computer equipment for a Joint Training, Analysis and Simulation Center for the United States Atlantic Command.

Subtitle B—Army Programs

SEC. 111. MULTIYEAR PROCUREMENT AUTHORITY FOR M1A2 TANK UPGRADES.

The Secretary of the Army may enter into multiyear procurement contracts for procurement of M1A2 Abrams tank upgrades in accordance with section 2306(h) of title 10, United States Code.

SEC. 112. TRANSFER OF REPLACEMENT ARMY TANK TO MARINE CORPS RESERVE.

The Secretary of the Army shall transfer one M1A1 common tank to the Marine Corps Reserve not later than the latest date on which any of the additional 24 M1A2 upgrades provided for under authorizations of appropriations in this Act is accepted by the Army.

SEC. 113. REPLACEMENT SURVEILLANCE SYSTEM FOR KOREA.

(a) LEASE AUTHORIZED.—Funds available to the Army for procurement of OV–1 aircraft that remain unobligated by reason of the early retirement of OV–1 aircraft deployed in Korea may be used for leasing a moving target indicator radar or another surveillance system to replace the surveillance capability of such aircraft in Korea if—

(1) the lease provides for deployment of the system within 180 days after the date of the enactment of this Act;

(2) the Republic of Korea pays 50 percent of the cost of the lease;

(3) the lease includes an option for the Republic of Korea to purchase the leased system after the joint surveillance and target attack radar surveillance system (JSTARS) program attains initial operational capability; and

(4) the lease expires within 180 days after the date on which the JSTARS system is planned, as of the date of the enactment of this Act, to attain initial operational capability.

(b) WAIVER AUTHORITY.—Section 1024(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1460) is amended by striking out "section 1439(b)(2)" and inserting in lieu thereof "section 1439".

SEC. 114. SMALL ARMS INDUSTRIAL BASE.

(a) FUNDING FOR PROCUREMENT.—Of the funds authorized to be appropriated pursuant to section 101(3)—

(1) $38,902,000 shall be available for procurement of MK19–3 grenade machine guns;

(2) $13,000,000 shall be available for procurement of M16A2 rifles;

(3) $24,016,000 shall be available for procurement of M249 squad automatic weapons; and

(4) $13,165,000 shall be available for procurement of M4 carbines.

(b) MULTIYEAR CONTRACTS AUTHORIZED.—(1) During fiscal year 1995, the Secretary of the Army may, in accordance with section 2306(h) of title 10, United States Code, enter into multiyear contracts to meet the following objectives for quantities of small arms weapons to be acquired for the Army:

(A) 21,217 MK19–3 grenade machine guns;

(B) 1,002,277 M16A2 rifles;

(C) 71,769 M249 squad automatic weapons; and

(D) 132,510 M4 carbines.

(2) If the Army does not enter into contracts in fiscal year 1995 that will meet all the objectives set forth in paragraph (1), the Secretary shall, to the extent provided for in appropriations Acts, enter into multiyear contracts on or after October 1, 1995, to meet such objectives.

(3) Notwithstanding the first sentence of section 2306(h)(8) of title 10, United States Code, the period of a multiyear contract entered into under this subsection may not exceed 10 years.

(c) FOLLOW-ON WEAPONS.—The Secretary of the Army shall provide for procurement of product improvements for existing small arms weapons and may do so within multiyear contracts entered into pursuant to subsection (b).

(d) JOINT SMALL ARMS MASTER PLAN.—(1) The Secretaries of the military departments shall jointly develop a master plan for meeting the immediate and future needs of the Armed Forces for small arms. The Secretary of the Army shall coordinate the development of the joint small arms master plan. The joint small arms master plan shall include—

(A) an examination of the relative advantages and disadvantages of improving existing small arms weapons as compared to investing in new, advanced technology weapons; and

(B) an analysis of the effects of each such approach on the small arms industrial base.

(2) Not later than April 1, 1995, the Under Secretary of Defense for Acquisition and Technology shall—

(A) review the joint small arms master plan and the results of the examination of relative advantages and disadvantages of the two courses of action described in paragraph (1); and

(B) transmit the plan, together with any comments that the Under Secretary considers appropriate, to the congressional defense committees.

(e) FUNDING FOR RDT&E.—Of the funds authorized to be appropriated under section 201(1)—

(1) $5,000,000 shall be available for the Objective Crew-Served Weapons System; and

(2) $3,000,000 shall be available for product improvements to existing small arms weapons.

SEC. 115. BUNKER DEFEAT MUNITION MISSILES.

(a) AUTHORITY.—The Secretary of the Army may acquire up to 6,000 type classified standard bunker defeat munition weapons.

(b) FUNDING.—Funds authorized to be appropriated for the Army for fiscal year 1994 shall be available for acquisition of bunker defeat munition weapons in accordance with subsection (a) as follows:

(1) Of the amount authorized to be appropriated by section 101(4), $7,761,000.

(2) Of the amount authorized to be appropriated by section 201(1), $2,600,000.

Subtitle C—Navy Programs

SEC. 121. NUCLEAR AIRCRAFT CARRIER PROGRAM.

(a) TRANSFER OF FISCAL YEAR 1994 FUNDS.—To the extent provided in appropriations Acts, $1,200,000,000 may be transferred from the National Defense Sealift Fund to the funds appropriated pursuant to the authorization in section 102(a)(3).

(b) AVAILABILITY FOR CVN-76.—The funds transferred shall be available for the CVN-76 nuclear aircraft carrier program.

(c) RELATIONSHIP TO OTHER AUTHORIZATION.—The amount of the funds transferred shall be in addition to the amount authorized to be appropriated in section 102(a)(3) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1563).

(d) RELATIONSHIP TO OTHER TRANSFER AUTHORITY.—The transfer authority in paragraph (1) is in addition to any other transfer authority provided in this or any other Act.

SEC. 122. SEAWOLF SUBMARINE PROGRAM.

(a) LIMITATION OF COSTS.—Except as provided in subsection (b), the total amount obligated or expended for procurement of the SSN-21 and SSN-22 Seawolf submarines may not exceed $4,759,571,000.

(b) AUTOMATIC INCREASE OF LIMITATION AMOUNT.—The amount of the limitation set forth in subsection (a) is increased by the following amounts:

(1) The amounts of outfitting costs and post-delivery costs incurred for the submarines referred to in such subsection.

(2) The amounts of increases in costs attributable to economic inflation.

(3) The amounts of increases in costs attributable to compliance with changes in Federal, State, or local laws.

SEC. 123. NAVAL AMPHIBIOUS READY GROUPS.

(a) FINDINGS.—Congress makes the following findings:

(1) Extensive and compelling testimony from uniformed military and Department of Defense leadership has been received which supports a military requirement for twelve Amphibious Ready Groups.

(2) An official Department of Navy report required by the Fiscal Year 1993 National Defense Authorization Act clearly stipulates that a seventh LHD is required in order for the Navy to achieve a force structure of twelve Amphibious Ready Groups.

(3) The Department of Navy has identified funds for the purchase of LHD-7 in outyear budget projections.

(4) A significant shortfall in amphibious shipping and amphibious lift exists, both in the fiscal year 1995 budget request and in outyear force structure projections.

(5) Amphibious Assault Ships (LHDs) provide an important contingency capability and are uniquely suited to respond to world crises and to provide assistance after natural disasters.

(6) Twelve Amphibious Ready Groups are the correct number to sustain forward deployment and contingency requirements of the Navy.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Navy should, plan for, and budget to provide for, the attainment of a twelfth Amphibious Ready Group as soon as possible. Further, the Secretary of the Navy should extend the existing contract option on the LHD-7 Amphibious Assault Ship in order to achieve twelve Amphibious Ready Groups.

(c) LHD-7 CONTRACT OPTION EXTENSION.—

(1) The Secretary of the Navy is authorized to extend the existing contract option for the LHD-7 Amphibious Assault ship if the Secretary determines that the extension would be in the best interest of the United States.

(2) The Secretary of the Navy shall immediately begin negotiations to extend the existing contract option for the LHD-7 Amphibious Assault Ship Program.

(3) On and after the date that is 30 days after the date on which the Secretary notifies Congress of an intention to do so, the Secretary may use such program funds authorized to be appropriated for other Navy programs for such contract. The notification shall include a description of the intended use of the funds.

(d) REPORT REQUIREMENT.—The Secretary of the Navy shall report to the Congress, after December 31, 1994, but before March 31, 1995, Department of the Navy intentions related to contract execution of the existing contract option for the LHD-7 Amphibious Assault Ship. The report shall include an explanation of the Department's actions related to the attainment of a twelfth Amphibious Ready Group and the costs and benefits of extending the existing contract option on the LHD-7 Amphibious Assault Ship.

Subtitle D—Air Force Programs

SEC. 131. SETTLEMENT OF CLAIMS UNDER THE C-17 AIRCRAFT PROGRAM.

(a) SUPPLEMENTAL AGREEMENTS AUTHORIZED.—On or before September 30, 1995, but subject to subsection (e), the Secretary of the Air Force may enter into supplemental agreements pertaining to Air Force prime contract F33657-81-C-2108 and such other Air Force contracts relating to the C-17 aircraft program in effect on the date of enactment of this Act as the Secretary determines appropriate—

(1) to settle claims and disputes arising under such contracts as provided in the C-17 settlement agreement letter;

(2) to revise the delivery schedules under such contracts as provided in the C-17 settlement agreement letter, for aircraft T-1 and P-1 through P-6; and

(3) to revise range specifications, payload specifications, and other specifications under such contracts as provided in Attachment B to the C-17 settlement agreement letter.

(b) FURTHER CONSIDERATION NOT REQUIRED.—The supplemental agreements referred to in subsection (a) may be entered into without requiring further consideration from the contractor only to the extent provided for in the C-17 settlement agreement letter.

(c) RELEASE OF CONTRACTOR CLAIMS REQUIRED.—Each supplemental agreement referred to in subsection (a) shall require the prime contractor to release and forever discharge the Government from all contractual claims, demands, requests for equitable adjustment, and any other causes of action, known or unknown, that the prime contractor may have on or before January 6, 1994 arising out of the C-17 program contracts as provided in the C-17 settlement agreement letter.

(d) CONTRACT MODIFICATIONS REGARDING CONTRACTOR COMMITMENTS.—The Secretary of the Air Force shall incorporate in each appropriate C-17 contract the prime contractor's commitment to extend the flight test program, redesign the wing, implement Computer Aided Design/Computer Aided Manufacturing System improvements, Management Information System improvements, and Advanced Quality System improvements, implement product improvement cost reduction projects, and resolve other C-17 program issues on a nonreimbursable or cost-share basis as provided in the C-17 settlement agreement letter.

(e) NOTICE-AND-WAIT REQUIREMENT.—The Secretary of the Air Force may not enter into a supplemental agreement referred to in subsection (a) until 30 days after the date on which the Secretary of Defense certifies to Congress that the terms and conditions set forth in the C-17 settlement agreement letter, including the settlement of claims, are in the best interests of the Government.

(f) CONSTRUCTION REGARDING OTHER CONTRACTOR OBLIGATIONS.—Nothing in this section shall be construed as relieving the contractor of any obligation provided for in the C-17 settlement agreement letter.

(g) C-17 SETTLEMENT AGREEMENT LETTER.—The C-17 settlement agreement letter referred to in this section is the agreement that was proposed to the prime contractor for the C-17 aircraft program by the Under Secretary of Defense for Acquisition and Technology by letter dated January 3, 1994, and was accepted by the prime contractor on January 6, 1994.

SEC. 132. RETIREMENT OF BOMBER AIRCRAFT.

No funds authorized to be appropriated by this Act or any other Act may be obligated or expended during fiscal year 1995 for retiring, or preparing to retire, any B-52H, B-1B, or F-111 bomber aircraft.

Subtitle E—Other Matters

SEC. 141. PRESERVING THE BOMBER INDUSTRIAL BASE.

(a) FUNDS TO PRESERVE THE BOMBER INDUSTRIAL BASE.—Of the funds authorized to be appropriated under section 103(1), not more than $150,000,000 shall be available only for the following purposes:

(1) To retain B-2 bomber production tooling in ready status.

(2) To preserve a production capability for spare parts and aircraft subsystems among lower-tier vendors.

(3) To develop detailed production plans for a derivative of the B-2 bomber that is not capable of delivering nuclear weapons.

(4) To carry out any other program, project, or activity, not prohibited by subsection (b) or (c), that the Secretary determines will help to preserve the bomber industrial base of the United States.

(b) PROHIBITION.—None of the funds made available pursuant to this section may be used to procure any major structural part for B-2 bomber aircraft or any other part for B-2 bomber aircraft that is not a part previously acquired or planned to be acquired for the B-2 bomber aircraft under the initial or sustaining spares program.

(c) NO AUTHORIZATION OF ADVANCE PROCUREMENT.—Nothing in this section shall be construed as authorizing the procurement, including long-lead procurement, of a twenty-second B-2 bomber.

(d) EXEMPTION FROM LIMITATION ON TOTAL PROGRAM COST.—Obligations of funds made available pursuant to this section for the purposes set forth in subsection (a) may not be counted for purposes of the limitation in section 131(d) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1569).

(e) ESTIMATES OF TOTAL COST REQUIRED—(1) Not later than January 15, 1995, the Secretary of Defense shall submit to the congressional defense committees two estimates of the total cost of acquisition of 20 additional B-2 bomber aircraft, including the cost of research, development, test and evaluation and the cost of related military construction.

(2) The Secretary shall assume for purposes of making one of the estimates that such aircraft will be procured at the rate of 2 aircraft in each of fiscal years 1997 and 1998, 3 such

aircraft in each of fiscal years 1999 through 2002, and 4 such aircraft in fiscal year 2003. The Secretary shall assume for purposes of making the other estimate that such aircraft will be procured at an annual rate of 2.5 aircraft beginning in fiscal year 1997.

(3) In addition to stating the estimates in terms of estimated total actual cost, the Secretary shall state the estimates in terms of fiscal year 1995 constant dollars.

SEC. 142. DUAL-USE ELECTRIC AND HYBRID VEHICLES.

(a) FUNDING.—Of the funds authorized to be appropriated by this title, $15,000,000 shall be available for procurement of electric and hybrid vehicles for military uses and for commercialization of such vehicles for nonmilitary uses.

(b) LIMITATION.—(1) Funds made available pursuant to subsection (a) may not be expended until the Secretary of Defense and the Secretary of Energy enter into a memorandum of understanding that specifies the responsibilities of each Secretary for procurement and commercialization activities to be carried out with such funds.

(2) The provisions of the memorandum of understanding shall be consistent with the missions of the Department of Defense and the Department of Energy and with the goals and requirements set forth in the Energy Policy Act of 1992 (Public Law 102-486; 42 U.S.C. 13271 et seq.) and the amendments made to the Clean Air Act (42 U.S.C. 7401 et seq.) by Public Law 101-549 (commonly known as the "Clean Air Act Amendments of 1990"; 104 Stat. 2399).

SEC. 143. SALES AUTHORITY OF WORKING-CAPITAL FUNDED ARMY INDUSTRIAL FACILITIES.

Section 4543(a) of title 10, United States Code, is amended—

(1) in the matter above paragraph (1), by striking out "nondefense-related commercial";

(2) by striking out "and" at the end of paragraph (3);

(3) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

(4) by adding at the end the following new paragraphs:

"(5) the Secretary of the Army determines that the articles or services are not available from a commercial source located in the United States;

"(6) the purchaser of an article or service agrees to hold harmless and indemnify the United States, except in cases of willful misconduct or extreme negligence, from any claim for damages or injury to any person or property arising out of the article or service;

"(7) the article to be sold can be manufactured, or the service to be sold can be substantially performed, by the industrial facility with only incidental subcontracting and it is in the public interest to manufacture such article or perform such service; and

"(8) the sale will not interfere with performance of the military mission of the industrial facility.".

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1995 for the use of the Department of Defense for research, development, test, and evaluation, as follows:

(1) For the Army, $5,152,308,000.

(2) For the Navy, $8,796,129,000.

(3) For the Air Force, $12,329,796,000.

(4) For Defense-wide activities, $9,565,299,000, of which—

(A) $230,495,000 is authorized for the activities of the Director, Test and Evaluation; and

(B) $12,501,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR BASIC RESEARCH AND EXPLORATORY DEVELOPMENT.

(a) FISCAL YEAR 1995.—Of the amounts authorized to be appropriated by section 201, $4,210,356,000 shall be available for basic research and exploratory development projects.

(b) BASIC RESEARCH AND EXPLORATORY DEVELOPMENT DEFINED.—For purposes of this section, the term "basic research and exploratory development" means work funded in program elements for defense research and development under Department of Defense category 6.1 or 6.2.

SEC. 203. STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM.

Of the amounts authorized to be appropriated by section 201, $170,000,000 shall be available for the Strategic Environmental Research and Development Program.

SEC. 204. HIGH RESOLUTION IMAGING.

Of the funds authorized to be appropriated pursuant to section 201(3), $10,000,000 shall be available for high resolution imaging of space objects using excimer lasers.

Subtitle B—Programs Requirements, Restrictions, and Limitations

SEC. 211. TACTICAL ANTISATELLITE TECHNOLOGIES PROGRAM.

(a) DEMONSTRATION AND VALIDATION ACTIVITIES.—Subject to subsection (e), the Secretary of Defense shall continue the demonstration and validation of kinetic energy antisatellite technologies under the tactical antisatellite technologies program.

(b) LEVEL FUNDING.—Subject to subsection (e), of the amounts authorized to be appropriated in this title, $10,000,000 shall be available for fiscal year 1995 for engineering development under the tactical antisatellite technologies program.

(c) REQUIREMENT OF OBLIGATION OF PRIOR YEAR FUNDS.—To the extent provided in appropriations Acts, the Secretary shall obligate for engineering development under the tactical antisatellite technologies program all funds available for fiscal year 1993 and fiscal year 1994 for the Kinetic Energy Antisatellite (KE-ASAT) program that remain available for obligation on the date of the enactment of this Act.

(d) REPORT.—The Secretary shall submit to Congress the report required by section 1363 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2560).

(e) LIMITATION.—No funds appropriated to the Department of Defense for fiscal year 1995 may be obligated for the tactical antisatellite technologies program until the Secretary of Defense certifies to Congress that there is a requirement for an antisatellite program.

SEC. 212. TRANSFER OF MILSTAR COMMUNICATIONS SATELLITE PROGRAM.

(a) TRANSFER TO NAVY.—The Secretary of Defense shall transfer responsibility for program management and funding for the MILSTAR communications satellite program from the Secretary of the Air Force to the Secretary of the Navy before October 1, 1995.

(b) FUNDING IN FUTURE YEARS DEFENSE PROGRAM.—It is the sense of Congress that the Secretary should transfer from the Air Force to the Navy sufficient proposed funding in the Future Years Defense Program to cover all costs for the MILSTAR communications satellite program and related programs, projects, and activities.

(c) RELATIONSHIP TO OTHER TRANSFER AUTHORITY.—The transfer authority in subsection (b) is in addition to the transfer authority provided in section 1001.

SEC. 213. TRANSFER OF FUNDS FOR SINGLE-STAGE TO ORBIT ROCKET.

The Secretary of Defense shall, to the extent provided in appropriations Acts, transfer to the National Aeronautics and Space Administration the unobligated balance of funds appropriated to the Department of Defense for the Advanced Research Projects Agency for single-stage to orbit rocket research and development.

SEC. 214. LIMITATION ON DISMANTLEMENT OF INTERCONTINENTAL BALLISTIC MISSILES.

Funds authorized to be appropriated in this Act may not be obligated or expended for deactivating or dismantling United States intercontinental ballistic missiles (ICBMs) of the United States below that number of such missiles that is necessary to support 500 deployed intercontinental ballistic missiles until 180 days after the date on which the Secretary of Defense has delivered to the congressional defense committees a report on the results of a nuclear posture review being conducted by the Secretary.

SEC. 215. LIMITATION ON OBLIGATION OF FUNDS FOR SEISMIC MONITORING RESEARCH.

Funds authorized to be appropriated by this Act that are made available for seismic monitoring of nuclear explosions may not be obligated for a project unless the project is authorized in a plan approved in advance by the Secretary of Defense and the Secretary of Energy.

SEC. 216. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

(a) CENTERS COVERED.—Funds appropriated or otherwise made available for the Department of Defense for fiscal year 1995 pursuant to an authorization of appropriations in section 201 may be obligated to procure work from a federally funded research and development center only in the case of a center named in the report required by subsection (b) and, in the case of such a center, only in an amount not in excess of the amount of the proposed funding level set forth for that center in such report.

(b) REPORT ON ALLOCATIONS FOR CENTERS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report containing—

(1) the name of each federally funded research and development center from which work is proposed to be procured for the Department of Defense for fiscal year 1995; and

(2) for each such center, the proposed funding level and the estimated personnel level for fiscal year 1995.

The total of the proposed funding levels set forth in the report for all federally funded research and development centers may not exceed the amount set forth in subsection (d).

(c) LIMITATION PENDING SUBMISSION OF REPORT.—No funds appropriated or otherwise made available for the Department of Defense for fiscal year 1995 may be obligated to obtain work from a federally funded research and development center until the Secretary of Defense submits the report required by subsection (b).

(d) FUNDING.—Of the amounts authorized to be appropriated to the Department of Defense for research, development, test, and evaluation for fiscal year 1995 pursuant to section 201, not more than a total of $1,300,000,000 may be obligated to procure services from the federally funded research and development centers named in the report required by subsection (b).

(e) AUTHORITY TO WAIVE FUNDING LIMITATION.—The Secretary of Defense may waive the limitation regarding the maximum funding amount that applies under subsection (a) to a federally funded research and development center. Whenever the Secretary proposes to make such a waiver, the Secretary shall submit to the congressional defense committees notice of the proposed waiver and the reasons for the waiver. The waiver may then be made only after the end of the 60-day period that begins on the date on which the notice is submitted to those committees, unless the Secretary determines that it is essential to the national security that funds be obligated for work at that center in excess of that limitation before the end of such period and notifies the congressional defense committees of that determination and the reasons for the determination.

(f) UNDISTRIBUTED REDUCTION.—The total amount authorized to be appropriated for research, development, test, and evaluation in section 201 is hereby reduced by $52,650,000.

(g) LIMITATION ON COMPENSATION.—No employee or executive officer of a federally funded research and development center named in the report required by subsection (b) may be compensated at a rate exceeding Executive Schedule Level I by that federally funded research and development center.

Subtitle C—Missile Defense Programs

SEC. 221. COMPLIANCE OF BALLISTIC MISSILE DEFENSE SYSTEMS AND COMPONENTS WITH ABM TREATY.

(a) REQUIRED COMPLIANCE REVIEW FOR BRILLIANT EYES.—The Secretary of Defense shall review the space-based, midcourse missile tracking system known as Brilliant Eyes to determine whether, and under what conditions, the development, testing, and deployment of that system in conjunction with a theater ballistic missile defense system, with a limited national missile defense system, and with both such systems, would be in compliance with the ABM Treaty, including the interpretation of that treaty set forth in the enclosure to the July 13, 1993, ACDA letter.

(b) LIMITATION.—Of the funds appropriated pursuant to the authorizations of appropriations in section 201 that are made available for the Brilliant Eyes program, not more than $50,000,000 may be obligated until the Secretary of Defense submits to the appropriate congressional committees a report on the compliance of the Brilliant Eyes program with the ABM Treaty.

(c) COMPLIANCE REVIEW FOR NAVY UPPER TIER SYSTEM.—(1) If the funds made available for fiscal year 1995 for the theater ballistic missile program known as the "Navy Upper Tier" program pursuant to the authorizations of appropriations in section 201 or otherwise exceed $17,725,000, the Secretary of Defense shall review the Navy Upper Tier program to determine whether the development, testing, and deployment of that system would be in compliance with the ABM Treaty, including the interpretation of the Treaty set forth in the enclosure to the July 13, 1993, ACDA letter.

(2) In the event a compliance review is necessary under paragraph (1), not more than $17,725,000 may be obligated for the Navy Upper Tier program before the date on which the Secretary submits to the appropriate congressional committees a report on the compliance of the Navy Upper Tier program with the ABM Treaty.

(d) DEFINITIONS.—In this section:

(1) The term "July 13, 1993, ACDA letter" means the letter dated July 13, 1993, from the Acting Director of the Arms Control and Disarmament Agency to the chairman of the Committee on Foreign Relations of the Senate relating to the correct interpretation of the ABM Treaty and accompanied by an enclosure setting forth such interpretation.

(2) The term "ABM Treaty" means the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missiles, signed in Moscow on May 26, 1972.

(3) The term "appropriate congressional committees" means—

(A) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

SEC. 222. REVISIONS TO THE MISSILE DEFENSE ACT OF 1991.

The Missile Defense Act of 1991 (part C of title II of Public Law 102–190; 10 U.S.C. 2431 note) is amended—

(1) by striking out sections 235, 236, and 237;

(2) in section 238, by inserting before the period at the end of the second sentence the following: ", and shall submit to the Congress additional interim reports on the progress of such negotiations at six-month intervals thereafter until such time as the President notifies the congressional defense committees that such negotiations have been concluded or terminated"; and

(3) by redesignating section 238, 239, and 240 as sections 234, 235, and 236, respectively.

SEC. 223. LIMITATION.

No funds appropriated pursuant to an authorization of appropriations in this title or otherwise made available for fiscal year 1995 for programs managed by the Ballistic Missile Defense Organization may be obligated for such programs until the Secretary of Defense submits to Congress the report required by section 235(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1598).

SEC. 224. MANAGEMENT AND BUDGET RESPONSIBILITY FOR SPACE-BASED CHEMICAL LASER PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) In section 243 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1615) Congress directed the Secretary of Defense to transfer management and budget responsibility for research and development regarding far-term follow-on technologies from the Ballistic Missile Defense Organization unless the Secretary certifies that it is in the national security interest of the United States for the Ballistic Missile Defense Organization to retain that responsibility.

(2) For purposes of section 243 of such Act, a far-term follow-on technology was defined as any technology that is not incorporated into a ballistic missile defense architecture and is not likely to be incorporated within 15 years into a weapon system for ballistic missile defense.

(3) The Secretary of Defense has recommended pursuant to section 243 of such Act that management and budget responsibility for chemical laser technology be retained in the Ballistic Missile Defense Organization.

(b) ASSIGNMENT OF RESPONSIBILITY.—Subject to subsection (c), the Ballistic Missile Defense Organization is authorized to retain management and budget responsibility for chemical laser technology programs.

(c) REQUIREMENTS.—(1) The Director of the Ballistic Missile Defense Organization shall ensure that, to the extent practicable, the conduct of research and development related to space-based chemical lasers reflects appropriate consideration of a broad range of military missions and possible nonmilitary applications for such lasers.

(2) If, as a result of budgetary limitations, the Director of the Ballistic Missile Defense Organization is unable to program sufficient funds to ensure that the space-based chemical laser program remains an option for the acquisition process within the next fifteen years, the Secretary of Defense shall—

(A) establish a new high energy laser research and development program outside of the Ballistic Missile Defense Organization;

(B) transfer $50,000,000 out of funds available for fiscal year 1995 for programs administered by the Ballistic Missile Defense Organization to the new high energy laser research and development program; and

(C) assign the duty to perform the management and budget responsibilities for the new program to the Secretary of the military department determined by the Secretary of Defense most appropriate to perform such responsibilities or, if the Secretary determines more appropriate, to the head of the Defense Agency of the Department of Defense that the Secretary determines most appropriate to perform such responsibilities.

SEC. 225. SENATE ADVICE AND CONSENT ON AGREEMENTS THAT MODIFY THE ANTI-BALLISTIC MISSILE TREATY.

(a) REQUIREMENT FOR ADVICE AND CONSENT OF SENATE.—Whenever the President negotiates an international agreement that would substantively modify the ABM Treaty, the United States shall not be bound by such agreement unless the agreement is entered into pursuant to the treaty making power of the President under the Constitution (which includes a requirement for advice and consent of the Senate).

(b) ABM TREATY DEFINED.—In this section, the term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed in Moscow on May 26, 1972, with related protocol, signed in Moscow on July 3, 1974.

Subtitle D—Defense Conversion, Reinvestment, and Transition Assistance Matters

SEC. 231. FUNDING OF DEFENSE TECHNOLOGY REINVESTMENT PROGRAMS FOR FISCAL YEAR 1995.

(a) FUNDS AVAILABLE.—Of the amount authorized to be appropriated under section 201 for Defense-wide activities, $625,000,000 shall be available for activities described in the defense reinvestment program element of the budget of the Department of Defense for fiscal year 1995.

(b) ALLOCATION OF FUNDS.—The funds made available under subsection (a) shall be allocated as follows:

(1) $245,000,000 shall be available for defense dual-use critical technology partnerships under section 2511 of title 10, United States Code.

(2) $80,000,000 shall be available for commercial-military integration partnerships under section 2512 of such title.

(3) $80,000,000 shall be available for defense regional technology alliances under section 2513 of such title.

(4) $30,000,000 shall be available for defense advanced manufacturing technology partnerships under section 2522 of such title.

(5) $50,000,000 shall be available for support of manufacturing extension programs under section 2523 of such title.

(6) $25,000,000 shall be available for defense manufacturing engineering education grants under section 2196 of such title.

(7) $30,000,000 shall be available for the advanced materials synthesis and processing partnership program.

(8) $35,000,000 shall be available for the agile manufacturing/enterprise integration program.

(9) $40,000,000 shall be available for the maritime technology program, as provided for in section 1352(c)(2) of the National Shipbuilding and Shipyard Conversion Act of 1993 (subtitle D of title XIII of Public Law 103–160; 107 Stat. 1809; 10 U.S.C. 2501 note).

(10) $10,000,000 shall be available for grants under section 2198 of title 10, United States Code, to United States institutions of higher education and other United States not-for-profit organizations to support the management training program in Japanese language and culture.

(c) AVAILABILITY OF FUNDS FOR FISCAL YEAR 1994 PROJECTS.—Funds made available under subsection (a) may also be used to make awards to projects of the types that were solicited under programs referred to in subsection (b) in fiscal year 1994.

SEC. 232. FINANCIAL COMMITMENT REQUIREMENTS FOR SMALL BUSINESS CONCERNS FOR PARTICIPATION IN TECHNOLOGY REINVESTMENT PROJECTS.

(a) DEFENSE DUAL-USE CRITICAL TECHNOLOGY PARTNERSHIPS.—Section 2511(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The Secretary shall consider a partnership proposal submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated partnership costs. Upon the selection of a partnership proposal submitted by a small business concern, the Secretary shall extend to the small business concern a period of not less than 120 days within which to arrange to meet its financial commitment requirements under the partnership from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated partnership costs, the Secretary may revoke the selection of the partnership proposal submitted by the small business concern.".

(b) COMMERCIAL-MILITARY INTEGRATION PARTNERSHIPS.—Section 2512(c)(3) of such title is amended by adding at the end the following new subparagraph:

"(C) The Secretary shall consider a partnership proposal submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated partnership costs. Upon the selection of a partnership proposal submitted by a small business concern, the Secretary shall extend to the small business concern a period of not less than 120 days within which to arrange to meet its financial commitment requirements under the partnership from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated partnership costs, the Secretary may revoke the selection of the partnership proposal submitted by the small business concern.".

(c) REGIONAL TECHNOLOGY ALLIANCES ASSISTANCE PROGRAM.—Section 2513(e) of such title is amended by adding at the end the following new paragraph:

"(4) The Secretary shall consider a proposal for a regional technology alliance that is submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated costs of the alliance. Upon the selection of a proposal submitted by a small business concern, the Secretary shall extend to the small business concern a period of not less than 120 days within which to arrange to meet its financial commitment requirements under the regional technology alliance from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated costs, the Secretary may revoke the selection of the proposal submitted by the small business concern.".

(d) DEFINITION OF PERSON OF A FOREIGN COUNTRY.—Section 2491 of such title is amended by adding at the end the following new paragraph:

"(16) The term 'person of a foreign country' has the meaning given such term in section 3502(d) of the Primary Dealers Act of 1988 (22 U.S.C. 5342(d)).".

SEC. 233. CONDITIONS ON FUNDING OF DEFENSE TECHNOLOGY REINVESTMENT PROJECTS.

(a) BENEFITS TO UNITED STATES ECONOMY.—In providing for the establishment or financial support of partnerships and other cooperative arrangements under chapter 148 of title 10, United States Code, using funds made available under section 231, the Secretary of Defense shall ensure that the principal economic benefits of such partnerships and other arrangements accrue to the economy of the United States.

(b) USE OF COMPETITIVE SELECTION PROCEDURES.—Funds made available under subsection (a) of section 231 for defense reinvestment programs described in subsection (b) of such section shall be provided only to projects selected using competitive procedures pursuant to a solicitation incorporating cost-sharing requirements for the non-Federal Government participants in the projects.

SEC. 234. FEDERAL DEFENSE LABORATORY DIVERSIFICATION AND NAVY REINVESTMENT IN THE TECHNOLOGY AND INDUSTRIAL BASE.

(a) REQUIREMENT FOR PROGRAMS.—(1) Subchapter III of chapter 148 of title 10 is amended by inserting at the end thereof the following:

"SEC. 2519. FEDERAL DEFENSE LABORATORY DIVERSIFICATION PROGRAM.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense shall conduct a program in accordance with this section for the purpose of promoting cooperation between Department of Defense laboratories and industry on research and development of dual-use technologies in order to further the national security objectives set forth in section 2501(a) of this title.

"(b) PARTNERSHIPS.—(1) The Secretary shall provide for the establishment under the program of cooperative arrangements (hereinafter in this section referred to as 'partnerships') between a Department of Defense laboratory and eligible firms and nonprofit research corporations referred to in section 2511(b) of this title. A partnership may also include one or more additional Federal laboratories, institutions of higher education, agencies of State and local governments, and other entities, as determined appropriate by the Secretary.

"(2) For purposes of this section, a federally funded research and development center shall be considered a Department of Defense laboratory if the center is sponsored by the Department of Defense.

"(c) ASSISTANCE AUTHORIZED.—(1) The Secretary may make grants, enter into contracts, enter into cooperative agreements and other transactions pursuant to section 2371 of this title, and enter into cooperative research and development agreements under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) in order to establish partnerships.

"(2) Subject subsection (d), the Secretary may provide a partnership with technical and other assistance in order to facilitate the achievement of the purpose of this section.

"(d) FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS.—(1) The Secretary shall ensure that the non-Federal Government participants in a partnership make a substantial contribution to the total cost of partnership activities. The amount of the contribution shall be commensurate with the risk undertaken by such participants and the potential benefits of the activities for such participants.

"(2) The regulations prescribed pursuant to section 2511(c)(2) of this title shall apply to in-kind contributions made by non-Federal Government participants in a partnership.

"(e) SELECTION PROCESS.—Competitive procedures shall be used in the establishment of partnerships.

"(f) SELECTION CRITERIA.—The criteria for the selection of a proposed partnership for establishment under this section shall include the criteria set forth in section 2511(f) of this title.

"(g) REGULATIONS.—The Secretary shall prescribe regulations for the purposes of this section.

"SEC. 2520. NAVY REINVESTMENT PROGRAM.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of the Navy shall conduct a program in accordance with this section for the purpose of promoting cooperation between the Department of the Navy and industry on research and development of dual-use technologies in order to further the national security objectives set forth in section 2501(a) of this title.

"(b) PARTNERSHIPS.—The Secretary shall provide for the establishment under the program of cooperative arrangements (hereinafter in this section referred to as 'partnerships') between Department of the Navy entities and eligible firms and nonprofit research corporations referred to in section 2511(b) of this title. A partnership may also include one or more Federal laboratories, institutions of higher education, agencies of State and local governments, and other entities, as determined appropriate by the Secretary.

"(c) PROGRAM REQUIREMENTS AND ADMINISTRATION.—Subsections (c) through (f) of section 2519 of this title shall apply in the administration of the program.

"(d) SELECTION CRITERIA.—In addition to the selection criteria referred to in section 2519(f) of this title, the criteria for the selection of a proposed partnership for establishment under this section shall include the potential effectiveness of the partnership in the further development and application of each technology proposed to be developed by the partnership for Navy acquisition programs.

"(e) REGULATIONS.—The Secretary shall prescribe regulations for the purposes of this section.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following:

2519. Federal Defense Laboratory Diversification Program.
2520. Navy Reinvestment Program.

(b) CLARIFYING AMENDMENT.—Section 2491(5) of title 10, United States Code, is amended by inserting before the period at the end the following: ", and includes a federally funded research and development center sponsored by a Federal agency".

(c) FUNDING.—(1) Of the amount authorized to be appropriated in section 201(4), $56,600,000 shall be available for the Federal Defense Laboratory Diversification Program under section 2519 of title 10, as added by subsection (a)(1).

(2) Of the amount authorized to be appropriated in section 201(2), $50,000,000 shall be available for the Navy Reinvestment Program under section 2520 of title 10, as added by subsection (a)(1).

SEC. 235. SMALL BUSINESS DEFENSE CONVERSION GUARANTEED LOANS.

(a) AUTHORIZATIONS.—Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) in subsection (l), as added by section 405(3) of the Small Business Credit and Business Opportunity Enhancement Act of 1992—

(A) by striking "(l) There" and inserting "(3) There" and indenting appropriately; and

(B) by striking "subsection (k)", and inserting "paragraphs (1) and (2)";

(2) by redesignating subsection (k), as added by section 405(3) of the Small Business Credit and Business Opportunity Act of 1992, as subsection (l);

(3) in subsection (l), as so redesignated, by inserting after paragraph (1), the following new paragraph:

"(2) The Administration is authorized to make not more than $1,000,000,000 in loans on a guaranteed basis, in accordance with section 7(a)(21), such amount to remain available until expended.";

(4) in subsection (n)—

(A) by striking "(n) There" and inserting "(3) There" and indenting appropriately; and

(B) by striking "subsection (m)" and inserting "paragraphs (1) and (2)";

(5) in subsection (m), by inserting after paragraph (1), the following new paragraph:

"(2) The Administration is authorized to make not more than $1,000,000,000 in loans on a guaranteed basis, in accordance with section 7(a)(21), such amount to remain available until expended.";

(6) by redesignating subsection (o) as subsection (n); and

(7) in subsection (p)—

(A) by striking "(p) There" and inserting "(2) There", and indenting appropriately; and

(B) by striking "subsection (o)" and inserting "paragraph (1)".

(b) TECHNICAL CLARIFICATION.—Section 7(a)(21)(A) of the Small Business Act (15 U.S.C. 636(a)(21)(A)) is amended by striking "under the" and inserting "on a guaranteed basis under the".

(c) JOB CREATION AND COMMUNITY BENEFIT.—Section 7(a)(21) of the Small Business Act (15 U.S.C. 636(a)(21)) is amended by adding at the end the following new subparagraph:

"(E) In providing assistance under this paragraph, the Administration shall develop procedures to ensure, to the maximum extent practicable, that such assistance is used for projects that have substantial potential for stimulating new economic activity in communities most impacted by reductions in Federal defense expenditures.".

(d) AUTHORITY TO TRANSFER APPROPRIATIONS.—Of the amount authorized to be appropriated pursuant to section 201(4), $27,400,000 may be transferred by the Secretary of Defense, to the extent provided in an act appropriating funds for the Department of Defense, to the Small Business Administration for the purpose of providing loan guarantees under section 7(a)(21)(A) of the Small Business Act, such amount to remain available until expended.

Subtitle E—Other Matters

SEC. 241. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS WITH NATO ORGANIZATIONS.

(a) APPLICABILITY OF EXISTING AUTHORITY TO NATO ORGANIZATIONS.—Section 2350a of title 10, United States Code, is amended in subsections (a), (e)(2), and (i)(1) by inserting "or NATO organizations" after "major allies of the United States" each place it appears.

(b) NATO ORGANIZATION DEFINED.—Subsection (i) of such section is amended by adding at the end the following new paragraph:

"(4) The term 'NATO organization' means any North Atlantic Treaty Organization subsidiary body referred to in section 2350(2) of this title and any other organization of the North Atlantic Treaty Organization.".

SEC. 242. DEFENSE WOMEN'S HEALTH RESEARCH PROGRAM.

(a) CONTINUATION OF PROGRAM.—The Secretary of Defense shall continue the Defense Women's Health Research Program established in response to the enactment of section 251 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1606).

(b) PARTICIPATION BY ALL MILITARY DEPARTMENTS.—The Departments of the Army, Navy, and Air Force shall each participate in the activities under the program.

(c) ARMY TO BE EXECUTIVE AGENT.—The Secretary of Defense shall designate the Secretary of the Army to be the executive agent for administering the program.

(d) PROGRAM ACTIVITIES.—The program shall include the following activities regarding health risks and health care for women in the Armed Forces:

(1) The coordination and support activities described in section 251 of Public Law 103–160.

(2) Epidemiologic research regarding women deployed for military operations, including research on patterns of illness and injury, environmental and occupational hazards (including exposure to toxins), side-effects of pharmaceuticals used by women so deployed, psychological stress associated with military training, deployment, combat and other traumatic incidents, and other conditions of life, and human factor research regarding women so deployed.

(3) Development of a data base to facilitate long-term research studies on issues related to the health of women in military service, and continued development and support of a women's health information clearinghouse to serve as an information resource for clinical, research, and policy issues affecting women in the Armed Forces.

(4) Research on policies and standards issues, including research supporting the development of military standards related to training, operations, deployment, and retention and the relationship between such activities and factors affecting women's health.

(5) Research on interventions having a potential for addressing conditions of military service that adversely affect the health of women in the Armed Forces.

(e) IMPLEMENTATION PLAN.—If, before October 1, 1995, the Secretary of Defense changes the implementation plan for the program that the Secretary submitted to the Committees on Armed Services of the Senate and the House of Representatives on May 2, 1994, the Secretary shall submit the modified plan to such committees before executing the changes.

(f) FUNDING.—Of the amount authorized to be appropriated pursuant to section 201, $40,000,000 shall be available for the Defense Women's Health Research Program referred to in subsection (a).

SEC. 243. REQUIREMENT FOR SUBMISSION OF ANNUAL REPORT OF THE SEMICONDUCTOR TECHNOLOGY COUNCIL TO CONGRESS.

Section 273(b)(2)(I) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (15 U.S.C. 4603) is amended by inserting "and submit to Congress by March 31 of each year after "Publish".

SEC. 244. REPORT ON OCEANOGRAPHIC SURVEY AND RESEARCH REQUIREMENTS TO SUPPORT LITTORAL WARFARE.

(a) REPORT REQUIRED.—Not later than March 1, 1995, the Secretary of the Navy shall submit to Congress a report on the oceanographic survey and research and development requirements needed to support Navy operations in littoral regions.

(b) CONTENT OF REPORT.—The report shall contain the following:

(1) An identification of unique properties, including acoustics, bathymetry, bottom type, and ocean dynamics that affect shallow water operations in littoral regions.

(2) A list of the principal littoral regions that—

(A) designates each region as high, medium, or low priority based on the probable need for Navy operations in such regions; and

(B) for each region, is annotated to identify—

(i) the date of the most recent detailed survey; and

(ii) the extent to which that survey provides insight into the region's properties identified pursuant to paragraph (1).

(3) An assessment of the Navy's current and projected access to each region for surveying purposes.

(4) An assessment of the ability of current oceanographic survey and research assets to develop the information identified in paragraph (1).

SEC. 245. LANSCE/LAMPF UPGRADES.

Of the amounts authorized to be appropriated by section 201(4), $20,000,000 shall be available to complete the Los Alamos Neutron Scattering Experiment/Los Alamos Meson Physics Facility upgrades at the Los Alamos National Laboratory, Los Alamos, New Mexico.

SEC. 246. STUDY REGARDING LIVE-FIRE SURVIVABILITY TESTING OF F-22 AIRCRAFT.

(a) REQUIREMENT.—The Secretary of Defense shall request the National Research Council of the National Academy of Sciences to conduct a study regarding the desirability of waiving for the F-22 aircraft program the survivability tests required by section 2366(c) of title 10, United States Code, and to submit to the Secretary and Congress, within 180 days after the date of the enactment of this Act, a report containing the conclusions of the Council regarding the desirability of waiving such tests.

(b) CONTENT OF REPORT.—The report shall contain the following matters:

(1) Conclusions regarding the practicality of full-scale, full-up testing for the F-22 aircraft program.

(2) A discussion of the implications regarding the affordability of the F-22 aircraft program of conducting and of not conducting

the survivability tests, including an assessment of the potential life cycle benefits that could be derived from full-scale, full-up live fire testing in comparison to the costs of such testing.

(3) A discussion of what, if any, changes of circumstances affecting the F-22 aircraft program have occurred since completion of the milestone II program review to cause the program manager to request a waiver of the survivability tests for the F-22 aircraft program that was not requested at that time.

(4) The sufficiency of the F-22 aircraft program testing plans to fulfill the same requirements and purposes as are provided in subsection (e)(3) of section 2366 of title 10, United States Code, for realistic survivability testing for purposes of subsection (a)(1)(A) of such section.

(5) Any recommendations regarding survivability testing for the F-22 aircraft program that the Council considers appropriate on the basis of the study.

SEC. 247. UNIVERSITY RESEARCH INITIATIVE SUPPORT PROGRAM.

Of the amounts authorized to be appropriated under section 201, $10,000,000 shall be available for the University Research Initiative Support Program established pursuant to section 802 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1701; 10 U.S.C. 2358 note).

SEC. 248. MANUFACTURING SCIENCE AND TECHNOLOGY PROGRAM.

(a) PROGRAM AUTHORIZED.—(1) Section 2525 of title 10, United States Code, is amended to read as follows:

"SEC. 2525. MANUFACTURING SCIENCE AND TECHNOLOGY PROGRAM.

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Manufacturing Science and Technology Program to further the national security objectives of section 2501(a) of this title. The Under Secretary of Defense for Acquisition and Technology shall administer the program.

"(b) PURPOSE.—The purpose of the program is to enhance the capability of industry to meet the manufacturing needs of the Department of Defense.

"(c) EXECUTION.—The Secretary may carry out projects under the program through the Secretaries of the military departments and the heads of Defense Agencies.

"(d) COMPETITION AND COST SHARING.—(1) Competitive procedures shall be used for awarding all grants and entering into all contracts, cooperative agreements, and other transactions under the program.

"(2) A grant may not be awarded under the program, and a contract, cooperative agreement, or other transaction may not be entered into under the program, on any basis other than a cost-sharing basis unless the Secretary of Defense determines that the grant, contract, cooperative agreement, or other transaction, as the case may be, is for a program that—

"(A) is not likely to have any immediate and direct commercial application; or

"(B) is of sufficiently high risk to discourage cost sharing by non-Federal Government sources.".

(2) The item relating to section 2525 in the table of sections at the beginning of subchapter IV of chapter 148 of such title is amended to read as follows:

"2525. Manufacturing Science and Technology Program.".

(b) FUNDING.—Of the amounts appropriated pursuant to section 201, not more than $125,000,000 shall be available for the Manufacturing Science and Technology Program under section 2525 of title 10, United States Code (as amended by subsection (a)), of which—

(1) not more than $30,000,000 shall be available for the Army;

(2) not more than $35,000,000 shall be available for the Navy;

(3) not more than $50,000,000 shall be available for the Air Force; and

(4) not more than $10,000,000 shall be available for the Defense Logistics Agency.

SEC. 249. DEFENSE EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.

(a) PROGRAM REQUIRED.—The Secretary of Defense, acting through the Director of Defense Research and Engineering, shall carry out a Defense Experimental Program to Stimulate Competitive Research (DEPSCoR) as part of the university research programs of the Department of Defense.

(b) PROGRAM OBJECTIVES.—The objectives of the program are as follows:

(1) To enhance the capabilities of institutions of higher education in eligible States to develop, plan, and execute science and engineering research that is competitive under the peer-review systems used for awarding Federal research assistance.

(2) To increase the probability of long-term growth in the competitively awarded financial assistance that institutions of higher education in eligible States receive from the Federal Government for science and engineering research.

(c) PROGRAM ACTIVITIES.—In order to achieve the program objectives, the following activities are authorized under the program:

(1) Competitive award of research grants.

(2) Competitive award of financial assistance for graduate students.

(d) ELIGIBLE STATES.—(1) The Director of the National Science Foundation shall designate which States are eligible States for the purposes of this section and shall notify the Director of Defense Research and Engineering of the States so designated.

(2) The Director of the National Science Foundation shall designate a State as an eligible State if, as determined by the Director—

(A) the institutional average amount of Federal financial assistance for research and development received by the institutions of higher education in the State for the fiscal year preceding the fiscal year for which the designation is effective, or for the last fiscal year for which statistics are available, is less than the amount equal to 50 percent of the national institutional average amount of Federal financial assistance for research and development received by the institutions of higher education in the United States for such preceding or last fiscal year, as the case may be;

(B) the State has demonstrated a commitment to developing research bases in the State and to improving science and engineering research and education programs at institutions of higher education in the State; and

(C) the State is an eligible State for purposes of the Experimental Program to Stimulate Competitive Research conducted by the National Science Foundation.

(e) COORDINATION WITH SIMILAR FEDERAL PROGRAMS.—(1) The Secretary shall consult with the Director of the National Science Foundation and the Director of the Office of Science and Technology Policy in the planning, development, and execution of the program and shall coordinate the program with the Experimental Program to Stimulate Competitive Research conducted by the National Science Foundation and with similar programs sponsored by other departments and agencies of the Federal Government.

(2) All solicitations under the Defense Experimental Program to Stimulate Competitive Research shall be made to, and all awards shall be made through, the State committees established for purposes of the Experimental Program to Stimulate Competitive Research conducted by the National Science Foundation.

(3) A State committee referred to in paragraph (2) shall ensure that activities carried out in the State of that committee under the Defense Experimental Program to Stimulate Competitive Research are coordinated with the activities carried out in the State under other similar initiatives of the Federal Government to stimulate competitive research.

SEC. 250. STUDY ON BEAMING HIGH POWER LASER ENERGY TO SATELLITES.

(a) STUDY.—(1) The Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall jointly carry out a study to determine the cost, feasibility, and advisability of the development and utilization of a system to deliver energy to satellites by beaming high power laser energy from ground sources.

(2) In determining the cost, feasibility, and advisability of the system referred to in paragraph (1), the Secretary and the Administrator shall take into account the impact on the environment of the development and utilization of the system and the effect, if any, of the development and utilization of the system on the arms control efforts or obligations of the United States.

(3) In carrying out the study, the Secretary and the Administrator shall consider the development of a space energy laser (SELENE) system using a free electron laser at the Naval Air Weapons Station, China Lake, California.

(b) REPORT.—The Secretary and the Administrator shall jointly submit to the congressional defense committees a report on the study required under subsection (a). The Secretary and the Administrator shall submit the report not later than July 1, 1995.

SEC. 251. ADVANCED THREAT RADAR JAMMER.

(a) LIMITATION REGARDING JOINT DEVELOPMENT PROGRAM WITH CERTAIN FOREIGN ENTITIES.—The Secretary of Defense may not negotiate or enter into any agreement with, nor accept funds from, a foreign government or an entity controlled by a foreign government for a joint program for the development of an advanced threat radar jammer for combat helicopters until 30 days after the Secretary, in consultation with the Secretary of State, the Secretary of the Army, and the Director of the Defense Security Assistance Agency, conducts a comprehensive review of the program and submits a report on the results of that review to the congressional defense committees.

(b) MATTERS COVERED BY REVIEW AND REPORT.—The matters relating to the program referred to in subsection (a) that are required to be covered by the review and report are as follows:

(1) The legal basis for seeking for the program funds that are neither authorized to be appropriated nor appropriated.

(2) The consistency of the program with the Department of Defense policy that no foreign military sale of a defense system, and no commitment to foreign military sale of a defense system, be made before operational test and evaluation of the system is successfully completed and the Under Secretary of Defense for Acquisition and Technology has specifically approved the system for sale to a foreign government.

(3) The mission requirement for an advanced threat radar jammer for combat helicopters.

(4) An assessment of each threat for which an advanced threat radar jammer would be developed, particularly with regard to each threat to a foreign country with which the United States would jointly develop an advanced threat radar jammer.

(5) The potential for sensitive electronic warfare technology to be made available to potential adversaries of the United States as a result of United States participation in the program.

(6) The availability of other nondevelopmental items and less sophisticated technologies for countering the emerging radar detection threats to United States combat helicopters and combat helicopters of United States allies.

(7) A capability assessment of similar technologies available from other foreign countries and the consequences of proliferation of such technologies in regions of potential conflict.

(c) INAPPLICABILITY TO MAJOR ALLIES OF THE UNITED STATES.—This section does not apply with respect to a major ally of the United States.

(d) DEFINITIONS.—In this section:

(1) The term "entity controlled by a foreign government" includes—

(A) any domestic or foreign organization or corporation that is effectively owned or controlled by a foreign government; and

(B) any individual acting on behalf of a foreign government,

as determined by the Secretary of Defense. Such term does not include an organization or corporation that is owned, but is not controlled, either directly or indirectly, by a foreign government if the ownership of that organization or corporation by that foreign government was effective before October 23, 1992.

(2) The term "major ally of the United States" has the meaning given such term in section 2350a(i)(2) of title 10, United States Code.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1995 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

(1) For the Army, $17,542,914,000.

(2) For the Navy, $21,326,470,000.

(3) For the Marine Corps, $2,096,695,000.

(4) For the Air Force, $18,789,023,000.

(5) For Defense-wide activities, $9,994,325,000.

(6) For Medical Programs, Defense, $9,854,459,000.

(7) For the Army Reserve, $1,253,709,000.

(8) For the Naval Reserve, $828,319,000.

(9) For the Marine Corps Reserve, $81,462,000.

(10) For the Air Force Reserve, $1,478,990,000.

(11) For the Army National Guard, $2,452,148,000.

(12) For the Air National Guard, $2,780,178,000.

(13) For the National Board for the Promotion of Rifle Practice, $2,544,000.

(14) For the Defense Inspector General, $140,798,000.

(15) For Drug Interdiction and Counter-drug Activities, Defense-wide, $714,200,000.

(16) For the United States Court of Appeals for the Armed Services, $6,126,000.

(17) For Environmental Restoration, Defense, $2,180,200,000.

(18) For Humanitarian Assistance, $71,900,000.

(19) For Former Soviet Union Threat Reduction, $400,000,000.

(20) For the Contributions for International Peacekeeping and Peace Enforcement Activities Fund, $300,000,000.

(21) For support for the 1996 Summer Olympics, $10,000,000.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 1995 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Business Operations Fund, $798,400,000.

(2) For the National Defense Sealift Fund, $227,800,000.

SEC. 303. ARMED FORCES RETIREMENT HOME FUNDING.

There is hereby authorized to be appropriated for fiscal year 1995 from the Armed Forces Retirement Home Trust Fund the sum of $59,317,000 for the operation of the Armed Forces Retirement Home, including the United States Soldiers' and Airmen's Home and the Naval Home.

SEC. 304. NATIONAL SECURITY EDUCATION TRUST FUND OBLIGATIONS.

During fiscal year 1995, $14,300,000 is authorized to be obligated from the National Security Education Trust Fund established by section 804(a) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1904(a)).

SEC. 305. TRANSFER FROM NATIONAL DEFENSE STOCKPILE TRANSACTION FUND.

(a) TRANSFER AUTHORITY.—To the extent provided in appropriations Acts, not more than $250,000,000 is authorized to be transferred from the National Defense Stockpile Transaction Fund to operation and maintenance accounts for fiscal year 1995 in amounts as follows:

(1) For the Army, $50,000,000.

(2) For the Navy, $50,000,000.

(3) For the Air Force, $50,000,000.

(4) For Defense-wide activities, $100,000,000.

(b) TREATMENT OF TRANSFERS.—Amounts transferred under this section—

(1) shall be merged with, and be available for the same purposes and the same period as, the amounts in the accounts to which transferred; and

(2) may not be expended for an item that has been denied authorization of appropriations by Congress.

(c) RELATIONSHIP TO OTHER TRANSFER AUTHORITY.—The transfer authority provided in this section is in addition to the transfer authority provided in section 1001.

SEC. 306. SUPPORT FOR THE 1995 SPECIAL OLYMPICS WORLD GAMES.

(a) AUTHORITY TO PROVIDE SUPPORT.—The Secretary of Defense may provide logistical support and personnel services in connection with the 1995 Special Olympics World Games to be held in New Haven, Connecticut.

(b) PAY AND NONTRAVEL-RELATED ALLOWANCES.—(1) Except as provided in paragraph (2), the costs for pay and nontravel-related allowances of members of the Armed Forces for the support and services referred to in subsection (a) may not be charged to appropriations made pursuant to the authorization of appropriations in subsection (c).

(2) Paragraph (1) does not apply in the case of members of a reserve component called or ordered to active duty to provide logistical support and personnel services for the 1995 Special Olympics World Games.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $3,000,000 for the Department of Defense for fiscal year 1995 to carry out subsection (a).

SEC. 307. AIR NATIONAL GUARD FIGHTER AIRCRAFT.

(a) FINDINGS.—Congress makes the following findings:

(1) The Bottom-Up Review force structure proposal would accomplish most of the remaining reductions in the total number of Air Force general purpose fighter wings by reducing the Air National Guard and Air Force Reserve fighter force from 10 wings to 7 wings.

(2) The current plan for implementing the reduction referred to in paragraph (1) is to reduce the number of fighter aircraft in each Air National Guard fighter unit from 24 or 18 primary aircraft authorized to 15 primary aircraft authorized and to convert some Air National Guard fighter units to other purposes.

(3) The number of Air National Guard Combat Readiness Training Centers in operation during fiscal year 1995 should not be less than the number of such centers in operation at the end of fiscal year 1994.

(4) The Commission on Roles and Missions of the Armed Forces established by section 952 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 111 note; 107 Stat. 1738) is required to submit to Congress a report under section 954(b) of such Act on possible changes to existing allocations among the Armed Forces of military roles, missions, and functions.

(5) The Commission is not expected to submit the report until the middle of fiscal year 1995.

(6) The report of the Commission should contain a review of and recommendations on the assignment of roles and missions to units of the Air National Guard and the Air Force Reserve in relation to active component units that are the counterparts to such units and on requirements for resources for training of such units.

(b) REQUIREMENT.—After submission of the report referred to in paragraph (3), the Secretary of Defense shall review its findings on the role and requirements for general purpose fighter units of the Air National Guard, and shall complete within 30 days a study which recommends the appropriate level of primary aircraft authorized (PAA) for such units, following which, if the Secretary determines changes in that level are appropriate, he may notify the Congress of his determination and he may seek any reprogramming of funds that he considers appropriate to ensure that such changes are implemented.

Subtitle B—Defense Business Operations Fund

SEC. 311. PERMANENT AUTHORITY FOR USE OF FUND FOR MANAGING WORKING CAPITAL FUNDS AND CERTAIN ACTIVITIES.

Section 316(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 2208 note) is amended by striking out "During" and all that follows through "December 31, 1994, the" and inserting in lieu thereof "The".

SEC. 312. IMPLEMENTATION OF IMPROVEMENT PLAN.

(a) PROGRESS REPORT ON IMPLEMENTATION.—Not later than February 1, 1995, the

Secretary of Defense shall submit to the congressional defense committees a report on the progress made in implementing the Defense Business Operations Fund Improvement Plan, dated September, 1993. The report shall describe the progress made in reaching the milestones established in the plan and provide an explanation for the failure to meet any of the milestones. The Secretary shall submit a copy of the report to the Comptroller General of the United States at the same time the Secretary submits the report to the congressional defense committees.

(b) RESPONSIBILITIES OF THE COMPTROLLER GENERAL.—(1) The Comptroller General shall monitor and evaluate the progress of the Department of Defense in developing and implementing the improvement plan referred to in subsection (a).

(2) Not later than March 1, 1995, the Comptroller General shall submit to the congressional defense committees a report containing the following:

(A) The findings and conclusions of the Comptroller General resulting from the monitoring and evaluation conducted under paragraph (1).

(B) An evaluation of the progress report submitted to the congressional defense committees by the Secretary of Defense pursuant to subsection (a).

(C) Any recommendations for legislation or administrative action concerning the Fund that the Comptroller General considers appropriate.

SEC. 313. LIMITATION ON OBLIGATIONS AGAINST THE CAPITAL ASSET FUND.

The Secretary of Defense may not incur obligations against funds in the capital asset subaccount of the Defense Business Operations Fund during fiscal year 1995 in a total amount in excess of $1,500,000.

SEC. 314. LIMITATION ON OBLIGATIONS AGAINST THE SUPPLY MANAGEMENT DIVISIONS.

(a) LIMITATION.—(1) The Secretary of Defense may not incur obligations against the supply management divisions of the Defense Business Operations Fund during fiscal year 1995 in a total amount in excess of 65 percent of the total amount derived from sales from such divisions during that fiscal year.

(2) For purposes of determining the amount of obligations incurred against, and sales from, such divisions during fiscal year 1995, the Secretary shall exclude obligations and sales for fuel, commissary and subsistence items, retail operations, repair of equipment and spare parts in support of repair, direct vendor deliveries, foreign military sales, initial outfitting requiring equipment furnished by the Federal Government, and the cost of operations.

(b) WAIVER AUTHORITY.—The Secretary of Defense may waive the limitation in subsection (a) if the Secretary determines that such waiver is necessary in order to maintain the readiness and combat effectiveness of the Armed Forces. The Secretary shall immediately notify Congress of any such waiver and the reasons for such waiver.

(c) DETERMINATIONS OF EFFECTS OF LIMITATION ON READINESS AND COMBAT EFFECTIVENESS.—Not later than 60 days after the date of the enactment of this Act, the secretaries of the military departments and the Director of the Defense Logistics Agency shall each submit to the Secretary of Defense a report containing the views of such official on the effects of the limitation in subsection (a) on the ability of the Department of Defense to maintain the readiness and combat effectiveness of the Armed Forces. If the Secretary of Defense determines, after considering the reports, that the limitation will impair the readiness and combat effectiveness of any of the Armed Forces, the Secretary shall exercise the waiver authority provided in subsection (b).

Subtitle C—Environmental Matters

SEC. 321. PROHIBITION ON THE PURCHASE OF SURETY BONDS AND OTHER GUARANTEES FOR THE DEPARTMENT OF DEFENSE.

No funds appropriated or otherwise made available to the Department of Defense for fiscal year 1995 may be obligated or expended for the purchase of surety bonds or other guarantees of financial responsibility in order to guarantee the performance of any direct function of the Department of Defense.

SEC. 322. EXTENSION OF PROHIBITION ON USE OF ENVIRONMENTAL RESTORATION FUNDS FOR PAYMENT OF FINES AND PENALTIES.

None of the funds appropriated for fiscal year 1995 pursuant to the authorization of appropriations provided in section 301(17) may be used for the payment of a fine or penalty imposed against the Department of Defense unless the act or omission for which the fine or penalty is imposed arises out of activities funded by the account.

SEC. 323. PARTICIPATION OF INDIAN TRIBES IN AGREEMENTS FOR DEFENSE ENVIRONMENTAL RESTORATION.

Section 2701(d) of title 10, United States Code, is amended—

(1) by striking out "SERVICE OF OTHER AGENCIES.—The Secretary" and inserting in lieu thereof the following: "SERVICE OF OTHER AGENCIES.—

"(1) IN GENERAL.—The Secretary";

(2) in paragraph (1), as so designated, by inserting "any Federally recognized Indian tribe or" before "any State or local government agency,"; and

(3) by adding at the end the following:

"(2) DEFINITION.—For purposes of this subsection, the term 'Indian tribe' has the meaning given such term in section 101(36) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9701(36)).".

SEC. 324. EXTENSION OF AUTHORITY TO ISSUE SURETY BONDS FOR CERTAIN ENVIRONMENTAL PROGRAMS.

Section 2701(j) of title 10, United States Code, is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 1999".

Subtitle D—Matters Relating to Department of Defense Civilian Employees

SEC. 331. EXTENSION OF CERTAIN TRANSITION ASSISTANCE AUTHORITIES.

(a) REDUCTION-IN-FORCE NOTIFICATION REQUIREMENTS.—Section 4433(b)(2) of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102-484; 106 Stat. 2721; 5 U.S.C. 3502 note) is amended by striking out "February 1, 1998" and inserting in lieu thereof "February 1, 2000".

(b) SEPARATION PAY.—(1) Section 5597(e) of title 5, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1999".

(2) Section 4436(d)(2) of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (5 U.S.C. 8348 note) is amended by striking out "January 1, 1998" and inserting in lieu thereof "January 1, 2000".

(c) RESTORATION OF CERTAIN LEAVE.—Section 6304(d)(3) of title 5, United States Code, is amended by striking out "the closure of an installation" and inserting in lieu thereof "the closure of an installation of the Department of Defense pursuant to the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) during any period, and the closure of any other installation".

(d) CONTINUED HEALTH BENEFITS.—Section 8905a(d)(4)(B) of title 5, United States Code, is amended—

(1) by striking out "October 1, 1997" each place it appears and inserting in lieu thereof "October 1, 1999"; and

(2) in clause (ii), by striking out "February 1, 1998," and inserting in lieu thereof "February 1, 2000,".

SEC. 332. EXTENSION AND EXPANSION OF AUTHORITY TO CONDUCT PERSONNEL DEMONSTRATION PROJECTS.

(a) CHINA LAKE DEMONSTRATION PROJECT.—(1) Section 6 of the Civil Service Miscellaneous Amendments Act of 1983 (Public Law 98-224; 98 Stat. 49) is amended by striking out "September 30, 1995,".

(2) In the event of a reorganization of the organization carrying out the personnel demonstration project referred to in section 6 of Public Law 98-224, such section shall apply with respect to the successor to that organization.

(b) DEFENSE LABORATORIES PERSONNEL DEMONSTRATION PROJECTS.—(1) The Secretary of Defense may carry out personnel demonstration projects at Department of Defense laboratories designated by the Secretary as Department of Defense science and technology reinvention laboratories.

(2) Each personnel demonstration project carried out under the authority of paragraph (1) shall be similar to the personnel demonstration project that is authorized by section 6 of Public Law 98-224 to be continued at the Naval Weapons Center, China Lake, California, and at the Naval Ocean Systems Center, San Diego, California.

(3) If the Secretary carries out a demonstration project at a laboratory pursuant to paragraph (1), section 4703 (other than subsection (d)) of title 5, United States Code, shall apply to such demonstration project, except that the authority of the Secretary to carry out the demonstration project is that which is provided in paragraph (1) rather than the authority that is provided in such section 4703.

SEC. 333. LIMITATION ON PAYMENT OF SEVERANCE PAY TO CERTAIN EMPLOYEES TRANSFERRING TO EMPLOYMENT POSITIONS IN NONAPPROPRIATED FUND INSTRUMENTALITIES.

(a) IN GENERAL.—Section 5595 of title 5, United States Code, is amended by adding at the end the following:

"(h)(1) Severance pay under this section may not be paid to—

"(A) a person described in paragraph (4)(A) during any period in which the person is employed in a defense nonappropriated fund instrumentality; or

"(B) a person described in paragraph (4)(B) during any period in which the person is employed in a Coast Guard nonappropriated fund instrumentality.

"(2)(A) Except as provided in subparagraph (B), payment of severance pay to a person referred to in paragraph (1) may be resumed upon any involuntary separation of the person from the position of employment in a nonappropriated fund instrumentality, not by removal for cause on charges of misconduct, delinquency, or inefficiency.

"(B) Payment of severance pay may not be resumed under subparagraph (A) in the case of a person who, upon separation, is entitled to immediate payment of retired or retainer pay as a member or former member of the uniformed services or to an immediate annuity under—

"(i) a retirement system for persons retiring from employment by a nonappropriated fund instrumentality;

"(ii) subchapter III of chapter 83 of this title;

"(iii) subchapter II of chapter 84 of this title; or

"(iv) any other retirement system of the Federal Government for persons retiring from employment by the Federal Government.

"(3) Upon resumption of payment of severance pay under paragraph (2)(A) in the case of a person separated as described in such paragraph, the amount of the severance pay so payable for a period shall be reduced (but not below zero) by the portion (if any) of the amount of any severance pay payable for such period to the person by the nonappropriated fund instrumentality that is attributable to credit for service taken into account under subsection (c) in the computation of the amount of the severance pay so resumed.

"(4) Paragraph (1) applies to a person who, on or after January 1, 1987, moves without a break in service—

"(A) from employment in the Department of Defense that is not employment in a defense nonappropriated fund instrumentality to employment in a defense nonappropriated fund instrumentality; or

"(B) from employment in the Coast Guard that is not employment in a Coast Guard nonappropriated fund instrumentality to employment in a Coast Guard nonappropriated fund instrumentality.

"(5) The Secretary of Defense, in consultation with the Secretary of Transportation, shall prescribe regulations to carry out this subsection.

"(6) In this subsection:

"(A) The term 'defense nonappropriated fund instrumentality' means a nonappropriated fund instrumentality of the Department of Defense.

"(B) The term 'Coast Guard nonappropriated fund instrumentality' means a nonappropriated fund instrumentality of the Coast Guard.

"(C) The term 'nonappropriated fund instrumentality' means a nonappropriated fund instrumentality described in section 2105(c) of this title.".

(b) APPLICABILITY.—Subsection (h) of section 5595 of title 5, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act and apply with respect to pay periods that begin on or after such date.

SEC. 334. RETIREMENT CREDIT FOR CERTAIN SERVICE IN NONAPPROPRIATED FUND INSTRUMENTALITIES BEFORE JANUARY 1, 1987.

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study to determine the level of interest among employees of the Department of Defense referred to in subsection (b) in obtaining credit under the Civil Service Retirement and Disability System or the Federal Employees' Retirement System for former service described in such subsection as an employee of a nonappropriated fund instrumentality of the United States.

(b) EMPLOYEES CONCERNED.—The employees referred to in subsection (a) are employees who, for at least 12 months during the period beginning on January 1, 1966, and ending on December 31, 1986, performed service as an employee described in section 2105(c) of title 5, United States Code, conducting a program described in section 8332(b)(16)(A) of such title.

(c) CONDUCT OF STUDY.—In carrying out the study under subsection (a), the Secretary shall—

(1) provide an opportunity for all employees referred to in that subsection to express interest in obtaining retirement credit for the former service in a nonappropriated fund instrumentality of the United States; and

(2) inform such employees that deposits to the Civil Service Retirement and Disability Fund would be required of the interested employees under section 8334(c) of title 5, United States Code, or section 8411(f) of such title.

(d) REPORT.—Not later than February 1, 1995, the Secretary shall submit to Congress a report on the results of the study required by subsection (a). The report shall contain the following matters:

(1) An analysis of the issues, to include existing legal rights of the employees described in paragraph (b) above under the Civil Service Retirement Disability System or the Federal Employees' Retirement System.

(2) An Analysis of the inequities, if any, that may have been caused by conversion from employment by nonappropriated fund instrumentalities of the United States to employment by the Department of Defense.

(3) The number of full time and part time employees described in paragraph (b) above that are affected by any inequities described in paragraph (2).

(4) The Department of Defense recommendations, if any, to redress any inequities described in paragraph (2), and

(5) The cost to the Federal Government of any recommendation described in paragraph (4).

SEC. 335. TRAVEL, TRANSPORTATION, AND RELOCATION EXPENSES OF EMPLOYEES TRANSFERRING TO THE UNITED STATES POSTAL SERVICE.

(a) IN GENERAL.—(1) Subchapter II of chapter 57 of title 5, United States Code, is amended by adding at the end the following:

"§ 5735. Travel, transportation, and relocation expenses of employees transferring to the United States Postal Service

"(a) IN GENERAL.—Notwithstanding any other provision of law, employees of the Department of Defense described in subsection (b) may be authorized travel, transportation, and relocation expenses and allowances in connection with appointments referred to in such subsection under the same conditions and to the same extent authorized by this subchapter for transferred employees.

"(b) COVERED EMPLOYEES.—Subsection (a) applies to any employee of the Department of Defense who—

"(1) is scheduled for separation from the Department, other than for cause;

"(2) is selected for appointment to a continuing position with the United States Postal Service; and

"(3) accepts the appointment.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following:

"5735. Travel, transportation, and relocation expenses of employees transferring to the United States Postal Service.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and apply to persons separated from employment by the Department of Defense on or after such date.

SEC. 336. FOREIGN EMPLOYEES COVERED BY THE FOREIGN NATIONAL EMPLOYEES SEPARATION PAY ACCOUNT.

Section 1581 of title 10, United States Code, is amended—

(1) by striking out "foreign national employees of the Department of Defense" each place it appears in subsections (a) and (b) and inserting in lieu thereof "foreign nationals referred to in subsection (e)"; and

(2) by striking out subsection (e) and inserting in lieu thereof the following:

"(e) EMPLOYEES COVERED.—This section applies only with respect to separation pay of foreign nationals employed by the Department of Defense, and foreign nationals employed by a foreign government for the benefit of the Department of Defense, under any of the following agreements that provide for payment of separation pay:

"(1) A contract.

"(2) A treaty.

"(3) A memorandum of understanding with a foreign nation.

SEC. 337. INCREASED AUTHORITY TO ACCEPT VOLUNTARY SERVICES.

(a) EXPANSION OF AUTHORITY.—The text of section 1588 of title 10, United States Code, is amended to read as follows:

"(a) AUTHORITY TO ACCEPT SERVICES.—Subject subsection (b) and notwithstanding section 1342 of title 31, the Secretary concerned may accept from any person the following services:

"(1) Voluntary medical services, dental services, nursing services, or other health-care related services.

"(2) Voluntary services to be provided for a museum or a natural resources program.

"(3) Voluntary services to be provided for programs providing services to members of the armed forces and the families of such members, including the following programs:

"(A) Family support programs.

"(B) Child development and youth services programs.

"(C) Library and education programs.

"(D) Religious programs.

"(E) Housing referral programs.

"(F) Programs providing employment assistance to spouses of such members.

"(b) REQUIREMENTS AND LIMITATIONS.—(1) The Secretary concerned shall notify the person of the scope of the services accepted.

"(2) With respect to a person providing voluntary services accepted under subsection (a), the Secretary concerned—

"(A) shall—

"(i) supervise the person to the same extent as the Secretary would supervise a compensated employee providing similar services; and

"(ii) ensure that the person is licensed, privileged, has appropriate credentials, or is otherwise qualified under applicable law or regulations to provide such services; and

"(B) may not—

"(i) place the person in a policy-making position; or

"(ii) except as provided subsection (e), compensate the person for the provision of such services.

"(c) AUTHORITY TO RECRUIT AND TRAIN PERSONS PROVIDING SERVICES.—The Secretary concerned may recruit and train persons to provide voluntary services accepted under subsection (a).

"(d) STATUS OF PERSONS PROVIDING SERVICES.—(1) Subject to paragraph (3), while providing voluntary services accepted under subsection (a) or receiving training under subsection (c) a person, other than a person referred to in paragraph (2), shall be considered to be an employee of the Federal Government only for purposes of the following provisions of law:

"(A) Subchapter I of chapter 81 of title 5, relating to compensation for work-related injuries.

"(B) Section 2733 of this title and section 2733 of title 28, relating to claims for damages or loss.

"(C) Section 522a of title 5, relating to maintenance of records on individuals.

"(D) Chapter 11 of title 18, relating to conflicts of interest.

"(2) Subject to paragraph (3), while providing a nonappropriated fund instrumentality of the United States with voluntary services accepted under subsection (a), or receiving training under subsection (c) to provide such an instrumentality with services accepted under subsection (a), a person shall be considered an employee of that instrumentality only for the following purposes:

"(A) Subchapter II of chapter 81 of title 5, relating to compensation of nonappropriated fund employees for work-related injuries.

"(B) Section 2733 of this title and section 2733 of title 28, relating to tort claims.

"(3) A person providing voluntary services accepted under subsection (a) shall be considered to be an employee of the Federal Government under paragraph (1) or (2) only with respect to services that are within the scope of the services so accepted.

"(4) For purposes of determining the compensation for work-related injuries payable under chapter 81 of title 5 (pursuant to this subsection) to a person providing voluntary services accepted under subsection (a), the monthly pay of the person for such services shall be deemed to be the amount determined by multiplying—

"(A) the average monthly number of hours that the person provided the services, by

"(B) the minimum wage determined in accordance with section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

"(e) REIMBURSEMENT OF INCIDENTAL EXPENSES.—The Secretary concerned may provide for reimbursement of a person for incidental expenses incurred by the person in providing voluntary services accepted under subsection (a). The Secretary shall determine which expenses are eligible for reimbursement under this subsection. Any such reimbursement may be made from appropriated or nonappropriated funds.".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—(1) Section 8171(a) of title 5, United States Code, is amended by inserting ", or to a volunteer providing such an instrumentality with services accepted under section 1588 of title 10," after "described by section 2105(c) of this title".

(2) Subchapter II of chapter 81 of such title is amended—

(A) in section 8171—

(i) in subsection (a)—

(I) by striking out "Chapter 18 of title 33" in the first sentence and inserting in lieu thereof "The Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.)";

(II) by striking out "section 902(2) of title 33" in the first sentence and inserting in lieu thereof "section 2(2) of such Act (33 U.S.C. 902(2))"; and

(III) by striking out "section 903(a) of title 33 which follows the first comma" in the second sentence and inserting in lieu thereof "section 3(a) of such Act (33 U.S.C. 903(3)) which follows the second comma";

(ii) in subsection (b), by striking out "section 902(4) of title 33" and inserting in lieu thereof "section 2(4) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 902(4))";

(iii) in subsection (c)(1), by striking out "section 939(b) of title 33" and inserting in lieu thereof "39(b) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 939(b))"; and

(iv) in subsection (d), by striking out "sections 918 and 921 of title 33" and inserting in lieu thereof "sections 18 and 21 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 18 and 21, respectively)"; and

(B) by striking out "section 902(2) of title 33" in sections 8172 and 8173 and inserting in lieu thereof "section 2(2) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 2(2))".

Subtitle E—Other Matters

SEC. 341. CHANGE OF SOURCE FOR PERFORMANCE OF DEPOT-LEVEL WORKLOADS.

The text of section 2469 of title 10, United States Code, is amended to read as follows:

"(a) REQUIREMENT FOR COMPETITION.—The Secretary of Defense shall ensure that the performance of a depot-level maintenance workload described in subsection (b) is not changed to performance by a contractor or by another depot-level maintenance activity of the Department of Defense unless the change is made using—

"(1) merit-based selection procedures for competitions among all depot-level maintenance activities of the Department of Defense; or

"(2) competitive procedures for competitions among private and public sector entities.

"(b) SCOPE.—Subsection (a) applies to any depot-level maintenance workload that has a value of not less than $3,000,000 and is being performed by a depot-level activity of the Department of Defense.

"(c) INAPPLICABILITY OF OMB CIRCULAR A-76.—Office of Managment and Budget Circular A-76 does not apply to a performance change to which subsection (a) applies.".

SEC. 342. CIVIL AIR PATROL.

(a) PROVISION OF FUNDS.—Subsection (b) of section 9441 of title 10, United States Code, is amended—

(1) by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (9), (10), (11), and (12), respectively; and

(2) by inserting after paragraph (7) the following new paragraph (8):

"(8) provide funds for the national headquarters of the Civil Air Patrol, including funds for the payment of staff compensation and benefits, administrative expenses, travel, per diem and allowances, rent and utilities, and other operational expenses;".

(b) LIAISONS.—Such section is further amended by adding at the end the following new subsection:

"(d)(1) The Secretary of the Air Force may authorize the Civil Air Patrol to employ, as administrators and liaison officers, persons retired from service in the Air Force whose qualifications are approved under regulations prescribed by the Secretary and who request such employment.

"(2) A person employed pursuant to paragraph (1) may receive the person's retired pay and an additional amount for such employment that is not more than the difference between the person's retired pay and the pay and allowances the person would be entitled to receive if ordered to active duty in the grade in which the person retired from service in the Air Force. The additional amount shall be paid to the Civil Air Patrol by the Secretary from funds appropriated for that purpose.

"(3) A person employed pursuant to paragraph (1) may not, while so employed, be considered to be on active duty or inactive-duty training for any purpose.".

SEC. 343. ARMED FORCES RETIREMENT HOME.

(a) INCREASED MAXIMUM LIMITATION ON DEDUCTIONS FROM PAY.—Section 1007(i) of title 37, United States Code, is amended—

(1) in paragraph (1), by striking out "50 cents" and inserting in lieu thereof "$2.00"; and

(2) in paragraph (3), by adding at the end the following: "The amount fixed for a grade or length of service may not be increased by more than 50 cents during any 12-month period.".

(b) MODIFICATION OF FEES PAID BY RESIDENTS.—(1) Paragraph (2) of section 1514(c) of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 414(c)) is amended to read as follows:

"(2) The fee shall be fixed as a percentage of the monthly income and monthly payments (including Federal payments) received by a resident, subject to such adjustments in the fee as the Retirement Home Board may make under paragraph (1). The percentage shall be the same for each establishment of the Retirement Home.".

(2)(A) Subsections (d) and (e) of section 1514 of such Act are repealed.

(B) Such section is further amended by adding after subsection (c) the following new subsection (d):

"(d) APPLICATION OF FEES.—Subject to such adjustments in the fee as the Retirement Home Board may make under subsection (c), each resident of the Retirement Home shall be required to pay a monthly fee equal to the amount determined by multiplying the total amount of all monthly income and monthly payments (including Federal payments) received by the resident by a percentage as follows:

"(1) In the case of a permanent health care resident—

"(A) in fiscal year 1998, 35 percent;

"(B) in fiscal year 1999, 45 percent; and

"(C) in fiscal year 2000, 65 percent.

"(2) In the case of a resident who is not a permanent health care resident—

"(A) in fiscal year 1998, 30 percent;

"(B) in fiscal year 1999, 35 percent; and

"(C) in fiscal year 2000, 40 percent.

(c) MODERNIZATION OF FACILITIES.—(1) The Chairman of the Armed Forces Retirement Home Board shall carry out a study to identify and evaluate alternatives for modernization of the facilities at the United States Soldiers' and Airmen's Home.

(2) The Chairman shall submit an interim report and a final report on the results of the study to the Committees on Armed Services of the Senate and House of Representatives. The Chairman shall submit the interim report not later than April 1, 1995, and the final report not later than December 31, 1995.

(d) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall take effect on January 1, 1995, and apply to years that begin on or after that date.

(2) The amendments made by subsection (b) shall take effect October 1, 1997.

SEC. 344. CLARIFICATION OF AUTHORITY TO PROVIDE MEDICAL TRANSPORTATION UNDER NATIONAL GUARD PILOT PROGRAM.

Paragraph (1) of section 376(h) of the National Defense Authorization Act for Fiscal Year 1993 (32 U.S.C. 501 note) is amended to read as follows:

"(1) The term 'health care' includes the following services:

"(A) Medical care services.

"(B) Dental care services.

"(C) Transportation, by air ambulance or other means, for medical reasons.".

SEC. 345. ARMS INITIATIVE LOAN GUARANTEE PROGRAM.

(a) Program Authorized.—Subject to subsection (b), the Secretary of the Army may carry out a loan guarantee program to encourage commercial firms to use ammunition manufacturing facilities pursuant to section 193 of the Armament Retooling and Manufacturing Support Act of 1992 (subtitle H of title I of Public Law 102–484; 106 Stat. 2348). Under such program, the Secretary may guarantee the repayment of any loan made to a commercial firm to fund, in whole or in part, the establishment of a commercial activity under the Act.

(b) Advanced Budget Authority.—Loan guarantees under this section may not be committed except to the extent that appropriations of budget authority to cover their costs are made in advance, as required by section 504 of the Federal Credit Reform Act of 1990 (title V of the Congressional Budget Act of 1974; 2 U.S.C. 661c).

(c) Program Administration.—(1) The Secretary may enter into agreements with the Administrator of the Small Business Administration, the Administrator of the Farmers Home Administration, and the Administrator of the Rural Development Administration under which such Administrators may, under this section—

(A) process applications for loan guarantees;

(B) guarantee repayment of loans; and

(C) provide any other services to the Secretary to administer the loan guarantee program.

(2) Each Administrator may guarantee loans under this section to commercial firms of any size, notwithstanding any size limitations imposed on other loan guarantee programs that the Administrator administers.

(3) To the extent practicable, each Administrator shall use the same procedures for processing loan guarantee applications under this section as the Administrator uses for processing loan guarantee applications under other loan guarantee programs that the Administrator administers.

(d) Loan Limits.—Loan guarantees under this section may not exceed—

(1) $20,000,000 for any borrower; and

(2) $65,000,000 for all borrowers.

(e) Transfer of Funds.—The Secretary of the Army may transfer to an Administrator providing services under subsection (c), and an Administrator may accept, such funds as may be necessary to administer the loan guarantee program under this section.

(f) Reporting Requirement.—Not later than July 1 of each year in which a guarantee issued under this section is in effect, the Secretary shall submit to the congressional defense committees a report containing the amounts of loans guaranteed under this section during the preceding calendar year. No report is required after fiscal year 1997.

(g) Authorization for Use of Existing Budget Authority.—Funds appropriated for the Armament Retooling and Manufacturing Support Initiative by title III of Public Law 102–396 under the heading "Procurement of Ammunition, Army" (106 Stat. 1887) may be made available for loan guarantees under this section only to the extent provided in an appropriations act enacted after the date of the enactment of this Act.

(h) Extension of Authority.—Section 193(a) of the Armament Retooling and Manufacturing Support Act of 1992 (subtitle H of title I of Public Law 102–484; 106 Stat. 2348) is amended by striking out "During fiscal years 1993 and 1994," and inserting in lieu thereof "During fiscal years 1993 through 1996,".

SEC. 346. REAUTHORIZATION OF DEPARTMENT OF DEFENSE DOMESTIC ELEMENTARY AND SECONDARY SCHOOLS FOR DEPENDENTS.

(a) Continued Authority.—Chapter 108 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2164. Department of Defense domestic dependent elementary and secondary schools

"(a) Authority of Secretary.—If the Secretary of Defense makes a determination that appropriate educational programs are not available through a local educational agency for dependents of members of the armed forces and dependents of civilian employees of the Federal Government residing on a military installation in the United States (including territories, commonwealths, and possessions of the United States), the Secretary may provide for the elementary or secondary education of the dependents of such members of the armed forces and, to the extent authorized in subsection (c), the dependents of such civilian employees.

"(b) Factors for Secretary To Consider.—(1) Factors to be considered by the Secretary of Defense in making a determination under subsection (a) shall include the following:

"(A) The extent to which such dependents are eligible for free public education in the local area adjacent to the military installation.

"(B) The extent to which the local educational agency is able to provide a comparable educational program for such dependents.

"(2) For purposes of paragraph (1)(B), an appropriate educational program is a program that, as determined by the Secretary, is comparable to a program of free public education provided for children in the following communities:

"(A) In the case of a military installation located in a State (other than an installation referred to in subparagraph (B)), similar communities in the State.

"(B) In the case of a military installation with boundaries contiguous to two or more States, similar communities in the contiguous States.

"(C) In the case of a military installation located in a territory, commonwealth, or possession, the District of Columbia, except that an educational program determined comparable under this subparagraph may be considered appropriate for the purposes of paragraph (1)(B) only if the program is conducted in the English language.

"(c) Eligibility of Dependents of Federal Employees.—(1) A dependent of a Federal employee residing on a military installation at any time during the school year may enroll in an educational program provided by the Secretary of Defense pursuant to subsection (a) for dependents residing on such installation.

"(2)(A) Except as provided in subparagraph (B), a dependent of a Federal employee who is enrolled in an educational program provided by the Secretary pursuant to subsection (a) and who is not residing on a military installation may be enrolled in the program for not more than five consecutive school years.

"(B) A dependent referred to in subparagraph (A) may be enrolled in the program for more than five consecutive school years if the Secretary determines that, in the interest of the dependent's educational well-being, there is good cause to extend the enrollment for more than the five-year period described in such subparagraph. Any such extension may be made for only one school year at a time.

"(3) A dependent of a Federal employee may continue enrollment in a program under this subsection for the remainder of a school year notwithstanding a change during such school year in the status of the Federal employee that, except for this paragraph, would otherwise terminate the eligibility of the dependent to be enrolled in the program. The preceding sentence does not limit the authority of the Secretary to remove the dependent from enrollment in the program at any time for good cause determined by the Secretary.

"(d) School Boards.—(1) The Secretary of Defense shall provide for the establishment of a school board for each Department of Defense elementary or secondary school established for a military installation under this section.

"(2) The school board shall be composed of the number of members, not less than three, prescribed by the Secretary.

"(3) The parents of the students attending the school shall elect the school board in accordance with procedures which the Secretary shall prescribe.

"(4) The elected school board shall be considered a local civic group with a function of rendering a public service of providing counsel through oversight of school expenditures and operations. The Secretary shall prescribe the oversight procedures and audit standards applicable to the functions of the school board.

"(5) Meetings conducted by the school board shall be open to the public.

"(6) A school board need not comply with the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), but may close meetings in accordance with such Act.

"(e) Administration and Staff.—(1) The Secretary of Defense may enter into such arrangements as may be necessary to provide educational programs at the school.

"(2) The Secretary may, without regard to the provisions of any other law relating to the number, classification, or compensation of employees—

"(A) establish such positions for civilian employees in schools established under this section;

"(B) appoint individuals to such positions; and

"(C) fix the compensation of such individuals for service in such positions.

"(3)(A) Except as provided in subparagraph (B), in fixing the compensation of employees appointed for a school pursuant to paragraph (2), the Secretary shall consider—

"(i) the compensation of comparable employees of the local educational agency in the capital of the State where the military installation is located;

"(ii) the compensation of comparable employees in the local educational agency that provides public education to students who reside adjacent to the military installation; or

"(iii) the average compensation for similar positions in not more than three other local educational agencies in the State in which the military installation is located.

"(B) In fixing the compensation of employees in schools established in the territories, commonwealths, and possessions pursuant to the authority of this section, the Secretary shall determine the level of compensation required to attract qualified employees. For employees in such schools, the Secretary, without regard to the provisions of title 5, may provide for the tenure, leave, hours of work, and other incidents of employment to be similar to that provided for comparable positions in the public schools of the District of Columbia. For purposes of the first sentence, a school shall be considered to have been established pursuant to the authority of this section if the school was established pursuant to other similar authority before the date on which this section takes effect.

"(f) SUBSTANTIVE AND PROCEDURAL RIGHTS AND PROTECTIONS FOR CHILDREN.—(1) The Secretary shall provide the following substantive rights, protections, and procedural safeguards (including due process procedures) in the educational programs provided for under this section:

"(A) In the case of children with disabilities aged 3 to 5, inclusive, all substantive rights, protections, and procedural safeguards (including due process procedures) available to children with disabilities aged 3 to 5, inclusive, under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

"(B) In the case of infants and toddlers with disabilities, all substantive rights, protections, and procedural safeguards (including due process procedures) available to infants and toddlers with disabilities under part H of such Act (20 U.S.C. 1471 et seq.).

"(C) In the case of all other children with disabilities, all substantive rights, protections, and procedural safeguards (including due process procedures) available to children with disabilities who are 3 to 5 years old under part B of such Act.

"(2) Paragraph (1) may not be construed as diminishing for children with disabilities enrolled in day educational programs provided for under this section the extent of substantive rights, protections, and procedural safeguards that were available under section 6(a) of Public Law 81-874 (20 U.S.C. 241(a)) to children with disabilities as of October 7, 1991.

"(3) In this subsection:

"(A) The term 'children with disabilities' has the meaning given the term in section 602(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(1)).

"(B) The term 'children with disabilities aged 3 to 5, inclusive' means such term as used in such Act (20 U.S.C. 1400 et seq.).

"(C) The term 'infants and toddlers with disabilities' has the meaning given the term in section 672(1) of such Act (20 U.S.C. 1472(1)).

"(g) REIMBURSEMENT.—When the Secretary of Defense provides educational services under this section to an individual who is a dependent of an employee of a Federal agency outside the Department of Defense, the head of the other Federal agency shall, upon request of the Secretary of Defense, reimburse the Secretary for those services at rates routinely prescribed by the Secretary for those services. Any payments received by the Secretary under this subsection shall be credited to the account designated by the Secretary for the operation of educational programs under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2164. Department of Defense domestic dependent elementary and secondary schools.".

SEC. 347. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) AVAILABILITY OF FUNDS.—Of the amounts authorized to be appropriated pursuant to section 301(5)—

(1) $50,000,000 shall be available for providing assistance to local educational agencies under subsection (b) of section 386 of Public Law 102-484; and

(2) $8,000,000 shall be available for making payments to local educational agencies under subsection (d) of such section.

(b) NOTIFICATION AND DISBURSAL.—(1) On or before June 30, 1995, the Secretary of Defense (with respect to assistance provided in subsection (b) of section 386 of Public Law 102-484) and the Secretary of Education (with respect to payments made under subsection (d) of such section) shall notify each local educational agency eligible for assistance under subsections (b) and (d) of such section, respectively, for fiscal year 1995 of such agency's eligibility for such assistance and the amount of such assistance.

(2) The Secretary of Defense (with respect to funds made available under subsection (a)(1)) and the Secretary of Education (with respect to funds made available under subsection (a)(2)) shall disburse such funds not later than 30 days after notification to eligible local education agencies.

SEC. 348. DISPOSITION OF PROCEEDS FROM OPERATION OF THE NAVAL ACADEMY LAUNDRY.

Section 6971 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "(a)"; and

(B) in the first sentence, by striking out "and the Academy dairy" and inserting in lieu thereof "the Academy dairy, and the Academy laundry"; and

(2) by striking out subsection (b).

SEC. 349. REPEAL OF ANNUAL LIMITATION ON EXPENDITURES FOR EMERGENCY AND EXTRAORDINARY EXPENSES OF THE DEPARTMENT OF DEFENSE INSPECTOR GENERAL.

Section 127(c) of title 10, United States Code, is amended—

(1) by striking out "(1)" after "(c)"; and

(2) by striking out paragraph (2).

SEC. 350. EXTENSION OF AUTHORITY FOR PROGRAM TO COMMEMORATE WORLD WAR II.

Section 378 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2387; 10 U.S.C. 113 note) is amended by striking out "1995" each place it appears in subsections (a) and (b) and inserting in lieu thereof "1996".

SEC. 351. EXTENSION OF AUTHORITY FOR AVIATION DEPOTS AND NAVAL SHIPYARDS TO ENGAGE IN DEFENSE-RELATED PRODUCTION AND SERVICES.

Section 1425(e) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510), as amended by section 370(b) of Public Law 103-160 (107 Stat. 1634), is further amended by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1995".

SEC. 352. TRANSFER OF CERTAIN EXCESS DEPARTMENT OF DEFENSE PROPERTY TO EDUCATIONAL INSTITUTIONS AND TRAINING SCHOOLS.

(a) AUTHORITY TO TRANSFER.—Subsection (b)(1) of section 2535 of title 10, United States Code, is amended by striking out subparagraph (G) and inserting in lieu thereof the following:

"(G) notwithstanding title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.) and any other provision of law, authorize the transfer to a nonprofit educational institution or training school, on a nonreimbursable basis, of any such property already in the possession of such institution or school whenever the program proposed by such institution or school for the use of such property will contribute materially to national defense; and".

(b) TREATMENT OF PROPERTY LOANED BEFORE DECEMBER 31, 1993.—Except for property determined by the Secretary to be needed by the Department of Defense, property loaned before December 31, 1993, to an educational institution or training school under section 2535(b) of title 10, United States Code, or section 4(a)(7) of the Defense Industrial Reserve Act (as in effect before October 23, 1992) shall be regarded as surplus property. Upon certification by the Secretary to the Administrator of General Services that the property is being used by the borrowing educational institution or training school for a purpose consistent with that for which the property was loaned, the Administrator may authorize the conveyance of all right, title, and interest of the United States in such property to the borrower if the borrower agrees to accept the property. The Administrator may require any additional terms and conditions in connection with a conveyance so authorized that the Administrator considers appropriate to protect the interests of the United States.

SEC. 353. SHIPS' STORES.

Section 371 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1634; 10 U.S.C. 7604 note) is amended—

(1) by striking out subsections (a), (b), and (d); and

(2) in subsection (c), by striking out "(c) CODIFICATION.—Section 7604" and inserting in lieu thereof "Effective as of November 30, 1993, section 7604".

SEC. 354. HUMANITARIAN PROGRAM FOR CLEARING LANDMINES.

(a) PROGRAM AUTHORIZED.—The Secretary of Defense may carry out a program for humanitarian purposes to provide for the instruction, education, training, and advising of personnel of other nations in the various procedures that have been determined effective for detecting and clearing landmines.

(b) FORMS OF ASSISTANCE.—Under the program the Secretary may provide personnel to conduct the instruction, education, or training or to furnish advice. In addition or alternatively, the Secretary may provide financial assistance or in-kind assistance in support of such instruction, education, or training.

(c) LIMITATIONS ON ACTIONS OF UNITED STATES PERSONNEL.—The Secretary of Defense shall ensure that no member of the Armed Forces of the United States—

(1) while providing assistance under subsection (a), engages in the physical detection, lifting, or destroying of landmines unless the member does so for the concurrent purpose of supporting a United States military operation; or

(2) provides such assistance as part of a military operation that does not involve the Armed Forces of the United States.

(d) FUNDING.—Of the funds authorized to be appropriated in section 301, not more than $10,000,000 shall be available for a program carried out under subsection (a).

SEC. 355. ASSISTANCE TO RED CROSS FOR EMERGENCY COMMUNICATIONS SERVICES FOR MEMBERS OF THE ARMED FORCES AND THEIR FAMILIES.

(a) FISCAL YEAR 1995.—Of the funds authorized to be appropriated by section 301(5), $14,500,000 shall be available for obtaining emergency communications services for members of the Armed Forces and their families from the American National Red Cross.

(b) FISCAL YEARS 1996 AND 1997.—Of the amounts authorized to be appropriated for the Department of Defense for fiscal years 1996 and 1997 for operation and maintenance for Defense-wide activities, $14,500,000 shall be available for each such fiscal year for obtaining emergency communications services for members of the Armed Forces and their families from the American National Red Cross.

SEC. 356. MARITIME PREPOSITIONING SHIP ENHANCEMENT.

Section 2218 of title 10, United States Code, is amended by adding at the end of subsection (f) the following new paragraph:

"(3) Not more than three vessels built in foreign shipyards may be purchased for the Marine Corps maritime prepositioning ship program with funds in the National Defense Sealift Fund. Vessels purchased under the authority of this paragraph may not be counted for purposes of the limitation in paragraph (1).".

SEC. 357. ROLL-ON/ROLL-OFF VESSELS FOR THE READY RESERVE FORCE.

(a) TRANSFER AUTHORIZED.—To the extent provided in appropriations Acts, in order to provide for purchase of up to seven roll-on/roll-off vessels for the Ready Reserve Force of the National Defense Reserve Fleet maintained under section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), the Secretary of Defense may transfer to the Maritime Administration not more than $43,000,000 out of funds authorized by this Act to be appropriated to the Department of Defense for fiscal year 1995, other than funds for procurement of national defense features for vessels.

(b) USE BY MARITIME ADMINISTRATION.—Funds transferred to the Maritime Administration pursuant to subsection (a) shall be used only for the purpose set forth in such subsection.

SEC. 358. PAYMENT OF CERTAIN STIPULATED CIVIL PENALTIES.

Of the funds authorized to be appropriated by section 301(17), the Secretary of Defense may pay not more than $500,000 to the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code of 1986 (26 U.S.C. 9507) as payment of stipulated civil penalties assessed under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

SEC. 359. SALE OF ARTICLES AND SERVICES OF INDUSTRIAL FACILITIES OF THE ARMED FORCES TO PERSONS OUTSIDE DEPARTMENT OF DEFENSE.

(a) AUTHORITY TO SELL OUTSIDE DOD.—The Secretary of Defense may sell in accordance with this section to persons outside the Department of Defense articles and services produced in working-capital funded industrial facilities of the Armed Forces that are not available from any United States commercial source.

(b) DESIGNATION OF PARTICIPATING INDUSTRIAL FACILITIES.—The Secretary may designate up to three facilities referred to in subsection (a) as the facilities from which articles and services produced in such facilities may be sold under this section.

(c) CONDITIONS FOR SALES.—A sale of articles or services may be made under this section only if—

(1) the Secretary of Defense determines that the articles or services are not available from a commercial source in the United States;

(2) the purchaser agrees to hold harmless and indemnify the United States, except in cases of willful misconduct or extreme negligence, from any claim for damages or injury to any person or property arising out of the articles or services;

(3) the articles or services can be substantially performed by the industrial facility concerned with only incidental subcontracting and that performance is in the public interest;

(4) the Secretary determines that the sale of the articles or services will not interfere with the military mission of the industrial facility concerned; and

(5) the sale of the goods and services is made on the basis that it will not interfere with performance of work by the industrial facility concerned for the Department of Defense.

(d) METHODS OF SALE.—(1) The Secretary shall permit a purchaser of articles or services under this section to use advance incremental funding to pay for the articles or services.

(2) In the sale of articles and services under this section, the Secretary shall—

(A) charge the purchaser, at a minimum, the variable costs, capital improvement costs, and equipment depreciation costs that are associated with the articles or services sold;

(B) enter into a firm, fixed-price contract or, if agreed by the purchaser, a cost reimbursement contract for the sale; and

(C) develop and maintain (from sources other than appropriated funds) working capital to be available for paying design costs, planning costs, procurement costs, and other costs associated with the articles or services sold.

(e) DELEGATION OF AUTHORITY.—The Secretary may delegate the authority to sell articles and services in accordance with this section to the commander of each industrial facility designated pursuant to subsection (b) in accordance with regulations prescribed by the Secretary.

(f) DEPOSIT OF PROCEEDS.—Proceeds from sales of articles and services under this section shall be credited to the funds, including working capital funds and operation and maintenance funds, incurring the costs of performance.

(g) RELATIONSHIP TO ARMS EXPORT CONTROL ACT.—Nothing in this section shall be construed to affect the application of the export controls provided for in section 38 of the Arms Export Control Act (22 U.S.C. 2778) to items which incorporate or are produced through the use of an article sold under this section.

(h) DEFINITIONS.—In this section:

(1) The term "advance incremental funding", with respect to a sale of articles or services, means a series of partial payments for the articles or services that includes—

(A) one or more partial payments before the commencement of work or the incurring of costs in connection with the production of the articles or the performance of the services, as the case may be; and

(B) subsequent progress payments that result in full payment being completed as the required work is being completed.

(2) The term "variable costs", with respect to sales of articles or services, means the costs that are expected to fluctuate directly with the volume of sales and—

(A) in the case of articles, the volume of production necessary to satisfy the sales orders; or

(B) in the case of services, the extent of the services sold.

SEC. 360. STUDY OF ESTABLISHMENT OF LAND MANAGEMENT AND TRAINING CENTER AT FORT RILEY, KANSAS.

(a) STUDY.—The Secretary of the Army shall carry out a study of the feasibility and advisability of establishing at Fort Riley, Kansas, a center for the land management activities and land management training activities of the Department of Defense.

(b) REPORT.—The Secretary shall submit to the congressional defense committees a report on the study required under subsection (a). The Secretary shall submit the report not later than May 1, 1996.

SEC. 361. PROCUREMENT OF PORTABLE VENTILATORS FOR THE DEFENSE MEDICAL FACILITY OFFICE, FORT DETRICK, MARYLAND.

Of the funds authorized to be appropriated by section 301(5), $2,500,000 shall be available for the procurement of portable ventilators for the Defense Medical Facility Office, Fort Detrick, Maryland.

SEC. 362. REVIEW BY DEFENSE INSPECTOR GENERAL OF COST GROWTH IN CERTAIN CONTRACTS.

(a) REVIEW.—The Inspector General of the Department of Defense shall carry out a review of a representative sample of existing contracts for the performance of commercial activities which resulted from a cost comparison study conducted by the Department of Defense under Office of Management and Budget Circular A-76 (or any other successor administrative regulation or policy) to determine the extent to which the cost incurred by a contractor under any such contract has exceeded the cost of the contract at the time the contract was entered into.

(b) REPORT.—Not later than April 1, 1995, the Inspector General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the results of the review carried out under subsection (a).

SEC. 363. COST COMPARISON STUDIES FOR CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES.

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410l. Contracts for advisory and assistance services: cost comparison studies

"(a) REQUIREMENT.—(1)(A) Before the Secretary of Defense enters into a contract described in subparagraph (B), the Secretary shall determine whether Department of Defense personnel have the capability to perform the services proposed to be covered by the contract.

"(B) Subparagraph (A) applies to any contract of the Department of Defense for advisory and assistance services which contract will have a value in excess of $100,000.

"(2) If the Secretary determines that such personnel have that capability, the Secretary shall conduct a study comparing the cost of performing the services with Department of Defense personnel and the cost of performing the services with contractor personnel.

"(b) WAIVER.—The Secretary of Defense may, pursuant to guidelines prescribed by the Secretary, waive the requirement under subsection (a)(2) to perform a cost comparison study based on factors that are not related to cost.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2410l. Contracts for advisory and assistance services: cost comparison studies.".

(b) PROCEDURES FOR CONDUCT OF STUDIES.—The Secretary of Defense shall prescribe the following procedures:

(1) Procedures for carrying out a cost comparison study under subsection (a)(2) of section 2410l of title 10, United States Code, as added by subsection (a), which may contain

a requirement that the cost comparison study include consideration of factors that are not related to cost, including the quality of the service required to be performed, the availability of Department of Defense personnel, the duration and recurring nature of the services to be performed, and the consistency of the workload.

(2) Procedures for reviewing contracts entered into after a waiver under subsection (b) of such section to determine whether the contract is justified and sufficiently documented.

(c) EFFECTIVE DATE.—Section 24101 of title 10, United States Code, as added by subsection (a), shall take effect 180 days after the date of the enactment of this Act.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 1995, as follows:

(1) The Army, 510,000.

(2) The Navy, 441,641.

(3) The Marine Corps, 174,000.

(4) The Air Force, 400,051.

SEC. 402. EXTENSION OF TEMPORARY VARIATION OF END STRENGTH LIMITATIONS FOR MARINE CORPS MAJORS AND LIEUTENANT COLONELS.

(a) EXTENSION OF AUTHORITY.—Subsection (a) of section 402 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1639; 10 U.S.C. 523 note) is amended by striking out "and 1995" and inserting in lieu thereof "through 1997".

(b) LIMITATION.—The table in subsection (b) of such section is amended to read as follows:

"Fiscal year:	Number of officers who may be serving on active duty in the grade of:	
	Major	Lieutenant colonel
1994	3,023	1,578
1995	3,157	1,634
1996	3,157	1,634
1997	3,157	1,634.".

(c) CLERICAL AMENDMENT.—The caption of subsection (b) of such section is amended by striking out "AND 1995.—" and inserting in lieu thereof "THROUGH 1997.—".

SEC. 403. RETENTION OF AUTHORIZED STRENGTH OF GENERAL OFFICERS ON ACTIVE DUTY IN THE MARINE CORPS FOR FISCAL YEARS AFTER FISCAL YEAR 1995.

Section 526(a)(4) of title 10, United States Code, is amended by striking out "before October 1, 1995," and all that follows through "that date".

SEC. 404. EXCEPTION TO LIMITATION ON NUMBER OF GENERAL OFFICERS AND FLAG OFFICERS SERVING ON ACTIVE DUTY.

Section 525(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5)(A) Subject to subparagraph (C), an officer while serving in a position referred to in subparagraph (B), if serving in the grade of general or admiral, is in addition to the number that would otherwise be permitted for that officer's armed force for that grade under paragraph (1) or (2).

"(B) Subparagraph (A) applies to the following positions:

"(i) Commander in Chief of a combatant command.

"(ii) Commander, United States Forces, Korea.

"(iii) Deputy Commander in Chief, United States European Command, but only while the Commander in Chief of such command is also the Supreme Allied Commander Europe.

"(C) Subparagraph (A) does not apply to an officer serving in a position referred to in subparagraph (B) unless the Secretary of Defense, when considering that officer for recommendation to the President for appointment to such position, concurrently considered one officer from each of the other armed forces (other than the Coast Guard) for recommendation to the President for appointment to the position.

"(D) The Chairman of the Joint Chiefs of Staff may recommend officers to the Secretary of Defense for consideration by the President for appointment to any of the positions referred to in subparagraph (B).

"(E) This paragraph shall cease to be effective at the end of September 30, 1997.".

SEC. 405. TEMPORARY EXCLUSION OF SUPERINTENDENT OF NAVAL ACADEMY FROM COUNTING TOWARD NUMBER OF SENIOR ADMIRALS AUTHORIZED TO BE ON ACTIVE DUTY.

(a) GRADE RELIEF.—If the next officer appointed to serve as Superintendent of the United States Naval Academy after April 1, 1994, is an officer described in subsection (b), that officer, while so serving, shall not be counted for purposes of the limitations contained in section 525(b)(2) of title 10, United States Code.

(b) QUALIFYING OFFICER.—Subsection (a) applies in the case of a retired officer who—

(1) holds the grade of admiral on the retired list;

(2) is ordered to active duty pursuant to section 688 of title 10, United States Code, to serve as Superintendent of the United States Naval Academy; and

(3) is appointed pursuant to section 601 of that title to have the grade of admiral while serving on active duty in that position.

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1995, as follows:

(1) The Army National Guard of the United States, 400,000.

(2) The Army Reserve, 242,000.

(3) The Naval Reserve, 109,000.

(4) The Marine Corps Reserve, 42,000.

(5) The Air National Guard of the United States, 115,581.

(6) The Air Force Reserve, 78,706.

(7) The Coast Guard Reserve, 8,000.

(b) WAIVER AUTHORITY.—The Secretary of Defense may increase the end strength authorized by subsection (a) by not more than 2 percent.

(c) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be reduced proportionately by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year, and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be increased proportionately by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 1995, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 23,650.

(2) The Army Reserve, 11,940.

(3) The Naval Reserve, 17,510.

(4) The Marine Corps Reserve, 2,285.

(5) The Air National Guard of the United States, 9,098.

(6) The Air Force Reserve, 648.

Subtitle C—Military Training Student Loads

SEC. 421. AUTHORIZATION OF TRAINING STUDENT LOADS.

(a) IN GENERAL.—For fiscal year 1995, the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 69,420.

(2) The Navy, 43,064.

(3) The Marine Corps, 25,377.

(4) The Air Force, 36,840.

(b) SCOPE.—The average military training student load authorized for an armed force under subsection (a) applies to the active and reserve components of that armed force.

(c) ADJUSTMENTS.—The average military training student loads authorized in subsection (a) shall be adjusted consistent with the end strengths authorized in subtitles A and B. The Secretary of Defense shall prescribe the manner in which such adjustments shall be apportioned.

Subtitle D—Authorization of Appropriations

SEC. 431. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 1995 a total of $70,790,397,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 1995.

Subtitle E—Other Matters

SEC. 441. REPEAL OF REQUIRED REDUCTION IN RECRUITING PERSONNEL.

Section 431 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2400) is repealed.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

SEC. 501. SERVICE ON SUCCESSIVE SELECTION BOARDS.

(a) SERVICE ON SUCCESSIVE BOARDS AUTHORIZED.—Section 628 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) A special selection board convened under this section shall be composed in accordance with section 612 of this title or, in the case of a warrant officer, composed in accordance with section 573 of this title and regulations prescribed by the Secretary of the military department concerned, except that the prohibitions on service on successive selection boards set forth in sections 612(b) and 573(e) of this title do not apply to service on successive selection boards authorized under paragraph (2).

"(2) An officer may serve on a selection board convened under section 611(a) of this title or, in the case of a warrant officer, section 573(a) of this title and on a successive special selection board convened under this section if the service on the successive board is approved by the Secretary of the military department concerned and the successive board does not consider any officer who was considered by the first board.".

(b) Conforming Amendment.—Subsections (a)(1) and (b)(1) of section 628 of such title are amended by striking out "(composed in accordance with" and all that follows through "concerned)" and inserting in lieu thereof "(composed as provided in subsection (f))".

SEC. 502. PROMOTION AND OTHER CAREER MANAGEMENT MATTERS RELATING TO WARRANT OFFICERS ON ACTIVE-DUTY LISTS.

(a) Exception From Mandatory Consideration by Promotion Selection Board.—Section 575(d) of such title is amended by inserting "(except for warrant officers precluded from consideration under regulations prescribed by the Secretary concerned under section 577 of this title)" after "under consideration".

(b) Secretarial Submission of Promotion Selection Board Report.—Section 576(f)(1) of such title is amended by striking out the second sentence.

(c) Promotion Formalities Deemed Completed.—Section 578 of such title is amended by adding at the end the following new subsections:

"(e) A warrant officer who is appointed to a higher grade under this section is considered to have accepted such appointment on the date on which the appointment is made unless the officer expressly declines the appointment.

"(f) A warrant who has served continuously as an officer since the officer took the oath of office set forth under section 3331 of title 5 is not required to take a new oath upon appointment to a higher grade under this section.".

(d) Warrant Officers Subject to Management Authorities.—Section 582(2) of such title is amended by inserting before the period at the end the following: "(other than such officers recalled to active duty before February 1, 1992, who have served continuously on active duty since such date)".

SEC. 503. ENLISTMENT OR RETIREMENT OF NAVY AND MARINE CORPS LIMITED DUTY OFFICERS HAVING TWICE FAILED OF SELECTION FOR PROMOTION.

(a) Authority.—Subsection (f) of section 6383 of title 10, United States Code, is amended to read as follows:

"(f)(1) An officer subject to discharge under subsection (b), (d), or (e) who is not eligible for retirement or for retention under paragraph (2) may, upon the officer's request and in the discretion of the Secretary of the Navy, be enlisted in the grade prescribed by the Secretary.

"(2) If an officer subject to discharge under subsection (b) or (d) is within two years of qualifying for retirement under section 6323 of this title as of the date on which the officer is to be discharged, the officer shall be retained on active duty until becoming qualified for retirement under that section (unless sooner retired or discharged under another provision of law) and shall then be retired.".

(b) Conforming Amendments.—Section 6383 of such title is amended—

(1) in subsection (i), by striking out "or the discharge under subsection (d)" and inserting in lieu thereof "or the discharge under subsection (b) or (d)";

(2) by striking out subsection (g);

(3) by redesignating subsections (h), (i), and (j) as subsections (g), (h), and (i), respectively; and

(4) in subsections (a), (b), and (d), by striking out "Except as provided in subsection (i)," each place it appears and inserting in lieu thereof "Except as provided in subsection (h),".

SEC. 504. EDUCATIONAL REQUIREMENTS FOR APPOINTMENT IN RESERVE COMPONENTS IN GRADES ABOVE FIRST LIEUTENANT OR LIEUTENANT (JUNIOR GRADE).

Section 596(a) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(a) In General.—"; and

(2) by striking out "an accredited educational institution" and inserting in lieu thereof "an educational institution described in paragraph (2)"; and

(3) by adding at the end the following new paragraph:

"(2) An educational institution referred to in paragraph (1) is—

"(A) an accredited educational institution; or

"(B) an unaccredited educational institution if at least three accredited educational institutions generally grant baccalaureate degree credit for completion of courses of the unaccredited institution equivalent to the baccalaureate degree credit granted by the unaccredited institution for the completion of such courses.".

SEC. 505. LIMITED EXCEPTION FROM BACCALAUREATE DEGREE REQUIREMENT FOR ALASKA SCOUT OFFICERS.

Section 596 of title 10, United States Code, is amended—

(1) by adding at the end of subsection (b) the following new paragraph:

"(5) The appointment or recognition of an individual referred to in subsection (c) in a higher grade (not above major) of the Alaska Army National Guard while such individual is serving in a Scout unit or a Scout supporting unit."; and

(2) by adding at the end the following new subsection:

"(c) Persons Covered by Alaska Scout Exception.—Subsection (b)(5) applies to a member of the Alaska Army National Guard who resides permanently at a location in Alaska that is more than 50 miles from the cities of Anchorage, Fairbanks, and Juneau, Alaska, by paved road.".

SEC. 506. ORIGINAL APPOINTMENTS OF LIMITED DUTY OFFICERS OF THE NAVY AND MARINE CORPS SERVING IN TEMPORARY GRADES.

Section 5589 of title 10, United States Code, is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) Original appointments as regular officers of the Navy or Marine Corps may be made from among officers serving on active duty in a higher grade pursuant to a temporary appointment in that grade under section 5596 of this title. The grade in which an officer is appointed under this subsection shall be the grade in which the officer is serving pursuant to the temporary appointment. The officer's date of rank for the grade of the original appointment shall be the same as the date of rank for the grade of the temporary appointment.".

SEC. 507. SELECTION FOR DESIGNATED JUDGE ADVOCATE POSITIONS.

(a) To the extent that selection for the positions described in subsection (b) is not governed by Chapter 36 of title 10, United States Code, the Secretary of Defense shall prescribe regulations to ensure that officers selected to serve in such positions are selected for such service by boards governed, insofar as practicable, by the procedures prescribed for selection boards under Chapter 36 of title 10, United States Code.

(b) The positions referred to in subsection (a) are—

(1) the Judge Advocate General and Assistant Judge Advocate General of the Army,

(2) the Judge Advocate General and Deputy Judge Advocate General of the Navy,

(3) the Staff Judge Advocate to the Commandant of the Marine Corps, and

(4) the Judge Advocate General and Deputy Judge Advocate General of the Air Force.

Subtitle B—Reserve Component Matters

SEC. 511. REVIEW OF OPPORTUNITIES FOR ORDERING INDIVIDUAL RESERVES TO ACTIVE DUTY WITH CONSENT.

(a) Review Required.—The Secretary of Defense shall—

(1) review the opportunities for individual members of the reserve components of the Armed Forces to be ordered to active duty, with the consent of the members concerned, during peacetime in positions traditionally filled by active duty personnel; and

(2) identify and remove any impediments, in regulations or other administrative rules, to increasing such opportunities.

(b) Report.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the review. The report shall contain—

(1) a plan for increasing the opportunities for individual members of the reserve components of the Armed Forces to be ordered to active duty, with the consent of the members concerned, during peacetime in positions traditionally filled by active duty personnel; and

(2) any additional legislation that the Secretary considers necessary in order to increase such opportunities.

SEC. 512. INCREASED PERIOD OF ACTIVE DUTY SERVICE FOR SELECTED RESERVE FORCES MOBILIZED OTHER THAN DURING WAR OR NATIONAL EMERGENCY.

(a) Revision to Period of Extension of Active Duty.—Section 673b of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "90 days." and inserting in lieu thereof "180 days."; and

(2) by striking out subsection (i).

(b) Report Required.—(1) Not later than April 1, 1995, the Secretary of Defense shall submit to the congressional defense committees a report on increasing the authority of the President to order units and members of the reserve components to active duty without the consent of the members concerned.

(2) The report shall include the following:

(A) An analysis of options for increased presidential authority.

(B) An assessment of the effects of each option on recruiting, retention, employer support for the reserve components, and the families of members of the reserve components.

(C) Programs that the Secretary recommends to mitigate any negative effects.

(D) Any option that the Secretary recommends.

(E) Any proposed legislation that the Secretary considers necessary to implement any recommended option.

SEC. 513. REPEAL OF OBSOLETE PROVISIONS PERTAINING TO TRANSFER OF REGULAR ENLISTED MEMBERS TO RESERVE COMPONENTS.

(a) ARMY.—Section 3914 of title 10, United States Code, is amended by striking out the second and third sentences.

(b) AIR FORCE.—Section 8914 of such title, is amended by striking out the second and third sentences.

SEC. 514. SENSE OF THE SENATE CONCERNING THE TRAINING AND MODERNIZATION OF THE RESERVE COMPONENTS.

(a) FINDINGS.—(1) The force structure specified in the Pentagon's Bottom Up Review assumes increased reliance on the reserve components of the Armed Forces;

(2) The mobilization of the reserve components for the Persian Gulf War was handicapped by training, readiness, and equipment shortfalls;

(3) The mobilization of the Army reserve components for the Persian Gulf War was handicapped by lack of a standard readiness evaluation system, which resulted in a lengthy reevaluation of training and equipment readiness of Army National Guard and Reserve units before they could by deployed;

(4) Funding and scheduling constraints continue to limit the opportunity for combat units of the Army National Guard to carry out adequate maneuver training;

(5) Funding constraints continue to handicap the readiness and modernization of the reserve components and their interoperability with the active forces: Now, therefore

(b) PURPOSE.—It is the sense of the Senate that the Department of Defense should establish a standard readiness and evaluation system and that it should provide in its annual budget submissions adequate resources to ensure that National Guard and reserve units are trained and modernized to the standards needed for them to carry out the full range of missions required of them under the Bottom Up Review.

Subtitle C—Other Matters

SEC. 521. REVIEW OF CERTAIN DISMISSALS FROM THE UNITED STATES MILITARY ACADEMY.

(a) REVIEW REQUIRED.—The Secretary of the Army shall promptly carry out a thorough review of the dismissals from the Corps of Cadets of the United States Military Academy of James Webster Smith in 1874 and Johnson Chesnut Whittaker in 1882.

(b) PURPOSES OF REVIEW.—The purpose of each review shall be to determine the validity of the original proceedings and the extent, if any, to which racial prejudice or other improper factors now known may have tainted the original proceedings.

(c) CORRECTION OF RECORDS.—If the Secretary determines that the dismissal of James Webster Smith or Johnson Chesnut Whittaker was in error or an injustice, the Secretary may correct that person's military records (including the records of proceedings in such case).

(d) POSTHUMOUS COMMISSION.—Upon recommendation of the Secretary in the case of James Webster Smith or Johnson Chesnut Whittaker, the President may issue in the name of James Webster Smith or Johnson Chesnut Whittaker, as the case may be, a posthumous commission as an officer in the regular Army in the grade of second lieutenant. Sections 1521(b) and 1523 of title 10, United States Code, shall apply with respect to a commission so issued.

SEC. 522. TRANSITIONAL COMPENSATION AND OTHER BENEFITS FOR DEPENDENTS OF MEMBERS SEPARATED FOR DEPENDENT ABUSE.

(a) REQUIREMENT.—Subsection (a) of section 1058 of title 10, United States Code, as added by section 554(a)(1) of Public Law 103–160 (197 Stat. 1663), is amended by amending subsection (e) to read as follows:

"(e) COMMENCEMENT AND DURATION OF PAYMENT.—(1) Payment of transitional compensation under this section—

"(A) in the case of a member convicted by a court-martial for a dependent-abuse offense, may commence as of the date of the approval of the court-martial sentence by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice) if the sentence, as approved, includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances; and

"(B) in the case of a member being considered under applicable regulations for administrative separation from active duty in accordance with such regulations (if the basis for the separation includes a dependent-abuse offense), may commence as of the date on which the separation action is initiated by a commander of the member pursuant to such regulations, as determined by the Secretary concerned.

"(2) Transitional compensation with respect to a member may be paid for a period of 36 months, except that, if as of the date on which payment of transitional compensation commences the unserved portion of the member's period of obligated active duty service is less than 36 months, the period for which transitional compensation is paid shall be equal to the greater of—

"(A) the unserved portion of the member's period of obligated active duty service; or

"(B) 12 months.

"(3)(A) If a member is sentenced by a court-martial to receive punishment that includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances as a result of a conviction by a court-martial for a dependent-abuse offense and each such punishment applicable to the member under the sentence is remitted, set aside, or mitigated to a lesser punishment that does not include any such punishment, any payment of transitional compensation that has commenced under this section on the basis of such sentence in that case shall cease.

"(B) If administrative separation of a member from active duty is proposed on a basis that includes a dependent-abuse offense and the proposed administrative separation is disapproved by competent authority under applicable regulations, payment of transitional compensation in such case shall cease.

"(C) Cessation of payments under subparagraph (A) or (B) shall be effective as of the first day of the first month following the month in which the Secretary concerned notifies the recipient of such transitional compensation in writing that payment of the transitional compensation will cease. The recipient may not be required to repay amounts of transitional compensation received before that effective date (except to the extent necessary to recoup any amount that was erroneous when paid).".

(c) HEALTH, COMMISSARY, AND OTHER BENEFITS.—Such section is further amended—

(1) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(2) by inserting after subsection (i) the following new subsection (j):

"(j) HEALTH, COMMISSARY, AND OTHER BENEFITS.—(1) A dependent or former dependent entitled to payment of monthly transitional compensation under this section shall, while receiving payments in accordance with this section, be entitled to receive medical and dental care, to use commissary and exchange stores, and to receive any other benefit that a dependent of a member of the armed forces is entitled to receive on the basis of being a dependent of a member of the armed forces to the same extent and in the same manner as a dependent of a member of the armed forces on active duty for a period of not more than 30 days.

"(2) If a dependent or former dependent eligible or entitled to receive a particular benefit under this subsection is eligible or entitled to receive that benefit under another provision of law, the eligibility or entitlement of that dependent or former dependent to such benefit shall be determined under such other provision of law instead of this subsection.".

(c) CONFORMING AMENDMENTS.—(1) The heading for such section is amended to read as follows:

"§ 1058. Dependents of members separated for dependent abuse: transitional compensation and other benefits".

(2) The table of sections at the beginning of chapter 53 of such title is amended by striking out the item relating to section 1058 (as added by section 554(a)(2) of Public Law 103–160 (107 Stat. 1066)) and inserting in lieu thereof the following:

"1058. Dependents of members separated for dependent abuse: transitional compensation and other benefits.".

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1995.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1995 shall not be made.

(b) INCREASE IN BASIC PAY, BAS, AND BAQ.—Effective on January 1, 1995, the rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 2.6 percent.

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. EXTENSION OF CERTAIN BONUSES FOR RESERVE FORCES.

(a) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(f) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(b) SELECTED RESERVE ENLISTMENT BONUS.—Section 308c(e) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(c) SELECTED RESERVE AFFILIATION BONUS.—Section 308e(e) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(d) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.—Section 308h(g) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(e) PRIOR SERVICE ENLISTMENT BONUS.—Section 308i(i) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

SEC. 612. EXTENSION AND MODIFICATION OF CERTAIN BONUSES AND SPECIAL PAY FOR NURSE OFFICER CANDIDATES, REGISTERED NURSES, AND NURSE ANESTHETISTS.

(a) Nurse Officer Candidate Accession Program.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking out "September 30, 1995," and inserting in lieu thereof "September 30, 1998,".

(b) Accession Bonus for Registered Nurses.—Section 302d(a)(1) of title 37, United States Code, is amended by striking out "September 30, 1995," and inserting in lieu thereof "September 30, 1998,".

(c) Incentive Special Pay for Nurse Anesthetists.—Section 302e(a)(1) of title 37, United States Code, is amended—

(1) by striking out "September 30, 1995," and inserting in lieu thereof "September 30, 1998,"; and

(2) by striking out "$6,000" and inserting in lieu thereof "$15,000".

SEC. 613. EXTENSION OF AUTHORITY RELATING TO PAYMENT OF OTHER BONUSES AND SPECIAL PAYS.

(a) Aviation Officer Retention Bonus.—Section 301b(a) of title 37, United States Code, is amended by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1995".

(b) Reenlistment Bonus for Active Members.—Section 308(g) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(c) Enlistment Bonuses for Critical Skills.—Sections 308a(c) and 308f(c) of title 37, United States Code, are each amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(d) Special Pay for Enlisted Members of the Selected Reserve Assigned to Certain High Priority Units.—Section 308d(c) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(e) Repayment of Education Loans for Certain Health Professionals Who Serve in the Selected Reserve.—Section 2172(d) of title 10, United States Code, is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 1996".

(f) Special Pay for Critically Short Wartime Health Specialists in the Selected Reserves.—Section 613(d) of the National Defense Authorization Act, Fiscal Year 1989 (37 U.S.C. 302 note) is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(g) Special Pay for Nuclear-Qualified Officers Extending Period of Active Service.—Section 312(e) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(h) Nuclear Career Accession Bonus.—Section 312b(c) of title 37, United States Code, is amended by striking out "September 30, 1995," and inserting in lieu thereof "September 30, 1996,".

(i) Nuclear Career Annual Incentive Bonus.—Section 312c(d) of title 37, United States Code, is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 1996".

Subtitle C—Travel and Transportation Allowances

SEC. 621. RESPONSIBILITY FOR PREPARATION OF TRANSPORTATION MILEAGE TABLES.

Section 404(d)(1)(A) of title 37, United States Code, is amended by striking out "the Secretary of the Army" and inserting in lieu thereof "the Secretary of Defense".

Subtitle D—Retired Pay and Survivor Benefits

SEC. 631. CLARIFICATION OF CALCULATION OF RETIRED PAY FOR OFFICERS WHO RETIRE IN A GRADE LOWER THAN THE GRADE HELD AT RETIREMENT.

(a) Prevention of Retired Pay Based on Grade Higher Than Retired Grade.—Section 1401a(f) of title 10, United States Code, is amended—

(1) in the first sentence, by inserting "based on the grade in which the member is retired" after "at an earlier date";

(2) in the second sentence, by inserting ", except that such computation may not be based on a rate of basic pay for a grade higher than the grade in which the member is retired" before the period at the end; and

(3) by striking out the third sentence.

(b) Effective Date.—The amendments made by subsection (a) shall apply with respect to the computation of the retired pay of a member of the armed forces who retires on or after the date of the enactment of this Act.

SEC. 632. CREDITING OF RESERVE SERVICE OF ENLISTED MEMBERS FOR COMPUTATION OF RETIRED PAY.

(a) Army.—(1) Section 3925 of title 10, United States Code, is amended—

(A) in subsection (a), by striking out "and of computing his retired pay under section 3991 of this title,"; and

(B) by striking out subsection (c).

(2) Section 3991 of such title is amended—

(A) in subsection (a)—

(i) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) Formula.—The monthly retired pay of a member entitled to such pay under this subtitle by reason of retirement under a provision of law referred to in paragraph (3) is computed by multiplying the retired pay base (as computed under section 1406(c) or 1407 of this title) by the retired pay multiplier prescribed in section 1409 of this title for the number of years credited to the member under section 1405 of this title."; and

(ii) by adding at the end the following new paragraph:

"(3) Applicability.—Paragraph (1) applies to a member retired under the authority of section 3911, 3914, 3917, 3918, 3920, or 3924 of this title."; and

(B) in subsection (b), by striking out paragraph (3).

(3) The text of section 3992 of such title is amended to read as follows:

"(a) Recomputation Required.—An enlisted member or warrant officer of the Army who is advanced on the retired list under section 3964 of this title is entitled to recompute the member's or officer's retired pay in accordance with this section.

"(b) Formula.—To recompute an enlisted member's retired pay or a warrant officer's retired pay, multiply the retired pay base (as computed under section 1406(c) or 1407 of this title) by the retired pay multiplier prescribed in section 1409 of this title for the number of years credited to the member or officer under section 1405 of this title.

"(c) Rounding to Next Lower Dollar.—The amount computed under subsection (b), if not a multiple of $1, shall be rounded to the next lower multiple of $1.".

(b) Navy and Marine Corps.—The table in section 6333(a) of title 10, United States Code, is amended by striking out "his years of active service in the armed forces" in formula C under the column designated "Column 2" and inserting in lieu thereof "the years of service credited to him under section 1405".

(c) Air Force.—(1) Section 8925 of title 10, United States Code, is amended—

(A) in subsection (a), by striking out "and of computing his retired pay under section 8991 of this title,"; and

(B) by striking out subsection (c).

(2) Section 8991 of such title is amended—

(A) in subsection (a)—

(i) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) Formula.—The monthly retired pay of a member entitled to such pay under this subtitle by reason of retirement under a provision of law referred to in paragraph (3) is computed by multiplying the retired pay base (as computed under section 1406(e) or 1407 of this title) by the retired pay multiplier prescribed in section 1409 of this title for the number of years credited to the member under section 1405 of this title."; and

(ii) by adding at the end the following new paragraph:

"(3) Applicability.—Paragraph (1) applies to a member retired under the authority of section 8911, 8914, 8917, 8918, 8920, or 8924 of this title."; and

(B) in subsection (b), by striking out paragraph (3).

(3) The text of section 8992 of such title is amended to read as follows:

"(a) Recomputation Required.—An enlisted member or warrant officer of the Air Force who is advanced on the retired list under section 8964 of this title is entitled to recompute the member's or officer's retired pay in accordance with this section.

"(b) Formula.—To recompute an enlisted member's retired pay or a warrant officer's retired pay, multiply the retired pay base (as computed under section 1406(e) or 1407 of this title) by the retired pay multiplier prescribed in section 1409 of this title for the number of years credited to the member or officer under section 1405 of this title.

"(c) Rounding to Next Lower Dollar.—The amount computed under subsection (b), if not a multiple of $1, shall be rounded to the next lower multiple of $1.".

(d) Conforming Amendment.—Section 1405 of such title is amended by adding at the end the following new subsection:

"(c) Exclusion of Time Required To Be Made Up.—Time required to be made up by an enlisted member of the Army or Air Force under section 972 of this title may not be counted in determining years of service under subsection (a).".

(e) Effective Date.—This section shall apply to the computation of the retired or retainer pay of any enlisted member who retires or is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve on or after the date of the enactment of this Act.

SEC. 633. FORFEITURE OF ANNUITY OR RETIRED PAY OF MEMBERS CONVICTED OF ESPIONAGE.

(a) Forfeiture.—Section 8312(b)(2)(A) of title 5, United States Code, is amended—

(1) by striking out "or article 106 (spies)" and inserting in lieu thereof ", article 106 (spies), or article 106a (espionage)"; and

(2) by striking out "or article 106" and inserting in lieu thereof ", article 106, or article 106a".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to persons convicted of espionage under section 906a of title 10, United States Code (article 106a of the Uniform Code of Military Justice), on or after the date of the enactment of this Act.

SEC. 634. COMPUTATION OF RETIRED PAY TO PREVENT PAY INVERSIONS.

Section 1401a(f) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(f) PREVENTION OF PAY INVERSIONS.—"; and

(2) by adding at the end the following new paragraph:

"(2)(A) Subject to subparagraph (B), for the purpose of computing the monthly retired pay of a member or former member of an armed force under paragraph (1), the Secretary concerned may waive any provision of a regulation that, as such provision was in effect on the earlier date applicable to the member or former member under paragraph (1), required a member to serve for a minimum period in a grade as a condition for retirement in that grade.

"(B) Any waiver under subparagraph (A) shall apply in the case of a member or former member only to that part of the minimum period of service provided for a grade in the regulation that exceeds the minimum period of service in such grade that was authorized by a provision of this title to be required as a condition for retirement in that grade (as such provision of this title was in effect on the earlier date applicable to the member or former member under paragraph (1)).

"(C) The Secretary concerned may waive the provision of a regulation under subparagraph (A) in the case of a particular member or former member or for any group of members or former members.".

SEC. 635. COST-OF-LIVING INCREASES IN SBP CONTRIBUTIONS TO BE EFFECTIVE CONCURRENTLY WITH PAYMENT OF RELATED RETIRED PAY COST-OF-LIVING INCREASES.

(a) SURVIVOR BENEFIT PLAN.—Section 1452(h) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(h)"; and

(2) by adding at the end the following new subsection:

"(2)(A) Notwithstanding paragraph (1), when the initial payment of an increase in retired pay under section 1401a of this title (or any other provision of law) to a person is later than the effective date of that increase by reason of the application of subsection (b)(2)(B) of such section, then the amount of the reduction in the person's retired pay shall be effective on the date of that initial payment of the increase in retired pay rather than the effective date of the increase in retired pay.

"(B) Subparagraph (A) may not be construed as delaying, for purposes of determining the amount of a monthly annuity under section 1451 of this title, the effective date of an increase in a base amount under subsection (h) of such section from the effective date of an increase in retired pay under section 1401a of this title to the date on which the initial payment of that increase in retired pay is made in accordance with subsection (b)(2)(B) of such section 1401a.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to retired pay payable for months beginning on or after the date of the enactment of this Act.

SEC. 636. REQUIREMENT FOR EQUAL TREATMENT OF CIVILIAN AND MILITARY RETIREES IN THE EVENT OF DELAYS IN COST-OF-LIVING ADJUSTMENTS.

(a) CIVIL SERVICE ANNUITIES.—(1) Section 8340 of title 5, United States Code, is amended—

(A) in subsection (b), by striking out "Except as provided in subsection (c)" and inserting in lieu thereof "Except as provided in subsections (c) and (h)"; and

(B) by adding at the end the following new subsection:

"(h)(1) Whenever, by law, there is a difference between the date on which a cost-of-living adjustment under this section is to take effect and the date on which a corresponding cost-of-living adjustment of the retired pay of members and former members of the uniformed services under section 1401a of title 10 is to take effect, then, notwithstanding subsection (b) and any other provision of law, the date on which the cost-of-living adjustment under this section takes effect shall be the earlier of the two dates.

"(2) Whenever, by law, there is a difference between the first month for which a cost-of-living adjustment taking effect under this section is payable and the first month for which a corresponding cost-of-living adjustment of the retired pay of members and former members of the uniformed services taking effect under section 1401a of title 10 is payable, then the first month for which the cost-of-living adjustment under this section is first payable shall (notwithstanding the effective date provided for such adjustment in subsection (b) of this section or in any other law) be the earlier of the two months.

"(3) For purposes of this subsection, a cost-of-living adjustment of the retired pay of members and former members of the uniformed services under section 1401a of title 10 corresponds to a cost-of-living adjustment under this section when, without regard to any provision of law other than subsection (b) of this section and section 1401a(b)(1) of title 10, the cost-of-living adjustments under this section and under section 1401a of title 10 would take effect on the same date.".

(2) Section 8462 of title 5, United States Code, is amended—

(A) in subsection (b)(1), by striking out "Except as provided in subsection (c)" and inserting in lieu thereof "Except as provided in subsections (c) and (f)"; and

(B) by adding at the end the following new subsection:

"(f)(1) Whenever, by law, there is a difference between the date on which a cost-of-living adjustment under this section is to take effect and the date on which a corresponding cost-of-living adjustment of the retired pay of members and former members of the uniformed services under section 1401a of title 10 is to take effect, then, notwithstanding subsection (b)(1) and any other provision of law, the date on which the cost-of-living adjustment under this section takes effect shall be the earlier of the two dates.

"(2) Whenever, by law, there is a difference between the first month for which a cost-of-living adjustment taking effect under this section is payable and the first month for which a corresponding cost-of-living adjustment of the retired pay of members and former members of the uniformed services taking effect under section 1401a of title 10 is payable, then the first month for which the cost-of-living adjustment under this section is first payable shall (notwithstanding the effective date provided for such adjustment in subsection (b)(1) of this section or in any other law) be the earlier of the two months.

"(3) For purposes of this subsection, a cost-of-living adjustment of the retired pay of members and former members of the uniformed services under section 1401a of title 10 corresponds to a cost-of-living adjustment under this section when, without regard to any provision of law other than subsection (b)(1) of this section and section 1401a(b)(1) of title 10, the cost-of-living adjustments under this section and under section 1401a of title 10 would take effect on the same date.".

(b) UNIFORMED SERVICES RETIRED PAY.—Section 1401a of title 10, United States Code, is amended—

(1) in subsection (b)(1), by inserting (except as provided in subsection (i))" after "Effective on December 1 of each year"; and

(2) by adding at the end the following new subsection:

"(i)(1) Whenever, by law, there is a difference between the date on which a cost-of-living adjustment under this section is to take effect and the date on which a corresponding cost-of-living adjustment of annuities of retired employees of the United States under section 8340 or 8462 of title 5 is to take effect, then, notwithstanding subsection (b) and any other provision of law, the date on which the cost-of-living adjustment under this section takes effect shall be the earlier (or earliest) such date.

"(2) Whenever, by law, there is a difference between the first month for which a cost-of-living adjustment taking effect under this section is payable and the first month for which a corresponding cost-of-living adjustment of annuities of retired employees of the United States taking effect under section 8340 or 8462 of title 5 is payable, then the first month for which the cost-of-living adjustment under this section is first payable shall (notwithstanding the effective date provided for such adjustment in subsection (b)(1) of this section or in any other law) be the earlier (or earliest) such month.

"(3) For purposes of this subsection, a cost-of-living adjustment of annuities of retired employees of the United States under section 8340 or 8462 of title 5 corresponds to a cost-of-living adjustment under this section when, without regard to any provision of law other than subsection (b)(1) of this section and sections 8340(b) and 8462(b)(1) of title 5, the cost-of-living adjustments under this section and under sections 8340 and 8462 of title 5 would take effect on the same date.".

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on October 1, 1998.

Subtitle E—Defense Conversion, Reinvestment, and Transition Assistance Matters

SEC. 641. ELIGIBILITY OF MEMBERS RETIRED UNDER TEMPORARY SPECIAL RETIREMENT AUTHORITY FOR SERVICEMEN'S GROUP LIFE INSURANCE.

(a) ELIGIBILITY.—Section 1965(5) of title 38, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (E); and

(3) by inserting after subparagraph (C) the following new subparagraph (D):

"(D) a person transferred to the Retired Reserve of a uniformed service under the temporary special retirement authority provided in section 1331a of title 10 who has not received the first increment of retirement pay or has not reached sixty-one years of age; and".

(b) INSURANCE COVERAGE.—Section 1967(a) of such title is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by adding "and" at the end of paragraph (3);

(3) by inserting after paragraph (3) the following:

"(4) any member assigned to the Retired Reserve of a uniform service who meets the qualifications set forth in section 1965(5)(D) of this title;"; and

(4) in the second sentence, by inserting after "section 1965(5)(C) of this title," the following: "or the first day a member of the

Reserves meets the qualifications of section 1965(5)(D) of this title,".

(c) DURATION OF COVERAGE.—Section 1968(a) of such title is amended—

(1) in the matter above paragraph (1), by striking out "section 1965(5)(B) or (C)" and inserting in lieu thereof "subparagraphs (B), (C), or (D) of section 1965(5)";

(2) in paragraph (4)—

(A) by striking out "or" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or"; and

(C) by adding at the end the following new subparagraph:

"(C) unless on the date of such separation or release the member is transferred to the Retired Reserve of a uniformed service under the temporary special retirement authority provided in section 1331a of title 10, in which event the insurance, unless converted to an individual policy under terms and conditions set forth in section 1977(e) of this title, shall, upon timely payment of premiums under terms prescribed by the Secretary directly to the administrative office established under section 1966(b) of this title, continue in force until receipt of the first increment of retirement pay by the member or the member's sixty-first birthday, whichever occurs earlier."; and

(3) by adding at the end the following:

"(6) with respect to a member of the Retired Reserve who meets the qualifications of section 1965(5)(D) of this title, at such time as the member receives the first increment of retirement pay, or the member's sixty-first birthday, whichever occurs earlier, subject to the timely payment of the initial and subsequent premiums, under terms prescribed by the Secretary, directly to the administrative office established under section 1966(b) of this title.".

(d) DEDUCTIONS.—Section 1969 of such title is amended—

(1) in subsection (a)(2)—

(A) by striking out "or is assigned" and inserting in lieu thereof "is assigned"; and

(B) by inserting after "section 1965(5)(C) of this title," the following: "or is assigned to the Retired Reserve and meets the qualifications of section 1965(5)(D) of this title,"; and

(2) in subsection (e), by striking out "section 1965(5)(C)" in the first sentence and inserting in lieu thereof "subparagraph (C) or (D) of section 1965(5)".

SEC. 642. ANNUAL PAYMENTS FOR MEMBERS RETIRED UNDER GUARD AND RESERVE TRANSITION INITIATIVE.

(a) ANNUAL PAYMENT FOR ONE TO FIVE YEARS.—Subsection (d) of section 4416 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 10 U.S.C. 1162 note) is amended—

(1) by striking out "for 5 years" and inserting in lieu thereof "for a period of years prescribed by the Secretary concerned";

(2) by striking out "5-year"; and

(3) by adding at the end the following: "A period prescribed for purposes of this subsection may not be less than one year nor more than five years.".

(b) COMPUTATION OF ANNUAL PAYMENT.—Subsection (e) of such section is amended by adding at the end the following:

"(3) In the case of a member who will attain 60 years of age within one year after the date on which an annual payment would otherwise be made to the member under this section, the amount of the payment made on that date shall be computed under this paragraph instead of paragraph (1). The amount of such payment shall be equal to $1/12$ of the product of—

"(A) the amount computed for the member under paragraph (1); and

"(B) the number equal to $1/30$ of the total number of days in the period beginning on such date and ending on the day before the date of the member's 60th birthday.".

(c) COORDINATION WITH RETIRED PAY.—Such section is further amended by adding at the end the following:

"(i) COORDINATION WITH RETIRED PAY.—Fifty percent of the monthly amount of retired pay payable under chapter 67 of this title to a member who receives one or more annual payments under this section shall be deducted and withheld from such monthly amount of retired pay. The deductions shall be terminated when the total amount so deducted and withheld equals the total amount paid to the member under this section. The amount deducted and withheld from the last monthly payment of retired pay before termination of deductions may be less than 50 percent of the monthly amount.".

SEC. 643. INCREASED ELIGIBILITY AND APPLICATION PERIODS FOR TROOPS-TO-TEACHERS PROGRAM.

(a) PERIOD OF ELIGIBILITY.—Subsection (c) of section 1151 of title 10, United States Code, is amended—

(1) in paragraph (1)(A), by striking out "seven-year period beginning on October 1, 1992," and inserting in lieu thereof "nine-year period beginning on October 1, 1990,"; and

(2) by striking out paragraph (4).

(b) APPLICATION PERIOD.—Subsection (e)(1) of such section is amended by striking out "submitted" in the first sentence and all that follows through the end of the second sentence and inserting in lieu thereof "timely submitted to the Secretary of Defense. An application is timely submitted if the application is submitted not later than the latest date applicable to the applicant under this paragraph. An application shall be submitted not later than one year after the date of the discharge or release of the applicant from active duty. In the case of an applicant discharged or released from active duty before January 19, 1994, an application shall be submitted not later than one year after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995. In the case of an applicant becoming educationally qualified for teacher placement assistance in accordance with subsection (c)(2), an application shall be submitted not later than one year after the date on which the applicant becomes educationally qualified.".

SEC. 644. ASSISTANCE FOR ELIGIBLE MEMBERS TO OBTAIN EMPLOYMENT WITH LAW ENFORCEMENT AGENCIES.

(a) REVISED PROGRAM AUTHORITY.—Section 1152 of title 10, United States Code, is amended to read as follows:

"§ 1152. Assistance to eligible members and former members to obtain employment with law enforcement agencies

"(a) PLACEMENT PROGRAM.—The Secretary of Defense may enter into an agreement with the Attorney General to establish or participate in a program to assist eligible members and former members of the armed forces to obtain employment as law enforcement officers with State law enforcement agencies, local law enforcement agencies, or Indian tribes that perform law enforcement functions (as determined by the Secretary of the Interior) following the discharge or release of such members or former members from active duty.

"(b) ELIGIBLE MEMBERS.—Any member or former member who, during the 6-year period beginning on October 1, 1993, is separated from the armed forces with an honorable discharge or is released from service on active duty characterized as honorable by the Secretary concerned shall be eligible to participate in a program covered by an agreement referred to in subsection (a).

"(c) SELECTION.—In the selection of applicants for participation in a program covered by an agreement referred to in subsection (a), preference shall be given to a member or former member who—

"(1) is selected for involuntary separation, is approved for separation under section 1174a or 1175 of this title, or retires pursuant to the authority provided in section 4403 of Public Law 102–484 (10 U.S.C. 1293 note); and

"(2) has a military occupational specialty, training, or experience related to law enforcement (such as service as a member of the military police) or satisfies such other criteria for selection as, in accordance with the agreement, the Secretary, the Attorney General, or a participating State or local law enforcement agency or participating Indian tribe may prescribe.

"(d) GRANTS TO FACILITATE EMPLOYMENT.—(1) The Secretary may provide funds to the Attorney General for grants under this section to reimburse State law enforcement agencies, local law enforcement agencies, or Indian tribes that perform law enforcement functions (as determined by the Secretary of the Interior) for costs, including salary and fringe benefits, of employing members or former members pursuant to a program referred to in subsection (a).

"(2) No grant with respect to an eligible member or former member may exceed a total of $50,000.

"(3) Any grant with respect to an eligible member or former member shall be disbursed within 5 years after the date of the placement of a member or former member with a participating law enforcement agency or Indian tribe.

"(4) Preference in awarding grants through existing law enforcement hiring programs shall be given to State or local law enforcement agencies or Indian tribes that agree to hire eligible members and former members.

"(e) ADMINISTRATIVE EXPENSES.—Ten percent of the amount, if any, appropriated for a fiscal year to carry out a program established pursuant to subsection (a) may be used to administer the program.

"(f) REQUIREMENT FOR APPROPRIATION.—No member or former member may be selected to participate in the program established by this section unless a sufficient amount of appropriated funds are available at the time of the selection to satisfy the obligations to be incurred by the United States under an agreement referred to in subsection (a) that applies with respect to such member or former member.".

(b) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 58 of title 10, United States Code, is amended to read as follows:

"1152. Assistance to eligible members and former members to obtain employment with law enforcement agencies.".

SEC. 645. TREATMENT OF RETIRED AND RETAINER PAY OF MEMBERS OF CADRE OF CIVILIAN COMMUNITY CORPS.

Section 159(c)(3) of the National and Community Service Act of 1990 (42 U.S.C. 12619(c)(3)) is amended by adding at the end the following: "In the case of a member of the permanent cadre who was recommended for appointment in accordance with section

162(a)(2)(A) and is entitled to retired or retainer pay, section 5532 of title 5, United States Code, shall not apply to reduce the member's retired or retainer pay by reason of the member being paid as a member of the cadre.''.

Subtitle F—Other Matters

SEC. 651. DISABILITY COVERAGE FOR OFFICER CANDIDATES GRANTED EXCESS LEAVE.

(a) Eligibility for Retirement.—Section 1201 of title 10, United States Code, is amended—

(1) by inserting ''(a) Members on Active Duty Entitled to Pay.—'' before ''Upon a determination''; and

(2) by adding at the end the following new subsection:

''(b) Members on Excess Leave.—(1) Upon a determination by the Secretary concerned that a member referred to in paragraph (2) is unfit to perform the duties of the member's office, grade, rank, or rating because of a physical disability incurred during a period described in such paragraph, the Secretary may retire the member, with retired pay computed under section 1401 of this title, if the Secretary also makes the determinations described in paragraphs (1), (2), and (3) of subsection (a) with regard to such member.

''(2) Paragraph (1) applies to a member of the armed forces who, during a period of authorized absence—

''(A) is participating in a program leading to appointment, designation, or assignment in the armed forces in an officer category; and

''(B) is not entitled to basic pay by reason of the application of section 502(b) of title 37 to such absence.''.

(b) Eligibility for Placement on Temporary Disability Retired List.—Section 1202 of such title is amended—

(1) by striking out ''or any other members'' and inserting in lieu thereof ''any other members''; and

(2) by inserting after ''more than 30 days,'' the following: ''or any member referred to in section 1201(b)(2) of this title''.

(c) Eligibility for Separation.—Section 1203 of such title is amended—

(1) by inserting ''(a) Members on Active Duty Entitled to Pay.—'' before ''Upon a determination'';

(2) by striking out the second sentence (relating to transfer to inactive status); and

(3) by adding at the end the following new subsections:

''(b) Members on Excess Leave.—Upon a determination by the Secretary concerned that a member referred to in paragraph (2) of section 1201(b) of this title is unfit to perform the duties of the member's office, grade, rank, or rating because of a physical disability incurred during a period described in such paragraph, the Secretary may separate the member, with severance pay computed under section 1212 of this title, if the Secretary also makes the determinations described in paragraphs (1), (2), (3), and (4) of subsection (a) with regard to such member.

''(c) Transfer to Inactive Status List.—If a member authorized to be separated under subsection (a) or (b) is eligible for transfer to the inactive status list under section 1209 of this title, and so elects, the member shall be transferred to that list instead of being separated.''.

(d) Conforming Amendments.—(1) Chapter 61 of title 10, United States Code, is amended—

(A) by striking out the heading of section 1201 and inserting in lieu thereof the following:

''§ 1201. Regulars, members on active duty for more than 30 days, certain members on excess leave: retirement'';

(B) by striking out the heading of section 1202 and inserting in lieu thereof the following:

''§ 1202. Regulars, members on active duty for more than 30 days, certain members on excess leave: temporary disability retired list'';

and

(C) by striking out the heading of section 1203 and inserting in lieu thereof the following:

''§ 1203. Regulars, members on active duty for more than 30 days, certain members on excess leave: separation''.

(2) The table of sections at the beginning of such chapter is amended by striking out the items relating to sections 1201, 1202, and 1203 and inserting in lieu thereof the following:

''1201. Regulars, members on active duty for more than 30 days, certain members on excess leave: retirement
''1202. Regulars, members on active duty for more than 30 days, certain members on excess leave: temporary disability retired list.
''1203. Regulars, members on active duty for more than 30 days, certain members on excess leave: separation.''.

(e) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act and apply with respect to physical disabilities incurred on or after such date.

SEC. 652. USE OF MORALE, WELFARE, AND RECREATION FACILITIES BY MEMBERS OF RESERVE COMPONENTS AND DEPENDENTS.

Section 1065 of title 10, United States Code, is amended to read as follows:

''§ 1065. Use of certain morale, welfare, and recreation facilities by members of reserve components and dependents

''(a) Members of the Selected Reserve.—Members of the Selected Reserve in good standing (as determined by the Secretary concerned) shall be permitted to use MWR retail facilities on the same basis as members on active duty.

''(b) Retirees Under Age 60.—Members of the reserve components who would be eligible for retired pay under chapter 67 of this title but for the fact that the member is under 60 years of age shall be permitted to use MWR retail facilities on the same basis as retired members and retired former members of the Regular Army, Regular Navy, Regular Air Force, and Regular Marine Corps.

''(c) Members of Ready Reserve Not in Selected Reserve.—Subject to such regulations as the Secretary of Defense may prescribe, members of the Ready Reserve (other than members of the Selected Reserve) may be permitted to use MWR retail facilities on the same basis as members serving on active duty.

''(d) Dependents.—(1) Dependents of members referred to in subsection (a) shall be permitted to use MWR retail facilities on the same basis as dependents of members on active duty.

''(2) Dependents of members referred to in subsection (b) shall be permitted to use MWR retail facilities on the same basis as dependents of retired members and retired former members of the Regular Army, Regular Navy, Regular Air Force, and Regular Marine Corps.

''(e) MWR Retail Facility Defined.—In this section, the term 'MWR retail facilities' means exchange stores and other revenue generating facilities operated by nonappropriated fund activities of the Department of Defense for the morale, welfare, and recreation of members of the armed forces.''.

SEC. 653. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR DEPARTMENT OF DEFENSE PERSONNEL OUTSIDE THE UNITED STATES.

(a) In General.—Chapter 53 of Title 10, United States Code, is amended by adding at the end the following new section:

''§ 1060a. Special supplemental food program

''(a) Authority.—The Secretary of Defense may carry out a program to provide special supplemental food benefits to members of the armed forces on duty at stations outside the United States (and its territories and possessions) and to eligible civilians serving with, employed by, or accompanying the armed forces outside the United States (and its territories and possessions).

''(b) Federal Payments and Commodities.—For the purpose of obtaining Federal payments and commodities in order to carry out the program referred to in subsection (a), the Secretary of Agriculture shall make available to the Secretary of Defense from funds appropriated for such purpose, the same payments and commodities as are made for the special supplemental food program in the United States under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

''(c) Program Administration.—(1)(A) The Secretary of Defense shall administer the program referred to in subsection (a) and, except as provided in subparagraph (B), shall determine eligibility for program benefits under the criterion published by the Secretary of Agriculture under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

''(B) The Secretary of Defense shall prescribe regulations governing computation of income eligibility standards for families of individuals participating in the program under this section.

''(2) The program benefits provided under the program shall be similar to benefits provided by State and local agencies in the United States.

''(d) Departure From Standards.—The Secretary of Defense may authorize departures from standards prescribed by the Secretary of Agriculture regarding the supplemental foods to be made available in the program when local conditions preclude strict compliance or when such compliance is highly impracticable.

''(e) Regulations.—The Secretary of Defense shall prescribe regulations to administer the program authorized by this section.

''(f) Definitions.—In this section:

''(1) The term 'eligible civilian' means—

''(A) a dependent of a member of the armed forces residing with the member outside the United States;

''(B) an employee of a military department who is a national of the United States and is residing outside the United States in connection with such individual's employment or a dependent of such individual residing with the employee outside the United States; or

''(C) an employee of a Department of Defense contractor who is a national of the United States and is residing outside the United States in connection with such individual's employment or a dependent of such individual residing with the employee outside the United States.

''(2) The term 'national of the United States' means—

"(A) a citizen of the United States; or

"(B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))).

"(3) The term 'dependent' has the meaning given such term in subparagraph (A), (D), (E), and (I) of section 1072(2) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 53 of title 10, United States Code, is amended by adding at the end the following new item:

"1060a. Special supplemental food program.".

SEC. 654. REIMBURSEMENT FOR CERTAIN LOSSES OF HOUSEHOLD EFFECTS CAUSED BY HOSTILE ACTION.

(a) AUTHORITY TO REIMBURSE.—Chapter 163 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2738. Reimbursement for certain losses of household effects caused by hostile action

"(a) AUTHORITY TO REIMBURSE.—The Secretary concerned or, subject to appeal to the Secretary, the Judge Advocate General of an armed force under the Secretary's jurisdiction, or the Chief Counsel of the Coast Guard, as appropriate, if designated by the Secretary, may reimburse a member of the armed forces in an amount not more than $100,000 for a loss described in subsection (b).

"(b) COVERED LOSSES.—This section applies with respect to a loss of household effects sustained during a move made incident to a change of permanent station when, as determined by the Secretary, the loss was caused by a hostile action incident to war or a warlike action by a military force.

"(c) LIMITATION.—The Secretary may provide reimbursement under this section for a loss described in subsection (b) only to the extent that the loss is not reimbursed under insurance or under the authority of another provision of law.

"(d) APPLICABILITY OF OTHER AUTHORITIES AND REQUIREMENTS.—Subsections (b), (d), (e), (f), and (g) of section 2733 of this title shall apply to a request for a reimbursement under this section as if the request were a claim against the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2738. Reimbursement for certain losses of household effects caused by hostile action.".

(c) EFFECTIVE DATE.—(1) Section 2738 of title 10, United States Code, as added by subsection (a), applies with respect to losses incurred after June 30, 1990.

(2) In the case of a loss incurred after June 30, 1990, and before the date of the enactment of this Act, a request for reimbursement shall be filed with the Secretary of the military department concerned not later than two years after such date of enactment.

SEC. 655. PAYMENT FOR TRANSIENT HOUSING FOR RESERVES PERFORMING CERTAIN TRAINING DUTY.

Section 404 of title 37, United States Code, is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following new subsection (j):

"(j)(1) In the case of a member of a reserve component performing annual training duty or inactive-duty training who is not otherwise entitled to travel and transportation allowances in connection with such duty under subsection (a) of this section, the Secretary concerned may reimburse the member for housing service charge expenses incurred by the member in occupying transient government housing during the performance of such duty.

"(2) Any payment or other benefit under this section shall be provided in accordance with regulations prescribed by the Secretaries concerned.

"(3) The Secretary may pay service charge expenses under paragraph (1) out of funds appropriated for operation and maintenance for the reserve component concerned.".

SEC. 656. STUDY OF OFFSET OF DISABILITY COMPENSATION BY RECEIPT OF SEPARATION BENEFITS AND INCENTIVES.

(a) STUDY.—(1) The Comptroller General shall carry out a study of the offset of the amount of disability compensation from the Department of Veterans Affairs that is received by an individual separated from the Armed Forces by the amount of any of the following benefits:

(A) Separation pay under section 1174 of title 10, United States Code.

(B) A special separation benefit under a special separation benefits program carried out under section 1174a(a) of such title.

(C) A voluntary separation incentive under section 1175 of such title.

(2) In carrying out the study, the Comptroller General shall—

(A) determine the purposes for the availability of the benefits referred to in paragraph (1);

(B) determine the justifications for the offset referred to in that paragraph;

(C) assess the effect of the offset by—

(i) determining the number of members of the Armed Forces who will separate from the Armed Forces during the period beginning on the date of the enactment of this Act and ending on September 30, 1999;

(ii) determining the number of such members who will be provided a benefit referred to in that paragraph, and the average amount of the benefit to be provided;

(iii) determining the number of such members who will be entitled to disability compensation from the Department of Veterans Affairs, and the average monthly amount of the compensation to which the members will be entitled; and

(iv) evaluating the extent, if any, to which the offset affects the capacity of members who are separated from the Armed Forces to meet financial obligations (including obligations relating to housing and medical care) of such members that arise as a result of the service of the members in the Armed Forces or the separation of such members from that service;

(D) determine the extent, if any, to which the offset of disability compensation by the amount of a benefit referred to in subparagraph (B) or (C) of paragraph (1) reduces the effectiveness of the benefits in meeting the purposes determined under subparagraph (A) of this paragraph; and

(E) determine the cost of the repeal of the offset.

(b) REPORT.—(1) The Comptroller General shall submit to the Committees on Armed Services and the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the results of the study required under subsection (a). The report shall include the recommendations of the Comptroller General on improvements to the provision of the benefits referred to in subsection (a)(1).

(2) The Comptroller General shall submit the report not later than 180 days after the date of the enactment of this Act.

TITLE VII—HEALTH CARE PROVISIONS

SEC. 701. REVISION OF DEFINITION OF DEPENDENTS TO INCLUDE YOUNG PEOPLE BEING ADOPTED BY MEMBERS OR FORMER MEMBERS.

(a) ELIGIBILITY FOR HEALTH BENEFITS.—Section 1072 of title 10, United States Code, is amended—

(1) in paragraph (2)(D), by striking out the matter above clause (i) and inserting in lieu thereof the following:

"(D) a child who—"; and

(2) by adding at the end the following new paragraph:

"(6) The term 'child', with respect to a member or former member of a uniformed service, means the following:

"(A) An unmarried natural child.

"(B) An unmarried adopted child.

"(C) An unmarried stepchild.

"(D) An unmarried person—

"(i) who is placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense) in anticipation of the legal adoption of the person by the member or former member; and

"(ii) who otherwise meets the requirements specified in paragraph (2)(D).".

(b) CONFORMING AMENDMENT.—Section 401(b)(1)(B) of title 37, United States Code, is amended by striking out "placement agency for the purpose of adoption" and inserting in lieu thereof "placement agency (recognized by the Secretary of Defense) in anticipation of the legal adoption of the child by the member".

SEC. 702. AVAILABILITY OF DEPENDENTS' DENTAL PROGRAM OUTSIDE THE UNITED STATES.

Section 1076a of title 10, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

"(g) CARE OUTSIDE THE UNITED STATES.—The Secretary shall exercise the authority provided under subsection (a) to establish basic dental benefit plans for providing dental benefits outside the United States for spouses and children of members of the uniformed services accompanying the members on permanent assignments to duty outside the United States.".

SEC. 703. CONDITIONS UNDER WHICH MEDICAL AND DENTAL CARE OF ABUSED DEPENDENTS IS AUTHORIZED.

Section 1076(e)(1)(A) of title 10, United States Code, is amended to read as follows:

"(A) a member of a uniformed service is convicted by a court-martial or a civil court for an offense involving abuse of a dependent of the member, as determined in accordance with regulations prescribed by the administering Secretary for such uniformed service, and—

"(i) in the case of a court-martial conviction, the member receives a dishonorable or bad-conduct discharge or is dismissed or administratively discharged from a uniformed service as a result of the conviction; or

"(ii) in the case of a civil court conviction, the member is administratively discharged from a uniformed service as a result of the conviction; and".

SEC. 704. COORDINATION OF BENEFITS WITH MEDICARE.

Section 1086(d) of title 10, United States Code, is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3)(A) Subject to subparagraph (B), if a person described in paragraph (2) receives medical or dental care for which payment may be made under medicare and a plan contracted for under subsection (a), the amount payable for that care under the plan shall be the amount equal to the excess of the total amount of the charges imposed by the provider or providers of such care over the sum of—

"(i) the amount paid for that care under medicare; and

"(ii) the total of all amounts paid or payable by third party payers other than medicare.

"(B) The amount payable for care under a plan pursuant to subparagraph (A) may not exceed the total amount that would be paid under the plan if payment for that care were made solely under the plan.

"(C) In this paragraph:

"(i) The term 'medicare' means title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

"(ii) The term 'third party payer' has the meaning given such term in section 1095(h)(1) of this title.".

SEC. 705. AUTHORITY FOR REIMBURSEMENT OF PROFESSIONAL LICENSE FEES UNDER RESOURCE SHARING AGREEMENTS.

Section 1096 of title 10, United States Code, is amended by adding at the end the following:

"(d) REIMBURSEMENT FOR LICENSE FEES.—In any case in which it is necessary for a member of the uniformed services to pay a professional license fee imposed by a government in order to provide health care services at a facility of a civilian health care provider pursuant to an agreement entered into under subsection (a), the Secretary of Defense may reimburse the member for up to $500 of the amount of the license fee paid by the member.".

SEC. 706. CHIROPRACTIC HEALTH CARE DEMONSTRATION PROGRAM.

(a) REQUIREMENT FOR PROGRAM.—(1) Not later than 120 days after the date of enactment of this Act, the Secretary of Defense, in consultation with the secretaries of the military departments, shall develop and carry out a demonstration program to evaluate the feasibility and advisability of furnishing chiropractic care through the medical care facilities of the Armed Forces.

(2) In carrying out the program, the Secretary of Defense shall—

(A) subject to paragraph (3), designate not less than 10 major military medical treatment facilities of the Department of Defense to furnish chiropractic care under the program; and

(B) enter into agreements with such number of chiropractors as the Secretary determines sufficient for the purposes of the program to furnish chiropractic care at such facilities under the program.

(3) The Secretary may not designate under paragraph (2) any treatment facility that is located on a military installation scheduled for closure or realignment under a base closure law.

(b) PROGRAM PERIOD.—The Secretary shall carry out the demonstration program in fiscal years 1995 through 1997.

(c) REPORTING REQUIREMENTS.—(1) Not later than January 30, 1995, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the demonstration program. The report shall—

(A) identify the treatment facilities designated pursuant to subsection (a)(2)(A); and

(B) include a discussion of the plan for the conduct of the program.

(2) Not later than May 1, 1995, the Secretary of Defense shall submit to the committees referred to in paragraph (1) a plan for evaluating the program, including a schedule for conducting progress reviews and for submitting a final report to the committees.

(3) The Secretary shall submit to the committees referred to in paragraph (1) a final report in accordance with the plan submitted to such committees pursuant to paragraph (2).

(d) OVERSIGHT ADVISORY COMMITTEE.—(1)(A) Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall establish an oversight advisory committee to assist and advise the Secretary with regard to the development and conduct of the demonstration program.

(B) The oversight advisory committee shall include the following members:m

(i) The Comptroller General of the United States, or a designee from within the General Accounting Office.

(ii) The Assistant Secretary of Defense for Health Affairs, or a designee.

(iii) The Surgeon General of the Army, or a designee.

(iv) The Surgeon General of the Navy, or a designee.

(v) The Surgeon General of the Air Force, or a designee.

(vi) Not fewer than four independent representatives of the chiropractic health care profession, appointed by the Secretary of Defense.

(2) The oversight advisory committee shall assist the Secretary of Defense regarding—

(A) issues involving the professional credentials of the chiropractors participating in the program;

(B) the granting of professional practice privileges for the chiropractors at the treatment facilities participating in the program;

(C) the preparation of the reports required under subsection (c); and

(D) the evaluation of the program.

(e) DEFINITION.—For purposes of this section, the term "base closure law" means each of the following:

(1) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(2) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(3) Section 2687 of title 10, United States Code.

SEC. 707. IMPLEMENTATION OF ANNUAL HEALTH CARE SURVEY REQUIREMENT.

Section 724 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2440; 10 U.S.C. 1071 note) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) EXEMPTION.—An annual survey under subsection (a) shall be treated as not a collection of information for the purposes for which such term is defined in section 3502(4) of title 44.".

SEC. 708. STUDY AND REPORT ON FINANCIAL RELIEF FOR CERTAIN MEDICARE-ELIGIBLE MILITARY RETIREES WHO INCUR MEDICARE LATE ENROLLMENT PENALTIES.

(a) STUDY.—The Secretary of Defense, in consultation with the Secretary of Health and Human Services, shall conduct a study regarding possible financial relief from late enrollment penalties for military retirees and dependents of such retirees who reside within the service area of a base closure site and who have failed to timely enroll in medicare part B due to reliance upon the military treatment facility located at such site.

(b) REPORT.—Not later than March 31, 1995, the Secretary of Defense shall report to Congress the results of the study under paragraph (1). Such report shall also—

(1) identify by base closure site the number of military retirees within a 65 mile catchment area who have failed to enroll in medicare part B and are subjected to late enrollment penalties;

(2) determine the estimated aggregate amount of the penalties by base closure site;

(3) describe the characteristics of the population that are subject to the penalties, such as age and income level;

(4) address the appropriateness of waiving such penalties;

(5) identify the Department of Defense funds that should be used to pay the penalties if waiving such penalties is not recommended;

(6) outline a program for a special medicare part B enrollment period for affected retirees living near bases already closed and bases which are designated for closure in the future; and

(7) include legislative recommendations for implementing a program which removes the financial burden from the medicare-eligible beneficiaries who have been or will be adversely impacted by base-closure actions.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "base closure" means a base closure under a base closure law (within the meaning given such term in section 2825(d) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 2687 note)).

(2) The term "medicare part B" means the public health insurance program under part B of title XVIII of the Social Security Act.

(3) The term "military treatment facility" means a facility of a uniformed service referred to in section 1074(a) of title 10, United States Code, in which health care is provided.

SEC. 709. ELIGIBILITY FOR PARTICIPATION IN DEMONSTRATION PROGRAMS FOR SALE OF PHARMACEUTICALS.

Subparagraph (B) of section 702(c)(2) of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1079 note) is amended to read as follows:

"(B) either—

"(i) resides in an area that is adversely affected (as determined by the Secretary) by the closure of a health care facility of the uniformed services as a result of the closure or realignment of the military installation at which such facility is located; or

"(ii) can demonstrate to the satisfaction of the Secretary that the person obtained pharmaceuticals at a health care facility referred to in clause (i) before the closure of the facility."

SEC. 710. COST ANALYSIS OF TIDEWATER TRICARE DELIVERY OF PEDIATRIC HEALTH CARE TO MILITARY FAMILIES.

(a) COST ANALYSIS REQUIRED.—Not later than July 1, 1995, the Assistant Secretary of Defense (Health Affairs) shall determine the amount of the expenditures made by the Department of Defense for pediatric care for each of fiscal years 1992, 1993, and 1994 under the program for delivery of health care services in the Tidewater region of Virginia carried out pursuant to section 712(b) of Public Law 102–190 (105 Stat. 1402). The Assistant Secretary shall determine the total amount of such expenditures and the amount of such expenditures for each case.

(b) USE OF ANALYSIS.—In establishing any managed care system involving the furnishing of pediatric care by the Department of Defense (including the furnishing of pediatric care under the Civilian Health and Medical Program of the Uniformed Services), the Assistant Secretary shall consider the amounts determined under subsection (a) in determining the appropriate standards, limitations, and requirements to apply to the cost of pediatric care under the system.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Use of Merit Based Selection Procedures

SEC. 801. POLICY FOR MERIT BASED AWARD OF CONTRACTS AND GRANTS.

(a) POLICY.—Section 2301 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) It is the policy of Congress that the Department of Defense should not be required by legislation to award a new contract or grant to a specific non-Federal Government entity. It is further the policy of Congress that any program, project, or technology identified in legislation be procured through merit-based selection procedures.

"(2) A provision of law may not be construed as requiring the Department of Defense to award a new contract or grant to a specific non-Federal Government entity unless that provision of law—

"(A) specifically refers to this subsection;

"(B) specifically identifies the particular non-Federal Government entity to be awarded the contract or grant; and

"(C) sets forth the national defense purpose to be fulfilled by requiring the department to award a new contract or grant to the specified non-Federal Government entity.

"(3) The head of an agency may not award a contract or make a grant pursuant to a provision of law that authorizes or requires the awarding of the contract or the making of the grant, as the case may be, in a manner that is inconsistent with the policy set forth in paragraph (1) until—

"(A) the Secretary of Defense submits to Congress a notice in writing of the intent to award such contract or to make such grant; and

"(B) a period of 180 days elapses after the date on which the notice is received by Congress.

"(4) For purposes of this subsection—

"(A) a contract is a new contract unless the work provided for in the contract is a continuation of the work provided for in a preceding contract; and

"(B) a grant is a new grant unless the work funded by the grant is substantially a continuation of the work for which funding is provided in a preceding grant.

"(4) Paragraph (3) does not apply to the Secretary of Transportation or the Administrator of the National Space and Aeronautics Administration.".

SEC. 802. CONTINUATION OF EXPIRING REQUIREMENT FOR ANNUAL REPORT ON THE USE OF COMPETITIVE PROCEDURES FOR AWARDING CERTAIN CONTRACTS TO COLLEGES AND UNIVERSITIES.

Paragraph (3) of section 2361(c) of title 10, United States Code, is repealed.

Subtitle B—Acquisition Assistance Programs

SEC. 811. PROCUREMENT TECHNICAL ASSISTANCE PROGRAMS.

(a) FUNDING.—Of the amount authorized to be appropriated under section 301(5), $12,000,000 shall be available for carrying out the provisions of chapter 142 of title 10, United States Code.

(b) SPECIFIC PROGRAMS.—Of the amounts made available pursuant to subsection (a), $600,000 shall be available for fiscal year 1995 for the purpose of carrying out programs sponsored by eligible entities referred to in subparagraph (D) of section 2411(1) of title 10, United States Code, that provide procurement technical assistance in distressed areas referred to in subparagraph (B) of section 2411(2) of such title. If there is an insufficient number of satisfactory proposals for cooperative agreements in such distressed areas to allow effective use of the funds made available in accordance with this subsection in such areas, the funds shall be allocated among the Defense Contract Administration Services regions in accordance with section 2415 of such title.

SEC. 812. PILOT MENTOR-PROTEGE PROGRAM.

Of the amounts authorized to be appropriated for fiscal year 1995 pursuant to title I of this Act, $50,000,000 shall be available for conducting the pilot Mentor-Protege Program established pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2301 note).

SEC. 813. INFRASTRUCTURE ASSISTANCE FOR HISTORICALLY BLACK COLLEGES AND OTHER MINORITY INSTITUTIONS OF HIGHER EDUCATION.

Of the amounts authorized to be appropriated for fiscal year 1995 pursuant to title II of this Act, $35,000,000 shall be available for such fiscal year for infrastructure assistance to historically Black colleges and universities and minority institutions under section 2323(c)(3) of title 10, United States Code.

SEC. 814. EXTENSION OF TEST PROGRAM FOR NEGOTIATION OF COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLANS.

Section 834(e) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (15 U.S.C. 637 note) is amended by striking out "September 30, 1994" in the second sentence and inserting in lieu thereof "September 30, 1998".

SEC. 815. LIMITATION REGARDING ACQUISITION ASSISTANCE REGULATIONS REQUIRED BY PUBLIC LAW 103-160 BUT NOT ISSUED.

(a) LIMITATION ON THE USE OF FUNDS.—None of the funds authorized to be appropriated by this Act that are made available for program element 65104D activities may be expended until the Secretary of Defense takes the actions required by the following provisions of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160):

(1) Section 811(d)(1), relating to regulations that address the matters described in subsections (g) and (h)(2) of section 2323 of title 10, United States Code.

(2) Section 813(b)(1), relating to the Department of Defense policy regarding the pilot Mentor-Protege Program.

(b) ACTIONS REQUIRED.—(1) With respect to the regulations referred to in subsection (a)(1), the Secretary shall—

(A) publish proposed regulations within 15 days after the date of the enactment of this Act in accordance with section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b);

(B) provide a period of not less than 60 days for public comment on the proposed regulations; and

(C) publish the final regulations not later than 120 days after the date of the enactment of this Act.

(2) With respect to the action referred to in subsection (a)(2), the Secretary shall ensure that—

(A) within 30 days after the date of the enactment of this Act, the Department of Defense policy regarding the pilot Mentor-Protege Program is incorporated into the Department of Defense Supplement to the Federal Acquisition Regulation as an appendix; and

(B) any subsequent revision to such policy (or any successor to such policy) is published and maintained in such supplement as an appendix.

(c) PROGRAM ELEMENT 65104D ACTIVITIES DEFINED.—For purposes of this section, the program element 65104D activities referred to in subsection (a) are the activities described as program element 65104D in the materials submitted to Congress by the Secretary of Defense in support of the budget for fiscal year 1995 that was submitted to Congress pursuant to section 1105(a) of title 31, United States Code.

SEC. 816. TREATMENT UNDER SUBCONTRACTING PLANS OF PURCHASES FROM QUALIFIED NONPROFIT AGENCIES FOR THE BLIND OR SEVERELY DISABLED.

(a) REVISION AND EXTENSION OF AUTHORITY.—Section 2410d of title 10, United States Code, relating to credit under small business subcontracting plans for certain purchases, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) by striking out "and" at the end of subparagraph (A);

(ii) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(iii) by adding at the end the following new subparagraph:

"(C) a central nonprofit agency designated by the Committee for Purchase from People Who Are Blind or Severely Disabled under section 2(c) of such Act (41 U.S.C. 47(c).";

(B) by striking out paragraph (3); and

(C) by redesignating paragraph (4) as paragraph (3); and

(2) in subsection (c), by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1997".

(b) CONFORMING AMENDMENT.—Section 2301(d) of such title is amended by striking out "approved commodities and services (as defined in such section)" and inserting in lieu thereof "commodities and services".

Subtitle C—Other Matters

SEC. 821. USE OF CERTAIN FUNDS PENDING SUBMISSION OF A NATIONAL TECHNOLOGY AND INDUSTRIAL BASE PERIODIC DEFENSE CAPABILITY ASSESSMENT AND A PERIODIC DEFENSE CAPABILITY PLAN.

(a) LIMITATION.—None of the funds authorized to be appropriated by this Act that are made available for program element 65104D activities may be expended until the Secretary of Defense submits to Congress—

(1) a national technology and industrial base periodic defense capability assessment required by section 2505 of title 10, United States Code; and

(2) and a periodic defense capability plan required by section 2506 of such title.

(b) PROGRAM ELEMENT 65104D ACTIVITIES DEFINED.—For purposes of this section, the program element 65104D activities referred to in subsection (a) are the activities described as program element 65104D in the materials submitted to Congress by the Secretary of Defense in support of the budget for fiscal year 1995 that was submitted to Congress pursuant to section 1105(a) of title 31, United States Code.

SEC. 822. DELEGATION OF INDUSTRIAL MOBILIZATION AUTHORITY.

Section 2538 of title 10, United States Code, is amended—

(1) by striking out "through the Secretary of Defense" each place it appears in subsections (a), (c), and (d) and inserting in lieu thereof "through the head of any department"; and

(2) in subsection (c)—

(A) by striking out "in the opinion of the Secretary of Defense" in the matter above paragraph (1) and inserting in lieu thereof "in the opinion of the head of any department"; and

(B) by striking out "Secretary" each place it appears in paragraphs (2) and (3) and inserting in lieu thereof "head of the department".

SEC. 823. PERMANENT AUTHORITY FOR THE DEPARTMENT OF DEFENSE TO SHARE EQUITABLY THE COSTS OF CLAIMS UNDER INTERNATIONAL ARMAMENTS COOPERATIVE PROGRAMS.

Subsection (c) of section 843 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2469; 10 U.S.C. 2350a note) is repealed.

SEC. 824. DETERMINATIONS OF PUBLIC INTEREST UNDER THE BUY AMERICAN ACT.

(a) Considerations.—Section 2533 of title 10, United States Code, is amended—

(1) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) In determining under section 2 of title III of the Act of March 3, 1993 (41 U.S.C. 10a), popularly known as the 'Buy American Act', whether application of title III of such Act is inconsistent with the public interest, the Secretary of Defense shall consider the following:

"(1) The bids or proposals of small business firms in the United States which have offered to furnish American goods.

"(2) The bids or proposals of all other firms in the United States which have offered to furnish American goods.

"(3) The United States balance of payments.

"(4) The cost of shipping goods which are other than American goods.

"(5) Any duty, tariff, or surcharge which may enter into the cost of using goods which are other than American goods.

"(6) Any need to coordinate acquisition activities of the Department of Defense with obligations contained in international agreements and with the acquisition activities of major United States allies.

"(7) A need to ensure that the Department of Defense has access to advanced state-of-the-art commercial technology.

"(8) A need to protect the national technology and industrial base and to provide for a defense mobilization base.

"(9) A need to ensure that application of different rules of origin for United States end items and foreign end items does not result in an award to a firm other than a firm providing a product produced in the United States.

"(10) Any need—

"(A) to maintain the same source of supply for spare and replacement parts for an end item that qualifies as an American good; or

"(B) to maintain the same source of supply for spare and replacement parts in order not to impair integration of the military and commercial industrial base.

"(11) The national security interests of the United States."; and

(2) by redesignating subsection (c) as subsection (b).

(b) Conforming and Clerical Amendments.—(1) The heading of section 2533 of such title is amended to read as follows:

"§ 2533. Determinations of public interest under the Buy American Act".

(2) The item relating to such section in the table of sections at the beginning of subchapter V of chapter 148 of such title is amended to read as follows:

"2533. Determinations of public interest under the Buy American Act.".

SEC. 825. DOCUMENTATION FOR AWARDS FOR COOPERATIVE AGREEMENTS OR OTHER TRANSACTIONS UNDER THE DEFENSE TECHNOLOGY REINVESTMENT PROGRAM.

At the time of the award for a cooperative agreement or other transaction under a program carried out under chapter 148 of title 10, United States Code, the head of the agency concerned shall include in the file pertaining to such agreement or transaction a brief explanation of the manner in which the award advances and enhances a particular national security objective set forth in section 2501(a) of such title or a particular policy objective set forth in section 2501(b) of such title.

SEC. 826. COMPTROLLER GENERAL ASSESSMENT OF EXTENT TO WHICH TECHNOLOGY AND INDUSTRIAL BASE PROGRAMS ATTAIN POLICY OBJECTIVES.

Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress an assessment of the extent to which awards for cooperative agreements and other transactions under programs carried out under chapter 148 of title 10, United States Code, have been made specifically to advance and enhance a particular national security objective set forth in section 2501(a) of such title or to achieve a particular policy objective set forth in section 2501(b) of such title.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—Secretarial Matters

SEC. 901. ADDITIONAL ASSISTANT SECRETARY OF DEFENSE.

(a) Establishment of Position.—Section 138(a) of title 10, United States Code, is amended by striking out "ten" and inserting in lieu thereof "eleven".

(b) Executive Level IV.—Section 5315 of title 5, United States Code, is amended by striking out "Assistant Secretaries of Defense (10)." and inserting in lieu thereof the following:

"Assistant Secretaries of Defense (11).".

SEC. 902. ORDER OF SUCCESSION TO SECRETARIES OF THE MILITARY DEPARTMENTS.

(a) Army.—Section 3017 of title 10, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The General Counsel of the Department of the Army.".

(b) Navy.—Section 5017 of such title is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The General Counsel of the Department of the Navy.".

(c) Air Force.—Section 8017 of such title is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The General Counsel of the Department of the Air Force.".

Subtitle B—Commission on Roles and Missions of the Armed Forces

SEC. 911. REVIEW OF RESERVE COMPONENTS.

Section 953(d) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1739) is amended—

(1) in subsection (d)—

(A) by striking out "and" at the end of paragraph (7);

(B) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new paragraph:

"(9) the role of the National Guard and the other reserve components.";

(2) in subsection (e)(3), by inserting after "Department of Defense" the following: ", including the National Guard and the other reserve components"; and

(3) by adding at the end the following new subsection:

"(h) Recommendations Concerning Reserve Components.—The Commission shall address the roles, missions, and functions of the reserve components within the total force of the armed forces, particularly in light of lower budgetary resources that will be available to the Department of Defense in the future. The Commission should employ or consult private citizens with extensive experience in matters concerning the National Guard and other reserve components.".

SEC. 912. SUPPORT BY FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

Section 957 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1741; 10 U.S.C. 111 note) is amended—

(1) by adding at the end the following new subsection:

"(f) Support From Federally Funded Research and Development Centers.—Upon the request of the chairman of the Commission, the Secretary of Defense shall make available to the Commission, without reimbursement, the services of one or more federally funded research and development centers covered by sponsoring agreements of the Department of Defense. The cost of the services made available pursuant to this subsection may not exceed $20,000,000."; and

(2) by striking out the section heading and inserting in lieu thereof the following:

"SEC. 957. PERSONNEL MATTERS; EXPERT SERVICES.".

SEC. 913. REVISION IN COMPOSITION OF COMMISSION.

(a) Revision.—Section 952(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 111 note; 107 Stat. 1738) is amended—

(1) in the first sentence of paragraph (1), by striking out "seven" and inserting in lieu thereof "eight"; and

(2) in paragraph (2)—

(A) by inserting "(A)" before "The Commission"; and

(B) by adding at the end the following new subparagraph:

"(B) The additional member of the Commission appointed under this paragraph after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995 shall have previous military experience and management experience with the reserve components.".

(b) Appointment.—The Secretary of Defense shall make the appointment required as a result of the amendments made by subsection (a) not later than 15 days after the date of the enactment of this Act.

Subtitle C—Other Matters

SEC. 921. COMPOSITION OF RESERVE FORCES POLICY BOARD.

Section 175(a) of title 10, United States Code, is amended—

(1) in paragraph (4), by striking out "or Regular Marine Corps" and inserting in lieu thereof "and an officer of the Regular Marine Corps each";

(2) by striking out "and" at the end of paragraph (8);

(3) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(4) by adding at the end the following:

"(10) an officer of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps serving in a position on the Joint Staff who is designated by the Chairman of the Joint Chiefs of Staff.".

SEC. 922. CONTINUATION OF UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

(a) CLOSURE PROHIBITED.—The Uniformed Services University of the Health Sciences may not be closed.

(b) BUDGETARY COMMITMENT TO CONTINUATION.—It is the sense of Congress that the Secretary of Defense should budget for the ongoing operation of the Uniformed Services University of the Health Sciences as an institution of professional education that is vital to the education and training each year of significant numbers of personnel of the uniformed services for careers as uniformed services health care providers.

(c) EVALUATION OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.—

(1) GAO REPORT.—By June 1, 1995, the Comptroller General of the United States shall submit to the appropriate Committees of the Congress a detailed report that—

(A) compares the cost of obtaining physicians from the Uniformed Services University of the Health Sciences with other sources of military physicians;

(B) assesses the retention rate needs of the military for physicians in relation to the respective retention rates of Uniformed Services University of the Health Sciences physicians and physicians obtained from other sources and the factors which contribute to retention rates among military physicians obtained from all sources;

(C) reviews the quality of the medical education provided at the Uniformed Services University of the Health Sciences with the quality of medical education provided by other sources of military physicians;

(D) reviews the overall issue of the special needs of military medicine and how these special needs are being met by Uniformed Services University of Health Sciences physicians and physicians obtained from other sources;

(E) assesses the extent to which the Uniformed Services University of the Health Sciences has responded to the 1990 report of the Inspector General of the Department of Defense and make recommendations as to resolution of any continuing issues relating to management and internal fiscal controls of the Uniformed Services University of the Health Sciences, including issues relating to the Henry M. Jackson Foundation for the Advancement of Military Medicine identified in the 1990 report; and

(F) makes such recommendations as the Comptroller General deems appropriate.

SEC. 923. JOINT DUTY CREDIT FOR CERTAIN DUTY PERFORMED DURING MILITARY OPERATIONS IN SUPPORT OF UNIFIED, COMBINED, OR UNITED NATIONS MILITARY OPERATIONS.

(a) CREDIT AUTHORIZED.—Section 664 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(i) SPECIAL AUTHORITY.—(1) The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, may give an officer who has completed service described in paragraph (2) credit for having completed a full tour of duty in a joint duty assignment, or credit countable for determining cumulative service in joint duty assignments, for the purposes of any provision of this title, notwithstanding the length of such service or whether such service is within the definition of the term 'joint duty assignment' prescribed pursuant to section 668 of this title.

"(2) Service referred to in paragraph (1) is service performed by an officer in combat or combat related military operations, under the operational control of the commander of a unified combatant command, the commander of combined forces of allied nations, or the United Nations, in which the officer gained significant experience in joint matters, as determined by the Secretary.

"(3) Officers for whom joint duty credit is granted pursuant to this subsection—

"(A) shall not be counted for the purposes of paragraphs (7), (8), (9), (11), or (12) of section 667 of this title and subsections (a)(3) and (b) of section 662 of this title; and

"(B) are not subject to the requirements of section 661(c) of this title relating to the sequence for completion of a joint professional military education school, completion of a full tour of duty in a joint duty assignment, and selection for a joint specialty.".

(b) APPLICABILITY.—Subsection (i) of section 664 of title 10, United States Code, as added by subsection (a), shall apply with respect to military operations conducted after July 1, 1992.

SEC. 924. ASSISTANCE FOR CERTAIN WORKERS DISLOCATED DUE TO REDUCTIONS BY THE UNITED STATES IN THE EXPORT OF DEFENSE ARTICLES AND SERVICES.

(a) ASSISTANCE UNDER DEFENSE CONVERSION ADJUSTMENT PROGRAM.—Section 325 of the Job Training Partnership Act (29 U.S.C. 1662d) is amended—

(1) in subsection (a)—

(A) by striking out "or by closures of United States military facilities" in the first sentence and inserting in lieu thereof ", by closures of United States military facilities, or by reductions in the export of defense articles and defense services as a result of United States policy (including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements)"; and

(B) by striking out "or by closures of United States military facilities" in the second sentence and inserting in lieu thereof ", by closures of United States military facilities, or by reductions in the export of defense articles and defense services as a result of United States policy";

(2) in subsection (d), by striking out "or by the closure of United States military installations" and inserting in lieu thereof ", by closures of United States military facilities, or by reductions in the export of defense articles and defense services as a result of United States policy (including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements)"; and

(3) by adding at the end the following new subsection:

"(f) DEFINITION.—For purposes of this section, the term 'defense articles and defense services' means defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).".

(b) ASSISTANCE UNDER DEFENSE DIVERSIFICATION PROGRAM.—Section 325A of the Job Training Partnership Act (29 U.S.C. 1662d-1) is amended—

(1) in subsection (b)(3)(A), by striking out "or the closure or realignment of a military installation" and inserting in lieu thereof ", the closure or realignment of a military installation, or reductions in the export of defense articles and defense services as a result of United States policy (including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements)";

(2) in subsection (k)(1), by striking out "or by the closure of United States military installations" and inserting in lieu thereof ", the closure of United States military installations, or reductions in the export of defense articles and defense services as a result of United States policy (including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements)"; and

(3) in subsection (o), by adding at the end the following new paragraph:

"(3) DEFENSE ARTICLES AND DEFENSE SERVICES.—The term 'defense articles and defense services' means defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).".

Subtitle D—Professional Military Education

SEC. 931. AUTHORITY FOR MARINE CORPS UNIVERSITY TO AWARD THE DEGREE OF MASTER OF MILITARY STUDIES.

(a) AUTHORITY TO AWARD.—(1) Chapter 609 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 7102. Marine Corps University: master of military studies

"(a) AUTHORITY.—Upon the recommendation of the Director and faculty of the Marine Corps Command and Staff College, the President of the Marine Corps University may confer the degree of master of military studies upon graduates of the college who fulfill the requirements for the degree.

"(b) REGULATIONS.—The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of the Navy.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7102. Marine Corps University: master of military studies.".

(b) EFFECTIVE DATE.—The authority provided by section 7102(a) of title 10, United States Code, as added by subsection (a), shall become effective on the date on which the Secretary of Education determines that the requirements established by the Command and Staff College of the Marine Corps University for the degree of master of military studies are in accordance with generally applicable requirements for a degree of master of arts.

SEC. 932. BOARD OF ADVISORS OF MARINE CORPS UNIVERSITY.

(a) BOARD.—(1) Chapter 609 of title 10, United States Code, as amended by section 931, is further amended by adding at the end the following new section:

"§7103. Marine Corps University: Board of Advisors

"(a) IN GENERAL.—A Board of Advisors to the President of the Marine Corps University is constituted annually of—

"(1) the chairman of the Committee on Armed Services of the Senate, or the designee of the chairman; and

"(2) six persons designated by the Secretary of the Navy.

"(b) TERMS.—(1) The persons designated by the Secretary of the Navy shall serve for 3 years each except that any member whose term of office has expired shall continue to serve until the successor to the member is designated.

"(2) Members may be reappointed for one or more successive terms.

"(3) If a member of the Board dies or resigns, the official who designated that member shall designate a successor to serve for the unexpired portion of the term of the member.

"(c) VISITS.—The Board shall visit the Marine Corps University semiannually upon the call of the President of the Marine Corps University. With the approval of the President of the University, the Board, or any of its members, may make other visits to the University in connection with the duties of the Board or to consult with the President of the University.".

(2) The table of sections at the beginning of such chapter, as amended by section 931, is further amended by adding at the end the following new item:

"7103. Marine Corps University: Board of Advisors.".

(b) INITIAL DESIGNATIONS OF MEMBERS.—Of the members of the Board of Advisors of the Marine Corps University initially designated under section 7103(a)(2) of title 10, United States Code, as added by subsection (a)—

(1) two shall be designated for a term of 3 years;

(2) two shall be designated for a term of 2 years; and

(3) two shall be designated for a term of 1 year.

SEC. 933. AUTHORITY FOR AIR UNIVERSITY TO AWARD THE DEGREE OF MASTER OF AIRPOWER ART AND SCIENCE.

(a) AUTHORITY TO AWARD.—(1) Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

"§9317. Air University: master of airpower art and science

"(a) AUTHORITY.—Upon the recommendation of the faculty of the School of Advanced Airpower Studies of the Air University, the Commander of the university may confer the degree of master of airpower art and science upon graduates of the school who fulfill the requirements for the degree.

"(b) REGULATIONS.—The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of the Air Force.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9317. Air University: master of airpower art and science.".

(b) EFFECTIVE DATE.—The authority provided by section 9317(a) of title 10, United States Code, as added by subsection (a), shall become effective on the date on which the Secretary of Education determines that the requirements established by the School of Advanced Airpower Studies of the Air University for the degree of master of airpower art and science are in accordance with generally applicable requirements for a degree of master of arts or a degree of master of science.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1995 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $2,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

SEC. 1002. EMERGENCY SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1994.

There is authorized to be appropriated as emergency supplemental appropriations for fiscal year 1994 for the incremental costs arising from ongoing United States operations in Somalia, Bosnia, Southwest Asia, and Haiti, $1,198,300,000 as follows:

(1) For Military Personnel:

(A) For the Army, $6,600,000.

(B) For the Navy, $19,400,000.

(C) For the Air Force, $18,400,000.

(2) For Operation and Maintenance:

(A) For the Army, $420,100,000.

(B) For the Navy, $104,800,000.

(C) For the Air Force, $560,100,000.

(D) For Defense-wide activities, $21,600,000.

(3) For Procurement:

(A) For Aircraft Procurement, Army, $20,300,000.

(B) For Other Procurement, Army, $200,000.

(C) For Other Procurement, Air Force, $26,800,000.

SEC. 1003. DATE FOR SUBMISSION OF FUTURE-YEARS MISSION BUDGET.

Section 222(a) of title 10, United States Code, is amended by striking out "at the same time" in the second sentence and inserting in lieu thereof "not later than 60 days after the date on which".

SEC. 1004. SUBMISSION OF FUTURE-YEARS DEFENSE PROGRAM IN ACCORDANCE WITH LAW.

If, as of the end of the 90-day period beginning on the date on which the President's budget for fiscal year 1996 is submitted to Congress, the Secretary of Defense has not submitted to Congress the fiscal year 1996 future-years defense program and, after consultation with the Inspector General of the Department of Defense, a certification that such program satisfies the requirements of section 221(b) of title 10, United States Code, then during the 30-day period beginning on the last day of such 90-day period the Secretary may not obligate more than 10 percent of the fiscal year 1995 advance procurement funds that are available for obligation as of the end of that 90-day period. If, as of the end of such 30-day period, the Secretary of Defense has not submitted to Congress the fiscal year 1996 future-years defense program together with such a certification, then the Secretary may not make any further obligation of fiscal year 1995 advance procurement funds until such program and certification are submitted to Congress. If the Secretary submits to Congress the fiscal year 1996 future-years defense program, together with such a certification, during the 30-day period described in the first sentence, the limitation on obligation of advance procurement funds prescribed in that sentence shall cease to apply effective as of the date of the submission of such program and certification.

Subtitle B—Matters Relating to Allies and Other Nations

SEC. 1011. REPEAL OF LIMITATION ON OVERSEAS MILITARY END STRENGTH.

Section 1302 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2545; 10 U.S.C. 113 note) is repealed.

SEC. 1012. AUTHORIZED END STRENGTH FOR MILITARY PERSONNEL IN EUROPE.

(a) END STRENGTH.—Paragraph (1) of section 1002(c) of the National Defense Authorization Act, 1985 (22 U.S.C. 1928 note) is amended to read as follows:

"(1) The end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO may not exceed a permanent ceiling of approximately 100,000 in any fiscal year.

"(2) Notwithstanding paragraph (1), the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO may exceed 100,000 in a fiscal year if, before September 1 of that fiscal year, the President certifies to Congress that it is essential for the end strength level to exceed 100,000 in that fiscal year in order to attain national security objectives of the United States in Europe and that the number of personnel in excess of 100,000 does not exceed the number of additional personnel necessary to attain such objectives. In no event may the end strength level exceed 113,000 in any fiscal year.".

(b) CONFORMING AMENDMENT.—Section 1303 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2546) is repealed.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1995.

SEC. 1013. EXTENSION AND REVISION OF AUTHORITIES RELATING TO COOPERATIVE THREAT REDUCTION.

(a) FUNDING FOR FISCAL YEAR 1995.—Funds authorized to be appropriated under section 301(19) shall be available for cooperative threat reduction with states of the former Soviet Union under the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160; 22 U.S.C. 5951 et seq.).

(b) SEMI-ANNUAL REPORTS.—Section 1207 of such Act (22 U.S.C. 5956) is amended by striking out "and not later than October 30, 1994," and inserting in lieu thereof "October 30, 1994, April 30, 1995, and October 30, 1995,".

SEC. 1014. DEFENSE COOPERATION BETWEEN THE UNITED STATES AND ISRAEL.

(a) FINDINGS.—Congress makes the following findings:

(1) The President has made a commitment to maintaining the qualitative superiority of the Israeli Defense Force over any potential combination of potential adversaries.

(2) Despite the peace process in which Israel is engaged, Israel continues to face difficult threats to its national security.

(3) The threats are compounded by the proliferation of weapons of mass destruction and ballistic missiles.

(4) Congress recognizes the many benefits to the United States resulting from the strategic relationship that exists between the United States and Israel.

(5) Congress is supportive of the objective of the President to enhance United States-Israel military and technical cooperation, particularly in the areas of missile defense and counter-proliferation.

(6) Congress is supportive of the establishment of the United States-Israel Science and Technology Commission in 1993.

(7) Maintaining the qualitative superiority of the Israeli Defense Force and strengthening the defense ties and science and technology cooperation between the United States and Israel will help ensure that Israel has the military strength and political support necessary to take risks for peace while providing Arab states with an incentive to pursue negotiations instead of war.

(8) Israel continues to cooperate with the United States on numerous theater missile defense programs, including the Arrow Tactical Anti-Missile program and the boost phase intercept technology program.

(9) It is in the national interests of the United States and Israel to strengthen existing mechanisms for cooperation and to eliminate unnecessary barriers to further collaboration between the United States and Israel.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Congress—

(1) encourages the President to ensure that any conventional defense system or technology offered for release to any NATO or other major non-NATO ally should concurrently be available for purchase by Israel unless such action would contravene United States national interests; and

(2) urges the President to make available to Israel, within existing technology transfer laws, regulations, and policies, advanced United States technology necessary for continued progress in cooperative United States-Israel research and development of theater missile defenses.

SEC. 1015. MILITARY-TO-MILITARY CONTACTS AND COMPARABLE ACTIVITIES.

(a) ACTIVITIES AUTHORIZED.—(1) Chapter 6 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 166b. Military-to-military contacts and comparable activities

"(a) AUTHORITY.—The Secretary of Defense may conduct military-to-military contacts and comparable activities that are designed to encourage a democratic orientation of defense establishments and military forces of other countries.

"(b) ADMINISTRATION.—The Secretary may provide funds appropriated for carrying out subsection (a) to the following officials for use as provided in subsection (c):

"(1) The commander of a combatant command, upon the request of the commander.

"(2) An officer designated by the Chairman of the Joint Chiefs of Staff, with respect to an area or areas not under the area of responsibility of a commander of a combatant command.

"(3) The head of any Department of Defense component.

"(c) AUTHORIZED ACTIVITIES.—An official provided funds under subsection (b) may use such funds for the following activities and expenses:

"(1) The activities of traveling contact teams, including any transportation expenses, translation services expenses, and administrative expenses that are related to such activities.

"(2) The activities of military liaison teams.

"(3) Exchanges of—

"(A) civilian or military personnel between the Department of Defense and defense ministries of foreign governments; and

"(B) military personnel between units of the armed forces and units of foreign armed forces.

"(4) Seminars and conferences held primarily in a theater of operations.

"(5) Distribution of publications primarily in a theater of operations.

"(6) Personnel expenses for Department of Defense civilian and military personnel to the extent that such expenses relate to participation in activities described in paragraphs (3), (4), and (5).

"(7) Reimbursement of military personnel appropriations accounts for the pay and allowances paid to National Guard personnel and other reserve components personnel for service while engaged in activities referred to in other paragraphs of this subsection.

"(d) RELATIONSHIP TO OTHER FUNDING.—Any amount provided during any fiscal year to an official under subsection (b) for activities or expenses referred to in subsection (c) shall be in addition to amounts otherwise available for such activities and expenses for that fiscal year.

"(e) LIMITATIONS.—(1) Funds may not be provided under this section for a fiscal year for any activity for which—

"(A) funding was proposed in the budget submitted to Congress for such fiscal year pursuant to section 1105(a) of title 31; and

"(B) Congress did not authorize appropriations.

"(2) An activity may not be conducted under this section with a foreign country unless the Secretary of State approves the conduct of such activity in that foreign country.

"(3) Funds may not be provided under this section for a fiscal year for any country which was not eligible in that fiscal year for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961.

"(4) Funds may not be used under this section for the provision of military education or training, defense articles, or defense services to any country.

"(f) MILITARY-TO-MILITARY CONTACTS DEFINED.—In this section, the term 'military-to-military contacts' means contacts between members of the armed forces and members of foreign armed forces through activities described in subsection (c).".

(2) The table of sections at the beginning of chapter 6 of such title is amended by adding at the end the following new item:

"166b. Military-to-military contacts and comparable activities.".

(b) FUNDING.—Of the amount authorized to be appropriated under section 301(5) for operation and maintenance for Defense-wide activities, $46,300,000 shall be available to the Secretary of Defense for the purposes of carrying out activities under section 166b of title 10, United States Code, as added by subsection (a).

SEC. 1016. FOREIGN DISASTER RELIEF.

(a) AUTHORITY.—(1) Subchapter I of chapter 20 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 404. Foreign disaster relief

"(a) IN GENERAL.—The President may conduct disaster relief activities outside the United States to respond to manmade or natural disasters when necessary to prevent loss of lives.

"(b) FORMS OF ASSISTANCE.—Assistance provided under this section may include transportation, supplies, services, and equipment.

"(c) DETERMINATION REQUIRED.—No assistance may be furnished pursuant to this section unless the President determines that the provision of disaster relief is in the national interest of the United States and is necessary to prevent loss of lives.

"(d) REPORT REQUIRED.—Not later than 48 hours after the commencement of disaster relief activities, the President shall transmit to the Congress a report containing the determination required by subsection (c) and a description of the following:

"(1) The manmade or natural disaster for which disaster relief is necessary.

"(2) The threat to human lives presented by the disaster.

"(3) The United States military personnel and material resources that are involved or expected to be involved.

"(4) The disaster relief that is being provided or is expected to be provided by other nations or public or private relief organizations.

"(5) The anticipated duration of the disaster relief activities.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following:

"404. Foreign disaster relief.".

(b) FUNDING OF ACTIVITIES.—Of the amount authorized to be appropriated under subsection 301(5), $46,300,000 shall be available to the Secretary of Defense for the purpose of carrying out disaster relief activities under section 404 of title 10, United States Code, as added by subsection (a).

SEC. 1017. BURDENSHARING POLICY AND REPORT.

(a) POLICY.—It is the policy of the United States that the North Atlantic Treaty Organization (NATO) allies should assist the United States in paying the incremental cost incurred by the United States for maintaining members of the Armed Forces in assignments to permanent duty ashore in Europe solely for performing United States obligations for support of NATO.

(b) IMPLEMENTATION.—The President shall take all necessary actions to ensure the effective implementation of the burdensharing policy set forth in subsection (a).

(c) REPORT.—The Secretary of Defense shall include in the annual burdensharing report required by section 1002(d) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note) the following matters:

(1) A specific enumeration and description of the United States military resources and military personnel assigned to permanent duty ashore in Europe primarily in support

of NATO and an analysis of the cost of providing and maintaining such resources and personnel in such assignment primarily for that purpose.

(2) A specific enumeration and description of the United States military resources and military personnel assigned to permanent duty ashore in Europe primarily in support of other United States interests in other regions of the world and an analysis of the cost of providing and maintaining such resources and personnel in such assignment primarily for that purpose.

(3) A specific enumeration and description of the offsets to United States costs of providing and maintaining United States military resources and military personnel in Europe that the United States has previously received from other NATO member nations, set out by country and by type of assistance, including both "in-kind" assistance and direct cash reimbursement, and the projected offsets for the five fiscal years following the fiscal year in which the report is submitted.

(4) A detailed identification of the costs associated with maintaining United States military personnel in assignments to permanent duty ashore in Europe for NATO and the difference in cost that would result from stationing such personnel at military bases within the United States and continuing to assign to such personnel the mission to perform United States obligations under NATO.

(5) A comparison of the defense spending by each NATO member country as a percentage of Gross Domestic Product (GDP) beginning in 1985 and the projected future defense spending as a percentage of Gross Domestic Product through 2000.

(6) A review of all actions taken by the United States to ensure the effective implementation of the United States burdensharing policy set forth in subsection (a).

(d) INCREMENTAL COST DEFINED.—In this section, the term "incremental cost", with respect to maintaining members of the Armed Forces in assignments to permanent duty ashore in Europe, includes the cost of transportation to and from duty stations in Europe, any variation in the cost of housing and food as compared to the cost of housing and food for members of the Armed Forces stationed in the United States, and any additional expenditures associated with infrastructure necessary to support United States forces in Europe.

SEC. 1018. REVIEW AND REPORT REGARDING DEPARTMENT OF DEFENSE PROGRAMS RELATING TO REGIONAL SECURITY AND HOST NATION DEVELOPMENT IN THE WESTERN HEMISPHERE.

(a) FINDINGS.—Congress makes the following findings:

(1) The political environment in the Western Hemisphere has been characterized in recent years by significant democratic advances and an absence of international strife; but democracy is fragile in some nations of the region.

(2) It is desirable for the Department of Defense to perform a positive role in influencing regional armed forces to make positive contributions to the democratic process and to domestic development programs.

(3) Congress receives a number of annual reports relating to specific authorities granted to the Secretary of Defense under title 10, United States Code, such as the authorities relating to the conduct of bilateral or regional cooperation programs under section 1051, participation of developing countries in combined exercises under section 2110, and the training of special operations forces with friendly forces under section 2011.

(4) The annual reports are replete with statistics and dollar figures and generally lacking in substance.

(5) Congress does not receive annual reports with respect to other authorities of the Secretary of Defense, such as that relating to Latin American cooperation under section 1050 of title 10, United States Code.

(6) Testimony before Congress, including in particular the testimony of the Commander in Chief, United States Southern Command, and the Commander in Chief, United States Atlantic Command, has emphasized the conduct of a large number of complementary programs under the leadership and supervision of those two commanders to foster appropriate military roles in democratic host nations and to assist countries in developing forces properly trained to address their security needs, including needs regarding illegal immigration, insurgencies, smuggling of illegal arms, munitions, and explosives across borders, and drug trafficking.

(7) Most of the programs referred to in paragraph (6) provide excellent and often unique training and experience to the United States forces involved.

(8) The expansion of the military-to-military contact program to the Western Hemisphere will provide another tool to encourage a democratic orientation of the defense establishments and military forces of countries in the region.

(9) There is a need to conduct a comprehensive review of the several authorities in title 10, United States Code, for the Secretary of Defense to engage in cooperative regional security programs with other countries in the Western Hemisphere in order to determine whether the authorities continue to be appropriate and necessary, particularly in the light of the changed circumstances in the region.

(10) There is a need to conduct a comprehensive review of the various programs carried out pursuant to such authorities to ensure that such programs are designed to meet the needs of the host nations involved and the regional objectives of the United States.

(11) There is a need to assess the strengths and weaknesses of the various regional security organizations, defense forums, and defense education institutions in the Western Hemisphere in order to identify any improvements needed to harmonize the defense policies of the United States and those of friendly nations of the region.

(b) REPORT REQUIRED.—Not later than May 1, 1995, the Secretary of Defense, shall—

(1) carry out a comprehensive review and assessment of the matters referred to in paragraphs (9), (10), and (11) of subsection (a); and

(2) after consultation with the Chairman of the Joint Chiefs of Staff and the commanders of the combatant commands responsible for regions in the Western Hemisphere, submit to the Committees on Armed Services of the Senate and House of Representatives a report on regional defense matters.

(c) CONTENT OF REPORT.—The report shall contain a detailed and comprehensive description, discussion, and analysis of the following matters:

(1) The Department of Defense plan to support United States strategic objectives in the Western Hemisphere.

(2) The external and internal threats to the national security of the nations of the region.

(3) The various regional security cooperative programs carried out by the Department of Defense in the region in 1994, including training and education programs in the host nations and in the United States and defense contacts set forth on a country-by-country basis, the statutory authority, if any, for such programs, and the strategic objectives served.

(4) The various regional security organizations, defense forums, and defense education institutions that the United States maintains or in which the United States participates.

(5) An assessment of the contribution that such programs, defense contacts, organizations, forums, and institutions make to the advancement of regional security, host nation security and national development, and the strategic objectives of the United States.

(6) The changes made or to be made in the programs, organizations, forums, and institutions as a result of the comprehensive review.

(7) Any recommended legislation considered necessary to improve the ability of the Department to achieve its strategic objectives.

(d) CLASSIFICATION OF REPORT.—The report shall be submitted in an unclassified form and may, if necessary, have a classified supplement.

SEC. 1019. PAYMENTS-IN-KIND FOR RELEASE OF UNITED STATES OVERSEAS MILITARY FACILITIES TO NATO HOST COUNTRIES.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States has invested $6,500,000,000 in military infrastructure in North Atlantic Treaty Organization (NATO) countries.

(2) As part of an overall plan to reduce United States troop strength in Europe from 323,432 in 1987 to 100,000 by the end of 1996, the Department of Defense plans to close or reduce United States military presence at 867 military sites overseas.

(3) Most of the overseas military sites announced for closure are in Europe where the United States has already closed 434 such sites.

(4) When the United States closes military sites in Europe, the United States brings the military personnel home but leaves buildings, roads, sewers, and other real property improvements behind.

(5) Some allies have agreed to pay the United States for the residual value of the real property improvements left behind.

(6) Although the United States military drawdown has been rapid since 1990, European allies have been slow to pay the United States the residual value of the sites released by the United States.

(7) As of 1994, the United States has recouped only $33,300,000 in cash, and most of that was recovered in 1989.

(8) Although the United States has released to Germany over 60 percent of the military sites planned for closure by the United States in that country and the current value of United States facilities to be returned to the German government is estimated at approximately $2,700,000,000, the German government has budgeted only $25,000,000 for fiscal year 1994 for payment of compensation for the United States investment in such improvements.

(b) POLICY.—It is the sense of Congress that—

(1) the President should redouble efforts to recover the value of the United States investment in the military infrastructure of NATO countries;

(2) the President should enter into negotiations with the government of each NATO

host country with a presumption that payments to compensate the United States for the negotiated value of improvements will be made in cash and deposited in the Department of Defense Overseas Military Facility Investment Recovery Account;

(3) the President should enter into negotiations for payments-in-kind only as a last resort and only after informing the Congress that negotiations for cash payments have not been successful; and

(4) to the extent that in-kind contributions are received in lieu of cash payments in any fiscal year, the in-kind contributions should be used for projects which are identified priorities of the Department of Defense.

(c) REQUIREMENTS AND LIMITATIONS RELATING TO PAYMENTS-IN-KIND.—(1) Subsection (e) of section 2921 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2687 note) is amended—

(A) by inserting "(1)" after "NEGOTIATIONS FOR PAYMENTS-IN-KIND.—";

(B) by striking out "a written notice" and all that follows and inserting in lieu thereof "to the congressional defense committees (and one additional copy to each of the Subcommittees on Defense of the Committees on Appropriations of the Senate and the House of Representatives) a written notice regarding the intended negotiations."; and

(C) by adding at the end the following new paragraph:

"(2) The notice shall contain the following:

"(A) A justification for entering into negotiations for payments-in-kind with the host country.

"(B) The types of benefit options to be pursued by the Secretary in the negotiations.

"(C) A discussion of the adjustments that are intended to be made in the future-years defense program or in the budget of the Department of Defense for the fiscal year in which the notice is submitted or the following fiscal year in order to reflect costs that it may no longer be necessary for the United States to incur as a result of the payments-in-kind to be sought in the negotiations.".

(2) Such section is amended by adding at the end the following new subsection:

"(h) CONGRESSIONAL OVERSIGHT OF PAYMENTS-IN-KIND.—(1) Not less than 30 days before concluding an agreement for acceptance of military construction or facility improvements as a payment-in-kind, the Secretary of Defense shall submit to Congress a notification on the proposed agreement that contains the following matters:

"(A) A description of the military construction project or facility improvement project, as the case may be.

"(B) A certification that the project is needed by United States forces.

"(C) An explanation of how the project will aid in the achievement of the mission of those forces.

"(D) A certification that, if the project were to be carried out by the Department of Defense, appropriations would be necessary for the project and it would be necessary to provide for the project in the next future-years defense program.

"(2) Not less than 30 days before concluding an agreement for acceptance of host nation support or host nation payment of operating costs of United States forces as a payment-in-kind, the Secretary of Defense shall submit to Congress a notification on the proposed agreement that contains the following matters:

"(A) A description of each activity to be covered by the payment-in-kind.

"(B) A certification that the costs to be covered by the payment-in-kind are included in the budget of one or more of the military departments or that it will otherwise be necessary to provide for payment of such costs in a budget of one or more of the military departments.

"(C) A certification that, unless the payment-in-kind is accepted or funds are appropriated for payment of such costs, the military mission of the United States forces with respect to the host nation concerned will be adversely affected.".

Subtitle C—Nonproliferation and Counterproliferation of Weapon Systems and Related Systems

SEC. 1021. EXTENSION AND REVISION OF NONPROLIFERATION AUTHORITIES.

(a) EXTENSION OF NONPROLIFERATION AUTHORITIES.—Section 1505 of the National Defense Authorization Act for Fiscal Year 1993 (22 U.S.C. 5859a) is amended—

(1) in subsection (a), by striking out "during fiscal year 1994" and inserting in lieu thereof "during fiscal years 1994 and 1995"; and

(2) in subsection (e), by striking out "fiscal year 1994" and inserting in lieu thereof "fiscal years 1994 and 1995".

(b) ACTIVITIES FOR WHICH ASSISTANCE MAY BE PROVIDED.—Subsection (b)(4) of such section is amended by striking out "nuclear proliferation through joint technical projects and improved intelligence sharing" and inserting in lieu thereof "nuclear, biological, chemical, and missile proliferation through technical projects and improved information sharing".

(c) SOURCES OF ASSISTANCE.—Subsection (d) of such section is amended—

(1) in paragraph (1)—

(A) by inserting "for fiscal year 1994" after "under this section"; and

(B) by striking out "fiscal year 1994 or" and inserting in lieu thereof "fiscal year 1994. Funds provided as assistance under this section for fiscal year 1995 shall be derived from amounts made available to the Department of Defense for fiscal year 1995. Alternatively, funds provided as assistance under this section for a fiscal year referred to in this paragraph may be derived"; and

(2) in paragraph (3), by inserting after "$25,000,000" the following: "for fiscal year 1994 or $15,000,000 for fiscal year 1995".

SEC. 1022. JOINT COMMITTEE FOR THE REVIEW OF COUNTERPROLIFERATION PROGRAMS OF THE UNITED STATES.

(a) COMPOSITION.—Subsection (a) of section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat 1845) is amended—

(1) in paragraph (1)—

(A) by striking out "Non-Proliferation" in the matter above subparagraph (A) and inserting in lieu thereof "Counterproliferation";

(B) by striking out subparagraphs (B) and (E); and

(C) by redesignating subparagraphs (C), (D), and (F) as subparagraphs (B), (C), and (D), respectively;

(2) in paragraph (2), by adding at the end the following: "The Secretary of Energy shall serve as the Vice Chairman of the committee.";

(3) in paragraph (4), by adding at the end the following: "The Secretary of Energy may delegate to the Under Secretary of Energy responsible for national security programs of the Department of Energy the performance of the duties of the Vice Chairman of the committee."; and

(4) by striking out paragraph (5).

(b) PURPOSES OF COMMITTEE.—Subsection (b) of such section is amended—

(1) in paragraph (1)(A), by striking out "nonproliferation policy" and inserting in lieu thereof "counterproliferation policy"; and

(2) by adding at the end the following new paragraphs:

"(3) To prioritize programs and funding.

"(4) To encourage and facilitate interagency and interdepartmental funding of programs in order to ensure necessary levels of funding to develop, operate, and field highly-capable systems.

"(5) To insure that Department of Energy programs are integrated with the operational needs of other departments and agencies of the Federal Government.

"(6) To ensure that Department of Energy national security programs include development of systems for deployment as well as research.".

(c) DUTIES.—Subsection (c) of such section is amended—

(1) in paragraph (1)—

(A) by striking out "(including counterproliferation capabilities) and technologies for support of United States nonproliferation policy" in the matter above subparagraph (A) and inserting in lieu thereof "and technologies for support of United States nonproliferation policy and counterproliferation policy";

(B) by inserting "and" at the end of subparagraph (D); and

(C) by striking out subparagraphs (F) and (G);

(2) by striking out paragraphs (2), (3), and (7);

(3) in paragraph (4), by striking out "to support fully the nonproliferation policy of the United States";

(4) by redesignating paragraphs (4), (5), and (6) as paragraphs (2), (3), and (4), respectively; and

(5) by adding at the end the following new paragraph (5):

"(5) assess each fiscal year the effectiveness of the committee actions during the preceding fiscal year, including, particularly, the status of recommendations made during such preceding fiscal year that were reflected in the budget submitted to Congress pursuant to section 1105(a) of title 31, United States Code, for the fiscal year following the fiscal year in which the assessment is made.".

(d) COMMITTEE RECOMMENDATIONS.—Subsection (e) of such section is amended to read as follows:

"(e) RECOMMENDATIONS.—The committee shall submit to the President and the heads of all appropriate departments and agencies of the Federal Government such programmatic recommendations regarding existing, planned, or new programs as the committee considers appropriate to encourage funding for capabilities and technologies at the level necessary to support United States counterproliferation policy.".

(e) EXTENSION OF COMMITTEE.—Subsection (f) of such section is amended by striking out "six months after the date on which the report of the Secretary of Defense under section 1606 is submitted to Congress" and inserting in lieu thereof "at the end of September 30, 1996".

SEC. 1023. REPORT ON COUNTERPROLIFERATION ACTIVITIES AND PROGRAMS.

(a) REPORT REQUIRED.—Not later than May 1, 1995, and not later than May 1 of each year thereafter, the Secretary of Defense shall submit to the appropriate committees of Congress a report of the findings of the Counterproliferation Program Review Committee established by section 1605 of the National Defense Authorization Act for Fiscal

Year 1994 (Public Law 103–160; 107 Stat 1845). The Secretary shall submit any special annex of the report to the committees of Congress that traditionally receive information in the annex in the performance of oversight functions of such committees.

(b) CONTENT OF THE REPORT.—The report shall include the following matters:

(1) A complete list, by specific program element, of the existing, planned, or newly proposed capabilities and technologies reviewed by the committee pursuant to section 1605(c) of Public Law 103–160.

(2) A complete description of the requirements and priorities established by the Counterproliferation Program Review Committee.

(3) A comprehensive discussion of the near-term, mid-term, and long-term programmatic options formulated by the committee for meeting requirements prescribed by the committee and for eliminating deficiencies identified by the committee, including the annual funding requirements and completion dates established for each such option.

(4) An explanation of the recommendations made pursuant to section 1605(c) of Public Law 103–160, together with a full discussion of the actions taken to implement such recommendations or otherwise taken on the recommendations.

(5) A discussion and assessment of the status of each committee recommendation during the fiscal year preceding the fiscal year in which the report is submitted, including, particularly, the status of recommendations made during such preceding fiscal year that were reflected in the budget submitted to Congress pursuant to section 1105(a) of title 31, United States Code, in the fiscal year of the report.

(6) Each specific Department of Energy program that the Secretary of Energy plans to develop to initial operating capability and each such program that the Secretary does not plan to develop to initial operating capability.

(7) For each technology program scheduled to reach initial operational capability, a recommendation from the Chairman of the Joint Chiefs of Staff that represents the views of the commanders of the unified and specified commands regarding the utility and requirement of the program.

(c) FORMS OF REPORT.—The report shall be submitted in both unclassified and classified forms, including an annex to the classified report for special compartmented information programs, special access programs, and special activities programs.

(d) DEFINITIONS.—In this section:

(1) The term "appropriate committees of Congress" means—

(A) the Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the House of Representatives.

(2) The term "intelligence community" has the meaning given such term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

SEC. 1024. AMOUNTS FOR COUNTERPROLIFERATION ACTIVITIES.

(a) COUNTERPROLIFERATION ACTIVITIES.—Of the amount authorized to be appropriated in section 201(4), $12,500,000 shall be available for counterproliferation activities.

(b) EDUCATION IN SUPPORT OF COUNTERPROLIFERATION ACTIVITIES.—Of the amount authorized to be appropriated in section 301(5), not more than $1,000,000 shall be available for providing education to members of the Armed Forces in matters relating to counterproliferation.

(c) ADDITIONAL AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) In addition to the transfer authority provided in section 1001, upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1995 to counterproliferation programs, projects, and activities identified as areas for progress by the Joint Committee for the Review of Counterproliferation Programs established by section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1845). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of this subsection may not exceed $100,000,000.

(3) The authority provided by this subsection to transfer authorizations—

(A) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(B) may not be used to provide authority for an item that has been denied authorization by Congress.

(4) A transfer made from one account to another under the authority of this subsection shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(5) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this subsection.

(d) USE OF FUNDS FOR TECHNOLOGY DEVELOPMENT.—(1) Of the funds authorized to be appropriated by section 201(4) for a counterproliferation technology project in Program Element 602301E—

(A) $5,000,000 shall be available for a program to detect, locate, and disarm weapons of mass destruction that are hidden by a hostile state or terrorist or terrorist group in confined area outside the United States; and

(B) $10,000,000 shall be available for the training program referred to in paragraph (3).

(2) The Secretary of Defense shall make funds available for the program referred to in paragraph (1)(A) in a manner that, to the maximum extent practicable, ensures the effective utilization of existing resources of the national weapons laboratories.

(3)(A) The training program referred to in paragraph (1)(B) is a training program carried out jointly by the Secretary of Defense and the Director of the Federal Bureau of Investigation in order to expand and improve United States efforts to deter the possible proliferation and acquisition weapons of mass destruction by organized crime organizations in Eastern Europe, the Baltic countries, and the former Soviet Union.

(B) The funds available under paragraph (1)(B) for the program referred to in subparagraph (A) may not be obligated or expended for that program until the Secretary of Defense and the Director of the Federal Bureau of Investigation jointly submit to the congressional defense committees a report that—

(i) identifies the nature and extent of the threat posed to the United States by the possible proliferation and acquisition of weapons of mass destruction by organized crime organizations in Eastern Europe, the Baltic countries, and the former Soviet Union;

(ii) assesses the actions that the United States should undertake in order to assist law enforcement agencies of Eastern Europe, the Baltic countries, and the former Soviet Union in the efforts of such agencies to prevent and deter the theft of nuclear weapons material; and

(iii) contains an estimate of—

(I) the cost of undertaking such actions, including the costs of personnel, support equipment, and training;

(II) the time required to commence the carrying out of the program referred to in paragraph (1); and

(III) the amount of funds, if any, that will be required in fiscal years after fiscal year 1995 in order to carry out the program.

SEC. 1025. RESTRICTION RELATING TO REPORT ON PROLIFERATION OF FOREIGN MILITARY SATELLITES.

None of the funds available to the Department of Defense for travel may be expended for travel by the Assistant Secretary of Defense for International Security Policy until the Secretary of Defense submits to Congress the report required by section 1363 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2560) together with the certification required by section 211(d) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1584).

Subtitle D—Peace Operations

SEC. 1031. REPORTS ON REFORMING MULTILATERAL PEACE OPERATIONS.

(a) REPORTS REQUIRED.—The Secretary of Defense shall submit to the congressional defense committees two reports on United States proposals for improving United Nations management of peace operations. The Secretary shall submit the first report not later than December 1, 1994, and the second report not later than June 1, 1995.

(b) CONTENT OF REPORTS.—(1) Each report shall contain—

(A) a discussion of the status of implementation of United States proposals contained in section IV (relating to strengthening the United Nations) of the document entitled "The Clinton Administration's Policy on Reforming Multilateral Peace Operations" that was issued by the Executive Office of the President in May 1994; and

(B) an analysis of the results of such implementation.

(2) Each report shall cover, at a minimum, the following matters:

(A) The reconfiguration and expansion of the staff for the United Nations Department of Peacekeeping Operations.

(B) The elimination by the United Nations of lengthy, potentially disastrous delays after a peace operation has been authorized.

(C) The establishment by the United Nations of a professional peace operations training program for commanders and other military and civilian personnel.

(D) United States assistance to facilitate improvements by the United Nations in the matters described in subparagraphs (A) and (C) and the terms under which such assistance has been or is being provided.

(c) DEFINITION.—In this section, the term "peace operation" means an operation to maintain or restore international peace and security under chapter VI or chapter VII of the Charter of the United Nations.

SEC. 1032. SUPPORT FOR INTERNATIONAL PEACEKEEPING AND PEACE ENFORCEMENT.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should initiate consultations with the bipartisan leadership of Congress, including the leadership of the relevant committees, as far in advance as possible regarding international peacekeeping or peace enforcement activities of the United Nations that would involve the participation of United States combat forces and such consultations should continue throughout the duration of such activities;

(2) the consultations should take place prior to the vote by the United States on United Nations Security Council resolutions authorizing, extending, or revising the mandates for these types of activities;

(3) United Nations Security Council resolutions authorizing peacekeeping or peace enforcement activities should clearly state the threat to international peace and security presented by the conflict in question, as well as the political and military objectives, the anticipated duration, and an exit strategy for each activity;

(4) the United States should be fully reimbursed for troop contributions and assistance provided to United Nations peacekeeping and peace enforcement activities;

(5) the United Nations should rarely conduct peace enforcement operations in view of the complexity of such operations and the difficulty of achieving unity of command and expeditious decisionmaking through the United Nations;

(6) United States combat forces should be under the operational control of qualified commanders and should have clear and effective command and control arrangements, appropriate rules of engagement, and clear and unambiguous mission statements;

(7) United States combat forces should not be under the command and control of foreign commanders in peace enforcement operations conducted by the United Nations except in the most extraordinary circumstances; and

(8) the Secretary of Defense should have the lead responsibility within the executive branch for the management of peacekeeping and peace enforcement activities of the United Nations in which United States combat forces participate.

(b) SUPPORT AUTHORIZED.—(1) Section 403 of title 10, United States Code, is amended to read as follows:

"§ 403. International peacekeeping and international peace enforcement: support involving United States combat forces

"(a) AUTHORITY.—Notwithstanding any other provision of law, the Secretary of Defense may—

"(1) pay, out of funds in the Contributions for International Peacekeeping and Peace Enforcement Activities Fund established by subsection (g), the United States fair share (as determined by the Secretary) of assessments for international peacekeeping or international peace enforcement activities of the United Nations in which United States combat forces participate; and

"(2) furnish assistance, on a reimbursable basis, in support of such activities.

"(b) FORMS OF ASSISTANCE.—Assistance provided under this section may include supplies, services, and equipment.

"(c) DETERMINATION REQUIRED.—No assessment may be paid and no assistance may be furnished pursuant to this section unless the President determines that the provision of assistance is in the national interest of the United States.

"(d) ADVANCE NOTICE.—(1) In the case of any international peacekeeping or international peace enforcement operation of the United Nations in which United States combat forces are to participate, not less than 15 days before an initial deployment of United States combat forces, payment of a United Nations assessment, furnishing of assistance of a value in excess of $14,000,000, or waiver of reimbursement to the United States under subsection (e), the President shall transmit to the designated congressional committees a report, which may be classified in whole or in part, that contains the determination required by subsection (c) and the following matters:

"(A) A description of the threat to international peace and security presented by the conflict involved.

"(B) The United States interests that will be advanced by the operation and by the United States action.

"(C) The political and military objectives of the operation.

"(D) The exit criteria and likely duration of the operation.

"(E) The personnel and material resources that have been pledged, or are otherwise expected to be made available, by other nations to the United Nations for the operation.

"(F) The units of the armed forces that will participate.

"(G) The necessity for involvement of United States forces.

"(H) The command arrangements for those forces and, if any of the United States forces are to be placed under the operational control of foreign commanders, the justification for doing so.

"(I) The rules of engagement for the operation.

"(J) An assessment of the risks involved in the operation.

"(K) In the case of payment of an assessment, the amount to be paid and the terms under which the payment is to be made.

"(L) In the case of assistance, the supplies, services, or equipment to be provided by the United States and the terms under which such supplies, services, or equipment are to be provided.

"(M) In the case of a waiver of reimbursement, the justification for the waiver.

"(2) If the President determines that an unforeseen emergency requires the immediate deployment of United States combat troops or the immediate furnishing of assistance of a value in excess of $14,000,000 under this section, the President—

"(A) may waive the requirement of paragraph (1) that a report be transmitted at least 15 days in advance of the action; and

"(B) shall promptly notify the designated committees of such waiver and such deployment or transfer.

"(e) REIMBURSEMENT.—(1) The President shall require reimbursement from the United Nations or from any other source for the participation of any force of the armed forces in support of international peacekeeping or international peace enforcement activities of the United Nations or for the provision of assistance by the Secretary of Defense in support of such activities.

"(2) Any funds received as reimbursements shall be used as follows:

"(A) As a first priority, for the payment of the incremental costs of the military departments and Defense Agencies providing the participating United States forces or the supplies, services, or equipment involved.

"(B) As a second priority, for the payment of the incremental costs of any other United States forces that are operating in support of international peacekeeping or international peace enforcement activities but for which reimbursement is not possible.

"(3) After use of reimbursement funds for the purposes specified in paragraph (2), any remainder of such funds shall be credited to the Contributions for International Peacekeeping and Peace Enforcement Activities Fund established by subsection (g).

"(4) Reimbursements utilized for the payment of incremental costs shall be credited, at the option of the Secretary of the military department concerned or the head of the Defense Agency concerned, either to an appropriation, fund, or other account obligated to pay such costs or to an appropriate appropriation, fund, or other account available for paying such costs.

"(f) WAIVER OF REIMBURSEMENT.—The President may waive, in whole or in part, any reimbursement required under subsection (a)(2) or (e) in exceptional circumstances upon determining that such waiver is in the national interest of the United States.

"(g) ESTABLISHMENT OF ACCOUNT.—There is hereby established in the Treasury of the United States a fund to be known as the 'Contributions for International Peacekeeping and Peace Enforcement Activities Fund'. Amounts appropriated or otherwise credited to the Fund shall be available until expended for, and shall be used for, paying assessments for United Nations operations under this section.

"(h) AUTHORITY INAPPLICABLE WHEN UNITED STATES COMBAT FORCES NOT INVOLVED.—The authority in subsection (a) to pay United Nations assessments for international peacekeeping and international peace enforcement activities of the United Nations may not be construed as authorizing payment of United Nations assessments for any such activity in which United States combat forces do not participate.

"(i) COORDINATION WITH OTHER LAWS.—This section may not be construed as superseding any provision of the War Powers Resolution. This section does not provide authority for the participation of United States combat forces in any international peacekeeping or international peace enforcement operation.

"(j) DEFINITIONS.—In this section:

"(1) The term 'designated congressional committees' means the Committees on Armed Services, Appropriations, and Foreign Relations of the Senate and the Committees on Armed Services, Appropriations, and Foreign Affairs of the House of Representatives.

"(2) The term 'combat forces' means forces of the armed forces that have combat missions as primary missions.

"(3) The term 'international peacekeeping' means those activities performed pursuant to Chapter VI of the United Nations Charter.

"(4) The term 'international peace enforcement' means those activities performed pursuant to Chapter VII of the United Nations Charter.".

(2) The item relating to section 403 in the table of sections at the beginning of subchapter I of chapter 20 of such title is amended to read as follows:

"403. International peacekeeping and international peace enforcement: support involving United States combat forces.".

(c) AUTHORIZED SUPPORT FOR FISCAL YEAR 1995.—Not more than $300,000,000 is authorized to be appropriated for fiscal year 1995 for the Contributions for International Peacekeeping and Peace Enforcement Activities Fund under section 301(20).

Subtitle E—Reporting Requirements

SEC. 1041. REPORT ON OFFENSIVE BIOLOGICAL WARFARE PROGRAM OF THE STATES OF THE FORMER SOVIET UNION.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States has identified nonproliferation as a high priority in the conduct of United States national security policy.

(2) The United States is seeking universal adherence to global regimes that control nuclear, chemical, and biological weapons and is promoting new measures that provide increased transparency of biological weapons-related activities and facilities in an effort to help deter violations of and enhance compliance with the Biological Weapons Convention (BWC).

(3) Questions continue to arise regarding offensive biological weapons research, development, testing production, and storage in the countries of the former Soviet Union as well as in other countries.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should continue to urge all signatories to the Biological Weapons Convention to comply fully with the terms of that convention and with other international agreements relating to the control of biological weapons; and

(2) as the President encourages increased transparency of biological weapons-related activities and facilities to deter violations of and enhance compliance with the Biological Weapons Convention, the President should also take appropriate actions to ensure that the United States is prepared to counter the effects of use of biological weapons by others.

(c) REPORT REQUIRED.—Not later than 120 days after the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the status of the offensive biological warfare program in the Russian Federation and the other independent states of the former Soviet Union.

(d) CONTENT OF REPORT.—The report shall include the following matters:

(1) An assessment of the extent of compliance of the independent states of the former Soviet Union with the Biological Weapons Convention and other international agreements relating to the control of biological weapons.

(2) An evaluation of the extent of control and oversight by the government of the Russian Federation over the former Soviet military and dual civilian-military biological warfare programs.

(3) The extent, if any, of the biological warfare agent stockpile in any of the independent states of the former Soviet Union.

(4) The extent and scope, if any, of continued biological warfare research, development, testing, and production by such state, including the sites and types of activity at those sites.

(5) An evaluation of the effectiveness of possible delivery systems of biological weapons, including tube and rocket artillery, bomber aircraft, and ballistic missiles.

(6) An evaluation of United States capabilities to detect and monitor biological warfare research, development, testing, production, and storage.

(7) On the basis of the assessment and evaluations referred to in other paragraphs of this subsection, recommendations by the Secretary of Defense and Chairman of the Joint Chiefs of Staff for the improvement of United States biological warfare defense and counter-measures.

(e) FORM OF REPORT.—The Secretary shall submit the report in classified and unclassified versions.

(f) DEFINITIONS.—In this section:

(1) The term "Biological Weapons Convention" means the Convention on the Prohibition, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, done at Washington, London, and Moscow on April 10, 1972.

(2) The term "independent states of the former Soviet Union" has the same meaning given that term in section 3 of the FREEDOM Support Act (22 U.S.C. 5801).

SEC. 1042. TERMINATION OF CERTAIN DEPARTMENT OF DEFENSE REPORTING REQUIREMENTS.

(a) IMMEDIATE TERMINATION.—Except as provided in subsection (c), notwithstanding the date set forth in subsection (a) of section 1151 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1758; 10 U.S.C. 113 note), the reporting requirements referred to in subsection (b) are terminated effective on the date of the enactment of this Act.

(b) APPLICABILITY.—Subsection (a) applies to each reporting requirement specified in enclosures 1 and 2 of the letter, dated April 29, 1994, by which the Director for Administration and Management, Office of the Secretary Defense, citing the authority of the provision of law referred to in subsection (a), submitted a list of reporting requirements recommended for termination by the Department of Defense.

(c) PRESERVATION OF REQUIREMENTS.—(1) The reporting requirements set forth in the provisions of law referred to in paragraph (2) shall not terminate under subsection (a) of section 1151 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1758; 10 U.S.C. 113 note).

(2) Paragraph (1) applies to the following reports:

(A) Reports required under the following provisions of title 10, United States Code:

(i) Section 2662, relating to reports on real property transactions.

(ii) Section 2672a(b), relating to reports on urgent acquisitions of land.

(iii) Section 2687(b)(1), relating to notifications of certain base closures and realignments.

(iv) Section 2690(b)(2), relating to notifications of proposed conversions of heating facilities at United States installations in Europe.

(v) Section 2804(b), relating to reports on contingency military construction projects.

(vi) Section 2806(c)(2), relating to reports on contributions for NATO infrastructure in excess of amounts appropriated for such contributions.

(vii) Subsections (b) and (c) of section 2807, relating to notifications and reports on architectural and engineering services and construction design.

(viii) Section 2823(b), relating to notifications regarding disagreements between certain officials on the availability of locations for suitable alternative housing for the Department of Defense.

(ix) Subsections (b) and (c) of section 2825, relating to notifications regarding improvements of family housing or construction of replacement family housing.

(x) Section 2827(b), relating to notifications regarding relocation of military family housing units.

(xi) Section 2835(g)(1), relating to economic analyses on the cost effectiveness of leasing family housing to be constructed or rehabilitated.

(xii) Section 2861(a), relating to the annual report on military construction activities and family housing activities.

(xiii) Subsections (e) and (f) of section 2865, relating to notifications regarding unauthorized energy conservation construction projects and an annual report regarding energy conservation actions.

(B) Reports required under the following provisions of title 37, United States Code:

(i) Section 406(i), relating to the annual report regarding dependents accompanying members stationed outside the United States in relation to the eligibility of such members to receive travel and transportation allowances.

(ii) Section 1008(a), relating to the annual report by the President on adjustments of rates of pay and allowances for members of the uniformed services.

(C) Reports required under the following provisions of law:

(i) Section 326(a)(5) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2368; 10 U.S.C. 2301 note), relating to reports on use of certain ozone-depleting substances.

(ii) Subsections (e) and (f) of section 2921 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2687 note), relating to notifications regarding negotiations for payments-in-kind for the release of improvements at overseas military installations to host countries and an annual report on the status and use of the Department of Defense Overseas Military Facility Investment Recovery Account.

(iii) Section 1505(f)(3) of the Military Child Care Act of 1989 (title XV of Public Law 101–189; 103 Stat. 1594; 10 U.S.C. 113 note), relating to reports on closures of military child development centers.

(iv) Subsections (a) and (d) of section 7 of the Organotin Antifouling Paint Control Act of 1988 (Public Law 100–133; 102 Stat. 607; 33 U.S.C. 2406), relating to the annual report on the monitoring of estuaries and near-coastal waters for concentrations of organotin.

Subtitle F—Acceptance of Pre-release Services of Nonviolent Offenders

SEC. 1051. USE OF INMATE LABOR AT MILITARY INSTALLATIONS.

(a) USE OF INMATE LABOR AUTHORIZED.—Chapter 155 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2610. Acceptance of services of inmates of State and local correctional facilities

"(a) USE OF INMATE LABOR.—Subject to subsection (c), the Secretary of a military department may accept in accordance with this section the services of nonviolent offenders incarcerated in a correctional facility of a State or local government. Services so accepted shall be performed at a military installation in the vicinity of the correctional facility pursuant to an agreement entered into by the Secretary and the chief executive of the State or local government.

"(b) AUTHORIZED SERVICES.—The services authorized to be accepted are as follows:

"(1) Construction, maintenance, or repair of roads.

"(2) Construction of levees or other flood prevention structures.

"(3) Construction, maintenance, or repair of any other public ways or works.

"(4) Clearance, maintenance, or reforesting of public lands.

"(5) Custodial services.

"(c) CONDITIONS FOR ACCEPTANCE OF SERVICES.—The Secretary may accept the services of nonviolent offenders for a military installation under this section only if the Secretary finds that—

"(1) Federal Government employees and contractor employees performing services at the installation will not be displaced;

"(2) no contract for the provision of services at the installation will otherwise be impaired; and

"(3) in the case of services in any skill, craft, or trade, there is no surplus of labor for hire in such skill, craft, or trade in the vicinity of the installation.

"(d) LIMITATION ON PAYMENTS TO CUSTODIAL GOVERNMENTS.—(1) Except as provided in paragraph (2), the Secretary of a military department may not compensate a State or local government for the costs incurred by such government in the provision of services accepted under this section.

"(2) The Secretary may—

"(A) reimburse a State or local government for administrative and other costs directly incurred by that government in making available and supervising offenders as they provide services accepted under this section; and

"(B) pay a nominal amount to the State or local government in order to support any alcohol and drug abuse treatment programs conducted by that government for the offenders who provide such services.

"(e) PROHIBITION ON COMPENSATION OF INMATES.—The Secretary may not compensate any offender for services accepted under this section.

"(f) SUPPORT AUTHORIZED.—The Secretary may provide equipment, supplies, or other materials to be used by offenders in the provision of services accepted under this section.

"(g) INAPPLICABILITY OF OTHER LAWS.—The following provisions of law shall not apply with respect to services accepted under this section:

"(1) Section 1342 of title 31.

"(2) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

"(3) The Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (46 Stat. 1494; 40 U.S.C. 276a et seq.), commonly referred to as the 'Davis-Bacon Act'.

"(4) The Act entitled 'An Act to provide conditions for the purchases of supplies and the making of contracts by the United States, and for other purposes', approved June 30, 1936 (49 Stat. 2036; 41 U.S.C. 35 et seq.), commonly referred to as the 'Walsh-Healey Act'.

"(5) The Service Contract Act of 1965 (41 U.S.C. 351 et seq.).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2610. Acceptance of services of inmates of State and local correctional facilities.".

SEC. 1052. REVISION OF AUTHORITY FOR USE OF NAVY INSTALLATIONS TO PROVIDE EMPLOYMENT TRAINING TO NONVIOLENT OFFENDERS IN STATE PENAL SYSTEMS.

(a) SOURCES OF TRAINING.—Subsection (b) of section 1374 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1821; 10 U.S.C. 5013 note) is amended—

(1) by striking out the subsection caption and inserting in lieu thereof "SOURCES OF TRAINING.—"; and

(2) by inserting before the period at the end the following: "or may provide such training directly at such installations by agreement with the State concerned".

(b) LIABILITY AND INDEMNIFICATION.—Subsection (e) of such section is amended—

(1) by inserting "(1)" before "A nonprofit organization"; and

(2) by adding at the end the following:

"(2) In any case in which the Secretary provides prerelease employment training directly by agreement with the State concerned, the State shall—

"(A) be liable for any loss or damage to Federal Government property that may result from, or in connection with, the provision of the training except to the extent that the loss or damage results from a wrongful act or omission of Federal Government personnel; and

"(B) hold harmless and indemnify the United States from and against any suit, claim, demand, action, or liability arising out of any claim for personal injury or property damage that may result from, or in connection with, the provision of the training except to the extent that the personal injury or property damage results from a wrongful act or omission of Federal Government personnel.".

SEC. 1053. USE OF ARMY INSTALLATIONS TO PROVIDE EMPLOYMENT TRAINING TO NONVIOLENT OFFENDERS IN STATE PENAL SYSTEMS.

(a) DEMONSTRATION PROJECT AUTHORIZED.—The Secretary of the Army may conduct a demonstration project to test the feasibility of using Army facilities to provide employment training to nonviolent offenders in a State penal system prior to their release from incarceration. The demonstration project shall be limited to not more than three military installations under the jurisdiction of the Secretary.

(b) SOURCES OF TRAINING.—The Secretary may enter into a cooperative agreement with one or more private, nonprofit organizations for purposes of providing at the military installations included in the demonstration project the prerelease employment training authorized under subsection (a) or may provide such training directly at such installations by agreement with the State concerned.

(c) USE OF FACILITIES.—Under a cooperative agreement entered into under subsection (b), the Secretary may lease or otherwise make available to a nonprofit organization participating in the demonstration project at a military installation included in the demonstration project any real property or facilities at the installation that the Secretary considers to be appropriate for use to provide the prerelease employment training authorized under subsection (a). Notwithstanding section 2667(b)(4) of title 10, United States Code, the use of such real property or facilities may be permitted with or without reimbursement.

(d) ACCEPTANCE OF SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept voluntary services provided by persons participating in the prerelease employment training authorized under subsection (a).

(e) LIABILITY AND INDEMNIFICATION.—(1) A nonprofit organization participating in the demonstration project shall—

(A) be liable for any loss or damage to Federal Government property that may result from, or in connection with, the provision of prerelease employment training by the organization under the demonstration project; and

(B) hold harmless and indemnify the United States from and against any suit, claim, demand, action, or liability arising out of any claim for personal injury or property damage that may result from or in connection with the demonstration project.

(2) In any case in which the Secretary provides prerelease employment training directly by agreement with the State concerned, the State shall—

(A) be liable for any loss or damage to Federal Government property that may result from, or in connection with, the provision of the training except to the extent that the loss or damage results from a wrongful act or omission of Federal Government personnel; and

(B) hold harmless and indemnify the United States from and against any suit, claim, demand, action, or liability arising out of any claim for personal injury or property damage that may result from, or in connection with, the provision of the training except to the extent that the personal injury or property damage results from a wrongful act or omission of Federal Government personnel.

(f) REPORT.—Not later than two years after the date of the enactment of this Act, the Secretary shall submit to Congress a report evaluating the success of the demonstration project and containing such recommendations with regard to the termination, continuation, or expansion of the demonstration project as the Secretary considers appropriate.

Subtitle G—Discrimination and Sexual Harassment

SEC. 1056. DEPARTMENT OF DEFENSE POLICIES AND PROCEDURES ON DISCRIMINATION AND SEXUAL HARASSMENT.

(a) MILITARY DEPARTMENT POLICIES.—(1) Subject to paragraph (2), the Secretary of the Navy and the Secretary of the Air Force shall review and revise the regulations of the Department of the Navy and the Department of the Air Force, respectively, relating to equal opportunity policy and complaint procedures to ensure that the such regulations are substantially equivalent to the regulations of the Army on such matters.

(2) In revising regulations pursuant to paragraph (1), the Secretary of the Navy or the Secretary of the Air Force, as the case may be, may make such additions and modifications as the Secretary of Defense determines appropriate to strengthen the regulations beyond the substantial equivalent of the Army regulations in accordance with—

(A) the recommendations of the Department of Defense Task Force on Discrimination and Sexual Harassment; and

(B) the experience of the Army, Navy, Air Force, and Marine Corps regarding equal opportunity cases.

(3) The Secretary of the Army shall review the regulations of the Department of the Army relating to equal opportunity policy and complaint procedures and revise the regulations as the Secretary of Defense considers appropriate to strengthen the regulations in accordance with the recommendations and experience described in subparagraphs (A) and (B) of paragraph (2).

(b) REQUIREMENTS REGARDING REPORT OF TASK FORCE ON DISCRIMINATION AND SEXUAL HARASSMENT.—(1) The Department of Defense Task Force on Discrimination and Sexual Harassment shall transmit the report of the task force to the Secretary of Defense not later than October 1, 1994.

(2) The Secretary of Defense shall transmit to Congress the report of the task force not later than October 10, 1994.

(3) Not later than 45 days after receiving the report, the Secretary of Defense shall—

(A) review the recommendations for action contained in such report;

(B) determine which recommendations the Secretary approves for implementation and which recommendations the Secretary disapproves; and

(C) submit to Congress a report that—

(i) identifies the approved recommendations and the disapproved recommendations; and

(ii) explains the reasons for each such approval and disapproval.

(4) The Secretary of Defense shall implement the approved recommendations not later than April 1, 1995.

(c) The Advisory Board or the investigative capability of the Department of Defense should consider and include in its report—

(1) whether the Department of Defense should establish a separate unit to oversee all matters related to allegations of discrimination or sexual misconduct in the Department of Defense; and

(2) whether additional data collection and reporting procedures are needed to enhance the ability of the Department of Defense to deal with sexual misconduct.

(d) The Secretary of Defense shall ensure that regulations governing consideration of equal opportunity matters in performance evaluations include consideration of an individual's commitment to elimination of discrimination or of sexual harassment.

Subtitle H—Other Matters

SEC. 1061. REDESIGNATION OF UNITED STATES COURT OF MILITARY APPEALS AND THE COURTS OF MILITARY REVIEW.

(a) UNITED STATES COURT OF APPEALS FOR THE ARMED SERVICES.—Section 941 of title 10, United States Code (article 141 of the Uniform Code of Military Justice), is amended by striking out "United States Court of Military Appeals" and inserting in lieu thereof "United States Court of Appeals for the Armed Services".

(b) COURTS OF MILITARY CRIMINAL APPEALS.—Section 866 of title 10, United States Code (article 66 of the Uniform Code of Military Justice), is amended by striking out "Court of Military Review" each place it appears and inserting in lieu thereof "Court of Military Criminal Appeals".

(c) CONFORMING AMENDMENTS TO TITLE 10.—(1) The following sections of title 10, United States Code, are amended by striking out "Court of Military Appeals" each place it appears and inserting in lieu thereof "Court of Appeals for the Armed Services": sections 707(a)(2), 866(e), 867, 867a(a), 870, 871(c)(1), 873, 942, 943, 944, 945, and 946(b)(1).

(2) The following sections of title 10, United States Code, are amended by striking out "Court of Military Review" each place it appears and inserting in lieu thereof "Court of Military Criminal Appeals": sections 707(a)(2), 862(b), 867, 868, 869, 870, 871, and 873.

(3)(A) The heading of subchapter XII of chapter 47 of such title is amended to read as follows:

"SUBCHAPTER XII—UNITED STATES COURT OF APPEALS FOR THE ARMED SERVICES".

(B) The table of subchapters at the beginning of chapter 47 of such title is amended by striking out the item relating to subchapter XII and inserting in lieu thereof the following:

"XII. United States Court of Appeals for the Armed Services .... 941 141".

(4)(A) The heading of section 866 of such title is amended to read as follows:

"§ 867. Art. 66. Review by Court of Military Criminal Appeals".

(B) The heading of section 867 of such title is amended to read as follows:

"§ 867. Art. 67. Review by the Court of Appeals for the Armed Services".

(C) The table of sections at the beginning of subchapter IX of chapter 47 of such title is amended by striking out the items relating to sections 866 and 867 (articles 66 and 67) and inserting in lieu thereof the following:

"866. 66. Review by Court of Military Criminal Appeals.

"867. 67. Review by the Court of Appeals for the Armed Services.".

(d) CONFORMING AMENDMENTS TO OTHER UNITED STATES CODE TITLES.—(1) The following provisions of the United States Code are amended by striking out "Court of Military Appeals" each place it appears and inserting in lieu thereof "Court of Appeals for the Armed Services":

(A) In title 5, sections 8334(a)(1), 8336(l), 8337(a), 8338(c), 8339(d)(7), and 8339(h) and the table in 8334(c).

(B) In title 18, sections 202(e)(2) and 6001(4).

(C) In title 28, sections 1259 and 2101(g).

(D) In title 44, section 906.

(2)(A) The heading of section 1259 of title 28, United States Code, is amended to read as follows:

"§ 1259. Court of Appeals for the Armed Services; certiorari".

(B) The table of sections at the beginning of chapter 81 of such title is amended by striking out the item relating to section 1259 and inserting in lieu thereof the following:

"1259. Court of Appeals for the Armed Services; certiorari.".

(e) CONFORMING AMENDMENT TO OTHER LAW.—Section 109 of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking out "Court of Military Appeals" each place it appears in paragraphs (8) and (10) and inserting in lieu thereof "Court of Appeals for the Armed Services".

SEC. 1062. ASSISTANCE TO FAMILY MEMBERS OF CERTAIN POW/MIAS WHO REMAIN UNACCOUNTED FOR.

(a) SINGLE POINT OF CONTACT.—The Secretary of Defense shall designate an official of the Department of Defense to serve as a single point of contact within the department—

(1) for the immediate family members (or their designees) of any unaccounted-for Korean conflict POW/MIA; and

(2) for the immediate family members (or their designees) of any unaccounted-for Cold War POW/MIA.

(b) FUNCTIONS.—The official designated under subsection (a) shall serve as a liaison between the family members of unaccounted-for Korean conflict POW/MIAs and unaccounted-for Cold War POW/MIAs and the Department of Defense and other Federal departments and agencies that may hold information that may be related to such POW/MIAs. The functions of that official shall include assisting family members—

(1) with the procedures the family may follow in their search for information about the unaccounted-for Korean conflict POW/MIA or unaccounted-for Cold War POW/MIA, as the case may be;

(2) in learning where they may locate information about the unaccounted-for POW/MIA; and

(3) in learning how and where to identify classified records that contain pertinent information and that will be declassified.

(c) ASSISTANCE IN OBTAINING DECLASSIFICATION.—The official designated under subsection (a) shall seek to obtain the rapid declassification of any relevant classified records that are identified.

(d) REPOSITORY.—The official designated under subsection (a) shall provide for a centralized repository for all documents relating to unaccounted-for Korean conflict POW/MIAs and unaccounted-for Cold War POW/MIAs that are located as a result of the official's efforts.

(e) DEFINITIONS.—For purposes of this section:

(1) The term "unaccounted-for Korean conflict POW/MIA" means a member of the Armed Forces or civilian employee of the United States who, as a result of service during the Korean conflict, was at any time classified as a prisoner of war or missing-in-action or otherwise unaccounted for and whose person or remains have not been returned to the United States and who remains unaccounted for.

(2) The term "unaccounted-for Cold War POW/MIA" means a member of the Armed Forces or civilian employee of the United States who, as a result of service during the period from September 2, 1945, to August 21, 1991, was at any time classified as a prisoner of war or missing-in-action or otherwise unaccounted for and whose person or remains have not been returned to the United States and who remains unaccounted for.

(3) The term "Korean conflict" has the meaning given such term in section 101(9) of title 38, United States Code.

SEC. 1063. NATIONAL GUARD ASSISTANCE FOR CERTAIN YOUTH AND CHARITABLE ORGANIZATIONS.

(a) AUTHORITY TO PROVIDE ASSISTANCE.—Chapter 5 of title 32, United States Code, is amended by adding at the end the following:

"§ 508. Assistance for certain youth and charitable organizations

"(a) AUTHORITY TO PROVIDE SERVICES.—Members and units of the National Guard may provide the services described in subsection (b) to an eligible organization in conjunction with training required under this chapter in any case in which—

"(1) the provision of such services does not adversely affect the quality of that training or otherwise interfere with the ability of a member or unit of the National Guard to perform the military functions of the member or unit;

"(2) the services to be provided are not commercially available, or any commercial entity that would otherwise provide such services has approved, in writing, the provision of such services by the National Guard;

"(3) National Guard personnel will enhance their military skills as a result of providing such services; and

"(4) the provision of the services will not result in a significant increase in the cost of the training.

"(b) AUTHORIZED SERVICES.—The services authorized to be provided under subsection (a) are as follows:

"(1) Ground transportation.

"(2) Air transportation in support of Special Olympics.

"(3) Administrative support services.

"(4) Technical training services.

"(5) Emergency medical assistance and services.

"(6) Communications services.

"(7) Security services.

"(c) OTHER AUTHORIZED ASSISTANCE.—Facilities and equipment of the National Guard, including military property of the United States issued to the National Guard and General Services Administration vehicles leased to the National Guard, and General Services Administration vehicles leased to the Department of Defense, may be used in connection with providing services to any eligible organization under this section.

"(d) Eligible Organizations.—The organizations eligible to receive services under this section are as follows:

"(1) The Boy Scouts of America.

"(2) The Girl Scouts of America.

"(3) The Boys Clubs of America.

"(4) The Girls Clubs of America.

"(5) The Young Men's Christian Association.

"(6) The Young Women's Christian Association.

"(7) The Civil Air Patrol.

"(8) The United States Olympic Committee.

"(9) The Special Olympics.

"(10) The Campfire Boys.

"(11) The Campfire Girls.

"(12) The 4-H Club.

"(13) The Police Athletic League.

"(14) Any other youth or charitable organization designated by the Secretary of Defense.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"508. Assistance for certain youth and charitable organizations.".

SEC. 1064. DEFENSE MAPPING AGENCY.

(a) Unauthorized Use of Name.—Chapter 167 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2798. Unauthorized use of Defense Mapping Agency name, initials, or seal

"(a) No person may, except with the written permission of the Secretary of Defense, knowingly use the words 'Defense Mapping Agency', the initials 'DMA', the seal of the Defense Mapping Agency, or any colorable imitation of such words, initials, or seal in connection with any merchandise, retail product, impersonation, solicitation or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Secretary of Defense.

"(b) Whenever it appears to the Attorney General that any person is engaged or about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to hearing and determination of such action and may, at any time before such final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.".

(b) Limitation on Liability Relating to Navigational Aids.—Chapter 167 of such title, as amended by subsection (a), is further amended by adding at the end the following new section:

"§ 2799. Civil actions barred

"(a) Claims Barred.—No civil action may be brought against the United States on the basis of the content of a navigational aid prepared or disseminated by the Defense Mapping Agency.

"(b) Navigational Aids Covered.—Subsection (a) applies with respect to a navigational aid in the form of a map, a chart, or a publication and any other form or medium of product or information in which the Defense Mapping Agency prepares or disseminates navigational aids.".

(c) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2798. Unauthorized use of Defense Mapping Agency name, initials, or seal.

"2799. Civil actions barred.".

(d) Effective Date.—Section 2799 of title 10, United States Code, as added by subsection (b), shall take effect on the date of the enactment of this Act and shall apply with respect to (1) civil actions brought before such date that are pending adjudication on such date, and (2) civil actions brought on or after such date.

SEC. 1065. TRANSFER OF NAVAL VESSELS TO BRAZIL.

(a) Authority.—The Secretary of the Navy is authorized to transfer to the Government of Brazil the "KNOX" class frigates, MILLER (FF 1091) and VALDEZ (FF 1096). Such transfers shall be on a lease basis under chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 et seq.).

(b) Waiver of Requirements for Notification to Congress.—Section 62 of the Arms Export Control Act does not apply with respect to a lease authorized by subsection (a), except that section 62 of such Act shall apply to any renewal of the lease.

(c) Costs of Transfers.—Any expense of the United States in connection with a transfer authorized by subsection (a) shall be charged to the Government of Brazil.

(d) Expiration of Authority.—The authority granted by subsection (a) shall expire at the end of the 2-year period beginning on the date of the enactment of this Act, except that leases entered into during that period may be renewed.

SEC. 1066. TRANSFERS OF M1A1 TANKS TO THE MARINE CORPS.

(a) Transfer Required.—Subject to subsection (b), as M1A1 tanks of the Army become excess to the requirements of the active component of the Army, the Secretary of the Army shall transfer to the Marine Corps, at no expense to the Army, as many of such tanks as are necessary to satisfy the requirements of the Marine Corps for tanks, as determined by the Secretary of Defense.

(b) Transfer Limits.—The Secretary of the Army shall transfer under subsection (a) 84 M1A1 tanks selected by the Secretary of the Army.

(c) Exclusion of Certain Transfers.—If any of the tanks transferred under subsection (a) are transferred to the Marine Corps Reserve, the number of tanks not in excess of 48 that are so transferred shall not be counted for purposes of subsection (b).

(d) Limitation on Transfers to Army National Guard.—After the date of the enactment of this Act, the Secretary of the Army shall transfer not more than one M1A1 tank to the National Guard for each M1A1 tank transferred to the Marine Corps until the Secretary has transferred the total number of tanks required in subsection (b). The tanks transferred to the Marine Corps shall be in a material condition comparable to the material condition of the tanks transferred to the National Guard.

(e) Treatment of Certain Transferred Tanks Under Limitations.—The transfer of a tank under section 112 shall not be counted for purposes of subsection (a), (b), (c), or (d).

SEC. 1067. LIMITATION REGARDING MERGER OF TELECOMMUNICATIONS SYSTEMS.

(a) Limitation.—Funds available to the Department of Defense may not be expended to merge defense telecommunications systems with the telecommunications system known as "FTS-2000" or with any other civil telecommunications system until—

(1) the Secretary of Defense submits to the congressional defense committees a report containing—

(A) a certification by the Secretary that the merged telecommunications systems, including the associated services, will provide assured, secure telecommunications support for Department of Defense activities; and

(B) a description of how the merger of the systems will be implemented and the merged systems will be managed to meet defense information infrastructure requirements, including requirements to support deployed forces and intelligence activities; and

(2) 30 days elapse after the date on which such report is received by the committees.

(b) Defense Telecommunications Activity Defined.—In this section, the term "defense telecommunications system" means a system of telecommunications equipment and services that, pursuant to section 2315 of title 10, United States Code, is exempt from the requirements of section 111 of the Federal Property and Administrative Services Act of 1949.

SEC. 1068. ACQUISITION OF STRATEGIC SEALIFT SHIPS.

(a) Amount for Shipbuilding and Conversion.—Notwithstanding section 102(3), there is hereby authorized to be appropriated for the Navy for fiscal year 1995, $5,532,007,000 for procurement for shipbuilding and conversion.

(b) National Defense Sealift Fund.—Notwithstanding section 302(2), there is hereby authorized to be appropriated for the Armed Forces and other activities and agencies of the Department of Defense $828,600,000 for providing capital for the National Defense Sealift Fund.

SEC. 1069. REQUIREMENT FOR SECRETARY OF DEFENSE TO SUBMIT RECOMMENDATIONS ON CERTAIN PROVISIONS OF LAW CONCERNING MISSING PERSONS.

(a) Findings.—Congress makes the following findings:

(1) The families of American personnel who became prisoners of war or missing in action while serving in the Armed Forces of the United States and national veterans organizations have expressed concern to Congress for several years regarding provisions of chapter 10 of title 37, United States Code, relating to missing persons, that authorize the Secretaries of the military departments to declare missing Armed Forces personnel dead based solely on the passage of time.

(2) Proposed legislation concerning revisions to those provisions of law has been pending before Congress for several years.

(3) It is important for Congress to obtain the views of the Secretary of Defense with respect to the appropriateness of revising those provisions of law before acting further on proposed amendments to such provisions.

(b) Recommendations Required.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretaries of the military departments, the national POW/MIA family organizations, and the national veterans organizations, shall—

(1) conduct a review of the provisions of chapter 10 of title 37, United States Code, relating to missing persons; and

(2) submit to Congress the Secretary's recommendations as to whether those provisions of law should be amended.

SEC. 1070. CONTACT BETWEEN THE DEPARTMENT OF DEFENSE AND THE MINISTRY OF NATIONAL DEFENSE OF CHINA ON POW/MIA ISSUES.

(a) Findings.—Congress makes the following findings:

(1) The Select Committee on POW/MIA Affairs of the Senate concluded in its final report, dated January 13, 1993, that "many

American POW's had been held in China during the Korean conflict and that foreign POW camps in both China and North Korea were run by Chinese officials" and, further, that "given the fact that only 26 Army and 15 Air Force personnel returned from China following the war, the committee can now firmly conclude that the People's Republic of China surely has information on the fate of other unaccounted for American POW's from the Korean conflict.".

(2) The Select Committee on POW/MIA Affairs recommended in such report that "the Departments of State and Defense form a POW/MIA task force on China similar to Task Force Russia.".

(3) Neither the Department of Defense nor the Department of State has held substantive discussions with officials from the People's Republic of China concerning unaccounted for American prisoners of war of the Korean conflict.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should establish contact with officials of the Ministry of Defense of the People's Republic of China regarding unresolved issues relating to American prisoners of war and American personnel missing in action as a result of the Korean conflict.

SEC. 1071. DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL FROM THE KOREAN CONFLICT, AND THE COLD WAR.

Section 1082 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 50 U.S.C. 401 note) is amended—

(1) in subsection (a), by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Paragraph (1) applies to any record, live-sighting report, or other information in the custody of the official custodian referred to in subsection (d)(3) that may pertain to the location, treatment, or condition of (i) United States personnel who remain not accounted for as a result of service in the Armed Forces of the United States or other Federal Government service during the Korean conflict, the Vietnam era, or the Cold War, or (ii) their remains.";

(2) in subsection (c)—

(A) by striking out the first sentence in paragraph (1) and inserting in lieu thereof the following: "In the case of records or other information originated by the Department of Defense, the official custodian shall make such records and other information available to the public pursuant to this section not later than September 30, 1995.";

(B) in paragraph (2), by striking out "after March 1, 1992,"; and

(C) in paragraph (3), by striking out "a Vietnam-era POW/MIA who may still be alive in Southeast Asia," and inserting in lieu thereof "any United States personnel referred to in subsection (a)(2) who remain not accounted for but who may still be alive in captivity,";

(3) by striking out subsection (d) and inserting in lieu thereof the following:

"(d) DEFINITIONS.—For purposes of this section:

"(1) The terms 'Korean conflict' and 'Vietnam era' have the meanings given those terms in section 101 of title 38, United States Code.

"(2) The term 'Cold War' shall have the meaning determined by the Secretary of Defense.

"(3) The term 'official custodian' means—

"(A) in the case of records, reports, and information relating to the Korean conflict or the Cold War, the Archivist of the United States; and

"(B) in the case of records, reports, and information relating to the Vietnam era, the Secretary of Defense."; and

(4) by striking out the section heading and inserting in lieu thereof the following new section heading:

"SEC. 1082. DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF THE COLD WAR, THE KOREAN CONFLICT, AND THE VIETNAM ERA.".

SEC. 1072. REQUIREMENT FOR CERTIFICATION BY SECRETARY OF DEFENSE CONCERNING DECLASSIFICATION OF VIETNAM-ERA POW/MIA RECORDS.

(a) FINDINGS.—Congress makes the following findings:

(1) The Senate, by Senate Resolution 324, 102d Congress, 2d session, agreed to on July 2, 1992, unanimously requested the President to "expeditiously issue an Executive Order requiring all executive branch departments and agencies to declassify and publicly release without compromising United States national security all documents, files, and other materials pertaining to POW's and MIA's.".

(2) The President, in an executive order dated July 22, 1992, ordered declassification of all United States Government documents, files, and other materials pertaining to American personnel who became prisoners of war or missing in action in Southeast Asia.

(3) The President stated on Memorial Day of 1993 that all such documents, files, and other materials pertaining to the personnel covered by that executive order should be declassified by Veterans Day of 1993.

(4) The President declared on Veterans Day of 1993 that all such documents, files, and other materials had been declassified.

(5) Nonetheless, since that Veterans Day declaration in 1993, there have been found still classified more United States Government documents, files, and other materials pertaining to American personnel who became prisoners of war or missing in action in Southeast Asia.

(b) REVIEW AND CERTIFICATION.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall—

(1) conduct a review to determine whether there continue to exist in classified form documents, files, or other materials pertaining to American personnel who became prisoners of war or missing in action in Southeast Asia that should be declassified in accordance with Senate Resolution 324, 102d Congress, 2d session, agreed to on July 2, 1992, and the executive order of July 22, 1992; and

(2) certify to Congress that all documents, files, and other materials pertaining to such personnel have been declassified and specify in the certification the date on which the declassification was completed.

SEC. 1073. INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF THE VIETNAM CONFLICT.

Not later than 45 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress the following information pertaining to United States personnel involved in the Vietnam conflict that remain not accounted for:

(1) A complete listing by name of all such personnel about whom it is possible that officials of the Socialist Republic of Vietnam can produce additional information or remains that could lead to the maximum possible accounting for those personnel, as determined on the basis of all information available to the United States Government.

(2) A complete listing by name of all such personnel about whom it is possible that officials of the Lao People's Democratic Republic can produce additional information or remains that could lead to the maximum possible accounting for those personnel, as determined on the basis of all information available to the United States Government.

SEC. 1074. REPORT ON POW/MIA MATTERS CONCERNING NORTH KOREA.

(a) FINDINGS.—Congress makes the following findings:

(1) The Select Committee on POW/MIA Affairs of the Senate concluded in its final report, dated January 13, 1994, that "it is likely that a large number of possible MIA remains can be repatriated and several records and documents on unaccounted for POW's and MIA's can be provided from North Korea once a joint working level commission is set up under the leadership of the United States.".

(2) The Select Committee recommended in such report that "the Departments of State and Defense take immediate steps to form this commission through the United Nations Command at Panmunjom, Korea" and that the "commission should have a strictly humanitarian mission and should not be tied to political developments on the Korean peninsula.".

(3) In August 1993, the United States and North Korea entered into an agreement concerning the repatriation of remains of United States personnel.

(4) The establishment of a joint working level commission with North Korea could enhance the prospects for results under the August 1993 agreement.

(b) REPORT.—The Secretary of Defense shall—

(1) at the end of January, May, and September of 1995, submit a report to Congress on the status of efforts to obtain information from North Korea concerning United States personnel involved in the Korean conflict who remain not accounted for and to obtain from North Korea any remains of such personnel; and

(2) actively seek to establish a joint working level commission with North Korea, consistent with the recommendations of the Select Committee on POW/MIA Affairs of the Senate set forth in the final report of the committee, dated January 13, 1993, to resolve the remaining issues relating to United States personnel who became prisoners of war or missing in action during the Korean conflict.

SEC. 1075. ELIMINATION OF DISPARITY BETWEEN EFFECTIVE DATES FOR MILITARY AND CIVILIAN RETIREE COST-OF-LIVING ADJUSTMENTS FOR FISCAL YEAR 1995.

(a) IN GENERAL.—The fiscal year 1995 increase in military retired pay shall (notwithstanding subparagraph (B) of section 1401a(b)(2) of title 10, United States Code) first be payable as part of such retired pay for the month of March 1995.

(b) DEFINITIONS.—For the purposes of subsection (a):

(1) The term "fiscal year 1995 increase in military retired pay" means the increase in retired pay that, pursuant to paragraph (1) of section 1401a(b) of title 10, United States Code, becomes effective on December 1, 1994.

(2) The term "retired pay" includes retainer pay.

(c) LIMITATION.—Subsection (a) shall be effective only if there is appropriated to the Department of Defense Military Retirement Fund (in an Act making appropriations for the Department of Defense for fiscal year 1995 that is enacted before March 1, 1995) such amount as is necessary to offset increased outlays to be made from that fund during fiscal year 1995 by reason of the provisions of subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1995 to the Department of Defense Military Retirement Fund the sum of $376,000,000 to offset increased outlays to be made from that fund during fiscal year 1995 by reason of the provisions of subsection (a).

SEC. 1076. MILITARY RECRUITING ON CAMPUS.

(a) DENIAL OF FUNDS.—(1) No funds available to the Department of Defense may be provided by grant or contract to any institution of higher education that has a policy of denying, or which effectively prevents, the Secretary of Defense from obtaining for military recruiting purposes—

(A) entry to campuses or access to students on campuses; or

(B) access to directory information pertaining to students.

(2) Students referred to in paragraph (1) are individuals who are 17 years of age or older.

(b) PROCEDURES FOR DETERMINATION.—The Secretary of Defense, in consultation with the Secretary of Education, shall prescribe regulations that contain procedures for determining if and when an educational institution has denied or prevented access to students or information described in subsection (a).

(c) DEFINITION.—For purposes of this section, the term "directory information" means, with respect to a student, the student's name, address, telephone listing, date and place of birth, level of education, degrees received, and the most recent previous educational institution enrolled in by the student.

SEC. 1077. STUDY ON CONVERGENCE OF GEOSAT AND EOS ALTIMETRY PROGRAMS.

(a) REQUIREMENT.—The Secretary of the Navy and the Administrator of the National Aeronautics and Space Administration shall jointly conduct a study on the convergence of the National Aeronautics and Space Administration Earth Observing System Altimetry mission with the Navy Geosat Follow-On program. The study shall assess whether a converged system, which may involve minor modifications to the Geosat Follow-On satellite, could—

(1) satisfy the needs of the Earth Observing System program for altimetry data;

(2) reduce the expenses of the National Aeronautics and Space Administration in satisfying such needs;

(3) be available in time to serve as the follow-on to the Topex/Poseidon mission; and

(4) continue to meet the requirements of the Navy for altimetry data at no additional cost to the Navy.

(b) CONSULTATION.—In concluding the study, the Secretary and the Administrator shall consult with appropriate members of the scientific community.

(c) REPORT.—The Secretary and the Administrator shall submit to the Committees on Armed Services, Commerce, Science, and Transportation and the Committees on Armed Services and Science, Space, and Technology of the House of Representatives a report on the results of the study conducted under subsection (a), together with the recommendations of the Secretary and the Administrator thereon. The Secretary and the Administrator shall submit not later than February 15, 1995.

SEC. 1078. VISAS FOR OFFICIALS OF TAIWAN.

Section 4(b)(6) of the Taiwan Relations Act (22 U.S.C. 3302(b)(6)) is amended—

(1) by inserting "(A)" immediately after "(6)"; and

(2) by adding at the end the following:

"(B) Whenever the president of Taiwan or any other high-level official of Taiwan shall apply to visit the United States for the purposes of discussions with United States Federal or State government officials concerning:

"(i) Trade or business with Taiwan that will reduce the United States-Taiwan trade deficit;

"(ii) Prevention of nuclear proliferation;

"(iii) Threats to the national security of the United States;

"(iv) The protection of the global environment;

"(v) The protection of endangered species; or

"(vi) Regional humanitarian disasters.

The official shall be admitted to the United States, unless the official is otherwise excludable under the immigration laws of the United States.".

SEC. 1079. SENSE OF THE SENATE CONCERNING PARTICIPATION IN ALLIED DEFENSE COOPERATION.

It is the sense of the Senate that the President should use existing authorities to the greatest extent possible to authorize the provision of the following types of assistance and cooperation to countries like Poland, Hungary and the Czech Republic who are making significant progress in working with NATO—

(1) Excess defense articles as defined in the Foreign Assistance Act of 1961 and the Arms Control Export Act;

(2) Loan materials, supplies and equipment for research and development purposes;

(3) Leases and loans of major defense equipment and other defense articles;

(4) Cooperative military airlift agreements;

(5) The procurement of communications support and related supplies and services;

(6) Actions to standardize equipment with North Atlantic Treaty Organization members.

SEC. 1080. INTERAGENCY PLACEMENT PROGRAM FOR FEDERAL EMPLOYEES AFFECTED BY REDUCTION IN FORCE ACTIONS.

(a) STUDY AND REPORT.—(1) No later than 6 months after the date of the enactment of this Act, the Office of Personnel Management, in consultation with the Department of Defense, shall conduct a study and submit a report to the Congress on—

(A) the feasibility of establishing a mandatory interagency placement program for Federal employees affected by reduction in force actions; and

(B) any action taken by the Office of Personnel Management under subsection (b).

(2) In conducting the study under this section, the Office of Personnel Management, in consultation with the Department of Defense, shall seek comments from all Federal agencies.

(b) AGREEMENTS TO ESTABLISH INTERAGENCY PLACEMENT PROGRAM.—(1) If, during the 6-month period after the date of the enactment of this Act, the Office of Personnel Management, in consultation with the Department of Defense, determines that a Government-wide interagency placement program for Federal employees affected by reduction in force actions is feasible, the Office of Personnel Management may enter into an agreement with each agency that agrees to participate, to establish such a program. A program established under this subsection shall not be required to be an interagency placement program as defined under subsection (c)(3).

(2) If the Office of Personnel Management makes a determination to establish a program as provided under paragraph (1), the Office shall include in the report submitted under subsection (a) each agency that decides not to participate in the program and the reasons of the agency for the decision.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "agency" means an "Executive agency" as defined under section 105 of title 5, United States Code, and—

(A) includes the United States Postal Service and the Postal Rate Commission; and

(B) does not include the General Accounting Office;

(2) the term "Federal employees affected by reduction in force actions" means Federal employees who—

(A) are scheduled to be separated from service under a reduction in force pursuant to—

(i) regulations prescribed under section 3502 of title 5, United States Code; or

(ii) procedures established under section 3595 of title 5, United States Code; or

(B) are separated from service under such a reduction in force; and

(3) the term "interagency placement program" means a program that provides a system to require the offer of a position in an agency to an employee of another agency affected by a reduction in force action, if—

(A) the position cannot be filled through a placement program of the agency in which the position is located;

(B) the employee to whom the offer is made is well qualified for the offered position;

(C)(i) the classification of the offered position is equal to the classification of the employee's present or last held position; or

(ii) the basic rate of pay of the offered position is equal to the basic rate of pay of the employee's present or last held position; and

(D) the geographic location of the offered position is within the commuting area of—

(i) the residence of the employee; or

(ii) the location of the employee's present or last held position.

SEC. 1081. GEORGE C. MARSHALL EUROPEAN CENTER FOR SECURITY STUDIES.

(a) USE OF CONTRIBUTIONS.—Funds received by the United States Government from the Federal Republic of Germany as its fair share of the costs of the George C. Marshall European Center for Security Studies shall be credited to appropriations available to the Department of Defense for the George C. Marshall European Center for Security Studies. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Center for the same purposes and the same period as the appropriations with which merged.

(b) WAIVER OF CHARGES.—(1) The Secretary of Defense may waive reimbursement of the costs of conferences, seminars, courses of instruction, or similar educational activities of the George C. Marshall European Center for Security Studies for military officers and civilian officials of cooperation partner states of the North Atlantic Cooperation Council or the Partnership for Peace if the Secretary determines that attendance by such personnel without reimbursement is in the national security interest of the United States.

(2) Costs for which reimbursement is waived pursuant to paragraph (1) shall be paid from appropriations available for the Center.

SEC. 1082. CHANGES IN NOTICE REQUIREMENTS UPON PENDING OR ACTUAL TERMINATION OF DEFENSE PROGRAMS.

(a) TIME FOR NOTICE REQUIREMENT AFTER SUBMISSION OF BUDGET.—Subsection (a) of section 4471 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 106 Stat. 2753; 10 U.S.C. 2501 note) is amended—

(1) by striking out "As soon as reasonably practicable" and inserting in lieu thereof "Not later than 90 days"; and

(2) by striking out "and not more than 180 days after such date,".

(b) TIME FOR NOTICE REQUIREMENT AFTER ENACTMENT OF APPROPRIATIONS ACT.—Subsection (b) of such section is amended—

(1) by striking out "as soon as reasonably practicable" and inserting in lieu thereof "not later than 90 days"; and

(2) by striking out "and not more than 180 days after such date,".

(c) TIME FOR NOTICE REQUIREMENT ON WITHDRAWAL OF NOTIFICATION.—Subsection (f)(1) of such section is amended in the second sentence by striking out "as soon as reasonably practicable" and inserting in lieu thereof "not later than 90 days".

SEC. 1083. TRANSFER OF OBSOLETE VESSEL GUADALCANAL.

(a) AUTHORITY.—Notwithstanding subsections (a) and (d) of section 7306 of title 10, United States Code, but subject to subsections (b) and (c) of that section, upon the decommissioning of the USS Guadalcanal (LPH 7), the Secretary of the Navy may transfer the Guadalcanal to the not-for-profit organization Intrepid Museum Foundation, New York, New York.

(b) LIMITATIONS.—The transfer authorized by section (a) may be made only if the Secretary determines that the vessel Guadalcanal is of no further use to the United States for national security purposes.

(c) TERMS AND CONDITIONS.—The Secretary may require such terms and conditions in connection with the transfer authorized by this section as the Secretary considers appropriate.

SEC. 1084. STUDY OF SPOUSAL ABUSE INVOLVING ARMED FORCES PERSONNEL.

(a) FINDINGS.—Congress makes the following findings:

(1) The Department of Defense has sponsored several highly successful programs designed to curtail spousal abuse.

(2) The readiness of the Armed Forces would be enhanced by eliminating all forms of spousal abuse involving members of the Armed Forces.

(3) Available data on the frequency and causes of spousal abuse involving members of the Armed Forces is not comprehensive for the Armed Forces.

(b) STUDY AND REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall conduct a study on spousal abuse involving members of the Armed Forces of the United States and submit to Congress a report on the results of the study.

(c) CONTENT OF REPORT.—The report shall contain the following matters:

(1) The frequency of spousal abuse involving members of the Armed Forces.

(2) A discussion of the possible causes of such spousal abuse.

(3) A discussion of the procedures followed in responding to incidents of such spousal abuse.

(4) An analysis of the effectiveness of those procedures.

(5) A review of the existing programs for curtailing such spousal abuse.

(6) A strategy for the entire Armed Forces for curtailing spousal abuse involving members of the Armed Forces.

SEC. 1085. REVIEW OF THE PROCEDURES USED BY DEPARTMENT OF DEFENSE INVESTIGATIVE ORGANIZATIONS WHEN CONDUCTING AN INVESTIGATION INTO THE DEATH OF A MEMBER OF THE ARMED FORCES WHO, WHILE SERVING ON ACTIVE DUTY, DIED FROM A CAUSE DETERMINED TO BE SELF-INFLICTED.

SENSE OF CONGRESS.—It is the Sense of Congress that, upon receipt of the report required by section 1185 of the National Defense Authorization Act for Fiscal Year 1994, the Senate Committee on Armed Services should review that report and hold hearings related to the procedures employed by Department of Defense investigative organizations when conducting an investigation into the death of a member of the Armed Services who, while serving on active duty, died from a cause determined to be self-inflicted.

SEC. 1086. PUBLIC EDUCATION FACILITY OF THE ARMED FORCES INSTITUTE OF PATHOLOGY.

(a) PURPOSE.—It is the purpose of this section to—

(1) display and interpret the collections of the Armed Forces Institute of Pathology currently located at Walter Reed Medical Center; and

(2) designate a site for the relocation of the public education facility of the Armed Forces Institute of Pathology so that it may serve as a central resource of instruction about the critical health issues which confront all American citizens.

(b) SITE OF FACILITY.—The public education facility of Armed Forces Institute of Pathology shall be located on or near the Mall on land owned by the Federal Government or the District of Columbia in the District of Columbia.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority or responsibilities of the National Capital Planning Commission or the Commission of Fine Arts.

(d) DEFINITION.—As used in this section, the term "the Mall" means—

(1) the land designated as "Union Square", United States Reservation 6A; and

(2) the land designated as the "Mall", United States Reservations 3, 4, 5, and 6.

(e) SENSE OF THE CONGRESS.—

(1) FINDINGS.—Congress finds that—

(A) the National Museum of Health and Medicine Foundation, Inc. (a private, nonprofit organization having for its primary purpose the relocation to the Mall and revitalization of the National Museum of Health and Medicine), the Armed Forces Institute of Pathology, and the Public Health Service have jointly supported planning to relocate the Museum to a site on land that is located east of and adjacent to the Hubert H. Humphrey Building (100 Independence Avenue, Southwest, in the District of Columbia); and

(B) the National Museum of Health and Medicine Foundation, Inc., is deserving of the encouragement and support of the American people in its effort to relocate the National Museum of Health and Medicine to a site on land the is located east of and adjacent to the Hubert H. Humphrey Building, and in its effort to raise funds for a revitalized Museum to inspire increasing numbers of Americans to lead healthy lives through improved public understanding of health and the medical sciences.

(2) LOCATION.—It is the sense of the Congress that, subject to appropriate approvals by the National Capital Planning Commission and the Commission of Fine Arts, the National Museum of Health and Medicine should be relocated to a site on land that is located east of and adjacent to the Hubert H. Humphrey Building for the purpose of educating the American public concerning health and the medical sciences.

SEC. 1087. ASSIGNMENTS OF EMPLOYEES BETWEEN FEDERAL AGENCIES AND FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

(a) AUTHORITY.—Section 3371(4) of title 5, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) a federally funded research and development center.".

(b) PROVISIONS GOVERNING ASSIGNMENTS.—Section 3372 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(e) Under regulations prescribed pursuant to section 3376 of this title—

"(1) an assignment of an employee of a Federal agency to an other organization or an institution of higher education, and an employee so assigned, shall be treated in the same way as an assignment of an employee of a Federal agency to a State or local government, and an employee so assigned, is treated under the provisions of this subchapter governing an assignment of an employee of a Federal agency to a State or local government, except that the rate of pay of an employee assigned to a federally funded research and development center may not exceed the rate of pay that such employee would be paid for continued service in the position in the Federal agency from which assigned; and

"(2) an assignment of an employee of an other organization or an institution of higher education to a Federal agency, and an employee so assigned, shall be treated in the same way as an assignment of an employee of a State or local government to a Federal agency, and an employee so assigned, is treated under the provisions of this subchapter governing an assignment of an employee of a State or local government to a Federal agency.".

SEC. 1088. BOSNIA AND HERZEGOVINA.

(a) PURPOSE.—To express the sense of Congress concerning the international efforts to end the conflict in Bosnia and Hercegovina.

(b) STATEMENTS.—The Congress makes the following statements of support:

(1) The Congress supports the use of international sanctions in the form of arms and economic embargoes imposed by the United Nations Security Council in appropriate circumstances.

(2) The Congress supports the imposition of an arms and economic embargo on the Government of Iraq by United Nations Security Council resolution 661 of August 6, 1990 to bring about compliance with a number of conditions, including in particular an end to Iraq's nuclear weapons program.

(3) The Congress supports the imposition of an arms, petroleum and economic embargo on Haiti by United Nations Security Council resolutions 875 of October 16, 1993 and 917 of May 17, 1994 to bring about compliance with the Governors Island Agreement.

(4) The Congress supports the imposition of an arms and civil aircraft embargo on Libya pursuant to United Nations Security Council resolution 748 of March 31, 1992 in order to convince Libya to renounce terrorism.

(c) Findings.—The Congress makes the following findings:

(1) The United States took the lead in the United Nations Security Council to impose international sanctions in the form of arms and economic embargoes on Iraq, Haiti, and Libya.

(2) The security of the Republic of Korea with whom the United States has a mutual defense treaty and on whose territory there are more than 38,000 members of the United States Armed Forces is a vital interest of the United States.

(3) Should negotiations fail, the imposition of sanctions by the United Nations Security Council on North Korea, which would require the affirmative vote or abstention of China, Russia, Britain, and France, may be essential to stop North Korea's nuclear weapons development program and to end a nuclear threat to the Republic of Korea and Southeast Asia.

(4) The effective enforcement of sanctions on North Korea, once imposed by the United Nations Security Council, would require the cooperation of China, Russia, and Japan as well as other allies, including Britain and France, both permanent members of the United Nations Security Council.

(5) The United States voted for the international arms embargo imposed by United Nations Security Council resolution 713 of September 25, 1991 that was imposed on Yugoslavia.

(6) The imposition of the United Nations arms embargo on September 25, 1991 has not served to end the conflict in Bosnia and Hercegovina, has provided a battlefield advantage to the Bosnian Serbs, who possess artillery, tanks, and other weapons left behind by the former Yugoslav Army or provided by Serbia and Montenegro, and has deprived the Government of Bosnia and Hercegovina from acquiring the adequate means of defending itself and its citizens.

(7) Our NATO allies have committed ground forces to the United Nations Protection Force (UNPROFOR) in former Yugoslavia. At the present time France has 5,518 troops, Britain 3,435, the Netherlands 2,073, Canada 2,037, Turkey 1,696, Spain 1,417, and Belgium 1,000. Our NATO allies have thus far sustained 49 deaths and 936 wounded as a result of their participation in UNPROFOR.

(8) For the first time the so-called "contact group" composed of representatives of the United States, Russia, France and Britain is moving toward a unified position of using an incentives and disincentives "carrot and stick" strategy to bring about a peaceful settlement of the conflict in Bosnia and Hercegovina.

(d) It is the sense of the Congress that the United States should work with the NATO Member nations and the other permanent members of the United Nations Security Council to endorse the efforts of the contact group to bring about a peaceful settlement of the conflict in Bosnia Hercegovina, including the following:

(A) the preservation of an economically, politically and militarily viable Bosnian state capable of exercising its rights under the United Nations Charter as part of a peaceful settlement, the lifting of the United Nations arms embargo on the Government of Bosnia and Hercegovina so that it can exercise the inherent right of a sovereign state to self-defense;

(B) if the Bosnian Serbs, while the contact group's peace proposal is being considered and discussed, attack the safe areas designated by the United Nations Security Council, the partial lifting of the arms embargo on the Government of Bosnia and Hercegovina and the provision to that Government of defensive weapons and equipment appropriate and necessary to defend those safe areas;

(C) if the Bosnian Serbs do not respond constructively to the peace negotiations, the President or his representative shall promptly propose or support a resolution in the United Nations Security Council to terminate the international arms embargo on Bosnia and Hercegovina (and the orderly withdrawal of the United Nations Protection Force and humanitarian relief personnel). If the Security Council fails to pass such a resolution, the President shall within 5 days consult with Congress regarding unilateral termination of the arms embargo on the Government of Bosnia and Hercegovina.

SEC. 1089. PROVISION OF INTELLIGENCE AND OTHER ASSISTANCE WHERE DRUG TRAFFICKING THREATENS NATIONAL SECURITY.

(a) Notwithstanding any other provision of law, it shall not be unlawful for authorized employees or agents of a foreign country to damage, render inoperative, or destroy an aircraft in that country's territory or airspace, or to attempt to do so, if that aircraft is reasonably suspected to be primarily engaged in illicit narcotics trafficking, provided that the President of the United States prior to the actions described in this subparagraph being taken has determined:

(1) that such actions are necessary because of the extraordinary threat posed by drug trafficking to the national security of that country, and

(2) that the country has appropriate procedures in place to protect against innocent loss of life in the air and on the ground, which shall at a minimum include effective means to identify and warn aircraft prior to the use of force.

(b) It shall not be unlawful for authorized employees or agents of the United States to provide assistance, including but not limited to operational, intelligence, logistical, technical and administration assistance, for the actions of foreign countries set forth in subsection (a), nor shall the provision of such assistance give rise to any civil action seeking money damages or any other form of relief against the United States or its agents or employees.

SEC. 1090. ADMINISTRATION OF ATHLETICS PROGRAMS AT THE SERVICE ACADEMIES.

(a) United States Military Academy.—(1) Chapter 403 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4357. Administration of athletics program

"(a) The position of athletic director of the Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill such position as an active duty assignment.

"(b) Under regulations prescribed by the Secretary of the Army, the Superintendent of the Academy shall establish and administer a nonappropriated fund account for the athletics program of the Academy. The Superintendent shall credit to such account all revenue received from the conduct of the athletics program of the Academy and all contributions received for such program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4357. Administration of athletics program.".

(b) United States Naval Academy.—(1) Chapter 603 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 6975. Administration of athletics program

"(a) The position of athletic director of the Naval Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill such position as an active duty assignment.

"(b) Under regulations prescribed by the Secretary of the Navy, the Superintendent of the Naval Academy shall establish and administer a nonappropriated fund account for the athletics program of the Naval Academy. The Superintendent shall credit to such account all revenue received from the conduct of the athletics program of the Naval Academy and all contributions received for such program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"6975. Administration of athletics program.".

(c) United States Air Force Academy.—(1) Chapter 903 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9356. Administration of athletics program

"(a) The position of athletic director of the Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill such position as an active duty assignment.

"(b) Under regulations prescribed by the Secretary of the Air Force, the Superintendent of the Academy shall establish and administer a nonappropriated fund account for the athletics program of the Academy. The Superintendent shall credit to such account all revenue received from the conduct of the athletics program of the Academy and all contributions received for such program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9356. Administration of athletics program.".

(d) Effective Date.—The amendments made by this section shall take effect 240 days after the date of the enactment of this Act.

SEC. 1091. REVIEW OF THE BOTTOM UP REVIEW AND THE FUTURE YEAR DEFENSE PROGRAM AND ESTABLISHMENT OF NEW FUNDING REQUIREMENTS AND PRIORITIES.

(a) Findings.—Congress finds as follows:

(1) Whereas the Administration commissioned the Bottom Up Review to properly structure the Armed Forces of the United States for the Post-Cold War Era;

(2) Whereas the Secretary of Defense has testified that the Department of Defense's Future Years Defense Program includes $20 billion more in program funding requests during fiscal years 1996 through 1999 than the defense funding levels in the Administration's budget can support;

(3) Whereas, the Secretary of the Navy has testified that the Department of the Navy will only operate 330 ships rather than the 346 ships required by the Bottom Up Review;

(4) Whereas, in January 1994, in his Annual Report to the President and the Congress, the Secretary of Defense reported that the Air Force will field approximately 100 heavy bombers rather than the 184 required by the Bottom Up Review;

(5) Whereas the Department of Defense's plans for a major regional contingency in the Far East call for 5 Army divisions and the

plans for a major regional contingency in Southwest Asia call for 7 Army divisions, while the Bottom Up Review plans for an Army of only 10 active divisions;

(6) Whereas the Administration's budget assumes the Department of Defense will save at least $6 billion from procurement reform;

(7) Whereas the first and second rounds of the Base Realignment and Closure Commission have not yet achieved the level of savings initially estimated, and the 1995 base closure round may cost significantly more than is assumed in the Administration's budget.

(b) Sense of Congress.—It is the Sense of Congress:

(1) that within 30 days after enactment of this legislation, the Secretary of Defense should initiate a review of the assumptions and conclusions of the President's Budget, the Bottom Up Review, and the Future Years Defense Program; and that not more than 180 days after the review is initiated the Secretary of Defense should submit to the President and to the Congress a report detailing the force structure required for an effective defense of the United States and its vital national interests;

(2) and that not more than 60 days after receipt of the report described in subsection (b)(1), the President should submit to the Congress a report detailing the steps the President will take to meet the force structure described in subsection (b)(1);

(3) and that the fiscal year 1996 budget submitted to the Congress by the President should reflect the funding level necessary to support the force structure described in subsection (b)(1).

SEC. 1092. GENOCIDE IN RWANDA.

(a) Findings.—The Congress finds that—

(1) since April 6, 1994, elements of the Rwandan government forces, and their allied militias, have organized the massacres of more than 200,000 Rwandan civilians, of both Tutsi and Hutu ethnic origin;

(2) an estimated 2 million Rwandans have been internally displaced, and at least 500,000 have fled to neighboring countries;

(3) on April 26, 1994, the Senate agreed to Senate Resolution 207, deploring the massacres and urging prompt resolution of this crisis;

(4) the potential exists for retaliatory acts to be committed by elements within the Rwandan Patriotic Front against civilians;

(5) on June 8, 1994, the United Nations Security Council expanded and reinforced the United Nations Assistance Mission for Rwanda (UNAMIR) to 5,500 troops with a mandate to protect civilians;

(6) on June 22, 1994, the United Nations Security Council voted unanimously to support the deployment of military forces from France and Senegal for a temporary operation that would contribute to the security and protection of populations at risk in Rwanda.

(b) Policy.—The Congress—

(1) calls upon the President to acknowledge that acts of genocide have been committed in Rwanda;

(2) urges the President to support the establishment of an impartial commission of experts to examine and analyze the evidence submitted of breaches of the Convention on Genocide, and other grave violations of international humanitarian law, committed in Rwanda;

(3) commends the Department of Defense for logistical help already provided and urges the Secretary of Defense to further expedite all United States military contributions to the humanitarian effort in Rwanda.

(4) implores the President to take the lead in the international community to expedite commitments of the necessary resources for, and to organize the speedy training and deployment of, the reinforced UNAMIR operation, with the mandate of protecting civilian populations at risk in Rwanda;

(5) strongly urges the President and the international community to expedite assistance needed for humanitarian operations in Rwanda, and neighboring states, for the support of Rwandan refugees;

(6) commends France and Senegal for cooperating with the Secretary General towards the fulfillment of the objectives of the United Nations in Rwanda; and

(7) urges France and Senegal pursuant to the United Nations Security Council resolution of June 22, 1994, to maintain the humanitarian character of their operation in Rwanda, with the view towards impartiality and neutrality.

SEC. 1093. STUDIES OF HEALTH CONSEQUENCES OF MILITARY SERVICE OR EMPLOYMENT IN SOUTHWEST ASIA DURING THE PERSIAN GULF WAR.

(a) Epidemiological Study.—

(1) In general.—The Secretary of Defense shall award a grant under this subsection to one or more non-Federal entities selected for the award under subsection (c). The purpose of a grant is to permit the entity receiving the award to carry out the study described in paragraph (2).

(2) Nature of study.—The purpose of the study referred to in paragraph (1) is to determine the nature and scope of the illnesses and symptoms suffered by the individuals referred in paragraph (3) as a result of service or employment in the Southwest Asia theater of operations during the Persian Gulf War.

(3) Individuals covered by study.—Paragraph (2) applies to the following individuals:

(A) Individuals who served as members of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

(B) Individuals who were civilian employees of the Department of Defense in that theater during that period.

(C) Where appropriate, individuals who were employees of contractors of the Department in that theater during that period.

(D) Where appropriate, the spouses and children of individuals described in subparagraph (A).

(4) Study design.—The study required under this subsection shall be designed—

(A) to assess the extent, if any, of the association between—

(i) the illnesses and symptoms suffered by individuals referred to in paragraph (3);

(ii) the exposure of the individuals referred to in subparagraphs (A), (B), and (C) of that paragraph to chemical and biological agents, drugs and vaccines, endemic biological diseases, pesticides, toxins, and other potentially hazardous materials; and

(iii) the experiences of such individuals with stress-producing battlefield and wartime conditions;

(B) to identify risk factors for predicting the illnesses or symptoms relating to such exposure that will arise within 3 years of the arrival of an individual referred to in subparagraph (A), (B), or (C) of paragraph (3) in the Southwest Asia theater of operations;

(C) to determine—

(i) the incidence, prevalence, and nature of the illnesses and symptoms suffered by the individuals referred to in paragraph (3), including—

(I) the incidence, prevalence, and nature of the illnesses and symptoms of such individuals before the commencement of the period of the Persian Gulf War and the incidence, prevalence, and nature of the illnesses of such individuals after the end of that period; and

(II) the incidence, prevalence, and nature of the illnesses, symptoms, and birth defects of any children conceived by such individuals before the commencement of that period and of any children conceived by such individuals during or after the end of that period; and

(ii) the incidence, prevalence, and nature of illnesses and symptoms of other individuals or groups of individuals, if any, who may suffer from an illness or symptom as a result of the service or employment of any person or group of persons in the Southwest Asia theater of operations during the Persian Gulf War; and

(D) to evaluate a comparison sample or to evaluation any other matter that the Secretary or the entity determines appropriate to the purposes of the study.

(5) Reports.—

(A) Interim reports.—Not later than each of July 1, 1995, and July 1, 1996, the Secretary shall submit to the congressional defense committees and the Committees on Veterans' Affairs of the Senate and the House of Representatives an interim report on the results of the study carried out under this subsection.

(B) Final report.—Not later than January 1, 1998, the Secretary shall submit to the committees referred to in subparagraph (A) a final report on the results of the study.

(C) Form of reports.—The reports submitted under this paragraph shall be submitted in unclassified form.

(b) Studies of Health Consequences of Administration of Pyridostigmine Bromide.—

(1) In general.—The Secretary of Defense shall award a grant under this subsection to one or more non-Federal entities selected for the award under subsection (c). The purpose of a grant is to permit the entity receiving the award to carry out a study or studies to determine the following:

(A) The long-term health consequences of the administration of pyridostigmine bromide as an antidote enhancer for chemical nerve agent toxicity during the Persian Gulf War.

(B) The short-term and long-term health consequences of the administration of pyridostigmine bromide under the chemical nerve agent pretreatment program of the Department of Defense and exposure to pesticides, environmental toxins, and other hazardous substances during battlefield conditions that prevailed in the Southwest Asia theater of operations during the Persian Gulf War.

(2) Studies.—The Secretary shall provide that an entity awarded a grant under this subsection shall carry out a study described in paragraph (3) or (4).

(3) Retrospective study.—A study referred to in paragraph (2) is a retrospective study on members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf War in order to determine the following:

(A) The nature of the undiagnosed and chronic illnesses suffered by such members.

(B) The degree of association between such illnesses and—

(i) use of pyridostigmine bromide over a short period of time (as determined by the Secretary) during the Persian Gulf War;

(ii) use of pyridostigmine bromide over an extended period of time (as so determined) during that war; or

(iii) use of no pyridostigmine bromide.

(C) The degree of association between—

(i) such illnesses;

(ii) each extent of use of pyridostigmine bromide described in subparagraph (B);

(iii) receipt of other vaccinations or medications; and

(iv) exposure to pesticides, organophosphates, or carbamates.

(4) ANIMAL MODEL STUDY.—A study referred to in paragraph (2) is also a study using appropriate animal research models in order to determine whether use of pyridostigmine bromide in combination with exposure to pesticides or other organophosphates, carbamates, or relevant chemicals results in increased toxicity in animals and is likely to have a similar effect on humans.

(5) REPORTS.—

(A) ANIMAL STUDY REPORT.—Not later than January 1, 1996, the Secretary shall submit to the congressional defense committees and the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the study carried out under paragraph (4).

(B) INTERIM REPORTS ON RETROSPECTIVE STUDY.—Not later than each of July 1, 1995, and July 1, 1996, the Secretary shall submit to the committees referred to in subparagraph (A) an interim report on the results of the study carried out under paragraph (3).

(C) FINAL REPORT ON RETROSPECTIVE STUDY.—Not later than January 1, 1998, the Secretary shall submit to the committees referred to in subparagraph (A) a final report on the results of the study carried out under paragraph (3).

(D) FORM OF REPORTS.—The reports submitted under this paragraph shall be submitted in unclassified form.

(c) SELECTION OF STUDY ENTITIES.—

(1) IN GENERAL.—The Secretary of Defense shall select entities to which to award grants for the studies described in subsections (a) and (b) in accordance with this subsection.

(2) SUBMITTAL OF PROPOSALS.—An entity seeking to carry out a study under a grant under subsection (a) or (b) shall submit to the Secretary the following proposals:

(A) A proposal for a pilot study in order to determine the research design and research instrument to be used in the study.

(B) A proposal for the study.

(3) INDEPENDENT REVIEW.—The Secretary shall ensure that individuals described in paragraph (4)—

(A) review each proposal submitted to the Secretary under paragraph (2) for purposes of determining whether or not the proposal—

(i) addresses adequately the purposes of the study; and

(ii) meets the technical, scientific, and peer review requirements that apply to similar studies carried out under the direction of the Secretary of Health and Human Services; and

(B) submit to the Secretary recommendations for the selection by the Secretary of one or more entities to carry out the study.

(4) REVIEWING INDIVIDUALS.—Individuals referred to in paragraph (3) are any individuals who, as determined by the Secretary—

(A) are not employees of the Federal Government;

(B) have an expertise in epidemiology, toxicology, neurology, biology, biostatistics, post-traumatic stress disorder, or public health; and

(C) have no financial relationship with the Department of Defense or with any chemical company or pharmaceutical company whose productions may be addressed in the study.

(5) SELECTION.—The Secretary shall—

(A) select the entities that will carry out the studies described under subsections (a) and (b) from among the entities recommended for such selection under paragraph (3); and

(B) award such entities grants under the appropriate subsection.

(d) PERFORMANCE OF STUDIES.—

(1) PILOT STUDIES.—

(A) IMPLEMENTATION.—An entity to which the Secretary awards a grant for a study under subsection (a) or (b) shall carry out the pilot study for such study in accordance with the proposal for the pilot study submitted to the Secretary under subsection (c)(2)(A).

(B) RESPONSE TO RESULTS.—If an entity determines as a result of a pilot study under subparagraph (A) that revisions to the study proposed by the entity are necessary in order to meet the purposes of the study under this section, the entity shall submit to the Secretary a proposal for such revisions to the study.

(C) FINAL APPROVAL.—The Secretary shall—

(i) review any revisions to a proposal to a study that are submitted to the Secretary under subparagraph (B); and

(ii) approve the proposal for the study, as so revised, if the Secretary determines that the proposal meets the purposes of the study under this section.

(2) STUDIES.—An entity to which the Secretary awards a grant for a study under subsection (a) or (b) shall carry out the study in accordance the proposal for the study under this section.

(e) CONSULTATION.—The Secretary of Defense shall carry out this section in consultation with the Secretary of Veterans Affairs, the Secretary of Health and Human Services, the Administrator of the Environmental Protection Agency, the head of the Medical Follow-Up Agency of the Institute of Medicine, and the heads of other appropriate departments and agencies of the Federal Government.

(f) FUNDING.—Of the amount authorized to be appropriated pursuant to section 201, $10,000,000 shall be available for purposes of awarding grants for the studies described in subsections (a) and (b). Such funds shall be available for such purpose until expended.

(g) DEFINITION.—In this section, the term "Persian Gulf War" has the meaning given such term in section 101(33) of title 38, United States Code.

SEC. 1094. GRANTS FOR RESEARCH INTO THE HEALTH CONSEQUENCES OF THE PERSIAN GULF WAR.

(a) IN GENERAL.—(1) The Secretary of Defense shall award grants to appropriate nongovernmental entities for purposes of permitting such entities to carry out research to determine—

(A) the nature and causes of any illnesses suffered by the individuals referred to in paragraph (2) as a result of service or employment in the Southwest Asia theater of operations during the Persian Gulf War;

(B) the methods of transmission, if any, of such illnesses from such individuals to other individuals; and

(C) the appropriate treatment for such illnesses.

(2) The individuals referred to in paragraph (1)(A) are the following individuals:

(i) Individuals who served as members of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

(ii) Civilian employees of the Department of Defense who were employed by the Department in that theater of operations during that period.

(iii) Employees of contractors of the Department who were employed in that theater of operations during that period.

(iv) The spouses and children of the individuals referred to in clauses (i) through (iii).

(3) In carrying out research under this section, such entities shall give particular consideration to the following:

(A) Illnesses or other effects associated with exposure to depleted uranium particles, mycotoxins, genetically-altered organisms, petrochemical toxicity, pesticide poisoning, anthrax vaccines, botulinum toxoids, and other chemical hazards and agents.

(B) Endemic viral, fungal, bacterial, and rickettsial diseases (including diseases arising from biological warfare activities).

(C) Illnesses or other effects associated with ingestion of silica or sand.

(D) Assessment of risks to reproductive capacity arising from the illnesses and diseases referred to in subparagraphs (A) through (C).

(E) Pediatric disorders.

(F) Birth deficiencies.

(G) Post-traumatic stress disorder.

(H) Somatoform disorders.

(I) Chronic fatigue syndrome.

(J) Multiple chemical sensitivities.

(b) AWARD PROCESS.—(1) The Secretary of Defense shall award grants under this section in consultation with the Secretary of Health and Human Services.

(2) An entity seeking a grant under this section to carry out the research described in subsection (a)(1) shall submit to the Secretary a proposal for the research.

(3) The Secretary shall ensure that appropriate individuals who are not employees of the Federal Government—

(A) review each proposal submitted to the Secretary under paragraph (2) for purposes of determining that the proposal—

(i) addresses adequately the purposes of the research for which the proposal is submitted; and

(ii) meets the technical, scientific, and peer review requirements that apply to similar research carried out under the direction of the Secretary of Health and Human Services; and

(B) submit to the Secretary recommendations for the selection by the Secretary of one or more entities so determined as recipients of a grant under subsection (a).

(4) The Secretary shall award grants under this section to entities selected by the Secretary for that purpose from among the entities identified in the recommendations under paragraph (3)(B).

(5) In awarding an entity a grant under paragraph (4), the Secretary shall ensure that the entity—

(A) carry out the research covered by the grant in accordance with the proposal submitted to the Secretary under paragraph (2); and

(B) not expose human beings to hazardous agents or materials as a result of the research.

(c) REPORTS.—(1) The Secretary of Defense and the Secretary of Health and Human Services shall submit to the congressional defense committees and the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the results of any research carried out under a grant awarded under this section.

(2) The Secretary of Defense and the Secretary of Health and Human Services shall submit a report under paragraph (1) on each of March 1, 1995, October 1, 1995, October 1, 1996, and October 1, 1997.

(3) Each report submitted under this subsection shall be submitted in unclassified form.

(d) FUNDING.—(1) Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for purposes of awarding grants under this section. Such funds shall be available for such purpose until expended.

(2) For each fiscal year in which activities under the study under this section will continue, the Secretary of Defense shall provide in the documents submitted to Congress in connection with the budget of the President for the fiscal year a request for such funds as the Secretary determines necessary in order to award grants under this section during that fiscal year.

SEC. 1095. COMPATABILITY OF HEALTH REGISTRIES.

The Secretary of Defense shall take appropriate actions to ensure that—

(1) the data collected by and the testing protocols of the Persian Gulf War Health Surveillance System are compatible with the data collected by and the testing protocols of the Persian Gulf War Veterans Health Registry; and

(2) information on individuals who register with the Department of Defense is provided to the Department of Veterans Affairs for incorporation into the Persian Gulf War Veterans Health Registry.

SEC. 1096. TECHNICAL AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) Section 113(e)(2) is amended by striking out "section 104" and inserting in lieu thereof "section 108".

(2) Section 133a(b) is amended by striking out "Under Secretary of Defense for Acquisition" and inserting in lieu thereof "Under Secretary of Defense for Acquisition and Technology".

(3) Section 580a(a) is amended by striking out "the date of the enactment of this section" and inserting in lieu thereof "November 30, 1993,".

(4)(A) The section 1058 added by section 554(a) of Public Law 103–160 (107 Stat. 1663) is redesignated as section 1059.

(B) The item relating to that section in the table of sections at the beginning of chapter 53 is revised to conform to the redesignation made by subparagraph (A).

(5)(A) The section 1058 added by section 1433(b) of Public Law 103–160 (107 Stat. 1834) is redesignated as section 1060.

(B) The item relating to that section in the table of sections at the beginning of chapter 53 is revised to conform to the redesignation made by subparagraph (A).

(6) Section 1141 is amended by striking out "on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1994" and inserting in lieu thereof "after November 29, 1993,".

(7) Section 1151(h)(3)(B)(v) is amended by inserting "school" after "For the fifth".

(8)(A) The heading of section 1482a is amended so that the first letter of the fifth word is lower case.

(B) The item relating to that section in the table of sections at the beginning of chapter 75 is revised to conform to the amendment made by subparagraph (A).

(9) Section 2399 is amended—

(A) in subsections (b)(5) and (c)(1), by striking out "section 138(a)(2)(B)" and inserting in lieu thereof "section 139(a)(2)(B)";

(B) in subsection (e)(3)(B), by striking out "solely as a representative of" and inserting in lieu thereof "solely in testing for";

(C) in subsection (g), by striking out "section 138" and inserting in lieu thereof "section 139"; and

(D) in subsection (h)(1), by striking out "section 138(a)(2)(A)" and inserting in lieu thereof "section 139(a)(2)(A)".

(10) Section 2502(d) is amended by striking out "Executive" and inserting in lieu thereof "executive".

(11)(A) Sections 2540 and 2541, as added by section 822(a) of Public Law 103–160 (107 Stat. 1705), are redesignated as sections 2539a and 2539b, respectively.

(B) The items relating to those sections in the table of sections at the beginning of subchapter V of chapter 148 are revised to conform to the redesignations made by subparagraph (A).

(12) Section 2865(a)(4) is amended by adding a period at the end.

(13) Sections 3022(a)(1), 5025(a)(1), and 8022(a)(1) are amended by striking out "section 137(c)" and inserting in lieu thereof "section 135(c)".

(14) Section 9511 is amended by striking out "In this subchapter" and inserting in lieu thereof "In this chapter".

(b) PUBLIC LAW 103–160.—Effective as of November 30, 1993, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160) is amended as follows:

(1) Section 507(d)(3) (107 Stat. 1647) is amended by inserting "note" after "10 U.S.C. 1293".

(2) Section 551(a)(1) (107 Stat. 1661) is amended by striking out "Section" and inserting in lieu thereof "Chapter".

(3) Section 554(b) (107 Stat. 1666) is amended—

(A) in paragraph (1), by striking out "Section 1058 of title 10, United States Code, as added by subsection (a)," and inserting in lieu thereof "The section of title 10, United States Code, added by subsection (a)(1)"; and

(B) in paragraph (2), by striking out "1058".

(4) Section 931(c)(1) (107 Stat. 1734) is amended by inserting closing quotation marks before the period at the end.

(5) Section 1314(3) (107 Stat. 1786) is amended by striking out "adding at the end" and inserting in lieu thereof "inserting after subsection (f)".

(6) Section 1433(d) (107 Stat. 1835) is amended by striking out "Section 1058 of title 10, United States Code, as added by subsection (a)," and inserting in lieu thereof "The section of title 10, United States Code, added by subsection (b)(1)".

(7) Section 1606(b)(4) (107 Stat. 1847) is amended by striking out "section 1604(e)" and inserting in lieu thereof "section 1605(e)".

(8) Section 2912(b)(2) (107 Stat. 1925) is amended by striking out "section 637(d)(1)" and inserting in lieu thereof "section 8(d)(1)".

(9) Section 2926(d) (107 Stat. 1932) is amended by striking out "Subsection (d)(1)(2)(C)(iii)" and inserting in lieu thereof "Subsection (d)(2)(C)(iii)".

(c) OTHER LAWS.—(1) Section 921 of Public Law 102–190 (10 U.S.C. 201 note; 105 Stat. 1452) is amended by striking out "section 136(b)(3)" in subsection (a) and inserting in lieu thereof "section 138(b)(3)".

(2) Section 908(c) of title 37, United States Code, is amended by striking out "section 1058" and inserting in lieu thereof "section 1060".

SEC. 1097. NORTH ATLANTIC TREATY ORGANIZATION.

(a) FINDINGS.—The Congress makes the following findings:

(1) The North Atlantic Treaty Organization has served as a bulwark of peace, security, and democracy for the United States and the members of the alliance since 1949.

(2) The unswerving resolve of the member states of the North Atlantic Treaty Organization to mutual defense against the threat of communist aggression was central to the demise of the Warsaw Pact.

(3) The North Atlantic Treaty Organization is the most successful international security organization in history, and is well suited to help marshal our cooperative political, diplomatic, economic, and humanitarian efforts, buttressed by credible military capability aimed at deterring conflict, and thus contributing to international peace and security.

(4) The threat of instability in Eastern and Central Europe, as well as in the Southern and Eastern Mediterranean, continues to pose a fundamental challenge to the interests of the member states of the North Atlantic Treaty Organization.

(5) North Atlantic Treaty Organization assets have been deployed in recent years for more than the territorial defense of alliance members; and the Rome Summit of October 1991 adopted a new strategic concept for the North Atlantic Treaty Organization that entertained the possibility of operations beyond the alliance's self-defense area.

(6) In Oslo in July 1992, and in Brussels in December 1992, the alliance embraced the deployment of North Atlantic Treaty Organization forces to peacekeeping operations under the auspices of the United Nations or the Conference on Security and Cooperation in Europe.

(7) The North Atlantic Treaty Organization should attempt to cooperate with and seek a mandate from international organizations such as the United Nations when considering responses to out of area crises.

(8) Not all members of the international community share a commonality of interests that would ensure timely action by the United Nations Security Council.

(9) The security interests of the member countries of the North Atlantic Treaty Organization must not be held hostage to indecision at the United Nations or a veto by a permanent member of the Security Council.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) it should be the policy of the United States that, in accordance with article 53 of the United Nations Charter, the North Atlantic Treaty Organization retains the right of autonomy of action regarding missions in addition to collective defense should the United Nations Security Council or the Conference on Security and Cooperation in Europe fail to act;

(2) while it is desirable to work with other international organizations and arrangements where feasible in dealing with threats to the peace, the North Atlantic Treaty Organization is not an auxiliary to the United Nations or any other organization; and

(3) the member states of the North Atlantic Treaty Organization reserve the right to act collectively in defense of their vital interests.

SEC. 1098. LIMITATION ON OBLIGATION OF FUNDS FOR MARK-6 GUIDANCE SETS FOR TRIDENT II MISSILES.

(a) LIMITATION.—Until the certification in subsection (b) has been provided to the congressional defense committees, funds appropriated for fiscal year 1995 for the Navy may not be obligated to procure more than 14 Mark-6 guidance sets for Trident II missiles.

(b) CERTIFICATION.—Before the Secretary of Defense may obligate funds for Mark-6 guidance sets in addition to the 14 sets authorized in subsection (a), he shall certify to the congressional defense committees that failure to procure such additional units would pose an unacceptable risk to the long-term readiness and reliability of the Trident II missile program.

SEC. 1099. MILITARY PLANNING FOR THE SIZE AND STRUCTURE OF A FORCE REQUIRED FOR A MAJOR REGIONAL CONTINGENCY ON THE KOREAN PENINSULA.

(a) FINDINGS.—Congress finds as follows:

(1) Whereas the Administration commissioned the Bottom-Up Review to properly size and structure the Armed Forces of the United States for the Post-Cold-War Era;

(2) Whereas the Bottom-Up Review itself cites the need for the Armed Forces of the United States to be large enough to prevail in two major regional conflicts, similar in nature to the 1991 war against Iraq, "nearly simultaneously";

(3) Whereas the Bottom-Up Review gives special consideration to a scenario that hypothesizes that the two "nearly simultaneous" conflicts would occur in Korea and the Persian Gulf;

(4) Whereas the United States sent 7 Army divisions, the equivalent of 10 Air Force tactical fighter wings, 70 heavy bombers, 6 Navy aircraft carrier battle groups, and 5 Marine Corps brigades to the Persian Gulf to fight the war against Iraq;

(5) Whereas the Bottom-Up Review asserts that the forces needed to fight two conflicts similar to that with Iraq can be drawn from a total military force of between 15 and 16 Army divisions, 20 Air Force tactical fighter wings, 184 heavy bombers, 11 active Navy aircraft carriers (along with one reserve/training carrier), and the equivalent of 12 Marine Corp brigades;

(6) Whereas the Bottom-Up Review recognizes that approximately 100,000 members of the United States Armed Forces will be stationed in Europe;

(7) Whereas the Bottom-Up Review recognizes that sizeable numbers of United States forces could be involved in peace enforcement and intervention operations at any one time;

(8) Whereas the Bottom-Up Review makes no specific recommendation as to the number of forces to be held in reserve to provide a rotation base either to relieve troops in the event one or both hypothetical conflicts result in lengthy deployments or to replace combat losses;

(9) Whereas military planners calculate that the number of United States forces needed to help defeat an invasion of South Korea by North Korea may exceed 430,000 United States military personnel;

(10) Whereas the size of the force military planners may request to help defend South Korea could exceed the levels that are consistent with the recommendations of Bottom-Up Review if the existing and future force requirements for a presence in Europe, possible peace enforcement operations, and an adequate rotation base, as well as a second regional conflict, must be fulfilled simultaneously.

(b) SENSE OF CONGRESS.—It is the Sense of Congress:

(1) that the force structure identified in the Bottom-Up Review may not be used to limit the size or structure of the force United States military commanders may request in preparation for a major regional contingency on the Korean peninsula;

(2) and that the Chairmen and Ranking Members of the House and Senate Committees on Armed Services and Chairmen and Ranking members of the House and Senate Appropriations Subcommittees on Defense should receive regular briefings from the Department of Defense of the situation on the Korean peninsula;

(3) and that the conclusions of the Bottom-Up Review should be continuously examined in light of the lessons learned from preparation for a major regional contingency on the Korean peninsula and from other military operations.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 1995".

TITLE XXI—ARMY

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects in the total amount of $396,750,000 for the installations and locations inside the United States, and in the amounts for such installations and locations, set forth in the following table:

Army: Inside the United States

State	Installation or location	Amount
Alabama	Redstone Arsenal	$2,600,000
Georgia	Fort Benning	$6,550,000
	Fort Gordon	$44,750,000
Hawaii	Schofield Barracks	$25,000,000
Kentucky	Fort Campbell	$67,400,000
	Fort Knox	$8,500,000
Maryland	Adelphi Laboratory Center	$6,600,000
	Fort Ritchie	$3,600,000
New Jersey	Bayonne Military Ocean Terminal	$4,050,000
New York	United States Military Academy, West Point	$28,000,000
North Carolina	Fort Bragg	$29,000,000
	Sunny Point Military Ocean Terminal	$22,200,000
Oklahoma	Fort Sill	$18,000,000
South Carolina	Charleston Naval Weapons Station	$24,000,000
Texas	Fort Hood	$29,000,000
	Fort Sam Houston	$4,300,000
Virginia	Fort Myer	$7,300,000
Washington	Fort Lewis	$64,000,000
CONUS Classified	Classified Location	$1,900,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects in the total amount of $31,400,000 for the installation and location outside the United States, and in the amount, set forth in the following table:

Army: Outside the United States

Country or other	Installation or location	Amount
Kwajalein Atoll	Kwajalein	$6,400,000
Worldwide	Host Nation Support	$25,000,000

SEC. 2102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition) in the total amount of $117,750,000 at the installations, for the purposes, and in the amounts for such installations set forth in the following table:

Army: Family Housing

State	Installation	Purpose	Amount
Alaska	Fort Richardson	72 units	$5,000,000
Colorado	Fort Carson	145 units	$16,500,000
Georgia	Fort Stewart	128 units	$10,600,000
Hawaii	Helemano Military Reservation	Roadway improvements for family housing.	$3,500,000
	Schofield Barracks	190 units	$26,000,000
Kansas	Fort Riley	126 units	$12,600,000
Massachusetts	Natick Research Center	35 units	$4,150,000
New York	United States Military Academy, West Point.	56 units	$8,000,000
Texas	Fort Bliss	215 units	$21,400,000
	Fort Sam Houston	100 units	$10,000,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $5,992,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may improve existing military family housing in an amount not to exceed $49,760,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1994, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $1,731,286,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $396,750,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $31,400,000.

(3) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $12,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $63,926,000.

(5) For military family housing functions:

(A) For construction and acquisition of military family housing and facilities, $173,502,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,067,708,000, of which not more than $243,442,000 may be obligated or expended for the leasing of military family housing worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2105. RELOCATION OF ARMY FAMILY HOUSING UNITS FROM FORT HUNTER LIGGETT, CALIFORNIA, TO FORT STEWART, GEORGIA.

Section 2102(a) of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1511) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph (1):

"(1) Fort Hunter Liggett, California, one hundred fifty-four units, $12,300,000."; and

(2) by striking out paragraph (5) and inserting in lieu thereof the following new paragraph (5):

"(5) Fort Stewart, Georgia, one hundred twenty-one units, $9,890,000.".

SEC. 2016. HIGHWAY SAFETY AT HAWTHORNE ARMY AMMUNITION PLANT, NEVADA.

(a) STUDY.—The Secretary of the Army shall carry out a study of traffic safety on the highway at the Hawthorne Army Ammunition Plant, Nevada. In carrying out the study, the Secretary shall—

(1) evaluate traffic safety on the highway, including traffic safety with respect to the rail and truck crossing of the highway at the Plant;

(2) evaluate the feasibility and desirability of constructing a vehicle bridge over the rail and truck crossing; and

(3) determine whether any construction required to improve traffic safety on the highway be funded as a military construction project or as a defense access road construction project.

(b) ARCHITECTURAL AND ENGINEERING SERVICES AND CONSTRUCTION DESIGN.—If the Secretary determines as a result of the study under subsection (a) that construction of a vehicle bridge over the rail and truck crossing referred to in paragraph (1) of that subsection is feasible and desirable, the Secretary should—

(1) obtain architectural and engineering activities and carry out construction design with respect to the construction of the bridge; or

(2) request that the Secretary of Transportation carry out the construction of the bridge as project for the construction of a defense access road under section 210 of title 23, United States Code.

TITLE XXII—NAVY

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects in the total amount of $239,265,000 for the installations and locations inside the United States, and in the amounts for such installations and locations, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
Arizona	Yuma Marine Corps Air Station	$15,085,000
California	Camp Pendleton Amphibious Task Force	$10,700,000
	Camp Pendleton Marine Corp Base	$570,000
	China Lake Naval Air Warfare Center	$6,000,000
	El Centro Naval Air Facility	$3,000,000
	Lemoore Naval Air Station	$7,000,000
	North Island Naval Air Station	$18,830,000
	Port Hueneme Naval Construction Battalion Center	$9,650,000
	San Diego Marine Corps Recruit Depot	$1,090,000
	San Diego Naval Station	$4,100,000
	Twentynine Palms Marine Corps Air-Ground Combat Center	$2,900,000
Florida	Jacksonville Fleet and Industrial Supply Center	$2,200,000
	Pensacola Naval Air Station	$2,100,000
Hawaii	Kaneohe Bay	$4,900,000
Illinois	Great Lakes Navy Public Works Center	$13,000,000

Navy: Inside the United States—Continued

State	Installation or location	Amount
New Jersey	Lakehurst Naval Air Warfare Center	$2,950,000
New Mexico	White Sands Naval Ordnance Missile Test Station	$1,390,000
North Carolina	Cherry Point Marine Corps Air Station	$2,100,000
	Camp Lejeune Marine Corp Base	$14,850,000
Rhode Island	Newport Naval Education and Training Center	$14,500,000
South Carolina	Parris Island Marine Corps Recruit Depot	$2,550,000
Texas	Ingleside Naval Station	$14,110,000
Virginia	Chesapeake Naval Security Group Activity	$1,150,000
	Dam Neck Fleet Combat Training Center	$1,600,000
	Norfolk Marine Corps Security Force Battalion Atlantic	$6,480,000
	Norfolk Naval Station	$16,430,000
	Quantico Marine Corps Combat Development Command	$19,900,000
Washington	Bremerton Puget Sound Naval Shipyard	$11,040,000
	Everett Naval Station	$21,690,000
	Whidbey Island Naval Air Station	$5,200,000
Various Locations	Aircraft Fire Rescue and Vehicle Maintenance Facilities	$2,200,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects in the total amount of $50,810,000 for the installations and locations outside the United States, and in the amounts for such installations and locations, set forth in the following table:

Navy: Outside the United States

Country	Installation or location	Amount
Greece	Souda Bay, Crete Naval Support Activity	$3,050,000
Italy	Naples Naval Support Activity	$28,460,000
	Sigonella Naval Air Station	$13,750,000
Puerto Rico	Sabana Seca Naval Security Group Activity	$1,650,000
United Kingdom	Saint Mawgan Joint Maritime Communications Center	$3,900,000

SEC. 2202. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition) in the total amount of $49,012,000 at the installations, for the purposes, and in the amounts for such installations and purposes set forth in the following table:

Navy: Family Housing

State	Installation	Purpose	Amount
California	Camp Pendleton Marine Corps Base	196 units	$28,552,000
	San Diego Naval Public Works Center	136 units	$18,262,000
Maryland	Patuxent River Naval Air Station	Housing Office	$863,000
Virginia	Norfolk Naval Public Works Center	Warehouse/Self Help Center	$555,000
Washington	Everett Naval Station	Housing Office	$780,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $24,681,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may improve existing military family housing units in the amount of $155,602,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1994, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,507,349,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $239,265,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $50,810,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $7,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $43,380,000.

(5) For military family housing functions:

(A) For construction and acquisition of military family housing and facilities, $229,295,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $937,599,000, of which not more than $114,336,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2205. AUTHORITY TO CARRY OUT CONSTRUCTION PROJECT, NAVAL SUPPLY CENTER, PENSACOLA, FLORIDA.

Funds appropriated by the Military Construction Appropriations Act, 1994 (Public Law 103–110; 107 Stat. 1037) that are available for construction of a cold storage facility at Naval Supply Center, Pensacola, Florida, in accordance with authorizations provided in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1514), as enacted, may be expended for the portion of the construction of such facility that is associated with Department of the Navy contract N62467–86–C–0421.

SEC. 2206. RELOCATION OF PASCAGOULA COAST GUARD STATION, MISSISSIPPI.

(a) AGREEMENT ON RELOCATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Navy and the Secretary of Transportation shall enter into an agreement that provides for the relocation of the activities and functions of Pascagoula Coast Guard Station to Pascagoula Naval Station, Pascagoula, Mississippi.

(b) CONDITIONS.—The agreement under subsection (a) shall include the following provisions:

(1) That the Navy not incur any construction costs relating to the relocation.

(2) That the design, construction, and location of Coast Guard facilities, and the conduct of activities by the Coast Guard, at Pascagoula Naval Station not interfere with the performance of the mission of the Navy.

SEC. 2207. AUTHORITY TO CARRY OUT CONSTRUCTION DESIGN FOR MAYPORT NAVAL STATION, FLORIDA.

(a) AUTHORITY TO CARRY OUT CONSTRUCTION DESIGN.—Subject to subsection (b), the Secretary of the Navy may carry out construction design activities in connection with the military construction projects that the Secretary identifies as necessary for the improvement of the facilities located at Mayport Naval Station, Florida, so that such facilities may be used as the homeport of a nuclear powered aircraft carrier.

(b) REQUIREMENT RELATING TO COMMENCEMENT OF DESIGN.—The Secretary may not carry out the construction design activities authorized under subsection (a) until the Secretary—

(1) completes a study that identifies the improvements to the facilities referred to in that subsection that are necessary so that such facilities may be used as the homeport of a nuclear powered aircraft carrier; and

(2) completes a programmatic environmental impact study on the effect of such improvements on the environment.

(c) CONSTRUCTION OF AUTHORITY.—This section may not be construed or interpreted as an authorization for the Secretary to commence or proceed with any military construction project relating to the improvement of the facilities of Mayport Naval Station, Florida, for the purpose referred to in subsection (a).

TITLE XXIII—AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects in the total amount of $412,004,000 for the installations and locations inside the United States, and in the amounts for such installations and locations, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Alabama	Maxwell Air Force Base	$9,600,000
Alaska	Cape Lisburne Long Range Radar Site	$2,800,000
	Eielson Air Force Base	$3,300,000
	Elmendorf Air Force Base	$5,000,000
Arizona	Luke Air Force Base	$4,900,000
Arkansas	Little Rock Air Force Base	$4,800,000
California	Beale Air Force Base	$1,450,000
	Edwards Air Force Base	$7,050,000
	Travis Air Force Base	$3,600,000
	Vandenberg Air Force Base	$6,550,000
Colorado	Peterson Air Force Base	$1,750,000
	United States Air Force Academy	$3,600,000
Delaware	Dover Air Force Base	$10,500,000
Florida	Cape Canaveral Air Force Station	$10,450,000
Georgia	Moody Air Force Base	$14,300,000
	Robins Air Force Base	$21,200,000
Idaho	Mountain Home Air Force Base	$15,950,000
Illinois	Scott Air Force Base	$2,700,000
Kansas	McConnell Air Force Base	$500,000
Louisiana	Barksdale Air Force Base	$27,100,000
Maryland	Andrews Air Force Base	$10,800,000
Mississippi	Columbus Air Force Base	$3,400,000
	Keesler Air Force Base	$11,240,000
Missouri	Whiteman Air Force Base	$24,290,000
Montana	Malmstrom Air Force Base	$7,200,000
Nebraska	Offutt Air Force Base	$2,260,000
Nevada	Nellis Air Force Base	$10,500,000
New Jersey	McGuire Air Force Base	$17,000,000
New Mexico	Holloman Air Force Base	$10,950,000
	Kirtland Air Force Base	$31,000,000
North Carolina	Pope Air Force Base	$2,600,000
North Dakota	Ellsworth Air Force Base	$4,500,000
	Grand Forks Air Force Base	$5,200,000
	Minot Air Force Base	$10,350,000
Ohio	Wright-Patterson Air Force Base	$32,700,000
Oklahoma	Altus Air Force Base	$3,750,000
	Tinker Air Force Base	$9,643,000
	Vance Air Force Base	$11,680,000
South Carolina	Charleston Air Force Base	$11,400,000
South Dakota	Ellsworth Air Force Base	$1,450,000
Tennessee	Arnold Air Force Base	$1,900,000
Texas	Kelly Air Force Base	$8,950,000
	Lackland Air Force Base	$5,200,000
	Sheppard Air Force Base	$3,300,000
Washington	Fairchild Air Force Base	$8,850,000
Wyoming	F.E. Warren Air Force Base	$2,650,000
CONUS Classified	Classified Location	$2,141,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and may carry out military construction projects in the total amount of $38,273,000 for the installations and locations outside the United States, and in the amounts for such installations and locations, set forth in the following table:

Air Force: Outside the United States

Country	Installation or location	Amount
Germany	Ramstein Air Base	$12,350,000

Air Force: Outside the United States—Continued

Country	Installation or location	Amount
	Spangdahlem Air Base	$9,473,000
Greenland	Thule Air Base	$2,450,000
Portugal	Lajes Field	$2,850,000
United Kingdom	RAF Lakenheath	$7,100,000
Overseas Classified	Classified Location	$4,050,000

SEC. 2302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition) in the total amount of $172,310,000 at the installations, for the purposes, and in the amounts for such installations and purposes set forth in the following table:

Air Force: Family Housing

State or Country	Installation	Purpose	Amount
Alabama	Maxwell Air Force Base	25 units	$2,100,000
Arizona	Davis-Monthan Air Force Base	60 units	$5,940,000
California	Beale Air Force Base	76 units	$8,842,000
	Edwards Air Force Base	34 units	$4,629,000
	Los Angeles Air Force Base	50 units	$8,962,000
	Vandenberg Air Force Base	128 units	$16,460,000
District of Columbia	Bolling Air Force Base	100 units	$9,000,000
Florida	Patrick Air Force Base	75 units	$7,145,000
Idaho	Mountain Home Air Force Base	4 unit	$881,000
	Mountain Home Air Force Base	60 units	$5,712,000
Kansas	McConnell Air Force Base	70 units	$8,322,000
Louisiana	Barksdale Air Force Base	82 units	$8,236,000
Missouri	Whiteman Air Force Base	Housing Office	$567,000
New Mexico	Cannon Air Force Base	1 unit	$230,000
	Holloman Air Force Base	76 units	$7,733,000
	Kirtland Air Force Base	106 units	$10,058,000
North Carolina	Pope Air Force Base	120 units	$14,874,000
	Seymour Johnson Air Force Base	74 units	$6,025,000
North Dakota	Grand Forks Air Force Base	Housing Office	$709,000
South Carolina	Shaw Air Force Base	3 units	$631,000
Texas	Dyess Air Force Base	59 units	$7,077,000
Utah	Hill Air Force Base	138 units	$11,400,000
Virginia	Langley Air Force Base	148 units	$14,421,000
Washington	Fairchild Air Force Base	6 units	$1,035,000
Wyoming	F.E. Warren Air Force Base	106 units	$11,321,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $9,275,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $61,770,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1994, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $1,594,863,000 as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $412,004,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $38,273,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $7,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $49,386,000.

(5) For the balance of the amount authorized under section 2301(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2593) for the construction of the climatic test chamber at Eglin Air Force Base, Florida, $20,000,000.

(6) For military family housing functions:

(A) For construction and acquisition of military family housing and facilities, $243,355,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $824,845,000 of which not more than $112,757,000 may be obligated or expended for leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2305. AUTHORIZATION OF MILITARY CONSTRUCTION PROJECTS AT TYNDALL AIR FORCE BASE, FLORIDA, FOR WHICH FUNDS HAVE BEEN APPROPRIATED.

The table in section 2301 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1866) is amended in the item relating to Tyndall Air Force Base, Florida, by striking out "$2,600,000" in the column under the heading "Amount" and inserting in lieu thereof "$8,200,000".

SEC. 2306. REVISION OF AUTHORIZED FAMILY HOUSING PROJECT, TYNDALL AIR FORCE BASE, FLORIDA.

The table in section 2302(a) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1869) is amended in the item relating to Tyndall Air Force Base, Florida, by striking out "Infrastructure" in the third column and inserting in lieu thereof "45 units".

TITLE XXIV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects in the total amount of $413,700,000 for the installations and locations inside the United States, and in the amounts for such installations and locations, set forth in the following table:

Defense Agencies: Inside the United States

Agency	Installation or location	Amount
Chemical Agents and Munitions Destruction	Anniston Army Depot, Alabama	$5,000,000
	Pine Bluff Arsenal, Arkansas	$102,000,000
	Umatilla Army Depot, Oregon	$183,000,000
	Tooele Army Depot, Utah	$4,000,000
Defense Intelligence Agency	Bolling Air Force Base, Washington, District of Columbia	$600,000
Defense Logistics Agency	Defense Contract Management Office, El Segundo, California	$5,100,000
	Defense Construction Supply Center, Columbus, Ohio	$2,200,000
	Defense Fuel Support Point, Craney Island, Virginia	$3,652,000
	Headquarters, Defense Logistics Agency, Fort Belvoir, Virginia	$4,600,000
Defense Medical Facilities Office	McClellan Air Force Base, California	$10,280,000
	Fort McPherson, Georgia	$13,400,000
	Fort Dix, New Jersey	$2,000,000
National Security Agency	Fort Meade, Maryland	$20,258,000
Office of Secretary of Defense	Various Locations, Special Activities, Air Force	$5,300,000
Section 6 Schools	Naval Surface Warfare Center, Virginia	$1,560,000
Special Operations Force	Eglin Auxiliary Field No. 9, Florida	$21,750,000
	Fort Bragg, North Carolina	$16,000,000
	Kirtland Air Force Base, New Mexico	$9,600,000
	Naval Amphibious Base, Coronado, San Diego, California	$3,400,000

SEC. 2402. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(11)(A), the Secretary of Defense may construct or acquire family housing units (including land acquisition) at the installation, for the purpose, and in the amount set forth in the following table:

Defense Agencies: Family Housing

Location	Installation	Purpose	Amount
Belgium	National Security Agency	1 unit	$300,000

SEC. 2403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(11)(A), the Secretary of Defense may improve existing military family housing units in an amount not to exceed $50,000.

SEC. 2404. ENERGY CONSERVATION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(8), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code.

SEC. 2405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1994, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of $3,252,058,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $152,700,000.

(2) For military construction projects at Portsmouth Naval Hospital, Virginia, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189; 103 Stat. 1640), $120,000,000.

(3) For military construction projects at Elmendorf Air Force Base, Alaska, hospital replacement, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2599), $66,000,000.

(4) For military construction projects at Fort Bragg, North Carolina, hospital replacement, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2599), $75,000,000.

(5) For unspecified minor construction projects under section 2805 of title 10, United States Code, $22,348,000.

(6) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $8,511,000.

(7) For architectural and engineering services and for construction design under section 2807 of title 10, United States Code, $51,960,000.

(8) For energy conservation projects authorized by section 2404, $50,000,000.

(9) For base closure and realignment activities as authorized by the Defense Authorization Amendments and Base Closure and Realignment Act (title II of Public Law 100–526; 10 U.S.C. 2687 note), $87,600,000.

(10) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note):

(A) For military installations approved for closure or realignment in 1991, $398,700,000.

(B) For military installations approved for closure or realignment in 1993, $2,189,858,000.

(11) For military family housing functions:

(A) For construction and acquisition of military family housing and facilities, $350,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $29,031,000, of which not more than $24,051,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) and subsection (b);

(2) $94,000,000 (the balance of the amount authorized for construction of a chemical munitions demilitarization facility at Pine Bluff Arsenal, Arkansas); and

(3) $167,000,000 (the balance of the amount authorized for construction of a chemical munitions demilitarization facility at Umatilla Army Depot, Oregon).

SEC. 2406. TERMINATION OF AUTHORITY TO CARRY OUT FISCAL YEAR 1993 PROJECT.

(a) TERMINATION OF AUTHORITY.—The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2599) is amended by striking out the item relating to Fitzsimons Army Medical Center, Colorado.

(b) CONFORMING AMENDMENTS.—(1) Subsection (a) of section 2403 of such Act (106 Stat. 2600) is amended—

(A) in the matter above paragraph (1), by striking out "$2,567,146,000" and inserting in lieu thereof "$2,565,146,000"; and

(B) in paragraph (1), by striking out "$87,950,000" and inserting in lieu thereof "$85,950,000".

(2) Subsection (c) of such section is amended—

(A) by inserting "and" at the end of paragraph (4);

(B) by striking out "; and" at the end of paragraph (5) and inserting lieu thereof a period; and

(C) by striking out paragraph (6).

SEC. 2407. COMMUNITY IMPACT ASSISTANCE WITH REGARD TO NAVAL WEAPONS STATION, CHARLESTON, SOUTH CAROLINA.

Of the amount appropriated pursuant to the authorization of appropriations in section 2405(a)(10)(B), the Secretary of the Navy shall transfer $3,000,000 to the South Carolina Department of Highways and Public Transportation. Funds transferred pursuant to this section shall be used for making improvements to North Rhett Avenue, Charleston, South Carolina.

SEC. 2408. PLANNING AND DESIGN FOR CONSTRUCTION IN SUPPORT OF CONSOLIDATION OF OPERATIONS OF THE DEFENSE FINANCE AND ACCOUNTING SERVICE.

Of the amount authorized to be appropriated by section 2405(a)(7), $6,000,000 shall be available for planning and design activities relating to military construction in support of the consolidation of operations of the Defense Finance and Accounting Service.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1994, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program as authorized by section 2501, in the amount of $219,000,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

There are authorized to be appropriated for fiscal years beginning after September 30, 1994, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $180,312,000; and

(B) for the Army Reserve, $37,870,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $17,355,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $240,003,000; and

(B) for the Air Force Reserve, $43,840,000.

SEC. 2602. AUTHORIZATION OF CERTAIN NATIONAL GUARD AND RESERVE PROJECTS FOR WHICH FUNDS HAVE BEEN APPROPRIATED.

(a) FISCAL YEAR 1994 GUARD AND RESERVE PROJECTS.—Section 2601 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103-160; 107 Stat. 1878) is amended—

(1) in paragraph (1)(A), by striking out "$283,483,000" and inserting in lieu thereof "$287,958,000"; and

(2) in paragraph (2), by striking out "$25,013,000" and inserting in lieu thereof "$33,713,000".

(b) FISCAL YEAR 1993 AIR NATIONAL GUARD PROJECT.—Section 2601(3)(A) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102-484; 106 Stat. 2602) is amended by striking out "$305,759,000" and inserting in lieu thereof "$306,959,000".

TITLE XXVII—EXPIRATION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Infrastructure program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 1997; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 1998.

(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Infrastructure program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 1997; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 1998 for military construction projects, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Infrastructure program.

SEC. 2702. EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1992 PROJECTS.

(a) EXTENSIONS.—Notwithstanding section 2701(b) of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102-190; 105 Stat. 1535) authorizations for the projects set forth in the tables in subsection (b), as provided in section 2101, 2301, or 2601 of that Act, shall remain in effect until October 1, 1995, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1996, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

Army: Extension of 1992 Project Authorizations

State	Installation or location	Project	Amount
Colorado	Fort Carson	Family Housing New Construction (1 Unit)	$150,000
Georgia	Fort Benning	General Instruction Facility	$2,150,000
	Camp Merrill	Family Housing New Construction (40 units)	$4,550,000
	Fort Stewart	Family Housing New Construction (120 units)	$9,700,000
Oregon	Umatilla Depot Activity	Ammunition Demilitarization Support Facility	$3,600,000
	Umatilla Depot Activity	Ammunition Demilitarization Utilities	$7,500,000

Air Force: Extension of 1992 Project Authorization

State	Installation or location	Project	Amount
Alaska	Eareckson Air Force Station (formerly Shemya Air Force Station)	Hazardous Materials Storage	$4,000,000

Army National Guard: Extension of 1992 Project Authorizations

State	Installation or location	Project	Amount
California	Stockton	Add/Alter Combined Support Maintenance Shop	$1,613,000
District of Columbia	Fort Belvoir	Army Aviation Support Facility	$2,765,000
Maryland	Towson	Direct Logistics Warehouse	$373,000
	Cheltenham	Armory	$3,300,000
Mississippi	West Point	Organizational Maintenance Shop	$1,270,000
	Tupelo	Organizational Maintenance Shop	$992,000
	Senatobia	Organizational Maintenance Shop	$723,000
Nevada	Washoe County	Organizational Maintenance Shop	$1,050,000
North Carolina	Camp Butler	Range, Modified Record Fire	$986,000
Rhode Island	Camp Varnum	Sewer and Water System	$578,000
	Camp Fogarty	Armory	$5,151,000
West Virginia	Huntington	Guard/Reserve Center	$2,983,000

Army Reserve: Extension of 1992 Project Authorizations

State	Installation or location	Project	Amount
Massachusetts	Taunton	Reserve Center	$3,526,000
Ohio	Perrysburg	Reserve Center Addition	$2,749,000
Pennsylvania	Johnstown	Army/Marine Corps Aviation Facility	$30,224,000
Tennessee	Jackson	Joint Training Facility	$1,537,000
West Virginia	Huntington	Guard and Reserve Center	$6,617,000

SEC. 2703. CLARIFICATION OF EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 1991 PROJECTS.

(a) CLARIFICATION.—The table relating to the extension of authorization of certain fiscal year 1991 projects of the Defense Agencies in section 2702(b) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1882) is amended by inserting before the item relating to the Defense Logistics Agency, Defense Reutilization and Marketing Office, Fort Meade, Maryland, the following:

California	Defense Language Institute, Monterey	Audio Visual Facility	$2,322,000
	Defense Language Institute, Monterey	Print Plant	$1,860,000

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the provisions of the Military Construction Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1822) to which such amendment relates.

SEC. 2704. EXTENSION OF CERTAIN FISCAL YEAR 1991 PROJECTS.

(a) EXTENSIONS.—Notwithstanding section 2701(b) of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510; 104 Stat. 1782), authorizations for the projects set forth in the table in subsection (b) as provided in section 2401(a) of that Act and extended by section 2702(a) of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1535) and section 2702 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1880), as amended by section 2703 of this Act, shall remain in effect until October 1, 1995, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1995, whichever is later.

(b) TABLE.—The table referred to in subsection (a) is as follows:

Defense Agencies: Extension of 1991 Project Authorizations

State	Installation or location	Project	Amount
California	Defense Language Institute, Monterey.	Audio Visual Instructional Media Facility	$2,322,000
	Defense Language Institute, Monterey.	Print Plant	$1,860,000
Maryland	Defense Logistics Agency, Defense Reutilization and Marketing Office, Fort Meade	Covered Storage	$9,500,000

SEC. 2705. EFFECTIVE DATE.

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI shall take effect on the later of—

(1) October 1, 1994; or

(2) the date of the enactment of this Act.

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

SEC. 2801. CLARIFICATION OF REQUIREMENT FOR NOTIFICATION OF CONGRESS OF IMPROVEMENTS IN FAMILY HOUSING UNITS.

Section 2825(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The limitation contained in the first sentence of paragraph (1) does not apply to a project for the improvement of a family housing unit or units referred to in that sentence if the project (including the amount requested for the project) is identified in the budget materials submitted to Congress by the Secretary of Defense in connection with the submission to Congress of the budget for a fiscal year pursuant to section 1105 of title 31.".

SEC. 2802. AUTHORITY TO PAY CLOSING COSTS UNDER HOMEOWNERS ASSISTANCE PROGRAM.

Section 1013(c) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374(c)) is amended by inserting after the first sentence the following: "The Secretary may also pay a person who elects to receive a cash payment under clause (1) of the preceding sentence an amount that the Secretary determines appropriate to reimburse the person for the costs incurred by the person in the sale of the property if the Secretary determines that such payment will benefit the person and is in the best interest of the Federal Government.".

Subtitle B—Base Closure Matters

SEC. 2811. PROHIBITION AGAINST CONSIDERATION IN BASE CLOSURE PROCESS OF ADVANCE CONVERSION PLANNING UNDERTAKEN BY POTENTIAL AFFECTED COMMUNITIES.

(a) DEPARTMENT OF DEFENSE RECOMMENDATIONS.—Subsection (c)(3) of section 2903 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) by inserting "(A)" before "In considering"; and

(2) by adding at the end the following new subparagraph:

"(B) In considering military installations for closure or realignment, the Secretary may not take into account for any purpose any advance conversion planning undertaken by an affected community with respect to the anticipated closure or realignment of an installation.

"(C) For purposes of subparagraph (B), in the case of a community anticipating the economic effects of a closure or realignment of a military installation, advance conversion planning—

"(i) shall include community adjustment and economic diversification planning undertaken by the community before an anticipated selection of a military installation in or near the community for closure or realignment; and

"(ii) may include the development of contingency redevelopment plans, plans for economic development and diversification, and plans for the joint use (including civilian and military use, public and private use, civilian dual use, and civilian shared use) of the property or facilities of the installation after the anticipated closure or realignment.".

(b) COMMISSION RECOMMENDATIONS.—Subsection (d)(2) of such section is amended by adding at the end the following:

"(E) In making recommendations under this paragraph, the Commission may not take into account for any purpose any advance conversion planning undertaken by an affected community with respect to the anticipated closure or realignment of a military installation.".

SEC. 2812. CLARIFYING AND TECHNICAL AMENDMENTS TO BASE CLOSURE LAWS.

(a) CLARIFICATION OF SCOPE OF TERMINATION OF AUTHORITY UNDER 1988 ACT.—Section 202(c) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended—

(1) by striking out "The authority" and inserting in lieu thereof "(1) Except as provided in paragraph (2), the authority"; and

(2) by adding at the end the following new paragraph:

"(2) The termination of authority set forth in paragraph (1) shall not apply to the authority of the Secretary to carry out environmental restoration and waste management at, or disposal of property of, military installations closed or realigned under this title.".

(b) USE OF UNOBLIGATED FUNDS IN 1988 ACCOUNT FOR ENVIRONMENTAL RESTORATION AND PROPERTY DISPOSAL.—Section 207(a)(5) of such Act is amended—

(1) by striking out "Unobligated funds" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), unobligated funds"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary may, after the termination of authority referred to in subparagraph (A), use any unobligated funds referred to in that subparagraph that are not transferred in accordance with that subparagraph to carry out environmental restoration and waste management at, or disposal of property of, military installations closed or realigned under this title.".

(c) CLARIFICATION OF DISPOSAL AUTHORITY.—

(1) UNDER 1988 ACT.—Section 204(b)(1) of such Act is amended in the matter above paragraph (1) by striking out "real property and facilities" and inserting in lieu thereof "real property, facilities, and personal property".

(2) UNDER 1990 ACT.—Section 2905(b)(1) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended in the matter above paragraph (1) by striking out "real property and facilities" and inserting in lieu thereof "real property, facilities, and personal property".

(d) DEFINITION OF REDEVELOPMENT AUTHORITY.—

(1) UNDER 1988 ACT.—Section 209(10) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by striking out "and for" and inserting in lieu thereof "or for".

(2) UNDER 1990 ACT.—Section 2910(9) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking out "and for" and inserting in lieu thereof "or for".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in the amendments made by 2918 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1927).

(e) TECHNICAL AMENDMENTS FOR INTERNAL CONSISTENCY.—

(1) 1988 ACT.—Section 204(b)(3) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended—

(A) in subparagraph (A)(ii), by striking out "determines to be related to real property and"; and

(B) in subparagraph (E), by striking out "related" in the matter above clause (i).

(2) 1990 ACT.—Section 2905(b)(3)(A)(ii) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking out "determines to be related to real property and".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in the amendments made by 2902 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1909).

SEC. 2813. SENSE OF SENATE ON THE ACTIVITIES OF THE SECRETARY OF DEFENSE IN SUPPORT OF COMMUNITIES AFFECTED BY BASE CLOSURES.

(a) FINDINGS.—The Senate makes the following findings:

(1) The closure or realignment of a major military installation can cause severe economic disruption to the host community for the installation.

(2) Communities affected by the closure of a major military installation under a base closure law dedicate significant time, effort, and resources to planning for the economic redevelopment of the installation.

(3) The Federal Government can ease the disruption caused by the closure of a military installation by working cooperatively with the host community for the installation to implement the community's redevelopment plan for the installation.

(4) In recent years, the Federal Government has not always provided sufficient assistance to communities affected by the closure of a military installation under a base closure law in the efforts of such communities to provide for the economic redevelopment of the installation.

(5) In July 1993, the President issued a five-point plan for revitalizing base closure communities which emphasized the economic recovery of communities affected by the closure of a military installation under a base closure law.

(6) In November 1993, Congress agreed to the provisions of subtitle A of title XXIX of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1909), and the amendments made thereunder, in order to implement the plan referred to in paragraph (5) and to provide other assistance to communities attempting to redevelop military installations approved for closure under a base closure law.

(7) The Secretary of Defense is accepting public comment on the guidelines for implementation of the provisions of law referred to in paragraph (6).

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary of Defense should—

(1) ensure that the regulations implementing the provisions of subtitle A of title XXIX of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1909), and the amendments made thereunder, reflect the intent of Congress that, to the maximum extent practicable, the Secretary take into consideration the redevelopment plans of affected communities when taking actions or implementing decisions on the closure of a military installation approved for closure under a base closure law;

(2) ensure that the regulations implementing such provisions reflect the intent of Congress to encourage and promote cooperation and dialogue between the Federal Government and communities affected by the closure of an installation throughout the base closure process; and

(3) develop a system of incentives or awards to encourage Department of Defense personnel to provide greater assistance to and cooperation with communities affected by the closure of an installation during the ongoing effort of revitalizing the economy of such communities.

Subtitle C—Land Transactions Generally

SEC. 2821. LAND TRANSFER, HOLLOMAN AIR FORCE BASE, NEW MEXICO.

(a) IN GENERAL.—Subject to subsections (c) through (g), not later than 90 days after the date of enactment of this Act, the Secretary of the Interior shall transfer to the Department of the Air Force, without reimbursement, jurisdiction and control of approximately 1,262 acres of public lands described in subsection (b). Such public lands are located in Otero County, New Mexico, and are contiguous to Holloman Air Force Base.

(b) DESCRIPTION OF LANDS TRANSFERRED.—The lands described in this subsection are as follows:

(1) T17S, R8E, Section 21:	S½ N½:	160 acres
	E½ NW¼ NE¼:	20 acres
	NE¼ NE¼:	40 acres
(2) T17S, R8E, Section 22:	W½:	320 acres
	W½ E½:	160 acres
(3) T17S, R8E, Section 27:	All that part north of New Mexico Highway 70 except for the E½ E½	192 acres more or less
(4) T17S, R8E, Section 28:	NE¼:	160 acres
	N½ SE¼:	80 acres
	SW¼ SE¼:	40 acres
	W½ SE¼ SE¼:	20 acres
(5) T17S, R8E, Section 33:	NW¼ NE¼:	40 acres
	NW¼ NE¼ NE¼:	10 acres
	W½ SW¼ NE¼:	20 acres

(c) USE OF TRANSFERRED LAND.—The lands transferred to the Department of the Air Force under subsection (a) shall be used by the Secretary of the Air Force for the construction of new evaporation ponds to support a wastewater treatment facility that the Secretary shall construct at Holloman Air Force Base.

(d) CATTLE GRAZING RIGHTS.—

(1) IN GENERAL.—The United States recognizes a grazing preference on the lands transferred to the Department of the Air Force under subsection (a).

(2) ADJUSTMENT OF GRAZING ALLOTMENT.—(A) The Secretary of the Air Force shall take such action as is necessary to ensure that—

(i) the boundary of the grazing allotment that contains the lands transferred to the Department of the Air Force is adjusted in such manner as to retain the portion of the allotment located south of United States Highway 70 in New Mexico and remove the portion of the lands that is located north of such highway; and

(ii) the grazing preference referred to in paragraph (1) is retained by means of transferring the preference for the area removed from the allotment under subparagraph (A) to public lands located south of such highway.

(B) The Secretary of the Air Force shall offer to enter into an agreement with each person who holds a permit for grazing on the lands transferred to the Department of the Air Force at the time of the transfer to provide for the continued grazing by livestock on the portion of the lands located south of such highway.

(e) ADDITIONAL REQUIREMENTS.—

(1) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—The Secretary of the Air Force shall ensure that the transfer made pursuant to subsection (a) and the use specified in subsection (c) meet any applicable requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) ENVIRONMENTAL LAWS.—The Secretary of the Air Force shall use and manage the lands transferred under the authority in subsection (a) in such manner as to ensure compliance with applicable environmental laws (including regulations) of the Federal Government and State of New Mexico, and political subdivisions thereof.

(3) RESPONSIBILITY FOR CLEANUP OF HAZARDOUS SUBSTANCES.—Notwithstanding any other provision of law, the Secretary of the Air Force shall, upon the transfer of the lands under subsection (a), assume any existing or subsequent responsibility and liability for the cleanup of hazardous substances (as defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14))) located on or within the lands transferred.

(4) MINING.—The transfer of lands under subsection (a) shall be made in such manner as to ensure the continuation of valid, existing rights under the mining laws and the mineral leasing and geothermal leasing laws of the United States. Subject to the preceding sentence, upon the transfer of the lands, mining and mineral management activities shall be carried out in the lands in a manner consistent with the policies of the Department of Defense concerning mineral exploration and extraction on lands under the jurisdiction of the Department.

(f) RIGHTS-OF-WAY.—The transfer of lands under subsection (a) shall not affect the following rights-of-way:

(1) The right-of-way granted to the Otero County Electric Cooperative, numbered NMNM 58293.

(2) The right-of-way granted to U.S. West Corporation, numbered NMNM 59261.

(3) The right-of-way granted to the Highway Department of the State of New Mexico, numbered LC0 54403.

(g) PUBLIC ACCESS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary of the Air Force shall permit public access to the lands transferred under subsection (a).

(2) CONSTRUCTION SITE.—The Secretary of the Air Force may not permit public access to the immediate area affected by the construction of a wastewater treatment facility in the area with the legal description of T17S, R8E, Section 22, except that the Secretary of the Air Force shall permit public access on an adjoining unfenced parcel of land—

(A) located along the west boundary of such area; and

(B) that is 50 feet in width.

(3) PUBLIC USES.—Except as provided in paragraph (2), the Secretary of the Air Force shall permit, on the lands transferred under subsection (a), public uses that are consistent with the public uses on adjacent lands under the jurisdiction of the Secretary of the Interior.

(4) PERMIT NOT REQUIRED.—The Secretary of the Air Force may not require a permit for access authorized under this subsection to the lands transferred under subsection (a).

(5) ENTRY GATE.—The Secretary of the Air Force shall ensure that the entry gate to the lands transferred under subsection (a) that is located along United States Highway 70 shall be open to the public.

SEC. 2822. JOINT USE OF PROPERTY, PORT HUENEME, CALIFORNIA.

(a) AGREEMENT AUTHORIZED.—The Secretary of the Navy may enter into an agreement with the Oxnard Harbor District, Port Hueneme, California, a special district of the State of California (in this section referred to as the "District"), to provide for the joint use by Secretary and the District of a parcel of real property consisting of approximately 25 acres, together with improvements thereto, that comprises United States Navy Wharf Number 3, the location of the Naval Construction Battalion Center, Port Hueneme, California.

(b) PERIOD.—The agreement authorized under subsection (a) shall—

(1) be for an initial period of not more than 15 years; and

(2) contain an option for the District to extend the agreement for three additional periods of 5 years each.

(c) CONDITIONS.—The agreement authorized under subsection (a) shall be subject to the following conditions:

(1) That the District suspend operations in the joint use area during the periods when the Navy conducts operations at the Naval Construction Battalion Center.

(2) That the District carry out activities in the joint use area in a manner that does not interfere with the capability of the Secretary to carry out contingency operations at the Naval Construction Battalion Center.

(d) CONSIDERATION.—(1) As consideration for the use of the real property under subsection (a), the District—

(A) shall pay to the Secretary the fair market rental value (as determined by the Secretary) of the District's interest in the property; and

(B) may be required to furnish additional consideration as provided in paragraph (2).

(2) The Secretary may require that the agreement include a provision that the District—

(A) either—

(i) pay the Secretary an amount (as determined by the Secretary) equal to the cost to the Navy of replacing at the Naval Construction Battalion Center the facilities vacated by the Navy in the joint use area; or

(ii) construct the replacement facilities for the Navy; and

(B) pay the Secretary an amount (as determined by the Secretary) equal to the cost to the Navy of relocating Navy operations from the vacated facilities to the replacement facilities.

(e) NOTICE AND WAIT REQUIREMENTS.—The Secretary may not enter into the agreement authorized by subsection (a) until 21 days after the date on which the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives a report containing an explanation of the terms of the proposed agreement and a description of the consideration that the Secretary expects to receive under the agreement.

(f) USE OF PROCEEDS.—(1) The Secretary may use amounts received under subsection (d)(1)(A) to pay for general supervision, administration and overhead expenses incurred by the Secretary under the agreement and for improvement, maintenance, repair, construction, or restoration of the port operations area or of roads and railways serving the area at the Naval Construction Battalion Center.

(2) The Secretary may use amounts received under subsection (d)(2) to pay for constructing new facilities, or making modifications to existing facilities, that are necessary to replace facilities vacated by the Navy in the joint use area and for relocating operations of the Navy from the vacated facilities to the replacement facilities.

(g) AUTHORITY TO REPLACE FACILITIES.—The Secretary may authorize the District to demolish existing facilities in the joint use area and, consistent with the restrictions required by subsection (c)(2), construct new facilities on the property for the joint use of the Navy and the District.

(h) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property subject to the agreement authorized under this section shall be determined by a survey that is satisfactory to the Secretary. The cost of the survey shall be borne by the District.

(i) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the agreement authorized under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2823. LEASE OF PROPERTY, NAVAL RADIO RECEIVING FACILITY, IMPERIAL BEACH, CORONADO, CALIFORNIA.

(a) LEASE AUTHORIZED.—The Secretary of the Navy may lease to the Young Men's Christian Association of San Diego County, a California nonprofit public benefit corporation (in this section referred to as the "YMCA"), such interests in a parcel of real property (including any improvements thereon) consisting of approximately 45 acres at the Naval Radio Receiving Facility, Imperial Beach, Coronado, California, as the Secretary considers appropriate for the YMCA to operate and maintain a summer youth residence camp known as the YMCA San Diego Unified Recreational Facility (Camp SURF). Pursuant to the lease, the Secretary may authorize the YMCA to construct facilities on the parcel.

(b) LEASE TERMS.—The lease authorized in subsection (a) shall be for a period of 50 years, or such longer period as the Secretary determines to be in the best interests of the United States.

(c) CONSIDERATION.—As consideration for the lease of real property under subsection (a), the YMCA shall—

(1) agree to maintain and enhance the natural resources of the leased premises; and

(2) pay to the United States an amount in cash equal to the difference between the rental price prescribed by the Secretary under subsection (d) and the value of natural resources maintenance and enhancements performed by the YMCA, as determined by the Secretary.

(d) DETERMINATION OF RENTAL PRICE.—The Secretary may prescribe a rental price for the real property leased under subsection (a) that is less than the fair market rental value of such property.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the lease under subsection (a) as the Secretary considers necessary to protect the operation of the Naval Radio Receiving Facility, Imperial Beach, Coronado, California, and to protect the interests of the United States.

SEC. 2824. RELEASE OF REVERSIONARY INTEREST ON CERTAIN PROPERTY IN YORK COUNTY AND JAMES CITY COUNTY, VIRGINIA, AND NEWPORT NEWS, VIRGINIA.

(a) RELEASE AUTHORIZED.—The Secretary of the Navy may release the reversionary interest of the United States in the real property conveyed by the deed described in subsection (b).

(b) DEED DESCRIPTION.—The deed referred to in subsection (a) is a deed between the United States and the Commonwealth of Virginia dated August 17, 1966, which conveyed to the Commonwealth of Virginia certain parcels of land located in York County and James City County, Virginia, and the city of Newport News, Virginia.

(c) ADDITIONAL TERMS.—The Secretary may require such terms or conditions in connection with the release under this section as the Secretary considers appropriate to protect the interests of the United States and to ensure that the real property will continue to be used for public purposes.

(d) INSTRUMENT OF RELEASE.—The Secretary may execute and file in the appropriate office or offices a deed of release, amended deed, or other appropriate instrument effectuating the release of the reversionary interest under this section.

SEC. 2825. LAND TRANSFER, FORT DEVENS, MASSACHUSETTS.

(a) TRANSFER.—Notwithstanding any other provision of law and subject to subsection (b), the Secretary of the Army shall transfer administrative jurisdiction of approximately 800 acres of land at Fort Devens, Massachusetts, to the Secretary of the Interior for inclusion in the Oxbow National Wildlife Refuge, Massachusetts.

(b) LIMITATION ON TRANSFER.—The Secretary of the Army may not carry out the transfer referred to in subsection (a) unless the Secretary and the reuse authority for Fort Devens for the purposes of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), jointly determine that the transfer of the land under this section is consistent with the redevelopment plan prepared under section 2905(b) of such Act.

(c) ADMINISTRATION OF LAND.—The Secretary of the Interior shall administer the land transferred under this section in accordance with all laws applicable to areas in the National Wildlife Refuge System.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be transferred under this section shall be determined by a survey satisfactory to the Secretary of the Army and the Secretary of the Interior.

SEC. 2826. LAND CONVEYANCE, CORNHUSKER ARMY AMMUNITION PLANT, HALL COUNTY, NEBRASKA.

(a) CONVEYANCE AUTHORIZED.—Subject to subsection (b), the Secretary of the Army may convey to the Hall County, Nebraska, Board of Supervisors (in this section referred to as the "Board"), or the designee of the Board, all right, title and interest of the United States in and to the real property, together with any improvements thereon, located in Hall County, Nebraska, the site of the Cornhusker Army Ammunition Plant.

(b) REQUIREMENT RELATING TO CONVEYANCE.—The Secretary may not carry out the conveyance authorized under subsection (a) until the Secretary completes any environmental restoration required with respect to the property to be conveyed.

(c) UTILIZATION OF PROPERTY.—The Board or its designee, as the case may be, shall utilize the real property conveyed under subsection (a) in a manner consistent with the Cornhusker Army Ammunition Plant Reuse Committee Comprehensive Reuse Plan.

(d) CONSIDERATION.—In consideration for the conveyance under subsection (a), the Board or its designee, as the case may be, shall pay to the United States an amount equal to the fair market value of the real property to be conveyed, as determined by the Secretary.

(e) USE OF PROCEEDS.—(1) The Secretary shall deposit in the special account established under section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)) the amount received from the Board or its designee under subsection (d).

(2) Notwithstanding subparagraph (A) of such section 204(h)(2), the Secretary may use the entire amount deposited in the account under paragraph (1) for the purposes set forth in subparagraph (B) of such section 204(h)(2).

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Board or its designee, as the case may be.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2827. TRANSFER OR CONVEYANCE OF CERTAIN PARCELS OF PROPERTY THROUGH GENERAL SERVICES ADMINISTRATION.

(a) IN GENERAL.—(1) Subject to paragraph (2), the Administrator of General Services shall—

(A) transfer jurisdiction over all or a portion of a parcel of real property described in subsection (b) to another executive agency if the Administrator determines under subsection (c) that the transfer of jurisdiction to the agency is appropriate;

(B) convey all or a portion of such a parcel to a State or local government or nonprofit organization if the Administrator determines under subsection (d) that the conveyance to the government or organization is appropriate; or

(C) convey all or a portion of such a parcel to the entity specified to receive the conveyance under subsection (e) in accordance with that subsection.

(2) The Administrator shall carry out an action referred to in subparagraph (A), (B), or (C) of paragraph (1) only upon direction by the Secretary of Defense. The Secretary shall make the direction, if at all, in accordance with subsection (g).

(3) Upon the direction of the Secretary of Defense, the Secretary of the military department concerned shall transfer jurisdiction over an appropriate portion of a parcel of real property referred to in paragraph (1) to the Administrator in order to permit the Administrator to carry out the transfer of jurisdiction over or conveyance of the portion of the parcel under this section.

(b) COVERED PROPERTY.—(1) The parcels of real property referred to in subsection (a)(1) are the following:

(A) A parcel of real property, including any improvements thereon, consisting of approximately 337 acres and located in Tulsa, Oklahoma, the location of Air Force Plant No. 3.

(B) A parcel of real property, including any improvements thereon, consisting of approximately 2,900 acres and located in Calverton, New York, the location of the Naval Weapons Industrial Reserve Plant.

(C) A parcel of real property, including any improvements thereon, located in Johnson City (Westover), New York, the location of Air Force Plant No. 59.

(D) A parcel of real property, including any improvements thereon, consisting of approximately 4 acres and located in Dickinson, North Dakota, the location of a support complex, recreational facilities, and housing facilities for the Radar Bomb Scoring Site, Dickinson, North Dakota.

(E) A parcel of real property, including any improvements thereon, consisting of approximately 12 acres and located west of Finley, North Dakota, the location of a support complex, recreational facilities, and housing facilities for the Finley Air Force Station and Radar Bomb Scoring Site, Finley, North Dakota.

(F) A parcel of property, including any improvements thereon, consisting of approximately 440 acres located at the Hawthorne Army Ammunition Plant, Mineral County, Nevada, and commonly referred to as the Babbitt Housing Site.

(G) A parcel of real property, including any improvements thereon and the pier associated therewith, consisting of approximately 118 acres and located in Harpswell, Maine, the location of the Defense Fuel Supply Point, Casco Bay, Maine.

(2) The exact acreage and legal description of the real property referred to in paragraph (1) that is transferred or conveyed under this section shall be determined by a survey satisfactory to the Secretary of the military department concerned. The cost of the survey shall be borne by the Secretary concerned. The transferee or conveyee, if any, of the property under this section shall reimburse the Secretary concerned for the cost borne by that Secretary for the survey of the property.

(c) DETERMINATION OF TRANSFEREES.—(1) Subject to subsection (a)(2), the Administrator shall transfer jurisdiction over all or a portion of a parcel of real property referred to in subsection (b)(1) to an executive agency if the Administrator determines under this subsection that the transfer is appropriate.

(2) Not later than 5 days after the date of the enactment of this Act, the Administrator shall inform the heads of the executive agencies of the availability of the parcels of real property referred to in subsection (b)(1).

(3) The head of an executive agency having an interest in obtaining jurisdiction over any portion of a parcel of real property referred to in paragraph (2) shall notify the Administrator, in writing, of the interest within such time as the Administrator shall specify with respect to the parcel in order to permit the Administrator to determine under paragraph (4) whether the transfer of jurisdiction to the agency is appropriate.

(4)(A) The Administrator shall—

(i) evaluate in accordance with section 202(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(a)) the notifications of interest, if any, received under paragraph (3) with respect to a parcel of real property; and

(ii) determine in accordance with that section the executive agency, if any, to which the transfer of jurisdiction is appropriate.

(B) The Administrator shall complete the determination under subparagraph (A) with respect to a parcel not later than 30 days after informing the heads of the executive agencies of the availability of the parcel.

(d) DETERMINATION OF CONVEYEES.—(1) Subject to subsection (a)(2), the Administrator shall convey all right, title, and interest of the United States in and to all or a portion of a parcel of real property referred to in paragraph (2) to a government or organization referred to in paragraph (3) if the Administrator determines under this subsection that the conveyance is appropriate.

(2) Paragraph (2) applies to any portion of a parcel of real property referred to in subsection (b)(1)—

(A) for which the Administrator receives no notification of interest from the head of an executive agency under subsection (c); or

(B) with respect to which the Administrator determines under paragraph (4)(B) of that subsection that a transfer of jurisdiction under this section would not be appropriate.

(3)(A) In the case of the property referred to in paragraph (2), the governments and organizations referred to in that paragraph are the following:

(i) The State government of the State in which the property is located.

(ii) Local governments affected (as determined by the Administrator) by operations of the Department of Defense at the property.

(iii) Nonprofit organizations located in the vicinity of the property and eligible under Federal law to be supported through the use of Federal surplus real property.

(B) In this paragraph, the term "nonprofit organization" means any organization listed in subsection (c)(3) of section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501) that is exempt from taxation under subsection (a) of that section.

(4) Not later than 5 days after completing the determination under subsection (c)(4)(B), the Administrator shall determine what, if any, parcels of property referred to in subsection (b)(1) are available for conveyance under this subsection and shall inform the appropriate governments and organizations of the availability of the parcels for conveyance under this section.

(5) A government or organization referred to in paragraph (4) shall notify the Administrator, in writing, of the interest of the government or organization, as the case may be, in the conveyance of all or a portion of the parcel of real property concerned to the government or organization. The government or organization shall notify the Administrator within such time as the Administrator shall specify with respect to the parcel in order to permit the Administrator to determine under paragraph (6) whether the conveyance of the parcel to the government or organization, as the case may be, is appropriate.

(6)(A) The Administrator shall—

(i) evaluate in accordance with section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) the notifications, if any, received under paragraph (5) with respect to a parcel of real property; and

(ii) determine in accordance with that section the government or organization, if any, to which the conveyance is appropriate.

(B) The Administrator shall complete the determination under subparagraph (A) with respect to a parcel not later than 70 days after notifying the governments and organizations concerned of the availability of the parcel for conveyance.

(e) ADDITIONAL CONVEYANCE AUTHORITY.—(1) Subject to subsection (g)(2), the Administrator shall, in lieu of transferring jurisdiction over or conveying the parcels of real property referred to in subsection (b)(1) in accordance with subsections (c) and (d), convey all or a portion of such parcels as follows:

(A) In the case of the parcel referred to in subparagraph (A) of subsection (b)(1), by conveying without consideration all right, title, and interest of the United States in and to the parcel to the City of Tulsa, Oklahoma.

(B) In the case of the parcel referred to in subparagraph (B) of that subsection, by conveying without consideration all right, title, and interest of the United States in and to the parcel to any economic development authority that the Governor of New York determines appropriate and identifies as such for the Administrator.

(C) In the case of the parcel referred to in subparagraph (C) of that subsection, by conveying without consideration all right, title, and interest of the United States in and to the parcel to the Broome County Industrial Development Authority.

(D) In the case of the parcel referred to in subparagraph (D) of that subsection, by conveying without consideration all right, title, and interest of the United States in and to the parcel to the North Dakota Board of Higher Education.

(E) In the case of the parcel referred to in subparagraph (E) of that subsection, by conveying without consideration all right, title, and interest of the United States in and to the parcel to the City of Finley, North Dakota.

(F) In the case of the parcel referred to in subparagraph (F) of that subsection, by conveying without consideration all right, title, and interest of the United States in and to the parcel to the government of Mineral County, Nevada.

(G) In the case of the parcel referred to in subparagraph (F) of that subsection, by conveying without consideration all right, title, and interest of the United States in and to the parcel to the Town of Harpswell, Maine.

(2) The Administrator may require such additional terms and conditions in connection with a conveyance under this subsection as the Administrator and the Secretary of Defense jointly consider appropriate to protect the interests of the United States.

(f) REPORT BY ADMINISTRATOR.—(1) Not later than 125 days after the date of the enactment of this Act, the Administrator shall submit to the Committees on Armed Services of the Senate and House of Representatives and to the Secretary of Defense a report on the activities of the Administrator under this section.

(2) The report shall include with respect to each parcel of real property referred to in subsection (b)(1) the following information:

(A) The interest, if any, for all or a portion of the parcel that was expressed by executive agencies under subsection (c) or by governments or nonprofit organizations under subsection (d).

(B) The use, if any, proposed for the portion of the parcel under each expression of interest.

(C) The determination of the Administrator whether a transfer or conveyance of all or a portion of the parcel, as the case may be, to the agency, government, or organization was appropriate.

(D) The other disposal options, if any, that the Administrator has identified for the parcel.

(E) Any other matters that the Administrator considers appropriate.

(g) DESIGNATION OF AUTHORITY TO BE USED.—(1) If the Administrator submits the report required under subsection (f) within the time specified in that subsection, the Secretary of Defense may direct the Administrator under subsection (a)(2) to carry out the transfer or conveyance under subsection (c) or (d) of all or a portion of a parcel of property referred to in subsection (b)(1) in accordance with the determinations made by the Administrator with respect to the transfer or conveyance of the parcel under subsection (c) or (d), respectively.

(2) If the Administrator does not submit the report required under subsection (f) within the time specified in that subsection, the Secretary may direct the Administrator to carry out the conveyances of the parcels of property that are authorized under subsection (e) in accordance with such subsection (e).

Subtitle D—Changes to Existing Land Transaction Authority

SEC. 2831. MODIFICATIONS OF LAND CONVEYANCE, FORT A.P. HILL MILITARY RESERVATION, VIRGINIA.

(a) PARTICIPATION OF ADDITIONAL POLITICAL SUBDIVISIONS IN REGIONAL CORRECTIONAL FACILITY.—Subparagraph (B) of subsection (c)(3) of section 603 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102–25; 105 Stat. 108) is amended to read as follows:

"(B) Subparagraph (A) shall not be construed to prohibit any political subdivision not named in such subparagraph from—

"(i) participating initially in the written agreement referred to in paragraph (2); or

"(ii) agreeing at a later date to participate as a member of the governmental entity referred to in paragraph (2)(A), or by contract with such entity, in the construction or operation of the regional facility to be constructed on the parcel of land conveyed under this section.".

(b) TIME FOR CONSTRUCTION AND OPERATION OF CORRECTIONAL FACILITY.—(1) Subsection (d)(1)(A)(i) of such section is amended by striking out "not later than 24 months after the date of the enactment of this Act" and inserting in lieu thereof "not later than April 1, 1997".

(2) The Secretary of the Army shall provide the recipient of the conveyance of property under section 603 of such Act with such legal instrument as is appropriate to modify, in accordance with the amendment made by paragraph (1), any statement of conditions contained in any existing instrument which conveyed the property to that recipient. The Secretary shall record the instrument in the appropriate office or officers of the Commonwealth of Virginia or political subdivision within the Commonwealth.

SEC. 2832. MODIFICATION OF CONVEYANCE OF ELECTRICITY DISTRIBUTION SYSTEM, FORT DIX, NEW JERSEY.

Section 2846 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1904) is amended—

(1) by striking out subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

SEC. 2833. MODIFICATION OF LAND CONVEYANCE, FORT KNOX, KENTUCKY.

Section 2816 of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189; 103 Stat. 1655) is amended—

(1) in subsection (c), by striking out "for the construction of up to four units of military family housing at Fort Knox, Kentucky" and inserting in lieu thereof "for improvements to military family housing at Fort Knox, Kentucky, in an amount not to exceed $255,000";

(2) by striking out subsection (d); and

(3) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

SEC. 2834. PRESERVATION OF CALVERTON PINE BARRENS, NAVAL WEAPONS INDUSTRIAL RESERVE PLANT, NEW YORK, AS NATURE PRESERVE.

(a) PRESERVATION AS NATURE PRESERVE REQUIRED.—Section 2854 of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2626) is amended—

(1) by redesignating subsections (a) and (b) as subsections (c) and (d); and

(2) by inserting before subsection (c), as so redesignated, the following new subsections (a) and (b):

"(a) PURPOSE.—It is the purpose of this section to ensure that the Calverton Pine Barrens is maintained and preserved, in perpetuity, as a nature preserve in its current undeveloped state.

"(b) PROHIBITION ON INCONSISTENT DEVELOPMENT.—(1) The Secretary of the Navy may not carry out or permit any commercial or residential development of the property referred to in paragraph (2) that is inconsistent with the purpose specified in subsection (a).

"(2) Paragraph (1) applies to any parcel of real property within the Calverton Pine Barrens that is under the jurisdiction of the Secretary.".

(b) CONFORMING AMENDMENTS.—Subsection (c) of such section, as redesignated by subsection (a)(1), is amended—

(1) by striking out "PROHIBITION.—" and inserting in lieu thereof "REVERSIONARY INTEREST.—"; and

(2) by striking out "for commercial purposes" and all that follows through the period and inserting in lieu thereof "in a manner inconsistent with the purpose specified in subsection (a) (as determined by the head of the department or agency making the conveyance).".

Subtitle E—Other Matters

SEC. 2841. JOINT CONSTRUCTION CONTRACTING FOR COMMISSARIES AND NONAPPROPRIATED FUND INSTRUMENTALITY FACILITIES.

(a) SINGLE CONTRACT CONSTRUCTION.—Section 2685 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) The Secretary of a military department may authorize a nonappropriated fund instrumentality of the United States to enter into a contract for construction of a shopping mall or similar facility for a commissary store and one or more nonappropriated fund instrumentality activities. The Secretary may use the proceeds of adjustments or surcharges authorized by subsection (a) to reimburse the nonappropriated fund instrumentality for the portion of the cost of the contract that is attributable to construction of the commissary store or to pay the contractor directly for that portion of such cost.

"(2) In paragraph (1), the term 'construction', with respect to a facility, includes acquisition, conversion, expansion, installation, or other improvement of the facility.".

(b) OBLIGATION OF ANTICIPATED PROCEEDS.—Subsection (c) of such section is amended by inserting "or (d)" after "subsection (b)" both places it appears.

SEC. 2842. NATIONAL GUARD FACILITY CONTRACTS SUBJECT TO PERFORMANCE SUPERVISION BY THE ARMY OR THE NAVY.

(a) CONTRACTS SUBJECT TO SUPERVISION.—Subsection (a) of section 2237 of title 10, United States Code, is amended by striking out "under any provision" and all that follows through "and (4)" and inserting in lieu thereof "under section 2233(a)(1)".

(b) CONFORMING AMENDMENT.—Subsection (b) of such section is amended by striking out "or (4)" and inserting in lieu thereof "(4), (5), or (6)".

SEC. 2843. WAIVER OF REPORTING REQUIREMENTS FOR CERTAIN REAL PROPERTY TRANSACTIONS IN THE EVENT OF WAR OR NATIONAL EMERGENCY.

Section 2662 of title 10, United States Code, is amended by adding at the end the following:

"(g)(1) Subsections (a) and (e) do not apply—

"(A) during a period described in paragraph (2); or

"(B) to transactions described in such subsections that are undertaken to restore Federal Government operations, to provide public assistance or relief, or to restore public order in relation to a major disaster declared in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

"(2) The periods referred to in paragraph (1)(A) are as follows:

"(A) A period of war declared by Congress.

"(B) A period of national emergency declared by the President in accordance with the National Emergencies Act (50 U.S.C. 1601 et seq.)

"(3) Not later than 30 days after taking an action for which prior notification would, except for this subsection, otherwise be required under subsection (a) or (e), the Secretary of the military department concerned or, in the case of an element of the Department of Defense not within a military department, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the action taken.".

SEC. 2844. REPORT ON USE OF FUNDS FOR ENVIRONMENTAL RESTORATION AT CORNHUSKER ARMY AMMUNITION PLANT, HALL COUNTY, NEBRASKA.

(a) REPORT REQUIRED.—The Secretary of the Army shall submit to Congress a report describing the manner in which funds available to the Army for operation and maintenance (including funds in the Defense Environmental Restoration Account established under section 2703(a)(1) of title 10, United States Code) will be used by the Secretary for environmental restoration and maintenance of the real property that comprises the Cornhusker Army Ammunition Plant, Hall County, Nebraska.

(b) Contents.—The report shall include the following:

(1) The funding plan for environmental restoration at the Cornhusker Army Ammunition Plant.

(2) A legal opinion stating whether any portion of the funds to be used for such environmental restoration may be used for the repair of the roads at the Plant in order to bring such roads into compliance with applicable State and local public works codes.

(3) A survey of the roads at the Plant that identifies which roads, if any, are in need of repair in order to bring the roads at the Plant into compliance with such codes.

(4) An estimate of the cost of the repair of the roads referred to in paragraph (3) in order to bring the roads into compliance.

(5) An explanation of the purpose, cost, and source of funds for any proposed preservation of documents or other materials relating to the cultural, historical, and natural resources associated with the Plant.

(c) Submission of Report.—The Secretary shall submit the report required by this section not later than May 1, 1995.

SEC. 2845. DEPARTMENT OF DEFENSE LABORATORY REVITALIZATION DEMONSTRATION PROGRAM.

(a) Program Required.—The Secretary of Defense shall carry out a Department of Defense Laboratory Revitalization Demonstration Program. Under the program the Secretary may carry out minor military construction projects in accordance with subsection (b) and other applicable law to improve Department of Defense laboratories covered by the program.

(b) Increased Maximum Amounts Applicable to Minor Construction Projects.—For purpose of any military construction project carried out under the program—

(1) the amount provided in subsection (a)(1) of section 2805 of title 10, United States Code, shall be deemed to be $3,000,000;

(2) the amount provided in subsection (b)(1) of such section shall be deemed to be $1,500,000; and

(3) the amount provided in subsection (c)(1) of such section shall be deemed to be $1,000,000.

(c) Designation of Covered Laboratories.—Not later than 30 days before commencing the program, the Secretary shall designate the Department of Defense laboratories that are to be covered by the program and notify Congress of the laboratories so designated. Only the designated laboratories may be covered by the program.

(d) Report.—Not later than September 30, 1998, the Secretary shall submit to Congress a report on the program. The report shall include the Secretary's conclusions and recommendations regarding the desirability and feasibility of extending the authority set forth in subsection (b) to cover all Department of Defense laboratories.

(e) Exclusivity of Program.—Nothing in this section may be construed to limit any other authority provided by law for any military construction project at a Department of Defense laboratory covered by the program.

(f) Definitions.—In this section:

(1) The term "laboratory" includes—

(A) a research, engineering, and development center;

(B) a test and evaluation activity owned, funded, and operated by the Federal Government through the Department of Defense; and

(C) a supporting facility of a laboratory.

(2) The term "supporting facility", with respect to a laboratory, means any building or structure that is used in support of research, development, test, and evaluation at a laboratory.

(3) The term "Department of Defense laboratory" does not include a contractor owned laboratory.

(g) Expiration of Authority.—The Secretary may not carry out the program after September 30, 1999.

SEC. 2846. AGREEMENTS OF SETTLEMENT FOR RELEASE OF IMPROVEMENTS AT OVERSEAS MILITARY INSTALLATIONS.

(a) Agreements Subject to OMB Review.—Subsection (g) of section 2921 of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510; 10 U.S.C. 2687 note) is amended by inserting after the first sentence the following: "The prohibition set forth in the preceding sentence shall apply only to agreements of settlement for improvements having a value in excess of $10,000,000.".

(b) Reports to Congress.—Such subsection, as amended by subsection (a), is further amended—

(1) by inserting "(1)" before "The Secretary of Defense"; and

(2) by adding at the end the following:

"(2) Each year, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on each proposed agreement of settlement that was not submitted by the Secretary to the Director of the Office of Management and Budget in the previous year under paragraph (1) because the value of the improvements to be released pursuant to the proposed agreement did not exceed $10,000,000.".

SEC. 2847. REVISIONS TO RELEASE OF REVERSIONARY INTEREST, OLD SPANISH TRAIL ARMORY, HARRIS COUNTY, TEXAS.

(a) Clerical Amendments.—Section 2820 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1894) is amended—

(1) in subsection (a), by striking out "1936" and inserting in lieu thereof "1956"; and

(2) in subsection (b)(1), by striking out "value" and inserting in lieu thereof "size".

(b) Payment for Survey.—Subsection (c) of such section is amended by adding at the end the following: "The cost of the survey shall be borne by the State of Texas.".

SEC. 2848. TRANSFER OF JURISDICTION, AIR FORCE HOUSING AT RADAR BOMB SCORING SITE, HOLBROOK, ARIZONA.

(a) Transfer Authorized.—As part of the closure of an Air Force Radar Bomb Scoring Site located near Holbrook, Arizona, the Secretary of the Air Force may transfer without reimbursement the administrative jurisdiction, accountability and control of the housing units and associated support facilities used in connection with the site to the Secretary of the Interior for use in connection with the Petrified Forest National Park.

(b) Description of Property.—The exact acreage and legal description of the real property to be transferred under subsection (a) shall be determined by a survey satisfactory to the Secretary of the Air Force and the Secretary of the Interior.

(c) Additional Terms and Conditions.—The Secretary of the Air Force may require such additional terms and conditions in connection with the transfer of real property under subsection (a) as the Secretary considers appropriate.

SEC. 2849. ASSISTANCE FOR PUBLIC PARTICIPATION IN DEFENSE ENVIRONMENTAL RESTORATION ACTIVITIES.

(a) Establishment of Restoration Advisory Boards.—Section 2705 of title 10, United States Code, is amended by adding after subsection (c) the following:

"(d) Restoration Advisory Board.—(1) In lieu of establishing a technical review committee under subsection (c), the Secretary may permit the establishment of a restoration advisory board in connection with any installation (or group of nearby installations) where the Secretary is planning or implementing environmental restoration activities.

"(2) The Secretary shall prescribe regulations regarding the characteristics, composition, funding and establishment of restoration advisory boards pursuant to this subsection, if the Secretary decides to use this authority. Prescription of regulations shall not be a precondition to establishment of a restoration advisory board or impact restoration advisory board established prior to the date of enactment of this section.

"(3) The Secretary may provide for the payment of routine administrative expenses of a restoration advisory board from funds available for the operation and maintenance of the installation (or installations) for which the board is established or from the funds available under subsection (e)(4).".

(b) Assistance for Citizen Participation on Technical Review Boards and Restoration Advisory Boards.—Such section is further amended by adding after subsection (d), as added by subsection (a), the following:

"(e) Assistance for Citizen Participation.—(1)(A) Subject to subparagraph (B), the Secretary shall make available under paragraph (4) funds to facilitate the participation of individuals from the private sector on technical review committees and restoration advisory boards for the purpose of ensuring public input into the planning and implementation of environmental restoration activities at installations where such committees and boards are in operation.

"(B) A committee or advisory board for an installation is eligible for funding assistance under this subsection only if the committee or board is composed of individuals from the private sector who reside in a community in the vicinity of the installation and who are not potentially responsible parties with respect to environmental hazards at the installation.

"(2) Individuals who are local community members of a technical review committee or restoration advisory board may use funds made available under this subsection only—

"(A) to obtain technical assistance in interpreting scientific and engineering issues with regard to the nature of environmental hazards at an installation and the restoration activities proposed or conducted at the installation; and

"(B) to assist such members and affected citizens to participate more effectively in environmental restoration activities at the installation.

"(3) The members of a technical review committee or restoration advisory board may employ technical or other experts in accordance with regulations prescribed under subsections (d) and (e)(1) of title 10, United States Code as added by this section.

"(4)(A) Subject to subparagraph (B), the Secretary shall make funds available under this subsection using funds in the following accounts:

"(i) In the case of a military installation not closed pursuant to a base closure law, the Defense Environmental Restoration Account established in section 2703(a) of this title.

"(ii) In the case of a technical review committee or restoration advisory board established for a military installation to be closed, the Department of Defense Base Closure Account 1990 established under section 2906(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

"(B) The total amount of funds available under this subsection for fiscal year 1995 may not exceed $7,500,000.".

(c) Involvement of Committees and Boards in Defense Environmental Restoration Program.—Such section is further amended by adding after subsection (e), as added by subsection (b), the following:

"(f) Involvement in Defense Environmental Restoration Program.—If a technical review committee or restoration advisory board is established with respect to an installation, the Secretary shall consult with and seek the advice of the committee or board on the following issues:

"(1) Identifying environmental restoration activities and projects at the installation.

"(2) Monitoring progress on these activities and projects.

"(3) Collecting information regarding restoration priorities for the installation.

"(4) Addressing land use, level of restoration, acceptable risk, and waste management and technology development issues related to environmental restoration at the installation.

"(5) Developing environmental restoration strategies for the installation.".

(d) Implementation Requirements.—Not later than 180 days after the date on which the Secretary announces a decision to establish restoration advisory boards, the Secretary of Defense shall—

(1) prescribe the regulations required under subsections (d) and (e)(1) of title 10, United States Code, as added by this section; and

(2) take appropriate actions to notify the public of the availability of funding under subsection (e) of such section, as so added.

"(e) Report.—The Secretary shall report to the Committees on Armed Services of the Senate and the House of Representatives by May 1, 1996, on the establishment of restoration advisory boards and funds expended for assistance for citizen participation.

SEC. 2850. SENSE OF THE SENATE ON AUTHORIZATION OF FUNDS FOR MILITARY CONSTRUCTION PROJECTS NOT REQUESTED IN THE PRESIDENT'S ANNUAL BUDGET REQUEST.

(a) Sense of the Senate.—It is the sense of the Senate that, to the maximum extent practicable, the Senate should consider the authorization for appropriation of funds for a military construction project not included in the annual budget request of the Department of Defense only if:

(1) the project is consistent with past actions of the Base Realignment and Closure process;

(2) the project is included in the military construction plan of the military department concerned incorporated in the Future Years Defense Program;

(3) the project is necessary for reasons of the national security of the United States; and

(4) a contract for construction of the project can be awarded in that fiscal year.

(b) Views of the Secretary of Defense.—In considering these criteria, the Senate should obtain the views of the Secretary of Defense. These views should include whether funds for a military construction project not included in the budget request can be offset by funds for other programs, projects, or activities, including military construction projects, in the budget request and, if so, the specific offsetting reductions recommended by the Secretary of Defense.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

SEC. 3101. WEAPONS ACTIVITIES.

(a) Research and Development.—Subject to subsection (f), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for research and development in carrying out weapons activities necessary for national security programs in the amount of $1,187,818,000, to be allocated as follows:

(1) For core research and development, $795,551,000, to be allocated as follows:

(A) For operating expenses, $649,341,000.

(B) For capital equipment, $69,420,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $76,790,000, to be allocated as follows:

Project GPD–101, general plant projects, various locations, $8,500,000.

Project 95–D–102, Chemical and Metallurgy Research Building upgrades, Los Alamos National Laboratory, New Mexico, $3,300,000.

Project 94–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase V, various locations, $13,000,000.

Project 92–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase IV, various locations, $21,810,000.

Project 90–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase III, various locations, $7,700,000.

Project 88–D–106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $22,480,000.

(2) For inertial fusion, $176,473,000, to be allocated as follows:

(A) For operating expenses, $166,755,000.

(B) For capital equipment, $9,718,000.

(3) For technology transfer, $215,794,000, to be allocated as follows:

(A) For operating expenses, $209,794,000.

(B) For capital equipment, $6,000,000.

(b) Testing.—Subject to subsection (f), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for testing in carrying out weapons activities necessary for national security programs in the amount of $384,719,000, to be allocated as follows:

(1) For testing capabilities and readiness $374,719,000, to be allocated as follows:

(A) For operating expenses, $338,249,000.

(B) For capital equipment, $15,470,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $21,000,000, to be allocated as follows:

Project GPD–101, general plant projects, various locations, $4,000,000.

Project 93–D–102, Nevada support facility, North Las Vegas, Nevada, $17,000,000.

(2) For operating expenses for solar energy development, $10,000,000.

(c) Stockpile Support.—Subject to subsection (f), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for stockpile support in carrying out weapons activities necessary for national security programs in the amount of $1,557,085,000, to be allocated as follows:

(1) For operating expenses for stockpile support, $1,487,085,000.

(2) For capital equipment, $15,880,000.

(3) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $54,120,000, to be allocated as follows:

Project GPD–121, general plant projects, various locations, $1,000,000.

Project 95–D–122, sanitary sewer upgrade Oak Ridge Y-12 Plant, Oak Ridge, Tennessee, $2,200,000.

Project 95–D–123, replace transportation safeguards, aviation facility, Albuquerque, New Mexico, $2,000,000.

Project 94–D–124, hydrogen fluoride supply system, Oak Ridge Y–12 Plant, Oak Ridge, Tennessee, $6,300,000.

Project 94–D–125, upgrade life safety, Kansas City Plant, Kansas City, Missouri, $1,000,000.

Project 94–D–127, emergency notification system, Pantex Plant, Amarillo, Texas, $1,000,000.

Project 94–D–128, environmental safety and health analytical laboratory, Pantex Plant, Amarillo, Texas, $1,000,000.

Project 93–D–122, life safety upgrades, Y–12 Plant, Oak Ridge, Tennessee, $5,000,000.

Project 88–D–122, facilities capability assurance program, various locations, $19,620,000.

Project 88–D–123, security enhancements, Pantex Plant, Amarillo, Texas, $15,000,000.

(d) Program Direction.—Subject to subsection (f), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for program direction in carrying out weapons activities necessary for national security programs in the amount of $169,852,000, to be allocated as follows:

(1) For operating expenses for weapons program direction, $167,498,000.

(2) For capital equipment, $2,354,000.

(e) Reconfiguration.—Subject to subsection (f), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for nuclear weapons complex reconfiguration in carrying out weapons activities necessary for national security programs in the amount of $152,271,000, to be allocated as follows:

(1) For operating expenses for reconfiguration, $94,271,000.

(2) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $58,000,000, all of which to be allocated as follows:

Project 93–D–123, complex-21, various locations.

(f) Adjustments.—Subject to section 3105, the total amount authorized to be appropriated pursuant to this section is the sum of the amounts authorized to be appropriated in subsections (a) through (e) reduced by the sum of—

(1) $131,077,000, for use of prior year balances; and

(2) $11,000,000, for savings resulting from procurement reform.

SEC. 3102. ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

(a) Corrective Activities.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for corrective activities in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $1,012,000, all of which to be allocated to a plant project (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto) as follows:

Project 92–D–403, tank upgrades project, Lawrence Livermore National Laboratory, California.

(b) Environmental Restoration.—(1) Subject to paragraph (2), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for environmental restoration for operating expenses in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $1,531,969,000.

(2) Subject to subsection (h), the amount authorized to be appropriated pursuant to this subsection is the amount authorized to be appropriated in paragraph (1) reduced by $133,900,000, as a result of the productivity savings initiative.

(c) Waste Management.—(1) Subject to paragraph (2), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for waste management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $2,913,045,000, to be allocated as follows:

(A) For operating expenses, $2,408,029,000.

(B) For capital equipment, $104,790,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $400,226,000, to be allocated as follows:

Project GPD–171, general plant projects, various locations, $23,742,000.

Project 95–D–401, radiological support facilities, Richland, Washington, $1,585,000.

Project 95–D–402, install permanent electrical service, Waste Isolation Pilot Plant, New Mexico, $700,000.

Project 95–D–403, hazardous waste storage facility, Mound Plant, Miamisburg, Ohio, $597,000.

Project 95–D–405, industrial landfill V and construction demolition landfill VII, Oak Ridge Y–12 Plant, Oak Ridge, Tennessee, $1,000,000.

Project 95–D–406, road 5–01 reconstruction, area 5, Nevada Test Site, Nevada, $2,338,000.

Project 95–D–407, 219-S secondary containment upgrade, Richland, Washington, $2,000,000.

Project 95–D–408, Phase II liquid effluent treatment and disposal, Richland, Washington, $7,100,000.

Project 94–D–400, high explosive wastewater treatment system, Los Alamos National Laboratory, Los Alamos, New Mexico, $1,000,000.

Project 94–D–402, liquid waste treatment system, Nevada Test Site, Nevada, $3,292,000.

Project 94–D–404, Melton Valley storage tank capacity increase, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $21,373,000.

Project 94–D–406, low-level waste disposal facilities, K–25, Oak Ridge, Tennessee, $6,000,000.

Project 94–D–407, initial tank retrieval systems, Richland, Washington, $17,700,000.

Project 94–D–408, office facilities—200 East, Richland, Washington, $4,000,000.

Project 94–D–411, solid waste operation complex, Richland, Washington, $42,200,000.

Project 94–D–416, solvent storage tanks installation, Savannah River, South Carolina, $1,700,000.

Project 94–D–417, intermediate-level and low-activity waste vaults, Savannah River, South Carolina, $300,000.

Project 93–D–174, plant drain waste water treatment upgrades, Y–12 Plant, Oak Ridge, Tennessee, $1,400,000.

Project 93–D–178, building 374 liquid waste treatment facility, Rocky Flats, Golden, Colorado, $3,300,000.

Project 93–D–181, radioactive liquid waste line replacement, Richland, Washington, $3,300,000.

Project 93–D–182, replacement of cross-site transfer system, Richland, Washington, $18,910,000.

Project 93–D–183, multi-tank waste storage facility, Richland, Washington, $95,305,000.

Project 93–D–187, high-level waste removal from filled waste tanks, Savannah River, Aiken, South Carolina, $26,525,000.

Project 92–D–177, tank 101–AZ waste retrieval system, Richland, Washington, $5,000,000.

Project 92–D–188, waste management ES&H, and compliance activities, various locations, $2,846,000.

Project 91–D–171, waste receiving and processing facility, module 1, Richland, Washington, $3,995,000.

Project 90–D–172, aging waste transfer line, Richland, Washington, $3,819,000.

Project 90–D–177, RWMC transuranic (TRU) waste characterization and storage facility, Idaho National Engineering Laboratory, Idaho, $11,747,000.

Project 90–D–178, TSA retrieval containment building, Idaho National Engineering Laboratory, Idaho, $7,594,000.

Project 89–D–173, tank farm ventilation upgrade, Richland, Washington, $800,000.

Project 89–D–174, replacement high-level waste evaporator, Savannah River, South Carolina, $18,000,000.

Project 89–D–175, hazardous waste/mixed waste disposal facility, Savannah River, South Carolina, $500,000.

Project 86–D–103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, California, $9,500,000.

Project 83–D–148, nonradioactive hazardous waste management, Savannah River, South Carolina, $6,000,000.

Project 81–T–105, defense waste processing facility, Savannah River, South Carolina, $45,058,000.

(2) Subject to subsection (h), the total amount authorized to be appropriated pursuant to this subsection is the sum of the amounts authorized to be appropriated in paragraph (1) reduced by $160,800,000, as a result of the productivity savings initiative.

(d) Technology Development.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for technology development in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $426,409,000, to be allocated as follows:

(1) For operating expenses, $400,974,000.

(2) For capital equipment, $25,435,000.

(e) Transportation Management.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for transportation management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $20,684,000, to be allocated as follows:

(1) For operating expenses, $20,240,000.

(2) For capital equipment, $444,000.

(f) Program Direction.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for program direction in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $84,948,000, to be allocated as follows:

(1) For operating expenses, $83,748,000.

(2) For capital equipment, $1,200,000.

(g) Facility Transition and Management.—(1) Subject to paragraph (2), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for facility transition and management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $791,857,000, to be allocated as follows:

(A) For operating expenses, $681,550,000.

(B) For capital equipment, $23,947,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $86,360,000, to be allocated as follows:

Project GPD–171, general plant projects, various locations, $20,495,000.

Project 95–D–453, primary highway route north of the Wye Barricade, Richland, Washington, $2,500,000.

Project 95–D–454, 324 facility compliance/renovation, Richland, Washington, $1,500,000.

Project 95–D–455, Idaho National Engineering Laboratory radio communications upgrade, Idaho National Engineering Laboratory, Idaho, $1,440,000.

Project 95–D–456, security facilities upgrade, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $986,000.

Project 94–D–122, underground storage tanks, Rocky Flats, Colorado, $2,500,000.

Project 94–D–401, emergency response facility, Idaho National Engineering Laboratory, Idaho, $5,219,000.

Project 94–D–412, 300 area process sewer piping upgrade, Richland, Washington, $7,800,000.

Project 94–D–415, medical facilities, Idaho National Engineering Laboratory, Idaho, $4,920,000.

Project 94–D–451, infrastructure replacement, Rocky Flats Plant, Golden, Colorado, $10,600,000.

Project 93–D–172, electrical upgrade, Idaho National Engineering Laboratory, Idaho, $7,800,000.

Project 93–D–184, 325 facility compliance/renovation, Richland, Washington, $1,000,000.

Project 93–D–186, 200 area unsecured core area fabrication shop, Richland, Washington, $4,000,000.

Project 92–D–125, master safeguards and security agreement/materials surveillance task force security upgrades, Rocky Flats Plant, Golden, Colorado, $2,100,000.

Project 92–D–181, INEL fire and life safety improvements, Idaho National Engineering Laboratory, Idaho, $6,000,000.

Project 92–D–182, INEL sewer system upgrade, Idaho National Engineering Laboratory, Idaho, $1,900,000.

Project 92–D–186, steam system rehabilitation, Phase II, Richland, Washington, $5,600,000.

(2) Subject to subsection (h), the total amount authorized to be appropriated pursuant to this subsection is the sum of the amounts authorized to be appropriated in paragraph (1) reduced by $5,000,000, as a result of the productivity savings initiative.

(h) PRIOR YEAR BALANCES.—Subject to section 3105, the total amount authorized to be appropriated pursuant to this section is the sum of the amounts authorized to be appropriated in subsections (a), (b)(2), (c)(2), (d), (e), (f), and (g)(2) reduced by the sum of—

(1) $240,300,000 for use of prior year balances; and

(2) $17,500,000 for savings resulting from procurement reform.

SEC. 3103. NUCLEAR MATERIALS SUPPORT AND OTHER DEFENSE PROGRAMS.

(a) MATERIALS SUPPORT.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for materials support in carrying out nuclear materials support necessary for national security programs in the amount of $887,225,000, to be allocated as follows:

(1) For reactor operations, $163,634,000.

(2) For processing of nuclear materials, $369,468,000.

(3) For support services, $167,776,000.

(4) For capital equipment, $39,427,000.

(5) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $88,950,000, to be allocated as follows:

Project GPD–146, general plant projects, various locations, $21,000,000.

Project 95–D–154, health physics site support facility, Savannah River, South Carolina, $2,000,000.

Project 95–D–155, upgrade site road infrastructure, Savannah River, South Carolina, $750,000.

Project 95–D–156, radio trunking system, Savannah River, South Carolina, $2,100,000.

Project 95–D–157, D-area powerhouse life extension, Savannah River, South Carolina, $4,000,000.

Project 95–D–158, disassembly basin upgrades K, L, and P, Savannah River, South Carolina, $13,000,000.

Project 93–D–147, domestic water system upgrade, Phases I and II, Savannah River, South Carolina, $11,300,000.

Project 93–D–148, replace high-level drain lines, Savannah River, South Carolina, $2,700,000.

Project 93–D–152, environmental modification for production facilities, Savannah River, South Carolina, $2,900,000.

Project 92–D–143, health protection instrument calibration facility, Savannah River, South Carolina, $3,000,000.

Project 90–D–149, plantwide fire protection, Phases I and II, Savannah River, South Carolina, $21,000,000.

Project 92–D–150, operations support facilities, Savannah River, South Carolina, $2,000,000.

Project 92–D–153, engineering support facility, Savannah River, South Carolina, $3,200,000.

(6) For program direction, $58,000,000.

(b) OTHER DEFENSE PROGRAMS.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for other defense programs in carrying out defense programs necessary for national security programs in the amount of $692,204,000, to be allocated as follows:

(1) For verification and control technology, $358,102,000, to be allocated as follows:

(A) For operating expenses, $342,229,000.

(B) For capital equipment, $15,873,000.

(2) For nuclear safeguards and security, $85,816,000, to be allocated as follows:

(A) For operating expenses, $82,421,000.

(B) For capital equipment, $3,395,000.

(3) For security investigations, $38,827,000.

(4) For security evaluations, $14,780,000.

(5) For the Office of Nuclear Safety, $24,679,000, to be allocated as follows:

(A) For operating expenses, $24,629,000.

(B) For capital equipment, $50,000.

(6) For worker and community transition, $120,000,000.

(7) For fissile material control and disposition, $50,000,000.

(c) NAVAL REACTORS.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for naval reactors in carrying out nuclear materials support and other defense programs necessary for national security programs in the amount of $730,651,000, to be allocated as follows:

(1) For naval reactors development, $698,651,000, to be allocated as follows:

(A) For operating expenses:

(i) For plant development, $146,700,000.

(ii) For reactor development, $348,951,000.

(iii) For reactor operation and evaluation, $136,000,000.

(iv) For program direction, $18,800,000.

(B) For capital equipment, $28,200,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $20,000,000, to be allocated as follows:

Project GPN–101, general plant projects, various locations, $6,200,000.

Project 95–D–200, laboratory systems and hot cell upgrades, various locations, $2,400,000.

Project 95–D–201, advanced test reactor radioactive waste system upgrades, Idaho National Engineering Laboratory, Idaho, $700,000.

Project 93–D–200, engineering services facilities, Knolls Atomic Power Laboratory, Niskayuna, New York, $7,900,000.

Project 92–D–200, laboratories facilities upgrades, various locations, $2,800,000.

(2) For enrichment materials, for operating expenses, $32,000,000.

(d) ADJUSTMENTS.—Subject to section 3105, the total amount that may be appropriated pursuant to this section is the sum of the amounts authorized to be appropriated in subsections (a), (b), and (c) reduced by the sum of—

(1) $40,000,000, for recovery of overpayment to the Savannah River Pension Fund;

(2) $6,500,000, for savings resulting from procurement reform; and

(3) $369,700,000, for transfer and use of prior year balances for materials support and other defense programs.

SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $129,430,000.

SEC. 3105. GENERAL REDUCTION IN AUTHORIZATION OF APPROPRIATIONS.

The total amount authorized to be appropriated pursuant to sections 3101, 3102, 3103, and 3104 is the sum of the amounts authorized to be appropriated in such sections reduced by $220,000,000 for use of prior year balances from fiscal year 1994.

Subtitle B—Recurring General Provisions

SEC. 3121. REPROGRAMMING.

(a) NOTICE TO CONGRESS.—(1) Except as otherwise provided in this title—

(A) no amount appropriated pursuant to this title may be used for any program in excess of the lesser of—

(i) 105 percent of the amount authorized for that program by this title; or

(ii) $10,000,000 more than the amount authorized for that program by this title; and

(B) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress.

(2) An action described in paragraph (1) may not be taken until—

(A) the Secretary of Energy has submitted to the congressional defense committees a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain.

(b) LIMITATION ON AMOUNT OBLIGATED.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS.

(a) IN GENERAL.—The Secretary of Energy may carry out any construction project under the general plant projects authorized by this title if the total estimated cost of the construction project does not exceed $2,000,000.

(b) REPORT TO CONGRESS.—If, at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $2,000,000, the Secretary shall immediately furnish a complete report to the congressional defense committees explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS.

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, which is authorized by section 3101, 3102, or 3103, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to the Congress.

(2) An action described in paragraph (1) may be taken if—

(A) the Secretary of Energy has submitted to the congressional defense committees a report on the action and the circumstances making such action necessary; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUNDS TRANSFER AUTHORITY.

The Secretary of Energy may transfer funds appropriated pursuant to this title to other agencies of the Federal Government for the performance of the work for which the funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

SEC. 3125. AUTHORITY FOR CONSTRUCTION DESIGN.

(a) IN GENERAL.—(1) Within the amounts authorized by this title, the Secretary of Energy may carry out advance planning and construction design (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $3,000,000.

(2) In the case of any project in which the total estimated cost for advance planning and design exceeds $600,000, the Secretary shall notify the congressional defense committees in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) SPECIFIC AUTHORITY REQUIRED.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $3,000,000, funds for such planning and design must be specifically authorized by law.

SEC. 3126. REQUIREMENT FOR COMPLETION OF CONCEPTUAL DESIGN TO PRECEDE REQUEST FOR CONSTRUCTION FUNDS.

(a) REQUIREMENT.—Before submitting to Congress a request for funds for a construction project that is in support of a national security program of the Department of Energy, the Secretary of Energy shall complete a conceptual design for that project.

(b) EXCEPTIONS.—The requirement in subsection (a) does not apply to requests for funds—

(1) for the costs of preparing a conceptual design for a construction project referred to in that subsection; or

(2) for emergency planning, design, and construction activities under section 3127.

SEC. 3127. AUTHORITY FOR EMERGENCY PLANNING, DESIGN, AND CONSTRUCTION ACTIVITIES.

(a) AUTHORITY.—The Secretary of Energy may use any funds available to the Department of Energy under sections 3101, 3102, and 3103, including those funds authorized to be appropriated for advance planning and construction design, to perform planning, design, and construction activities for any Department of Energy national security program construction project that, as determined by the Secretary, must proceed expeditiously in order to protect public health and safety, meet the needs of national defense, or protect property.

(b) LIMITATION.—The Secretary may not exercise the authority under subsection (a) in the case of any construction project until the Secretary has submitted to the congressional defense committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making such activities necessary.

(c) SPECIFIC AUTHORITY.—The requirement of section 3125(b) does not apply to emergency planning, design, and construction activities conducted under this section.

(d) REPORT.—The Secretary of Energy shall promptly report to the congressional defense committees any exercise of authority under this section.

SEC. 3128. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

Subject to the provisions of appropriation Acts and section 3121, amounts appropriated pursuant to this title that are made available for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3129. AVAILABILITY OF FUNDS.

When so specified in an appropriation Act, amounts appropriated for operating expenses, plant projects, and capital equipment may remain available until expended.

Subtitle C—Program Authorizations, Restrictions, and Limitations

SEC. 3131. STOCKPILE STEWARDSHIP RECRUITMENT AND TRAINING PROGRAM.

(a) CONDUCT OF PROGRAM.—(1) As part of the stockpile stewardship program established pursuant to section 3138 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1946; 42 U.S.C. 2121 note), the Secretary of Energy shall conduct a stockpile stewardship recruitment and training program at the Sandia National Laboratories, the Lawrence Livermore National Laboratory, and the Los Alamos National Laboratory.

(2) The recruitment and training program shall be conducted in coordination with the Chairman of the Joint Nuclear Weapons Council established by section 179 of title 10, United States Code, and the directors of the laboratories referred to in paragraph (1).

(b) SUPPORT OF DUAL-USE PROGRAMS.—(1) As part of the recruitment and training program, the directors of the laboratories referred to in subsection (a)(1) may employ undergraduate students, graduate students, and postdoctoral fellows to carry out research sponsored by such laboratories for military or nonmilitary dual-use programs related to nuclear weapons stockpile stewardship.

(2) Of the amounts authorized to be appropriated to the Secretary of Energy pursuant to section 3101(a)(1) for weapons activities for core research and development and allocated by the Secretary for education initiatives, $4,000,000 shall be available for carrying out paragraph (1). The amount available under this paragraph shall be allocated equally among the laboratories referred to in subsection (a)(1).

(c) ESTABLISHMENT OF RETIREE CORPS.—As part of the training and recruitment program, the Secretary, in coordination with the directors of the laboratories referred to in subsection (a)(1), shall establish for the laboratories a retiree corps of retired scientists who have expertise in research and development of nuclear weapons. The directors may employ the retired scientists on a part-time basis to provide appropriate assistance on nuclear weapons issues, to contribute relevant information to be archived, and to help to provide training to other scientists.

(d) REPORT.—(1) Not later than February 1, 1995, the Secretary of Energy shall submit to the congressional defense committees a report on the demographic trends of the personnel of the laboratories referred to in subsection (a)(1) and on actions taken by the Department of Energy to remedy identified deficiencies in various skill areas.

(2) The report shall be prepared in coordination with the Chairman of the Joint Nuclear Weapons Council and the directors of the laboratories. Information included in the report shall be aggregated and compiled into statistical categories.

(3) The report shall include the following:

(A) An inventory of the weapons-related tasks that the laboratories need to perform to support their nuclear weapons responsibilities.

(B) An inventory of the skills necessary to complete the weapons-related tasks referred to in subparagraph (A).

(C) For each laboratory, the number of scientists needed in each skill area to perform such tasks.

(D) The number of the scientists providing services in each skill area at each laboratory, stated by age.

(E) An assessment of which skill areas are understaffed.

(F) The number of scientists entering the weapons program at each laboratory, and their skill areas.

(G) The number of full-time equivalent personnel with weapon skills, their distribution by skill and, for each such skill, their distribution by age.

(H) The number of scientists retiring from the weapons program in the 5-year period ending on the date of the report and the skill areas in which they worked in the year preceding their retirement.

(I) Based on the information contained in subparagraphs (A) through (H), a projection of the skills areas that will become understaffed in the five years following the date of the report.

(J) Alternative actions that may be taken to retain and recruit scientists for the weapons programs at the laboratories in order to preserve a sufficient skill base and to fulfill stockpile stewardship responsibilities.

(K) Any plans of the Secretary to take any of the alternative actions referred to in subparagraph (J).

SEC. 3132. DEFENSE INERTIAL CONFINEMENT FUSION PROGRAM.

Of the funds authorized to be appropriated by this title to the Department of Energy for fiscal year 1995, $176,473,000 shall be available for the defense inertial confinement fusion program.

SEC. 3133. PAYMENT OF PENALTIES.

The Secretary of Energy may pay to the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code of 1986 (26 U.S.C. 9507), from funds appropriated to the Department of Energy for environmental restoration and waste management activities pursuant to section 3102, stipulated civil penalties assessed under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.) in amounts as follows:

(1) $50,000, assessed against the Fernald Environmental Management Project, Ohio, under such Act.

(2) $50,000, assessed against the Portsmouth Gaseous Diffusion Plant, Ohio, under such Act.

SEC. 3134. WATER MANAGEMENT PROGRAMS.

From funds authorized to be appropriated pursuant to section 3102 to the Department of Energy for environmental restoration and waste management activities, the Secretary of Energy may reimburse the cities of Westminster, Broomfield, Thornton, and Northglenn, in the State of Colorado, $11,415,000 for the cost of implementing water management programs. Reimbursements for the water management programs shall not be considered a major Federal action for purposes of section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

SEC. 3135. LIMITATION ON USE OF FUNDS FOR SPECIAL ACCESS PROGRAMS.

Not more than 20 percent of the funds appropriated or otherwise made available to the Department of Energy for fiscal year 1995 pursuant to this title that are available for limited access programs and special access program may be obligated for a limited access program or special access program until the Secretary of Energy submits to the congressional defense committees the annual reports required to be submitted in that fiscal year under subsections (a) and (b) of section 93 of the Atomic Energy Act of 1954 (42 U.S.C. 2122a).

SEC. 3136. PROTECTION OF NUCLEAR WEAPONS FACILITIES WORKERS.

Of the funds authorized to be appropriated by section 310(2) for environmental restoration and waste management activities, $11,000,000 shall be available to carry out activities authorized under section 3131 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1571; 42 U.S.C. 7274d), relating to worker protection at nuclear weapons facilities.

SEC. 3137. NATIONAL SECURITY PROGRAMS.

Notwithstanding any other provision of law, not more than 90 percent of the funds appropriated to the Department of Energy for national security programs under this title may be obligated for such programs until the Secretary of Energy submits to the congressional defense committees the five-year budget plan with respect to fiscal year 1995 required under section 3144 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1681; 42 U.S.C. 7271b).

SEC. 3138. SCHOLARSHIP AND FELLOWSHIP PROGRAM FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

Of the funds authorized to be appropriated to the Department of Energy for fiscal year 1995 for environmental restoration and waste management, $1,000,000 shall be available for the Scholarship and Fellowship Program for Environmental Restoration and Waste Management carried out under section 3123 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1572; 42 U.S.C. 7274e).

SEC. 3139. HAZARDOUS MATERIALS MANAGEMENT AND HAZARDOUS MATERIALS EMERGENCY RESPONSE TRAINING PROGRAM.

Of the funds authorized to be appropriated to the Department of Energy for fiscal year 1995 under section 3102(d), not more than $14,000,000 shall be available to carry out a hazardous materials management and hazardous materials emergency response training program at Hanford Nuclear Reservation, Richland, Washington.

SEC. 3140. PROGRAMS FOR PERSONS WHO MAY HAVE BEEN EXPOSED TO RADIATION RELEASED FROM HANFORD NUCLEAR RESERVATION.

(a) FUNDING.—Of the funds authorized to be appropriated to the Department of Energy under section 3101 for fiscal year 1995, $3,295,591 shall be available for activities relating to the Hanford Health Information Network established pursuant to the authority set forth in section 3138 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1834).

(b) LIMITATION ON RELEASE OF CERTAIN PERSONAL INFORMATION.—(1) Information referred to in paragraph (2) that is collected from an individual pursuant to operation of the Hanford Health Information Network shall be used only by the Network unless the individual, or a designated legal representative of the individual, authorizes in writing the use of the information for another purpose.

(2) Paragraph (1) applies to the following information:

(A) The name, address, telephone number, and medical information and records of each individual requesting assistance and information from the Network.

(B) Such other information or categories of information as the chief officers of the health departments of the States of Washington, Oregon, and Idaho jointly designate as information covered by this subsection.

SEC. 3141. SOLAR ENERGY ACTIVITIES AT NEVADA TEST SITE, NEVADA.

Of the funds authorized to be appropriated to the Department of Energy under section 3101, $10,000,000 shall be available for development of solar energy at the Nevada Test Site, Nevada.

Subtitle D—Other Matters

SEC. 3151. ACCOUNTING PROCEDURES FOR DEPARTMENT OF ENERGY FUNDS.

(a) IN GENERAL.—The Secretary of Energy shall prescribe procedures to account for the use of funds for the performance of the programs and activities of the Department of Energy for which funds are appropriated for national security programs of the Department of Energy. The procedures shall provide for such accounting for fiscal years beginning after fiscal year 1996.

(b) COVERED MATTERS.—The Secretary shall prescribe procedures under subsection (a)—

(1) to account for the funds appropriated to the Department for national security programs and activities of the Department that are not used for the purpose for which such funds were appropriated; and

(2) to provide an accounting for all encumbered funds, unencumbered funds, unobligated funds, costed funds, and uncosted obligations of the Department in that fiscal year.

SEC. 3152. APPROVAL FOR CERTAIN NUCLEAR WEAPONS ACTIVITIES.

(a) APPROVAL BY JOINT NUCLEAR WEAPONS COUNCIL.—Subsection (d) of section 179 of title 10, United States Code, is amended—

(1) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

(2) by inserting after paragraph (7) the following new paragraph (8):

"(8) Coordinating and approving activities initiated or conducted by the Department of Energy for the study, development, and production of nuclear warheads, including concept definition studies, feasibility studies, engineering development, hardware component fabrication, warhead production, and warhead retirement.".

(b) TECHNICAL AMENDMENTS.—Subsections (a)(3) and (b) of such section are amended by striking out "appointed" each place it appears and inserting in lieu thereof "designated".

SEC. 3153. STUDY OF FEASIBILITY OF CONDUCTING CERTAIN ACTIVITIES AT THE NEVADA TEST SITE, NEVADA.

Not later than April 1, 1995, the Secretary of Energy shall submit to Congress a report on the feasibility of conducting the following activities at the Nevada Test Site, Nevada:

(1) The demilitarization of large rocket motors, high energetic explosives and conventional ordnance.

(2) Disarmament and demilitarization of conventional weapons and components, generally.

(3) The conduct of experiments that assist in monitoring compliance with international agreements on the nonproliferation of nuclear weapons.

(4) The conduct of programs for the Department of Energy and the Department of Defense to develop simulator technologies for nuclear weapons design and effects, including advanced hydrodynamic simulators, fusion test facilities, and nuclear weapons effects simulators (such as the Decade and Jupiter simulators).

(5) The conduct of the stockpile stewardship program established pursuant to section 3138 of the National Defense Authorization Act for Fiscal Year 1994 (42 U.S.C. 2121 note).

(6) Experiments related to the nonproliferation of nuclear weapons, including experiments with respect to disablement of such weapons, nuclear forensics, sensors, and verification and monitoring.

SEC. 3154. NUCLEAR WEAPONS COUNCIL MEMBERSHIP.

Section 179(a)(1) title 10, United States Code, is amended to read as follows: "(3) Two senior representatives of the Department of Energy appointed by the Secretary of Energy.".

SEC. 3155. OFFICE OF FISSILE MATERIALS DISPOSITION.

(a) ESTABLISHMENT.—Title II of the Department of Energy Organization Act (42 U.S.C. 7131 et seq.) is amended by adding at the end the following:

"OFFICE OF FISSILE MATERIALS DISPOSITION

"SEC. 212. (a) There shall be within the Department an Office of Fissile Materials Disposition.

"(b) The Secretary shall designate the head of the Office. The head of the Office shall report to the Under Secretary.

"(c) The head of the Office shall be responsible for all activities of the Department relating to the management, storage, and disposition of fissile materials from weapons and weapons systems that are excess to the national security needs of the United States.".

(b) CONFORMING AMENDMENT.—The table of contents in the first section of such Act is amended by inserting after the item relating to section 210 the following new items:

"Sec. 211. Office of Minority Economic Impact.

"Sec. 212. Office of Fissile Materials Disposition.".

SEC. 3156. EXTENSION OF AUTHORITY TO LOAN PERSONNEL AND FACILITIES AT IDAHO NATIONAL ENGINEERING LABORATORY.

Section 1434 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2074), as amended by section 3136 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2641), is further amended—

(1) in the third sentence of subsection (a)(3), by striking out "fiscal years 1993 and 1994" and inserting in lieu thereof "fiscal years 1993, 1994, 1995, 1996, and 1997"; and

(2) in subsection (c), by striking out "September 30, 1994, with respect to the Idaho National Engineering Laboratory" and inserting in lieu thereof "September 30, 1997, with respect to the Idaho National Engineering Laboratory".

SEC. 3157. ELIMINATION OF REQUIREMENT FOR FIVE-YEAR PLAN FOR DEFENSE NUCLEAR FACILITIES.

Subsection (a) section 3135 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1575; 42 U.S.C. 7274g(a)) is amended—

(1) in paragraph (1)—

(A) by striking out "(A) defense nuclear facilities and (B) all other facilities owned or operated by the Department of Energy" in the first sentence and inserting in lieu thereof "all facilities owned or operated by the Department of Energy except defense nuclear facilities"; and

(B) by inserting "such" in the third sentence after "restoration at all";

(2) in paragraph (4), by striking out "The plan shall contain the following matter:" and inserting in lieu thereof "The plan shall include, with respect to the Department of Energy facilities required by paragraph (1) to be covered by the plan, the following matters:";

(3) by striking out paragraph (6); and

(4) by redesignating paragraph (7) as paragraph (6).

SEC. 3158. AUTHORITY FOR APPOINTMENT OF CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL.

(a) AUTHORITY.—(1) Notwithstanding any provision of title 5, United States Code, governing appointments in the competitive service and General Schedule classification and pay rates, or any other provision of law, the Secretary of Energy may—

(A) establish and set the rates of pay for not more than 200 positions in the Department of Energy for scientific, engineering, and technical personnel whose duties will relate to safety at defense nuclear facilities of the Department; and

(B) appoint persons to such positions.

(2) The rate of pay for a position established under paragraph (1) may not exceed the rate of pay payable for Level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(3) To the maximum extent practicable, the Secretary shall appoint persons under paragraph (1)(B) to the positions established under paragraph (1)(A) in accordance with the merit system principles set forth in section 2301 of such title.

(b) OPM REVIEW.—(1) The Secretary shall enter into an agreement with the Director of the Office of Personnel Management under which agreement the Director shall periodically evaluate the use of the authority set forth in subsection (a)(1).

(2) If the Director determines as a result of such evaluation that the Secretary of Energy is not appointing persons to positions under such authority in a manner consistent with the merit system principles set forth in section 2301 of title 5, United States Code, the Director shall notify the Secretary of that determination.

(3) Upon receipt of a notification under paragraph (2), the Secretary shall—

(A) take appropriate actions to appoint persons to positions under such authority in a manner consistent with such principles; or

(B) cease appointment of persons under such authority.

(c) TERMINATION.—(1) The authority provided under subsection (a)(1) shall terminate on September 30, 1997.

(2) An employee may not be separated from employment with the Department of Energy or receive a reduction in pay by reason of the termination of authority under paragraph (1).

SEC. 3159. DEPARTMENT OF ENERGY DECLASSIFICATION PRODUCTIVITY INITIATIVE.

Of the funds autorized to be appropriated to the Department of Energy under section 3103, $3,000,000 shall be available for the Department of Energy's Declassification Productivity Initiative.

SEC. 3160. SAFETY OVERSIGHT AND ENFORCEMENT AT DEFENSE NUCLEAR FACILITIES.

(a) FINDINGS.—Congress finds the following:

(1) Effective oversight of matters relating to nuclear safety at defense nuclear facilities and enforcement of nuclear safety standards at such facilities are critical to ensuring the safety of the public and the workers at such facilities.

(2) The Department of Energy has not devoted adequate attention historically to matters relating to nuclear safety at defense nuclear facilities.

(b) SAFETY AT DEFENSE NUCLEAR FACILITIES.—The Secretary of Energy shall take appropriate actions to ensure that—

(1) officials of the Department of Energy who are responsible for independent oversight of matters relating to nuclear safety at defense nuclear facilities and enforcement of nuclear safety standards at such facilities maintain independence from officials who are engaged in management of such facilities;

(2) the independent, internal oversight functions carried out by the Department include, at the minimum, activities relating to—

(A) the assessment of the safety of defense nuclear facilities;

(B) the assessment of the effectiveness of Department program offices in carrying out programs relating to the environment, safety, health, and security at defense nuclear facilities;

(C) the provision to the Secretary of oversight reports that—

(i) contain validated technical information; and

(ii) provide a clear analysis of the extent to which line programs governing defense nuclear facilities meet applicable goals for the environment, safety, health, and security at such facilities; and

(D) the development of clear performance standards to be used in assessing the adequacy of the programs referred to in subparagraph (C)(ii);

(3) the Department has a system for bringing issues relating to nuclear safety at defense nuclear facilities to the attention of the officials of the Department (including the Secretary of Energy) having authority to resolve such issues in an adequate and timely manner; and

(4) an adequate number of qualified personnel of the Department are assigned to oversee matters relating to nuclear safety at defense nuclear facilities and enforce nuclear safety standards at such facilities.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Energy shall submit to the congressional defense committees a report describing—

(1) the actions that the Secretary has taken or will take to fulfill the requirements set forth in paragraphs (1), (2), and (3) of subsection (b);

(2) the actions in addition to the actions described under paragraph (1) that the Secretary could take in order to fulfill such requirements; and

(3) the respective roles with regard to nuclear safety at defense nuclear facilities of the following officials:

(A) The Associate Deputy Secretary of Energy for Field Management.

(B) The Assistant Secretary of Energy for Defense Programs.

(C) The Assistant Secretary of Energy for Environmental Restoration and Waste Management.

SEC. 3161. CONDITIONS ON CONTRACTS BETWEEN THE FEDERAL GOVERNMENT AND CERTAIN LESSEES AND TRANSFEREES OF DEPARTMENT OF ENERGY PROPERTY.

(a) CONDITIONS.—Notwithstanding any other provision of law, the head of a department or agency of the United States may require as a condition of a contract with an entity described in subsection (b) that such entity certifies to the head of the department or agency the following:

(1) That no officer, director, employee, or agent of the entity has utilized in the preparation of the bid or solicitation for the contract—

(A) any records or systems of records of the Federal Government that are covered by section 552a of title 5, United States Code;

(B) any information or data of the Federal Government that has not been released or otherwise made generally available for preparation of bids or proposals on the contract; or

(C) any commercial information or data of another entity that has not been released or otherwise made generally available for that purpose.

(2) That the entity has returned, destroyed, or otherwise disposed of all documents received from the Federal Government by reason of any earlier contract between the Federal Government and the entity for the operation of the facility which is leased, or with respect to which property is transferred, to the entity pursuant to a provision of law referred to in subsection (b).

(b) COVERED ENTITIES.—Subsection (a) applies to any entity, or the affiliate, successor to, or assign of the entity, to which the Secretary of Energy leases a Department of Energy facility under section 646(c) of the Department of Energy Organization Act (42 U.S.C. 7256(d)) or to which the Secretary transfers personal property of such a facility under section 3155(a) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1953; 42 U.S.C. 7274l(c)).

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD AUTHORIZATION

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 1995, $17,933,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

SEC. 3301. DISPOSAL OF OBSOLETE AND EXCESS MATERIALS CONTAINED IN THE NATIONAL DEFENSE STOCKPILE.

(a) DISPOSAL AUTHORIZED.—Subject to the conditions specified in subsection (b), the President may dispose of obsolete and excess materials currently contained in the National Defense Stockpile in order to modernize the stockpile. The materials subject to disposal under this subsection and the quantity of each material authorized to be disposed of by the President are set forth in the following table:

AUTHORIZED STOCKPILE DISPOSALS

Material for disposal	Quantity
Aluminum	62,843 short tons.
Tungsten Group	51,336,478 pounds of contained tungsten.

(b) CONDITIONS ON DISPOSAL.—The authority of the President under subsection (a) to dispose of materials stored in the stockpile may not be used unless and until the Secretary of Defense certifies that the disposal of such materials will not adversely affect the capability of the National Defense Stockpile to supply the strategic and critical materials necessary to meet the needs of the United States during a period of national emergency that requires a significant level of mobilization of the economy of the United States, including any reconstitution of the military and industrial capabilities necessary to meet the planning assumptions used by the Secretary of Defense under section 14(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–5(b)).

SEC. 3302. AUTHORIZED USES OF STOCKPILE FUNDS.

Subject to such limitations as may be provided in appropriations Acts, during fiscal year 1995, the National Defense Stockpile Manager may obligate up to $54,200,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section.

SEC. 3303. REPEAL OF ADVISORY COMMITTEE REQUIREMENT.

Section 3306 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2652; 50 U.S.C. 98h–1 note) is repealed.

SEC. 3304. ROTATION OF MATERIALS TO PREVENT TECHNOLOGICAL OBSOLESCENCE.

Section 6(a)(4) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a)(4)) is amended by inserting "or technological obsolescence" after "deterioration".

TITLE XXXIV—CIVIL DEFENSE

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated $129,658,000 for fiscal year 1995 for the purpose of carrying out the Federal Civil Defense Act of 1950 (50 U.S.C. 2251 et seq.).

TITLE XXXV—PANAMA CANAL COMMISSION

SEC. 3501. SHORT TITLE.

This title may be cited as the "Panama Canal Commission Authorization Act for Fiscal Year 1995".

SEC. 3502. AUTHORIZATION OF EXPENDITURES.

(a) IN GENERAL.—Subject to subsection (b), the Panama Canal Commission is authorized to make such expenditures within the limits of funds and borrowing authority available to it in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601) for the operation, maintenance, and improvement of the Panama Canal for fiscal year 1995.

(b) LIMITATIONS.—For fiscal year 1995, the Panama Canal Commission may expend from funds in the Panama Canal Revolving Fund not more than $50,030,000 for administrative expenses, of which not more than—

(1) $11,000 may be used for official reception and representation expenses of the Supervisory Board of the Commission;

(2) $5,000 may be used for official reception and representation expenses of the Secretary of the Commission; and

(3) $30,000 may be used for official reception and representation expenses of the Administrator of the Commission.

(c) REPLACEMENT VEHICLES.—Funds available to the Panama Canal Commission shall be available for the purchase of not to exceed 43 passenger motor vehicles (including large heavy-duty vehicles to be used to transport Commission personnel across the isthmus of Panama). A vehicle may be purchased with such funds only as necessary to replace another passenger motor vehicle of the Commission. The purchase price of each vehicle may not exceed $19,500.

SEC. 3503. EXPENDITURES IN ACCORDANCE WITH OTHER LAWS.

Expenditures authorized under this Act may be made only in accordance with the Panama Canal Treaties of 1977 and any law of the United States implementing those treaties.

SEC. 3504. COSTS OF EDUCATIONAL SERVICES OBTAINED IN THE UNITED STATES.

Section 1321(e)(2) of the Panama Canal Act of 1979 (22 U.S.C. 3731(e)(2)) is amended by inserting "or the United States" after "schools in the Republic of Panama".

SEC. 3505. SPECIAL IMMIGRANT STATUS OF PANAMANIANS EMPLOYED BY THE UNITED STATES IN THE FORMER CANAL ZONE.

Section 101(a)(27)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(F)) is amended in clause (ii) by inserting "or continues to be employed by the United States Government in an area of the former Canal Zone" after "employment".

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The text of the bill (H.R. 4301) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, to prescribe personnel strengths for fiscal year 1995, and for other purposes, as passed by the Senate on July 1, 1994, is identical to S. 2182, this issue.

FEDERAL ACQUISITION STREAMLINING ACT OF 1994

The text of the bill (S. 2206) to revise and streamline the acquisition laws of the Federal Government, and for other purposes, as passed by the Senate on July 1, 1994, is as follows:

S. 2206

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Acquisition Streamlining Act of 1994".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—CONTRACT FORMATION

Subtitle A—Competition Statutes

PART I—ARMED SERVICES ACQUISITIONS

SUBPART A—COMPETITION REQUIREMENTS

Sec. 1001. References to Federal Acquisition Regulation.
Sec. 1002. Establishment or maintenance of alternative sources of supply.
Sec. 1003. Clarification of approval authority for use of procedures other than full and open competition.
Sec. 1004. Task order contracts for advisory and assistance services.
Sec. 1005. Acquisition of expert services.

SUBPART B—PLANNING, SOLICITATION, EVALUATION, AND AWARD

Sec. 1011. Source selection factors.
Sec. 1012. Solicitation provision regarding evaluation of purchase options.
Sec. 1013. Prompt notice of award.
Sec. 1014. Post-award debriefings.
Sec. 1015. Protest file.
Sec. 1016. Award of costs and fees in agency settlement of protests.
Sec. 1017. Two-phase selection procedures.

SUBPART C—KINDS OF CONTRACTS

Sec. 1021. Secretarial determination regarding use of cost type or incentive contract.
Sec. 1022. Technical and conforming amendments.

SUBPART D—MISCELLANEOUS PROVISIONS FOR THE ENCOURAGEMENT OF COMPETITION

Sec. 1031. Repeal of requirement for annual report by advocates for competition.

PART II—CIVILIAN AGENCY ACQUISITIONS

SUBPART A—COMPETITION REQUIREMENTS

Sec. 1051. References to Federal Acquisition Regulation.
Sec. 1052. Establishment or maintenance of alternative sources of supply.
Sec. 1053. Clarification of approval authority for use of procedures other than full and open competition.
Sec. 1054. Task order contracts for advisory and assistance services.
Sec. 1055. Acquisition of expert services.
Sec. 1056. Continued occupancy of leased space.

SUBPART B—PLANNING, SOLICITATION, EVALUATION, AND AWARD

Sec. 1061. Solicitation, evaluation, and award.
Sec. 1062. Solicitation provision regarding evaluation of purchase options.
Sec. 1063. Prompt notice of award.
Sec. 1064. Post-award debriefings.
Sec. 1065. Protest file.
Sec. 1066. Award of costs and fees in agency settlement of protests.
Sec. 1067. Two-phase selection procedures.

SUBPART C—KINDS OF CONTRACTS

Sec. 1071. Agency head determination regarding use of cost type or incentive contract.
Sec. 1072. Multiyear contracting authority.
Sec. 1073. Severable services contracts crossing fiscal years.
Sec. 1074. Economy Act purchases.

PART III—ACQUISITIONS GENERALLY

Sec. 1091. Policy regarding consideration of contractor past performance.
Sec. 1092. Repeal of requirement for annual report on competition.

Subtitle B—Truth in Negotiations

PART I—ARMED SERVICES ACQUISITIONS

Sec. 1201. Stabilization of dollar threshold of applicability.
Sec. 1202. Exceptions to cost or pricing data requirements.
Sec. 1203. Limitation on authority to require a submission not otherwise required.
Sec. 1204. Additional special rules for commercial items.
Sec. 1205. Right of United States to examine contractor records.

Sec. 1206. Required regulations.
Sec. 1207. Consistency of time references.
Sec. 1208. Exception for transfers between divisions, subsidiaries, and affiliates.
Sec. 1209. Repeal of superseded provision.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 1251. Revision of civilian agency provisions to ensure uniform treatment of cost or pricing data.
Sec. 1252. Repeal of obsolete provision.

Subtitle C—Research and Development

Sec. 1301. Research projects.
Sec. 1302. Elimination of inflexible terminology regarding coordination and communication of defense research activities.

Subtitle D—Procurement Protests

PART I—PROTESTS TO THE COMPTROLLER GENERAL

Sec. 1401. Protest defined.
Sec. 1402. Review of protests and effect on contracts pending decision.
Sec. 1403. Decisions on protests.
Sec. 1404. Regulations.

PART II—PROTESTS IN THE FEDERAL COURTS

Sec. 1421. Nonexclusivity of remedies.
Sec. 1422. Jurisdiction of the United States Court of Federal Claims.

PART III—PROTESTS IN PROCUREMENTS OF AUTOMATIC DATA PROCESSING

Sec. 1431. Revocation of delegations of procurement authority.
Sec. 1432. Authority of the General Services Administration Board of Contract Appeals.
Sec. 1433. Periods for certain actions.
Sec. 1434. Dismissals of protests.
Sec. 1435. Award of costs.
Sec. 1436. Dismissal agreements.
Sec. 1437. Jurisdiction of district courts.
Sec. 1438. Matters to be covered in regulations.
Sec. 1439. Definitions.

Subtitle E—Definitions and Other Matters

PART I—ARMED SERVICES ACQUISITIONS

Sec. 1501. Definitions.
Sec. 1502. Delegation of procurement functions.
Sec. 1503. Determinations and decisions.
Sec. 1504. Undefinitized contractual actions: restrictions.
Sec. 1505. Production special tooling and production special test equipment: contract terms and conditions.
Sec. 1506. Regulations for bids.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 1551. Definitions.
Sec. 1552. Delegation of procurement functions.
Sec. 1553. Determinations and decisions.
Sec. 1554. Cooperative purchasing.

TITLE II—CONTRACT ADMINISTRATION

Subtitle A—Contract Payment

PART I—ARMED SERVICES ACQUISITIONS

Sec. 2001. Contract financing.
Sec. 2002. Contracts: vouchering procedures.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 2051. Contract financing.

Subtitle B—Cost Principles

PART I—ARMED SERVICES ACQUISITIONS

Sec. 2101. Allowable contract costs.
Sec. 2102. Contract profit controls during emergency periods.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 2151. Allowable contract costs.

PART III—ACQUISITIONS GENERALLY

Sec. 2191. Travel expenses of government contractors.
Sec. 2192. Unallowability of entertainment costs under covered contracts.

Subtitle C—Audit and Access to Records

PART I—ARMED SERVICES ACQUISITIONS

Sec. 2201. Consolidation and revision of authority to examine records of contractors.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 2251. Authority to examine records of contractors.

Subtitle D—Cost Accounting Standards

Sec. 2301. Exceptions to coverage.
Sec. 2302. Repeal of obsolete deadline regarding procedural regulations for the Cost Accounting Standards Board.

Subtitle E—Administration of Contract Provisions Relating to Price, Delivery, and Product Quality

PART I—ARMED SERVICES ACQUISITIONS

Sec. 2401. Procurement of critical aircraft and ship spare parts; quality control.
Sec. 2402. Contractor guarantees regarding weapon systems.

PART II—ACQUISITIONS GENERALLY

Sec. 2451. Section 3737 of the Revised Statutes: expansion of authority to prohibit setoffs against assignees; reorganization of section; revision of obsolete provisions.
Sec. 2452. Repeal of requirement for deposit of contracts with GAO.

Subtitle F—Claims and Disputes

PART I—ARMED SERVICES ACQUISITIONS

Sec. 2501. Certification of contract claims.
Sec. 2502. Shipbuilding claims.

PART II—ACQUISITIONS GENERALLY

Sec. 2551. Claims jurisdiction of United States district courts and the United States Court of Federal Claims.
Sec. 2552. Contract Disputes Act improvements.
Sec. 2553. Extension of alternative dispute resolution authority.
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TITLE VIII—COMMERCIAL ITEMS

Sec. 8001. Definitions.
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TITLE IX—MISCELLANEOUS PROVISIONS

Sec. 9001. Comptroller General review of the provision of legal advice for inspectors general.
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TITLE X—EFFECTIVE DATES AND IMPLEMENTATION

Sec. 10001. Effective dates.
Sec. 10002. Implementing regulations.
Sec. 10003. Evaluation by the Comptroller General.
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TITLE XI—WAIVER OF THE APPLICATION OF THE PREVAILING WAGE-SETTING REQUIREMENTS TO VOLUNTEERS

Sec. 11001. Short title.
Sec. 11002. Purpose.
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TITLE I—CONTRACT FORMATION

Subtitle A—Competition Statutes

PART I—ARMED SERVICES ACQUISITIONS

Subpart A—Competition Requirements

SEC. 1001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(A), by striking out "modifications" and all that follows through "note)" and inserting in lieu thereof "Federal Acquisition Regulation"; and

(2) in subsection (g)(1), by striking out "regulations modified" and all that follows through "note)" and inserting in lieu thereof "Federal Acquisition Regulation".

SEC. 1002. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

Section 2304(b) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking out "or" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(C) by adding at the end the following new subparagraphs:

"(D) would ensure the continuous availability of a reliable source of supply of such property or service;

"(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

"(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.";

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) The determination required of the agency head in paragraph (1) may not be made for a class of purchases or contracts."; and

(4) in paragraph (4), as redesignated by paragraph (2), by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraphs (1) and (3)".

SEC. 1003. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: "or by an official referred to in clause (ii), (iii), or (iv)".

SEC. 1004. TASK ORDER CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES.

(a) AUTHORITY.—

(1) IN GENERAL.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2304 the following new section:

"§ 2304a. Task order contracts for advisory and assistance services

"(a) AUTHORITY TO AWARD.—(1) Subject to the requirements of this section, the head of an agency may enter into a contract for advisory and assistance services that does not procure or specify a firm quantity of services (other than a minimum or maximum quantity) and that provides for the issuance of task orders during the specified period of the contract.

"(2) Except as provided in subsection (h), the head of an agency may enter into a contract described in paragraph (1) only under the authority of this section.

"(b) LIMITATION ON CONTRACT PERIOD.—The period of a contract referred to in subsection (a), including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed 5 years unless a longer period is specifically authorized in a law that is applicable to such contract.

"(c) CONTRACT PROCEDURES.—(1) The head of an agency may use procedures other than competitive procedures to enter into a contract referred to in subsection (a) only if an exception in subsection (c) of section 2304 of this title applies to the contract and the use of such procedures is approved in accordance with subsection (f) of such section.

"(2) The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed contract in a manner that would reasonably enable a potential offeror to decide whether to request the solicitation and consider submitting an offer.

"(3) The solicitation shall include the following:

"(A) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

"(B) The maximum quantity or dollar value of services to be procured under the contract.

"(C) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services to be procured under the contract.

"(4)(A) The head of an agency may, on the basis of one solicitation, award separate contracts under this section for the same or similar services to two or more sources if the solicitation states that the head of the agency has the option to do so.

"(B) If, in the case of a contract for advisory and assistance services to be entered into under the authority of this section, the contract period is to exceed 3 years and the contract amount is estimated to exceed $10,000,000 (including all options), the solicitation shall—

"(i) provide for a multiple award authorized under subparagraph (A); and

"(ii) include a statement that the head of the agency may also elect to award only one contract if the head of the agency determines in writing that only one of the offerers is capable of providing the services required at the level of quality required.

"(C) Subparagraph (B) does not apply in the case of a solicitation for which the head of an agency determines in writing that, because the services required under the contract are unique or highly specialized, it is not practicable to award more than one contract.

"(5) A contract referred to in subsection (a) shall contain the same information that is required by paragraph (3) to be included in the solicitation of offers for that contract.

"(d) ORDER PROCEDURES.—(1) The following actions are not required for a task order issued under a contract entered into in accordance with this section:

"(A) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(B) Except as provided in paragraph (2), a competition (or a waiver of competition approved in accordance with section 2304(f) of this title) that is separate from that used for entering into the contract.

"(2)(A) When multiple contracts are awarded pursuant to subsection (c)(4), all contractors awarded such contracts shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task order in excess of $2,500 that is to be issued under any of the contracts unless—

"(i) the agency's need for the services ordered is of such unusual urgency that competition would result in unacceptable delays in fulfilling the agency's needs;

"(ii) only one such contractor is capable of providing the services required at the level of quality required because the services ordered are unique or so highly specialized;

"(iii) the task order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task order already issued on a competitive basis; or

"(iv) the order must be placed with a particular contractor in order to satisfy a minimum guarantee.

"(B) When a task order is issued in accordance with subparagraph (A), the order shall include a statement of work that clearly specifies all tasks to be performed under the order.

"(3) A protest is not authorized in connection with the issuance or proposed issuance of a task order except for a protest on the ground that the order increases the scope, period, or maximum value of the contract under which the order is issued.

"(e) INCREASES IN SCOPE, PERIOD, OR MAXIMUM VALUE OF CONTRACT.—(1) A task order may not increase the scope, period, or maximum value of the contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

"(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 2304 of this title and approved in accordance with subsection (f) of such section, competitive procedures shall be used for making such a modification.

"(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(4)(A) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (c), a contract entered into by the head of an agency under this section may be extended on a sole-source basis for a period not exceeding 6 months if the agency head determines that—

"(i) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

"(ii) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

"(B) A contract may be extended under the authority of subparagraph (A) only once and only in accordance with the limitations and requirements of this subsection.

"(f) TASK ORDER OMBUDSMAN.—Each head of an agency who awards multiple contracts pursuant to subsection (c)(4) shall appoint or designate a task order ombudsman who shall be responsible for reviewing complaints from the contractors on such contracts and ensuring that all of the contractors are afforded a fair opportunity to be considered for task orders when required under subsection (d)(2). The task order ombudsman shall be a senior agency official who is independent of the contracting officer for the contracts and may be the agency's competition advocate.

"(g) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance services if the head of an agency entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

"(h) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY.—Nothing in this section may be construed to limit the authority of the head of an agency to enter into single or multiple task order contracts, or single or multiple delivery order contracts, for property or services (other than advisory and assistance services) under other provisions of this chapter or under any other provision of law.

"(i) ADVISORY AND ASSISTANCE SERVICES DEFINED.—In this section, the term 'advisory and assistance services' has the meaning given such term in section 1105(g) of title 31.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2304 the following new item:

"2304a. Task order contracts for advisory and assistance services.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 2304 of title 10, United States Code, is amended by striking out subsection (j).

(c) CONFORMING AMENDMENT FOR PROFESSIONAL AND TECHNICAL SERVICES.—Section 2331 of title 10, United States Code, is amended by striking out subsection (c).

SEC. 1005. ACQUISITION OF EXPERT SERVICES.

Section 2304(c)(3) of title 10, United States Code, is amended—

(1) by striking out "or (B)" and inserting in lieu thereof "(B)"; and

(2) by inserting before the semicolon at the end the following: ", or (C) to procure the services of an expert for use, in any litigation or dispute (including any reasonably foreseeable litigation or dispute) involving the Federal Government, in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify".

Subpart B—Planning, Solicitation, Evaluation, and Award

SEC. 1011. SOURCE SELECTION FACTORS.

Section 2305(a) of title 10, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(i), by striking out "nonprice-related factors)" and inserting in lieu thereof "nonprice-related factors and subfactors)"; and

(B) in subparagraph (B)(ii), by striking out subclause (I) and inserting in lieu thereof the following:

"(I) either a statement that the proposals are intended to be evaluated with, and award made after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) unless discussions are determined to be necessary; and"; and

(2) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3)(A) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, the head of an agency—

"(i) shall clearly establish the relative importance assigned to the evaluation factors and subfactors, including the quality of the product or services to be provided (including technical capability, management capability, prior experience, and past performance of the offeror);

"(ii) shall include cost or price to the Government as an evaluation factor that must be considered in the evaluation of proposals; and

"(iii) shall disclose to offerors whether all evaluation factors other than cost or price, when combined, are—

"(I) significantly more important than cost or price;

"(II) approximately equal in importance to cost or price; or

"(III) significantly less important than cost or price.

"(B) Nothing in this paragraph prohibits an agency from—

"(i) providing additional information in a solicitation, including numeric weights for all evaluation factors; or

"(ii) stating in a solicitation that award will be made to the offeror that meets the solicitation's mandatory requirements at the lowest cost or price.".

SEC. 1012. SOLICITATION PROVISION REGARDING EVALUATION OF PURCHASE OPTIONS.

(a) OPTIONS FOR ADDITIONAL PURCHASES.—Subsection (a) of section 2305 of title 10, United States Code, as amended by section 1011, is further amended by adding at the end the following new paragraph:

"(4) The head of an agency, in issuing a solicitation for a contract to be awarded using sealed bid procedures, may not include in such solicitation a clause providing for the evaluation of prices for options to purchase additional property or services under the contract unless the head of the agency has determined that there is a reasonable likelihood that the options will be exercised.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 2301(a) of such title is amended—

(1) by striking out paragraph (7);

(2) by inserting "and" at the end of paragraph (5); and

(3) by striking out "; and" at the end of paragraph (6) and inserting in lieu thereof a period.

SEC. 1013. PROMPT NOTICE OF AWARD.

(a) SEALED BID PROCEDURES.—Section 2305(b)(3) of title 10, United States Code, is amended by adding at the end the following: "As soon as practicable after the date of contract award, the head of the agency shall, in accordance with procedures prescribed in the

Federal Acquisition Regulation, notify all offerors not awarded the contract that the contract has been awarded.".

(b) COMPETITIVE PROPOSALS PROCEDURES.—Section 2305(b)(4)(B) of title 10, United States Code, is amended in the second sentence by striking out "source and shall promptly notify" and inserting in lieu thereof "source. As soon as practicable after the date of contract award, the head of the agency shall, in accordance with procedures prescribed in the Federal Acquisition Regulation, notify".

SEC. 1014. POST-AWARD DEBRIEFINGS.

Section 2305(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5)(A) When a contract is awarded by the head of an agency on the basis of competitive proposals, an unsuccessful offeror, upon written request received by the agency within 3 days after the date on which the unsuccessful offeror receives the notification of the contract award, shall be debriefed and furnished the basis for the selection decision and contract award. An employee of the agency shall debrief the offeror promptly after receipt of the request by the agency.

"(B) The debriefing shall include, at a minimum—

"(i) the agency's evaluation of the significant weak or deficient factors in the offeror's offer;

"(ii) the overall evaluated cost and technical rating of the offer of the contractor awarded the contract and the overall evaluated cost and technical rating of the offer of the debriefed offeror;

"(iii) the overall ranking of all offers;

"(iv) a summary of the rationale for the award;

"(v) in the case of a proposal for a commercial item other than a commercial component, the make and model of the item being provided in accordance with the offer of the contractor awarded the contract; and

"(vi) reasonable responses to questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

"(C) The debriefing may not include point-by-point comparisons of the debriefed offeror's offer with other offers and may not disclose any information that is exempt from disclosure under section 552 of title 5, including information relating to—

"(i) trade secrets;

"(ii) privileged or confidential manufacturing processes and techniques; and

"(iii) commercial and financial information that is privileged or confidential, including cost breakdowns, profit, indirect cost rates, and similar information.

"(D) Each solicitation for competitive proposals shall include a statement that information described in subparagraph (B) may be disclosed in post-award debriefings.

"(E) If, within one year after the date of the contract award and as a result of a successful procurement protest or otherwise, the agency seeks to fulfill the requirement under the contract either on the basis of a new solicitation of offers or on the basis of new best and final offers requested for that contract, the agency shall make available to all offerors—

"(i) the information provided in debriefings under this paragraph regarding the offer of the contractor awarded the contract; and

"(ii) the same information that would have been provided to the original offerors.

"(F) The contracting officer shall include a summary of the debriefing in the contract file.".

SEC. 1015. PROTEST FILE.

Section 2305 of title 10, United States Code, is amended by adding at the end the following:

"(e)(1) If, in the case of a solicitation for a contract issued by, or an award or proposed award of a contract by, the head of an agency, a protest is filed pursuant to the procedures in subchapter V of chapter 35 of title 31 and an actual or prospective offeror so requests, a file of the protest shall be established by the procuring activity and reasonable access shall be provided to actual or prospective offerors.

"(2) Information exempt from disclosure under the section 552 of title 5 may be redacted in a file established pursuant to paragraph (1) unless an applicable protective order provides otherwise.

"(3) Regulations implementing this subsection shall be consistent with the regulations regarding the preparation and submission of an agency's protest file (the so-called 'rule 4 file') for protests to the General Services Board of Contract Appeals under section 111 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 759).".

SEC. 1016. AWARD OF COSTS AND FEES IN AGENCY SETTLEMENT OF PROTESTS.

Section 2305 of title 10, United States Code, as amended by section 1015, is further amended by adding at the end the following new subsection:

"(f) If, in connection with a protest, the head of an agency determines that a solicitation, proposed award, or award does not comply with the requirements of law or regulation, the head of the agency may take—

"(1) any action set out in subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31; and

"(2) may pay costs described in paragraph (1) of section 3554(c) of title 31 within the limits referred to in paragraph (2) of such section.".

SEC. 1017. TWO-PHASE SELECTION PROCEDURES.

(a) PROCEDURES AUTHORIZED.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2305 the following new section:

"§ 2305a. Two-phase selection procedures

"(a) PROCEDURES AUTHORIZED.—The head of an agency may use two-phase selection procedures for entering into a contract for the acquisition of property or services (other than a construction contract) when the head of the agency determines that three or more offers will be received for such contract, substantial design work must be performed before an offeror can develop a price or cost proposal for such contract, and the offerors will incur a substantial amount of expenses in preparing the offers.

"(b) PROCEDURES DESCRIBED.—Two-phase selection procedures consist of the following:

"(1) The head of the agency solicits proposals that—

"(A) include information on the offerors'—

"(i) technical approach; and

"(ii) technical qualifications; and

"(B) do not include—

"(i) detailed design information; or

"(ii) cost or price information.

"(2) The head of the agency evaluates the proposals on the basis of evaluation criteria set forth in the solicitation, except that the head of the agency does not consider cost-related or price-related evaluation factors.

"(3) The head of the agency selects at least three offerors as the most highly qualified to provide the property or services under the contract and requests the selected offerors to submit competitive proposals that include cost or price information.

"(4) The head of the agency awards the contract in accordance with section 2305(b)(4) of this title.

"(c) SOLICITATION TO STATE NUMBER OF OFFERORS TO BE SELECTED FOR PHASE TWO REQUESTS FOR COMPETITIVE PROPOSALS.—A solicitation issued pursuant to subsection (b)(1) shall state the maximum number of offerors that are to be selected to submit competitive proposals pursuant to subsection (b)(3).

"(d) RESOURCE COMPARISON CRITERION REQUIRED.—In using two-phase selection procedures for entering into a contract, the head of the agency shall establish a resource criterion or a financial criterion applicable to the contract in order to provide a consistent basis for comparing the offerors and their proposals.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2305 the following:

"2305a. Two-phase selection procedures.".

Subpart C—Kinds of Contracts

SEC. 1021. SECRETARIAL DETERMINATION REGARDING USE OF COST TYPE OR INCENTIVE CONTRACT.

Subsection (c) of section 2306 of title 10, United States Code, is repealed.

SEC. 1022. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REPEAL OF UNNECESSARY CROSS REFERENCE.—Subsection (f) of section 2306 of title 10, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—Such section is amended by redesignating subsections (d), (e), (g), and (h) as subsections (c), (d), (e), and (f), respectively.

(c) NEUTERIZATION OF REFERENCE.—Subsection (e)(1) of such section, as redesignated by subsection (b), is amended in the matter above clause (i) by striking out "whenever he finds" and inserting in lieu thereof "whenever the head of the agency finds".

Subpart D—Miscellaneous Provisions for the Encouragement of Competition

SEC. 1031. REPEAL OF REQUIREMENT FOR ANNUAL REPORT BY ADVOCATES FOR COMPETITION.

Subsection (c) of section 2318 of title 10, United States Code, is repealed.

PART II—CIVILIAN AGENCY ACQUISITIONS

Subpart A—Competition Requirements

SEC. 1051. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended—

(1) in subsection (a)(1)(A), by striking out "modifications" and all that follows through "of 1984" and inserting in lieu thereof "Federal Acquisition Regulation"; and

(2) in subsection (g)(1), by striking out "regulations modified" and all that follows through "of 1984," and inserting in lieu thereof "Federal Acquisition Regulation".

SEC. 1052. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

Section 303(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(b)) is amended—

(1) in paragraph (1)—

(A) by striking out "or" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(C) by adding at the end the following new subparagraphs:

"(D) would ensure the continuous availability of a reliable source of supply of such property or service;

"(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

"(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.";

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) The determination required of the agency head in paragraph (1) may not be made for a class of purchases or contracts."; and

(4) in paragraph (4), as redesignated by paragraph (2), by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraphs (1) and (3)".

SEC. 1053. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 303(f)(1)(B)(i) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)(i)) is amended by inserting before the semicolon at the end the following: "or by an official referred to in clause (ii), (iii), or (iv)".

SEC. 1054. TASK ORDER CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES.

(a) AUTHORITY.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303G the following new section:

"TASK ORDER CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES

"SEC. 303H. (a) AUTHORITY TO AWARD.—(1) Subject to the requirements of this section, the head of an executive agency may enter into a contract for advisory and assistance services that does not procure or specify a firm quantity of services (other than a minimum or maximum quantity) and that provides for the issuance of task orders during the specified period of the contract.

"(2) Except as provided in subsection (h), the agency head may enter into a contract described in paragraph (1) only under the authority of this section.

"(b) LIMITATION ON CONTRACT PERIOD.—The period of a contract referred to in subsection (a), including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed 5 years unless a longer period is specifically authorized in a law that is applicable to such contract.

"(c) CONTRACT PROCEDURES.—(1) An agency head may use procedures other than competitive procedures to enter into a contract referred to in subsection (a) only if an exception in subsection (c) of section 303 applies to the contract and the use of such procedures is approved in accordance with subsection (f) of such section.

"(2) The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed contract in a manner that would reasonably enable a potential offeror to decide whether to request the solicitation and consider submitting an offer.

"(3) The solicitation shall include the following:

"(A) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

"(B) The maximum quantity or dollar value of the services to be procured under the contract.

"(C) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services to be procured under the contract.

"(4)(A) An agency head may, on the basis of one solicitation, award separate contracts under this section for the same or similar services to two or more sources if the solicitation states that the agency head has the option to do so.

"(B) If, in the case of a contract for advisory and assistance services to be entered into under the authority of this section, the contract period is to exceed 3 years and the contract amount is estimated to exceed $10,000,000 (including all options), the solicitation shall—

"(i) provide for a multiple award authorized under subparagraph (A); and

"(ii) include a statement that the agency head may also elect to award only one contract if the agency head determines in writing that only one of the offerers is capable of providing the services required at the level of quality required.

"(C) Subparagraph (B) does not apply in the case of a solicitation for which the agency head determines in writing that, because the services required under the contract are unique or highly specialized, it is not practicable to award more than one contract.

"(5) A contract referred to in subsection (a) shall contain the same information that is required by paragraph (3) to be included in the solicitation of offers for that contract.

"(d) ORDER PROCEDURES.—(1) The following actions are not required for a task order issued under a contract entered into in accordance with this section:

"(A) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(B) Except as provided in paragraph (2), a competition (or a waiver of competition approved in accordance with section 303(f)) that is separate from that used for entering into the contract.

"(2)(A) When multiple contracts are awarded pursuant to subsection (c)(4), all contractors awarded such contracts shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task order in excess of $2,500 that is to be issued under any of the contracts unless—

"(i) the agency's need for the services ordered is of such unusual urgency that competition would result in unacceptable delays in fulfilling the agency's needs;

"(ii) only one such contractor is capable of providing the services required at the level of quality required because the services ordered are unique or highly specialized;

"(iii) the task order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task order already issued on a competitive basis; or

"(iv) the order must be placed with a particular contractor in order to satisfy a minimum guarantee.

"(B) When a task order is issued in accordance with subparagraph (A), the order shall include a statement of work that clearly specifies all tasks to be performed under the order.

"(3) A protest is not authorized in connection with the issuance or proposed issuance of a task order except for a protest on the ground that the order increases the scope, period, or maximum value of the contract under which the order is issued.

"(e) INCREASES IN SCOPE, PERIOD, OR MAXIMUM VALUE OF CONTRACT.—(1) A task order may not increase the scope, period, or maximum value of the contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

"(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 303 and approved in accordance with subsection (f) of such section, competitive procedures shall be used for making such a modification.

"(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(4)(A) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (c), a contract entered into by the head of an agency under this section may be extended on a sole-source basis for a period not exceeding 6 months if the agency head determines that—

"(i) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

"(ii) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

"(B) A contract may be extended under the authority of subparagraph (A) only once and only in accordance with the limitations and requirements of this subsection.

"(f) TASK ORDER OMBUDSMAN.—Each agency head who awards multiple contracts pursuant to subsection (c)(4) shall appoint or designate a task order ombudsman who shall be responsible for reviewing complaints from the contractors on such contracts and ensuring that all of the contractors are afforded a fair opportunity to be considered for task orders when required under subsection (d)(2). The task order ombudsman shall be a senior agency official who is independent of the contracting officer for the contracts and may be the agency's competition advocate.

"(g) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance services if the agency head entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

"(h) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY.—Nothing in this section may be construed to limit the authority of the head of an agency to enter into single or multiple task order contracts, or single or multiple delivery order contracts, for goods or services (other than advisory and assistance services) under other provisions of this title or under any other provision of law.

"(i) ADVISORY AND ASSISTANCE SERVICES DEFINED.—In this section, the term 'advisory and assistance services' has the meaning given such term in section 1105(g) of title 31, United States Code.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section is amended by inserting after the item relating to section 303G the following new item:

"Sec. 303H. Task order contracts for advisory and assistance services.".

SEC. 1055. ACQUISITION OF EXPERT SERVICES.

(a) EXCEPTION TO REQUIREMENT FOR USE OF COMPETITIVE PROCEDURES.—Section 303(c)(3) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)) is amended—

(1) by striking out "or (B)" and inserting in lieu thereof "(B)"; and

(2) by inserting before the semicolon at the end the following: ", or (C) to procure the services of an expert for use, in any litigation or dispute (including any reasonably foreseeable litigation or dispute) involving the Federal Government, in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify".

(b) PROCUREMENT NOTICE.—

(1) AMENDMENT OF OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—Section 18(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)) is amended—

(A) by striking out "or" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; or"; and

(C) by adding at the end the following:

"(F) the procurement is for the services of an expert for use in any litigation or dispute (including any reasonably foreseeable litigation or dispute) involving the Federal Government in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify.".

(2) AMENDMENT OF SMALL BUSINESS ACT.—Section 8(g) of the Small Business Act (15 U.S.C. 637(c)) is amended—

(A) by striking out "or" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; or"; and

(C) by adding at the end the following:

"(F) the procurement is for the services of an expert for use in any litigation or dispute (including preparation for any foreseeable litigation or dispute) that involves or could involve the Federal Government in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify.".

(c) REPEAL OF AMENDMENTS TO UNCODIFIED TITLE.—The following provisions of law are repealed:

(1) Section 532 of Public Law 101-509 (104 Stat. 1470) and the provision of law set out in quotes in that section.

(2) Section 529 of Public Law 102-393 (106 Stat. 1761) and the matters inserted and added by that section.

SEC. 1056. CONTINUED OCCUPANCY OF LEASED SPACE.

Section 303(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(d)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2)(A) For the purposes of applying subsection (c)(1) in the case of a follow-on lease to be entered into for the purpose of providing for continued occupancy of particular space in leased real property by a Federal agency, space may be treated as being available only from the lessor of such space and may be acquired through the use of procedures other than competitive procedures (without the justification otherwise required by subsection (f)) if a written determination is made by the contracting officer that—

"(i) the occupying agency has a continuing need for the space;

"(ii) the space meets the needs of the agency; and

"(iii) the lessor is willing to continue to provide the space at a fair market price determined by the contracting officer on the basis of a market survey or an appraisal conducted in accordance with generally accepted real property appraisal standards.

"(B) The authority under subparagraph (A) to use procedures other than competitive procedures to enter into a follow-on lease may be exercised not more than once to provide for continued occupancy of particular space in real property by a particular Federal agency. The period of such follow-on lease may not exceed 5 years.

"(C) Nothing in this paragraph may be construed to prohibit the use of procedures other than competitive procedures to enter into a follow-on lease of real property for continued occupancy of particular space in real property by a Federal agency when an exception set forth in subsection (c) applies and the use of such procedures is justified and approved in accordance with subsection (f).".

Subpart B—Planning, Solicitation, Evaluation, and Award

SEC. 1061. SOLICITATION, EVALUATION, AND AWARD.

(a) CONTENT OF SOLICITATION.—Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a) is amended—

(1) in subsection (b)(1)(A)—

(A) by inserting "and significant subfactors" after "all significant factors"; and

(B) by striking out "(including price)" and inserting "(including cost or price, cost-related or price-related factors and subfactors, and noncost-related or nonprice-related factors and subfactors)";

(2) in subsection (b)(1)(B), by inserting "and subfactors" after "factors";

(3) in subsection (b)(2)(B), by striking out clause (i) and inserting in lieu thereof the following:

"(i) either a statement that the proposals are intended to be evaluated with, and award made after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) unless discussions are determined to be necessary; and"; and

(4) by adding at the end the following new subsection:

"(c)(1) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, an agency head—

"(A) shall clearly establish the relative importance assigned to the evaluation factors and subfactors, including the quality of the product or services to be provided (including technical capability, management capability, prior experience, and past performance of the offeror);

"(B) shall include cost or price to the Government as an evaluation factor that must be considered in the evaluation of proposals; and

"(C) shall disclose to offerors whether all evaluation factors other than cost or price, when combined, are—

"(i) significantly more important than cost or price;

"(ii) approximately equal in importance to cost or price; or

"(iii) significantly less important than cost or price.

"(2) Nothing in this subsection prohibits an agency from—

"(A) providing additional information in a solicitation, including numeric weights for all evaluation factors; or

"(B) stating in a solicitation that award will be made to the offeror that meets the solicitation's mandatory requirements at the lowest price or cost.".

(b) EVALUATION AND AWARD.—Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) in subsection (a), by inserting ", and award a contract," after "competitive proposals";

(2) in subsection (c), by inserting "in accordance with subsection (a)" in the second sentence after "shall evaluate the bids"; and

(3) in subsection (d)—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) An agency head shall evaluate competitive proposals in accordance with subsection (a) and may award a contract—

"(A) after discussions with the offerors, provided that written or oral discussions have been conducted with all responsible offerors who submit proposals within the competitive range; or

"(B) based on the proposals received and without discussions with the offerors (other than discussions conducted for the purpose of minor clarification), provided that, as required by section 303A(b)(2)(B)(i), the solicitation included a statement that proposals are intended to be evaluated, and award made, without discussions, unless discussions are determined to be necessary.";

(B) by striking out paragraphs (2) and (3) and by redesignating paragraph (4) as paragraph (2); and

(C) in paragraph (2), as redesignated by subparagraph (B), by inserting "cost or" before "price" in the first sentence.

(c) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to—

(A) solicitations for sealed bids or competitive proposals issued after the end of the 180-day period beginning on the date of the enactment of this Act; and

(B) contracts awarded pursuant to those solicitations.

(2) AUTHORITY TO APPLY AMENDMENTS EARLY.—The head of an executive agency may apply the amendments made by this section to solicitations issued before the end of the period referred to in paragraph (1). The head of the executive agency shall publish in the Federal Register notice of any such earlier date of application at least 10 days before that date.

SEC. 1062. SOLICITATION PROVISION REGARDING EVALUATION OF PURCHASE OPTIONS.

Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a), as amended by section 1061(a)(4), is further amended by adding at the end the following new subsection:

"(d) An agency head, in issuing a solicitation for a contract to be awarded using sealed bid procedures, may not include in such solicitation a clause providing for the evaluation of prices for options to purchase additional property or services under the contract unless the agency head has determined that there is a reasonable likelihood that the options will be exercised.".

SEC. 1063. PROMPT NOTICE OF AWARD.

(a) SEALED BID PROCEDURES.—Subsection (c) of section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended by adding at the end the following: "As soon as practicable after the date of contract award, the agency head shall, in accordance with procedures prescribed in the Federal Acquisition Regulation, notify all offerors not awarded the contract that the contract has been awarded.".

(b) COMPETITIVE PROPOSALS PROCEDURES.—Paragraph (2) of section 303B(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b(d)), as redesignated by section 1061(b)(3)(B), is amended in the second sentence by striking out "source and shall promptly notify" and inserting in lieu thereof "source. As soon as practicable after the date of contract award, the agency head shall, in accordance with procedures prescribed in the Federal Acquisition Regulation, notify".

SEC. 1064. POST-AWARD DEBRIEFINGS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection (e):

"(e)(1) When a contract is awarded by the head of an executive agency on the basis of competitive proposals, an unsuccessful offeror, upon written request received by the agency within 3 days after the date on which the unsuccessful offeror receives the notification of the contract award, shall be debriefed and furnished the basis for the selection decision and contract award. An employee of the executive agency shall debrief the offeror promptly after receipt of the request by the agency.

"(2) The debriefing shall include, at a minimum—

"(A) the executive agency's evaluation of the significant weak or deficient factors in the offeror's offer;

"(B) the overall evaluated cost and technical rating of the offer of the contractor awarded the contract and the overall evaluated cost and technical rating of the offer of the debriefed offeror;

"(C) the overall ranking of all offers;

"(D) a summary of the rationale for the award;

"(E) in the case of a proposal for a commercial item other than a commercial component, the make and model of the item being provided in accordance with the offer of the contractor awarded the contract; and

"(F) reasonable responses to questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the executive agency.

"(3) The debriefing may not include point-by-point comparisons of the debriefed offeror's offer with other offers and may not disclose any information that is exempt from disclosure under section 552 of title 5, United States Code, including information relating to—

"(A) trade secrets;

"(B) privileged or confidential manufacturing processes and techniques; and

"(C) commercial and financial information that is privileged or confidential, including cost breakdowns, profit, indirect cost rates, and similar information.

"(4) Each solicitation for competitive proposals shall include a statement that information described in paragraph (2) may be disclosed in post-award debriefings.

"(5) If, within one year after the date of the contract award and as a result of a successful procurement protest or otherwise, the executive agency seeks to fulfill the requirement under the contract either on the basis of a new solicitation of offers or on the basis of new best and final offers requested for that contract, the agency head shall make available to all offerors—

"(A) the information provided in debriefings under this subsection regarding the offer of the contractor awarded the contract; and

"(B) the same information that would have been provided to the original offerors.

"(6) The contracting officer shall include a summary of the debriefing in the contract file.".

SEC. 1065. PROTEST FILE.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b), as amended by section 1064(1), is further amended by adding at the end the following:

"(h)(1) If, in the case of a solicitation for a contract issued by, or an award or proposed award of a contract by, an agency head, a protest is filed pursuant to the procedures in subchapter V of chapter 35 of title 31, United States Code, and an actual or prospective offeror so requests, a file of the protest shall be established by the procuring activity and reasonable access shall be provided to actual or prospective offerors.

"(2) Information exempt from disclosure under section 552 of title 5, United States Code, may be redacted in a file established pursuant to paragraph (1) unless an applicable protective order provides otherwise.

"(3) Regulations implementing this subsection shall be consistent with the regulations regarding the preparation and submission of an agency's protest file (the so-called 'rule 4 file') for protests to the General Services Board of Contract Appeals under section 111 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 759).".

SEC. 1066. AWARD OF COSTS AND FEES IN AGENCY SETTLEMENT OF PROTESTS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b), as amended by section 1065, is further amended by adding at the end the following new subsection:

"(i) If, in connection with a protest, an agency head determines that a solicitation, proposed award, or award does not comply with the requirements of law or regulation, the agency head may take—

"(1) any action set out in subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31, United States Code; and

"(2) may pay costs described in paragraph (1) of section 3554(c) of such title within the limits referred to in paragraph (2) of such section.".

SEC. 1067. TWO-PHASE SELECTION PROCEDURES.

(a) PROCEDURES AUTHORIZED.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1054, is further amended by inserting after section 303H the following new section:

"TWO-PHASE SELECTION PROCEDURES

"SEC. 303I. (a) PROCEDURES AUTHORIZED.—The head of an executive agency may use two-phase selection procedures for entering into a contract for the acquisition of property or services (other than a construction contract) when the agency head determines that three or more offers will be received for such contract, substantial design work must be performed before an offeror can develop a price or cost proposal for such contract, and the offerors will incur a substantial amount of expenses in preparing the offers.

"(b) PROCEDURES DESCRIBED.—Two-phase selection procedures consist of the following:

"(1) The agency head solicits proposals that—

"(A) include information on the offerors'—

"(i) technical approach; and

"(ii) technical qualifications; and

"(B) do not include—

"(i) detailed design information; or

"(ii) cost or price information.

"(2) The agency head evaluates the proposals on the basis of evaluation criteria set forth in the solicitation, except that the agency head does not consider cost-related or price-related evaluation factors.

"(3) The agency head selects at least three offerors as the most highly qualified to provide the property or services under the contract and requests the selected offerors to submit competitive proposals that include cost or price information.

"(4) The agency head awards the contract in accordance with section 303B(d).

"(c) SOLICITATION TO STATE NUMBER OF OFFERORS TO BE SELECTED FOR PHASE TWO REQUESTS FOR COMPETITIVE PROPOSALS.—A solicitation issued pursuant to subsection (b)(1) shall state the maximum number of offerors that are to be selected to submit competitive proposals pursuant to subsection (b)(3).

"(d) RESOURCE COMPARISON CRITERION REQUIRED.—In using two-phase selection procedures for entering into a contract, the agency head shall establish a resource criterion or a financial criterion applicable to the contract in order to provide a consistent basis for comparing the offerors and their proposals.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act, as amended by section 1054, is further amended by inserting after the item relating to section 303H the following new item:

"Sec. 303I. Two-phase selection procedures.".

Subpart C—Kinds of Contracts

SEC. 1071. AGENCY HEAD DETERMINATION REGARDING USE OF COST TYPE OR INCENTIVE CONTRACT.

Section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)) is amended by striking out the second sentence.

SEC. 1072. MULTIYEAR CONTRACTING AUTHORITY.

(a) AUTHORITY.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1067, is further amended by inserting after section 303I the following new section:

"MULTIYEAR CONTRACTS

"SEC. 303J. (a) AUTHORITY.—The head of an executive agency may enter into a multiyear contract for the acquisition of property or services if—

"(1) funds are available and obligated for such contract, for the full period of the contract or for the first fiscal year in which the contract is in effect, and for the estimated costs associated with any necessary termination of such contract; and

"(2) the agency head determines that—

"(A) the need for the property or services is reasonably firm and continuing over the period of the contract; and

"(B) a multiyear contract will serve the best interests of the United States by encouraging effective competition or promoting economy in administration, performance, and operation of the agency's programs.

"(b) TERMINATION CLAUSE.—A multiyear contract entered into under the authority of this section shall include a clause that provides that the contract shall be terminated if funds are not made available for the continuation of such contract in any fiscal year covered by the contract. Amounts available for paying termination costs shall remain available for such purpose until the costs associated with termination of the contract are paid.

"(c) RULE OF CONSTRUCTION.—Nothing in this section is intended to modify or affect any other provision of law that authorizes multiyear contracts.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act, as amended by section 1067, is further amended by inserting after the item relating to section 303I the following new item:

"Sec. 303J. Multiyear contracts.".

SEC. 1073. SEVERABLE SERVICES CONTRACTS CROSSING FISCAL YEARS.

(a) AUTHORITY.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1072, is further amended by inserting after section 303J the following new section:

"SEVERABLE SERVICES CONTRACTS FOR PERIODS CROSSING FISCAL YEARS

"SEC. 303K. (a) AUTHORITY.—The head of an executive agency may enter into a contract for procurement of severable services for a period that begins in one fiscal year and ends in the next fiscal year if (without regard to any option to extend the period of the contract) the contract period does not exceed one year.

"(b) OBLIGATION OF FUNDS.—Funds made available for a fiscal year may be obligated for the total amount of a contract entered into under the authority of subsection (a).".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act, as amended by section 1072, is further amended by inserting after the item relating to section 303J the following new item:

"Sec. 303K. Severable services contracts for periods crossing fiscal years.".

SEC. 1074. ECONOMY ACT PURCHASES.

(a) REGULATIONS REQUIRED.—Not later than six months after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to include regulations governing the exercise of the authority under section 1535 of title 31, United States Code, for Federal agencies to purchase goods and services under contracts entered into or administered by other agencies.

(b) CONTENT OF REGULATIONS.—The regulations prescribed pursuant to subsection (a) shall—

(1) require that each purchase described in subsection (a) be approved in advance by a contracting officer of the ordering agency with authority to contract for the goods or services to be purchased or by another official in a position specifically designated by regulation to approve such purchase;

(2) provide that such a purchase of goods or services may be made only if—

(A) the purchase is appropriately made under a contract that the agency filling the purchase order entered into, before the purchase order, in order to meet the requirements of such agency for the same or similar goods or services;

(B) the agency filling the purchase order is better qualified to enter into or administer the contract for such goods or services by reason of capabilities or expertise that is not available within the ordering agency; or

(C) the agency or unit filling the order is specifically authorized by law or regulations to purchase such goods or services on behalf of other agencies;

(3) prohibit any such purchase under a contract or other agreement entered into or administered by an agency not covered by the provisions of chapter 137 of title 10, United States Code, or title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) and not covered by the Federal Acquisition Regulation unless the purchase is approved in advance by the senior procurement official responsible for purchasing by the ordering agency; and

(4) prohibit any payment to the agency filling a purchase order of any fee that exceeds the actual cost or, if the actual cost is not known, the estimated cost of entering into and administering the contract or other agreement under which the order is filled.

(c) MONITORING SYSTEM REQUIRED.—The Administrator for Federal Procurement Policy shall ensure that, not later than one year after the date of the enactment of this Act, systems for collecting and evaluating procurement data are capable of collecting and evaluating appropriate data on procurements conducted under the regulations prescribed pursuant to subsection (a).

(d) TERMINATION.—This section shall cease to be effective one year after the date on which final regulations prescribed pursuant to subsection (a) take effect.

PART III—ACQUISITIONS GENERALLY

SEC. 1091. POLICY REGARDING CONSIDERATION OF CONTRACTOR PAST PERFORMANCE.

(a) POLICY.—Section 2 of the Office of Federal Procurement Policy Act (41 U.S.C. 401) is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(14) establishing policies and procedures that encourage the consideration of contractors' past performance in the selection of contractors.".

(b) GUIDANCE REQUIRED.—Section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405) is amended by adding at the end the following:

"(j)(1) Congress makes the following findings:

"(A) Past contract performance of an offeror is one of the relevant factors that contracting officials of executive agencies should consider in entering into contracts.

"(B) It is appropriate for a contracting official to consider past contract performance of an offeror as an indicator of the likelihood that the offeror will successfully perform a contract to be entered into by that official.

"(2) The Administrator shall prescribe for executive agencies guidance regarding consideration of the past contract performance of offerors in awarding contracts. The guidance shall include—

"(A) standards for evaluating past performance with respect to cost (when appropriate), schedule, compliance with technical or functional specifications, and other relevant performance factors that facilitate consistent and fair evaluation by all executive agencies;

"(B) policies for the collection and maintenance of information on past contract performance that, to the maximum extent practicable, facilitate automated collection, maintenance, and dissemination of information and provide for ease of collection, maintenance, and dissemination of information by other methods, as necessary; and

"(C) policies for ensuring that—

"(i) offerors are afforded an opportunity to submit relevant information on past contract performance, including performance under contracts entered into by the executive agency concerned, contracts entered into by other departments and agencies of the Federal Government, contracts entered into by agencies of State and local governments, and contracts entered into by commercial customers; and

"(ii) such information submitted by offerors is considered.

"(3) The Administrator shall prescribe for all executive agencies guidance regarding the period for which information on past performance of offerors should be maintained and considered.

"(4) In the case of an offeror regarding whom there is no information on past contract performance or regarding whom information on past contract performance is not available, the offeror may not be evaluated favorably or unfavorably on the factor of past contract performance.".

SEC. 1092. REPEAL OF REQUIREMENT FOR ANNUAL REPORT ON COMPETITION.

Section 23 of the Office of Federal Procurement Policy Act (41 U.S.C. 419) is repealed.

Subtitle B—Truth in Negotiations

PART I—ARMED SERVICES ACQUISITIONS

SEC. 1201. STABILIZATION OF DOLLAR THRESHOLD OF APPLICABILITY.

(a) REPEAL OF REVERSION TO LOWER THRESHOLD.—Paragraph (1)(A) of section 2306a(a) of title 10, United States Code, is amended—

(1) in clause (i), by striking out "and before January 1, 1996,"; and

(2) in clause (ii), by striking out "or after December 31, 1995,".

(b) ADJUSTMENTS FOR CHANGES IN DOLLAR VALUES.—Section 2306a(a) of such title is amended by adding at the end the following new subparagraph:

"(7) Effective on October 1 of each year that is divisible by 5, each amount set forth in paragraph (1) shall be adjusted to the amount that is equal to the fiscal year 1994 constant dollar value of the amount set forth. Any amount, as so adjusted, that is not evenly divisible by $50,000 shall be rounded to the nearest multiple of $50,000. In the case of an amount that is evenly divisible by $25,000 but not evenly divisible by $50,000, the amount shall be rounded to the next higher multiple of $50,000.".

SEC. 1202. EXCEPTIONS TO COST OR PRICING DATA REQUIREMENTS.

(a) EXCEPTIONS STATED.—Subsection (b) of section 2306a of title 10, United States Code, is amended to read as follows:

"(b) EXCEPTIONS.—(1) Submission of cost and pricing data shall not be required under subsection (a)—

"(A) in the case of a contract, a subcontract, or a contract or subcontract modification, for which the price agreed upon is based on—

"(i) adequate price competition;

"(ii) established catalog or market prices of commercial items or of services customarily used for other than Government purposes, as the case may be, that are sold in substantial quantities to the general public; or "(iii) prices set by law or regulation; or

"(B) in an exceptional case when the head of the agency concerned determines that the requirements of this section may be waived and states in writing the reasons for such determination.

"(2) Submission of cost and pricing data shall not be required under subsection (a) in the case of a modification of a contract or subcontract for a commercial item if—

"(A) the contract or subcontract being modified is a contract or subcontract for which submission of cost and pricing data may not be required by reason of paragraph (1)(A);

"(B) the modification is not a case in which paragraph (1)(A) prohibits the head of an agency from requiring submission of cost and pricing data; and

"(C) the modification would not change the contract or subcontract, as the case may be, from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of a noncommercial item.".

(b) Conforming Amendment to Reference.—Subsection (a)(5) of such section is amended by striking out "subsection (b)(2)" and inserting in lieu thereof "subsection (b)(1)(B)".

SEC. 1203. LIMITATION ON AUTHORITY TO REQUIRE A SUBMISSION NOT OTHERWISE REQUIRED.

Subsection (c) of section 2306a of title 10, United States Code, is amended to read as follows:

"(c) Limitation on Authority To Require Cost or Pricing Data.—When cost or pricing data are not required to be submitted under this section by reason of a $500,000 threshold set forth in subsection (a) (as adjusted pursuant to paragraph (7) of such subsection) or by reason of an exception set forth in paragraph (1)(A) or (2) of subsection (b), submission of such data may not be required unless the head of an agency concerned determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract to which the data relate. In any case in which the head of an agency requires such data to be submitted in accordance with the preceding sentence, the agency head shall document in writing the reasons for such requirement.".

SEC. 1204. ADDITIONAL SPECIAL RULES FOR COMMERCIAL ITEMS.

Section 2306a of title 10, United States Code, is amended—

(1) by redesignating subsections (d), (e), (f), and (g) as subsections (e), (f), (g), and (i), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) Additional Exception Provisions Regarding Commercial Items.—(1) To the maximum extent practicable, the head of an agency shall conduct procurements of commercial items on a competitive basis.

"(2) In any case in which it is not practicable to conduct a procurement of a commercial item on a competitive basis and the procurement is not covered by an exception in subsection (b), the contracting officer shall nonetheless exempt a contract, subcontract, or modification of a contract or subcontract under the procurement from the requirements of subsection (a) if the contracting officer obtains, in accordance with standards and procedures set forth in the Federal Acquisition Regulation, information on prices at which the same or similar items have been sold in the commercial market that is adequate for evaluating the reasonableness of the price of the contract or subcontract for a commercial item, or the contract or subcontract modification, as the case may be. The contracting officer may obtain such information from the offeror or contractor or, when such information is not available from that source, from another source or sources.

"(3)(A) In accordance with procedures prescribed in the Federal Acquisition Regulation, the head of an agency shall have the right to examine all information provided by an offeror, contractor, or subcontractor pursuant to paragraph (2) and all books and records of such offeror, contractor, or subcontractor that directly relate to such information in order to determine whether the agency is receiving accurate information required under this section.

"(B) The right under subparagraph (A) shall expire 3 years after the date of award of the contract, or 3 years after the date of the modification of the contract, with respect to which the information was provided.".

SEC. 1205. RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.

Section 2306a of title 10, United States Code, is amended by striking out subsection (g), as redesignated by section 1204(1), and inserting in lieu thereof the following:

"(g) Right of United States To Examine Contractor Records.—For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section, the head of an agency shall have the rights provided by section 2313 of this title.".

SEC. 1206. REQUIRED REGULATIONS.

Section 2306a of title 10, United States Code, as amended by sections 1204 and 1205, is further amended by inserting after subsection (g) the following new subsection:

"(h) Required Regulations.—The Secretary shall prescribe regulations concerning the types of information that offerors must submit for a contracting officer to consider in determining whether the price of a procurement to the Government is fair and reasonable when certified cost or pricing data are not required to be submitted under this section because the price of the procurement to the United States is not expected to exceed an applicable $500,000 threshold set forth in subsection (a) (as adjusted pursuant to paragraph (7) of such subsection). Such information, at a minimum, shall include appropriate information on the prices at which the same or similar items have previously been sold that is adequate for evaluating the reasonableness of the price of the proposed contract or subcontract for the procurement.".

SEC. 1207. CONSISTENCY OF TIME REFERENCES.

Section 2306a of title 10, United States Code, as amended by section 1204(1), is further amended—

(1) in subparagraphs (A)(ii) and (B)(ii) of subsection (e)(4), by inserting "or, if applicable consistent with paragraph (1)(B), another date agreed upon between the parties," after "(or price of the modification)"; and

(2) in subsection (i), by inserting "or, if applicable consistent with subsection (d)(1)(B), another date agreed upon between the parties" after "(or the price of a contract modification)".

SEC. 1208. EXCEPTION FOR TRANSFERS BETWEEN DIVISIONS, SUBSIDIARIES, AND AFFILIATES.

Subsection (i) of section 2306a of title 10, United States Code, as redesignated by section 1204(1), is amended to read as follows:

"(i) Definitions.—In this section:

"(1) The term 'cost or pricing data' means all facts that, as of the date of agreement on the price of a contract (or the price of a contract modification), a prudent buyer or seller would reasonably expect to affect price negotiations significantly. Such term does not include information that is judgmental, but does include the factual information from which a judgment was derived.

"(2) The term 'subcontract' includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor.".

SEC. 1209. REPEAL OF SUPERSEDED PROVISION.

Subsections (b) and (c) of section 803 of Public Law 101-510 (10 U.S.C. 2306a note) are repealed.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 1251. REVISION OF CIVILIAN AGENCY PROVISIONS TO ENSURE UNIFORM TREATMENT OF COST OR PRICING DATA.

(a) In General.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended—

(1) in section 304, by striking out subsection (d); and

(2) by inserting after section 304 the following new section:

"COST OR PRICING DATA: TRUTH IN NEGOTIATIONS

"Sec. 304A. (a) Required Cost or Pricing Data and Certification.—(1) An agency head shall require offerors, contractors, and subcontractors to make cost or pricing data available as follows:

"(A) An offeror for a prime contract under this title to be entered into using procedures other than sealed-bid procedures shall be required to submit cost or pricing data before the award of a contract if—

"(i) in the case of a prime contract entered into after the date of the enactment of the Federal Acquisition Streamlining Act of 1994, the price of the contract to the United States is expected to exceed $500,000; and

"(ii) in the case of a prime contract entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1994, the price of the contract to the United States is expected to exceed $100,000.

"(B) The contractor for a prime contract under this chapter shall be required to submit cost or pricing data before the pricing of a change or modification to the contract if—

"(i) in the case of a change or modification made to a prime contract referred to in subparagraph (A)(i), the price adjustment is expected to exceed $500,000;

"(ii) in the case of a change or modification made to a prime contract that was entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1994, and that has been modified pursuant to paragraph (6), the price adjustment is expected to exceed $500,000; and

"(iii) in the case of a change or modification not covered by clause (i) or (ii), the price adjustment is expected to exceed $100,000.

"(C) An offeror for a subcontract (at any tier) of a contract under this title shall be required to submit cost or pricing data before the award of the subcontract if the prime contractor and each higher-tier subcontractor have been required to make available cost or pricing data under this section and—

"(i) in the case of a subcontract under a prime contract referred to in subparagraph (A)(i), the price of the subcontract is expected to exceed $500,000;

"(ii) in the case of a subcontract entered into under a prime contract that was entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1994, and that has been modified pursuant to paragraph (6), the price of the subcontract is expected to exceed $500,000; and

"(iii) in the case of a subcontract not covered by clause (i) or (ii), the price of the subcontract is expected to exceed $100,000.

"(D) The subcontractor for a subcontract covered by subparagraph (C) shall be required to submit cost or pricing data before the pricing of a change or modification to the subcontract if—

"(i) in the case of a change or modification to a subcontract referred to in subparagraph (C)(i) or (C)(ii), the price adjustment is expected to exceed $500,000; and

"(ii) in the case of a change or modification to a subcontract referred to in subparagraph (C)(iii), the price adjustment is expected to exceed $100,000.

"(2) A person required, as an offeror, contractor, or subcontractor, to submit cost or pricing data under paragraph (1) (or required by the agency head concerned to submit such data in accordance with subsection (c)) shall be required to certify that, to the best of the person's knowledge and belief, the cost or pricing data submitted are accurate, complete, and current.

"(3) Cost or pricing data required to be submitted under paragraph (1) (or in accordance with subsection (c)), and a certification required to be submitted under paragraph (2), shall be submitted—

"(A) in the case of a submission by a prime contractor (or an offeror for a prime contract), to the contracting officer for the contract (or to a designated representative of the contracting officer); or

"(B) in the case of a submission by a subcontractor (or an offeror for a subcontract), to the prime contractor.

"(4) Except as provided under subsection (b), this section applies to contracts entered into by an agency head on behalf of a foreign government.

"(5) For purposes of paragraph (1)(C), a contractor or subcontractor granted a waiver under subsection (b)(1)(B) shall be considered as having been required to make available cost or pricing data under this section.

"(6)(A) Upon the request of a contractor that was required to submit cost or pricing data under paragraph (1) in connection with a prime contract entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1994, the agency head that entered into such contract shall modify the contract to reflect subparagraphs (B)(ii) and (C)(ii) of paragraph (1). All such modifications shall be made without requiring consideration.

"(B) An agency head is not required to modify a contract under subparagraph (A) if that agency head determines that the submission of cost or pricing data with respect to that contract should be required in accordance with subsection (c).

"(7) Effective on October 1 of each year that is divisible by 5, each amount set forth in paragraph (1) shall be adjusted to the amount that is equal to the fiscal year 1994 constant dollar value of the amount set forth. Any amount, as so adjusted, that is not evenly divisible by $50,000 shall be rounded to the nearest multiple of $50,000. In the case of an amount that is evenly divisible by $25,000 but not evenly divisible by $50,000, the amount shall be rounded to the next higher multiple of $50,000.

"(b) EXCEPTIONS.—(1) Submission of cost and pricing data shall not be required under subsection (a)—

"(A) in the case of a contract, a subcontract, or a contract or subcontract modification, for which the price agreed upon is based on—

"(i) adequate price competition;

"(ii) established catalog or market prices of commercial items or of services customarily used for other than Government purposes, as the case may be, that are sold in substantial quantities to the general public; or

"(iii) prices set by law or regulation; or

"(B) in an exceptional case when the agency head concerned determines that the requirements of this section may be waived and states in writing the reasons for such determination.

"(2) Submission of cost and pricing data shall not be required under subsection (a) in the case of a modification of a contract or subcontract for a commercial item if—

"(A) the contract or subcontract being modified is a contract or subcontract for which submission of cost and pricing data may not be required by reason of paragraph (1)(A);

"(B) the modification is not a case in which paragraph (1)(A) prohibits the agency head from requiring submission of cost and pricing data; and

"(C) the modification would not change the contract or subcontract, as the case may be, from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of a noncommercial item.

"(c) LIMITATION ON AUTHORITY TO REQUIRE COST OR PRICING DATA.—When cost or pricing data are not required to be submitted under this section by reason of a $500,000 threshold set forth in subsection (a) (as adjusted pursuant to paragraph (7) of such subsection) or by reason of an exception in paragraph (1)(A) or (2) of subsection (b), submission of such data may not be required unless the agency head concerned determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract to which the data relate. In any case in which the agency head requires such data to be submitted in accordance with the preceding sentence, the agency head shall document in writing the reasons for such requirement.

"(d) ADDITIONAL EXCEPTION PROVISIONS REGARDING COMMERCIAL ITEMS.—(1) To the maximum extent practicable, an agency head shall conduct procurements of commercial items on a competitive basis.

"(2) In any case in which it is not practicable to conduct a procurement of a commercial item on a competitive basis and the procurement is not covered by an exception in subsection (b), the contracting officer shall nonetheless exempt a contract, subcontract, or modification of a contract or subcontract under the procurement from the requirements of subsection (a) if the contracting officer obtains, in accordance with standards and procedures set forth in the Federal Acquisition Regulation, information on prices at which the same or similar items have been sold in the commercial market that is adequate for evaluating the reasonableness of the price of the contract or subcontract for a commercial item, or the contract or subcontract modification, as the case may be. The contracting officer may obtain such information from the offeror or contractor or, when such information is not available from that source, from another source or sources.

"(3)(A) In accordance with procedures prescribed in the Federal Acquisition Regulation, an agency head shall have the right to examine all information provided by an offeror, contractor, or subcontractor pursuant to paragraph (2) and all books and records of such offeror, contractor, or subcontractor that directly relate to such information in order to determine whether the agency is receiving accurate information required under this section.

"(B) The right under subparagraph (A) shall expire 3 years after the date of award of the contract, or 3 years after the date of the modification of the contract, with respect to which the information was provided.

"(e) PRICE REDUCTIONS FOR DEFECTIVE COST OR PRICING DATA.—(1)(A) A prime contract (or change or modification to a prime contract) under which a certificate under subsection (a)(2) is required shall contain a provision that the price of the contract to the United States, including profit or fee, shall be adjusted to exclude any significant amount by which it may be determined by the agency head that such price was increased because the contractor (or any subcontractor required to make available such a certificate) submitted defective cost or pricing data.

"(B) For the purposes of this section, defective cost or pricing data are cost or pricing data which, as of the date of agreement on the price of the contract (or another date agreed upon between the parties), were inaccurate, incomplete, or noncurrent. If for purposes of the preceding sentence the parties agree upon a date other than the date of agreement on the price of the contract, the date agreed upon by the parties shall be as close to the date of agreement on the price of the contract as is practicable.

"(2) In determining for purposes of a contract price adjustment under a contract provision required by paragraph (1) whether, and to what extent, a contract price was increased because the contractor (or a subcontractor) submitted defective cost or pricing data, it shall be a defense that the United States did not rely on the defective data submitted by the contractor or subcontractor.

"(3) It is not a defense to an adjustment of the price of a contract under a contract provision required by paragraph (1) that—

"(A) the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted by the contractor or subcontractor because the contractor or subcontractor—

"(i) was the sole source of the property or services procured; or

"(ii) otherwise was in a superior bargaining position with respect to the property or services procured;

"(B) the contracting officer should have known that the cost and pricing data in issue were defective even though the contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the contracting officer;

"(C) the contract was based on an agreement between the contractor and the United States about the total cost of the contract and there was no agreement about the cost of each item procured under such contract; or

"(D) the prime contractor or subcontractor did not submit a certification of cost and pricing data relating to the contract as required under subsection (a)(2).

"(4)(A) A contractor shall be allowed to offset an amount against the amount of a contract price adjustment under a contract provision required by paragraph (1) if—

"(i) the contractor certifies to the contracting officer (or to a designated representative of the contracting officer) that, to the best of the contractor's knowledge and belief, the contractor is entitled to the offset; and

"(ii) the contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification), or, if applicable consistent with paragraph (1)(B), another date agreed upon between the parties, and that the data were not submitted as specified in subsection (a)(3) before such date.

"(B) A contractor shall not be allowed to offset an amount otherwise authorized to be offset under subparagraph (A) if—

"(i) the certification under subsection (a)(2) with respect to the cost or pricing data involved was known to be false when signed; or

"(ii) the United States proves that, had the cost or pricing data referred to in subparagraph (A)(ii) been submitted to the United States before the date of agreement on the price of the contract (or price of the modification) or, if applicable under paragraph (1)(B), another date agreed upon between the parties, the submission of such cost or pricing data would not have resulted in an increase in that price in the amount to be offset.

"(f) INTEREST AND PENALTIES FOR CERTAIN OVERPAYMENTS.—(1) If the United States makes an overpayment to a contractor under a contract with an executive agency subject to this section and the overpayment was due to the submission by the contractor of defective cost or pricing data, the contractor shall be liable to the United States—

"(A) for interest on the amount of such overpayment, to be computed—

"(i) for the period beginning on the date the overpayment was made to the contractor and ending on the date the contractor repays the amount of such overpayment to the United States; and

"(ii) at the current rate prescribed by the Secretary of the Treasury under section 6621 of the Internal Revenue Code of 1986; and

"(B) if the submission of such defective data was a knowing submission, for an additional amount equal to the amount of the overpayment.

"(2) Any liability under this subsection of a contractor that submits cost or pricing data but refuses to submit the certification required by subsection (a)(2) with respect to the cost or pricing data shall not be affected by the refusal to submit such certification.

"(g) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section, the head of an agency shall have the rights provided by section 304B(a)(2).

"(h) REQUIRED REGULATIONS.—The Federal Acquisition Regulation shall include regulations concerning the types of information that offerors must submit for a contracting officer to consider in determining whether the price of a procurement to the Government is fair and reasonable when certified cost or pricing data are not required to be submitted under this section because the price of the procurement to the United States is not expected to exceed an applicable $500,000 threshold set forth in subsection (a) (as adjusted pursuant to paragraph (7) of such subsection). Such information, at a minimum, shall include appropriate information on the prices at which the same or similar items have previously been sold that is adequate for evaluating the reasonableness of the price of a proposed contract or subcontract for the procurement.

"(i) DEFINITIONS.—In this section:

"(1) The term 'cost or pricing data' means all facts that, as of the date of agreement on the price of a contract (or the price of a contract modification) or, if applicable consistent with subsection (e)(1)(B), another date agreed upon between the parties, a prudent buyer or seller would reasonably expect to affect price negotiations significantly. Such term does not include information that is judgmental, but does include the factual information from which a judgment was derived.

"(2) The term 'subcontract' includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor.".

(b) TABLE OF CONTENTS.—The table of contents in the first section of such Act is amended by inserting after the item relating to section 304 the following:

"Sec. 304A. Cost or pricing data: truth in negotiations.".

SEC. 1252. REPEAL OF OBSOLETE PROVISION.

(a) REPEAL.—Section 303E of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253e) is repealed.

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act is amended by striking out the item relating to section 303E.

Subtitle C—Research and Development

SEC. 1301. RESEARCH PROJECTS.

(a) AUTHORIZED MEANS.—Subsection (b) of section 2358 of title 10, United States Code, is amended to read as follows:

"(b) AUTHORIZED MEANS.—The Secretary of Defense or the Secretary of a military department may perform research and development projects—

"(1) by contract entered into with, grant made to, or cooperative agreement entered into with educational or research institutions, private businesses, or other persons in accordance with the provisions of chapter 63 of title 31;

"(2) through one or more military departments;

"(3) by using employees and consultants of the Department of Defense; or

"(4) by mutual agreement with the head of any other department or agency of the Federal Government.".

(b) CAPTION AMENDMENT.—The caption of subsection (c) of such section is amended by striking out "MILITARY" and inserting in lieu thereof "DEPARTMENT OF DEFENSE".

(c) ADVANCED RESEARCH PROJECTS.—

(1) RESTORATION AND REVISION OF FORMER STATEMENT OF AUTHORITY.—Section 2371 of title 10, United States Code, is amended—

(A) by redesignating subsections (a), (b), (c), (d), (e), and (f) as subsections (b), (c), (d), (e), (f), and (g), respectively; and

(B) by inserting before subsection (b), as so redesignated, the following new subsection (a):

"(a) The Secretary of Defense, acting through the Advanced Research Projects Agency and such other elements of the Department of Defense as the Secretary may designate, and the Secretary of each military department, in carrying out basic, applied, and advanced research projects, may enter into other transactions, in addition to contracts, grants, and cooperative agreements authorized by section 2358 of this title.".

(2) CONFORMING AMENDMENTS.—Such section, as amended by paragraph (1), is further amended—

(A) in subsection (b)—

(i) in paragraph (1), by inserting "or subsection (a)" after "section 2358 of this title"; and

(ii) in paragraph (2), by striking out "subsection (d)" and inserting in lieu thereof "subsection (e)";

(B) in subsection (c), by inserting "section 2358 of this title or" after "under";

(C) in subsection (d)—

(i) in paragraph (1), by striking out "this section" and inserting in lieu thereof "section 2358 of this title or subsection (a)"; and

(ii) in paragraph (3), by striking out "this section" and inserting in lieu thereof "section 2358 of this title or subsection (a)";

(D) in subsection (e), by inserting "or subsection (a)" in the first sentence after "section 2358 of this title"; and

(E) in subsection (f)—

(i) in the first sentence, by striking out "under this section" and inserting in lieu thereof "under section 2358 of this title or subsection (a)";

(ii) in paragraph (4), by striking out "subsection (a)" and inserting in lieu thereof "subsection (b)"; and

(iii) in paragraph (5), by striking out "subsection (d)" and inserting in lieu thereof "subsection (e)".

SEC. 1302. ELIMINATION OF INFLEXIBLE TERMINOLOGY REGARDING COORDINATION AND COMMUNICATION OF DEFENSE RESEARCH ACTIVITIES.

Section 2364 of title 10, United States Code, is amended—

(1) in subsection (b)(5), by striking out "milestone 0, milestone I, and milestone II decisions" and inserting in lieu thereof "acquisition program decisions"; and

(2) in subsection (c), by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) The term 'acquisition program decisions' has the meaning given such term in regulations prescribed by the Secretary of Defense for the purposes of this section.".

Subtitle D—Procurement Protests

PART I—PROTESTS TO THE COMPTROLLER GENERAL

SEC. 1401. PROTEST DEFINED.

Paragraph (1) of section 3551 of title 31, United States Code, is amended to read as follows:

"(1) 'protest' means a written objection by an interested party—

"(i) to a solicitation or other request by a Federal agency for offers for a contract for the procurement of property or services;

"(ii) to the cancellation of such a solicitation or other request;

"(iii) to an award or proposed award of such a contract; or

"(iv) to a termination or cancellation of an award of such a contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract;".

SEC. 1402. REVIEW OF PROTESTS AND EFFECT ON CONTRACTS PENDING DECISION.

(a) PERIODS FOR CERTAIN ACTIONS.—Section 3553 of title 31, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking out "one working day of" and inserting in lieu thereof "one day after"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking out "25 working days from" and inserting in lieu thereof "35 days after"; and

(ii) in subparagraph (C), by striking out "10 working days from" and inserting in lieu thereof "25 days after"; and

(2) in subsection (c)(3), by striking out "thereafter" and inserting in lieu thereof "after the making of such finding".

(b) SUSPENSION OF PERFORMANCE.—Subsection (d) of such section is amended to read as follows:

"(d)(1) A contractor awarded a Federal agency contract may, during the period described in paragraph (4), begin performance of the contract and engage in any related activities that result in obligations being incurred by the United States under the contract unless the contracting officer responsible for the award of the contract withholds authorization to proceed with performance of the contract.

"(2) The contracting officer may withhold an authorization to proceed with performance of the contract during the period described in paragraph (4) if the contracting officer determines in writing that—

"(A) a protest is likely to be filed; and

"(B) the immediate performance of the contract is not in the best interests of the United States.

"(3)(A) If the Federal agency awarding the contract receives notice of a protest in accordance with this section during the period described in paragraph (4)—

"(i) the contracting officer may not authorize performance of the contract to begin while the protest is pending; or

"(ii) if contract performance authorization to proceed was not withheld in accordance with paragraph (2) before receipt of the notice, the contracting officer shall immediately direct the contractor to cease performance under the contract and to suspend any related activities that may result in additional obligations being incurred by the United States under that contract.

"(B) Performance and related activities suspended pursuant to subparagraph (A)(ii) by reason of a protest may not be resumed while the protest is pending.

"(C) The head of the procuring activity may authorize the performance of the contract (notwithstanding a protest of which the Federal agency has notice under this section)—

"(i) upon a written finding that—

"(I) performance of the contract is in the best interests of the United States; or

"(II) urgent and compelling circumstances that significantly affect interests of the United States will not permit waiting for the decision of the Comptroller General concerning the protest; and

"(ii) after the Comptroller General is notified of that finding.

"(4) The period referred to in paragraphs (2) and (3)(A), with respect to a contract, is the period beginning on the date of the contract award and ending on the later of—

"(A) the date that is 10 days after the date of the contract award; or

"(B) the date that is 5 days after—

"(i) the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required; or

"(ii) in the case of a contract for which no debriefing is required, the date on which the unsuccessful offeror receives the notification of contract award.".

SEC. 1403. DECISIONS ON PROTESTS.

(a) PERIODS FOR CERTAIN ACTIONS.—Section 3554(a) of title 31, United States Code, is amended—

(1) in paragraph (1), by striking out "90 working days from" and inserting in lieu thereof "125 days after";

(2) in paragraph (2), by striking out "45 calendar days from" and inserting "65 days after";

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following new paragraph (3):

"(3) An amendment to a protest that adds a new ground of protest, if timely made, should be resolved, to the maximum extent practicable, within the time limit established under paragraph (1) of this subsection for final decision of the initial protest. If an amended protest cannot be resolved within such time limit, the Comptroller General may resolve the amended protest through the express option under paragraph (2) of this subsection.".

(b) GAO RECOMMENDATIONS ON PROTESTS.—

(1) IMPLEMENTATION OF RECOMMENDATIONS.—Section 3554 of title 31, United States Code, is amended—

(A) in subsection (b), by adding at the end the following new paragraph:

"(3) If the Federal agency fails to implement fully the recommendations of the Comptroller General under this subsection with respect to a solicitation for a contract or an award or proposed award of a contract within 60 days after receiving the recommendations, the head of the procuring activity responsible for that contract shall report such failure to the Comptroller General not later than 5 working days after the end of such 60-day period.";

(B) by striking out subsection (c) and inserting in lieu thereof the following:

"(c)(1) If the Comptroller General determines that a solicitation for a contract or a proposed award or the award of a contract does not comply with a statute or regulation, the Comptroller General may recommend that the Federal agency conducting the procurement pay to an appropriate interested party the costs of—

"(A) filing and pursuing the protest, including reasonable attorney's fees and consultant and expert witness fees; and

"(B) bid and proposal preparation.

"(2) No party (other than a small business concern (within the meaning of section 3(a) of the Small Business Act)) may be paid, pursuant to a recommendation made under the authority of paragraph (1)—

"(A) costs for consultant and expert witness fees that exceed the rates provided under section 504(b)(1)(A) of title 5 for expert witnesses; or

"(B) costs for attorney's fees that exceed the rates provided for attorneys under section 504(b)(1)(A) of title 5.

"(3) If the Comptroller General recommends under paragraph (1) that a Federal agency pay costs to an interested party, the Federal agency shall—

"(A) pay the costs promptly; or

"(B) if the Federal agency does not make such payment, promptly report to the Comptroller General the reasons for the failure to follow the Comptroller General's recommendation.

"(4) If the Comptroller General recommends under paragraph (1) that a Federal agency pay costs to an interested party, the Federal agency and the interested party shall attempt to reach an agreement on the amount of the costs to be paid. If the Federal agency and the interested party are unable to agree on the amount to be paid, the Comptroller General may, upon the request of the interested party, recommend to the Federal agency the amount of the costs that the Federal agency should pay."; and

(C) by striking out subsection (e) and inserting in lieu thereof the following:

"(e)(1) The Comptroller General shall report promptly to the Committee on Governmental Affairs and the Committee on Appropriations of the Senate and to the Committee on Government Operations and the Committee on Appropriations of the House of Representatives any case in which a Federal agency fails to implement fully a recommendation of the Comptroller General under subsection (b) or (c). The report shall include—

"(A) a comprehensive review of the pertinent procurement, including the circumstances of the failure of the Federal agency to implement a recommendation of the Comptroller General; and

"(B) a recommendation regarding whether, in order to correct an inequity or to preserve the integrity of the procurement process, the Congress should consider—

"(i) private relief legislation;

"(ii) legislative rescission or cancellation of funds;

"(iii) further investigation by Congress; or

"(iv) other action.

"(2) Not later than January 31 of each year, the Comptroller General shall transmit to the Congress a report containing a summary of each instance in which a Federal agency did not fully implement a recommendation of the Comptroller General under subsection (b) or (c) during the preceding year. The report shall also describe each instance in which a final decision in a protest was not rendered within 125 days after the date the protest is submitted to the Comptroller General.".

(2) REQUIREMENT FOR PAYMENT IN ACCORDANCE WITH PRIOR GAO DETERMINATIONS.—Costs to which the Comptroller General declared an interested party to be entitled under section 3554 of title 31, United States Code, as in effect immediately before the enactment of this Act, shall, if not paid or otherwise satisfied by the Federal agency concerned before the date of the enactment of this Act, be paid promptly.

SEC. 1404. REGULATIONS.

(a) COMPUTATION OF PERIODS.—Section 3555 of title 31, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (d); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) The procedures shall provide that, in the computation of any period described in this subchapter—

"(1) the day of the act, event, or default from which the designated period of time begins to run not be included; and

"(2) the last day after such act, event, or default be included, unless—

"(A) such last day is a Saturday, a Sunday, or a legal holiday; or

"(B) in the case of a filing of a paper at the General Accounting Office or a Federal agency, such last day is a day on which weather or other conditions cause the closing of the General Accounting Office or Federal agency, in which event the next day that is not a Saturday, Sunday, or legal holiday shall be included.".

(b) ELECTRONIC FILINGS AND DISSEMINATIONS.—Such section, as amended by subsection (a), is further amended by inserting after subsection (b) the following new subsection:

"(c) The Comptroller General may prescribe procedures for the electronic filing and dissemination of documents and information required under this subchapter. In prescribing such procedures, the Comptroller General shall consider the ability of all parties to achieve electronic access to such documents and records.".

(c) Repeal of Obsolete Deadline.—Subsection (a) of such section is amended by striking out "Not later than January 15, 1985, the" and inserting in lieu thereof "The".

PART II—PROTESTS IN THE FEDERAL COURTS

SEC. 1421. NONEXCLUSIVITY OF REMEDIES.

Section 3556 of title 31, United States Code, is amended by striking out "a district court of the United States or the United States Claims Court" in the first sentence and inserting in lieu thereof "the United States Court of Federal Claims".

SEC. 1422. JURISDICTION OF THE UNITED STATES COURT OF FEDERAL CLAIMS.

(a) Claims Against the United States and Bid Protests.—Section 1491 of title 28, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (e);

(2) in subsection (a)—

(A) by striking out "(a)(1)" and inserting in lieu thereof "(a) Claims Against the United States.—";

(B) in paragraph (2), by striking out "(2) To" and inserting in lieu thereof "(b) Remedy and Relief.—To"; and

(C) by striking out paragraph (3); and

(3) by inserting after subsection (b), as designated by paragraph (2)(B), the following new subsection (c):

"(c) Bid Protests.—(1) The United States Court of Federal Claims has jurisdiction to render judgment on an action by an interested party objecting to a solicitation by a Federal agency for bids or proposals for a proposed contract or to a proposed award or the award of a contract. The court has jurisdiction to entertain such an action without regard to whether suit is instituted before or after the contract is awarded.

"(2) To afford relief in such an action, the court may award any relief that the court considers proper, including declaratory and injunctive relief.

"(3) In exercising jurisdiction under this subsection, the court shall give due regard to the interests of national defense and national security and the need for expeditious resolution of the action.

"(4) The district courts of the United States do not have jurisdiction of any action referred to in paragraph (1).".

(b) Clerical Amendments.—

(1) Section heading.—The heading of such section is amended by inserting "**BID PROTESTS;**" after "**GENERALLY;**".

(2) Table of sections.—The table of sections at the beginning of chapter 91 of title 28, United States Code, is amended by striking out the item relating to section 1491 and inserting in lieu thereof the following:

"1491. Claims against United States generally; bid protests; actions involving Tennessee Valley Authority.".

PART III—PROTESTS IN PROCUREMENTS OF AUTOMATIC DATA PROCESSING

SEC. 1431. REVOCATION OF DELEGATIONS OF PROCUREMENT AUTHORITY.

Section 111(b)(3) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(b)(3)) is amended by inserting after the third sentence the following: "The Administrator may revoke a delegation of authority with respect to a particular contract before or after award of the contract, except that the Administrator may revoke a delegation after the contract is awarded only when there is a finding of a violation of law or regulation in connection with the contract award.".

SEC. 1432. AUTHORITY OF THE GENERAL SERVICES ADMINISTRATION BOARD OF CONTRACT APPEALS.

The first sentence of section 111(f)(1) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(1)) is amended to read as follows: "Upon request of an interested party in connection with any procurement that is subject to this section (including any such procurement that is subject to delegation of procurement authority), the board of contract appeals of the General Services Administration (hereafter in this subsection referred to as the 'board') shall review, as provided in this subsection, any decision by a contracting officer that is alleged to violate a statute, a regulation, or the conditions of a delegation of procurement authority.".

SEC. 1433. PERIODS FOR CERTAIN ACTIONS.

(a) Suspension of Procurement Authority.—Section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)) is amended—

(1) in paragraph (2) by adding at the end the following new subparagraph:

"(C) If, in the case of a preaward protest, the board suspends the procurement authority of the Administrator or the Administrator's delegation of procurement authority, the Administrator or the delegate, as the case may be, may continue with the procurement action up to, but not including, the awarding of the contract if the Administrator or the delegate, as the case may be, determines that it is in the best interests of the United States to do so."; and

(2) in paragraph (3) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A)(i) If, with respect to an award of a contract, the board receives notice of a protest under this subsection within the period described in clause (ii), the board shall, at the request of an interested party, hold a hearing to determine whether the board should suspend the procurement authority of the Administrator or the Administrator's delegation of procurement authority for the protested procurement on an interim basis until the board can decide the protest.

"(ii) The period referred to in clause (i) is the period beginning on the date on which the contract is awarded and ending on the date that is 10 days after the date of the contract award or, if later, the date that is 5 days after—

"(I) the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required; or

"(II) in the case of a contract for which no debriefing is required, the date on which the unsuccessful offeror receives the notification of contract award.

"(iii) The board shall hold the requested hearing within 5 days after the date of the filing of the protest or, in the case of a request for debriefing under the provisions of section 2305(b)(5) of title 10, United States Code, or section 303B(e) of this Act, within 5 days after the later of the date of the filing of the protest or the date of the debriefing.".

(b) Final Decision.—Paragraph (4)(B) of such section 111(f) is amended—

(1) by striking out "45 working days" and inserting in lieu thereof "65 days"; and

(2) by adding at the end the following: "An amendment which adds a new ground of protest should be resolved, to the maximum extent practicable, within the time limits established for resolution of the initial protest.".

SEC. 1434. DISMISSALS OF PROTESTS.

Section 111(f)(4) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(4)) is amended by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) The board may dismiss a protest that the board determines—

"(i) is frivolous;

"(ii) has been brought in bad faith; or

"(iii) does not state on its face a valid basis for protest.".

SEC. 1435. AWARD OF COSTS.

Section 111(f)(5) is amended by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) Whenever the board makes such a determination, it may, in accordance with section 1304 of title 31, United States Code, further declare an appropriate prevailing party to be entitled to the cost of filing and pursuing the protest (including reasonable attorney's fees and consultant and expert witness fees), and bid and proposal preparation. However, no party (other than a small business concern (within the meaning of section 3(a) of the Small Business Act)) may be declared entitled to costs for consultant and expert witness fees that exceed the rates provided under section 504(b)(1)(A) of title 5, United States Code, for expert witnesses or to costs for attorney's fees that exceed the rates provided for attorneys under section 504(b)(1)(A) of title 5, United States Code.".

SEC. 1436. DISMISSAL AGREEMENTS.

Section 111(f)(5) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(5)) is amended by adding at the end the following new subparagraphs:

"(D) Any agreement that provides for the dismissal of a protest and involves a direct or indirect expenditure of appropriated funds shall be submitted to the board and shall be made a part of the public record (subject to any protective order considered appropriate by the board) before dismissal of the protest. If a Federal agency is a party to a settlement agreement, the submission of the agreement submitted to the board shall include a memorandum, signed by the contracting officer concerned, that describes in detail the procurement, the grounds for protest, the Federal Government's position regarding the grounds for protest, the terms of the settlement, and the agency's position regarding the propriety of the award or proposed award of the contract at issue in the protest.

"(E) Payment of amounts due from an agency under subparagraph (C) or under the terms of a settlement agreement under subparagraph (D) shall be made from the appropriation made by section 1304 of title 31, United States Code, for the payment of judgments. The Federal agency concerned shall reimburse that appropriation account out of funds available for the procurement.".

SEC. 1437. JURISDICTION OF DISTRICT COURTS.

Section 111(f)(6)(C) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(6)(C)) is amended by striking out "a district court of the United States or".

SEC. 1438. MATTERS TO BE COVERED IN REGULATIONS.

Section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)) is amended by striking out paragraph (8) and inserting in lieu thereof the following:

"(7)(A) The board shall adopt and issue such rules and procedures as may be necessary to the expeditious disposition of protests filed under the authority of this subsection.

"(B) The procedures shall provide that, in the computation of any period described in this subsection—

"(i) the day of the act, event, or default from which the designated period of time begins to run not be included; and

"(ii) the last day after such act, event, or default be included, unless—

"(I) such last day is a Saturday, a Sunday, or a legal holiday; or

"(II) in the case of a filing of a paper at the board, such last day is a day on which weather or other conditions cause the closing of the board or Federal agency, in which event the next day that is not a Saturday, Sunday, or legal holiday shall be included.

"(C) The procedures may provide for electronic filing and dissemination of documents and information required under this subsection and in so providing shall consider the ability of all parties to achieve electronic access to such documents and records.

"(D) The procedures shall provide that if the board expressly finds that a protest or a portion of a protest is frivolous or has not been brought or pursued in good faith, or that any person has willfully abused the board's process during the course of a protest, the board may impose appropriate procedural sanctions, including dismissal of the protest.".

SEC. 1439. DEFINITIONS.

(a) Protest.—Section 111(f)(9)(A) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(9)(A)) is amended to read as follows:

"(A) the term 'protest' means a written objection by an interested party—

"(i) to a solicitation or other request by a Federal agency for offers for a contract for the procurement of property or services;

"(ii) to the cancellation of such a solicitation or other request;

"(iii) to an award or proposed award of such a contract; or

"(iv) to a termination or cancellation of an award of such a contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract;".

(b) Prevailing Party.—Section 111(f)(9) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) the term 'prevailing party', with respect to a determination of the board under paragraph (5)(B) that a challenged action of a Federal agency violates a statute or regulation or the conditions of a delegation of procurement authority issued pursuant to this section, means a party that demonstrated such violation.".

Subtitle E—Definitions and Other Matters

PART I—ARMED SERVICES ACQUISITIONS

SEC. 1501. DEFINITIONS.

Section 2302 of title 10, United States Code, is amended—

(1) by striking out paragraphs (3), (4), (5), and (7);

(2) by redesignating paragraph (6) as paragraph (5); and

(3) by inserting after paragraph (2) the following:

"(3) The terms 'commercial item', 'commercial component', 'full and open competition', 'major system', 'nondevelopmental item', 'procurement', 'procurement system', 'responsible source', 'standards', and 'technical data', have the meanings given such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

"(4) The term 'simplified acquisition threshold' has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403), except that, in the case of any contract to be awarded and performed, or purchase to be made, outside the United States in support of a contingency operation, the term means an amount equal to two times the amount specified for that term in section 4 of such Act.".

SEC. 1502. DELEGATION OF PROCUREMENT FUNCTIONS.

(a) Consolidation of Delegation Authority.—Section 2311 of title 10, United States Code, is amended to read as follows:

"§ 2311. Delegation

"(a) In General.—Except to the extent expressly prohibited by another provision of law, the head of an agency may delegate, subject to his direction, to any other officer or official of that agency, any power under this chapter.

"(b) Procurements For or With Other Agencies.—Subject to subsection (a), to facilitate the procurement of property and services covered by this chapter by each agency named in section 2303 of this title for any other agency, and to facilitate joint procurement by those agencies—

"(1) the head of an agency may, within his agency, delegate functions and assign responsibilities relating to procurement;

"(2) the heads of two or more agencies may by agreement delegate procurement functions and assign procurement responsibilities from one agency to another of those agencies or to an officer or civilian employee of another of those agencies; and

"(3) the heads of two or more agencies may create joint or combined offices to exercise procurement functions and responsibilities.

"(c) Approval of Terminations and Reductions of Joint Acquisition Programs.—(1) The Secretary of Defense shall prescribe regulations that prohibit each military department participating in a joint acquisition program approved by the Under Secretary of Defense for Acquisition and Technology from terminating or substantially reducing its participation in such program without the approval of the Under Secretary.

"(2) The regulations shall include the following provisions:

"(A) A requirement that, before any such termination or substantial reduction in participation is approved, the proposed termination or reduction be reviewed by the Joint Requirements Oversight Council of the Department of Defense.

"(B) A provision that authorizes the Under Secretary of Defense for Acquisition and Technology to require a military department approved for termination or substantial reduction in participation in a joint acquisition program to continue to provide some or all of the funding necessary for the acquisition program to be continued in an efficient manner.".

(b) Conforming Repeal.—(1) Section 2308 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item related to section 2308.

SEC. 1503. DETERMINATIONS AND DECISIONS.

Section 2310 of title 10, United States Code, is amended to read as follows:

"§ 2310. Determinations and decisions

"(a) Individual or Class Determinations and Decisions Authorized.—Determinations and decisions required to be made under this chapter by the head of an agency may be made for an individual purchase or contract or for a class of purchases or contracts. Such determinations and decisions are final.

"(b) Written Findings Required.—(1) Each determination or decision under section 2306(e)(1), 2307(e), or 2313(d)(2) of this title shall be based on a written finding by the person making the determination or decision. The finding shall set out facts and circumstances that support the determination or decision.

"(2) Each finding referred to in paragraph (1) shall be final. The head of the agency making such finding shall maintain a copy of the finding for not less than 6 years after the date of the determination or decision.".

SEC. 1504. UNDEFINITIZED CONTRACTUAL ACTIONS: RESTRICTIONS.

(a) Clarification of Limitation.—Subsection (b) of section 2326 of title 10, United States Code, is amended—

(1) in the subsection caption, by striking out "AND EXPENDITURE";

(2) in paragraph (1)(B), by striking out "or expended";

(3) in paragraph (2), by striking out "expend" and inserting in lieu thereof "obligate"; and

(4) in paragraph (3)—

(A) by striking out "expended" and inserting in lieu thereof "obligated"; and

(B) by striking out "expend" and inserting in lieu thereof "obligate".

(b) Waiver Authority.—Such subsection is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph (4):

"(4) The head of an agency may waive the provisions of this subsection with respect to a contract of that agency if such head of an agency determines that the waiver is necessary in order to support a contingency operation.".

(c) Inapplicability of Restrictions to Contracts Within the Simplified Acquisition Threshold.—Section 2326(g)(1)(B) of title 10, United States Code, is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

SEC. 1505. PRODUCTION SPECIAL TOOLING AND PRODUCTION SPECIAL TEST EQUIPMENT: CONTRACT TERMS AND CONDITIONS.

(a) Repeal.—Section 2329 of title 10, United States Code, is repealed.

(b) Technical Amendment.—The table of sections at the beginning of chapter 137 of such title is amended by striking out the item related to section 2329.

SEC. 1506. REGULATIONS FOR BIDS.

Section 2381(a) of title 10, United States Code, is amended by striking out "(a) The Secretary" and all that follows through the end of paragraph (1) and inserting in lieu thereof the following:

"(a) The Secretary of Defense or the Secretary of a military department may—

"(1) prescribe regulations for the preparation, submission, and opening of bids for contracts; and".

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 1551. DEFINITIONS.

Section 309(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(c)) is amended by striking out "and 'supplies'" and inserting in lieu thereof "'supplies', 'commercial item', 'commercial component', 'nondevelopmental item', and 'simplified acquisition threshold'".

SEC. 1552. DELEGATION OF PROCUREMENT FUNCTIONS.

(a) Authority.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended—

(1) by redesignating sections 309 and 310 as sections 312 and 313, respectively; and

(2) by inserting after section 308 the following new section 309:

"DELEGATION

"Sec. 309. (a) In General.—Except to the extent expressly prohibited by another provision of law, an agency head may delegate, subject to his direction, to any other officer or official of that agency, any power under this title.

"(b) Procurements For or With Other Agencies.—Subject to subsection (a), to facilitate the procurement of property and services covered by this title by each executive agency for any other executive agency, and to facilitate joint procurement by those executive agencies—

"(1) an agency head may, within his executive agency, delegate functions and assign responsibilities relating to procurement;

"(2) the heads of two or more executive agencies may by agreement delegate procurement functions and assign procurement responsibilities from one executive agency to another of those executive agencies or to an officer or civilian employee of another of those executive agencies; and

"(3) the heads of two or more executive agencies may create joint or combined offices to exercise procurement functions and responsibilities.".

(b) Clerical Amendment.—The table of contents in the first section of such Act is amended by striking out the items relating to sections 309 and 310 and inserting in lieu thereof the following:

"Sec. 309. Delegation.
"Sec. 312. Definitions.
"Sec. 313. Statutes not applicable.".

SEC. 1553. DETERMINATIONS AND DECISIONS.

(a) In General.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1552, is further amended by inserting after section 309 the following new section 310:

"DETERMINATIONS AND DECISIONS

"Sec. 310. (a) Individual or Class Determinations and Decisions Authorized.—Determinations and decisions required to be made under this title by an agency head may be made for an individual purchase or contract or for a class of purchases or contracts. Such determinations and decisions are final.

"(b) Written Findings Required.—(1) Each determination under section 305(e) shall be based on a written finding by the person making the determination or decision. The finding shall set out facts and circumstances that support the determination or decision.

"(2) Each finding referred to in paragraph (1) shall be final. The agency head making such finding shall maintain a copy of the finding for not less than 6 years after the date of the determination or decision.".

(b) Clerical Amendment.—The table of contents in the first section of such Act, as amended by section 1552, is further amended by inserting after the item relating to section 309 the following:

"Sec. 310. Determinations and decisions.".

SEC. 1554. COOPERATIVE PURCHASING.

Subsection (b) of section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481), is amended to read as follows:

"(b)(1) The Administrator shall, as far as practicable, provide any of the services specified in subsection (a) of this section to any other Federal agency, mixed-ownership Government corporation (as defined in section 9101 of title 31, United States Code), or the District of Columbia, upon its request.

"(2)(A) The Administrator may provide for the use of Federal supply schedules or other contracts by any of the following entities upon request:

"(i) A State, any department or agency of a State, and any political subdivision of a State, including a local government.

"(ii) The District of Columbia.

"(iii) The Commonwealth of Puerto Rico.

"(iv) The government of an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))).

"(B) Subparagraph (A) may not be construed to authorize an entity referred to in that subparagraph to order existing stock or inventory from federally owned and operated, or federally owned and contractor operated, supply depots, warehouses, or similar facilities.

"(3)(A) Upon the request of a qualified nonprofit agency for the blind or other severely handicapped that is to provide a commodity or service to the Federal Government under the Javits-Wagner-O'Day Act, the Administrator may provide any of the services specified in subsection (a) to such agency to the extent practicable.

"(B) A nonprofit agency receiving services under the authority of subparagraph (A) shall use the services directly in making or providing an approved commodity or approved service to the Federal Government.

"(C) In this paragraph:

"(i) The term 'qualified nonprofit agency for the blind or other severely handicapped' means—

"(I) a qualified nonprofit agency for the blind, as defined in section 5(3) of the Javits-Wagner-O'Day Act (41 U.S.C. 48b(3)); and

"(II) a qualified nonprofit agency for other severely handicapped, as defined in section 5(4) of such Act (41 U.S.C. 48b(4)).

"(ii) The terms 'approved commodity' and 'approved service' mean a commodity and a service, respectively, that has been determined by the Committee for Purchase from the Blind and Other Severely Handicapped under section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47) to be suitable for procurement by the Federal Government.

"(iii) The term 'Javits-Wagner-O'Day Act' means the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 46-48c), commonly referred to as the Wagner-O'Day Act, that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77), commonly referred to as the Javits-Wagner-O'Day Act.".

TITLE II—CONTRACT ADMINISTRATION

Subtitle A—Contract Payment

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2001. CONTRACT FINANCING.

(a) Reorganization of Principal Authority Provision.—Section 2307 of title 10, United States Code, is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"§ 2307. Contract financing";

(2) by striking out "(a) The head of an agency" and inserting in lieu thereof "(b) Payment Authority.—The head of an agency";

(3) by striking out "(b) Payments" and inserting in lieu thereof "(d) Payment Amount.—Payments";

(4) by striking out "(c) Advance payments" and inserting in lieu thereof "(e) Security for Advance Payments.—Advance payments";

(5) by striking out "(d)(1) The Secretary of Defense" and inserting in lieu thereof "(f) Conditions for Progress Payments.—(1) The Secretary of Defense"; and

(6) by striking out "(e)(1) In any case" and inserting in lieu thereof "(h) Action in Case of Fraud.—(1) In any case".

(b) Financing Policy.—Such section, as amended by subsection (a), is further amended by inserting after the section heading the following new subsection (a):

"(a) Policy.—Payments authorized under this section and made for financing purposes should be made periodically or, when appropriate, on an advance basis and should be so made in a timely manner to facilitate contract performance while protecting the security interests of the Government. Government financing shall be provided only to the extent necessary to ensure prompt and efficient performance and only after the availability of private financing is considered. A contractor's use of funds received as contract financing and the contractor's financial condition shall be monitored. If the contractor is a small business concern, special attention shall be given to meeting the contractor's financial need.".

(c) Performance-Based Payments.—Such section, as amended by subsection (a), is further amended by inserting after subsection (b) the following new subsection (c):

"(c) Performance-Based Payments.—Whenever practicable, payments under subsection (b) shall be made on any of the following bases:

"(1) Performance measured by objective, quantifiable methods such as receipt of items by the Federal Government, work measurement, or statistical process controls.

"(2) Accomplishment of events defined in the program management plan.

"(3) Other quantifiable measures of results.".

(d) Terminology Correction.—Such section, as amended by subsection (a)(2), is further amended in subsection (b)(2) by striking out "bid".

(e) Effective Date of Lien Related to Advance Payments.—Such section, as amended by subsection (a)(4), is further amended in subsection (e) by inserting before the period at the end of the third sentence the following: "and is effective immediately upon the first advancement of funds without filing, notice, or any other action by the United States".

(f) Conditions for Progress Payments.—Such section, as amended by subsection (a)(5), is further amended in subsection (f)—

(1) in the first sentence of paragraph (1), by striking out "work, which" and all that follows through "accomplished" and inserting in lieu thereof "work accomplished that meets standards established under the contract"; and

(2) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) This subsection applies to a contract for an amount equal to or greater than the simplified acquisition threshold.".

(g) Navy Contracts.—Such section, as amended by subsection (a)(5), is further amended by inserting after subsection (f) the following new subsection (g):

"(g) Certain Navy Contracts.—(1) The Secretary of the Navy shall provide that the rate for progress payments on any contract awarded by the Secretary for repair, maintenance, or overhaul of a naval vessel shall be not less than—

"(A) 95 percent, in the case of firms considered to be small businesses; and

"(B) 90 percent, in the case of all other firms.

"(2) The Secretary of the Navy may advance to private salvage companies such funds as the Secretary considers necessary to provide for the immediate financing of salvage operations. Advances under this paragraph shall be made on terms that the Secretary considers adequate for the protection of the United States.

"(3) The Secretary of the Navy shall ensure that, when partial, progress, or other payments are made under a contract for construction or conversion of a naval vessel, the United States is secured by a lien upon work in progress and on property acquired for performance of the contract on account of all payments so made. The lien is paramount to all other liens.".

(h) RELATIONSHIP TO PROMPT PAYMENT REQUIREMENTS.—Section 2307(f) of title 10, United States Code, as amended by subsection (f), is not intended to impair or modify procedures required by the provisions of chapter 39 of title 31, United States Code, and the regulations issued pursuant to such provisions of law, that relate to progress payment requests, as such procedures are in effect on the date of the enactment of this Act.

(i) CONFORMING AND CLERICAL AMENDMENTS.—

(1) CROSS REFERENCE.—Such section, as amended by subsection (a), is further amended in subsections (d) and (e) by striking out "subsection (a)" and inserting in lieu thereof "subsection (b)".

(2) TABLE OF CONTENTS.—The table of sections at the beginning of chapter 137 of title 10, United States Code, is amended by striking out the item relating to section 2307 and inserting in lieu thereof the following:

"2307. Contract financing.".

(j) REPEAL OF SUPERSEDED PROVISIONS.—

(1) PROGRESS PAYMENTS UNDER CERTAIN NAVY CONTRACTS.—

(A) REPEAL.—Section 7312 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7312.

(2) ADVANCEMENT OF PAYMENTS FOR NAVY SALVAGE OPERATIONS.—

(A) REPEAL.—Section 7364 of such title is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 637 of such title is amended by striking out the item relating to section 7364.

(3) PARTIAL PAYMENTS UNDER NAVY CONTRACTS.—

(A) REPEAL.—Section 7521 of such title is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 645 of such title is amended by striking out the item relating to section 7521.

SEC. 2002. CONTRACTS: VOUCHERING PROCEDURES.

(a) REPEAL.—Section 2355 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2355.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2051. CONTRACT FINANCING.

(a) REORGANIZATION OF PRINCIPAL AUTHORITY PROVISION.—Section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255) is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"CONTRACT FINANCING";

(2) by striking out "(a) Any executive agency" and inserting in lieu thereof "(b) PAYMENT AUTHORITY.—Any executive agency";

(3) by striking out "(b) Payments" and inserting in lieu thereof "(d) PAYMENT AMOUNT.—Payments"; and

(4) by striking out "(c) Advance payments" and inserting in lieu thereof "(e) SECURITY FOR ADVANCE PAYMENTS.—Advance payments".

(b) FINANCING POLICY.—Such section, as amended by subsection (a), is further amended by inserting after the section heading the following new subsection (a):

"(a) POLICY.—Payments authorized under this section and made for financing purposes should be made periodically or, when appropriate, on an advance basis and should be so made in a timely manner to facilitate contract performance while protecting the security interests of the Government. Government financing shall be provided only to the extent necessary to ensure prompt and efficient performance and only after the availability of private financing is considered. A contractor's use of funds received as contract financing and the contractor's financial condition shall be monitored. If the contractor is a small business concern, special attention shall be given to meeting the contractor's financial need.".

(c) PERFORMANCE-BASED PAYMENTS.—Such section, as amended by subsection (a), is further amended by inserting after subsection (b) the following new subsection (c):

"(c) PERFORMANCE-BASED PAYMENTS.—Whenever practicable, payments under subsection (b) shall be made on any of the following bases:

"(1) Performance measured by objective, quantifiable methods such as receipt of items by the Federal Government, work measurement, or statistical process controls.

"(2) Accomplishment of events defined in the program management plan.

"(3) Other quantifiable measures of results.".

(d) TERMINOLOGY CORRECTION.—Such section, as amended by subsection (a)(2), is further amended in subsection (b)(2) by striking out "bid".

(e) EFFECTIVE DATE OF LIEN RELATED TO ADVANCE PAYMENTS.—Such section, as amended by subsection (a)(4), is further amended in subsection (e) by inserting before the period at the end of the third sentence the following: "and is effective immediately upon the first advancement of funds without filing, notice, or any other action by the United States".

(f) REVISION OF CIVILIAN AGENCY PROVISION TO ENSURE UNIFORM REQUIREMENTS FOR PROGRESS PAYMENTS.—

(1) IN GENERAL.—Such section, as amended by subsection (a), is further amended by adding at the end the following:

"(f) CONDITIONS FOR PROGRESS PAYMENTS.—(1) The agency head shall ensure that any payment for work in progress (including materials, labor, and other items) under a contract of an executive agency that provides for such payments is commensurate with the work accomplished that meets standards established under the contract. The contractor shall provide such information and evidence as the agency head determines necessary to permit the agency head to carry out the preceding sentence.

"(2) The agency head shall ensure that progress payments referred to in paragraph (1) are not made for more than 80 percent of the work accomplished under the contract so long as the agency head has not made the contractual terms, specifications, and price definite.

"(3) This subsection applies to a contract for an amount equal to or greater than the simplified acquisition threshold.

"(g) ACTION IN CASE OF FRAUD.—(1) In any case in which the remedy coordination official of an executive agency finds that there is substantial evidence that the request of a contractor for advance, partial, or progress payment under a contract awarded by that executive agency is based on fraud, the remedy coordination official shall recommend that the agency head reduce or suspend further payments to such contractor.

"(2) An agency head receiving a recommendation under paragraph (1) in the case of a contractor's request for payment under a contract shall determine whether there is substantial evidence that the request is based on fraud. Upon making such a determination, the agency head may reduce or suspend further payments to the contractor under such contract.

"(3) The extent of any reduction or suspension of payments by an agency head under paragraph (2) on the basis of fraud shall be reasonably commensurate with the anticipated loss to the United States resulting from the fraud.

"(4) A written justification for each decision of the agency head whether to reduce or suspend payments under paragraph (2), and for each recommendation received by the agency head in connection with such decision, shall be prepared and be retained in the files of the executive agency.

"(5) Each agency head shall prescribe procedures to ensure that, before the agency head decides to reduce or suspend payments in the case of a contractor under paragraph (2), the contractor is afforded notice of the proposed reduction or suspension and an opportunity to submit matters to the head of the agency in response to such proposed reduction or suspension.

"(6) Not later than 180 days after the date on which an agency head reduces or suspends payments to a contractor under paragraph (2), the remedy coordination official of the executive agency shall—

"(A) review the determination of fraud on which the reduction or suspension is based; and

"(B) transmit a recommendation to the agency head whether the suspension or reduction should continue.

"(7) Each agency head who receives recommendations made by a remedy coordination official of the executive agency to reduce or suspend payments under paragraph (2) during a fiscal year shall prepare for such year a report that contains the recommendations, the actions taken on the recommendations and the reasons for such actions, and an assessment of the effects of such actions on the Federal Government. Any such report shall be available to any Member of Congress upon request.

"(8) An agency head may not delegate responsibilities under this subsection to any person in a position below level IV of the Executive Schedule.

"(9) In this subsection, the term 'remedy coordination official', with respect to an executive agency, means the person or entity in that executive agency who coordinates within that executive agency the administration of criminal, civil, administrative, and contractual remedies resulting from investigations of fraud or corruption related to procurement activities.".

(2) RELATIONSHIP TO PROMPT PAYMENT REQUIREMENTS.—The amendment made by paragraph (1) is not intended to impair or modify

procedures required by the provisions of chapter 39 of title 31, United States Code, and the regulations issued pursuant to such provisions of law, that relate to progress payment requests, as such procedures are in effect on the date of the enactment of this Act.

(g) Conforming and Clerical Amendments.—

(1) Reference.—Section 305 of the Federal Property and Administrative Services Act of 1949, as amended by subsection (a), is further amended in subsections (d) and (e) by striking out "subsection (a)" and inserting in lieu thereof "subsection (b)".

(2) Table of contents.—The table of contents in the first section of such Act is amended by striking out the item relating to section 305 and inserting in lieu thereof the following:

"Sec. 305. Contract financing.".

Subtitle B—Cost Principles

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2101. ALLOWABLE CONTRACT COSTS.

(a) Unallowability of Costs To Influence Local Legislative Bodies.—Subsection (e)(1)(B) of section 2324 of title 10, United States Code, is amended by striking out "or a State legislature" and inserting in lieu thereof ", a State legislature, or a legislative body of a political subdivision of a State".

(b) Comptroller General Evaluation.—Section 2324 of such title is amended by striking out subsection (l).

(c) Covered Contract Defined.—Subsection (m) of such section is amended to read as follows:

"(l)(1) In this section, the term 'covered contract' means a contract for an amount in excess of $500,000 that is entered into by the Department of Defense, except that such term does not include a fixed-price contract without cost incentives.

"(2) Effective on October 1 of each year that is divisible by 5, the amount set forth in paragraph (1) shall be adjusted to the amount that is equal to the fiscal year 1994 constant dollar value of the amount set forth. An amount, as so adjusted, that is not evenly divisible by $50,000 shall be rounded to the nearest multiple of $50,000. In the case of an amount that is evenly divisible by $25,000 but is not evenly divisible by $50,000, the amount shall be rounded to the next higher multiple of $50,000.".

SEC. 2102. CONTRACT PROFIT CONTROLS DURING EMERGENCY PERIODS.

(a) Repeal.—Section 2382 of title 10, United States Code, is repealed.

(b) Clerical Amendment.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2382.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2151. ALLOWABLE CONTRACT COSTS.

(a) Revision of Civilian Agency Provision To Ensure Uniform Treatment of Contract Costs.—Section 306 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256) is amended to read as follows:

"ALLOWABLE COSTS

"Sec. 306. (a) Indirect Cost That Violates a FAR Cost Principle.—The head of an executive agency shall require that a covered contract provide that if the contractor submits to the executive agency a proposal for settlement of indirect costs incurred by the contractor for any period after such costs have been accrued and if that proposal includes the submission of a cost which is unallowable because the cost violates a cost principle in the Federal Acquisition Regulation or an executive agency's supplement to the Federal Acquisition Regulation, the cost shall be disallowed.

"(b) Penalty for Violation of Cost Principle.—(1) If the agency head determines that a cost submitted by a contractor in its proposal for settlement is expressly unallowable under a cost principle referred to in subsection (a) that defines the allowability of specific selected costs, the agency head shall assess a penalty against the contractor in an amount equal to—

"(A) the amount of the disallowed cost allocated to covered contracts for which a proposal for settlement of indirect costs has been submitted; plus

"(B) interest (to be computed based on regulations issued by the agency head) to compensate the United States for the use of any funds which a contractor has been paid in excess of the amount to which the contractor was entitled.

"(2) If the agency head determines that a proposal for settlement of indirect costs submitted by a contractor includes a cost determined to be unallowable in the case of such contractor before the submission of such proposal, the agency head shall assess a penalty against the contractor in an amount equal to two times the amount of the disallowed cost allocated to covered contracts for which a proposal for settlement of indirect costs has been submitted.

"(c) Waiver of Penalty.—In accordance with the Federal Acquisition Regulation, the agency head may waive a penalty under subsection (b) in the case of a contractor's proposal for settlement of indirect costs when—

"(1) the contractor withdraws the proposal before the formal initiation of an audit of the proposal by the Federal Government and resubmits a revised proposal;

"(2) the amount of unallowable costs subject to the penalty is insignificant; or

"(3) the contractor demonstrates, to the contracting officer's satisfaction, that—

"(A) it has established appropriate policies and personnel training and an internal control and review system that provide assurances that unallowable costs subject to penalties are precluded from being included in the contractor's proposal for settlement of indirect costs; and

"(B) the unallowable costs subject to the penalty were inadvertently incorporated into the proposal.

"(d) Applicability of Contract Disputes Procedure to Disallowance of Cost and Assessment of Penalty.—An action of an agency head under subsection (a) or (b)—

"(1) shall be considered a final decision for the purposes of section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605); and

"(2) is appealable in the manner provided in section 7 of such Act.

"(e) Specific Costs Not Allowable.—(1) The following costs are not allowable under a covered contract:

"(A) Costs of entertainment, including amusement, diversion, and social activities, and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities).

"(B) Costs incurred to influence (directly or indirectly) legislative action on any matter pending before Congress, a State legislature, or a legislative body of a political subdivision of a State.

"(C) Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of any false certification) brought by the United States where the contractor is found liable or had pleaded nolo contendere to a charge of fraud or similar proceeding (including filing of a false certification).

"(D) Payments of fines and penalties resulting from violations of, or failure to comply with, Federal, State, local, or foreign laws and regulations, except when incurred as a result of compliance with specific terms and conditions of the contract or specific written instructions from the contracting officer authorizing in advance such payments in accordance with the Federal Acquisition Regulation.

"(E) Costs of membership in any social, dining, or country club or organization.

"(F) Costs of alcoholic beverages.

"(G) Contributions or donations, regardless of the recipient.

"(H) Costs of advertising designed to promote the contractor or its products.

"(I) Costs of promotional items and memorabilia, including models, gifts, and souvenirs.

"(J) Costs for travel by commercial aircraft which exceed the amount of the standard commercial fare.

"(K) Costs incurred in making any payment (commonly known as a 'golden parachute payment') which is—

"(i) in an amount in excess of the normal severance pay paid by the contractor to an employee upon termination of employment; and

"(ii) is paid to the employee contingent upon, and following, a change in management control over, or ownership of, the contractor or a substantial portion of the contractor's assets.

"(L) Costs of commercial insurance that protects against the costs of the contractor for correction of the contractor's own defects in materials or workmanship.

"(M) Costs of severance pay paid by the contractor to foreign nationals employed by the contractor under a service contract performed outside the United States, to the extent that the amount of severance pay paid in any case exceeds the amount paid in the industry involved under the customary or prevailing practice for firms in that industry providing similar services in the United States, as determined in accordance with the Federal Acquisition Regulation.

"(N) Costs of severance pay paid by the contractor to a foreign national employed by the contractor under a service contract performed in a foreign country if the termination of the employment of the foreign national is the result of the closing of, or the curtailment of activities at, a United States facility in that country at the request of the government of that country.

"(O) Costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State, to the extent provided in subsection (k).

"(2)(A) Subject to the availability of appropriations, the head of an executive agency, in awarding a covered contract, may waive in accordance with the Federal Acquisition Regulation the application of the provisions of paragraphs (1)(M) and (1)(N) to that contract if the agency head determines that—

"(i) the application of such provisions to the contract would adversely affect the continuation of a program, project, or activity that provides significant support services for employees of the executive agency posted outside the United States;

"(ii) the contractor has taken (or has established plans to take) appropriate actions within the contractor's control to minimize the amount and number of incidents of the payment of severance pay by the contractor to employees under the contract who are foreign nationals; and

"(iii) the payment of severance pay is necessary in order to comply with a law that is generally applicable to a significant number of businesses in the country in which the foreign national receiving the payment performed services under the contract or is necessary to comply with a collective bargaining agreement.

"(B) The head of the executive agency concerned shall include in the solicitation for a covered contract a statement indicating—

"(i) that a waiver has been granted under subparagraph (A) for the contract; or

"(ii) whether the agency head will consider granting such a waiver, and, if the agency head will consider granting a waiver, the criteria to be used in granting the waiver.

"(C) The agency head shall make the final determination regarding whether to grant a waiver under subparagraph (A) with respect to a covered contract before award of the contract.

"(3) The head of each executive agency shall implement this section with respect to contracts of that executive agency in accordance with the Federal Acquisition Regulation. The provisions of the Federal Acquisition applicable to the implementation of this section may include definitions, exclusions, limitations, and qualifications.

"(f) Required Regulations.—(1) The Federal Acquisition Regulation referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)) shall contain provisions on the allowability of contractor costs. Such provisions shall define in detail and in specific terms those costs which are unallowable, in whole or in part, under covered contracts. The regulations shall, at a minimum, clarify the cost principles applicable to contractor costs of the following:

"(A) Air shows.

"(B) Membership in civic, community, and professional organizations.

"(C) Recruitment.

"(D) Employee morale and welfare.

"(E) Actions to influence (directly or indirectly) executive branch action on regulatory and contract matters (other than costs incurred in regard to contract proposals pursuant to solicited or unsolicited bids).

"(F) Community relations.

"(G) Dining facilities.

"(H) Professional and consulting services, including legal services.

"(I) Compensation.

"(J) Selling and marketing.

"(K) Travel.

"(L) Public relations.

"(M) Hotel and meal expenses.

"(N) Expense of corporate aircraft.

"(O) Company-furnished automobiles.

"(P) Advertising.

"(2) The Federal Acquisition Regulation shall require that a contracting officer not resolve any questioned costs until the contracting officer has obtained—

"(A) adequate documentation with respect to such costs; and

"(B) the opinion of the executive agency's contract auditor on the allowability of such costs.

"(3) The Federal Acquisition Regulation shall provide that, to the maximum extent practicable, an executive agency's contract auditor be present at any negotiation or meeting with the contractor regarding a determination of the allowability of indirect costs of the contractor.

"(4) The Federal Acquisition Regulation shall require that all categories of costs designated in the report of an executive agency's contract auditor as questioned with respect to a proposal for settlement be resolved in such a manner that the amount of the individual questioned costs that are paid will be reflected in the settlement.

"(g) Applicability of Required Regulations to Subcontractors.—The regulations prescribed to carry out subsections (e) and (f)(1) shall require, to the maximum extent practicable, that such regulations apply to all subcontractors of a covered contract.

"(h) Contractor Certification Required.—(1) A proposal for settlement of indirect costs applicable to a covered contract shall include a certification by an official of the contractor that, to the best of the certifying official's knowledge and belief, all indirect costs included in the proposal are allowable. Any such certification shall be in a form prescribed by the agency head concerned.

"(2) The agency head concerned may, in an exceptional case, waive the requirement for certification under paragraph (1) in the case of any contract if the agency head—

"(A) determines in such case that it would be in the interest of the United States to waive such certification; and

"(B) states in writing the reasons for that determination and makes such determination available to the public.

"(i) Penalties for Submission of Cost Known as Not Allowable.—The submission to an executive agency of a proposal for settlement of costs for any period after such costs have been accrued that includes a cost that is expressly specified by statute or regulation as being unallowable, with the knowledge that such cost is unallowable, shall be subject to the provisions of section 287 of title 18, United States Code, and section 3729 of title 31, United States Code.

"(j) Contractor To Have Burden of Proof.—In a proceeding before a board of contract appeals, the United States Court of Federal Claims, or any other Federal court in which the reasonableness of indirect costs for which a contractor seeks reimbursement from the United States is in issue, the burden of proof shall be upon the contractor to establish that those costs are reasonable.

"(k) Proceeding Costs Not Allowable.—(1) Except as otherwise provided in this subsection, costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State are not allowable as reimbursable costs under a covered contract if the proceeding (A) relates to a violation of, or failure to comply with, a Federal or State statute or regulation, and (B) results in a disposition described in paragraph (2).

"(2) A disposition referred to in paragraph (1)(B) is any of the following:

"(A) In the case of a criminal proceeding, a conviction (including a conviction pursuant to a plea of nolo contendere) by reason of the violation or failure referred to in paragraph (1).

"(B) In the case of a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of contractor liability on the basis of the violation or failure referred to in paragraph (1).

"(C) In the case of any civil or administrative proceeding, the imposition of a monetary penalty by reason of the violation or failure referred to in paragraph (1).

"(D) A final decision—

"(i) to debar or suspend the contractor,

"(ii) to rescind or void the contract, or

"(iii) to terminate the contract for default,

by reason of the violation or failure referred to in paragraph (1).

"(E) A disposition of the proceeding by consent or compromise if such action could have resulted in a disposition described in subparagraph (A), (B), (C), or (D).

"(3) In the case of a proceeding referred to in paragraph (1) that is commenced by the United States and is resolved by consent or compromise pursuant to an agreement entered into by a contractor and the United States, the costs incurred by the contractor in connection with such proceeding that are otherwise not allowable as reimbursable costs under such paragraph may be allowed to the extent specifically provided in such agreement.

"(4) In the case of a proceeding referred to in paragraph (1) that is commenced by a State, the agency head that awarded the covered contract involved in the proceeding may allow the costs incurred by the contractor in connection with such proceeding as reimbursable costs if the agency head determines, under regulations prescribed by such agency head, that the costs were incurred as a result of (A) a specific term or condition of the contract, or (B) specific written instructions of the agency.

"(5)(A) Except as provided in subparagraph (C), costs incurred by a contractor in connection with a criminal, civil, or administrative proceeding commenced by the United States or a State in connection with a covered contract may be allowed as reimbursable costs under the contract if such costs are not disallowable under paragraph (1), but only to the extent provided in subparagraph (B).

"(B)(i) The amount of the costs allowable under subparagraph (A) in any case may not exceed the amount equal to 80 percent of the amount of the costs incurred, to the extent that such costs are determined to be otherwise allowable and allocable under the Federal Acquisition Regulations.

"(ii) Regulations issued for the purpose of clause (i) shall provide for appropriate consideration of the complexity of procurement litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States as a party, and such other factors as may be appropriate.

"(C) In the case of a proceeding referred to in subparagraph (A), contractor costs otherwise allowable as reimbursable costs under this paragraph are not allowable if (i) such proceeding involves the same contractor misconduct alleged as the basis of another criminal, civil, or administrative proceeding, and (ii) the costs of such other proceeding are not allowable under paragraph (1).

"(6) In this subsection:

"(A) The term 'proceeding' includes an investigation.

"(B) The term 'costs', with respect to a proceeding—

"(i) means all costs incurred by a contractor, whether before or after the commencement of any such proceeding; and

"(ii) includes—

"(I) administrative and clerical expenses;

"(II) the cost of legal services, including legal services performed by an employee of the contractor;

"(III) the cost of the services of accountants and consultants retained by the contractor; and

"(IV) the pay of directors, officers, and employees of the contractor for time devoted by such directors, officers, and employees to such proceeding.

"(C) The term 'penalty' does not include restitution, reimbursement, or compensatory damages.

"(l) COVERED CONTRACT DEFINED.—(1) In this section, the term 'covered contract' means a contract for an amount in excess of $500,000 that is entered into by an executive agency, except that such term does not include a fixed-price contract without cost incentives.

"(2) Effective on October 1 of each year that is divisible by 5, the amount set forth in paragraph (1) shall be adjusted to the amount that is equal to the fiscal year 1994 constant dollar value of the amount set forth. An amount, as so adjusted, that is not evenly divisible by $50,000 shall be rounded to the nearest multiple of $50,000. In the case of an amount that is evenly divisible by $25,000 but is not evenly divisible by $50,000, the amount shall be rounded to the next higher multiple of $50,000.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act is amended by striking out the item relating to section 306 and inserting in lieu thereof the following:

"Sec. 306. Allowable costs.".

PART III—ACQUISITIONS GENERALLY

SEC. 2191. TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS.

Section 24 of the Office of Federal Procurement Policy Act (41 U.S.C. 420) is repealed.

SEC. 2192. UNALLOWABILITY OF ENTERTAINMENT COSTS UNDER COVERED CONTRACTS.

Not later than 90 days after the date of the enactment of this Act, the Federal Acquisition Regulatory Council shall amend the cost principle in the Federal Acquisition Regulation that is set out in section 31.205-14 of title 48, Code of Federal Regulations, relating to unallowability of entertainment costs—

(1) by inserting in the cost principle a statement that costs made specifically unallowable under that cost principle are not allowable under any other cost principle; and

(2) by striking out "(but see 31.205-1 and 31.205-13)".

Subtitle C—Audit and Access to Records

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2201. CONSOLIDATION AND REVISION OF AUTHORITY TO EXAMINE RECORDS OF CONTRACTORS.

(a) AUTHORITY.—

(1) IN GENERAL.—Section 2313 of title 10, United States Code, is amended to read as follows:

"§ 2313. Examination of records of contractor

"(a) AGENCY AUTHORITY.—The head of an agency, acting through an authorized representative—

"(1) is entitled to inspect the plant and audit the records of—

"(A) a contractor performing a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of such contracts, made by that agency under this chapter; and

"(B) a subcontractor performing any cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable subcontract under a contract referred to in subparagraph (A) or under any combination of such contracts; and

"(2) shall, for the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted pursuant to section 2306a of this title with respect to a contract or subcontract, have the right to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;

"(C) pricing of the contract or subcontract; or

"(D) performance of the contract or subcontract.

"(b) LIMITATION ON PREAWARD AUDITS RELATING TO INDIRECT COSTS.—The head of an agency may not perform a preaward audit to evaluate proposed indirect costs under any contract, subcontract, or modification to be entered into in accordance with this chapter in any case in which the contracting officer determines that the objectives of the audit can reasonably be met by accepting the results of an audit conducted by any other department or agency of the Federal Government within one year preceding the date of the contracting officer's determination.

"(c) SUBPOENA POWER.—(1) The Director of the Defense Contract Audit Agency (or any successor agency) may require by subpoena the production of records of a contractor, access to which is provided to the Secretary of Defense or Secretary of a military department by subsection (a).

"(2) Any such subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of an appropriate United States district court.

"(3) The authority provided by paragraph (1) may not be redelegated.

"(4) The Director (or any successor official) shall submit an annual report to the Secretary of Defense on the exercise of such authority during the preceding year and the reasons why such authority was exercised in any instance. The Secretary shall forward a copy of each such report to the Committees on Armed Services of the Senate and House of Representatives.

"(d) COMPTROLLER GENERAL AUTHORITY.—(1) Except as provided in paragraph (2), each contract awarded after using procedures other than sealed bid procedures shall provide that the Comptroller General and his representatives are entitled to examine any records of the contractor, or any of its subcontractors, that directly pertain to, and involve transactions relating to, the contract or subcontract.

"(2) Paragraph (1) does not apply to a contract or subcontract with a foreign contractor or foreign subcontractor if the head of the agency concerned determines, with the concurrence of the Comptroller General or his designee, that the application of that paragraph to the contract or subcontract would not be in the public interest. However, the concurrence of the Comptroller General or his designee is not required—

"(A) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its records available for examination; and

"(B) where the head of the agency determines, after taking into account the price and availability of the property and services from United States sources, that the public interest would be best served by not applying paragraph (1).

"(3) Paragraph (1) may not be construed to require a contractor or subcontractor to create or maintain any record that the contractor or subcontractor does not maintain in the ordinary course of business or pursuant to another provision of law.

"(e) LIMITATION.—The right of the head of an agency under subsection (a), and the right of the Comptroller General under subsection (d), with respect to a contract or subcontract shall expire three years after final payment under such contract or subcontract.

"(f) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section is inapplicable with respect to the following contracts:

"(1) Contracts for utility services at rates not exceeding those established to apply uniformly to the public, plus any applicable reasonable connection charge.

"(g) RECORDS DEFINED.—In this section, the term 'records' includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.".

(2) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 137 of title 10, United States Code, is amended to read as follows:

"2313. Examination of records of contractor.".

(b) REPEAL OF SUPERSEDED PROVISION.—

(1) REPEAL.—Section 2406 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2406.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2251. AUTHORITY TO EXAMINE RECORDS OF CONTRACTORS.

(a) AUTHORITY.—

(1) IN GENERAL.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1251(a), is further amended by inserting after section 304A the following new section:

"EXAMINATION OF RECORDS OF CONTRACTOR

"SEC. 304B. (a) AGENCY AUTHORITY.—The head of an executive agency, acting through an authorized representative—

"(1) is entitled to inspect the plant and audit the records of—

"(A) a contractor performing a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of such contracts, made by that executive agency under this title; and

"(B) a subcontractor performing any cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable subcontract under a contract referred to in subparagraph (A) or under any combination of such contracts; and

"(2) shall, for the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted pursuant to section 304A with respect to a contract or subcontract, have the right to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;

"(C) pricing of the contract or subcontract; or

"(D) performance of the contract or subcontract.

"(b) LIMITATION ON PREAWARD AUDITS RELATING TO INDIRECT COSTS.—The agency head may not perform a preaward audit to evaluate proposed indirect costs under any contract, subcontract, or modification to be entered into in accordance with this title in any case in which the contracting officer determines that the objectives of the audit can reasonably be met by accepting the results of an audit conducted by any other department or agency of the Federal Government within one year preceding the date of the contracting officer's determination.

"(c) SUBPOENA POWER.—(1) The agency head may require by subpoena the production of records of a contractor, access to which is provided by subsection (a).

"(2) Any such subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of an appropriate United States district court.

"(3) The authority provided by paragraph (1) may not be delegated.

"(4) In the year following a year in which the head of an executive agency exercises the authority provided in paragraph (1), the agency head shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives a report on the exercise of such authority during such preceding year and the reasons why such authority was exercised in any instance.

"(d) COMPTROLLER GENERAL AUTHORITY.—(1) Except as provided in paragraph (2), each contract awarded after using procedures other than sealed bid procedures shall provide that the Comptroller General and his representatives are entitled to examine any records of the contractor, or any of its subcontractors, that directly pertain to, and involve transactions relating to, the contract or subcontract.

"(2) Paragraph (1) does not apply to a contract or subcontract with a foreign contractor or foreign subcontractor if the agency head concerned determines, with the concurrence of the Comptroller General or his designee, that the application of that paragraph to the contract or subcontract would not be in the public interest. However, the concurrence of the Comptroller General or his designee is not required—

"(A) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its records available for examination; and

"(B) where the agency head determines, after taking into account the price and availability of the property and services from United States sources, that the public interest would be best served by not applying paragraph (1).

"(3) Paragraph (1) may not be construed to require a contractor or subcontractor to create or maintain any record that the contractor or subcontractor does not maintain in the ordinary course of business or pursuant to another provision of law.

"(e) LIMITATION.—The right of an agency head under subsection (a), and the right of the Comptroller General under subsection (d), with respect to a contract or subcontract shall expire three years after final payment under such contract or subcontract.

"(f) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section is inapplicable with respect to the following contracts:

"(1) CONTRACTS.—For utility services at rates not exceeding those established to apply uniformly to the public, plus any applicable reasonable connection charge.

"(g) RECORDS DEFINED.—In this section, the term 'records' includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.".

(2) CLERICAL AMENDMENT.—The table of contents in the first section of such Act, as amended by section 1251(b), is further amended by inserting after the item relating to section 304A the following:

"Sec. 304B. Examination of records of contractor.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254) is amended by striking out subsection (c).

Subtitle D—Cost Accounting Standards

SEC. 2301. EXCEPTIONS TO COVERAGE.

Section 26(f)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(2)) is amended—

(1) by inserting "(A)" after "(2)";

(2) by striking out ", other than contracts or subcontracts" and all that follows and inserting in lieu thereof a period; and

(3) by inserting at the end the following:

"(B) Subparagraph (A) does not apply to the following contracts or subcontracts:

"(i) Contracts or subcontracts where the price negotiated is based on established catalog or market prices of commercial items sold in substantial quantities to the general public.

"(ii) Contracts or subcontracts where the price negotiated is based on prices set by law or regulation.

"(iii) Any other firm fixed-price contract or subcontract for commercial items which is excepted from the requirement to provide cost or pricing data pursuant to subsection (b) or (d) of section 2306a of title 10, United States Code, or subsection (b) or (d) of section 304A of the Federal Property and Administrative Services Act of 1949.

"(C) In this paragraph, the term 'subcontract' includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor.".

SEC. 2302. REPEAL OF OBSOLETE DEADLINE REGARDING PROCEDURAL REGULATIONS FOR THE COST ACCOUNTING STANDARDS BOARD.

Section 26(f)(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(3)) is amended in the first sentence by striking out "Not later than 180 days after the date of the enactment of this section, the Administrator" and inserting in lieu thereof "The Administrator".

Subtitle E—Administration of Contract Provisions Relating to Price, Delivery, and Product Quality

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2401. PROCUREMENT OF CRITICAL AIRCRAFT AND SHIP SPARE PARTS; QUALITY CONTROL.

(a) REPEAL.—Section 2383 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2383.

SEC. 2402. CONTRACTOR GUARANTEES REGARDING WEAPON SYSTEMS.

Section 2403(h) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) The regulations shall include the following:

"(A) Guidelines for negotiating contractor guarantees that are reasonable and cost effective, as determined on the basis of the likelihood of defects and the estimated cost of correcting such defects.

"(B) Procedures for administering contractor guarantees.

"(C) Guidelines for determining the cases in which it may be appropriate to waive the requirements of this section.".

PART II—ACQUISITIONS GENERALLY

SEC. 2451. SECTION 3737 OF THE REVISED STATUTES: EXPANSION OF AUTHORITY TO PROHIBIT SETOFFS AGAINST ASSIGNEES; REORGANIZATION OF SECTION; REVISION OF OBSOLETE PROVISIONS.

Section 3737 of the Revised Statutes (41 U.S.C. 15) is amended to read as follows:

"SEC. 3737. (a) No contract or order, or any interest therein, shall be transferred by the party to whom such contract or order is given to any other party, and any such transfer shall cause the annulment of the contract or order transferred, so far as the United States is concerned. All rights of action, however, for any breach of such contract by the contracting parties, are reserved to the United States.

"(b) The provisions of subsection (a) shall not apply in any case in which the moneys due or to become due from the United States or from any agency or department thereof, under a contract providing for payments aggregating $1,000 or more, are assigned to a bank, trust company, or other financing institution, including any Federal lending agency, provided:

"(1) That, in the case of any contract entered into after October 9, 1940, no claim shall be assigned if it arises under a contract which forbids such assignment.

"(2) That, unless otherwise expressly permitted by such contract, any such assignment shall cover all amounts payable under such contract and not already paid, shall not be made to more than one party, and shall not be subject to further assignment, except that any such assignment may be made to one party as agent or trustee for two or more parties participating in such financing.

"(3) That, in the event of any such assignment, the assignee thereof shall file written notice of the assignment together with a true copy of the instrument of the assignment with—

"(A) the contracting officer or the head of his department or agency;

"(B) the surety or sureties upon the bond or bonds, if any, in connection with such contract; and

"(C) the disbursing officer, if any, designated in such contract to make payment.

"(c) Notwithstanding any law to the contrary governing the validity of assignments, any assignment pursuant to this section shall constitute a valid assignment for all purposes.

"(d) In any case in which moneys due or to become due under any contract are or have been assigned pursuant to this section, no liability of any nature of the assignor to the United States or any department or agency thereof, whether arising from or independently of such contract, shall create or impose any liability on the part of the assignee to make restitution, refund, or repayment to the United States of any amount heretofore since July 1, 1950, or hereafter received under the assignment.

"(e) Any contract of the Department of Defense, the General Services Administration, the Department of Energy, or any other department or agency of the United States designated by the President, except any such contract under which full payment has been made, may, upon a determination of need by the President, provide or be amended without consideration to provide that payments to be made to the assignee of any moneys due or to become due under such contract shall not be subject to reduction or setoff. Each such determination of need shall be published in the Federal Register.

"(f) If a provision described in subsection (e) or a provision to the same general effect has been at any time heretofore or is hereafter included or inserted in any such contract, payments to be made thereafter to an assignee of any moneys due or to become due under such contract shall not be subject to reduction or setoff for any liability of any nature of the assignor to the United States or any department or agency thereof which arises independently of such contract, or hereafter for any liability of the assignor on account of—

"(1) renegotiation under any renegotiation statute or under any statutory renegotiation article in the contract;

"(2) fines;

"(3) penalties (which term does not include amounts which may be collected or withheld from the assignor in accordance with or for failure to comply with the terms of the contract); or

"(4) taxes, social security contributions, or the withholding or non withholding of taxes or social security contributions, whether arising from or independently of such contract.

"(g) Except as herein otherwise provided, nothing in this section shall be deemed to affect or impair rights of obligations heretofore accrued.".

SEC. 2452. REPEAL OF REQUIREMENT FOR DEPOSIT OF CONTRACTS WITH GAO.

Section 3743 of the Revised Statutes (41 U.S.C. 20) is repealed.

Subtitle F—Claims and Disputes

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2501. CERTIFICATION OF CONTRACT CLAIMS.

(a) DoD CERTIFICATION REQUIREMENT IN CONFLICT WITH GOVERNMENTWIDE REQUIREMENT.—

(1) INAPPLICABILITY OF REQUIREMENT TO CONTRACT CLAIMS.—Section 2410 of title 10, United States Code, is amended to read as follows:

"§ 2410. Requests for equitable adjustment or other relief: certification

"(a) CERTIFICATION REQUIREMENT.—A request for equitable adjustment to contract terms or request for relief under Public Law 85–804 (50 U.S.C. 1431 et seq.) that exceeds the simplified acquisition threshold may not be paid unless a person authorized to certify the request on behalf of the contractor certifies, at the time the request is submitted, that—

"(1) the request is made in good faith, and

"(2) the supporting data are accurate and complete to the best of that person's knowledge and belief.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2410 and inserting in lieu thereof the following:

"2410. Requests for equitable adjustment or other relief: certification.".

(b) RESTRICTION ON LEGISLATIVE PAYMENT OF CLAIMS.—Section 2410 of title 10, United States Code, as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(b) RESTRICTION ON LEGISLATIVE PAYMENT OF CLAIMS.—In the case of a contract of an agency named in section 2303(a) of this title, no provision of a law enacted after September 30, 1994, that directs the payment of a particular claim under such contract, a particular request for equitable adjustment to any term of such contract, or a particular request for relief under Public Law 85–804 (50 U.S.C. 1431 et seq.) regarding such contract may be implemented unless such provision of law—

"(1) specifically refers to this subsection; and

"(2) specifically states that this subsection does not apply with respect to the payment directed by that provision of law.".

(c) DEFINITION.—Section 2410, as amended by subsections (a) and (b), is further amended by adding at the end the following:

"(c) DEFINITION.—In this section, the term 'simplified acquisition threshold' has the meaning given that term in section 2302(4) of this title.".

(d) REPEAL OF RELATED PROVISIONS.—

(1) CERTIFICATION REGULATIONS FOR CONTRACT CLAIMS EXCEEDING $100,000.—

(A) REPEAL.—Section 2410e of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2410e.

(2) CONFORMING REPEAL.—Section 813(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484, 106 Stat. 2453), is repealed.

SEC. 2502. SHIPBUILDING CLAIMS.

(a) LIMITATION ON PERIOD FOR SUBMISSION.—

(1) INCREASED PERIOD.—Subsection (a) of section 2405 of title 10, United States Code, is amended—

(A) by striking out "after December 7, 1983," and inserting in lieu thereof "on or after the date of the enactment of the Federal Acquisition Streamlining Act of 1994"; and

(B) by striking out "18 months" and inserting in lieu thereof "6 years".

(2) SAVINGS PROVISION.—Notwithstanding the 6-year period provided in subsection (a) of section 2405 of title 10, United States Code, as amended by paragraph (1), the period applicable under such subsection in the case of a shipbuilding contract entered into after December 7, 1983, and before the date of the enactment of the Federal Acquisition Streamlining Act of 1994 shall continue to be 18 months.

(b) RESUBMISSION WITH CORRECTED CERTIFICATION.—Subsection (c) of such section is repealed.

PART II—ACQUISITIONS GENERALLY

SEC. 2551. CLAIMS JURISDICTION OF UNITED STATES DISTRICT COURTS AND THE UNITED STATES COURT OF FEDERAL CLAIMS.

(a) CONCURRENT JURISDICTION OF UNITED STATES DISTRICT COURTS UNDER THE LITTLE TUCKER ACT.—Subsection (a) of section 1346 of title 28, United States Code, is amended to read as follows:

"(a)(1) The district courts shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of any civil action against the United States for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority or any sum alleged to have been excessive or in any manner wrongfully collected under the internal-revenue laws.

"(2)(A) Except as provided in subparagraph (B), the district courts shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of any other civil action or claim against the United States, not exceeding $10,000 in amount, founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort.

"(B) The district courts shall not have jurisdiction over any civil action or claim against the United States or any Federal entity which relates in any manner to a contract to which the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.) applies, including a claim that seeks to establish the existence or nonexistence of such a contract, seeks to establish that such a contract is void, or seeks to determine and construe the terms of such a contract. The district courts do not have jurisdiction over any civil action or claim described in the preceding sentence pursuant to section 1331, 1334, or 1346(a)(2)(B) of this title, any provision of law giving a Federal entity the right to sue or be sued in its own name, or any other provision of law.".

(b) JURISDICTION OF THE UNITED STATES COURT OF FEDERAL CLAIMS UNDER THE TUCKER ACT.—Section 1491 of title 28, United States Code, as amended by section 1422, is further amended by inserting after subsection (c) the following:

"(d)(1) The United States Court of Federal Claims shall have jurisdiction over any civil action or claim against the United States which relates in any manner to a contract to which the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq,) applies, including a civil action or claim that seeks to establish the existence or nonexistence of such a contract, seeks to establish that such contract is void, or seeks to determine and construe the terms of any such contract.

"(2) The jurisdiction of the United States Court of Federal Claims is, pursuant to section 1346(a)(2)(B) of this title, exclusive as to the district courts of the United States.".

SEC. 2552. CONTRACT DISPUTES ACT IMPROVEMENTS.

(a) PERIOD FOR FILING CLAIMS.—

(1) SIX-YEAR LIMITATION.—Section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) is amended in subsection (a) by inserting after the second sentence the following: "Each claim by a contractor against the government relating to a contract and each claim by the government against a contractor relating to a contract shall be submitted within 6 years after the occurrence of the event or events giving rise to the claim. The preceding sentence does not apply to a claim by the government against a contractor that is based on a claim by the contractor involving fraud.".

(2) LIMITATION ON APPLICABILITY TO EXISTING CONTRACTS.—Notwithstanding the third sentence of section 6(a) of the Contract Disputes Act of 1978, as added by paragraph (1), if a contract in existence on the date of the enactment of this Act requires that a claim referred to in that sentence be submitted earlier than 6 years after the occurrence of the event or events giving rise to the claim, then the claim shall be submitted within the period required by the contract. The preceding sentence does not apply to a claim by the Federal Government against a contractor that is based on a claim by the contractor involving fraud.

(b) INCREASED THRESHOLD FOR CERTIFICATION, DECISION, AND NOTIFICATION REQUIREMENTS.—Subsection (c) of such section is amended by striking out "$50,000" each place it appears and inserting in lieu thereof "$100,000".

(c) INCREASED MAXIMUM FOR APPLICABILITY OF ACCELERATED PROCEDURES.—Section 8(f) of the Contract Disputes Act of 1978 (41 U.S.C. 607(f)) is amended by striking out "$50,000" in the first sentence and inserting in lieu thereof "$150,000".

(d) INCREASED MAXIMUM FOR APPLICABILITY OF SMALL CLAIMS PROCEDURE.—Section 9(a) of the Contract Disputes Act of 1978 (41

U.S.C. 608(a)) is amended by striking out "$10,000" in the first sentence and inserting in lieu thereof "$50,000".

(e) REDUCED PERIOD FOR FILING ACTION IN COURT OF FEDERAL CLAIMS.—Section 10(a)(3) of such Act (41 U.S.C. 609(a)(3)) is amended by striking out "twelve months" and inserting in lieu thereof "90 days".

SEC. 2553. EXTENSION OF ALTERNATIVE DISPUTE RESOLUTION AUTHORITY.

(a) EXTENSION OF AUTHORITY.—Section 6(e) of the Contracts Disputes Act of 1978 (41 U.S.C. 605(e)) is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 1999".

(b) AVAILABILITY OF PROCEDURES TO SMALL BUSINESS GOVERNMENT CONTRACTORS.—Section 6(e) of such Act is amended by inserting after the first sentence the following: "In any case in which the contracting officer rejects a contractor's request for alternative dispute resolution proceedings, the contracting officer shall provide the contractor with a written explanation, citing one or more of the conditions in section 572(b) of title V, United States Code, or such other specific reasons that alternative dispute resolution procedures are inappropriate for the resolution of the dispute. In any case in which a contractor rejects a request of an agency for alternative dispute resolution proceedings, the contractor shall inform the agency in writing of the contractor's specific reasons for rejecting the request.".

SEC. 2554. EXPEDITED RESOLUTION OF CONTRACT ADMINISTRATION COMPLAINTS.

(a) REGULATIONS REQUIRED.—The Federal Acquisition Regulation shall include provisions that require a contracting officer—

(1) to make every reasonable effort to respond in writing within 30 days to any written request made to a contracting officer with respect to a matter relating to the administration of a contract that is received from a small business concern; and

(2) in the event that the contracting officer is unable to reply within the 30-day period, to transmit to the contractor within such period a written notification of a specific date by which the contracting officer expects to respond.

The provisions shall not apply to a request for a contracting officer's decision under the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

(b) RULE OF CONSTRUCTION.—Nothing in this provision shall be considered as creating any rights under the Contract Disputes Act (41 U.S.C. 601 et seq.).

(c) DEFINITION.—In this section, the term "small business concern" means a business concern that meets the requirements of section 3(a) of the Small Business Act (15 U.S.C. 632(a)) and the regulations promulgated pursuant to that section.

SEC. 2555. AUTHORITY FOR DISTRICT COURTS TO OBTAIN ADVISORY OPINIONS FROM BOARDS OF CONTRACT APPEALS IN CERTAIN CASES.

Section 10 of the Contract Disputes Act of 1978 (41 U.S.C. 609) is amended by adding at the end the following new paragraph:

"(f)(1) Whenever an action involving an issue described in paragraph (2) is pending in a district court of the United States, the district court may request a board of contract appeals to provide the court with an advisory opinion on the matters of contract interpretation at issue.

"(2) An issue referred to in paragraph (1) is any issue that could be the proper subject of a final decision of a contracting officer appealable under this Act.

"(3) A district court shall direct any request under paragraph (1) to the board of contract appeals having jurisdiction under this Act to adjudicate appeals of contract claims under the contract or contracts being interpreted by the court.

"(4) Within ninety days after receiving a request for an advisory opinion under paragraph (1), a board of contract appeals shall provide the advisory opinion to the district court making the request.".

TITLE III—SERVICE SPECIFIC AND MAJOR SYSTEMS STATUTES

Subtitle A—Major Systems Statutes

SEC. 3001. REQUIREMENT FOR INDEPENDENT COST ESTIMATES AND MANPOWER ESTIMATES BEFORE DEVELOPMENT OR PRODUCTION.

(a) CONTENT AND SUBMISSION OF ESTIMATES.—Section 2434 of title 10, United States Code, is amended by striking out subsection (b) and inserting in lieu thereof the following:

"(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing the content and submission of the estimates required by subsection (a). The regulations shall require—

"(1) that the independent estimate of the cost of a program—

"(A) be prepared by an office or other entity that is not under the supervision, direction, or control of the military department, Defense Agency, or other component of the Department of Defense that is directly responsible for carrying out the development or acquisition of the program; and

"(B) include all costs of development, procurement, and operations and support, without regard to funding source or management control; and

"(2) that the manpower estimate include the total personnel required to train for, operate, maintain, and support the program upon full operational deployment.".

(b) TERMINOLOGY CORRECTION.—Subsection (a) of such section is amended by striking out "full-scale engineering development" and inserting in lieu thereof "engineering and manufacturing development".

SEC. 3002. ENHANCED PROGRAM STABILITY.

(a) BASELINE DESCRIPTIONS AND DEVIATION REPORTING.—Section 2435 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out paragraph (2); and

(B) in paragraph (1)—

(i) by striking out "(1)"; and

(ii) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing—

"(1) the content of baseline descriptions, which shall include the program cost, the program schedule, and a program performance description;

"(2) the submission of reports on deviations of a program from the baseline description by the program manager to the Secretary of the military department concerned and the Under Secretary of Defense for Acquisition and Technology;

"(3) procedures for review of deviation reports within the Department of Defense; and

"(4) procedures for submission and approval of revised baseline descriptions.

"(c) BASELINE DESCRIPTION REQUIRED BEFORE OBLIGATION OF FUNDS.—(1) Except as provided in paragraph (2), no amount appropriated or otherwise made available to the Department of Defense may be obligated for a major defense acquisition program before a baseline description for the program is approved in accordance with the procedures prescribed pursuant to subsection (b)(4).

"(2) An obligation otherwise prohibited by paragraph (1) may be incurred if approved in advance by the Under Secretary of Defense for Acquisition and Technology.".

(b) TERMINOLOGY CORRECTION.—Subsection (a)(1) of such section, as redesignated by subsection (a)(1)(B)(ii), is amended by striking out "full-scale engineering development" and inserting in lieu thereof "engineering and manufacturing development".

SEC. 3003. REPEAL OF REQUIREMENT TO DESIGNATE CERTAIN MAJOR DEFENSE ACQUISITION PROGRAMS AS DEFENSE ENTERPRISE PROGRAMS.

Section 809 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2430 note) is amended—

(1) by striking out subsection (d); and

(2) by redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

SEC. 3004. REPEAL OF REQUIREMENT FOR COMPETITIVE PROTOTYPING IN MAJOR PROGRAMS.

(a) REPEAL.—Section 2438 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by striking out the item relating to section 2438.

SEC. 3005. REPEAL OF REQUIREMENT FOR COMPETITIVE ALTERNATIVE SOURCES IN MAJOR PROGRAMS.

(a) REPEAL.—Section 2439 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by striking out the item relating to section 2439.

Subtitle B—Testing Statutes

SEC. 3011. DIRECTOR OF OPERATIONAL TEST AND EVALUATION TO REPORT DIRECTLY TO SECRETARY OF DEFENSE.

Section 139(c) of title 10, United States Code, is amended by inserting after "(c)" the following: "The Director reports directly, without intervening review or approval, to the Secretary of Defense and Deputy Secretary of Defense personally.".

SEC. 3012. RESPONSIBILITY OF DIRECTOR OF OPERATIONAL TEST AND EVALUATION FOR LIVE FIRE TESTING.

(a) CONDUCT OF LIVE FIRE TESTING.—Subsection (b) of section 139 of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(6) conduct the live fire testing activities of the Department of Defense provided for under section 2366 of this title.".

(b) ANNUAL REPORT ON LIVE FIRE TESTING.—Subsection (f) of such section is amended by inserting "(including live fire testing activities)" in the first sentence after "operational test and evaluation activities".

SEC. 3013. REQUIREMENT FOR UNCLASSIFIED VERSION OF ANNUAL REPORT ON OPERATIONAL TEST AND EVALUATION.

Section 139(f) of title 10, United States Code, is amended by inserting after the second sentence the following new sentence: "If the Director submits the report to Congress in a classified form, the Director shall concurrently submit an unclassified version of the report to Congress.".

Subtitle C—Service Specific Laws

SEC. 3021. GRATUITOUS SERVICES OF OFFICERS OF CERTAIN RESERVE COMPONENTS.

Section 279 of title 10, United States Code, is amended—

(1) by striking out "Notwithstanding" and inserting in lieu thereof "(a) ACCEPTANCE BY SECRETARY OF A MILITARY DEPARTMENT.—Notwithstanding"; and

(2) by adding at the end the following new subsection:

"(b) ACCEPTANCE BY SECRETARY OF DEFENSE.—Notwithstanding section 1342 of title 31, the Secretary of Defense may accept the gratuitous services of an officer of a reserve component (other than an officer of the Army National Guard of the United States or the Air National Guard of the United States) in consultation upon matters relating to the armed forces.".

SEC. 3022. AUTHORITY TO RENT SAMPLES, DRAWINGS, AND OTHER INFORMATION TO OTHERS.

Subchapter V of chapter 148 of title 10, United States Code, is amended in section 2541(a) by inserting "rent," after "sell," each place it appears in paragraphs (1) and (2).

SEC. 3023. CIVIL RESERVE AIR FLEET.

(a) DEFINITIONS.—Section 9511 of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting "'civil aircraft'," after "'person',";

(B) by striking out "meaning" and inserting in lieu thereof "meanings"; and

(C) by striking out "(49 U.S.C. 1301)" and inserting in lieu thereof "(49 U.S.C. App. 1301)";

(2) in paragraph (2), by striking out "passenger-cargo" and inserting in lieu thereof "passenger cargo";

(3) in paragraph (3), by striking out "cargo-capable" and inserting in lieu thereof "cargo capable";

(4) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) The term 'cargo convertible aircraft' means a passenger aircraft equipped or designed so that all or substantially all of the main deck of the aircraft can be readily converted for the carriage of property or mail.";

(5) by striking out paragraph (6);

(6) by redesignating paragraph (7) as paragraph (6);

(7) by redesignating paragraph (8) as paragraph (7) and—

(A) in subparagraph (A) of such paragraph, by inserting "under section 9512 of this title" after "and who contracts with the Secretary";

(B) by striking out "or" at the end of such subparagraph (A); and

(C) by inserting before the period at the end of such paragraph the following: ", or (C) who owns or controls existing aircraft, or will own or control new aircraft, and who contractually commits all or some of such aircraft to the Civil Reserve Air Fleet";

(8) by redesignating paragraphs (9), (10), (11), and (12) as paragraphs (8), (9), (10), and (11), respectively; and

(9) in paragraph (11), as so redesignated—

(A) by striking out "interoperability" and inserting in lieu thereof "compatibility"; and

(B) by striking out "a cargo-convertible, cargo-capable, or passenger-cargo combined aircraft" and inserting in lieu thereof "an aeromedical aircraft or a cargo convertible, cargo capable, or passenger cargo combined aircraft".

(b) CONSOLIDATION OF PROVISIONS RELATING TO CONTRACTUAL COMMITMENT OF AIRCRAFT.—Chapter 931 of such title is amended—

(1) by redesignating subsections (b) and (c) of section 9512 as subsections (c) and (d), respectively;

(2) by redesignating subsection (a) of section 9513 as subsection (b), transferring such subsection (as so redesignated) to section 9512, and inserting such subsection after subsection (a);

(3) by redesignating subsection (b) of section 9513 as subsection (e) and transferring such subsection (as so redesignated) to the end of section 9512;

(4) in subsection (c) of section 9512, as redesignated by paragraph (1), by striking out "the terms required by section 9513 of this title and";

(5) in subsection (e) of section 9512, as redesignated and transferred to such section by paragraph (3), by striking out "under section 9512 of this title" and inserting in lieu thereof "entered into under this section"; and

(6) by striking out the heading of section 9513.

(c) USE OF MILITARY INSTALLATIONS BY CONTRACTORS.—

(1) AUTHORITY.—Such chapter, as amended by subsection (b), is further amended by adding at the end the following new section 9513:

"§ 9513. Use of military installations by Civil Reserve Air Fleet contractors

"(a) CONTRACT AUTHORITY.—(1) The Secretary of the Air Force—

"(A) may, by contract entered into with any contractor, authorize such contractor to use one or more Air Force installations designated by the Secretary; and

"(B) with the consent of the Secretary of another military department, may, by contract entered into with any contractor, authorize the contractor to use one or more installations, designated by the Secretary of the Air Force, that is under the jurisdiction of the Secretary of such other military department.

"(2) The Secretary of the Air Force may include in the contract such terms and conditions as the Secretary determines appropriate to promote the national defense or to protect the interests of the United States.

"(b) PURPOSES OF USE.—A contract entered into under subsection (a) may authorize use of a designated installation as a weather alternate, a service stop not involving the enplaning or deplaning of passengers or cargo, or, in the case of an installation within the United States, for other commercial purposes. Notwithstanding any other provision of the law, the Secretary may establish different levels and types of uses for different installations for commercial operations not required by the Department of Defense and may provide in contracts under subsection (a) for different levels and types of uses by different contractors.

"(c) DISPOSITION OF PAYMENTS FOR USE.—Notwithstanding any other provision of law, amounts collected from the contractor for landing fees, services, supplies, or other charges authorized to be collected under the contract shall be credited to the appropriations of the armed forces having jurisdiction over the military installation to which the contract pertains. Amounts so credited to an appropriation shall be available for obligation for the same period as the appropriation to which credited.

"(d) HOLD HARMLESS REQUIREMENT.—A contract entered into under subsection (a) shall provide that the contractor agrees to indemnify and hold harmless the United States from all actions, suits, or claims of any sort resulting from, relating to, or arising out of any activities conducted, or services or supplies furnished, in connection with the contract.

"(e) RESERVATION OF RIGHT TO EXCLUDE CONTRACTOR.—A contract entered into under subsection (a) shall provide that the Secretary or, in the case of an installation under the jurisdiction of an armed force other than the Air Force, the Secretary concerned may at any time and without prior notice deny access to an installation designated under the contract if military exigencies require such action.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 9513 and inserting in lieu thereof the following:

"9513. Use of military installations by Civil Reserve Air Fleet contractors.".

SEC. 3024. EXCHANGE OF PERSONNEL.

(a) EXCHANGE AUTHORITY.—Subchapter II of chapter 138 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2350k. Exchange of personnel

"(a) INTERNATIONAL EXCHANGE AGREEMENTS AUTHORIZED.—Under regulations prescribed by the Secretary of Defense, the Secretary and the secretaries of the military departments are each authorized to enter into agreements with the governments of foreign countries for the exchange of military and civilian personnel of the Department of Defense and military and civilian personnel of the defense departments or ministries of such foreign governments.

"(b) ASSIGNMENT OF PERSONNEL.—Pursuant to such agreements, personnel of the foreign defense departments or ministries may be assigned to positions in the Department of Defense, and personnel of the Department of Defense may be assigned to positions in foreign defense departments or ministries. Agreements for the exchange of personnel engaged in research and development activities may provide for assignments to positions in private industry that support the defense departments or ministries. The specific positions and the individuals to be assigned must be acceptable to both the sending government and the host government.

"(c) RECIPROCITY OF PERSONNEL QUALIFICATIONS REQUIRED.—Each government shall be required under an agreement authorized by subsection (a) to provide personnel having qualifications, training, and skills that are essentially equal to those of the personnel provided by the other government.

"(d) PAYMENT OF PERSONNEL COSTS.—Each government shall pay the salary, per diem, cost of living, travel, cost of language or other training, and other costs (except for cost of temporary duty directed by the host government and costs incident to the use of host government facilities in the performance of assigned duties) for its own personnel in accordance with the laws and regulations of such government that pertain to such matters.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter II of such chapter is amended by adding at the end the following new item:

"2350k. Exchange of personnel.".

SEC. 3025. SCIENTIFIC INVESTIGATION AND RESEARCH FOR THE NAVY.

(a) REPEAL.—Section 7203 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 631 of such title is amended by striking out the item relating to section 7203.

SEC. 3026. CONSTRUCTION OF COMBATANT AND ESCORT VESSELS AND ASSIGNMENT OF VESSEL PROJECTS.

(a) REPEAL OF OBSOLETE AND INTERNALLY INCONSISTENT PROVISIONS.—Section 7299a of title 10, United States Code, is amended—

(1) by striking out subsection (a); and

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(b) CONFORMING AMENDMENT.—Subsection (b) of such section, as redesignated by subsection (a)(2), is amended in paragraph (2) by striking out "subsection (a) or".

SEC. 3027. REPEAL OF REQUIREMENT FOR CONSTRUCTION OF VESSELS ON PACIFIC COAST.

(a) REPEAL.—Section 7302 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7302.

SEC. 3028. AUTHORITY TO TRANSFER BY GIFT A VESSEL STRICKEN FROM NAVAL VESSEL REGISTER.

Section 7306(a)(1) of title 10, United States Code, is amended by inserting "Territory," after "State,".

SEC. 3029. NAVAL SALVAGE FACILITIES.

Chapter 637 of title 10, United States Code, is amended—

(1) in section 7361—

(A) in subsection (a), by inserting "AUTHORITY TO PROVIDE FACILITIES BY CONTRACT OR OTHERWISE.—" after "(a)";

(B) in subsection (b), by inserting "CONTRACTS AFFECTING THE DEPARTMENT OF TRANSPORTATION.—" after "(b)"; and

(C) by striking out subsection (c) and inserting in lieu thereof the following new subsection (c):

"(c) LIMITATION ON TERM CONTRACTS.—Term contracts may be entered into for purposes of this section only after—

"(1) it has been demonstrated to the satisfaction of the Secretary of the Navy that available commercial salvage facilities are inadequate to meet national defense requirements; and

"(2) the Secretary of the Navy determines that adequate public notice of intent to exercise the authority under this subsection has been provided.";

(2) by designating the text of section 7362 as subsection (d) and transferring such text, as so designated, to the end of section 7361 of title 10, United States Code;

(3) in subsection (d) of section 7361 of such title, as so designated and transferred, by inserting before "The Secretary" the following: "COMMERCIAL USE OF NAVAL VESSELS AND EQUIPMENT.—";

(4) by designating the text of section 7363 as subsection (e) and transferring such text, as so designated, to the end of section 7361 of title 10, United States Code;

(5) in subsection (e) of section 7361 of such title, as so designated and transferred, by inserting before "Before any salvage vessel" the following: "CONDITIONS FOR TRANSFER OF EQUIPMENT.—";

(6) by designating the text of section 7365 as subsection (f) and transferring such text, as so designated, to the end of section 7361 of title 10, United States Code;

(7) in subsection (f) of section 7361 of such title, as so designated and transferred, by inserting before "The Secretary" the following: "SETTLEMENT OF CLAIMS.—";

(8) by designating the text of section 7367 as subsection (g) and transferring such text, as so designated, to the end of section 7361 of title 10, United States Code;

(9) in subsection (g) of section 7361 of such title, as so designated and transferred—

(A) by inserting before "Money received" the following: "DISPOSITION OF RECEIPTS.—"; and

(B) by striking out "this chapter" in the first sentence and inserting in lieu thereof "this section";

(10) by striking out the section headings for sections 7362, 7363, 7365, and 7367;

(11) by striking out the heading for section 7361 and inserting in lieu thereof the following:

"§ 7361. Navy support for salvage operations"; and

(12) in the table of sections at the beginning of such chapter—

(A) by striking out the item relating to section 7361 and inserting in lieu thereof the following:

"7361. Navy support for salvage operations."; and

(B) by striking out the items relating to sections 7362, 7363, 7365, and 7367.

Subtitle D—Department of Defense Commercial and Industrial Activities

SEC. 3051. ACCOUNTING REQUIREMENT FOR CONTRACTED ADVISORY AND ASSISTANCE SERVICES.

(a) FUNDING TO BE IDENTIFIED IN BUDGET.—Section 1105 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) The Director of the Office of Management and Budget shall establish the funding for advisory and assistance services for each department and agency as a separate object class in each budget annually submitted to the Congress under this section.

"(2)(A) In paragraph (1), except as provided in subparagraph (B), the term 'advisory and assistance services' means the following services when provided by nongovernmental sources:

"(i) Management and professional support services.

"(ii) Studies, analyses, and evaluations.

"(iii) Engineering and technical services.

"(B) In paragraph (1), the term 'advisory and assistance services' does not include the following services:

"(i) Routine automated data processing and telecommunications services unless such services are an integral part of a contract for the procurement of advisory and assistance services.

"(ii) Architectural and engineering services.

"(iii) Technical support of research and development activities.

"(iv) Research on basic mathematics or medical, biological, physical, social, psychological, or other phenomena.".

(b) REPEAL OF SOURCE LAW.—Section 512 of Public Law 102-394 (106 Stat. 1826) is repealed.

(c) REPEAL OF SUPERSEDED PROVISIONS.—

(1) TITLE 10.—

(A) REPEAL.—Section 2212 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 131 of such title is amended by striking out the item relating to section 2212.

(2) TITLE 31.—

(A) REPEAL.—Section 1114 of title 31, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of such title is amended by striking out the item relating to section 1114.

Subtitle E—Fuel- and Energy-Related Laws

SEC. 3061. LIQUID FUELS AND NATURAL GAS: CONTRACTS FOR STORAGE, HANDLING, OR DISTRIBUTION.

Section 2388(a) of title 10, United States Code, is amended by striking out "liquid fuels and natural gas" and inserting in lieu thereof "liquid fuels or natural gas".

Subtitle F—Fiscal Statutes

SEC. 3071. DISBURSEMENT OF FUNDS OF MILITARY DEPARTMENT TO COVER OBLIGATIONS OF ANOTHER AGENCY OF DEPARTMENT OF DEFENSE.

Subsection (c)(2) of section 3321 of title 31, United States Code, is amended by striking out "military departments of the" and inserting in lieu thereof "The".

Subtitle G—Miscellaneous

SEC. 3081. OBLIGATION OF FUNDS: LIMITATION.

Section 2202 of title 10, United States Code, is amended to read as follows:

"§ 2202. Obligation of funds: limitation

"The Secretary of Defense shall prescribe regulations governing the performance within the Department of Defense of the procurement, production, warehousing, and supply distribution functions, and related functions, of the Department of Defense.".

SEC. 3082. REPEAL OF REQUIREMENTS REGARDING PRODUCT EVALUATION ACTIVITIES.

(a) REPEAL.—Section 2369 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item related to section 2369.

SEC. 3083. CODIFICATION AND REVISION OF LIMITATION ON LEASE OF VESSELS, AIRCRAFT, AND VEHICLES.

(a) LIMITATION.—

(1) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2401l. Lease of vessels, aircraft, and vehicles

"The head of an agency named in paragraph (1), (2), (3), or (4) of section 2303(a) of this title may not enter into any contract with a term of 18 months or more, or extend or renew any contract for a term of 18 months or more, for any vessel, aircraft, or vehicle, through a lease, charter, or similar agreement without previously having considered all costs of such lease (including estimated termination liability) and determined in writing that such lease is in the best interest of the Government.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2401l. Lease of vessels, aircraft, and vehicles.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 9081 of Public Law 101-165 (103 Stat. 1147; 10 U.S.C. 2401 note) is repealed.

SEC. 3084. SOFT DRINK SUPPLIES FOR EXCHANGE STORES.

Section 2424 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) Paragraphs (1) and (2) of subsection (b) do not apply to contracts for the procurement of soft drinks that are manufactured in the United States. The Secretary of Defense shall prescribe in regulations the standards and procedures for determining whether a particular drink is a soft drink and whether the drink was manufactured in the United States.".

SEC. 3085. REPEAL OF PREFERENCE FOR RECYCLED TONER CARTRIDGES.

The following provisions of law, relating to a preference for procurement of recycled toner cartridges, are repealed:

(1) Section 630 of Public Law 102-393 (106 Stat. 1773) and the provision of law set out in quotes in that section (42 U.S.C. 6962(j)).

(2) Section 401 of Public Law 103-123 (107 Stat. 1238).

TITLE IV—SIMPLIFIED ACQUISITION THRESHOLD AND SOCIOECONOMIC, SMALL BUSINESS, AND MISCELLANEOUS LAWS

Subtitle A—Simplified Acquisition Threshold

PART I—ESTABLISHMENT OF THRESHOLD

SEC. 4001. SIMPLIFIED ACQUISITION THRESHOLD.

(a) Term Defined.—Section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)) is amended to read as follows:

"(11) The term 'simplified acquisition threshold' means $100,000.".

(b) Interim Reporting Rule.—Until October 1, 1999, procuring activities shall continue to report procurement awards with a dollar value of at least $25,000, but less than $100,000, in conformity with the procedures for the reporting of a contract award in excess of $25,000 that were in effect on October 1, 1992.

PART II—SIMPLIFICATION OF PROCEDURES

SEC. 4011. SIMPLIFIED ACQUISITION PROCEDURES.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

"SIMPLIFIED ACQUISITION PROCEDURES

"Sec. 29. (a) In order to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors, the Federal Acquisition Regulation shall provide for special simplified procedures for contracts for acquisition of property and services that are not in excess of the simplified acquisition threshold.

"(b) Regulations prescribed pursuant to subsection (a) shall include the following provisions:

"(1) A provision that a contract with an anticipated value not in excess of $2,500 is not subject to section 15(j) of the Small Business Act (15 U.S.C. 644(j)) and section 2 of title III of the Act of March 3, 1933 (commonly known as the 'Buy America Act') (41 U.S.C. 10a et seq.).

"(2) A provision that a civilian or military official, or employee of an agency, whose contracting authority does not exceed $2,500 is not a procurement official for the purposes of section 27 of this Act.

"(3) A provision that a purchase not in excess of $2,500 may be made without obtaining competitive quotations if the contracting officer determines that the price for the purchase is reasonable.

"(4) A requirement that purchases not in excess of $2,500 be distributed equitably among qualified suppliers.

"(5) A requirement that a contracting officer consider each responsive offer timely received from an eligible offeror.

"(c) A proposed purchase or contract for an amount above the simplified acquisition threshold may not be divided into several purchases or contracts for lesser amounts in order to use the simplified acquisition procedures required by subsection (a).

"(d) In using simplified acquisition procedures, the head of an executive agency shall promote competition to the maximum extent practicable.".

SEC. 4012. SMALL BUSINESS RESERVATION.

Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended to read as follows:

"(j)(1) Each contract for the purchase of goods and services that has an anticipated value in excess of $2,500 but not in excess of the simplified acquisition threshold and that is subject to simplified acquisition procedures prescribed pursuant to section 29 of the Office of Federal Procurement Policy Act shall be reserved exclusively for small business concerns unless the contracting officer is unable to obtain offers from two or more small business concerns that are competitive with market prices and are competitive with regard to the quality and delivery of the goods or services being purchased.

"(2) In carrying out paragraph (1), a contracting officer shall consider a responsive offer timely received from an eligible small business offeror.

"(3) Nothing in paragraph (1) shall be construed as precluding an award of a contract with a value not in excess of the simplified acquisition threshold under the authority of subsection (a) or (c) of section 8 of this Act, section 2323 of title 10, United States Code, or section 712 of the Business Opportunity Development Reform Act of 1988 (Public Law 100-656; 15 U.S.C. 644 note).".

SEC. 4013. FAST PAYMENT UNDER SIMPLIFIED ACQUISITION PROCEDURES.

(a) Payment Procedures.—The simplified acquisition procedures described in section 29(a) of the Office of Federal Procurement Policy Act (as added by section 4011) shall provide for use of the payment terms described in subsection (b), and for the disbursement of payment through electronic fund transfer, whenever circumstances permit.

(b) Required Payment Terms.—The payment terms for a purchase made pursuant to simplified acquisition procedures shall require payment, in accordance with the provisions of chapter 39 of title 31, United States Code, within 15 days after the date of the receipt of a proper invoice for products delivered or services performed, if—

(1) in the case of a purchase of property, title to the property vests in the Government upon delivery of the property to the Government or to a common carrier;

(2) in the case of property or services for which payment is due before the Government's acceptance of the property or services, the vendor provides commercial or other appropriate warranties assuring that the property or services purchased conform to the requirements set forth in the Government's purchase offer; and

(3) funds are available for making the payment.

(c) Disbursements To Be Matched With Obligations.—The simplified acquisition procedures shall include procedures that ensure that each request for a disbursement is matched with a particular obligation before the disbursement is made under the payment terms provided for under subsection (a).

SEC. 4014. PROCUREMENT NOTICE.

(a) Continuation of Existing Notice Thresholds.—Subsection (a) of section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended—

(1) in paragraph (1), by striking out "the small purchase threshold" each place it appears and inserting in lieu thereof "$25,000"; and

(2) in paragraph (3)(B), by inserting after "(B)" the following: "in the case of a contract or order expected to exceed the simplified acquisition threshold,".

(b) Content of Notice.—Subsection (b) of such section is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(6) in the case of a contract in an amount estimated to exceed $25,000 but not to exceed the simplified acquisition threshold—

"(A) a description of the procedures to be used in awarding the contract; and

"(B) a statement specifying the periods for prospective offerors and the contracting officer to take the necessary preaward and award actions.".

(c) Notice Not Required in Electronic Commerce.—Subsection (c)(1) of such section, as amended by section 1055(b), is further amended—

(1) by redesignating subparagraphs (A), (B), (C), (D), (E) and (F) as subparagraphs (B), (C), (D), (E), (F), and (G), respectively; and

(2) by inserting above subparagraph (B), as so redesignated, the following new subparagraph (A):

"(A) the proposed procurement is conducted by means of electronic commerce pursuant to a system that, as determined by the Administrator for Federal Procurement Policy, has the capabilities described in subsections (a) and (b) of section 4015 of the Federal Acquisition Streamlining Act of 1994;".

(d) Notice Under the Small Business Act.—

(1) Continuation of existing notice thresholds.—Subsection (e) of section 8 of the Small Business Act (15 U.S.C. 637) is amended—

(A) in paragraph (1), by striking out "the small purchase threshold" each place it appears and inserting in lieu thereof "$25,000"; and

(B) in paragraph (3)(B), by inserting after "(B)" the following: "in the case of a contract or order estimated to exceed the simplified acquisition threshold,".

(2) Content of notice.—Subsection (f) of such section is amended—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(C) by adding at the end the following:

"(6) in the case of a contract in an amount estimated to exceed the $25,000 but not to exceed the simplified acquisition threshold—

"(A) a description of the procedures to be used in awarding the contract; and

"(B) a statement specifying the periods for prospective offerors and the contracting officer to take the necessary preaward and award actions.".

SEC. 4015. ELECTRONIC COMMERCE FOR FEDERAL GOVERNMENT PROCUREMENTS.

(a) Development and Implementation of System.—The Administrator for Federal Procurement Policy, in consultation with the heads of appropriate Federal Government agencies having applicable technical and functional expertise, may take appropriate steps to develop and implement a Federal Governmentwide architecture or design for electronic commerce that provides interoperability among users.

(b) Required Capabilities.—The requirements analysis prepared to implement the architecture or design of a system of electronic commerce referred to in subsection (a) shall have the following capabilities:

(1) The maximum practicable capability for electronic exchange of such procurement information as solicitations, offers, contracts, purchase orders, invoices, payments,

and other contractual documents between the private sector and the Federal Government.

(2) Capabilities that increase the access of businesses, including small business concerns, socially and economically disadvantaged small business concerns, and businesses owned predominantly by women, to Federal Government procurement opportunities.

(3) Easy access for potential Federal Government contractors.

(4) Use of nationally and internationally recognized data formats that broaden and ease electronic interchange of data.

(5) Use of Federal Government systems and networks and industry systems and networks.

(c) NOTICE AND SOLICITATION REGULATIONS.—In connection with implementation of the architecture or design referred to in subsection (a), the Federal Acquisition Regulatory Council shall ensure that the Federal Acquisition Regulation contains appropriate notice and solicitation provisions applicable to acquisitions conducted through such architecture or design. The provisions shall specify the required form and content of notices of acquisitions and the minimum periods for notifications of solicitations and for deadlines for the submission of offers under solicitations. Each minimum period specified for a notification of solicitation and each deadline for the submission of offers under a solicitation shall afford potential offerors a reasonable opportunity to respond.

(d) LIMITATION OF PUBLICATION REQUIREMENT.—The requirement in section 18(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) for publishing notice of a solicitation in the Commerce Business Daily shall not apply to acquisitions of a Federal agency or a component of a Federal agency that are made through electronic commerce and have a value not in excess of the simplified acquisition threshold if the Federal Acquisition Regulation contains the provisions specifically required by subsection (c) and the Administrator for Federal Procurement Policy certifies that such agency or component—

(1) has fully implemented the architecture or design referred to in subsection (a); and

(2) has procedures in place—

(A) to provide notice to potential offerors in accordance with the requirements of the Federal Acquisition Regulation prescribed pursuant to subsection (c); and

(B) to ensure that small business concerns are afforded an opportunity to respond to a solicitation of contract offers within the period specified in the solicitation.

(e) DEFINITION.—In this section, the term "simplified acquisition threshold" has the meaning given that term is section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

PART III—APPLICABILITY OF LAWS TO ACQUISITIONS NOT IN EXCESS OF SIMPLIFIED ACQUISITION THRESHOLD

SEC. 4021. FUTURE ENACTED PROCUREMENT LAWS.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 4011, is further amended by adding at the end the following new section:

"APPLICABILITY OF CERTAIN LAWS TO CONTRACTS NOT EXCEEDING SIMPLIFIED ACQUISITION THRESHOLD

"SEC. 30. (a) IN GENERAL.—The applicability of a provision of law described in subsection (b) to contracts not in excess of the simplified acquisition threshold may be waived on a class basis in the Federal Acquisition Regulation. Such a waiver shall not apply to a provision of law that expressly refers to this section and prohibits the waiver of that provision of law.

"(b) REFERENCED LAW.—A provision of law referred to in subsection (a) is any provision of law enacted after the date of the enactment of the Federal Acquisition Streamlining Act of 1994 that, as determined by the Administrator for Federal Procurement Policy, sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government.".

SEC. 4022. ARMED SERVICES ACQUISITIONS.

(a) REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT FEES.—Section 2306(b) of title 10, United States Code, is amended by adding at the end the following: "This subsection does not apply to a contract that is not in excess of the simplified acquisition threshold.".

(b) PROHIBITION ON LIMITING SUBCONTRACTOR DIRECT SALES TO THE UNITED STATES.—Section 2402 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) This section does not apply to a contract that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

(c) AUTHORITY TO EXAMINE BOOKS AND RECORDS OF CONTRACTORS.—Section 2313 of title 10, United States Code, as amended by section 2201, is further amended by adding at the end of subsection (f) the following:

"(2) A contract that is not in excess of the simplified acquisition threshold.".

(d) REQUIREMENT TO IDENTIFY SUPPLIERS AND SOURCES OF SUPPLIES.—Section 2384(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The regulations prescribed pursuant to paragraph (1) do not apply to a contract that does not exceed the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

(e) PROHIBITION AGAINST DOING BUSINESS WITH CERTAIN OFFERORS OR CONTRACTORS.—Section 2393(d) of title 10, United States Code, is amended in the second sentence by striking out "above" and all that follows and inserting in lieu thereof "in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

(f) PROHIBITION ON PERSONS CONVICTED OF DEFENSE-CONTRACT RELATED FELONIES.—Section 2408(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) The prohibition in paragraph (1) does not apply with respect to the following:

"(A) A contract referred to in subparagraph (A), (B), (C), or (D) of such paragraph that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).

"(C) A subcontract referred to in such subparagraph that is under a contract described in subparagraph (A).".

SEC. 4023. CIVILIAN AGENCY ACQUISITIONS.

(a) REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT FEES.—Section 304(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)) is amended by adding at the end the following: "The preceding sentence does not apply to a contract that is not in excess of the simplified acquisition threshold.".

(b) PROHIBITION ON LIMITING SUBCONTRACTOR DIRECT SALES TO THE UNITED STATES.—Section 303G of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253g) is amended by adding at the end the following new subsection:

"(c) This section does not apply to a contract that is not in excess of the simplified acquisition threshold.".

(c) AUTHORITY TO EXAMINE BOOKS AND RECORDS OF CONTRACTORS.—Section 304B of the Federal Property and Administrative Services Act of 1949, as added by section 2251(a), is amended by adding at the end of subsection (f) the following:

"(2) A contract that is not in excess of the simplified acquisition threshold.".

SEC. 4024. ACQUISITIONS GENERALLY.

(a) LIMITATION ON USE OF FUNDS TO INFLUENCE CERTAIN FEDERAL ACTIONS.—Section 1352(e)(2)(B) of title 31, United States Code, is amended by striking out "$100,000" and inserting in lieu thereof "the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)))".

(b) REQUIREMENT FOR CONTRACT CLAUSE RELATING TO KICKBACKS.—Section 7 of the Anti-Kickback Act of 1986 (41 U.S.C. 57) is amended by adding at the end the following new subsection:

"(d) Subsections (a) and (b) do not apply to a prime contract that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

(c) MILLER ACT.—

(1) IN GENERAL.—

(A) CONTRACTS NOT EXCEEDING SIMPLIFIED ACQUISITION THRESHOLD.—The Act of August 24, 1935 (40 U.S.C. 270a et seq.), commonly referred to as the "Miller Act", is amended by adding at the end the following new section:

"SEC. 5. This Act does not apply to a contract in an amount that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

(B) CONFORMING AMENDMENT.—Subsection (a) of the first section of such Act is amended by striking out ", exceeding $25,000 in amount,".

(2) ALTERNATIVE PAYMENT PROTECTIONS.—

(A) PROTECTIONS TO BE SPECIFIED IN THE FAR.—The Federal Acquisition Regulation shall provide alternatives to payment bonds as payment protections for suppliers of labor and materials under contracts referred to in subparagraph (C).

(B) USE OF AUTHORIZED PROTECTIONS.—The contracting officer for a contract shall—

(i) select, from among the payment protections provided for in the Federal Acquisition Regulation pursuant to subparagraph (A), one or more payment protections which the offeror awarded the contract is to submit to the Federal Government for the protection of suppliers of labor and materials for such contract; and

(ii) specify in the solicitation of offers for such contract the payment protection or protections so selected.

(C) COVERED CONTRACTS.—

(i) APPLICABILITY.—The regulations required under subparagraph (A) and the requirements of subparagraph (B) apply with respect to contracts referred to in subsection (a) of the first section of the Miller Act that are in excess of $25,000 but not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).

(ii) MILLER ACT REFERENCE.—The Miller Act referred to in subparagraph (A) is the Act of August 24, 1935 (40 U.S.C. 270a et seq.), commonly referred to as the "Miller Act".

(d) CONTRACT WORK HOURS AND SAFETY STANDARDS ACT.—

(1) IN GENERAL.—Section 103 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 329) is amended by adding at the end the following new subsection:

"(c) This title does not apply to a contract in an amount that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).".

(2) CONFORMING AMENDMENT.—Section 107(a) of such Act (40 U.S.C. 333(a)) is amended by inserting after "It shall be a condition of each contract" the following: "(other than a contract referred to in section 103(c))".

(e) DRUG-FREE WORKPLACE ACT OF 1988.—Section 5152(a)(1) of the Drug-Free Workplace Act of 1988 (subtitle D of title V of the Anti-Drug Abuse Act of 1988; Public Law 100-690; 41 U.S.C. 701(a)(1)) is amended by striking out "of $25,000 or more from any Federal agency" and inserting in lieu thereof "in excess of the simplified acquisition threshold (as defined in section 4(11) of such Act (41 U.S.C. 403(11))) by any Federal agency".

(f) CERTAIN PROCUREMENT INTEGRITY REQUIREMENTS.—

(1) CERTIFICATION REQUIREMENT.—Subsection (e)(7)(A) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended by striking out "$100,000" and inserting in lieu thereof "the simplified acquisition threshold".

(2) CONTRACT CLAUSE REQUIREMENT.—Subsection (g)(1) of such section is amended by inserting after "awarded by a Federal agency" the following: "(other than a contract in an amount that is not in excess of the simplified acquisition threshold)".

(g) SOLID WASTE DISPOSAL ACT.—Section 6002(a) of the Solid Waste Disposal Act (42 U.S.C. 6962(a)) is amended by striking out all that follows "with respect to any" and inserting in lieu thereof "contract in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

PART IV—CONFORMING AMENDMENTS

SEC. 4071. ARMED SERVICES ACQUISITIONS.

(a) SIMPLIFIED ACQUISITION PROCEDURES.—Section 2304(g) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "small purchases of property and services" and inserting in lieu thereof "purchases of property and services not in excess of the simplified acquisition threshold";

(2) by striking out paragraph (2);

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(4) in paragraph (2), as so redesignated—

(A) by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold"; and

(B) by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures"; and

(5) in paragraph (3), as redesignated by paragraph (3), by striking out "small purchase procedures" and inserting in lieu thereof "the simplified procedures".

(b) SOLICITATION CONTENT REQUIREMENT.—Section 2305(a)(2) of title 10, United States Code, is amended by striking out "small purchases)" in the matter above subparagraph (A) and inserting in lieu thereof "purchases not in excess of the simplified acquisition threshold)".

(c) COST TYPE CONTRACTS.—Section 2306(e)(2)(A) of title 10, United States Code, is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

SEC. 4072. CIVILIAN AGENCY ACQUISITIONS.

(a) SIMPLIFIED ACQUISITION PROCEDURES.—

(1) PROPERTY AND SERVICES GENERALLY.—Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)) is amended—

(A) in paragraph (1), by striking out "small purchases of property and services" and inserting in lieu thereof "purchases of property and services not in excess of the simplified acquisition threshold";

(B) by striking out paragraphs (2) and (5);

(C) in paragraph (3)—

(i) by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold"; and

(ii) by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures";

(E) in paragraph (4), by striking out "small purchase procedures" and inserting in lieu thereof "the simplified procedures"; and

(F) by inserting after paragraph (1) the following new paragraph (2):

"(2)(A) The Administrator of General Services shall prescribe regulations that provide special simplified procedures for acquisitions of leasehold interests in real property at rental rates that do not exceed the simplified acquisition threshold.

"(B) For purposes of subparagraph (A), the rental rate or rates under a multiyear lease do not exceed the simplified acquisition threshold if the average annual amount of the rent payable for the period of the lease does not exceed the simplified acquisition threshold.".

(b) SOLICITATION CONTENT REQUIREMENT.—Section 303A(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a(b)) is amended by striking out "small purchases)" in the matter above paragraph (1) and inserting in lieu thereof "purchases not in excess of the simplified acquisition threshold)".

(c) COST TYPE CONTRACTS.—Section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)), as amended by section 1071, is further amended in the second sentence by striking out "either $25,000" and inserting in lieu thereof "either the simplified acquisition threshold".

SEC. 4073. OFFICE OF FEDERAL PROCUREMENT POLICY ACT.

Section 19(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 417(a)) is amended by striking out "procurements, other than small purchases," and inserting in lieu thereof "procurements in excess of the simplified acquisition threshold".

SEC. 4074. SMALL BUSINESS ACT.

(a) DEFINITION.—Section 3(m) of the Small Business Act (15 U.S.C. 632(m)) is amended by striking out "'small purchase threshold'" and inserting in lieu thereof "'simplified acquisition threshold'".

(b) USE OF SIMPLIFIED ACQUISITION THRESHOLD TERM.—Section 8(d)(2)(A) of the Small Business Act (15 U.S.C. 637(d)(2)(A)) is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

PART V—REVISION OF REGULATIONS

SEC. 4081. REVISION REQUIRED.

(a) FEDERAL ACQUISITION REGULATION.—The Federal Acquisition Regulatory Council established by section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall review the Federal Acquisition Regulation to identify regulations that are applicable to acquisitions in excess of a specified amount that is less than $100,000. The Council shall amend the regulations so identified as necessary to provide that such regulations do not apply to acquisitions that are not in excess of the simplified acquisition threshold. The preceding sentence does not apply in the case of a regulation for which such an amendment would not be in the national interest, as determined by the Council.

(b) SUPPLEMENTAL REGULATIONS.—The head of each Federal agency that has issued regulations, policies, or procedures referred to in section 25(c)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(2)) shall identify any such regulations, policies, or procedures that are applicable to acquisitions in excess of a specified amount that is less than $100,000. The agency head shall amend the regulations so identified as necessary to provide that such regulations, policies, and procedures do not apply to acquisitions that are not in excess of the simplified acquisition threshold. The preceding sentence does not apply in the case of a regulation, policy, or procedure for which such an amendment would not be in the national interest, as determined by the agency head.

(c) COMPLETION OF ACTIONS.—All actions under this section shall be completed not later than 180 days after the date of the enactment of this Act.

(d) DEFINITIONS.—In this section:

(1) The term "simplified acquisition threshold" has the meaning given such term in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), as amended by section 4001.

(2) The term "Federal agency" has the meaning given such term in section 3(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 472(b)).

Subtitle B—Socioeconomic and Small Business Laws

SEC. 4101. ACQUISITIONS GENERALLY.

(a) REPEAL OF EXECUTED REPORTING REQUIREMENT.—Section 306 of the Trade Agreements Act of 1979 (19 U.S.C. 2516) is repealed.

(b) WALSH-HEALEY ACT.—

(1) REPEAL OTHER THAN FOR CERTAIN DEFINITIONAL PURPOSES.—The Act of June 30, 1936 (41 U.S.C. 35 et seq.), commonly referred to as the "Walsh-Healey Act", is amended to read as follows:

"SECTION 1. (a) The Secretary of Labor may prescribe in regulations the standards for determining whether a contractor is a manufacturer of or a regular dealer in materials, supplies, articles, or equipment to be manufactured or used in the performance of a contract entered into by any executive department, independent establishment, or other agency or instrumentality of the United States, or by the District of Columbia, or by any corporation all the stock of which is beneficially owned by the United States, for the manufacture or furnishing of materials, supplies, articles, and equipment.

"(b) Any interested person shall have the right of judicial review of any legal question regarding the interpretation of the terms 'regular dealer' and 'manufacturer', as defined pursuant to subsection (a)."

(2) CONFORMING AMENDMENT.—Section 2304(h) of title 10, United States Code, is amended to read as follows:

"(h) For the purposes of the Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (commonly referred to as the 'Davis-Bacon Act') (40 U.S.C. 276a et seq.), purchases or contracts awarded after using procedures other than sealed-bid procedures shall be treated as if they were made with sealed-bid procedures.".

(c) Repeal of Redundant Requirement Regarding Applicability of the Davis-Bacon Act and the Walsh-Healey Act.—Section 308 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 258) is repealed.

SEC. 4102. ACQUISITIONS FROM SMALL BUSINESSES.

(a) Set-Aside Priority.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended by striking out subsections (e) and (f).

(b) Certificate of Competence.—Section 804 of Public Law 103–484 (106 Stat. 2447; 10 U.S.C. 2305 note) is repealed.

SEC. 4103. CONTRACTING PROGRAM FOR CERTAIN SMALL BUSINESS CONCERNS.

(a) Procurement Procedures Authorized.—Section 8 of the Small Business Act (15 U.S.C. 637) is amended by inserting after subsection (b) the following new subsection:

"(c)(1) To facilitate the attainment of a goal for the participation of small business concerns owned and controlled by socially and economically disadvantaged individuals that is established for a Federal agency pursuant to section 15(g)(1), the head of the agency may enter into contracts using—

"(A) less than full and open competition by restricting the competition for such awards to small business concerns owned and controlled by socially and economically disadvantaged individuals described in subsection (d)(3)(C) of this section; and

"(B) a price evaluation preference not in excess of 10 percent when evaluating an offer received from such a small business concern as the result of an unrestricted solicitation.

"(2) Paragraph (1) does not apply to the Department of Defense.".

(b) Implementation Through the Federal Acquisition Regulation.—

(1) In general.—The Federal Acquisition Regulation shall be amended to provide for uniform implementation of the authority provided in section 8(c) of the Small Business Act, as added by subsection (a).

(2) Matters to be addressed.—The provisions of the Federal Acquisition Regulation prescribed pursuant to paragraph (1) shall include—

(A) conditions for the use of advance payments;

(B) provisions for contract payment terms that provide for—

(i) accelerated payment for work performed during the period for contract performance; and

(ii) full payment for work performed;

(C) guidance on how contracting officers may use, in solicitations for various classes of products or services, a price evaluation preference pursuant to section 8(c)(1)(B) of the Small Business Act, as added by subsection (a), to provide a reasonable advantage to small business concerns owned and controlled by socially and economically disadvantaged individuals without effectively eliminating any participation of other small business concerns; and

(D)(i) procedures for a person to request the head of Federal agency to determine whether the use of competitions restricted to small business concerns owned and controlled by socially and economically disadvantaged individuals at a contracting activity of such agency has caused a particular industry category to bear a disproportionate share of the contracts awarded to attain the goal established for that contracting activity; and

(ii) guidance for limiting the use of such restricted competitions in the case of any contracting activity and class of contracts determined in accordance with such procedures to have caused a particular industry category to bear a disproportionate share of the contracts awarded to attain the goal established for that contracting activity.

(c) Termination.—Section 8(c) of the Small Business Act, as added by subsection (a), shall cease to be effective at the end of September 30, 1999.

SEC. 4104. PROCUREMENT GOALS FOR SMALL BUSINESS CONCERNS OWNED BY WOMEN.

(a) Goals.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended—

(1) by striking out "and small business concerns owned and controlled by socially and economically disadvantaged individuals" each place it appears in the first sentence and fourth sentences of subsection (g)(1), the second sentence of subsection (g)(2), and paragraphs (1), (2)(A), (2)(D), and (2)(E) of subsection (h) and inserting in lieu thereof ", small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women";

(2) in subsection (g)—

(A) by inserting after the third sentence of paragraph (1) the following: "The Government-wide goal for participation by small business concerns owned and controlled by women shall be established at not less than 5 percent of the total value of all prime contract and subcontract awards for each fiscal year.";

(B) in the first sentence of paragraph (2), by striking out "and by small business concerns owned and controlled by socially and economically disadvantaged individuals," and inserting in lieu thereof ", by small business concerns owned and controlled by socially and economically disadvantaged individuals, and by small business concerns owned and controlled by women"; and

(C) in the fourth sentence of paragraph (2), by inserting after "including participation by small business concerns owned and controlled by socially and economically disadvantaged individuals" the following: "and by participation small business concerns owned and controlled by women"; and

(3) in subsection (h)(2)(F), by striking out "women-owned small business enterprises" and inserting in lieu thereof "small business concerns owned and controlled by women".

(b) Subcontract Participation.—Section 8(d) of such Act (15 U.S.C. 637(d)) is amended—

(1) by striking out "and small business concerns owned and controlled by socially and economically disadvantaged individuals" both places it appears in paragraph (1), both places it appears in paragraph (3)(A), in paragraph (4)(D), in subparagraphs (A), (C), and (F) of paragraph (6), and in paragraph (10)(B) and inserting in lieu thereof ", small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women";

(2) by striking out subparagraph (D) in paragraph (3) and inserting in lieu thereof the following:

"(E) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as either a small business concern, a small business concern owned and controlled by socially and economically disadvantaged individuals, or a small business concern owned and controlled by women.";

(3) in paragraph (3), by inserting after subparagraph (C) the following new subparagraph (D):

"(D) The term 'small business concern owned and controlled by women' shall mean a small business concern—

"(i) which is at least 51 per centum owned by one or more women; or, in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more women; and

"(ii) whose management and daily business operations are controlled by one or more women."; and

(4) in paragraph (4)(E), by inserting "and for small business concerns owned and controlled by women" after "as defined in paragraph (3) of this subsection".

(c) Misrepresentations of Status.—(1) Subsection (d)(1) of section 16 of such Act (15 U.S.C. 645) is amended by striking out "or 'small business concern owned and controlled by socially and economically disadvantaged individuals'" and inserting in lieu thereof ", a 'small business concern owned and controlled by socially and economically disadvantaged individuals', or a 'small business concerns owned and controlled by women'".

(2) Subsection (e) of such section is amended by striking out "or 'small business concern owned and controlled by socially and economically disadvantaged individuals'" and inserting in lieu thereof ", a 'small business concern owned and controlled by socially and economically disadvantaged individuals', or a 'small business concerns owned and controlled by women'".

(d) Definition.—Section 3 of such Act (15 U.S.C. 632) is amended by adding at the end the following new subsection:

"(n) For the purposes of this Act, a small business concern is a small business concern owned and controlled by women if—

"(1) at least 51 percent of small business concern is owned by one or more women or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

"(2) the management and daily business operations of the business are controlled by one or more women.".

SEC. 4105. DEVELOPMENT OF DEFINITIONS REGARDING CERTAIN SMALL BUSINESS CONCERNS.

(a) Review Required.—

(1) Definitions to be identified.—The Administrator for Federal Procurement Policy shall conduct a comprehensive review of Federal laws, as in effect on November 1, 1994, to identify and catalogue all of the provisions in such laws that define (or describe for definitional purposes) the small business concerns set forth in paragraph (2) for purposes of authorizing the participation of such small business concerns as prime contractors or subcontractors in—

(A) contracts awarded directly by the Federal Government or subcontracts awarded under such contracts; or

(B) contracts and subcontracts funded, in whole or in part, by Federal financial assistance under grants, cooperative agreements, or other forms of Federal assistance.

(2) Covered small business concerns.—The small business concerns referred to in paragraph (1) are as follows:

(A) Small business concerns owned and controlled by socially and economically disadvantaged individuals.

(B) Minority-owned small business concerns.

(C) Small business concerns owned and controlled by women.

(D) Woman-owned small business concerns.

(b) Matters To Be Developed.—On the basis of the results of the review carried out under subsection (a), the Administrator for Federal Procurement Policy shall develop—

(1) uniform definitions for the small business concerns referred to in subsection (a)(2);

(2) uniform agency certification standards and procedures for—

(A) determinations of whether a small business concern qualifies as a small business concern referred to in subsection (a)(2) under an applicable standard for purposes contracts and subcontracts referred to in subsection (a)(1); and

(B) reciprocal recognition by an agency of a decision of another agency regarding whether a small business concern qualifies as a small business concern referred to in subsection (a)(2) for such purposes; and

(3) such other related recommendations as the Administrator determines appropriate consistent with the review results.

(c) Procedures and Schedule.—

(1) Participation by certain interested parties.—The Administrator for Federal Procurement Policy shall provide for the participation in the review and activities under subsections (a) and (b) by representatives of—

(A) the Small Business Administration (including the Office of the Chief Counsel for Advocacy);

(B) the Minority Business Development Agency of the Department of Commerce;

(C) the Department of Transportation;

(D) the Environmental Protection Agency; and

(E) such other executive departments and agencies as the Administrator considers appropriate.

(2) Consultation with certain interested parties.—In carrying out subsections (a) and (b), the Administrator shall consult with representatives of organizations representing—

(A) minority-owned business enterprises;

(B) women-owned business enterprises; and

(C) other organizations that the Administrator considers appropriate.

(3) Schedule.—Not later than 60 days after the date of the enactment of this Act, the Administrator shall publish in the Federal Register a notice which—

(A) lists the provisions of law identified in the review carried out under subsection (a);

(B) describes the matters to be developed on the basis of the results of the review pursuant to subsection (b);

(C) solicits public comment regarding the matters described in the notice pursuant to subparagraphs (A) and (B) for a period of not less than 60 days; and

(D) addresses such other matters as the Administrator considers appropriate to ensure the comprehensiveness of the review and activities under subsections (a) and (b).

(d) Report.—Not later than May 1, 1995, the Administrator for Federal Procurement Policy shall submit to the Committees on Small Business of the Senate and the House of Representatives a report on the results of the review carried out under subsection (a) and the actions taken under subsection (b). The report shall include a discussion of the results of the review, a description of the consultations conducted and public comments received, and the Administrator's recommendations with regard to the matters identified under subsection (b).

Subtitle C—Miscellaneous Acquisition Laws

SEC. 4151. PROHIBITION ON USE OF FUNDS FOR DOCUMENTING ECONOMIC OR EMPLOYMENT IMPACT OF CERTAIN ACQUISITION PROGRAMS.

(a) Revision and Codification.—

(1) In general.—Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2247. Prohibition on use of funds for documenting economic or employment impact of certain acquisition programs

"No funds appropriated by the Congress may be obligated or expended to assist any contractor of the Department of Defense in preparing any material, report, lists, or analysis with respect to the actual or projected economic or employment impact in a particular State or congressional district of an acquisition program for which all research, development, testing, and evaluation has not been completed.".

(2) Clerical amendment.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2247. Prohibition on use of funds for documenting economic or employment impact of certain acquisition programs.".

(b) Repeal of Superseded Law.—Section 9048 of Public Law 102-396 (106 Stat. 1913) is repealed.

SEC. 4152. RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES FOR PROCUREMENT FROM A PARTICULAR SOURCE.

(a) Armed Services Acquisitions.—Section 2304 of title 10, United States Code, as amended by section 1005(b), is further amended—

(1) in subsection (c)(5), by inserting "subject to subsection (j)," after "(5)"; and

(2) by adding at the end the following new subsection:

"(j)(1) It is the policy of Congress that no legislation should be enacted that requires a procurement to be made from a specified non-Federal Government source.

"(2) A provision of law may not be construed as requiring a procurement to be made from a specified non-Federal Government source unless that provision of law—

"(A) specifically refers to this subsection;

"(B) specifically identifies the particular non-Federal Government source involved; and

"(C) specifically states that the procurement from that source is required by such provision of law in contravention of the policy set forth in paragraph (1).".

(b) Civilian Agency Acquisitions.—Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended—

(1) in subsection (c)(5), by inserting "subject to subsection (h)," after "(5)"; and

(2) by adding at the end the following new subsection:

"(h)(1) It is the policy of Congress that no legislation should be enacted that requires a procurement to be made from a specified non-Federal Government source.

"(2) A provision of law may not be construed as requiring a procurement to be made from a specified non-Federal Government source unless that provision of law—

"(A) specifically refers to this subsection;

"(B) specifically identifies the particular non-Federal Government source involved; and

"(C) specifically states that the procurement from that source is required by such provision of law in contravention of the policy set forth in paragraph (1).".

TITLE V—ACQUISITION MANAGEMENT

Subtitle A—Armed Services Acquisitions

SEC. 5001. PERFORMANCE BASED MANAGEMENT.

(a) Policy and Goals for Performance Based Management of Programs.—

(1) In general.—Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2219. Performance based management: acquisition programs

"(a) Congressional Policy.—It is the policy of Congress that—

"(1) the Department of Defense should achieve, on average, 90 percent of the cost and schedule goals established for the research and development programs and acquisition programs of the Department of Defense without reducing the performance or capabilities of the items being acquired; and

"(2) the average period necessary for converting an emerging technology into initial operational capability for the Department of Defense should not exceed 8 years.

"(b) Establishment of Goals.—(1) The Secretary of Defense shall approve or define the cost, performance, and schedule goals for major defense acquisition programs of the Department of Defense.

"(2) The Comptroller of the Department of Defense shall evaluate the cost goals proposed for each major defense acquisition program of the Department.

"(c) Identification of Noncompliant Programs.—Whenever it is necessary to do so in order to implement the policy set out in subsection (a), the Secretary of Defense shall—

"(1) identify and consider whether there is a continuing need for programs that are significantly behind schedule, over budget, or not in compliance with performance or capability requirements taking into consideration—

"(A) the needs of the Department known as of the time of consideration;

"(B) the state of the technology or technologies relevant to the programs and to the needs of the Department;

"(C) the estimated costs and projected schedules necessary for the completion of such programs; and

"(D) other pertinent information; and

"(2) identify existing and potential research and development programs and acquisition programs that are suitable alternatives for programs considered pursuant to paragraph (1).

"(d) Annual Reporting Requirement.—The Secretary of Defense shall include in the annual report submitted to Congress pursuant to section 113(c) of this title an assessment of the progress made in implementing the policy stated in subsection (a). The Secretary shall use data from existing management systems in making the assessment.".

(2) Clerical amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2219. Performance based management: acquisition programs.".

(b) Enhanced System of Performance Incentives.—Within one year after the date of the enactment of this Act, the Secretary of Defense shall review the incentives and personnel actions available to the Secretary for encouraging excellence in the defense acquisition workforce and provide an enhanced system of incentives for the encouragement of excellence in such workforce. The enhanced system of incentives shall, to the maximum extent consistent with applicable law—

(1) relate pay to performance (including the extent to which the performance of personnel in such workforce contributes to achieving the cost goals, schedule goals, and performance goals established for acquisition programs of the department pursuant to section 2219(b) of title 10, as added by subsection (a)); and

(2) provide for consideration, in personnel evaluations and promotion decisions, of the extent to which the performance of personnel in such workforce contributes to achieving the cost goals, schedule goals, and performance goals established for acquisition programs of the department pursuant to section 2219(b) of title 10, United States Code, as added by subsection (a).

(c) RECOMMENDED LEGISLATION.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress any recommended legislation that the Secretary considers necessary to carry out section 2219 of title 10, United States Code, as added by subsection (a), and otherwise to facilitate and enhance management of Department of Defense acquisition programs and the defense acquisition workforce on the basis of performance.

SEC. 5002. RESULTS ORIENTED ACQUISITION PROGRAM CYCLE.

The Secretary of Defense shall define in regulations a simplified acquisition program cycle that is results-oriented. The Secretary shall consider including in the regulations provisions for the following:

(1) Program phases as follows:

(A) An integrated decision team meeting which—

(i) may be requested by a potential user of the system or component to be acquired, the head of a laboratory, or a program office on such bases as the emergence of a new military requirement, cost savings opportunity, or new technology opportunity;

(ii) is conducted by an acquisition program executive officer; and

(iii) is usually completed within 1 to 3 months.

(B) A prototype development and testing phase which—

(i) includes operational tests and concerns relating to manufacturing operations and life cycle support;

(ii) is usually completed within 6 to 36 months; and

(iii) produces sufficient numbers of prototypes to assess operational utility.

(C) Product integration, development, and testing which—

(i) includes full-scale development, operational testing, and integration of components; and

(ii) is usually completed within 1 to 5 years.

(D) Production, integration into existing systems, or production and integration into existing systems.

(2) An acquisition program approval process for major program decisions which consists of the following:

(A) One major decision point—

(i) which occurs for an acquisition program before the program proceeds into product integration and development; and

(ii) at which the Under Secretary of Defense for Acquisition and Technology, in consultation with the Vice Chairman of the Joint Chiefs of Staff reviews the program, determines whether the program should continue to be carried out beyond product integration and development, and decides whether to commit to further development, to require further prototyping, or to terminate the program.

(B) Consideration of the potential benefits, affordability, needs, and risks of an acquisition program in the review of the acquisition program.

SEC. 5003. DEFENSE ACQUISITION PILOT PROGRAM DESIGNATIONS.

(a) PROGRAMS AND WAIVERS.—The National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160) is amended by inserting the following new section at the end of subtitle D of title VIII:

"SEC. 840. DEFENSE ACQUISITION PILOT PROGRAM DESIGNATIONS.

"(a) ELIGIBLE PROGRAMS.—The Secretary of Defense is authorized to designate the following defense acquisition programs for participation in the defense acquisition pilot program authorized by section 809 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2430 note):

"(1) Defense Personnel Support Center medical, clothing and textile, and subsistence programs with respect to the following:

"(A) All contracts for processed fruits and vegetables and frozen seafood items for both depot stock and direct vendor delivery.

"(B) All contracts in the subsistence prime vendor program for grocery items.

"(C) All contracts in the Mail Order Pharmacy Program, the prime vendor programs for pharmaceuticals and for medical surgical items for delivery to military hospitals.

"(D) All contracts in the medical electronic commerce program for acquisition for depot stock and direct vendor delivery.

"(E) All contracts for the following items: dress coats (small lots), dress coats, duffel bags, Navy work clothing, general purpose tents, suitcases, gloves for electrical workers, boot flyers, socks, drawers, undershirts, and items offered under the Broad Agency Announcements for Clothing and Textiles Advanced Business Practices Demonstration Program.

"(2) The Fire Support Combined Arms Tactical Trainer program with respect to all contracts directly related to the procurement of a training system (including related hardware, software, and subsystems) to perform collective training of field artillery gunnery team components with development of software as required to generate the training exercises and component interfaces.

"(3) The Joint Direct Attack Munition program (JDAM I) with respect to all contracts directly related to the development and procurement of a strap-on guidance kit, using an inertially guided, Global Positioning System updated guidance kit for inventory 1,000 and 2,000 pound bombs.

"(4) The Joint Primary Aircraft Training System (JPATS) with respect to all contracts directly related to the acquisition of a new primary trainer aircraft to fulfill Air Force and Navy joint undergraduate aviation training requirements, and an associated ground-based training system consisting of air crew training devices (simulators), courseware, a Training Management System, and contractor support for the life of the system.

"(5) The Commercial Derivatives Aircraft program with respect to all contracts directly related to the acquisition or upgrading of civil-derivative aircraft for use in (A) foreign military sales of Airborne Warning and Control Systems to foreign governments with modifications of a type customarily provided to commercial customers, or (B) future Air Force airlift and tanker requirements.

"(6) The Commercial Derivative Engine program with respect to all contracts directly related to the acquisition of (A) commercially derived engines (including spare engines), logistics support equipment, technical orders, management data, and initial spare parts for use in the C-17A production line, and (B) commercially derived engines to support the purchase of commercial-derivative aircraft to meet future Air Force airlift and tanker requirements, including engine replacement and upgrades.

"(b) WAIVER AUTHORITY.—Subject to section 809(c) of the National Defense Authorization Act for Fiscal Year 1991, the Secretary of Defense is authorized—

"(1) to apply any amendment or repeal of a provision of law made in the Federal Acquisition Streamlining Act of 1994 to the programs described in subsection (a) before the effective date of such amendment or repeal; and

"(2) to apply to a procurement of noncommercial items under such programs—

"(A) any authority provided in such Act (or in an amendment made by a provision of such Act) to waive a provision of law in the case of commercial items, and

"(B) any exception applicable under such Act (or an amendment made by a provision of such Act) in the case of commercial items,

before the effective date of such provision (or amendment) to the extent that the Secretary determines necessary to test the application of such waiver or exception to procurements of noncommercial items.

"(c) PILOT PROGRAM IMPLEMENTATION.—In exercising the authority provided in section 809 of the National Defense Authorization Act for 1991, and in accordance with sections 833 through 839 of this Act, the Secretary of Defense, shall take the following actions:

"(1) MISSION-ORIENTED PROGRAM MANAGEMENT.—For one or more of the defense acquisition programs designated for participation in the defense acquisition pilot program, prescribe and implement procedures which—

"(A) provide for interaction between the program manager and the commander of the operational command responsible for the requirement for the equipment acquired;

"(B) include provisions for a determination by the commander that items proposed for procurement fulfill the need defined in approved requirements documents; and

"(C) may include a role for the operational commander in decision making for program milestone decisions and performance of acceptance testing of items acquired.

"(2) SAVINGS OBJECTIVES.—Not later than 45 days after the date of enactment of the Federal Acquisition Streamlining Act of 1994, identify for each defense acquisition program participating in the pilot program quantitative measures and goals for reducing acquisition management costs.

"(3) PROGRAM PHASES.—For each defense acquisition program participating in the pilot program, incorporate in an approved acquisition strategy a program review process that provides senior acquisition officials with reports that—

"(A) contain essential information on program results at quarterly intervals;

"(B) reduce data requirements from the current major program review reporting requirements; and

"(C) include data on program costs estimates, actual expenditures, performance estimates, performance data from tests, and, consistent with existing statutes, the minimum necessary other data items required to ensure the appropriate expenditure of funds appropriated for that program.

"(4) PROGRAM WORK FORCE POLICIES.—With regard to the review of incentives and personnel actions required under section 836 of this Act—

"(A) not later than 60 days after the date of the enactment of the Federal Acquisition Streamlining Act of 1994—

"(i) complete the review; and

"(ii) on the basis of the review, define one or more systems that relate incentives, including pay, to achievement of budgets, schedules, and performance requirements;

"(B) not later than 120 days after the date of the enactment of the Federal Acquisition Streamlining Act of 1994—

"(i) apply such a system of incentives to not less than one defense acquisition program participating in the pilot program; and

"(ii) provide for an assessment of the effectiveness of that system; and

"(C) incorporate the results of actions taken pursuant to this paragraph into the development of regulations for the implementation of section 5001(b) of the Federal Acquisition Streamlining Act of 1994.

"(5) EFFICIENT CONTRACTING PROCESS.—Take any additional actions that the Secretary considers necessary to waive regulations, not required by statute, that affect the efficiency of the contracting process, including, in the Secretary's discretion, defining alternative techniques to reduce reliance on military specifications and standards in contracts for the defense acquisition programs participating in the pilot program.

"(6) CONTRACT ADMINISTRATION: PERFORMANCE BASED CONTRACT MANAGEMENT.—For at least one participating defense acquisition program for which a determination is made to make payments for work in progress under the authority of section 2307 of title 10, United States Code, define payment milestones on the basis of quantitative measures of results.

"(7) CONTRACTOR PERFORMANCE ASSESSMENT.—Collect and evaluate performance information on each contract entered into for a defense acquisition program participating in the pilot program, including information on cost, schedule, and technical performance for each contractor supporting a participating program.

"(d) APPLICABILITY.—(1) Subsection (b) applies with respect to—

"(A) a contract that is awarded or modified during the period described in paragraph (2); and

"(B) a contract that is awarded before the beginning of such period and is to be performed (or may be performed), in whole or in part, during such period.

"(2) The period referred to in paragraph (1) is the period that begins 45 days after the date of the enactment of the Federal Acquisition Streamlining Act of 1994 and ends on September 30, 1998.".

(b) RULE OF CONSTRUCTION.—Nothing in section 840 of the National Defense Authorization Act for Fiscal Year 1994, as added by subsection (a), shall be construed as authorizing the appropriation or obligation of funds for the programs designated for participation in the defense acquisition pilot program under the authority of subsection (a) of such section 840.

Subtitle B—Civilian Agency Acquisitions

SEC. 5051. PERFORMANCE BASED MANAGEMENT.

(a) POLICY AND GOALS FOR PERFORMANCE BASED MANAGEMENT OF PROGRAMS.—

(1) IN GENERAL.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 301 et seq.), as amended by sections 1552 and 1553, is further amended by adding at the end the following new section:

"PERFORMANCE BASED MANAGEMENT:
ACQUISITION PROGRAMS

"SEC. 311. (a) CONGRESSIONAL POLICY.—It is the policy of Congress that the head of each executive agency should achieve, on average, 90 percent of the cost and schedule goals established for the research and development programs and acquisition programs of the agency without reducing the performance or capabilities of the items being acquired.

"(b) ESTABLISHMENT OF GOALS.—(1) The head of each executive agency shall approve or define the cost, performance, and schedule goals for major acquisition programs of the agency.

"(2) The chief financial officer of an executive agency shall evaluate the cost goals proposed for each major defense acquisition program of the agency.

"(c) IDENTIFICATION OF NONCOMPLIANT PROGRAMS.—Whenever it is necessary to do so in order to implement the policy set out in subsection (a), the head of an executive agency shall—

"(1) identify and consider whether there is a continuing need for programs that are significantly behind schedule, over budget, or not in compliance with performance or capability requirements taking into consideration—

"(A) the needs of the agency known as of the time of consideration;

"(B) the state of the technology or technologies relevant to the programs and to the needs of the agency;

"(C) the estimated costs and projected schedules necessary for the completion of such programs; and

"(D) other pertinent information; and

"(2) identify existing and potential research and development programs and acquisition programs that are suitable alternatives for programs considered pursuant to paragraph (1).".

(2) CLERICAL AMENDMENT.—The table of contents in the first section of such Act, as amended by sections 1552 and 1553, is further amended by inserting after the item relating to section 310 the following new item:

"Sec. 311. Performance based management: acquisition programs.".

(b) ANNUAL REPORTING REQUIREMENT.—Section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405), as amended by section 1091, is further amended by adding at the end the following new subsection:

"(k) The Administrator shall submit to Congress, on an annual basis, an assessment of the progress made in executive agencies in implementing the policy stated in section 311(a) of the Federal Property and Administrative Services Act of 1949. The Administrator shall use data from existing management systems in making the assessment.".

(c) ENHANCED SYSTEM OF PERFORMANCE INCENTIVES.—Within one year after the date of the enactment of this Act, the Administrator for Federal Procurement Policy, in consultation with appropriate officials in other departments and agencies of the Federal Government, shall, to the maximum extent consistent with applicable law—

(1) establish policies and procedures for the heads of such departments and agencies to designate acquisition positions and manage employees (including the accession, education, training and career development of employees) in the designated acquisition positions;

(2) extend to the acquisition workforce of the entire executive branch the acquisition workforce policies contained in chapter 87 of title 10, United States Code, relating to the acquisition workforce of the Department of Defense; and

(3) review the incentives and personnel actions available to the heads of departments and agencies of the Federal Government for encouraging excellence in the acquisition workforce of the Federal Government and provide an enhanced system of incentives for the encouragement of excellence in such workforce which—

(A) relates pay to performance (including the extent to which the performance of personnel in such workforce contributes to achieving the cost goals, schedule goals, and performance goals established for acquisition programs pursuant to section 311(b) of the Federal Property and Administrative Services Act of 1949, as added by subsection (a)); and

(B) provides for consideration, in personnel evaluations and promotion decisions, of the extent to which the performance of personnel in such workforce contributes to achieving such cost goals, schedule goals, and performance goals.

(d) RECOMMENDED LEGISLATION.—Not later than one year after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall submit to Congress any recommended legislation that the Secretary considers necessary to carry out section 311 of the Federal Property and Administrative Services Act of 1949, as added by subsection (a), and otherwise to facilitate and enhance management of Federal Government acquisition programs and the acquisition workforce of the Federal Government on the basis of performance.

SEC. 5052. RESULTS-ORIENTED ACQUISITION PROCESS.

(a) DEVELOPMENT OF PROCESS REQUIRED.—The Administrator for Federal Procurement Policy, in consultation with the heads of appropriate Federal agencies, shall develop a results-oriented acquisition process for implementation by agencies in acquisitions of property and services by the Federal agencies. The process shall include the identification of quantitative measures and standards for determining the extent to which an acquisition of noncommercial items by a Federal agency satisfies the needs for which the items are being acquired.

(b) INAPPLICABILITY OF PROCESS TO DEPARTMENT OF DEFENSE.—The process developed pursuant to subsection (a) may not be applied to the Department of Defense.

Subtitle C—Miscellaneous

SEC. 5091. CONTRACTOR EXCEPTIONAL PERFORMANCE AWARDS.

The Office of Federal Procurement Policy Act, as amended by section 4021, is further amended by adding at the end the following:

"CONTRACTOR EXCEPTIONAL PERFORMANCE
AWARDS

"SEC. 31. (a) ESTABLISHMENT.—There is hereby established an executive branch program to recognize and promote exceptional contract performance by Federal Government contractors.

"(b) SELECTION.—(1) The Administrator shall ensure the establishment of criteria for selection of contractors to receive exceptional performance awards under the program.

"(2) The head of an executive agency may select one or more agency contractors to receive an exceptional performance award under the program.

"(c) AWARD CEREMONY.—The Vice President, or the head of the executive agency selecting a contractor for an exceptional performance award, shall present the award to the contractor with such ceremony as the Vice President or head of the agency, as the case may be, considers appropriate.".

SEC. 5092. DEPARTMENT OF DEFENSE ACQUISITION OF INTELLECTUAL PROPERTY RIGHTS.

Section 2386 of title 10, United States Code, is amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) Technical data and computer software.

"(4) Releases for past infringement of patents or copyrights or for unauthorized use of technical data or computer software.".

TITLE VI—STANDARDS OF CONDUCT

Subtitle A—Ethics Provisions

SEC. 6001. AMENDMENTS TO OFFICE OF FEDERAL PROCUREMENT POLICY ACT.

(a) RECUSAL.—Subsection (c) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended—

(1) in paragraph (1)—

(A) in the matter above subparagraph (A), by inserting "only" after "subsection (b)(1)"; and

(B) in subparagraph (A), by inserting "(including the modification or extension of a contract)" after "any procurement";

(2) by striking out paragraphs (2) and (3) and inserting in lieu thereof:

"(2) Whenever the head of a procuring activity approves a recusal under paragraph (1), a copy of the recusal request and the approval of the request shall be retained by such official for a period (not less than five years) specified in regulations prescribed in accordance with subsection (o).

"(3)(A) Except as provided in subparagraph (B), all recusal requests and approvals of recusal requests pursuant to this subsection shall be made available to the public on request.

"(B) Any part of a recusal request or an approval of a recusal request that is exempt from the disclosure requirements of section 552 of title 5, United States Code, under subsection (b)(1) of such section may be withheld from disclosure to the public otherwise required under subparagraph (A)."; and

(3) in paragraph (4), by striking out "competing contractor" and inserting in lieu thereof "person".

(b) APPLICABILITY OF CERTIFICATION REQUIREMENT.—Subsection (e)(7)(A) of such section is amended by adding at the end the following: "However, paragraph (1)(B) does not apply with respect to a contract for less than $500,000.".

(c) RESTRICTIONS RESULTING FROM PROCUREMENT ACTIVITIES OF PROCUREMENT OFFICIALS.—Subsection (f) of such section is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) No individual who, in the year prior to separation from service as an officer or employee of the Government or an officer of the uniformed services in a covered position, participated personally and substantially in acquisition functions related to a contract, subcontract, or claim of $500,000 or more and—

"(A) engaged in repeated direct contact with the contractor or subcontractor on matters relating to such contract, subcontract, or claim; or

"(B) exercised significant ongoing decisionmaking responsibility with respect to the contractor or subcontractor on matters relating to such contract, subcontract, or claim,

shall knowingly accept or continue employment with such contractor or subcontractor for a period of 1 year following the individual's separation from service, except that such individual may accept or continue employment with any division or affiliate of such contractor or subcontractor that does not produce the same or similar products as the entity involved in the negotiation or performance of the contract or subcontract or the adjustment of the claim.

"(2) No contractor or subcontractor, or any officer, employee, agent, or consultant of such contractor or subcontractor shall knowingly offer, provide, or continue any employment for another person, if such contractor, subcontractor, officer, employee, agent, or consultant knows or should know that the acceptance of such employment is or would be in violation of paragraph (1).

"(3) The head of each Federal agency shall designate in writing as a 'covered position' under this section each of the following positions in that agency:

"(A) The position of source selection authority, member of a source selection evaluation board, or chief of a financial or technical evaluation team, or any other position, if the officer or employee in that position is likely personally to exercise substantial responsibility for ongoing discretionary functions in the evaluation of proposals or the selection of a source for a contract in excess of $500,000.

"(B) The position of procuring contracting officer, or any other position, if the officer or employee in that position is likely personally to exercise substantial responsibility for ongoing discretionary functions in the negotiation of a contract in excess of $500,000 or the negotiation or settlement of a claim in excess of $500,000.

"(C) The position of program executive officer, program manager, or deputy program manager, or any other position, if the officer or employee in that position is likely personally to exercise similar substantial responsibility for ongoing discretionary functions in the management or administration of a contract in excess of $500,000.

"(D) The position of administrative contracting officer, the position of an officer or employee assigned on a permanent basis to a Government Plant Representative's Office, the position of auditor, a quality assurance position, or any other position, if the officer or employee in that position is likely personally to exercise substantial responsibility for ongoing discretionary functions in the onsite oversight of a contractor's operations with respect to a contract in excess of $500,000.

"(E) A position in which the incumbent is likely personally to exercise substantial responsibility for ongoing discretionary functions in operational or developmental testing activities involving repeated direct contact with a contractor regarding a contract in excess of $500,000.".

(d) DISCLOSURE OF PROPRIETARY OR SOURCE SELECTION INFORMATION TO UNAUTHORIZED PERSONS.—Subsection (l) of such section is amended—

(1) by inserting "who are likely to be involved in contracts, modifications, or extensions in excess of $25,000" in the first sentence after "its procurement officials"; and

(2) by striking out "(e)" each place it appears and inserting in each such place "(f)".

(e) RULES OF CONSTRUCTION.—Subsection (n) of such section is amended to read as follows:

"(n) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to—

"(1) authorize the withholding of any information from the Congress, any committee or subcommittee thereof, a Federal agency, any board of contract appeals of a Federal agency, the Comptroller General, or an inspector general of a Federal agency;

"(2) restrict the disclosure of information to, or receipt of information by, any person or class of persons authorized, in accordance with applicable agency regulations or procedures, to receive that information;

"(3) restrict a contractor from disclosing its own proprietary information or the recipient of information so disclosed by a contractor from receiving such information; or

"(4) restrict the disclosure or receipt of information relating to a Federal agency procurement that has been canceled by the agency and that the contracting officer concerned determines in writing is not likely to be resumed.".

(f) TERM TO BE DEFINED IN REGULATIONS.—Subsection (o)(2)(A) of such section is amended—

(1) by inserting "money, gratuity, or other" before "thing of value' "; and

(2) by inserting before the semicolon "and such other exceptions as may be adopted on a Governmentwide basis under section 7353 of title 5, United States Code".

(g) TERMS DEFINED IN LAW.—Subsection (p) of such section is amended—

(1) in paragraph (1) by striking out "clauses (i)-(viii)" and inserting in lieu thereof "clauses (i) through (vii)";

(2) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking out clause (i);

(ii) by redesignating clauses (ii), (iii), (iv), (v), (vi), (vii), and (viii) as clauses (i), (ii), (iii), (iv), (v), (vi), and (vii), respectively; and

(iii) in clause (i) (as redesignated by subclause (II) of this clause), by striking out "review and approval of a specification" and inserting in lieu thereof "approval or issuance of a specification, acquisition plan, procurement request, or requisition"; and

(B) in subparagraph (B), by striking out all after "includes" and inserting in lieu thereof the following: "any individual acting on behalf of, or providing advice to, the agency with respect to any phase of the agency procurement concerned, regardless of whether such individual is a consultant, expert, or adviser, or an officer or employee of a contractor or subcontractor (other than a competing contractor)."; and

(3) in paragraph (6)(A), by inserting "nonpublic" before "information".

SEC. 6002. AMENDMENTS TO TITLE 18, UNITED STATES CODE.

Section 208(a) of title 18, United States Code, is amended—

(1) by inserting "(1)" before "Except as permitted"; and

(2) by adding at the end the following new paragraph:

"(2) Whoever knowingly aids, abets, counsels, commands, induces, or procures conduct prohibited by this section shall be subject to the penalties set forth in section 216 of this title.".

SEC. 6003. REPEAL OF SUPERSEDED AND OBSOLETE LAWS.

(a) REPEAL.—The following provisions of law are repealed:

(1) Sections 2207, 2397, 2397a, 2397b, and 2397c of title 10, United States Code.

(2) Section 281 of title 18, United States Code.

(3) Section 801 of title 37, United States Code.

(4) Part A of title VI of the Department of Energy Organization Act (42 U.S.C. 7211 through 7218).

(b) CLERICAL AMENDMENTS.—

(1) TITLE 10.—Part IV of subtitle A of title 10, United States Code, is amended—

(A) in the table of sections at the beginning of chapter 131, by striking out the item relating to section 2207; and

(B) in the table of sections for chapter 141, by striking out the items relating to sections 2397, 2397a, 2397b, and 2397c.

(2) TITLE 18.—The table of sections for chapter 15 of title 18, United States Code, is amended by striking out the item relating to section 281.

(3) TITLE 37.—The table of sections for chapter 15 of title 37, United States Code, is amended by striking out the item relating to section 801.

(4) DEPARTMENT OF ENERGY ORGANIZATION ACT.—The table of contents for the Department of Energy Organization Act is amended by striking out the matter relating to part A of title VI.

SEC. 6004. IMPLEMENTATION.

(a) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, regulations implementing the amendments made by section 6001 to section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), including definitions of the terms used in subsection (f) of such section, shall be issued in accordance with sections 6 and 25 of such Act (41 U.S.C. 405 and 521) after coordination with the Director of the Office of Government Ethics.

(b) SAVINGS PROVISIONS.—

(1) CONTRACTOR CERTIFICATIONS.—No officer, employee, agent, representative, or consultant of a contractor who has signed a certification under section 27(e)(1)(B) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)(1)(B)) before the effective date of this Act shall be required to sign a new certification as a result of the enactment of this Act.

(2) FEDERAL PROCUREMENT OFFICIAL CERTIFICATIONS.—No procurement official of a Federal agency who has signed a certification under section 27(l) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(l)) before the date of enactment of this Act shall be required to sign a new certification as a result of the enactment of this Act.

(c) INSPECTOR GENERAL REPORTS.—Not later than May 31 of each of the years 1995 through 1998, the Inspector General of each Federal agency (or, in the case of a Federal agency that does not have an Inspector General, the head of such agency) shall submit to Congress a report on the compliance by the agency during the preceding year with the requirement for the head of the agency to designate covered procurement positions under section 27(f)(3) of the Office of Federal Procurement Policy Act (as added by section 6001(c)).

Subtitle B—Additional Amendments

SEC. 6051. CONTRACTING FUNCTIONS PERFORMED BY FEDERAL PERSONNEL.

(a) AMENDMENT OF OFPP ACT.—The Office of Federal Procurement Policy Act, as amended by section 1092, is further amended by inserting after section 22 the following new section 23:

"CONTRACTING FUNCTIONS PERFORMED BY FEDERAL PERSONNEL

"SEC. 23. (a) LIMITATION ON PAYMENT FOR ADVISORY AND ASSISTANCE SERVICES.—(1) No person who is not a person described in subsection (b) may be paid by an agency for services to conduct evaluations or analyses of any aspect of a proposal submitted for an acquisition unless personnel described in subsection (b) with adequate training and capabilities to perform such evaluations and analyses are not readily available within the agency or another Federal agency, as determined in accordance with standards and procedures prescribed in the Federal Acquisition Regulation.

"(2) In the administration of this subsection, the head of each agency shall determine in accordance with the standards and procedures set forth in the Federal Acquisition Regulation whether—

"(A) a sufficient number of personnel described in subsection (b) within the agency or another Federal agency are readily available to perform a particular evaluation or analysis for the agency head making the determination; and

"(B) the readily available personnel have the training and capabilities necessary to perform the evaluation or analysis.

"(b) COVERED PERSONNEL.—For purposes of subsection (a), the personnel described in this subsection are as follows:

"(1) An employee, as defined in section 2105 of title 5, United States Code.

"(2) A member of the Armed Forces of the United States.

"(3) A person assigned to a Federal agency pursuant to subchapter VI of chapter 33 of title 5, United States Code.

"(c) RULE OF CONSTRUCTION.—Nothing in this section is intended to affect the relationship between the Federal Government and a federally funded research and development center.".

(b) REQUIREMENT FOR GUIDANCE AND REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Federal Acquisition Regulatory Council established by section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall—

(1) review part 37 of title 48 of the Code of Federal Regulations as it relates to the use of advisory and assistance services; and

(2) provide guidance and promulgate regulations regarding—

(A) what actions Federal agencies are required to take to determine whether expertise is readily available within the Federal Government before contracting for advisory and technical services to conduct acquisitions; and

(B) the manner in which personnel with expertise may be shared with agencies needing expertise for such acquisitions.

SEC. 6052. REPEAL OF EXECUTED REQUIREMENT FOR STUDY AND REPORT.

Section 17 of the Office of Federal Procurement Policy Act (41 U.S.C. 415) is repealed.

SEC. 6053. INTERESTS OF MEMBERS OF CONGRESS.

Section 3741 of the Revised Statutes (41 U.S.C. 22) is amended to read as follows:

"No Member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or accepted by or on behalf of the United States, or to any benefit to arise thereupon.".

SEC. 6054. WAITING PERIOD FOR SIGNIFICANT CHANGES PROPOSED FOR ACQUISITION REGULATIONS.

(a) INCREASED PERIOD.—Section 22(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 418b) is amended—

(1) by striking out "30 days" and inserting in lieu thereof "60 days"; and

(2) by adding at the end the following: "Notwithstanding the preceding sentence, such a policy, regulation, procedure, or form may take effect earlier than 60 days after the publication date when there are compelling circumstances for the earlier effective date, but in no event may that effective date be less than 30 days after the publication date.".

(b) TECHNICAL AMENDMENT.—Section 22(d) of such Act is amended by designating the second sentence as paragraph (3).

Subtitle C—Whistleblower Protection

SEC. 6101. ARMED SERVICES PROCUREMENTS.

(a) WHISTLEBLOWER PROTECTIONS FOR CONTRACTOR EMPLOYEES.—Section 2409 of title 10, United States Code, is amended—

(1) by striking out subsection (d);

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following new subsection (c):

"(c) REMEDY AND ENFORCEMENT AUTHORITY.—(1) If the Secretary of Defense determines that a defense contractor has subjected a person to a reprisal prohibited by subsection (a), the Secretary may take one or more of the following actions:

"(A) Order the defense contractor to take affirmative action to abate the reprisal.

"(B) Order the defense contractor to reinstate the person to the position that the person held before the reprisal, together with the compensation (including back pay), employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

"(C) Order the defense contractor to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorney's fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the Secretary.

"(2) Whenever a person fails to comply with an order issued under paragraph (1), the Secretary shall file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief and compensatory and exemplary damages.

"(3) Any person adversely affected or aggrieved by an order issued under paragraph (1) may obtain review of the order's conformance with this subsection, and any regulations issued to carry out this section, in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the Secretary's order. Review shall conform to chapter 7 of title 5.".

(b) RELATED LAW.—

(1) REPEAL.—Section 2409a of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2409a.

SEC. 6102. GOVERNMENTWIDE WHISTLEBLOWER PROTECTIONS FOR CONTRACTOR EMPLOYEES.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 5091, is further amended by adding at the end the following new section:

"CONTRACTOR EMPLOYEES: PROTECTION FROM REPRISAL FOR DISCLOSURE OF CERTAIN INFORMATION

"SEC. 32. (a) PROHIBITION OF REPRISALS.—An employee of an executive agency contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a Member of Congress or an authorized official of the agency or the Department of Justice information relating to a substantial violation of law related to an agency contract (including the competition for or negotiation of an agency contract).

"(b) Investigation of Complaints.—A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the Inspector General of the executive agency. Unless the Inspector General determines that the complaint is frivolous, the Inspector General shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the contractor concerned, and the head of the agency. In the case of an executive agency that does not have an inspector general, the duties of the inspector general under this section shall be performed by an official designated by the agency head.

"(c) Remedy and Enforcement Authority.—(1) If the head of an executive agency determines that an agency contractor has subjected a person to a reprisal prohibited by subsection (a), the agency head may take one or more of the following actions:

"(A) Order the contractor to take affirmative action to abate the reprisal.

"(B) Order the contractor to reinstate the person to the position that the person held before the reprisal, together with the compensation (including back pay), employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

"(C) Order the contractor to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorney's fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the Secretary.

"(2) Whenever a person fails to comply with an order issued under paragraph (1), the agency head shall file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief and compensatory and exemplary damages.

"(3) Any person adversely affected or aggrieved by an order issued under paragraph (1) may obtain review of the order's conformance with this subsection, and any regulations issued to carry out this section, in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the agency head's order. Review shall conform to chapter 7 of title 5, United States Code.

"(d) Construction.—Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.

"(e) Coordination With Other Law.—This section does not apply with respect to the Department of Defense. For the corresponding provision of law applicable to the Department of Defense, see section 2409 of title 10, United States Code.

"(f) Definition.—In this section, the term 'Inspector General' means an Inspector General appointed under the Inspector General Act of 1978.".

TITLE VII—DEFENSE TRADE AND COOPERATION

SEC. 7001. PURCHASES OF FOREIGN GOODS.

(a) Repeal of Executed Requirements.—

(1) Requirement for policy guidance.—Title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.), commonly referred to as the "Buy American Act", is amended in section 4(g) (41 U.S.C. 10b–1(g)) by striking out paragraphs (2)(C) and (3).

(2) Reporting requirement.—Section 9096(b) of Public Law 102–396 (106 Stat. 1924; 41 U.S.C. 10b–2(b)) is repealed.

(b) Repeal of Redundant Provision.—

(1) Consideration of national security objectives.—Section 2327 of title 10, United States Code, is repealed.

(2) Clerical amendment.—The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2327.

SEC. 7002. INTERNATIONAL COOPERATIVE AGREEMENTS.

(a) Terminology Revisions.—Section 2531 of title 10, United States Code, is amended—

(1) in the subsection captions for subsections (a) and (c), by striking out "MOUs and Related" and inserting in lieu thereof "International";

(2) in subsection (a), by striking out "proposed memorandum of understanding, or any existing or proposed agreement related to a memorandum of understanding," in the matter above paragraph (1) and inserting in lieu thereof "proposed international agreement, including a memorandum of understanding,";

(3) by striking out "memorandum of understanding or related agreement" each place it appears and inserting in lieu thereof "international agreement";

(4) in subsection (b), by striking out "memorandum or related agreement" each place it appears in the second sentence and inserting in lieu thereof "international agreement"; and

(5) in subsection (c)—

(A) by striking out "A" after "Agreements.—" and inserting in lieu thereof "An"; and

(B) by striking out "memorandum or agreement" and inserting in lieu thereof "international agreement".

(b) Expanded Scope of Agreements.—Section 2531(a) of title 10, United States Code, is amended by striking out "research, development, or production" in the matter above paragraph (1) and inserting in lieu thereof "research, development, production, or logistics support".

(c) Clerical Amendments.—

(1) Section heading.—The heading of section 2531 of title 10, United States Code, is amended to read as follows:

"§ 2531. Defense international agreements".

(2) Table of sections.—The item relating to such section in the table of sections at the beginning of subchapter V of chapter 148 of such title is amended to read as follows:

"2531. Defense international agreements.".

SEC. 7003. ACQUISITION, CROSS-SERVICING AGREEMENTS, AND STANDARDIZATION.

(a) Limited Waiver of Restrictions on Accrued Reimbursable Liabilities and Credits for Contingency Operations.—Section 2347 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) The Secretary of Defense may waive the restrictions in subsections (a) and (b) for a period not to exceed 180 days upon a written determination that the armed forces are involved in a contingency operation or that involvement of the armed forces in a contingency operation is imminent. Upon making such a determination, the Secretary shall transmit a copy of the determination to the Committees on Armed Services of the Senate and House of Representatives.".

(b) Communications Support.—Section 2350f of title 10, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) Nothing in this section shall be construed to limit the authority of the Secretary of Defense, without a formal bilateral agreement or multilateral arrangement, to furnish communications support and related supplies to, or receive communications support and related supplies from, an allied country in accordance with this subsection.

"(2) The Secretary of Defense may furnish or receive such support and supplies on a reciprocal basis for a period not to exceed 90 days—

"(A) in order to meet emerging operational requirements of the United States and the allied country; or

"(B) incident to a joint military exercise with the allied country.

"(3) If interconnection of communication circuits is maintained for joint or multilateral defense purposes under the authority of this subsection, the costs of maintaining such circuits may be allocated among the various users.".

TITLE VIII—COMMERCIAL ITEMS

SEC. 8001. DEFINITIONS.

Section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403), as amended by section 4001(a), is further amended—

(1) by striking out "Act—" and inserting in lieu thereof "Act:";

(2) by capitalizing the initial letter in the first word of each paragraph;

(3) by striking out the semicolon at the end of each of paragraphs (1), (2), (3), (5), (6), (7), (8), and (9) and inserting in lieu thereof a period;

(4) in paragraphs (4) and (10), by striking out "; and" at the end and inserting in lieu thereof a period; and

(5) by adding at the end the following new paragraphs:

"(12) The term 'commercial item' means—

"(A) property, other than real property, that is of a type customarily used by the general public or by nongovernmental entities in the course of normal business operations for purposes other than governmental purposes and—

"(i) has been sold, leased, or licensed to the general public;

"(ii) has not been sold, leased, or licensed to the general public but has been offered for sale, lease, or license to the general public; or

"(iii) is not yet available in the commercial marketplace but will be made available for commercial delivery within a reasonable period;

"(B) any item that, but for—

"(i) modifications of a type customarily available in the commercial marketplace, or

"(ii) minor modifications made to meet Federal Government requirements, would satisfy the criteria in subparagraph (A);

"(C) any combination of items meeting the requirements of subparagraph (A), (B), or (D) that are of a type customarily combined and sold in combination to the general public;

"(D) installation services, maintenance services, repair services, training services, and other services if such services are procured for support of an item referred to in subparagraph (A), (B), or (C) and if the source of such services—

"(i) offers such services to the general public and the Federal Government contemporaneously and under similar terms and conditions; and

"(ii) offers to use the same work force for providing the Federal Government with such services as the source uses for providing such services to the general public; and

"(E) any item, combination of items, or service referred to in subparagraph (A), (B), (C), or (D), regardless of whether the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor.

"(13) The term 'nondevelopmental item' means—

"(A) any commercial item;

"(B) any previously developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

"(C) any item of supply described in subparagraph (A) or (B) that requires only minor modification of the type normally available in the commercial marketplace in order to meet the requirements of the procuring department or agency; or

"(D) any item of supply currently being produced that does not meet the requirements of subparagraph (A), (B), or (C) solely because the item—

"(i) is not yet in use; or

"(ii) is not yet available in the commercial marketplace.

"(14) The term 'component' means any item supplied to the Federal Government as part of an end item or of another component.

"(15) The term 'commercial component' means any component that is a commercial item.".

SEC. 8002. PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS AND NONDEVELOPMENTAL ITEMS.

(a) PREFERENCE REQUIRED.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 6102, is further amended by adding at the end the following new section:

"PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS AND NONDEVELOPMENTAL ITEMS

"SEC. 33. (a) PREFERENCE.—The head of each executive agency shall ensure that, to the maximum extent practicable—

"(1) requirements of the executive agency with respect to a procurement of supplies are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, other nondevelopmental items may be procured to fulfill such requirements; and

"(3) offerors of commercial items and other nondevelopmental items are provided an opportunity to compete in any procurement to fill such requirements.

"(b) IMPLEMENTATION.—The head of each executive agency shall ensure that procurement officials in that executive agency, to the maximum extent practicable—

"(1) acquire commercial items or other nondevelopmental items to meet the needs of the executive agency;

"(2) require prime contractors and subcontractors at all levels under the executive agency contracts to incorporate commercial items or other nondevelopmental items as components of items supplied to the executive agency;

"(3) modify requirements in appropriate cases to ensure that the requirements can be met by commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, other nondevelopmental items;

"(4) state specifications in terms that enable and encourage bidders and offerors to supply commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, other nondevelopmental items in response to the executive agency solicitations;

"(5) revise the executive agency's procurement policies, practices, and procedures not required by law to reduce any impediments in those policies, practices, and procedures to the acquisition of commercial items; and

"(6) require training of appropriate personnel in the acquisition of commercial items.

"(c) PRELIMINARY MARKET RESEARCH.—(1) The head of an executive agency shall conduct market research appropriate to the circumstances—

"(A) before developing new specifications for a procurement by that executive agency; and

"(B) before soliciting bids or proposals for a contract in excess of the simplified acquisition threshold.

"(2) The head of an executive agency shall use the results of market research to determine whether there are commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, other nondevelopmental items available that—

"(A) meet the executive agency's requirements;

"(B) could be modified to meet the executive agency's requirements; or

"(C) could meet the executive agency's requirements if those requirements were modified to a reasonable extent.

"(3) In conducting market research, the head of an executive agency should not require potential sources to submit more than the minimum information that is necessary to make the determinations required in paragraph (2).".

(b) REPEAL OF SUPERSEDED PROVISION.—

(1) SEPARATE STATEMENT OF PREFERENCE FOR DEPARTMENT OF DEFENSE.—Section 2325 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2325.

SEC. 8003. ACQUISITION OF COMMERCIAL ITEMS.

(a) REQUIRED FAR PROVISIONS.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 8002, is further amended by adding at the end the following:

"FEDERAL ACQUISITION REGULATION PROVISIONS REGARDING ACQUISITIONS OF COMMERCIAL ITEMS AND COMPONENTS

"SEC. 34. (a) CONTRACT CLAUSES AND OTHER CLAUSES.—(1)(A) The Federal Acquisition Regulation shall include one or more sets of contract clauses containing the required terms and conditions for the acquisition of commercial items and commercial components by executive agencies and by contractors in the performance of contracts of executive agencies.

"(B) The contract clauses referred to in subparagraph (A) shall include only—

"(i) those clauses that are required to implement provisions of law or executive orders applicable to acquisitions of commercial items or commercial components, as the case may be;

"(ii) those contract clauses that are essential for the protection of the Federal Government's interest in an acquisition of commercial items or commercial components, as the case may be; and

"(iii) those contract clauses that are determined to be consistent with standard commercial practice.

"(2) Subject to paragraph (3), the Federal Acquisition Regulation shall require that, to the maximum extent practicable, only the contract clauses referred to in paragraph (1) be used in a contract, or be required to be used in a subcontract, for the acquisition of commercial items or commercial components by or for an executive agency.

"(3) The Federal Acquisition Regulation shall provide that a contract or subcontract referred to in paragraph (2) may contain contract clauses other than the contract clauses referred to in that paragraph only if the other clauses are essential for the protection of the Federal Government's interest in—

"(A) that contract or subcontract, as determined in writing by the contracting officer for such contract; or

"(B) a class of contracts or subcontracts, as determined by the head of an agency concerned, unless the determination of that head of an agency is disapproved by the Administrator.

"(4) The Federal Acquisition Regulation shall provide standards and procedures for waiving the use of contract clauses required pursuant to paragraph (1), other than those required by law, including standards for determining the cases in which a waiver is appropriate.

"(b) MARKET ACCEPTANCE.—(1) The Federal Acquisition Regulation shall provide that under appropriate conditions the head of an executive agency may require offerors to demonstrate that the items offered—

"(A) have either—

"(i) achieved commercial market acceptance; or

"(ii) been satisfactorily supplied to an executive agency under current or recent contracts for the same or similar requirements; and

"(B) otherwise meet the item description, specifications, or other criteria prescribed in the public notice and solicitation relating to the contract.

"(2) The Federal Acquisition Regulation shall provide guidance to ensure that the criteria for determining commercial market acceptance include the consideration of—

"(A) the minimum needs of the executive agency concerned; and

"(B) the entire relevant commercial market, including small businesses.

"(c) USE OF FIRM, FIXED PRICE CONTRACTS.—The Federal Acquisition Regulation shall include a requirement that firm, fixed price contracts or fixed price with economic price adjustment contracts, be used, to the maximum extent practicable, for the acquisition of commercial items.

"(d) CONTRACT QUALITY REQUIREMENTS.—The Federal Acquisition Regulation shall include provisions that—

"(1) permit, to the maximum extent practicable, a contractor under a commercial items acquisition to use the contractor's existing quality assurance system as a substitute for compliance with a requirement for the Federal Government to inspect or test the commercial items before the contractor's tender of those items for acceptance by the Federal Government;

"(2) require that, to the maximum extent practicable, an executive agency accept commercial warranties (including extended warranties) offered by offerors of commercial items to commercial customers and use such warranties for the repair and replacement of commercial items; and

"(3) set forth guidance to executive agencies regarding the use of past performance of items and sources as a factor in contract award decisions.

"(e) TREATMENT OF TRANSFERS BETWEEN AFFILIATES.—The Federal Acquisition Regulation shall provide for a transfer of commercial items from one division, subsidiary, or affiliate of a contractor to another division, subsidiary, or affiliate of the contractor to be treated as a subcontract for purposes of section 35 of the Office of Federal Procurement Policy Act and the provisions of law amended by section 8005 of the Federal Acquisition Streamlining Act of 1994.".

(b) DEFENSE CONTRACT CLAUSES.—

(1) TERMINATION OF DOD AUTHORITY.—Section 824(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 2325 note) shall cease to be effective on the date on which the regulations implementing section 34 of the Office of Federal Procurement Policy Act, as added by subsection (a), become effective.

(2) SAVINGS PROVISION.—Notwithstanding section 34(a) of the Office of Federal Procurement Policy Act (as added by subsection (a)), contracts of the Department of Defense entered into before the date on which section 824(b) ceases to be effective under paragraph (1), and subcontracts entered into before such date under such contracts, may include clauses developed pursuant to paragraphs (2) and (3) of section 824(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 2325 note).

SEC. 8004. CLASS WAIVER OF APPLICABILITY OF CERTAIN LAWS.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 8003, is further amended by adding at the end the following:

"CLASS WAIVER OF APPLICABILITY OF CERTAIN LAWS TO ACQUISITIONS OF COMMERCIAL ITEMS

"SEC. 35. (a) IN GENERAL.—The applicability of a provision of law described in subsection (c) that is enacted after the date of the enactment of the Federal Acquisition Streamlining Act of 1994 to contracts for the acquisition of commercial items may be waived on a class basis in the Federal Acquisition Regulation. Such a waiver shall not apply to a provision of law that expressly refers to this section and prohibits the waiver of that provision of law.

"(b) WAIVER OF APPLICABILITY TO SUBCONTRACTS.—(1) The applicability of a provision of law described in subsection (c) to subcontracts under a contract for the acquisition of commercial items or a subcontract for the acquisition of commercial components may be waived on a class basis in the Federal Acquisition Regulation. Such a waiver shall not apply to a provision of law that expressly refers to this section and prohibits the waiver of that provision of law.

"(2) Nothing in this subsection shall be construed to authorize the waiver of the applicability of any provision of law with respect to—

"(A) any contract with a prime contractor; or

"(B) any subcontract under a contract with a prime contractor who does not substantially transform the commercial items supplied under the contract.

"(c) COVERED LAW.—A provision of law referred to in subsections (a) and (b) is any provision of law that, as determined by the Federal Acquisition Regulatory Council, sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government.".

SEC. 8005. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) ARMED SERVICES ACQUISITIONS.—

(1) PROHIBITION ON CONTINGENT FEES.—Section 2306(b) of title 10, United States Code, as amended by section 4022(a), is further amended by inserting before the period at the end of the sentence added by section 4022(a) the following: "or to a contract for the acquisition of commercial items".

(2) REQUIREMENT TO IDENTIFY SUPPLIERS AND SOURCES OF SUPPLIES.—Paragraph (2) of section 2384(b) of title 10, United States Code, is amended to read as follows:

"(2) The regulations prescribed pursuant to paragraph (1) do not apply to a contract that requires the delivery of supplies that are commercial items, as defined in section 2302 of this title.".

(3) PROHIBITION AGAINST DOING BUSINESS WITH CERTAIN OFFERORS OR CONTRACTORS.—Section 2393(d) of title 10, United States Code, as amended by section 4022(e), is further amended by adding at the end the following: "The requirement shall not apply in the case of a subcontract for the acquisition of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).".

(4) PROHIBITION ON LIMITATION OF SUBCONTRACTOR DIRECT SALES.—Section 2402 of title 10, United States Code, as amended by section 4022(b), is further amended by adding at the end the following new subsection:

"(d)(1) An agreement between the contractor in a contract for the acquisition of commercial items and a subcontractor under such contract that restricts sales by such subcontractor directly to persons other than the contractor may not be considered to unreasonably restrict sales by that subcontractor to the United States in violation of the provision included in such contract pursuant to subsection (a) if the agreement does not result in the Federal Government being treated differently with regard to the restriction than any other prospective purchaser of such commercial items from that subcontractor.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(5) CONTRACTOR INVENTORY ACCOUNTING SYSTEMS: STANDARDS.—Section 2410b of title 10, United States Code, is amended—

(A) by inserting "(a) REGULATIONS REQUIRED.—" before "The Secretary of Defense"; and

(B) by adding at the end the following new subsection:

"(b) INAPPLICABILITY TO ACQUISITIONS OF COMMERCIAL ITEMS.—The regulations prescribed pursuant to subsection (a) need not apply to a contract for the acquisition of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).".

(6) PROHIBITION ON PERSONS CONVICTED OF DEFENSE-CONTRACT RELATED FELONIES.—Paragraph (4) of section 2408(a) of title 10, United States Code, as added by section 4022(f), is amended—

(A) by inserting after subparagraph (A) the following:

"(B) A contract referred to in such subparagraph that is for the acquisition of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)))."; and

(B) by inserting "or (B)" before the period at the end of subparagraph (C).

(b) CIVILIAN AGENCY ACQUISITIONS.—

(1) RESTRICTIONS ON SUBCONTRACTOR SALES TO THE UNITED STATES.—Section 303G of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253g), as amended by section 4023(b), is further amended by adding at the end the following new subsection:

"(d) An agreement between the contractor in a contract for the acquisition of commercial items and a subcontractor under such contract that restricts sales by such subcontractor directly to persons other than the contractor may not be considered to unreasonably restrict sales by that subcontractor to the United States in violation of the provision included in such contract pursuant to subsection (a) if the agreement does not result in the Federal Government being treated differently with regard to the restriction than any other prospective purchaser of such commercial items from that subcontractor.".

(2) PROHIBITION ON CONTINGENT FEES.—Section 304(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)), as amended by section 4023(a), is further amended by inserting before the period at the end of the sentence added by section 4023(a) the following: "or to a contract for the acquisition of commercial items".

(c) ACQUISITIONS GENERALLY.—

(1) FEDERAL WATER POLLUTION CONTROL ACT.—Section 508 of the Federal Water Pollution Control Act (33 U.S.C. 1368) is amended by adding at the end the following new subsection:

"(f)(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(2) CONTRACT WORK HOURS AND SAFETY STANDARDS ACT.—The Contract Work Hours and Safety Standards Act (title I of the Work Hours and Safety Act of 1962 (40 U.S.C. 327 et seq.)) is amended by adding at the end the following new section:

"SEC. 108. (a) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement in this title.

"(b) In subsection (a), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(3) OFFICE OF FEDERAL PROCUREMENT POLICY ACT REQUIREMENT RELATING TO PROCUREMENT INTEGRITY CERTIFICATIONS.—Section 27(e)(7) of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended by adding at the end the following new subparagraph:

"(C) This subsection does not apply to a contract for the acquisition of commercial items.".

(4) CERTAIN PROVISIONS OF THE ANTI-KICKBACK ACT OF 1986.—

(A) REQUIREMENT FOR CONTRACT CLAUSE.—Section 7 of the Anti-Kickback Act of 1986 (41 U.S.C. 57), as amended by section 4024(b), is further amended by inserting before the period at the end of subsection (d) the following: "or to a prime contract for the acquisition of commercial items (as defined in section 4(12) of such Act (41 U.S.C. 403(12)))."

(B) INSPECTION AUTHORITY.—Section 8 of such Act (41 U.S.C. 58) is amended by adding at the end the following: "This section does not apply with respect to a prime contract for the acquisition of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).".

(5) DRUG-FREE WORKPLACE ACT OF 1988.—Section 5152(a)(1) of the Drug-Free Workplace Act of 1988 (subtitle D of title V of Public Law 100-690; 41 U.S.C. 701(a)(1)), as amended by section 4024(e), is further amended by inserting after the matter inserted by such section 4024(e) the following: ", other than a contract for the procurement of commercial items (as defined in section 4(12) of such Act (41 U.S.C. 403(12)))".

(6) CLEAN AIR ACT.—Section 306 of the Clean Air Act (42 U.S.C. 7606) is amended by adding at the end the following new subsection:

"(f)(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(7) FLY AMERICAN REQUIREMENTS.—Section 1117 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1517) is amended by adding at the end the following new subsection:

"(e)(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the transportation of commercial items in order to implement a requirement in this section.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

SEC. 8006. FLEXIBLE DEADLINES FOR SUBMISSION OF OFFERS OF COMMERCIAL ITEMS.

(a) OFFICE OF FEDERAL PROCUREMENT POLICY ACT AMENDMENT.—Section 18(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)) is amended by adding at the end the following new paragraph:

"(4) The requirements of paragraph (3)(B) do not apply to contracts for the purchase of commercial items. The Administrator shall prescribe for such contracts appropriate limits on the applicability of a deadline for submission of bids or proposals that is required by paragraph (1). Such limits shall be incorporated in the Federal Acquisition Regulation. The Federal Acquisition Regulation shall specify a minimum period for submission of a response to a solicitation of offers for a contract for the acquisition of commercial items.".

(b) SAVINGS PROVISION.—The deadlines for submission of offers that are in effect in accordance with section 18(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall continue to apply to contracts for the purchase of commercial items until the limits prescribed pursuant to paragraph (4) of section 18(a) of the Office of Federal Procurement Policy Act (as added by subsection (a)) are incorporated in the Federal Acquisition Regulation, as required by such paragraph.

SEC. 8007. ADVOCATES FOR ACQUISITION OF COMMERCIAL AND NONDEVELOPMENTAL ITEMS.

(a) RESPONSIBILITIES OF THE ADVOCATE FOR COMPETITION.—Section 20(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(c)) is amended to read as follows:

"(c) The advocate for competition for each procuring activity shall be responsible for promoting full and open competition, promoting the acquisition of commercial items and other nondevelopmental items, and challenging barriers to such acquisition, including such barriers as unnecessarily restrictive statements of need, unnecessarily detailed specifications, and unnecessarily burdensome contract clauses.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 28 of such Act (41 U.S.C. 424) is repealed.

SEC. 8008. PROVISIONS NOT AFFECTED.

Nothing in this title shall be construed as amending, modifying, or superseding, or as intended to impair or restrict authorities or responsibilities under—

(1) section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), popularly referred to as the "Brooks Automatic Data Processing Act";

(2) title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.), popularly referred to as the "Brooks Architect-Engineers Act";

(3) subsections (a) and (d) of section 8 of the Small Business Act (15 U.S.C. 637); or

(4) the Act of June 25, 1938 (41 U.S.C. 46-48c), that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77), popularly referred to as the "Javits-Wagner-O'Day Act".

SEC. 8009. COMPTROLLER GENERAL REVIEW OF FEDERAL GOVERNMENT USE OF MARKET RESEARCH.

(a) REPORT REQUIRED.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report on the use of market research by the Federal Government in support of the procurement of commercial items and nondevelopmental items.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) A review of existing Federal Government market research efforts to gather data concerning commercial and other nondevelopmental items.

(2) A review of the feasibility of creating a Government-wide data base for storing, retrieving, and analyzing market data, including use of existing Federal Government resources.

(3) Any recommendations for changes in law or regulations that the Comptroller General considers appropriate.

TITLE IX—MISCELLANEOUS PROVISIONS

SEC. 9001. COMPTROLLER GENERAL REVIEW OF THE PROVISION OF LEGAL ADVICE FOR INSPECTORS GENERAL.

(a) REVIEW AND REPORT REQUIRED.—Not later than March 1, 1995, the Comptroller General of the United States shall—

(1) conduct a review of the independence of the legal services being provided to Inspectors General appointed under the Inspector General Act of 1978; and

(2) submit to Congress a report on the results of the review.

(b) MATTERS REQUIRED FOR REPORT.—The report shall include the following matters:

(1) With respect to each department or agency of the Federal Government that has an Inspector General appointed in accordance with the Inspector General Act of 1978 whose only or principal source of legal advice is the general counsel or other chief legal officer of the department or agency, an assessment of the extent of the independence of the legal advisors providing advice to the Inspector General.

(2) A comparison of the findings under the assessment referred to in paragraph (1) with findings on the same matters with respect to each Inspector General whose source of legal advice is legal counsel accountable solely to the Inspector General.

SEC. 9002. COST SAVINGS FOR OFFICIAL TRAVEL.

(a) The Administrator of the General Services Administration, no later than 120 days after enactment of this section, shall issue guidelines to ensure that agencies promote, encourage and facilitate the use of frequent traveler programs offered by airlines, hotels and car rental vendors by Federal employees who engage in official air travel, for the purpose of realizing to the maximum extent practicable cost savings for official travel.

(b) Any awards granted under such a frequent traveler program accrued through official travel shall be used only for official travel.

(c) Within one year of enactment of this section, the Administrator shall report to the Congress on efforts to promote the use of frequent traveler programs by Federal employees.

SEC. 9003. PROMPT RESOLUTION OF AUDIT RECOMMENDATIONS.

Federal agencies shall resolve or take corrective action on all Office of Inspector General audit report findings within a maximum of six months after their issuance, or, in the case of audits performed by non-Federal auditors, six months after receipt of the report by the Federal Government.

SEC. 9004. UNIFORM SUSPENSION AND DEBARMENT.

(a) Within six months after the date of enactment of this Act, regulations shall be issued providing that provisions for the debarment, suspension, or other exclusion of a participant in a procurement activity under the Federal Acquisition Regulation, or in a nonprocurement activity under regulations issued pursuant to Executive Order No. 12549, shall have government-wide effect. No agency shall allow a party to participate in any procurement or nonprocurement activity if any agency has debarred, suspended, or otherwise excluded (to the extent specified in the exclusion agreement) that party from participation in a procurement or nonprocurement activity.

(b) The Regulations issued pursuant to subsection (a) shall provide that an agency may grant an exception permitting a debarred, suspended, or otherwise excluded party to participate in procurement activities of that agency to the extent exceptions are authorized under the Federal Acquisition Regulation, or to participate in nonprocurement activities of that agency to the extent exceptions are authorized under regulations issued pursuant to Executive Order No. 12549.

(c) DEFINITIONS.—For the purposes of this part—

(1) "Procurement activities" refers to all acquisition programs and activities of the Federal Government, as defined in the Federal Acquisition Regulation.

(2) "Nonprocurement activities" refers to all programs and activities involving Federal financial and nonfinancial assistance and benefits, as covered by Executive Order No. 12549 and the Office of Management and Budget guidelines implementing that order.

(3) "Agency" refers to executive departments and agencies.

TITLE X—EFFECTIVE DATES AND IMPLEMENTATION

SEC. 10001. EFFECTIVE DATES.

(a) EFFECTIVE DATE OF ACT.—Except as otherwise provided in this Act, this Act shall take effect on the date of the enactment of this Act.

(b) Effective Date of Amendments.—Except as otherwise provided in this Act, the amendments made by this Act shall take effect on the date on which final implementing regulations are prescribed in accordance with section 10002.

SEC. 10002. IMPLEMENTING REGULATIONS.

(a) Proposed Changes.—Proposed changes to the Federal Acquisition Regulation and such other proposed regulations (or changes to existing regulations) as may be necessary to implement this Act shall be published in the Federal Register not later than 210 days after the date of the enactment of this Act.

(b) Public Comment.—The proposed regulations described in subsection (a) shall be made available for public comment for a period of not less than 60 days.

(c) Final Regulations.—Final regulations shall be published in the Federal Register not later than 330 days after the date of enactment of this Act.

(d) Applicability.—(1) The amendments made by this Act shall apply, in the manner prescribed in such final regulations, to any solicitation that is issued or any unsolicited proposal that is received on or after the date described in paragraph (3).

(2) The amendments made by this Act shall apply, to the extent and in the manner prescribed in such final regulations, to any matter related to—

(A) a contract that is in effect on the date described in paragraph (3);

(B) an offer under consideration on the date described in paragraph (3); or

(C) any other proceeding or action that is ongoing on the date described in paragraph (3).

(3) The date referred to in paragraphs (1) and (2) is the date specified in such regulations, which—

(A) shall not be earlier than the end of the 30-day period that begins on the date the regulations required by subsection (c) are published; and

(B) shall not be later than October 1, 1995.

(e) Requirement for Clarity.—Officers and employees of the Federal Government who prescribe regulations to implement this Act and the amendments made by this Act shall make every effort practicable to ensure that the regulations are concise and are easily understandable by potential offerors as well as by Government officials.

(f) Savings Provision.—Nothing in this Act shall be construed to affect the validity of any action taken or any contract entered into prior to the date specified in the regulations pursuant to subsection (d)(3) except to the extent and in the manner prescribed in such regulations.

SEC. 10003. EVALUATION BY THE COMPTROLLER GENERAL.

(a) Evaluation Relating to Issuance of Regulations.—Not later than December 1, 1995, the Comptroller General shall submit to the committees referred to in subsection (c) a report evaluating compliance with the requirements in section 10002, relating to the issuance of implementing regulations.

(b) Evaluation of Implementation of Regulations.—Not later than December 1, 1996, the Comptroller General shall submit to the committees referred to in subsection (c) a report evaluating the effectiveness of the regulations implementing this Act in streamlining the acquisition system and fulfilling the other purposes of this Act. The report shall include the Comptroller General's evaluation of the extent to which the departments and agencies of the Federal Government, in implementing this Act and the amendments made by this Act, are reducing acquisition management layers and associated costs.

(c) Committees Designated To Receive the Reports.—The Comptroller General shall submit the reports required by this section to the Committees on Armed Services and on Governmental Affairs of the Senate and the Committees on Small Business on Government Operations of the House of Representatives.

SEC. 10004. DATA COLLECTION THROUGH THE FEDERAL PROCUREMENT DATA SYSTEM.

(a) Data Collection Required.—The Federal Procurement Data System described in section 6(d)(4)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(4)(A)) shall be modified to collect from contracts in excess of the simplified acquisition threshold data pertaining to the following matters:

(1) Contract awards made pursuant to competitions conducted pursuant to section 2323 of title 10, United States Code, or section 8(c) of the Small Business Act (15 U.S.C. 637(c)).

(2) Awards to business concerns owned and controlled by women.

(3) Number of offers received in response to a solicitation.

(4) Task order contracts.

(5) Contracts for the acquisition of commercial items.

(b) Definition.—In this section, the term "simplified acquisition threshold" has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

TITLE XI—WAIVER OF THE APPLICATION OF THE PREVAILING WAGE-SETTING REQUIREMENTS TO VOLUNTEERS

SEC. 11001. SHORT TITLE.

This title may be cited as the "Community Improvement Volunteer Act of 1994".

SEC. 11002. PURPOSE.

It is the purpose of this title to promote and provide more opportunities for people who wish to volunteer their services in the construction, repair or alteration (including painting and decorating) of public buildings and public works funded, in whole or in part, with Federal financial assistance authorized under certain Federal programs that might not otherwise be possible without the use of volunteers, by waiving the application of the otherwise applicable prevailing wage-setting provisions of the Act of March 3, 1931 (commonly known as the "Davis-Bacon Act") (40 U.S.C. 276a et seq.) to such volunteers.

SEC. 11003. WAIVER.

(a) In General.—The requirement that certain laborers and mechanics be paid in accordance with the wage-setting provisions of the Act of March 3, 1931 (commonly known as the "Davis-Bacon Act") (40 U.S.C. 276a et seq.) as set forth in any of the Acts or provisions described in subsection (d), and the provisions relating to wages, in any federally assisted or insured contract or subcontract for construction, shall not apply to any individual—

(1) who volunteers—

(A) to perform a service for a public or private entity for civic, charitable, or humanitarian reasons, without promise, expectation, or receipt of compensation for services rendered other than expenses, reasonable benefits, or a nominal fee (as defined in subsection (b)), but solely for the personal purpose or pleasure of the individual; and

(B) to provide such services freely and without pressure or coercion, direct or implied, from an employer;

(2) whose contribution of service is not for the benefit of any contractor otherwise performing or seeking to perform work on the same project; and

(3) who is not otherwise employed at any time under the federally assisted or insured contract or subcontract involved for construction with respect to the project for which the individual is volunteering.

(b) Expenses.—Payments of expenses, reasonable benefits, or a nominal fee may be provided to volunteers described in subsection (a) if the Secretary of Labor determines, after an examination of the total amount of payments made (relating to expenses, benefits, or fees) in the context of the economic realities of the specific federally assisted or insured project, that such payments are appropriate. Subject to such a determination—

(1) a payment for an expense may be received by a volunteer for items such as uniform allowances, protective gear and clothing, reimbursement for approximate out-of-pocket expenses, or for the cost or expense of meals and transportation;

(2) a reasonable benefit may include the inclusion of a volunteer in a group insurance plan (such as a liability, health, life, disability, or worker's compensation plan) or pension plan, or the awarding of a length of service award; and

(3) a nominal fee may not be used as a substitute for compensation and may not be tied to productivity.

The decision as to what constitutes a nominal fee for purposes of paragraph (3) shall be made on a case-by-case basis and in the context of the economic realities of the situation involved.

(c) Economic Reality.—For purposes of subsection (b), in determining whether an expense, benefit, or fee described in such subsection may be paid to volunteers in the context of the economic realities of the particular situation, the Secretary of Labor shall not approve any such expense, benefit, or fee that has the effect of undermining labor standards by creating downward pressure on prevailing wages in the local construction industry.

(d) Contracts Exempted.—For purposes of subsection (a), the Acts or provisions described in this subsection are the following:

(1) The Library Services and Construction Act (20 U.S.C. 351 et seq.).

(2) The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(3) Section 329 of the Public Health Service Act (42 U.S.C. 254b).

(4) Section 330 of the Public Health Service Act (42 U.S.C. 254c).

SEC. 11004. REPORT.

Not later than December 31, 1997, the Secretary of Labor shall prepare and submit to the appropriate committees of Congress a report that—

(1) identifies and assesses, to the maximum extent practicable—

(A) the projects for which volunteers were permitted to work under this title; and

(B) the number of volunteers permitted to work because of the compliance of entities with the provisions of this title; and

(2) contains recommendations with respect to Acts related to the Davis-Bacon Act that could be addressed to permit volunteer work.

FEDERAL ACQUISITION STREAMLINING REFORM ACT OF 1994

The text of the bill (S. 2207) to revise, streamline, and reform the acquisition laws of the Federal Government, and

for other purposes, as passed by the Senate on July 1, 1994, is identical to S. 2206, this issue.

DEPARTMENT OF DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The text of the bill (S. 2208) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, as passed by the Senate on July 1, 1994, is as follows:

S. 2208

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Defense Authorization Act for Fiscal Year 1995".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.
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Sec. 4. General limitation.

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Sec. 102. Navy and Marine Corps.
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Sec. 212. Transfer of MILSTAR communications satellite program.
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Sec. 231. Funding of defense technology reinvestment programs for fiscal year 1995.
Sec. 232. Financial commitment requirements for small business concerns for participation in technology reinvestment projects.
Sec. 233. Conditions on funding of defense technology reinvestment projects.
Sec. 234. Federal defense laboratory diversification and Navy reinvestment in the technology and industrial base.
Sec. 235. Small business defense conversion guaranteed loans.

Subtitle E—Other Matters

Sec. 241. Cooperative research and development agreements with NATO organizations.
Sec. 242. Defense women's health research program.
Sec. 243. Requirement for submission of annual report of the Semiconductor Technology Council to Congress.
Sec. 244. Report on oceanographic survey and research requirements to support littoral warfare.
Sec. 245. LANSCE/LAMPF upgrades.
Sec. 246. Study regarding live-fire survivability testing of F-22 aircraft.
Sec. 247. University Research Initiative support program.
Sec. 248. Manufacturing science and technology program.
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Sec. 302. Working capital funds.
Sec. 303. Armed Forces Retirement Home funding.
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Sec. 305. Transfer from National Defense Stockpile Transaction Fund.
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Sec. 307. Air National Guard fighter aircraft.

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Sec. 1062. Assistance to family members of certain POW/MIAs who remain unaccounted for.
Sec. 1063. National Guard assistance for certain youth and charitable organizations.
Sec. 1064. Defense Mapping Agency.
Sec. 1065. Transfer of naval vessels to Brazil.
Sec. 1066. Transfers of M1A1 tanks to the Marine Corps.
Sec. 1067. Limitation regarding merger of telecommunications systems.
Sec. 1068. Acquisition of strategic sealift ships.
Sec. 1069. Requirement for Secretary of Defense to submit recommendations on certain provisions of law concerning missing persons.
Sec. 1070. Contact between the Department of Defense and the ministry of national defense of China on POW/MIA issues.
Sec. 1071. Disclosure of information concerning unaccounted for United States personnel from the Korean Conflict, and the Cold War.
Sec. 1072. Requirement for certification by Secretary of Defense concerning declassification of Vietnam-era POW/MIA records.
Sec. 1073. Information concerning unaccounted for United States personnel of the Vietnam conflict.
Sec. 1074. Report on POW/MIA matters concerning North Korea.
Sec. 1075. Elimination of disparity between effective dates for military and civilian retiree cost-of-living adjustments for fiscal year 1995.
Sec. 1076. Military recruiting on campus.
Sec. 1077. Study on convergence of Geosat and EOS altimetry programs.
Sec. 1078. Visas for officials of Taiwan.
Sec. 1079. Sense of the Senate concerning participation in allied defense cooperation.
Sec. 1080. Interagency placement program for Federal employees affected by reduction in force actions.
Sec. 1081. George C. Marshall European Center for Security Studies.
Sec. 1082. Changes in notice requirements upon pending or actual termination of defense programs.
Sec. 1083. Transfer of obsolete vessel Guadalcanal.
Sec. 1084. Study of spousal abuse involving Armed Forces personnel.

Sec. 1085. Review of the procedures used by Department of Defense investigative organizations when conducting an investigation into the death of a member of the Armed Forces who, while serving on active duty, died from a cause determined to be self-inflicted.
Sec. 1086. Public education facility of the Armed Forces Institute of Pathology.
Sec. 1087. Assignments of employees between Federal agencies and federally funded research and development centers.
Sec. 1088. Bosnia and Herzegovina.
Sec. 1089. Provision of intelligence and other assistance where drug trafficking threatens national security.
Sec. 1090. Administration of athletics programs at the service academies.
Sec. 1091. Review of the bottom up review and the future year defense program and establishment of new funding requirements and priorities.
Sec. 1092. Genocide in Rwanda.
Sec. 1093. Studies of health consequences of military service or employment in Southwest Asia during the Persian Gulf War.
Sec. 1094. Grants for research into the health consequences of the Persian Gulf War.
Sec. 1095. Compatibility of health registries.
Sec. 1096. Technical amendments.
Sec. 1097. North Atlantic Treaty Organization.
Sec. 1098. Limitation on obligation of funds for Mark-6 guidance sets for Trident II missiles.
Sec. 1099. Military planning for the size and structure of a force required for a major regional contingency on the Korean Peninsula.

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement for the Army as follows:

(1) For aircraft, $1,073,781,000.

(2) For missiles, $693,909,000.

(3) For weapons and tracked combat vehicles, $1,132,886,000.

(4) For ammunition, $870,361,000.

(5) For other procurement, $2,677,719,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement for the Navy as follows:

(1) For aircraft, $4,535,601,000.

(2) For weapons, including missiles and torpedoes, $2,428,539,000.

(3) For shipbuilding and conversion, $6,132,807,000.

(4) For other procurement, $3,310,217,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement for the Marine Corps in the amount of $528,857,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement for the Air Force as follows:

(1) For aircraft, $6,587,994,000.

(2) For missiles, $4,330,473,000.

(3) For other procurement, $6,961,153,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 1995 for Defense-wide procurement in the amount of $1,935,616,000.

SEC. 105. RESERVE COMPONENTS.

Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement of aircraft, vehicles, communications equipment, and other equipment for the reserve components of the Armed Forces as follows:

(1) For the Army National Guard, $85,000,000.

(2) For the Air National Guard, $270,000,000.

(3) For the Army Reserve, $75,000,000.

(4) For the Naval Reserve, $65,000,000.

(5) For the Air Force Reserve, $60,000,000.

(6) For the Marine Corps Reserve, $45,000,000.

SEC. 106. CHEMICAL DEMILITARIZATION PROGRAM.

(a) AUTHORIZATION.—There is hereby authorized to be appropriated for fiscal year 1995 the amount of $590,149,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare material of the United States that is not covered by section 1412 of such Act.

(b) LIMITATION.—Of the funds specified in subsection (a)—

(1) $363,584,000 is for operation and maintenance;

(2) $215,265,000 is for procurement; and

(3) $11,300,000 is for research and development efforts in support of the nonstockpile chemical weapons program.

(c) AUTHORITY FOR OBLIGATION OF UNAUTHORIZED APPROPRIATIONS.—The Department of Defense may obligate and expend $25,000,000 of the funds appropriated for research, development, test, and evaluation under the heading "CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE" in title VI of Public Law 103–139 (107 Stat. 1436) in accordance with the appropriation for such funds in that Act.

(d) IDENTIFICATION OF FUNDS FOR PROGRAM.—Section 1412(f) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(f)) is amended by striking out the last sentence and inserting in lieu thereof the following: "Funds for military construction projects necessary to carry out this section shall be set forth in the budget of the Department of Defense for any fiscal year as a separate account.".

SEC. 107. JOINT TRAINING, ANALYSIS AND SIMULATION CENTER.

Of the funds authorized to be appropriated for other procurement for the Navy, $10,500,000 shall be available for procurement of command, control, communications and computer equipment for a Joint Training, Analysis and Simulation Center for the United States Atlantic Command.

Subtitle B—Army Programs

SEC. 111. MULTIYEAR PROCUREMENT AUTHORITY FOR M1A2 TANK UPGRADES.

The Secretary of the Army may enter into multiyear procurement contracts for procurement of M1A2 Abrams tank upgrades in accordance with section 2306(h) of title 10, United States Code.

SEC. 112. TRANSFER OF REPLACEMENT ARMY TANK TO MARINE CORPS RESERVE.

The Secretary of the Army shall transfer one M1A1 common tank to the Marine Corps Reserve not later than the latest date on which any of the additional 24 M1A2 upgrades provided for under authorizations of appropriations in this Act is accepted by the Army.

SEC. 113. REPLACEMENT SURVEILLANCE SYSTEM FOR KOREA.

(a) LEASE AUTHORIZED.—Funds available to the Army for procurement of OV–1 aircraft that remain unobligated by reason of the early retirement of OV–1 aircraft deployed in Korea may be used for leasing a moving target indicator radar or another surveillance system to replace the surveillance capability of such aircraft in Korea if—

(1) the lease provides for deployment of the system within 180 days after the date of the enactment of this Act;

(2) the Republic of Korea pays 50 percent of the cost of the lease;

(3) the lease includes an option for the Republic of Korea to purchase the leased system after the joint surveillance and target attack radar surveillance system (JSTARS) program attains initial operational capability; and

(4) the lease expires within 180 days after the date on which the JSTARS system is planned, as of the date of the enactment of this Act, to attain initial operational capability.

(b) WAIVER AUTHORITY.—Section 1024(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1460) is amended by striking out "section 1439(b)(2)" and inserting in lieu thereof "section 1439".

SEC. 114. SMALL ARMS INDUSTRIAL BASE.

(a) FUNDING FOR PROCUREMENT.—Of the funds authorized to be appropriated pursuant to section 101(3)—

(1) $38,902,000 shall be available for procurement of MK19–3 grenade machine guns;

(2) $13,000,000 shall be available for procurement of M16A2 rifles;

(3) $24,016,000 shall be available for procurement of M249 squad automatic weapons; and

(4) $13,165,000 shall be available for procurement of M4 carbines.

(b) MULTIYEAR CONTRACTS AUTHORIZED.—(1) During fiscal year 1995, the Secretary of the Army may, in accordance with section 2306(h) of title 10, United States Code, enter into multiyear contracts to meet the following objectives for quantities of small arms weapons to be acquired for the Army:

(A) 21,217 MK19–3 grenade machine guns;

(B) 1,002,277 M16A2 rifles;

(C) 71,769 M249 squad automatic weapons; and

(D) 132,510 M4 carbines.

(2) If the Army does not enter into contracts in fiscal year 1995 that will meet all the objectives set forth in paragraph (1), the Secretary shall, to the extent provided for in appropriations Acts, enter into multiyear contracts on or after October 1, 1995, to meet such objectives.

(3) Notwithstanding the first sentence of section 2306(h)(8) of title 10, United States Code, the period of a multiyear contract entered into under this subsection may not exceed 10 years.

(c) FOLLOW-ON WEAPONS.—The Secretary of the Army shall provide for procurement of product improvements for existing small arms weapons and may do so within multiyear contracts entered into pursuant to subsection (b).

(d) JOINT SMALL ARMS MASTER PLAN.—(1) The Secretaries of the military departments shall jointly develop a master plan for meeting the immediate and future needs of the Armed Forces for small arms. The Secretary of the Army shall coordinate the development of the joint small arms master plan.

The joint small arms master plan shall include—

(A) an examination of the relative advantages and disadvantages of improving existing small arms weapons as compared to investing in new, advanced technology weapons; and

(B) an analysis of the effects of each such approach on the small arms industrial base.

(2) Not later than April 1, 1995, the Under Secretary of Defense for Acquisition and Technology shall—

(A) review the joint small arms master plan and the results of the examination of relative advantages and disadvantages of the two courses of action described in paragraph (1); and

(B) transmit the plan, together with any comments that the Under Secretary considers appropriate, to the congressional defense committees.

(e) FUNDING FOR RDT&E.—Of the funds authorized to be appropriated under section 201(1)—

(1) $5,000,000 shall be available for the Objective Crew-Served Weapons System; and

(2) $3,000,000 shall be available for product improvements to existing small arms weapons.

SEC. 115. BUNKER DEFEAT MUNITION MISSILES.

(a) AUTHORITY.—The Secretary of the Army may acquire up to 6,000 type classified standard bunker defeat munition weapons.

(b) FUNDING.—Funds authorized to be appropriated for the Army for fiscal year 1994 shall be available for acquisition of bunker defeat munition weapons in accordance with subsection (a) as follows:

(1) Of the amount authorized to be appropriated by section 101(4), $7,761,000.

(2) Of the amount authorized to be appropriated by section 201(1), $2,600,000.

Subtitle C—Navy Programs

SEC. 121. NUCLEAR AIRCRAFT CARRIER PROGRAM.

(a) TRANSFER OF FISCAL YEAR 1994 FUNDS.—To the extent provided in appropriations Acts, $1,200,000,000 may be transferred from the National Defense Sealift Fund to the funds appropriated pursuant to the authorization in section 102(a)(3).

(b) AVAILABILITY FOR CVN-76.—The funds transferred shall be available for the CVN-76 nuclear aircraft carrier program.

(c) RELATIONSHIP TO OTHER AUTHORIZATION.—The amount of the funds transferred shall be in addition to the amount authorized to be appropriated in section 102(a)(3) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1563).

(d) RELATIONSHIP TO OTHER TRANSFER AUTHORITY.—The transfer authority in paragraph (1) is in addition to any other transfer authority provided in this or any other Act.

SEC. 122. SEAWOLF SUBMARINE PROGRAM.

(a) LIMITATION OF COSTS.—Except as provided in subsection (b), the total amount obligated or expended for procurement of the SSN-21 and SSN-22 Seawolf submarines may not exceed $4,759,571,000.

(b) AUTOMATIC INCREASE OF LIMITATION AMOUNT.—The amount of the limitation set forth in subsection (a) is increased by the following amounts:

(1) The amounts of outfitting costs and post-delivery costs incurred for the submarines referred to in such subsection.

(2) The amounts of increases in costs attributable to economic inflation.

(3) The amounts of increases in costs attributable to compliance with changes in Federal, State, or local laws.

SEC. 123. NAVAL AMPHIBIOUS READY GROUPS.

(a) FINDINGS.—Congress makes the following findings:

(1) Extensive and compelling testimony from uniformed military and Department of Defense leadership has been received which supports a military requirement for twelve Amphibious Ready Groups.

(2) An official Department of Navy report required by the Fiscal Year 1993 National Defense Authorization Act clearly stipulates that a seventh LHD is required in order for the Navy to achieve a force structure of twelve Amphibious Ready Groups.

(3) The Department of Navy has identified funds for the purchase of LHD-7 in outyear budget projections.

(4) A significant shortfall in amphibious shipping and amphibious lift exists, both in the fiscal year 1995 budget request and in outyear force structure projections.

(5) Amphibious Assault Ships (LHDs) provide an important contingency capability and are uniquely suited to respond to world crises and to provide assistance after natural disasters.

(6) Twelve Amphibious Ready Groups are the correct number to sustain forward deployment and contingency requirements of the Navy.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Navy should, plan for, and budget to provide for, the attainment of a twelfth Amphibious Ready Group as soon as possible. Further, the Secretary of the Navy should extend the existing contract option on the LHD-7 Amphibious Assault Ship in order to achieve twelve Amphibious Ready Groups.

(c) LHD-7 CONTRACT OPTION EXTENSION.—

(1) The Secretary of the Navy is authorized to extend the existing contract option for the LHD-7 Amphibious Assault ship if the Secretary determines that the extension would be in the best interest of the United States.

(2) The Secretary of the Navy shall immediately begin negotiations to extend the existing contract option for the LHD-7 Amphibious Assault Ship Program.

(3) On and after the date that is 30 days after the date on which the Secretary notifies Congress of an intention to do so, the Secretary may use such program funds authorized to be appropriated for other Navy programs for such contract. The notification shall include a description of the intended use of the funds.

(d) REPORT REQUIREMENT.—The Secretary of the Navy shall report to the Congress, after December 31, 1994, but before March 31, 1995, Department of the Navy intentions related to contract execution of the existing contract option for the LHD-7 Amphibious Assault Ship. The report shall include an explanation of the Department's actions related to the attainment of a twelfth Amphibious Ready Group and the costs and benefits of extending the existing contract option on the LHD-7 Amphibious Assault Ship.

Subtitle D—Air Force Programs

SEC. 131. SETTLEMENT OF CLAIMS UNDER THE C-17 AIRCRAFT PROGRAM.

(a) SUPPLEMENTAL AGREEMENTS AUTHORIZED.—On or before September 30, 1995, but subject to subsection (e), the Secretary of the Air Force may enter into supplemental agreements pertaining to Air Force prime contract F33657-81-C-2108 and such other Air Force contracts relating to the C-17 aircraft program in effect on the date of enactment of this Act as the Secretary determines appropriate—

(1) to settle claims and disputes arising under such contracts as provided in the C-17 settlement agreement letter;

(2) to revise the delivery schedules under such contracts as provided in the C-17 settlement agreement letter, for aircraft T-1 and P-1 through P-6; and

(3) to revise range specifications, payload specifications, and other specifications under such contracts as provided in Attachment B to the C-17 settlement agreement letter.

(b) FURTHER CONSIDERATION NOT REQUIRED.—The supplemental agreements referred to in subsection (a) may be entered into without requiring further consideration from the contractor only to the extent provided for in the C-17 settlement agreement letter.

(c) RELEASE OF CONTRACTOR CLAIMS REQUIRED.—Each supplemental agreement referred to in subsection (a) shall require the prime contractor to release and forever discharge the Government from all contractual claims, demands, requests for equitable adjustment, and any other causes of action, known or unknown, that the prime contractor may have on or before January 6, 1994 arising out of the C-17 program contracts as provided in the C-17 settlement agreement letter.

(d) CONTRACT MODIFICATIONS REGARDING CONTRACTOR COMMITMENTS.—The Secretary of the Air Force shall incorporate in each appropriate C-17 contract the prime contractor's commitment to extend the flight test program, redesign the wing, implement Computer Aided Design/Computer Aided Manufacturing System improvements, Management Information System improvements, and Advanced Quality System improvements, implement product improvement cost reduction projects, and resolve other C-17 program issues on a nonreimbursable or cost-share basis as provided in the C-17 settlement agreement letter.

(e) NOTICE-AND-WAIT REQUIREMENT.—The Secretary of the Air Force may not enter into a supplemental agreement referred to in subsection (a) until 30 days after the date on which the Secretary of Defense certifies to Congress that the terms and conditions set forth in the C-17 settlement agreement letter, including the settlement of claims, are in the best interests of the Government.

(f) CONSTRUCTION REGARDING OTHER CONTRACTOR OBLIGATIONS.—Nothing in this section shall be construed as relieving the contractor of any obligation provided for in the C-17 settlement agreement letter.

(g) C-17 SETTLEMENT AGREEMENT LETTER.—The C-17 settlement agreement letter referred to in this section is the agreement that was proposed to the prime contractor for the C-17 aircraft program by the Under Secretary of Defense for Acquisition and Technology by letter dated January 3, 1994, and was accepted by the prime contractor on January 6, 1994.

SEC. 132. RETIREMENT OF BOMBER AIRCRAFT.

No funds authorized to be appropriated by this Act or any other Act may be obligated or expended during fiscal year 1995 for retiring, or preparing to retire, any B-52H, B-1B, or F-111 bomber aircraft.

Subtitle E—Other Matters

SEC. 141. PRESERVING THE BOMBER INDUSTRIAL BASE.

(a) FUNDS TO PRESERVE THE BOMBER INDUSTRIAL BASE.—Of the funds authorized to be appropriated under section 103(1), not more than $150,000,000 shall be available only for the following purposes:

(1) To retain B-2 bomber production tooling in ready status.

(2) To preserve a production capability for spare parts and aircraft subsystems among lower-tier vendors.

(3) To develop detailed production plans for a derivative of the B-2 bomber that is not capable of delivering nuclear weapons.

(4) To carry out any other program, project, or activity, not prohibited by subsection (b) or (c), that the Secretary determines will help to preserve the bomber industrial base of the United States.

(b) PROHIBITION.—None of the funds made available pursuant to this section may be used to procure any major structural part for B-2 bomber aircraft or any other part for B-2 bomber aircraft that is not a part previously acquired or planned to be acquired for the B-2 bomber aircraft under the initial or sustaining spares program.

(c) NO AUTHORIZATION OF ADVANCE PROCUREMENT.—Nothing in this section shall be construed as authorizing the procurement, including long-lead procurement, of a twenty-second B-2 bomber.

(d) EXEMPTION FROM LIMITATION ON TOTAL PROGRAM COST.—Obligations of funds made available pursuant to this section for the purposes set forth in subsection (a) may not be counted for purposes of the limitation in section 131(d) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1569).

(e) ESTIMATES OF TOTAL COST REQUIRED—(1) Not later than January 15, 1995, the Secretary of Defense shall submit to the congressional defense committees two estimates of the total cost of acquisition of 20 additional B-2 bomber aircraft, including the cost of research, development, test and evaluation and the cost of related military construction.

(2) The Secretary shall assume for purposes of making one of the estimates that such aircraft will be procured at the rate of 2 aircraft in each of fiscal years 1997 and 1998, 3 such aircraft in each of fiscal years 1999 through 2002, and 4 such aircraft in fiscal year 2003. The Secretary shall assume for purposes of making the other estimate that such aircraft will be procured at an annual rate of 2.5 aircraft beginning in fiscal year 1997.

(3) In addition to stating the estimates in terms of estimated total actual cost, the Secretary shall state the estimates in terms of fiscal year 1995 constant dollars.

SEC. 142. DUAL-USE ELECTRIC AND HYBRID VEHICLES.

(a) FUNDING.—Of the funds authorized to be appropriated by this title, $15,000,000 shall be available for procurement of electric and hybrid vehicles for military uses and for commercialization of such vehicles for nonmilitary uses.

(b) LIMITATION.—(1) Funds made available pursuant to subsection (a) may not be expended until the Secretary of Defense and the Secretary of Energy enter into a memorandum of understanding that specifies the responsibilities of each Secretary for procurement and commercialization activities to be carried out with such funds.

(2) The provisions of the memorandum of understanding shall be consistent with the missions of the Department of Defense and the Department of Energy and with the goals and requirements set forth in the Energy Policy Act of 1992 (Public Law 102-486; 42 U.S.C. 13271 et seq.) and the amendments made to the Clean Air Act (42 U.S.C. 7401 et seq.) by Public Law 101-549 (commonly known as the "Clean Air Act Amendments of 1990"; 104 Stat. 2399).

SEC. 143. SALES AUTHORITY OF WORKING-CAPITAL FUNDED ARMY INDUSTRIAL FACILITIES.

Section 4543(a) of title 10, United States Code, is amended—

(1) in the matter above paragraph (1), by striking out "nondefense-related commercial";

(2) by striking out "and" at the end of paragraph (3);

(3) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

(4) by adding at the end the following new paragraphs:

"(5) the Secretary of the Army determines that the articles or services are not available from a commercial source located in the United States;

"(6) the purchaser of an article or service agrees to hold harmless and indemnify the United States, except in cases of willful misconduct or extreme negligence, from any claim for damages or injury to any person or property arising out of the article or service;

"(7) the article to be sold can be manufactured, or the service to be sold can be substantially performed, by the industrial facility with only incidental subcontracting and it is in the public interest to manufacture such article or perform such service; and

"(8) the sale will not interfere with performance of the military mission of the industrial facility.".

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1995 for the use of the Department of Defense for research, development, test, and evaluation, as follows:

(1) For the Army, $5,152,308,000.

(2) For the Navy, $8,796,129,000.

(3) For the Air Force, $12,329,796,000.

(4) For Defense-wide activities, $9,565,299,000, of which—

(A) $230,495,000 is authorized for the activities of the Director, Test and Evaluation; and

(B) $12,501,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR BASIC RESEARCH AND EXPLORATORY DEVELOPMENT.

(a) FISCAL YEAR 1995.—Of the amounts authorized to be appropriated by section 201, $4,210,356,000 shall be available for basic research and exploratory development projects.

(b) BASIC RESEARCH AND EXPLORATORY DEVELOPMENT DEFINED.—For purposes of this section, the term "basic research and exploratory development" means work funded in program elements for defense research and development under Department of Defense category 6.1 or 6.2.

SEC. 203. STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM.

Of the amounts authorized to be appropriated by section 201, $170,000,000 shall be available for the Strategic Environmental Research and Development Program.

SEC. 204. HIGH RESOLUTION IMAGING.

Of the funds authorized to be appropriated pursuant to section 201(3), $10,000,000 shall be available for high resolution imaging of space objects using excimer lasers.

Subtitle B—Programs Requirements, Restrictions, and Limitations

SEC. 211. TACTICAL ANTISATELLITE TECHNOLOGIES PROGRAM.

(a) DEMONSTRATION AND VALIDATION ACTIVITIES.—Subject to subsection (e), the Secretary of Defense shall continue the demonstration and validation of kinetic energy antisatellite technologies under the tactical antisatellite technologies program.

(b) LEVEL FUNDING.—Subject to subsection (e), of the amounts authorized to be appropriated in this title, $10,000,000 shall be available for fiscal year 1995 for engineering development under the tactical antisatellite technologies program.

(c) REQUIREMENT OF OBLIGATION OF PRIOR YEAR FUNDS.—To the extent provided in appropriations Acts, the Secretary shall obligate for engineering development under the tactical antisatellite technologies program all funds available for fiscal year 1993 and fiscal year 1994 for the Kinetic Energy Antisatellite (KE-ASAT) program that remain available for obligation on the date of the enactment of this Act.

(d) REPORT.—The Secretary shall submit to Congress the report required by section 1363 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2560).

(e) LIMITATION.—No funds appropriated to the Department of Defense for fiscal year 1995 may be obligated for the tactical antisatellite technologies program until the Secretary of Defense certifies to Congress that there is a requirement for an antisatellite program.

SEC. 212. TRANSFER OF MILSTAR COMMUNICATIONS SATELLITE PROGRAM.

(a) TRANSFER TO NAVY.—The Secretary of Defense shall transfer responsibility for program management and funding for the MILSTAR communications satellite program from the Secretary of the Air Force to the Secretary of the Navy before October 1, 1995.

(b) FUNDING IN FUTURE YEARS DEFENSE PROGRAM.—It is the sense of Congress that the Secretary should transfer from the Air Force to the Navy sufficient proposed funding in the Future Years Defense Program to cover all costs for the MILSTAR communications satellite program and related programs, projects, and activities.

(c) RELATIONSHIP TO OTHER TRANSFER AUTHORITY.—The transfer authority in subsection (b) is in addition to the transfer authority provided in section 1001.

SEC. 213. TRANSFER OF FUNDS FOR SINGLE-STAGE TO ORBIT ROCKET.

The Secretary of Defense shall, to the extent provided in appropriations Acts, transfer to the National Aeronautics and Space Administration the unobligated balance of funds appropriated to the Department of Defense for the Advanced Research Projects Agency for single-stage to orbit rocket research and development.

SEC. 214. LIMITATION ON DISMANTLEMENT OF INTERCONTINENTAL BALLISTIC MISSILES.

Funds authorized to be appropriated in this Act may not be obligated or expended for deactivating or dismantling United States intercontinental ballistic missiles (ICBMs) of the United States below that number of such missiles that is necessary to support 500 deployed intercontinental ballistic missiles until 180 days after the date on which the Secretary of Defense has delivered to the congressional defense committees a report on the results of a nuclear posture review being conducted by the Secretary.

SEC. 215. LIMITATION ON OBLIGATION OF FUNDS FOR SEISMIC MONITORING RESEARCH.

Funds authorized to be appropriated by this Act that are made available for seismic monitoring of nuclear explosions may not be obligated for a project unless the project is authorized in a plan approved in advance by the Secretary of Defense and the Secretary of Energy.

SEC. 216. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

(a) CENTERS COVERED.—Funds appropriated or otherwise made available for the Department of Defense for fiscal year 1995 pursuant to an authorization of appropriations in section 201 may be obligated to procure work from a federally funded research and development center only in the case of a center named in the report required by subsection (b) and, in the case of such a center, only in an amount not in excess of the amount of the proposed funding level set forth for that center in such report.

(b) REPORT ON ALLOCATIONS FOR CENTERS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report containing—

(1) the name of each federally funded research and development center from which work is proposed to be procured for the Department of Defense for fiscal year 1995; and

(2) for each such center, the proposed funding level and the estimated personnel level for fiscal year 1995.

The total of the proposed funding levels set forth in the report for all federally funded research and development centers may not exceed the amount set forth in subsection (d).

(c) LIMITATION PENDING SUBMISSION OF REPORT.—No funds appropriated or otherwise made available for the Department of Defense for fiscal year 1995 may be obligated to obtain work from a federally funded research and development center until the Secretary of Defense submits the report required by subsection (b).

(d) FUNDING.—Of the amounts authorized to be appropriated to the Department of Defense for research, development, test, and evaluation for fiscal year 1995 pursuant to section 201, not more than a total of $1,300,000,000 may be obligated to procure services from the federally funded research and development centers named in the report required by subsection (b).

(e) AUTHORITY TO WAIVE FUNDING LIMITATION.—The Secretary of Defense may waive the limitation regarding the maximum funding amount that applies under subsection (a) to a federally funded research and development center. Whenever the Secretary proposes to make such a waiver, the Secretary shall submit to the congressional defense committees notice of the proposed waiver and the reasons for the waiver. The waiver may then be made only after the end of the 60-day period that begins on the date on which the notice is submitted to those committees, unless the Secretary determines that it is essential to the national security that funds be obligated for work at that center in excess of that limitation before the end of such period and notifies the congressional defense committees of that determination and the reasons for the determination.

(f) UNDISTRIBUTED REDUCTION.—The total amount authorized to be appropriated for research, development, test, and evaluation in section 201 is hereby reduced by $52,650,000.

(g) LIMITATION ON COMPENSATION.—No employee or executive officer of a federally funded research and development center named in the report required by subsection (b) may be compensated at a rate exceeding Executive Schedule Level I by that federally funded research and development center.

Subtitle C—Missile Defense Programs

SEC. 221. COMPLIANCE OF BALLISTIC MISSILE DEFENSE SYSTEMS AND COMPONENTS WITH ABM TREATY.

(a) REQUIRED COMPLIANCE REVIEW FOR BRILLIANT EYES.—The Secretary of Defense shall review the space-based, midcourse missile tracking system known as Brilliant Eyes to determine whether, and under what conditions, the development, testing, and deployment of that system in conjunction with a theater ballistic missile defense system, with a limited national missile defense system, and with both such systems, would be in compliance with the ABM Treaty, including the interpretation of that treaty set forth in the enclosure to the July 13, 1993, ACDA letter.

(b) LIMITATION.—Of the funds appropriated pursuant to the authorizations of appropriations in section 201 that are made available for the Brilliant Eyes program, not more than $50,000,000 may be obligated until the Secretary of Defense submits to the appropriate congressional committees a report on the compliance of the Brilliant Eyes program with the ABM Treaty.

(c) COMPLIANCE REVIEW FOR NAVY UPPER TIER SYSTEM.—(1) If the funds made available for fiscal year 1995 for the theater ballistic missile program known as the "Navy Upper Tier" program pursuant to the authorizations of appropriations in section 201 or otherwise exceed $17,725,000, the Secretary of Defense shall review the Navy Upper Tier program to determine whether the development, testing, and deployment of that system would be in compliance with the ABM Treaty, including the interpretation of the Treaty set forth in the enclosure to the July 13, 1993, ACDA letter.

(2) In the event a compliance review is necessary under paragraph (1), not more than $17,725,000 may be obligated for the Navy Upper Tier program before the date on which the Secretary submits to the appropriate congressional committees a report on the compliance of the Navy Upper Tier program with the ABM Treaty.

(d) DEFINITIONS.—In this section:

(1) The term "July 13, 1993, ACDA letter" means the letter dated July 13, 1993, from the Acting Director of the Arms Control and Disarmament Agency to the chairman of the Committee on Foreign Relations of the Senate relating to the correct interpretation of the ABM Treaty and accompanied by an enclosure setting forth such interpretation.

(2) The term "ABM Treaty" means the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missiles, signed in Moscow on May 26, 1972.

(3) The term "appropriate congressional committees" means—

(A) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

SEC. 222. REVISIONS TO THE MISSILE DEFENSE ACT OF 1991.

The Missile Defense Act of 1991 (part C of title II of Public Law 102–190; 10 U.S.C. 2431 note) is amended—

(1) by striking out sections 235, 236, and 237;

(2) in section 238, by inserting before the period at the end of the second sentence the following: ", and shall submit to the Congress additional interim reports on the progress of such negotiations at six-month intervals thereafter until such time as the President notifies the congressional defense committees that such negotiations have been concluded or terminated"; and

(3) by redesignating section 238, 239, and 240 as sections 234, 235, and 236, respectively.

SEC. 223. LIMITATION.

No funds appropriated pursuant to an authorization of appropriations in this title or otherwise made available for fiscal year 1995 for programs managed by the Ballistic Missile Defense Organization may be obligated for such programs until the Secretary of Defense submits to Congress the report required by section 235(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1598).

SEC. 224. MANAGEMENT AND BUDGET RESPONSIBILITY FOR SPACE-BASED CHEMICAL LASER PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) In section 243 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1615) Congress directed the Secretary of Defense to transfer management and budget responsibility for research and development regarding far-term follow-on technologies from the Ballistic Missile Defense Organization unless the Secretary certifies that it is in the national security interest of the United States for the Ballistic Missile Defense Organization to retain that responsibility.

(2) For purposes of section 243 of such Act, a far-term follow-on technology was defined as any technology that is not incorporated into a ballistic missile defense architecture and is not likely to be incorporated within 15 years into a weapon system for ballistic missile defense.

(3) The Secretary of Defense has recommended pursuant to section 243 of such Act that management and budget responsibility for chemical laser technology be retained in the Ballistic Missile Defense Organization.

(b) ASSIGNMENT OF RESPONSIBILITY.—Subject to subsection (c), the Ballistic Missile Defense Organization is authorized to retain management and budget responsibility for chemical laser technology programs.

(c) REQUIREMENTS.—(1) The Director of the Ballistic Missile Defense Organization shall ensure that, to the extent practicable, the conduct of research and development related to space-based chemical lasers reflects appropriate consideration of a broad range of military missions and possible nonmilitary applications for such lasers.

(2) If, as a result of budgetary limitations, the Director of the Ballistic Missile Defense Organization is unable to program sufficient funds to ensure that the space-based chemical laser program remains an option for the acquisition process within the next fifteen years, the Secretary of Defense shall—

(A) establish a new high energy laser research and development program outside of the Ballistic Missile Defense Organization;

(B) transfer $50,000,000 out of funds available for fiscal year 1995 for programs administered by the Ballistic Missile Defense Organization to the new high energy laser research and development program; and

(C) assign the duty to perform the management and budget responsibilities for the new program to the Secretary of the military department determined by the Secretary of Defense most appropriate to perform such responsibilities or, if the Secretary determines more appropriate, to the head of the Defense Agency of the Department of Defense that the Secretary determines most appropriate to perform such responsibilities.

SEC. 225. SENATE ADVICE AND CONSENT ON AGREEMENTS THAT MODIFY THE ANTI-BALLISTIC MISSILE TREATY.

(a) REQUIREMENT FOR ADVICE AND CONSENT OF SENATE.—Whenever the President negotiates an international agreement that would substantively modify the ABM Treaty, the United States shall not be bound by such agreement unless the agreement is entered into pursuant to the treaty making power of the President under the Constitution (which includes a requirement for advice and consent of the Senate).

(b) ABM TREATY DEFINED.—In this section, the term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed in Moscow on May 26, 1972, with related protocol, signed in Moscow on July 3, 1974.

Subtitle D—Defense Conversion, Reinvestment, and Transition Assistance Matters

SEC. 231. FUNDING OF DEFENSE TECHNOLOGY REINVESTMENT PROGRAMS FOR FISCAL YEAR 1995.

(a) FUNDS AVAILABLE.—Of the amount authorized to be appropriated under section 201 for Defense-wide activities, $625,000,000 shall be available for activities described in the defense reinvestment program element of the budget of the Department of Defense for fiscal year 1995.

(b) ALLOCATION OF FUNDS.—The funds made available under subsection (a) shall be allocated as follows:

(1) $245,000,000 shall be available for defense dual-use critical technology partnerships under section 2511 of title 10, United States Code.

(2) $80,000,000 shall be available for commercial-military integration partnerships under section 2512 of such title.

(3) $80,000,000 shall be available for defense regional technology alliances under section 2513 of such title.

(4) $30,000,000 shall be available for defense advanced manufacturing technology partnerships under section 2522 of such title.

(5) $50,000,000 shall be available for support of manufacturing extension programs under section 2523 of such title.

(6) $25,000,000 shall be available for defense manufacturing engineering education grants under section 2196 of such title.

(7) $30,000,000 shall be available for the advanced materials synthesis and processing partnership program.

(8) $35,000,000 shall be available for the agile manufacturing/enterprise integration program.

(9) $40,000,000 shall be available for the maritime technology program, as provided for in section 1352(c)(2) of the National Shipbuilding and Shipyard Conversion Act of 1993 (subtitle D of title XIII of Public Law 103–160; 107 Stat. 1809; 10 U.S.C. 2501 note).

(10) $10,000,000 shall be available for grants under section 2198 of title 10, United States Code, to United States institutions of higher education and other United States not-for-profit organizations to support the management training program in Japanese language and culture.

(c) AVAILABILITY OF FUNDS FOR FISCAL YEAR 1994 PROJECTS.—Funds made available under subsection (a) may also be used to make awards to projects of the types that were solicited under programs referred to in subsection (b) in fiscal year 1994.

SEC. 232. FINANCIAL COMMITMENT REQUIREMENTS FOR SMALL BUSINESS CONCERNS FOR PARTICIPATION IN TECHNOLOGY REINVESTMENT PROJECTS.

(a) DEFENSE DUAL-USE CRITICAL TECHNOLOGY PARTNERSHIPS.—Section 2511(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The Secretary shall consider a partnership proposal submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated partnership costs. Upon the selection of a partnership proposal submitted by a small business concern, the Secretary shall extend to the small business concern a period of not less than 120 days within which to arrange to meet its financial commitment requirements under the partnership from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated partnership costs, the Secretary may revoke the selection of the partnership proposal submitted by the small business concern.".

(b) COMMERCIAL-MILITARY INTEGRATION PARTNERSHIPS.—Section 2512(c)(3) of such title is amended by adding at the end the following new subparagraph:

"(C) The Secretary shall consider a partnership proposal submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated partnership costs. Upon the selection of a partnership proposal submitted by a small business concern, the Secretary shall extend to the small business concern a period of not less than 120 days within which to arrange to meet its financial commitment requirements under the partnership from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated partnership costs, the Secretary may revoke the selection of the partnership proposal submitted by the small business concern.".

(c) REGIONAL TECHNOLOGY ALLIANCES ASSISTANCE PROGRAM.—Section 2513(e) of such title is amended by adding at the end the following new paragraph:

"(4) The Secretary shall consider a proposal for a regional technology alliance that is submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated costs of the alliance. Upon the selection of a proposal submitted by a small business concern, the Secretary shall extend to the small business concern a period of not less than 120 days within which to arrange to meet its financial commitment requirements under the regional technology alliance from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated costs, the Secretary may revoke the selection of the proposal submitted by the small business concern.".

(d) DEFINITION OF PERSON OF A FOREIGN COUNTRY.—Section 2491 of such title is amended by adding at the end the following new paragraph:

"(16) The term 'person of a foreign country' has the meaning given such term in section 3502(d) of the Primary Dealers Act of 1988 (22 U.S.C. 5342(d)).".

SEC. 233. CONDITIONS ON FUNDING OF DEFENSE TECHNOLOGY REINVESTMENT PROJECTS.

(a) BENEFITS TO UNITED STATES ECONOMY.—In providing for the establishment or financial support of partnerships and other cooperative arrangements under chapter 148 of title 10, United States Code, using funds made available under section 231, the Secretary of Defense shall ensure that the principal economic benefits of such partnerships and other arrangements accrue to the economy of the United States.

(b) USE OF COMPETITIVE SELECTION PROCEDURES.—Funds made available under subsection (a) of section 231 for defense reinvestment programs described in subsection (b) of such section shall be provided only to projects selected using competitive procedures pursuant to a solicitation incorporating cost-sharing requirements for the non-Federal Government participants in the projects.

SEC. 234. FEDERAL DEFENSE LABORATORY DIVERSIFICATION AND NAVY REINVESTMENT IN THE TECHNOLOGY AND INDUSTRIAL BASE.

(a) REQUIREMENT FOR PROGRAMS.—(1) Subchapter III of chapter 148 of title 10 is amended by inserting at the end thereof the following:

"SEC. 2519. FEDERAL DEFENSE LABORATORY DIVERSIFICATION PROGRAM.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense shall conduct a program in accordance with this section for the purpose of promoting cooperation between Department of Defense laboratories and industry on research and development of dual-use technologies in order to further the national security objectives set forth in section 2501(a) of this title.

"(b) PARTNERSHIPS.—(1) The Secretary shall provide for the establishment under the program of cooperative arrangements (hereinafter in this section referred to as 'partnerships') between a Department of Defense laboratory and eligible firms and nonprofit research corporations referred to in section 2511(b) of this title. A partnership may also include one or more additional Federal laboratories, institutions of higher education, agencies of State and local governments, and other entities, as determined appropriate by the Secretary.

"(2) For purposes of this section, a federally funded research and development center shall be considered a Department of Defense laboratory if the center is sponsored by the Department of Defense.

"(c) ASSISTANCE AUTHORIZED.—(1) The Secretary may make grants, enter into contracts, enter into cooperative agreements and other transactions pursuant to section 2371 of this title, and enter into cooperative research and development agreements under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) in order to establish partnerships.

"(2) Subject subsection (d), the Secretary may provide a partnership with technical and other assistance in order to facilitate the achievement of the purpose of this section.

"(d) FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS.—(1) The Secretary shall ensure that the non-Federal Government participants in a partnership make a substantial contribution to the total cost of partnership activities. The amount of the contribution shall be commensurate with the risk undertaken by such participants and the potential benefits of the activities for such participants.

"(2) The regulations prescribed pursuant to section 2511(c)(2) of this title shall apply to in-kind contributions made by non-Federal Government participants in a partnership.

"(e) SELECTION PROCESS.—Competitive procedures shall be used in the establishment of partnerships.

"(f) SELECTION CRITERIA.—The criteria for the selection of a proposed partnership for establishment under this section shall include the criteria set forth in section 2511(f) of this title.

"(g) REGULATIONS.—The Secretary shall prescribe regulations for the purposes of this section.

"SEC. 2520. NAVY REINVESTMENT PROGRAM.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of the Navy shall conduct a program in accordance with this section for the purpose of promoting cooperation between the Department of the Navy and industry on research and development of dual-use technologies in order to further the national security objectives set forth in section 2501(a) of this title.

"(b) PARTNERSHIPS.—The Secretary shall provide for the establishment under the program of cooperative arrangements (hereinafter in this section referred to as 'partnerships') between Department of the Navy entities and eligible firms and nonprofit research corporations referred to in section 2511(b) of this title. A partnership may also include one or more Federal laboratories, institutions of higher education, agencies of State and local governments, and other entities, as determined appropriate by the Secretary.

"(c) PROGRAM REQUIREMENTS AND ADMINISTRATION.—Subsections (c) through (f) of section 2519 of this title shall apply in the administration of the program.

"(d) SELECTION CRITERIA.—In addition to the selection criteria referred to in section 2519(f) of this title, the criteria for the selection of a proposed partnership for establishment under this section shall include the potential effectiveness of the partnership in the further development and application of each technology proposed to be developed by the partnership for Navy acquisition programs.

"(e) REGULATIONS.—The Secretary shall prescribe regulations for the purposes of this section.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following:

2519. Federal Defense Laboratory Diversification Program.
2520. Navy Reinvestment Program.

(b) CLARIFYING AMENDMENT.—Section 2491(5) of title 10, United States Code, is amended by inserting before the period at the end the following: ", and includes a federally funded research and development center sponsored by a Federal agency".

(c) FUNDING.—(1) Of the amount authorized to be appropriated in section 201(4), $56,600,000 shall be available for the Federal Defense Laboratory Diversification Program under section 2519 of title 10, as added by subsection (a)(1).

(2) Of the amount authorized to be appropriated in section 201(2), $50,000,000 shall be available for the Navy Reinvestment Program under section 2520 of title 10, as added by subsection (a)(1).

SEC. 235. SMALL BUSINESS DEFENSE CONVERSION GUARANTEED LOANS.

(a) AUTHORIZATIONS.—Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) in subsection (l), as added by section 405(3) of the Small Business Credit and Business Opportunity Enhancement Act of 1992—

(A) by striking "(l) There" and inserting "(3) There" and indenting appropriately; and

(B) by striking "subsection (k)", and inserting "paragraphs (1) and (2)";

(2) by redesignating subsection (k), as added by section 405(3) of the Small Business Credit and Business Opportunity Act of 1992, as subsection (l);

(3) in subsection (l), as so redesignated, by inserting after paragraph (1), the following new paragraph:

"(2) The Administration is authorized to make not more than $1,000,000,000 in loans on a guaranteed basis, in accordance with section 7(a)(21), such amount to remain available until expended.";

(4) in subsection (n)—

(A) by striking "(n) There" and inserting "(3) There" and indenting appropriately; and

(B) by striking "subsection (m)" and inserting "paragraphs (1) and (2)";

(5) in subsection (m), by inserting after paragraph (1), the following new paragraph:

"(2) The Administration is authorized to make not more than $1,000,000,000 in loans on a guaranteed basis, in accordance with section 7(a)(21), such amount to remain available until expended.";

(6) by redesignating subsection (o) as subsection (n); and

(7) in subsection (p)—

(A) by striking "(p) There" and inserting "(2) There", and indenting appropriately; and

(B) by striking "subsection (o)" and inserting "paragraph (1)".

(b) TECHNICAL CLARIFICATION.—Section 7(a)(21)(A) of the Small Business Act (15 U.S.C. 636(a)(21)(A)) is amended by striking "under the" and inserting "on a guaranteed basis under the".

(c) JOB CREATION AND COMMUNITY BENEFIT.—Section 7(a)(21) of the Small Business Act (15 U.S.C. 636(a)(21)) is amended by adding at the end the following new subparagraph:

"(E) In providing assistance under this paragraph, the Administration shall develop procedures to ensure, to the maximum extent practicable, that such assistance is used for projects that have substantial potential for stimulating new economic activity in communities most impacted by reductions in Federal defense expenditures.".

(d) AUTHORITY TO TRANSFER APPROPRIATIONS.—Of the amount authorized to be appropriated pursuant to section 201(4), $27,400,000 may be transferred by the Secretary of Defense, to the extent provided in an act appropriating funds for the Department of Defense, to the Small Business Administration for the purpose of providing loan guarantees under section 7(a)(21)(A) of the Small Business Act, such amount to remain available until expended.

Subtitle E—Other Matters

SEC. 241. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS WITH NATO ORGANIZATIONS.

(a) APPLICABILITY OF EXISTING AUTHORITY TO NATO ORGANIZATIONS.—Section 2350a of title 10, United States Code, is amended in subsections (a), (e)(2), and (i)(1) by inserting "or NATO organizations" after "major allies of the United States" each place it appears.

(b) NATO ORGANIZATION DEFINED.—Subsection (i) of such section is amended by adding at the end the following new paragraph:

"(4) The term 'NATO organization' means any North Atlantic Treaty Organization subsidiary body referred to in section 2350(2) of this title and any other organization of the North Atlantic Treaty Organization.".

SEC. 242. DEFENSE WOMEN'S HEALTH RESEARCH PROGRAM.

(a) CONTINUATION OF PROGRAM.—The Secretary of Defense shall continue the Defense Women's Health Research Program established in response to the enactment of section 251 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1606).

(b) PARTICIPATION BY ALL MILITARY DEPARTMENTS.—The Departments of the Army, Navy, and Air Force shall each participate in the activities under the program.

(c) ARMY TO BE EXECUTIVE AGENT.—The Secretary of Defense shall designate the Secretary of the Army to be the executive agent for administering the program.

(d) PROGRAM ACTIVITIES.—The program shall include the following activities regarding health risks and health care for women in the Armed Forces:

(1) The coordination and support activities described in section 251 of Public Law 103-160.

(2) Epidemiologic research regarding women deployed for military operations, including research on patterns of illness and injury, environmental and occupational hazards (including exposure to toxins), side-effects of pharmaceuticals used by women so deployed, psychological stress associated with military training, deployment, combat and other traumatic incidents, and other conditions of life, and human factor research regarding women so deployed.

(3) Development of a data base to facilitate long-term research studies on issues related to the health of women in military service, and continued development and support of a women's health information clearinghouse to serve as an information resource for clinical, research, and policy issues affecting women in the Armed Forces.

(4) Research on policies and standards issues, including research supporting the development of military standards related to training, operations, deployment, and retention and the relationship between such activities and factors affecting women's health.

(5) Research on interventions having a potential for addressing conditions of military service that adversely affect the health of women in the Armed Forces.

(e) IMPLEMENTATION PLAN.—If, before October 1, 1995, the Secretary of Defense changes the implementation plan for the program that the Secretary submitted to the Committees on Armed Services of the Senate and the House of Representatives on May 2, 1994, the Secretary shall submit the modified plan to such committees before executing the changes.

(f) FUNDING.—Of the amount authorized to be appropriated pursuant to section 201, $40,000,000 shall be available for the Defense Women's Health Research Program referred to in subsection (a).

SEC. 243. REQUIREMENT FOR SUBMISSION OF ANNUAL REPORT OF THE SEMICONDUCTOR TECHNOLOGY COUNCIL TO CONGRESS.

Section 273(b)(2)(I) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (15 U.S.C. 4603) is amended by inserting "and submit to Congress by March 31 of each year after "Publish".

SEC. 244. REPORT ON OCEANOGRAPHIC SURVEY AND RESEARCH REQUIREMENTS TO SUPPORT LITTORAL WARFARE.

(a) REPORT REQUIRED.—Not later than March 1, 1995, the Secretary of the Navy shall submit to Congress a report on the oceanographic survey and research and development requirements needed to support Navy operations in littoral regions.

(b) Content of Report.—The report shall contain the following:

(1) An identification of unique properties, including acoustics, bathymetry, bottom type, and ocean dynamics that affect shallow water operations in littoral regions.

(2) A list of the principal littoral regions that—

(A) designates each region as high, medium, or low priority based on the probable need for Navy operations in such regions; and

(B) for each region, is annotated to identify—

(i) the date of the most recent detailed survey; and

(ii) the extent to which that survey provides insight into the region's properties identified pursuant to paragraph (1).

(3) An assessment of the Navy's current and projected access to each region for surveying purposes.

(4) An assessment of the ability of current oceanographic survey and research assets to develop the information identified in paragraph (1).

SEC. 245. LANSCE/LAMPF UPGRADES.

Of the amounts authorized to be appropriated by section 201(4), $20,000,000 shall be available to complete the Los Alamos Neutron Scattering Experiment/Los Alamos Meson Physics Facility upgrades at the Los Alamos National Laboratory, Los Alamos, New Mexico.

SEC. 246. STUDY REGARDING LIVE-FIRE SURVIVABILITY TESTING OF F-22 AIRCRAFT.

(a) Requirement.—The Secretary of Defense shall request the National Research Council of the National Academy of Sciences to conduct a study regarding the desirability of waiving for the F-22 aircraft program the survivability tests required by section 2366(c) of title 10, United States Code, and to submit to the Secretary and Congress, within 180 days after the date of the enactment of this Act, a report containing the conclusions of the Council regarding the desirability of waiving such tests.

(b) Content of Report.—The report shall contain the following matters:

(1) Conclusions regarding the practicality of full-scale, full-up testing for the F-22 aircraft program.

(2) A discussion of the implications regarding the affordability of the F-22 aircraft program of conducting and of not conducting the survivability tests, including an assessment of the potential life cycle benefits that could be derived from full-scale, full-up live fire testing in comparison to the costs of such testing.

(3) A discussion of what, if any, changes of circumstances affecting the F-22 aircraft program have occurred since completion of the milestone II program review to cause the program manager to request a waiver of the survivability tests for the F-22 aircraft program that was not requested at that time.

(4) The sufficiency of the F-22 aircraft program testing plans to fulfill the same requirements and purposes as are provided in subsection (e)(3) of section 2366 of title 10, United States Code, for realistic survivability testing for purposes of subsection (a)(1)(A) of such section.

(5) Any recommendations regarding survivability testing for the F-22 aircraft program that the Council considers appropriate on the basis of the study.

SEC. 247. UNIVERSITY RESEARCH INITIATIVE SUPPORT PROGRAM.

Of the amounts authorized to be appropriated under section 201, $10,000,000 shall be available for the University Research Initiative Support Program established pursuant to section 802 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1701; 10 U.S.C. 2358 note).

SEC. 248. MANUFACTURING SCIENCE AND TECHNOLOGY PROGRAM.

(a) Program Authorized.—(1) Section 2525 of title 10, United States Code, is amended to read as follows:

"SEC. 2525. MANUFACTURING SCIENCE AND TECHNOLOGY PROGRAM.

"(a) Establishment.—The Secretary of Defense shall establish a Manufacturing Science and Technology Program to further the national security objectives of section 2501(a) of this title. The Under Secretary of Defense for Acquisition and Technology shall administer the program.

"(b) Purpose.—The purpose of the program is to enhance the capability of industry to meet the manufacturing needs of the Department of Defense.

"(c) Execution.—The Secretary may carry out projects under the program through the Secretaries of the military departments and the heads of Defense Agencies.

"(d) Competition and Cost Sharing.—(1) Competitive procedures shall be used for awarding all grants and entering into all contracts, cooperative agreements, and other transactions under the program.

"(2) A grant may not be awarded under the program, and a contract, cooperative agreement, or other transaction may not be entered into under the program, on any basis other than a cost-sharing basis unless the Secretary of Defense determines that the grant, contract, cooperative agreement, or other transaction, as the case may be, is for a program that—

"(A) is not likely to have any immediate and direct commercial application; or

"(B) is of sufficiently high risk to discourage cost sharing by non-Federal Government sources.".

(2) The item relating to section 2525 in the table of sections at the beginning of subchapter IV of chapter 148 of such title is amended to read as follows:

"2525. Manufacturing Science and Technology Program.".

(b) Funding.—Of the amounts appropriated pursuant to section 201, not more than $125,000,000 shall be available for the Manufacturing Science and Technology Program under section 2525 of title 10, United States Code (as amended by subsection (a)), of which—

(1) not more than $30,000,000 shall be available for the Army;

(2) not more than $35,000,000 shall be available for the Navy;

(3) not more than $50,000,000 shall be available for the Air Force; and

(4) not more than $10,000,000 shall be available for the Defense Logistics Agency.

SEC. 249. DEFENSE EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.

(a) Program Required.—The Secretary of Defense, acting through the Director of Defense Research and Engineering, shall carry out a Defense Experimental Program to Stimulate Competitive Research (DEPSCoR) as part of the university research programs of the Department of Defense.

(b) Program Objectives.—The objectives of the program are as follows:

(1) To enhance the capabilities of institutions of higher education in eligible States to develop, plan, and execute science and engineering research that is competitive under the peer-review systems used for awarding Federal research assistance.

(2) To increase the probability of long-term growth in the competitively awarded financial assistance that institutions of higher education in eligible States receive from the Federal Government for science and engineering research.

(c) Program Activities.—In order to achieve the program objectives, the following activities are authorized under the program:

(1) Competitive award of research grants.

(2) Competitive award of financial assistance for graduate students.

(d) Eligible States.—(1) The Director of the National Science Foundation shall designate which States are eligible States for the purposes of this section and shall notify the Director of Defense Research and Engineering of the States so designated.

(2) The Director of the National Science Foundation shall designate a State as an eligible State if, as determined by the Director—

(A) the institutional average amount of Federal financial assistance for research and development received by the institutions of higher education in the State for the fiscal year preceding the fiscal year for which the designation is effective, or for the last fiscal year for which statistics are available, is less than the amount equal to 50 percent of the national institutional average amount of Federal financial assistance for research and development received by the institutions of higher education in the United States for such preceding or last fiscal year, as the case may be;

(B) the State has demonstrated a commitment to developing research bases in the State and to improving science and engineering research and education programs at institutions of higher education in the State; and

(C) the State is an eligible State for purposes of the Experimental Program to Stimulate Competitive Research conducted by the National Science Foundation.

(e) Coordination With Similar Federal Programs.—(1) The Secretary shall consult with the Director of the National Science Foundation and the Director of the Office of Science and Technology Policy in the planning, development, and execution of the program and shall coordinate the program with the Experimental Program to Stimulate Competitive Research conducted by the National Science Foundation and with similar programs sponsored by other departments and agencies of the Federal Government.

(2) All solicitations under the Defense Experimental Program to Stimulate Competitive Research shall be made to, and all awards shall be made through, the State committees established for purposes of the Experimental Program to Stimulate Competitive Research conducted by the National Science Foundation.

(3) A State committee referred to in paragraph (2) shall ensure that activities carried out in the State of that committee under the Defense Experimental Program to Stimulate Competitive Research are coordinated with the activities carried out in the State under other similar initiatives of the Federal Government to stimulate competitive research.

SEC. 250. STUDY ON BEAMING HIGH POWER LASER ENERGY TO SATELLITES.

(a) Study.—(1) The Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall jointly carry out a study to determine the cost, feasibility, and advisability of the development and utilization of a system to deliver energy to satellites by beaming high power laser energy from ground sources.

(2) In determining the cost, feasibility, and advisability of the system referred to in paragraph (1), the Secretary and the Administrator shall take into account the impact on the environment of the development and utilization of the system and the effect, if any, of the development and utilization of the system on the arms control efforts or obligations of the United States.

(3) In carrying out the study, the Secretary and the Administrator shall consider the development of a space energy laser (SELENE) system using a free electron laser at the Naval Air Weapons Station, China Lake, California.

(b) REPORT.—The Secretary and the Administrator shall jointly submit to the congressional defense committees a report on the study required under subsection (a). The Secretary and the Administrator shall submit the report not later than July 1, 1995.

SEC. 251. ADVANCED THREAT RADAR JAMMER.

(a) LIMITATION REGARDING JOINT DEVELOPMENT PROGRAM WITH CERTAIN FOREIGN ENTITIES.—The Secretary of Defense may not negotiate or enter into any agreement with, nor accept funds from, a foreign government or an entity controlled by a foreign government for a joint program for the development of an advanced threat radar jammer for combat helicopters until 30 days after the Secretary, in consultation with the Secretary of State, the Secretary of the Army, and the Director of the Defense Security Assistance Agency, conducts a comprehensive review of the program and submits a report on the results of that review to the congressional defense committees.

(b) MATTERS COVERED BY REVIEW AND REPORT.—The matters relating to the program referred to in subsection (a) that are required to be covered by the review and report are as follows:

(1) The legal basis for seeking for the program funds that are neither authorized to be appropriated nor appropriated.

(2) The consistency of the program with the Department of Defense policy that no foreign military sale of a defense system, and no commitment to foreign military sale of a defense system, be made before operational test and evaluation of the system is successfully completed and the Under Secretary of Defense for Acquisition and Technology has specifically approved the system for sale to a foreign government.

(3) The mission requirement for an advanced threat radar jammer for combat helicopters.

(4) An assessment of each threat for which an advanced threat radar jammer would be developed, particularly with regard to each threat to a foreign country with which the United States would jointly develop an advanced threat radar jammer.

(5) The potential for sensitive electronic warfare technology to be made available to potential adversaries of the United States as a result of United States participation in the program.

(6) The availability of other nondevelopmental items and less sophisticated technologies for countering the emerging radar detection threats to United States combat helicopters and combat helicopters of United States allies.

(7) A capability assessment of similar technologies available from other foreign countries and the consequences of proliferation of such technologies in regions of potential conflict.

(c) INAPPLICABILITY TO MAJOR ALLIES OF THE UNITED STATES.—This section does not apply with respect to a major ally of the United States.

(d) DEFINITIONS.—In this section:

(1) The term "entity controlled by a foreign government" includes—

(A) any domestic or foreign organization or corporation that is effectively owned or controlled by a foreign government; and

(B) any individual acting on behalf of a foreign government,

as determined by the Secretary of Defense. Such term does not include an organization or corporation that is owned, but is not controlled, either directly or indirectly, by a foreign government if the ownership of that organization or corporation by that foreign government was effective before October 23, 1992.

(2) The term "major ally of the United States" has the meaning given such term in section 2350a(i)(2) of title 10, United States Code.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1995 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

(1) For the Army, $17,542,914,000.

(2) For the Navy, $21,326,470,000.

(3) For the Marine Corps, $2,096,695,000.

(4) For the Air Force, $18,789,023,000.

(5) For Defense-wide activities, $9,994,325,000.

(6) For Medical Programs, Defense, $9,854,459,000.

(7) For the Army Reserve, $1,253,709,000.

(8) For the Naval Reserve, $828,319,000.

(9) For the Marine Corps Reserve, $81,462,000.

(10) For the Air Force Reserve, $1,478,990,000.

(11) For the Army National Guard, $2,452,148,000.

(12) For the Air National Guard, $2,780,178,000.

(13) For the National Board for the Promotion of Rifle Practice, $2,544,000.

(14) For the Defense Inspector General, $140,798,000.

(15) For Drug Interdiction and Counter-drug Activities, Defense-wide, $714,200,000.

(16) For the United States Court of Appeals for the Armed Services, $6,126,000.

(17) For Environmental Restoration, Defense, $2,180,200,000.

(18) For Humanitarian Assistance, $71,900,000.

(19) For Former Soviet Union Threat Reduction, $400,000,000.

(20) For the Contributions for International Peacekeeping and Peace Enforcement Activities Fund, $300,000,000.

(21) For support for the 1996 Summer Olympics, $10,000,000.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 1995 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Business Operations Fund, $798,400,000.

(2) For the National Defense Sealift Fund, $227,800,000.

SEC. 303. ARMED FORCES RETIREMENT HOME FUNDING.

There is hereby authorized to be appropriated for fiscal year 1995 from the Armed Forces Retirement Home Trust Fund the sum of $59,317,000 for the operation of the Armed Forces Retirement Home, including the United States Soldiers' and Airmen's Home and the Naval Home.

SEC. 304. NATIONAL SECURITY EDUCATION TRUST FUND OBLIGATIONS.

During fiscal year 1995, $14,300,000 is authorized to be obligated from the National Security Education Trust Fund established by section 804(a) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1904(a)).

SEC. 305. TRANSFER FROM NATIONAL DEFENSE STOCKPILE TRANSACTION FUND.

(a) TRANSFER AUTHORITY.—To the extent provided in appropriations Acts, not more than $250,000,000 is authorized to be transferred from the National Defense Stockpile Transaction Fund to operation and maintenance accounts for fiscal year 1995 in amounts as follows:

(1) For the Army, $50,000,000.

(2) For the Navy, $50,000,000.

(3) For the Air Force, $50,000,000.

(4) For Defense-wide activities, $100,000,000.

(b) TREATMENT OF TRANSFERS.—Amounts transferred under this section—

(1) shall be merged with, and be available for the same purposes and the same period as, the amounts in the accounts to which transferred; and

(2) may not be expended for an item that has been denied authorization of appropriations by Congress.

(c) RELATIONSHIP TO OTHER TRANSFER AUTHORITY.—The transfer authority provided in this section is in addition to the transfer authority provided in section 1001.

SEC. 306. SUPPORT FOR THE 1995 SPECIAL OLYMPICS WORLD GAMES.

(a) AUTHORITY TO PROVIDE SUPPORT.—The Secretary of Defense may provide logistical support and personnel services in connection with the 1995 Special Olympics World Games to be held in New Haven, Connecticut.

(b) PAY AND NONTRAVEL-RELATED ALLOWANCES.—(1) Except as provided in paragraph (2), the costs for pay and nontravel-related allowances of members of the Armed Forces for the support and services referred to in subsection (a) may not be charged to appropriations made pursuant to the authorization of appropriations in subsection (c).

(2) Paragraph (1) does not apply in the case of members of a reserve component called or ordered to active duty to provide logistical support and personnel services for the 1995 Special Olympics World Games.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $3,000,000 for the Department of Defense for fiscal year 1995 to carry out subsection (a).

SEC. 307. AIR NATIONAL GUARD FIGHTER AIRCRAFT.

(a) FINDINGS.—Congress makes the following findings:

(1) The Bottom-Up Review force structure proposal would accomplish most of the remaining reductions in the total number of Air Force general purpose fighter wings by reducing the Air National Guard and Air Force Reserve fighter force from 10 wings to 7 wings.

(2) The current plan for implementing the reduction referred to in paragraph (1) is to reduce the number of fighter aircraft in each Air National Guard fighter unit from 24 or 18 primary aircraft authorized to 15 primary aircraft authorized and to convert some Air National Guard fighter units to other purposes.

(3) The number of Air National Guard Combat Readiness Training Centers in operation

during fiscal year 1995 should not be less than the number of such centers in operation at the end of fiscal year 1994.

(4) The Commission on Roles and Missions of the Armed Forces established by section 952 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 111 note; 107 Stat. 1738) is required to submit to Congress a report under section 954(b) of such Act on possible changes to existing allocations among the Armed Forces of military roles, missions, and functions.

(5) The Commission is not expected to submit the report until the middle of fiscal year 1995.

(6) The report of the Commission should contain a review of and recommendations on the assignment of roles and missions to units of the Air National Guard and the Air Force Reserve in relation to active component units that are the counterparts to such units and on requirements for resources for training of such units.

(b) REQUIREMENT.—After submission of the report referred to in paragraph (3), the Secretary of Defense shall review its findings on the role and requirements for general purpose fighter units of the Air National Guard, and shall complete within 30 days a study which recommends the appropriate level of primary aircraft authorized (PAA) for such units, following which, if the Secretary determines changes in that level are appropriate, he may notify the Congress of his determination and he may seek any reprogramming of funds that he considers appropriate to ensure that such changes are implemented.

Subtitle B—Defense Business Operations Fund

SEC. 311. PERMANENT AUTHORITY FOR USE OF FUND FOR MANAGING WORKING CAPITAL FUNDS AND CERTAIN ACTIVITIES.

Section 316(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 2208 note) is amended by striking out "During" and all that follows through "December 31, 1994, the" and inserting in lieu thereof "The".

SEC. 312. IMPLEMENTATION OF IMPROVEMENT PLAN.

(a) PROGRESS REPORT ON IMPLEMENTATION.—Not later than February 1, 1995, the Secretary of Defense shall submit to the congressional defense committees a report on the progress made in implementing the Defense Business Operations Fund Improvement Plan, dated September, 1993. The report shall describe the progress made in reaching the milestones established in the plan and provide an explanation for the failure to meet any of the milestones. The Secretary shall submit a copy of the report to the Comptroller General of the United States at the same time the Secretary submits the report to the congressional defense committees.

(b) RESPONSIBILITIES OF THE COMPTROLLER GENERAL.—(1) The Comptroller General shall monitor and evaluate the progress of the Department of Defense in developing and implementing the improvement plan referred to in subsection (a).

(2) Not later than March 1, 1995, the Comptroller General shall submit to the congressional defense committees a report containing the following:

(A) The findings and conclusions of the Comptroller General resulting from the monitoring and evaluation conducted under paragraph (1).

(B) An evaluation of the progress report submitted to the congressional defense committees by the Secretary of Defense pursuant to subsection (a).

(C) Any recommendations for legislation or administrative action concerning the Fund that the Comptroller General considers appropriate.

SEC. 313. LIMITATION ON OBLIGATIONS AGAINST THE CAPITAL ASSET FUND.

The Secretary of Defense may not incur obligations against funds in the capital asset subaccount of the Defense Business Operations Fund during fiscal year 1995 in a total amount in excess of $1,500,000.

SEC. 314. LIMITATION ON OBLIGATIONS AGAINST THE SUPPLY MANAGEMENT DIVISIONS.

(a) LIMITATION.—(1) The Secretary of Defense may not incur obligations against the supply management divisions of the Defense Business Operations Fund during fiscal year 1995 in a total amount in excess of 65 percent of the total amount derived from sales from such divisions during that fiscal year.

(2) For purposes of determining the amount of obligations incurred against, and sales from, such divisions during fiscal year 1995, the Secretary shall exclude obligations and sales for fuel, commissary and subsistence items, retail operations, repair of equipment and spare parts in support of repair, direct vendor deliveries, foreign military sales, initial outfitting requiring equipment furnished by the Federal Government, and the cost of operations.

(b) WAIVER AUTHORITY.—The Secretary of Defense may waive the limitation in subsection (a) if the Secretary determines that such waiver is necessary in order to maintain the readiness and combat effectiveness of the Armed Forces. The Secretary shall immediately notify Congress of any such waiver and the reasons for such waiver.

(c) DETERMINATIONS OF EFFECTS OF LIMITATION ON READINESS AND COMBAT EFFECTIVENESS.—Not later than 60 days after the date of the enactment of this Act, the secretaries of the military departments and the Director of the Defense Logistics Agency shall each submit to the Secretary of Defense a report containing the views of such official on the effects of the limitation in subsection (a) on the ability of the Department of Defense to maintain the readiness and combat effectiveness of the Armed Forces. If the Secretary of Defense determines, after considering the reports, that the limitation will impair the readiness and combat effectiveness of any of the Armed Forces, the Secretary shall exercise the waiver authority provided in subsection (b).

Subtitle C—Environmental Matters

SEC. 321. PROHIBITION ON THE PURCHASE OF SURETY BONDS AND OTHER GUARANTEES FOR THE DEPARTMENT OF DEFENSE.

No funds appropriated or otherwise made available to the Department of Defense for fiscal year 1995 may be obligated or expended for the purchase of surety bonds or other guarantees of financial responsibility in order to guarantee the performance of any direct function of the Department of Defense.

SEC. 322. EXTENSION OF PROHIBITION ON USE OF ENVIRONMENTAL RESTORATION FUNDS FOR PAYMENT OF FINES AND PENALTIES.

None of the funds appropriated for fiscal year 1995 pursuant to the authorization of appropriations provided in section 301(17) may be used for the payment of a fine or penalty imposed against the Department of Defense unless the act or omission for which the fine or penalty is imposed arises out of activities funded by the account.

SEC. 323. PARTICIPATION OF INDIAN TRIBES IN AGREEMENTS FOR DEFENSE ENVIRONMENTAL RESTORATION.

Section 2701(d) of title 10, United States Code, is amended—

(1) by striking out "SERVICE OF OTHER AGENCIES.—The Secretary" and inserting in lieu thereof the following: "SERVICE OF OTHER AGENCIES.—

"(1) IN GENERAL.—The Secretary";

(2) in paragraph (1), as so designated, by inserting "any Federally recognized Indian tribe or" before "any State or local government agency,"; and

(3) by adding at the end the following:

"(2) DEFINITION.—For purposes of this subsection, the term 'Indian tribe' has the meaning given such term in section 101(36) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9701(36)).".

SEC. 324. EXTENSION OF AUTHORITY TO ISSUE SURETY BONDS FOR CERTAIN ENVIRONMENTAL PROGRAMS.

Section 2701(j) of title 10, United States Code, is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 1999".

Subtitle D—Matters Relating to Department of Defense Civilian Employees

SEC. 331. EXTENSION OF CERTAIN TRANSITION ASSISTANCE AUTHORITIES.

(a) REDUCTION-IN-FORCE NOTIFICATION REQUIREMENTS.—Section 4433(b)(2) of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 106 Stat. 2721; 5 U.S.C. 3502 note) is amended by striking out "February 1, 1998" and inserting in lieu thereof "February 1, 2000".

(b) SEPARATION PAY.—(1) Section 5597(e) of title 5, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1999".

(2) Section 4436(d)(2) of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (5 U.S.C. 8348 note) is amended by striking out "January 1, 1998" and inserting in lieu thereof "January 1, 2000".

(c) RESTORATION OF CERTAIN LEAVE.—Section 6304(d)(3) of title 5, United States Code, is amended by striking out "the closure of an installation" and inserting in lieu thereof "the closure of an installation of the Department of Defense pursuant to the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) during any period, and the closure of any other installation".

(d) CONTINUED HEALTH BENEFITS.—Section 8905a(d)(4)(B) of title 5, United States Code, is amended—

(1) by striking out "October 1, 1997" each place it appears and inserting in lieu thereof "October 1, 1999"; and

(2) in clause (ii), by striking out "February 1, 1998," and inserting in lieu thereof "February 1, 2000,".

SEC. 332. EXTENSION AND EXPANSION OF AUTHORITY TO CONDUCT PERSONNEL DEMONSTRATION PROJECTS.

(a) CHINA LAKE DEMONSTRATION PROJECT.—(1) Section 6 of the Civil Service Miscellaneous Amendments Act of 1983 (Public Law 98–224; 98 Stat. 49) is amended by striking out "September 30, 1995,".

(2) In the event of a reorganization of the organization carrying out the personnel demonstration project referred to in section 6 of Public Law 98–224, such section shall apply with respect to the successor to that organization.

(b) DEFENSE LABORATORIES PERSONNEL DEMONSTRATION PROJECTS.—(1) The Secretary of Defense may carry out personnel demonstration projects at Department of Defense laboratories designated by the Secretary as Department of Defense science and technology reinvention laboratories.

(2) Each personnel demonstration project carried out under the authority of paragraph (1) shall be similar to the personnel demonstration project that is authorized by section 6 of Public Law 98-224 to be continued at the Naval Weapons Center, China Lake, California, and at the Naval Ocean Systems Center, San Diego, California.

(3) If the Secretary carries out a demonstration project at a laboratory pursuant to paragraph (1), section 4703 (other than subsection (d)) of title 5, United States Code, shall apply to such demonstration project, except that the authority of the Secretary to carry out the demonstration project is that which is provided in paragraph (1) rather than the authority that is provided in such section 4703.

SEC. 333. LIMITATION ON PAYMENT OF SEVERANCE PAY TO CERTAIN EMPLOYEES TRANSFERRING TO EMPLOYMENT POSITIONS IN NONAPPROPRIATED FUND INSTRUMENTALITIES.

(a) IN GENERAL.—Section 5595 of title 5, United States Code, is amended by adding at the end the following:

"(h)(1) Severance pay under this section may not be paid to—

"(A) a person described in paragraph (4)(A) during any period in which the person is employed in a defense nonappropriated fund instrumentality; or

"(B) a person described in paragraph (4)(B) during any period in which the person is employed in a Coast Guard nonappropriated fund instrumentality.

"(2)(A) Except as provided in subparagraph (B), payment of severance pay to a person referred to in paragraph (1) may be resumed upon any involuntary separation of the person from the position of employment in a nonappropriated fund instrumentality, not by removal for cause on charges of misconduct, delinquency, or inefficiency.

"(B) Payment of severance pay may not be resumed under subparagraph (A) in the case of a person who, upon separation, is entitled to immediate payment of retired or retainer pay as a member or former member of the uniformed services or to an immediate annuity under—

"(i) a retirement system for persons retiring from employment by a nonappropriated fund instrumentality;

"(ii) subchapter III of chapter 83 of this title;

"(iii) subchapter II of chapter 84 of this title; or

"(iv) any other retirement system of the Federal Government for persons retiring from employment by the Federal Government.

"(3) Upon resumption of payment of severance pay under paragraph (2)(A) in the case of a person separated as described in such paragraph, the amount of the severance pay so payable for a period shall be reduced (but not below zero) by the portion (if any) of the amount of any severance pay payable for such period to the person by the nonappropriated fund instrumentality that is attributable to credit for service taken into account under subsection (c) in the computation of the amount of the severance pay so resumed.

"(4) Paragraph (1) applies to a person who, on or after January 1, 1987, moves without a break in service—

"(A) from employment in the Department of Defense that is not employment in a defense nonappropriated fund instrumentality to employment in a defense nonappropriated fund instrumentality; or

"(B) from employment in the Coast Guard that is not employment in a Coast Guard nonappropriated fund instrumentality to employment in a Coast Guard nonappropriated fund instrumentality.

"(5) The Secretary of Defense, in consultation with the Secretary of Transportation, shall prescribe regulations to carry out this subsection.

"(6) In this subsection:

"(A) The term 'defense nonappropriated fund instrumentality' means a nonappropriated fund instrumentality of the Department of Defense.

"(B) The term 'Coast Guard nonappropriated fund instrumentality' means a nonappropriated fund instrumentality of the Coast Guard.

"(C) The term 'nonappropriated fund instrumentality' means a nonappropriated fund instrumentality described in section 2105(c) of this title.".

(b) APPLICABILITY.—Subsection (h) of section 5595 of title 5, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act and apply with respect to pay periods that begin on or after such date.

SEC. 334. RETIREMENT CREDIT FOR CERTAIN SERVICE IN NONAPPROPRIATED FUND INSTRUMENTALITIES BEFORE JANUARY 1, 1987.

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study to determine the level of interest among employees of the Department of Defense referred to in subsection (b) in obtaining credit under the Civil Service Retirement and Disability System or the Federal Employees' Retirement System for former service described in such subsection as an employee of a nonappropriated fund instrumentality of the United States.

(b) EMPLOYEES CONCERNED.—The employees referred to in subsection (a) are employees who, for at least 12 months during the period beginning on January 1, 1966, and ending on December 31, 1986, performed service as an employee described in section 2105(c) of title 5, United States Code, conducting a program described in section 8332(b)(16)(A) of such title.

(c) CONDUCT OF STUDY.—In carrying out the study under subsection (a), the Secretary shall—

(1) provide an opportunity for all employees referred to in that subsection to express interest in obtaining retirement credit for the former service in a nonappropriated fund instrumentality of the United States; and

(2) inform such employees that deposits to the Civil Service Retirement and Disability Fund would be required of the interested employees under section 8334(c) of title 5, United States Code, or section 8411(f) of such title.

(d) REPORT.—Not later than February 1, 1995, the Secretary shall submit to Congress a report on the results of the study required by subsection (a). The report shall contain the following matters:

(1) An analysis of the issues, to include existing legal rights of the employees described in paragraph (b) above under the Civil Service Retirement Disability System or the Federal Employees' Retirement System.

(2) An Analysis of the inequities, if any, that may have been caused by conversion from employment by nonappropriated fund instrumentalities of the United States to employment by the Department of Defense.

(3) The number of full time and part time employees described in paragraph (b) above that are affected by any inequities described in paragraph (2).

(4) The Department of Defense recommendations, if any, to redress any inequities described in paragraph (2), and

(5) The cost to the Federal Government of any recommendation described in paragraph (4).

SEC. 335. TRAVEL, TRANSPORTATION, AND RELOCATION EXPENSES OF EMPLOYEES TRANSFERRING TO THE UNITED STATES POSTAL SERVICE.

(a) IN GENERAL.—(1) Subchapter II of chapter 57 of title 5, United States Code, is amended by adding at the end the following:

"§ 5735. Travel, transportation, and relocation expenses of employees transferring to the United States Postal Service

"(a) IN GENERAL.—Notwithstanding any other provision of law, employees of the Department of Defense described in subsection (b) may be authorized travel, transportation, and relocation expenses and allowances in connection with appointments referred to in such subsection under the same conditions and to the same extent authorized by this subchapter for transferred employees.

"(b) COVERED EMPLOYEES.—Subsection (a) applies to any employee of the Department of Defense who—

"(1) is scheduled for separation from the Department, other than for cause;

"(2) is selected for appointment to a continuing position with the United States Postal Service; and

"(3) accepts the appointment.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following:

"5735. Travel, transportation, and relocation expenses of employees transferring to the United States Postal Service.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and apply to persons separated from employment by the Department of Defense on or after such date.

SEC. 336. FOREIGN EMPLOYEES COVERED BY THE FOREIGN NATIONAL EMPLOYEES SEPARATION PAY ACCOUNT.

Section 1581 of title 10, United States Code, is amended—

(1) by striking out "foreign national employees of the Department of Defense" each place it appears in subsections (a) and (b) and inserting in lieu thereof "foreign nationals referred to in subsection (e)"; and

(2) by striking out subsection (e) and inserting in lieu thereof the following:

"(e) EMPLOYEES COVERED.—This section applies only with respect to separation pay of foreign nationals employed by the Department of Defense, and foreign nationals employed by a foreign government for the benefit of the Department of Defense, under any of the following agreements that provide for payment of separation pay:

"(1) A contract.

"(2) A treaty.

"(3) A memorandum of understanding with a foreign nation.

SEC. 337. INCREASED AUTHORITY TO ACCEPT VOLUNTARY SERVICES.

(a) EXPANSION OF AUTHORITY.—The text of section 1588 of title 10, United States Code, is amended to read as follows:

"(a) AUTHORITY TO ACCEPT SERVICES.—Subject subsection (b) and notwithstanding section 1342 of title 31, the Secretary concerned may accept from any person the following services:

"(1) Voluntary medical services, dental services, nursing services, or other health-care related services.

"(2) Voluntary services to be provided for a museum or a natural resources program.

"(3) Voluntary services to be provided for programs providing services to members of the armed forces and the families of such members, including the following programs:

"(A) Family support programs.

"(B) Child development and youth services programs.

"(C) Library and education programs.

"(D) Religious programs.

"(E) Housing referral programs.

"(F) Programs providing employment assistance to spouses of such members.

"(b) REQUIREMENTS AND LIMITATIONS.—(1) The Secretary concerned shall notify the person of the scope of the services accepted.

"(2) With respect to a person providing voluntary services accepted under subsection (a), the Secretary concerned—

"(A) shall—

"(i) supervise the person to the same extent as the Secretary would supervise a compensated employee providing similar services; and

"(ii) ensure that the person is licensed, privileged, has appropriate credentials, or is otherwise qualified under applicable law or regulations to provide such services; and

"(B) may not—

"(i) place the person in a policy-making position; or

"(ii) except as provided subsection (e), compensate the person for the provision of such services.

"(c) AUTHORITY TO RECRUIT AND TRAIN PERSONS PROVIDING SERVICES.—The Secretary concerned may recruit and train persons to provide voluntary services accepted under subsection (a).

"(d) STATUS OF PERSONS PROVIDING SERVICES.—(1) Subject to paragraph (3), while providing voluntary services accepted under subsection (a) or receiving training under subsection (c) a person, other than a person referred to in paragraph (2), shall be considered to be an employee of the Federal Government only for purposes of the following provisions of law:

"(A) Subchapter I of chapter 81 of title 5, relating to compensation for work-related injuries.

"(B) Section 2733 of this title and section 2733 of title 28, relating to claims for damages or loss.

"(C) Section 522a of title 5, relating to maintenance of records on individuals.

"(D) Chapter 11 of title 18, relating to conflicts of interest.

"(2) Subject to paragraph (3), while providing a nonappropriated fund instrumentality of the United States with voluntary services accepted under subsection (a), or receiving training under subsection (c) to provide such an instrumentality with services accepted under subsection (a), a person shall be considered an employee of that instrumentality only for the following purposes:

"(A) Subchapter II of chapter 81 of title 5, relating to compensation of nonappropriated fund employees for work-related injuries.

"(B) Section 2733 of this title and section 2733 of title 28, relating to tort claims.

"(3) A person providing voluntary services accepted under subsection (a) shall be considered to be an employee of the Federal Government under paragraph (1) or (2) only with respect to services that are within the scope of the services so accepted.

"(4) For purposes of determining the compensation for work-related injuries payable under chapter 81 of title 5 (pursuant to this subsection) to a person providing voluntary services accepted under subsection (a), the monthly pay of the person for such services shall be deemed to be the amount determined by multiplying—

"(A) the average monthly number of hours that the person provided the services, by

"(B) the minimum wage determined in accordance with section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

"(e) REIMBURSEMENT OF INCIDENTAL EXPENSES.—The Secretary concerned may provide for reimbursement of a person for incidental expenses incurred by the person in providing voluntary services accepted under subsection (a). The Secretary shall determine which expenses are eligible for reimbursement under this subsection. Any such reimbursement may be made from appropriated or nonappropriated funds.".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—(1) Section 8171(a) of title 5, United States Code, is amended by inserting ", or to a volunteer providing such an instrumentality with services accepted under section 1588 of title 10," after "described by section 2105(c) of this title".

(2) Subchapter II of chapter 81 of such title is amended—

(A) in section 8171—

(i) in subsection (a)—

(I) by striking out "Chapter 18 of title 33" in the first sentence and inserting in lieu thereof "The Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.)";

(II) by striking out "section 902(2) of title 33" in the first sentence and inserting in lieu thereof "section 2(2) of such Act (33 U.S.C. 902(2))"; and

(III) by striking out "section 903(a) of title 33 which follows the first comma" in the second sentence and inserting in lieu thereof "section 3(a) of such Act (33 U.S.C. 903(3)) which follows the second comma";

(ii) in subsection (b), by striking out "section 902(4) of title 33" and inserting in lieu thereof "section 2(4) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 902(4))";

(iii) in subsection (c)(1), by striking out "section 939(b) of title 33" and inserting in lieu thereof "39(b) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 939(b))"; and

(iv) in subsection (d), by striking out "sections 918 and 921 of title 33" and inserting in lieu thereof "sections 18 and 21 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 18 and 21, respectively)"; and

(B) by striking out "section 902(2) of title 33" in sections 8172 and 8173 and inserting in lieu thereof "section 2(2) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 2(2))".

Subtitle E—Other Matters

SEC. 341. CHANGE OF SOURCE FOR PERFORMANCE OF DEPOT-LEVEL WORKLOADS.

The text of section 2469 of title 10, United States Code, is amended to read as follows:

"(a) REQUIREMENT FOR COMPETITION.—The Secretary of Defense shall ensure that the performance of a depot-level maintenance workload described in subsection (b) is not changed to performance by a contractor or by another depot-level maintenance activity of the Department of Defense unless the change is made using—

"(1) merit-based selection procedures for competitions among all depot-level maintenance activities of the Department of Defense; or

"(2) competitive procedures for competitions among private and public sector entities.

"(b) SCOPE.—Subsection (a) applies to any depot-level maintenance workload that has a value of not less than $3,000,000 and is being performed by a depot-level activity of the Department of Defense.

"(c) INAPPLICABILITY OF OMB CIRCULAR A-76.—Office of Managment and Budget Circular A-76 does not apply to a performance change to which subsection (a) applies.".

SEC. 342. CIVIL AIR PATROL.

(a) PROVISION OF FUNDS.—Subsection (b) of section 9441 of title 10, United States Code, is amended—

(1) by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (9), (10), (11), and (12), respectively; and

(2) by inserting after paragraph (7) the following new paragraph (8):

"(8) provide funds for the national headquarters of the Civil Air Patrol, including funds for the payment of staff compensation and benefits, administrative expenses, travel, per diem and allowances, rent and utilities, and other operational expenses;".

(b) LIAISONS.—Such section is further amended by adding at the end the following new subsection:

"(d)(1) The Secretary of the Air Force may authorize the Civil Air Patrol to employ, as administrators and liaison officers, persons retired from service in the Air Force whose qualifications are approved under regulations prescribed by the Secretary and who request such employment.

"(2) A person employed pursuant to paragraph (1) may receive the person's retired pay and an additional amount for such employment that is not more than the difference between the person's retired pay and the pay and allowances the person would be entitled to receive if ordered to active duty in the grade in which the person retired from service in the Air Force. The additional amount shall be paid to the Civil Air Patrol by the Secretary from funds appropriated for that purpose.

"(3) A person employed pursuant to paragraph (1) may not, while so employed, be considered to be on active duty or inactive-duty training for any purpose.".

SEC. 343. ARMED FORCES RETIREMENT HOME.

(a) INCREASED MAXIMUM LIMITATION ON DEDUCTIONS FROM PAY.—Section 1007(i) of title 37, United States Code, is amended—

(1) in paragraph (1), by striking out "50 cents" and inserting in lieu thereof "$2.00"; and

(2) in paragraph (3), by adding at the end the following: "The amount fixed for a grade or length of service may not be increased by more than 50 cents during any 12-month period.".

(b) MODIFICATION OF FEES PAID BY RESIDENTS.—(1) Paragraph (2) of section 1514(c) of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 414(c)) is amended to read as follows:

"(2) The fee shall be fixed as a percentage of the monthly income and monthly payments (including Federal payments) received by a resident, subject to such adjustments in the fee as the Retirement Home Board may make under paragraph (1). The percentage shall be the same for each establishment of the Retirement Home.".

(2)(A) Subsections (d) and (e) of section 1514 of such Act are repealed.

(B) Such section is further amended by adding after subsection (c) the following new subsection (d):

"(d) APPLICATION OF FEES.—Subject to such adjustments in the fee as the Retirement Home Board may make under subsection (c), each resident of the Retirement

Home shall be required to pay a monthly fee equal to the amount determined by multiplying the total amount of all monthly income and monthly payments (including Federal payments) received by the resident by a percentage as follows:

"(1) In the case of a permanent health care resident—

"(A) in fiscal year 1998, 35 percent;

"(B) in fiscal year 1999, 45 percent; and

"(C) in fiscal year 2000, 65 percent.

"(2) In the case of a resident who is not a permanent health care resident—

"(A) in fiscal year 1998, 30 percent;

"(B) in fiscal year 1999, 35 percent; and

"(C) in fiscal year 2000, 40 percent.

(c) MODERNIZATION OF FACILITIES.—(1) The Chairman of the Armed Forces Retirement Home Board shall carry out a study to identify and evaluate alternatives for modernization of the facilities at the United States Soldiers' and Airmen's Home.

(2) The Chairman shall submit an interim report and a final report on the results of the study to the Committees on Armed Services of the Senate and House of Representatives. The Chairman shall submit the interim report not later than April 1, 1995, and the final report not later than December 31, 1995.

(d) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall take effect on January 1, 1995, and apply to years that begin on or after that date.

(2) The amendments made by subsection (b) shall take effect October 1, 1997.

SEC. 344. CLARIFICATION OF AUTHORITY TO PROVIDE MEDICAL TRANSPORTATION UNDER NATIONAL GUARD PILOT PROGRAM.

Paragraph (1) of section 376(h) of the National Defense Authorization Act for Fiscal Year 1993 (32 U.S.C. 501 note) is amended to read as follows:

"(1) The term 'health care' includes the following services:

"(A) Medical care services.

"(B) Dental care services.

"(C) Transportation, by air ambulance or other means, for medical reasons.".

SEC. 345. ARMS INITIATIVE LOAN GUARANTEE PROGRAM.

(a) PROGRAM AUTHORIZED.—Subject to subsection (b), the Secretary of the Army may carry out a loan guarantee program to encourage commercial firms to use ammunition manufacturing facilities pursuant to section 193 of the Armament Retooling and Manufacturing Support Act of 1992 (subtitle H of title I of Public Law 102-484; 106 Stat. 2348). Under such program, the Secretary may guarantee the repayment of any loan made to a commercial firm to fund, in whole or in part, the establishment of a commercial activity under the Act.

(b) ADVANCED BUDGET AUTHORITY.—Loan guarantees under this section may not be committed except to the extent that appropriations of budget authority to cover their costs are made in advance, as required by section 504 of the Federal Credit Reform Act of 1990 (title V of the Congressional Budget Act of 1974; 2 U.S.C. 661c).

(c) PROGRAM ADMINISTRATION.—(1) The Secretary may enter into agreements with the Administrator of the Small Business Administration, the Administrator of the Farmers Home Administration, and the Administrator of the Rural Development Administration under which such Administrators may, under this section—

(A) process applications for loan guarantees;

(B) guarantee repayment of loans; and

(C) provide any other services to the Secretary to administer the loan guarantee program.

(2) Each Administrator may guarantee loans under this section to commercial firms of any size, notwithstanding any size limitations imposed on other loan guarantee programs that the Administrator administers.

(3) To the extent practicable, each Administrator shall use the same procedures for processing loan guarantee applications under this section as the Administrator uses for processing loan guarantee applications under other loan guarantee programs that the Administrator administers.

(d) LOAN LIMITS.—Loan guarantees under this section may not exceed—

(1) $20,000,000 for any borrower; and

(2) $65,000,000 for all borrowers.

(e) TRANSFER OF FUNDS.—The Secretary of the Army may transfer to an Administrator providing services under subsection (c), and an Administrator may accept, such funds as may be necessary to administer the loan guarantee program under this section.

(f) REPORTING REQUIREMENT.—Not later than July 1 of each year in which a guarantee issued under this section is in effect, the Secretary shall submit to the congressional defense committees a report containing the amounts of loans guaranteed under this section during the preceding calendar year. No report is required after fiscal year 1997.

(g) AUTHORIZATION FOR USE OF EXISTING BUDGET AUTHORITY.—Funds appropriated for the Armament Retooling and Manufacturing Support Initiative by title III of Public Law 102-396 under the heading "PROCUREMENT OF AMMUNITION, ARMY" (106 Stat. 1887) may be made available for loan guarantees under this section only to the extent provided in an appropriations Act enacted after the date of the enactment of this Act.

(h) EXTENSION OF AUTHORITY.—Section 193(a) of the Armament Retooling and Manufacturing Support Act of 1992 (subtitle H of title I of Public Law 102-484; 106 Stat. 2348) is amended by striking out "During fiscal years 1993 and 1994," and inserting in lieu thereof "During fiscal years 1993 through 1996,".

SEC. 346. REAUTHORIZATION OF DEPARTMENT OF DEFENSE DOMESTIC ELEMENTARY AND SECONDARY SCHOOLS FOR DEPENDENTS.

(a) CONTINUED AUTHORITY.—Chapter 108 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2164. Department of Defense domestic dependent elementary and secondary schools

"(a) AUTHORITY OF SECRETARY.—If the Secretary of Defense makes a determination that appropriate educational programs are not available through a local educational agency for dependents of members of the armed forces and dependents of civilian employees of the Federal Government residing on a military installation in the United States (including territories, commonwealths, and possessions of the United States), the Secretary may provide for the elementary or secondary education of the dependents of such members of the armed forces and, to the extent authorized in subsection (c), the dependents of such civilian employees.

"(b) FACTORS FOR SECRETARY TO CONSIDER.—(1) Factors to be considered by the Secretary of Defense in making a determination under subsection (a) shall include the following:

"(A) The extent to which such dependents are eligible for free public education in the local area adjacent to the military installation.

"(B) The extent to which the local educational agency is able to provide a comparable educational program for such dependents.

"(2) For purposes of paragraph (1)(B), an appropriate educational program is a program that, as determined by the Secretary, is comparable to a program of free public education provided for children in the following communities:

"(A) In the case of a military installation located in a State (other than an installation referred to in subparagraph (B)), similar communities in the State.

"(B) In the case of a military installation with boundaries contiguous to two or more States, similar communities in the contiguous States.

"(C) In the case of a military installation located in a territory, commonwealth, or possession, the District of Columbia, except that an educational program determined comparable under this subparagraph may be considered appropriate for the purposes of paragraph (1)(B) only if the program is conducted in the English language.

"(c) ELIGIBILITY OF DEPENDENTS OF FEDERAL EMPLOYEES.—(1) A dependent of a Federal employee residing on a military installation at any time during the school year may enroll in an educational program provided by the Secretary of Defense pursuant to subsection (a) for dependents residing on such installation.

"(2)(A) Except as provided in subparagraph (B), a dependent of a Federal employee who is enrolled in an educational program provided by the Secretary pursuant to subsection (a) and who is not residing on a military installation may be enrolled in the program for not more than five consecutive school years.

"(B) A dependent referred to in subparagraph (A) may be enrolled in the program for more than five consecutive school years if the Secretary determines that, in the interest of the dependent's educational well-being, there is good cause to extend the enrollment for more than the five-year period described in such subparagraph. Any such extension may be made for only one school year at a time.

"(3) A dependent of a Federal employee may continue enrollment in a program under this subsection for the remainder of a school year notwithstanding a change during such school year in the status of the Federal employee that, except for this paragraph, would otherwise terminate the eligibility of the dependent to be enrolled in the program. The preceding sentence does not limit the authority of the Secretary to remove the dependent from enrollment in the program at any time for good cause determined by the Secretary.

"(d) SCHOOL BOARDS.—(1) The Secretary of Defense shall provide for the establishment of a school board for each Department of Defense elementary or secondary school established for a military installation under this section.

"(2) The school board shall be composed of the number of members, not less than three, prescribed by the Secretary.

"(3) The parents of the students attending the school shall elect the school board in accordance with procedures which the Secretary shall prescribe.

"(4) The elected school board shall be considered a local civic group with a function of rendering a public service of providing counsel through oversight of school expenditures and operations. The Secretary shall prescribe the oversight procedures and audit standards applicable to the functions of the school board.

"(5) Meetings conducted by the school board shall be open to the public.

"(6) A school board need not comply with the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), but may close meetings in accordance with such Act.

"(e) Administration and Staff.—(1) The Secretary of Defense may enter into such arrangements as may be necessary to provide educational programs at the school.

"(2) The Secretary may, without regard to the provisions of any other law relating to the number, classification, or compensation of employees—

"(A) establish such positions for civilian employees in schools established under this section;

"(B) appoint individuals to such positions; and

"(C) fix the compensation of such individuals for service in such positions.

"(3)(A) Except as provided in subparagraph (B), in fixing the compensation of employees appointed for a school pursuant to paragraph (2), the Secretary shall consider—

"(i) the compensation of comparable employees of the local educational agency in the capital of the State where the military installation is located;

"(ii) the compensation of comparable employees in the local educational agency that provides public education to students who reside adjacent to the military installation; or

"(iii) the average compensation for similar positions in not more than three other local educational agencies in the State in which the military installation is located.

"(B) In fixing the compensation of employees in schools established in the territories, commonwealths, and possessions pursuant to the authority of this section, the Secretary shall determine the level of compensation required to attract qualified employees. For employees in such schools, the Secretary, without regard to the provisions of title 5, may provide for the tenure, leave, hours of work, and other incidents of employment to be similar to that provided for comparable positions in the public schools of the District of Columbia. For purposes of the first sentence, a school shall be considered to have been established pursuant to the authority of this section if the school was established pursuant to other similar authority before the date on which this section takes effect.

"(f) Substantive and Procedural Rights and Protections for Children.—(1) The Secretary shall provide the following substantive rights, protections, and procedural safeguards (including due process procedures) in the educational programs provided for under this section:

"(A) In the case of children with disabilities aged 3 to 5, inclusive, all substantive rights, protections, and procedural safeguards (including due process procedures) available to children with disabilities aged 3 to 5, inclusive, under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

"(B) In the case of infants and toddlers with disabilities, all substantive rights, protections, and procedural safeguards (including due process procedures) available to infants and toddlers with disabilities under part H of such Act (20 U.S.C. 1471 et seq.).

"(C) In the case of all other children with disabilities, all substantive rights, protections, and procedural safeguards (including due process procedures) available to children with disabilities who are 3 to 5 years old under part B of such Act.

"(2) Paragraph (1) may not be construed as diminishing for children with disabilities enrolled in day educational programs provided for under this section the extent of substantive rights, protections, and procedural safeguards that were available under section 6(a) of Public Law 81–874 (20 U.S.C. 241(a)) to children with disabilities as of October 7, 1991.

"(3) In this subsection:

"(A) The term 'children with disabilities' has the meaning given the term in section 602(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(1)).

"(B) The term 'children with disabilities aged 3 to 5, inclusive' means such term as used in such Act (20 U.S.C. 1400 et seq.).

"(C) The term 'infants and toddlers with disabilities' has the meaning given the term in section 672(1) of such Act (20 U.S.C. 1472(1)).

"(g) Reimbursement.—When the Secretary of Defense provides educational services under this section to an individual who is a dependent of an employee of a Federal agency outside the Department of Defense, the head of the other Federal agency shall, upon request of the Secretary of Defense, reimburse the Secretary for those services at rates routinely prescribed by the Secretary for those services. Any payments received by the Secretary under this subsection shall be credited to the account designated by the Secretary for the operation of educational programs under this section.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2164. Department of Defense domestic dependent elementary and secondary schools.".

SEC. 347. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) Availability of Funds.—Of the amounts authorized to be appropriated pursuant to section 301(5)—

(1) $50,000,000 shall be available for providing assistance to local educational agencies under subsection (b) of section 386 of Public Law 102–484; and

(2) $8,000,000 shall be available for making payments to local educational agencies under subsection (d) of such section.

(b) Notification and Disbursal.—(1) On or before June 30, 1995, the Secretary of Defense (with respect to assistance provided in subsection (b) of section 386 of Public Law 102–484) and the Secretary of Education (with respect to payments made under subsection (d) of such section) shall notify each local educational agency eligible for assistance under subsections (b) and (d) of such section, respectively, for fiscal year 1995 of such agency's eligibility for such assistance and the amount of such assistance.

(2) The Secretary of Defense (with respect to funds made available under subsection (a)(1)) and the Secretary of Education (with respect to funds made available under subsection (a)(2)) shall disburse such funds not later than 30 days after notification to eligible local education agencies.

SEC. 348. DISPOSITION OF PROCEEDS FROM OPERATION OF THE NAVAL ACADEMY LAUNDRY.

Section 6971 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "(a)"; and

(B) in the first sentence, by striking out "and the Academy dairy" and inserting in lieu thereof "the Academy dairy, and the Academy laundry"; and

(2) by striking out subsection (b).

SEC. 349. REPEAL OF ANNUAL LIMITATION ON EXPENDITURES FOR EMERGENCY AND EXTRAORDINARY EXPENSES OF THE DEPARTMENT OF DEFENSE INSPECTOR GENERAL.

Section 127(c) of title 10, United States Code, is amended—

(1) by striking out "(1)" after "(c)"; and

(2) by striking out paragraph (2).

SEC. 350. EXTENSION OF AUTHORITY FOR PROGRAM TO COMMEMORATE WORLD WAR II.

Section 378 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2387; 10 U.S.C. 113 note) is amended by striking out "1995" each place it appears in subsections (a) and (b) and inserting in lieu thereof "1996".

SEC. 351. EXTENSION OF AUTHORITY FOR AVIATION DEPOTS AND NAVAL SHIPYARDS TO ENGAGE IN DEFENSE-RELATED PRODUCTION AND SERVICES.

Section 1425(e) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510), as amended by section 370(b) of Public Law 103–160 (107 Stat. 1634), is further amended by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1995".

SEC. 352. TRANSFER OF CERTAIN EXCESS DEPARTMENT OF DEFENSE PROPERTY TO EDUCATIONAL INSTITUTIONS AND TRAINING SCHOOLS.

(a) Authority To Transfer.—Subsection (b)(1) of section 2535 of title 10, United States Code, is amended by striking out subparagraph (G) and inserting in lieu thereof the following:

"(G) notwithstanding title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.) and any other provision of law, authorize the transfer to a nonprofit educational institution or training school, on a nonreimbursable basis, of any such property already in the possession of such institution or school whenever the program proposed by such institution or school for the use of such property will contribute materially to national defense; and".

(b) Treatment of Property Loaned Before December 31, 1993.—Except for property determined by the Secretary to be needed by the Department of Defense, property loaned before December 31, 1993, to an educational institution or training school under section 2535(b) of title 10, United States Code, or section 4(a)(7) of the Defense Industrial Reserve Act (as in effect before October 23, 1992) shall be regarded as surplus property. Upon certification by the Secretary to the Administrator of General Services that the property is being used by the borrowing educational institution or training school for a purpose consistent with that for which the property was loaned, the Administrator may authorize the conveyance of all right, title, and interest of the United States in such property to the borrower if the borrower agrees to accept the property. The Administrator may require any additional terms and conditions in connection with a conveyance so authorized that the Administrator considers appropriate to protect the interests of the United States.

SEC. 353. SHIPS' STORES.

Section 371 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1634; 10 U.S.C. 7604 note) is amended—

(1) by striking out subsections (a), (b), and (d); and

(2) in subsection (c), by striking out "(c) Codification.—Section 7604" and inserting in lieu thereof "Effective as of November 30, 1993, section 7604".

SEC. 354. HUMANITARIAN PROGRAM FOR CLEARING LANDMINES.

(a) PROGRAM AUTHORIZED.—The Secretary of Defense may carry out a program for humanitarian purposes to provide for the instruction, education, training, and advising of personnel of other nations in the various procedures that have been determined effective for detecting and clearing landmines.

(b) FORMS OF ASSISTANCE.—Under the program the Secretary may provide personnel to conduct the instruction, education, or training or to furnish advice. In addition or alternatively, the Secretary may provide financial assistance or in-kind assistance in support of such instruction, education, or training.

(c) LIMITATIONS ON ACTIONS OF UNITED STATES PERSONNEL.—The Secretary of Defense shall ensure that no member of the Armed Forces of the United States—

(1) while providing assistance under subsection (a), engages in the physical detection, lifting, or destroying of landmines unless the member does so for the concurrent purpose of supporting a United States military operation; or

(2) provides such assistance as part of a military operation that does not involve the Armed Forces of the United States.

(d) FUNDING.—Of the funds authorized to be appropriated in section 301, not more than $10,000,000 shall be available for a program carried out under subsection (a).

SEC. 355. ASSISTANCE TO RED CROSS FOR EMERGENCY COMMUNICATIONS SERVICES FOR MEMBERS OF THE ARMED FORCES AND THEIR FAMILIES.

(a) FISCAL YEAR 1995.—Of the funds authorized to be appropriated by section 301(5), $14,500,000 shall be available for obtaining emergency communications services for members of the Armed Forces and their families from the American National Red Cross.

(b) FISCAL YEARS 1996 AND 1997.—Of the amounts authorized to be appropriated for the Department of Defense for fiscal years 1996 and 1997 for operation and maintenance for Defense-wide activities, $14,500,000 shall be available for each such fiscal year for obtaining emergency communications services for members of the Armed Forces and their families from the American National Red Cross.

SEC. 356. MARITIME PREPOSITIONING SHIP ENHANCEMENT.

Section 2218 of title 10, United States Code, is amended by adding at the end of subsection (f) the following new paragraph:

"(3) Not more than three vessels built in foreign shipyards may be purchased for the Marine Corps maritime prepositioning ship program with funds in the National Defense Sealift Fund. Vessels purchased under the authority of this paragraph may not be counted for purposes of the limitation in paragraph (1).".

SEC. 357. ROLL-ON/ROLL-OFF VESSELS FOR THE READY RESERVE FORCE.

(a) TRANSFER AUTHORIZED.—To the extent provided in appropriations Acts, in order to provide for purchase of up to seven roll-on/roll-off vessels for the Ready Reserve Force of the National Defense Reserve Fleet maintained under section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), the Secretary of Defense may transfer to the Maritime Administration not more than $43,000,000 out of funds authorized by this Act to be appropriated to the Department of Defense for fiscal year 1995, other than funds for procurement of national defense features for vessels.

(b) USE BY MARITIME ADMINISTRATION.—Funds transferred to the Maritime Administration pursuant to subsection (a) shall be used only for the purpose set forth in such subsection.

SEC. 358. PAYMENT OF CERTAIN STIPULATED CIVIL PENALTIES.

Of the funds authorized to be appropriated by section 301(17), the Secretary of Defense may pay not more than $500,000 to the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code of 1986 (26 U.S.C. 9507) as payment of stipulated civil penalties assessed under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

SEC. 359. SALE OF ARTICLES AND SERVICES OF INDUSTRIAL FACILITIES OF THE ARMED FORCES TO PERSONS OUTSIDE DEPARTMENT OF DEFENSE.

(a) AUTHORITY TO SELL OUTSIDE DOD.—The Secretary of Defense may sell in accordance with this section to persons outside the Department of Defense articles and services produced in working-capital funded industrial facilities of the Armed Forces that are not available from any United States commercial source.

(b) DESIGNATION OF PARTICIPATING INDUSTRIAL FACILITIES.—The Secretary may designate up to three facilities referred to in subsection (a) as the facilities from which articles and services produced in such facilities may be sold under this section.

(c) CONDITIONS FOR SALES.—A sale of articles or services may be made under this section only if—

(1) the Secretary of Defense determines that the articles or services are not available from a commercial source in the United States;

(2) the purchaser agrees to hold harmless and indemnify the United States, except in cases of willful misconduct or extreme negligence, from any claim for damages or injury to any person or property arising out of the articles or services;

(3) the articles or services can be substantially performed by the industrial facility concerned with only incidental subcontracting and that performance is in the public interest;

(4) the Secretary determines that the sale of the articles or services will not interfere with the military mission of the industrial facility concerned; and

(5) the sale of the goods and services is made on the basis that it will not interfere with performance of work by the industrial facility concerned for the Department of Defense.

(d) METHODS OF SALE.—(1) The Secretary shall permit a purchaser of articles or services under this section to use advance incremental funding to pay for the articles or services.

(2) In the sale of articles and services under this section, the Secretary shall—

(A) charge the purchaser, at a minimum, the variable costs, capital improvement costs, and equipment depreciation costs that are associated with the articles or services sold;

(B) enter into a firm, fixed-price contract or, if agreed by the purchaser, a cost reimbursement contract for the sale; and

(C) develop and maintain (from sources other than appropriated funds) working capital to be available for paying design costs, planning costs, procurement costs, and other costs associated with the articles or services sold.

(e) DELEGATION OF AUTHORITY.—The Secretary may delegate the authority to sell articles and services in accordance with this section to the commander of each industrial facility designated pursuant to subsection (b) in accordance with regulations prescribed by the Secretary.

(f) DEPOSIT OF PROCEEDS.—Proceeds from sales of articles and services under this section shall be credited to the funds, including working capital funds and operation and maintenance funds, incurring the costs of performance.

(g) RELATIONSHIP TO ARMS EXPORT CONTROL ACT.—Nothing in this section shall be construed to affect the application of the export controls provided for in section 38 of the Arms Export Control Act (22 U.S.C. 2778) to items which incorporate or are produced through the use of an article sold under this section.

(h) DEFINITIONS.—In this section:

(1) The term "advance incremental funding", with respect to a sale of articles or services, means a series of partial payments for the articles or services that includes—

(A) one or more partial payments before the commencement of work or the incurring of costs in connection with the production of the articles or the performance of the services, as the case may be; and

(B) subsequent progress payments that result in full payment being completed as the required work is being completed.

(2) The term "variable costs", with respect to sales of articles or services, means the costs that are expected to fluctuate directly with the volume of sales and—

(A) in the case of articles, the volume of production necessary to satisfy the sales orders; or

(B) in the case of services, the extent of the services sold.

SEC. 360. STUDY OF ESTABLISHMENT OF LAND MANAGEMENT AND TRAINING CENTER AT FORT RILEY, KANSAS.

(a) STUDY.—The Secretary of the Army shall carry out a study of the feasibility and advisability of establishing at Fort Riley, Kansas, a center for the land management activities and land management training activities of the Department of Defense.

(b) REPORT.—The Secretary shall submit to the congressional defense committees a report on the study required under subsection (a). The Secretary shall submit the report not later than May 1, 1996.

SEC. 361. PROCUREMENT OF PORTABLE VENTILATORS FOR THE DEFENSE MEDICAL FACILITY OFFICE, FORT DETRICK, MARYLAND.

Of the funds authorized to be appropriated by section 301(5), $2,500,000 shall be available for the procurement of portable ventilators for the Defense Medical Facility Office, Fort Detrick, Maryland.

SEC. 362. REVIEW BY DEFENSE INSPECTOR GENERAL OF COST GROWTH IN CERTAIN CONTRACTS.

(a) REVIEW.—The Inspector General of the Department of Defense shall carry out a review of a representative sample of existing contracts for the performance of commercial activities which resulted from a cost comparison study conducted by the Department of Defense under Office of Management and Budget Circular A-76 (or any other successor administrative regulation or policy) to determine the extent to which the cost incurred by a contractor under any such contract has exceeded the cost of the contract at the time the contract was entered into.

(b) REPORT.—Not later than April 1, 1995, the Inspector General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the results of the review carried out under subsection (a).

SEC. 363. COST COMPARISON STUDIES FOR CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES.

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410l. Contracts for advisory and assistance services: cost comparison studies

"(a) REQUIREMENT.—(1)(A) Before the Secretary of Defense enters into a contract described in subparagraph (B), the Secretary shall determine whether Department of Defense personnel have the capability to perform the services proposed to be covered by the contract.

"(B) Subparagraph (A) applies to any contract of the Department of Defense for advisory and assistance services which contract will have a value in excess of $100,000.

"(2) If the Secretary determines that such personnel have that capability, the Secretary shall conduct a study comparing the cost of performing the services with Department of Defense personnel and the cost of performing the services with contractor personnel.

"(b) WAIVER.—The Secretary of Defense may, pursuant to guidelines prescribed by the Secretary, waive the requirement under subsection (a)(2) to perform a cost comparison study based on factors that are not related to cost.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2410l. Contracts for advisory and assistance services: cost comparison studies.".

(b) PROCEDURES FOR CONDUCT OF STUDIES.—The Secretary of Defense shall prescribe the following procedures:

(1) Procedures for carrying out a cost comparison study under subsection (a)(2) of section 2410l of title 10, United States Code, as added by subsection (a), which may contain a requirement that the cost comparison study include consideration of factors that are not related to cost, including the quality of the service required to be performed, the availability of Department of Defense personnel, the duration and recurring nature of the services to be performed, and the consistency of the workload.

(2) Procedures for reviewing contracts entered into after a waiver under subsection (b) of such section to determine whether the contract is justified and sufficiently documented.

(c) EFFECTIVE DATE.—Section 2410l of title 10, United States Code, as added by subsection (a), shall take effect 180 days after the date of the enactment of this Act.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 1995, as follows:

(1) The Army, 510,000.
(2) The Navy, 441,641.
(3) The Marine Corps, 174,000.
(4) The Air Force, 400,051.

SEC. 402. EXTENSION OF TEMPORARY VARIATION OF END STRENGTH LIMITATIONS FOR MARINE CORPS MAJORS AND LIEUTENANT COLONELS.

(a) EXTENSION OF AUTHORITY.—Subsection (a) of section 402 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1639; 10 U.S.C. 523 note) is amended by striking out "and 1995" and inserting in lieu thereof "through 1997".

(b) LIMITATION.—The table in subsection (b) of such section is amended to read as follows:

"Fiscal year:	Number of officers who may be serving on active duty in the grade of:	
	Major	Lieutenant colonel
1994	3,023	1,578
1995	3,157	1,634
1996	3,157	1,634
1997	3,157	1,634.".

(c) CLERICAL AMENDMENT.—The caption of subsection (b) of such section is amended by striking out "AND 1995.—" and inserting in lieu thereof "THROUGH 1997.—".

SEC. 403. RETENTION OF AUTHORIZED STRENGTH OF GENERAL OFFICERS ON ACTIVE DUTY IN THE MARINE CORPS FOR FISCAL YEARS AFTER FISCAL YEAR 1995.

Section 526(a)(4) of title 10, United States Code, is amended by striking out "before October 1, 1995," and all that follows through "that date".

SEC. 404. EXCEPTION TO LIMITATION ON NUMBER OF GENERAL OFFICERS AND FLAG OFFICERS SERVING ON ACTIVE DUTY.

Section 525(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5)(A) Subject to subparagraph (C), an officer while serving in a position referred to in subparagraph (B), if serving in the grade of general or admiral, is in addition to the number that would otherwise be permitted for that officer's armed force for that grade under paragraph (1) or (2).

"(B) Subparagraph (A) applies to the following positions:

"(i) Commander in Chief of a combatant command.

"(ii) Commander, United States Forces, Korea.

"(iii) Deputy Commander in Chief, United States European Command, but only while the Commander in Chief of such command is also the Supreme Allied Commander Europe.

"(C) Subparagraph (A) does not apply to an officer serving in a position referred to in subparagraph (B) unless the Secretary of Defense, when considering that officer for recommendation to the President for appointment to such position, concurrently considered one officer from each of the other armed forces (other than the Coast Guard) for recommendation to the President for appointment to the position.

"(D) The Chairman of the Joint Chiefs of Staff may recommend officers to the Secretary of Defense for consideration by the President for appointment to any of the positions referred to in subparagraph (B).

"(E) This paragraph shall cease to be effective at the end of September 30, 1997.".

SEC. 405. TEMPORARY EXCLUSION OF SUPERINTENDENT OF NAVAL ACADEMY FROM COUNTING TOWARD NUMBER OF SENIOR ADMIRALS AUTHORIZED TO BE ON ACTIVE DUTY.

(a) GRADE RELIEF.—If the next officer appointed to serve as Superintendent of the United States Naval Academy after April 1, 1994, is an officer described in subsection (b), that officer, while so serving, shall not be counted for purposes of the limitations contained in section 525(b)(2) of title 10, United States Code.

(b) QUALIFYING OFFICER.—Subsection (a) applies in the case of a retired officer who—

(1) holds the grade of admiral on the retired list;

(2) is ordered to active duty pursuant to section 688 of title 10, United States Code, to serve as Superintendent of the United States Naval Academy; and

(3) is appointed pursuant to section 601 of that title to have the grade of admiral while serving on active duty in that position.

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1995, as follows:

(1) The Army National Guard of the United States, 400,000.
(2) The Army Reserve, 242,000.
(3) The Naval Reserve, 109,000.
(4) The Marine Corps Reserve, 42,000.
(5) The Air National Guard of the United States, 115,581.
(6) The Air Force Reserve, 78,706.
(7) The Coast Guard Reserve, 8,000.

(b) WAIVER AUTHORITY.—The Secretary of Defense may increase the end strength authorized by subsection (a) by not more than 2 percent.

(c) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be reduced proportionately by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year, and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be increased proportionately by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 1995, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 23,650.
(2) The Army Reserve, 11,940.
(3) The Naval Reserve, 17,510.
(4) The Marine Corps Reserve, 2,285.
(5) The Air National Guard of the United States, 9,098.
(6) The Air Force Reserve, 648.

Subtitle C—Military Training Student Loads

SEC. 421. AUTHORIZATION OF TRAINING STUDENT LOADS.

(a) IN GENERAL.—For fiscal year 1995, the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 69,420.
(2) The Navy, 43,064.
(3) The Marine Corps, 25,377.

(4) The Air Force, 36,840.

(b) SCOPE.—The average military training student load authorized for an armed force under subsection (a) applies to the active and reserve components of that armed force.

(c) ADJUSTMENTS.—The average military training student loads authorized in subsection (a) shall be adjusted consistent with the end strengths authorized in subtitles A and B. The Secretary of Defense shall prescribe the manner in which such adjustments shall be apportioned.

Subtitle D—Authorization of Appropriations

SEC. 431. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 1995 a total of $70,790,397,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 1995.

Subtitle E—Other Matters

SEC. 441. REPEAL OF REQUIRED REDUCTION IN RECRUITING PERSONNEL.

Section 431 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2400) is repealed.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

SEC. 501. SERVICE ON SUCCESSIVE SELECTION BOARDS.

(a) SERVICE ON SUCCESSIVE BOARDS AUTHORIZED.—Section 628 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) A special selection board convened under this section shall be composed in accordance with section 612 of this title or, in the case of a warrant officer, composed in accordance with section 573 of this title and regulations prescribed by the Secretary of the military department concerned, except that the prohibitions on service on successive selection boards set forth in sections 612(b) and 573(e) of this title do not apply to service on successive selection boards authorized under paragraph (2).

"(2) An officer may serve on a selection board convened under section 611(a) of this title or, in the case of a warrant officer, section 573(a) of this title and on a successive special selection board convened under this section if the service on the successive board is approved by the Secretary of the military department concerned and the successive board does not consider any officer who was considered by the first board.".

(b) CONFORMING AMENDMENT.—Subsections (a)(1) and (b)(1) of section 628 of such title are amended by striking out "(composed in accordance with" and all that follows through "concerned)" and inserting in lieu thereof "(composed as provided in subsection (f))".

SEC. 502. PROMOTION AND OTHER CAREER MANAGEMENT MATTERS RELATING TO WARRANT OFFICERS ON ACTIVE-DUTY LISTS.

(a) EXCEPTION FROM MANDATORY CONSIDERATION BY PROMOTION SELECTION BOARD.—Section 575(d) of such title is amended by inserting "(except for warrant officers precluded from consideration under regulations prescribed by the Secretary concerned under section 577 of this title)" after "under consideration".

(b) SECRETARIAL SUBMISSION OF PROMOTION SELECTION BOARD REPORT.—Section 576(f)(1) of such title is amended by striking out the second sentence.

(c) PROMOTION FORMALITIES DEEMED COMPLETED.—Section 578 of such title is amended by adding at the end the following new subsections:

"(e) A warrant officer who is appointed to a higher grade under this section is considered to have accepted such appointment on the date on which the appointment is made unless the officer expressly declines the appointment.

"(f) A warrant who has served continuously as an officer since the officer took the oath of office set forth under section 3331 of title 5 is not required to take a new oath upon appointment to a higher grade under this section.".

(d) WARRANT OFFICERS SUBJECT TO MANAGEMENT AUTHORITIES.—Section 582(2) of such title is amended by inserting before the period at the end the following: "(other than such officers recalled to active duty before February 1, 1992, who have served continuously on active duty since such date)".

SEC. 503. ENLISTMENT OR RETIREMENT OF NAVY AND MARINE CORPS LIMITED DUTY OFFICERS HAVING TWICE FAILED OF SELECTION FOR PROMOTION.

(a) AUTHORITY.—Subsection (f) of section 6383 of title 10, United States Code, is amended to read as follows:

"(f)(1) An officer subject to discharge under subsection (b), (d), or (e) who is not eligible for retirement or for retention under paragraph (2) may, upon the officer's request and in the discretion of the Secretary of the Navy, be enlisted in the grade prescribed by the Secretary.

"(2) If an officer subject to discharge under subsection (b) or (d) is within two years of qualifying for retirement under section 6323 of this title as of the date on which the officer is to be discharged, the officer shall be retained on active duty until becoming qualified for retirement under that section (unless sooner retired or discharged under another provision of law) and shall then be retired.".

(b) CONFORMING AMENDMENTS.—Section 6383 of such title is amended—

(1) in subsection (i), by striking out "or the discharge under subsection (d)" and inserting in lieu thereof "or the discharge under subsection (b) or (d)";

(2) by striking out subsection (g);

(3) by redesignating subsections (h), (i), and (j) as subsections (g), (h), and (i), respectively; and

(4) in subsections (a), (b), and (d), by striking out "Except as provided in subsection (i)," each place it appears and inserting in lieu thereof "Except as provided in subsection (h),".

SEC. 504. EDUCATIONAL REQUIREMENTS FOR APPOINTMENT IN RESERVE COMPONENTS IN GRADES ABOVE FIRST LIEUTENANT OR LIEUTENANT (JUNIOR GRADE).

Section 596(a) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(a) IN GENERAL.—"; and

(2) by striking out "an accredited educational institution" and inserting in lieu thereof "an educational institution described in paragraph (2)"; and

(3) by adding at the end the following new paragraph:

"(2) An educational institution referred to in paragraph (1) is—

"(A) an accredited educational institution; or

"(B) an unaccredited educational institution if at least three accredited educational institutions generally grant baccalaureate degree credit for completion of courses of the unaccredited institution equivalent to the baccalaureate degree credit granted by the unaccredited institution for the completion of such courses.".

SEC. 505. LIMITED EXCEPTION FROM BACCALAUREATE DEGREE REQUIREMENT FOR ALASKA SCOUT OFFICERS.

Section 596 of title 10, United States Code, is amended—

(1) by adding at the end of subsection (b) the following new paragraph:

"(5) The appointment or recognition of an individual referred to in subsection (c) in a higher grade (not above major) of the Alaska Army National Guard while such individual is serving in a Scout unit or a Scout supporting unit."; and

(2) by adding at the end the following new subsection:

"(c) PERSONS COVERED BY ALASKA SCOUT EXCEPTION.—Subsection (b)(5) applies to a member of the Alaska Army National Guard who resides permanently at a location in Alaska that is more than 50 miles from the cities of Anchorage, Fairbanks, and Juneau, Alaska, by paved road.".

SEC. 506. ORIGINAL APPOINTMENTS OF LIMITED DUTY OFFICERS OF THE NAVY AND MARINE CORPS SERVING IN TEMPORARY GRADES.

Section 5589 of title 10, United States Code, is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) Original appointments as regular officers of the Navy or Marine Corps may be made from among officers serving on active duty in a higher grade pursuant to a temporary appointment in that grade under section 5596 of this title. The grade in which an officer is appointed under this subsection shall be the grade in which the officer is serving pursuant to the temporary appointment. The officer's date of rank for the grade of the original appointment shall be the same as the date of rank for the grade of the temporary appointment.".

SEC. 507. SELECTION FOR DESIGNATED JUDGE ADVOCATE POSITIONS.

(a) To the extent that selection for the positions described in subsection (b) is not governed by Chapter 36 of title 10, United States Code, the Secretary of Defense shall prescribe regulations to ensure that officers selected to serve in such positions are selected for such service by boards governed, insofar as practicable, by the procedures prescribed for selection boards under Chapter 36 of title 10, United States Code.

(b) The positions referred to in subsection (a) are—

(1) the Judge Advocate General and Assistant Judge Advocate General of the Army,

(2) the Judge Advocate General and Deputy Judge Advocate General of the Navy,

(3) the Staff Judge Advocate to the Commandant of the Marine Corps, and

(4) the Judge Advocate General and Deputy Judge Advocate General of the Air Force.

Subtitle B—Reserve Component Matters

SEC. 511. REVIEW OF OPPORTUNITIES FOR ORDERING INDIVIDUAL RESERVES TO ACTIVE DUTY WITH CONSENT.

(a) REVIEW REQUIRED.—The Secretary of Defense shall—

(1) review the opportunities for individual members of the reserve components of the Armed Forces to be ordered to active duty, with the consent of the members concerned, during peacetime in positions traditionally filled by active duty personnel; and

(2) identify and remove any impediments, in regulations or other administrative rules, to increasing such opportunities.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the

Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the review. The report shall contain—

(1) a plan for increasing the opportunities for individual members of the reserve components of the Armed Forces to be ordered to active duty, with the consent of the members concerned, during peacetime in positions traditionally filled by active duty personnel; and

(2) any additional legislation that the Secretary considers necessary in order to increase such opportunities.

SEC. 512. INCREASED PERIOD OF ACTIVE DUTY SERVICE FOR SELECTED RESERVE FORCES MOBILIZED OTHER THAN DURING WAR OR NATIONAL EMERGENCY.

(a) REVISION TO PERIOD OF EXTENSION OF ACTIVE DUTY.—Section 673b of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "90 days." and inserting in lieu thereof "180 days."; and

(2) by striking out subsection (i).

(b) REPORT REQUIRED.—(1) Not later than April 1, 1995, the Secretary of Defense shall submit to the congressional defense committees a report on increasing the authority of the President to order units and members of the reserve components to active duty without the consent of the members concerned.

(2) The report shall include the following:

(A) An analysis of options for increased presidential authority.

(B) An assessment of the effects of each option on recruiting, retention, employer support for the reserve components, and the families of members of the reserve components.

(C) Programs that the Secretary recommends to mitigate any negative effects.

(D) Any option that the Secretary recommends.

(E) Any proposed legislation that the Secretary considers necessary to implement any recommended option.

SEC. 513. REPEAL OF OBSOLETE PROVISIONS PERTAINING TO TRANSFER OF REGULAR ENLISTED MEMBERS TO RESERVE COMPONENTS.

(a) ARMY.—Section 3914 of title 10, United States Code, is amended by striking out the second and third sentences.

(b) AIR FORCE.—Section 8914 of such title, is amended by striking out the second and third sentences.

SEC. 514. SENSE OF THE SENATE CONCERNING THE TRAINING AND MODERNIZATION OF THE RESERVE COMPONENTS.

(a) FINDINGS.—(1) The force structure specified in the Pentagon's Bottom Up Review assumes increased reliance on the reserve components of the Armed Forces;

(2) The mobilization of the reserve components for the Persian Gulf War was handicapped by training, readiness, and equipment shortfalls;

(3) The mobilization of the Army reserve components for the Persian Gulf War was handicapped by lack of a standard readiness evaluation system, which resulted in a lengthy reevaluation of training and equipment readiness of Army National Guard and Reserve units before they could by deployed;

(4) Funding and scheduling constraints continue to limit the opportunity for combat units of the Army National Guard to carry out adequate maneuver training;

(5) Funding constraints continue to handicap the readiness and modernization of the reserve components and their interoperability with the active forces: Now, therefore

(b) PURPOSE.—It is the sense of the Senate that the Department of Defense should establish a standard readiness and evaluation system and that it should provide in its annual budget submissions adequate resources to ensure that National Guard and reserve units are trained and modernized to the standards needed for them to carry out the full range of missions required of them under the Bottom Up Review.

Subtitle C—Other Matters

SEC. 521. REVIEW OF CERTAIN DISMISSALS FROM THE UNITED STATES MILITARY ACADEMY.

(a) REVIEW REQUIRED.—The Secretary of the Army shall promptly carry out a thorough review of the dismissals from the Corps of Cadets of the United States Military Academy of James Webster Smith in 1874 and Johnson Chesnut Whittaker in 1882.

(b) PURPOSES OF REVIEW.—The purpose of each review shall be to determine the validity of the original proceedings and the extent, if any, to which racial prejudice or other improper factors now known may have tainted the original proceedings.

(c) CORRECTION OF RECORDS.—If the Secretary determines that the dismissal of James Webster Smith or Johnson Chesnut Whittaker was in error or an injustice, the Secretary may correct that person's military records (including the records of proceedings in such case).

(d) POSTHUMOUS COMMISSION.—Upon recommendation of the Secretary in the case of James Webster Smith or Johnson Chesnut Whittaker, the President may issue in the name of James Webster Smith or Johnson Chesnut Whittaker, as the case may be, a posthumous commission as an officer in the regular Army in the grade of second lieutenant. Sections 1521(b) and 1523 of title 10, United States Code, shall apply with respect to a commission so issued.

SEC. 522. TRANSITIONAL COMPENSATION AND OTHER BENEFITS FOR DEPENDENTS OF MEMBERS SEPARATED FOR DEPENDENT ABUSE.

(a) REQUIREMENT.—Subsection (a) of section 1058 of title 10, United States Code, as added by section 554(a)(1) of Public Law 103–160 (197 Stat. 1663), is amended by amending subsection (e) to read as follows:

"(e) COMMENCEMENT AND DURATION OF PAYMENT.—(1) Payment of transitional compensation under this section—

"(A) in the case of a member convicted by a court-martial for a dependent-abuse offense, may commence as of the date of the approval of the court-martial sentence by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice) if the sentence, as approved, includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances; and

"(B) in the case of a member being considered under applicable regulations for administrative separation from active duty in accordance with such regulations (if the basis for the separation includes a dependent-abuse offense), may commence as of the date on which the separation action is initiated by a commander of the member pursuant to such regulations, as determined by the Secretary concerned.

"(2) Transitional compensation with respect to a member may be paid for a period of 36 months, except that, if as of the date on which payment of transitional compensation commences the unserved portion of the member's period of obligated active duty service is less than 36 months, the period for which transitional compensation is paid shall be equal to the greater of—

"(A) the unserved portion of the member's period of obligated active duty service; or

"(B) 12 months.

"(3)(A) If a member is sentenced by a court-martial to receive punishment that includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances as a result of a conviction by a court-martial for a dependent-abuse offense and each such punishment applicable to the member under the sentence is remitted, set aside, or mitigated to a lesser punishment that does not include any such punishment, any payment of transitional compensation that has commenced under this section on the basis of such sentence in that case shall cease.

"(B) If administrative separation of a member from active duty is proposed on a basis that includes a dependent-abuse offense and the proposed administrative separation is disapproved by competent authority under applicable regulations, payment of transitional compensation in such case shall cease.

"(C) Cessation of payments under subparagraph (A) or (B) shall be effective as of the first day of the first month following the month in which the Secretary concerned notifies the recipient of such transitional compensation in writing that payment of the transitional compensation will cease. The recipient may not be required to repay amounts of transitional compensation received before that effective date (except to the extent necessary to recoup any amount that was erroneous when paid).".

(c) HEALTH, COMMISSARY, AND OTHER BENEFITS.—Such section is further amended—

(1) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(2) by inserting after subsection (i) the following new subsection (j):

"(j) HEALTH, COMMISSARY, AND OTHER BENEFITS.—(1) A dependent or former dependent entitled to payment of monthly transitional compensation under this section shall, while receiving payments in accordance with this section, be entitled to receive medical and dental care, to use commissary and exchange stores, and to receive any other benefit that a dependent of a member of the armed forces is entitled to receive on the basis of being a dependent of a member of the armed forces to the same extent and in the same manner as a dependent of a member of the armed forces on active duty for a period of not more than 30 days.

"(2) If a dependent or former dependent eligible or entitled to receive a particular benefit under this subsection is eligible or entitled to receive that benefit under another provision of law, the eligibility or entitlement of that dependent or former dependent to such benefit shall be determined under such other provision of law instead of this subsection.".

(c) CONFORMING AMENDMENTS.—(1) The heading for such section is amended to read as follows:

"§ 1058. Dependents of members separated for dependent abuse: transitional compensation and other benefits".

(2) The table of sections at the beginning of chapter 53 of such title is amended by striking out the item relating to section 1058 (as added by section 554(a)(2) of Public Law 103–160 (107 Stat. 1066)) and inserting in lieu thereof the following:

"1058. Dependents of members separated for dependent abuse: transitional compensation and other benefits.".

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1995.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1995 shall not be made.

(b) INCREASE IN BASIC PAY, BAS, AND BAQ.—Effective on January 1, 1995, the rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 2.6 percent.

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. EXTENSION OF CERTAIN BONUSES FOR RESERVE FORCES.

(a) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(f) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(b) SELECTED RESERVE ENLISTMENT BONUS.—Section 308c(e) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(c) SELECTED RESERVE AFFILIATION BONUS.—Section 308e(e) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(d) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.—Section 308h(g) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(e) PRIOR SERVICE ENLISTMENT BONUS.—Section 308i(i) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

SEC. 612. EXTENSION AND MODIFICATION OF CERTAIN BONUSES AND SPECIAL PAY FOR NURSE OFFICER CANDIDATES, REGISTERED NURSES, AND NURSE ANESTHETISTS.

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking out "September 30, 1995," and inserting in lieu thereof "September 30, 1998,".

(b) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking out "September 30, 1995," and inserting in lieu thereof "September 30, 1998,".

(c) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of title 37, United States Code, is amended—

(1) by striking out "September 30, 1995," and inserting in lieu thereof "September 30, 1998,"; and

(2) by striking out "$6,000" and inserting in lieu thereof "$15,000".

SEC. 613. EXTENSION OF AUTHORITY RELATING TO PAYMENT OF OTHER BONUSES AND SPECIAL PAYS.

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1995".

(b) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(c) ENLISTMENT BONUSES FOR CRITICAL SKILLS.—Sections 308a(c) and 308f(c) of title 37, United States Code, are each amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(d) SPECIAL PAY FOR ENLISTED MEMBERS OF THE SELECTED RESERVE ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(e) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 2172(d) of title 10, United States Code, is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 1996".

(f) SPECIAL PAY FOR CRITICALLY SHORT WARTIME HEALTH SPECIALISTS IN THE SELECTED RESERVES.—Section 613(d) of the National Defense Authorization Act, Fiscal Year 1989 (37 U.S.C. 302 note) is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(g) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(e) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(h) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of title 37, United States Code, is amended by striking out "September 30, 1995," and inserting in lieu thereof "September 30, 1996,".

(i) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of title 37, United States Code, is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 1996".

Subtitle C—Travel and Transportation Allowances

SEC. 621. RESPONSIBILITY FOR PREPARATION OF TRANSPORTATION MILEAGE TABLES.

Section 404(d)(1)(A) of title 37, United States Code, is amended by striking out "the Secretary of the Army" and inserting in lieu thereof "the Secretary of Defense".

Subtitle D—Retired Pay and Survivor Benefits

SEC. 631. CLARIFICATION OF CALCULATION OF RETIRED PAY FOR OFFICERS WHO RETIRE IN A GRADE LOWER THAN THE GRADE HELD AT RETIREMENT.

(a) PREVENTION OF RETIRED PAY BASED ON GRADE HIGHER THAN RETIRED GRADE.—Section 1401a(f) of title 10, United States Code, is amended—

(1) in the first sentence, by inserting "based on the grade in which the member is retired" after "at an earlier date";

(2) in the second sentence, by inserting ", except that such computation may not be based on a rate of basic pay for a grade higher than the grade in which the member is retired" before the period at the end; and

(3) by striking out the third sentence.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to the computation of the retired pay of a member of the armed forces who retires on or after the date of the enactment of this Act.

SEC. 632. CREDITING OF RESERVE SERVICE OF ENLISTED MEMBERS FOR COMPUTATION OF RETIRED PAY.

(a) ARMY.—(1) Section 3925 of title 10, United States Code, is amended—

(A) in subsection (a), by striking out "and of computing his retired pay under section 3991 of this title,"; and

(B) by striking out subsection (c).

(2) Section 3991 of such title is amended—

(A) in subsection (a)—

(i) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) FORMULA.—The monthly retired pay of a member entitled to such pay under this subtitle by reason of retirement under a provision of law referred to in paragraph (3) is computed by multiplying the retired pay base (as computed under section 1406(c) or 1407 of this title) by the retired pay multiplier prescribed in section 1409 of this title for the number of years credited to the member under section 1405 of this title."; and

(ii) by adding at the end the following new paragraph:

"(3) APPLICABILITY.—Paragraph (1) applies to a member retired under the authority of section 3911, 3914, 3917, 3918, 3920, or 3924 of this title."; and

(B) in subsection (b), by striking out paragraph (3).

(3) The text of section 3992 of such title is amended to read as follows:

"(a) RECOMPUTATION REQUIRED.—An enlisted member or warrant officer of the Army who is advanced on the retired list under section 3964 of this title is entitled to recompute the member's or officer's retired pay in accordance with this section.

"(b) FORMULA.—To recompute an enlisted member's retired pay or a warrant officer's retired pay, multiply the retired pay base (as computed under section 1406(c) or 1407 of this title) by the retired pay multiplier prescribed in section 1409 of this title for the number of years credited to the member or officer under section 1405 of this title.

"(c) ROUNDING TO NEXT LOWER DOLLAR.—The amount computed under subsection (b), if not a multiple of $1, shall be rounded to the next lower multiple of $1.".

(b) NAVY AND MARINE CORPS.—The table in section 6333(a) of title 10, United States Code, is amended by striking out "his years of active service in the armed forces" in formula C under the column designated "Column 2" and inserting in lieu thereof "the years of service credited to him under section 1405".

(c) AIR FORCE.—(1) Section 8925 of title 10, United States Code, is amended—

(A) in subsection (a), by striking out "and of computing his retired pay under section 8991 of this title,"; and

(B) by striking out subsection (c).

(2) Section 8991 of such title is amended—

(A) in subsection (a)—

(i) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) FORMULA.—The monthly retired pay of a member entitled to such pay under this subtitle by reason of retirement under a provision of law referred to in paragraph (3) is computed by multiplying the retired pay base (as computed under section 1406(e) or 1407 of this title) by the retired pay multiplier prescribed in section 1409 of this title for the number of years credited to the member under section 1405 of this title."; and

(ii) by adding at the end the following new paragraph:

"(3) APPLICABILITY.—Paragraph (1) applies to a member retired under the authority of section 8911, 8914, 8917, 8918, 8920, or 8924 of this title."; and

(B) in subsection (b), by striking out paragraph (3).

(3) The text of section 8992 of such title is amended to read as follows:

"(a) RECOMPUTATION REQUIRED.—An enlisted member or warrant officer of the Air Force who is advanced on the retired list under section 8964 of this title is entitled to recompute the member's or officer's retired pay in accordance with this section.

"(b) FORMULA.—To recompute an enlisted member's retired pay or a warrant officer's retired pay, multiply the retired pay base (as computed under section 1406(e) or 1407 of this title) by the retired pay multiplier prescribed in section 1409 of this title for the number of years credited to the member or officer under section 1405 of this title.

"(c) ROUNDING TO NEXT LOWER DOLLAR.—The amount computed under subsection (b), if not a multiple of $1, shall be rounded to the next lower multiple of $1.".

(d) CONFORMING AMENDMENT.—Section 1405 of such title is amended by adding at the end the following new subsection:

"(c) EXCLUSION OF TIME REQUIRED TO BE MADE UP.—Time required to be made up by an enlisted member of the Army or Air Force under section 972 of this title may not be counted in determining years of service under subsection (a).".

(e) EFFECTIVE DATE.—This section shall apply to the computation of the retired or retainer pay of any enlisted member who retires or is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve on or after the date of the enactment of this Act.

SEC. 633. FORFEITURE OF ANNUITY OR RETIRED PAY OF MEMBERS CONVICTED OF ESPIONAGE.

(a) FORFEITURE.—Section 8312(b)(2)(A) of title 5, United States Code, is amended—

(1) by striking out "or article 106 (spies)" and inserting in lieu thereof ", article 106 (spies), or article 106a (espionage)"; and

(2) by striking out "or article 106" and inserting in lieu thereof ", article 106, or article 106a".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to persons convicted of espionage under section 906a of title 10, United States Code (article 106a of the Uniform Code of Military Justice), on or after the date of the enactment of this Act.

SEC. 634. COMPUTATION OF RETIRED PAY TO PREVENT PAY INVERSIONS.

Section 1401a(f) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(f) PREVENTION OF PAY INVERSIONS.—"; and

(2) by adding at the end the following new paragraph:

"(2)(A) Subject to subparagraph (B), for the purpose of computing the monthly retired pay of a member or former member of an armed force under paragraph (1), the Secretary concerned may waive any provision of a regulation that, as such provision was in effect on the earlier date applicable to the member or former member under paragraph (1), required a member to serve for a minimum period in a grade as a condition for retirement in that grade.

"(B) Any waiver under subparagraph (A) shall apply in the case of a member or former member only to that part of the minimum period of service provided for a grade in the regulation that exceeds the minimum period of service in such grade that was authorized by a provision of this title to be required as a condition for retirement in that grade (as such provision of this title was in effect on the earlier date applicable to the member or former member under paragraph (1)).

"(C) The Secretary concerned may waive the provision of a regulation under subparagraph (A) in the case of a particular member or former member or for any group of members or former members.".

SEC. 635. COST-OF-LIVING INCREASES IN SBP CONTRIBUTIONS TO BE EFFECTIVE CONCURRENTLY WITH PAYMENT OF RELATED RETIRED PAY COST-OF-LIVING INCREASES.

(a) SURVIVOR BENEFIT PLAN.—Section 1452(h) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(h)"; and

(2) by adding at the end the following new subsection:

"(2)(A) Notwithstanding paragraph (1), when the initial payment of an increase in retired pay under section 1401a of this title (or any other provision of law) to a person is later than the effective date of that increase by reason of the application of subsection (b)(2)(B) of such section, then the amount of the reduction in the person's retired pay shall be effective on the date of that initial payment of the increase in retired pay rather than the effective date of the increase in retired pay.

"(B) Subparagraph (A) may not be construed as delaying, for purposes of determining the amount of a monthly annuity under section 1451 of this title, the effective date of an increase in a base amount under subsection (h) of such section from the effective date of an increase in retired pay under section 1401a of this title to the date on which the initial payment of that increase in retired pay is made in accordance with subsection (b)(2)(B) of such section 1401a.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to retired pay payable for months beginning on or after the date of the enactment of this Act.

SEC. 636. REQUIREMENT FOR EQUAL TREATMENT OF CIVILIAN AND MILITARY RETIREES IN THE EVENT OF DELAYS IN COST-OF-LIVING ADJUSTMENTS.

(a) CIVIL SERVICE ANNUITIES.—(1) Section 8340 of title 5, United States Code, is amended—

(A) in subsection (b), by striking out "Except as provided in subsection (c)" and inserting in lieu thereof "Except as provided in subsections (c) and (h)"; and

(B) by adding at the end the following new subsection:

"(h)(1) Whenever, by law, there is a difference between the date on which a cost-of-living adjustment under this section is to take effect and the date on which a corresponding cost-of-living adjustment of the retired pay of members and former members of the uniformed services under section 1401a of title 10 is to take effect, then, notwithstanding subsection (b) and any other provision of law, the date on which the cost-of-living adjustment under this section takes effect shall be the earlier of the two dates.

"(2) Whenever, by law, there is a difference between the first month for which a cost-of-living adjustment taking effect under this section is payable and the first month for which a corresponding cost-of-living adjustment of the retired pay of members and former members of the uniformed services taking effect under section 1401a of title 10 is payable, then the first month for which the cost-of-living adjustment under this section is first payable shall (notwithstanding the effective date provided for such adjustment in subsection (b of this section or in any other law) be the earlier of the two months.

"(3) For purposes of this subsection, a cost-of-living adjustment of the retired pay of members and former members of the uniformed services under section 1401a of title 10 corresponds to a cost-of-living adjustment under this section when, without regard to any provision of law other than subsection (b) of this section and section 1401a(b)(1) of title 10, the cost-of-living adjustments under this section and under section 1401a of title 10 would take effect on the same date.".

(2) Section 8462 of title 5, United States Code, is amended—

(A) in subsection (b)(1), by striking out "Except as provided in subsection (c)" and inserting in lieu thereof "Except as provided in subsections (c) and (f)"; and

(B) by adding at the end the following new subsection:

"(f)(1) Whenever, by law, there is a difference between the date on which a cost-of-living adjustment under this section is to take effect and the date on which a corresponding cost-of-living adjustment of the retired pay of members and former members of the uniformed services under section 1401a of title 10 is to take effect, then, notwithstanding subsection (b)(1) and any other provision of law, the date on which the cost-of-living adjustment under this section takes effect shall be the earlier of the two dates.

"(2) Whenever, by law, there is a difference between the first month for which a cost-of-living adjustment taking effect under this section is payable and the first month for which a corresponding cost-of-living adjustment of the retired pay of members and former members of the uniformed services taking effect under section 1401a of title 10 is payable, then the first month for which the cost-of-living adjustment under this section is first payable shall (notwithstanding the effective date provided for such adjustment in subsection (b)(1) of this section or in any other law) be the earlier of the two months.

"(3) For purposes of this subsection, a cost-of-living adjustment of the retired pay of members and former members of the uniformed services under section 1401a of title 10 corresponds to a cost-of-living adjustment under this section when, without regard to any provision of law other than subsection (b)(1) of this section and section 1401a(b)(1) of title 10, the cost-of-living adjustments under this section and under section 1401a of title 10 would take effect on the same date.".

(b) UNIFORMED SERVICES RETIRED PAY.—Section 1401a of title 10, United States Code, is amended—

(1) in subsection (b)(1), by inserting (except as provided in subsection (i))" after "Effective on December 1 of each year"; and

(2) by adding at the end the following new subsection:

"(i)(1) Whenever, by law, there is a difference between the date on which a cost-of-living adjustment under this section is to take effect and the date on which a corresponding cost-of-living adjustment of annuities of retired employees of the United States under section 8340 or 8462 of title 5 is to take effect, then, notwithstanding subsection (b) and any other provision of law, the date on which the cost-of-living adjustment under this section takes effect shall be the earlier (or earliest) such date.

"(2) Whenever, by law, there is a difference between the first month for which a cost-of-living adjustment taking effect under this section is payable and the first month for which a corresponding cost-of-living adjustment of annuities of retired employees of the United States taking effect under section 8340 or 8462 of title 5 is payable, then the first month for which the cost-of-living adjustment under this section is first payable shall (notwithstanding the effective date provided for such adjustment in subsection (b)(1) of this section or in any other law) be the earlier (or earliest) such month.

"(3) For purposes of this subsection, a cost-of-living adjustment of annuities of retired employees of the United States under section 8340 or 8462 of title 5 corresponds to a cost-of-living adjustment under this section when, without regard to any provision of law other than subsection (b)(1) of this section and sections 8340(b) and 8462(b)(1) of title 5, the cost-of-living adjustments under this section and under sections 8340 and 8462 of title 5 would take effect on the same date.".

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on October 1, 1998.

Subtitle E—Defense Conversion, Reinvestment, and Transition Assistance Matters

SEC. 641. ELIGIBILITY OF MEMBERS RETIRED UNDER TEMPORARY SPECIAL RETIREMENT AUTHORITY FOR SERVICEMEN'S GROUP LIFE INSURANCE.

(a) ELIGIBILITY.—Section 1965(5) of title 38, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (E); and

(3) by inserting after subparagraph (C) the following new subparagraph (D):

"(D) a person transferred to the Retired Reserve of a uniformed service under the temporary special retirement authority provided in section 1331a of title 10 who has not received the first increment of retirement pay or has not reached sixty-one years of age; and".

(b) INSURANCE COVERAGE.—Section 1967(a) of such title is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by adding "and" at the end of paragraph (3);

(3) by inserting after paragraph (3) the following:

"(4) any member assigned to the Retired Reserve of a uniform service who meets the qualifications set forth in section 1965(5)(D) of this title;"; and

(4) in the second sentence, by inserting after "section 1965(5)(C) of this title," the following: "or the first day a member of the Reserves meets the qualifications of section 1965(5)(D) of this title,".

(c) DURATION OF COVERAGE.—Section 1968(a) of such title is amended—

(1) in the matter above paragraph (1), by striking out "section 1965(5)(B) or (C)" and inserting in lieu thereof "subparagraphs (B), (C), or (D) of section 1965(5)";

(2) in paragraph (4)—

(A) by striking out "or" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or"; and

(C) by adding at the end the following new subparagraph:

"(C) unless on the date of such separation or release the member is transferred to the Retired Reserve of a uniformed service under the temporary special retirement authority provided in section 1331a of title 10, in which event the insurance, unless converted to an individual policy under terms and conditions set forth in section 1977(e) of this title, shall, upon timely payment of premiums under terms prescribed by the Secretary directly to the administrative office established under section 1966(b) of this title, continue in force until receipt of the first increment of retirement pay by the member or the member's sixty-first birthday, whichever occurs earlier."; and

(3) by adding at the end the following:

"(6) with respect to a member of the Retired Reserve who meets the qualifications of section 1965(5)(D) of this title, at such time as the member receives the first increment of retirement pay, or the member's sixty-first birthday, whichever occurs earlier, subject to the timely payment of the initial and subsequent premiums, under terms prescribed by the Secretary, directly to the administrative office established under section 1966(b) of this title.".

(d) DEDUCTIONS.—Section 1969 of such title is amended—

(1) in subsection (a)(2)—

(A) by striking out "or is assigned" and inserting in lieu thereof "is assigned"; and

(B) by inserting after "section 1965(5)(C) of this title," the following: "or is assigned to the Retired Reserve and meets the qualifications of section 1965(5)(D) of this title,"; and

(2) in subsection (e), by striking out "section 1965(5)(C)" in the first sentence and inserting in lieu thereof "subparagraph (C) or (D) of section 1965(5)".

SEC. 642. ANNUAL PAYMENTS FOR MEMBERS RETIRED UNDER GUARD AND RESERVE TRANSITION INITIATIVE.

(a) ANNUAL PAYMENT FOR ONE TO FIVE YEARS.—Subsection (d) of section 4416 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102-484; 10 U.S.C. 1162 note) is amended—

(1) by striking out "for 5 years" and inserting in lieu thereof "for a period of years prescribed by the Secretary concerned";

(2) by striking out "5-year"; and

(3) by adding at the end the following: "A period prescribed for purposes of this subsection may not be less than one year nor more than five years.".

(b) COMPUTATION OF ANNUAL PAYMENT.—Subsection (e) of such section is amended by adding at the end the following:

"(3) In the case of a member who will attain 60 years of age within one year after the date on which an annual payment would otherwise be made to the member under this section, the amount of the payment made on that date shall be computed under this paragraph instead of paragraph (1). The amount of such payment shall be equal to 1/12 of the product of—

"(A) the amount computed for the member under paragraph (1); and

"(B) the number equal to 1/30 of the total number of days in the period beginning on such date and ending on the day before the date of the member's 60th birthday.".

(c) COORDINATION WITH RETIRED PAY.—Such section is further amended by adding at the end the following:

"(i) COORDINATION WITH RETIRED PAY.—Fifty percent of the monthly amount of retired pay payable under chapter 67 of this title to a member who receives one or more annual payments under this section shall be deducted and withheld from such monthly amount of retired pay. The deductions shall be terminated when the total amount so deducted and withheld equals the total amount paid to the member under this section. The amount deducted and withheld from the last monthly payment of retired pay before termination of deductions may be less than 50 percent of the monthly amount.".

SEC. 643. INCREASED ELIGIBILITY AND APPLICATION PERIODS FOR TROOPS-TO-TEACHERS PROGRAM.

(a) PERIOD OF ELIGIBILITY.—Subsection (c) of section 1151 of title 10, United States Code, is amended—

(1) in paragraph (1)(A), by striking out "seven-year period beginning on October 1, 1992," and inserting in lieu thereof "nine-year period beginning on October 1, 1990,"; and

(2) by striking out paragraph (4).

(b) APPLICATION PERIOD.—Subsection (e)(1) of such section is amended by striking out "submitted" in the first sentence and all that follows through the end of the second sentence and inserting in lieu thereof "timely submitted to the Secretary of Defense. An application is timely submitted if the application is submitted not later than the latest date applicable to the applicant under this paragraph. An application shall be submitted not later than one year after the date of the discharge or release of the applicant from active duty. In the case of an applicant discharged or released from active duty before January 19, 1994, an application shall be submitted not later than one year after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995. In the case of an applicant becoming educationally qualified for teacher placement assistance in accordance with subsection (c)(2), an application shall be submitted not later than one year after the date on which the applicant becomes educationally qualified.".

SEC. 644. ASSISTANCE FOR ELIGIBLE MEMBERS TO OBTAIN EMPLOYMENT WITH LAW ENFORCEMENT AGENCIES.

(a) REVISED PROGRAM AUTHORITY.—Section 1152 of title 10, United States Code, is amended to read as follows:

"§ 1152. Assistance to eligible members and former members to obtain employment with law enforcement agencies

"(a) PLACEMENT PROGRAM.—The Secretary of Defense may enter into an agreement with the Attorney General to establish or participate in a program to assist eligible members and former members of the armed forces to obtain employment as law enforcement officers with State law enforcement agencies, local law enforcement agencies, or Indian tribes that perform law enforcement functions (as determined by the Secretary of the Interior) following the discharge or release of such members or former members from active duty.

"(b) ELIGIBLE MEMBERS.—Any member or former member who, during the 6-year period beginning on October 1, 1993, is separated from the armed forces with an honorable discharge or is released from service on active duty characterized as honorable by the Secretary concerned shall be eligible to participate in a program covered by an agreement referred to in subsection (a).

"(c) SELECTION.—In the selection of applicants for participation in a program covered by an agreement referred to in subsection (a), preference shall be given to a member or former member who—

"(1) is selected for involuntary separation, is approved for separation under section 1174a or 1175 of this title, or retires pursuant to the authority provided in section 4403 of Public Law 102-484 (10 U.S.C. 1293 note); and

"(2) has a military occupational specialty, training, or experience related to law enforcement (such as service as a member of the military police) or satisfies such other criteria for selection as, in accordance with the agreement, the Secretary, the Attorney General, or a participating State or local law enforcement agency or participating Indian tribe may prescribe.

"(d) GRANTS TO FACILITATE EMPLOYMENT.—(1) The Secretary may provide funds to the Attorney General for grants under this section to reimburse State law enforcement agencies, local law enforcement agencies, or Indian tribes that perform law enforcement functions (as determined by the Secretary of the Interior) for costs, including salary and fringe benefits, of employing members or former members pursuant to a program referred to in subsection (a).

"(2) No grant with respect to an eligible member or former member may exceed a total of $50,000.

"(3) Any grant with respect to an eligible member or former member shall be disbursed within 5 years after the date of the placement of a member or former member with a participating law enforcement agency or Indian tribe.

"(4) Preference in awarding grants through existing law enforcement hiring programs shall be given to State or local law enforcement agencies or Indian tribes that agree to hire eligible members and former members.

"(e) ADMINISTRATIVE EXPENSES.—Ten percent of the amount, if any, appropriated for a fiscal year to carry out a program established pursuant to subsection (a) may be used to administer the program.

"(f) REQUIREMENT FOR APPROPRIATION.—No member or former member may be selected to participate in the program established by this section unless a sufficient amount of appropriated funds are available at the time of the selection to satisfy the obligations to be incurred by the United States under an agreement referred to in subsection (a) that applies with respect to such member or former member.".

(b) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 58 of title 10, United States Code, is amended to read as follows:

"1152. Assistance to eligible members and former members to obtain employment with law enforcement agencies.".

SEC. 645. TREATMENT OF RETIRED AND RETAINER PAY OF MEMBERS OF CADRE OF CIVILIAN COMMUNITY CORPS.

Section 159(c)(3) of the National and Community Service Act of 1990 (42 U.S.C. 12619(c)(3)) is amended by adding at the end the following: "In the case of a member of the permanent cadre who was recommended for appointment in accordance with section 162(a)(2)(A) and is entitled to retired or retainer pay, section 5532 of title 5, United States Code, shall not apply to reduce the member's retired or retainer pay by reason of the member being paid as a member of the cadre.".

Subtitle F—Other Matters

SEC. 651. DISABILITY COVERAGE FOR OFFICER CANDIDATES GRANTED EXCESS LEAVE.

(a) ELIGIBILITY FOR RETIREMENT.—Section 1201 of title 10, United States Code, is amended—

(1) by inserting "(a) MEMBERS ON ACTIVE DUTY ENTITLED TO PAY.—" before "Upon a determination"; and

(2) by adding at the end the following new subsection:

"(b) MEMBERS ON EXCESS LEAVE.—(1) Upon a determination by the Secretary concerned that a member referred to in paragraph (2) is unfit to perform the duties of the member's office, grade, rank, or rating because of a physical disability incurred during a period described in such paragraph, the Secretary may retire the member, with retired pay computed under section 1401 of this title, if the Secretary also makes the determinations described in paragraphs (1), (2), and (3) of subsection (a) with regard to such member.

"(2) Paragraph (1) applies to a member of the armed forces who, during a period of authorized absence—

"(A) is participating in a program leading to appointment, designation, or assignment in the armed forces in an officer category; and

"(B) is not entitled to basic pay by reason of the application of section 502(b) of title 37 to such absence.".

(b) ELIGIBILITY FOR PLACEMENT ON TEMPORARY DISABILITY RETIRED LIST.—Section 1202 of such title is amended—

(1) by striking out "or any other members" and inserting in lieu thereof "any other members"; and

(2) by inserting after "more than 30 days," the following: "or any member referred to in section 1201(b)(2) of this title".

(c) ELIGIBILITY FOR SEPARATION.—Section 1203 of such title is amended—

(1) by inserting "(a) MEMBERS ON ACTIVE DUTY ENTITLED TO PAY.—" before "Upon a determination";

(2) by striking out the second sentence (relating to transfer to inactive status); and

(3) by adding at the end the following new subsections:

"(b) MEMBERS ON EXCESS LEAVE.—Upon a determination by the Secretary concerned that a member referred to in paragraph (2) of section 1201(b) of this title is unfit to perform the duties of the member's office, grade, rank, or rating because of a physical disability incurred during a period described in such paragraph, the Secretary may separate the member, with severance pay computed under section 1212 of this title, if the Secretary also makes the determinations described in paragraphs (1), (2), (3), and (4) of subsection (a) with regard to such member.

"(c) TRANSFER TO INACTIVE STATUS LIST.—If a member authorized to be separated under subsection (a) or (b) is eligible for transfer to the inactive status list under section 1209 of this title, and so elects, the member shall be transferred to that list instead of being separated.".

(d) CONFORMING AMENDMENTS.—(1) Chapter 61 of title 10, United States Code, is amended—

(A) by striking out the heading of section 1201 and inserting in lieu thereof the following:

"§ 1201. Regulars, members on active duty for more than 30 days, certain members on excess leave: retirement";

(B) by striking out the heading of section 1202 and inserting in lieu thereof the following:

"§ 1202. Regulars, members on active duty for more than 30 days, certain members on excess leave: temporary disability retired list";

and

(C) by striking out the heading of section 1203 and inserting in lieu thereof the following:

"§ 1203. Regulars, members on active duty for more than 30 days, certain members on excess leave: separation".

(2) The table of sections at the beginning of such chapter is amended by striking out the items relating to sections 1201, 1202, and 1203 and inserting in lieu thereof the following:

"1201. Regulars, members on active duty for more than 30 days, certain members on excess leave: retirement

"1202. Regulars, members on active duty for more than 30 days, certain members on excess leave: temporary disability retired list.

"1203. Regulars, members on active duty for more than 30 days, certain members on excess leave: separation.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and apply with respect to physical disabilities incurred on or after such date.

SEC. 652. USE OF MORALE, WELFARE, AND RECREATION FACILITIES BY MEMBERS OF RESERVE COMPONENTS AND DEPENDENTS.

Section 1065 of title 10, United States Code, is amended to read as follows:

"§ 1065. Use of certain morale, welfare, and recreation facilities by members of reserve components and dependents

"(a) MEMBERS OF THE SELECTED RESERVE.—Members of the Selected Reserve in good standing (as determined by the Secretary concerned) shall be permitted to use MWR retail facilities on the same basis as members on active duty.

"(b) RETIREES UNDER AGE 60.—Members of the reserve components who would be eligible for retired pay under chapter 67 of this title but for the fact that the member is under 60 years of age shall be permitted to use MWR retail facilities on the same basis as retired members and retired former members of the Regular Army, Regular Navy, Regular Air Force, and Regular Marine Corps.

"(c) MEMBERS OF READY RESERVE NOT IN SELECTED RESERVE.—Subject to such regulations as the Secretary of Defense may prescribe, members of the Ready Reserve (other than members of the Selected Reserve) may be permitted to use MWR retail facilities on the same basis as members serving on active duty.

"(d) DEPENDENTS.—(1) Dependents of members referred to in subsection (a) shall be permitted to use MWR retail facilities on the same basis as dependents of members on active duty.

"(2) Dependents of members referred to in subsection (b) shall be permitted to use MWR retail facilities on the same basis as dependents of retired members and retired former members of the Regular Army, Regular Navy, Regular Air Force, and Regular Marine Corps.

"(e) MWR RETAIL FACILITY DEFINED.—In this section, the term 'MWR retail facilities' means exchange stores and other revenue generating facilities operated by nonappropriated fund activities of the Department of Defense for the morale, welfare, and recreation of members of the armed forces.".

SEC. 653. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR DEPARTMENT OF DEFENSE PERSONNEL OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—Chapter 53 of Title 10, United States Code, is amended by adding at the end the following new section:

"§ 1060a. Special supplemental food program

"(a) AUTHORITY.—The Secretary of Defense may carry out a program to provide special supplemental food benefits to members of the armed forces on duty at stations outside the United States (and its territories and possessions) and to eligible civilians serving with, employed by, or accompanying the armed forces outside the United States (and its territories and possessions).

"(b) FEDERAL PAYMENTS AND COMMODITIES.—For the purpose of obtaining Federal payments and commodities in order to carry out the program referred to in subsection (a), the Secretary of Agriculture shall make available to the Secretary of Defense from funds appropriated for such purpose, the same payments and commodities as are made for the special supplemental food program in the United States under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

"(c) Program Administration.—(1)(A) The Secretary of Defense shall administer the program referred to in subsection (a) and, except as provided in subparagraph (B), shall determine eligibility for program benefits under the criterion published by the Secretary of Agriculture under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

"(B) The Secretary of Defense shall prescribe regulations governing computation of income eligibility standards for families of individuals participating in the program under this section.

"(2) The program benefits provided under the program shall be similar to benefits provided by State and local agencies in the United States.

"(d) Departure From Standards.—The Secretary of Defense may authorize departures from standards prescribed by the Secretary of Agriculture regarding the supplemental foods to be made available in the program when local conditions preclude strict compliance or when such compliance is highly impracticable.

"(e) Regulations.—The Secretary of Defense shall prescribe regulations to administer the program authorized by this section.

"(f) Definitions.—In this section:

"(1) The term 'eligible civilian' means—

"(A) a dependent of a member of the armed forces residing with the member outside the United States;

"(B) an employee of a military department who is a national of the United States and is residing outside the United States in connection with such individual's employment or a dependent of such individual residing with the employee outside the United States; or

"(C) an employee of a Department of Defense contractor who is a national of the United States and is residing outside the United States in connection with such individual's employment or a dependent of such individual residing with the employee outside the United States.

"(2) The term 'national of the United States' means—

"(A) a citizen of the United States; or

"(B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))).

"(3) The term 'dependent' has the meaning given such term in subparagraph (A), (D), (E), and (I) of section 1072(2) of this title.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 53 of title 10, United States Code, is amended by adding at the end the following new item:

"1060a. Special supplemental food program.".

SEC. 654. REIMBURSEMENT FOR CERTAIN LOSSES OF HOUSEHOLD EFFECTS CAUSED BY HOSTILE ACTION.

(a) Authority To Reimburse.—Chapter 163 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2738. Reimbursement for certain losses of household effects caused by hostile action

"(a) Authority To Reimburse.—The Secretary concerned or, subject to appeal to the Secretary, the Judge Advocate General of an armed force under the Secretary's jurisdiction, or the Chief Counsel of the Coast Guard, as appropriate, if designated by the Secretary, may reimburse a member of the armed forces in an amount not more than $100,000 for a loss described in subsection (b).

"(b) Covered Losses.—This section applies with respect to a loss of household effects sustained during a move made incident to a change of permanent station when, as determined by the Secretary, the loss was caused by a hostile action incident to war or a warlike action by a military force.

"(c) Limitation.—The Secretary may provide reimbursement under this section for a loss described in subsection (b) only to the extent that the loss is not reimbursed under insurance or under the authority of another provision of law.

"(d) Applicability of Other Authorities and Requirements.—Subsections (b), (d), (e), (f), and (g) of section 2733 of this title shall apply to a request for a reimbursement under this section as if the request were a claim against the United States.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2738. Reimbursement for certain losses of household effects caused by hostile action.".

(c) Effective Date.—(1) Section 2738 of title 10, United States Code, as added by subsection (a), applies with respect to losses incurred after June 30, 1990.

(2) In the case of a loss incurred after June 30, 1990, and before the date of the enactment of this Act, a request for reimbursement shall be filed with the Secretary of the military department concerned not later than two years after such date of enactment.

SEC. 655. PAYMENT FOR TRANSIENT HOUSING FOR RESERVES PERFORMING CERTAIN TRAINING DUTY.

Section 404 of title 37, United States Code, is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following new subsection (j):

"(j)(1) In the case of a member of a reserve component performing annual training duty or inactive-duty training who is not otherwise entitled to travel and transportation allowances in connection with such duty under subsection (a) of this section, the Secretary concerned may reimburse the member for housing service charge expenses incurred by the member in occupying transient government housing during the performance of such duty.

"(2) Any payment or other benefit under this section shall be provided in accordance with regulations prescribed by the Secretaries concerned.

"(3) The Secretary may pay service charge expenses under paragraph (1) out of funds appropriated for operation and maintenance for the reserve component concerned.".

SEC. 656. STUDY OF OFFSET OF DISABILITY COMPENSATION BY RECEIPT OF SEPARATION BENEFITS AND INCENTIVES.

(a) Study.—(1) The Comptroller General shall carry out a study of the offset of the amount of disability compensation from the Department of Veterans Affairs that is received by an individual separated from the Armed Forces by the amount of any of the following benefits:

(A) Separation pay under section 1174 of title 10, United States Code.

(B) A special separation benefit under a special separation benefits program carried out under section 1174a(a) of such title.

(C) A voluntary separation incentive under section 1175 of such title.

(2) In carrying out the study, the Comptroller General shall—

(A) determine the purposes for the availability of the benefits referred to paragraph (1);

(B) determine the justifications for the offset referred to in that paragraph;

(C) assess the effect of the offset by—

(i) determining the number of members of the Armed Forces who will separate from the Armed Forces during the period beginning on the date of the enactment of this Act and ending on September 30, 1999;

(ii) determining the number of such members who will be provided a benefit referred to in that paragraph, and the average amount of the benefit to be provided;

(iii) determining the number of such members who will be entitled to disability compensation from the Department of Veterans Affairs, and the average monthly amount of the compensation to which the members will be entitled; and

(iv) evaluating the extent, if any, to which the offset affects the capacity of members who are separated from the Armed Forces to meet financial obligations (including obligations relating to housing and medical care) of such members that arise as a result of the service of the members in the Armed Forces or the separation of such members from that service;

(D) determine the extent, if any, to which the offset of disability compensation by the amount of a benefit referred to in subparagraph (B) or (C) of paragraph (1) reduces the effectiveness of the benefits in meeting the purposes determined under subparagraph (A) of this paragraph; and

(E) determine the cost of the repeal of the offset.

(b) Report.—(1) The Comptroller General shall submit to the Committees on Armed Services and the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the results of the study required under subsection (a). The report shall include the recommendations of the Comptroller General on improvements to the provision of the benefits referred to in subsection (a)(1).

(2) The Comptroller General shall submit the report not later than 180 days after the date of the enactment of this Act.

TITLE VII—HEALTH CARE PROVISIONS

SEC. 701. REVISION OF DEFINITION OF DEPENDENTS TO INCLUDE YOUNG PEOPLE BEING ADOPTED BY MEMBERS OR FORMER MEMBERS.

(a) Eligibility for Health Benefits.—Section 1072 of title 10, United States Code, is amended—

(1) in paragraph (2)(D), by striking out the matter above clause (i) and inserting in lieu thereof the following:

"(D) a child who—"; and

(2) by adding at the end the following new paragraph:

"(6) The term 'child', with respect to a member or former member of a uniformed service, means the following:

"(A) An unmarried natural child.

"(B) An unmarried adopted child.

"(C) An unmarried stepchild.

"(D) An unmarried person—

"(i) who is placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense) in anticipation of the legal adoption of the person by the member or former member; and

"(ii) who otherwise meets the requirements specified in paragraph (2)(D).".

(b) Conforming Amendment.—Section 401(b)(1)(B) of title 37, United States Code, is amended by striking out "placement agency for the purpose of adoption" and inserting in lieu thereof "placement agency (recognized by the Secretary of Defense) in anticipation of the legal adoption of the child by the member".

SEC. 702. AVAILABILITY OF DEPENDENTS' DENTAL PROGRAM OUTSIDE THE UNITED STATES.

Section 1076a of title 10, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

"(g) CARE OUTSIDE THE UNITED STATES.—The Secretary shall exercise the authority provided under subsection (a) to establish basic dental benefits plans for providing dental benefits outside the United States for spouses and children of members of the uniformed services accompanying the members on permanent assignments to duty outside the United States.".

SEC. 703. CONDITIONS UNDER WHICH MEDICAL AND DENTAL CARE OF ABUSED DEPENDENTS IS AUTHORIZED.

Section 1076(e)(1)(A) of title 10, United States Code, is amended to read as follows:

"(A) a member of a uniformed service is convicted by a court-martial or a civil court for an offense involving abuse of a dependent of the member, as determined in accordance with regulations prescribed by the administering Secretary for such uniformed service, and—

"(i) in the case of a court-martial conviction, the member receives a dishonorable or bad-conduct discharge or is dismissed or administratively discharged from a uniformed service as a result of the conviction; or

"(ii) in the case of a civil court conviction, the member is administratively discharged from a uniformed service as a result of the conviction; and".

SEC. 704. COORDINATION OF BENEFITS WITH MEDICARE.

Section 1086(d) of title 10, United States Code, is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3)(A) Subject to subparagraph (B), if a person described in paragraph (2) receives medical or dental care for which payment may be made under medicare and a plan contracted for under subsection (a), the amount payable for that care under the plan shall be the amount equal to the excess of the total amount of the charges imposed by the provider or providers of such care over the sum of—

"(i) the amount paid for that care under medicare; and

"(ii) the total of all amounts paid or payable by third party payers other than medicare.

"(B) The amount payable for care under a plan pursuant to subparagraph (A) may not exceed the total amount that would be paid under the plan if payment for that care were made solely under the plan.

"(C) In this paragraph:

"(i) The term 'medicare' means title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

"(ii) The term 'third party payer' has the meaning given such term in section 1095(h)(1) of this title.".

SEC. 705. AUTHORITY FOR REIMBURSEMENT OF PROFESSIONAL LICENSE FEES UNDER RESOURCE SHARING AGREEMENTS.

Section 1096 of title 10, United States Code, is amended by adding at the end the following:

"(d) REIMBURSEMENT FOR LICENSE FEES.—In any case in which it is necessary for a member of the uniformed services to pay a professional license fee imposed by a government in order to provide health care services at a facility of a civilian health care provider pursuant to an agreement entered into under subsection (a), the Secretary of Defense may reimburse the member for up to $500 of the amount of the license fee paid by the member.".

SEC. 706. CHIROPRACTIC HEALTH CARE DEMONSTRATION PROGRAM.

(a) REQUIREMENT FOR PROGRAM.—(1) Not later than 120 days after the date of enactment of this Act, the Secretary of Defense, in consultation with the secretaries of the military departments, shall develop and carry out a demonstration program to evaluate the feasibility and advisability of furnishing chiropractic care through the medical care facilities of the Armed Forces.

(2) In carrying out the program, the Secretary of Defense shall—

(A) subject to paragraph (3), designate not less than 10 major military medical treatment facilities of the Department of Defense to furnish chiropractic care under the program; and

(B) enter into agreements with such number of chiropractors as the Secretary determines sufficient for the purposes of the program to furnish chiropractic care at such facilities under the program.

(3) The Secretary may not designate under paragraph (2) any treatment facility that is located on a military installation scheduled for closure or realignment under a base closure law.

(b) PROGRAM PERIOD.—The Secretary shall carry out the demonstration program in fiscal years 1995 through 1997.

(c) REPORTING REQUIREMENTS.—(1) Not later than January 30, 1995, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the demonstration program. The report shall—

(A) identify the treatment facilities designated pursuant to subsection (a)(2)(A); and

(B) include a discussion of the plan for the conduct of the program.

(2) Not later than May 1, 1995, the Secretary of Defense shall submit to the committees referred to in paragraph (1) a plan for evaluating the program, including a schedule for conducting progress reviews and for submitting a final report to the committees.

(3) The Secretary shall submit to the committees referred to in paragraph (1) a final report in accordance with the plan submitted to such committees pursuant to paragraph (2).

(d) OVERSIGHT ADVISORY COMMITTEE.—(1)(A) Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall establish an oversight advisory committee to assist and advise the Secretary with regard to the development and conduct of the demonstration program.

(B) The oversight advisory committee shall include the following members:

(i) The Comptroller General of the United States, or a designee from within the General Accounting Office.

(ii) The Assistant Secretary of Defense for Health Affairs, or a designee.

(iii) The Surgeon General of the Army, or a designee.

(iv) The Surgeon General of the Navy, or a designee.

(v) The Surgeon General of the Air Force, or a designee.

(vi) Not fewer than four independent representatives of the chiropractic health care profession, appointed by the Secretary of Defense.

(2) The oversight advisory committee shall assist the Secretary of Defense regarding—

(A) issues involving the professional credentials of the chiropractors participating in the program;

(B) the granting of professional practice privileges for the chiropractors at the treatment facilities participating in the program;

(C) the preparation of the reports required under subsection (c); and

(D) the evaluation of the program.

(e) DEFINITION.—For purposes of this section, the term "base closure law" means each of the following:

(1) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(2) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(3) Section 2687 of title 10, United States Code.

SEC. 707. IMPLEMENTATION OF ANNUAL HEALTH CARE SURVEY REQUIREMENT.

Section 724 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2440; 10 U.S.C. 1071 note) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) EXEMPTION.—An annual survey under subsection (a) shall be treated as not a collection of information for the purposes for which such term is defined in section 3502(4) of title 44.".

SEC. 708. STUDY AND REPORT ON FINANCIAL RELIEF FOR CERTAIN MEDICARE-ELIGIBLE MILITARY RETIREES WHO INCUR MEDICARE LATE ENROLLMENT PENALTIES.

(a) STUDY.—The Secretary of Defense, in consultation with the Secretary of Health and Human Services, shall conduct a study regarding possible financial relief from late enrollment penalties for military retirees and dependents of such retirees who reside within the service area of a base closure site and who have failed to timely enroll in medicare part B due to reliance upon the military treatment facility located at such site.

(b) REPORT.—Not later than March 31, 1995, the Secretary of Defense shall report to Congress the results of the study under paragraph (1). Such report shall also—

(1) identify by base closure site the number of military retirees within a 65 mile catchment area who have failed to enroll in medicare part B and are subjected to late enrollment penalties;

(2) determine the estimated aggregate amount of the penalties by base closure site;

(3) describe the characteristics of the population that are subject to the penalties, such as age and income level;

(4) address the appropriateness of waiving such penalties;

(5) identify the Department of Defense funds that should be used to pay the penalties if waiving such penalties is not recommended;

(6) outline a program for a special medicare part B enrollment period for affected retirees living near bases already closed and bases which are designated for closure in the future; and

(7) include legislative recommendations for implementing a program which removes the financial burden from the medicare-eligible beneficiaries who have been or will be adversely impacted by base-closure actions.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "base closure" means a base closure under a base closure law (within the

meaning given such term in section 2825(d) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 2687 note)).

(2) The term "medicare part B" means the public health insurance program under part B of title XVIII of the Social Security Act.

(3) The term "military treatment facility" means a facility of a uniformed service referred to in section 1074(a) of title 10, United States Code, in which health care is provided.

SEC. 709. ELIGIBILITY FOR PARTICIPATION IN DEMONSTRATION PROGRAMS FOR SALE OF PHARMACEUTICALS.

Subparagraph (B) of section 702(c)(2) of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1079 note) is amended to read as follows:

"(B) either—

"(i) resides in an area that is adversely affected (as determined by the Secretary) by the closure of a health care facility of the uniformed services as a result of the closure or realignment of the military installation at which such facility is located; or

"(ii) can demonstrate to the satisfaction of the Secretary that the person obtained pharmaceuticals at a health care facility referred to in clause (i) before the closure of the facility.".

SEC. 710. COST ANALYSIS OF TIDEWATER TRICARE DELIVERY OF PEDIATRIC HEALTH CARE TO MILITARY FAMILIES.

(a) COST ANALYSIS REQUIRED.—Not later than July 1, 1995, the Assistant Secretary of Defense (Health Affairs) shall determine the amount of the expenditures made by the Department of Defense for pediatric care for each of fiscal years 1992, 1993, and 1994 under the program for delivery of health care services in the Tidewater region of Virginia carried out pursuant to section 712(b) of Public Law 102–190 (105 Stat. 1402). The Assistant Secretary shall determine the total amount of such expenditures and the amount of such expenditures for each case.

(b) USE OF ANALYSIS.—In establishing any managed care system involving the furnishing of pediatric care by the Department of Defense (including the furnishing of pediatric care under the Civilian Health and Medical Program of the Uniformed Services), the Assistant Secretary shall consider the amounts determined under subsection (a) in determining the appropriate standards, limitations, and requirements to apply to the cost of pediatric care under the system.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Use of Merit Based Selection Procedures

SEC. 801. POLICY FOR MERIT BASED AWARD OF CONTRACTS AND GRANTS.

(a) POLICY.—Section 2301 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) It is the policy of Congress that the Department of Defense should not be required by legislation to award a new contract or grant to a specific non-Federal Government entity. It is further the policy of Congress that any program, project, or technology identified in legislation be procured through merit-based selection procedures.

"(2) A provision of law may not be construed as requiring the Department of Defense to award a new contract or grant to a specific non-Federal Government entity unless that provision of law—

"(A) specifically refers to this subsection;

"(B) specifically identifies the particular non-Federal Government entity to be awarded the contract or grant; and

"(C) sets forth the national defense purpose to be fulfilled by requiring the department to award a new contract or grant to the specified non-Federal Government entity.

"(3) The head of an agency may not award a contract or make a grant pursuant to a provision of law that authorizes or requires the awarding of the contract or the making of the grant, as the case may be, in a manner that is inconsistent with the policy set forth in paragraph (1) until—

"(A) the Secretary of Defense submits to Congress a notice in writing of the intent to award such contract or to make such grant; and

"(B) a period of 180 days elapses after the date on which the notice is received by Congress.

"(4) For purposes of this subsection—

"(A) a contract is a new contract unless the work provided for in the contract is a continuation of the work provided for in a preceding contract; and

"(B) a grant is a new grant unless the work funded by the grant is substantially a continuation of the work for which funding is provided in a preceding grant.

"(4) Paragraph (3) does not apply to the Secretary of Transportation or the Administrator of the National Space and Aeronautics Administration.".

SEC. 802. CONTINUATION OF EXPIRING REQUIREMENT FOR ANNUAL REPORT ON THE USE OF COMPETITIVE PROCEDURES FOR AWARDING CERTAIN CONTRACTS TO COLLEGES AND UNIVERSITIES.

Paragraph (3) of section 2361(c) of title 10, United States Code, is repealed.

Subtitle B—Acquisition Assistance Programs

SEC. 811. PROCUREMENT TECHNICAL ASSISTANCE PROGRAMS.

(a) FUNDING.—Of the amount authorized to be appropriated under section 301(5), $12,000,000 shall be available for carrying out the provisions of chapter 142 of title 10, United States Code.

(b) SPECIFIC PROGRAMS.—Of the amounts made available pursuant to subsection (a), $600,000 shall be available for fiscal year 1995 for the purpose of carrying out programs sponsored by eligible entities referred to in subparagraph (D) of section 2411(1) of title 10, United States Code, that provide procurement technical assistance in distressed areas referred to in subparagraph (B) of section 2411(2) of such title. If there is an insufficient number of satisfactory proposals for cooperative agreements in such distressed areas to allow effective use of the funds made available in accordance with this subsection in such areas, the funds shall be allocated among the Defense Contract Administration Services regions in accordance with section 2415 of such title.

SEC. 812. PILOT MENTOR-PROTEGE PROGRAM.

Of the amounts authorized to be appropriated for fiscal year 1995 pursuant to title I of this Act, $50,000,000 shall be available for conducting the pilot Mentor-Protege Program established pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2301 note).

SEC. 813. INFRASTRUCTURE ASSISTANCE FOR HISTORICALLY BLACK COLLEGES AND OTHER MINORITY INSTITUTIONS OF HIGHER EDUCATION.

Of the amounts authorized to be appropriated for fiscal year 1995 pursuant to title II of this Act, $35,000,000 shall be available for such fiscal year for infrastructure assistance to historically Black colleges and universities and minority institutions under section 2323(c)(3) of title 10, United States Code.

SEC. 814. EXTENSION OF TEST PROGRAM FOR NEGOTIATION OF COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLANS.

Section 834(e) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (15 U.S.C. 637 note) is amended by striking out "September 30, 1994" in the second sentence and inserting in lieu thereof "September 30, 1998".

SEC. 815. LIMITATION REGARDING ACQUISITION ASSISTANCE REGULATIONS REQUIRED BY PUBLIC LAW 103–160 BUT NOT ISSUED.

(a) LIMITATION ON THE USE OF FUNDS.—None of the funds authorized to be appropriated by this Act that are made available for program element 65104D activities may be expended until the Secretary of Defense takes the actions required by the following provisions of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160):

(1) Section 811(d)(1), relating to regulations that address the matters described in subsections (g) and (h)(2) of section 2323 of title 10, United States Code.

(2) Section 813(b)(1), relating to the Department of Defense policy regarding the pilot Mentor-Protege Program.

(b) ACTIONS REQUIRED.—(1) With respect to the regulations referred to in subsection (a)(1), the Secretary shall—

(A) publish proposed regulations within 15 days after the date of the enactment of this Act in accordance with section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b);

(B) provide a period of not less than 60 days for public comment on the proposed regulations; and

(C) publish the final regulations not later than 120 days after the date of the enactment of this Act.

(2) With respect to the action referred to in subsection (a)(2), the Secretary shall ensure that—

(A) within 30 days after the date of the enactment of this Act, the Department of Defense policy regarding the pilot Mentor-Protege Program is incorporated into the Department of Defense Supplement to the Federal Acquisition Regulation as an appendix; and

(B) any subsequent revision to such policy (or any successor to such policy) is published and maintained in such supplement as an appendix.

(c) PROGRAM ELEMENT 65104D ACTIVITIES DEFINED.—For purposes of this section, the program element 65104D activities referred to in subsection (a) are the activities described as program element 65104D in the materials submitted to Congress by the Secretary of Defense in support of the budget for fiscal year 1995 that was submitted to Congress pursuant to section 1105(a) of title 31, United States Code.

SEC. 816. TREATMENT UNDER SUBCONTRACTING PLANS OF PURCHASES FROM QUALIFIED NONPROFIT AGENCIES FOR THE BLIND OR SEVERELY DISABLED.

(a) REVISION AND EXTENSION OF AUTHORITY.—Section 2410d of title 10, United States Code, relating to credit under small business subcontracting plans for certain purchases, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) by striking out "and" at the end of subparagraph (A);

(ii) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(iii) by adding at the end the following new subparagraph:

"(C) a central nonprofit agency designated by the Committee for Purchase from People Who Are Blind or Severely Disabled under section 2(c) of such Act (41 U.S.C. 47(c).";

(B) by striking out paragraph (3); and

(C) by redesignating paragraph (4) as paragraph (3); and

(2) in subsection (c), by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1997".

(b) CONFORMING AMENDMENT.—Section 2301(d) of such title is amended by striking out "approved commodities and services (as defined in such section)" and inserting in lieu thereof "commodities and services".

Subtitle C—Other Matters

SEC. 821. USE OF CERTAIN FUNDS PENDING SUBMISSION OF A NATIONAL TECHNOLOGY AND INDUSTRIAL BASE PERIODIC DEFENSE CAPABILITY ASSESSMENT AND A PERIODIC DEFENSE CAPABILITY PLAN.

(a) LIMITATION.—None of the funds authorized to be appropriated by this Act that are made available for program element 65104D activities may be expended until the Secretary of Defense submits to Congress—

(1) a national technology and industrial base periodic defense capability assessment required by section 2505 of title 10, United States Code; and

(2) and a periodic defense capability plan required by section 2506 of such title.

(b) PROGRAM ELEMENT 65104D ACTIVITIES DEFINED.—For purposes of this section, the program element 65104D activities referred to in subsection (a) are the activities described as program element 65104D in the materials submitted to Congress by the Secretary of Defense in support of the budget for fiscal year 1995 that was submitted to Congress pursuant to section 1105(a) of title 31, United States Code.

SEC. 822. DELEGATION OF INDUSTRIAL MOBILIZATION AUTHORITY.

Section 2538 of title 10, United States Code, is amended—

(1) by striking out "through the Secretary of Defense" each place it appears in subsections (a), (c), and (d) and inserting in lieu thereof "through the head of any department"; and

(2) in subsection (c)—

(A) by striking out "in the opinion of the Secretary of Defense" in the matter above paragraph (1) and inserting in lieu thereof "in the opinion of the head of any department"; and

(B) by striking out "Secretary" each place it appears in paragraphs (2) and (3) and inserting in lieu thereof "head of the department".

SEC. 823. PERMANENT AUTHORITY FOR THE DEPARTMENT OF DEFENSE TO SHARE EQUITABLY THE COSTS OF CLAIMS UNDER INTERNATIONAL ARMAMENTS COOPERATIVE PROGRAMS.

Subsection (c) of section 843 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2469; 10 U.S.C. 2350a note) is repealed.

SEC. 824. DETERMINATIONS OF PUBLIC INTEREST UNDER THE BUY AMERICAN ACT.

(a) CONSIDERATIONS.—Section 2533 of title 10, United States Code, is amended—

(1) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) In determining under section 2 of title III of the Act of March 3, 1993 (41 U.S.C. 10a), popularly known as the 'Buy American Act', whether application of title III of such Act is inconsistent with the public interest, the Secretary of Defense shall consider the following:

"(1) The bids or proposals of small business firms in the United States which have offered to furnish American goods.

"(2) The bids or proposals of all other firms in the United States which have offered to furnish American goods.

"(3) The United States balance of payments.

"(4) The cost of shipping goods which are other than American goods.

"(5) Any duty, tariff, or surcharge which may enter into the cost of using goods which are other than American goods.

"(6) Any need to coordinate acquisition activities of the Department of Defense with obligations contained in international agreements and with the acquisition activities of major United States allies.

"(7) A need to ensure that the Department of Defense has access to advanced state-of-the-art commercial technology.

"(8) A need to protect the national technology and industrial base and to provide for a defense mobilization base.

"(9) A need to ensure that application of different rules of origin for United States end items and foreign end items does not result in an award to a firm other than a firm providing a product produced in the United States.

"(10) Any need—

"(A) to maintain the same source of supply for spare and replacement parts for an end item that qualifies as an American good; or

"(B) to maintain the same source of supply for spare and replacement parts in order not to impair integration of the military and commercial industrial base.

"(11) The national security interests of the United States."; and

(2) by redesignating subsection (c) as subsection (b).

(b) CONFORMING AND CLERICAL AMENDMENTS.—(1) The heading of section 2533 of such title is amended to read as follows:

"§ 2533. Determinations of public interest under the Buy American Act".

(2) The item relating to such section in the table of sections at the beginning of subchapter V of chapter 148 of such title is amended to read as follows:

"2533. Determinations of public interest under the Buy American Act.".

SEC. 825. DOCUMENTATION FOR AWARDS FOR COOPERATIVE AGREEMENTS OR OTHER TRANSACTIONS UNDER THE DEFENSE TECHNOLOGY REINVESTMENT PROGRAM.

At the time of the award for a cooperative agreement or other transaction under a program carried out under chapter 148 of title 10, United States Code, the head of the agency concerned shall include in the file pertaining to such agreement or transaction a brief explanation of the manner in which the award advances and enhances a particular national security objective set forth in section 2501(a) of such title or a particular policy objective set forth in section 2501(b) of such title.

SEC. 826. COMPTROLLER GENERAL ASSESSMENT OF EXTENT TO WHICH TECHNOLOGY AND INDUSTRIAL BASE PROGRAMS ATTAIN POLICY OBJECTIVES.

Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress an assessment of the extent to which awards for cooperative agreements and other transactions under programs carried out under chapter 148 of title 10, United States Code, have been made specifically to advance and enhance a particular national security objective set forth in section 2501(a) of such title or to achieve a particular policy objective set forth in section 2501(b) of such title.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—Secretarial Matters

SEC. 901. ADDITIONAL ASSISTANT SECRETARY OF DEFENSE.

(a) ESTABLISHMENT OF POSITION.—Section 138(a) of title 10, United States Code, is amended by striking out "ten" and inserting in lieu thereof "eleven".

(b) EXECUTIVE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by striking out "Assistant Secretaries of Defense (10)." and inserting in lieu thereof the following:

"Assistant Secretaries of Defense (11).".

SEC. 902. ORDER OF SUCCESSION TO SECRETARIES OF THE MILITARY DEPARTMENTS.

(a) ARMY.—Section 3017 of title 10, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The General Counsel of the Department of the Army.".

(b) NAVY.—Section 5017 of such title is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The General Counsel of the Department of the Navy.".

(c) AIR FORCE.—Section 8017 of such title is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The General Counsel of the Department of the Air Force.".

Subtitle B—Commission on Roles and Missions of the Armed Forces

SEC. 911. REVIEW OF RESERVE COMPONENTS.

Section 953(d) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1739) is amended—

(1) in subsection (d)—

(A) by striking out "and" at the end of paragraph (7);

(B) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new paragraph:

"(9) the role of the National Guard and the other reserve components.";

(2) in subsection (e)(3), by inserting after "Department of Defense" the following: ", including the National Guard and the other reserve components"; and

(3) by adding at the end the following new subsection:

"(h) RECOMMENDATIONS CONCERNING RESERVE COMPONENTS.—The Commission shall address the roles, missions, and functions of the reserve components within the total force of the armed forces, particularly in light of lower budgetary resources that will be available to the Department of Defense in the future. The Commission should employ or consult private citizens with extensive experience in matters concerning the National Guard and other reserve components.".

SEC. 912. SUPPORT BY FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

Section 957 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1741; 10 U.S.C. 111 note) is amended—

(1) by adding at the end the following new subsection:

"(f) SUPPORT FROM FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.—Upon the request of the chairman of the Commission, the Secretary of Defense shall make available to the Commission, without reimbursement, the services of one or more federally funded research and development centers covered by sponsoring agreements of the Department of Defense. The cost of the services made available pursuant to this subsection may not exceed $20,000,000."; and

(2) by striking out the section heading and inserting in lieu thereof the following:

"SEC. 957. PERSONNEL MATTERS; EXPERT SERVICES.".

SEC. 913. REVISION IN COMPOSITION OF COMMISSION.

(a) REVISION.—Section 952(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 111 note; 107 Stat. 1738) is amended—

(1) in the first sentence of paragraph (1), by striking out "seven" and inserting in lieu thereof "eight"; and

(2) in paragraph (2)—

(A) by inserting "(A)" before "The Commission"; and

(B) by adding at the end the following new subparagraph:

"(B) The additional member of the Commission appointed under this paragraph after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995 shall have previous military experience and management experience with the reserve components.".

(b) APPOINTMENT.—The Secretary of Defense shall make the appointment required as a result of the amendments made by subsection (a) not later than 15 days after the date of the enactment of this Act.

Subtitle C—Other Matters

SEC. 921. COMPOSITION OF RESERVE FORCES POLICY BOARD.

Section 175(a) of title 10, United States Code, is amended—

(1) in paragraph (4), by striking out "or Regular Marine Corps" and inserting in lieu thereof "and an officer of the Regular Marine Corps each";

(2) by striking out "and" at the end of paragraph (8);

(3) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(4) by adding at the end the following:

"(10) an officer of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps serving in a position on the Joint Staff who is designated by the Chairman of the Joint Chiefs of Staff.".

SEC. 922. CONTINUATION OF UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

(a) CLOSURE PROHIBITED.—The Uniformed Services University of the Health Sciences may not be closed.

(b) BUDGETARY COMMITMENT TO CONTINUATION.—It is the sense of Congress that the Secretary of Defense should budget for the ongoing operation of the Uniformed Services University of the Health Sciences as an institution of professional education that is vital to the education and training each year of significant numbers of personnel of the uniformed services for careers as uniformed services health care providers.

(c) EVALUATION OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.—

(1) GAO REPORT.—By June 1, 1995, the Comptroller General of the United States shall submit to the appropriate Committees of the Congress a detailed report that—

(A) compares the cost of obtaining physicians from the Uniformed Services University of the Health Sciences with other sources of military physicians;

(B) assesses the retention rate needs of the military for physicians in relation to the respective retention rates of Uniformed Services University of the Health Sciences physicians and physicians obtained from other sources and the factors which contribute to retention rates among military physicians obtained from all sources;

(C) reviews the quality of the medical education provided at the Uniformed Services University of the Health Sciences with the quality of medical education provided by other sources of military physicians;

(D) reviews the overall issue of the special needs of military medicine and how these special needs are being met by Uniformed Services University of Health Sciences physicians and physicians obtained from other sources;

(E) assesses the extent to which the Uniformed Services University of the Health Sciences has responded to the 1990 report of the Inspector General of the Department of Defense and make recommendations as to resolution of any continuing issues relating to management and internal fiscal controls of the Uniformed Services University of the Health Sciences, including issues relating to the Henry M. Jackson Foundation for the Advancement of Military Medicine identified in the 1990 report; and

(F) makes such recommendations as the Comptroller General deems appropriate.

SEC. 923. JOINT DUTY CREDIT FOR CERTAIN DUTY PERFORMED DURING MILITARY OPERATIONS IN SUPPORT OF UNIFIED, COMBINED, OR UNITED NATIONS MILITARY OPERATIONS.

(a) CREDIT AUTHORIZED.—Section 664 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(i) SPECIAL AUTHORITY.—(1) The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, may give an officer who has completed service described in paragraph (2) credit for having completed a full tour of duty in a joint duty assignment, or credit countable for determining cumulative service in joint duty assignments, for the purposes of any provision of this title, notwithstanding the length of such service or whether such service is within the definition of the term 'joint duty assignment' prescribed pursuant to section 668 of this title.

"(2) Service referred to in paragraph (1) is service performed by an officer in combat or combat related military operations, under the operational control of the commander of a unified combatant command, the commander of combined forces of allied nations, or the United Nations, in which the officer gained significant experience in joint matters, as determined by the Secretary.

"(3) Officers for whom joint duty credit is granted pursuant to this subsection—

"(A) shall not be counted for the purposes of paragraphs (7), (8), (9), (11), or (12) of section 667 of this title and subsections (a)(3) and (b) of section 662 of this title; and

"(B) are not subject to the requirements of section 661(c) of this title relating to the sequence for completion of a joint professional military education school, completion of a full tour of duty in a joint duty assignment, and selection for a joint specialty.".

(b) APPLICABILITY.—Subsection (i) of section 664 of title 10, United States Code, as added by subsection (a), shall apply with respect to military operations conducted after July 1, 1992.

SEC. 924. ASSISTANCE FOR CERTAIN WORKERS DISLOCATED DUE TO REDUCTIONS BY THE UNITED STATES IN THE EXPORT OF DEFENSE ARTICLES AND SERVICES.

(a) ASSISTANCE UNDER DEFENSE CONVERSION ADJUSTMENT PROGRAM.—Section 325 of the Job Training Partnership Act (29 U.S.C. 1662d) is amended—

(1) in subsection (a)—

(A) by striking out "or by closures of United States military facilities" in the first sentence and inserting in lieu thereof ", by closures of United States military facilities, or by reductions in the export of defense articles and defense services as a result of United States policy (including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements)"; and

(B) by striking out "or by closures of United States military facilities" in the second sentence and inserting in lieu thereof ", by closures of United States military facilities, or by reductions in the export of defense articles and defense services as a result of United States policy";

(2) in subsection (d), by striking out "or by the closure of United States military installations" and inserting in lieu thereof ", by closures of United States military facilities, or by reductions in the export of defense articles and defense services as a result of United States policy (including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements)"; and

(3) by adding at the end the following new subsection:

"(f) DEFINITION.—For purposes of this section, the term 'defense articles and defense services' means defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).".

(b) ASSISTANCE UNDER DEFENSE DIVERSIFICATION PROGRAM.—Section 325A of the Job Training Partnership Act (29 U.S.C. 1662d–1) is amended—

(1) in subsection (b)(3)(A), by striking out "or the closure or realignment of a military installation" and inserting in lieu thereof ", the closure or realignment of a military installation, or reductions in the export of defense articles and defense services as a result of United States policy (including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements)";

(2) in subsection (k)(1), by striking out "or by the closure of United States military installations" and inserting in lieu thereof ", the closure of United States military installations, or reductions in the export of defense articles and defense services as a result of United States policy (including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements)"; and

(3) in subsection (o), by adding at the end the following new paragraph:

"(3) DEFENSE ARTICLES AND DEFENSE SERVICES.—The term 'defense articles and defense services' means defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).".

Subtitle D—Professional Military Education

SEC. 931. AUTHORITY FOR MARINE CORPS UNIVERSITY TO AWARD THE DEGREE OF MASTER OF MILITARY STUDIES.

(a) AUTHORITY TO AWARD.—(1) Chapter 609 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 7102. Marine Corps University: master of military studies

"(a) AUTHORITY.—Upon the recommendation of the Director and faculty of the Marine Corps Command and Staff College, the President of the Marine Corps University may confer the degree of master of military studies upon graduates of the college who fulfill the requirements for the degree.

"(b) REGULATIONS.—The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of the Navy.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7102. Marine Corps University: master of military studies.".

(b) EFFECTIVE DATE.—The authority provided by section 7102(a) of title 10, United States Code, as added by subsection (a), shall become effective on the date on which the Secretary of Education determines that the requirements established by the Command and Staff College of the Marine Corps University for the degree of master of military studies are in accordance with generally applicable requirements for a degree of master of arts.

SEC. 932. BOARD OF ADVISORS OF MARINE CORPS UNIVERSITY.

(a) BOARD.—(1) Chapter 609 of title 10, United States Code, as amended by section 931, is further amended by adding at the end the following new section:

"§ 7103. Marine Corps University: Board of Advisors

"(a) IN GENERAL.—A Board of Advisors to the President of the Marine Corps University is constituted annually of—

"(1) the chairman of the Committee on Armed Services of the Senate, or the designee of the chairman; and

"(2) six persons designated by the Secretary of the Navy.

"(b) TERMS.—(1) The persons designated by the Secretary of the Navy shall serve for 3 years each except that any member whose term of office has expired shall continue to serve until the successor to the member is designated.

"(2) Members may be reappointed for one or more successive terms.

"(3) If a member of the Board dies or resigns, the official who designated that member shall designate a successor to serve for the unexpired portion of the term of the member.

"(c) VISITS.—The Board shall visit the Marine Corps University semiannually upon the call of the President of the Marine Corps University. With the approval of the President of the University, the Board, or any of its members, may make other visits to the University in connection with the duties of the Board or to consult with the President of the University.".

(2) The table of sections at the beginning of such chapter, as amended by section 931, is further amended by adding at the end the following new item:

"7103. Marine Corps University: Board of Advisors.".

(b) INITIAL DESIGNATIONS OF MEMBERS.—Of the members of the Board of Advisors of the Marine Corps University initially designated under section 7103(a)(2) of title 10, United States Code, as added by subsection (a)—

(1) two shall be designated for a term of 3 years;

(2) two shall be designated for a term of 2 years; and

(3) two shall be designated for a term of 1 year.

SEC. 933. AUTHORITY FOR AIR UNIVERSITY TO AWARD THE DEGREE OF MASTER OF AIRPOWER ART AND SCIENCE.

(a) AUTHORITY TO AWARD.—(1) Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9317. Air University: master of airpower art and science

"(a) AUTHORITY.—Upon the recommendation of the faculty of the School of Advanced Airpower Studies of the Air University, the Commander of the university may confer the degree of master of airpower art and science upon graduates of the school who fulfill the requirements for the degree.

"(b) REGULATIONS.—The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of the Air Force.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9317. Air University: master of airpower art and science.".

(b) EFFECTIVE DATE.—The authority provided by section 9317(a) of title 10, United States Code, as added by subsection (a), shall become effective on the date on which the Secretary of Education determines that the requirements established by the School of Advanced Airpower Studies of the Air University for the degree of master of airpower art and science are in accordance with generally applicable requirements for a degree of master of arts or a degree of master of science.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1995 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $2,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

SEC. 1002. EMERGENCY SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1994.

There is authorized to be appropriated as emergency supplemental appropriations for fiscal year 1994 for the incremental costs arising from ongoing United States operations in Somalia, Bosnia, Southwest Asia, and Haiti, $1,198,300,000 as follows:

(1) For Military Personnel:

(A) For the Army, $6,600,000.

(B) For the Navy, $19,400,000.

(C) For the Air Force, $18,400,000.

(2) For Operation and Maintenance:

(A) For the Army, $420,100,000.

(B) For the Navy, $104,800,000.

(C) For the Air Force, $560,100,000.

(D) For Defense-wide activities, $21,600,000.

(3) For Procurement:

(A) For Aircraft Procurement, Army, $20,300,000.

(B) For Other Procurement, Army, $200,000.

(C) For Other Procurement, Air Force, $26,800,000.

SEC. 1003. DATE FOR SUBMISSION OF FUTURE-YEARS MISSION BUDGET.

Section 222(a) of title 10, United States Code, is amended by striking out "at the same time" in the second sentence and inserting in lieu thereof "not later than 60 days after the date on which".

SEC. 1004. SUBMISSION OF FUTURE-YEARS DEFENSE PROGRAM IN ACCORDANCE WITH LAW.

If, as of the end of the 90-day period beginning on the date on which the President's budget for fiscal year 1996 is submitted to Congress, the Secretary of Defense has not submitted to Congress the fiscal year 1996 future-years defense program and, after consultation with the Inspector General of the Department of Defense, a certification that such program satisfies the requirements of section 221(b) of title 10, United States Code, then during the 30-day period beginning on the last day of such 90-day period the Secretary may not obligate more than 10 percent of the fiscal year 1995 advance procurement funds that are available for obligation as of the end of that 90-day period. If, as of the end of such 30-day period, the Secretary of Defense has not submitted to Congress the fiscal year 1996 future-years defense program together with such a certification, then the Secretary may not make any further obligation of fiscal year 1995 advance procurement funds until such program and certification are submitted to Congress. If the Secretary submits to Congress the fiscal year 1996 future-years defense program, together with such a certification, during the 30-day period described in the first sentence, the limitation on obligation of advance procurement funds prescribed in that sentence shall cease to apply effective as of the date of the submission of such program and certification.

Subtitle B—Matters Relating to Allies and Other Nations

SEC. 1011. REPEAL OF LIMITATION ON OVERSEAS MILITARY END STRENGTH.

Section 1302 of the National Defense Authorization Act for Fiscal Year 1993 (Public

Law 102–484; 106 Stat. 2545; 10 U.S.C. 113 note) is repealed.

SEC. 1012. AUTHORIZED END STRENGTH FOR MILITARY PERSONNEL IN EUROPE.

(a) END STRENGTH.—Paragraph (1) of section 1002(c) of the National Defense Authorization Act, 1985 (22 U.S.C. 1928 note) is amended to read as follows:

"(1) The end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO may not exceed a permanent ceiling of approximately 100,000 in any fiscal year.

"(2) Notwithstanding paragraph (1), the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO may exceed 100,000 in a fiscal year if, before September 1 of that fiscal year, the President certifies to Congress that it is essential for the end strength level to exceed 100,000 in that fiscal year in order to attain national security objectives of the United States in Europe and that the number of personnel in excess of 100,000 does not exceed the number of additional personnel necessary to attain such objectives. In no event may the end strength level exceed 113,000 in any fiscal year.".

(b) CONFORMING AMENDMENT.—Section 1303 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2546) is repealed.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1995.

SEC. 1013. EXTENSION AND REVISION OF AUTHORITIES RELATING TO COOPERATIVE THREAT REDUCTION.

(a) FUNDING FOR FISCAL YEAR 1995.—Funds authorized to be appropriated under section 301(19) shall be available for cooperative threat reduction with states of the former Soviet Union under the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160; 22 U.S.C. 5951 et seq.).

(b) SEMI-ANNUAL REPORTS.—Section 1207 of such Act (22 U.S.C. 5956) is amended by striking out "and not later than October 30, 1994," and inserting in lieu thereof "October 30, 1994, April 30, 1995, and October 30, 1995,".

SEC. 1014. DEFENSE COOPERATION BETWEEN THE UNITED STATES AND ISRAEL.

(a) FINDINGS.—Congress makes the following findings:

(1) The President has made a commitment to maintaining the qualitative superiority of the Israeli Defense Force over any potential combination of potential adversaries.

(2) Despite the peace process in which Israel is engaged, Israel continues to face difficult threats to its national security.

(3) The threats are compounded by the proliferation of weapons of mass destruction and ballistic missiles.

(4) Congress recognizes the many benefits to the United States resulting from the strategic relationship that exists between the United States and Israel.

(5) Congress is supportive of the objective of the President to enhance United States-Israel military and technical cooperation, particularly in the areas of missile defense and counter-proliferation.

(6) Congress is supportive of the establishment of the United States-Israel Science and Technology Commission in 1993.

(7) Maintaining the qualitative superiority of the Israeli Defense Force and strengthening the defense ties and science and technology cooperation between the United States and Israel will help ensure that Israel has the military strength and political support necessary to take risks for peace while providing Arab states with an incentive to pursue negotiations instead of war.

(8) Israel continues to cooperate with the United States on numerous theater missile defense programs, including the Arrow Tactical Anti-Missile program and the boost phase intercept technology program.

(9) It is in the national interests of the United States and Israel to strengthen existing mechanisms for cooperation and to eliminate unnecessary barriers to further collaboration between the United States and Israel.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Congress—

(1) encourages the President to ensure that any conventional defense system or technology offered for release to any NATO or other major non-NATO ally should concurrently be available for purchase by Israel unless such action would contravene United States national interests; and

(2) urges the President to make available to Israel, within existing technology transfer laws, regulations, and policies, advanced United States technology necessary for continued progress in cooperative United States-Israel research and development of theater missile defenses.

SEC. 1015. MILITARY-TO-MILITARY CONTACTS AND COMPARABLE ACTIVITIES.

(a) ACTIVITIES AUTHORIZED.—(1) Chapter 6 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 166b. Military-to-military contacts and comparable activities

"(a) AUTHORITY.—The Secretary of Defense may conduct military-to-military contacts and comparable activities that are designed to encourage a democratic orientation of defense establishments and military forces of other countries.

"(b) ADMINISTRATION.—The Secretary may provide funds appropriated for carrying out subsection (a) to the following officials for use as provided in subsection (c):

"(1) The commander of a combatant command, upon the request of the commander.

"(2) An officer designated by the Chairman of the Joint Chiefs of Staff, with respect to an area or areas not under the area of responsibility of a commander of a combatant command.

"(3) The head of any Department of Defense component.

"(c) AUTHORIZED ACTIVITIES.—An official provided funds under subsection (b) may use such funds for the following activities and expenses:

"(1) The activities of traveling contact teams, including any transportation expenses, translation services expenses, and administrative expenses that are related to such activities.

"(2) The activities of military liaison teams.

"(3) Exchanges of—

"(A) civilian or military personnel between the Department of Defense and defense ministries of foreign governments; and

"(B) military personnel between units of the armed forces and units of foreign armed forces.

"(4) Seminars and conferences held primarily in a theater of operations.

"(5) Distribution of publications primarily in a theater of operations.

"(6) Personnel expenses for Department of Defense civilian and military personnel to the extent that such expenses relate to participation in activities described in paragraphs (3), (4), and (5).

"(7) Reimbursement of military personnel appropriations accounts for the pay and allowances paid to National Guard personnel and other reserve components personnel for service while engaged in activities referred to in other paragraphs of this subsection.

"(d) RELATIONSHIP TO OTHER FUNDING.—Any amount provided during any fiscal year to an official under subsection (b) for activities or expenses referred to in subsection (c) shall be in addition to amounts otherwise available for such activities and expenses for that fiscal year.

"(e) LIMITATIONS.—(1) Funds may not be provided under this section for a fiscal year for any activity for which—

"(A) funding was proposed in the budget submitted to Congress for such fiscal year pursuant to section 1105(a) of title 31; and

"(B) Congress did not authorize appropriations.

"(2) An activity may not be conducted under this section with a foreign country unless the Secretary of State approves the conduct of such activity in that foreign country.

"(3) Funds may not be provided under this section for a fiscal year for any country which was not eligible in that fiscal year for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961.

"(4) Funds may not be used under this section for the provision of military education or training, defense articles, or defense services to any country.

"(f) MILITARY-TO-MILITARY CONTACTS DEFINED.—In this section, the term 'military-to-military contacts' means contacts between members of the armed forces and members of foreign armed forces through activities described in subsection (c).".

(2) The table of sections at the beginning of chapter 6 of such title is amended by adding at the end the following new item:

"166b. Military-to-military contacts and comparable activities.".

(b) FUNDING.—Of the amount authorized to be appropriated under section 301(5) for operation and maintenance for Defense-wide activities, $46,300,000 shall be available to the Secretary of Defense for the purposes of carrying out activities under section 166b of title 10, United States Code, as added by subsection (a).

SEC. 1016. FOREIGN DISASTER RELIEF.

(a) AUTHORITY.—(1) Subchapter I of chapter 20 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 404. Foreign disaster relief

"(a) IN GENERAL.—The President may conduct disaster relief activities outside the United States to respond to manmade or natural disasters when necessary to prevent loss of lives.

"(b) FORMS OF ASSISTANCE.—Assistance provided under this section may include transportation, supplies, services, and equipment.

"(c) DETERMINATION REQUIRED.—No assistance may be furnished pursuant to this section unless the President determines that the provision of disaster relief is in the national interest of the United States and is necessary to prevent loss of lives.

"(d) REPORT REQUIRED.—Not later than 48 hours after the commencement of disaster relief activities, the President shall transmit to the Congress a report containing the determination required by subsection (c) and a description of the following:

"(1) The manmade or natural disaster for which disaster relief is necessary.

"(2) The threat to human lives presented by the disaster.

"(3) The United States military personnel and material resources that are involved or expected to be involved.

"(4) The disaster relief that is being provided or is expected to be provided by other nations or public or private relief organizations.

"(5) The anticipated duration of the disaster relief activities.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following:

"404. Foreign disaster relief.".

(b) FUNDING OF ACTIVITIES.—Of the amount authorized to be appropriated under subsection 301(5), $46,300,000 shall be available to the Secretary of Defense for the purpose of carrying out disaster relief activities under section 404 of title 10, United States Code, as added by subsection (a).

SEC. 1017. BURDENSHARING POLICY AND REPORT.

(a) POLICY.—It is the policy of the United States that the North Atlantic Treaty Organization (NATO) allies should assist the United States in paying the incremental cost incurred by the United States for maintaining members of the Armed Forces in assignments to permanent duty ashore in Europe solely for performing United States obligations for support of NATO.

(b) IMPLEMENTATION.—The President shall take all necessary actions to ensure the effective implementation of the burdensharing policy set forth in subsection (a).

(c) REPORT.—The Secretary of Defense shall include in the annual burdensharing report required by section 1002(d) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note) the following matters:

(1) A specific enumeration and description of the United States military resources and military personnel assigned to permanent duty ashore in Europe primarily in support of NATO and an analysis of the cost of providing and maintaining such resources and personnel in such assignment primarily for that purpose.

(2) A specific enumeration and description of the United States military resources and military personnel assigned to permanent duty ashore in Europe primarily in support of other United States interests in other regions of the world and an analysis of the cost of providing and maintaining such resources and personnel in such assignment primarily for that purpose.

(3) A specific enumeration and description of the offsets to United States costs of providing and maintaining United States military resources and military personnel in Europe that the United States has previously received from other NATO member nations, set out by country and by type of assistance, including both "in-kind" assistance and direct cash reimbursement, and the projected offsets for the five fiscal years following the fiscal year in which the report is submitted.

(4) A detailed identification of the costs associated with maintaining United States military personnel in assignments to permanent duty ashore in Europe for NATO and the difference in cost that would result from stationing such personnel at military bases within the United States and continuing to assign to such personnel the mission to perform United States obligations under NATO.

(5) A comparison of the defense spending by each NATO member country as a percentage of Gross Domestic Product (GDP) beginning in 1985 and the projected future defense spending as a percentage of Gross Domestic Product through 2000.

(6) A review of all actions taken by the United States to ensure the effective implementation of the United States burdensharing policy set forth in subsection (a).

(d) INCREMENTAL COST DEFINED.—In this section, the term "incremental cost", with respect to maintaining members of the Armed Forces in assignments to permanent duty ashore in Europe, includes the cost of transportation to and from duty stations in Europe, any variation in the cost of housing and food as compared to the cost of housing and food for members of the Armed Forces stationed in the United States, and any additional expenditures associated with infrastructure necessary to support United States forces in Europe.

SEC. 1018. REVIEW AND REPORT REGARDING DEPARTMENT OF DEFENSE PROGRAMS RELATING TO REGIONAL SECURITY AND HOST NATION DEVELOPMENT IN THE WESTERN HEMISPHERE.

(a) FINDINGS.—Congress makes the following findings:

(1) The political environment in the Western Hemisphere has been characterized in recent years by significant democratic advances and an absence of international strife; but democracy is fragile in some nations of the region.

(2) It is desirable for the Department of Defense to perform a positive role in influencing regional armed forces to make positive contributions to the democratic process and to domestic development programs.

(3) Congress receives a number of annual reports relating to specific authorities granted to the Secretary of Defense under title 10, United States Code, such as the authorities relating to the conduct of bilateral or regional cooperation programs under section 1051, participation of developing countries in combined exercises under section 2110, and the training of special operations forces with friendly forces under section 2011.

(4) The annual reports are replete with statistics and dollar figures and generally lacking in substance.

(5) Congress does not receive annual reports with respect to other authorities of the Secretary of Defense, such as that relating to Latin American cooperation under section 1050 of title 10, United States Code.

(6) Testimony before Congress, including in particular the testimony of the Commander in Chief, United States Southern Command, and the Commander in Chief, United States Atlantic Command, has emphasized the conduct of a large number of complementary programs under the leadership and supervision of those two commanders to foster appropriate military roles in democratic host nations and to assist countries in developing forces properly trained to address their security needs, including needs regarding illegal immigration, insurgencies, smuggling of illegal arms, munitions, and explosives across borders, and drug trafficking.

(7) Most of the programs referred to in paragraph (6) provide excellent and often unique training and experience to the United States forces involved.

(8) The expansion of the military-to-military contact program to the Western Hemisphere will provide another tool to encourage a democratic orientation of the defense establishments and military forces of countries in the region.

(9) There is a need to conduct a comprehensive review of the several authorities in title 10, United States Code, for the Secretary of Defense to engage in cooperative regional security programs with other countries in the Western Hemisphere in order to determine whether the authorities continue to be appropriate and necessary, particularly in the light of the changed circumstances in the region.

(10) There is a need to conduct a comprehensive review of the various programs carried out pursuant to such authorities to ensure that such programs are designed to meet the needs of the host nations involved and the regional objectives of the United States.

(11) There is a need to assess the strengths and weaknesses of the various regional security organizations, defense forums, and defense education institutions in the Western Hemisphere in order to identify any improvements needed to harmonize the defense policies of the United States and those of friendly nations of the region.

(b) REPORT REQUIRED.—Not later than May 1, 1995, the Secretary of Defense, shall—

(1) carry out a comprehensive review and assessment of the matters referred to in paragraphs (9), (10), and (11) of subsection (a); and

(2) after consultation with the Chairman of the Joint Chiefs of Staff and the commanders of the combatant commands responsible for regions in the Western Hemisphere, submit to the Committees on Armed Services of the Senate and House of Representatives a report on regional defense matters.

(c) CONTENT OF REPORT.—The report shall contain a detailed and comprehensive description, discussion, and analysis of the following matters:

(1) The Department of Defense plan to support United States strategic objectives in the Western Hemisphere.

(2) The external and internal threats to the national security of the nations of the region.

(3) The various regional security cooperative programs carried out by the Department of Defense in the region in 1994, including training and education programs in the host nations and in the United States and defense contacts set forth on a country-by-country basis, the statutory authority, if any, for such programs, and the strategic objectives served.

(4) The various regional security organizations, defense forums, and defense education institutions that the United States maintains or in which the United States participates.

(5) An assessment of the contribution that such programs, defense contacts, organizations, forums, and institutions make to the advancement of regional security, host nation security and national development, and the strategic objectives of the United States.

(6) The changes made or to be made in the programs, organizations, forums, and institutions as a result of the comprehensive review.

(7) Any recommended legislation considered necessary to improve the ability of the Department to achieve its strategic objectives.

(d) CLASSIFICATION OF REPORT.—The report shall be submitted in an unclassified form and may, if necessary, have a classified supplement.

SEC. 1019. PAYMENTS-IN-KIND FOR RELEASE OF UNITED STATES OVERSEAS MILITARY FACILITIES TO NATO HOST COUNTRIES.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States has invested $6,500,000,000 in military infrastructure in North Atlantic Treaty Organization (NATO) countries.

(2) As part of an overall plan to reduce United States troop strength in Europe from 323,432 in 1987 to 100,000 by the end of 1996, the Department of Defense plans to close or

reduce United States military presence at 867 military sites overseas.

(3) Most of the overseas military sites announced for closure are in Europe where the United States has already closed 434 such sites.

(4) When the United States closes military sites in Europe, the United States brings the military personnel home but leaves buildings, roads, sewers, and other real property improvements behind.

(5) Some allies have agreed to pay the United States for the residual value of the real property improvements left behind.

(6) Although the United States military drawdown has been rapid since 1990, European allies have been slow to pay the United States the residual value of the sites released by the United States.

(7) As of 1994, the United States has recouped only $33,300,000 in cash, and most of that was recovered in 1989.

(8) Although the United States has released to Germany over 60 percent of the military sites planned for closure by the United States in that country and the current value of United States facilities to be returned to the German government is estimated at approximately $2,700,000,000, the German government has budgeted only $25,000,000 for fiscal year 1994 for payment of compensation for the United States investment in such improvements.

(b) POLICY.—It is the sense of Congress that—

(1) the President should redouble efforts to recover the value of the United States investment in the military infrastructure of NATO countries;

(2) the President should enter into negotiations with the government of each NATO host country with a presumption that payments to compensate the United States for the negotiated value of improvements will be made in cash and deposited in the Department of Defense Overseas Military Facility Investment Recovery Account;

(3) the President should enter into negotiations for payments-in-kind only as a last resort and only after informing the Congress that negotiations for cash payments have not been successful; and

(4) to the extent that in-kind contributions are received in lieu of cash payments in any fiscal year, the in-kind contributions should be used for projects which are identified priorities of the Department of Defense.

(c) REQUIREMENTS AND LIMITATIONS RELATING TO PAYMENTS-IN-KIND.—(1) Subsection (e) of section 2921 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2687 note) is amended—

(A) by inserting "(1)" after "NEGOTIATIONS FOR PAYMENTS-IN-KIND.—";

(B) by striking out "a written notice" and all that follows and inserting in lieu thereof "to the congressional defense committees (and one additional copy to each of the Subcommittees on Defense of the Committees on Appropriations of the Senate and the House of Representatives) a written notice regarding the intended negotiations."; and

(C) by adding at the end the following new paragraph:

"(2) The notice shall contain the following:

"(A) A justification for entering into negotiations for payments-in-kind with the host country.

"(B) The types of benefit options to be pursued by the Secretary in the negotiations.

"(C) A discussion of the adjustments that are intended to be made in the future-years defense program or in the budget of the Department of Defense for the fiscal year in which the notice is submitted or the following fiscal year in order to reflect costs that it may no longer be necessary for the United States to incur as a result of the payments-in-kind to be sought in the negotiations.".

(2) Such section is amended by adding at the end the following new subsection:

"(h) CONGRESSIONAL OVERSIGHT OF PAYMENTS-IN-KIND.—(1) Not less than 30 days before concluding an agreement for acceptance of military construction or facility improvements as a payment-in-kind, the Secretary of Defense shall submit to Congress a notification on the proposed agreement that contains the following matters:

"(A) A description of the military construction project or facility improvement project, as the case may be.

"(B) A certification that the project is needed by United States forces.

"(C) An explanation of how the project will aid in the achievement of the mission of those forces.

"(D) A certification that, if the project were to be carried out by the Department of Defense, appropriations would be necessary for the project and it would be necessary to provide for the project in the next future-years defense program.

"(2) Not less than 30 days before concluding an agreement for acceptance of host nation support or host nation payment of operating costs of United States forces as a payment-in-kind, the Secretary of Defense shall submit to Congress a notification on the proposed agreement that contains the following matters:

"(A) A description of each activity to be covered by the payment-in-kind.

"(B) A certification that the costs to be covered by the payment-in-kind are included in the budget of one or more of the military departments or that it will otherwise be necessary to provide for payment of such costs in a budget of one or more of the military departments.

"(C) A certification that, unless the payment-in-kind is accepted or funds are appropriated for payment of such costs, the military mission of the United States forces with respect to the host nation concerned will be adversely affected.".

Subtitle C—Nonproliferation and Counterproliferation of Weapon Systems and Related Systems

SEC. 1021. EXTENSION AND REVISION OF NONPROLIFERATION AUTHORITIES.

(a) EXTENSION OF NONPROLIFERATION AUTHORITIES.—Section 1505 of the National Defense Authorization Act for Fiscal Year 1993 (22 U.S.C. 5859a) is amended—

(1) in subsection (a), by striking out "during fiscal year 1994" and inserting in lieu thereof "during fiscal years 1994 and 1995"; and

(2) in subsection (e), by striking out "fiscal year 1994" and inserting in lieu thereof "fiscal years 1994 and 1995".

(b) ACTIVITIES FOR WHICH ASSISTANCE MAY BE PROVIDED.—Subsection (b)(4) of such section is amended by striking out "nuclear proliferation through joint technical projects and improved intelligence sharing" and inserting in lieu thereof "nuclear, biological, chemical, and missile proliferation through technical projects and improved information sharing".

(c) SOURCES OF ASSISTANCE.—Subsection (d) of such section is amended—

(1) in paragraph (1)—

(A) by inserting "for fiscal year 1994" after "under this section"; and

(B) by striking out "fiscal year 1994 or" and inserting in lieu thereof "fiscal year 1994. Funds provided as assistance under this section for fiscal year 1995 shall be derived from amounts made available to the Department of Defense for fiscal year 1995. Alternatively, funds provided as assistance under this section for a fiscal year referred to in this paragraph may be derived"; and

(2) in paragraph (3), by inserting after "$25,000,000" the following: "for fiscal year 1994 or $15,000,000 for fiscal year 1995".

SEC. 1022. JOINT COMMITTEE FOR THE REVIEW OF COUNTERPROLIFERATION PROGRAMS OF THE UNITED STATES.

(a) COMPOSITION.—Subsection (a) of section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat 1845) is amended—

(1) in paragraph (1)—

(A) by striking out "Non-Proliferation" in the matter above subparagraph (A) and inserting in lieu thereof "Counterproliferation";

(B) by striking out subparagraphs (B) and (E); and

(C) by redesignating subparagraphs (C), (D), and (F) as subparagraphs (B), (C), and (D), respectively;

(2) in paragraph (2), by adding at the end the following: "The Secretary of Energy shall serve as the Vice Chairman of the committee.";

(3) in paragraph (4), by adding at the end the following: "The Secretary of Energy may delegate to the Under Secretary of Energy responsible for national security programs of the Department of Energy the performance of the duties of the Vice Chairman of the committee."; and

(4) by striking out paragraph (5).

(b) PURPOSES OF COMMITTEE.—Subsection (b) of such section is amended—

(1) in paragraph (1)(A), by striking out "nonproliferation policy" and inserting in lieu thereof "counterproliferation policy"; and

(2) by adding at the end the following new paragraphs:

"(3) To prioritize programs and funding.

"(4) To encourage and facilitate interagency and interdepartmental funding of programs in order to ensure necessary levels of funding to develop, operate, and field highly-capable systems.

"(5) To insure that Department of Energy programs are integrated with the operational needs of other departments and agencies of the Federal Government.

"(6) To ensure that Department of Energy national security programs include development of systems for deployment as well as research.".

(c) DUTIES.—Subsection (c) of such section is amended—

(1) in paragraph (1)—

(A) by striking out "(including counterproliferation capabilities) and technologies for support of United States nonproliferation policy" in the matter above subparagraph (A) and inserting in lieu thereof "and technologies for support of United States nonproliferation policy and counterproliferation policy";

(B) by inserting "and" at the end of subparagraph (D); and

(C) by striking out subparagraphs (F) and (G);

(2) by striking out paragraphs (2), (3), and (7);

(3) in paragraph (4), by striking out "to support fully the nonproliferation policy of the United States";

(4) by redesignating paragraphs (4), (5), and (6) as paragraphs (2), (3), and (4), respectively; and

(5) by adding at the end the following new paragraph (5):

"(5) assess each fiscal year the effectiveness of the committee actions during the preceding fiscal year, including, particularly, the status of recommendations made during such preceding fiscal year that were reflected in the budget submitted to Congress pursuant to section 1105(a) of title 31, United States Code, for the fiscal year following the fiscal year in which the assessment is made.".

(d) Committee Recommendations.—Subsection (e) of such section is amended to read as follows:

"(e) Recommendations.—The committee shall submit to the President and the heads of all appropriate departments and agencies of the Federal Government such programmatic recommendations regarding existing, planned, or new programs as the committee considers appropriate to encourage funding for capabilities and technologies at the level necessary to support United States counterproliferation policy.".

(e) Extension of Committee.—Subsection (f) of such section is amended by striking out "six months after the date on which the report of the Secretary of Defense under section 1606 is submitted to Congress" and inserting in lieu thereof "at the end of September 30, 1996".

SEC. 1023. REPORT ON COUNTERPROLIFERATION ACTIVITIES AND PROGRAMS.

(a) Report Required.—Not later than May 1, 1995, and not later than May 1 of each year thereafter, the Secretary of Defense shall submit to the appropriate committees of Congress a report of the findings of the Counterproliferation Program Review Committee established by section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat 1845). The Secretary shall submit any special annex of the report to the committees of Congress that traditionally receive information in the annex in the performance of oversight functions of such committees.

(b) Content of the Report.—The report shall include the following matters:

(1) A complete list, by specific program element, of the existing, planned, or newly proposed capabilities and technologies reviewed by the committee pursuant to section 1605(c) of Public Law 103–160.

(2) A complete description of the requirements and priorities established by the Counterproliferation Program Review Committee.

(3) A comprehensive discussion of the near-term, mid-term, and long-term programmatic options formulated by the committee for meeting requirements prescribed by the committee and for eliminating deficiencies identified by the committee, including the annual funding requirements and completion dates established for each such option.

(4) An explanation of the recommendations made pursuant to section 1605(c) of Public Law 103–160, together with a full discussion of the actions taken to implement such recommendations or otherwise taken on the recommendations.

(5) A discussion and assessment of the status of each committee recommendation during the fiscal year preceding the fiscal year in which the report is submitted, including, particularly, the status of recommendations made during such preceding fiscal year that were reflected in the budget submitted to Congress pursuant to section 1105(a) of title 31, United States Code, in the fiscal year of the report.

(6) Each specific Department of Energy program that the Secretary of Energy plans to develop to initial operating capability and each such program that the Secretary does not plan to develop to initial operating capability.

(7) For each technology program scheduled to reach initial operational capability, a recommendation from the Chairman of the Joint Chiefs of Staff that represents the views of the commanders of the unified and specified commands regarding the utility and requirement of the program.

(c) Forms of Report.—The report shall be submitted in both unclassified and classified forms, including an annex to the classified report for special compartmented information programs, special access programs, and special activities programs.

(d) Definitions.—In this section:

(1) The term "appropriate committees of Congress" means—

(A) the Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the House of Representatives.

(2) The term "intelligence community" has the meaning given such term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

SEC. 1024. AMOUNTS FOR COUNTERPROLIFERATION ACTIVITIES.

(a) Counterproliferation Activities.—Of the amount authorized to be appropriated in section 201(4), $12,500,000 shall be available for counterproliferation activities.

(b) Education in Support of Counterproliferation Activities.—Of the amount authorized to be appropriated in section 301(5), not more than $1,000,000 shall be available for providing education to members of the Armed Forces in matters relating to counterproliferation.

(c) Additional Authority To Transfer Authorizations.—(1) In addition to the transfer authority provided in section 1001, upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1995 to counterproliferation programs, projects, and activities identified as areas for progress by the Joint Committee for the Review of Counterproliferation Programs established by section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1845). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of this subsection may not exceed $100,000,000.

(3) The authority provided by this subsection to transfer authorizations—

(A) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(B) may not be used to provide authority for an item that has been denied authorization by Congress.

(4) A transfer made from one account to another under the authority of this subsection shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(5) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this subsection.

(d) Use of Funds for Technology Development.—(1) Of the funds authorized to be appropriated by section 201(4) for a counterproliferation technology project in Program Element 602301E—

(A) $5,000,000 shall be available for a program to detect, locate, and disarm weapons of mass destruction that are hidden by a hostile state or terrorist or terrorist group in confined area outside the United States; and

(B) $10,000,000 shall be available for the training program referred to in paragraph (3).

(2) The Secretary of Defense shall make funds available for the program referred to in paragraph (1)(A) in a manner that, to the maximum extent practicable, ensures the effective utilization of existing resources of the national weapons laboratories.

(3)(A) The training program referred to in paragraph (1)(B) is a training program carried out jointly by the Secretary of Defense and the Director of the Federal Bureau of Investigation in order to expand and improve United States efforts to deter the possible proliferation and acquisition weapons of mass destruction by organized crime organizations in Eastern Europe, the Baltic countries, and the former Soviet Union.

(B) The funds available under paragraph (1)(B) for the program referred to in subparagraph (A) may not be obligated or expended for that program until the Secretary of Defense and the Director of the Federal Bureau of Investigation jointly submit to the congressional defense committees a report that—

(i) identifies the nature and extent of the threat posed to the United States by the possible proliferation and acquisition of weapons of mass destruction by organized crime organizations in Eastern Europe, the Baltic countries, and the former Soviet Union;

(ii) assesses the actions that the United States should undertake in order to assist law enforcement agencies of Eastern Europe, the Baltic countries, and the former Soviet Union in the efforts of such agencies to prevent and deter the theft of nuclear weapons material; and

(iii) contains an estimate of—

(I) the cost of undertaking such actions, including the costs of personnel, support equipment, and training;

(II) the time required to commence the carrying out of the program referred to in paragraph (1); and

(III) the amount of funds, if any, that will be required in fiscal years after fiscal year 1995 in order to carry out the program.

SEC. 1025. RESTRICTION RELATING TO REPORT ON PROLIFERATION OF FOREIGN MILITARY SATELLITES.

None of the funds available to the Department of Defense for travel may be expended for travel by the Assistant Secretary of Defense for International Security Policy until the Secretary of Defense submits to Congress the report required by section 1363 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2560) together with the certification required by section 211(d) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1584).

Subtitle D—Peace Operations

SEC. 1031. REPORTS ON REFORMING MULTILATERAL PEACE OPERATIONS.

(a) Reports Required.—The Secretary of Defense shall submit to the congressional defense committees two reports on United

States proposals for improving United Nations management of peace operations. The Secretary shall submit the first report not later than December 1, 1994, and the second report not later than June 1, 1995.

(b) CONTENT OF REPORTS.—(1) Each report shall contain—

(A) a discussion of the status of implementation of United States proposals contained in section IV (relating to strengthening the United Nations) of the document entitled "The Clinton Administration's Policy on Reforming Multilateral Peace Operations" that was issued by the Executive Office of the President in May 1994; and

(B) an analysis of the results of such implementation.

(2) Each report shall cover, at a minimum, the following matters:

(A) The reconfiguration and expansion of the staff for the United Nations Department of Peacekeeping Operations.

(B) The elimination by the United Nations of lengthy, potentially disastrous delays after a peace operation has been authorized.

(C) The establishment by the United Nations of a professional peace operations training program for commanders and other military and civilian personnel.

(D) United States assistance to facilitate improvements by the United Nations in the matters described in subparagraphs (A) and (C) and the terms under which such assistance has been or is being provided.

(c) DEFINITION.—Is this section, the term "peace operation" means an operation to maintain or restore international peace and security under chapter VI or chapter VII of the Charter of the United Nations.

SEC. 1032. SUPPORT FOR INTERNATIONAL PEACEKEEPING AND PEACE ENFORCEMENT.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should initiate consultations with the bipartisan leadership of Congress, including the leadership of the relevant committees, as far in advance as possible regarding international peacekeeping or peace enforcement activities of the United Nations that would involve the participation of United States combat forces and such consultations should continue throughout the duration of such activities;

(2) the consultations should take place prior to the vote by the United States on United Nations Security Council resolutions authorizing, extending, or revising the mandates for these types of activities;

(3) United Nations Security Council resolutions authorizing peacekeeping or peace enforcement activities should clearly state the threat to international peace and security presented by the conflict in question, as well as the political and military objectives, the anticipated duration, and an exit strategy for each activity;

(4) the United States should be fully reimbursed for troop contributions and assistance provided to United Nations peacekeeping and peace enforcement activities;

(5) the United Nations should rarely conduct peace enforcement operations in view of the complexity of such operations and the difficulty of achieving unity of command and expeditious decisionmaking through the United Nations;

(6) United States combat forces should be under the operational control of qualified commanders and should have clear and effective command and control arrangements, appropriate rules of engagement, and clear and unambiguous mission statements;

(7) United States combat forces should not be under the command and control of foreign commanders in peace enforcement operations conducted by the United Nations except in the most extraordinary circumstances; and

(8) the Secretary of Defense should have the lead responsibility within the executive branch for the management of peacekeeping and peace enforcement activities of the United Nations in which United States combat forces participate.

(b) SUPPORT AUTHORIZED.—(1) Section 403 of title 10, United States Code, is amended to read as follows:

"§403. International peacekeeping and international peace enforcement: support involving United States combat forces

"(a) AUTHORITY.—Notwithstanding any other provision of law, the Secretary of Defense may—

"(1) pay, out of funds in the Contributions for International Peacekeeping and Peace Enforcement Activities Fund established by subsection (g), the United States fair share (as determined by the Secretary) of assessments for international peacekeeping or international peace enforcement activities of the United Nations in which United States combat forces participate; and

"(2) furnish assistance, on a reimbursable basis, in support of such activities.

"(b) FORMS OF ASSISTANCE.—Assistance provided under this section may include supplies, services, and equipment.

"(c) DETERMINATION REQUIRED.—No assessment may be paid and no assistance may be furnished pursuant to this section unless the President determines that the provision of assistance is in the national interest of the United States.

"(d) ADVANCE NOTICE.—(1) In the case of any international peacekeeping or international peace enforcement operation of the United Nations in which United States combat forces are to participate, not less than 15 days before an initial deployment of United States combat forces, payment of a United Nations assessment, furnishing of assistance of a value in excess of $14,000,000, or waiver of reimbursement to the United States under subsection (e), the President shall transmit to the designated congressional committees a report, which may be classified in whole or in part, that contains the determination required by subsection (c) and the following matters:

"(A) A description of the threat to international peace and security presented by the conflict involved.

"(B) The United States interests that will be advanced by the operation and by the United States action.

"(C) The political and military objectives of the operation.

"(D) The exit criteria and likely duration of the operation.

"(E) The personnel and material resources that have been pledged, or are otherwise expected to be made available, by other nations to the United Nations for the operation.

"(F) The units of the armed forces that will participate.

"(G) The necessity for involvement of United States forces.

"(H) The command arrangements for those forces and, if any of the United States forces are to be placed under the operational control of foreign commanders, the justification for doing so.

"(I) The rules of engagement for the operation.

"(J) An assessment of the risks involved in the operation.

"(K) In the case of payment of an assessment, the amount to be paid and the terms under which the payment is to be made.

"(L) In the case of assistance, the supplies, services, or equipment to be provided by the United States and the terms under which such supplies, services, or equipment are to be provided.

"(M) In the case of a waiver of reimbursement, the justification for the waiver.

"(2) If the President determines that an unforeseen emergency requires the immediate deployment of United States combat troops or the immediate furnishing of assistance of a value in excess of $14,000,000 under this section, the President—

"(A) may waive the requirement of paragraph (1) that a report be transmitted at least 15 days in advance of the action; and

"(B) shall promptly notify the designated committees of such waiver and such deployment or transfer.

"(e) REIMBURSEMENT.—(1) The President shall require reimbursement from the United Nations or from any other source for the participation of any force of the armed forces in support of international peacekeeping or international peace enforcement activities of the United Nations or for the provision of assistance by the Secretary of Defense in support of such activities.

"(2) Any funds received as reimbursements shall be used as follows:

"(A) As a first priority, for the payment of the incremental costs of the military departments and Defense Agencies providing the participating United States forces or the supplies, services, or equipment involved.

"(B) As a second priority, for the payment of the incremental costs of any other United States forces that are operating in support of international peacekeeping or international peace enforcement activities but for which reimbursement is not possible.

"(3) After use of reimbursement funds for the purposes specified in paragraph (2), any remainder of such funds shall be credited to the Contributions for International Peacekeeping and Peace Enforcement Activities Fund established by subsection (g).

"(4) Reimbursements utilized for the payment of incremental costs shall be credited, at the option of the Secretary of the military department concerned or the head of the Defense Agency concerned, either to an appropriation, fund, or other account obligated to pay such costs or to an appropriate appropriation, fund, or other account available for paying such costs.

"(f) WAIVER OF REIMBURSEMENT.—The President may waive, in whole or in part, any reimbursement required under subsection (a)(2) or (e) in exceptional circumstances upon determining that such waiver is in the national interest of the United States.

"(g) ESTABLISHMENT OF ACCOUNT.—There is hereby established in the Treasury of the United States a fund to be known as the 'Contributions for International Peacekeeping and Peace Enforcement Activities Fund'. Amounts appropriated or otherwise credited to the Fund shall be available until expended for, and shall be used for, paying assessments for United Nations operations under this section.

"(h) AUTHORITY INAPPLICABLE WHEN UNITED STATES COMBAT FORCES NOT INVOLVED.—The authority in subsection (a) to pay United Nations assessments for international peacekeeping and international peace enforcement activities of the United Nations may not be construed as authorizing payment of United Nations assessments for any such activity in which United States combat forces do not participate.

"(i) Coordination With Other Laws.—This section may not be construed as superseding any provision of the War Powers Resolution. This section does not provide authority for the participation of United States combat forces in any international peacekeeping or international peace enforcement operation.

"(j) Definitions.—In this section:

"(1) The term 'designated congressional committees' means the Committees on Armed Services, Appropriations, and Foreign Relations of the Senate and the Committees on Armed Services, Appropriations, and Foreign Affairs of the House of Representatives.

"(2) The term 'combat forces' means forces of the armed forces that have combat missions as primary missions.

"(3) The term 'international peacekeeping' means those activities performed pursuant to Chapter VI of the United Nations Charter.

"(4) The term 'international peace enforcement' means those activities performed pursuant to Chapter VII of the United Nations Charter.".

(2) The item relating to section 403 in the table of sections at the beginning of subchapter I of chapter 20 of such title is amended to read as follows:

"403. International peacekeeping and international peace enforcement: support involving United States combat forces.".

(c) Authorized Support for Fiscal Year 1995.—Not more than $300,000,000 is authorized to be appropriated for fiscal year 1995 for the Contributions for International Peacekeeping and Peace Enforcement Activities Fund under section 301(20).

Subtitle E—Reporting Requirements

SEC. 1041. REPORT ON OFFENSIVE BIOLOGICAL WARFARE PROGRAM OF THE STATES OF THE FORMER SOVIET UNION.

(a) Findings.—Congress makes the following findings:

(1) The United States has identified nonproliferation as a high priority in the conduct of United States national security policy.

(2) The United States is seeking universal adherence to global regimes that control nuclear, chemical, and biological weapons and is promoting new measures that provide increased transparency of biological weapons-related activities and facilities in an effort to help deter violations of and enhance compliance with the Biological Weapons Convention (BWC).

(3) Questions continue to arise regarding offensive biological weapons research, development, testing production, and storage in the countries of the former Soviet Union as well as in other countries.

(b) Sense of Congress.—It is the sense of Congress that—

(1) the President should continue to urge all signatories to the Biological Weapons Convention to comply fully with the terms of that convention and with other international agreements relating to the control of biological weapons; and

(2) as the President encourages increased transparency of biological weapons-related activities and facilities to deter violations of and enhance compliance with the Biological Weapons Convention, the President should also take appropriate actions to ensure that the United States is prepared to counter the effects of use of biological weapons by others.

(c) Report Required.—Not later than 120 days after the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the status of the offensive biological warfare program in the Russian Federation and the other independent states of the former Soviet Union.

(d) Content of Report.—The report shall include the following matters:

(1) An assessment of the extent of compliance of the independent states of the former Soviet Union with the Biological Weapons Convention and other international agreements relating to the control of biological weapons.

(2) An evaluation of the extent of control and oversight by the government of the Russian Federation over the former Soviet military and dual civilian-military biological warfare programs.

(3) The extent, if any, of the biological warfare agent stockpile in any of the independent states of the former Soviet Union.

(4) The extent and scope, if any, of continued biological warfare research, development, testing, and production by such state, including the sites and types of activity at those sites.

(5) An evaluation of the effectiveness of possible delivery systems of biological weapons, including tube and rocket artillery, bomber aircraft, and ballistic missiles.

(6) An evaluation of United States capabilities to detect and monitor biological warfare research, development, testing, production, and storage.

(7) On the basis of the assessment and evaluations referred to in other paragraphs of this subsection, recommendations by the Secretary of Defense and Chairman of the Joint Chiefs of Staff for the improvement of United States biological warfare defense and counter-measures.

(e) Form of Report.—The Secretary shall submit the report in classified and unclassified versions.

(f) Definitions.—In this section:

(1) The term "Biological Weapons Convention" means the Convention on the Prohibition, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, done at Washington, London, and Moscow on April 10, 1972.

(2) The term "independent states of the former Soviet Union" has the same meaning given that term in section 3 of the FREEDOM Support Act (22 U.S.C. 5801).

SEC. 1042. TERMINATION OF CERTAIN DEPARTMENT OF DEFENSE REPORTING REQUIREMENTS.

(a) Immediate Termination.—Except as provided in subsection (c), notwithstanding the date set forth in subsection (a) of section 1151 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1758; 10 U.S.C. 113 note), the reporting requirements referred to in subsection (b) are terminated effective on the date of the enactment of this Act.

(b) Applicability.—Subsection (a) applies to each reporting requirement specified in enclosures 1 and 2 of the letter, dated April 29, 1994, by which the Director for Administration and Management, Office of the Secretary Defense, citing the authority of the provision of law referred to in subsection (a), submitted a list of reporting requirements recommended for termination by the Department of Defense.

(c) Preservation of Requirements.—(1) The reporting requirements set forth in the provisions of law referred to in paragraph (2) shall not terminate under subsection (a) of section 1151 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1758; 10 U.S.C. 113 note).

(2) Paragraph (1) applies to the following reports:

(A) Reports required under the following provisions of title 10, United States Code:

(i) Section 2662, relating to reports on real property transactions.

(ii) Section 2672a(b), relating to reports on urgent acquisitions of land.

(iii) Section 2687(b)(1), relating to notifications of certain base closures and realignments.

(iv) Section 2690(b)(2), relating to notifications of proposed conversions of heating facilities at United States installations in Europe.

(v) Section 2804(b), relating to reports on contingency military construction projects.

(vi) Section 2806(c)(2), relating to reports on contributions for NATO infrastructure in excess of amounts appropriated for such contributions.

(vii) Subsections (b) and (c) of section 2807, relating to notifications and reports on architectural and engineering services and construction design.

(viii) Section 2823(b), relating to notifications regarding disagreements between certain officials on the availability of locations for suitable alternative housing for the Department of Defense.

(ix) Subsections (b) and (c) of section 2825, relating to notifications regarding improvements of family housing or construction of replacement family housing.

(x) Section 2827(b), relating to notifications regarding relocation of military family housing units.

(xi) Section 2835(g)(1), relating to economic analyses on the cost effectiveness of leasing family housing to be constructed or rehabilitated.

(xii) Section 2861(a), relating to the annual report on military construction activities and family housing activities.

(xiii) Subsections (e) and (f) of section 2865, relating to notifications regarding unauthorized energy conservation construction projects and an annual report regarding energy conservation actions.

(B) Reports required under the following provisions of title 37, United States Code:

(i) Section 406(i), relating to the annual report regarding dependents accompanying members stationed outside the United States in relation to the eligibility of such members to receive travel and transportation allowances.

(ii) Section 1008(a), relating to the annual report by the President on adjustments of rates of pay and allowances for members of the uniformed services.

(C) Reports required under the following provisions of law:

(i) Section 326(a)(5) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2368; 10 U.S.C. 2301 note), relating to reports on use of certain ozone-depleting substances.

(ii) Subsections (e) and (f) of section 2921 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2687 note), relating to notifications regarding negotiations for payments-in-kind for the release of improvements at overseas military installations to host countries and an annual report on the status and use of the Department of Defense Overseas Military Facility Investment Recovery Account.

(iii) Section 1505(f)(3) of the Military Child Care Act of 1989 (title XV of Public Law 101–189; 103 Stat. 1594; 10 U.S.C. 113 note), relating to reports on closures of military child development centers.

(iv) Subsections (a) and (d) of section 7 of the Organotin Antifouling Paint Control Act of 1988 (Public Law 100–133; 102 Stat. 607; 33 U.S.C. 2406), relating to the annual report on the monitoring of estuaries and near-coastal waters for concentrations of organotin.

Subtitle F—Acceptance of Pre-release Services of Nonviolent Offenders

SEC. 1051. USE OF INMATE LABOR AT MILITARY INSTALLATIONS.

(a) USE OF INMATE LABOR AUTHORIZED.—Chapter 155 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2610. Acceptance of services of inmates of State and local correctional facilities

"(a) USE OF INMATE LABOR.—Subject to subsection (c), the Secretary of a military department may accept in accordance with this section the services of nonviolent offenders incarcerated in a correctional facility of a State or local government. Services so accepted shall be performed at a military installation in the vicinity of the correctional facility pursuant to an agreement entered into by the Secretary and the chief executive of the State or local government.

"(b) AUTHORIZED SERVICES.—The services authorized to be accepted are as follows:

"(1) Construction, maintenance, or repair of roads.

"(2) Construction of levees or other flood prevention structures.

"(3) Construction, maintenance, or repair of any other public ways or works.

"(4) Clearance, maintenance, or reforesting of public lands.

"(5) Custodial services.

"(c) CONDITIONS FOR ACCEPTANCE OF SERVICES.—The Secretary may accept the services of nonviolent offenders for a military installation under this section only if the Secretary finds that—

"(1) Federal Government employees and contractor employees performing services at the installation will not be displaced;

"(2) no contract for the provision of services at the installation will otherwise be impaired; and

"(3) in the case of services in any skill, craft, or trade, there is no surplus of labor for hire in such skill, craft, or trade in the vicinity of the installation.

"(d) LIMITATION ON PAYMENTS TO CUSTODIAL GOVERNMENTS.—(1) Except as provided in paragraph (2), the Secretary of a military department may not compensate a State or local government for the costs incurred by such government in the provision of services accepted under this section.

"(2) The Secretary may—

"(A) reimburse a State or local government for administrative and other costs directly incurred by that government in making available and supervising offenders as they provide services accepted under this section; and

"(B) pay a nominal amount to the State or local government in order to support any alcohol and drug abuse treatment programs conducted by that government for the offenders who provide such services.

"(e) PROHIBITION ON COMPENSATION OF INMATES.—The Secretary may not compensate any offender for services accepted under this section.

"(f) SUPPORT AUTHORIZED.—The Secretary may provide equipment, supplies, or other materials to be used by offenders in the provision of services accepted under this section.

"(g) INAPPLICABILITY OF OTHER LAWS.—The following provisions of law shall not apply with respect to services accepted under this section:

"(1) Section 1342 of title 31.

"(2) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

"(3) The Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (46 Stat. 1494; 40 U.S.C. 276a et seq.), commonly referred to as the 'Davis-Bacon Act'.

"(4) The Act entitled 'An Act to provide conditions for the purchases of supplies and the making of contracts by the United States, and for other purposes', approved June 30, 1936 (49 Stat. 2036; 41 U.S.C. 35 et seq.), commonly referred to as the 'Walsh-Healey Act'.

"(5) The Service Contract Act of 1965 (41 U.S.C. 351 et seq.).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2610. Acceptance of services of inmates of State and local correctional facilities.".

SEC. 1052. REVISION OF AUTHORITY FOR USE OF NAVY INSTALLATIONS TO PROVIDE EMPLOYMENT TRAINING TO NONVIOLENT OFFENDERS IN STATE PENAL SYSTEMS.

(a) SOURCES OF TRAINING.—Subsection (b) of section 1374 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1821; 10 U.S.C. 5013 note) is amended—

(1) by striking out the subsection caption and inserting in lieu thereof "SOURCES OF TRAINING.—"; and

(2) by inserting before the period at the end the following: "or may provide such training directly at such installations by agreement with the State concerned".

(b) LIABILITY AND INDEMNIFICATION.—Subsection (e) of such section is amended—

(1) by inserting "(1)" before "A nonprofit organization"; and

(2) by adding at the end the following:

"(2) In any case in which the Secretary provides prerelease employment training directly by agreement with the State concerned, the State shall—

"(A) be liable for any loss or damage to Federal Government property that may result from, or in connection with, the provision of the training except to the extent that the loss or damage results from a wrongful act or omission of Federal Government personnel; and

"(B) hold harmless and indemnify the United States from and against any suit, claim, demand, action, or liability arising out of any claim for personal injury or property damage that may result from, or in connection with, the provision of the training except to the extent that the personal injury or property damage results from a wrongful act or omission of Federal Government personnel.".

SEC. 1053. USE OF ARMY INSTALLATIONS TO PROVIDE EMPLOYMENT TRAINING TO NONVIOLENT OFFENDERS IN STATE PENAL SYSTEMS.

(a) DEMONSTRATION PROJECT AUTHORIZED.—The Secretary of the Army may conduct a demonstration project to test the feasibility of using Army facilities to provide employment training to nonviolent offenders in a State penal system prior to their release from incarceration. The demonstration project shall be limited to not more than three military installations under the jurisdiction of the Secretary.

(b) SOURCES OF TRAINING.—The Secretary may enter into a cooperative agreement with one or more private, nonprofit organizations for purposes of providing at the military installations included in the demonstration project the prerelease employment training authorized under subsection (a) or may provide such training directly at such installations by agreement with the State concerned.

(c) USE OF FACILITIES.—Under a cooperative agreement entered into under subsection (b), the Secretary may lease or otherwise make available to a nonprofit organization participating in the demonstration project at a military installation included in the demonstration project any real property or facilities at the installation that the Secretary considers to be appropriate for use to provide the prerelease employment training authorized under subsection (a). Notwithstanding section 2667(b)(4) of title 10, United States Code, the use of such real property or facilities may be permitted with or without reimbursement.

(d) ACCEPTANCE OF SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept voluntary services provided by persons participating in the prerelease employment training authorized under subsection (a).

(e) LIABILITY AND INDEMNIFICATION.—(1) A nonprofit organization participating in the demonstration project shall—

(A) be liable for any loss or damage to Federal Government property that may result from, or in connection with, the provision of prerelease employment training by the organization under the demonstration project; and

(B) hold harmless and indemnify the United States from and against any suit, claim, demand, action, or liability arising out of any claim for personal injury or property damage that may result from or in connection with the demonstration project.

(2) In any case in which the Secretary provides prerelease employment training directly by agreement with the State concerned, the State shall—

(A) be liable for any loss or damage to Federal Government property that may result from, or in connection with, the provision of the training except to the extent that the loss or damage results from a wrongful act or omission of Federal Government personnel; and

(B) hold harmless and indemnify the United States from and against any suit, claim, demand, action, or liability arising out of any claim for personal injury or property damage that may result from, or in connection with, the provision of the training except to the extent that the personal injury or property damage results from a wrongful act or omission of Federal Government personnel.

(f) REPORT.—Not later than two years after the date of the enactment of this Act, the Secretary shall submit to Congress a report evaluating the success of the demonstration project and containing such recommendations with regard to the termination, continuation, or expansion of the demonstration project as the Secretary considers appropriate.

Subtitle G—Discrimination and Sexual Harassment

SEC. 1056. DEPARTMENT OF DEFENSE POLICIES AND PROCEDURES ON DISCRIMINATION AND SEXUAL HARASSMENT.

(a) MILITARY DEPARTMENT POLICIES.—(1) Subject to paragraph (2), the Secretary of the Navy and the Secretary of the Air Force shall review and revise the regulations of the Department of the Navy and the Department of the Air Force, respectively, relating to equal opportunity policy and complaint procedures to ensure that the such regulations are substantially equivalent to the regulations of the Army on such matters.

(2) In revising regulations pursuant to paragraph (1), the Secretary of the Navy or the Secretary of the Air Force, as the case may be, may make such additions and modifications as the Secretary of Defense determines appropriate to strengthen the regulations beyond the substantial equivalent of the Army regulations in accordance with—

(A) the recommendations of the Department of Defense Task Force on Discrimination and Sexual Harassment; and

(B) the experience of the Army, Navy, Air Force, and Marine Corps regarding equal opportunity cases.

(3) The Secretary of the Army shall review the regulations of the Department of the Army relating to equal opportunity policy and complaint procedures and revise the regulations as the Secretary of Defense considers appropriate to strengthen the regulations in accordance with the recommendations and experience described in subparagraphs (A) and (B) of paragraph (2).

(b) REQUIREMENTS REGARDING REPORT OF TASK FORCE ON DISCRIMINATION AND SEXUAL HARASSMENT.—(1) The Department of Defense Task Force on Discrimination and Sexual Harassment shall transmit the report of the task force to the Secretary of Defense not later than October 1, 1994.

(2) The Secretary of Defense shall transmit to Congress the report of the task force not later than October 10, 1994.

(3) Not later than 45 days after receiving the report, the Secretary of Defense shall—

(A) review the recommendations for action contained in such report;

(B) determine which recommendations the Secretary approves for implementation and which recommendations the Secretary disapproves; and

(C) submit to Congress a report that—

(i) identifies the approved recommendations and the disapproved recommendations; and

(ii) explains the reasons for each such approval and disapproval.

(4) The Secretary of Defense shall implement the approved recommendations not later than April 1, 1995.

(c) The Advisory Board or the investigative capability of the Department of Defense should consider and include in its report—

(1) whether the Department of Defense should establish a separate unit to oversee all matters related to allegations of discrimination or sexual misconduct in the Department of Defense; and

(2) whether additional data collection and reporting procedures are needed to enhance the ability of the Department of Defense to deal with sexual misconduct.

(d) The Secretary of Defense shall ensure that regulations governing consideration of equal opportunity matters in performance evaluations include consideration of an individual's commitment to elimination of discrimination or of sexual harassment.

Subtitle H—Other Matters

SEC. 1061. REDESIGNATION OF UNITED STATES COURT OF MILITARY APPEALS AND THE COURTS OF MILITARY REVIEW.

(a) UNITED STATES COURT OF APPEALS FOR THE ARMED SERVICES.—Section 941 of title 10, United States Code (article 141 of the Uniform Code of Military Justice), is amended by striking out "United States Court of Military Appeals" and inserting in lieu thereof "United States Court of Appeals for the Armed Services".

(b) COURTS OF MILITARY CRIMINAL APPEALS.—Section 866 of title 10, United States Code (article 66 of the Uniform Code of Military Justice), is amended by striking out "Court of Military Review" each place it appears and inserting in lieu thereof "Court of Military Criminal Appeals".

(c) CONFORMING AMENDMENTS TO TITLE 10.—(1) The following sections of title 10, United States Code, are amended by striking out "Court of Military Appeals" each place it appears and inserting in lieu thereof "Court of Appeals for the Armed Services": sections 707(a)(2), 866(e), 867, 867a(a), 870, 871(c)(1), 873, 942, 943, 944, 945, and 946(b)(1).

(2) The following sections of title 10, United States Code, are amended by striking out "Court of Military Review" each place it appears and inserting in lieu thereof "Court of Military Criminal Appeals": sections 707(a)(2), 862(b), 867, 868, 869, 870, 871, and 873.

(3)(A) The heading of subchapter XII of chapter 47 of such title is amended to read as follows:

"SUBCHAPTER XII—UNITED STATES COURT OF APPEALS FOR THE ARMED SERVICES".

(B) The table of subchapters at the beginning of chapter 47 of such title is amended by striking out the item relating to subchapter XII and inserting in lieu thereof the following:

"XII. United States Court of Appeals for the Armed Services .... 941 141".

(4)(A) The heading of section 866 of such title is amended to read as follows:

"§867. Art. 66. Review by Court of Military Criminal Appeals".

(B) The heading of section 867 of such title is amended to read as follows:

"§867. Art. 67. Review by the Court of Appeals for the Armed Services".

(C) The table of sections at the beginning of subchapter IX of chapter 47 of such title is amended by striking out the items relating to sections 866 and 867 (articles 66 and 67) and inserting in lieu thereof the following:

"866. 66. Review by Court of Military Criminal Appeals.
"867. 67. Review by the Court of Appeals for the Armed Services.".

(d) CONFORMING AMENDMENTS TO OTHER UNITED STATES CODE TITLES.—(1) The following provisions of the United States Code are amended by striking out "Court of Military Appeals" each place it appears and inserting in lieu thereof "Court of Appeals for the Armed Services":

(A) In title 5, sections 8334(a)(1), 8336(l), 8337(a), 8338(c), 8339(d)(7), and 8339(h) and the table in 8334(c).

(B) In title 18, sections 202(e)(2) and 6001(4).

(C) In title 28, sections 1259 and 2101(g).

(D) In title 44, section 906.

(2)(A) The heading of section 1259 of title 28, United States Code, is amended to read as follows:

"§1259. Court of Appeals for the Armed Services; certiorari".

(B) The table of sections at the beginning of chapter 81 of such title is amended by striking out the item relating to section 1259 and inserting in lieu thereof the following:

"1259. Court of Appeals for the Armed Services; certiorari.".

(e) CONFORMING AMENDMENT TO OTHER LAW.—Section 109 of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking out "Court of Military Appeals" each place it appears in paragraphs (8) and (10) and inserting in lieu thereof "Court of Appeals for the Armed Services".

SEC. 1062. ASSISTANCE TO FAMILY MEMBERS OF CERTAIN POW/MIAS WHO REMAIN UNACCOUNTED FOR.

(a) SINGLE POINT OF CONTACT.—The Secretary of Defense shall designate an official of the Department of Defense to serve as a single point of contact within the department—

(1) for the immediate family members (or their designees) of any unaccounted-for Korean conflict POW/MIA; and

(2) for the immediate family members (or their designees) of any unaccounted-for Cold War POW/MIA.

(b) FUNCTIONS.—The official designated under subsection (a) shall serve as a liaison between the family members of unaccounted-for Korean conflict POW/MIAs and unaccounted-for Cold War POW/MIAs and the Department of Defense and other Federal departments and agencies that may hold information that may related to such POW/MIAs. The functions of that official shall include assisting family members—

(1) with the procedures the family may follow in their search for information about the unaccounted-for Korean conflict POW/MIA or unaccounted-for Cold War POW/MIA, as the case may be;

(2) in learning where they may locate information about the unaccounted-for POW/MIA; and

(3) in learning how and where to identify classified records that contain pertinent information and that will be declassified.

(c) ASSISTANCE IN OBTAINING DECLASSIFICATION.—The official designated under subsection (a) shall seek to obtain the rapid declassification of any relevant classified records that are identified.

(d) REPOSITORY.—The official designated under subsection (a) shall provide for a centralized repository for all documents relating to unaccounted-for Korean conflict POW/MIAs and unaccounted-for Cold War POW/MIAs that are located as a result of the official's efforts.

(e) DEFINITIONS.—For purposes of this section:

(1) The term "unaccounted-for Korean conflict POW/MIA" means a member of the Armed Forces or civilian employee of the United States who, as a result of service during the Korean conflict, was at any time classified as a prisoner of war or missing-in-action or otherwise unaccounted for and whose person or remains have not been returned to the United States and who remains unaccounted for.

(2) The term "unaccounted-for Cold War POW/MIA" means a member of the Armed Forces or civilian employee of the United States who, as a result of service during the period from September 2, 1945, to August 21, 1991, was at any time classified as a prisoner of war or missing-in-action or otherwise unaccounted for and whose person or remains have not been returned to the United States and who remains unaccounted for.

(3) The term "Korean conflict" has the meaning given such term in section 101(9) of title 38, United States Code.

SEC. 1063. NATIONAL GUARD ASSISTANCE FOR CERTAIN YOUTH AND CHARITABLE ORGANIZATIONS.

(a) AUTHORITY TO PROVIDE ASSISTANCE.—Chapter 5 of title 32, United States Code, is amended by adding at the end the following:

"§508. Assistance for certain youth and charitable organizations

"(a) AUTHORITY TO PROVIDE SERVICES.—Members and units of the National Guard may provide the services described in subsection (b) to an eligible organization in conjunction with training required under this chapter in any case in which—

"(1) the provision of such services does not adversely affect the quality of that training or otherwise interfere with the ability of a member or unit of the National Guard to perform the military functions of the member or unit;

"(2) the services to be provided are not commercially available, or any commercial entity that would otherwise provide such services has approved, in writing, the provision of such services by the National Guard;

"(3) National Guard personnel will enhance their military skills as a result of providing such services; and

"(4) the provision of the services will not result in a significant increase in the cost of the training.

"(b) AUTHORIZED SERVICES.—The services authorized to be provided under subsection (a) are as follows:

"(1) Ground transportation.

"(2) Air transportation in support of Special Olympics.

"(3) Administrative support services.

"(4) Technical training services.

"(5) Emergency medical assistance and services.

"(6) Communications services.

"(7) Security services.

"(c) OTHER AUTHORIZED ASSISTANCE.—Facilities and equipment of the National Guard, including military property of the United States issued to the National Guard and General Services Administration vehicles leased to the National Guard, and General Services Administration vehicles leased to the Department of Defense, may be used in connection with providing services to any eligible organization under this section.

"(d) ELIGIBLE ORGANIZATIONS.—The organizations eligible to receive services under this section are as follows:

"(1) The Boy Scouts of America.

"(2) The Girl Scouts of America.

"(3) The Boys Clubs of America.

"(4) The Girls Clubs of America.

"(5) The Young Men's Christian Association.

"(6) The Young Women's Christian Association.

"(7) The Civil Air Patrol.

"(8) The United States Olympic Committee.

"(9) The Special Olympics.

"(10) The Campfire Boys.

"(11) The Campfire Girls.

"(12) The 4-H Club.

"(13) The Police Athletic League.

"(14) Any other youth or charitable organization designated by the Secretary of Defense.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"508. Assistance for certain youth and charitable organizations.".

SEC. 1064. DEFENSE MAPPING AGENCY.

(a) UNAUTHORIZED USE OF NAME.—Chapter 167 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2798. Unauthorized use of Defense Mapping Agency name, initials, or seal

"(a) No person may, except with the written permission of the Secretary of Defense, knowingly use the words 'Defense Mapping Agency', the initials 'DMA', the seal of the Defense Mapping Agency, or any colorable imitation of such words, initials, or seal in connection with any merchandise, retail product, impersonation, solicitation or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Secretary of Defense.

"(b) Whenever it appears to the Attorney General that any person is engaged or about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to hearing and determination of such action and may, at any time before such final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.".

(b) LIMITATION ON LIABILITY RELATING TO NAVIGATIONAL AIDS.—Chapter 167 of such title, as amended by subsection (a), is further amended by adding at the end the following new section:

"§ 2799. Civil actions barred

"(a) CLAIMS BARRED.—No civil action may be brought against the United States on the basis of the content of a navigational aid prepared or disseminated by the Defense Mapping Agency.

"(b) NAVIGATIONAL AIDS COVERED.—Subsection (a) applies with respect to a navigational aid in the form of a map, a chart, or a publication and any other form or medium of product or information in which the Defense Mapping Agency prepares or disseminates navigational aids.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2798. Unauthorized use of Defense Mapping Agency name, initials, or seal.
"2799. Civil actions barred.".

(d) EFFECTIVE DATE.—Section 2799 of title 10, United States Code, as added by subsection (b), shall take effect on the date of the enactment of this Act and shall apply with respect to (1) civil actions brought before such date that are pending adjudication on such date, and (2) civil actions brought on or after such date.

SEC. 1065. TRANSFER OF NAVAL VESSELS TO BRAZIL.

(a) AUTHORITY.—The Secretary of the Navy is authorized to transfer to the Government of Brazil the "KNOX" class frigates, MILLER (FF 1091) and VALDEZ (FF 1096). Such transfers shall be on a lease basis under chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 et seq.).

(b) WAIVER OF REQUIREMENTS FOR NOTIFICATION TO CONGRESS.—Section 62 of the Arms Export Control Act does not apply with respect to a lease authorized by subsection (a), except that section 62 of such Act shall apply to any renewal of the lease.

(c) COSTS OF TRANSFERS.—Any expense of the United States in connection with a transfer authorized by subsection (a) shall be charged to the Government of Brazil.

(d) EXPIRATION OF AUTHORITY.—The authority granted by subsection (a) shall expire at the end of the 2-year period beginning on the date of the enactment of this Act, except that leases entered into during that period may be renewed.

SEC. 1066. TRANSFERS OF M1A1 TANKS TO THE MARINE CORPS.

(a) TRANSFER REQUIRED.—Subject to subsection (b), as M1A1 tanks of the Army become excess to the requirements of the active component of the Army, the Secretary of the Army shall transfer to the Marine Corps, at no expense to the Army, as many of such tanks as are necessary to satisfy the requirements of the Marine Corps for tanks, as determined by the Secretary of Defense.

(b) TRANSFER LIMITS.—The Secretary of the Army shall transfer under subsection (a) 84 M1A1 tanks selected by the Secretary of the Army.

(c) EXCLUSION OF CERTAIN TRANSFERS.—If any of the tanks transferred under subsection (a) are transferred to the Marine Corps Reserve, the number of tanks not in excess of 48 that are so transferred shall not be counted for purposes of subsection (b).

(d) LIMITATION ON TRANSFERS TO ARMY NATIONAL GUARD.—After the date of the enactment of this Act, the Secretary of the Army shall transfer not more than one M1A1 tank to the National Guard for each M1A1 tank transferred to the Marine Corps until the Secretary has transferred the total number of tanks required in subsection (b). The tanks transferred to the Marine Corps shall be in a material condition comparable to the material condition of the tanks transferred to the National Guard.

(e) TREATMENT OF CERTAIN TRANSFERRED TANKS UNDER LIMITATIONS.—The transfer of a tank under section 112 shall not be counted for purposes of subsection (a), (b), (c), or (d).

SEC. 1067. LIMITATION REGARDING MERGER OF TELECOMMUNICATIONS SYSTEMS.

(a) LIMITATION.—Funds available to the Department of Defense may not be expended to merge defense telecommunications systems with the telecommunications system known as "FTS-2000" or with any other civil telecommunications system until—

(1) the Secretary of Defense submits to the congressional defense committees a report containing—

(A) a certification by the Secretary that the merged telecommunications systems, including the associated services, will provide assured, secure telecommunications support for Department of Defense activities; and

(B) a description of how the merger of the systems will be implemented and the merged systems will be managed to meet defense information infrastructure requirements, including requirements to support deployed forces and intelligence activities; and

(2) 30 days elapse after the date on which such report is received by the committees.

(b) DEFENSE TELECOMMUNICATIONS ACTIVITY DEFINED.—In this section, the term "defense telecommunications system" means a system of telecommunications equipment and services that, pursuant to section 2315 of title 10, United States Code, is exempt from the requirements of section 111 of the Federal Property and Administrative Services Act of 1949.

SEC. 1068. ACQUISITION OF STRATEGIC SEALIFT SHIPS.

(a) AMOUNT FOR SHIPBUILDING AND CONVERSION.—Notwithstanding section 102(3), there is hereby authorized to be appropriated for the Navy for fiscal year 1995, $5,532,007,000 for procurement for shipbuilding and conversion.

(b) NATIONAL DEFENSE SEALIFT FUND.—Notwithstanding section 302(2), there is hereby authorized to be appropriated for the Armed Forces and other activities and agencies of the Department of Defense $828,600,000 for providing capital for the National Defense Sealift Fund.

SEC. 1069. REQUIREMENT FOR SECRETARY OF DEFENSE TO SUBMIT RECOMMENDATIONS ON CERTAIN PROVISIONS OF LAW CONCERNING MISSING PERSONS.

(a) FINDINGS.—Congress makes the following findings:

(1) The families of American personnel who became prisoners of war or missing in action while serving in the Armed Forces of the United States and national veterans organizations have expressed concern to Congress for several years regarding provisions of chapter 10 of title 37, United States Code, relating to missing persons, that authorize the Secretaries of the military departments to declare missing Armed Forces personnel dead based solely on the passage of time.

(2) Proposed legislation concerning revisions to those provisions of law has been pending before Congress for several years.

(3) It is important for Congress to obtain the views of the Secretary of Defense with respect to the appropriateness of revising those provisions of law before acting further on proposed amendments to such provisions.

(b) RECOMMENDATIONS REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretaries of the military departments, the national POW/MIA family organizations, and the national veterans organizations, shall—

(1) conduct a review of the provisions of chapter 10 of title 37, United States Code, relating to missing persons; and

(2) submit to Congress the Secretary's recommendations as to whether those provisions of law should be amended.

SEC. 1070. CONTACT BETWEEN THE DEPARTMENT OF DEFENSE AND THE MINISTRY OF NATIONAL DEFENSE OF CHINA ON POW/MIA ISSUES.

(a) FINDINGS.—Congress makes the following findings:

(1) The Select Committee on POW/MIA Affairs of the Senate concluded in its final report, dated January 13, 1993, that "many American POW's had been held in China during the Korean conflict and that foreign POW camps in both China and North Korea were run by Chinese officials" and, further, that "given the fact that only 26 Army and 15 Air Force personnel returned from China following the war, the committee can now firmly conclude that the People's Republic of China surely has information on the fate of other unaccounted for American POW's from the Korean conflict.".

(2) The Select Committee on POW/MIA Affairs recommended in such report that "the Department of State and Defense form a POW/MIA task force on China similar to Task Force Russia.".

(3) Neither the Department of Defense nor the Department of State has held substantive discussions with officials from the People's Republic of China concerning unaccounted for American prisoners of war of the Korean conflict.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should establish contact with officials of the Ministry of Defense of the People's Republic of China regarding unresolved issues relating to American prisoners of war and American personnel missing in action as a result of the Korean conflict.

SEC. 1071. DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL FROM THE KOREAN CONFLICT, AND THE COLD WAR.

Section 1082 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 50 U.S.C. 401 note) is amended—

(1) in subsection (a), by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Paragraph (1) applies to any record, live-sighting report, or other information in the custody of the official custodian referred to in subsection (d)(3) that may pertain to the location, treatment, or condition of (i) United States personnel who remain not accounted for as a result of service in the Armed Forces of the United States or other Federal Government service during the Korean conflict, the Vietnam era, or the Cold War, or (ii) their remains.";

(2) in subsection (c)—

(A) by striking out the first sentence in paragraph (1) and inserting in lieu thereof the following: "In the case of records or other information originated by the Department of Defense, the official custodian shall make such records and other information available to the public pursuant to this section not later than September 30, 1995.";

(B) in paragraph (2), by striking out "after March 1, 1992,"; and

(C) in paragraph (3), by striking out "a Vietnam-era POW/MIA who may still be alive in Southeast Asia," and inserting in lieu thereof "any United States personnel referred to in subsection (a)(2) who remain not accounted for but who may still be alive in captivity,";

(3) by striking out subsection (d) and inserting in lieu thereof the following:

"(d) DEFINITIONS.—For purposes of this section:

"(1) The terms 'Korean conflict' and 'Vietnam era' have the meanings given those terms in section 101 of title 38, United States Code.

"(2) The term 'Cold War' shall have the meaning determined by the Secretary of Defense.

"(3) The term 'official custodian' means—

"(A) in the case of records, reports, and information relating to the Korean conflict or the Cold War, the Archivist of the United States; and

"(B) in the case of records, reports, and information relating to the Vietnam era, the Secretary of Defense."; and

(4) by striking out the section heading and inserting in lieu thereof the following new section heading:

"SEC. 1082. DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF THE COLD WAR, THE KOREAN CONFLICT, AND THE VIETNAM ERA.".

SEC. 1072. REQUIREMENT FOR CERTIFICATION BY SECRETARY OF DEFENSE CONCERNING DECLASSIFICATION OF VIETNAM-ERA POW/MIA RECORDS.

(a) FINDINGS.—Congress makes the following findings:

(1) The Senate, by Senate Resolution 324, 102d Congress, 2d session, agreed to on July 2, 1992, unanimously requested the President to "expeditiously issue an Executive Order requiring all executive branch departments and agencies to declassify and publicly release without compromising United States national security all documents, files, and other materials pertaining to POW's and MIA's.".

(2) The President, in an executive order dated July 22, 1992, ordered declassification of all United States Government documents, files, and other materials pertaining to American personnel who became prisoners of war or missing in action in Southeast Asia.

(3) The President stated on Memorial Day of 1993 that all such documents, files, and other materials pertaining to the personnel covered by that executive order should be declassified by Veterans Day of 1993.

(4) The President declared on Veterans Day of 1993 that all such documents, files, and other materials had been declassified.

(5) Nonetheless, since that Veterans Day declaration in 1993, there have been found still classified more United States Government documents, files, and other materials pertaining to American personnel who became prisoners of war or missing in action in Southeast Asia.

(b) REVIEW AND CERTIFICATION.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall—

(1) conduct a review to determine whether there continue to exist in classified form documents, files, or other materials pertaining to American personnel who became prisoners of war or missing in action in Southeast Asia that should be declassified in accordance with Senate Resolution 324, 102d Congress, 2d session, agreed to on July 2, 1992, and the executive order of July 22, 1992; and

(2) certify to Congress that all documents, files, and other materials pertaining to such personnel have been declassified and specify in the certification the date on which the declassification was completed.

SEC. 1073. INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF THE VIETNAM CONFLICT.

Not later than 45 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress the following information pertaining to United States personnel involved in the Vietnam conflict that remain not accounted for:

(1) A complete listing by name of all such personnel about whom it is possible that officials of the Socialist Republic of Vietnam can produce additional information or remains that could lead to the maximum possible accounting for those personnel, as determined on the basis of all information available to the United States Government.

(2) A complete listing by name of all such personnel about whom it is possible that officials of the Lao People's Democratic Republic can produce additional information or remains that could lead to the maximum possible accounting for those personnel, as determined on the basis of all information available to the United States Government.

SEC. 1074. REPORT ON POW/MIA MATTERS CONCERNING NORTH KOREA.

(a) FINDINGS.—Congress makes the following findings:

(1) The Select Committee on POW/MIA Affairs of the Senate concluded in its final report, dated January 13, 1994, that "it is likely that a large number of possible MIA remains can be repatriated and several records and documents on unaccounted for POW's and MIA's can be provided from North Korea once a joint working level commission is set up under the leadership of the United States.".

(2) The Select Committee recommended in such report that "the Departments of State and Defense take immediate steps to form this commission through the United Nations Command at Panmunjom, Korea" and that the "commission should have a strictly humanitarian mission and should not be tied to political developments on the Korean peninsula.".

(3) In August 1993, the United States and North Korea entered into an agreement concerning the repatriation of remains of United States personnel.

(4) The establishment of a joint working level commission with North Korea could enhance the prospects for results under the August 1993 agreement.

(b) REPORT.—The Secretary of Defense shall—

(1) at the end of January, May, and September of 1995, submit a report to Congress on the status of efforts to obtain information from North Korea concerning United States personnel involved in the Korean conflict who remain not accounted for and to obtain from North Korea any remains of such personnel; and

(2) actively seek to establish a joint working level commission with North Korea, consistent with the recommendations of the Select Committee on POW/MIA Affairs of the Senate set forth in the final report of the committee, dated January 13, 1993, to resolve the remaining issues relating to United States personnel who became prisoners of war or missing in action during the Korean conflict.

SEC. 1075. ELIMINATION OF DISPARITY BETWEEN EFFECTIVE DATES FOR MILITARY AND CIVILIAN RETIREE COST-OF-LIVING ADJUSTMENTS FOR FISCAL YEAR 1995.

(a) IN GENERAL.—The fiscal year 1995 increase in military retired pay shall (notwithstanding subparagraph (B) of section 1401a(b)(2) of title 10, United States Code) first be payable as part of such retired pay for the month of March 1995.

(b) DEFINITIONS.—For the purposes of subsection (a):

(1) The term "fiscal year 1995 increase in military retired pay" means the increase in retired pay that, pursuant to paragraph (1) of section 1401a(b) of title 10, United States Code, becomes effective on December 1, 1994.

(2) The term "retired pay" includes retainer pay.

(c) LIMITATION.—Subsection (a) shall be effective only if there is appropriated to the Department of Defense Military Retirement Fund (in an Act making appropriations for the Department of Defense for fiscal year 1995 that is enacted before March 1, 1995) such amount as is necessary to offset increased outlays to be made from that fund during fiscal year 1995 by reason of the provisions of subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1995 to the Department of Defense Military Retirement Fund the sum of $376,000,000 to offset increased outlays to be made from that fund during fiscal year 1995 by reason of the provisions of subsection (a).

SEC. 1076. MILITARY RECRUITING ON CAMPUS.

(a) DENIAL OF FUNDS.—(1) No funds available to the Department of Defense may be provided by grant or contract to any institution of higher education that has a policy of denying, or which effectively prevents, the Secretary of Defense from obtaining for military recruiting purposes—

(A) entry to campuses or access to students on campuses; or

(B) access to directory information pertaining to students.

(2) Students referred to in paragraph (1) are individuals who are 17 years of age or older.

(b) PROCEDURES FOR DETERMINATION.—The Secretary of Defense, in consultation with the Secretary of Education, shall prescribe regulations that contain procedures for determining if and when an educational institution has denied or prevented access to students or information described in subsection (a).

(c) DEFINITION.—For purposes of this section, the term "directory information" means, with respect to a student, the student's name, address, telephone listing, date and place of birth, level of education, degrees received, and the most recent previous educational institution enrolled in by the student.

SEC. 1077. STUDY ON CONVERGENCE OF GEOSAT AND EOS ALTIMETRY PROGRAMS.

(a) REQUIREMENT.—The Secretary of the Navy and the Administrator of the National Aeronautics and Space Administration shall jointly conduct a study on the convergence of the National Aeronautics and Space Administration Earth Observing System Altimetry mission with the Navy Geosat Follow-On program. The study shall assess whether a converged system, which may involve minor modifications to the Geosat Follow-On satellite, could—

(1) satisfy the needs of the Earth Observing System program for altimetry data;

(2) reduce the expenses of the National Aeronautics and Space Administration in satisfying such needs;

(3) be available in time to serve as the follow-on to the Topex/Poseidon mission; and

(4) continue to meet the requirements of the Navy for altimetry data at no additional cost to the Navy.

(b) CONSULTATION.—In concluding the study, the Secretary and the Administrator shall consult with appropriate members of the scientific community.

(c) REPORT.—The Secretary and the Administrator shall submit to the Committees on Armed Services, Commerce, Science, and Transportation and the Committees on Armed Services and Science, Space, and Technology of the House of Representatives a report on the results of the study conducted under subsection (a), together with the recommendations of the Secretary and the Administrator thereon. The Secretary and the Administrator shall submit not later than February 15, 1995.

SEC. 1078. VISAS FOR OFFICIALS OF TAIWAN.

Section 4(b)(6) of the Taiwan Relations Act (22 U.S.C. 3302(b)(6)) is amended—

(1) by inserting "(A)" immediately after "(6)"; and

(2) by adding at the end the following:

"(B) Whenever the president of Taiwan or any other high-level official of Taiwan shall apply to visit the United States for the purposes of discussions with United States Federal or State government officials concerning:

"(i) Trade or business with Taiwan that will reduce the United States-Taiwan trade deficit;

"(ii) Prevention of nuclear proliferation;

"(iii) Threats to the national security of the United States;

"(iv) The protection of the global environment;

"(v) The protection of endangered species; or

"(vi) Regional humanitarian disasters.

The official shall be admitted to the United States, unless the official is otherwise excludable under the immigration laws of the United States.".

SEC. 1079. SENSE OF THE SENATE CONCERNING PARTICIPATION IN ALLIED DEFENSE COOPERATION.

It is the sense of the Senate that the President should use existing authorities to the greatest extent possible to authorize the provision of the following types of assistance and cooperation to countries like Poland, Hungary and the Czech Republic who are making significant progress in working with NATO—

(1) Excess defense articles as defined in the Foreign Assistance Act of 1961 and the Arms Control Export Act;

(2) Loan materials, supplies and equipment for research and development purposes;

(3) Leases and loans of major defense equipment and other defense articles;

(4) Cooperative military airlift agreements;

(5) The procurement of communications support and related supplies and services;

(6) Actions to standardize equipment with North Atlantic Treaty Organization members.

SEC. 1080. INTERAGENCY PLACEMENT PROGRAM FOR FEDERAL EMPLOYEES AFFECTED BY REDUCTION IN FORCE ACTIONS.

(a) STUDY AND REPORT.—(1) No later than 6 months after the date of the enactment of this Act, the Office of Personnel Management, in consultation with the Department of Defense, shall conduct a study and submit a report to the Congress on—

(A) the feasibility of establishing a mandatory interagency placement program for Federal employees affected by reduction in force actions; and

(B) any action taken by the Office of Personnel Management under subsection (b).

(2) In conducting the study under this section, the Office of Personnel Management, in consultation with the Department of Defense, shall seek comments from all Federal agencies.

(b) AGREEMENTS TO ESTABLISH INTERAGENCY PLACEMENT PROGRAM.—(1) If, during the 6-month period after the date of the enactment of this Act, the Office of Personnel Management, in consultation with the Department of Defense, determines that a Government-wide interagency placement program for Federal employees affected by reduction in force actions is feasible, the Office of Personnel Management may enter into an agreement with each agency that agrees to participate, to establish such a program. A program established under this subsection shall not be required to be an interagency placement program as defined under subsection (c)(3).

(2) If the Office of Personnel Management makes a determination to establish a program as provided under paragraph (1), the Office shall include in the report submitted under subsection (a) each agency that decides not to participate in the program and the reasons of the agency for the decision.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "agency" means an "Executive agency" as defined under section 105 of title 5, United States Code, and—

(A) includes the United States Postal Service and the Postal Rate Commission; and

(B) does not include the General Accounting Office;

(2) the term "Federal employees affected by reduction in force actions" means Federal employees who—

(A) are scheduled to be separated from service under a reduction in force pursuant to—

(i) regulations prescribed under section 3502 of title 5, United States Code; or

(ii) procedures established under section 3595 of title 5, United States Code; or

(B) are separated from service under such a reduction in force; and

(3) the term "interagency placement program" means a program that provides a system to require the offer of a position in an agency to an employee of another agency affected by a reduction in force action, if—

(A) the position cannot be filled through a placement program of the agency in which the position is located;

(B) the employee to whom the offer is made is well qualified for the offered position;

(C)(i) the classification of the offered position is equal to the classification of the employee's present or last held position; or

(ii) the basic rate of pay of the offered position is equal to the basic rate of pay of the employee's present or last held position; and

(D) the geographic location of the offered position is within the commuting area of—

(i) the residence of the employee; or

(ii) the location of the employee's present or last held position.

SEC. 1081. GEORGE C. MARSHALL EUROPEAN CENTER FOR SECURITY STUDIES.

(a) USE OF CONTRIBUTIONS.—Funds received by the United States Government from the Federal Republic of Germany as its fair share of the costs of the George C. Marshall European Center for Security Studies shall be credited to appropriations available to the Department of Defense for the George C. Marshall European Center for Security Studies. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Center for the same purposes and the same period as the appropriations with which merged.

(b) WAIVER OF CHARGES.—(1) The Secretary of Defense may waive reimbursement of the costs of conferences, seminars, courses of instruction, or similar educational activities of the George C. Marshall European Center for Security Studies for military officers and civilian officials of cooperation partner states of the North Atlantic Cooperation Council or the Partnership for Peace if the Secretary determines that attendance by such personnel without reimbursement is in the national security interest of the United States.

(2) Costs for which reimbursement is waived pursuant to paragraph (1) shall be paid from appropriations available for the Center.

SEC. 1082. CHANGES IN NOTICE REQUIREMENTS UPON PENDING OR ACTUAL TERMINATION OF DEFENSE PROGRAMS.

(a) TIME FOR NOTICE REQUIREMENT AFTER SUBMISSION OF BUDGET.—Subsection (a) of section 4471 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102-484; 106 Stat. 2753; 10 U.S.C. 2501 note) is amended—

(1) by striking out "As soon as reasonably practicable" and inserting in lieu thereof "Not later than 90 days"; and

(2) by striking out "and not more than 180 days after such date,".

(b) TIME FOR NOTICE REQUIREMENT AFTER ENACTMENT OF APPROPRIATIONS ACT.—Subsection (b) of such section is amended—

(1) by striking out "as soon as reasonably practicable" and inserting in lieu thereof "not later than 90 days"; and

(2) by striking out "and not more than 180 days after such date,".

(c) TIME FOR NOTICE REQUIREMENT ON WITHDRAWAL OF NOTIFICATION.—Subsection (f)(1) of such section is amended in the second sentence by striking out "as soon as reasonably practicable" and inserting in lieu thereof "not later than 90 days".

SEC. 1083. TRANSFER OF OBSOLETE VESSEL GUADALCANAL.

(a) AUTHORITY.—Notwithstanding subsections (a) and (d) of section 7306 of title 10, United States Code, but subject to subsections (b) and (c) of that section, upon the decommissioning of the USS Guadalcanal (LPH 7), the Secretary of the Navy may transfer the Guadalcanal to the not-for-profit organization Intrepid Museum Foundation, New York, New York.

(b) LIMITATIONS.—The transfer authorized by section (a) may be made only if the Secretary determines that the vessel Guadalcanal is of no further use to the United States for national security purposes.

(c) TERMS AND CONDITIONS.—The Secretary may require such terms and conditions in connection with the transfer authorized by this section as the Secretary considers appropriate.

SEC. 1084. STUDY OF SPOUSAL ABUSE INVOLVING ARMED FORCES PERSONNEL.

(a) FINDINGS.—Congress makes the following findings:

(1) The Department of Defense has sponsored several highly successful programs designed to curtail spousal abuse.

(2) The readiness of the Armed Forces would be enhanced by eliminating all forms of spousal abuse involving members of the Armed Forces.

(3) Available data on the frequency and causes of spousal abuse involving members of the Armed Forces is not comprehensive for the Armed Forces.

(b) STUDY AND REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall conduct a study on spousal abuse involving members of the Armed Forces of the United States and submit to Congress a report on the results of the study.

(c) CONTENT OF REPORT.—The report shall contain the following matters:

(1) The frequency of spousal abuse involving members of the Armed Forces.

(2) A discussion of the possible causes of such spousal abuse.

(3) A discussion of the procedures followed in responding to incidents of such spousal abuse.

(4) An analysis of the effectiveness of those procedures.

(5) A review of the existing programs for curtailing such spousal abuse.

(6) A strategy for the entire Armed Forces for curtailing spousal abuse involving members of the Armed Forces.

SEC. 1085. REVIEW OF THE PROCEDURES USED BY DEPARTMENT OF DEFENSE INVESTIGATIVE ORGANIZATIONS WHEN CONDUCTING AN INVESTIGATION INTO THE DEATH OF A MEMBER OF THE ARMED FORCES WHO, WHILE SERVING ON ACTIVE DUTY, DIED FROM A CAUSE DETERMINED TO BE SELF-INFLICTED.

SENSE OF CONGRESS.—It is the Sense of Congress that, upon receipt of the report required by section 1185 of the National Defense Authorization Act for Fiscal Year 1994, the Senate Committee on Armed Services should review that report and hold hearings related to the procedures employed by Department of Defense investigative organizations when conducting an investigation into the death of a member of the Armed Services who, while serving on active duty, died from a cause determined to be self-inflicted.

SEC. 1086. PUBLIC EDUCATION FACILITY OF THE ARMED FORCES INSTITUTE OF PATHOLOGY.

(a) PURPOSE.—It is the purpose of this section to—

(1) display and interpret the collections of the Armed Forces Institute of Pathology currently located at Walter Reed Medical Center; and

(2) designate a site for the relocation of the public education facility of the Armed Forces Institute of Pathology so that it may serve as a central resource of instruction about the critical health issues which confront all American citizens.

(b) SITE OF FACILITY.—The public education facility of Armed Forces Institute of Pathology shall be located on or near the Mall on land owned by the Federal Government or the District of Columbia in the District of Columbia.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority or responsibilities of the National Capital Planning Commission or the Commission of Fine Arts.

(d) DEFINITION.—As used in this section, the term "the Mall" means—

(1) the land designated as "Union Square", United States Reservation 6A; and

(2) the land designated as the "Mall", United States Reservations 3, 4, 5, and 6.

(e) SENSE OF THE CONGRESS.—

(1) FINDINGS.—Congress finds that—

(A) the National Museum of Health and Medicine Foundation, Inc. (a private, nonprofit organization having for its primary purpose the relocation to the Mall and revitalization of the National Museum of Health and Medicine), the Armed Forces Institute of Pathology, and the Public Health Service have jointly supported planning to relocate the Museum to a site on land that is located east of and adjacent to the Hubert H. Humphrey Building (100 Independence Avenue, Southwest, in the District of Columbia); and

(B) the National Museum of Health and Medicine Foundation, Inc., is deserving of the encouragement and support of the American people in its effort to relocate the National Museum of Health and Medicine to a site on land that is located east of and adjacent to the Hubert H. Humphrey Building, and in its effort to raise funds for a revitalized Museum to inspire increasing numbers of Americans to lead healthy lives through improved public understanding of health and the medical sciences.

(2) LOCATION.—It is the sense of the Congress that, subject to appropriate approvals by the National Capital Planning Commission and the Commission of Fine Arts, the National Museum of Health and Medicine should be relocated to a site on land that is located east of and adjacent to the Hubert H. Humphrey Building for the purpose of educating the American public concerning health and the medical sciences.

SEC. 1087. ASSIGNMENTS OF EMPLOYEES BETWEEN FEDERAL AGENCIES AND FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

(a) AUTHORITY.—Section 3371(4) of title 5, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) a federally funded research and development center.".

(b) PROVISIONS GOVERNING ASSIGNMENTS.—Section 3372 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(e) Under regulations prescribed pursuant to section 3376 of this title—

"(1) an assignment of an employee of a Federal agency to an other organization or an institution of higher education, and an employee so assigned, shall be treated in the same way as an assignment of an employee of a Federal agency to a State or local government, and an employee so assigned, is treated under the provisions of this subchapter governing an assignment of an employee of a Federal agency to a State or local government, except that the rate of pay of an employee assigned to a federally funded research and development center may not exceed the rate of pay that such employee would be paid for continued service in the position in the Federal agency from which assigned; and

"(2) an assignment of an employee of an other organization or an institution of higher education to a Federal agency, and an employee so assigned, shall be treated in the same way as an assignment of an employee of a State or local government to a Federal agency, and an employee so assigned, is treated under the provisions of this subchapter governing an assignment of an employee of a State or local government to a Federal agency.".

SEC. 1088. BOSNIA AND HERZEGOVINA.

(a) PURPOSE.—To express the sense of Congress concerning the international efforts to end the conflict in Bosnia and Hercegovina.

(b) STATEMENTS.—The Congress makes the following statements of support:

(1) The Congress supports the use of international sanctions in the form of arms and economic embargoes imposed by the United Nations Security Council in appropriate circumstances.

(2) The Congress supports the imposition of an arms and economic embargo on the Government of Iraq by United Nations Security Council resolution 661 of August 6, 1990 to bring about compliance with a number of conditions, including in particular an end to Iraq's nuclear weapons program.

(3) The Congress supports the imposition of an arms, petroleum and economic embargo on Haiti by United Nations Security Council resolutions 875 of October 16, 1993 and 917 of May 17, 1994 to bring about compliance with the Governors Island Agreement.

(4) The Congress supports the imposition of an arms and civil aircraft embargo on Libya pursuant to United Nations Security Council resolution 748 of March 31, 1992 in order to convince Libya to renounce terrorism.

(c) FINDINGS.—The Congress makes the following findings:

(1) The United States took the lead in the United Nations Security Council to impose international sanctions in the form of arms and economic embargoes on Iraq, Haiti, and Libya.

(2) The security of the Republic of Korea with whom the United States has a mutual defense treaty and on whose territory there are more than 38,000 members of the United States Armed Forces is a vital interest of the United States.

(3) Should negotiations fail, the imposition of sanctions by the United Nations Security Council on North Korea, which would require the affirmative vote or abstention of China, Russia, Britain, and France, may be essential to stop North Korea's nuclear weapons development program and to end a nuclear threat to the Republic of Korea and Southeast Asia.

(4) The effective enforcement of sanctions on North Korea, once imposed by the United Nations Security Council, would require the cooperation of China, Russia, and Japan as well as other allies, including Britain and France, both permanent members of the United Nations Security Council.

(5) The United States voted for the international arms embargo imposed by United Nations Security Council resolution 713 of September 25, 1991 that was imposed on Yugoslavia.

(6) The imposition of the United Nations arms embargo on September 25, 1991 has not served to end the conflict in Bosnia and Hercegovina, has provided a battlefield advantage to the Bosnian Serbs, who possess artillery, tanks, and other weapons left behind by the former Yugoslav Army or provided by Serbia and Montenegro, and has deprived the Government of Bosnia and Hercegovina from acquiring the adequate means of defending itself and its citizens.

(7) Our NATO allies have committed ground forces to the United Nations Protection Force (UNPROFOR) in former Yugoslavia. At the present time France has 5,518 troops, Britain 3,435, the Netherlands 2,073, Canada 2,037, Turkey 1,696, Spain 1,417, and Belgium 1,000. Our NATO allies have thus far sustained 49 deaths and 936 wounded as a result of their participation in UNPROFOR.

(8) For the first time the so-called "contact group" composed of representatives of the United States, Russia, France and Britain is moving toward a unified position of using an incentives and disincentives "carrot and stick" strategy to bring about a peaceful settlement of the conflict in Bosnia and Hercegovina.

(d) It is the sense of the Congress that the United States should work with the NATO Member nations and the other permanent members of the United Nations Security Council to endorse the efforts of the contact group to bring about a peaceful settlement of the conflict in Bosnia Hercegovina, including the following:

(A) the preservation of an economically, politically and militarily viable Bosnian state capable of exercising its rights under the United Nations Charter as part of a peaceful settlement, the lifting of the United Nations arms embargo on the Government of Bosnia and Hercegovina so that it can exercise the inherent right of a sovereign state to self-defense;

(B) if the Bosnian Serbs, while the contact group's peace proposal is being considered and discussed, attack the safe areas designated by the United Nations Security Council, the partial lifting of the arms embargo on the Government of Bosnia and Hercegovina and the provision to that Government of defensive weapons and equipment appropriate and necessary to defend those safe areas;

(C) if the Bosnian Serbs do not respond constructively to the peace negotiations, the President or his representative shall promptly propose or support a resolution in the United Nations Security Council to terminate the intentional arms embargo on Bosnia and Hercegovina (and the orderly withdrawal of the United Nationals Protection Force and humanitarian relief personnel). If the Security Council fails to pass such a resolution, the President shall within 5 days consult with Congress regarding unilateral termination of the arms embargo on the Government of Bosnia and Hercegovina.

SEC. 1089. PROVISION OF INTELLIGENCE AND OTHER ASSISTANCE WHERE DRUG TRAFFICKING THREATENS NATIONAL SECURITY.

(a) Notwithstanding any other provision of law, it shall not be unlawful for authorized employees or agents of a foreign country to damage, render inoperative, or destroy an aircraft in that country's territory or airspace, or to attempt to do so, if that aircraft is reasonably suspected to be primarily engaged in illicit narcotics trafficking, provided that the President of the United States prior to the actions described in this subparagraph being taken has determined:

(1) that such actions are necessary because of the extraordinary threat posed by drug trafficking to the national security of that country, and

(2) that the country has appropriate procedures in place to protect against innocent loss of life in the air and on the ground, which shall at a minimum include effective means to identify and warn aircraft prior to the use of force.

(b) It shall not be unlawful for authorized employees or agents of the United States to provide assistance, including but not limited to operational, intelligence, logistical, technical and administration assistance, for the actions of foreign countries set forth in subsection (a), nor shall the provision of such assistance give rise to any civil action seeking money damages or any other form of relief against the United States or its agents or employees.

SEC. 1090. ADMINISTRATION OF ATHLETICS PROGRAMS AT THE SERVICE ACADEMIES.

(a) UNITED STATES MILITARY ACADEMY.—(1) Chapter 403 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4357. Administration of athletics program

"(a) The position of athletic director of the Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill such position as an active duty assignment.

"(b) Under regulations prescribed by the Secretary of the Army, the Superintendent of the Academy shall establish and administer a nonappropriated fund account for the athletics program of the Academy. The Superintendent shall credit to such account all revenue received from the conduct of the athletics program of the Academy and all contributions received for such program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4357. Administration of athletics program.".

(b) UNITED STATES NAVAL ACADEMY.—(1) Chapter 603 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 6975. Administration of athletics program

"(a) The position of athletic director of the Naval Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill such position as an active duty assignment.

"(b) Under regulations prescribed by the Secretary of the Navy, the Superintendent of the Naval Academy shall establish and administer a nonappropriated fund account for the athletics program of the Naval Academy. The Superintendent shall credit to such account all revenue received from the conduct of the athletics program of the Naval Academy and all contributions received for such program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"6975. Administration of athletics program.".

(c) UNITED STATES AIR FORCE ACADEMY.—(1) Chapter 903 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9356. Administration of athletics program

"(a) The position of athletic director of the Academy shall be a position in the civil service (as defined in section 2101(1) of title 5).

However, a member of the armed forces may fill such position as an active duty assignment.

"(b) Under regulations prescribed by the Secretary of the Air Force, the Superintendent of the Academy shall establish and administer a nonappropriated fund account for the athletics program of the Academy. The Superintendent shall credit to such account all revenue received from the conduct of the athletics program of the Academy and all contributions received for such program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9356. Administration of athletics program.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 240 days after the date of the enactment of this Act.

SEC. 1091. REVIEW OF THE BOTTOM UP REVIEW AND THE FUTURE YEAR DEFENSE PROGRAM AND ESTABLISHMENT OF NEW FUNDING REQUIREMENTS AND PRIORITIES.

(a) FINDINGS.—Congress finds as follows:

(1) Whereas the Administration commissioned the Bottom Up Review to properly structure the Armed Forces of the United States for the Post-Cold War Era;

(2) Whereas the Secretary of Defense has testified that the Department of Defense's Future Years Defense Program includes $20 billion more in program funding requests during fiscal years 1996 through 1999 than the defense funding levels in the Administration's budget can support;

(3) Whereas, the Secretary of the Navy has testified that the Department of the Navy will only operate 330 ships rather than the 346 ships required by the Bottom Up Review;

(4) Whereas, in January 1994, in his Annual Report to the President and the Congress, the Secretary of Defense reported that the Air Force will field approximately 100 heavy bombers rather than the 184 required by the Bottom Up Review;

(5) Whereas the Department of Defense's plans for a major regional contingency in the Far East call for 5 Army divisions and the plans for a major regional contingency in Southwest Asia call for 7 Army divisions, while the Bottom Up Review plans for an Army of only 10 active divisions;

(6) Whereas the Administration's budget assumes the Department of Defense will save at least $6 billion from procurement reform;

(7) Whereas the first and second rounds of the Base Realignment and Closure Commission have not yet achieved the level of savings initially estimated, and the 1995 base closure round may cost significantly more than is assumed in the Administration's budget.

(b) SENSE OF CONGRESS.—It is the Sense of Congress:

(1) that within 30 days after enactment of this legislation, the Secretary of Defense should initiate a review of the assumptions and conclusions of the President's Budget, the Bottom Up Review, and the Future Years Defense Program; and that not more than 180 days after the review is initiated the Secretary of Defense should submit to the President and to the Congress a report detailing the force structure required for an effective defense of the United States and its vital national interests;

(2) and that not more than 60 days after receipt of the report described in subsection (b)(1), the President should submit to the Congress a report detailing the steps the President will take to meet the force structure described in subsection (b)(1);

(3) and that the fiscal year 1996 budget submitted to the Congress by the President should reflect the funding level necessary to support the force structure described in subsection (b)(1).

SEC. 1092. GENOCIDE IN RWANDA.

(a) FINDINGS.—The Congress finds that—

(1) since April 6, 1994, elements of the Rwandan government forces, and their allied militias, have organized the massacres of more than 200,000 Rwandan civilians, of both Tutsi and Hutu ethnic origin;

(2) an estimated 2 million Rwandans have been internally displaced, and at least 500,000 have fled to neighboring countries;

(3) on April 26, 1994, the Senate agreed to Senate Resolution 207, deploring the massacres and urging prompt resolution of this crisis;

(4) the potential exists for retaliatory acts to be committed by elements within the Rwandan Patriotic Front against civilians;

(5) on June 8, 1994, the United Nations Security Council expanded and reinforced the United Nations Assistance Mission for Rwanda (UNAMIR) to 5,500 troops with a mandate to protect civilians;

(6) on June 22, 1994, the United Nations Security Council voted unanimously to support the deployment of military forces from France and Senegal for a temporary operation that would contribute to the security and protection of populations at risk in Rwanda.

(b) POLICY.—The Congress—

(1) calls upon the President to acknowledge that acts of genocide have been committed in Rwanda;

(2) urges the President to support the establishment of an impartial commission of experts to examine and analyze the evidence submitted of breaches of the Convention on Genocide, and other grave violations of international humanitarian law, committed in Rwanda;

(3) commends the Department of Defense for logistical help already provided and urges the Secretary of Defense to further expedite all United States military contributions to the humanitarian effort in Rwanda.

(4) implores the President to take the lead in the international community to expedite commitments of the necessary resources for, and to organize the speedy training and deployment of, the reinforced UNAMIR operation, with the mandate of protecting civilian populations at risk in Rwanda;

(5) strongly urges the President and the international community to expedite assistance needed for humanitarian operations in Rwanda, and neighboring states, for the support of Rwandan refugees;

(6) commends France and Senegal for cooperating with the Secretary General towards the fulfillment of the objectives of the United Nations in Rwanda; and

(7) urges France and Senegal pursuant to the United Nations Security Council resolution of June 22, 1994, to maintain the humanitarian character of their operation in Rwanda, with the view towards impartiality and neutrality.

SEC. 1093. STUDIES OF HEALTH CONSEQUENCES OF MILITARY SERVICE OR EMPLOYMENT IN SOUTHWEST ASIA DURING THE PERSIAN GULF WAR.

(a) EPIDEMIOLOGICAL STUDY.—

(1) IN GENERAL.—The Secretary of Defense shall award a grant under this subsection to one or more non-Federal entities selected for the award under subsection (c). The purpose of a grant is to permit the entity receiving the award to carry out the study described in paragraph (2).

(2) NATURE OF STUDY.—The purpose of the study referred to in paragraph (1) is to determine the nature and scope of the illnesses and symptoms suffered by the individuals referred in paragraph (3) as a result of service or employment in the Southwest Asia theater of operations during the Persian Gulf War.

(3) INDIVIDUALS COVERED BY STUDY.—Paragraph (2) applies to the following individuals:

(A) Individuals who served as members of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

(B) Individuals who were civilian employees of the Department of Defense in that theater during that period.

(C) Where appropriate, individuals who were employees of contractors of the Department in that theater during that period.

(D) Where appropriate, the spouses and children of individuals described in subparagraph (A).

(4) STUDY DESIGN.—The study required under this subsection shall be designed—

(A) to assess the extent, if any, of the association between—

(i) the illnesses and symptoms suffered by individuals referred to in paragraph (3);

(ii) the exposure of the individuals referred to in subparagraphs (A), (B), and (C) of that paragraph to chemical and biological agents, drugs and vaccines, endemic biological diseases, pesticides, toxins, and other potentially hazardous materials; and

(iii) the experiences of such individuals with stress-producing battlefield and wartime conditions;

(B) to identify risk factors for predicting the illnesses or symptoms relating to such exposure that will arise within 3 years of the arrival of an individual referred to in subparagraph (A), (B), or (C) of paragraph (3) in the Southwest Asia theater of operations;

(C) to determine—

(i) the incidence, prevalence, and nature of the illnesses and symptoms suffered by the individuals referred to in paragraph (3), including—

(I) the incidence, prevalence, and nature of the illnesses and symptoms of such individuals before the commencement of the period of the Persian Gulf War and the incidence, prevalence, and nature of the illnesses of such individuals after the end of that period; and

(II) the incidence, prevalence, and nature of the illnesses, symptoms, and birth defects of any children conceived by such individuals before the commencement of that period and of any children conceived by such individuals during or after the end of that period; and

(ii) the incidence, prevalence, and nature of illnesses and symptoms of other individuals or groups of individuals, if any, who may suffer from an illness or symptom as a result of the service or employment of any person or group of persons in the Southwest Asia theater of operations during the Persian Gulf War; and

(D) to evaluate a comparison sample or to evaluation any other matter that the Secretary or the entity determines appropriate to the purposes of the study.

(5) REPORTS.—

(A) INTERIM REPORTS.—Not later than each of July 1, 1995, and July 1, 1996, the Secretary shall submit to the congressional defense committees and the Committees on Veterans' Affairs of the Senate and the House of Representatives an interim report on the results of the study carried out under this subsection.

(B) Final report.—Not later than January 1, 1998, the Secretary shall submit to the committees referred to in subparagraph (A) a final report on the results of the study.

(C) Form of reports.—The reports submitted under this paragraph shall be submitted in unclassified form.

(b) Studies of Health Consequences of Administration of Pyridostigmine Bromide.—

(1) In general.—The Secretary of Defense shall award a grant under this subsection to one or more non-Federal entities selected for the award under subsection (c). The purpose of a grant is to permit the entity receiving the award to carry out a study or studies to determine the following:

(A) The long-term health consequences of the administration of pyridostigmine bromide as an antidote enhancer for chemical nerve agent toxicity during the Persian Gulf War.

(B) The short-term and long-term health consequences of the administration of pyridostigmine bromide under the chemical nerve agent pretreatment program of the Department of Defense and exposure to pesticides, environmental toxins, and other hazardous substances during battlefield conditions that prevailed in the Southwest Asia theater of operations during the Persian Gulf War.

(2) Studies.—The Secretary shall provide that an entity awarded a grant under this subsection shall carry out a study described in paragraph (3) or (4).

(3) Retrospective study.—A study referred to in paragraph (2) is a retrospective study on members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf War in order to determine the following:

(A) The nature of the undiagnosed and chronic illnesses suffered by such members.

(B) The degree of association between such illnesses and—

(i) use of pyridostigmine bromide over a short period of time (as determined by the Secretary) during the Persian Gulf War;

(ii) use of pyridostigmine bromide over an extended period of time (as so determined) during that war; or

(iii) use of no pyridostigmine bromide.

(C) The degree of association between—

(i) such illnesses;

(ii) each extent of use of pyridostigmine bromide described in subparagraph (B);

(iii) receipt of other vaccinations or medications; and

(iv) exposure to pesticides, organophosphates, or carbamates.

(4) Animal model study.—A study referred to in paragraph (2) is also a study using appropriate animal research models in order to determine whether use of pyridostigmine bromide in combination with exposure to pesticides or other organophosphates, carbamates, or relevant chemicals results in increased toxicity in animals and is likely to have a similar effect on humans.

(5) Reports.—

(A) Animal study report.—Not later than January 1, 1996, the Secretary shall submit to the congressional defense committees and the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the study carried out under paragraph (4).

(B) Interim reports on retrospective study.—Not later than each of July 1, 1995, and July 1, 1996, the Secretary shall submit to the committees referred to in subparagraph (A) an interim report on the results of the study carried out under paragraph (3).

(C) Final report on retrospective study.—Not later than January 1, 1998, the Secretary shall submit to the committees referred to in subparagraph (A) a final report on the results of the study carried out under paragraph (3).

(D) Form of reports.—The reports submitted under this paragraph shall be submitted in unclassified form.

(c) Selection of Study Entities.—

(1) In general.—The Secretary of Defense shall select entities to which to award grants for the studies described in subsections (a) and (b) in accordance with this subsection.

(2) Submittal of proposals.—An entity seeking to carry out a study under a grant under subsection (a) or (b) shall submit to the Secretary the following proposals:

(A) A proposal for a pilot study in order to determine the research design and research instrument to be used in the study.

(B) A proposal for the study.

(3) Independent review.—The Secretary shall ensure that individuals described in paragraph (4)—

(A) review each proposal submitted to the Secretary under paragraph (2) for purposes of determining whether or not the proposal—

(i) addresses adequately the purposes of the study; and

(ii) meets the technical, scientific, and peer review requirements that apply to similar studies carried out under the direction of the Secretary of Health and Human Services; and

(B) submit to the Secretary recommendations for the selection by the Secretary of one or more entities to carry out the study.

(4) Reviewing individuals.—Individuals referred to in paragraph (3) are any individuals who, as determined by the Secretary—

(A) are not employees of the Federal Government;

(B) have an expertise in epidemiology, toxicology, neurology, biology, biostatistics, post-traumatic stress disorder, or public health; and

(C) have no financial relationship with the Department of Defense or with any chemical company or pharmaceutical company whose productions may be addressed in the study.

(5) Selection.—The Secretary shall—

(A) select the entities that will carry out the studies described under subsections (a) and (b) from among the entities recommended for such selection under paragraph (3); and

(B) award such entities grants under the appropriate subsection.

(d) Performance of Studies.—

(1) Pilot studies.—

(A) Implementation.—An entity to which the Secretary awards a grant for a study under subsection (a) or (b) shall carry out the pilot study for such study in accordance with the proposal for the pilot study submitted to the Secretary under subsection (c)(2)(A).

(B) Response to results.—If an entity determines as a result of a pilot study under subparagraph (A) that revisions to the study proposed by the entity are necessary in order to meet the purposes of the study under this section, the entity shall submit to the Secretary a proposal for such revisions to the study.

(C) Final approval.—The Secretary shall—

(i) review any revisions to a proposal to a study that are submitted to the Secretary under subparagraph (B); and

(ii) approve the proposal for the study, as so revised, if the Secretary determines that the proposal meets the purposes of the study under this section.

(2) Studies.—An entity to which the Secretary awards a grant for a study under subsection (a) or (b) shall carry out the study in accordance the proposal for the study under this section.

(e) Consultation.—The Secretary of Defense shall carry out this section in consultation with the Secretary of Veterans Affairs, the Secretary of Health and Human Services, the Administrator of the Environmental Protection Agency, the head of the Medical Follow-Up Agency of the Institute of Medicine, and the heads of other appropriate departments and agencies of the Federal Government.

(f) Funding.—Of the amount authorized to be appropriated pursuant to section 201, $10,000,000 shall be available for purposes of awarding grants for the studies described in subsections (a) and (b). Such funds shall be available for such purpose until expended.

(g) Definition.—In this section, the term "Persian Gulf War" has the meaning given such term in section 101(33) of title 38, United States Code.

SEC. 1094. GRANTS FOR RESEARCH INTO THE HEALTH CONSEQUENCES OF THE PERSIAN GULF WAR.

(a) In General.—(1) The Secretary of Defense shall award grants to appropriate nongovernmental entities for purposes of permitting such entities to carry out research to determine—

(A) the nature and causes of any illnesses suffered by the individuals referred to in paragraph (2) as a result of service or employment in the Southwest Asia theater of operations during the Persian Gulf War;

(B) the methods of transmission, if any, of such illnesses from such individuals to other individuals; and

(C) the appropriate treatment for such illnesses.

(2) The individuals referred to in paragraph (1)(A) are the following individuals:

(i) Individuals who served as members of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

(ii) Civilian employees of the Department of Defense who were employed by the Department in that theater of operations during that period.

(iii) Employees of contractors of the Department who were employed in that theater of operations during that period.

(iv) The spouses and children of the individuals referred to in clauses (i) through (iii).

(3) In carrying out research under this section, such entities shall give particular consideration to the following:

(A) Illnesses or other effects associated with exposure to depleted uranium particles, mycotoxins, genetically-altered organisms, petrochemical toxicity, pesticide poisoning, anthrax vaccines, botulinum toxoids, and other chemical hazards and agents.

(B) Endemic viral, fungal, bacterial, and rickettsial diseases (including diseases arising from biological warfare activities).

(C) Illnesses or other effects associated with ingestion of silica or sand.

(D) Assessment of risks to reproductive capacity arising from the illnesses and diseases referred to in subparagraphs (A) through (C).

(E) Pediatric disorders.

(F) Birth deficiencies.

(G) Post-traumatic stress disorder.

(H) Somatoform disorders.

(I) Chronic fatigue syndrome.

(J) Multiple chemical sensitivities.

(b) Award Process.—(1) The Secretary of Defense shall award grants under this section in consultation with the Secretary of Health and Human Services.

(2) An entity seeking a grant under this section to carry out the research described in subsection (a)(1) shall submit to the Secretary a proposal for the research.

(3) The Secretary shall ensure that appropriate individuals who are not employees of the Federal Government—

(A) review each proposal submitted to the Secretary under paragraph (2) for purposes of determining that the proposal—

(i) addresses adequately the purposes of the research for which the proposal is submitted; and

(ii) meets the technical, scientific, and peer review requirements that apply to similar research carried out under the direction of the Secretary of Health and Human Services; and

(B) submit to the Secretary recommendations for the selection by the Secretary of one or more entities so determined as recipients of a grant under subsection (a).

(4) The Secretary shall award grants under this section to entities selected by the Secretary for that purpose from among the entities identified in the recommendations under paragraph (3)(B).

(5) In awarding an entity a grant under paragraph (4), the Secretary shall ensure that the entity—

(A) carry out the research covered by the grant in accordance with the proposal submitted to the Secretary under paragraph (2); and

(B) not expose human beings to hazardous agents or materials as a result of the research.

(c) REPORTS.—(1) The Secretary of Defense and the Secretary of Health and Human Services shall submit to the congressional defense committees and the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the results of any research carried out under a grant awarded under this section.

(2) The Secretary of Defense and the Secretary of Health and Human Services shall submit a report under paragraph (1) on each of March 1, 1995, October 1, 1995, October 1, 1996, and October 1, 1997.

(3) Each report submitted under this subsection shall be submitted in unclassified form.

(d) FUNDING.—(1) Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for purposes of awarding grants under this section. Such funds shall be available for such purpose until expended.

(2) For each fiscal year in which activities under the study under this section will continue, the Secretary of Defense shall provide in the documents submitted to Congress in connection with the budget of the President for the fiscal year a request for such funds as the Secretary determines necessary in order to award grants under this section during that fiscal year.

SEC. 1095. COMPATABILITY OF HEALTH REGISTRIES.

The Secretary of Defense shall take appropriate actions to ensure that—

(1) the data collected by and the testing protocols of the Persian Gulf War Health Surveillance System are compatible with the data collected by and the testing protocols of the Persian Gulf War Veterans Health Registry; and

(2) information on individuals who register with the Department of Defense is provided to the Department of Veterans Affairs for incorporation into the Persian Gulf War Veterans Health Registry.

SEC. 1096. TECHNICAL AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) Section 113(e)(2) is amended by striking out "section 104" and inserting in lieu thereof "section 108".

(2) Section 133a(b) is amended by striking out "Under Secretary of Defense for Acquisition" and inserting in lieu thereof "Under Secretary of Defense for Acquisition and Technology".

(3) Section 580a(a) is amended by striking out "the date of the enactment of this section" and inserting in lieu thereof "November 30, 1993,".

(4)(A) The section 1058 added by section 554(a) of Public Law 103–160 (107 Stat. 1663) is redesignated as section 1059.

(B) The item relating to that section in the table of sections at the beginning of chapter 53 is revised to conform to the redesignation made by subparagraph (A).

(5)(A) The section 1058 added by section 1433(b) of Public Law 103–160 (107 Stat. 1834) is redesignated as section 1060.

(B) The item relating to that section in the table of sections at the beginning of chapter 53 is revised to conform to the redesignation made by subparagraph (A).

(6) Section 1141 is amended by striking out "on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1994" and inserting in lieu thereof "after November 29, 1993,".

(7) Section 1151(h)(3)(B)(v) is amended by inserting "school" after "For the fifth".

(8)(A) The heading of section 1482a is amended so that the first letter of the fifth word is lower case.

(B) The item relating to that section in the table of sections at the beginning of chapter 75 is revised to conform to the amendment made by subparagraph (A).

(9) Section 2399 is amended—

(A) in subsections (b)(5) and (c)(1), by striking out "section 138(a)(2)(B)" and inserting in lieu thereof "section 139(a)(2)(B)";

(B) in subsection (e)(3)(B), by striking out "solely as a representative of" and inserting in lieu thereof "solely in testing for";

(C) in subsection (g), by striking out "section 138" and inserting in lieu thereof "section 139"; and

(D) in subsection (h)(1), by striking out "section 138(a)(2)(A)" and inserting in lieu thereof "section 139(a)(2)(A)".

(10) Section 2502(d) is amended by striking out "Executive" and inserting in lieu thereof "executive".

(11)(A) Sections 2540 and 2541, as added by section 822(a) of Public Law 103–160 (107 Stat. 1705), are redesignated as sections 2539a and 2539b, respectively.

(B) The items relating to those sections in the table of sections at the beginning of subchapter V of chapter 148 are revised to conform to the redesignations made by subparagraph (A).

(12) Section 2865(a)(4) is amended by adding a period at the end.

(13) Sections 3022(a)(1), 5025(a)(1), and 8022(a)(1) are amended by striking out "section 137(c)" and inserting in lieu thereof "section 135(c)".

(14) Section 9511 is amended by striking out "In this subchapter" and inserting in lieu thereof "In this chapter".

(b) PUBLIC LAW 103–160.—Effective as of November 30, 1993, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160) is amended as follows:

(1) Section 507(d)(3) (107 Stat. 1647) is amended by inserting "note" after "10 U.S.C. 1293".

(2) Section 551(a)(1) (107 Stat. 1661) is amended by striking out "Section" and inserting in lieu thereof "Chapter".

(3) Section 554(b) (107 Stat. 1666) is amended—

(A) in paragraph (1), by striking out "Section 1058 of title 10, United States Code, as added by subsection (a)," and inserting in lieu thereof "The section of title 10, United States Code, added by subsection (a)(1)"; and

(B) in paragraph (2), by striking out "1058".

(4) Section 931(c)(1) (107 Stat. 1734) is amended by inserting closing quotation marks before the period at the end.

(5) Section 1314(3) (107 Stat. 1786) is amended by striking out "adding at the end" and inserting in lieu thereof "inserting after subsection (f)".

(6) Section 1433(d) (107 Stat. 1835) is amended by striking out "Section 1058 of title 10, United States Code, as added by subsection (a)," and inserting in lieu thereof "The section of title 10, United States Code, added by subsection (b)(1)".

(7) Section 1606(b)(4) (107 Stat. 1847) is amended by striking out "section 1604(e)" and inserting in lieu thereof "section 1605(e)".

(8) Section 2912(b)(2) (107 Stat. 1925) is amended by striking out "section 637(d)(1)" and inserting in lieu thereof "section 8(d)(1)".

(9) Section 2926(d) (107 Stat. 1932) is amended by striking out "Subsection (d)(1)(2)(C)(iii)" and inserting in lieu thereof "Subsection (d)(2)(C)(iii)".

(c) OTHER LAWS.—(1) Section 921 of Public Law 102–190 (10 U.S.C. 201 note; 105 Stat. 1452) is amended by striking out "section 136(b)(3)" in subsection (a) and inserting in lieu thereof "section 138(b)(3)".

(2) Section 908(c) of title 37, United States Code, is amended by striking out "section 1058" and inserting in lieu thereof "section 1060".

SEC. 1097. NORTH ATLANTIC TREATY ORGANIZATION.

(a) FINDINGS.—The Congress makes the following findings:

(1) The North Atlantic Treaty Organization has served as a bulwark of peace, security, and democracy for the United States and the members of the alliance since 1949.

(2) The unswerving resolve of the member states of the North Atlantic Treaty Organization to mutual defense against the threat of communist aggression was central to the demise of the Warsaw Pact.

(3) The North Atlantic Treaty Organization is the most successful international security organization in history, and is well suited to help marshal our cooperative political, diplomatic, economic, and humanitarian efforts, buttressed by credible military capability aimed at deterring conflict, and thus contributing to international peace and security.

(4) The threat of instability in Eastern and Central Europe, as well as in the Southern and Eastern Mediterranean, continues to pose a fundamental challenge to the interests of the member states of the North Atlantic Treaty Organization.

(5) North Atlantic Treaty Organization assets have been deployed in recent years for more than the territorial defense of alliance members; and the Rome Summit of October 1991 adopted a new strategic concept for the North Atlantic Treaty Organization that entertained the possibility of operations beyond the alliance's self-defense area.

(6) In Oslo in July 1992, and in Brussels in December 1992, the alliance embraced the deployment of North Atlantic Treaty Organization forces to peacekeeping operations under the auspices of the United Nations or the Conference on Security and Cooperation in Europe.

(7) The North Atlantic Treaty Organization should attempt to cooperate with and seek a mandate from international organizations such as the United Nations when considering responses to out of area crises.

(8) Not all members of the international community share a commonality of interests that would ensure timely action by the United Nations Security Council.

(9) The security interests of the member countries of the North Atlantic Treaty Organization must not be held hostage to indecision at the United Nations or a veto by a permanent member of the Security Council.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) it should be the policy of the United States that, in accordance with article 53 of the United Nations Charter, the North Atlantic Treaty Organization retains the right of autonomy of action regarding missions in addition to collective defense should the United Nations Security Council or the Conference on Security and Cooperation in Europe fail to act;

(2) while it is desirable to work with other international organizations and arrangements where feasible in dealing with threats to the peace, the North Atlantic Treaty Organization is not an auxiliary to the United Nations or any other organization; and

(3) the member states of the North Atlantic Treaty Organization reserve the right to act collectively in defense of their vital interests.

SEC. 1098. LIMITATION ON OBLIGATION OF FUNDS FOR MARK-6 GUIDANCE SETS FOR TRIDENT II MISSILES.

(a) LIMITATION.—Until the certification in subsection (b) has been provided to the congressional defense committees, funds appropriated for fiscal year 1995 for the Navy may not be obligated to procure more than 14 Mark-6 guidance sets for Trident II missiles.

(b) CERTIFICATION.—Before the Secretary of Defense may obligate funds for Mark-6 guidance sets in addition to the 14 sets authorized in subsection (a), he shall certify to the congressional defense committees that failure to procure such additional units would pose an unacceptable risk to the long-term readiness and reliability of the Trident II missile program.

SEC. 1099. MILITARY PLANNING FOR THE SIZE AND STRUCTURE OF A FORCE REQUIRED FOR A MAJOR REGIONAL CONTINGENCY ON THE KOREAN PENINSULA.

(a) FINDINGS.—Congress finds as follows:

(1) Whereas the Administration commissioned the Bottom-Up Review to properly size and structure the Armed Forces of the United States for the Post-Cold-War Era;

(2) Whereas the Bottom-Up Review itself cites the need for the Armed Forces of the United States to be large enough to prevail in two major regional conflicts, similar in nature to the 1991 war against Iraq, "nearly simultaneously";

(3) Whereas the Bottom-Up Review gives special consideration to a scenario that hypothesizes that the two "nearly simultaneous" conflicts would occur in Korea and the Persian Gulf;

(4) Whereas the United States sent 7 Army divisions, the equivalent of 10 Air Force tactical fighter wings, 70 heavy bombers, 6 Navy aircraft carrier battle groups, and 5 Marine Corps brigades to the Persian Gulf to fight the war against Iraq;

(5) Whereas the Bottom-Up Review asserts that the forces needed to fight two conflicts similar to that with Iraq can be drawn from a total military force of between 15 and 16 Army divisions, 20 Air Force tactical fighter wings, 184 heavy bombers, 11 active Navy aircraft carriers (along with one reserve/training carrier), and the equivalent of 12 Marine Corp brigades;

(6) Whereas the Bottom-Up Review recognizes that approximately 100,000 members of the United States Armed Forces will be stationed in Europe;

(7) Whereas the Bottom-Up Review recognizes that sizeable numbers of United States forces could be involved in peace enforcement and intervention operations at any one time;

(8) Whereas the Bottom-Up Review makes no specific recommendation as to the number of forces to be held in reserve to provide a rotation base either to relieve troops in the event one or both hypothetical conflicts result in lengthy deployments or to replace combat losses;

(9) Whereas military planners calculate that the number of United States forces needed to help defeat an invasion of South Korea by North Korea may exceed 430,000 United States military personnel;

(10) Whereas the size of the force military planners may request to help defend South Korea could exceed the levels that are consistent with the recommendations of Bottom-Up Review if the existing and future force requirements for a presence in Europe, possible peace enforcement operations, and an adequate rotation base, as well as a second regional conflict, must be fulfilled simultaneously.

(b) SENSE OF CONGRESS.—It is the Sense of Congress:

(1) that the force structure identified in the Bottom-Up Review may not be used to limit the size or structure of the force United States military commanders may request in preparation for a major regional contingency on the Korean peninsula;

(2) and that the Chairmen and Ranking Members of the House and Senate Committees on Armed Services and Chairmen and Ranking members of the House and Senate Appropriations Subcommittees on Defense should receive regular briefings from the Department of Defense of the situation on the Korean peninsula;

(3) and that the conclusions of the Bottom-Up Review should be continuously examined in light of the lessons learned from preparation for a major regional contingency on the Korean peninsula and from other military operations.

MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 1995

The text of the bill (S. 2209) to authorize appropriations for fiscal year 1995 for military construction, and for other purposes, as passed by the Senate on July 1, 1994, is as follows:

S. 2209

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Military Construction Authorization Act for Fiscal Year 1995".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Congressional defense committees defined.

TITLE XXI—ARMY

Sec. 2101. Authorized Army construction and land acquisition projects.
Sec. 2102. Family housing.
Sec. 2103. Improvements to military family housing units.
Sec. 2104. Authorization of appropriations, Army.
Sec. 2105. Relocation of Army family housing units from Fort Hunter Liggett, California, to Fort Stewart, Georgia.
Sec. 2106. Highway safety at Hawthorne Army Ammunition Plant, Nevada.

TITLE XXII—NAVY

Sec. 2201. Authorized Navy construction and land acquisition projects.
Sec. 2202. Family housing.
Sec. 2203. Improvements to military family housing units.
Sec. 2204. Authorization of appropriations, Navy.
Sec. 2205. Authority to carry out construction project, Naval Supply Center, Pensacola, Florida.
Sec. 2206. Relocation of Pascagoula Coast Guard Station, Mississippi.
Sec. 2207. Authority to carry out construction design for Mayport Naval Station, Florida.

TITLE XXIII—AIR FORCE

Sec. 2301. Authorized Air Force construction and land acquisition projects.
Sec. 2302. Family housing.
Sec. 2303. Improvements to military family housing units.
Sec. 2304. Authorization of appropriations, Air Force.
Sec. 2305. Authorization of military construction projects at Tyndall Air Force Base, Florida, for which funds have been appropriated.
Sec. 2306. Revision of authorized family housing project, Tyndall Air Force Base, Florida.

TITLE XXIV—DEFENSE AGENCIES

Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.
Sec. 2402. Family housing.
Sec. 2403. Improvements to military family housing units.
Sec. 2404. Energy conservation projects.
Sec. 2405. Authorization of appropriations, Defense Agencies.
Sec. 2406. Termination of authority to carry out fiscal year 1993 project.
Sec. 2407. Community impact assistance with regard to Naval Weapons Station, Charleston, South Carolina.
Sec. 2408. Planning and design for construction in support of consolidation of operations of the Defense Finance and Accounting Service.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

Sec. 2501. Authorized NATO construction and land acquisition projects.
Sec. 2502. Authorization of appropriations, NATO.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

Sec. 2601. Authorized Guard and Reserve construction and land acquisition projects.
Sec. 2602. Authorization of certain National Guard and Reserve projects for which funds have been appropriated.

TITLE XXVII—EXPIRATION OF AUTHORIZATIONS

Sec. 2701. Expiration of authorizations and amounts required to be specified by law.
Sec. 2702. Extension of authorization of certain fiscal year 1992 projects.
Sec. 2703. Clarification of extension of authorizations of certain fiscal year 1991 projects.
Sec. 2704. Extension of certain fiscal year 1991 projects.
Sec. 2705. Effective date.

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

Sec. 2801. Clarification of requirement for notification of Congress of improvements in family housing units.
Sec. 2802. Authority to pay closing costs under Homeowners Assistance Program.

Subtitle B—Base Closure Matters

Sec. 2811. Prohibition against consideration in base closure process of advance conversion planning undertaken by potential affected communities.
Sec. 2812. Clarifying and technical amendments to base closure laws.
Sec. 2813. Sense of Senate on the activities of the Secretary of Defense in support of communities affected by base closures.

Subtitle C—Land Transactions Generally

Sec. 2821. Land transfer, Holloman Air Force Base, New Mexico.
Sec. 2822. Joint use of property, Port Hueneme, California.
Sec. 2823. Lease of property, Naval Radio Receiving Facility, Imperial Beach, Coronado, California.
Sec. 2824. Release of reversionary interest on certain property in York County and James City County, Virginia, and Newport News, Virginia.
Sec. 2825. Land transfer, Fort Devens, Massachusetts.
Sec. 2826. Land conveyance, Cornhusker Army Ammunition Plant, Hall County, Nebraska.
Sec. 2827. Transfer or conveyance of certain parcels of property through General Services Administration.

Subtitle D—Changes to Existing Land Transaction Authority

Sec. 2831. Modifications of land conveyance, Fort A.P. Hill Military Reservation, Virginia.
Sec. 2832. Modification of conveyance of electricity distribution system, Fort Dix, New Jersey.
Sec. 2833. Modification of land conveyance, Fort Knox, Kentucky.
Sec. 2834. Preservation of Calverton Pine Barrens, Naval Weapons Industrial Reserve Plant, New York, as nature preserve.

Subtitle E—Other Matters

Sec. 2841. Joint construction contracting for commissaries and nonappropriated fund instrumentality facilities.
Sec. 2842. National Guard facility contracts subject to performance supervision by the Army or the Navy.
Sec. 2843. Waiver of reporting requirements for certain real property transactions in the event of war or national emergency.
Sec. 2844. Report on use of funds for environmental restoration at Cornhusker Army Ammunition Plant, Hall County, Nebraska.
Sec. 2845. Department of Defense laboratory revitalization demonstration program.
Sec. 2846. Agreements of settlement for release of improvements at overseas military installations.
Sec. 2847. Revisions to release of reversionary interest, Old Spanish Trail Armory, Harris County, Texas.
Sec. 2848. Transfer of jurisdiction, Air Force Housing at Radar Bomb Scoring Site, Holbrook, Arizona.
Sec. 2849. Assistance for public participation in defense environmental restoration activities.
Sec. 2850. Sense of the Senate on authoriaton of funds for military construction projects not requested in the President's annual budget request.

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

TITLE XXI—ARMY

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects in the total amount of $396,750,000 for the installations and locations inside the United States, and in the amounts for such installations and locations, set forth in the following table:

Army: Inside the United States

State	Installation or location	Amount
Alabama	Redstone Arsenal	$2,600,000
Georgia	Fort Benning	$6,550,000
	Fort Gordon	$44,750,000
Hawaii	Schofield Barracks	$25,000,000
Kentucky	Fort Campbell	$67,400,000
	Fort Knox	$8,500,000
Maryland	Adelphi Laboratory Center	$6,600,000
	Fort Ritchie	$3,600,000
New Jersey	Bayonne Military Ocean Terminal	$4,050,000
New York	United States Military Academy, West Point	$28,000,000
North Carolina	Fort Bragg	$29,000,000
	Sunny Point Military Ocean Terminal	$22,200,000
Oklahoma	Fort Sill	$18,000,000
South Carolina	Charleston Naval Weapons Station	$24,000,000
Texas	Fort Hood	$29,000,000
	Fort Sam Houston	$4,300,000
Virginia	Fort Myer	$7,300,000
Washington	Fort Lewis	$64,000,000
CONUS Classified	Classified Location	$1,900,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects in the total amount of $31,400,000 for the installation and location outside the United States, and in the amount, set forth in the following table:

Army: Outside the United States

Country or other	Installation or location	Amount
Kwajalein Atoll	Kwajalein	$6,400,000
Worldwide	Host Nation Support	$25,000,000

SEC. 2102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition) in the total amount of $117,750,000 at the installations, for the purposes, and in the amounts for such installations set forth in the following table:

Army: Family Housing

State	Installation	Purpose	Amount
Alaska	Fort Richardson	72 units	$5,000,000
Colorado	Fort Carson	145 units	$16,500,000
Georgia	Fort Stewart	128 units	$10,600,000
Hawaii	Helemano Military Reservation	Roadway improvements for family housing.	$3,500,000
	Schofield Barracks	190 units	$26,000,000
Kansas	Fort Riley	126 units	$12,600,000
Massachusetts	Natick Research Center	35 units	$4,150,000
New York	United States Military Academy, West Point.	56 units	$8,000,000
Texas	Fort Bliss	215 units	$21,400,000
	Fort Sam Houston	100 units	$10,000,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $5,992,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may improve existing military family housing in an amount not to exceed $49,760,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1994, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $1,731,286,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $396,750,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $31,400,000.

(3) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $12,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $63,926,000.

(5) For military family housing functions:

(A) For construction and acquisition of military family housing and facilities, $173,502,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,067,708,000, of which not more than $243,442,000 may be obligated or expended for the leasing of military family housing worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2105. RELOCATION OF ARMY FAMILY HOUSING UNITS FROM FORT HUNTER LIGGETT, CALIFORNIA, TO FORT STEWART, GEORGIA.

Section 2102(a) of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1511) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph (1):

"(1) Fort Hunter Liggett, California, one hundred fifty-four units, $12,300,000."; and

(2) by striking out paragraph (5) and inserting in lieu thereof the following new paragraph (5):

"(5) Fort Stewart, Georgia, one hundred twenty-one units, $9,890,000.".

SEC. 2016. HIGHWAY SAFETY AT HAWTHORNE ARMY AMMUNITION PLANT, NEVADA.

(a) STUDY.—The Secretary of the Army shall carry out a study of traffic safety on the highway at the Hawthorne Army Ammunition Plant, Nevada. In carrying out the study, the Secretary shall—

(1) evaluate traffic safety on the highway, including traffic safety with respect to the rail and truck crossing of the highway at the Plant;

(2) evaluate the feasibility and desirability of constructing a vehicle bridge over the rail and truck crossing; and

(3) determine whether any construction required to improve traffic safety on the highway be funded as a military construction project or as a defense access road construction project.

(b) ARCHITECTURAL AND ENGINEERING SERVICES AND CONSTRUCTION DESIGN.—If the Secretary determines as a result of the study under subsection (a) that construction of a vehicle bridge over the rail and truck crossing referred to in paragraph (1) of that subsection is feasible and desirable, the Secretary should—

(1) obtain architectural and engineering activities and carry out construction design with respect to the construction of the bridge; or

(2) request that the Secretary of Transportation carry out the construction of the bridge as project for the construction of a defense access road under section 210 of title 23, United States Code.

TITLE XXII—NAVY

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects in the total amount of $239,265,000 for the installations and locations inside the United States, and in the amounts for such installations and locations, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
Arizona	Yuma Marine Corps Air Station	$15,085,000
California	Camp Pendleton Amphibious Task Force	$10,700,000
	Camp Pendleton Marine Corp Base	$570,000
	China Lake Naval Air Warfare Center	$6,000,000
	El Centro Naval Air Facility	$3,000,000
	Lemoore Naval Air Station	$7,000,000
	North Island Naval Air Station	$18,830,000
	Port Hueneme Naval Construction Battalion Center	$9,650,000

Navy: Inside the United States—Continued

State	Installation or location	Amount
	San Diego Marine Corps Recruit Depot	$1,090,000
	San Diego Naval Station	$4,100,000
	Twentynine Palms Marine Corps Air-Ground Combat Center	$2,900,000
Florida	Jacksonville Fleet and Industrial Supply Center	$2,200,000
	Pensacola Naval Air Station	$2,100,000
Hawaii	Kaneohe Bay	$4,900,000
Illinois	Great Lakes Navy Public Works Center	$13,000,000
New Jersey	Lakehurst Naval Air Warfare Center	$2,950,000
New Mexico	White Sands Naval Ordnance Missile Test Station	$1,390,000
North Carolina	Cherry Point Marine Corps Air Station	$2,100,000
	Camp Lejeune Marine Corp Base	$14,850,000
Rhode Island	Newport Naval Education and Training Center	$14,500,000
South Carolina	Parris Island Marine Corps Recruit Depot	$2,550,000
Texas	Ingleside Naval Station	$14,110,000
Virginia	Chesapeake Naval Security Group Activity	$1,150,000
	Dam Neck Fleet Combat Training Center	$1,600,000
	Norfolk Marine Corps Security Force Battalion Atlantic	$6,480,000
	Norfolk Naval Station	$16,430,000
	Quantico Marine Corps Combat Development Command	$19,900,000
Washington	Bremerton Puget Sound Naval Shipyard	$11,040,000
	Everett Naval Station	$21,690,000
	Whidbey Island Naval Air Station	$5,200,000
Various Locations	Aircraft Fire Rescue and Vehicle Maintenance Facilities	$2,200,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects in the total amount of $50,810,000 for the installations and locations outside the United States, and in the amounts for such installations and locations, set forth in the following table:

Navy: Outside the United States

Country	Installation or location	Amount
Greece	Souda Bay, Crete Naval Support Activity	$3,050,000
Italy	Naples Naval Support Activity	$28,460,000
	Sigonella Naval Air Station	$13,750,000
Puerto Rico	Sabana Seca Naval Security Group Activity	$1,650,000
United Kingdom	Saint Mawgan Joint Maritime Communications Center	$3,900,000

SEC. 2202. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition) in the total amount of $49,012,000 at the installations, for the purposes, and in the amounts for such installations and purposes set forth in the following table:

Navy: Family Housing

State	Installation	Purpose	Amount
California	Camp Pendleton Marine Corps Base	196 units	$28,552,000
	San Diego Naval Public Works Center	136 units	$18,262,000
Maryland	Patuxent River Naval Air Station	Housing Office	$863,000
Virginia	Norfolk Naval Public Works Center	Warehouse/Self Help Center	$555,000
Washington	Everett Naval Station	Housing Office	$780,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $24,681,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may improve existing military family housing units in the amount of $155,602,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1994, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,507,349,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $239,265,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $50,810,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $7,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $43,380,000.

(5) For military family housing functions:

(A) For construction and acquisition of military family housing and facilities, $229,295,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $937,599,000, of which not more than $114,336,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2205. AUTHORITY TO CARRY OUT CONSTRUCTION PROJECT, NAVAL SUPPLY CENTER, PENSACOLA, FLORIDA.

Funds appropriated by the Military Construction Appropriations Act, 1994 (Public Law 103–110; 107 Stat. 1037) that are available for construction of a cold storage facility at Naval Supply Center, Pensacola, Florida, in accordance with authorizations provided in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1514), as enacted, may be expended for the portion of the construction of such facility that is associated with Department of the Navy contract N62467–86–C–0421.

SEC. 2206. RELOCATION OF PASCAGOULA COAST GUARD STATION, MISSISSIPPI.

(a) AGREEMENT ON RELOCATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Navy and the Secretary of Transportation shall enter into an agreement that provides for the relocation of the activities and functions of Pascagoula Coast Guard Station to Pascagoula Naval Station, Pascagoula, Mississippi.

(b) CONDITIONS.—The agreement under subsection (a) shall include the following provisions:

(1) That the Navy not incur any construction costs relating to the relocation.

(2) That the design, construction, and location of Coast Guard facilities, and the conduct of activities by the Coast Guard, at Pascagoula Naval Station not interfere with the performance of the mission of the Navy.

SEC. 2207. AUTHORITY TO CARRY OUT CONSTRUCTION DESIGN FOR MAYPORT NAVAL STATION, FLORIDA.

(a) AUTHORITY TO CARRY OUT CONSTRUCTION DESIGN.—Subject to subsection (b), the Secretary of the Navy may carry out construction design activities in connection with the military construction projects that the Secretary identifies as necessary for the improvement of the facilities located at Mayport Naval Station, Florida, so that such facilities may be used as the homeport of a nuclear powered aircraft carrier.

(b) REQUIREMENT RELATING TO COMMENCEMENT OF DESIGN.—The Secretary may not carry out the construction design activities authorized under subsection (a) until the Secretary—

(1) completes a study that identifies the improvements to the facilities referred to in that subsection that are necessary so that such facilities may be used as the homeport of a nuclear powered aircraft carrier; and

(2) completes a programmatic environmental impact study on the effect of such improvements on the environment.

(c) CONSTRUCTION OF AUTHORITY.—This section may not be construed or interpreted as an authorization for the Secretary to commence or proceed with any military construction project relating to the improvement of the facilities of Mayport Naval Station, Florida, for the purpose referred to in subsection (a).

TITLE XXIII—AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects in the total amount of $412,004,000 for the installations and locations inside the United States, and in the amounts for such installations and locations, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Alabama	Maxwell Air Force Base	$9,600,000
Alaska	Cape Lisburne Long Range Radar Site	$2,800,000
	Eielson Air Force Base	$3,300,000
	Elmendorf Air Force Base	$5,000,000
Arizona	Luke Air Force Base	$4,900,000
Arkansas	Little Rock Air Force Base	$4,800,000
California	Beale Air Force Base	$1,450,000
	Edwards Air Force Base	$7,050,000
	Travis Air Force Base	$3,600,000
	Vandenberg Air Force Base	$6,550,000
Colorado	Peterson Air Force Base	$1,750,000
	United States Air Force Academy	$3,600,000
Delaware	Dover Air Force Base	$10,500,000
Florida	Cape Canaveral Air Force Station	$10,450,000
Georgia	Moody Air Force Base	$14,300,000
	Robins Air Force Base	$21,200,000
Idaho	Mountain Home Air Force Base	$15,950,000
Illinois	Scott Air Force Base	$2,700,000
Kansas	McConnell Air Force Base	$500,000
Louisiana	Barksdale Air Force Base	$27,100,000
Maryland	Andrews Air Force Base	$10,800,000
Mississippi	Columbus Air Force Base	$3,400,000
	Keesler Air Force Base	$11,240,000
Missouri	Whiteman Air Force Base	$24,290,000
Montana	Malmstrom Air Force Base	$7,200,000
Nebraska	Offutt Air Force Base	$2,260,000
Nevada	Nellis Air Force Base	$10,500,000
New Jersey	McGuire Air Force Base	$17,000,000
New Mexico	Holloman Air Force Base	$10,950,000
	Kirtland Air Force Base	$31,000,000
North Carolina	Pope Air Force Base	$2,600,000
North Dakota	Ellsworth Air Force Base	$4,500,000
	Grand Forks Air Force Base	$5,200,000
	Minot Air Force Base	$10,350,000
Ohio	Wright-Patterson Air Force Base	$32,700,000
Oklahoma	Altus Air Force Base	$3,750,000
	Tinker Air Force Base	$9,643,000
	Vance Air Force Base	$11,680,000
South Carolina	Charleston Air Force Base	$11,400,000
South Dakota	Ellsworth Air Force Base	$1,450,000
Tennessee	Arnold Air Force Base	$1,900,000
Texas	Kelly Air Force Base	$8,950,000
	Lackland Air Force Base	$5,200,000
	Sheppard Air Force Base	$3,300,000
Washington	Fairchild Air Force Base	$8,850,000

Air Force: Inside the United States—Continued

State	Installation or location	Amount
Wyoming	F.E. Warren Air Force Base	$2,650,000
CONUS Classified	Classified Location	$2,141,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and may carry out military construction projects in the total amount of $38,273,000 for the installations and locations outside the United States, and in the amounts for such installations and locations, set forth in the following table:

Air Force: Outside the United States

Country	Installation or location	Amount
Germany	Ramstein Air Base	$12,350,000
	Spangdahlem Air Base	$9,473,000
Greenland	Thule Air Base	$2,450,000
Portugal	Lajes Field	$2,850,000
United Kingdom	RAF Lakenheath	$7,100,000
Overseas Classified	Classified Location	$4,050,000

SEC. 2302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition) in the total amount of $172,310,000 at the installations, for the purposes, and in the amounts for such installations and purposes set forth in the following table:

Air Force: Family Housing

State or Country	Installation	Purpose	Amount
Alabama	Maxwell Air Force Base	25 units	$2,100,000
Arizona	Davis-Monthan Air Force Base	60 units	$5,940,000
California	Beale Air Force Base	76 units	$8,842,000
	Edwards Air Force Base	34 units	$4,629,000
	Los Angeles Air Force Base	50 units	$8,962,000
	Vandenberg Air Force Base	128 units	$16,460,000
District of Columbia	Bolling Air Force Base	100 units	$9,000,000
Florida	Patrick Air Force Base	75 units	$7,145,000
Idaho	Mountain Home Air Force Base	4 unit	$881,000
	Mountain Home Air Force Base	60 units	$5,712,000
Kansas	McConnell Air Force Base	70 units	$8,322,000
Louisiana	Barksdale Air Force Base	82 units	$8,236,000
Missouri	Whiteman Air Force Base	Housing Office	$567,000
New Mexico	Cannon Air Force Base	1 unit	$230,000
	Holloman Air Force Base	76 units	$7,733,000
	Kirtland Air Force Base	106 units	$10,058,000
North Carolina	Pope Air Force Base	120 units	$14,874,000
	Seymour Johnson Air Force Base	74 units	$6,025,000
North Dakota	Grand Forks Air Force Base	Housing Office	$709,000
South Carolina	Shaw Air Force Base	3 units	$631,000
Texas	Dyess Air Force Base	59 units	$7,077,000
Utah	Hill Air Force Base	138 units	$11,400,000
Virginia	Langley Air Force Base	148 units	$14,421,000
Washington	Fairchild Air Force Base	6 units	$1,035,000
Wyoming	F.E. Warren Air Force Base	106 units	$11,321,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $9,275,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $61,770,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1994, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $1,594,863,000 as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $412,004,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $38,273,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $7,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $49,386,000.

(5) For the balance of the amount authorized under section 2301(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2593) for the construction of the climatic test chamber at Eglin Air Force Base, Florida, $20,000,000.

(6) For military family housing functions:

(A) For construction and acquisition of military family housing and facilities, $243,355,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $824,845,000 of which not more than $112,757,000 may be obligated or expended for leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2305. AUTHORIZATION OF MILITARY CONSTRUCTION PROJECTS AT TYNDALL AIR FORCE BASE, FLORIDA, FOR WHICH FUNDS HAVE BEEN APPROPRIATED.

The table in section 2301 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103-160; 107 Stat. 1866) is amended in the item relating to Tyndall Air Force Base, Florida, by striking out "$2,600,000" in the column under the heading "Amount" and inserting in lieu thereof "$8,200,000".

SEC. 2306. REVISION OF AUTHORIZED FAMILY HOUSING PROJECT, TYNDALL AIR FORCE BASE, FLORIDA.

The table in section 2302(a) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103-160; 107 Stat. 1869) is amended in the item relating to Tyndall Air Force Base, Florida, by striking out "Infrastructure" in the third column and inserting in lieu thereof "45 units".

TITLE XXIV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects in the total amount of $413,700,000 for the installations and locations inside the United States, and in the amounts for such installations and locations, set forth in the following table:

Defense Agencies: Inside the United States

Agency	Installation or location	Amount
Chemical Agents and Munitions Destruction	Anniston Army Depot, Alabama	$5,000,000
	Pine Bluff Arsenal, Arkansas	$102,000,000
	Umatilla Army Depot, Oregon	$183,000,000
	Tooele Army Depot, Utah	$4,000,000
Defense Intelligence Agency	Bolling Air Force Base, Washington, District of Columbia	$600,000
Defense Logistics Agency	Defense Contract Management Office, El Segundo, California	$5,100,000
	Defense Construction Supply Center, Columbus, Ohio	$2,200,000
	Defense Fuel Support Point, Craney Island, Virginia	$3,652,000
	Headquarters, Defense Logistics Agency, Fort Belvoir, Virginia	$4,600,000
Defense Medical Facilities Office	McClellan Air Force Base, California	$10,280,000
	Fort McPherson, Georgia	$13,400,000
	Fort Dix, New Jersey	$2,000,000
National Security Agency	Fort Meade, Maryland	$20,258,000
Office of Secretary of Defense	Various Locations, Special Activities, Air Force	$5,300,000
Section 6 Schools	Naval Surface Warfare Center, Virginia	$1,560,000
Special Operations Force	Eglin Auxiliary Field No. 9, Florida	$21,750,000
	Fort Bragg, North Carolina	$16,000,000
	Kirtland Air Force Base, New Mexico	$9,600,000
	Naval Amphibious Base, Coronado, San Diego, California	$3,400,000

SEC. 2402. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(11)(A), the Secretary of Defense may construct or acquire family housing units (including land acquisition) at the installation, for the purpose, and in the amount set forth in the following table:

Defense Agencies: Family Housing

Location	Installation	Purpose	Amount
Belgium	National Security Agency	1 unit	$300,000

SEC. 2403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(11)(A), the Secretary of Defense may improve existing military family housing units in an amount not to exceed $50,000.

SEC. 2404. ENERGY CONSERVATION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(8), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code.

SEC. 2405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1994, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of $3,252,058,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $152,700,000.

(2) For military construction projects at Portsmouth Naval Hospital, Virginia, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101-189; 103 Stat. 1640), $120,000,000.

(3) For military construction projects at Elmendorf Air Force Base, Alaska, hospital replacement, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102-484; 106 Stat. 2599), $66,000,000.

(4) For military construction projects at Fort Bragg, North Carolina, hospital replacement, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102-484; 106 Stat. 2599), $75,000,000.

(5) For unspecified minor construction projects under section 2805 of title 10, United States Code, $22,348,000.

(6) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $8,511,000.

(7) For architectural and engineering services and for construction design under section 2807 of title 10, United States Code, $51,960,000.

(8) For energy conservation projects authorized by section 2404, $50,000,000.

(9) For base closure and realignment activities as authorized by the Defense Authorization Amendments and Base Closure and Realignment Act (title II of Public Law 100-526; 10 U.S.C. 2687 note), $87,600,000.

(10) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note):

(A) For military installations approved for closure or realignment in 1991, $398,700,000.

(B) For military installations approved for closure or realignment in 1993, $2,189,858,000.

(11) For military family housing functions:

(A) For construction and acquisition of military family housing and facilities, $350,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $29,031,000, of which not more than $24,051,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) and subsection (b);

(2) $94,000,000 (the balance of the amount authorized for construction of a chemical munitions demilitarization facility at Pine Bluff Arsenal, Arkansas); and

(3) $167,000,000 (the balance of the amount authorized for construction of a chemical munitions demilitarization facility at Umatilla Army Depot, Oregon).

SEC. 2406. TERMINATION OF AUTHORITY TO CARRY OUT FISCAL YEAR 1993 PROJECT.

(a) TERMINATION OF AUTHORITY.—The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2599) is amended by striking out the item relating to Fitzsimons Army Medical Center, Colorado.

(b) CONFORMING AMENDMENTS.—(1) Subsection (a) of section 2403 of such Act (106 Stat. 2600) is amended—

(A) in the matter above paragraph (1), by striking out "$2,567,146,000" and inserting in lieu thereof "$2,565,146,000"; and

(B) in paragraph (1), by striking out "$87,950,000" and inserting in lieu thereof "$85,950,000".

(2) Subsection (c) of such section is amended—

(A) by inserting "and" at the end of paragraph (4);

(B) by striking out "; and" at the end of paragraph (5) and inserting lieu thereof a period; and

(C) by striking out paragraph (6).

SEC. 2407. COMMUNITY IMPACT ASSISTANCE WITH REGARD TO NAVAL WEAPONS STATION, CHARLESTON, SOUTH CAROLINA.

Of the amount appropriated pursuant to the authorization of appropriations in section 2405(a)(10)(B), the Secretary of the Navy shall transfer $3,000,000 to the South Carolina Department of Highways and Public Transportation. Funds transferred pursuant to this section shall be used for making improvements to North Rhett Avenue, Charleston, South Carolina.

SEC. 2408. PLANNING AND DESIGN FOR CONSTRUCTION IN SUPPORT OF CONSOLIDATION OF OPERATIONS OF THE DEFENSE FINANCE AND ACCOUNTING SERVICE.

Of the amount authorized to be appropriated by section 2405(a)(7), $6,000,000 shall be available for planning and design activities relating to military construction in support of the consolidation of operations of the Defense Finance and Accounting Service.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1994, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program as authorized by section 2501, in the amount of $219,000,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

There are authorized to be appropriated for fiscal years beginning after September 30, 1994, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $180,312,000; and

(B) for the Army Reserve, $37,870,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $17,355,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $240,003,000; and

(B) for the Air Force Reserve, $43,840,000.

SEC. 2602. AUTHORIZATION OF CERTAIN NATIONAL GUARD AND RESERVE PROJECTS FOR WHICH FUNDS HAVE BEEN APPROPRIATED.

(a) FISCAL YEAR 1994 GUARD AND RESERVE PROJECTS.—Section 2601 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1878) is amended—

(1) in paragraph (1)(A), by striking out "$283,483,000" and inserting in lieu thereof "$287,958,000"; and

(2) in paragraph (2), by striking out "$25,013,000" and inserting in lieu thereof "$33,713,000".

(b) FISCAL YEAR 1993 AIR NATIONAL GUARD PROJECT.—Section 2601(3)(A) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2602) is amended by striking out "$305,759,000" and inserting in lieu thereof "$306,959,000".

TITLE XXVII—EXPIRATION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Infrastructure program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 1997; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 1998.

(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Infrastructure program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 1997; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 1998 for military construction projects, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Infrastructure program.

SEC. 2702. EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1992 PROJECTS.

(a) EXTENSIONS.—Notwithstanding section 2701(b) of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1535) authorizations for the projects set forth in the tables in subsection (b), as provided in section 2101, 2301, or 2601 of that Act, shall remain in effect until October 1, 1995, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1996, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

Army: Extension of 1992 Project Authorizations

State	Installation or location	Project	Amount
Colorado..	Fort Carson	Family Housing New Construction (1 Unit)	$150,000
Georgia	Fort Benning	General Instruction Facility	$2,150,000
	Camp Merrill	Family Housing New Construction (40 units)	$4,550,000
	Fort Stewart	Family Housing New Construction (120 units)	$9,700,000
Oregon	Umatilla Depot Activity	Ammunition Demilitarization Support Facility	$3,600,000
	Umatilla Depot Activity	Ammunition Demilitarization Utilities	$7,500,000

Air Force: Extension of 1992 Project Authorization

State	Installation or location	Project	Amount
Alaska	Eareckson Air Force Station (formerly Shemya Air Force Station)	Hazardous Materials Storage	$4,000,000

Army National Guard: Extension of 1992 Project Authorizations

State	Installation or location	Project	Amount
California	Stockton	Add/Alter Combined Support Maintenance Shop	$1,613,000
District of Columbia	Fort Belvoir	Army Aviation Support Facility	$2,765,000
Maryland	Towson	Direct Logistics Warehouse	$373,000
	Cheltenham	Armory	$3,300,000
Mississippi	West Point	Organizational Maintenance Shop	$1,270,000
	Tupelo	Organizational Maintenance Shop	$992,000
	Senatobia	Organizational Maintenance Shop	$723,000
Nevada	Washoe County	Organizational Maintenance Shop	$1,050,000
North Carolina	Camp Butler	Range, Modified Record Fire	$986,000
Rhode Island	Camp Varnum	Sewer and Water System	$578,000
	Camp Fogarty	Armory	$5,151,000
West Virginia	Huntington	Guard/Reserve Center	$2,983,000

Army Reserve: Extension of 1992 Project Authorizations

State	Installation or location	Project	Amount
Massachusetts	Taunton	Reserve Center	$3,526,000
Ohio	Perrysburg	Reserve Center Addition	$2,749,000
Pennsylvania	Johnstown	Army/Marine Corps Aviation Facility	$30,224,000
Tennessee	Jackson	Joint Training Facility	$1,537,000
West Virginia	Huntington	Guard and Reserve Center	$6,617,000

SEC. 2703. CLARIFICATION OF EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 1991 PROJECTS.

(a) CLARIFICATION.—The table relating to the extension of authorization of certain fiscal year 1991 projects of the Defense Agencies in section 2702(b) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1882) is amended by inserting before the item relating to the Defense Logistics Agency, Defense Reutilization and Marketing Office, Fort Meade, Maryland, the following:

California	Defense Language Institute, Monterey	Audio Visual Facility	$2,322,000
	Defense Language Institute, Monterey	Print Plant	$1,860,000

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the provisions of the Military Construction Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1822) to which such amendment relates.

SEC. 2704. EXTENSION OF CERTAIN FISCAL YEAR 1991 PROJECTS.

(a) EXTENSIONS.—Notwithstanding section 2701(b) of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510; 104 Stat. 1782), authorizations for the projects set forth in the table in subsection (b) as provided in section 2401(a) of that Act and extended by section 2702(a) of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1535) and section 2702 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1880), as amended by section 2703 of this Act, shall remain in effect until October 1, 1995, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1995, whichever is later.

(b) TABLE.—The table referred to in subsection (a) is as follows:

Defense Agencies: Extension of 1991 Project Authorizations

State	Installation or location	Project	Amount
California	Defense Language Institute, Monterey.	Audio Visual Instructional Media Facility	$2,322,000
	Defense Language Institute, Monterey.	Print Plant	$1,860,000
Maryland	Defense Logistics Agency, Defense Reutilization and Marketing Office, Fort Meade	Covered Storage	$9,500,000

SEC. 2705. EFFECTIVE DATE.

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI shall take effect on the later of—

(1) October 1, 1994; or

(2) the date of the enactment of this Act.

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

SEC. 2801. CLARIFICATION OF REQUIREMENT FOR NOTIFICATION OF CONGRESS OF IMPROVEMENTS IN FAMILY HOUSING UNITS.

Section 2825(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The limitation contained in the first sentence of paragraph (1) does not apply to a project for the improvement of a family housing unit or units referred to in that sentence if the project (including the amount requested for the project) is identified in the budget materials submitted to Congress by the Secretary of Defense in connection with the submission to Congress of the budget for a fiscal year pursuant to section 1105 of title 31.".

SEC. 2802. AUTHORITY TO PAY CLOSING COSTS UNDER HOMEOWNERS ASSISTANCE PROGRAM.

Section 1013(c) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374(c)) is amended by inserting after the first sentence the following: "The Secretary may also pay a person who elects to receive a cash payment under clause (1) of the preceding sentence an amount that the Secretary determines appropriate to reimburse the person for the costs incurred by the person in the sale of the property if the Secretary determines that such payment will benefit the person and is in the best interest of the Federal Government.".

Subtitle B—Base Closure Matters

SEC. 2811. PROHIBITION AGAINST CONSIDERATION IN BASE CLOSURE PROCESS OF ADVANCE CONVERSION PLANNING UNDERTAKEN BY POTENTIAL AFFECTED COMMUNITIES.

(a) DEPARTMENT OF DEFENSE RECOMMENDATIONS.—Subsection (c)(3) of section 2903 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) by inserting "(A)" before "In considering"; and

(2) by adding at the end the following new subparagraph:

"(B) In considering military installations for closure or realignment, the Secretary may not take into account for any purpose any advance conversion planning undertaken by an affected community with respect to the anticipated closure or realignment of an installation.

"(C) For purposes of subparagraph (B), in the case of a community anticipating the economic effects of a closure or realignment of a military installation, advance conversion planning—

"(i) shall include community adjustment and economic diversification planning undertaken by the community before an anticipated selection of a military installation in or near the community for closure or realignment; and

"(ii) may include the development of contingency redevelopment plans, plans for economic development and diversification, and plans for the joint use (including civilian and military use, public and private use, civilian dual use, and civilian shared use) of the property or facilities of the installation after the anticipated closure or realignment.".

(b) COMMISSION RECOMMENDATIONS.—Subsection (d)(2) of such section is amended by adding at the end the following:

"(E) In making recommendations under this paragraph, the Commission may not take into account for any purpose any advance conversion planning undertaken by an affected community with respect to the anticipated closure or realignment of a military installation.".

SEC. 2812. CLARIFYING AND TECHNICAL AMENDMENTS TO BASE CLOSURE LAWS.

(a) CLARIFICATION OF SCOPE OF TERMINATION OF AUTHORITY UNDER 1988 ACT.—Section 202(c) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended—

(1) by striking out "The authority" and inserting in lieu thereof "(1) Except as provided in paragraph (2), the authority"; and

(2) by adding at the end the following new paragraph:

"(2) The termination of authority set forth in paragraph (1) shall not apply to the authority of the Secretary to carry out environmental restoration and waste management at, or disposal of property of, military installations closed or realigned under this title.".

(b) USE OF UNOBLIGATED FUNDS IN 1988 ACCOUNT FOR ENVIRONMENTAL RESTORATION AND PROPERTY DISPOSAL.—Section 207(a)(5) of such Act is amended—

(1) by striking out "Unobligated funds" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), unobligated funds"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary may, after the termination of authority referred to in subparagraph (A), use any unobligated funds referred to in that subparagraph that are not transferred in accordance with that subparagraph to carry out environmental restoration and waste management at, or disposal of property of, military installations closed or realigned under this title.".

(c) CLARIFICATION OF DISPOSAL AUTHORITY.—

(1) UNDER 1988 ACT.—Section 204(b)(1) of such Act is amended in the matter above paragraph (1) by striking out "real property and facilities" and inserting in lieu thereof "real property, facilities, and personal property".

(2) UNDER 1990 ACT.—Section 2905(b)(1) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended in the matter above paragraph (1) by striking out "real property and facilities" and inserting in lieu thereof "real property, facilities, and personal property".

(d) DEFINITION OF REDEVELOPMENT AUTHORITY.—

(1) UNDER 1988 ACT.—Section 209(10) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by striking out "and for" and inserting in lieu thereof "or for".

(2) UNDER 1990 ACT.—Section 2910(9) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking out "and for" and inserting in lieu thereof "or for".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in the amendments made by 2918 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1927).

(e) TECHNICAL AMENDMENTS FOR INTERNAL CONSISTENCY.—

(1) 1988 ACT.—Section 204(b)(3) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended—

(A) in subparagraph (A)(ii), by striking out "determines to be related to real property and"; and

(B) in subparagraph (E), by striking out "related" in the matter above clause (i).

(2) 1990 ACT.—Section 2905(b)(3)(A)(ii) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking out "determines to be related to real property and".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in the amendments made by 2902 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1909).

SEC. 2813. SENSE OF SENATE ON THE ACTIVITIES OF THE SECRETARY OF DEFENSE IN SUPPORT OF COMMUNITIES AFFECTED BY BASE CLOSURES.

(a) FINDINGS.—The Senate makes the following findings:

(1) The closure or realignment of a major military installation can cause severe economic disruption to the host community for the installation.

(2) Communities affected by the closure of a major military installation under a base closure law dedicate significant time, effort, and resources to planning for the economic redevelopment of the installation.

(3) The Federal Government can ease the disruption caused by the closure of a military installation by working cooperatively with the host community for the installation to implement the community's redevelopment plan for the installation.

(4) In recent years, the Federal Government has not always provided sufficient assistance to communities affected by the closure of a military installation under a base closure law in the efforts of such communities to provide for the economic redevelopment of the installation.

(5) In July 1993, the President issued a five-point plan for revitalizing base closure communities which emphasized the economic recovery of communities affected by the closure of a military installation under a base closure law.

(6) In November 1993, Congress agreed to the provisions of subtitle A of title XXIX of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1909), and the amendments made thereunder, in order to implement the plan referred to in paragraph (5) and to provide other assistance to communities attempting to redevelop military installations approved for closure under a base closure law.

(7) The Secretary of Defense is accepting public comment on the guidelines for implementation of the provisions of law referred to in paragraph (6).

(b) Sense of the Senate.—It is the sense of the Senate that the Secretary of Defense should—

(1) ensure that the regulations implementing the provisions of subtitle A of title XXIX of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1909), and the amendments made thereunder, reflect the intent of Congress that, to the maximum extent practicable, the Secretary take into consideration the redevelopment plans of affected communities when taking actions or implementing decisions on the closure of a military installation approved for closure under a base closure law;

(2) ensure that the regulations implementing such provisions reflect the intent of Congress to encourage and promote cooperation and dialogue between the Federal Government and communities affected by the closure of an installation throughout the base closure process; and

(3) develop a system of incentives or awards to encourage Department of Defense personnel to provide greater assistance to and cooperation with communities affected by the closure of an installation during the ongoing effort of revitalizing the economy of such communities.

Subtitle C—Land Transactions Generally

SEC. 2821. LAND TRANSFER, HOLLOMAN AIR FORCE BASE, NEW MEXICO.

(a) In General.—Subject to subsections (c) through (g), not later than 90 days after the date of enactment of this Act, the Secretary of the Interior shall transfer to the Department of the Air Force, without reimbursement, jurisdiction and control of approximately 1,262 acres of public lands described in subsection (b). Such public lands are located in Otero County, New Mexico, and are contiguous to Holloman Air Force Base.

(b) Description of Lands Transferred.—The lands described in this subsection are as follows:

(1) T17S, R8E, Section 21:	S½ N½:	160 acres
	E½ NW¼ NE¼:	20 acres
	NE¼ NE¼:	40 acres
(2) T17S, R8E, Section 22:	W½:	320 acres
	W½ E½:	160 acres
(3) T17S, R8E, Section 27:	All that part north of New Mexico Highway 70 except for the E½ E½.	192 acres more or less
(4) T17S, R8E, Section 28:	NE¼:	160 acres
	N½ SE¼:	80 acres
	SW¼ SE¼:	40 acres
	W½ SE¼ SE¼:	20 acres
(5) T17S, R8E, Section 33:	NW¼ NE¼:	40 acres
	NW¼ NE¼ NE¼:	10 acres
	W½ SW¼ NE¼:	20 acres

(c) Use of Transferred Land.—The lands transferred to the Department of the Air Force under subsection (a) shall be used by the Secretary of the Air Force for the construction of new evaporation ponds to support a wastewater treatment facility that the Secretary shall construct at Holloman Air Force Base.

(d) Cattle Grazing Rights.—

(1) In general.—The United States recognizes a grazing preference on the lands transferred to the Department of the Air Force under subsection (a).

(2) Adjustment of grazing allotment.—(A) The Secretary of the Air Force shall take such action as is necessary to ensure that—

(i) the boundary of the grazing allotment that contains the lands transferred to the Department of the Air Force is adjusted in such manner as to retain the portion of the allotment located south of United States Highway 70 in New Mexico and remove the portion of the lands that is located north of such highway; and

(ii) the grazing preference referred to in paragraph (1) is retained by means of transferring the preference for the area removed from the allotment under subparagraph (A) to public lands located south of such highway.

(B) The Secretary of the Air Force shall offer to enter into an agreement with each person who holds a permit for grazing on the lands transferred to the Department of the Air Force at the time of the transfer to provide for the continued grazing by livestock on the portion of the lands located south of such highway.

(e) Additional Requirements.—

(1) National environmental policy act of 1969.—The Secretary of the Air Force shall ensure that the transfer made pursuant to subsection (a) and the use specified in subsection (c) meet any applicable requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) Environmental laws.—The Secretary of the Air Force shall use and manage the lands transferred under the authority in subsection (a) in such manner as to ensure compliance with applicable environmental laws (including regulations) of the Federal Government and State of New Mexico, and political subdivisions thereof.

(3) Responsibility for cleanup of hazardous substances.—Notwithstanding any other provision of law, the Secretary of the Air Force shall, upon the transfer of the lands under subsection (a), assume any existing or subsequent responsibility and liability for the cleanup of hazardous substances (as defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14))) located on or within the lands transferred.

(4) Mining.—The transfer of lands under subsection (a) shall be made in such manner as to ensure the continuation of valid, existing rights under the mining laws and the mineral leasing and geothermal leasing laws of the United States. Subject to the preceding sentence, upon the transfer of the lands, mining and mineral management activities shall be carried out in the lands in a manner consistent with the policies of the Department of Defense concerning mineral exploration and extraction on lands under the jurisdiction of the Department.

(f) Rights-of-Way.—The transfer of lands under subsection (a) shall not affect the following rights-of-way:

(1) The right-of-way granted to the Otero County Electric Cooperative, numbered NMNM 58293.

(2) The right-of-way granted to U.S. West Corporation, numbered NMNM 59261.

(3) The right-of-way granted to the Highway Department of the State of New Mexico, numbered LC0 54403.

(g) Public Access.—

(1) In general.—Except as provided in paragraph (2), the Secretary of the Air Force shall permit public access to the lands transferred under subsection (a).

(2) Construction site.—The Secretary of the Air Force may not permit public access to the immediate area affected by the construction of a wastewater treatment facility in the area with the legal description of T17S, R8E, Section 22, except that the Secretary of the Air Force shall permit public access on an adjoining unfenced parcel of land—

(A) located along the west boundary of such area; and

(B) that is 50 feet in width.

(3) Public uses.—Except as provided in paragraph (2), the Secretary of the Air Force shall permit, on the lands transferred under subsection (a), public uses that are consistent with the public uses on adjacent lands under the jurisdiction of the Secretary of the Interior.

(4) Permit not required.—The Secretary of the Air Force may not require a permit for access authorized under this subsection to the lands transferred under subsection (a).

(5) Entry gate.—The Secretary of the Air Force shall ensure that the entry gate to the lands transferred under subsection (a) that is located along United States Highway 70 shall be open to the public.

SEC. 2822. JOINT USE OF PROPERTY, PORT HUENEME, CALIFORNIA.

(a) Agreement Authorized.—The Secretary of the Navy may enter into an agreement with the Oxnard Harbor District, Port Hueneme, California, a special district of the State of California (in this section referred to as the "District"), to provide for the joint use by Secretary and the District of a parcel of real property consisting of approximately 25 acres, together with improvements thereto, that comprises United States Navy Wharf Number 3, the location of the Naval Construction Battalion Center, Port Hueneme, California.

(b) Period.—The agreement authorized under subsection (a) shall—

(1) be for an initial period of not more than 15 years; and

(2) contain an option for the District to extend the agreement for three additional periods of 5 years each.

(c) Conditions.—The agreement authorized under subsection (a) shall be subject to the following conditions:

(1) That the District suspend operations in the joint use area during the periods when the Navy conducts operations at the Naval Construction Battalion Center.

(2) That the District carry out activities in the joint use area in a manner that does not interfere with the capability of the Secretary to carry out contingency operations at the Naval Construction Battalion Center.

(d) Consideration.—(1) As consideration for the use of the real property under subsection (a), the District—

(A) shall pay to the Secretary the fair market rental value (as determined by the Secretary) of the District's interest in the property; and

(B) may be required to furnish additional consideration as provided in paragraph (2).

(2) The Secretary may require that the agreement include a provision that the District—

(A) either—

(i) pay the Secretary an amount (as determined by the Secretary) equal to the cost to the Navy of replacing at the Naval Construction Battalion Center the facilities vacated by the Navy in the joint use area; or

(ii) construct the replacement facilities for the Navy; and

(B) pay the Secretary an amount (as determined by the Secretary) equal to the cost to the Navy of relocating Navy operations from the vacated facilities to the replacement facilities.

(e) NOTICE AND WAIT REQUIREMENTS.—The Secretary may not enter into the agreement authorized by subsection (a) until 21 days after the date on which the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives a report containing an explanation of the terms of the proposed agreement and a description of the consideration that the Secretary expects to receive under the agreement.

(f) USE OF PROCEEDS.—(1) The Secretary may use amounts received under subsection (d)(1)(A) to pay for general supervision, administration and overhead expenses incurred by the Secretary under the agreement and for improvement, maintenance, repair, construction, or restoration of the port operations area or of roads and railways serving the area at the Naval Construction Battalion Center.

(2) The Secretary may use amounts received under subsection (d)(2) to pay for constructing new facilities, or making modifications to existing facilities, that are necessary to replace facilities vacated by the Navy in the joint use area and for relocating operations of the Navy from the vacated facilities to the replacement facilities.

(g) AUTHORITY TO REPLACE FACILITIES.—The Secretary may authorize the District to demolish existing facilities in the joint use area and, consistent with the restrictions required by subsection (c)(2), construct new facilities on the property for the joint use of the Navy and the District.

(h) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property subject to the agreement authorized under this section shall be determined by a survey that is satisfactory to the Secretary. The cost of the survey shall be borne by the District.

(i) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the agreement authorized under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2823. LEASE OF PROPERTY, NAVAL RADIO RECEIVING FACILITY, IMPERIAL BEACH, CORONADO, CALIFORNIA.

(a) LEASE AUTHORIZED.—The Secretary of the Navy may lease to the Young Men's Christian Association of San Diego County, a California nonprofit public benefit corporation (in this section referred to as the "YMCA"), such interests in a parcel of real property (including any improvements thereon) consisting of approximately 45 acres at the Naval Radio Receiving Facility, Imperial Beach, Coronado, California, as the Secretary considers appropriate for the YMCA to operate and maintain a summer youth residence camp known as the YMCA San Diego Unified Recreational Facility (Camp SURF). Pursuant to the lease, the Secretary may authorize the YMCA to construct facilities on the parcel.

(b) LEASE TERMS.—The lease authorized in subsection (a) shall be for a period of 50 years, or such longer period as the Secretary determines to be in the best interests of the United States.

(c) CONSIDERATION.—As consideration for the lease of real property under subsection (a), the YMCA shall—

(1) agree to maintain and enhance the natural resources of the leased premises; and

(2) pay to the United States an amount in cash equal to the difference between the rental price prescribed by the Secretary under subsection (d) and the value of natural resources maintenance and enhancements performed by the YMCA, as determined by the Secretary.

(d) DETERMINATION OF RENTAL PRICE.—The Secretary may prescribe a rental price for the real property leased under subsection (a) that is less than the fair market rental value of such property.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the lease under subsection (a) as the Secretary considers necessary to protect the operation of the Naval Radio Receiving Facility, Imperial Beach, Coronado, California, and to protect the interests of the United States.

SEC. 2824. RELEASE OF REVERSIONARY INTEREST ON CERTAIN PROPERTY IN YORK COUNTY AND JAMES CITY COUNTY, VIRGINIA, AND NEWPORT NEWS, VIRGINIA.

(a) RELEASE AUTHORIZED.—The Secretary of the Navy may release the reversionary interest of the United States in the real property conveyed by the deed described in subsection (b).

(b) DEED DESCRIPTION.—The deed referred to in subsection (a) is a deed between the United States and the Commonwealth of Virginia dated August 17, 1966, which conveyed to the Commonwealth of Virginia certain parcels of land located in York County and James City County, Virginia, and the city of Newport News, Virginia.

(c) ADDITIONAL TERMS.—The Secretary may require such terms or conditions in connection with the release under this section as the Secretary considers appropriate to protect the interests of the United States and to ensure that the real property will continue to be used for public purposes.

(d) INSTRUMENT OF RELEASE.—The Secretary may execute and file in the appropriate office or offices a deed of release, amended deed, or other appropriate instrument effectuating the release of the reversionary interest under this section.

SEC. 2825. LAND TRANSFER, FORT DEVENS, MASSACHUSETTS.

(a) TRANSFER.—Notwithstanding any other provision of law and subject to subsection (b), the Secretary of the Army shall transfer administrative jurisdiction of approximately 800 acres of land at Fort Devens, Massachusetts, to the Secretary of the Interior for inclusion in the Oxbow National Wildlife Refuge, Massachusetts.

(b) LIMITATION ON TRANSFER.—The Secretary of the Army may not carry out the transfer referred to in subsection (a) unless the Secretary and the reuse authority for Fort Devens for the purposes of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), jointly determine that the transfer of the land under this section is consistent with the redevelopment plan prepared under section 2905(b) of such Act.

(c) ADMINISTRATION OF LAND.—The Secretary of the Interior shall administer the land transferred under this section in accordance with all laws applicable to areas in the National Wildlife Refuge System.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be transferred under this section shall be determined by a survey satisfactory to the Secretary of the Army and the Secretary of the Interior.

SEC. 2826. LAND CONVEYANCE, CORNHUSKER ARMY AMMUNITION PLANT, HALL COUNTY, NEBRASKA.

(a) CONVEYANCE AUTHORIZED.—Subject to subsection (b), the Secretary of the Army may convey to the Hall County, Nebraska, Board of Supervisors (in this section referred to as the "Board"), or the designee of the Board, all right, title and interest of the United States in and to the real property, together with any improvements thereon, located in Hall County, Nebraska, the site of the Cornhusker Army Ammunition Plant.

(b) REQUIREMENT RELATING TO CONVEYANCE.—The Secretary may not carry out the conveyance authorized under subsection (a) until the Secretary completes any environmental restoration required with respect to the property to be conveyed.

(c) UTILIZATION OF PROPERTY.—The Board or its designee, as the case may be, shall utilize the real property conveyed under subsection (a) in a manner consistent with the Cornhusker Army Ammunition Plant Reuse Committee Comprehensive Reuse Plan.

(d) CONSIDERATION.—In consideration for the conveyance under subsection (a), the Board or its designee, as the case may be, shall pay to the United States an amount equal to the fair market value of the real property to be conveyed, as determined by the Secretary.

(e) USE OF PROCEEDS.—(1) The Secretary shall deposit in the special account established under section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)) the amount received from the Board or its designee under subsection (d).

(2) Notwithstanding subparagraph (A) of such section 204(h)(2), the Secretary may use the entire amount deposited in the account under paragraph (1) for the purposes set forth in subparagraph (B) of such section 204(h)(2).

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Board or its designee, as the case may be.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2827. TRANSFER OR CONVEYANCE OF CERTAIN PARCELS OF PROPERTY THROUGH GENERAL SERVICES ADMINISTRATION.

(a) IN GENERAL.—(1) Subject to paragraph (2), the Administrator of General Services shall—

(A) transfer jurisdiction over all or a portion of a parcel of real property described in subsection (b) to another executive agency if the Administrator determines under subsection (c) that the transfer of jurisdiction to the agency is appropriate;

(B) convey all or a portion of such a parcel to a State or local government or nonprofit organization if the Administrator determines under subsection (d) that the conveyance to the government or organization is appropriate; or

(C) convey all or a portion of such a parcel to the entity specified to receive the conveyance under subsection (e) in accordance with that subsection.

(2) The Administrator shall carry out an action referred to in subparagraph (A), (B), or (C) of paragraph (1) only upon direction by the Secretary of Defense. The Secretary shall make the direction, if at all, in accordance with subsection (g).

(3) Upon the direction of the Secretary of Defense, the Secretary of the military department concerned shall transfer jurisdiction over an appropriate portion of a parcel of real property referred to in paragraph (1) to the Administrator in order to permit the Administrator to carry out the transfer of jurisdiction over or conveyance of the portion of the parcel under this section.

(b) COVERED PROPERTY.—(1) The parcels of real property referred to in subsection (a)(1) are the following:

(A) A parcel of real property, including any improvements thereon, consisting of approximately 337 acres and located in Tulsa, Oklahoma, the location of Air Force Plant No. 3.

(B) A parcel of real property, including any improvements thereon, consisting of approximately 2,900 acres and located in Calverton, New York, the location of the Naval Weapons Industrial Reserve Plant.

(C) A parcel of real property, including any improvements thereon, located in Johnson City (Westover), New York, the location of Air Force Plant No. 59.

(D) A parcel of real property, including any improvements thereon, consisting of approximately 4 acres and located in Dickinson, North Dakota, the location of a support complex, recreational facilities, and housing facilities for the Radar Bomb Scoring Site, Dickinson, North Dakota.

(E) A parcel of real property, including any improvements thereon, consisting of approximately 12 acres and located west of Finley, North Dakota, the location of a support complex, recreational facilities, and housing facilities for the Finley Air Force Station and Radar Bomb Scoring Site, Finley, North Dakota.

(F) A parcel of property, including any improvements thereon, consisting of approximately 440 acres located at the Hawthorne Army Ammunition Plant, Mineral County, Nevada, and commonly referred to as the Babbitt Housing Site.

(G) A parcel of real property, including any improvements thereon and the pier associated therewith, consisting of approximately 118 acres and located in Harpswell, Maine, the location of the Defense Fuel Supply Point, Casco Bay, Maine.

(2) The exact acreage and legal description of the real property referred to in paragraph (1) that is transferred or conveyed under this section shall be determined by a survey satisfactory to the Secretary of the military department concerned. The cost of the survey shall be borne by the Secretary concerned. The transferee or conveyee, if any, of the property under this section shall reimburse the Secretary concerned for the cost borne by that Secretary for the survey of the property.

(c) DETERMINATION OF TRANSFEREES.—(1) Subject to subsection (a)(2), the Administrator shall transfer jurisdiction over all or a portion of a parcel of real property referred to in subsection (b)(1) to an executive agency if the Administrator determines under this subsection that the transfer is appropriate.

(2) Not later than 5 days after the date of the enactment of this Act, the Administrator shall inform the heads of the executive agencies of the availability of the parcels of real property referred to in subsection (b)(1).

(3) The head of an executive agency having an interest in obtaining jurisdiction over any portion of a parcel of real property referred to in paragraph (2) shall notify the Administrator, in writing, of the interest within such time as the Administrator shall specify with respect to the parcel in order to permit the Administrator to determine under paragraph (4) whether the transfer of jurisdiction to the agency is appropriate.

(4)(A) The Administrator shall—

(i) evaluate in accordance with section 202(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(a)) the notifications of interest, if any, received under paragraph (3) with respect to a parcel of real property; and

(ii) determine in accordance with that section the executive agency, if any, to which the transfer of jurisdiction is appropriate.

(B) The Administrator shall complete the determination under subparagraph (A) with respect to a parcel not later than 30 days after informing the heads of the executive agencies of the availability of the parcel.

(d) DETERMINATION OF CONVEYEES.—(1) Subject to subsection (a)(2), the Administrator shall convey all right, title, and interest of the United States in and to all or a portion of a parcel of real property referred to in paragraph (2) to a government or organization referred to in paragraph (3) if the Administrator determines under this subsection that the conveyance is appropriate.

(2) Paragraph (2) applies to any portion of a parcel of real property referred to in subsection (b)(1)—

(A) for which the Administrator receives no notification of interest from the head of an executive agency under subsection (c); or

(B) with respect to which the Administrator determines under paragraph (4)(B) of that subsection that a transfer of jurisdiction under this section would not be appropriate.

(3)(A) In the case of the property referred to in paragraph (2), the governments and organizations referred to in that paragraph are the following:

(i) The State government of the State in which the property is located.

(ii) Local governments affected (as determined by the Administrator) by operations of the Department of Defense at the property.

(iii) Nonprofit organizations located in the vicinity of the property and eligible under Federal law to be supported through the use of Federal surplus real property.

(B) In this paragraph, the term "nonprofit organization" means any organization listed in subsection (c)(3) of section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501) that is exempt from taxation under subsection (a) of that section.

(4) Not later than 5 days after completing the determination under subsection (c)(4)(B), the Administrator shall determine what, if any, parcels of property referred to in subsection (b)(1) are available for conveyance under this subsection and shall inform the appropriate governments and organizations of the availability of the parcels for conveyance under this section.

(5) A government or organization referred to in paragraph (4) shall notify the Administrator, in writing, of the interest of the government or organization, as the case may be, in the conveyance of all or a portion of the parcel of real property concerned to the government or organization. The government or organization shall notify the Administrator within such time as the Administrator shall specify with respect to the parcel in order to permit the Administrator to determine under paragraph (6) whether the conveyance of the parcel to the government or organization, as the case may be, is appropriate.

(6)(A) The Administrator shall—

(i) evaluate in accordance with section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) the notifications, if any, received under paragraph (5) with respect to a parcel of real property; and

(ii) determine in accordance with that section the government or organization, if any, to which the conveyance is appropriate.

(B) The Administrator shall complete the determination under subparagraph (A) with respect to a parcel not later than 70 days after notifying the governments and organizations concerned of the availability of the parcel for conveyance.

(e) ADDITIONAL CONVEYANCE AUTHORITY.—(1) Subject to subsection (g)(2), the Administrator shall, in lieu of transferring jurisdiction over or conveying the parcels of real property referred to in subsection (b)(1) in accordance with subsections (c) and (d), convey all or a portion of such parcels as follows:

(A) In the case of the parcel referred to in subparagraph (A) of subsection (b)(1), by conveying without consideration all right, title, and interest of the United States in and to the parcel to the City of Tulsa, Oklahoma.

(B) In the case of the parcel referred to in subparagraph (B) of that subsection, by conveying without consideration all right, title, and interest of the United States in and to the parcel to any economic development authority that the Governor of New York determines appropriate and identifies as such for the Administrator.

(C) In the case of the parcel referred to in subparagraph (C) of that subsection, by conveying without consideration all right, title, and interest of the United States in and to the parcel to the Broome County Industrial Development Authority.

(D) In the case of the parcel referred to in subparagraph (D) of that subsection, by conveying without consideration all right, title, and interest of the United States in and to the parcel to the North Dakota Board of Higher Education.

(E) In the case of the parcel referred to in subparagraph (E) of that subsection, by conveying without consideration all right, title, and interest of the United States in and to the parcel to the City of Finley, North Dakota.

(F) In the case of the parcel referred to in subparagraph (F) of that subsection, by conveying without consideration all right, title, and interest of the United States in and to the parcel to the government of Mineral County, Nevada.

(G) In the case of the parcel referred to in subparagraph (F) of that subsection, by conveying without consideration all right, title, and interest of the United States in and to the parcel to the Town of Harpswell, Maine.

(2) The Administrator may require such additional terms and conditions in connection with a conveyance under this subsection as the Administrator and the Secretary of Defense jointly consider appropriate to protect the interests of the United States.

(f) REPORT BY ADMINISTRATOR.—(1) Not later than 125 days after the date of the enactment of this Act, the Administrator shall submit to the Committees on Armed Services of the Senate and House of Representatives and to the Secretary of Defense a report on the activities of the Administrator under this section.

(2) The report shall include with respect to each parcel of real property referred to in subsection (b)(1) the following information:

(A) The interest, if any, for all or a portion of the parcel that was expressed by executive agencies under subsection (c) or by governments or nonprofit organizations under subsection (d).

(B) The use, if any, proposed for the portion of the parcel under each expression of interest.

(C) The determination of the Administrator whether a transfer or conveyance of all or a portion of the parcel, as the case may be, to the agency, government, or organization was appropriate.

(D) The other disposal options, if any, that the Administrator has identified for the parcel.

(E) Any other matters that the Administrator considers appropriate.

(g) DESIGNATION OF AUTHORITY TO BE USED.—(1) If the Administrator submits the report required under subsection (f) within the time specified in that subsection, the Secretary of Defense may direct the Administrator under subsection (a)(2) to carry out the transfer or conveyance under subsection (c) or (d) of all or a portion of a parcel of property referred to in subsection (b)(1) in accordance with the determinations made by the Administrator with respect to the transfer or conveyance of the parcel under subsection (c) or (d), respectively.

(2) If the Administrator does not submit the report required under subsection (f) within the time specified in that subsection, the Secretary may direct the Administrator to carry out the conveyances of the parcels of property that are authorized under subsection (e) in accordance with such subsection (e).

Subtitle D—Changes to Existing Land Transaction Authority

SEC. 2831. MODIFICATIONS OF LAND CONVEYANCE, FORT A.P. HILL MILITARY RESERVATION, VIRGINIA.

(a) PARTICIPATION OF ADDITIONAL POLITICAL SUBDIVISIONS IN REGIONAL CORRECTIONAL FACILITY.—Subparagraph (B) of subsection (c)(3) of section 603 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102-25; 105 Stat. 108) is amended to read as follows:

"(B) Subparagraph (A) shall not be construed to prohibit any political subdivision not named in such subparagraph from—

"(i) participating initially in the written agreement referred to in paragraph (2); or

"(ii) agreeing at a later date to participate as a member of the governmental entity referred to in paragraph (2)(A), or by contract with such entity, in the construction or operation of the regional facility to be constructed on the parcel of land conveyed under this section.".

(b) TIME FOR CONSTRUCTION AND OPERATION OF CORRECTIONAL FACILITY.—(1) Subsection (d)(1)(A)(i) of such section is amended by striking out "not later than 24 months after the date of the enactment of this Act" and inserting in lieu thereof "not later than April 1, 1997".

(2) The Secretary of the Army shall provide the recipient of the conveyance of property under section 603 of such Act with such legal instrument as is appropriate to modify, in accordance with the amendment made by paragraph (1), any statement of conditions contained in any existing instrument which conveyed the property to that recipient. The Secretary shall record the instrument in the appropriate office or officers of the Commonwealth of Virginia or political subdivision within the Commonwealth.

SEC. 2832. MODIFICATION OF CONVEYANCE OF ELECTRICITY DISTRIBUTION SYSTEM, FORT DIX, NEW JERSEY.

Section 2846 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103-160; 107 Stat. 1904) is amended—

(1) by striking out subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

SEC. 2833. MODIFICATION OF LAND CONVEYANCE, FORT KNOX, KENTUCKY.

Section 2816 of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101-189; 103 Stat. 1655) is amended—

(1) in subsection (c), by striking out "for the construction of up to four units of military family housing at Fort Knox, Kentucky" and inserting in lieu thereof "for improvements to military family housing at Fort Knox, Kentucky, in an amount not to exceed $255,000";

(2) by striking out subsection (d); and

(3) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

SEC. 2834. PRESERVATION OF CALVERTON PINE BARRENS, NAVAL WEAPONS INDUSTRIAL RESERVE PLANT, NEW YORK, AS NATURE PRESERVE.

(a) PRESERVATION AS NATURE PRESERVE REQUIRED.—Section 2854 of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102-484; 106 Stat. 2626) is amended—

(1) by redesignating subsections (a) and (b) as subsections (c) and (d); and

(2) by inserting before subsection (c), as so redesignated, the following new subsections (a) and (b):

"(a) PURPOSE.—It is the purpose of this section to ensure that the Calverton Pine Barrens is maintained and preserved, in perpetuity, as a nature preserve in its current undeveloped state.

"(b) PROHIBITION ON INCONSISTENT DEVELOPMENT.—(1) The Secretary of the Navy may not carry out or permit any commercial or residential development of the property referred to in paragraph (2) that is inconsistent with the purpose specified in subsection (a).

"(2) Paragraph (1) applies to any parcel of real property within the Calverton Pine Barrens that is under the jurisdiction of the Secretary.".

(b) CONFORMING AMENDMENTS.—Subsection (c) of such section, as redesignated by subsection (a)(1), is amended—

(1) by striking out "PROHIBITION.—" and inserting in lieu thereof "REVERSIONARY INTEREST.—"; and

(2) by striking out "for commercial purposes" and all that follows through the period and inserting in lieu thereof "in a manner inconsistent with the purpose specified in subsection (a) (as determined by the head of the department or agency making the conveyance).".

Subtitle E—Other Matters

SEC. 2841. JOINT CONSTRUCTION CONTRACTING FOR COMMISSARIES AND NONAPPROPRIATED FUND INSTRUMENTALITY FACILITIES.

(a) SINGLE CONTRACT CONSTRUCTION.—Section 2685 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) The Secretary of a military department may authorize a nonappropriated fund instrumentality of the United States to enter into a contract for construction of a shopping mall or similar facility for a commissary store and one or more nonappropriated fund instrumentality activities. The Secretary may use the proceeds of adjustments or surcharges authorized by subsection (a) to reimburse the nonappropriated fund instrumentality for the portion of the cost of the contract that is attributable to construction of the commissary store or to pay the contractor directly for that portion of such cost.

"(2) In paragraph (1), the term 'construction', with respect to a facility, includes acquisition, conversion, expansion, installation, or other improvement of the facility.".

(b) OBLIGATION OF ANTICIPATED PROCEEDS.—Subsection (c) of such section is amended by inserting "or (d)" after "subsection (b)" both places it appears.

SEC. 2842. NATIONAL GUARD FACILITY CONTRACTS SUBJECT TO PERFORMANCE SUPERVISION BY THE ARMY OR THE NAVY.

(a) CONTRACTS SUBJECT TO SUPERVISION.—Subsection (a) of section 2237 of title 10, United States Code, is amended by striking out "under any provision" and all that follows through "and (4)" and inserting in lieu thereof "under section 2233(a)(1)".

(b) CONFORMING AMENDMENT.—Subsection (b) of such section is amended by striking out "or (4)" and inserting in lieu thereof "(4), (5), or (6)".

SEC. 2843. WAIVER OF REPORTING REQUIREMENTS FOR CERTAIN REAL PROPERTY TRANSACTIONS IN THE EVENT OF WAR OR NATIONAL EMERGENCY.

Section 2662 of title 10, United States Code, is amended by adding at the end the following:

"(g)(1) Subsections (a) and (e) do not apply—

"(A) during a period described in paragraph (2); or

"(B) to transactions described in such subsections that are undertaken to restore Federal Government operations, to provide public assistance or relief, or to restore public order in relation to a major disaster declared in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

"(2) The periods referred to in paragraph (1)(A) are as follows:

"(A) A period of war declared by Congress.

"(B) A period of national emergency declared by the President in accordance with the National Emergencies Act (50 U.S.C. 1601 et seq.)

"(3) Not later than 30 days after taking an action for which prior notification would, except for this subsection, otherwise be required under subsection (a) or (e), the Secretary of the military department concerned or, in the case of an element of the Department of Defense not within a military department, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the action taken.".

SEC. 2844. REPORT ON USE OF FUNDS FOR ENVIRONMENTAL RESTORATION AT CORNHUSKER ARMY AMMUNITION PLANT, HALL COUNTY, NEBRASKA.

(a) REPORT REQUIRED.—The Secretary of the Army shall submit to Congress a report describing the manner in which funds available to the Army for operation and maintenance (including funds in the Defense Environmental Restoration Account established under section 2703(a)(1) of title 10, United

States Code) will be used by the Secretary for environmental restoration and maintenance of the real property that comprises the Cornhusker Army Ammunition Plant, Hall County, Nebraska.

(b) CONTENTS.—The report shall include the following:

(1) The funding plan for environmental restoration at the Cornhusker Army Ammunition Plant.

(2) A legal opinion stating whether any portion of the funds to be used for such environmental restoration may be used for the repair of the roads at the Plant in order to bring such roads into compliance with applicable State and local public works codes.

(3) A survey of the roads at the Plant that identifies which roads, if any, are in need of repair in order to bring the roads at the Plant into compliance with such codes.

(4) An estimate of the cost of the repair of the roads referred to in paragraph (3) in order to bring the roads into compliance.

(5) An explanation of the purpose, cost, and source of funds for any proposed preservation of documents or other materials relating to the cultural, historical, and natural resources associated with the Plant.

(c) SUBMISSION OF REPORT.—The Secretary shall submit the report required by this section not later than May 1, 1995.

SEC. 2845. DEPARTMENT OF DEFENSE LABORATORY REVITALIZATION DEMONSTRATION PROGRAM.

(a) PROGRAM REQUIRED.—The Secretary of Defense shall carry out a Department of Defense Laboratory Revitalization Demonstration Program. Under the program the Secretary may carry out minor military construction projects in accordance with subsection (b) and other applicable law to improve Department of Defense laboratories covered by the program.

(b) INCREASED MAXIMUM AMOUNTS APPLICABLE TO MINOR CONSTRUCTION PROJECTS.—For purpose of any military construction project carried out under the program—

(1) the amount provided in subsection (a)(1) of section 2805 of title 10, United States Code, shall be deemed to be $3,000,000;

(2) the amount provided in subsection (b)(1) of such section shall be deemed to be $1,500,000; and

(3) the amount provided in subsection (c)(1) of such section shall be deemed to be $1,000,000.

(c) DESIGNATION OF COVERED LABORATORIES.—Not later than 30 days before commencing the program, the Secretary shall designate the Department of Defense laboratories that are to be covered by the program and notify Congress of the laboratories so designated. Only the designated laboratories may be covered by the program.

(d) REPORT.—Not later than September 30, 1998, the Secretary shall submit to Congress a report on the program. The report shall include the Secretary's conclusions and recommendations regarding the desirability and feasibility of extending the authority set forth in subsection (b) to cover all Department of Defense laboratories.

(e) EXCLUSIVITY OF PROGRAM.—Nothing in this section may be construed to limit any other authority provided by law for any military construction project at a Department of Defense laboratory covered by the program.

(f) DEFINITIONS.—In this section:

(1) The term "laboratory" includes—

(A) a research, engineering, and development center;

(B) a test and evaluation activity owned, funded, and operated by the Federal Government through the Department of Defense; and

(C) a supporting facility of a laboratory.

(2) The term "supporting facility", with respect to a laboratory, means any building or structure that is used in support of research, development, test, and evaluation at a laboratory.

(3) The term "Department of Defense laboratory" does not include a contractor owned laboratory.

(g) EXPIRATION OF AUTHORITY.—The Secretary may not carry out the program after September 30, 1999.

SEC. 2846. AGREEMENTS OF SETTLEMENT FOR RELEASE OF IMPROVEMENTS AT OVERSEAS MILITARY INSTALLATIONS.

(a) AGREEMENTS SUBJECT TO OMB REVIEW.—Subsection (g) of section 2921 of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510; 10 U.S.C. 2687 note) is amended by inserting after the first sentence the following: "The prohibition set forth in the preceding sentence shall apply only to agreements of settlement for improvements having a value in excess of $10,000,000.".

(b) REPORTS TO CONGRESS.—Such subsection, as amended by subsection (a), is further amended—

(1) by inserting "(1)" before "The Secretary of Defense"; and

(2) by adding at the end the following:

"(2) Each year, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on each proposed agreement of settlement that was not submitted by the Secretary to the Director of the Office of Management and Budget in the previous year under paragraph (1) because the value of the improvements to be released pursuant to the proposed agreement did not exceed $10,000,000.".

SEC. 2847. REVISIONS TO RELEASE OF REVERSIONARY INTEREST, OLD SPANISH TRAIL ARMORY, HARRIS COUNTY, TEXAS.

(a) CLERICAL AMENDMENTS.—Section 2820 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1894) is amended—

(1) in subsection (a), by striking out "1936" and inserting in lieu thereof "1956"; and

(2) in subsection (b)(1), by striking out "value" and inserting in lieu thereof "size".

(b) PAYMENT FOR SURVEY.—Subsection (c) of such section is amended by adding at the end the following: "The cost of the survey shall be borne by the State of Texas.".

SEC. 2848. TRANSFER OF JURISDICTION, AIR FORCE HOUSING AT RADAR BOMB SCORING SITE, HOLBROOK, ARIZONA.

(a) TRANSFER AUTHORIZED.—As part of the closure of an Air Force Radar Bomb Scoring Site located near Holbrook, Arizona, the Secretary of the Air Force may transfer without reimbursement the administrative jurisdiction, accountability and control of the housing units and associated support facilities used in connection with the site to the Secretary of the Interior for use in connection with the Petrified Forest National Park.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be transferred under subsection (a) shall be determined by a survey satisfactory to the Secretary of the Air Force and the Secretary of the Interior.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Air Force may require such additional terms and conditions in connection with the transfer of real property under subsection (a) as the Secretary considers appropriate.

SEC. 2849. ASSISTANCE FOR PUBLIC PARTICIPATION IN DEFENSE ENVIRONMENTAL RESTORATION ACTIVITIES.

(a) ESTABLISHMENT OF RESTORATION ADVISORY BOARDS.—Section 2705 of title 10, United States Code, is amended by adding after subsection (c) the following:

"(d) RESTORATION ADVISORY BOARD.—(1) In lieu of establishing a technical review committee under subsection (c), the Secretary may permit the establishment of a restoration advisory board in connection with any installation (or group of nearby installations) where the Secretary is planning or implementing environmental restoration activities.

"(2) The Secretary shall prescribe regulations regarding the characteristics, composition, funding and establishment of restoration advisory boards pursuant to this subsection, if the Secretary decides to use this authority. Prescription of regulations shall not be a precondition to establishment of a restoration advisory board or impact restoration advisory board established prior to the date of enactment of this section.

"(3) The Secretary may provide for the payment of routine administrative expenses of a restoration advisory board from funds available for the operation and maintenance of the installation (or installations) for which the board is established or from the funds available under subsection (e)(4).".

(b) ASSISTANCE FOR CITIZEN PARTICIPATION ON TECHNICAL REVIEW BOARDS AND RESTORATION ADVISORY BOARDS.—Such section is further amended by adding after subsection (d), as added by subsection (a), the following:

"(e) ASSISTANCE FOR CITIZEN PARTICIPATION.—(1)(A) Subject to subparagraph (B), the Secretary shall make available under paragraph (4) funds to facilitate the participation of individuals from the private sector on technical review committees and restoration advisory boards for the purpose of ensuring public input into the planning and implementation of environmental restoration activities at installations where such committees and boards are in operation.

"(B) A committee or advisory board for an installation is eligible for funding assistance under this subsection only if the committee or board is composed of individuals from the private sector who reside in a community in the vicinity of the installation and who are not potentially responsible parties with respect to environmental hazards at the installation.

"(2) Individuals who are local community members of a technical review committee or restoration advisory board may use funds made available under this subsection only—

"(A) to obtain technical assistance in interpreting scientific and engineering issues with regard to the nature of environmental hazards at an installation and the restoration activities proposed or conducted at the installation; and

"(B) to assist such members and affected citizens to participate more effectively in environmental restoration activities at the installation.

"(3) The members of a technical review committee or restoration advisory board may employ technical or other experts in accordance with regulations prescribed under subsections (d) and (e)(1) of title 10, United States Code as added by this section.

"(4)(A) Subject to subparagraph (B), the Secretary shall make funds available under this subsection using funds in the following accounts:

"(i) In the case of a military installation not closed pursuant to a base closure law, the Defense Environmental Restoration Account established in section 2703(a) of this title .

"(ii) In the case of a technical review committee or restoration advisory board established for a military installation to be closed, the Department of Defense Base Closure Account 1990 established under section 2906(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

"(B) The total amount of funds available under this subsection for fiscal year 1995 may not exceed $7,500,000.".

(c) INVOLVEMENT OF COMMITTEES AND BOARDS IN DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.—Such section is further amended by adding after subsection (e), as added by subsection (b), the following:

"(f) INVOLVEMENT IN DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.—If a technical review committee or restoration advisory board is established with respect to an installation, the Secretary shall consult with and seek the advice of the committee or board on the following issues:

"(1) Identifying environmental restoration activities and projects at the installation.

"(2) Monitoring progress on these activities and projects.

"(3) Collecting information regarding restoration priorities for the installation.

"(4) Addressing land use, level of restoration, acceptable risk, and waste management and technology development issues related to environmental restoration at the installation.

"(5) Developing environmental restoration strategies for the installation.".

(d) IMPLEMENTATION REQUIREMENTS.—Not later than 180 days after the date on which the Secretary announces a decision to establish restoration advisory boards, the Secretary of Defense shall—

(1) prescribe the regulations required under subsections (d) and (e)(1) of title 10, United States Code, as added by this section; and

(2) take appropriate actions to notify the public of the availability of funding under subsection (e) of such section, as so added.

"(e) REPORT.—The Secretary shall report to the Committees on Armed Services of the Senate and the House of Representatives by May 1, 1996, on the establishment of restoration advisory boards and funds expended for assistance for citizen participation.

SEC. 2850. SENSE OF THE SENATE ON AUTHORIZATION OF FUNDS FOR MILITARY CONSTRUCTION PROJECTS NOT REQUESTED IN THE PRESIDENT'S ANNUAL BUDGET REQUEST.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that, to the maximum extent practicable, the Senate should consider the authorization for appropriation of funds for a military construction project not included in the annual budget request of the Department of Defense only if:

(1) the project is consistent with past actions of the Base Realignment and Closure process;

(2) the project is included in the military construction plan of the military department concerned incorporated in the Future Years Defense Program;

(3) the project is necessary for reasons of the national security of the United States; and

(4) a contract for construction of the project can be awarded in that fiscal year.

(b) VIEWS OF THE SECRETARY OF DEFENSE.—In considering these criteria, the Senate should obtain the views of the Secretary of Defense. These views should include whether funds for a military construction project not included in the budget request can be offset by funds for other programs, projects, or activities, including military construction projects, in the budget request and, if so, the specific offsetting reductions recommended by the Secretary of Defense.

DEPARTMENT OF ENERGY NATIONAL SECURITY ACT FOR FISCAL YEAR 1995

The text of the bill (S. 2210) to authorize appropriations for fiscal year 1995 for defense activities of the Department of Energy, and for other purposes, as passed by the Senate on July 1, 1994, is as follows:

S. 2210

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Energy National Security Act for Fiscal Year 1995".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Congressional defense committees defined.

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

Sec. 3101. Weapons activities.
Sec. 3102. Environmental restoration and waste management.
Sec. 3103. Nuclear materials support and other defense programs.
Sec. 3104. Defense nuclear waste disposal.
Sec. 3105. General reduction in authorization of appropriations.

Subtitle B—Recurring General Provisions

Sec. 3121. Reprogramming.
Sec. 3122. Limits on general plant projects.
Sec. 3123. Limits on construction projects.
Sec. 3124. Funds transfer authority.
Sec. 3125. Authority for construction design.
Sec. 3126. Requirement for completion of conceptual design to precede request for construction funds.
Sec. 3127. Authority for emergency planning, design, and construction activities.
Sec. 3128. Funds available for all national security programs of the Department of Energy.
Sec. 3129. Availability of funds.

Subtitle C—Program Authorizations, Restrictions, and Limitations

Sec. 3131. Stockpile stewardship recruitment and training program.
Sec. 3132. Defense inertial confinement fusion program.
Sec. 3133. Payment of penalties.
Sec. 3134. Water management programs.
Sec. 3135. Limitation on use of funds for special access programs.
Sec. 3136. Protection of nuclear weapons facilities workers.
Sec. 3137. National security programs.
Sec. 3138. Scholarship and Fellowship Program for Environmental Restoration and Waste Management.
Sec. 3139. Hazardous materials management and hazardous materials emergency response training program.
Sec. 3140. Programs for persons who may have been exposed to radiation released from Hanford Nuclear Reservation.
Sec. 3141. Solar energy activities at Nevada Test Site, Nevada,

Subtitle D—Other Matters

Sec. 3151. Accounting procedures for Department of Energy funds.
Sec. 3152. Approval for certain nuclear weapons activities.
Sec. 3153. Study of feasibility of conducting certain activities at the Nevada Test Site, Nevada.
Sec. 3154. Nuclear Weapons Council Membership.
Sec. 3155. Office of Fissile Materials Disposition.
Sec. 3156. Extension of authority to loan personnel and facilities at Idaho National Engineering Laboratory.
Sec. 3157. Elimination of requirement for five-year plan for defense nuclear facilities.
Sec. 3158. Authority for appointment of certain scientific, engineering, and technical personnel.
Sec. 3159. Department of Energy Declassification Productivity Initiative.
Sec. 3160. Safety oversight and enforcement at defense nuclear facilities.
Sec. 3161. Conditions on contracts between the Federal Government and certain lessees and transferees of Department of Energy property.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD AUTHORIZATION

Sec. 3201. Authorization.

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

SEC. 3101. WEAPONS ACTIVITIES.

(a) RESEARCH AND DEVELOPMENT.—Subject to subsection (f), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for research and development in carrying out weapons activities necessary for national security programs in the amount of $1,187,818,000, to be allocated as follows:

(1) For core research and development, $795,551,000, to be allocated as follows:

(A) For operating expenses, $649,341,000.

(B) For capital equipment, $69,420,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $76,790,000, to be allocated as follows:

Project GPD–101, general plant projects, various locations, $8,500,000.

Project 95–D–102, Chemical and Metallurgy Research Building upgrades, Los Alamos National Laboratory, New Mexico, $3,300,000.

Project 94–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase V, various locations, $13,000,000.

Project 92–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase IV, various locations, $21,810,000.

Project 90–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase III, various locations, $7,700,000.

Project 88–D–106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $22,480,000.

(2) For inertial fusion, $176,473,000, to be allocated as follows:

(A) For operating expenses, $166,755,000.

(B) For capital equipment, $9,718,000.

(3) For technology transfer, $215,794,000, to be allocated as follows:

(A) For operating expenses, $209,794,000.

(B) For capital equipment, $6,000,000.

(b) Testing.—Subject to subsection (f), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for testing in carrying out weapons activities necessary for national security programs in the amount of $384,719,000, to be allocated as follows:

(1) For testing capabilities and readiness, $374,719,000, to be allocated as follows:

(A) For operating expenses, $338,249,000.

(B) For capital equipment, $15,470,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $21,000,000, to be allocated as follows:

Project GPD–101, general plant projects, various locations, $4,000,000.

Project 93–D–102, Nevada support facility, North Las Vegas, Nevada, $17,000,000.

(2) For operating expenses for solar energy development, $10,000,000.

(c) Stockpile Support.—Subject to subsection (f), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for stockpile support in carrying out weapons activities necessary for national security programs in the amount of $1,557,085,000, to be allocated as follows:

(1) For operating expenses for stockpile support, $1,487,085,000.

(2) For capital equipment, $15,880,000.

(3) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $54,120,000, to be allocated as follows:

Project GPD–121, general plant projects, various locations, $1,000,000.

Project 95–D–122, sanitary sewer upgrade Oak Ridge Y-12 Plant, Oak Ridge, Tennessee, $2,200,000.

Project 95–D–123, replace transportation safeguards, aviation facility, Albuquerque, New Mexico, $2,000,000.

Project 94–D–124, hydrogen fluoride supply system, Oak Ridge Y–12 Plant, Oak Ridge, Tennessee, $6,300,000.

Project 94–D–125, upgrade life safety, Kansas City Plant, Kansas City, Missouri, $1,000,000.

Project 94–D–127, emergency notification system, Pantex Plant, Amarillo, Texas, $1,000,000.

Project 94–D–128, environmental safety and health analytical laboratory, Pantex Plant, Amarillo, Texas, $1,000,000.

Project 93–D–122, life safety upgrades, Y–12 Plant, Oak Ridge, Tennessee, $5,000,000.

Project 88–D–122, facilities capability assurance program, various locations, $19,620,000.

Project 88–D–123, security enhancements, Pantex Plant, Amarillo, Texas, $15,000,000.

(d) Program Direction.—Subject to subsection (f), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for program direction in carrying out weapons activities necessary for national security programs in the amount of $169,852,000, to be allocated as follows:

(1) For operating expenses for weapons program direction, $167,498,000.

(2) For capital equipment, $2,354,000.

(e) Reconfiguration.—Subject to subsection (f), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for nuclear weapons complex reconfiguration in carrying out weapons activities necessary for national security programs in the amount of $152,271,000, to be allocated as follows:

(1) For operating expenses for reconfiguration, $94,271,000.

(2) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $58,000,000, all of which to be allocated as follows:

Project 93–D–123, complex-21, various locations.

(f) Adjustments.—Subject to section 3105, the total amount authorized to be appropriated pursuant to this section is the sum of the amounts authorized to be appropriated in subsections (a) through (e) reduced by the sum of—

(1) $131,077,000, for use of prior year balances; and

(2) $11,000,000, for savings resulting from procurement reform.

SEC. 3102. ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

(a) Corrective Activities.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for corrective activities in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $1,012,000, all of which to be allocated to a plant project (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto) as follows:

Project 92–D–403, tank upgrades project, Lawrence Livermore National Laboratory, California.

(b) Environmental Restoration.—(1) Subject to paragraph (2), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for environmental restoration for operating expenses in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $1,531,969,000.

(2) Subject to subsection (h), the amount authorized to be appropriated pursuant to this subsection is the amount authorized to be appropriated in paragraph (1) reduced by $133,900,000, as a result of the productivity savings initiative.

(c) Waste Management.—(1) Subject to paragraph (2), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for waste management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $2,913,045,000, to be allocated as follows:

(A) For operating expenses, $2,408,029,000.

(B) For capital equipment, $104,790,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $400,226,000, to be allocated as follows:

Project GPD–171, general plant projects, various locations, $23,742,000.

Project 95–D–401, radiological support facilities, Richland, Washington, $1,585,000.

Project 95–D–402, install permanent electrical service, Waste Isolation Pilot Plant, New Mexico, $700,000.

Project 95–D–403, hazardous waste storage facility, Mound Plant, Miamisburg, Ohio, $597,000.

Project 95–D–405, industrial landfill V and construction demolition landfill VII, Oak Ridge Y–12 Plant, Oak Ridge, Tennessee, $1,000,000.

Project 95–D–406, road 5–01 reconstruction, area 5, Nevada Test Site, Nevada, $2,338,000.

Project 95–D–407, 219-S secondary containment upgrade, Richland, Washington, $2,000,000.

Project 95–D–408, Phase II liquid effluent treatment and disposal, Richland, Washington, $7,100,000.

Project 94–D–400, high explosive wastewater treatment system, Los Alamos National Laboratory, Los Alamos, New Mexico, $1,000,000.

Project 94–D–402, liquid waste treatment system, Nevada Test Site, Nevada, $3,292,000.

Project 94–D–404, Melton Valley storage tank capacity increase, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $21,373,000.

Project 94–D–406, low-level waste disposal facilities, K–25, Oak Ridge, Tennessee, $6,000,000.

Project 94–D–407, initial tank retrieval systems, Richland, Washington, $17,700,000.

Project 94–D–408, office facilities—200 East, Richland, Washington, $4,000,000.

Project 94–D–411, solid waste operation complex, Richland, Washington, $42,200,000.

Project 94–D–416, solvent storage tanks installation, Savannah River, South Carolina, $1,700,000.

Project 94–D–417, intermediate-level and low-activity waste vaults, Savannah River, South Carolina, $300,000.

Project 93–D–174, plant drain waste water treatment upgrades, Y–12 Plant, Oak Ridge, Tennessee, $1,400,000.

Project 93–D–178, building 374 liquid waste treatment facility, Rocky Flats, Golden, Colorado, $3,300,000.

Project 93–D–181, radioactive liquid waste line replacement, Richland, Washington, $3,300,000.

Project 93–D–182, replacement of cross-site transfer system, Richland, Washington, $18,910,000.

Project 93–D–183, multi-tank waste storage facility, Richland, Washington, $95,305,000.

Project 93–D–187, high-level waste removal from filled waste tanks, Savannah River, Aiken, South Carolina, $26,525,000.

Project 92–D–177, tank 101–AZ waste retrieval system, Richland, Washington, $5,000,000.

Project 92–D–188, waste management ES&H, and compliance activities, various locations, $2,846,000.

Project 91–D–171, waste receiving and processing facility, module 1, Richland, Washington, $3,995,000.

Project 90–D–172, aging waste transfer line, Richland, Washington, $3,819,000.

Project 90–D–177, RWMC transuranic (TRU) waste characterization and storage facility, Idaho National Engineering Laboratory, Idaho, $11,747,000.

Project 90–D–178, TSA retrieval containment building, Idaho National Engineering Laboratory, Idaho, $7,594,000.

Project 89–D–173, tank farm ventilation upgrade, Richland, Washington, $800,000.

Project 89–D–174, replacement high-level waste evaporator, Savannah River, South Carolina, $18,000,000.

Project 89–D–175, hazardous waste/mixed waste disposal facility, Savannah River, South Carolina, $500,000.

Project 86–D–103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, California, $9,500,000.

Project 83–D–148, nonradioactive hazardous waste management, Savannah River, South Carolina, $6,000,000.

Project 81–T–105, defense waste processing facility, Savannah River, South Carolina, $45,058,000.

(2) Subject to subsection (h), the total amount authorized to be appropriated pursuant to this subsection is the sum of the amounts authorized to be appropriated in paragraph (1) reduced by $160,800,000, as a result of the productivity savings initiative.

(d) TECHNOLOGY DEVELOPMENT.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for technology development in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $426,409,000, to be allocated as follows:

(1) For operating expenses, $400,974,000.

(2) For capital equipment, $25,435,000.

(e) TRANSPORTATION MANAGEMENT.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for transportation management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $20,684,000, to be allocated as follows:

(1) For operating expenses, $20,240,000.

(2) For capital equipment, $444,000.

(f) PROGRAM DIRECTION.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for program direction in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $84,948,000, to be allocated as follows:

(1) For operating expenses, $83,748,000.

(2) For capital equipment, $1,200,000.

(g) FACILITY TRANSITION AND MANAGEMENT.—(1) Subject to paragraph (2), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for facility transition and management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $791,857,000, to be allocated as follows:

(A) For operating expenses, $681,550,000.

(B) For capital equipment, $23,947,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $86,360,000, to be allocated as follows:

Project GPD–171, general plant projects, various locations, $20,495,000.

Project 95–D–453, primary highway route north of the Wye Barricade, Richland, Washington, $2,500,000.

Project 95–D–454, 324 facility compliance/renovation, Richland, Washington, $1,500,000.

Project 95–D–455, Idaho National Engineering Laboratory radio communications upgrade, Idaho National Engineering Laboratory, Idaho, $1,440,000.

Project 95–D–456, security facilities upgrade, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $986,000.

Project 94–D–122, underground storage tanks, Rocky Flats, Colorado, $2,500,000.

Project 94–D–401, emergency response facility, Idaho National Engineering Laboratory, Idaho, $5,219,000.

Project 94–D–412, 300 area process sewer piping upgrade, Richland, Washington, $7,800,000.

Project 94–D–415, medical facilities, Idaho National Engineering Laboratory, Idaho, $4,920,000.

Project 94–D–451, infrastructure replacement, Rocky Flats Plant, Golden, Colorado, $10,600,000.

Project 93–D–172, electrical upgrade, Idaho National Engineering Laboratory, Idaho, $7,800,000.

Project 93–D–184, 325 facility compliance/renovation, Richland, Washington, $1,000,000.

Project 93–D–186, 200 area unsecured core area fabrication shop, Richland, Washington, $4,000,000.

Project 92–D–125, master safeguards and security agreement/materials surveillance task force security upgrades, Rocky Flats Plant, Golden, Colorado, $2,100,000.

Project 92–D–181, INEL fire and life safety improvements, Idaho National Engineering Laboratory, Idaho, $6,000,000.

Project 92–D–182, INEL sewer system upgrade, Idaho National Engineering Laboratory, Idaho, $1,900,000.

Project 92–D–186, steam system rehabilitation, Phase II, Richland, Washington, $5,600,000.

(2) Subject to subsection (h), the total amount authorized to be appropriated pursuant to this subsection is the sum of the amounts authorized to be appropriated in paragraph (1) reduced by $5,000,000, as a result of the productivity savings initiative.

(h) PRIOR YEAR BALANCES.—Subject to section 3105, the total amount authorized to be appropriated pursuant to this section is the sum of the amounts authorized to be appropriated in subsections (a), (b)(2), (c)(2), (d), (e), (f), and (g)(2) reduced by the sum of—

(1) $240,300,000 for use of prior year balances; and

(2) $17,500,000 for savings resulting from procurement reform.

SEC. 3103. NUCLEAR MATERIALS SUPPORT AND OTHER DEFENSE PROGRAMS.

(a) MATERIALS SUPPORT.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for materials support in carrying out nuclear materials support necessary for national security programs in the amount of $887,225,000, to be allocated as follows:

(1) For reactor operations, $163,634,000.

(2) For processing of nuclear materials, $369,468,000.

(3) For support services, $167,776,000.

(4) For capital equipment, $39,427,000.

(5) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $88,950,000, to be allocated as follows:

Project GPD–146, general plant projects, various locations, $21,000,000.

Project 95–D–154, health physics site support facility, Savannah River, South Carolina, $2,000,000.

Project 95–D–155, upgrade site road infrastructure, Savannah River, South Carolina, $750,000.

Project 95–D–156, radio trunking system, Savannah River, South Carolina, $2,100,000.

Project 95–D–157, D-area powerhouse life extension, Savannah River, South Carolina, $4,000,000.

Project 95–D–158, disassembly basin upgrades K, L, and P, Savannah River, South Carolina, $13,000,000.

Project 93–D–147, domestic water system upgrade, Phases I and II, Savannah River, South Carolina, $11,300,000.

Project 93–D–148, replace high-level drain lines, Savannah River, South Carolina, $2,700,000.

Project 93–D–152, environmental modification for production facilities, Savannah River, South Carolina, $2,900,000.

Project 92–D–143, health protection instrument calibration facility, Savannah River, South Carolina, $3,000,000.

Project 90–D–149, plantwide fire protection, Phases I and II, Savannah River, South Carolina, $21,000,000.

Project 92–D–150, operations support facilities, Savannah River, South Carolina, $2,000,000.

Project 92–D–153, engineering support facility, Savannah River, South Carolina, $3,200,000.

(6) For program direction, $58,000,000.

(b) OTHER DEFENSE PROGRAMS.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for other defense programs in carrying out defense programs necessary for national security programs in the amount of $692,204,000, to be allocated as follows:

(1) For verification and control technology, $358,102,000, to be allocated as follows:

(A) For operating expenses, $342,229,000.

(B) For capital equipment, $15,873,000.

(2) For nuclear safeguards and security, $85,816,000, to be allocated as follows:

(A) For operating expenses, $82,421,000.

(B) For capital equipment, $3,395,000.

(3) For security investigations, $38,827,000.

(4) For security evaluations, $14,780,000.

(5) For the Office of Nuclear Safety, $24,679,000, to be allocated as follows:

(A) For operating expenses, $24,629,000.

(B) For capital equipment, $50,000.

(6) For worker and community transition, $120,000,000.

(7) For fissile material control and disposition, $50,000,000.

(c) NAVAL REACTORS.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for naval reactors in carrying out nuclear materials support and other defense programs necessary for national security programs in the amount of $730,651,000, to be allocated as follows:

(1) For naval reactors development, $698,651,000, to be allocated as follows:

(A) For operating expenses:

(i) For plant development, $146,700,000.

(ii) For reactor development, $348,951,000.

(iii) For reactor operation and evaluation, $136,000,000.

(iv) For program direction, $18,800,000.

(B) For capital equipment, $28,200,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $20,000,000, to be allocated as follows:

Project GPN-101, general plant projects, various locations, $6,200,000.

Project 95-D-200, laboratory systems and hot cell upgrades, various locations, $2,400,000.

Project 95-D-201, advanced test reactor radioactive waste system upgrades, Idaho National Engineering Laboratory, Idaho, $700,000.

Project 93-D-200, engineering services facilities, Knolls Atomic Power Laboratory, Niskayuna, New York, $7,900,000.

Project 92-D-200, laboratories facilities upgrades, various locations, $2,800,000.

(2) For enrichment materials, for operating expenses, $32,000,000.

(d) ADJUSTMENTS.—Subject to section 3105, the total amount that may be appropriated pursuant to this section is the sum of the amounts authorized to be appropriated in subsections (a), (b), and (c) reduced by the sum of—

(1) $40,000,000, for recovery of overpayment to the Savannah River Pension Fund;

(2) $6,500,000, for savings resulting from procurement reform; and

(3) $369,700,000, for transfer and use of prior year balances for materials support and other defense programs.

SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $129,430,000.

SEC. 3105. GENERAL REDUCTION IN AUTHORIZATION OF APPROPRIATIONS.

The total amount authorized to be appropriated pursuant to sections 3101, 3102, 3103, and 3104 is the sum of the amounts authorized to be appropriated in such sections reduced by $220,000,000 for use of prior year balances from fiscal year 1994.

Subtitle B—Recurring General Provisions

SEC. 3121. REPROGRAMMING.

(a) NOTICE TO CONGRESS.—(1) Except as otherwise provided in this title—

(A) no amount appropriated pursuant to this title may be used for any program in excess of the lesser of—

(i) 105 percent of the amount authorized for that program by this title; or

(ii) $10,000,000 more than the amount authorized for that program by this title; and

(B) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress.

(2) An action described in paragraph (1) may not be taken until—

(A) the Secretary of Energy has submitted to the congressional defense committees a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain.

(b) LIMITATION ON AMOUNT OBLIGATED.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS.

(a) IN GENERAL.—The Secretary of Energy may carry out any construction project under the general plant projects authorized by this title if the total estimated cost of the construction project does not exceed $2,000,000.

(b) REPORT TO CONGRESS.—If, at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $2,000,000, the Secretary shall immediately furnish a complete report to the congressional defense committees explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS.

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, which is authorized by section 3101, 3102, or 3103, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to the Congress.

(2) An action described in paragraph (1) may be taken if—

(A) the Secretary of Energy has submitted to the congressional defense committees a report on the action and the circumstances making such action necessary; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUNDS TRANSFER AUTHORITY.

The Secretary of Energy may transfer funds appropriated pursuant to this title to other agencies of the Federal Government for the performance of the work for which the funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

SEC. 3125. AUTHORITY FOR CONSTRUCTION DESIGN.

(a) IN GENERAL.—(1) Within the amounts authorized by this title, the Secretary of Energy may carry out advance planning and construction design (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $3,000,000.

(2) In the case of any project in which the total estimated cost for advance planning and design exceeds $600,000, the Secretary shall notify the congressional defense committees in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) SPECIFIC AUTHORITY REQUIRED.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $3,000,000, funds for such planning and design must be specifically authorized by law.

SEC. 3126. REQUIREMENT FOR COMPLETION OF CONCEPTUAL DESIGN TO PRECEDE REQUEST FOR CONSTRUCTION FUNDS.

(a) REQUIREMENT.—Before submitting to Congress a request for funds for a construction project that is in support of a national security program of the Department of Energy, the Secretary of Energy shall complete a conceptual design for that project.

(b) EXCEPTIONS.—The requirement in subsection (a) does not apply to requests for funds—

(1) for the costs of preparing a conceptual design for a construction project referred to in that subsection; or

(2) for emergency planning, design, and construction activities under section 3127.

SEC. 3127. AUTHORITY FOR EMERGENCY PLANNING, DESIGN, AND CONSTRUCTION ACTIVITIES.

(a) AUTHORITY.—The Secretary of Energy may use any funds available to the Department of Energy under sections 3101, 3102, and 3103, including those funds authorized to be appropriated for advance planning and construction design, to perform planning, design, and construction activities for any Department of Energy national security program construction project that, as determined by the Secretary, must proceed expeditiously in order to protect public health and safety, meet the needs of national defense, or protect property.

(b) LIMITATION.—The Secretary may not exercise the authority under subsection (a) in the case of any construction project until the Secretary has submitted to the congressional defense committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making such activities necessary.

(c) SPECIFIC AUTHORITY.—The requirement of section 3125(b) does not apply to emergency planning, design, and construction activities conducted under this section.

(d) REPORT.—The Secretary of Energy shall promptly report to the congressional defense committees any exercise of authority under this section.

SEC. 3128. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

Subject to the provisions of appropriation Acts and section 3121, amounts appropriated pursuant to this title that are made available for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3129. AVAILABILITY OF FUNDS.

When so specified in an appropriation Act, amounts appropriated for operating expenses, plant projects, and capital equipment may remain available until expended.

Subtitle C—Program Authorizations, Restrictions, and Limitations

SEC. 3131. STOCKPILE STEWARDSHIP RECRUITMENT AND TRAINING PROGRAM.

(a) CONDUCT OF PROGRAM.—(1) As part of the stockpile stewardship program established pursuant to section 3138 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1946; 42 U.S.C. 2121 note), the Secretary of Energy shall conduct a stockpile stewardship recruitment and training program at the

Sandia National Laboratories, the Lawrence Livermore National Laboratory, and the Los Alamos National Laboratory.

(2) The recruitment and training program shall be conducted in coordination with the Chairman of the Joint Nuclear Weapons Council established by section 179 of title 10, United States Code, and the directors of the laboratories referred to in paragraph (1).

(b) SUPPORT OF DUAL-USE PROGRAMS.—(1) As part of the recruitment and training program, the directors of the laboratories referred to in subsection (a)(1) may employ undergraduate students, graduate students, and postdoctoral fellows to carry out research sponsored by such laboratories for military or nonmilitary dual-use programs related to nuclear weapons stockpile stewardship.

(2) Of the amounts authorized to be appropriated to the Secretary of Energy pursuant to section 3101(a)(1) for weapons activities for core research and development and allocated by the Secretary for education initiatives, $4,000,000 shall be available for carrying out paragraph (1). The amount available under this paragraph shall be allocated equally among the laboratories referred to in subsection (a)(1).

(c) ESTABLISHMENT OF RETIREE CORPS.—As part of the training and recruitment program, the Secretary, in coordination with the directors of the laboratories referred to in subsection (a)(1), shall establish for the laboratories a retiree corps of retired scientists who have expertise in research and development of nuclear weapons. The directors may employ the retired scientists on a part-time basis to provide appropriate assistance on nuclear weapons issues, to contribute relevant information to be archived, and to help to provide training to other scientists.

(d) REPORT.—(1) Not later than February 1, 1995, the Secretary of Energy shall submit to the congressional defense committees a report on the demographic trends of the personnel of the laboratories referred to in subsection (a)(1) and on actions taken by the Department of Energy to remedy identified deficiencies in various skill areas.

(2) The report shall be prepared in coordination with the Chairman of the Joint Nuclear Weapons Council and the directors of the laboratories. Information included in the report shall be aggregated and compiled into statistical categories.

(3) The report shall include the following:

(A) An inventory of the weapons-related tasks that the laboratories need to perform to support their nuclear weapons responsibilities.

(B) An inventory of the skills necessary to complete the weapons-related tasks referred to in subparagraph (A).

(C) For each laboratory, the number of scientists needed in each skill area to perform such tasks.

(D) The number of the scientists providing services in each skill area at each laboratory, stated by age.

(E) An assessment of which skill areas are understaffed.

(F) The number of scientists entering the weapons program at each laboratory, and their skill areas.

(G) The number of full-time equivalent personnel with weapon skills, their distribution by skill and, for each such skill, their distribution by age.

(H) The number of scientists retiring from the weapons program in the 5- year period ending on the date of the report and the skill areas in which they worked in the year preceding their retirement.

(I) Based on the information contained in subparagraphs (A) through (H), a projection of the skills areas that will become understaffed in the five years following the date of the report.

(J) Alternative actions that may be taken to retain and recruit scientists for the weapons programs at the laboratories in order to preserve a sufficient skill base and to fulfill stockpile stewardship responsibilities.

(K) Any plans of the Secretary to take any of the alternative actions referred to in subparagraph (J).

SEC. 3132. DEFENSE INERTIAL CONFINEMENT FUSION PROGRAM.

Of the funds authorized to be appropriated by this title to the Department of Energy for fiscal year 1995, $176,473,000 shall be available for the defense inertial confinement fusion program.

SEC. 3133. PAYMENT OF PENALTIES.

The Secretary of Energy may pay to the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code of 1986 (26 U.S.C. 9507), from funds appropriated to the Department of Energy for environmental restoration and waste management activities pursuant to section 3102, stipulated civil penalties assessed under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.) in amounts as follows:

(1) $50,000, assessed against the Fernald Environmental Management Project, Ohio, under such Act.

(2) $50,000, assessed against the Portsmouth Gaseous Diffusion Plant, Ohio, under such Act.

SEC. 3134. WATER MANAGEMENT PROGRAMS.

From funds authorized to be appropriated pursuant to section 3102 to the Department of Energy for environmental restoration and waste management activities, the Secretary of Energy may reimburse the cities of Westminster, Broomfield, Thornton, and Northglenn, in the State of Colorado, $11,415,000 for the cost of implementing water management programs. Reimbursements for the water management programs shall not be considered a major Federal action for purposes of section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

SEC. 3135. LIMITATION ON USE OF FUNDS FOR SPECIAL ACCESS PROGRAMS.

Not more than 20 percent of the funds appropriated or otherwise made available to the Department of Energy for fiscal year 1995 pursuant to this title that are available for limited access programs and special access program may be obligated for a limited access program or special access program until the Secretary of Energy submits to the congressional defense committees the annual reports required to be submitted in that fiscal year under subsections (a) and (b) of section 93 of the Atomic Energy Act of 1954 (42 U.S.C. 2122a).

SEC. 3136. PROTECTION OF NUCLEAR WEAPONS FACILITIES WORKERS.

Of the funds authorized to be appropriated by section 310(2) for environmental restoration and waste management activities, $11,000,000 shall be available to carry out activities authorized under section 3131 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1571; 42 U.S.C. 7274d), relating to worker protection at nuclear weapons facilities.

SEC. 3137. NATIONAL SECURITY PROGRAMS.

Notwithstanding any other provision of law, not more than 90 percent of the funds appropriated to the Department of Energy for national security programs under this title may be obligated for such programs until the Secretary of Energy submits to the congressional defense committees the five-year budget plan with respect to fiscal year 1995 required under section 3144 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1681; 42 U.S.C. 7271b).

SEC. 3138. SCHOLARSHIP AND FELLOWSHIP PROGRAM FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

Of the funds authorized to be appropriated to the Department of Energy for fiscal year 1995 for environmental restoration and waste management, $1,000,000 shall be available for the Scholarship and Fellowship Program for Environmental Restoration and Waste Management carried out under section 3123 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1572; 42 U.S.C. 7274e).

SEC. 3139. HAZARDOUS MATERIALS MANAGEMENT AND HAZARDOUS MATERIALS EMERGENCY RESPONSE TRAINING PROGRAM.

Of the funds authorized to be appropriated to the Department of Energy for fiscal year 1995 under section 3102(d), not more than $14,000,000 shall be available to carry out a hazardous materials management and hazardous materials emergency response training program at Hanford Nuclear Reservation, Richland, Washington.

SEC. 3140. PROGRAMS FOR PERSONS WHO MAY HAVE BEEN EXPOSED TO RADIATION RELEASED FROM HANFORD NUCLEAR RESERVATION.

(a) FUNDING.—Of the funds authorized to be appropriated to the Department of Energy under section 3101 for fiscal year 1995, $3,295,591 shall be available for activities relating to the Hanford Health Information Network established pursuant to the authority set forth in section 3138 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1834).

(b) LIMITATION ON RELEASE OF CERTAIN PERSONAL INFORMATION.—(1) Information referred to in paragraph (2) that is collected from an individual pursuant to operation of the Hanford Health Information Network shall be used only by the Network unless the individual, or a designated legal representative of the individual, authorizes in writing the use of the information for another purpose.

(2) Paragraph (1) applies to the following information:

(A) The name, address, telephone number, and medical information and records of each individual requesting assistance and information from the Network.

(B) Such other information or categories of information as the chief officers of the health departments of the States of Washington, Oregon, and Idaho jointly designate as information covered by this subsection.

SEC. 3141. SOLAR ENERGY ACTIVITIES AT NEVADA TEST SITE, NEVADA.

Of the funds authorized to be appropriated to the Department of Energy under section 3101, $10,000,000 shall be available for development of solar energy at the Nevada Test Site, Nevada.

Subtitle D—Other Matters

SEC. 3151. ACCOUNTING PROCEDURES FOR DEPARTMENT OF ENERGY FUNDS.

(a) IN GENERAL.—The Secretary of Energy shall prescribe procedures to account for the use of funds for the performance of the programs and activities of the Department of

Energy for which funds are appropriated for national security programs of the Department of Energy. The procedures shall provide for such accounting for fiscal years beginning after fiscal year 1996.

(b) COVERED MATTERS.—The Secretary shall prescribe procedures under subsection (a)—

(1) to account for the funds appropriated to the Department for national security programs and activities of the Department that are not used for the purpose for which such funds were appropriated; and

(2) to provide an accounting for all encumbered funds, unencumbered funds, unobligated funds, costed funds, and uncosted obligations of the Department in that fiscal year.

SEC. 3152. APPROVAL FOR CERTAIN NUCLEAR WEAPONS ACTIVITIES.

(a) APPROVAL BY JOINT NUCLEAR WEAPONS COUNCIL.—Subsection (d) of section 179 of title 10, United States Code, is amended—

(1) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

(2) by inserting after paragraph (7) the following new paragraph (8):

"(8) Coordinating and approving activities initiated or conducted by the Department of Energy for the study, development, and production of nuclear warheads, including concept definition studies, feasibility studies, engineering development, hardware component fabrication, warhead production, and warhead retirement.".

(b) TECHNICAL AMENDMENTS.—Subsections (a)(3) and (b) of such section are amended by striking out "appointed" each place it appears and inserting in lieu thereof "designated".

SEC. 3153. STUDY OF FEASIBILITY OF CONDUCTING CERTAIN ACTIVITIES AT THE NEVADA TEST SITE, NEVADA.

Not later than April 1, 1995, the Secretary of Energy shall submit to Congress a report on the feasibility of conducting the following activities at the Nevada Test Site, Nevada:

(1) The demilitarization of large rocket motors, high energetic explosives and conventional ordnance.

(2) Disarmament and demilitarization of conventional weapons and components, generally.

(3) The conduct of experiments that assist in monitoring compliance with international agreements on the nonproliferation of nuclear weapons.

(4) The conduct of programs for the Department of Energy and the Department of Defense to develop simulator technologies for nuclear weapons design and effects, including advanced hydrodynamic simulators, fusion test facilities, and nuclear weapons effects simulators (such as the Decade and Jupiter simulators).

(5) The conduct of the stockpile stewardship program established pursuant to section 3138 of the National Defense Authorization Act for Fiscal Year 1994 (42 U.S.C. 2121 note).

(6) Experiments related to the nonproliferation of nuclear weapons, including experiments with respect to disablement of such weapons, nuclear forensics, sensors, and verification and monitoring.

SEC. 3154. NUCLEAR WEAPONS COUNCIL MEMBERSHIP.

Section 179(a)(1) title 10, United States Code, is amended to read as follows: "(3) Two senior representatives of the Department of Energy appointed by the Secretary of Energy.".

SEC. 3155. OFFICE OF FISSILE MATERIALS DISPOSITION.

(a) ESTABLISHMENT.—Title II of the Department of Energy Organization Act (42 U.S.C. 7131 et seq.) is amended by adding at the end the following:

"OFFICE OF FISSILE MATERIALS DISPOSITION

"SEC. 212. (a) There shall be within the Department an Office of Fissile Materials Disposition.

"(b) The Secretary shall designate the head of the Office. The head of the Office shall report to the Under Secretary.

"(c) The head of the Office shall be responsible for all activities of the Department relating to the management, storage, and disposition of fissile materials from weapons and weapons systems that are excess to the national security needs of the United States.".

(b) CONFORMING AMENDMENT.—The table of contents in the first section of such Act is amended by inserting after the item relating to section 210 the following new items:

"Sec. 211. Office of Minority Economic Impact.

"Sec. 212. Office of Fissile Materials Disposition.".

SEC. 3156. EXTENSION OF AUTHORITY TO LOAN PERSONNEL AND FACILITIES AT IDAHO NATIONAL ENGINEERING LABORATORY.

Section 1434 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2074), as amended by section 3136 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2641), is further amended—

(1) in the third sentence of subsection (a)(3), by striking out "fiscal years 1993 and 1994" and inserting in lieu thereof "fiscal years 1993, 1994, 1995, 1996, and 1997"; and

(2) in subsection (c), by striking out "September 30, 1994, with respect to the Idaho National Engineering Laboratory" and inserting in lieu thereof "September 30, 1997, with respect to the Idaho National Engineering Laboratory".

SEC. 3157. ELIMINATION OF REQUIREMENT FOR FIVE-YEAR PLAN FOR DEFENSE NUCLEAR FACILITIES.

Subsection (a) section 3135 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1575; 42 U.S.C. 7274g(a)) is amended—

(1) in paragraph (1)—

(A) by striking out "(A) defense nuclear facilities and (B) all other facilities owned or operated by the Department of Energy" in the first sentence and inserting in lieu thereof "all facilities owned or operated by the Department of Energy except defense nuclear facilities"; and

(B) by inserting "such" in the third sentence after "restoration at all";

(2) in paragraph (4), by striking out "The plan shall contain the following matter:" and inserting in lieu thereof "The plan shall include, with respect to the Department of Energy facilities required by paragraph (1) to be covered by the plan, the following matters:";

(3) by striking out paragraph (6); and

(4) by redesignating paragraph (7) as paragraph (6).

SEC. 3158. AUTHORITY FOR APPOINTMENT OF CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL.

(a) AUTHORITY.—(1) Notwithstanding any provision of title 5, United States Code, governing appointments in the competitive service and General Schedule classification and pay rates, or any other provision of law, the Secretary of Energy may—

(A) establish and set the rates of pay for not more than 200 positions in the Department of Energy for scientific, engineering, and technical personnel whose duties will relate to safety at defense nuclear facilities of the Department; and

(B) appoint persons to such positions.

(2) The rate of pay for a position established under paragraph (1) may not exceed the rate of pay payable for Level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(3) To the maximum extent practicable, the Secretary shall appoint persons under paragraph (1)(B) to the positions established under paragraph (1)(A) in accordance with the merit system principles set forth in section 2301 of such title.

(b) OPM REVIEW.—(1) The Secretary shall enter into an agreement with the Director of the Office of Personnel Management under which agreement the Director shall periodically evaluate the use of the authority set forth in subsection (a)(1).

(2) If the Director determines as a result of such evaluation that the Secretary of Energy is not appointing persons to positions under such authority in a manner consistent with the merit system principles set forth in section 2301 of title 5, United States Code, the Director shall notify the Secretary of that determination.

(3) Upon receipt of a notification under paragraph (2), the Secretary shall—

(A) take appropriate actions to appoint persons to positions under such authority in a manner consistent with such principles; or

(B) cease appointment of persons under such authority.

(c) TERMINATION.—(1) The authority provided under subsection (a)(1) shall terminate on September 30, 1997.

(2) An employee may not be separated from employment with the Department of Energy or receive a reduction in pay by reason of the termination of authority under paragraph (1).

SEC. 3159. DEPARTMENT OF ENERGY DECLASSIFICATION PRODUCTIVITY INITIATIVE.

Of the funds authorized to be appropriated to the Department of Energy under section 3103, $3,000,000 shall be available for the Department of Energy's Declassification Productivity Initiative.

SEC. 3160. SAFETY OVERSIGHT AND ENFORCEMENT AT DEFENSE NUCLEAR FACILITIES.

(a) FINDINGS.—Congress finds the following:

(1) Effective oversight of matters relating to nuclear safety at defense nuclear facilities and enforcement of nuclear safety standards at such facilities are critical to ensuring the safety of the public and the workers at such facilities.

(2) The Department of Energy has not devoted adequate attention historically to matters relating to nuclear safety at defense nuclear facilities.

(b) SAFETY AT DEFENSE NUCLEAR FACILITIES.—The Secretary of Energy shall take appropriate actions to ensure that—

(1) officials of the Department of Energy who are responsible for independent oversight of matters relating to nuclear safety at defense nuclear facilities and enforcement of nuclear safety standards at such facilities maintain independence from officials who are engaged in management of such facilities;

(2) the independent, internal oversight functions carried out by the Department include, at the minimum, activities relating to—

(A) the assessment of the safety of defense nuclear facilities;

(B) the assessment of the effectiveness of Department program offices in carrying out programs relating to the environment, safety, health, and security at defense nuclear facilities;

(C) the provision to the Secretary of oversight reports that—

(i) contain validated technical information; and

(ii) provide a clear analysis of the extent to which line programs governing defense nuclear facilities meet applicable goals for the environment, safety, health, and security at such facilities; and

(D) the development of clear performance standards to be used in assessing the adequacy of the programs referred to in subparagraph (C)(ii);

(3) the Department has a system for bringing issues relating to nuclear safety at defense nuclear facilities to the attention of the officials of the Department (including the Secretary of Energy) having authority to resolve such issues in an adequate and timely manner; and

(4) an adequate number of qualified personnel of the Department are assigned to oversee matters relating to nuclear safety at defense nuclear facilities and enforce nuclear safety standards at such facilities.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Energy shall submit to the congressional defense committees a report describing—

(1) the actions that the Secretary has taken or will take to fulfill the requirements set forth in paragraphs (1), (2), and (3) of subsection (b);

(2) the actions in addition to the actions described under paragraph (1) that the Secretary could take in order to fulfill such requirements; and

(3) the respective roles with regard to nuclear safety at defense nuclear facilities of the following officials:

(A) The Associate Deputy Secretary of Energy for Field Management.

(B) The Assistant Secretary of Energy for Defense Programs.

(C) The Assistant Secretary of Energy for Environmental Restoration and Waste Management.

SEC. 3161. CONDITIONS ON CONTRACTS BETWEEN THE FEDERAL GOVERNMENT AND CERTAIN LESSEES AND TRANSFEREES OF DEPARTMENT OF ENERGY PROPERTY.

(a) CONDITIONS.—Notwithstanding any other provision of law, the head of a department or agency of the United States may require as a condition of a contract with an entity described in subsection (b) that such entity certifies to the head of the department or agency the following:

(1) That no officer, director, employee, or agent of the entity has utilized in the preparation of the bid or solicitation for the contract—

(A) any records or systems of records of the Federal Government that are covered by section 552a of title 5, United States Code;

(B) any information or data of the Federal Government that has not been released or otherwise made generally available for preparation of bids or proposals on the contract; or

(C) any commercial information or data of another entity that has not been released or otherwise made generally available for that purpose.

(2) That the entity has returned, destroyed, or otherwise disposed of all documents received from the Federal Government by reason of any earlier contract between the Federal Government and the entity for the operation of the facility which is leased, or with respect to which property is transferred, to the entity pursuant to a provision of law referred to in subsection (b).

(b) COVERED ENTITIES.—Subsection (a) applies to any entity, or the affiliate, successor to, or assign of the entity, to which the Secretary of Energy leases a Department of Energy facility under section 646(c) of the Department of Energy Organization Act (42 U.S.C. 7256(d)) or to which the Secretary transfers personal property of such a facility under section 3155(a) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1953; 42 U.S.C. 7274l(c)).

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD AUTHORIZATION

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 1995, $17,933,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

OMNIBUS NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The text of the bill (S. 2211) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy; to prescribe personnel strengths for such fiscal year for the Armed Forces; to revise and streamline the acquisition laws of the Federal Government; and for other purposes, as passed by the Senate on July 1, 1994, is as follows:

S. 2211

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus National Defense Authorization Act for Fiscal Year 1995".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into four divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(4) Division D—Federal Acquisition Streamlining.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Congressional defense committees defined.
Sec. 4. General limitation.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense-wide activities.
Sec. 105. Reserve components.
Sec. 106. Chemical demilitarization program.
Sec. 107. Joint Training, Analysis and Simulation Center.

Subtitle B—Army Programs

Sec. 111. Multiyear procurement authority for M1A2 tank upgrades.
Sec. 112. Transfer of replacement Army tank to Marine Corps Reserve.
Sec. 113. Replacement surveillance system for Korea.
Sec. 114. Small arms industrial base.
Sec. 115. Bunker defeat munition missiles.

Subtitle C—Navy Programs

Sec. 121. Nuclear aircraft carrier program.
Sec. 122. Seawolf submarine program.
Sec. 123. Naval amphibious ready groups.

Subtitle D—Air Force Programs

Sec. 131. Settlement of claims under the C-17 aircraft program.
Sec. 132. Retirement of bomber aircraft.

Subtitle E—Other Matters

Sec. 141. Preserving the bomber industrial base.
Sec. 142. Dual-use electric and hybrid vehicles.
Sec. 143. Sales authority of working-capital funded Army industrial facilities.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for basic research and exploratory development.
Sec. 203. Strategic environmental research and development program.
Sec. 204. High resolution imaging.

Subtitle B—Programs Requirements, Restrictions, and Limitations

Sec. 211. Tactical antisatellite technologies program.
Sec. 212. Transfer of MILSTAR communications satellite program.
Sec. 213. Transfer of funds for single-stage to orbit rocket.
Sec. 214. Limitation on dismantlement of intercontinental ballistic missiles.
Sec. 215. Limitation on obligation of funds for seismic monitoring research.
Sec. 216. Federally funded research and development centers.

Subtitle C—Missile Defense Programs

Sec. 221. Compliance of ballistic missile defense systems and components with ABM treaty.
Sec. 222. Revisions to the Missile Defense Act of 1991.
Sec. 223. Limitation.
Sec. 224. Management and budget responsibility for space-based chemical laser program.
Sec. 225. Senate advice and consent on agreements that modify the Anti-Ballistic Missile Treaty.

Subtitle D—Defense Conversion, Reinvestment, and Transition Assistance Matters

Sec. 231. Funding of defense technology reinvestment programs for fiscal year 1995.
Sec. 232. Financial commitment requirements for small business concerns for participation in technology reinvestment projects.
Sec. 233. Conditions on funding of defense technology reinvestment projects.
Sec. 234. Federal defense laboratory diversification and Navy reinvestment in the technology and industrial base.

Sec. 235. Small business defense conversion guaranteed loans.

Subtitle E—Other Matters

Sec. 241. Cooperative research and development agreements with NATO organizations.
Sec. 242. Defense women's health research program.
Sec. 243. Requirement for submission of annual report of the Semiconductor Technology Council to Congress.
Sec. 244. Report on oceanographic survey and research requirements to support littoral warfare.
Sec. 245. LANSCE/LAMPF upgrades.
Sec. 246. Study regarding live-fire survivability testing of F-22 aircraft.
Sec. 247. University Research Initiative support program.
Sec. 248. Manufacturing science and technology program.
Sec. 249. Defense experimental program to stimulate competitive research.
Sec. 250. Study on beaming high power laser energy to satellites.
Sec. 251. Advanced threat radar jammer.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Armed Forces Retirement Home funding.
Sec. 304. National Security Education Trust Fund obligations.
Sec. 305. Transfer from National Defense Stockpile Transaction Fund.
Sec. 306. Support for the 1995 Special Olympics World Games.
Sec. 307. Air National Guard fighter aircraft.

Subtitle B—Defense Business Operations Fund

Sec. 311. Permanent authority for use of fund for managing working capital funds and certain activities.
Sec. 312. Implementation of improvement plan.
Sec. 313. Limitation on obligations against the capital asset fund.
Sec. 314. Limitation on obligations against the supply management divisions.

Subtitle C—Environmental Matters

Sec. 321. Prohibition on the purchase of surety bonds and other guarantees for the Department of Defense.
Sec. 322. Extension of prohibition on use of environmental restoration funds for payment of fines and penalties.
Sec. 323. Participation of Indian tribes in agreements for defense environmental restoration.
Sec. 324. Extension of authority to issue surety bonds for certain environmental programs.

Subtitle D—Matters Relating to Department of Defense Civilian Employees

Sec. 331. Extension of certain transition assistance authorities.
Sec. 332. Extension and expansion of authority to conduct personnel demonstration projects.
Sec. 333. Limitation on payment of severance pay to certain employees transferring to employment positions in nonappropriated fund instrumentalities.
Sec. 334. Retirement credit for certain service in nonappropriated fund instrumentalities before January 1, 1987.
Sec. 335. Travel, transportation, and relocation expenses of employees transferring to the United States Postal Service.
Sec. 336. Foreign employees covered by the Foreign National Employees Separation Pay Account.
Sec. 337. Increased authority to accept voluntary services.

Subtitle E—Other Matters

Sec. 341. Change of source for performance of depot-level workloads.
Sec. 342. Civil Air Patrol.
Sec. 343. Armed Forces Retirement Home.
Sec. 344. Clarification of authority to provide medical transportation under National Guard pilot program.
Sec. 345. ARMS Initiative loan guarantee program.
Sec. 346. Reauthorization of Department of Defense domestic elementary and secondary schools for dependents.
Sec. 347. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
Sec. 348. Disposition of proceeds from operation of the Naval Academy laundry.
Sec. 349. Repeal of annual limitation on expenditures for emergency and extraordinary expenses of the Department of Defense Inspector General.
Sec. 350. Extension of authority for program to commemorate World War II.
Sec. 351. Extension of authority for aviation depots and naval shipyards to engage in defense-related production and services.
Sec. 352. Transfer of certain excess Department of Defense property to educational institutions and training schools.
Sec. 353. Ships' stores.
Sec. 354. Humanitarian program for clearing landmines.
Sec. 355. Assistance to Red Cross for emergency communications services for members of the Armed Forces and their families.
Sec. 356. Maritime prepositioning ship enhancement.
Sec. 357. Roll-on/roll-off vessels for the Ready Reserve force.
Sec. 358. Payment of certain stipulated civil penalties.
Sec. 359. Sale of articles and services of industrial facilities of the Armed Forces to persons outside Department of Defense.
Sec. 360. Study of establishment of Land Management and Training Center at Fort Riley, Kansas.
Sec. 361. Procurement of portable ventilators for the Defense Medical Facility Office, Fort Detrick, Maryland.
Sec. 362. Review by Defense Inspector General of cost growth in certain contracts.
Sec. 363. Cost comparison studies for contracts for advisory and assistance services.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.
Sec. 402. Extension of temporary variation of end strength limitations for Marine Corps majors and lieutenant colonels.
Sec. 403. Retention of authorized strength of general officers on active duty in the Marine Corps for fiscal years after fiscal year 1995.
Sec. 404. Exception to limitation on number of general officers and flag officers serving on active duty.
Sec. 405. Temporary exclusion of Superintendent of Naval Academy from counting toward number of senior admirals authorized to be on active duty.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for Reserves on active duty in support of the reserves.

Subtitle C—Military Training Student Loads

Sec. 421. Authorization of training student loads.

Subtitle D—Authorization of Appropriations

Sec. 431. Authorization of appropriations for military personnel.

Subtitle E—Other Matters

Sec. 441. Repeal of required reduction in recruiting personnel.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

Sec. 501. Service on successive selection boards.
Sec. 502. Promotion and other career management matters relating to warrant officers on active-duty lists.
Sec. 503. Enlistment or retirement of Navy and Marine Corps limited duty officers having twice failed of selection for promotion.
Sec. 504. Educational requirements for appointment in reserve components in grades above first lieutenant or lieutenant (junior grade).
Sec. 505. Limited exception from baccalaureate degree requirement for Alaska scout officers.
Sec. 506. Original appointments of limited duty officers of the Navy and Marine Corps serving in temporary grades.
Sec. 507. Selection for designated judge advocate positions.

Subtitle B—Reserve Component Matters

Sec. 511. Review of opportunities for ordering individual reserves to active duty with consent.
Sec. 512. Increased period of active duty service for Selected Reserve forces mobilized other than during war or national emergency.
Sec. 513. Repeal of obsolete provisions pertaining to transfer of regular enlisted members to reserve components.
Sec. 514. Sense of the Senate concerning the training and modernization of the reserve components.

Subtitle C—Other Matters

Sec. 521. Review of certain dismissals from the United States Military Academy.
Sec. 522. Transitional compensation and other benefits for dependents of members separated for dependent abuse.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Sec. 601. Military pay raise for fiscal year 1995.

Subtitle B—Bonuses and Special and Incentive Pays

Sec. 611. Extension of certain bonuses for reserve forces.
Sec. 612. Extension and modification of certain bonuses and special pay for nurse officer candidates, registered nurses, and nurse anesthetists.
Sec. 613. Extension of authority relating to payment of other bonuses and special pays.

Subtitle C—Travel and Transportation Allowances

Sec. 621. Responsibility for preparation of transportation mileage tables.

Subtitle D—Retired Pay and Survivor Benefits

Sec. 631. Clarification of calculation of retired pay for officers who retire in a grade lower than the grade held at retirement.
Sec. 632. Crediting of reserve service of enlisted members for computation of retired pay.
Sec. 633. Forfeiture of annuity or retired pay of members convicted of espionage.
Sec. 634. Computation of retired pay to prevent pay inversions.
Sec. 635. Cost-of-living increases in SBP contributions to be effective concurrently with payment of related retired pay cost-of-living increases.
Sec. 636. Requirement for equal treatment of civilian and military retirees in the event of delays in cost-of-living adjustments.

Subtitle E—Defense Conversion, Reinvestment, and Transition Assistance Matters

Sec. 641. Eligibility of members retired under temporary special retirement authority for Servicemen's Group Life Insurance.
Sec. 642. Annual payments for members retired under Guard and Reserve Transition Initiative.
Sec. 643. Increased eligibility and application periods for troops-to-teachers program.
Sec. 644. Assistance for eligible members to obtain employment with law enforcement agencies.
Sec. 645. Treatment of retired and retainer pay of members of cadre of Civilian Community Corps.

Subtitle F—Other Matters

Sec. 651. Disability coverage for officer candidates granted excess leave.
Sec. 652. Use of morale, welfare, and recreation facilities by members of reserve components and dependents.
Sec. 653. Special supplemental food program for Department of Defense personnel outside the United States.
Sec. 654. Reimbursement for certain losses of household effects caused by hostile action.
Sec. 655. Payment for transient housing for reserves performing certain training duty.
Sec. 656. Study of offset of disability compensation by receipt of separation benefits and incentives..

TITLE VII—HEALTH CARE PROVISIONS

Sec. 701. Revision of definition of dependents to include young people being adopted by members or former members.
Sec. 702. Availability of dependents' dental program outside the United States.
Sec. 703. Conditions under which medical and dental care of abused dependents is authorized.
Sec. 704. Coordination of benefits with medicare.
Sec. 705. Authority for reimbursement of professional license fees under resource sharing agreements.
Sec. 706. Chiropractic health care demonstration program.
Sec. 707. Implementation of annual health care survey requirement.
Sec. 708. Study and report on financial relief for certain medicare-eligible military retirees who incur medicare late enrollment penalties.
Sec. 709. Eligibility for participation in demonstration programs for sale of pharmaceuticals.
Sec. 710. Cost analysis of tidewater tricare delivery of pediatric health care to military families.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Use of Merit Based Selection Procedures

Sec. 801. Policy for merit based award of contracts and grants.
Sec. 802. Continuation of expiring requirement for annual report on the use of competitive procedures for awarding certain contracts to colleges and universities.

Subtitle B—Acquisition Assistance Programs

Sec. 811. Procurement technical assistance programs.
Sec. 812. Pilot Mentor-Protege Program.
Sec. 813. Infrastructure assistance for historically black colleges and other minority institutions of higher education.
Sec. 814. Extension of test program for negotiation of comprehensive small business subcontracting plans.
Sec. 815. Limitation regarding acquisition assistance regulations required by Public Law 103-160 but not issued.
Sec. 816. Treatment under subcontracting plans of purchases from qualified nonprofit agencies for the blind or severely disabled.

Subtitle C—Other Matters

Sec. 821. Use of certain funds pending submission of a national technology and industrial base periodic defense capability assessment and a periodic defense capability plan.
Sec. 822. Delegation of industrial mobilization authority.
Sec. 823. Permanent authority for the Department of Defense to share equitably the costs of claims under international armaments cooperative programs.
Sec. 824. Determinations of public interest under the Buy American Act.
Sec. 825. Documentation for awards for cooperative agreements or other transactions under the defense technology reinvestment program.
Sec. 826. Comptroller General assessment of extent to which technology and industrial base programs attain policy objectives.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—Secretarial Matters

Sec. 901. Additional Assistant Secretary of Defense.
Sec. 902. Order of succession to Secretaries of the military departments.

Subtitle B—Commission on Roles and Missions of the Armed Forces

Sec. 911. Review of reserve components.
Sec. 912. Support by federally funded research and development centers.
Sec. 913. Revision in composition of Commission.

Subtitle C—Other Matters

Sec. 921. Composition of reserve forces policy board.
Sec. 922. Continuation of Uniformed Services University of the Health Sciences.
Sec. 923. Joint duty credit for certain duty performed during military operations in support of unified, combined, or United Nations military operations.
Sec. 924. Assistance for certain workers dislocated due to reductions by the United States in the export of defense articles and services.

Subtitle D—Professional Military Education

Sec. 931. Authority for Marine Corps University to award the degree of master of military studies.
Sec. 932. Board of advisors of Marine Corps University.
Sec. 933. Authority for Air University to award the degree of master of airpower art and science.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

Sec. 1001. Transfer authority.
Sec. 1002. Emergency supplemental authorization of appropriations for fiscal year 1994.
Sec. 1003. Date for submission of future-years mission budget.
Sec. 1004. Submission of future-years defense program in accordance with law.

Subtitle B—Matters Relating to Allies and Other Nations

Sec. 1011. Repeal of limitation on overseas military end strength.
Sec. 1012. Authorized end strength for military personnel in Europe.
Sec. 1013. Extension and revision of authorities relating to cooperative threat reduction.
Sec. 1014. Defense cooperation between the United States and Israel.
Sec. 1015. Military-to-military contacts and comparable activities.
Sec. 1016. Foreign disaster relief.
Sec. 1017. Burdensharing policy and report.
Sec. 1018. Review and report regarding Department of Defense programs relating to regional security and host nation development in the Western Hemisphere.
Sec. 1019. Payments-in-kind for release of United States overseas military facilities to NATO host countries.

Subtitle C—Nonproliferation and Counterproliferation of Weapon Systems and Related Systems

Sec. 1021. Extension and revision of nonproliferation authorities.

Sec. 1022. Joint Committee for the Review of Counterproliferation Programs of the United States.
Sec. 1023. Report on counterproliferation activities and programs.
Sec. 1024. Amounts for counterproliferation activities.
Sec. 1025. Restriction relating to report on proliferation of foreign military satellites.

Subtitle D—Peace Operations

Sec. 1031. Reports on reforming multilateral peace operations.
Sec. 1032. Support for international peacekeeping and peace enforcement.

Subtitle E—Reporting Requirements

Sec. 1041. Report on offensive biological warfare program of the states of the former Soviet Union.
Sec. 1042. Termination of certain Department of Defense reporting requirements.

Subtitle F—Acceptance of Pre-release Services of Nonviolent Offenders

Sec. 1051. Use of inmate labor at military installations.
Sec. 1052. Revision of authority for use of Navy installations to provide employment training to nonviolent offenders in State penal systems.
Sec. 1053. Use of Army installations to provide employment training to nonviolent offenders in State penal systems.

Subtitle G—Discrimination and Sexual harassment

Sec. 1056. Department of Defense policies and procedures on discrimination and sexual harassment.

Subtitle H—Other Matters

Sec. 1061. Redesignation of United States Court of Military Appeals and the Courts of Military Review.
Sec. 1062. Assistance to family members of certain POW/MIAs who remain unaccounted for.
Sec. 1063. National Guard assistance for certain youth and charitable organizations.
Sec. 1064. Defense Mapping Agency.
Sec. 1065. Transfer of naval vessels to Brazil.
Sec. 1066. Transfers of M1A1 tanks to the Marine Corps.
Sec. 1067. Limitation regarding merger of telecommunications systems.
Sec. 1068. Acquisition of strategic sealift ships.
Sec. 1069. Requirement for Secretary of Defense to submit recommendations on certain provisions of law concerning missing persons.
Sec. 1070. Contact between the Department of Defense and the ministry of national defense of China on POW/MIA issues.
Sec. 1071. Disclosure of information concerning unaccounted for United States personnel from the Korean Conflict, and the Cold War.
Sec. 1072. Requirement for certification by Secretary of Defense concerning declassification of Vietnam-era POW/MIA records.
Sec. 1073. Information concerning unaccounted for United States personnel of the Vietnam conflict.
Sec. 1074. Report on POW/MIA matters concerning North Korea.
Sec. 1075. Elimination of disparity between effective dates for military and civilian retiree cost-of-living adjustments for fiscal year 1995.
Sec. 1076. Military recruiting on campus.
Sec. 1077. Study on convergence of Geosat and EOS altimetry programs.
Sec. 1078. Visas for officials of Taiwan.
Sec. 1079. Sense of the Senate concerning participation in allied defense cooperation.
Sec. 1080. Interagency placement program for Federal employees affected by reduction in force actions.
Sec. 1081. George C. Marshall European Center for Security Studies.
Sec. 1082. Changes in notice requirements upon pending or actual termination of defense programs.
Sec. 1083. Transfer of obsolete vessel Guadalcanal.
Sec. 1084. Study of spousal abuse involving Armed Forces personnel.
Sec. 1085. Review of the procedures used by Department of Defense investigative organizations when conducting an investigation into the death of a member of the Armed Forces who, while serving on active duty, died from a cause determined to be self-inflicted.
Sec. 1086. Public education facility of the Armed Forces Institute of Pathology.
Sec. 1087. Assignments of employees between Federal agencies and federally funded research and development centers.
Sec. 1088. Bosnia and Herzegovina.
Sec. 1089. Provision of intelligence and other assistance where drug trafficking threatens national security.
Sec. 1090. Administration of athletics programs at the service academies.
Sec. 1091. Review of the bottom up review and the future year defense program and establishment of new funding requirements and priorities.
Sec. 1092. Genocide in Rwanda.
Sec. 1093. Studies of health consequences of military service or employment in Southwest Asia during the Persian Gulf War.
Sec. 1094. Grants for research into the health consequences of the Persian Gulf War.
Sec. 1095. Compatibility of health registries.
Sec. 1096. Technical amendments.
Sec. 1097. North Atlantic Treaty Organization.
Sec. 1098. Limitation on obligation of funds for Mark-6 guidance sets for Trident II missiles.
Sec. 1099. Military planning for the size and structure of a force required for a major regional contingency on the Korean Peninsula.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

Sec. 2001. Short title.

TITLE XXI—ARMY

Sec. 2101. Authorized Army construction and land acquisition projects.
Sec. 2102. Family housing.
Sec. 2103. Improvements to military family housing units.
Sec. 2104. Authorization of appropriations, Army.
Sec. 2105. Relocation of Army family housing units from Fort Hunter Liggett, California, to Fort Stewart, Georgia.
Sec. 2106. Highway safety at Hawthorne Army Ammunition Plant, Nevada.

TITLE XXII—NAVY

Sec. 2201. Authorized Navy construction and land acquisition projects.
Sec. 2202. Family housing.
Sec. 2203. Improvements to military family housing units.
Sec. 2204. Authorization of appropriations, Navy.
Sec. 2205. Authority to carry out construction project, Naval Supply Center, Pensacola, Florida.
Sec. 2206. Relocation of Pascagoula Coast Guard Station, Mississippi.
Sec. 2207. Authority to carry out construction design for Mayport Naval Station, Florida.

TITLE XXIII—AIR FORCE

Sec. 2301. Authorized Air Force construction and land acquisition projects.
Sec. 2302. Family housing.
Sec. 2303. Improvements to military family housing units.
Sec. 2304. Authorization of appropriations, Air Force.
Sec. 2305. Authorization of military construction projects at Tyndall Air Force Base, Florida, for which funds have been appropriated.
Sec. 2306. Revision of authorized family housing project, Tyndall Air Force Base, Florida.

TITLE XXIV—DEFENSE AGENCIES

Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.
Sec. 2402. Family housing.
Sec. 2403. Improvements to military family housing units.
Sec. 2404. Energy conservation projects.
Sec. 2405. Authorization of appropriations, Defense Agencies.
Sec. 2406. Termination of authority to carry out fiscal year 1993 project.
Sec. 2407. Community impact assistance with regard to Naval Weapons Station, Charleston, South Carolina.
Sec. 2408. Planning and design for construction in support of consolidation of operations of the Defense Finance and Accounting Service.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

Sec. 2501. Authorized NATO construction and land acquisition projects.
Sec. 2502. Authorization of appropriations, NATO.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

Sec. 2601. Authorized Guard and Reserve construction and land acquisition projects.
Sec. 2602. Authorization of certain National Guard and Reserve projects for which funds have been appropriated.

TITLE XXVII—EXPIRATION OF AUTHORIZATIONS

Sec. 2701. Expiration of authorizations and amounts required to be specified by law.
Sec. 2702. Extension of authorization of certain fiscal year 1992 projects.
Sec. 2703. Clarification of extension of authorizations of certain fiscal year 1991 projects.
Sec. 2704. Extension of certain fiscal year 1991 projects.
Sec. 2705. Effective date.

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

Sec. 2801. Clarification of requirement for notification of Congress of improvements in family housing units.
Sec. 2802. Authority to pay closing costs under Homeowners Assistance Program.

Subtitle B—Base Closure Matters

Sec. 2811. Prohibition against consideration in base closure process of advance conversion planning undertaken by potential affected communities.
Sec. 2812. Clarifying and technical amendments to base closure laws.
Sec. 2813. Sense of Senate on the activities of the Secretary of Defense in support of communities affected by base closures.

Subtitle C—Land Transactions Generally

Sec. 2821. Land transfer, Holloman Air Force Base, New Mexico.
Sec. 2822. Joint use of property, Port Hueneme, California.
Sec. 2823. Lease of property, Naval Radio Receiving Facility, Imperial Beach, Coronado, California.
Sec. 2824. Release of reversionary interest on certain property in York County and James City County, Virginia, and Newport News, Virginia.
Sec. 2825. Land transfer, Fort Devens, Massachusetts.
Sec. 2826. Land conveyance, Cornhusker Army Ammunition Plant, Hall County, Nebraska.
Sec. 2827. Transfer or conveyance of certain parcels of property through General Services Administration.

Subtitle D—Changes to Existing Land Transaction Authority

Sec. 2831. Modifications of land conveyance, Fort A.P. Hill Military Reservation, Virginia.
Sec. 2832. Modification of conveyance of electricity distribution system, Fort Dix, New Jersey.
Sec. 2833. Modification of land conveyance, Fort Knox, Kentucky.
Sec. 2834. Preservation of Calverton Pine Barrens, Naval Weapons Industrial Reserve Plant, New York, as nature preserve.

Subtitle E—Other Matters

Sec. 2841. Joint construction contracting for commissaries and nonappropriated fund instrumentality facilities.
Sec. 2842. National Guard facility contracts subject to performance supervision by the Army or the Navy.
Sec. 2843. Waiver of reporting requirements for certain real property transactions in the event of war or national emergency.
Sec. 2844. Report on use of funds for environmental restoration at Cornhusker Army Ammunition Plant, Hall County, Nebraska.
Sec. 2845. Department of Defense laboratory revitalization demonstration program.
Sec. 2846. Agreements of settlement for release of improvements at overseas military installations.
Sec. 2847. Revisions to release of reversionary interest, Old Spanish Trail Armory, Harris County, Texas.
Sec. 2848. Transfer of jurisdiction, Air Force Housing at Radar Bomb Scoring Site, Holbrook, Arizona.
Sec. 2849. Assistance for public participation in defense environmental restoration activities.
Sec. 2850. Sense of the Senate on authoriaton of funds for military construction projects not requested in the President's annual budget request.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

Sec. 3101. Weapons activities.
Sec. 3102. Environmental restoration and waste management.
Sec. 3103. Nuclear materials support and other defense programs.
Sec. 3104. Defense nuclear waste disposal.
Sec. 3105. General reduction in authorization of appropriations.

Subtitle B—Recurring General Provisions

Sec. 3121. Reprogramming.
Sec. 3122. Limits on general plant projects.
Sec. 3123. Limits on construction projects.
Sec. 3124. Funds transfer authority.
Sec. 3125. Authority for construction design.
Sec. 3126. Requirement for completion of conceptual design to precede request for construction funds.
Sec. 3127. Authority for emergency planning, design, and construction activities.
Sec. 3128. Funds available for all national security programs of the Department of Energy.
Sec. 3129. Availability of funds.

Subtitle C—Program Authorizations, Restrictions, and Limitations

Sec. 3131. Stockpile stewardship recruitment and training program.
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SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

SEC. 4. GENERAL LIMITATION.

Notwithstanding any other provision of this Act, the total amount authorized to be appropriated for fiscal year 1995 under the provisions of this Act is $263,130,327,000, of which the total amount authorized to be appropriated for fiscal year 1995 under the provisions of—

(1) division A is $244,063,401,000;

(2) division B is $8,593,903,000; and

(3) division C is $10,473,023,000.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement for the Army as follows:

(1) For aircraft, $1,073,781,000.

(2) For missiles, $693,909,000.

(3) For weapons and tracked combat vehicles, $1,132,886,000.

(4) For ammunition, $870,361,000.

(5) For other procurement, $2,677,719,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement for the Navy as follows:

(1) For aircraft, $4,535,601,000.

(2) For weapons, including missiles and torpedoes, $2,428,539,000.

(3) For shipbuilding and conversion, $6,132,807,000.

(4) For other procurement, $3,310,217,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement for the Marine Corps in the amount of $528,857,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement for the Air Force as follows:

(1) For aircraft, $6,587,994,000.

(2) For missiles, $4,330,473,000.

(3) For other procurement, $6,961,153,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 1995 for Defense-wide procurement in the amount of $1,935,616,000.

SEC. 105. RESERVE COMPONENTS.

Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement of aircraft, vehicles, communications equipment, and other equipment for the reserve components of the Armed Forces as follows:

(1) For the Army National Guard, $85,000,000.

(2) For the Air National Guard, $270,000,000.

(3) For the Army Reserve, $75,000,000.

(4) For the Naval Reserve, $65,000,000.

(5) For the Air Force Reserve, $60,000,000.

(6) For the Marine Corps Reserve, $45,000,000.

SEC. 106. CHEMICAL DEMILITARIZATION PROGRAM.

(a) AUTHORIZATION.—There is hereby authorized to be appropriated for fiscal year 1995 the amount of $590,149,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare material of the United States that is not covered by section 1412 of such Act.

(b) LIMITATION.—Of the funds specified in subsection (a)—

(1) $363,584,000 is for operation and maintenance;

(2) $215,265,000 is for procurement; and

(3) $11,300,000 is for research and development efforts in support of the nonstockpile chemical weapons program.

(c) AUTHORITY FOR OBLIGATION OF UNAUTHORIZED APPROPRIATIONS.—The Department of Defense may obligate and expend $25,000,000 of the funds appropriated for research, development, test, and evaluation under the heading "CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE" in title VI of Public Law 103–139 (107 Stat. 1436) in accordance with the appropriation for such funds in that Act.

(d) IDENTIFICATION OF FUNDS FOR PROGRAM.—Section 1412(f) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(f)) is amended by striking out the last sentence and inserting in lieu thereof the following: "Funds for military construction projects necessary to carry out this section shall be set forth in the budget of the Department of Defense for any fiscal year as a separate account.".

SEC. 107. JOINT TRAINING, ANALYSIS AND SIMULATION CENTER.

Of the funds authorized to be appropriated for other procurement for the Navy, $10,500,000 shall be available for procurement of command, control, communications and computer equipment for a Joint Training, Analysis and Simulation Center for the United States Atlantic Command.

Subtitle B—Army Programs

SEC. 111. MULTIYEAR PROCUREMENT AUTHORITY FOR M1A2 TANK UPGRADES.

The Secretary of the Army may enter into multiyear procurement contracts for procurement of M1A2 Abrams tank upgrades in accordance with section 2306(h) of title 10, United States Code.

SEC. 112. TRANSFER OF REPLACEMENT ARMY TANK TO MARINE CORPS RESERVE.

The Secretary of the Army shall transfer one M1A1 common tank to the Marine Corps Reserve not later than the latest date on which any of the additional 24 M1A2 upgrades provided for under authorizations of appropriations in this Act is accepted by the Army.

SEC. 113. REPLACEMENT SURVEILLANCE SYSTEM FOR KOREA.

(a) LEASE AUTHORIZED.—Funds available to the Army for procurement of OV-1 aircraft that remain unobligated by reason of the early retirement of OV-1 aircraft deployed in Korea may be used for leasing a moving target indicator radar or another surveillance system to replace the surveillance capability of such aircraft in Korea if—

(1) the lease provides for deployment of the system within 180 days after the date of the enactment of this Act;

(2) the Republic of Korea pays 50 percent of the cost of the lease;

(3) the lease includes an option for the Republic of Korea to purchase the leased system after the joint surveillance and target attack radar surveillance system (JSTARS) program attains initial operational capability; and

(4) the lease expires within 180 days after the date on which the JSTARS system is planned, as of the date of the enactment of this Act, to attain initial operational capability.

(b) WAIVER AUTHORITY.—Section 1024(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1460) is amended by striking out "section 1439(b)(2)" and inserting in lieu thereof "section 1439".

SEC. 114. SMALL ARMS INDUSTRIAL BASE.

(a) FUNDING FOR PROCUREMENT.—Of the funds authorized to be appropriated pursuant to section 101(3)—

(1) $38,902,000 shall be available for procurement of MK19-3 grenade machine guns;

(2) $13,000,000 shall be available for procurement of M16A2 rifles;

(3) $24,016,000 shall be available for procurement of M249 squad automatic weapons; and

(4) $13,165,000 shall be available for procurement of M4 carbines.

(b) MULTIYEAR CONTRACTS AUTHORIZED.—(1) During fiscal year 1995, the Secretary of the Army may, in accordance with section 2306(h) of title 10, United States Code, enter into multiyear contracts to meet the following objectives for quantities of small arms weapons to be acquired for the Army:

(A) 21,217 MK19-3 grenade machine guns;

(B) 1,002,277 M16A2 rifles;

(C) 71,769 M249 squad automatic weapons; and

(D) 132,510 M4 carbines.

(2) If the Army does not enter into contracts in fiscal year 1995 that will meet all the objectives set forth in paragraph (1), the Secretary shall, to the extent provided for in appropriations Acts, enter into multiyear contracts on or after October 1, 1995, to meet such objectives.

(3) Notwithstanding the first sentence of section 2306(h)(8) of title 10, United States Code, the period of a multiyear contract entered into under this subsection may not exceed 10 years.

(c) FOLLOW-ON WEAPONS.—The Secretary of the Army shall provide for procurement of product improvements for existing small arms weapons and may do so within multiyear contracts entered into pursuant to subsection (b).

(d) JOINT SMALL ARMS MASTER PLAN.—(1) The Secretaries of the military departments shall jointly develop a master plan for meeting the immediate and future needs of the Armed Forces for small arms. The Secretary of the Army shall coordinate the development of the joint small arms master plan. The joint small arms master plan shall include—

(A) an examination of the relative advantages and disadvantages of improving existing small arms weapons as compared to investing in new, advanced technology weapons; and

(B) an analysis of the effects of each such approach on the small arms industrial base.

(2) Not later than April 1, 1995, the Under Secretary of Defense for Acquisition and Technology shall—

(A) review the joint small arms master plan and the results of the examination of relative advantages and disadvantages of the two courses of action described in paragraph (1); and

(B) transmit the plan, together with any comments that the Under Secretary considers appropriate, to the congressional defense committees.

(e) FUNDING FOR RDT&E.—Of the funds authorized to be appropriated under section 201(1)—

(1) $5,000,000 shall be available for the Objective Crew-Served Weapons System; and

(2) $3,000,000 shall be available for product improvements to existing small arms weapons.

SEC. 115. BUNKER DEFEAT MUNITION MISSILES.

(a) AUTHORITY.—The Secretary of the Army may acquire up to 6,000 type classified standard bunker defeat munition weapons.

(b) FUNDING.—Funds authorized to be appropriated for the Army for fiscal year 1994 shall be available for acquisition of bunker defeat munition weapons in accordance with subsection (a) as follows:

(1) Of the amount authorized to be appropriated by section 101(4), $7,761,000.

(2) Of the amount authorized to be appropriated by section 201(1), $2,600,000.

Subtitle C—Navy Programs

SEC. 121. NUCLEAR AIRCRAFT CARRIER PROGRAM.

(a) TRANSFER OF FISCAL YEAR 1994 FUNDS.—To the extent provided in appropriations Acts, $1,200,000,000 may be transferred from the National Defense Sealift Fund to the funds appropriated pursuant to the authorization in section 102(a)(3).

(b) AVAILABILITY FOR CVN-76.—The funds transferred shall be available for the CVN-76 nuclear aircraft carrier program.

(c) RELATIONSHIP TO OTHER AUTHORIZATION.—The amount of the funds transferred shall be in addition to the amount authorized to be appropriated in section 102(a)(3) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1563).

(d) RELATIONSHIP TO OTHER TRANSFER AUTHORITY.—The transfer authority in paragraph (1) is in addition to any other transfer authority provided in this or any other Act.

SEC. 122. SEAWOLF SUBMARINE PROGRAM.

(a) LIMITATION OF COSTS.—Except as provided in subsection (b), the total amount obligated or expended for procurement of the SSN-21 and SSN-22 Seawolf submarines may not exceed $4,759,571,000.

(b) AUTOMATIC INCREASE OF LIMITATION AMOUNT.—The amount of the limitation set forth in subsection (a) is increased by the following amounts:

(1) The amounts of outfitting costs and post-delivery costs incurred for the submarines referred to in such subsection.

(2) The amounts of increases in costs attributable to economic inflation.

(3) The amounts of increases in costs attributable to compliance with changes in Federal, State, or local laws.

SEC. 123. NAVAL AMPHIBIOUS READY GROUPS.

(a) FINDINGS.—Congress makes the following findings:

(1) Extensive and compelling testimony from uniformed military and Department of Defense leadership has been received which supports a military requirement for twelve Amphibious Ready Groups.

(2) An official Department of Navy report required by the Fiscal Year 1993 National Defense Authorization Act clearly stipulates that a seventh LHD is required in order for the Navy to achieve a force structure of twelve Amphibious Ready Groups.

(3) The Department of Navy has identified funds for the purchase of LHD-7 in outyear budget projections.

(4) A significant shortfall in amphibious shipping and amphibious lift exists, both in the fiscal year 1995 budget request and in outyear force structure projections.

(5) Amphibious Assault Ships (LHDs) provide an important contingency capability and are uniquely suited to respond to world crises and to provide assistance after natural disasters.

(6) Twelve Amphibious Ready Groups are the correct number to sustain forward deployment and contingency requirements of the Navy.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Navy should, plan for, and budget to provide for, the attainment of a twelfth Amphibious Ready Group as soon as possible. Further, the Secretary of the Navy should extend the existing contract option on the LHD–7 Amphibious Assault Ship in order to achieve twelve Amphibious Ready Groups.

(c) LHD–7 CONTRACT OPTION EXTENSION.—

(1) The Secretary of the Navy is authorized to extend the existing contract option for the LHD–7 Amphibious Assault ship if the Secretary determines that the extension would be in the best interest of the United States.

(2) The Secretary of the Navy shall immediately begin negotiations to extend the existing contract option for the LHD–7 Amphibious Assault Ship Program.

(3) On and after the date that is 30 days after the date on which the Secretary notifies Congress of an intention to do so, the Secretary may use such program funds authorized to be appropriated for other Navy programs for such contract. The notification shall include a description of the intended use of the funds.

(d) REPORT REQUIREMENT.—The Secretary of the Navy shall report to the Congress, after December 31, 1994, but before March 31, 1995, Department of the Navy intentions related to contract execution of the existing contract option for the LHD–7 Amphibious Assault Ship. The report shall include an explanation of the Department's actions related to the attainment of a twelfth Amphibious Ready Group and the costs and benefits of extending the existing contract option on the LHD–7 Amphibious Assault Ship.

Subtitle D—Air Force Programs

SEC. 131. SETTLEMENT OF CLAIMS UNDER THE C–17 AIRCRAFT PROGRAM.

(a) SUPPLEMENTAL AGREEMENTS AUTHORIZED.—On or before September 30, 1995, but subject to subsection (e), the Secretary of the Air Force may enter into supplemental agreements pertaining to Air Force prime contract F33657–81–C–2108 and such other Air Force contracts relating to the C–17 aircraft program in effect on the date of enactment of this Act as the Secretary determines appropriate—

(1) to settle claims and disputes arising under such contracts as provided in the C–17 settlement agreement letter;

(2) to revise the delivery schedules under such contracts as provided in the C–17 settlement agreement letter, for aircraft T–1 and P–1 through P–6; and

(3) to revise range specifications, payload specifications, and other specifications under such contracts as provided in Attachment B to the C–17 settlement agreement letter.

(b) FURTHER CONSIDERATION NOT REQUIRED.—The supplemental agreements referred to in subsection (a) may be entered into without requiring further consideration from the contractor only to the extent provided for in the C–17 settlement agreement letter.

(c) RELEASE OF CONTRACTOR CLAIMS REQUIRED.—Each supplemental agreement referred to in subsection (a) shall require the prime contractor to release and forever discharge the Government from all contractual claims, demands, requests for equitable adjustment, and any other causes of action, known or unknown, that the prime contractor may have on or before January 6, 1994 arising out of the C–17 program contracts as provided in the C–17 settlement agreement letter.

(d) CONTRACT MODIFICATIONS REGARDING CONTRACTOR COMMITMENTS.—The Secretary of the Air Force shall incorporate in each appropriate C–17 contract the prime contractor's commitment to extend the flight test program, redesign the wing, implement Computer Aided Design/Computer Aided Manufacturing System improvements, Management Information System improvements, and Advanced Quality System improvements, implement product improvement cost reduction projects, and resolve other C–17 program issues on a nonreimbursable or cost-share basis as provided in the C–17 settlement agreement letter.

(e) NOTICE-AND-WAIT REQUIREMENT.—The Secretary of the Air Force may not enter into a supplemental agreement referred to in subsection (a) until 30 days after the date on which the Secretary of Defense certifies to Congress that the terms and conditions set forth in the C–17 settlement agreement letter, including the settlement of claims, are in the best interests of the Government.

(f) CONSTRUCTION REGARDING OTHER CONTRACTOR OBLIGATIONS.—Nothing in this section shall be construed as relieving the contractor of any obligation provided for in the C–17 settlement agreement letter.

(g) C–17 SETTLEMENT AGREEMENT LETTER.—The C–17 settlement agreement letter referred to in this section is the agreement that was proposed to the prime contractor for the C–17 aircraft program by the Under Secretary of Defense for Acquisition and Technology by letter dated January 3, 1994, and was accepted by the prime contractor on January 6, 1994.

SEC. 132. RETIREMENT OF BOMBER AIRCRAFT.

No funds authorized to be appropriated by this Act or any other Act may be obligated or expended during fiscal year 1995 for retiring, or preparing to retire, any B–52H, B–1B, or F–111 bomber aircraft.

Subtitle E—Other Matters

SEC. 141. PRESERVING THE BOMBER INDUSTRIAL BASE.

(a) FUNDS TO PRESERVE THE BOMBER INDUSTRIAL BASE.—Of the funds authorized to be appropriated under section 103(1), not more than $150,000,000 shall be available only for the following purposes:

(1) To retain B–2 bomber production tooling in ready status.

(2) To preserve a production capability for spare parts and aircraft subsystems among lower-tier vendors.

(3) To develop detailed production plans for a derivative of the B–2 bomber that is not capable of delivering nuclear weapons.

(4) To carry out any other program, project, or activity, not prohibited by subsection (b) or (c), that the Secretary determines will help to preserve the bomber industrial base of the United States.

(b) PROHIBITION.—None of the funds made available pursuant to this section may be used to procure any major structural part for B–2 bomber aircraft or any other part for B–2 bomber aircraft that is not a part previously acquired or planned to be acquired for the B–2 bomber aircraft under the initial or sustaining spares program.

(c) NO AUTHORIZATION OF ADVANCE PROCUREMENT.—Nothing in this section shall be construed as authorizing the procurement, including long-lead procurement, of a twenty-second B–2 bomber.

(d) EXEMPTION FROM LIMITATION ON TOTAL PROGRAM COST.—Obligations of funds made available pursuant to this section for the purposes set forth in subsection (a) may not be counted for purposes of the limitation in section 131(d) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1569).

(e) ESTIMATES OF TOTAL COST REQUIRED—(1) Not later than January 15, 1995, the Secretary of Defense shall submit to the congressional defense committees two estimates of the total cost of acquisition of 20 additional B–2 bomber aircraft, including the cost of research, development, test and evaluation and the cost of related military construction.

(2) The Secretary shall assume for purposes of making one of the estimates that such aircraft will be procured at the rate of 2 aircraft in each of fiscal years 1997 and 1998, 3 such aircraft in each of fiscal years 1999 through 2002, and 4 such aircraft in fiscal year 2003. The Secretary shall assume for purposes of making the other estimate that such aircraft will be procured at an annual rate of 2.5 aircraft beginning in fiscal year 1997.

(3) In addition to stating the estimates in terms of estimated total actual cost, the Secretary shall state the estimates in terms of fiscal year 1995 constant dollars.

SEC. 142. DUAL-USE ELECTRIC AND HYBRID VEHICLES.

(a) FUNDING.—Of the funds authorized to be appropriated by this title, $15,000,000 shall be available for procurement of electric and hybrid vehicles for military uses and for commercialization of such vehicles for nonmilitary uses.

(b) LIMITATION.—(1) Funds made available pursuant to subsection (a) may not be expended until the Secretary of Defense and the Secretary of Energy enter into a memorandum of understanding that specifies the responsibilities of each Secretary for procurement and commercialization activities to be carried out with such funds.

(2) The provisions of the memorandum of understanding shall be consistent with the missions of the Department of Defense and the Department of Energy and with the goals and requirements set forth in the Energy Policy Act of 1992 (Public Law 102–486; 42 U.S.C. 13271 et seq.) and the amendments made to the Clean Air Act (42 U.S.C. 7401 et seq.) by Public Law 101–549 (commonly known as the "Clean Air Act Amendments of 1990"; 104 Stat. 2399).

SEC. 143. SALES AUTHORITY OF WORKING-CAPITAL FUNDED ARMY INDUSTRIAL FACILITIES.

Section 4543(a) of title 10, United States Code, is amended—

(1) in the matter above paragraph (1), by striking out "nondefense-related commercial";

(2) by striking out "and" at the end of paragraph (3);

(3) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

(4) by adding at the end the following new paragraphs:

"(5) the Secretary of the Army determines that the articles or services are not available from a commercial source located in the United States;

"(6) the purchaser of an article or service agrees to hold harmless and indemnify the United States, except in cases of willful misconduct or extreme negligence, from any claim for damages or injury to any person or property arising out of the article or service;

"(7) the article to be sold can be manufactured, or the service to be sold can be substantially performed, by the industrial facility with only incidental subcontracting and it is in the public interest to manufacture such article or perform such service; and

"(8) the sale will not interfere with performance of the military mission of the industrial facility.".

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1995 for the use of the Department of Defense for research, development, test, and evaluation, as follows:

(1) For the Army, $5,152,308,000.

(2) For the Navy, $8,796,129,000.

(3) For the Air Force, $12,329,796,000.

(4) For Defense-wide activities, $9,565,299,000, of which—

(A) $230,495,000 is authorized for the activities of the Director, Test and Evaluation; and

(B) $12,501,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR BASIC RESEARCH AND EXPLORATORY DEVELOPMENT.

(a) FISCAL YEAR 1995.—Of the amounts authorized to be appropriated by section 201, $4,210,356,000 shall be available for basic research and exploratory development projects.

(b) BASIC RESEARCH AND EXPLORATORY DEVELOPMENT DEFINED.—For purposes of this section, the term "basic research and exploratory development" means work funded in program elements for defense research and development under Department of Defense category 6.1 or 6.2.

SEC. 203. STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM.

Of the amounts authorized to be appropriated by section 201, $170,000,000 shall be available for the Strategic Environmental Research and Development Program.

SEC. 204. HIGH RESOLUTION IMAGING.

Of the funds authorized to be appropriated pursuant to section 201(3), $10,000,000 shall be available for high resolution imaging of space objects using excimer lasers.

Subtitle B—Programs Requirements, Restrictions, and Limitations

SEC. 211. TACTICAL ANTISATELLITE TECHNOLOGIES PROGRAM.

(a) DEMONSTRATION AND VALIDATION ACTIVITIES.—Subject to subsection (e), the Secretary of Defense shall continue the demonstration and validation of kinetic energy antisatellite technologies under the tactical antisatellite technologies program.

(b) LEVEL FUNDING.—Subject to subsection (e), of the amounts authorized to be appropriated in this title, $10,000,000 shall be available for fiscal year 1995 for engineering development under the tactical antisatellite technologies program.

(c) REQUIREMENT OF OBLIGATION OF PRIOR YEAR FUNDS.—To the extent provided in appropriations Acts, the Secretary shall obligate for engineering development under the tactical antisatellite technologies program all funds available for fiscal year 1993 and fiscal year 1994 for the Kinetic Energy Antisatellite (KE-ASAT) program that remain available for obligation on the date of the enactment of this Act.

(d) REPORT.—The Secretary shall submit to Congress the report required by section 1363 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2560).

(e) LIMITATION.—No funds appropriated to the Department of Defense for fiscal year 1995 may be obligated for the tactical antisatellite technologies program until the Secretary of Defense certifies to Congress that there is a requirement for an antisatellite program.

SEC. 212. TRANSFER OF MILSTAR COMMUNICATIONS SATELLITE PROGRAM.

(a) TRANSFER TO NAVY.—The Secretary of Defense shall transfer responsibility for program management and funding for the MILSTAR communications satellite program from the Secretary of the Air Force to the Secretary of the Navy before October 1, 1995.

(b) FUNDING IN FUTURE YEARS DEFENSE PROGRAM.—It is the sense of Congress that the Secretary should transfer from the Air Force to the Navy sufficient proposed funding in the Future Years Defense Program to cover all costs for the MILSTAR communications satellite program and related programs, projects, and activities.

(c) RELATIONSHIP TO OTHER TRANSFER AUTHORITY.—The transfer authority in subsection (b) is in addition to the transfer authority provided in section 1001.

SEC. 213. TRANSFER OF FUNDS FOR SINGLE-STAGE TO ORBIT ROCKET.

The Secretary of Defense shall, to the extent provided in appropriations Acts, transfer to the National Aeronautics and Space Administration the unobligated balance of funds appropriated to the Department of Defense for the Advanced Research Projects Agency for single-stage to orbit rocket research and development.

SEC. 214. LIMITATION ON DISMANTLEMENT OF INTERCONTINENTAL BALLISTIC MISSILES.

Funds authorized to be appropriated in this Act may not be obligated or expended for deactivating or dismantling United States intercontinental ballistic missiles (ICBMs) of the United States below that number of such missiles that is necessary to support 500 deployed intercontinental ballistic missiles until 180 days after the date on which the Secretary of Defense has delivered to the congressional defense committees a report on the results of a nuclear posture review being conducted by the Secretary.

SEC. 215. LIMITATION ON OBLIGATION OF FUNDS FOR SEISMIC MONITORING RESEARCH.

Funds authorized to be appropriated by this Act that are made available for seismic monitoring of nuclear explosions may not be obligated for a project unless the project is authorized in a plan approved in advance by the Secretary of Defense and the Secretary of Energy.

SEC. 216. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

(a) CENTERS COVERED.—Funds appropriated or otherwise made available for the Department of Defense for fiscal year 1995 pursuant to an authorization of appropriations in section 201 may be obligated to procure work from a federally funded research and development center only in the case of a center named in the report required by subsection (b) and, in the case of such a center, only in an amount not in excess of the amount of the proposed funding level set forth for that center in such report.

(b) REPORT ON ALLOCATIONS FOR CENTERS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report containing—

(1) the name of each federally funded research and development center from which work is proposed to be procured for the Department of Defense for fiscal year 1995; and

(2) for each such center, the proposed funding level and the estimated personnel level for fiscal year 1995.

The total of the proposed funding levels set forth in the report for all federally funded research and development centers may not exceed the amount set forth in subsection (d).

(c) LIMITATION PENDING SUBMISSION OF REPORT.—No funds appropriated or otherwise made available for the Department of Defense for fiscal year 1995 may be obligated to obtain work from a federally funded research and development center until the Secretary of Defense submits the report required by subsection (b).

(d) FUNDING.—Of the amounts authorized to be appropriated to the Department of Defense for research, development, test, and evaluation for fiscal year 1995 pursuant to section 201, not more than a total of $1,300,000,000 may be obligated to procure services from the federally funded research and development centers named in the report required by subsection (b).

(e) AUTHORITY TO WAIVE FUNDING LIMITATION.—The Secretary of Defense may waive the limitation regarding the maximum funding amount that applies under subsection (a) to a federally funded research and development center. Whenever the Secretary proposes to make such a waiver, the Secretary shall submit to the congressional defense committees notice of the proposed waiver and the reasons for the waiver. The waiver may then be made only after the end of the 60-day period that begins on the date on which the notice is submitted to those committees, unless the Secretary determines that it is essential to the national security that funds be obligated for work at that center in excess of that limitation before the end of such period and notifies the congressional defense committees of that determination and the reasons for the determination.

(f) UNDISTRIBUTED REDUCTION.—The total amount authorized to be appropriated for research, development, test, and evaluation in section 201 is hereby reduced by $52,650,000.

(g) LIMITATION ON COMPENSATION.—No employee or executive officer of a federally funded research and development center named in the report required by subsection (b) may be compensated at a rate exceeding Executive Schedule Level I by that federally funded research and development center.

Subtitle C—Missile Defense Programs

SEC. 221. COMPLIANCE OF BALLISTIC MISSILE DEFENSE SYSTEMS AND COMPONENTS WITH ABM TREATY.

(a) REQUIRED COMPLIANCE REVIEW FOR BRILLIANT EYES.—The Secretary of Defense shall review the space-based, midcourse missile tracking system known as Brilliant Eyes to determine whether, and under what conditions, the development, testing, and deployment of that system in conjunction with a theater ballistic missile defense system, with a limited national missile defense system, and with both such systems, would be in compliance with the ABM Treaty, including the interpretation of that treaty set forth in the enclosure to the July 13, 1993, ACDA letter.

(b) LIMITATION.—Of the funds appropriated pursuant to the authorizations of appropriations in section 201 that are made available for the Brilliant Eyes program, not more than $50,000,000 may be obligated until the Secretary of Defense submits to the appropriate congressional committees a report on the compliance of the Brilliant Eyes program with the ABM Treaty.

(c) COMPLIANCE REVIEW FOR NAVY UPPER TIER SYSTEM.—(1) If the funds made available for fiscal year 1995 for the theater ballistic missile program known as the "Navy Upper Tier" program pursuant to the authorizations of appropriations in section 201 or otherwise exceed $17,725,000, the Secretary of Defense shall review the Navy Upper Tier program to determine whether the development, testing, and deployment of that system would be in compliance with the ABM Treaty, including the interpretation of the Treaty set forth in the enclosure to the July 13, 1993, ACDA letter.

(2) In the event a compliance review is necessary under paragraph (1), not more than $17,725,000 may be obligated for the Navy Upper Tier program before the date on which the Secretary submits to the appropriate congressional committees a report on the compliance of the Navy Upper Tier program with the ABM Treaty.

(d) DEFINITIONS.—In this section:

(1) The term "July 13, 1993, ACDA letter" means the letter dated July 13, 1993, from the Acting Director of the Arms Control and Disarmament Agency to the chairman of the Committee on Foreign Relations of the Senate relating to the correct interpretation of the ABM Treaty and accompanied by an enclosure setting forth such interpretation.

(2) The term "ABM Treaty" means the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missiles, signed in Moscow on May 26, 1972.

(3) The term "appropriate congressional committees" means—

(A) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

SEC. 222. REVISIONS TO THE MISSILE DEFENSE ACT OF 1991.

The Missile Defense Act of 1991 (part C of title II of Public Law 102–190; 10 U.S.C. 2431 note) is amended—

(1) by striking out sections 235, 236, and 237;

(2) in section 238, by inserting before the period at the end of the second sentence the following: ", and shall submit to the Congress additional interim reports on the progress of such negotiations at six-month intervals thereafter until such time as the President notifies the congressional defense committees that such negotiations have been concluded or terminated"; and

(3) by redesignating section 238, 239, and 240 as sections 234, 235, and 236, respectively.

SEC. 223. LIMITATION.

No funds appropriated pursuant to an authorization of appropriations in this title or otherwise made available for fiscal year 1995 for programs managed by the Ballistic Missile Defense Organization may be obligated for such programs until the Secretary of Defense submits to Congress the report required by section 235(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1598).

SEC. 224. MANAGEMENT AND BUDGET RESPONSIBILITY FOR SPACE-BASED CHEMICAL LASER PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) In section 243 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1615) Congress directed the Secretary of Defense to transfer management and budget responsibility for research and development regarding far-term follow-on technologies from the Ballistic Missile Defense Organization unless the Secretary certifies that it is in the national security interest of the United States for the Ballistic Missile Defense Organization to retain that responsibility.

(2) For purposes of section 243 of such Act, a far-term follow-on technology was defined as any technology that is not incorporated into a ballistic missile defense architecture and is not likely to be incorporated within 15 years into a weapon system for ballistic missile defense.

(3) The Secretary of Defense has recommended pursuant to section 243 of such Act that management and budget responsibility for chemical laser technology be retained in the Ballistic Missile Defense Organization.

(b) ASSIGNMENT OF RESPONSIBILITY.—Subject to subsection (c), the Ballistic Missile Defense Organization is authorized to retain management and budget responsibility for chemical laser technology programs.

(c) REQUIREMENTS.—(1) The Director of the Ballistic Missile Defense Organization shall ensure that, to the extent practicable, the conduct of research and development related to space-based chemical lasers reflects appropriate consideration of a broad range of military missions and possible nonmilitary applications for such lasers.

(2) If, as a result of budgetary limitations, the Director of the Ballistic Missile Defense Organization is unable to program sufficient funds to ensure that the space-based chemical laser program remains an option for the acquisition process within the next fifteen years, the Secretary of Defense shall—

(A) establish a new high energy laser research and development program outside of the Ballistic Missile Defense Organization;

(B) transfer $50,000,000 out of funds available for fiscal year 1995 for programs administered by the Ballistic Missile Defense Organization to the new high energy laser research and development program; and

(C) assign the duty to perform the management and budget responsibilities for the new program to the Secretary of the military department determined by the Secretary of Defense most appropriate to perform such responsibilities or, if the Secretary determines more appropriate, to the head of the Defense Agency of the Department of Defense that the Secretary determines most appropriate to perform such responsibilities.

SEC. 225. SENATE ADVICE AND CONSENT ON AGREEMENTS THAT MODIFY THE ANTI-BALLISTIC MISSILE TREATY.

(a) REQUIREMENT FOR ADVICE AND CONSENT OF SENATE.—Whenever the President negotiates an international agreement that would substantively modify the ABM Treaty, the United States shall not be bound by such agreement unless the agreement is entered into pursuant to the treaty making power of the President under the Constitution (which includes a requirement for advice and consent of the Senate).

(b) ABM TREATY DEFINED.—In this section, the term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed in Moscow on May 26, 1972, with related protocol, signed in Moscow on July 3, 1974.

Subtitle D—Defense Conversion, Reinvestment, and Transition Assistance Matters

SEC. 231. FUNDING OF DEFENSE TECHNOLOGY REINVESTMENT PROGRAMS FOR FISCAL YEAR 1995.

(a) FUNDS AVAILABLE.—Of the amount authorized to be appropriated under section 201 for Defense-wide activities, $625,000,000 shall be available for activities described in the defense reinvestment program element of the budget of the Department of Defense for fiscal year 1995.

(b) ALLOCATION OF FUNDS.—The funds made available under subsection (a) shall be allocated as follows:

(1) $245,000,000 shall be available for defense dual-use critical technology partnerships under section 2511 of title 10, United States Code.

(2) $80,000,000 shall be available for commercial-military integration partnerships under section 2512 of such title.

(3) $80,000,000 shall be available for defense regional technology alliances under section 2513 of such title.

(4) $30,000,000 shall be available for defense advanced manufacturing technology partnerships under section 2522 of such title.

(5) $50,000,000 shall be available for support of manufacturing extension programs under section 2523 of such title.

(6) $25,000,000 shall be available for defense manufacturing engineering education grants under section 2196 of such title.

(7) $30,000,000 shall be available for the advanced materials synthesis and processing partnership program.

(8) $35,000,000 shall be available for the agile manufacturing/enterprise integration program.

(9) $40,000,000 shall be available for the maritime technology program, as provided for in section 1352(c)(2) of the National Shipbuilding and Shipyard Conversion Act of 1993 (subtitle D of title XIII of Public Law 103–160; 107 Stat. 1809; 10 U.S.C. 2501 note).

(10) $10,000,000 shall be available for grants under section 2198 of title 10, United States Code, to United States institutions of higher education and other United States not-for-profit organizations to support the management training program in Japanese language and culture.

(c) AVAILABILITY OF FUNDS FOR FISCAL YEAR 1994 PROJECTS.—Funds made available under subsection (a) may also be used to make awards to projects of the types that were solicited under programs referred to in subsection (b) in fiscal year 1994.

SEC. 232. FINANCIAL COMMITMENT REQUIREMENTS FOR SMALL BUSINESS CONCERNS FOR PARTICIPATION IN TECHNOLOGY REINVESTMENT PROJECTS.

(a) DEFENSE DUAL-USE CRITICAL TECHNOLOGY PARTNERSHIPS.—Section 2511(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The Secretary shall consider a partnership proposal submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated partnership costs. Upon the selection of a partnership proposal submitted by a small business concern, the Secretary shall extend to the small business concern a period of not less than 120 days within which to arrange to meet its financial commitment requirements under the partnership from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated partnership costs, the Secretary may revoke the selection of the partnership proposal submitted by the small business concern.".

(b) COMMERCIAL-MILITARY INTEGRATION PARTNERSHIPS.—Section 2512(c)(3) of such title is amended by adding at the end the following new subparagraph:

"(C) The Secretary shall consider a partnership proposal submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated partnership costs. Upon the selection of a partnership proposal submitted by a small business concern, the Secretary shall extend to the small business concern a period of not less than 120 days within which to arrange to meet its financial commitment requirements under the partnership from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated partnership costs, the Secretary may revoke the selection of the partnership proposal submitted by the small business concern.".

(c) REGIONAL TECHNOLOGY ALLIANCES ASSISTANCE PROGRAM.—Section 2513(e) of such title is amended by adding at the end the following new paragraph:

"(4) The Secretary shall consider a proposal for a regional technology alliance that is submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated costs of the alliance. Upon the selection of a proposal submitted by a small business concern, the Secretary shall extend to the small business concern a period of not less than 120 days within which to arrange to meet its financial commitment requirements under the regional technology alliance from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated costs, the Secretary may revoke the selection of the proposal submitted by the small business concern.".

(d) DEFINITION OF PERSON OF A FOREIGN COUNTRY.—Section 2491 of such title is amended by adding at the end the following new paragraph:

"(16) The term 'person of a foreign country' has the meaning given such term in section 3502(d) of the Primary Dealers Act of 1988 (22 U.S.C. 5342(d)).".

SEC. 233. CONDITIONS ON FUNDING OF DEFENSE TECHNOLOGY REINVESTMENT PROJECTS.

(a) BENEFITS TO UNITED STATES ECONOMY.—In providing for the establishment or financial support of partnerships and other cooperative arrangements under chapter 148 of title 10, United States Code, using funds made available under section 231, the Secretary of Defense shall ensure that the principal economic benefits of such partnerships and other arrangements accrue to the economy of the United States.

(b) USE OF COMPETITIVE SELECTION PROCEDURES.—Funds made available under subsection (a) of section 231 for defense reinvestment programs described in subsection (b) of such section shall be provided only to projects selected using competitive procedures pursuant to a solicitation incorporating cost-sharing requirements for the non-Federal Government participants in the projects.

SEC. 234. FEDERAL DEFENSE LABORATORY DIVERSIFICATION AND NAVY REINVESTMENT IN THE TECHNOLOGY AND INDUSTRIAL BASE.

(a) REQUIREMENT FOR PROGRAMS.—(1) Subchapter III of chapter 148 of title 10 is amended by inserting at the end thereof the following:

"SEC. 2519. FEDERAL DEFENSE LABORATORY DIVERSIFICATION PROGRAM.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense shall conduct a program in accordance with this section for the purpose of promoting cooperation between Department of Defense laboratories and industry on research and development of dual-use technologies in order to further the national security objectives set forth in section 2501(a) of this title.

"(b) PARTNERSHIPS.—(1) The Secretary shall provide for the establishment under the program of cooperative arrangements (hereinafter in this section referred to as 'partnerships') between a Department of Defense laboratory and eligible firms and nonprofit research corporations referred to in section 2511(b) of this title. A partnership may also include one or more additional Federal laboratories, institutions of higher education, agencies of State and local governments, and other entities, as determined appropriate by the Secretary.

"(2) For purposes of this section, a federally funded research and development center shall be considered a Department of Defense laboratory if the center is sponsored by the Department of Defense.

"(c) ASSISTANCE AUTHORIZED.—(1) The Secretary may make grants, enter into contracts, enter into cooperative agreements and other transactions pursuant to section 2371 of this title, and enter into cooperative research and development agreements under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) in order to establish partnerships.

"(2) Subject subsection (d), the Secretary may provide a partnership with technical and other assistance in order to facilitate the achievement of the purpose of this section.

"(d) FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS.—(1) The Secretary shall ensure that the non-Federal Government participants in a partnership make a substantial contribution to the total cost of partnership activities. The amount of the contribution shall be commensurate with the risk undertaken by such participants and the potential benefits of the activities for such participants.

"(2) The regulations prescribed pursuant to section 2511(c)(2) of this title shall apply to in-kind contributions made by non-Federal Government participants in a partnership.

"(e) SELECTION PROCESS.—Competitive procedures shall be used in the establishment of partnerships.

"(f) SELECTION CRITERIA.—The criteria for the selection of a proposed partnership for establishment under this section shall include the criteria set forth in section 2511(f) of this title.

"(g) REGULATIONS.—The Secretary shall prescribe regulations for the purposes of this section.

"SEC. 2520. NAVY REINVESTMENT PROGRAM.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of the Navy shall conduct a program in accordance with this section for the purpose of promoting cooperation between the Department of the Navy and industry on research and development of dual-use technologies in order to further the national security objectives set forth in section 2501(a) of this title.

"(b) PARTNERSHIPS.—The Secretary shall provide for the establishment under the program of cooperative arrangements (hereinafter in this section referred to as 'partnerships') between Department of the Navy entities and eligible firms and nonprofit research corporations referred to in section 2511(b) of this title. A partnership may also include one or more Federal laboratories, institutions of higher education, agencies of State and local governments, and other entities, as determined appropriate by the Secretary.

"(c) PROGRAM REQUIREMENTS AND ADMINISTRATION.—Subsections (c) through (f) of section 2519 of this title shall apply in the administration of the program.

"(d) SELECTION CRITERIA.—In addition to the selection criteria referred to in section 2519(f) of this title, the criteria for the selection of a proposed partnership for establishment under this section shall include the potential effectiveness of the partnership in the further development and application of each technology proposed to be developed by the partnership for Navy acquisition programs.

"(e) REGULATIONS.—The Secretary shall prescribe regulations for the purposes of this section.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following:

2519. Federal Defense Laboratory Diversification Program.

2520. Navy Reinvestment Program.

(b) CLARIFYING AMENDMENT.—Section 2491(5) of title 10, United States Code, is amended by inserting before the period at the end the following: ", and includes a federally funded research and development center sponsored by a Federal agency".

(c) FUNDING.—(1) Of the amount authorized to be appropriated in section 201(4), $56,600,000 shall be available for the Federal Defense Laboratory Diversification Program under section 2519 of title 10, as added by subsection (a)(1).

(2) Of the amount authorized to be appropriated in section 201(2), $50,000,000 shall be available for the Navy Reinvestment Program under section 2520 of title 10, as added by subsection (a)(1).

SEC. 235. SMALL BUSINESS DEFENSE CONVERSION GUARANTEED LOANS.

(a) AUTHORIZATIONS.—Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) in subsection (l), as added by section 405(3) of the Small Business Credit and Business Opportunity Enhancement Act of 1992—

(A) by striking "(l) There" and inserting "(3) There" and indenting appropriately; and

(B) by striking "subsection (k)", and inserting "paragraphs (1) and (2)";

(2) by redesignating subsection (k), as added by section 405(3) of the Small Business Credit and Business Opportunity Act of 1992, as subsection (l);

(3) in subsection (l), as so redesignated, by inserting after paragraph (1), the following new paragraph:

"(2) The Administration is authorized to make not more than $1,000,000,000 in loans on a guaranteed basis, in accordance with section 7(a)(21), such amount to remain available until expended.";

(4) in subsection (n)—

(A) by striking "(n) There" and inserting "(3) There" and indenting appropriately; and

(B) by striking "subsection (m)" and inserting "paragraphs (1) and (2)";

(5) in subsection (m), by inserting after paragraph (1), the following new paragraph:

"(2) The Administration is authorized to make not more than $1,000,000,000 in loans on a guaranteed basis, in accordance with section 7(a)(21), such amount to remain available until expended.";

(6) by redesignating subsection (o) as subsection (n); and

(7) in subsection (p)—

(A) by striking "(p) There" and inserting "(2) There", and indenting appropriately; and

(B) by striking "subsection (o)" and inserting "paragraph (1)".

(b) Technical Clarification.—Section 7(a)(21)(A) of the Small Business Act (15 U.S.C. 636(a)(21)(A)) is amended by striking "under the" and inserting "on a guaranteed basis under the".

(c) Job Creation and Community Benefit.—Section 7(a)(21) of the Small Business Act (15 U.S.C. 636(a)(21)) is amended by adding at the end the following new subparagraph:

"(E) In providing assistance under this paragraph, the Administration shall develop procedures to ensure, to the maximum extent practicable, that such assistance is used for projects that have substantial potential for stimulating new economic activity in communities most impacted by reductions in Federal defense expenditures.".

(d) Authority to Transfer Appropriations.—Of the amount authorized to be appropriated pursuant to section 201(4), $27,400,000 may be transferred by the Secretary of Defense, to the extent provided in an act appropriating funds for the Department of Defense, to the Small Business Administration for the purpose of providing loan guarantees under section 7(a)(21)(A) of the Small Business Act, such amount to remain available until expended.

Subtitle E—Other Matters

SEC. 241. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS WITH NATO ORGANIZATIONS.

(a) Applicability of Existing Authority to NATO Organizations.—Section 2350a of title 10, United States Code, is amended in subsections (a), (e)(2), and (i)(1) by inserting "or NATO organizations" after "major allies of the United States" each place it appears.

(b) NATO Organization Defined.—Subsection (i) of such section is amended by adding at the end the following new paragraph:

"(4) The term 'NATO organization' means any North Atlantic Treaty Organization subsidiary body referred to in section 2350(2) of this title and any other organization of the North Atlantic Treaty Organization.".

SEC. 242. DEFENSE WOMEN'S HEALTH RESEARCH PROGRAM.

(a) Continuation of Program.—The Secretary of Defense shall continue the Defense Women's Health Research Program established in response to the enactment of section 251 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1606).

(b) Participation by All Military Departments.—The Departments of the Army, Navy, and Air Force shall each participate in the activities under the program.

(c) Army To Be Executive Agent.—The Secretary of Defense shall designate the Secretary of the Army to be the executive agent for administering the program.

(d) Program Activities.—The program shall include the following activities regarding health risks and health care for women in the Armed Forces:

(1) The coordination and support activities described in section 251 of Public Law 103–160.

(2) Epidemiologic research regarding women deployed for military operations, including research on patterns of illness and injury, environmental and occupational hazards (including exposure to toxins), side-effects of pharmaceuticals used by women so deployed, psychological stress associated with military training, deployment, combat and other traumatic incidents, and other conditions of life, and human factor research regarding women so deployed.

(3) Development of a data base to facilitate long-term research studies on issues related to the health of women in military service, and continued development and support of a women's health information clearinghouse to serve as an information resource for clinical, research, and policy issues affecting women in the Armed Forces.

(4) Research on policies and standards issues, including research supporting the development of military standards related to training, operations, deployment, and retention and the relationship between such activities and factors affecting women's health.

(5) Research on interventions having a potential for addressing conditions of military service that adversely affect the health of women in the Armed Forces.

(e) Implementation Plan.—If, before October 1, 1995, the Secretary of Defense changes the implementation plan for the program that the Secretary submitted to the Committees on Armed Services of the Senate and the House of Representatives on May 2, 1994, the Secretary shall submit the modified plan to such committees before executing the changes.

(f) Funding.—Of the amount authorized to be appropriated pursuant to section 201, $40,000,000 shall be available for the Defense Women's Health Research Program referred to in subsection (a).

SEC. 243. REQUIREMENT FOR SUBMISSION OF ANNUAL REPORT OF THE SEMICONDUCTOR TECHNOLOGY COUNCIL TO CONGRESS.

Section 273(b)(2)(I) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (15 U.S.C. 4603) is amended by inserting "and submit to Congress by March 31 of each year after "Publish".

SEC. 244. REPORT ON OCEANOGRAPHIC SURVEY AND RESEARCH REQUIREMENTS TO SUPPORT LITTORAL WARFARE.

(a) Report Required.—Not later than March 1, 1995, the Secretary of the Navy shall submit to Congress a report on the oceanographic survey and research and development requirements needed to support Navy operations in littoral regions.

(b) Content of Report.—The report shall contain the following:

(1) An identification of unique properties, including acoustics, bathymetry, bottom type, and ocean dynamics that affect shallow water operations in littoral regions.

(2) A list of the principal littoral regions that—

(A) designates each region as high, medium, or low priority based on the probable need for Navy operations in such regions; and

(B) for each region, is annotated to identify—

(i) the date of the most recent detailed survey; and

(ii) the extent to which that survey provides insight into the region's properties identified pursuant to paragraph (1).

(3) An assessment of the Navy's current and projected access to each region for surveying purposes.

(4) An assessment of the ability of current oceanographic survey and research assets to develop the information identified in paragraph (1).

SEC. 245. LANSCE/LAMPF UPGRADES.

Of the amounts authorized to be appropriated by section 201(4), $20,000,000 shall be available to complete the Los Alamos Neutron Scattering Experiment/Los Alamos Meson Physics Facility upgrades at the Los Alamos National Laboratory, Los Alamos, New Mexico.

SEC. 246. STUDY REGARDING LIVE-FIRE SURVIVABILITY TESTING OF F–22 AIRCRAFT.

(a) Requirement.—The Secretary of Defense shall request the National Research Council of the National Academy of Sciences to conduct a study regarding the desirability of waiving for the F–22 aircraft program the survivability tests required by section 2366(c) of title 10, United States Code, and to submit to the Secretary and Congress, within 180 days after the date of the enactment of this Act, a report containing the conclusions of the Council regarding the desirability of waiving such tests.

(b) Content of Report.—The report shall contain the following matters:

(1) Conclusions regarding the practicality of full-scale, full-up testing for the F–22 aircraft program.

(2) A discussion of the implications regarding the affordability of the F–22 aircraft program of conducting and of not conducting the survivability tests, including an assessment of the potential life cycle benefits that could be derived from full-scale, full-up live fire testing in comparison to the costs of such testing.

(3) A discussion of what, if any, changes of circumstances affecting the F–22 aircraft program have occurred since completion of the milestone II program review to cause the program manager to request a waiver of the survivability tests for the F–22 aircraft program that was not requested at that time.

(4) The sufficiency of the F–22 aircraft program testing plans to fulfill the same requirements and purposes as are provided in subsection (e)(3) of section 2366 of title 10, United States Code, for realistic survivability testing for purposes of subsection (a)(1)(A) of such section.

(5) Any recommendations regarding survivability testing for the F–22 aircraft program that the Council considers appropriate on the basis of the study.

SEC. 247. UNIVERSITY RESEARCH INITIATIVE SUPPORT PROGRAM.

Of the amounts authorized to be appropriated under section 201, $10,000,000 shall be available for the University Research Initiative Support Program established pursuant to section 802 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1701; 10 U.S.C. 2358 note).

SEC. 248. MANUFACTURING SCIENCE AND TECHNOLOGY PROGRAM.

(a) Program Authorized.—(1) Section 2525 of title 10, United States Code, is amended to read as follows:

"SEC. 2525. MANUFACTURING SCIENCE AND TECHNOLOGY PROGRAM.

"(a) Establishment.—The Secretary of Defense shall establish a Manufacturing Science and Technology Program to further the national security objectives of section 2501(a) of this title. The Under Secretary of Defense for Acquisition and Technology shall administer the program.

"(b) Purpose.—The purpose of the program is to enhance the capability of industry to meet the manufacturing needs of the Department of Defense.

"(c) Execution.—The Secretary may carry out projects under the program through the Secretaries of the military departments and the heads of Defense Agencies.

"(d) Competition and Cost Sharing.—(1) Competitive procedures shall be used for awarding all grants and entering into all contracts, cooperative agreements, and other transactions under the program.

"(2) A grant may not be awarded under the program, and a contract, cooperative agreement, or other transaction may not be entered into under the program, on any basis other than a cost-sharing basis unless the Secretary of Defense determines that the grant, contract, cooperative agreement, or other transaction, as the case may be, is for a program that—

"(A) is not likely to have any immediate and direct commercial application; or

"(B) is of sufficiently high risk to discourage cost sharing by non-Federal Government sources.".

(2) The item relating to section 2525 in the table of sections at the beginning of subchapter IV of chapter 148 of such title is amended to read as follows:

"2525. Manufacturing Science and Technology Program.".

(b) FUNDING.—Of the amounts appropriated pursuant to section 201, not more than $125,000,000 shall be available for the Manufacturing Science and Technology Program under section 2525 of title 10, United States Code (as amended by subsection (a)), of which—

(1) not more than $30,000,000 shall be available for the Army;

(2) not more than $35,000,000 shall be available for the Navy;

(3) not more than $50,000,000 shall be available for the Air Force; and

(4) not more than $10,000,000 shall be available for the Defense Logistics Agency.

SEC. 249. DEFENSE EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.

(a) PROGRAM REQUIRED.—The Secretary of Defense, acting through the Director of Defense Research and Engineering, shall carry out a Defense Experimental Program to Stimulate Competitive Research (DEPSCoR) as part of the university research programs of the Department of Defense.

(b) PROGRAM OBJECTIVES.—The objectives of the program are as follows:

(1) To enhance the capabilities of institutions of higher education in eligible States to develop, plan, and execute science and engineering research that is competitive under the peer-review systems used for awarding Federal research assistance.

(2) To increase the probability of long-term growth in the competitively awarded financial assistance that institutions of higher education in eligible States receive from the Federal Government for science and engineering research.

(c) PROGRAM ACTIVITIES.—In order to achieve the program objectives, the following activities are authorized under the program:

(1) Competitive award of research grants.

(2) Competitive award of financial assistance for graduate students.

(d) ELIGIBLE STATES.—(1) The Director of the National Science Foundation shall designate which States are eligible States for the purposes of this section and shall notify the Director of Defense Research and Engineering of the States so designated.

(2) The Director of the National Science Foundation shall designate a State as an eligible State if, as determined by the Director—

(A) the institutional average amount of Federal financial assistance for research and development received by the institutions of higher education in the State for the fiscal year preceding the fiscal year for which the designation is effective, or for the last fiscal year for which statistics are available, is less than the amount equal to 50 percent of the national institutional average amount of Federal financial assistance for research and development received by the institutions of higher education in the United States for such preceding or last fiscal year, as the case may be;

(B) the State has demonstrated a commitment to developing research bases in the State and to improving science and engineering research and education programs at institutions of higher education in the State; and

(C) the State is an eligible State for purposes of the Experimental Program to Stimulate Competitive Research conducted by the National Science Foundation.

(e) COORDINATION WITH SIMILAR FEDERAL PROGRAMS.—(1) The Secretary shall consult with the Director of the National Science Foundation and the Director of the Office of Science and Technology Policy in the planning, development, and execution of the program and shall coordinate the program with the Experimental Program to Stimulate Competitive Research conducted by the National Science Foundation and with similar programs sponsored by other departments and agencies of the Federal Government.

(2) All solicitations under the Defense Experimental Program to Stimulate Competitive Research shall be made to, and all awards shall be made through, the State committees established for purposes of the Experimental Program to Stimulate Competitive Research conducted by the National Science Foundation.

(3) A State committee referred to in paragraph (2) shall ensure that activities carried out in the State of that committee under the Defense Experimental Program to Stimulate Competitive Research are coordinated with the activities carried out in the State under other similar initiatives of the Federal Government to stimulate competitive research.

SEC. 250. STUDY ON BEAMING HIGH POWER LASER ENERGY TO SATELLITES.

(a) STUDY.—(1) The Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall jointly carry out a study to determine the cost, feasibility, and advisability of the development and utilization of a system to deliver energy to satellites by beaming high power laser energy from ground sources.

(2) In determining the cost, feasibility, and advisability of the system referred to in paragraph (1), the Secretary and the Administrator shall take into account the impact on the environment of the development and utilization of the system and the effect, if any, of the development and utilization of the system on the arms control efforts or obligations of the United States.

(3) In carrying out the study, the Secretary and the Administrator shall consider the development of a space energy laser (SELENE) system using a free electron laser at the Naval Air Weapons Station, China Lake, California.

(b) REPORT.—The Secretary and the Administrator shall jointly submit to the congressional defense committees a report on the study required under subsection (a). The Secretary and the Administrator shall submit the report not later than July 1, 1995.

SEC. 251. ADVANCED THREAT RADAR JAMMER.

(a) LIMITATION REGARDING JOINT DEVELOPMENT PROGRAM WITH CERTAIN FOREIGN ENTITIES.—The Secretary of Defense may not negotiate or enter into any agreement with, nor accept funds from, a foreign government or an entity controlled by a foreign government for a joint program for the development of an advanced threat radar jammer for combat helicopters until 30 days after the Secretary, in consultation with the Secretary of State, the Secretary of the Army, and the Director of the Defense Security Assistance Agency, conducts a comprehensive review of the program and submits a report on the results of that review to the congressional defense committees.

(b) MATTERS COVERED BY REVIEW AND REPORT.—The matters relating to the program referred to in subsection (a) that are required to be covered by the review and report are as follows:

(1) The legal basis for seeking for the program funds that are neither authorized to be appropriated nor appropriated.

(2) The consistency of the program with the Department of Defense policy that no foreign military sale of a defense system, and no commitment to foreign military sale of a defense system, be made before operational test and evaluation of the system is successfully completed and the Under Secretary of Defense for Acquisition and Technology has specifically approved the system for sale to a foreign government.

(3) The mission requirement for an advanced threat radar jammer for combat helicopters.

(4) An assessment of each threat for which an advanced threat radar jammer would be developed, particularly with regard to each threat to a foreign country with which the United States would jointly develop an advanced threat radar jammer.

(5) The potential for sensitive electronic warfare technology to be made available to potential adversaries of the United States as a result of United States participation in the program.

(6) The availability of other nondevelopmental items and less sophisticated technologies for countering the emerging radar detection threats to United States combat helicopters and combat helicopters of United States allies.

(7) A capability assessment of similar technologies available from other foreign countries and the consequences of proliferation of such technologies in regions of potential conflict.

(c) INAPPLICABILITY TO MAJOR ALLIES OF THE UNITED STATES.—This section does not apply with respect to a major ally of the United States.

(d) DEFINITIONS.—In this section:

(1) The term "entity controlled by a foreign government" includes—

(A) any domestic or foreign organization or corporation that is effectively owned or controlled by a foreign government; and

(B) any individual acting on behalf of a foreign government,

as determined by the Secretary of Defense. Such term does not include an organization or corporation that is owned, but is not controlled, either directly or indirectly, by a foreign government if the ownership of that organization or corporation by that foreign government was effective before October 23, 1992.

(2) The term "major ally of the United States" has the meaning given such term in section 2350a(i)(2) of title 10, United States Code.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1995 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

(1) For the Army, $17,542,914,000.

(2) For the Navy, $21,326,470,000.

(3) For the Marine Corps, $2,096,695,000.

(4) For the Air Force, $18,789,023,000.

(5) For Defense-wide activities, $9,994,325,000.

(6) For Medical Programs, Defense, $9,854,459,000.

(7) For the Army Reserve, $1,253,709,000.

(8) For the Naval Reserve, $828,319,000.

(9) For the Marine Corps Reserve, $81,462,000.

(10) For the Air Force Reserve, $1,478,990,000.

(11) For the Army National Guard, $2,452,148,000.

(12) For the Air National Guard, $2,780,178,000.

(13) For the National Board for the Promotion of Rifle Practice, $2,544,000.

(14) For the Defense Inspector General, $140,798,000.

(15) For Drug Interdiction and Counterdrug Activities, Defense-wide, $714,200,000.

(16) For the United States Court of Appeals for the Armed Services, $6,126,000.

(17) For Environmental Restoration, Defense, $2,180,200,000.

(18) For Humanitarian Assistance, $71,900,000.

(19) For Former Soviet Union Threat Reduction, $400,000,000.

(20) For the Contributions for International Peacekeeping and Peace Enforcement Activities Fund, $300,000,000.

(21) For support for the 1996 Summer Olympics, $10,000,000.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 1995 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Business Operations Fund, $798,400,000.

(2) For the National Defense Sealift Fund, $227,800,000.

SEC. 303. ARMED FORCES RETIREMENT HOME FUNDING.

There is hereby authorized to be appropriated for fiscal year 1995 from the Armed Forces Retirement Home Trust Fund the sum of $59,317,000 for the operation of the Armed Forces Retirement Home, including the United States Soldiers' and Airmen's Home and the Naval Home.

SEC. 304. NATIONAL SECURITY EDUCATION TRUST FUND OBLIGATIONS.

During fiscal year 1995, $14,300,000 is authorized to be obligated from the National Security Education Trust Fund established by section 804(a) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1904(a)).

SEC. 305. TRANSFER FROM NATIONAL DEFENSE STOCKPILE TRANSACTION FUND.

(a) TRANSFER AUTHORITY.—To the extent provided in appropriations Acts, not more than $250,000,000 is authorized to be transferred from the National Defense Stockpile Transaction Fund to operation and maintenance accounts for fiscal year 1995 in amounts as follows:

(1) For the Army, $50,000,000.

(2) For the Navy, $50,000,000.

(3) For the Air Force, $50,000,000.

(4) For Defense-wide activities, $100,000,000.

(b) TREATMENT OF TRANSFERS.—Amounts transferred under this section—

(1) shall be merged with, and be available for the same purposes and the same period as, the amounts in the accounts to which transferred; and

(2) may not be expended for an item that has been denied authorization of appropriations by Congress.

(c) RELATIONSHIP TO OTHER TRANSFER AUTHORITY.—The transfer authority provided in this section is in addition to the transfer authority provided in section 1001.

SEC. 306. SUPPORT FOR THE 1995 SPECIAL OLYMPICS WORLD GAMES.

(a) AUTHORITY TO PROVIDE SUPPORT.—The Secretary of Defense may provide logistical support and personnel services in connection with the 1995 Special Olympics World Games to be held in New Haven, Connecticut.

(b) PAY AND NONTRAVEL-RELATED ALLOWANCES.—(1) Except as provided in paragraph (2), the costs for pay and nontravel-related allowances of members of the Armed Forces for the support and services referred to in subsection (a) may not be charged to appropriations made pursuant to the authorization of appropriations in subsection (c).

(2) Paragraph (1) does not apply in the case of members of a reserve component called or ordered to active duty to provide logistical support and personnel services for the 1995 Special Olympics World Games.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $3,000,000 for the Department of Defense for fiscal year 1995 to carry out subsection (a).

SEC. 307. AIR NATIONAL GUARD FIGHTER AIRCRAFT.

(a) FINDINGS.—Congress makes the following findings:

(1) The Bottom-Up Review force structure proposal would accomplish most of the remaining reductions in the total number of Air Force general purpose fighter wings by reducing the Air National Guard and Air Force Reserve fighter force from 10 wings to 7 wings.

(2) The current plan for implementing the reduction referred to in paragraph (1) is to reduce the number of fighter aircraft in each Air National Guard fighter unit from 24 or 18 primary aircraft authorized to 15 primary aircraft authorized and to convert some Air National Guard fighter units to other purposes.

(3) The number of Air National Guard Combat Readiness Training Centers in operation during fiscal year 1995 should not be less than the number of such centers in operation at the end of fiscal year 1994.

(4) The Commission on Roles and Missions of the Armed Forces established by section 952 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 111 note; 107 Stat. 1738) is required to submit to Congress a report under section 954(b) of such Act on possible changes to existing allocations among the Armed Forces of military roles, missions, and functions.

(5) The Commission is not expected to submit the report until the middle of fiscal year 1995.

(6) The report of the Commission should contain a review of and recommendations on the assignment of roles and missions to units of the Air National Guard and the Air Force Reserve in relation to active component units that are the counterparts to such units and on requirements for resources for training of such units.

(b) REQUIREMENT.—After submission of the report referred to in paragraph (3), the Secretary of Defense shall review its findings on the role and requirements for general purpose fighter units of the Air National Guard, and shall complete within 30 days a study which recommends the appropriate level of primary aircraft authorized (PAA) for such units, following which, if the Secretary determines changes in that level are appropriate, he may notify the Congress of his determination and he may seek any reprogramming of funds that he considers appropriate to ensure that such changes are implemented.

Subtitle B—Defense Business Operations Fund

SEC. 311. PERMANENT AUTHORITY FOR USE OF FUND FOR MANAGING WORKING CAPITAL FUNDS AND CERTAIN ACTIVITIES.

Section 316(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 2208 note) is amended by striking out "During" and all that follows through "December 31, 1994, the" and inserting in lieu thereof "The".

SEC. 312. IMPLEMENTATION OF IMPROVEMENT PLAN.

(a) PROGRESS REPORT ON IMPLEMENTATION.—Not later than February 1, 1995, the Secretary of Defense shall submit to the congressional defense committees a report on the progress made in implementing the Defense Business Operations Fund Improvement Plan, dated September, 1993. The report shall describe the progress made in reaching the milestones established in the plan and provide an explanation for the failure to meet any of the milestones. The Secretary shall submit a copy of the report to the Comptroller General of the United States at the same time the Secretary submits the report to the congressional defense committees.

(b) RESPONSIBILITIES OF THE COMPTROLLER GENERAL.—(1) The Comptroller General shall monitor and evaluate the progress of the Department of Defense in developing and implementing the improvement plan referred to in subsection (a).

(2) Not later than March 1, 1995, the Comptroller General shall submit to the congressional defense committees a report containing the following:

(A) The findings and conclusions of the Comptroller General resulting from the monitoring and evaluation conducted under paragraph (1).

(B) An evaluation of the progress report submitted to the congressional defense committees by the Secretary of Defense pursuant to subsection (a).

(C) Any recommendations for legislation or administrative action concerning the Fund that the Comptroller General considers appropriate.

SEC. 313. LIMITATION ON OBLIGATIONS AGAINST THE CAPITAL ASSET FUND.

The Secretary of Defense may not incur obligations against funds in the capital asset subaccount of the Defense Business Operations Fund during fiscal year 1995 in a total amount in excess of $1,500,000.

SEC. 314. LIMITATION ON OBLIGATIONS AGAINST THE SUPPLY MANAGEMENT DIVISIONS.

(a) LIMITATION.—(1) The Secretary of Defense may not incur obligations against the supply management divisions of the Defense Business Operations Fund during fiscal year 1995 in a total amount in excess of 65 percent of the total amount derived from sales from such divisions during that fiscal year.

(2) For purposes of determining the amount of obligations incurred against, and sales from, such divisions during fiscal year 1995, the Secretary shall exclude obligations and sales for fuel, commissary and subsistence items, retail operations, repair of equipment and spare parts in support of repair, direct vendor deliveries, foreign military sales, initial outfitting requiring equipment furnished by the Federal Government, and the cost of operations.

(b) WAIVER AUTHORITY.—The Secretary of Defense may waive the limitation in subsection (a) if the Secretary determines that such waiver is necessary in order to maintain the readiness and combat effectiveness of the Armed Forces. The Secretary shall immediately notify Congress of any such waiver and the reasons for such waiver.

(c) DETERMINATIONS OF EFFECTS OF LIMITATION ON READINESS AND COMBAT EFFECTIVENESS.—Not later than 60 days after the date of the enactment of this Act, the secretaries of the military departments and the Director of the Defense Logistics Agency shall each submit to the Secretary of Defense a report containing the views of such official on the effects of the limitation in subsection (a) on the ability of the Department of Defense to maintain the readiness and combat effectiveness of the Armed Forces. If the Secretary of Defense determines, after considering the reports, that the limitation will impair the readiness and combat effectiveness of any of the Armed Forces, the Secretary shall exercise the waiver authority provided in subsection (b).

Subtitle C—Environmental Matters

SEC. 321. PROHIBITION ON THE PURCHASE OF SURETY BONDS AND OTHER GUARANTEES FOR THE DEPARTMENT OF DEFENSE.

No funds appropriated or otherwise made available to the Department of Defense for fiscal year 1995 may be obligated or expended for the purchase of surety bonds or other guarantees of financial responsibility in order to guarantee the performance of any direct function of the Department of Defense.

SEC. 322. EXTENSION OF PROHIBITION ON USE OF ENVIRONMENTAL RESTORATION FUNDS FOR PAYMENT OF FINES AND PENALTIES.

None of the funds appropriated for fiscal year 1995 pursuant to the authorization of appropriations provided in section 301(17) may be used for the payment of a fine or penalty imposed against the Department of Defense unless the act or omission for which the fine or penalty is imposed arises out of activities funded by the account.

SEC. 323. PARTICIPATION OF INDIAN TRIBES IN AGREEMENTS FOR DEFENSE ENVIRONMENTAL RESTORATION.

Section 2701(d) of title 10, United States Code, is amended—

(1) by striking out "SERVICE OF OTHER AGENCIES.—The Secretary" and inserting in lieu thereof the following: "SERVICE OF OTHER AGENCIES.—

"(1) IN GENERAL.—The Secretary";

(2) in paragraph (1), as so designated, by inserting "any Federally recognized Indian tribe or" before "any State or local government agency,"; and

(3) by adding at the end the following:

"(2) DEFINITION.—For purposes of this subsection, the term 'Indian tribe' has the meaning given such term in section 101(36) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9701(36)).".

SEC. 324. EXTENSION OF AUTHORITY TO ISSUE SURETY BONDS FOR CERTAIN ENVIRONMENTAL PROGRAMS.

Section 2701(j) of title 10, United States Code, is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 1999".

Subtitle D—Matters Relating to Department of Defense Civilian Employees

SEC. 331. EXTENSION OF CERTAIN TRANSITION ASSISTANCE AUTHORITIES.

(a) REDUCTION-IN-FORCE NOTIFICATION REQUIREMENTS.—Section 4433(b)(2) of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102-484; 106 Stat. 2721; 5 U.S.C. 3502 note) is amended by striking out "February 1, 1998" and inserting in lieu thereof "February 1, 2000".

(b) SEPARATION PAY.—(1) Section 5597(e) of title 5, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1999".

(2) Section 4436(d)(2) of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (5 U.S.C. 8348 note) is amended by striking out "January 1, 1998" and inserting in lieu thereof "January 1, 2000".

(c) RESTORATION OF CERTAIN LEAVE.—Section 6304(d)(3) of title 5, United States Code, is amended by striking out "the closure of an installation" and inserting in lieu thereof "the closure of an installation of the Department of Defense pursuant to the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) during any period, and the closure of any other installation".

(d) CONTINUED HEALTH BENEFITS.—Section 8905a(d)(4)(B) of title 5, United States Code, is amended—

(1) by striking out "October 1, 1997" each place it appears and inserting in lieu thereof "October 1, 1999"; and

(2) in clause (ii), by striking out "February 1, 1998," and inserting in lieu thereof "February 1, 2000,".

SEC. 332. EXTENSION AND EXPANSION OF AUTHORITY TO CONDUCT PERSONNEL DEMONSTRATION PROJECTS.

(a) CHINA LAKE DEMONSTRATION PROJECT.—(1) Section 6 of the Civil Service Miscellaneous Amendments Act of 1983 (Public Law 98-224; 98 Stat. 49) is amended by striking out "September 30, 1995,".

(2) In the event of a reorganization of the organization carrying out the personnel demonstration project referred to in section 6 of Public Law 98-224, such section shall apply with respect to the successor to that organization.

(b) DEFENSE LABORATORIES PERSONNEL DEMONSTRATION PROJECTS.—(1) The Secretary of Defense may carry out personnel demonstration projects at Department of Defense laboratories designated by the Secretary as Department of Defense science and technology reinvention laboratories.

(2) Each personnel demonstration project carried out under the authority of paragraph (1) shall be similar to the personnel demonstration project that is authorized by section 6 of Public Law 98-224 to be continued at the Naval Weapons Center, China Lake, California, and at the Naval Ocean Systems Center, San Diego, California.

(3) If the Secretary carries out a demonstration project at a laboratory pursuant to paragraph (1), section 4703 (other than subsection (d)) of title 5, United States Code, shall apply to such demonstration project, except that the authority of the Secretary to carry out the demonstration project is that which is provided in paragraph (1) rather than the authority that is provided in such section 4703.

SEC. 333. LIMITATION ON PAYMENT OF SEVERANCE PAY TO CERTAIN EMPLOYEES TRANSFERRING TO EMPLOYMENT POSITIONS IN NONAPPROPRIATED FUND INSTRUMENTALITIES.

(a) IN GENERAL.—Section 5595 of title 5, United States Code, is amended by adding at the end the following:

"(h)(1) Severance pay under this section may not be paid to—

"(A) a person described in paragraph (4)(A) during any period in which the person is employed in a defense nonappropriated fund instrumentality; or

"(B) a person described in paragraph (4)(B) during any period in which the person is employed in a Coast Guard nonappropriated fund instrumentality.

"(2)(A) Except as provided in subparagraph (B), payment of severance pay to a person referred to in paragraph (1) may be resumed upon any involuntary separation of the person from the position of employment in a nonappropriated fund instrumentality, not by removal for cause on charges of misconduct, delinquency, or inefficiency.

"(B) Payment of severance pay may not be resumed under subparagraph (A) in the case of a person who, upon separation, is entitled to immediate payment of retired or retainer pay as a member or former member of the uniformed services or to an immediate annuity under—

"(i) a retirement system for persons retiring from employment by a nonappropriated fund instrumentality;

"(ii) subchapter III of chapter 83 of this title;

"(iii) subchapter II of chapter 84 of this title; or

"(iv) any other retirement system of the Federal Government for persons retiring from employment by the Federal Government.

"(3) Upon resumption of payment of severance pay under paragraph (2)(A) in the case of a person separated as described in such paragraph, the amount of the severance pay so payable for a period shall be reduced (but not below zero) by the portion (if any) of the amount of any severance pay payable for such period to the person by the nonappropriated fund instrumentality that is attributable to credit for service taken into account under subsection (c) in the computation of the amount of the severance pay so resumed.

"(4) Paragraph (1) applies to a person who, on or after January 1, 1987, moves without a break in service—

"(A) from employment in the Department of Defense that is not employment in a defense nonappropriated fund instrumentality to employment in a defense nonappropriated fund instrumentality; or

"(B) from employment in the Coast Guard that is not employment in a Coast Guard nonappropriated fund instrumentality to employment in a Coast Guard nonappropriated fund instrumentality.

"(5) The Secretary of Defense, in consultation with the Secretary of Transportation, shall prescribe regulations to carry out this subsection.

"(6) In this subsection:

"(A) The term 'defense nonappropriated fund instrumentality' means a nonappropriated fund instrumentality of the Department of Defense.

"(B) The term 'Coast Guard nonappropriated fund instrumentality' means a nonappropriated fund instrumentality of the Coast Guard.

"(C) The term 'nonappropriated fund instrumentality' means a nonappropriated fund instrumentality described in section 2105(c) of this title.".

(b) APPLICABILITY.—Subsection (h) of section 5595 of title 5, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act and apply with respect to pay periods that begin on or after such date.

SEC. 334. RETIREMENT CREDIT FOR CERTAIN SERVICE IN NONAPPROPRIATED FUND INSTRUMENTALITIES BEFORE JANUARY 1, 1987.

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study to determine the level of interest among employees of the Department of Defense referred to in subsection (b) in obtaining credit under the Civil Service Retirement and Disability System or the Federal Employees' Retirement System for former service described in such subsection as an employee of a nonappropriated fund instrumentality of the United States.

(b) EMPLOYEES CONCERNED.—The employees referred to in subsection (a) are employees who, for at least 12 months during the period beginning on January 1, 1966, and ending on December 31, 1986, performed service as an employee described in section 2105(c) of title 5, United States Code, conducting a program described in section 8332(b)(16)(A) of such title.

(c) CONDUCT OF STUDY.—In carrying out the study under subsection (a), the Secretary shall—

(1) provide an opportunity for all employees referred to in that subsection to express interest in obtaining retirement credit for the former service in a nonappropriated fund instrumentality of the United States; and

(2) inform such employees that deposits to the Civil Service Retirement and Disability Fund would be required of the interested employees under section 8334(c) of title 5, United States Code, or section 8411(f) of such title.

(d) REPORT.—Not later than February 1, 1995, the Secretary shall submit to Congress a report on the results of the study required by subsection (a). The report shall contain the following matters:

(1) An analysis of the issues, to include existing legal rights of the employees described in paragraph (b) above under the Civil Service Retirement Disability System or the Federal Employees' Retirement System.

(2) An Analysis of the inequities, if any, that may have been caused by conversion from employment by nonappropriated fund instrumentalities of the United States to employment by the Department of Defense.

(3) The number of full time and part time employees described in paragraph (b) above that are affected by any inequities described in paragraph (2).

(4) The Department of Defense recommendations, if any, to redress any inequities described in paragraph (2), and

(5) The cost to the Federal Government of any recommendation described in paragraph (4).

SEC. 335. TRAVEL, TRANSPORTATION, AND RELOCATION EXPENSES OF EMPLOYEES TRANSFERRING TO THE UNITED STATES POSTAL SERVICE.

(a) IN GENERAL.—(1) Subchapter II of chapter 57 of title 5, United States Code, is amended by adding at the end the following:

"§ 5735. Travel, transportation, and relocation expenses of employees transferring to the United States Postal Service

"(a) IN GENERAL.—Notwithstanding any other provision of law, employees of the Department of Defense described in subsection (b) may be authorized travel, transportation, and relocation expenses and allowances in connection with appointments referred to in such subsection under the same conditions and to the same extent authorized by this subchapter for transferred employees.

"(b) COVERED EMPLOYEES.—Subsection (a) applies to any employee of the Department of Defense who—

"(1) is scheduled for separation from the Department, other than for cause;

"(2) is selected for appointment to a continuing position with the United States Postal Service; and

"(3) accepts the appointment.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following:

"5735. Travel, transportation, and relocation expenses of employees transferring to the United States Postal Service.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and apply to persons separated from employment by the Department of Defense on or after such date.

SEC. 336. FOREIGN EMPLOYEES COVERED BY THE FOREIGN NATIONAL EMPLOYEES SEPARATION PAY ACCOUNT.

Section 1581 of title 10, United States Code, is amended—

(1) by striking out "foreign national employees of the Department of Defense" each place it appears in subsections (a) and (b) and inserting in lieu thereof "foreign nationals referred to in subsection (e)"; and

(2) by striking out subsection (e) and inserting in lieu thereof the following:

"(e) EMPLOYEES COVERED.—This section applies only with respect to separation pay of foreign nationals employed by the Department of Defense, and foreign nationals employed by a foreign government for the benefit of the Department of Defense, under any of the following agreements that provide for payment of separation pay:

"(1) A contract.

"(2) A treaty.

"(3) A memorandum of understanding with a foreign nation.

SEC. 337. INCREASED AUTHORITY TO ACCEPT VOLUNTARY SERVICES.

(a) EXPANSION OF AUTHORITY.—The text of section 1588 of title 10, United States Code, is amended to read as follows:

"(a) AUTHORITY TO ACCEPT SERVICES.—Subject subsection (b) and notwithstanding section 1342 of title 31, the Secretary concerned may accept from any person the following services:

"(1) Voluntary medical services, dental services, nursing services, or other health-care related services.

"(2) Voluntary services to be provided for a museum or a natural resources program.

"(3) Voluntary services to be provided for programs providing services to members of the armed forces and the families of such members, including the following programs:

"(A) Family support programs.

"(B) Child development and youth services programs.

"(C) Library and education programs.

"(D) Religious programs.

"(E) Housing referral programs.

"(F) Programs providing employment assistance to spouses of such members.

"(b) REQUIREMENTS AND LIMITATIONS.—(1) The Secretary concerned shall notify the person of the scope of the services accepted.

"(2) With respect to a person providing voluntary services accepted under subsection (a), the Secretary concerned—

"(A) shall—

"(i) supervise the person to the same extent as the Secretary would supervise a compensated employee providing similar services; and

"(ii) ensure that the person is licensed, privileged, has appropriate credentials, or is otherwise qualified under applicable law or regulations to provide such services; and

"(B) may not—

"(i) place the person in a policy-making position; or

"(ii) except as provided subsection (e), compensate the person for the provision of such services.

"(c) AUTHORITY TO RECRUIT AND TRAIN PERSONS PROVIDING SERVICES.—The Secretary concerned may recruit and train persons to provide voluntary services accepted under subsection (a).

"(d) STATUS OF PERSONS PROVIDING SERVICES.—(1) Subject to paragraph (3), while providing voluntary services accepted under subsection (a) or receiving training under subsection (c) a person, other than a person referred to in paragraph (2), shall be considered to be an employee of the Federal Government only for purposes of the following provisions of law:

"(A) Subchapter I of chapter 81 of title 5, relating to compensation for work-related injuries.

"(B) Section 2733 of this title and section 2733 of title 28, relating to claims for damages or loss.

"(C) Section 522a of title 5, relating to maintenance of records on individuals.

"(D) Chapter 11 of title 18, relating to conflicts of interest.

"(2) Subject to paragraph (3), while providing a nonappropriated fund instrumentality of the United States with voluntary services accepted under subsection (a), or receiving training under subsection (c) to provide such an instrumentality with services accepted under subsection (a), a person shall be considered an employee of that instrumentality only for the following purposes:

"(A) Subchapter II of chapter 81 of title 5, relating to compensation of nonappropriated fund employees for work-related injuries.

"(B) Section 2733 of this title and section 2733 of title 28, relating to tort claims.

"(3) A person providing voluntary services accepted under subsection (a) shall be considered to be an employee of the Federal Government under paragraph (1) or (2) only with respect to services that are within the scope of the services so accepted.

"(4) For purposes of determining the compensation for work-related injuries payable under chapter 81 of title 5 (pursuant to this subsection) to a person providing voluntary services accepted under subsection (a), the monthly pay of the person for such services shall be deemed to be the amount determined by multiplying—

"(A) the average monthly number of hours that the person provided the services, by

"(B) the minimum wage determined in accordance with section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

"(e) REIMBURSEMENT OF INCIDENTAL EXPENSES.—The Secretary concerned may provide for reimbursement of a person for incidental expenses incurred by the person in providing voluntary services accepted under subsection (a). The Secretary shall determine which expenses are eligible for reimbursement under this subsection. Any such reimbursement may be made from appropriated or nonappropriated funds.".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—(1) Section 8171(a) of title 5, United States Code, is amended by inserting ", or to a volunteer providing such an instrumentality with services accepted under section 1588 of title 10," after "described by section 2105(c) of this title".

(2) Subchapter II of chapter 81 of such title is amended—

(A) in section 8171—

(i) in subsection (a)—

(I) by striking out "Chapter 18 of title 33" in the first sentence and inserting in lieu thereof "The Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.)";

(II) by striking out "section 902(2) of title 33" in the first sentence and inserting in lieu thereof "section 2(2) of such Act (33 U.S.C. 902(2))"; and

(III) by striking out "section 903(a) of title 33 which follows the first comma" in the second sentence and inserting in lieu thereof "section 3(a) of such Act (33 U.S.C. 903(3)) which follows the second comma";

(ii) in subsection (b), by striking out "section 902(4) of title 33" and inserting in lieu thereof "section 2(4) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 902(4))";

(iii) in subsection (c)(1), by striking out "section 939(b) of title 33" and inserting in lieu thereof "39(b) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 939(b))"; and

(iv) in subsection (d), by striking out "sections 918 and 921 of title 33" and inserting in lieu thereof "sections 18 and 21 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 18 and 21, respectively)"; and

(B) by striking out "section 902(2) of title 33" in sections 8172 and 8173 and inserting in lieu thereof "section 2(2) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 2(2))".

Subtitle E—Other Matters

SEC. 341. CHANGE OF SOURCE FOR PERFORMANCE OF DEPOT-LEVEL WORKLOADS.

The text of section 2469 of title 10, United States Code, is amended to read as follows:

"(a) REQUIREMENT FOR COMPETITION.—The Secretary of Defense shall ensure that the performance of a depot-level maintenance workload described in subsection (b) is not changed to performance by a contractor or by another depot-level maintenance activity of the Department of Defense unless the change is made using—

"(1) merit-based selection procedures for competitions among all depot-level maintenance activities of the Department of Defense; or

"(2) competitive procedures for competitions among private and public sector entities.

"(b) SCOPE.—Subsection (a) applies to any depot-level maintenance workload that has a value of not less than $3,000,000 and is being performed by a depot-level activity of the Department of Defense.

"(c) INAPPLICABILITY OF OMB CIRCULAR A-76.—Office of Managment and Budget Circular A-76 does not apply to a performance change to which subsection (a) applies.".

SEC. 342. CIVIL AIR PATROL.

(a) PROVISION OF FUNDS.—Subsection (b) of section 9441 of title 10, United States Code, is amended—

(1) by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (9), (10), (11), and (12), respectively; and

(2) by inserting after paragraph (7) the following new paragraph (8):

"(8) provide funds for the national headquarters of the Civil Air Patrol, including funds for the payment of staff compensation and benefits, administrative expenses, travel, per diem and allowances, rent and utilities, and other operational expenses;".

(b) LIAISONS.—Such section is further amended by adding at the end the following new subsection:

"(d)(1) The Secretary of the Air Force may authorize the Civil Air Patrol to employ, as administrators and liaison officers, persons retired from service in the Air Force whose qualifications are approved under regulations prescribed by the Secretary and who request such employment.

"(2) A person employed pursuant to paragraph (1) may receive the person's retired pay and an additional amount for such employment that is not more than the difference between the person's retired pay and the pay and allowances the person would be entitled to receive if ordered to active duty in the grade in which the person retired from service in the Air Force. The additional amount shall be paid to the Civil Air Patrol by the Secretary from funds appropriated for that purpose.

"(3) A person employed pursuant to paragraph (1) may not, while so employed, be considered to be on active duty or inactive-duty training for any purpose.".

SEC. 343. ARMED FORCES RETIREMENT HOME.

(a) INCREASED MAXIMUM LIMITATION ON DEDUCTIONS FROM PAY.—Section 1007(i) of title 37, United States Code, is amended—

(1) in paragraph (1), by striking out "50 cents" and inserting in lieu thereof "$2.00"; and

(2) in paragraph (3), by adding at the end the following: "The amount fixed for a grade or length of service may not be increased by more than 50 cents during any 12-month period.".

(b) MODIFICATION OF FEES PAID BY RESIDENTS.—(1) Paragraph (2) of section 1514(c) of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 414(c)) is amended to read as follows:

"(2) The fee shall be fixed as a percentage of the monthly income and monthly payments (including Federal payments) received by a resident, subject to such adjustments in the fee as the Retirement Home Board may make under paragraph (1). The percentage shall be the same for each establishment of the Retirement Home.".

(2)(A) Subsections (d) and (e) of section 1514 of such Act are repealed.

(B) Such section is further amended by adding after subsection (c) the following new subsection (d):

"(d) APPLICATION OF FEES.—Subject to such adjustments in the fee as the Retirement Home Board may make under subsection (c), each resident of the Retirement Home shall be required to pay a monthly fee equal to the amount determined by multiplying the total amount of all monthly income and monthly payments (including Federal payments) received by the resident by a percentage as follows:

"(1) In the case of a permanent health care resident—

"(A) in fiscal year 1998, 35 percent;

"(B) in fiscal year 1999, 45 percent; and

"(C) in fiscal year 2000, 65 percent.

"(2) In the case of a resident who is not a permanent health care resident—

"(A) in fiscal year 1998, 30 percent;

"(B) in fiscal year 1999, 35 percent; and

"(C) in fiscal year 2000, 40 percent.

(c) MODERNIZATION OF FACILITIES.—(1) The Chairman of the Armed Forces Retirement Home Board shall carry out a study to identify and evaluate alternatives for modernization of the facilities at the United States Soldiers' and Airmen's Home.

(2) The Chairman shall submit an interim report and a final report on the results of the study to the Committees on Armed Services of the Senate and House of Representatives. The Chairman shall submit the interim report not later than April 1, 1995, and the final report not later than December 31, 1995.

(d) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall take effect on January 1, 1995, and apply to years that begin on or after that date.

(2) The amendments made by subsection (b) shall take effect October 1, 1997.

SEC. 344. CLARIFICATION OF AUTHORITY TO PROVIDE MEDICAL TRANSPORTATION UNDER NATIONAL GUARD PILOT PROGRAM.

Paragraph (1) of section 376(h) of the National Defense Authorization Act for Fiscal Year 1993 (32 U.S.C. 501 note) is amended to read as follows:

"(1) The term 'health care' includes the following services:

"(A) Medical care services.

"(B) Dental care services.

"(C) Transportation, by air ambulance or other means, for medical reasons.".

SEC. 345. ARMS INITIATIVE LOAN GUARANTEE PROGRAM.

(a) PROGRAM AUTHORIZED.—Subject to subsection (b), the Secretary of the Army may carry out a loan guarantee program to encourage commercial firms to use ammunition manufacturing facilities pursuant to section 193 of the Armament Retooling and Manufacturing Support Act of 1992 (subtitle H of title I of Public Law 102-484; 106 Stat. 2348). Under such program, the Secretary may guarantee the repayment of any loan made to a commercial firm to fund, in whole or in part, the establishment of a commercial activity under the Act.

(b) ADVANCED BUDGET AUTHORITY.—Loan guarantees under this section may not be committed except to the extent that appropriations of budget authority to cover their costs are made in advance, as required by section 504 of the Federal Credit Reform Act of 1990 (title V of the Congressional Budget Act of 1974; 2 U.S.C. 661c).

(c) PROGRAM ADMINISTRATION.—(1) The Secretary may enter into agreements with the Administrator of the Small Business Administration, the Administrator of the Farmers Home Administration, and the Administrator of the Rural Development Administration under which such Administrators may, under this section—

(A) process applications for loan guarantees;

(B) guarantee repayment of loans; and

(C) provide any other services to the Secretary to administer the loan guarantee program.

(2) Each Administrator may guarantee loans under this section to commercial firms of any size, notwithstanding any size limitations imposed on other loan guarantee programs that the Administrator administers.

(3) To the extent practicable, each Administrator shall use the same procedures for processing loan guarantee applications under this section as the Administrator uses for processing loan guarantee applications under other loan guarantee programs that the Administrator administers.

(d) LOAN LIMITS.—Loan guarantees under this section may not exceed—

(1) $20,000,000 for any borrower; and

(2) $65,000,000 for all borrowers.

(e) TRANSFER OF FUNDS.—The Secretary of the Army may transfer to an Administrator providing services under subsection (c), and an Administrator may accept, such funds as may be necessary to administer the loan guarantee program under this section.

(f) REPORTING REQUIREMENT.—Not later than July 1 of each year in which a guarantee issued under this section is in effect, the Secretary shall submit to the congressional defense committees a report containing the amounts of loans guaranteed under this section during the preceding calendar year. No report is required after fiscal year 1997.

(g) AUTHORIZATION FOR USE OF EXISTING BUDGET AUTHORITY.—Funds appropriated for the Armament Retooling and Manufacturing Support Initiative by title III of Public Law 102-396 under the heading "PROCUREMENT OF AMMUNITION, ARMY" (106 Stat. 1887) may be made available for loan guarantees under this section only to the extent provided in an appropriations Act enacted after the date of the enactment of this Act.

(h) EXTENSION OF AUTHORITY.—Section 193(a) of the Armament Retooling and Manufacturing Support Act of 1992 (subtitle H of title I of Public Law 102-484; 106 Stat. 2348) is amended by striking out "During fiscal years 1993 and 1994," and inserting in lieu thereof "During fiscal years 1993 through 1996,".

SEC. 346. REAUTHORIZATION OF DEPARTMENT OF DEFENSE DOMESTIC ELEMENTARY AND SECONDARY SCHOOLS FOR DEPENDENTS.

(a) CONTINUED AUTHORITY.—Chapter 108 of title 10, United States Code, is amended by adding at the end the following new section:

"§2164. Department of Defense domestic dependent elementary and secondary schools

"(a) AUTHORITY OF SECRETARY.—If the Secretary of Defense makes a determination that appropriate educational programs are not available through a local educational agency for dependents of members of the armed forces and dependents of civilian employees of the Federal Government residing on a military installation in the United States (including territories, commonwealths, and possessions of the United States), the Secretary may provide for the elementary or secondary education of the dependents of such members of the armed forces and, to the extent authorized in subsection (c), the dependents of such civilian employees.

"(b) FACTORS FOR SECRETARY TO CONSIDER.—(1) Factors to be considered by the Secretary of Defense in making a determination under subsection (a) shall include the following:

"(A) The extent to which such dependents are eligible for free public education in the local area adjacent to the military installation.

"(B) The extent to which the local educational agency is able to provide a comparable educational program for such dependents.

"(2) For purposes of paragraph (1)(B), an appropriate educational program is a program that, as determined by the Secretary, is comparable to a program of free public education provided for children in the following communities:

"(A) In the case of a military installation located in a State (other than an installation referred to in subparagraph (B)), similar communities in the State.

"(B) In the case of a military installation with boundaries contiguous to two or more States, similar communities in the contiguous States.

"(C) In the case of a military installation located in a territory, commonwealth, or possession, the District of Columbia, except that an educational program determined comparable under this subparagraph may be considered appropriate for the purposes of paragraph (1)(B) only if the program is conducted in the English language.

"(c) ELIGIBILITY OF DEPENDENTS OF FEDERAL EMPLOYEES.—(1) A dependent of a Federal employee residing on a military installation at any time during the school year may enroll in an educational program provided by the Secretary of Defense pursuant to subsection (a) for dependents residing on such installation.

"(2)(A) Except as provided in subparagraph (B), a dependent of a Federal employee who is enrolled in an educational program provided by the Secretary pursuant to subsection (a) and who is not residing on a military installation may be enrolled in the program for not more than five consecutive school years.

"(B) A dependent referred to in subparagraph (A) may be enrolled in the program for more than five consecutive school years if the Secretary determines that, in the interest of the dependent's educational well-being, there is good cause to extend the enrollment for more than the five-year period described in such subparagraph. Any such extension may be made for only one school year at a time.

"(3) A dependent of a Federal employee may continue enrollment in a program under this subsection for the remainder of a school year notwithstanding a change during such school year in the status of the Federal employee that, except for this paragraph, would otherwise terminate the eligibility of the dependent to be enrolled in the program. The preceding sentence does not limit the authority of the Secretary to remove the dependent from enrollment in the program at any time for good cause determined by the Secretary.

"(d) SCHOOL BOARDS.—(1) The Secretary of Defense shall provide for the establishment of a school board for each Department of Defense elementary or secondary school established for a military installation under this section.

"(2) The school board shall be composed of the number of members, not less than three, prescribed by the Secretary.

"(3) The parents of the students attending the school shall elect the school board in accordance with procedures which the Secretary shall prescribe.

"(4) The elected school board shall be considered a local civic group with a function of rendering a public service of providing counsel through oversight of school expenditures and operations. The Secretary shall prescribe the oversight procedures and audit standards applicable to the functions of the school board.

"(5) Meetings conducted by the school board shall be open to the public.

"(6) A school board need not comply with the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), but may close meetings in accordance with such Act.

"(e) ADMINISTRATION AND STAFF.—(1) The Secretary of Defense may enter into such arrangements as may be necessary to provide educational programs at the school.

"(2) The Secretary may, without regard to the provisions of any other law relating to the number, classification, or compensation of employees—

"(A) establish such positions for civilian employees in schools established under this section;

"(B) appoint individuals to such positions; and

"(C) fix the compensation of such individuals for service in such positions.

"(3)(A) Except as provided in subparagraph (B), in fixing the compensation of employees appointed for a school pursuant to paragraph (2), the Secretary shall consider—

"(i) the compensation of comparable employees of the local educational agency in the capital of the State where the military installation is located;

"(ii) the compensation of comparable employees in the local educational agency that provides public education to students who reside adjacent to the military installation; or

"(iii) the average compensation for similar positions in not more than three other local educational agencies in the State in which the military installation is located.

"(B) In fixing the compensation of employees in schools established in the territories, commonwealths, and possessions pursuant to the authority of this section, the Secretary shall determine the level of compensation required to attract qualified employees. For employees in such schools, the Secretary, without regard to the provisions of title 5, may provide for the tenure, leave, hours of work, and other incidents of employment to be similar to that provided for comparable positions in the public schools of the District of Columbia. For purposes of the first sentence, a school shall be considered to have been established pursuant to the authority of this section if the school was established pursuant to other similar authority before the date on which this section takes effect.

"(f) SUBSTANTIVE AND PROCEDURAL RIGHTS AND PROTECTIONS FOR CHILDREN.—(1) The Secretary shall provide the following substantive rights, protections, and procedural safeguards (including due process procedures) in the educational programs provided for under this section:

"(A) In the case of children with disabilities aged 3 to 5, inclusive, all substantive rights, protections, and procedural safeguards (including due process procedures) available to children with disabilities aged 3 to 5, inclusive, under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

"(B) In the case of infants and toddlers with disabilities, all substantive rights, protections, and procedural safeguards (including due process procedures) available to infants and toddlers with disabilities under part H of such Act (20 U.S.C. 1471 et seq.).

"(C) In the case of all other children with disabilities, all substantive rights, protections, and procedural safeguards (including due process procedures) available to children with disabilities who are 3 to 5 years old under part B of such Act.

"(2) Paragraph (1) may not be construed as diminishing for children with disabilities enrolled in day educational programs provided for under this section the extent of substantive rights, protections, and procedural safeguards that were available under section 6(a) of Public Law 81-874 (20 U.S.C. 241(a)) to children with disabilities as of October 7, 1991.

"(3) In this subsection:

"(A) The term 'children with disabilities' has the meaning given the term in section 602(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(1)).

"(B) The term 'children with disabilities aged 3 to 5, inclusive' means such term as used in such Act (20 U.S.C. 1400 et seq.).

"(C) The term 'infants and toddlers with disabilities' has the meaning given the term in section 672(1) of such Act (20 U.S.C. 1472(1)).

"(g) REIMBURSEMENT.—When the Secretary of Defense provides educational services under this section to an individual who is a dependent of an employee of a Federal agency outside the Department of Defense, the head of the other Federal agency shall, upon request of the Secretary of Defense, reimburse the Secretary for those services at rates routinely prescribed by the Secretary for those services. Any payments received by the Secretary under this subsection shall be credited to the account designated by the Secretary for the operation of educational programs under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2164. Department of Defense domestic dependent elementary and secondary schools.".

SEC. 347. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) AVAILABILITY OF FUNDS.—Of the amounts authorized to be appropriated pursuant to section 301(5)—

(1) $50,000,000 shall be available for providing assistance to local educational agencies under subsection (b) of section 386 of Public Law 102–484; and

(2) $8,000,000 shall be available for making payments to local educational agencies under subsection (d) of such section.

(b) NOTIFICATION AND DISBURSAL.—(1) On or before June 30, 1995, the Secretary of Defense (with respect to assistance provided in subsection (b) of section 386 of Public Law 102–484) and the Secretary of Education (with respect to payments made under subsection (d) of such section) shall notify each local educational agency eligible for assistance under subsections (b) and (d) of such section, respectively, for fiscal year 1995 of such agency's eligibility for such assistance and the amount of such assistance.

(2) The Secretary of Defense (with respect to funds made available under subsection (a)(1)) and the Secretary of Education (with respect to funds made available under subsection (a)(2)) shall disburse such funds not later than 30 days after notification to eligible local education agencies.

SEC. 348. DISPOSITION OF PROCEEDS FROM OPERATION OF THE NAVAL ACADEMY LAUNDRY.

Section 6971 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "(a)"; and

(B) in the first sentence, by striking out "and the Academy dairy" and inserting in lieu thereof "the Academy dairy, and the Academy laundry"; and

(2) by striking out subsection (b).

SEC. 349. REPEAL OF ANNUAL LIMITATION ON EXPENDITURES FOR EMERGENCY AND EXTRAORDINARY EXPENSES OF THE DEPARTMENT OF DEFENSE INSPECTOR GENERAL.

Section 127(c) of title 10, United States Code, is amended—

(1) by striking out "(1)" after "(c)"; and

(2) by striking out paragraph (2).

SEC. 350. EXTENSION OF AUTHORITY FOR PROGRAM TO COMMEMORATE WORLD WAR II.

Section 378 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2387; 10 U.S.C. 113 note) is amended by striking out "1995" each place it appears in subsections (a) and (b) and inserting in lieu thereof "1996".

SEC. 351. EXTENSION OF AUTHORITY FOR AVIATION DEPOTS AND NAVAL SHIPYARDS TO ENGAGE IN DEFENSE-RELATED PRODUCTION AND SERVICES.

Section 1425(e) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510), as amended by section 370(b) of Public Law 103–160 (107 Stat. 1634), is further amended by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1995".

SEC. 352. TRANSFER OF CERTAIN EXCESS DEPARTMENT OF DEFENSE PROPERTY TO EDUCATIONAL INSTITUTIONS AND TRAINING SCHOOLS.

(a) AUTHORITY TO TRANSFER.—Subsection (b)(1) of section 2535 of title 10, United States Code, is amended by striking out subparagraph (G) and inserting in lieu thereof the following:

"(G) notwithstanding title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.) and any other provision of law, authorize the transfer to a nonprofit educational institution or training school, on a nonreimbursable basis, of any such property already in the possession of such institution or school whenever the program proposed by such institution or school for the use of such property will contribute materially to national defense; and".

(b) TREATMENT OF PROPERTY LOANED BEFORE DECEMBER 31, 1993.—Except for property determined by the Secretary to be needed by the Department of Defense, property loaned before December 31, 1993, to an educational institution or training school under section 2535(b) of title 10, United States Code, or section 4(a)(7) of the Defense Industrial Reserve Act (as in effect before October 23, 1992) shall be regarded as surplus property. Upon certification by the Secretary to the Administrator of General Services that the property is being used by the borrowing educational institution or training school for a purpose consistent with that for which the property was loaned, the Administrator may authorize the conveyance of all right, title, and interest of the United States in such property to the borrower if the borrower agrees to accept the property. The Administrator may require any additional terms and conditions in connection with a conveyance so authorized that the Administrator considers appropriate to protect the interests of the United States.

SEC. 353. SHIPS' STORES.

Section 371 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat.' 1634; 10 U.S.C. 7604 note) is amended—

(1) by striking out subsections (a), (b), and (d); and

(2) in subsection (c), by striking out "(c) CODIFICATION.—Section 7604" and inserting in lieu thereof "Effective as of November 30, 1993, section 7604".

SEC. 354. HUMANITARIAN PROGRAM FOR CLEARING LANDMINES.

(a) PROGRAM AUTHORIZED.—The Secretary of Defense may carry out a program for humanitarian purposes to provide for the instruction, education, training, and advising of personnel of other nations in the various procedures that have been determined effective for detecting and clearing landmines.

(b) FORMS OF ASSISTANCE.—Under the program the Secretary may provide personnel to conduct the instruction, education, or training or to furnish advice. In addition or alternatively, the Secretary may provide financial assistance or in-kind assistance in support of such instruction, education, or training.

(c) LIMITATIONS ON ACTIONS OF UNITED STATES PERSONNEL.—The Secretary of Defense shall ensure that no member of the Armed Forces of the United States—

(1) while providing assistance under subsection (a), engages in the physical detection, lifting, or destroying of landmines unless the member does so for the concurrent purpose of supporting a United States military operation; or

(2) provides such assistance as part of a military operation that does not involve the Armed Forces of the United States.

(d) FUNDING.—Of the funds authorized to be appropriated in section 301, not more than $10,000,000 shall be available for a program carried out under subsection (a).

SEC. 355. ASSISTANCE TO RED CROSS FOR EMERGENCY COMMUNICATIONS SERVICES FOR MEMBERS OF THE ARMED FORCES AND THEIR FAMILIES.

(a) FISCAL YEAR 1995.—Of the funds authorized to be appropriated by section 301(5), $14,500,000 shall be available for obtaining emergency communications services for members of the Armed Forces and their families from the American National Red Cross.

(b) FISCAL YEARS 1996 AND 1997.—Of the amounts authorized to be appropriated for the Department of Defense for fiscal years 1996 and 1997 for operation and maintenance for Defense-wide activities, $14,500,000 shall be available for each such fiscal year for obtaining emergency communications services for members of the Armed Forces and their families from the American National Red Cross.

SEC. 356. MARITIME PREPOSITIONING SHIP ENHANCEMENT.

Section 2218 of title 10, United States Code, is amended by adding at the end of subsection (f) the following new paragraph:

"(3) Not more than three vessels built in foreign shipyards may be purchased for the Marine Corps maritime prepositioning ship program with funds in the National Defense Sealift Fund. Vessels purchased under the authority of this paragraph may not be counted for purposes of the limitation in paragraph (1).".

SEC. 357. ROLL-ON/ROLL-OFF VESSELS FOR THE READY RESERVE FORCE.

(a) TRANSFER AUTHORIZED.—To the extent provided in appropriations Acts, in order to provide for purchase of up to seven roll-on/roll-off vessels for the Ready Reserve Force of the National Defense Reserve Fleet maintained under section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), the Secretary of Defense may transfer to the Maritime Administration not more than $43,000,000 out of funds authorized by this Act to be appropriated to the Department of Defense for fiscal year 1995, other than funds for procurement of national defense features for vessels.

(b) USE BY MARITIME ADMINISTRATION.—Funds transferred to the Maritime Administration pursuant to subsection (a) shall be used only for the purpose set forth in such subsection.

SEC. 358. PAYMENT OF CERTAIN STIPULATED CIVIL PENALTIES.

Of the funds authorized to be appropriated by section 301(17), the Secretary of Defense may pay not more than $500,000 to the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code of 1986 (26 U.S.C. 9507) as payment of stipulated civil penalties assessed under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

SEC. 359. SALE OF ARTICLES AND SERVICES OF INDUSTRIAL FACILITIES OF THE ARMED FORCES TO PERSONS OUTSIDE DEPARTMENT OF DEFENSE.

(a) AUTHORITY TO SELL OUTSIDE DOD.—The Secretary of Defense may sell in accordance with this section to persons outside the Department of Defense articles and services produced in working-capital funded industrial facilities of the Armed Forces that are not available from any United States commercial source.

(b) DESIGNATION OF PARTICIPATING INDUSTRIAL FACILITIES.—The Secretary may designate up to three facilities referred to in subsection (a) as the facilities from which articles and services produced in such facilities may be sold under this section.

(c) CONDITIONS FOR SALES.—A sale of articles or services may be made under this section only if—

(1) the Secretary of Defense determines that the articles or services are not available from a commercial source in the United States;

(2) the purchaser agrees to hold harmless and indemnify the United States, except in cases of willful misconduct or extreme negligence, from any claim for damages or injury to any person or property arising out of the articles or services;

(3) the articles or services can be substantially performed by the industrial facility concerned with only incidental subcontracting and that performance is in the public interest;

(4) the Secretary determines that the sale of the articles or services will not interfere with the military mission of the industrial facility concerned; and

(5) the sale of the goods and services is made on the basis that it will not interfere with performance of work by the industrial facility concerned for the Department of Defense.

(d) METHODS OF SALE.—(1) The Secretary shall permit a purchaser of articles or services under this section to use advance incremental funding to pay for the articles or services.

(2) In the sale of articles and services under this section, the Secretary shall—

(A) charge the purchaser, at a minimum, the variable costs, capital improvement costs, and equipment depreciation costs that are associated with the articles or services sold;

(B) enter into a firm, fixed-price contract or, if agreed by the purchaser, a cost reimbursement contract for the sale; and

(C) develop and maintain (from sources other than appropriated funds) working capital to be available for paying design costs, planning costs, procurement costs, and other costs associated with the articles or services sold.

(e) DELEGATION OF AUTHORITY.—The Secretary may delegate the authority to sell articles and services in accordance with this section to the commander of each industrial facility designated pursuant to subsection (b) in accordance with regulations prescribed by the Secretary.

(f) DEPOSIT OF PROCEEDS.—Proceeds from sales of articles and services under this section shall be credited to the funds, including working capital funds and operation and maintenance funds, incurring the costs of performance.

(g) RELATIONSHIP TO ARMS EXPORT CONTROL ACT.—Nothing in this section shall be construed to affect the application of the export controls provided for in section 38 of the Arms Export Control Act (22 U.S.C. 2778) to items which incorporate or are produced through the use of an article sold under this section.

(h) DEFINITIONS.—In this section:

(1) The term "advance incremental funding", with respect to a sale of articles or services, means a series of partial payments for the articles or services that includes—

(A) one or more partial payments before the commencement of work or the incurring of costs in connection with the production of the articles or the performance of the services, as the case may be; and

(B) subsequent progress payments that result in full payment being completed as the required work is being completed.

(2) The term "variable costs", with respect to sales of articles or services, means the costs that are expected to fluctuate directly with the volume of sales and—

(A) in the case of articles, the volume of production necessary to satisfy the sales orders; or

(B) in the case of services, the extent of the services sold.

SEC. 360. STUDY OF ESTABLISHMENT OF LAND MANAGEMENT AND TRAINING CENTER AT FORT RILEY, KANSAS.

(a) STUDY.—The Secretary of the Army shall carry out a study of the feasibility and advisability of establishing at Fort Riley, Kansas, a center for the land management activities and land management training activities of the Department of Defense.

(b) REPORT.—The Secretary shall submit to the congressional defense committees a report on the study required under subsection (a). The Secretary shall submit the report not later than May 1, 1996.

SEC. 361. PROCUREMENT OF PORTABLE VENTILATORS FOR THE DEFENSE MEDICAL FACILITY OFFICE, FORT DETRICK, MARYLAND.

Of the funds authorized to be appropriated by section 301(5), $2,500,000 shall be available for the procurement of portable ventilators for the Defense Medical Facility Office, Fort Detrick, Maryland.

SEC. 362. REVIEW BY DEFENSE INSPECTOR GENERAL OF COST GROWTH IN CERTAIN CONTRACTS.

(a) REVIEW.—The Inspector General of the Department of Defense shall carry out a review of a representative sample of existing contracts for the performance of commercial activities which resulted from a cost comparison study conducted by the Department of Defense under Office of Management and Budget Circular A-76 (or any other successor administrative regulation or policy) to determine the extent to which the cost incurred by a contractor under any such contract has exceeded the cost of the contract at the time the contract was entered into.

(b) REPORT.—Not later than April 1, 1995, the Inspector General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the results of the review carried out under subsection (a).

SEC. 363. COST COMPARISON STUDIES FOR CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES.

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 24101. Contracts for advisory and assistance services: cost comparison studies

"(a) REQUIREMENT.—(1)(A) Before the Secretary of Defense enters into a contract described in subparagraph (B), the Secretary shall determine whether Department of Defense personnel have the capability to perform the services proposed to be covered by the contract.

"(B) Subparagraph (A) applies to any contract of the Department of Defense for advisory and assistance services which contract will have a value in excess of $100,000.

"(2) If the Secretary determines that such personnel have that capability, the Secretary shall conduct a study comparing the cost of performing the services with Department of Defense personnel and the cost of performing the services with contractor personnel.

"(b) WAIVER.—The Secretary of Defense may, pursuant to guidelines prescribed by the Secretary, waive the requirement under subsection (a)(2) to perform a cost comparison study based on factors that are not related to cost.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"24101. Contracts for advisory and assistance services: cost comparison studies.".

(b) PROCEDURES FOR CONDUCT OF STUDIES.—The Secretary of Defense shall prescribe the following procedures:

(1) Procedures for carrying out a cost comparison study under subsection (a)(2) of section 24101 of title 10, United States Code, as added by subsection (a), which may contain a requirement that the cost comparison study include consideration of factors that are not related to cost, including the quality of the service required to be performed, the availability of Department of Defense personnel, the duration and recurring nature of the services to be performed, and the consistency of the workload.

(2) Procedures for reviewing contracts entered into after a waiver under subsection (b) of such section to determine whether the contract is justified and sufficiently documented.

(c) EFFECTIVE DATE.—Section 24101 of title 10, United States Code, as added by subsection (a), shall take effect 180 days after the date of the enactment of this Act.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 1995, as follows:

(1) The Army, 510,000.

(2) The Navy, 441,641.

(3) The Marine Corps, 174,000.

(4) The Air Force, 400,051.

SEC. 402. EXTENSION OF TEMPORARY VARIATION OF END STRENGTH LIMITATIONS FOR MARINE CORPS MAJORS AND LIEUTENANT COLONELS.

(a) EXTENSION OF AUTHORITY.—Subsection (a) of section 402 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1639; 10 U.S.C. 523 note) is amended by striking out "and 1995" and inserting in lieu thereof "through 1997"

(b) LIMITATION.—The table in subsection (b) of such section is amended to read as follows:

"Fiscal year:	Number of officers who may be serving on active duty in the grade of:	
	Major	Lieutenant colonel
1994	3,023	1,578
1995	3,157	1,634
1996	3,157	1,634
1997	3,157	1,634.".

(c) CLERICAL AMENDMENT.—The caption of subsection (b) of such section is amended by striking out "AND 1995.—" and inserting in lieu thereof "THROUGH 1997.—".

SEC. 403. RETENTION OF AUTHORIZED STRENGTH OF GENERAL OFFICERS ON ACTIVE DUTY IN THE MARINE CORPS FOR FISCAL YEARS AFTER FISCAL YEAR 1995.

Section 526(a)(4) of title 10, United States Code, is amended by striking out "before October 1, 1995," and all that follows through "that date".

SEC. 404. EXCEPTION TO LIMITATION ON NUMBER OF GENERAL OFFICERS AND FLAG OFFICERS SERVING ON ACTIVE DUTY.

Section 525(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5)(A) Subject to subparagraph (C), an officer while serving in a position referred to in subparagraph (B), if serving in the grade of general or admiral, is in addition to the number that would otherwise be permitted for that officer's armed force for that grade under paragraph (1) or (2).

"(B) Subparagraph (A) applies to the following positions:

"(i) Commander in Chief of a combatant command.

"(ii) Commander, United States Forces, Korea.

"(iii) Deputy Commander in Chief, United States European Command, but only while the Commander in Chief of such command is also the Supreme Allied Commander Europe.

"(C) Subparagraph (A) does not apply to an officer serving in a position referred to in subparagraph (B) unless the Secretary of Defense, when considering that officer for recommendation to the President for appointment to such position, concurrently considered one officer from each of the other armed forces (other than the Coast Guard) for recommendation to the President for appointment to the position.

"(D) The Chairman of the Joint Chiefs of Staff may recommend officers to the Secretary of Defense for consideration by the President for appointment to any of the positions referred to in subparagraph (B).

"(E) This paragraph shall cease to be effective at the end of September 30, 1997.".

SEC. 405. TEMPORARY EXCLUSION OF SUPERINTENDENT OF NAVAL ACADEMY FROM COUNTING TOWARD NUMBER OF SENIOR ADMIRALS AUTHORIZED TO BE ON ACTIVE DUTY.

(a) GRADE RELIEF.—If the next officer appointed to serve as Superintendent of the United States Naval Academy after April 1, 1994, is an officer described in subsection (b), that officer, while so serving, shall not be counted for purposes of the limitations contained in section 525(b)(2) of title 10, United States Code.

(b) QUALIFYING OFFICER.—Subsection (a) applies in the case of a retired officer who—

(1) holds the grade of admiral on the retired list;

(2) is ordered to active duty pursuant to section 688 of title 10, United States Code, to serve as Superintendent of the United States Naval Academy; and

(3) is appointed pursuant to section 601 of that title to have the grade of admiral while serving on active duty in that position.

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1995, as follows:

(1) The Army National Guard of the United States, 400,000.

(2) The Army Reserve, 242,000.

(3) The Naval Reserve, 109,000.

(4) The Marine Corps Reserve, 42,000.

(5) The Air National Guard of the United States, 115,581.

(6) The Air Force Reserve, 78,706.

(7) The Coast Guard Reserve, 8,000.

(b) WAIVER AUTHORITY.—The Secretary of Defense may increase the end strength authorized by subsection (a) by not more than 2 percent.

(c) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be reduced proportionately by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year, and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be increased proportionately by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 1995, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 23,650.

(2) The Army Reserve, 11,940.

(3) The Naval Reserve, 17,510.

(4) The Marine Corps Reserve, 2,285.

(5) The Air National Guard of the United States, 9,098.

(6) The Air Force Reserve, 648.

Subtitle C—Military Training Student Loads

SEC. 421. AUTHORIZATION OF TRAINING STUDENT LOADS.

(a) IN GENERAL.—For fiscal year 1995, the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 69,420.

(2) The Navy, 43,064.

(3) The Marine Corps, 25,377.

(4) The Air Force, 36,840.

(b) SCOPE.—The average military training student load authorized for an armed force under subsection (a) applies to the active and reserve components of that armed force.

(c) ADJUSTMENTS.—The average military training student loads authorized in subsection (a) shall be adjusted consistent with the end strengths authorized in subtitles A and B. The Secretary of Defense shall prescribe the manner in which such adjustments shall be apportioned.

Subtitle D—Authorization of Appropriations

SEC. 431. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 1995 a total of $70,790,397,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 1995.

Subtitle E—Other Matters

SEC. 441. REPEAL OF REQUIRED REDUCTION IN RECRUITING PERSONNEL.

Section 431 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2400) is repealed.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

SEC. 501. SERVICE ON SUCCESSIVE SELECTION BOARDS.

(a) SERVICE ON SUCCESSIVE BOARDS AUTHORIZED.—Section 628 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) A special selection board convened under this section shall be composed in accordance with section 612 of this title or, in the case of a warrant officer, composed in accordance with section 573 of this title and regulations prescribed by the Secretary of the military department concerned, except that the prohibitions on service on successive selection boards set forth in sections 612(b) and 573(e) of this title do not apply to service on successive selection boards authorized under paragraph (2).

"(2) An officer may serve on a selection board convened under section 611(a) of this title or, in the case of a warrant officer, section 573(a) of this title and on a successive special selection board convened under this section if the service on the successive board is approved by the Secretary of the military department concerned and the successive board does not consider any officer who was considered by the first board.".

(b) CONFORMING AMENDMENT.—Subsections (a)(1) and (b)(1) of section 628 of such title are amended by striking out "(composed in accordance with" and all that follows through "concerned)" and inserting in lieu thereof "(composed as provided in subsection (f))".

SEC. 502. PROMOTION AND OTHER CAREER MANAGEMENT MATTERS RELATING TO WARRANT OFFICERS ON ACTIVE-DUTY LISTS.

(a) EXCEPTION FROM MANDATORY CONSIDERATION BY PROMOTION SELECTION BOARD.—Section 575(d) of such title is amended by inserting "(except for warrant officers precluded from consideration under regulations prescribed by the Secretary concerned under section 577 of this title)" after "under consideration".

(b) SECRETARIAL SUBMISSION OF PROMOTION SELECTION BOARD REPORT.—Section 576(f)(1) of such title is amended by striking out the second sentence.

(c) PROMOTION FORMALITIES DEEMED COMPLETED.—Section 578 of such title is amended by adding at the end the following new subsections:

"(e) A warrant officer who is appointed to a higher grade under this section is considered to have accepted such appointment on the date on which the appointment is made unless the officer expressly declines the appointment.

"(f) A warrant who has served continuously as an officer since the officer took the oath of office set forth under section 3331 of title 5 is not required to take a new oath upon appointment to a higher grade under this section.".

(d) WARRANT OFFICERS SUBJECT TO MANAGEMENT AUTHORITIES.—Section 582(2) of such title is amended by inserting before the period at the end the following: "(other than such officers recalled to active duty before February 1, 1992, who have served continuously on active duty since such date)".

SEC. 503. ENLISTMENT OR RETIREMENT OF NAVY AND MARINE CORPS LIMITED DUTY OFFICERS HAVING TWICE FAILED OF SELECTION FOR PROMOTION.

(a) AUTHORITY.—Subsection (f) of section 6383 of title 10, United States Code, is amended to read as follows:

"(f)(1) An officer subject to discharge under subsection (b), (d), or (e) who is not eligible for retirement or for retention under paragraph (2) may, upon the officer's request and in the discretion of the Secretary of the Navy, be enlisted in the grade prescribed by the Secretary.

"(2) If an officer subject to discharge under subsection (b) or (d) is within two years of qualifying for retirement under section 6323 of this title as of the date on which the officer is to be discharged, the officer shall be retained on active duty until becoming qualified for retirement under that section (unless sooner retired or discharged under another provision of law) and shall then be retired.".

(b) CONFORMING AMENDMENTS.—Section 6383 of such title is amended—

(1) in subsection (i), by striking out "or the discharge under subsection (d)" and inserting in lieu thereof "or the discharge under subsection (b) or (d)";

(2) by striking out subsection (g);

(3) by redesignating subsections (h), (i), and (j) as subsections (g), (h), and (i), respectively; and

(4) in subsections (a), (b), and (d), by striking out "Except as provided in subsection (i)," each place it appears and inserting in lieu thereof "Except as provided in subsection (h),".

SEC. 504. EDUCATIONAL REQUIREMENTS FOR APPOINTMENT IN RESERVE COMPONENTS IN GRADES ABOVE FIRST LIEUTENANT OR LIEUTENANT (JUNIOR GRADE).

Section 596(a) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(a) IN GENERAL.—"; and

(2) by striking out "an accredited educational institution" and inserting in lieu thereof "an educational institution described in paragraph (2)"; and

(3) by adding at the end the following new paragraph:

"(2) An educational institution referred to in paragraph (1) is—

"(A) an accredited educational institution; or

"(B) an unaccredited educational institution if at least three accredited educational institutions generally grant baccalaureate degree credit for completion of courses of the unaccredited institution equivalent to the baccalaureate degree credit granted by the unaccredited institution for the completion of such courses.".

SEC. 505. LIMITED EXCEPTION FROM BACCALAUREATE DEGREE REQUIREMENT FOR ALASKA SCOUT OFFICERS.

Section 596 of title 10, United States Code, is amended—

(1) by adding at the end of subsection (b) the following new paragraph:

"(5) The appointment or recognition of an individual referred to in subsection (c) in a higher grade (not above major) of the Alaska Army National Guard while such individual is serving in a Scout unit or a Scout supporting unit."; and

(2) by adding at the end the following new subsection:

"(c) PERSONS COVERED BY ALASKA SCOUT EXCEPTION.—Subsection (b)(5) applies to a member of the Alaska Army National Guard who resides permanently at a location in Alaska that is more than 50 miles from the cities of Anchorage, Fairbanks, and Juneau, Alaska, by paved road.".

SEC. 506. ORIGINAL APPOINTMENTS OF LIMITED DUTY OFFICERS OF THE NAVY AND MARINE CORPS SERVING IN TEMPORARY GRADES.

Section 5589 of title 10, United States Code, is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) Original appointments as regular officers of the Navy or Marine Corps may be made from among officers serving on active duty in a higher grade pursuant to a temporary appointment in that grade under section 5596 of this title. The grade in which an officer is appointed under this subsection shall be the grade in which the officer is serving pursuant to the temporary appointment. The officer's date of rank for the grade of the original appointment shall be the same as the date of rank for the grade of the temporary appointment.".

SEC. 507. SELECTION FOR DESIGNATED JUDGE ADVOCATE POSITIONS.

(a) To the extent that selection for the positions described in subsection (b) is not governed by Chapter 36 of title 10, United States Code, the Secretary of Defense shall prescribe regulations to ensure that officers selected to serve in such positions are selected for such service by boards governed, insofar as practicable, by the procedures prescribed for selection boards under Chapter 36 of title 10, United States Code.

(b) The positions referred to in subsection (a) are—

(1) the Judge Advocate General and Assistant Judge Advocate General of the Army,

(2) the Judge Advocate General and Deputy Judge Advocate General of the Navy,

(3) the Staff Judge Advocate to the Commandant of the Marine Corps, and

(4) the Judge Advocate General and Deputy Judge Advocate General of the Air Force.

Subtitle B—Reserve Component Matters

SEC. 511. REVIEW OF OPPORTUNITIES FOR ORDERING INDIVIDUAL RESERVES TO ACTIVE DUTY WITH CONSENT.

(a) REVIEW REQUIRED.—The Secretary of Defense shall—

(1) review the opportunities for individual members of the reserve components of the Armed Forces to be ordered to active duty, with the consent of the members concerned, during peacetime in positions traditionally filled by active duty personnel; and

(2) identify and remove any impediments, in regulations or other administrative rules, to increasing such opportunities.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the review. The report shall contain—

(1) a plan for increasing the opportunities for individual members of the reserve components of the Armed Forces to be ordered to active duty, with the consent of the members concerned, during peacetime in positions traditionally filled by active duty personnel; and

(2) any additional legislation that the Secretary considers necessary in order to increase such opportunities.

SEC. 512. INCREASED PERIOD OF ACTIVE DUTY SERVICE FOR SELECTED RESERVE FORCES MOBILIZED OTHER THAN DURING WAR OR NATIONAL EMERGENCY.

(a) REVISION TO PERIOD OF EXTENSION OF ACTIVE DUTY.—Section 673b of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "90 days." and inserting in lieu thereof "180 days."; and

(2) by striking out subsection (i).

(b) REPORT REQUIRED.—(1) Not later than April 1, 1995, the Secretary of Defense shall submit to the congressional defense committees a report on increasing the authority of the President to order units and members of the reserve components to active duty without the consent of the members concerned.

(2) The report shall include the following:

(A) An analysis of options for increased presidential authority.

(B) An assessment of the effects of each option on recruiting, retention, employer support for the reserve components, and the families of members of the reserve components.

(C) Programs that the Secretary recommends to mitigate any negative effects.

(D) Any option that the Secretary recommends.

(E) Any proposed legislation that the Secretary considers necessary to implement any recommended option.

SEC. 513. REPEAL OF OBSOLETE PROVISIONS PERTAINING TO TRANSFER OF REGULAR ENLISTED MEMBERS TO RESERVE COMPONENTS.

(a) ARMY.—Section 3914 of title 10, United States Code, is amended by striking out the second and third sentences.

(b) AIR FORCE.—Section 8914 of such title, is amended by striking out the second and third sentences.

SEC. 514. SENSE OF THE SENATE CONCERNING THE TRAINING AND MODERNIZATION OF THE RESERVE COMPONENTS.

(a) FINDINGS.—(1) The force structure specified in the Pentagon's Bottom Up Review assumes increased reliance on the reserve components of the Armed Forces;

(2) The mobilization of the reserve components for the Persian Gulf War was handicapped by training, readiness, and equipment shortfalls;

(3) The mobilization of the Army reserve components for the Persian Gulf War was handicapped by lack of a standard readiness evaluation system, which resulted in a lengthy reevaluation of training and equipment readiness of Army National Guard and Reserve units before they could by deployed;

(4) Funding and scheduling constraints continue to limit the opportunity for combat units of the Army National Guard to carry out adequate maneuver training;

(5) Funding constraints continue to handicap the readiness and modernization of the reserve components and their interoperability with the active forces: Now, therefore

(b) PURPOSE.—It is the sense of the Senate that the Department of Defense should establish a standard readiness and evaluation system and that it should provide in its annual budget submissions adequate resources to ensure that National Guard and reserve units are trained and modernized to the standards needed for them to carry out the full range of missions required of them under the Bottom Up Review.

Subtitle C—Other Matters

SEC. 521. REVIEW OF CERTAIN DISMISSALS FROM THE UNITED STATES MILITARY ACADEMY.

(a) REVIEW REQUIRED.—The Secretary of the Army shall promptly carry out a thorough review of the dismissals from the Corps of Cadets of the United States Military Academy of James Webster Smith in 1874 and Johnson Chesnut Whittaker in 1882.

(b) PURPOSES OF REVIEW.—The purpose of each review shall be to determine the validity of the original proceedings and the extent, if any, to which racial prejudice or other improper factors now known may have tainted the original proceedings.

(c) CORRECTION OF RECORDS.—If the Secretary determines that the dismissal of James Webster Smith or Johnson Chesnut Whittaker was in error or an injustice, the Secretary may correct that person's military records (including the records of proceedings in such case).

(d) POSTHUMOUS COMMISSION.—Upon recommendation of the Secretary in the case of James Webster Smith or Johnson Chesnut Whittaker, the President may issue in the name of James Webster Smith or Johnson Chesnut Whittaker, as the case may be, a posthumous commission as an officer in the regular Army in the grade of second lieutenant. Sections 1521(b) and 1523 of title 10, United States Code, shall apply with respect to a commission so issued.

SEC. 522. TRANSITIONAL COMPENSATION AND OTHER BENEFITS FOR DEPENDENTS OF MEMBERS SEPARATED FOR DEPENDENT ABUSE.

(a) REQUIREMENT.—Subsection (a) of section 1058 of title 10, United States Code, as added by section 554(a)(1) of Public Law 103–160 (197 Stat. 1663), is amended by amending subsection (e) to read as follows:

"(e) COMMENCEMENT AND DURATION OF PAYMENT.—(1) Payment of transitional compensation under this section—

"(A) in the case of a member convicted by a court-martial for a dependent-abuse offense, may commence as of the date of the approval of the court-martial sentence by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice) if the sentence, as approved, includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances; and

"(B) in the case of a member being considered under applicable regulations for administrative separation from active duty in accordance with such regulations (if the basis for the separation includes a dependent-abuse offense), may commence as of the date on which the separation action is initiated by a commander of the member pursuant to such regulations, as determined by the Secretary concerned.

"(2) Transitional compensation with respect to a member may be paid for a period of 36 months, except that, if as of the date on which payment of transitional compensation commences the unserved portion of the member's period of obligated active duty service is less than 36 months, the period for which transitional compensation is paid shall be equal to the greater of—

"(A) the unserved portion of the member's period of obligated active duty service; or

"(B) 12 months.

"(3)(A) If a member is sentenced by a court-martial to receive punishment that includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances as a result of a conviction by a court-martial for a dependent-abuse offense and each such punishment applicable to the member under the sentence is remitted, set aside, or mitigated to a lesser punishment that does not include any such punishment, any payment of transitional compensation that has commenced under this section on the basis of such sentence in that case shall cease.

"(B) If administrative separation of a member from active duty is proposed on a basis that includes a dependent-abuse offense and the proposed administrative separation is disapproved by competent authority under applicable regulations, payment of transitional compensation in such case shall cease.

"(C) Cessation of payments under subparagraph (A) or (B) shall be effective as of the first day of the first month following the month in which the Secretary concerned notifies the recipient of such transitional compensation in writing that payment of the transitional compensation will cease. The recipient may not be required to repay amounts of transitional compensation received before that effective date (except to the extent necessary to recoup any amount that was erroneous when paid).".

(c) HEALTH, COMMISSARY, AND OTHER BENEFITS.—Such section is further amended—

(1) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(2) by inserting after subsection (i) the following new subsection (j):

"(j) HEALTH, COMMISSARY, AND OTHER BENEFITS.—(1) A dependent or former dependent entitled to payment of monthly transitional compensation under this section shall, while receiving payments in accordance with this section, be entitled to receive medical and dental care, to use commissary and exchange stores, and to receive any other benefit that a dependent of a member of the armed forces is entitled to receive on the basis of being a dependent of a member of the armed forces to the same extent and in the same manner as a dependent of a member of the armed forces on active duty for a period of not more than 30 days.

"(2) If a dependent or former dependent eligible or entitled to receive a particular benefit under this subsection is eligible or entitled to receive that benefit under another provision of law, the eligibility or entitlement of that dependent or former dependent to such benefit shall be determined under such other provision of law instead of this subsection.".

(c) CONFORMING AMENDMENTS.—(1) The heading for such section is amended to read as follows:

"§ 1058. Dependents of members separated for dependent abuse: transitional compensation and other benefits".

(2) The table of sections at the beginning of chapter 53 of such title is amended by striking out the item relating to section 1058 (as added by section 554(a)(2) of Public Law 103–160 (107 Stat. 1066)) and inserting in lieu thereof the following:

"1058. Dependents of members separated for dependent abuse: transitional compensation and other benefits.".

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1995.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1995 shall not be made.

(b) INCREASE IN BASIC PAY, BAS, AND BAQ.—Effective on January 1, 1995, the rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 2.6 percent.

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. EXTENSION OF CERTAIN BONUSES FOR RESERVE FORCES.

(a) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(f) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(b) SELECTED RESERVE ENLISTMENT BONUS.—Section 308c(e) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(c) SELECTED RESERVE AFFILIATION BONUS.—Section 308e(e) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(d) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.—Section 308h(g) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(e) PRIOR SERVICE ENLISTMENT BONUS.—Section 308i(i) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

SEC. 612. EXTENSION AND MODIFICATION OF CERTAIN BONUSES AND SPECIAL PAY FOR NURSE OFFICER CANDIDATES, REGISTERED NURSES, AND NURSE ANESTHETISTS.

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking out "September 30, 1995," and inserting in lieu thereof "September 30, 1998,".

(b) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking out "September 30, 1995," and inserting in lieu thereof "September 30, 1998,".

(c) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of title 37, United States Code, is amended—

(1) by striking out "September 30, 1995," and inserting in lieu thereof "September 30, 1998,"; and

(2) by striking out "$6,000" and inserting in lieu thereof "$15,000".

SEC. 613. EXTENSION OF AUTHORITY RELATING TO PAYMENT OF OTHER BONUSES AND SPECIAL PAYS.

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1995".

(b) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(c) ENLISTMENT BONUSES FOR CRITICAL SKILLS.—Sections 308a(c) and 308f(c) of title 37, United States Code, are each amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(d) SPECIAL PAY FOR ENLISTED MEMBERS OF THE SELECTED RESERVE ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(e) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE in the Selected Reserve.—Section 2172(d) of title 10, United States Code, is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 1996".

(f) Special Pay for Critically Short Wartime Health Specialists in the Selected Reserves.—Section 613(d) of the National Defense Authorization Act, Fiscal Year 1989 (37 U.S.C. 302 note) is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(g) Special Pay for Nuclear-Qualified Officers Extending Period of Active Service.—Section 312(e) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(h) Nuclear Career Accession Bonus.—Section 312b(c) of title 37, United States Code, is amended by striking out "September 30, 1995," and inserting in lieu thereof "September 30, 1996,".

(i) Nuclear Career Annual Incentive Bonus.—Section 312c(d) of title 37, United States Code, is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 1996".

Subtitle C—Travel and Transportation Allowances

SEC. 621. RESPONSIBILITY FOR PREPARATION OF TRANSPORTATION MILEAGE TABLES.

Section 404(d)(1)(A) of title 37, United States Code, is amended by striking out "the Secretary of the Army" and inserting in lieu thereof "the Secretary of Defense".

Subtitle D—Retired Pay and Survivor Benefits

SEC. 631. CLARIFICATION OF CALCULATION OF RETIRED PAY FOR OFFICERS WHO RETIRE IN A GRADE LOWER THAN THE GRADE HELD AT RETIREMENT.

(a) Prevention of Retired Pay Based on Grade Higher Than Retired Grade.—Section 1401a(f) of title 10, United States Code, is amended—

(1) in the first sentence, by inserting "based on the grade in which the member is retired" after "at an earlier date";

(2) in the second sentence, by inserting ", except that such computation may not be based on a rate of basic pay for a grade higher than the grade in which the member is retired" before the period at the end; and

(3) by striking out the third sentence.

(b) Effective Date.—The amendments made by subsection (a) shall apply with respect to the computation of the retired pay of a member of the armed forces who retires on or after the date of the enactment of this Act.

SEC. 632. CREDITING OF RESERVE SERVICE OF ENLISTED MEMBERS FOR COMPUTATION OF RETIRED PAY.

(a) Army.—(1) Section 3925 of title 10, United States Code, is amended—

(A) in subsection (a), by striking out "and of computing his retired pay under section 3991 of this title,"; and

(B) by striking out subsection (c).

(2) Section 3991 of such title is amended—

(A) in subsection (a)—

(i) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) Formula.—The monthly retired pay of a member entitled to such pay under this subtitle by reason of retirement under a provision of law referred to in paragraph (3) is computed by multiplying the retired pay base (as computed under section 1406(c) or 1407 of this title) by the retired pay multiplier prescribed in section 1409 of this title for the number of years credited to the member under section 1405 of this title."; and

(ii) by adding at the end the following new paragraph:

"(3) Applicability.—Paragraph (1) applies to a member retired under the authority of section 3911, 3914, 3917, 3918, 3920, or 3924 of this title."; and

(B) in subsection (b), by striking out paragraph (3).

(3) The text of section 3992 of such title is amended to read as follows:

"(a) Recomputation Required.—An enlisted member or warrant officer of the Army who is advanced on the retired list under section 3964 of this title is entitled to recompute the member's or officer's retired pay in accordance with this section.

"(b) Formula.—To recompute an enlisted member's retired pay or a warrant officer's retired pay, multiply the retired pay base (as computed under section 1406(c) or 1407 of this title) by the retired pay multiplier prescribed in section 1409 of this title for the number of years credited to the member or officer under section 1405 of this title.

"(c) Rounding to Next Lower Dollar.—The amount computed under subsection (b), if not a multiple of $1, shall be rounded to the next lower multiple of $1.".

(b) Navy and Marine Corps.—The table in section 6333(a) of title 10, United States Code, is amended by striking out "his years of active service in the armed forces" in formula C under the column designated "Column 2" and inserting in lieu thereof "the years of service credited to him under section 1405".

(c) Air Force.—(1) Section 8925 of title 10, United States Code, is amended—

(A) in subsection (a), by striking out "and of computing his retired pay under section 8991 of this title,"; and

(B) by striking out subsection (c).

(2) Section 8991 of such title is amended—

(A) in subsection (a)—

(i) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) Formula.—The monthly retired pay of a member entitled to such pay under this subtitle by reason of retirement under a provision of law referred to in paragraph (3) is computed by multiplying the retired pay base (as computed under section 1406(e) or 1407 of this title) by the retired pay multiplier prescribed in section 1409 of this title for the number of years credited to the member under section 1405 of this title."; and

(ii) by adding at the end the following new paragraph:

"(3) Applicability.—Paragraph (1) applies to a member retired under the authority of section 8911, 8914, 8917, 8918, 8920, or 8924 of this title."; and

(B) in subsection (b), by striking out paragraph (3).

(3) The text of section 8992 of such title is amended to read as follows:

"(a) Recomputation Required.—An enlisted member or warrant officer of the Air Force who is advanced on the retired list under section 8964 of this title is entitled to recompute the member's or officer's retired pay in accordance with this section.

"(b) Formula.—To recompute an enlisted member's retired pay or a warrant officer's retired pay, multiply the retired pay base (as computed under section 1406(e) or 1407 of this title) by the retired pay multiplier prescribed in section 1409 of this title for the number of years credited to the member or officer under section 1405 of this title.

"(c) Rounding to Next Lower Dollar.—The amount computed under subsection (b), if not a multiple of $1, shall be rounded to the next lower multiple of $1.".

(d) Conforming Amendment.—Section 1405 of such title is amended by adding at the end the following new subsection:

"(c) Exclusion of Time Required To Be Made Up.—Time required to be made up by an enlisted member of the Army or Air Force under section 972 of this title may not be counted in determining years of service under subsection (a).".

(e) Effective Date.—This section shall apply to the computation of the retired or retainer pay of any enlisted member who retires or is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve on or after the date of the enactment of this Act.

SEC. 633. FORFEITURE OF ANNUITY OR RETIRED PAY OF MEMBERS CONVICTED OF ESPIONAGE.

(a) Forfeiture.—Section 8312(b)(2)(A) of title 5, United States Code, is amended—

(1) by striking out "or article 106 (spies)" and inserting in lieu thereof ", article 106 (spies), or article 106a (espionage)"; and

(2) by striking out "or article 106" and inserting in lieu thereof ", article 106, or article 106a".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to persons convicted of espionage under section 906a of title 10, United States Code (article 106a of the Uniform Code of Military Justice), on or after the date of the enactment of this Act.

SEC. 634. COMPUTATION OF RETIRED PAY TO PREVENT PAY INVERSIONS.

Section 1401a(f) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(f) Prevention of Pay Inversions.—"; and

(2) by adding at the end the following new paragraph:

"(2)(A) Subject to subparagraph (B), for the purpose of computing the monthly retired pay of a member or former member of an armed force under paragraph (1), the Secretary concerned may waive any provision of a regulation that, as such provision was in effect on the earlier date applicable to the member or former member under paragraph (1), required a member to serve for a minimum period in a grade as a condition for retirement in that grade.

"(B) Any waiver under subparagraph (A) shall apply in the case of a member or former member only to that part of the minimum period of service provided for a grade in the regulation that exceeds the minimum period of service in such grade that was authorized by a provision of this title to be required as a condition for retirement in that grade (as such provision of this title was in effect on the earlier date applicable to the member or former member under paragraph (1)).

"(C) The Secretary concerned may waive the provision of a regulation under subparagraph (A) in the case of a particular member or former member or for any group of members or former members.".

SEC. 635. COST-OF-LIVING INCREASES IN SBP CONTRIBUTIONS TO BE EFFECTIVE CONCURRENTLY WITH PAYMENT OF RELATED RETIRED PAY COST-OF-LIVING INCREASES.

(a) Survivor Benefit Plan.—Section 1452(h) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(h)"; and

(2) by adding at the end the following new subsection:

"(2)(A) Notwithstanding paragraph (1), when the initial payment of an increase in retired pay under section 1401a of this title (or any other provision of law) to a person is later than the effective date of that increase by reason of the application of subsection (b)(2)(B) of such section, then the amount of the reduction in the person's retired pay shall be effective on the date of that initial payment of the increase in retired pay rather than the effective date of the increase in retired pay.

"(B) Subparagraph (A) may not be construed as delaying, for purposes of determining the amount of a monthly annuity under section 1451 of this title, the effective date of an increase in a base amount under subsection (h) of such section from the effective date of an increase in retired pay under section 1401a of this title to the date on which the initial payment of that increase in retired pay is made in accordance with subsection (b)(2)(B) of such section 1401a.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to retired pay payable for months beginning on or after the date of the enactment of this Act.

SEC. 636. REQUIREMENT FOR EQUAL TREATMENT OF CIVILIAN AND MILITARY RETIREES IN THE EVENT OF DELAYS IN COST-OF-LIVING ADJUSTMENTS.

(a) CIVIL SERVICE ANNUITIES.—(1) Section 8340 of title 5, United States Code, is amended—

(A) in subsection (b), by striking out "Except as provided in subsection (c)" and inserting in lieu thereof "Except as provided in subsections (c) and (h)"; and

(B) by adding at the end the following new subsection:

"(h)(1) Whenever, by law, there is a difference between the date on which a cost-of-living adjustment under this section is to take effect and the date on which a corresponding cost-of-living adjustment of the retired pay of members and former members of the uniformed services under section 1401a of title 10 is to take effect, then, notwithstanding subsection (b) and any other provision of law, the date on which the cost-of-living adjustment under this section takes effect shall be the earlier of the two dates.

"(2) Whenever, by law, there is a difference between the first month for which a cost-of-living adjustment taking effect under this section is payable and the first month for which a corresponding cost-of-living adjustment of the retired pay of members and former members of the uniformed services taking effect under section 1401a of title 10 is payable, then the first month for which the cost-of-living adjustment under this section is first payable shall (notwithstanding the effective date provided for such adjustment in subsection (b) of this section or in any other law) be the earlier of the two months.

"(3) For purposes of this subsection, a cost-of-living adjustment of the retired pay of members and former members of the uniformed services under section 1401a of title 10 corresponds to a cost-of-living adjustment under this section when, without regard to any provision of law other than subsection (b) of this section and section 1401a(b)(1) of title 10, the cost-of-living adjustments under this section and under section 1401a of title 10 would take effect on the same date.".

(2) Section 8462 of title 5, United States Code, is amended—

(A) in subsection (b)(1), by striking out "Except as provided in subsection (c)" and inserting in lieu thereof "Except as provided in subsections (c) and (f)"; and

(B) by adding at the end the following new subsection:

"(f)(1) Whenever, by law, there is a difference between the date on which a cost-of-living adjustment under this section is to take effect and the date on which a corresponding cost-of-living adjustment of the retired pay of members and former members of the uniformed services under section 1401a of title 10 is to take effect, then, notwithstanding subsection (b)(1) and any other provision of law, the date on which the cost-of-living adjustment under this section takes effect shall be the earlier of the two dates.

"(2) Whenever, by law, there is a difference between the first month for which a cost-of-living adjustment taking effect under this section is payable and the first month for which a corresponding cost-of-living adjustment of the retired pay of members and former members of the uniformed services taking effect under section 1401a of title 10 is payable, then the first month for which the cost-of-living adjustment under this section is first payable shall (notwithstanding the effective date provided for such adjustment in subsection (b)(1) of this section or in any other law) be the earlier of the two months.

"(3) For purposes of this subsection, a cost-of-living adjustment of the retired pay of members and former members of the uniformed services under section 1401a of title 10 corresponds to a cost-of-living adjustment under this section when, without regard to any provision of law other than subsection (b)(1) of this section and section 1401a(b)(1) of title 10, the cost-of-living adjustments under this section and under section 1401a of title 10 would take effect on the same date.".

(b) UNIFORMED SERVICES RETIRED PAY.—Section 1401a of title 10, United States Code, is amended—

(1) in subsection (b)(1), by inserting (except as provided in subsection (i))" after "Effective on December 1 of each year"; and

(2) by adding at the end the following new subsection:

"(i)(1) Whenever, by law, there is a difference between the date on which a cost-of-living adjustment under this section is to take effect and the date on which a corresponding cost-of-living adjustment of annuities of retired employees of the United States under section 8340 or 8462 of title 5 is to take effect, then, notwithstanding subsection (b) and any other provision of law, the date on which the cost-of-living adjustment under this section takes effect shall be the earlier (or earliest) such date.

"(2) Whenever, by law, there is a difference between the first month for which a cost-of-living adjustment taking effect under this section is payable and the first month for which a corresponding cost-of-living adjustment of annuities of retired employees of the United States taking effect under section 8340 or 8462 of title 5 is payable, then the first month for which the cost-of-living adjustment under this section is first payable shall (notwithstanding the effective date provided for such adjustment in subsection (b)(1) of this section or in any other law) be the earlier (or earliest) such month.

"(3) For purposes of this subsection, a cost-of-living adjustment of annuities of retired employees of the United States under section 8340 or 8462 of title 5 corresponds to a cost-of-living adjustment under this section when, without regard to any provision of law other than subsection (b)(1) of this section and sections 8340(b) and 8462(b)(1) of title 5, the cost-of-living adjustments under this section and under sections 8340 and 8462 of title 5 would take effect on the same date.".

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on October 1, 1998.

Subtitle E—Defense Conversion, Reinvestment, and Transition Assistance Matters

SEC. 641. ELIGIBILITY OF MEMBERS RETIRED UNDER TEMPORARY SPECIAL RETIREMENT AUTHORITY FOR SERVICEMEN'S GROUP LIFE INSURANCE.

(a) ELIGIBILITY.—Section 1965(5) of title 38, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (E); and

(3) by inserting after subparagraph (C) the following new subparagraph (D):

"(D) a person transferred to the Retired Reserve of a uniformed service under the temporary special retirement authority provided in section 1331a of title 10 who has not received the first increment of retirement pay or has not reached sixty-one years of age; and".

(b) INSURANCE COVERAGE.—Section 1967(a) of such title is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by adding "and" at the end of paragraph (3);

(3) by inserting after paragraph (3) the following:

"(4) any member assigned to the Retired Reserve of a uniform service who meets the qualifications set forth in section 1965(5)(D) of this title;"; and

(4) in the second sentence, by inserting after "section 1965(5)(C) of this title," the following: "or the first day a member of the Reserves meets the qualifications of section 1965(5)(D) of this title,".

(c) DURATION OF COVERAGE.—Section 1968(a) of such title is amended—

(1) in the matter above paragraph (1), by striking out "section 1965(5)(B) or (C)" and inserting in lieu thereof "subparagraphs (B), (C), or (D) of section 1965(5)";

(2) in paragraph (4)—

(A) by striking out "or" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or"; and

(C) by adding at the end the following new subparagraph:

"(C) unless on the date of such separation or release the member is transferred to the Retired Reserve of a uniformed service under the temporary special retirement authority provided in section 1331a of title 10, in which event the insurance, unless converted to an individual policy under terms and conditions set forth in section 1977(e) of this title, shall, upon timely payment of premiums under terms prescribed by the Secretary directly to the administrative office established under section 1966(b) of this title, continue in force until receipt of the first increment of retirement pay by the member or the member's sixty-first birthday, whichever occurs earlier."; and

(3) by adding at the end the following:

"(6) with respect to a member of the Retired Reserve who meets the qualifications of section 1965(5)(D) of this title, at such time as the member receives the first increment of retirement pay, or the member's sixty-first birthday, whichever occurs earlier, subject to the timely payment of the initial and subsequent premiums, under terms prescribed by the Secretary, directly to the administrative office established under section 1966(b) of this title.".

(d) DEDUCTIONS.—Section 1969 of such title is amended—

(1) in subsection (a)(2)—

(A) by striking out "or is assigned" and inserting in lieu thereof "is assigned"; and

(B) by inserting after "section 1965(5)(C) of this title," the following: "or is assigned to the Retired Reserve and meets the qualifications of section 1965(5)(D) of this title,"; and

(2) in subsection (e), by striking out "section 1965(5)(C)" in the first sentence and inserting in lieu thereof "subparagraph (C) or (D) of section 1965(5)".

SEC. 642. ANNUAL PAYMENTS FOR MEMBERS RETIRED UNDER GUARD AND RESERVE TRANSITION INITIATIVE.

(a) ANNUAL PAYMENT FOR ONE TO FIVE YEARS.—Subsection (d) of section 4416 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 10 U.S.C. 1162 note) is amended—

(1) by striking out "for 5 years" and inserting in lieu thereof "for a period of years prescribed by the Secretary concerned";

(2) by striking out "5-year"; and

(3) by adding at the end the following: "A period prescribed for purposes of this subsection may not be less than one year nor more than five years.".

(b) COMPUTATION OF ANNUAL PAYMENT.—Subsection (e) of such section is amended by adding at the end the following:

"(3) In the case of a member who will attain 60 years of age within one year after the date on which an annual payment would otherwise be made to the member under this section, the amount of the payment made on that date shall be computed under this paragraph instead of paragraph (1). The amount of such payment shall be equal to 1/12 of the product of—

"(A) the amount computed for the member under paragraph (1); and

"(B) the number equal to 1/30 of the total number of days in the period beginning on such date and ending on the day before the date of the member's 60th birthday.".

(c) COORDINATION WITH RETIRED PAY.—Such section is further amended by adding at the end the following:

"(i) COORDINATION WITH RETIRED PAY.—Fifty percent of the monthly amount of retired pay payable under chapter 67 of this title to a member who receives one or more annual payments under this section shall be deducted and withheld from such monthly amount of retired pay. The deductions shall be terminated when the total amount so deducted and withheld equals the total amount paid to the member under this section. The amount deducted and withheld from the last monthly payment of retired pay before termination of deductions may be less than 50 percent of the monthly amount.".

SEC. 643. INCREASED ELIGIBILITY AND APPLICATION PERIODS FOR TROOPS-TO-TEACHERS PROGRAM.

(a) PERIOD OF ELIGIBILITY.—Subsection (c) of section 1151 of title 10, United States Code, is amended—

(1) in paragraph (1)(A), by striking out "seven-year period beginning on October 1, 1992," and inserting in lieu thereof "nine-year period beginning on October 1, 1990,"; and

(2) by striking out paragraph (4).

(b) APPLICATION PERIOD.—Subsection (e)(1) of such section is amended by striking out "submitted" in the first sentence and all that follows through the end of the second sentence and inserting in lieu thereof "timely submitted to the Secretary of Defense. An application is timely submitted if the application is submitted not later than the latest date applicable to the applicant under this paragraph. An application shall be submitted not later than one year after the date of the discharge or release of the applicant from active duty. In the case of an applicant discharged or released from active duty before January 19, 1994, an application shall be submitted not later than one year after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995. In the case of an applicant becoming educationally qualified for teacher placement assistance in accordance with subsection (c)(2), an application shall be submitted not later than one year after the date on which the applicant becomes educationally qualified.".

SEC. 644. ASSISTANCE FOR ELIGIBLE MEMBERS TO OBTAIN EMPLOYMENT WITH LAW ENFORCEMENT AGENCIES.

(a) REVISED PROGRAM AUTHORITY.—Section 1152 of title 10, United States Code, is amended to read as follows:

"§ 1152. Assistance to eligible members and former members to obtain employment with law enforcement agencies

"(a) PLACEMENT PROGRAM.—The Secretary of Defense may enter into an agreement with the Attorney General to establish or participate in a program to assist eligible members and former members of the armed forces to obtain employment as law enforcement officers with State law enforcement agencies, local law enforcement agencies, or Indian tribes that perform law enforcement functions (as determined by the Secretary of the Interior) following the discharge or release of such members or former members from active duty.

"(b) ELIGIBLE MEMBERS.—Any member or former member who, during the 6-year period beginning on October 1, 1993, is separated from the armed forces with an honorable discharge or is released from service on active duty characterized as honorable by the Secretary concerned shall be eligible to participate in a program covered by an agreement referred to in subsection (a).

"(c) SELECTION.—In the selection of applicants for participation in a program covered by an agreement referred to in subsection (a), preference shall be given to a member or former member who—

"(1) is selected for involuntary separation, is approved for separation under section 1174a or 1175 of this title, or retires pursuant to the authority provided in section 4403 of Public Law 102–484 (10 U.S.C. 1293 note); and

"(2) has a military occupational specialty, training, or experience related to law enforcement (such as service as a member of the military police) or satisfies such other criteria for selection as, in accordance with the agreement, the Secretary, the Attorney General, or a participating State or local law enforcement agency or participating Indian tribe may prescribe.

"(d) GRANTS TO FACILITATE EMPLOYMENT.—(1) The Secretary may provide funds to the Attorney General for grants under this section to reimburse State law enforcement agencies, local law enforcement agencies, or Indian tribes that perform law enforcement functions (as determined by the Secretary of the Interior) for costs, including salary and fringe benefits, of employing members or former members pursuant to a program referred to in subsection (a).

"(2) No grant with respect to an eligible member or former member may exceed a total of $50,000.

"(3) Any grant with respect to an eligible member or former member shall be disbursed within 5 years after the date of the placement of a member or former member with a participating law enforcement agency or Indian tribe.

"(4) Preference in awarding grants through existing law enforcement hiring programs shall be given to State or local law enforcement agencies or Indian tribes that agree to hire eligible members and former members.

"(e) ADMINISTRATIVE EXPENSES.—Ten percent of the amount, if any, appropriated for a fiscal year to carry out a program established pursuant to subsection (a) may be used to administer the program.

"(f) REQUIREMENT FOR APPROPRIATION.—No member or former member may be selected to participate in the program established by this section unless a sufficient amount of appropriated funds are available at the time of the selection to satisfy the obligations to be incurred by the United States under an agreement referred to in subsection (a) that applies with respect to such member or former member.".

(b) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 58 of title 10, United States Code, is amended to read as follows:

"1152. Assistance to eligible members and former members to obtain employment with law enforcement agencies.".

SEC. 645. TREATMENT OF RETIRED AND RETAINER PAY OF MEMBERS OF CADRE OF CIVILIAN COMMUNITY CORPS.

Section 159(c)(3) of the National and Community Service Act of 1990 (42 U.S.C. 12619(c)(3)) is amended by adding at the end the following: "In the case of a member of the permanent cadre who was recommended for appointment in accordance with section 162(a)(2)(A) and is entitled to retired or retainer pay, section 5532 of title 5, United States Code, shall not apply to reduce the member's retired or retainer pay by reason of the member being paid as a member of the cadre.".

Subtitle F—Other Matters

SEC. 651. DISABILITY COVERAGE FOR OFFICER CANDIDATES GRANTED EXCESS LEAVE.

(a) ELIGIBILITY FOR RETIREMENT.—Section 1201 of title 10, United States Code, is amended—

(1) by inserting "(a) MEMBERS ON ACTIVE DUTY ENTITLED TO PAY.—" before "Upon a determination"; and

(2) by adding at the end the following new subsection:

"(b) MEMBERS ON EXCESS LEAVE.—(1) Upon a determination by the Secretary concerned that a member referred to in paragraph (2) is unfit to perform the duties of the member's office, grade, rank, or rating because of a physical disability incurred during a period described in such paragraph, the Secretary may retire the member, with retired pay computed under section 1401 of this title, if the Secretary also makes the determinations described in paragraphs (1), (2), and (3) of subsection (a) with regard to such member.

"(2) Paragraph (1) applies to a member of the armed forces who, during a period of authorized absence—

"(A) is participating in a program leading to appointment, designation, or assignment in the armed forces in an officer category; and

"(B) is not entitled to basic pay by reason of the application of section 502(b) of title 37 to such absence.".

(b) ELIGIBILITY FOR PLACEMENT ON TEMPORARY DISABILITY RETIRED LIST.—Section 1202 of such title is amended—

(1) by striking out "or any other members" and inserting in lieu thereof "any other members"; and

(2) by inserting after "more than 30 days," the following: "or any member referred to in section 1201(b)(2) of this title".

(c) ELIGIBILITY FOR SEPARATION.—Section 1203 of such title is amended—

(1) by inserting "(a) MEMBERS ON ACTIVE DUTY ENTITLED TO PAY.—" before "Upon a determination";

(2) by striking out the second sentence (relating to transfer to inactive status); and

(3) by adding at the end the following new subsections:

"(b) MEMBERS ON EXCESS LEAVE.—Upon a determination by the Secretary concerned that a member referred to in paragraph (2) of section 1201(b) of this title is unfit to perform the duties of the member's office, grade, rank, or rating because of a physical disability incurred during a period described in such paragraph, the Secretary may separate the member, with severance pay computed under section 1212 of this title, if the Secretary also makes the determinations described in paragraphs (1), (2), (3), and (4) of subsection (a) with regard to such member.

"(c) TRANSFER TO INACTIVE STATUS LIST.—If a member authorized to be separated under subsection (a) or (b) is eligible for transfer to the inactive status list under section 1209 of this title, and so elects, the member shall be transferred to that list instead of being separated.".

(d) CONFORMING AMENDMENTS.—(1) Chapter 61 of title 10, United States Code, is amended—

(A) by striking out the heading of section 1201 and inserting in lieu thereof the following:

"§ 1201. Regulars, members on active duty for more than 30 days, certain members on excess leave: retirement";

(B) by striking out the heading of section 1202 and inserting in lieu thereof the following:

"§ 1202. Regulars, members on active duty for more than 30 days, certain members on excess leave: temporary disability retired list";

and

(C) by striking out the heading of section 1203 and inserting in lieu thereof the following:

"§ 1203. Regulars, members on active duty for more than 30 days, certain members on excess leave: separation".

(2) The table of sections at the beginning of such chapter is amended by striking out the items relating to sections 1201, 1202, and 1203 and inserting in lieu thereof the following:

"1201. Regulars, members on active duty for more than 30 days, certain members on excess leave: retirement
"1202. Regulars, members on active duty for more than 30 days, certain members on excess leave: temporary disability retired list.
"1203. Regulars, members on active duty for more than 30 days, certain members on excess leave: separation.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and apply with respect to physical disabilities incurred on or after such date.

SEC. 652. USE OF MORALE, WELFARE, AND RECREATION FACILITIES BY MEMBERS OF RESERVE COMPONENTS AND DEPENDENTS.

Section 1065 of title 10, United States Code, is amended to read as follows:

"§ 1065. Use of certain morale, welfare, and recreation facilities by members of reserve components and dependents

"(a) MEMBERS OF THE SELECTED RESERVE.—Members of the Selected Reserve in good standing (as determined by the Secretary concerned) shall be permitted to use MWR retail facilities on the same basis as members on active duty.

"(b) RETIREES UNDER AGE 60.—Members of the reserve components who would be eligible for retired pay under chapter 67 of this title but for the fact that the member is under 60 years of age shall be permitted to use MWR retail facilities on the same basis as retired members and retired former members of the Regular Army, Regular Navy, Regular Air Force, and Regular Marine Corps.

"(c) MEMBERS OF READY RESERVE NOT IN SELECTED RESERVE.—Subject to such regulations as the Secretary of Defense may prescribe, members of the Ready Reserve (other than members of the Selected Reserve) may be permitted to use MWR retail facilities on the same basis as members serving on active duty.

"(d) DEPENDENTS.—(1) Dependents of members referred to in subsection (a) shall be permitted to use MWR retail facilities on the same basis as dependents of members on active duty.

"(2) Dependents of members referred to in subsection (b) shall be permitted to use MWR retail facilities on the same basis as dependents of retired members and retired former members of the Regular Army, Regular Navy, Regular Air Force, and Regular Marine Corps.

"(e) MWR RETAIL FACILITY DEFINED.—In this section, the term 'MWR retail facilities' means exchange stores and other revenue generating facilities operated by nonappropriated fund activities of the Department of Defense for the morale, welfare, and recreation of members of the armed forces.".

SEC. 653. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR DEPARTMENT OF DEFENSE PERSONNEL OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—Chapter 53 of Title 10, United States Code, is amended by adding at the end the following new section:

"§ 1060a. Special supplemental food program

"(a) AUTHORITY.—The Secretary of Defense may carry out a program to provide special supplemental food benefits to members of the armed forces on duty at stations outside the United States (and its territories and possessions) and to eligible civilians serving with, employed by, or accompanying the armed forces outside the United States (and its territories and possessions).

"(b) FEDERAL PAYMENTS AND COMMODITIES.—For the purpose of obtaining Federal payments and commodities in order to carry out the program referred to in subsection (a), the Secretary of Agriculture shall make available to the Secretary of Defense from funds appropriated for such purpose, the same payments and commodities as are made for the special supplemental food program in the United States under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

"(c) PROGRAM ADMINISTRATION.—(1)(A) The Secretary of Defense shall administer the program referred to in subsection (a) and, except as provided in subparagraph (B), shall determine eligibility for program benefits under the criterion published by the Secretary of Agriculture under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

"(B) The Secretary of Defense shall prescribe regulations governing computation of income eligibility standards for families of individuals participating in the program under this section.

"(2) The program benefits provided under the program shall be similar to benefits provided by State and local agencies in the United States.

"(d) DEPARTURE FROM STANDARDS.—The Secretary of Defense may authorize departures from standards prescribed by the Secretary of Agriculture regarding the supplemental foods to be made available in the program when local conditions preclude strict compliance or when such compliance is highly impracticable.

"(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations to administer the program authorized by this section.

"(f) DEFINITIONS.—In this section:

"(1) The term 'eligible civilian' means—

"(A) a dependent of a member of the armed forces residing with the member outside the United States;

"(B) an employee of a military department who is a national of the United States and is residing outside the United States in connection with such individual's employment or a dependent of such individual residing with the employee outside the United States; or

"(C) an employee of a Department of Defense contractor who is a national of the United States and is residing outside the United States in connection with such individual's employment or a dependent of such individual residing with the employee outside the United States.

"(2) The term 'national of the United States' means—

"(A) a citizen of the United States; or

"(B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))).

"(3) The term 'dependent' has the meaning given such term in subparagraph (A), (D), (E), and (I) of section 1072(2) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 53 of title 10, United States Code, is amended by adding at the end the following new item:

"1060a. Special supplemental food program.".

SEC. 654. REIMBURSEMENT FOR CERTAIN LOSSES OF HOUSEHOLD EFFECTS CAUSED BY HOSTILE ACTION.

(a) AUTHORITY TO REIMBURSE.—Chapter 163 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2738. Reimbursement for certain losses of household effects caused by hostile action

"(a) AUTHORITY TO REIMBURSE.—The Secretary concerned or, subject to appeal to the Secretary, the Judge Advocate General of an armed force under the Secretary's jurisdiction, or the Chief Counsel of the Coast Guard, as appropriate, if designated by the Secretary, may reimburse a member of the armed forces in an amount not more than $100,000 for a loss described in subsection (b).

"(b) COVERED LOSSES.—This section applies with respect to a loss of household effects sustained during a move made incident to a change of permanent station when, as determined by the Secretary, the loss was caused by a hostile action incident to war or a warlike action by a military force.

"(c) LIMITATION.—The Secretary may provide reimbursement under this section for a loss described in subsection (b) only to the extent that the loss is not reimbursed under insurance or under the authority of another provision of law.

"(d) APPLICABILITY OF OTHER AUTHORITIES AND REQUIREMENTS.—Subsections (b), (d), (e), (f), and (g) of section 2733 of this title shall apply to a request for a reimbursement under this section as if the request were a claim against the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2738. Reimbursement for certain losses of household effects caused by hostile action.".

(c) EFFECTIVE DATE.—(1) Section 2738 of title 10, United States Code, as added by subsection (a), applies with respect to losses incurred after June 30, 1990.

(2) In the case of a loss incurred after June 30, 1990, and before the date of the enactment of this Act, a request for reimbursement shall be filed with the Secretary of the military department concerned not later than two years after such date of enactment.

SEC. 655. PAYMENT FOR TRANSIENT HOUSING FOR RESERVES PERFORMING CERTAIN TRAINING DUTY.

Section 404 of title 37, United States Code, is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following new subsection (j):

"(j)(1) In the case of a member of a reserve component performing annual training duty or inactive-duty training who is not otherwise entitled to travel and transportation allowances in connection with such duty under subsection (a) of this section, the Secretary concerned may reimburse the member for housing service charge expenses incurred by the member in occupying transient government housing during the performance of such duty.

"(2) Any payment or other benefit under this section shall be provided in accordance with regulations prescribed by the Secretaries concerned.

"(3) The Secretary may pay service charge expenses under paragraph (1) out of funds appropriated for operation and maintenance for the reserve component concerned.".

SEC. 656. STUDY OF OFFSET OF DISABILITY COMPENSATION BY RECEIPT OF SEPARATION BENEFITS AND INCENTIVES.

(a) STUDY.—(1) The Comptroller General shall carry out a study of the offset of the amount of disability compensation from the Department of Veterans Affairs that is received by an individual separated from the Armed Forces by the amount of any of the following benefits:

(A) Separation pay under section 1174 of title 10, United States Code.

(B) A special separation benefit under a special separation benefits program carried out under section 1174a(a) of such title.

(C) A voluntary separation incentive under section 1175 of such title.

(2) In carrying out the study, the Comptroller General shall—

(A) determine the purposes for the availability of the benefits referred to paragraph (1);

(B) determine the justifications for the offset referred to in that paragraph;

(C) assess the effect of the offset by—

(i) determining the number of members of the Armed Forces who will separate from the Armed Forces during the period beginning on the date of the enactment of this Act and ending on September 30, 1999;

(ii) determining the number of such members who will be provided a benefit referred to in that paragraph, and the average amount of the benefit to be provided;

(iii) determining the number of such members who will be entitled to disability compensation from the Department of Veterans Affairs, and the average monthly amount of the compensation to which the members will be entitled; and

(iv) evaluating the extent, if any, to which the offset affects the capacity of members who are separated from the Armed Forces to meet financial obligations (including obligations relating to housing and medical care) of such members that arise as a result of the service of the members in the Armed Forces or the separation of such members from that service;

(D) determine the extent, if any, to which the offset of disability compensation by the amount of a benefit referred to in subparagraph (B) or (C) of paragraph (1) reduces the effectiveness of the benefits in meeting the purposes determined under subparagraph (A) of this paragraph; and

(E) determine the cost of the repeal of the offset.

(b) REPORT.—(1) The Comptroller General shall submit to the Committees on Armed Services and the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the results of the study required under subsection (a). The report shall include the recommendations of the Comptroller General on improvements to the provision of the benefits referred to in subsection (a)(1).

(2) The Comptroller General shall submit the report not later than 180 days after the date of the enactment of this Act.

TITLE VII—HEALTH CARE PROVISIONS

SEC. 701. REVISION OF DEFINITION OF DEPENDENTS TO INCLUDE YOUNG PEOPLE BEING ADOPTED BY MEMBERS OR FORMER MEMBERS.

(a) ELIGIBILITY FOR HEALTH BENEFITS.—Section 1072 of title 10, United States Code, is amended—

(1) in paragraph (2)(D), by striking out the matter above clause (i) and inserting in lieu thereof the following:

"(D) a child who—"; and

(2) by adding at the end the following new paragraph:

"(6) The term 'child', with respect to a member or former member of a uniformed service, means the following:

"(A) An unmarried natural child.

"(B) An unmarried adopted child.

"(C) An unmarried stepchild.

"(D) An unmarried person—

"(i) who is placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense) in anticipation of the legal adoption of the person by the member or former member; and

"(ii) who otherwise meets the requirements specified in paragraph (2)(D).".

(b) CONFORMING AMENDMENT.—Section 401(b)(1)(B) of title 37, United States Code, is amended by striking out "placement agency for the purpose of adoption" and inserting in lieu thereof "placement agency (recognized by the Secretary of Defense) in anticipation of the legal adoption of the child by the member".

SEC. 702. AVAILABILITY OF DEPENDENTS' DENTAL PROGRAM OUTSIDE THE UNITED STATES.

Section 1076a of title 10, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

"(g) CARE OUTSIDE THE UNITED STATES.—The Secretary shall exercise the authority provided under subsection (a) to establish basic dental benefits plans for providing dental benefits outside the United States for spouses and children of members of the uniformed services accompanying the members on permanent assignments to duty outside the United States.".

SEC. 703. CONDITIONS UNDER WHICH MEDICAL AND DENTAL CARE OF ABUSED DEPENDENTS IS AUTHORIZED.

Section 1076(e)(1)(A) of title 10, United States Code, is amended to read as follows:

"(A) a member of a uniformed service is convicted by a court-martial or a civil court for an offense involving abuse of a dependent of the member, as determined in accordance with regulations prescribed by the administering Secretary for such uniformed service, and—

"(i) in the case of a court-martial conviction, the member receives a dishonorable or bad-conduct discharge or is dismissed or administratively discharged from a uniformed service as a result of the conviction; or

"(ii) in the case of a civil court conviction, the member is administratively discharged from a uniformed service as a result of the conviction; and".

SEC. 704. COORDINATION OF BENEFITS WITH MEDICARE.

Section 1086(d) of title 10, United States Code, is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3)(A) Subject to subparagraph (B), if a person described in paragraph (2) receives medical or dental care for which payment may be made under medicare and a plan contracted for under subsection (a), the amount payable for that care under the plan shall be the amount equal to the excess of the total amount of the charges imposed by the provider or providers of such care over the sum of—

"(i) the amount paid for that care under medicare; and

"(ii) the total of all amounts paid or payable by third party payers other than medicare.

"(B) The amount payable for care under a plan pursuant to subparagraph (A) may not exceed the total amount that would be paid under the plan if payment for that care were made solely under the plan.

"(C) In this paragraph:

"(i) The term 'medicare' means title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

"(ii) The term 'third party payer' has the meaning given such term in section 1095(h)(1) of this title.".

SEC. 705. AUTHORITY FOR REIMBURSEMENT OF PROFESSIONAL LICENSE FEES UNDER RESOURCE SHARING AGREEMENTS.

Section 1096 of title 10, United States Code, is amended by adding at the end the following:

"(d) REIMBURSEMENT FOR LICENSE FEES.—In any case in which it is necessary for a member of the uniformed services to pay a professional license fee imposed by a government in order to provide health care services at a facility of a civilian health care provider pursuant to an agreement entered into under subsection (a), the Secretary of Defense may reimburse the member for up to $500 of the amount of the license fee paid by the member.".

SEC. 706. CHIROPRACTIC HEALTH CARE DEMONSTRATION PROGRAM.

(a) REQUIREMENT FOR PROGRAM.—(1) Not later than 120 days after the date of enactment of this Act, the Secretary of Defense, in consultation with the secretaries of the military departments, shall develop and carry out a demonstration program to evaluate the feasibility and advisability of furnishing chiropractic care through the medical care facilities of the Armed Forces.

(2) In carrying out the program, the Secretary of Defense shall—

(A) subject to paragraph (3), designate not less than 10 major military medical treatment facilities of the Department of Defense to furnish chiropractic care under the program; and

(B) enter into agreements with such number of chiropractors as the Secretary determines sufficient for the purposes of the program to furnish chiropractic care at such facilities under the program.

(3) The Secretary may not designate under paragraph (2) any treatment facility that is located on a military installation scheduled for closure or realignment under a base closure law.

(b) Program Period.—The Secretary shall carry out the demonstration program in fiscal years 1995 through 1997.

(c) Reporting Requirements.—(1) Not later than January 30, 1995, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the demonstration program. The report shall—

(A) identify the treatment facilities designated pursuant to subsection (a)(2)(A); and

(B) include a discussion of the plan for the conduct of the program.

(2) Not later than May 1, 1995, the Secretary of Defense shall submit to the committees referred to in paragraph (1) a plan for evaluating the program, including a schedule for conducting progress reviews and for submitting a final report to the committees.

(3) The Secretary shall submit to the committees referred to in paragraph (1) a final report in accordance with the plan submitted to such committees pursuant to paragraph (2).

(d) Oversight Advisory Committee.—(1)(A) Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall establish an oversight advisory committee to assist and advise the Secretary with regard to the development and conduct of the demonstration program.

(B) The oversight advisory committee shall include the following members:

(i) The Comptroller General of the United States, or a designee from within the General Accounting Office.

(ii) The Assistant Secretary of Defense for Health Affairs, or a designee.

(iii) The Surgeon General of the Army, or a designee.

(iv) The Surgeon General of the Navy, or a designee.

(v) The Surgeon General of the Air Force, or a designee.

(vi) Not fewer than four independent representatives of the chiropractic health care profession, appointed by the Secretary of Defense.

(2) The oversight advisory committee shall assist the Secretary of Defense regarding—

(A) issues involving the professional credentials of the chiropractors participating in the program;

(B) the granting of professional practice privileges for the chiropractors at the treatment facilities participating in the program;

(C) the preparation of the reports required under subsection (c); and

(D) the evaluation of the program.

(e) Definition.—For purposes of this section, the term "base closure law" means each of the following:

(1) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(2) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(3) Section 2687 of title 10, United States Code.

SEC. 707. IMPLEMENTATION OF ANNUAL HEALTH CARE SURVEY REQUIREMENT.

Section 724 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2440; 10 U.S.C. 1071 note) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) Exemption.—An annual survey under subsection (a) shall be treated as not a collection of information for the purposes for which such term is defined in section 3502(4) of title 44.".

SEC. 708. STUDY AND REPORT ON FINANCIAL RELIEF FOR CERTAIN MEDICARE-ELIGIBLE MILITARY RETIREES WHO INCUR MEDICARE LATE ENROLLMENT PENALTIES.

(a) Study.—The Secretary of Defense, in consultation with the Secretary of Health and Human Services, shall conduct a study regarding possible financial relief from late enrollment penalties for military retirees and dependents of such retirees who reside within the service area of a base closure site and who have failed to timely enroll in medicare part B due to reliance upon the military treatment facility located at such site.

(b) Report.—Not later than March 31, 1995, the Secretary of Defense shall report to Congress the results of the study under paragraph (1). Such report shall also—

(1) identify by base closure site the number of military retirees within a 65 mile catchment area who have failed to enroll in medicare part B and are subjected to late enrollment penalties;

(2) determine the estimated aggregate amount of the penalties by base closure site;

(3) describe the characteristics of the population that are subject to the penalties, such as age and income level;

(4) address the appropriateness of waiving such penalties;

(5) identify the Department of Defense funds that should be used to pay the penalties if waiving such penalties is not recommended;

(6) outline a program for a special medicare part B enrollment period for affected retirees living near bases already closed and bases which are designated for closure in the future; and

(7) include legislative recommendations for implementing a program which removes the financial burden from the medicare-eligible beneficiaries who have been or will be adversely impacted by base-closure actions.

(c) Definitions.—For purposes of this section:

(1) The term "base closure" means a base closure under a base closure law (within the meaning given such term in section 2825(d) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 2687 note)).

(2) The term "medicare part B" means the public health insurance program under part B of title XVIII of the Social Security Act.

(3) The term "military treatment facility" means a facility of a uniformed service referred to in section 1074(a) of title 10, United States Code, in which health care is provided.

SEC. 709. ELIGIBILITY FOR PARTICIPATION IN DEMONSTRATION PROGRAMS FOR SALE OF PHARMACEUTICALS.

Subparagraph (B) of section 702(c)(2) of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1079 note) is amended to read as follows:

"(B) either—

"(i) resides in an area that is adversely affected (as determined by the Secretary) by the closure of a health care facility of the uniformed services as a result of the closure or realignment of the military installation at which such facility is located; or

"(ii) can demonstrate to the satisfaction of the Secretary that the person obtained pharmaceuticals at a health care facility referred to in clause (i) before the closure of the facility.".

SEC. 710. COST ANALYSIS OF TIDEWATER TRICARE DELIVERY OF PEDIATRIC HEALTH CARE TO MILITARY FAMILIES.

(a) Cost Analysis Required.—Not later than July 1, 1995, the Assistant Secretary of Defense (Health Affairs) shall determine the amount of the expenditures made by the Department of Defense for pediatric care for each of fiscal years 1992, 1993, and 1994 under the program for delivery of health care services in the Tidewater region of Virginia carried out pursuant to section 712(b) of Public Law 102-190 (105 Stat. 1402). The Assistant Secretary shall determine the total amount of such expenditures and the amount of such expenditures for each case.

(b) Use of Analysis.—In establishing any managed care system involving the furnishing of pediatric care by the Department of Defense (including the furnishing of pediatric care under the Civilian Health and Medical Program of the Uniformed Services), the Assistant Secretary shall consider the amounts determined under subsection (a) in determining the appropriate standards, limitations, and requirements to apply to the cost of pediatric care under the system.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Use of Merit Based Selection Procedures

SEC. 801. POLICY FOR MERIT BASED AWARD OF CONTRACTS AND GRANTS.

(a) Policy.—Section 2301 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) It is the policy of Congress that the Department of Defense should not be required by legislation to award a new contract or grant to a specific non-Federal Government entity. It is further the policy of Congress that any program, project, or technology identified in legislation be procured through merit-based selection procedures.

"(2) A provision of law may not be construed as requiring the Department of Defense to award a new contract or grant to a specific non-Federal Government entity unless that provision of law—

"(A) specifically refers to this subsection;

"(B) specifically identifies the particular non-Federal Government entity to be awarded the contract or grant; and

"(C) sets forth the national defense purpose to be fulfilled by requiring the department to award a new contract or grant to the specified non-Federal Government entity.

"(3) The head of an agency may not award a contract or make a grant pursuant to a provision of law that authorizes or requires the awarding of the contract or the making of the grant, as the case may be, in a manner that is inconsistent with the policy set forth in paragraph (1) until—

"(A) the Secretary of Defense submits to Congress a notice in writing of the intent to award such contract or to make such grant; and

"(B) a period of 180 days elapses after the date on which the notice is received by Congress.

"(4) For purposes of this subsection—

"(A) a contract is a new contract unless the work provided for in the contract is a continuation of the work provided for in a preceding contract; and

"(B) a grant is a new grant unless the work funded by the grant is substantially a continuation of the work for which funding is provided in a preceding grant.

"(5) Paragraph (3) does not apply to the Secretary of Transportation or the Administrator of the National Space and Aeronautics Administration.".

SEC. 802. CONTINUATION OF EXPIRING REQUIREMENT FOR ANNUAL REPORT ON THE USE OF COMPETITIVE PROCEDURES FOR AWARDING CERTAIN CONTRACTS TO COLLEGES AND UNIVERSITIES.

Paragraph (3) of section 2361(c) of title 10, United States Code, is repealed.

Subtitle B—Acquisition Assistance Programs

SEC. 811. PROCUREMENT TECHNICAL ASSISTANCE PROGRAMS.

(a) FUNDING.—Of the amount authorized to be appropriated under section 301(5), $12,000,000 shall be available for carrying out the provisions of chapter 142 of title 10, United States Code.

(b) SPECIFIC PROGRAMS.—Of the amounts made available pursuant to subsection (a), $600,000 shall be available for fiscal year 1995 for the purpose of carrying out programs sponsored by eligible entities referred to in subparagraph (D) of section 2411(1) of title 10, United States Code, that provide procurement technical assistance in distressed areas referred to in subparagraph (B) of section 2411(2) of such title. If there is an insufficient number of satisfactory proposals for cooperative agreements in such distressed areas to allow effective use of the funds made available in accordance with this subsection in such areas, the funds shall be allocated among the Defense Contract Administration Services regions in accordance with section 2415 of such title.

SEC. 812. PILOT MENTOR-PROTEGE PROGRAM.

Of the amounts authorized to be appropriated for fiscal year 1995 pursuant to title I of this Act, $50,000,000 shall be available for conducting the pilot Mentor-Protege Program established pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2301 note).

SEC. 813. INFRASTRUCTURE ASSISTANCE FOR HISTORICALLY BLACK COLLEGES AND OTHER MINORITY INSTITUTIONS OF HIGHER EDUCATION.

Of the amounts authorized to be appropriated for fiscal year 1995 pursuant to title II of this Act, $35,000,000 shall be available for such fiscal year for infrastructure assistance to historically Black colleges and universities and minority institutions under section 2323(c)(3) of title 10, United States Code.

SEC. 814. EXTENSION OF TEST PROGRAM FOR NEGOTIATION OF COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLANS.

Section 834(e) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (15 U.S.C. 637 note) is amended by striking out "September 30, 1994" in the second sentence and inserting in lieu thereof "September 30, 1998".

SEC. 815. LIMITATION REGARDING ACQUISITION ASSISTANCE REGULATIONS REQUIRED BY PUBLIC LAW 103-160 BUT NOT ISSUED.

(a) LIMITATION ON THE USE OF FUNDS.—None of the funds authorized to be appropriated by this Act that are made available for program element 65104D activities may be expended until the Secretary of Defense takes the actions required by the following provisions of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160):

(1) Section 811(d)(1), relating to regulations that address the matters described in subsections (g) and (h)(2) of section 2323 of title 10, United States Code.

(2) Section 813(b)(1), relating to the Department of Defense policy regarding the pilot Mentor-Protege Program.

(b) ACTIONS REQUIRED.—(1) With respect to the regulations referred to in subsection (a)(1), the Secretary shall—

(A) publish proposed regulations within 15 days after the date of the enactment of this Act in accordance with section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b);

(B) provide a period of not less than 60 days for public comment on the proposed regulations; and

(C) publish the final regulations not later than 120 days after the date of the enactment of this Act.

(2) With respect to the action referred to in subsection (a)(2), the Secretary shall ensure that—

(A) within 30 days after the date of the enactment of this Act, the Department of Defense policy regarding the pilot Mentor-Protege Program is incorporated into the Department of Defense Supplement to the Federal Acquisition Regulation as an appendix; and

(B) any subsequent revision to such policy (or any successor to such policy) is published and maintained in such supplement as an appendix.

(c) PROGRAM ELEMENT 65104D ACTIVITIES DEFINED.—For purposes of this section, the program element 65104D activities referred to in subsection (a) are the activities described as program element 65104D in the materials submitted to Congress by the Secretary of Defense in support of the budget for fiscal year 1995 that was submitted to Congress pursuant to section 1105(a) of title 31, United States Code.

SEC. 816. TREATMENT UNDER SUBCONTRACTING PLANS OF PURCHASES FROM QUALIFIED NONPROFIT AGENCIES FOR THE BLIND OR SEVERELY DISABLED.

(a) REVISION AND EXTENSION OF AUTHORITY.—Section 2410d of title 10, United States Code, relating to credit under small business subcontracting plans for certain purchases, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) by striking out "and" at the end of subparagraph (A);

(ii) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(iii) by adding at the end the following new subparagraph:

"(C) a central nonprofit agency designated by the Committee for Purchase from People Who Are Blind or Severely Disabled under section 2(c) of such Act (41 U.S.C. 47(c).";

(B) by striking out paragraph (3); and

(C) by redesignating paragraph (4) as paragraph (3); and

(2) in subsection (c), by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1997".

(b) CONFORMING AMENDMENT.—Section 2301(d) of such title is amended by striking out "approved commodities and services (as defined in such section)" and inserting in lieu thereof "commodities and services".

Subtitle C—Other Matters

SEC. 821. USE OF CERTAIN FUNDS PENDING SUBMISSION OF A NATIONAL TECHNOLOGY AND INDUSTRIAL BASE PERIODIC DEFENSE CAPABILITY ASSESSMENT AND A PERIODIC DEFENSE CAPABILITY PLAN.

(a) LIMITATION.—None of the funds authorized to be appropriated by this Act that are made available for program element 65104D activities may be expended until the Secretary of Defense submits to Congress—

(1) a national technology and industrial base periodic defense capability assessment required by section 2505 of title 10, United States Code; and

(2) and a periodic defense capability plan required by section 2506 of such title.

(b) PROGRAM ELEMENT 65104D ACTIVITIES DEFINED.—For purposes of this section, the program element 65104D activities referred to in subsection (a) are the activities described as program element 65104D in the materials submitted to Congress by the Secretary of Defense in support of the budget for fiscal year 1995 that was submitted to Congress pursuant to section 1105(a) of title 31, United States Code.

SEC. 822. DELEGATION OF INDUSTRIAL MOBILIZATION AUTHORITY.

Section 2538 of title 10, United States Code, is amended—

(1) by striking out "through the Secretary of Defense" each place it appears in subsections (a), (c), and (d) and inserting in lieu thereof "through the head of any department"; and

(2) in subsection (c)—

(A) by striking out "in the opinion of the Secretary of Defense" in the matter above paragraph (1) and inserting in lieu thereof "in the opinion of the head of any department"; and

(B) by striking out "Secretary" each place it appears in paragraphs (2) and (3) and inserting in lieu thereof "head of the department".

SEC. 823. PERMANENT AUTHORITY FOR THE DEPARTMENT OF DEFENSE TO SHARE EQUITABLY THE COSTS OF CLAIMS UNDER INTERNATIONAL ARMAMENTS COOPERATIVE PROGRAMS.

Subsection (c) of section 843 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2469; 10 U.S.C. 2350a note) is repealed.

SEC. 824. DETERMINATIONS OF PUBLIC INTEREST UNDER THE BUY AMERICAN ACT.

(a) CONSIDERATIONS.—Section 2533 of title 10, United States Code, is amended—

(1) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) In determining under section 2 of title III of the Act of March 3, 1993 (41 U.S.C. 10a), popularly known as the 'Buy American Act', whether application of title III of such Act is inconsistent with the public interest, the Secretary of Defense shall consider the following:

"(1) The bids or proposals of small business firms in the United States which have offered to furnish American goods.

"(2) The bids or proposals of all other firms in the United States which have offered to furnish American goods.

"(3) The United States balance of payments.

"(4) The cost of shipping goods which are other than American goods.

"(5) Any duty, tariff, or surcharge which may enter into the cost of using goods which are other than American goods.

"(6) Any need to coordinate acquisition activities of the Department of Defense with obligations contained in international agreements and with the acquisition activities of major United States allies.

"(7) A need to ensure that the Department of Defense has access to advanced state-of-the-art commercial technology.

"(8) A need to protect the national technology and industrial base and to provide for a defense mobilization base.

"(9) A need to ensure that application of different rules of origin for United States end items and foreign end items does not result in an award to a firm other than a firm providing a product produced in the United States.

"(10) Any need—

"(A) to maintain the same source of supply for spare and replacement parts for an end item that qualifies as an American good; or

"(B) to maintain the same source of supply for spare and replacement parts in order not to impair integration of the military and commercial industrial base.

"(11) The national security interests of the United States."; and

(2) by redesignating subsection (c) as subsection (b).

(b) CONFORMING AND CLERICAL AMENDMENTS.—(1) The heading of section 2533 of such title is amended to read as follows:

"§ 2533. Determinations of public interest under the Buy American Act".

(2) The item relating to such section in the table of sections at the beginning of subchapter V of chapter 148 of such title is amended to read as follows:

"2533. Determinations of public interest under the Buy American Act.".

SEC. 825. DOCUMENTATION FOR AWARDS FOR COOPERATIVE AGREEMENTS OR OTHER TRANSACTIONS UNDER THE DEFENSE TECHNOLOGY REINVESTMENT PROGRAM.

At the time of the award for a cooperative agreement or other transaction under a program carried out under chapter 148 of title 10, United States Code, the head of the agency concerned shall include in the file pertaining to such agreement or transaction a brief explanation of the manner in which the award advances and enhances a particular national security objective set forth in section 2501(a) of such title or a particular policy objective set forth in section 2501(b) of such title.

SEC. 826. COMPTROLLER GENERAL ASSESSMENT OF EXTENT TO WHICH TECHNOLOGY AND INDUSTRIAL BASE PROGRAMS ATTAIN POLICY OBJECTIVES.

Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress an assessment of the extent to which awards for cooperative agreements and other transactions under programs carried out under chapter 148 of title 10, United States Code, have been made specifically to advance and enhance a particular national security objective set forth in section 2501(a) of such title or to achieve a particular policy objective set forth in section 2501(b) of such title.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—Secretarial Matters

SEC. 901. ADDITIONAL ASSISTANT SECRETARY OF DEFENSE.

(a) ESTABLISHMENT OF POSITION.—Section 138(a) of title 10, United States Code, is amended by striking out "ten" and inserting in lieu thereof "eleven".

(b) EXECUTIVE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by striking out "Assistant Secretaries of Defense (10)." and inserting in lieu thereof the following:

"Assistant Secretaries of Defense (11).".

SEC. 902. ORDER OF SUCCESSION TO SECRETARIES OF THE MILITARY DEPARTMENTS.

(a) ARMY.—Section 3017 of title 10, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The General Counsel of the Department of the Army.".

(b) NAVY.—Section 5017 of such title is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The General Counsel of the Department of the Navy.".

(c) AIR FORCE.—Section 8017 of such title is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The General Counsel of the Department of the Air Force.".

Subtitle B—Commission on Roles and Missions of the Armed Forces

SEC. 911. REVIEW OF RESERVE COMPONENTS.

Section 953(d) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1739) is amended—

(1) in subsection (d)—

(A) by striking out "and" at the end of paragraph (7);

(B) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new paragraph:

"(9) the role of the National Guard and the other reserve components.";

(2) in subsection (e)(3), by inserting after "Department of Defense" the following: ", including the National Guard and the other reserve components"; and

(3) by adding at the end the following new subsection:

"(h) RECOMMENDATIONS CONCERNING RESERVE COMPONENTS.—The Commission shall address the roles, missions, and functions of the reserve components within the total force of the armed forces, particularly in light of lower budgetary resources that will be available to the Department of Defense in the future. The Commission should employ or consult private citizens with extensive experience in matters concerning the National Guard and other reserve components.".

SEC. 912. SUPPORT BY FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

Section 957 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1741; 10 U.S.C. 111 note) is amended—

(1) by adding at the end the following new subsection:

"(f) SUPPORT FROM FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.—Upon the request of the chairman of the Commission, the Secretary of Defense shall make available to the Commission, without reimbursement, the services of one or more federally funded research and development centers covered by sponsoring agreements of the Department of Defense. The cost of the services made available pursuant to this subsection may not exceed $20,000,000."; and

(2) by striking out the section heading and inserting in lieu thereof the following:

"SEC. 957. PERSONNEL MATTERS; EXPERT SERVICES.".

SEC. 913. REVISION IN COMPOSITION OF COMMISSION.

(a) REVISION.—Section 952(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 111 note; 107 Stat. 1738) is amended—

(1) in the first sentence of paragraph (1), by striking out "seven" and inserting in lieu thereof "eight"; and

(2) in paragraph (2)—

(A) by inserting "(A)" before "The Commission"; and

(B) by adding at the end the following new subparagraph:

"(B) The additional member of the Commission appointed under this paragraph after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995 shall have previous military experience and management experience with the reserve components.".

(b) APPOINTMENT.—The Secretary of Defense shall make the appointment required as a result of the amendments made by subsection (a) not later than 15 days after the date of the enactment of this Act.

Subtitle C—Other Matters

SEC. 921. COMPOSITION OF RESERVE FORCES POLICY BOARD.

Section 175(a) of title 10, United States Code, is amended—

(1) in paragraph (4), by striking out "or Regular Marine Corps" and inserting in lieu thereof "and an officer of the Regular Marine Corps each";

(2) by striking out "and" at the end of paragraph (8);

(3) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(4) by adding at the end the following:

"(10) an officer of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps serving in a position on the Joint Staff who is designated by the Chairman of the Joint Chiefs of Staff.".

SEC. 922. CONTINUATION OF UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

(a) CLOSURE PROHIBITED.—The Uniformed Services University of the Health Sciences may not be closed.

(b) BUDGETARY COMMITMENT TO CONTINUATION.—It is the sense of Congress that the Secretary of Defense should budget for the ongoing operation of the Uniformed Services University of the Health Sciences as an institution of professional education that is vital to the education and training each year of significant numbers of personnel of the uniformed services for careers as uniformed services health care providers.

(c) EVALUATION OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.—

(1) GAO REPORT.—By June 1, 1995, the Comptroller General of the United States shall submit to the appropriate Committees of the Congress a detailed report that—

(A) compares the cost of obtaining physicians from the Uniformed Services University of the Health Sciences with other sources of military physicians;

(B) assesses the retention rate needs of the military for physicians in relation to the respective retention rates of Uniformed Services University of the Health Sciences physicians and physicians obtained from other sources and the factors which contribute to retention rates among military physicians obtained from all sources;

(C) reviews the quality of the medical education provided at the Uniformed Services University of the Health Sciences with the quality of medical education provided by other sources of military physicians;

(D) reviews the overall issue of the special needs of military medicine and how these special needs are being met by Uniformed Services University of Health Sciences physicians and physicians obtained from other sources;

(E) assesses the extent to which the Uniformed Services University of the Health Sciences has responded to the 1990 report of the Inspector General of the Department of Defense and make recommendations as to resolution of any continuing issues relating to management and internal fiscal controls of the Uniformed Services University of the Health Sciences, including issues relating to the Henry M. Jackson Foundation for the Advancement of Military Medicine identified in the 1990 report; and

(F) makes such recommendations as the Comptroller General deems appropriate.

SEC. 923. JOINT DUTY CREDIT FOR CERTAIN DUTY PERFORMED DURING MILITARY OPERATIONS IN SUPPORT OF UNIFIED, COMBINED, OR UNITED NATIONS MILITARY OPERATIONS.

(a) CREDIT AUTHORIZED.—Section 664 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(i) SPECIAL AUTHORITY.—(1) The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, may give an officer who has completed service described in paragraph (2) credit for having completed a full tour of duty in a joint duty assignment, or credit countable for determining cumulative service in joint duty assignments, for the purposes of any provision of this title, notwithstanding the length of such service or whether such service is within the definition of the term 'joint duty assignment' prescribed pursuant to section 668 of this title.

"(2) Service referred to in paragraph (1) is service performed by an officer in combat or combat related military operations, under the operational control of the commander of a unified combatant command, the commander of combined forces of allied nations, or the United Nations, in which the officer gained significant experience in joint matters, as determined by the Secretary.

"(3) Officers for whom joint duty credit is granted pursuant to this subsection—

"(A) shall not be counted for the purposes of paragraphs (7), (8), (9), (11), or (12) of section 667 of this title and subsections (a)(3) and (b) of section 662 of this title; and

"(B) are not subject to the requirements of section 661(c) of this title relating to the sequence for completion of a joint professional military education school, completion of a full tour of duty in a joint duty assignment, and selection for a joint specialty.".

(b) APPLICABILITY.—Subsection (i) of section 664 of title 10, United States Code, as added by subsection (a), shall apply with respect to military operations conducted after July 1, 1992.

SEC. 924. ASSISTANCE FOR CERTAIN WORKERS DISLOCATED DUE TO REDUCTIONS BY THE UNITED STATES IN THE EXPORT OF DEFENSE ARTICLES AND SERVICES.

(a) ASSISTANCE UNDER DEFENSE CONVERSION ADJUSTMENT PROGRAM.—Section 325 of the Job Training Partnership Act (29 U.S.C. 1662d) is amended—

(1) in subsection (a)—

(A) by striking out "or by closures of United States military facilities" in the first sentence and inserting in lieu thereof ", by closures of United States military facilities, or by reductions in the export of defense articles and defense services as a result of United States policy (including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements)"; and

(B) by striking out "or by closures of United States military facilities" in the second sentence and inserting in lieu thereof ", by closures of United States military facilities, or by reductions in the export of defense articles and defense services as a result of United States policy";

(2) in subsection (d), by striking out "or by the closure of United States military installations" and inserting in lieu thereof ", by closures of United States military facilities, or by reductions in the export of defense articles and defense services as a result of United States policy (including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements)"; and

(3) by adding at the end the following new subsection:

"(f) DEFINITION.—For purposes of this section, the term 'defense articles and defense services' means defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).".

(b) ASSISTANCE UNDER DEFENSE DIVERSIFICATION PROGRAM.—Section 325A of the Job Training Partnership Act (29 U.S.C. 1662d-1) is amended—

(1) in subsection (b)(3)(A), by striking out "or the closure or realignment of a military installation" and inserting in lieu thereof ", the closure or realignment of a military installation, or reductions in the export of defense articles and defense services as a result of United States policy (including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements)";

(2) in subsection (k)(1), by striking out "or by the closure of United States military installations" and inserting in lieu thereof ", the closure of United States military installations, or reductions in the export of defense articles and defense services as a result of United States policy (including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements)"; and

(3) in subsection (o), by adding at the end the following new paragraph:

"(3) DEFENSE ARTICLES AND DEFENSE SERVICES.—The term 'defense articles and defense services' means defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).".

Subtitle D—Professional Military Education

SEC. 931. AUTHORITY FOR MARINE CORPS UNIVERSITY TO AWARD THE DEGREE OF MASTER OF MILITARY STUDIES.

(a) AUTHORITY TO AWARD.—(1) Chapter 609 of title 10, United States Code, is amended by adding at the end the following new section:

"§7102. Marine Corps University: master of military studies

"(a) AUTHORITY.—Upon the recommendation of the Director and faculty of the Marine Corps Command and Staff College, the President of the Marine Corps University may confer the degree of master of military studies upon graduates of the college who fulfill the requirements for the degree.

"(b) REGULATIONS.—The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of the Navy.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7102. Marine Corps University: master of military studies.".

(b) EFFECTIVE DATE.—The authority provided by section 7102(a) of title 10, United States Code, as added by subsection (a), shall become effective on the date on which the Secretary of Education determines that the requirements established by the Command and Staff College of the Marine Corps University for the degree of master of military studies are in accordance with generally applicable requirements for a degree of master of arts.

SEC. 932. BOARD OF ADVISORS OF MARINE CORPS UNIVERSITY.

(a) BOARD.—(1) Chapter 609 of title 10, United States Code, as amended by section 931, is further amended by adding at the end the following new section:

"§7103. Marine Corps University: Board of Advisors

"(a) IN GENERAL.—A Board of Advisors to the President of the Marine Corps University is constituted annually of—

"(1) the chairman of the Committee on Armed Services of the Senate, or the designee of the chairman; and

"(2) six persons designated by the Secretary of the Navy.

"(b) TERMS.—(1) The persons designated by the Secretary of the Navy shall serve for 3 years each except that any member whose term of office has expired shall continue to serve until the successor to the member is designated.

"(2) Members may be reappointed for one or more successive terms.

"(3) If a member of the Board dies or resigns, the official who designated that member shall designate a successor to serve for the unexpired portion of the term of the member.

"(c) VISITS.—The Board shall visit the Marine Corps University semiannually upon the call of the President of the Marine Corps University. With the approval of the President of the University, the Board, or any of its members, may make other visits to the University in connection with the duties of the Board or to consult with the President of the University.".

(2) The table of sections at the beginning of such chapter, as amended by section 931, is further amended by adding at the end the following new item:

"7103. Marine Corps University: Board of Advisors.".

(b) INITIAL DESIGNATIONS OF MEMBERS.—Of the members of the Board of Advisors of the Marine Corps University initially designated under section 7103(a)(2) of title 10, United States Code, as added by subsection (a)—

(1) two shall be designated for a term of 3 years;

(2) two shall be designated for a term of 2 years; and

(3) two shall be designated for a term of 1 year.

SEC. 933. AUTHORITY FOR AIR UNIVERSITY TO AWARD THE DEGREE OF MASTER OF AIRPOWER ART AND SCIENCE.

(a) AUTHORITY TO AWARD.—(1) Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9317. Air University: master of airpower art and science

"(a) AUTHORITY.—Upon the recommendation of the faculty of the School of Advanced Airpower Studies of the Air University, the Commander of the university may confer the degree of master of airpower art and science upon graduates of the school who fulfill the requirements for the degree.

"(b) REGULATIONS.—The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of the Air Force.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9317. Air University: master of airpower art and science.".

(b) EFFECTIVE DATE.—The authority provided by section 9317(a) of title 10, United States Code, as added by subsection (a), shall become effective on the date on which the Secretary of Education determines that the requirements established by the School of Advanced Airpower Studies of the Air University for the degree of master of airpower art and science are in accordance with generally applicable requirements for a degree of master of arts or a degree of master of science.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1995 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $2,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

SEC. 1002. EMERGENCY SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1994.

There is authorized to be appropriated as emergency supplemental appropriations for fiscal year 1994 for the incremental costs arising from ongoing United States operations in Somalia, Bosnia, Southwest Asia, and Haiti, $1,198,300,000 as follows:

(1) For Military Personnel:

(A) For the Army, $6,600,000.

(B) For the Navy, $19,400,000.

(C) For the Air Force, $18,400,000.

(2) For Operation and Maintenance:

(A) For the Army, $420,100,000.

(B) For the Navy, $104,800,000.

(C) For the Air Force, $560,100,000.

(D) For Defense-wide activities, $21,600,000.

(3) For Procurement:

(A) For Aircraft Procurement, Army, $20,300,000.

(B) For Other Procurement, Army, $200,000.

(C) For Other Procurement, Air Force, $26,800,000.

SEC. 1003. DATE FOR SUBMISSION OF FUTURE-YEARS MISSION BUDGET.

Section 222(a) of title 10, United States Code, is amended by striking out "at the same time" in the second sentence and inserting in lieu thereof "not later than 60 days after the date on which".

SEC. 1004. SUBMISSION OF FUTURE-YEARS DEFENSE PROGRAM IN ACCORDANCE WITH LAW.

If, as of the end of the 90-day period beginning on the date on which the President's budget for fiscal year 1996 is submitted to Congress, the Secretary of Defense has not submitted to Congress the fiscal year 1996 future-years defense program and, after consultation with the Inspector General of the Department of Defense, a certification that such program satisfies the requirements of section 221(b) of title 10, United States Code, then during the 30-day period beginning on the last day of such 90-day period the Secretary may not obligate more than 10 percent of the fiscal year 1995 advance procurement funds that are available for obligation as of the end of that 90-day period. If, as of the end of such 30-day period, the Secretary of Defense has not submitted to Congress the fiscal year 1996 future-years defense program together with such a certification, then the Secretary may not make any further obligation of fiscal year 1995 advance procurement funds until such program and certification are submitted to Congress. If the Secretary submits to Congress the fiscal year 1996 future-years defense program, together with such a certification, during the 30-day period described in the first sentence, the limitation on obligation of advance procurement funds prescribed in that sentence shall cease to apply effective as of the date of the submission of such program and certification.

Subtitle B—Matters Relating to Allies and Other Nations

SEC. 1011. REPEAL OF LIMITATION ON OVERSEAS MILITARY END STRENGTH.

Section 1302 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2545; 10 U.S.C. 113 note) is repealed.

SEC. 1012. AUTHORIZED END STRENGTH FOR MILITARY PERSONNEL IN EUROPE.

(a) END STRENGTH.—Paragraph (1) of section 1002(c) of the National Defense Authorization Act, 1985 (22 U.S.C. 1928 note) is amended to read as follows:

"(1) The end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO may not exceed a permanent ceiling of approximately 100,000 in any fiscal year.

"(2) Notwithstanding paragraph (1), the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO may exceed 100,000 in a fiscal year if, before September 1 of that fiscal year, the President certifies to Congress that it is essential for the end strength level to exceed 100,000 in that fiscal year in order to attain national security objectives of the United States in Europe and that the number of personnel in excess of 100,000 does not exceed the number of additional personnel necessary to attain such objectives. In no event may the end strength level exceed 113,000 in any fiscal year.".

(b) CONFORMING AMENDMENT.—Section 1303 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2546) is repealed.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1995.

SEC. 1013. EXTENSION AND REVISION OF AUTHORITIES RELATING TO COOPERATIVE THREAT REDUCTION.

(a) FUNDING FOR FISCAL YEAR 1995.—Funds authorized to be appropriated under section 301(19) shall be available for cooperative threat reduction with states of the former Soviet Union under the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160; 22 U.S.C. 5951 et seq.).

(b) SEMI-ANNUAL REPORTS.—Section 1207 of such Act (22 U.S.C. 5956) is amended by striking out "and not later than October 30, 1994," and inserting in lieu thereof "October 30, 1994, April 30, 1995, and October 30, 1995,".

SEC. 1014. DEFENSE COOPERATION BETWEEN THE UNITED STATES AND ISRAEL.

(a) FINDINGS.—Congress makes the following findings:

(1) The President has made a commitment to maintaining the qualitative superiority of the Israeli Defense Force over any potential combination of potential adversaries.

(2) Despite the peace process in which Israel is engaged, Israel continues to face difficult threats to its national security.

(3) The threats are compounded by the proliferation of weapons of mass destruction and ballistic missiles.

(4) Congress recognizes the many benefits to the United States resulting from the strategic relationship that exists between the United States and Israel.

(5) Congress is supportive of the objective of the President to enhance United States-Israel military and technical cooperation, particularly in the areas of missile defense and counter-proliferation.

(6) Congress is supportive of the establishment of the United States-Israel Science and Technology Commission in 1993.

(7) Maintaining the qualitative superiority of the Israeli Defense Force and strengthening the defense ties and science and technology cooperation between the United States and Israel will help ensure that Israel has the military strength and political support necessary to take risks for peace while providing Arab states with an incentive to pursue negotiations instead of war.

(8) Israel continues to cooperate with the United States on numerous theater missile defense programs, including the Arrow Tactical Anti-Missile program and the boost phase intercept technology program.

(9) It is in the national interests of the United States and Israel to strengthen existing mechanisms for cooperation and to eliminate unnecessary barriers to further collaboration between the United States and Israel.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Congress—

(1) encourages the President to ensure that any conventional defense system or technology offered for release to any NATO or

other major non-NATO ally should concurrently be available for purchase by Israel unless such action would contravene United States national interests; and

(2) urges the President to make available to Israel, within existing technology transfer laws, regulations, and policies, advanced United States technology necessary for continued progress in cooperative United States-Israel research and development of theater missile defenses.

SEC. 1015. MILITARY-TO-MILITARY CONTACTS AND COMPARABLE ACTIVITIES.

(a) ACTIVITIES AUTHORIZED.—(1) Chapter 6 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 166b. Military-to-military contacts and comparable activities

"(a) AUTHORITY.—The Secretary of Defense may conduct military-to-military contacts and comparable activities that are designed to encourage a democratic orientation of defense establishments and military forces of other countries.

"(b) ADMINISTRATION.—The Secretary may provide funds appropriated for carrying out subsection (a) to the following officials for use as provided in subsection (c):

"(1) The commander of a combatant command, upon the request of the commander.

"(2) An officer designated by the Chairman of the Joint Chiefs of Staff, with respect to an area or areas not under the area of responsibility of a commander of a combatant command.

"(3) The head of any Department of Defense component.

"(c) AUTHORIZED ACTIVITIES.—An official provided funds under subsection (b) may use such funds for the following activities and expenses:

"(1) The activities of traveling contact teams, including any transportation expenses, translation services expenses, and administrative expenses that are related to such activities.

"(2) The activities of military liaison teams.

"(3) Exchanges of—

"(A) civilian or military personnel between the Department of Defense and defense ministries of foreign governments; and

"(B) military personnel between units of the armed forces and units of foreign armed forces.

"(4) Seminars and conferences held primarily in a theater of operations.

"(5) Distribution of publications primarily in a theater of operations.

"(6) Personnel expenses for Department of Defense civilian and military personnel to the extent that such expenses relate to participation in activities described in paragraphs (3), (4), and (5).

"(7) Reimbursement of military personnel appropriations accounts for the pay and allowances paid to National Guard personnel and other reserve components personnel for service while engaged in activities referred to in other paragraphs of this subsection.

"(d) RELATIONSHIP TO OTHER FUNDING.—Any amount provided during any fiscal year to an official under subsection (b) for activities or expenses referred to in subsection (c) shall be in addition to amounts otherwise available for such activities and expenses for that fiscal year.

"(e) LIMITATIONS.—(1) Funds may not be provided under this section for a fiscal year for any activity for which—

"(A) funding was proposed in the budget submitted to Congress for such fiscal year pursuant to section 1105(a) of title 31; and

"(B) Congress did not authorize appropriations.

"(2) An activity may not be conducted under this section with a foreign country unless the Secretary of State approves the conduct of such activity in that foreign country.

"(3) Funds may not be provided under this section for a fiscal year for any country which was not eligible in that fiscal year for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961.

"(4) Funds may not be used under this section for the provision of military education or training, defense articles, or defense services to any country.

"(f) MILITARY-TO-MILITARY CONTACTS DEFINED.—In this section, the term 'military-to-military contacts' means contacts between members of the armed forces and members of foreign armed forces through activities described in subsection (c).".

(2) The table of sections at the beginning of chapter 6 of such title is amended by adding at the end the following new item:

"166b. Military-to-military contacts and comparable activities.".

(b) FUNDING.—Of the amount authorized to be appropriated under section 301(5) for operation and maintenance for Defense-wide activities, $46,300,000 shall be available to the Secretary of Defense for the purposes of carrying out activities under section 166b of title 10, United States Code, as added by subsection (a).

SEC. 1016. FOREIGN DISASTER RELIEF.

(a) AUTHORITY.—(1) Subchapter I of chapter 20 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 404. Foreign disaster relief

"(a) IN GENERAL.—The President may conduct disaster relief activities outside the United States to respond to manmade or natural disasters when necessary to prevent loss of lives.

"(b) FORMS OF ASSISTANCE.—Assistance provided under this section may include transportation, supplies, services, and equipment.

"(c) DETERMINATION REQUIRED.—No assistance may be furnished pursuant to this section unless the President determines that the provision of disaster relief is in the national interest of the United States and is necessary to prevent loss of lives.

"(d) REPORT REQUIRED.—Not later than 48 hours after the commencement of disaster relief activities, the President shall transmit to the Congress a report containing the determination required by subsection (c) and a description of the following:

"(1) The manmade or natural disaster for which disaster relief is necessary.

"(2) The threat to human lives presented by the disaster.

"(3) The United States military personnel and material resources that are involved or expected to be involved.

"(4) The disaster relief that is being provided or is expected to be provided by other nations or public or private relief organizations.

"(5) The anticipated duration of the disaster relief activities.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following:

"404. Foreign disaster relief.".

(b) FUNDING OF ACTIVITIES.—Of the amount authorized to be appropriated under subsection 301(5), $46,300,000 shall be available to the Secretary of Defense for the purpose of carrying out disaster relief activities under section 404 of title 10, United States Code, as added by subsection (a).

SEC. 1017. BURDENSHARING POLICY AND REPORT.

(a) POLICY.—It is the policy of the United States that the North Atlantic Treaty Organization (NATO) allies should assist the United States in paying the incremental cost incurred by the United States for maintaining members of the Armed Forces in assignments to permanent duty ashore in Europe solely for performing United States obligations for support of NATO.

(b) IMPLEMENTATION.—The President shall take all necessary actions to ensure the effective implementation of the burdensharing policy set forth in subsection (a).

(c) REPORT.—The Secretary of Defense shall include in the annual burdensharing report required by section 1002(d) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note) the following matters:

(1) A specific enumeration and description of the United States military resources and military personnel assigned to permanent duty ashore in Europe primarily in support of NATO and an analysis of the cost of providing and maintaining such resources and personnel in such assignment primarily for that purpose.

(2) A specific enumeration and description of the United States military resources and military personnel assigned to permanent duty ashore in Europe primarily in support of other United States interests in other regions of the world and an analysis of the cost of providing and maintaining such resources and personnel in such assignment primarily for that purpose.

(3) A specific enumeration and description of the offsets to United States costs of providing and maintaining United States military resources and military personnel in Europe that the United States has previously received from other NATO member nations, set out by country and by type of assistance, including both "in-kind" assistance and direct cash reimbursement, and the projected offsets for the five fiscal years following the fiscal year in which the report is submitted.

(4) A detailed identification of the costs associated with maintaining United States military personnel in assignments to permanent duty ashore in Europe for NATO and the difference in cost that would result from stationing such personnel at military bases within the United States and continuing to assign to such personnel the mission to perform United States obligations under NATO.

(5) A comparison of the defense spending by each NATO member country as a percentage of Gross Domestic Product (GDP) beginning in 1985 and the projected future defense spending as a percentage of Gross Domestic Product through 2000.

(6) A review of all actions taken by the United States to ensure the effective implementation of the United States burdensharing policy set forth in subsection (a).

(d) INCREMENTAL COST DEFINED.—In this section, the term "incremental cost", with respect to maintaining members of the Armed Forces in assignments to permanent duty ashore in Europe, includes the cost of transportation to and from duty stations in Europe, any variation in the cost of housing and food as compared to the cost of housing and food for members of the Armed Forces stationed in the United States, and any additional expenditures associated with infrastructure necessary to support United States forces in Europe.

SEC. 1018. REVIEW AND REPORT REGARDING DEPARTMENT OF DEFENSE PROGRAMS RELATING TO REGIONAL SECURITY AND HOST NATION DEVELOPMENT IN THE WESTERN HEMISPHERE.

(a) FINDINGS.—Congress makes the following findings:

(1) The political environment in the Western Hemisphere has been characterized in recent years by significant democratic advances and an absence of international strife; but democracy is fragile in some nations of the region.

(2) It is desirable for the Department of Defense to perform a positive role in influencing regional armed forces to make positive contributions to the democratic process and to domestic development programs.

(3) Congress receives a number of annual reports relating to specific authorities granted to the Secretary of Defense under title 10, United States Code, such as the authorities relating to the conduct of bilateral or regional cooperation programs under section 1051, participation of developing countries in combined exercises under section 2110, and the training of special operations forces with friendly forces under section 2011.

(4) The annual reports are replete with statistics and dollar figures and generally lacking in substance.

(5) Congress does not receive annual reports with respect to other authorities of the Secretary of Defense, such as that relating to Latin American cooperation under section 1050 of title 10, United States Code.

(6) Testimony before Congress, including in particular the testimony of the Commander in Chief, United States Southern Command, and the Commander in Chief, United States Atlantic Command, has emphasized the conduct of a large number of complementary programs under the leadership and supervision of those two commanders to foster appropriate military roles in democratic host nations and to assist countries in developing forces properly trained to address their security needs, including needs regarding illegal immigration, insurgencies, smuggling of illegal arms, munitions, and explosives across borders, and drug trafficking.

(7) Most of the programs referred to in paragraph (6) provide excellent and often unique training and experience to the United States forces involved.

(8) The expansion of the military-to-military contact program to the Western Hemisphere will provide another tool to encourage a democratic orientation of the defense establishments and military forces of countries in the region.

(9) There is a need to conduct a comprehensive review of the several authorities in title 10, United States Code, for the Secretary of Defense to engage in cooperative regional security programs with other countries in the Western Hemisphere in order to determine whether the authorities continue to be appropriate and necessary, particularly in the light of the changed circumstances in the region.

(10) There is a need to conduct a comprehensive review of the various programs carried out pursuant to such authorities to ensure that such programs are designed to meet the needs of the host nations involved and the regional objectives of the United States.

(11) There is a need to assess the strengths and weaknesses of the various regional security organizations, defense forums, and defense education institutions in the Western Hemisphere in order to identify any improvements needed to harmonize the defense policies of the United States and those of friendly nations of the region.

(b) REPORT REQUIRED.—Not later than May 1, 1995, the Secretary of Defense, shall—

(1) carry out a comprehensive review and assessment of the matters referred to in paragraphs (9), (10), and (11) of subsection (a); and

(2) after consultation with the Chairman of the Joint Chiefs of Staff and the commanders of the combatant commands responsible for regions in the Western Hemisphere, submit to the Committees on Armed Services of the Senate and House of Representatives a report on regional defense matters.

(c) CONTENT OF REPORT.—The report shall contain a detailed and comprehensive description, discussion, and analysis of the following matters:

(1) The Department of Defense plan to support United States strategic objectives in the Western Hemisphere.

(2) The external and internal threats to the national security of the nations of the region.

(3) The various regional security cooperative programs carried out by the Department of Defense in the region in 1994, including training and education programs in the host nations and in the United States and defense contacts set forth on a country-by-country basis, the statutory authority, if any, for such programs, and the strategic objectives served.

(4) The various regional security organizations, defense forums, and defense education institutions that the United States maintains or in which the United States participates.

(5) An assessment of the contribution that such programs, defense contacts, organizations, forums, and institutions make to the advancement of regional security, host nation security and national development, and the strategic objectives of the United States.

(6) The changes made or to be made in the programs, organizations, forums, and institutions as a result of the comprehensive review.

(7) Any recommended legislation considered necessary to improve the ability of the Department to achieve its strategic objectives.

(d) CLASSIFICATION OF REPORT.—The report shall be submitted in an unclassified form and may, if necessary, have a classified supplement.

SEC. 1019. PAYMENTS-IN-KIND FOR RELEASE OF UNITED STATES OVERSEAS MILITARY FACILITIES TO NATO HOST COUNTRIES.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States has invested $6,500,000,000 in military infrastructure in North Atlantic Treaty Organization (NATO) countries.

(2) As part of an overall plan to reduce United States troop strength in Europe from 323,432 in 1987 to 100,000 by the end of 1996, the Department of Defense plans to close or reduce United States military presence at 867 military sites overseas.

(3) Most of the overseas military sites announced for closure are in Europe where the United States has already closed 434 such sites.

(4) When the United States closes military sites in Europe, the United States brings the military personnel home but leaves buildings, roads, sewers, and other real property improvements behind.

(5) Some allies have agreed to pay the United States for the residual value of the real property improvements left behind.

(6) Although the United States military drawdown has been rapid since 1990, European allies have been slow to pay the United States the residual value of the sites released by the United States.

(7) As of 1994, the United States has recouped only $33,300,000 in cash, and most of that was recovered in 1989.

(8) Although the United States has released to Germany over 60 percent of the military sites planned for closure by the United States in that country and the current value of United States facilities to be returned to the German government is estimated at approximately $2,700,000,000, the German government has budgeted only $25,000,000 for fiscal year 1994 for payment of compensation for the United States investment in such improvements.

(b) POLICY.—It is the sense of Congress that—

(1) the President should redouble efforts to recover the value of the United States investment in the military infrastructure of NATO countries;

(2) the President should enter into negotiations with the government of each NATO host country with a presumption that payments to compensate the United States for the negotiated value of improvements will be made in cash and deposited in the Department of Defense Overseas Military Facility Investment Recovery Account;

(3) the President should enter into negotiations for payments-in-kind only as a last resort and only after informing the Congress that negotiations for cash payments have not been successful; and

(4) to the extent that in-kind contributions are received in lieu of cash payments in any fiscal year, the in-kind contributions should be used for projects which are identified priorities of the Department of Defense.

(c) REQUIREMENTS AND LIMITATIONS RELATING TO PAYMENTS-IN-KIND.—(1) Subsection (e) of section 2921 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2687 note) is amended—

(A) by inserting "(1)" after "NEGOTIATIONS FOR PAYMENTS-IN-KIND.—";

(B) by striking out "a written notice" and all that follows and inserting in lieu thereof "to the congressional defense committees (and one additional copy to each of the Subcommittees on Defense of the Committees on Appropriations of the Senate and the House of Representatives) a written notice regarding the intended negotiations."; and

(C) by adding at the end the following new paragraph:

"(2) The notice shall contain the following:

"(A) A justification for entering into negotiations for payments-in-kind with the host country.

"(B) The types of benefit options to be pursued by the Secretary in the negotiations.

"(C) A discussion of the adjustments that are intended to be made in the future-years defense program or in the budget of the Department of Defense for the fiscal year in which the notice is submitted or the following fiscal year in order to reflect costs that it may no longer be necessary for the United States to incur as a result of the payments-in-kind to be sought in the negotiations.".

(2) Such section is amended by adding at the end the following new subsection:

"(h) CONGRESSIONAL OVERSIGHT OF PAYMENTS-IN-KIND.—(1) Not less than 30 days before concluding an agreement for acceptance of military construction or facility improvements as a payment-in-kind, the Secretary of Defense shall submit to Congress a notification on the proposed agreement that contains the following matters:

"(A) A description of the military construction project or facility improvement project, as the case may be.

"(B) A certification that the project is needed by United States forces.

"(C) An explanation of how the project will aid in the achievement of the mission of those forces.

"(D) A certification that, if the project were to be carried out by the Department of Defense, appropriations would be necessary for the project and it would be necessary to provide for the project in the next future-years defense program.

"(2) Not less than 30 days before concluding an agreement for acceptance of host nation support or host nation payment of operating costs of United States forces as a payment-in-kind, the Secretary of Defense shall submit to Congress a notification on the proposed agreement that contains the following matters:

"(A) A description of each activity to be covered by the payment-in-kind.

"(B) A certification that the costs to be covered by the payment-in-kind are included in the budget of one or more of the military departments or that it will otherwise be necessary to provide for payment of such costs in a budget of one or more of the military departments.

"(C) A certification that, unless the payment-in-kind is accepted or funds are appropriated for payment of such costs, the military mission of the United States forces with respect to the host nation concerned will be adversely affected.".

Subtitle C—Nonproliferation and Counterproliferation of Weapon Systems and Related Systems

SEC. 1021. EXTENSION AND REVISION OF NONPROLIFERATION AUTHORITIES.

(a) EXTENSION OF NONPROLIFERATION AUTHORITIES.—Section 1505 of the National Defense Authorization Act for Fiscal Year 1993 (22 U.S.C. 5859a) is amended—

(1) in subsection (a), by striking out "during fiscal year 1994" and inserting in lieu thereof "during fiscal years 1994 and 1995"; and

(2) in subsection (e), by striking out "fiscal year 1994" and inserting in lieu thereof "fiscal years 1994 and 1995".

(b) ACTIVITIES FOR WHICH ASSISTANCE MAY BE PROVIDED.—Subsection (b)(4) of such section is amended by striking out "nuclear proliferation through joint technical projects and improved intelligence sharing" and inserting in lieu thereof "nuclear, biological, chemical, and missile proliferation through technical projects and improved information sharing".

(c) SOURCES OF ASSISTANCE.—Subsection (d) of such section is amended—

(1) in paragraph (1)—

(A) by inserting "for fiscal year 1994" after "under this section"; and

(B) by striking out "fiscal year 1994 or" and inserting in lieu thereof "fiscal year 1994. Funds provided as assistance under this section for fiscal year 1995 shall be derived from amounts made available to the Department of Defense for fiscal year 1995. Alternatively, funds provided as assistance under this section for a fiscal year referred to in this paragraph may be derived"; and

(2) in paragraph (3), by inserting after "$25,000,000" the following: "for fiscal year 1994 or $15,000,000 for fiscal year 1995".

SEC. 1022. JOINT COMMITTEE FOR THE REVIEW OF COUNTERPROLIFERATION PROGRAMS OF THE UNITED STATES.

(a) COMPOSITION.—Subsection (a) of section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat 1845) is amended—

(1) in paragraph (1)—

(A) by striking out "Non-Proliferation" in the matter above subparagraph (A) and inserting in lieu thereof "Counterproliferation";

(B) by striking out subparagraphs (B) and (E); and

(C) by redesignating subparagraphs (C), (D), and (F) as subparagraphs (B), (C), and (D), respectively;

(2) in paragraph (2), by adding at the end the following: "The Secretary of Energy shall serve as the Vice Chairman of the committee.";

(3) in paragraph (4), by adding at the end the following: "The Secretary of Energy may delegate to the Under Secretary of Energy responsible for national security programs of the Department of Energy the performance of the duties of the Vice Chairman of the committee."; and

(4) by striking out paragraph (5).

(b) PURPOSES OF COMMITTEE.—Subsection (b) of such section is amended—

(1) in paragraph (1)(A), by striking out "nonproliferation policy" and inserting in lieu thereof "counterproliferation policy"; and

(2) by adding at the end the following new paragraphs:

"(3) To prioritize programs and funding.

"(4) To encourage and facilitate interagency and interdepartmental funding of programs in order to ensure necessary levels of funding to develop, operate, and field highly-capable systems.

"(5) To insure that Department of Energy programs are integrated with the operational needs of other departments and agencies of the Federal Government.

"(6) To ensure that Department of Energy national security programs include development of systems for deployment as well as research.".

(c) DUTIES.—Subsection (c) of such section is amended—

(1) in paragraph (1)—

(A) by striking out "(including counterproliferation capabilities) and technologies for support of United States nonproliferation policy" in the matter above subparagraph (A) and inserting in lieu thereof "and technologies for support of United States nonproliferation policy and counterproliferation policy";

(B) by inserting "and" at the end of subparagraph (D); and

(C) by striking out subparagraphs (F) and (G);

(2) by striking out paragraphs (2), (3), and (7);

(3) in paragraph (4), by striking out "to support fully the nonproliferation policy of the United States";

(4) by redesignating paragraphs (4), (5), and (6) as paragraphs (2), (3), and (4), respectively; and

(5) by adding at the end the following new paragraph (5):

"(5) assess each fiscal year the effectiveness of the committee actions during the preceding fiscal year, including, particularly, the status of recommendations made during such preceding fiscal year that were reflected in the budget submitted to Congress pursuant to section 1105(a) of title 31, United States Code, for the fiscal year following the fiscal year in which the assessment is made.".

(d) COMMITTEE RECOMMENDATIONS.—Subsection (e) of such section is amended to read as follows:

"(e) RECOMMENDATIONS.—The committee shall submit to the President and the heads of all appropriate departments and agencies of the Federal Government such programmatic recommendations regarding existing, planned, or new programs as the committee considers appropriate to encourage funding for capabilities and technologies at the level necessary to support United States counterproliferation policy.".

(e) EXTENSION OF COMMITTEE.—Subsection (f) of such section is amended by striking out "six months after the date on which the report of the Secretary of Defense under section 1606 is submitted to Congress" and inserting in lieu thereof "at the end of September 30, 1996".

SEC. 1023. REPORT ON COUNTERPROLIFERATION ACTIVITIES AND PROGRAMS.

(a) REPORT REQUIRED.—Not later than May 1, 1995, and not later than May 1 of each year thereafter, the Secretary of Defense shall submit to the appropriate committees of Congress a report of the findings of the Counterproliferation Program Review Committee established by section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat 1845). The Secretary shall submit any special annex of the report to the committees of Congress that traditionally receive information in the annex in the performance of oversight functions of such committees.

(b) CONTENT OF THE REPORT.—The report shall include the following matters:

(1) A complete list, by specific program element, of the existing, planned, or newly proposed capabilities and technologies reviewed by the committee pursuant to section 1605(c) of Public Law 103–160.

(2) A complete description of the requirements and priorities established by the Counterproliferation Program Review Committee.

(3) A comprehensive discussion of the near-term, mid-term, and long-term programmatic options formulated by the committee for meeting requirements prescribed by the committee and for eliminating deficiencies identified by the committee, including the annual funding requirements and completion dates established for each such option.

(4) An explanation of the recommendations made pursuant to section 1605(c) of Public Law 103–160, together with a full discussion of the actions taken to implement such recommendations or otherwise taken on the recommendations.

(5) A discussion and assessment of the status of each committee recommendation during the fiscal year preceding the fiscal year in which the report is submitted, including, particularly, the status of recommendations made during such preceding fiscal year that were reflected in the budget submitted to Congress pursuant to section 1105(a) of title 31, United States Code, in the fiscal year of the report.

(6) Each specific Department of Energy program that the Secretary of Energy plans to develop to initial operating capability and each such program that the Secretary does not plan to develop to initial operating capability.

(7) For each technology program scheduled to reach initial operational capability, a recommendation from the Chairman of the Joint Chiefs of Staff that represents the views of the commanders of the unified and specified commands regarding the utility and requirement of the program.

(c) FORMS OF REPORT.—The report shall be submitted in both unclassified and classified forms, including an annex to the classified report for special compartmented information programs, special access programs, and special activities programs.

(d) DEFINITIONS.—In this section:

(1) The term "appropriate committees of Congress" means—

(A) the Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the House of Representatives.

(2) The term "intelligence community" has the meaning given such term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

SEC. 1024. AMOUNTS FOR COUNTERPROLIFERATION ACTIVITIES.

(a) COUNTERPROLIFERATION ACTIVITIES.—Of the amount authorized to be appropriated in section 201(4), $12,500,000 shall be available for counterproliferation activities.

(b) EDUCATION IN SUPPORT OF COUNTERPROLIFERATION ACTIVITIES.—Of the amount authorized to be appropriated in section 301(5), not more than $1,000,000 shall be available for providing education to members of the Armed Forces in matters relating to counterproliferation.

(c) ADDITIONAL AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) In addition to the transfer authority provided in section 1001, upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1995 to counterproliferation programs, projects, and activities identified as areas for progress by the Joint Committee for the Review of Counterproliferation Programs established by section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1845). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of this subsection may not exceed $100,000,000.

(3) The authority provided by this subsection to transfer authorizations—

(A) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(B) may not be used to provide authority for an item that has been denied authorization by Congress.

(4) A transfer made from one account to another under the authority of this subsection shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(5) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this subsection.

(d) USE OF FUNDS FOR TECHNOLOGY DEVELOPMENT.—(1) Of the funds authorized to be appropriated by section 201(4) for a counterproliferation technology project in Program Element 602301E—

(A) $5,000,000 shall be available for a program to detect, locate, and disarm weapons of mass destruction that are hidden by a hostile state or terrorist or terrorist group in confined area outside the United States; and

(B) $10,000,000 shall be available for the training program referred to in paragraph (3).

(2) The Secretary of Defense shall make funds available for the program referred to in paragraph (1)(A) in a manner that, to the maximum extent practicable, ensures the effective utilization of existing resources of the national weapons laboratories.

(3)(A) The training program referred to in paragraph (1)(B) is a training program carried out jointly by the Secretary of Defense and the Director of the Federal Bureau of Investigation in order to expand and improve United States efforts to deter the possible proliferation and acquisition weapons of mass destruction by organized crime organizations in Eastern Europe, the Baltic countries, and the former Soviet Union.

(B) The funds available under paragraph (1)(B) for the program referred to in subparagraph (A) may not be obligated or expended for that program until the Secretary of Defense and the Director of the Federal Bureau of Investigation jointly submit to the congressional defense committees a report that—

(i) identifies the nature and extent of the threat posed to the United States by the possible proliferation and acquisition of weapons of mass destruction by organized crime organizations in Eastern Europe, the Baltic countries, and the former Soviet Union;

(ii) assesses the actions that the United States should undertake in order to assist law enforcement agencies of Eastern Europe, the Baltic countries, and the former Soviet Union in the efforts of such agencies to prevent and deter the theft of nuclear weapons material; and

(iii) contains an estimate of—

(I) the cost of undertaking such actions, including the costs of personnel, support equipment, and training;

(II) the time required to commence the carrying out of the program referred to in paragraph (1); and

(III) the amount of funds, if any, that will be required in fiscal years after fiscal year 1995 in order to carry out the program.

SEC. 1025. RESTRICTION RELATING TO REPORT ON PROLIFERATION OF FOREIGN MILITARY SATELLITES.

None of the funds available to the Department of Defense for travel may be expended for travel by the Assistant Secretary of Defense for International Security Policy until the Secretary of Defense submits to Congress the report required by section 1363 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2560) together with the certification required by section 211(d) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1584).

Subtitle D—Peace Operations

SEC. 1031. REPORTS ON REFORMING MULTILATERAL PEACE OPERATIONS.

(a) REPORTS REQUIRED.—The Secretary of Defense shall submit to the congressional defense committees two reports on United States proposals for improving United Nations management of peace operations. The Secretary shall submit the first report not later than December 1, 1994, and the second report not later than June 1, 1995.

(b) CONTENT OF REPORTS.—(1) Each report shall contain—

(A) a discussion of the status of implementation of United States proposals contained in section IV (relating to strengthening the United Nations) of the document entitled "The Clinton Administration's Policy on Reforming Multilateral Peace Operations" that was issued by the Executive Office of the President in May 1994; and

(B) an analysis of the results of such implementation.

(2) Each report shall cover, at a minimum, the following matters:

(A) The reconfiguration and expansion of the staff for the United Nations Department of Peacekeeping Operations.

(B) The elimination by the United Nations of lengthy, potentially disastrous delays after a peace operation has been authorized.

(C) The establishment by the United Nations of a professional peace operations training program for commanders and other military and civilian personnel.

(D) United States assistance to facilitate improvements by the United Nations in the matters described in subparagraphs (A) and (C) and the terms under which such assistance has been or is being provided.

(c) DEFINITION.—Is this section, the term "peace operation" means an operation to maintain or restore international peace and security under chapter VI or chapter VII of the Charter of the United Nations.

SEC. 1032. SUPPORT FOR INTERNATIONAL PEACEKEEPING AND PEACE ENFORCEMENT.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should initiate consultations with the bipartisan leadership of Congress, including the leadership of the relevant committees, as far in advance as possible regarding international peacekeeping or peace enforcement activities of the United Nations that would involve the participation of United States combat forces and such consultations should continue throughout the duration of such activities;

(2) the consultations should take place prior to the vote by the United States on United Nations Security Council resolutions authorizing, extending, or revising the mandates for these types of activities;

(3) United Nations Security Council resolutions authorizing peacekeeping or peace enforcement activities should clearly state the threat to international peace and security presented by the conflict in question, as well as the political and military objectives, the anticipated duration, and an exit strategy for each activity;

(4) the United States should be fully reimbursed for troop contributions and assistance provided to United Nations peacekeeping and peace enforcement activities;

(5) the United Nations should rarely conduct peace enforcement operations in view of the complexity of such operations and the difficulty of achieving unity of command and expeditious decisionmaking through the United Nations;

(6) United States combat forces should be under the operational control of qualified commanders and should have clear and effective command and control arrangements, appropriate rules of engagement, and clear and unambiguous mission statements;

(7) United States combat forces should not be under the command and control of foreign commanders in peace enforcement operations conducted by the United Nations except in the most extraordinary circumstances; and

(8) the Secretary of Defense should have the lead responsibility within the executive branch for the management of peacekeeping and peace enforcement activities of the United Nations in which United States combat forces participate.

(b) SUPPORT AUTHORIZED.—(1) Section 403 of title 10, United States Code, is amended to read as follows:

"§403. International peacekeeping and international peace enforcement: support involving United States combat forces

"(a) AUTHORITY.—Notwithstanding any other provision of law, the Secretary of Defense may—

"(1) pay, out of funds in the Contributions for International Peacekeeping and Peace Enforcement Activities Fund established by subsection (g), the United States fair share (as determined by the Secretary) of assessments for international peacekeeping or international peace enforcement activities of the United Nations in which United States combat forces participate; and

"(2) furnish assistance, on a reimbursable basis, in support of such activities.

"(b) FORMS OF ASSISTANCE.—Assistance provided under this section may include supplies, services, and equipment.

"(c) DETERMINATION REQUIRED.—No assessment may be paid and no assistance may be furnished pursuant to this section unless the President determines that the provision of assistance is in the national interest of the United States.

"(d) ADVANCE NOTICE.—(1) In the case of any international peacekeeping or international peace enforcement operation of the United Nations in which United States combat forces are to participate, not less than 15 days before an initial deployment of United States combat forces, payment of a United Nations assessment, furnishing of assistance of a value in excess of $14,000,000, or waiver of reimbursement to the United States under subsection (e), the President shall transmit to the designated congressional committees a report, which may be classified in whole or in part, that contains the determination required by subsection (c) and the following matters:

"(A) A description of the threat to international peace and security presented by the conflict involved.

"(B) The United States interests that will be advanced by the operation and by the United States action.

"(C) The political and military objectives of the operation.

"(D) The exit criteria and likely duration of the operation.

"(E) The personnel and material resources that have been pledged, or are otherwise expected to be made available, by other nations to the United Nations for the operation.

"(F) The units of the armed forces that will participate.

"(G) The necessity for involvement of United States forces.

"(H) The command arrangements for those forces and, if any of the United States forces are to be placed under the operational control of foreign commanders, the justification for doing so.

"(I) The rules of engagement for the operation.

"(J) An assessment of the risks involved in the operation.

"(K) In the case of payment of an assessment, the amount to be paid and the terms under which the payment is to be made.

"(L) In the case of assistance, the supplies, services, or equipment to be provided by the United States and the terms under which such supplies, services, or equipment are to be provided.

"(M) In the case of a waiver of reimbursement, the justification for the waiver.

"(2) If the President determines that an unforeseen emergency requires the immediate deployment of United States combat troops or the immediate furnishing of assistance of a value in excess of $14,000,000 under this section, the President—

"(A) may waive the requirement of paragraph (1) that a report be transmitted at least 15 days in advance of the action; and

"(B) shall promptly notify the designated committees of such waiver and such deployment or transfer.

"(e) REIMBURSEMENT.—(1) The President shall require reimbursement from the United Nations or from any other source for the participation of any force of the armed forces in support of international peacekeeping or international peace enforcement activities of the United Nations or for the provision of assistance by the Secretary of Defense in support of such activities.

"(2) Any funds received as reimbursements shall be used as follows:

"(A) As a first priority, for the payment of the incremental costs of the military departments and Defense Agencies providing the participating United States forces or the supplies, services, or equipment involved.

"(B) As a second priority, for the payment of the incremental costs of any other United States forces that are operating in support of international peacekeeping or international peace enforcement activities but for which reimbursement is not possible.

"(3) After use of reimbursement funds for the purposes specified in paragraph (2), any remainder of such funds shall be credited to the Contributions for International Peacekeeping and Peace Enforcement Activities Fund established by subsection (g).

"(4) Reimbursements utilized for the payment of incremental costs shall be credited, at the option of the Secretary of the military department concerned or the head of the Defense Agency concerned, either to an appropriation, fund, or other account obligated to pay such costs or to an appropriate appropriation, fund, or other account available for paying such costs.

"(f) WAIVER OF REIMBURSEMENT.—The President may waive, in whole or in part, any reimbursement required under subsection (a)(2) or (e) in exceptional circumstances upon determining that such waiver is in the national interest of the United States.

"(g) ESTABLISHMENT OF ACCOUNT.—There is hereby established in the Treasury of the United States a fund to be known as the 'Contributions for International Peacekeeping and Peace Enforcement Activities Fund'. Amounts appropriated or otherwise credited to the Fund shall be available until expended for, and shall be used for, paying assessments for United Nations operations under this section.

"(h) AUTHORITY INAPPLICABLE WHEN UNITED STATES COMBAT FORCES NOT INVOLVED.—The authority in subsection (a) to pay United Nations assessments for international peacekeeping and international peace enforcement activities of the United Nations may not be construed as authorizing payment of United Nations assessments for any such activity in which United States combat forces do not participate.

"(i) COORDINATION WITH OTHER LAWS.—This section may not be construed as superseding any provision of the War Powers Resolution. This section does not provide authority for the participation of United States combat forces in any international peacekeeping or international peace enforcement operation.

"(j) DEFINITIONS.—In this section:

"(1) The term 'designated congressional committees' means the Committees on Armed Services, Appropriations, and Foreign Relations of the Senate and the Committees on Armed Services, Appropriations, and Foreign Affairs of the House of Representatives.

"(2) The term 'combat forces' means forces of the armed forces that have combat missions as primary missions.

"(3) The term 'international peacekeeping' means those activities performed pursuant to Chapter VI of the United Nations Charter.

"(4) The term 'international peace enforcement' means those activities performed pursuant to Chapter VII of the United Nations Charter.".

(2) The item relating to section 403 in the table of sections at the beginning of subchapter I of chapter 20 of such title is amended to read as follows:

"403. International peacekeeping and international peace enforcement: support involving United States combat forces.".

(c) AUTHORIZED SUPPORT FOR FISCAL YEAR 1995.—Not more than $300,000,000 is authorized to be appropriated for fiscal year 1995 for the Contributions for International Peacekeeping and Peace Enforcement Activities Fund under section 301(20).

Subtitle E—Reporting Requirements

SEC. 1041. REPORT ON OFFENSIVE BIOLOGICAL WARFARE PROGRAM OF THE STATES OF THE FORMER SOVIET UNION.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States has identified nonproliferation as a high priority in the conduct of United States national security policy.

(2) The United States is seeking universal adherence to global regimes that control nuclear, chemical, and biological weapons and is promoting new measures that provide increased transparency of biological weapons-related activities and facilities in an effort to help deter violations of and enhance compliance with the Biological Weapons Convention (BWC).

(3) Questions continue to arise regarding offensive biological weapons research, development, testing production, and storage in the countries of the former Soviet Union as well as in other countries.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should continue to urge all signatories to the Biological Weapons Convention to comply fully with the terms of that convention and with other international agreements relating to the control of biological weapons; and

(2) as the President encourages increased transparency of biological weapons-related activities and facilities to deter violations of and enhance compliance with the Biological Weapons Convention, the President should also take appropriate actions to ensure that the United States is prepared to counter the effects of use of biological weapons by others.

(c) REPORT REQUIRED.—Not later than 120 days after the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the status of the offensive biological warfare program in the Russian Federation and the other independent states of the former Soviet Union.

(d) CONTENT OF REPORT.—The report shall include the following matters:

(1) An assessment of the extent of compliance of the independent states of the former Soviet Union with the Biological Weapons Convention and other international agreements relating to the control of biological weapons.

(2) An evaluation of the extent of control and oversight by the government of the Russian Federation over the former Soviet military and dual civilian-military biological warfare programs.

(3) The extent, if any, of the biological warfare agent stockpile in any of the independent states of the former Soviet Union.

(4) The extent and scope, if any, of continued biological warfare research, development, testing, and production by such state, including the sites and types of activity at those sites.

(5) An evaluation of the effectiveness of possible delivery systems of biological weapons, including tube and rocket artillery, bomber aircraft, and ballistic missiles.

(6) An evaluation of United States capabilities to detect and monitor biological warfare research, development, testing, production, and storage.

(7) On the basis of the assessment and evaluations referred to in other paragraphs of this subsection, recommendations by the Secretary of Defense and Chairman of the Joint Chiefs of Staff for the improvement of United States biological warfare defense and counter-measures.

(e) FORM OF REPORT.—The Secretary shall submit the report in classified and unclassified versions.

(f) DEFINITIONS.—In this section:

(1) The term "Biological Weapons Convention" means the Convention on the Prohibition, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, done at Washington, London, and Moscow on April 10, 1972.

(2) The term "independent states of the former Soviet Union" has the same meaning given that term in section 3 of the FREEDOM Support Act (22 U.S.C. 5801).

SEC. 1042. TERMINATION OF CERTAIN DEPARTMENT OF DEFENSE REPORTING REQUIREMENTS.

(a) IMMEDIATE TERMINATION.—Except as provided in subsection (c), notwithstanding the date set forth in subsection (a) of section 1151 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1758; 10 U.S.C. 113 note), the reporting requirements referred to in subsection (b) are terminated effective on the date of the enactment of this Act.

(b) APPLICABILITY.—Subsection (a) applies to each reporting requirement specified in enclosures 1 and 2 of the letter, dated April 29, 1994, by which the Director for Administration and Management, Office of the Secretary Defense, citing the authority of the provision of law referred to in subsection (a), submitted a list of reporting requirements recommended for termination by the Department of Defense.

(c) PRESERVATION OF REQUIREMENTS.—(1) The reporting requirements set forth in the provisions of law referred to in paragraph (2) shall not terminate under subsection (a) of section 1151 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1758; 10 U.S.C. 113 note).

(2) Paragraph (1) applies to the following reports:

(A) Reports required under the following provisions of title 10, United States Code:

(i) Section 2662, relating to reports on real property transactions.

(ii) Section 2672a(b), relating to reports on urgent acquisitions of land.

(iii) Section 2687(b)(1), relating to notifications of certain base closures and realignments.

(iv) Section 2690(b)(2), relating to notifications of proposed conversions of heating facilities at United States installations in Europe.

(v) Section 2804(b), relating to reports on contingency military construction projects.

(vi) Section 2806(c)(2), relating to reports on contributions for NATO infrastructure in excess of amounts appropriated for such contributions.

(vii) Subsections (b) and (c) of section 2807, relating to notifications and reports on architectural and engineering services and construction design.

(viii) Section 2823(b), relating to notifications regarding disagreements between certain officials on the availability of locations for suitable alternative housing for the Department of Defense.

(ix) Subsections (b) and (c) of section 2825, relating to notifications regarding improvements of family housing or construction of replacement family housing.

(x) Section 2827(b), relating to notifications regarding relocation of military family housing units.

(xi) Section 2835(g)(1), relating to economic analyses on the cost effectiveness of leasing family housing to be constructed or rehabilitated.

(xii) Section 2861(a), relating to the annual report on military construction activities and family housing activities.

(xiii) Subsections (e) and (f) of section 2865, relating to notifications regarding unauthorized energy conservation construction projects and an annual report regarding energy conservation actions.

(B) Reports required under the following provisions of title 37, United States Code:

(i) Section 406(i), relating to the annual report regarding dependents accompanying members stationed outside the United States in relation to the eligibility of such members to receive travel and transportation allowances.

(ii) Section 1008(a), relating to the annual report by the President on adjustments of rates of pay and allowances for members of the uniformed services.

(C) Reports required under the following provisions of law:

(i) Section 326(a)(5) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2368; 10 U.S.C. 2301 note), relating to reports on use of certain ozone-depleting substances.

(ii) Subsections (e) and (f) of section 2921 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2687 note), relating to notifications regarding negotiations for payments-in-kind for the release of improvements at overseas military installations to host countries and an annual report on the status and use of the Department of Defense Overseas Military Facility Investment Recovery Account.

(iii) Section 1505(f)(3) of the Military Child Care Act of 1989 (title XV of Public Law 101-189; 103 Stat. 1594; 10 U.S.C. 113 note), relating to reports on closures of military child development centers.

(iv) Subsections (a) and (d) of section 7 of the Organotin Antifouling Paint Control Act of 1988 (Public Law 100-133; 102 Stat. 607; 33 U.S.C. 2406), relating to the annual report on the monitoring of estuaries and near-coastal waters for concentrations of organotin.

Subtitle F—Acceptance of Pre-release Services of Nonviolent Offenders

SEC. 1051. USE OF INMATE LABOR AT MILITARY INSTALLATIONS.

(a) USE OF INMATE LABOR AUTHORIZED.—Chapter 155 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2610. Acceptance of services of inmates of State and local correctional facilities

"(a) USE OF INMATE LABOR.—Subject to subsection (c), the Secretary of a military department may accept in accordance with this section the services of nonviolent offenders incarcerated in a correctional facility of a State or local government. Services so accepted shall be performed at a military installation in the vicinity of the correctional facility pursuant to an agreement entered into by the Secretary and the chief executive of the State or local government.

"(b) AUTHORIZED SERVICES.—The services authorized to be accepted are as follows:

"(1) Construction, maintenance, or repair of roads.

"(2) Construction of levees or other flood prevention structures.

"(3) Construction, maintenance, or repair of any other public ways or works.

"(4) Clearance, maintenance, or reforesting of public lands.

"(5) Custodial services.

"(c) CONDITIONS FOR ACCEPTANCE OF SERVICES.—The Secretary may accept the services of nonviolent offenders for a military installation under this section only if the Secretary finds that—

"(1) Federal Government employees and contractor employees performing services at the installation will not be displaced;

"(2) no contract for the provision of services at the installation will otherwise be impaired; and

"(3) in the case of services in any skill, craft, or trade, there is no surplus of labor for hire in such skill, craft, or trade in the vicinity of the installation.

"(d) LIMITATION ON PAYMENTS TO CUSTODIAL GOVERNMENTS.—(1) Except as provided in paragraph (2), the Secretary of a military department may not compensate a State or local government for the costs incurred by such government in the provision of services accepted under this section.

"(2) The Secretary may—

"(A) reimburse a State or local government for administrative and other costs directly incurred by that government in making available and supervising offenders as they provide services accepted under this section; and

"(B) pay a nominal amount to the State or local government in order to support any alcohol and drug abuse treatment programs conducted by that government for the offenders who provide such services.

"(e) PROHIBITION ON COMPENSATION OF INMATES.—The Secretary may not compensate any offender for services accepted under this section.

"(f) SUPPORT AUTHORIZED.—The Secretary may provide equipment, supplies, or other materials to be used by offenders in the provision of services accepted under this section.

"(g) INAPPLICABILITY OF OTHER LAWS.—The following provisions of law shall not apply with respect to services accepted under this section:

"(1) Section 1342 of title 31.

"(2) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

"(3) The Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (46 Stat. 1494; 40 U.S.C. 276a et seq.), commonly referred to as the 'Davis-Bacon Act'.

"(4) The Act entitled 'An Act to provide conditions for the purchases of supplies and the making of contracts by the United States, and for other purposes', approved June 30, 1936 (49 Stat. 2036; 41 U.S.C. 35 et seq.), commonly referred to as the 'Walsh-Healey Act'.

"(5) The Service Contract Act of 1965 (41 U.S.C. 351 et seq.).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2610. Acceptance of services of inmates of State and local correctional facilities.".

SEC. 1052. REVISION OF AUTHORITY FOR USE OF NAVY INSTALLATIONS TO PROVIDE EMPLOYMENT TRAINING TO NONVIOLENT OFFENDERS IN STATE PENAL SYSTEMS.

(a) SOURCES OF TRAINING.—Subsection (b) of section 1374 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1821; 10 U.S.C. 5013 note) is amended—

(1) by striking out the subsection caption and inserting in lieu thereof "SOURCES OF TRAINING.—"; and

(2) by inserting before the period at the end the following: "or may provide such training directly at such installations by agreement with the State concerned".

(b) LIABILITY AND INDEMNIFICATION.—Subsection (e) of such section is amended—

(1) by inserting "(1)" before "A nonprofit organization"; and

(2) by adding at the end the following:

"(2) In any case in which the Secretary provides prerelease employment training directly by agreement with the State concerned, the State shall—

"(A) be liable for any loss or damage to Federal Government property that may result from, or in connection with, the provision of the training except to the extent that the loss or damage results from a wrongful act or omission of Federal Government personnel; and

"(B) hold harmless and indemnify the United States from and against any suit, claim, demand, action, or liability arising out of any claim for personal injury or property damage that may result from, or in connection with, the provision of the training except to the extent that the personal injury or property damage results from a wrongful act or omission of Federal Government personnel.".

SEC. 1053. USE OF ARMY INSTALLATIONS TO PROVIDE EMPLOYMENT TRAINING TO NONVIOLENT OFFENDERS IN STATE PENAL SYSTEMS.

(a) DEMONSTRATION PROJECT AUTHORIZED.—The Secretary of the Army may conduct a demonstration project to test the feasibility of using Army facilities to provide employment training to nonviolent offenders in a State penal system prior to their release from incarceration. The demonstration project shall be limited to not more than three military installations under the jurisdiction of the Secretary.

(b) SOURCES OF TRAINING.—The Secretary may enter into a cooperative agreement with one or more private, nonprofit organizations for purposes of providing at the military installations included in the demonstration project the prerelease employment training authorized under subsection (a) or may provide such training directly at such installations by agreement with the State concerned.

(c) USE OF FACILITIES.—Under a cooperative agreement entered into under subsection (b), the Secretary may lease or otherwise make available to a nonprofit organization participating in the demonstration project at a military installation included in the demonstration project any real property or facilities at the installation that the Secretary considers to be appropriate for use to provide the prerelease employment training authorized under subsection (a). Notwithstanding section 2667(b)(4) of title 10, United States Code, the use of such real property or facilities may be permitted with or without reimbursement.

(d) ACCEPTANCE OF SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept voluntary services provided by persons participating in the prerelease employment training authorized under subsection (a).

(e) LIABILITY AND INDEMNIFICATION.—(1) A nonprofit organization participating in the demonstration project shall—

(A) be liable for any loss or damage to Federal Government property that may result from, or in connection with, the provision of prerelease employment training by the organization under the demonstration project; and

(B) hold harmless and indemnify the United States from and against any suit, claim, demand, action, or liability arising out of any claim for personal injury or property damage that may result from or in connection with the demonstration project.

(2) In any case in which the Secretary provides prerelease employment training directly by agreement with the State concerned, the State shall—

(A) be liable for any loss or damage to Federal Government property that may result from, or in connection with, the provision of the training except to the extent that the loss or damage results from a wrongful act or omission of Federal Government personnel; and

(B) hold harmless and indemnify the United States from and against any suit, claim, demand, action, or liability arising out of any claim for personal injury or property damage that may result from, or in connection with, the provision of the training except to the extent that the personal injury or property damage results from a wrongful act or omission of Federal Government personnel.

(f) REPORT.—Not later than two years after the date of the enactment of this Act, the Secretary shall submit to Congress a report evaluating the success of the demonstration project and containing such recommendations with regard to the termination, continuation, or expansion of the demonstration project as the Secretary considers appropriate.

Subtitle G—Discrimination and Sexual Harassment

SEC. 1056. DEPARTMENT OF DEFENSE POLICIES AND PROCEDURES ON DISCRIMINATION AND SEXUAL HARASSMENT.

(a) MILITARY DEPARTMENT POLICIES.—(1) Subject to paragraph (2), the Secretary of the Navy and the Secretary of the Air Force shall review and revise the regulations of the Department of the Navy and the Department of the Air Force, respectively, relating to equal opportunity policy and complaint procedures to ensure that the such regulations are substantially equivalent to the regulations of the Army on such matters.

(2) In revising regulations pursuant to paragraph (1), the Secretary of the Navy or the Secretary of the Air Force, as the case may be, may make such additions and modifications as the Secretary of Defense determines appropriate to strengthen the regulations beyond the substantial equivalent of the Army regulations in accordance with—

(A) the recommendations of the Department of Defense Task Force on Discrimination and Sexual Harassment; and

(B) the experience of the Army, Navy, Air Force, and Marine Corps regarding equal opportunity cases.

(3) The Secretary of the Army shall review the regulations of the Department of the Army relating to equal opportunity policy and complaint procedures and revise the regulations as the Secretary of Defense considers appropriate to strengthen the regulations in accordance with the recommendations and experience described in subparagraphs (A) and (B) of paragraph (2).

(b) REQUIREMENTS REGARDING REPORT OF TASK FORCE ON DISCRIMINATION AND SEXUAL HARASSMENT.—(1) The Department of Defense Task Force on Discrimination and Sexual Harassment shall transmit the report of the task force to the Secretary of Defense not later than October 1, 1994.

(2) The Secretary of Defense shall transmit to Congress the report of the task force not later than October 10, 1994.

(3) Not later than 45 days after receiving the report, the Secretary of Defense shall—

(A) review the recommendations for action contained in such report;

(B) determine which recommendations the Secretary approves for implementation and which recommendations the Secretary disapproves; and

(C) submit to Congress a report that—

(i) identifies the approved recommendations and the disapproved recommendations; and

(ii) explains the reasons for each such approval and disapproval.

(4) The Secretary of Defense shall implement the approved recommendations not later than April 1, 1995.

(c) The Advisory Board or the investigative capability of the Department of Defense should consider and include in its report—

(1) whether the Department of Defense should establish a separate unit to oversee all matters related to allegations of discrimination or sexual misconduct in the Department of Defense; and

(2) whether additional data collection and reporting procedures are needed to enhance the ability of the Department of Defense to deal with sexual misconduct.

(d) The Secretary of Defense shall ensure that regulations governing consideration of equal opportunity matters in performance evaluations include consideration of an individual's commitment to elimination of discrimination or of sexual harassment.

Subtitle H—Other Matters

SEC. 1061. REDESIGNATION OF UNITED STATES COURT OF MILITARY APPEALS AND THE COURTS OF MILITARY REVIEW.

(a) UNITED STATES COURT OF APPEALS FOR THE ARMED SERVICES.—Section 941 of title 10, United States Code (article 141 of the Uniform Code of Military Justice), is amended by striking out "United States Court of Military Appeals" and inserting in lieu thereof "United States Court of Appeals for the Armed Services".

(b) COURTS OF MILITARY CRIMINAL APPEALS.—Section 866 of title 10, United States Code (article 66 of the Uniform Code of Military Justice), is amended by striking out "Court of Military Review" each place it appears and inserting in lieu thereof "Court of Military Criminal Appeals".

(c) CONFORMING AMENDMENTS TO TITLE 10.—(1) The following sections of title 10, United States Code, are amended by striking out "Court of Military Appeals" each place it appears and inserting in lieu thereof "Court of

Appeals for the Armed Services'': sections 707(a)(2), 866(e), 867, 867a(a), 870, 871(c)(1), 873, 942, 943, 944, 945, and 946(b)(1).

(2) The following sections of title 10, United States Code, are amended by striking out ''Court of Military Review'' each place it appears and inserting in lieu thereof ''Court of Military Criminal Appeals'': sections 707(a)(2), 862(b), 867, 868, 869, 870, 871, and 873.

(3)(A) The heading of subchapter XII of chapter 47 of such title is amended to read as follows:

''SUBCHAPTER XII—UNITED STATES COURT OF APPEALS FOR THE ARMED SERVICES''.

(B) The table of subchapters at the beginning of chapter 47 of such title is amended by striking out the item relating to subchapter XII and inserting in lieu thereof the following:

''XII. United States Court of Appeals for the Armed Services .... 941 141''.

(4)(A) The heading of section 866 of such title is amended to read as follows:

"§867. Art. 66. Review by Court of Military Criminal Appeals".

(B) The heading of section 867 of such title is amended to read as follows:

"§867. Art. 67. Review by the Court of Appeals for the Armed Services".

(C) The table of sections at the beginning of subchapter IX of chapter 47 of such title is amended by striking out the items relating to sections 866 and 867 (articles 66 and 67) and inserting in lieu thereof the following:

''866. 66. Review by Court of Military Criminal Appeals.

''867. 67. Review by the Court of Appeals for the Armed Services.''.

(d) CONFORMING AMENDMENTS TO OTHER UNITED STATES CODE TITLES.—(1) The following provisions of the United States Code are amended by striking out ''Court of Military Appeals'' each place it appears and inserting in lieu thereof ''Court of Appeals for the Armed Services'':

(A) In title 5, sections 8334(a)(1), 8336(l), 8337(a), 8338(c), 8339(d)(7), and 8339(h) and the table in 8334(c).

(B) In title 18, sections 202(e)(2) and 6001(4).

(C) In title 28, sections 1259 and 2101(g).

(D) In title 44, section 906.

(2)(A) The heading of section 1259 of title 28, United States Code, is amended to read as follows:

"§1259. Court of Appeals for the Armed Services; certiorari".

(B) The table of sections at the beginning of chapter 81 of such title is amended by striking out the item relating to section 1259 and inserting in lieu thereof the following:

''1259. Court of Appeals for the Armed Services; certiorari.''.

(e) CONFORMING AMENDMENT TO OTHER LAW.—Section 109 of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking out ''Court of Military Appeals'' each place it appears in paragraphs (8) and (10) and inserting in lieu thereof ''Court of Appeals for the Armed Services''.

SEC. 1062. ASSISTANCE TO FAMILY MEMBERS OF CERTAIN POW/MIAS WHO REMAIN UNACCOUNTED FOR.

(a) SINGLE POINT OF CONTACT.—The Secretary of Defense shall designate an official of the Department of Defense to serve as a single point of contact within the department—

(1) for the immediate family members (or their designees) of any unaccounted-for Korean conflict POW/MIA; and

(2) for the immediate family members (or their designees) of any unaccounted-for Cold War POW/MIA.

(b) FUNCTIONS.—The official designated under subsection (a) shall serve as a liaison between the family members of unaccounted-for Korean conflict POW/MIAs and unaccounted-for Cold War POW/MIAs and the Department of Defense and other Federal departments and agencies that may hold information that may be related to such POW/MIAs. The functions of that official shall include assisting family members—

(1) with the procedures the family may follow in their search for information about the unaccounted-for Korean conflict POW/MIA or unaccounted-for Cold War POW/MIA, as the case may be;

(2) in learning where they may locate information about the unaccounted-for POW/MIA; and

(3) in learning how and where to identify classified records that contain pertinent information and that will be declassified.

(c) ASSISTANCE IN OBTAINING DECLASSIFICATION.—The official designated under subsection (a) shall seek to obtain the rapid declassification of any relevant classified records that are identified.

(d) REPOSITORY.—The official designated under subsection (a) shall provide for a centralized repository for all documents relating to unaccounted-for Korean conflict POW/MIAs and unaccounted-for Cold War POW/MIAs that are located as a result of the official's efforts.

(e) DEFINITIONS.—For purposes of this section:

(1) The term ''unaccounted-for Korean conflict POW/MIA'' means a member of the Armed Forces or civilian employee of the United States who, as a result of service during the Korean conflict, was at any time classified as a prisoner of war or missing-in-action or otherwise unaccounted for and whose person or remains have not been returned to the United States and who remains unaccounted for.

(2) The term ''unaccounted-for Cold War POW/MIA'' means a member of the Armed Forces or civilian employee of the United States who, as a result of service during the period from September 2, 1945, to August 21, 1991, was at any time classified as a prisoner of war or missing-in-action or otherwise unaccounted for and whose person or remains have not been returned to the United States and who remains unaccounted for.

(3) The term ''Korean conflict'' has the meaning given such term in section 101(9) of title 38, United States Code.

SEC. 1063. NATIONAL GUARD ASSISTANCE FOR CERTAIN YOUTH AND CHARITABLE ORGANIZATIONS.

(a) AUTHORITY TO PROVIDE ASSISTANCE.—Chapter 5 of title 32, United States Code, is amended by adding at the end the following:

"§508. Assistance for certain youth and charitable organizations

''(a) AUTHORITY TO PROVIDE SERVICES.—Members and units of the National Guard may provide the services described in subsection (b) to an eligible organization in conjunction with training required under this chapter in any case in which—

''(1) the provision of such services does not adversely affect the quality of that training or otherwise interfere with the ability of a member or unit of the National Guard to perform the military functions of the member or unit;

''(2) the services to be provided are not commercially available, or any commercial entity that would otherwise provide such services has approved, in writing, the provision of such services by the National Guard;

''(3) National Guard personnel will enhance their military skills as a result of providing such services; and

''(4) the provision of the services will not result in a significant increase in the cost of the training.

''(b) AUTHORIZED SERVICES.—The services authorized to be provided under subsection (a) are as follows:

''(1) Ground transportation.

''(2) Air transportation in support of Special Olympics.

''(3) Administrative support services.

''(4) Technical training services.

''(5) Emergency medical assistance and services.

''(6) Communications services.

''(7) Security services.

''(c) OTHER AUTHORIZED ASSISTANCE.—Facilities and equipment of the National Guard, including military property of the United States issued to the National Guard and General Services Administration vehicles leased to the National Guard, and General Services Administration vehicles leased to the Department of Defense, may be used in connection with providing services to any eligible organization under this section.

''(d) ELIGIBLE ORGANIZATIONS.—The organizations eligible to receive services under this section are as follows:

''(1) The Boy Scouts of America.

''(2) The Girl Scouts of America.

''(3) The Boys Clubs of America.

''(4) The Girls Clubs of America.

''(5) The Young Men's Christian Association.

''(6) The Young Women's Christian Association.

''(7) The Civil Air Patrol.

''(8) The United States Olympic Committee.

''(9) The Special Olympics.

''(10) The Campfire Boys.

''(11) The Campfire Girls.

''(12) The 4-H Club.

''(13) The Police Athletic League.

''(14) Any other youth or charitable organization designated by the Secretary of Defense.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

''508. Assistance for certain youth and charitable organizations.''.

SEC. 1064. DEFENSE MAPPING AGENCY.

(a) UNAUTHORIZED USE OF NAME.—Chapter 167 of title 10, United States Code, is amended by adding at the end the following new section:

"§2798. Unauthorized use of Defense Mapping Agency name, initials, or seal

''(a) No person may, except with the written permission of the Secretary of Defense, knowingly use the words 'Defense Mapping Agency', the initials 'DMA', the seal of the Defense Mapping Agency, or any colorable imitation of such words, initials, or seal in connection with any merchandise, retail product, impersonation, solicitation or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Secretary of Defense.

''(b) Whenever it appears to the Attorney General that any person is engaged or about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to hearing and determination of such action and may, at any time before such final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.".

(b) LIMITATION ON LIABILITY RELATING TO NAVIGATIONAL AIDS.—Chapter 167 of such title, as amended by subsection (a), is further amended by adding at the end the following new section:

"§ 2799. Civil actions barred

"(a) CLAIMS BARRED.—No civil action may be brought against the United States on the basis of the content of a navigational aid prepared or disseminated by the Defense Mapping Agency.

"(b) NAVIGATIONAL AIDS COVERED.—Subsection (a) applies with respect to a navigational aid in the form of a map, a chart, or a publication and any other form or medium of product or information in which the Defense Mapping Agency prepares or disseminates navigational aids.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2798. Unauthorized use of Defense Mapping Agency name, initials, or seal.
"2799. Civil actions barred.".

(d) EFFECTIVE DATE.—Section 2799 of title 10, United States Code, as added by subsection (b), shall take effect on the date of the enactment of this Act and shall apply with respect to (1) civil actions brought before such date that are pending adjudication on such date, and (2) civil actions brought on or after such date.

SEC. 1065. TRANSFER OF NAVAL VESSELS TO BRAZIL.

(a) AUTHORITY.—The Secretary of the Navy is authorized to transfer to the Government of Brazil the "KNOX" class frigates, MILLER (FF 1091) and VALDEZ (FF 1096). Such transfers shall be on a lease basis under chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 et seq.).

(b) WAIVER OF REQUIREMENTS FOR NOTIFICATION TO CONGRESS.—Section 62 of the Arms Export Control Act does not apply with respect to a lease authorized by subsection (a), except that section 62 of such Act shall apply to any renewal of the lease.

(c) COSTS OF TRANSFERS.—Any expense of the United States in connection with a transfer authorized by subsection (a) shall be charged to the Government of Brazil.

(d) EXPIRATION OF AUTHORITY.—The authority granted by subsection (a) shall expire at the end of the 2-year period beginning on the date of the enactment of this Act, except that leases entered into during that period may be renewed.

SEC. 1066. TRANSFERS OF M1A1 TANKS TO THE MARINE CORPS.

(a) TRANSFER REQUIRED.—Subject to subsection (b), as M1A1 tanks of the Army become excess to the requirements of the active component of the Army, the Secretary of the Army shall transfer to the Marine Corps, at no expense to the Army, as many of such tanks as are necessary to satisfy the requirements of the Marine Corps for tanks, as determined by the Secretary of Defense.

(b) TRANSFER LIMITS.—The Secretary of the Army shall transfer under subsection (a) 84 M1A1 tanks selected by the Secretary of the Army.

(c) EXCLUSION OF CERTAIN TRANSFERS.—If any of the tanks transferred under subsection (a) are transferred to the Marine Corps Reserve, the number of tanks not in excess of 48 that are so transferred shall not be counted for purposes of subsection (b).

(d) LIMITATION ON TRANSFERS TO ARMY NATIONAL GUARD.—After the date of the enactment of this Act, the Secretary of the Army shall transfer not more than one M1A1 tank to the National Guard for each M1A1 tank transferred to the Marine Corps until the Secretary has transferred the total number of tanks required in subsection (b). The tanks transferred to the Marine Corps shall be in a material condition comparable to the material condition of the tanks transferred to the National Guard.

(e) TREATMENT OF CERTAIN TRANSFERRED TANKS UNDER LIMITATIONS.—The transfer of a tank under section 112 shall not be counted for purposes of subsection (a), (b), (c), or (d).

SEC. 1067. LIMITATION REGARDING MERGER OF TELECOMMUNICATIONS SYSTEMS.

(a) LIMITATION.—Funds available to the Department of Defense may not be expended to merge defense telecommunications systems with the telecommunications system known as "FTS-2000" or with any other civil telecommunications system until—

(1) the Secretary of Defense submits to the congressional defense committees a report containing—

(A) a certification by the Secretary that the merged telecommunications systems, including the associated services, will provide assured, secure telecommunications support for Department of Defense activities; and

(B) a description of how the merger of the systems will be implemented and the merged systems will be managed to meet defense information infrastructure requirements, including requirements to support deployed forces and intelligence activities; and

(2) 30 days elapse after the date on which such report is received by the committees.

(b) DEFENSE TELECOMMUNICATIONS ACTIVITY DEFINED.—In this section, the term "defense telecommunications system" means a system of telecommunications equipment and services that, pursuant to section 2315 of title 10, United States Code, is exempt from the requirements of section 111 of the Federal Property and Administrative Services Act of 1949.

SEC. 1068. ACQUISITION OF STRATEGIC SEALIFT SHIPS.

(a) AMOUNT FOR SHIPBUILDING AND CONVERSION.—Notwithstanding section 102(3), there is hereby authorized to be appropriated for the Navy for fiscal year 1995, $5,532,007,000 for procurement for shipbuilding and conversion.

(b) NATIONAL DEFENSE SEALIFT FUND.—Notwithstanding section 302(2), there is hereby authorized to be appropriated for the Armed Forces and other activities and agencies of the Department of Defense $828,600,000 for providing capital for the National Defense Sealift Fund.

SEC. 1069. REQUIREMENT FOR SECRETARY OF DEFENSE TO SUBMIT RECOMMENDATIONS ON CERTAIN PROVISIONS OF LAW CONCERNING MISSING PERSONS.

(a) FINDINGS.—Congress makes the following findings:

(1) The families of American personnel who became prisoners of war or missing in action while serving in the Armed Forces of the United States and national veterans organizations have expressed concern to Congress for several years regarding provisions of chapter 10 of title 37, United States Code, relating to missing persons, that authorize the Secretaries of the military departments to declare missing Armed Forces personnel dead based solely on the passage of time.

(2) Proposed legislation concerning revisions to those provisions of law has been pending before Congress for several years.

(3) It is important for Congress to obtain the views of the Secretary of Defense with respect to the appropriateness of revising those provisions of law before acting further on proposed amendments to such provisions.

(b) RECOMMENDATIONS REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretaries of the military departments, the national POW/MIA family organizations, and the national veterans organizations, shall—

(1) conduct a review of the provisions of chapter 10 of title 37, United States Code, relating to missing persons; and

(2) submit to Congress the Secretary's recommendations as to whether those provisions of law should be amended.

SEC. 1070. CONTACT BETWEEN THE DEPARTMENT OF DEFENSE AND THE MINISTRY OF NATIONAL DEFENSE OF CHINA ON POW/MIA ISSUES.

(a) FINDINGS.—Congress makes the following findings:

(1) The Select Committee on POW/MIA Affairs of the Senate concluded in its final report, dated January 13, 1993, that "many American POW's had been held in China during the Korean conflict and that foreign POW camps in both China and North Korea were run by Chinese officials" and, further, that "given the fact that only 26 Army and 15 Air Force personnel returned from China following the war, the committee can now firmly conclude that the People's Republic of China surely has information on the fate of other unaccounted for American POW's from the Korean conflict.".

(2) The Select Committee on POW/MIA Affairs recommended in such report that "the Department of State and Defense form a POW/MIA task force on China similar to Task Force Russia.".

(3) Neither the Department of Defense nor the Department of State has held substantive discussions with officials from the People's Republic of China concerning unaccounted for American prisoners of war of the Korean conflict.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should establish contact with officials of the Ministry of Defense of the People's Republic of China regarding unresolved issues relating to American prisoners of war and American personnel missing in action as a result of the Korean conflict.

SEC. 1071. DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL FROM THE KOREAN CONFLICT, AND THE COLD WAR.

Section 1082 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 50 U.S.C. 401 note) is amended—

(1) in subsection (a), by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Paragraph (1) applies to any record, live-sighting report, or other information in the custody of the official custodian referred to in subsection (d)(3) that may pertain to the location, treatment, or condition of (i) United States personnel who remain not accounted for as a result of service in the Armed Forces of the United States or other Federal Government service during the Korean conflict, the Vietnam era, or the Cold War, or (ii) their remains.";

(2) in subsection (c)—

(A) by striking out the first sentence in paragraph (1) and inserting in lieu thereof the following: "In the case of records or other information originated by the Department of Defense, the official custodian shall make such records and other information available to the public pursuant to this section not later than September 30, 1995.";

(B) in paragraph (2), by striking out "after March 1, 1992,"; and

(C) in paragraph (3), by striking out "a Vietnam-era POW/MIA who may still be alive in Southeast Asia," and inserting in lieu thereof "any United States personnel referred to in subsection (a)(2) who remain not accounted for but who may still be alive in captivity,";

(3) by striking out subsection (d) and inserting in lieu thereof the following:

"(d) DEFINITIONS.—For purposes of this section:

"(1) The terms 'Korean conflict' and 'Vietnam era' have the meanings given those terms in section 101 of title 38, United States Code.

"(2) The term 'Cold War' shall have the meaning determined by the Secretary of Defense.

"(3) The term 'official custodian' means—

"(A) in the case of records, reports, and information relating to the Korean conflict or the Cold War, the Archivist of the United States; and

"(B) in the case of records, reports, and information relating to the Vietnam era, the Secretary of Defense."; and

(4) by striking out the section heading and inserting in lieu thereof the following new section heading:

"SEC. 1082. DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF THE COLD WAR, THE KOREAN CONFLICT, AND THE VIETNAM ERA.".

SEC. 1072. REQUIREMENT FOR CERTIFICATION BY SECRETARY OF DEFENSE CONCERNING DECLASSIFICATION OF VIETNAM-ERA POW/MIA RECORDS.

(a) FINDINGS.—Congress makes the following findings:

(1) The Senate, by Senate Resolution 324, 102d Congress, 2d session, agreed to on July 2, 1992, unanimously requested the President to "expeditiously issue an Executive Order requiring all executive branch departments and agencies to declassify and publicly release without compromising United States national security all documents, files, and other materials pertaining to POW's and MIA's.".

(2) The President, in an executive order dated July 22, 1992, ordered declassification of all United States Government documents, files, and other materials pertaining to American personnel who became prisoners of war or missing in action in Southeast Asia.

(3) The President stated on Memorial Day of 1993 that all such documents, files, and other materials pertaining to the personnel covered by that executive order should be declassified by Veterans Day of 1993.

(4) The President declared on Veterans Day of 1993 that all such documents, files, and other materials had been declassified.

(5) Nonetheless, since that Veterans Day declaration in 1993, there have been found still classified more United States Government documents, files, and other materials pertaining to American personnel who became prisoners of war or missing in action in Southeast Asia.

(b) REVIEW AND CERTIFICATION.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall—

(1) conduct a review to determine whether there continue to exist in classified form documents, files, or other materials pertaining to American personnel who became prisoners of war or missing in action in Southeast Asia that should be declassified in accordance with Senate Resolution 324, 102d Congress, 2d session, agreed to on July 2, 1992, and the executive order of July 22, 1992; and

(2) Certify to Congress that all documents, files, and other materials pertaining to such personnel have been declassified and specify in the certification the date on which the declassification was completed.

SEC. 1073. INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF THE VIETNAM CONFLICT.

Not later than 45 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress the following information pertaining to United States personnel involved in the Vietnam conflict that remain not accounted for:

(1) A complete listing by name of all such personnel about whom it is possible that officials of the Socialist Republic of Vietnam can produce additional information or remains that could lead to the maximum possible accounting for those personnel, as determined on the basis of all information available to the United States Government.

(2) A complete listing by name of all such personnel about whom it is possible that officials of the Lao People's Democratic Republic can produce additional information or remains that could lead to the maximum possible accounting for those personnel, as determined on the basis of all information available to the United States Government.

SEC. 1074. REPORT ON POW/MIA MATTERS CONCERNING NORTH KOREA.

(a) FINDINGS.—Congress makes the following findings:

(1) The Select Committee on POW/MIA Affairs of the Senate concluded in its final report, dated January 13, 1994, that "it is likely that a large number of possible MIA remains can be repatriated and several records and documents on unaccounted for POW's and MIA's can be provided from North Korea once a joint working level commission is set up under the leadership of the United States.".

(2) The Select Committee recommended in such report that "the Departments of State and Defense take immediate steps to form this commission through the United Nations Command at Panmunjom, Korea" and that the "commission should have a strictly humanitarian mission and should not be tied to political developments on the Korean peninsula.".

(3) In August 1993, the United States and North Korea entered into an agreement concerning the repatriation of remains of United States personnel.

(4) The establishment of a joint working level commission with North Korea could enhance the prospects for results under the August 1993 agreement.

(b) REPORT.—The Secretary of Defense shall—

(1) at the end of January, May, and September of 1995, submit a report to Congress on the status of efforts to obtain information from North Korea concerning United States personnel involved in the Korean conflict who remain not accounted for and to obtain from North Korea any remains of such personnel; and

(2) actively seek to establish a joint working level commission with North Korea, consistent with the recommendations of the Select Committee on POW/MIA Affairs of the Senate set forth in the final report of the committee, dated January 13, 1993, to resolve the remaining issues relating to United States personnel who became prisoners of war or missing in action during the Korean conflict.

SEC. 1075. ELIMINATION OF DISPARITY BETWEEN EFFECTIVE DATES FOR MILITARY AND CIVILIAN RETIREE COST-OF-LIVING ADJUSTMENTS FOR FISCAL YEAR 1995.

(a) IN GENERAL.—The fiscal year 1995 increase in military retired pay shall (notwithstanding subparagraph (B) of section 1401a(b)(2) of title 10, United States Code) first be payable as part of such retired pay for the month of March 1995.

(b) DEFINITIONS.—For the purposes of subsection (a):

(1) The term "fiscal year 1995 increase in military retired pay" means the increase in retired pay that, pursuant to paragraph (1) of section 1401a(b) of title 10, United States Code, becomes effective on December 1, 1994.

(2) The term "retired pay" includes retainer pay.

(c) LIMITATION.—Subsection (a) shall be effective only if there is appropriated to the Department of Defense Military Retirement Fund (in an Act making appropriations for the Department of Defense for fiscal year 1995 that is enacted before March 1, 1995) such amount as is necessary to offset increased outlays to be made from that fund during fiscal year 1995 by reason of the provisions of subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1995 to the Department of Defense Military Retirement Fund the sum of $376,000,000 to offset increased outlays to be made from that fund during fiscal year 1995 by reason of the provisions of subsection (a).

SEC. 1076. MILITARY RECRUITING ON CAMPUS.

(a) DENIAL OF FUNDS.—(1) No funds available to the Department of Defense may be provided by grant or contract to any institution of higher education that has a policy of denying, or which effectively prevents, the Secretary of Defense from obtaining for military recruiting purposes—

(A) entry to campuses or access to students on campuses; or

(B) access to directory information pertaining to students.

(2) Students referred to in paragraph (1) are individuals who are 17 years of age or older.

(b) PROCEDURES FOR DETERMINATION.—The Secretary of Defense, in consultation with the Secretary of Education, shall prescribe regulations that contain procedures for determining if and when an educational institution has denied or prevented access to students or information described in subsection (a).

(c) DEFINITION.—For purposes of this section, the term "directory information" means, with respect to a student, the student's name, address, telephone listing, date and place of birth, level of education, degrees received, and the most recent previous educational institution enrolled in by the student.

SEC. 1077. STUDY ON CONVERGENCE OF GEOSAT AND EOS ALTIMETRY PROGRAMS.

(a) REQUIREMENT.—The Secretary of the Navy and the Administrator of the National Aeronautics and Space Administration shall jointly conduct a study on the convergence of the National Aeronautics and Space Administration Earth Observing System Altimetry mission with the Navy Geosat Follow-On program. The study shall assess whether a converged system, which may involve minor modifications to the Geosat Follow-On satellite, could—

(1) satisfy the needs of the Earth Observing System program for altimetry data;

(2) reduce the expenses of the National Aeronautics and Space Administration in satisfying such needs;

(3) be available in time to serve as the follow-on to the Topex/Poseidon mission; and

(4) continue to meet the requirements of the Navy for altimetry data at no additional cost to the Navy.

(b) CONSULTATION.—In concluding the study, the Secretary and the Administrator shall consult with appropriate members of the scientific community.

(c) REPORT.—The Secretary and the Administrator shall submit to the Committees on Armed Services, Commerce, Science, and Transportation and the Committees on Armed Services and Science, Space, and Technology of the House of Representatives a report on the results of the study conducted under subsection (a), together with the recommendations of the Secretary and the Administrator thereon. The Secretary and the Administrator shall submit not later than February 15, 1995.

SEC. 1078. VISAS FOR OFFICIALS OF TAIWAN.

Section 4(b)(6) of the Taiwan Relations Act (22 U.S.C. 3302(b)(6)) is amended—

(1) by inserting "(A)" immediately after "(6)"; and

(2) by adding at the end the following:

"(B) Whenever the president of Taiwan or any other high-level official of Taiwan shall apply to visit the United States for the purposes of discussions with United States Federal or State government officials concerning:

"(i) Trade or business with Taiwan that will reduce the United States-Taiwan trade deficit;

"(ii) Prevention of nuclear proliferation;

"(iii) Threats to the national security of the United States;

"(iv) The protection of the global environment;

"(v) The protection of endangered species; or

"(vi) Regional humanitarian disasters.

The official shall be admitted to the United States, unless the official is otherwise excludable under the immigration laws of the United States.".

SEC. 1079. SENSE OF THE SENATE CONCERNING PARTICIPATION IN ALLIED DEFENSE COOPERATION.

It is the sense of the Senate that the President should use existing authorities to the greatest extent possible to authorize the provision of the following types of assistance and cooperation to countries like Poland, Hungary and the Czech Republic who are making significant progress in working with NATO—

(1) Excess defense articles as defined in the Foreign Assistance Act of 1961 and the Arms Control Export Act;

(2) Loan materials, supplies and equipment for research and development purposes;

(3) Leases and loans of major defense equipment and other defense articles;

(4) Cooperative military airlift agreements;

(5) The procurement of communications support and related supplies and services;

(6) Actions to standardize equipment with North Atlantic Treaty Organization members.

SEC. 1080. INTERAGENCY PLACEMENT PROGRAM FOR FEDERAL EMPLOYEES AFFECTED BY REDUCTION IN FORCE ACTIONS.

(a) STUDY AND REPORT.—(1) No later than 6 months after the date of the enactment of this Act, the Office of Personnel Management, in consultation with the Department of Defense, shall conduct a study and submit a report to the Congress on—

(A) the feasibility of establishing a mandatory interagency placement program for Federal employees affected by reduction in force actions; and

(B) any action taken by the Office of Personnel Management under subsection (b).

(2) In conducting the study under this section, the Office of Personnel Management, in consultation with the Department of Defense, shall seek comments from all Federal agencies.

(b) AGREEMENTS TO ESTABLISH INTERAGENCY PLACEMENT PROGRAM.—(1) If, during the 6-month period after the date of the enactment of this Act, the Office of Personnel Management, in consultation with the Department of Defense, determines that a Government-wide interagency placement program for Federal employees affected by reduction in force actions is feasible, the Office of Personnel Management may enter into an agreement with each agency that agrees to participate, to establish such a program. A program established under this subsection shall not be required to be an interagency placement program as defined under subsection (c)(3).

(2) If the Office of Personnel Management makes a determination to establish a program as provided under paragraph (1), the Office shall include in the report submitted under subsection (a) each agency that decides not to participate in the program and the reasons of the agency for the decision.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "agency" means an "Executive agency" as defined under section 105 of title 5, United States Code, and—

(A) includes the United States Postal Service and the Postal Rate Commission; and

(B) does not include the General Accounting Office;

(2) the term "Federal employees affected by reduction in force actions" means Federal employees who—

(A) are scheduled to be separated from service under a reduction in force pursuant to—

(i) regulations prescribed under section 3502 of title 5, United States Code; or

(ii) procedures established under section 3595 of title 5, United States Code; or

(B) are separated from service under such a reduction in force; and

(3) the term "interagency placement program" means a program that provides a system to require the offer of a position in an agency to an employee of another agency affected by a reduction in force action, if—

(A) the position cannot be filled through a placement program of the agency in which the position is located;

(B) the employee to whom the offer is made is well qualified for the offered position;

(C)(i) the classification of the offered position is equal to the classification of the employee's present or last held position; or

(ii) the basic rate of pay of the offered position is equal to the basic rate of pay of the employee's present or last held position; and

(D) the geographic location of the offered position is within the commuting area of—

(i) the residence of the employee; or

(ii) the location of the employee's present or last held position.

SEC. 1081. GEORGE C. MARSHALL EUROPEAN CENTER FOR SECURITY STUDIES.

(a) USE OF CONTRIBUTIONS.—Funds received by the United States Government from the Federal Republic of Germany as its fair share of the costs of the George C. Marshall European Center for Security Studies shall be credited to appropriations available to the Department of Defense for the George C. Marshall European Center for Security Studies. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Center for the same purposes and the same period as the appropriations with which merged.

(b) WAIVER OF CHARGES.—(1) The Secretary of Defense may waive reimbursement of the costs of conferences, seminars, courses of instruction, or similar educational activities of the George C. Marshall European Center for Security Studies for military officers and civilian officials of cooperation partner states of the North Atlantic Cooperation Council or the Partnership for Peace if the Secretary determines that attendance by such personnel without reimbursement is in the national security interest of the United States.

(2) Costs for which reimbursement is waived pursuant to paragraph (1) shall be paid from appropriations available for the Center.

SEC. 1082. CHANGES IN NOTICE REQUIREMENTS UPON PENDING OR ACTUAL TERMINATION OF DEFENSE PROGRAMS.

(a) TIME FOR NOTICE REQUIREMENT AFTER SUBMISSION OF BUDGET.—Subsection (a) of section 4471 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 106 Stat. 2753; 10 U.S.C. 2501 note) is amended—

(1) by striking out "As soon as reasonably practicable" and inserting in lieu thereof "Not later than 90 days"; and

(2) by striking out "and not more than 180 days after such date,".

(b) TIME FOR NOTICE REQUIREMENT AFTER ENACTMENT OF APPROPRIATIONS ACT.—Subsection (b) of such section is amended—

(1) by striking out "as soon as reasonably practicable" and inserting in lieu thereof "not later than 90 days"; and

(2) by striking out "and not more than 180 days after such date,".

(c) TIME FOR NOTICE REQUIREMENT ON WITHDRAWAL OF NOTIFICATION.—Subsection (f)(1) of such section is amended in the second sentence by striking out "as soon as reasonably practicable" and inserting in lieu thereof "not later than 90 days".

SEC. 1083. TRANSFER OF OBSOLETE VESSEL GUADALCANAL.

(a) AUTHORITY.—Notwithstanding subsections (a) and (d) of section 7306 of title 10, United States Code, but subject to subsections (b) and (c) of that section, upon the decommissioning of the USS Guadalcanal (LPH 7), the Secretary of the Navy may transfer the Guadalcanal to the not-for-profit organization Intrepid Museum Foundation, New York, New York.

(b) LIMITATIONS.—The transfer authorized by section (a) may be made only if the Secretary determines that the vessel Guadalcanal is of no further use to the United States for national security purposes.

(c) TERMS AND CONDITIONS.—The Secretary may require such terms and conditions in connection with the transfer authorized by this section as the Secretary considers appropriate.

SEC. 1084. STUDY OF SPOUSAL ABUSE INVOLVING ARMED FORCES PERSONNEL.

(a) FINDINGS.—Congress makes the following findings:

(1) The Department of Defense has sponsored several highly successful programs designed to curtail spousal abuse.

(2) The readiness of the Armed Forces would be enhanced by eliminating all forms of spousal abuse involving members of the Armed Forces.

(3) Available data on the frequency and causes of spousal abuse involving members of the Armed Forces is not comprehensive for the Armed Forces.

(b) STUDY AND REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall conduct a study on spousal abuse involving members of the Armed Forces of the United States and submit to Congress a report on the results of the study.

(c) CONTENT OF REPORT.—The report shall contain the following matters:

(1) The frequency of spousal abuse involving members of the Armed Forces.

(2) A discussion of the possible causes of such spousal abuse.

(3) A discussion of the procedures followed in responding to incidents of such spousal abuse.

(4) An analysis of the effectiveness of those procedures.

(5) A review of the existing programs for curtailing such spousal abuse.

(6) A strategy for the entire Armed Forces for curtailing spousal abuse involving members of the Armed Forces.

SEC. 1085. REVIEW OF THE PROCEDURES USED BY DEPARTMENT OF DEFENSE INVESTIGATIVE ORGANIZATIONS WHEN CONDUCTING AN INVESTIGATION INTO THE DEATH OF A MEMBER OF THE ARMED FORCES WHO, WHILE SERVING ON ACTIVE DUTY, DIED FROM A CAUSE DETERMINED TO BE SELF-INFLICTED.

SENSE OF CONGRESS.—It is the Sense of Congress that, upon receipt of the report required by section 1185 of the National Defense Authorization Act for Fiscal Year 1994, the Senate Committee on Armed Services should review that report and hold hearings related to the procedures employed by Department of Defense investigative organizations when conducting an investigation into the death of a member of the Armed Services who, while serving on active duty, died from a cause determined to be self-inflicted.

SEC. 1086. PUBLIC EDUCATION FACILITY OF THE ARMED FORCES INSTITUTE OF PATHOLOGY.

(a) PURPOSE.—It is the purpose of this section to—

(1) display and interpret the collections of the Armed Forces Institute of Pathology currently located at Walter Reed Medical Center; and

(2) designate a site for the relocation of the public education facility of the Armed Forces Institute of Pathology so that it may serve as a central resource of instruction about the critical health issues which confront all American citizens.

(b) SITE OF FACILITY.—The public education facility of Armed Forces Institute of Pathology shall be located on or near the Mall on land owned by the Federal Government or the District of Columbia in the District of Columbia.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority or responsibilities of the National Capital Planning Commission or the Commission of Fine Arts.

(d) DEFINITION.—As used in this section, the term "the Mall" means—

(1) the land designated as "Union Square", United States Reservation 6A; and

(2) the land designated as the "Mall", United States Reservations 3, 4, 5, and 6.

(e) SENSE OF THE CONGRESS.—

(1) FINDINGS.—Congress finds that—

(A) the National Museum of Health and Medicine Foundation, Inc. (a private, nonprofit organization having for its primary purpose the relocation to the Mall and revitalization of the National Museum of Health and Medicine), the Armed Forces Institute of Pathology, and the Public Health Service have jointly supported planning to relocate the Museum to a site on land that is located east of and adjacent to the Hubert H. Humphrey Building (100 Independence Avenue, Southwest, in the District of Columbia); and

(B) the National Museum of Health and Medicine Foundation, Inc., is deserving of the encouragement and support of the American people in its effort to relocate the National Museum of Health and Medicine to a site on land the is located east of and adjacent to the Hubert H. Humphrey Building, and in its effort to raise funds for a revitalized Museum to inspire increasing numbers of Americans to lead healthy lives through improved public understanding of health and the medical sciences.

(2) LOCATION.—It is the sense of the Congress that, subject to appropriate approvals by the National Capital Planning Commission and the Commission of Fine Arts, the National Museum of Health and Medicine should be relocated to a site on land that is located east of and adjacent to the Hubert H. Humphrey Building for the purpose of educating the American public concerning health and the medical sciences.

SEC. 1087. ASSIGNMENTS OF EMPLOYEES BETWEEN FEDERAL AGENCIES AND FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

(a) AUTHORITY.—Section 3371(4) of title 5, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) a federally funded research and development center.".

(b) PROVISIONS GOVERNING ASSIGNMENTS.—Section 3372 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(e) Under regulations prescribed pursuant to section 3376 of this title—

"(1) an assignment of an employee of a Federal agency to an other organization or an institution of higher education, and an employee so assigned, shall be treated in the same way as an assignment of an employee of a Federal agency to a State or local government, and an employee so assigned, is treated under the provisions of this subchapter governing an assignment of an employee of a Federal agency to a State or local government, except that the rate of pay of an employee assigned to a federally funded research and development center may not exceed the rate of pay that such employee would be paid for continued service in the position in the Federal agency from which assigned; and

"(2) an assignment of an employee of an other organization or an institution of higher education to a Federal agency, and an employee so assigned, shall be treated in the same way as an assignment of an employee of a State or local government to a Federal agency, and an employee so assigned, is treated under the provisions of this subchapter governing an assignment of an employee of a State or local government to a Federal agency.".

SEC. 1088. BOSNIA AND HERZEGOVINA.

(a) PURPOSE.—To express the sense of Congress concerning the international efforts to end the conflict in Bosnia and Hercegovina.

(b) STATEMENTS.—The Congress makes the following statements of support:

(1) The Congress supports the use of international sanctions in the form of arms and economic embargoes imposed by the United Nations Security Council in appropriate circumstances.

(2) The Congress supports the imposition of an arms and economic embargo on the Government of Iraq by United Nations Security Council resolution 661 of August 6, 1990 to bring about compliance with a number of conditions, including in particular an end to Iraq's nuclear weapons program.

(3) The Congress supports the imposition of an arms, petroleum and economic embargo on Haiti by United Nations Security Council resolutions 875 of October 16, 1993 and 917 of May 17, 1994 to bring about compliance with the Governors Island Agreement.

(4) The Congress supports the imposition of an arms and civil aircraft embargo on Libya pursuant to United Nations Security Council resolution 748 of March 31, 1992 in order to convince Libya to renounce terrorism.

(c) FINDINGS.—The Congress makes the following findings:

(1) The United States took the lead in the United Nations Security Council to impose international sanctions in the form of arms and economic embargoes on Iraq, Haiti, and Libya.

(2) The security of the Republic of Korea with whom the United States has a mutual defense treaty and on whose territory there are more than 38,000 members of the United States Armed Forces is a vital interest of the United States.

(3) Should negotiations fail, the imposition of sanctions by the United Nations Security Council on North Korea, which would require the affirmative vote or abstention of China, Russia, Britain, and France, may be essential to stop North Korea's nuclear weapons development program and to end a nuclear threat to the Republic of Korea and Southeast Asia.

(4) The effective enforcement of sanctions on North Korea, once imposed by the United Nations Security Council, would require the cooperation of China, Russia, and Japan as well as other allies, including Britain and France, both permanent members of the United Nations Security Council.

(5) The United States voted for the international arms embargo imposed by United Nations Security Council resolution 713 of September 25, 1991 that was imposed on Yugoslavia.

(6) The imposition of the United Nations arms embargo on September 25, 1991 has not served to end the conflict in Bosnia and Hercegovina, has provided a battlefield advantage to the Bosnian Serbs, who possess artillery, tanks, and other weapons left behind by the former Yugoslav Army or provided by Serbia and Montenegro, and has deprived the Government of Bosnia and Hercegovina from acquiring the adequate means of defending itself and its citizens.

(7) Our NATO allies have committed ground forces to the United Nations Protection Force (UNPROFOR) in former Yugoslavia. At the present time France has 5,518

troops, Britain 3,435, the Netherlands 2,073, Canada 2,037, Turkey 1,696, Spain 1,417, and Belgium 1,000. Our NATO allies have thus far sustained 49 deaths and 936 wounded as a result of their participation in UNPROFOR.

(8) For the first time the so-called "contact group" composed of representatives of the United States, Russia, France and Britain is moving toward a unified position of using an incentives and disincentives "carrot and stick" strategy to bring about a peaceful settlement of the conflict in Bosnia and Hercegovina.

(d) It is the sense of the Congress that the United States should work with the NATO Member nations and the other permanent members of the United Nations Security Council to endorse the efforts of the contact group to bring about a peaceful settlement of the conflict in Bosnia Hercegovina, including the following:

(A) the preservation of an economically, politically and militarily viable Bosnian state capable of exercising its rights under the United Nations Charter as part of a peaceful settlement, the lifting of the United Nations arms embargo on the Government of Bosnia and Hercegovina so that it can exercise the inherent right of a sovereign state to self-defense;

(B) if the Bosnian Serbs, while the contact group's peace proposal is being considered and discussed, attack the safe areas designated by the United Nations Security Council, the partial lifting of the arms embargo on the Government of Bosnia and Hercegovina and the provision to that Government of defensive weapons and equipment appropriate and necessary to defend those safe areas;

(C) if the Bosnian Serbs do not respond constructively to the peace negotiations, the President or his representative shall promptly propose or support a resolution in the United Nations Security Council to terminate the intentional arms embargo on Bosnia and Hercegovina (and the orderly withdrawal of the United Nationals Protection Force and humanitarian relief personnel). If the Security Council fails to pass such a resolution, the President shall within 5 days consult with Congress regarding unilateral termination of the arms embargo on the Government of Bosnia and Hercegovina.

SEC. 1089. PROVISION OF INTELLIGENCE AND OTHER ASSISTANCE WHERE DRUG TRAFFICKING THREATENS NATIONAL SECURITY.

(a) Notwithstanding any other provision of law, it shall not be unlawful for authorized employees or agents of a foreign country to damage, render inoperative, or destroy an aircraft in that country's territory or airspace, or to attempt to do so, if that aircraft is reasonably suspected to be primarily engaged in illicit narcotics trafficking, provided that the President of the United States prior to the actions described in this subparagraph being taken has determined:

(1) that such actions are necessary because of the extraordinary threat posed by drug trafficking to the national security of that country, and

(2) that the country has appropriate procedures in place to protect against innocent loss of life in the air and on the ground, which shall at a minimum include effective means to identify and warn aircraft prior to the use of force.

(b) It shall not be unlawful for authorized employees or agents of the United States to provide assistance, including but not limited to operational, intelligence, logistical, technical and administration assistance, for the actions of foreign countries set forth in subsection (a), nor shall the provision of such assistance give rise to any civil action seeking money damages or any other form of relief against the United States or its agents or employees.

SEC. 1090. ADMINISTRATION OF ATHLETICS PROGRAMS AT THE SERVICE ACADEMIES.

(a) UNITED STATES MILITARY ACADEMY.—(1) Chapter 403 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4357. Administration of athletics program

"(a) The position of athletic director of the Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill such position as an active duty assignment.

"(b) Under regulations prescribed by the Secretary of the Army, the Superintendent of the Academy shall establish and administer a nonappropriated fund account for the athletics program of the Academy. The Superintendent shall credit to such account all revenue received from the conduct of the athletics program of the Academy and all contributions received for such program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4357. Administration of athletics program.".

(b) UNITED STATES NAVAL ACADEMY.—(1) Chapter 603 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 6975. Administration of athletics program

"(a) The position of athletic director of the Naval Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill such position as an active duty assignment.

"(b) Under regulations prescribed by the Secretary of the Navy, the Superintendent of the Naval Academy shall establish and administer a nonappropriated fund account for the athletics program of the Naval Academy. The Superintendent shall credit to such account all revenue received from the conduct of the athletics program of the Naval Academy and all contributions received for such program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"6975. Administration of athletics program.".

(c) UNITED STATES AIR FORCE ACADEMY.—(1) Chapter 903 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9356. Administration of athletics program

"(a) The position of athletic director of the Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill such position as an active duty assignment.

"(b) Under regulations prescribed by the Secretary of the Air Force, the Superintendent of the Academy shall establish and administer a nonappropriated fund account for the athletics program of the Academy. The Superintendent shall credit to such account all revenue received from the conduct of the athletics program of the Academy and all contributions received for such program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9356. Administration of athletics program.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 240 days after the date of the enactment of this Act.

SEC. 1091. REVIEW OF THE BOTTOM UP REVIEW AND THE FUTURE YEAR DEFENSE PROGRAM AND ESTABLISHMENT OF NEW FUNDING REQUIREMENTS AND PRIORITIES.

(a) FINDINGS.—Congress finds as follows:

(1) Whereas the Administration commissioned the Bottom Up Review to properly structure the Armed Forces of the United States for the Post-Cold War Era;

(2) Whereas the Secretary of Defense has testified that the Department of Defense's Future Years Defense Program includes $20 billion more in program funding requests during fiscal years 1996 through 1999 than the defense funding levels in the Administration's budget can support;

(3) Whereas, the Secretary of the Navy has testified that the Department of the Navy will only operate 330 ships rather than the 346 ships required by the Bottom Up Review;

(4) Whereas, in January 1994, in his Annual Report to the President and the Congress, the Secretary of Defense reported that the Air Force will field approximately 100 heavy bombers rather than the 184 required by the Bottom Up Review;

(5) Whereas the Department of Defense's plans for a major regional contingency in the Far East call for 5 Army divisions and the plans for a major regional contingency in Southwest Asia call for 7 Army divisions, while the Bottom Up Review plans for an Army of only 10 active divisions;

(6) Whereas the Administration's budget assumes the Department of Defense will save at least $6 billion from procurement reform;

(7) Whereas the first and second rounds of the Base Realignment and Closure Commission have not yet achieved the level of savings initially estimated, and the 1995 base closure round may cost significantly more than is assumed in the Administration's budget.

(b) SENSE OF CONGRESS.—It is the Sense of Congress:

(1) that within 30 days after enactment of this legislation, the Secretary of Defense should initiate a review of the assumptions and conclusions of the President's Budget, the Bottom Up Review, and the Future Years Defense Program; and that not more than 180 days after the review is initiated the Secretary of Defense should submit to the President and to the Congress a report detailing the force structure required for an effective defense of the United States and its vital national interests;

(2) and that not more than 60 days after receipt of the report described in subsection (b)(1), the President should submit to the Congress a report detailing the steps the President will take to meet the force structure described in subsection (b)(1);

(3) and that the fiscal year 1996 budget submitted to the Congress by the President should reflect the funding level necessary to support the force structure described in subsection (b)(1).

SEC. 1092. GENOCIDE IN RWANDA.

(a) FINDINGS.—The Congress finds that—

(1) since April 6, 1994, elements of the Rwandan government forces, and their allied militias, have organized the massacres of more than 200,000 Rwandan civilians, of both Tutsi and Hutu ethnic origin;

(2) an estimated 2 million Rwandans have been internally displaced, and at least 500,000 have fled to neighboring countries;

(3) on April 26, 1994, the Senate agreed to Senate Resolution 207, deploring the massacres and urging prompt resolution of this crisis;

(4) the potential exists for retaliatory acts to be committed by elements within the Rwandan Patriotic Front against civilians;

(5) on June 8, 1994, the United Nations Security Council expanded and reinforced the United Nations Assistance Mission for Rwanda (UNAMIR) to 5,500 troops with a mandate to protect civilians;

(6) on June 22, 1994, the United Nations Security Council voted unanimously to support the deployment of military forces from France and Senegal for a temporary operation that would contribute to the security and protection of populations at risk in Rwanda.

(b) POLICY.—The Congress—

(1) calls upon the President to acknowledge that acts of genocide have been committed in Rwanda;

(2) urges the President to support the establishment of an impartial commission of experts to examine and analyze the evidence submitted of breaches of the Convention on Genocide, and other grave violations of international humanitarian law, committed in Rwanda;

(3) commends the Department of Defense for logistical help already provided and urges the Secretary of Defense to further expedite all United States military contributions to the humanitarian effort in Rwanda.

(4) implores the President to take the lead in the international community to expedite commitments of the necessary resources for, and to organize the speedy training and deployment of, the reinforced UNAMIR operation, with the mandate of protecting civilian populations at risk in Rwanda;

(5) strongly urges the President and the international community to expedite assistance needed for humanitarian operations in Rwanda, and neighboring states, for the support of Rwandan refugees;

(6) commends France and Senegal for cooperating with the Secretary General towards the fulfillment of the objectives of the United Nations in Rwanda; and

(7) urges France and Senegal pursuant to the United Nations Security Council resolution of June 22, 1994, to maintain the humanitarian character of their operation in Rwanda, with the view towards impartiality and neutrality.

SEC. 1093. STUDIES OF HEALTH CONSEQUENCES OF MILITARY SERVICE OR EMPLOYMENT IN SOUTHWEST ASIA DURING THE PERSIAN GULF WAR.

(a) EPIDEMIOLOGICAL STUDY.—

(1) IN GENERAL.—The Secretary of Defense shall award a grant under this subsection to one or more non-Federal entities selected for the award under subsection (c). The purpose of a grant is to permit the entity receiving the award to carry out the study described in paragraph (2).

(2) NATURE OF STUDY.—The purpose of the study referred to in paragraph (1) is to determine the nature and scope of the illnesses and symptoms suffered by the individuals referred in paragraph (3) as a result of service or employment in the Southwest Asia theater of operations during the Persian Gulf War.

(3) INDIVIDUALS COVERED BY STUDY.—Paragraph (2) applies to the following individuals:

(A) Individuals who served as members of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

(B) Individuals who were civilian employees of the Department of Defense in that theater during that period.

(C) Where appropriate, individuals who were employees of contractors of the Department in that theater during that period.

(D) Where appropriate, the spouses and children of individuals described in subparagraph (A).

(4) STUDY DESIGN.—The study required under this subsection shall be designed—

(A) to assess the extent, if any, of the association between—

(i) the illnesses and symptoms suffered by individuals referred to in paragraph (3);

(ii) the exposure of the individuals referred to in subparagraphs (A), (B), and (C) of that paragraph to chemical and biological agents, drugs and vaccines, endemic biological diseases, pesticides, toxins, and other potentially hazardous materials; and

(iii) the experiences of such individuals with stress-producing battlefield and wartime conditions;

(B) to identify risk factors for predicting the illnesses or symptoms relating to such exposure that will arise within 3 years of the arrival of an individual referred to in subparagraph (A), (B), or (C) of paragraph (3) in the Southwest Asia theater of operations;

(C) to determine—

(i) the incidence, prevalence, and nature of the illnesses and symptoms suffered by the individuals referred to in paragraph (3), including—

(I) the incidence, prevalence, and nature of the illnesses and symptoms of such individuals before the commencement of the period of the Persian Gulf War and the incidence, prevalence, and nature of the illnesses of such individuals after the end of that period; and

(II) the incidence, prevalence, and nature of the illnesses, symptoms, and birth defects of any children conceived by such individuals before the commencement of that period and of any children conceived by such individuals during or after the end of that period; and

(ii) the incidence, prevalence, and nature of illnesses and symptoms of other individuals or groups of individuals, if any, who may suffer from an illness or symptom as a result of the service or employment of any person or group of persons in the Southwest Asia theater of operations during the Persian Gulf War; and

(D) to evaluate a comparison sample or to evaluation any other matter that the Secretary or the entity determines appropriate to the purposes of the study.

(5) REPORTS.—

(A) INTERIM REPORTS.—Not later than each of July 1, 1995, and July 1, 1996, the Secretary shall submit to the congressional defense committees and the Committees on Veterans' Affairs of the Senate and the House of Representatives an interim report on the results of the study carried out under this subsection.

(B) FINAL REPORT.—Not later than January 1, 1998, the Secretary shall submit to the committees referred to in subparagraph (A) a final report on the results of the study.

(C) FORM OF REPORTS.—The reports submitted under this paragraph shall be submitted in unclassified form.

(b) STUDIES OF HEALTH CONSEQUENCES OF ADMINISTRATION OF PYRIDOSTIGMINE BROMIDE.—

(1) IN GENERAL.—The Secretary of Defense shall award a grant under this subsection to one or more non-Federal entities selected for the award under subsection (c). The purpose of a grant is to permit the entity receiving the award to carry out a study or studies to determine the following:

(A) The long-term health consequences of the administration of pyridostigmine bromide as an antidote enhancer for chemical nerve agent toxicity during the Persian Gulf War.

(B) The short-term and long-term health consequences of the administration of pyridostigmine bromide under the chemical nerve agent pretreatment program of the Department of Defense and exposure to pesticides, environmental toxins, and other hazardous substances during battlefield conditions that prevailed in the Southwest Asia theater of operations during the Persian Gulf War.

(2) STUDIES.—The Secretary shall provide that an entity awarded a grant under this subsection shall carry out a study described in paragraph (3) or (4).

(3) RETROSPECTIVE STUDY.—A study referred to in paragraph (2) is a retrospective study on members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf War in order to determine the following:

(A) The nature of the undiagnosed and chronic illnesses suffered by such members.

(B) The degree of association between such illnesses and—

(i) use of pyridostigmine bromide over a short period of time (as determined by the Secretary) during the Persian Gulf War;

(ii) use of pyridostigmine bromide over an extended period of time (as so determined) during that war; or

(iii) use of no pyridostigmine bromide.

(C) The degree of association between—

(i) such illnesses;

(ii) each extent of use of pyridostigmine bromide described in subparagraph (B);

(iii) receipt of other vaccinations or medications; and

(iv) exposure to pesticides, organophosphates, or carbamates.

(4) ANIMAL MODEL STUDY.—A study referred to in paragraph (2) is also a study using appropriate animal research models in order to determine whether use of pyridostigmine bromide in combination with exposure to pesticides or other organophosphates, carbamates, or relevant chemicals results in increased toxicity in animals and is likely to have a similar effect on humans.

(5) REPORTS.—

(A) ANIMAL STUDY REPORT.—Not later than January 1, 1996, the Secretary shall submit to the congressional defense committees and the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the study carried out under paragraph (4).

(B) INTERIM REPORTS ON RETROSPECTIVE STUDY.—Not later than each of July 1, 1995, and July 1, 1996, the Secretary shall submit to the committees referred to in subparagraph (A) an interim report on the results of the study carried out under paragraph (3).

(C) FINAL REPORT ON RETROSPECTIVE STUDY.—Not later than January 1, 1998, the Secretary shall submit to the committees referred to in subparagraph (A) a final report on the results of the study carried out under paragraph (3).

(D) FORM OF REPORTS.—The reports submitted under this paragraph shall be submitted in unclassified form.

(c) SELECTION OF STUDY ENTITIES.—

(1) IN GENERAL.—The Secretary of Defense shall select entities to which to award grants for the studies described in subsections (a) and (b) in accordance with this subsection.

(2) Submittal of proposals.—An entity seeking to carry out a study under a grant under subsection (a) or (b) shall submit to the Secretary the following proposals:

(A) A proposal for a pilot study in order to determine the research design and research instrument to be used in the study.

(B) A proposal for the study.

(3) Independent review.—The Secretary shall ensure that individuals described in paragraph (4)—

(A) review each proposal submitted to the Secretary under paragraph (2) for purposes of determining whether or not the proposal—

(i) addresses adequately the purposes of the study; and

(ii) meets the technical, scientific, and peer review requirements that apply to similar studies carried out under the direction of the Secretary of Health and Human Services; and

(B) submit to the Secretary recommendations for the selection by the Secretary of one or more entities to carry out the study.

(4) Reviewing individuals.—Individuals referred to in paragraph (3) are any individuals who, as determined by the Secretary—

(A) are not employees of the Federal Government;

(B) have an expertise in epidemiology, toxicology, neurology, biology, biostatistics, post-traumatic stress disorder, or public health; and

(C) have no financial relationship with the Department of Defense or with any chemical company or pharmaceutical company whose productions may be addressed in the study.

(5) Selection.—The Secretary shall—

(A) select the entities that will carry out the studies described under subsections (a) and (b) from among the entities recommended for such selection under paragraph (3); and

(B) award such entities grants under the appropriate subsection.

(d) Performance of studies.—

(1) Pilot studies.—

(A) Implementation.—An entity to which the Secretary awards a grant for a study under subsection (a) or (b) shall carry out the pilot study for such study in accordance with the proposal for the pilot study submitted to the Secretary under subsection (c)(2)(A).

(B) Response to results.—If an entity determines as a result of a pilot study under subparagraph (A) that revisions to the study proposed by the entity are necessary in order to meet the purposes of the study under this section, the entity shall submit to the Secretary a proposal for such revisions to the study.

(C) Final approval.—The Secretary shall—

(i) review any revisions to a proposal to a study that are submitted to the Secretary under subparagraph (B); and

(ii) approve the proposal for the study, as so revised, if the Secretary determines that the proposal meets the purposes of the study under this section.

(2) Studies.—An entity to which the Secretary awards a grant for a study under subsection (a) or (b) shall carry out the study in accordance the proposal for the study under this section.

(e) Consultation.—The Secretary of Defense shall carry out this section in consultation with the Secretary of Veterans Affairs, the Secretary of Health and Human Services, the Administrator of the Environmental Protection Agency, the head of the Medical Follow-Up Agency of the Institute of Medicine, and the heads of other appropriate departments and agencies of the Federal Government.

(f) Funding.—Of the amount authorized to be appropriated pursuant to section 201, $10,000,000 shall be available for purposes of awarding grants for the studies described in subsections (a) and (b). Such funds shall be available for such purpose until expended.

(g) Definition.—In this section, the term "Persian Gulf War" has the meaning given such term in section 101(33) of title 38, United States Code.

SEC. 1094. GRANTS FOR RESEARCH INTO THE HEALTH CONSEQUENCES OF THE PERSIAN GULF WAR.

(a) In General.—(1) The Secretary of Defense shall award grants to appropriate nongovernmental entities for purposes of permitting such entities to carry out research to determine—

(A) the nature and causes of any illnesses suffered by the individuals referred to in paragraph (2) as a result of service or employment in the Southwest Asia theater of operations during the Persian Gulf War;

(B) the methods of transmission, if any, of such illnesses from such individuals to other individuals; and

(C) the appropriate treatment for such illnesses.

(2) The individuals referred to in paragraph (1)(A) are the following individuals:

(i) Individuals who served as members of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

(ii) Civilian employees of the Department of Defense who were employed by the Department in that theater of operations during that period.

(iii) Employees of contractors of the Department who were employed in that theater of operations during that period.

(iv) The spouses and children of the individuals referred to in clauses (i) through (iii).

(3) In carrying out research under this section, such entities shall give particular consideration to the following:

(A) Illnesses or other effects associated with exposure to depleted uranium particles, mycotoxins, genetically-altered organisms, petrochemical toxicity, pesticide poisoning, anthrax vaccines, botulinum toxoids, and other chemical hazards and agents.

(B) Endemic viral, fungal, bacterial, and rickettsial diseases (including diseases arising from biological warfare activities).

(C) Illnesses or other effects associated with ingestion of silica or sand.

(D) Assessment of risks to reproductive capacity arising from the illnesses and diseases referred to in subparagraphs (A) through (C).

(E) Pediatric disorders.

(F) Birth deficiencies.

(G) Post-traumatic stress disorder.

(H) Somatoform disorders.

(I) Chronic fatigue syndrome.

(J) Multiple chemical sensitivities.

(b) Award Process.—(1) The Secretary of Defense shall award grants under this section in consultation with the Secretary of Health and Human Services.

(2) An entity seeking a grant under this section to carry out the research described in subsection (a)(1) shall submit to the Secretary a proposal for the research.

(3) The Secretary shall ensure that appropriate individuals who are not employees of the Federal Government—

(A) review each proposal submitted to the Secretary under paragraph (2) for purposes of determining that the proposal—

(i) addresses adequately the purposes of the research for which the proposal is submitted; and

(ii) meets the technical, scientific, and peer review requirements that apply to similar research carried out under the direction of the Secretary of Health and Human Services; and

(B) submit to the Secretary recommendations for the selection by the Secretary of one or more entities so determined as recipients of a grant under subsection (a).

(4) The Secretary shall award grants under this section to entities selected by the Secretary for that purpose from among the entities identified in the recommendations under paragraph (3)(B).

(5) In awarding an entity a grant under paragraph (4), the Secretary shall ensure that the entity—

(A) carry out the research covered by the grant in accordance with the proposal submitted to the Secretary under paragraph (2); and

(B) not expose human beings to hazardous agents or materials as a result of the research.

(c) Reports.—(1) The Secretary of Defense and the Secretary of Health and Human Services shall submit to the congressional defense committees and the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the results of any research carried out under a grant awarded under this section.

(2) The Secretary of Defense and the Secretary of Health and Human Services shall submit a report under paragraph (1) on each of March 1, 1995, October 1, 1995, October 1, 1996, and October 1, 1997.

(3) Each report submitted under this subsection shall be submitted in unclassified form.

(d) Funding.—(1) Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for purposes of awarding grants under this section. Such funds shall be available for such purpose until expended.

(2) For each fiscal year in which activities under the study under this section will continue, the Secretary of Defense shall provide in the documents submitted to Congress in connection with the budget of the President for the fiscal year a request for such funds as the Secretary determines necessary in order to award grants under this section during that fiscal year.

SEC. 1095. COMPATABILITY OF HEALTH REGISTRIES.

The Secretary of Defense shall take appropriate actions to ensure that—

(1) the data collected by and the testing protocols of the Persian Gulf War Health Surveillance System are compatible with the data collected by and the testing protocols of the Persian Gulf War Veterans Health Registry; and

(2) information on individuals who register with the Department of Defense is provided to the Department of Veterans Affairs for incorporation into the Persian Gulf War Veterans Health Registry.

SEC. 1096. TECHNICAL AMENDMENTS.

(a) Title 10, United States Code.—Title 10, United States Code, is amended as follows:

(1) Section 113(e)(2) is amended by striking out "section 104" and inserting in lieu thereof "section 108".

(2) Section 133a(b) is amended by striking out "Under Secretary of Defense for Acquisition" and inserting in lieu thereof "Under Secretary of Defense for Acquisition and Technology".

(3) Section 580a(a) is amended by striking out "the date of the enactment of this section" and inserting in lieu thereof "November 30, 1993,".

(4)(A) The section 1058 added by section 554(a) of Public Law 103–160 (107 Stat. 1663) is redesignated as section 1059.

(B) The item relating to that section in the table of sections at the beginning of chapter 53 is revised to conform to the redesignation made by subparagraph (A).

(5)(A) The section 1058 added by section 1433(b) of Public Law 103–160 (107 Stat. 1834) is redesignated as section 1060.

(B) The item relating to that section in the table of sections at the beginning of chapter 53 is revised to conform to the redesignation made by subparagraph (A).

(6) Section 1141 is amended by striking out "on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1994" and inserting in lieu thereof "after November 29, 1993,".

(7) Section 1151(h)(3)(B)(v) is amended by inserting "school" after "For the fifth".

(8)(A) The heading of section 1482a is amended so that the first letter of the fifth word is lower case.

(B) The item relating to that section in the table of sections at the beginning of chapter 75 is revised to conform to the amendment made by subparagraph (A).

(9) Section 2399 is amended—

(A) in subsections (b)(5) and (c)(1), by striking out "section 138(a)(2)(B)" and inserting in lieu thereof "section 139(a)(2)(B)";

(B) in subsection (e)(3)(B), by striking out "solely as a representative of" and inserting in lieu thereof "solely in testing for";

(C) in subsection (g), by striking out "section 138" and inserting in lieu thereof "section 139"; and

(D) in subsection (h)(1), by striking out "section 138(a)(2)(A)" and inserting in lieu thereof "section 139(a)(2)(A)".

(10) Section 2502(d) is amended by striking out "Executive" and inserting in lieu thereof "executive".

(11)(A) Sections 2540 and 2541, as added by section 822(a) of Public Law 103–160 (107 Stat. 1705), are redesignated as sections 2539a and 2539b, respectively.

(B) The items relating to those sections in the table of sections at the beginning of subchapter V of chapter 148 are revised to conform to the redesignations made by subparagraph (A).

(12) Section 2865(a)(4) is amended by adding a period at the end.

(13) Sections 3022(a)(1), 5025(a)(1), and 8022(a)(1) are amended by striking out "section 137(c)" and inserting in lieu thereof "section 135(c)".

(14) Section 9511 is amended by striking out "In this subchapter" and inserting in lieu thereof "In this chapter".

(b) PUBLIC LAW 103–160.—Effective as of November 30, 1993, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160) is amended as follows:

(1) Section 507(d)(3) (107 Stat. 1647) is amended by inserting "note" after "10 U.S.C. 1293".

(2) Section 551(a)(1) (107 Stat. 1661) is amended by striking out "Section" and inserting in lieu thereof "Chapter".

(3) Section 554(b) (107 Stat. 1666) is amended—

(A) in paragraph (1), by striking out "Section 1058 of title 10, United States Code, as added by subsection (a)," and inserting in lieu thereof "The section of title 10, United States Code, added by subsection (a)(1)"; and

(B) in paragraph (2), by striking out "1058".

(4) Section 931(c)(1) (107 Stat. 1734) is amended by inserting closing quotation marks before the period at the end.

(5) Section 1314(3) (107 Stat. 1786) is amended by striking out "adding at the end" and inserting in lieu thereof "inserting after subsection (f)".

(6) Section 1433(d) (107 Stat. 1835) is amended by striking out "Section 1058 of title 10, United States Code, as added by subsection (a)," and inserting in lieu thereof "The section of title 10, United States Code, added by subsection (b)(1)".

(7) Section 1606(b)(4) (107 Stat. 1847) is amended by striking out "section 1604(e)" and inserting in lieu thereof "section 1605(e)".

(8) Section 2912(b)(2) (107 Stat. 1925) is amended by striking out "section 637(d)(1)" and inserting in lieu thereof "section 8(d)(1)".

(9) Section 2926(d) (107 Stat. 1932) is amended by striking out "Subsection (d)(1)(2)(C)(iii)" and inserting in lieu thereof "Subsection (d)(2)(C)(iii)".

(c) OTHER LAWS.—(1) Section 921 of Public Law 102–190 (10 U.S.C. 201 note; 105 Stat. 1452) is amended by striking out "section 136(b)(3)" in subsection (a) and inserting in lieu thereof "section 138(b)(3)".

(2) Section 908(c) of title 37, United States Code, is amended by striking out "section 1058" and inserting in lieu thereof "section 1060".

SEC. 1097. NORTH ATLANTIC TREATY ORGANIZATION.

(a) FINDINGS.—The Congress makes the following findings:

(1) The North Atlantic Treaty Organization has served as a bulwark of peace, security, and democracy for the United States and the members of the alliance since 1949.

(2) The unswerving resolve of the member states of the North Atlantic Treaty Organization to mutual defense against the threat of communist aggression was central to the demise of the Warsaw Pact.

(3) The North Atlantic Treaty Organization is the most successful international security organization in history, and is well suited to help marshal our cooperative political, diplomatic, economic, and humanitarian efforts, buttressed by credible military capability aimed at deterring conflict, and thus contributing to international peace and security.

(4) The threat of instability in Eastern and Central Europe, as well as in the Southern and Eastern Mediterranean, continues to pose a fundamental chaleenge to the interests of the member states of the North Atlantic Treaty Organization.

(5) North Atlantic Treaty Organization assets have been deployed in recent years for more than the territorial defense of alliance members; and the Rome Summit of October 1991 adopted a new strategic concept for the North Atlantic Treaty Organization that entertained the possibility of operations beyond the alliance's self-defense area.

(6) In Oslo in July 1992, and in Brussels in December 1992, the alliance embraced the deployment of North Atlantic Treaty Organization forces to peacekeeping operations under the auspices of the United Nations or the Conference on Security and Cooperation in Europe.

(7) The North Atlantic Treaty Organization should attempt to cooperate with and seek a mandate from international organizations such as the United Nations when considering responses to out of area crises.

(8) Not all members of the international community share a commonality of interests that would ensure timely action by the United Nations Security Council.

(9) The security interests of the member countries of the North Atlantic Treaty Organization must not be held hostage to indecision at the United Nations or a veto by a permanent member of the Security Council.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) it should be the policy of the United States that, in accordance with article 53 of the United Nations Charter, the North Atlantic Treaty Organization retains the right of autonomy of action regarding missions in addition to collective defense should the United Nations Security Council or the Conference on Security and Cooperation in Europe fail to act;

(2) while it is desirable to work with other international organizations and arrangements where feasible in dealing with threats to the peace, the North Atlantic Treaty Organization is not an auxiliary to the United Nations or any other organization; and

(3) the member states of the North Atlantic Treaty Organization reserve the right to act collectively in defense of their vital interests.

SEC. 1098. LIMITATION ON OBLIGATION OF FUNDS FOR MARK-6 GUIDANCE SETS FOR TRIDENT II MISSILES.

(a) LIMITATION.—Until the certification in subsection (b) has been provided to the congressional defense committees, funds appropriated for fiscal year 1995 for the Navy may not be obligated to procure more than 14 Mark–6 guidance sets for Trident II missiles.

(b) CERTIFICATION.—Before the Secretary of Defense may obligate funds for Mark–6 guidance sets in addition to the 14 sets authorized in subsection (a), he shall certify to the congressional defense committees that failure to procure such additional units would pose an unacceptable risk to the long-term readiness and reliability of the Trident II missile program.

SEC. 1099. MILITARY PLANNING FOR THE SIZE AND STRUCTURE OF A FORCE REQUIRED FOR A MAJOR REGIONAL CONTINGENCY ON THE KOREAN PENINSULA.

(a) FINDINGS.—Congress finds as follows:

(1) Whereas the Administration commissioned the Bottom-Up Review to properly size and structure the Armed Forces of the United States for the Post-Cold-War Era;

(2) Whereas the Bottom-Up Review itself cites the need for the Armed Forces of the United States to be large enough to prevail in two major regional conflicts, similar in nature to the 1991 war against Iraq, "nearly simultaneously";

(3) Whereas the Bottom-Up Review gives special consideration to a scenario that hypothesizes that the two "nearly simultaneous" conflicts would occur in Korea and the Persian Gulf;

(4) Whereas the United States sent 7 Army divisions, the equivalent of 10 Air Force tactical fighter wings, 70 heavy bombers, 6 Navy aircraft carrier battle groups, and 5 Marine Corps brigades to the Persian Gulf to fight the war against Iraq;

(5) Whereas the Bottom-Up Review asserts that the forces needed to fight two conflicts similar to that with Iraq can be drawn from a total military force of between 15 and 16 Army divisions, 20 Air Force tactical fighter wings, 184 heavy bombers, 11 active Navy aircraft carriers (along with one reserve/training carrier), and the equivalent of 12 Marine Corp brigades;

(6) Whereas the Bottom-Up Review recognizes that approximately 100,000 members of the United States Armed Forces will be stationed in Europe;

(7) Whereas the Bottom-Up Review recognizes that sizeable numbers of United States

forces could be involved in peace enforcement and intervention operations at any one time;

(8) Whereas the Bottom-Up Review makes no specific recommendation as to the number of forces to be held in reserve to provide a rotation base either to relieve troops in the event one or both hypothetical conflicts result in lengthy deployments or to replace combat losses;

(9) Whereas military planners calculate that the number of United States forces needed to help defeat an invasion of South Korea by North Korea may exceed 430,000 United States military personnel;

(10) Whereas the size of the force military planners may request to help defend South Korea could exceed the levels that are consistent with the recommendations of Bottom-Up Review if the existing and future force requirements for a presence in Europe, possible peace enforcement operations, and an adequate rotation base, as well as a second regional conflict, must be fulfilled simultaneously.

(b) SENSE OF CONGRESS.—It is the Sense of Congress:

(1) that the force structure identified in the Bottom-Up Review may not be used to limit the size or structure of the force United States military commanders may request in preparation for a major regional contingency on the Korean peninsula;

(2) and that the Chairmen and Ranking Members of the House and Senate Committees on Armed Services and Chairmen and Ranking members of the House and Senate Appropriations Subcommittees on Defense should receive regular briefings from the Department of Defense of the situation on the Korean peninsula;

(3) and that the conclusions of the Bottom-Up Review should be continuously examined in light of the lessons learned from preparation for a major regional contingency on the Korean peninsula and from other military operations.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 1995".

TITLE XXI—ARMY

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects in the total amount of $396,750,000 for the installations and locations inside the United States, and in the amounts for such installations and locations, set forth in the following table:

Army: Inside the United States

State	Installation or location	Amount
Alabama	Redstone Arsenal	$2,600,000
Georgia	Fort Benning	$6,550,000
	Fort Gordon	$44,750,000
Hawaii	Schofield Barracks	$25,000,000
Kentucky	Fort Campbell	$67,400,000
	Fort Knox	$8,500,000
Maryland	Adelphi Laboratory Center	$6,600,000
	Fort Ritchie	$3,600,000
New Jersey	Bayonne Military Ocean Terminal	$4,050,000
New York	United States Military Academy, West Point	$28,000,000
North Carolina	Fort Bragg	$29,000,000
	Sunny Point Military Ocean Terminal	$22,200,000
Oklahoma	Fort Sill	$18,000,000
South Carolina	Charleston Naval Weapons Station	$24,000,000
Texas	Fort Hood	$29,000,000
	Fort Sam Houston	$4,300,000
Virginia	Fort Myer	$7,300,000
Washington	Fort Lewis	$64,000,000
CONUS Classified	Classified Location	$1,900,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects in the total amount of $31,400,000 for the installation and location outside the United States, and in the amount, set forth in the following table:

Army: Outside the United States

Country or other	Installation or location	Amount
Kwajalein Atoll	Kwajalein	$6,400,000
Worldwide	Host Nation Support	$25,000,000

SEC. 2102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition) in the total amount of $117,750,000 at the installations, for the purposes, and in the amounts for such installations set forth in the following table:

Army: Family Housing

State	Installation	Purpose	Amount
Alaska	Fort Richardson	72 units	$5,000,000
Colorado	Fort Carson	145 units	$16,500,000
Georgia	Fort Stewart	128 units	$10,600,000
Hawaii	Helemano Military Reservation	Roadway improvements for family housing.	$3,500,000
	Schofield Barracks	190 units	$26,000,000
Kansas	Fort Riley	126 units	$12,600,000
Massachusetts	Natick Research Center	35 units	$4,150,000
New York	United States Military Academy, West Point.	56 units	$8,000,000
Texas	Fort Bliss	215 units	$21,400,000
	Fort Sam Houston	100 units	$10,000,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $5,992,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may improve existing military family housing in an amount not to exceed $49,760,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1994, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $1,731,286,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $396,750,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $31,400,000.

(3) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $12,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $63,926,000.

(5) For military family housing functions:

(A) For construction and acquisition of military family housing and facilities, $173,502,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,067,708,000, of which not more than $243,442,000 may be obligated or expended for the leasing of military family housing worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2105. RELOCATION OF ARMY FAMILY HOUSING UNITS FROM FORT HUNTER LIGGETT, CALIFORNIA, TO FORT STEWART, GEORGIA.

Section 2102(a) of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1511) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph (1):

"(1) Fort Hunter Liggett, California, one hundred fifty-four units, $12,300,000."; and

(2) by striking out paragraph (5) and inserting in lieu thereof the following new paragraph (5):

"(5) Fort Stewart, Georgia, one hundred twenty-one units, $9,890,000.".

SEC. 2016. HIGHWAY SAFETY AT HAWTHORNE ARMY AMMUNITION PLANT, NEVADA.

(a) STUDY.—The Secretary of the Army shall carry out a study of traffic safety on the highway at the Hawthorne Army Ammunition Plant, Nevada. In carrying out the study, the Secretary shall—

(1) evaluate traffic safety on the highway, including traffic safety with respect to the rail and truck crossing of the highway at the Plant;

(2) evaluate the feasibility and desirability of constructing a vehicle bridge over the rail and truck crossing; and

(3) determine whether any construction required to improve traffic safety on the highway be funded as a military construction project or as a defense access road construction project.

(b) ARCHITECTURAL AND ENGINEERING SERVICES AND CONSTRUCTION DESIGN.—If the Secretary determines as a result of the study under subsection (a) that construction of a vehicle bridge over the rail and truck crossing referred to in paragraph (1) of that subsection is feasible and desirable, the Secretary should—

(1) obtain architectural and engineering activities and carry out construction design with respect to the construction of the bridge; or

(2) request that the Secretary of Transportation carry out the construction of the bridge as project for the construction of a defense access road under section 210 of title 23, United States Code.

TITLE XXII—NAVY

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects in the total amount of $239,265,000 for the installations and locations inside the United States, and in the amounts for such installations and locations, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
Arizona	Yuma Marine Corps Air Station	$15,085,000
California	Camp Pendleton Amphibious Task Force	$10,700,000
	Camp Pendleton Marine Corp Base	$570,000
	China Lake Naval Air Warfare Center	$6,000,000
	El Centro Naval Air Facility	$3,000,000
	Lemoore Naval Air Station	$7,000,000
	North Island Naval Air Station	$18,830,000
	Port Hueneme Naval Construction Battalion Center	$9,650,000
	San Diego Marine Corps Recruit Depot	$1,090,000
	San Diego Naval Station	$4,100,000
	Twentynine Palms Marine Corps Air-Ground Combat Center	$2,900,000
Florida	Jacksonville Fleet and Industrial Supply Center	$2,200,000
	Pensacola Naval Air Station	$2,100,000
Hawaii	Kaneohe Bay	$4,900,000
Illinois	Great Lakes Navy Public Works Center	$13,000,000
New Jersey	Lakehurst Naval Air Warfare Center	$2,950,000
New Mexico	White Sands Naval Ordnance Missile Test Station	$1,390,000
North Carolina	Cherry Point Marine Corps Air Station	$2,100,000
	Camp Lejeune Marine Corp Base	$14,850,000
Rhode Island	Newport Naval Education and Training Center	$14,500,000
South Carolina	Parris Island Marine Corps Recruit Depot	$2,550,000
Texas	Ingleside Naval Station	$14,110,000
Virginia	Chesapeake Naval Security Group Activity	$1,150,000
	Dam Neck Fleet Combat Training Center	$1,600,000
	Norfolk Marine Corps Security Force Battalion Atlantic	$6,480,000
	Norfolk Naval Station	$16,430,000
	Quantico Marine Corps Combat Development Command	$19,900,000
Washington	Bremerton Puget Sound Naval Shipyard	$11,040,000
	Everett Naval Station	$21,690,000
	Whidbey Island Naval Air Station	$5,200,000
Various Locations	Aircraft Fire Rescue and Vehicle Maintenance Facilities	$2,200,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects in the total amount of $50,810,000 for the installations and locations outside the United States, and in the amounts for such installations and locations, set forth in the following table:

Navy: Outside the United States

Country	Installation or location	Amount
Greece	Souda Bay, Crete Naval Support Activity	$3,050,000
Italy	Naples Naval Support Activity	$28,460,000
	Sigonella Naval Air Station	$13,750,000
Puerto Rico	Sabana Seca Naval Security Group Activity	$1,650,000
United Kingdom	Saint Mawgan Joint Maritime Communications Center	$3,900,000

SEC. 2202. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition) in the total amount of $49,012,000 at the installations, for the purposes, and in the amounts for such installations and purposes set forth in the following table:

Navy: Family Housing

State	Installation	Purpose	Amount
California	Camp Pendleton Marine Corps Base	196 units	$28,552,000
	San Diego Naval Public Works Center	136 units	$18,262,000
Maryland	Patuxent River Naval Air Station	Housing Office	$863,000
Virginia	Norfolk Naval Public Works Center	Warehouse/Self Help Center	$555,000
Washington	Everett Naval Station	Housing Office	$780,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $24,681,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may improve existing military family housing units in the amount of $155,602,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1994, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,507,349,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $239,265,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $50,810,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $7,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $43,380,000.

(5) For military family housing functions:

(A) For construction and acquisition of military family housing and facilities, $229,295,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $937,599,000, of which not more than $114,336,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2205. AUTHORITY TO CARRY OUT CONSTRUCTION PROJECT, NAVAL SUPPLY CENTER, PENSACOLA, FLORIDA.

Funds appropriated by the Military Construction Appropriations Act, 1994 (Public Law 103–110; 107 Stat. 1037) that are available for construction of a cold storage facility at Naval Supply Center, Pensacola, Florida, in accordance with authorizations provided in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1514), as enacted, may be expended for the portion of the construction of such facility that is associated with Department of the Navy contract N62467–86–C–0421.

SEC. 2206. RELOCATION OF PASCAGOULA COAST GUARD STATION, MISSISSIPPI.

(a) AGREEMENT ON RELOCATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Navy and the Secretary of Transportation shall enter into an agreement that provides for the relocation of the activities and functions of Pascagoula Coast Guard Station to Pascagoula Naval Station, Pascagoula, Mississippi.

(b) CONDITIONS.—The agreement under subsection (a) shall include the following provisions:

(1) That the Navy not incur any construction costs relating to the relocation.

(2) That the design, construction, and location of Coast Guard facilities, and the conduct of activities by the Coast Guard, at Pascagoula Naval Station not interfere with the performance of the mission of the Navy.

SEC. 2207. AUTHORITY TO CARRY OUT CONSTRUCTION DESIGN FOR MAYPORT NAVAL STATION, FLORIDA.

(a) AUTHORITY TO CARRY OUT CONSTRUCTION DESIGN.—Subject to subsection (b), the Secretary of the Navy may carry out construction design activities in connection with the military construction projects that the Secretary identifies as necessary for the improvement of the facilities located at Mayport Naval Station, Florida, so that such facilities may be used as the homeport of a nuclear powered aircraft carrier.

(b) REQUIREMENT RELATING TO COMMENCEMENT OF DESIGN.—The Secretary may not carry out the construction design activities authorized under subsection (a) until the Secretary—

(1) completes a study that identifies the improvements to the facilities referred to in that subsection that are necessary so that such facilities may be used as the homeport of a nuclear powered aircraft carrier; and

(2) completes a programmatic environmental impact study on the effect of such improvements on the environment.

(c) CONSTRUCTION OF AUTHORITY.—This section may not be construed or interpreted as an authorization for the Secretary to commence or proceed with any military construction project relating to the improvement of the facilities of Mayport Naval Station, Florida, for the purpose referred to in subsection (a).

TITLE XXIII—AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects in the total amount of $412,004,000 for the installations and locations inside the United States, and in the amounts for such installations and locations, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Alabama	Maxwell Air Force Base	$9,600,000
Alaska	Cape Lisburne Long Range Radar Site	$2,800,000

Air Force: Inside the United States—Continued

State	Installation or location	Amount
	Eielson Air Force Base	$3,300,000
	Elmendorf Air Force Base	$5,000,000
Arizona	Luke Air Force Base	$4,900,000
Arkansas	Little Rock Air Force Base	$4,800,000
California	Beale Air Force Base	$1,450,000
	Edwards Air Force Base	$7,050,000
	Travis Air Force Base	$3,600,000
	Vandenberg Air Force Base	$6,550,000
Colorado	Peterson Air Force Base	$1,750,000
	United States Air Force Academy	$3,600,000
Delaware	Dover Air Force Base	$10,500,000
Florida	Cape Canaveral Air Force Station	$10,450,000
Georgia	Moody Air Force Base	$14,300,000
	Robins Air Force Base	$21,200,000
Idaho	Mountain Home Air Force Base	$15,950,000
Illinois	Scott Air Force Base	$2,700,000
Kansas	McConnell Air Force Base	$500,000
Louisiana	Barksdale Air Force Base	$27,100,000
Maryland	Andrews Air Force Base	$10,800,000
Mississippi	Columbus Air Force Base	$3,400,000
	Keesler Air Force Base	$11,240,000
Missouri	Whiteman Air Force Base	$24,290,000
Montana	Malmstrom Air Force Base	$7,200,000
Nebraska	Offutt Air Force Base	$2,260,000
Nevada	Nellis Air Force Base	$10,500,000
New Jersey	McGuire Air Force Base	$17,000,000
New Mexico	Holloman Air Force Base	$10,950,000
	Kirtland Air Force Base	$31,000,000
North Carolina	Pope Air Force Base	$2,600,000
North Dakota	Ellsworth Air Force Base	$4,500,000
	Grand Forks Air Force Base	$5,200,000
	Minot Air Force Base	$10,350,000
Ohio	Wright-Patterson Air Force Base	$32,700,000
Oklahoma	Altus Air Force Base	$3,750,000
	Tinker Air Force Base	$9,643,000
	Vance Air Force Base	$11,680,000
South Carolina	Charleston Air Force Base	$11,400,000
South Dakota	Ellsworth Air Force Base	$1,450,000
Tennessee	Arnold Air Force Base	$1,900,000
Texas	Kelly Air Force Base	$8,950,000
	Lackland Air Force Base	$5,200,000
	Sheppard Air Force Base	$3,300,000
Washington	Fairchild Air Force Base	$8,850,000
Wyoming	F.E. Warren Air Force Base	$2,650,000
CONUS Classified	Classified Location	$2,141,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and may carry out military construction projects in the total amount of $38,273,000 for the installations and locations outside the United States, and in the amounts for such installations and locations, set forth in the following table:

Air Force: Outside the United States

Country	Installation or location	Amount
Germany	Ramstein Air Base	$12,350,000
	Spangdahlem Air Base	$9,473,000
Greenland	Thule Air Base	$2,450,000
Portugal	Lajes Field	$2,850,000
United Kingdom	RAF Lakenheath	$7,100,000
Overseas Classified	Classified Location	$4,050,000

SEC. 2302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition) in the total amount of $172,310,000 at the installations, for the purposes, and in the amounts for such installations and purposes set forth in the following table:

Air Force: Family Housing

State or Country	Installation	Purpose	Amount
Alabama	Maxwell Air Force Base	25 units	$2,100,000
Arizona	Davis-Monthan Air Force Base	60 units	$5,940,000
California	Beale Air Force Base	76 units	$8,842,000
	Edwards Air Force Base	34 units	$4,629,000
	Los Angeles Air Force Base	50 units	$8,962,000
	Vandenberg Air Force Base	128 units	$16,460,000
District of Columbia	Bolling Air Force Base	100 units	$9,000,000
Florida	Patrick Air Force Base	75 units	$7,145,000
Idaho	Mountain Home Air Force Base	4 unit	$881,000
	Mountain Home Air Force Base	60 units	$5,712,000

Air Force: Family Housing—Continued

State or Country	Installation	Purpose	Amount
Kansas	McConnell Air Force Base	70 units	$8,322,000
Louisiana	Barksdale Air Force Base	82 units	$8,236,000
Missouri	Whiteman Air Force Base	Housing Office	$567,000
New Mexico	Cannon Air Force Base	1 unit	$230,000
	Holloman Air Force Base	76 units	$7,733,000
	Kirtland Air Force Base	106 units	$10,058,000
North Carolina	Pope Air Force Base	120 units	$14,874,000
	Seymour Johnson Air Force Base	74 units	$6,025,000
North Dakota	Grand Forks Air Force Base	Housing Office	$709,000
South Carolina	Shaw Air Force Base	3 units	$631,000
Texas	Dyess Air Force Base	59 units	$7,077,000
Utah	Hill Air Force Base	138 units	$11,400,000
Virginia	Langley Air Force Base	148 units	$14,421,000
Washington	Fairchild Air Force Base	6 units	$1,035,000
Wyoming	F.E. Warren Air Force Base	106 units	$11,321,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $9,275,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $61,770,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1994, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $1,594,863,000 as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $412,004,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $38,273,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $7,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $49,386,000.

(5) For the balance of the amount authorized under section 2301(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2593) for the construction of the climatic test chamber at Eglin Air Force Base, Florida, $20,000,000.

(6) For military family housing functions:

(A) For construction and acquisition of military family housing and facilities, $243,355,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $824,845,000 of which not more than $112,757,000 may be obligated or expended for leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2305. AUTHORIZATION OF MILITARY CONSTRUCTION PROJECTS AT TYNDALL AIR FORCE BASE, FLORIDA, FOR WHICH FUNDS HAVE BEEN APPROPRIATED.

The table in section 2301 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1866) is amended in the item relating to Tyndall Air Force Base, Florida, by striking out "$2,600,000" in the column under the heading "Amount" and inserting in lieu thereof "$8,200,000".

SEC. 2306. REVISION OF AUTHORIZED FAMILY HOUSING PROJECT, TYNDALL AIR FORCE BASE, FLORIDA.

The table in section 2302(a) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1869) is amended in the item relating to Tyndall Air Force Base, Florida, by striking out "Infrastructure" in the third column and inserting in lieu thereof "45 units".

TITLE XXIV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects in the total amount of $413,700,000 for the installations and locations inside the United States, and in the amounts for such installations and locations, set forth in the following table:

Defense Agencies: Inside the United States

Agency	Installation or location	Amount
Chemical Agents and Munitions Destruction	Anniston Army Depot, Alabama	$5,000,000
	Pine Bluff Arsenal, Arkansas	$102,000,000
	Umatilla Army Depot, Oregon	$183,000,000
	Tooele Army Depot, Utah	$4,000,000
Defense Intelligence Agency	Bolling Air Force Base, Washington, District of Columbia	$600,000
Defense Logistics Agency	Defense Contract Management Office, El Segundo, California	$5,100,000
	Defense Construction Supply Center, Columbus, Ohio	$2,200,000
	Defense Fuel Support Point, Craney Island, Virginia	$3,652,000
	Headquarters, Defense Logistics Agency, Fort Belvoir, Virginia	$4,600,000
Defense Medical Facilities Office	McClellan Air Force Base, California	$10,280,000
	Fort McPherson, Georgia	$13,400,000
	Fort Dix, New Jersey	$2,000,000
National Security Agency	Fort Meade, Maryland	$20,258,000
Office of Secretary of Defense	Various Locations, Special Activities, Air Force	$5,300,000
Section 6 Schools	Naval Surface Warfare Center, Virginia	$1,560,000
Special Operations Force	Eglin Auxiliary Field No. 9, Florida	$21,750,000
	Fort Bragg, North Carolina	$16,000,000
	Kirtland Air Force Base, New Mexico	$9,600,000

Defense Agencies: Inside the United States—Continued

Agency	Installation or location	Amount
	Naval Amphibious Base, Coronado, San Diego, California	$3,400,000

SEC. 2402. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(11)(A), the Secretary of Defense may construct or acquire family housing units (including land acquisition) at the installation, for the purpose, and in the amount set forth in the following table:

Defense Agencies: Family Housing

Location	Installation	Purpose	Amount
Belgium	National Security Agency	1 unit	$300,000

SEC. 2403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(11)(A), the Secretary of Defense may improve existing military family housing units in an amount not to exceed $50,000.

SEC. 2404. ENERGY CONSERVATION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(8), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code.

SEC. 2405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1994, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of $3,252,058,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $152,700,000.

(2) For military construction projects at Portsmouth Naval Hospital, Virginia, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189; 103 Stat. 1640), $120,000,000.

(3) For military construction projects at Elmendorf Air Force Base, Alaska, hospital replacement, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2599), $66,000,000.

(4) For military construction projects at Fort Bragg, North Carolina, hospital replacement, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2599), $75,000,000.

(5) For unspecified minor construction projects under section 2805 of title 10, United States Code, $22,348,000.

(6) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $8,511,000.

(7) For architectural and engineering services and for construction design under section 2807 of title 10, United States Code, $51,960,000.

(8) For energy conservation projects authorized by section 2404, $50,000,000.

(9) For base closure and realignment activities as authorized by the Defense Authorization Amendments and Base Closure and Realignment Act (title II of Public Law 100–526; 10 U.S.C. 2687 note), $87,600,000.

(10) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note):

(A) For military installations approved for closure or realignment in 1991, $398,700,000.

(B) For military installations approved for closure or realignment in 1993, $2,189,858,000.

(11) For military family housing functions:

(A) For construction and acquisition of military family housing and facilities, $350,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $29,031,000, of which not more than $24,051,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) and subsection (b);

(2) $94,000,000 (the balance of the amount authorized for construction of a chemical munitions demilitarization facility at Pine Bluff Arsenal, Arkansas); and

(3) $167,000,000 (the balance of the amount authorized for construction of a chemical munitions demilitarization facility at Umatilla Army Depot, Oregon).

SEC. 2406. TERMINATION OF AUTHORITY TO CARRY OUT FISCAL YEAR 1993 PROJECT.

(a) TERMINATION OF AUTHORITY.—The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2599) is amended by striking out the item relating to Fitzsimons Army Medical Center, Colorado.

(b) CONFORMING AMENDMENTS.—(1) Subsection (a) of section 2403 of such Act (106 Stat. 2600) is amended—

(A) in the matter above paragraph (1), by striking out "$2,567,146,000" and inserting in lieu thereof "$2,565,146,000"; and

(B) in paragraph (1), by striking out "$87,950,000" and inserting in lieu thereof "$85,950,000".

(2) Subsection (c) of such section is amended—

(A) by inserting "and" at the end of paragraph (4);

(B) by striking out "; and" at the end of paragraph (5) and inserting lieu thereof a period; and

(C) by striking out paragraph (6).

SEC. 2407. COMMUNITY IMPACT ASSISTANCE WITH REGARD TO NAVAL WEAPONS STATION, CHARLESTON, SOUTH CAROLINA.

Of the amount appropriated pursuant to the authorization of appropriations in section 2405(a)(10)(B), the Secretary of the Navy shall transfer $3,000,000 to the South Carolina Department of Highways and Public Transportation. Funds transferred pursuant to this section shall be used for making improvements to North Rhett Avenue, Charleston, South Carolina.

SEC. 2408. PLANNING AND DESIGN FOR CONSTRUCTION IN SUPPORT OF CONSOLIDATION OF OPERATIONS OF THE DEFENSE FINANCE AND ACCOUNTING SERVICE.

Of the amount authorized to be appropriated by section 2405(a)(7), $6,000,000 shall be available for planning and design activities relating to military construction in support of the consolidation of operations of the Defense Finance and Accounting Service.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1994, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program as authorized by section 2501, in the amount of $219,000,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

There are authorized to be appropriated for fiscal years beginning after September 30, 1994, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $180,312,000; and

(B) for the Army Reserve, $37,870,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $17,355,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $240,003,000; and

(B) for the Air Force Reserve, $43,840,000.

SEC. 2602. AUTHORIZATION OF CERTAIN NATIONAL GUARD AND RESERVE PROJECTS FOR WHICH FUNDS HAVE BEEN APPROPRIATED.

(a) FISCAL YEAR 1994 GUARD AND RESERVE PROJECTS.—Section 2601 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1878) is amended—

(1) in paragraph (1)(A), by striking out "$283,483,000" and inserting in lieu thereof "$287,958,000"; and

(2) in paragraph (2), by striking out "$25,013,000" and inserting in lieu thereof "$33,713,000".

(b) FISCAL YEAR 1993 AIR NATIONAL GUARD PROJECT.—Section 2601(3)(A) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2602) is amended by striking out "$305,759,000" and inserting in lieu thereof "$306,959,000".

TITLE XXVII—EXPIRATION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Infrastructure program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 1997; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 1998.

(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Infrastructure program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 1997; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 1998 for military construction projects, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Infrastructure program.

SEC. 2702. EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1992 PROJECTS.

(a) EXTENSIONS.—Notwithstanding section 2701(b) of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1535) authorizations for the projects set forth in the tables in subsection (b), as provided in section 2101, 2301, or 2601 of that Act, shall remain in effect until October 1, 1995, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1996, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

Army: Extension of 1992 Project Authorizations

State	Installation or location	Project	Amount
Colorado..	Fort Carson	Family Housing New Construction (1 Unit)	$150,000
Georgia	Fort Benning	General Instruction Facility	$2,150,000
	Camp Merrill	Family Housing New Construction (40 units)	$4,550,000
	Fort Stewart	Family Housing New Construction (120 units)	$9,700,000
Oregon	Umatilla Depot Activity	Ammunition Demilitarization Support Facility	$3,600,000
	Umatilla Depot Activity	Ammunition Demilitarization Utilities	$7,500,000

Air Force: Extension of 1992 Project Authorization

State	Installation or location	Project	Amount
Alaska	Eareckson Air Force Station (formerly Shemya Air Force Station)	Hazardous Materials Storage	$4,000,000

Army National Guard: Extension of 1992 Project Authorizations

State	Installation or location	Project	Amount
California	Stockton	Add/Alter Combined Support Maintenance Shop	$1,613,000
District of Columbia	Fort Belvoir	Army Aviation Support Facility	$2,765,000
Maryland	Towson	Direct Logistics Warehouse	$373,000
	Cheltenham	Armory	$3,300,000
Mississippi	West Point	Organizational Maintenance Shop	$1,270,000
	Tupelo	Organizational Maintenance Shop	$992,000
	Senatobia	Organizational Maintenance Shop	$723,000
Nevada	Washoe County	Organizational Maintenance Shop	$1,050,000
North Carolina	Camp Butler	Range, Modified Record Fire	$986,000
Rhode Island	Camp Varnum	Sewer and Water System	$578,000
	Camp Fogarty	Armory	$5,151,000
West Virginia	Huntington	Guard/Reserve Center	$2,983,000

Army Reserve: Extension of 1992 Project Authorizations

State	Installation or location	Project	Amount
Massachusetts	Taunton	Reserve Center	$3,526,000
Ohio	Perrysburg	Reserve Center Addition	$2,749,000
Pennsylvania	Johnstown	Army/Marine Corps Aviation Facility	$30,224,000
Tennessee	Jackson	Joint Training Facility	$1,537,000
West Virginia	Huntington	Guard and Reserve Center	$6,617,000

SEC. 2703. CLARIFICATION OF EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 1991 PROJECTS.

(a) CLARIFICATION.—The table relating to the extension of authorization of certain fiscal year 1991 projects of the Defense Agencies in section 2702(b) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1882) is amended by inserting before the item relating to the Defense Logistics Agency, Defense Reutilization and Marketing Office, Fort Meade, Maryland, the following:

Defense Agencies: Extension of Certain 1991 Project Authorizations

State	Installation or location	Project	Amount
California	Defense Language Institute, Monterey	Audio Visual Facility	$2,322,000
	Defense Language Institute, Monterey	Print Plant	$1,860,000

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the provisions of the Military Construction Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1822) to which such amendment relates.

SEC. 2704. EXTENSION OF CERTAIN FISCAL YEAR 1991 PROJECTS.

(a) EXTENSIONS.—Notwithstanding section 2701(b) of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510; 104 Stat. 1782), authorizations for the projects set forth in the table in subsection (b) as provided in section 2401(a) of that Act and extended by section 2702(a) of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1535) and section 2702 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1880), as amended by section 2703 of this Act, shall remain in effect until October 1, 1995, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1995, whichever is later.

(b) TABLE.—The table referred to in subsection (a) is as follows:

Defense Agencies: Extension of 1991 Project Authorizations

State	Installation or location	Project	Amount
California	Defense Language Institute, Monterey.	Audio Visual Instructional Media Facility	$2,322,000
	Defense Language Institute, Monterey.	Print Plant	$1,860,000
Maryland	Defense Logistics Agency, Defense Reutilization and Marketing Office, Fort Meade	Covered Storage	$9,500,000

SEC. 2705. EFFECTIVE DATE.

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI shall take effect on the later of—

(1) October 1, 1994; or

(2) the date of the enactment of this Act.

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

SEC. 2801. CLARIFICATION OF REQUIREMENT FOR NOTIFICATION OF CONGRESS OF IMPROVEMENTS IN FAMILY HOUSING UNITS.

Section 2825(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The limitation contained in the first sentence of paragraph (1) does not apply to a project for the improvement of a family housing unit or units referred to in that sentence if the project (including the amount requested for the project) is identified in the budget materials submitted to Congress by the Secretary of Defense in connection with the submission to Congress of the budget for a fiscal year pursuant to section 1105 of title 31.".

SEC. 2802. AUTHORITY TO PAY CLOSING COSTS UNDER HOMEOWNERS ASSISTANCE PROGRAM.

Section 1013(c) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374(c)) is amended by inserting after the first sentence the following: "The Secretary may also pay a person who elects to receive a cash payment under clause (1) of the preceding sentence an amount that the Secretary determines appropriate to reimburse the person for the costs incurred by the person in the sale of the property if the Secretary determines that such payment will benefit the person and is in the best interest of the Federal Government.".

Subtitle B—Base Closure Matters

SEC. 2811. PROHIBITION AGAINST CONSIDERATION IN BASE CLOSURE PROCESS OF ADVANCE CONVERSION PLANNING UNDERTAKEN BY POTENTIAL AFFECTED COMMUNITIES.

(a) DEPARTMENT OF DEFENSE RECOMMENDATIONS.—Subsection (c)(3) of section 2903 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) by inserting "(A)" before "In considering"; and

(2) by adding at the end the following new subparagraph:

"(B) In considering military installations for closure or realignment, the Secretary may not take into account for any purpose any advance conversion planning undertaken by an affected community with respect to the anticipated closure or realignment of an installation.

"(C) For purposes of subparagraph (B), in the case of a community anticipating the economic effects of a closure or realignment of a military installation, advance conversion planning—

"(i) shall include community adjustment and economic diversification planning undertaken by the community before an anticipated selection of a military installation in or near the community for closure or realignment; and

"(ii) may include the development of contingency redevelopment plans, plans for economic development and diversification, and plans for the joint use (including civilian and military use, public and private use, civilian dual use, and civilian shared use) of the property or facilities of the installation after the anticipated closure or realignment.".

(b) COMMISSION RECOMMENDATIONS.—Subsection (d)(2) of such section is amended by adding at the end the following:

"(E) In making recommendations under this paragraph, the Commission may not take into account for any purpose any advance conversion planning undertaken by an affected community with respect to the anticipated closure or realignment of a military installation.".

SEC. 2812. CLARIFYING AND TECHNICAL AMENDMENTS TO BASE CLOSURE LAWS.

(a) CLARIFICATION OF SCOPE OF TERMINATION OF AUTHORITY UNDER 1988 ACT.—Section 202(c) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended—

(1) by striking out "The authority" and inserting in lieu thereof "(1) Except as provided in paragraph (2), the authority"; and

(2) by adding at the end the following new paragraph:

"(2) The termination of authority set forth in paragraph (1) shall not apply to the authority of the Secretary to carry out environmental restoration and waste management at, or disposal of property of, military installations closed or realigned under this title.".

(b) USE OF UNOBLIGATED FUNDS IN 1988 ACCOUNT FOR ENVIRONMENTAL RESTORATION AND PROPERTY DISPOSAL.—Section 207(a)(5) of such Act is amended—

(1) by striking out "Unobligated funds" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), unobligated funds"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary may, after the termination of authority referred to in subparagraph (A), use any unobligated funds referred to in that subparagraph that are not transferred in accordance with that subparagraph to carry out environmental restoration and waste management at, or disposal of property of, military installations closed or realigned under this title.".

(c) CLARIFICATION OF DISPOSAL AUTHORITY.—

(1) UNDER 1988 ACT.—Section 204(b)(1) of such Act is amended in the matter above paragraph (1) by striking out "real property and facilities" and inserting in lieu thereof "real property, facilities, and personal property".

(2) UNDER 1990 ACT.—Section 2905(b)(1) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended in the matter above paragraph (1) by striking out "real property and facilities" and inserting in lieu thereof "real property, facilities, and personal property".

(d) DEFINITION OF REDEVELOPMENT AUTHORITY.—

(1) UNDER 1988 ACT.—Section 209(10) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by striking out "and for" and inserting in lieu thereof "or for".

(2) UNDER 1990 ACT.—Section 2910(9) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking out "and for" and inserting in lieu thereof "or for".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in the amendments made by 2918 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1927).

(e) TECHNICAL AMENDMENTS FOR INTERNAL CONSISTENCY.—

(1) 1988 ACT.—Section 204(b)(3) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended—

(A) in subparagraph (A)(ii), by striking out "determines to be related to real property and"; and

(B) in subparagraph (E), by striking out "related" in the matter above clause (i).

(2) 1990 ACT.—Section 2905(b)(3)(A)(ii) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking out "determines to be related to real property and".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in the amendments made by 2902 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1909).

SEC. 2813. SENSE OF SENATE ON THE ACTIVITIES OF THE SECRETARY OF DEFENSE IN SUPPORT OF COMMUNITIES AFFECTED BY BASE CLOSURES.

(a) FINDINGS.—The Senate makes the following findings:

(1) The closure or realignment of a major military installation can cause severe economic disruption to the host community for the installation.

(2) Communities affected by the closure of a major military installation under a base closure law dedicate significant time, effort, and resources to planning for the economic redevelopment of the installation.

(3) The Federal Government can ease the disruption caused by the closure of a military installation by working cooperatively with the host community for the installation to implement the community's redevelopment plan for the installation.

(4) In recent years, the Federal Government has not always provided sufficient assistance to communities affected by the closure of a military installation under a base closure law in the efforts of such communities to provide for the economic redevelopment of the installation.

(5) In July 1993, the President issued a five-point plan for revitalizing base closure communities which emphasized the economic recovery of communities affected by the closure of a military installation under a base closure law.

(6) In November 1993, Congress agreed to the provisions of subtitle A of title XXIX of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1909), and the amendments made thereunder, in order to implement the plan referred to in paragraph (5) and to provide other assistance to communities attempting to redevelop military installations approved for closure under a base closure law.

(7) The Secretary of Defense is accepting public comment on the guidelines for implementation of the provisions of law referred to in paragraph (6).

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary of Defense should—

(1) ensure that the regulations implementing the provisions of subtitle A of title XXIX of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1909), and the amendments made thereunder, reflect the intent of Congress that, to the maximum extent practicable, the Secretary take into consideration the redevelopment plans of affected communities when taking actions or implementing decisions on the closure of a military installation approved for closure under a base closure law;

(2) ensure that the regulations implementing such provisions reflect the intent of Congress to encourage and promote cooperation and dialogue between the Federal Government and communities affected by the closure of an installation throughout the base closure process; and

(3) develop a system of incentives or awards to encourage Department of Defense personnel to provide greater assistance to and cooperation with communities affected by the closure of an installation during the ongoing effort of revitalizing the economy of such communities.

Subtitle C—Land Transactions Generally

SEC. 2821. LAND TRANSFER, HOLLOMAN AIR FORCE BASE, NEW MEXICO.

(a) IN GENERAL.—Subject to subsections (c) through (g), not later than 90 days after the date of enactment of this Act, the Secretary of the Interior shall transfer to the Department of the Air Force, without reimbursement, jurisdiction and control of approximately 1,262 acres of public lands described in subsection (b). Such public lands are located in Otero County, New Mexico, and are contiguous to Holloman Air Force Base.

(b) DESCRIPTION OF LANDS TRANSFERRED.—The lands described in this subsection are as follows:

(1) T17S, R8E, Section 21:	S½ N½:	160 acres
	E½ NW¼ NE¼:	20 acres
	NE¼ NE¼:	40 acres
(2) T17S, R8E, Section 22:	W½:	320 acres
	W½ E½:	160 acres
(3) T17S, R8E, Section 27:	All that part north of New Mexico Highway 70 except for the E½ E½	192 acres more or less

(4) T17S, R8E, Section 28:	NE¼:	160 acres
	N½ SE¼:	80 acres
	SW¼ SE¼:	40 acres
	W½ SE¼ SE¼:	20 acres
(5) T17S, R8E, Section 33:	NW¼ NE¼:	40 acres
	NW¼ NE¼ NE¼:	10 acres
	W½ SW¼ NE¼:	20 acres

(c) USE OF TRANSFERRED LAND.—The lands transferred to the Department of the Air Force under subsection (a) shall be used by the Secretary of the Air Force for the construction of new evaporation ponds to support a wastewater treatment facility that the Secretary shall construct at Holloman Air Force Base.

(d) CATTLE GRAZING RIGHTS.—

(1) IN GENERAL.—The United States recognizes a grazing preference on the lands transferred to the Department of the Air Force under subsection (a).

(2) ADJUSTMENT OF GRAZING ALLOTMENT.—(A) The Secretary of the Air Force shall take such action as is necessary to ensure that—

(i) the boundary of the grazing allotment that contains the lands transferred to the Department of the Air Force is adjusted in such manner as to retain the portion of the allotment located south of United States Highway 70 in New Mexico and remove the portion of the lands that is located north of such highway; and

(ii) the grazing preference referred to in paragraph (1) is retained by means of transferring the preference for the area removed from the allotment under subparagraph (A) to public lands located south of such highway.

(B) The Secretary of the Air Force shall offer to enter into an agreement with each person who holds a permit for grazing on the lands transferred to the Department of the Air Force at the time of the transfer to provide for the continued grazing by livestock on the portion of the lands located south of such highway.

(e) ADDITIONAL REQUIREMENTS.—

(1) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—The Secretary of the Air Force shall ensure that the transfer made pursuant to subsection (a) and the use specified in subsection (c) meet any applicable requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) ENVIRONMENTAL LAWS.—The Secretary of the Air Force shall use and manage the lands transferred under the authority in subsection (a) in such manner as to ensure compliance with applicable environmental laws (including regulations) of the Federal Government and State of New Mexico, and political subdivisions thereof.

(3) RESPONSIBILITY FOR CLEANUP OF HAZARDOUS SUBSTANCES.—Notwithstanding any other provision of law, the Secretary of the Air Force shall, upon the transfer of the lands under subsection (a), assume any existing or subsequent responsibility and liability for the cleanup of hazardous substances (as defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14))) located on or within the lands transferred.

(4) MINING.—The transfer of lands under subsection (a) shall be made in such manner as to ensure the continuation of valid, existing rights under the mining laws and the mineral leasing and geothermal leasing laws of the United States. Subject to the preceding sentence, upon the transfer of the lands, mining and mineral management activities shall be carried out in the lands in a manner consistent with the policies of the Department of Defense concerning mineral exploration and extraction on lands under the jurisdiction of the Department.

(f) RIGHTS-OF-WAY.—The transfer of lands under subsection (a) shall not affect the following rights-of-way:

(1) The right-of-way granted to the Otero County Electric Cooperative, numbered NMNM 58293.

(2) The right-of-way granted to U.S. West Corporation, numbered NMNM 59261.

(3) The right-of-way granted to the Highway Department of the State of New Mexico, numbered LC0 54403.

(g) PUBLIC ACCESS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary of the Air Force shall permit public access to the lands transferred under subsection (a).

(2) CONSTRUCTION SITE.—The Secretary of the Air Force may not permit public access to the immediate area affected by the construction of a wastewater treatment facility in the area with the legal description of T17S, R8E, Section 22, except that the Secretary of the Air Force shall permit public access on an adjoining unfenced parcel of land—

(A) located along the west boundary of such area; and

(B) that is 50 feet in width.

(3) PUBLIC USES.—Except as provided in paragraph (2), the Secretary of the Air Force shall permit, on the lands transferred under subsection (a), public uses that are consistent with the public uses on adjacent lands under the jurisdiction of the Secretary of the Interior.

(4) PERMIT NOT REQUIRED.—The Secretary of the Air Force may not require a permit for access authorized under this subsection to the lands transferred under subsection (a).

(5) ENTRY GATE.—The Secretary of the Air Force shall ensure that the entry gate to the lands transferred under subsection (a) that is located along United States Highway 70 shall be open to the public.

SEC. 2822. JOINT USE OF PROPERTY, PORT HUENEME, CALIFORNIA.

(a) AGREEMENT AUTHORIZED.—The Secretary of the Navy may enter into an agreement with the Oxnard Harbor District, Port Hueneme, California, a special district of the State of California (in this section referred to as the "District"), to provide for the joint use by Secretary and the District of a parcel of real property consisting of approximately 25 acres, together with improvements thereto, that comprises United States Navy Wharf Number 3, the location of the Naval Construction Battalion Center, Port Hueneme, California.

(b) PERIOD.—The agreement authorized under subsection (a) shall—

(1) be for an initial period of not more than 15 years; and

(2) contain an option for the District to extend the agreement for three additional periods of 5 years each.

(c) CONDITIONS.—The agreement authorized under subsection (a) shall be subject to the following conditions:

(1) That the District suspend operations in the joint use area during the periods when the Navy conducts operations at the Naval Construction Battalion Center.

(2) That the District carry out activities in the joint use area in a manner that does not interfere with the capability of the Secretary to carry out contingency operations at the Naval Construction Battalion Center.

(d) CONSIDERATION.—(1) As consideration for the use of the real property under subsection (a), the District—

(A) shall pay to the Secretary the fair market rental value (as determined by the Secretary) of the District's interest in the property; and

(B) may be required to furnish additional consideration as provided in paragraph (2).

(2) The Secretary may require that the agreement include a provision that the District—

(A) either—

(i) pay the Secretary an amount (as determined by the Secretary) equal to the cost to the Navy of replacing at the Naval Construction Battalion Center the facilities vacated by the Navy in the joint use area; or

(ii) construct the replacement facilities for the Navy; and

(B) pay the Secretary an amount (as determined by the Secretary) equal to the cost to the Navy of relocating Navy operations from the vacated facilities to the replacement facilities.

(e) NOTICE AND WAIT REQUIREMENTS.—The Secretary may not enter into the agreement authorized by subsection (a) until 21 days after the date on which the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives a report containing an explanation of the terms of the proposed agreement and a description of the consideration that the Secretary expects to receive under the agreement.

(f) USE OF PROCEEDS.—(1) The Secretary may use amounts received under subsection (d)(1)(A) to pay for general supervision, administration and overhead expenses incurred by the Secretary under the agreement and for improvement, maintenance, repair, construction, or restoration of the port operations area or of roads and railways serving the area at the Naval Construction Battalion Center.

(2) The Secretary may use amounts received under subsection (d)(2) to pay for constructing new facilities, or making modifications to existing facilities, that are necessary to replace facilities vacated by the Navy in the joint use area and for relocating operations of the Navy from the vacated facilities to the replacement facilities.

(g) AUTHORITY TO REPLACE FACILITIES.—The Secretary may authorize the District to demolish existing facilities in the joint use area and, consistent with the restrictions required by subsection (c)(2), construct new facilities on the property for the joint use of the Navy and the District.

(h) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property subject to the agreement authorized under this section shall be determined by a survey that is satisfactory to the Secretary. The cost of the survey shall be borne by the District.

(i) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the agreement authorized under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2823. LEASE OF PROPERTY, NAVAL RADIO RECEIVING FACILITY, IMPERIAL BEACH, CORONADO, CALIFORNIA.

(a) LEASE AUTHORIZED.—The Secretary of the Navy may lease to the Young Men's Christian Association of San Diego County, a California nonprofit public benefit corporation (in this section referred to as the "YMCA"), such interests in a parcel of real property (including any improvements thereon) consisting of approximately 45 acres at the Naval Radio Receiving Facility, Imperial Beach, Coronado, California, as the Secretary considers appropriate for the YMCA to operate and maintain a summer youth residence camp known as the YMCA San Diego Unified Recreational Facility (Camp SURF). Pursuant to the lease, the Secretary may authorize the YMCA to construct facilities on the parcel.

(b) LEASE TERMS.—The lease authorized in subsection (a) shall be for a period of 50 years, or such longer period as the Secretary determines to be in the best interests of the United States.

(c) CONSIDERATION.—As consideration for the lease of real property under subsection (a), the YMCA shall—

(1) agree to maintain and enhance the natural resources of the leased premises; and

(2) pay to the United States an amount in cash equal to the difference between the rental price prescribed by the Secretary under subsection (d) and the value of natural resources maintenance and enhancements performed by the YMCA, as determined by the Secretary.

(d) DETERMINATION OF RENTAL PRICE.—The Secretary may prescribe a rental price for the real property leased under subsection (a) that is less than the fair market rental value of such property.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the lease under subsection (a) as the Secretary considers necessary to protect the operation of the Naval Radio Receiving Facility, Imperial Beach, Coronado, California, and to protect the interests of the United States.

SEC. 2824. RELEASE OF REVERSIONARY INTEREST ON CERTAIN PROPERTY IN YORK COUNTY AND JAMES CITY COUNTY, VIRGINIA, AND NEWPORT NEWS, VIRGINIA.

(a) RELEASE AUTHORIZED.—The Secretary of the Navy may release the reversionary interest of the United States in the real property conveyed by the deed described in subsection (b).

(b) DEED DESCRIPTION.—The deed referred to in subsection (a) is a deed between the United States and the Commonwealth of Virginia dated August 17, 1966, which conveyed to the Commonwealth of Virginia certain parcels of land located in York County and James City County, Virginia, and the city of Newport News, Virginia.

(c) ADDITIONAL TERMS.—The Secretary may require such terms or conditions in connection with the release under this section as the Secretary considers appropriate to protect the interests of the United States and to ensure that the real property will continue to be used for public purposes.

(d) INSTRUMENT OF RELEASE.—The Secretary may execute and file in the appropriate office or offices a deed of release, amended deed, or other appropriate instrument effectuating the release of the reversionary interest under this section.

SEC. 2825. LAND TRANSFER, FORT DEVENS, MASSACHUSETTS.

(a) TRANSFER.—Notwithstanding any other provision of law and subject to subsection (b), the Secretary of the Army shall transfer administrative jurisdiction of approximately 800 acres of land at Fort Devens, Massachusetts, to the Secretary of the Interior for inclusion in the Oxbow National Wildlife Refuge, Massachusetts.

(b) LIMITATION ON TRANSFER.—The Secretary of the Army may not carry out the transfer referred to in subsection (a) unless the Secretary and the reuse authority for Fort Devens for the purposes of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), jointly determine that the transfer of the land under this section is consistent with the redevelopment plan prepared under section 2905(b) of such Act.

(c) ADMINISTRATION OF LAND.—The Secretary of the Interior shall administer the land transferred under this section in accordance with all laws applicable to areas in the National Wildlife Refuge System.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be transferred under this section shall be determined by a survey satisfactory to the Secretary of the Army and the Secretary of the Interior.

SEC. 2826. LAND CONVEYANCE, CORNHUSKER ARMY AMMUNITION PLANT, HALL COUNTY, NEBRASKA.

(a) CONVEYANCE AUTHORIZED.—Subject to subsection (b), the Secretary of the Army may convey to the Hall County, Nebraska, Board of Supervisors (in this section referred to as the "Board"), or the designee of the Board, all right, title and interest of the United States in and to the real property, together with any improvements thereon, located in Hall County, Nebraska, the site of the Cornhusker Army Ammunition Plant.

(b) REQUIREMENT RELATING TO CONVEYANCE.—The Secretary may not carry out the conveyance authorized under subsection (a) until the Secretary completes any environmental restoration required with respect to the property to be conveyed.

(c) UTILIZATION OF PROPERTY.—The Board or its designee, as the case may be, shall utilize the real property conveyed under subsection (a) in a manner consistent with the Cornhusker Army Ammunition Plant Reuse Committee Comprehensive Reuse Plan.

(d) CONSIDERATION.—In consideration for the conveyance under subsection (a), the Board or its designee, as the case may be, shall pay to the United States an amount equal to the fair market value of the real property to be conveyed, as determined by the Secretary.

(e) USE OF PROCEEDS.—(1) The Secretary shall deposit in the special account established under section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)) the amount received from the Board or its designee under subsection (d).

(2) Notwithstanding subparagraph (A) of such section 204(h)(2), the Secretary may use the entire amount deposited in the account under paragraph (1) for the purposes set forth in subparagraph (B) of such section 204(h)(2).

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Board or its designee, as the case may be.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2827. TRANSFER OR CONVEYANCE OF CERTAIN PARCELS OF PROPERTY THROUGH GENERAL SERVICES ADMINISTRATION.

(a) IN GENERAL.—(1) Subject to paragraph (2), the Administrator of General Services shall—

(A) transfer jurisdiction over all or a portion of a parcel of real property described in subsection (b) to another executive agency if the Administrator determines under subsection (c) that the transfer of jurisdiction to the agency is appropriate;

(B) convey all or a portion of such a parcel to a State or local government or nonprofit organization if the Administrator determines under subsection (d) that the conveyance to the government or organization is appropriate; or

(C) convey all or a portion of such a parcel to the entity specified to receive the conveyance under subsection (e) in accordance with that subsection.

(2) The Administrator shall carry out an action referred to in subparagraph (A), (B), or (C) of paragraph (1) only upon direction by the Secretary of Defense. The Secretary shall make the direction, if at all, in accordance with subsection (g).

(3) Upon the direction of the Secretary of Defense, the Secretary of the military department concerned shall transfer jurisdiction over an appropriate portion of a parcel of real property referred to in paragraph (1) to the Administrator in order to permit the Administrator to carry out the transfer of jurisdiction over or conveyance of the portion of the parcel under this section.

(b) COVERED PROPERTY.—(1) The parcels of real property referred to in subsection (a)(1) are the following:

(A) A parcel of real property, including any improvements thereon, consisting of approximately 337 acres and located in Tulsa, Oklahoma, the location of Air Force Plant No. 3.

(B) A parcel of real property, including any improvements thereon, consisting of approximately 2,900 acres and located in Calverton, New York, the location of the Naval Weapons Industrial Reserve Plant.

(C) A parcel of real property, including any improvements thereon, located in Johnson City (Westover), New York, the location of Air Force Plant No. 59.

(D) A parcel of real property, including any improvements thereon, consisting of approximately 4 acres and located in Dickinson, North Dakota, the location of a support complex, recreational facilities, and housing facilities for the Radar Bomb Scoring Site, Dickinson, North Dakota.

(E) A parcel of real property, including any improvements thereon, consisting of approximately 12 acres and located west of Finley, North Dakota, the location of a support complex, recreational facilities, and housing facilities for the Finley Air Force Station and Radar Bomb Scoring Site, Finley, North Dakota.

(F) A parcel of property, including any improvements thereon, consisting of approximately 440 acres located at the Hawthorne Army Ammunition Plant, Mineral County, Nevada, and commonly referred to as the Babbitt Housing Site.

(G) A parcel of real property, including any improvements thereon and the pier associated therewith, consisting of approximately 118 acres and located in Harpswell, Maine, the location of the Defense Fuel Supply Point, Casco Bay, Maine.

(2) The exact acreage and legal description of the real property referred to in paragraph (1) that is transferred or conveyed under this section shall be determined by a survey satisfactory to the Secretary of the military department concerned. The cost of the survey shall be borne by the Secretary concerned. The transferee or conveyee, if any, of the property under this section shall reimburse the Secretary concerned for the cost borne by that Secretary for the survey of the property.

(c) DETERMINATION OF TRANSFEREES.—(1) Subject to subsection (a)(2), the Administrator shall transfer jurisdiction over all or a portion of a parcel of real property referred to in subsection (b)(1) to an executive agency if the Administrator determines under this subsection that the transfer is appropriate.

(2) Not later than 5 days after the date of the enactment of this Act, the Administrator shall inform the heads of the executive agencies of the availability of the parcels of real property referred to in subsection (b)(1).

(3) The head of an executive agency having an interest in obtaining jurisdiction over any portion of a parcel of real property referred to in paragraph (2) shall notify the Administrator, in writing, of the interest within such time as the Administrator shall specify with respect to the parcel in order to permit the Administrator to determine under paragraph (4) whether the transfer of jurisdiction to the agency is appropriate.

(4)(A) The Administrator shall—

(i) evaluate in accordance with section 202(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(a)) the notifications of interest, if any, received under paragraph (3) with respect to a parcel of real property; and

(ii) determine in accordance with that section the executive agency, if any, to which the transfer of jurisdiction is appropriate.

(B) The Administrator shall complete the determination under subparagraph (A) with respect to a parcel not later than 30 days after informing the heads of the executive agencies of the availability of the parcel.

(d) DETERMINATION OF CONVEYEES.—(1) Subject to subsection (a)(2), the Administrator shall convey all right, title, and interest of the United States in and to all or a portion of a parcel of real property referred to in paragraph (2) to a government or organization referred to in paragraph (3) if the Administrator determines under this subsection that the conveyance is appropriate.

(2) Paragraph (2) applies to any portion of a parcel of real property referred to in subsection (b)(1)—

(A) for which the Administrator receives no notification of interest from the head of an executive agency under subsection (c); or

(B) with respect to which the Administrator determines under paragraph (4)(B) of that subsection that a transfer of jurisdiction under this section would not be appropriate.

(3)(A) In the case of the property referred to in paragraph (2), the governments and organizations referred to in that paragraph are the following:

(i) The State government of the State in which the property is located.

(ii) Local governments affected (as determined by the Administrator) by operations of the Department of Defense at the property.

(iii) Nonprofit organizations located in the vicinity of the property and eligible under Federal law to be supported through the use of Federal surplus real property.

(B) In this paragraph, the term "nonprofit organization" means any organization listed in subsection (c)(3) of section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501) that is exempt from taxation under subsection (a) of that section.

(4) Not later than 5 days after completing the determination under subsection (c)(4)(B), the Administrator shall determine what, if any, parcels of property referred to in subsection (b)(1) are available for conveyance under this subsection and shall inform the appropriate governments and organizations of the availability of the parcels for conveyance under this section.

(5) A government or organization referred to in paragraph (4) shall notify the Administrator, in writing, of the interest of the government or organization, as the case may be, in the conveyance of all or a portion of the parcel of real property concerned to the government or organization. The government or organization shall notify the Administrator within such time as the Administrator shall specify with respect to the parcel in order to permit the Administrator to determine under paragraph (6) whether the conveyance of the parcel to the government or organization, as the case may be, is appropriate.

(6)(A) The Administrator shall—

(i) evaluate in accordance with section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) the notifications, if any, received under paragraph (5) with respect to a parcel of real property; and

(ii) determine in accordance with that section the government or organization, if any, to which the conveyance is appropriate.

(B) The Administrator shall complete the determination under subparagraph (A) with respect to a parcel not later than 70 days after notifying the governments and organizations concerned of the availability of the parcel for conveyance.

(e) ADDITIONAL CONVEYANCE AUTHORITY.—(1) Subject to subsection (g)(2), the Administrator shall, in lieu of transferring jurisdiction over or conveying the parcels of real property referred to in subsection (b)(1) in accordance with subsections (c) and (d), convey all or a portion of such parcels as follows:

(A) In the case of the parcel referred to in subparagraph (A) of subsection (b)(1), by conveying without consideration all right, title, and interest of the United States in and to the parcel to the City of Tulsa, Oklahoma.

(B) In the case of the parcel referred to in subparagraph (B) of that subsection, by conveying without consideration all right, title, and interest of the United States in and to the parcel to any economic development authority that the Governor of New York determines appropriate and identifies as such for the Administrator.

(C) In the case of the parcel referred to in subparagraph (C) of that subsection, by conveying without consideration all right, title, and interest of the United States in and to the parcel to the Broome County Industrial Development Authority.

(D) In the case of the parcel referred to in subparagraph (D) of that subsection, by conveying without consideration all right, title, and interest of the United States in and to the parcel to the North Dakota Board of Higher Education.

(E) In the case of the parcel referred to in subparagraph (E) of that subsection, by conveying without consideration all right, title, and interest of the United States in and to the parcel to the City of Finley, North Dakota.

(F) In the case of the parcel referred to in subparagraph (F) of that subsection, by conveying without consideration all right, title, and interest of the United States in and to the parcel to the government of Mineral County, Nevada.

(G) In the case of the parcel referred to in subparagraph (F) of that subsection, by conveying without consideration all right, title, and interest of the United States in and to the parcel to the Town of Harpswell, Maine.

(2) The Administrator may require such additional terms and conditions in connection with a conveyance under this subsection as the Administrator and the Secretary of Defense jointly consider appropriate to protect the interests of the United States.

(f) REPORT BY ADMINISTRATOR.—(1) Not later than 125 days after the date of the enactment of this Act, the Administrator shall submit to the Committees on Armed Services of the Senate and House of Representatives and to the Secretary of Defense a report on the activities of the Administrator under this section.

(2) The report shall include with respect to each parcel of real property referred to in subsection (b)(1) the following information:

(A) The interest, if any, for all or a portion of the parcel that was expressed by executive agencies under subsection (c) or by governments or nonprofit organizations under subsection (d).

(B) The use, if any, proposed for the portion of the parcel under each expression of interest.

(C) The determination of the Administrator whether a transfer or conveyance of all or a portion of the parcel, as the case may be, to the agency, government, or organization was appropriate.

(D) The other disposal options, if any, that the Administrator has identified for the parcel.

(E) Any other matters that the Administrator considers appropriate.

(g) DESIGNATION OF AUTHORITY TO BE USED.—(1) If the Administrator submits the report required under subsection (f) within the time specified in that subsection, the Secretary of Defense may direct the Administrator under subsection (a)(2) to carry out the transfer or conveyance under subsection (c) or (d) of all or a portion of a parcel of property referred to in subsection (b)(1) in accordance with the determinations made by the Administrator with respect to the transfer or conveyance of the parcel under subsection (c) or (d), respectively.

(2) If the Administrator does not submit the report required under subsection (f) within the time specified in that subsection, the Secretary may direct the Administrator to carry out the conveyances of the parcels of property that are authorized under subsection (e) in accordance with such subsection (e).

Subtitle D—Changes to Existing Land Transaction Authority

SEC. 2831. MODIFICATIONS OF LAND CONVEYANCE, FORT A.P. HILL MILITARY RESERVATION, VIRGINIA.

(a) PARTICIPATION OF ADDITIONAL POLITICAL SUBDIVISIONS IN REGIONAL CORRECTIONAL FACILITY.—Subparagraph (B) of subsection (c)(3) of section 603 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102–25; 105 Stat. 108) is amended to read as follows:

"(B) Subparagraph (A) shall not be construed to prohibit any political subdivision not named in such subparagraph from—

"(i) participating initially in the written agreement referred to in paragraph (2); or "(ii) agreeing at a later date to participate as a member of the governmental entity referred to in paragraph (2)(A), or by contract with such entity, in the construction or operation of the regional facility to be constructed on the parcel of land conveyed under this section.".

(b) Time for Construction and Operation of Correctional Facility.—(1) Subsection (d)(1)(A)(i) of such section is amended by striking out "not later than 24 months after the date of the enactment of this Act" and inserting in lieu thereof "not later than April 1, 1997".

(2) The Secretary of the Army shall provide the recipient of the conveyance of property under section 603 of such Act with such legal instrument as is appropriate to modify, in accordance with the amendment made by paragraph (1), any statement of conditions contained in any existing instrument which conveyed the property to that recipient. The Secretary shall record the instrument in the appropriate office or officers of the Commonwealth of Virginia or political subdivision within the Commonwealth.

SEC. 2832. MODIFICATION OF CONVEYANCE OF ELECTRICITY DISTRIBUTION SYSTEM, FORT DIX, NEW JERSEY.

Section 2846 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1904) is amended—

(1) by striking out subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

SEC. 2833. MODIFICATION OF LAND CONVEYANCE, FORT KNOX, KENTUCKY.

Section 2816 of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189; 103 Stat. 1655) is amended—

(1) in subsection (c), by striking out "for the construction of up to four units of military family housing at Fort Knox, Kentucky" and inserting in lieu thereof "for improvements to military family housing at Fort Knox, Kentucky, in an amount not to exceed $255,000";

(2) by striking out subsection (d); and

(3) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

SEC. 2834. PRESERVATION OF CALVERTON PINE BARRENS, NAVAL WEAPONS INDUSTRIAL RESERVE PLANT, NEW YORK, AS NATURE PRESERVE.

(a) Preservation as Nature Preserve Required.—Section 2854 of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2626) is amended—

(1) by redesignating subsections (a) and (b) as subsections (c) and (d); and

(2) by inserting before subsection (c), as so redesignated, the following new subsections (a) and (b):

"(a) Purpose.—It is the purpose of this section to ensure that the Calverton Pine Barrens is maintained and preserved, in perpetuity, as a nature preserve in its current undeveloped state.

"(b) Prohibition on Inconsistent Development.—(1) The Secretary of the Navy may not carry out or permit any commercial or residential development of the property referred to in paragraph (2) that is inconsistent with the purpose specified in subsection (a).

"(2) Paragraph (1) applies to any parcel of real property within the Calverton Pine Barrens that is under the jurisdiction of the Secretary.".

(b) Conforming Amendments.—Subsection (c) of such section, as redesignated by subsection (a)(1), is amended—

(1) by striking out "Prohibition.—" and inserting in lieu thereof "Reversionary Interest.—"; and

(2) by striking out "for commercial purposes" and all that follows through the period and inserting in lieu thereof "in a manner inconsistent with the purpose specified in subsection (a) (as determined by the head of the department or agency making the conveyance).".

Subtitle E—Other Matters

SEC. 2841. JOINT CONSTRUCTION CONTRACTING FOR COMMISSARIES AND NONAPPROPRIATED FUND INSTRUMENTALITY FACILITIES.

(a) Single Contract Construction.—Section 2685 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) The Secretary of a military department may authorize a nonappropriated fund instrumentality of the United States to enter into a contract for construction of a shopping mall or similar facility for a commissary store and one or more nonappropriated fund instrumentality activities. The Secretary may use the proceeds of adjustments or surcharges authorized by subsection (a) to reimburse the nonappropriated fund instrumentality for the portion of the cost of the contract that is attributable to construction of the commissary store or to pay the contractor directly for that portion of such cost.

"(2) In paragraph (1), the term 'construction', with respect to a facility, includes acquisition, conversion, expansion, installation, or other improvement of the facility.".

(b) Obligation of Anticipated Proceeds.—Subsection (c) of such section is amended by inserting "or (d)" after "subsection (b)" both places it appears.

SEC. 2842. NATIONAL GUARD FACILITY CONTRACTS SUBJECT TO PERFORMANCE SUPERVISION BY THE ARMY OR THE NAVY.

(a) Contracts Subject To Supervision.—Subsection (a) of section 2237 of title 10, United States Code, is amended by striking out "under any provision" and all that follows through "and (4)" and inserting in lieu thereof "under section 2233(a)(1)".

(b) Conforming Amendment.—Subsection (b) of such section is amended by striking out "or (4)" and inserting in lieu thereof "(4), (5), or (6)".

SEC. 2843. WAIVER OF REPORTING REQUIREMENTS FOR CERTAIN REAL PROPERTY TRANSACTIONS IN THE EVENT OF WAR OR NATIONAL EMERGENCY.

Section 2662 of title 10, United States Code, is amended by adding at the end the following:

"(g)(1) Subsections (a) and (e) do not apply—

"(A) during a period described in paragraph (2); or

"(B) to transactions described in such subsections that are undertaken to restore Federal Government operations, to provide public assistance or relief, or to restore public order in relation to a major disaster declared in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

"(2) The periods referred to in paragraph (1)(A) are as follows:

"(A) A period of war declared by Congress.

"(B) A period of national emergency declared by the President in accordance with the National Emergencies Act (50 U.S.C. 1601 et seq.)

"(3) Not later than 30 days after taking an action for which prior notification would, except for this subsection, otherwise be required under subsection (a) or (e), the Secretary of the military department concerned or, in the case of an element of the Department of Defense not within a military department, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the action taken.".

SEC. 2844. REPORT ON USE OF FUNDS FOR ENVIRONMENTAL RESTORATION AT CORNHUSKER ARMY AMMUNITION PLANT, HALL COUNTY, NEBRASKA.

(a) Report Required.—The Secretary of the Army shall submit to Congress a report describing the manner in which funds available to the Army for operation and maintenance (including funds in the Defense Environmental Restoration Account established under section 2703(a)(1) of title 10, United States Code) will be used by the Secretary for environmental restoration and maintenance of the real property that comprises the Cornhusker Army Ammunition Plant, Hall County, Nebraska.

(b) Contents.—The report shall include the following:

(1) The funding plan for environmental restoration at the Cornhusker Army Ammunition Plant.

(2) A legal opinion stating whether any portion of the funds to be used for such environmental restoration may be used for the repair of the roads at the Plant in order to bring such roads into compliance with applicable State and local public works codes.

(3) A survey of the roads at the Plant that identifies which roads, if any, are in need of repair in order to bring the roads at the Plant into compliance with such codes.

(4) An estimate of the cost of the repair of the roads referred to in paragraph (3) in order to bring the roads into compliance.

(5) An explanation of the purpose, cost, and source of funds for any proposed preservation of documents or other materials relating to the cultural, historical, and natural resources associated with the Plant.

(c) Submission of Report.—The Secretary shall submit the report required by this section not later than May 1, 1995.

SEC. 2845. DEPARTMENT OF DEFENSE LABORATORY REVITALIZATION DEMONSTRATION PROGRAM.

(a) Program Required.—The Secretary of Defense shall carry out a Department of Defense Laboratory Revitalization Demonstration Program. Under the program the Secretary may carry out minor military construction projects in accordance with subsection (b) and other applicable law to improve Department of Defense laboratories covered by the program.

(b) Increased Maximum Amounts Applicable to Minor Construction Projects.—For purpose of any military construction project carried out under the program—

(1) the amount provided in subsection (a)(1) of section 2805 of title 10, United States Code, shall be deemed to be $3,000,000;

(2) the amount provided in subsection (b)(1) of such section shall be deemed to be $1,500,000; and

(3) the amount provided in subsection (c)(1) of such section shall be deemed to be $1,000,000.

(c) Designation of Covered Laboratories.—Not later than 30 days before commencing the program, the Secretary shall designate the Department of Defense laboratories that are to be covered by the program and notify Congress of the laboratories so designated. Only the designated laboratories may be covered by the program.

(d) Report.—Not later than September 30, 1998, the Secretary shall submit to Congress a report on the program. The report shall include the Secretary's conclusions and recommendations regarding the desirability and feasibility of extending the authority set forth in subsection (b) to cover all Department of Defense laboratories.

(e) EXCLUSIVITY OF PROGRAM.—Nothing in this section may be construed to limit any other authority provided by law for any military construction project at a Department of Defense laboratory covered by the program.

(f) DEFINITIONS.—In this section:

(1) The term "laboratory" includes—

(A) a research, engineering, and development center;

(B) a test and evaluation activity owned, funded, and operated by the Federal Government through the Department of Defense; and

(C) a supporting facility of a laboratory.

(2) The term "supporting facility", with respect to a laboratory, means any building or structure that is used in support of research, development, test, and evaluation at a laboratory.

(3) The term "Department of Defense laboratory" does not include a contractor owned laboratory.

(g) EXPIRATION OF AUTHORITY.—The Secretary may not carry out the program after September 30, 1999.

SEC. 2846. AGREEMENTS OF SETTLEMENT FOR RELEASE OF IMPROVEMENTS AT OVERSEAS MILITARY INSTALLATIONS.

(a) AGREEMENTS SUBJECT TO OMB REVIEW.—Subsection (g) of section 2921 of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510; 10 U.S.C. 2687 note) is amended by inserting after the first sentence the following: "The prohibition set forth in the preceding sentence shall apply only to agreements of settlement for improvements having a value in excess of $10,000,000.".

(b) REPORTS TO CONGRESS.—Such subsection, as amended by subsection (a), is further amended—

(1) by inserting "(1)" before "The Secretary of Defense"; and

(2) by adding at the end the following:

"(2) Each year, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on each proposed agreement of settlement that was not submitted by the Secretary to the Director of the Office of Management and Budget in the previous year under paragraph (1) because the value of the improvements to be released pursuant to the proposed agreement did not exceed $10,000,000.".

SEC. 2847. REVISIONS TO RELEASE OF REVERSIONARY INTEREST, OLD SPANISH TRAIL ARMORY, HARRIS COUNTY, TEXAS.

(a) CLERICAL AMENDMENTS.—Section 2820 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1894) is amended—

(1) in subsection (a), by striking out "1936" and inserting in lieu thereof "1956"; and

(2) in subsection (b)(1), by striking out "value" and inserting in lieu thereof "size".

(b) PAYMENT FOR SURVEY.—Subsection (c) of such section is amended by adding at the end the following: "The cost of the survey shall be borne by the State of Texas.".

SEC. 2848. TRANSFER OF JURISDICTION, AIR FORCE HOUSING AT RADAR BOMB SCORING SITE, HOLBROOK, ARIZONA.

(a) TRANSFER AUTHORIZED.—As part of the closure of an Air Force Radar Bomb Scoring Site located near Holbrook, Arizona, the Secretary of the Air Force may transfer without reimbursement the administrative jurisdiction, accountability and control of the housing units and associated support facilities used in connection with the site to the Secretary of the Interior for use in connection with the Petrified Forest National Park.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be transferred under subsection (a) shall be determined by a survey satisfactory to the Secretary of the Air Force and the Secretary of the Interior.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Air Force may require such additional terms and conditions in connection with the transfer of real property under subsection (a) as the Secretary considers appropriate.

SEC. 2849. ASSISTANCE FOR PUBLIC PARTICIPATION IN DEFENSE ENVIRONMENTAL RESTORATION ACTIVITIES.

(a) ESTABLISHMENT OF RESTORATION ADVISORY BOARDS.—Section 2705 of title 10, United States Code, is amended by adding after subsection (c) the following:

"(d) RESTORATION ADVISORY BOARD.—(1) In lieu of establishing a technical review committee under subsection (c), the Secretary may permit the establishment of a restoration advisory board in connection with any installation (or group of nearby installations) where the Secretary is planning or implementing environmental restoration activities.

"(2) The Secretary shall prescribe regulations regarding the characteristics, composition, funding and establishment of restoration advisory boards pursuant to this subsection, if the Secretary decides to use this authority. Prescription of regulations shall not be a precondition to establishment of a restoration advisory board or impact restoration advisory board established prior to the date of enactment of this section.

"(3) The Secretary may provide for the payment of routine administrative expenses of a restoration advisory board from funds available for the operation and maintenance of the installation (or installations) for which the board is established or from the funds available under subsection (e)(4).".

(b) ASSISTANCE FOR CITIZEN PARTICIPATION ON TECHNICAL REVIEW BOARDS AND RESTORATION ADVISORY BOARDS.—Such section is further amended by adding after subsection (d), as added by subsection (a), the following:

"(e) ASSISTANCE FOR CITIZEN PARTICIPATION.—(1)(A) Subject to subparagraph (B), the Secretary shall make available under paragraph (4) funds to facilitate the participation of individuals from the private sector on technical review committees and restoration advisory boards for the purpose of ensuring public input into the planning and implementation of environmental restoration activities at installations where such committees and boards are in operation.

"(B) A committee or advisory board for an installation is eligible for funding assistance under this subsection only if the committee or board is composed of individuals from the private sector who reside in a community in the vicinity of the installation and who are not potentially responsible parties with respect to environmental hazards at the installation.

"(2) Individuals who are local community members of a technical review committee or restoration advisory board may use funds made available under this subsection only—

"(A) to obtain technical assistance in interpreting scientific and engineering issues with regard to the nature of environmental hazards at an installation and the restoration activities proposed or conducted at the installation; and

"(B) to assist such members and affected citizens to participate more effectively in environmental restoration activities at the installation.

"(3) The members of a technical review committee or restoration advisory board may employ technical or other experts in accordance with regulations prescribed under subsections (d) and (e)(1) of title 10, United States Code as added by this section.

"(4)(A) Subject to subparagraph (B), the Secretary shall make funds available under this subsection using funds in the following accounts:

"(i) In the case of a military installation not closed pursuant to a base closure law, the Defense Environmental Restoration Account established in section 2703(a) of this title .

"(ii) In the case of a technical review committee or restoration advisory board established for a military installation to be closed, the Department of Defense Base Closure Account 1990 established under section 2906(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

"(B) The total amount of funds available under this subsection for fiscal year 1995 may not exceed $7,500,000.".

(c) INVOLVEMENT OF COMMITTEES AND BOARDS IN DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.—Such section is further amended by adding after subsection (e), as added by subsection (b), the following:

"(f) INVOLVEMENT IN DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.—If a technical review committee or restoration advisory board is established with respect to an installation, the Secretary shall consult with and seek the advice of the committee or board on the following issues:

"(1) Identifying environmental restoration activities and projects at the installation.

"(2) Monitoring progress on these activities and projects.

"(3) Collecting information regarding restoration priorities for the installation.

"(4) Addressing land use, level of restoration, acceptable risk, and waste management and technology development issues related to environmental restoration at the installation.

"(5) Developing environmental restoration strategies for the installation.".

(d) IMPLEMENTATION REQUIREMENTS.—Not later than 180 days after the date on which the Secretary announces a decision to establish restoration advisory boards, the Secretary of Defense shall—

(1) prescribe the regulations required under subsections (d) and (e)(1) of title 10, United States Code, as added by this section; and

(2) take appropriate actions to notify the public of the availability of funding under subsection (e) of such section, as so added.

"(e) REPORT.—The Secretary shall report to the Committees on Armed Services of the Senate and the House of Representatives by May 1, 1996, on the establishment of restoration advisory boards and funds expended for assistance for citizen participation.

SEC. 2850. SENSE OF THE SENATE ON AUTHORIZATION OF FUNDS FOR MILITARY CONSTRUCTION PROJECTS NOT REQUESTED IN THE PRESIDENT'S ANNUAL BUDGET REQUEST.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that, to the maximum extent practicable, the Senate should consider the authorization for appropriation of funds for a military construction project not included in the annual budget request of the Department of Defense only if:

(1) the project is consistent with past actions of the Base Realignment and Closure process;

(2) the project is included in the military construction plan of the military department concerned incorporated in the Future Years Defense Program;

(3) the project is necessary for reasons of the national security of the United States; and

(4) a contract for construction of the project can be awarded in that fiscal year.

(b) VIEWS OF THE SECRETARY OF DEFENSE.—In considering these criteria, the Senate should obtain the views of the Secretary of Defense. These views should include whether funds for a military construction project not included in the budget request can be offset by funds for other programs, projects, or activities, including military construction projects, in the budget request and, if so, the specific offsetting reductions recommended by the Secretary of Defense.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

SEC. 3101. WEAPONS ACTIVITIES.

(a) RESEARCH AND DEVELOPMENT.—Subject to subsection (f), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for research and development in carrying out weapons activities necessary for national security programs in the amount of $1,187,818,000, to be allocated as follows:

(1) For core research and development, $795,551,000, to be allocated as follows:

(A) For operating expenses, $649,341,000.

(B) For capital equipment, $69,420,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $76,790,000, to be allocated as follows:

Project GPD–101, general plant projects, various locations, $8,500,000.

Project 95–D–102, Chemical and Metallurgy Research Building upgrades, Los Alamos National Laboratory, New Mexico, $3,300,000.

Project 94–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase V, various locations, $13,000,000.

Project 92–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase IV, various locations, $21,810,000.

Project 90–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase III, various locations, $7,700,000.

Project 88–D–106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $22,480,000.

(2) For inertial fusion, $176,473,000, to be allocated as follows:

(A) For operating expenses, $166,755,000.

(B) For capital equipment, $9,718,000.

(3) For technology transfer, $215,794,000, to be allocated as follows:

(A) For operating expenses, $209,794,000.

(B) For capital equipment, $6,000,000.

(b) TESTING.—Subject to subsection (f), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for testing in carrying out weapons activities necessary for national security programs in the amount of $384,719,000, to be allocated as follows:

(1) For testing capabilities and readiness $374,719,000, to be allocated as follows:

(A) For operating expenses, $338,249,000.

(B) For capital equipment, $15,470,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $21,000,000, to be allocated as follows:

Project GPD–101, general plant projects, various locations, $4,000,000.

Project 93–D–102, Nevada support facility, North Las Vegas, Nevada, $17,000,000.

(2) For operating expenses for solar energy development, $10,000,000.

(c) STOCKPILE SUPPORT.—Subject to subsection (f), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for stockpile support in carrying out weapons activities necessary for national security programs in the amount of $1,557,085,000, to be allocated as follows:

(1) For operating expenses for stockpile support, $1,487,085,000.

(2) For capital equipment, $15,880,000.

(3) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $54,120,000, to be allocated as follows:

Project GPD–121, general plant projects, various locations, $1,000,000.

Project 95–D–122, sanitary sewer upgrade Oak Ridge Y–12 Plant, Oak Ridge, Tennessee, $2,200,000.

Project 95–D–123, replace transportation safeguards, aviation facility, Albuquerque, New Mexico, $2,000,000.

Project 94–D–124, hydrogen fluoride supply system, Oak Ridge Y–12 Plant, Oak Ridge, Tennessee, $6,300,000.

Project 94–D–125, upgrade life safety, Kansas City Plant, Kansas City, Missouri, $1,000,000.

Project 94–D–127, emergency notification system, Pantex Plant, Amarillo, Texas, $1,000,000.

Project 94–D–128, environmental safety and health analytical laboratory, Pantex Plant, Amarillo, Texas, $1,000,000.

Project 93–D–122, life safety upgrades, Y–12 Plant, Oak Ridge, Tennessee, $5,000,000.

Project 88–D–122, facilities capability assurance program, various locations, $19,620,000.

Project 88–D–123, security enhancements, Pantex Plant, Amarillo, Texas, $15,000,000.

(d) PROGRAM DIRECTION.—Subject to subsection (f), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for program direction in carrying out weapons activities necessary for national security programs in the amount of $169,852,000, to be allocated as follows:

(1) For operating expenses for weapons program direction, $167,498,000.

(2) For capital equipment, $2,354,000.

(e) RECONFIGURATION.—Subject to subsection (f), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for nuclear weapons complex reconfiguration in carrying out weapons activities necessary for national security programs in the amount of $152,271,000, to be allocated as follows:

(1) For operating expenses for reconfiguration, $94,271,000.

(2) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $58,000,000, all of which to be allocated as follows:

Project 93–D–123, complex-21, various locations.

(f) ADJUSTMENTS.—Subject to section 3105, the total amount authorized to be appropriated pursuant to this section is the sum of the amounts authorized to be appropriated in subsections (a) through (e) reduced by the sum of—

(1) $131,077,000, for use of prior year balances; and

(2) $11,000,000, for savings resulting from procurement reform.

SEC. 3102. ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

(a) CORRECTIVE ACTIVITIES.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for corrective activities in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $1,012,000, all of which to be allocated to a plant project (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto) as follows:

Project 92–D–403, tank upgrades project, Lawrence Livermore National Laboratory, California.

(b) ENVIRONMENTAL RESTORATION.—(1) Subject to paragraph (2), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for environmental restoration for operating expenses in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $1,531,969,000.

(2) Subject to subsection (h), the amount authorized to be appropriated pursuant to this subsection is the amount authorized to be appropriated in paragraph (1) reduced by $133,900,000, as a result of the productivity savings initiative.

(c) WASTE MANAGEMENT.—(1) Subject to paragraph (2), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for waste management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $2,913,045,000, to be allocated as follows:

(A) For operating expenses, $2,408,029,000.

(B) For capital equipment, $104,790,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $400,226,000, to be allocated as follows:

Project GPD–171, general plant projects, various locations, $23,742,000.

Project 95–D–401, radiological support facilities, Richland, Washington, $1,585,000.

Project 95–D–402, install permanent electrical service, Waste Isolation Pilot Plant, New Mexico, $700,000.

Project 95–D–403, hazardous waste storage facility, Mound Plant, Miamisburg, Ohio, $597,000.

Project 95–D–405, industrial landfill V and construction demolition landfill VII, Oak Ridge Y–12 Plant, Oak Ridge, Tennessee, $1,000,000.

Project 95–D–406, road 5–01 reconstruction, area 5, Nevada Test Site, Nevada, $2,338,000.

Project 95–D–407, 219-S secondary containment upgrade, Richland, Washington, $2,000,000.

Project 95–D–408, Phase II liquid effluent treatment and disposal, Richland, Washington, $7,100,000.

Project 94–D–400, high explosive wastewater treatment system, Los Alamos National Laboratory, Los Alamos, New Mexico, $1,000,000.

Project 94–D–402, liquid waste treatment system, Nevada Test Site, Nevada, $3,292,000.

Project 94–D–404, Melton Valley storage tank capacity increase, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $21,373,000.

Project 94–D–406, low-level waste disposal facilities, K–25, Oak Ridge, Tennessee, $6,000,000.

Project 94–D–407, initial tank retrieval systems, Richland, Washington, $17,700,000.

Project 94–D–408, office facilities—200 East, Richland, Washington, $4,000,000.

Project 94–D–411, solid waste operation complex, Richland, Washington, $42,200,000.

Project 94–D–416, solvent storage tanks installation, Savannah River, South Carolina, $1,700,000.

Project 94–D–417, intermediate-level and low-activity waste vaults, Savannah River, South Carolina, $300,000.

Project 93–D–174, plant drain waste water treatment upgrades, Y–12 Plant, Oak Ridge, Tennessee, $1,400,000.

Project 93–D–178, building 374 liquid waste treatment facility, Rocky Flats, Golden, Colorado, $3,300,000.

Project 93–D–181, radioactive liquid waste line replacement, Richland, Washington, $3,300,000.

Project 93–D–182, replacement of cross-site transfer system, Richland, Washington, $18,910,000.

Project 93–D–183, multi-tank waste storage facility, Richland, Washington, $95,305,000.

Project 93–D–187, high-level waste removal from filled waste tanks, Savannah River, Aiken, South Carolina, $26,525,000.

Project 92–D–177, tank 101–AZ waste retrieval system, Richland, Washington, $5,000,000.

Project 92–D–188, waste management ES&H, and compliance activities, various locations, $2,846,000.

Project 91–D–171, waste receiving and processing facility, module 1, Richland, Washington, $3,995,000.

Project 90–D–172, aging waste transfer line, Richland, Washington, $3,819,000.

Project 90–D–177, RWMC transuranic (TRU) waste characterization and storage facility, Idaho National Engineering Laboratory, Idaho, $11,747,000.

Project 90–D–178, TSA retrieval containment building, Idaho National Engineering Laboratory, Idaho, $7,594,000.

Project 89–D–173, tank farm ventilation upgrade, Richland, Washington, $800,000.

Project 89–D–174, replacement high-level waste evaporator, Savannah River, South Carolina, $18,000,000.

Project 89–D–175, hazardous waste/mixed waste disposal facility, Savannah River, South Carolina, $500,000.

Project 86–D–103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, California, $9,500,000.

Project 83–D–148, nonradioactive hazardous waste management, Savannah River, South Carolina, $6,000,000.

Project 81–T–105, defense waste processing facility, Savannah River, South Carolina, $45,058,000.

(2) Subject to subsection (h), the total amount authorized to be appropriated pursuant to this subsection is the sum of the amounts authorized to be appropriated in paragraph (1) reduced by $160,800,000, as a result of the productivity savings initiative.

(d) Technology Development.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for technology development in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $426,409,000, to be allocated as follows:

(1) For operating expenses, $400,974,000.

(2) For capital equipment, $25,435,000.

(e) Transportation Management.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for transportation management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $20,684,000, to be allocated as follows:

(1) For operating expenses, $20,240,000.

(2) For capital equipment, $444,000.

(f) Program Direction.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for program direction in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $84,948,000, to be allocated as follows:

(1) For operating expenses, $83,748,000.

(2) For capital equipment, $1,200,000.

(g) Facility Transition and Management.—(1) Subject to paragraph (2), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for facility transition and management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $791,857,000, to be allocated as follows:

(A) For operating expenses, $681,550,000.

(B) For capital equipment, $23,947,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $86,360,000, to be allocated as follows:

Project GPD–171, general plant projects, various locations, $20,495,000.

Project 95–D–453, primary highway route north of the Wye Barricade, Richland, Washington, $2,500,000.

Project 95–D–454, 324 facility compliance/renovation, Richland, Washington, $1,500,000.

Project 95–D–455, Idaho National Engineering Laboratory radio communications upgrade, Idaho National Engineering Laboratory, Idaho, $1,440,000.

Project 95–D–456, security facilities upgrade, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $986,000.

Project 94–D–122, underground storage tanks, Rocky Flats, Colorado, $2,500,000.

Project 94–D–401, emergency response facility, Idaho National Engineering Laboratory, Idaho, $5,219,000.

Project 94–D–412, 300 area process sewer piping upgrade, Richland, Washington, $7,800,000.

Project 94–D–415, medical facilities, Idaho National Engineering Laboratory, Idaho, $4,920,000.

Project 94–D–451, infrastructure replacement, Rocky Flats Plant, Golden, Colorado, $10,600,000.

Project 93–D–172, electrical upgrade, Idaho National Engineering Laboratory, Idaho, $7,800,000.

Project 93–D–184, 325 facility compliance/renovation, Richland, Washington, $1,000,000.

Project 93–D–186, 200 area unsecured core area fabrication shop, Richland, Washington, $4,000,000.

Project 92–D–125, master safeguards and security agreement/materials surveillance task force security upgrades, Rocky Flats Plant, Golden, Colorado, $2,100,000.

Project 92–D–181, INEL fire and life safety improvements, Idaho National Engineering Laboratory, Idaho, $6,000,000.

Project 92–D–182, INEL sewer system upgrade, Idaho National Engineering Laboratory, Idaho, $1,900,000.

Project 92–D–186, steam system rehabilitation, Phase II, Richland, Washington, $5,600,000.

(2) Subject to subsection (h), the total amount authorized to be appropriated pursuant to this subsection is the sum of the amounts authorized to be appropriated in paragraph (1) reduced by $5,000,000, as a result of the productivity savings initiative.

(h) Prior Year Balances.—Subject to section 3105, the total amount authorized to be appropriated pursuant to this section is the sum of the amounts authorized to be appropriated in subsections (a), (b)(2), (c)(2), (d), (e), (f), and (g)(2) reduced by the sum of—

(1) $240,300,000 for use of prior year balances; and

(2) $17,500,000 for savings resulting from procurement reform.

SEC. 3103. NUCLEAR MATERIALS SUPPORT AND OTHER DEFENSE PROGRAMS.

(a) Materials Support.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for materials support in carrying out nuclear materials support necessary for national security programs in the amount of $887,225,000, to be allocated as follows:

(1) For reactor operations, $163,634,000.

(2) For processing of nuclear materials, $369,468,000.

(3) For support services, $167,776,000.

(4) For capital equipment, $39,427,000.

(5) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $88,950,000, to be allocated as follows:

Project GPD–146, general plant projects, various locations, $21,000,000.

Project 95–D–154, health physics site support facility, Savannah River, South Carolina, $2,000,000.

Project 95–D–155, upgrade site road infrastructure, Savannah River, South Carolina, $750,000.

Project 95–D–156, radio trunking system, Savannah River, South Carolina, $2,100,000.

Project 95–D–157, D–area powerhouse life extension, Savannah River, South Carolina, $4,000,000.

Project 95–D–158, disassembly basin upgrades K, L, and P, Savannah River, South Carolina, $13,000,000.

Project 93–D–147, domestic water system upgrade, Phases I and II, Savannah River, South Carolina, $11,300,000.

Project 93–D–148, replace high-level drain lines, Savannah River, South Carolina, $2,700,000.

Project 93–D–152, environmental modification for production facilities, Savannah River, South Carolina, $2,900,000.

Project 92–D–143, health protection instrument calibration facility, Savannah River, South Carolina, $3,000,000.

Project 90–D–149, plantwide fire protection, Phases I and II, Savannah River, South Carolina, $21,000,000.

Project 92–D–150, operations support facilities, Savannah River, South Carolina, $2,000,000.

Project 92–D–153, engineering support facility, Savannah River, South Carolina, $3,200,000.

(6) For program direction, $58,000,000.

(b) OTHER DEFENSE PROGRAMS.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for other defense programs in carrying out defense programs necessary for national security programs in the amount of $692,204,000, to be allocated as follows:

(1) For verification and control technology, $358,102,000, to be allocated as follows:

(A) For operating expenses, $342,229,000.

(B) For capital equipment, $15,873,000.

(2) For nuclear safeguards and security, $85,816,000, to be allocated as follows:

(A) For operating expenses, $82,421,000.

(B) For capital equipment, $3,395,000.

(3) For security investigations, $38,827,000.

(4) For security evaluations, $14,780,000.

(5) For the Office of Nuclear Safety, $24,679,000, to be allocated as follows:

(A) For operating expenses, $24,629,000.

(B) For capital equipment, $50,000.

(6) For worker and community transition, $120,000,000.

(7) For fissile material control and disposition, $50,000,000.

(c) NAVAL REACTORS.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for naval reactors in carrying out nuclear materials support and other defense programs necessary for national security programs in the amount of $730,651,000, to be allocated as follows:

(1) For naval reactors development, $698,651,000, to be allocated as follows:

(A) For operating expenses:

(i) For plant development, $146,700,000.

(ii) For reactor development, $348,951,000.

(iii) For reactor operation and evaluation, $136,000,000.

(iv) For program direction, $18,800,000.

(B) For capital equipment, $28,200,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $20,000,000, to be allocated as follows:

Project GPN–101, general plant projects, various locations, $6,200,000.

Project 95–D–200, laboratory systems and hot cell upgrades, various locations, $2,400,000.

Project 95–D–201, advanced test reactor radioactive waste system upgrades, Idaho National Engineering Laboratory, Idaho, $700,000.

Project 93–D–200, engineering services facilities, Knolls Atomic Power Laboratory, Niskayuna, New York, $7,900,000.

Project 92–D–200, laboratories facilities upgrades, various locations, $2,800,000.

(2) For enrichment materials, for operating expenses, $32,000,000.

(d) ADJUSTMENTS.—Subject to section 3105, the total amount that may be appropriated pursuant to this section is the sum of the amounts authorized to be appropriated in subsections (a), (b), and (c) reduced by the sum of—

(1) $40,000,000, for recovery of overpayment to the Savannah River Pension Fund;

(2) $6,500,000, for savings resulting from procurement reform; and

(3) $369,700,000, for transfer and use of prior year balances for materials support and other defense programs.

SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $129,430,000.

SEC. 3105. GENERAL REDUCTION IN AUTHORIZATION OF APPROPRIATIONS.

The total amount authorized to be appropriated pursuant to sections 3101, 3102, 3103, and 3104 is the sum of the amounts authorized to be appropriated in such sections reduced by $220,000,000 for use of prior year balances from fiscal year 1994.

Subtitle B—Recurring General Provisions

SEC. 3121. REPROGRAMMING.

(a) NOTICE TO CONGRESS.—(1) Except as otherwise provided in this title—

(A) no amount appropriated pursuant to this title may be used for any program in excess of the lesser of—

(i) 105 percent of the amount authorized for that program by this title; or

(ii) $10,000,000 more than the amount authorized for that program by this title; and

(B) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress.

(2) An action described in paragraph (1) may not be taken until—

(A) the Secretary of Energy has submitted to the congressional defense committees a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain.

(b) LIMITATION ON AMOUNT OBLIGATED.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS.

(a) IN GENERAL.—The Secretary of Energy may carry out any construction project under the general plant projects authorized by this title if the total estimated cost of the construction project does not exceed $2,000,000.

(b) REPORT TO CONGRESS.—If, at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $2,000,000, the Secretary shall immediately furnish a complete report to the congressional defense committees explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS.

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, which is authorized by section 3101, 3102, or 3103, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to the Congress.

(2) An action described in paragraph (1) may be taken if—

(A) the Secretary of Energy has submitted to the congressional defense committees a report on the action and the circumstances making such action necessary; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUNDS TRANSFER AUTHORITY.

The Secretary of Energy may transfer funds appropriated pursuant to this title to other agencies of the Federal Government for the performance of the work for which the funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

SEC. 3125. AUTHORITY FOR CONSTRUCTION DESIGN.

(a) IN GENERAL.—(1) Within the amounts authorized by this title, the Secretary of Energy may carry out advance planning and construction design (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $3,000,000.

(2) In the case of any project in which the total estimated cost for advance planning and design exceeds $600,000, the Secretary shall notify the congressional defense committees in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) SPECIFIC AUTHORITY REQUIRED.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $3,000,000, funds for such planning and design must be specifically authorized by law.

SEC. 3126. REQUIREMENT FOR COMPLETION OF CONCEPTUAL DESIGN TO PRECEDE REQUEST FOR CONSTRUCTION FUNDS.

(a) REQUIREMENT.—Before submitting to Congress a request for funds for a construction project that is in support of a national security program of the Department of Energy, the Secretary of Energy shall complete a conceptual design for that project.

(b) EXCEPTIONS.—The requirement in subsection (a) does not apply to requests for funds—

(1) for the costs of preparing a conceptual design for a construction project referred to in that subsection; or

(2) for emergency planning, design, and construction activities under section 3127.

SEC. 3127. AUTHORITY FOR EMERGENCY PLANNING, DESIGN, AND CONSTRUCTION ACTIVITIES.

(a) AUTHORITY.—The Secretary of Energy may use any funds available to the Department of Energy under sections 3101, 3102, and 3103, including those funds authorized to be appropriated for advance planning and construction design, to perform planning, design, and construction activities for any Department of Energy national security program construction project that, as determined by the Secretary, must proceed expeditiously in order to protect public health and safety, meet the needs of national defense, or protect property.

(b) LIMITATION.—The Secretary may not exercise the authority under subsection (a) in the case of any construction project until the Secretary has submitted to the congressional defense committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making such activities necessary.

(c) SPECIFIC AUTHORITY.—The requirement of section 3125(b) does not apply to emergency planning, design, and construction activities conducted under this section.

(d) REPORT.—The Secretary of Energy shall promptly report to the congressional defense committees any exercise of authority under this section.

SEC. 3128. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

Subject to the provisions of appropriation Acts and section 3121, amounts appropriated pursuant to this title that are made available for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3129. AVAILABILITY OF FUNDS.

When so specified in an appropriation Act, amounts appropriated for operating expenses, plant projects, and capital equipment may remain available until expended.

Subtitle C—Program Authorizations, Restrictions, and Limitations

SEC. 3131. STOCKPILE STEWARDSHIP RECRUITMENT AND TRAINING PROGRAM.

(a) CONDUCT OF PROGRAM.—(1) As part of the stockpile stewardship program established pursuant to section 3138 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1946; 42 U.S.C. 2121 note), the Secretary of Energy shall conduct a stockpile stewardship recruitment and training program at the Sandia National Laboratories, the Lawrence Livermore National Laboratory, and the Los Alamos National Laboratory.

(2) The recruitment and training program shall be conducted in coordination with the Chairman of the Joint Nuclear Weapons Council established by section 179 of title 10, United States Code, and the directors of the laboratories referred to in paragraph (1).

(b) SUPPORT OF DUAL-USE PROGRAMS.—(1) As part of the recruitment and training program, the directors of the laboratories referred to in subsection (a)(1) may employ undergraduate students, graduate students, and postdoctoral fellows to carry out research sponsored by such laboratories for military or nonmilitary dual-use programs related to nuclear weapons stockpile stewardship.

(2) Of the amounts authorized to be appropriated to the Secretary of Energy pursuant to section 3101(a)(1) for weapons activities for core research and development and allocated by the Secretary for education initiatives, $4,000,000 shall be available for carrying out paragraph (1). The amount available under this paragraph shall be allocated equally among the laboratories referred to in subsection (a)(1).

(c) ESTABLISHMENT OF RETIREE CORPS.—As part of the training and recruitment program, the Secretary, in coordination with the directors of the laboratories referred to in subsection (a)(1), shall establish for the laboratories a retiree corps of retired scientists who have expertise in research and development of nuclear weapons. The directors may employ the retired scientists on a part-time basis to provide appropriate assistance on nuclear weapons issues, to contribute relevant information to be archived, and to help to provide training to other scientists.

(d) REPORT.—(1) Not later than February 1, 1995, the Secretary of Energy shall submit to the congressional defense committees a report on the demographic trends of the personnel of the laboratories referred to in subsection (a)(1) and on actions taken by the Department of Energy to remedy identified deficiencies in various skill areas.

(2) The report shall be prepared in coordination with the Chairman of the Joint Nuclear Weapons Council and the directors of the laboratories. Information included in the report shall be aggregated and compiled into statistical categories.

(3) The report shall include the following:

(A) An inventory of the weapons-related tasks that the laboratories need to perform to support their nuclear weapons responsibilities.

(B) An inventory of the skills necessary to complete the weapons-related tasks referred to in subparagraph (A).

(C) For each laboratory, the number of scientists needed in each skill area to perform such tasks.

(D) The number of the scientists providing services in each skill area at each laboratory, stated by age.

(E) An assessment of which skill areas are understaffed.

(F) The number of scientists entering the weapons program at each laboratory, and their skill areas.

(G) The number of full-time equivalent personnel with weapon skills, their distribution by skill and, for each such skill, their distribution by age.

(H) The number of scientists retiring from the weapons program in the 5- year period ending on the date of the report and the skill areas in which they worked in the year preceding their retirement.

(I) Based on the information contained in subparagraphs (A) through (H), a projection of the skills areas that will become understaffed in the five years following the date of the report.

(J) Alternative actions that may be taken to retain and recruit scientists for the weapons programs at the laboratories in order to preserve a sufficient skill base and to fulfill stockpile stewardship responsibilities.

(K) Any plans of the Secretary to take any of the alternative actions referred to in subparagraph (J).

SEC. 3132. DEFENSE INERTIAL CONFINEMENT FUSION PROGRAM.

Of the funds authorized to be appropriated by this title to the Department of Energy for fiscal year 1995, $176,473,000 shall be available for the defense inertial confinement fusion program.

SEC. 3133. PAYMENT OF PENALTIES.

The Secretary of Energy may pay to the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code of 1986 (26 U.S.C. 9507), from funds appropriated to the Department of Energy for environmental restoration and waste management activities pursuant to section 3102, stipulated civil penalties assessed under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.) in amounts as follows:

(1) $50,000, assessed against the Fernald Environmental Management Project, Ohio, under such Act.

(2) $50,000, assessed against the Portsmouth Gaseous Diffusion Plant, Ohio, under such Act.

SEC. 3134. WATER MANAGEMENT PROGRAMS.

From funds authorized to be appropriated pursuant to section 3102 to the Department of Energy for environmental restoration and waste management activities, the Secretary of Energy may reimburse the cities of Westminster, Broomfield, Thornton, and Northglenn, in the State of Colorado, $11,415,000 for the cost of implementing water management programs. Reimbursements for the water management programs shall not be considered a major Federal action for purposes of section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

SEC. 3135. LIMITATION ON USE OF FUNDS FOR SPECIAL ACCESS PROGRAMS.

Not more than 20 percent of the funds appropriated or otherwise made available to the Department of Energy for fiscal year 1995 pursuant to this title that are available for limited access programs and special access program may be obligated for a limited access program or special access program until the Secretary of Energy submits to the congressional defense committees the annual reports required to be submitted in that fiscal year under subsections (a) and (b) of section 93 of the Atomic Energy Act of 1954 (42 U.S.C. 2122a).

SEC. 3136. PROTECTION OF NUCLEAR WEAPONS FACILITIES WORKERS.

Of the funds authorized to be appropriated by section 310(2) for environmental restoration and waste management activities, $11,000,000 shall be available to carry out activities authorized under section 3131 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1571; 42 U.S.C. 7274d), relating to worker protection at nuclear weapons facilities.

SEC. 3137. NATIONAL SECURITY PROGRAMS.

Notwithstanding any other provision of law, not more than 90 percent of the funds appropriated to the Department of Energy for national security programs under this title may be obligated for such programs until the Secretary of Energy submits to the congressional defense committees the five-year budget plan with respect to fiscal year 1995 required under section 3144 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1681; 42 U.S.C. 7271b).

SEC. 3138. SCHOLARSHIP AND FELLOWSHIP PROGRAM FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

Of the funds authorized to be appropriated to the Department of Energy for fiscal year 1995 for environmental restoration and waste management, $1,000,000 shall be available for the Scholarship and Fellowship Program for Environmental Restoration and Waste Management carried out under section 3123 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1572; 42 U.S.C. 7274e).

SEC. 3139. HAZARDOUS MATERIALS MANAGEMENT AND HAZARDOUS MATERIALS EMERGENCY RESPONSE TRAINING PROGRAM.

Of the funds authorized to be appropriated to the Department of Energy for fiscal year 1995 under section 3102(d), not more than $14,000,000 shall be available to carry out a hazardous materials management and hazardous materials emergency response training program at Hanford Nuclear Reservation, Richland, Washington.

SEC. 3140. PROGRAMS FOR PERSONS WHO MAY HAVE BEEN EXPOSED TO RADIATION RELEASED FROM HANFORD NUCLEAR RESERVATION.

(a) FUNDING.—Of the funds authorized to be appropriated to the Department of Energy under section 3101 for fiscal year 1995, $3,295,591 shall be available for activities relating to the Hanford Health Information Network established pursuant to the authority set forth in section 3138 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1834).

(b) LIMITATION ON RELEASE OF CERTAIN PERSONAL INFORMATION.—(1) Information referred to in paragraph (2) that is collected from an individual pursuant to operation of the Hanford Health Information Network shall be used only by the Network unless the individual, or a designated legal representative of the individual, authorizes in writing the use of the information for another purpose.

(2) Paragraph (1) applies to the following information:

(A) The name, address, telephone number, and medical information and records of each individual requesting assistance and information from the Network.

(B) Such other information or categories of information as the chief officers of the health departments of the States of Washington, Oregon, and Idaho jointly designate as information covered by this subsection.

SEC. 3141. SOLAR ENERGY ACTIVITIES AT NEVADA TEST SITE, NEVADA.

Of the funds authorized to be appropriated to the Department of Energy under section 3101, $10,000,000 shall be available for development of solar energy at the Nevada Test Site, Nevada.

Subtitle D—Other Matters

SEC. 3151. ACCOUNTING PROCEDURES FOR DEPARTMENT OF ENERGY FUNDS.

(a) IN GENERAL.—The Secretary of Energy shall prescribe procedures to account for the use of funds for the performance of the programs and activities of the Department of Energy for which funds are appropriated for national security programs of the Department of Energy. The procedures shall provide for such accounting for fiscal years beginning after fiscal year 1996.

(b) COVERED MATTERS.—The Secretary shall prescribe procedures under subsection (a)—

(1) to account for the funds appropriated to the Department for national security programs and activities of the Department that are not used for the purpose for which such funds were appropriated; and

(2) to provide an accounting for all encumbered funds, unencumbered funds, unobligated funds, costed funds, and uncosted obligations of the Department in that fiscal year.

SEC. 3152. APPROVAL FOR CERTAIN NUCLEAR WEAPONS ACTIVITIES.

(a) APPROVAL BY JOINT NUCLEAR WEAPONS COUNCIL.—Subsection (d) of section 179 of title 10, United States Code, is amended—

(1) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

(2) by inserting after paragraph (7) the following new paragraph (8):

"(8) Coordinating and approving activities initiated or conducted by the Department of Energy for the study, development, and production of nuclear warheads, including concept definition studies, feasibility studies, engineering development, hardware component fabrication, warhead production, and warhead retirement.".

(b) TECHNICAL AMENDMENTS.—Subsections (a)(3) and (b) of such section are amended by striking out "appointed" each place it appears and inserting in lieu thereof "designated".

SEC. 3153. STUDY OF FEASIBILITY OF CONDUCTING CERTAIN ACTIVITIES AT THE NEVADA TEST SITE, NEVADA.

Not later than April 1, 1995, the Secretary of Energy shall submit to Congress a report on the feasibility of conducting the following activities at the Nevada Test Site, Nevada:

(1) The demilitarization of large rocket motors, high energetic explosives and conventional ordnance.

(2) Disarmament and demilitarization of conventional weapons and components, generally.

(3) The conduct of experiments that assist in monitoring compliance with international agreements on the nonproliferation of nuclear weapons.

(4) The conduct of programs for the Department of Energy and the Department of Defense to develop simulator technologies for nuclear weapons design and effects, including advanced hydrodynamic simulators, fusion test facilities, and nuclear weapons effects simulators (such as the Decade and Jupiter simulators).

(5) The conduct of the stockpile stewardship program established pursuant to section 3138 of the National Defense Authorization Act for Fiscal Year 1994 (42 U.S.C. 2121 note).

(6) Experiments related to the nonproliferation of nuclear weapons, including experiments with respect to disablement of such weapons, nuclear forensics, sensors, and verification and monitoring.

SEC. 3154. NUCLEAR WEAPONS COUNCIL MEMBERSHIP.

Section 179(a)(1) title 10, United States Code, is amended to read as follows: "(3) Two senior representatives of the Department of Energy appointed by the Secretary of Energy.".

SEC. 3155. OFFICE OF FISSILE MATERIALS DISPOSITION.

(a) ESTABLISHMENT.—Title II of the Department of Energy Organization Act (42 U.S.C. 7131 et seq.) is amended by adding at the end the following:

"OFFICE OF FISSILE MATERIALS DISPOSITION

"SEC. 212. (a) There shall be within the Department an Office of Fissile Materials Disposition.

"(b) The Secretary shall designate the head of the Office. The head of the Office shall report to the Under Secretary.

"(c) The head of the Office shall be responsible for all activities of the Department relating to the management, storage, and disposition of fissile materials from weapons and weapons systems that are excess to the national security needs of the United States.".

(b) CONFORMING AMENDMENT.—The table of contents in the first section of such Act is amended by inserting after the item relating to section 210 the following new items:

"Sec. 211. Office of Minority Economic Impact.

"Sec. 212. Office of Fissile Materials Disposition.".

SEC. 3156. EXTENSION OF AUTHORITY TO LOAN PERSONNEL AND FACILITIES AT IDAHO NATIONAL ENGINEERING LABORATORY.

Section 1434 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 2074), as amended by section 3136 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2641), is further amended—

(1) in the third sentence of subsection (a)(3), by striking out "fiscal years 1993 and 1994" and inserting in lieu thereof "fiscal years 1993, 1994, 1995, 1996, and 1997"; and

(2) in subsection (c), by striking out "September 30, 1994, with respect to the Idaho National Engineering Laboratory" and inserting in lieu thereof "September 30, 1997, with respect to the Idaho National Engineering Laboratory".

SEC. 3157. ELIMINATION OF REQUIREMENT FOR FIVE-YEAR PLAN FOR DEFENSE NUCLEAR FACILITIES.

Subsection (a) section 3135 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1575; 42 U.S.C. 7274g(a)) is amended—

(1) in paragraph (1)—

(A) by striking out "(A) defense nuclear facilities and (B) all other facilities owned or operated by the Department of Energy" in the first sentence and inserting in lieu thereof "all facilities owned or operated by the Department of Energy except defense nuclear facilities"; and

(B) by inserting "such" in the third sentence after "restoration at all";

(2) in paragraph (4), by striking out "The plan shall contain the following matter:" and inserting in lieu thereof "The plan shall include, with respect to the Department of Energy facilities required by paragraph (1) to be covered by the plan, the following matters:";

(3) by striking out paragraph (6); and

(4) by redesignating paragraph (7) as paragraph (6).

SEC. 3158. AUTHORITY FOR APPOINTMENT OF CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL.

(a) AUTHORITY.—(1) Notwithstanding any provision of title 5, United States Code, governing appointments in the competitive service and General Schedule classification and pay rates, or any other provision of law, the Secretary of Energy may—

(A) establish and set the rates of pay for not more than 200 positions in the Department of Energy for scientific, engineering, and technical personnel whose duties will relate to safety at defense nuclear facilities of the Department; and

(B) appoint persons to such positions.

(2) The rate of pay for a position established under paragraph (1) may not exceed the rate of pay payable for Level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(3) To the maximum extent practicable, the Secretary shall appoint persons under paragraph (1)(B) to the positions established under paragraph (1)(A) in accordance with the merit system principles set forth in section 2301 of such title.

(b) OPM REVIEW.—(1) The Secretary shall enter into an agreement with the Director of the Office of Personnel Management under which agreement the Director shall periodically evaluate the use of the authority set forth in subsection (a)(1).

(2) If the Director determines as a result of such evaluation that the Secretary of Energy is not appointing persons to positions under such authority in a manner consistent with the merit system principles set forth in

section 2301 of title 5, United States Code, the Director shall notify the Secretary of that determination.

(3) Upon receipt of a notification under paragraph (2), the Secretary shall—

(A) take appropriate actions to appoint persons to positions under such authority in a manner consistent with such principles; or

(B) cease appointment of persons under such authority.

(c) TERMINATION.—(1) The authority provided under subsection (a)(1) shall terminate on September 30, 1997.

(2) An employee may not be separated from employment with the Department of Energy or receive a reduction in pay by reason of the termination of authority under paragraph (1).

SEC. 3159. DEPARTMENT OF ENERGY DECLASSIFICATION PRODUCTIVITY INITIATIVE.

Of the funds autorized to be appropriated to the Department of Energy under section 3103, $3,000,000 shall be available for the Department of Energy's Declassification Productivity Initiative.

SEC. 3160. SAFETY OVERSIGHT AND ENFORCEMENT AT DEFENSE NUCLEAR FACILITIES.

(a) FINDINGS.—Congress finds the following:

(1) Effective oversight of matters relating to nuclear safety at defense nuclear facilities and enforcement of nuclear safety standards at such facilities are critical to ensuring the safety of the public and the workers at such facilities.

(2) The Department of Energy has not devoted adequate attention historically to matters relating to nuclear safety at defense nuclear facilities.

(b) SAFETY AT DEFENSE NUCLEAR FACILITIES.—The Secretary of Energy shall take appropriate actions to ensure that—

(1) officials of the Department of Energy who are responsible for independent oversight of matters relating to nuclear safety at defense nuclear facilities and enforcement of nuclear safety standards at such facilities maintain independence from officials who are engaged in management of such facilities;

(2) the independent, internal oversight functions carried out by the Department include, at the minimum, activities relating to—

(A) the assessment of the safety of defense nuclear facilities;

(B) the assessment of the effectiveness of Department program offices in carrying out programs relating to the environment, safety, health, and security at defense nuclear facilities;

(C) the provision to the Secretary of oversight reports that—

(i) contain validated technical information; and

(ii) provide a clear analysis of the extent to which line programs governing defense nuclear facilities meet applicable goals for the environment, safety, health, and security at such facilities; and

(D) the development of clear performance standards to be used in assessing the adequacy of the programs referred to in subparagraph (C)(ii);

(3) the Department has a system for bringing issues relating to nuclear safety at defense nuclear facilities to the attention of the officials of the Department (including the Secretary of Energy) having authority to resolve such issues in an adequate and timely manner; and

(4) an adequate number of qualified personnel of the Department are assigned to oversee matters relating to nuclear safety at defense nuclear facilities and enforce nuclear safety standards at such facilities.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Energy shall submit to the congressional defense committees a report describing—

(1) the actions that the Secretary has taken or will take to fulfill the requirements set forth in paragraphs (1), (2), and (3) of subsection (b);

(2) the actions in addition to the actions described under paragraph (1) that the Secretary could take in order to fulfill such requirements; and

(3) the respective roles with regard to nuclear safety at defense nuclear facilities of the following officials:

(A) The Associate Deputy Secretary of Energy for Field Management.

(B) The Assistant Secretary of Energy for Defense Programs.

(C) The Assistant Secretary of Energy for Environmental Restoration and Waste Management.

SEC. 3161. CONDITIONS ON CONTRACTS BETWEEN THE FEDERAL GOVERNMENT AND CERTAIN LESSEES AND TRANSFEREES OF DEPARTMENT OF ENERGY PROPERTY.

(a) CONDITIONS.—Notwithstanding any other provision of law, the head of a department or agency of the United States may require as a condition of a contract with an entity described in subsection (b) that such entity certifies to the head of the department or agency the following:

(1) That no officer, director, employee, or agent of the entity has utilized in the preparation of the bid or solicitation for the contract—

(A) any records or systems of records of the Federal Government that are covered by section 552a of title 5, United States Code;

(B) any information or data of the Federal Government that has not been released or otherwise made generally available for preparation of bids or proposals on the contract; or

(C) any commercial information or data of another entity that has not been released or otherwise made generally available for that purpose.

(2) That the entity has returned, destroyed, or otherwise disposed of all documents received from the Federal Government by reason of any earlier contract between the Federal Government and the entity for the operation of the facility which is leased, or with respect to which property is transferred, to the entity pursuant to a provision of law referred to in subsection (b).

(b) COVERED ENTITIES.—Subsection (a) applies to any entity, or the affiliate, successor to, or assign of the entity, to which the Secretary of Energy leases a Department of Energy facility under section 646(c) of the Department of Energy Organization Act (42 U.S.C. 7256(d)) or to which the Secretary transfers personal property of such a facility under section 3155(a) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1953; 42 U.S.C. 7274*l*(c)).

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD AUTHORIZATION

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 1995, $17,933,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

SEC. 3301. DISPOSAL OF OBSOLETE AND EXCESS MATERIALS CONTAINED IN THE NATIONAL DEFENSE STOCKPILE.

(a) DISPOSAL AUTHORIZED.—Subject to the conditions specified in subsection (b), the President may dispose of obsolete and excess materials currently contained in the National Defense Stockpile in order to modernize the stockpile. The materials subject to disposal under this subsection and the quantity of each material authorized to be disposed of by the President are set forth in the following table:

AUTHORIZED STOCKPILE DISPOSALS

Material for disposal	Quantity
Aluminum	62,843 short tons
Tungsten Group	51,336,478 pounds of contained tungsten

(b) CONDITIONS ON DISPOSAL.—The authority of the President under subsection (a) to dispose of materials stored in the stockpile may not be used unless and until the Secretary of Defense certifies that the disposal of such materials will not adversely affect the capability of the National Defense Stockpile to supply the strategic and critical materials necessary to meet the needs of the United States during a period of national emergency that requires a significant level of mobilization of the economy of the United States, including any reconstitution of the military and industrial capabilities necessary to meet the planning assumptions used by the Secretary of Defense under section 14(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–5(b)).

SEC. 3302. AUTHORIZED USES OF STOCKPILE FUNDS.

Subject to such limitations as may be provided in appropriations Acts, during fiscal year 1995, the National Defense Stockpile Manager may obligate up to $54,200,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section.

SEC. 3303. REPEAL OF ADVISORY COMMITTEE REQUIREMENT.

Section 3306 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2652; 50 U.S.C. 98h–1 note) is repealed.

SEC. 3304. ROTATION OF MATERIALS TO PREVENT TECHNOLOGICAL OBSOLESCENCE.

Section 6(a)(4) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a)(4)) is amended by inserting "or technological obsolescence" after "deterioration".

TITLE XXXIV—CIVIL DEFENSE

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated $129,658,000 for fiscal year 1995 for the purpose of carrying out the Federal Civil Defense Act of 1950 (50 U.S.C. 2251 et seq.).

TITLE XXXV—PANAMA CANAL COMMISSION

SEC. 3501. SHORT TITLE.

This title may be cited as the "Panama Canal Commission Authorization Act for Fiscal Year 1995".

SEC. 3502. AUTHORIZATION OF EXPENDITURES.

(a) IN GENERAL.—Subject to subsection (b), the Panama Canal Commission is authorized to make such expenditures within the limits of funds and borrowing authority available to it in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601) for the operation, maintenance, and improvement of the Panama Canal for fiscal year 1995.

(b) LIMITATIONS.—For fiscal year 1995, the Panama Canal Commission may expend from funds in the Panama Canal Revolving Fund not more than $50,030,000 for administrative expenses, of which not more than—

(1) $11,000 may be used for official reception and representation expenses of the Supervisory Board of the Commission;

(2) $5,000 may be used for official reception and representation expenses of the Secretary of the Commission; and

(3) $30,000 may be used for official reception and representation expenses of the Administrator of the Commission.

(c) REPLACEMENT VEHICLES.—Funds available to the Panama Canal Commission shall be available for the purchase of not to exceed 43 passenger motor vehicles (including large heavy-duty vehicles to be used to transport Commission personnel across the isthmus of Panama). A vehicle may be purchased with such funds only as necessary to replace another passenger motor vehicle of the Commission. The purchase price of each vehicle may not exceed $19,500.

SEC. 3503. EXPENDITURES IN ACCORDANCE WITH OTHER LAWS.

Expenditures authorized under this Act may be made only in accordance with the Panama Canal Treaties of 1977 and any law of the United States implementing those treaties.

SEC. 3504. COSTS OF EDUCATIONAL SERVICES OBTAINED IN THE UNITED STATES.

Section 1321(e)(2) of the Panama Canal Act of 1979 (22 U.S.C. 3731(e)(2)) is amended by inserting "or the United States" after "schools in the Republic of Panama".

SEC. 3505. SPECIAL IMMIGRANT STATUS OF PANAMANIANS EMPLOYED BY THE UNITED STATES IN THE FORMER CANAL ZONE.

Section 101(a)(27)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(F)) is amended in clause (ii) by inserting "or continues to be employed by the United States Government in an area of the former Canal Zone" after "employment".

DIVISION IV—FEDERAL ACQUISITION STREAMLINING

TITLE XLI—CONTRACT FORMATION

Subtitle A—Competition Statutes

PART I—ARMED SERVICES ACQUISITIONS

Subpart A—Competition Requirements

SEC. 41001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(A), by striking out "modifications" and all that follows through "note)" and inserting in lieu thereof "Federal Acquisition Regulation"; and

(2) in subsection (g)(1), by striking out "regulations modified" and all that follows through "note)" and inserting in lieu thereof "Federal Acquisition Regulation".

SEC. 41002. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

Section 2304(b) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking out "or" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(C) by adding at the end the following new subparagraphs:

"(D) would ensure the continuous availability of a reliable source of supply of such property or service;

"(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

"(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.";

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) The determination required of the agency head in paragraph (1) may not be made for a class of purchases or contracts."; and

(4) in paragraph (4), as redesignated by paragraph (2), by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraphs (1) and (3)".

SEC. 41003. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: "or by an official referred to in clause (ii), (iii), or (iv)".

SEC. 41004. TASK ORDER CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES.

(a) AUTHORITY.—

(1) IN GENERAL.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2304 the following new section:

"§ 2304a. Task order contracts for advisory and assistance services

"(a) AUTHORITY TO AWARD.—(1) Subject to the requirements of this section, the head of an agency may enter into a contract for advisory and assistance services that does not procure or specify a firm quantity of services (other than a minimum or maximum quantity) and that provides for the issuance of task orders during the specified period of the contract.

"(2) Except as provided in subsection (h), the head of an agency may enter into a contract described in paragraph (1) only under the authority of this section.

"(b) LIMITATION ON CONTRACT PERIOD.—The period of a contract referred to in subsection (a), including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed 5 years unless a longer period is specifically authorized in a law that is applicable to such contract.

"(c) CONTRACT PROCEDURES.—(1) The head of an agency may use procedures other than competitive procedures to enter into a contract referred to in subsection (a) only if an exception in subsection (c) of section 2304 of this title applies to the contract and the use of such procedures is approved in accordance with subsection (f) of such section.

"(2) The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed contract in a manner that would reasonably enable a potential offeror to decide whether to request the solicitation and consider submitting an offer.

"(3) The solicitation shall include the following:

"(A) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

"(B) The maximum quantity or dollar value of services to be procured under the contract.

"(C) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services to be procured under the contract.

"(4)(A) The head of an agency may, on the basis of one solicitation, award separate contracts under this section for the same or similar services to two or more sources if the solicitation states that the head of the agency has the option to do so.

"(B) If, in the case of a contract for advisory and assistance services to be entered into under the authority of this section, the contract period is to exceed 3 years and the contract amount is estimated to exceed $10,000,000 (including all options), the solicitation shall—

"(i) provide for a multiple award authorized under subparagraph (A); and

"(ii) include a statement that the head of the agency may also elect to award only one contract if the head of the agency determines in writing that only one of the offerers is capable of providing the services required at the level of quality required.

"(C) Subparagraph (B) does not apply in the case of a solicitation for which the head of an agency determines in writing that, because the services required under the contract are unique or highly specialized, it is not practicable to award more than one contract.

"(5) A contract referred to in subsection (a) shall contain the same information that is required by paragraph (3) to be included in the solicitation of offers for that contract.

"(d) ORDER PROCEDURES.—(1) The following actions are not required for a task order issued under a contract entered into in accordance with this section:

"(A) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(B) Except as provided in paragraph (2), a competition (or a waiver of competition approved in accordance with section 2304(f) of this title) that is separate from that used for entering into the contract.

"(2)(A) When multiple contracts are awarded pursuant to subsection (c)(4), all contractors awarded such contracts shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task order in excess of $2,500 that is to be issued under any of the contracts unless—

"(i) the agency's need for the services ordered is of such unusual urgency that competition would result in unacceptable delays in fulfilling the agency's needs;

"(ii) only one such contractor is capable of providing the services required at the level of quality required because the services ordered are unique or so highly specialized;

"(iii) the task order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task order already issued on a competitive basis; or

"(iv) the order must be placed with a particular contractor in order to satisfy a minimum guarantee.

"(B) When a task order is issued in accordance with subparagraph (A), the order shall include a statement of work that clearly specifies all tasks to be performed under the order.

"(3) A protest is not authorized in connection with the issuance or proposed issuance of a task order except for a protest on the ground that the order increases the scope, period, or maximum value of the contract under which the order is issued.

"(e) INCREASES IN SCOPE, PERIOD, OR MAXIMUM VALUE OF CONTRACT.—(1) A task order may not increase the scope, period, or maximum value of the contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

"(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 2304 of this title and approved in accordance with subsection (f) of such section, competitive procedures shall be used for making such a modification.

"(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(4)(A) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (c), a contract entered into by the head of an agency under this section may be extended on a sole-source basis for a period not exceeding 6 months if the agency head determines that—

"(i) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

"(ii) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

"(B) A contract may be extended under the authority of subparagraph (A) only once and only in accordance with the limitations and requirements of this subsection.

"(f) TASK ORDER OMBUDSMAN.—Each head of an agency who awards multiple contracts pursuant to subsection (c)(4) shall appoint or designate a task order ombudsman who shall be responsible for reviewing complaints from the contractors on such contracts and ensuring that all of the contractors are afforded a fair opportunity to be considered for task orders when required under subsection (d)(2). The task order ombudsman shall be a senior agency official who is independent of the contracting officer for the contracts and may be the agency's competition advocate.

"(g) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance services if the head of an agency entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

"(h) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY.—Nothing in this section may be construed to limit the authority of the head of an agency to enter into single or multiple task order contracts, or single or multiple delivery order contracts, for property or services (other than advisory and assistance services) under other provisions of this chapter or under any other provision of law.

"(i) ADVISORY AND ASSISTANCE SERVICES DEFINED.—In this section, the term 'advisory and assistance services' has the meaning given such term in section 1105(g) of title 31.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2304 the following new item:

"2304a. Task order contracts for advisory and assistance services.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 2304 of title 10, United States Code, is amended by striking out subsection (j).

(c) CONFORMING AMENDMENT FOR PROFESSIONAL AND TECHNICAL SERVICES.—Section 2331 of title 10, United States Code, is amended by striking out subsection (c).

SEC. 41005. ACQUISITION OF EXPERT SERVICES.

Section 2304(c)(3) of title 10, United States Code, is amended—

(1) by striking out "or (B)" and inserting in lieu thereof "(B)"; and

(2) by inserting before the semicolon at the end the following: ", or (C) to procure the services of an expert for use, in any litigation or dispute (including any reasonably foreseeable litigation or dispute) involving the Federal Government, in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify".

Subpart B—Planning, Solicitation, Evaluation, and Award

SEC. 41011. SOURCE SELECTION FACTORS.

Section 2305(a) of title 10, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(i), by striking out "nonprice-related factors)" and inserting in lieu thereof "nonprice-related factors and subfactors)"; and

(B) in subparagraph (B)(ii), by striking out subclause (I) and inserting in lieu thereof the following:

"(I) either a statement that the proposals are intended to be evaluated with, and award made after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) unless discussions are determined to be necessary; and"; and

(2) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3)(A) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, the head of an agency—

"(i) shall clearly establish the relative importance assigned to the evaluation factors and subfactors, including the quality of the product or services to be provided (including technical capability, management capability, prior experience, and past performance of the offeror);

"(ii) shall include cost or price to the Government as an evaluation factor that must be considered in the evaluation of proposals; and

"(iii) shall disclose to offerors whether all evaluation factors other than cost or price, when combined, are—

"(I) significantly more important than cost or price;

"(II) approximately equal in importance to cost or price; or

"(III) significantly less important than cost or price.

"(B) Nothing in this paragraph prohibits an agency from—

"(i) providing additional information in a solicitation, including numeric weights for all evaluation factors; or

"(ii) stating in a solicitation that award will be made to the offeror that meets the solicitation's mandatory requirements at the lowest cost or price.".

SEC. 41012. SOLICITATION PROVISION REGARDING EVALUATION OF PURCHASE OPTIONS.

(a) OPTIONS FOR ADDITIONAL PURCHASES.—Subsection (a) of section 2305 of title 10, United States Code, as amended by section 41011, is further amended by adding at the end the following new paragraph:

"(4) The head of an agency, in issuing a solicitation for a contract to be awarded using sealed bid procedures, may not include in such solicitation a clause providing for the evaluation of prices for options to purchase additional property or services under the contract unless the head of the agency has determined that there is a reasonable likelihood that the options will be exercised.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 2301(a) of such title is amended—

(1) by striking out paragraph (7);

(2) by inserting "and" at the end of paragraph (5); and

(3) by striking out "; and" at the end of paragraph (6) and inserting in lieu thereof a period.

SEC. 41013. PROMPT NOTICE OF AWARD.

(a) SEALED BID PROCEDURES.—Section 2305(b)(3) of title 10, United States Code, is amended by adding at the end the following: "As soon as practicable after the date of contract award, the head of the agency shall, in accordance with procedures prescribed in the Federal Acquisition Regulation, notify all offerors not awarded the contract that the contract has been awarded.".

(b) COMPETITIVE PROPOSALS PROCEDURES.—Section 2305(b)(4)(B) of title 10, United States Code, is amended in the second sentence by striking out "source and shall promptly notify" and inserting in lieu thereof "source. As soon as practicable after the date of contract award, the head of the agency shall, in accordance with procedures prescribed in the Federal Acquisition Regulation, notify".

SEC. 41014. POST-AWARD DEBRIEFINGS.

Section 2305(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5)(A) When a contract is awarded by the head of an agency on the basis of competitive proposals, an unsuccessful offeror, upon written request received by the agency within 3 days after the date on which the unsuccessful offeror receives the notification of the contract award, shall be debriefed and furnished the basis for the selection decision and contract award. An employee of the agency shall debrief the offeror promptly after receipt of the request by the agency.

"(B) The debriefing shall include, at a minimum—

"(i) the agency's evaluation of the significant weak or deficient factors in the offeror's offer;

"(ii) the overall evaluated cost and technical rating of the offer of the contractor awarded the contract and the overall evaluated cost and technical rating of the offer of the debriefed offeror;

"(iii) the overall ranking of all offers;

"(iv) a summary of the rationale for the award;

"(v) in the case of a proposal for a commercial item other than a commercial component, the make and model of the item being provided in accordance with the offer of the contractor awarded the contract; and

"(vi) reasonable responses to questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

"(C) The debriefing may not include point-by-point comparisons of the debriefed offeror's offer with other offers and may not disclose any information that is exempt from disclosure under section 552 of title 5, including information relating to—

"(i) trade secrets;

"(ii) privileged or confidential manufacturing processes and techniques; and

"(iii) commercial and financial information that is privileged or confidential, including cost breakdowns, profit, indirect cost rates, and similar information.

"(D) Each solicitation for competitive proposals shall include a statement that information described in subparagraph (B) may be disclosed in post-award debriefings.

"(E) If, within one year after the date of the contract award and as a result of a successful procurement protest or otherwise, the agency seeks to fulfill the requirement under the contract either on the basis of a new solicitation of offers or on the basis of new best and final offers requested for that contract, the agency shall make available to all offerors—

"(i) the information provided in debriefings under this paragraph regarding the offer of the contractor awarded the contract; and

"(ii) the same information that would have been provided to the original offerors.

"(F) The contracting officer shall include a summary of the debriefing in the contract file.".

SEC. 41015. PROTEST FILE.

Section 2305 of title 10, United States Code, is amended by adding at the end the following:

"(e)(1) If, in the case of a solicitation for a contract issued by, or an award or proposed award of a contract by, the head of an agency, a protest is filed pursuant to the procedures in subchapter V of chapter 35 of title 31 and an actual or prospective offeror so requests, a file of the protest shall be established by the procuring activity and reasonable access shall be provided to actual or prospective offerors.

"(2) Information exempt from disclosure under the section 552 of title 5 may be redacted in a file established pursuant to paragraph (1) unless an applicable protective order provides otherwise.

"(3) Regulations implementing this subsection shall be consistent with the regulations regarding the preparation and submission of an agency's protest file (the so-called 'rule 4 file') for protests to the General Services Board of Contract Appeals under section 111 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 759).".

SEC. 41016. AWARD OF COSTS AND FEES IN AGENCY SETTLEMENT OF PROTESTS.

Section 2305 of title 10, United States Code, as amended by section 41015, is further amended by adding at the end the following new subsection:

"(f) If, in connection with a protest, the head of an agency determines that a solicitation, proposed award, or award does not comply with the requirements of law or regulation, the head of the agency may take—

"(1) any action set out in subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31; and

"(2) may pay costs described in paragraph (1) of section 3554(c) of title 31 within the limits referred to in paragraph (2) of such section.".

SEC. 41017. TWO-PHASE SELECTION PROCEDURES.

(a) PROCEDURES AUTHORIZED.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2305 the following new section:

"§ 2305a. Two-phase selection procedures

"(a) PROCEDURES AUTHORIZED.—The head of an agency may use two-phase selection procedures for entering into a contract for the acquisition of property or services (other than a construction contract) when the head of the agency determines that three or more offers will be received for such contract, substantial design work must be performed before an offeror can develop a price or cost proposal for such contract, and the offerors will incur a substantial amount of expenses in preparing the offers.

"(b) PROCEDURES DESCRIBED.—Two-phase selection procedures consist of the following:

"(1) The head of the agency solicits proposals that—

"(A) include information on the offerors'—

"(i) technical approach; and

"(ii) technical qualifications; and

"(B) do not include—

"(i) detailed design information; or

"(ii) cost or price information.

"(2) The head of the agency evaluates the proposals on the basis of evaluation criteria set forth in the solicitation, except that the head of the agency does not consider cost-related or price-related evaluation factors.

"(3) The head of the agency selects at least three offerors as the most highly qualified to provide the property or services under the contract and requests the selected offerors to submit competitive proposals that include cost or price information.

"(4) The head of the agency awards the contract in accordance with section 2305(b)(4) of this title.

"(c) SOLICITATION TO STATE NUMBER OF OFFERORS TO BE SELECTED FOR PHASE TWO REQUESTS FOR COMPETITIVE PROPOSALS.—A solicitation issued pursuant to subsection (b)(1) shall state the maximum number of offerors that are to be selected to submit competitive proposals pursuant to subsection (b)(3).

"(d) RESOURCE COMPARISON CRITERION REQUIRED.—In using two-phase selection procedures for entering into a contract, the head of the agency shall establish a resource criterion or a financial criterion applicable to the contract in order to provide a consistent basis for comparing the offerors and their proposals.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2305 the following:

"2305a. Two-phase selection procedures.".

Subpart C—Kinds of Contracts

SEC. 41021. SECRETARIAL DETERMINATION REGARDING USE OF COST TYPE OR INCENTIVE CONTRACT.

Subsection (c) of section 2306 of title 10, United States Code, is repealed.

SEC. 41022. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REPEAL OF UNNECESSARY CROSS REFERENCE.—Subsection (f) of section 2306 of title 10, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—Such section is amended by redesignating subsections (d), (e), (g), and (h) as subsections (c), (d), (e), and (f), respectively.

(c) NEUTERIZATION OF REFERENCE.—Subsection (e)(1) of such section, as redesignated by subsection (b), is amended in the matter above clause (i) by striking out "whenever he finds" and inserting in lieu thereof "whenever the head of the agency finds".

Subpart D—Miscellaneous Provisions for the Encouragement of Competition

SEC. 41031. REPEAL OF REQUIREMENT FOR ANNUAL REPORT BY ADVOCATES FOR COMPETITION.

Subsection (c) of section 2318 of title 10, United States Code, is repealed.

PART II—CIVILIAN AGENCY ACQUISITIONS

Subpart A—Competition Requirements

SEC. 41051. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended—

(1) in subsection (a)(1)(A), by striking out "modifications" and all that follows through "of 1984" and inserting in lieu thereof "Federal Acquisition Regulation"; and

(2) in subsection (g)(1), by striking out "regulations modified" and all that follows through "of 1984," and inserting in lieu thereof "Federal Acquisition Regulation".

SEC. 41052. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

Section 303(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(b)) is amended—

(1) in paragraph (1)—

(A) by striking out "or" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(C) by adding at the end the following new subparagraphs:

"(D) would ensure the continuous availability of a reliable source of supply of such property or service;

"(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

"(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.";

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) The determination required of the agency head in paragraph (1) may not be made for a class of purchases or contracts."; and

(4) in paragraph (4), as redesignated by paragraph (2), by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraphs (1) and (3)".

SEC. 41053. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 303(f)(1)(B)(i) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)(i)) is amended by inserting before the semicolon at the end the following: "or by an official referred to in clause (ii), (iii), or (iv)".

SEC. 41054. TASK ORDER CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES.

(a) AUTHORITY.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303G the following new section:

"TASK ORDER CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES

"SEC. 303H. (a) AUTHORITY TO AWARD.—(1) Subject to the requirements of this section, the head of an executive agency may enter into a contract for advisory and assistance services that does not procure or specify a firm quantity of services (other than a minimum or maximum quantity) and that provides for the issuance of task orders during the specified period of the contract.

"(2) Except as provided in subsection (h), the agency head may enter into a contract described in paragraph (1) only under the authority of this section.

"(b) Limitation on Contract Period.—The period of a contract referred to in subsection (a), including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed 5 years unless a longer period is specifically authorized in a law that is applicable to such contract.

"(c) Contract Procedures.—(1) An agency head may use procedures other than competitive procedures to enter into a contract referred to in subsection (a) only if an exception in subsection (c) of section 303 applies to the contract and the use of such procedures is approved in accordance with subsection (f) of such section.

"(2) The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed contract in a manner that would reasonably enable a potential offeror to decide whether to request the solicitation and consider submitting an offer.

"(3) The solicitation shall include the following:

"(A) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

"(B) The maximum quantity or dollar value of the services to be procured under the contract.

"(C) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services to be procured under the contract.

"(4)(A) An agency head may, on the basis of one solicitation, award separate contracts under this section for the same or similar services to two or more sources if the solicitation states that the agency head has the option to do so.

"(B) If, in the case of a contract for advisory and assistance services to be entered into under the authority of this section, the contract period is to exceed 3 years and the contract amount is estimated to exceed $10,000,000 (including all options), the solicitation shall—

"(i) provide for a multiple award authorized under subparagraph (A); and

"(ii) include a statement that the agency head may also elect to award only one contract if the agency head determines in writing that only one of the offerers is capable of providing the services required at the level of quality required.

"(C) Subparagraph (B) does not apply in the case of a solicitation for which the agency head determines in writing that, because the services required under the contract are unique or highly specialized, it is not practicable to award more than one contract.

"(5) A contract referred to in subsection (a) shall contain the same information that is required by paragraph (3) to be included in the solicitation of offers for that contract.

"(d) Order Procedures.—(1) The following actions are not required for a task order issued under a contract entered into in accordance with this section:

"(A) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(B) Except as provided in paragraph (2), a competition (or a waiver of competition approved in accordance with section 303(f)) that is separate from that used for entering into the contract.

"(2)(A) When multiple contracts are awarded pursuant to subsection (c)(4), all contractors awarded such contracts shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task order in excess of $2,500 that is to be issued under any of the contracts unless—

"(i) the agency's need for the services ordered is of such unusual urgency that competition would result in unacceptable delays in fulfilling the agency's needs;

"(ii) only one such contractor is capable of providing the services required at the level of quality required because the services ordered are unique or highly specialized;

"(iii) the task order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task order already issued on a competitive basis; or

"(iv) the order must be placed with a particular contractor in order to satisfy a minimum guarantee.

"(B) When a task order is issued in accordance with subparagraph (A), the order shall include a statement of work that clearly specifies all tasks to be performed under the order.

"(3) A protest is not authorized in connection with the issuance or proposed issuance of a task order except for a protest on the ground that the order increases the scope, period, or maximum value of the contract under which the order is issued.

"(e) Increases in Scope, Period, or Maximum Value of Contract.—(1) A task order may not increase the scope, period, or maximum value of the contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

"(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 303 and approved in accordance with subsection (f) of such section, competitive procedures shall be used for making such a modification.

"(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(4)(A) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (c), a contract entered into by the head of an agency under this section may be extended on a sole-source basis for a period not exceeding 6 months if the agency head determines that—

"(i) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

"(ii) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

"(B) A contract may be extended under the authority of subparagraph (A) only once and only in accordance with the limitations and requirements of this subsection.

"(f) Task Order Ombudsman.—Each agency head who awards multiple contracts pursuant to subsection (c)(4) shall appoint or designate a task order ombudsman who shall be responsible for reviewing complaints from the contractors on such contracts and ensuring that all of the contractors are afforded a fair opportunity to be considered for task orders when required under subsection (d)(2). The task order ombudsman shall be a senior agency official who is independent of the contracting officer for the contracts and may be the agency's competition advocate.

"(g) Inapplicability to Certain Contracts.—This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance services if the agency head entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

"(h) Relationship to Other Contracting Authority.—Nothing in this section may be construed to limit the authority of the head of an agency to enter into single or multiple task order contracts, or single or multiple delivery order contracts, for goods or services (other than advisory and assistance services) under other provisions of this title or under any other provision of law.

"(i) Advisory and Assistance Services Defined.—In this section, the term 'advisory and assistance services' has the meaning given such term in section 1105(g) of title 31, United States Code.".

(b) Clerical Amendment.—The table of contents in the first section is amended by inserting after the item relating to section 303G the following new item:

"Sec. 303H. Task order contracts for advisory
and assistance services.".

SEC. 41055. ACQUISITION OF EXPERT SERVICES.

(a) Exception to Requirement for Use of Competitive Procedures.—Section 303(c)(3) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)) is amended—

(1) by striking out "or (B)" and inserting in lieu thereof "(B)"; and

(2) by inserting before the semicolon at the end the following: ", or (C) to procure the services of an expert for use, in any litigation or dispute (including any reasonably foreseeable litigation or dispute) involving the Federal Government, in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify".

(b) Procurement Notice.—

(1) Amendment of office of federal procurement policy act.—Section 18(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)) is amended—

(A) by striking out "or" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; or"; and

(C) by adding at the end the following:

"(F) the procurement is for the services of an expert for use in any litigation or dispute (including any reasonably foreseeable litigation or dispute) involving the Federal Government in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify.".

(2) Amendment of small business act.—Section 8(g) of the Small Business Act (15 U.S.C. 637(c)) is amended—

(A) by striking out "or" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; or"; and

(C) by adding at the end the following:

"(F) the procurement is for the services of an expert for use in any litigation or dispute (including preparation for any foreseeable litigation or dispute) that involves or could involve the Federal Government in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify.".

(c) Repeal of Amendments to Uncodified Title.—The following provisions of law are repealed:

(1) Section 532 of Public Law 101-509 (104 Stat. 1470) and the provision of law set out in quotes in that section.

(2) Section 529 of Public Law 102-393 (106 Stat. 1761) and the matters inserted and added by that section.

SEC. 41056. CONTINUED OCCUPANCY OF LEASED SPACE.

Section 303(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(d)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2)(A) For the purposes of applying subsection (c)(1) in the case of a follow-on lease to be entered into for the purpose of providing for continued occupancy of particular space in leased real property by a Federal agency, space may be treated as being available only from the lessor of such space and may be acquired through the use of procedures other than competitive procedures (without the justification otherwise required by subsection (f)) if a written determination is made by the contracting officer that—

"(i) the occupying agency has a continuing need for the space;

"(ii) the space meets the needs of the agency; and

"(iii) the lessor is willing to continue to provide the space at a fair market price determined by the contracting officer on the basis of a market survey or an appraisal conducted in accordance with generally accepted real property appraisal standards.

"(B) The authority under subparagraph (A) to use procedures other than competitive procedures to enter into a follow-on lease may be exercised not more than once to provide for continued occupancy of particular space in real property by a particular Federal agency. The period of such follow-on lease may not exceed 5 years.

"(C) Nothing in this paragraph may be construed to prohibit the use of procedures other than competitive procedures to enter into a follow-on lease of real property for continued occupancy of particular space in real property by a Federal agency when an exception set forth in subsection (c) applies and the use of such procedures is justified and approved in accordance with subsection (f).".

Subpart B—Planning, Solicitation, Evaluation, and Award

SEC. 41061. SOLICITATION, EVALUATION, AND AWARD.

(a) Content of Solicitation.—Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a) is amended—

(1) in subsection (b)(1)(A)—

(A) by inserting "and significant subfactors" after "all significant factors"; and

(B) by striking out "(including price)" and inserting "(including cost or price, cost-related or price-related factors and subfactors, and noncost-related or nonprice-related factors and subfactors)";

(2) in subsection (b)(1)(B), by inserting "and subfactors" after "factors";

(3) in subsection (b)(2)(B), by striking out clause (i) and inserting in lieu thereof the following:

"(i) either a statement that the proposals are intended to be evaluated with, and award made after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) unless discussions are determined to be necessary; and"; and

(4) by adding at the end the following new subsection:

"(c)(1) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, an agency head—

"(A) shall clearly establish the relative importance assigned to the evaluation factors and subfactors, including the quality of the product or services to be provided (including technical capability, management capability, prior experience, and past performance of the offeror);

"(B) shall include cost or price to the Government as an evaluation factor that must be considered in the evaluation of proposals; and

"(C) shall disclose to offerors whether all evaluation factors other than cost or price, when combined, are—

"(i) significantly more important than cost or price;

"(ii) approximately equal in importance to cost or price; or

"(iii) significantly less important than cost or price.

"(2) Nothing in this subsection prohibits an agency from—

"(A) providing additional information in a solicitation, including numeric weights for all evaluation factors; or

"(B) stating in a solicitation that award will be made to the offeror that meets the solicitation's mandatory requirements at the lowest price or cost.".

(b) Evaluation and Award.—Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) in subsection (a), by inserting ", and award a contract," after "competitive proposals";

(2) in subsection (c), by inserting "in accordance with subsection (a)" in the second sentence after "shall evaluate the bids"; and

(3) in subsection (d)—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) An agency head shall evaluate competitive proposals in accordance with subsection (a) and may award a contract—

"(A) after discussions with the offerors, provided that written or oral discussions have been conducted with all responsible offerors who submit proposals within the competitive range; or

"(B) based on the proposals received and without discussions with the offerors (other than discussions conducted for the purpose of minor clarification), provided that, as required by section 303A(b)(2)(B)(i), the solicitation included a statement that proposals are intended to be evaluated, and award made, without discussions, unless discussions are determined to be necessary.";

(B) by striking out paragraphs (2) and (3) and by redesignating paragraph (4) as paragraph (2); and

(C) in paragraph (2), as redesignated by subparagraph (B), by inserting "cost or" before "price" in the first sentence.

(c) Applicability.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to—

(A) solicitations for sealed bids or competitive proposals issued after the end of the 180-day period beginning on the date of the enactment of this division; and

(B) contracts awarded pursuant to those solicitations.

(2) Authority to apply amendments early.—The head of an executive agency may apply the amendments made by this section to solicitations issued before the end of the period referred to in paragraph (1). The head of the executive agency shall publish in the Federal Register notice of any such earlier date of application at least 10 days before that date.

SEC. 41062. SOLICITATION PROVISION REGARDING EVALUATION OF PURCHASE OPTIONS.

Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a), as amended by section 41061(a)(4), is further amended by adding at the end the following new subsection:

"(d) An agency head, in issuing a solicitation for a contract to be awarded using sealed bid procedures, may not include in such solicitation a clause providing for the evaluation of prices for options to purchase additional property or services under the contract unless the agency head has determined that there is a reasonable likelihood that the options will be exercised.".

SEC. 41063. PROMPT NOTICE OF AWARD.

(a) Sealed Bid Procedures.—Subsection (c) of section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended by adding at the end the following: "As soon as practicable after the date of contract award, the agency head shall, in accordance with procedures prescribed in the Federal Acquisition Regulation, notify all offerors not awarded the contract that the contract has been awarded.".

(b) Competitive Proposals Procedures.—Paragraph (2) of section 303B(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b(d)), as redesignated by section 41061(b)(3)(B), is amended in the second sentence by striking out "source and shall promptly notify" and inserting in lieu thereof "source. As soon as practicable after the date of contract award, the agency head shall, in accordance with procedures prescribed in the Federal Acquisition Regulation, notify".

SEC. 41064. POST-AWARD DEBRIEFINGS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection (e):

"(e)(1) When a contract is awarded by the head of an executive agency on the basis of competitive proposals, an unsuccessful offeror, upon written request received by the agency within 3 days after the date on which the unsuccessful offeror receives the notification of the contract award, shall be debriefed and furnished the basis for the selection decision and contract award. An employee of the executive agency shall debrief the offeror promptly after receipt of the request by the agency.

"(2) The debriefing shall include, at a minimum—

"(A) the executive agency's evaluation of the significant weak or deficient factors in the offeror's offer;

"(B) the overall evaluated cost and technical rating of the offer of the contractor awarded the contract and the overall evaluated cost and technical rating of the offer of the debriefed offeror;

"(C) the overall ranking of all offers;

"(D) a summary of the rationale for the award;

"(E) in the case of a proposal for a commercial item other than a commercial component, the make and model of the item being provided in accordance with the offer of the contractor awarded the contract; and

"(F) reasonable responses to questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the executive agency.

"(3) The debriefing may not include point-by-point comparisons of the debriefed offeror's offer with other offers and may not disclose any information that is exempt from disclosure under section 552 of title 5, United States Code, including information relating to—

"(A) trade secrets;

"(B) privileged or confidential manufacturing processes and techniques; and

"(C) commercial and financial information that is privileged or confidential, including cost breakdowns, profit, indirect cost rates, and similar information.

"(4) Each solicitation for competitive proposals shall include a statement that information described in paragraph (2) may be disclosed in post-award debriefings.

"(5) If, within one year after the date of the contract award and as a result of a successful procurement protest or otherwise, the executive agency seeks to fulfill the requirement under the contract either on the basis of a new solicitation of offers or on the basis of new best and final offers requested for that contract, the agency head shall make available to all offerors—

"(A) the information provided in debriefings under this subsection regarding the offer of the contractor awarded the contract; and

"(B) the same information that would have been provided to the original offerors.

"(6) The contracting officer shall include a summary of the debriefing in the contract file.".

SEC. 41065. PROTEST FILE.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b), as amended by section 41064(1), is further amended by adding at the end the following:

"(h)(1) If, in the case of a solicitation for a contract issued by, or an award or proposed award of a contract by, an agency head, a protest is filed pursuant to the procedures in subchapter V of chapter 35 of title 31, United States Code, and an actual or prospective offeror so requests, a file of the protest shall be established by the procuring activity and reasonable access shall be provided to actual or prospective offerors.

"(2) Information exempt from disclosure under section 552 of title 5, United States Code, may be redacted in a file established pursuant to paragraph (1) unless an applicable protective order provides otherwise.

"(3) Regulations implementing this subsection shall be consistent with the regulations regarding the preparation and submission of an agency's protest file (the so-called 'rule 4 file') for protests to the General Services Board of Contract Appeals under section 111 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 759).".

SEC. 41066. AWARD OF COSTS AND FEES IN AGENCY SETTLEMENT OF PROTESTS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b), as amended by section 41065, is further amended by adding at the end the following new subsection:

"(i) If, in connection with a protest, an agency head determines that a solicitation, proposed award, or award does not comply with the requirements of law or regulation, the agency head may take—

"(1) any action set out in subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31, United States Code; and

"(2) may pay costs described in paragraph (1) of section 3554(c) of such title within the limits referred to in paragraph (2) of such section.".

SEC. 41067. TWO-PHASE SELECTION PROCEDURES.

(a) PROCEDURES AUTHORIZED.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 41054, is further amended by inserting after section 303H the following new section:

"TWO-PHASE SELECTION PROCEDURES

"SEC. 303I. (a) PROCEDURES AUTHORIZED.—The head of an executive agency may use two-phase selection procedures for entering into a contract for the acquisition of property or services (other than a construction contract) when the agency head determines that three or more offers will be received for such contract, substantial design work must be performed before an offeror can develop a price or cost proposal for such contract, and the offerors will incur a substantial amount of expenses in preparing the offers.

"(b) PROCEDURES DESCRIBED.—Two-phase selection procedures consist of the following:

"(1) The agency head solicits proposals that—

"(A) include information on the offerors'—

"(i) technical approach; and

"(ii) technical qualifications; and

"(B) do not include—

"(i) detailed design information; or

"(ii) cost or price information.

"(2) The agency head evaluates the proposals on the basis of evaluation criteria set forth in the solicitation, except that the agency head does not consider cost-related or price-related evaluation factors.

"(3) The agency head selects at least three offerors as the most highly qualified to provide the property or services under the contract and requests the selected offerors to submit competitive proposals that include cost or price information.

"(4) The agency head awards the contract in accordance with section 303B(d).

"(c) SOLICITATION TO STATE NUMBER OF OFFERORS TO BE SELECTED FOR PHASE TWO REQUESTS FOR COMPETITIVE PROPOSALS.—A solicitation issued pursuant to subsection (b)(1) shall state the maximum number of offerors that are to be selected to submit competitive proposals pursuant to subsection (b)(3).

"(d) RESOURCE COMPARISON CRITERION REQUIRED.—In using two-phase selection procedures for entering into a contract, the agency head shall establish a resource criterion or a financial criterion applicable to the contract in order to provide a consistent basis for comparing the offerors and their proposals.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act, as amended by section 41054, is further amended by inserting after the item relating to section 303H the following new item:

"Sec. 303I. Two-phase selection procedures.".

Subpart C—Kinds of Contracts

SEC. 41071. AGENCY HEAD DETERMINATION REGARDING USE OF COST TYPE OR INCENTIVE CONTRACT.

Section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)) is amended by striking out the second sentence.

SEC. 41072. MULTIYEAR CONTRACTING AUTHORITY.

(a) AUTHORITY.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 41067, is further amended by inserting after section 303I the following new section:

"MULTIYEAR CONTRACTS

"SEC. 303J. (a) AUTHORITY.—The head of an executive agency may enter into a multiyear contract for the acquisition of property or services if—

"(1) funds are available and obligated for such contract, for the full period of the contract or for the first fiscal year in which the contract is in effect, and for the estimated costs associated with any necessary termination of such contract; and

"(2) the agency head determines that—

"(A) the need for the property or services is reasonably firm and continuing over the period of the contract; and

"(B) a multiyear contract will serve the best interests of the United States by encouraging effective competition or promoting economy in administration, performance, and operation of the agency's programs.

"(b) TERMINATION CLAUSE.—A multiyear contract entered into under the authority of this section shall include a clause that provides that the contract shall be terminated if funds are not made available for the continuation of such contract in any fiscal year covered by the contract. Amounts available for paying termination costs shall remain available for such purpose until the costs associated with termination of the contract are paid.

"(c) RULE OF CONSTRUCTION.—Nothing in this section is intended to modify or affect any other provision of law that authorizes multiyear contracts.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act, as amended by section 41067, is further amended by inserting after the item relating to section 303I the following new item:

"Sec. 303J. Multiyear contracts.".

SEC. 41073. SEVERABLE SERVICES CONTRACTS CROSSING FISCAL YEARS.

(a) AUTHORITY.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 41072, is further amended by inserting after section 303J the following new section:

"SEVERABLE SERVICES CONTRACTS FOR PERIODS CROSSING FISCAL YEARS

"SEC. 303K. (a) AUTHORITY.—The head of an executive agency may enter into a contract for procurement of severable services for a period that begins in one fiscal year and ends in the next fiscal year if (without regard to any option to extend the period of the contract) the contract period does not exceed one year.

"(b) OBLIGATION OF FUNDS.—Funds made available for a fiscal year may be obligated for the total amount of a contract entered into under the authority of subsection (a).".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act, as amended by section 41072, is further amended by inserting after the item relating to section 303J the following new item:

"Sec. 303K. Severable services contracts for periods crossing fiscal years.".

SEC. 41074. ECONOMY ACT PURCHASES.

(a) REGULATIONS REQUIRED.—Not later than six months after the date of the enactment of this division, the Federal Acquisition Regulation shall be revised to include regulations governing the exercise of the authority under section 1535 of title 31, United States Code, for Federal agencies to purchase goods and services under contracts entered into or administered by other agencies.

(b) CONTENT OF REGULATIONS.—The regulations prescribed pursuant to subsection (a) shall—

(1) require that each purchase described in subsection (a) be approved in advance by a contracting officer of the ordering agency with authority to contract for the goods or services to be purchased or by another official in a position specifically designated by regulation to approve such purchase;

(2) provide that such a purchase of goods or services may be made only if—

(A) the purchase is appropriately made under a contract that the agency filling the purchase order entered into, before the purchase order, in order to meet the requirements of such agency for the same or similar goods or services;

(B) the agency filling the purchase order is better qualified to enter into or administer the contract for such goods or services by reason of capabilities or expertise that is not available within the ordering agency; or

(C) the agency or unit filling the order is specifically authorized by law or regulations to purchase such goods or services on behalf of other agencies;

(3) prohibit any such purchase under a contract or other agreement entered into or administered by an agency not covered by the provisions of chapter 137 of title 10, United States Code, or title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) and not covered by the Federal Acquisition Regulation unless the purchase is approved in advance by the senior procurement official responsible for purchasing by the ordering agency; and

(4) prohibit any payment to the agency filling a purchase order of any fee that exceeds the actual cost or, if the actual cost is not known, the estimated cost of entering into and administering the contract or other agreement under which the order is filled.

(c) MONITORING SYSTEM REQUIRED.—The Administrator for Federal Procurement Policy shall ensure that, not later than one year after the date of the enactment of this division, systems for collecting and evaluating procurement data are capable of collecting and evaluating appropriate data on procurements conducted under the regulations prescribed pursuant to subsection (a).

(d) TERMINATION.—This section shall cease to be effective one year after the date on which final regulations prescribed pursuant to subsection (a) take effect.

PART III—ACQUISITIONS GENERALLY

SEC. 41091. POLICY REGARDING CONSIDERATION OF CONTRACTOR PAST PERFORMANCE.

(a) POLICY.—Section 2 of the Office of Federal Procurement Policy Act (41 U.S.C. 401) is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(14) establishing policies and procedures that encourage the consideration of contractors' past performance in the selection of contractors.".

(b) GUIDANCE REQUIRED.—Section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405) is amended by adding at the end the following:

"(j)(1) Congress makes the following findings:

"(A) Past contract performance of an offeror is one of the relevant factors that contracting officials of executive agencies should consider in entering into contracts.

"(B) It is appropriate for a contracting official to consider past contract performance of an offeror as an indicator of the likelihood that the offeror will successfully perform a contract to be entered into by that official.

"(2) The Administrator shall prescribe for executive agencies guidance regarding consideration of the past contract performance of offerors in awarding contracts. The guidance shall include—

"(A) standards for evaluating past performance with respect to cost (when appropriate), schedule, compliance with technical or functional specifications, and other relevant performance factors that facilitate consistent and fair evaluation by all executive agencies;

"(B) policies for the collection and maintenance of information on past contract performance that, to the maximum extent practicable, facilitate automated collection, maintenance, and dissemination of information and provide for ease of collection, maintenance, and dissemination of information by other methods, as necessary; and

"(C) policies for ensuring that—

"(i) offerors are afforded an opportunity to submit relevant information on past contract performance, including performance under contracts entered into by the executive agency concerned, contracts entered into by other departments and agencies of the Federal Government, contracts entered into by agencies of State and local governments, and contracts entered into by commercial customers; and

"(ii) such information submitted by offerors is considered.

"(3) The Administrator shall prescribe for all executive agencies guidance regarding the period for which information on past performance of offerors should be maintained and considered.

"(4) In the case of an offeror regarding whom there is no information on past contract performance or regarding whom information on past contract performance is not available, the offeror may not be evaluated favorably or unfavorably on the factor of past contract performance.".

SEC. 41092. REPEAL OF REQUIREMENT FOR ANNUAL REPORT ON COMPETITION.

Section 23 of the Office of Federal Procurement Policy Act (41 U.S.C. 419) is repealed.

Subtitle B—Truth in Negotiations

PART I—ARMED SERVICES ACQUISITIONS

SEC. 41101. STABILIZATION OF DOLLAR THRESHOLD OF APPLICABILITY.

(a) REPEAL OF REVERSION TO LOWER THRESHOLD.—Paragraph (1)(A) of section 2306a(a) of title 10, United States Code, is amended—

(1) in clause (i), by striking out "and before January 1, 1996,"; and

(2) in clause (ii), by striking out "or after December 31, 1995,".

(b) ADJUSTMENTS FOR CHANGES IN DOLLAR VALUES.—Section 2306a(a) of such title is amended by adding at the end the following new subparagraph:

"(7) Effective on October 1 of each year that is divisible by 5, each amount set forth in paragraph (1) shall be adjusted to the amount that is equal to the fiscal year 1994 constant dollar value of the amount set forth. Any amount, as so adjusted, that is not evenly divisible by $50,000 shall be rounded to the nearest multiple of $50,000. In the case of an amount that is evenly divisible by $25,000 but not evenly divisible by $50,000, the amount shall be rounded to the next higher multiple of $50,000.".

SEC. 41102. EXCEPTIONS TO COST OR PRICING DATA REQUIREMENTS.

(a) EXCEPTIONS STATED.—Subsection (b) of section 2306a of title 10, United States Code, is amended to read as follows:

"(b) EXCEPTIONS.—(1) Submission of cost and pricing data shall not be required under subsection (a)—

"(A) in the case of a contract, a subcontract, or a contract or subcontract modification, for which the price agreed upon is based on—

"(i) adequate price competition;

"(ii) established catalog or market prices of commercial items or of services customarily used for other than Government purposes, as the case may be, that are sold in substantial quantities to the general public; or

"(iii) prices set by law or regulation; or

"(B) in an exceptional case when the head of the agency concerned determines that the requirements of this section may be waived and states in writing the reasons for such determination.

"(2) Submission of cost and pricing data shall not be required under subsection (a) in the case of a modification of a contract or subcontract for a commercial item if—

"(A) the contract or subcontract being modified is a contract or subcontract for which submission of cost and pricing data may not be required by reason of paragraph (1)(A);

"(B) the modification is not a case in which paragraph (1)(A) prohibits the head of an agency from requiring submission of cost and pricing data; and

"(C) the modification would not change the contract or subcontract, as the case may be, from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of a noncommercial item.".

(b) CONFORMING AMENDMENT TO REFERENCE.—Subsection (a)(5) of such section is amended by striking out "subsection (b)(2)" and inserting in lieu thereof "subsection (b)(1)(B)".

SEC. 41103. LIMITATION ON AUTHORITY TO REQUIRE A SUBMISSION NOT OTHERWISE REQUIRED.

Subsection (c) of section 2306a of title 10, United States Code, is amended to read as follows:

"(c) LIMITATION ON AUTHORITY TO REQUIRE COST OR PRICING DATA.—When cost or pricing data are not required to be submitted under this section by reason of a $500,000 threshold set forth in subsection (a) (as adjusted pursuant to paragraph (7) of such subsection) or by reason of an exception set forth in paragraph (1)(A) or (2) of subsection (b), submission of such data may not be required unless the head of an agency concerned determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract to which the data relate. In any case in which the head of an agency requires such data to be submitted in accordance with the preceding sentence, the agency head shall document in writing the reasons for such requirement.".

SEC. 41104. ADDITIONAL SPECIAL RULES FOR COMMERCIAL ITEMS.

Section 2306a of title 10, United States Code, is amended—

(1) by redesignating subsections (d), (e), (f), and (g) as subsections (e), (f), (g), and (i), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) ADDITIONAL EXCEPTION PROVISIONS REGARDING COMMERCIAL ITEMS.—(1) To the maximum extent practicable, the head of an agency shall conduct procurements of commercial items on a competitive basis.

"(2) In any case in which it is not practicable to conduct a procurement of a commercial item on a competitive basis and the procurement is not covered by an exception in subsection (b), the contracting officer shall nonetheless exempt a contract, subcontract, or modification of a contract or subcontract under the procurement from the requirements of subsection (a) if the contracting officer obtains, in accordance with standards and procedures set forth in the Federal Acquisition Regulation, information on prices at which the same or similar items have been sold in the commercial market that is adequate for evaluating the reasonableness of the price of the contract or subcontract for a commercial item, or the contract or subcontract modification, as the case may be. The contracting officer may obtain such information from the offeror or contractor or, when such information is not available from that source, from another source or sources.

"(3)(A) In accordance with procedures prescribed in the Federal Acquisition Regulation, the head of an agency shall have the right to examine all information provided by an offeror, contractor, or subcontractor pursuant to paragraph (2) and all books and records of such offeror, contractor, or subcontractor that directly relate to such information in order to determine whether the agency is receiving accurate information required under this section.

"(B) The right under subparagraph (A) shall expire 3 years after the date of award of the contract, or 3 years after the date of the modification of the contract, with respect to which the information was provided.".

SEC. 41105. RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.

Section 2306a of title 10, United States Code, is amended by striking out subsection (g), as redesignated by section 41104(1), and inserting in lieu thereof the following:

"(g) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section, the head of an agency shall have the rights provided by section 2313 of this title.".

SEC. 41106. REQUIRED REGULATIONS.

Section 2306a of title 10, United States Code, as amended by sections 41104 and 41105, is further amended by inserting after subsection (g) the following new subsection:

"(h) REQUIRED REGULATIONS.—The Secretary shall prescribe regulations concerning the types of information that offerors must submit for a contracting officer to consider in determining whether the price of a procurement to the Government is fair and reasonable when certified cost or pricing data are not required to be submitted under this section because the price of the procurement to the United States is not expected to exceed an applicable $500,000 threshold set forth in subsection (a) (as adjusted pursuant to paragraph (7) of such subsection). Such information, at a minimum, shall include appropriate information on the prices at which the same or similar items have previously been sold that is adequate for evaluating the reasonableness of the price of the proposed contract or subcontract for the procurement.".

SEC. 41107. CONSISTENCY OF TIME REFERENCES.

Section 2306a of title 10, United States Code, as amended by section 41104(1), is further amended—

(1) in subparagraphs (A)(ii) and (B)(ii) of subsection (e)(4), by inserting "or, if applicable consistent with paragraph (1)(B), another date agreed upon between the parties," after "(or price of the modification)"; and

(2) in subsection (i), by inserting "or, if applicable consistent with subsection (d)(1)(B), another date agreed upon between the parties" after "(or the price of a contract modification)".

SEC. 41108. EXCEPTION FOR TRANSFERS BETWEEN DIVISIONS, SUBSIDIARIES, AND AFFILIATES.

Subsection (i) of section 2306a of title 10, United States Code, as redesignated by section 41104(1), is amended to read as follows:

"(i) DEFINITIONS.—In this section:

"(1) The term 'cost or pricing data' means all facts that, as of the date of agreement on the price of a contract (or the price of a contract modification), a prudent buyer or seller would reasonably expect to affect price negotiations significantly. Such term does not include information that is judgmental, but does include the factual information from which a judgment was derived.

"(2) The term 'subcontract' includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor.".

SEC. 41109. REPEAL OF SUPERSEDED PROVISION.

Subsections (b) and (c) of section 803 of Public Law 101-510 (10 U.S.C. 2306a note) are repealed.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 41151. REVISION OF CIVILIAN AGENCY PROVISIONS TO ENSURE UNIFORM TREATMENT OF COST OR PRICING DATA.

(a) IN GENERAL.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended—

(1) in section 304, by striking out subsection (d); and

(2) by inserting after section 304 the following new section:

"COST OR PRICING DATA: TRUTH IN NEGOTIATIONS

"SEC. 304A. (a) REQUIRED COST OR PRICING DATA AND CERTIFICATION.—(1) An agency head shall require offerors, contractors, and subcontractors to make cost or pricing data available as follows:

"(A) An offeror for a prime contract under this title to be entered into using procedures other than sealed-bid procedures shall be required to submit cost or pricing data before the award of a contract if—

"(i) in the case of a prime contract entered into after the date of the enactment of the Federal Acquisition Streamlining Act of 1994, the price of the contract to the United States is expected to exceed $500,000; and

"(ii) in the case of a prime contract entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1994, the price of the contract to the United States is expected to exceed $100,000.

"(B) The contractor for a prime contract under this chapter shall be required to submit cost or pricing data before the pricing of a change or modification to the contract if—

"(i) in the case of a change or modification made to a prime contract referred to in subparagraph (A)(i), the price adjustment is expected to exceed $500,000;

"(ii) in the case of a change or modification made to a prime contract that was entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1994, and that has been modified pursuant to paragraph (6), the price adjustment is expected to exceed $500,000; and

"(iii) in the case of a change or modification not covered by clause (i) or (ii), the price adjustment is expected to exceed $100,000.

"(C) An offeror for a subcontract (at any tier) of a contract under this title shall be required to submit cost or pricing data before the award of the subcontract if the prime contractor and each higher-tier subcontractor have been required to make available cost or pricing data under this section and—

"(i) in the case of a subcontract under a prime contract referred to in subparagraph (A)(i), the price of the subcontract is expected to exceed $500,000;

"(ii) in the case of a subcontract entered into under a prime contract that was entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1994, and that has been modified pursuant to paragraph (6), the price of the subcontract is expected to exceed $500,000; and

"(iii) in the case of a subcontract not covered by clause (i) or (ii), the price of the subcontract is expected to exceed $100,000.

"(D) The subcontractor for a subcontract covered by subparagraph (C) shall be required to submit cost or pricing data before the pricing of a change or modification to the subcontract if—

"(i) in the case of a change or modification to a subcontract referred to in subparagraph (C)(i) or (C)(ii), the price adjustment is expected to exceed $500,000; and

"(ii) in the case of a change or modification to a subcontract referred to in subparagraph (C)(iii), the price adjustment is expected to exceed $100,000.

"(2) A person required, as an offeror, contractor, or subcontractor, to submit cost or pricing data under paragraph (1) (or required by the agency head concerned to submit such data in accordance with subsection (c)) shall be required to certify that, to the best of the person's knowledge and belief, the cost or pricing data submitted are accurate, complete, and current.

"(3) Cost or pricing data required to be submitted under paragraph (1) (or in accordance with subsection (c)), and a certification required to be submitted under paragraph (2), shall be submitted—

"(A) in the case of a submission by a prime contractor (or an offeror for a prime contract), to the contracting officer for the contract (or to a designated representative of the contracting officer); or

"(B) in the case of a submission by a subcontractor (or an offeror for a subcontract), to the prime contractor.

"(4) Except as provided under subsection (b), this section applies to contracts entered into by an agency head on behalf of a foreign government.

"(5) For purposes of paragraph (1)(C), a contractor or subcontractor granted a waiver under subsection (b)(1)(B) shall be considered as having been required to make available cost or pricing data under this section.

"(6)(A) Upon the request of a contractor that was required to submit cost or pricing data under paragraph (1) in connection with a prime contract entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1994, the agency head that entered into such contract shall modify the contract to reflect subparagraphs (B)(ii) and (C)(ii) of paragraph (1). All such modifications shall be made without requiring consideration.

"(B) An agency head is not required to modify a contract under subparagraph (A) if that agency head determines that the submission of cost or pricing data with respect to that contract should be required in accordance with subsection (c).

"(7) Effective on October 1 of each year that is divisible by 5, each amount set forth in paragraph (1) shall be adjusted to the amount that is equal to the fiscal year 1994 constant dollar value of the amount set forth. Any amount, as so adjusted, that is not evenly divisible by $50,000 shall be rounded to the nearest multiple of $50,000. In the case of an amount that is evenly divisible by $25,000 but not evenly divisible by $50,000, the amount shall be rounded to the next higher multiple of $50,000.

"(b) EXCEPTIONS.—(1) Submission of cost and pricing data shall not be required under subsection (a)—

"(A) in the case of a contract, a subcontract, or a contract or subcontract modification, for which the price agreed upon is based on—

"(i) adequate price competition;

"(ii) established catalog or market prices of commercial items or of services customarily used for other than Government purposes, as the case may be, that are sold in substantial quantities to the general public; or

"(iii) prices set by law or regulation; or

"(B) in an exceptional case when the agency head concerned determines that the requirements of this section may be waived and states in writing the reasons for such determination.

"(2) Submission of cost and pricing data shall not be required under subsection (a) in the case of a modification of a contract or subcontract for a commercial item if—

"(A) the contract or subcontract being modified is a contract or subcontract for which submission of cost and pricing data may not be required by reason of paragraph (1)(A);

"(B) the modification is not a case in which paragraph (1)(A) prohibits the agency head from requiring submission of cost and pricing data; and

"(C) the modification would not change the contract or subcontract, as the case may be, from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of a noncommercial item.

"(c) LIMITATION ON AUTHORITY TO REQUIRE COST OR PRICING DATA.—When cost or pricing data are not required to be submitted under this section by reason of a $500,000 threshold set forth in subsection (a) (as adjusted pursuant to paragraph (7) of such subsection) or by reason of an exception in paragraph (1)(A) or (2) of subsection (b), submission of such data may not be required unless the agency head concerned determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract to which the data relate. In any case in which the agency head requires such data to be submitted in accordance with the preceding sentence, the agency head shall document in writing the reasons for such requirement.

"(d) ADDITIONAL EXCEPTION PROVISIONS REGARDING COMMERCIAL ITEMS.—(1) To the maximum extent practicable, an agency head shall conduct procurements of commercial items on a competitive basis.

"(2) In any case in which it is not practicable to conduct a procurement of a commercial item on a competitive basis and the procurement is not covered by an exception in subsection (b), the contracting officer shall nonetheless exempt a contract, subcontract, or modification of a contract or subcontract under the procurement from the requirements of subsection (a) if the contracting officer obtains, in accordance with standards and procedures set forth in the Federal Acquisition Regulation, information on prices at which the same or similar items have been sold in the commercial market that is adequate for evaluating the reasonableness of the price of the contract or subcontract for a commercial item, or the contract or subcontract modification, as the case may be. The contracting officer may obtain such information from the offeror or contractor or, when such information is not available from that source, from another source or sources.

"(3)(A) In accordance with procedures prescribed in the Federal Acquisition Regulation, an agency head shall have the right to examine all information provided by an offeror, contractor, or subcontractor pursuant to paragraph (2) and all books and records of such offeror, contractor, or subcontractor that directly relate to such information in order to determine whether the agency is receiving accurate information required under this section.

"(B) The right under subparagraph (A) shall expire 3 years after the date of award of the contract, or 3 years after the date of the modification of the contract, with respect to which the information was provided.

"(e) PRICE REDUCTIONS FOR DEFECTIVE COST OR PRICING DATA.—(1)(A) A prime contract (or change or modification to a prime contract) under which a certificate under subsection (a)(2) is required shall contain a provision that the price of the contract to the United States, including profit or fee, shall be adjusted to exclude any significant amount by which it may be determined by the agency head that such price was increased because the contractor (or any subcontractor required to make available such a certificate) submitted defective cost or pricing data.

"(B) For the purposes of this section, defective cost or pricing data are cost or pricing data which, as of the date of agreement on the price of the contract (or another date agreed upon between the parties), were inaccurate, incomplete, or noncurrent. If for purposes of the preceding sentence the parties agree upon a date other than the date of agreement on the price of the contract, the date agreed upon by the parties shall be as close to the date of agreement on the price of the contract as is practicable.

"(2) In determining for purposes of a contract price adjustment under a contract provision required by paragraph (1) whether, and to what extent, a contract price was increased because the contractor (or a subcontractor) submitted defective cost or pricing data, it shall be a defense that the United States did not rely on the defective data submitted by the contractor or subcontractor.

"(3) It is not a defense to an adjustment of the price of a contract under a contract provision required by paragraph (1) that—

"(A) the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted by the contractor or subcontractor because the contractor or subcontractor—

"(i) was the sole source of the property or services procured; or

"(ii) otherwise was in a superior bargaining position with respect to the property or services procured;

"(B) the contracting officer should have known that the cost and pricing data in issue were defective even though the contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the contracting officer;

"(C) the contract was based on an agreement between the contractor and the United States about the total cost of the contract and there was no agreement about the cost of each item procured under such contract; or

"(D) the prime contractor or subcontractor did not submit a certification of cost and pricing data relating to the contract as required under subsection (a)(2).

"(4)(A) A contractor shall be allowed to offset an amount against the amount of a contract price adjustment under a contract provision required by paragraph (1) if—

"(i) the contractor certifies to the contracting officer (or to a designated representative of the contracting officer) that, to the best of the contractor's knowledge and belief, the contractor is entitled to the offset; and

"(ii) the contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification), or, if applicable consistent with paragraph (1)(B), another date agreed upon between the parties, and that the data were not submitted as specified in subsection (a)(3) before such date.

"(B) A contractor shall not be allowed to offset an amount otherwise authorized to be offset under subparagraph (A) if—

"(i) the certification under subsection (a)(2) with respect to the cost or pricing data involved was known to be false when signed; or

"(ii) the United States proves that, had the cost or pricing data referred to in subparagraph (A)(ii) been submitted to the United States before the date of agreement on the price of the contract (or price of the modification) or, if applicable under paragraph (1)(B), another date agreed upon between the parties, the submission of such cost or pricing data would not have resulted in an increase in that price in the amount to be offset.

"(f) INTEREST AND PENALTIES FOR CERTAIN OVERPAYMENTS.—(1) If the United States makes an overpayment to a contractor under a contract with an executive agency subject to this section and the overpayment was due to the submission by the contractor of defective cost or pricing data, the contractor shall be liable to the United States—

"(A) for interest on the amount of such overpayment, to be computed—

"(i) for the period beginning on the date the overpayment was made to the contractor and ending on the date the contractor repays the amount of such overpayment to the United States; and "(ii) at the current rate prescribed by the Secretary of the Treasury under section 6621 of the Internal Revenue Code of 1986; and

"(B) if the submission of such defective data was a knowing submission, for an additional amount equal to the amount of the overpayment.

"(2) Any liability under this subsection of a contractor that submits cost or pricing data but refuses to submit the certification required by subsection (a)(2) with respect to the cost or pricing data shall not be affected by the refusal to submit such certification.

"(g) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section, the head of an agency shall have the rights provided by section 304B(a)(2).

"(h) REQUIRED REGULATIONS.—The Federal Acquisition Regulation shall include regulations concerning the types of information that offerors must submit for a contracting officer to consider in determining whether the price of a procurement to the Government is fair and reasonable when certified cost or pricing data are not required to be submitted under this section because the price of the procurement to the United States is not expected to exceed an applicable $500,000 threshold set forth in subsection (a) (as adjusted pursuant to paragraph (7) of such subsection). Such information, at a minimum, shall include appropriate information on the prices at which the same or similar items have previously been sold that is adequate for evaluating the reasonableness of the price of a proposed contract or subcontract for the procurement.

"(i) DEFINITIONS.—In this section:

"(1) The term 'cost or pricing data' means all facts that, as of the date of agreement on the price of a contract (or the price of a contract modification) or, if applicable consistent with subsection (e)(1)(B), another date agreed upon between the parties, a prudent buyer or seller would reasonably expect to affect price negotiations significantly. Such term does not include information that is judgmental, but does include the factual information from which a judgment was derived.

"(2) The term 'subcontract' includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor.".

(b) TABLE OF CONTENTS.—The table of contents in the first section of such Act is amended by inserting after the item relating to section 304 the following:

"Sec. 304A. Cost or pricing data: truth in negotiations.".

SEC. 41152. REPEAL OF OBSOLETE PROVISION.

(a) REPEAL.—Section 303E of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253e) is repealed.

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act is amended by striking out the item relating to section 303E.

Subtitle C—Research and Development

SEC. 41201. RESEARCH PROJECTS.

(a) AUTHORIZED MEANS.—Subsection (b) of section 2358 of title 10, United States Code, is amended to read as follows:

"(b) AUTHORIZED MEANS.—The Secretary of Defense or the Secretary of a military department may perform research and development projects—

"(1) by contract entered into with, grant made to, or cooperative agreement entered into with educational or research institutions, private businesses, or other persons in accordance with the provisions of chapter 63 of title 31;

"(2) through one or more military departments;

"(3) by using employees and consultants of the Department of Defense; or

"(4) by mutual agreement with the head of any other department or agency of the Federal Government.".

(b) CAPTION AMENDMENT.—The caption of subsection (c) of such section is amended by striking out "MILITARY" and inserting in lieu thereof "DEPARTMENT OF DEFENSE".

(c) ADVANCED RESEARCH PROJECTS.—

(1) RESTORATION AND REVISION OF FORMER STATEMENT OF AUTHORITY.—Section 2371 of title 10, United States Code, is amended—

(A) by redesignating subsections (a), (b), (c), (d), (e), and (f) as subsections (b), (c), (d), (e), (f), and (g), respectively; and

(B) by inserting before subsection (b), as so redesignated, the following new subsection (a):

"(a) The Secretary of Defense, acting through the Advanced Research Projects Agency and such other elements of the Department of Defense as the Secretary may designate, and the Secretary of each military department, in carrying out basic, applied, and advanced research projects, may enter into other transactions, in addition to contracts, grants, and cooperative agreements authorized by section 2358 of this title.".

(2) CONFORMING AMENDMENTS.—Such section, as amended by paragraph (1), is further amended—

(A) in subsection (b)—

(i) in paragraph (1), by inserting "or subsection (a)" after "section 2358 of this title"; and

(ii) in paragraph (2), by striking out "subsection (d)" and inserting in lieu thereof "subsection (e)";

(B) in subsection (c), by inserting "section 2358 of this title or" after "under";

(C) in subsection (d)—

(i) in paragraph (1), by striking out "this section" and inserting in lieu thereof "section 2358 of this title or subsection (a)"; and

(ii) in paragraph (3), by striking out "this section" and inserting in lieu thereof "section 2358 of this title or subsection (a)";

(D) in subsection (e), by inserting "or subsection (a)" in the first sentence after "section 2358 of this title"; and

(E) in subsection (f)—

(i) in the first sentence, by striking out "under this section" and inserting in lieu thereof "under section 2358 of this title or subsection (a)";

(ii) in paragraph (4), by striking out "subsection (a)" and inserting in lieu thereof "subsection (b)"; and

(iii) in paragraph (5), by striking out "subsection (d)" and inserting in lieu thereof "subsection (e)".

SEC. 41202. ELIMINATION OF INFLEXIBLE TERMINOLOGY REGARDING COORDINATION AND COMMUNICATION OF DEFENSE RESEARCH ACTIVITIES.

Section 2364 of title 10, United States Code, is amended—

(1) in subsection (b)(5), by striking out "milestone 0, milestone I, and milestone II decisions" and inserting in lieu thereof "acquisition program decisions"; and

(2) in subsection (c), by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) The term 'acquisition program decisions' has the meaning given such term in regulations prescribed by the Secretary of Defense for the purposes of this section.".

Subtitle D—Procurement Protests

PART I—PROTESTS TO THE COMPTROLLER GENERAL

SEC. 41301. PROTEST DEFINED.

Paragraph (1) of section 3551 of title 31, United States Code, is amended to read as follows:

"(1) 'protest' means a written objection by an interested party—

"(i) to a solicitation or other request by a Federal agency for offers for a contract for the procurement of property or services;

"(ii) to the cancellation of such a solicitation or other request;

"(iii) to an award or proposed award of such a contract; or

"(iv) to a termination or cancellation of an award of such a contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract;".

SEC. 41302. REVIEW OF PROTESTS AND EFFECT ON CONTRACTS PENDING DECISION.

(a) PERIODS FOR CERTAIN ACTIONS.—Section 3553 of title 31, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking out "one working day of" and inserting in lieu thereof "one day after"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking out "25 working days from" and inserting in lieu thereof "35 days after"; and

(ii) in subparagraph (C), by striking out "10 working days from" and inserting in lieu thereof "25 days after"; and

(2) in subsection (c)(3), by striking out "thereafter" and inserting in lieu thereof "after the making of such finding".

(b) SUSPENSION OF PERFORMANCE.—Subsection (d) of such section is amended to read as follows:

"(d)(1) A contractor awarded a Federal agency contract may, during the period described in paragraph (4), begin performance of the contract and engage in any related activities that result in obligations being incurred by the United States under the contract unless the contracting officer responsible for the award of the contract withholds authorization to proceed with performance of the contract.

"(2) The contracting officer may withhold an authorization to proceed with performance of the contract during the period described in paragraph (4) if the contracting officer determines in writing that—

"(A) a protest is likely to be filed; and

"(B) the immediate performance of the contract is not in the best interests of the United States.

"(3)(A) If the Federal agency awarding the contract receives notice of a protest in accordance with this section during the period described in paragraph (4)—

"(i) the contracting officer may not authorize performance of the contract to begin while the protest is pending; or

"(ii) if contract performance authorization to proceed was not withheld in accordance with paragraph (2) before receipt of the notice, the contracting officer shall immediately direct the contractor to cease performance under the contract and to suspend any related activities that may result in additional obligations being incurred by the United States under that contract.

"(B) Performance and related activities suspended pursuant to subparagraph (A)(ii) by reason of a protest may not be resumed while the protest is pending.

"(C) The head of the procuring activity may authorize the performance of the contract (notwithstanding a protest of which the Federal agency has notice under this section)—

"(i) upon a written finding that—

"(I) performance of the contract is in the best interests of the United States; or

"(II) urgent and compelling circumstances that significantly affect interests of the United States will not permit waiting for the decision of the Comptroller General concerning the protest; and

"(ii) after the Comptroller General is notified of that finding.

"(4) The period referred to in paragraphs (2) and (3)(A), with respect to a contract, is the period beginning on the date of the contract award and ending on the later of—

"(A) the date that is 10 days after the date of the contract award; or

"(B) the date that is 5 days after—

"(i) the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required; or

"(ii) in the case of a contract for which no debriefing is required, the date on which the unsuccessful offeror receives the notification of contract award.".

SEC. 41303. DECISIONS ON PROTESTS.

(a) PERIODS FOR CERTAIN ACTIONS.—Section 3554(a) of title 31, United States Code, is amended—

(1) in paragraph (1), by striking out "90 working days from" and inserting in lieu thereof "125 days after";

(2) in paragraph (2), by striking out "45 calendar days from" and inserting "65 days after";

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following new paragraph (3):

"(3) An amendment to a protest that adds a new ground of protest, if timely made, should be resolved, to the maximum extent practicable, within the time limit established under paragraph (1) of this subsection for final decision of the initial protest. If an amended protest cannot be resolved within such time limit, the Comptroller General may resolve the amended protest through the express option under paragraph (2) of this subsection.".

(b) GAO RECOMMENDATIONS ON PROTESTS.—

(1) IMPLEMENTATION OF RECOMMENDATIONS.—Section 3554 of title 31, United States Code, is amended—

(A) in subsection (b), by adding at the end the following new paragraph:

"(3) If the Federal agency fails to implement fully the recommendations of the Comptroller General under this subsection with respect to a solicitation for a contract or an award or proposed award of a contract within 60 days after receiving the recommendations, the head of the procuring activity responsible for that contract shall report such failure to the Comptroller General not later than 5 working days after the end of such 60-day period.";

(B) by striking out subsection (c) and inserting in lieu thereof the following:

"(c)(1) If the Comptroller General determines that a solicitation for a contract or a proposed award or the award of a contract does not comply with a statute or regulation, the Comptroller General may recommend that the Federal agency conducting the procurement pay to an appropriate interested party the costs of—

"(A) filing and pursuing the protest, including reasonable attorney's fees and consultant and expert witness fees; and

"(B) bid and proposal preparation.

"(2) No party (other than a small business concern (within the meaning of section 3(a) of the Small Business Act)) may be paid, pursuant to a recommendation made under the authority of paragraph (1)—

"(A) costs for consultant and expert witness fees that exceed the rates provided under section 504(b)(1)(A) of title 5 for expert witnesses; or

"(B) costs for attorney's fees that exceed the rates provided for attorneys under section 504(b)(1)(A) of title 5.

"(3) If the Comptroller General recommends under paragraph (1) that a Federal agency pay costs to an interested party, the Federal agency shall—

"(A) pay the costs promptly; or

"(B) if the Federal agency does not make such payment, promptly report to the Comptroller General the reasons for the failure to follow the Comptroller General's recommendation.

"(4) If the Comptroller General recommends under paragraph (1) that a Federal agency pay costs to an interested party, the Federal agency and the interested party shall attempt to reach an agreement on the amount of the costs to be paid. If the Federal agency and the interested party are unable to agree on the amount to be paid, the Comptroller General may, upon the request of the interested party, recommend to the Federal agency the amount of the costs that the Federal agency should pay."; and

(C) by striking out subsection (e) and inserting in lieu thereof the following:

"(e)(1) The Comptroller General shall report promptly to the Committee on Governmental Affairs and the Committee on Appropriations of the Senate and to the Committee on Government Operations and the Committee on Appropriations of the House of Representatives any case in which a Federal agency fails to implement fully a recommendation of the Comptroller General under subsection (b) or (c). The report shall include—

"(A) a comprehensive review of the pertinent procurement, including the circumstances of the failure of the Federal agency to implement a recommendation of the Comptroller General; and

"(B) a recommendation regarding whether, in order to correct an inequity or to preserve the integrity of the procurement process, the Congress should consider—

"(i) private relief legislation;

"(ii) legislative rescission or cancellation of funds;

"(iii) further investigation by Congress; or

"(iv) other action.

"(2) Not later than January 31 of each year, the Comptroller General shall transmit to the Congress a report containing a summary of each instance in which a Federal agency did not fully implement a recommendation of the Comptroller General under subsection (b) or (c) during the preceding year. The report shall also describe each instance in which a final decision in a protest was not rendered within 125 days after the date the protest is submitted to the Comptroller General.".

(2) REQUIREMENT FOR PAYMENT IN ACCORDANCE WITH PRIOR GAO DETERMINATIONS.—Costs to which the Comptroller General declared an interested party to be entitled under section 3554 of title 31, United States Code, as in effect immediately before the enactment of this division, shall, if not paid or otherwise satisfied by the Federal agency concerned before the date of the enactment of this division, be paid promptly.

SEC. 41304. REGULATIONS.

(a) COMPUTATION OF PERIODS.—Section 3555 of title 31, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (d); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) The procedures shall provide that, in the computation of any period described in this subchapter—

"(1) the day of the act, event, or default from which the designated period of time begins to run not be included; and

"(2) the last day after such act, event, or default be included, unless—

"(A) such last day is a Saturday, a Sunday, or a legal holiday; or

"(B) in the case of a filing of a paper at the General Accounting Office or a Federal agency, such last day is a day on which weather or other conditions cause the closing of the General Accounting Office or Federal agency, in which event the next day that is not a Saturday, Sunday, or legal holiday shall be included.".

(b) ELECTRONIC FILINGS AND DISSEMINATIONS.—Such section, as amended by subsection (a), is further amended by inserting after subsection (b) the following new subsection:

"(c) The Comptroller General may prescribe procedures for the electronic filing and dissemination of documents and information required under this subchapter. In prescribing such procedures, the Comptroller General shall consider the ability of all parties to achieve electronic access to such documents and records.".

(c) REPEAL OF OBSOLETE DEADLINE.—Subsection (a) of such section is amended by striking out "Not later than January 15, 1985, the" and inserting in lieu thereof "The".

PART II—PROTESTS IN THE FEDERAL COURTS

SEC. 41321. NONEXCLUSIVITY OF REMEDIES.

Section 3556 of title 31, United States Code, is amended by striking out "a district court of the United States or the United States Claims Court" in the first sentence and inserting in lieu thereof "the United States Court of Federal Claims".

SEC. 41322. JURISDICTION OF THE UNITED STATES COURT OF FEDERAL CLAIMS.

(a) CLAIMS AGAINST THE UNITED STATES AND BID PROTESTS.—Section 1491 of title 28, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (e);

(2) in subsection (a)—

(A) by striking out "(a)(1)" and inserting in lieu thereof "(a) CLAIMS AGAINST THE UNITED STATES.—";

(B) in paragraph (2), by striking out "(2) To" and inserting in lieu thereof "(b) REMEDY AND RELIEF.—To"; and

(C) by striking out paragraph (3); and

(3) by inserting after subsection (b), as designated by paragraph (2)(B), the following new subsection (c):

"(c) BID PROTESTS.—(1) The United States Court of Federal Claims has jurisdiction to render judgment on an action by an interested party objecting to a solicitation by a Federal agency for bids or proposals for a proposed contract or to a proposed award or the award of a contract. The court has jurisdiction to entertain such an action without regard to whether suit is instituted before or after the contract is awarded.

"(2) To afford relief in such an action, the court may award any relief that the court considers proper, including declaratory and injunctive relief.

"(3) In exercising jurisdiction under this subsection, the court shall give due regard to the interests of national defense and national security and the need for expeditious resolution of the action.

"(4) The district courts of the United States do not have jurisdiction of any action referred to in paragraph (1).".

(b) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended by inserting "**bid protests;**" after "**generally;**".

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 91 of title 28, United States Code, is amended by striking out the item relating to section 1491 and inserting in lieu thereof the following:

"1491. Claims against United States generally; bid protests; actions involving Tennessee Valley Authority.".

PART III—PROTESTS IN PROCUREMENTS OF AUTOMATIC DATA PROCESSING

SEC. 41331. REVOCATION OF DELEGATIONS OF PROCUREMENT AUTHORITY.

Section 111(b)(3) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(b)(3)) is amended by inserting after the third sentence the following: "The Administrator may revoke a delegation of authority with respect to a particular contract before or after award of the contract, except that the Administrator may revoke a delegation after the contract is awarded only when there is a finding of a violation of law or regulation in connection with the contract award.".

SEC. 41332. AUTHORITY OF THE GENERAL SERVICES ADMINISTRATION BOARD OF CONTRACT APPEALS.

The first sentence of section 111(f)(1) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(1)) is amended to read as follows: "Upon request of an interested party in connection with any procurement that is subject to this section (including any such procurement that is subject to delegation of procurement authority), the board of contract appeals of the General Services Administration (hereafter in this subsection referred to as the 'board') shall review, as provided in this subsection, any decision by a contracting officer that is alleged to violate a statute, a regulation, or the conditions of a delegation of procurement authority.".

SEC. 41333. PERIODS FOR CERTAIN ACTIONS.

(a) SUSPENSION OF PROCUREMENT AUTHORITY.—Section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)) is amended—

(1) in paragraph (2) by adding at the end the following new subparagraph:

"(C) If, in the case of a preaward protest, the board suspends the procurement authority of the Administrator or the Administrator's delegation of procurement authority, the Administrator or the delegate, as the case may be, may continue with the procurement action up to, but not including, the awarding of the contract if the Administrator or the delegate, as the case may be, determines that it is in the best interests of the United States to do so."; and

(2) in paragraph (3) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A)(i) If, with respect to an award of a contract, the board receives notice of a protest under this subsection within the period described in clause (ii), the board shall, at the request of an interested party, hold a hearing to determine whether the board should suspend the procurement authority of the Administrator or the Administrator's delegation of procurement authority for the protested procurement on an interim basis until the board can decide the protest.

"(ii) The period referred to in clause (i) is the period beginning on the date on which the contract is awarded and ending on the date that is 10 days after the date of the contract award or, if later, the date that is 5 days after—

"(I) the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required; or

"(II) in the case of a contract for which no debriefing is required, the date on which the unsuccessful offeror receives the notification of contract award.

"(iii) The board shall hold the requested hearing within 5 days after the date of the filing of the protest or, in the case of a request for debriefing under the provisions of section 2305(b)(5) of title 10, United States Code, or section 303B(e) of this Act, within 5 days after the later of the date of the filing of the protest or the date of the debriefing.".

(b) FINAL DECISION.—Paragraph (4)(B) of such section 111(f) is amended—

(1) by striking out "45 working days" and inserting in lieu thereof "65 days"; and

(2) by adding at the end the following: "An amendment which adds a new ground of protest should be resolved, to the maximum extent practicable, within the time limits established for resolution of the initial protest.".

SEC. 41334. DISMISSALS OF PROTESTS.

Section 111(f)(4) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(4)) is amended by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) The board may dismiss a protest that the board determines—

"(i) is frivolous;

"(ii) has been brought in bad faith; or

"(iii) does not state on its face a valid basis for protest.".

SEC. 41335. AWARD OF COSTS.

Section 111(f)(5) is amended by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) Whenever the board makes such a determination, it may, in accordance with section 1304 of title 31, United States Code, further declare an appropriate prevailing party to be entitled to the cost of filing and pursuing the protest (including reasonable attorney's fees and consultant and expert witness fees), and bid and proposal preparation. However, no party (other than a small business concern (within the meaning of section 3(a) of the Small Business Act)) may be declared entitled to costs for consultant and expert witness fees that exceed the rates provided under section 504(b)(1)(A) of title 5, United States Code, for expert witnesses or to costs for attorney's fees that exceed the rates provided for attorneys under section 504(b)(1)(A) of title 5, United States Code.".

SEC. 41336. DISMISSAL AGREEMENTS.

Section 111(f)(5) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(5)) is amended by adding at the end the following new subparagraphs:

"(D) Any agreement that provides for the dismissal of a protest and involves a direct or indirect expenditure of appropriated funds shall be submitted to the board and shall be made a part of the public record (subject to any protective order considered appropriate by the board) before dismissal of the protest. If a Federal agency is a party to a settlement agreement, the submission of the agreement submitted to the board shall include a memorandum, signed by the contracting officer concerned, that describes in detail the procurement, the grounds for protest, the Federal Government's position regarding the grounds for protest, the terms of the settlement, and the agency's position regarding the propriety of the award or proposed award of the contract at issue in the protest.

"(E) Payment of amounts due from an agency under subparagraph (C) or under the terms of a settlement agreement under subparagraph (D) shall be made from the appropriation made by section 1304 of title 31, United States Code, for the payment of judgments. The Federal agency concerned shall reimburse that appropriation account out of funds available for the procurement.".

SEC. 41337. JURISDICTION OF DISTRICT COURTS.

Section 111(f)(6)(C) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(6)(C)) is amended by striking out "a district court of the United States or".

SEC. 41338. MATTERS TO BE COVERED IN REGULATIONS.

Section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)) is amended by striking out paragraph (8) and inserting in lieu thereof the following:

"(7)(A) The board shall adopt and issue such rules and procedures as may be necessary to the expeditious disposition of protests filed under the authority of this subsection.

"(B) The procedures shall provide that, in the computation of any period described in this subsection—

"(i) the day of the act, event, or default from which the designated period of time begins to run not be included; and

"(ii) the last day after such act, event, or default be included, unless—

"(I) such last day is a Saturday, a Sunday, or a legal holiday; or

"(II) in the case of a filing of a paper at the board, such last day is a day on which weather or other conditions cause the closing of the board or Federal agency, in which event the next day that is not a Saturday, Sunday, or legal holiday shall be included.

"(C) The procedures may provide for electronic filing and dissemination of documents and information required under this subsection and in so providing shall consider the ability of all parties to achieve electronic access to such documents and records.

"(D) The procedures shall provide that if the board expressly finds that a protest or a portion of a protest is frivolous or has not been brought or pursued in good faith, or that any person has willfully abused the board's process during the course of a protest, the board may impose appropriate procedural sanctions, including dismissal of the protest.".

SEC. 41339. DEFINITIONS.

(a) PROTEST.—Section 111(f)(9)(A) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(9)(A)) is amended to read as follows:

"(A) the term 'protest' means a written objection by an interested party—

"(i) to a solicitation or other request by a Federal agency for offers for a contract for the procurement of property or services;

"(ii) to the cancellation of such a solicitation or other request;

"(iii) to an award or proposed award of such a contract; or "(iv) to a termination or cancellation of an award of such a contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract;".

(b) PREVAILING PARTY.—Section 111(f)(9) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) the term 'prevailing party', with respect to a determination of the board under paragraph (5)(B) that a challenged action of a Federal agency violates a statute or regulation or the conditions of a delegation of procurement authority issued pursuant to this section, means a party that demonstrated such violation.".

Subtitle E—Definitions and Other Matters

PART I—ARMED SERVICES ACQUISITIONS

SEC. 41401. DEFINITIONS.

Section 2302 of title 10, United States Code, is amended—

(1) by striking out paragraphs (3), (4), (5), and (7);

(2) by redesignating paragraph (6) as paragraph (5); and

(3) by inserting after paragraph (2) the following:

"(3) The terms 'commercial item', 'commercial component', 'full and open competition', 'major system', 'nondevelopmental item', 'procurement', 'procurement system', 'responsible source', 'standards', and 'technical data', have the meanings given such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

"(4) The term 'simplified acquisition threshold' has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403), except that, in the case of any contract to be awarded and performed, or purchase to be made, outside the United States in support of a contingency operation, the term means an amount equal to two times the amount specified for that term in section 4 of such Act.".

SEC. 41402. DELEGATION OF PROCUREMENT FUNCTIONS.

(a) CONSOLIDATION OF DELEGATION AUTHORITY.—Section 2311 of title 10, United States Code, is amended to read as follows:

"§ 2311. Delegation

"(a) IN GENERAL.—Except to the extent expressly prohibited by another provision of law, the head of an agency may delegate, subject to his direction, to any other officer or official of that agency, any power under this chapter.

"(b) PROCUREMENTS FOR OR WITH OTHER AGENCIES.—Subject to subsection (a), to facilitate the procurement of property and services covered by this chapter by each agency named in section 2303 of this title for any other agency, and to facilitate joint procurement by those agencies—

"(1) the head of an agency may, within his agency, delegate functions and assign responsibilities relating to procurement;

"(2) the heads of two or more agencies may by agreement delegate procurement functions and assign procurement responsibilities from one agency to another of those agencies or to an officer or civilian employee of another of those agencies; and

"(3) the heads of two or more agencies may create joint or combined offices to exercise procurement functions and responsibilities.

"(c) APPROVAL OF TERMINATIONS AND REDUCTIONS OF JOINT ACQUISITION PROGRAMS.—(1) The Secretary of Defense shall prescribe regulations that prohibit each military department participating in a joint acquisition program approved by the Under Secretary of Defense for Acquisition and Technology from terminating or substantially reducing its participation in such program without the approval of the Under Secretary.

"(2) The regulations shall include the following provisions:

"(A) A requirement that, before any such termination or substantial reduction in participation is approved, the proposed termination or reduction be reviewed by the Joint Requirements Oversight Council of the Department of Defense.

"(B) A provision that authorizes the Under Secretary of Defense for Acquisition and Technology to require a military department approved for termination or substantial reduction in participation in a joint acquisition program to continue to provide some or all of the funding necessary for the acquisition program to be continued in an efficient manner.".

(b) CONFORMING REPEAL.—(1) Section 2308 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item related to section 2308.

SEC. 41403. DETERMINATIONS AND DECISIONS.

Section 2310 of title 10, United States Code, is amended to read as follows:

"§ 2310. Determinations and decisions

"(a) INDIVIDUAL OR CLASS DETERMINATIONS AND DECISIONS AUTHORIZED.—Determinations and decisions required to be made under this chapter by the head of an agency may be made for an individual purchase or contract or for a class of purchases or contracts. Such determinations and decisions are final.

"(b) WRITTEN FINDINGS REQUIRED.—(1) Each determination or decision under section 2306(e)(1), 2307(e), or 2313(d)(2) of this title shall be based on a written finding by the person making the determination or decision. The finding shall set out facts and circumstances that support the determination or decision.

"(2) Each finding referred to in paragraph (1) shall be final. The head of the agency making such finding shall maintain a copy of the finding for not less than 6 years after the date of the determination or decision.".

SEC. 41404. UNDEFINITIZED CONTRACTUAL ACTIONS: RESTRICTIONS.

(a) CLARIFICATION OF LIMITATION.—Subsection (b) of section 2326 of title 10, United States Code, is amended—

(1) in the subsection caption, by striking out "AND EXPENDITURE";

(2) in paragraph (1)(B), by striking out "or expended";

(3) in paragraph (2), by striking out "expend" and inserting in lieu thereof "obligate"; and

(4) in paragraph (3)—

(A) by striking out "expended" and inserting in lieu thereof "obligated"; and

(B) by striking out "expend" and inserting in lieu thereof "obligate".

(b) WAIVER AUTHORITY.—Such subsection is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph (4):

"(4) The head of an agency may waive the provisions of this subsection with respect to a contract of that agency if such head of an agency determines that the waiver is necessary in order to support a contingency operation.".

(c) INAPPLICABILITY OF RESTRICTIONS TO CONTRACTS WITHIN THE SIMPLIFIED ACQUISITION THRESHOLD.—Section 2326(g)(1)(B) of title 10, United States Code, is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

SEC. 41405. PRODUCTION SPECIAL TOOLING AND PRODUCTION SPECIAL TEST EQUIPMENT: CONTRACT TERMS AND CONDITIONS.

(a) REPEAL.—Section 2329 of title 10, United States Code, is repealed.

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title is amended by striking out the item related to section 2329.

SEC. 41406. REGULATIONS FOR BIDS.

Section 2381(a) of title 10, United States Code, is amended by striking out "(a) The Secretary" and all that follows through the end of paragraph (1) and inserting in lieu thereof the following:

"(a) The Secretary of Defense or the Secretary of a military department may—

"(1) prescribe regulations for the preparation, submission, and opening of bids for contracts; and".

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 41451. DEFINITIONS.

Section 309(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(c)) is amended by striking out "and 'supplies'" and inserting in lieu thereof "'supplies', 'commercial item', 'commercial component', 'nondevelopmental item', and 'simplified acquisition threshold'".

SEC. 41452. DELEGATION OF PROCUREMENT FUNCTIONS.

(a) AUTHORITY.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended—

(1) by redesignating sections 309 and 310 as sections 312 and 313, respectively; and

(2) by inserting after section 308 the following new section 309:

"DELEGATION

"SEC. 309. (a) IN GENERAL.—Except to the extent expressly prohibited by another provision of law, an agency head may delegate, subject to his direction, to any other officer or official of that agency, any power under this title.

"(b) PROCUREMENTS FOR OR WITH OTHER AGENCIES.—Subject to subsection (a), to facilitate the procurement of property and services covered by this title by each executive agency for any other executive agency, and to facilitate joint procurement by those executive agencies—

"(1) an agency head may, within his executive agency, delegate functions and assign responsibilities relating to procurement;

"(2) the heads of two or more executive agencies may by agreement delegate procurement functions and assign procurement responsibilities from one executive agency to another of those executive agencies or to an officer or civilian employee of another of those executive agencies; and

"(3) the heads of two or more executive agencies may create joint or combined offices to exercise procurement functions and responsibilities.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act is amended by striking out the items relating to sections 309 and 310 and inserting in lieu thereof the following:

"Sec. 309. Delegation.
"Sec. 312. Definitions.
"Sec. 313. Statutes not applicable.".

SEC. 41453. DETERMINATIONS AND DECISIONS.

(a) IN GENERAL.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 41452, is further amended by inserting after section 309 the following new section 310:

"DETERMINATIONS AND DECISIONS

"SEC. 310. (a) INDIVIDUAL OR CLASS DETERMINATIONS AND DECISIONS AUTHORIZED.—Determinations and decisions required to be made under this title by an agency head may be made for an individual purchase or contract or for a class of purchases or contracts. Such determinations and decisions are final.

"(b) WRITTEN FINDINGS REQUIRED.—(1) Each determination under section 305(e) shall be based on a written finding by the person making the determination or decision. The finding shall set out facts and circumstances that support the determination or decision.

"(2) Each finding referred to in paragraph (1) shall be final. The agency head making such finding shall maintain a copy of the finding for not less than 6 years after the date of the determination or decision.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act, as amended by section 41452, is further amended by inserting after the item relating to section 309 the following:

"Sec. 310. Determinations and decisions.".

SEC. 41454. COOPERATIVE PURCHASING.

Subsection (b) of section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481), is amended to read as follows:

"(b)(1) The Administrator shall, as far as practicable, provide any of the services specified in subsection (a) of this section to any other Federal agency, mixed-ownership Government corporation (as defined in section 9101 of title 31, United States Code), or the District of Columbia, upon its request.

"(2)(A) The Administrator may provide for the use of Federal supply schedules or other contracts by any of the following entities upon request:

"(i) A State, any department or agency of a State, and any political subdivision of a State, including a local government.

"(ii) The District of Columbia.

"(iii) The Commonwealth of Puerto Rico.

"(iv) The government of an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))).

"(B) Subparagraph (A) may not be construed to authorize an entity referred to in that subparagraph to order existing stock or inventory from federally owned and operated, or federally owned and contractor operated, supply depots, warehouses, or similar facilities.

"(3)(A) Upon the request of a qualified nonprofit agency for the blind or other severely handicapped that is to provide a commodity or service to the Federal Government under the Javits-Wagner-O'Day Act, the Administrator may provide any of the services specified in subsection (a) to such agency to the extent practicable.

"(B) A nonprofit agency receiving services under the authority of subparagraph (A) shall use the services directly in making or providing an approved commodity or approved service to the Federal Government.

"(C) In this paragraph:

"(i) The term 'qualified nonprofit agency for the blind or other severely handicapped' means—

"(I) a qualified nonprofit agency for the blind, as defined in section 5(3) of the Javits-Wagner-O'Day Act (41 U.S.C. 48b(3)); and

"(II) a qualified nonprofit agency for other severely handicapped, as defined in section 5(4) of such Act (41 U.S.C. 48b(4)).

"(ii) The terms 'approved commodity' and 'approved service' mean a commodity and a service, respectively, that has been determined by the Committee for Purchase from the Blind and Other Severely Handicapped under section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47) to be suitable for procurement by the Federal Government.

"(iii) The term 'Javits-Wagner-O'Day Act' means the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 46-48c), commonly referred to as the Wagner-O'Day Act, that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77), commonly referred to as the Javits-Wagner-O'Day Act.".

TITLE XLII—CONTRACT ADMINISTRATION

Subtitle A—Contract Payment

PART I—ARMED SERVICES ACQUISITIONS

SEC. 42001. CONTRACT FINANCING.

(a) REORGANIZATION OF PRINCIPAL AUTHORITY PROVISION.—Section 2307 of title 10, United States Code, is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"§ 2307. Contract financing";

(2) by striking out "(a) The head of an agency" and inserting in lieu thereof "(b) PAYMENT AUTHORITY.—The head of an agency";

(3) by striking out "(b) Payments" and inserting in lieu thereof "(d) PAYMENT AMOUNT.—Payments";

(4) by striking out "(c) Advance payments" and inserting in lieu thereof "(e) SECURITY FOR ADVANCE PAYMENTS.—Advance payments";

(5) by striking out "(d)(1) The Secretary of Defense" and inserting in lieu thereof "(f) CONDITIONS FOR PROGRESS PAYMENTS.—(1) The Secretary of Defense"; and

(6) by striking out "(e)(1) In any case" and inserting in lieu thereof "(h) ACTION IN CASE OF FRAUD.—(1) In any case".

(b) FINANCING POLICY.—Such section, as amended by subsection (a), is further amended by inserting after the section heading the following new subsection (a):

"(a) POLICY.—Payments authorized under this section and made for financing purposes should be made periodically or, when appropriate, on an advance basis and should be so made in a timely manner to facilitate contract performance while protecting the security interests of the Government. Government financing shall be provided only to the extent necessary to ensure prompt and efficient performance and only after the availability of private financing is considered. A contractor's use of funds received as contract financing and the contractor's financial condition shall be monitored. If the contractor is a small business concern, special attention shall be given to meeting the contractor's financial need.".

(c) PERFORMANCE-BASED PAYMENTS.—Such section, as amended by subsection (a), is further amended by inserting after subsection (b) the following new subsection (c):

"(c) PERFORMANCE-BASED PAYMENTS.—Whenever practicable, payments under subsection (b) shall be made on any of the following bases:

"(1) Performance measured by objective, quantifiable methods such as receipt of items by the Federal Government, work measurement, or statistical process controls.

"(2) Accomplishment of events defined in the program management plan.

"(3) Other quantifiable measures of results.".

(d) TERMINOLOGY CORRECTION.—Such section, as amended by subsection (a)(2), is further amended in subsection (b)(2) by striking out "bid".

(e) EFFECTIVE DATE OF LIEN RELATED TO ADVANCE PAYMENTS.—Such section, as amended by subsection (a)(4), is further amended in subsection (e) by inserting before the period at the end of the third sentence the following: "and is effective immediately upon the first advancement of funds without filing, notice, or any other action by the United States".

(f) CONDITIONS FOR PROGRESS PAYMENTS.—Such section, as amended by subsection (a)(5), is further amended in subsection (f)—

(1) in the first sentence of paragraph (1), by striking out "work, which" and all that follows through "accomplished" and inserting in lieu thereof "work accomplished that meets standards established under the contract"; and

(2) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) This subsection applies to a contract for an amount equal to or greater than the simplified acquisition threshold.".

(g) NAVY CONTRACTS.—Such section, as amended by subsection (a)(5), is further amended by inserting after subsection (f) the following new subsection (g):

"(g) CERTAIN NAVY CONTRACTS.—(1) The Secretary of the Navy shall provide that the rate for progress payments on any contract awarded by the Secretary for repair, maintenance, or overhaul of a naval vessel shall be not less than—

"(A) 95 percent, in the case of firms considered to be small businesses; and

"(B) 90 percent, in the case of all other firms.

"(2) The Secretary of the Navy may advance to private salvage companies such funds as the Secretary considers necessary to provide for the immediate financing of salvage operations. Advances under this paragraph shall be made on terms that the Secretary considers adequate for the protection of the United States.

"(3) The Secretary of the Navy shall ensure that, when partial, progress, or other payments are made under a contract for construction or conversion of a naval vessel, the United States is secured by a lien upon work in progress and on property acquired for performance of the contract on account of all payments so made. The lien is paramount to all other liens.".

(h) RELATIONSHIP TO PROMPT PAYMENT REQUIREMENTS.—Section 2307(f) of title 10, United States Code, as amended by subsection (f), is not intended to impair or modify procedures required by the provisions of chapter 39 of title 31, United States Code, and the regulations issued pursuant to such provisions of law, that relate to progress payment requests, as such procedures are in effect on the date of the enactment of this division.

(i) CONFORMING AND CLERICAL AMENDMENTS.—

(1) CROSS REFERENCE.—Such section, as amended by subsection (a), is further amended in subsections (d) and (e) by striking out "subsection (a)" and inserting in lieu thereof "subsection (b)".

(2) TABLE OF CONTENTS.—The table of sections at the beginning of chapter 137 of title 10, United States Code, is amended by striking out the item relating to section 2307 and inserting in lieu thereof the following:

"2307. Contract financing.".

(j) REPEAL OF SUPERSEDED PROVISIONS.—

(1) PROGRESS PAYMENTS UNDER CERTAIN NAVY CONTRACTS.—

(A) REPEAL.—Section 7312 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7312.

(2) ADVANCEMENT OF PAYMENTS FOR NAVY SALVAGE OPERATIONS.—

(A) REPEAL.—Section 7364 of such title is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 637 of such title is amended by striking out the item relating to section 7364.

(3) PARTIAL PAYMENTS UNDER NAVY CONTRACTS.—

(A) REPEAL.—Section 7521 of such title is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 645 of such title is amended by striking out the item relating to section 7521.

SEC. 42002. CONTRACTS: VOUCHERING PROCEDURES.

(a) REPEAL.—Section 2355 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2355.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 42051. CONTRACT FINANCING.

(a) REORGANIZATION OF PRINCIPAL AUTHORITY PROVISION.—Section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255) is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"CONTRACT FINANCING";

(2) by striking out "(a) Any executive agency" and inserting in lieu thereof "(b) PAYMENT AUTHORITY.—Any executive agency";

(3) by striking out "(b) Payments" and inserting in lieu thereof "(d) PAYMENT AMOUNT.—Payments"; and

(4) by striking out "(c) Advance payments" and inserting in lieu thereof "(e) SECURITY FOR ADVANCE PAYMENTS.—Advance payments".

(b) FINANCING POLICY.—Such section, as amended by subsection (a), is further amended by inserting after the section heading the following new subsection (a):

"(a) POLICY.—Payments authorized under this section and made for financing purposes should be made periodically or, when appropriate, on an advance basis and should be so made in a timely manner to facilitate contract performance while protecting the security interests of the Government. Government financing shall be provided only to the extent necessary to ensure prompt and efficient performance and only after the availability of private financing is considered. A contractor's use of funds received as contract financing and the contractor's financial condition shall be monitored. If the contractor is a small business concern, special attention shall be given to meeting the contractor's financial need.".

(c) PERFORMANCE-BASED PAYMENTS.—Such section, as amended by subsection (a), is further amended by inserting after subsection (b) the following new subsection (c):

"(c) PERFORMANCE-BASED PAYMENTS.—Whenever practicable, payments under subsection (b) shall be made on any of the following bases:

"(1) Performance measured by objective, quantifiable methods such as receipt of items by the Federal Government, work measurement, or statistical process controls.

"(2) Accomplishment of events defined in the program management plan.

"(3) Other quantifiable measures of results.".

(d) TERMINOLOGY CORRECTION.—Such section, as amended by subsection (a)(2), is further amended in subsection (b)(2) by striking out "bid".

(e) EFFECTIVE DATE OF LIEN RELATED TO ADVANCE PAYMENTS.—Such section, as amended by subsection (a)(4), is further amended in subsection (e) by inserting before the period at the end of the third sentence the following: "and is effective immediately upon the first advancement of funds without filing, notice, or any other action by the United States".

(f) REVISION OF CIVILIAN AGENCY PROVISION TO ENSURE UNIFORM REQUIREMENTS FOR PROGRESS PAYMENTS.—

(1) IN GENERAL.—Such section, as amended by subsection (a), is further amended by adding at the end the following:

"(f) CONDITIONS FOR PROGRESS PAYMENTS.—(1) The agency head shall ensure that any payment for work in progress (including materials, labor, and other items) under a contract of an executive agency that provides for such payments is commensurate with the work accomplished that meets standards established under the contract. The contractor shall provide such information and evidence as the agency head determines necessary to permit the agency head to carry out the preceding sentence.

"(2) The agency head shall ensure that progress payments referred to in paragraph (1) are not made for more than 80 percent of the work accomplished under the contract so long as the agency head has not made the contractual terms, specifications, and price definite.

"(3) This subsection applies to a contract for an amount equal to or greater than the simplified acquisition threshold.

"(g) ACTION IN CASE OF FRAUD.—(1) In any case in which the remedy coordination official of an executive agency finds that there is substantial evidence that the request of a contractor for advance, partial, or progress payment under a contract awarded by that executive agency is based on fraud, the remedy coordination official shall recommend that the agency head reduce or suspend further payments to such contractor.

"(2) An agency head receiving a recommendation under paragraph (1) in the case of a contractor's request for payment under a contract shall determine whether there is substantial evidence that the request is based on fraud. Upon making such a determination, the agency head may reduce or suspend further payments to the contractor under such contract.

"(3) The extent of any reduction or suspension of payments by an agency head under paragraph (2) on the basis of fraud shall be reasonably commensurate with the anticipated loss to the United States resulting from the fraud.

"(4) A written justification for each decision of the agency head whether to reduce or suspend payments under paragraph (2), and for each recommendation received by the agency head in connection with such decision, shall be prepared and be retained in the files of the executive agency.

"(5) Each agency head shall prescribe procedures to ensure that, before the agency head decides to reduce or suspend payments in the case of a contractor under paragraph (2), the contractor is afforded notice of the proposed reduction or suspension and an opportunity to submit matters to the head of the agency in response to such proposed reduction or suspension.

"(6) Not later than 180 days after the date on which an agency head reduces or suspends payments to a contractor under paragraph (2), the remedy coordination official of the executive agency shall—

"(A) review the determination of fraud on which the reduction or suspension is based; and

"(B) transmit a recommendation to the agency head whether the suspension or reduction should continue.

"(7) Each agency head who receives recommendations made by a remedy coordination official of the executive agency to reduce or suspend payments under paragraph (2) during a fiscal year shall prepare for such year a report that contains the recommendations, the actions taken on the recommendations and the reasons for such actions, and an assessment of the effects of such actions on the Federal Government. Any such report shall be available to any Member of Congress upon request.

"(8) An agency head may not delegate responsibilities under this subsection to any person in a position below level IV of the Executive Schedule.

"(9) In this subsection, the term 'remedy coordination official', with respect to an executive agency, means the person or entity in that executive agency who coordinates within that executive agency the administration of criminal, civil, administrative, and contractual remedies resulting from investigations of fraud or corruption related to procurement activities.".

(2) RELATIONSHIP TO PROMPT PAYMENT REQUIREMENTS.—The amendment made by paragraph (1) is not intended to impair or modify procedures required by the provisions of chapter 39 of title 31, United States Code, and the regulations issued pursuant to such provisions of law, that relate to progress payment requests, as such procedures are in effect on the date of the enactment of this division.

(g) CONFORMING AND CLERICAL AMENDMENTS.—

(1) REFERENCE.—Section 305 of the Federal Property and Administrative Services Act of 1949, as amended by subsection (a), is further amended in subsections (d) and (e) by striking out "subsection (a)" and inserting in lieu thereof "subsection (b)".

(2) TABLE OF CONTENTS.—The table of contents in the first section of such Act is amended by striking out the item relating to section 305 and inserting in lieu thereof the following:

"Sec. 305. Contract financing.".

Subtitle B—Cost Principles

PART I—ARMED SERVICES ACQUISITIONS

SEC. 42101. ALLOWABLE CONTRACT COSTS.

(a) UNALLOWABILITY OF COSTS TO INFLUENCE LOCAL LEGISLATIVE BODIES.—Subsection (e)(1)(B) of section 2324 of title 10, United States Code, is amended by striking out "or a State legislature" and inserting in lieu thereof ", a State legislature, or a legislative body of a political subdivision of a State".

(b) COMPTROLLER GENERAL EVALUATION.—Section 2324 of such title is amended by striking out subsection (l).

(c) COVERED CONTRACT DEFINED.—Subsection (m) of such section is amended to read as follows:

"(l)(1) In this section, the term 'covered contract' means a contract for an amount in excess of $500,000 that is entered into by the Department of Defense, except that such term does not include a fixed-price contract without cost incentives.

"(2) Effective on October 1 of each year that is divisible by 5, the amount set forth in paragraph (1) shall be adjusted to the amount that is equal to the fiscal year 1994 constant dollar value of the amount set forth. An amount, as so adjusted, that is not evenly divisible by $50,000 shall be rounded to the nearest multiple of $50,000. In the case of an amount that is evenly divisible by $25,000 but is not evenly divisible by $50,000, the amount shall be rounded to the next higher multiple of $50,000.".

SEC. 42102. CONTRACT PROFIT CONTROLS DURING EMERGENCY PERIODS.

(a) REPEAL.—Section 2382 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2382.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 42151. ALLOWABLE CONTRACT COSTS.

(a) REVISION OF CIVILIAN AGENCY PROVISION TO ENSURE UNIFORM TREATMENT OF CONTRACT COSTS.—Section 306 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256) is amended to read as follows:

"ALLOWABLE COSTS

"SEC. 306. (a) INDIRECT COST THAT VIOLATES A FAR COST PRINCIPLE.—The head of an executive agency shall require that a covered contract provide that if the contractor submits to the executive agency a proposal for settlement of indirect costs incurred by the contractor for any period after such costs have been accrued and if that proposal includes the submission of a cost which is unallowable because the cost violates a cost principle in the Federal Acquisition Regulation or an executive agency's supplement to the Federal Acquisition Regulation, the cost shall be disallowed.

"(b) PENALTY FOR VIOLATION OF COST PRINCIPLE.—(1) If the agency head determines that a cost submitted by a contractor in its proposal for settlement is expressly unallowable under a cost principle referred to in subsection (a) that defines the allowability of specific selected costs, the agency head shall assess a penalty against the contractor in an amount equal to—

"(A) the amount of the disallowed cost allocated to covered contracts for which a proposal for settlement of indirect costs has been submitted; plus

"(B) interest (to be computed based on regulations issued by the agency head) to compensate the United States for the use of any funds which a contractor has been paid in excess of the amount to which the contractor was entitled.

"(2) If the agency head determines that a proposal for settlement of indirect costs submitted by a contractor includes a cost determined to be unallowable in the case of such contractor before the submission of such proposal, the agency head shall assess a penalty against the contractor in an amount equal to two times the amount of the disallowed cost allocated to covered contracts for which a proposal for settlement of indirect costs has been submitted.

"(c) WAIVER OF PENALTY.—In accordance with the Federal Acquisition Regulation, the agency head may waive a penalty under subsection (b) in the case of a contractor's proposal for settlement of indirect costs when—

"(1) the contractor withdraws the proposal before the formal initiation of an audit of the proposal by the Federal Government and resubmits a revised proposal;

"(2) the amount of unallowable costs subject to the penalty is insignificant; or

"(3) the contractor demonstrates, to the contracting officer's satisfaction, that—

"(A) it has established appropriate policies and personnel training and an internal control and review system that provide assurances that unallowable costs subject to penalties are precluded from being included in the contractor's proposal for settlement of indirect costs; and

"(B) the unallowable costs subject to the penalty were inadvertently incorporated into the proposal.

"(d) APPLICABILITY OF CONTRACT DISPUTES PROCEDURE TO DISALLOWANCE OF COST AND ASSESSMENT OF PENALTY.—An action of an agency head under subsection (a) or (b)—

"(1) shall be considered a final decision for the purposes of section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605); and

"(2) is appealable in the manner provided in section 7 of such Act.

"(e) SPECIFIC COSTS NOT ALLOWABLE.—(1) The following costs are not allowable under a covered contract:

"(A) Costs of entertainment, including amusement, diversion, and social activities, and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities).

"(B) Costs incurred to influence (directly or indirectly) legislative action on any matter pending before Congress, a State legislature, or a legislative body of a political subdivision of a State.

"(C) Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of any false certification) brought by the United States where the contractor is found liable or had pleaded nolo contendere to a charge of fraud or similar proceeding (including filing of a false certification).

"(D) Payments of fines and penalties resulting from violations of, or failure to comply with, Federal, State, local, or foreign laws and regulations, except when incurred as a result of compliance with specific terms and conditions of the contract or specific written instructions from the contracting officer authorizing in advance such payments in accordance with the Federal Acquisition Regulation.

"(E) Costs of membership in any social, dining, or country club or organization.

"(F) Costs of alcoholic beverages.

"(G) Contributions or donations, regardless of the recipient.

"(H) Costs of advertising designed to promote the contractor or its products.

"(I) Costs of promotional items and memorabilia, including models, gifts, and souvenirs.

"(J) Costs for travel by commercial aircraft which exceed the amount of the standard commercial fare.

"(K) Costs incurred in making any payment (commonly known as a 'golden parachute payment') which is—

"(i) in an amount in excess of the normal severance pay paid by the contractor to an employee upon termination of employment; and

"(ii) is paid to the employee contingent upon, and following, a change in management control over, or ownership of, the contractor or a substantial portion of the contractor's assets.

"(L) Costs of commercial insurance that protects against the costs of the contractor for correction of the contractor's own defects in materials or workmanship.

"(M) Costs of severance pay paid by the contractor to foreign nationals employed by the contractor under a service contract performed outside the United States, to the extent that the amount of severance pay paid in any case exceeds the amount paid in the industry involved under the customary or prevailing practice for firms in that industry providing similar services in the United States, as determined in accordance with the Federal Acquisition Regulation.

"(N) Costs of severance pay paid by the contractor to a foreign national employed by the contractor under a service contract performed in a foreign country if the termination of the employment of the foreign national is the result of the closing of, or the curtailment of activities at, a United States facility in that country at the request of the government of that country.

"(O) Costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State, to the extent provided in subsection (k).

"(2)(A) Subject to the availability of appropriations, the head of an executive agency, in awarding a covered contract, may waive in accordance with the Federal Acquisition Regulation the application of the provisions of paragraphs (1)(M) and (1)(N) to that contract if the agency head determines that—

"(i) the application of such provisions to the contract would adversely affect the continuation of a program, project, or activity that provides significant support services for employees of the executive agency posted outside the United States;

"(ii) the contractor has taken (or has established plans to take) appropriate actions within the contractor's control to minimize the amount and number of incidents of the payment of severance pay by the contractor to employees under the contract who are foreign nationals; and

"(iii) the payment of severance pay is necessary in order to comply with a law that is generally applicable to a significant number of businesses in the country in which the foreign national receiving the payment performed services under the contract or is necessary to comply with a collective bargaining agreement.

"(B) The head of the executive agency concerned shall include in the solicitation for a covered contract a statement indicating—

"(i) that a waiver has been granted under subparagraph (A) for the contract; or

"(ii) whether the agency head will consider granting such a waiver, and, if the agency head will consider granting a waiver, the criteria to be used in granting the waiver.

"(C) The agency head shall make the final determination regarding whether to grant a waiver under subparagraph (A) with respect to a covered contract before award of the contract.

"(3) The head of each executive agency shall implement this section with respect to contracts of that executive agency in accordance with the Federal Acquisition Regulation. The provisions of the Federal Acquisition Regulation applicable to the implementation of this section may include definitions, exclusions, limitations, and qualifications.

"(f) REQUIRED REGULATIONS.—(1) The Federal Acquisition Regulation referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)) shall contain provisions on the allowability of contractor costs. Such provisions shall define in detail and in specific terms those costs which are unallowable, in whole or in part, under covered contracts. The regulations shall, at a minimum, clarify the cost principles applicable to contractor costs of the following:

"(A) Air shows.

"(B) Membership in civic, community, and professional organizations.

"(C) Recruitment.

"(D) Employee morale and welfare.

"(E) Actions to influence (directly or indirectly) executive branch action on regulatory and contract matters (other than costs incurred in regard to contract proposals pursuant to solicited or unsolicited bids).

"(F) Community relations.

"(G) Dining facilities.

"(H) Professional and consulting services, including legal services.

"(I) Compensation.

"(J) Selling and marketing.

"(K) Travel.

"(L) Public relations.

"(M) Hotel and meal expenses.

"(N) Expense of corporate aircraft.

"(O) Company-furnished automobiles.

"(P) Advertising.

"(2) The Federal Acquisition Regulation shall require that a contracting officer not resolve any questioned costs until the contracting officer has obtained—

"(A) adequate documentation with respect to such costs; and

"(B) the opinion of the executive agency's contract auditor on the allowability of such costs.

"(3) The Federal Acquisition Regulation shall provide that, to the maximum extent practicable, an executive agency's contract auditor be present at any negotiation or meeting with the contractor regarding a determination of the allowability of indirect costs of the contractor.

"(4) The Federal Acquisition Regulation shall require that all categories of costs designated in the report of an executive agency's contract auditor as questioned with respect to a proposal for settlement be resolved in such a manner that the amount of the individual questioned costs that are paid will be reflected in the settlement.

"(g) Applicability of Required Regulations to Subcontractors.—The regulations prescribed to carry out subsections (e) and (f)(1) shall require, to the maximum extent practicable, that such regulations apply to all subcontractors of a covered contract.

"(h) Contractor Certification Required.—(1) A proposal for settlement of indirect costs applicable to a covered contract shall include a certification by an official of the contractor that, to the best of the certifying official's knowledge and belief, all indirect costs included in the proposal are allowable. Any such certification shall be in a form prescribed by the agency head concerned.

"(2) The agency head concerned may, in an exceptional case, waive the requirement for certification under paragraph (1) in the case of any contract if the agency head—

"(A) determines in such case that it would be in the interest of the United States to waive such certification; and

"(B) states in writing the reasons for that determination and makes such determination available to the public.

"(i) Penalties for Submission of Cost Known as Not Allowable.—The submission to an executive agency of a proposal for settlement of costs for any period after such costs have been accrued that includes a cost that is expressly specified by statute or regulation as being unallowable, with the knowledge that such cost is unallowable, shall be subject to the provisions of section 287 of title 18, United States Code, and section 3729 of title 31, United States Code.

"(j) Contractor To Have Burden of Proof.—In a proceeding before a board of contract appeals, the United States Court of Federal Claims, or any other Federal court in which the reasonableness of indirect costs for which a contractor seeks reimbursement from the United States is in issue, the burden of proof shall be upon the contractor to establish that those costs are reasonable.

"(k) Proceeding Costs Not Allowable.—(1) Except as otherwise provided in this subsection, costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State are not allowable as reimbursable costs under a covered contract if the proceeding (A) relates to a violation of, or failure to comply with, a Federal or State statute or regulation, and (B) results in a disposition described in paragraph (2).

"(2) A disposition referred to in paragraph (1)(B) is any of the following:

"(A) In the case of a criminal proceeding, a conviction (including a conviction pursuant to a plea of nolo contendere) by reason of the violation or failure referred to in paragraph (1).

"(B) In the case of a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of contractor liability on the basis of the violation or failure referred to in paragraph (1).

"(C) In the case of any civil or administrative proceeding, the imposition of a monetary penalty by reason of the violation or failure referred to in paragraph (1).

"(D) A final decision—

"(i) to debar or suspend the contractor,

"(ii) to rescind or void the contract, or

"(iii) to terminate the contract for default, by reason of the violation or failure referred to in paragraph (1).

"(E) A disposition of the proceeding by consent or compromise if such action could have resulted in a disposition described in subparagraph (A), (B), (C), or (D).

"(3) In the case of a proceeding referred to in paragraph (1) that is commenced by the United States and is resolved by consent or compromise pursuant to an agreement entered into by a contractor and the United States, the costs incurred by the contractor in connection with such proceeding that are otherwise not allowable as reimbursable costs under such paragraph may be allowed to the extent specifically provided in such agreement.

"(4) In the case of a proceeding referred to in paragraph (1) that is commenced by a State, the agency head that awarded the covered contract involved in the proceeding may allow the costs incurred by the contractor in connection with such proceeding as reimbursable costs if the agency head determines, under regulations prescribed by such agency head, that the costs were incurred as a result of (A) a specific term or condition of the contract, or (B) specific written instructions of the agency.

"(5)(A) Except as provided in subparagraph (C), costs incurred by a contractor in connection with a criminal, civil, or administrative proceeding commenced by the United States or a State in connection with a covered contract may be allowed as reimbursable costs under the contract if such costs are not disallowable under paragraph (1), but only to the extent provided in subparagraph (B).

"(B)(i) The amount of the costs allowable under subparagraph (A) in any case may not exceed the amount equal to 80 percent of the amount of the costs incurred, to the extent that such costs are determined to be otherwise allowable and allocable under the Federal Acquisition Regulations.

"(ii) Regulations issued for the purpose of clause (i) shall provide for appropriate consideration of the complexity of procurement litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States as a party, and such other factors as may be appropriate.

"(C) In the case of a proceeding referred to in subparagraph (A), contractor costs otherwise allowable as reimbursable costs under this paragraph are not allowable if (i) such proceeding involves the same contractor misconduct alleged as the basis of another criminal, civil, or administrative proceeding, and (ii) the costs of such other proceeding are not allowable under paragraph (1).

"(6) In this subsection:

"(A) The term 'proceeding' includes an investigation.

"(B) The term 'costs', with respect to a proceeding—

"(i) means all costs incurred by a contractor, whether before or after the commencement of any such proceeding; and

"(ii) includes—

"(I) administrative and clerical expenses;

"(II) the cost of legal services, including legal services performed by an employee of the contractor;

"(III) the cost of the services of accountants and consultants retained by the contractor; and

"(IV) the pay of directors, officers, and employees of the contractor for time devoted by such directors, officers, and employees to such proceeding.

"(C) The term 'penalty' does not include restitution, reimbursement, or compensatory damages.

"(l) Covered Contract Defined.—(1) In this section, the term 'covered contract' means a contract for an amount in excess of $500,000 that is entered into by an executive agency, except that such term does not include a fixed-price contract without cost incentives.

"(2) Effective on October 1 of each year that is divisible by 5, the amount set forth in paragraph (1) shall be adjusted to the amount that is equal to the fiscal year 1994 constant dollar value of the amount set forth. An amount, as so adjusted, that is not evenly divisible by $50,000 shall be rounded to the nearest multiple of $50,000. In the case of an amount that is evenly divisible by $25,000 but is not evenly divisible by $50,000, the amount shall be rounded to the next higher multiple of $50,000.".

(b) Clerical Amendment.—The table of contents in the first section of such Act is amended by striking out the item relating to section 306 and inserting in lieu thereof the following:

"Sec. 306. Allowable costs.".

PART III—ACQUISITIONS GENERALLY

SEC. 42191. TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS.

Section 24 of the Office of Federal Procurement Policy Act (41 U.S.C. 420) is repealed.

SEC. 42192. UNALLOWABILITY OF ENTERTAINMENT COSTS UNDER COVERED CONTRACTS.

Not later than 90 days after the date of the enactment of this division, the Federal Acquisition Regulatory Council shall amend the cost principle in the Federal Acquisition

Regulation that is set out in section 31.205-14 of title 48, Code of Federal Regulations, relating to unallowability of entertainment costs—

(1) by inserting in the cost principle a statement that costs made specifically unallowable under that cost principle are not allowable under any other cost principle; and

(2) by striking out "(but see 31.205-1 and 31.205-13)".

Subtitle C—Audit and Access to Records

PART I—ARMED SERVICES ACQUISITIONS

SEC. 42201. CONSOLIDATION AND REVISION OF AUTHORITY TO EXAMINE RECORDS OF CONTRACTORS.

(a) AUTHORITY.—

(1) IN GENERAL.—Section 2313 of title 10, United States Code, is amended to read as follows:

"§2313. Examination of records of contractor

"(a) AGENCY AUTHORITY.—The head of an agency, acting through an authorized representative—

"(1) is entitled to inspect the plant and audit the records of—

"(A) a contractor performing a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of such contracts, made by that agency under this chapter; and

"(B) a subcontractor performing any cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable subcontract under a contract referred to in subparagraph (A) or under any combination of such contracts; and

"(2) shall, for the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted pursuant to section 2306a of this title with respect to a contract or subcontract, have the right to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;

"(C) pricing of the contract or subcontract; or

"(D) performance of the contract or subcontract.

"(b) LIMITATION ON PREAWARD AUDITS RELATING TO INDIRECT COSTS.—The head of an agency may not perform a preaward audit to evaluate proposed indirect costs under any contract, subcontract, or modification to be entered into in accordance with this chapter in any case in which the contracting officer determines that the objectives of the audit can reasonably be met by accepting the results of an audit conducted by any other department or agency of the Federal Government within one year preceding the date of the contracting officer's determination.

"(c) SUBPOENA POWER.—(1) The Director of the Defense Contract Audit Agency (or any successor agency) may require by subpoena the production of records of a contractor, access to which is provided to the Secretary of Defense or Secretary of a military department by subsection (a).

"(2) Any such subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of an appropriate United States district court.

"(3) The authority provided by paragraph (1) may not be redelegated.

"(4) The Director (or any successor official) shall submit an annual report to the Secretary of Defense on the exercise of such authority during the preceding year and the reasons why such authority was exercised in any instance. The Secretary shall forward a copy of each such report to the Committees on Armed Services of the Senate and House of Representatives.

"(d) COMPTROLLER GENERAL AUTHORITY.—(1) Except as provided in paragraph (2), each contract awarded after using procedures other than sealed bid procedures shall provide that the Comptroller General and his representatives are entitled to examine any records of the contractor, or any of its subcontractors, that directly pertain to, and involve transactions relating to, the contract or subcontract.

"(2) Paragraph (1) does not apply to a contract or subcontract with a foreign contractor or foreign subcontractor if the head of the agency concerned determines, with the concurrence of the Comptroller General or his designee, that the application of that paragraph to the contract or subcontract would not be in the public interest. However, the concurrence of the Comptroller General or his designee is not required—

"(A) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its records available for examination; and

"(B) where the head of the agency determines, after taking into account the price and availability of the property and services from United States sources, that the public interest would be best served by not applying paragraph (1).

"(3) Paragraph (1) may not be construed to require a contractor or subcontractor to create or maintain any record that the contractor or subcontractor does not maintain in the ordinary course of business or pursuant to another provision of law.

"(e) LIMITATION.—The right of the head of an agency under subsection (a), and the right of the Comptroller General under subsection (d), with respect to a contract or subcontract shall expire three years after final payment under such contract or subcontract.

"(f) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section is inapplicable with respect to the following contracts:

"(1) Contracts for utility services at rates not exceeding those established to apply uniformly to the public, plus any applicable reasonable connection charge.

"(g) RECORDS DEFINED.—In this section, the term 'records' includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.".

(2) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 137 of title 10, United States Code, is amended to read as follows:

"2313. Examination of records of contractor.".

(b) REPEAL OF SUPERSEDED PROVISION.—

(1) REPEAL.—Section 2406 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2406.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 42251. AUTHORITY TO EXAMINE RECORDS OF CONTRACTORS.

(a) AUTHORITY.—

(1) IN GENERAL.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 41151(a), is further amended by inserting after section 304A the following new section:

"EXAMINATION OF RECORDS OF CONTRACTOR

"SEC. 304B. (a) AGENCY AUTHORITY.—The head of an executive agency, acting through an authorized representative—

"(1) is entitled to inspect the plant and audit the records of—

"(A) a contractor performing a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of such contracts, made by that executive agency under this title; and

"(B) a subcontractor performing any cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable subcontract under a contract referred to in subparagraph (A) or under any combination of such contracts; and

"(2) shall, for the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted pursuant to section 304A with respect to a contract or subcontract, have the right to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;

"(C) pricing of the contract or subcontract; or

"(D) performance of the contract or subcontract.

"(b) LIMITATION ON PREAWARD AUDITS RELATING TO INDIRECT COSTS.—The agency head may not perform a preaward audit to evaluate proposed indirect costs under any contract, subcontract, or modification to be entered into in accordance with this title in any case in which the contracting officer determines that the objectives of the audit can reasonably be met by accepting the results of an audit conducted by any other department or agency of the Federal Government within one year preceding the date of the contracting officer's determination.

"(c) SUBPOENA POWER.—(1) The agency head may require by subpoena the production of records of a contractor, access to which is provided by subsection (a).

"(2) Any such subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of an appropriate United States district court.

"(3) The authority provided by paragraph (1) may not be delegated.

"(4) In the year following a year in which the head of an executive agency exercises the authority provided in paragraph (1), the agency head shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives a report on the exercise of such authority during such preceding year and the reasons why such authority was exercised in any instance.

"(d) COMPTROLLER GENERAL AUTHORITY.—(1) Except as provided in paragraph (2), each contract awarded after using procedures other than sealed bid procedures shall provide that the Comptroller General and his representatives are entitled to examine any records of the contractor, or any of its subcontractors, that directly pertain to, and involve transactions relating to, the contract or subcontract.

"(2) Paragraph (1) does not apply to a contract or subcontract with a foreign contractor or foreign subcontractor if the agency head concerned determines, with the concurrence of the Comptroller General or his designee, that the application of that paragraph to the contract or subcontract would not be in the public interest. However, the concurrence of the Comptroller General or his designee is not required—

"(A) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its records available for examination; and

"(B) where the agency head determines, after taking into account the price and availability of the property and services from United States sources, that the public interest would be best served by not applying paragraph (1).

"(3) Paragraph (1) may not be construed to require a contractor or subcontractor to create or maintain any record that the contractor or subcontractor does not maintain in the ordinary course of business or pursuant to another provision of law.

"(e) LIMITATION.—The right of an agency head under subsection (a), and the right of the Comptroller General under subsection (d), with respect to a contract or subcontract shall expire three years after final payment under such contract or subcontract.

"(f) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section is inapplicable with respect to the following contracts:

"(1) CONTRACTS.—For utility services at rates not exceeding those established to apply uniformly to the public, plus any applicable reasonable connection charge.

"(g) RECORDS DEFINED.—In this section, the term 'records' includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.".

(2) CLERICAL AMENDMENT.—The table of contents in the first section of such Act, as amended by section 41151(b), is further amended by inserting after the item relating to section 304A the following:

"Sec. 304B. Examination of records of contractor.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254) is amended by striking out subsection (c).

Subtitle D—Cost Accounting Standards

SEC. 42301. EXCEPTIONS TO COVERAGE.

Section 26(f)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(2)) is amended—

(1) by inserting "(A)" after "(2)";

(2) by striking out ", other than contracts or subcontracts" and all that follows and inserting in lieu thereof a period; and

(3) by inserting at the end the following:

"(B) Subparagraph (A) does not apply to the following contracts or subcontracts:

"(i) Contracts or subcontracts where the price negotiated is based on established catalog or market prices of commercial items sold in substantial quantities to the general public.

"(ii) Contracts or subcontracts where the price negotiated is based on prices set by law or regulation.

"(iii) Any other firm fixed-price contract or subcontract for commercial items which is excepted from the requirement to provide cost or pricing data pursuant to subsection (b) or (d) of section 2306a of title 10, United States Code, or subsection (b) or (d) of section 304A of the Federal Property and Administrative Services Act of 1949.

"(C) In this paragraph, the term 'subcontract' includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor.".

SEC. 42302. REPEAL OF OBSOLETE DEADLINE REGARDING PROCEDURAL REGULATIONS FOR THE COST ACCOUNTING STANDARDS BOARD.

Section 26(f)(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(3)) is amended in the first sentence by striking out "Not later than 180 days after the date of the enactment of this section, the Administrator" and inserting in lieu thereof "The Administrator".

Subtitle E—Administration of Contract Provisions Relating to Price, Delivery, and Product Quality

PART I—ARMED SERVICES ACQUISITIONS

SEC. 42401. PROCUREMENT OF CRITICAL AIRCRAFT AND SHIP SPARE PARTS; QUALITY CONTROL.

(a) REPEAL.—Section 2383 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2383.

SEC. 42402. CONTRACTOR GUARANTEES REGARDING WEAPON SYSTEMS.

Section 2403(h) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) The regulations shall include the following:

"(A) Guidelines for negotiating contractor guarantees that are reasonable and cost effective, as determined on the basis of the likelihood of defects and the estimated cost of correcting such defects.

"(B) Procedures for administering contractor guarantees.

"(C) Guidelines for determining the cases in which it may be appropriate to waive the requirements of this section.".

PART II—ACQUISITIONS GENERALLY

SEC. 42451. SECTION 3737 OF THE REVISED STATUTES: EXPANSION OF AUTHORITY TO PROHIBIT SETOFFS AGAINST ASSIGNEES; REORGANIZATION OF SECTION; REVISION OF OBSOLETE PROVISIONS.

Section 3737 of the Revised Statutes (41 U.S.C. 15) is amended to read as follows:

"SEC. 3737. (a) No contract or order, or any interest therein, shall be transferred by the party to whom such contract or order is given to any other party, and any such transfer shall cause the annulment of the contract or order transferred, so far as the United States is concerned. All rights of action, however, for any breach of such contract by the contracting parties, are reserved to the United States.

"(b) The provisions of subsection (a) shall not apply in any case in which the moneys due or to become due from the United States or from any agency or department thereof, under a contract providing for payments aggregating $1,000 or more, are assigned to a bank, trust company, or other financing institution, including any Federal lending agency, provided:

"(1) That, in the case of any contract entered into after October 9, 1940, no claim shall be assigned if it arises under a contract which forbids such assignment.

"(2) That, unless otherwise expressly permitted by such contract, any such assignment shall cover all amounts payable under such contract and not already paid, shall not be made to more than one party, and shall not be subject to further assignment, except that any such assignment may be made to one party as agent or trustee for two or more parties participating in such financing.

"(3) That, in the event of any such assignment, the assignee thereof shall file written notice of the assignment together with a true copy of the instrument of the assignment with—

"(A) the contracting officer or the head of his department or agency;

"(B) the surety or sureties upon the bond or bonds, if any, in connection with such contract; and

"(C) the disbursing officer, if any, designated in such contract to make payment.

"(c) Notwithstanding any law to the contrary governing the validity of assignments, any assignment pursuant to this section shall constitute a valid assignment for all purposes.

"(d) In any case in which moneys due or to become due under any contract are or have been assigned pursuant to this section, no liability of any nature of the assignor to the United States or any department or agency thereof, whether arising from or independently of such contract, shall create or impose any liability on the part of the assignee to make restitution, refund, or repayment to the United States of any amount heretofore since July 1, 1950, or hereafter received under the assignment.

"(e) Any contract of the Department of Defense, the General Services Administration, the Department of Energy, or any other department or agency of the United States designated by the President, except any such contract under which full payment has been made, may, upon a determination of need by the President, provide or be amended without consideration to provide that payments to be made to the assignee of any moneys due or to become due under such contract shall not be subject to reduction or setoff. Each such determination of need shall be published in the Federal Register.

"(f) If a provision described in subsection (e) or a provision to the same general effect has been at any time heretofore or is hereafter included or inserted in any such contract, payments to be made thereafter to an assignee of any moneys due or to become due under such contract shall not be subject to reduction or setoff for any liability of any nature of the assignor to the United States or any department or agency thereof which arises independently of such contract, or hereafter for any liability of the assignor on account of—

"(1) renegotiation under any renegotiation statute or under any statutory renegotiation article in the contract;

"(2) fines;

"(3) penalties (which term does not include amounts which may be collected or withheld from the assignor in accordance with or for failure to comply with the terms of the contract); or

"(4) taxes, social security contributions, or the withholding or nonwithholding of taxes or social security contributions, whether arising from or independently of such contract.

"(g) Except as herein otherwise provided, nothing in this section shall be deemed to affect or impair rights of obligations heretofore accrued.".

SEC. 42452. REPEAL OF REQUIREMENT FOR DEPOSIT OF CONTRACTS WITH GAO.

Section 3743 of the Revised Statutes (41 U.S.C. 20) is repealed.

Subtitle F—Claims and Disputes

PART I—ARMED SERVICES ACQUISITIONS

SEC. 42501. CERTIFICATION OF CONTRACT CLAIMS.

(a) DOD CERTIFICATION REQUIREMENT IN CONFLICT WITH GOVERNMENTWIDE REQUIREMENT.—

(1) INAPPLICABILITY OF REQUIREMENT TO CONTRACT CLAIMS.—Section 2410 of title 10, United States Code, is amended to read as follows:

"§ 2410. Requests for equitable adjustment or other relief: certification

"(a) CERTIFICATION REQUIREMENT.—A request for equitable adjustment to contract terms or request for relief under Public Law 85–804 (50 U.S.C. 1431 et seq.) that exceeds the simplified acquisition threshold may not be paid unless a person authorized to certify the request on behalf of the contractor certifies, at the time the request is submitted, that—

"(1) the request is made in good faith, and

"(2) the supporting data are accurate and complete to the best of that person's knowledge and belief.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2410 and inserting in lieu thereof the following:

"2410. Requests for equitable adjustment or other relief: certification.".

(b) RESTRICTION ON LEGISLATIVE PAYMENT OF CLAIMS.—Section 2410 of title 10, United States Code, as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(b) RESTRICTION ON LEGISLATIVE PAYMENT OF CLAIMS.—In the case of a contract of an agency named in section 2303(a) of this title, no provision of a law enacted after September 30, 1994, that directs the payment of a particular claim under such contract, a particular request for equitable adjustment to any term of such contract, or a particular request for relief under Public Law 85–804 (50 U.S.C. 1431 et seq.) regarding such contract may be implemented unless such provision of law—

"(1) specifically refers to this subsection; and

"(2) specifically states that this subsection does not apply with respect to the payment directed by that provision of law.".

(c) DEFINITION.—Section 2410, as amended by subsections (a) and (b), is further amended by adding at the end the following:

"(c) DEFINITION.—In this section, the term 'simplified acquisition threshold' has the meaning given that term in section 2302(4) of this title.".

(d) REPEAL OF RELATED PROVISIONS.—

(1) CERTIFICATION REGULATIONS FOR CONTRACT CLAIMS EXCEEDING $100,000.—

(A) REPEAL.—Section 2410e of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2410e.

(2) CONFORMING REPEAL.—Section 813(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484, 106 Stat. 2453), is repealed.

SEC. 42502. SHIPBUILDING CLAIMS.

(a) LIMITATION ON PERIOD FOR SUBMISSION.—

(1) INCREASED PERIOD.—Subsection (a) of section 2405 of title 10, United States Code, is amended—

(A) by striking out "after December 7, 1983," and inserting in lieu thereof "on or after the date of the enactment of the Federal Acquisition Streamlining Act of 1994"; and

(B) by striking out "18 months" and inserting in lieu thereof "6 years".

(2) SAVINGS PROVISION.—Notwithstanding the 6-year period provided in subsection (a) of section 2405 of title 10, United States Code, as amended by paragraph (1), the period applicable under such subsection in the case of a shipbuilding contract entered into after December 7, 1983, and before the date of the enactment of the Federal Acquisition Streamlining Act of 1994 shall continue to be 18 months.

(b) RESUBMISSION WITH CORRECTED CERTIFICATION.—Subsection (c) of such section is repealed.

PART II—ACQUISITIONS GENERALLY

SEC. 42551. CLAIMS JURISDICTION OF UNITED STATES DISTRICT COURTS AND THE UNITED STATES COURT OF FEDERAL CLAIMS.

(a) CONCURRENT JURISDICTION OF UNITED STATES DISTRICT COURTS UNDER THE LITTLE TUCKER ACT.—Subsection (a) of section 1346 of title 28, United States Code, is amended to read as follows:

"(a)(1) The district courts shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of any civil action against the United States for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority or any sum alleged to have been excessive or in any manner wrongfully collected under the internal-revenue laws.

"(2)(A) Except as provided in subparagraph (B), the district courts shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of any other civil action or claim against the United States, not exceeding $10,000 in amount, founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort.

"(B) The district courts shall not have jurisdiction over any civil action or claim against the United States or any Federal entity which relates in any manner to a contract to which the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.) applies, including a claim that seeks to establish the existence or nonexistence of such a contract, seeks to establish that such a contract is void, or seeks to determine and construe the terms of such a contract. The district courts do not have jurisdiction over any civil action or claim described in the preceding sentence pursuant to section 1331, 1334, or 1346(a)(2)(B) of this title, any provision of law giving a Federal entity the right to sue or be sued in its own name, or any other provision of law.".

(b) JURISDICTION OF THE UNITED STATES COURT OF FEDERAL CLAIMS UNDER THE TUCKER ACT.—Section 1491 of title 28, United States Code, as amended by section 1422, is further amended by inserting after subsection (c) the following:

"(d)(1) The United States Court of Federal Claims shall have jurisdiction over any civil action or claim against the United States which relates in any manner to a contract to which the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq,) applies, including a civil action or claim that seeks to establish the existence or nonexistence of such a contract, seeks to establish that such contract is void, or seeks to determine and construe the terms of any such contract.

"(2) The jurisdiction of the United States Court of Federal Claims is, pursuant to section 1346(a)(2)(B) of this title, exclusive as to the district courts of the United States.".

SEC. 42552. CONTRACT DISPUTES ACT IMPROVEMENTS.

(a) PERIOD FOR FILING CLAIMS.—

(1) SIX-YEAR LIMITATION.—Section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) is amended in subsection (a) by inserting after the second sentence the following: "Each claim by a contractor against the government relating to a contract and each claim by the government against a contractor relating to a contract shall be submitted within 6 years after the occurrence of the event or events giving rise to the claim. The preceding sentence does not apply to a claim by the government against a contractor that is based on a claim by the contractor involving fraud.".

(2) LIMITATION ON APPLICABILITY TO EXISTING CONTRACTS.—Notwithstanding the third sentence of section 6(a) of the Contract Disputes Act of 1978, as added by paragraph (1), if a contract in existence on the date of the enactment of this division requires that a claim referred to in that sentence be submitted earlier than 6 years after the occurrence of the event or events giving rise to the claim, then the claim shall be submitted within the period required by the contract. The preceding sentence does not apply to a claim by the Federal Government against a contractor that is based on a claim by the contractor involving fraud.

(b) INCREASED THRESHOLD FOR CERTIFICATION, DECISION, AND NOTIFICATION REQUIREMENTS.—Subsection (c) of such section is amended by striking out "$50,000" each place it appears and inserting in lieu thereof "$100,000".

(c) INCREASED MAXIMUM FOR APPLICABILITY OF ACCELERATED PROCEDURES.—Section 8(f) of the Contract Disputes Act of 1978 (41 U.S.C. 607(f)) is amended by striking out "$50,000" in the first sentence and inserting in lieu thereof "$150,000".

(d) INCREASED MAXIMUM FOR APPLICABILITY OF SMALL CLAIMS PROCEDURE.—Section 9(a) of the Contract Disputes Act of 1978 (41 U.S.C. 608(a)) is amended by striking out "$10,000" in the first sentence and inserting in lieu thereof "$50,000".

(e) REDUCED PERIOD FOR FILING ACTION IN COURT OF FEDERAL CLAIMS.—Section 10(a)(3) of such Act (41 U.S.C. 609(a)(3)) is amended by striking out "twelve months" and inserting in lieu thereof "90 days".

SEC. 42553. EXTENSION OF ALTERNATIVE DISPUTE RESOLUTION AUTHORITY.

(a) EXTENSION OF AUTHORITY.—Section 6(e) of the Contracts Disputes Act of 1978 (41 U.S.C. 605(e)) is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 1999".

(b) AVAILABILITY OF PROCEDURES TO SMALL BUSINESS GOVERNMENT CONTRACTORS.—Section 6(e) of such Act is amended by inserting after the first sentence the following: "In any case in which the contracting officer rejects a contractor's request for alternative dispute resolution proceedings, the contracting officer shall provide the contractor with a written explanation, citing one or more of the conditions in section 572(b) of title V, United States Code, or such other specific reasons that alternative dispute resolution procedures are inappropriate for the resolution of the dispute. In any case in which a contractor rejects a request of an agency for alternative dispute resolution proceedings, the contractor shall inform the agency in writing of the contractor's specific reasons for rejecting the request.".

SEC. 42554. EXPEDITED RESOLUTION OF CONTRACT ADMINISTRATION COMPLAINTS.

(a) REGULATIONS REQUIRED.—The Federal Acquisition Regulation shall include provisions that require a contracting officer—

(1) to make every reasonable effort to respond in writing within 30 days to any written request made to a contracting officer with respect to a matter relating to the administration of a contract that is received from a small business concern; and

(2) in the event that the contracting officer is unable to reply within the 30-day period, to transmit to the contractor within such period a written notification of a specific date by which the contracting officer expects to respond.

The provisions shall not apply to a request for a contracting officer's decision under the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

(b) RULE OF CONSTRUCTION.—Nothing in this provision shall be considered as creating any rights under the Contract Disputes Act (41 U.S.C. 601 et seq.).

(c) DEFINITION.—In this section, the term "small business concern" means a business concern that meets the requirements of section 3(a) of the Small Business Act (15 U.S.C. 632(a)) and the regulations promulgated pursuant to that section.

SEC. 42555. AUTHORITY FOR DISTRICT COURTS TO OBTAIN ADVISORY OPINIONS FROM BOARDS OF CONTRACT APPEALS IN CERTAIN CASES.

Section 10 of the Contract Disputes Act of 1978 (41 U.S.C. 609) is amended by adding at the end the following new paragraph:

"(f)(1) Whenever an action involving an issue described in paragraph (2) is pending in a district court of the United States, the district court may request a board of contract appeals to provide the court with an advisory opinion on the matters of contract interpretation at issue.

"(2) An issue referred to in paragraph (1) is any issue that could be the proper subject of a final decision of a contracting officer appealable under this Act.

"(3) A district court shall direct any request under paragraph (1) to the board of contract appeals having jurisdiction under this Act to adjudicate appeals of contract claims under the contract or contracts being interpreted by the court.

"(4) Within ninety days after receiving a request for an advisory opinion under paragraph (1), a board of contract appeals shall provide the advisory opinion to the district court making the request.".

TITLE XLIII—SERVICE SPECIFIC AND MAJOR SYSTEMS STATUTES

Subtitle A—Major Systems Statutes

SEC. 43001. REQUIREMENT FOR INDEPENDENT COST ESTIMATES AND MANPOWER ESTIMATES BEFORE DEVELOPMENT OR PRODUCTION.

(a) CONTENT AND SUBMISSION OF ESTIMATES.—Section 2434 of title 10, United States Code, is amended by striking out subsection (b) and inserting in lieu thereof the following:

"(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing the content and submission of the estimates required by subsection (a). The regulations shall require—

"(1) that the independent estimate of the cost of a program—

"(A) be prepared by an office or other entity that is not under the supervision, direction, or control of the military department, Defense Agency, or other component of the Department of Defense that is directly responsible for carrying out the development or acquisition of the program; and

"(B) include all costs of development, procurement, and operations and support, without regard to funding source or management control; and

"(2) that the manpower estimate include the total personnel required to train for, operate, maintain, and support the program upon full operational deployment.".

(b) TERMINOLOGY CORRECTION.—Subsection (a) of such section is amended by striking out "full-scale engineering development" and inserting in lieu thereof "engineering and manufacturing development".

SEC. 43002. ENHANCED PROGRAM STABILITY.

(a) BASELINE DESCRIPTIONS AND DEVIATION REPORTING.—Section 2435 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out paragraph (2); and

(B) in paragraph (1)—

(i) by striking out "(1)"; and

(ii) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing—

"(1) the content of baseline descriptions, which shall include the program cost, the program schedule, and a program performance description;

"(2) the submission of reports on deviations of a program from the baseline description by the program manager to the Secretary of the military department concerned and the Under Secretary of Defense for Acquisition and Technology;

"(3) procedures for review of deviation reports within the Department of Defense; and

"(4) procedures for submission and approval of revised baseline descriptions.

"(c) BASELINE DESCRIPTION REQUIRED BEFORE OBLIGATION OF FUNDS.—(1) Except as provided in paragraph (2), no amount appropriated or otherwise made available to the Department of Defense may be obligated for a major defense acquisition program before a baseline description for the program is approved in accordance with the procedures prescribed pursuant to subsection (b)(4).

"(2) An obligation otherwise prohibited by paragraph (1) may be incurred if approved in advance by the Under Secretary of Defense for Acquisition and Technology.".

(b) TERMINOLOGY CORRECTION.—Subsection (a)(1) of such section, as redesignated by subsection (a)(1)(B)(ii), is amended by striking out "full-scale engineering development" and inserting in lieu thereof "engineering and manufacturing development".

SEC. 43003. REPEAL OF REQUIREMENT TO DESIGNATE CERTAIN MAJOR DEFENSE ACQUISITION PROGRAMS AS DEFENSE ENTERPRISE PROGRAMS.

Section 809 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2430 note) is amended—

(1) by striking out subsection (d); and

(2) by redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

SEC. 43004. REPEAL OF REQUIREMENT FOR COMPETITIVE PROTOTYPING IN MAJOR PROGRAMS.

(a) REPEAL.—Section 2438 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by striking out the item relating to section 2438.

SEC. 43005. REPEAL OF REQUIREMENT FOR COMPETITIVE ALTERNATIVE SOURCES IN MAJOR PROGRAMS.

(a) REPEAL.—Section 2439 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by striking out the item relating to section 2439.

Subtitle B—Testing Statutes

SEC. 43011. DIRECTOR OF OPERATIONAL TEST AND EVALUATION TO REPORT DIRECTLY TO SECRETARY OF DEFENSE.

Section 139(c) of title 10, United States Code, is amended by inserting after "(c)" the following: "The Director reports directly, without intervening review or approval, to the Secretary of Defense and Deputy Secretary of Defense personally.".

SEC. 43012. RESPONSIBILITY OF DIRECTOR OF OPERATIONAL TEST AND EVALUATION FOR LIVE FIRE TESTING.

(a) CONDUCT OF LIVE FIRE TESTING.—Subsection (b) of section 139 of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(6) conduct the live fire testing activities of the Department of Defense provided for under section 2366 of this title.".

(b) ANNUAL REPORT ON LIVE FIRE TESTING.—Subsection (f) of such section is amended by inserting "(including live fire testing activities)" in the first sentence after "operational test and evaluation activities".

SEC. 43013. REQUIREMENT FOR UNCLASSIFIED VERSION OF ANNUAL REPORT ON OPERATIONAL TEST AND EVALUATION.

Section 139(f) of title 10, United States Code, is amended by inserting after the second sentence the following new sentence: "If the Director submits the report to Congress in a classified form, the Director shall concurrently submit an unclassified version of the report to Congress.".

Subtitle C—Service Specific Laws

SEC. 43021. GRATUITOUS SERVICES OF OFFICERS OF CERTAIN RESERVE COMPONENTS.

Section 279 of title 10, United States Code, is amended—

(1) by striking out "Notwithstanding" and inserting in lieu thereof "(a) ACCEPTANCE BY SECRETARY OF A MILITARY DEPARTMENT.—Notwithstanding"; and

(2) by adding at the end the following new subsection:

"(b) ACCEPTANCE BY SECRETARY OF DEFENSE.—Notwithstanding section 1342 of title 31, the Secretary of Defense may accept the gratuitous services of an officer of a reserve component (other than an officer of the Army National Guard of the United States or the Air National Guard of the United States) in consultation upon matters relating to the armed forces.".

SEC. 43022. AUTHORITY TO RENT SAMPLES, DRAWINGS, AND OTHER INFORMATION TO OTHERS.

Subchapter V of chapter 148 of title 10, United States Code, is amended in section 2541(a) by inserting "rent," after "sell," each place it appears in paragraphs (1) and (2).

SEC. 43023. CIVIL RESERVE AIR FLEET.

(a) DEFINITIONS.—Section 9511 of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting "'civil aircraft'," after "'person',";

(B) by striking out "meaning" and inserting in lieu thereof "meanings"; and

(C) by striking out "(49 U.S.C. 1301)" and inserting in lieu thereof "(49 U.S.C. App. 1301)";

(2) in paragraph (2), by striking out "passenger-cargo" and inserting in lieu thereof "passenger cargo";

(3) in paragraph (3), by striking out "cargo-capable" and inserting in lieu thereof "cargo capable";

(4) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) The term 'cargo convertible aircraft' means a passenger aircraft equipped or designed so that all or substantially all of the main deck of the aircraft can be readily converted for the carriage of property or mail.";

(5) by striking out paragraph (6);

(6) by redesignating paragraph (7) as paragraph (6);

(7) by redesignating paragraph (8) as paragraph (7) and—

(A) in subparagraph (A) of such paragraph, by inserting "under section 9512 of this title" after "and who contracts with the Secretary";

(B) by striking out "or" at the end of such subparagraph (A); and

(C) by inserting before the period at the end of such paragraph the following: ", or (C) who owns or controls existing aircraft, or will own or control new aircraft, and who contractually commits all or some of such aircraft to the Civil Reserve Air Fleet";

(8) by redesignating paragraphs (9), (10), (11), and (12) as paragraphs (8), (9), (10), and (11), respectively; and

(9) in paragraph (11), as so redesignated—

(A) by striking out "interoperability" and inserting in lieu thereof "compatibility"; and

(B) by striking out "a cargo-convertible, cargo-capable, or passenger-cargo combined aircraft" and inserting in lieu thereof "an aeromedical aircraft or a cargo convertible, cargo capable, or passenger cargo combined aircraft".

(b) CONSOLIDATION OF PROVISIONS RELATING TO CONTRACTUAL COMMITMENT OF AIRCRAFT.—Chapter 931 of such title is amended—

(1) by redesignating subsections (b) and (c) of section 9512 as subsections (c) and (d), respectively;

(2) by redesignating subsection (a) of section 9513 as subsection (b), transferring such subsection (as so redesignated) to section 9512, and inserting such subsection after subsection (a);

(3) by redesignating subsection (b) of section 9513 as subsection (e) and transferring such subsection (as so redesignated) to the end of section 9512;

(4) in subsection (c) of section 9512, as redesignated by paragraph (1), by striking out "the terms required by section 9513 of this title and";

(5) in subsection (e) of section 9512, as redesignated and transferred to such section by paragraph (3), by striking out "under section 9512 of this title" and inserting in lieu thereof "entered into under this section"; and

(6) by striking out the heading of section 9513.

(c) USE OF MILITARY INSTALLATIONS BY CONTRACTORS.—

(1) AUTHORITY.—Such chapter, as amended by subsection (b), is further amended by adding at the end the following new section 9513:

"§ 9513. Use of military installations by Civil Reserve Air Fleet contractors

"(a) CONTRACT AUTHORITY.—(1) The Secretary of the Air Force—

"(A) may, by contract entered into with any contractor, authorize such contractor to use one or more Air Force installations designated by the Secretary; and

"(B) with the consent of the Secretary of another military department, may, by contract entered into with any contractor, authorize the contractor to use one or more installations, designated by the Secretary of the Air Force, that is under the jurisdiction of the Secretary of such other military department.

"(2) The Secretary of the Air Force may include in the contract such terms and conditions as the Secretary determines appropriate to promote the national defense or to protect the interests of the United States.

"(b) PURPOSES OF USE.—A contract entered into under subsection (a) may authorize use of a designated installation as a weather alternate, a service stop not involving the enplaning or deplaning of passengers or cargo, or, in the case of an installation within the United States, for other commercial purposes. Notwithstanding any other provision of the law, the Secretary may establish different levels and types of uses for different installations for commercial operations not required by the Department of Defense and may provide in contracts under subsection (a) for different levels and types of uses by different contractors.

"(c) DISPOSITION OF PAYMENTS FOR USE.—Notwithstanding any other provision of law, amounts collected from the contractor for landing fees, services, supplies, or other charges authorized to be collected under the contract shall be credited to the appropriations of the armed forces having jurisdiction over the military installation to which the contract pertains. Amounts so credited to an appropriation shall be available for obligation for the same period as the appropriation to which credited.

"(d) HOLD HARMLESS REQUIREMENT.—A contract entered into under subsection (a) shall provide that the contractor agrees to indemnify and hold harmless the United States from all actions, suits, or claims of any sort resulting from, relating to, or arising out of any activities conducted, or services or supplies furnished, in connection with the contract.

"(e) RESERVATION OF RIGHT TO EXCLUDE CONTRACTOR.—A contract entered into under subsection (a) shall provide that the Secretary or, in the case of an installation under the jurisdiction of an armed force other than the Air Force, the Secretary concerned may at any time and without prior notice deny access to an installation designated under the contract if military exigencies require such action.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 9513 and inserting in lieu thereof the following:

"9513. Use of military installations by Civil Reserve Air Fleet contractors.".

SEC. 43024. EXCHANGE OF PERSONNEL.

(a) EXCHANGE AUTHORITY.—Subchapter II of chapter 138 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2350k. Exchange of personnel

"(a) INTERNATIONAL EXCHANGE AGREEMENTS AUTHORIZED.—Under regulations prescribed by the Secretary of Defense, the Secretary and the secretaries of the military departments are each authorized to enter into agreements with the governments of foreign countries for the exchange of military and civilian personnel of the Department of Defense and military and civilian personnel of the defense departments or ministries of such foreign governments.

"(b) ASSIGNMENT OF PERSONNEL.—Pursuant to such agreements, personnel of the foreign defense departments or ministries may be assigned to positions in the Department of Defense, and personnel of the Department of Defense may be assigned to positions in foreign defense departments or ministries. Agreements for the exchange of personnel engaged in research and development activities may provide for assignments to positions in private industry that support the defense departments or ministries. The specific positions and the individuals to be assigned must be acceptable to both the sending government and the host government.

"(c) RECIPROCITY OF PERSONNEL QUALIFICATIONS REQUIRED.—Each government shall be required under an agreement authorized by subsection (a) to provide personnel having qualifications, training, and skills that are essentially equal to those of the personnel provided by the other government.

"(d) PAYMENT OF PERSONNEL COSTS.—Each government shall pay the salary, per diem, cost of living, travel, cost of language or other training, and other costs (except for cost of temporary duty directed by the host government and costs incident to the use of host government facilities in the performance of assigned duties) for its own personnel in accordance with the laws and regulations of such government that pertain to such matters.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter II of such chapter is amended by adding at the end the following new item:

"2350k. Exchange of personnel.".

SEC. 43025. SCIENTIFIC INVESTIGATION AND RESEARCH FOR THE NAVY.

(a) REPEAL.—Section 7203 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 631 of such title is amended by striking out the item relating to section 7203.

SEC. 43026. CONSTRUCTION OF COMBATANT AND ESCORT VESSELS AND ASSIGNMENT OF VESSEL PROJECTS.

(a) REPEAL OF OBSOLETE AND INTERNALLY INCONSISTENT PROVISIONS.—Section 7299a of title 10, United States Code, is amended—

(1) by striking out subsection (a); and

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(b) CONFORMING AMENDMENT.—Subsection (b) of such section, as redesignated by subsection (a)(2), is amended in paragraph (2) by striking out "subsection (a) or".

SEC. 43027. REPEAL OF REQUIREMENT FOR CONSTRUCTION OF VESSELS ON PACIFIC COAST.

(a) REPEAL.—Section 7302 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7302.

SEC. 43028. AUTHORITY TO TRANSFER BY GIFT A VESSEL STRICKEN FROM NAVAL VESSEL REGISTER.

Section 7306(a)(1) of title 10, United States Code, is amended by inserting "Territory," after "State,".

SEC. 43029. NAVAL SALVAGE FACILITIES.

Chapter 637 of title 10, United States Code, is amended—

(1) in section 7361—

(A) in subsection (a), by inserting "AUTHORITY TO PROVIDE FACILITIES BY CONTRACT OR OTHERWISE.—" after "(a)";

(B) in subsection (b), by inserting "CONTRACTS AFFECTING THE DEPARTMENT OF TRANSPORTATION.—" after "(b)"; and

(C) by striking out subsection (c) and inserting in lieu thereof the following new subsection (c):

"(c) LIMITATION ON TERM CONTRACTS.—Term contracts may be entered into for purposes of this section only after—

"(1) it has been demonstrated to the satisfaction of the Secretary of the Navy that available commercial salvage facilities are inadequate to meet national defense requirements; and

"(2) the Secretary of the Navy determines that adequate public notice of intent to exercise the authority under this subsection has been provided.";

(2) by designating the text of section 7362 as subsection (d) and transferring such text, as so designated, to the end of section 7361 of title 10, United States Code;

(3) in subsection (d) of section 7361 of such title, as so designated and transferred, by inserting before "The Secretary" the following: "COMMERCIAL USE OF NAVAL VESSELS AND EQUIPMENT.—";

(4) by designating the text of section 7363 as subsection (e) and transferring such text, as so designated, to the end of section 7361 of title 10, United States Code;

(5) in subsection (e) of section 7361 of such title, as so designated and transferred, by inserting before "Before any salvage vessel" the following: "CONDITIONS FOR TRANSFER OF EQUIPMENT.—";

(6) by designating the text of section 7365 as subsection (f) and transferring such text, as so designated, to the end of section 7361 of title 10, United States Code;

(7) in subsection (f) of section 7361 of such title, as so designated and transferred, by inserting before "The Secretary" the following: "SETTLEMENT OF CLAIMS.—";

(8) by designating the text of section 7367 as subsection (g) and transferring such text, as so designated, to the end of section 7361 of title 10, United States Code;

(9) in subsection (g) of section 7361 of such title, as so designated and transferred—

(A) by inserting before "Money received" the following: "DISPOSITION OF RECEIPTS.—"; and

(B) by striking out "this chapter" in the first sentence and inserting in lieu thereof "this section";

(10) by striking out the section headings for sections 7362, 7363, 7365, and 7367;

(11) by striking out the heading for section 7361 and inserting in lieu thereof the following:

"§ 7361. Navy support for salvage operations"; and

(12) in the table of sections at the beginning of such chapter—

(A) by striking out the item relating to section 7361 and inserting in lieu thereof the following:

"7361. Navy support for salvage operations."; and

(B) by striking out the items relating to sections 7362, 7363, 7365, and 7367.

Subtitle D—Department of Defense Commercial and Industrial Activities

SEC. 43051. ACCOUNTING REQUIREMENT FOR CONTRACTED ADVISORY AND ASSISTANCE SERVICES.

(a) FUNDING TO BE IDENTIFIED IN BUDGET.—Section 1105 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) The Director of the Office of Management and Budget shall establish the funding for advisory and assistance services for each department and agency as a separate object class in each budget annually submitted to the Congress under this section.

"(2)(A) In paragraph (1), except as provided in subparagraph (B), the term 'advisory and assistance services' means the following services when provided by nongovernmental sources:

"(i) Management and professional support services.

"(ii) Studies, analyses, and evaluations.

"(iii) Engineering and technical services.

"(B) In paragraph (1), the term 'advisory and assistance services' does not include the following services:

"(i) Routine automated data processing and telecommunications services unless such services are an integral part of a contract for the procurement of advisory and assistance services.

"(ii) Architectural and engineering services.

"(iii) Technical support of research and development activities.

"(iv) Research on basic mathematics or medical, biological, physical, social, psychological, or other phenomena.".

(b) REPEAL OF SOURCE LAW.—Section 512 of Public Law 102–394 (106 Stat. 1826) is repealed.

(c) REPEAL OF SUPERSEDED PROVISIONS.—

(1) TITLE 10.—

(A) REPEAL.—Section 2212 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 131 of such title is amended by striking out the item relating to section 2212.

(2) TITLE 31.—

(A) REPEAL.—Section 1114 of title 31, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of such title is amended by striking out the item relating to section 1114.

Subtitle E—Fuel- and Energy-Related Laws

SEC. 43061. LIQUID FUELS AND NATURAL GAS: CONTRACTS FOR STORAGE, HANDLING, OR DISTRIBUTION.

Section 2388(a) of title 10, United States Code, is amended by striking out "liquid fuels and natural gas" and inserting in lieu thereof "liquid fuels or natural gas".

Subtitle F—Fiscal Statutes

SEC. 43071. DISBURSEMENT OF FUNDS OF MILITARY DEPARTMENT TO COVER OBLIGATIONS OF ANOTHER AGENCY OF DEPARTMENT OF DEFENSE.

Subsection (c)(2) of section 3321 of title 31, United States Code, is amended by striking out "military departments of the" and inserting in lieu thereof "The".

Subtitle G—Miscellaneous

SEC. 43081. OBLIGATION OF FUNDS: LIMITATION.

Section 2202 of title 10, United States Code, is amended to read as follows:

"§ 2202. Obligation of funds: limitation

"The Secretary of Defense shall prescribe regulations governing the performance within the Department of Defense of the procurement, production, warehousing, and supply distribution functions, and related functions, of the Department of Defense.".

SEC. 43082. REPEAL OF REQUIREMENTS REGARDING PRODUCT EVALUATION ACTIVITIES.

(a) REPEAL.—Section 2369 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item related to section 2369.

SEC. 43083. CODIFICATION AND REVISION OF LIMITATION ON LEASE OF VESSELS, AIRCRAFT, AND VEHICLES.

(a) LIMITATION.—

(1) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410l. Lease of vessels, aircraft, and vehicles

"The head of an agency named in paragraph (1), (2), (3), or (4) of section 2303(a) of this title may not enter into any contract with a term of 18 months or more, or extend or renew any contract for a term of 18 months or more, for any vessel, aircraft, or vehicle, through a lease, charter, or similar agreement without previously having considered all costs of such lease (including estimated termination liability) and determined in writing that such lease is in the best interest of the Government.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"24101. Lease of vessels, aircraft, and vehicles.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 9081 of Public Law 101–165 (103 Stat. 1147; 10 U.S.C. 2401 note) is repealed.

SEC. 43084. SOFT DRINK SUPPLIES FOR EXCHANGE STORES.

Section 2424 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) Paragraphs (1) and (2) of subsection (b) do not apply to contracts for the procurement of soft drinks that are manufactured in the United States. The Secretary of Defense shall prescribe in regulations the standards and procedures for determining whether a particular drink is a soft drink and whether the drink was manufactured in the United States.".

SEC. 43085. REPEAL OF PREFERENCE FOR RECYCLED TONER CARTRIDGES.

The following provisions of law, relating to a preference for procurement of recycled toner cartridges, are repealed:

(1) Section 630 of Public Law 102–393 (106 Stat. 1773) and the provision of law set out in quotes in that section (42 U.S.C. 6962(j)).

(2) Section 401 of Public Law 103–123 (107 Stat. 1238).

TITLE XLIV—SIMPLIFIED ACQUISITION THRESHOLD AND SOCIOECONOMIC, SMALL BUSINESS, AND MISCELLANEOUS LAWS

Subtitle A—Simplified Acquisition Threshold

PART I—ESTABLISHMENT OF THRESHOLD

SEC. 44001. SIMPLIFIED ACQUISITION THRESHOLD.

(a) TERM DEFINED.—Section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)) is amended to read as follows:

"(11) The term 'simplified acquisition threshold' means $100,000.".

(b) INTERIM REPORTING RULE.—Until October 1, 1999, procuring activities shall continue to report procurement awards with a dollar value of at least $25,000, but less than $100,000, in conformity with the procedures for the reporting of a contract award in excess of $25,000 that were in effect on October 1, 1992.

PART II—SIMPLIFICATION OF PROCEDURES

SEC. 44011. SIMPLIFIED ACQUISITION PROCEDURES.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

"SIMPLIFIED ACQUISITION PROCEDURES

"SEC. 29. (a) In order to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors, the Federal Acquisition Regulation shall provide for special simplified procedures for contracts for acquisition of property and services that are not in excess of the simplified acquisition threshold.

"(b) Regulations prescribed pursuant to subsection (a) shall include the following provisions:

"(1) A provision that a contract with an anticipated value not in excess of $2,500 is not subject to section 15(j) of the Small Business Act (15 U.S.C. 644(j)) and section 2 of title III of the Act of March 3, 1933 (commonly known as the 'Buy America Act') (41 U.S.C. 10a et seq.).

"(2) A provision that a civilian or military official, or employee of an agency, whose contracting authority does not exceed $2,500 is not a procurement official for the purposes of section 27 of this Act.

"(3) A provision that a purchase not in excess of $2,500 may be made without obtaining competitive quotations if the contracting officer determines that the price for the purchase is reasonable.

"(4) A requirement that purchases not in excess of $2,500 be distributed equitably among qualified suppliers.

"(5) A requirement that a contracting officer consider each responsive offer timely received from an eligible offeror.

"(c) A proposed purchase or contract for an amount above the simplified acquisition threshold may not be divided into several purchases or contracts for lesser amounts in order to use the simplified acquisition procedures required by subsection (a).

"(d) In using simplified acquisition procedures, the head of an executive agency shall promote competition to the maximum extent practicable.".

SEC. 44012. SMALL BUSINESS RESERVATION.

Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended to read as follows:

"(j)(1) Each contract for the purchase of goods and services that has an anticipated value in excess of $2,500 but not in excess of the simplified acquisition threshold and that is subject to simplified acquisition procedures prescribed pursuant to section 29 of the Office of Federal Procurement Policy Act shall be reserved exclusively for small business concerns unless the contracting officer is unable to obtain offers from two or more small business concerns that are competitive with market prices and are competitive with regard to the quality and delivery of the goods or services being purchased.

"(2) In carrying out paragraph (1), a contracting officer shall consider a responsive offer timely received from an eligible small business offeror.

"(3) Nothing in paragraph (1) shall be construed as precluding an award of a contract with a value not in excess of the simplified acquisition threshold under the authority of subsection (a) or (c) of section 8 of this Act, section 2323 of title 10, United States Code, or section 712 of the Business Opportunity Development Reform Act of 1988 (Public Law 100–656; 15 U.S.C. 644 note).".

SEC. 44013. FAST PAYMENT UNDER SIMPLIFIED ACQUISITION PROCEDURES.

(a) PAYMENT PROCEDURES.—The simplified acquisition procedures described in section 29(a) of the Office of Federal Procurement Policy Act (as added by section 44011) shall provide for use of the payment terms described in subsection (b), and for the disbursement of payment through electronic fund transfer, whenever circumstances permit.

(b) REQUIRED PAYMENT TERMS.—The payment terms for a purchase made pursuant to simplified acquisition procedures shall require payment, in accordance with the provisions of chapter 39 of title 31, United States Code, within 15 days after the date of the receipt of a proper invoice for products delivered or services performed, if—

(1) in the case of a purchase of property, title to the property vests in the Government upon delivery of the property to the Government or to a common carrier;

(2) in the case of property or services for which payment is due before the Government's acceptance of the property or services, the vendor provides commercial or other appropriate warranties assuring that the property or services purchased conform to the requirements set forth in the Government's purchase offer; and

(3) funds are available for making the payment.

(c) DISBURSEMENTS TO BE MATCHED WITH OBLIGATIONS.—The simplified acquisition procedures shall include procedures that ensure that each request for a disbursement is matched with a particular obligation before the disbursement is made under the payment terms provided for under subsection (a).

SEC. 44014. PROCUREMENT NOTICE.

(a) CONTINUATION OF EXISTING NOTICE THRESHOLDS.—Subsection (a) of section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended—

(1) in paragraph (1), by striking out "the small purchase threshold" each place it appears and inserting in lieu thereof "$25,000"; and

(2) in paragraph (3)(B), by inserting after "(B)" the following: "in the case of a contract or order expected to exceed the simplified acquisition threshold,".

(b) CONTENT OF NOTICE.—Subsection (b) of such section is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(6) in the case of a contract in an amount estimated to exceed $25,000 but not to exceed the simplified acquisition threshold—

"(A) a description of the procedures to be used in awarding the contract; and

"(B) a statement specifying the periods for prospective offerors and the contracting officer to take the necessary preaward and award actions.".

(c) NOTICE NOT REQUIRED IN ELECTRONIC COMMERCE.—Subsection (c)(1) of such section, as amended by section 41055(b), is further amended—

(1) by redesignating subparagraphs (A), (B), (C), (D), (E) and (F) as subparagraphs (B), (C), (D), (E), (F), and (G), respectively; and

(2) by inserting above subparagraph (B), as so redesignated, the following new subparagraph (A):

"(A) the proposed procurement is conducted by means of electronic commerce pursuant to a system that, as determined by the Administrator for Federal Procurement Policy, has the capabilities described in subsections (a) and (b) of section 44015 of the Federal Acquisition Streamlining Act of 1994;".

(d) NOTICE UNDER THE SMALL BUSINESS ACT.—

(1) CONTINUATION OF EXISTING NOTICE THRESHOLDS.—Subsection (e) of section 8 of the Small Business Act (15 U.S.C. 637) is amended—

(A) in paragraph (1), by striking out "the small purchase threshold" each place it appears and inserting in lieu thereof "$25,000"; and

(B) in paragraph (3)(B), by inserting after "(B)" the following: "in the case of a contract or order estimated to exceed the simplified acquisition threshold,".

(2) CONTENT OF NOTICE.—Subsection (f) of such section is amended—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(C) by adding at the end the following:

"(6) in the case of a contract in an amount estimated to exceed the $25,000 but not to exceed the simplified acquisition threshold—

"(A) a description of the procedures to be used in awarding the contract; and

"(B) a statement specifying the periods for prospective offerors and the contracting officer to take the necessary preaward and award actions.".

SEC. 44015. ELECTRONIC COMMERCE FOR FEDERAL GOVERNMENT PROCUREMENTS.

(a) DEVELOPMENT AND IMPLEMENTATION OF SYSTEM.—The Administrator for Federal Procurement Policy, in consultation with the heads of appropriate Federal Government agencies having applicable technical and functional expertise, may take appropriate steps to develop and implement a Federal Governmentwide architecture or design for electronic commerce that provides interoperability among users.

(b) REQUIRED CAPABILITIES.—The requirements analysis prepared to implement the architecture or design of a system of electronic commerce referred to in subsection (a) shall have the following capabilities:

(1) The maximum practicable capability for electronic exchange of such procurement information as solicitations, offers, contracts, purchase orders, invoices, payments, and other contractual documents between the private sector and the Federal Government.

(2) Capabilities that increase the access of businesses, including small business concerns, socially and economically disadvantaged small business concerns, and businesses owned predominantly by women, to Federal Government procurement opportunities.

(3) Easy access for potential Federal Government contractors.

(4) Use of nationally and internationally recognized data formats that broaden and ease electronic interchange of data.

(5) Use of Federal Government systems and networks and industry systems and networks.

(c) NOTICE AND SOLICITATION REGULATIONS.—In connection with implementation of the architecture or design referred to in subsection (a), the Federal Acquisition Regulatory Council shall ensure that the Federal Acquisition Regulation contains appropriate notice and solicitation provisions applicable to acquisitions conducted through such architecture or design. The provisions shall specify the required form and content of notices of acquisitions and the minimum periods for notifications of solicitations and for deadlines for the submission of offers under solicitations. Each minimum period specified for a notification of solicitation and each deadline for the submission of offers under a solicitation shall afford potential offerors a reasonable opportunity to respond.

(d) LIMITATION OF PUBLICATION REQUIREMENT.—The requirement in section 18(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)) and section 8(e) of the

Small Business Act (15 U.S.C. 637(e)) for publishing notice of a solicitation in the Commerce Business Daily shall not apply to acquisitions of a Federal agency or a component of a Federal agency that are made through electronic commerce and have a value not in excess of the simplified acquisition threshold if the Federal Acquisition Regulation contains the provisions specifically required by subsection (c) and the Administrator for Federal Procurement Policy certifies that such agency or component—

(1) has fully implemented the architecture or design referred to in subsection (a); and

(2) has procedures in place—

(A) to provide notice to potential offerors in accordance with the requirements of the Federal Acquisition Regulation prescribed pursuant to subsection (c); and

(B) to ensure that small business concerns are afforded an opportunity to respond to a solicitation of contract offers within the period specified in the solicitation.

(e) Definition.—In this section, the term "simplified acquisition threshold" has the meaning given that term is section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

PART III—APPLICABILITY OF LAWS TO ACQUISITIONS NOT IN EXCESS OF SIMPLIFIED ACQUISITION THRESHOLD

SEC. 44021. FUTURE ENACTED PROCUREMENT LAWS.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 44011, is further amended by adding at the end the following new section:

"APPLICABILITY OF CERTAIN LAWS TO CONTRACTS NOT EXCEEDING SIMPLIFIED ACQUISITION THRESHOLD

"Sec. 30. (a) In General.—The applicability of a provision of law described in subsection (b) to contracts not in excess of the simplified acquisition threshold may be waived on a class basis in the Federal Acquisition Regulation. Such a waiver shall not apply to a provision of law that expressly refers to this section and prohibits the waiver of that provision of law.

"(b) Referenced Law.—A provision of law referred to in subsection (a) is any provision of law enacted after the date of the enactment of the Federal Acquisition Streamlining Act of 1994 that, as determined by the Administrator for Federal Procurement Policy, sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government.".

SEC. 44022. ARMED SERVICES ACQUISITIONS.

(a) Requirement for Contract Clause Regarding Contingent Fees.—Section 2306(b) of title 10, United States Code, is amended by adding at the end the following: "This subsection does not apply to a contract that is not in excess of the simplified acquisition threshold.".

(b) Prohibition on Limiting Subcontractor Direct Sales to the United States.—Section 2402 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) This section does not apply to a contract that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

(c) Authority To Examine Books and Records of Contractors.—Section 2313 of title 10, United States Code, as amended by section 42201, is further amended by adding at the end of subsection (f) the following:

"(2) A contract that is not in excess of the simplified acquisition threshold.".

(d) Requirement To Identify Suppliers and Sources of Supplies.—Section 2384(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The regulations prescribed pursuant to paragraph (1) do not apply to a contract that does not exceed the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

(e) Prohibition Against Doing Business With Certain Offerors or Contractors.—Section 2393(d) of title 10, United States Code, is amended in the second sentence by striking out "above" and all that follows and inserting in lieu thereof "in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

(f) Prohibition on Persons Convicted of Defense-Contract Related Felonies.—Section 2408(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) The prohibition in paragraph (1) does not apply with respect to the following:

"(A) A contract referred to in subparagraph (A), (B), (C), or (D) of such paragraph that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).

"(C) A subcontract referred to in such subparagraph that is under a contract described in subparagraph (A).".

SEC. 44023. CIVILIAN AGENCY ACQUISITIONS.

(a) Requirement for Contract Clause Regarding Contingent Fees.—Section 304(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)) is amended by adding at the end the following: "The preceding sentence does not apply to a contract that is not in excess of the simplified acquisition threshold.".

(b) Prohibition on Limiting Subcontractor Direct Sales to the United States.—Section 303G of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253g) is amended by adding at the end the following new subsection:

"(c) This section does not apply to a contract that is not in excess of the simplified acquisition threshold.".

(c) Authority To Examine Books and Records of Contractors.—Section 304B of the Federal Property and Administrative Services Act of 1949, as added by section 42251(a), is amended by adding at the end of subsection (f) the following:

"(2) A contract that is not in excess of the simplified acquisition threshold.".

SEC. 44024. ACQUISITIONS GENERALLY.

(a) Limitation on Use of Funds To Influence Certain Federal Actions.—Section 1352(e)(2)(B) of title 31, United States Code, is amended by striking out "$100,000" and inserting in lieu thereof "the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)))".

(b) Requirement for Contract Clause Relating to Kickbacks.—Section 7 of the Anti-Kickback Act of 1986 (41 U.S.C. 57) is amended by adding at the end the following new subsection:

"(d) Subsections (a) and (b) do not apply to a prime contract that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

(c) Miller Act.—

(1) In general.—

(A) Contracts not exceeding simplified acquisition threshold.—The Act of August 24, 1935 (40 U.S.C. 270a et seq.), commonly referred to as the "Miller Act", is amended by adding at the end the following new section:

"Sec. 5. This Act does not apply to a contract in an amount that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

(B) Conforming amendment.—Subsection (a) of the first section of such Act is amended by striking out ", exceeding $25,000 in amount,".

(2) Alternative payment protections.—

(A) Protections to be specified in the FAR.—The Federal Acquisition Regulation shall provide alternatives to payment bonds as payment protections for suppliers of labor and materials under contracts referred to in subparagraph (C).

(B) Use of authorized protections.—The contracting officer for a contract shall—

(i) select, from among the payment protections provided for in the Federal Acquisition Regulation pursuant to subparagraph (A), one or more payment protections which the offeror awarded the contract is to submit to the Federal Government for the protection of suppliers of labor and materials for such contract; and

(ii) specify in the solicitation of offers for such contract the payment protection or protections so selected.

(C) Covered contracts.—

(i) Applicability.—The regulations required under subparagraph (A) and the requirements of subparagraph (B) apply with respect to contracts referred to in subsection (a) of the first section of the Miller Act that are in excess of $25,000 but not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).

(ii) Miller act reference.—The Miller Act referred to in subparagraph (A) is the Act of August 24, 1935 (40 U.S.C. 270a et seq.), commonly referred to as the "Miller Act".

(d) Contract Work Hours and Safety Standards Act.—

(1) In general.—Section 103 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 329) is amended by adding at the end the following new subsection:

"(c) This title does not apply to a contract in an amount that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

(2) Conforming amendment.—Section 107(a) of such Act (40 U.S.C. 333(a)) is amended by inserting after "It shall be a condition of each contract" the following: "(other than a contract referred to in section 103(c))".

(e) Drug-Free Workplace Act of 1988.—Section 5152(a)(1) of the Drug-Free Workplace Act of 1988 (subtitle D of title V of the Anti-Drug Abuse Act of 1988; Public Law 100-690; 41 U.S.C. 701(a)(1)) is amended by striking out "of $25,000 or more from any Federal agency" and inserting in lieu thereof "in excess of the simplified acquisition threshold (as defined in section 4(11) of such Act (41 U.S.C. 403(11))) by any Federal agency".

(f) Certain Procurement Integrity Requirements.—

(1) Certification requirement.—Subsection (e)(7)(A) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended by striking out "$100,000" and inserting in lieu thereof "the simplified acquisition threshold".

(2) Contract clause requirement.—Subsection (g)(1) of such section is amended by inserting after "awarded by a Federal agency" the following: "(other than a contract in

an amount that is not in excess of the simplified acquisition threshold)".

(g) SOLID WASTE DISPOSAL ACT.—Section 6002(a) of the Solid Waste Disposal Act (42 U.S.C. 6962(a)) is amended by striking out all that follows "with respect to any" and inserting in lieu thereof "contract in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)))."

PART IV—CONFORMING AMENDMENTS

SEC. 44071. ARMED SERVICES ACQUISITIONS.

(a) SIMPLIFIED ACQUISITION PROCEDURES.—Section 2304(g) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "small purchases of property and services" and inserting in lieu thereof "purchases of property and services not in excess of the simplified acquisition threshold";

(2) by striking out paragraph (2);

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(4) in paragraph (2), as so redesignated—

(A) by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold"; and

(B) by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures"; and

(5) in paragraph (3), as redesignated by paragraph (3), by striking out "small purchase procedures" and inserting in lieu thereof "the simplified procedures".

(b) SOLICITATION CONTENT REQUIREMENT.—Section 2305(a)(2) of title 10, United States Code, is amended by striking out "small purchases)" in the matter above subparagraph (A) and inserting in lieu thereof "purchases not in excess of the simplified acquisition threshold)".

(c) COST TYPE CONTRACTS.—Section 2306(e)(2)(A) of title 10, United States Code, is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

SEC. 44072. CIVILIAN AGENCY ACQUISITIONS.

(a) SIMPLIFIED ACQUISITION PROCEDURES.—

(1) PROPERTY AND SERVICES GENERALLY.—Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)) is amended—

(A) in paragraph (1), by striking out "small purchases of property and services" and inserting in lieu thereof "purchases of property and services not in excess of the simplified acquisition threshold";

(B) by striking out paragraphs (2) and (5);

(C) in paragraph (3)—

(i) by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold"; and

(ii) by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures";

(E) in paragraph (4), by striking out "small purchase procedures" and inserting in lieu thereof "the simplified procedures"; and

(F) by inserting after paragraph (1) the following new paragraph (2):

"(2)(A) The Administrator of General Services shall prescribe regulations that provide special simplified procedures for acquisitions of leasehold interests in real property at rental rates that do not exceed the simplified acquisition threshold.

"(B) For purposes of subparagraph (A), the rental rate or rates under a multiyear lease do not exceed the simplified acquisition threshold if the average annual amount of the rent payable for the period of the lease does not exceed the simplified acquisition threshold.".

(b) SOLICITATION CONTENT REQUIREMENT.—Section 303A(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a(b)) is amended by striking out "small purchases)" in the matter above paragraph (1) and inserting in lieu thereof "purchases not in excess of the simplified acquisition threshold)".

(c) COST TYPE CONTRACTS.—Section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)), as amended by section 41071, is further amended in the second sentence by striking out "either $25,000" and inserting in lieu thereof "either the simplified acquisition threshold".

SEC. 44073. OFFICE OF FEDERAL PROCUREMENT POLICY ACT.

Section 19(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 417(a)) is amended by striking out "procurements, other than small purchases," and inserting in lieu thereof "procurements in excess of the simplified acquisition threshold".

SEC. 44074. SMALL BUSINESS ACT.

(a) DEFINITION.—Section 3(m) of the Small Business Act (15 U.S.C. 632(m)) is amended by striking out "'small purchase threshold'" and inserting in lieu thereof "'simplified acquisition threshold'".

(b) USE OF SIMPLIFIED ACQUISITION THRESHOLD TERM.—Section 8(d)(2)(A) of the Small Business Act (15 U.S.C. 637(d)(2)(A)) is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

PART V—REVISION OF REGULATIONS

SEC. 44081. REVISION REQUIRED.

(a) FEDERAL ACQUISITION REGULATION.—The Federal Acquisition Regulatory Council established by section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall review the Federal Acquisition Regulation to identify regulations that are applicable to acquisitions in excess of a specified amount that is less than $100,000. The Council shall amend the regulations so identified as necessary to provide that such regulations do not apply to acquisitions that are not in excess of the simplified acquisition threshold. The preceding sentence does not apply in the case of a regulation for which such an amendment would not be in the national interest, as determined by the Council.

(b) SUPPLEMENTAL REGULATIONS.—The head of each Federal agency that has issued regulations, policies, or procedures referred to in section 25(c)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(2)) shall identify any such regulations, policies, or procedures that are applicable to acquisitions in excess of a specified amount that is less than $100,000. The agency head shall amend the regulations so identified as necessary to provide that such regulations, policies, and procedures do not apply to acquisitions that are not in excess of the simplified acquisition threshold. The preceding sentence does not apply in the case of a regulation, policy, or procedure for which such an amendment would not be in the national interest, as determined by the agency head.

(c) COMPLETION OF ACTIONS.—All actions under this section shall be completed not later than 180 days after the date of the enactment of this division.

(d) DEFINITIONS.—In this section:

(1) The term "simplified acquisition threshold" has the meaning given such term in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), as amended by section 44001.

(2) The term "Federal agency" has the meaning given such term in section 3(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 472(b)).

Subtitle B—Socioeconomic and Small Business Laws

SEC. 44101. ACQUISITIONS GENERALLY.

(a) REPEAL OF EXECUTED REPORTING REQUIREMENT.—Section 306 of the Trade Agreements Act of 1979 (19 U.S.C. 2516) is repealed.

(b) WALSH-HEALEY ACT.—

(1) REPEAL OTHER THAN FOR CERTAIN DEFINITIONAL PURPOSES.—The Act of June 30, 1936 (41 U.S.C. 35 et seq.), commonly referred to as the "Walsh-Healey Act", is amended to read as follows:

"SECTION 1. (a) The Secretary of Labor may prescribe in regulations the standards for determining whether a contractor is a manufacturer of or a regular dealer in materials, supplies, articles, or equipment to be manufactured or used in the performance of a contract entered into by any executive department, independent establishment, or other agency or instrumentality of the United States, or by the District of Columbia, or by any corporation all the stock of which is beneficially owned by the United States, for the manufacture or furnishing of materials, supplies, articles, and equipment.

"(b) Any interested person shall have the right of judicial review of any legal question regarding the interpretation of the terms 'regular dealer' and 'manufacturer', as defined pursuant to subsection (a).".

(2) CONFORMING AMENDMENT.—Section 2304(h) of title 10, United States Code, is amended to read as follows:

"(h) For the purposes of the Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (commonly referred to as the 'Davis-Bacon Act') (40 U.S.C. 276a et seq.), purchases or contracts awarded after using procedures other than sealed-bid procedures shall be treated as if they were made with sealed-bid procedures.".

(c) REPEAL OF REDUNDANT REQUIREMENT REGARDING APPLICABILITY OF THE DAVIS-BACON ACT AND THE WALSH-HEALEY ACT.—Section 308 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 258) is repealed.

SEC. 44102. ACQUISITIONS FROM SMALL BUSINESSES.

(a) SET-ASIDE PRIORITY.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended by striking out subsections (e) and (f).

(b) CERTIFICATE OF COMPETENCE.—Section 804 of Public Law 103-484 (106 Stat. 2447; 10 U.S.C. 2305 note) is repealed.

SEC. 44103. CONTRACTING PROGRAM FOR CERTAIN SMALL BUSINESS CONCERNS.

(a) PROCUREMENT PROCEDURES AUTHORIZED.—Section 8 of the Small Business Act (15 U.S.C. 637) is amended by inserting after subsection (b) the following new subsection:

"(c)(1) To facilitate the attainment of a goal for the participation of small business concern owned and controlled by socially and economically disadvantaged individuals that is established for a Federal agency pursuant to section 15(g)(1), the head of the agency may enter into contracts using—

"(A) less than full and open competition by restricting the competition for such awards to small business concerns owned and controlled by socially and economically disadvantaged individuals described in subsection (d)(3)(C) of this section; and

"(B) a price evaluation preference not in excess of 10 percent when evaluating an offer received from such a small business concern as the result of an unrestricted solicitation.

"(2) Paragraph (1) does not apply to the Department of Defense.".

(b) IMPLEMENTATION THROUGH THE FEDERAL ACQUISITION REGULATION.—

(1) IN GENERAL.—The Federal Acquisition Regulation shall be amended to provide for uniform implementation of the authority provided in section 8(c) of the Small Business Act, as added by subsection (a).

(2) MATTERS TO BE ADDRESSED.—The provisions of the Federal Acquisition Regulation prescribed pursuant to paragraph (1) shall include—

(A) conditions for the use of advance payments;

(B) provisions for contract payment terms that provide for—

(i) accelerated payment for work performed during the period for contract performance; and

(ii) full payment for work performed;

(C) guidance on how contracting officers may use, in solicitations for various classes of products or services, a price evaluation preference pursuant to section 8(c)(1)(B) of the Small Business Act, as added by subsection (a), to provide a reasonable advantage to small business concerns owned and controlled by socially and economically disadvantaged individuals without effectively eliminating any participation of other small business concerns; and

(D)(i) procedures for a person to request the head of Federal agency to determine whether the use of competitions restricted to small business concerns owned and controlled by socially and economically disadvantaged individuals at a contracting activity of such agency has caused a particular industry category to bear a disproportionate share of the contracts awarded to attain the goal established for that contracting activity; and

(ii) guidance for limiting the use of such restricted competitions in the case of any contracting activity and class of contracts determined in accordance with such procedures to have caused a particular industry category to bear a disproportionate share of the contracts awarded to attain the goal established for that contracting activity.

(c) TERMINATION.—Section 8(c) of the Small Business Act, as added by subsection (a), shall cease to be effective at the end of September 30, 1999.

SEC. 44104. PROCUREMENT GOALS FOR SMALL BUSINESS CONCERNS OWNED BY WOMEN.

(a) GOALS.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended—

(1) by striking out "and small business concerns owned and controlled by socially and economically disadvantaged individuals" each place it appears in the first sentence and fourth sentences of subsection (g)(1), the second sentence of subsection (g)(2), and paragraphs (1), (2)(A), (2)(D), and (2)(E) of subsection (h) and inserting in lieu thereof ", small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concern owned and controlled by women";

(2) in subsection (g)—

(A) by inserting after the third sentence of paragraph (1) the following: "The Government-wide goal for participation by small business concerns owned and controlled by women shall be established at not less than 5 percent of the total value of all prime contract and subcontract awards for each fiscal year.";

(B) in the first sentence of paragraph (2), by striking out "and by small business concerns owned and controlled by socially and economically disadvantaged individuals," and inserting in lieu thereof ", by small business concerns owned and controlled by socially and economically disadvantaged individuals, and by small business concerns owned and controlled by women"; and

(C) in the fourth sentence of paragraph (2), by inserting after "including participation by small business concerns owned and controlled by socially and economically disadvantaged individuals" the following: "and by participation small business concerns owned and controlled by women"; and

(3) in subsection (h)(2)(F), by striking out "women-owned small business enterprises" and inserting in lieu thereof "small business concerns owned and controlled by women".

(b) SUBCONTRACT PARTICIPATION.—Section 8(d) of such Act (15 U.S.C. 637(d)) is amended—

(1) by striking out "and small business concerns owned and controlled by socially and economically disadvantaged individuals" both places it appears in paragraph (1), both places it appears in paragraph (3)(A), in paragraph (4)(D), in subparagraphs (A), (C), and (F) of paragraph (6), and in paragraph (10)(B) and inserting in lieu thereof ", small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women";

(2) by striking out subparagraph (D) in paragraph (3) and inserting in lieu thereof the following:

"(E) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as either a small business concern, a small business concern owned and controlled by socially and economically disadvantaged individuals, or a small business concern owned and controlled by women.";

(3) in paragraph (3), by inserting after subparagraph (C) the following new subparagraph (D):

"(D) The term 'small business concern owned and controlled by women' shall mean a small business concern—

"(i) which is at least 51 per centum owned by one or more women; or, in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more women; and

"(ii) whose management and daily business operations are controlled by one or more women."; and

(4) in paragraph (4)(E), by inserting "and for small business concerns owned and controlled by women" after "as defined in paragraph (3) of this subsection".

(c) MISREPRESENTATIONS OF STATUS.—(1) Subsection (d)(1) of section 16 of such Act (15 U.S.C. 645) is amended by striking out "or 'small business concern owned and controlled by socially and economically disadvantaged individuals'" and inserting in lieu thereof ", a 'small business concern owned and controlled by socially and economically disadvantaged individuals', or a 'small business concerns owned and controlled by women'".

(2) Subsection (e) of such section is amended by striking out "or 'small business concern owned and controlled by socially and economically disadvantaged individuals'" and inserting in lieu thereof ", a 'small business concern owned and controlled by socially and economically disadvantaged individuals', or a 'small business concerns owned and controlled by women'".

(d) DEFINITION.—Section 3 of such Act (15 U.S.C. 632) is amended by adding at the end the following new subsection:

"(n) For the purposes of this Act, a small business concern is a small business concern owned and controlled by women if—

"(1) at least 51 percent of small business concern is owned by one or more women or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

"(2) the management and daily business operations of the business are controlled by one or more women.".

SEC. 44105. DEVELOPMENT OF DEFINITIONS REGARDING CERTAIN SMALL BUSINESS CONCERNS.

(a) REVIEW REQUIRED.—

(1) DEFINITIONS TO BE IDENTIFIED.—The Administrator for Federal Procurement Policy shall conduct a comprehensive review of Federal laws, as in effect on November 1, 1994, to identify and catalogue all of the provisions in such laws that define (or describe for definitional purposes) the small business concerns set forth in paragraph (2) for purposes of authorizing the participation of such small business concerns as prime contractors or subcontractors in—

(A) contracts awarded directly by the Federal Government or subcontracts awarded under such contracts; or

(B) contracts and subcontracts funded, in whole or in part, by Federal financial assistance under grants, cooperative agreements, or other forms of Federal assistance.

(2) COVERED SMALL BUSINESS CONCERNS.—The small business concerns referred to in paragraph (1) are as follows:

(A) Small business concerns owned and controlled by socially and economically disadvantaged individuals.

(B) Minority-owned small business concerns.

(C) Small business concerns owned and controlled by women.

(D) Woman-owned small business concerns.

(b) MATTERS TO BE DEVELOPED.—On the basis of the results of the review carried out under subsection (a), the Administrator for Federal Procurement Policy shall develop—

(1) uniform definitions for the small business concerns referred to in subsection (a)(2);

(2) uniform agency certification standards and procedures for—

(A) determinations of whether a small business concern qualifies as a small business concern referred to in subsection (a)(2) under an applicable standard for purposes contracts and subcontracts referred to in subsection (a)(1); and

(B) reciprocal recognition by an agency of a decision of another agency regarding whether a small business concern qualifies as a small business concern referred to in subsection (a)(2) for such purposes; and

(3) such other related recommendations as the Administrator determines appropriate consistent with the review results.

(c) PROCEDURES AND SCHEDULE.—

(1) PARTICIPATION BY CERTAIN INTERESTED PARTIES.—The Administrator for Federal Procurement Policy shall provide for the participation in the review and activities under subsections (a) and (b) by representatives of—

(A) the Small Business Administration (including the Office of the Chief Counsel for Advocacy);

(B) the Minority Business Development Agency of the Department of Commerce;

(C) the Department of Transportation;

(D) the Environmental Protection Agency; and

(E) such other executive departments and agencies as the Administrator considers appropriate.

(2) CONSULTATION WITH CERTAIN INTERESTED PARTIES.—In carrying out subsections (a) and (b), the Administrator shall consult with representatives of organizations representing—

(A) minority-owned business enterprises;

(B) women-owned business enterprises; and

(C) other organizations that the Administrator considers appropriate.

(3) SCHEDULE.—Not later than 60 days after the date of the enactment of this division, the Administrator shall publish in the Federal Register a notice which—

(A) lists the provisions of law identified in the review carried out under subsection (a);

(B) describes the matters to be developed on the basis of the results of the review pursuant to subsection (b);

(C) solicits public comment regarding the matters described in the notice pursuant to subparagraphs (A) and (B) for a period of not less than 60 days; and

(D) addresses such other matters as the Administrator considers appropriate to ensure the comprehensiveness of the review and activities under subsections (a) and (b).

(d) REPORT.—Not later than May 1, 1995, the Administrator for Federal Procurement Policy shall submit to the Committees on Small Business of the Senate and the House of Representatives a report on the results of the review carried out under subsection (a) and the actions taken under subsection (b). The report shall include a discussion of the results of the review, a description of the consultations conducted and public comments received, and the Administrator's recommendations with regard to the matters identified under subsection (b).

Subtitle C—Miscellaneous Acquisition Laws

SEC. 44151. PROHIBITION ON USE OF FUNDS FOR DOCUMENTING ECONOMIC OR EMPLOYMENT IMPACT OF CERTAIN ACQUISITION PROGRAMS.

(a) REVISION AND CODIFICATION.—

(1) IN GENERAL.—Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2247. Prohibition on use of funds for documenting economic or employment impact of certain acquisition programs

"No funds appropriated by the Congress may be obligated or expended to assist any contractor of the Department of Defense in preparing any material, report, lists, or analysis with respect to the actual or projected economic or employment impact in a particular State or congressional district of an acquisition program for which all research, development, testing, and evaluation has not been completed.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2247. Prohibition on use of funds for documenting economic or employment impact of certain acquisition programs.".

(b) REPEAL OF SUPERSEDED LAW.—Section 9048 of Public Law 102-396 (106 Stat. 1913) is repealed.

SEC. 44152. RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES FOR PROCUREMENT FROM A PARTICULAR SOURCE.

(a) ARMED SERVICES ACQUISITIONS.—Section 2304 of title 10, United States Code, as amended by section 41005(b), is further amended—

(1) in subsection (c)(5), by inserting "subject to subsection (j)," after "(5)"; and

(2) by adding at the end the following new subsection:

"(j)(1) It is the policy of Congress that no legislation should be enacted that requires a procurement to be made from a specified non-Federal Government source.

"(2) A provision of law may not be construed as requiring a procurement to be made from a specified non-Federal Government source unless that provision of law—

"(A) specifically refers to this subsection;

"(B) specifically identifies the particular non-Federal Government source involved; and

"(C) specifically states that the procurement from that source is required by such provision of law in contravention of the policy set forth in paragraph (1).".

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended—

(1) in subsection (c)(5), by inserting "subject to subsection (h)," after "(5)"; and

(2) by adding at the end the following new subsection:

"(h)(1) It is the policy of Congress that no legislation should be enacted that requires a procurement to be made from a specified non-Federal Government source.

"(2) A provision of law may not be construed as requiring a procurement to be made from a specified non-Federal Government source unless that provision of law—

"(A) specifically refers to this subsection;

"(B) specifically identifies the particular non-Federal Government source involved; and

"(C) specifically states that the procurement from that source is required by such provision of law in contravention of the policy set forth in paragraph (1).".

TITLE XLV—ACQUISITION MANAGEMENT

Subtitle A—Armed Services Acquisitions

SEC. 45001. PERFORMANCE BASED MANAGEMENT.

(a) POLICY AND GOALS FOR PERFORMANCE BASED MANAGEMENT OF PROGRAMS.—

(1) IN GENERAL.—Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2219. Performance based management: acquisition programs

"(a) CONGRESSIONAL POLICY.—It is the policy of Congress that—

"(1) the Department of Defense should achieve, on average, 90 percent of the cost and schedule goals established for the research and development programs and acquisition programs of the Department of Defense without reducing the performance or capabilities of the items being acquired; and

"(2) the average period necessary for converting an emerging technology into initial operational capability for the Department of Defense should not exceed 8 years.

"(b) ESTABLISHMENT OF GOALS.—(1) The Secretary of Defense shall approve or define the cost, performance, and schedule goals for major defense acquisition programs of the Department of Defense.

"(2) The Comptroller of the Department of Defense shall evaluate the cost goals proposed for each major defense acquisition program of the Department.

"(c) IDENTIFICATION OF NONCOMPLIANT PROGRAMS.—Whenever it is necessary to do so in order to implement the policy set out in subsection (a), the Secretary of Defense shall—

"(1) identify and consider whether there is a continuing need for programs that are significantly behind schedule, over budget, or not in compliance with performance or capability requirements taking into consideration—

"(A) the needs of the Department known as of the time of consideration;

"(B) the state of the technology or technologies relevant to the programs and to the needs of the Department;

"(C) the estimated costs and projected schedules necessary for the completion of such programs; and

"(D) other pertinent information; and

"(2) identify existing and potential research and development programs and acquisition programs that are suitable alternatives for programs considered pursuant to paragraph (1).

"(d) ANNUAL REPORTING REQUIREMENT.—The Secretary of Defense shall include in the annual report submitted to Congress pursuant to section 113(c) of this title an assessment of the progress made in implementing the policy stated in subsection (a). The Secretary shall use data from existing management systems in making the assessment.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2219. Performance based management: acquisition programs.".

(b) ENHANCED SYSTEM OF PERFORMANCE INCENTIVES.—Within one year after the date of the enactment of this division, the Secretary of Defense shall review the incentives and personnel actions available to the Secretary for encouraging excellence in the defense acquisition workforce and provide an enhanced system of incentives for the encouragement of excellence in such workforce. The enhanced system of incentives shall, to the maximum extent consistent with applicable law—

(1) relate pay to performance (including the extent to which the performance of personnel in such workforce contributes to achieving the cost goals, schedule goals, and performance goals established for acquisition programs of the department pursuant to section 2219(b) of title 10, as added by subsection (a)); and

(2) provide for consideration, in personnel evaluations and promotion decisions, of the extent to which the performance of personnel in such workforce contributes to achieving the cost goals, schedule goals, and performance goals established for acquisition programs of the department pursuant to section 2219(b) of title 10, United States Code, as added by subsection (a).

(c) RECOMMENDED LEGISLATION.—Not later than one year after the date of the enactment of this division, the Secretary of Defense shall submit to Congress any recommended legislation that the Secretary considers necessary to carry out section 2219 of title 10, United States Code, as added by subsection (a), and otherwise to facilitate and enhance management of Department of Defense acquisition programs and the defense acquisition workforce on the basis of performance.

SEC. 45002. RESULTS ORIENTED ACQUISITION PROGRAM CYCLE.

The Secretary of Defense shall define in regulations a simplified acquisition program cycle that is results-oriented. The Secretary shall consider including in the regulations provisions for the following:

(1) Program phases as follows:

(A) An integrated decision team meeting which—

(i) may be requested by a potential user of the system or component to be acquired, the head of a laboratory, or a program office on such bases as the emergence of a new military requirement, cost savings opportunity, or new technology opportunity;

(ii) is conducted by an acquisition program executive officer; and

(iii) is usually completed within 1 to 3 months.

(B) A prototype development and testing phase which—

(i) includes operational tests and concerns relating to manufacturing operations and life cycle support;

(ii) is usually completed within 6 to 36 months; and

(iii) produces sufficient numbers of prototypes to assess operational utility.

(C) Product integration, development, and testing which—

(i) includes full-scale development, operational testing, and integration of components; and

(ii) is usually completed within 1 to 5 years.

(D) Production, integration into existing systems, or production and integration into existing systems.

(2) An acquisition program approval process for major program decisions which consists of the following:

(A) One major decision point—

(i) which occurs for an acquisition program before the program proceeds into product integration and development; and

(ii) at which the Under Secretary of Defense for Acquisition and Technology, in consultation with the Vice Chairman of the Joint Chiefs of Staff reviews the program, determines whether the program should continue to be carried out beyond product integration and development, and decides whether to commit to further development, to require further prototyping, or to terminate the program.

(B) Consideration of the potential benefits, affordability, needs, and risks of an acquisition program in the review of the acquisition program.

SEC. 45003. DEFENSE ACQUISITION PILOT PROGRAM DESIGNATIONS.

(a) PROGRAMS AND WAIVERS.—The National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160) is amended by inserting the following new section at the end of subtitle D of title VIII:

"SEC. 840. DEFENSE ACQUISITION PILOT PROGRAM DESIGNATIONS.

"(a) ELIGIBLE PROGRAMS.—The Secretary of Defense is authorized to designate the following defense acquisition programs for participation in the defense acquisition pilot program authorized by section 809 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2430 note):

"(1) Defense Personnel Support Center medical, clothing and textile, and subsistence programs with respect to the following:

"(A) All contracts for processed fruits and vegetables and frozen seafood items for both depot stock and direct vendor delivery.

"(B) All contracts in the subsistence prime vendor program for grocery items.

"(C) All contracts in the Mail Order Pharmacy Program, the prime vendor programs for pharmaceuticals and for medical surgical items for delivery to military hospitals.

"(D) All contracts in the medical electronic commerce program for acquisition for depot stock and direct vendor delivery.

"(E) All contracts for the following items: dress coats (small lots), dress coats, duffel bags, Navy work clothing, general purpose tents, suitcases, gloves for electrical workers, boot flyers, socks, drawers, undershirts, and items offered under the Broad Agency Announcements for Clothing and Textiles Advanced Business Practices Demonstration Program.

"(2) The Fire Support Combined Arms Tactical Trainer program with respect to all contracts directly related to the procurement of a training system (including related hardware, software, and subsystems) to perform collective training of field artillery gunnery team components with development of software as required to generate the training exercises and component interfaces.

"(3) The Joint Direct Attack Munition program (JDAM I) with respect to all contracts directly related to the development and procurement of a strap-on guidance kit, using an inertially guided, Global Positioning System updated guidance kit for inventory 1,000 and 2,000 pound bombs.

"(4) The Joint Primary Aircraft Training System (JPATS) with respect to all contracts directly related to the acquisition of a new primary trainer aircraft to fulfill Air Force and Navy joint undergraduate aviation training requirements, and an associated ground-based training system consisting of air crew training devices (simulators), courseware, a Training Management System, and contractor support for the life of the system.

"(5) The Commercial Derivatives Aircraft program with respect to all contracts directly related to the acquisition or upgrading of civil-derivative aircraft for use in (A) foreign military sales of Airborne Warning and Control Systems to foreign governments with modifications of a type customarily provided to commercial customers, or (B) future Air Force airlift and tanker requirements.

"(6) The Commercial Derivative Engine program with respect to all contracts directly related to the acquisition of (A) commercially derived engines (including spare engines), logistics support equipment, technical orders, management data, and initial spare parts for use in the C-17A production line, and (B) commercially derived engines to support the purchase of commercial-derivative aircraft to meet future Air Force airlift and tanker requirements, including engine replacement and upgrades.

"(b) WAIVER AUTHORITY.—Subject to section 809(c) of the National Defense Authorization Act for Fiscal Year 1991, the Secretary of Defense is authorized—

"(1) to apply any amendment or repeal of a provision of law made in the Federal Acquisition Streamlining Act of 1994 to the programs described in subsection (a) before the effective date of such amendment or repeal; and

"(2) to apply to a procurement of noncommercial items under such programs—

"(A) any authority provided in such Act (or in an amendment made by a provision of such Act) to waive a provision of law in the case of commercial items, and

"(B) any exception applicable under such Act (or an amendment made by a provision of such Act) in the case of commercial items, before the effective date of such provision (or amendment) to the extent that the Secretary determines necessary to test the application of such waiver or exception to procurements of noncommercial items.

"(c) PILOT PROGRAM IMPLEMENTATION.—In exercising the authority provided in section 809 of the National Defense Authorization Act for 1991, and in accordance with sections 833 through 839 of this Act, the Secretary of Defense, shall take the following actions:

"(1) MISSION-ORIENTED PROGRAM MANAGEMENT.—For one or more of the defense acquisition programs designated for participation in the defense acquisition pilot program, prescribe and implement procedures which—

"(A) provide for interaction between the program manager and the commander of the operational command responsible for the requirement for the equipment acquired;

"(B) include provisions for a determination by the commander that items proposed for procurement fulfill the need defined in approved requirements documents; and

"(C) may include a role for the operational commander in decision making for program milestone decisions and performance of acceptance testing of items acquired.

"(2) SAVINGS OBJECTIVES.—Not later than 45 days after the date of enactment of the Federal Acquisition Streamlining Act of 1994, identify for each defense acquisition program participating in the pilot program quantitative measures and goals for reducing acquisition management costs.

"(3) PROGRAM PHASES.—For each defense acquisition program participating in the pilot program, incorporate in an approved acquisition strategy a program review process that provides senior acquisition officials with reports that—

"(A) contain essential information on program results at quarterly intervals;

"(B) reduce data requirements from the current major program review reporting requirements; and

"(C) include data on program costs estimates, actual expenditures, performance estimates, performance data from tests, and, consistent with existing statutes, the minimum necessary other data items required to ensure the appropriate expenditure of funds appropriated for that program.

"(4) PROGRAM WORK FORCE POLICIES.—With regard to the review of incentives and personnel actions required under section 836 of this Act—

"(A) not later than 60 days after the date of the enactment of the Federal Acquisition Streamlining Act of 1994—

"(i) complete the review; and

"(ii) on the basis of the review, define one or more systems that relate incentives, including pay, to achievement of budgets, schedules, and performance requirements;

"(B) not later than 120 days after the date of the enactment of the Federal Acquisition Streamlining Act of 1994—

"(i) apply such a system of incentives to not less than one defense acquisition program participating in the pilot program; and

"(ii) provide for an assessment of the effectiveness of that system; and

"(C) incorporate the results of actions taken pursuant to this paragraph into the development of regulations for the implementation of section 45001(b) of the Federal Acquisition Streamlining Act of 1994.

"(5) EFFICIENT CONTRACTING PROCESS.—Take any additional actions that the Secretary considers necessary to waive regulations, not required by statute, that affect the efficiency of the contracting process, including, in the Secretary's discretion, defining alternative techniques to reduce reliance on military specifications and standards in contracts for the defense acquisition programs participating in the pilot program.

"(6) CONTRACT ADMINISTRATION: PERFORMANCE BASED CONTRACT MANAGEMENT.—For at least one participating defense acquisition program for which a determination is made to make payments for work in progress under the authority of section 2307 of title 10, United States Code, define payment milestones on the basis of quantitative measures of results.

"(7) CONTRACTOR PERFORMANCE ASSESSMENT.—Collect and evaluate performance information on each contract entered into for a defense acquisition program participating in the pilot program, including information on cost, schedule, and technical performance for each contractor supporting a participating program.

"(d) APPLICABILITY.—(1) Subsection (b) applies with respect to—

"(A) a contract that is awarded or modified during the period described in paragraph (2); and

"(B) a contract that is awarded before the beginning of such period and is to be performed (or may be performed), in whole or in part, during such period.

"(2) The period referred to in paragraph (1) is the period that begins 45 days after the date of the enactment of the Federal Acquisition Streamlining Act of 1994 and ends on September 30, 1998.".

(b) RULE OF CONSTRUCTION.—Nothing in section 840 of the National Defense Authorization Act for Fiscal Year 1994, as added by subsection (a), shall be construed as authorizing the appropriation or obligation of funds for the programs designated for participation in the defense acquisition pilot program under the authority of subsection (a) of such section 840.

Subtitle B—Civilian Agency Acquisitions

SEC. 45051. PERFORMANCE BASED MANAGEMENT.

(a) POLICY AND GOALS FOR PERFORMANCE BASED MANAGEMENT OF PROGRAMS.—

(1) IN GENERAL.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 301 et seq.), as amended by sections 1552 and 1553, is further amended by adding at the end the following new section:

"PERFORMANCE BASED MANAGEMENT: ACQUISITION PROGRAMS

"SEC. 311. (a) CONGRESSIONAL POLICY.—It is the policy of Congress that the head of each executive agency should achieve, on average, 90 percent of the cost and schedule goals established for the research and development programs and acquisition programs of the agency without reducing the performance or capabilities of the items being acquired.

"(b) ESTABLISHMENT OF GOALS.—(1) The head of each executive agency shall approve or define the cost, performance, and schedule goals for major acquisition programs of the agency.

"(2) The chief financial officer of an executive agency shall evaluate the cost goals proposed for each major defense acquisition program of the agency.

"(c) IDENTIFICATION OF NONCOMPLIANT PROGRAMS.—Whenever it is necessary to do so in order to implement the policy set out in subsection (a), the head of an executive agency shall—

"(1) identify and consider whether there is a continuing need for programs that are significantly behind schedule, over budget, or not in compliance with performance or capability requirements taking into consideration—

"(A) the needs of the agency known as of the time of consideration;

"(B) the state of the technology or technologies relevant to the programs and to the needs of the agency;

"(C) the estimated costs and projected schedules necessary for the completion of such programs; and

"(D) other pertinent information; and

"(2) identify existing and potential research and development programs and acquisition programs that are suitable alternatives for programs considered pursuant to paragraph (1).".

(2) CLERICAL AMENDMENT.—The table of contents in the first section of such Act, as amended by sections 1552 and 1553, is further amended by inserting after the item relating to section 310 the following new item:

"Sec. 311. Performance based management: acquisition programs.".

(b) ANNUAL REPORTING REQUIREMENT.—Section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405), as amended by section 41091, is further amended by adding at the end the following new subsection:

"(k) The Administrator shall submit to Congress, on an annual basis, an assessment of the progress made in executive agencies in implementing the policy stated in section 311(a) of the Federal Property and Administrative Services Act of 1949. The Administrator shall use data from existing management systems in making the assessment.".

(c) ENHANCED SYSTEM OF PERFORMANCE INCENTIVES.—Within one year after the date of the enactment of this division, the Administrator for Federal Procurement Policy, in consultation with appropriate officials in other departments and agencies of the Federal Government, shall, to the maximum extent consistent with applicable law—

(1) establish policies and procedures for the heads of such departments and agencies to designate acquisition positions and manage employees (including the accession, education, training and career development of employees) in the designated acquisition positions;

(2) extend to the acquisition workforce of the entire executive branch the acquisition workforce policies contained in chapter 87 of title 10, United States Code, relating to the acquisition workforce of the Department of Defense; and

(3) review the incentives and personnel actions available to the heads of department and agencies of the Federal Government for encouraging excellence in the acquisition workforce of the Federal Government and provide an enhanced system of incentives for the encouragement of excellence in such workforce which—

(A) relates pay to performance (including the extent to which the performance of personnel in such workforce contributes to achieving the cost goals, schedule goals, and performance goals established for acquisition programs pursuant to section 311(b) of the Federal Property and Administrative Services Act of 1949, as added by subsection (a)); and

(B) provides for consideration, in personnel evaluations and promotion decisions, of the extent to which the performance of personnel in such workforce contributes to achieving such cost goals, schedule goals, and performance goals.

(d) RECOMMENDED LEGISLATION.—Not later than one year after the date of the enactment of this division, the Administrator for Federal Procurement Policy shall submit to Congress any recommended legislation that the Secretary considers necessary to carry out section 311 of the Federal Property and Administrative Services Act of 1949, as added by subsection (a), and otherwise to facilitate and enhance management of Federal Government acquisition programs and the acquisition workforce of the Federal Government on the basis of performance.

SEC. 45052. RESULTS-ORIENTED ACQUISITION PROCESS.

(a) DEVELOPMENT OF PROCESS REQUIRED.—The Administrator for Federal Procurement Policy, in consultation with the heads of appropriate Federal agencies, shall develop a results-oriented acquisition process for implementation by agencies in acquisitions of property and services by the Federal agencies. The process shall include the identification of quantitative measures and standards for determining the extent to which an acquisition of noncommercial items by a Federal agency satisfies the needs for which the items are being acquired.

(b) INAPPLICABILITY OF PROCESS TO DEPARTMENT OF DEFENSE.—The process developed pursuant to subsection (a) may not be applied to the Department of Defense.

Subtitle C—Miscellaneous

SEC. 45091. CONTRACTOR EXCEPTIONAL PERFORMANCE AWARDS.

The Office of Federal Procurement Policy Act, as amended by section 44021, is further amended by adding at the end the following:

"CONTRACTOR EXCEPTIONAL PERFORMANCE AWARDS

"SEC. 31. (a) ESTABLISHMENT.—There is hereby established an executive branch program to recognize and promote exceptional contract performance by Federal Government contractors.

"(b) SELECTION.—(1) The Administrator shall ensure the establishment of criteria for selection of contractors to receive exceptional performance awards under the program.

"(2) The head of an executive agency may select one or more agency contractors to receive an exceptional performance award under the program.

"(c) AWARD CEREMONY.—The Vice President, or the head of the executive agency selecting a contractor for an exceptional performance award, shall present the award to the contractor with such ceremony as the Vice President or head of the agency, as the case may be, considers appropriate.".

SEC. 45092. DEPARTMENT OF DEFENSE ACQUISITION OF INTELLECTUAL PROPERTY RIGHTS.

Section 2386 of title 410, United States Code, is amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) Technical data and computer software.

"(4) Releases for past infringement of patents or copyrights or for unauthorized use of technical data or computer software.".

TITLE XLVI—STANDARDS OF CONDUCT

Subtitle A—Ethics Provisions

SEC. 46001. AMENDMENTS TO OFFICE OF FEDERAL PROCUREMENT POLICY ACT.

(a) RECUSAL.—Subsection (c) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended—

(1) in paragraph (1)—

(A) in the matter above subparagraph (A), by inserting "only" after "subsection (b)(1)"; and

(B) in subparagraph (A), by inserting "(including the modification or extension of a contract)" after "any procurement";

(2) by striking out paragraphs (2) and (3) and inserting in lieu thereof:

"(2) Whenever the head of a procuring activity approves a recusal under paragraph (1), a copy of the recusal request and the approval of the request shall be retained by such official for a period (not less than five years) specified in regulations prescribed in accordance with subsection (o).

"(3)(A) Except as provided in subparagraph (B), all recusal requests and approvals of recusal requests pursuant to this subsection shall be made available to the public on request.

"(B) Any part of a recusal request or an approval of a recusal request that is exempt from the disclosure requirements of section 552 of title 5, United States Code, under subsection (b)(1) of such section may be withheld from disclosure to the public otherwise required under subparagraph (A)."; and

(3) in paragraph (4), by striking out "competing contractor" and inserting in lieu thereof "person".

(b) APPLICABILITY OF CERTIFICATION REQUIREMENT.—Subsection (e)(7)(A) of such section is amended by adding at the end the following: "However, paragraph (1)(B) does not apply with respect to a contract for less than $500,000.".

(c) RESTRICTIONS RESULTING FROM PROCUREMENT ACTIVITIES OF PROCUREMENT OFFICIALS.—Subsection (f) of such section is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) No individual who, in the year prior to separation from service as an officer or employee of the Government or an officer of the uniformed services in a covered position, participated personally and substantially in acquisition functions related to a contract, subcontract, or claim of $500,000 or more and—

"(A) engaged in repeated direct contact with the contractor or subcontractor on matters relating to such contract, subcontract, or claim; or

"(B) exercised significant ongoing decisionmaking responsibility with respect to the contractor or subcontractor on matters relating to such contract, subcontract, or claim,

shall knowingly accept or continue employment with such contractor or subcontractor for a period of 1 year following the individual's separation from service, except that such individual may accept or continue employment with any division or affiliate of such contractor or subcontractor that does not produce the same or similar products as the entity involved in the negotiation or performance of the contract or subcontract or the adjustment of the claim.

"(2) No contractor or subcontractor, or any officer, employee, agent, or consultant of such contractor or subcontractor shall knowingly offer, provide, or continue any employment for another person, if such contractor, subcontractor, officer, employee, agent, or consultant knows or should know that the acceptance of such employment is or would be in violation of paragraph (1).

"(3) The head of each Federal agency shall designate in writing as a 'covered position' under this section each of the following positions in that agency:

"(A) The position of source selection authority, member of a source selection evaluation board, or chief of a financial or technical evaluation team, or any other position, if the officer or employee in that position is likely personally to exercise substantial responsibility for ongoing discretionary functions in the evaluation of proposals or the selection of a source for a contract in excess of $500,000.

"(B) The position of procuring contracting officer, or any other position, if the officer or employee in that position is likely personally to exercise substantial responsibility for ongoing discretionary functions in the negotiation of a contract in excess of $500,000 or the negotiation or settlement of a claim in excess of $500,000.

"(C) The position of program executive officer, program manager, or deputy program manager, or any other position, if the officer or employee in that position is likely personally to exercise similar substantial responsibility for ongoing discretionary functions in the management or administration of a contract in excess of $500,000.

"(D) The position of administrative contracting officer, the position of an officer or employee assigned on a permanent basis to a Government Plant Representative's Office, the position of auditor, a quality assurance position, or any other position, if the officer or employee in that position is likely personally to exercise substantial responsibility for ongoing discretionary functions in the onsite oversight of a contractor's operations with respect to a contract in excess of $500,000.

"(E) A position in which the incumbent is likely personally to exercise substantial responsibility for ongoing discretionary functions in operational or developmental testing activities involving repeated direct contact with a contractor regarding a contract in excess of $500,000.".

(d) DISCLOSURE OF PROPRIETARY OR SOURCE SELECTION INFORMATION TO UNAUTHORIZED PERSONS.—Subsection (l) of such section is amended—

(1) by inserting "who are likely to be involved in contracts, modifications, or extensions in excess of $25,000" in the first sentence after "its procurement officials"; and

(2) by striking out "(e)" each place it appears and inserting in each such place "(f)".

(e) RULES OF CONSTRUCTION.—Subsection (n) of such section is amended to read as follows:

"(n) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to—

"(1) authorize the withholding of any information from the Congress, any committee or subcommittee thereof, a Federal agency, any board of contract appeals of a Federal agency, the Comptroller General, or an inspector general of a Federal agency;

"(2) restrict the disclosure of information to, or receipt of information by, any person or class of persons authorized, in accordance with applicable agency regulations or procedures, to receive that information;

"(3) restrict a contractor from disclosing its own proprietary information or the recipient of information so disclosed by a contractor from receiving such information; or

"(4) restrict the disclosure or receipt of information relating to a Federal agency procurement that has been canceled by the agency and that the contracting officer concerned determines in writing is not likely to be resumed.".

(f) TERM TO BE DEFINED IN REGULATIONS.—Subsection (o)(2)(A) of such section is amended—

(1) by inserting "money, gratuity, or other" before "thing of value'"; and

(2) by inserting before the semicolon "and such other exceptions as may be adopted on a Governmentwide basis under section 7353 of title 5, United States Code".

(g) TERMS DEFINED IN LAW.—Subsection (p) of such section is amended—

(1) in paragraph (1) by striking out "clauses (i)–(viii)" and inserting in lieu thereof "clauses (i) through (vii)";

(2) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking out clause (i);

(ii) by redesignating clauses (ii), (iii), (iv), (v), (vi), (vii), and (viii) as clauses (i), (ii), (iii), (iv), (v), (vi), and (vii), respectively; and

(iii) in clause (i) (as redesignated by subclause (II) of this clause), by striking out "review and approval of a specification" and inserting in lieu thereof "approval or issuance of a specification, acquisition plan, procurement request, or requisition"; and

(B) in subparagraph (B), by striking out all after "includes" and inserting in lieu thereof the following: "any individual acting on behalf of, or providing advice to, the agency with respect to any phase of the agency procurement concerned, regardless of whether such individual is a consultant, expert, or adviser, or an officer or employee of a contractor or subcontractor (other than a competing contractor)."; and

(3) in paragraph (6)(A), by inserting "nonpublic" before "information".

SEC. 46002. AMENDMENTS TO TITLE 18, UNITED STATES CODE.

Section 208(a) of title 18, United States Code, is amended—

(1) by inserting "(1)" before "Except as permitted"; and

(2) by adding at the end the following new paragraph:

"(2) Whoever knowingly aids, abets, counsels, commands, induces, or procures conduct prohibited by this section shall be subject to the penalties set forth in section 216 of this title.".

SEC. 46003. REPEAL OF SUPERSEDED AND OBSOLETE LAWS.

(a) REPEAL.—The following provisions of law are repealed:

(1) Sections 2207, 2397, 2397a, 2397b, and 2397c of title 10, United States Code.

(2) Section 281 of title 18, United States Code.

(3) Section 801 of title 37, United States Code.

(4) Part A of title VI of the Department of Energy Organization Act (42 U.S.C. 7211 through 7218).

(b) CLERICAL AMENDMENTS.—

(1) TITLE 10.—Part IV of subtitle A of title 10, United States Code, is amended—

(A) in the table of sections at the beginning of chapter 131, by striking out the item relating to section 2207; and

(B) in the table of sections for chapter 141, by striking out the items relating to sections 2397, 2397a, 2397b, and 2397c.

(2) TITLE 18.—The table of sections for chapter 15 of title 18, United States Code, is amended by striking out the item relating to section 281.

(3) TITLE 37.—The table of sections for chapter 15 of title 37, United States Code, is amended by striking out the item relating to section 801.

(4) DEPARTMENT OF ENERGY ORGANIZATION ACT.—The table of contents for the Department of Energy Organization Act is amended by striking out the matter relating to part A of title VI.

SEC. 46004. IMPLEMENTATION.

(a) REGULATIONS.—Not later than 180 days after the date of the enactment of this division, regulations implementing the amendments made by section 46001 to section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), including definitions of the terms used in subsection (f) of such section, shall be issued in accordance with sections 6 and 25 of such Act (41 U.S.C. 405 and 521) after coordination with the Director of the Office of Government Ethics.

(b) SAVINGS PROVISIONS.—

(1) CONTRACTOR CERTIFICATIONS.—No officer, employee, agent, representative, or consultant of a contractor who has signed a certification under section 27(e)(1)(B) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)(1)(B)) before the effective date of this division shall be required to sign a new certification as a result of the enactment of this division.

(2) FEDERAL PROCUREMENT OFFICIAL CERTIFICATIONS.—No procurement official of a Federal agency who has signed a certification under section 27(l) of the Office of Federal Procurement Policy Act (41 U.S.C.

423(1)) before the date of enactment of this division shall be required to sign a new certification as a result of the enactment of this division.

(c) INSPECTOR GENERAL REPORTS.—Not later than May 31 of each of the years 1995 through 1998, the Inspector General of each Federal agency (or, in the case of a Federal agency that does not have an Inspector General, the head of such agency) shall submit to Congress a report on the compliance by the agency during the preceding year with the requirement for the head of the agency to designate covered procurement positions under section 27(f)(3) of the Office of Federal Procurement Policy Act (as added by section 46001(c)).

Subtitle B—Additional Amendments

SEC. 46051. CONTRACTING FUNCTIONS PERFORMED BY FEDERAL PERSONNEL.

(a) AMENDMENT OF OFPP ACT.—The Office of Federal Procurement Policy Act, as amended by section 41092, is further amended by inserting after section 22 the following new section 23:

"CONTRACTING FUNCTIONS PERFORMED BY FEDERAL PERSONNEL

"SEC. 23. (a) LIMITATION ON PAYMENT FOR ADVISORY AND ASSISTANCE SERVICES.—(1) No person who is not a person described in subsection (b) may be paid by an agency for services to conduct evaluations or analyses of any aspect of a proposal submitted for an acquisition unless personnel described in subsection (b) with adequate training and capabilities to perform such evaluations and analyses are not readily available within the agency or another Federal agency, as determined in accordance with standards and procedures prescribed in the Federal Acquisition Regulation.

"(2) In the administration of this subsection, the head of each agency shall determine in accordance with the standards and procedures set forth in the Federal Acquisition Regulation whether—

"(A) a sufficient number of personnel described in subsection (b) within the agency or another Federal agency are readily available to perform a particular evaluation or analysis for the agency head making the determination; and

"(B) the readily available personnel have the training and capabilities necessary to perform the evaluation or analysis.

"(b) COVERED PERSONNEL.—For purposes of subsection (a), the personnel described in this subsection are as follows:

"(1) An employee, as defined in section 2105 of title 5, United States Code.

"(2) A member of the Armed Forces of the United States.

"(3) A person assigned to a Federal agency pursuant to subchapter VI of chapter 33 of title 5, United States Code.

"(c) RULE OF CONSTRUCTION.—Nothing in this section is intended to affect the relationship between the Federal Government and a federally funded research and development center.".

(b) REQUIREMENT FOR GUIDANCE AND REGULATIONS.—Not later than 90 days after the date of the enactment of this division, the Federal Acquisition Regulatory Council established by section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall—

(1) review part 37 of title 48 of the Code of Federal Regulations as it relates to the use of advisory and assistance services; and

(2) provide guidance and promulgate regulations regarding—

(A) what actions Federal agencies are required to take to determine whether expertise is readily available within the Federal Government before contracting for advisory and technical services to conduct acquisitions; and

(B) the manner in which personnel with expertise may be shared with agencies needing expertise for such acquisitions.

SEC. 46052. REPEAL OF EXECUTED REQUIREMENT FOR STUDY AND REPORT.

Section 17 of the Office of Federal Procurement Policy Act (41 U.S.C. 415) is repealed.

SEC. 46053. INTERESTS OF MEMBERS OF CONGRESS.

Section 3741 of the Revised Statutes (41 U.S.C. 22) is amended to read as follows:

"No member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or accepted by or on behalf of the United States, or to any benefit to arise thereupon.".

SEC. 46054. WAITING PERIOD FOR SIGNIFICANT CHANGES PROPOSED FOR ACQUISITION REGULATIONS.

(a) INCREASED PERIOD.—Section 22(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 418b) is amended—

(1) by striking out "30 days" and inserting in lieu thereof "60 days"; and

(2) by adding at the end the following: "Notwithstanding the preceding sentence, such a policy, regulation, procedure, or form may take effect earlier than 60 days after the publication date when there are compelling circumstances for the earlier effective date, but in no event may that effective date be less than 30 days after the publication date.".

(b) TECHNICAL AMENDMENT.—Section 22(d) of such Act is amended by designating the second sentence as paragraph (3).

Subtitle C—Whistleblower Protection

SEC. 46101. ARMED SERVICES PROCUREMENTS.

(a) WHISTLEBLOWER PROTECTIONS FOR CONTRACTOR EMPLOYEES.—Section 2409 of title 10, United States Code, is amended—

(1) by striking out subsection (d);

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following new subsection (c):

"(c) REMEDY AND ENFORCEMENT AUTHORITY.—(1) If the Secretary of Defense determines that a defense contractor has subjected a person to a reprisal prohibited by subsection (a), the Secretary may take one or more of the following actions:

"(A) Order the defense contractor to take affirmative action to abate the reprisal.

"(B) Order the defense contractor to reinstate the person to the position that the person held before the reprisal, together with the compensation (including back pay), employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

"(C) Order the defense contractor to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorney's fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the Secretary.

"(2) Whenever a person fails to comply with an order issued under paragraph (1), the Secretary shall file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief and compensatory and exemplary damages.

"(3) Any person adversely affected or aggrieved by an order issued under paragraph (1) may obtain review of the order's conformance with this subsection, and any regulations issued to carry out this section, in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the Secretary's order. Review shall conform to chapter 7 of title 5.".

(b) RELATED LAW.—

(1) REPEAL.—Section 2409a of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2409a.

SEC. 46102. GOVERNMENTWIDE WHISTLEBLOWER PROTECTIONS FOR CONTRACTOR EMPLOYEES.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 45091, is further amended by adding at the end the following new section:

"CONTRACTOR EMPLOYEES: PROTECTION FROM REPRISAL FOR DISCLOSURE OF CERTAIN INFORMATION

"SEC. 32. (a) PROHIBITION OF REPRISALS.—An employee of an executive agency contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a Member of Congress or an authorized official of the agency or the Department of Justice information relating to a substantial violation of law related to an agency contract (including the competition for or negotiation of an agency contract).

"(b) INVESTIGATION OF COMPLAINTS.—A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the Inspector General of the executive agency. Unless the Inspector General determines that the complaint is frivolous, the Inspector General shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the contractor concerned, and the head of the agency. In the case of an executive agency that does not have an inspector general, the duties of the inspector general under this section shall be performed by an official designated by the agency head.

"(c) REMEDY AND ENFORCEMENT AUTHORITY.—(1) If the head of an executive agency determines that an agency contractor has subjected a person to a reprisal prohibited by subsection (a), the agency head may take one or more of the following actions:

"(A) Order the contractor to take affirmative action to abate the reprisal.

"(B) Order the contractor to reinstate the person to the position that the person held before the reprisal, together with the compensation (including back pay), employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

"(C) Order the contractor to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorney's fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the Secretary.

"(2) Whenever a person fails to comply with an order issued under paragraph (1), the agency head shall file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief and compensatory and exemplary damages.

"(3) Any person adversely affected or aggrieved by an order issued under paragraph (1) may obtain review of the order's conformance with this subsection, and any regulations issued to carry out this section, in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the agency head's order. Review shall conform to chapter 7 of title 5, United States Code.

"(d) CONSTRUCTION.—Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.

"(e) COORDINATION WITH OTHER LAW.—This section does not apply with respect to the Department of Defense. For the corresponding provision of law applicable to the Department of Defense, see section 2409 of title 10, United States Code.

"(f) DEFINITION.—In this section, the term 'Inspector General' means an Inspector General appointed under the Inspector General Act of 1978.".

TITLE XLVII—DEFENSE TRADE AND COOPERATION

SEC. 47001. PURCHASES OF FOREIGN GOODS.

(a) REPEAL OF EXECUTED REQUIREMENTS.—

(1) REQUIREMENT FOR POLICY GUIDANCE.—Title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.), commonly referred to as the "Buy American Act", is amended in section 4(g) (41 U.S.C. 10b-1(g)) by striking out paragraphs (2)(C) and (3).

(2) REPORTING REQUIREMENT.—Section 9096(b) of Public Law 102-396 (106 Stat. 1924; 41 U.S.C. 10b-2(b)) is repealed.

(b) REPEAL OF REDUNDANT PROVISION.—

(1) CONSIDERATION OF NATIONAL SECURITY OBJECTIVES.—Section 2327 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2327.

SEC. 47002. INTERNATIONAL COOPERATIVE AGREEMENTS.

(a) TERMINOLOGY REVISIONS.—Section 2531 of title 10, United States Code, is amended—

(1) in the subsection captions for subsections (a) and (c), by striking out "MOUs AND RELATED" and inserting in lieu thereof "INTERNATIONAL";

(2) in subsection (a), by striking out "proposed memorandum of understanding, or any existing or proposed agreement related to a memorandum of understanding," in the matter above paragraph (1) and inserting in lieu thereof "proposed international agreement, including a memorandum of understanding,";

(3) by striking out "memorandum of understanding or related agreement" each place it appears and inserting in lieu thereof "international agreement";

(4) in subsection (b), by striking out "memorandum or related agreement" each place it appears in the second sentence and inserting in lieu thereof "international agreement"; and

(5) in subsection (c)—

(A) by striking out "A" after "AGREEMENTS.—" and inserting in lieu thereof "An"; and

(B) by striking out "memorandum or agreement" and inserting in lieu thereof "international agreement".

(b) EXPANDED SCOPE OF AGREEMENTS.—Section 2531(a) of title 10, United States Code, is amended by striking out "research, development, or production" in the matter above paragraph (1) and inserting in lieu thereof "research, development, production, or logistics support".

(c) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 2531 of title 10, United States Code, is amended to read as follows:

"§ 2531. Defense international agreements".

(2) TABLE OF SECTIONS.—The item relating to such section in the table of sections at the beginning of subchapter V of chapter 148 of such title is amended to read as follows:

"2531. Defense international agreements.".

SEC. 47003. ACQUISITION, CROSS-SERVICING AGREEMENTS, AND STANDARDIZATION.

(a) LIMITED WAIVER OF RESTRICTIONS ON ACCRUED REIMBURSABLE LIABILITIES AND CREDITS FOR CONTINGENCY OPERATIONS.—Section 2347 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) The Secretary of Defense may waive the restrictions in subsections (a) and (b) for a period not to exceed 180 days upon a written determination that the armed forces are involved in a contingency operation or that involvement of the armed forces in a contingency operation is imminent. Upon making such a determination, the Secretary shall transmit a copy of the determination to the Committees on Armed Services of the Senate and House of Representatives.".

(b) COMMUNICATIONS SUPPORT.—Section 2350f of title 10, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) Nothing in this section shall be construed to limit the authority of the Secretary of Defense, without a formal bilateral agreement or multilateral arrangement, to furnish communications support and related supplies to, or receive communications support and related supplies from, an allied country in accordance with this subsection.

"(2) The Secretary of Defense may furnish or receive such support and supplies on a reciprocal basis for a period not to exceed 90 days—

"(A) in order to meet emerging operational requirements of the United States and the allied country; or

"(B) incident to a joint military exercise with the allied country.

"(3) If interconnection of communication circuits is maintained for joint or multilateral defense purposes under the authority of this subsection, the costs of maintaining such circuits may be allocated among the various users.".

TITLE XLVIII—COMMERCIAL ITEMS

SEC. 48001. DEFINITIONS.

Section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403), as amended by section 44001(a), is further amended—

(1) by striking out "Act—"and inserting in lieu thereof "Act:";

(2) by capitalizing the initial letter in the first word of each paragraph;

(3) by striking out the semicolon at the end of each of paragraphs (1), (2), (3), (5), (6), (7), (8), and (9) and inserting in lieu thereof a period;

(4) in paragraphs (4) and (10), by striking out "; and" at the end and inserting in lieu thereof a period; and

(5) by adding at the end the following new paragraphs:

"(12) The term 'commercial item' means—

"(A) property, other than real property, that is of a type customarily used by the general public or by nongovernmental entities in the course of normal business operations for purposes other than governmental purposes and—

"(i) has been sold, leased, or licensed to the general public;

"(ii) has not been sold, leased, or licensed to the general public but has been offered for sale, lease, or license to the general public; or

"(iii) is not yet available in the commercial marketplace but will be made available for commercial delivery within a reasonable period;

"(B) any item that, but for—

"(i) modifications of a type customarily available in the commercial marketplace, or

"(ii) minor modifications made to meet Federal Government requirements,

would satisfy the criteria in subparagraph (A);

"(C) any combination of items meeting the requirements of subparagraph (A), (B), or (D) that are of a type customarily combined and sold in combination to the general public;

"(D) installation services, maintenance services, repair services, training services, and other services if such services are procured for support of an item referred to in subparagraph (A), (B), or (C) and if the source of such services—

"(i) offers such services to the general public and the Federal Government contemporaneously and under similar terms and conditions; and

"(ii) offers to use the same work force for providing the Federal Government with such services as the source uses for providing such services to the general public; and

"(E) any item, combination of items, or service referred to in subparagraph (A), (B), (C), or (D), regardless of whether the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor.

"(13) The term 'nondevelopmental item' means—

"(A) any commercial item;

"(B) any previously developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

"(C) any item of supply described in subparagraph (A) or (B) that requires only minor modification of the type normally available in the commercial marketplace in order to meet the requirements of the procuring department or agency; or

"(D) any item of supply currently being produced that does not meet the requirements of subparagraph (A), (B), or (C) solely because the item—

"(i) is not yet in use; or

"(ii) is not yet available in the commercial marketplace.

"(14) The term 'component' means any item supplied to the Federal Government as part of an end item or of another component.

"(15) The term 'commercial component' means any component that is a commercial item.".

SEC. 48002. PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS AND NONDEVELOPMENTAL ITEMS.

(a) PREFERENCE REQUIRED.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 46102, is further amended by adding at the end the following new section:

"PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS AND NONDEVELOPMENTAL ITEMS

"SEC. 33. (a) PREFERENCE.—The head of each executive agency shall ensure that, to the maximum extent practicable—

"(1) requirements of the executive agency with respect to a procurement of supplies are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, other nondevelopmental items may be procured to fulfill such requirements; and

"(3) offerors of commercial items and other nondevelopmental items are provided an opportunity to compete in any procurement to fill such requirements.

"(b) IMPLEMENTATION.—The head of each executive agency shall ensure that procurement officials in that executive agency, to the maximum extent practicable—

"(1) acquire commercial items or other nondevelopmental items to meet the needs of the executive agency;

"(2) require prime contractors and subcontractors at all levels under the executive agency contracts to incorporate commercial items or other nondevelopmental items as components of items supplied to the executive agency;

"(3) modify requirements in appropriate cases to ensure that the requirements can be met by commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, other nondevelopmental items;

"(4) state specifications in terms that enable and encourage bidders and offerors to supply commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, other nondevelopmental items in response to the executive agency solicitations;

"(5) revise the executive agency's procurement policies, practices, and procedures not required by law to reduce any impediments in those policies, practices, and procedures to the acquisition of commercial items; and

"(6) require training of appropriate personnel in the acquisition of commercial items.

"(c) PRELIMINARY MARKET RESEARCH.—(1) The head of an executive agency shall conduct market research appropriate to the circumstances—

"(A) before developing new specifications for a procurement by that executive agency; and

"(B) before soliciting bids or proposals for a contract in excess of the simplified acquisition threshold.

"(2) The head of an executive agency shall use the results of market research to determine whether there are commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, other nondevelopmental items available that—

"(A) meet the executive agency's requirements;

"(B) could be modified to meet the executive agency's requirements; or

"(C) could meet the executive agency's requirements if those requirements were modified to a reasonable extent.

"(3) In conducting market research, the head of an executive agency should not require potential sources to submit more than the minimum information that is necessary to make the determinations required in paragraph (2).".

(b) REPEAL OF SUPERSEDED PROVISION.—

(1) SEPARATE STATEMENT OF PREFERENCE FOR DEPARTMENT OF DEFENSE.—Section 2325 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2325.

SEC. 48003. ACQUISITION OF COMMERCIAL ITEMS.

(a) REQUIRED FAR PROVISIONS.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 48002, is further amended by adding at the end the following:

"FEDERAL ACQUISITION REGULATION PROVISIONS REGARDING ACQUISITIONS OF COMMERCIAL ITEMS AND COMPONENTS

"SEC. 34. (a) CONTRACT CLAUSES AND OTHER CLAUSES.—(1)(A) The Federal Acquisition Regulation shall include one or more sets of contract clauses containing the required terms and conditions for the acquisition of commercial items and commercial components by executive agencies and by contractors in the performance of contracts of executive agencies.

"(B) The contract clauses referred to in subparagraph (A) shall include only—

"(i) those clauses that are required to implement provisions of law or executive orders applicable to acquisitions of commercial items or commercial components, as the case may be;

"(ii) those contract clauses that are essential for the protection of the Federal Government's interest in an acquisition of commercial items or commercial components, as the case may be; and

"(iii) those contract clauses that are determined to be consistent with standard commercial practice.

"(2) Subject to paragraph (3), the Federal Acquisition Regulation shall require that, to the maximum extent practicable, only the contract clauses referred to in paragraph (1) be used in a contract, or be required to be used in a subcontract, for the acquisition of commercial items or commercial components by or for an executive agency.

"(3) The Federal Acquisition Regulation shall provide that a contract or subcontract referred to in paragraph (2) may contain contract clauses other than the contract clauses referred to in that paragraph only if the other clauses are essential for the protection of the Federal Government's interest in—

"(A) that contract or subcontract, as determined in writing by the contracting officer for such contract; or

"(B) a class of contracts or subcontracts, as determined by the head of an agency concerned, unless the determination of that head of an agency is disapproved by the Administrator.

"(4) The Federal Acquisition Regulation shall provide standards and procedures for waiving the use of contract clauses required pursuant to paragraph (1), other than those required by law, including standards for determining the cases in which a waiver is appropriate.

"(b) MARKET ACCEPTANCE.—(1) The Federal Acquisition Regulation shall provide that under appropriate conditions the head of an executive agency may require offerors to demonstrate that the items offered—

"(A) have either—

"(i) achieved commercial market acceptance; or

"(ii) been satisfactorily supplied to an executive agency under current or recent contracts for the same or similar requirements; and

"(B) otherwise meet the item description, specifications, or other criteria prescribed in the public notice and solicitation relating to the contract.

"(2) The Federal Acquisition Regulation shall provide guidance to ensure that the criteria for determining commercial market acceptance include the consideration of—

"(A) the minimum needs of the executive agency concerned; and

"(B) the entire relevant commercial market, including small businesses.

"(c) USE OF FIRM, FIXED PRICE CONTRACTS.—The Federal Acquisition Regulation shall include a requirement that firm, fixed price contracts or fixed price with economic price adjustment contracts, be used, to the maximum extent practicable, for the acquisition of commercial items.

"(d) CONTRACT QUALITY REQUIREMENTS.—The Federal Acquisition Regulation shall include provisions that—

"(1) permit, to the maximum extent practicable, a contractor under a commercial items acquisition to use the contractor's existing quality assurance system as a substitute for compliance with a requirement for the Federal Government to inspect or test the commercial items before the contractor's tender of those items for acceptance by the Federal Government;

"(2) require that, to the maximum extent practicable, an executive agency accept commercial warranties (including extended warranties) offered by offerors of commercial items to commercial customers and use such warranties for the repair and replacement of commercial items; and

"(3) set forth guidance to executive agencies regarding the use of past performance of items and sources as a factor in contract award decisions.

"(e) TREATMENT OF TRANSFERS BETWEEN AFFILIATES.—The Federal Acquisition Regulation shall provide for a transfer of commercial items from one division, subsidiary, or affiliate of a contractor to another division, subsidiary, or affiliate of the contractor to be treated as a subcontract for purposes of section 35 of the Office of Federal Procurement Policy Act and the provisions of law amended by section 48005 of the Federal Acquisition Streamlining Act of 1994.".

(b) DEFENSE CONTRACT CLAUSES.—

(1) TERMINATION OF DOD AUTHORITY.—Section 824(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 2325 note) shall cease to be effective on the date on which the regulations implementing section 34 of the Office of Federal Procurement Policy Act, as added by subsection (a), become effective.

(2) SAVINGS PROVISION.—Notwithstanding section 34(a) of the Office of Federal Procurement Policy Act (as added by subsection (a)), contracts of the Department of Defense entered into before the date on which section 824(b) ceases to be effective under paragraph (1), and subcontracts entered into before such date under such contracts, may include clauses developed pursuant to paragraphs (2) and (3) of section 824(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 2325 note).

SEC. 48004. CLASS WAIVER CF APPLICABILITY OF CERTAIN LAWS.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 48003, is further amended by adding at the end the following:

"CLASS WAIVER OF APPLICABILITY OF CERTAIN LAWS TO ACQUISITIONS OF COMMERCIAL ITEMS

"SEC. 35. (a) IN GENERAL.—The applicability of a provision of law described in subsection (c) that is enacted after the date of the enactment of the Federal Acquisition Streamlining Act of 1994 to contracts for the acquisition of commercial items may be waived on a class basis in the Federal Acquisition Regulation. Such a waiver shall not apply to a provision of law that expressly refers to this section and prohibits the waiver of that provision of law.

"(b) WAIVER OF APPLICABILITY TO SUBCONTRACTS.—(1) The applicability of a provision of law described in subsection (c) to subcontracts under a contract for the acquisition of commercial items or a subcontract for the acquisition of commercial components may be waived on a class basis in the Federal Acquisition Regulation. Such a waiver shall not apply to a provision of law that expressly refers to this section and prohibits the waiver of that provision of law.

"(2) Nothing in this subsection shall be construed to authorize the waiver of the applicability of any provision of law with respect to—

"(A) any contract with a prime contractor; or

"(B) any subcontract under a contract with a prime contractor who does not substantially transform the commercial items supplied under the contract.

"(c) COVERED LAW.—A provision of law referred to in subsections (a) and (b) is any provision of law that, as determined by the Federal Acquisition Regulatory Council, sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government.".

SEC. 48005. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) ARMED SERVICES ACQUISITIONS.—

(1) PROHIBITION ON CONTINGENT FEES.—Section 2306(b) of title 10, United States Code, as amended by section 44022(a), is further amended by inserting before the period at the end of the sentence added by section 44022(a) the following: "or to a contract for the acquisition of commercial items".

(2) REQUIREMENT TO IDENTIFY SUPPLIERS AND SOURCES OF SUPPLIES.—Paragraph (2) of section 2384(b) of title 10, United States Code, is amended to read as follows:

"(2) The regulations prescribed pursuant to paragraph (1) do not apply to a contract that requires the delivery of supplies that are commercial items, as defined in section 2302 of this title.".

(3) PROHIBITION AGAINST DOING BUSINESS WITH CERTAIN OFFERORS OR CONTRACTORS.—Section 2393(d) of title 10, United States Code, as amended by section 44022(e), is further amended by adding at the end the following: "The requirement shall not apply in the case of a subcontract for the acquisition of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).".

(4) PROHIBITION ON LIMITATION OF SUBCONTRACTOR DIRECT SALES.—Section 2402 of title 10, United States Code, as amended by section 44022(b), is further amended by adding at the end the following new subsection:

"(d)(1) An agreement between the contractor in a contract for the acquisition of commercial items and a subcontractor under such contract that restricts sales by such subcontractor directly to persons other than the contractor may not be considered to unreasonably restrict sales by that subcontractor to the United States in violation of the provision included in such contract pursuant to subsection (a) if the agreement does not result in the Federal Government being treated differently with regard to the restriction than any other prospective purchaser of such commercial items from that subcontractor.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(5) CONTRACTOR INVENTORY ACCOUNTING SYSTEMS: STANDARDS.—Section 2410b of title 10, United States Code, is amended—

(A) by inserting "(a) REGULATIONS REQUIRED.—" before "The Secretary of Defense"; and

(B) by adding at the end the following new subsection:

"(b) INAPPLICABILITY TO ACQUISITIONS OF COMMERCIAL ITEMS.—The regulations prescribed pursuant to subsection (a) need not apply to a contract for the acquisition of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).".

(6) PROHIBITION ON PERSONS CONVICTED OF DEFENSE-CONTRACT RELATED FELONIES.—Paragraph (4) of section 2408(a) of title 10, United States Code, as added by section 44022(f), is amended—

(A) by inserting after subparagraph (A) the following:

"(B) A contract referred to in such subparagraph that is for the acquisition of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)))."; and

(B) by inserting "or (B)" before the period at the end of subparagraph (C).

(b) CIVILIAN AGENCY ACQUISITIONS.—

(1) RESTRICTIONS ON SUBCONTRACTOR SALES TO THE UNITED STATES.—Section 303G of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253g), as amended by section 44023(b), is further amended by adding at the end the following new subsection:

"(d) An agreement between the contractor in a contract for the acquisition of commercial items and a subcontractor under such contract that restricts sales by such subcontractor directly to persons other than the contractor may not be considered to unreasonably restrict sales by that subcontractor to the United States in violation of the provision included in such contract pursuant to subsection (a) if the agreement does not result in the Federal Government being treated differently with regard to the restriction than any other prospective purchaser of such commercial items from that subcontractor.".

(2) PROHIBITION ON CONTINGENT FEES.—Section 304(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)), as amended by section 44023(a), is further amended by inserting before the period at the end of the sentence added by section 44023(a) the following: "or to a contract for the acquisition of commercial items".

(c) ACQUISITIONS GENERALLY.—

(1) FEDERAL WATER POLLUTION CONTROL ACT.—Section 508 of the Federal Water Pollution Control Act (33 U.S.C. 1368) is amended by adding at the end the following new subsection:

"(f)(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(2) CONTRACT WORK HOURS AND SAFETY STANDARDS ACT.—The Contract Work Hours and Safety Standards Act (title I of the Work Hours and Safety Act of 1962 (40 U.S.C. 327 et seq.)) is amended by adding at the end the following new section:

"SEC. 108. (a) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement in this title.

"(b) In subsection (a), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(3) OFFICE OF FEDERAL PROCUREMENT POLICY ACT REQUIREMENT RELATING TO PROCUREMENT INTEGRITY CERTIFICATIONS.—Section 27(e)(7) of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended by adding at the end the following new subparagraph:

"(C) This subsection does not apply to a contract for the acquisition of commercial items.".

(4) CERTAIN PROVISIONS OF THE ANTI-KICKBACK ACT OF 1986.—

(A) REQUIREMENT FOR CONTRACT CLAUSE.—Section 7 of the Anti-Kickback Act of 1986 (41 U.S.C. 57), as amended by section 44024(b), is further amended by inserting before the period at the end of subsection (d) the following: "or to a prime contract for the acquisition of commercial items (as defined in section 4(12) of such Act (41 U.S.C. 403(12)))".

(B) INSPECTION AUTHORITY.—Section 8 of such Act (41 U.S.C. 58) is amended by adding at the end the following: "This section does not apply with respect to a prime contract for the acquisition of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)))."

(5) DRUG-FREE WORKPLACE ACT OF 1988.—Section 5152(a)(1) of the Drug-Free Workplace Act of 1988 (subtitle D of title V of Public Law 100-690; 41 U.S.C. 701(a)(1)), as amended by section 44024(e), is further amended by inserting after the matter inserted by such section 44024(e) the following: ", other than a contract for the procurement of commercial items (as defined in section 4(12) of such Act (41 U.S.C. 403(12)),".

(6) CLEAN AIR ACT.—Section 306 of the Clean Air Act (42 U.S.C. 7606) is amended by adding at the end the following new subsection:

"(f)(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(7) FLY AMERICAN REQUIREMENTS.—Section 1117 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1517) is amended by adding at the end the following new subsection:

"(e)(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the transportation of commercial items in order to implement a requirement in this section.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

SEC. 48006. FLEXIBLE DEADLINES FOR SUBMISSION OF OFFERS OF COMMERCIAL ITEMS.

(a) OFFICE OF FEDERAL PROCUREMENT POLICY ACT AMENDMENT.—Section 18(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)) is amended by adding at the end the following new paragraph:

"(4) The requirements of paragraph (3)(B) do not apply to contracts for the purchase of commercial items. The Administrator shall prescribe for such contracts appropriate limits on the applicability of a deadline for submission of bids or proposals that is required by paragraph (1). Such limits shall be incorporated in the Federal Acquisition Regulation. The Federal Acquisition Regulation shall specify a minimum period for submission of a response to a solicitation of offers for a contract for the acquisition of commercial items.".

(b) SAVINGS PROVISION.—The deadlines for submission of offers that are in effect in accordance with section 18(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall continue to apply to contracts for the purchase of commercial items until the limits prescribed pursuant to paragraph (4) of section 18(a) of the Office of Federal Procurement Policy Act (as added by subsection (a)) are incorporated in the Federal Acquisition Regulation, as required by such paragraph.

SEC. 48007. ADVOCATES FOR ACQUISITION OF COMMERCIAL AND NONDEVELOPMENTAL ITEMS.

(a) RESPONSIBILITIES OF THE ADVOCATE FOR COMPETITION.—Section 20(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(c)) is amended to read as follows:

"(c) The advocate for competition for each procuring activity shall be responsible for promoting full and open competition, promoting the acquisition of commercial items and other nondevelopmental items, and challenging barriers to such acquisition, including such barriers as unnecessarily restrictive statements of need, unnecessarily detailed specifications, and unnecessarily burdensome contract clauses.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 28 of such Act (41 U.S.C. 424) is repealed.

SEC. 48008. PROVISIONS NOT AFFECTED.

Nothing in this title shall be construed as amending, modifying, or superseding, or as intended to impair or restrict authorities or responsibilities under—

(1) section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), popularly referred to as the "Brooks Automatic Data Processing Act";

(2) title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.), popularly referred to as the "Brooks Architect-Engineers Act";

(3) subsections (a) and (d) of section 8 of the Small Business Act (15 U.S.C. 637); or

(4) the Act of June 25, 1938 (41 U.S.C. 46-48c), that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77), popularly referred to as the "Javits-Wagner-O'Day Act".

SEC. 48009. COMPTROLLER GENERAL REVIEW OF FEDERAL GOVERNMENT USE OF MARKET RESEARCH.

(a) REPORT REQUIRED.—Not later than 2 years after the date of the enactment of this division, the Comptroller General of the United States shall submit to the Congress a report on the use of market research by the Federal Government in support of the procurement of commercial items and nondevelopmental items.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) A review of existing Federal Government market research efforts to gather data concerning commercial and other nondevelopmental items.

(2) A review of the feasibility of creating a Government-wide data base for storing, retrieving, and analyzing market data, including use of existing Federal Government resources.

(3) Any recommendations for changes in law or regulations that the Comptroller General considers appropriate.

TITLE XLIX—MISCELLANEOUS PROVISIONS

SEC. 49001. COMPTROLLER GENERAL REVIEW OF THE PROVISION OF LEGAL ADVICE FOR INSPECTORS GENERAL.

(a) REVIEW AND REPORT REQUIRED.—Not later than March 1, 1995, the Comptroller General of the United States shall—

(1) conduct a review of the independence of the legal services being provided to Inspectors General appointed under the Inspector General Act of 1978; and

(2) submit to Congress a report on the results of the review.

(b) MATTERS REQUIRED FOR REPORT.—The report shall include the following matters:

(1) With respect to each department or agency of the Federal Government that has an Inspector General appointed in accordance with the Inspector General Act of 1978 whose only or principal source of legal advice is the general counsel or other chief legal officer of the department or agency, an assessment of the extent of the independence of the legal advisors providing advice to the Inspector General.

(2) A comparison of the findings under the assessment referred to in paragraph (1) with findings on the same matters with respect to each Inspector General whose source of legal advice is legal counsel accountable solely to the Inspector General.

SEC. 49002. COST SAVINGS FOR OFFICIAL TRAVEL.

(a) The Administrator of the General Services Administration, no later than 120 days after enactment of this section, shall issue guidelines to ensure that agencies promote, encourage and facilitate the use of frequent traveler programs offered by airlines, hotels and car rental vendors by Federal employees who engage in official air travel, for the purpose of realizing to the maximum extent practicable cost savings for official travel.

(b) Any awards granted under such a frequent traveler program accrued through official travel shall be used only for official travel.

(c) Within one year of enactment of this section, the Administrator shall report to the Congress on efforts to promote the use of frequent traveler programs by Federal employees.

SEC. 49003. PROMPT RESOLUTION OF AUDIT RECOMMENDATIONS.

Federal agencies shall resolve or take corrective action on all Office of Inspector General audit report findings within a maximum of six months after their issuance, or, in the case of audits performed by non-Federal auditors, six months after receipt of the report by the Federal Government.

SEC. 49004. UNIFORM SUSPENSION AND DEBARMENT.

(a) Within six months after the date of enactment of this division, regulations shall be issued providing that provisions for the debarment, suspension, or other exclusion of a participant in a procurement activity under the Federal Acquisition Regulation, or in a nonprocurement activity under regulations issued pursuant to Executive Order No. 12549, shall have government-wide effect. No agency shall allow a party to participate in any procurement or nonprocurement activity if any agency has debarred, suspended, or otherwise excluded (to the extent specified in the exclusion agreement) that party from participation in a procurement or nonprocurement activity.

(b) The Regulations issued pursuant to subsection (a) shall provide that an agency may grant an exception permitting a debarred, suspended, or otherwise excluded party to participate in procurement activities of that agency to the extent exceptions are authorized under the Federal Acquisition Regulation, or to participate in nonprocurement activities of that agency to the extent exceptions are authorized under regulations issued pursuant to Executive Order No. 12549.

(c) DEFINITIONS.—For the purposes of this part—

(1) "Procurement activities" refers to all acquisition programs and activities of the Federal Government, as defined in the Federal Acquisition Regulation.

(2) "Nonprocurement activities" refers to all programs and activities involving Federal financial and nonfinancial assistance and benefits, as covered by Executive Order No. 12549 and the Office of Management and Budget guidelines implementing that order.

(3) "Agency" refers to executive departments and agencies.

TITLE L—EFFECTIVE DATES AND IMPLEMENTATION

SEC. 50001. EFFECTIVE DATES.

(a) EFFECTIVE DATE OF ACT.—Except as otherwise provided in this division, this division shall take effect on the date of the enactment of this Act.

(b) EFFECTIVE DATE OF AMENDMENTS.—Except as otherwise provided in this division, the amendments made by this division shall take effect on the date on which final implementing regulations are prescribed in accordance with section 50002.

SEC. 50002. IMPLEMENTING REGULATIONS.

(a) PROPOSED CHANGES.—Proposed changes to the Federal Acquisition Regulation and such other proposed regulations (or changes to existing regulations) as may be necessary to implement this division shall be published in the Federal Register not later than 210 days after the date of the enactment of this division.

(b) PUBLIC COMMENT.—The proposed regulations described in subsection (a) shall be made available for public comment for a period of not less than 60 days.

(c) FINAL REGULATIONS.—Final regulations shall be published in the Federal Register not later than 330 days after the date of enactment of this division.

(d) APPLICABILITY.—(1) The amendments made by this division shall apply, in the manner prescribed in such final regulations, to any solicitation that is issued or any unsolicited proposal that is received on or after the date described in paragraph (3).

(2) The amendments made by this division shall apply, to the extent and in the manner prescribed in such final regulations, to any matter related to—

(A) a contract that is in effect on the date described in paragraph (3);

(B) an offer under consideration on the date described in paragraph (3); or

(C) any other proceeding or action that is ongoing on the date described in paragraph (3).

(3) The date referred to in paragraphs (1) and (2) is the date specified in such regulations, which—

(A) shall not be earlier than the end of the 30-day period that begins on the date the regulations required by subsection (c) are published; and

(B) shall not be later than October 1, 1995.

(e) REQUIREMENT FOR CLARITY.—Officers and employees of the Federal Government who prescribe regulations to implement this division and the amendments made by this division shall make every effort practicable to ensure that the regulations are concise and are easily understandable by potential offerors as well as by Government officials.

(f) SAVINGS PROVISION.—Nothing in this division shall be construed to affect the validity of any action taken or any contract entered into prior to the date specified in the regulations pursuant to subsection (d)(3) except to the extent and in the manner prescribed in such regulations.

SEC. 50003. EVALUATION BY THE COMPTROLLER GENERAL.

(a) EVALUATION RELATING TO ISSUANCE OF REGULATIONS.—Not later than December 1, 1995, the Comptroller General shall submit to the committees referred to in subsection (c) a report evaluating compliance with the requirements in section 50002, relating to the issuance of implementing regulations.

(b) EVALUATION OF IMPLEMENTATION OF REGULATIONS.—Not later than December 1, 1996, the Comptroller General shall submit to the committees referred to in subsection (c) a report evaluating the effectiveness of the regulations implementing this division in streamlining the acquisition system and fulfilling the other purposes of this division. The report shall include the Comptroller General's evaluation of the extent to which the departments and agencies of the Federal Government, in implementing this division and the amendments made by this division, are reducing acquisition management layers and associated costs.

(c) COMMITTEES DESIGNATED TO RECEIVE THE REPORTS.—The Comptroller General shall submit the reports required by this section to the Committees on Armed Services and on Governmental Affairs of the Senate and the Committees on Small Business on Government Operations of the House of Representatives.

SEC. 50004. DATA COLLECTION THROUGH THE FEDERAL PROCUREMENT DATA SYSTEM.

(a) DATA COLLECTION REQUIRED.—The Federal Procurement Data System described in section 6(d)(4)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(4)(A)) shall be modified to collect from contracts in excess of the simplified acquisition threshold data pertaining to the following matters:

(1) Contract awards made pursuant to competitions conducted pursuant to section 2323 of title 10, United States Code, or section 8(c) of the Small Business Act (15 U.S.C. 637(c)).

(2) Awards to business concerns owned and controlled by women.

(3) Number of offers received in response to a solicitation.

(4) Task order contracts.

(5) Contracts for the acquisition of commercial items.

(b) DEFINITION.—In this section, the term "simplified acquisition threshold" has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

TITLE LI—WAIVER OF THE APPLICATION OF THE PREVAILING WAGE-SETTING REQUIREMENTS TO VOLUNTEERS

SEC. 51001. SHORT TITLE.

This title may be cited as the "Community Improvement Volunteer Act of 1994".

SEC. 51002. PURPOSE.

It is the purpose of this title to promote and provide more opportunities for people who wish to volunteer their services in the construction, repair or alteration (including painting and decorating) of public buildings and public works funded, in whole or in part, with Federal financial assistance authorized under certain Federal programs that might not otherwise be possible without the use of volunteers, by waiving the application of the otherwise applicable prevailing wage-setting provisions of the Act of March 3, 1931 (commonly known as the "Davis-Bacon Act") (40 U.S.C. 276a et seq.) to such volunteers.

SEC. 51003. WAIVER.

(a) IN GENERAL.—The requirement that certain laborers and mechanics be paid in accordance with the wage-setting provisions of the Act of March 3, 1931 (commonly known as the "Davis-Bacon Act") (40 U.S.C. 276a et seq.) as set forth in any of the Acts or provisions described in subsection (d), and the provisions relating to wages, in any federally assisted or insured contract or subcontract for construction, shall not apply to any individual—

(1) who volunteers—

(A) to perform a service for a public or private entity for civic, charitable, or humanitarian reasons, without promise, expectation, or receipt of compensation for services rendered other than expenses, reasonable benefits, or a nominal fee (as defined in subsection (b)), but solely for the personal purpose or pleasure of the individual; and

(B) to provide such services freely and without pressure or coercion, direct or implied, from an employer;

(2) whose contribution of service is not for the benefit of any contractor otherwise performing or seeking to perform work on the same project; and

(3) who is not otherwise employed at any time under the federally assisted or insured contract or subcontract involved for construction with respect to the project for which the individual is volunteering.

(b) EXPENSES.—Payments of expenses, reasonable benefits, or a nominal fee may be provided to volunteers described in subsection (a) if the Secretary of Labor determines, after an examination of the total amount of payments made (relating to expenses, benefits, or fees) in the context of the economic realities of the specific federally assisted or insured project, that such payments are appropriate. Subject to such a determination—

(1) a payment for an expense may be received by a volunteer for items such as uniform allowances, protective gear and clothing, reimbursement for approximate out-of-pocket expenses, or for the cost or expense of meals and transportation;

(2) a reasonable benefit may include the inclusion of a volunteer in a group insurance plan (such as a liability, health, life, disability, or worker's compensation plan) or pension plan, or the awarding of a length of service award; and

(3) a nominal fee may not be used as a substitute for compensation and may not be tied to productivity.

The decision as to what constitutes a nominal fee for purposes of paragraph (3) shall be made on a case-by-case basis and in the context of the economic realities of the situation involved.

(c) ECONOMIC REALITY.—For purposes of subsection (b), in determining whether an expense, benefit, or fee described in such subsection may be paid to volunteers in the context of the economic realities of the particular situation, the Secretary of Labor shall not approve any such expense, benefit, or fee that has the effect of undermining labor standards by creating downward pressure on prevailing wages in the local construction industry.

(d) CONTRACTS EXEMPTED.—For purposes of subsection (a), the Acts or provisions described in this subsection are the following:

(1) The Library Services and Construction Act (20 U.S.C. 351 et seq.).

(2) The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(3) Section 329 of the Public Health Service Act (42 U.S.C. 254b).

(4) Section 330 of the Public Health Service Act (42 U.S.C. 254c).

SEC. 51004. REPORT.

Not later than December 31, 1997, the Secretary of Labor shall prepare and submit to the appropriate committees of Congress a report that—

(1) identifies and assesses, to the maximum extent practicable—

(A) the projects for which volunteers were permitted to work under this title; and

(B) the number of volunteers permitted to work because of the compliance of entities with the provisions of this title; and

(2) contains recommendations with respect to Acts related to the Davis-Bacon Act that could be addressed to permit volunteer work.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 6:12 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 273. An act to remove certain restrictions from a parcel of land owned by the city of North Charleston, South Carolina, in order to permit a land exchange, and for other purposes; and

S. 1402. An act to convey a certain parcel of public land to the county of Twin Falls, Idaho, for use as a landfill, and for other purposes.

At 6:54 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 3567. An act to amend the John F. Kennedy Center Act to transfer operating responsibilities to the Board of Trustees of the John F. Kennedy Center for the Performing Arts, and for other purposes; and

H.R. 4454. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1995, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3014. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the annual report on animal welfare enforcement for fiscal year 1993; to the Committee on Agriculture, Nutrition and Forestry.

EC–3015. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, a report of a violation of the Antideficiency Act, case number 94-03; to the Committee on Appropriations.

EC–3016. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to research for the development of technologies useful for the reduction of environmental hazards and contamination from defense waste; to the Committee on Armed Services.

EC–3017. A communication from the Deputy Assistant Secretary of Defense (Requirements and Resources), transmitting, pursuant to law, a report on the actuarial status of the Military Retirement System for fiscal year 1993; to the Committee on Armed Services.

EC–3018. A communication from the Chairman of the Board of the National Credit Union Administration, transmitting, pursuant to law, the Administration's annual report for calendar year 1993; to the Committee on Banking, Housing and Urban Affairs.

EC–3019. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, a report with respect to a recent transaction involving U.S. exports to the Philippines; to the Committee on Banking, Housing and Urban Affairs.

EC–3020. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation dated July 5, 1994; to the Committee on Budget.

EC–3021. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the committees which provide advice to the Secretary with respect to the Social Security Act; to the Committee on Finance.

EC–3022. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report relative to international agreements other than treaties entered into by the United States in the sixty day period prior to June 30, 1994; to the Committee on Foreign Relations.

EC–3023. A communication from the Plan Administrator of the Eighth Farm Credit District Employee Benefit trust, transmitting, pursuant to law, the annual report of the District's savings plan for calendar year 1993; to the Committee on Governmental Affairs.

EC–3024. A communication from the Deputy and Acting Chief Executive Officer of the Resolution Trust Corporation, transmitting, pursuant to law, the Corporation's annual management report for calendar year 1993; to the Committee on Governmental Affairs.

EC–3025. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report relative to the financial review of the Public Access Corporation; to the Committee on Governmental Affairs.

EC–3026. A communication from the Chairman of the National Council on Indian Education, transmitting, pursuant to law, a report entitled "Keeping Forgotten Promises" to the Committee on Indian Affairs.

EC–3027. A communication from the Chairperson of the National Institute for Literacy, transmitting, pursuant to law, the annual report for the Institute for fiscal year 1993; to the Committee on Labor and Human Resources.

EC–3028. A communication from the Chairman of the Fund for the Improvement and Reform of Schools and Teaching Board, Department of Education, transmitting, pursuant to law, the Board's annual report relative to advisory committee activities; to the Committee on Labor and Human Resources.

EC–3029. A communication from the Chair of the National Educational Goals Panel, transmitting, pursuant to law, the annual report of the Panel for fiscal year 1993; to the Committee on Labor and Human Resources.

EC–3030. A communication from the Chairperson of the Advisory Committee on Student Financial Assistance, transmitting, pursuant to law, the annual report of the Committee for fiscal year 1993; to the Committee on Labor and Human Resources.

EC–3031. A communication from the Presiding Officer of the Advisory Council on Education Statistics, Department of Education, transmitting, pursuant to law, the Council's annual report for fiscal year 1993; to the Committee on Labor and Human Resources.

EC–3032. A communication from the Chairman of the National Advisory Council on Educational Research and Improvement, transmitting, pursuant to law, the Council's annual report for fiscal year 1993; to the Committee on Labor and Human Resources.

EC–3033. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled, "Health, United States, 1993"; to the Committee on Labor and Human Resources.

EC–3034. A communication from the Assistant Secretary for Educational Research and Improvement, Department of Education, transmitting, pursuant to law, a report relative to an assessment of vocational education; to the Committee on Labor and Human Resources.

EC–3035. A communication from the Chair of the National Board of the Fund for the Improvement of Postsecondary Education, transmitting, pursuant to law, the annual report of the Board for fiscal year 1993; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROCKEFELLER, from the Committee on Veterans' Affairs, without amendment:

S. 2277. An original bill to authorize major medical facility construction projects for the Department of Veterans Affairs for fiscal year 1995, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KENNEDY:

S. 2276. A bill to amend the Federal Food, Drug, and Cosmetic Act to authorize a device application fee, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ROCKEFELLER:

S. 2277. An original bill to authorize major medical facility construction projects for the Department of Veterans Affairs for fiscal year 1995, and for other purposes; from the Committee on Veterans Affairs; placed on the calendar.

By Mr. SIMON:

S. 2278. A bill to amend the Harmonized Tariff Schedule of the United States to extend certain provisions relating to the production incentive certificates for producers in the insular possessions, and for other purposes; to the Committee on Finance.

By Mr. COCHRAN:

S.J. Res. 209. A joint resolution designating November 21, 1994, as "National Military Families Recognition Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY:

S. 2276. A bill to amend the Federal Food, Drug, and Cosmetic Act to authorize a device application fee, and for other purposes; to the Committee on Labor and Human Resources.

MEDICAL DEVICE USER FEE ACT OF 1994

Mr. KENNEDY. Mr. President, today I am introducing the Medical Device User Fee Act of 1994. The purpose of this measure is to improve the procedures used by the Food and Drug Administration to review such devices.

The rapid pace of innovations in American health care makes such legislation essential. The medical device industry is one of our cutting-edge growth industries, and holds great promise for better health care in the years ahead. Devices range from tongue depressors and syringes to cardiac pacemakers and ultrasound scanners. Increasingly sophisticated technologies continue to improve physicians' ability to diagnose and treat illness and enhance the quality of life for large numbers of individuals. Exports of U.S. medical devices have made the American industry the world leader and enhanced our balance of trade.

Too often, however, the bottleneck to progress is the FDA clearance process. Agency resources to review new devices have actually declined in recent years. The mismatch between mushrooming investment and research on these devices and declining FDA resources is seriously delaying medical advances, and some remedy must be found.

Without additional funds, the FDA cannot dispose of its large and growing backlog of device approval and notification decisions, let alone process new device applications expeditiously. The current Federal budget offers little prospect that adequate resources will be available to the FDA to do the job it should be doing. Without more assistance, the agency can't keep up with innovation.

User fees from medical device manufacturers is the obvious answer. The idea has already proved successful for prescription drugs in a landmark Federal law enacted in 1992. The concept of user fees was endorsed by the Edwards Committee report on FDA reform in 1991, which urged Congress and the private sector to supplement the agency's annual Federal appropriation with industry funds.

With the help of the new resources available through prescription drug user fees, the FDA has hired new reviewers and come closer to the goal it has set of cutting review times in half. The pharmaceutical industry has worked closely with the FDA to ensure that the user fees are implemented in a fair and timely manner.

The legislation I am offering today provides a similar opportunity for the medical device industry. The bill reflects a consensus that has emerged from discussions in Congress and the Clinton administration and with the industry and consumers. All of us who have worked on this legislation are gratified by the support of medical device manufacturers for this approach, since industry support is essential for a user fee to be successful. Health Industry Manufacturers Association, the national trade association whose members manufacture more than 90 percent of the health technology purchased in the United States, has endorsed this legislation.

The statutory framework has been carefully designed to ensure that the fees are reasonable, and that all funds go only for activities directly related to the FDA review and approval process for medical devices. The legislation I am introducing authorizes FDA to collect approximately $100 million over the next 5 years for this purpose.

These funds will be dedicated specifically to FDA action on medical devices. A key part of this compact is that these funds will not be available for any other purpose or priority, including deficit reduction.

The fees are set to reflect the relative length and complexity of the product submissions, and the size of companies making the submissions.

Most of the premarket submissions—known as 510(K) submissions—seeking FDA's determination of substantial equivalence to existing devices come from small companies. The fee for these submissions would be $3,200.

The longer premarket approval or [PMA] submissions for new devices require clinical data and are more frequently submitted by larger companies. The legislation sets the fee for these submissions at $52,000.

In contrast, the prescription drug user fees were set as high as $100,000 for a submission for new drug approval.

In return for these resources, FDA Commissioner Kessler has set specific performance goals to cut review times dramatically. The new personnel needed to review medical devices will be hired within a year of enactment. With these new reviewers, FDA has committed to a 95-percent completion rate for all premarket [510(K)] notifications within the statutory 90-day deadline and 90 percent of all premarket approvals within the required 180 days.

Commissioner Kessler has also committed to a timetable for eliminating backlogs of overdue applications. The number of overdue 510(k) submissions soared from 330 in 1992 to 1,895 in 1993. The FDA has committed to eliminating 95 percent of this backlog within 2 years of enactment of this legislation, and will seek to reduce the backlog of premarket approvals by 90 percent.

These actions will have a significant, long-term impact on health care. Faster device approvals will save lives and benefit the industry, too.

We have also included provisions to help user fees from becoming disincentives to the development of new devices by small businesses. Such businesses constitute the majority of innovative device firms. The legislation allows a complete waiver of fees for a company's first premarket notification submission to FDA—the time when a start-up company may be financially most vulnerable.

This legislation offers a worthwhile opportunity to improve health care by improving FDA's performance. Congressmen DINGELL and WAXMAN have introduced an identical measure today in the House of Representatives, and I look forward to working with them and many other colleagues in the Senate and House on this important legislation.

I ask unanimous consent that the text of the bill may be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2276

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Medical Device User Fee Act of 1994".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

SEC. 2. FINDINGS.

The Congress finds that—

(1) prompt approval and clearance of safe and effective devices is critical to the improvement of the public health so that patients may enjoy the benefits of devices to diagnose, treat, and prevent disease;

(2) the public health will be served by furnishing additional funds for the review of devices so that statutorily mandated deadlines may be met, and

(3) the fees authorized by the amendment made by section 3 will be dedicated—

(A) toward expediting the review of device applications, supplements, and substantial equivalence submissions, and

(B) for related activities as defined in section 741(3) of the Federal Food, Drug, and Cosmetic Act,

as set forth in goals identified in the letter of July 8, 1994, from the Commissioner of Food and Drugs to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

SEC. 3. FEES RELATING TO DEVICES.

Chapter VII is amended by adding at the end of subchapter C the following:

"PART 3—FEES RELATING TO DEVICES

"SEC. 741. DEFINITIONS.

"For purposes of this subchapter:

"(1) The term—

"(A) 'device application' means an application for approval of a device submitted under section 515(c) or section 351 of the Public Health Service Act, a supplement to such an application, or a device substantial equivalence submission made under section 510(k); and

"(B) 'section 351 application' means a device application submitted under section 351 of the Public Health Service Act.

"(2) The term 'supplement' means a request to the Secretary to approve a change in a device application which has been approved under section 515(d) or section 351 of the Public Health Service Act.

"(3) The term 'process for the review of device applications and related activities' means the following activities of the Secretary with respect to the review of device applications and related activities:

"(A) The activities necessary for the review of device applications and related activities.

"(B) The issuance of action letters which allow marketing of devices or which set forth in detail the specific deficiencies in such applications and, where appropriate, the actions necessary to place such applications in condition for approval.

"(C) The inspection of device establishments and other facilities undertaken as part of the Secretary's review of pending device applications.

"(D) Activities necessary for the review of applications for licensure of devices subject to section 351 of the Public Health Service Act, for the licensure of establishments where such devices are manufactured, and for the release of lots of such devices.

"(E) Review of device applications for an investigational new drug exemption under section 505(i) and for an investigational device exemption under section 520(g) and activities conducted in anticipation of the submission of an application under sections 505(i) and 520(g).

"(F) The development of guidance and policy documents to improve the process for the review of device applications.

"(G) The development of test methods and standards in connection with the review of device applications and related activities.

"(H) The provision of technical assistance to device manufacturers in connection with the submission of a device application.

"(I) Activities undertaken in connection with the export of a device.

"(J) Activities undertaken under sections 513 and 515(i) in connection with the initial classification and reclassification of a device and under section 515(b) in connection with any requirement for premarket approval of a device.

"(K) Monitoring of research.

"(L) Activities undertaken under sections 519(a) and 519(b).

"(M) Postmarket studies required as a condition of an approval of a device application under section 515(d) or section 351 of the Public Health Service Act.

"(N) Postmarket surveillance required under section 522.

"(4) The term 'costs of resources allocated for the process for the review of device applications and related activities' means the expenses incurred in connection with the process for the review of device applications and related activities for—

"(A) officers and employees of the Food and Drug Administration, employees under contract with the Food and Drug Administration, advisory committees, and costs related to such officers, employees, and committees,

"(B) management of information, and the acquisition, maintenance, and repair of computer resources,

"(C) leasing, maintenance, renovation, and repair of facilities and acquisition, maintenance, and repair of fixtures, furniture, scientific equipment, and other necessary materials, services, and supplies, and

"(D) collecting fees under section 742 and accounting for resources allocated for the review of device applications and related activities, including activities related to the review of applications for fee exceptions, waivers, and reductions.

"(5) The term 'adjustment factor' applicable to a fiscal year is the lower of—

"(A) the Consumer Price Index for all urban consumers (all items; United States city average) for August of the preceding fiscal year divided by such Index for August 1994, or

"(B) the total budget authority provided for discretionary programs for the immediately preceding fiscal year (as reported in the Office of Management and Budget sequestration preview report, if available, required under section 254(d) of the Balanced Budget and Emergency Deficit Control Act of 1985) divided by such budget authority for fiscal year 1994 (as reported in the Office of Management and Budget final sequestration report submitted after the end of the 103d Congress, 2d Session).

The term 'budget authority' in subparagraph (B) is as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as in effect as of January 1, 1994.

"SEC. 742. AUTHORITY TO ASSESS AND USE DEVICE USER FEES.

"(a) FEES.—Beginning in fiscal year 1995, the Secretary shall assess and collect fees as follows:

"(1) GENERAL RULE.—Except as provided in paragraph (2), each person that submits, on or after 90 days before—

"(A) the date of the enactment of the Medical Device User Fee Act of 1994, or

"(B) the date of the enactment of the first appropriation under subsection (g)(4) for fees under this section,

whichever occurs later, a device application shall be subject to the fee prescribed by subsection (b).

"(2) EXCEPTION.—

"(A) FURTHER MANUFACTURING USE.—No fee shall be required for the submission of a section 351 application for a product licensed for further manufacturing use only.

"(B) EXCEPTION FOR PREVIOUSLY FILED APPLICATION OR SUPPLEMENT.—If a device application was—

"(i) submitted by a person that paid the fee for such application,

"(ii) accepted for filing, and

"(iii) not approved or withdrawn (without a waiver under subsection (d)),

the submission of a device application for the identical device by the same person (or the person's licensee, assignee, or successor) shall not be subject to a fee under paragraph (1).

"(3) PAYMENT SCHEDULE.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B), the fee prescribed by subsection (b) shall be due upon the submission of the application.

"(B) EXCEPTIONS.—

"(i) PENDING.—In the case of a device application for which fees are required under paragraph (1) and which is pending on the later of—

"(I) the date of the enactment of the Medical Device User Fee Act of 1994, or

"(II) the date of the enactment of the first appropriation under subsection (g)(4) for fees under this section,

the fee required by paragraph (1) shall be due 90 days after such later date of enactment.

"(ii) EXCESS OF AUTHORIZATION.—A fee which is due after an amount of fees equal to the authorization of appropriations under subsection (g)(4) for the fiscal year in which the fee is imposed has been collected shall be due on November 1 in the following fiscal year.

"(4) REFUND IF APPLICATION OR SUPPLEMENT NOT ACCEPTED FOR FILING.—

"(A) 515(c) AND 351.—The Secretary shall refund 85 percent of the fee paid under paragraph (3) for any application submitted under section 515(c) or section 351 of the Public Health Service Act which is not accepted for filing.

"(B) SUPPLEMENTS.—The Secretary shall refund 85 percent of the fee paid under paragraph (3) for any supplement with required clinical data which is not accepted for filing and shall refund the fee paid under such paragraph for any supplement without required clinical data is not accepted for filing.

"(C) 510(k).—The Secretary shall refund the fee paid under paragraph (3) for any substantial equivalence submission under section 510(k) which is not accepted for filing.

"(b) FEE AMOUNTS.—

"(1) AMOUNT.—Except as provided in paragraph (2) and subsections (c), (d), (f), and (g), the fees required under subsection (a) are as follows:

"(A) $52,000 for applications submitted under section 515(c) and applications for devices submitted under section 351 of the Public Health Service Act,

"(B) $7,100 for a supplement with required clinical data,

"(C) $4.500 for a supplement without required clinical data, and

"(D) $3,200 for a submission under section 510(k).

"(2) SMALL BUSINESS EXCEPTION.—

"(A) APPLICATIONS AND SUBMISSIONS.—Any person employing fewer than 20 employees, including employees of affiliates, and which does not have a device introduced or delivered for introduction into interstate commerce under a device application—

"(i) shall pay one-half the amount of the fee prescribed by paragraph (1)(A) one year after the date of final action by the Secretary on an application of such person which is subject to such fee, and

"(ii) shall pay the fee prescribed by paragraph (1)(D) for a submission made by such person under section 510(k) one year after the date of final action by the Secretary on such submission.

"(B) CERTIFICATION.—The Secretary shall require any person who applies to pay a fee in accordance with subparagraph (A) to certify such person's qualification under such subparagraph. The Secretary shall periodically publish in the Federal Register a list of persons making such certification.

"(C) DEFINITION.—For purposes of this paragraph, a person is an affiliate of another person when—

"(i) directly or indirectly, one person controls, or has the power to control, the other person,

"(ii) directly or indirectly, a third party controls, or has the power to control, both persons, or

"(iii) an identity of interest between or among such persons exists such that affiliation may be found.

"(c) ADJUSTMENTS.—

"(1) FEE ADJUSTMENT.—Subject to the amount appropriated for a fiscal year under subsection (g), the Secretary shall, in a fiscal year beginning after fiscal year 1995, adjust the fees due in the fiscal year following the fiscal year in which the adjustment is made to reflect the greater of—

"(A) the total percentage increase that occurred during the preceding fiscal year in the Consumer Price Index for all urban consumers (all items; U.S. city average) that exceeds 3.5 percent, or

"(B) the total percentage increase for such preceding fiscal year in basic pay under the General Schedule in accordance with section 5332 of title 5, United States Code, as adjusted by any locality-based comparability payment pursuant to section 5304 of such title for Federal employees stationed in the District of Columbia that exceeds 3.5 percent.

The Secretary shall, by notice published in the Federal Register, make an adjustment under this paragraph within the first 60 days of a fiscal year.

"(2) LIMIT.—The total amount of fees charged, as adjusted under paragraph (1), for a fiscal year may not exceed the total costs for such fiscal year for the resources allocated for the process for the review of device applications and related activities.

"(d) FEE WAIVER OR REDUCTION.—The Secretary shall grant a waiver from or a reduction of a fee for a person under subsection (a) if the person has submitted an application under section 515(c) or section 351 of the Public Health Service Act and if the Secretary finds—

"(1) that such application is a device application for a device which has a humanitarian device exemption under section 520(m), or

"(2)(A) such waiver or reduction is necessary to protect the public health, and

"(B) the assessment of the fee would present a significant barrier to innovation because of limited resources available to such person or other circumstances.

"(e) EFFECT OF FAILURE TO PAY FEES.—A device application or supplement submitted by a person subject to fees under subsection (a) shall be considered incomplete and shall not be accepted for review by the Secretary until all fees owed by such person under subsection (a) have been paid. The Secretary may discontinue review of any device application submitted by a person if such person has not paid all fees owed by such person such subsection (a).

"(f) ASSESSEMENT OF FEES.—

"(1) LIMITATION.—Fees may not be assessed under subsection (a) for a fiscal year beginning after fiscal year 1995 unless appropriations for salaries and expenses of the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated under chapter 7, chapter 97 of title 31, United

States Code, or other authority for such fiscal year) are equal to or greater than the amount of appropriations for the salaries and expenses of the Food and Drug Administration for the fiscal year 1994 (excluding the amount of fees appropriated under chapter 7, chapter 97 of title 31, United States Code, or other authority for such fiscal year) multiplied by the adjustment factor applicable to the fiscal year involved.

"(2) AUTHORITY.—If the Secretary does not assess fees under subsection (a) during any portion of a fiscal year because of paragraph (1) and if at a later date in such fiscal year the Secretary is authorized to assess such fees, the Secretary may assess and collect such fees, without any modification in the rate to account for the time in which the Secretary could not collect such fees.

"(g) CREDITING AND AVAILABILITY OF FEES.—

"(1) IN GENERAL.—Fees collected for a fiscal year pursuant to subsection (a) shall be credited to the appropriation account for salaries and expenses of the Food and Drug Administration and shall be available in accordance with appropriation Acts until expended, without fiscal year limitation.

"(2) AVAILABILITY.—Not more than 5 percent of the projected fee receipts in any fiscal year may be used for activities described in subparagraphs (L) and (N) of section 741(3), except that up to 15 percent of the projected fee receipts in any fiscal year may be used for such activities after the Commissioner of the Food and Drug Administration issues a public notice that the Food and Drug Administration has met the applicable goals referenced in section 2(3) of the Medical Device User Fee Act of 1994. If subsequent to such notice the Food and Drug Administration is not meeting such goals—

"(A) the Commissioner shall issue a public notice of the Food and Drug Administration's actual performance level, and

"(B) not more than 5 percent of projected fee receipts may be used for such activities until the Commissioner issues a subsequent notice that the Food and Drug Administration is again meeting such goals.

"(3) COLLECTIONS AND APPROPRIATION ACTS.—The fees authorized by this section—

"(A) shall be collected in each fiscal year in an amount equal to the amount specified in appropriation Acts for such fiscal year, and

"(B) shall only be collected and available to defray increases in the costs of the resources allocated for the process for the review of device applications and related activities (including increases in such costs for an additional number of full-time equivalent employees in the Department of Health and Human Services to be engaged in such process) over such costs for fiscal year 1994 multiplied by the adjustment factor.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fees under this section—

"(A) $23,000,000 for fiscal year 1995,

"(B) $21,300,000 for fiscal year 1996,

"(C) $23,000,000 for fiscal year 1997,

"(D) $24,000,000 for fiscal year 1998, and

"(E) $24,000,000 for fiscal year 1999,

as adjusted to reflect the percentage adjustment of fees authorized under subsection (c)(1).

"(h) COLLECTION OF UNPAID FEES.—In any case where the Secretary does not receive payment of a fee for a pending application assessed under subsection (a) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

"(i) POSITIONS.—

"(1) GENERAL RULE.—The number of full-time equivalent employees in the Department of Health and Human Services not engaged in the process of the review of device applications and related activities, may not be reduced by the Secretary to offset the number of officers, employees, and advisory committees so engaged.

"(2) EXECUTIVE ORDER AND OTHER LIMITS.—The number of full-time equivalent employees engaged in the process of the review of device applications and related activities are not subject to counting or inclusion in the limits on hiring Civilian Personnel set out in Executive Order 12839 for February 10, 1993, any other current limit, or any limit that may be implemented through September 30, 1999. The full-time equivalent employees not so engaged may not be reduced by the Secretary to offset the number of full-time equivalent employees exempt from such limit.".

SEC. 4. ANNUAL REPORTS.

(a) FIRST REPORT.—Within 90 days after the end of each fiscal year during which fees are collected under part 3 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, the Secretary of Health and Human Services shall submit a report stating the Food and Drug Administration's progress in achieving the goals identified in section 2(3) of this Act during such fiscal year and that agency's future plans for meeting such goals. There shall be included in such report—

(1) a specific statement from the Secretary concerning the Food and Drug Administration's actions to reduce the backlog in the review of device applications and meeting statutory review times applicable to submissions for devices, and

(2) the following data from the Center for Devices and Radiological Health and the Center for Biologics Evaluation and Research:

(A) The number of device submissions found not fileable.

(B) Total elapsed time for review of device submissions.

(C) Total time for review of device submissions as calculated by such Center.

(D) Number of negative decisions for device submissions.

(E) Number of non-approveable letters for device submissions.

(F) Number of deficiency letters for device submissions.

(G) Information for subparagraphs (A) through (F) for fiscal year 1994.

(b) SECOND REPORT.—Within 120 days after the end of each fiscal during which such fees are collected, the Secretary of Health and Human Services shall submit a report on the implementation of the authority for such fees during such fiscal year and on the use the Food and Drug Administration made of the fees collected during such fiscal year for which the report is made.

(c) COMMITTEES.—The reports described in subsections (a) and (b) shall be submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

SEC. 5. REGULATIONS.

(a) GENERAL RULE.—This Act and the amendment made by section 3 shall not be in effect after June 30, 1995, unless the Secretary of Health and Human Services, through the Commissioner of Food and Drugs, approves—

(1) regulations described in subsection (b), and

(2) regulations which identify devices in class II of the device classes in section 513 of the Federal Food, Drug, and Cosmetic Act which are appropriate for exemption from the requirement of section 510(k) of such Act and exempts such devices from such requirement following their reclassification into class I.

(b) REGULATIONS.—

(1) PROPOSED.—Not later than 30 days after the date of enactment of this Act, the Secretary shall issue proposed regulations that—

(A) identify all devices in class I of the device classes in section 513 of the Federal Food, Drug, and Cosmetic Act which are exempt from the requirement of section 510(k) of such Act, and

(B) identify the criteria for selecting devices for such exemption.

The Secretary shall provide an opportunity to comment on such proposed regulations for 60 days after their publication.

(2) FINAL.—Not later than 30 days after the close of the comment period provided under paragraph (1), the Secretary shall issue final regulations which grant an exemption to the devices identified in the proposed regulations which clearly meet the criteria for exemption from the requirement of such section 510(k) of the Federal Food, Drug, and Cosmetic Act.

(c) OTHER REGULATIONS.—Not later than June 30, 1995, the Secretary shall issue final regulations for the remainder of the devices from the list published in the proposed regulations which exempts such devices from such requirement or which continues the applicability of such requirement.

(d) FEES.—An applicant under a substantial equivalence submission under section 510(k) of the Federal Food, Drug, and Cosmetic Act which the Secretary proposed to exempt from the requirement of such section under subsection (b)(1) shall not be required to pay a fee for such submission unless the Secretary issue a final regulation requiring such submission. An applicant under a substantial equivalence submission under such section 510(k) which the Secretary exempts from the requirement of such section under subsection (b) shall not be required to pay a fee for such submission.

SEC. 6. SUNSET.

This Act and the amendment made by section 3 shall not be in effect after September 30, 1999.

By Mr. SIMON:

S. 2278. A bill to amend the Harmonized Tariff Schedule of the United States to extend certain provisions relating to the production incentive certificates for producers in the insular possessions, and for other purposes; to the Committee on Finance.

LEGISLATION EXTENDING A PRODUCTION INCENTIVE CERTIFICATE

• Mr. SIMON. Mr. President, today I am introducing a simple bill to assist an Illinois company that was damaged during Hurricane Hugo. The hurricane prevented the Hampden Watch Co. from utilizing a previously issued production incentive certificate. The certificate would exempt them from duties on certain watch parts.

The bill I am introducing corrects the expiration date on S. 536. It also extends the expiration date on the section of the Haromized Tariff Schedule that authorized the production incentive certificate program. This date must be amended for the PIC extension to be valid.

Hampden's contribution to the development of the U.S. Virgin Islands is a record to be noted and appreciated by both the insular and Federal Government. This bill simply allows Hampden to receive the duty exemption that was granted to them as both the Government and the company intended. The bill would do this on a one time basis only. I think we have a good case for the extension of the expiration date in these special circumstances.

Mr. President, this is an important bill. I urge its adoption by the Senate.●

By Mr. COCHRAN:

S.J. Res. 209. A joint resolution designating November 21, 1994, as "National Military Families Recognition Day"; to the Committee on the Judiciary.

NATIONAL MILITARY FAMILIES RECOGNITION DAY

Mr. COCHRAN. Mr. President, I am introducing legislation today to designate November 21, 1994, as "National Military Families Recognition Day."

Military families deserve special recognition for the sacrifices they make and the hardships they often endure. Even in peacetime, frequent and extended separations, whether from husbands, wives, or children, often create special problems for the military family.

Most active duty personnel are reassigned every few years, thereby reducing career opportunities for spouses and limiting their ability to establish roots in any location. Military children must adjust to new schools and new neighborhoods on a regular basis.

This joint resolution would set aside a special day for the Nation to pay tribute to military families and thank them for their contributions to our Nation's security.

Mr. President, I ask unanimous consent that a copy of the joint resolution be printed in the RECORD, and I urge my colleagues to support this legislation.

Without objection, this bill was ordered to be printed in the RECORD, as follows:

S.J. RES. 209

Whereas the Congress recognizes and supports the Department of Defense policies to recruit, train, equip, retain, and field a military force that is capable of preserving peace and protecting the vital interests of the United States and its allies;

Whereas military families shoulder the responsibility of providing emotional support for their service members;

Whereas, in times of war and military action, military families have demonstrated their patriotism through their steadfast support and commitment to the Nation;

Whereas the emotional and mental readiness of the United States military personnel around the world is tied to the well-being and satisfaction of their families;

Whereas the quality of life that the Armed Forces provide to military families is a key factor in the retention of military personnel;

Whereas the people of the United States are truly indebted to military families for facing adversities, including extended separations from their service members, frequent household moves due to reassignments, and restrictions on their employment and educational opportunities;

Whereas 75 percent of officers and 57 percent of enlisted personnel in the Armed Forces are married;

Whereas families of active duty military personnel (including individuals other than spouses and children) comprise more than one-half of the active duty community of the Armed Forces, and spouses and children of members of the reserve component of the Armed Forces in paid status comprise more than one-half of the individuals constituting the reserve component of the Armed Forces community;

Whereas hundreds of thousands of spouses, children, and other dependents living abroad with members of the Armed Forces face financial hardship and feelings of cultural isolation;

Whereas the significantly reduced global military tensions following the end of the Cold War have resulted in a down-sizing of the national defense and a refocusing of national priorities on strengthening the American economy and increasing competitiveness in global marketplace;

Whereas the Congress is grateful for the sacrifices of military families and is committed to assisting the service members and their families who undergo the transition from active duty to civilian life; and

Whereas military families are devoted to the overall mission of the Department of Defense and have supported the role of the United States as the military leader and protector of the Free World; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 21, 1994, is designated as "National Military Families Recognition Day" in appreciation of the commitment and devotion of present and former military families and the sacrifices that such families have made on behalf of the Nation and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

ADDITIONAL COSPONSORS

S. 277

At the request of Mr. SIMON, the names of the Senator from Nevada [Mr. BRYAN] and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 277, a bill to authorize the establishment of the National African American Museum within the Smithsonian Institution.

S. 359

At the request of Mr. DECONCINI, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 359, a bill to require the Secretary of the Treasury to mint coins in commemoration of the National Law Enforcement Officers Memorial, and for other purposes.

S. 1415

At the request of Mr. PRYOR, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1415, a bill to amend the Internal Revenue Code of 1986 to clarify provisions relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 1468

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1468, a bill to amend the Higher Education Act of 1965 to require institutions of higher education to disclose participation rates, and program support expenditures, in college athletic programs, and for other purposes.

S. 1539

At the request of Mr. INOUYE, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1539, a bill to require the Secretary of the Treasury to mint coins in commemoration of Franklin Delano Roosevelt on the occasion of the 50th anniversary of the death of President Roosevelt.

S. 1746

At the request of Mrs. KASSEBAUM, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1746, a bill to establish a youth development grant program, and for other purposes.

S. 1880

At the request of Mr. BINGAMAN, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 1880, a bill to provide that the National Education Commission on Time and Learning shall terminate on September 30, 1994.

S. 1924

At the request of Mr. HATCH, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 1924, a bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home.

S. 2056

At the request of Mr. DECONCINI, the names of the Senator from New York [Mr. D'AMATO], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Indiana [Mr. LUGAR], the Senator from Nebraska [Mr. KERREY], the Senator from Arkansas [Mr. BUMPERS], the Senator from Ohio [Mr. GLENN], the Senator from Florida [Mr. GRAHAM], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 2056, a bill to amend the National Security Act of 1947 to improve the counterintelligence and security posture of the United States, and for other purposes.

SENATE JOINT RESOLUTION 183

At the request of Mr. ROTH, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of Senate Joint Resolution 183, a joint resolution designating the week beginning May 1, 1994 as "Arson Awareness Week."

SENATE JOINT RESOLUTION 189

At the request of Mr. ROTH, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of Senate Joint Resolution 189, a joint resolution designating October 1994 as "National Decorative Painting Month."

SENATE JOINT RESOLUTION 192

At the request of Mr. KOHL, the names of the Senator from Washington [Mr. GORTON], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of Senate Joint Resolution 192, a joint resolution to designate October 1994 as "Crime Prevention Month."

SENATE JOINT RESOLUTION 195

At the request of Mr. DECONCINI, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of Senate Joint Resolution 195, a joint resolution to designate August 1, 1994, as "Helsinki Human Rights Day."

SENATE JOINT RESOLUTION 196

At the request of Mr. DORGAN, his name was added as a cosponsor of Senate Joint Resolution 196, a joint resolution designating September 16, 1994, as "National POW/MIA Recognition Day" and authorizing display of the National League of Families POW/MIA flag.

SENATE RESOLUTION 240

At the request of Mr. THURMOND, the names of the Senator from New York [Mr. D'AMATO], the Senator from Washington [Mrs. MURRAY], the Senator from Indiana [Mr. LUGAR], the Senator from Virginia [Mr. WARNER], the Senator from New Hampshire [Mr. SMITH], the Senator from Colorado [Mr. BROWN], the Senator from Washington [Mr. GORTON], the Senator from New Hampshire [Mr. GREGG], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Oregon [Mr. PACKWOOD], the Senator from Montana [Mr. BURNS], the Senator from Colorado [Mr. CAMPBELL], the Senator from North Dakota [Mr. CONRAD], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Kentucky [Mr. FORD], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Texas [Mr. GRAMM], the Senator from New Mexico [Mr. DOMENICI], the Senator from Oregon [Mr. HATFIELD], the Senator from Arkansas [Mr. BUMPERS], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Wyoming [Mr. WALLOP], the Senator from Mississippi [Mr. LOTT], the Senator from Delaware [Mr. BIDEN], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Illinois [Mr. SIMON], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Arkansas [Mr. PRYOR], the Senator from Michigan [Mr. LEVIN], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Maryland [Ms. MIKULSKI], the Senator from California [Mrs. FEINSTEIN], the Senator from North Dakota [Mr. DORGAN], the Senator from Nevada [Mr. REID], the Senator from Florida [Mr. MACK], the Senator from Arizona [Mr. MCCAIN], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from New York [Mr. MOYNIHAN], the Senator from Alabama [Mr. HEFLIN], the Senator from Texas [Mrs. HUTCHISON], the Senator from Hawaii [Mr. INOUYE], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Maine [Mr. COHEN], the Senator from Missouri [Mr. DANFORTH], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. HATCH], the Senator from Wisconsin [Mr. KOHL], the Senator from California [Mrs. BOXER], the Senator from Vermont [Mr. JEFFORDS], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Rhode Island [Mr. PELL], the Senator from Iowa [Mr. HARKIN], the Senator from Ohio [Mr. METZENBAUM], the Senator from Oklahoma [Mr. NICKLES], the Senator from Delaware [Mr. ROTH], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Indiana [Mr. COATS], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of Senate Resolution 240, a resolution honoring the U.S. 1994 World Cup soccer team.

AMENDMENTS SUBMITTED

WORKPLACE FAIRNESS ACT

CONRAD AMENDMENT NO. 2237

(Ordered to lie on the table.)

Mr. CONRAD submitted an amendment intended to be proposed by him to the bill (S. 55) to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes; as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. LABOR AND MANAGEMENT DISPUTE RESOLUTION PROGRAM.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) subject to subsection (h), to promise, to threaten or take other action—

"(A) to hire a permanent replacement for an employee who—

"(i) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(ii) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(B) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of clauses (i) and (ii) of subparagraph (A) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

(3) by adding at the end the following new subsection:

"(h)(1) The provisions of subsection (a)(6) shall not apply to a labor dispute between an employer and a labor organization under such subsection unless such labor organization, not later than 7 days prior to the date of the commencement of a strike, notifies such employer and the Federal Mediation and Conciliation Service that such labor organization agrees to the formation of a fact-finding panel under paragraph (4) to conduct hearings and to make recommendations for the resolution of outstanding issues with respect to such dispute.

"(2) An employer who receives a notification from a labor organization under paragraph (1) shall, not later than 7 days after the date of the receipt of such notification, notify such labor organization and the Federal Mediation and Conciliation Service whether such employer agrees or does not agree to the formation of a fact-finding panel under paragraph (4). If such employer does not agree to the formation of such panel, such employer may not hire permanent replacements.

"(3)(A) If an employer and a labor organization described in paragraph (1) agree to the formation of a fact-finding panel under paragraph (4), the existing collective bargaining agreement between such employer and labor organization, if any, or the existing wages, hours and other terms and conditions of employment shall remain in effect until the date that is 7 days after the date on which such fact-finding panel issues its report and recommendations.

"(B) During the period described in subparagraph (A)—

"(i) a labor organization described in such subparagraph may not commence a strike; and

"(ii) an employer described in such subparagraph may not lock out workers or hire permanent replacements.

"(4)(A) A fact-finding panel shall be established by an employer and a labor organization that agree to the formation of such panel to make findings of fact and to make recommendations with respect to issues that are in dispute between an employer and a labor organization under subsection (a)(6).

"(B) A panel established under subparagraph (A) shall consist of 3 members who shall be selected in the manner provided under section 1207(c)(1) of title 39, United States Code. Of the 3 members—

"(i) one shall be selected by an employer (described in such subparagraph);

"(ii) one shall be selected by a labor organization (described in such subparagraph); and

"(iii) one shall be selected by an employer and a labor organization (described in such subparagraph).

"(C) A panel established under subparagraph (A) shall conduct a hearing of the kind required by section 1207(c)(2) of title 39, United States Code and issue a report, within 45 days of the establishment of such panel, to an employer, a labor organization, and the Federal Mediation and Conciliation Service of its findings and recommendations with respect to issues that are in dispute between such employer and such labor organization under subsection (a)(6).

"(5)(A) Not later than 7 days after date of the issuance of a report by a fact-finding panel, an employer and a labor organization shall notify the Federal Mediation and Conciliation Service whether such employer and labor organization accept or do not accept the recommendations made under subparagraph (C) of paragraph (4).

"(B) If an employer and a labor organization accept the recommendations described in subparagraph (A), the fact-finding recommendations with respect to all unresolved issues, and the parties' agreement on all issues shall be deemed to be a collective bargaining agreement between such employer and labor organization enforceable pursuant to section 301 of the Labor Management Relations Act, 1947 (29 U.S.C. 185).

"(C) If a labor organization accepts the recommendations described in subparagraph (A) and an employer does not accept such recommendations, such employer may not hire permanent replacement workers if such labor organization commences a strike.

"(D) Subject to subparagraph (F), if a labor organization does not accept the recommendations described in subparagraph (A) and commences a strike, and an employer accepts such recommendations, such employer may hire permanent replacement workers.

"(E)(i) If a labor organization and an employer do not accept the recommendations described in subparagraph (A), not later than 7 days after the date of the nonacceptance of the recommendations, such labor organization or such employer may request a 30-day mediation period (which shall begin on the date of such request) at which a special mediator, who shall be the panel member selected under paragraph (4)(B)(iii), shall, not later than the end of such period, make recommendations with respect to the resolution of all remaining outstanding issues and make a report of such recommendations to the labor organization, the employer, and Federal Mediation and Conciliation Service.

"(ii)(I) If a labor organization and an employer agree to the mediation period described in clause (i), during such period, the requirements under paragraph (3)(B)(i) and (ii) shall apply.

"(II) If such employer does not agree to the mediation period described in clause (i), such employer may not hire permanent replacements.

"(III) If such labor organization does not agree to the mediation period described in clause (i) and commences a strike, then such employer may hire permanent replacements.

"(iii)(I) If a labor organization and an employer agree to accept the recommendations described in clause (i), the fact-finding recommendations with respect to all unresolved issues, and the parties' agreement on all issues shall be deemed to be a collective bargaining agreement between such employer and labor organization enforceable pursuant to section 301 of the Labor Management Relations Act, 1947 (29 U.S.C. 185).

"(II) If a labor organization accepts the recommendations described in clause (i) and an employer does not accept such recommendations, such employer may not hire permanent replacement workers if such labor organization commences a strike.

"(III) If a labor organization does not accept the recommendations described in clause (i) and an employer accepts such recommendations, such employer may hire permanent replacement workers.

"(IV) Subject to subparagraph (F), if a labor organization and an employer do not accept the recommendations described in clause (i), and such labor organization commences a strike, such employer may hire permanent replacement workers.

"(F) If a labor organization described in clause (iii)(IV) of subparagraph (E), after its nonacceptance under such subparagraph, accepts the recommendations described in clause, such employer shall cease the hiring of permanent replacement workers and hire an employee described in subsection (a)(6) to return to work, except that an employee whose position was filled by a permanent replacement worker may not be hired.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Four of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

SEC. 3. EFFECTIVE DATE.

This Act shall be effective on the day after the date of enactment.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests.

The hearing will take place on Thursday, July 28, 1994, beginning at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on S. 2121, a bill to promote entrepreneurial management of the National Park Service, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit a written statement is welcome to do so by sending two copies to the Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC 20510.

For further information regarding the hearing, please contact Sue McGill at (202) 224-2366 or Tom Williams at (202) 224-7145.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. CONRAD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, July 12, 1994, at 2:45 p.m., in open session to consider nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. CONRAD. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Tuesday, July 12, at 9:30 a.m. for a hearing on the subject: Making the Pentagon Accountable: Financial Problems and Progress.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. CONRAD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, July 12, 1994, at 10 a.m. in room 216 Senate Hart Office Building, to hold a hearing on the nomination of Stephen G. Breyer of Massachusetts, to be Associate Justice of the Supreme Court.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. CONRAD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, July 12, 1994, at 4:30 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. CONRAD. Mr. President, I ask unanimous consent that the Surface Transportation Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on July 12, 1994, at 9:30 a.m. on oversight of the Interstate Commerce Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

RETIREMENT OF CAPT. HENRY S. PALAU, U.S. NAVY (RETIRED)

• Mr. McCAIN. Mr. President, I would like to take this occasion to recognize the distinguished career of Capt. Henry S. Palau, U.S. Navy, retired. In one capacity or another, Captain Palau has spent his entire life either in or working for the military, and he has served his country and the military with distinction.

Born in Danbury, CT, in 1929, Captain Palau received a bachelor of arts degree from Trinity College, Hartford, CT, in 1950. Shortly after receiving an LL.B. from Boston University in 1953, he entered the Navy and served his initial tour of duty as communications officer and antisubmarine warfare officer aboard the U.S.S. *Gatling* [DD671].

In 1957, he served as assistant force legal officer on the staff of commander, destroyer force, U.S. Atlantic Fleet. His other duty stations have included an assignment at Naval Station, Charleston, SC, and service as head, civil and international law branch, Office of the Staff Judge Advocate, United States Military Assistance Command, Vietnam. Following his Vietnam tour, he attended the college of naval command and staff at the Naval War College. Subsequent tours included special assistant to the Judge Advocate General and Director of Military Personnel, Office of the Judge Advocate, United States Naval Forces, Japan, and Director, United States Law Center, Yokosuka, Japan. In 1974, Captain Palau returned to Washington as director of legislation, Navy Office of Legislative Affairs, serving until August 1975 when he became the Assistant Judge Advocate General of the Navy [Military Personnel and Management] where he served until his retirement in September 1977.

Captain Palau's awards and decorations include the Legion of Merit, Joint Service Commendation Medal, Navy Commendation Medal, and a meritorious unit citation.

Upon his retirement from the Navy in 1977, Captain Palau joined the staff of the National Headquarters of the Retired Officers Association [TROA] as legal counsel and assistant legislative counsel.

His arrival at TROA coincided with a phenomenon aptly named the "hemorrhage of talent" which plagued the armed forces in the late 1970's and resulted in the "hallow" Army, "unmanned" Navy and "pilotless" Air Force. Captain Palau was more than equal to the challenge and was a pillar of dependability in his association's efforts to salvage the all volunteer force—an effort that culminated in restoration of adequate levels of military compensation and the resurgence of patriotism in this Nation.

It is often said that the measure of leadership is not limited to an individual's singular accomplishments but extends more broadly to the impact on the environment in which he works and on those around him. In this context, Henry Palau has been, in every sense of the word, a leader. On several occasions, too numerous to count, he has been in the vanguard of some of our Nation's most challenging military personnel issues.

Ironically, few of the members that Captain Palau represented know him by name or realize the debt of gratitude they owe him. By paying tribute to him today, I hope to provide formal recognition for his legislative achievements and note for posterity his painstaking efforts on such issues as reducing the survivor benefit plans social security offset to make the plan more attractive and increase participation; to thwart countless efforts to diminish other military benefits; and to resist efforts to abrogate commitments to military retirees by reducing, capping, or delaying their cost-of-living adjustments. Additionally, he was at the forefront of a strong counter movement to preclude the unionization of the Armed Forces and to prevent States from illegally taxing military retired pay.

He became the association general counsel in 1981 and was elected to the position of national secretary in 1985. Thankfully, even though Henry Palau may be officially retiring, his legacy of recognizing that responsive and dedicated people are the most significant elements of the defense equation will continue.

Mr. President, Capt. Henry Palau is, and will continue to be, a true leader and sage adviser. He will be sorely missed upon his retirement, and on behalf of myself and his many friends, I wish him "fair winds and a following sea."•

HONORING THE TOWN OF OVID, NY, CELEBRATING 200 YEARS

• Mr. D'AMATO. Mr. President, I rise today to speak in celebration of the town of Ovid's 200-year anniversary and Ovid Fire Department's 150-year anniversary. On March 5, 1794, the town of Ovid was founded and the first town meeting was held on April 1, 1794, at the house of Abraham Covert. For many years the meetings were carried on in various area homes until the original wooden frame courthouse was used in 1833.

A town with a lively and interesting history, as well as good, hard working, and friendly people, Ovid has managed to thrive over the past 200 years. I take pride in raising my voice in celebration of the anniversary of this great town.

Fifteen years prior to its founding General Sullivan's army marched northward in this area between Seneca and Cayuga Lakes; 10 years later, Andrew Dunlap became the first permanent settler of the town of Ovid. The next 5 years brought families by the name of Wilson, Smith, Covert, Seeley, Cole, Chapman, Kinne, Huff, Hughes, DeMott, Harris, LeConte, Swarthout, and Baldwin. Later came more settlers with names which are also recognized by the residents of today: Bloomer, Weed, Thompson, Starrett, Wyckoff, Bodine, Auten, Van Dorn, Wheeler, Brooks, Townsend, Leonard, Van Horn, and Combs.

Primarily a residential area, Ovid is sought out to provide good housing at reasonable prices in a pleasant setting. Today, travelers come to the area to visit the lush vineyards and partake of the world-class wines.

The Ovid Fire Department is celebrating their 150-year anniversary and will be honored at the same time. The brick buildings, known as Papa Bear and Baby Bear were constructed in 1845. Mama Bear was added in the middle 15 years later, and many of the trees seen in the present village park date back to the same time.

I am proud to represent Ovid and towns like it. It is people like the good people of Ovid who make up the very fabric of American life and culture. I ask my colleagues, indeed all Americans, to recognize the proud history of Ovid and its longstanding fire department and celebrate the ability of this town to bloom and prosper over two centuries of change. I salute Ovid's residents, and congratulate the town on its 200th anniversary.•

HONORING THE LATE ROSE TOTINO

• Mr. DURENBERGER. Mr. President, I rise today to mourn the passing of a distinguished and truly beloved member of the Minnesota community.

Americans knew Rose Totino as the creator of our country's largest frozen pizza company.

Rose Totino started baking pizzas when she was a young newlywed. Her success with pizza at local PTA events convinced her to open Totino's Italian Kitchen on Central Avenue in Minneapolis—and then start a frozen pizza factory in 1962.

By the 1970's, Totino's Pizza was the largest frozen-pizza factory in the United States.

In 1975, she was able to sell the company to Pillsbury for $20 million.

She wrote one of the most impressive small business success stories of Minnesota history. But Rose Totino, who died last month at the age of 79, was more than a business person and entrepreneur. She was an outstanding human being whose life can serve as a terrific example to all of us.

Her friends remember her as a woman who—though she was a very powerful person—did not revel in power for its own sake. When you would ask her, "How are you?" she would answer: "I'm fine—but more important, how are you?"

Archbishop Roach of the Catholic Archdiocese of St. Paul—where Rose Totino lived her whole life—made a similar observation about her character. He said that there were two things that stood out for him in Rose Totino's life.

First, she knew where her gifts came from. She never let her public life be disconnected from her private faith in Jesus Christ.

And second, she was a beacon of hope and optimism in a world that desperately needs it.

If I might be allowed to put this into my own words, Mr. President, I would say that Rose Totino realized that happiness is a gift that increases when it is passed on to others. She saw the truth of faith not as a stick with which to assail rivals, or as an instrument of her own superiority. Rather, it was the secret behind the smile she gave the world.

And it was her willingness to share this secret with so many people that made her such a beloved figure in the Twin Cities.

Her exuberant approach to life won her many friends—inspiring a sense of personal loyalty in all who knew her. Another person of wealth might use his riches to win friends and influence people—not Rose. When she began giving away much of the millions she earned to numerous public causes, she did it with what amounted to a self-deprecating shrug: "Have you ever seen a U-Haul behind a hearse?"

That kind of down-to-earth wisdom marked her whole life. Her proverbs ring in the memory:

> Health is wealth, and friends are fortune.
>
> If you don't believe in something, you'll fall for anything.
>
> The older the hand, the better the broth.

This is the attitude that led her to make her famous comment about the equal rights amendment: "Why," she asked, "should I give up superiority for equality?"

Her leadership was broadly recognized. She won the very first Woman Entrepreneur of the Year Award conferred by the Small Business Administration. She won the John R. Roach Leadership Award, and awards from the National Food Brokers Association, the National Council on Aging, the Frozen Food Hall of Fame—but the most important awards were not the ones that were conferred on her, but the ones she gave us.

The gift she gave was, first and foremost, herself. To her, family was a concept that extended beyond even her nine grandchildren and five great-grandchildren—it included her employees, her prayer groups, and practically everyone she knew.

She lived by the words of St. Paul:

> For you know the gracious act of our Lord Jesus Christ, that for your sake he became poor although he was rich, so that by his poverty you might become rich. . . . As a matter of equality your surplus at the present time should supply their needs, so that their surplus may also supply your needs, that there may be equality.—II Cor. 8:9, 13–14.

Wise words about how to build a just community.

And let me add, Mr. President, some words from Robert Browning that I believe summarize the Rose Totino example for all of us:

Ah, but a man's reach should exceed his
  grasp,
Or what's a heaven for?●

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Wednesday, July 13; that following the prayer, the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that immediately thereafter the Senate resume consideration of the motion to proceed to S. 55, the striker replacement legislation, with the time until 10 a.m. equally divided and controlled between Senators METZENBAUM and HATCH, or their designees; and that at 10 a.m., as provided for under a previous unanimous-consent agreement, the Senate vote on the motion to invoke cloture on the motion to proceed to S. 55.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. MITCHELL. Mr. President, there being no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess as under the previous order.

There being no objection, the Senate, at 7:04 p.m., recessed until Wednesday, July 13, 1994, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 12, 1994:

U.S. INFORMATION AGENCY

ROBERT B. FULTON, OF PENNSYLVANIA, TO BE AN ASSOCIATE DIRECTOR OF THE U.S. INFORMATION AGENCY, VICE PAULA J. DOBRIANSKY.

DEPARTMENT OF STATE

CURTIS WARREN KAMMAN, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BOLIVIA.

EILEEN A. MALLOY, OF CONNECTICUT, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BE KYRGYZ REPUBLIC.

DEPARTMENT OF THE INTERIOR

HAROLD A. MONTEAU, OF MONTANA, TO BE CHAIRMAN OF THE NATIONAL INDIAN GAMING COMMISSION FOR THE TERM OF 3 YEARS, VICE ANTHONY J. HOPE, TERM EXPIRED.

THE JUDICIARY

VANESSA RUIZ, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE DISTRICT OF COLUMBIA COURT OF APPEALS FOR THE TERM OF 15 YEARS, VICE JUDITH W. ROGERS.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

JOEL DAVID VALDEZ, OF ARIZONA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1998, VICE BEN-CHIEH LIU, TERM EXPIRED.

DEPARTMENT OF DEFENSE

PHILIP EDWARD COYLE III, OF THE DISTRICT OF COLUMBIA, TO BE DIRECTOR OF OPERATIONAL TEST EVALUATION, DEPARTMENT OF DEFENSE, VICE ROBERT CLIFTON DUNCAN, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. MICHAEL E. RYAN, [redacted] U.S. AIR FORCE.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. THEODORE G. STROUP, JR. [redacted] U.S. ARMY.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT AS RESERVE OF THE AIR FORCE (ANGUS) IN THE GRADE INDICATED UNDER THE PROVISIONS OF SECTIONS 593 AND 9351(A), TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES AS INDICATED. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER.)

To be lieutenant colonel

MARILYN J. LYTHGOE, [redacted] 6/1/92
FRANCIS E. FELICE [redacted], 2/1/90
RODGER F. SEIDEL, [redacted] 3/1/93

IN THE ARMY

THE FOLLOWING-NAME OFFICER, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE.

To be major

CHARLES A. JARNOT [redacted]

IN THE NAVY

THE FOLLOWING-NAMED COMMANDERS OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF CAPTAIN IN THE STAFF CORPS, IN THE COMPETITIVE CATEGORY AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

MEDICAL CORPS OFFICERS

To be captain

WILLIAM E. ADKINS, [redacted]
JAMES E. ALEXANDER, JR. [redacted]
BOIANA ALEXIEVAJACKSON, [redacted]
BELLE B. ALMOJERA [redacted]
WILLIAM M. ASHER, [redacted]
CARL ASSEFF [redacted]
WILLIAM B. BARBER II [redacted]
EFIGINIO L. BAUTISTA [redacted]
JEFFREY S. BENDER, [redacted]
JEFFREY M. BERMAN [redacted]
KENNETH D. BIRD, [redacted]
CARL V. BISGARD, [redacted]
KEITH N. BLACK, [redacted]
RANNIE P. BORDLEE [redacted]
JERRELL L. BORUP, [redacted]
JOHN T. BRITTON, [redacted]
CHARLES M. BROHM, [redacted]
STEVEN A. BUTLER [redacted]
JOSEPH J. CAMPBELL [redacted]
GERALD E. CARLSON, [redacted]
ALAN W. CASHELL, [redacted]
JAMES A. CECIL II [redacted]
ANTONIA C. CHALMERS, [redacted]
PETER C. COTE, [redacted]
HUGH G. DEEN, JR. [redacted]
GERALD B. DEMAREST [redacted]
ROBERT L. DENNISON, JR. [redacted]
DAVID J. DONAHUE, [redacted]
THOMAS C. DUNNE, [redacted]
TIM E. ECKSTEIN [redacted]
BERNARD H. EICHOLD II, [redacted]
JOSEPH G. ENGLISH [redacted]

RICHARD D. ENGLISH, [redacted]
MICHAEL J. EPSTEIN [redacted]
NILS S. ERIKSON [redacted]
TIMOTHY C. FLYNN, [redacted]
JOHN I. FOSTER III [redacted]
HARRY FRIEDMAN, [redacted]
RICHARD L. FURMAN, [redacted]
JAMES J. GALLO [redacted]
BEN F. GAUMER, [redacted]
MICHAEL R. GOLER, [redacted]
ANDREW F. GREENE, [redacted]
DAVID J. HARRIS, JR. [redacted]
CHRISTOPHER S. HOLLAND, [redacted]
CHARLES B. HUDDLESTON [redacted]
ANTHONY N. HUI, [redacted]
LANE W. JOHNSON, [redacted]
ROBERT A. JOHNSON, [redacted]
MICHAEL A. KOSMO, [redacted]
MICHAEL P. KOSTY, [redacted]
JEFFREY J. KREBS [redacted]
WALTER D. LEVENTHAL [redacted]
JOSIAH K. LILLY [redacted]
THOMAS H. LYON, JR. [redacted]
DAVID T. MAC MILLAN, [redacted]
MICHAEL A. MADDALENA, [redacted]
JANET T. MARKLE [redacted]
MICHAEL J. MASELLY [redacted]
STEPHEN B. MAZER [redacted]
STEPHEN A. MC ADAMS [redacted]
STEPHEN F. MC CARTNEY, [redacted]
EDWARD J. MC GINN, [redacted]
ROBERT A. MC GUIRE, [redacted]
JOHN A. MC GURTY, JR. [redacted]
LARRY E. MENESTRINA [redacted]
GEORGE G. MILLER [redacted]
JOHN H. NADEAU, [redacted]
JAMES M. NANNEY, [redacted]
HOWARD R. NASH, [redacted]
CLIFFORD J. NEMETH [redacted]
JON K. NEWSUM, [redacted]
HENRY F. OLIVIER, JR. [redacted]
THOMAS J. ONEILL [redacted]
STEVEN L. ORECK [redacted]
DAVID O. PARRISH [redacted]
ARTHUR E. PRYOR, JR. [redacted]
ROBERT W. QUIGG, [redacted]
DAVID H. RATCLIFF [redacted]
ERNEST F. RIBERA [redacted]
JOHN F. SCHENK [redacted]
RANDOLPH B. SCHIFFER [redacted]
DENNIS W. SCHMIDT, [redacted]
GARY E. SCHRAUT, [redacted]
ANTHONY B. SERFUSTINI [redacted]
KEVIN M. SHANNON, [redacted]
CHARLES T. SMITH [redacted]
OBRIAN C. SMITH, [redacted]
BRUCE W. STAEHELI, [redacted]
PAUL G. STEINKULLER [redacted]
JOHN R. STEWART [redacted]
EULON R. TAYLOR, [redacted]
DAVID W. TERHUNE, [redacted]
YVONNE R. TORREZ, [redacted]
MICHAEL I. VENGROW, [redacted]
CHRISTIE W. WINKLER [redacted]
CHARLES C. YELVERTON [redacted]
MARCOS A. ZEQUEIRA, [redacted]

DENTAL CORPS OFFICERS

To be captain

ROBERT ANTHONY, [redacted]
MARK C. BAKER, [redacted]
ANTHONY M. BATKO, [redacted]
MARK W. BIOLO, [redacted]
JOHN S. BOND, [redacted]
JAMES R. CARNEY [redacted]
IRA M. GREENE [redacted]
CHARLES J. HARLAND, JR. [redacted]
DAN C. MC CAREL, [redacted]
BRIAN E. SCOTT [redacted]
RAYMOND A. SHELKO, [redacted]
WALTER B. SHREWSBURY [redacted]
BARBARA J. SLABE [redacted]
DAVID R. STEVENS [redacted]
MICHAEL C. TAYLOR, [redacted]
LARRY W. THOMAS, [redacted]
NEAL K. WILSTED [redacted]

MEDICAL SERVICE CORPS OFFICERS

To be captain

GAIL D. BUCHANAN, [redacted]
JAMES R. DILLON, [redacted]
MICHAEL J. GOSHA, [redacted]
MARCELLUS GRACE, [redacted]
LYNN C. GRISWOLD, [redacted]
STEPHEN J. HENSKE [redacted]
WAYNE B. KIELSMEIER, [redacted]
DAVID L. MASERANG, [redacted]
DONNA L. PAVLICK, [redacted]
DONALD R. THURSTON, [redacted]

JUDGE ADVOCATE GENERAL'S CORPS OFFICERS

To be captain

JONATHAN J. ANDERSON [redacted]
DAVID J. COOPER, JR. [redacted]
GREGORY J. GARNER, [redacted]
LAUREL C. GILLESPIE [redacted]
DOUGLAS J. GLASSCOCK [redacted]
KEITH F. GRAHAM [redacted]
MARYANN L. GRODIN, [redacted]
MARK S. HOWELL, [redacted]
JOHN P. HUGGARD, [redacted]
KENNETH C. MC MANAMAN, [redacted]
ROY D. PETERSEN [redacted]
ROBERT K. ROGERS, JR. [redacted]

NURSE CORPS OFFICERS

To be captain

DEBORAH A. ATWATER, [redacted]
CYNTHIA M. DROZ, [redacted]
JOHN A. FAFINSKI [redacted]
ANNE V. FORSHA, [redacted]
PATRICIA M. GILBERT [redacted]
LYNNE L. HAMILTON, [redacted]
NANCY R. JOHNSON, [redacted]
WILLIAM K. JOHNSON, [redacted]
CYNTHIA L. KELLEY, [redacted]
MARY C. NETTUM, [redacted]
CAROL A. RODRIGUEZ, [redacted]
LUCY N. SAMMONS, [redacted]
SUSAN M. VARENHOLT, [redacted]

SUPPLY CORPS OFFICERS

To be captain

WILLIAM F. BRESEE [redacted]
DAVID L. CARTER, [redacted]
JAMES C. CHANG, [redacted]
MICHAEL T. DERRICO, [redacted]
JAMES F. HALLFORD [redacted]
EUGENE W. JACOBS, [redacted]
THOMAS M. KANALEY, [redacted]
JOHN E. LEATHER [redacted]
BRUCE D. LOWMAN, [redacted]
THOMAS G. LOZIER, [redacted]
HENRY B. MADURO, [redacted]
MICHAEL S. MC KEEVER [redacted]
SUMNER K. MOORE, JR. [redacted]
ARTHUR G. OLLER [redacted]
FENTON F. PRIEST III [redacted]
ENOS R. STEWART, JR. [redacted]
JAMES T. WARD, [redacted]

SUPPLY CORPS OFFICERS (TAR)

To be captain

THEODORE F. BARKERDING, JR. [redacted]

CHAPLAIN CORPS OFFICERS

To be captain

DAROLD F. BIGGER, [redacted]
BRUCE E. KAHN, [redacted]
ALLEN S. KAPLAN [redacted]
BYRON D. LONG, [redacted]
LAWRENCE G. MC CONNELL, [redacted]
JOHN R. MC KEE, JR. [redacted]
ERNEST B. NEWSOM, [redacted]
MICHAEL D. PAYNE, [redacted]
DONALD A. TAYLOR, [redacted]

CIVIL ENGINEER CORPS OFFICERS

To be captain

STEVAN M. ARMSTRONG, [redacted]
ERIC H. DAVY, [redacted]
RONALD P. DETROYE, [redacted]
MICHAEL R. FOSDICK, [redacted]
JAMES A. FRAZER [redacted]
ROBERT K. FRINK II [redacted]
JOSEPH J. FURCO [redacted]
JAMES F. GEORGE [redacted]
GEORGE F. GILBERT, JR. [redacted]
ARTHUR B. GOODWIN, [redacted]
RONALD B. HELSON, [redacted]
ROBERT R. HOOD, [redacted]
CALVIN P. JONES, JR. [redacted]
DANIEL F. KNUDSON, JR. [redacted]
ROBERT G. MC ANDREW III, [redacted]
MARVIN L. PULST [redacted]
OVA W. RAMSEY, [redacted]
JAMES M. SMITH [redacted]

IN THE NAVY

THE FOLLOWING-NAMED LIEUTENANT COMMANDERS OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF COMMANDER IN THE STAFF CORPS, IN THE COMPETITIVE CATEGORY AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

MEDICAL CORPS OFFICERS

To be commander

NATHANIEL E. ADAMSON II, [redacted]
BENJAMIN C. ANDREWS, JR. [redacted]
JAMES W. ANTHAMATTEN, [redacted]
TERRENCE E. ARAGONI [redacted]
ULYSSES J. ARRETTEIG. II [redacted]
SARBJIT S. AUJLA [redacted]
JOHN D. BALUCH, [redacted]
RICHARD A. BANKS, [redacted]
CRAIG L. BARTOS, [redacted]
STEPHEN E. BAUM [redacted]
PATRICK N. BAYS, [redacted]
CRAIG M. BEREZNOFF, [redacted]
DAVID A. BIANCHI, [redacted]
LAWRENCE R. BLACK, [redacted]
PAUL F. BOFFETTI [redacted]
TIMOTHY J. BONATUS, [redacted]
DOUGLAS J. BOWER, [redacted]
KENNETH G. BRADSHAW, [redacted]
ELIZABETH W. BRADY, [redacted]
STEVE J. BRASINGTON [redacted]
DONALD J. BRIDEAU, JR. [redacted]
DANIEL M. BROWN, [redacted]
THOMAS BUCKLEY, [redacted]
SANFORD A. CARIMI, [redacted]
THOMAS A. CARNEVALE, [redacted]
THOMAS A. CARR, [redacted]
CHARLES CARROLL, [redacted]
JAMES R. CHAMPA, [redacted]
SIMON K. CHAN, [redacted]
JAMES T. CHANDLER, [redacted]
RICHARD M. CHESBROUGH, [redacted]
THOMAS E. CLINCH, [redacted]
JOHN F. COCO, [redacted]
JEANETTE L. COLSON [redacted]
DOUGLAS R. CONTE, [redacted]
ALFRED C. COTTRELL, JR. [redacted]
SAMUEL C. COVINGTON, [redacted]
TERRY L. CROASDALE, [redacted]
LINDSEY E. CRUMLIN, JR. [redacted]
KAREN C. DANTIN, [redacted]
MARK S. DAUNIS, [redacted]
JOHN M. DAWSON, [redacted]
ROBERT J. DEPUTY [redacted]
JOSEPH P. DERVAY [redacted]
LOUIS DORO, [redacted]
MICHAEL L. DRERUP, [redacted]
MARSHA L. DUPREE, [redacted]
WILLIAM J. DURKAN, [redacted]
DANIEL P. EARDLEY [redacted]
THOMAS C. FALVO, [redacted]
JOHN A. FLICKINGER, [redacted]
ANTHONY E. FOLEY, [redacted]
BRIAN G. FORRESTER [redacted]
CAROL A. FORSSELL, [redacted]
EDWIN N. FOSTER, [redacted]
MICHAEL J. FRAC [redacted]
GREGORY FRAILEY, [redacted]
DENNIS M. FRISMAN, [redacted]
MICHAEL A. FUEYO, [redacted]
JANET N. FUJIKAWA [redacted]
DONALD GALLIGAN, [redacted]
SUSAN M. GASTON, [redacted]
JAMES F. GOLDSZER [redacted]
JULIA C. GOODIN, [redacted]
JILL E. GUSTAFSON [redacted]
JOHN R. HANDY, [redacted]
CHARLES D. HARR, [redacted]
TIMOTHY P. HARRIS, [redacted]
RHETT H. HASELL, [redacted]
BRYAN J. HAWKINS, [redacted]
GARY D. HELMBRECHT, [redacted]
RICHARD HERNANDEZ, [redacted]
WILLIAM H. HUMPHRIES, JR [redacted]
ANITA INVEISSSILTUMENS [redacted]
LOUIS A. IVEY, [redacted]
EDWARD J. JELONEK, JR [redacted]
GARY R. JONES, [redacted]
KAYNE KISHIYAMA, [redacted]
ANDREW M. KNOLL, [redacted]
SABINA M. KOBYLINSKI, [redacted]
JACOB J. KOCH, [redacted]
JEROME T. KOCHINSKY, [redacted]
MARK S. KOVACIK, [redacted]
LLOYD J. KRAPIN [redacted]
LORRAINE A. KRETCHMAN, [redacted]
CHARLES H. LUDMER, [redacted]
RITA A. MANFREDI, [redacted]
CLOVIS E. MANLEY, [redacted]
LYNN D. MARTIN, [redacted]
GREGG C. MASON, [redacted]
PHILIPPE A. MASSER [redacted]
JOHN H. MASTALSKI, [redacted]
CYNTHIA J. MC CURDY, [redacted]
WILLIAM G. MC NETT, [redacted]
BRIAN H. MC PHILLIPS, [redacted]
ELIZABETH J. MC SHANE, [redacted]
STEPHEN J. MEISTER [redacted]
IGNACIO I. MENDIGUREN, [redacted]
RICHARD J. MILLS [redacted]
LAURA J. MIRKINSON, [redacted]
MARGIE A. MORALES, [redacted]
GORDON S. NAYLOR, [redacted]
JAMES F. NOLAN, [redacted]
MICHAEL S. OCONNOR, [redacted]
RICHARD E. OSWALD, JR. [redacted]
CINDY L. OWEN, [redacted]
MARK F. OZOG, [redacted]
STEPHEN F. PENNY [redacted]
EDWIN C. PIGMAN, [redacted]
SANFORD POLLAK, [redacted]
ROBERT E. POLLARD, [redacted]
BRUCE M. POTENZA, [redacted]
KARI B. REIBER, [redacted]
ACUNA C. REYES, [redacted]
CARL A. RIDDICK, [redacted]
ROBERT S. RIDDICK, [redacted]
JULIA K. ROBERTSON, [redacted]
PAUL P. ROUNTREE [redacted]
PATRICK W. RUSSELL [redacted]
REED M. SAUNDERS, [redacted]
STEVEN R. SCHNEIDER [redacted]
ALLENE J. SCOTT [redacted]
KEVIN G. SEAMAN, [redacted]
ANTHONY M. SENTER, [redacted]
JOHN P. SERLEMITSOS [redacted]
ADAM J. SINGER, [redacted]
GERALD B. SMITH, [redacted]
CHRISTOPHER W. SOIKA, [redacted]
LUCIA M. SPEARS [redacted]

CHRISTOPHER H. STAEHELI [redacted]
RICHARD E. STANDRIDGE, [redacted]
SCOTT STEELMAN, [redacted]
ROGER H. STEUBLE, [redacted]
CHARLES K. STEVENS, [redacted]
VICTOR G. STIEBEL, [redacted]
RICHARD A. STOERMANN, [redacted]
WILLIAM F. SULLIVAN [redacted]
STEVEN E. SWARTZ, [redacted]
STEVEN J. TAGGART [redacted]
NOELLE C. THABAULT, [redacted]
RICHARD W. TOBIN, [redacted]
JEFFREY J. TOMLIN [redacted]
WARING J. TRIBLE, [redacted]
RAMONA P. WEAVER, [redacted]
RICHARD A. WEINER, [redacted]
ANN C. WEISS, [redacted]
KURT J. WEISSEND [redacted]
FRANK WHITMER, [redacted]
ERIC A. WIEBKE, [redacted]
STANLEY WIERCINSKI [redacted]
STEPHEN P. WRIGHT, [redacted]
JAMES YOUNG, [redacted]
LEWIS C. ZULICK, [redacted]

DENTAL CORPS OFFICERS

TO BE COMMANDER

RICHARD D. ARCHER, [redacted]
FRANKLIN E. BAILEY [redacted]
DAVID A. BANACH, [redacted]
ARTHUR S. BENSON, [redacted]
JOHN B. BERG, JR. [redacted]
BRUCE A. BIERMANN, [redacted]
DAVID C. BOWMAN, [redacted]
MARILYN E. BRADDOCK, [redacted]
DON E. BROOKINS, [redacted]
KURT B. BUSKA, [redacted]
TIMOTHY J. BUTSON, [redacted]
JACK P. CAMPBELL [redacted]
FLOYD G. CAMPEN, [redacted]
KEVIN B. COOK, [redacted]
JOHN M. CROSS, [redacted]
JON B. DULL, [redacted]
TERRY L. EGGLESTON [redacted]
NORMAN V. EID, [redacted]
LAURENCE R. GERBO, [redacted]
MARY A. GONZALEZ, [redacted]
DAVID L. GRUBER, [redacted]
DAVID C. HAMMER, [redacted]
WILLIAM E. HARTMAN, [redacted]
BEVERLY D. HEDGEPETH [redacted]
DOUGLAS J. HENSCHEL, [redacted]
MICHAEL J. HERRIGES [redacted]
WADE L. HILL, [redacted]
ROGER S. HOLLISTER [redacted]
STEVEN F. JAKSHA [redacted]
JANICE R. JOHNSON, [redacted]
EDWARD C. KASSAB, [redacted]
JOHN F. KEITEL, JR. [redacted]
KEVIN M. KENNY, [redacted]
THOMAS E. KENT, [redacted]
LARRY W. LAURINAT [redacted]
ROBERT L. LINDSAY, [redacted]
MARK L. LITTLESTAR [redacted]
PAUL M. LOEFFLER [redacted]
KEVIN MAHONEY, [redacted]
STEPHEN G. MORSE, [redacted]
DONALD L. NELSON, [redacted]
LINDA L. OTIS, [redacted]
STEPHEN Y. PARK [redacted]
ROBERT L. PARRISH, JR. [redacted]
ALLAN K. PATCH, [redacted]
JAMES K. PETERSON, [redacted]
ROBERT S. POWELL, [redacted]
ZOLTAN W. RAJNAY, [redacted]
CHARLES C. RICHTER, JR [redacted]
MARY L. RITZ, [redacted]
ANTHONY W. SAVAGE, [redacted]
GEORGE J. SHEPPARD III [redacted]
JAMES G. SINDAD [redacted]
NELSON A. SMITH [redacted]
ROBERT M. SMITH [redacted]
JUAN N. SOLERMONTEQUIN, [redacted]
THOMAS R. SUMNICHT, [redacted]
BARBARA J. TOMCKO, [redacted]
PHILIP J. VARGAS [redacted]
MYLES T. WAGNER, [redacted]
JOSEPH B. WALTON, [redacted]
CLIFF P. WATKINS [redacted]
DONALD L. WEXLER, [redacted]
ROBERT P. YARDUMIAN, [redacted]

MEDICAL SERVICE CORPS OFFICERS

To be commander

MICHAEL A. ADAMS, [redacted]
JAMES C. ARRINGTON, [redacted]
TROY L. BAXLEY [redacted]
CLARENCE E. BROWN, [redacted]
NANCY E. CLANCY, [redacted]
SARA R. COLE, [redacted]
DAVID R. GEARHART [redacted]
TRACY K. GILES, [redacted]
MICHAEL A. GLAZESKI [redacted]
MICHAEL H. HRYSHCHYSHYN, [redacted]
PAUL W. JONES [redacted]
STEPHEN W. KAJA, [redacted]
JOHN D. LAMBETH, [redacted]
JOEL M. LIBBY [redacted]
JOHN J. MALONEY, [redacted]
CHARLES B. MCVEIGH, JR. [redacted]
FRANK V. MELLBLOM, [redacted]
MELISSA M. MERRITT [redacted]
JOHN P. MITCHELL, JR [redacted]
JOHN W. OWEN, [redacted]
JOSEPH P. PECORELLI [redacted]
BRUCE T. REED, [redacted]
JAMES M. STEVENS [redacted]
MICHAEL J. TIERNEY [redacted]
SUSAN R. TOKLE, [redacted]
DON A. WILHELMUS, [redacted]

JUDGE ADVOCATE GENERAL'S CORPS OFFICERS

To be commander

GLENN C. ADAMS, [redacted]
JAMES G. BAKER, [redacted]
MICHAEL D. BAKER, [redacted]
JERRY J. BISHOP, II [redacted]
ROBERT L. BRYANT, [redacted]
LAURIE J. CANTWELL, [redacted]
CARL J. COPERTINO [redacted]
ROSEMARY A. DENSON, [redacted]
MICHAEL L. DETZKY, [redacted]
DANIEL D. DOWNING, [redacted]
WALTER A. DURLING, JR., [redacted]
DANIEL R. ECKSTROM, [redacted]
FREDERICK R. EVANS, [redacted]
MARION D. EVANS, [redacted]
WILLIAM W. FARMER, [redacted]
DON W. FOX, [redacted]
JAMES A. HANEY, [redacted]
JAMES D. HARTY, [redacted]
GEORGE A. HIGGINS, [redacted]
LAURA M. HORTON, [redacted]
DOUGLAS G. JEU, [redacted]
JOHN A. KING, [redacted]
JAMES F. KOLASINSKI [redacted]
MARGARET E. LEDERER [redacted]
BRIAN M. MADDEN, [redacted]
ELLEN M. MCGRATH, [redacted]
ROBERT D. NOEY, [redacted]
MARK W. PEDERSEN, [redacted]
WILLIAM R. PHIPPS [redacted]
JAMES F. PROTHRO, II [redacted]
JANET J. QUINN, [redacted]
JAMES L. SEAY, JR. [redacted]
GREGORY B. SMITH, [redacted]
JAMES A. SOUKUP, [redacted]
DOROTHY J. ULMER, [redacted]
LYNNE O. WOOD, [redacted]
PATRICIA E. YAP [redacted]

NURSE CORPS OFFICERS

To be commander

DEBRA M. AGAR, [redacted]
KIM L. ALDER, [redacted]
GLENDA P. AULTOWSKI, [redacted]
ANA M. AVILLANROSA, [redacted]
DAN M. BABIN, [redacted]
WENDY L. BARNES, [redacted]
ANGELA C. BELFON, [redacted]
NANCY L. BEYER, [redacted]
PAUL M. BLOSE, JR. [redacted]
JULIE L. BOHANNON, [redacted]
KERRY F. BOMAN, [redacted]
DENISE F. BOUTIN, [redacted]
BARBARA W. BROWN, [redacted]
KATHLEEN A. BURNS, [redacted]
SUSAN S. CARTHEY, [redacted]
RENEE C. CLANCY, [redacted]
KATHRYN A. CLONINGER, [redacted]
LINDA T. COCHENOUR, [redacted]
DONALD J. CORWIN, [redacted]
DAVID J. COUGHLIN, [redacted]
BARBARA S. CUNNINGHAM, [redacted]
GEORGIA C. DALY, [redacted]
CONSTANCE S. DAVIDSON, [redacted]
DONNA E. DEHART, [redacted]
LINDA I. DETONNANCOURT, [redacted]
DEBRA L. DULA, [redacted]
CYNTHIA A. DULLEA, [redacted]
CLARETTA Y. DUPREE, [redacted]
JOANN M. FAUST, [redacted]
JAMES R. FELL [redacted]
ELAINE A. FINCHER, [redacted]
EDITH L. FRANCO, [redacted]
SANDRA S. FRANKLIN, [redacted]
GLORIA S. GLENEWINKEL, [redacted]
GREGORY L. GROENEVELD, [redacted]
KAREN N. GRUBER, [redacted]
NORRIS J. GUIDRY, JR. [redacted]
GAIL P. GUY [redacted]
ANNE L. GUZA, [redacted]
CHRISTINA A. HANNAN, [redacted]
REBECCA J. HATHAWAY, [redacted]
PATSY L. HEATLEY [redacted]
MARIE C. HEIMERDINGER, [redacted]
CHERYL L. HENDRICKS, [redacted]
BARBARA L. HENK, [redacted]
CAROL L. HILE, [redacted]
JEFFREY A. HILL [redacted]
JANICE J. HOFFMAN [redacted]
HILDA J. HOLLAND, [redacted]
JOE M. HOOD, [redacted]
DEBRA L. JAMES [redacted]
MARYANNE P. KAESSNER, [redacted]
TERESA A. KENNARD, [redacted]
MARGARET L. KEVERN, [redacted]
JEAN E. KOHL, [redacted]
ANN M. KOLSHAK, [redacted]
NANCY A. LABELLA, [redacted]
DIANE E. LAW, [redacted]
ROSANNE V. LEAHY, [redacted]
LINDA R. LITTELL [redacted]
CHERYL L. LOBAUGH, [redacted]
JUDITH A. LOPEZ [redacted]
CAROL W. LUND, [redacted]
KATHLEEN J. LYLE [redacted]
EILEEN M. MALATINO, [redacted]
JULIANA M. MALONEY, [redacted]
DARLENE S. MARKO, [redacted]
KARIN E. MARSHALL, [redacted]
LINDA A. MASSEY, [redacted]
SHARON S. MCGILL, [redacted]
JEANETTE L. MCGRAW, [redacted]
JUDY R. MERRING, [redacted]
JOAN M. MISENCIK, [redacted]
PATRICIA I. MONTGOMERY, [redacted]
SAUNDRA L. MOORE, [redacted]
EDA MORENO, [redacted]
CATHERINE J. MORTON, [redacted]
MARY E. MOYER, [redacted]
BRIDGET A. MULCAHY, [redacted]
MARTINE R. MYERS, [redacted]
KARLA J. NACION, [redacted]
JOSE A. NEGRON, [redacted]
CLAUDETTE V. NEWMAN, [redacted]
DOROTHY J. NEWMAN, [redacted]
JOAN M. NIGRELLI [redacted]
JOAN M. OLSON, [redacted]
SUSAN M. OMALLEY, [redacted]
KAY E. ORTMAN, [redacted]
DEBRA D. PARKER, [redacted]
DEBORAH W. PAULIN, [redacted]
BETH A. PERKINS, [redacted]
MARJORIE R. PIORKOWSKI, [redacted]
CHRISTOPHER A. PROCTOR, [redacted]
MARY E. QUINN, [redacted]
KENNETH G. RANUM, [redacted]
CATHERINE R. RICHARDS, [redacted]
KAROLYN K. RYAN, [redacted]
LINDA K. SALYER, [redacted]
LYNNE M. SCANLON, [redacted]
DARLENE T. SCHELPER [redacted]
MARTHA A. SCOTILLO, [redacted]
CAROL F. SEDNEK, [redacted]
JAMES C. SHAVER, [redacted]
DEBRA K. SHULL, [redacted]
ANNE E. SILVIA, [redacted]
BECKY J. SIMPKINS [redacted]
CHERYL A. SKINNER, [redacted]
SUSAN M. SKINNER [redacted]
CELILIA M. SMITH, [redacted]
DEBRA G. SMITH, [redacted]
ELIZA I. SMITH, [redacted]
KATHLEEN K. SMITH, [redacted]
CATHERINE E. SPANGLER [redacted]
DOROTHY M. STUNDON, [redacted]
CATHERINE M. SUTTLE [redacted]
MILTON D. SWINFORD, [redacted]
FAITH E. THOMAS, [redacted]
PAMELA L. THOMPSON, [redacted]
JANET L. TREMBLAY, [redacted]
STEVEN W. TUDHOPE, [redacted]
SUSAN P. TYE, [redacted]
VICTORIA K. TYSON, [redacted]
WILLIAM P. VURNAKES [redacted]
MARY E. WALKER, [redacted]
MELVIN D. WETZEL II [redacted]
BARBARA A. WHITING, [redacted]
GAYLE S. WILBUR, [redacted]
CHERYL D. WILLIAMS, [redacted]
NANCY A. WINCHESTER, [redacted]
JUVANN M. WOLFF, [redacted]

SUPPLY CORPS OFFICERS

To be commander

JESSE J. ADAMS [redacted]
JUNDY O. AUSTRIA [redacted]
DANIEL J. BALBERCHAK, JR. [redacted]
TERRY L. BARBAREE [redacted]
JEFFREY J. BARTZ [redacted]
CHARLES A. BAUMGARDNER, [redacted]
ROBERT D. BECHILL, [redacted]
JOHN R. BECKER, [redacted]
RICHARD F. BERNAL, [redacted]
MICHAEL T. BOND, [redacted]
WILLIAM A. BRAMER, [redacted]
WILLIAM J. BRENNAN, [redacted]
JOHN H. CHRISTENSEN [redacted]
THOMAS R. CLEMENTS, [redacted]
GARY L. CLOWER, [redacted]
LOGAN V. COCKRUM, JR., [redacted]
CAROLYN C. COX, [redacted]
DAVID C. CRAWFORD, [redacted]
KEVIN W. CROPP, [redacted]
JEROME D. DAVIS, [redacted]
BARTON E. DEADERICK, [redacted]
ALEJANDRO R. DELACRUZ, [redacted]
LESLIE H. DUNLAP [redacted]
GARY L. ENGEBRETSON, [redacted]
WILLIE E. EVANS, [redacted]
WALTER W. FARRELL [redacted]
ROLANDO P. FELICITAS [redacted]
BRIAN E. FERGUSON, [redacted]
V. A. GARBARINI, [redacted]
JAMES F. GATES [redacted]
LEON A. GEORGE, [redacted]
JAMES T. GILL, [redacted]
MARGARET A. GOSS, [redacted]
HARRY L. GUTHMULLER, [redacted]
BRICE HAMMERSTEIN, [redacted]

EDWARD B. HASKINS, [redacted]
RICHARD W. HATTINGS, [redacted]
HERMANN K. HOPPER, [redacted]
PAUL H. KALTSAS, JR., [redacted]
JACK D. KEIDEL, [redacted]
THOMAS J. KEYSER, [redacted]
RUSSELL L. KIRTS, [redacted]
ANDREW J. KOVALCHIK, [redacted]
STEVEN R. LAPP, [redacted]
NEIL M. LARIMER, [redacted]
FREDERICK S. LOCHTE, [redacted]
RAYMOND K. LOFINK, [redacted]
RUSSELL J. LUCIA, [redacted]
RON J. MACLAREN, [redacted]
THOMAS D. MADISON, [redacted]
CRAIG L. MAJKOWSKI, [redacted]
DAVID E. MC DANIEL, [redacted]
WILLIAM K. MCGAUGHEY, [redacted]
JOSEPH N. MECCA, [redacted]
LOUIS M. MECKLER IV, [redacted]
VINCENT M. NASH, [redacted]
SCOTT E. NIBBE, [redacted]
PAUL C. ODLAUG, [redacted]
RAY C. OMAN, [redacted]
BRADFORD W. PARKER, [redacted]
DIRK W. PAYNE, [redacted]
PHILIP M. PAYNE III, [redacted]
JOSEPH L. PICOGNA, [redacted]
LAWRENCE L. POPE, JR., [redacted]
FREDERICK J. RIBLE, JR., [redacted]
LIBERTAD RODRIGUEZ, [redacted]
JOSEPH B. RUCKMAN, [redacted]
MARJORIE L. SCHELLER, [redacted]
KIMBERLY SHUNK, [redacted]
HOWARD L. SKINNER, JR., [redacted]
ROBERT C. SNYDER, [redacted]
SCOTT D. SORENSEN, [redacted]
MARC A. SUMMERS, [redacted]
CHRISTINE O. SWERCZEK, [redacted]
MICHAEL D. THOMAS, [redacted]
ANNETTE L. TISON, [redacted]
KEITH G. TOWNSLEY, [redacted]
TERRY N. TRIPP, [redacted]
ELAINE K. TYREE, [redacted]
DERRICK A. WAGNER, [redacted]
PAUL R. WHELAN, [redacted]
JOHN H. WIGGINS, JR., [redacted]
DAVID R. WOOD, [redacted]
JAMES C. WRIGHT, [redacted]
JOHN H. YOUNG III, [redacted]
NANCY Z. YOUNG, [redacted]
JOHN ZAREM, [redacted]
SANDRA L. ZOSCHAK, [redacted]

SUPPLY CORPS OFFICERS (TAR)

To be commander

BILLY K. DODSON, [redacted]
JOHN F. ERICKSON, [redacted]
DENNIS G. GREENE, [redacted]
ROBERT E. GREENE, [redacted]
KENNETH E. HOFFMAN, [redacted]
ALDEN S. SALCEDO, [redacted]

CHAPLAIN CORPS OFFICERS

To be commander

KENNETH K. ABBOTT, JR., [redacted]
JOSEPH J. BAGGETTA, [redacted]
STEPHEN A. BIRD, [redacted]
WAYNE A. BLEY, [redacted]
ALBERTO V. CORDOVA, [redacted]
WILLIAM F. GILROY, [redacted]
LAWRENCE C. GRANT III, [redacted]
RICHARD L. HARBOUR, [redacted]
JOHN D. HENDERSON, [redacted]
WILMA J. IRVIN, [redacted]
ARNOLD C. JOHNSON, [redacted]
BENNIE L. KINGWOOD, [redacted]
WILLIAM J. MCELLROY, JR., [redacted]
ELSIE M. MCKENNEY, [redacted]
MILFORD J. OXENDINE, [redacted]
JOSEPH H. PANGBORN, [redacted]
WILLIAM T. PERKINS, [redacted]
DANIEL G. RUGER, [redacted]
REINHART SCHELERT, [redacted]
MARK J. SCHREIBER, [redacted]
STEPHEN W. SEELIG, [redacted]
NEAL E. SMITH, [redacted]
HAZEL L. THOMAS, [redacted]
FRED A. THOMPSON, JR., [redacted]
RALPH W. TURNER, JR., [redacted]
DAVID S. VANDERBILT, [redacted]
RODOLFO E. VIERA, [redacted]
RICHARD J. WOLFRAM, [redacted]
ROBERT H. WOODFIN, [redacted]
JOAN H. WOOTEN, [redacted]

CIVIL ENGINEER CORPS OFFICERS

To be commander

DAVID G. BASILE, [redacted]

WILLIAM T. BERSSON, [redacted]
QUENTIN L. BRUHN, [redacted]
DOUGLAS D. CARVEL, [redacted]
STEPHEN J. DANGELO, [redacted]
GREGORY K. DENARDO, [redacted]
CARYL L. ERICKSON, [redacted]
JOSE A. FIGUEROA, [redacted]
JAMES M. FORSETH, [redacted]
ROGER FRAZIER, [redacted]
HARRY A. GRAVELY, [redacted]
NANCY A. HOPPEL, [redacted]
ROBERT C. JACKSON, [redacted]
MARY E. KAPPUS, [redacted]
RICHARD L. KATZ, [redacted]
CARL W. KNUCKLES, [redacted]
PAUL F. KRUG, [redacted]
FRED G. LAPIANA III, [redacted]
WALTER F. LUNDIN, [redacted]
JOSEPH M. LYNCH III, [redacted]
STEPHAN C. MC CAREL, [redacted]
COURTNEY J. MC CRACKEN, [redacted]
TIMOTHY R. MILLER, [redacted]
BONNIE A. NAULT, [redacted]
MIKAL H. NICHOLLS, [redacted]
ALDEN T. PERRY, [redacted]
MARTIN E. PHILLIPS, [redacted]
MARC A. POWERS, [redacted]
JAMES E. RANDOL, [redacted]
ROBERT J. SACHUK, [redacted]
KENT A. SANDGREN, [redacted]
THEODORE H. SHEPARD III, [redacted]
LAWRENCE R. SMITH, [redacted]
CONNIE M. STARK, [redacted]
ROGER W. THOMAS, [redacted]
GARY A. TORIBIO, [redacted]
DOUGLAS W. TRINDER, [redacted]
KENNETH G. TUEBNER, [redacted]
CHARLES F. VAUGHAN, [redacted]
GERALD E. WHEELER, [redacted]
CHARLES F. WINSOR, [redacted]
JONES K. WONG, [redacted]
REX W. WRIGHT, [redacted]

LIMITED DUTY OFFICERS (STAFF)

To be commander

JOSEPH A. SCHWEIGART, JR., [redacted]

HOUSE OF REPRESENTATIVES—*Tuesday, July 12, 1994*

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore [Mr. MONTGOMERY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 12, 1994.

I hereby designate the Honorable G.V. (SONNY) MONTGOMERY to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER. Pursuant to the order of the House of Friday, February 11, 1994, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leaders limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. GOSS] for 5 minutes.

THE WEEK IN REVIEW: UNITED STATES POLICY IN HAITI

Mr. GOSS. Mr. Speaker, it was a busy district work period for many Members, so I want to make sure that no one is unaware of the unnecessarily escalated crisis in Haiti brought about by the latest clumsy efforts of President Clinton's foreign policy team. Despite a weather-related slowdown this weekend, the refugee numbers are still staggering. According to the Coast Guard last week was the busiest period in its history; 12,539 desperate Haitians took to the seas bringing the total to 19,200 since the policy change on June 16.

Guantanamo is over full, now housing 15,000 Haitians. The administration intends to let it go to 20,000 despite the security and health risks of such overcrowding. In the July 1 Washington Times, Army Colonel Pearson, the man organizing the tent city in Guantanamo, noted the base could support no more than 12,500 Haitians due to the limits on fresh water and sanitary facilities.

Even Clinton's special advisor, William Gray, could no longer deny U.S. culpability for the human exodus when he admitted to columnist Robert Novak that the sanctions "to some degree" have increased the flow of refugees. Secretary of State Warren Christopher, who arrived late and out of breath to the administration's Haiti policy planning, still seems unwilling to admit that reality telling the Washington Post yesterday it was caused by "the repressive Government of Haiti, the increase of repression in recent months."

Somebody needs to explain to the Secretary of State much of the economic repression was caused by the United States—deliberately and misguidedly. And, if the United States-led misery-inducing embargo were not enough, the administration has given Haitians an added inducement to leave by quintupling asylum approval rates from 2.6 percent to more than 30 percent. As the July 7 New York Times notes, the administration fudged again by easing the standards for entry to safe havens, which we must remember do not yet exist. All of this despite the personal assurances of William Gray to me and other Members of Congress that asylum standards would not change.

President Clinton speaks of increasing numbers of "people lying dead in the streets" in Haiti in the July 9 Washington Times—I wonder—has he looked at what is happening at sea? In the end, we are not doing desperate Haitians any favors with our come hither refugee policy—the Coast Guard photos tell the story: Overloaded, leaky vessels are very often no match for the 12-mile journey out to the 15 waiting cutters or for the rescue itself. People are dying in the sea—30 on June 23, 150 on July 4 another 2 on July 5, and untold other victims whose passing goes unnoticed.

Not only is this inhumane policy, it is a regional and international embarrassment. Unwilling to admit their mistakes and desperate to cope with the flood, the White House has sent American diplomats to search the Caribbean—checkbooks and brass knuckles in hand—to coerce and cajole our neighbors into taking on part of the burden of a disaster the Clinton administration created. They publicly humiliated President Endara of Panama with sloppy diplomacy and gringo intimidation. And, as Endara noted: "U.S. credibility in the region has sunk to an alarming new low."

The administration does not get it—our Caribbean neighbors are worried about the economic implications of having the United States deposit thousands of refugees on their doorsteps. Haiti is not destabilizing the region—United States policy is. Unforgivably, the administration has been unwilling to seek better alternatives. What assignments would this gentleman give the B team? Start by reading the CIA reports that clearly show a surgical strike to get rid of the military junta of Cedras, Michel, and Biamby will not end violence in Haiti. Send a commission now to see what the embargo is really doing—a decision to lift the embargo should surely follow.

And, after 18 months of having it in hand, finally take a serious look at the Goss safe haven-in-Haiti plan. I call attention to one more article that cites a Newsweek poll from yesterday showing that two-thirds of Americans oppose a United States invasion of Haiti and more than 50 percent opposed United States involvement in any intervention. The final assignment for the B team: Do not invade Haiti.

THE TIME FOR CHANGE IS NOW

The SPEAKER pro tempore (Mr. KLEIN). Under the Speaker's announced policy of February 11, 1994, the gentleman from Wyoming [Mr. THOMAS] is recognized during morning business for 3 minutes.

Mr. THOMAS of Wyoming. Mr. Speaker, I rise to talk about change, not a new idea. We have been talking about change in this place for a very long time. But the fact of the matter is, that change does not come about. Change does not happen. And it is time for it to happen, because the American people have asked for reform.

I just returned from Wyoming, as most of us did from our homes. People are tired of increased taxes, people are tired of increased spending, people are tired of overregulation and too much government. But we do not change. It continues to go on.

My suggestion, in fact, I am certain that in order to have change, you are going to have to make some procedural differences happen in this House, procedural changes that are opposed by the leadership, procedural changes that have been opposed for a very long time by the majority party.

Representative HOEKSTRA's bill for a national referendum, it seems to me, is a solution, a national referendum on term limits, a balanced budget amendment, and line-item veto. We need to allow the people to speak. We need to allow the people in this country to make a judgment on the kind of procedural changes that have to take place,

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface **indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.**

and will not take place voluntarily in this House.

They have been suggested for a very long time. We will have to force procedural changes and reforms if we want to deliver the changes. You cannot keep doing what you have been doing and expect the results to be different.

This body will not change voluntarily. Term limits, for example. Recent polls suggest that over 70 percent of American people support term limits. I support term limits. It seems to me that this is not a place for career politicians. This is not a place to be for 30 and 40 years, so that you are in a position that almost insulates you from people.

□ 1040

Wyoming is one of the States that has passed the term limitation. Only by having the States pass term limitation will this Congress move. The same party has been in charge of this House for 40 years.

The procedures, the ownership rests there. It has to be wrestled away by procedural change.

The balanced budget amendment, some say it is a gimmick. The fact is that we continue to spend more each year. All the talk last year about the cuts, the cuts were a transfer. We spent $30 billion more than we had spent the year before. The balanced budget amendments gives constitutional discipline to something that this House is not able to do on their own. Wyoming has it in my State. We have lived with it for years. It works. We cannot spend more than the resources that we have.

The line-item veto, there is no question in my mind but that we need a line-item veto. The President is the only person in this Government who can reach into a large budget bill or a large highway bill and take out pork barrel kinds of things that have been put in by Members who have been here forever. That is the way it works.

We do not have the opportunity to vote on those kinds of issues. We need procedural change. If we want change and results, we have to have change in procedure.

WELFARE REFORM

The SPEAKER pro tempore (Mr. KLEIN). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Kansas [Mrs. MEYERS] is recognized during morning business for 5 minutes.

Mrs. MEYERS of Kansas. Mr. Speaker, I feel very strongly that the biggest domestic challenge that we face is that of welfare reform. Let me give my colleagues a couple of statistics.

By the year 2000, just 5½ years from now, 80 percent of minority children and 40 percent of all children in this country are going to be born out of wedlock; 80 percent of minority children and 40 percent of all children.

Let me put that together with another statistic. If you graduate from high school, get married and do not have your first child until you are 20, of that group of people, only 8 percent are in poverty. But if you do not graduate from high school, do not get married, and have your first child as a teen, of that group of people, 80 percent are in poverty.

I think it becomes clear, when we put those two statistics together, that by encouraging teenage pregnancy, we are encouraging a whole host of problems that follow throughout the lives of these children that are born. I am not saying that all children that are born to a parent on AFDC are bad. Far from it. A great many of them turn out very well. But also a great many of them get a very bad start in life, and they have very little structure in their lives and no fathers. And sometimes not enough food and later on, we find statistically that these children have more trouble in school. They have more health problems, and they have more problems with crime.

Let me read three quotes. This is from a recent document from the Children's Rights Council.

"Most law-abiding citizens work 40 to 45 years to qualify for a Social Security benefit that is smaller than a teenager's welfare package." They work 40 to 45 years to get a benefit that is smaller than a teenager's welfare package.

Second quote, "Many welfare recipients are not unemployed. They are prematurely retired."

Third quote, "The reality is that current policies allow children to be held as hostages to guarantee continued subsidy of adult irresponsibility."

Now, there are several bills in to deal with this challenge. The President wants to add another $10 billion and have a job training program, a job search program, a job readiness program, a day care program, and a transportation program. The problem is, we did all that back in 1988, and the program failed miserably. It was supposed to cost $3 billion. It cost $13 billion. And less than 1 percent of the welfare population is working. Why would we try that again?

There is another bill in that goes in the right direction, but I think it freezes too much and too fast.

Let me describe my bill. It is H.R. 1493. It freezes AFDC. There are three large entitlement programs involved with welfare: AFDC, food stamps, and Medicaid.

I do not do anything to food stamps and Medicaid. I freeze only AFDC, send it back to the States in block grants, allow the States absolutely maximum flexibility. And then, with only two mandates, one, no AFDC unless both parents are 18; second, no AFDC at any age until the father is absolutely identified with name and date and place of birth or Social Security number or something so that we know exactly who that father is.

I leave it to the States to devise the work programs, because I do not think that we can say, give the States absolutely maximum flexibility and then go in and tell them, but we are going to mandate that you construct your work programs and your day care programs and everything just exactly as we tell you to.

We should give them maximum flexibility but allow them to save $5 billion to $6 billion over the next 5 years by mandating that they do not give AFDC to parents who are under 18 and that they not give AFDC until the father is absolutely identified.

This bill would save $6 billion to $8 billion over the next 5 years at the Federal level.

TRIBUTE TO THE REGINALD S. LOURIE CENTER FOR INFANTS AND YOUNG CHILDREN

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Maryland [Mrs. MORELLA] is recognized during morning business for 3 minutes.

Mrs. MORELLA. Mr. Speaker, I would like to take this opportunity to honor the Reginald S. Lourie Center on the occasion of its 10th anniversary. The Lourie Center, located in Rockville, MD, is a national pioneer in developing and applying early intervention techniques to diagnose and treat emotional and developmental problems in young children from birth to 8 years of age.

The center's emphasis on early intervention focuses on identifying and treating emotional and developmental problems in the earliest years of life, before such problems become entrenched, more difficult for the families, and more costly to treat. This approach is an important model to consider as we wrestle with health care reform legislation.

This year, as the Lourie Center celebrates its 10th anniversary, it already has been recognized as a leader in its field. Tipper Gore has praised the center for its innovative role in the treatment of children with emotional and developmental difficulties. Mrs. Gore, who was the recipient of a special award from the center for her work on children's mental health issues, stated that the center "has enormous import for the mental health of this Nation's children and families." In addition, distinguished opera star, Beverly Sills, a mother of two children with birth defects, has praised the Lourie Center for "easing the burden of children and their families through early intervention in diagnosis and treatment." Ms. Sills was the featured speaker at the center's 10th anniversary dinner.

The Lourie Center serves families from all income levels, and without regard to their ability to pay. The center's clients include young children who have withdrawn from the world around them; children in foster care who are insecure in their setting; children who have been abused and neglected; children who are angry, anxious or fearful, and who can't get along in day care or primary school. The center also serves as a link between such children and parents who are often depressed and despairing, parents who need support and education in order to be better parents.

The center is named for the late Dr. Reginald Lourie, a distinguished child psychiatrist who cofounded the agency in the early 1980's. He and his colleagues won a grant from the National Institute of Mental Health to test the proposition that it is feasible to diagnose and to treat emotional and developmental problems in very young children, even infants.

The Lourie Center evolved from that 6-year NIMH clinical research project, which demonstrated the value of early intervention services in helping young children and their families get an emotionally healthy start in life.

Now, 10 years later, the center has an interdisciplinary staff of 40 professionals and serves 400 Washington area children and their families every year.

In addition, the center's staff engages in a wide variety of research activities and provides early intervention training for hundreds of health and mental health professionals.

Last year, in partnership with Johns Hopkins University—and with funding from the U.S. Department of Education—the Lourie Center began offering one of the Nation's first graduate degree programs with a concentration in the field of infant mental health.

This is just the latest example of the pioneering role of Montgomery County's Lourie Center in efforts which are vitally important to our children, and our communities.

RELIGIOUS TOLERATION STILL NEEDED

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Texas [Mr. SMITH] is recognized during morning business for 5 minutes.

Mr. SMITH of Texas. Mr. Speaker, the following is a quote:

> For while this year it may be a Catholic against whom the finger of suspicion is pointed, in other years it has been, and someday may be again, a Jew. Or a Quaker. Or a Unitarian. Or a Baptist. Today I may be the victim, but tomorrow it may be you—until the whole fabric of our harmonious society is ripped at a time of great national peril.

Mr. Speaker, those were the words of Presidential candidate John F. Kennedy in 1960, at the dawn of the civil rights era.

Just as the struggle for equality in those turbulent years did much to end political discrimination against minorities, so also did Kennedy's candidacy break a longstanding barrier against Americans of the Catholic faith.

So cathartic was the Nation's wholesale acceptance of his religion that until recently it was difficult to even imagine a large group of Americans facing political attack for their faith.

Until recently.

The well-coordinated onslaught emanating from the White House and Democratic party headquarters against religious conservatives saddens the hearts of tolerant Americans everywhere.

Anyone who participates in politics is fair game for criticism of their ideas, of course. That is a strength of the American system. But the unambiguous message of these attacks has been that religious conservatives have no place and no right to participate in the political process at all. The message is that they should abandon their agenda and simply accept, without protest, policies and lifestyles they find objectionable.

That is a restriction that no other group of American citizens has been expected to accept for a long, long time. What other group would tolerate this back-of-the-bus treatment?

Thomas Jefferson would have suffered to hear U.S. Surgeon General Joycelyn Elders lambast the "un-Christian religious right * * * for selling out our children in the name of religion."

Other, even stronger exclamations from Democrats at all levels would have had the father of the Bill of Rights fearing for the future of his beloved Republic, and bowing his head over his party.

What appears to have been lost in the din of all the ugly rhetoric of the past month is that Jefferson wrote the first amendment's unprecedented guarantee of religious freedom not to protect the Government from organized religion.

Jefferson's goal was to protect religion from the Government. Sadly, judging by the rhetoric of our President and many Democrats, that need is as acute today as it was 200 years ago.

Tragically, many of our traditional defenders of free speech and political diversity have fallen conspicuously silent today. Some are even joining openly in the assault.

A New York Times editorial, for example, refers to religious conservatives as "sinister," "retrograde" and "exclusionist."

As Bill Bennett, author of "The Book of Virtues" has put it:

> This is not political discourse. It is argument by invective. It is worth reflecting on how liberals and the mainstream media would respond if similar things were said by conservatives about, say, homosexuals. Or feminists. Or blacks. Or Jews. Or virtually any group actively engaged in politics except conservative Christians.

It appears that the burden of an unpopular President and control of both houses of Congress has driven some Democrats to desperation. In their search for a bogeyman to draw attention away from their own failings, they have violated one of our most hallowed traditions as a nation—that of religious toleration.

Changing the subject is an old political trick. So is demonizing your rivals to try and fire up your rank-and-file.

But there's a clear line between political drumbeating and outright religious bigotry.

President Clinton and his party have not only crossed this line, they seem to have lost sight of it altogether. They would do well for themselves as a party and for America to rediscover the tolerance they displayed in 1959 when they nominated John F. Kennedy for President of the United States.

Religious toleration is still needed in America.

□ 1050

HEALTH CARE REFORM

The SPEAKER pro tempore (Mr. KLEIN). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Ohio [Mr. BOEHNER] is recognized during morning business for 4 minutes.

Mr. BOEHNER. Mr. Speaker, last week I was at home in Ohio, as were many of my colleagues, talking to my constituents about what was on their minds. Health care came up quite a bit as I toured around my district. There was great concern expressed by many people about what was going to happen in this Congress with regard to health care reform. Were we going to get the Bill Clinton type health care reform that was going to put the Government in a larger role with regard to health care that I and the constituents of my district would receive?

One issue that came up repeatedly was the issue of rationing. We will not hear the proponents of these big government health bills talk about rationing. We will hear words such as cost control, trying to make health care more affordable. But the fact is, the American people are beginning to sense rather acutely that all of this means rationing.

What is rationing? Rationing means denying service for certain procedures to certain parts of our society that the Government would decide is not in the best interest of the country as a whole, in order to hold down costs.

Last month in the Committee on Education and Labor I offered an amendment during the markup of the President's health care bill that would allow the American people to buy supplemental insurance policies in case they have been denied care, in case they have been denied services under one of these big government bills. During the debate on my amendment some interesting points were made by my colleagues on the Democrat side of the aisle, most notably by the gentleman from Montana [Mr. WILLIAMS], who is the chairman of the Labor Management Subcommittee that had jurisdiction over this health care bill.

Let me read what he had to say when we got into the discussion on my amendment.

> But at the end of the day, the only way the American people are really going to get health costs reduced is through some type of a competitive arrangement that moves toward restricting unnecessary procedures.
>
> Now, who is going to decide what is necessary, who is going to decide what is unnecessary, we could all go through that forever. Sometimes this goes by the name of rationing. The gentleman's amendment would allow an off ramp, at least for those who could afford it, to continue to pay more. It seems to me that it may be that off ramp is necessary.
>
> I am not as opposed to the gentleman's amendment, as some of my colleagues on this side. But what we have to decide as we vote here is do we want to restrain health care costs or don't we? Because the gentleman's amendment, if in the final bill signed by the President, is going to say health care costs are not going to be restrained to that great a degree because competition is not going to be managed, no kind of rationing will be used for those people who can afford supplemental insurance, they will get an off ramp and be able to continue to speed on with health care costs rising.

It is clear to me from the strongest proponents of this bill that the most onerous part of this legislation that came out of our committee is this attempt to control costs by limiting access to the system for those who may be in need of care.

Today there are some who cannot afford health care insurance. That is certainly a form of rationing and we would all like to fix that. But I do not want to be the one sitting in a hospital room, having some government bureaucrat decide what kind of care that I am going to get.

Who is going to make the decision about the 75-year-old person who needs a hip replacement, the doctor and that patient and their family, or a government bureaucrat? Who is going to make the decision about a 70-year-old person who wants to have heart surgery, who needs heart surgery, is it going to be the patient, their doctor and their family, or is it going to be some government bureaucrat sitting here in Washington? What about the newborns that have problems at birth, who is going to make those decisions?

As we move toward this debate, I have much more confidence in the American people and their physicians than I do in some bureaucrat making these decisions about our health care.

RECESS

The SPEAKER pro tempore (Mr. KLEIN). Pursuant to clause 12, rule I, the Chair declares the House in recess until 12 noon.

Accordingly (at 11 o'clock a.m.) the House stood in recess until 12 noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 noon.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We place before You, O God, our needs, our hopes, our joys, and our expectations, and all the petitions of our own hearts, that You would bless us in our concerns and give us peace according to our needs. We recognize that there is nothing too great for Your power and nothing too burdensome for Your mercy. As you, O God, have given life in the beginning and nurtured every good thing for all Your people, be with us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Ohio [Mr. TRAFICANT] please come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

> H.R. 4301. An act to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; and
>
> H.R. 4506. An act making appropriations for energy and water development for the fiscal year ending September 30, 1995, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4301) "An act to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. NUNN, Mr. EXON, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. GLENN, Mr. SHELBY, Mr. BYRD, Mr. GRAHAM, Mr. ROBB, Mr. LIEBERMAN, Mr. BRYAN, Mr. THURMOND, Mr. WARNER, Mr. COHEN, Mr. MCCAIN, Mr. LOTT, Mr. COATS, Mr. SMITH, Mr. KEMPTHORNE, Mr. FAIRCLOTH, and Mrs. HUTCHISON, to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4506) "An Act making appropriations for energy and water development for the fiscal year ending September 30, 1995, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JOHNSTON, Mr. BYRD, Mr. HOLLINGS, Mr. SASSER, Mr. DECONCINI, Mr. REID, Mr. KERREY, Mr. HATFIELD, Mr. COCHRAN, Mr. DOMENICI, Mr. NICKLES, Mr. GORTON, and Mr. MCCONNELL, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

> S. 2243. An act to amend the Fishermen's Protective Act of 1967 to permit reimbursement of fishermen for fees required by a foreign government to be paid in advance in order to navigate in the waters of that foreign country whenever the United States considers that fee to be inconsistent with international law, and for other purposes.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 1587) "An Act to revise and streamline the acquisition laws of the Federal Government, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. GLENN, Mr. NUNN, Mr. BUMPERS, Mr. SASSER, Mr. EXON, Mr. LEVIN, Mr. PRYOR, Mr. BINGAMAN, Mr. SHELBY, Mr. DORGAN, Mr. ROTH, Mr. THURMOND, Mr. STEVENS, Mr. WARNER, Mr. COHEN, Mr. PRESSLER, Mr. MCCAIN, and Mr. SMITH, to be the conferees on the part of the Senate.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 12, 1994.
Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate:

1. Received on Friday, July 1, 1994 at 9:11 a.m.: that the Senate passed without amendment H.R. 4635.

2. Received on Friday, July 1, 1994 at 1:40 p.m.: that the Senate agreed to the Conference Report on H.R. 4454.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 12, 1994.
Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transit a sealed envelop received from the White House on Friday, July 1, 1994 at 10:00 a.m. and said to contain a message from the President wherein he notifies the Congress of a declaration of a national emergency due to the lapse of the Export Administration Act of 1979.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

NOTIFICATION OF DECLARATION OF NATIONAL EMERGENCY DUE TO LAPSE OF EXPORT ADMINISTRATION ACT OF 1979—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

Pursuant to section 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b), I hereby report to the Congress that I have today exercised the authority granted by this Act to continue in effect the system of controls contained in 15 C.F.R., Parts 768–799, including restrictions on participation by U.S. persons in certain foreign boycott activities, which heretofore have been maintained under the authority of the Export Administration Act of 1979, as amended, 50 U.S.C. App. 2401 *et seq.* In addition, I have made provision for the administration of section 38(e) of the Arms Export Control Act, 22 U.S.C. 2778(e).

The exercise of this authority is necessitated by the expiration of the Export Administration Act on June 30, 1994, and the lapse that would result in the system of controls maintained under that Act.

In the absence of control, foreign parties would have unrestricted access to U.S. commercial products, technology, technical data, and assistance, posing an unusual and extraordinary threat to national security, foreign policy, and economic objectives critical to the United States. In addition, U.S. persons would not be prohibited from complying with certain foreign boycott requests. This would seriously harm our foreign policy interests, particularly in the Middle East.

Controls established in 15 C.F.R. 768–799, and continued by this action, include the following:

—National security export controls aimed at restricting the export of goods and technologies, which would make a significant contribution to the military potential of certain other countries and which would prove detrimental to the national security of the United States.

—Foreign policy controls that further the foreign policy objectives of the United States or its declared international obligations in such widely recognized areas as human rights, antiterrorism, regional stability, missile technology nonproliferation, and chemical and biological weapons nonproliferation.

—Nuclear nonproliferation controls that are maintained for both national security and foreign policy reasons, and which support the objectives of the Nuclear Nonproliferation Act.

—Short supply controls that protect domestic supplies, and antiboycott regulations that prohibit compliance with foreign boycotts aimed at countries friendly to the United States.

Consequently, I have issued an Executive order (a copy of which is attached) to continue in effect all rules and regulations issued or continued in effect by the Secretary of Commerce under the authority of the Export Administration Act of 1979, as amended, and all orders, regulations, licenses, and other forms of administrative actions under the Act, except where they are inconsistent with sections 203(b) and 206 of the International Emergency Economic Powers Act.

The Congress and the Executive have not permitted export controls to lapse since they were enacted under the Export Control Act of 1949. Any termination of controls could permit transactions to occur that would be seriously detrimental to the national interests we have heretofore sought to protect through export controls and restrictions on compliance by U.S. persons with certain foreign boycotts. I believe that even a temporary lapse in this system of controls would seriously damage our national security, foreign policy, and economic interests and undermine our credibility in meeting our international obligations.

The countries affected by this action vary depending on the objectives sought to be achieved by the system of controls instituted under the Export Administration Act. Potential adversaries may seek to acquire sensitive U.S. goods and technologies. Other countries serve as conduits for the diversion of such items. Still other countries have policies that are contrary to U.S. foreign policy or nonproliferation objectives, or foster boycotts against friendly countries. For some goods or technologies, controls could apply even to our closest allies in order to safeguard against diversion to potential adversaries.

It is my intention to terminate the Executive order upon enactment into law of a bill reauthorizing the authorities contained in the Export Administration Act.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 30, 1994.*

COMMUNICATION FROM THE HONORABLE ROSA L. DELAURO, MEMBER OF CONGRESS

The SPEAKER laid before the House the following communication from the Honorable ROSA L. DELAURO, Member of Congress:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON APPROPRIATIONS,
July 1, 1994.
Hon. THOMAS S. FOLEY,
Speaker of the House, Washington, DC.

DEAR MR. SPEAKER, this is to formally notify you pursuant to Rule L (50) of the Rules of the House that my office has been served with a subpoena concerning constituent casework issued by the State of Connecticut Commission on Human Rights and Opportunities in connection with a civil case.

After consultation with the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,
ROSA L. DELAURO.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker pro tempore signed the following enrolled bills on Friday, July 1, 1994:

H.R. 4581, to provide for the imposition of temporary fees in connection with the handling of complaints of violations of the Perishable Agricultural Commodities Act, 1930; and

H.R. 4635, to extend the Export Administration Act of 1979.

THE PRINEVILLE HOT SHOTS

(Ms. FURSE asked and was given permission to address the House for 1 minute.)

Ms. FURSE. Mr. Speaker, I rise today to honor the 14 courageous men and women firefighters who lost their lives fighting the wildfires in Colorado last week. Nine of those brave young people were from my home State of Oregon. And Scott Blecha lived most of his 27 years in my district, in the small town of Clatskanie.

These firefighters were part of the Prineville Hot Shots, an elite team that knew the dangers they faced, yet they gave their all when called upon to stop a raging forest fire. Last Wednesday, Mother Nature swiftly turned brutal on Storm King Mountain, and a wall of fire engulfed these fearless firefighters.

The entire State of Oregon is in mourning over this tremendous loss, with flags flying at half staff in honor of these admirable young people.

For all of the families, friends, and coworkers who are suffering because of this tragedy, know that these young people's dedication, courage, and spirit live on and serve as a role model for all of us.

EMPLOYER MANDATES

(Mr. RAMSTAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAMSTAD. Mr. Speaker, employer mandates are a loaded gun pointed at the head of small businesses. Any employer mandate is a prescription for economic disaster with or without triggers.

The Joint Economic Committee's recent survey on employer mandates clearly shows that a mandate will kill jobs and reduce wages. The Massachusetts miracle is proof of the disastrous effects of triggered employer mandates. Since the inception of mandates in that State in 1988, they have been the source of widespread economic decline and job losses.

Let us not make the same mistake nationwide. We simply cannot afford an employer mandate in any way, shape or form.

Mr. Speaker, reasonable and effective health care reform is both necessary and achievable. But we do not need to kill jobs and destroy the current quality of care in the process. Let us reject job-killing mandates. Let us pull the triggers and kill the mandates.

THE CIA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Madam Speaker, on July 8, North and South Korea were to have an historic meeting. On July 8, North Korean dictator Kim Il-song died of a reported heart attack. Coincidence, I do not know.

The CIA said the cause of Kim's death is unconfirmed and even though it has been widely reported by CNN that Kim had seen Western physicians, the CIA said, "We did not even know Kim Il-song had a heart problem."

Unbelievable. My colleagues, what are we funding over there? A bunch of nincompoops and katzenjammer cops that could not find themselves out of a rest room.

This is unbelievable. We had to find out about the invasion of Kuwait on CNN, as did the CIA. Now the CIA finds out from CNN that Kim Il-song had a heart problem.

I say we should cut their funds in half, direct them to do book reports and written reports to Congress on Larry King, Mary Matalin, Phil Donohue, Rivera and all of CNN and then visit a proctologist for a brain scan.

RECOGNIZE HAITI FOR WHAT IT IS—A FAILED NATION

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Madam Speaker, as this body returns from the Independence Day district work period, it is increasingly clear that the Clinton administration is, disastrously, rapidly moving toward an invasion of Haiti. Convinced that an invasion would be highly divisive and in the long run counterproductive, this Member repeatedly has come before this body to argue in the strongest terms against military action in Haiti.

The notion of a military action to restore democracy and order to Haiti is fatally flawed because, quite frankly, there is, among other reasons, no order to restore. Missing are virtually all of the basic institutions and infrastructure that would make Haiti a viable nation-state. Even were Mr. Aristide to be forcibly returned to power, Haiti inevitably would continue its descent into chaos because the institutions necessary for democracy and order are utterly lacking. In short, Haiti is a failed nation-state.

It is time to recognize that Haiti is not capable of developing effective institutions of governance on its own. Some form of international oversight is essential. It is clear to this Member that perhaps Haiti's only chance for long-term stability is to establish an international conservatorship, with the nation voluntarily giving up elements of its sovereignty for a specified period of time in exchange for a coordinated and massive assistance program with international administrations and supervision. What this Member is suggesting is that, when a national such as Haiti is so utterly unsuccessful in performing the most basic functions of a nation, then the international community should, in effect, place that country in a U.N.-supervised receivership.

Madam Speaker, this Member recently introduced House Concurrent Resolution 260, a resolution that calls for an international conservatorship to assume the task of managing and directing the affairs of Haiti, and building the institutions to permit Haiti to eventually become a credible nation-state. Certainly, the inducements could be found that would lead the Haitian leadership to accept such a conservatorship while their nation is being rebuilt. And, in the end, an internationally supervised conservatorship such as has been proposed in House Concurrent Resolution 260 could well be the only way to end the cycle of misery, ineptitude, and corruption that has plagued Haiti throughout most of its history. Somalia is another example of a failed nation-state calling for international receivership. I urge my colleagues to consider the resolution I have introduced as a necessary mechanism for addressing failed nation-states that now exist in various locations around the globe.

PROMISES, PROMISES

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Madam Speaker, in his campaign for President, Bill Clinton promised to end welfare as we know it.

It took a year and a half into his Presidency, but the administration has finally sent down a sketchy outline of his plan. And even this outline will cost more and will continue welfare as we know it.

This is just one more example of the difference between what the President has promised, and what he will deliver.

He promised a middle-class tax cut, but delivered a middle-class tax increase.

He promised health care reform, but delivered an unworkable socialist health care scheme. He promised the most ethical White House in history, but has delivered the most scandal-ridden administration in memory.

He promised to be a new Democrat, but he is looking more and more like the Democrats of old.

Madam Speaker, the President gives nice speeches. But I urge my colleagues to look closely at how the President really delivers.

COMMEMORATING FALLEN FEDERAL FIREFIGHTERS

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Madam Speaker, I rise today with our colleague, the gentleman from Idaho [Mr. LAROCCO] on behalf of the 365 members of the congressional fire services caucus to honor the 14 Federal firefighters who lost their lives in South Canyon, CO, last week.

The men and women we lost on July 6 represent the best of America. They were fathers of young children, college students, ex-military personnel, and they were serious and seasoned firefighters.

Like all firefighters, they committed themselves to protecting the property and lives of others at the risk of their own lives.

These men and women did not choose this career path because they knew it would enrich them. In fact, most earned about $8 an hour—poor compensation for such dangerous and important work. They chose this path because they loved the challenge and because they knew it would better the communities they served. It would protect important resources, and hopefully innocent lives as well.

Madam Speaker, I know all my colleagues join me in prayer for these men and women and their families. Their sacrifice is only overshadowed by the tremendous contributions they made.

Madam Speaker, let me read the 14 names: Bonnie Holtby, age 21; John Kelso, age 27; Jim Thrash, age 44; Tami Bickett, age 25; Scott Blecha, age 27; Levi Brinkley, age 22; Kathi Beck, age 24; Rob Johnson, age 26; Rob Browning, 27; Doug Dunbar, 22; Terri Hagen, 28; Don Mackey, 34; Roger Roth, 30; Richard Tyler, 33.

Madam Speaker, they died too young, but they served mightily. God bless each and every one of them.

THE SINKING ECONOMIC GROWTH RATE UNDER THE CLINTON ADMINISTRATION

(Mr. GILLMOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILLMOR. Madam Speaker, economic data now available make it clear that the tax increase policies of the Clinton administration and a majority in Congress have severely reduced economic growth in America. The Democrat tax increase not only takes billions out of the economy, it costs individual Americans billions more in a slower economic growth rate and a reduced standard of living.

By what standard do we judge this? We judge it by the standard that Bill Clinton himself set when he ran for President. He criticized the Bush administration on the rate of growth in 1992 as being too low. In fact, the economy grew in each quarter of 1992, and it accelerated as the year went on. Growth in the last quarter of 1992 was a robust 5.7 percent. When the Clinton Democrat tax was proposed and passed, the growth rate declined dramatically. In fact, in four of the five quarters since Bill Clinton was elected for which figures are available, the growth in the economy has been lower than when George Bush was in office. The rate in the last quarter was only 3.0, compared to 5.7 when Bush left office.

Despite all the spin control by the Clinton administration, that means the economic growth rate under Bill Clinton is down 47 percent from the rate under George Bush.

THE CLINTON HEALTH PLAN WILL COST AMERICA JOBS

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Madam Speaker, the only thing that people in this town will agree upon when it comes to the health care reform is that the Clinton health care plan or, for that matter, any of its relatives, will cost us jobs.

No matter who you talk to, the Congressional Budget Office, the Employment Policies Institute, the Tax Foundation, or the Employment Benefit Research Institute, to name only a few, they all agree that jobs will be lost.

The only real bone of contention is how many. The estimated job losses range from a low of 600,000 to a high of 3.8 million with the average being somewhere around a loss of 1 million jobs. The low estimate of 600,000 comes from none other than the President's chief economist herself, Laura Tyson.

Madam Speaker, I do not know about others, but I always thought that the President of the United States should be in the job construction business and not the job destruction business.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3222

Mr. EMERSON. Madam Speaker, I ask unanimous consent to withdraw my name as a cosponsor of H.R. 3222.

The SPEAKER pro tempore (Ms. FURSE). Is there objection to the request of the gentleman from Missouri?

There was no objection.

PLAYING POLITICS WITH OUR HEALTH

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Madam Speaker, after being well outside the beltway during the break, I find American people everywhere are increasingly skeptical of our ability to pass an affordable health bill that will work. People especially fear the Clinton plan will make the system more bureaucratic and costly. Yet, the democratically controlled House continually seems to reject this public sentiment. Well, there is a price for that. Things are so bad, 63 percent of the Speaker of the House's own constituents feel he is doing a poor job in leading us, according to published poll results. Now, it is reported the Speaker is planning on using a closed rule to force through a Clintonesque health plan.

Apparently the majority leadership fears sensible bipartisan reforms like those in the Rowland-Bilirakis bill would pass this House if given a vote. We do not need another gag rule—let us have an honest and open and fair debate on health—it is what the American people want, and what true democracy demands. Why would we do less in the Peoples House?

□ 1220

MEDICAL MALPRACTICE REFORM

(Mr. GRAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAMS. Madam Speaker, health care reform is being held hostage by special interests. What a coincidence—the President put a lawyer in charge of health care reform and, interestingly, not one of the bills reported out of committee addresses the rising costs of frivolous lawsuits and defensive medicine.

This is a gap that I hope to close by introducing this week the Medical Malpractice Fairness Act of 1994.

Patients and consumers desperately need medical malpractice reform. Studies indicate that the high cost of liability insurance and the increase in defensive medicine cost consumers $15 billion per year. Conservative estimates indicate that reform of defensive medicine will save consumers at least $500 per hospital stay.

Madam Speaker, it is time we told the special interests to take a hike. No discussion of health care reform can be taken seriously if we do not vigorously address the problem of frivolous lawsuits and defensive medicine. I strongly urge my colleagues to support the Medical Malpractice Fairness Act of 1994.

LAUGHTER IS THE ONLY MEDICINE

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Madam Speaker, as the Clinton health care plan goes on life support because of a lack of support, the White House has decided to try the old nostrum that laughter is the best medicine.

They have come up with a joke of a strategy to advance their health care plan. First, they intend to start another bus trip on August 1.

How appropriate, that in this age of supersonic travel and information superhighways the White House has decided to take the Trailways instead.

Their second knee-slapper is a sophomoric response to the Harry & Louise ads, which express the genuine concerns middle-class Americans have about a government-run health care plan.

Evidently to the White House these concerns are a joke, so they turned to their friends in Hollywood to come up with another sit-com to express them. While America wants Marcus Welby, the administration is sending Roseanne.

Just remember as you chuckle, that if the Clinton plan passes, laughter will be the only medicine you can get without a wait.

VIEWS OF THE AMERICAN PEOPLE NEEDED IN HEALTH CARE DEBATE

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Madam Speaker, as Congress comes back into session today, the American people should know that the Democrat leaders will begin secret meetings to resurrect the Clinton health care bill. Neither Republicans nor the press nor the public will be allowed to take part.

Surely the American people have had enough of Congress operating behind closed doors. Moreover, they have a right to follow the crafting of a bill that affects 14 percent of the economy.

The Democratic leadership will perform only plastic surgery on a bill that cries out for surgery. It may look better at first glance but inside, where it counts, it will still be decaying the economy.

Senator JAY ROCKEFELLER said recently, "We're going to push through health care regardless of the views of the American people." So they will.

But the views of the American people cannot be ignored forever. November comes to mind.

THIS IS NOT PROGRESS

(Mr. DOOLITTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLITTLE. Madam Speaker, as my Democrat colleagues talk about the progress they think they have made, I urge the American people to think about what progress really is.

Passing the largest tax increase in history is not progress. Delaying quick action on congressional reform is not progress. Opposing every effort to cut spending first is not progress. Socializing our health care delivery system is definitely not progress. Creating more regulations; hiring more bureaucrats; passing more worthless laws; these things are not progress.

Madam Speaker, when the American people said they wanted change, they did not mean they wanted more government. That is not progress.

As my Democrat colleagues talk about progress, I hope the voters remember that the Democrat version of progress means more government, more taxes, and a lesser quality of life and a lower standard of living for every American.

COST OF GOVERNMENT DAY

(Mr. BOEHNER asked and was given permission to address the House for 1 minute.)

Mr. BOEHNER. Madam Speaker, July 10 has come and gone without much fanfare. Members probably wonder, what is July 10? July 10 was cost-of-government day. It was that day that the average American worker finally had worked all year from January 1 through July 10 to pay for the cost of government.

Madam Speaker, it is not just taxes, it is government regulations; it is redtape. Average American workers spend 53 percent of their net income to pay for government. Fifty-three percent. We wonder why the American people cannot afford housing, why the American people do not have money for their colleges, for their young children.

The fact is we all know government is too big and it spends too much. The biggest chunk of that 53 percent is the American people's obligation to this Government here in Washington.

Madam Speaker, it is time for all of us to stand up and begin to look for ways to reduce the cost of government for the average American because if we really want to restore the American dream for our constituents, for our neighbors, we have got to get government off their back and put government once again in a position to help them.

KEEP OUT OF HAITI

(Mr. ROTH asked and was given permission to address the House for 1 minute.)

Mr. ROTH. Madam Speaker, it is amateur night at the White House when it comes to our policy toward Haiti. We seem to be groping and lurching our way toward a military invasion that the vast majority of the American people do not favor and even those who oppose the current regime in Haiti say would be wrong.

It is now clear that the Clinton administration's inconsistent embargo and immigration policy is a failure and has contributed to the tragedy of the boat people.

Now I fear we will compound these errors by putting our young men and women of the Armed Forces in harms way for the worst of reasons—domestic politics.

If anyone believes this would be a quick and simple operation, look at history. In 1915, President Woodrow Wilson sent in the Marines to what at first was a welcome reception. Bogged down by terrorist activities, it was 19 years before we got out.

Madam Speaker, it would be wrong to use American military force to save a failed foreign policy and I hope President Clinton will change course before it is too late.

GEORGIA FLOOD DISASTER

(Mr. BISHOP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BISHOP. Madam Speaker, I left Washington on Friday, July 1 to celebrate the birth of our Nation and to campaign for reelection.

However, circumstances have permitted me to see nature at its worst but people at their best. The floods that roared through 28 of the 35 counties within the Second District of Georgia have caused hundreds of millions of dollars in damages and a countless loss of life.

The deadly waters swept away the homes, livelihoods, and dreams of thousands of my constituents, not to mention one of the oldest historically black colleges in our State, Albany State College.

As I flew over the disaster areas, the magnitude of the losses was quite evident. And then as I walked through the temporary shelters and saw the pain of those losses on the faces of my friends and constituents, those losses became very personal to me. As the death toll continues to mount, the losses become more personal still.

But as I witness the outpouring of concern and assistance from throughout my district, State, and Nation I understood and I understand the true meaning of America, and of community.

I hope and pray that none of you ever face such a disaster. If you should, I pledge to you that the Second Congressional District of Georgia will respond to your needs as you have and as you continue to respond to ours.

SIGN A TO Z DISCHARGE PETITION

(Mr. ZELIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZELIFF. Madam Speaker, budget process reforms are important. I am pleased that the pressure to stop the A to Z spending cuts plan has brought budget process reforms to the floor.

Let us make one fact crystal clear, however, budget process reforms are not spending cuts. If you want real spending cuts now, you must sign Discharge Petition No. 16.

I am also pleased that the majority leader has decided to let us vote on three or four entitlement cuts as part of the pressure to stop the A to Z spending cuts plan.

It is also crystal clear that three or four entitlement cuts selected by the same people that gave us the $4.7 trillion debt, are not the same as letting every member propose any entitlement cut that they want.

If you want a real open rule to consider entitlement cuts sign Discharge Petition No. 16 now.

Entitlements are over 50 percent of the budget. Should not more than three or four members be allowed to propose entitlement cuts? Why is the leadership afraid to let the elected members vote on spending cuts, Madam Speaker?

□ 1230

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Ms. FURSE). Pursuant to the provisions of clause 5 of rule I, the Chair announces that She will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Rollcall votes on the first 11 suspensions, if postponed, will be taken today, after consideration of H.R. 518, the California Desert Protection Act.

Rollcall votes on the remaining three suspensions will be taken on Wednesday, July 13, 1994.

TECHNICAL CORRECTIONS TO MAPS RELATING TO THE COASTAL BARRIER RESOURCES SYSTEM

Mr. STUDDS. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 4598) to direct the Secretary of the Interior to make technical corrections to maps relating to the Coastal Barrier Resources System, as amended.

The Clerk read as follows:

H.R. 4598

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CORRECTIONS TO MAPS.

(a) IN GENERAL.—The Secretary of the Interior shall, before the end of the 30-day period beginning on the date of the enactment of this Act, make such corrections to the maps described in subsection (b) as are necessary to ensure that—

(1) depictions of areas on those maps are consistent with the depictions of areas appearing on the maps entitled Coastal Barrier Resources System, dated June 29, 1994, and on file with the Secretary of the Interior; and

(2) the Coastal Barrier Resources System does not include any area that, on the day before the date of the enactment of this Act, was part of unit FL–05P of that System.

(b) MAPS DESCRIBED.—The maps described in this subsection are maps that—

(1) are included in a set of maps entitled "Coastal Barrier Resources System", dated October 24, 1990; and

(2) relate to the following units of the Coastal Barriers Resources System: FL–05P, P11A, P17, P17A, P18P, P19P, FL–15, FL–95P, FL36P, P31P, FL–72P, MI21, NY75, and VA62P.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 12 of the Coastal Barrier Resources Act (16 U.S.C. 3510) is amended to read as follows:

"SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriate to the Secretary for carrying out this Act $2,000,000 for each of fiscal years 1994, 1995, 1996, and 1997."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 4598, introduced by our colleague, the gentlewoman from Florida [Mrs. FOWLER] and a number of other Members, makes technical corrections to several units and otherwise protected areas [OPA's] within the Coastal Barrier Resources System. It is the product of substantial cooperation between the sponsors, the administration, and the environmental community. The result is a bill that is, insofar as I am aware, without controversy.

In 1990, the Congress enacted the Coastal Barriers Improvement Act and, in so doing, substantially expanded the Coastal Barrier Resources System. Unfortunately, some of the detailed maps were in error and the only way for COBRA boundaries to be changed is through an act of Congress. In putting together this bill, we dealt only with what were clearly technical errors. Next year, when the Department of the Interior submits its recommendations for the Pacific coast, we will have the chance to look at other proposed boundary changes.

The committee amendment, makes several technical corrections, adds an additional mapping correction, and adds a 4-year reauthorization of the Coastal Barrier Resources Act.

The mapping correction was brought to our attention by the U.S. Fish and Wildlife Service after the committee's markup. This otherwise protected area was designated in 1990 and was incorrectly mapped to include a privately-owned and fully developed area. The Service has recommended deletion of this developed area.

The authorization for the Coastal Barrier Resources Act expired in fiscal year 1993. The committee expected to extend the authorization in conjunction with legislation to add Pacific coast areas to the System, but submission of the Pacific maps has been delayed. Therefore, the committee amendment adds an authorization of $2 million for each of the fiscal years 1994 through 1997.

I want to thank Mrs. FOWLER and the other sponsors of the bill for their hard work and I ask my colleagues for their support.

Madam Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 4598 and urge its adoption by the House.

In 1990, the Congress enacted a comprehensive expansion of the Coastal Barrier Resources System. This System identifies undeveloped coastal areas and provides that Federal flood insurance will not be made available to those areas once they are included in the System. It does not prevent any property owner from using his property, nor does it impose any restrictions on such use. It merely ensures that the taxpayers will not have to bear the burden of unwise development.

After enactment of the original bill, a number of property owners pointed out that their property was wrongly included in the System. In many cases, this involved property that was already developed before enactment of the act and therefore was ineligible for inclusion.

H.R. 4598 corrects the mistakes in mapping that have been discovered since enactment of the original bill. It is noncontroversial, is supported by the administration, and I urge its adoption.

Madam Speaker, I reserve the balance of my time.

Mr. STUDDS. Madam Speaker, I yield 2 minutes to the distinguished gentleman from Virginia [Mr. PICKETT].

Mr. PICKETT. Madam Speaker, I support H.R. 4598, which corrects errors made when the maps of the Coastal Barrier Resources System were originally prepared. One such correction applies in the city of Virginia Beach, which I represent. The city informed me early last year that several private properties in the long-established Sandbridge community had erroneously been included in a newly created "Otherwise Protected Area" of the Coastal Barrier Resources System. While intended to incorporate only State and local recreational areas and the Back Bay National Wildlife Refuge, the boundaries of the otherwise protected area inadvertently drew in a small area of privately owned land.

The staff of the Committee on Merchant Marine and Fisheries and representatives of the U.S. Fish and Wildlife Service examined this issue very carefully and agreed that the private properties were incorrectly and improperly included in the otherwise protected area. They agreed that the error should be corrected in the legislation we are considering today.

The flood insurance rate maps for Virginia Beach are currently undergoing a routine 5-year review, with final comments due to the Federal Emergency Management Agency this fall. The city of Virginia Beach and the property owners were concerned that the private properties erroneously included in the otherwise protected area designation might be precluded from participating in the National Flood Insurance Program. The expeditious consideration of H.R. 4598 will enable the city to submit correct data showing that the owners of the private property which is the subject of this legislation are eligible to participate in the National Flood Insurance Program.

I would like to thank Chairman STUDDS and Congressman FIELDS, the majority and minority staffs of the Subcommittee on Environment and Natural Resources, and the U.S. Fish and Wildlife Service for working so quickly to produce this bill for consideration today. I urge my colleagues to support H.R. 4598.

Mr. YOUNG of Alaska. Madam Speaker, I yield 5 minutes to the gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Madam Speaker, I rise today in support of H.R. 4598, a bill to make technical corrections to the Coastal Barrier Resource System.

I would like to thank Merchant Marine and Fisheries Chairman STUDDS and Ranking Minority Member JACK FIELDS for their assistance in moving this legislation through the committee and bringing it to the House floor.

This bill was the result of several drafts, numerous discussions and countless hours of staff, and Member work. While not everyone is completely satisfied with this final version, I am pleased at this time to be able to offer at least these properties for correction in the Coastal Barrier Resource System.

When Congress enacted the CBRA in 1982, it established the Coastal Barrier Resources System [CBRS], consisting of undeveloped coastal barriers located on the Atlantic and gulf coasts of the United States. The act prohibited the Federal Government from offering Federal development assistance or Federal flood insurance to properties included within the CBRS.

In 1990, the act was amended to substantially increase the size of the System. Again, the Interior recommended additions to the System based on the extent of development of the land. The act also established units of otherwise protected areas. These OPA's are defined as undeveloped coastal barriers that exist within the boundaries of Federal- or State-owned property or held by organizations for wildlife refuge or sanctuary, recreational, or resource conservation purposes.

Unfortunately, when Congress designated land to be included in the System, some mistakes were made in drawing the boundaries. In some cases, a small parcel of land was mistakenly designated as undeveloped coastal barrier with the System even though the owner had made substantial investments in development of the land prior to its designation. In other cases, private property was mistakenly included in an otherwise protected area, a designation that should only have been made for land owned by Federal or State governments or by conservation organizations. This bill removes these mistakenly included properties from the System.

Enactment of this bill will give countless homeowners access to Federal flood insurance and other types of Federal financial assistance—access that neighbors who are literally across the street or one block away already have. Without correction, these simple mapping errors will unjustly deny these homeowners the flood insurance to which they are legitimately entitled. The mapping errors that led to this situation are just that—mapping errors—and need to be corrected.

One such area covered in this legislation is Butler Beach, a community on Anastasia Island in St. John's County. This area is adjacent to a State park and includes over 100 single-family homes. In 1990, when trying to include the State park in the System as an otherwise protected area, the Fish and Wildlife Service mistakenly drew the boundary line to include these existing homes.

The magnitude of this mistake cannot be overstated. These homeowners have been denied access to Federal flood insurance for 4 years now. They cannot sell their homes without it. They cannot refinance their homes without it. And every time there is a storm—and believe me there have been a lot of storms—they fear they will lose their homes with no chance of rebuilding or recovering their worth. All because of a mistakenly drawn map line.

The exclusions cover property in Florida, Michigan, New York, and Virginia. The list of properties in this bill reflects those properties that the Fish and Wildlife Service have agreed represent unintentional mapping errors. They are the clearest examples of mistakes in the current System and deserve our immediate attention.

Madam Speaker, it is our duty to correct the mistakes that are represented in this bill. I urge my colleagues to support this legislation.

Mr. FIELDS of Texas. Madam Speaker, I rise in support of H.R. 4598, a bill making technical corrections to maps relating to the Coastal Barrier Resources System.

This bill, introduced last month by our distinguished colleague, Congresswoman FOWLER, corrects mapping errors associated with coastal barrier units from Florida, Virginia, New York, and Michigan that are part of the Coastal Barrier Resources System.

In 1982, the Congress passed the Coastal Barrier Resources Act [CBRA] as a means of reducing Federal expenditures in flood-prone coastal areas and providing some degree of environmental protection for ecologically fragile coastal barriers. Under the CBRA, areas identified as undeveloped coastal barriers that are subject to wind and tide action are included as units in the Coastal .Barrier Resources System (the System). Inclusion in the System results in a prohibition on Federal funding for such things as flood insurance, water and sewer grants, and highway construction. However, it does not prohibit privately funded development.

In 1990, Congress added additional areas to existing units in the System and included new areas, specifically along the Gulf of Mexico and the Great Lakes, within the System. Areas known as otherwise protected, defined as undeveloped coastal barriers within the boundaries of Federal- or State-owned property, or held by organizations for wildlife refuge or sanctuary, recreational, or resource conservation purposes, were also incorporated within the System.

Currently there are 560 units in the System encompassing over 12,000 miles of coastline and 1.3 million acres of property. In designating some of these units several boundary lines were drawn incorrectly. This bill identifies these errors and makes corrections so the Fish and Wildlife Service will have accurate maps depicting these changes.

I compliment the gentlewoman from Florida for all of her hard work and leadership on this bill. I strongly support its adoption.

Mr. MICA. Madam Speaker, I rise today in support of H.R. 4598 which makes corrections to the Coastal Barrier Resource System to remove properties that were mistakenly designated as undeveloped coastal barriers.

I appreciate the hard work and dedication that Chairman STUDDS, Mrs. FOWLER, and the committee have demonstrated.

At the same time, however, I am disappointed that a correction for the inlet at New Smyrna Beach in my district in Florida, was not included in the bill.

Despite numerous permits for construction of buildings and recreational areas; despite substantial financial investments; despite contracts that have existed since 1981 for the sewer and water systems, infrastructure, and streets; and despite two homes that already existed on the property, the inlet was mistakenly included in the System in 1982.

Unfortunately this has prevented the completion of development projects at the inlet which are vital to the city of New Smyrna Beach.

I am concerned that constituents in other districts in my State of Florida face similar inequities.

The chairman of the committee has indicated that additional and broader changes to the Coastal Barrier System will be considered next year.

It is my hope that the committee and Chairman STUDDS will work with me and my colleagues to address the inequities that continue to face our constituents.

Mrs. THURMAN. Madam Speaker, I am pleased to support H.R. 4598, which makes corrections to the Coastal Barrier Resources System [CBRS] by removing properties that mistakenly were designated as undeveloped coastal barriers.

At the same time, however, I must express my disappointment that a 5-acre parcel in Cedar Key, FL, was not included in the bill.

This particular site has been developed and in use since the mid-80's. When the site was included in unit P25 in 1990, there were four structures on the land, including a single-family residence, a dock and boathouse, and three warehouses. Congress properly excluded the tract from the CBRS when it passed the Coastal Barrier Resources Act in 1982. The Department of the Interior correctly excluded the tract in its 1988 report to Congress. The land clearly was not an undeveloped coastal barrier. In my opinion, a violation of the law's development criteria occurred when this tract was placed in the CBRS in 1990.

I am committed to working to remove this small portion of the city of Cedar Key from the CBRS. One option is to seek assistance in the other body. Another option is to present my case next year when the committee considers broader changes to CBRS unit boundaries. One way or another, however, Congress must correct this inequity which never should have occurred in the first place.

Mr. YOUNG of Alaska. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 4598, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to direct the Secretary of the Interior to make technical corrections to maps relating to the Coastal Barrier Resources System, and to authorize appropriations to carry out the Coastal Barrier Resources Act."

A motion to reconsider was laid on the table.

□ 1240

TIJUANA SLOUGH NATIONAL WILDLIFE REFUGE LAND CONVEYANCE

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4647) to direct the Secretary of the Interior to convey to the city of Imperial Beach, CA, approximately 1 acre of land in the Tijuana Slough National Wildlife Refuge.

The Clerk read as follows:

H.R. 4647

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF LAND IN TIJUANA SLOUGH NATIONAL WILDLIFE REFUGE.

(a) REQUIREMENT.—The Secretary of the Interior shall expeditiously convey to the City of Imperial Beach, California, without compensation, all right, title, and interest of the United States in and to approximately 1 acre of land in the Tijuana Slough National Wildlife Refuge, as depicted on a United States Fish and Wildlife Service map entitled "T-ball Field, Tijuana Slough National Wildlife Refuge", dated June 1994, for use as a public recreational area.

(b) REVERSIONARY INTEREST IN THE UNITED STATES.—Upon any date on which any of the land in which right, title, and interest is conveyed under subsection (a) ceases to be used by the City of Imperial Beach, California, for public recreational purposes—

(1) all such right, title, and interest shall revert to the Government of the United States; and

(2) such land shall be reincorporated into the Tijuana Slough National Wildlife Refuge.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4647, introduced by our colleague from California [Ms. SCHENK] transfers almost an acre of land from the Tijuana Slough National Wildlife Refuge to the city of Imperial Beach, CA, land which was used as a Little League and T-ball field prior to the establishment of the refuge. The bill clears the base paths for an expedited transfer between the Fish and Wildlife Service and the city and ensures that the children of Imperial Beach will continue to be able to play ball.

Mr. Speaker, the children of Imperial Beach are fortunate to have LYNN SCHENK as their designated hitter in Congress. This legislation is supported by the U.S. Fish and Wildlife Service and I urge Members' support.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4647, a bill that conveys to the city of Imperial Beach, CA, approximately 1 acre of land in the Tijuana Slough National Wildlife Refuge.

The Tijuana Slough National Wildlife Refuge is located in one of the finest remaining saltwater marshes on the California coastline. Since the refuge was established, the U.S. Fish and Wildlife Service has allowed the city of Imperial Beach to use this area as a baseball field under an annual special use permit. The area presently contains two T-ball fields with dugouts and it is separated from the rest of the refuge by a chain-link fence.

The bill also includes a clause that returns the property to the Federal Government for reinclusion in the Tijuana National Wildlife Refuge if the city no longer uses this area for public recreational purposes.

Mr. Speaker, H.R. 4647 is noncontroversial and I support its adoption.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield the remainder of our innings to the distinguished gentlewoman from California [Ms. SCHENK].

Ms. SCHENK. Mr. Speaker, let me first express my deep appreciation to Chairman STUDDS for his help in moving this legislation so expeditiously. I also want to thank my friends [Mr. FIELDS] the ranking member on our committee, and DUKE CUNNINGHAM for their assistance and support.

H.R. 4647 will transfer a little less than one acre of land from the Tijuana Slough National Wildlife Refuge to the city of Imperial Beach. This field served as a recreational area prior to the delineation of the Tijuana Slough Refuge in 1980, and it has been used for little league or T-ball leagues continuously since then.

[In its present configuration, it supports two T-ball fields with dugouts and backstops made of chain-link fence and is fenced off from the rest of the refuge.]

The City Council of Imperial Beach has passed a resolution requesting this transfer.

I was contacted about this situation only about 6 weeks ago. However, moving this legislation quickly is required to avoid some unintended consequences of the settlement of a suit brought by the National Audubon Society against the Fish and Wildlife Service. In accordance with that settlement agreement, the Fish and Wildlife Service in region IX is reviewing all of the property under its control to determine if its present use is compatible with the Service's mission.

The Service has determined that its best option in regard to the T-ball field is to transfer it to the city of Imperial Beach rather than incur an extraordinary expense to restore the area. The present legislation is required to accomplish that transfer. The Department of the Interior fully supports this legislation.

Let me conclude by again thanking Chairman STUDDS and Mr. FIELDS of Texas for their help. I urge the passage of the bill.

Mr. FIELDS of Texas. Mr. Speaker, I rise in support of H.R. 4647. This bill recently introduced by Congresswoman SCHENK, conveys to the city of Imperial Beach, CA, approximately 1 acre of land in the Tijuana Slough National Wildlife Refuge.

The National Wildlife Refuge System is comprised of 499 wildlife refuges designated for the conservation of fish and wildlife. Additions to the System are either through acts of Congress, Executive orders, or through transfers between Federal agencies. Congress, though, must act for any transfers or deletions from the Refuge System.

What Congresswoman SCHENK has proposed is basically to remove 1 acre of land from this refuge and to give it to the city of Imperial Beach.

The Tijuana Slough National Wildlife Refuge is one of the finest remaining saltwater marshes on the California coastline and it is home to three species of endangered birds. The Fish and Wildlife Service has allowed the city of Imperial Beach to use this area as a baseball field for its youth under an annual special use permit. The area presently contains two T-ball fields with dugouts and it is separated from the rest of the refuge by a chain-link fence.

H.R. 4647 is noncontroversial and will facilitate recreational opportunities for dozens of young men and women. I would like to point out that the bill does include a reversionary clause that returns the property to the Federal Government for reinclusion in the Tijuana National Wildlife Refuge if the city no longer uses this area for public recreational purposes.

Thank you, Mr. Speaker.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 4647.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

FISHERMEN'S PROTECTIVE ACT REAUTHORIZATION

Mr. STUDDS. Mr. President, I move to suspend the rules and pass the bill (H.R. 3817), to amend the Fishermen's Protective Act, as amended.

The clerk read as follows:

H.R. 3817

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO THE FISHERMEN'S PROTECTIVE ACT OF 1967.

(a) Section 3(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1973(a)) is amended by inserting after "prompt release of the vessel and crew," the following: "or when a fee regarded by the United States as being inconsistent with international law must be paid for a vessel of the United States to transit the waters of a foreign nation on a voyage between points in the United States (including a point in the exclusive economic zone or an area whose jurisdiction is in dispute),".

(b)(1) Section 5 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1975) is amended by inserting after "seizure;" in the title, the following: "or imposition of a fee regarded by the United States as inconsistent with international law".

(2) Section 5(a)(1)(A) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1975(a)) is amended by inserting after "as a result of the seizure of," the following: "or imposition of a fee regarded by the United States as inconsistent with international law on".

(c) Subsections (a) and (b) shall take effect on June 15, 1994.

(d) Section 7 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977) is amended—

(1) in subsection (c)—

(A) by striking the third sentence, and

(B) by inserting after the first sentence the following: "Fees may be collected regardless of whether needed to carry out the purposes of subsection (a)."; and

(2) in subsection (e) by striking "October 1, 1993" and inserting "October 1, 1996".

SEC. 2. CLEARANCE AND ENTRY OF COMMERCIAL FISHING VESSELS.

(a) Not later than 15 days after the date of enactment of this Act and at least once each year thereafter, the Secretary of State shall publish a list of those nations that impose fees for transit passage through their waters on commercial fishing vessels registered under the laws of the United States.

(b) Not later than 15 days after the publication of the list required under subsection (a), the Secretary of the Treasury shall withhold from commercial fishing vessels registered under the laws of a nation listed under subsection (a) the clearance required by section 4197 of the Revised Statutes of the United States (46 APP USC 91) for entry into the navigable waters of the United States west of 122 degrees west longitude.

(c) Subsection (b) shall not apply to a commercial fishing vessel—

(1) that enters the navigable waters of the United States pursuant to a bilateral convention governing fishing for Pacific halibut or albacore tuna;

(2) that enters the navigable waters of the United States due to an emergency; or

(3) the master of which obtains clearance from the Secretary of the Treasury's designee by physically appearing before the designee at a designated port of entry and paying a fee equal to the fee charged to a commercial fishing vessel of the United States by the nation under whose laws the foreign vessel is registered.

(d) The owner or master of a vessel which enters the navigable waters of the United States in violation of this section shall be in violation of section 307(1)(A) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857(1)(A)).

SEC. 3. OLYMPIC COAST NATIONAL MARINE SANCTUARY.

Notwithstanding section 304(b) of the National Marine Sanctuaries Act (16 U.S.C. 1434(b)), the designation of the Olympic Coast National Marine Sanctuary and the implementing regulation for that designation, as described in the notice of designation submitted to the Congress on May 11, 1994, shall take effect on July 16, 1994.

SEC. 4. TECHNICAL CORRECTION.

(a) Section 15(a) of Public Law 103–238 is amended by striking "April 1, 1994," and inserting "May 1, 1994.".

(b) The amendment made by subsection (a) shall be effective on and after April 30, 1994.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Fishermen's Protection Act provides a mechanism to reimburse U.S. fishermen for fines and other costs incurred when their vessels are seized by a foreign nation in violation of international law. H.R. 3817 reauthorizes this law through 1996 and amends the act in several important ways.

First, it eliminates a provision that has been interpreted as prohibiting the State Department from assessing a fee on fishing vessels participating in the comprehensive insurance program established by the statute unless Federal funding is also available. Whether there is an appropriation or not, fishermen should be assessed a fee, like any insurance premium we pay on our home or car.

Second, it allows U.S. fishing vessels to be reimbursed for transit fees considered by our Government to be inconsistent with international law. It also prohibits vessels from offending nations from entering certain U.S. waters unless those vessels pay a comparable fee. These amendments are intended to address a recent and, in my view, illegal move by Canada to charge United States vessels transiting Canadian waters en route to Alaska. While that fee has since been lifted, many fishermen were forced to pay it and deserve reimbursement. Further, it ensures that a mechanism is now in place to address this type of problem should it recur.

In addition, H.R. 3817 contains two minor amendments to other laws. First, the bill makes a technical correction to the Marine Mammal Protection Act. Second, it expedites the designation of the Olympic Coast National Marine Sanctuary to coincide with a dedication ceremony planned by the National Oceanic and Atmospheric Administration. Both amendments are without controversy.

The bill received overwhelming approval in the Committee on Merchant Marine and Fisheries, and I urge Members' support today.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3817 and urge its adoption by the House.

The original bill, as introduced by my colleague, Chairman MANTON, reauthorized certain sections of the Fishermen's Protective Act. These sections provide a self-insurance program for fishing vessels that are seized by foreign countries. Certain amendments were made to ensure that the Department of State, which is responsible for the fishermen's guaranty fund, could collect sufficient fees from U.S. fishermen participating in the program to ensure that the program remains solvent.

During committee markup of this bill, two additional amendments were added. Both of these amendments were in direct response to an illegal action taken by Canada against United States fishermen.

Last month, Canada announced it would begin imposing a fee of $1,100 on each United States commercial fishing vessel passing through Canadian waters on the west coast. This not only violated international law, but also two treaties which are in force between the United States and Canada. In response, the committee amended H.R. 3817 to allow United States fishermen to be reimbursed for this fee and imposed similar restrictions on Canadian vessels entering United States waters. However, the committee amendment was worded in such a way so that it did not violate the treaties between the United States and Canada.

Canada has recently announced that it is suspending collection of the fee pending additional discussions with the United States Government. While I am pleased to see that Canada is taking this action, we are leaving the committee amendments in the bill so that they would go into effect again if Canada decides to collect additional fees.

Mr. Speaker, this is an important bill not only for keeping the fisherman's guaranty fund solvent but also to make clear that the United States will protect the rights of its fishermen.

Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Subcommittee on Fisheries Management, the gentleman from New York [Mr. MANTON].

Mr. MANTON. I thank the chairman for yielding this time to me.

Mr. Speaker, I rise in strong support of H.R. 3817, legislation to reauthorize and expand the Fishermen's Protective Act, an important law that safeguards commercial fishing vessels from unfair actions by a foreign government and places the U.S. Government firmly at the side of the fishermen. If a vessel and its cargo are wrongfully seized, this act directs the Secretary of State to take appropriate action to ensure the release of the vessel and cargo and to protect the lives and wellbeing of the crew.

The act also establishes a system to compensate fishermen who have suffered economic loss as a result of an unjustified seizure.

The subcommittee at the urging of my distinguished ranking member, DON YOUNG, and my Democratic colleague JOLENE UNSOELD, has included additional protections for United States commercial fishermen to address recent illegal actions by the Canadian Government. While the Canadian Government has backed down on this illegal fee and is negotiating with us on the Pacific Salmon Treaty, I hope the Canadian Government has taken note of the strong congressional interest in this matter and will help us avoid unnecessary conflicts of this type in the future.

This bill is a necessary and essential tool for our fishermen, and I urge my colleagues to join me in supporting this bill.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. I thank the chairman for yielding this time to me.

Mr. Speaker, I thank the chairman of the committee for his leadership and support.

Mr. Speaker, I rise in strong support of H.R. 3817. Among its provisions is a measure that I introduced in committee to allow the Secretary of State to reimburse fishermen subjected to the illegal transit fee being imposed by the Canadian Government. The amendment requires the Secretary of State seek reimbursement from the Government of Canada.

In the month since our committee passed this provision about 300 Washington State fishermen have been forced to pay the illegal Canadian fee. In response to this crisis, the Vice President met with Canadian officials and succeeded in persuading them to repeal this illegal fee on July 2.

I commend the Clinton administration for addressing this issue promptly. We must now pursue implementation of the Fishermen's Protective Act and full reimbursement for the U.S. fishermen who have been forced to bear the economic brunt of an action which violated international law. At the same time we must ensure that the administration and Canada provide sufficient attention to the severe conservation crisis with coho and chinook stocks.

I urge my colleagues to support this bill.

Mr. DICKS. Mr. Speaker, I rise in strong support of H.R. 3817, a bill to reauthorize the Fishermen's Protective Act. I would like to congratulate the distinguished chairman of the House Merchant Marine and Fisheries Committee, Mr. STUDDS, for his tremendous leadership in bringing this vital legislation to the floor. I also want to express my appreciation to the ranking minority member of the committee, Mr. FIELDS, without whose support and cooperation this bill would not be possible.

H.R. 3817 reauthorizes the fishermen's guaranty program through fiscal year 1996, and also authorizes the State Department, which administers the program, to charge fees to fishermen seeking coverage under the program regardless of whether Federal funds have been appropriated. An additional measure of the bill, which has important implications for my region of the Nation, the Pacific Northwest, is a provision which permits the fishermen's guaranty program to be used to reimburse United States fishermen for transit fees imposed by Canada on United States fishing vessels passing through certain Canadian waters between Washington State and Alaska, and establishes a fee to be imposed on Canadian vessels entering United States waters in the Pacific Northwest, to be equal to whatever Canadian fee is imposed on United States vessels. Such a fee, however, would not apply to Canadian fishing boats operating in accordance with United States-Canadian treaties on halibut and tuna fishing.

I want to especially thank my colleagues from the State of Washington, JOLENE UNSOELD and MARIA CANTWELL, for offering the provision and ensuring its inclusion in the Fishermen's Protective Act. I would hope that it would never be necessary to invoke this provision, to not have to reimburse United States fishermen for a fee charged by Canada or to have to place a similar fee on Canadian Boats. I would hope that our neighbor to the north would see the wisdom of working out concerns government-to-government without taking unilateral actions against one another's fishermen.

However, recent events tell us that this legislative protection for U.S. fishermen is necessary, so I am pleased that it is in this bill. A few weeks ago, Canada unilaterally imposed a $1,100 transit fee each way on United States fishing vessels passing through coastal waters under Canadian jurisdiction. This was a very unfair fee which began to bring hardships to many fishermen who were already facing great economic difficulty. Canada argued that the fee came in retaliation for stalled talks on the very broad issues associated with the United States/Canada Pacific Salmon Treaty renegotiation. Like other political leaders in the Northwest, I agree that the treaty talks should proceed and that the gridlock must cease. However, it was unacceptable that innocent fishermen be made to pay the unfair price for these circumstances.

I am pleased that with help from Vice-President GORE, the Canadians recently agreed to drop the transit fee. However, the language of this legislation must remain in order to ensure that our fishermen are never again held hostage in this kind of fashion.

Again, I urge all my colleagues to support the passage of this bill.

Mr. FIELDS of Texas. Mr. Speaker, I support this legislation to reauthorize and amend the Fishermen's Protective Act of 1967.

Mr. Speaker, this act established a method of recourse for fishermen who have their vessels seized by a foreign government. A major component of the act is the Fishermen's Guaranty Fund [FGF] which is a voluntary self-insurance program for U.S. vessels administered by the Department of State. The fund is available to compensate fishermen for the loss of their vessels or any catch confiscated by a foreign nation under claims of jurisdiction not recognized by the United States.

Due to a court case in the late 1980's, the Department of State has been unable to collect fees unless Congress appropriated an equal amount. Neither the administration nor

Congress has requested appropriations for several years so no fees have been collected. While there is adequate funding in the account, more than one large claim could decimate the fund. This legislation will allow the Department of State to collect fees to maintain an adequate balance in the fund regardless of whether Congress appropriates any funds in the future.

At the Fisheries Management Subcommittee markup of this legislation, amendments were adopted to address a serious situation in the Northwest. Because talks between Canada and the United States on Pacific salmon issues had broken down, Canada levied a transit fee on all commercial fishing vessels passing through the Canadian waters of the Inside Passage.

In response to this blatant slap at American fishermen, Congressman DON YOUNG of Alaska successfully offered an amendment prohibiting entry to U.S. waters to any nation who unilaterally assesses fees or charges on our vessels.

Canadian patrol boats were stopping United States fishermen and requiring them to either pay a fee of $1,100 per passage or risk having their vessel seized. Fortunately, the Canadians have now re-evaluated the wisdom of this decision and they have agreed to stop collecting this transit fee.

While Canada is no longer stopping United States fishing vessels, many vessel operators have already paid this illegal fee. Language added by our committee will allow those U.S. fishermen who have already paid the fee to recover these costs from the Fishermen's Protective Fund.

I urge my colleagues to support this legislation.

□ 1250

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I, too, have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 3817, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CORNING NATIONAL FISH HATCHERY CONVEYANCE ACT OF 1994

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4253) to require the Secretary of the Interior to convey the Corning National Fish Hatchery to the State of Arkansas, as amended.

The Clerk read as follows:

H.R. 4253

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Corning National Fish Hatchery Conveyance Act of 1994".

SEC. 2. CONVEYANCE OF CORNING NATIONAL FISH HATCHERY TO STATE OF ARKANSAS.

(a) CONVEYANCE REQUIREMENT.—The Secretary of the Interior shall convey to the State of Arkansas, without reimbursement and by no later than December 31, 1994, all right, title, and interest of the United States in and to the property described in subsection (b), for use by the Arkansas Game and Fish Commission as part of the State of Arkansas fish culture program.

(b) PROPERTY DESCRIBED.—The property referred to in subsection (a) is the property known as the Corning National Fish Hatchery (popularly known as the William H. Donham State Fish Hatchery), located one mile west of Corning, Arkansas, on Arkansas State Highway 67 in Clay County, Arkansas, consisting of 137.34 acres (more or less), and all improvements and related personal property under the control of the Secretary that is located on that property, including buildings, structures, and equipment.

(c) REVERSIONARY INTEREST OF UNITED STATES.—All right, title, and interest in property described in subsection (b) shall revert to the United States if the property ceases to be used as part of the State of Arkansas fish culture program. The State of Arkansas shall ensure that the property reverting to the United States is in substantially the same or better condition as at the time of transfer.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4253, introduced by our colleague from Arkansas [Ms. LAMBERT], directs the Secretary of the Interior to transfer ownership of the Corning National Fish Hatchery in Corning, AR to the State of Arkansas.

The hatchery was operated by the U.S. Fish and Wildlife Service until 1983 when it was closed as a result of budget cuts. Since that time, the hatchery has been run by the State under a cooperative agreement with the Fish and Wildlife Service as part of the State's fish culture program. Now, the State would like to make necessary capital improvement and long-term plans for the hatchery but cannot do so without assuming ownership.

This legislation would transfer ownership to the State, but would protect the interests of the Federal Government by ensuring that the property would revert to the Fish and Wildlife Service in the event that the State no longer used the facility as a fish hatchery.

The bill is supported by the State, the U.S. Fish and Wildlife Service, and I urge Members' support.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have no objections to the passage of this bill. Transfers of land or facilities between the Federal Government and the States occur frequently.

The bill provides that, if the State of Arkansas stops using the facility as a fish hatchery, the ownership of the property returns to the Federal Government.

Mr. Speaker, the Arkansas Game and Fish Commission has shown its desire and commitment to repair and use the facility as a fish hatchery. This commitment should lead us to vote for the passage of this bill.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Arkansas [Ms. LAMBERT].

Ms. LAMBERT. Mr. Speaker, I rise in strong support of H.R. 4253, the Corning National Fish Hatchery Conveyance Act of 1994, and I urge my colleagues to vote "aye" on this noncontroversial bill.

First, of all, I want to extend my deepest appreciation and thanks to the chairman of the full committee, the gentleman from Massachusetts [Mr. STUDDS] and the chairman of the subcommittee, the gentleman from New York [Mr. MANTON], for taking action on this bill in such a prompt manner. I appreciate their time and effort and that of their staff.

I introduced this bill to transfer property rights in the Corning National Fish Hatchery from the Federal Government to the State of Arkansas. Due to Federal budget cuts, the fish hatchery was closed in early 1983. However, the Arkansas Game and Fish Commission resumed hatchery fish production in May 1983 after entering into an agreement with the Fish and Wildlife Service. The fish hatchery has been operating since 1983 as William H. Donham State Fish Hatchery.

This fish hatchery has become an important part of the Arkansas Fisheries Division fish culture program and I believe that this transfer will greatly benefit the sports men and women of Arkansas. The hatchery's warm-water hatchery is very active and successful, producing up to 1 million fish annually. About 95 percent of these hatchery-reared fish are stocked in new or renovated public lakes. The remaining fish are allocated to private applicants for stocking new or renovated lakes and ponds. The principal fish produced at the hatchery are largemouth bass, bluegills, redear sunfish, white and black crappie and channel catfish.

Currently, absolutely no Federal funds are used to operate or maintain the Corning National Fish Hatchery. It is financed solely by funds derived from resident and nonresident fishing license sales. This is one of the very few bills that will not cost the Federal taxpayers one red cent. The transfer of ownership has the support from both the Arkansas Game and Fish Commission and the Fish and Wildlife Service.

It is appropriate to transfer the property to the State of Arkansas since the funds used to finance the hatchery's programs are raised within the borders of Arkansas. In addition, without this transfer, Arkansas would be unable to make long-term commitments as to the direction the hatchery will take in its operations.

I urge my colleagues to support this worthwhile legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. MANTON], chairman of the Subcommittee on Fisheries Management.

Mr. MANTON. Mr. Speaker, I rise in strong support of H.R. 4253. Chairman STUDDS has ably described this noncontroversial bill to transfer a fish hatchery in Arkansas from the U.S. Fish and Wildlife Service to the State of Arkansas. Federal budget cuts in 1983 forced the State to assume full responsibility for the operation of this hatchery. H.R. 4253 will promote healthy fish stocks at no cost to the Federal Government.

To my knowledge, there is no opposition to this measure and I strongly urge my colleagues to support its passage.

Mr. FIELDS of Texas. Mr. Speaker, I support this legislation. H.R. 4253 would transfer title of the Corning National Fish Hatchery to the State of Arkansas for use by the Arkansas Game and Fish Commission. This legislation conveys all right, title, and interest of the United States to the State of Arkansas. This hatchery facility includes approximately 137 acres, buildings, structures, and related equipment.

It is my understanding that the State of Arkansas has operated and maintained this hatchery facility since 1983 under an agreement with the U.S. Fish and Wildlife Service.

Finally, this legislation also contains language providing that the property and facilities would revert back to the Federal Government if the State of Arkansas no longer wishes to use the facility as a part of its fish culture program. It is also stipulated that the property would revert back in substantially the same or better condition than it was in at the time it was transferred to the State.

Mr. Speaker, it is my understanding that the U.S. Fish and Wildlife Service supports this transfer.

I urge my colleagues to support the bill.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 4253, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

THE STRIPED BASS ACT OF 1994

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4504), a bill to amend the Atlantic Striped Bass Conservation Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4504

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as "The Striped Bass Act of 1994".

TITLE I—AMENDMENTS TO THE ATLANTIC STRIPED BASS CONSERVATION ACT

SEC. 101. ATLANTIC STRIPED BASS CONSERVATION ACT AMENDMENTS.

Section 7(a) of the Atlantic Striped Bass Conservation Act is amended by striking "1986" and all that follows through "1994", and inserting in its place "1995 and 1996".

SEC. 102. PUBLIC PARTICIPATION IN PREPARATION OF PLANS AND AMENDMENTS TO PLANS FOR ATLANTIC STRIPED BASS.

Section 10 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended to read as follows:

"SEC. 10. PUBLIC PARTICIPATION IN PREPARATION OF PLANS AND AMENDMENTS TO PLANS FOR ATLANTIC STRIPED BASS.

"Within 6 months after the date of the enactment of the Striped Bass Act of 1994, the Commission shall establish standards and procedures to ensure that the Commission provides an adequate opportunity for public participation in the preparation of any plan for the management of Atlantic striped bass and any amendment to a plan (including any amendment to the Interstate Fisheries Management Plan for Striped Bass, dated October 1, 1981), including public hearings and procedures for the submission of written comments to the Commission.".

TITLE II—AMENDMENTS TO THE ANADROMOUS FISH CONSERVATION ACT

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Section 7(d) of the Anadromous Fish Conservation Act (16 U.S.C. 757g(d)) is amended by striking "1991, 1992, 1993, and 1994." and inserting "1994, 1995, 1996, and 1997.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, 10 years after passage of the Atlantic Striped Bass Conservation Act, the striped bass, once considered to be well on its way to an endangered species, has been declared recovered and fishermen up and down the coast are encountering stripers in record numbers. The act has been praised by Federal and State agencies and fishermen alike. The cooperative effort it fostered has rebuilt the striped bass fishery and reauthorization of the act will ensure that it stays that way. At a time when New England and Pacific Northwest fishermen are facing greatly restricted fishing seasons to conserve and rebuild their fisheries, I am hopeful that they will be inspired by the return of the striper. There is no better example of how conservation works.

This bill reauthorizes the Atlantic Striped Bass Conservation Act through fiscal year 1996 and reauthorizes the Anadromous Fish Conservation Act through fiscal year 1997. It is supported by the Fish and Wildlife Service and the National Marine Fisheries Service, and I urge Members' support.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Atlantic Striped Bass Conservation Act is a piece of legislation that has achieved its objectives. It was enacted to get the Atlantic States to cooperate in the conservation and recovery of the Atlantic striped bass. The stocks of the Atlantic striped bass are now at levels that can sustain both commercial and recreational fishing.

As important as the reauthorization of this act is, we must remember the reason why we enacted the legislation to begin with. We fished the stocks to such an extent that they were put into jeopardy.

Mr. Speaker, in our struggle to become better managers of our marine resources, we need to follow through with good management practices and not fall back into old perceptions that once a stock recovers, we can stop managing and conserving it.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. MANTON].

Mr. MANTON. Mr. Speaker, I rise in strong support of H.R. 4504. During the recent past, we Americans, along with our fellow citizens of the world, have engaged in a myriad of activities that have almost eliminated entire stocks of fish. Fortunately, there are success stories and today we are dealing with one.

As recently as 9 years ago, the striped bass fishery had crashed and the catch had declined to 77 percent of its former high level.

Now, as a result of aggressive conservation actions by States, the Federal Government and the Atlantic States Marine Fisheries Commission, striper stocks are on the rebound. However, unless Congress acts, the Atlantic Striped Bass Act will expire. H.R. 4504 reauthorizes the Atlantic Striped Bass Conservation Act and also the Anadromous Fish Conservation Act. These reauthorizations are essential to complete this task of restoring striped bass for future generations of commercial and sport fishermen.

This bill has widespread support and I urge my colleagues to join me in supporting this important legislation.

Mr. FIELDS of Texas. Mr. Speaker, I support this legislation to reauthorize the Atlantic Striped Bass Conservation Act.

Mr. Speaker, some of our Members may remember the serious decline of the striped bass off the east coast in the 1970's and early 1980's. That crisis caught our attention in Congress and led to the enactment of the Anadromous Fish Conservation Act.

The Atlantic striped bass are an anadromous fish, traveling to fresh water to spawn and then back to salt water for the majority of their lives. Their migratory range covers the coast from Maine to North Carolina which, before passage of the Atlantic Striped Bass Conservation Act, resulted in inconsistent management and led to a decline of the stock.

In 1979, Congress authorized an Emergency Striped Bass study under section 7 of the Anadromous Fish Conservation Act. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service undertook a joint study to determine the cause of the striped bass decline and to recommend corrective actions.

In 1984, Congress enacted the Atlantic Striped Bass Conservation Act, giving the Atlantic States Marine Fisheries Commission [ASMFC] the authority to enforce the Atlantic striped bass management plan. While recognizing the traditional role of the State in managing fisheries within State waters, the act requires each State to create management measures which are consistent with the overall interstate management plan. If a State is not in compliance, the Secretaries of Commerce and the Interior can declare a moratorium on the striped bass fishery of that State.

The rebound of the striped bass population along the Atlantic coast is one of too few success stories of fisheries management. The past few years have shown a healthy recovery of the stock and this act deserves much of the credit.

Mr. Speaker, this has been an effective law and I support the reauthorization of this Act.

□ 1300

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and at this point the Committee on Merchant Marine and Fisheries will depart the floor with its usual bipartisan tranquility.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass H.R. 4504, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 3355, VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

Ms. DUNN. Mr. Speaker, pursuant to clause 1(c) of rule XXVIII, I am announcing to the House that I intend to offer a motion to instruct conferees on the bill (H.R. 3355) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety.

The form of the motion is as follows:

Ms. DUNN moves that the managers on the part of the House at the conference on the disagreeing vote of the two Houses on the House amendment to the Senate amendment to the bill H.R. 3355 be instructed not to make any agreement that does not include Subtitle F of Title VIII of the Senate amendment, relating to sexually violent predators.

AMENDING THE ACT ESTABLISHING ROCKY MOUNTAIN NATIONAL PARK

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1716) to amend the act of January 26, 1915, establishing Rocky Mountain National Park, to provide for the protection of certain lands in Rocky Mountain National Park and along North St. Vrain Creek and for other purposes.

The Clerk read as follows:

H.R. 1716

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NORTH ST. VRAIN CREEK AND ADJACENT LANDS.

The Act of January 26, 1915, establishing Rocky Mountain National Park (38 Stat. 798; 16 U.S.C. 191 and following), is amended by adding the following new section at the end thereof:

"SEC. 5. NORTH ST. VRAIN CREEK AND ADJACENT LANDS.

Neither the Secretary of the Interior nor any other Federal agency or officer may approve or issue any permit for, or provide any assistance for, the construction of any new dam, reservoir, or impoundment on any segment of North St. Vrain Creek or its tributaries within the boundaries of Rocky Mountain National Park or on the main stem of North St. Vrain Creek downstream to the point at which the creek crosses the elevation 6,550 feet above mean sea level. Nothing in this subsection shall be construed to prevent the issuance of any permit for the construction of a new water gaging station on North St. Vrain Creek at the point of its confluence with Coulson Gulch.".

SEC. 2. ENCOURAGEMENT OF EXCHANGES.

(a) LANDS INSIDE ROCKY MOUNTAIN NATIONAL PARK.—Promptly following enactment of this Act, the Secretary of the Interior shall seek to acquire by donation or exchange those lands within the boundaries of Rocky Mountain National Park owned by the city of Longmont, Colorado, that are referred to in section 111(d) of the Act commonly referred to as the "Colorado Wilderness Act of 1980" (Public Law 96–560; 94 Stat. 3272; 16 U.S.C. 192b–9(d)).

(b) OTHER LANDS.—The Secretary of Agriculture shall immediately and actively pursue negotiations with the city of Longmont, Colorado, concerning the city's proposed exchange of lands owned by the city and located in and near Coulson Gulch for other lands owned by the United States. The Secretary shall report to Congress 2 calendar years after the date of enactment of this Act, and every 2 years thereafter on the progress of such negotiations until negotiations are complete.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Utah [Mr. HANSEN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume. H.R. 1716 is a bill introduced by our colleague, the gentleman from Colorado [Mr. SKAGGS] that would provide additional protection to sensitive lands within and near Rocky Mountain National Park.

The bill would prohibit any Federal license, approval or assistance for any new dam or impoundment on North St. Vrain Creek or its tributaries within the park boundaries or on the portion of the creek's main stem immediately downstream from the park to an existing reservoir.

The bill would also encourage negotiations between Federal land managers and the city of Longmont, CO, to see if agreement can be reached for Federal acquisition, through donation or exchange, of certain city-owned lands within the park and within the adjacent national forest.

The bill is a modest one, but it does make a valuable contribution to the protection of important wildlife habitat and other natural and recreational resources of the Federal lands in this part of the Rocky Mountains.

Mr. Speaker, the provisions of this bill basically reflect the recommendations of a board-based local advisory committee formed by Mr. SKAGGS and the local county government. I congratulate the gentleman from Colorado and the committee for their continued leadership on this and other proposals for improving the management of important natural resources of the Federal lands in Colorado and elsewhere.

This is a noncontroversial measure, and I urge its approval.

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I rise in support of H.R. 1716, this legislation is long overdue and will help resolve this 25-year exchange. I commend Mr. SKAGGS for his diligence in working with the city of Longmont and the water conservancy districts. I urge my colleagues to support H.R. 1716.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Speaker, let me first say thanks to the gentleman from Minnesota [Mr. VENTO] and the committee staff, as well as the gentleman from Utah [Mr. HANSEN], for their help and support in getting this bill to the floor. I really appreciate it. I am absolutely delighted that today the House is about to approve H.R. 1716, a bill that will provide well-deserved and long-awaited protection to North St. Vrain Creek in Colorado.

I think the gentleman from Minnesota [Mr. VENTO] has well-described the purposes and objectives of this legislation, although I would quibble with his use of the word, "modest." I think it's a very important step forward in preserving an important part of Colorado. Let me just take the time of my colleagues for a moment or two to describe why.

It is not often that a watercourse called a creek, as opposed to a river, comes to the attention of Congress. But this creek begins at the very top of Rocky Mountain National Park, almost 3 miles above sea level among the snowfields of Longs Peak. It cascades through the portion of the park appropriately named Wild Basin. It then meanders briefly through the largest remaining willow carr in Colorado before leaving the park and entering the Roosevelt National Forest, tumbling through the largest roadless canyon along Colorado's Front Range. The creek and its watershed provides a home for bighorn sheep, elk, deer, and mountain lions, for peregrine falcons, owls, hawks, and songbirds, for native fish, insects, and other small creatures, and for a dazzling diversity of aquatic, riparian, and mountain plants.

In short, North St. Vrain is one of the most magnificent parts of Colorado. And that, my friends and colleagues, is saying a lot.

H.R. 1716 will prohibit the construction of any new dams on the upper portions of North St. Vrain Creek, and will also help clear up questions of public and private land ownership along the creek. The provisions of this bill are based directly on the good work of the North St. Vrain Advisory Committee, a group that I convened 7 years ago almost to the day. The Boulder County Commissioners and I asked this diverse group to work to reach a consensus on just how best to protect the creek.

And work they did. Over a span of 5 years, 50 people served as regular participants in the advisory committee. They met 103 times, with 12 public hearings at which an additional 300 appeared. I've never known such a dedicated and conscientious group of public servants as the unpaid members of this advisory committee. This group knows this creek and its environs as thoroughly as any group of citizens anywhere can know a particular area.

Based on their work, the advisory committee reached four decisions. First, the creek may well deserve protection as part of the National Wild and Scenic Rivers System, if consensus can eventually be reached on that. Second, for now a permanent legislative prohibition should be placed on Federal approval or assistance for the construction of dams on the creek and on any of its national park tributaries. Third, the Park Service and the Forest Service should move promptly to reach agreement with the city of Longmont, CO, on the acquisition of lands the city owns along the creek. And, fourth, a series of recommendations should be followed in managing Federal lands along the creek.

Two of these proposals are specified in the bill's language. I have submitted, as part of the hearing record on this bill, two documents related to the latter proposal. One is a copy of the final report of the advisory committee, and the other is a copy of the advisory committee's management plan outline. I, and no doubt others, will also present these documents again to the U.S. Forest Service and to the National Park Service when they develop future management plans for North St. Vrain Creek and the lands along it.

I offer my thanks to my colleagues in the House of Representatives for your patient help and attention on this bill. In particular, I appreciate the diligent and thoughtful work of the distinguished gentleman from Minnesota [Mr. VENTO] and his staff for helping to refine the bill. I also thank the distinguished chairman of the Natural Resources Committee, Mr. MILLER, for helping keep its momentum going.

I happily urge the Members of the House to approve this legislation, and send it on through the next steps of legislation and into law, so that the wonders of North St. Vrain Creek will be preserved for all time.

I ask unanimous consent to include in the RECORD a copy of the final report of the advisory committee and the committee's recommended management plan.

FINAL REPORT OF NORTH ST. VRAIN ADVISORY COMMITTEE TO CONGRESSMAN DAVID E. SKAGGS AND BOULDER COUNTY COMMISSIONERS, JULY 1992

INTRODUCTION

The North St. Vrain Advisory Committee has prepared the following final report and recommendations concerning the management of North St. Vrain Creek and the terrain near it.

This report has evolved through five years of work, including some 103 meetings, 12 public hearings with total attendance of over 600, 1200 letters and cards commenting on stages of the work, and 300 collective hours of individual research by members of the committee.

The members of the committee's Coordinating Subcommittee collectively represent the many different groups with interest in the future of North St. Vrain Creek, including private and commercial landowners near the creek, conservation organizations, water engineers, local, regional, and state water boards, affected cities, and Boulder County. It has consulted extensively with the National Park Service, U.S. Forest Service, Colorado Natural Areas Program, Colorado's U.S. Senators, and attorneys.

In addition, a special Water Negotiating Subcommittee has focused on questions of water supplies, rights, and facilities. Additional assistance has been provided by Colorado Department of Natural Resources, U.S. Fish and Wildlife Service, University of Colorado School of Law, national environmental organizations, and Congressional committee staff. The many participants in this work are listed at the end of this report.

SUMMARY

This report includes: Recommended legislative language; and recommended Congressional report language.

Basically, the committee recommends that Congressman Skaggs introduce legislation that would prohibit federal approval or funding for dams, reservoirs, or impoundments on the main stem of North St. Vrain Creek, would direct the U.S. Forest Service to promptly complete negotiations with the City of Longmont on a proposed land exchange in Coulson Gulch, and would direct that the National Park Service seek to acquire the Copeland Willow Carr lands along the creek just inside the eastern boundary of Rocky Mountain National Park.

The general theme of the report and recommendations is the preservation of the natural features of the creek and its surroundings while assuring protection of private property and water use needs in the area.

LEGISLATIVE RECOMMENDATION

The committee recommends the following legislation:

"No federal agency or officer shall issue any permit or provide assistance for construction of any new dam, reservoir, or impoundment on the main stem of North St. Vrain Creek in Boulder County, Colorado, between the point at which the creek crosses the eastern boundary of Rocky Mountain National Park and the point at which the creek crosses the elevation 6550 feet (the anticipated high water mark of an expanded Ralph Price Reservoir).

"Notwithstanding the previous paragraph, applicable federal agencies may consider and, if appropriate, issue permits for the construction of a new gaging station on North St. Vrain Creek at its confluence with Coulson Gulch.

"The Secretary of Agriculture shall immediately and actively pursue negotiations with the City of Longmont, Colorado, concerning the City's proposed exchange of lands located in and near Coulson Gulch. The Secretary shall report to Congress two calendar years after the date of enactment of this act, and every two years after that on the progress of such negotiations until negotiations are complete.

"The Secretary of the Interior shall immediately and actively seek agreement and means to acquire certain lands along North St. Vrain Creek inside the eastern boundary of Rocky Mountain National Park owned by the city of Longmont, Colorado, and known as the Copeland Willow Carr.

"The stretch of North St. Vrain Creek between the elevation 6550 feet and the high water mark of the existing Ralph Price Reservoir shall be removed from the Nationwide Rivers Inventory."

CONGRESSIONAL LANGUAGE OF CLARIFICATION

For the purposes of clarifying the legislative language and outlining attendant federal actions regarding the creek, the committee recommends the following positions:

General

North St. Vrain Creek and lands along it have natural, scenic, and recreation attributes. The area also includes some private land, on which those attributes are well protected.

Current levels of recreational uses on public lands should be maintained. No new public access or new trail construction is recommended. Future trail construction should only be considered as a method to focus public use in appropriate areas, with the intent of minimizing resource damage and private property conflicts. Camping in the foothill canyon should be closely monitored by impacts and restricted or directed as needed.

Current levels and forms protection for lands near North St. Vrain Creek should continue under the jurisdiction of Boulder County, Colorado, through existing intergovernmental agreements among Boulder County, the U.S. Forest Service, and the National Park Service.

Public access

The committee recommends that existing public access points to North St. Vrain Creek be retained and marked at Coulson Gulch from U.S. Highway 36, Bright Trail Extension from Johnny Park Road, and Wild Basin entrance to Rocky Mountain National Park.

Public access should be retained but not marked or actively encouraged at Conifer Hill Road from Colorado Highway 7, Bright Trail from Colorado Highway 7, and Rock Creek route from Highway 7. These access routes should remain in a primitive and difficult condition.

Condemnation of private lands for access is not recommended at any location.

New construction of creekside trails is not recommended in the foothill canyon above Rock Creek confluence or below Coulson Gulch confluence.

Expanded motor vehicle access or capacity is not recommended near the Creek in Roosevelt National Forest or in Rocky Mountain National Park.

Camping

Formal campgrounds are not recommended in the foothill canyon.

Informal camp sites in the foothill canyon should be carefully monitored, restricted, or banned, as appropriate to limit impacts to the natural and scenic features of the creek and surrounding lands.

The picnic area at Copeland Reservoir should be organized as a formal campground with upgraded facilities or to discontinue camping.

Campground facilities, including nonplumbed toilets should be located no less than 100 feet from the creek, removed from wetland areas.

Land acquisition

In addition to land acquisitions and exchanges specified in the act, acquisition of private lands on Cook Mountain and of lands and buildings associated with the Wild Basin Lodge should be considered by the Forest Service and by the National Park Service, based on owner interest.

Condemnation of private lands is not recommended at any location.

Local land management

It is understood that current comprehensive land use plans and zoning laws established and enforced by Boulder County provide, in most cases, sufficient protection of the natural and scenic features of the North St. Vrain Creek area. The U.S. Forest Service and National Park Service have affirmed this sufficiency. Continuation of these provisions is encouraged.

Private lands

It is understood that private landowners along North St. Vrain Creek are exercising good stewardship and protection of riparian, wetland, and general natural features. Conservation easements, if provided by private landowners, should be designed to protect the natural features of the area, including the riparian and wetland ecosystems along the Creek, and wildlife migration corridors linking habitat in Rocky Mountain National Park to habitat in Roosevelt National Forest. Scenic features should also be incorporated into the easements, including viewsheds along the Creek and from the Highway 7 creek crossing.

Federal management reviews

The U.S. Forest Service and National Park Service should note the listing of North St Vrain Creek on the National Rivers Inventory, and conduct appropriate studies and actions in a timely fashion.

Water rights

It is understood that the Rocky Mountain Hydrological Laboratory may resume research activities as governed by State water law and county land use regulations.

It is understood that Copeland Reservoir may continue historical uses, and may undergo minor expansion or modification, subject to State water law.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to say that I should know that nothing about Colorado is modest, and I agree that this is an important measure. I think the gentleman has in his statement articulated the spectacular nature of this particular natural resource. The work he has done is substantial, and it is obviously important work.

Most of the issues we deal with have so much importance to particular areas of a State and of our Nation, and that really represents a great part of our legacy. I commend the gentleman from Colorado [Mr. SKAGGS] for his work in terms of trying to ensure that this will be of a high quality.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 1716, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 3355, VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, when the Senate considered the crime bill which is now in conference, it adopted, by a vote of 85 to 2, the Exon amendment, which takes a significant step forward in excluding some illegal aliens from certain Government programs.

To ensure that the Exon amendment stays in the bill when it emerges from conference, the House needs to express its will in a motion to instruct conferees.

Therefore, pursuant to clause 1(c) of rule XXVIII, I am announcing to the House my intention to offer a motion to instruct conferees on the bill, H.R. 3355, the Violent Crime Control and Law Enforcement Act of 1993.

The motion I will offer is as follows:

Mr. ROHRABACHER moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the Senate amendment to the bill H.R. 3355 be instructed to agree to section 5102 of the Senate amendment.

REFORMING OPERATION OF THE STEAMTOWN NATIONAL HISTORIC SITE

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3708) to reform the operation, maintenance, and development of the Steamtown National Historic Site, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3708

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—STEAMTOWN NATIONAL HISTORIC SITE

SEC. 101. ESTABLISHMENT.

(a) ESTABLISHMENT.—In order to preserve and interpret certain elements of railroading, especially steam-operated railroads during the period of 1850 to 1950, there is hereby established the Steamtown National Historic Site (hereinafter in this title referred to as the "historic site"). The purposes of the historic site shall include interpretation of the evolution of railroads

and their impact on the development of this nation, including technological, economic, social, and political effects and the relationship of railroads to industrialization.

(b) BOUNDARIES.—The historic site shall consist of the lands and interests in lands within the area generally depicted on the map entitled "Boundary Map, Steamtown National Historic Site", numbered STTO–80,000B, and dated June, 1994. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. No revisions may be made in the boundary of the historic site, except by Act of Congress.

(c) REPEAL.—Sections 1 through 5 of the Steamtown National Historic Site Act of 1986 (Public Law 99–591; 100 Stat. 3341–248–249) are hereby repealed.

SEC. 102. ADMINISTRATION.

The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") shall administer the historic site in accordance with this title and with the provisions of law generally applicable to units of the national park system, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4). On or before September 30, 1995, the Secretary shall prepare and submit to the Committee on Natural Resources of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a new comprehensive general management plan for the historic site. The plan shall be prepared with the assistance of nationally recognized experts in railroad management and history and shall be consistent with this title, with section 12 of the Act of August 18, 1970 (16 U.S.C. 1a–1 through 1a–7) and with other applicable provisions of law. The Secretary shall provide for public participation and comment in the development of the plan.

SEC. 103. ACQUISITION OF LAND.

(a) IN GENERAL.—The Secretary may acquire lands or interests in land within the boundaries of the historic site only by donation or by purchase with donated funds.

(b) CONTAMINATED LANDS.—The Secretary may not acquire any lands or interests in lands for purposes of the historic site unless such lands are not contaminated with a hazardous substance or a pollutant or contaminant which will require removal or remedial action at the expense of the United States. The Secretary shall take such steps as are necessary to obtain cost recovery under the Comprehensive Environmental Compensation, Response, and Liability Act of 1980 (Superfund) for any funds of the National Park Service expended, prior to the date of the enactment of this Act, on removal or remedial action with respect to any contamination of lands within the boundaries of historic site. Any such reimbursement shall be credited to miscellaneous receipts in the Treasury.

SEC. 104. PARK SERVICE ACTIVITIES.

(a) IN GENERAL.—The Secretary shall take such actions as necessary and appropriate to administer the historic site, to maintain and preserve the facilities at the historic site, to interpret the resources of the site and their history to the public, and to provide essential services to the public at the historic site.

(b) RAILROAD EQUIPMENT.—(1) The Secretary shall preserve the collection of railroad equipment, including locomotives and rolling stock, which is present at the historic site as of the date of enactment of this Act. The Secretary may also preserve such equipment and essential machinery as is necessary for the maintenance of the locomotives and rolling stock. The Secretary may not purchase any additional locomotive for operation at the historic site if such purchase would result in the operation by the United States at the historic site of more locomotives than the number of locomotives operating at the site as of June 22, 1994.

(2) No Federal funds may be expended to provide access between the historic site and any structure that is privately owned and operated for profit. The Secretary may exchange or purchase appropriate examples of locomotives and rolling stock to enhance the site's collection if the total number of such equipment does not increase and if all such actions are consistent with the general management plan for the historic site.

(3) The Secretary shall dispose of all locomotives and rolling stock that are not needed for exchange under paragraph (2), that do not meet the criteria of the National Register of Historic Places, and that are not necessary for the interpretive activities of the historic site.

(4) The Secretary shall submit a report to the Congress no later than February 28, 1995 containing an inventory of all locomotives and rolling stock at the historic site, a statement of the range of historic significance of the components of the collection, a statement of how many of each are needed to meet the purposes of the historic site, the restoration and repair plans and estimates of the Secretary for facilities and equipment at the historic site, and a detailed deaccession plan.

(5) The Secretary shall, to the extent practicable, seek donations and assistance from volunteers and other cost-sharing methods to restore the locomotives and rolling stock.

(c) ARTIFACTS AND ARCHIVAL MATERIALS.—The Secretary shall preserve the artifact collection and archival materials located at the site.

(d) EXCURSIONS.—To the extent that it furthers public understanding, and provided that appropriate interpretation is provided, the Secretary may provide a regular excursion from Scranton, Pennsylvania, to Moscow, Pennsylvania. For purposes of such excursions, the Secretary may provide essential visitor services at Moscow, Pennsylvania. The Secretary may not expend funds of the National Park Service for the restoration or maintenance of tracks, bridges or tunnels located outside the historic site, except that the Secretary may use funds appropriated prior to November 15, 1991 for restoration of tracks and bridges between the historic site and Moscow, Pennsylvania, pursuant to a cooperative agreement to be entered into between the Secretary and the owner of such tracks and bridges permitting the national park service to use such tracks and bridges for excursions authorized under this section. The Secretary may pay customary and appropriate track usage fees and may also provide additional special excursions if no such excursion is longer than 60 miles one way.

(e) USER AND INTERPRETIVE FEES.—(1) User or interpretive fees charged for the rail excursion from the historic site to Moscow, Pennsylvania, or to any other location shall be established at a level such that a minimum of 100 percent of the costs of maintenance, personnel, equipment, and fees imposed on the Secretary for the excursion shall be recovered by the Secretary.

(2)(A) Notwithstanding any other provision of law, the Secretary is authorized to impose a fee on any person using the core complex within the site. The amount of such fee shall not exceed a single charge of $5 per person per day for the use of the entire core complex. No fee shall be imposed for the use of such complex by any person under 16 years of age or any person who is part of an organized school group or outing conducted for educational purposes by a school or other bona fide educational institution.

(B) The proceeds of any fee imposed under this section shall be credited to a special account established for the National Park Service in the Treasury of the United States and shall be available, without further appropriation, for use by the Secretary of the Interior to further educational and interpretive programs at the site, including the cooperative agreement specified in subsection (g)(2).

(C) As part of each annual budget submission to the Congress, the Secretary shall provide a report detailing the amount of fees received under subparagraph (A) and the expenditures under subparagraph (B) during the immediately preceding fiscal year. A copy of such report shall also be made available annually to the Committee on Natural Resources and the Committee on Appropriations of the United States House of Representatives and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate.

(D) For purposes of this section, the term "core complex" means the two museums, the theater, the visitor center, and roundhouse.

(f) TRACK AND SWITCH REHABILITATION.—The Secretary may assist the owner of Bridge 60 and Bridge 60 Wye with track and switch rehabilitation to facilitate activities directly associated with the historic site. Any financial assistance for any such project shall be limited to a portion of the total costs of the project. The portion paid by the Secretary shall not exceed that fraction of the total costs of the project which is equal to the fraction of the total usage of such tracks and switches attributable to use by equipment associated with the historic site. Nothing in this Act or in any other provision of law shall authorize the Secretary to acquire either of such bridges or the associated tracks and switches.

(g) COOPERATIVE AGREEMENTS.—(1) The Secretary may enter into cooperative agreements with appropriate authorities for law enforcement and for purposes of controlling rail traffic through the historic site, but the Secretary may not enter into any other cooperative agreement relating to administration of the historic site with any entity (other than a department or agency of the United States) without specific authorization by an Act of Congress approved after the enactment of this Act, except as provided in paragraph (2) of this subsection.

(2) The Secretary is authorized to enter into a cooperative agreement with a qualified educational institution to provide, at the Secretary's direction, certain visitor services and educational programs within the historic site and to collect the fees authorized under paragraph (2) of subsection (e). The Secretary shall transmit any cooperative agreement proposed to be entered into under this paragraph to the Committee on Natural Resources of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate at least 60 days before such agreement is entered into by the Secretary.

(h) REPORT ON ALTERNATIVES.—(1) The Secretary shall prepare a report identifying any feasible and suitable alternatives for managing the historic site, including partnerships or direct management by the Commonwealth of Pennsylvania, local governments, other agencies, or private entities. Such report shall be submitted to the Congress not later than 2 years after the enactment of this Act.

(2) In taking the action referred to in paragraph (1) the Secretary shall consult with other Federal land managing agencies, State and local officials, the National Park System Advisory Board, resource management, recreation, and scholarly organizations, and other interested parties as the Secretary deems advisable. Such consultation shall include appropriate opportunities for public review and comment.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this title, except that no *funds may be appropriated after the enactment of this Act for any construction, development, or related activities with respect to the site without specific authorization by an Act of Congress pursuant to a law enacted after the enactment of this Act. No Federal funds may be expended at the site for purposes other than those specified in section 104 and in section 105(d). Not more than 5 percent of the funds appropriated annually for operation of the historic site may be used for the restoration or repair of locomotives, cars, and other rolling stock without specific authorization by an Act of Congress enacted after the enactment of this Act.*

TITLE II—DELAWARE WATER GAP NATIONAL RECREATION AREA

SEC. 201. BOUNDARIES.

Section 2(a) of the Act of September 1, 1965 (79 Stat. 612; 16 U.S.C. 460o–1(a)) establishing the Delaware Water Gap National Recreation Area is amended by striking "as generally depicted on the drawing entitled 'Proposed Tocks Island National Recreation Area' dated and numbered September 1962, NRA–TI–7100, which drawing is on file" and inserting "as generally depicted on the map entitled 'Delaware Water Gap National Recreation Area' dated November 1991 and numbered DWGNRA–620/80,900A which shall be on file".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Utah [Mr. HANSEN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently before us.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

□ 1310

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3708, which I introduced, attempts to redefine and refine the policy Path in law that guides Steamtown National Historic Site in Scranton, PA. Steamtown National Historic Park received a backdoor authorization in 1986 through provisions included in the fiscal year 1987 Interior and Related Agencies Appropriations Act. Since that time considerable funds have been expended on the site beyond the authority of that 1986 law, and there has been considerable attention given to Steamtown in the media, almost much of it negative. To date, the National Park Service has already spent over $80 million on Steamtown.

Few people are neutral about Steamtown—it has ardent proponents and equally passionate opponents. Steamtown proponents, proclaim the site virtues; a unique educational experience in a historic setting. For its opponents, argue that Steamtown is a collection of locomotives and railcars, that lacks integrity and significance and which derails limited National Park Service resources.

Beyond these polarized views there is the problem of management irregularities at the site. In the past, considerable amounts of Federal funds were spent on lands and interests in lands the National Park Service didn't own. The National Park Service paid for cleaning up hazardous wastes on non-federally owned lands, raising serious issues of policy and liability. Plans for the site have undergone little or no critical internal review.

The National Parks, Forests and Public Lands Subcommittee, which I chair and which has jurisdiction over this matter, learned less than just the day before our hearing on this bill that the National Park Service was in the process of entering into a cooperative agreement with the University of Scranton that proposed to convey major administrative functions to the University of Scranton, and would have allowed it to collect fees from visitors that would have been channeled into the university's coffers. This proposal caused considerable consternation, once discussed the Director of the National Park Service stated that no such arrangement will be made final without close collaboration with the Natural Resource Committees. The bill before us today has been amended to in fact prohibit such arrangements, while specifying the nature of cooperative agreements that are appropriate and permissible.

After pragmatically examining the pros and cons of Steamtown, and the reality of the present status, and separating issues of management irregularities from that of the National Park Service's, and the taxpayer's, investment and interest in the site to date, I have concluded that Steamtown should continue as a national historic site. However, the future development and operation of the site should be carefully outlined—consistent with congressional and National Park Service policies and practices, and the site's momentum for programmatic expansion must be properly defined and curtailed by statute. My legislation accomplishes this. In addition, at the suggestion of Representative HEFLEY, H.R. 3708, as amended, includes a provision to require the Secretary of the Interior to prepare a report within 2 years that identifies any feasible and suitable alternatives for managing the historic site, included partnerships or direct management by the Commonwealth of Pennsylvania, local governments, other agencies, or private entities.

Mr. Speaker, the Committee on Natural Resources has considered the Steamtown matter carefully. The committee has reported legislation to put this railroad historic site back on the right track, one that provides a much needed focus and parameters for Steamtown National Historic Site. In doing so, the committee has applied the brakes to what has been a runaway project without adequate governance. The committee-passed measure scales back both the development and operation of the site.

The bill reduces the site's boundary and eliminates nonessential lands. It limits use of the annual operating appropriation on the rehabilitation and restoration of rolling stock to 5 percent each year. It specifically prohibits adding to the number of operating locomotives, replacing an earlier restriction on the number of special excursions each year with a requirement that all excursions be completely financed with ticket revenues, and increases the maximum one-way distance of such excursions from 50 to 60 miles. A section on cooperative agreements was added in committee, reflecting the concern about the University of Scranton proposal. In addition, the committee has specifically provided the authority for the National Park Service to collect and retain a fee for visitation to the core complex of the site. Such a fee is to be used solely for interpretive and educational programs at the site. The NPS has testified they need such revenue in order to fully open and operate the Steamtown site. Such a fee will greatly diminish the need for further operating fund increases.

As I noted earlier, the bill also requires a report examining alternative management options for the site as well as a report on the disposition of rolling stock that is not historically significant and not required to meet the interpretative purposes of the site. Because the inventory of rolling stock at Steamtown is large and varied, the bill calls for a report to Congress on plans to retain and restore as well as deaccession excess elements in the collection. Finally, the bill requires the Secretary to seek reimbursement under Superfund for the cleanup of contaminated lands.

As my statement today indicates, Steamtown is a very controversial matter. The committee has addressed this issue in a fair and reasonable way and has provided the House with what I believe is a balanced approach to the future development and operation of what has been a controversial site.

Mr. Speaker, the House in the last Congress passed a similar measure, but the Senate failed to act on it. I believe this bill is improved over the previous one, through further committee action and cooperative work with interested parties, including the National Park Service and Congressmen JOE MCDADE, in whose district this site is located.

For these reasons, Mr. Speaker, I recommend that the House adopt H.R. 3708, as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3708, is a bill to authorize Steamtown National Historic

Site. I strongly believe the proper place for congressional Interior Department policymaking is in the authorizing committee not the appropriations committee, whether we are referring to establishing new parks, mining or grazing. Therefore, I support the general purpose of this bill, to ensure all parks have proper authorization.

With respect to the future of Steamtown, I believe there continues to be outstanding questions. I cannot support continuation of a project simply because the Federal Government has invested money in it in the past. For that reason, I am very pleased that Mr. HEFLEY has added an amendment to this bill which requires that the National Park Service evaluates the role it should play at this park in the future.

In recent years, Congress has authorized a number of questionable additions to the National Park System. Congress must do a better job of setting priorities for new National Park Service programs, just as we must within the entire Federal Government.

I am pleased that this version of the bill deletes most of the congressional micromanagement language which has appeared in previous versions of this bill. Regardless of the history of this site, Congress should not be developing reactionary legislation, whether we agree with past actions at that park or not.

Finally, I must say that I am concerned about the user fees authorized in this bill. This concern is not one of general opposition to user fees in parks. There is ample evidence that recreational use of parks and other Federal lands is the most subsidized use of our Federal lands and I believe that more costs should be recovered from park users. However, the approach in this bill sets up a piecemeal policy path which is likely to be sought after by a variety of other park proponents. This is not a good direction and I hope the Senate will carefully review this section of the bill.

Mr. MCDADE. Mr. Speaker, I rise in support of H.R. 3708, a bill to authorize the Steamtown National Historic Site in Scranton, PA.

I commend my colleague from Minnesota [Mr. VENTO] and the members of the House National Parks, Forests and Public Lands Subcommittee for their efforts in this legislation to address issues related to Steamtown. I was pleased to testify on May 12 at hearings held by the subcommittee regarding the development of Steamtown and concerns I had about specific provisions of H.R. 3708.

At that hearing, I reported that the project is on time and within budget. Planning is now underway for the official grand opening in July 1995. Over 675,000 people have already visited the site, and as many as 600,000 people are projected to visit the site annually once it officially opens.

Visitors walk away from this historic site with a greater knowledge of steam railroading and America's industrial heritage. Steamtown affords visitors an educational, safe, and enjoyable opportunity to see how a working steam locomotive railyard operated in an earlier American era.

Steamtown enjoys strong bipartisan support. Pennsylvania Senators ARLEN SPECTER and HARRIS WOFFORD, Gov. Robert Casey and former Gov. William Scranton submitted statements at the May 12 hearing in support of Steamtown. They are particularly proud of the high levels of voluntarism and the over $14.5 million in funds and donations from non-Park Service sources.

I am also submitting for inclusion in today's debate a statement from the hearing record from noted rail historian William L. Withuhn. Mr. Withuhn was an early critic of Steamtown who now supports it as a unique and valuable national public resource. I am also submitting articles on Steamtown from the Akron Beacon Journal and the Fort Pierce, FL, Tribune. The Tribune article was written by nationally syndicated columnist Charley Reese.

Mr. VENTO and the subcommittee staff worked in good faith with me and the National Park Service to craft a bill that allows this worthwhile project to continue its operation for the education and enjoyment of current and future generations of Americans. The bill before us today contains several cost containment measures and a number of changes to ensure the responsible management of Steamtown.

Those who are concerned about future costs associated with Steamtown will be pleased with this legislation. It directs that no more than 5 percent of annual operating funds may be used for restoration or repair of locomotives, cars, and other rolling stock.

H.R. 3708 also requires that 100 percent of all excursion costs be recovered through ticket revenues. It allows for collection of a program fee as part of a cooperative agreement with the University of Scranton in an effort to control Federal operating costs.

In addition, the bill directs the Secretary of the Interior to identify private sector alternatives to managing Steamtown and that the Secretary seek cost recovery under Superfund law for any funds expended by the Park Service for removal or remedial action of contaminated lands.

I am grateful to Mr. VENTO for his willingness to modify some of the orignial provisions of his legislation which I expressed reservations about at the hearing. In particular, I objected to a proposed freeze on annual operating funds and supported the cooperative agreement with the university. His flexibility in addressing these matters is appreciated.

I urge my colleagues to support passage of H.R. 3708. It is responsible and fair legislation which allows the effective management of the Steamtown National Historic Site.

STATEMENT OF WILLIAM L. WITHUHN, MAY 12, 1994, BEFORE THE SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS, HOUSE COMMITTEE ON NATURAL RESOURCES, ON H.R. 3708

Mr. Chairman, thank you for the opportunity to appear at these hearings in regard to the future management of the Steamtown National Historic Site.

My name is William L. Withuhn, and for identification purposes, I am curator of transportation at the National Museum of American History, Smithsonian Institution. I appear here on my own time, not as a Smithsonian employee, and not in any way speaking for the Smithsonian.

To establish my perspective on the issues raised by H.R. 3708, I view the creation and operation of the Steamtown National Historic Site from two points of view: first as a historian of American transportation and secondly as a former small-business person and former manager of several profitable freight railroad companies. I am concerned with the meaningful and effective interpretation to wider audiences of the historical legacy of American working people, and I am concerned about the costs of such interpretation activities. Especially in activities related to railroad sites and the operation of those, I have had some 28 years of experience, including a great deal of time spent in the maintenance and operation of a wide variety of historic steam locomotives.

I have visited the Steamtown site on many occasions, especially during the past year. I have gotten to know the professional staff there, and I have had a chance to see the plans for the ongoing site improvements and to become very familiar with the operations. As importantly, I have been able to talk informally but frequently with visitors. For the record, and for what is to follow, it is also worth stating that except for responding to a couple of questions from the dais during the 1991 hearing on Steamtown, I have never met or spoken with the Representative on whose list I appear today.

I was an early critic of Steamtown. In my judgment, much of its early planning was poorly done. With respect to the early years that followed historic site designation, that still is my view. I believe it would be helpful to be candid about that. When I was asked to evaluate the 1987 draft management plan for Steamtown, I found the costs—both the proposed capital costs and the proposed annual operating costs—to be vastly understated in my opinion. The rough cost estimates that I submitted back then, I must tell you, have been borne out.

It is now some seven years later. Is Steamtown worth it? Will the operation of the site be worth it in the future? From both perspectives of concern to me, historical interpretation and costs, the answer is emphatically, yes.

Steamtown is not a museum. It is a site created for the direct visitor experience of a part of our industrial heritage. As operated today, and as operated according to the plans developed for operations subsequent to the park's formal opening in 1995, the Steamtown complex will do what no other railroad historical site or museum now does: combine a valid interpretation of working life on a mainline railroad with direct visitor experience in full context.

The approach is fundamentally different than either a static museum or a tourist railroad. There are, indeed, a lot of tourist railroad rides around. Not a single one of these train rides has any concern with conveying a sense of railroading as part of our nation's history and social changes. The "interpretation," such as it is at such tourist railroads, is to my mind bogus. The only ingredients are a false nostalgia and an ahistorical, romantic view unrelated to the lives of real working people. So I do not see Steamtown as duplicating, in any valid sense, train rides already offered elsewhere.

The museum approach is also not Steamtown's approach. Ordinary museums, for the most part, focus on the objects themselves. Good museums go a step further and try to use objects to interpret something of their makers or users, but that is hard to do with static displays. Steamtown is actually part of an international movement toward "living history" sites, where the focus is squarely where I believe it should be, on the lives of people, not on objects. The U.S. is, frankly, behind in the development of industrial living-history sites and has very few of them, compared to other countries. It has been somehow unfashionable in the U.S. to celebrate working people and the industries in which they labored. Steamtown can help to redress the balance.

Steamtown's collection of locomotives and cars is appropriate to its mission. Certainly there are other museums with more historic specimens, but nowhere else in the country is the combination of resources—specimens, site, repair shops, heavy tools, a large urban station under private auspices, and operational facilities—as good for the interpretive mission or conveying what working life was like on the railroads, and for interpreting the connections between railroading and the rest of social and economic life.

There is also ample opportunity at Steamtown for cooperative agreements to both enhance interpretation and to share costs. An example is the recent educational partnership with the University of Scranton. And from the beginning, there have been cost-sharing agreements between Steamtown and the Lackawanna County Railroad Authority as to rail operations and track repair. In the future, I believe partnerships should be permitted to allow repair and operation of locomotives in the Steamtown collection that are of American origin. Steamtown has been criticized for the use of two Canadian locomotives, ignoring the fact that these two engines are noteworthy for their operational reliability and less costly to operate than the possible alternatives at present. But partnerships should be explicitly encouraged, at zero cost to the federal government, to sponsor the repair and periodic operation of some of the significant American pieces in the collection. For that reason, I would suggest amending the bar in H.R. 3708 limiting the number of locomotives that can be restored to operating condition. I also support the other amendments to H.R. 3708 suggested by the Park Service.

Returning to overall costs, both capital and operating, is Steamtown worth it? Recently, the Steamtown superintendent provided your subcommittee with a breakdown of costs and investments, from Steamtown's inception to date. Based on my experience with rail operations and with renovating or erecting industrial buildings, and based on my familiarity with the present site, the costs in that breakdown seem to me entirely reasonable. Given the scope of the project, there are simply no surprises here. Had some care been given to some of the initial estimates seven years ago, one might wonder how different the subsequent debate about Steamtown might have been.

Steamtown is today, and can be in the future, a unique and valuable national public resource. I believe in its mission. With the encouragement of cooperative agreements and other sorts of public-private partnerships, I believe that its benefit/cost for the American public will be great. Visitation will grow, and Steamtown will take its proper place as one of the premier interpretive centers of the National Park Service.

Thank you again, Mr. Chairman, for the opportunity to testify. I would be happy to respond to any questions.

Appended: Letters from/to Senator Harris Wofford, in regard to Steamtown, 3 August 1993.

U.S. SENATE,
Washington, DC, August 3, 1993.

Mr. WILLIAM WITHUHN,
Curator of Transportation, National Museum of American History, Smithsonian Institute, Washington, DC.

DEAR MR. WITHUHN: In your capacity as Curator of Transportation at the National Museum of American History, I am writing to request your comments on the Steamtown Historic Site at Scranton, Pennsylvania.

The Steamtown Historic Site has been under development for several years and has enjoyed Federal-State-Local funding well as private support. When completed, Steamtown is disigned to provide a working demonstration of our nation's railroad history and its role in the nation's industrial revolution. Although the project enjoys significant support, its historical significance has been questioned.

Considering your knowledge of the history of our nation's transportation industry and its contribution to the industrial revolution, I request that you provide Congress with your comments on the cultural and historical significance of Steamtown. In particular, I am interested in your analysis of Steamtown's collection of railroad hardware, the significance of Scranton to the railroad industry, and the historical interpretation of the site.

Thank you for your assistance in this matter.

Sincerely,
HARRIS WOFFORD.

NATIONAL MUSEUM OF AMERICAN HISTORY, SMITHSONIAN INSTITUTION,
Washington, DC, August 3, 1993.

Hon. HARRIS WOFFORD,
Dirksen Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR WOFFORD: Thank you for your inquiry of August 3, 1993, in regard to the Steamtown National Historic Site of the National Park Service.

I have followed closely the progress of this National Historic Site since its initial legislation, for it involves my particular field of historic preservation. My opinions on Steamtown come from two distinct perspectives. First, as an historian and museum professional, I look at the site for its value to the American public as an historical legacy and, more importantly, as a place for the effective interpretation of that legacy. Secondly, as a former railroad manager and small business person, I look at the site in terms of its management, its costs, and especially its value-for-dollar to the public. If I may, therefore, I would like to respond to your request, and especially to your third paragraph, from the above perspectives.

I was an early critic of Steamtown. In my judgment, much of its early planning was poorly done. With respect to the early years that followed NHS designation, that still is my view.

Much has changed, however. During the last two years, and especially since last spring, I have spent considerable time at the site. The Park Service and its on-site staff have worked hard to respond to the early criticisms that came from various quarters, and they have taken a planning and management path that I find to be first-rate. I have examined the plans and proposed exhibits for the new visitor center now under construction, and I have become familiar with the daily operations of the site. In addition, I have had many opportunities to talk informally with visitors.

To summarize my views today, I believe Steamtown is a significant national asset and that its significance will increase. Steamtown will become one of the premier sites in the nation for the public interpretation of America's important industrial heritage. It will engage the public as no museum of static displays ever can.

The site will be, and is already, a place of living history. Visitors can see actual railroad operations, with real people operating and interpreting the pieces on view. And that is the point. The approach is fundamentally different from either a static museum or a tourist railroad. The former is focused on historic objects for their own sake; the latter is focused on giving tourists a pleasant ride, with no concern for conveying a sense of railroading as part of our nation's industry and history. Steamtown is a facility unique in North America, focused on the relationship of Americans to their industrial past, focused on working people and their roles in that legacy, and bringing an interpretation of this fully to life. When it is finished, in my view, the Steamtown National Historic Site will be a major step forward in helping Americans from all over the country understand the industrial heritage on which this country is built.

There has been controversy about the historic character of the site and its collections, but I think most of this discussion misses the point. Scranton is one of the few medium-sized cities in this country where there is a combination of historic railroad resources located close to center-city, and where the historic physical connections of railroad to city still exist. Certainly there are other places with more historic specimens, but nowhere else in the country is the combination of resources—specimens, historic site, repair shops, heavy tools, a large urban station, and operational facilities—as good for the interpretive mission of conveying what working life was like on the railroads.

The unique quality of the collections is that, for the most part, they are operable. The collection consists primarily of typical equipment from the "standard era" of steam railroading—locomotives, freight cars, and passenger cars. Their typicality is essential to the interpretive mission. In fact, it would be a serious mistake in my view to be operating unique, one-of-a-kind historical specimens—those belong in museum in protected conditions. The Steamtown collection is one suited for operation—and therefore, to me, of greater value to the goal of interpretation for the general public, as opposed to an audience of specialists.

As to costs, I believe that the public is being well served. Management of the planning process and of costs has been aggressive. Hard choices have been made as to what to preserve. The roundhouse/visitors center has been planned for maximum educational benefit, and from my museum management background, I believe the capital costs are reasonable. The operating costs, too, are reasonable and have been well thought out.

By and large, the US has been laggardly in preserving and interpreting its industrial history, compared to other countries. Great Britain, Germany, France, and even Switzerland, have outstanding industrial and railroad historic sites and living, operating museums. Internationally, the trend to living-history museums is well under way. Steamtown fits that trend. In this country, it has usually been unfashionable to celebrate working people and the industries in which they labored all their lives.

Steamtown is helping redress the balance, in my view.

Visitors that I have talked to are enthusiastic in their reactions. They understand, I think, that Steamtown still looks rough around the edges. Amenities are few at this point, because the site is under construction. But already the interim operations are well received. And the high-quality interpretation, by experienced park rangers and guides, already adds greatly to the overall visitor experience, visitation from around the country, I believe, will rapidly increase once the site is fully open and functioning.

"Functioning" is a fundamental part of the whole. The investment in the site can be rendered meaningless by unwise cuts in its operations. Care in budgeting is always essential. I believe the Park Service has exercised that care. I would urge those who are concerned to study the site and its operations, as I have, to better evaluate the cost/benefit in the interests of the public. A cut of operating funds at this juncture would be disastrous, in my view, Steamtown would then simply revert to being just another static industrial museum. The heart would then be cut out of its essential character and unique value to the American public.

Sincerely,

WILLIAM L. WITHUHN,
Curator of Transportation.

[From the Beacon Journal, Akron, OH, July 11, 1993]

LOCOMOTIVES BREATHE FIRE IN NATIONAL HISTORICAL SITE—STEAMTOWN KEEPS RAILROAD'S PAST ALIVE IN ITS NATURAL HABITAT IN SCRANTON TRAIN YARD

(By Michael Schuman)

SCRANTON, PA.—The place is gritty, coarse. Steam engines stand stewing in their own sweat, and industrial buildings squat, watching over rolling stock as they have for years. Here are trains in their natural habitat, not along miles of aisles in some spiffed-up museum gallery, roped off and protected, but accessible and outdoors in a railroad yard, as they were in their heyday.

There are dozens of railroad museums in North America, but Steamtown National Historic Site in Scranton is special. The National Park Service, always casting an eye toward historical accuracy, reports Steamtown to be one of the few collections of railroad engines and cars to be interpreted and displayed in its natural setting. In this case, it's Scranton's Delaware, Lackawanna & Western rail yards, a breathing relic from the days when FDR occupied the White House and the interstate highway system seemed as futuristic as space travel.

Steamtown is one of the National Park Service's newest offerings; yet, it's not totally new. Once operated by a private foundation, Steamtown for 20 years was a tourist attraction in Bellows Falls, VT., before leaving its longtime home for Scranton in 1983 because of a shortage of visitors.

Easily accessible via interstate highways, Scranton seemed to promise the hordes of visitors lacking in sparsely settled Vermont.

After four years, though, Steamtown encountered financial difficulties again.

The collection of 35 steam locomotives and 78 cars, regarded as one of the country's finest, attracted the attention of U.S. Rep. Joseph McDade, R-Scranton, who felt the nation's steam railroad heritage should be preserved. His efforts paid off. The Steamtown Foundation donated the equipment to the National Park Service in 1988.

Plans—big plans—are in order for the sprawling railroad yard. Over the next few years, existing structures will be refurbished and given new lives as exhibit buildings, a visitor center and a theater. Restoration of the 13-stall roundhouse and construction of a new turntable were completed in 1992, and tours through the structure are now available.

You also can climb up to the cupola of a 1938 red caboose to savor the expansive view once available to the train's crewmen, who cooked, rested, ate, stored equipment and kept records there. Then try to make some semblance of order out of the jumble of knobs and gears and levers inside a locomotive. Or inspect the Railway Post Office car, a 1913 artifact from the Louisville & Nashville Railroad. Slots and canvas sacks are in abundance, reminders of the times when sorting mail on trains was daily practice. In its day, only armed postal workers were permitted inside.

Better yet, hop on one of the gray and maroon coaches pulled by Canadian Pacific locomotive No. 3254 or Canadian National locomotive No. 2317 for an excursion ride of about 2¼ hours taking you across 26 miles and back 60 years. You might not find puffs of Lucky Strikes and Camels swirling through the air inside your passenger car, as you would have six decades ago, but you still will see whiffs of steam emanating from the engine.

The conductor and fireman on board are decked out in period costumes, while Park Service rangers discuss life during the 1920s and 1930s, a time when travelers not adventurous enough to drive their Nashes or Hudsons on long journeys ventured by rail. Life magazine's debut issue in 1936 carried ads from major railroad lines such as the Chesapeake & Ohio and the Panama Pacific, but anyone who journeyed between Hoboken, N.J., and Buffalo, N.Y., knew the DL&W was the ticket to catch.

Today you will hear tales of the train yard workers as you rumble along the rails, through the 1⅓ mile Nay Aug tunnel and precariously high across a steel-girder bridge.

Says guide Ken Ganz, "Kids love the dark and the heights. It's the adults that get scared."

However, Ganz adds, children might get rattled by the steam whistle, something they likely have never heard before. Indeed, many young adults have never had their ears tickled by the once-common shrill whistle of the steam engine, nor have they witnessed other hallmarks of rail life.

RAIL PEOPLE

A trip to the visitor center introduces observers to old railroad characters such as fictional Phoebe Snow and some anonymous hobos, part of a whole subculture that for decades centered around this country's rail yards.

Phoebe Snow, today the name of a pop singer, was recognized around the turn of the century as the spokeswoman for the DL&W Railroad. She predated the Gibson Girl as an advertising spokeswoman. Her likeness is recreated on park bulletins and as part of displays in the visitor center: Look for a brunette ingenue donning a wide-brimmed hat, head jauntily cocked to one side. She often was accompanied with a rhyme like this:

Says Phoebe Snow
About to go
Upon the trip to Buffalo
My gown stays white
From morn till night
Upon the road made of anthracite.

The DL&W burned hard anthracite, as opposed to softer bituminous coal, and was therefore cleaner and less likely to leave a coating of coal dust on one's clothes, as Phoebe proclaimed in DL&W advertisements.

On the other hand, there were some very genuine people riding trains earlier this century who also are celebrated at Steamtown. The first hobos were Civil War veterans who took to the road following the war, using the hide-and-ride method: hitching free rides on trains while avoiding authorities. During the hard times of the 1930s, hobos were a frequent sight around the whistle-stops of America.

Ganz has many tales to tell about hobos who were quite resourceful in finding concealed riding places, for example, on top or inside battery boxes under passenger coaches. Hobos communicated with each other in their own language, drawing chalk figures on fence posts and sidewalks to indicate where they ate and slept.

Their language is decoded in a visitor center display.

Other exhibits relate railroad trivia and diagram the technical mechanisms of a steam engine.

Ganz says the Park Service hopes Steamtown National Historic Site will emerge as "the country's railroad museum."

Or as Phoebe Snow might have said:

From hill and dale
The hearty and hale
Come to ride the rail
Without fail
To Pennsylvania they go
Cameras in tow
To tour Steamtown
With Phoebe Snow.

[From the Tribune, Fort Pierce, FL, January 22, 1992]

STEAMTOWN IS WORTH FUNDING

(By Charley Reese)

I'd like to say a word in behalf of trains and a national park you probably have never visited, but ought to, and may never have heard of.

It's called Steamtown. It's in the heart of Scranton, Pa. It's being called a pork barrel boondoggle by its critics, but often that's just another way of saying the project is in someone else's backyard and I want the money spent in my district.

Steamtown is no boondoggle. I've been there twice and my sons and I love it. It is just shy—about $20 million shy—of being one of the greatest living museums of Americana in the country, a great tribute to America's industrial age.

These 41 acres and 13 buildings, all of which are on National Register of Historic Places, are situated on an abandoned railroad yard of the old Delaware, Lackawanna and Western Railroad. When it's completed—if it's completed—you'll be able to see machinists and craftsmen restoring steam locomotives just as they did in the days when the railroads were America's major means of transportation. Your children will be able to see a working railroad repair shop, roundhouse, and marshalling yard and talk to the skilled men who know how to shape steel and iron with a sculpture's touch.

Even now it is well worth a visit and is one of the few places in the country where you can take excursions on a train pulled by a steam locomotive. Furthermore, Steamtown is a national park in a city that will allow future generations to see the role urban America played in the nation's history.

The wild places with their natural wonders are part of our heritage, but so, too, are the urban areas and urban areas have unfortunately received short shrift in the preservation and parks budgets. It just as important for America's youth to be able to see the industrial contributions America's cities made to our history as it is for them to see the great plains or the Rocky Mountains.

When America was a wild place, Americans were as poor as the Indians they were displacing. The exploration of this great continent and the westward movement of people is an important part of our history—a tragic part if you were an Indian in the path of this human wave.

But what made the America we know today—the great industrial power—were the cities, like Scranton, and others, which grew from frontier towns into the seats of mighty industries—coal, steel, railroads. It was this great burst of industrial growth in the late 19th Century and early 20th that turned America from a poor nation into a rich one.

Not much of this part of our history is being preserved. Steamtown is one great start toward it. My kids were just as fascinated by Steamtown and the Anthracite Coal Museum, also in Scranton, as they were by the Amish farms and the mighty Niagara.

So I hope Congress will spend the $20 million necessary to complete Steamtown. If it can hand out $15 billion a year to foreign countries, it could certainly spare $20 million to complete an urban national park in Scranton that will allow generations to see and know a great segment of American history as no other place can.

Old railroad yards and locomotives may seem like junk but the saddest part of loving history is to witness how much of our past is lost forever because somebody in authority doesn't have the wit to see its value.

After Steamtown is completely developed, then we ought to consider a Steeltown project before all the great mills, many of them now idle, are torn down and carted off.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 3708, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

OCRACOKE LIGHT STATION TRANSFER

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 4364, to direct the Secretary of Transportation to transfer administrative jurisdiction over certain lands for inclusion in the Cape Hatteras National Seashore Recreational Area, as amended.

The Clerk read as follows:

H.R. 4364

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER OF OCRACOKE LIGHT STATION TO SECRETARY OF THE INTERIOR.

The Secretary of Transportation shall transfer administrative jurisdiction over the Federal property, consisting of approximately 2 acres, known as the Ocracoke Light Station, to the Secretary of the Interior, subject to such reservations, terms, and conditions as may be necessary for Coast Guard purposes. All property so transferred shall be included in and administered as part of the Cape Hatteras National Seashore.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Utah [Mr. HANSEN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4364, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4364, as amended, would transfer administrative jurisdiction over the Ocracoke Light Station from the U.S. Coast Guard to the Department of the Interior.

H.R. 4364 was introduced by Representative LANCASTER on May 5, 1994, and was jointly referred to the Committee on Natural Resources and the Committee on Merchant Marine and Fisheries. The Committee on Natural Resources reported the bill to the House with a technical amendment on June 22, 1994. The Committee on Merchant Marine and Fisheries has included the provisions of the bill in Coast Guard authorization legislation approved in that committee before the recess. The committees have mutually agreed to pursue both paths to enactment, and I appreciate the accommodations made by my colleagues on the Merchant Marine and Fisheries Committee to see that this bill is enacted.

The Ocracoke Light Station is located in the village of Ocracoke which is surrounded by the Cape Hatteras National Seashore in North Carolina. The light station consists of a 2-acre tract of land which includes the 1823 lighthouse, a double keepers quarters and four outbuildings, and is currently administered by the U.S. Coast Guard. The National Park Service houses 2 employees of the Cape Hatteras National Seashore, who are required to live on the island, in the keepers quarters. Through grants from the State of North Carolina the National Park Service has undertaken a study and rehabilitation of the historic structures; the National Park Service also currently provides maintenance for the keepers quarters and the outbuildings.

The U.S. Coast Guard intends to divest itself of the Ocracoke Light Station and has been negotiating with the National Park Service on transferring the property. H.R. 4364 directs the Secretary of Transportation of transfer administrative jurisdiction over the Ocracoke Light Station to the Secretary of the Interior subject to such terms as may be necessary for Coast Guard purposes. The Coast Guard would retain the right by permit to operate and maintain the lantern, but all other property so transferred would be included in and administered as part of the Cape Hatteras National Seashore.

Both the National Park Service and the U.S. Coast Guard have testified in favor of this transfer. The Committee on Natural Resources made only one technical change. The bill, as introduced, referred to the Cape Hatteras National Seashore Recreational Area in three places. While an earlier law described the area by that title, the correct reference is Cape Hatteras National Seashore, and the committee changed the references accordingly.

I believe the light station is an appropriate site for the National Park Service to administer. The light station is listed on the National Register of Historic Places, and the National Park Service already cooperates in providing interpretation there. This is an efficient and appropriate transfer and I urge my colleagues' support.

Mr. Speaker, I reserve the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4364 is a bill to expand Cape Hatteras National Seashore by adding another lighthouse to the park.

Mr. Speaker, Mr. VENTO has explained the bill in detail, and I think it is safe to say that this legislation is neither significant nor too costly. Since it is noncontroversial, I do not intend to oppose it; however, I would make the point that preservation of historic buildings has not been identified by Congress as an objective of the Park Service at Cape Hatteras National Seashore. The 1937 act establishing this park specifically calls for the area to be set aside as an undeveloped, primitive wilderness, except for such development necessary to support appropriate recreational use.

I make this point simply because just a few months ago, the superintendent of this park announced that he had insufficient funds to open the most popular campground in the park, because of a $30,000 funding shortfall. It is not clear what the total budgetary impact of taking over these buildings will be at the park, but the Park Service testified that it will cost at least $75,000 for essential repairs.

It is a perpetual source of concern to this Member that the National Park Service seeks to continually expand its responsibilities without much hope in sight of financial relief. While this small site might not seem like much, funds are already so tight at this park, that we can be assured there will be some impact on park programs at Cape Hatteras. It seems curious to me that the Park Service has insufficient funds to operate existing visitor use facilities, but sufficient funds to take on the management of new lands and facilities.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. LANCASTER], the principal sponsor of this legislation.

Mr. LANCASTER. Mr. Speaker, I urge approval of H.R. 4364, a bill to transfer administrative jurisdiction of the Ocracoke, NC, light station from the Coast Guard to the National Park Service. I thank Chairman VENTO for expeditiously considering this legislation.

North Carolina's Outer Banks are justly famous for lighthouses. One of the most appealing lighthouses is found on Ocracoke Island. Although it is 170 years old, it is still a functioning aid to navigation, providing guidance and comfort to mariners who sail the waters where the infamous pirate Blackbeard met his fate.

You can read about Ocracoke Island and see a picture of its lighthouse in the Washington Post of June 29. If you ever want to go there, plan to ride one of the State's ferry boats. There are no bridges.

Cape Hatteras National Seashore embraces nearly all of Ocracoke Island, except for the small pocket of land on which Ocracoke Village is set. The light station is within the bounds of the village.

In recent years, under an agreement between the Coast Guard and the Park Service, the park has used and paid for the upkeep of the outbuildings on the site; it has also maintained the grounds.

Even though it is not part of the park, the lighthouse attracts thousands of visitors each year. The lighthouse itself has traditionally not been open to the public, although last summer a local resident, Mr. Dale Mutro, volunteered to man the ground floor to provide information about the structure and its history.

The Coast Guard agrees with the Park Service that administrative jurisdiction for the light station should belong to Cape Hatteras National Seashore. This will enable the Park Service to enhance interpretative services and to plan for continued preservation. Since the beacon is still needed for navigational purposes, the Coast Guard will retain responsibility for it.

My bill was jointly referred to the Committee on Natural Resources and the Committee on Merchant Marine and Fisheries. Both committees have been most cooperative in considering the bill promptly so that it could be brought to the House floor today.

Mr. Speaker, House approval of my bill will be a major step toward the preservation of Ocracoke's historical landmark for future generations.

□ 1320

Mr. VENTO. Mr. Speaker, I think this is a good bill. It is part of the 1969 general management plan that this should be included in this site. There is no question about that in terms of its historic significance, and I commend the bill to my colleagues.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4364, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to direct the Secretary of Transportation to transfer administrative jurisdiction over certain lands for inclusion in the Cape Hatteras National Seashore.".

A motion to reconsider was laid on the table.

TWIN FALLS COUNTY LANDFILL ACT OF 1994

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1402) to convey a certain parcel of public land to the county of Twin Falls, ID, for use as a landfill, and for other purposes.

The Clerk read as follows:

S. 1402

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Twin Falls County Landfill Act of 1994".

SEC. 2. CONVEYANCE.

(a) Effective on the tender by the County of Twin Falls, Idaho, of the fair market value for the lands described in subsection (b) to the Secretary of the Interior, all right, title, and interest in and to such lands, except for subsurface minerals which are reserved to the United States, is transferred by operation of law to the County of Twin Falls. The Secretary shall evidence such conveyance as soon as possible thereafter by appropriate quitclaim deed.

(b) DESCRIPTION OF LAND.—The lands to be conveyed pursuant to section 2 of this Act comprise approximately 1083.77 acres of Federal lands described as the SE¼SW¼SE¼, S¼SE¼SE¼ of section 31; W½, SW¼SW¼SE¼ of section 32; Township 11 South, Range 17 East, Boise Meridian and the West Half of Lot 2, Lot 3, Lot 4, W½SW¼NE¼, S½NW¼, SW¼ and the W½W½SE¼ of section 5; Lot 1, East Half of Lot 2, E½SW¼NE¼, SE¼NE¼, E½W½SE¼, and the E½SE¼ of section 6; N½NE¼NE¼, NE¼NW¼NE¼ of section 7; NW¼NW¼NE¼, N½N½NW¼ of section 8; of Township 12 South, Range 17 East, Boise Meridian.

(c) Subject to valid existing rights, the lands referred to in subsection (b) are withdrawn from location, entry, and patent under the United States mining laws and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments thereto.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Utah [Mr. HANSEN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the measure now being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1402 is a Senate-passed bill providing for conveyance by operation of law of the surface estate in certain BLM-managed public lands to Twin Falls County, ID, for use as a disposal site.

The county's previous disposal facility has been closed, and the county is anxious to complete acquisition of a new site as soon as possible.

The public lands involved here have been identified for disposal, so this bill is not required in order for BLM to make this conveyance—in fact, BLM has been working with the county for some time on the matter.

However, enactment of the bill evidently will somewhat speed up the process once the county has paid the United States for the lands. The bill would not affect the price, so that the county will still be required to pay the fair market value of the lands.

Only the surface estate will be sold. The United States will retain the mineral interests.

The gentleman from Idaho [Mr. CRAPO] has introduced a similar but not identical bill. At our hearing, the administration indicated that it preferred the Senate version, and Mr. CRAPO agreed that we should act on the Senate version.

I know of no controversy concerning this bill, and I urge its approval by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1402. This legislation is desperately needed for Twin Falls County to build a subtitle D landfill pursuant to the Safe Drinking Water Act. I am pleased to see that in one isolated case Congress will be assisting a rural area with an unfunded mandate. However, it is embarrassing to note that in order for Twin Falls County to comply with the unfunded mandates of the Safe Drinking Water Act that an act of Congress is necessary because it has taken too long to accomplish this sale administratively.

If Congress insists on driving our counties into bankruptcy through unfunded mandates, the least the bureaucracy could do is cooperate in the process.

I thank my colleague, the gentleman from Idaho [Mr. CRAPO], for his diligence and urge my colleagues support for S. 1402.

Mr. Speaker, I yield such time as he may consume to the gentleman from Idaho [Mr. CRAPO].

Mr. CRAPO. Mr. Speaker, as the gentleman from Utah [Mr. HANSEN] has indicated, Twin Falls County needs a new location upon which to build a landfill in order to comply with Federal and State mandates imposed by RCRA subtitle D. They began the process to comply with this Federal requirement in 1988. After several attempts to join with other regional landfills, the Twin Falls County Landfill Siting Committee conducted a search for an appropriate site. After several months, the committee located four sites that met Federal and State criteria. However, because Twin Falls County is approximately two-thirds owned by the Federal Government, all potential sites were on Bureau of Land Management land.

The official site chosen was the Hub Butte located south of the city of Twin Falls. It met all Federal subtitle B requirements, State of Idaho requirements, including those regarding critical habitat, setback requirements, scenic and national lands, and perennial streams and lakes.

Twin Falls County worked diligently with the BLM under the Recreation and Public Purposes Act to obtain the land before the deadline. By August of 1993, Twin Falls County citizens had passed a bond by 77 percent, a landfill design had been approved, and a construction bill accepted. Although there appeared to be no opposition to the Hub Butte site, under Federal law an environmental impact statement was required which would delay the process even further.

I think it is important to thank the gentleman from Minnesota [Mr. VENTO], the gentleman from Utah [Mr. HANSEN], and all of those involved for the bipartisan support given in trying to find a solution to this difficult problem. I think this bill is not only an example of good bipartisan effort here in this Congress, but it is an example of how Congress can take action when necessary to solve some of the specific problems that our mandates cause when they do not exactly fit the situation on the ground.

I would encourage the affirmative support for this bill by Congress.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 1402.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

REMOVAL OF RESTRICTIONS ON LAND OWNED BY CITY OF NORTH CHARLESTON, SC

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 273) to remove certain restrictions from a parcel of land owned by the city of North Charleston, SC, in order to permit a land exchange, and for other purposes.

The Clerk read as follows:

S. 273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REMOVAL OF DEED RESTRICTIONS.

(a) IN GENERAL.—Subject to the terms and conditions set forth in subsection (b), the Secretary of the Interior (hereinafter referred to as the "Secretary") shall execute such instruments as are necessary to remove the deed restrictions described in subsection (c), in order to allow the city of North Charleston, South Carolina (hereinafter referred to as the "city") to enter into a land exchange.

(b) TERMS AND CONDITIONS.—The Secretary shall remove the deed restrictions described in subsection (c) on the condition that—

(1) the city exchange the parcel of land described in subsection (d) for another parcel of land to be subject to the same restrictions, exceptions, reservations, conditions, and covenants described in subsection (c), and encumbered by a reversionary interest to be held by the United States to be exercised, at its option, should all or any portion of such parcel cease to be used for public park or recreational purposes;

(2) the city convey all mineral interests to the United States in the parcel received by the city pursuant to the land exchange referred to in paragraph (1); and

(3) the city receive such sums as are necessary to equalize the values of the parcels exchanged: *Provided*, That any sums received by the city pursuant to this paragraph shall be used by the city only for public park or recreation purposes.

(c) DEED RESTRICTIONS.—The deed restrictions referred to in paragraphs (a) and (b) are those restrictions, exceptions, reservations, conditions, and covenants described in the Quitclaim Deed of the United States to the City of North Charleston, South Carolina, dated August 9, 1978 (Deed Books of Charleston County, South Carolina, on page 318 of book T116).

(d) LAND DESCRIPTION.—The parcel of land referred to in subsection (a) consists of approximately 21.6 acres in Charleston County, South Carolina, as described on page 318 of book T116 of the Deed Books of Charleston County, South Carolina.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Utah [Mr. HANSEN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the measure under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 273 is a Senate-passed measure that deals with lands in the city of North Charleston, SC, that the United States conveyed to the city for public park and recreation purposes. Under the terms of the conveyance, the lands cannot be used for any other purpose.

The bill would allow the city to transfer the lands to the Westvaco Co., a neighboring landowner, in return for lands owned by that company that would be required to be used for park and recreation purposes.

The difference in value between the two tracts would be equalized through payment of money to the city, and these funds would also have to be used for park and recreation purposes.

According to the latest information from the National Park Service, this would involve a payment of about $192,000 to the city of North Charleston.

The bill was approved by the Natural Resources Committee without amendment. I am not aware of any controversy concerning it, and I urge its approval by the House.

□ 1330

Mr. Speaker, I urge the approval of the bill, and I reserve the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 273, which would authorize a land exchange in the city of North Charleston, SC.

As explained in detail by the National Parks, Forests and Public Lands Subcommittee Chairman, the gentleman from Minnesota [Mr. VENTO], this bill provides for a win-win solution which ultimately provides better recreational opportunities for residents of the area.

I hope my colleagues will join me in supporting this measure.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 273.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

RESTRICTION REDUCTIONS ON LANDS CONVEYED BY DEED UNDER THE ACT OF JUNE 8, 1926

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 859) to reduce the restrictions on lands conveyed by deed under the Act of June 8, 1926, as amended.

The Clerk read as follows:

S. 859

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act of June 8, 1926 (ch. 498; 44 Stat. 708), is amended by—

(1) inserting "(a)" before "The conveyance";

(2) striking "States." at the end of the first sentence and inserting in lieu thereof "States, except that such restrictions on conveyances and uses shall not apply to those lands upon which communication facilities were located as of January 1, 1993."; and

(3) adding at the end thereof the following new subsections:

"(b) Reasonable use of an access route in existence on June 1, 1994, across National Forest lands shall be allowed for the repair, maintenance, or improvement of the communication facilities referred to in subsection (a), but the Secretary of Agriculture shall not be required to improve the condition of any such access route or to provide any additional access route for such purposes.

"(c) Recreational activities on the lands identified in section 1, totaling approximately one thousand four hundred and forty acres, may be allowed so long as such recreational use is consistent both with the protection of the watershed and water supply system of the city and with the management objectives for adjacent National Forest System lands. Construction of structures or other improvements associated with such recreational activities shall be permitted only to the extent that the Secretary of Agriculture has determined that such construction would be consistent with protection of watershed and would not adversely affect the resources and values of adjacent National Forest System lands.".

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Utah [Mr. HANSEN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 859, the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 859 is a Senate-passed measure that would amend a 1926 act that granted certain lands to the City of Kaysville, UT, in order to allow certain other uses of those lands, in addition to their use for protection of the city's watershed.

In particular, the bill would legalize an existing radio communications facility that the city has permitted to be built on these lands.

The Natural Resources Committee amended the first section of the bill to clarify that the Forest Service will not be required to provide a new access route or to upgrade the existing access route across adjacent national forest lands, and to make clear that construction of recreational or other facilities not now permitted on the Kaysville lands, but that would be permitted under the bill, would require clearance from the Forest Service to assure that there will be no adverse effects on the adjacent national forest lands.

Finally, Mr. Speaker, the committee adopted an amendment proposed by the gentlewoman from Utah [Ms. SHEPHERD] to enable the Bureau of Reclamation to cooperate with other entities by allowing use of central Utah project facilities in ways that can assist with the conservation and efficient use of non-project water.

Mr. Speaker, this is a noncontroversial measure that will assist in resolving a number of problems in Kaysville and elsewhere in Utah. I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Minnesota [Mr. VENTO], the chairman of the committee, for pushing this legislation and helping us get it through.

Mr. Speaker, I rise in strong support of S. 859. This legislation will resolve an existing use on patented property held by the City of Kaysville, UT. S. 859 will allow for the continued use of a communication relay station necessary for the daily operations of the county school bus system. This measure is supported by the administration and hopefully it will make it to final passage this Congress.

I thank the senior Senator from Utah for his work on this measure. I trust the minor amendments added by Chairman VENTO will not be a hinderance for final passage. I urge my colleagues to support S. 859.

Mr. Speaker, I yield back the balance of by time.

Ms. SHEPHERD. Mr. Speaker, I appreciate this opportunity to speak in support of S. 859. When the full Natural Resources Committee considered this bill, it adopted my amendment that will allow communities to utilize existing pipelines to deliver water to their residents. This amendment to the Warren Act will significantly reduce local government's expenses, conserve water, and cut government duplication. In addition, since the Central Utah Project Completion Act requires that water be conserved through improved efficiency in water management and delivery systems, this legislation paves the way for the Central Utah Water Conservancy District to accomplish this important goal and to carry our Congress's intent in passing the CUP legislation.

The district delivers water as a wholesale supplier to a number of cities and counties throughout Utah; it has been studying ways to work cooperatively with the local water systems to avoid duplication of facilities and increase the efficient use of existing water systems. The results of this study show that important benefits to water conservation and instream flow protections can be achieved through this approach.

Recently, however, a question has been raised whether authority exists to move non-project water through CUP project facilities in order to achieve these efficiencies. This legislation clarifies that the Secretary of the Interior, through the Bureau of Reclamation, may enter into no-CUP project water storage and carriage agreements on a space available basis in CUP project works. All appropriate costs will be recovered through the rates and charges included in each contract.

I want to emphasize that this legislation is not an adventure into untested authority for water districts. This Warren Act authority already exists for several other Bureau of Reclamation projects in California and Nevada.

S. 859 is a good bill and one that will help expenses for local communities while helping to conserve precious water. I urge my colleagues to support this legislation.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 859, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3856

Mr. CRAPO. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 3856.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Idaho?

There was no objection.

CALIFORNIA DESERT PROTECTION ACT OF 1994

The SPEAKER pro tempore. Pursuant to House Resolution 422 and rule

XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 518.

□ 1335

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 518) to designate certain lands in the California Desert as wilderness, to establish the Death Valley and Joshua Tree National Parks and the Mojave National Monument, and for other purposes, with Mr. TAYLOR of Mississippi (chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Monday, June 13, 1994, title II had been designated and is now open for amendment at any point.

Are there any amendments to title II?

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment that is printed in the RECORD dealing with grazing in Death Valley.

The Clerk read as follows:

Amendment offered by Mr. VENTO: p. 38, strike lines 14 through 17 and in lieu thereof insert the following:

"SEC. 207 (a) The Secretary shall permit continuation of the privilege of grazing domestic livestock on lands within the park, at no more than the current level, pursuant to grazing permits or leases in effect as of the date of enactment of this Act and subject to all applicable laws and National Park Service regulations, but shall not renew any such permit or lease after its expiration, and shall not approve any transfer of any such permit or lease to any party other than the party entitled to exercise such privilege as of such date of enactment."

Mr. VENTO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, the amendment that was printed in the RECORD under the rule relating to grazing deals with Death Valley. This amendment addresses grazing in the expanded Death Valley National Park. It would allow the current permittees to continue to graze livestock there until the current permits expire, but would prohibit any renewal of those permits.

As a general rule, Mr. Chairman, grazing is not permitted in national park units. That is a sound rule, since grazing disrupts the natural ecological process that would be allowed to operate in the parks. However, the bill as it stands now would depart from that rule by allowing the grazing to continue in Death Valley and the Mojave National Park as if those areas did not have national park status.

Mr. Chairman, while I voted favorably to report this bill, as amended, I made clear in the committee debate that I did not support the provision regarding grazing in Death Valley and the Mojave National Park. Hence, today I am offering an amendment to permit the phaseout of this, to honor the contracts, to honor the permits that are out there for their length, for their duration, and then to in fact fold in or to stop the grazing that is occurring there.

During the committee's consideration of this matter in the 102d Congress there was considerable discussion as to how best to deal with the fragile nature of the desert ecosystems of these areas, which include habitat for threatened and other types of endangered species, such as the desert tortoise, while not creating an inordinate disruption in livestock operations that had been in these areas for some time.

At that time, Mr. Chairman, the committee decided the optimal way to balance these interests was to phase out the grazing of livestock in these areas over a period of 25 years, or the lifetime of the permittees, so as to include the incentive of possible land purchase or based property by the Federal Government. This year, however, the committee has dropped the concept of a phaseout of grazing and has adopted an open-ended continuation of grazing, as was introduced in the Senate measure, S. 21, and passed by the Senate. I think this is a mistake, Mr. Chairman. I do not support it.

I accepted the decision of the committee in 1991 to allow grazing to continue in these national park units for even up to 25 years, even though I thought it was at the outer edge of acceptable compromise. I do not think that allowing grazing to continue indefinitely in these areas is sound policy nor an acceptable compromise. The lands involved are not highly productive of forage. Indeed, much of the forage involved is ephemeral. A continuation of domestic livestock grazing would merely mean continued competition with other species, including the threatened desert tortoise, that must look to the forage for sustenance.

At the same time, Mr. Chairman, there are so few grazing allotments that are involved that continuation of grazing on them would make no real contribution even to the economy of California, let alone to that of the United States.

□ 1340

Mr. Chairman, this amendment would allow an orderly termination of grazing at the national park.

Furthermore, the GAO has done work on these hot desert areas. We find in some cases in hot desert areas it is impossible to separate some of the allotments from lands outside the park areas or the proposed park areas. But we find that very often the number of acres per AUM, per calf-cow combination, is as high as 2,000 acres per animal. These are hot desert areas. It is ridiculous when we look at these types of estimates to then say we are going to designate it as park and we are going to continue this type of activity.

As I have said often on this floor, Mr. Chairman, these cows have more miles on them than my old Chevrolet. I would suggest that we really ought to make this a real park, or we ought to try to eliminate it.

Furthermore, if we look at the beneficiaries, who has these permittees in this case, Anheuser-Busch, the company in St. Louis, MO, that makes one of our favorite beverages, has about half the allotments in Death Valley. In other words, they are one of three allottees in Death Valley. There is no basis for this. I think we have been through it. We know as an example that it costs more for the BLM or for the Park Service or whoever it be regulating this grazing activity, it costs them more to manage this land with the grazing than it would cost if there was no grazing on it.

In other words, there are incursions, they are going to be into other parts of the park. Here we are going to have a park; in part of the park one can graze, in part of the park one cannot graze. It does not make any sense. I think Anheuser-Busch is probably going to make it whether or not this is there.

Mr. Chairman, I am just asking for an orderly phaseout of this particular process. It is an ephemeral forage area; they are competing with threatened endangered species. Let us make it a real park. Obviously there are those that do not favor the park designation. I think that ought to be taken on directly. But if we are going to have a park, then I think we can phase out and provide for some predictability and certainly for the people in California. They favor in essence eliminating this duality, Mr. Chairman.

I urge the Members to adopt this reasonable amendment.

Mr. HANSEN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is one of the age-old battles we go through in the West. Years ago, dating back all the way to 1880, one of these individuals, a fellow by the name of Hunter, came into this area and he has water rights that were upheld by the courts before Skull Valley was even a national monument. I mean, he was there, he was grazing cows, he was taking care of his problems.

I just wonder, Mr. Chairman, why is it that nobody speaks for that poor one guy in California? We all can envision a great and wonderful park in that particular area as this bill would make it, but on the other hand when we say that there is not grazing in national parks, there is grazing in national parks, and I will give Members an example.

It is called Capital Reef National Park. When it was first designated by one of our Senators from Utah who said he was going to put it there, it was a rather small park. Then came along the President of the United States and a little work came about, and it turned into a huge park. However, when we look at it, just an infinitesimal part of it is seen by the people. No one goes off into these other areas. So it was determined by the Park Service that maybe in our wisdom we should allow some grazing of stock in the Capital Reef. If that is a good precedent, which I think it is, what is wrong with Mr. Hunter and of the three people we are talking about here; I am given to understand only one has a concern and this is Mr. Roy Hunter.

The courts held for Mr. Hunter in Hunter versus the United States that he had a right to be there, that he had a right for the park.

We have got the court system saying Hunter can stay there; he can take care of his cows; he can live; he can exist; and he is a third generation person. Maybe his son and his grandson want to do the same thing. Who are we to say let us kick this guy out and not allow him the opportunity to exist and do what he thinks is right in his own heart and mind?

Mr. Chairman, I personally feel that in this particular instance, this is another case of the big bad Federal Government coming in and some poor little guy sitting down there in the Skull Valley area, excuse me, in the Death Valley area. We have a Skull Valley in Utah which is comparable to it and I did not want to bring that up because I was afraid somebody would make a park out of it, so I ask Members to strike that from their minds.

Mr. Chairman, let us go back to the other area and say in that particular area, we have one man trying to eke out a living, pay his taxes, send his kids to school, take care of the problems that we all encounter, but, no, sir, boy, we are going to do it by congressional mandate. We are going to kick that guy out, even though the courts say he has a right to do it.

Mr. Chairman, I feel and I know the intentions of the gentleman from Minnesota [Mr. VENTO] are pure and honorable and I have great appreciation for him and the gentleman from California, Chairman MILLER, but I really think we should oppose this amendment and let Mr. Hunter have a right to exist.

Mr. SYNAR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Vento amendment to H.R. 518, the California Desert Protection Act. This amendment would allow current holders of grazing permits in Mojave National Park to continue grazing until their permits expire, but no longer. It replaces language in H.R. 518, which would permit grazing to continue in perpetuity in the national parks affected by the bill.

What is this amendment all about? Continuing subsidized grazing—forever—on highly fragile lands. First, the amendment affects just three permitees. There are another 8 permitees who among them control just 11 grazing allotments in Mojave. These are not small operators. No way. In fact, the eight permitees in the Mojave control 35,503 AUM's, defined as a cow and a calf or five sheep, which graze on 1,255,343 acres of land in the east Mojave.

Second, the last time we voted on a California desert bill, in the 102d Congress, grazing on these allotments was limited to 25 years. So why do we need to extend grazing forever?

Third, few national parks currently allow grazing and the Park Service is trying to phase it out where it occurs.

Fourth, even worse, grazing in the California desert is particularly harmful. The lands are very arid and intensive grazing in the spring can leave a path of devastation for the rest of the year.

And fifth, then there is the issue of cost. It's no secret that it costs a lot more to administer a livestock grazing program in this kind of area than the Federal Government could ever receive in permit fees. Scarce Federal funds could better be spent in managing these lands for park values and that is what we should do here.

Finally, it is important to remember that livestock operators have a privilege and not a right to graze on public lands. They don't own these lands. We all do. Let us make sure grazing ends in the California desert in a reasonable time. Support the Vento amendment.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. SYNAR. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I thank the gentleman for pointing out the problems with the East Mojave. We are trying to deal with the Death Valley issue. I wanted to suggest to the gentleman that I did not offer the amendment en bloc, I am offering it only for Death Valley, then on East Mojave.

Mr. Chairman, I would point out to the gentleman that in Death Valley we have the three allotees. I would be happy to share that information with the gentleman.

Mr. SYNAR. I appreciate the gentleman correcting me.

Mr. VENTO. Mr. Chairman, they have 135,130 acres for those three operators on which they get something less than 3,000 AUM's.

The point here, I think, is that there are just three, one of which, of course, is not a local person—Anheuser-Busch, it is a company, one of the phenomenon I think the gentleman from Oklahoma has been a leader in pointing out the corporate interests and others that really have these permits. I think in this instance the gentleman is doing a great job. I want to commend him and associate myself with his remarks.

Mr. Chairman, I thank the gentleman for yielding.

Mr. SYNAR. I thank the gentleman for that correction.

Mr. LEWIS of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the Vento amendment. It is an amendment that many have suggested is a reflection of the committee's work on this bill which involves essentially a war on the West.

It has been suggested only three grazing operators will be within the extended boundaries of the Death Valley National Monument. My colleague has suggested that Anheuser-Busch somehow is a very big factor among those three. The Anheuser-Bush involvement, I gather, is something like 1 percent of the grazing areas in Death Valley. A very fractional piece of the Death Valley area is impacted by their grazing activities.

Mr. Chairman, I would suggest that we focus upon those people who are seriously involved in grazing and have been involved in grazing for generations.

Aside from helping the local economy and protecting the area's cultural heritage, the ranchers involved help the wildlife populations that we are all so concerned about. The water sources they developed for their livestock also benefit wildlife, which could perish without their activity.

When these ranchers are forced to leave the area as their permits expire, who will maintain these important wildlife sources? It certainly will not be the National Park Service, which already has massive backlogs to operate existing parks through the country.

Now the gentleman from Minnesota [Mr. VENTO] wants to expand the park system and kick the ranchers out with absolutely no plan whatsoever for paying for the expanded costs of this new addition to the park.

□ 1350

It is very important to remember that the ranchers involved here have worked in the area for generations. One of these operators whom the gentleman from Minnesota [Mr. VENTO] would put out of business is a man by the name of Roy Hunter.

Mr. Hunter's family has been in the Death Valley area since 1860. That is over 130 years of heritage down the tubes if this amendment by my colleague, the gentleman from Minnesota [Mr. VENTO], passes.

I ask my colleagues: How can this House, the people's House, force someone to give up a tradition that has been in their family for over 130 years?

I know the bill's author cannot support the elimination of traditional ranching in this area.

My colleague, the gentleman from California [Mr. LEHMAN], has a number of ranchers in his own district, and I would ask the gentleman from California [Mr. LEHMAN]: What would ranchers like Steve McDonald, Will Gill, Clay Dalton, Dan Ford, and Gregg and Floyd Harlan think if our colleague, the gentleman from Minnesota [Mr. VENTO], attempted to eliminate ranching in his district? I know that the Harlans are multigeneration ranchers. Surely, I say to the gentleman from California [Mr. LEHMAN], you cannot support this kind of proposal in your district.

Then why support this kind of proposal in mine?

Make no mistake that the debate swirling around this amendment has nothing to do with grazing fees either. It is simply about the elimination of a way of life for ranchers who have operated in this area for decades. These ranchers are not abusing the area's terrain. These folks are the best conservationists around. Livestock grazing within National Park Service units is not a new activity, as my colleague, the gentleman from Utah, indicated. It is currently occurring in such diverse places as Alaska's Land Bridge National Preserve, Colorado's Rocky Mountain National Park, Utah's Capital Reef National Park, and California's Channel Islands National Park, to name just a few.

Why must we phase it out in Death Valley when it occurs in a well-managed way in these other parks?

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I am happy to yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I thank the gentleman for his advocacy for the people who have grazed cattle for so long in our desert areas.

I want to make clear early on this fine gentleman, Roy Hunter, is not a relation to myself. But I am in complete sympathy with his avocation, which is a pretty tough avocation right now, trying to make a few dollars in the livestock industry.

One other aspect of this, having cattlemen in the desert area as the gentleman mentioned, is the beneficial effect it has on wildlife. If Fish and Game goes out now and builds a guzzler in the desert, and I have looked at some of the costs, they generally have to spend between $30,000 and $50,000 dollars of the taxpayers' money to develop the water source. When I say guzzler, that is a term for building a water source in the desert that desert quail, bighorn sheep, and other wildlife can utilize. When a rancher goes in and develops a water source for his cattle, and all of them have to be within a fairly close distance of water, he uses his own private dollars, builds basically a resource that is used by all the desert wildlife, by the quail, by the sheep, by the desert mule deer, and he is providing for the taxpayers a benefit that otherwise they would have to pay for.

In reading my friend's amendment, the amendment offered by the gentleman from Minnesota [Mr. VENTO], first it starts out saying the Secretary shall permit continuation of the privilege of grazing, but then it goes on to say, however, when these permits have expired, no more permits will be renewed.

I guess my point is if the grazing is not detrimental to the desert right now, I do not understand why it is important in 1998, or 1999 to cut off another westerner from being able to use public lands.

As I see things like this happening throughout the gamut of Federal intervention in the West, whether it is timber or mining or off-road people trying to use part of their land, or now the Forest Service eliminating shooting on national forests in southern California, it appears to me this administration is conducting what I would call a war on the West, and I think at some point westerners are going to band together, and even though there are only a couple of ranchers here, I think this administration is going to be hearing from them.

I thank the gentleman for his fight to save their grazing rights for just a couple of western families. If we do not stand up for them, a couple weeks from now we will be defending some other westerners, some other aspect of desert use or national forest use that is being taken by the Federal Government.

The CHAIRMAN. The time of the gentleman from California [Mr. LEWIS] has expired.

(By unanimous consent, Mr. LEWIS of California was allowed to proceed for 5 additional minutes.)

Mr. LEWIS of California. Mr. Chairman, I thank very much my colleague for his contribution.

As my colleague has indicated, in this case we are talking about the Death Valley National Monument and only a couple of grazing families involved in grazing. We will be talking later in another section about grazing in another portion of this proposed expansion of the Park System.

I think it is important to follow up on your basic comments, I say to the gentleman from California [Mr. HUNTER], to point out the fact the Bureau of Land Management, in its study entitled "Biological Evaluation of Cattle Grazing in the Mojave Desert of California," that that study stated that cattle grazing can be beneficial in improving the resources utilized by desert tortoises, among others.

The BLM states, and I quote, "Cattle foraging on these perennials may make the perennial grass forage more available for foraging tortoise by promoting tillering and reducing the amount of dead standing material." The report goes on to say the removal of these cattle may actually harm these tortoise populations.

So, in effect, if the amendment offered by the gentleman from Minnesota [Mr. VENTO] passes, it not only eliminates the generational ranchers, admittedly only a couple of families affected. But after all, who cares about a couple of families? All of us should certainly.

It is also harmful to endangered wildlife populations.

This amendment just reconfirms the worst suspicions of many that park and wilderness designation is merely a means to drive public land users off the land.

You referred to it as the war on the West, get people off the land. What other purpose is served by this amendment than to do precisely that?

Continued traditional ranching has maintained open space and prevented urban encroachment. Desert ranchers have served as an additional set of eyes and ears for the land and wildlife management agencies by reporting poaching and other abuse of the wildlife.

Let us allow multiple use to continue in this case, and in this case allow wildlife to benefit from the manmade water sources maintained by these ranchers that my colleague referred to.

This is a win-win situation for all concerned and should be allowed to continue. I urge my colleagues to oppose this amendment which merely advances that war on the West that my colleague, the gentleman from California [Mr. HUNTER], referred to.

Mr. LEHMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

First of all, let me state that this amendment is really contrary to the purposes of the bill and to the entire function of putting this legislation together over the past few years.

What we have attempted to do with this legislation in virtually every instance is to identify activities on the desert that are not detrimental to the principles of the act and to try to allow those activities to occur. We have done that in a number of instances.

We did that with respect to utility lines in the legislation. When this legislation was first drafted in the Senate several years ago, almost every utility in California was opposed to the bill. We looked at those problems. We dealt with them, we resolved them, and we left most of their interests intact.

We then did the same thing with many other interests in the bill, one of the most recent of which was the

Algodones Dunes in the district of the gentleman from California [Mr. HUNTER] where there was an asset use in that area by about 60,000 people a year for off-road vehicles. We allowed that use to continue, because after careful examination, we determined it was compatible.

It is not the purpose of this bill to drive people off the land. It is not the purpose of this bill to eliminate legitimate uses in the desert.

The exemption made in this bill for the existing cattle activities in the desert is merely an extension of that philosophy.

There are only a few ranching operations on the desert. My number is six, and I think that may have gone up or down one or two in the last few years. These are family operations. For the most part they have been there for generations. Some of the people whom we are talking about here settled this land in the 1860's before anybody else came west, or their families did, and they have continued that activity since then. They are part of the landscape just as much as anything else there is, and they certainly ought not to be run off the property here by this legislation.

I would also like to say that many of these operations own private property within the desert. They homesteaded it. They own 160 acres or 320 acres. Those lands are viable ranching operations only when put together with grazing permits from the Federal Government.

So what we effectively do here if we say we are not going to allow any grazing in the future is we destroy the value of the private property that those people did not invest in in speculation in the last few years knowing that this law might come about, but has in fact been in their families for generations.

□ 1400

But it has in fact been in their family for generations.

So we destroy the value of the private land by making those holdings no longer viable because they depend for their viability, to a large extent, on the longstanding relationship with the Federal Government and the lease of those properties.

This amendment in fact goes beyond what passed in the House last year when we had a 25-year limit on existing leases in the bill. This would, as I understand it, say that all leases would be no longer renegotiable when the term of the lease is up. This is not a restatement of anything that has been on the floor in the past. It goes far beyond that.

The language in the bill is identical to the language placed in the bill by the Senate. So if we defeat this amendment today, we will have permanently resolved this issue as far as the legislation is concerned; we will have resolved it, in effect, by letting these existing entities stay in operation as they have been; let them maintain their property rights as they have, and certainly there has not been any credible argument made that this activity has been detrimental to the desert and to the activities there. In fact, BLM studies show the opposite.

What we are still doing with this legislation is putting them under Park Service authority as far as the grazing permits are concerned.

So I think we will do well to continue that.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN. I yield to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. I thank the gentleman for yielding.

Mr. Chairman, I am pleased that the gentleman chose to join us in the well regarding this very important amendment. Frankly, I am not surprised at all by the position he is taking on this amendment. My colleague, the gentleman from California [Mr. LEHMAN], once told me about a trip he took out to east Mojave, and he spent some time with one of those leathered, sunworn ranchers. It may have been a part of the Blair family. At any rate, the gentleman described to me just how big an impact that individual had upon him and the reflection that he was of the rancher kind of style that is the Old West. Indeed, they are there in numbers.

I was certain of his empathy for not just the individual but for his life's work.

So I appreciate my colleague's position on the amendment.

Mr. LEHMAN. I thank the gentleman.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, the gentleman suggests there is no evidence in terms of the impact of grazing as being adverse in these hot desert areas. I would refer him to the 1991 GAO report, on page 39 of that report.

The CHAIRMAN. The time of the gentleman from California [Mr. LEHMAN] has expired.

(On request of Mr. VENTO and by unanimous consent, Mr. LEHMAN was allowed to proceed for 2 additional minutes.)

Mr. VENTO. Mr. Chairman, will the gentleman continue to yield?

Mr. LEHMAN. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman.

Mr. Chairman, on this page it says:

> Perhaps the most comprehensive assessments of the effects of discontinuing livestock grazing throughout the hot deserts are contained in EIS's prepared by BLM between 1978 and 1989.

That is over a period of 13 years. It goes on further:

> These statements indicate that if livestock grazing were discontinued, recovery would begin. They agree that less soil erosion would occur, water infiltration would increase, and soils would generally improve. Vegetation would gain health and vigor, and cover would increase, benefitting both soil and wildlife. Wildlife habitat would improve for numerous species, including desert tortoises, pronghorn antelope, bighorn sheep, mule deer, and quail, as well as rabbits, amphibians, and rodents.

Mr. LEHMAN. Reclaiming my time, I understand where the gentleman is headed here. I would like to make two points. One, I have been on the desert as have certainly the gentleman from California and, once in a while, the gentleman from Minnesota, and have observed the effects of cattle firsthand on the desert. I have not seen any detrimental effects. Also, I have pointed out there is a lot of scientific evidence to the effect that much of the vegetation that is on the desert today that we are trying to protect, is there because of cattle grazing. Certainly there have been choices necessitated by cattle grazing over the years, but they are part of the flora and fauna there at the present time.

I also point out to the gentlemen and to the public that in its 1990 report on grazing land conditions in the desert, the BLM classified 99 percent of grazing acres as being in either good or fair condition. And it also stated:

> If properly managed, grazing can increase vegetative diversity, plant vigor, and nutrient cycling and range improvements, such as water development, benefit a number of varieties of wildlife.

But I think here the gentleman from Minnesota is really arguing on the margins in terms of impact. The real impact here is going to be that an important part of the Old West that is being grazed now is exercised by only a few remaining families on a relatively small portion of the landscape is going to be wiped out by this bill. I see no reason to do so.

Mr. McCANDLESS. Mr. Chairman, I move to strike the requisite number of words.

My colleagues voiced some concern about the amendment and mentioned the Bureau of Land Management's biological evaluation of grazing, cattle grazing on the Mojave Desert of California. A personal note, if I may: Because there is a feeling, I am sure, among my colleagues, "Well, how in the world can grazing cattle help such things as tortoises and other types of animals?" I would respond that my grandfather used to graze cattle in the desert. What happened is the cattle eat off the top of the grass, which permits the smaller animals to get to that part that is most desirable to them.

Eating off the top of the grass, it strengthens the roots of the grass, which normally spreads then the availability of the grass to the other animals. The cattle, with their sharp hooves, dig around as they are eating the grass—and I am mimicking the cattle now—and break the surface soil which permits then grass seed to fall into the soft earth and then the next hoof comes along and tamps it into the ground. So what you have here is compatibility this grazing cow has in increasing the grass for the benefit of the desert tortoise, rabbits, other animals of the desert, including deer, which would not necessarily take place; in fact, it would not take place, if we had no cattle at all because this environmental process that the grazing cattle develops is a natural enhancement to the grazing areas by the means which I have explained.

It is beneficial to the tortoises, it is beneficial to all the other wild animals in the area and it increases the grazing amount of grass for all of those, including the cattle that are grazing on it.

Mr. Chairman, I took the time of the full committee chairman, the gentleman from California [Mr. MILLER], to go over this because there are many things that people just do not understand about the desert when we talk about certain aspects of it. From my personal experience, I wanted to share these thoughts with the members of the committee, Mr. MILLER and Mr. VENTO.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. VENTO].

The question was taken; and the chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LEHMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 190, noes 207, not voting 42, as follows:

[Roll No. 315]

AYES—190

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Barca
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Boehlert
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Byrne
Cantwell
Cardin
Carr
Clay
Clayton
Clement
Clyburn
Coleman
Conyers
Cooper
Coyne
Danner
Darden
de Lugo (VI)
DeLauro
Dellums
Derrick
Deutsch
Dicks
Durbin
Ehlers
Eshoo
Evans
Faleomavaega (AS)
Farr
Fawell
Fields (LA)
Filner
Fingerhut
Fish
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Furse
Gephardt
Gibbons
Gilchrest
Gonzalez
Gordon
Goss
Grandy
Green
Greenwood
Hall (OH)
Hamburg
Hamilton
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Holden
Hoyer
Jacobs
Jefferson
Johnson (GA)
Johnston
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
Leach
Levin
Lewis (GA)
Lowey
Maloney
Mann
Margolies-Mezvinsky
Markey
McDermott
McHale
McKinney
McNulty
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Moran
Morella
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Olver
Owens
Pallone
Parker
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (MN)
Petri
Porter
Portman
Price (NC)
Rahall
Ramstad
Rangel
Reed
Regula
Reynolds
Richardson
Roemer
Ros-Lehtinen
Rostenkowski
Roth
Roybal-Allard
Rush
Sabo
Sangmeister
Sawyer
Saxton
Schenk
Schroeder
Schumer
Serrano
Sharp
Shays
Shepherd
Skaggs
Slaughter
Snowe
Spratt
Stark
Strickland
Studds
Stupak
Synar
Thompson
Torkildsen
Torricelli
Towns
Tucker
Underwood (GU)
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Walsh
Watt
Waxman
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—207

Allard
Applegate
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Brewster
Brooks
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chapman
Clinger
Coble
Collins (GA)
Combest
Condit
Costello
Cox
Cramer
Crane
Crapo
Cunningham
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (CA)
Edwards (TX)
Emerson
English
Everett
Ewing
Fazio
Fowler
Frost
Gallegly
Gekas
Geren
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Grams
Gunderson
Gutierrez
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
Kyl
LaRocco
Lazio
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lucas
Manton
Manzullo
Martinez
Matsui
Mazzoli
McCandless
McCollum
McCrery
McHugh
McKeon
McMillan
Michel
Miller (FL)
Molinari
Moorhead
Murphy
Murtha
Myers
Nussle
Ortiz
Orton
Packard
Pastor
Paxon
Peterson (FL)
Pickett
Pickle
Pombo
Pomeroy
Poshard
Pryce (OH)
Quillen
Quinn
Roberts
Rogers
Rohrabacher
Rose
Roukema
Rowland
Royce
Santorum
Sarpalius
Schaefer
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swift
Talent
Tanner
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Thurman
Torres
Traficant
Vucanovich
Walker
Waters
Williams
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—42

Blackwell
Collins (IL)
Collins (MI)
Coppersmith
DeFazio
Engel
Fields (TX)
Flake
Franks (NJ)
Gallo
Gejdenson
Hochbrueckner
Huffington
Istook
Johnson, Sam
Kaptur
Laughlin
Machtley
McCloskey
McCurdy
McDade
McInnis
Meehan
Mica
Mollohan
Montgomery
Obey
Oxley
Ravenel
Ridge
Romero-Barcelo (PR)
Sanders
Schiff
Scott
Slattery
Stokes
Swett
Tauzin
Washington
Weldon
Wheat
Whitten

The Clerk announced the following pairs:

On this vote:

Mr. McCloskey for, with Mr. Mica against.
Mr. Sanders for, with Mr. McInnis against.

Messrs. DICKS, MINGE, WISE, and SAXTON changed their vote from "no" to "aye."

Mr. BROOKS changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. LEWIS OF CALIFORNIA

Mr. LEWIS of California. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The clerk will report the amendments.

The clerk read as follows:

Amendments offered by Mr. LEWIS of California: Page 38, after line 21, add the following:

DEATH VALLEY NATIONAL PARK ADVISORY COMMISSION

SEC. 208. (a) The Secretary shall establish a Death Valley National Park Advisory Commission, which shall have oversight and advisory responsibilities regarding the existing and expansion areas of the park and which shall advise on the development and implementation of the management plan required by section 209.

(b) The advisory commission shall—

(1) be operated under the procedures of the Federal Advisory Committee Act;

(2) be composed of representatives from major disciplines and uses within the Death Valley National Park;

(3) include an elected official of local government for the jurisdiction within which the park lies; and

(4) have membership from ranching, mining, and inholders groups.

(c) The advisory commission shall cease to exist ten years after the date of its establishment.

GENERAL MANAGEMENT PLAN

SEC. 209. Within three years of the date of enactment of this title, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, a detailed and comprehensive management plan for the park.

Page 43, after line 2, add the following:

JOSHUA TREE NATIONAL PARK ADVISORY COMMISSION

SEC. 308. (a) The Secretary shall establish a Joshua Tree National Park Advisory Commission, which shall have oversight and advisory responsibilities regarding the existing and expansion areas of the park and which shall advise on the development and implementation of the management plan required by section 309.

(b) The advisory commission shall—

(1) be operated under the procedures of the Federal Advisory Committee Act;

(2) be composed of representatives from major disciplines and uses within the Joshua Tree National Park;

(3) include an elected official of local government for the jurisdiction within which the park lies; and

(4) have membership from the ranching, mining, and inholders groups.

(c) The advisory commission shall cease to exist ten years after the date of its establishment.

GENERAL MANAGEMENT PLAN

SEC. 309. Within three years of the date of enactment of this title, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, a detailed and comprehensive management plan for the park.

Page 53, after line 24, add the following:

MOJAVE NATIONAL PARK ADVISORY COMMISSION

SEC. 416. (a) The Secretary shall establish a Mojave National Park Advisory Commission, which shall have oversight and advisory responsibilities regarding the existing and expansion areas of the park and which shall advise on the development and implementation of the management plan required by section 411.

(b) The advisory commission shall—

(1) be operated under the procedures of the Federal Advisory Committee Act;

(2) be composed of representatives from major disciplines and uses within the Mojave National Park;

(3) include an elected official of local government for the jurisdiction within which the park lies; and

(4) have membership from the ranching, mining, and inholders groups.

(c) The advisory commission shall cease to exist ten years after the date of its establishment.

Mr. LEWIS of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LEWIS of California. Mr. Chairman, this is a straightforward amendment which creates local advisory commissions for the proposed new national parks in Death Valley, Joshua Tree, and the Mojave. I had originally planned to offer identical amendments to titles three and four of this bill establishing local advisory commissions at the proposed Joshua Tree and Mojave National Parks in addition to Death Valley. However, working cooperatively with the majority, I have decided to offer these amendments en bloc, in order to accommodate the Majority's desire to move this bill along more quickly.

As I previously stated, this en bloc amendment establishes the Death Valley, Joshua Tree, and Mojave Advisory Commissions with oversight and advisory responsibilities in existing and expanded areas of the new park areas. These Commissions shall advise the National Park Service on the development and implementation of the management plan required by section 209 of this bill.

The Advisory Commissions will be operated under the Federal Advisory Committee Act. It will be composed of representatives from major disciplines and uses within or adjacent each new national park. These Commissions will include an elected official of each area's local government. The Commission's membership will also include ranchers, miners, and inholders—those who own property within the boundaries of the national park. These Commissions would cease to exist 10 years after the date of their establishment.

S. 21 was amended in the Senate to establish an Advisory Commission for the proposed new Mojave National Park. However, Senator FEINSTEIN's language does not specify membership or make reference to the Federal Advisory Committee Act. Representative LEHMAN's bill makes no reference to these Commissions whatsoever.

The Federal Advisory Committee Act, among other requirements, specifies "balance in points of view," as well as specifying operating procedures. I have decided to offer these amendments in order to assure that local governments have an effective voice in managing the proposed park.

If the Advisory Commission is a good idea for the proposed Mojave National Park, and is used for the adjacent administered lands, its concepts should be extended to other National Park Service units within the California desert.

Currently, planning for units of the National Park System is performed by a planning staff housed in the service's Denver center, and is not done by the local staff and managers who know the area best. National Park Service procedure does not provide for the empowerment of local citizens and interests with a role in the planning process. The Advisory Commission should have a role in the development of management for the region.

This bill adds over 1 million acres to the Death Valley National Monument, yet, it does not provide for any general management plan for the area.

□ 1440

It also adds over 200,000 acres to Joshua Tree—yet—it does not allow local participation. Finally, it creates a new 1.5-million-acre national park in the east Mojave without affording local government officials or affected citizens an opportunity to participate.

Supervisors from both Inyo and San Bernardino Counties strongly support the establishment of advisory commissions. I will, under leave to include extraneous matter, submit their letters supporting these commissions into the RECORD.

San Bernardino County supervisor, Marsha Turoci, states,

> BLM management is by law and practice constantly open to public participation and influence. Conventional Park Service management is not; it is basically a back-room decision-making process, inaccessible to the public. This transition in management technique will be very frustrating to a southern California public that has been involved with the management of the California desert for over twenty years.

Supervisor Turoci goes on to say,

> HR 518 must create a publicly involved decision-making forum, allowing both national and local input. An important part of that process must include an advisory council.

Supervisor Bob Gracey of Inyo County is also a strong supporter of this amendment. Because Inyo County is already over 95 percent federally owned—yes, over 95 percent federally owned—these local officials do want a say when the Federal Government grabs more of their land.

The CHAIRMAN. The time of the gentleman from California [Mr. LEWIS] has expired.

(By unanimous consent, Mr. LEWIS of California was allowed to proceed for 3 additional minutes.)

Mr. LEWIS of California. Mr. Chairman, can anyone object to empowering local officials and interests to having a stake in matters that affect them so directly? The National Park Service has shown that it is often not a good neighbor, particularly with adjacent cities and towns.

Can anyone object to the inclusion of persons and disciplines being represented which are nontraditional within the National Park System? The inclusion of ranchers, miners, local officials, and inholders will assure that these views are directly considered in the deliberations of these commissions.

The National Park System lacks any field advisory groups in these areas and has no history of working with them. This amendment would direct them to comply with the Federal Advisory Committee Act regarding appointments, balance, open meeting, agendas, and records.

My amendment specifically mentions local officials, miners, ranchers, and inholders because I want to ensure a balance in points of view as spelled out in the Federal Advisory Committee

Act. The Federal Advisory Commission Act is fair. All points of view are equally represented.

The advisory commission idea is good. It should be extended to the proposed three new national park units created under this bill. Let us give local government a say in this process. This is an amendment they asked for. Let us give it to them.

Mr. Chairman, I include for the RECORD the following correspondence:

COUNTY OF SAN BERNARDINO
BOARD OF SUPERVISORS,
San Bernardino, CA, June 10, 1994.

Hon. JERRY LEWIS,
House of Representatives, Rayburn Building, Washington, DC.

DEAR JERRY: The County of San Bernardino strongly supports your amendment to the California Desert Protection Act (HR 518), which would establish a permanent Advisory Council (or councils) for the East Mojave, Joshua Tree, and Death Valley, with membership representing local elected officials, grazing, mining, recreation resources, and scientific and academic expertise.

Thank you for your tireless efforts on behalf of our desert communities.

Sincerely,
MARSHA TUROCI,
Vice Chairman, Board of Supervisors.

COUNTY OF INYO
BOARD OF SUPERVISORS,
Independence, CA, June 10, 1994.

Hon. JERRY LEWIS,
House of Representatives, Washington, DC.

DEAR JERRY: The County of Inyo resolutely supports your amendment to the California Desert Protection Act (HR 518), which would establish a permanent Advisory Council (or councils) for Death Valley, Joshua Tree, and the East Mojave, with membership representing local elected officials, grazing, mining, recreation resources, and scientific and academic expertise.

Your continued support of Inyo County is greatly appreciated, and we are committed to assisting you in your efforts on behalf of our desert communities.

Sincerely,
ROBERT W. GRACEY,
Chairman.

AMENDMENTS OFFERED BY MR. VENTO AS SUBSTITUTES FOR THE AMENDMENTS OFFERED BY MR. LEWIS OF CALIFORNIA

Mr. VENTO. Mr. Chairman, I offer amendments as substitutes for the amendments, and I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments en bloc offered by Mr. VENTO as substitutes for the amendments en bloc offered by Mr. LEWIS of California: In lieu of the matter proposed to be added to the bill by the amendment, add the following:

DEATH VALLEY NATIONAL PARK ADVISORY COMMISSION

SEC. 208. (a) The Secretary shall establish an Advisory Commission of no more than 15 Members, to advise the Secretary concerning the development and implementation of a new or revised comprehensive management plan for Death Valley National Park.

(b)(1) The advisory commission shall include an elected official for each County within which any part of the park is located, a representative of the owners of private properties located within or immediately adjacent to the park, and other members representing persons actively engaged in grazing and range management, mineral exploration and development, and persons with expertise in relevant fields, including geology, biology, ecology, law enforcement, and the protection and management of National Park resources and values.

(2) Vacancies in the Commission shall be filled by the Secretary so as to maintain the full diversity of views required to be represented on the Commission.

(c) The Federal Advisory Committee Act shall apply to the procedures and activities of the advisory commission.

(d) The advisory commission shall cease to exist ten years after the date of its establishment.

SEC. 210. BOUNDARY ADJUSTMENT.

In preparing the maps and legal descriptions required by sections 204 and 502, the Secretary shall adjust the boundaries of the Death Valley National Park and Death Valley National Park Wilderness so as to exclude from such National Park and Wilderness the lands generally depicted on the map entitled "Porter Mine (Panamint Range) Exclusion Area" dated June 1994.

In lieu of the matter proposed to be added to the bill by the amendment, add the following:

JOSHUA TREE NATIONAL PARK ADVISORY COMMISSION

SEC. . (a) The Secretary shall establish an Advisory Commission of no more than 15 Members, to advise the Secretary concerning the development and implementation of a new or revised comprehensive management plan for Death Valley National Park.

(b)(1) The advisory commission shall include an elected official for each County within which any part of the park is located, a representative of the owners of private properties located within or immediately adjacent to the park, and other members representing persons actively engaged in grazing and range management, mineral exploration and development, and persons with expertise in relevant fields, including geology, biology, ecology, law enforcement, and the protection and management of National Park resources and values.

(2) Vacancies in the Commission shall be filled by the Secretary so as to maintain the full diversity of views required to be represented on the Commission.

(c) The Federal Advisory Committee Act shall apply to the procedures and activities of the advisory commission.

(d) The advisory commission shall cease to exist ten years after the date of its establishment.

In lieu of the matter proposed to be added to the bill by the amendment, add the following:

MOJAVE NATIONAL PARK ADVISORY COMMISSION

SEC. . (a) The Secretary shall establish an Advisory Commission of no more than 15 Members, to advise the Secretary concerning the development and implementation of a new or revised comprehensive management plan for Death Valley National Park.

(b)(1) The advisory commission shall include an elected official for each County within which any part of the park is located, a representative of the owners of private properties located within or immediately adjacent to the park, and other members representing persons actively engaged in grazing and range management, mineral exploration and development, and persons with expertise in relevant fields, including geology, biology, ecology, law enforcement, and the protection and management of National Park resources and values.

(2) Vacancies in the Commission shall be filled by the Secretary so as to maintain the full diversity of views required to be represented on the Commission.

(c) The Federal Advisory Committee Act shall apply to the procedures and activities of the advisory commission.

(d) The advisory commission shall cease to exist ten years after the date of its establishment.

Mr. VENTO (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Chairman, these amendments to the Lewis amendments have been worked out through consultations with the gentleman from California [Mr. LEWIS]. The National Park Service usually establishes informal advisory committees and there is understandably interest because of the expansion and new designation of these new national parks for a formal recognition of the local and expert concerns. My amendment would revise somewhat the provisions of the Lewis amendments, in essence to build upon the Lewis amendments, to make clear that these advisory commissions will be broad based so that the National Park Service will have the benefit of the full variety of views and expertise relevant to the development of new or revised comprehensive management plans for the Death Valley, Joshua Tree, and Mojave National Parks. Cooperation of the gentleman from California [Mr. LEWIS] is noted on this matter, and I am pleased that we have been able to reach agreement on these amendments to his amendments. It is my understanding that their adoption will remove most controversy concerning this advisory committee establishment, and I urge their adoption and the adoption of the Lewis amendments as so modified.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, as the gentleman indicated, we have been consulting on this matter. I have no objection to the gentleman's amendment.

Mr. VENTO. Mr. Chairman, I thank the gentleman for his support.

Mr. MCCANDLESS. Mr. Chairman, I move to strike the last word, and I rise in favor of the amendment.

Having not been privileged to the previous agreement, I am very pleased that it came forward. My concern, Mr. Chairman, was that the National Park System Center in Denver had the total responsibility for land use planning management, and that at the local level they had no field service groups or resources that would share with the regional concerns, be they from the staff of the National Park Service or local members of government.

Denver is a long way from the Colorado and the Mojave Deserts, and I am very pleased that our subcommittee chairmen, the gentleman from Minnesota [Mr. VENTO] and the gentleman from California [Mr. LEWIS] were able to get together on this.

It is an important step forward and, as a former county supervisor in Riverside, I must say, in all candidness, land use planning is essential. If there is anyone who doubts this, there is an item called the California Environmental Quality Act which mandates land use planning for everything but Federal lands. This would be in conjunction with this.

I am pleased to see that this amendment is coming forward.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Minnesota [Mr. VENTO] as substitutes for the amendments offered by the gentleman from California [Mr. LEWIS].

The amendments offered as substitutes for the amendments were agreed to.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California [Mr. LEWIS] as amended.

The amendments en bloc, as amended, were agreed to.

The CHAIRMAN. Are there further amendments to title II?

If not, the Clerk will designate title III.

The text of title III is as follows:

TITLE III—JOSHUA TREE NATIONAL PARK

FINDINGS

SEC. 301. The Congress hereby finds that—

(1) a proclamation by President Franklin Roosevelt in 1936 established Joshua Tree National Monument to protect various objects of historical and scientific interest;

(2) Joshua Tree National Monument today is recognized as a major unit of the National Park System, having extraordinary values enjoyed by millions of visitors;

(3) the Monument boundaries as modified in 1950 and 1961 exclude and thereby expose to incompatible development and inconsistent management, contiguous Federal lands of essential and superlative natural, ecological, archeological, paleontological, cultural, historical and wilderness values;

(4) Joshua Tree National Monument should be enlarged by the addition of contiguous Federal lands of national park caliber, and afforded full recognition and statutory protection as a national park; and

(5) the nondesignated wilderness within Joshua Tree should receive statutory protection by designation pursuant to the Wilderness Act.

ESTABLISHMENT OF JOSHUA TREE NATIONAL PARK

SEC. 302. There is hereby established the Joshua Tree National Park, as generally depicted on a map entitled "Joshua Tree National Park Boundary—Proposed", dated May 1991, and four maps entitled "Joshua Tree National Park Boundary and Wilderness", numbered in the title one through four, and dated October 1991 or prior, which shall be on file and available for public inspection in the offices of the Superintendent of the Park and the Director of the National Park Service, Department of the Interior. The Joshua Tree National Monument is hereby abolished as such, the lands and interests therein are hereby incorporated within and made part of the new Joshua Tree National Park, and any funds available for purposes of the monument shall be available for purposes of the park.

TRANSFER AND ADMINISTRATION OF LANDS

SEC. 303. Upon enactment of this title, the Secretary shall transfer the lands under the jurisdiction of the Bureau of Land Management depicted on the maps described in section 302 of this title, without consideration, to the administrative jurisdiction of the Director of the National Park Service for administration as part of the National Park System. The boundaries of the public lands and the national parks shall be adjusted accordingly. The Secretary shall administer the areas added to the National Park System by this title in accordance with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4).

MAPS AND LEGAL DESCRIPTION

SEC. 304. Within six months after the enactment of this title, the Secretary shall file maps and legal description of the park designated by this title with the Energy and Natural Resources Committee of the Senate and the Natural Resources Committee of the House of Representatives. Such maps and legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the maps referred to in section 302. The maps and legal description shall be on file and available for public inspection in the offices of the Superintendent of the Park and the Director of the National Park Service, Department of the Interior.

WITHDRAWAL

SEC. 305. Subject to valid existing rights, Federal lands and interests therein added to the National Park System by this title are withdrawn from disposition under the public lands laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from the operation of the Geothermal Steam Act of 1970.

UTILITY RIGHTS-OF-WAY

SEC. 306. Nothing in this title shall have the effect of terminating any validly issued right-of-way or customary operation maintenance, repair, and replacement activities in such right-of-way, issued, granted, or permitted to the Metropolitan Water District pursuant to the Boulder Canyon Project Act (43 U.S.C. 617–619b), which is located on lands included in the Joshua Tree National Park, but outside lands designated as wilderness under section 501(2). Such activities shall be conducted in a manner which will minimize the impact on park resources. Nothing in this title shall have the effect of terminating the fee title to lands or customary operation, maintenance, repair, and replacement activities on or under such lands granted to the Metropolitan Water District pursuant to the Act of June 18, 1932 (47 Stat. 324), which are located on lands included in the Joshua Tree National Park, but outside lands designated as wilderness under section 501(2). Such activities shall be conducted in a manner which will minimize the impact on park resources. The Secretary shall prepare within 180 days after the date of enactment of this Act, in consultation with the Metropolitan Water District, plans for emergency access by the Metropolitan Water District to its lands and rights-of-way.

STUDY AS TO VALIDITY OF MINING CLAIMS

SEC. 307. The Secretary shall not approve any plan of operation prior to determining the validity of the unpatented mining claims, mill sites, and tunnel sites affected by such plan within the park and shall submit to Congress recommendations as to whether any valid or patented claims should be acquired by the United States, including the estimated acquisition costs of such claims, and a discussion of the environmental consequences of the extraction of minerals from these lands.

The CHAIRMAN. Are there amendments to title III?

If not, the clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—MOJAVE NATIONAL PARK

FINDINGS

SEC. 401. The Congress hereby finds that—

(1) Death Valley and Joshua Tree National Parks, as established by this Act, protect unique and superlative desert resources, but do not embrace the particular ecosystems and transitional desert type found in the Mojave Desert area lying between them on public lands now afforded only impermanent administrative designation as a national scenic area;

(2) the Mojave Desert area possesses outstanding natural, cultural, historical, and recreational values meriting statutory designation and recognition as a unit of the National Park System;

(3) the Mojave Desert area should be afforded full recognition and statutory protection as a national park;

(4) the wilderness within the Mojave Desert should receive maximum statutory protection by designation pursuant to the Wilderness Act; and

(5) the Mojave Desert area provides an outstanding opportunity to develop services, programs, accommodations and facilities to ensure the use and enjoyment of the area by individuals with disabilities, consistent with section 504 of the Rehabilitation Act of 1973, Public Law 101–336, the Americans With Disabilities Act of 1990 (42 U.S.C. 12101), and other appropriate laws and regulations.

ESTABLISHMENT OF THE MOJAVE NATIONAL PARK

SEC. 402. There is hereby established the Mojave National Park, comprising approximately one million four hundred and forty-eight thousand acres, as generally depicted on a map entitled "Mojave National Park Boundary—Proposed", dated May 1994, which shall be on file and available for inspection in the appropriate offices of the Director of the National Park Service, Department of the Interior.

TRANSFER OF LANDS

SEC. 403. Upon enactment of this title, the Secretary shall transfer the lands under the jurisdiction of the Bureau of Land Management depicted on the maps described in section 402 of this title, without consideration, to the administrative jurisdiction of the Director of the National Park Service. The boundaries of the public lands shall be adjusted accordingly.

MAPS AND LEGAL DESCRIPTION

SEC. 404. Within six months after the enactment of this title, the Secretary shall file maps and a legal description of the park designated under this title with the Energy and Natural Resources Committee of the Senate and the Natural Resources Committee of the House of Representatives. Such maps and legal description *shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the maps referred to in section 402. The maps and legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.*

ABOLISHMENT OF SCENIC AREA

SEC. 405. The East Mojave National Scenic Area, designated on January 13, 1981 (46 FR 3994), and modified on August 9, 1983 (48 FR 36210), is hereby abolished.

ADMINISTRATION OF LANDS

SEC. 406. The Secretary shall administer the park in accordance with this title and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4).

WITHDRAWAL

SEC. 407. Subject to valid existing rights, Federal lands within the park, and interests therein, are withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970.

STUDY AS TO VALIDITY OF MINING CLAIMS

SEC. 408. The Secretary shall not approve any plan of operation prior to determining the validity of the unpatented mining claims, mill sites, and tunnel sites affected by such plan within the park and shall submit to Congress recommendations as to whether any valid or patented claims should be acquired by the United States, including the estimated acquisition costs of such claims, and a discussion of the environmental consequences of the extraction of minerals from these lands.

GRAZING

SEC. 409. (a) The privilege of grazing domestic livestock on lands within the park shall continue to be exercised at no more than the current level, subject to applicable laws and National Park Service regulations.

(b) If a person holding a grazing permit referred to in subsection (a) informs the Secretary that such permittee is willing to convey to the United States any base property with respect to which such permit was issued and to which such permittee holds title, the Secretary shall make the acquisition of such base property a priority as compared with the acquisition of other lands within the park, provided agreement can be reached concerning the terms and conditions of such acquisition. Any such base property which is located outside the park and acquired as a priority pursuant to this section shall be managed by the Federal agency responsible for the majority of the adjacent lands in accordance with the laws applicable to such adjacent lands.

UTILITY RIGHTS OF WAY

SEC. 410. (a)(1) Nothing in this title shall have the effect of terminating any validly issued right-of-way or customary operation, maintenance, repair, and replacement activities in such right-of-way, issued, granted, or permitted to Southern California Edison Company, which is located on lands included in the Mojave National Park, but outside lands designated as wilderness under section 501(3). Such activities shall be conducted in a manner which will minimize the impact on park resources.

(2) Nothing in this title shall have the effect of prohibiting the upgrading of an existing electrical transmission line for the purpose of increasing the capacity of such transmission line in the Southern California Edison Company validly issued Eldorado-Lugo Transmission Line right-of-way and Mojave-Lugo Transmission Line right-of-way, or in a right-of-way if issued, granted, or permitted by the Secretary adjacent to the existing Mojave-Lugo Transmission Line right-of-way (hereafter in this section referred to as "adjacent right-of-way"), including construction of a replacement transmission line: Provided, That—

(A) in the Eldorado-Lugo Transmission Line rights-of-way (hereafter in this section referred to as the "Eldorado rights-of-way") at no time shall there be more than three electrical transmission lines,

(B) in the Mojave-Lugo Transmission Line right-of-way (hereafter in this section referred to as the "Mojave right-of-way") and adjacent right-of-way, removal of the existing electrical transmission line and reclamation of the site shall be completed no later than three years after the date on which construction of the upgraded transmission line begins, after which time there may be only one electrical transmission line in the lands encompassed by Mojave right-of-way and adjacent right-of-way,

(C) if there are no more than two electrical transmission lines in the Eldorado rights-of-way, two electrical transmission lines in the lands encompassed by the Mojave right-of-way and adjacent right-of-way may be allowed,

(D) in the Eldorado rights-of-way and Mojave right-of-way no additional land shall be issued, granted, or permitted for such upgrade unless an addition would reduce the impacts to park resources,

(E) no more than 350 feet of additional land shall be issued, granted, or permitted for an adjacent right-of-way to the south of the Mojave right-of-way unless a greater addition would reduce the impacts to park resources, and

(F) such upgrade activities, including helicopter aided construction, shall be conducted in a manner which will minimize the impact on park resources.

(3) The Secretary shall prepare within 180 days after the date of enactment of this Act, in consultation with the Southern California Edison Company, plans for emergency access by the Southern California Edison Company to its rights-of-way.

(b)(1) Nothing in this title shall have the effect of terminating any validly issued right-of-way, or customary operation, maintenance, repair, and replacement activities in such right-of-way; prohibiting the upgrading of and construction on existing facilities in such right-of-way for the purpose of increasing the capacity of the existing pipeline; or prohibiting the renewal of such right-of-way issued, granted, or permitted to the Southern California Gas Company, its successors or assigns, which is located on lands included in the Mojave National Park, but outside lands designated as wilderness under section 501(3). Such activities shall be conducted in a manner which will minimize the impact on park resources.

(2) The Secretary shall prepare within one hundred and eighty days after the date of enactment of this title, in consultation with the Southern California Gas Company, plans for emergency access by the Southern California Gas Company to its rights-of-way.

(c) Nothing in this title shall have the effect of terminating any validly issued right-of-way or customary operation, maintenance, repair, and replacement activities of existing facilities issued, granted, or permitted for communications cables or lines, which are located on lands included in the Mojave National Park, but outside lands designated as wilderness under section 501(3). Such activities shall be conducted in a manner which will minimize the impact on park resources.

(d) Nothing in this title shall have the effect of terminating any validly issued right-of-way or customary operation, maintenance, repair, and replacement activities of existing facilities issued, granted, or permitted to Molybdenum Corporation of America; Molycorp, Incorporated; or Union Oil Company of California (d/b/a Unocal Corporation); or its successors or assigns, or prohibiting renewal of such right-of-way, which is located on lands included in the Mojave National Park, but outside lands designated as wilderness under section 501(3). Such activities shall be conducted in a manner which will minimize the impact on park resources.

PREPARATION OF MANAGEMENT PLAN

SEC. 411. Within three years after the date of enactment of this title, the Secretary shall submit to the Energy and Natural Resources Committee of the Senate and the Natural Resources Committee of the House of Representatives a detailed and comprehensive management plan for the park. Such plan shall place emphasis on historical and cultural sites and ecological and wilderness values within the boundaries of the park. Any development, including road improvements, proposed by such plan shall be strictly limited to that which is essential and appropriate for the administration of the park and shall be designed and located so as to maintain the primitive nature of the area and to minimize the impairment of park resources or ecological values. To the extent practicable, administrative facilities, employee housing, commercial visitor services, accommodations, and other park-related development shall be located or provided for outside of the boundaries of the park. Such plan shall evaluate the feasibility of using the Kelso Depot and existing railroad corridor to provide public access to and a facility for special interpretive, educational, and scientific programs within the park. Such plan shall specifically address the needs of individuals with disabilities in the design of services, programs, accommodations and facilities consistent with section 504 of the Rehabilitation Act of 1973, Public Law 101–336, the Americans with Disabilities Act of 1990 (42 U.S.C. 12101), and other appropriate laws and regulations.

GRANITE MOUNTAINS NATURAL RESERVE

SEC. 412. (a) There is hereby designated the Granite Mountains Natural Reserve within the park comprising approximately nine thousand acres as generally depicted on a map entitled "Mojave National Park Boundary and Wilderness—Proposed 6", dated May 1991.

(b) Upon enactment of this title, the Secretary of the Interior shall enter into a cooperative management agreement with the University of California for the purposes of managing the lands within the Granite Mountains Natural Reserve. Such cooperative agreement shall ensure continuation of arid lands research and educational activities of the University of California, consistent with the provisions of law generally applicable to units of the National Park System.

CONSTRUCTION OF VISITOR CENTER

SEC. 413. The Secretary is authorized to construct a visitor center in the park for the purpose of providing information through appropriate displays, printed material, and other interpretive programs, about the resources of the park.

ACQUISITION OF LANDS

SEC. 414. The Secretary is authorized to acquire all lands and interest in lands within the boundary of the park by donation, purchase, or exchange, except that—

(1) any lands or interests therein within the boundary of the park which are owned by the State of California, or any political subdivision thereof, may be acquired only by donation or exchange except for lands managed by the California State Lands Commission; and

(2) lands or interests therein within the boundary of the park which are not owned by

the State of California or any political subdivision thereof may be acquired only with the consent of the owner thereof unless the Secretary determines, after written notice to the owner and after opportunity for comment, that the property is being developed, or proposed to be developed, in a manner which is detrimental to the integrity of the park or which is otherwise incompatible with the purposes of this title.

ACQUIRED LANDS BE MADE PART OF MOJAVE NATIONAL PARK

SEC. 415. Any land acquired by the Secretary under this title shall become part of the Mojave National Park.

The CHAIRMAN. Are there any amendments to title IV?

AMENDMENT OFFERED BY MR. LEHMAN

Mr. LEHMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEHMAN: On Page 47, line 19, Section 410(a)(1), after "Southern California Edison Company," add "its successors or assigns,"

Mr. LEHMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LEHMAN. Mr. Chairman, I rise to offer an amendment to H.R. 518 that would make a technical and conforming amendment to the legislation. The technical and conforming amendment ensures that if the Southern California Edison Co. were sold to another company, the agreement reached with Southern California Edison and included in this bill will continue to be respected. The same consideration has been provided for other utilities included in this bill, and it is also included in the Senate version called S. 21.

□ 1450

Mr. Chairman, I urge passage of the amendment. There is no objection to it.

Mr. MILLER of California. Mr. Chairman, we have no objection to the amendment. We accept the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. LEHMAN].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title IV?

AMENDMENTS OFFERED BY MR. LAROCCO

Mr. LAROCCO. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc, since all but one are technical in nature.

The CHAIRMAN. Is there objection to the request of the gentleman from Idaho?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. LAROCCO:

—Page 43, line 43, strike "PARK" and insert "PRESERVE".

—Page 44, line 3, strike "park" and insert "preserve".

—Page 44, line 15, strike "PARK" and insert "PRESERVE".

—Page 44, line 17, strike "Park" and insert "Preserve".

—Page 45, line 9, strike "park" and insert "preserve".

—Page 45, line 24, strike "(a)" after "SEC. 406.".

—Page 45, line 24, strike "park" and insert "preserve".

—Page 46, after line 3, insert the following:

"(b) The Secretary shall permit hunting, fishing, and trapping on lands and waters within the preserve designated by this Act in accordance with applicable Federal and State laws except that the Secretary may designate areas where, and establish periods when, no hunting, fishing, or trapping will be permitted for reasons of public safety, administration, or compliance with provisions of applicable law. Except in emergencies, regulations closing areas to hunting, fishing, or trapping pursuant to this subsection shall be put into effect only after consultation with the appropriate State agency having responsibility for fish and wildlife. Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the States with respect to fish and wildlife on Federal lands and waters covered by this title nor shall anything in this Act be construed as authorizing the Secretary concerned to require a Federal permit to hunt, fish, or trap on Federal lands and waters covered by this title.".

—Page 46, line 6, strike "park" and insert "preserve".

—Page 46, line 16, strike "park" and insert "preserve".

—Page 46, line 24, strike "park" and insert "preserve".

—Page 47, line 7, strike "park" and insert "preserve".

—Page 47, line 10, strike "park" and insert "preserve".

—Page 47, line 20, strike "Park" and insert "Preserve".

—Page 47, line 23, strike "park" and insert "preserve".

—Page 49, line 6, strike "park" and insert "preserve".

—Page 49, line 11, strike "park" and insert "preserve".

—Page 49, line 14, strike "park" and insert "preserve".

—Page 50, line 4, strike "Park" and insert "Preserve".

—Page 50, line 7, strike "park" and insert "preserve".

—Page 50, line 18, strike "Park" and insert "Preserve".

—Page 50, line 21, strike "park" and insert "preserve".

—Page 51, line 5, strike "Park" and insert "Preserve".

—Page 51, line 8, strike "park" and insert "preserve".

—Page 51, line 15, strike "park" and insert "preserve".

—Page 51, line 17, strike "park" and insert "preserve".

—Page 51, line 20, strike "park" and insert "preserve".

—Page 51, line 22, strike "park" and insert "preserve".

—Page 51, line 25, strike "park-related" and insert "preserve-related".

—Page 51, line 26, strike "park" and insert "preserve".

—Page 52, line 4, strike "park" and insert "preserve".

—Page 52, line 13, strike "park" and insert "preserve".

—Page 53, line 3, strike "park" and insert "preserve".

—Page 53, line 6, strike "park" and insert "preserve".

—Page 53, line 9, strike "park" and insert "preserve".

—Page 53, line 12, strike "park" and insert "preserve".

—Page 53, line 18, strike "park" and insert "preserve".

—Page 53, line 25, strike "park" and insert "preserve".

—Page 54, line 2, strike "PARK" and insert "PRESERVE".

—Page 54, line 4, strike "Park" and insert "Preserve".

—Page 55, line 8, strike "Park" and insert "Preserve".

—Page 59, line 5, strike "wilderness or parks" and insert "wilderness, parks, or preserve".

—Page 59, line 8, strike "wilderness or parks" and insert "wilderness, parks, or preserve".

—Page 59, beginning on line 22, strike "parks and wilderness" and insert "parks, wilderness, and preserve".

—Page 59, line 25, strike "parks and wilderness" and insert "parks, wilderness, or preserve".

—Page 60, beginning on line 4, strike "parks and wilderness" and insert "park, wilderness, or preserve".

Mr. LAROCCO (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Idaho?

There was no objection.

Mr. LAROCCO. Mr. Chairman, basically my amendments pertain to 1.5 million acres known as the east Mojave, approximately 15 percent of the land mass covered by this bill.

In my opinion, Mr. Chairman, and in the opinion of many Members of this House, there is no defensible policy reason to close this area to hunting, as called for in this bill. My amendment does three things: It permits hunting now taking place in the east Mojave to continue, it allows the California Department of Fish and Game to stay involved and continue its extremely successful wildlife management program in the area, and it protects the east Mojave as a national preserve within the jurisdiction of the U.S. Park Service.

Mr. Chairman, we passed a very similar amendment in 1991. We passed an amendment on the floor of the House, 235 to 193, and then the House went on to pass the amended bill, 297 to 136, so I think that this amendment should have a great deal of support here on the floor of the House today.

Mr. Chairman, this is a commonsense compromise to preserve hunting as a traditional use in the east Mojave while enhancing its status to ensure the protection of the resources of the area in a responsible way.

This area, Mr. Chairman, is currently a national scenic area managed by the

BLM. Under my amendment this would be managed by the Park Service as a preserve. Mr. Chairman, hunting has always been permitted there in season, and in keeping with wildlife management policies. Under my amendments, the California Fish and Game Department is to stay involved in the management of wildlife, just as in every other State. This is a States' rights issue as well.

Mr. Chairman, the east Mojave is a significant hunting area, quail, chukar, dove, and rabbit hunting in particular, and there is also deer and sheep hunting.

Mr. Chairman, the California Fish and Game Department shows approximately 178,000 hunter days in 1992, and that does not include hunting for deer and sheep. We all know that in Dear Colleague letters and in comments back and forth, that these figures have been attacked, but I just want to tell my colleagues that these hunting days that have been documented back in 1992 at 178,000 are predominantly in the east Mojave area that would be protected under my amendment.

Mr. Chairman, these estimates on the hunter days are based on the same accepted standards used by Federal and State agencies throughout the United States. The permits for the limited sheep hunting are auctioned and have brought in approximately $500,000 over 7 years to a dedicated account. Under the active management of the California Department of Fish and Game, this herd is actually growing.

Mr. Chairman, I could go through the days of hunting that are attributable to various species: For example, dove, it is 23,000 hunter days; quail, 37,000; chukar, 5,000; jackrabbit, 11,000; for coyotes, 3,000; and for deer, 19,000 hunter days.

Mr. Chairman, a very significant and important part of my amendment that is in the bill or in the amendment says, and I am reading from the bill here, "The Secretary may designate areas where, and establish periods when, no hunting, fishing, or trapping will be permitted for reasons of public safety, administration, or compliance with provisions of applicable law."

So really, Mr. Chairman, what we are giving the Secretary is the ability to suspend hunting in that area when he feels that in emergencies there should be a closure, and this would be pursuant to a subsection that could be put into effect only after consultation with the appropriate State agency having responsibility for fish and wildlife in that area.

Mr. Chairman, let me say to my colleagues that there are many groups that support this amendment: The California Department of Fish and Game; the Wildlife Legislative Fund of America; the International Association of Fish and Wildlife Agencies; the North American Foundation for Wild Sheep; the California Outdoor Sportsmen's Coalition; the United Conservation Alliance; the Isaac Walton League, in California and other chapters around the country; and the California Wildlife Federation; the Western Association of Fish and Wildlife Agencies, and that is made up of all State fish and game agencies of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.

Mr. Chairman, I just want to say that the designation as a preserve points out that this is a 20-year-old tool. Somebody may ask, my colleagues may ask, "Who came up with this idea?" The answer is that we did. We in Congress came up with this preserve hunting in certain areas where there were conflicts, where we wanted to provide for the traditional uses in these areas, and it works. The national preserve designation was created by Congress in the 1970's. The fundamentals are identical, whether it is a park or a preserve.

Mr. Chairman, many people will attack this amendment today and say we have degraded the status from a park to a preserve, but really, Mr. Chairman, it is not degraded, and the Park Service protects this area and manages the area very much in the same manner as they would in a park.

Mr. Chairman, we have provided for preserves in the creation of the Big Thicket National Preserve in Texas and the Big Cypress National Preserve in Florida. Since that time, we have authorized 12 additional preserves in 3 additional States.

The CHAIRMAN. The time of the gentleman from Idaho [Mr. LAROCCO] has expired.

(By unanimous consent, at his own request, Mr. LAROCCO was allowed to proceed for 1 additional minute.)

Mr. LAROCCO. In conclusion, Mr. Chairman, I just want to make the point that there have been 12 additional preserves in 3 additional States, most notably, Alaska. Everyone in the body, all of our colleagues, have gotten this list. There has been no suggestion that these preserves have compromised the management of the area.

I think, Mr. Chairman, that we should move along and accept this amendment. I think it is a common sense amendment. Where I come from in Idaho, we want to preserve hunting out in the West. I think we should move this bill forward and do it, but protect those resources and protect our rights, and the hunting availability that is there now, remembering all along that the California Department of Fish and game is going to establish those bag limits and those seasons in those areas, and it protects the resources and allows hunting to continue.

Mr. VENTO. Mr. Chairman, I rise in strong opposition to the amendment.

Mr. Chairman, this stands the whole concept of designation of this national park in California, in the Mojave, on its head. Quite candidly, for a long time our Nation has been struggling to designate the different great desert types in North America as areas of parks. We have the Chihuahuan, the Sonoran, the Great Basin, and finally now a proposal before us to make a real park out of the Mojave National Desert, the Mojave National Park. The fact is that hunting basically will significantly modify the reasons for which we might set aside this national park. It impacts on the life forms, the fauna and flora that are in that park, if we hunt.

It is interesting to recognize, Mr. Chairman, that certain species tend to dominate a vegetative type. In fact, their selection and consumption sets really one of the patterns on the landscape. It is one of the balances that creates the type of desert community that might exist here. This area right now today, because it is hunted in, is not significantly like it would be.

Mr. Chairman, the fact is this preserve designation degrades the proposed park designation. Where it has been used, it has not been used to always provide for hunting. Sometimes it is like in the Big Cypress, because of oil drilling that goes on there. I think we ought to look at the reason for such designation—not all relate to sport hunting.

We have instances in the Grand Tetons where, because of an elk population situation, that there is a permit and an opportunity to do some hunting, or in a flyway, or the Hagerman Fossil Beds, but these are special and unusual instances. Here in the California desert we are talking about a vast area of 1.5 million acres that we are trying to keep in as natural a condition as we can.

Mr. Chairman, when we look at the types of game species that are of most interest to sports hunters, that is, the desert bighorn, there are only about four or five harvested a year, depending on who bids for the permits and how they are given out, and there are less than 30 deer that are harvested in this area.

Mr. Chairman, it is true that there are a lot of birds and rabbits hunted in the desert. There is also, I think because of the nature of the season, an open period where we can go into any of these areas where there is hunting and, sadly, find a lot of things shot up which should not be, not the least of which are, of course, many of the signs that identify various sites.

It is the nature of people without supervision when the National Park Service is not always there to manage, but when we give someone a semiautomatic .22, too often they do not conduct themselves in a commendable and proper manner. It happens. I am certain all of us can visualize circumstances in our own areas where we, and I know myself, as an active hunter, have seen that type of phenomenon occur of plinking at many available inappropriate targets.

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Mr. Chairman, the fact is that the issue is not whether we support or oppose hunting. That is not the case here. It is a question of whether or not we ought to have a true full fledged park. The issue is how Federal lands should be managed in a unique area of the eastern Mojave where the three desert ecosystems meet, a special desert area not protected in the National Park System today.

It is true that several areas managed by the Park Service, as I said, have been designated as preserves and are open to sport hunting; but why is that? If we are talking about Alaska, we are often talking about subsistence hunting by Native Americans and by others who generally have no other easy access to food supply. But none of the existing preserves include vast desert lands, none include such marginal hunting opportunities, and none present such potential safety problems because of the conflicts between sport hunting and other uses.

California in this region specifically will have one of the highest uses of any national park. Outside of Alaska, as I said, preserves also have extensive inholdings. There are no inholdings in this or essentially very few. Preexisting uses like oil drilling do not exist in the Mojave. The Mojave has many fewer such conflicts which would justify some preserve status.

Mr. Chairman, life in the desert and the Mojave Desert is life on the edge. Desert species, including nongame species like the endangered desert tortoise, exist under severe conditions already. The stress of increased human use of the desert is already placing them in increased danger. It is ironic that many desert tortoise that are found as morbidity on the desert have bullet holes in them; not just a small number, but a significant number. I do not know if it came before or after the desert tortoise was dead, but the fact is I think it tells us something about the activities that take place in desert areas like the Mojave.

Sport hunting increases the pressure on all species, not just game species, while placing the east Mojave National Park off-limits to sport hunting will assist their eventual survival. The LaRocco-Lewis amendment will undercut this sound policy.

The nongame species may be varmints to some, but are a vital part of the complex web of desert life. A recent study showed that 30 percent of dead desert tortoise, an endangered species, had bullet holes in them.

The desert is big, but animal populations are small.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. VENTO] has expired.

(By unanimous consent Mr. VENTO was allowed to proceed for 1 additional minute.)

Mr. VENTO. Mr. Chairman, this is not prime hunting country. BLM records indicate that fewer than 30 deer and 5 bighorn sheep a year are taken.

Keep in mind, Mr. Chairman, that tens of millions of acres of adjacent BLM area will remain open for sport hunting. A Mojave National Park will not reduce significantly California hunting opportunities.

Any benefits of sport hunting in the east Mojave are outweighed by its costs, in real dollars and real dangers. National Park Service experience with preserves open to hunting shows that sport hunting causes serious safety issues. The fact of the matter is it costs the Park Service more to try to manage a park when they have this mixed type of use. The fact is in terms of dollars spent, in terms of safety and visitor experience, in terms of benefit for the nongame and game species, hunting simply should not be permitted. We should create a real park here. We ought to do the job and do it right and make the Mojave a national park.

The Senate in its wisdom, I think, kept the Mojave off-limits to hunting in the national park, in the Mojave, by nearly a 2-to-1 vote.

It is misleading to argue for hunting in the park and to maintain the preservation of the desert species. Some say that they do not want to lose another acre to hunting, but the fact of the matter is we have to be mature enough to react to new information and the facts which recognize what the needs and values of this great Mojave Desert species and reject the amendment of the gentlemen, Mr. LAROCCO and Mr. LEWIS.

Mr. HANSEN. Mr. Chairman, I rise in support of the LaRocco amendments.

Mr. Chairman, I rise in strong support of the amendment from my friend and neighbor from Idaho [Mr. LAROCCO]. The LaRocco amendment merely allows hunting to continue on 1.5 million acres of public lands—an area twice the size of the State of Rhode Island.

As ranking member of the National Parks Subcommittee, I questioned Mr. Aaron Medlock of the Fund for Animals at last June's hearing. He was the principal witness testifying against the LaRocco amendment.

I am intrigued why amendment opponents chose to be represented by a group that actively opposes hunting on all lands—public and private. When I asked Mr. Medlock if there were any exceptions to his group's opposition to hunting he replied, "I will just say that we haven't seen the exception yet."

I mention this to remind Members of the type of group they will be aligning themselves with if they oppose this amendment.

This amendment is supported by the National Rifle Association, the California Wildlife Federation, Quail Unlimited, California Isaak Walton League, the Wildlife Management Institute, and the Congressional Sportsmens Caucus. Rarely do we have a diverse coalition of prominent groups supporting a contested amendment before this committee.

The major point made against this amendment at the subcommittee hearing dealt with interpreting the California Department of Fish and Games's 1991 summary of wildlife management data for the east Mojave. The allegation was that since this survey was for all of San Bernadino County, only 12 percent of the data applied to the East Mojave Park.

In an April 29 letter that I received from California Department of Fish and Game Director Boyd Gibbons, he stated,

> The majority of the hunter use data we provided applies to the area of the east Mojave defined by the Desert Protection Act.

As a result, in 1991 there were at least 85,000 hunter days in the proposed East Mojave Park. These hunters harvested approximately 27,000 quail, 16,000 coyotes, 15,000 jackrabbits, 12,000 cottontail, and 10,000 doves. Those are certainly significant numbers in my opinion.

Mr. Chairman, the reason we have all this nitpicking on statistics and surveying techniques is because amendment opponents are without any sound arguments.

By designating this area a national preserve, we are following a long tradition established by this committee. One of the last major additions to the National Park System was the Little River National Preserve in Alabama in 1992 where hunting is permitted. Last year we expanded the boundaries of the Big Thicket Preserve in Texas where hunting is permitted. There are over 22 million acres of national preserves in this country, all of which allow hunting. Mr. LAROCCO's amendment is merely continuing this committee's tradition.

I urge my colleagues to support the right of America's 16 million licensed hunters to hunt on their public lands—lands owned by all Americans. Let us not allow a small, well-funded assortment of animal rights activists to lock out American hunters from their lands. Support the LaRocco amendment.

Mr. Chairman, the documents referred to in my statement are as follows:

STATE OF CALIFORNIA,
DEPARTMENT OF FISH AND GAME,
Sacramento, CA, April 29, 1994.

Hon. JIM HANSEN,
Longworth House Office Building,
Washington, DC.

DEAR CONGRESSMAN HANSEN: As I understand you will soon be considering action on S.B. 21, the Desert Protection Act, I am writing to reaffirm the California Department of Fish and Game's position on this bill. Our concerns are addressed in the attached letter to the Honorable Rick Lehman.

I would also like to clarify some of the information I previously provided. The majority of the hunter use data we provided applies to the area of the East Mojave defined by the Desert Protection Act. The estimates of hunger days come from two sources, big game tags and a hunter survey. Tags for deer and bighorn sheep tags are site specific and do not include data from the Colorado River or the San Bernardino National Forest. The hunter survey is based on information gathered on a county basis. Our field biologists have sorted through the data to eliminate any irrelevant data.

The number of hunter days was estimated using the same standards as used by the Federal and State agencies throughout the United States, thus allowing data to be freely exchanged between agencies. If a hunter hunts for both deer and quail on a given day, two hunter days would be tallied: one for deer and one for quail.

I will be pleased to work with you in any way I can to assist in protecting wildlife and their habitats in this extremely important legislation.

Sincerely,

BOYD GIBBONS,
Director.

STATE OF CALIFORNIA,
DEPARTMENT OF FISH AND GAME,
Sacramento, CA, June 11, 1993.

Hon. RICK LEHMAN,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN LEHMAN, the California Department of Fish and Game is vitally interested in the protection of the southern California desert. For many years, our staff has worked with the public, land owners, and other State and Federal agencies to manage and protect the fish, wildlife, and native plants that live there, while increasing our scientific knowledge of the living desert.

I believe that your bill H.R. 518 offers a means to further safeguard the California desert, but I am concerned that neither our Department's important efforts at scientific research and managing wildlife be foreclosed nor the hunting public be shut out of this region we have historically used. This is particularly critical in the East Mojave and expansions of Death Valley.

Maintaining healthy wildlife populations in this desert environment requires active, not passive, management, and hunting is integral to that management. Protection for the desert should more adequately provide for compatible recreation and the management of wildlife. For these reasons we urge that the Bureau of Land Management (BLM) retain jurisdiction over the East Mojave and the Hunter Mountain/Last Chance Range expansions of Death Valley, or at a minimum you consider "National Preserve" status for these areas.

We have to gain access into the desert to benefit its habitat. Some natural springs have been damaged by concentrations of wild burros and invaded by salt cedar, a non-native plant that consumes considerable water. Our Department has cooperated with the BLM and private organizations, such as off-highway vehicle clubs, environmental groups, private landowners, and hunting clubs, to restore and improve these springs and to build numerous rain catchment basins, or "guzzlers." These water sources are vital to all wildlife in the desert, to the game species that are hunted—deer, bighorn sheep, quail, and chukar partridge, for example—and to those that are not, such as neotropical birds, reptiles, and raptors. There are now 771 such water sites for wildlife in San Bernardino County, and their periodic repair requires heavy cement bags and equipment that cannot be carried in on foot. Much of this effort has come from volunteers and private donations that from 1969 to 1992 totaled more than 22,000 days of labor and materials worth nearly $1.5 million.

Because of our active management in the desert, the bighorn sheep has come back from its low levels of the early 1900s to the viable population that Californians enjoy today. For the past twenty years, we have worked with the BLM, the military, and many private conservation and hunting organizations to build catchment basins to replace degraded springs and to capture bighorn sheep to reestablish populations in historical habitats from which they had long been gone.

The bighorn sheep population in the Old Dad Mountains of the East Mojave is our source stock for reestablishing sheep populations elsewhere in their historic range. From this productive herd we have captured and relocated more than 200 bighorn sheep safely, efficiently, and with minimum disturbance to the desert, because we have been able to use vehicles and helicopters. I am concerned that National Park wilderness status for the East Mojave could severely curtail what has been a real success story in bighorn sheep management.

I am also deeply concerned with preserving hunting in the East Mojave and elsewhere. Hunters in California may appear to have huge territories in which to hunt, but the reality of population growth and recreation demands in this State makes it increasingly more difficult for the hunting public to enjoy a day in the field. In the East Mojave and the Death Valley expansions into Hunter Mountain and Last Chance Range, where the imprint of hunters has been hardly noticeable and their contributions to wildlife considerable, hunters could be sealed off from a vast region in which hunting is compatible with desert preservation. The spirit of conservation must not be dampened by closing off these areas to hunting.

For decades this rugged country has provided the public with some fine upland game hunting—particularly quail, chukar, dove, and rabbit—as well as deer and, in recent years, bighorn sheep. The hunters, in turn, give a boost to local restaurants, motels, and gas stations. In the East Mojave, for example, upland game hunters have spent more than 110,000 recreation days annually. Because our management has helped bring back bighorn sheep, we have been able to offer some limited sheep hunting, the permits for which have produced more than $500,000—all used to expand populations of bighorn sheep.

I want to assure you that the Department and the California Fish and Game Commission closely regulate hunting. Through hunting seasons, bag limits, big game permits, and the vigorous enforcement of all hunting laws and regulations, we help insure conservation of both wildlife and the privileges of the hunting public.

Certainly the more difficult hurdle both for hunting and our Department's ability to continue scientific study and manage wildlife there is the placing of the East Mojave and the Hunter Mountain/Last Chance Range expansion of Death Valley under the jurisdiction of the National Park Service (NPS) rather than the Bureau of Land Management. Through tradition and law, the NPS has excluded hunting in the National Parks and not looked favorably upon active State wildlife management of lands under its jurisdiction.

It is my understanding that Congress has made exceptions to this, however, in the NPS category of "National Preserves." While we would prefer that jurisdiction of the East Mojave wilderness and of the Hunter Mountain/Last Chance Range expansions of Death Valley remain in the BLM, I would urge that you consider "National Preserve" status as a possible alternative, with explicit language that preserves hunting and our continued access for carrying out our responsibilities for scientific research and wildlife management. In all BLM wilderness areas, we need similar language to guarantee our access to conduct research and manage wildlife.

I do want to reassure you that this Department is dedicated to protection of the desert ecosystem. Continued hunting in, and this Department's access to, this region is in harmony with that important goal.

I will be pleased to work further with you and your staff to ensure the best ways to further wildlife conservation through this landmark legislation.

Sincerely,

BOYD GIBBONS,
Director.

SUMMARY OF WILDLIFE MANAGEMENT RELATED DATE FOR THE EAST MOJAVE DESERT

It should be noted that largely because of the effects of the ongoing drought in this area, the following hunter numbers and effort are currently well below long term averages. With the recent rains, we should expect a stable, if not increased, number of hunters and days.

HUNTER NUMBERS AND EFFORT FOR 1991 IN EAST MOJAVE DESERT

Game animal	Hunter Nos.	Hunter effort (days)	Bag
Dove	5,000	20,000	73,000
Quail	7,000	54,000	87,000
Chuckar	2,000	9,000	6,000
Jackrabbit	3,000	30,000	24,000
Cottontail	3,000	24,000	19,000
Coyotes	1,300	32,000	4,000
Bobcat	130	300	?
Total	21,430	169,300	213,000

DEER HUNTING IN ZONE D–17 (ALL WITHIN EAST MOJAVE)

Year	Number of permits	Harvest	Percent success
1987	[1] 500	15	3
1988	[1] 500	29	6
1989	[1] 500	29	6
1990	[1] 500	26	5
1991	500	31	6
1992	500	45	9

[1] The Inyo Mountains were included in Zone D–17 prior to the 1991 season. It was estimated that approximately half of the total 1,000 permits hunted in the current boundaries.

BIGHORN SHEEP HUNTING IN THE EAST MOJAVE (MARBLE AND KINGSTON)

Year	Number of permits	Harvest	Percent success
1987	5	5	100

BIGHORN SHEEP HUNTING IN THE EAST MOJAVE (MARBLE AND KINGSTON)—Continued

Year	Number of permits	Harvest	Percent success
1988	5	5	100
1989	6	6	100
1990	4	4	100
1991	5	5	100
1992	7	7	100

Permits are required for the pursuit of deer, bighorn sheep and bobcats. The money generated from the $5 non-refundable application fee and the tag auctioned each year ($70K, $59K, $40K, $37K, $42K, $61K respectively and $100K for next year) is placed in a dedicated account to be used exclusively for the research and management of bighorn sheep in California.

Designation of the East Mojave area as a park would eliminate all the hunter use of this area. In addition, it would prevent maintenance of critical wildlife water developments (guzzlers) that currently number more than 300.

Wilderness designation will not necessarily eliminate hunting, but due to the physiogeographical nature of the area, it would effectively restrict hunting to a very small part of the area. Current wildlife management efforts in this general area total approximately 35,000 man-hours annually. The bulk of this effort is provided by volunteers in coordination with the Department. This management work comprises largely habitat maintenance/improvement and wildlife inventory projects. Because of vehicle restrictions associated with wilderness designation, these efforts would for the most park cease.

Both wilderness and park designation would effectively (if not directly) eliminate efforts to restore wildlife populations.

Mr. MILLER of California. Mr. Chairman, I just wonder if we might get some indication about the length of time in debate, whether or not it is possible to have all debate on this amendment end in 40 minutes.

Is there any objection to that?

Mr. LaROCCO. Mr. Chairman, I do not have any objection.

Mr. LEWIS of California. Mr. Chairman, reserving the right to object, and I certainly do not want to drag this process out, but this is one of the most important amendments dealing with this whole subject area. I would be very hesitant on this one.

Mr. MILLER of California. Mr. Chairman, I understand that. That is why several Members have spoken.

I have looked around at who is on the floor and I think 40 minutes actually gives everybody the time they would be entitled to under the 5-minute rule. If the gentleman has an alternative suggestion, that would be fine.

Mr. LEWIS of California. I would suggest, Mr. Chairman, if we might, that we see how this goes under the 5-minute rule and if we find ourselves extending beyond the point of reason, than I would be happy to reconsider.

Mr. MILLER of California. That is fine, Mr. Chairman.

The CHAIRMAN. Does the gentleman from California [Mr. MILLER] withdraw his request?

Mr. MILLER of California. Mr. Chairman, actually I was making an inquiry. I was not making a formal request. But the gentleman would object, so we will push on here.

Mr. BREWSTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today to speak in favor of the LaRocco-Lewis amendment to the California Desert Protection Act. Today, I speak as the Democratic cochairman of the Congressional Sportsmen's Caucus. The Sportsmen's Caucus is comprised of over 190 Members of the House with common beliefs such as:

Preserving and promoting the traditional rights of American citizens to hunt, fish, and pursue other outdoor activities;

Ensuring that America's sportsmen have reasonable access to federally managed public lands to enjoy these outdoor pursuits; and,

Supporting efforts to enhance multiple use wildlife and habitat management.

The LaRocco-Lewis amendment reflects these beliefs. Allowing hunting to continue to occur on the east Mojave Desert will have unending positive effects on the preservation of several species native to this area. The east Mojave is home to an overwhelming majority of California's desert bighorn sheep.

The desert bighorn population is growing today thanks to a cooperative program between the California Department of Fish and Game and wildlife groups such as Safari Club International.

Through the efforts of these programs, millions of dollars have poured into the conservation of this and other game species. These efforts also benefit nongame species and the habitat in which they live.

These programs existed and these dollars were spent on the promise that once the bighorn population has reached a sustainable level, sport-hunting will be allowed to occur. These efforts have paid off. Desert big horn hunting is currently occurring in this area as managed by California Department of Fish and Game.

The absence of hunting on the east Mojave means the absence of millions of dollars from the coffers of the California Fish and Game Department.

The absence of hunting means the absence of thousands of hours of volunteer work building water guzzlers and food plots.

The absence of hunting means the loss of over two-thirds of the bighorn permits offered by the State of California.

The loss of hunting on the east Mojave means the loss of 80-plus thousand dollars from the sale of each of California's auctioned permits.

The loss of hunting means the loss of value for every single animal found within the east Mojave.

Hunting gives an animal actual economic value—with that value comes protection. A hunter protects the livelihood of a species, just as a banker protects the livelihood of his assets.

The main reason wildlife is thriving in the desert area proposed for protection is because sportsmen have restored the habitat to support wildlife. The development of the Los Angeles area has tremendously hindered the migration of wildlife from the desert to natural watering holes.

Without the sportsmen's dollars to develop and maintain artificial watering devices, wildlife populations would be nowhere near the numbers they represent today. For example, 60 years ago, Congress gave Anza Borrgo State Park and the Death Valley Monument areas full protection from hunting.

Consequently, the sheep population in these areas have declined by 70 percent. On the other hand, bighorn populations in the east Mojave doubled during the first 10 years of intensive management by the California Fish and Game Department in conjunction with the efforts of such conservation groups mentioned previously.

I urge my colleagues to support sound, scientific based wildlife management principles.

I urge my colleagues to support the wildlife and habitat of the east Mojave Desert.

I urge my colleagues to support the views and efforts of the California Fish and Game Department.

I urge my colleagues to support the LaRocco-Lewis amendment. I yield back the balance of my time.

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Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. BREWSTER. I am happy to yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I want to thank the gentleman for the leadership he has shown over the last many months as the chairman of the Congressional Sportsmen's Caucus.

I think the point that he has made, especially with respect to the relationship between hunters and conservation in the desert, is a critical relationship, and he has brought a number of organizations along with my great friend, the gentleman from Alaska [Mr. YOUNG], to our Congressional Sportsmen's Caucus.

We have had the Wildlife, Unlimited Group, Elk, Unlimited, the Wild Turkey Federation, which has helped to restore wild turkeys to almost every one of the States in which they originally existed.

We have brought back, because of hunters, the elk herds, which were to just a low of a few thousand animals at the turn of the century, to hundreds of thousands. We have brought back antelope to populations in excess of 500,000. We now have more white-tailed deer in America than when Lewis and Clark made their famous adventure.

That has been due to sportsmen, and I want to commend the gentleman for making that point. I know he comes from a family that hunts and fishes.

I think that is the last point: We need time for dads and sons and mothers and daughters in California, families spending time together; everybody cannot go off to New Zealand to go on a fly-fishing trip when they get a little spare time. It is true some of the antihunting groups have said, well, you do not have many deer in the east Mojave anyway; you just have a few doves and rabbits and things like that.

The CHAIRMAN. The time of the gentleman from Oklahoma [Mr. BREWSTER] has expired.

(At the request of Mr. HUNTER and by unanimous consent, Mr. BREWSTER was allowed to proceed for 1 additional minute.)

Mr. HUNTER. If the gentleman will yield further, I say to my friend, the gentleman from Oklahoma, who has a hunting heritage in his own family, that small game a father and a son can pursue together, if you are a working person in southern California, just like if you are a working person in Oklahoma, the ability to drive 20, 30, 40 miles from your home and take your son or your daughter out and spend some quality time with them, teaching them the tradition of hunting, is a very valuable thing for American families.

Mr. BREWSTER. Absolutely.

Mr. HUNTER. I thank the gentleman for all the work he has put into this particular debate.

Mr. BREWSTER. The gentleman from California is quite right. I think the slogan is, "Hunt with them today, not for them tomorrow."

But I think also all of us realize the millions of dollars that go to protect wildlife come from licenses that sportsmen buy for hunting. Without those millions of dollars, there would be no protection for wildlife, and we would not have the wildlife we have in America today.

Mr. McCANDLESS. Mr. Chairman, I move to strike the requisite number of words.

In spite of all the squawkings of the Chicken Littles we have heard, the creation of a national preserve in the east Mojave would set no precedent whatsoever.

The preserve designation, as we have heard previously, was established by Congress in 1970 to facilitate hunting and to provide for the conservation of wildlife under the jurisdiction of the National Park Service. The National Park Service currently manages over 22 million acres, not 2 million, Mr. Chairman, 22 million acres of preserves in Alaska, Florida, Alabama, Texas, and Louisiana.

I would remind my colleagues that this body passed a similar amendment, as we have heard earlier, back in 1991 on H.R. 2929. It has been, or it will be, said that the east Mojave is of little significance as a hunting area, since just a few deer are taken there annually. However, the east Mojave, as we have also heard, is rich in quail, doves, and chukar, which translates into thousands of hunter days in the area in question every year.

It will also be said that hunting cannot possibly be permitted in the east Mojava due to the abundance of threatened or endangered species which exist there. I would respond that hunting has taken place in the Mojave Desert as long as man has been present there.

Clearly the two are not incompatible since such species continue to be so prevalent in the region. Besides, we already have the laws on the books which deal with such matters. It is called the Endangered Species Act. I think most of my colleagues may be familiar with that.

Let me conclude, Mr. Chairman, by responding to a comment of the gentleman from Minnesota [Mr. VENTO] about holes in signs shot by people, and desert tortoises shot in the shell.

One cannot excuse this kind of action. However, we have a human society, and that human society has its own mores and standards and values irrespective of whether traveling on a freeway or hunting in the desert.

I would comment that up to a certain age the desert tortoise's shell is very soft and vulnerable to crows and other types of animals with sharp beaks, and that those beaks can penetrate that soft shell of the younger desert tortoise. I am not saying that there have not been desert tortoises shot. I have seen them myself. But they are rare and far between.

For every one of those that a human shoots, there are probably 50, 60 or 75 that animals and other preys either dig out the shell with their claws or pierce the shell of a young desert tortoise by their beak which then terminates the life of that individual.

Mr. Chairman, I respectfully ask that we support this. It is a good way by which we can control and expand and manage the population of these areas as has been shown in the areas of Alaska, Florida, Alabama, Texas, and Louisiana, under the National Park Service program.

Ms. SCHENK. Mr. Chairman, I rise today in strongest opposition to the amendment offered by the gentleman from Idaho. I am proud to be one of the 112 cosponsors of the California Desert Protection Act. Designation of the Mojave National Park—which this amendment seeks to block—is a centerpiece of this legislation.

The LaRocco-Lewis amendment, Mr. Chairman, denies Americans their 53d national park. The lands of the Mojave deserve nothing less than the protection that national park status provides. The Mojave offers us all a wealth of natural beauty—spectacular vistas, mountain ranges, cinder cones, and the second highest sand dunes in the United States.

The Mojave also has a wealth of cultural resources. Remnants of our prehistoric ancestry are etched on its rocks—and even on the desert floor—in petroglyphs and pictographs. I am not speaking of a few artifacts. In the Mojave, there are 12,000 archeological sites.

Three administrations have gone on record in support of a Mojavé National Park. We in California very much want the Mojave as a national park. Sixteen California counties and 36 cities have endorsed this bill and the establishment of the Mojave National Park.

The establishment of this park will be an economic boon to our desert communities as well, bringing as many as 2,000 new jobs and tourist spending estimated at $55 million or more.

Mr. Chairman, I do not oppose hunting where it is appropriate. But it is not appropriate here.

Last month, Interior Secretary Babbitt sent a letter to Chairman MILLER in which he delineated his strong opposition to the LaRocco-Lewis amendment. He wrote, and I quote,

> The Department of the Interior wholeheartedly supports the establishment of the Mojave National Park as part of the California Desert Protection Act * * * only management as a national park by the National Park Service will protect this area's resources for all time.

Specifically addressing this amendment, Secretary Babbitt wrote,

> I urge you and your colleagues to oppose such an amendment. Hunting is not compatible with a national park. NPS [National Park Service] responsibilities for protection of wildlife would enable the proposed park to function as a refuge for desert bighorn sheep and other wildlife species that would continue to be hunted on adjacent BLM or State lands.

But if Secretary Babbitt's position on this amendment might be considered predictable, let me point out that the establishment of the Mojave National Park is supported by 75 percent of Californians. In fact my hometown newspaper, the San Diego Union Tribune, not known for its support for the present administration, has editorialized in favor of the Mojave National Park and in opposition to the LaRocco amendment. In the Tribune's words, hunting in the Mojave:

> Is incompatible with a national park and would probably scare away visitors. Besides, there's very little hunting in that area, anyway. And millions of acres of nearby land in the desert remain open to hunting; there's no need to hunt in a national park.

Mr. Chairman, I urge my colleagues in the strongest possible way to vote no on the LaRocco amendment.

Mr. THOMAS of Wyoming. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Lewis-LaRocco amendment.

Hunting has always been an important part of the east Mojave area. Hunters and trappers perform a vital service by managing game populations throughout this region.

I find it interesting that the opponents of this amendment claim that hunting will endanger a number of species in this area. Hunting has been allowed in the area for many years and the wildlife population is healthy, including the most productive bighorn sheep population in California.

Make no mistake about it, the opponents of this amendment want to limit hunters' access. They want to fire another shot in the "War on West." They want to fundamentally change the way public lands are managed in the West and continue to limit multiple use on Federal lands throughout the region.

This amendment is very simple. It is a commonsense approach that will protect the rights of sportsmen across the Nation.

Contrary to what the opponents say, this amendment would not expand hunting into areas where it is currently prohibited. It would not destroy the scenic beauty of this region or the wildlife living in the area.

In fact, the Western Association of Fish and Wildlife Agencies passed a resolution on May 18, 1994, supporting this amendment. These are professional land managers who have great respect for the land and work to protect wildlife across the West.

Mr. Chairman, I am tired of this Congress and the bureaucrats in Washington telling the people of the West how to live their lives. Hunting is an integral part of life in the West and plays an important role throughout the region.

It is time to stop the Federal Government from intruding into every part of our lives. The Lewis-LaRocco amendment is sensible and reasonable. It is an important vote for everyone who believes in limiting the power of the Federal Government to regulate our lives and interfere in our personal activities.

Support the Lewis-LaRocco amendment.

Mr. RICHARDSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise as a strong supporter of hunting, a strong supporter of the second amendment, and I come from a State that has a strong hunting tradition. But I think there is a place to hunt and there is a place to preserve national parks.

Mr. Chairman, let us establish a real park for the people—not a hunting preserve.

Hunting opportunities will still be available under H.R. 518—10 million acres of adjacent BLM lands would remain open to sport hunting.

Hunting creates serious safety issues—visitation to the Mojave National Park will be highest during the spring and fall hunting seasons.

Save the taxpayer half a million dollars a year: Law enforcement and other management costs are higher where hunting is permitted.

Conservation groups oppose this amendment: The Senate has already rejected hunting in the park. I do not oppose hunting. I oppose hunting only in an area such as the east Mojave that deserves protection as a national park.

H.R. 518 is the product of years of compromise on dozens of issues relating to the designation of several different areas of the California desert as national park and wilderness protection lands. I cannot support a further compromise such as the one my colleagues Mr. LAROCCO and Mr. LEWIS have proposed. Their proposal would gut a central provision of the bill by weakening the status of an environmentally sensitive area that is truly deserving of the highest status of protection.

Additionally, our colleagues who have sponsored this bill in the Senate, Senators FEINSTEIN and BOXER, have pointed out that the cost of maintaining a preserve is higher than that of maintaining a park. A national preserve designation for the east Mojave would add $500,000 per year to the cost of maintaining the area.

In debating the merits of this proposal, Mr. LAROCCO has said that hunting is an important right which must be preserved in the east Mojave. Hunting is not allowed in the National Park System, so Mr. LAROCCO has decided to downgrade the area to national preserve status, a condition he says is equal in protection although it allows hunting. I have always supported hunting in appropriate areas, but I question the sense of this attempt to demote environmental protection simply for the right of hunting in an area in which only minimal hunting has taken place. In fact, the amount of hunting on lands in the east Mojave is so minimal that the National Park Service has estimated that more deer are killed by motorists on the George Washington Parkway in urban northern Virginia every year than are taken by hunting in east Mojave.

For those individuals who desire to undertake hunting in the general area of the east Mojave, there are 10 million other acres in the California desert where hunting is already allowed. I think this fact alone precludes any need for the LaRocco-Lewis amendment.

The people of California have said in opinion polls that they want the east Mojave to be preserved as a national park even though that means hunting will not be allowed. And let me remind my colleagues that the administration opposes this amendment. Interior Secretary Babbitt opposes this amendment. The majority of the newspapers in California, both on the coast and in the desert region have editorialized against this amendment. No one with a stake in the future of the California desert supports this amendment. I urge a "no" vote on the LaRocco-Lewis amendment.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding to me.

Mr. Chairman, I thank the gentleman for his statement of recognition. You know, the fact is any of us who do hunt knows that a week before deer season opens you see the deer all around and then after, a week after, you cannot find them anywhere. So the point I want to make is that the reason that it is of concern is because wildlife species act differently when they are hunted and when they are not. And since the 1916 Organic Act, the Park Service was designated to provide some place where there would be a refuge, where you would have animals that would act in a natural way, that is, when they are not being hunted by people. And I think you have a whole different experience here in terms of people going into this Mojave area, one of the great desert areas, and preserving the species that are present here.

I thank the gentleman for this statement.

Mr. EMERSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the LaRocco-Lewis amendment being offered to the California Desert Protection Act. I am speaking in favor of this amendment because this proposed legislation is not just a California issue it is a national wildlife conservation issue. There is absolutely no scientific justification or logical argument for preventing hunting as part of the wildlife management program in the east Mojave Desert. In fact, it could do more harm than good. All one has to do is look around—there are plenty of instances where the antihunting/antigun crowd has kept hunting out of certain areas. What we have seen in many cases is an explosion of certain wildlife populations that has led to the detriment of the area and other wildlife populations. The antihunting/antigun crowd has used the age-old argument that hunting is an artificial means of population control that upsets the natural balance. This argument is simply not true and the exact opposite can be scientifically documented. Allowing hunters and sportsmen in the east Mojave would help the environment, and allow the continuation of the important work done by sportsmen for wildlife enhancement in this area, as well as continue to add to the economy through the purchase of permits, licenses and equipment.

Mr. Chairman, we would be setting a terrible precedent here if we lock up and deny hunting on this land. The radical left-wing preservationists continue to push their land management schemes through the Department of Interior and Secretary Babbitt's sympathetic ear. This is another attempt at their goal to lock up the West. Support LaRocco-Lewis and allow responsible, multiple-use policies on our public lands, which are owned by all of the people.

Mr. PETE GEREN of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as a member of the Congressional Sportsmen's Caucus, I rise in strong support of the LaRocco-Lewis amendment and urge my colleagues to do the same.

Mr. Chairman, in the course of this debate, we have heard a great deal about conservation. We have also heard that somehow, passage of the LaRocco-Lewis amendment is not consistent with protection of our environment.

The fact is that sportsmen were and remain the first conservationists in this Nation. Sportsmen and women all around our Nation contribute billions of dollars and millions of hours of service to protect the environment that they love.

Specifically, in the area affected by this amendment, sportsmen have contributed over $1 million and thousands of hours of volunteer work to develop water catchments to promote wildlife and enhance the habitat. Making the area a national park will destroy this cooperative working relationship between sportsmen and the State and place both game and nongame species at risk. Making the area a preserve as proposed by this amendment provides the protection from commercial development—like a park, but allows sportsmen to continue to participate in their conservation efforts. Additionally, making the east Mojave a national park will be costly and taxpayers will be asked to contribute $1.23 billion to make up for the lost contributions of sportsmen's time and money.

We have also heard quite a bit about the desert bighorn sheep. Because of the efforts of sportsmen, the wild sheep herd in the east Mojave is the most productive sheep population in the State. The relocation of stock from this herd has resulted in six new sheep populations around the State. Furthermore, an organization of sportsmen, the Foundation for North American Wild Sheep, has returned over $700,000 to the California Department of Fish and Game for habitat enhancement, research, translocation projects and management of the sheep populations in California.

Mr. Chairman, as I stated earlier, sportsmen were the first conservationists in our Nation. And each year, they continue upon this legacy by not only paying their own way, but actively taking steps to improve the environment where they spend much of their time. However, by making the east Mojave a national park, we will seriously jeopardize this legacy, jeopardize the wildlife in this area, and cost the taxpayers a great deal in the process.

Do not let this happen; support the LaRocco-Lewis amendment.

□ 1530

Mr. CALVERT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, hunting is undoubtedly the oldest sport in America, and it is a form of recreation enjoyed by millions of men and women.

In my area of southern California, urbanization and other forces have steadily reduced the number of locations where hunting is permitted, and it is becoming more and more difficult for hunters to find locations where they are allowed to enjoy their sport.

If passed in its current form, the California Desert Protection Act could reduce by millions of additional acres the amount of land on which Americans can hunt. I believe this would be a travesty.

As I travel throughout my district, I talk to many citizens who are avid sportsmen, and they are very concerned about this legislation. They view it as their right to hunt, fish and enjoy other outdoor activities, as long as they don't abuse those rights. They don't understand why hunting should be restricted in such a large area of undeveloped land—and frankly, neither do I.

America is a beautiful country—and we need to preserve that beauty. But, hunters are not the problem. In fact, hunters are among the strongest environmentalists in the country. They recognize that their sport, more than any other, depends on protecting the environment and the creatures that inhabit it.

I urge my colleagues to support the LaRocco-Lewis amendment which would designate the east Mojave area as a national preserve, rather than a national monument or a national park. It is a commonsense amendment which will improve this legislation.

Ms. ESHOO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the LaRocco-Lewis amendment.

Changing designation of the Mojave National Park to the Mojave National Preserve to permit hunting is not necessary.

Under H.R. 518, a least one-half of existing habitat open to hunting will remain open upon enactment.

The bill provides for hunting on 10 million acres of surrounding Federal lands within the 25 million acre California desert area.

In 1992, only 28 deer were killed in the proposed Mojave National Park—less than 1 percent of the approximately 30,000 deer taken in California.

More importantly, an overwhelming majority of Californians—75 percent—want a national park where hunting is prohibited.

Mr. Chairman, let us give Californians what they want. Oppose the LaRocco-Lewis amendment.

Mr. MCKEON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by my colleagues Mr. LAROCCO and Mr. LEWIS of California to change the designation of the east Mojave Desert from a national park to a national preserve. Designating the east Mojave as a preserve would help to ease the burden of absorbing California desert lands into the National Park System by ensuring a role for the California Department of Fish and Game in managing this area. While the east Mojave would still be transferred to the jurisdiction of the National Park System under the LaRocco-Lewis amendment, hunting activities which have always occurred in this area would be allowed to continue. In addition, the Secretary of the Interior, in consultation with the California Department of Fish and Game, will still have the authority to prohibit hunting in particular areas and can restrict hunting to particular times under this amendment.

I believe the LaRocco-Lewis proposal is a practical approach to reducing the increased costs and administrative requirements associated with managing these new lands. The east Mojave is a rugged area which is larger than some of our individual States, and any advocate of the National Park System should take time to stop and think about the impact that adding this vast desert area to the National Park System will have on the Park Service. As one of the Members in this body who represent the California desert, I believe that it is essential to support proposals which continue to allow the broad range of recreational uses which currently occur in this area. I urge adoption of the LaRocco-Lewis amendment.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have heard a lot of different comments today, comments that hunting kills the preserves. Well, quite the contrary. Hunters have built up the preserves and provide for many of the species, including the endangered species. I have not personally hunted deer or bighorn sheep there, but I have hunted quail, and chuckers and other game bird sports.

I had recently, and take reference, my colleagues, four Russian generals come into my office asking for money for the Soviet Union, and at the same time there was an article in the Union Tribune, my hometown paper, that said that these same Russians were now offering religious services in a factory, and I asked them why. The first general that spoke very good English said, "Well, Mr. CUNNINGHAM, I'm an atheist; I don't believe in religion. But when we were powerful in the Government, we wanted people beholden to one god and only one god. That was the god of Government. That is where we had control over every single individual's life."

Mr. Chairman, that is the direction that this Government is going in this country, whether it is private property rights, which will be an issue of an amendment later on, whether it is hunting rights, whether it is acquisition of lands that cost great amounts of dollars. But the Government wants to control. It is time that the Government keep their hands off of the rights of the private citizen.

It has been said in here that individuals do not want to hurt hunting, they do not want to hurt those rights. Well, they do. I know specifically of water areas we have set up in the desert that have helped protect it. I heard that hunting is not compatible in this area. Since the time of Cro-Magnon man, Mr. Chairman, they have been hunting in this area, and all of a sudden bureaucrats, politicians that want to control lives of American citizens, are saying, "Hey, we don't want you to hunt there anymore. You have been doing it for millions of years, but this Congress right here, we are going to stop you."

□ 1540

Mr. Chairman, that is wrong, because it is compatible. We have been hunting in that area since the beginning of time. And in my lifetime, my family and a lot of my friends' families have been using this area, in compatibility with the people that visit the Mojave Desert, without any risk of injury. No, I have never shot a desert tortoise or some of the other things. But we need to maintain the private rights and hunting rights for our American citizens. We need the support of this committee. A similar amendment was offered that was overwhelmingly supported by this body. I would ask my colleagues to support this.

Mr. LEWIS of California. Mr. Chairman, I rise in strong support of the amendment sponsored by my colleague the gentleman from Boise, ID, who serves on the Committee on Natural Resources, Mr. LAROCCO.

Mr. Chairman, as my colleague has stated, our amendment is almost identical to the Marlenee amendment, which passed the House with overwhelming support, 235 to 193, when the 102d Congress considered this legislation. The LaRocco amendment creates a 1.5 million acre natural preserve in the east Mojave Desert which allows for hunting.

The gentleman from California, Chairman MILLER, and my colleague, the author of this bill, the gentleman from California [Mr. LEHMAN], will argue that this amendment sets a precedent for hunting in national parks.

Our amendment does not create a national park; it creates a national preserve. This designation was created by Congress in the 1970's to facilitate hunting and provide for wildlife management under the jurisdiction of the Park Service.

I might mention to my colleagues that earlier it has been discussed that some 75 percent of the California public in a survey opposes this amendment. Well, I might suggest to my colleague from the San Francisco area that the most recent survey, taken within the region involved, the numbers are just reversed. Seventy-four percent of the people who live in, who understand, who love the desert, support this amendment and oppose those from the outside who want to tell people how to run their own desert.

The National Park Service currently manages over 22 million acres of national preserve areas in Alaska, Florida, Alabama, Texas, and Louisiana. Obviously, this amendment does not set a precedent.

National parks are normally reserved for areas that do not include roadways and utility lines, for example. The east Mojave involves thousands of miles of roadways and endless lines of utility corridors that are totally incompatible with normal park consideration.

The gentleman from Minnesota [Mr. VENTO] argues that only a small percentage of Californians hunt, and that hunting is on the decline. That is simply not the case. The amount of hunting in the east Mojave Desert is not on the decline.

The California Department of Fish and Game reports that sportsmen annually spend 178 thousand hunter days in the east Mojave pursuing quail, chukar, rabbit, coyote, bobcat, bighorn sheep, and deer. According to Secretary of the Interior Bruce Babbitt, if you look at my chart,

> America's 40 million anglers and hunters have been the backbone of conservation in this country for nearly 60 years. Their monetary contributions have made possible the proper management of wildlife and its habitat and opened the way for millions of Americans to enjoy the great outdoors.

The gentleman from Minnesota [Mr. VENTO], in a "Dear Colleague" letter, said, "Keep bullets out of our parks."

First, this amendment creates a national preserve. Second, my friends, there are absolutely no documented cases, none, of hunting in the east Mojave threatening the safety of anyone. In fact, of 300,000 recreational visits in the east Mojave, over 150,000 were hunting-related. Under the LaRocco amendment, hunting will continue in the east Mojave, safely, as it has for decades.

It is argued that a national preserve is more costly to manage than a national park. Once again, the opponents of this amendment have distorted the truth.

The management of hunting is a State prerogative, now administered by the California Department of Fish and Game in the east Mojave. The California Department of Fish and Game would continue to regulate hunting and cover its costs from license fees paid by hunters. The National Park Service would bear no costs greater than the minimal costs now borne by the Bureau of Land Management.

This amendment has broad-based support by a coalition of conservation and hunting groups. It is supported by the Congressional Sportsman's Caucus, the California Department of Fish and Game, the county of San Bernardino, the Society for the Conservation of Bighorn Sheep, the Wildlife Legislative Fund of America, the Safari Club International, the National Rifle Association, Quail Unlimited, and other groups. The list goes on and on.

It is argued that only a small number of deer are hunted in the east Mojave each year. On this point, opponents are somewhat correct. The desert really is not deer country, although it is legal to hunt them there and many hunters are successful hunting them in the east Mojave Desert. However, as I stated earlier, the area is rich with quail, chukar, jack rabbits, cottontail rabbits, dove, and bighorn sheep.

The CHAIRMAN. The time of the gentleman from California [Mr. LEWIS] has expired.

(By unanimous consent, Mr. LEWIS of California was allowed to proceed for 3 additional minutes.)

Mr. LEWIS of California. Mr. Chairman, in fact, a single bighorn sheep permit was auctioned off at approximately $100,000. This revenue in turn has been used for conservation efforts in the area.

According to the California Department of Fish and Game, during 1992 hunters in the east Mojave bagged over 100,000 quail, 37,000 chukar, over 88,000 doves, 31,000 Jack rabbits, and 25,000 cottontails. This area is great for hunting these abundant species.

The reason the desert bighorn sheep population is so great in the area is because the environmental community, the hunters, the State, and the Federal Government, have formed an effective partnership for wildlife conservation.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I think the gentleman is on a very critical issue here once again, and that is the fact that the conservation in the desert areas that has been undertaken, that has created watering holes for bighorn sheep, mule deer, hundreds of other species, including many nongame species, that conservation has been undertaken by hunters. And Desert Wildlife Unlimited, a group which incidentally supports this particular amendment, that is a group that goes out—and I talked to one of my constituents today on the House steps whose brother is out now in 114 degree weather—helping to build these watering holes and maintain these watering holes for desert bighorn sheep in the California desert.

All those conservationists just happen to be hunters, and they go out and they build these watering holes, even though they know there is no open season for bighorn sheep. They may never have a chance to hunt them in their lifetime, but they believe the hunting ethic, the great tradition of hunting in this country—as espoused by Aldo Leopold, the father of American conservationism, who was a hunter—which was you take something from nature and the wilderness, and you give something back.

What these people have given back is a great management plan and a great resource that has multiplied all of these wildlife populations. So the hunters are the conservationists, and they are the ones, as the gentleman said, with their dollars and their sweat and labor, who have turned the desert into a resource of wildlife.

I thank the gentleman for yielding.

Mr. LEWIS of California. Mr. Chairman, I thank the gentleman for his contribution. The point the gentleman makes regarding what is really a public and nonprofit as well as a private partnership that has worked so well in the east Mojave, is endangered, indeed, by proposals within the bill before us.

In spite of that effective partnership, now Senator FEINSTEIN and Chairman MILLER and Mr. VENTO want to break up that partnership that has been working extremely well, all because this is a big issue to a small band of well-funded environmental elites, who live and work nowhere near the east Mojave.

☐ 1550

The CHAIRMAN. The time of the gentleman from California [Mr. LEWIS] has expired.

(By unanimous consent, Mr. LEWIS of California was allowed to proceed for 3 additional minutes.)

Mr. LEWIS of California. Mr. Chairman, the director of the California Department of Fish and Game, Mr. Boyd Gibbons, has sent letters to Mr. LEHMAN and Senator FEINSTEIN which attest to the very issues that prompted this amendment.

For example, Mr. Gibbons states, "Maintaining healthy wildlife populations in this desert environment requires active not passive management, and hunting is integral to that management."

Mr. Gibbons also states, "Because of our active management in the east Mojave, the desert bighorn sheep has come back from its low levels in the early 1900's to the viable populations that Californian's enjoy today." And "I am * * * concerned with preserving hunting in the east Mojave." The "Spirit of conservation must not be dampened by closing off the east Mojave to hunting."

Mr. Chairman, I am afraid that there is a severe lack of understanding by many in this body of the harsh terrain and type of activities which take place in the east Mojave.

For example, after Chairman MILLER discharged the subcommittee markup of this bill and went straight to a full committee markup, Mr. VENTO argued against this amendment. When referring to desert bighorn sheep Mr. VENTO kept calling them dall sheep. Just to set the record straight, dall sheep are only found in Alaska and the Northwest Territories in Canada. That is approximately 2,500 miles from the east Mojave. That is an even further distance than Mr. VENTO's home State of Minnesota and my district in southern California. However, desert bighorn sheep are present and hunted in the east Mojave desert. Obviously, dall sheep are not.

Mr. PACKARD. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from California.

Mr. PACKARD. Mr. Chairman, it is the gentleman's district that we are talking about, the east Mojave Desert area. I drive through that area many times a year. I have rarely seen among the hundreds of thousands of people that travel through on the highways of the east Mojave Desert area, I have rarely seen them stop and get off the road and just view the beautiful natural scenery. They get off the road to do recreational things, to hunt, to do other recreational activities in the desert.

If we remove that use and restrict that area to where there is no more recreational activity, we will essentially close down the desert to the enjoyment of the people. I think hunting is an absolute must, if we are going to really make that useful to the people rather than simply isolate it and say they can no longer use that beautiful land.

Mr. LEWIS of California. Mr. Chairman, I thank my colleague for his contribution.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I suppose once in awhile common names do get confused. Obviously, I think the intent was understood. I think the import of the argument that I made is still very valid, that there should not be either of these, in particular, the desert bighorn sheep, an endangered species.

The CHAIRMAN. The time of the gentleman from California [Mr. LEWIS] has again expired.

(By unanimous consent, Mr. LEWIS of California was allowed to proceed for 3 additional minutes.)

Mr. LEWIS of California. Mr. Chairman, responding to my colleague, I do understand that we do make mistakes from time to time and even trip over what our ideas might be. I was intrigued by the fact that earlier in his opposition statement, he suggested that even sometimes tortoise are found out in the desert with bullet holes in the shells or in them. In a previous statement in the committee, the gentleman suggested that it was maybe even more than that, stating that over 30 percent of desert tortoise are found dead in the desert with bullet holes in them in this particular area. That seemed a little strange to me.

After checking into the facts behind this, I found a 1986 Bureau of Land Management study titled "Incidence of Gunshot of Desert Tortoise." This study said that gunshot mortality of desert tortoise in the east Mojave is between 1.5 percent and 2 percent. That is a long way from 30 percent.

Indeed, the wildlife of the east Mojave has thrived as a result of the compact I described earlier, the partnership between public activity and that partnership that has worked so well with private sector interests, including the sportsmen of the country who live in, understand, and enjoy the desert. Today we are offering this amendment simply to allow them to continue that enjoyment and continue the contribution they are making to conservation.

Mr. LAROCCO. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from Idaho.

Mr. LAROCCO. Mr. Chairman, I just want to say that I have enjoyed working with the gentleman from California on this amendment. I appreciate his hard work on this and the bipartisan nature of our teamwork on this amendment. I appreciate the gentleman's closing statements.

I was particularly intrigued with the last comments that the gentleman made on the tortoise and bringing out the many points that he has today during the debate. I want to thank the gentleman for his good work on this and his help.

Mr. LEWIS of California. Mr. Chairman, I certainly want to express my appreciation to the author of this amendment, the gentleman from Idaho [Mr. LAROCCO], for his contribution. It has been a very, very positive working relationship.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, the statement I was reading is actually from a study done by Sievers in 1984, in which of the dead tortoise found on BLM lands, 30 percent had bullet holes in them. Sievers is the author of this particular document. I would be happy to give the gentleman the reference in terms of this particular work that was done and the study that documents that particular situation.

Mr. LEWIS of California. Mr. Chairman, in response, I would suggest that maybe Mr. Sievers needs to spend a little bit of time in the desert because he obviously has not seen very many tortoise out there.

Mrs. VUCANOVICH. Mr. Chairman, I move to strike the requisite number of words.

I rise in strong support of the LaRocco-Lewis hunting amendment to the California Desert Protection Act. Many of my constituents are sportsmen and women who cherish the opportunity for recreational hunting on the public lands, including those lands proposed for inclusion in the east Mojave Park.

Mr. Chairman, I am a member of the congressional sportsmen caucus, which supports this amendment. Our constituents play an integral role in wildlife management in all 50 States. Fishing and hunting license fees paid the freight for fish and game conservation activities. And as the gentleman from California [Mr. LEWIS] has referred to, Secretary Babbitt himself has recognized the importance of America's fishermen and hunters calling them the backbone of conservation in this country for nearly 60 years.

This amendment has broad-based support by a coalition of conservation and hunting groups. It is supported by the congressional sportsmen caucus, California's Department of Fish and Game, the County of San Bernardino Society for the Conservation of Bighorn Sheep, Wildlife Legislative Fund of America, National Rifle Association, Quail Unlimited, Safari Club International, and others too numerous to mention.

Mr. Chairman, I would refer again to the backbone of conservation in this country for nearly 60 years. That is what Secretary Babbitt said, and that quote, in my estimation, says it all. I urge my colleagues to vote "aye" on the LaRocco-Lewis amendment.

Mr. HUNTER. Mr. Chairman, I move to strike the requisite number of words.

My colleagues, I think we have had an excellent debate on this issue. I just wanted to say, before we go to a vote, that this is an issue that is very fundamental to the quality of life of literally hundreds of thousands of southern Californians.

Those people are Westerners who have in their families a tradition of hunting. Not all of them who are involved here, in fact, very few of them are wealthy people. They like the idea of being able to take their families out into what used to be the great open spaces of the West and spend some time with their sons, spend some time with their daughters, teach them how to shoot, talk to them a little bit about their values, a little bit about their heritage in the West and have kind of an enjoyable time without having to spend a ton of money.

These are people that cannot afford to go fly fishing in New Zealand or go whale watching down in Baja or do other things that many of the Members who oppose this amendment are quite capable of doing because they have the resources, the money to do it with.

This is a vote that is very important to working Californians. The natural resources that are in the desert have been developed by hunters. Hunters are conservationists.

Father of American conservationism, Aldo Leopold, was a hunter. He believed that one could take from the land, that is, harvest, the wild game species, but they also had an obligation to give something back to the land. And the conservation groups like Quail Unlimited, Desert Wildlife Unlimited, the Society for the Conservation of the Bighorn Sheep, and all the other groups, the Safari Club, all the other groups that were mentioned in this debate today give back to the land. They give back to the species. They go out and they build guzzlers, these water holes out in the desert.

□ 1600

If people do not have money, Mr. Chairman, and many of these people in these groups do not have money to donate, they go out, give of their sweat, give of their time, they give of their family, they go out, carry some cement in bags, they try to give something to the desert.

Mr. Chairman, we in Washington, DC, are taking, we are taking a great recreational resource away from a lot of working Americans who love to go out and hunt in that desert with their families.

Mr. Chairman, I just want to urge all of the Members of the House to consider those of us who have these desert districts, to put themselves in our shoes and to think about our constituents, those families that do like to hunt, do enjoy being sporting families and enjoy being sportsmen and sportswomen. I just want them to consider our constituents, give them the same consideration that they would give their constituents.

Mr. Chairman, I would ask my colleagues to support the LaRocco-Lewis amendment.

Mr. MILLER of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to this amendment, and given the debate that has taken place, I think what has been made clear is that this is not an attempt to preclude working families or anybody else from the desert. This is to recognize that these lands are under increased and additional pressure every year from multiple use of those lands.

This committee has been a very strong supporter of the multiple use of those lands, but multiple use of the lands does not mean that every use can be allowed on every acre of land. The decision has been made because of the overwhelming support of the people of the State of California. As we said here earlier today, over 72 to 75 percent of the people in the State want this to be a national park without hunting, which allows 10 million acres, 10 million acres for people to continue to pursue hunting.

Programs are being inaugurated already for an alternative bighorn sheep hunting area this year in the Chocolate Mountains, where bighorn sheep hunting will be allowed. Permits will be granted to individuals to go there.

The fact is, Mr. Chairman, as more and more visitors come to this area, hunting at this particular time of the year is incompatible with the management of this as a national park. The people of California want a national park.

Mr. Chairman, this committee has created many national parks and many wildernesses, and in the area of the author of the amendment in Idaho, we have struggled with wilderness; in Utah we have struggled with wilderness; in California and Colorado.

One of the things we have tried to do, Mr. Chairman, is to make that compatible with the concerns and the needs of the people in that State. We have worked on water rights, we have worked on land use, we have worked on access, we have worked on all of those components.

Here we have the overwhelming number of the people in this State saying that they want the national park, not a preserve. There is nothing wrong with creating a preserve. It is just that the people of the State here want a national park and it meets all of the standards of the national park system for their creation of that park.

That is what we preserve in this bill, Mr. Chairman, and that is when the Senate confronted this issue and it went with the national park, along with the desires of Senator FEINSTEIN and Senator BOXER. That is what most of our delegation wants. It is what most of the newspapers in the State want, and it is what most of the people in the State want, because we recognize that this is not incompatible with people's continuation of using this area for hunting. They will get ten times that. Ten times the amount of land that we are discussing here to make a park will be available for them to continue to hunt for the same wildlife that they hunt in this area.

The question is whether or not we will preserve the status of this area, the east Mojave, as a national park, the intent of this bill. I would hope people would reject this amendment. They should reject this amendment, because just as people on the other side of the aisle continue to stand up and talk about the increased cost, this really does add the cost. We think we can manage this as we transfer it from one Federal agency to another Federal agency, from the BLM to the National Park System, but now the National Park System tells us to manage it with hunting in that same area and it is about a half a million dollars a year in additional cost.

Mr. Chairman, Bruce Babbitt did not make those remarks about the East Mojave and about hunting, because he opposes that. He supports the national park. Secretary Babbitt supports that. I appreciate the quote, and the quote is quite accurate about the importance of hunters and sportsmen, but it did not pertain, it did not pertain to the east Mojave National Park.

Mr. Chairman, I would hope that my colleagues who are listening to this debate would understand the wishes and desires of the people of California. The Senate has already acted on this and chosen not to do this, and I would hope that we would reject this amendment and go with the committee bill, which creates and preserves the national park in the east Mojave.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I appreciate the gentleman yielding to me.

Mr. Chairman, I rise in opposition to the LaRocco-Lewis amendment making the current East Mojave Scenic Area a national preserve rather than a national park, as provided by the bill.

For those of us who live in California's urban areas, the desert is our park. It is a place where we can get away from the fast pace of the city and enjoy the desert's unique tranquility and natural beauty. The desert is home to giant sand dunes, the world's largest Joshua tree forest and 750 species of wildlife, including the endangered desert tortoise and bighorn sheep.

The desert is a place where all Americans can see firsthand the traces of ancient civilization where people carved and painted cave walls and scratched beautiful drawings on the desert floor.

The Mojave deserves national park status: First, it meets all criteria for national park status specified in NPS management policies; second, Secretary Babbitt has stated that "there is absolutely no question * * * that all these lands are park quality * * * and that the proposed Mojave National Park would be a very special addition to the National Park System," and third, Californians overwhelmingly support a Mojave national park with no hunting. To date, 16 counties and 36 cities representing more than 66 percent of the State's population are on record in support of H.R. 518. A February 1993 field institute poll found that nearly 70 percent of the respondents living in California's desert counties support the Mojave with no hunting as did 66 percent of the households with hunters.

Hunting should not be allowed in the Mojave:

First, national preserves cost more than national parks due to increased management and law enforcement requirements. Funding and staffing required to administer and patrol sport hunting and to monitor the impact on both wildlife and other visitors will drain resources away from the other important operations, such as maintenance and interpretation.

Second, the number of big game animals taken annually in the area proposed for the park is very small—approximately 5 desert bighorn sheep and 26 deer. More deer are killed by cars on the George Washington Parkway each year than in the 1.5 million-acre Mojave.

Third, the National Park Service has a longstanding policy of prohibiting hunting in the national parks. Currently 50 of 51 National Parks are closed to hunting—elk hunting, done by deputized park rangers, is permitted in Grand Teton National Park, WY—America's National Park System was created to protect the best and most unique lands America has to offer. Sport hunting has been judged to be incompatible with the resource preservation goals of national parks and with the pursuits of park visitors.

Fourth, there will continue to be abundant hunting opportunities in the desert under H.R. 518 on merely 10 million acres of Federal land outside the mojave National Park, including the 4 million acres of Bureau of Land Management wilderness designated by this bill.

The CHAIRMAN. The time of the gentleman from California [Mr. Miller] has expired.

(By his own request and unanimous consent, Mr. Miller of California was allowed to proceed for 5 additional minutes.)

Mr. BERMAN. Will the gentleman continue to yield?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I thank the gentleman for continuing to yield to me.

Mr. Chairman, in addition to the 10 million acres of Federal land, desert land outside the Mojave National Park, the State of California is opening new deer and bighorn sheep hunting areas outside of proposed park areas later this year. These will completely replace the hunting opportunities found in the proposed Mojave National Park.

H.R. 518 is one of the most significant pieces of environmental legislation to come before the 103d Congress, and I am proud to be a cosponsor. I commend my colleagues from California, Mr. Lehman and Mr. Miller; and Mr. Vento, for their tireless work in making this bill possible.

Again, I urge Members to oppose the LaRocco-Lewis amendment and to support final passage of the bill.

Mr. LEHMAN. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. LEHMAN. Mr. Chairman, this is the essence of the issue before us: Are we going to create a national park in the east Mojave for the benefit of millions of people, coincidental with the wishes of the people of California, or are we going to pass the LaRocco amendment and create a hunting preserve?

Mr. Chairman, we did not bring this bill all the way to the floor today to create a hunting preserve. We brought it here to preserve the east Mojave as an important part of our national landscape and give it the protection that it deserves.

Mr. Chairman, all of the things that are being talked about here as far as hunting is concerned are allowed in all the rest of the portions of the desert and the wilderness aspects of this legislation. In fact, 80 percent of San Bernadino County, with this legislation, is still open to hunting. The fact is, we are going to have hunting over most of this region, with or without this bill.

Mr. Chairman, if we do not take this step today to preserve the east Mojave, there is no other east Mojave. We do not have that option with the east Mojave.

Mr. Chairman, we studied this issue carefully. Look at the numbers. The hunting that takes place in this region is very limited. Last year, as a matter of fact, 20 to 30 deer and 5 bighorn sheep were harvested out of the 1.5 million acres.

Mr. Chairman, we have a choice to make. Are we going to choose to set up a hunting preserve for that limited activity here, or are we going to protect this land for future generations by making it a national park? Are we going to make a full-fledged national park, here standing alongside all the rest of our treasures, or are we just going to have a hunting preserve in the east Mojave?

Mr. Chairman, this is an issue of hunting versus non-hunting. There will be plenty of hunting in the east Mojave in appropriate places, and the uses of the land in the vast majority of cases remain as they are today, but on this one little treasure of our American landscape we have decided here to elevate its status to make it a national park. Let us make it a full-fledged, real national park and let us not subject the 1 million visitors a year who are going to visit this place, according to the National Park Service, as opposed to the 300,000 who visit it now, subject them to the dangers inherent when these two types of activities co-exist this closely on that kind of property.

Mr. Chairman, there are plenty of places to hunt. We are not doing anything to detract from that. We are trying to create a national park out of one of America's greatest treasures here. This bill is not about a hunting preserve for a few, it is about a national park for the American people. Let us reject the amendment.

Mr. MILLER of California. Mr. Chairman, I thank the author of the bill for his comments, and I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this has been an interesting debate. Everything some people say about granting rights with 90 percent left for hunting, 80 percent, the truth of the matter is, we are taking away a right from a group of people and giving it to another group of people.

□ 1610

All we are trying to do with the LaRocco amendment is to have the ability to manage fish and wildlife, not fish in the desert, no, but wildlife by the State.

The State supports this.

Mr. Chairman, it is so funny to me when I hear Members such as the gentleman from California [Mr. MILLER], my good chairman, say 75 percent of Californians support this bill, that the polls show that we should support this bill, oppose this amendment and support the desert wilderness bill. That is funny. I listened to 75 percent of Alaskans oppose this Congress when they made parks, but at that time it was in the national interest. I heard this body ignore the rights of people in Utah and Nevada and Oregon and California that lived in those areas because it was in the national interest. Now I am hearing the same thing from Californians who say 75 percent of the Californians, yes, from San Francisco; yes, maybe from L.A., but not the people that are represented by the Members on this floor, no, they are not. They are not. The people oppose this legislation and they support this amendment. They support this amendment.

If Members really and truly believe, and I have said this so many times on the floor, in true representation and this form of government, they should be listening to those Members who represent those people in that area.

In all due respect to my good friend, the gentleman from Minnesota [Mr. VENTO], he is not from that area. The gentleman from California [Mr. MILLER], is not from that area, the gentlewoman from L.A. and the gentlewoman from San Diego are not from that area.

Yes, there are small parts of land, but the area we are talking about today, this amendment itself, is supported by every group in that area, including the State of California.

Is that not true?

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate my colleague yielding, and I very much appreciate the point he is making, for we have come to the floor and bitterly complained at the lack of willingness on the part of this committee to be responsive to the five Members of Congress who are elected to represent the desert. I was interested in noting that my colleague, the author of this measure, suggested we did not bring this bill to the floor to create a hunting preserve in the East Mojave. Indeed we did not. We brought this bill to the floor for many reasons. The author of the bill failed to mention the fact that there is a part within this bill proposed in the Death Valley National Monument that involves almost 2 million acres. There is a park proposed in this bill in the Joshua Tree National Monument that involves almost 1 million acres. The east Mojave is the least likely location for a park in that region. Three million acres of additional parkland is quite a bit when we are not providing any mechanism for funding. But in the east Mojave, we have got thousands of miles of roadway and endless utility lines. It is very unlike park status. This bill simply allows for reasonable and sensible multiple use in the east Mojave area and creates a preserve that does allow, among other things, the continuation of hunting and positive management in the region.

Mr. YOUNG of Alaska. The east Mojave, this amendment makes it a true multiple use area.

Let us not be confused with what is being presented by the chairman of this committee and the vice chairman of the committee in saying the whole bill makes a hunting preserve. We are talking about one small area that has always been utilized and has been improved upon by the hunting efforts in that area.

It is crucially important, my colleagues, to support the LaRocco-Lewis amendment. If Members truly believe in representation in government, support this amendment. If Members believe in big Government, if Members believe in Big Brother, if Members believe that this Congress from the east coast knows what is best on the West, then vote against it.

Mr. PACKARD. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I gladly yield to the gentleman from California.

Mr. PACKARD. Mr. Chairman, I appreciate the gentleman yielding. In my subcommittee of the Committee on Appropriations which is the Subcommittee on Interior, Secretary Bruce Babbitt when we were addressing the budget for the operation of the National Park System of this country was complaining because of the shortages of funds and the fact that we may have to cut back in services in our existing national parks. In jest, he said, "We may have to close down the Washington Monument for a few days out of every month in order to pay for the existing services in our national parks."

The question that comes to my mind and that I asked him at the time, why, then, would we want to create three new parks in the desert of California when we have not the funds to operate the existing parks?

There is no question in my mind that the operational costs of these three new national parks will take money away from national parks, in many other States throughout the country.

The CHAIRMAN. The time of the gentleman from Alaska [Mr. YOUNG] has expired.

(By unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 1 additional minute.)

Mr. YOUNG of Alaska. Mr. Chairman, may I stress again, it is the right, and the gentleman brings up a very valid point, the right of the States to manage fish and game. Every State in the Union has that right. That is the constitutional law, until it is created into another area such as a national park.

This is not going to cost the Park Service any more money. The State of California which supports this amendment will, in fact, put out the money if there is any additional money for the management of game in these areas.

Mr. Chairman, this is an important amendment to preserve the area for hunting and for the management of fish, management of game, and I keep saying fish because we have that in Alaska, management of game that we have this LaRocco-Lewis amendment to maintain the east Mojave as an area that has been improved by the hunters. We must support this amendment. It is the correct thing to do. It does not do great damage to the rest of the bill as some Members may suggest.

Again I want to stress it is no more cost to the Park Service, although these new parks will cost an additional amount of money and we do not have the money for new parks at all.

Mr. LAROCCO. Mr. Chairman, I ask unanimous consent to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Idaho [Mr. LAROCCO] is recognized for 5 minutes.

There was no objection.

Mr. LAROCCO. Mr. Chairman, I will be closing the debate on this important amendment, but I want my colleagues to know on both sides of the aisle that when I drafted this amendment, I did not take that task lightly. What I was after in drafting this amendment was the protection of the resource and the protection of our traditional values and our traditional uses in this area.

I looked at the actions of this House and the 102d Congress where we passed a similar amendment and we did the same thing, and I think we strengthened the bill, we brought in bipartisan support and we supported the bill in the final analysis and passed the bill out of here and sent it to the Senate with 297 aye votes. One of those was mine. But as I looked at the bill, I said, what we can do if we just try harder is that we can protect a resource and protect the traditional uses in the area. So when the bill came up again, I looked at the Marlenee amendment that passed in the 102d Congress and I said, "I think we can do better."

Mr. Chairman, we talk about preserves and parks, but what I am talking about is protection. In no way is this amendment intended to degrade the use or the protection of that area or the management of that area.

If Members look at where the management is right now, the present status is a national scenic area. As adopted in 1991, it went up a poke to the national monument and it was managed by the Park Service as we passed it out of here. My amendment would protect it under the Park Service as a preserve. It is in no way intended to be a gutting amendment. It is intended to protect our traditional rights and uses in the area and also put it under the protection of the Park Service.

Mr. Chairman, let me just reiterate what we do here with this amendment. It permits hunting that now takes place to continue. It continues traditional uses. Is there anything wrong with that? We do that around here all the time. The gentleman from Alaska is exactly correct. Why should we erode those rights and the values that people in California, from all over the Nation, support and experience?

Second, it allows the Department of Fish and Game of California to stay involved and continue its extremely successful wildlife management program in the area. It is called States rights. It is called States rights. Who in this body would not want to get on this floor and support States rights, especially with the California Department of Fish and Game?

It protects the area as a national preserve and puts it under the jurisdiction of the U.S. Park Service.

We have talked a lot about what the resources are here and whether people hunt in California or whether they hunt more or they hunt less. Let me just read a letter, my colleagues, from the Director of the California Department of Fish and Game.

He said, "Hunters in California may appear to have huge territories in which to hunt, but the reality of population growth and recreation demands in this State makes it increasingly more difficult for the hunting public to enjoy a day in the field," with their families. "In the East Mojave and the Death Valley expansions into Hunter Mountain and Last Chance Range, where the imprint of hunters has been hardly noticeable and their contributions to wildlife considerable, hunters could be seated off from a vast region in which hunting is compatible with desert preservation."

Mr. Chairman, there is an interesting word that starts with a "p." It is another protection word. It says preservation, stated by the Director of the California Department of Fish and Game, that it preserves the wildlife in that critical area.

☐ 1620

Let me read to my colleagues here the language that I so carefully put into this amendment that gives the Secretary of the Interior authority. My amendment states:

> The Secretary shall permit hunting, fishing and trapping on lands and waters within the preserve designated by this Act in accordance with applicable Federal and State laws, except that the Secretary may designate areas where, and establish periods when, no hunting, fishing or trapping will be permitted for reasons of public safety, administration or compliance with provisions of applicable law.

What is wrong with that? That makes sense. It makes common sense.

Those of us from the West who have seen our rights eroded by our own actions, which is unacceptable, or by bureaucratic actions, we must take action today.

The gentlewoman from Nevada stated the number of people and groups supporting this. I will not go through that. Let me just summarize by saying this: This upgrades the status of the east Mojave from a national scenic area and BLM management. It upgrades it. It does not downgrade it. It upgrades it. It protects the resource. It allows hunting to continue. That is the purpose here. It allows effective wildlife management to continue. It protects States' rights, and it avoids setting precedent.

It supports the contributions of sportsmen, and it has the backing of many groups. It has the backing of Democrats. It has the backing of Republicans.

I urge my colleagues on this vote to vote "aye" on the LaRocco-Lewis amendment. Protect these traditional rights. Protect the east Mojave.

Mr. STEARNS. Mr. Chairman, I rise today in strong support of the LaRocco/Lewis amendment to the California Desert Protection Act.

This amendment is a true compromise. It uses the National Park Service's designation of preserve to connote lands that are held within the Park Service, but are not national parks. By creating a preserve, we establish new park lands, but we do not do so at the sake of moderation. A preserve ensures the continuation of all recreational activities within the east Mojave Desert, as well as, guaranteeing that hunting be allowed to continue.

The preserve designation was first created in the 1970's by the House Natural Resources Committee for the Big Thicket and Big Cypress National Preserves in Texas and Florida. Since then, the preserve designation has been employed numerous times. It has proved to be a most successful and valuable compromise for all interested parties.

In fact, creation of a preserve, as proposed by the LaRocco/Lewis amendment, provides all the protection from commercial development—just like a park, but it allows sportsmen to continue their pursuits. Furthermore, preserve designation allows the California Department of Fish and Game to stay involved within the park as they always have been. They support the LaRocco/Lewis compromise, but do not support a national park designation.

We need to support this compromise. There are no rational reasons to oppose the LaRocco/Lewis amendment. In fact, the only excuse for voting against the amendment is disdain for hunting: A vote against this amendment is a vote against hunting. The only difference between the national park status and the preserve designation is hunting. It provides for everything that the NPS would desire, but goes further by allowing sportsmen and hunters alike to enjoy the area. Preserve status allows more enjoyment of the traditional uses of this land.

I urge my colleagues to support the LaRocco/Lewis amendment today. It presents a compromise that we can all live with.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Idaho [Mr. LAROCCO].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. LAROCCO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 239, noes 183, not voting 17, as follows:

[Roll No. 316]

AYES—239

Allard
Andrews (TX)
Applegate
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Boucher
Brewster
Brooks
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chapman
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Combest
Condit
Cooper
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Doolittle
Dornan

Dreier
Duncan
Dunn
Edwards (TX)
Emerson
Everett
Ewing
Fields (TX)
Ford (MI)
Ford (TN)
Fowler
Frost
Gallegly
Gekas
Geren
Gingrich
Goodlatte
Goodling
Gordon
Grams
Grandy
Green
Greenwood
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Hefner
Hilliard
Hoekstra
Hoke
Holden
Houghton
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, Sam
Kanjorski
Kasich
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
Kopetski
Kyl
Lambert
Lancaster
LaRocco
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Lucas
Machtley
Manzullo
Martinez
Mazzoli
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
McMillan
McNulty
Mica
Michel
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Murphy
Murtha
Myers
Neal (NC)
Nussle
Oberstar
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Rahall
Regula
Roberts
Rogers
Rohrabacher
Roth
Rowland
Royce
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Sundquist
Swift
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Thurman
Traficant
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Williams
Wilson
Wise
Wolf
Young (AK)
Young (FL)
Zeliff

NOES—183

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Bacchus (FL)
Barrett (WI)
Becerra
Beilenson
Berman
Bilbray
Blackwell
Boehlert
Bonior
Borski
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Clay
Clayton
Clement
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Coyne
de Lugo (VI)
DeLauro
Dellums
Derrick
Deutsch
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Ehlers
Engel
English
Eshoo
Evans
Faleomavaega (AS)
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Foglietta
Frank (MA)
Franks (CT)
Franks (NJ)
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Goss
Gunderson
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hinchey
Hoagland
Hobson
Hochbrueckner
Horn
Hoyer
Hughes
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kaptur
Kennedy
Kennelly
Kildee
Klein
Klink
Kreidler
LaFalce
Lantos
Lazio
Lehman
Levin
Lewis (GA)
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Matsui
McCloskey
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Moran
Morella
Nadler
Neal (MA)
Norton (DC)
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Penny
Porter
Price (NC)
Ramstad
Rangel
Ravenel
Reed
Reynolds
Richardson
Roemer
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Roybal-Allard
Rush
Sabo
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Skaggs
Slaughter
Stark
Stokes
Studds
Stupak
Swett
Synar
Thompson
Torkildsen
Torres
Torricelli
Towns
Tucker
Underwood (GU)
Unsoeld
Upton
Valentine
Velazquez
Vento
Waters
Watt
Waxman
Weldon
Woolsey
Wyden
Wynn
Yates
Zimmer

NOT VOTING—17

Brown (CA)
Carr
DeFazio
Flake
Gallo
Herger
Huffington
Istook
Laughlin
McCurdy
McDade
Obey
Ridge
Slattery
Washington
Wheat
Whitten

☐ 1642

Messrs. PENNY, STUPAK, and JEFFERSON changed their vote from "aye" to "no."

Messrs. KIM, PICKLE, TAYLOR of Mississippi, and HILLIARD changed their vote from "no" to "aye."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BILBRAY

Mr. BILBRAY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BILBRAY:

Amend Section 402 (relating to Establishment of the Mojave National Park) of bill to read as follows:

"SEC. 402. There is hereby established the Mojave National Park, comprising approximately one million four hundred nineteen thousand eight hundred acres, as generally depicted on a map entitled "Mojave National Park Boundary—Proposed" dated May 17, 1994, which shall be on file and available for inspection in the appropriate offices of the Director of the National Park Service, Department of the Interior."

Mr. BILBRAY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. BILBRAY. Mr. Chairman, I also ask unanimous consent that the debate time allotted on this amendment be 10 minutes, 5 minutes on each side, to include my amendment and any amendments thereto.

The CHAIRMAN. Is there objection to the request of the gentleman from Nevada?

There was no objection.

The CHAIRMAN. Without objection, the time for debate on this amendment will be limited to 10 minutes, to be allotted equally, 5 minutes on each side.

Mr. BILBRAY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bill is a matter of compromise.

It has been over 5 years in the making.

This amendment recognizes valid mining claims that are part of the proposed Mojave National Park and one of the mining operations affected by this bill is Viceroy Gold.

My amendment would allow for the continued operations of the most environmentally sensitive mining operation in the world, Viceroy Gold.

Viceroy Gold has spent millions of dollars in developing and implementing its environmental remediation programs.

Viceroy has gone to great lengths to protect a threatened species, the desert tortoise.

Viceroy has purchased the 150,000 acre Walking Box Ranch and has created 50,000 to 60,000 acres of the best tortoise habitat in southern Nevada.

Viceroy has constructed a tortoise fence around the mine site.

Viceroy employs a certified biologist to assist with proper removal of this threatened specie.

These planned actions have resulted in a no jeopardy opinion by the Fish and Wildlife Service.

Additionally, the fully enclosed heap-leach process does not create ponds that might otherwise be harmful to migratory birds.

Viceroy has developed an experimental nursery in order to facilitate revegetation studies on plant materials and seed propagation.

Viceroy has also been stockpiling barrel cactus and Joshua trees for the revegetation program.

The Viceroy project is also recountouring the mined areas to blend with the surrounding terrain.

As a result of their efforts Viceroy has received the California Mining Association Technical Achievement Award that was supported by the Sierra Club legal defense fund.

Finally, Viceroy has also purchased and rehabilitated mines that pre-date their involvement.

In conclusion, it is my hope to pass this amendment in order to bring this bill in concert with the Senate version.

Mr. HANSEN. Mr. Chairman, we have looked at the amendment offered by the gentleman from Nevada [Mr. BILBRAY]. We feel it is a good amendment. We go along with it on our side. We do feel we should help the small miners as well as the large ones, and we feel this is a good amendment and would go along with the gentleman from Nevada.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA TO THE AMENDMENT OFFERED BY MR. BILBRAY

Mr. MILLER of California. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California to the amendment offered by Mr. BILBRAY: Insert "(a)" after "402." and add at the end the following:

(b)(1) There is hereby established the Dinosaur Trackway Area of Critical Environmental Concern within the California Desert Conservation Area, of the Bureau of Land Management, comprising approximately five hundred and ninety acres as generally depicted on a map entitled "Dinosaur Trackway Area of Critical Environmental Concern", dated July 1993. The Secretary shall administer the area to preserve the paleontological resources within the area.

(2) Subject to valid existing rights, the Federal lands within and adjacent to the Dinosaur Trackway Area of Critical Environmental Concern, as generally depicted on a map entitled "Dinosaur Trackway Mineral Withdrawal Area", dated July 1993, are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments thereto.

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BILBRAY. Mr. Chairman, I yield myself such time as I may consume.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. BILBRAY. I yield to the gentleman from California.

Mr. MILLER of California. Quickly on my amendment, Mr. Chairman, it is compatible with the amendment offered by the gentleman from Nevada [Mr. BILBRAY]. This amendment deals with the Molycorp/Unocal Corp. The amendment removes 890 acres from the Mojave National Park to remove mining claims and make park boundaries more manageable. In addition, Mr. Chairman, the amendment removed about 400 acres of patented lands from the park. My amendment also established a congressionally designated 2,950-acre dinosaur trackway area of critical environmental concern to protect the only known dinosaur tracks in California. The tracks are approximately 180 million years old. In exchange for the map boundary changes, Mr. Chairman, Unocal dropped 2,246 acres of mining claims, including 1,559 claims within the proposed Mojave National Park and 687 acres outside the proposed park.

Mr. Chairman, Unocal operates the Mountain Pass mine, the only rare earth mine in the United States. Approximately 235 people are employed by the mine, and the annual payroll exceeds $10 million, and both provisions were included in the Senate bill, and I ask for the support of my amendment to the amendment.

□ 1650

Mr. BILBRAY. Mr. Chairman, I would like to point out that this conforms the House bill to the Senate version, and sets the same boundary lines.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I note that this amendment addresses itself to withdrawing lands that affect basically two corporations, Molycorp, as amended by Chairman MILLER, and Viceroy Gold. While I have no opposition to withdrawing those lands, I would just note that throughout this bill, it seems where we made exceptions to certain interests, the largest exceptions have been to the very large. Molycorp is a very sizeable corporation. Viceroy Gold is as well. Catellus is given special advantage in this process relating to the California desert. Catellus is a land holding company for the Sante Fe Railroad. The Teachers Union gets special attention. I wonder why we do not give special attention to the small people, the small mine holder, the small land owner, in the Mojave. It is a point, Mr. Chairman, I thought I just should bring to the attention of the House.

Mr. BILBRAY. Mr. Chairman, I yield back the balance of my time.

Mr. HANSEN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MILLER] to the amendment offered by the gentleman from Nevada [Mr. BILBRAY].

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nevada [Mr. BILBRAY], as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there further amendments to title IV?

AMENDMENT OFFERED BY MR. CUNNINGHAM

Mr. CUNNINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CUNNINGHAM: On page 53, after line 24, insert the following:

SEC. 416. NO ADVERSE EFFECT ON LAND UNTIL ACQUIRED.

With the exception of lands owned by the California State Lands Commission and the Catellus Development Corporation, the owners of all lands acquired pursuant to this Act and the Wilderness Act or their designees shall be entitled to full use and enjoyment of such lands and nothing in the Act shall be—

(1) construed to impose any limitation upon any otherwise lawful use of these lands by the owners thereof or their designees.

(2) construed as authority to defer the submission, review, approval or implementation of any land use permit or similar plan with respect to any portion of such lands, or

(3) construed to grant a cause of action against the owner thereof or their designee, except to the extent that the owners thereof or their designees may, of their own accord, agree to defer some or all lawful enjoyment and use of any such lands for a certain period of time.

Mr. CUNNINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CUNNINGHAM. Mr. Chairman, the issue is that we understand that land can be taken by the Federal Government. But in the past, there are lands that have been tried to be condemned or taken by the Federal Government, and the Federal Government cannot pay for those lands. We are up to $3 billion in back moneys that we need to buy the lands that we already have.

While that is happening, the person that owns the property goes onto a list, but yet they are still under the laws that prevent them from doing most things with their property.

There will be an attempt to offer an amendment to the amendment, and what it does, and I read, "With the exception" and all that follows and insert:

Unless and until acquired by the United States, no lands within the boundaries of wilderness areas or National Park System units designated or enlarged by this Act that are owned by any person or entity other than the United States shall be subject to any of the rules or regulations applicable solely to the Federal lands within such boundaries and may be used to the extent allowed by applicable law.

What that does, any time there is a take provision for an endangered species or a take, it basically guts everything we are trying to do here.

I am offering this amendment on private property rights on behalf of myself and my colleagues, the gentleman from Louisiana [Mr. TAUZIN], who cannot be here with us today, who had an excuse, the gentleman from North Carolina [Mr. TAYLOR], and all of us are accepting an amendment that protects the people that are having their lands taken away by the Federal Government. All we are asking for is they pay for those lands before those restrictions go on to them.

In California Desert Protection Act, there are over 7 million acres of wilderness and new natural parks, although most of the land is currently public land. There are 700,000 acres of private property, that would become inholdings within the national parks and wilderness upon enactment. Most of this private land you will find is a checkerboard pattern throughout the proposed parks.

There are now approximately 150,000 acres owned by small private owners. Just like my friend, the gentleman from California [Mr. LEWIS], we do not want to take exception just to the large companies, but the small people.

One hundred fifty thousand acres owned by individuals, ranchers, owners of private property, and, again, all we are asking is if the Government is going to take that land, that they pay for it. But right now the Government does not have the money.

Most of this land is within the proposed Mojave National Park. Unfortunately, these owners who do not have well-organized political lobbyists and did not get special treatment from the Congress, like the two largest land owners, the example of the gentlewoman from California in the other body, have not had the opportunity to have this come up. As a result, it could be years before their lands are brought before the Federal Government. The National Park Service already has a backlog of two to three billion, and I say billion dollars, Mr. Chairman, not million dollars, or a shortfall in funds that we already have that we cannot pay.

While those farmers and ranchers are waiting, they are subject to rules which keep them from doing anything with their property. For example, if they want to apply for a permit to put a new dwelling on it, they cannot do it. What this amendment does is it protects those private property rights so that when the Federal Government says we want your land, that is okay. But pay for it, and then those rules and regulations will be applicable, not during the long period in between.

It is a private property issue. Because of this massive land acquisition backlog and the fact that Congress typically underfunds the National Park Service, with the President wanting to reduce the deficit, there is no way we are going to be able in the future to pay for these lands. So, again, these landholders are going to be sitting in limbo and not able to use their land.

History shows these property owners' land is actually purchased by the Park Service. It just does not work.

Mr. Chairman, in the community of Foresta, CA, as an example, located within Yosemite National Park, was a scene when we had a terrible fire. When my dad was alive, we used to go up there every summer. But because of the fire, the National Park said to local landowners that had their property burn down, and they tried to rebuild, they were opposed every step of the way by the Park Service, which said that the development was not compatible with the purposes of the park.

The Park Service even fought the county, the zoning officials, which supported the rebuilding effort. I have a lot of examples, Mr. Chairman, but in the interests of time, we will not go through them. But time after time after time, it has prevented property rights and people that own their property from doing anything with that land.

I submit this with the gentleman from Louisiana [Mr. TAUZIN] and the gentleman from North Carolina [Mr. TAYLOR] is in the best interests of the American people for property rights.

Let me share some important facts about the California program with you. California has over 1,000 candidates for listing of endangered species. This is also in effect.

Mr. Chairman, I ask for support of this amendment with my colleagues, the gentleman from Louisiana [Mr. TAUZIN] and the gentleman from North Carolina [Mr. TAYLOR].

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA TO THE AMENDMENT OFFERED BY MR. CUNNINGHAM

Mr. MILLER of California. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California to the amendment offered by Mr. CUNNINGHAM: In the matter proposed to be inserted by the amendment, strike "With the exception" and all that follows and insert: "Unless and until acquired by the United States, no lands within the boundaries of wilderness areas or National Park System units designated or enlarged by this Act that are owned by any person or entity other than the United States shall be subject to any of the rules or regulations applicable solely to the Federal lands within such boundaries and may be used to the extent allowed by applicable law."

Mr. MILLER of California. Mr. Chairman, I would hope that the House would accept this amendment to the second degree, because I think in fact it carries out the intent that the gentleman from California [Mr. CUNNINGHAM] has, and many of us share, and that is as we change land classifications and land policies of Federal land, people who have private property, the inholders in those areas, sometimes are adversely affected.

□ 1700

We have either chosen not to buy their lands or if we want to buy the lands, we do not have the money to buy their lands. Then we start muscling in on them with the bureaucracy to make the lands easier to acquire in the future, and that simply is unfair and should not be allowed.

I think that is what the gentleman from California is seeking to take care of. The problem with his amendment is it goes beyond that so that it eviscerates any laws on this impact.

Let me give my colleagues an example. One is dealing with mining in the park. We allow people to go forward and mine in the park under the mining-in-the-park regulations. Many of the mining operations that we have exempted will in fact go forward under mining in the park, new claims, if they are perfected, will go forward under mining in the park. This throws that out. There should be different rules for mining in the park.

The other one is, this also says where we have a generic law that does not allow you to bring hazardous waste, toxic waste on your property is as an end holder. This overrules that.

So what my amendment, and I say this is absolute good faith and agreement with the gentleman, says is that your will not be subject to the rules and regulations extended to those Federal lands. They cannot be extended to you as a private property landowner and you can continue to use your land according to the applicable laws which may be of the County Planning Commission or the local ordinances that you want to preserve. That is what this amendment says.

I see the staff scuttling around so if somebody has a different version, let me know. The fact is, that is what this amendment does. That is the intent, is to preserve that right of that individual, but not to far exceed.

The gentleman referred to the situation in Yosemite. Yosemite, because of its status as a first park and when it was done and so forth, they had exclusive right over all of the lands. That was granted to them by the Congress. It overrode the local jurisdictions. That is what happened there.

We do not do that any longer, and we should not do that because it is incompatible with people who have these end holdings.

I want to tell the gentleman, the problem is not ideological or an attitude. The problem is, I think the amendment goes far beyond because it also allows uses on that property, toxic waste is the big one, where we have a generic statute.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, I agree with the gentleman. I do not want to be able to put toxic waste, and I support that issue.

I would ask the gentleman from California, can we do that by striking the third paragraph of my amendment. It just says, "Construed to grant a clause of action against the owner thereof or their designee, except to the extent that the owners thereof or their designees."

I would say to the gentleman from California, paragraph 3, I think we could strike that and, with my amendment, and do the same thing.

Let me ask the gentleman, under this amendment, if I have a piece of private property as a rancher, am I allowed, because I am subject to the laws, am I allowed to build a building or something on that property with a permit?

Mr. MILLER of California. Mr. Chairman, yes, that was a discussion in the Senate. I agree with that, and that is the intent I think the problem is, again, I want to make the gentleman's concerns work. Let us understand, we are operating here on the same wave length.

On section 1 of your amendment, you say, "Construed to impose my limitation upon otherwise lawful use." The gentleman overrides the statute. Because that is a lawful use, we prohibit it on private lands within these parks, specifically with toxic and hazardous waste. The gentleman overrides that, we are told by the solicitor's office, because this generically is creating, these parks are now a preserve, creating these areas. So the gentleman, in fact, overrides that.

The other one, interestingly enough, comes from the objection of local agencies that believe that this infringes upon their local authority. What we try to say in my amendment to the gentleman's amendment is, let us make sure that we do not start bureaucratically creeping out and imposing these restrictions on people's private property, whether they have a house or a farm or they want to add on a bedroom, whatever they want to do. That was, again, the debate that was going on around here, that they have a right to do that. Let them go to local planning or abide by State and local laws. That is it. That is my amendment, and I will be glad to work with the gentleman.

The CHAIRMAN. The time of the gentleman from California [Mr. MILLER] has expired.

(On request of Mr. CUNNINGHAM, and by unanimous consent, Mr. MILLER of California was allowed to proceed for 1 additional minute.)

Mr. MILLER of California. Mr. Chairman, I yield to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I received this amendment to the amendment about 30 seconds before I offered the amendment. If that, in fact, is what it does, I have no objection to the gentleman's amendment.

Mr. MILLER of California. Mr. Chairman, I say to the gentleman, it is my very strong belief that that is what it does.

Mr. CUNNINGHAM. Mr. Chairman, if the gentleman will continue to yield, I will consult with the cosponsors of it, the gentleman from Louisiana [Mr. TAUZIN] and the gentleman from North Carolina [Mr. TAYLOR] to make sure that they understand that that is what it does. I thank the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I raise not a philosophical problem with the amendment. I raise two technical problems that have been raised to us, one by local jurisdictions and the other with respect to section 16 U.S. Civil Code 460/22, which says, "followed waste disposal operations are prohibited." That is what we seek.

I would just say, I think this amendment works it out and maintains the concerns that the gentleman has.

Mr. HANSEN. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

I wonder if the chairman of the committee would enter into a colloquy with me. If I may say so, if I have heard the discussion between the gentlemen from California, the gentleman in effect says he wants to see the effect of the gentleman's amendment work and he feels the amendment that he has added to it makes it more workable and would take nothing away from the intent of the gentleman's amendment.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, that is right. I say that because I think that is consistent with both the views of the California Senators. They have part of this debate. I have a very strong aversion to bureaucratically extending obligations on people that the Congress did not extend on.

We are clear, people are either in the public domain here in the park or the preserve or they are out of it. And for private end holders, we ought not to be attributing to their property qualities what we attribute to the Federal preserve when, in fact, they are not part of it.

Mr. HANSEN. Mr. Chairman, what the gentleman has said then, if I could draw a conclusion and the body can draw a conclusion, we have confirmed here that any Park Service rules, regulations, or whatever will not affect private property in any way?

Mr. MILLER of California. Mr. Chairman, if the gentleman will continue to yield, beyond what they are affected today under existing law as private property owners, local counties owning or Fish and Wildlife, whatever. But not Federal.

Mr. HANSEN. That is my concern.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, I would like to continue a colloquy with the gentleman from California.

Since we just received this and in consultation with the gentleman from Louisiana [Mr. TAUZIN] and the gentleman from North Carolina [Mr. TAYLOR], maybe if the gentleman will allow us, under unanimous consent, to re-address this amendment, maybe we can make it the Tauzin-Miller-Taylor-Cunningham amendment and do it bipartisan. I think we are both trying to do the same thing.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, before the gentleman from California responds, I heard, I think, the gentleman's words that he wants to make sure that his amendment does what we intended, which was to make sure that as far as these private land holdings are concerned within these parks or wilderness areas, that until they are acquired by the Federal Government in fee title, that they are subject to no new, no different regulations as to uses on those properties.

In that regard, I would like to ask several specific questions.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, the two that I mentioned to the gentleman from California [Mr. CUNNINGHAM], we have a generic statute that does not allow you to bring a hazardous waste operation on to your property, if you are an end holder within a national park.

The other one is for mining operations, that they mine under the generic law of mining in the park.

Mr. TAUZIN. Mr. Chairman, if the gentleman will continue to yield, specifically now, if someone who owns private property within the park that has not yet been acquired by the Federal Government seeks a permit from the Government for use of his property, such as a 404 permit or a right-to-incidental take under the Endangered Species Act in order to use his property, would the gentleman's language make it clear that there is no added restriction on the granting or the not granting of those permits?

□ 1710

For example, we are told that it may be possible for the Government to say, "Wait a minute, these lands are scheduled to be acquired later. Therefore, we will not grant any 404 or ESA permits."

Mr. MILLER of California. If the gentleman will continue to yield, that is exactly what happens. There are many people who support my views on the environment and whose views I support, who believe that is legitimate. I do not believe that is legitimate. Those lands, whether it is a 404 permit question or an Endangered Species Act question or a question of the local planning commission, that should not be prejudiced one way or another.

Mr. Chairman, if we want that to be a part, then we have to buy that land. We ought to recognize that somehow the Congress made a decision for some period of time, or the administration has not been able to acquire the funds, that that is private property and that ought to be retained as private property.

The gentleman from California [Mr. LEHMAN] and I struggled with this, along with Senators FEINSTEIN and BOXER, because there have been unusual examples where people have said that they could not do this on our property, or whatever, so we do not want to do that.

Yosemite, as I said, is unique. The Forest situation in Yosemite is different because they had been granted the authority already.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, would my friend, the gentleman from Louisiana [Mr. TAUZIN] be in concurrence with sitting down with the gentleman from California [Mr. MILLER] and I and working out the language and offering the amendment under unanimous consent at a later time?

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I not only would consent to that, I think it is probably in the best interests of the committee. What I am hearing from the gentleman from California is precisely what I would hope would be contained in an amendment. My concern is simply that the words do what we all say we want them to do. If the gentleman from California would agree to that procedure, I would be more than happy to work with both Members to that end.

Mr. LEHMAN. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from California.

Mr. LEHMAN. Mr. Chairman, I would like to have a brief discussion with my colleague, either the gentleman from California or the gentleman from Utah. I just read the original amendment.

The CHAIRMAN. The time of the gentleman from Utah [Mr. HANSEN] has expired.

(At his own request, and by unanimous consent, Mr. HANSEN was allowed to proceed for 2 additional minutes.)

Mr. LEHMAN. Will the gentleman yield, Mr. Chairman?

Mr. HANSEN. I yield to the gentleman from California.

Mr. LEHMAN. Mr. Chairman, listening to the discussion, I understand what we are trying to do. I have no problem with it. I agree with it. The language in the original amendment, however, states that with the exception of lands owned by the State Lands Commission or Catullus, the owners of all land acquired pursuant to this act and the Wilderness Act shall be entitled to full use and enjoyment of such lands.

To me, the language "acquired pursuant" means it is Federal land at that point. Is that just an error in drafting?

Mr. CUNNINGHAM. Mr. Chairman, if the gentleman will yield further, no, it is private land that the Government wants to buy. Again, the property, when the Federal Government does that, they do not have the money to pay for it, but yet the landowner, because the Federal Government owns it——

Mr. LEHMAN. Mr. Chairman, if the gentleman will yield further, I understand that. I just read the amendment as not being clear on it. It says "all lands acquired." Hopefully, and I have not seen the text of the substitute here, it will clarify that to do what the gentleman wants done.

Mr. CUNNINGHAM. If the gentleman will yield further, in this agreement what we would like to do is sit down with my friends, the gentleman from California, and work that out, because I think we are all going in the right direction.

Mr. LEHMAN. Mr. Chairman, if the gentleman will yield further, just to emphasize what has been said here, with regard to Yosemite and, as a matter of fact, some of the early parks, the Congress granted exclusive jurisdiction over land within those boundaries to those parks, and no State and local ordinances apply. That is not the case with this act.

Mr. Chairman, it certainly is the intent that State and local jurisdictions maintain primary control over private property and the zoning thereof, whether or not it is within the boundaries, technically, of the park.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from California [Mr. MILLER] is recognized for 5 minutes.

There was no objection.

Mr. MILLER of California. Mr. Chairman, the other gentleman from California [Mr. CUNNINGHAM] has made the suggestion that since there are questions about both the amendment and the amendment thereto, that we would ask unanimous consent to withdraw the amendment and the amendment thereto, and work on it, and the rights of the gentleman from California and my rights will be protected to offer that. We will be back, of course, as soon as we can on this title.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, I have been advised not to do that, but I have worked with the gentleman from California in the past and I know his intent. I would agree to do that, if my colleagues would, the cosponsors.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for that endorsement.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, there is no question about our right being protected to offer these sometime later in this committee?

Mr. MILLER of California. Mr. Chairman, if there is no agreement, the gentleman from California [Mr. CUNNINGHAM] is certainly entitled to come back and offer his amendment and I will offer mine.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman.

Mr. MILLER of California. Mr. Chairman, I ask unanimous consent that the gentleman from California [Mr. CUNNINGHAM] be allowed to withdraw his amendment and that I be allowed to withdraw my amendment to his amendment, and that our rights be protected to offer the amendment at a later time during this debate.

The CHAIRMAN. The Chair would ask the gentleman, the amendment as printed in the RECORD during title IV?

Mr. MILLER of California. Yes, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there other amendments to title IV?

AMENDMENT OFFERED BY MR. DELAY

Mr. DELAY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DELAY: This amendment prohibits the condemnation of land by deleting the portion printed in italic below.

SEC. 414. The Secretary is authorized to acquire all lands and interest in lands within the boundary of the [Mojave National] park by donation, purchase, or exchange, except that—

(2) lands or interests therein within the boundary of the park which are not owned by the State of California or any political subdivision thereof may be acquired only with the consent of the owner thereof unless the Secretary determines, after written notice to the owner and after opportunity for comment, that the property is being developed, or proposed to be developed, in a manner which is detrimental to the integrity of the park or which is otherwise incompatible with the purposes of this title.

Mr. DELAY. Mr. Chairman, there are thousands of private landowners that face the threat of condemnation if their inholdings are located in H.R. 518's newly created Mojave National Park. Section 414 authorizes the Secretary to acquire all the lands within the boundaries of the park without the owner's consent if the Secretary determines that the property is being developed, or proposed to be developed, in a manner which is detrimental to the integrity of the park, or which is otherwise incompatible with the purposes of this title.

Our laws allow the Federal Government to condemn land; that is, to take it without the consent of the owner for public use. This is an infringement on property rights and should only be allowed to occur in the most grave of situations.

Mr. Chairman, the situation that is described in H.R. 518 is not a grave situation. In fact, the bill has been criticized by many, including members of the California delegation, for protecting much more land than necessary to preserve the California desert.

Mr. Chairman, my amendment would delete the provision I just referred to so that land acquisition will only be allowed with the consent of the property owner.

Mr. Chairman, opponents of this amendment will probably drag out books of statistics on how rarely condemnation is used any more, and claim that landowners within the Mojave National Park have nothing to fear. However, Mr. Chairman, it is quite clear that the Federal Government rarely has to resort to condemnation because it is the threat of condemnation that makes most landowners into willing sellers.

Mr. Chairman, I have a perfect example to illustrate this from a publication called "Willing Seller-Willing Buyer" by Mr. Bo Thott, who writes, "Private landowners ostensibly selling their properties to the National Park Service are in fact not bona fide sellers, but are giving up title to escape the legal expenses of a foredoomed condemnation."

What I am about to read is a portion of a letter from the National Park Service in Naples, FL, to a landowner, as well as the landowner's response. This is from Dolores Denning, Chief, Purchasing and Relocation Division, U.S. Department of the Interior:

> We have been unsuccessfully negotiating with you for the purchase of the above property within the Everglades National Park Expansion. Our offer is in accordance with an impartial appraisal made by an appraiser well qualified to appraise this type of property. The offer is representative of fair market value for your interest.
>
> If the offer is satisfactory, please sign the original offer form which was provided you.
>
> Our schedule does not permit us to defer or delay negotiations indefinitely. Therefore, we are requesting an early response relative to consummating this acquisition. In the event we have no response from you within fifteen (15) days of your receipt of this letter, we will assume you have rejected our offer. It will then be necessary to initiate acquisition by eminent domain procedures and have a Federal Court determine the compensation to which you are entitled.
>
> We must bring this matter to a conclusion promptly, and are acting in accordance with approved governmental procedures for such occasions. We urge that you give serious consideration to our offer.

□ 1720

If that does not sound like a threat, I do not know what does.

The landowner responds:

> The person who called me from Florida was sympathetic but firm. I did not agree to sell on the first call but talked to my lawyer. It is hard to buck the Government, so I sold. I had feelings for this land beyond its material worth."

There are numerous other quotes in this publication from landowners that have become willing sellers simply because of the threat of condemnation.

One, and I quote, "decided not to sell. I called the land office and told them my decision. They returned my call and said if I did not sell now, my land would be condemned and I would have to hire a lawyer and pay other costs. Therefore, I agreed."

Another writes:

> They said I didn't have much choice as they would condemn it and they also said I could take it to court, but it would be expensive and I would end up with less.

Another writes:

> "If I refuse, they will condemn the land anyway. I was advised by a lawyer not to waste my money trying to get a higher price than offered, because it would be eaten up in legal fees.

The CHAIRMAN. The time of the gentleman from Texas [Mr. DELAY] has expired.

(By unanimous consent, Mr. DELAY was allowed to proceed for 2 additional minutes.)

Mr. DELAY. Mr. Chairman, continuing to give the Federal Government the green light on taking land regardless of the wishes of the property owner, as this bill does, shows a fundamental disrespect for individual property rights protected by the Constitution. My amendment would prohibit the Federal Government from acquiring land for the Mojave National Park without the consent of the owners, so that they will not be bullied into giving up their land. I urge Members to vote for property rights and support my amendment.

For those Members who would argue that private property owners should not feel threatened, I would just like to read from a statement on this bill by Interior Secretary Bruce Babbitt:

> One of the concerns raised with respect to the designation of the Mojave National Monument is the amount of privately owned land within the proposal. The Lanfair Valley area in the eastern portion of the proposed park contains numerous relatively small parcels of privately owned land in various ownerships.
>
> The BLM has estimated that perhaps as many as 1,000 individual privately owned parcels are located in the Lanfair Valley area. I am concerned about the impact this concentration of small land holdings may have on the proposed park. It is my view that the pressure to develop these parcels will increase once the park is established and our only options will be to permit incompatible development on these properties or to purchase these properties, most likely through condemnation.

Mr. Chairman, we know what the intent of the Department of Interior is through the words of the Secretary. I just ask Members to support my amendment and protect the private property rights of the hundreds of landowners that will find themselves within this new Mojave National Park.

Mr. MILLER of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, clearly this cannot be a serious amendment, because this amendment would not be offered in any other bill than this particular piece, because the gentleman would not offer this amendment on the highway bill to the Federal Highway Administration, he would not offer this amendment under this Department of Defense so that the Army, the Navy, the Air Force, and others could not go out and acquire lands that were necessary.

Mr. Chairman, the gentleman cited a number of instances, in each and every instance what took place.

An unwilling seller, a perceived Federal need for that park or that Federal reservation as happens all the time for the construction of highways, the construction of the Supercollider, the construction of metro systems, the construction of ports, airports, for post offices. We always know that there are people who determine they do not want to sell. What was the decision made in this country 200 years ago? It was that we would offer them the protection of the Constitution, that we would offer them that their land could not be taken without compensation. But we also made a decision as part of our society that bound this country together that a lone individual could not obstruct totally the progress of this country. That condemnation power has been delegated to utilities, it has been delegated to railroads in the past, it has been delegated to local governments, and that is how this country has prospered. That is how we built the interstate highway system. That is how we built mass transit systems throughout the country. That is how we built the great military bases and the shipyards of this Nation. Most of those were carved out of private land. Not every seller was a willing seller for the willing buyer who perceived the need, because of the First World War, because of the Second World War, because of international commerce? No, that is right.

Every now and then the government had to reach in and go for an authority that is explicitly granted to it under the Constitution with the obligation—with the obligation to provide compensation. That is the constitutional protection that we accord these landowners.

Mr. Chairman, if this amendment is good for the National Park Service, then we ought to fully understand it is very good for the Federal Highway Administration, it is very good for the Department of Defense, for the Post Office, for utilities and for everywhere else where people insist that they want.

Should we have not built the California water system? Should we have not built the Central Valley Project because one landowner said that canal will not come across my property? Should we have not built Interstate 70 or Interstate 80 or I-40 or I-95 because some landowner said, but for me, you would have a great system up and down the east coast or the west coast? Of course not. Of course not.

This amendment goes even beyond that. It takes away the historical right of the Secretary of the Interior to defend the parks. This means one can saddle up on his property and announce that he is going to open up and incredibly incompatible use, one that may threaten the park itself, threaten its resources, threaten its user days by the American public, and in theory we could not stop him by going through condemnation. We would not stand for this amendment for 5 minutes in the cities we represent, in the counties that we represent, in the States that we represent, in the utilities that we represent, because our communities simply could not function, could not function as we punch a highway through a tough urban area, an expanding suburban area. That is why we have the authority and the obligation in the Constitution of the United States.

It is not used willy-nilly. None of us favor it being used. We try to work on a willing seller-willing buyer basis. But the fact is it does not always happen.

What the gentleman from Texas [Mr. DELAY] would have us believe is that society and the protection of society should come to a grinding halt because 1 out of 100, 1 out of 50, 1 out of 10 would not go along? They have a right to obstruct these great projects.

I do not think the gentleman would have provided this when we went out looking for farmland for the supercollider. The gentleman would not have said, "Well, one farmer says we can't complete the doughnut."

I do not think the gentleman would have said this to the Dallas-Fort Worth Airport, we can only have a landing strip 2,000 feet long, we cannot have one 15,000 feet or 20,000 feet because the landowner in the middle wants a watering trough.

The gentleman would not have, so let us quit playing politics with the Park Service, with the preservation of our park and with the responsible administration of those parks and let us vote down the DeLay amendment because none of us want to see this amendment added on to the other functions of the Federal Government and/or local government.

Mr. DURBIN. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Illinois.

Mr. DURBIN. Mr. Chairman, I would like some clarification here. As a member of the Subcommittee on Transportation of the Committee on Appropriations, we are involved in building a lot of highway projects.

The CHAIRMAN. The time of the gentleman from California [Mr. MILLER] has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 2 additional minutes.)

Mr. MILLER of California. Mr. Chairman, I continue to yield to the gentleman from Illinois.

Mr. DURBIN. We are involved in building a lot of highway projects, mass transit projects, airports, and the like.

Do I understand the practical impact of this would be that if the Government moved in to expand a highway, it would somehow have to sell some other Government land in order to balance off the books so that the Government would not have an increase in ownership of land?

Mr. MILLER of California. That is one other provision of the DeLay amendment that we will see later.

If we apply what the gentleman from Texas [Mr. DELAY] wants to do in that provision to the rest of the Government, that is what we would have to do. If we apply this provision, we simply could not condemn any property that stands in the way of the high speed train in Texas, the high speed train between maybe Las Vegas and Orange County or San Diego and Los Angeles or San Francisco and Los Angeles, because somebody would decide that their single interest is more important than the national, the State, or the local interest and, therefore, they could stop those projects.

□ 1730

Mr. DURBIN. Mr. Chairman, if the gentleman will yield further, what the gentleman is saying is that this amendment would eliminate the Government's right to eminent domain, to take property for public purpose, for a highway, or an airport or mass transit district, if one private property owner would object?

Mr. MILLER of California. The intent of this amendment is to deny the Secretary from exercising condemnation authority within the Mojave National Park or the Mojave National Preserve.

Mr. DURBIN. If the gentleman will yield further, I am in favor of private property rights. But there comes a time when there is a public good. We see it so often in transportation. I am just curious, and maybe the gentleman from Texas could explain how he could draw the distinction between what we do in transportation and what he is trying to do here.

Mr. DELAY. Mr. Chairman, will the gentleman yield? I will be glad to explain.

Mr. MILLER of California. I am happy to yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I would like the gentleman to not mischaracterize my amendment, as it only applies to lands within the Mojave National Park. In my own evaluation of this situation, I do not see that establishing the Mojave National Park is as grave as building an interstate highway or any of the other things the gentleman mentioned earlier.

The CHAIRMAN. The time of the gentleman from California [Mr. MILLER] has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 1 additional minute.)

Mr. MILLER of California. You know, you are required as a pubic official to have some consistency of thought patterns. The fact is you are denying the Secretary the tool that every other Secretary would have available to them to protect those great highway projects or transportation projects that have eminent domain. So if it is good for here, I do not know why a property owner in the way of an interstate would have a greater right than a property owner in the way of a park or a property owner in the way of a utility line would have less right or more right. The point is that these are decisions that this Congress makes about national purposes and national policy, whether it is the TVA or the highway system, or the park system, and we provide the tools to carry that out, one of which is also provided in the Constitution, and that is the allowing of the Government to take property as long as they provide just compensation. That is the purpose.

And so you cannot say that only on this occasion, because this is also an important occasion. You may happen to disagree with it, but the Congress makes that determination, the Secretary should be able to protect that investment that the people have made.

Mr. LEWIS of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, let me say to my colleagues that I rise with no small amount of mixed emotion regarding the amendment, for there is little doubt that the power of eminent domain has a very important history in our country. It has been exercised by the Government to carry forward many very important government activities, highways, airports, et cetera, et cetera.

There is no more important protection within the Constitution, however, relative to property questions than one's right to their personal property without the Government arbitrarily taking that property.

I think most Americans would say that while there is many a purpose where you might want to have available a thing called eminent domain, there is also little doubt that many Americans, a significant percentage of Americans, are concerned about the excessive use of that power on the part of the Federal Government and other agencies of government.

The gentleman, the chairman of the committee, suggested, you know, just because every once in a while somebody might have a problem with the Government's purpose; "every once in a while" is an interesting phrase, because I would suggest there needs to be a careful examination of the way the agencies, the various agencies, are operating within this very department. Presently there are less than 15 contested eminent domain cases within the Forest Service. There are less than 15 eminent domain cases that are contested within the Bureau of Land Management. There are about 500 contested cases on the part of the Park Service. There is clear evidence of excessive use of the power with very little concern not only about the little guy but about the whole concept of private ownership.

I would suggest in this instance there is little doubt that in a highway circumstance or building an airport in the east Mojave, eminent domain would be appropriate, but when you are talking about millions of acres of land and somebody having 40 acres in the middle that would end up in the middle of a park that has very little value in terms of either detracting from that park or disturbing the Government's purposes; but this agency has demonstrated its willingness to be excessive in the way it handles private property in the public domain, and essentially private property held by the little guy.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I am happy to yield to the gentleman from Texas.

Mr. DELAY Mr. Chairman, I think the gentleman from California [Mr. MILLER] has answered his own question regarding the reason for this amendment.

I am being very consistent in wanting to protect property rights, and the gentleman from California [Mr. MILLER] is being very consistent about willy-nilly giving it away.

According to the language of the bill—and this is important, if you just propose to develop your own property, the Secretary of the Interior can start proceedings to take you property—if you just propose developing. The language of the bill will stop someone from doing what they will with their own property; you have this Big Brother Secretary of the Interior coming along and deciding how you are going to use your land, even if you simply propose how you are going to use your land.

So what I am trying to do here, as the gentleman has suggested, is allow the House to decide under what grave circumstances are we going to allow eminent domain to be used.

I just suggest that people that own property under this proposed Mojave National Park ought to be able to hold onto their property and do with it what they deem important without the Secretary of the Interior coming in with a big axe and tearing up their rights. That is all I am saying.

I am saying this proposal is not as grave as would be a highway or that airport or a Defense Department project or other things that really are of national interest.

I am not sure the Mojave National Park is of national interest. I do not think so. But at the same time I do not think the situation is grave enough to impose emiment domain.

Mr. LEWIS of California. Mr. Chairman, reclaiming my time, I express my appreciation to my colleague for his contribution.

Mr. VENTO. Mr. Chairman. I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, I have listened carefully to my colleagues debate this issue. It is one that comes up frequently in terms of the subcommittee which I chair with regard to the Park Service and the other land management agencies.

The fact of the matter is the BLM today, which manages this area, has the power of eminent domain. Let me repeat that: The BLM, in terms of this area, has the power of eminent domain.

What we are saying is we are going to designate this now a National Park Service unit, a national preserve. Based on the last amendment, maybe that will be changed, but the fact is that in giving the Park Service that responsibility, we are going to take away the tools that it needs to manage that land.

What do I mean by that? Well, I mean that you have this 1.5 million acres is almost all public land, but in it, within it, there may be some inholdings, and as long as there is a passive use of that particular land, first of all, there is the land management plan that has to be developed down the road with the Park Service in terms of what is going to happen with the areas, how they are going to be used. There could be passive use of that land where there may be no need. There may be even agreement in terms of the use of it to, in fact, have it acquired by the Park Service.

But if adverse development takes place there, if someone decides they are going to have a condominium in the middle of it or something adverse to what purposes the park is being designated for, you have an opportunity to give the Park Service the tools so they can manage the land and eliminate the problem. That really is what we are talking about here is that we are saying that if this is designated park, this is very important area, nationally significant, one of the major desert types, with all of the fauna, flora, the other features that characterize this area, that they ought to have the tools to deal with this.

Suggestions have been made that, in fact, when the Park Service is managing land, they have had difficulties. Well, they take a very active role in terms of managing the land, and in some cases, in less than 5 percent of the cases other than in Big Cypress where they had a special problem, they have not had the use of eminent domain. They have not used that. In fact, very often when eminent domain is used, it is used to clear a title. It is used as a technicality or to arrive at the value of the land. It is not even a matter of, in other words, of forced sale of the land. It is simply a way of arriving at a dispute over value or to clear the title of the land.

So this tool is one, I think, that has been used very carefully, very prudently. It is a tool that all the land managers have including the Forest Service, and the BLM today has that power in the Mojave Desert.

☐ 1740

So we are going to designate this and say it is a special area, but we are not going to give you the tools to designate it, if we proceed to act on the DeLay amendment. Furthermore, I point out that when this amendment was offered 2 years ago, it failed; it failed by a margin of 2 to 1 2 years ago. The Congress rejected this very amendment in the east Mojave.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from California.

Mr. MILLER of California. I thank the gentleman for yielding.

Mr. Chairman, I have just a couple of points. You know, the fact that this amendment is only directed at East Mojave should not persuade people that this is not important. The gentleman says it is only a national park. Yes, but the word is "national" park. Some people think, some people think the Yosemite is more beautiful than the Mojave, some people think that Yellowstone is more beautiful than Big Cypress or Big Bend. But the point is we came together as a society and we determined that these are certain assets that are worthy of these designations and protections. And we ought not to take away the tools to do that.

That arrogance of power that people suggest they are against is protected by the Constitution of the United States. There are rules and regulations that must be followed. You do not just go out and willy-nilly start condemnation, you have to follow the Uniform Acquisition and Relocations Act, which requires you to make a fair offer, an offer of fair market value, requires you to negotiate with that individual. You have a situation in Big Cypress where the gentleman read from, and the fact is we are at risk of losing the Everglades. So we think there is an opportunity now with the Corps, the Bureau, the State, State legislation, and everybody's approval that we can save the Everglades and the bay and the keys, but we are going to need some land to change the water patterns. But we have a couple of farmers who are not going to go along with that. Should we risk, should we overturn the Everglades and Big Cypress? Should we do that because of one landowner? Of course not. It is not only a national park, it is because it is a national park that we give authority to the Secretary to defend the park, defend the wilderness areas, defend these preserves. The same is true—it is like saying that, "Well, this amendment only applies to Fort Benning," or "This amendment only applies to Fort Ord." That is not the point; the point is the Secretary of Defense needs the authority to round out those military reservations and to protect them.

I thank the gentleman for yielding.

Mr. VENTO. I would point out that in designating the park we are saying these lands are equal and that we ought to give the tools to them, to the Park Secretary to defend and protect the legacy for future generations; that is, the National Mojave preserve.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there is a mound of difference between the issue of taking of private property without compensating landowners, and the issue that is before the House today. The issue before the House today is involved with the question of whether or not in a designated park, wilderness area, whether the Government of the United States ought to have the right to acquire that property under the Constitution, under the protections of eminent domain, acquisitions established by law for the taking of fee title for public purposes, such as a park or wilderness area. I want to make it clear that those of us who fight so hard against this notion that the Government can and does, today, continue to take away private property rights from people, continues to devalue private property in terms of its use to its owners, so those of us who fight and struggle to get a law passed by this body implementing compensation for the taking of private property when it comes to regulatory takings, see a world of difference between that issue, which ought to be on this floor one day, ought to be decided by this body one day, see a world of difference between that issue and the issue of whether or not eminent domain ought to be possible in terms of acquiring additional lands necessary for the full protection of a wilderness area or a park.

It is for that reason I think this amendment needs to be defeated.

In our own State of Louisiana, one of the very proud moments in which I participated was the setting aside of royalty trust funds derived from the production of minerals on public lands to a fund designed to acquire further lands for protection within our own State; to place those moneys in trust for the development, in fact, of the natural character, the aesthetic character of those wilderness areas that we had already set aside. I think that is a grand public purpose, and I think the Constitution provides a method by which the people of this country acting through the Congress and the courts, in the court of claims, in some cases, we have established a procedure for us to in fact acquire for the public the necessary lands to carry out, those, indeed, very important public purposes.

So I agree with my friend from California's earlier statement regarding the acquisition of necessary properties for the protection of Everglades, for the protection of ecosystems that we define as essential for our national purpose.

But let me make clear that while I think this amendment overreaches, I think it again points out that here in this case of eminent domain acquisition for public purposes, we all agree somebody needs to get compensated. The issue yet to be debated on this floor that I hope we reach one day is whether or not the Government can willy-nilly sneak around the Constitution and acquire private property simply by regulating it to death and denying the owner the right to use his property.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from California.

Mr. MILLER of California. I thank the gentleman for yielding to me, and I thank him for his remarks.

Mr. Chairman, nobody wants to be condemned, but in fact when the condemnation process is started, the Government has to put up the money. The worst problem is when the Government is trying to muscle you without acquiring your land, without acquiring your rights, trying to muscle you into doing something that you really do not want to do with your property, or need to do with your property, or what have you, and they do it indirectly. It is sort of like people wanting a cable TV franchise found out that they have to build 10 childcare centers, or a person wants zoning on the north end of town and finds out he has to do something on the south end of town that is not related to the impact. That is almost a worse thing because in a condemnation the Government has eventually to go to court to determine a fair market value. The other one is worse.

Mr. TAUZIN. Reclaiming my time, the Government has to first define in court the public purpose for the acquisition. If a public purpose is not established, there is no acquisition under the eminent domain takings.

Second, it has to determine a fair value and then has to compensate the party for that taking.

I defend that proposition here today. I think it acknowledges, in fact gives sanctity to our constitutional fifth amendment protection.

As the gentleman from California [Mr. MILLER] pointed out, when the Government comes along and says we will not issue you a permit to enlarge your business unless you give us a bike path, something is wrong. The court so found just the other week in Dolan versus City of Tigard; that something is wrong with that proposition. When the Government comes along and says, "We think your land is wet, so you can't use it anymore, but we are not going to pay you for it," something is wrong with that proposition. When the Government comes along and says that a bird, a bug, or a rat is loose in your back yard and you have got to move out and we are not going to pay for your property, something is wrong with that proposition.

What is right about eminent domain is a public purpose is established, a procedure is set forth protecting the individual's rights, compensation is eventually awarded, and the Government treats the citizen as it ought to under the Constitution.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has expired.

(By unanimous consent, Mr. TAUZIN was allowed to proceed for 2 additional minutes.)

Mr. TAUZIN. Mr. Chairman, for necessary acquisitions in parks and wilderness areas, I support, and we ought to all support, just as we support the acquisition of private lands for construction of airports, which I understand our Secretary of the Interior is now against, for any wildlife preservation purposes, for roads, bridges, everything else. The bottom line ought to be, however, once the public purpose is established, once the order is given for the taking, compensation ought to quickly follow and the landowner ought to be fully reimbursed by the taking of the Federal Government.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Texas.

Mr. DELAY. I thank the gentleman for yielding.

Mr. Chairman, the gentleman surprises me because we did check with the Private Property Rights Coalition, and we were informed that the gentleman and the coalition would support this amendment. And I agree with almost everything the gentleman said, except his opposition to my amendment. Particularly, does the gentleman truly believe that it is important in this case, in this bill, that when a private property owner simply proposes to develop his property contrary to what the Secretary wants, to allow the Federal Government to exercise its power of eminent domain? Because that is what the language says. The gentleman supports that?

Mr. TAUZIN. Reclaiming my time, this gentleman supports the acquisition for public protection in parks, wilderness, of private property that is fully compensated for under the fifth amendment of the Constitution, just as the gentleman would support the acquisition of private property for the necessary construction of a road, bridge, hospital, or a public facility such as an airport.

What this gentleman would not support is the imposition of rules and regulations on private property that would take away the use of that property without compensation.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from California.

□ 1750

Mr. LEWIS of California. To the gentleman's point, and the gentleman is making a great contribution here, in the committee, in the other body, when this subject area was being discussed, Secretary Babbitt was before the committee addressing this question of compensation.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has expired.

(On request of Mr. DELAY and by unanimous consent, Mr. TAUZIN was allowed to proceed for 1 additional minute.)

Mr. TAUZIN. Mr. Chairman, I yield to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. The secretary said regarding this matter: With regard to private property owners and compensation for their property, the Department of the Interior is prepared to wait them out without compensation after a long pause. That is Secretary Babbitt in April 1993.

I am sure the gentleman would be concerned about that and understands why this gentleman has that amendment.

Mr. TAUZIN. Reclaiming my time, Mr. Chairman, it is for that reason then the gentleman from California [Mr. CUNNINGHAM] and I agreed upon offering an amendment which, I think, we have now worked out with the gentleman from California that says that that cannot happen, that so long as the private property owner owns that property, even though the Federal Government hopes one day, proposes one day, to acquire that property, that so long as the private property owner owns that property, nothing in this act operates as a bar to his legitimate use of his property or the issuance of the Federal permits for the use of his property, such as a 404 or an incidental taking under the USA. I think that that amendment is worked out.

It is for that reason the gentleman from California [Mr. CUNNINGHAM] and I have launched the effort for that amendment, and I hope my colleagues will support it when we offer it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. DELAY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DELAY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 145, noes 274, not voting 20, as follows:

[Roll No. 317]

AYES—145

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bliley
Blute
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Castle
Chapman
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fields (TX)
Fowler
Franks (NJ)
Gallegly
Gekas
Geren
Gillmor
Gingrich
Glickman
Goodlatte
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
Kyl
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Manzullo
McCandless
McHugh
McInnis
McKeon
McMillan
Mica
Michel
Miller (FL)
Molinari
Moorhead
Myers
Nussle
Orton
Oxley
Packard
Paxon
Penny
Petri
Pickett
Pombo
Portman
Pryce (OH)
Quillen
Quinn
Regula
Roberts
Rogers
Rohrabacher
Roth
Royce
Sarpalius
Saxton
Schaefer
Sensenbrenner
Sisisky
Skeen
Skelton
Smith (MI)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Talent
Taylor (MS)
Taylor (NC)
Thomas (WY)
Traficant
Vucanovich
Walker
Young (AK)
Young (FL)

NOES—274

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Boehlert
Bonior
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Canady
Cantwell
Cardin
Carr
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Faleomavaega (AS)
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Goodling
Gordon
Goss
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Houghton
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lazio
Leach
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCollum
McCrery
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Rahall
Ramstad
Ravenel
Reed
Reynolds
Richardson
Roemer
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shays
Shepherd
Skaggs
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Tejeda
Thomas (CA)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Tucker
Underwood (GU)
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Walsh
Waters
Watt
Waxman
Weldon
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Zimmer

NOT VOTING—20

Borski
Flake
Gallo
Huffington
Laughlin
McCurdy
McDade
Murphy
Murtha
Obey
Rangel
Ridge
Santorum
Shuster
Slattery
Smith (NJ)
Washington
Wheat
Whitten
Zeliff

□ 1812

Mr. RAMSTAD and Mr. BILIRAKIS changed their vote from "aye" to "no."

Mr. ORTON changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. MILLER of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it is the committee's expectation that we will consider two additional amendments, both of which we believe have been worked out and are not controversial at this point. We will accept those, and we do not expect votes on those amendments.

After that, it is the expectation that the Committee will rise. We do not expect any additional votes this evening before we rise.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman I would like to enter into a colloquy with my friend, the gentleman from California. As I understand it, the language we agreed on under title IV will come back and we will present that at a later time.

Mr. MILLER of California. Mr. Chairman, the gentleman is correct.

The CHAIRMAN. Are there other amendments to title IV?

AMENDMENT OFFERED BY MR. QUILLEN

Mr. QUILLEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. QUILLEN: On page 46, line 5, strike "Subject" and insert "Subject to section 408(a) and subject".

Page 46, line 12, strike "STUDY AS TO VALIDITY OF"

Page 46, after line 12 insert the following:

SEC. 408. (a) Unpatented mining claims, mill sites, and tunnel sites within the boundaries of the park for which an application for a patent was filed on or before December 31, 1993, shall be subject to all mining laws of the United States except for the Act of September 28, 1976 (16 U.S.C. 1901–1912; commonly referred to as the "Mining in the Parks Act").

Page 46, strike line 13 and insert the following:

(b) Subject to subsection (a), the Secretary shall not approve any plan

Page 46, line 5, strike "Subject" and insert "Subject to section 408(b) and subject".

Page 46, line 12, strike "STUDY AS TO VALIDITY OF".

Page 46, strike line 13 and all that follows through line 16 and insert the following:

SEC. 408. (a) The Secretary shall submit to".

Page 46, after line 21, insert the following:

(b) Unpatended mining claims, mill sites, and tunnel sites within the boundaries of the park that were located before the date of enactment of this Act shall be subject to all mining laws of the United States except for the Act of September 28, 1976 (16 U.S.C. 1901–1912; commonly referred to as the "Mining in the Parks Act").

Mr. QUILLEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. QUILLEN. Mr. Chairman, I offer this amendment to protect the mining rights of thousands of citizens who have staked a claim within the boundaries of the proposed Mojave National Park.

Currently, these claims, once proven valid, may be mined under laws and regulations administered by the Bureau of Land Management. However, once these lands become a national park, any valid mining claim must instead follow the laws and regulations administered by the National Park Service under the Mining in the Parks Act of 1976. The National Park Service has traditionally made it extremely difficult to mine in a national park.

I believe that it's only fair to offer some type of grandfather provision to those who are in the middle of the complicated process of proving their mining claims so that they can complete this process and proceed with mining if their claim proves to be valid. These people have acted in good faith based on existing law and many have invested a great deal of time and money. This bill pulls the rug out from under their feet.

My amendment will allow unpatented mining claims, mill sites, and tunnel sites within the boundaries of the proposed Mojave National Park that were located before enactment of this act to be subject to all U.S. mining laws except for the Mining in the Parks Act. I think this is only fair.

This bill also provides that the Secretary shall not approve any plan of operation prior to determining the validity of the unpatented mining claims, mill sites and tunnel sites affected by such plan within the park. This could potentially hold up actual mining for undeterminable lengths of time, and my amendment strikes this language.

Mr. Chairman, it is wrong to change the rules in the middle of the game, and my amendment will protect the rights of current claimants to mine under the laws and regulations that were in effect at the time they made the decision to invest in mining claims. It is only fair, and I urge my colleagues to support this amendment.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. QUILLEN

Mr. MILLER of California. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California as a substitute for the amendment offered by Mr. QUILLEN: Revised the amendment to read as follows:

Page 46, line 13, after "SEC. 408" insert "(a)".

Page 46, after line 21 insert the following:

(b)(1) Notwithstanding any other provision of law, the Secretary of the Interior shall permit the holder or holders of mining claims identified on the records of the Bureau of Land Management as Volco #A CAMC 105446 and Volco #B CAMC 105447 to continue exploration and development activities on such claims for a period of two years after the date of enactment of this Act, subject to the same regulations as applied to such activities on such claims on the day before such date of enactment.

(2) At the end of the period specified in paragraph 91), or sooner if so requested by the holder or holders of the claims specified in such paragraph, the Secretary shall determine whether there has been a discovery of valuable minerals on such claims and whether, if such discovery had been made on or before July 1, 1994, such claims would have been valid as of such date under the mining laws of the United States in effect on such date.

(3) If the Secretary, pursuant to paragraph (2), makes an affirmative determination concerning the claims specified in paragraph (1), the holder or holders of such claims shall be permitted to continue to operate such claims subject only to such regulations as applied on July 1, 1994 to the exercise of valid existing rights on patented mining claims within a unit of the National Park System.

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment offered as a substitute for the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Chairman, this amendment is to take care of the concerns that the gentleman from Tennessee [Mr. QUILLEN] has raised with us to allow for the continued exploration activities for a period of 2 years in order to attempt to prove up those claims. At the end of the period or sooner there would be a validity determination concerning those claims. If it is determined that the claims would have been deemed valid if the validity determination had taken place on or before July 1, 1994, the holders will be permitted to continue to mine as if they were in operation on that date on a patented claim within a National Park system unit.

I think this is a perfecting amendment. I hope the House will accept it. I have talked to the gentleman from Tennessee. I think that this allows them to preserve the concerns that he has and we need to address this again in conference, but that is our understanding.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, we have discussed the fact that there are some problems with private land holdings that are involved in the mining business. We will discuss those details as things unfold.

Mr. MILLER of California. Mr. Chairman, the gentleman is correct.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MILLER] as a substitute from the amendment offered by Mr. QUILLEN.

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee [Mr. QUILLEN], as amended.

The amendment, as amended, was agreed to.

Mr. TORRES. Mr. Chairman, I am not going to talk about the politics bogging down this bill.

I was to cut through all that and get to the heart of what is really of lasting importance here. I want to paint a picture of the California desert under discussion today.

The California desert is a land of extraordinary beauty and variety, evident from its miles of shimmering, crystalline salt flats, to its wind-warped sand dunes and spectacular mountain ranges. It is a unique botanical garden where innumerable wildflowers mix with junipers, Joshua trees, beavertail cacti, and blooming yucca. It is a land where golden eagles soar, white-winged doves roost, and bighorn sheep still range. But this timeless place is fragile. It needs protection. That is why this bill is important, and why we cannot afford delays.

This bill has already been through 8 years of debate. It doesn't need another 8 or more hours. This is a win-win proposition for California, for the country, and for generations to come.

It's the future that should be guiding us. I encourage my colleagues to do what I often do when deciding how to cast a particular vote: I ask myself whether I can tell my grandchildren, "we passed this law for you." In this case, the answer is easy. I urge my colleagues to do something good today: Support a strong California Desert Protection Act.

Ms. ESHOO. Mr. Chairman, after more than 2 months of needless debate and delays, the House once again takes up the California Desert Protection Act today.

The bill we will vote on is the culmination of years of scientific study and debate. Important compromises have been made to accommodate miners, off-road vehicle drivers, cattle ranchers, and the military.

Despite the fact that over 75 percent of Californians support the bill and it's been endorsed by 37 city governments and 1,600 scientists, a small group of Members are trying to kill it by literally talking it to death and offering amendments designed to chip away at its important provisions.

Mr. Chairman, we must end this filibuster and once and for all advance this critical legislation. The Senate has passed it by a solid 69 to 29 vote, and it is now our turn to step up to the plate.

We need this legislation to preserve these priceless areas for our children and for generations to come.

I urge my colleagues to rescue this bill from being sandbgged by its opponents' tactics.

Mr. MILLER of California. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ABERCROMBIE) having assumed the chair, Mr. PETERSON of Florida, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 518) to designate certain lands in the California desert as wilderness, to establish the Death Valley and Joshua Tree National Parks and the Mojave National Monument, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. GEJDENSON. Mr. Speaker, I was unavoidably detained in my district and I missed rollcall vote 315 on the Vento grazing amendment to H.R. 518. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Mr. DINGELL. Mr. Speaker, I was inadvertently recorded as voting "nay" on the LaRocco-Lewis amendment, rollcall No. 316, the California Desert bill. I should have been recorded as voting "yea." The LaRocco-Lewis amendment would make the current East Mojave Scenic Area a national preserve—rather than a national park—permitting hunting, trapping, and fishing to continue in the area. As a hunter and sportsman, I worked to pass the amendment.

PERSONAL EXPLANATION

Mr. STUPAK. Mr. Speaker, I was inadvertently recorded as voting "nay" on the LaRocco-Lewis amendment, roll call No. 316, the California Desert Protection Act. I should have been recorded as voting "yea." The LaRocco-Lewis amendment is a commonsense amendment that would allow hunters and sportsmen to continue to hunt, trap, and fish in the east Mojave scenic area. I strongly support this amendment.

PERSONAL EXPLANATION

Mr. COPPERSMITH. Mr. Speaker, I was unavoidably detained while returning to Washington on July 12 and missed rollcall vote No. 315. Had I been present, I would have voted "no."

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3937, EXPORT ADMINISTRATION ACT OF 1994

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–596) on the resolution (H. Res. 474) providing for consideration of the bill (H.R. 3937) entitled the Export Administration Act of 1994, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1188, ANTI-REDLINING IN INSURANCE DISCLOSURE ACT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–597) on the resolution (H. Res. 475) providing for consideration of the bill (H.R. 1188) to provide for disclosures for insurance on interstate commerce, which was referred to the House Calendar and ordered to be printed.

□ 1820

ANNOUNCEMENT REGARDING SUBMISSION OF AMENDMENTS ON H.R. 3937, EXPORT ADMINISTRATION ACT OF 1994

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute.)

Mr. MOAKLEY. Mr. Speaker, I would like to inform Members that the Rules Committee met his afternoon on H.R. 3937, the Export Administration Act of 1994. The committee granted a rule which would require that amendments be printed in the CONGRESSIONAL RECORD prior to consideration of the bill. The measure is listed on the whip's schedule and may come up later this week.

Those Members who anticipate offering amendments to the bill should print their amendments in the CONGRESSIONAL RECORD as soon as possible. Amendments should be drafted to H.R. 4663, a bill introduced June 28 which incorporates all language agreed upon by the various committees which considered the bill. H.R. 4663 is available in the document room.

Amendments should be titled "Submitted for Printing" under clause 6 of rule XXIII(23) and submitted at the Speaker's table. Amendments do not need to be submitted to the Rules Committee. A "Dear Colleague" letter was distributed by the Rules Committee on June 30, informing Members of this request.

NATIONAL APOLLO ANNIVERSARY OBSERVANCE

Mrs. BYRNE. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of this Senate joint resolution (S.J. Res. 187) designating July 16 through July 24, 1994, as "National Apollo Anniversary Observance," and ask for its consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore (Mr. ABERCROMBIE). Is there objection to the request of the gentlewoman from Virginia?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I rise in support of Senate Joint Resolution 187.

Mr. Speaker, I rise today as a cosponsor of Senate Joint Resolution 187 and House Joint Resolution 353, National Apollo Week, to commemorate the 25th anniversary of the historic mission to the Moon. In designating July 16 through 24, 1994, as national Apollo anniversary observance, I would like to pay tribute to the three brave pioneers who captured the aspirations and imaginations of an entire nation during the summer of 1969. The mission to the Moon realized a dream that had been shared for many years prior to its fruition, and I can still remember the tremendous sense of pride and honor we all felt when we watched Astronauts Armstrong, Aldrin, and Collins take those first breathtaking, historic steps.

In commemorating the Apollo 11 mission, we honor not only those who went to the Moon on that memorable trip, but also all those whose dedication, determination, and vision contributed to America's revolutionary journey into space. The dreams that began with flight and evolved into space travel inspired a nation and gave us all goals to which we still aspire. America took the lead in space technology 25 years ago, and will continue to do so as long as we carry the spirit of the Apollo 11 mission. The vigor, enthusiasm, and courage that brought our Nation to the Moon will lead our space program well into the 21st century.

Mr. Speaker, although it has been 25 years since the first mission to the Moon, the national pride and honor that this event inspired continues today.

Therefore, I urge my colleagues to join with me in commemorating this event, not only to pay tribute to those who ventured forth valiantly into the unknown, but also to remind all Americans of the pioneering spirit that is such a vital component of our national history. May we continue to honor innovation and imagination, and may the spirit of adventure forever remain a part of American life.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 187

Whereas President Kennedy in 1961 called upon the United States to face the challenge of those extraordinary times by sending a mission to the Moon;

Whereas the United States Government, the National Aeronautics and Space Administration, and the American people committed great resources, time, and human labor within one decade to span the 238,700 miles between the Earth and the Moon;

Whereas the United States rose to the challenge and formulated the Apollo missions culminating in the liftoff on July 16, 1969, of the Apollo 11 Mission to the Moon;

Whereas 25 years ago astronaut Neil Armstrong, with the help of Colonel Edwin (Buzz) Aldrin, Jr. (USAF) and Lieutenant Colonel Michael Collins (USAF), took that first significant step and became the first human to set foot on the surface of another world;

Whereas that small step furthered the development of space technology for the lasting benefit of all mankind; and

Whereas such an event united the world and our many cultures for a brief moment under the flag of peaceful exploration: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 16, 1994, through July 24, 1994, is designated as "National Apollo Anniversary Observance", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such period with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TIME FOR THE NATIONAL OBSERVANCE OF THE FIFTIETH ANNIVERSARY OF WORLD WAR II

Mrs. BYRNE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 172) designating May 30, 1994, through June 6, 1994, as a "Time for the National Observance of the Fifieth Anniversary of World War II," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

Mr. GILMAN. Mr. Speaker, reserving the right to object, under my reservation of objection, I shall not object but I rise in support of Senate Joint Resolution 172 designating May 30, 1994, through June 6, 1994, as a "Time for the National Observance of the 50th Anniversary of World War II."

Mr. Speaker, Senate Joint Resolution 172 is identical to House Joint Resolution 315 introduced by the gentleman from Indiana [Mr. MYERS], which passed the House on May 24, 1994. I urge my colleagues to join me in supporting this legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 172

Whereas the brave men and women of the United States of America made tremendous sacrifices during World War II to save the world from tyranny and aggression;

Whereas the winds of freedom and democracy sweeping the globe today spring from the principles for which over four hundred thousand Americans gave their lives in World War II;

Whereas World War II and the events that led up to that war must be understood in order that we may better understand our own times, and more fully appreciate the reasons why eternal vigilance against any form of tyranny is so important;

Whereas the World War II era, as reflected in its family life, industry, and entertainment, was a unique period in American history and epitomized our Nation's philosophy of hard work, courage, and tenacity in the face of adversity;

Whereas, between 1991 and 1995, over nine million American veterans of World War II will be holding reunions and conferences and otherwise commemorating the fiftieth anniversary of various events relating to World War II; and

Whereas June 4, 1994, marks the anniversary of the Battle of Midway, and June 6, 1994, marks the anniversary of D-Day: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 30, 1994, through June 6, 1994, is designated as a "Time for the National Observance of the Fiftieth Anniversary of World War II", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that period with appropriate ceremonies and activities.

AMENDMENT OFFERED BY MRS. BYRNE

Mrs. BYRNE. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. BYRNE: On page 2, line 3, strike "May 30, 1994, through June 6, 1994," and insert "May 29, 1995, through June 6, 1995,".

The SPEAKER pro tempore. The question is on the amendment offered by the gentlewoman from Virginia [Mrs. BYRNE].

The amendment was agreed to.

AMENDMENT TO THE PREAMBLE OFFERED BY MRS. BYRNE

Mrs. BYRNE. Mr. Speaker, I offer an amendment to the preamble.

The Clerk read as follows:

Amendment to the preamble offered by Mrs. Byrne: In the last whereas clause of the preamble, strike ", 1994," each place it appears.

The SPEAKER pro tempore. The question is on the amendment to the preamble offered by the gentlewoman from Virginia [Mrs. Byrne].

The amendment to the preamble was agreed to.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MRS. BYRNE

Mrs. BYRNE. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mrs. BYRNE: Amend the title so as to read: "Joint Resolution designating May 29, 1995, through June 6, 1995, as a 'Time for the National Observance of the Fiftieth Anniversary of World War II'.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. BYRNE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on Senate Joint Resolution 187 and Senate Joint Resolution 172, the Senate joint resolutions just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on tomorrow.

PRESIDENT JOHN F. KENNEDY ASSASSINATION RECORDS COLLECTION EXTENSION ACT OF 1994

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4569) to extend and make amendments to the President John F. Kennedy Assassination Records Collection Act of 1992, as amended.

The Clerk read as follows:

H.R. 4569

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "President John F. Kennedy Assassination Records Collection Extension Act of 1994".

SEC. 2. EXTENSION OF ACT.

Section 7(o)(1) of the President John F. Kennedy Assassination Records Collection Act of 1992 (44 U.S.C. 2107 note) is amended—

(1) by striking "2 years" and inserting "3 years"; and

(2) by striking "2-year" and inserting "3-year".

SEC. 3. AMENDMENTS RELATING TO REVIEW BOARD POWERS.

Section 8(j)(1) of the President John F. Kennedy Assassination Records Collection Act of 1992 (44 U.S.C. 2107 note) is amended—

(1) in subparagraph (E) by striking "and" after the semicolon;

(2) in subparagraph (F) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(G) use the Federal Supply Service in the same manner and under the same conditions as other departments and agencies of the United States; and

"(H) use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.".

SEC. 4. AMENDMENTS RELATING TO REVIEW BOARD PERSONNEL.

(a) SECURITY CLEARANCE FOR REVIEW BOARD PERSONNEL.—Section 8 of the President John F. Kennedy Assassination Records Collection Act of 1992 (44 U.S.C. 2107 note) is amended by adding at the end the following:

"(e) SECURITY CLEARANCE REQUIRED.—An individual employed in any position by the Review Board (including an individual appointed as Executive Director) shall be required to qualify for any necessary security clearance prior to taking office in that position, but may be offered the position before qualifying for that clearance.".

(b) APPOINTMENT AND TERMINATION OF STAFF, GENERALLY.—Section 8(b) of the President John F. Kennedy Assassination Records Collection Act of 1992 (44 U.S.C. 2107 note) is amended by striking "(b) STAFF.—" and all that follows through the end of paragraph (1) and inserting the following:

"(b) Staff.—(1) The Review Board, without regard to the civil service laws, may appoint and terminate additional personnel as are necessary to enable the Review Board and its Executive Director to perform the duties of the Review Board.".

(c) REVIEW BOARD ADMINISTRATIVE STAFF.—Section 8(b)(2) of the President John F. Kennedy Assassination Records Collection Act of 1992 (44 U.S.C. 2107 note) is amended—

(1) by striking "A person" and inserting "(A) Except as provided in subparagraph (B), a person"; and

(2) by adding at the end the following:

"(B) An individual who is an employee of the Government may be appointed to the staff of the Review Board if in the position the individual will perform only administrative functions.".

SEC. 5. TECHNICAL CORRECTION.

Section 6(1) of the President John F. Kennedy Assassination Records Collection Act of 1992 (44 U.S.C. 2107 note) is amended in the matter preceding subparagraph (A) by inserting "record" after "the assassination".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan [Mr. CONYERS] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

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Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4569, makes four changes to Public Law 102-524, the President John F. Kennedy Assassination Records Collection Act, which was passed 2 years ago to expedite the release of records related to that assassination. The Board, which is now in place, has requested these changes to correct some technical flaws in the initial act. Let me briefly describe the changes made by the bill.

Section 2 extends the term of the Assassination Records Review Board for 1 additional year, so the Board can complete its work. This was requested to offset the 1-year delay in appointing the Board.

Section 3 expedites the work of the Review Board by authorizing it to use the Federal Supply Service and the mails under the same conditions as other Government agencies.

Section 4 expedites the appointment of an Executive Director and other Review Board staff by authorizing the Review Board to offer candidates a position before they formally qualify for a security clearance. Prior to taking office, however, all Review Board employees are still required to qualify for any necessary security clearance. In addition, the Review Board is authorized to appoint and terminate employees without regard for civil service laws, and to hire individuals who are currently employed by the Government solely to perform administrative functions. These changes conform to General Services Administration guidelines on boards and commissions.

Section 5 corrects a technical error in the Assassination Records Act by inserting the word "record," which was omitted from the section 6, subsection 1 of the act. This critical section of the act specifies the national security grounds for postponing disclosure of assassination records. This correction removes a potential source of ambiguity.

I urge the adoption of H.R. 4569.

Mr. Speaker, I reserve the balance of my time.

Mr. CLINGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4569 is a noncontroversial bill designed to amend the President John F. Kennedy Assassination Records Collection Act of 1992 by extending its life for 1 additional year and making several administrative changes designed to make it easier for the Review Board to hire staff and function more efficiency. These changes have been studied carefully by the Government Operation's Legislation and National Security Subcommittee and identified in their report titled "Further Legislation Needed for Release of Kennedy Assassination Records."

Specifically, the bill: First, extends the life of the Review Board by an additional year while authorizing no additional appropriations; second, authorizes the Review Board to use General Services Administration resources to purchase goods and services; third, authorizes the Review Board to use the U.S. Postal Services as though they are any other Government agency; fourth, allows the Review Board to offer a job to potential staff before they obtain proper security clearances; fifth, allows current Government employees to be hired by the Review Board, but only if they perform administrative functions; sixth, allows the Review Board to avoid Office of Personnel Management regulations. The Review Board was late in getting organized due to the change of administrations in 1993. The amendments would allow the Board to continue its work for an additional year while spending no additional moneys.

I drafted this legislation along with Government Operations Committee Chairman CONYERS and believe that it takes several useful steps to increase the efficiency of the JFK Records Review Board. The Review Board Chairman supports this bill and I join him in asking my colleagues to support its enactment.

Mr. Speaker, I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would take only 1 additional minute, that is, to commend my friend and ranking member of the committee, the gentleman from Pennsylvania [Mr. CLINGER], for the excellent cooperation that we have had from all the members in the subcommittee and the full committee in the effort to pass this measure. It is not controversial but it is extremely important, and I appreciate my ranking member's continued cooperation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ABERCROMBIE). The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the bill, H.R. 4569, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on H.R. 4569, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PROVIDING TRANSPORTATION EXPENSES FOR FAMILY OF CAREER APPOINTEE IN SENIOR EXECUTIVE SERVICE WHO DIES AFTER TRANSFERRING TO AN OFFICIAL DUTY STATION

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4549) to amend title 5, United States Code, to provide for travel and transportation expenses for the family of a career appointee in the Senior Executive Service who dies after transferring in the interest of the Government to an official duty station and who was eligible for an annuity at the time of death, and for other purposes.

The Clerk as follows:

H.R. 4549

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRAVEL AND TRANSPORTATION EXPENSES FOR FAMILY MEMBERS OF CAREER APPOINTEES.

Paragraph (3) of section 5724(a) of title 5, United States Code, is amended to read as follows:

"(3) upon the separation (or death in service) of a career appointee, as defined in section 3132(a)(4) of this title, the travel expenses of that individual (if applicable), the transportation expenses of the immediate family of such individual, and the expenses of moving (including transporting, packing, crating, temporarily storing, draying, and unpacking) the household goods of such individual and personal effects not in excess of eighteen thousand pounds net weight, to the place where the individual will reside (or, in the case of a career appointee who dies in service or who dies after separating but before the travel, transportation, and moving is completed, to the place where the family will reside) within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, as described in section 3(a) of the Panama Canal Act of 1979, if such individual—

"(A) during or after the five years preceding eligibility to receive an annuity under subchapter III of chapter 83, or of chapter 84 of this title, has been transferred in the interest of the Government from one official station to another for permanent duty as a career appointee in the Senior Executive Service or as a director under section 4103(a)(8) of title 38 (as in effect on November 17, 1988); and

"(B) is eligible to receive an annuity upon such separation (or, in the case of death in service, met the requirements for being considered eligible to receive an annuity, as of date of death) under the provisions of subchapter III of chapter 83 or chapter 84 of this title.".

SEC. 2. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendment made by this Act shall take effect on October 1, 1994, or, if later, the date of the enactment of this Act.

(b) SPECIAL RULE.—

(1) IN GENERAL.—Under regulations prescribed by the President or his designee, an agency shall, as appropriate, pay or make reimbursement for any moving expenses which would be payable under the provisions of section 5724(a)(3) of title 5, United States Code, as amended by section 1 (but which would not have been payable under such provisions, as last in effect before being so amended).

(2) APPLICABILITY.—The moving expenses to which this subsection applies are—

(A) those incurred by the family of an individual who died—

(i) before separating from Government service; and

(ii) during the period beginning on January 1, 1994, and ending on the effective date of this Act; and

(B) those incurred, in the case of an individual who would have met the requirements for being considered a director under section 4103(a)(8) of title 38, United States Code (as in effect on November 17, 1988), with respect to a move that occurred during the period beginning on October 1, 1992, and ending on the effective date of this Act.

(3) CONDITION.—Payment or reimbursement under this subsection may not be made except upon appropriate written application submitted within 12 months after date on which the regulations referred to in paragraph (1) take effect.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan [Mr. CONYERS] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4549, a bill introduced by Delegate ELEANOR HOLMES NORTON, would correct a deficiency in the law governing travel by civil servants and their families.

Currently, Senior Executive Service members are entitled to certain travel expenses for the so-called last move home. However, if that individual dies prior to the return home, the immediate family is not eligible for those expenses. A small number of cases have arisen recently where the widows of career SES members have been denied expenses for returning to their home bases.

H.R. 4549 would correct this deficiency by amending section 5724(a) of title 5, United States Code, to extend agency coverage of travel and transportation expenses for moving household goods and personal effects of eligible SES career appointees to the place where the appointee will reside, even where the eligible appointee dies before actually separating or retiring from federal service.

The bill would take effect as of January 1, 1994, and limits reimbursements to the family of any career appointee who dies before separating from Government service to the actual amount of travel and transportation expenses.

I urge the adoption of H.R. 4549.

Mr. Speaker, I again commend my colleague in the committee, the ranking member, the gentleman from Pennsylvania [Mr. CLINGER].

Mr. Speaker, I reserve the balance of my time.

Mr. CLINGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4549 and want to commend the gentlewoman from the District of Columbia [Ms. NORTON] for her efforts on this matter.

Last move home benefits are available to career Senior Executive Service employees who, during the last years of the Government service, agree to relocate to fill critical positions in another geographic location. This benefit was established in 1988 because many senior executives were choosing to accept early retirement rather than absorb the cost of moving home after being transferred to another geographic area.

Within certain parameters, this benefit is also available to the immediate families following the death of the transferred employee. Unfortunately, the General Services Administration has interpreted the law in a manner that excludes from coverage the families of deceased employees, unless death occurred after the date of actual retirement.

This unfortunate situation was highlighted during the past year when two employees of the Department of Veterans Affairs died who would have otherwise been eligible for the last move home benefit. As a result of the current interpretation of the law, their families were unable to receive this benefit merely because death occurred prior to retirement.

In order to cover the two situations just mentioned, this legislation provides for retroactive eligibility for the last move home benefit to eligible families for the period beginning on January 1, 1994. It also provides eligibility for the nonphysician Medical Center Directors of the Department of Veterans Affairs. Due to a technical error in current law, the date "November 27, 1988" was inserted instead of November 17, 1988." As a result, a number of DVA senior executive staff are currently ineligible for the last move home benefit.

According to the Federal Executive Association, they are aware of only these two recent cases that will receive immediate benefit from this legislation. We all hope that this benefit will never have to be used in the future. But when tragedy does strike, it should not be a disqualifying factor for the immediate family of the deceased Federal employee to receive the last move home benefit.

Mr. Speaker, this is a good bill. It received the unanimous approval of the Government Operations Committee. I urge my colleagues to support its adoption.

□ 1840

Mr. Speaker, this is a good bill. I commend the chairman, the gentleman from Michigan [Mr. CONYERS], for his work on it. It is not a very elaborate bill. It just corrects what has clearly been an inequity in the way we have administered the last trip home, so it has received unanimous approval of the Committee on Government Operations.

I would urge my colleagues to support adoption of it.

Ms. NORTON. Mr. Speaker, H.R. 4549, which I introduced on June 8, 1994, amends section 5724(a)(3) of title 5 of the United States Code to provide last move home benefits to the immediate family of SES career appointees who die in service prior to separating or retiring from Federal service. The benefit covers the moving and transportation expenses to a final place of residence.

To be eligible for the benefit an SES career appointee must: First, have been transferred or reassigned geographically from one official station to another for permanent duty as a career appointee in the SES in the interest of the Government and at the Government's expense; second, be eligible to receive an annuity for optional retirement, be within 5 years of such eligibility, or be eligible to receive an annuity based on discontinued service retirement or early retirement; third, separate from Federal service on or after September 22, 1988; and fourth, be eligible to receive one of the above-mentioned annuities upon such separation.

The General Services Administration [GSA] has developed regulations regarding the last move home benefit—41 CFR Ch. 302-1, subpart B—which limit the benefit to eligible SES career appointees who actually separate or retire from Federal service. The result of such regulations is that the family members of SES career appointees who meet all the eligibility requirements for the benefit but who die before separating or retiring are denied the benefit. The Department of Veterans Affairs [DVA] has written to the Senior Executive Association and the GAO highlighting cases where the immediate family of SES career appointees have sought reimbursement from DVA for the cost of their last move home, but have been denied these reimbursements due to GSA's regulations.

H.R. 4549 would amend the current statutory language regarding the last move home benefit to extend such benefits to the immediate family of eligible SES career appointees who die before separating or retiring from the Federal service.

The Office of Management and Budget, the Office of Personnel Management, the DVA, and GSA have all informally indicated their support for the bill. I believe the need for this legislation is clear, and urge the subcommittee to adopt the bill.

Mr. CLINGER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ABERCROMBIE). The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the bill, H.R. 4549.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4549, the bill just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

DISREGARDING PAYMENTS TO VICTIMS OF NAZI PERSECUTION IN DETERMINING BENEFITS

Mr. TOWNS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1873) to require certain payments made to victims of Nazi persecution to be disregarded in determining eligibility for and the amount of benefits or services based on need, as amended.

The Clerk read as follows:

H.R. 1873

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN PAYMENTS MADE TO VICTIMS OF NAZI PERSECUTION DISREGARDED IN DETERMINING ELIGIBILITY FOR AND THE AMOUNT OF NEED-BASED BENEFITS AND SERVICES.

(a) IN GENERAL.—Payments made to individuals because of their status as victims of Nazi persecution shall be disregarded in determining eligibility for and the amount of benefits or services to be provided under any Federal or federally assisted program which provides benefits or services based, in whole or in part, on need.

(b) APPLICABILITY.—Subsection (a) shall apply to determinations made on or after the date of the enactment of this Act with respect to payments referred to in subsection (a) made before, on, or after such date.

(c) PROHIBITION AGAINST RECOVERY OF VALUE OF EXCESSIVE BENEFITS OR SERVICES PROVIDED DUE TO FAILURE TO TAKE ACCOUNT OF CERTAIN PAYMENTS MADE TO VICTIMS OF NAZI PERSECUTION.—No officer, agency, or instrumentality of any government may attempt to recover the value of excessive benefits or services provided before the date of the enactment of this Act under any program referred to in subsection (a) by reason of any failure to take account of payments referred to in subsection (a).

(d) NOTICE TO INDIVIDUALS WHO MAY HAVE BEEN DENIED ELIGIBILITY FOR BENEFITS OR SERVICES DUE TO THE FAILURE TO DISREGARD CERTAIN PAYMENTS MADE TO VICTIMS OF NAZI PERSECUTION.—Any agency of government that has not disregarded payments referred to in subsection (a) in determining eligibility for a program referred to in subsection (a) shall make a good faith effort to notify any individual who may have been denied eligibility for benefits or services under the program of the potential eligibility of the individual for such benefits or services.

(e) REPAYMENT OF ADDITIONAL RENT PAID UNDER HUD HOUSING PROGRAMS BECAUSE OF FAILURE TO DISREGARD REPARATION PAYMENTS.—

(1) AUTHORITY.—To the extent that amounts are provided in appropriation Acts for payments under this subsection, the Secretary of Housing and Urban Development shall make payments to qualified individuals in the amount determined under paragraph (3).

(2) QUALIFIED INDIVIDUALS.—For purposes of this subsection, the term "qualified individual" means an individual who—

(A) has received any payment because of the individual's status as a victim of Nazi persecution;

(B) at any time during the period beginning on February 1, 1993, and ending on April 30, 1993, resided in a dwelling unit in housing assisted under any program for housing assistance of the Department of Housing and Urban Development under which rent payments for the unit were determined based on or taking into consideration the income of the occupant of the unit;

(C) paid rent for such dwelling unit for any portion of the period referred to in subparagraph (B) in an amount determined in a manner that did not disregard the payment referred to in subparagraph (A); and

(D) has submitted a claim for payment under this subsection as required under paragraph (4).

The term does not include the successors, heirs, or estate of an individual meeting the requirements of the preceding sentence.

(3) AMOUNT OF PAYMENT.—The amount of a payment under this subsection for a qualified individual shall be equal to the difference between—

(A) the sum of the amount of rent paid by the individual for rental of the dwelling unit of the individual assisted under a program for housing assistance of the Department of Housing and Urban Development, for the period referred to in paragraph (2)(B), and

(B) the sum of the amount of rent that would have been payable by the individual for rental of such dwelling unit for such period if the payments referred to in paragraph (2)(A) were disregarded in determining the amount of rent payable by the individual for such period.

(4) SUBMISSION OF CLAIMS.—A payment under this subsection for an individual may be made only pursuant to a written claim for such payment by such individual submitted to the Secretary of Housing and Urban Development in the form and manner required by the Secretary before—

(A) in the case of any individual notified by the Department of Housing and Urban Development orally or in writing that such specific individual is eligible for a payment under this subsection, the expiration of the 6-month period beginning on the date of receipt of such notice; and

(B) in the case of any other individual, the expiration of the 12-month period beginning on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. TOWNS] will be recognized for 20 minutes, and the gentleman from New Mexico [Mr. SCHIFF] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. TOWNS].

Mr. TOWNS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today, we consider passage of H.R. 1873 as introduced by the gentlemen from California, and amended by the Subcommittee on Human Resources and Intergovernmental Relations, which I chair.

The reparations payments that are the subject of this bill were paid by the Governments of Germany and Austria, to Nazi Holocaust survivors, no matter where they resided.

However, different departments and agencies of the U.S. Government treated these payments differently. Some agencies, such as the Social Security Administration and the Department of Housing and Urban Development, included the reparations compensation in the calculation of benefits. Other agencies, such as the Internal Revenue Service, expressly excluded the payments. This disparity in treatment led many survivors to the courts to obtain some consistency in the treatment of reparations payments.

This bill will eliminate the need for survivors to resort to the courts. It will require that reparations payments made by foreign governments be excluded from eligibility calculations for need-based programs. Additionally, this bill will require administrative agencies to make a good-faith effort to provide notice to any program applicant who was denied benefits based solely on the receipt of reparations payments. It seems to me that it is only fair that we seek to inform those people who may be affected by the change.

Finally, during the hearing on this bill, we were informed by the Department of Housing and Urban Development that in February 1993, it had assessed and collected rental payments based on the inclusion of reparations payments. In April 1993, a HUD directive halted the collection of additional rents. Therefore, this bill requires the agency to refund those moneys it collected during that 3-month time period.

This bill will bring the treatment of the recipients of these payments into line with the treatment given other recipients of reparations payments in this country. Several groups, including Japanese-Americans and some Native Americans, receive reparations payments. Those payments are excluded from the calculation of need-based benefits. This body made sure of that exclusion when it passed the legislation which established reparations for those groups.

Although this Government did not harm this group of Holocaust survivors, it seems to be that respect for international law and the mandates of other nations would allow us to exclude the benefits paid to this group also.

Additionally, important U.S. objectives are served including: First, providing one standard for all Federal agencies and second, assisting the courts by eliminating the need for further litigation. Finally, on a humanitarian level, this bill will provide a sense of security and relief to the small and dwindling number of survivors.

I ask you to support this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. SCHIFF. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also rise in support of this bill and urge its passage.

The chairman of our subcommittee, the gentleman from New York, has correctly outlined the dilemma as it was presented to the Congress, and that is some administrative agencies of Government had determined that payments received as reparations for the Nazi seizure of property in Germany were to be counted as income for certain Federal programs. Other agencies determined that they were not to be counted.

After studying this matter, our Subcommittee on Human Resources and Intergovernmental Relations, and followed by the full Committee on Government Operations, determined that such reparation payments were not intended to be counted as income by the Congress in previous laws that were passed to determine income eligibility.

This was determined for two reasons. First of all, just the source of these payments, reparations for essentially a government criminal seizure of property, is not what the Government intended or thinks of in terms of income when we evaluate programs.

And second of all, the recognition, sad as it might be, that from the end of World War II almost 50 years ago, the number of individuals that this bill would affect is dwindling rapidly and, therefore, the effect on Government programs would be minuscule if at all.

I thank the chairman of the subcommittee for bringing this bill to the floor. I thank the chairman of our full committee, the gentleman from Michigan, and our ranking member, the gentleman from Pennsylvania, for supporting it also.

Mr. Speaker, I reserve the balance of my time.

Mr. TOWNS. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. WAXMAN], who worked very hard to bring us to this point.

Mr. WAXMAN. Mr. Speaker, I rise to ask my colleagues to support H.R. 1873, legislation to exclude restitutionary payments made by foreign governments to victims of Nazi persecution from eligibility determinations for Federal need-based benefits.

I also want to express my appreciation to my good friends ED TOWNS, chairman of the Subcommittee on Human Resources and Intergovernmental Relations, and JOHN CONYERS, chairman of the Committee on Government Operations, who allowed for expeditious consideration of this legislation.

With the opening of the U.S. Holocaust Memorial Museum, the worldwide success of Stephen Spielberg's Academy Award-winning film, "Schindler's List," and the recent commemoration of the 50th anniversary of D-day in Normandy, the Nation's attention has been focused on the unspeakable atrocities that took place during the Hitler regime in Nazi Germany.

Between 1933 and 1945, the government of the Third Reich proceeded stage by stage from the persecution of Jews to the systematic annihilation of a huge portion of Europe's Jewish population. In Nazi-occupied Poland alone, nearly 3 million Jews were slaughtered, leaving a mere 2 percent of Poland's once huge and flourishing Jewish population.

The bare statistics of the Holocaust tell only a small portion of the saga of suffering Jews and other victims of the Nazis endured during this incredibly dark period. An entire world was destroyed. Thousand-year-old communities with deeply rooted institutions were obliterated to such an extent that even the town cemeteries cannot be found.

In the aftermath of World War II, the postwar German and Austrian Governments instituted programs of payments to Holocaust survivors. These payments are not intended to be full and adequate compensation for the Holocaust, as such compensation is impossible. They are instead a penitent gesture to individuals whose whole families were exterminated, who suffered loss of limb or permanent impairment of mental or physical functions, or who endured other terrible hardships. It is unconscionable that these payments should count as regular income or assets, thus diminishing eligibility for aid under entitlement programs of the Government of the United States.

Reparations payments made by the U.S. Government to injured groups—including Japanese-Americans, Aleuts, and Native Americans—are already excluded as income in determining eligibility for all Federal need-based programs. Reparations payments by foreign governments, however, are treated dissimilarly by our Federal agencies.

The Internal Revenue Service has ruled that reparations payments to Holocaust survivors do not constitute taxable income for Federal income tax purposes. In 1984, the Ninth Circuit U.S. Court of Appeals ruled in Grunfeder versus Heckler that German reparations payments to Holocaust survivors are not to be counted in determining eligibility for Supplemental Security Income [SSI]. The 1990 Budget Reconciliation Act—Public Law 101-508,includes a provision disregarding these payments in assessing eligibility for nursing home care and home and community-based services under Medicaid. In 1993, the Department of Housing and Urban Development [HUD] ruled that reparations payments to Holocaust survivors would not be included in the eligibility determinations for federally subsidized housing.

Most importantly, this legislation will protect individual Holocaust survivors from the experiences of my constituent, Felicia Grunfeder, who lost her SSI benefits for 4 years until they were reinstated by a Federal court, and Fanny Schlomowitz of Phoenix, AZ, whose rent on her federally subsidized apartment was doubled until Secretary Cisneros ruled that reparations payments would no longer be regarded as income for eligibility for Federal housing programs.

H.R. 1873 is a moral step, with negligible fiscal impact. It is 50 years since the end of World War II, and many Holocaust survivors have died. The number of individuals who will be affected by this bill will be small. I ask my colleagues to vote for this important legislation.

Mr. TOWNS. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. COPPERSMITH].

Mr. COPPERSMITH. Mr. Speaker, I rise in support of H.R. 1873, which will remove certain payments made by foreign governments to victims of Nazi persecution in determining eligibility for and the amount of Federal benefits based on need.

After the horrors of World War II, the post-war German and Austrian Governments began making reparation payments to Holocaust survivors. The payments cannot compensate for the losses the survivors suffered. Instead, the payments provide some basic, practical assistance to people who lost their families or who suffered physical or mental hardships from the Nazis.

The payments help these survivors of horror to live a slightly more comfortable life. People like my constituent Fanny Schlomowitz, a native of Poland who now lives in Phoenix. She was beaten by the Nazis during the war. Mrs. Schlomowitz should not have the Department of Housing and Urban Development double her rent because they suddenly learned of her reparation payments. Mrs. Schlomowitz nearly lost her apartment in a senior citizens apartment complex, and only a direct appeal by Senator DENNIS DECONCINI to HUD Secretary Henry Cisneros allowed her to remain in her home.

Mrs. Schlomowitz and her fellow Holocaust survivors instead deserve to have the Federal Government recognize the special and unique nature of these reparation payments. This bill has a negligible fiscal impact. In the nearly 50 years since the end of the World War II, many survivors have died. Many do not qualify for the programs involved.

The Internal Revenue Service has already ruled that these payments do not constitute taxable income. The 1990 Omnibus Budget Reconciliation Act contained a similar provision regarding Medicaid benefits. We now should end this piecemeal approach and provide consistent treatment for these people who have suffered enough for an entire world.

I urge support of this legislation to recognize the special circumstances endured by victims of Nazi persecution. This bill is both timely and just, and I urge my colleagues to support it.

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Mr. TOWNS. Mr. Speaker, I reserve the balance of my time.

Mr. SCHIFF. Mr. Speaker, I yield 3 minutes to a leader on our side on behalf of this bill, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of H.R. 1873 regarding payments to victims of the holocaust. As an original cosponsor of this measure, I wish to commend our distinguished colleague from California [Mr. WAXMAN], for his diligence in insuring congressional consideration of H.R. 1873, and the distinguished subcommittee chairman, the gentleman from New York [Mr. TOWNS] and the ranking subcommittee member, the gentleman from New Mexico [Mr. SCHIFF].

I also commend the committee's distinguished chairman, the gentleman from Michigan [Mr. CONYERS], for his support.

H.R. 1873 requires that certain payments made by the German and Austrian Governments to victims of Nazi persecution be excluded from income calculations in determining eligibility for any Federal benefits program or any federally assisted program. The legislation prohibits the Government from attempting to recover any excessive benefits resulting from failure to account for these payments in calculations prior to the bill's passage.

Currently, payments made by the German and Austrian Governments to victims of the Holocaust are excluded from income calculations in determining income tax liability. A few years ago a situation came to the public's attention when it was disclosed that a Holocaust survivor, living on meager funds was found liable by the Department of Housing and Urban Development for substantially more rent for her subsidized apartment, since HUD considered her reparations payment as income.

Congressional action was swift in legislating the necessary change within HUD's jurisdiction, yet because there are myriad income based programs throughout the Federal Government, this legislation is the logical next step in ensuring that Holocaust reparations payments shall not be considered income in determining eligibility for any Federal benefits program.

It is only fair that a uniform standard regarding reparations payments to Holocaust victims apply within the Federal Government. Accordingly, I urge my colleagues strong support for adoption of H.R. 1873.

Mr. SCHIFF. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. PORTMAN], a member of our subcommittee.

Mr. PORTMAN. I thank the gentleman for yielding time to me.

Mr. Speaker, today I rise in strong support of H.R. 1873. As my colleagues have already outlined, both the German and Austrian Governments currently fund programs which provide reparation payments to survivors of Nazi persecution. These payments are very small gestures of assistance to those who have suffered. Yet, certain U.S. Federal agencies count these payments as regular income and thus diminish possible eligibility for aid under certain benefit programs of the Federal Government.

It is both shocking and saddening that there were individuals who endured the atrocities of the Holocaust and then later found themselves being forced to fight their way through American courts and Federal redtape in order to ensure that the small amount of reparations they received did not result in a decrease of needed benefits.

Those Americans who survived the Holocaust deserve better and it is the responsibility of the U.S. Government to see that such bureaucratic faults are corrected. Those who survived the horrors of Nazi persecution have experienced enough anguish already. The Federal bureaucracy need not add to that anguish. I am proud to have been involved with this bill since its consideration last year by the Human Resources Subcommittee on which I serve. For those, like myself, who are concerned by our mounting Federal deficits, it should be clear that this bill will have a negligible impact on Federal spending, affecting no more than 900 people nationwide according to the Congressional Budget Office. It is not only proper legislation, but is also clearly a step in the right moral direction.

I want to commend Mr. WAXMAN for having authored this legislation and my subcommittee chairman, Mr. TOWNS, for having held a thoughtful hearing on it last year.

I urge my colleagues to join me in supporting the legislation.

Mr. SCHIFF. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. TOWNS. Mr. Speaker, I yield myself such time as I may consume. I would like to thank the chairman of the full committee, the gentleman from Michigan [Mr. CONYERS], the ranking member, the gentleman from Pennsylvania [Mr. CLINGER], and of course the subcommittee ranking member, the gentleman from New Mexico [Mr. SCHIFF], for all the work they have done, along with our staff.

Mr. Speaker, I urge passage of H.R. 1873.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ABERCROMBIE). The question is on the motion offered by the gentleman from New York [Mr. TOWNS] that the House suspend the rules and pass the bill, H.R. 1873, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TOWNS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1873, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

McCALL SMOKE JUMPERS: IDAHO HEROES

(Mr. LAROCCO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAROCCO. Mr. Speaker, as a resident of McCall, ID, the homebase of two of the smokejumpers killed last week in the Storm King Mountain fire, I join in mourning their loss. Fourteen brave souls died in the inferno above Glenwood, CO, including my good friend, Jim Thrash, and his colleague Roger Roth.

The McCall smokejumpers have bravely carried out their special mission since 1939. Each summer, they parachute over fires in the rugged backcountry, extinguish them quickly, and return to their base. These top-notch professionals protect both the public lands and private property, along with the wildlife.

Smokejumpers from McCall respond to fires throughout the United States. They make about 600 jumps on some 160 fires each year. Jim Thrash had been a Forest Service smokejumper for 14 summers with 213 career jumps. He also served as the president of Idaho Outfitters and Guides Association. Roger, originally from Michigan, also loved Idaho's backcounty, especially hunting and fishing.

Although I cannot begin to speak to the grief of the families, my thoughts and prayers are with Jim's wife, Holly Thrash, and their children, Ginny and Nathan, and with Roger's parents, Walter and Carol Roth.

Jim and Roger will be remembered as heroes and friends to many in Idaho, especially to those of us who live in McCall. We will miss them.

□ 1900

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. JOHNSON of Georgia). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

HEALTH REFORM AND THE HEALTH OF DEMOCRACY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 5 minutes.

Mr. GINGRICH. Mr. Speaker, I want to take my 5 minutes to talk about health reform and the health of democracy.

I have really been very, very saddened by the response of the Clinton administration and the Democratic leadership to what is happening with public opinion on health care. The President came to this room last September and outlined his idea of how to solve health problems in America, and initially people were positive, and then they began to read the details of the legislation, and they saw that it was a big-government, big-bureaucracy, big-tax-increase program, that the Clinton program would take a great deal of control away from you and give it to the Government, and that bureaucrats would begin to replace doctors and hospitals as the center of decisionmaking in health care, and the result was that week by week, month by month, more and more people came to oppose the Clinton plan.

At the same time that the Clinton health plan was decaying, Mr. Speaker, the President, beginning in about February of this year, with a combination of, frankly, ineffectiveness and incompetence in foreign policy on the part of his team, confusion about Bosnia, North Korea, Haiti, and a whole series of issues, the declining value of the dollar, which has lost 12 percent against the yen and 10 percent against the German mark again this year, and all the different factors of Whitewater and other so-called scandals have combined to lower the President's prestige so that in the latest Gallup Poll he is, for the first time since he had his haircut at the Los Angeles airport last year, a net negative. More people disapprove of the President's performance than approve.

Now in that setting in a healthy, free society, Mr. Speaker, Members of Congress would go home, they would listen to their district, and they would learn that people do not want the Clinton health plan, and they would come back to the Capitol, and they would say to their leadership, "No, we can't do that." But it is very clear from the Washington Post on Sunday that the Democratic leadership has decided that the machine in Washington is more important than the American people, that, to paraphrase Senator JAY ROCKEFELLER, it does not matter what the American people want, they are going to get the health reform the Democratic leadership has decided on.

Over the next several weeks I am going to take several special orders, and I am going to outline the evidence given by one of the Democratic freshmen about how the Democratic machine blackmails, and bribes, and browbeats and humiliates. I am going to put in the RECORD what the Democratic Member of Congress said on television on "60 Minutes." I am going to talk about the way the machine works, and I am going to do it for a very specific reason.

It is fundamentally wrong for America, for people who are supposed to be elected every 2 years, who are supposed to be sensitive to the concerns and the needs of the American people, to deliberately and ruthlessly run roughshod over the American people, and it is very clear that the Democratic leadership strategy is to have some secret room in this building to bring Democratic Members in in small groups, to get them to buy into the bill by offering them various promises, or making various threats, and then at the last minute, just before we rise for the August recess, to bring a bill to the floor without public hearings, without expert analysis, without the country having a chance to know what is going on. Having failed totally in a campaign which began last September to openly sell the American people, the Democratic leadership will rush in here in the last 3 or 4 days. They will twist arms. They will offer inducements. They will make threats. And then at that moment they will say to the Democratic Members who are wavering, "Oh, keep the process alive."

We saw all this last year with the tax increase, and by one vote right here, and God and I stood where I am right now and watched the last two Democrats switch their vote under pressure from their leadership face to face in the 10 minutes after the vote was closed while they kept it open enough, long enough, to twist the last arms.

We can see what is coming. What is coming is a closed rule to stop the Rowland-Bilirakis or the Cooper bill from having a fair vote. What is coming is twisting arms in a machine, and let me say to my colleagues I have never before seen incumbent Members running behind the challenger in June of an election year, and yet U.S. News reports this week five cases of Democrats running behind the challenger. I do not ever remember term limits getting 77 percent in the average placements on the ballot. I have never before seen senior incumbents with 60 and 65 percent disapproval. I do not remember ever seeing a time when the average Democratic incumbents reelect number was down to 37 percent.

And what does it all say? It says the American people believe that things are on the wrong track, they want change, and I hope the Democratic leadership will listen to them.

WHAT NEEDS TO BE DONE ABOUT HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, the Clinton administration policy in Haiti is causing a crisis of confidence in the American capability around the globe, and it is causing a giant, unnecessary tax cost for the American taxpayers. There are a number of things we can do for a new and improved Haiti policy, and we can do it immediately, and they are not expensive. There are four elements I would single out and talk a little bit about tonight.

First, we should take the pressure off. We are creating polarity there. We are creating hate and divisiveness when we should be trying to build nations by promoting democracy and peace.

The second thing we need to do is not invade and to stop talking about invasion.

The third thing we need to do is to create a safe haven on Haitian soil for humanitarian relief.

And the fourth thing we need to do is to use the opportunity provided by the decline in pressure by taking those steps to deal with the moderates who are elected in Haiti to run the affairs of that country. I speak of the Chamber of Deputies and the Senate, and to deal with those people who want to talk with us and get back to the business of nation building rather that nation razing that is going on now.

Going back to the first point, take the pressure off.

We need to pull back the armada of 14 military vessels we have down there now, the Navy ships armed to the teeth with marines for assault and amphibious landings. We need to pull back the magnets that are there, those processing centers that are being given special treatment for Haitians, where they have an approval rate of getting into the United States that is much higher than if they stayed in Haiti. So, of course they are going to the water thinking there is a better chance of getting to the United States through that perilous route.

The third thing we need to do under this part is to lift the embargo. There are some 19,000, more than 19,000, Haitians who have fled the country since the 16th of June. In Haiti despair has turned to human misery. Disease has turned to medical catastrophe. Malnutrition has gone to starvation and death, whether by drowning or by other means. It is no longer uncommon.

This is inhumane treatment. If any other country were using this policy, we would be hollering right here in the U.S. Congress about it. What American can be proud of this picture, of the misery we are causing in Haiti?

The Boston Globe says policy changes follow policy changes with disheartening speed, yet Haiti's ruling thugs have not budged. The exodus gathers new momentum, and so do the daily drownings. When does the administration get the message it is not working, it is just causing trouble?

Second, do not invade. Haiti is a friendly neighboring country, or it used to be. We have about a million Haitians living in this country, and many Americans living in Haiti, and many American businesses in Haiti. What has gone wrong all of a sudden?

Well, one of the things that has gone wrong is we have come up with this policy of embargo and the sanctions, and we have made the lives so miserable there that people are leaving.

A poll was taken. We know the President is fond of polls. Two-thirds of the people in this country oppose an invasion. A half plus, more, better than the majority, oppose any U.S. involvement in any intervention there.

□ 1910

So basically more people wanted us not to invade than do. So why are we talking about it from that perspective?

There is the thought that if we invade, we will take out Cedras and the problem will go away. Wrong. Cedras is not the problem. There are many Cedrases behind Cedras. We know that is not what is causing the problem.

We have different camps in Haiti and we should be bridging them together, rather than putting the pressure to create more hate between the two of them.

There are many unknown factors if we invade. How will we get out? What new leaders will emerge? What kind of costs are there? How many casualties will there be? Will there be any disengagement policy? Will the Haitian military come right back in?

It is very hard to find a credible reason to invade. There is no national security interest. Haiti is not about to attack the United States. There are no vital interests to worry about. The administration is seeking a pretext. Well, it may be drugs. If it is drugs, why are we not attacking Colombia and Peru and Bolivia? There is no credible reason to invade. Drop it.

Number three, create a safe haven on Haitian soil. We should stop badgering and bribing our Caribbean neighbors to take Haitian refugees, when there is plenty of room in Haiti and a safe haven for the refugees to go. Whether they are refugees seeking relief from economic repression that we have caused, or political repression caused by the situation in Haiti, it makes no sense whatsoever to put these people to the peril and risk they are going on when a safe haven in Haiti would be a good place for them to get humanitarian relief.

Food, medicine, shelter. This is not a new idea. The U.N. has used it before in Sri Lanka, off of Mannar Island.

My time has run out, and, unfortunately, the time of many Haitians has run out too, and the time on the administration's policy on Haiti has run out too. We will keep dealing with this.

QUESTIONS ABOUT FISKE REPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, for some time I have been very concerned about the investigation by the special counsel, Mr. Fiske, into the Whitewater affair, Vince Foster's death, and possible money laundering of drug money through the Arkansas Development Financial Authority.

One of the reasons I am very concerned about Mr. Fiske is he was connected to Mr. Clark Clifford and BCCI. He represented him during that investigation. He represented the International Paper Co. when $10 million in Arkansas Financial Development Authority funds was loaned to the International Paper Co. He represented them when 500-plus acres of land was sold by the International Paper Co. to the Whitewater Development Corp. Mr. Fiske recommended Bernie Nussbaum to be the associate counsel to Mr. Walsh during the Iran-Contra investigations. And Mr. Fiske recommended Louis Freeh to Mr. Nussbaum, then the Assistant to the President of the United States, Mr. Clinton, to be the head of the FBI. All of these things took place, and yet the head of the Justice Department decided to make him the special counsel to investigate the Whitewater affair.

The first report came out this week, and it dealt with the death of Vince

Foster. Mr. Fiske said that he was convinced that Mr. Foster did, in fact, take his own life and that the overwhelming weight of evidence compels this conclusion.

However, there are a lot of questions that have not been answered, answers that we as a Congress and the people of this United States need to have.

First of all, there was a witness, a witness who stopped by the park to go to the bathroom, and he walked up into this area and he saw this body. And this gentleman that went up to this area said he looked at the body quite closely, and he noticed the head was straight up and that the hands were at the side and there was no weapon anywhere. He did not see a gun in either hand.

As a matter of fact, Gordon Liddy interviewed this man, and that is what this man said. He stated that in his opinion if a shot had been fired, it would have been heard by the guards across the road at the home of a Saudi Arabian, whose home he observed near the cannon. The witness said he had not seen such a photograph where there was a gun and appeared surprised, stating he observed both hands of the body and neither had held a gun. This is an eyewitness who was there and saw firsthand the body before anybody else did.

He was emphatic that there was no gun there. Yet on page 31 of the Fiske report in a note at the bottom of the page, Special Counsel Fiske said he wanted to test the veracity of the confidential witness. He concluded, based on information provided by the witness never mentioned in any public accounts, this witness was accurate and genuine and the first person to discover Mr. Foster's body. But the witness' certainty about the lack of any firearm is dismissed in the report by Mr. Fiske as a mistake. The witness, we are told, was standing in a position from where he could not see Mr. Foster's hand. Yet before and after this investigation, the witness said he did see both hands and there was no gun in either hand.

Most of the glaring problems in the Fiske report are the questions not asked. The FBI lab found blonde or light brown hair on Mr. Foster's clothes which did not belong to Mr. Foster. Who do those hairs belong to? Similarly, carpet fibers were found on Mr. Foster's clothes. What is the origin of those fibers? Could identification of this evidence help us to determine where Mr. Foster spent his last afternoon before he was killed or committed suicide?

All of us who have been watching the preliminary hearings on murder charges against O.J. Simpson are aware from several days of testimony that the technology exists to test all sorts of material at a crime scene. I believed tests of the hair and fiber found on Mr. Foster could go a long way to answering questions which continue to be raised about his death.

The problem is that many of these questions are left unanswered and unasked by Mr. Fiske. The blood trails leading from Mr. Foster's body would seem to defy gravity. His head was lying on the side of his shirt, because the blood coagulated on his face and shirt. Yet when they found the body, the face was straight up. Dead men do not move their head. Somebody moved the body. Who moved the body? Mr. Fiske needs to start asking these questions and instructing the FBI to get these answers.

I have been skeptical about a lot of the other things. For instance, not only was there hair on Mr. Foster's body and carpet samples, there was semen in his shorts. And the question is, did he have some sexual activity that afternoon? If so, where did that take place? And whose hair was the blonde hair found on his body?

These questions have not been asked. Yet they say that Mr. Foster committed suicide at that location. The fact of the matter is when they dug around the body to find bone fragments, they found no bone fragments in the skull. They could not find the bullet. Yet they were there for several weeks. The fact of the matter is there are more questions to be answered. Mr. Fiske, the special counsel, needs to be taken to task until he gets those answers.

CONCERNING THE HEALTH CARE REFORM PROCESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. EMERSON] is recognized for 5 minutes.

Mr. EMERSON. Mr. Speaker, as the elected representative of the Eighth District of Missouri, I feel constrained to make a statement concerning my view of the health care reform process that is currently the subject of widespread attention and activity here in the House of Representatives and in the Congress at large, not to mention the country.

Several fundamental impressions loom large with me, and I am anxious to talk about them, because they deeply concern me and my constituents; and I hope, and my constituents hope, that some order may be injected into the process so that we all, Congress and constituents alike, can be singing out of the same hymnal and collectively have a common understanding of how this thing is to work, because the financial impact and personal security concerns of all citizens are real, and should not be treated in cavalier fashion.

First of all, as one who has followed the subject very closely since the President's speech to Congress last September, I do not see a proposal that is currently on the table around which I believe a consensus exists. That is not to say that there isn't a proposal on the table around which a consensus may be built, but it is not there at this point in time.

The President spoke to Congress last September; and in a very fine, rhetorical statement outlined for the Congress and the country his and Ms. Rodham Clinton's view of where he and she wanted to take the country. Almost immediately hearings were held on the rhetorical statement. There was a highly orchestrated TV/media performance related to hearings in the Ways and Means Committee, but all that was really on the table was the President's speech to Congress. There was not a plan. There was no blueprint. There was no calculation as to what this rhetorical statement if implemented would cost. There was no detail about how this proposal would work in practice, no detailed plan about how to get from where we are now in health care to where the President and Ms. Rodham Clinton want to take us.

Details were not forthcoming and were not forthcoming and were not forthcoming.

Finally, along about Thanksgiving a document was received by Congress purporting to be the President's and Ms. Rodham Clinton's plan. Yet, there were whole sections of the plan missing—with notations appearing where sections of the plan should have been—stating section reserved.

Then, during the winter holiday season there was much media speculation and dissection and attention given; but not until Congress convened this year was there any parceling out of the plan.

Given the complexity of the subject, here in the House of Representatives three major committees were given jurisdiction over the plan, told to hold hearings, and report what they may achieve. The Education and Labor Committee was the first to report, the Ways and Means Committee finally reported just before the Fourth of July recess, and the Energy and Commerce Committee reported that it was unable to arrive at a point in its deliberations that anything could be reported to the House.

Earlier, the Senate Labor and Human Resources Committee had reported a bill; and about the time of the July 4 break, the Senate Finance Committee reported a bill. So, what we have now are two bills reported by House committees and two bills reported by Senate committees, and no bill in particular that is slated at this time to come to the House. So, at this juncture, it is fair to say the House does not know the parameters of a measure that will come to the House for consideration.

The majority leader of the House and the majority leader of the Senate are now to meet behind closed doors and assemble a bill from the four bills that are now reported, but their deliberations are not confined to those four bills. So, what is likely to come before both the House and the Senate is a measure that will have been pasted together and on which no hearings will have been held per se and about which budget impact data will not be available and about which there will be many questions in the implementation, should the measure pass.

From what I have heard from my own constituency, several matters stand out. There is a high level of concern that it is very important that Congress take the time to do well whatever it does on health care reform, rather than it do it quickly. Cost and impact data are of vital concern to every American, most especially to those who currently have health insurance, but even to a large percentage of those who do not have health insurance.

Second, what all of this is going to cost in terms of dollars, and potentially jobs, is a matter of great concern. The President in his rhetorical statement of last September indicated that all of the reform that he wishes to accomplish could be achieved with minimal tax implications. No one believes this. The respective committees of the Congress tell us this is not true, but neither can they tell us what it will cost. In casual discussions here on the floor with members of the Ways and Means Committee immediately prior to the July 4 break, members of the committee itself said that they were not dealing with any numbers that they consider reliable. How then can a measure that is going to be pasted together and on which no hearings are going to be held be able to give us any idea as to the cost and impact on the very citizens this measure is purported to help?

There are a lot of issues related to health care reform about which there is a broad concern in the Congress, reflecting the concerns that are at large in the country. These are mainly cost containment, administrative simplification, portability, preexisting condition issues, tort reform, and access either to the insurance system or to the medical system. I believe a bipartisan consensus could be built to address these specific issues. I also want to emphasize that there are some concerns related to rural areas that are unique, and there is thought that what may work on a larger scale for a majority of the population may not work so well in rural areas where the sparseness of population and difficulties of consolidating resources obtain.

I am concerned that the Congress at this juncture not proceed with a public relations effort to pass just anything in order to say it has done something. I do not believe the broad implications of health care reform either as to cost or to the implications that lie in the administration of many ideas contained in health care reform are well understood by us collectively; and I think this whole subject is one about which we should proceed with a good, collective understanding not only among ourselves, but with our constituencies. That is to say, given the fact that we will be taking action that will have serious impact on one-sixth to one-seventh of our entire economy, we had better know very well among ourselves what we are doing and make sure that our constituencies understand with us what it is that we are doing. This is too broad and deep and profound an issue to be dealt with cursorily or lightly or with more of a view to public relations impact than to substance.

I am also alarmed, if present reports and word-of-mouth scuttlebutt is true, that the objective of the majority is to put together a plan excluding any minority input, posturing to make the minority seem obstructionist if it does not swallow the concepts being pasted together by the respective majority leaders. This is an issue that affects all Americans, and through their elected representatives all Americans should have input to the process.

I would be remiss if I did not note that my understanding of bipartisanship in the Clinton era by the Clintonians is if Republicans sign on without question to the ideas put forth by the administration, then we are acting in a good, bipartisan way. My view of a bipartisan product is that both parties and different points of view come together to work out what is doable and attainable. Thus far, there has been a genuine attempt at bipartisanship, but with no real success. The Republicans have been largely shut out of the process here in the House—the Republicans not being at the table until the majority caucus of the pertinent committees have decided what they want to do, the committees ratifying what the caucuses agreed they could respectively pass. Of course, that did not happen in the Energy and Commerce Committee because not enough members of the majority would vote with the majority to make a majority in the full committee. So what we have here in the House, at this juncture, are two bills, each of which have been reported by the narrowest of margins, which will probably be used for guidelines for the larger measure to be introduced in the future but not exclusively so. I reserve judgment as to whether anything that has been reported by the two Senate committees could serve as a basis for a measure that could go forward in a bipartisan way.

I am very frustrated by how the process relating to health care reform has worked thus far, and I hope the mechanism may be found by which a truly bipartisan measure may be reported, to the benefit of the American people and not for partisan gamesmanship.

MORE ON HEALTH CARE REFORM LEGISLATION

The SPEAKER pro tempore (Mr. JOHNSON of Georgia). Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, my discussion tonight is on health care. We do have the four plans which the gentleman from Missouri [Mr. EMERSON] had mentioned. There is the Senate Finance Committee plan that requires 95-percent coverage by the year 2002. Then there is the Senate Labor plan, universal coverage by 1998, which has the same goal as the House Ways and Means Committee plan and the House Education and Labor plan.

The one bill, though, that I think is significant and that the gentleman from Missouri did not bring up is the Dole bill. The bill introduced by Senator DOLE has two significant features, in my opinion, from a political standpoint.

First, it has the reforms that target the high-risk people, the $5 an hour brick mason who works for 6 or 8 months a year and then is laid off a month or two, the people with low incomes, the folks with multiple sclerosis or muscular dystrophy, people in the high-risk bracket that cannot afford health care through the traditional means. It targets those. That is probably the best feature about it. It does this through insurance reform and through low-income vouchers.

The second thing that is politically significant about the Dole plan is that it has 91 cosponsors. If you have that many cosponsors on a bill in the other body, then you have an opportunity to filibuster and come to the table. It is obviously that at this point the majority party does not want a bipartisan reform, but this plan by DOLE, because of the strength of it, might just be the mechanism that achieves a bipartisan reform plan. Of course, we have been on this side of the aisle ready all along to work with either body, both Democrats in the Senate and the House, to achieve health care reform.

There is another subject on health care reform that I think people have to be very clear on when we talk about universal coverage. When we talk about reforms with universal coverage, we are talking about two things: accessibility and affordability.

How do you have universal coverage without making it accessible for all? You have to have planning. You have to have oversight so that the distribution system, which would be employers, are in place to make sure everyone has health care. So in order to have universal coverage, you really do have to have mandates by which businesses or employers provide health care for their employees. That might be easy for the Fortune 500 companies, the General Motors, and IBM's of the world. They are already doing it anyhow. But what about that three-person lawn mower shop or the beauty shop or the pet store, the clothes store? Are they going to comply? Well, they will comply if that is the law. But who is going to make sure they do? The Department of Labor, the National Health Board, what Big Brother government agency is going to come breathing down their neck and make them fill out all the requisite forms and so forth to show compliance?

I am not sure what we will call it, but we will have that oversight agency making sure that compliance is kept. That is the first thing about universal health care. We just have to say, if you are going to have universal coverage, you have to have central planning, and you are going to have to have employer mandates.

The second part of it is, how you are going to make it affordable. Every single socialized medicine country in the world has budgets on their health care.

When you have budgets, what you essentially say is that we are going to spend this amount of money on health care. As soon as we do that, the decisions come down, as they are finding out in Oregon right now, that you have to decide, do you give a 75-year-old a cataract operation or do you give a 33-year-old wage earner with three kids a liver operation. And in socialized medicine countries, that type of rationing generally favors the younger middle-aged wage earner over the senior citizens.

Now, this is why the senior citizens in my district and, from what I am hearing from other Members of Congress, all over the country are saying, only 1 percent of the senior citizens are uninsured right now. They have coverage through Medicare for the most part. Yet the administration in many of the bills that are being proposed right now are ones that do set budgets and do limit the amount of decisionmaking that families can make on their moms and dads and grandparents and put that decisionmaking power in the hands of a bureaucracy, a national health board or some kind of alliance system.

When they do that, Mr. Speaker, we are talking pure and simple rationing. I would say this: If you have universal coverage, you will have to have rationing. You will have to have employer mandates. We as a body need to keep this in mind.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 60 minutes as the designee of the majority leader.

HEALTH CARE REFORM

Ms. KAPTUR. Mr. Speaker, it has been very interesting for me this evening to listen to some of my colleagues on the issue of health insurance reform, the topic that I want to speak about tonight. I think it is important to start out and say that many of the individuals who have spoken this evening, including myself, do not serve on any of the major drafting committees that have been working very assiduously here trying to put measures together for the Nation. This is important, I think, for the public to understand, because the majority of Members in here have not been afforded the opportunity to participate in the crafting of these bills that are before us.

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That does not mean that we would not be willing participants, but in the way the process works, we are not the first at the table.

The other feature which has been very interesting to me as I have watched the various bills emerge and listened to some of the rhetoric here, including some on the floor this evening, is I think that partisanship, unfortunately, has been playing too great a role here in Washington, and I think that it is tending to blur the very real desire of the American people to continue to have the finest health care system in the world. We know that there are some cracks in the system that need to be repaired, but partisanship, I think, has gotten far too loud, rather than people thinking about, very carefully, how we improve on a very fine system.

We ask ourselves what does a Member of Congress do if you don't serve on one of the key drafting committees, and if you are very troubled by some of the ugly partisanship that has already begun to creep its way into the institution, even before final bills are before us?

I guess Mr. Speaker, I would like to take the opportunity this evening to call your attention to a process that I was able to use in my own congressional district in northwest Ohio, the Greater Metropolitan Toledo area, to fashion a report card, a scorecard, against which our community intends to measure any bill or bills brought before this Congress. We really created our own bill.

For over a year we have been working very, very hard with a broad coalition of hundreds of citizens in our community. They are Democrats, they are Republicans, they are Independents, and I would guess there are probably even a few undecideds in the group. They included representatives of big business, of small business, insurance sales people, consumers, nurses, doctors, chiropractors, psychologists, hospital directors, HMO directors, trade unions, senior citizens, attorneys, medical students, medical hospital presidents. You get the idea. We had them all in the same room.

This was not easy to do. It took us a very long time, and it took them time to be honest with one another and take a very hard look at our own community, and we made some fascinating discoveries.

In the State of Ohio, one of the largest States in the Union, you cannot find out comparative cost information about policies. If you call down to our State insurance office down in Columbus, OH, and you say, "Give us a list of all the insurance plans in our region of Ohio what their benefits are, what their costs are, and what their quality assurance measures are, how satisfied are people with those plans," no one can tell you.

It was difficult to talk about reforming a system that it is very hard to get information about. Nonetheless, our group that we called our Kitchen Cabinet of 100, our coalition, worked on a draft, and I am so very proud of them because they represent the type of Americans that this institution needs to listen to. They spent hours and hours of volunteer time trying to put together their own measure, people of very different interests, but people who fundamentally agreed that every single American should be covered by health insurance.

We surveyed our community. Thousands of questionnaires were returned. We learned that most people in our community, over 85 percent, were satisfied with the quality of care in our area. We don't want to do anything to jeopardize that quality of care.

We also learned a majority of our people are satisfied with the type of coverage that they have. Half are satisfied, but the other half were not satisfied. Our proposal thus aims to keep satisfied those citizens who are satisfied with their coverage, and to include those who have been left out or unduly discriminated against in the insurance market.

The major shortcoming people cited to us was the overcomplicated nature of the existing health insurance system. We do not hear too much about that here in Washington, and yet the reality of ordinary people across this country is, you hate to read those insurance policies, for those people who wear bifocals you can hardly see the bottom lines, but really, people do not like the insurance market because it is so difficult to understand.

However, only a small percentage of citizens view transforming our system into some sort of government-run system or single-payer system as the solution. They really do not want that.

We found serious administrative and cost overrun problems exist in the private sector as well as in government insurance systems due to the very nature in which they are put together. We found high levels of satisfaction, on the other hand, and sound management within certain plans we identified in our local community as being self-insured and self-administered.

In fact, we used some of those as the models for what we created. Our group concurred with the President and First Lady that every American must have a medical insurance home with coverage that is high quality. We don't want to leave anybody out. We believe insurance should be affordable, it should be private, if at all possible, cover pre-existing conditions, and not exclude people because someone in their family might be sick, and also portable.

We also believe that any reform bill must focus on covering people, not medical incidences, which the current system does too often. The current private and public insurance systems place medical decisions today, and each of you think about this with your own families, in the hands, too often, of billing clerks, results in medical care being directed by financial intermediaries at some 800 number that you have to call if you are a doctor, if you are a patient, if you are a family member, rather than that medical care being directed by medical professionals closest to the patient.

This system has to change, not just in the private sector but in the public sector as well. Thus, the central focus of our proposal is health coverage for each citizen made available at the local level through participation in any one of a broad range of what we called affinity health groups. That means people in those groups would have a common bond.

These groups could either be profit or not-for-profit, but it would be the common bond that would hold the group together, chartered at the State level but operating locally with a governing board. Each affinity group's board would include some of the insureds' consumer representation from that group, and that affinity group would serve as the medical insurance home and primary organizer of services for members, including marketing the system to employers. They would coordinate health care payment methodologies, so people are not pulling their hair out trying to fill out all these forms, and we would provide Federal assistance on a sliding fee scale for people needing subsidized care.

To assure coverage for all, each citizen's enrollment, along with quality information about that plan from each affinity group, would be reported to a national health board through the Federal income tax system, with each affinity group assigned a tax identification number. Citizens in their own communities could then select annually from among these different choices, and States would be directed to community rate these affinity groups.

Most of these groups would be formed through existing employer-based plans, because in our area, the vast majority of people receive their insurance through employers. Additional plans, however, serving individuals—for example, the self-employed, who are truly discriminated against in today's market, farmers, people who are unemployed, members of small business consortia, can also, through State law, create one of these affinity groups to assure universal coverage, and create at the local level real competition for insureds at the local level, even for those who are subsidized. We do not want to throw all subsidized people into one plan and say "That is their plan." We want different plans at the local level to compete for those patients.

Citizens who fall into no other group, for whatever reason, would be able to obtain health benefits through a Federal health benefit plan or plans organized at the local level as an affinity group. In addition, States would be given broad latitude to create other affinity groups to compete for the subsidized clients, including hospital-based HMO's, which in my community are already competing for subsidized patients and doing very well, I might add.

Affinity groups, your medical insurance home, would be responsible for organizing a full range of provider services for members, and broad physician choice would be negotiated through the affinity groups. Everyone would have a home. You would belong somewhere in this vastly complicated world of medical insurance, and it would be your plan. You could participate as a consumer on the board, and you would have a say. You could help run that plan, make sure it is well managed, and there would be participation.

Mr. Speaker, our Kitchen Cabinet's proposal for health insurance reform incorporates the following seven major features: First of all, again, responsibility for premiums would be shared between employers, employees, and the general public. Our plan builds on the existing employer-based system. We do not want to throw out the system that we have spent almost a century building.

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Every employer would be required to pay a minimum of 50 percent of each full-time employee's premium. Now how do we define full time? Our group said at least 1,500 hours per year. There is a 90-day waiting period before an employer is fully responsible for that employee's health benefits, and during that period of time those folks would be covered through one of the other plans in the area.

Generally businesses with fewer than 25 employees who pass the discrimination test for 401(D) plan contributions and the criteria for a Federal small business loan would be eligible for subsidy. That is important because we do not want to leave any business out and we want to make sure that businesses cannot cost shift and those who want to cover their employees are treated fairly and these two measures are very likely to help do that. But subject Chapter S corporations would be exempt from subsidy.

Second, our plan would provide, through Federal incentives, that would give choice to any individual who is currently subsidized in the health market and would allow but not require individuals who are on Medicare, who are perhaps in the veterans' system, people who access CHAMPUS or CHAMPVA and other Government-subsidized plans to form or join such an affinity group if they so choose.

Medicaid recipients would be required to join an affinity health group and Medicaid as we know it would disappear. The veterans' health system could function locally as its own affinity health group so we would not disturb the veterans who are satisfied with their care across our country.

Third, under our plan, as I mentioned, Medicaid as it currently exists would disappear. Health insurance payments to subsidized individuals would be graduated up to 250 percent of poverty level and would take the form of an earned income health tax credit refunded on an annual basis. Able-bodied persons in this country who are not working, but receiving the entirety of their health insurance through Government subsidy, would be encouraged to pay back a portion of their benefits through voluntary service in a local community services corporation.

We do not believe that anything should be for free in this Nation and we think at the local level communities under State legislation can figure out ways for people to help pay back some of the care that they may have received for free.

Fourth, to streamline the unnecessarily complex insurance market, the Federal Government under our proposal is asked to define the basic benefit plan for all people in all affinity groups across the country. The insurance market would be required to standardize beyond that basic plan optional supplemental insurance plans to include no more than nine.

That means that some of the additional benefits that are not included in the basic plan, for instance foreign travel, or interstate travel which costs a little bit more would have a separate plan that would incorporate that for which you would pay a little bit more, not covered in the basic plan, but we would eventually have a market clearing where beyond the basic plan there would be nine additional plans across our country and within each State and people would be able to understand and compare the various plans, their costs, and their benefits.

One standard claim form will be utilized, and providers will be required to submit claims initially to each affinity group rather than to the patient. I hear from people all of the time how they hate this insurance paperwork and by having a medical insurance home, an affinity group that would be your own, that paperwork could be handled by the group, not by the patient. The patient could be sent the adjusted billing and they could check at that point but they would not have all of the hassle that we have today in the system.

Fifth, we have dealt with the antitrust and malpractice issues. Antitrust, medical malpractice and tort reform would be implemented with alternative dispute resolution mandatory before a medical malpractice claim can be tried. There is a cap on pain and suffering of $250,000 that is proposed with punitive damages awarded to State health budgets. Those State health budgets would be added to the Medicaid and other Federal funds that would be going to subsidize patients and it would help to contribute to the costs of covering those who cannot afford their own care.

Finally, attorneys fees will be capped at 20 percent of the first million dollar of awards, 10 percent of $2 million awards and 5 percent of awards of $3 million or more.

Six, we deal with the issue of quality assurance. Quality assurance will be strengthened by requiring consumer information reporting to the State on each affinity group's performance according to standard quality format.

That means that you can compare how good your plan is to someone else's, including comparisons of benefits and costs for all plans which you cannot get today as well as provider performance. You can find out more about the price of televisions and their performance from consumer reports today than you can find out about your benefits under insurance and their costs. This needs to be changed. We think we have a very simple way of doing that.

Finally, how are we going to find qualified doctors for the future. The young people in medical school today are paying so much money for their educations. Our committee thought it was very important to deal with the issue of where physicians and medical professionals will come from in the future in order to maintain enough committed physicians and other health care professionals. To build on the number of family practice and primary care physicians, Federal policy would be implemented to reduce interest rates on student loans to a lower percentage than the current rates and a percentage of a new physician's patients would be referred through the local affinity groups each year in order to help that physician pay back some of the investment made in their education.

Let me end this evening by saying I am so proud of the people of my community in putting this proposal together. I wish I could move you all here to Washington and you could conduct the debate in this Congress because I really believe you have the answer. I wish we could put the partisanship aside and put the kind of practical hard-headed thinking that went into this proposal before the Nation.

The work of our Kitchen Cabinet truly represents thousands and thousands of hours from a broad cross section of citizens who had ideas, thousands of years of experience in all of these different walks of life. They heard each others' opinions and they were able to compromise. They rose above their own profession, they rose above their own partisanship, they did it for the good of their community, of their neighbors, of their friends and for the country. We offer this proposal as one set of ideas from one place in America's heartland on the direction of our health care and our health insurance as a nation.

I am very proud to serve the Ninth District of Ohio. I think our people have something very important here to offer the Nation and I would ask my colleagues to take a very serious look at the summary proposal I will place in the RECORD this evening as well as available in our office a very lengthy explanation of the entirety of the bill proposed by the people of Ohio's Ninth District.

NEBRASKANS' VIEWS ON HEALTH CARE REFORM

The SPEAKER pro tempore (Mr. JOHNSON of Georgia). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 60 minutes as the designee of the minority leader.

Mr. BEREUTER. Mr. Speaker, it is quite coincidental that I am speaking after the gentlewoman from Ohio [Ms. KAPTUR], but then indeed the subject is the same. I have great admiration for the gentlewoman's approach to gathering the information from her constituents which she referred to as part of the heartland of America. The part of the heartland I represent is a little farther west. But I have no doubt whatsoever that the gentlewoman's approach to bipartisanship and a greater focus on what our constituents are telling us is the proper way to proceed, and while my constituents would probably come up with a somewhat different plan than the gentlewoman's constituents happen to come up with, I think that many elements are the same.

Mr. Speaker, this evening this Member will attempt to summarize Nebraskans' views on health care reform or health insurance reform as they have expressed their views to this Member.

Mr. Speaker, for the past several years, health care reform or health insurance reform has been the dominant issue at most of this Member's town hall meetings. This year, this Member has received more mail and more citizen contact on this issue of health care reform or health insurance reform than on any other issue ever faced in this Member's time serving in Congress.

Until the last 3 months or so most of that mail was self-generated, not a result of a mail-in campaign of postcards or other communications, and almost one-third of that mail began with the phrase, "I have never written to another public official before, Congressman, but I want you to know that * * *", and they then pour out in detail their heartfelt concerns, fears, and desires. In many cases they would supplement their remarks with illustrations about expensive or unmet health care or health care insurance problems they or their family has faced in the past.

Here is what the Nebraskans from around the whole State who have written to this Member or told me at 40 town hall meetings I have held thus far which were focused primarily on health care, to the extent that one can gather a consensus. They are first of all concerned that government really does not do anything well. They are worried about turning over one-seventh of our economy—the health care industry—to still greater governmental control; worried about the size of bureaucracy; and worried about a bureaucrat coming between them and their physician, other health care providers, and their health care. Also, based upon the Medicare and Medicaid precedents, for example, they say, "given that history with Medicare and Medicaid costs, How can you really expect that the projected costs of health care reform proposals are going to be realistic?"

Second they are concerned about health care rationing. When government is given a larger role in health care, it is clear from experiences in other countries that soon there inevitably will be some kind of constraint or limit imposed upon health care costs, and with constraint, along with it comes health care rationing. People are concerned that they will be told "you are simply too old or you have medical conditions that do not warrant this kind of procedure or operation." They are also concerned they may be told "you may have to wait 3 or 4 months to see if in fact we have any funds left for this kind of elective surgery." In addition, many people are aware of the reports that hospitals in Toronto shut down for about 4 weeks, except for emergency care, because of budget restraints in Canada.

Third, Nebraskans tell this Member that they are concerned about losing their choice—the choice of their own physician, other health care providers, or choice of hospital. They want to maintain that choice and they are very concerned that a larger Government involvement in health care may cause them to lose their choices or current options.

Fourth, they are interested in securing what might be called portability, the opportunity to take health care coverage from one employer to another without a gap in coverage, without being concerned that a pre-existing condition will prevent them from maintaining health care coverage with the second employer, or that they will be paying a substantially larger amount because of a discovered medical condition when they change employment or retire.

Fifth, they are concerned about the escalating cost of health care, and especially hospitalization. The same is also true of long-term care or nursing home care. They are not quite sure, frankly, how to address this problem. Many have graphic examples of what certainly seem to be excessive costs, and a few have cost-containment ideas, but for the most part there is simply recognition that health care costs have been escalating far more rapidly than the overall inflation rate. They also have that same concern about health care insurance premiums. In fact, when this Member conducted his biennial agriculture advisory committee meetings this year, at three of the four meetings the very high and increasing cost of health care premiums for the farm families was the most frequent issue raised.

This leads this Member to comment on a concern expressed and shared not just by farmers but by many Americans, especially the self-employed. Our country has currently great inequities between what people directly pay for their health care insurance, and it has great inequities in the way our tax system treats individuals with respect to the deductibility of health care insurance premiums. For example, many Americans employed by large corporations, and certainly many of the largest unions' employees and some local and State employees have 100 percent of their health care premiums paid for by their employer as a negotiated employee benefit. If the employer is a corporation, of course, those costs become a corporate cost of doing business which is deducted like any other business expense before corporate taxes are calculated. Now, on the other end of the spectrum are the self-employed, be it farm families, or any self-employed persons working in a city or elsewhere. For the self-employed, who pay 100 percent of their health care premiums, the most they can deduct on their income taxes is 25 percent of the cost of their health care insurance premiums. This also represents a very large inequity in this respect.

Sixth, citizens are concerned about the cost of prescription drugs. Many Americans have had direct experience, or contact with friends and neighbors, allegedly being able to go to Mexico, and apparently, buying the same drug produced by the same company, even manufactured in the same factory, for one-half to one-third the cost that they can buy that drug in the United States. Therefore, they are convinced that there is cost shifting going on, which suggests to them that in this country the charges for prescription drugs are based less on cost plus a reasonable profit and more upon what the market will bear. Relatedly, many other Americans bring us the concern about cost shifting which is precipitated by the fact that the cost constraints imposed on Medicare and Medicaid for providers, hospitals, and at nursing homes simply causes those reduced payments from Medicare and Medicaid patients to be balanced by shifting more costs to the private-pay or insurance-pay patients.

Seventh and finally, among the strong consensus views of Nebraskans, especially in this case from small businesses and some of their employers: they are quite concerned that the employer mandates, the requirement that the employer pay for 80 percent of more of their employees' health care premiums. They fear such a mandate will make that business noncompetitive, or force it out of business. They are very concerned about that prospect, and that is an overwhelmingly strong concern among small business families.

Mr. Speaker, it has been said that somewhere around 15 percent, or perhaps slightly more of the American public, is not covered by Medicaid and does not have health care insurance. That amounts to about 37 million Americans. Much of the debate and concern has been focused upon whether or how to provide health care insurance or coverage for those 37 million Americans or that 15 percent of our population. If you break those numbers down it is said by some that perhaps one-half the people in the 15 percent could afford health insurance but choose not to buy it. Most of those people apparently are young individuals and young couples who make the decisions that they can avoid major illness and thus avoid paying for health insurance at that stage of their life; they simply choose to use their money for other purposes. But certainly there must be, it is suggested, about 5 to 8 percent of the American public that would like to have health care insurance but who simply cannot afford it, and they are not eligible for the Government's welfare-related medical program, Medicaid. A very substantial percentage of this Member's constituents by letter and at town hall meetings suggested, "perhaps we need to focus on that 5 to 8 percent, because after all it was President Clinton that stood up at the State of the Union message and said, waving his pen, 'I will veto any plan that does not provide for universal coverage.' So if that's the problem, my constituents go on to suggest, "why don't we simply focus on that 5 to 8 percent of Americans who want health care insurance but who cannot afford it, instead of radically changing, or dramatically altering, the health care system that we have today, and the health care insurance system that is a part of it."

Mr. Speaker, that seems to this Member, and it seems to them, to be a commonsense approach. They are worried that in the process of making these dramatic changes in American health care, we may lose what is best about American health care. After all, they point out quite appropriately, "the best quality health care delivered in the world is delivered in this country." The problems are affordability, and in some cases, especially in rural and sparsely settled parts of the Nation, in accessibility.

Mr. Speaker, the following supplementary information to the foregoing remarks is a synopsis of health care letters received through May 1994. It constitutes a brief summary of the most common or consensus views and beliefs on health care issues which were expressed to this Member by letter from Nebraskans up through and including the month of May 1994.

I. MAIN RESPONSES

A. GENERAL REFORM

The overall expression in the health care reform letters was that a massive and comprehensive reform of our nation's health care system was not needed. Many stated that there is no crisis. In fact the majority of the people are very happy with their current system of health insurance and care. It was often pointed out that the American health care system is the best in the world, so why would we want to change it? Most did concede that some small reforms and changes are needed to lower the cost of health care and to give universal care and insurance to all citizens, but they feel that there is no need for a drastic and substantial reform. Two well-known phrases were often used to express the feelings on reform, "If it's not broke, don't fix it," and "Don't throw the baby out with the bath water." The letters convey the message that the average consumer does not want an overhaul of the current health care system.

B. ADMINISTRATION

An overwhelming majority of the constituent letters voiced opposition to government control of the health care system because it would eliminate freedom of choice and take away the principles of democracy. Many people said that the government was already too involved in public life and that a government-run health care system would be a disaster. They pointed out that the government is much too inefficient to run such a large and important business. A number of people believed that rather than administering the health care system, the Federal Government should regulate it, and a new and large bureaucracy is not needed.

The largest reason given for this opinion is that it would eliminate the people's right to choose. They are afraid that a government system will take away their right to choose their own provider and insurer. A great number of people were vehemently opposed to this. They do not want the government telling them which doctor they will see or limit the number of specialists that are available to them. They also do not like the concept of a Mandatory Alliance because it will not allow them to choose their own insurer.

Many persons were also afraid that the cost of building a new system would be massive and greatly add to the Federal deficit. They were also very opposed to a tax increase to fund this new system. Most people feel that they are already paying too much in taxes and any significant tax increase would create an insurmountable burden on them.

C. INSURANCE

The main objections of insurers are the suggested mandatory alliances. Concern was also expressed regarding employer mandates. The insurers feel that a mandatory alliance would kill their industry, especially an alliance that disallows the purchase of any supplementary insurance. Many owners and employees of independent insurance companies are extremely concerned that these alliances would eliminate a great number of jobs. Many of them suggest that a voluntary alliance would be a much better alternative. They feel that this would "promote a free-market, competitive environment in which both corporate and independent insurers can survive."

D. SMALL BUSINESS

Many small business owners, all with less than 150 employees and most of them with less than 15 employees, feel that a government mandate for purchasing health insurance for their employees would cause them to shut down. They feel that their business cannot afford to pay either a certain percentage of their employees health insurance or an alternative payroll tax. They argue that this would cause a rise in unemployment and a subsequent rise in people without health care, which would defeat the purpose of reform. Several of the business owners specifically mentioned that they are currently providing health insurance for their employees in a manner which satisfies the employees. They do not want to be forced to change this because of a government mandated health alliance or through employer mandates or payroll taxes.

E. ABORTION

There were a great number of responses on this subject—more than any other—with the overwhelming majority opposed to the funding of abortion in any public health care plan. Many of these letters and cards also expressed their opposition to the "hidden rationing" of health care under President Clinton's plan. They feel that it would be horrible to deny a person, especially the disabled or elderly, life saving care because of their "quality of life." They felt that this is discrimination. However, number of letters supporting the coverage of all reproductive services, including the full funding of abortions, were received.

II. OTHER ISSUES WITH SMALLER RESPONSE LEVELS

There were a large number of other issues that were given either significant support or opposition to inclusion in a new health care package. They are as follows:

A. LONG TERM CARE

About half of the letters specifically mentioned the inclusion of community-based long-term care or home-based long-term care because they have loved ones that are dependent upon these services.

B. PRE-EXISTING CONDITIONS

A large number of people were very supportive of the elimination of pre-existing condition limits in a new health insurance plan. Most of them were personal letters that described family situations or stories of people being denied insurance because of a pre-existing condition.

C. MALPRACTICE REFORM

Many letters were in favor of setting a cap on malpractice compensation so as to relieve doctors of excessive malpractice insurance costs. They feel that if the provider pays less for malpractice insurance, that will translate to lower fees.

D. PORTABILITY

Many people are in support of the portability of insurance between jobs.

E. UNIVERSAL COVERAGE AND UNIVERSAL ACCESS

A greater number of people mentioned they were in favor of universal coverage than the number of people mentioning support universal access. Many people seemed to use the terms interchangeably not realizing the difference between them.

F. RATIONING

A great number of people, other than those in opposition to abortion, opposed the rationing of health care.

G. REDUCE PAPERWORK AND INCREASE EFFICIENCY

This category received support because people felt that reducing paperwork and increasing efficiency would decrease needless claim forms and bureaucracy. Some specifically mentioned the use of a standard claim form for doctors' offices, hospitals, and insurance companies.

H. PRICE CONTROLS

Substantial opposition was noted for a control over the cost of physician care. There were also some people that opposed the use of a cap to control premium costs.

I. MEDICARE OR MEDICAID REFORM

There were an appreciable amount of people who supported reform in this area, especially physicians because it would reduce the costs-shifting to paying customers that occurs when doctors must compensate for income lost on Medicare or Medicaid reimbursements. A greater number of people opposed the reform of Medicare or Medicaid because it is currently meeting their needs. They state that there is no need to cut a program that is working fine.

J. QUALITY CARE

Individuals expressed the desire to ensure that health care reform does not affect the quality of health care available to the consumer.

K. HEALTH MAINTENANCE ORGANIZATIONS (HMO)

A number of people specifically objected to being placed in HMO-type of care.

L. CIGARETTE, ALCOHOL, AND GUN TAX

A number of people objected to increases in these taxes.

III. ISSUES DESIRED TO BE INCLUDED IN HEALTH CARE PLAN

Following are list of services/occupations that a significant number of people (predominantly health professionals and some consumers) wish to be included in health care reform. The more prevalent ones are listed first.

A. MENTAL HEALTH AND SUBSTANCE ABUSE TREATMENT

Many constituents want mental health and substance abuse services to be included in the standard benefits package. They want this category of care to be treated the same as are other medical fields and procedures. The professionals were in particular support of a benefits package that reduces costly inpatient care and emphasizes outpatient care.

B. PREVENTIVE CARE

A substantial number of people believe that there should be an emphasis on preventive care services.

C. PRESCRIPTION DRUGS

Numerous letters expressed the desire to have prescription drugs covered as part of any standard benefits package (including Medicare coverage.)

D. CHIROPRACTIC

These constituents desire to have chiropractic care included in any basic benefits package. The letters were evenly split between Chiropractors and patients.

IV. DIFFERENT PLANS FOR HEALTH CARE REFORM

A. CLINTON PLAN

The vast majority of letters were in opposition to the Clinton plan for numerous and varying reasons. These reasons generally ranged from opposition of government run mandatory alliances to the opposition of "hidden rationing." Those in support of the Clinton plan generally gave no reasoning or explanation as to why they chose to do so. Some did indicate that they liked the President's plan simply because it was a means of providing all persons with some form of health care insurance.

B. MC DERMOTT/WELLSTONE "SINGLE-PAYER" SYSTEM

Numerous people voiced their opposition to a Canadian-style system because they feel it would be socialistic which has no place in our government. They mention that Canadians and Europeans are coming to America to receive health care. "People look to us as the model system for health care, so why are we going to change it?" The opposition also did not like the possibility of waiting in line for health care that seems to be prevalent in that type of system. Proponents of a single-payer system disagreed saying that the Canadians are very happy with their system. They also liked the fact that a single-payer system provides universal coverage and noted the low cost of the plan.

C. "FEE-FOR-SERVICE" PLAN

The majority of the letters supported a "fee-for-service" approach to health care reform.

D. MEDICAL SAVINGS ACCOUNT

Many people wrote to specifically support such an account or what some referred to as a "Medical IRA."

Twelve Key principles of health care reform favored by this member include the following:

(1) Tort reform airmed at excessive malpractice costs.

(2) Portability of insurance as employees change jobs.

(3) A simplified standard claim form.

(4) More emphasis on preventive health care.

(5) Greater standardization of minimum insurance coverage programs among the states.

(6) Maximizing the ability of Americans to choose their health care providers and supplemental insurance policy.

(7) Additional emphasis for a national health service corps to provide health care services to rural and other undeserved areas.

(8) Marketing reforms, such as voluntary purchase pools—for small businesses and individuals.

(9) Tax fairness so self-employed and individuals get the same tax treatment as corporations and their employees.

(10) Anti-trust reform, so hospitals, providers, etc., can jointly purchase or share equipment and technology at reduced costs.

(11) Vouchers and tax credits to help low-income, Medicaid-ineligible individuals afford coverage.

(12) Flexibility for States so that they can better manage Medicaid and reduce costs, and continue innovation reforms at that level.

In general, I favor an approach that would combine the best of public and private elements, maintain quality, cut bureaucracy, emphasize affordability, and preserve the best features of our private health insurance system. In addition, as a Nebraska I want to ensure that any changes are adaptable for the conditions in rural areas.

Mr. Speaker, my Nebraska constituents have given we a clear and strong consensus of their views on health care reform or health insurance reform. This member will be working and voting to implement their views for their common sense views, and concerns from the heartland of America also represent the American mainstream.

□ 2000

THE HAITIAN CRISIS

The SPEAKER pro tempore (Mr. JOHNSON of Georgia). Under the Speaker's announced policy of January 11, 1994, and June 10, 1994, the Chair recognizes the gentleman from New York [Mr. OWENS] for 60 minutes.

Mr. OWENS. Mr. Speaker, the Haitian crisis is getting more national and world attention each day. The recent expulsion of the OAS and United Nations observers has led the whole world to understand that the military thugs who are in charge of Haiti will honor no agreement. This is the last vestige of the Governors Island Agreement, the placement of OAS and United Nations observers.

With this, the military thugs are saying that they want no part of any kind of peacefully negotiated settlement.

□ 2010

At the same time the thugs in Haiti have stepped up their repression and their terror and thumbed their nose at the world, there is a problem of the Haitian refugees. The search for safe havens for Haitians among the other countries of the Western Hemisphere has also gotten a lot of attention. There is concern about a policy of searching for safe havens when previously we have always allowed into this country those persons who were seeking a haven from political persecution.

Why do we make a double standard for the Haitians? On the one hand, and a principle I deplore, the fact that the United States has created a double standard for the Haitians. On the other hand, Mr. Speaker, I think it is also important that the other nations of the Western Hemisphere step forward to loan some help, provide some assistance, to Haiti in a time of great need.

The ordinary Haitian people who are being held hostage, they are being held hostage by a United States-trained army, a United States-equipped army, and an army that is led by people who are on the United States CIA payroll until very recently. They are being held hostage, and, when people talk of an invasion, they should not talk of an invasion and use the word in the usual sense.

We are not talking about the need for an invasion. There may be a need, and there is probably a need, for a rescue of hostages. A nation of more than 6 million people can be held hostage by an army of 7,000 if they have all the guns across the island.

We have the same world. A handful of criminal military leaders can thwart democracy, thumb their nose at democracy, and hold their nation hostage.

In Nigeria we see the military thugs there are holding their nation hostage after an election where Mr. Abiola, the President-elect, won by a landslide. They refuse to acknowledge and to recognize the election. So, Mr. Abiola finds himself thrown in jail, and they may destroy him, they may murder him, any day now. The military refuses to honor the wishes of the millions of people who live in Nigeria.

So it is with Haiti. The military refuses to honor the wishes of 70 percent of the people who voted for Jean-Bertrand Aristide for President, and they are holding the country hostage. The masses are being held hostage.

Let us all hope that these escalating events will result in a positive conclusion at some time soon, within the next 30 days maybe. Let us hope that there will be a return to democracy and that Aristide will be restored as the rightfully elected President of Haiti. Let us hope that all of this will take place and it will happen soon. If it does not happen soon, the situation, I am afraid, will unravel, and we will be faced with an untenable situation, and certainly the United States, as the moral leader of the free world, as the moral leader of the world now, as the only remaining superpower, will be in a position where it will not be able to hold up its head among the nations of the world and call itself a leader.

Haiti policy has two distinct components. The political crisis caused by a criminal military takeover of the democratically elected Government is the first component of the crisis. That is the serious matter that can be taken care of only by the imposition of sanctions, which have been imposed, and possibly, probably, by the rescue effort, of a hostage rescue effort by the United Nations or by the United States alone, if necessary. The political crisis is one component.

The other component is the refugee crisis. That is the second component of the Haitian problem. The second component, the refugee crisis, was set in motion by exactly the same cause as the other component. The criminal military takeover of a democratically elected government set in motion a refugee crisis.

It is a little known fact in some certain circles that do not like to talk about it, but during the 7 months that Jean-Bertrand Aristide served as the president of Haiti, Mr. Speaker, the number of people who were trying to leave Haiti and get into the United States went down to zero. Nobody was trying to get out, nobody was risking their lives on the high seas, in order to escape Haiti.

Did Jean-Bertrand Aristide have some kind of magic? Did he have a foreign aid program coming from the United Nations, or the United States, or the World Bank? No. Did anything change materially and economically after Aristide was elected President? No.

The one thing that the Haitian people saw in Jean-Bertrand Aristide was the hope of building a nation for the first time. They hoped that they would have law and order. They hoped that they would have civility, fair play. They hoped that when taxes were collected they would not go into the pockets of the military. They hoped that there would be some kind of standards for the way workers were treated. They hoped that electrification of the country could take place because the profits of the electrical company are owned by the State, would not be skimmed off by the military, or they would not allow the elite businessmen not to pay their bills, and give no profits to the electrification company, and allow it to be able to expand so all Haitians could have simple electricity, basic things like a minimum wage, maybe 50 cents a day. A minimum wage would be established, basics like that which they do not have, basic things like the collection of taxes, the Government collects taxes from those who are able to pay taxes. But the rich in Haiti have never had to pay taxes.

Is it any wonder they have not been able to establish any decent kind of government? Any decent roads? Any decent infrastructure? The rich have never had to pay taxes, and they are the ones that have the money to pay taxes.

So, those steps taken by the infant Aristide government led the Haitians to believe that there was some hope. They stayed home. They stayed home, and they hoped to rebuild a nation.

A number of things began to take place in the countryside, in the city. People began to try to establish their own institutions and to begin to create an economy that would support the Haitian people. But with the collapse of the Government, with the overthrow of the Government, probably with the help of the United States CIA, since the men who led the coup, the military coup, overthrew Aristide, were on the payroll of the CIA at that time. This has been acknowledged by the CIA. It is a fact that Mr. Cedras and Mr. Francois, some of those same people were leaders in the coup, were informants for the CIA, on the payroll of the CIA, at the time of the coup.

The two problems, the refugee problem and the restoration of democracy, the solving of the political problem, are inextricably interwoven. Both have the same solution. You want to solve the refugee problem, which American taxpayers must understand they are paying a considerable amount of money each day to deal with the refugee problem in this unique way we are handling it. It would cost less if we handle it in the same way we dealt with the refugee problem of the Cubans, our refugee problem of the Soviet emigres.

Long ago, when—not too long ago, but most people have forgotten, when the Soviet Union invaded Hungary, we not only took large numbers of Hungarians into the United States, we sent the planes to Europe to pick them up and to bring them here. So, you know it costs less to handle the problem the usual way. They came. They were given temporary asylum. They found people who would take them in. Institutions took them in, and they were settled.

We have settled in this country more than 500,000 Cubans. More than 500,000 Cubans have been settled in this country in this way. Why are we panicking in the face of 10, 15,. 20,000 Haitians when we have been able to settle a half a million Cubans in a usual, standard way? They are given temporary asylum. They are assisted by institutions which are usually private, nonprofit institutions. They get resettled in some way, and they take their turn in having their cases heard, and later on they are given green cards, they are allowed to blend into the society, or, if they are rejected for some reasons, they will have to leave.

□ 2020

Why not handle the Haitian problem the same way? There are a number of reasons. I will not go into them at this point, but at the heart of it has to be a kind of double standard that can only be attributed to racism. The Haitians happen to be black. The Haitians are black. There are certain parts of the country where they gravitate toward naturally and those areas are very hostile, the administration has allowed itself to be taken in and to turn its back on principle as a result of this effort. The administration will have to show the backbone to implement the standard immigration policy that we have always had and that would be one solution.

The other solution, of course, is a more costly one, it is being pursued. We are going to pay for places in other countries. Antigua has agreed to take some, Dominica has agreed to take some. We have big ships moored out there to process people. It is a complicated process. It would be far more easier if we did it the right way, but it is better to take this step of dispersing them into safe havens across the hemisphere than to return them to Haiti. The cruelest, the most inhumane policy, of course, was the policy of picking them up on the high seas and returning them to Haiti. As chairman of the Black Caucus task force, I have watched the process for the last 2 years of what is going on in Haiti and the effort to reach some kind of positive conclusion. Everybody desires a peaceful conclusion. We would all like to see a negotiated conclusion. We would all like to see Haiti return to its status as a democracy, President Aristide restored as the President. We would all like to see it done peacefully. We all rejoiced when Yassar Arafat and the former chief of staff and now President Rabin shook hands at the White House and we had the beginning of a peaceful process to restore some kind of normalcy between Israel and the palestinians on the West Bank and Gaza. Everybody was proud of that moment. Everybody was proud of the fact and rejoiced and appreciated the fact that the Soviet Union in its process of collapsing internally did not try to save itself, that Mikhail Gorbachev had the wisdom and the fortitude and the internal strength not to try to save himself by starting a war. He could have started a nuclear war and tried to save his political life, but he did not, so we all rejoiced at the peaceful way in which the Soviet Union became a noncompetitor, a nonbelligerent on the face of the Earth. We all appreciate that very much. We would like to see the little nation of Haiti return to normalcy and have democratic leadership without the kind of military action, any kind of use of force. But what is the history? The history is that the criminals who took over have offered the nation absolutely nothing. They do not have a philosophy. They are not fascists who have an ideology. They do not even collect the garbage. They do not do anything in terms of carrying out the functions of a government. They have nothing to offer. They sit there and they drain off the meager revenue that is available in the country. Anything that comes into the ports, they go to one set of colonels and generals. Anything that comes in in terms of fees that are paid for the telephone company, the electric company, they go to another one. They have a flour factory that is Government-owned, and the proceeds of that go to another set of generals and colonels. The drug trade, the transshipment of drugs through Haiti goes to a number of different units, colonels and generals. It is all very lucrative to the men who sit on the top. They are enjoying themselves while the nation is being drained dry. The criminals have no desire to leave. They came to Governors Island, they pretended they were negotiating in good faith. At the first time that we imposed an oil embargo, it did catch them by surprise. In order to deal with that, they pretended they wanted to negotiate, they signed an agreement at Governors Island, President Aristide was very reluctant to sign the agreement at Governors Island but he was pressured by the U.S. Government, by the members of the United Nations, to go ahead and sign the agreement. The agreement allowed the military leaders to retire, it allowed them to go free without any trial for all of the terror that they had caused, thousands of people who had been killed, they would not have to face any kind of judgment. It was a very generous agreement for the illegal criminal military leaders. However, they immediately proceeded to ignore the agreement and step by step they let it be known that they would not honor it at all.

The agreement had a timetable. The timetable required them to take certain steps leading up to October 30. By October, the military command, certainly the two top people at that time, General Cedras and Colonel Francois, were supposed to step down by October 15, and by October 30 Aristide was supposed to return. October 15 came, Cedras and Francois refused to step down. October 30 came. Of course Aristide could not return. They became more and more belligerent. Our Government waffled at a key point when we should have pressed forward and let it be know that we wanted the Governors Island Agreement because we were a part of that agreement. Governors Island is in New York State; Governors Island was set up by the U.S. Government. We were very much a party to the agreement. Instead of pressing forward and insisting that the agreement be honored, we waffled. We had leadership that was confused and confusing. We communicated a message to the military but we were not sincere about the return of democracy to Haiti.

Now we are faced wtih a much more difficult situation. Newer and tougher sanctions have been ordered and we are all in favor of that. Some people have asked what is the Congressional Black Caucus policy nowadays on Haiti? As the chairman of the Congressional Black Caucus task force on Haiti, I can state that there has been no change in the Congressional Black Caucus policy. There is no need to change our policy.

In October of last year, 1993, shortly after the military decided that they would not honor the agreement, shortly after it was clear that the criminals were not going to behave like honorable men, we took a position. We called for the toughest possible sanctions, and we called for the option of the military intervention to be placed on the table at that time. We called for protective military intervention. Protective military intervention would mean that the Government of Haiti, the head of which sits here in Washington, would be returned to Haiti and all the other members of the government, the senators and the delegates, whether they were for Aristide or against Aristide, they would be protected, they would all be protected by a military force and anybody who chose to attack them, who chose to harm them in any way, would, of course, have to be repelled. So it would not be an invasion, it would be a protection.

I still think that basic principle of returning the Government with military protection is a sound one. We still think that it ought to be on the table as an option and we think that the timetable that goes with the sanctions and the use of the military option ought to be now clearly stated.

Sanctions have been finally as a result of pressures that have been brought by a number of people as a result of a great deal of support for democracy in Haiti and for President Aristide, we were finally able to get the White House and the State Department to see the wisdom of more aggressively pursuing a policy of sanctions and not just giving lip service to it. So we do have a policy of sanctions now being implemented more aggressively.

The Congressional Black Caucus in March wrote the President a letter, and we introduced legislation calling for the most aggressive approach possible to the implementation of sanctions.

We have a two-pronged policy, then. We are in favor of military intervention if necessary, but we put that on the back burner in March and called for a sincere effort to implement the sanctions, a sincere effort which would communicate a message, send a message to the military thugs who are holding the nation hostage that the United States is really serious. The sanctions have gone forward seriously for the first time, but unfortunately because of the long delay, obviously the military, they have stored enough oil, they have stored enough foodstuffs for themselves, they have been able to take care of their needs in ways that allowed them to sit this one out.

□ 2030

They can survive while the great majority of the people suffer. Millions suffer, while the handful of army officers obviously are well taken care of. In fact, they have so much gasoline, that the price of gasoline since the tightened embargo and the intensified sanctions, the cost of gasoline has gone down, not up. So certainly something is radically wrong.

Our slowness in implementing the policy of sanctions gave them warning. They have built storehouses for themselves. They have escaped other parts of the sanctions which we were slow in implementing, freezing the assets of the military, freezing the assets of the rich elite that financed the coup. We talked about it for too long before we finally decided to do it. Probably all of those people who had assets and could move them out of the United States banks have already done that. The military people have already made provisions for the movement of any assets they had in this country, and it is not as effective as it would have been if we had done it before.

Nevertheless, I am all in favor of the intensified sanctions remaining on, going forward, communicating a message. I am all in favor of sending a message to the military that every effort to solve this problem peacefully is still possible, is still underway, the door is still open. I think the President is doing that. I think the special envoy of the President, Mr. Gray, is communicating that very well.

We should support the effort to move forward in a sustained and firm way as rapidly as possible. Those people who say that under no circumstances should there be a military invasion or intervention or a hostage rescue team to take the country back from the military thugs, those people who stand on some kind of abstract principle are not in touch with reality.

I think Albert Einstein was as much of a pacifist as any person on the face of the Earth. When he viewed the calamity caused by Nazi Germany and the kind of force that they were up against with the Gestapo and storm troopers and the whole philosophy, amoral philosophy, of the Nazi regime, Einstein remarked that in principle the pacifists are right; in principle the pacifists will finally win out in the world. The problem is, when you are faced with a regime like Hitler's regime, all the pacifists would be dead before victory came.

We are faced with a similar situation in Haiti. The principles of peaceful negotiation, the principles of trying to resolve conflict peacefully, all that is very important and should be held in place. I am a follower of Martin Luther King. I am a follower of Gandhi, of Nelson Mandela. We have done great things through peaceful negotiations.

I had the pleasure of going to South Africa to see the inauguration of Nelson Mandela and the miracle of a transformation of a society peacefully. Yes, there had been some bloodshed in the past, but the real resolution of the problem in South Africa, the transfer of power from the small elite minority to the 36 million strong majority, took place without any massive bloodshed.

So we are still in favor of a peaceful transition. We are all in favor of every effort being taken in Haiti to accomplish this. But if you are faced with criminals and thugs, there is no negotiation possible. People used to try to ridicule Martin Luther King and the civil rights adherence of non-violence, make fun of them, by saying what would you do if a burglar came into your house and he was about—if you caught a burglar in your house about to attack you and your children and your wife, what would you do? How would you approach the situation with non-violence?

Of course, all of us, Martin Luther King and everybody else, used to refuse to give any dignity to that kind of question. It is ridiculous to ask that kind of question. If you are confronted with criminals and your family is in danger, you, of course, do everything possible to defend your family and stop the criminals. Criminals are not the kind of people you negotiate with. Criminals are not the time to use non-violence.

This is what we are faced with in Haiti. We are faced with criminals, and the criminals have caused a great deal of harm. A great number, masses of people have suffered, and continue to suffer, because of this handful of criminal leaders.

What is the new world order going to do across the world as these criminals who have the guns hold their nations hostage, as they thumb their noses at democracy? What are we going to do in the face of a handful of people being able to cause so much misery, as they are in Nigeria right now; as they are in the former Yugoslavia right now; as they are in Haiti. A handful of criminals, a handful of people can make the world sit by quietly and watch masses suffer, can make the world seem paralyzed, unless we have some new way of dealing with it, unless we declare the Cedrases of the world and the Francoises of the world as war criminals.

We have heard the term "war criminal" in connection with the leaders of Serbia. Very little has been done to follow through with that, to publicize it. One way out of this pattern of having military thugs, military criminals, take over whole nations, is to start a new kind of system, a new kind of approach, where the whole world declares the leadership as war criminals; where the whole world threatens them and says once this is all over, you are not going to be able to take your place as a normal human being among the people of your nation or any other nation. No nation will accept the war criminals who terrorize their own nation, who run rough-shod over democracy, who become killers and lead killer regimes.

There ought to be a message communicated. We are faced in Haiti with that kind of killer regime. We are faced in Haiti with a nation led by war criminals, people who ought to be acclaimed as war criminals. We should proceed accordingly.

We can find solutions to the problem of the refugee crisis by restoring democracy. Haitians want to go home. Haitians want to stay home. There are one million Haitians, Americans of Haitian descent, in America. There are Haitians who are not American citizens in America. There are Haitians all over the world. There are Haitians all over the world who want to go home to Haiti. If we restore democracy and return Aristide and give some hope to that nation, that will take place. We would have a return of the thousands of Haitians in diaspora, we would have all the Haitians in Haiti ready to stay home and rebuild their nation.

There are people who say this has nothing to do with us. Why should we bother to bear the burden of what happens in Haiti? The problem is for the last 100 years the United States has been the dominant force in decision-making in Haiti. We have never left Haiti or any nation in this hemisphere alone.

We have always assumed we had the right to take certain prerogatives as to what happened in this hemisphere. We never allowed outside powers to come into this hemisphere and form a partnership with any nation in this hemisphere without our approval, our participation. It has been an assumed situation. The Monroe Doctrine in one form or another has always existed.

If Haiti were to try to form an alliance right now with some outside power, if the French or Canadians were to say to President Aristide, look, we will train a police force, an army for you to go back to Haiti with, I don't think the United States would allow the French and the Canadians jointly to train a force to go back to Haiti. They would not allow that kind of thing to take place in this hemisphere. They would want to have some kind of participation, some kind of role in that.

Certainly if Castro out of Cuba would say I want to come to the aid of the situation and offer some kind of help, we would be alarmed and say hell no, we will not allow Cubans, not allow the nation of Cuba, to participate in any way, in any kind of solution to the Haitians crisis.

We will not tolerate even in peacetime a nation like Taiwan or South Korea to come in and establish economic ties and use their built-up capital, their industrial might that they have accumulated, and now have nowhere for it to express itself, to rebuild Haiti. We would not allow South Korea and Taiwan to come in and rebuild Haiti and the United States have no participation or no concern in it. That would not be the case.

We are not ready to take our hands off of Haiti totally. We have no right to say that we want to drop Haiti and have nothing to do with the solution to the problem, when we created the problem.

I have just said most of the military leaders holding the nation hostage were trained in the United States. Fort Benning, Georgia, was the site of the training of many of the officers who are now holding the nation hostage. The supplies they have came from the United States. The equipment they have came from the United States.

□ 2040

No government in Haiti has ever existed without having a tacit approval and interference from the United States. The businesses in Haiti, most of them are owned by Americans. We always had policies, trade policies with Haiti which favored those businessmen. And we did not ask the Haitian people. We made arrangements with the government and with those businessmen. So we are inextricably interwoven within the fate of the Haitians at this point.

Our honor demands that if we want to wash our hands of the problem, if we want to say Haiti is not worth one drop of American blood, as some high-ranking Republican has said, if we want to say that and we want to pursue that policy, we have no right to start it today. Let us return Aristide, let us restore democracy. And if we want hands off after that, it will be honorable to walk away. But let us undo the damage that we have done. Let us throw out the people who were trained by America at the American bases. Let us throw out the people who were in league with the CIA, and let us allow Haiti a chance to breath.

If they want to bring in more of the French influences and French industrialists, if they want to bring in the Taiwanese, if they want to bring in the South Korean industrialists, let it be. But we have an obligation first to undo the damage that we have done.

We should not turn our back on obvious history. From the time that the Haitian slaves overthrew Napoleon's army, they defeated Napoleon's army, they handed Napoleon a humiliating defeat in this hemisphere. They were the reason Napoleon got out of this hemisphere. They were the reason we moved to making the Louisiana Purchase, a large portion of our country that was annexed peacefully as a result of the Haitian slaves defeating Napoleon.

Thomas Jefferson, of course, as great as he was, was probably the first President who saw in this new slave nation, former nation of former slaves, a danger. And in order for him to not be in a position of influencing slave uprisings, slave revolts in the United States, we began to interfere in their affairs as far back as Thomas Jefferson.

We have always interfered in the affairs of Haiti, keeping them off balance, to serve whatever purpose we needed to serve in the United States. It is time we brought that to an end. The American people need to understand this.

If you take polls, you ought to give people the background and the information as to what they are voting on. We did not have polls to decide whether or not we would enter World War II to fight Hitler. There was no poll. A vote was taken in Congress. Certainly, there was no poll taken. We do not decide matters of great import with polls. We do not decide, we do not go to the public to ask for polls.

Let me just close with two examples of actions that never would have been taken if we had to depend on polls taken among ordinary people who did not know the backgrounds, did not understand the implications, have no concept of what it takes to be the leader of the world, the superpower of the world that has set a moral example.

When Abraham Lincoln was considering the Emancipation Proclamation, the first step to free the slaves, he did not take a poll of the Nation because at that time polls of the public were not in vogue. There was no apparatus for taking polls on a timely basis. But he did take a poll of the Cabinet, and in the Cabinet, every member of the Cabinet of Abraham Lincoln was against the Emancipation Proclamation. Everybody said it was a bad idea. Everybody said, no, we should not do it.

The lone vote, the only vote for the Emancipation Proclamation was the vote of Abraham Lincoln. And thank God, he went ahead and set in motion the process by which this Nation had freed itself from the burden of having slavery. Both whites and blacks were freed as a result of the first steps taken by Abraham Lincoln in issuing the Emancipation Proclamation.

In a more modern example, a more recent example of the same kind of courage, when polls were available, was the position taken by Harry Truman at the time when the new State of Israel was under consideration. Recognition of the State of Israel was critical; recognition by the United States was critical. The public sentiment was against recognizing the State of Israel. The congressional sentiment was against recognizing the State of Israel. The members of the Cabinet were against recognizing the State of Israel.

Gen. George C. Marshall, who probably, next to the President, had more influence than any other public figure in the country was dead set against the recognition of the State of Israel. But Harry Truman went ahead and deliberated, meditated, and he decided the right thing to do was to recognize the State of Israel.

By recognizing the State of Israel, President Truman set in motion a process by which other nations moved on to recognize Israel. The State of Israel was born, had some kind of atmosphere to thrive in and begin to build itself because of what one man decided to do against the public polls and against the odds.

It may be that the decision to move in a decisive way on Haiti is the same kind of critical decision that has to be made by a President, and the President has to look to his own vision of what the future is, his own vision of where we are going in this hemisphere, to his own vision of what it means to say that democracy is a value, democracy in nations is a highly-prized value that we want to promote.

We are for democracy. We certainly are for democracy in this hemisphere. Human rights are a concern that all nations should be preoccupied with. Human rights and the standard for human rights is a standard we want to uphold in the world. All of these are at stake in Haiti.

If the United States does not provide the moral leadership, if as the last remaining superpower of the world it does not show moral leadership, it will lose its claim to moral leadership. And those of us who think Haiti has nothing to do with us and what we do now is not of any import, in a world that has no leadership, where nobody has the right to claim moral leadership, we are all going to be threatened. We are all going to find it much more difficult.

There are those who say, there is no superpower, nobody else has nuclear weapons. Nobody has the Army, the Navy, the kind of military might that we have. So what could go wrong in the world if we do not offer moral leadership?

A great deal can go wrong in the world if across the world the people who have command of the tanks and the guns and the bullets in a given nation decide they want to hold the nation hostage. Across the world you have an obligation of treaties and agreements, and across the world trade agreements, property rights agreements. Nothing matters as long as the people in power have the guns and they can force their will.

Trade will become chaotic. Markets in the world will collapse. The economy of this country will be as much affected as many because we depend on exports. A chaotic world politically will mean a chaotic world economically. The stakes are very high in this Haitian crisis. The stakes are much higher than the average American who, as someone would ask them question in a poll, would realize. The stakes are very high.

We should go forward to do the right thing. In the next 30 days the decision is going to be critical.

In the next 30 days the matter will be decided.

If we hesitate and do not take affirmative action, do not take positive action, do not move in one way or another to dislodge the government of the military criminals, then we are going to find a chaotic situation which we will not be able to bring under control.

There are two components of the problem. While I insist that we should handle the Haitian refugees the way we handle all other refugees, we should not have to resort to the various devices that we are using now, safe havens in other countries, et cetera, I do applaud the administration for at least backing away from the policy of returning the Haitians to the military thugs in Haiti.

□ 2050

That is one step forward. A Haitian, faced with the situation of having to be returned to the terrorist government that he tried to escape from, would appreciate being in a safe haven in any country, rather than going back there, so I think it was a step forward.

The kinds of steps that we are taking in terms of allowing anybody who says they believe their life is threatened to be accepted as a person who is fleeing persecution is also another step forward. It does not go as far as we would like. The principal position of giving asylum on the soil of the United States is not being honored, but at least there have been some steps forward.

On the other component, the component of trying to restore democracy and end the political crisis in Haiti, I applaud 100 percent what the administration is doing now. We should go forward. In 30 days we should try to resolve this problem, and certainly if military intervention, a hostage rescue, is necessary, then we should rescue the hostages. We should rescue the 6 million Haitians who are now being held hostage by an army of 7,000 trained by the United States, equipped by the United States, supplied by the United States.

The return of Jean Bertrand Aristide to Haiti, the restoration of a democratic government, will mean a new birth for Haiti. Haiti is not inevitably a basket case. Haiti has never had a decent government. Leadership and government determine what happens in nations. Haiti can pull itself up by the bootstraps. Haiti has land, Haiti has resources that have never been discussed. Haiti can become a self-sufficient nation. Haiti can take its place among the nations of this hemisphere if we will just give it the chance.

If we will undo the damage we have done, and for one last time intervene on the side of the forces of democracy and restore Aristide, we will have a new day and our Nation can hold its head high as a leader of the New World Order.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. OBEY (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of family illness.

Mr. GALLO (at the request of Mr. MICHEL), for today and the balance of the week, on account of recuperation from hip surgery.

Mr. HUFFINGTON (at the request of Mr. MICHEL), for today and the balance of the week, on account of eye surgery.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BEREUTER) to revise and extend their remarks and include extraneous material:)

Mr. GINGRICH, for 5 minutes, today.

Mr. GOSS, for 5 minutes today, July 13, 14, and 15.

Mr. BURTON of Indiana, for 5 minutes today, July 13, 14, and 15.

Mr. EMERSON, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BEREUTER) and to include extraneous matter:)

Mr. GINGRICH in two instances.

Mr. GILMAN.

Mr. DIAZ-BALART.

Mr. BEREUTER in three instances.

Mr. GILLMOR.

Mr. HORN.

Mr. LEWIS of California in two instances.

(The following Members (at the request of Mr. TOWNS) and to include extraneous matter:)

Mr. RICHARDSON in two instances.

Mr. SKELTON in two instances.

Mr. COLEMAN.

Mr. REED.

Mr. SCOTT.

Mrs. SCHROEDER.

Mr. SLATTERY.

Mr. GEJDENSON.
Mr. SANGMEISTER.
Mr. DINGELL in two instances.
Mr. WAXMAN.
Mr. PAYNE of New Jersey.
Mr. LEVIN.
Mr. CLYBURN in four instances.
Mr. HASTINGS.
Mr. ORTIZ.
Mr. FRANK of Massachusetts.
Mr. RUSH.
Mr. DURBIN.
Mr. TORRES.
Mr. TOWNS.

(The following Members (at the request of Mr. OWENS) and to include extraneous matter:)

Mr. KYL.
Mr. KOLBE.
Mr. STOKES.
Mr. MINETA.
Mr. POSHARD.
Ms. FURSE.
Mr. BREWSTER.
Mr. HUGHES.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3567. An act to amend the John F. Kennedy Center Act to transfer operating responsibilities to the Board of Trustees of the John F. Kennedy Center for the Performing Arts, and for other purposes;

H.R. 4454. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1995, and for other purposes;

H.R. 4581. An act to provide for the imposition of temporary fees in connection with the handling of complaints of violations of the Perishable Agricultural Commodities Act, 1930; and

H.R. 4635. An act to extend the Export Administration Act of 1979.

BILLS PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following titles:

On June 29, 1994:

H.R. 2559. An act to designate the Federal building located at 601 East 12th Street in Kansas City, Missouri, as the "Richard Bolling Federal Building" and the United States Courthouse located at Ninth and Locust Streets, in Kansas City, Missouri, as the "Charles Evans Whittaker United States Courthouse."

On July 11, 1994:

H.R. 4581. An act to provide for the imposition of temporary fees in connection with the handling of complaints of violations of the Perishable Agricultural Commodities Act, 1930; and

H.R. 4635. An act to extend the Export Administration Act of 1979.

ADJOURNMENT

Mr. OWENS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 52 minutes p.m.), the House adjourned until Wednesday, July 13, 1944, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3467. A letter from the Secretary of Agriculture, transmitting the annual animal welfare enforcement report for fiscal year 1993, pursuant to 7 U.S.C. 2155; to the Committee on Agriculture.

3468. A letter from the Comptroller of the Department of Defense, transmitting a report of a Navy violation of the Antideficiency Act in fiscal years 1990, 1991, and 1992 (case no. 94-03), pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

3469. A letter from the Director, Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of July 1, 1994, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 103–278); to the Committee on Appropriations and ordered to be printed.

3470. A letter from the Secretary, Department of Energy, transmitting the annual report on research and technology development activities supporting defense waste management and environmental restoration, pursuant to Public Law 101–189, section 3141(c)(1), (2) (103 Stat. 1680); to the Committee on Armed Services.

3471. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting determination for the Export-Import Bank to provide financial guarantees for the purchase of defense articles and services by the Government of Brazil; to the Committee on Banking, Finance and Urban Affairs.

3472. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report of proposed transactions of $100,000,000 or more involving United States exports to the Philippines, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking, Finance and Urban Affairs.

3473. A letter from the Secretary of Housing and Urban Development, transmitting the third annual report entitled "Worst Case Needs for Housing Assistance in the United States in 1990 and 1991"; to the Committee on Banking, Finance and Urban Affairs.

3474. A letter from the Executive Director, Thrift Depositor Protection Oversight Board, transmitting the audited financial statements of the Resolution Trust Corporation as of December 31, 1993, and for the year then ended, pursuant to section 21A(k)(1)(A) of the Federal Home Loan Bank Act; to the Committee on Banking, Finance and Urban Affairs.

3475. A letter from the Executive Director, Thrift Depositor Protection Oversight Board, transmitting the annual report of the Oversight Board for the calendar year 1993, pursuant to section 21A(k)(4) of the Federal Home Loan Bank Act; to the Committee on Banking, Finance and Urban Affairs.

3476. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–265, "Omnibus Sports Consolidation Act of 1994", pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3477. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–266, "Public Parking Authority Establishment Act of 1994", pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3478. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled "Second Quarter Analysis of Fiscal Year 1994 Consolidated Cash Flow Statement," pursuant to D.C. Code, section 47–117(d); to the Committee on the District of Columbia.

3479. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled "D.C. General Hospital's Internal Controls Over Procurement Need Improvement," pursuant to D.C. Code, section 47–117(d); to the Committee on the District of Columbia.

3480. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled "Review of the Financial Activities and Overall Operations of the Public Access Corporation of the District of Columbia," pursuant to D.C. Code, section 47–117(d); to the Committee on the District of Columbia.

3481. A letter from the Assistant Secretary of Education, transmitting a copy of Final Regulations—Faculty Development Fellowship Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3482. A letter from the Assistant Secretary for Educational Research and Improvement, Department of Education, transmitting the final report on the assessment of vocational education programs, pursuant to Public Law 101–392, section 404 (104 Stat. 809); to the Committee on Education and Labor.

3483. A letter from the Secretary of Education, transmitting copies of the fiscal year 1993 reports of the Department's advisory committees, pursuant to 20 U.S.C. 1233b(a)(2); to the Committee on Education and Labor.

3484. A letter from the Secretary of the Treasury, transmitting the audit of the Student Loan Marketing Association, with any necessary comments for the year ended December 31, 1993, pursuant to 20 U.S.C. 1087–2(k); to the Committee on Education and Labor.

3485. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting a copy of the Energy Information Administration's "Profiles of Foreign Direct Investment in U.S. Energy 1992," pursuant to Public Law 95–91, section 657(8); to the Committee on energy and Commerce.

3486. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Army's proposed lease of defense articles to Canada (Transmittal No. 21–94), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

3487. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed approval of manufacturing license agreement with Japan (Transmittal No. DTC–22–94), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3488. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of proposed approval of a manufacturing license agreement with Japan (Transmittal No. DTC–21–94, pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3489. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a manufacturing license agreement abroad with Japan (Transmittal No. DTC–23–94), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3490. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of defense equipment sold commercially to Israel (Transmittal No. DTC–20–94), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3491. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting justification for drawdown under section 552(c)(2) of the FAA to support United Nations sanctions enforcement against Serbia and Montenegro, pursuant to 22 U.S.C. 2348a; to the Committee on Foreign Affairs.

3492. A communication from the President of the United States, transmitting the bimonthly report on progress toward a negotiated solution of the Cyprus problem, including any relevant reports from the Secretary General of the United Nations, pursuant to 22 U.S.C. 2373(c); to the Committee on Foreign Affairs.

3493. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

3494. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of an award under the Witness Security Program, pursuant to 22 U.S.C. 2708(h); to the Committee on Foreign Affairs.

3495. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination 94–30 suspending restrictions on U.S. relations with the Palestine Liberation Organization, pursuant to Public Law 103–236, section 583(a); to the Committee on Foreign Affairs.

3496. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that the President proposes to exercise his authority under section 610(a) of the FAA, that certain funds for section 23 of AECA for fiscal year 1993 be transferred to, and consolidated with, funds made available for International Military Education and Training; to the Committee on Foreign Affairs.

3497. A letter from the Deputy Assistant Administrator, Bureau for Legislative and Public Affairs, U.S. Agency for International Development, transmitting a report entitled "Infrastructure Needs Assessment of the New Independent States, Central and Eastern Europe, and Mongolia," identifying potential capital projects in key infrastructure sectors, pursuant to Public Law 102–549, section 306; to the Committee on Foreign Affairs.

3498. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1999 resulting from passage of H.R. 1183, H.R. 4581, and H.R. 4635, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on Government Operations.

3499. A letter from the Director, Office of Management and Budget, transmitting a report by OMB for Pay-As-You-Go calculations for Public Law No. 103–270 (S. 24), pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on Government Operations.

3500. A letter from the Plan Administrator, Eighth Farm Credit District Employee Benefit Trust, transmitting the annual report on their pension plan for the year ended December 31, 1993, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3501. A letter from the Deputy Assistant Secretary of Defense, Office of the Under Secretary of Defense, transmitting the 1993 report on the actuarial status of the Military Retirement System, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3502. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize appropriations for fiscal years 1995 and 1996 for the Office of Commercial Space Transportation of the Department of Transportation, and for other purposes, pursuant to 31 U.S.C. 1110; to the Committee on Science, Space, and Technology.

3503. A letter from the Secretary of Labor, transmitting the quarterly report on the expenditure and need for worker adjustment assistance training funds under the Trade Act of 1974, pursuant to 19 U.S.C. 2296(a)(2); to the Committee on Ways and Means.

3504. A letter from the Chairman, Railroad Retirement Board, transmitting a report on the actuarial status of the railroad retirement system, pursuant to 45 U.S.C. 321f–1; jointly, to the Committees on Energy and Commerce and Ways and Means.

3505. A letter from the Deputy General Counsel, Department of Commerce, transmitting a copy of a draft proposal to implement the agreement to promote compliance with International Conservation and Management measures by fishing vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993; jointly, to the Committees on Merchant Marine and Fisheries and the Judiciary.

3506. A letter from the Secretary of Health and Human Services, transmitting the 1993 annual report regarding the committees which provided advice and consultation in carrying out her functions under the Social Security Act, pursuant to 42 U.S.C. 1314(f); jointly, to the Committees on Ways and Means and Energy and Commerce.

3507. A letter from the Chairman, Railroad Retirement Board, transmitting the 1994 annual report on the financial status of the railroad unemployment insurance system, pursuant to 45 U.S.C. 369; jointly, to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 4504. A bill to amend the Atlantic Striped Bass Conservation Act, and for other purposes; with an amendment (Rept. 103–584). Referred to the Committee of the Whole House on the State of the Union.

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 3817. A bill to amend the Fishermen's Protective Act; with amendments (Rept. 103–585). Referred to the Committee of the Whole House on the State of the Union.

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 4253. A bill to require the Secretary of the Interior to convey the Corning National Fish Hatchery to the State of Arkansas; with an amendment (Rept. 103–586). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on Government Operations. Further legislation needed for release of Kennedy Assassination records (Rept. 103–587). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 3708. A bill to reform the operation, maintenance, and development of the Steamtown National Historic Site, and for other purposes; with an amendment (Rept. 103–588). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. S. 1402 An act to convey a certain parcel of public land to the county of Twin Falls, ID, for use as a landfill, and for other purposes; (Rept. 103–589). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. S. 859. An act to reduce the restrictions on lands conveyed by deed under the Act of June 8, 1926; with an amendment (Rept. 103–590). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. S. 273. An Act to remove certain restrictions from a parcel of land owned by the City of North Charleston, SC, in order to permit a land exchange, and for other purposes; (Rept. 103–591). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 1716. A bill to amend the act of January 26, 1915, establishing Rocky Mountain National Park, to provide for the protection of certain lands in Rocky Mountain National Park and along North St. Vrain Creek, and for other purposes; with an amendment (Rept. 103–592). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 4364. A bill to direct the Secretary of Transportation to transfer administrative jurisdiction over certain lands for inclusion in the Cape Hatteras National Seashore Recreational Area; with amendments (Rept. 103–593, Pt. 1). Ordered to be printed.

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 3246. A bill to provide that the provisions of chapters 83 and 84 of title 5, United States Code, relating to reemployed annuitants shall not apply with respect to postal retirees who are reemployed, on a temporary basis, to serve as rural letter carriers or rural postmasters; with amendments (Rept. 103–594). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLAY: Committee on Post Office and Civil Service. House Joint Resolution 131. Resolution designating December 7 of each year as "National Pearl Harbor Remembrance Day" (Rept. 103–595). Referred to the House Calendar.

Mr. BONIOR: Committee on Rules. House Resolution 474. Resolution providing for consideration of the bill (H.R. 3937) entitled the "Export Administration Act of 1994" (Rept. 103–596). Referred to the House Calendar.

Mr. GORDON: Committee on Rules. House Resolution 475. Resolution providing for consideration of the bill (H.R. 1188) to provide for disclosure for insurance in interstate commerce (Rept. 103-597). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

[Pursuant to the order of the House on June 30, 1994, the following report was filed on July 8, 1994]

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 4008. A bill to authorize appropriations for the National Oceanic and Atmospheric Administration for fiscal years 1994 and 1995, and for other purposes, with an amendment; referred to the Committee on Science, Space and Technology for a period ending not later than July 29, 1994, for consideration of such provisions contained in the bill and amendment as fall within the jurisdiction of the committee pursuant to clause 1(r), rule X (Rept. 103-583, Pt. 1).

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of Rule X the following action was taken by the Speaker:

Referral to the Committee on Ways and Means of H.R. 4003 extended for a period ending not later than July 22, 1994.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. NORTON:

H.R. 4719. A bill to direct the Office of Personnel Management to establish an interagency placement program for Federal employees affected by reductions in force, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. HINCHEY (for himself, Mr. McNULTY, Mr. FISH, Mr. GILMAN, and Mrs. LOWEY):

H.R. 4720. A bill to establish the Hudson River Valley American Heritage Area; to the Committee on Natural Resources.

By Mr. McKEON (for himself, Mr. BEILENSON, Mr. BROWN of California, Mr. CALVERT, Mr. CONDIT, Mr. CUNNINGHAM, Mr. DOOLITTLE, Mr. HORN, Mr. HUNTER, Mr. MOORHEAD, Mr. ROYCE, Mr. THOMAS of California, and Mr. ROBERTS):

H.R. 4721. A bill to prohibit the Secretary of Agriculture from transferring any national forest system lands in the Angeles National Forest in California out of Federal ownership for use as a solid waste landfill; to the Committee on Natural Resources.

By Mr. ORTIZ (for himself, Mr. FIELDS of Texas, Mr. WELDON, and Mr. YOUNG of Alaska):

H.R. 4722. A bill to authorize appropriations for activities under the Deep Seabed Hard Mineral Resources Act for fiscal years 1995 through 1999; jointly, to the Committees on Merchant Marine and Fisheries, Natural Resources, and Foreign Affairs.

By Mr. POSHARD:

H.R. 4723. A bill to authorize the Administrator of the Small Business Administration to establish an accredited lenders program for qualified State and local development companies; to the Committee on Small Business.

By Mr. SANGMEISTER:

H.R. 4724. A bill to amend title 38, United States Code, relating to veterans housing programs, and for other purposes; to the Committee on Veterans' Affairs.

By Mrs. SCHROEDER:

H.R. 4725. A bill to establish a Presidential Commission on Telemedicine; to the Committee on Energy and Commerce.

By Mr. THOMPSON:

H.R. 4726. A bill to amend the Appalachian Regional Development Act of 1965 to include additional counties in the State of Mississippi as part of the Appalachian region; to the Committee on Public Works and Transportation.

By Mr. TRAFICANT:

H.R. 4727. A bill to designate the Federal building located at 125 Market Street in Youngstown, OH, as the "Thomas D. Lambros Federal Building"; to the Committee on Public Works and Transportation.

By Mr. WAXMAN (for himself and Mr. DINGELL):

H.R. 4728. A bill to amend the Federal Food, Drug, and Cosmetic Act to authorize a device application fee, and for other purposes; to the Committee on Energy and Commerce.

By Mr. HUGHES:

H.J. Res. 386. Joint resolution to designate September 14, 1994, as "Mercy Otis Warren Day"; to the Committee on Post Office and Civil Service.

By Mr. YOUNG of Alaska:

H.J. Res. 387. Joint resolution to designate the second week of August 1994 as "National U.S. Seafood Week"; to the Committee on Post Office and Civil Service.

By Mr. HILLIARD:

H. Con. Res. 265. Concurrent resolution expressing the sense of the Congress regarding the issuance under title VII of the Civil Rights Act of 1964 of administrative guidelines applicable to religious harassment in employment; to the Committee on Education and Labor.

By Mr. BEREUTER:

H. Res. 476. Resolution congratulating the people of Germany and the citizens of Berlin on the occasion of the withdrawal of United States troops from Berlin, and reaffirming United States-Berlin friendship; to the Committee on Foreign Affairs.

By Mr. BURTON of Indiana:

H. Res. 477. Resolution to declare that July 12, 1994, be recognized as "Kashmir World Action Day"; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

438. By the SPEAKER: Memorial of the Senate of the Commonwealth of Pennsylvania, relative to health care costs; to the Committee on Energy and Commerce.

439. Also, memorial of the House of the Commonwealth of Pennsylvania, relative to fair elections in Liberia; to the Committee on Foreign Affairs.

440. Also, memorial of the Senate of the Commonwealth of Pennsylvania, relative to taxes; to the Committee on Government Operations.

441. Also, memorial of the Senate of the Commonwealth of Pennsylvania, relative to the battle against crime; to the Committee on the Judiciary.

442. Also, memorial of the Senate of the Commonwealth of Pennsylvania, relative to Memorial day; to the Committee on Post Office and Civil Service.

443. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to printing of a postage stamp; to the Committee on Post Office and Civil Service.

444. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to low-flying aircraft; to the Committee on Public Works and Transportation.

445. Also, memorial of the Legislature of the State of Alaska, relative to aerospace development; to the Committee on Science, Space, and Technology.

446. Also, memorial of the House of the Commonwealth of Pennsylvania, relative to Federal job training; to the Committee on Ways and Means.

447. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to medical symptoms of veterans of Operation Desert Storm; jointly, to the Committees on Armed Services and Veterans' Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BATEMAN:

H.R. 4729. A bill for the relief of Pauline Applewhite Saunders; to the Committee on the Judiciary.

By Mrs. FOWLER:

H.R. 4730. A bill to authorize issuance of a certificate of documentation with appropriate endorsement for the vessel *Lady Angela*; to the Committee on Merchant Marine and Fisheries.

By Mr. REED:

H.R. 4731. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Isabelle*; to the Committee on Merchant Marine and Fisheries.

H.R. 4732. A bill to authorize issuance of a certificate of documentation with appropriate endorsement for the vessel *Westwind*; to the Committee on Merchant Marine and Fisheries.

H.R. 4733. A bill to authorize issuance of a certificate of documentation with appropriate endorsement for the vessel *Raven*; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mr. ABERCROMBIE and Mr. CONDIT.

H.R. 349: Mr. DEAL.

H.R. 642: Mr. HUTTO.

H.R. 702: Mr. CALLAHAN and Mr. KLUG.

H.R. 1012: Ms. WOOLSEY.

H.R. 1056: Mr. TALENT, Mr. LEWIS of Georgia, Mr. SMITH of New Jersey, Mr. NADLER, Ms. BROWN of Florida, and Mr. PASTOR.

H.R. 1080: Mr. CALLAHAN, Mr. THOMAS of Wyoming, and Mr. McMILLAN.

H.R. 1110: Mr. FRANKS of Connecticut.

H.R. 1171: Mr. SYNAR.

H.R. 1277: Mrs. MEYERS of Kansas.

H.R. 1500: Mr. DEFAZIO, Ms. PELOSI, and Mr. SLATTERY.

H.R. 1538: Mr. FLAKE and Ms. FURSE.

H.R. 1583: Mr. FRANKS of New Jersey.

H.R. 1671: Mr. SCHIFF, Mr. SCHAEFER, Mr. FLAKE, Mr. HINCHEY, Mr. HASTINGS, Mr. DIXON, Mr. MANTON, Mr. PAYNE of New Jersey, Mr. SERRANO, Mr. TOWNS, Ms. DELAURO, and Mr. FALEOMAVAEGA.

H.R. 1921: Mr. FRANKS of New Jersey.

H.R. 2130: Mrs. MALONEY and Mr. MANZULLO.

H.R. 2211: Mrs. VUCANOVICH.

H.R. 2417: Mr. McCOLLUM, Mr. CUNNINGHAM, Mr. LIVINGSTON, Mr. GORDON, Mr. McINNIS, and Mr. NADLER.

H.R. 2717: Mr. ARMEY, Mr. BAKER of Louisiana, Mr. DOOLITTLE, and Mr. ROHRABACHER.

H.R. 2866: Ms. BROWN of Florida.

H.R. 2898: Ms. PELOSI.

H.R. 3100: Mr. ENGEL.

H.R. 3121: Mr. PARKER.

H.R. 3137: Mr. PETRI, Mr. DOOLITTLE, Mr. FROST, Mr. OXLEY, Mr. KASICH, Mr. THOMAS of California, Mr. CALVERT, Mr. STOKES, Mr. BROWN of Ohio, Mr. PORTMAN, Mr. CLINGER, Ms. PRYCE of Ohio, Mr. POMBO, and Mr. GINGRICH.

H.R. 3247: Mr. THOMAS of Wyoming, Mr. MARTINEZ, Mr. KOPETSKI, Ms. SCHENK, and Mr. SHAYS.

H.R. 3271: Mr. ROSE, Mr. TRAFICANT, Mr. WILSON, Mr. JACOBS, and Mrs. MEYERS of Kansas.

H.R. 3288: Mr. CALVERT.

H.R. 3293: Mr. PARKER and Mr. DINGELL.

H.R. 3347: Mrs. UNSOELD and Mr. NADLER.

H.R. 3434: Mr. ANDREWS of Maine.

H.R. 3483: Mr. MANZULLO.

H.R. 3492: Mr. ANDREWS of Texas, Mr. DE LA GARZA, Mr. HOLDEN, Ms. MOLINARI, Mr. BLACKWELL, Mr. MINETA, Mr. PORTER, Mr. WASHINGTON, Mr. LEVIN, Mr. LINDER, Mr. SCHIFF, Mr. SAXTON, Mr. BROOKS, Mr. BLUTE, Ms. DUNN, Mr. RANGEL, Mr. MEEHAN, Mr. CALVERT, Mr. EVERETT, Mr. HILLIARD, Mr. FIELDS of Louisiana, Mr. FIELDS of Texas, and Mr. LIGHTFOOT.

H.R. 3538: Mr. BARRETT of Wisconsin, Mr. ENGEL, Ms. ESHOO, Mr. FIELDS of Louisiana, Mr. FILNER, Mr. VENTO, Mr. FLAKE, Mr. FOGLIETTA, Mr. GUTIERREZ, Mr. HASTINGS, Mr. KANJORSKI, Ms. WATERS, Ms. KAPTUR, Mr. KENNEDY, Mr. NADLER, Mr. ROSE, and Mr. STUDDS.

H.R. 3564: Mr. ENGEL.

H.R. 3611: Mr. LEHMAN.

H.R. 3668: Mr. SOLOMON, Mr. TOWNS, Mr. EMERSON, Ms. LOWEY, and Mr. LIPINSKI.

H.R. 3750: Mr. LEWIS of Georgia.

H.R. 3795: Mr. BEREUTER and Mr. RANGEL.

H.R. 3843: Mr. SMITH of New Jersey.

H.R. 3844: Mr. SMITH of New Jersey.

H.R. 3846: Mr. HOCHBRUECKNER, Mr. VISCLOSKY, and Ms. SCHENK.

H.R. 3860: Mrs. JOHNSON of Connecticut.

H.R. 3862: Mr. BARTLETT of Maryland.

H.R. 3900: Mr. BURTON of Indiana.

H.R. 3970: Mr. HOAGLAND and Mr. CRAMER.

H.R. 3978: Mr. DORNAN, Mr. LEWIS of California, Mr. STUMP, Mr. GALLEGLY, AND Mr. McKEON.

H.R. 3987: Mr. SANDERS.

H.R. 3990: Mr. BLUTE, Mr. CALVERT, Mr. FILNER, Mrs. LLOYD, Mrs. MORELLA, Mr. SERRANO, Mr. WYNN, and Mr. YATES.

H.R. 4039: Mr. NADLER.

H.R. 4040: Mr. FLAKE, Mr. KENNEDY, Mr. DINGELL, Mr. PAYNE of New Jersey, Ms. SLAUGHTER, Mr. HILLIARD, Mr. KANJORSKI, Mr. OWENS, Mr. DIXON, Mr. FROST, Ms. WOOLSEY, Ms. FURSE, Mr. DICKS, Mr. LEWIS of Georgia, Mr. SANGMEISTER, and Mrs. MEEK of Florida.

H.R. 4050: Mr. DERRICK, Mr. DINGELL, Mr. COYNE, Mr. SANGMEISTER, and Mr. DIXON.

H.R. 4051: Mr. WILLIAMS.

H.R. 4086: Ms. ESHOO, Mr. EVANS, Mr. FRANK of Massachusetts, Mr. LAFALCE, Mr. PETRI, Mr. SWIFT, Mr. SCOTT, Mr. SLATTERY, Mrs. MEEK of Florida, Mr. JOHNSON of South Dakota, and Mr. PASTOR.

H.R. 4091: Mr. WASHINGTON and Mr. LEWIS of Georgia.

H.R. 4095: Mr. BOEHNER.

H.R. 4116: Mr. MORAN, Mr. ENGEL, and Mr. LEWIS of Georgia.

H.R. 4137: Mr. DORNAN.

H.R. 4169: Mr. FROST.

H.R. 4172: Mr. OBERSTAR, Mr. McHUGH, Mr. HASTINGS, Mr. BROWN of California, Mr. HILLIARD, Mr. JOHNSON of South Dakota, and Mr. TORRES.

H.R. 4173: Mr. McHUGH and Mr. HILLIARD.

H.R. 4188: Mr. PAYNE of Virginia and Mr. EVANS.

H.R. 4195: Mr. SMITH of New Jersey and Mr. ROHRABACHER.

H.R. 4285: Mr. FARR.

H.R. 4318: Ms. ROYBAL-ALLARD, Ms. PELOSI, Mr. BECERRA, Mr. SCOTT, and Mr. HAMBURG.

H.R. 4350: Mr. ROHRABACHER.

H.R. 4376: Ms. VELAZQUEZ and Mr. WASHINGTON.

H.R. 4386: Mr. TUCKER, Mr. FALEOMAVAEGA, Mr. TORRES, Mr. GINGRICH, Mr. PASTOR, Mr. NEAL of Massachusetts, and Mr. JOHNSON of South Dakota.

H.R. 4412: Mr. NUSSLE.

H.R. 4413: Mr. SYNAR.

H.R. 4497: Mr. MARTINEZ, Ms. ROS-LEHTINEN, Ms. SLAUGHTER, Mr. HAYES, Mr. COOPER, Mr. SANDERS, Mr. TORRICELLI, Mr. COBLE, Mr. TUCKER, Mr. EVERETT, Mr. DEAL, Mr. PARKER, Mr. BARTON of Texas, Mr. YOUNG of Alaska, Mr. McDADE, Mr. RAMSTAD, Mr. RUSH, Mr. FAZIO, Ms. DUNN, Mr. ZIMMER, Mr. MORAN, Mr. McCLOSKEY, Mr. SKEEN, Mr. DOOLITTLE, Mr. McCURDY, Mr. GLICKMAN, Ms. SCHENK, Mr. RANGEL, Ms. McKINNEY, Mr. ROHRABACHER, Mr. FOGLIETTA, Mr. CRAPO, Mr. DUNCAN, Mr. KINGSTON, Mr. DICKEY, Mr. TRAFICANT, Mr. GONZALEZ, and Mr. WYDEN.

H.R. 4507: Mr. WASHINGTON, Mr. SMITH of New Jersey, Mr. THOMPSON, and Mr. LEWIS of Florida.

H.R. 4527: Mr. SARPALIUS, Mr. HUTCHINSON, Mr. GEKAS, Mr. SMITH of New Jersey, and Mr. KILDEE.

H.R. 4528: Mr. GILLMOR and Mr. WYNN.

H.R. 4550: Mr. ISTOOK.

H.R. 4559: Mr. ROBERTS.

H.R. 4565: Mr. TAYLOR of Mississippi, Mr. CANADY, Mr. TORKILDSEN, and Mr. BACHUS of Alabama.

H.R. 4574: Mr. SHAW and Mr. ROHRABACHER.

H.R. 4592: Mr. ROYCE.

H.R. 4634: Mr. JOHNSON of South Dakota.

H.R. 4643: Mr. BLUTE and Mr. FROST.

H.R. 4675: Ms. KAPTUR and Mr. DOOLITTLE.

H.J. Res. 90: Mr. GOODLATTE, Mr. MOORHEAD, Mr. BUNNING, and Mr. McDADE.

H.J. Res. 297: Ms. WOOLSEY, Mr. PALLONE, Mr. HAYES, Mr. BRYANT, Mr. PICKLE, Mr. LAUGHLIN, Mr. PORTMAN, Mr. FILNER, Mr. MANTON, Mr. SHARP, Ms. ESHOO, Ms. McKINNEY, Mr. INHOFE, Mr. McDERMOTT, Mr. RAHALL, Mr. MURPHY, Mr. BOUCHER, Mr. PETRI, Mr. ROGERS, Mr. SAXTON, Mr. SMITH of Texas, Mr. SLATTERY, Mr. HOCHBRUECKNER, Mr. CHAPMAN, Mr. ANDREWS of Maine, Mr. BECERRA, Mr. SMITH of New Jersey, Mr. NEAL of Massachusetts, Mr. SCHAEFER, Mr. DORNAN, Mr. TAYLOR of North Carolina, Mr. JOHNSON of South Dakota, Mr. THOMAS of Wyoming, Mr. HANSEN, Mr. BARTLETT of Maryland, Mr. KLUG, Mr. LEWIS of Florida, Mr. MILLER of Florida, Mr. WHITTEN, Mr. SERRANO, Mr. RIDGE, Ms. NORTON, Mrs. MORELLA, Mr. BISHOP, Mr. BARTON of Texas, Mr. VISCLOSKY, Mr. BAKER of Louisiana, Mr. McCRERY, Mr. KASICH, Ms. SHEPHERD, Mr. DEFAZIO, Mr. UPTON, Mr. WISE, Mr. KREIDLER, Mr. PRICE of North Carolina, Mr. HOAGLAND, Mr. HUNTER, Mr. MOORHEAD, Mr. PICKETT, Mr. FORD of Tennessee, Mr. ORTON, Mr. FIELDS of Louisiana, Mr. MORAN, Mr. SWETT, Mr. DREIER, Mr. KIM, Mr. LAROCCO, Mr. WYNN, Mr. GUTIERREZ, Mr. TEJEDA, Mr. BILBRAY, Mr. ROYCE, Mrs. COLLINS of Illinois, Mr. FARR, and Mr. KILDEE.

H.J. Res. 347: Mr. HUTTO, Mr. DE LA GARZA, Mr. SERRANO, Mr. ROMERO-BARCELÓ, Mr. GONZALEZ, Mr. BORSKI, Ms. ROYBAL-ALLARD, Mr. BACCHUS of Florida, and Mr. ENGEL.

H.J. Res. 355: Ms. NORTON, Mr. BUNNING, Mr. COLEMAN, Mr. VALENTINE, Mr. HEFNER, Mr. YOUNG of Florida, Mr. PARKER, Mr. MARTINEZ, Mr. KLECZKA, Ms. McKINNEY, Mr. BACCHUS of Florida, Mr. KLEIN, Mr. CLEMENT, Mr. CLINGER, Mr. PACKARD, Mr. QUINN, Mr. DE LUGO, Mr. McDADE, Mr. ZIMMER, Mr. MOAKLEY, Mr. EDWARDS of Texas, Mr. BISHOP, Mr. HASTINGS, Mr. HUTTO, Mr. MORAN, Mr. NEAL of Massachusetts, Mr. CLYBURN, Mr. APPLEGATE, Mr. HALL of Texas, Mr. SPRATT, Mr. BAESLER, Mrs. MEEK of Florida, Mr. BORSKI, Mr. RAHALL, Mr. MANTON, Mr. KREIDLER, Mr. COOPER, Mr. BROWDER, Mr. SARPALIUS, Mr. SMITH of New Jersey, Mr. GUTIERREZ, Mr. ROEMER, Mrs. KENNELLY, Mr. UPTON, Mr. CARDIN, Mr. REYNOLDS, Mr. MACHTLEY, Mr. LEACH, Mr. LEWIS of Georgia, Mr. OLVER, Mr. HALL of Ohio, Mr. GENE GREEN of Texas, Mr. ANDREWS of Maine, Mr. CRAMER, Mr. BREWSTER, Mr. HINCHEY, Mr. FAZIO, Mrs. MORELLA, Ms. SNOWE, and Mr. HUTCHINSON.

H.J. Res. 356: Mr. ENGEL.

H.J. Res. 374: Ms. KAPTUR, Mr. LANCASTER, Mr. SCHIFF, Mr. FILNER, Mr. EMERSON, Mrs. FOWLER, Mr. SYNAR, Mr. BROOKS, Mr. SERRANO, and Mr. HUGHES.

H.J. Res. 378: Mr. NEAL of Massachusetts, Mr. SANGMEISTER, Mr. BROOKS, and Mr. TORKILDSEN.

H.J. Res. 381: Mr. TOWNS, Mrs. ROUKEMA, and Mr. LIPINSKI.

H. Con. Res. 141: Mr. QUINN.

H. Con. Res. 148: Mr. COBLE, Mr. GUNDERSON, and Mr. SERRANO.

H. Con. Res. 166: Mr. SCHUMER, Mr. FRANK of Massachusetts, Mr. SLATTERY, Mr. LEVIN, Mr. OXLEY, Mr. FRANKS of New Jersey, Mr. WISE, Mr. SHAYS, Mr. SMITH of New Jersey, and Mr. SAXTON.

H. Con. Res. 179: Mr. FRANKS of New Jersey.

H. Con. Res. 200: Mr. KOPETSKI, Mr. GREENWOOD, Mr. McCLOSKEY, Mr. CALVERT, Mr. RAMSTAD, Mr. RIDGE, and Mr. SWIFT.

H. Con. Res. 210: Mr. McNULTY, Mr. FILNER, Ms. MARGOLIES-MEZVINSKY, and Mr. PORTMAN.

H. Con. Res. 239: Mr. FISH.

H. Con. Res. 247: Mr. MEEHAN, Mr. McKEON, Mr. KING, Mr. CALVERT, Mr. SHAYS, and Mr. KYL.

H. Con. Res. 261: Mr. ROEMER and Ms. DUNN.

H. Res. 234: Mr. McHALE and Ms. DELAURO.

H. Res. 255: Mr. LINDER and Mr. KIM.

H. Res. 432: Ms. LOWEY, Mrs. MEEK of Florida, Mr. BERMAN, Mr. SCHUMER, and Mr. ENGEL.

H. Res. 434: Mr. ARMEY and Mr. BOEHNER.

H. Res. 448: Mr. JOHNSON of South Dakota.

H. Res. 451: Mr. TAYLOR of Mississippi, Mr. CANADY, Mr. TORKILDSEN, and Mr. BACHUS of Alabama.

H. Res. 463: Mr. COPPERSMITH and Mr. BOEHLERT.

H. Res. 472: Mr. ROHRABACHER, Mr. WALKER, Mr. GOSS, and Mr. MCKEON.

H. Res. 473: Mr. FROST and Mr. ENGEL.

PETITIONS, ETC.

Under clause 1 of rule XXII.

101. The SPEAKER presented a petition of El Presidente del Congreso del los Diputados, relative to request the institutional aid of the Foreign Service, which was referred jointly, to the Committees on Banking, Finance and Urban Affairs and Energy and Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3937

By Ms. CANTWELL:

—Page 229, strike line 6 and all that follows through page 230, line 14, and insert the following:

(c) FOREIGN AVAILABILITY DETERMINATION FOR CERTAIN COMPUTER SYSTEMS.—

(1) FOREIGN AVAILABILITY DETERMINATION.—(A) Not later than 30 days after the date of the enactment of this Act, the Secretary shall initiate an assessment of the foreign availability of all computer hardware, software, and technology for information security (including encryption), except that which is specifically designed or modified for military use (including command, control, and intelligence applications).

(B) In conducting the foreign availability assessment under subparagraph (A), the Secretary shall consult with appropriate export advisory committees appointed under section 104(f) and other interested departments and agencies.

(C) The Secretary shall, not later than 120 days after the date of the enactment of this Act, issue his or her determination of foreign availability under subparagraph (A), publish that determination in the Federal Register, and transmit that determination to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives.

(2) EXPORTS OF GENERALLY AVAILABLE SOFTWARE.—If the Secretary determines under paragraph (1) that foreign availability of computer hardware, software, or technology for information security (including encryption) exists in fact, the Secretary may—

(A) remove or modify (in light of such foreign availability) any export control in effect on some or all of the items for which there is such foreign availability; or

(B) for a period of not more than 180 days, seek the agreement of the appropriate countries to eliminate in fact the source of the foreign availability, except that if such efforts fail to achieve such agreement, then the Secretary shall remove or modify any export control in effect on some or all of the items with respect to which there is such foreign availability so as to eliminate any competitive disadvantage resulting from such foreign availability.

(3) EFFECT OF OTHER PROVISIONS.—The provisions of this subsection apply notwithstanding any provision of section 105(i).

—Page 229, strike line 6 and all that follows through page 230, line 14, and insert the following:

(c) FOREIGN AVAILABILITY DETERMINATION FOR CERTAIN COMPUTER SYSTEMS.—

(1) FOREIGN AVAILABILITY DETERMINATION.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall initiate an assessment of the foreign availability of all computer hardware, software, and technology for information security (including encryption), whether or not subject to control under this title, except that which is specifically designed or modified for military use (including command, control, and intelligence applications). Such assessment shall be done in accordance with section 105(i).

(2) ISSUANCE OF DETERMINATION.—The Secretary shall, not later than 120 days after the date of the enactment of this Act, issue his or her determination of foreign availability under paragraph (1), publish that determination in the Federal Register, and transmit that determination to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives.

—Page 229, strike line 6 and all that follows through page 230, line 14, and insert the following:

(c) COMPUTERS AND RELATED EQUIPMENT.—

(1) GENERAL RULE.—Subject to paragraphs (2) and (3), the Secretary shall have exclusive authority to control exports of all computer hardware, software, and technology for information security (including encryption), except that which is specifically designed or modified for military use, including command, control, and intelligence applications.

(2) ITEMS NOT REQUIRING LICENSES.—No validated license may be required, except pursuant to the Trading With The Enemy Act or the International Emergency Economic Powers Act (but only to the extent that the authority of such Act is not exercised to extend controls imposed under this title), for the export of—

(A) any software, including software with encryption capabilities, that is—

(i) generally available, as is, and is designed for installation by the purchaser; or

(ii) in the public domain or publicly available because it is generally accessible to the interested public in any form; or

(B) any computing device solely because it incorporates or employs in any form software (including software with encryption capabilities) exempted from any requirement for a validated license under subparagraph (A).

(3) SOFTWARE WITH ENCRYPTION CAPABILITIES.—The Secretary shall authorize the export of software with encryption capabilities for civil end uses (determined on the basis of the criteria described in section 105(c)(2)) in any country to which exports of software of similar capability are permitted for use by financial institutions not controlled in fact by United States persons, unless there is substantial evidence that such software will be—

(A) diverted to a military end use or an end use supporting international terrorism;

(B) modified for an end use described in subparagraph (A); or

(C) reexported without authorization by the United States that is required.

(4) DEFINITIONS.—As used in this subsection—

(A) the term "generally available" means, in the case of software (including software with encryption capabilities), software that is offered for sale, license, or transfer to any person without restriction through any commercial means, including, but not limited to, over-the-counter retail sales, mail order transactions, phone order transactions, electronic distribution, or sale on approval;

(B) the term "as is" means, in the case of software (including software with encryption capabilities), a software program that is not designed, developed, or tailored by the software company for specific purchasers, except that such purchasers may supply certain installation parameters needed by the software program to function properly with the purchaser's computer system and may customize the software program by choosing among options contained in the software program;

(C) the term "is designed for installation by the purchaser" means, in the case of software (including software with encryption capabilities) that—

(i) the software company intends for the purchaser (including any licensee or transferee), who may not be the actual user of the software program, to install the software program on a computing device and has supplied the necessary instructions to do so, except that the company may also provide telephone help line services for software installation, electronic transmission, or basic operations; and

(ii) the software program is designed for installation by the purchaser without further substantial support by the supplier;

(D) the term "computing device" means a device which incorporates one or more microprocessor-based central processing units that can accept, store, process or provide output of data; and

(E) the term "computer hardware", when used in conjunction with information security, includes, but is not limited to, computer systems, equipment, application-specific assemblies, modules, and integrated circuits.

By Mr. DORNAN:

—Add the following at the end:

TITLE III—COMMERCIAL COOPERATION PROJECTS

SEC. 301. STATEMENT OF PRINCIPLES IN COMMERCIAL COOPERATION PROJECTS.

(a) PURPOSE.—It is the purpose of this title to create principles governing the conduct of commercial cooperation projects of United States nationals in the Socialist Republic of Vietnam.

(b) PRINCIPLES.—It is the sense of the Congress that any United States national conducting a commercial cooperation project in the Socialist Republic of Vietnam should adhere to the following principles:

(1) Seek to ensure that political or religious views, sex, ethnic or national background, involvement in political activities or nonviolent demonstrations, or association with suspected or known dissidents will not prohibit hiring, lead to harassment, demotion, or dismissal, or in any way affect the status or terms of employment in the commercial cooperation project. The United States national should not discriminate in terms or conditions of employment in the commercial cooperation project against former members of the armed forces of the Republic of Vietnam (South Vietnam), former government officials of the Republic of Vietnam, former employees of the United States Government in the Republic of Vietnam, former employees of United States Government officials in the Republic of Vietnam, former employees of United States enterprises in the Republic of Vietnam, and repatriated asylum-seekers (so-called "boat people").

(2) Ensure that methods of production used in the commercial cooperation project do not pose an unnecessary physical danger to workers and neighboring populations and property and that the commercial cooperation project does not unnecessarily risk harm to the surrounding environment.

(3) Strive to use business enterprises that are not controlled by the Socialist Republic of Vietnam or its authorized agents and departments as potential partners in the commercial cooperation project.

(4) Prohibit any military presence on the premises of the commercial cooperation project.

(5) Undertake to promote freedom of association and assembly among the employees of the United States national, including the right of employees to form collective bargaining units. The United States national should protest any infringement by the Government of the Socialist Republic of Vietnam of these freedoms to the appropriate authorities of that government and to the International Labor Organization.

(6) Prohibit any compulsory political indoctrination programs from taking place on the premises of the operations of the commercial cooperation project.

(7) Promote freedom of expression, including the freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any media. To this end, the United States national should raise with appropriate authorities of the Government of the Socialist Republic of Vietnam concerns about restrictions on importation of foreign publications.

(8) Undertake to promote a full accounting of all Americans missing in action from the Vietnam conflict.

(c) PROMOTION OF PRINCIPLES BY OTHER NATIONS.—The Secretary of State shall forward a copy of the principles described in subsection (b) to the member nations of the Organization for Economic Cooperation and Development and encourage them to promote principles similar to these principles.

SEC. 302. REGISTRATION REQUIREMENT.

(a) IN GENERAL.—Each United States national conducting a commercial cooperation project in the Socialist Republic of Vietnam shall register with the Secretary of State and indicate whether the United States national agrees to implement the principles described in section 301(b). No fee shall be required for registration under this subsection.

(b) EFFECTIVE DATE.—The registration requirement of subsection (a) shall take effect 6 months after the date of the enactment of this Act.

SEC. 303. REPORTING REQUIREMENTS.

(a) REPORT.—Each United States national conducting a commercial cooperation project in the Socialist Republic of Vietnam shall report to the Department of State describing the United States national's adherence to the principles described in section 301(b). Such national shall submit a completed reporting form furnished by the Department of State. The first report shall be submitted not later than 1 year after the date on which the national registers under section 302 and not later than the end of each 1-year period occurring thereafter.

(b) REVIEW OF REPORT.—The Secretary of State shall review each report submitted under subsection (a) and determine whether the United States national submitting the report is adhering to the principles described in section 301(b). The Secretary may request additional information from the United States national and other sources to verify the information submitted.

(c) ANNUAL REPORT.—The Secretary of State shall submit a report to the Congress and to the Secretariat of the Organization for Economic Cooperation and Development, describing the level of adherence to the principles described in section 301(b) by United States nationals subject to the reporting requirement of subsection (a). This report shall be submitted not later than 2 years after the date of the enactment of this Act and not later than the end of each 1-year period occurring thereafter.

SEC. 304. EXPORT MARKETING SUPPORT.

(a) SUPPORT.—Departments and agencies of the United States may only intercede with a foreign government or foreign national regarding export marketing activity in the Socialist Republic of Vietnam on behalf of a United States national subject to the reporting requirements of section 303(a) if that United States national adheres to the principles.

(b) TYPE OF CONTACT.—The term "intercede with a foreign government or foreign national" includes any contact by an officer or employee of the United States with officials of any foreign government or foreign national involving or contemplating any effort to assist in selling a good, service, or technology in the Socialist Republic of Vietnam. Such term does not include multilateral or bilateral government-to-government trade negotiations intended to resolve trade issues which may affect United States nationals who do not adhere to the principles.

(c) EFFECTIVE DATE.—Subsection (a) shall take effect 2 years after the date of the enactment of this Act.

SEC. 305. DEFINITIONS.

For purposes of this title—

(1) the terms "adhere to the principles", "adhering to the principles" and "adherence to the principles" mean—

(A) agreeing to implement the principles described in section 301(b);

(B) implementing those principles by taking good faith measures with respect to each such principle; and

(C) reporting accurately to the Department of State on the measures taken to implement those principles;

(2) the term "commercial cooperation project" refers to a for-profit activity the business operations of which employ more than 25 individuals or have assets greater than $25,000; and

(3) the term "United States national" means—

(A) a citizen or national of the United States or a permanent resident of the United States; and

(B) a corporation, partnership, and other business association organized under the laws of the United States, any State or territory thereof, the District of Columbia, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands.

By Ms. ESHOO:

—In section 114, add the following at the end:

(s) TREATMENT OF SEMICONDUCTORS.—Any semiconductor device shall not be subject to any export controls under the title that are more restrictive or burdensome than any export control that is imposed on computers systems or telecommunications systems.

By Mr. RICHARDSON:

—Page 237, add the following after line 25:

(j) STANDARD FOR CONTROLS ON COMPUTERS.—

(1) NEGOTIATIONS WITH COCOM MEMBERS.—The Secretary of State, in consultation with the Secretary and other appropriate agencies, shall conduct negotiations with representatives of the members of COCOM in order to reach agreement that export controls shall not be imposed on a digital computer, or any of its component parts or subsystems, on any performance measuring basis other than the processing speed of the digital computer as measured by its composite theoretical performance.

(2) IMPLEMENTATION OF STANDARD.—In the event that the agreement described in paragraph (1) is not reached with the representatives of the members of COCOM within the 12-month period beginning on the date of the enactment of this Act, then no license may be required under this title or any other provision of law for the export of a digital computer, or any of its component parts or subsystems, on any performance measuring basis other than the processing speed of the digital computer as measured by its composite theoretical performance, unless the President—

(A) determines that using the composite theoretical performance of a digital computer as the sole measurement of performance for purposes of export controls would create a significant risk to the national security interests of the United States; and

(B) reports that determination in writing to the Congress.

(3) EXCEPTIONS.—The provisions of this subsection shall not apply to—

(A) exports to any country the government of which the Secretary of State determines under section 106(i) has repeatedly provided support for acts of international terrorism;

(B) exports to any country against which the United States has imposed an embargo described in section 106(f)(1); or

(C) exports of any commodity or technology which is controlled under conditions of extreme vigilance, pursuant to the agreement of the members of COCOM.

(4) DEFINITIONS.—For the purposes of this subsection, the terms "digital computer" and "composite theoretical performance" have the meanings given those terms in supplement No. 3 to section 799.1 of title 15, Code of Federal Regulations, as in effect on June 1, 1994.

H.R. 4299

By Mr. CONYERS:

—In section 601, amend subsections (a) and (b) to read as follows:

(a) DIA.—

(1) PURPOSES.—The purposes of this subsection are to—

(A) create an objective and effective office, appropriately accountable to the Congress, to initiate and conduct independently inspections, investigations, and audits relating to programs and operations of the Defense Intelligence Agency;

(B) provide leadership and recommend policies designed to promote economy, efficiency, and effectiveness in the administration of such programs and operations, and detect fraud and abuse in such programs and operations;

(C) provide a means for keeping the Director of the Defense Intelligence Agency fully and currently informed about problems and deficiencies relating to the administration of such programs and operations, and the necessity for and the progress of corrective actions; and

(D) in the manner prescribed by the amendments made by this subsection, ensure that the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence are kept similarly informed of significant problems and deficiencies as well as the necessity for and the progress of corrective actions.

(2) ESTABLISHMENT OF OFFICE OF INSPECTOR GENERAL.—The first section 8G of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in subsection (a)(2) by inserting after "the United States International Trade Commission," the following: "the Defense Intelligence Agency,"; and

(B) by adding at the end the following:

"(i)(1) The Inspector General of the Defense Intelligence Agency shall be appointed by the Director of the Defense Intelligence Agency (in this subsection referred to as the 'Director') without regard to political affiliation and on the basis of integrity, compliance with the security standards of the Defense Intelligence Agency, and prior experience in the field of foreign intelligence and in a Federal office of Inspector General.

"(2)(A) Notwithstanding the second sentence of section 8G(d), the Director may prohibit the Inspector General of the Defense Intelligence Agency from initiating, carrying out, or completing any audit, inspection, or investigation if the Director determines that such prohibition is necessary to protect vital national security interests of the United States.

"(B) If the Director exercises any power under subparagraph (A), the Director shall submit an appropriately classified statement of the reasons for the exercise of such power within 7 days to the intelligence committees. The Director shall advise the Inspector General at the time such report is submitted, and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of any such report. In such cases, the Inspector General may submit such comments to the intelligence committees that the Director considers appropriate.

"(3) The Inspector General of the Defense Intelligence Agency shall take due regard for the protection of intelligence sources and methods in the preparation of all reports issued by the Office of Inspector General of the Defense Intelligence Agency, and, to the extent consistent with the purpose and objective of such reports, take such measures as may be appropriate to minimize the disclosure of intelligence sources and methods described in such reports.

"(4)(A) The Inspector General of the Defense Intelligence Agency shall, not later than January 31 and July 31 of each year, prepare and submit to the Director a classified semiannual report summarizing the activities of the Office of Inspector General of the Defense Intelligence Agency during the immediately preceding 6-month period ending December 31 (of the preceding year) and June 30, respectively. Within 30 days after receipt of such reports, the Director shall transmit such reports to the intelligence committees with any comments the Director may deem appropriate. Such reports shall, at a minimum, include a list of the title or subject of each inspection, investigation, or audit conducted during the reporting period and—

"(i) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Defense Intelligence Agency identified by the Office during the reporting period;

"(ii) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified in clause (i);

"(iii) a statement of whether corrective action has been completed on each significant recommendation described in previous semiannual reports, and, in a case where corrective action has been completed, a description of such corrective action;

"(iv) a certification that the Inspector General has had full and direct access to all information relevant to the performance of the functions of the Inspector General;

"(v) a description of all cases occurring during the reporting period where the Inspector General could not obtain documentary evidence relevant to any inspection, audit, or investigation due to the lack of authority to subpoena such information; and

"(vi) such recommendations as the Inspector General may wish to make concerning legislation to promote economy and efficiency in the administration of programs and operations undertaken by the Defense Intelligence Agency, and to detect and eliminate fraud and abuse in such programs and operations.

"(B) The Inspector General of the Defense Intelligence Agency shall report immediately to the Director whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs or operations. The Director shall transmit such report to the intelligence committees within 7 calendar days, together with any comments the Director considers appropriate.

"(C) In the event that—

"(i) the Inspector General of the Defense Intelligence Agency is unable to resolve any differences with the Director affecting the execution of the Inspector General's duties or responsibilities; or

"(ii) the Inspector General, after exhausting all possible alternatives, is unable to obtain significant documentary information in the course of an investigation, inspection, or audit,

the Inspector General shall immediately report such matter to the intelligence committees.

"(D) Section 5 shall not apply to the Inspector General and the Office of Inspector General of the Defense Intelligence Agency.

"(5) Subject to applicable law and the policies of the Director, the Inspector General of the Defense Intelligence Agency shall select, appoint, and employ such officers and employees as may be necessary to carry out the functions of the Inspector General. In making such selections, the Inspector General shall ensure that such officers and employees have the requisite training and experience to enable the Inspector General to carry out the duties of the Inspector General effectively. In this regard, the Inspector General shall create within the organization of the Inspector General a career cadre of sufficient size to provide appropriate continuity and objectivity needed for the effective performance of the duties of the Inspector General.

"(6) Beginning with fiscal year 1996, there shall be included in the National Foreign Intelligence Program budget a separate account for the Office of Inspector General of the Defense Intelligence Agency.

"(7) In this subsection, the term 'intelligence committees' means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.".

(3) IMPLEMENTATION.—The Director of the Defense Intelligence Agency shall, by not later than 60 days after the date of the enactment of this Act and in accordance with the amendments made by this subsection—

(A) establish the Office of Inspector General of the Defense Intelligence Agency;

(B) appoint the Inspector General of the Defense Intelligence Agency; and

(C) transfer to that Office the office of the Defense Intelligence Agency on the day before the date of the enactment of this Act known as the "Office of Inspector General".

(4) TRANSFER OF RESOURCES OF EXISTING OFFICE.—The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, or available to the office in the Defense Intelligence Agency on the day before the date of the enactment of this Act known as "Office of Inspector General" are hereby transferred to the Office of Inspector General of the Defense Intelligence Agency established under the amendments made by this subsection.

(5) TERMINATION OF EXISTING OFFICE.—The office in the Defense Intelligence Agency on the day before the date of the enactment of this Act known as "Office of Inspector General" is terminated effective on the date of the establishment of the Office of Inspector General of the Defense Intelligence Agency pursuant to the amendments made by this subsection.

(6) CONFORMING AMENDMENT.—The first section 8G of the Inspector General Act of 1978 (5 U.S.C. App.) is amended in subsection (c) by striking "subsection (f)" and inserting "subsections (f) and (i)".

(7) REPORTS TO INTELLIGENCE COMMITTEES.—

(A) REPORTING REQUIREMENT.—Subchapter I of chapter 21 of title 10, United States Code, is amended by adding at the end the following:

"§427. Reports on activities of the Office of Inspector General of the Defense Intelligence Agency

"(a) REPORTING REQUIREMENT.—The Director of the Defense Intelligence Agency shall submit to the intelligence committees any report or findings and recommendations of an inspection, investigation, or audit conducted by the Office of Inspector General of the Defense Intelligence Agency which has been requested by the Chairman or Ranking Minority Member of either of the intelligence committees.

"(b) INTELLIGENCE COMMITTEES DEFINED.—In this section, the term 'intelligence committees' means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.".

(B) CLERICAL AMENDMENT.—The analysis at the beginning of subchapter I of chapter 23 of title 10, United States Code, is amended by adding at the end the following:

"427. Reports on activities of the Office of Inspector General of the Defense Intelligence Agency.".

(b) NSA.—

(1) PURPOSES.—The purposes of this subsection are to—

(A) create an objective and effective office, appropriately accountable to Congress, to initiate and conduct independently inspections, investigations, and audits relating to programs and operations of the National Security Agency;

(B) provide leadership and recommend policies designed to promote economy, efficiency, and effectiveness in the administration of such programs and operations, and detect fraud and abuse in such programs and operations;

(C) provide a means for keeping the Director of the National Security Agency fully and currently informed about problems and deficiencies relating to the administration of such programs and operations, and the necessity for and the progress of corrective actions; and

(D) in the manner prescribed by the amendments made by this subsection, ensure that the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence are kept similarly informed of significant problems and deficiencies as well as the necessity for and the progress of corrective actions.

(2) ESTABLISHMENT OF OFFICE OF INSPECTOR GENERAL.—The first section 8G of that Act is amended—

(A) in subsection (a)(2), as amended by subsection (a)(2) of this section, by inserting after "the Defense Intelligence Agency," the following: "the National Security Agency,"; and

(B) by adding after subsection (i), as added by subsection (a)(2) of this section, the following:

"(j)(1) The Inspector General of the National Security Agency shall be appointed by the Director of the National Security Agency (in this subsection referred to as the 'Director') without regard to political affiliation and on the basis of integrity, compliance with the security standards of the National Security Agency, and prior experience in the field of foreign intelligence and in a Federal office of Inspector General.

"(2)(A) Notwithstanding the second sentence of section 8G(d), the Director may prohibit the Inspector General of the National Security Agency from initiating, carrying out, or completing any audit, inspection, or investigation if the Director determines that such prohibition is necessary to protect vital national security interests of the United States.

"(B) If the Director exercises any power under subparagraph (A), the Director shall submit an appropriately classified statement of the reasons for the exercise of such power within 7 days to the intelligence committees. The Director shall advise the Inspector General at the time such report is submitted, and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of any such report. In such cases, the Inspector General may submit such comments to the intelligence committees that the Director considers appropriate.

"(3) The Inspector General of the National Security Agency shall take due regard for the protection of intelligence sources and methods in the preparation of all reports issued by the Office of Inspector General of the National Security Agency, and, to the extent consistent with the purpose and objective of such reports, take such measures as may be appropriate to minimize the disclosure of intelligence sources and methods described in such reports.

"(4)(A) The Inspector General of the National Security Agency shall, not later than January 31 and July 31 of each year, prepare and submit to the Director a classified semiannual report summarizing the activities of the Office of Inspector General of the National Security Agency during the immediately preceding 6-month period ending December 31 (of the preceding year) and June 30, respectively. Within 30 days after receipt of such reports, the Director shall transmit such reports to the intelligence committees with any comments the Director may deem appropriate. Such reports shall, at a minimum, include a list of the title or subject of each inspection, investigation, or audit conducted during the reporting period and—

"(i) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the National Security Agency identified by the Office during the reporting period;

"(ii) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified in clause (i);

"(iii) a statement of whether corrective action has been completed on each significant recommendation described in previous semiannual reports, and, in a case where corrective action has been completed, a description of such corrective action;

"(iv) a certification that the Inspector General has had full and direct access to all information relevant to the performance of the functions of the Inspector General;

"(v) a description of all cases occurring during the reporting period where the Inspector General could not obtain documentary evidence relevant to any inspection, audit, or investigation due to the lack of authority to subpoena such information; and

"(vi) such recommendations as the Inspector General may wish to make concerning legislation to promote economy and efficiency in the administration of programs and operations undertaken by the National Security Agency, and to detect and eliminate fraud and abuse in such programs and operations.

"(B) The Inspector General of the National Security Agency shall report immediately to the Director whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs or operations. The Director shall transmit such report to the intelligence committees within 7 calendar days, together with any comments the Director considers appropriate.

"(C) In the event that—

"(i) the Inspector General of the National Security Agency is unable to resolve any differences with the Director affecting the execution of the Inspector General's duties or responsibilities; or

"(ii) the Inspector General, after exhausting all possible alternatives, is unable to obtain significant documentary information in the course of an investigation, inspection, or audit,

the Inspector General shall immediately report such matter to the intelligence committees.

"(D) Section 5 shall not apply to the Inspector General and the Office of Inspector General of the National Security Agency.

"(5) Subject to applicable law and the policies of the Director, the Inspector General of the National Security Agency shall select, appoint, and employ such officers and employees as may be necessary to carry out the functions of the Inspector General. In making such selections, the Inspector General shall ensure that such officers and employees have the requisite training and experience to enable the Inspector General to carry out the duties of the Inspector General effectively. In this regard, the Inspector General shall create within the organization of the Inspector General a career cadre of sufficient size to provide appropriate continuity and objectivity needed for the effective performance of the duties of the Inspector General.

"(6) Beginning with fiscal year 1996, there shall be included in the National Foreign Intelligence Program budget a separate account for the Office of Inspector General of the National Security Agency.

"(7) In this subsection, the term 'intelligence committees' means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.".

(3) IMPLEMENTATION.—The Director of the National Security Agency shall, by not later than 60 days after the date of the enactment of this Act and in accordance with the amendments made by this subsection—

(A) establish the Office of Inspector General of the National Security Agency;

(B) appoint the Inspector General of the National Security Agency; and

(C) transfer to that Office the office of the National Security Agency on the day before the date of the enactment of this Act known as the "Office of Inspector General".

(4) TRANSFER OF RESOURCES OF EXISTING OFFICE.—The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, or available to the office in the National Security Agency on the day before the date of the enactment of this Act known as "Office of Inspector General" are hereby transferred to the Office of Inspector General of the National Security Agency established under the amendments made by this subsection.

(5) TERMINATION OF EXISTING OFFICE.—The office in the National Security Agency on the day before the date of the enactment of this Act known as "Office of Inspector General" is terminated effective on the date of the establishment of the Office of Inspector General of the National Security Agency pursuant to the amendments made by this subsection.

(6) CONFORMING AMENDMENTS.—The first section 8G of the Inspector General Act of 1978 (5 U.S.C. App.) is amended in subsection (c), as amended by subsection (a)(6) of this section, by striking "subsections (f) and (i)" and inserting "subsections (f), (i), and (j)".

(7) REPORTS TO INTELLIGENCE COMMITTEES.—The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by adding at the end the following:

"SEC. 19. (a) The Director of the National Security Agency shall submit to the intelligence committees any report or findings and recommendations of an inspection, investigation, or audit conducted by the Office of Inspector General of the National Security Agency which has been requested by the Chairman or Ranking Minority Member of either of the intelligence committees.

"(b) In this section, the term 'intelligence committees' means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.".

(8) RELATIONSHIP OF INSPECTOR GENERAL OF DEPARTMENT TO THOSE OF DIA AND NSA.—Section 8 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

"(h)(1) The Inspector General of the Department of Defense shall not have any authority to conduct any activity with respect to any matter that the Secretary of Defense determines relates solely to the Defense Intelligence Agency or the National Security Agency.

"(2) Upon request of the Inspector General of the Defense Intelligence Agency or the National Security Agency, the Inspector General of the Department of Defense may provide to the Inspector General making the request such resources (including personnel) as are appropriate to enable that Inspector General to carry out activities authorized by this Act.".

By Mr. FRANK of Massachusetts:

—Page 4, after line 23, add the following:

SEC. 104. REDUCTION IN COUNTERNARCOTIC AND DRUG INTERDICTION FUNDS.

The amounts authorized to be appropriated under section 101 for counternarcotic activities and drug interdiction, as specified in the classified Schedule of Authorizations prepared to accompany the bill H.R. 4299 of the One Hundred Third Congress, are hereby reduced by **$100,000,000**.

By Mr. GLICKMAN:

—At the end of title III (page 5, after line 23), add the following:

SEC. 303. DISCLOSURE OF CLASSIFIED INFORMATION BY MEMBERS OF CONGRESS AND EXECUTIVE BRANCH OFFICERS AND EMPLOYEES.

During the fiscal year 1995, no element of the United States Government for which funds are authorized in this Act may provide any classified information concerning or derived from the intelligence or intelligence-related activities of such element to a Member of Congress or to an officer or employee of the executive branch of the United States Government unless and until a copy of the following oath of secrecy has been signed by that Member, or officer or employee, as the case may be, and has been published, in an appropriate manner, in the Congressional Record:

"I do solemnly swear that I will not willfully directly or indirectly disclose to any unauthorized person any classified information received from any department of the Government funded in the Intelligence Authorization Act for Fiscal Year 1995 in the course of my duties as a Member of Congress (except pursuant to the rules and procedures of the appropriate house of the Congress), or as an officer or employee in the executive branch of the Government, as the case may be.".

As used in this section, the term "Member of Congress" means a Member of the Senate or a Representative in, or a Delegate or Resident Commissioner to, the House of Representatives.

At the end of title I (page 4, after line 23), add the following:

SEC. 104. PUBLIC DISCLOSURE OF INTELLIGENCE BUDGET.

(a) AMOUNTS EXPENDED AND AMOUNTS REQUESTED.—(1) The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding at the end of title I the following new section:

"ANNUAL REPORT OF AMOUNTS EXPENDED AND AMOUNTS REQUESTED FOR INTELLIGENCE AND INTELLIGENCE-RELATED ACTIVITIES

"SEC. 109. At the time of submission of the budget of the United States Government for a fiscal year under section 1105(a) of title 31, United States Code, the Director of Central Intelligence shall submit to the Congress a separate, unclassified statement of the aggregate amount of expenditures for the fiscal year ending on September 30 of the previous calendar year, and the aggregate amount of funds requested to be appropriated for the fiscal year for which the budget is submitted, for intelligence and intelligence-related activities of the Government.".

(2) The table of contents at the beginning of the National Security Act of 1947 is amended by inserting after the item relating to section 108 the following new item:

"Sec. 109. Annual report of amounts expended and amounts requested for intelligence and intelligence-related activities.".

(b) CONGRESSIONAL AUTHORIZATION OF INTELLIGENCE ACTIVITIES.—Section 504 of the National Security Act of 1947 (50 U.S.C. 414) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) A bill or joint resolution, and any amendment thereto, which authorizes the appropriation of funds for a fiscal year for all intelligence and intelligence-related activities of the United States may set forth in an unclassified statement the aggregate amount of funds authorized to be appropriated in that bill or resolution for such fiscal year for intelligence and intelligence-related activities of the United States.".

(c) EFFECTIVE DATE.—(1) The amendment made by subsection (a) shall take effect with respect to the budget submitted for fiscal year 1996.

(2) The amendment made by subsection (b) shall take effect with respect to bills, resolutions, and amendments, authorizing the appropriation of funds for all intelligence and intelligence-related activities of the United States for fiscal year 1996.

By Mr. SANDERS:

—Page 4, after line 23, insert the following:

SEC. 104. LIMITATION ON AMOUNTS AUTHORIZED TO BE APPROPRIATED.

(a) LIMITATION.—Except as provided in subsection (b), notwithstanding the total amount of the individual authorizations of appropriations contained in this Act, including the amounts specified in the classified Schedule of Authorizations prepared to accompany the bill H.R. 4299 of the One Hundred and Third Congress, there is authorized to be appropriated for fiscal year 1995 to carry out this Act not more than 90 percent of the total amount authorized to be appropriated by the Intelligence Authorization Act for Fiscal year 1994.

(b) EXCEPTION.—Subsection (a) does not apply to amounts authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund.

By Mr. TRAFICANT:

—Page 5, after line 23, insert the following new section:

SEC. 303. PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each agency of the Federal or District of Columbia government, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

EXTENSIONS OF REMARKS

A PRESIDENTIAL COMMISSION ON TELEMEDICINE

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mrs. SCHROEDER. Mr. Speaker, imagine being diagnosed in your own living room via your television screen by your doctor miles away. He is able to take your pulse and temperature while you are sitting on your sofa. Or having your x rays viewed simultaneously by your family doctor and a consulting expert across the country.

This is not a futuristic fantasy. It's an example of what telemedicine projects are already doing in America today. Medical and technology forces are converging to give American health consumers better and more cost-effective access to quality care. By the end of this century, telemedicine will be as common as air travel.

Telemedicine is the wave of the future in health care. I believe it's time to set up a Presidential Commission on Telemedicine, while the field is still in its formative stages, to facilitate and foster its growth.

Today I am introducing legislation in the House to set up a Presidential Commission on Telemedicine that will assess the state-of-the-telemedicine field today and outline how to make telemedicine an accepted practice in the delivery of health care services in our country.

The Commission is designed to be comprehensive, yet succinct. It will be a year-long Commission, directed by the Vice President, including among its members the Secretaries of Commerce, Health and Human Services, Defense, and Energy. Because telemedicine affects a wide variety of specialties, the Commission will include among its 26 members physicians and consumers, as well as experts in many fields including, but not limited to, medicine, biomedical engineering, telecommunications, education, and business.

I want a wide range of people involved in this exciting new field to come together, compare notes, and lay out a framework for the development of telemedicine in the United States. This Commission can help create a blueprint on telemedicine to make sure doctors use it, insurance pays for it, and consumers have confidence in it. I have circulated a draft of my legislation to people who have been following the progress of American telemedicine. This bill reflects the comments of such experts.

I believe that establishing the infrastructure for telemedicine should be sure-footed. A 1-year Commission to set out that measured plan of action will be a key step as we seek to forge a national policy on telemedicine.

TRIBUTE TO JACKIE R. MEDLEY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. SKELTON. Mr. Speaker, I rise today to recognize a truly outstanding person who lives in the State of Missouri—Jackie R. Medley of Versailles.

On April 28, 1994, the Carnegie Hero Fund Commission named 18 individuals from throughout the United States and Canada as recipients of the Carnegie Medal. The medal is given to civilians who risk their lives to an extraordinary degree while saving or attempting to save the lives of others. I am proud to say that Jackie R. Medley was a recipient of one of these prestigious awards. The case summary of this award follows:

Jackie R. Medley saved Johnny W. Wilson from burning, Versailles, MO, February 3, 1993. Wilson, 29, was asleep in his bedroom after the fire broke out in the living room of his mobile home and spread. After others attempted unsuccessfully to rescue him, a neighbor, Medley, 42, disabled truck driver, entered the smoke-filled mobile home through its back door and crawled into Wilson's bedroom. With visibility restricted by the smoke, Medley located Wilson in his bed, then pulled him to the floor and dragged him out of the mobile home through the rear door. The structure was shortly engulfed in flame. Both Wilson and Medley were treated for smoke inhalation, and they recovered.

I ask my fellow Members to join me in congratulating Jackie Medley for his valiant actions.

STATEMENT ON RADIO PACIFICA

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. RICHARDSON. Mr. Speaker, I would like to urge my colleagues to take note of an amendment to the Labor, HHS, Education, and Independent agencies appropriation bill that passed late last night to cut funding by $1 million for the Corporation for Public Broadcasting. It must be made clear that this amendments is not directed to cut the funding of any specific program at CPB, and, in particular, Pacifica Radio.

Pacifica is a multicultural network committed to promoting diversity among our country's communities. As a minority, I believe that Pacifica makes a necessary and important contribution to our society. Pacifica provides programming that many in our country would not otherwise get. We must never forget that diversity and freedom of expression are principles upon which our country was founded. Pacifica's commitment to cultural understanding and the first amendment is unquestionable. Members should know that 75 percent of Pacifica's operations are listener supported. It is clear that there is great support among the American public for the service that Pacifica provides.

Contrary to some opinions, Pacifica does not promulgate a policy that encourages hate programming or prejudicial reporting. Like all news organizations, Pacifica is after a story. Their angle may be different but that does not make them wrong. Pacifica is widely recognized among the news industry. Pacifica has received prestigious awards such as: The Peabody; the Polk Award; the Robert F. Kennedy Freedom Award; the U.P.I. Award; the Armstrong Award; and the National Federation of Community Broadcasting Golden Reel Award.

Pacifica is a necessary part of our society. I urge my colleagues to give this worthy program the attention necessary. I look forward to working with Mr. SMITH, chairman of the Labor, HHS, and Education Appropriation Subcommittee, to see this issue worked out in conference.

THE STRIKER REPLACEMENT BILL

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. BEREUTER. Mr. Speaker, this Member would like to commend to his colleagues the following editorial from the July 12, 1994, Washington Post, concerning the striker replacement legislation now pending in the Senate.

This legislation is ill-advised and would do untold harm to the American economy. It is a measure which would hurt both American businesses and American workers. As the Post editorial makes clear, the striker replacement bill would upset the balance of labor-management relations. It should not be passed.

[From the Washington Post, July 12, 1994]

THE STRIKER REPLACEMENT BILL

The striker replacement bill may come up this week in the Senate, where at last count there appeared to be the votes to block it. We hope so. This is bad legislation that in the name of restoring balance to labor law and relations would in fact unbalance them and could well do lasting economic harm. A Democratic majority in the House passed it last year as a sop to organized labor, and the president has said for the same propitiatory reasons that he would sign it if it were sent to him. He should have said no on the merits. It has now been left to the Senate to do so instead.

The bill would deny employers the right to hire permanent replacements when workers

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

strike over economic issues. (Other rules apply to strikes over unfair labor practices.) Organized labor says the ban is necessary to protect the right to strike, which it claims is threatened. But this is not an effort to regain a lost right. Rather, it's an effort to regain lost power—the membership and clout that labor has lost in recent years for reasons having mainly to do with a weak competitive position in the world economy. A change in labor law won't solve that problem, and would likely make it worse.

The law is currently contradictory. The National Labor Relations Act said in 1935 that strikers could not be fired. The Supreme Court nonetheless held three years later that they could be permanently replaced. Mostly the matter thereafter was ignored. Management rarely used the replacement power, and labor rarely protested it. Labor says that the tactic has now become more common. That isn't clear—but it has been used in some highly visible recent cases, and those have been enough to make it a major issue.

Labor says the power has been abused to break unions. No doubt there have been such cases. But occasions also arise when strikers by their behavior forfeit the right of return and companies ought to hire permanent replacements. This newspaper faced such a breach in dealing with one of its unions in the 1970s. The goal of labor law is not to determine the outcome of labor disputes but to maintain a system of mutual deterrence in which neither side can act without risk. An obdurate company risks a strike; obdurate strikers risk replacement. Most of the time the balance works and produces rational results. This bill would destroy the balance and ought not pass.

PROPAGANDA FEST

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. GINGRICH. Mr. Speaker, I rise today to submit into the Record an article which appeared in the June 26 edition of the Washington Times and was written by syndicated columnist Tony Snow. I believe you will get a sense of the true spirit with which this administration has approached health care reform.

[From the Washington Times, June 26, 1994]

Clouds Over Health Reform

(By Tony Snow)

ClintonCare is dead, but don't tell NBC. "To Your Health," the network's June 21 "town meeting" about medical industry reform, blew a chance to reshape the health-care debate at a propitious moment.

According to USA Today-Gallup numbers, approval ratings for the president's reform plan have tumbled to 42 percent, while negative responses have jumped to 50 percent.

More than four-fifths of the American people want to keep their present health-care arrangement—not surprising, since healers have done a better job than Congress in controlling costs. And NBC's own research shows health care has slid to third in the list of people's priorities—tied with welfare reform, way behind fighting crime and strengthening the economy. Network statistics also indicate that most Americans want no action on the issue this year.

In such circumstances, one might expect NBC to explore alternatives to Mr. Clinton's New Dealism, such as self-insurance, medical savings accounts and purchasing cooperatives. But no: Just about every inhabitant of the hand-picked talk town came from the left wing of the political spectrum. Furthermore, the network canceled plans to advertise its survey numbers in nationwide newspaper ads—perhaps because the polls undercut the program's premise that we must do something now about health care.

Whatever the case, the show looked like a White House production. Panels discussed various forms of government health care. Citizens spun tales of woe. Hillary Rodham Clinton promised that her one-size-fits-all approach to the problem would save the unfortunate. And network anchors prompted select audience members to ask pre-planned questions.

Michael Thompson, who runs a small marketing company in Springfield, VA, complained about the technique of using tear-jerker anecdotes as a way to introduce stories. "If we're going to set policy by horror stories," he said later, "we ought to nationalize lawyers, since everybody has a horror story about lawyers."

But NBC grandees, like much of the national press, seem to have a blind spot when it comes to free-market alternatives to the status quo. They consider a debate balanced if it describes different proposals for federal control. The idea of private alternatives just doesn't seem to occur to them.

Malcolm S. Forbes Jr., editor in chief of Forbes magazine, has crafted a revolutionary self-insurance plan for his company's employees. The scheme has reduced insurance costs by more than 40 percent in three years, and workers report fewer serious illnesses or sick days than before. Mr. Forbes wasn't invited to the show. Neither was Patrick Rooney, chairman of the Golden Rule Insurance Co., which operates one of the most successful employer-operated health-care systems in America.

Roughly two-thirds of all employers with 500 or more workers finance health coverage for their workers, as do 40 percent of all establishments with 500 or fewer employees. The network contacted no experts to discuss this innovation.

Participants sensed the slant. A consultant who represents large organizations that support the president chortled: "My people knew the thing was a well-designed setup—and they like it just fine."

But conservatives in the audience raged. John Goodman of the National Center for Policy Analysis called the event "absolutely awful. At no point was there any presentation of a conservative or Republican approach to these problems."

Michael Tanner, a scholar with the Cato Institute, dismissed the meeting as a "propaganda fest." He got to speak briefly but was interrupted by Harvard Professor Steffy Woolhandler, a cofounder of Physicians for a National Health Program. Her punishment for rudeness was to get the last word on the subject.

And mild-mannered Gail Wilensky, a former Bush administration official and well-regarded health-care maven, stormed out of the event. "It was just outrageous what they did," she recalled. "We have some serious issues that we're nowhere near settling in this country—how to moderate spending, increase access, improve quality. This broadcast did nothing to help the American public understand the choices they have to make. It was biased—heavily tilted toward Democratic solutions. . . .

"This was a sham as an education program for the American public, and NBC ought to be ashamed. . . . It was so loaded it was unbelievable."

The Establishment, including the network and the Robert Woods Johnson Foundation (which underwrote the show), just doesn't get it. People distrust government and want to take matters such as health care into their own hands.

If the network wants to surprise viewers with fresh programming, it ought to produce a second special—about the story it ignored the first time around.

CONGRATULATIONS TO RALPH MARQUEZ

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. RICHARDSON. Mr. Speaker, I am honored to recognize Ralph Marquez as this year's New Mexico winner of the Voice of Democracy broadcast scriptwriting contest, sponsored by the Veterans of Foreign Wars of the United States and its ladies auxiliary.

The Voice of Democracy scholarship program was started 47 years ago with the endorsement of the U.S. Office of Education, National Association of Broadcasters, Electronic Industries Association, and State Association of Broadcasters. Each year, more than 138,000 secondary school students participate in the contest competing for the 39 national scholarships totaling $99,000.

The winner of the New Mexico scriptwriting contest is a 16-year-old student from Las Vegas, NM. Mr. Marquez is an exceptional young person committed to excellence as demonstrated by his numerous science and academic awards. He hopes to one day become a doctor. He is to be commended for addressing some of the complex social and economic problems in this country in his award winning script entitled, "My Commitment to America."

I urge my colleagues to review Mr. Marquez's valuable thoughts.

"My Commitment to America"

(By Ralph Marquez, Jr.)

More than two hundred years ago, the American nation was founded on the principle that "all men are created equal." Since the promise of 1776 was made, we the citizens of the United States have strived to make this a reality.

During the years after World War II, and particularly during the past two decades, the movement toward freedom, justice and opportunity for all Americans made a steady progress.

Since its foundation, the United States has grown from a rural society of small villages and towns to an urban society of large cities and suburbs. The economy of the United States has developed from a simple one based on self-sufficient farming to an infinitely more complex one based on the technology of an industrial society. The nation has emerged from relative isolation to a role of world leadership.

Despite progress, problems still remain. The cities, in which so many of the poor and the minorities are concentrated, continue to decay. Also, from the mid-1970's on, the nation's economic health was poor. Soaring prices and scarce jobs damaged the chances of many minority members to better their lives.

The federal government and its budgets have grown greatly since the 1930's, and many citizens have been asking if such growth is necessary and helpful. The American economy, a marvel to people the world over, has seemed to falter in the face of continuing problems with inflation and increasing international competition.

Locally, the problems citizens face today are no less critical than those facing the nation at large. Problems of violence, drugs, theft, vandalism and poverty continue to plague the American citizens' dream.

Violence and guns are the biggest problems facing Americans today. Every day about one hundred and fifty people are killed either by guns and/or some other type of unnecessary violence. The violation of a citizen's rights or the taking of their lives is not only detrimental to the quality of life of the victim and perpetrator, but also to their families and their communities and society at large.

Drugs, theft, vandalism and poverty are equally as destructive to an individual, as they are to society, in that the American dream of freedom, justice and opportunity is violated and stripped away.

As John F. Kennedy said, "Ask not what your country can do for you, but what you can do for your country." At an early age, I have always thought about that saying and what I could do as an individual to make that statement true for me.

From the age of six, up until the age of nine, I wanted to become a firefighter. I always dreamed of someday being known for saving peoples' lives. At the age of nine, I realized that being a firefighter was not the only profession where there were lives to be saved. I then wanted to become a Medical Doctor, and now, several years later, I am still working towards achieving that goal.

My desire is to receive my M.D. degree from Harvard University and be the best possible doctor I am capable of being. After receiving my M.D. I may decide to become specialized in the field of neuro-surgery. I realize that it will take years of hard work and dedication to achieve my goal, but that's what goals are set for.

The United States, especially the area in which I live, is greatly in need of quality medical providers. I believe that in giving, you shall receive and that's why I plan to give back to society and the community in which I was raised. Through the knowledge acquired from the anticipated years of study, my commitment to America, "or to my fellow man," will be to heal the sick and lessen the suffering from the ailments plaguing our society brought about by diseases and other environmental conditions.

By becoming a practicing physician, I plan on focusing my energies on community health, serving those who are less fortunate and capable of receiving quality medical attention through any other means. These people, as well as those who are financially capable, deserve the best possible medical services which can be provided. By reaching my educational goals at quality educational institutions, I will strive to provide these quality services to those in need.

The American land, with all its beauty and wealth of natural resources, needs thoughtful care and management to ensure that its treasures will be passed on to future generations.

By the passing down of educational and technological resources, I will hopefully attain my own dream and ultimately the American dream of freedom, justice and opportunity for all.

TRIBUTE TO THE IDA BLUE STREAKS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. DINGELL. Mr. Speaker, I would like to recognize and pay tribute to the accomplishments of the newly crowned Michigan High School Athletic Association Class C girls softball champions who hail from my congressional district, the Ida High School Blue Streaks.

Under the leadership of head coach Brian Cousino, the Blue Streaks took the championship by defeating defending champion Grandville Calvin Christian on June 18. This well deserved victory concluded the most successful season in Ida history. The Blue Streaks set a school record of 32 wins, including an incredible 22-game winning streak. This season marked the fourth time in the last 7 years that Ida High School has reached the State championship game, and the school's second championship game victory.

The Blue Streaks were led by the dynamic duo of pitchers Suzanne Raymer and Stephanie Dye. Both posted earned run averages of under 1.00 for the season. Every great team not only has pitching, but hitting as well, and the Blue Streaks had plenty of power at the plate this season. Amy Wilson led the team in runs batted in, hits and runs scored. Corey Reilly led the Blue Streaks with a .505 batting average. The rest of the lineup was also extremely productive. Tracy Herkimer, Lesley Smith and Nikki Krieger each batted over .400. Kendy Newman and Christine Vogelgesang posted averages well over the .300 mark. With a lineup like that, it is easy to see why the Ida Blue Streaks were successful in claiming a State championship victory.

To achieve an accomplishment of such magnitude takes a total team effort. Without team unity, as well as dedication and hard work on the part of each player, there is little that can be accomplished. I also wish to recognize and congratulate other members of this team: Nicole Nemec, Laura Swartz, Judy Patton, Heather Price, Julie Root, Kara Huepenbecker, Heather Ferguson, Stephanie Cadaret, Michelle Contat, Sara Sweat, Lori Barkenquast, Jennifer Stotz, Mendy Sloan, and Stacy Schafer. Finally, it is important to recognize the others who helped to make the championship possible, the assistant coaches Harrold Cilley and Sherm Dunsmore, and the team managers, Laura Herkimer, Elizabeth Helmer, and Brandy Sweat.

In addition to the athletic prowess of this magnificent team, the Blue Streaks are homerun hitters in the classroom as well. The cumulative grade point average for the Ida Blue Streaks during the 1993–94 academic year was a 3.06. This achievement earned the team all-Michigan academic honors. Chester A. Arthur was correct when he said, "Good ballplayers make good citizens."

Mr. Speaker, I ask that my colleagues join me today in honoring the Ida Blue Streaks. Their championship season both on and off the field serves as a shining example of Ida High School's commitment to academic and athletic excellence.

TRIBUTE TO GEN. CHARLES DONNELLY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. SKELTON. Mr. Speaker, today I would like to honor the memory of a loving father, an inspiring soldier-statesman, and a compassionate human being. Retired Air Force Gen. Charles L. Donnelly, Jr., died on July 3 at Malcolm Grow Medical Center on Andrews Air Force Base.

Born in Barberton, OH, General Donnelly graduated from Otterbein College in nearby Westerville in 1951. After joining the Air Force and completing pilot training, he logged over 8,000 hours of flight time in 38 different types of aircraft during his 36 years of military service. General Donnelly served with the 555th Tactical Fighter Squadron, the "Triple Nickel," stationed in Thailand from November 1966 to September 1967. He flew 100 combat missions in Vietnam and 27 over Laos.

Holding various training, staff, and command assignments in the United States and abroad, General Donnelly commanded the United States military mission to Saudi Arabia from 1979 to 1981. He is noted for implementing the U.S. security assistance and military sales to that country. Following this experience, he was named commander of the 5th Air Force as well as commander of all United States forces stationed in Japan and Korea. In 1984, General Donnelly was moved to Ramstein Air Base, Germany, and named commander in chief of United States and NATO air forces in Europe. He retired from this post in 1987.

General Donnelly's military decorations included the Defense Distinguished Service Medal, 2 awards of the Air Force Distinguished Service Medal, 3 awards of the Legion of Merit, the Distinguished Flying Cross, and 12 awards of the Air Medal. He also received honors from the Federal Republic of Germany, France, the Republic of Korea, and the Government of Saudi Arabia.

General Donnelly's commitment and dedication to the preservation and advancement of his country is truly an inspiration to all. His leadership and example inspired all who knew him. I close now, as is the Air Force tradition for a fallen warrior, "Here's a toast, to the host, of those who love the vastness of the sky * * *."

TRIBUTE TO MATICH CORP.

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. LEWIS of California. Mr. Speaker, I would like to bring your attention to the fine work and innovation of the Matich Corp. of Colton, CA. The Matich Corp., which has been a leader in the heavy engineering industry since its establishment, will be celebrating its 75th anniversary at the Glen Helen Regional Park on August 7, 1994.

The company originally named Matich Bros., was founded by John Matich in 1918, who was later joined by Nikolas Matich in 1923. Under the leadership of John and Nikolas the corporation successfully completed projects such as the historic Buena Vista Bridge in Riverside, runways to both March and Norton Air Force Bases, and major portions of the interstate highways throughout California and Nevada. John's two sons, Jack and Martin, assumed complete responsibility of the company in 1950 after the death of their father and the retirement of their uncle.

Jack and Martin developed Matich Corp. both geographically and in construction technology. In pursuit of excellence the corporation expanded by tackling projects further into California, then onto Arizona, Hawaii, Nevada, Oregon, and Utah. While expanding geographically the company achieved three world records for concrete paving, developed a slipform paving float, and experimented with glassphalt paving, and other various recycling methods for road materials.

In 1983 with the death of his brother Jack, Martin assumed leadership of the corporation, and has been a guiding hand to his four sons, and Jack's son and daughter to be the third generation of leadership both within the corporation and community. The third generation strives for excellence as Matich Corp. continues its fine work throughout the western United States and Mexico.

Mr. Speaker, I ask that you join me, our colleagues, the Matich family, and their friends in celebrating 75 years of excellence in the field of engineering and construction. Over the years, Matich Corp. has been instrumental in the development of road construction through its commitment to team work and quality construction and it is only fitting that the House recognize it today.

JOB ITSELF IS THE PRIME BENEFIT

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. BEREUTER. Mr. Speaker, this Member commends to his colleagues the following editorial from May 29, 1994, Omaha World-Herald, concerning the Clinton administration's views on health insurance and its costs to American businesses.

As the World-Herald makes clear, an individual's job itself is the main benefit, a fact which this administration seems inclined to ignore. Additional burdens on businesses are likely to force many businesses to close, throwing people out of work. A job which does not provide health care is far from an ideal position, but limited health care without a job is an even more perilous position. That is something for this administration and this Congress to keep in mind as we move forward on health care reform.

JOB ITSELF IS THE PRIME BENEFIT

Calling Herman Cain. The Clinton administration is still telling the public what a good thing it will be to increase the overhead of small business in America.

Labor Secretary Robert Reich announced the results of a survey measuring the number of workers with health insurance through their jobs. In 1979, he said, 66 percent of all workers received such coverage. By 1993, Reich said, the number had fallen to 61 percent.

Factor in the growth of the work force over that time, Reich said, and the percentages would translate into 5.4 million workers who don't have insurance who might have been insured if the 1979 percentage had held constant. Reich said the survey shows that it is "time for all employers to share in this burden."

Some businesses couldn't afford to keep up with increasingly costly health programs. So they quit offering health insurance coverage. In some cases, that decision may well have kept them in business, saving jobs.

Cain, the chief executive officer of Godfather's recently confronted President Clinton during a televised town meeting with figures showing how much the President's health care proposal would cost Godfather's. The administration responded with a letter accusing the restaurant industry of selfishly passing off its obligations to the rest of society.

Comments like Reich's, which tend to make an economic issue look like a moral one, underemphasize the importance of economic concerns. They aren't irrelevant, however. They are paramount. And they must be addressed if reform in the health financing system is to occur without throwing more Americans out of work.

WALL STREET JOURNAL ARTICLE "PRESCRIPTION FOR DISASTER"

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. GINGRICH. Mr. Speaker, I would like to bring to the attention of my colleagues the June 6, 1994, Wall Street Journal article "Prescription for Disaster," by Michael E. DeBakey. This article portrays the dangers of cost-containment methods that restrict freedom of choice and stifle new medical research and development.

PRESCRIPTION FOR DISASTER

(By Michael E. DeBakey)

When I think of HMOs and other health care plans with an emphasis on cost-containment, I am reminded of a woman from California who flew out to see me in Texas several years ago.

This patient, active and in her fifties, had a dissecting aneurysm of the aorta, a type of heart disease that is rapidly fatal when not treated by the corrective operation that I developed and first used successfully in 1954. The woman, who belonged to an HMO-type of "managed care" plan, had been told by her physicians at home that surgical treatment would not be approved. A doctor relative of hers put her into contact with me, and although I was willing to perform the operation without charge, she couldn't afford the hospital costs. Only after another family member—a lawyer this time—kicked up a fuss did the HMO grant the woman the chance to live by approving her hospitalization costs.

This is a lucid example of how patients become victims of cost-containment through restriction of their freedom of choice. Most HMO-type managed-care organizations use stringent methods of cost control, as exemplified by the "withhold" practice, which may punish physicians financially who provide the care their patients need.

MEDICAL R&D

A more subtle, but equally pernicious, attack on patients is the government's curtailment of medical research, which has been accelerating unabated for the past several years and is slated to worsen under the Clinton health plan and other "reform" proposals. During the past 20 years, federal support for health research and development as a percentage of national health care expenditures has dropped by more than one-half. The U.S. now expends more than $800 billion annually on health care, but less than 8% of that is reinvested in medical research.

As a percentage of the gross national product, our expenditures on medical research and development have been falling until their present level is about 1.8%, considerably below that of Germany (2.67%) and Japan (3.04%). Concomitantly, the number of U.S. patents for drugs and medicine being awarded to foreign inventors has been rising. Funding of approved National Institutes of Health grant applications has declined from more than 30% in the 1980s to below 25% in many categories and even 15% in some categories. Thus, a serious negative effect of the cost-containment hysteria associated with reduction of the budget deficit is the creation of an unstable environment within the research community.

Physicians and scientists with inquiring minds and an investigative bent naturally gravitate to America's Medical Centers of Excellence, a term that was first used in the Report of President Johnson's Commission on Heart Disease, Cancer and Stroke, which I chaired in 1965. These centers comprise university medical schools, their affiliated teaching hospitals, and other related health and research institutions. At such centers, the environment is hospitable to new and fertile ideas, and cross-fertilization thrives among diverse biomedical disciplines.

Any proposal for "reform" that shunts funds from these medical centers to less advanced or productive facilities simply because they offer bargain goods at bargain prices will be catastrophic. It will stultify medical knowledge; repress future advances in diagnosis, prevention and treatment; and ultimately decimate the general quality of health care delivery.

The integrated function of our medical centers has already been almost ravaged by the financial constraints imposed by Medicare, which now pays only about 70% of the cost of the patient's care; in most States Medicaid provides even less. The medical centers are heavily reliant on revenue from Medicare, Medicaid and private insurers: A November 1992 report of the Association of American Medical Colleges found that revenues generated by the clinical practice of the full-time faculty represent 45% of total medical school revenues. This money must be stretched far beyond capacity. For in addition to carrying out most of the research and the advanced education of health professionals, the medical centers provide half the uncompensated health care in the U.S.—that is, health care for the underprivileged.

In the Clinton health bill, the financial cross-subsidies of medical schools are not addressed. With fees from the faculty's medical practice representing almost half the medical school revenues in support of their expenses, this deficiency becomes a critical factor in the viability of these Centers of Excellence.

The continuing movement toward managed care, with its stringent policy of cost-containment and restrictions on patient referral, has already significantly slowed the flow of patients of these Centers of Excellence, with a progressive decline in their clinical practice revenues. Under the Clinton health plan, managed care would become the law of the land, the flow of patient referrals would virtually disappear, and patients would thus be deprived of desperately needed specialized treatment. In addition to the severe financial burden this would impose on the Medical Centers of Excellence, an equally dangerous impact, the severely restricted patient population that would be available for teaching and research.

What role should the Medical Centers of Excellence play in health care "reform"?

The efficiency and quality of medical care can be greatly enhanced, with considerable savings, if a large proportion of patients requiring highly specialized and costly diagnostic and therapeutic procedures—such as cardiac catheterization, open-heart surgery, organ transplantation and specialized cancer therapy—were channeled to the Medical Centers of Excellence instead of being scattered in hospitals with wasteful duplication of equipment and inadequately trained or underexperienced personnel. This would, of course, require adequate cost reimbursement.

Most large cities have hospitals and outpatient clinics whose primary responsibility is to provide medical care to the indigent. Medical emergencies, and especially trauma cases, are treated largely in these institutions. Integrating these former charity hospitals into regional Medical Centers of Excellence would greatly reduce costs while elevating the quality of patient care.

Our medical centers, which have set the highest standards of health care, can also ensure the rapid and widespread application and implementation of these standards through telemedicine. By their linkage to small clinics in rural areas with a primary care physician, or perhaps only a nurse practitioner or physician's assistant, all the expertise and clinical resources of the medical centers will become accessible to these rural areas.

SHORTSIGHTED ANSWERS

If by "health reform" the folks in Washington mean "health improvement," that is commendable. But any "reform" that focuses on access at the expense of medical research, education and training will not advance diagnosis or treatment beyond the status quo. Patients still suffer from many diseases for which medical science has not yet found a cure or prevention. The easy answers may be politically seductive and superficially appealing, but they will prove shortsighted and, ultimately, self-defeating.

Already, as the health industry anticipates far-reaching but uncertain changes and sweeping government control, patients are feeling the adverse effects: denial of physician selection; brief, assembly-line encounters with a succession of unfamiliar physicians; and general dissatisfaction with the impersonality and reduced quality of health care received. The handwriting is on the wall. Will Americans heed it?

CELEBRATING THE 75TH ANNIVERSARY OF THE APPRENTICE SCHOOL OF THE NEWPORT NEWS SHIPYARD

HON. ROBERT C. SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. SCOTT. Mr. Speaker, today, I would like to congratulate the Apprentice School of Newport News Shipbuilding on its 75th year of excellence in vocational training.

Since 1919, 75 years ago this year, the training of apprentices and the developing of critical skills has been a priority of the Newport News Shipyard. This comes from fundamental understanding, true today as it was 75 years ago, that being competitive in the world requires world-class craftsmanship.

We as a Nation are embarking on a new era—one that will require our young men and women to possess advanced technical skills—skills that will allow our workers to continue to be the best in the world.

The Apprentice School, a fully accredited institution, is a shining example of how to provide this craftsmanship and skill to our citizens. The school carefully blends classroom book work with the practical experiences necessary to build the best and most complex ships known to man.

As we in Congress look for the answers to the tough educational problems facing our Nation, the Apprentice School is a great example of how to accomplish this mission.

Congratulations Apprentice School on a job well done.

HONORING THE WAKEMAN CONGREGATIONAL CHURCH ON THE OCCASION OF ITS 150TH ANNIVERSARY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. GILLMOR. Mr. Speaker, it gives me great pleasure to rise today and pay tribute to a remarkable church. This year, the Wakeman Congregational Church, United Church of Christ, in Wakeman, OH, will celebrate its 150th anniversary of service to the community.

Mr. Speaker, in 1844, President James Polk had just been elected President. Manifest Destiny was the defining political current of the time and Samuel Morse had just sent the first telegraph message. It was at this time, in Wakeman, OH, 22 founding members established the Second Congregational Church. Who could have known then that the church would still be a center of worship and Christian heritage as we prepare to enter the 21st century?

The church has endured and thrived through the years by enacting a simple but firm mission. They believe our children, who will be future church leaders, need to be reminded of what our history means and why it is important to continue the church's tradition of worship, fellowship and service.

Wakeman Congregational Church has been a source of civic pride for 150 years now. Its longevity is a testament to the dedication of generations of church members which provides a Christian atmosphere that maximizes individual growth.

Mr. Speaker, as the church marks its sesquicentennial, we commemorate the past and celebrate the future. A new generation of worshipers continues the exemplary record of community pride and fellowship that distinguishes Wakeman. I ask my colleagues to join me in honoring this special church.

IN HONOR OF DIARIO LAS AMERICAS ON ITS 41ST ANNIVERSARY

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. DIAZ-BALART. Mr. Speaker, in commemorating the 41st year of the first edition of Diario Las Americas, I would like to extend my sincerest congratulations and admiration for the wonderful job that for these four decades Dr. Horacio Aguirre and his great newspaper have performed for the south Florida community, as well as for Spanish-speaking communities throughout the United States.

Diario Las Americas' philosophy, under Doctor Aguirre's expert supervision and with the collaboration of the distinguished Aguirre family, has always contributed to social peace in our communities, progress and brotherhood within our diverse society. People of all ethnic backgrounds inevitably find an effective and honest fighter for their rights in Diario Las Americas.

I also cannot fail to mention Horacio Aguirre's and Diario Las Americas' participation in the cause of freedom and liberty for Cuba and Nicaragua. For all this, and much more, I would like to publicly congratulate Dr. Horacio Aguirre and Diario Las Americas and pledge continued solidarity with them. I wish Doctor Aguirre, his family, and Diario Las Americas continued success and good fortune.

TRIBUTE TO THE SAN BERNARDINO CHILD ADVOCACY PROGRAM

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine work and community service of the San Bernardino Child Advocacy Program [SBCAP]. The SBCAP, which has demonstrated a remarkable dedication in helping abused and neglected children in San Bernardino County, will be celebrating its 5th Annual Volunteer Awards Recognition Dinner on July 15, 1994.

The SBCAP was established under the YMCA in 1984 in order to provide advocacy programs for the county's abused and neglected children. This program is unique because it is the only one of its kind in the county, and it is supported by the San Bernardino

Superior Court. In 1989 the agency separated from the YMCA and became incorporated due to the concern about the disturbing number of children suffering abuse and neglect.

The success of the SBCAP is due to the great numbers of volunteers that have been trained to become court-appointed special advocates to represent the best interest of children under the jurisdiction of the juvenile court. Since it was established in 1984, approximately 261 community citizen volunteers have been a part of the SBCAP. Throughout the years these volunteers have provided support to approximately 440 children and their families. It is these volunteers that serve as positive role models through their commitment and friendship to assigned children and their families. Without these dedicated people working within the courts it would be far more difficult to provide these children with the sense of stability and caring they have received through the SBCAP.

Mr. Speaker, I ask that you join me, our colleagues, the volunteers of the SBCAP, and the many children and families they have served over the years in recognizing the individuals that have made this program possible. The SBCAP has touched the lives of many people in our community and it is only fitting that the House recognize its positive work today.

RELIGION ON THE JOB

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. BEREUTER. Mr. Speaker, this Member would like to commend to his colleagues the following editorial from the June 25, 1994, Washington Post, concerning the Equal Employment Opportunity Commission's guidelines on religious harassment.

As the Post editorial makes clear, religious expression is one of our most fundamental rights. While they may have been well intentioned, the EEOC's guidelines are so broad and vague, that they will have the effect of stifling religious expression. For bureaucratic guidelines to infringe in any way on the right of an individual to express deeply held religious beliefs is unconscionable. The guidelines should be withdrawn.

[From the Washington Post, June 25, 1994]

RELIGION ON THE JOB

When the Equal Employment Opportunity Commission recently published guidelines on harassment in the workplace, 100,000 people wrote in to protest. Objections were voiced by members of Congress, representatives of many churches and the American Civil Liberties Union, among others. The issue that brought them together was religion, specifically, guidelines on what constitutes discrimination in the workplace on the basis of religion. The protesters are right. The proposed guidelines are being rewritten.

Title VII of the Civil Rights Act of 1964 prohibits employment discrimination on grounds of religion, and hundreds of cases making harassment claims are filed with the EEOC each year. In some cases, religious people are hassled by co-workers or denied promotions by bosses who object to their faith. On occasion, jokes teasing and critical comments directed at a worker's religion reach the level where the job site becomes a hostile environment. These are legitimate grievances that the EEOC must address and correct.

A more complicated problem arises, however, when a nonbeliever, for example, is offended by a co-worker's religious comments, practices or even the clothing or jewelry another wears for religious reasons. That certainly does not amount to harassment of the nonbeliever on religious grounds.

The guidelines published by the EEOC are advisory only. But they are so vague and broad as to create the impression that employers wishing to avoid liability are well advised to keep the workplace entirely free of religious objects, discussions or practices. Some employers have already interpreted the guidelines as requiring them to prohibit employees from wearing crosses or Stars of David, hanging religious calendars, keeping Bibles at their desks, discussing religion or bringing any sign of their faith to the job site. In acting to protect the nonbeliever from possible offense, the EEOC has overlooked the rights of the religious to freely express their beliefs in ways that do not disrupt the workplace.

It is not the purpose of the law to protect workers from every word or deed they might find offensive. Individuals should be free to wear religious medals, paste prayers inside their locker doors, say grace in the cafeteria and refer to religious belief in conversation or at company meetings. This is protected conduct whether or not it may make some other person uncomfortable or be thought offensive by someone. The EEOC needs to provide a much tighter definition of harassment of religious grounds.

TRIBUTE TO THE EIGHTH ANNUAL SOCIAL SECURITY ADMINISTRATION BLACK CAUCUS CONFERENCE

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. RUSH. Mr. Speaker, it gives me great pleasure to rise today to offer my support for the Eighth Annual Social Security Administration Black Caucus Conference, that will be held on July 29 and 30, 1994. This year's theme is entitled "Our Challenge for Growth—Developing and Filing the Pipeline," and I wish to take this opportunity to salute this organization for the many contributions it has made to the city of Chicago.

The caucus' strong desire to excel and their commitment to public service is truly exemplary. Over the years, the caucus has dedicated itself toward providing quality service to the public while furnishing resource assistance in the areas of job recruitment, development, and retention for the black community. By serving as role models and mentors for black Federal employees, the caucus pushes individuals toward developing their fullest potential.

Mr. Speaker, I ask for my colleagues to join me in paying tribute to the Social Security Administration Black Caucus. We all benefit from their efforts, and it is my hope that the caucus will continue to expand the horizons for the black community. It is, therefore, my great pleasure to rise today and enter these words of commendation into the RECORD.

A TRIBUTE TO THE JOLIET CATHOLIC ACADEMY BASEBALL TEAM ON ITS 1994 ILLINOIS HIGH SCHOOL ASSOCIATION STATE CHAMPIONSHIP

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. SANGMEISTER. Mr. Speaker, I rise today to pay tribute to a remarkable group of young men from my district—the Joliet Catholic Academy Baseball team—the 1994 Illinois High School Association State Champions.

Under the direction of Coach Joe Rodeghero, the Hilltoppers baseball squad brought Joliet Catholic its first baseball title with a convincing 10–0 triumph over Morton High School in the championship game July 11.

The victory culminated an incredible run in which the team won 29 of its last 30 games to finish 35–5 for the year. The victory was especially satisfying for Joliet Academy and its fans as the Hilltoppers lost a heartbreaking extra-inning contest in the 1990 State championship game.

Mr. Speaker, I congratulate Coach Rodeghero and his players on this great victory, and wish Joliet Catholic Academy continued success in the future.

FISCAL YEAR 1995 DEPARTMENT OF DEFENSE APPROPRIATIONS

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. KOLBE. Mr. Speaker, I rise today to explain my yea vote on H.R. 4650, the Department of Defense appropriations bill for fiscal year 1995. This bill, although it continues to force dangerous reductions in the military as we starve it for funds, reflects a fair and bipartisan effort to make the best use of the money allocated to the Defense Subcommittee.

One issue that seriously concerns me in this bill is the treatment of the military retiree cost-of-living adjustment [COLA]. The Omnibus Budget Reconciliation Act of 1993, by requiring extended delays in the effective dates of military retiree COLA's, imposed a harsh and unfair financial penalty on military retirees. Contingent upon a specific appropriation for the purpose, the House, as part of the 1995 Defense authorization bill, remedied this inequity by equalizing the 1995 payment dates for military and civilian retiree COLA's. However, H.R. 4650 does not provide the appropriation for military retiree COLA's.

I was, however, assured by Chairman MURTHA that he was committed to resolving the inequity and will work with me, and the appropriate congressional committees, to eliminate the disparity between the two retiree groups. I remain committed to work with the chairman to find a fiscally responsible solution that will not adversely affect the 2.6 percent active duty pay raise, or our military readiness.

Another issue of great concern to me is the large amount in the defense budget for programs which do not directly contribute to national security. This bill includes $16.3 billion in environmental expenditures and economic conversion expenditures. Although there is some value in these programs, I am deeply concerned about the draining effect this high spending level could have on military readiness as military spending continues to decline.

A final area of great concern is the trend in military personnel manpower levels. During fiscal year 1995, DOD active duty personnel, Guard and Reserve, and civilian end strength will be reduced by 180,000. Let me put it this way—that 15,000 per month or 500 per day. Given the range of current and potential global commitments, I am committed to working to find ways to maintain adequate end strengths and force structures to reflect the demand. Additionally, I applaud the committee for urging DOD to continually review its force structure and for their commitment to maintaining ready and well equipped national defense.

This bill does provide funds for many important programs. Let me mention two of them. First, a program critical to the country's theater missile defense is the Navy's Upper Tier Program. The Nation has invested about $42 billion in *Aegis* ships which form the basic infrastructure for the Upper Tier Program. Without spending additional funds, the system provides a forward-based, self-deploying, self-sustaining capability that will be ready on arrival. This bill provides $120 million for further development of this program so we can achieve deployment as early as 1998 and avoid future disasters such as the barracks attack in Desert Storm. The upper-tier, sea-based ballistic missile defense provides the most affordable, expeditious, and strategically sound approach to addressing the theater ballistic missile threat, and I commend the committee for their work in this area.

Second, this bill provides $3.2 billion beyond the administration's budget request for military readiness enhancements. Already the military is straining to maintain necessary combat readiness levels. These additional funds will help close the gap so our soldiers will be trained, equipped, and ready to defend U.S. interests at home and abroad.

Although not perfect or exactly what I would like to see, H.R. 4650 represents an effort to provide funding for necessary components of our national defense. Certainly, I would like to see the disturbing downward spiral in defense spending slowed down to correspond with global threats and this administration's lack of a coherent foreign policy. Our military is being asked to do more and more, and I remain committed to supporting legislation that will keep this country's defense strong and able to do its job.

REAUTHORIZE DEEP SEABED HARD MINERAL RESOURCES ACT

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. ORTIZ. Mr. Speaker, today, I am introducing a bill to reauthorize the Deep Seabed Hard Mineral Resources Act for fiscal years 1995 through 1999.

On June 30, 1994, Secretary of State Warren Christopher announced that the United States will sign a deep seabed mining agreement amending the Law of the Sea Treaty, effectively approving the treaty as a whole, subject to Senate ratification. Recent negotiations by the administration have led to the resolution of a number of concerns related to U.S. participation in the international seabed mining regime. The United States will be subject to provisional application of the mining agreement for up to 4 years, subject to U.S. law. During this time, U.S. domestic seabed mining law, the Deep Seabed Hard Mineral Resources Act, will preempt the agreement should a conflict arise.

Mr. Speaker, the bill I am introducing today reauthorizes our domestic seabed mining law, the Deep Seabed Hard Mineral Resources Act [DSHMRA], through fiscal year 1999. Reauthorization of DSHMRA will reaffirm this Congress' interest in maintaining a domestic deep seabed mining policy and will provide a framework for implementing legislation should the U.S. agree to ratify the treaty in the future. A reauthorized domestic legal regime will provide legal certainty to those U.S. operators licensed under DSHMRA, provide a basis for funding future activities, and preserve domestic mining claims against other nations. Additionally, should the United States decide not to ratify the Law of the Sea Treaty, a reauthorized DSHMRA will be critically important to preserve and oversee U.S. deep seabed mining activities and research in the future.

Mr. Speaker, this is a simple but important legislative measure that will provide both our Government as well as our domestic mining industry the security and autonomy needed to ensure the future viability of U.S. deep seabed mining efforts. I urge my colleagues to join me in supporting and enacting this legislation.

TRIBUTE TO JOHN T. BORISOFF

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. FRANK of Massachusetts. Mr. Speaker, I was very pleased to receive earlier this week a letter from Walter Rutkowski, executive vice president of the Carneigie Hero Fund Commission. Mr. Rutkowski informed me that the commission has awarded a medal to John T. Borisoff, a resident of New Bedford, in recognition of the courageous steps he took which resulted in the rescuing of John Bent who was in danger of drowning. I am attaching to these remarks the description of this event which the Carnegie Hero Fund Commission sent to me. Mr. Borisoff was joined in this effort by John M. Beane, who also received a medal for his lifesaving work. Mr. Beane and Mr. Borisoff ought to be widely recognized for their extraordinary courage and willingness to put their own lives in danger to help another, and the Carnegie Hero Fund Commission is to be commended for doing its part to recognize such efforts.

The description follows:

John T. Borisoff helped to save John M. Bent from drowning, East Sandwich, Massachusetts, August 2, 1992. Bent, 35, was fishing at the mouth of Scorton Creek when he lost his footing and was carried by a very swift current into the 63-degree water of Cape Cod Bay. His chest-high waders filled with water, weighing him down and precluding his returning to shore against the current. He shouted for help as he struggled to stay afloat. Other fishermen, including Borisoff, 23, assistant produce manager, were alerted to his situation. Borisoff and another man disrobed, entered the bay, and swam to Bent, who by then was about 450 feet from shore and was losing consciousness. Borisoff and the other man grasped Bent and attempted to return him to shore, but they made little progress against the current. Learning that a boat had been dispatched, Borisoff and the other man kept Bent afloat until the boat arrived several minutes later. After the other man boarded the vessel, Borisoff, from the water, lifted Bent as the others pulled him aboard. Borisoff himself then boarded the boat, which returned the men to shore, where Bent was taken to a hospital for treatment of hypothermia. He recovered. Borisoff was tired and numb, but he recovered shortly.

AWARD WINNING SCRIPT OF DARYL FINIZIO

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. REED. Mr. Speaker, I would like to take this time to recognize an exceptional young man from my district who was recently awarded 16th-place honors in the Veterans of Foreign Wars Voice of Democracy broadcast scriptwriting contest. Mr. Daryl Finizio of Westerly, RI, will be entering his senior year at Westerly High School this fall. He has served as the class president for 2 years and in the student council for 4 years. In addition, he was awarded first prize in the Otis P. Chapman Prize Speaking Contest and was a finalist in the Senate Youth Scholarship Program. Daryl is hoping to attend the University of Rhode Island, where he will study political science. I am pleased to submit his award winning script into the RECORD today. I am certain all my colleagues will see this as an example of what young adults in America are achieving.

MY COMMITMENT TO AMERICA

My commitment to America is the crusade to preserve democracy and freedom.

Many Americans take for granted the luxuries that we enjoy as United States citizens; I know I did; that is, until last year when I experienced something that affected me so deeply that I shall never forget the lessons that I learned.

Last January my family took a trip to Tijuana and Ensenada in Mexico. I had never been out of the country before and knew next to nothing about living standards in Mexico. Our tour bus passed through Tijuana at about mid-day, and the bus had to go around the city because heavy rains had flooded most of the streets inside the town. We came to a point along this side road where on the Mexican side most of the small houses that had been built on a hill on the side of the road had been washed out. Along the road-side there were dozens of recently dispossessed families, and in a small, shallow, dirty ditch lay the bodies of those killed in the flood, mud-splattered and abandoned. On the other side there were many young men not much older than myself, all of their possessions packed in bags ready to make one all-out run for the freedom that lay on the American side. Then, out of the corner of my eye I saw the city of San Diego and the rolling green California hills that surround it. And, today I can easily say that, compared to the horror surrounding me at that one moment, that sight is the most beautiful one in all the world. There is suffering that Americans don't see in places that we never go and sounds that we don't want to listen to.

So my commitment to America is to see that I, as an American citizen, see to it that Americans realize just how great a nation we truly have.

Our democratic and political processes are the models for all the world. We, as citizens, have the right to free speech and expression; and, of course, we have the right to the almighty vote.

Today, America stands before the world as the only true global superpower. We have to make a commitment that we will shoulder the responsibilities which accompany such powers.

I know that it is hard for Americans to accept so much responsibility. At one point many of us would opt for isolationism, but I believe that this will only bring about destruction. We cannot always opt for the easy out; sometimes good things come with hard work.

But I would not presume that I can change the world, but what I can do is make a commitment to change myself, to open my eyes to the plight of the poor and the needy, to go where I would not normally go, to see what I would not normally see, and to do my best in whatever occupation I enter.

And if the time should ever arise that my country should ever need me to serve in its military, I would gladly do so. And I would not hesitate to give my life in my country's defense.

For I have never seen and the world will never know a nation greater than the United States of America.

CONGRATULATING REV. LAWRENCE C. ROBERTS ON HIS 35 YEARS OF SERVICE

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. PAYNE of New Jersey. Mr. Speaker, I would like to bring to the attention of my colleagues an event which took place this past Sunday in my home State. It was the celebration of the 35th Pastoral Anniversary of Rev. Lawrence C. Roberts at the First Baptist Church of Nutley.

Many know Reverend Roberts for his extraordinary musical talents. He was the first black gospel record producer in the country with Savoy Records in 1954. He produced many great gospel artists including the Ward Singers, the Banks Brothers, Dorothy Norwood, and the famed Caravans with Albertina Walker. Over the years he has performed professionally and has shared the stage with such greats as Duke Ellington, Count Basie, Sammy Davis Jr., Roberta Flack, and Ray Charles.

Rev. Lawrence Roberts has been fortunate to have family and friends who have nurtured him throughout life. This nurturing has allowed him to open his arms, heart, and home for those that need that little extra attention, that smile of reassurance or understanding. Reverend Roberts not only shares his talent, he makes a point to share his knowledge. He has lectured at high schools, colleges, and the Smithsonian Institute.

The accolades that have been bestowed upon Reverend Roberts have not changed this man. He continues to take time out to be "Uncle Lawrence" to the young people of our community.

Mr. Speaker, I am sure my colleagues join me in congratulating Rev. Lawrence C. Roberts on his anniversary and offer their best wishes to him, his family, and his congregation.

TEENAGE SMOKING

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. DURBIN. Mr. Speaker, I would like to submit for the RECORD a column by Eric Zorn which ran in the Chicago Tribune on July 10, 1994. The column, "Let's Snuff Out Teenage Smoking," is right on target.

[From the Chicago Tribune, July 10, 1994]

LET'S SNUFF OUT TEENAGE SMOKING

(By Eric Zorn)

Surveys tell the story: The 400,000-some new tombstones planted each year for those who have died of smoking-related causes are a collective monument to the enduring stupidity of teenagers.

The kids aren't doing the dying, of course. Tobacco takes years to complete its ugly work. But they are by and large the ones taking those first drags, inhaling their way into a powerful addition (or, if you believe the industry panjandrums, a pleasurable habit that just happens to be terribly hard to break) that takes a huge toll on the individual and society.

Smoking is an unwise practice, for scads of reasons I need not repeat here. For it to continue among about a quarter of the population as it does, unwise people must join in to replace the quitters and diers in great numbers—people who, say, don't really believe in their own mortality, who can't imagine the idea of deferred disease and whose immature judgment is, in many areas, enshrined into the law.

In short, teenagers.

The vast majority of new smokers each year are teens. Figures from the Office on Smoking and Health within the U.S. Centers for Disease Control and Prevention show that four out of five adults who now smoke started before they were 18. A recent U.S. surgeon general's report said the average age of first cigarette is 14.5, and of becoming a daily smoker is 17.7.

The same report said it is very rare for people to take up smoking after 30. The unstated reason is obvious: People know better by then. They've read the studies and fear the weed. They've realized that their bodies deteriorate fast enough without deliberate poisoning. They can see the future and want to be in it.

And though there isn't always a direct correlation between one's wisdom and one's level of formal education, note that only 14 percent of college graduates smoke, compared with 32 percent of those who didn't finish high school. The New Republic reported last week that only 7 percent of the Harvard class of '69 smokes.

By all lights, with its strong associations with youth and lack of wisdom, smoking ought to be viewed as just another one of those dumb things kids do, like throwing toilet paper on trees, playing ding-dong-ditch or driving around in endless circles with the car stereo cranked all the way up. A phase. A rite of passage. Something to grow out of and laugh about later.

Adults ought to be as embarrassed to ask to sit in restaurant smoking sections as they would be to ask to sit with patrons who are playing drinking games until they vomit or pass out.

But, of course, it is not that way. Tens of millions of adults keep right on smoking well after they have become wise, deliberative and otherwise cautious, well after they have turned the volume down and started eating high-fiber foods. Such is the power of the nicotine addiction (pleasurable habit).

Smoking drains our health-care system of $50 billion a year, according to a federal report released Thursday. Additional related social costs nearly double that figure, the report said.

We can further tax, shun and sequester adult smokers to try to break tobacco's grip. But clearly the only way to make significant long-term progress is to get tougher with teen smokers, an estimated million of whom join the yellowed-finger crowd each year.

"If we stop adolescents from smoking, the effects will be dramatic," promises Michael Ericksen, director of the CDC's Office on Smoking and Health.

A preliminary version of new federal regulations on tobacco and minors due out in final form this summer suggests that states establish retail licensing programs for tobacco sales. Such a license could be suspended or revoked if the merchant sells to youths, much like a liquor license.

The federal regulations will not contain sanctions against the young smokers themselves. But, as the Tribune reported Tuesday, a growing number of suburbs have started to levy fines of up to $50 to teens caught smoking.

Good starts. Still too wimpy. As far as minors are concerned, tobacco should be like alcohol—a serious, adult product with serious consequences for kids caught using it. Suspended driver's licenses. Community service. Big fines. And the law should be equally harsh with those who sell or distribute tobacco to adolescents.

Such a policy would pay off in the long run in a variety of ways. Perhaps it would even take some of the prohibitionist heat off adult smokers who, by legal custom, have gained the maturity and judgment to make their own decisions—even stupid ones.

SALUTING MENTHA MITCHELL VARNER

HON. BILL K. BREWSTER

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. BREWSTER. Mr. Speaker, I would like to recognize a woman from Oklahoma who has achieved excellence and dedicated her life toward quality education and community service, Mentha Mitchell Varner.

Mrs. Varner, from Ardmore, OK, has accomplished several firsts in her lifetime as an educator, administrator, and community leader. She taught school 40 years and was with the Ardmore Early Childhood Center for 3 years. In 1966, she was the first black teacher, after integration, to work in the Ardmore City School System. She was acclaimed one of the best teachers in the State.

She also taught home nursing for the National American Red Cross, Carter County Chapter, for 10 years, and has served in many positions for the chapter for more than 53 years.

She has always been a trailblazer. She was the first black student to live in an integrated dormitory on the campus of Oklahoma State University in 1954; and she was responsible for black boys and girls being accepted to attend the Oklahoma American Legion and auxiliary boys and girls State conferences.

In 1965 she was an instrumental leader in establishing the National Head Start Program in Ardmore, OK. Volunteering her time, she headed the drive to raise money to renovate the old Dunbar School as a permanent home for the program. The building was renamed for her in 1989.

Mrs. Varner has held many leadership positions in the Oklahoma Negro Teachers Association, the Ardmore Classroom Teachers Association, and the Oklahoma Education Association.

Presently, she is a board member of the Carter County Chapter of the National American Red Cross, the United Way of Southern Oklahoma, the Ardmore City Schools Enrichment Foundation, and the HFV Wilson Community Center. Further, Mrs. Varner is a member of the American Legion Auxiliary Post #264, Carter County RSVP, the NAACP, the First Baptist Church of Ardmore, and the TAPP organization.

Mrs. Varner is also a member of the local, district, and State Democratic Party, the Admore Chamber of Commerce, Carter County Retired Teachers Association, and the National Retired Teachers and Persons Association.

She is a life member of Langston University's National Alumni Association and Ardmore Douglass High School's National Alumni Association.

Mrs. Varner has been instrumental in helping many students attend college, by arranging for scholarships, and even giving her own money.

In 1991, she received the Living Legacy Award from the National Caucus and Center on Black Aged, in Washington, DC. Her life's work and many accomplishments led to her being selected for the prestigious award.

At 80 years of age, Mrs. Varner remains active with community work, volunteering, writing, consulting, and often lecturing.

I want to wish her well and congratulate her for many years of service, leadership, and friendship to the residents of Oklahoma.

Mr. Speaker, it is an honor for me to join the residents of Carter County, the city of Ardmore, and the State of Oklahoma in saluting Mentha Mitchell Varner.

A BILL TO CREATE THE SMALL BUSINESS ACCREDITED LENDERS PROGRAM

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. POSHARD. Mr. Speaker, today, I am introducing a bill which, if enacted, will allow one of the Federal Government's most effective small business programs to serve that key sector of our economy even better. The bill authorizes the Small Business Administration [SBA] to implement on a nationwide basis an Accredited Lenders Program within its 504 loan-guarantee program—a program which already is delivering outstanding benefits to the Nation's small businesses.

By creating an Accredited Lenders Program, or ALP the SBA can achieve an important goal: It can speed the turnaround time for thousands of small businesses applying for 504 loans. Anyone who talks regularly with small business people knows that waiting for credit very often can mean the difference between an important deal happening and its falling through. That means jobs which either will or will not be created.

The purpose of the 504 program is to help small businesses expand with long-term capital for physical plant and equipment. Under the program, the SBA guarantees loans made by local Certified Development Companies [CDC's] to small businesses. The small businesses in turn must obtain 50 percent financing through private financial institutions and must also provide 10 percent equity themselves.

Demand for the program has been skyrocketing during the past several years, as has the number of jobs it creates. According to the National Association of Development Companies [NADCO], the 504 program and its predecessor 503 program have funded over 13,000 small businesses since 1981, creating over 350,000 jobs. The SBA's Allan Mandel calculates that—because of the very low, 0.5-percent Federal subsidy rate on the privately underwritten debentures which fund the CDC loans—this program actually creates or retains jobs at the amazing rate of approximately $49 in taxpayer expenditure per job. When we talk about Federal Government support for small businesses, SBA's 504 program clearly is a major success story.

This bill would simply apply to the 504 program a concept already in operation in SBA's 7(a) loan-guarantee program—the agency's largest program. The idea also is in operation in a pilot project being conducted by the SBA with a select group of 504-program CDC's. The concept is to rely during SBA's guarantee-approval process on the credit analysis conducted by qualified professional staff of lenders with an established record of utilizing the program successfully, rather than requiring SBA loan officers to duplicate that credit analysis. This would allow the SBA to complete documentation for and guarantee 504 loans quickly, usually within 5 working days. It also will reduce workload and paperwork for SBA's own loan officers, who are overburdened due to significantly increased program demand at the very time that the agency is being forced to reduce its work force.

It is important to point out that these benefits can be achieved without exposing taxpayer dollars to significant new risk. Loss rates will be carefully monitored, and only those CDC's who maintain an excellent record will receive expedited treatment.

The bill is consistent with other important steps being taken by SBA Administrator Erskine Bowles to improve and streamline his agency's service to its ultimate customer—small businesses. SBA supports the idea, and I believe it will have the support of the small business committees of both the House and the Senate, as well.

Mr. Speaker, we all know that small firms have been the engine for our economy's job creation in recent years. I hope this proposal, which would significantly improve the operation and service of an excellent small business credit program without additional taxpayer cost, can become law this year.

TRIBUTE TO JAMES P. GANNON

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. LEVIN. Mr. Speaker, I would like to take this opportunity to recognize the work of a man who has labored among us for over 30 years.

James P. Gannon, Washington bureau chief for the Detroit News and national affairs columnist for the Gannett Co. newspapers, has elected to retire early and pursue writing at a more leisurely pace than Washington sometimes allows.

Mr. Gannon came to the Detroit News in 1988 with a wealth of experience ranging from executive editor, then editor of The Des Moines Register for more than 10 years, to 17 years as a reporter and bureau chief at The Wall Street Journal. It was during his tenure in Iowa that the statewide daily won three Pulitzer Prizes.

Among his colleagues, he is known as a very serious and intense writer with a fine news sense. He is often thought of as an old-fashioned purist when it comes to news—one who prefers economic stories over the current trend toward the lighter, more trivial ones.

I've enjoyed many opportunities to talk about important issues with Jim Gannon. I have known him to be a journalist of substance and integrity.

I would like to take this occasion to wish him and his family well and to note his tremendous contribution to journalism overall.

MARITECH: STRENGTHENING AMERICAN SHIPBUILDING IN THE WORLD MARKET—THE NEED FOR PRIVATE AND PUBLIC CO-OPERATION

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. HORN. Mr. Speaker, I rise in support of the Maritech Program of the Department of Defense's Advanced Research Projects Agency. The Maritech Program is operated by the Department of Defense in conjunction with the Department of Transportation's Maritime Administration and in full partnership with the Department of the Navy's Office of Naval Research. This program is a Federal effort to revitalize the Nation's private shipbuilding industry and to enhance its competitiveness on world markets.

In the face of defense cutbacks, I believe we need to strengthen our maritime industrial base so that it is able to survive on its own without the promise of future defense procurements. I am pleased that ARCO Marine Inc., of Long Beach, CA, a private shipbuilding corporation, has been awarded a grant of over $4 million to be used in conjunction with several other enterprises, both foreign and domestic, for the purposes of pioneering the comeback of our Nation's private shipbuilding industry. This grant will be used to develop focused technology for a family of double hull tankers, new shuttle tanker designs, and new shipyard designs.

Since the end of the Second World War, workers employed in our Nation's maritime industry have contributed significantly to the production of ships which aid in the commerce and trade of our country. Shipbuilders can be proud not only that they provide the vessels by which American goods were transported on the high seas but that also provided the vessels through which the United States helped to secure the peace during the cold war. Within the last 10 years however, private sector shipbuilding in the American economy has declined sharply, and we have lost ground to our international maritime competitors. At the same time, defense contracts have been cut back in response to post cold war needs. The net result has been a 40-percent reduction of nationwide maritime industry employees since reaching an all-time high in 1981 of 186,700. Orders for new merchant vessels under construction or on order at U.S. private shipyards have all but disappeared. This situation in our private maritime industry cries out for action.

The task of rebuilding our maritime industrial base will not be easy. Indeed, such a task necessitates an expanded view of what must be done to ensure continuous product and process enhancement. According to the Department of Defense, the objective of the Maritech Program is to improve, through advances in technology, the commercial competitiveness of the U.S. shipbuilding industry and, by doing so, to maintain our shipbuilding industrial base as U.S. Navy orders decline. Because the United States is a maritime nation, our economic success in the world economy, in part, depends on the shipping that brings American products to market. Maritech strives to improve our design and technological performance in the area of private shipbuilding, helping to ensure that our economic position in the world remains secure.

While the U.S. shipbuilding industry has long been an innovator in ship construction, American shipyards have fallen behind their foreign competitors in commercial shipbuilding contracts because private shipyards have had to fill their shipbuilding capacity with orders from the U.S. Navy. Therefore, in order to regain our leadership position in commercial shipbuilding, we may need to turn to our foreign competitors in order to obtain the expertise and technology needed to jumpstart our industry. The Maritech Program, however, is structured in such a way that funding in the form of grants is awarded to a consortia of U.S. shipbuilding enterprises who, in turn, will decide to what extent the contribution of foreign shipbuilding expertise is pertinent.

The United States still has a large, sophisticated, and very capable shipbuilding industry, but the boom days of U.S. Navy shipbuilding are behind us and we need to take the extra step to ensure that the private shipbuilding sector is capable of surviving on its own. Combining shipbuilding expertise from various sources, whether they be public, private, foreign, or domestic, will amplify American shipyards' ability to launch new technologies in shipbuilding and capture a share of the commercial market. Taking such steps now will strengthen our long-term economic growth and competitiveness in the shipbuilding industry.

The Maritech Program has my strong support. The principles of Maritech are in keeping with the President's Defense Reinvestment and Conversion Initiative. I will support efforts to build a strong, sound economy for the people of California and the Nation as a whole. If that goal is to be achieved, there must be greater flexibility by all parties—public and private—to work to maintain the highly skilled human resources which exist in both the private and the public shipyards. If we lose either of these key assets, our Nation will be the poorer. Cooperation must be the order of the day. Federal laws should be changed to provide for creative cooperation.

FISCAL YEAR 1995 DEFENSE AUTHORIZATION

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Ms. FURSE. Mr. Speaker, as a member of the Armed Services Committee, I want to comment on the initiatives I worked diligently to include in the fiscal year 1995 National Defense Authorization Act as passed by the House last month. It is a pleasure to serve with Chairman RON DELLUMS and chairwoman of the Subcommittee on Research and Technology, PAT SCHROEDER, on which I serve.

We made some progress in the area of nonproliferation following my achievement last year of a ban on research and development of low-yield nuclear weapons. I was pleased that this year's bill included language I offered establishing a requirement that nuclear weapons research and development must now be approved by the Nuclear Weapons Council, a Department of Energy-Department of Defense-National Security Council interagency commission. An annual report to Congress of all such activities is also required. This strengthens executive branch and congressional oversight and requires that these agencies concur with development of any new nuclear weapons programs. My provision puts more sunshine on nuclear weapons activities. This is an important step toward eventually ending the scourge of nuclear weapons from our midst.

I was also pleased to secure the reauthorization of the Hanford Health Information Network and add a provision requiring confidentiality of its client information. I appreciated Speaker FOLEY's assistance with both of these. The Hanford Health Information Network was established 3 years ago to develop programs for those who may have been exposed to radiation released from the Hanford Nuclear Reservation between 1944 and 1972 and has been extremely useful to the people of the Pacific Northwest.

I appreciated the opportunity to work with Representatives FRANK, SHAYS, and UPTON, on our floor amendment calling for greater burden-sharing with our European allies with the saving designated to reduce the deficit. Our amendment, adopted 268–144, requires them to pay 75 percent of nonpersonnel costs for the 100,000 U.S. forces in Europe by 1998.

In the area of defense conversion, I was among those advocating for several initiatives which were included in the committee bill: Requirement for early notification of contract reductions and/or terminations for defense industry workers, Office of Economic Adjustment financing of civilian market feasibility studies, and expansion of the Technology Reinvestment Program's mandate to include job creation and retention and make trade unions eligible to apply for grants directly.

I am particularly pleased that phase II of the Marine Environment Research and Training Station was authorized in H.R. 4301, as well. This program will provide educational and training opportunities in environmental, marine industrial and maritime studies to help foster regional economic prosperity and environmental integrity.

Finally, while my initial attempt to attain more airlift sooner and with greater affordability was not successful, I am encouraged that there is growing recognition of the reality that we will be losing airlift faster than we can buy it if we follow a C–17 only approach and therefore the acquisition of nondevelopment airlift aircraft is necessary in order to avoid an airlift shortfall. I look forward to continuing my efforts on this issue next year.

At $264 billion, I believe we are spending too much for defense at the expense of true national security, such as education, health care, and rebuilding our industrial base. However, I am encouraged at several new directions I see this authorization bill moving in, under the leadership of Chairman DELLUMS.

This authorization bill moves in the right direction of reorienting and downsizing our military forces and infrastructure consistent with the post-cold-war environment within which they must be prepared to operate. At the same time, I remain concerned that we have not made the necessary adjustments in force structure and weapon system acquisition. Therefore we run the risk of spending limited budget dollars on excessive force structure and unnecessary major weapons purchases while diverting scarce national resources from more urgent needs. I will continue to aggressively pursue this necessary realignment in accord with the new realities of our world.

SUPPORT FOR HOUSE JOINT RESOLUTION 353

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. MINETA. Mr. Speaker, I rise today in support of House Joint Resolution 353, the National Apollo Anniversary Observance. My colleague Mr. BATEMAN and myself, as co-chairs of the House Space Caucus, introduced this resolution to nationally celebrate a bright and shining moment in the history of America.

When the Apollo 11 rocket launched from the Kennedy Space Center on July 16, 1969, America's hopes and dreams were carried with it. Ten years earlier President Kennedy launched this mission to the Moon, one of America's greatest challenges.

At home, the United States was facing many domestic and foreign problems. Instead of focusing all of our efforts inward, we reached for the stars. We united as a nation to go the extra mile—we pushed our development of technology and knowledge of the world around us. As then President Kennedy said:

> [W]e choose to go to the Moon in this decade and do the other things, not because they are easy, but because they are hard * * *

Make no mistake, Neil Armstrong's first step on the Moon was a powerful moment for all of humankind. But it was also the culmination of years of hard work by American engineers and scientists. That first step was achieved by the American people.

And so, 25 years later we still feel the force of that moment of contact with another world. Not only in the symbolism of that moment, but also in the practical application of the technology that placed humans on the Moon.

Today, technologies developed in part through space research, like imaging systems to detect heat conditions of sunglasses that block harmful UV rays, improve the lives of everyday Americans. Technology developed for the Apollo missions is helping to push U.S. progress and competitiveness into the 21st century.

Twenty-five years later the United States is once again embroiled in solving domestic issues at home, and feeling the pressure to solve many foreign problems abroad. During these times it becomes easy to falter.

But we must not allow ourselves the luxury of cynicism. During these times we must remember that historic Moon landing and the bravery of astronauts Buzz Aldrin, Neil Armstrong, and Mike Collins.

We must remember that is was America's ingenuity, our hope and our technology that took us to places of which our forefathers could only dream.

I would like to take a few extra moments to thank Chirag Patel, Brian Kennedy, Jennifer Cohen, Vick Sandhu, and Elna Shah for all of their hard work on this commemorative.

INTRODUCTION OF THE MEDICAL DEVICE USER FEE ACT OF 1994

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. WAXMAN. Mr. Speaker, I am pleased to introduce the Medical Device User Fee Act of 1994. This bill will solve a problem that all of us have heard much about during the past several years—namely the delays at the Food and Drug Administration in reviewing medical devices.

Mr. Speaker, under Federal law, medical devices must be reviewed by the Food and Drug Administration prior to marketing. That review should be completed within 180 days for new devices, and within 90 days for devices that are substantially equivalent to devices already on the market.

Unfortunately, during recent years, the FDA has been unable to meet these statutory timeframes, and device companies have argued that they and the public are being harmed by these delays.

The Medical Device User Fee Act of 1994 will give the FDA the additional resources that it needs to do a thorough and timely review of medical devices. Under the bill, device companies will pay fees for device applications submitted to the agency. These fees will raise approximately $115 million during the next 5 years.

The money will be dedicated to the review of medical device applications and to other activities that are related to devices and are specified in the bill. The FDA has stated that with this additional money it will significantly expedite the review of medical device applications and substantial equivalence submissions.

The bill will sunset after 5 years. At that time, Congress will be able to review whether device user fees have achieved their purpose of expediting the review of device submissions.

Mr. Speaker, this legislation will produce significant benefits to the public and the industry. If it is enacted, it will get lifesaving medical devices to sick people faster. Device companies will benefit because the additional resources that the bill will generate will result in shorter review times for requests to market new devices.

The bill reflects extensive discussions with the device industry and the Food and Drug Administration. The bill was drafted after consultation with members of the Energy and Commerce Committee and the Senate Committee on Labor and Human Resources.

I want to specifically acknowledge the important role that Mr. DINGELL, the chairman of the Energy and Commerce Committee, played in drafting a bill that could gain the widest possible support from consumer groups, the industry, and the administration. Mr. DINGELL has been a tireless advocate of soliciting additional resources for the Food and Drug Administration. Two years ago, he helped steer the Prescription Drug User Fee Act of 1992 through Congress, and hopefully, with his help, we will be able to enact a medical device user fee bill this year.

I also want to acknowledge the important role that Senator KENNEDY has played in the drafting of this legislation and in enacting user fees for prescription drugs. Today he will be introducing a bill in the Senate that is identical to the device user fee bill that I am introducing today.

Mr. Speaker, in this bill, we have attempted to achieve a user fee structure that is fair and equitable. In particular, we have been very sensitive to the interests of small business, especially startup companies. We will continue to work on these and other issues as the bill is considered during the legislative process.

I am pleased to announce that the bill is supported by the Health Industry Manufacturers Association, the National Electrical Manufacturers Association, and many companies in the device industry. It is my hope that it can be enacted this year.

I ask unanimous consent that the text of the bill may be printed in the RECORD.

MEDICAL DEVICE USER FEE ACT OF 1994

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. DINGELL. Mr. Speaker, I am pleased to join my colleague Mr. WAXMAN in introducing the Medical Device User Fee Act of 1994.

This legislation authorizes the collection of fees by the Food and Drug Administration [FDA] for the purpose of improving the medical device review process. These fees will make it possible for FDA once again to meet the 90- and 180-day deadlines set by the Congress for the review of substantial equivalence and pre-market-approval applications, most particularly through providing the resources needed to hire new personnel, additional to those already employed by the Agency.

Many in the device industry have told us that delays in processing their applications cost their companies substantial losses. Thus, they believe that user fees are an acceptable investment if they are linked to FDA meeting these timeframes for new applications and to eliminating the backlog of applications pending action by the Agency.

Fees would be collected from companies who apply to FDA for medical device pre-market approvals [PMA]; for a determination of substantial equivalence of devices covered by the requirements of section 510(k) of the Food, Drug, and Cosmetic Act; or for approval of supplements to PMA applications. The fees will be no higher than necessary to meet the agency's actual needs and will be dedicated to the medical device review process and specific related activities.

In developing this legislation, we looked to the Prescription Drug User Fee Act (Public

Law 102–571) as a model for basic principles. However, we also recognized that the medical device industry is different from the prescription drug industry in a number of significant ways. We worked with representatives of the industry—both large and small companies and associations—in crafting the legislation. However, we are well aware that we have not heard from each and every segment of this large and diverse industry. Thus, some unique perspectives of specific portions of the industry may not be represented in the bill we introduce today.

I want to emphasize, Mr. Speaker, that we remain receptive to hearing additional points of view about the structure of this user fee program, and we will try to accommodate them.

One particular component of the device industry which has communicated its concerns is in vitro diagnostics manufacturers. These companies develop and produce tests and reagents used by health care providers and clinical laboratories for screening and diagnosis. For instance, they manufacture tests and reagents used in measuring blood cholesterol levels, doing blood screening, testing for allergies and infections such as hepatitis and HIV. Many of these companies are small, but manufacture a range of inexpensive devices. Thus, they are justifiably concerned about the impact of user fees on their business. We are looking carefully at their questions and concerns, to determine the best approaches to resolving them.

Mr. Speaker, over the last several years, my Oversight and Investigations Subcommittee has thoroughly examined the management and operation of FDA's Center for Devices and Radiological Health. The subcommittee report, "Less Than the Sum of Its Parts," details the results of this investigation and makes a number of recommendations for change, especially in the Center for Devices and Radiological Health [CDRH]. Some of these recommendations have been implemented by the new management of the center, and progress is being made. This is a positive sign, but we are not out of the woods. We expect FDA to continue to improve its management, operations, and policies related to medical device review, approval, and regulation.

Without sufficient resources, however, FDA will continue to swim upstream. With our enormous Federal deficit and intense demands for funding from many worthy programs, we simply do not have funds available to enhance FDA's budget. User fees are not the answer to all of the problems identified by our investigation or experienced by the medical device industry, but they are a key component of the solution. I urge my colleagues to support this legislation as a responsible and necessary approach to improving the medical device review process and enhancing FDA's ability to do the job we want the agency to do.

MERCY OTIS WARREN DAY

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. HUGHES. Mr. Speaker, I rise today to introduce a resolution designating September 14, 1994, as "Mercy Otis Warren Day."

Many of you may not be familiar with Mercy Otis Warren. Indeed, her name is obscure among the American public. However, historians of the American Revolution are aware of the contributions made by this remarkable woman who was born on September 14, 1728, in Barnstable, MA.

Recognized as a poet, patriot, and historian of the American Revolution, Mercy Otis Warren's writings are credited with providing insightful views on the leading political figures of the American Revolution and the political viewpoints of the day. One of her major literary works, "The History of the Rise, Progress and Termination of the American Revolution" (1805), is respected primarily for its spirited personal opinions of people and events she had known firsthand.

Over time, Mercy Otis Warren became a prominent political commentator who was well-respected by her contemporaries for her understanding of political issues. Her advice and opinions were sought by such notables as John and Samuel Adams and Thomas Jefferson. Mrs. Warren wrote a 19-page pamphlet published in 1788 entitled, "Observations On The New Constitution," which may not be her best known work, but was perhaps her most significant. Mrs. Warren's vigorous defense of personal liberties contributed to the political movement which culminated in the adoption of the Bill of Rights.

What is most remarkable about Mercy Otis Warren is that she received no formal education because of the social mores in the early 1700's which placed women in domestic roles. As a young woman, Mercy Otis satisfied her thirst for knowledge by sitting-in on her brothers' tutoring sessions. As the daughter of a county judge who was also a colonel in the militia, Mercy Otis listened to frequent political discussions in her home and developed an ardent interest in politics and public affairs. A forerunner of the modern feminist movement, Mrs. Warren was very interested in the role of women in society and was determined that women should not be restricted to domestic interests.

The life of Mercy Otis Warren is one that should be told to all Americans. Recognition is long overdue. I hope my colleagues will join me in honoring this great American for her courage, her wisdom, and her contributions to early American political thought which gave birth to the democratic values we all cherish.

Please join me in cosponsoring this resolution which designates September 14, 1994, as "Mercy Otis Warren Day."

HONORING LAWRENCE MEINWALD

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. GILMAN. Mr. Speaker, I am pleased to rise today in honor of an outstanding resident of our 20th Congressional District of New York, Lawrence Meinwald, who is deserving of our congratulations on the forthcoming celebration of his 80th birthday.

Throughout Larry's 80 years, he has not only been a successful realtor, but more important has been an active, generous dedicated member of our community. We commend his benevolence toward others. His generosity is exemplified by a recent act in his providing several weeks of lodging for the Russian contingent of the Big Brothers/Big Sisters organization in his hotel, The Madison. Larry was a Big Brother himself in 1944. He enjoyed working with young boys who needed him. He noted how proud he was to have been able to aid in the Big Brothers/Big Sisters organization 50 years later in their program of training the Russians how to operate a matching youth-adult program.

To more fully describe Larry Meinwald's accomplishments and experiences, I request that an excerpt from One Family entitled "One Generous Man Makes Many Dreams Come True," by Elieba Levine, be inserted at this point in the RECORD:

LAWRENCE MEINWALD—AN EXCERPT FROM "ONE FAMILY", SPRING 1992—ONE GENEROUS MAN MAKES MANY DREAMS COME TRUE

(Written by Elieba Levine)

A group of visiting Russian men and woman recently got a taste of American hospitality—New York style—when hotel owner Larry Meinwald, a Big Brother fifty years ago, gave them free lodging for two weeks in his hotel, The Hotel Madison. The Russians were in town to receive training from Big Brother/Big Sisters of New York City on how to establish and operate a youth-adult matching program in their changing country.

Without Mr. Meinwald's generosity, the visit would not have been possible since the Russians only had enough money for their plane fare, not food and lodging. Recently, I had the pleasure of meeting Mr. Meinwald at his West Side Townhouse, here he lives and works.

When I arrived at his headquarters, I was instantly greeted by photographs, letters and heartfelt testimonials that fill the walls of his entry hall. A staff member escorted me to the third floor, where I was told to wait. Those solo moments provided quite a treat. On the walls hung pictures of Harry Truman, Teddy Kolleck, Ed Koch, Herbert Lehman, Abba Eban and other world leaders. In each photo, I saw the same pleasant-faced man, with his enchanting handle-bar mustache, smiling or shaking hands with these important people. Surrounding the whiskers is a friendly face, revealing a vibrant presence. I know this must be Larry Meinwald. In person, though now close to eighty years of age, the personality measured up to the image. Sitting down to business, Mr. Meinwald took his place behind an impressive desk. Equally distinct was his comfortable clothing: a dark plaid sports shirt, topped by a goosedown vest, hardly the way one expects a real estate mogul to be attired. I asked him why he had helped Big Brothers with the Russian Contingent. He told me of his experience with Big Brothers. In 1944, he had charge of a twelve year old Hispanic boy whom he would see on weekends. He also went on to describe his own boyhood. He was brought up to believe in doing for others, he said. He thinks Big Brothers is a worthwhile movement, believes in it and knows its value to single parents, he said. Mr. Meinwald never had a son, and liked working with young boys who needed him. Charitable works are a large part of his life and so is contributing to the community in which he lives.

Mr. Meinwald was silent for a moment and then conversation returned to the Russians. "There was an ethnic connection as well," he said. Though he came from Poland, his father was in the Russian Army, he said, and had told him many stories about Russia. He spoke affectionately about his father. "My father was a baker," he said fondly. "He told me two things I have never forgotten: One was to get an education no matter what. The other was don't ever become a baker." He followed his father's advice, went to City College, and ultimately made his success in real estate. "I started out as an accountant," he said, "and worked for someone who could neither read nor write. Even so, he was a success. I thought if he could do it, so could I." He bought his first building for $500.00, and the rest is history.

He reached for an envelope on his desk, and took out pictures of a stunning horse with her baby colt. "I've always had a love for animals, especially horses," he said. When I asked if he raced them, he shook his head. He raised them for love, not for profit, he said. After sitting and listening to this wise man for just a short while, I suspected that most everything he did was for the love of it.

I was indeed happy to have met Larry Meinwald. The Russians could not have found a nicer patron.

SPECIAL TRIBUTE TO JUDGE CHARLES W. FLEMING

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1994

Mr. STOKES. Mr. Speaker, today I rise to pay tribute to a very dear friend and distinguished constituent of Ohio's 11th District, who recently passed away, the Honorable Judge Charles W. Fleming. Elected in 1975, Judge Fleming served a 19-year span on the Cleveland Municipal Court earning him the respect and admiration of all who knew him. It was a privilege to have known such an outstanding lawyer and such a distinguished individual. I would like to take this opportunity to share with my colleagues and the Nation some information regarding Judge Charles W. Fleming.

As presiding municipal judge, Charles Fleming displayed sincere compassion for the underserved and the less privileged. Having grown up in poverty, judge Fleming represented someone who overcame the odds. His hard work and persistence in promoting justice and equality won him the admiration of many.

Mr. Speaker, Judge Fleming began his legal career soon after receiving his degree from the John Marshall School of Law. Unable to find employment with any major law firms as a black attorney, he and now Federal judge, George White, opened their own firm in Cleveland. In 1961, he became an assistant county prosecutor and later switched to defense work in 1968. Prior to becoming a judge, he also taught at Case Western University. Judge Fleming served in the municipal court for 14 years before being elected presiding judge by his colleagues in 1989. His leadership in this post was unparalleled. He was also the first black president of the Ohio Association of Municipal/County Judges. During his lifetime, he also served as a faithful member of both Kappa Alpha Psi fraternity and the Prince Hall Masons.

Mr. Speaker, on the occasion of his passing, we convey our deepest sympathy to Judge Fleming's family with whom we join in mourning the passing of such a great man. I am honored to share with my colleagues an article in the Plain Dealer which further describes the efforts of an individual whose contributions to the legal arena and his community are unsurpassed. He will be sorely missed by all.

JUDGE CHARLES FLEMING DIES; WAS PIONEERING RIGHTS LAWYER

(By Scott Stephens and Mark Hollenhagen)

Presiding Municipal Judge Charles W. Fleming may have left behind the poverty of E. 21st St. near Central Ave., but friends say his modest upbringing molded him into a compassionate judge.

A trailblazing civil rights lawyer, former prosecutor and judge for nearly 20 years, Fleming died at 11:55 a.m. yesterday of a heart attack at St. Luke's Medical Center. He had been in critical condition there since a June 18 automobile accident in Shaker Heights.

Fleming, 66, of Cleveland had no heartbeat or pulse after his car struck a tree on S. Woodland Ave. He was revived by paramedics, but he only briefly regained consciousness after the accident.

Hospital spokeswoman Gina Goodwin said Fleming, with a history of heart problems, had suffered several heart attacks over the weekend.

Fleming's death marked the end of a colorful and often controversial career that touched five decades, including segregation in the 1950s, the dawn of the civil rights movement in the 1960s and black political empowerment in the 1970s. Friends and colleagues said they would mourn his loss.

"He never forgot where he came from and always remained very sensitive to the plight of poor people," said Stanley E. Tolliver, a fellow lawyer and a friend of more than 35 years. "A giant tree has fallen in the forest of justice."

Municipal Judge Mabel M. Jasper, a colleague and friend for 30 years, echoed those sentiments: "He was a drum major for justice, a role model and a champion of the least among us."

Fleming, born in Cleveland, received a bachelor's degree from Kent State University and a law degree from John Marshall Law School. By the late 1950s, he and George White, now a federal judge, had opened a law practice on Prospect Ave. near E. 4th St.

During the 1950s, the city's major law firms would not hire black lawyers. Fleming and a group of young black attorneys, including Tolliver, brothers Carl and Louis Stokes, Merle McCurdy and Granville Bradley loosely banded together to form the John M. Harlan Club.

The club, which was part professional, part social, was named for the former U.S. Supreme Court justice who was a staunch defender of racial equality. The club chatted up politics and law for hours at Rosie's, a soul food restaurant across from Lakeside Courthouse.

Fleming, a lifelong Democrat, switched sides of the courtroom in 1961 when he bacame an assistant county prosecutor.

"Charlie was a very able and very persuasive lawyer in the courtroom," said Rep. Louis Stokes, of Shaker Heights. Stokes, as a former defense attorney, faced Fleming. "We had some real first-rate trials against one another, but we remained close friends.

Fleming switched back to defense work in 1968 and made a name for himself when he and Toliver represented Fred Evans, a black nationalist organizer accused of starting the bloody Glenville riot in 1968.

Fleming raised eyebrows during the trial when he put former County Prosecutor John T. Corrigan—who had also been his boss—on the witness stand and grilled him about witness statements implicating Evans that authorities claimed they had. An all-white jury found Evans guilty of killing three Cleveland policemen and a civilian during the rioting after a trial marked by frequent scuffles and constant tension between police and protesters.

"Those were very turbulent times," Tolliver recalled. "The police actually threatened us, and they fired at my house."

Fleming was first elected to the Municipal Court in 1975. He was elected to his fourth six-year term last year. His colleagues elected his presiding judge in 1989, and he was the first black president of the Ohio Association of Municipal County Judges.

As a judge, Fleming did not shy away from controversy. In 1982, a fellow judge accused Fleming of promising his colleagues they could increase their staffs if they voted for him for presiding judge.

But colleagues yesterday remembered Fleming's work in overseeing the computerization of court records and a variety of alternative sentencing programs. "He was a progressive individual who oversaw many innovative programs in the court," said Court Administrator John J. O'Toole, who worked with Fleming for 19 years.

Before becoming a judge, Fleming taught law at Case Western Reserve University.

In recent years, Fleming enjoyed spending time with his family and socializing with his friends.

More often than not, they could be found at Angie's restaurant on E. 52nd St. and Euclid, where pictures of Fleming, Tolliver, the Stokes brothers and other "Carnegie Roundtable" members adorn the walls.

"He had a terrific sense of humor," said Granville Bradley. "I never saw him angry. He was a fine gentleman."

Friends said Fleming was proud that two of his children, Charles E. Fleming, of Cleveland, and Patrice Fleming-Squirewell, of Houston, became lawyers.

Charles E., 31, is an assistant federal public defender in Cleveland. Patrice, 36, is a hearing officer with the Texas Workers Compensation Commission.

Also surviving are his wife, Norma E.; sons, Reginald, of Cleveland; Carlos A., of Lawrence, Kan., and a stepson, Gerald Lewis, of Houston; a grandchild, Whitney R. Squirewell, of Houston; and a sister.

SENATE—*Wednesday, July 13, 1994*

(Legislative day of Monday, July 11, 1994)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable BYRON L. DORGAN, a Senator from the State of North Dakota.

PRAYER

The Reverend Richard C. Halverson, Jr., of Arlington, VA, offered the following prayer:

Let us pray:

Vanity of vanities, saith the Preacher, vanity of vanities, all is vanity. What profit hath a man of all his labor which he taketh under the sun?

Let us hear the conclusion of the whole matter: Fear God, and keep his commandments: for this is the whole duty of man.—Ecclesiastes 1:2,3; 12:13.

Almighty God, as we open in prayer, we are mindful of the frustration which inevitably accompanies the business of legislative action. May those who labor here be reminded that the apparent roadblocks which often impede our way only serve to lead us to our ultimate solution in Thee.

In the midst of trying circumstances cause us to learn what President Abraham Lincoln came to understand when he said:

"I have been driven many times to my knees in prayer by the overwhelming conviction that I had nowhere else to go."—McCollister, John. "'* * * so help me God," Landmark Books, 1982.

In Him who is the Way, we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 13, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BYRON L. DORGAN, a Senator from the State of North Dakota, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. DORGAN thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

NATIONAL LABOR RELATIONS ACT AND RAILWAY LABOR ACT AMENDMENTS

MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the motion to proceed to S. 55, which the clerk will report.

The assistant legislative clerk read as follows:

Motion to proceed to the consideration of S. 55, a bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes.

The Senate resumed consideration of the motion to proceed.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 10 a.m. shall be equally divided and controlled between the Senator from Ohio [Mr. METZENBAUM] and the Senator from Utah [Mr. HATCH] or their designees.

Who seeks recognition?

Mr. METZENBAUM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, I want to emphasize once again, as we turn to the second day of debate with respect to the motion to proceed on S. 55, that the American people support a ban on the hiring of permanent replacements by an overwhelming majority, by a vote of 2 to 1 in the most recent poll.

The President and a majority of both Houses of Congress support it as well. But the Republican leadership, true to form, frankly, is just not concerned about the interests or needs of American workers and is blocking this bill from moving forward.

Yesterday, the Republican leadership successfully blocked the first cloture vote. I would like to thank publicly Senators HATFIELD, SPECTER, and D'AMATO who voted for cloture, along with 50 Democrats. But, unfortunately, the other 41 Republicans voted to keep the Senate from fully debating or voting on this bill. I think that is shameful.

Yesterday after the vote, Senator CONRAD urged other Senators to vote for cloture today so that we may consider compromises which might break the stalemate over this bill. In particular, Senator CONRAD indicated his intention to offer an amendment which would encourage the parties in a labor dispute to resolve their differences through a neutral third party factfinder.

I believe very strongly that this bill should pass as written. But I also recognize that compromise is part of the legislative process. I applaud Senator CONRAD's efforts to end the Republican filibuster and allow the Senate to do something to help the working people of this country. When this bill was on the floor 2 years ago, Senator PACKWOOD offered an amendment, and I know that a number of the Members of this body felt that that amendment moved in the right direction. I must say frankly that I am disappointed that Senator PACKWOOD has not seen fit to move forward with offering some constructive amendment again but rather has opted out to join his Republican colleagues and vote no on this bill.

Frankly, this is a party matter on the Republican side. The Republican Party is not concerned about fairness in the workplace, where tens of thousands of workers have lost their jobs for exercising a federally protected right. Nor is the Republican Party concerned about fairness in the democratic process where a majority of Americans, a majority of their elected representatives want to enact this bill.

Why is the Republican leadership opposed to this bill? Does it impose a new tax? No. Is it an unfunded mandate? No. Will it increase the deficit? No.

Here it is, America: The Republican Party is filibustering this bill because they claim that it will destroy U.S. competitiveness in the global marketplace. I am truly shocked. I am amazed. I had no idea. Who is kidding whom here?

I have deep respect for my Republican colleagues, but give me a break. Every single time the Senate considers legislation to protect the rights of American workers, Republicans drag out the same wornout cliche. Every single time, with no exception. Frankly, it should be embarrassing to them. It is an insult to American workers who built this country and made it what it is today.

Let us go back through the CONGRESSIONAL RECORD and you will hear the refrain of this tired old Republican song every year. You can get a violin and put it to music. Take the last 6 years as an example. Go back to 1988 when my friend and Republican colleague, Senator HATCH, warned that the plant closing notice law would compound the difficulties American companies have had making significant

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

inroads into foreign markets. Likewise, my Republican colleague, Senator THURMOND, claimed that the plant closing provision would limit the ability of American business to compete with overseas manufacturers.

Yet, after its enactment, the 60-day notice bill had no impact whatsoever on the competitiveness of U.S. industry, prompting U.S. News & World Report to call it "the disaster that never happened."

Go back to 1989 when we heard the same refrain from Republicans when Congress raised the minimum wage from $3.85 an hour to $4.25. We will not be able to compete, said the Republicans. How absurd can we be to suggest that paying workers $4.25 an hour will make it impossible for us to compete. With whom will we not be able to compete? The poorest workers in the world in some of the far-off nations of the world who are being paid $1 a day or $2 a day? We certainly will be able to compete with every industrialized nation in the world which pays substantially higher wages than that, and we, in America, pay substantially higher wages than that.

But the Republicans, because there was just this little bit of a difference—$3.85 to $4.25—said we will not be able to compete.

Five years have passed and there has not been one shred of evidence that those amendments have had any impact on our competitors. Not a scintilla of evidence.

Go back to 1990 and 1991 when Congress had considered and enacted the Civil Rights Act of 1991. Senator COATS and two of his Republican Labor Committee colleagues told us that allowing women to recover damages for sexual harassment "would impose a substantial increase on the costs of doing business in the global marketplace."

Again, 3 years later, we know how absurd that prediction was, and my guess is that those who uttered those words would like to take them back.

Go back to 1992 when the Republican leadership predicted that the OSHA reform legislation pending in Congress would "hurt the ability of American employers to compete effectively in world markets." In fact, workplace accidents cost our economy over $100 billion a year, and by cutting those costs OSHA reform will only improve our competitiveness.

Go back to 1993 when Senator HATCH said the family and medical leave act would "undermine our ability to compete in the world marketplace."

We ought to give the Republicans a patent on this language, "undermine our ability to compete in the world marketplace." Every time we bring up a bill having anything to do with the rights of American workers in this country, they always talk about undermining our ability to compete in the world marketplace.

In fact, our principal foreign competitors already provide far more extensive family and medical leave than the new law provides, and they provide paid leave, not unpaid leave as we do. In the competitive market, they go much further than we do.

But the Republicans see fit to claim that somehow it is going to affect our competitiveness.

So pardon me, Mr. President, if I do not get too excited by protests from across the aisle that this bill will hurt our competitiveness. There are just so many times the Republican Party can cry wolf before people stop taking it seriously. Frankly, this criticism has no credibility anymore.

Members on the other side of the aisle are not judging this legislation on its merits. They have not looked at what is right and what is wrong. What they have done is they have said we will support the Republican leadership; we are engaged in a filibuster to keep this matter from coming to a vote in the Chamber. It is a matter of party loyalty. Fortunately, three Members on that side did not see fit to take that oath. But across the board, all the rest did.

This argument is more of a red herring in this debate about this question of competitiveness than it has been in the past. Virtually all of our significant trading partners already prohibit the hiring of permanent striker replacements in response to a strike. That includes Japan, many Canadian provinces, Germany, Belgium, France, Greece, the Netherlands, Italy, and Sweden. These countries have obviously determined that long-term labor-management relationships yield competitive benefits. In fact, in many of these countries, the trade union movement is stronger than our own and growing. Does that put these countries at a competitive disadvantage? Apparently not.

So the rationale for the Republican Party's opposition to this bill dissolves on closer inspection. In reality, that claim is just a smokescreen for the agenda of the National Association of Manufacturers and the U.S. Chamber of Commerce and the rest of the big business community; namely, reaping corporate profits on the backs of hardworking American families.

If anything, the Workplace Fairness Act may actually improve our competitiveness. The hiring of permanent replacements often causes so much disruption to an employer's work force and to the community as a whole that it impedes a company's ability to compete.

When you bring in striker replacements, there is a certain kind of turmoil that it brings. These are not employees who know how the plant operates, who know where the plant facilities are. These are new people, and sometimes they come in with some of the old people and some of the new people as well, and you have nothing but turmoil.

That was the conclusion reached by the researchers from the City University of New York in a 1992 study called The Costs of Aggression. They concluded that "in today's highly competitive economic environment, the losses associated with union busting exact a high toll on the entire country, at a time when we all depend on an economy able to meet aggressive foreign competition."

So it is the hiring of permanent replacements that hurts our competitiveness, not this bill. It is time we stopped trying to destroy trade unionism in America and look to our trading partners on lessons on how to foster it. It is time to remember that America has been strongest in the world's markets when our trade union movement was healthy and vibrant.

Columnist Jon Talton of the New Mexican put it this way:

> Every working American owes such basics as sick pay and the 8-hour day to labor unions—executives who revel in union busting are hardly building the framework for employee trust and involvement that is so essential to productivity.

Mr. Talton goes on to say:

> Unions are an indispensable counterweight that helps keep everybody honest in free market capitalism. If unions are hurting, so is the free market.

So I must say to my colleagues, when you hear that this bill will hurt our competitiveness, do not be fooled. The Republican leadership trots out that same baseless prophecy every single year, every time the Senate considers a bill to protect workers' rights.

American workers built this country, and they made it great. Our successes in world markets would not have been possible without their efforts. But the Republican leadership says to them: "Sorry; tough luck; we can't give you any rights because we won't be able to compete."

That is offensive to me. It is offensive to American workers. It is offensive to the principles on which this country was built.

Our foreign competitors promised their workers a meaningful right to strike, and they have kept their promise. They delivered on that promise. They have had great success in world markets. It is time that we delivered on that promise as well.

Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who seeks recognition?

The Chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, we have a few people who want to speak on this side, so I hope they will come over now because we have a limited amount of time to use. But until they do, I will just say a few words.

Mr. President, we all know what is involved here. This is not a question that we have an inability to compete; we will find some way around any issue. It is not a question of unfairness. It is a question of whether we are going to change our labor laws in such a way as to take away the delicate balance between management and labor that currently exists and that forces both of them to the bargaining table.

I do not want to give an edge to the business community, nor do I wish to give an edge to the trade union community. Both need to be there in that delicate balance. The current law does have an edge. For instance, the trade union movement has a right to strike. I have said I would fight to my death to keep that right alive. I think it is an awesome economic power, but it is one that is deserved by working people. It is their big leverage in making sure they can be treated fairly. The strike threat is a strong incentive for business to bargain and to be reasonable.

But to offset that, so that there is an equal incentive to the unions to be reasonable, business has a right to hire permanent striker replacements to save the business from shutting down. But even so, they do not have a right to exercise that right if there is an unfair labor practice charge. If they are not bargaining in good faith, which would be an unfair labor practice, then the business community has no right to hire permanent replacements.

The law says the business community has to act in good faith, and they have to bargain in good faith. But so does the union. In other words, we try and bring them together.

As of the late 1980's, in only 4 percent of all strikes has the employer really exercised his option under the Mackay Radio case and subsequent Supreme Court cases and subsequent congressional endorsements to hire permanent striker replacements. Only 4 percent of strikers. And then it went down in a subsequent year—in I think 1989 or 1990—to 3 percent.

In those particular cases, the business had no choice other than to hire permanent striker replacements to save their business. So it is not a widespread abuse. Most unionized businesses are larger businesses. Most of them do not want to put up with a strike. Therefore, they will come to the table and bargain and sometimes they will give in more than they should, and vice-versa. That is the process.

But where the unions do exercise the right to strike and the strike is prolonged, the business can then say, "I cannot put up with this anymore. If you don't come to the bargaining table and agree to reasonable terms, we are going to have to replace you with permanent people." If the business decides to do that—and, as I have said, that is the case in very few instances because most large businesses that are unionized would rather work with the union and one bargaining representative than every employee being a bargaining representative. It is a way of keeping things moving. There are advantages to being unionized, and many large businesses recognize them. So they do not like a strike, and they do not like to fail to sit down at that bargaining table and resolve that strike.

Let us assume it comes to the point, as it has in a few instances, where the business says we have to replace these people permanently, and they do. Under current law they cannot do it if they have committed an unfair labor practice. They cannot do it if they have not bargained in good faith. But assuming that they have done everything right, and it is a purely economic strike, and they do replace them, then the union workers can still have the jobs that come open. From that point on, jobs have to be offered to the union members first. So there is even a little protection there. It is a protection that gives the union movement a little bit of an edge. I am for that.

And I kind of feel badly that my dear friend and colleague from Ohio feels it is a Republican issue. Yes, more Republicans are voting against striker replacement than Democrats. But it is a bipartisan vote. We had six Democrats yesterday who voted with us against cloture. Really, if it was not for the dominance of the trade union movement, you would have more votes against the billion on the Democratic side. This is a tremendous effort to overreach and a tremendous power grab. And I cannot blame the unions for wanting to do that. They not only have the right to strike, which is an awesome economic power, but they want the power to win the strike. I cannot blame them for that. The unions want to get that. But that does not make it right.

I have had people through the years, as we fought some of these excessive pieces of legislation, come to me and say, "Please stop it." People who are going to vote for it, but it was very bad legislation. This is an excessive power grab that would upset this delicate balance and cause untold problems in the future, and many of my colleagues recognize this.

So I am very concerned that we look at this matter in an intelligent way. I do not think anybody would cite Canadian law, which does not allow the hiring of permanent striker replacements, as an example. Now they have more strikes than ever, exactly what we predict if this legislation should pass.

I do not think people in Europe have better labor laws. In Germany, if it would affect the company drastically economically, the Government can just stop the strike. It would be pretty tough to be able to show that most strikes, especially over prolonged periods of time, would not affect the company. So there are not many strikes in those nations because their laws are not as tough as ours in the protection of trade unions. I will not go through those laws again. I did the first day of this debate on Monday.

The fact is that this is an overreach. When the Senator talks about plant-closing legislation and more is going to happen if plant-closing legislation is passed, that is true. The final bill that passed was certainly a lot less than what the distinguished Senator from Ohio was asking when he first brought this bill to the floor. I have to admit that I think there is plenty of evidence that this law has hurt a lot of businesses but not nearly as much as the original legislation. Had we not fought it, it would not be nearly as reasonable as it is, and I still think it is bad law. It passed the Senate, and I accepted that.

The data from the GAO study on striker replacement has been cited repeatedly. As previously noted, those permanent replacements were used in only 17 percent of strikes in the late eighties. Further, and even more importantly, it shows that in 1985 and 1989 the percent of striking workers permanently replaced was only 4 percent in 1985—that is, on all the striking workers—only 4 percent were affected in 1985 and 3 percent in 1989 respectively. It is likely, but not certain, that the actual percentage is even smaller since the GAO statistics classified them as "permanent replacements" even though strikers might have gotten their jobs back because the strike was found to be an unfair labor strike. So the figures would actually be less.

Studies by the Bureau of National Affairs are entirely consistent with the GAO results, and may in fact demonstrate a downward trend in the use of permanent replacement. Most notably, a recent survey conducted by the Bureau of National Affairs reported in 1991 that striker replacement was used in only 14.6 percent of strikes. The data included both temporary and permanent replacements.

So it is even down below the 4 and 3 percent. This recent study confirms not only the fact that the use of permanent replacements is not widespread but also that the use of permanent replacements has not shown a significant upward spiral through the eighties and early nineties.

I ask unanimous consent that this letter to Senator KASSEBAUM dated May 13, 1994, from the Director of Information of the National Labor Relations Board be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL LABOR RELATIONS BOARD,
Washington, DC, May 13, 1994.
Hon. NANCY LANDON KASSEBAUM,
Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR SENATOR KASSEBAUM: This is in reply to your letter of May 11, 1994. The National Labor Relations Board does not keep statistics on the percentage of strikes involving permanent replacements. Accordingly, we do not know whether the figures in the chart are accurate. If I can be of further assistance, please let me know.

Sincerely,
DAVID B. PARKER,
Director of Information.

Mr. HATCH. This letter says:

DEAR SENATOR KASSEBAUM: This is in reply to your letter of May 11, 1994. The National Labor Relations Board does not keep statistics on the percentage of strikes involving permanent replacements. Accordingly, we do not know whether the figures in the chart are accurate. If I can be of further assistance, please let me know.

So there have been citations on charts here on the floor, and the fact of the matter is that probably the use of permanent striker replacements is even less than 4 and 3 percent respectively in 1985 and 1989.

Let us just be honest about it. This is as bill to stack the deck in favor of the unions instead of maintaining the delicate balance of power that I think most people who really look at this honestly prefer and hope will be maintained.

That is what we are fighting about here today. I know that many on the other side are very, very sincere about this; not all. They would like to get this benefit for the union movement. But I do not think that the unions are what they were. I worked in the building and construction trade unions for 10 years. At that time 85 percent of all the heavy duty construction in this country was done by trade union companies—unionized companies. We were proud of what we did. Our apprenticeship programs were the best. Our skills were the best. Today it is exactly the opposite.

About 85 percent of all the major construction in this country is done by merit shop contractors or nonunion contractors. Something is wrong here. We have tried to stack the deck in favor of the trade unions all the way through. I am proud of the union movement in this country. I know that they can do a better job. I know that they have economic power and the power to strike that will help them in any collective bargaining negotiations. I know they have the power to get management to come to the table.

So we do not need this legislation. This legislation would be detrimental to the country. I hope our colleagues will support our vote against cloture here today.

Mr. President, I reserve the remainder of our time.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Connecticut. Who yields time to the Senator? Does the Senator from Ohio yield time?

Mr. METZENBAUM. How much time does the Senator desire?

Mr. DODD. Five or six minutes.

Mr. METZENBAUM. I yield 5 minutes to the Senator from Connecticut.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut is recognized for 5 minutes.

Mr. DODD. Mr. President, I thank my colleague from Ohio and commend him for his efforts in this regard. This issue has received a great deal of attention and has generated some heated debate, all across the country, since it has been introduced as a legislative proposal. I am not going to take a great deal of time because I know others have already spoken on this issue.

What my colleagues certainly know, or ought to know, is that what we are debating here is whether or not we can debate. This is a cloture motion. We are not debating the bill yet. The issue is whether or not we will be able to discuss and debate a proposal that would try to redress an imbalance that has occurred in labor relations. This is not unique; imbalances occur all the time in many different sectors of our society.

What we are hoping here this morning is that we will be able to end a filibuster and then move on to discuss and debate a piece of legislation that will try to correct an imbalance. That is all this is about.

So I am hopeful that at the end of this discussion, a little later this morning, 60 members—10 more than a simple majority—will see fit to allow a debate to go forward on this issue and then allow amendments to be offered to modify the legislation that has been introduced. Defeat the legislation, fundamentally change it, or do whatever; but at least allow us the opportunity to debate and to vote on whether or not we ought to redress what many of us think—what a majority of us think, I would point out—is legitimately an imbalance between labor and management.

As its name would suggest, Mr. President, this legislation is about fairness. We have long recognized in this country that between labor and management there is a balance: Management can withhold wages and benefits during an economic crisis at a particular facility or plant. Labor, on the other hand, can withhold its labor, its hands, if you will. That is the balance—wages and benefits on one hand, your labor on the other.

I presume we would think it ridiculous if somehow, through some loophole, management was required during a strike to maintain fully all economic benefits to the striking work force, that regardless of what happened, management had to continue to do that. I presume someone would stand up and say, wait a minute, that is not fair, you have an imbalance here.

In this case, however, if members of a work force go out on strike—which no one likes to see because of the tremendous disruptions that occur—management can now hire not just temporary employees, but permanent employees. If these replacements were temporary, the debate would be somewhat different. But under the current Supreme Court interpretation, management can hire permanent replacements for you and say you cannot come back here.

I ask you, from a common sense point of view, what has happened to that delicate balance between labor and management once we have undercut the ability of labor to withhold its labor in trying to reach some agreement? Can we honestly say we have equilibrium if we say to one side of the equation that you cannot come back, that we are going to hire permanent replacements for you; that you are out?

What the Senator from Ohio and at least 52 others of us around here are trying to do is redress that imbalance. That is what this motion is all about, to get us to the point where we can address that inequity. Basic fairness is at the heart of this legislation. This fundamental right, if you will, has been badly eroded; that is, the right to withhold your labor in order to facilitate meaningful negotiations.

Mr. President, working men and women of this country have paid a very dear price indeed for the erosion of this right. The delicate balance to which I referred has tilted more and more as employers increasingly exploited the loophole that allows them to hire permanent replacements. Frankly, I think it all began to worsen after the disastrous PATCO strike in 1981—if I were forced to pick a single moment in time when things began to shift dramatically, I would point to the air traffic controllers dispute.

This is not a theoretical debate for working men and women in this country. They have seen their standard of living slip year by year. They have seen their paychecks shrink and benefits fall. They have seen their ability to make ends meet and raise a family come under attack.

Mr. President, they have seen all of these things happen and, at the same time, they have seen their right to do something about it slip away like sand between their fingers.

This was not supposed to happen, Mr. President. The hiring of permanent replacement workers is clearly not what Congress had in mind when it passed the National Labor Relations Act. This practice severely undercuts, as I said a moment ago, the only meaningful leverage that workers have in an economic dispute, and it encourages employers, in my view, to walk away from the bargaining table. Why would you stay? Why would I stay and negotiate if I can permanently replace you? What is the benefit to me to stay and negotiate, after all? I will just hire new people and break your back. That is, in a sense, what we are allowing now.

According to data gathered by the Bureau of National Affairs, replacements were hired during a strike 45 times in 1993. Fewer than half of those disputes ended with striking workers being reinstated.

S. 55 would redress the imbalance reflected in these numbers. It would prohibit employers from hiring permanent replacements for employees who are engaged in a strike over economic issues. Additionally, it would prohibit employers from discriminating against strikers by giving preference to workers who offer to return to work over those employees who continue to participate in the labor dispute.

Again, I congratulate my colleague from Ohio for his leadership on this legislation. Allow us to get to the debate on this. This is unfair. We are seeing a tremendous injustice being done. There are other debates we have around here, about minimum wage for example, where people can honestly disagree about what is the right level to set. But let us not perpetuate this significant unfairness and imbalance. Let us vote cloture and allow a debate to go forward.

The ACTING PRESIDENT pro tempore. The Chair advises Senator METZENBAUM that he has 7 minutes 40 seconds. Sixteen minutes remain on the other side.

Mrs. KASSEBAUM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, we have had 3 days of debate and, I think, good debate, both pro and con, on this very important issue.

This is not an issue about party loyalty. As the Senator from Utah [Mr. HATCH] pointed out, there are Democrats who oppose S. 55 and Republicans who support S. 55, though not a large number on either side. But it clearly is not just a question of party loyalty.

I suggest that it is a question of workplace fairness for both labor and management. It has been stated on the floor during the course of these 3 days, Mr. President, that those of us who oppose S. 55, and those of us who have opposed cloture, do not care about the American work force. As the Senator from Maine [Mr. COHEN] pointed out, that is just too simplistic. We do care about the American work force and the American workplace. As a matter of fact, those of us who oppose S. 55 really are in favor of fairness. In the long run, if S. 55 should pass, it will mean further turmoil, further uncertainty, and greater instability.

As the Senator from Ohio [Mr. METZENBAUM] said, replacing workers does take a toll. That is why most management would prefer not to have to replace workers. It takes a toll on those in the labor force who go out on a prolonged strike, as well. Current labor law for the last 50 years has provided stability which allows both sides to come to the bargaining table with some leverage—some leverage for labor, because they can strike, and that would break off negotiations. Management has some leverage as well, in that they have been able, for 50 years, to have permanent replacements. One would not permanently replace workers gratuitously. That is just as unsettling as prolonged strikes; both take a toll.

What this is about, I suggest, is trying to maintain current labor law which leads to a greater desire for both labor and management to come to the table in good faith in bargaining sessions. This is done most times.

The Senator from Connecticut [Mr. DODD] mentioned the PATCO strike. He said, as has been stated before, that many of the cases involving permanent replacement workers came after that strike in the eighties, when management was taking advantage of a new atmosphere. But there were strikes prior to the eighties and during the seventies in which permanent replacement workers were hired. Not many permanent replacement workers were hired just as not many are hired today, nor should there be. But it should be an option that is available.

It has been said during the course of this debate that other countries that have banned permanent replacements have had a glowing record in labor-management relations. We need only compare unemployment rates. Ours in the United States is 6 percent; Canada has an unemployment rate of 10.4 percent; and the European Community has an unemployment rate of 10.9 percent.

These are not rates that we want to emulate. What we want to achieve is even a lower unemployment rate than 6 percent. What we want to encourage is harmony in the workplace. S. 55 would only discourage harmony in the workplace. It would turn the clock back and we would lose the opportunity to encourage both labor and management to use the leverage that both have in order to find a harmonious relationship that will provide security for American workers in the future.

I yield back the floor, Mr. President, and reserve the remainder of my time.

The PRESIDING OFFICER (Mr. DODD). Who yields time?

Mr. METZENBAUM. Mr. President, I yield 3 minutes to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I think one of the most moving speeches I have seen or heard as a Member of the Congress came a few years ago from a fellow who previously had been an unemployed electrician at a shipyard in Gdansk, Poland. He had been beaten and bloodied and thrown over the fence for leading a labor strike against the Communist Government of Poland.

As he lay there bleeding on a street, wondering what to do next, he pulled himself back up and went back over the fence to lead the strike against the Polish Government.

The purpose was for a free labor movement for democratic principles in Poland.

Ten years later, this unemployed electrician, who was beaten badly because he wanted to lead a strike for a democratic labor movement against a Communist government, was introduced over in the House of Representatives as the President of the country of Poland.

Do you know what he said to us? He said we did not even break a window pane. They had all the guns; they had all the bullets. We had something far more powerful. We had an idea. We were working men and women armed with an idea, and that idea was democracy, democracy in the workplace.

And that idea ought not be out of fashion anywhere, especially in this country, the greatest democracy in the world. But there are too many people who think that principle of democracy in the workplace was just wonderful for Poland when Lech Walesa was leading a strike against the Communist government, but it does not quite fit for Peoria or Pittsburgh.

Well, I heard a news report last night when this issue was on the floor of the Senate about replacing striking workers who were striking for higher wages.

Let me talk about one worker, a 50-year-old truckdriver. He worked 16 years. I talked to him and his wife. They were not striking for higher wages. They were offered by his company, as was his bargaining unit, lower wages, 15 percent lower. All right. That is fine. They took a 15-percent pay cut. Then the company came around 2 years later and said: Now we want another 20-percent pay cut.

He and his fellow workers knew it was unfair because this company was making money. They said: No, we are not going to do that this time. The company would not budge. So they went on strike.

This man and his family had 16 years committed to this company. Do you know what the company did? It said, "If you go on strike, it is over; you are fired."

That, in a democracy? It is wrong. And that is what this issue is about.

This is not about unfair labor practices by workers who are greedy for more money. This is about protecting people who have a right to strike. If you say to companies that if a collective bargaining unit goes on strike, you can fire them, they have no right to strike, you have severely injured economic democracy; in fact, you have taken away economic democracy in the workplace.

That is what this issue is about. You can paint all other characters about it that you like. But it is fundamental fairness for working men and women in this country. And I am pleased to support cloture.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

If no one yields time, the time will be deducted equally from both sides.

The Senator from Ohio.

Mr. METZENBAUM. Mr. President, how much time does the Senator from Ohio have remaining?

The PRESIDING OFFICER. The Senator from Ohio has 4½ minutes.

Mr. METZENBAUM. Mr. President, I yield 4 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 4 minutes.

Mr. KENNEDY. Mr. President, I want to make sure that the Members are familiar with an excellent letter that was written by the President of the United States to Donald Fites, who is the chairman and the chief executive officer of the Caterpillar Corp. and I will include it in the RECORD. But I think one part of the letter that deserves to be included at this point in the RECORD is the part of the letter where the President says:

> I believe that the threat or implementation of replacing striking workers has a poisonous effect on the relationship between workers and employers, and it does great damage to the collective bargaining process. I am currently fighting to get Congress to pass S. 55 in the Senate so that we can ban the tactic of hiring permanent replacements as a means to break a strike. Whatever the outcome of this legislative battle, I strongly believe that this practice must stop because it deters the type of collective bargaining and cooperative work forces that we need to prosper in the new world economy.

That is a very clear statement of principle, Mr. President, by the President of the United States about the importance of this legislation.

Mr. President, this issue is about real, flesh-and-blood workers—people like the 450 workers in Massachusetts who have been permanently replaced since 1988. These workers and their families deserve our help. This issue is about their jobs, their livelihoods, and their families' future. It is about people like Lori Pavao, a former aide in a nursing home in Fall River, who was permanently replaced when she and other aides and members of the dietary and housekeeping staff went on strike in 1989. She recently described what happened to her:

> I worked there for 8½ years. A lot of patients were like family to me. I felt lost for awhile. I did not want to start all over somewhere else. You always hear about people going out on strike and people going back. I just never dreamed that it would be over that way. I thought I was going to retire from that place.

This issue is about workers like the women at Diamond Walnut. They gave decades of their lives to that company. They agreed to 30-percent pay cuts in their meager wages to help their company survive when it was facing difficulties. Yet they were thrown out on the street when the company recovered and made record profits—in large part because of their sacrifices.

This issue is about the workers at Burns Packages in Kentucky, 45 percent black, 40 percent female, who were making $4.70 an hour when they decided to form a union. They asked for a 5-percent pay raise to just $4.95 an hour, and grievance and arbitration procedures for resolving complaints about unfair treatment on the jobs. But when they went on strike after 12 months of fruitless negotiations at the bargaining table, they were immediately and permanently replaced.

What is at stake here is the standard of living for working men and women. The country has suffered a 20-year decline in real wages.

Hourly compensation has fallen compared to other major industrial nations. The downward spiral in wages has coincided with a reduction in the percentage of union workers.

According to the Congressional Budget Office, between 1977 and 1989, the after-tax income of the top 1 percent of families rose more than 100 percent—while that of the bottom 20 percent fell nearly 10 percent.

The Census Bureau also recently reported that the percentage of full-time workers whose wages are too low to bring them above the poverty line has increased from 12 percent in 1979 to 18 percent in 1990—a development which the Census Bureau itself described as "astonishing."

In the 1980's, we stood virtually and ominously alone in the industrial world as a nation where the disparity in income between rich and poor grew wider. That is not a healthy trend for any country, and certainly not ours, which is based on the principle of fair opportunity for all.

The facts are disturbing. The ratio in earnings between the top 10 percent of wage earners and the bottom 10 percent is wider in the United States than in any other industrial country. The bottom third of American workers earn less in terms of purchasing power than their counterparts in other countries.

At the same time, Americans are working harder than workers in other industrialized countries. Our workers now labor 200 hours more a year than workers in Europe. While vacation and leisure time have increased over the past 20 years for Europeans, they have declined for most Americans.

Health care for American workers has also become increasingly expensive. Many employees across the country have gone without pay increases in order to obtain good health care, only to see their health benefits cut back and be asked to pay a greater percentage of their health costs. Since 1980, the share of workers under 65 with employer-paid health care has dropped from 63 percent to 56 percent. The percentage of workers covered by employer-provided pension plans is also rapidly decreasing.

While the earning power of workers has been falling, the compensation of top CEO's—which was about 35 times the pay of the average employee in the 1970's—has soared to 120 times the average employee pay in the 1990's.

This legislation offers us a chance to take a stand against all of these disturbing trends. Ending the practice of permanently replacing workers will not solve all the problems of working Americans, but it can help to turn the tide.

Mr. President, in the course of the debate over this bill, a number of the opponents have attempted to argue that this bill is unnecessary because the use of permanent replacements is too infrequent to justify a legislative response. But the tens and thousands of workers around the country who have lost their jobs for exercising the legal right to strike bear witness to the need for action.

Study after study has shown that the use or threat to use this tactic has soared in recent years, and that it is now a routine tactic in collective bargaining negotiations.

In a survey conducted by the Bureau of National Affairs earlier this year, 82 percent of employers said that if their employees went on strike, they would attempt to replace them, or would consider doing so. And of those employers, more than one in four said the replacements would be permanent.

This problem is serious, and it is clearly growing. The results of a recent study by Teresa Anderson-Little of the economics department at Notre Dame University make the point.

By searching electronic data bases, published legal articles and National Labor Relations Board cases between 1935 and 1991, she identified 632 strikes involving the use of permanent replacements. Her study is the largest data base of any studies conducted to date.

Her research confirms that the use of permanent replacements was extremely rare in the first 40 years following passage of the National Labor Relations, and that the increase has been dramatic in recent years.

The study shows that for nearly 40 years—from 1935 through 1973—there was an average of only six strikes a year in which employers hired permanent replacements.

Beginning in 1974 and continuing through 1980, the average number of strikes per year involving permanent replacements climbed steeply, to triple the prior level. From 1981, the year President Reagan permanently replaced the striking PATCO workers, through 1991, the average rose even higher to 24 strikes a year—4 times the original level.

Opponents of this legislation claim that the ability of employers to permanently replace workers helps to promote more cooperative labor-management relations, and prevent disruptions to the economy caused by strikes. But the Anderson-Little study confirms that the use of permanent replacements significantly prolongs strikes and prevents disputes from being settled.

The study shows that while the average duration of strikes over the past half century has ranged from 2½ weeks to 4 weeks, strikes involving permanent replacements have consistently averaged seven times as long.

The Bureau of Labor Statistics stopped keeping comprehensive data on strike duration in 1980's, so the Anderson-Little study covers strikes only through 1979.

However, studies involving limited samplings of strikes during the 1980's and 1990's confirm that the tactic of hiring striker replacements leads to longer strikes.

Using a GAO-compiled data base of strikes in 1985 and 1989, Professors Cynthia Gramm and Jonathan Schnell of the University of Alabama found that permanent replacement strikes lasted three times longer than strikes where the tactic was not used.

A survey of strikes involving members of the Steelworkers Union from 1990 to the present found that where temporary replacements were used, the average strike lasted 121 days, but when the employer hired permanent replacements, the average lengthened to 284 days.

The reason is obvious. Once permanent replacements are hired, the union and the employer are suddenly at odds on the issue of reinstating the striking workers, which dominates the rest of the bargaining. Strikes become more bitter, and more difficult to resolve.

Studies like the Gramm-Schnell study have consistently found that employers now hire permanent replacements in 20 percent of all strikes, and threaten to hire replacements in another 15 percent of strikes.

The notion that we can sit back and let this practice continue because workers are permanently replaced in only one out of five strikes is both heartless and irresponsible. Every single worker who is permanently replaced is one too many.

We know that the livelihoods of real, flesh-and-blood workers are at stake behind these statistics. The Industrial Union Department of the AFL–CIO has provided the Senate with the names of 19,722 strikers who were permanently replaced in strikes that occurred in the 1980's and early 1990's. And those are names from just a limited sample of the strikes occurring during that period.

Opponents of this legislation also argue that replaced strikers have the right to be placed on a preferential hire list considered for future openings if the permanent replacements leave. But the fact is, very few such workers ever return to work with their previous employer. Many never recover, financially or emotionally, from the devastating experience of losing their jobs for exercising what is supposed to be a legally protected right.

The striker replacement bill has solid support from religious groups, civil rights groups, and women's groups. They understand that this issue is not an abstract power struggle between big business and big labor. This is about real people being deprived of the only power they have to counteract the enormous power of employers to exploit workers unfairly and dictate wages and conditions on the job.

Opponents also claim that this bill is only about economic strikers, and that workers who engage in strikes caused or prolonged by unfair labor practices are already adequately protected by law from being permanently replaced. But workers who strike over unfair labor practices are just as vulnerable to being permanently replaced as economic strikers, because the determination of whether a strike is an unfair labor practice will not be made until long after the strike is over.

On the average, it takes more than 2 years for a charge alleging that an employer has committed an unfair labor practice to be decided by the National Labor Relations Board. If employers exercise their extensive appeal rights, even more years will pass before a final decision is reached by the courts. Even if the employer is found to have violated the Act, the back pay for the employee will be reduced by any earnings they have made in the interim. Only at that point is the employee legally entitled to return to his job.

The Workplace Fairness Act will ban the practice of permanent replacements generally, and end the distinction between economic strikes and unfair labor practice strikes. It will also prevent the injustice to unfair labor practice strikers that is caused by the current system.

Workers will no longer have to guess and gamble at the outset of a strike as to whether the strike will or will not be found years later to be an unfair labor practice strike. Workers will know at the beginning that their right to strike is legally protected, and employers will know that they cannot permanently replace the strikers. The need for prolonged and wasteful litigation to determine whether the strike was an economic strike or an unfair labor practice strike will be eliminated.

By passing this legislation and reaffirming this country's commitment to collective bargaining, we are reaffirming our commitment to a fair balance between labor and management. We will be standing up for the original historic intent of the labor laws, which have done so much for the country in the past half century. This legislation will close a loophole that undermines good relations between business and labor, and I urge the Senate to approve it.

Mr. President, I request that the President's letter to Mr. Fites be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, July 12, 1994.

MR. DONALD FITES,
Chairman and Chief Executive Officer,
Caterpillar Inc., Peoria, IL.

DEAR MR. FITES: I am writing today not to take sides in the substance of your current labor dispute, but to express my hope that both sides can together work out these differences in a spirit of cooperation which allows you to get back to the business of creating jobs and quality products.

As you know we had our differences back in 1992 over your threat to permanently replace your workers. Indeed, I even walked the picket lines with your workers. This disagreement in no way detracts from my respect for your company as a market leader and job creator, but the subject of striker replacement is an issue which I felt strongly about then and feel strongly about today. I believe that the threat or implementation of replacing striking workers has a poisonous affect on relationships between workers and employers and that it does great damage to the collective bargaining process. I am currently fighting to get Congress to pass S. 55 in the Senate so that we can ban the tactic of hiring permanent replacements as a means to break a strike. Whatever the outcome of this legislative battle, I strongly believe that this practice must stop, because it deters the type of collective bargaining and cooperative work forces that we need to prosper in the new world economy.

I know that the nature of your current dispute does not raise the permanent replacement issue, but I want to challenge companies like yours that have been split by this issue in the past to move forward to new chapters of cooperation and economic revitalization, and I hope that spirit can be shown by both sides as you work through your current dispute.

Sincerely,

BILL CLINTON.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, I yield 2 minutes from our side to the distinguished Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 2 minutes.

Mr. WELLSTONE. Mr. President, I first of all would like to thank the Senator from Utah for his graciousness.

This is the end of the debate, and it is right before this vote on cloture.

Mr. President, I just would like to introduce as part of the RECORD a very powerful statement, an appeal of conscience to the U. S. Senate from the ecumenical—Jewish, Prostestant, Catholic, major religious organizations—from all over the country. I have heard some of my colleagues say they have not heard that much from people in the country about this. And conscience is exactly the right word.

Mr. President, this piece of legislation is about workplace fairness. I have seen too many people who have been forced out on strike and then permanently replaced.

I have seen too many broken dreams and broken lives and broken families, too many unions busted, too many wages depressed, too many families not able to put bread on the table, too many Americans denied economic justice.

This is a piece of legislation that is not just for unions. It is for working people. It is for regular families.

Mr. President, right now, as matters stand, too many large companies have an atomic bomb that they can use. They can force people out on strike and replace them. This bill restores some fairness, some economic justice. And it is, in the words of the religious community, an issue of conscience.

I hope that my colleagues will at least vote to let us go forward with this debate. Do not block the debate. Do not pour cold water on the hopes and dreams of regular people. Let us debate this and let us pass a piece of legislation that would guarantee justice for working people.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. HATCH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, I yield such time as she may need to the distinguished ranking member of the Labor and Human Resources Committee.

The ACTING PRESIDENT pro tempore. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I wish to offer a few further remarks in conclusion.

I would like to quote from an editorial in yesterday's Washington Post. It has been mentioned a couple of times during the course of this debate, plus earlier editorials. In the last paragraph, it said:

> The goal of labor law is not to determine the outcome of labor disputes but to maintain a system of mutual deterrence in which neither side can act without risk. An obdurate company risks a strike; obdurate strikers risk replacement. Most of the time the balance works and produces rational results. This bill would destroy the balance and ought not to pass.

That is really what those of us who have opposed S. 55 have argued for some time.

And I would just like to say that the Washington Post is not some hidebound Republican paper. It had been suggested the other day, when I quoted from the Kansas City Star in its opposition to S. 55, that it was a hide-bound Republican paper. I would like to note that it opposed me editorially in my election in 1978 and it supported Bill Clinton in his Presidential election in 1992.

So I think that there are those who editorialize who do so, Mr. President, with a desire to see that fairness exists in the workplace. That is not to say that labor or management both do not have a responsibility in making it work.

If S. 55 should pass and if cloture should be invoked, it does not mean that we have not had a successful debate. It simply means that we would turn the clock back on 50 years of labor law. Instead, we need to work harder to make it work better in the future, not change it dramatically.

I yield back any time I may have.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. HATCH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Utah.

The Senator from Utah has 6 minutes remaining and the Senator from Ohio has 30 seconds remaining.

Mr. HATCH. Mr. President, this has been an excellent debate. Both sides have been sincere. Both sides have tried to make their case as well as they could.

This is a perfectly good illustration of why we need the extended educational dialog rule. Some call it the filibuster rule.

The fact is that there are very, very strong feelings on both sides of this issue. We feel very deeply on this side that, if you do not keep a risk on both sides of an issue like this, then one side is going to gain total preeminence over the other.

Now let us just be honest about it. The unions have a right to strike. I have fought for that right and I will continue to do so. It is a great economic power and it is a great economic right. A lot of business people do not like it, but it is right.

But businesses should have a right and even the power to save their businesses. They should not have to be put out of business just because of a recalcitrant union or a vindictive union leader or for any other reason that does not make sense.

The only way they can offset that tremendous economic power to strike is to have a right that they usually do not want to exercise —and history has proven they do not exercise very often—the right to hire permanent striker replacements.

That is what brings these two very formidable adversaries, business and labor, to the table with neither of them having more strength over the other for the most part—unions do have a slight economic advantage, but not very much—forcing both of them to come to the table and having to sit down and negotiate and collectively bargain.

In all honesty, if business must agree to an uneconomic labor agreement, it means resources that are necessary for the business go somewhere else. It means that they are less able to compete. It hurts the business' ability to ultimately stay in business. If the business holds out during a strike and the union has no incentive to come back to compromise, they risk going out of business sooner. Neither of these scenarios is good for workers in the long term or good for our country.

The American people understand this. In a Time-CNN poll, they found that 60 percent of the American people oppose banning permanent replacements. The Gallup Poll—and certainly Gallup has not been known to be probusiness—also found that 60 percent oppose this ban that this bill would allow.

I can only conclude that, once again, the people have made a logical determination about the legislation. They understand implicitly that in labor-management relations, there has to be risks on both sides. You just cannot let one side have it all.

Now, I appreciate that there are strong views on this. I admire my colleagues on the other side and I want to compliment them for the fight that they have waged. The proponents are certainly sincere in doing what they can.

But we vigorously disagree that this bill is the way to help our country, help our economy, or even help American workers. We think it will hurt American workers. We think it will hurt the union movement. We believe it will hurt business. And we believe it will hurt our country as a whole. That is why we are fighting against it in a bipartisan way.

I do not know how anybody could really argue that we should stack the deck one way or the other. And, I have to tell you, most people of businesses that are unionized do not want to have a confrontation and excessive conflict with their unions.

Mr. President, how much time do I have?

The ACTING PRESIDENT pro tempore. The Senator from Utah has 1 minute and 50 seconds remaining. The Senator from Ohio has 30 seconds remaining.

Mr. HATCH. Let me just take another 20 seconds and I will yield the remainder of my time to Senator from Ohio, who has fought long and hard for this, so that he will have a little more than 30 seconds.

Mr. President, I admire my friend from Ohio. I am going to miss him when he leaves at the end of this year. There is no one who fights harder and there is no one, I think, who does a better job for the side that he believes in. I respect him. I just wanted to say that on the floor.

The fact that he is wrong most of the time really may be incidental on this point.

But I just want you to know, Senator METZENBAUM, how much we respect your ability to fight these issues.

I yield the remainder of my time to you.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, first, I want to thank my friend from Utah for his gracious remarks. I indeed appreciate it. He and I have battled over many years, and we remain friends notwithstanding that fact.

It is pretty obvious that today we are not going to prevail. We will have a majority of the Members of the Senate voting for cloture, but we will need 60 and that will not be sufficient.

But let me announce publicly that this is not the end of the issue. We will find an opportunity, hopefully, where those on the other side of the aisle want some particular piece of legislation. The rules of the Senate permit free and open amendment, and so when the opportunity presents itself, we will offer S. 55 as an amendment to some pending piece of legislation if there is a chance to do so.

I remember so well how we passed the bill on cop killer bullets, when we could not get the bill to the floor and finally we had to put it on some agricultural measure in order to get an agreement that we could have an up-or-down vote on it.

We will look for such an opportunity. We have a number of days left before the closing of the session. If that opportunity presents itself, S. 55 will not be a dead issue but it will be alive and well and we will send it over to the House in that manner.

Mr. President, I yield the floor.

Mrs. MURRAY. Mr. President, I am honored today to support the Workplace Fairness Act. I urge all my colleagues to join me by voting for cloture on this landmark legislation.

This bill is important to America. It is one of those rare pieces of legislation that shows that our mass society values the individual. It shows the Government respects the needs of ordinary working people. It shows that Main Street is just as important as Wall Street.

And, Mr. President, this bill is especially important to the most vulnerable and fastest growing segment of our work force—American women.

Over the last decade, women have assumed ever greater economic and family caretaking responsibilities. Everyone in this great country should be unsettled by the fact that women and children are most likely to fall deeper into poverty and homelessness. One of three families headed by a woman lives at or below the poverty line: nearly 70 percent of all working women earned less than $20,000 a year, and 40 percent earned less than $10,000 annually. These workers need the ability to raise their standard of living in order to break the cycle of poverty and welfare dependence which many of them endure.

Passing this legislation is one step in that direction. Perhaps the Women's Legal Defense Fund stated it best:

> America's working women, especially women of color, are disproportionately concentrated in low-waged, high-turnover jobs. These women and their families are especially vulnerable to the growing management practice of permanently replacing workers who exercise their legal right to strike—in other words, firing striking workers. Employers may view women in low-wage jobs as especially easy to replace.

Mr. President, you know as well as I that these workers cannot bargain effectively unless they are assured that they do not risk losing their jobs permanently.

When then-President Ronald Reagan summarily replaced 12,000 striking air traffic controllers, he sent a message to a new generation of industry leaders that it was OK to replace a striking work force.

So, who is next, Mr. President? Nurses, who spend every long night of their shifts mopping the brows of the sick? Machinists, who work a lifetime ensuring America remains competitive? Longshoremen, who toil day in and day out to send the fruits of American labor to every corner of the globe?

It is time to stop treating skilled, loyal workers like outdated, unwanted machinery.

But, Mr. President, you will hear opposing views in this Chamber on this issue.

You will hear that this bill will only increase the likelihood of strikes throughout the country. I could not disagree more. America's workers do not want to strike. They understand the serious implications of a strike. They understand, as I do, the fear being one paycheck away from economic disaster. Most of us have home mortgages, car payments, educational and medical needs for ourselves and our families. America's workers know striking is the option of last resort.

Mr. President, the Workplace Fairness Act is needed to level the playing field. It will allow millions of Americans the right to bargain collectively, to bargain in a fair manner, free from coercion and threats.

The Workplace Fairness Act will begin to restore this right, which seems to have been lost in this rapidly changing world. It will echo a lesson I learned from my parents; it will send a message to America that the little guy is just as important as the big guy.

That is why I urge all my colleagues to join me today in supporting the cloture vote on the workplace fairness bill.

Mr. LEVIN. Mr. President, I support the Workplace Fairness Act, S. 55, which would make it an unfair labor practice under the National Labor Relations Act and the Railway Labor Act to hire permanent replacement workers during an economic strike. This legislation would restore an appropriate balance to the collective bargaining process in which differences between businesses and employees are worked out at the bargaining table. For this reason, I am voting in favor of cloture to end the filibuster blocking consideration of this vital bill in the Senate.

The National Labor Relations Act [NLRA] has been the primary Federal law governing labor relations in the United States for more than five decades. The act emphasizes collective bargaining as the best method for resolving labor-management disputes, and promotes an atmosphere of equal power between labor and management in dispute resolution.

In recent years, however, the delicate balance has been threatened by the regular use of permanent replacement workers. Although management has been free under the NLRA to hire permanent replacements during an economic strike since 1938, this practice was rarely used by employers.

In the early 1980's, the scale began to tilt. The shift began with the firing of 11,500 striking air traffic controllers by Ronald Reagan in 1981. Similarly disputes involving International Paper, Eastern Airlines, and Greyhound Lines among others tragically ended in the use of permanent replacements.

A report filed in 1991 by the General Accounting Office [GAO] found that employers threatened to hire permanent replacements in one-third of the strikes during the 1980's. Permanent replacements actually were hired in about 17 percent of those strikes. The report also found that most of the employers and workers it interviewed believed that replacement workers were hired more often in the 1980's than in the preceding decade. Further, the Bureau of National Affairs has reported that 82 percent of employers surveyed said they would hire replacement workers or consider doing so if their employees went on strike. One-fourth of those surveyed claimed that these replacements would be permanent.

The Workplace Fairness Act will help prevent the negative economic effects of prolonged disputes. A study conducted by Wayne State University in Detroit, MI indicates that in the long run, the profitability of companies that adopt confrontational tactics like the hiring of permanent replacement workers is less than that of companies that adopt a cooperative approach to labor relations.

Some people say that should S. 55 be passed by Congress and signed into law, our Nation would witness a dramatic increase in strike-induced work stoppages. This is simply not true. Economic strikes occur in less than 1 percent of all collective bargaining negotiations. Under S. 55, workers engaging in an economic strike would still face loss of wages, loss of health benefits, and loss of pension benefits. Putting family finances in such jeopardy in order to engage in an economic strike is not a situation that one would take lightly or into which anyone would rush. Losing these vital benefits for any period of time is strong incentive for any worker to stay at the bargaining table.

We need the Workplace Fairness Act to ensure that both sides come to the bargaining table on equal footing. The ability of employers to hire permanent replacements puts striking workers at severe disadvantage at the bargaining table. It increases the likelihood that they will be presented with only two options: accept the offer, or lose your job. These options are corrosive to the cooperative spirit between business and labor that is essential if the collective bargaining process is to endure.

Mr. MURKOWSKI. Mr. President, I rise to speak in opposition to S. 55, and to urge my colleagues to oppose the motion to invoke cloture on this legislation.

This legislation will profoundly alter the structure of collective bargaining in the United States to the detriment of both employers and employees. In the long-term, S. 55 will lead to a more rapid exodus of American companies from production activities in the United States and a reluctance by many companies to contract with union companies.

For more than half a century, the bedrock principle that has governed labor-management negotiations in the United States has been balance. Our Federal labor laws guarantee that an employer's demands at the bargaining table are checked by the knowledge that the employees on the other side of the table have the right to withdraw their labor from the company by engaging in a strike. Employers know that a strike of any duration can cause loss of profit and market share and could ultimately result in the company going out of business.

Employee demands at the bargaining table are similarly checked by the knowledge that a strike may be met by the hiring of both temporary and/or permanent replacement workers. Thus, as our labor law is currently crafted, neither side in a bargaining dispute has sufficient leverage to guarantee the economic result it seeks to negotiate.

What S. 55 would do is to radically shift the balance of power at the bargaining table by insulating striking workers from the risks that traditionally have acted as a check on the voluntary decision to strike over economic issues and would free organized labor to make economic demands that over the long-term could destroy the economic competitiveness of their employer.

Mr. President, it is important to emphasize that this legislation does not change the current law prohibiting employers from permanently replacing workers who strike in response to unfair labor practices. These can include the failure of an employer to bargain in good faith or discrimination against workers who engage in protected union activity. When an employer engages in such unfair practices, workers cannot be permanently replaced. If unfairly let go, they are entitled to their former positions and full back pay, and benefits.

According to a 1991 General Accounting Office [GAO] report, permanent replacements are used in less than one in five strikes and barely 3 percent of striking workers are replaced with permanent replacements. The reason that employers are reluctant to replace striking employees relates directly to the fact that replacement workers do not measure up in productivity with the workers they have replaced.

I believe that if S. 55 becomes law, it will begin to undermine organized labor as we know it today in America. This bill will not ensure worker security; it will make it far more attractive for companies to close unionized facilities and move to other parts of the country or abroad.

To stay in business today, suppliers must meet tight production and delivery timetables to satisfy daily customer demands. Failure of a supplier to meet a delivery schedule for a single component can mean the shut-down of a complete assembly line with resulting layoffs at the factory, the wholesale warehouse, and transporters. Suppliers simply cannot survive a strike of even a few days, let alone a month. The only choice that many of these companies have, is to consider hiring and training permanent replacements in order to stay in business.

If S. 55 becomes law, it is highly likely that companies will choose to do business only with nonunion companies. That will occur not only in the case of lean-production manufacturing companies but also in the construction industry where extended strike activity can shut down an entire project, affecting a multitude of contractors, subcontractors, and local communities. These costs would be exacerbated in areas such as Alaska where the construction season is very short. As a result, contractors will shun employers with union labor for fear that a project will shut down instantly because of a strike.

Mr. President, S. 55 will not provide organized labor the job security protections that its leadership has promised. This legislation should be rejected.

Mr. CHAFEE. Mr. President, I oppose legislation banning the permanent replacement of unionized employees during economic strikes, the so-called striker replacement bill. S. 55 is unnecessary, would reduce U.S. competitiveness, disrupt labor-management relations, and sacrifice more jobs than it would save. The bill is a job-killer—plain and simple.

In my own State of Rhode Island, over the past 18 months, we have had relatively few labor disputes. Of the affected workers, only a small percentage appear to have been permanently replaced. Importantly though, these separated workers have preference under the law to any vacancies which arise with their former employers. As such, if not immediately rehired, at some point in the future, they may be rehired.

For this reason, the concept of a permanent replacement is something of a misnomer. Indeed, a 1991 General Accounting Office study found that only 4 percent of all striking workers permanently lose their jobs. In other words, 96 percent ultimately return to their previous places of employment.

S. 55 would have an extremely adverse effect on the collective bargaining process, overturning more than 50 years of well-settled labor law. Law, I might add, which has produced relative workplace harmony, and an exemplary standard of living—by most measures—for unionized workers since it was first enacted in 1935.

In disputes over wages and benefits—as distinct from those involving unfair labor practices—the National Labor Relations Act, previously the Wagner Act, strives for a balance of shared risk between employees and employers. Employees have the right to strike, but employers have the right to continue business operations, with replacements, if necessary. This concept was upheld by the Supreme Court in 1938 in Mackay Radio, and is a well-recognized principle of modern labor relations policy.

This constructive dynamic of shared risk forces both sides to resolve their differences through good faith negotiation, thereby preserving jobs and productivity. Indeed, we see a growing recognition that the labor-management relationship requires increased cooperation. The new global economy dictates that to compete successfully—for jobs and profit—an enlightened partnership must always be the goal.

This certainly does not mean that all are pure of heart in negotiating disputes. Any one of us may cite examples of labor law abuses on the part of employers and employees. While stronger enforcement makes sense to ensure any such abuses are minimized, in my judgment S. 55 is not the appropriate remedy.

S. 55 would destroy this dynamic of shared risk by guaranteeing the jobs of economic strikers, making it nearly impossible for an employer to secure replacement help in the event of a work stoppage. If striker replacement legislation were to become law, any replacements hired during a strike would be relieved of their duties the moment a settlement was reached. In other words, S. 55 makes the employee's decision to strike nearly risk-free.

We must all recognize, under current law, the task of securing replacement help during a labor dispute is no small undertaking. This is particularly true for smaller firms with less capital, or for those businesses which cannot afford any disruption in operations—such as hospitals or food processors. First, the employer must persuade potential replacements to cross a picket line, an enormous psychological barrier, to say nothing of the potential for violence.

Second, the employer may not coax replacements with the offer of better terms than he or she has extended to the strikers.

Third, replacements must be trained, a potential costly and time-consuming exercise—particularly in occupations demanding highly skilled personnel.

To compound the already difficult burden of sustaining business operations during a labor dispute, the banning of permanent replacements would leave employers with a Hobson's choice—either accede to union demands, or go out of business. Faced with this choice, most employers would prefer to meet union demands than to endure a shutdown, even if it meant making imprudent economic concessions.

Over time, this kind of one-sided bargaining would leave domestic employers vulnerable to the lower cost goods and service of foreign competitors. With their economic vitality sapped, these vulnerable firms would ultimately lose market share and collapse, displacing an entire work force. In a State like Rhode Island, which is just beginning to feel the fruits of economic recovery, S. 55 would be an unmitigated disaster.

With the risk of job loss largely removed from the equation for striking workers, S. 55 would encourage economically motivated labor strife. Moreover, it would reduce the labor-management cooperation needed to compete and succeed in today's global marketplace.

Mr. President, because I believe the net effect of striker replacement legislation would be to place the economic viability and employment prospects of thousands of firms and their employees needlessly at-risk, I must oppose S. 55.

Mr. BRADLEY. Mr. President, global competition, rapid technology change, and a frantic decade of corporate greed have put unbearable stress on the American worker. Worst of all, at a time when the compact of trust between labor and management most needed strengthening, that compact instead became weaker. Nothing better symbolizes that collapse of trust in the workplace than the trend toward using permanent replacement workers to break strikes, and, with them, organized labor unions.

It is about time that we realize that we are all in this together. If it is worker against management, rich against poor, pitted against each other in vicious disputes like those that laid waste to Eastern Airlines and Greyhound, we will never be able to build a society that lifts everyone to the higher ground. For most of our history as an industrialized nation with a strong labor to movement, we have understood this. Although companies had, in theory, the right to hire permanent replacement for strikers, they rarely did so, because they treated their work force as an investment. Workers were not interchangeable parts but partners in the quest for productivity and partners in a community.

But in the last 15 years or so, things changed. A few managements, often new owners with no connection to their community, began to see labor disputes as an opportunity to increase cash flow by breaking the union and replacing the workers most active in negotiating for better working conditions. In almost 1 in 5 strikes, some workers were replaced, and 1 in 3 disputes were settled under the threat of permanent replacement. The ultimate measure of this trend is the average hourly wage in the private sector, which dropped by more than $1 in the 1980's. A worker does not have to be permanently replaced for his or her family to be hurt by the tilting of the balance of power away from organization labor.

While some workers lost jobs and others lost wages, no one has gained from the trend toward hiring permanent replacements. Strikes were no shorter. The companies that hired replacements were not healthier. And our economy did not gain an advantage over the other industrialized countries in the world, all but two of which ban permanent replacements.

The case for this bill was eloquently stated by Bishop Frank Rodimer of Paterson, NJ, speaking for the U.S. Catholic Conference:

> The right to strike without fear of reprisal is a fundamental right in a democratic society. The continued weakening of unions is a serious threat to our social fabric. We have to decide whether we will be a country where workers' rights are dependent on the good will of employers, or whether we will be a country where the dignity of work and the right of workers are protected by the law of the land.

In a competitive world, the United States will not have the luxury of long brutal strikes or of management tactics that displace skilled, committed, experienced, organized workers. We will need a new compact in the American work force, an honest effort to rebuild the trust between management and labor. As a first step toward trust we must take the most brutal and least productive tactic, the hiring or threat of hiring permanent replacement workers, off the table for good.

I understand how controversial this legislation is. I know that employers worry that it will lead to more strikes, but the economic decision to strike or not to strike remains the same for workers—a strike is a grueling, painful, scary, costly effort for workers and their families. It is never anything but a last resort. Our objective is to restore the balance between management and labor, not tilt it in another direction. America's workers have already waited too long for a fair balance to be restored.

Mr. KERREY. Mr. President, I rise in support of the motion to proceed to a consideration of S. 55, the Workplace Fairness Act, also known as the striker replacement bill.

As with too many issues today this one has been subjected to the polarizing rhetoric of opponents and supporters. Some opponents claim the legislation threatens the rights of State to enact legislation prohibiting provisions in contracts that make joining a union a condition of continued employment. Some supporters have likewise claimed that collective bargaining is at risk if this legislation does not pass.

Both of these extremes, bolstered in some cases by independent advertising campaigns, have made it difficult to engage in a calm, rational look at the state of current labor law. Unfortunately, this leads to a confrontation which is not needed at a time when U.S. manufacturing is staging such an impressive comeback against foreign competitors. In part the remarkable recent gains in productivity are a direct consequence of improved working relations between management and labor.

To be clear, Mr. President, neither the problem nor the legislation is an extreme as has been described. It is also fair to say that this legislation does more than its drafters claim and less than its detractors allege.

It does more than its drafters claim because it reaches beyond establishing a statutory right to return to work. It has a provision, which must be changed before I would vote for the bill, which may provide organizing leverage, something which is neither needed nor welcome.

It also does less than the claims of its detractors because it merely restores a right which existed in a de facto way prior to the 1980's. And, because a minority of firms engage in the practice of threatening permanent replacement, this legislation will by no means tilt the balance too far in the direction of labor.

This bill would simply amend the nearly 60-year-old National Labor Relations Act. Known as the Wagner Act, this law is the legal framework which guides labor-management relationships in the United States. The purpose of the Wagner Act is to guarantee that free and equal collective bargaining between labor and management determine conditions of employment. Under this act workers have the right to organize to select their bargaining agent and then to bargain collectively with their employers.

The Wagner Act created a Federal board to oversee this process. The National Labor Relations Board [NLRB], appointed by the President, has a range of statutory duties. The NLRB conducts elections to determine bargaining agents. It investigates charges of unfair labor practices. It issues cease-and-desist orders if employers or employees engage in any of the unfair labor practices listed in the Wagner Act.

The original act has been the subject of constitutional challenges and legislative amendments. The most notable and relevant of these were two Supreme Court decisions in 1938 and 1989, and congressional action taken in 1947.

The 1938 Supreme Court decision, Mackay Radio and Telegraph versus the NLRB, ruled that if a strike is deemed to be for unfair labor practices, the striking workers are entitled to full reinstatement upon their offer to return to work. If, however, the strike is for economic reasons, that is, related to terms and conditions of employment, the employer must only rehire striking workers when or if vacancies become available.

In spite of this decision employers refrained for decades from hiring permanent replacements. This restraint produced a situation in which workers did not need to seek a statutory change, because the companies presumed a right to exist.

However, in the late 1970's and 1980's things began to change. For a variety of reasons the practice of replacing workers during strikes which had an economic cause exploded. Today, employers use or threaten to use permanent replacements in one out of every three strikes. For workers who have lost their jobs during a strike the distinction between "permanently replace," which is allowed, and "discharging employees for engaging in a lawful, strike," which is not allowed, is meaningless.

Still, the arguments for and against this legislation are entirely too strident. To illustrate how the need for this legislation is often over stated, the fact that one-third of employers threaten permanent replacement means that for two out of three strikes no such threat occurs. Likewise, those who claim this is a dangerous, costly and anticompetitive shift in labor law do not point out that none of our principal economic competitors—Japan, Germany, and France—allow permanent replacements.

The 1989 Supreme Court decision, TWA versus Independent Federation of Flight Attendants, added fuel to the fire for a change in the law. This decision extended the Mackay ruling further. The Court held that those employees who cross the picket line to return to work must not be discharged to make room for strikers who have more seniority than those crossover employees and who wish to return to work when the strike is settled.

The relevant congressional action in 1947 is the Taft-Hartley Act. The objective of this act was to give management more power in labor-management relations. At the time, the balance of power had tilted too far in favor of organized labor under the NLRB.

Taft-Hartley listed a number of unfair labor practices by unions, which the NLRB could investigate and prohibit if necessary. The most important was any provision in a labor-management contract that made joining a union a condition of employment. After Taft-Hartley became law, many States—including Nebraska—passed right-to-work laws stating that an employee could not be required to join a union as a condition of employment.

The Workplace Fairness Act does not repeal the prohibitions spelled out in Taft-Hartley. Representations to the contrary are little more than attention getting antics.

Instead, the Workplace Fairness Act continues the balanced effort of all Federal labor legislation since the 1930's. That is, it protects the right of workers to organize and bargain collectively while being protected from threats to eliminate their jobs if they engage in a lawful strike.

Mr. President, this is a time when America needs work places where a spirit of cooperation and collaboration exist. We need policies which will reduce the adversarial climate between workers and management. The Workplace Fairness Act—if amended in the manner I described earlier—does exactly that, and deserves to become law.

CLOTURE MOTION

The PRESIDING OFFICER (Mrs. MURRAY). The hour of 10 o'clock a.m. having arrived, under the previous order the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to Calendar No. 162, S. 55, a bill to amend the National Labor Relations Act to prevent discrimination based on participation in labor disputes.

Edward Kennedy, John Glenn, Barbara Boxer, Carl Levin, Russell D. Feingold, Ben Nighthorse Campbell, Carol Moseley-Braun, Jay Rockefeller, Pat Leahy, Don Riegle, Paul Simon, Daniel K. Akaka, Bob Graham, Howard Metzenbaum, Paul Wellstone, and C. Pell.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to the consideration of S. 55, the Workplace Fairness Act, shall be brought to a close? The yeas and nays are required.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Georgia [Mr. COVERDELL] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 53, nays 46, as follows:

[Rollcall Vote No. 189 Leg.]

YEAS—53

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Byrd
Campbell
Conrad
D'Amato
Daschle
DeConcini
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatfield
Heflin
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Pell
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Specter
Wellstone
Wofford

NAYS—46

Bennett
Bond
Boren
Brown
Bumpers
Burns
Chafee
Coats
Cochran
Cohen
Craig
Danforth
Dole
Domenici
Durenberger
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Helms
Hollings
Hutchison
Jeffords
Kassebaum
Kempthorne
Lott
Lugar
Mack
Mathews
McCain
McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Pryor
Roth
Simpson
Smith
Stevens
Thurmond
Wallop
Warner

NOT VOTING—1

Coverdell

The PRESIDING OFFICER. On the vote on the motion to invoke cloture to proceed to consider S. 55, the yeas are 53, the nays are 46. The three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. HATCH. Madam President, I move to reconsider the vote.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, if I could just say a few words, and they will be very few, we have had a lot of debate, 3 days, on this issue and I want to express a word of appreciation for the leadership of our distinguished Labor Committee ranking member, Senator KASSEBAUM, and her staff, Ted Verheggen and Steve Sola.

Also, there have been citizens, both workers and business people, all over America who have taken a sincere interest in this bill. We are not talking about big time lobbyists. We are speaking of small business people in restaurants, warehousing, convenience stores, manufacturing, and every other kind of endeavor, and every kind of employee and employer.

Madam President, the opposition to this legislation was a grassroots initiative. It was grassroots propelled.

Our opposition is always tough, and I wish to congratulate them, especially Senators METZENBAUM and KENNEDY, for their hard-fought battle. Their staffs, while fighting hard, were always cordial and professional, and for that I would like to thank Sarah Fox, Beth Slavet, and Greg Watchman, three great staff people here on Capitol Hill.

And again, I wish to pay tribute to my distinguished friend from Ohio. No one fights harder for his beliefs than HOWARD METZENBAUM. I have been on his side and on the opposite side many times over the last 18 years. We came to the Senate together. There are very few people I respect any more than I do him. I do not agree with him very often, but I do respect him and I want him to know that, and I would feel badly if he did not.

Finally, I want to thank Sharon Prost, who, in my opinion, is the best labor lawyer in the Senate. She has been of inestimable help to this side on this matter, always fair, always decent, and a terrific human being. She knows the laws, but she also knows the burdens that American workers carry. I appreciate the efforts that she has given. And, of course, Kris Iverson as well, my assistant legislative director, who always does a good job.

I wish to thank all of our colleagues on both sides of the aisle. I appreciate their contributions in this particular debate.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Madam President, once again, I appreciate the kind comments of the Senator from Utah. Indeed, he and I have battled together in the Chamber on any number of occasions, and so often he is wrong. Too often he wins. But I respect the fact that he does his job and does it well. Indeed, he is very much helped by Sharon Prost of his staff, and there are other staffers who have been extremely helpful in our deliberations: Ted Verheggen of Senator KASSEBAUM's staff, Steve Sola; Sarah Fox and Beth Slavet of Senator KENNEDY's staff; Senator WELLSTONE's staff, Colin McGinnis; and last but certainly not least, Greg Watchman of my own staff who has given so much of his time and effort here on the floor.

Madam President, let me conclude my remarks by saying the majority of the Members of this body want to pass S. 55. They indicated that yesterday. They indicated that today. I hope to find an opportunity before this session concludes to offer S. 55 as an amendment to a pending piece of legislation which those on other side, who have been successful in not bringing this matter to a vote, very much want to bring to the floor and to pass.

We have used the procedure in the past. Senate rules are very unusual rules. Senate rules make it possible to filibuster a measure in this manner so that it could not come to the vote. But the Senate rules also offer free and open opportunity to offer amendments to any piece of legislation, whether or not it is relevant to that legislation, unless there is some specific order precluding that.

I hope to find such an opportunity and, if so, S. 55 may be alive and well before we conclude this session.

At this time, it is an uphill battle, but we will look for that opportunity.

Madam President, I yield the floor.

Mr. HARKIN. Madam President, let me thank the Senator from Ohio for his courageous leadership, not just on this bill but his courageous leadership on issues affecting the working people of this country.

As I have said before, the bill that we cannot seem to get up for a vote, S. 55, is not a prolabor bill. It is a procompetitive bill. It is a pro-American bill. And, yes, it is a pro-working-family bill.

The Senator from Ohio has tirelessly worked for all of his years in the Senate on behalf of working people in this country. There is not a better friend that working people, union and nonunion, have in this entire country than HOWARD METZENBAUM.

I had hoped we could get over this filibuster. As Senator METZENBAUM said, we have the votes to pass it, no doubt about it. We have the votes to pass this bill. The House passed it. The House of Representatives passed it by a considerable margin. And the votes are here to pass it. I had hoped we would pass this as a fitting tribute to his many years of service in the Senate and his service to the working people of this country.

This is a dark day, indeed, Madam President, for the American worker and, I believe, for management. I think that what is happening in this country today is not just bad for our workers; it is bad for our management; it is bad for business in this country, because what is happening is we are eroding the middle class in America.

In the debate on this bill a couple days ago, I quoted from the Business Week magazine. Business Week is not a journal of the labor unions. In the May 23 issue, 1994, there was an article "Why America Needs Unions." Some disturbing facts were brought out in the Business Week magazine—I thought I might just repeat them here today—about what is happening in this country with the middle class.

Business Week pointed out: "But it's clear who prospered in the 1980's. The rent dividends and interest that owners of capital earned jumped 65 percent. Wages and salaries including white collar ones grew only 23 percent." Working people falling behind. And furthermore, what is happening in the labor force? Business Week went on and said: "For instance, employers illegally fired 1 of every 36 union supporters during organizing drives in the late 1980's"—1 out of every 36 were fired—"versus 1 out of 209 in the 1960's."

Unlawful firings occurred in one-third of all representation elections in the late eighties versus only 8 percent in the late sixties. Even more significantly than the numbers is the perception of risk among workers who think they will be fired in an organizing campaign, according to a prominent Harvard law professor.

Again, what is happening, Madam President, is that this so-called right to strike in this country is a hollow right. There is no real right to strike because, if you strike, you are permanently replaced. And, if there is no right to strike, then there is no right to bargain collectively. And, if there is no right to bargain collectively, then there is no level playing field. There is not a partnership between management and labor.

So what this vote signifies is that we are going to continue down that road of more confrontation between labor and management, more erosion of wages, and more erosion of the middle class in this country. That is really what this bill is about. It was a middle-class bill to support the middle class.

I am just sorry that we could not get over the filibuster to get to the merits of the bill itself. I am heartened by what the Senator from Ohio said, that he is not giving up. Well, I have never known HOWARD METZENBAUM to give up. He is a true fighter. I am heartened by what he said—that he will try to find some other bill to attach this to on which we can get a true vote sometime later this year.

So I take the floor not to extend the debate any further. I have had my say on this bill prior to the vote. I know the Senate wants to get on to other business. But I take the floor to compliment and to thank my good friend, Senator HOWARD METZENBAUM, for his leadership; to thank Senator KENNEDY for his leadership on this issue; and to again say that we have not given up. This is not the end of this. I will do whatever I can to support Senator METZENBAUM in whatever efforts he may come up with later this year to attach this bill.

I also take the floor at this time, Madam President, to urge the President of the United States, this administration, to get more forcefully behind this legislation, to do just a little bit of what it did to get NAFTA passed—I happened to have voted for NAFTA—to just expend a little more energy and a little more effort to get this striker replacement bill through, because it is in the best interests of this country.

Lastly, Madam President, I never told this story on the Senate floor before. I mentioned it in the caucus the other day. But I just want to make it clear why I am not giving up on this issue, and why I will never give up on this issue. And it is very personal. Unless you have been through one of these strikes where workers have been replaced and have seen what it has done to their families, you cannot really understand what is happening in America today. You can read about it. You can read all the statistics and figures, whether it is in Business Week, or whatever. But unless you really have lived through it, you cannot really understand it. It happened in my own family.

My brother, Frank, was a union man. He worked for 23 years for a company in Des Moines, IA; 23 years of the best years of his life. The first 10 years he worked there, he did not miss 1 day of work, and he was not late once. In 23 years, he only missed 5 days of work because of blizzards in Iowa. He could not make it to work. He got all kinds of awards for productivity.

In those 23 years, that plant never had one strike and never had one work stoppage. They would sit down and negotiate the contract. This was the United Auto Workers. They would sign it. They would move on. They had a well-motivated, well-trained work force. The company made money.

Finally, the owner of the company decided to sell the company and retire. He sold the company to a group of investors. They took over this company, and one of the new owners openly bragged that, "If you want to see how to get rid of a union, come to Delavan, and we will show you how."

The contract time came up. Of course, what did management do? They had a legal right. They put forward conditions under which labor could not agree. They held to that position, which is their legal right to do. So the contract was not signed, and the union went out on strike for the first time in over 23 years; the first time ever, as a matter of fact, that this plant had ever been struck since it was organized back in the 1940's. They went out on strike.

The management immediately brought in the replacement workers, and kept them there for a year. It was a long, bitter strike. After 1 year, under labor law, they had a decertification vote. Who votes to decertify the union? The workers who are there, the replacement workers. They voted to decertify the union because they did not want to lose their jobs. The union was decertified.

My brother, after 23 years, was out; 54 years old, and out, after working for this company for 23 years. As I said, in 23 years, he only missed 5 days of work. He gave them the best years of his life. And he was not alone. There were a lot of workers like that in this plant. A lot of people there worked 20 to 25 years. He was one of the more senior at the time. But obviously, the new owners knew that they could get rid of these people and hire younger people, and pay them less; and, thus, as Business Week pointed out, increase their profits and dividends to their shareholders. I understand that. But it was at the expense of all these families.

As I mentioned, this was a manufacturing facility of machine tools. Out in back of the Delavan building is where they had their trash piles, their tailings, and things like that.

I will never forget what my brother said to me. He said, "You know, I feel like I am just a piece of machinery. They used me up. They depreciated me down, and they threw me out the back door on that trash pile."

I did not mention one other thing. My brother is disabled. Where does a 54-year-old deaf man find a job? It is pretty tough. After giving the best years of his life, they just threw him out. As I said, he was not alone. I knew a lot of the other families in the same situation, trying to start over a new life again in their midfifties.

Not only did it destroy them—and I do not think my brother today has gotten over it, and neither have a lot of the other workers and their families. Not only did it destroy them, but it sent shock waves throughout the entire community. It put a damper on any kind of union organizing activity. It sent a strong signal that you cannot stick up for your rights. You cannot bargain collectively because, if you go out on strike, you are done.

So it demoralized the work force, and I believe that this huge increase that we have had in replacement workers in this country is demoralizing our work force. It is cutting down on productivity. It is destroying worker motivation. I saw it firsthand.

When I stand here after this vote and say that I am not giving up, I just want my fellow Senators to understand why I am not giving up on this issue. I will fight for this until the day I die, because I believe it is that important to this country. They do not hire permanent replacement strikers in Canada; they do not do it in Japan; and they do not do it in Europe. Only in this country.

So I think it is time that again we rededicate ourselves to this. I am not giving up. I know the Senator from Ohio is not giving up, and I will be by his side in this battle and do everything I can to support him. We have to find any vehicle we can to attach this to this year. It is too important to sweep under the rug. It is too important for the working families of America.

So, Madam President, I just wanted to take these few minutes after this vote, I guess, maybe to vent my frustration a little bit, but to also let Senators know why this Senator is not giving up the battle for justice for the working people of this country.

I yield the floor.

Mr. CAMPBELL. I ask unanimous consent to speak as in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Colorado is recognized.

Mr. CAMPBELL. I thank the Chair.

(The remarks of Mr. CAMPBELL pertaining to the submission of a resolution are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. EXON. Madam President, I ask unanimous consent that I be able to proceed as in morning business for about 15 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

NATIONAL LABOR RELATIONS ACT AND RAILWAY LABOR ACT AMENDMENTS

Mr. EXON. Madam President, I rise today to discuss the striker replacement issue. It has been laid to rest at least for this year. But we have to look to the future. We have to continue to discuss what is right and what is wrong, what can be accomplished and what cannot be accomplished. I simply say that this is a time for reflection. This is a time for all of us on the floor of the Senate on both sides of the issue to realize and recognize that this issue is not going to go away.

I salute the Senator from Ohio and the Senator from Iowa and others who have taken a leading role in this issue. I hope that the remarks that I am making might have a receptive ear in the Labor Committee, so that they might begin to work toward a compromise proposal that can address what I feel are the legitimate issues that have been advanced by the majority of the U.S. Senate and a majority in the House of Representatives—that something must be done on this issue other than sitting back and saying no, no, a thousand times no, no changes whatsoever.

I strongly agree with the bill's fundamental premise, and I continue to support the concept. But today I would like, in a few moments, to try to place some of this in perspective in accomplishing something in the future.

It pains me to see and hear much of the same old invective on this issue. The question on the use of permanent replacement workers has been a lightning rod, attracting virulent opposition from those spouting the worst-case scenarios, which seldom come to pass. The issue has, in some instances, been twisted into a type of referendum on the labor movement. The issue is not whether we like organized labor or not; the issue is whether we believe in the fundamental fairness of the long-standing structure of Federal labor law which allocates the rights and responsibilities of labor and management in this country.

I think it is true, if we look back in history, Madam President, to see that, as is frequently the case, the pendulum swings way far to the right and way far to the left. I would hope that with the attitudes of this Senator from Nebraska, and others, we can bring that pendulum swinging in the middle ground rather than far to the right or left.

Throughout my years, I have had experiences on both sides of the labor-management line. That is why I believe that the best thing that the Federal Government can do is to construct a fair system of labor and management and then to step out of the way. That is why I also believe that it is time to do some essential maintenance to that structure and repair one of the pillars that has rotted, I suggest, from neglect. Even though both labor and management have rights and responsibilities under the Federal law, labor's right to strike has been weakened and is no longer structurally sound. Many think that is exactly the way it should be. I suggest that the advancements in this country over the years, our standard of living, the world position that we have as the only remaining superpower, the good life that we all enjoy, is a combination of the efforts of management, business, and the capital that they put into the free enterprise system, along with the skills of the laboring people of the United States of America.

It is true, then, that both labor and management have rights and responsibilities. The Federal law previously has tried to dictate that. Labor's right to strike has been weakened beyond any reasonable interpretation of that right. There are some, however, who care little about whether that pillar of the right to strike is sound, because they would rather see the entire structure collapse. I reject that mindset, and I reject those destructive tactics and motives.

Madam President, the use or threat of use of permanent replacements is a massive rock that looms over the bargaining table, threatening to crush negotiations and to scatter support for labor. Tell me what a worker is supposed to do when an employer presents no feasible offer, pushes a union to the brink, and then places ads for permanent replacement workers, sometimes even before the strike takes place? How will that worker vote on a strike vote when the employer refuses a union's offer? Meager strike pay will soon be depleted, the family is relying on a single health plan, the worker will be immediately replaced, or possibly immediately replaced, if he or she does indeed go out on strike, and employers can dangle bonuses to entice strikers to leave the picket line? Is it any wonder that the business community, not all of it but parts of it, has worked so feverishly to bottle up and destroy this bill and maintain the upper hand that they have now that they are enjoying?

I have heard many arguments against this bill. Nonunion businesses have said, even though the bill does not apply to them, that any strike along the chain of distribution would kill the entire chain. Specialized businesses have said that they could not recruit skilled temporary workers, even though that difficulty often is not reflected in their efforts to retain their skilled union workers. Other businesses speak about the sense of obligation that they feel to their workers, not to the strikers, but to the newly-found replacements. Some companies even seem to be seeking a Federal guarantee that they will never be struck under any circumstances.

Madam President, I do not think there is any question but what cases can be cited, and rightfully so, of the abuse of the strike by some unions. That is not to say that just because of that, though, we should, in effect, eliminate the right to strike which has long been recognized as an important segment and part of the collective bargaining process.

Madam President, the House has passed a bill. The Senate has the votes, obviously, to pass the bill. The Senate just does not have the votes to bring the bill to the floor to a vote.

Had we been successful in ending the filibuster it was this Senator's intention to offer an amendment that I thought might have brought all the warring parties together so that we could have gotten 50 votes to pass some kind of a revised, moderated bill.

Madam President, I have always tried to bring a little pragmatism from the plains of Nebraska into my work in the Senate. Even though both sides have been firmly entrenched on this issue, I have always felt that there is some middle ground and that it was certainly possible to construct a workable solution. I put forward an idea over the last several months that I believe could have broken the impasse and deflated the filibuster.

I do not believe, Madam President, that unions should have a free hand to break a business by striking forever. That makes no sense for business or labor. It is time for reason and a workable compromise.

I have called for a modification to the bill which would have created a short-term ban on permanent replacements, say 60 days, or something in that area. After that time permanent replacements could be phased-in over several months until an employer could have a work force made up entirely of permanent replacements, say, possibly in a year or so.

I believe the phase-in would be less disruptive than an all-or-nothing deadline that has been sought by both management and labor today. I believe also that it retains the fundamental premise of the bill, curtailing the big hatchet of permanent replacement, while retaining all the other means by which an employer can respond to a strike, including even good faith bargaining.

My approach also provides an incentive for both parties to get back to the bargaining table. An employer has an immediate incentive to bargain. Unions, however, know that with each passing day their position is being undermined by more permanent replacements and that the clock continues to run.

In closing, Madam President, just let me say that even though I feel that this gradual phase-in approach may have provided a solution, I regret to say that the idea did not catch on because the two sides were involved in trench warfare, neither really seeking a workable compromise, both wanting to have the vote count, to see who voted how, on an issue for whatever purpose that might later be used.

The current state of labor law in this country is decidedly in favor of management. That was my earlier reference to the pendulum swinging back and forth. I think at one time the laws of the United States of America swung too far to the labor side. Obviously, that is not the case today as a result of the recent votes that we had on this issue yesterday and again this morning.

I do not fault labor nor do I fault management for fighting to keep their advantage. That is understandable. We in the Congress of the United States, though, should look at ourselves as more of a referee to try and work out something constructive rather than just choosing sides between labor and management.

I look forward to the day when the business community will tire of its efforts to break the back of labor and direct its resources into cooperative efforts with labor. Our business community has more important things to do, like staying competitive in a global economy, than being preoccupied with excoriating labor.

Madam President, likewise I say to the labor movement in the United States of America that they likewise have a responsibility, and I do not place all of the blame for this impasse on management. I say that to those in labor and I say that to those in management, with hope that they could come to recognize that the long-term interest of the United States of America, their businesses and their unions, must come to a place where we work together in cooperation, not one continuing to try to outdo and get an upperhand on the other.

Madam President, I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Under the previous order the motion to proceed to S. 55 is withdrawn.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

The PRESIDING OFFICER. The Senate will now resume consideration of H.R. 4426, the Foreign Operations appropriations bill, which the clerk will report.

The bill clerk read as follows:

> A bill (H.R. 4426) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995.

The Senate resumed the consideration of the bill.

FIRST EXCEPTED COMMITTEE AMENDMENT, PAGE 2

The PRESIDING OFFICER. The question pending before the Senate is the first excepted committee amendment on page 2.

The Senator from Vermont.

Mr. LEAHY. Madam President, would the Chair restate what the full unanimous consent agreement is? Actually, will the Chair restate the part of the unanimous-consent agreement referring to the introduction of amendments on this bill by a time certain.

The PRESIDING OFFICER. Under the previous order, all listed amendments must be offered by 6 p.m., Thursday, July 14, 1994.

Mr. LEAHY. Thank you.

Madam President, obviously everybody has until Thursday evening at that time to offer an amendment. Certainly, this is not a case where we are asking Senators to come in and offer amendments for the sake of offering amendments because I am sure we would like to go forward with this.

Mr. McCONNELL. Mr. President, as the foreign operations bill proceeds, I intend to offer a number of amendments that address U.S. assistance to the New Independent States, the Baltics, and Eastern Europe. Several of these are amendments which are cosponsored by Chairman LEAHY. Before we proceed, I wanted to take a few minutes to clarify why I feel specific congressional direction is necessary in the management of these resources.

For the better part of the past year, Senator LEAHY and I have worked with the administration to define clear goals, projects, and activities for the $2.5 billion NIS Program. It would be fair to say, Mr. President, this process has not been without its problems. But the administration has largely worked in good faith to address the various and many issues that continue to surface.

A year into this effort, I think there are two areas where the programs are simply not meeting requirements, either identified in last year's legislation or as they have emerged over there on the ground.

Last year, we made every effort to establish the importance of respect for territorial integrity and national sovereignty as criteria for receiving American aid. In other words, Mr. President, in last year's bill, there were provisions included that suggested that our assistance to Russia should be contingent upon Russia respecting the territorial integrity of the newly emerging states. That was a central factor in last year's foreign operations bill.

At the time—again looking at last year—Russian troops were offering training, equipment, and logistical support to rebels attempting to overthrow the Shevardnadze government. That is what was going on as we debated this bill last year. The Russians were offering training, equipment, and logistical support to rebels attempting to overthrow the Shevardnadze government in Georgia. In deference to Russian interests, the administration essentially refused all pleas for assistance from the Georgians. Ultimately, in the aftermath of that, Shevardnadze had asked Yeltsin to call off the dogs of war, and a very tentative truce has been the situation since.

Georgia is but one example of my concern about the undue and unchallenged Russian influence in the former Soviet Union and, for that matter, in Europe as well.

In April, a secret decree signed by Yeltsin was publicized revealing Russian plans to establish military bases throughout that whole region—not just within Russia but throughout the whole region.

As you can imagine, this was particularly disturbing to Latvia and Estonia, both engaged at that time in troop withdrawal talks with Russia. I doubt either nation was comforted by Yeltsin's declarations just this week at the wrap-up news conference.

At the G–7 meeting, standing side by side, Presidents Clinton and Yeltsin were asked specifically about troop withdrawals from Estonia. Clinton predicted all troops would be withdrawn by August 31. That was just this week. President Yeltsin, standing right beside him at the press conference, when asked the same question said, and I quote: "This is a good question. The answer is no."

In other words, President Clinton said the troops would be out by August 31, and President Yeltsin, standing right beside him at the same press conference, said they will not be out by August 31.

It is my intention to address the situation in the Baltics and Central Europe with specific amendments. I think the security concerns of Russia's neighbors merit both our attention and appropriate response.

The second area where there are shortcomings in the administration's strategy bear on the future of economic reforms and market principles. Here, again, last year's legislation linked U.S. aid to establishing economic reforms, market principles, respect for commercial contracts, and repayment of commercial debt.

The administration has emphasized mass privatization and points to the fact that more than 15,000 enterprises have been transferred from State to private hands.

Now, at first blush, Mr. President, these are impressive statistics. However, in a series of briefings, several problems have emerged, the chief one being there is essentially no monitoring system in place to evaluate this privatization process. No one really knows who now owns these businesses. No one is willing or able to answer the question: Have we created a system which facilitates criminal organizations' opportunity for ownership? A very important question.

It is also clear that we are only in the first stages of privatization in that the state continues to subsidize operations by offering a range of services from free utilities to providing equipment and parts. So even though these may be by some definition private enterprises, they are still receiving substantial subsidies from the government.

Now, the effort to privatize is obviously essential to further economic growth, and we all hope it will succeed. But the program seems to be operating in a vacuum, without adequate official attention to the legal and commercial framework necessary to sustain the private sector. The serious crime problems Senator LEAHY and I observed in Moscow last summer are now threatening prospects for continued reforms. Crime and corruption may risk an antimarket and an antidemocracy backlash which does not serve either United States or Russian interests.

For this reason, I plan to offer a number of amendments which address commercial law and law enforcement matters. This assistance and focus is long overdue.

And I might say, Mr. President, just this morning I spoke with the FBI Director, Judge Freeh, about his present trip not only to Russia but to the Ukraine and other countries in the area, including the former Warsaw Pact countries, about the extent of the criminal problem in Russia. We may have a crime problem here, but it pales in comparison, Mr. President, to the crime problem inside Russia.

A number of these organized criminal organizations operate not only within Russia but in other countries, not only in that area but some operating here in the United States. So the Russians have an enormous problem with crime, almost a meltdown situation. This is something that we probably cannot have an enormous impact on, but we need to help. I commend the Director of the FBI for the effort he is making, and I will have a couple of amendments that will help assist him in that process.

Mr. President, this is clearly a transition year for Russia and for the Republics. We have scaled back direct U.S. aid with the hope that the emerging private sector will take off and generate jobs, income, growth, and economic security.

I continue to being committed to seeing this historic transition through to a successful conclusion. My choosing to attempt to earmark and target aid reflects my continued interest in assuring that the program succeeds.

My differences with the administration, although strong, are a matter of emphasis and priority and should not be confused as a lack of support for Russia, Ukraine, Armenia, Georgia, or any of the other nations in that particular area of the world as they seek independence and prosperity.

Let me conclude my opening statement by expressing my appreciation to the Administrator of AID who has recognized the interest of the subcommittee in this region and has agreed to provide supplementary presentation materials for the fiscal 1995 budget cycle. Mr. Atwood has brought about significant changes in the management of foreign assistance which has increased the confidence of this Senator and I think many others in his Agency and in his activities.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THURMOND. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. LEAHY. I object.

The PRESIDING OFFICER. Objection is heard.

The bill clerk continued with the call of the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I know the distinguished senior Senator from South Carolina is seeking recognition. If we could have just one moment, I have a couple of housekeeping things that I mentioned to him I wanted to take care of.

AMENDMENT NO. 2125, AS MODIFIED

Mr. LEAHY. Mr. President I ask unanimous consent that amendment No. 2125, which was previously agreed to, be modified. I send the modification to the desk and ask the modification be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendment (No. 2125), as modified, is as follows:

On page 112, between lines 9 and 10, insert the following new section:

PROHIBITION ON PAYMENT OF CERTAIN EXPENSES

SEC. . None of the funds appropriated or otherwise made available by this Act under the heading "International Military Education and Training" or "Foreign Military Financing Program" for Informational Program activities may be obligated or expended to pay for—

(1) alcoholic beverages;

(2) food (other than food provided at a military installation) not provided in conjunction with Informational Program trips where students do not stay at a military installation; or

(3) entertainment expenses for activities that are substantially of a recreational character, including entrance fees at sporting events and amusement parks.

Mr. LEAHY. Mr. President, I ask unanimous consent that the pending committee amendments be set aside so that I may offer the following technical amendments, and that they be agreed to and they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2238

(Purpose: To make technical corrections to the bill)

Mr. LEAHY. Mr. President, I send the amendments to the desk.

The PRESIDING OFFICER. The clerk will report the amendments.

The bill clerk read as follows

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered 2238.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 89, line 12 of the Committee reported bill, strike "in" and all that follows through "Act" on line 16 and insert in lieu thereof:

On page 99, line 11 of the committee reported bill, after "country." insert: "The authority provided by subsection (a) may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961."

On page 10, line 1 of the Committee reported bill, after the word "activities" insert: "notwithstanding any other provision of law".

Mr. LEAHY. Mr. President, I believe these amendments have been agreed to on both sides.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. McCONNELL. We have taken a look at these amendments Mr. President, and they are fine.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 2238) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. McCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, we have both managers of the bill on the floor now. I know the Senator from South Carolina is seeking recognition. I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina [Mr. THURMOND] is recognized.

AMENDMENT NO. 2239 TO THE FIRST EXCEPTED COMMITTEE AMENDMENT ON PAGE 2, LINES 12 THROUGH 21.

(Purpose: To express the sense of the Senate regarding creation of the World Trade Organization and implementation of the Uruguay Round Agreements)

Mr. THURMOND. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] for himself and Mr. PRESSLER, Mr. HELMS, and Mr. CRAIG, proposes an amendment numbered 2239 to the first excepted committee amendment on page 2, lines 12 through 21.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

To the first committee amendment, at the end of the amendment insert the following:

SEC. . SENSE OF THE SENATE ON URUGUAY ROUND IMPLEMENTATION.

(a) FINDINGS.—The Senate makes the following findings:

(1) The United States recently signed the Uruguay Round Agreement which included among its provisions the establishment of a new supranational governing body known as the World Trade Organization (hereafter in this section referred to as the "WTO").

(2) The legislation approving fast track authority and giving the executive branch negotiators specific objectives did not authorize the elimination of the current General

Agreement on Tariffs and Trade structure and the creation of a new, more powerful world-governing institution.

(3) The Congress has the constitutional prerogative to regulate foreign commerce and may be ceding such authority to the WTO.

(4) The initial membership of the WTO is 117 nations. The United States will have only one vote and no veto rights in the WTO.

(5) The single vote structure will give the European Union the capacity to out vote the United States 12 to 1. It will also give the island nation of St. Kitts, with a population of 60,000, the same voting power as the United States.

(6) The United States will have less than 1 percent of the total vote, but will be assessed almost 20 percent of the total cost of operating the WTO.

(7) The one vote-no veto structure of the WTO will increase the power of nations, which are not democracies and do not share our Nation's traditional notions of capitalism and freedom.

(8) Any United States law can be challenged by a WTO member as an illegal trade barrier and such challenge will be heard by a closed tribunal of 3 trade lawyers.

(9) The United States must eliminate any law that a WTO tribunal finds to be in conflict with the trade rules of the WTO or the United States will face severe trade sanctions.

(10) The WTO would effectively set the parameters within which United States Federal, State, and local legislators can maintain or establish domestic policy on the broad array of issues covered under the nontariff provisions of the WTO.

(11) State officials have no standing before WTO tribunals even if a State law is challenged as an illegal trade barrier.

(12) The WTO would require the United States Federal Government to preempt, sue, or otherwise coerce States into following the WTO trade rules which the States did not negotiate and to which they are not a legal party.

(13) The Attorneys General from 42 States have signed a letter to the President expressing their concern over States rights under the WTO and have asked for a summit to discuss these issues.

(14) WTO decisions could result in shifts in State and local tax burdens from foreign multi-national corporations to American businesses, farmers, and homeowners.

(15) Under pay-as-you-go budget rules, the revenue losses from tariff reductions must be offset over a 10-year period.

(16) The Congressional Budget Office has estimated that such tariff reductions will cost approximately $40,000,000,000.

(17) When the United States joined other supranational governing bodies, the United States retained rational precautions, such as a permanent seat on the Security Council and veto rights in the United Nations, and a voting share in the International Monetary Fund that is commensurate with its role in the global economy.

(18) The WTO Agreement prohibits unilateral action by the United States including action against predatory and unfair trade actions of other member nations.

(19) The dispute settlement mechanisms to be used by the WTO will be conducted in secret and in a manner that is not consistent with the guarantees of judicial impartiality and due process which characterize the United States judicial tradition.

(20) The WTO Agreement is already resulting in substantial changes and erosion of existing United States law.

(21) Neither the United States Congress nor the American people have had an opportunity to analyze and debate the long-term impact of United States membership in the WTO.

(22) Traditionally the United States has entered into international obligations that impact on domestic sovereignty and law and that have the legal stature and permanence that the WTO has, by using treaty ratification procedures.

(23) The United States Senate rejected, on sovereignty grounds, executive branch attempts to secure ratification of a similar supranational organization known as the International Trade Organization when it was offered repeatedly between 1947 and 1950. The Organization for Trade Cooperation was rejected by the Senate in 1955.

(24) Under the rules of fast track, the United States Senate cannot change or amend provisions creating the WTO and is limited to 20 hours of debate.

(b) POLICY.—It is the policy of the Senate that—

(1) a task force composed of members of Congress and the executive branch be established to study and report to the Congress and the President within 90 days on whether the provisions creating the World Trade Organization should be treated as a treaty or an executive agreement, and

(2) a 90-day period be allowed before the introduction of the Uruguay Round implementation legislation and that during that period additional Congressional hearings be held to consider the full ramifications of the United States joining the WTO, including the impact that joining the WTO will have on State and local laws.

Mr. THURMOND. Mr. President, I rise today, along with the Senator from South Dakota [Mr. PRESSLER], the Senator from North Carolina [Mr. HELMS], the Senator from Idaho [Mr. CRAIG], to introduce a sense-of-the-Senate resolution concerning the Uruguay round of the General Agreement on Tariffs and Trade [GATT]. This resolution outlines several concerns that many members have with the final text of the GATT.

As the clerk has just read, many of these concerns regard the creation of the new world trade governing organization called the World Trade Organization [WTO]. The WTO is intended to be the arbitrator of trade disputes between signatory countries. The WTO has two main components: the ministerial conference and the general council. The ministerial conference will meet every 2 years and will receive decisions on matters covered by trade agreements. The general council will govern the WTO on a daily basis. Also established under the general council are several committees to review and make recommendations on more specific issues such as balance of payments, dispute settlements, and specific sectors of trade.

The dispute settlement body, which is established under the direction of the general council, will be the ultimate arbitrator of trade disputes. The decisions handed down by the WTO will be voted on by the member countries. Each country gets one vote and, except for some cases, a majority vote rules. While the WTO has been described as a United Nations of trade, the United States will not have veto power over its decisions. All decisions are final.

The United States will have four choices of action if the WTO rules against our country. We can either: First, leave the WTO; second, pay tariff penalties to other countries; third, not enforce our domestic laws; or fourth, change our laws to comply with the WTO ruling. Most of the Federal, State, and local laws that would be contested have been enacted to protect our workers and our environment. I fail to say why we need a new supranational organization to control trade.

Mr. President, in the Omnibus Trade and Competitiveness Act of 1988, which outlined the overall objectives of our trade negotiations, there is no mention of creating a world governing body to administer trade disputes.

Mr. President, I would like to read the article titled "U.S. Mustn't Dawdle on the Trade Pact" from the International Herald Tribune as written on April 26, 1994. It reads:

> Now that the world's biggest-ever trade agreement has been signed and sealed in Marrakesh, it is time to get it through the U.S. Congress, and the sooner the better.
>
> Already some dangerous ideas about the trade pact are afoot on Capitol Hill. The longer the agreement remains unratified, the more vulnerable it will be to protectionist pressures.
>
> Administration officials insist they will do everything necessary to ratify the pact, the fruit of seven years of arduous negotiations in the Uruguay Round. They say that President Bill Clinton is fully committed to the cause.
>
> But it is not clear the administration has learned the lessons of last year's near fiasco over the North American Free Trade Agreement, saved only by a bout of last-minute political arm-wrestling by Mr. Clinton.
>
> The administration's biggest mistake over NAFTA was complacency—underestimating the opposition and leaving its drive to win approval far too late. As a result, last-minute waverers squeezed a lot of promises out of Mr. Clinton that he would have been better off not making.
>
> This time there is much less organized opposition, but that could change as November's mid-term elections draw closer.
>
> Congress is by no means yet committed to the Uruguay Round and its schedule is already overloaded. The committees responsible for the trade pact also happen to have jurisdiction over the two biggest pending items of domestic legislation—health care and welfare reform.
>
> Some major misconceptions need to be nipped in the bud. One is that it does not matter if the implementing legislation is put off until next year.
>
> Yes, it does. Delay will increase the chances of the pact being blown off course—perhaps by a major new trade dispute with Japan, China or even Canada.
>
> Another mistaken impression is that the agreement can still be changed. Many Republicans think they can tighten up lax rules on subsidies, while some in both parties are demanding greater scope for unilateral U.S. action.
>
> The House Republican whip, Newt Gingrich, even wants to cut out the part of the

> agreement establishing the World Trade Organization, which he regards as a sinister organ of world government that will ride roughshod over American interests.
>
> But U.S. agreement to the World Trade Organization was an integral part of the Uruguay Round compromise. There is no way of reopening the negotiations now. Under the fast-track procedure in force for the treaty, Congress must in any case vote 'yes' or 'no' on the whole pact at once.
>
> It is true the WTO means a loss of congressional sovereignty. But that will be no bad thing if it clips the wings of Capitol Hill's powerful protectionists. It will actually be good for the United States to be overruled by the world organization when Washington tries to take politically motivated action against other countries' exports.
>
> Where the debate enters the world of Alice in Wonderland is when it gets to how to pay for it all.
>
> Under U.S. budgetary rules agreed in 1990, Congress must find ways to offset the revenue lost from the Uruguay Round tariff cuts, which could amount to nearly $14 billion over five years or perhaps $40 billion over 10 years.

Mr. President, I want to repeat that. I would like the able Senator from Kentucky to especially hear this.

> Under U.S. budgetary rules agreed in 1990, Congress must find ways to offset the revenue lost from the Uruguay Round tariff cuts, which could amount to nearly $14 billion over five years or perhaps $40 billion over 10 years.
>
> With the elections approaching, nobody wants to propose new taxes or spending cuts to bridge the gap. But nor does anyone want to suggest a waiver from the rules and set a precedent that opponents might exploit later on—the Democrats for health care or the Republicans for cuts in the capital gains tax.
>
> The whole thing is absurd. In the next five years the government is likely to collect about $3 in revenue for every $1 lost in tariffs, because of vastly increased trade.
>
> It is ridiculous to impose a budgetary penalty for freer trade, which pays for itself many times over. Congress should be brave enough to admit it has made a mistake and exempt trade agreements from the rules.
>
> The main thing for Congress to remember is that agreements to open up world trade are never perfect, but the United States has always benefited from them.
>
> Mr. Clinton should remember that his decisive support for NAFTA won top marks even from his critics as the high point of his first year in office. It is time for a repeat performance—preferably without the cliff-hanging finale.

Let me also read from the European Commission background brief on the Uruguay round. It states, "The agreement on the WTO also contains a binding clause which requires members to bring their national legislation in line with the agreements that are part of the WTO structure." Mr. President, while creating an international bureaucracy, this agreement is also restricting the ability of Congress to do its constitutional duty. Further, let me quote from a statement by Peter Sutherland, Director General of GATT, Reuters, on June 16, 1994: It reads:

> (Peter Sutherland) hit out at countries that saw the right to reject GATT rulings as a sovereign prerogative. "What this amounts to is a country choosing to be above the law whenever it is inconvenient to observe the law," he said, and this opinion would not be open to countries under the WTO.

Using the term "law" to describe the workings of the WTO, implies to me that the ability of the United States to make its own laws and rules will be severely altered.

Mr. President, one argument used by the administration to justify the WTO is to argue that other countries would not impose harsh penalties against the United States since we have such a lucrative marketplace. However, I do not think any of us can really be sure how the developing nations of the world, which account for 83 percent of the WTO membership, will vote when a situation arises.

Mr. President, I am not asking that my colleagues rethink their philosophy on trade. However, we should be examining the agreement to see if all that is promised will be forthcoming. It seems to me that the benefits of this agreement are dubious.

Mr. President, I yield the floor.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I just want to say to the distinguished senior Senator from South Carolina, it is my understanding what he is groping for here is that we attempt to learn a little more about what the WTO is all about and what kind of impact it may have on us internally; is that essentially it?

Mr. THURMOND. That is correct.

Mr. MCCONNELL. I went recently to a session on the WTO, and I think all of us would like to learn a little more about how it is supposed to function in the context of the GATT. As I understand the amendment of the distinguished Senator from South Carolina, it seems to me it would assist us in learning more about the potential for the WTO as it relates to our own domestic governance.

I want to commend the Senator for his amendment. As I understand it, I think it is very good.

Mr. THURMOND. I thank the Senator very much. I deeply appreciate that from the able Senator from Kentucky, the manager of this bill.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont [Mr. LEAHY] is recognized.

Mr. LEAHY. Mr. President, I too share many concerns on the law enforcement aspects and what is happening in Russia and other parts of the former Soviet Union. I met with Director Freeh prior to his trip, a historic trip actually, that he took recently. In fact, I highly commend FBI Director Freeh for what he did and actually for the hope that he brought with him and the response he got.

I told him prior to his leaving that I intended to make sure that this bill would have within it significant amounts of money to be used for law enforcement and that it would be available for him. And Senator MCCONNELL, myself, Senator D'AMATO, and others are going to assure that is in there. We are not going to have a situation where people are going to invest in Russia or other parts of the former Soviet Union if they think they are trying to invest in an area that is something akin to a wild west scenario.

I mentioned when this bill was first in the Chamber the problem of shooting and even hand grenades being tossed around in Moscow. The story I told at that time was somebody pulling up in an expensive imported car, jumping out of it, starting to machine-gun an office on the ground floor, until the secretary opened the filing drawer, took a hand grenade out of the filing drawer, pulled the pin, rolled it under—pulled the pin out of the hand grenade and rolled it right under the car that was out there.

Now, this is kind of exciting, of course, but probably is not conducive to a good work ethic. And we will try to help in that regard.

Let me speak to the amendment that has been offered by the distinguished senior Senator from South Carolina.

There is a certain law of physics—I think it goes beyond anything Newton was aware of—which comes into play during the foreign operations bill. It is a new form of magnetism. It is little studied but well understood. It seems that when this bill comes up, it is like a magnet. It is pulling amendments out of the air that defy all laws of physics—and I might say Jefferson's manual—that have nothing to do with this bill.

Now, this is an appropriations bill. This is not a Finance Committee bill. It is not a trade bill. It is not GATT implementing legislation. And the amendment on GATT does not have anything to do with this bill. It is a Finance Committee issue. In fact, the Finance Committee has not even seen this amendment. They will have implementing legislation for GATT just as my own Committee on Agriculture will look, at some point when we get an opportunity in the fullness of time, at GATT implementing legislation. That is the place to bring up these kinds of matters. I cannot imagine that the distinguished chairman of the Finance Committee would want to see this legislation coming forward on an appropriations bill any more than I in my capacity as chairman of the Senate Agriculture Committee would want to see such authorizing legislation on an appropriations bill.

So I hope that he does not go forward with it. The GATT is really of great interest to all Senators, of course. But it is also a contentious issue.

Now, this amendment would call for another 90 days before the Uruguay round legislation could be introduced. In effect, of course, it kills any GATT for this year. I can assure Senators this is an issue that would not survive conference. There is no way, if this is on the foreign aid bill, the foreign aid bill could come out of conference. It just would not happen. We could, for those who are interested in particular earmarks in the foreign aid bill, say byebye earmarks because if this is on the bill we are not going to be able to conference this bill, and I suspect at some point we will have, which may be good policy, an unearmarked, scaled-down, continuing resolution and nothing would be done with GATT. If you want to do something on this, argue it before the authorizing committees implementing legislation on GATT.

I think that what we would like to do is accommodate of course what the Senator wants. He wants to know more about the World Trade Organization. There are going to be hearings on that. If he would like to go to those hearings, I suspect that the appropriate committees would be delighted to have him testify before the committees. Certainly every one of them can study it. We do not need a 19-day delay to do it nor do we need this bill to be destroyed to do it.

If nobody else is prepared to speak on this, I suppose we could go to a vote on it very soon.

THE EURASIA FOUNDATION

Mr. President, I want to say a few words about the Eurasia Foundation, a privately managed, small-grant making organization funded through our program of assistance to the New Independent States of the former Soviet Union. The Foundation supports public sector reform and private sector development through technical assistance, training and education grants to nonprofit organizations in the former Soviet Union, and to U.S. nonprofits with partners there.

The Foundation's success can be attributed to its unique approach. By awarding small grants, usually between $50,000 to $75,000, and relying on the input of local nonprofits and field staff who understand the situation on the ground, the Foundation is able to respond quickly and effectively to changing needs in the NIS. Another benefit of this flexible, grassroots approach is the ability for U.S. assistance to be delivered by a wide range of diverse organizations.

This program does not finance consultants to do prefeasibility studies, followed by feasibility studies, which lead to more studies. These are grants made to local groups with the expertise to provide hands-on assistance and produce tangible results. Eurasia Foundation grants have supported training in management techniques and market economics. They have provided technical assistance to establish surveying and mapping systems to assist land privatization. Another grant supported an ecology information center and press offices.

Mr. President, I have heard that AID is considering scaling back its original plans to fund the Eurasia Foundation at $75 million over 4 years. If true, this concerns me. The Eurasia Foundation is one of the more promising programs we are funding in the NIS. From what I have heard, the Eurasia Foundation could serve as a model for other programs.

I realize, of course, that the foreign aid program faces tight budget pressures. The amount of assistance we are recommending for the NIS in fiscal year 1995 is significantly less than in fiscal year 1994. However, before any decision is made to cut funding for a successful program like the Eurasia Foundation, I would expect AID to consult with the Appropriations Committee.

THE SUMMIT OF THE AMERICAS

Mr. President, this December, an important event will take place in Miami, FL, which should be of interest to all senators. On December 9 and 10, President Clinton will host the first meeting of democratically elected leaders in the Western Hemisphere. It is the first summit of its kind in over a generation, and it is intended to follow up on the signing of the NAFTA Treaty with Mexico which created the world's largest free trade zone.

While Presidential summits are often long on photo ops and self-congratulatory press releases and short on substance, I am hopeful that this summit will produce significant results. By bringing Western Hemisphere heads of state together, many for the first time, there will be an opportunity to begin to build secure relationships which can advance common interests. The discussions will focus on ways to stabilize democracy, promote greater trade and investment, and support sustainable development.

This summit is on enormous importance to all the countries in he hemisphere. It is no secret that relations between the United States and our southern neighbors have not always been easy. For much of this century we treated the Central American countries as virtual colonies. Banana republics, we called them. In recent years we were involved militarily in bloody conflicts in Nicaragua and El Salvador that deeply divided the Congress and the American people. The concern we all have about the possible use of U.S. troops in Haiti is but one reflection of this uneasy history.

Yet even during this period, there was progress toward democracy and free enterprise in Latin America, and with the recent peace agreement in El Salvador and the possibility of a settlement of the conflict in Guatemala, we seem to be entering a new ear. For perhaps the first time in history, we can look forward to a period of peace, of strengthening democracy, and of building stronger economic ties that benefit both North and South America.

In the long run the United States and the region cold benefit enormously from achieving the goals of this summit. Democracies tend not to attack one another. Political stability is the key to economic growth. United States exports to the region have more than doubled in the past 7 years, and they will continue to rise. This in turn has created thousands of jobs for Americans. As NAFTA is extended, I believe it will be, the prospects for stronger economic ties will greatly increase.

From the very beginning, this has been a cooperative effort. Vice President GORE traveled to Bolivia, Argentina, Brazil, and Mexico at the end of March to lay the groundwork for the conference. President Clinton has been in touch with his counterparts to develop a productive schedule for the summit. The Organization of American States and the InterAmerican Development Bank have been included in these preparations, and there have been consultations with the business community and nongovernmental organizations from Latin America and the United States to get their input. NGO's have traditionally been either ignored or harassed by Latin governments who have often regarded the NGO's with suspicion, as a threat to government authority and control. This summit is an opportunity to demonstrate the important role NGO's can play in building democracy, and in addressing many of the most acute problems these countries face.

Mr. President, this historic event, the largest gathering of democratically-elected leaders that the United States has ever hosted, deserves our attention and support. Having said that, I will end with a warning. Promoting democracy is a central theme of this summit, which is why Cuba and Haiti have not been invited to send representatives. However, the Dominican Republic recently held an election was marred by irregularities. International observers have yet to certify that it was a fair election. There is reason to believe that the party of the winning candidate, President Balaguer, engaged in widespread fraud which could have affected the result. I do not know whether, in the final analysis, the election will be ruled fair or not. But we do not want to implicitly ratify a stolen election, it that is what this was. The Dominican Republic should be invited to participate in the summit only if there has been a credible finding that the election was fair.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I rise today to add my support to an amendment offered by Senator THURMOND and to voice my growing concern about the Uruguay round agreement and the General Agreement on Tariffs and Trade and the General Agreement on Trade in Services.

The amendment raises a number of concerns about a provision in the Uruguay round which would establish an international entity which is referred to as the World Trade Organization. This amendment, which is a nonbinding resolution, states that it is the sense of the Senate that a joint Senate administration commission should be convened to perform a 90-day blue ribbon panel report on whether or not the World Trade Organization should be considered as a treaty rather than an Executive agreement. It also requests further hearings, both in Washington, DC, and in the field so that the ramifications of the World Trade Organization can be fully examined and understood.

Mr. President, let me be very clear. This amendment does not make the GATT agreement a dead-on-arrival agreement. It simply reflects, I think, the importance of the agreement and the need to fully understand the development of a new international organization prior to our country's acceptance of this agreement.

The World Trade Organization is not a minor change to the structure of the GATT. It creates an entity that is, to me, more than an international organization. Rather, it is a regime with powers that are structurally stronger than those of the United Nations.

Mr. President, when forming the United Nations, very special care was taken to ensure that the United States would have both veto power and a permanent seat on the Security Council. However, it is apparent that no such effort has been made with regard to the World Trade Organization. In the WTO, the United States could be outvoted by a small coalition of a handful of any given number of nations, regardless of their overall size, population, geographic size, their contribution to world trade itself, their funding contribution to the organization, or their commitment to fair trade and democracy.

The World Trade Organization would initially consist of a diverse coalition of 117 nations. Each member nation of the WTO, including the United States, would have one vote in resolving trade disputes under the auspices of the two agreements, the GATT and the GATS.

The World Trade Organization would vote on amendments and interpretations of GATT provisions. Again, Mr. President, the United States would be only 1 of 117 votes. Therefore, we could easily be outvoted by Third World countries of the World Trade Organization, as often happens in the United Nations. We have the history of the United Nations to demonstrate that that can clearly occur.

Another point of frustration is that we will be paying 20 percent of the World Trade Organization budget with a voice behind it of only one vote. Under the GATT, as it currently exists, the United States has veto power and can block a panel decision by denying the necessary consensus to adopt the panel's decision. Consensus is also replaced in the World Trade Organization with the following agreements: A two-thirds vote to amend the World Trade Organization, a three-fourths vote to impose an amendment on parties and to adopt the interpretation of World Trade Organization provisions.

There have been previous attempts to establish a supranational body to cover trade relations and dispute settlements. In other words, Mr. President, this is not the first time these concerns and ideas have been expressed on the floor of the U.S. Senate.

There have been previous attempts to establish, as I mentioned, these supranational organizations. The fear of granting broad authority over our trade rules to a mostly foreign entity led to the repeated rejection by the Senate of the International Trade Organization between 1947 and 1950, and a similar body known as the Organization for Trade Cooperation in 1955.

Under the interstate and foreign commerce clauses of the Constitution, States cannot discriminate against foreign businesses, including the application of State tax law. Therefore, under the GATT currently, the failure of a State to comply with these provisions would result in a U.S. court action where the parties involved would be able to receive fair and open redress of their complaints. The dispute settlement mechanism included in the Uruguay round agreement, on the other hand, would require such matters involving State tax policy and foreign businesses to be brought before the World Trade Organization itself.

It is my understanding, Mr. President, that the World Trade Organization dispute settlement panel can meet in secret and need not consider U.S. constitutional standards nor follow the constraints of U.S. jurisprudence. This is a serious concern, and it must be clarified before this agreement is brought to the Senate floor for ratification.

It is also my understanding that no individual U.S. State government is guaranteed representation on the World Trade Organization's dispute panel, and the United States cannot reject a World Trade Organization dispute panel mandate without facing foreign retaliation and trade penalties enforced by the World Trade Organization. This may be a worse case scenario, but if it is a scenario that could occur under the World Trade Organization, then that provision in the Uruguay round agreement must be changed.

In short, Mr. President, States rights must be protected at all costs.

We said it in 1947 in a similar debate. We said it again in 1955, and I would hope that the U.S. Senate would confirm the Thurmond amendment which would examine and clarify those most important issues.

Our Nation's Founders, in framing the Constitution, and in the development of our Federal system, never intended that a State relinquish the development and enforcement of its tax policy to a foreign entity like the World Trade Organization.

It is my understanding that many States have expressed serious concerns over these provisions of GATT and GATS.

A letter, signed by 42 attorneys general, including Idaho's Attorney General Larry Echohawk, expresses the concerns of our States. It also requests a summit with Federal officials to review States rights issues.

Mr. President, the attorneys general of the States of our Nation are now requesting of our Government that a similar summit be held, and this similar summit has been included in the Thurmond amendment we are now offering today.

Let me share with you, Mr. President, what this letter says, and I ask unanimous consent that the full text of the letter from the States Attorneys General be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF MAINE, DEPARTMENT OF
THE ATTORNEY GENERAL,
Augusta, ME, July 6, 1994.

Hon. WILLIAM J. CLINTON,
President of the United States,
Washington, DC.

DEAR PRESIDENT CLINTON: As defenders of State laws, State Attorneys General have a particularly keen interest in State sovereignty. The Uruguay Round of the General Agreement on Tariffs and Trade (GATT), which is to be submitted to Congress under fast-track authority soon, appears to have broad implications for State self-government. Given the paramount importance that the U.S. Constitution assigns to State's rights, we would like to request a State-Federal Consultation Summit on this issue, to be held in July or August, before the Administration submits implementing legislation. Although we have agreed to take the lead on this issue, because it affects all State officials, an invitation would be extended to State executive and legislative branches as well.

We are requesting a Summit to give State officials the benefit of a thorough airing of concerns about how the Uruguay Round and the proposed World Trade Organization

(WTO) would affect State laws and regulations. Many State officials still have questions about how some of our State laws and regulations would fare under the WTO and its dispute resolution panels. This is of particular concern given that some of our trading partners have apparently identified specific State laws which they intend to challenge under the WTO.

As you know, the U.S. Trade Representative's Office (USTR) is charged with an interesting set of responsibilities. On one hand, its primary responsibility is to promote U.S. exports and international trade. Yet, on the other hand, the Trade Representative's Office is charged with the responsibility of protecting State sovereignty and defending any State law challenged in the various international dispute tribunals. Given the inevitable conflict in fulfilling both sets of these responsibilities, we would like to take advantage of the proposed Summit to clarify a range of serious concerns, including:

Whether the implementing legislation adequately guarantees States that the federal government will genuinely consider accepting trade sanctions rather than pressuring States to change State laws which are successfully challenged in the WTO.

Whether States have a guaranteed right and a formalized process in which they can participate in defending their own State laws.

Whether the USTR is required to engage in regular consultation with the States, and involve any State whose measures may be challenged in the defense of that measure at the earliest possible opportunity.

Whether parties challenging a State measure under GATT will be able to prevail based on the fact that one State is simply more or less restrictive than another State's.

Whether GATT grants any private party a right of action to challenge a State law in federal court.

Whether an adverse WTO panel decision can be interpreted as the foreign policy of the United States without the subsequent ratification of the Congress and the President.

Whether GATT panel reports and any information submitted by the States to the USTR during the reservation process are admissible as evidence in any federal court proceeding.

Whether a panel decision purporting to overturn State law shall be implemented only prospectively.

Whether the federal government may sue a State and challenge a State measure under GATT without an adverse WTO panel decision.

How will adverse WTO panel decisions impact State laws covering pesticide residues, food quality, environmental policy including recycling, or consumer health safety, where State standards are more stringent than federal or international standards.

Whether so-called "unitary taxation," which assesses the State taxes corporations pay on the basis of a corporation's worldwide operations, be illegal under GATT.

Whether States may maintain public procurement laws that favor in-State business in bidding for public contracts.

How well protected is a State law if it is included within the coverage of U.S. reservations to new GATT agreements.

Whether the United States can import some due process guarantees into the WTO dispute resolution system, now that the negotiations are over, the WTO panel proceedings remain closed and documents confidential.

In responding to our request for this GATT Summit, please have staff contact Christine T. Milliken, Executive Director and General Counsel of the National Association of Attorneys General, at (202) 434-8053. Although the Association has taken no formal position on this issue, the Association provides liaison service upon request when fifteen or more Attorneys General express an interest in a key subject.

Further, the Association through action at its recent Summer Meeting has instructed staff to develop in concert with the Office of U.S. Trade Representative an ongoing mechanism for consultation. The Association participates in several federal-state work groups, principally with the U.S. Department of Justice and also with the U.S. Environmental Protection Agency that might serve as a starting point for developing a model for an effective ongoing dialogue with the USTR on emerging issues in this key area.

Respectfully yours,

MICHAEL E. CARPENTER,
Attorney General of Maine.

The following attorneys general signed the letter:

Alabama: Jimmy Evans.
Alaska: Bruce M. Botelho.
Arizona: Grant Woods.
Colorado: Gale A. Norton.
Connecticut: Richard Blumenthal.
Delaware: Charles M. Oberly, III.
Florida: Robert A. Butterworth.
Hawaii: Robert A. Marks.
Idaho: Larry EchoHawk.
Illinois: Roland W. Burris.
Indiana: Pamela Fanning Carter.
Iowa: Bonnie J. Campbell.
Kansas: Robert T. Stephan.
Kentucky: Chris Gorman.
Maine: Michael Carpenter.
Maryland: J. Joseph Curran, Jr.
Massachusetts: Scott Harshbarger.
Michigan: Frank J. Kelley.
Minnesota: Hubert H. Humphrey, III.
Mississippi: Mike Moore.
Missouri: Jeremiah W. Nixon.
Montana: Jospeh F. Mazurek.
Nevada: Frankie Sue Del Papa.
New Hampshire: Jeffrey R. Howard.
New Jersey: Deborah T. Poritz.
New Mexico: Tom Udall.
New York: G. Oliver Koppell.
North Carolina: Micheal F. Easley.
North Dakota: Heidi Heitkamp.
Northern Mariana Islands: Richard Weil.
Ohio: Lee Fisher.
Oregon: Theodore R. Kulongoski.
Pennsylvania: Ernest D. Preate, Jr.
Puerto Rico: Pedro R. Pierluisi.
Rhode Island: Jeffrey B. Pine.
South Carolina: T. Travis Medlock.
Tennessee: Charles W. Burson.
Texas: Dan Morales.
Utah: Jan Graham.
Vermont: Jeffrey L. Amestoy.
Virginia: James S. Gilmore, III.
Washington: Christine O. Gregoire.
West Virginia: Darrell V. McGraw, Jr.
Wyoming: Joseph B. Meyer.

Mr. CRAIG. I will read only the first paragraph. It says:

As defenders of State laws, State Attorneys General have a particularly keen interest in State sovereignty. The Uruguay Round of the General Agreement on Tariffs and Trade (GATT), which is expected to be submitted to Congress under fast-track authority soon, appears to have broad implications for State self-government. Given the paramount importance that the U.S. constitution assigns to State's rights, we would like to request a State-Federal Consultation Summit on this issue, to be held in July or August, before the Administration submits implementing legislation. Although we have agreed to take the lead on this issue, because it affects all State officials, an invitation would be extended to State executive and legislative branches as well.

And the letter goes on to express the concern over 42 of these attorneys general now.

In addition, Mr. President, I have been working with the Idaho State Tax Commission on the State sovereignty concerns and would like to read the following letter I received from the Idaho State Tax Commission which articulates specific concerns of my home State, and for sake of time, Mr. President, let me ask unanimous consent that the full text of that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

IDAHO STATE TAX COMMISSION,
Boise, ID, May 26, 1994.

Re Pending GATT/GATS Agreements.

Hon. LARRY E. CRAIG,
U.S. Senate,
Washington, DC.

DEAR SENATOR CRAIG: We are writing to explain our concern about the power over state and local taxes that the new General Agreement on Tariffs and Trade (GATT) will give the World Trade Organization (WTO). Unless modified significantly, these provisions of the new GATT will undermine state and local fiscal sovereignty and likely favor foreign business over U.S. taxpayers.

As the administrators of tax laws enacted by the state legislature, we strongly support equal treatment of all taxpayers foreign and domestic. We have no objections to those provisions of the GATT designed to encourage trade. However, the WTO provisions applicable to state and local taxes exceed legitimate trade concerns. They are likely to have unintended, but dangerous, consequences for the sovereignty and citizens of Idaho.

The central problem is in the dispute settlement mechanism of the GATT and WTO. WTO dispute settlement panels are not bound by U.S. constitutional standards and jurisprudence in evaluating challenges to state tax laws, even though the Interstate and Foreign Commerce clauses of the Constitution effectively prohibit discrimination against foreign entities. The fear and experience of state tax administrators is that such panels may well overturn state and local tax laws, because of some perceived bias against international trade, which are not in fact discriminatory and which are perfectly legitimate under the U.S. Constitution.

This is precisely what happened in the one international trade case involving state taxation. In a case commonly called "Beer II," a trade panel ruled that a Minnesota law granting preferential tax status to small breweries regardless of where they were located violated the GATT. It held that the small brewer preference must be removed or that equally preferential rates must be accorded large Canadian brewers. There was no evidence of discrimination based on national origin, and there was no evidence of any trade barrier. USTR did not veto or reject this decision. Instead, it has encouraged states to comply with it.

> Moreover, unless some action is taken to the contrary, WTO panel rulings can be enforced against a state or local government in the U.S. court system, event though the offending law or policy is otherwise consistent with U.S. constitutional standards. While this is not possible with federal measures, we believe it would be true for state and local laws. With the Congressional adoption of the GATT, dispute panel findings, unless specifically rejected by the U.S. government, can be argued to represent the foreign policy of the U.S. Thus, state and local laws to the contrary would be found to violate the Foreign Commerce Clause of the U.S. Constitution.
>
> In short, the GATT process provides foreign interests with willing government partners another avenue to challenge state and local tax policies with which they disagree. These challenges will occur in a forum not bound by the U.S. constitutional standards against which state and local laws are shaped and in a forum where states and localities cannot represent themselves. The net result is to place U.S. taxpayers at an unfair disadvantage, compromise state tax sovereignty, and substitute the WTO for the U.S. Supreme Court as the final arbiter of state and local tax policies.
>
> The Multistate Tax Commission (MTC) and the Federation of Tax Administrators (FTA) have proposed two ways to address these concerns without rejecting the GATT. First, the U.S. government could assert a broad reservation from the national treatment requirements of the GATT for state and local tax laws that meet U.S. constitutional standards. Several suggestions along these lines have been rejected as overly broad or unworkable by the U.S. Trade Representative staff.
>
> The other approach is to include provisions supporting fiscal federalism in the GATT implementing legislation. The following is a summary of the MTC/FTA proposals for the implementing legislation:
>
> Rejecting all WTO panel decisions not based on U.S. constitutional standards regarding nondiscrimination against foreign parties or not adopted by action of the U.S. Congress within 120 days of the panel decision;
>
> Requiring that a state or local law or policy may be declared invalid as being in violation of the GATT only through an action brought by the U.S. government for that purpose;
>
> Prohibiting (a) retroactive application of WTO panel decisions; (b) use of panel findings and decisions as competent evidence in the U.S. courts; and (c) any private right of action emanating from a WTO panel decision;
>
> Requiring that affected state and local governments assist in representing their interests before the WTO; and
>
> Requiring the USTR provide notice to state and local governments at least 180 days before USTR initiates or responds to a complaint about state or local tax policies and practices.
>
> For detailed information on these proposals, your office may contact Nancy Donohoe, MTC Consultant at (202) 296–8060 or Roxanne Davis, FTA Research Attorney at (202) 824–5890.
>
> The U.S. Constitution has for 200 years balanced the interests of federalism and free trade. That balance can be accomplished in the GATT only with the types of reservations and implementing legislation outlined above. Your help in preserving this balance is sorely needed. Thank you for your support and commitment to federalism.
>
> Sincerely,
>
> COLEEN GRANT,
> *Chairman.*
>
> R. MICHAEL SOUTHCOMBE,
> *Commissioner.*
>
> G. ANNE BARKER,
> *Commissioner.*
>
> DUWAYNE D. HAMMOND, Jr.,
> *Commissioner.*

Mr. CRAIG. Let me read the first paragraph. It says:

> DEAR SENATOR CRAIG: We are writing to explain our concern about the power over state and local taxes that the new General Agreement on Tariffs and Trade (GATT) will give the World Trade Organization (WTO). Unless modified significantly, these provisions of the new GATT will undermine state and local fiscal sovereignty and likely favor foreign business over U.S. taxpayers.

Let me repeat:

> * * * will undermine State and local fiscal sovereignty and likely favor foreign businesses over U.S. taxpayers.

If that is true, Mr. President, this can simply not be allowed. I say if it is true. That is why the amendment as proposed by Senator THURMOND and that is why the State attorneys general have asked that this Government stop, bring its people together, examine these critical issues before we move toward fast track and implementation.

Mr. President, there are also problems with the language of the Uruguay round agreement, which has the potential of infringing on State sovereignty.

The phrasing of provisions to prevent State discrimination against foreign businesses is dangerously vague and would favor foreign entities over American taxpayers in the resolution of disputes.

I cannot imagine that this Senate, blinded as we often times are and urged to promote world trade, would not have the willingness to stop and look and listen to authorities who can flesh out and explain for us these important provisions.

Both GATT and GATS are worded in a far less precise manner than existing State tax laws.

A vague agreement opens the door for unfair and conflicting interpretation.

For example, under GATT, prohibiting unjustified discrimination against foreign businesses in the United States does not clearly define a specific standard.

A State law which fulfills the requirements of the U.S. Constitution, may not meet the broader standard under GATT and GATS.

The national treatment provision under GATS requires the United States to ensure that foreign services and service providers receive "treatment no less favorable than that it accords to its own like services and service suppliers."

Under the provision, only foreign businesses receiving a negative economic impact resulting from a State law could seek corrective action by the WTO while domestic businesses which are economically harmed by a State guideline would have no similar avenue of redress. This grants foreign businesses a significant advantage which their domestic counterparts would not enjoy.

The national treatment provision on the surface looks and sounds like the foreign commerce clause of the U.S. Constitution, but it is significantly different.

Mr. President, I would like to share some information that was included in a memorandum to State tax administrators from two organizations, the Federation of Tax Administrators and the Multistate Tax Commission:

It reads:

> The standards for proving a violation of national treatment are lower than for proving a violation of the foreign commerce clause.
>
> Because only foreign taxpayers can benefit directly from the "national treatment" provision, they will have access to a more favorable set of rules than U.S. taxpayers.
>
> State tax provisions that might well meet the requirements of the U.S. Constitution may be found to violate GATS.

The memorandum goes on to cover dispute settlement panels:

> The rulings of trade panels—"dispute settlement bodies"—may become legally binding on the States and local governments even though they are not legally binding on the Federal Government.
>
> The Federal Government can decide to comply or not comply with an adverse trade panel ruling.
>
> However, the dormant foreign commerce and national supremacy clauses of the Constitution are binding on States and localities.
>
> Thus, foreign taxpayers may use the trade panel ruling as evidence in suits against States or localities and could seek enforcement trade panel rulings in our courts on the basis that they reflect the foreign commercial policies of the United States.

The memorandum also states that:

> Because of these interactions between trade agreements and the U.S. constitutional law, we think that State and local tax authority will be undermined, tax burdens may increasingly shift from foreign taxpayers to U.S. taxpayers, and decisionmaking authority over State and local taxes will increasingly shift from the U.S. Supreme Court to "dispute settlement bodies."
>
> For these reasons, we have sought protection for all State and local tax practices that conform to Federal law or that are determined by the domestic courts of the United States to be nondiscriminatory under the Constitution.

These arguments and concerns cannot be summarily dismissed, Mr. President. The problems are real and need to be resolved. I hope that today's discussion on the World Trade Organization will lead to a more thorough discussion as is outlined in the amendment offered by Senator THURMOND.

Mr. President, there is another document that I would like to have become part of the RECORD.

I highly recommend it to my colleagues who support States rights.

This testimony was delivered by Dan Bucks, the Executive Director of the Multistate Tax Commission, at the House Subcommittee on Trade hearing last February. The title, interestingly, is "Free Trade, Federalism and Tax Fairness."

I ask unanimous consent that his testimony before that subcommittee of the House be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

FREE TRADE, FEDERALISM AND TAX FAIRNESS

(Testimony by Dan R. Bucks)

The Multistate Tax Commission is an interstate compact agency that works to ensure that multistate and multinational businesses pay a fair share—but not more than a fair share—of taxes to the states and localities in which they operate. We encourage states to adopt uniform tax laws and regulations in the interest of tax fairness as well as administrative ease and efficiency for businesses that operate in several states and nations.

This testimony substantially draws on a larger report prepared by the staffs of both the Multistate Tax Commission and the Federation of Tax Administrators, the latter being the professional association of state tax officials. The Commission appreciates and acknowledges the efforts of the Federation in helping to analyze the impact of international trade agreements on state taxation.

The Commission views the General Agreement on Tariffs and Trade (GATT) and the General Agreement on Trade in Services (GATS) from this perspective of fundamental fairness and efficiency. States are committed to treating foreign taxpayers as well as they treat U.S. taxpayers who do business in their borders, and the Commission fully supports this principle of equal taxation. Equality of tax treatment provides a level playing field for the expansion of international trade.

The U.S. Constitution established a foundation for our nation based on the principles of free trade and federalism. It has created the most successful free trade area known in modern times and establishes the ideal pursued by other nations in international trade agreements. The Constitution also establishes a successful system of federalism. In a world where other nations are beset with social tension, and even civil war, over issues of balancing the aspirations of local communities with central governments, the U.S. system is a model for balancing local and national interests.

Over the past two centuries, our nation has enhanced and developed an effective balance between free trade and federalism—a balance that flourishes today. However, GATT and GATS, which do not recognize principles of federalism and the sovereignty of state governments, threaten to destroy that balance. Thus, the Commission proposes measures that would restore, in the context of GATT and GATS, a proper balance between free trade and federalism and ensure tax fairness.

The Constitution, as noted, guarantees that states and localities will treat foreign taxpayers equally as compared to domestic taxpayers. Unfortunately, without significant adjustment through the exemption and reservation process and implementing legislation, GATT and GATS will violate the principle of equality under the Constitution by granting rights and privileges in state and local taxation to foreign taxpayers that are not available to domestic taxpayers. Without adjustments, GATT and GATS will over the long-term:

Reduce state and local taxes paid by foreign taxpayers and unfairly shift that tax burden to U.S. businesses and ordinary citizens,

Transfer authority to determine state and local tax policy from the states, subject to the review of Congress and the U.S. Supreme Court, to international trade panels with little or no expertise in state and local tax policy or constitutional law relating to federalism, and

Erode the ability of states to perform their role as "laboratories of democracy" in our system of federalism—fashioning local solutions to local problems.

These problems will arise from the interaction of GATT and GATS with state and federal laws. The key features of this interaction are as follows:

First, GATT and GATS establish special rules and appeal procedures that are available only to foreign taxpayers and that are more favorable than the rules and procedures available to U.S. taxpayers under state and federal law and the Constitution. If a special class of taxpayers has access to rules and procedures that are more favorable to them than other taxpayers, those taxpayers will ultimately receive tax benefits at the expense of those less favored.

Second, unless Congress enacts appropriate provisions of implementing legislation, rulings to international trade panels may be legally binding on state and local governments, even though they are not legally binding on the federal government. States are subject to the foreign commerce and national supremacy clauses of the Constitution. Unless an international trade panel ruling is specifically rejected by the federal government, foreign parties may seek enforcement of that ruling.

Third, states base many of their tax policies on either the federal tax laws or on mandates imposed by the federal government. The federal law may not conform to the trade agreements, and states may find their taxes vulnerable under the agreements simply because they are following federal law.

HOW GATT AND GATS FAVOR FOREIGN TAXPAYERS

The special rights and privileges that taxpayers will enjoy under GATT and GATS arise from the broad and ambiguous terms used in the agreements and the "dispute settlement mechanisms" established by the agreements. Specifically, the following features of the agreements create problems for state and local taxation:

The agreements use broad language that is much less precise than tax law and create the potential for unpredictable, unintended and unfortunate decisions. For example, "unjustified discrimination" is an ill-defined, ambiguous standard in the agreements, and the limited history of GATT authorities applying that standard to state taxation is disturbing.

Foreign companies seeking to reduce their state or local tax bills would no longer be required to bring an action in the domestic courts of the U.S., but they could instead recruit their government to lodge a GATT complaint against the state or locality. "Dispute Settlement Bodies" comprised of private sector persons from other nations who are trade experts, but most likely have little or no tax or federalism experience, would rule on complaints by foreign nations against a state or local tax practice. The Dispute Settlement Bodies would not be bound by U.S. court precedents or any other body of law.

States have no guaranteed standing before Dispute Settlement Bodies. Absent Congressional action, states cannot be assured that their views will be presented or protected by the U.S. government at any time in the future. The federal government may defend the states' legitimate interests—or it may decline to, at its sole discretion.

Because GATT and GATS, unlike the U.S. Constitution, do not recognize federalism, and more specifically the rights of state governments, which are otherwise constitutionally restricted from discriminating against foreign and interstate commerce, as a positive value, Dispute Settlement Bodies will be under no obligation to balance the claims of trading interests with subnational governmental rights.

These features combine to create opportunities for tax benefits for foreign taxpayers that are more favorable than any U.S. taxpayer can attain. This fact is illustrated by the one case involving state taxes that has been subject to a dispute settlement ruling under GATT. This case is commonly referred to as Beer II and involved a Canadian-U.S. dispute over federal and state taxes and regulations affecting beer production and distribution.

THE UNFORTUNATE LESSONS OF BEER II

A GATT panel issued a report on February 7, 1992, on Canada's challenge to federal and state laws affecting the beer industry. (This GATT panel decision is commonly referred to as "Beer II.") The Beer II decision provides ample evidence that states are justified in fearing decisions that will likely flow from Dispute Settlement Bodies under GATT and GATS. Beer II ignores federalism entirely and fails to acknowledge the sovereign right of states in a federal system to establish different, but non-discriminatory, laws that reflect local conditions that do not necessarily pertain in all states. Finally, Beer II creates tax benefits in states for foreign breweries that no U.S. brewery could obtain in the U.S. court system.

Specifically, there are at least three features of Beer II that are unacceptable to the U.S. constitutional framework of federalism. The three troubling features of Beer II are the panel's (i) employment of an arbitrarily broad notion of "discrimination;" (ii) application of the "least restrictive measure" standard to define the GATT obligation of "national treatment;" and (iii) elevation of GATT above the U.S. Constitution.

Overly Broad Concept of Discrimination Used to Benefit Foreign Taxpayers: The Beer II panel ruled against certain state tax laws that do not discriminate against either interstate or foreign commerce. In particular, Minnesota offers favorable excise tax treatment for microbrewery production that is conditioned only on the size of the brewery and is completely neutral with respect to the national origin or location of the brewery, its product or its inputs. No microbrewery located in Canada is denied access to the favorable tax treatment. (The Minnesota law is distinguishable from some of the other state laws considered in Beer II that condition favorable tax treatment on geographic location.) Yet, the Beer II panel was unwilling to make that distinction. Employing a "beer is beer" standard, the panel swept the Minnesota-type laws into the scope of its disapproval. Under "beer is beer" reasoning, no government would ever be able to make reasonable or rational distinctions between beer produced under different circumstances unrelated to geographic location. The "beer is beer" standard negates the ability of states to make rational policy choices where there is no evidence of an intent to discriminate against foreign or interstate commerce or to promote local, economic protectionism.

Unless rejected by the federal government or otherwise resolved to the contrary, the original GATT ruling may well provide large Canadian brewers with a special tax benefit in at least one state that is unavailable to large American brewers. This ruling illustrates that GATT and GATS can undermine the equality of treatment between foreign and domestic taxpayers that is guaranteed under the U.S. Constitution. Unless adjusted, GATT and GATS tilt an otherwise level state and local tax playing field in favor of foreign business and against the interests of U.S. businesses and taxpayers.

Classifying taxpayers on the basis of size is a common and acceptable practice that generally poses no problems of discrimination against commerce flowing across political boundaries (e.g., in federal law, S Corporations which may not have non-resident alien shareholders can be distinguished from C Corporations on the basis of number of shareholders). Under the U.S. Constitution, state laws like Minnesota's that classify brewers on the basis of size would most likely be upheld. Other state laws that condition favorable tax treatment on in-state location of the activity, inputs or product would most likely fail a constitutional test. The domestic courts of the U.S. would make careful, well-informed, well-reasoned and justified distinctions between these different types of tax laws. The Beer II panel did not.

Ignoring Federalism: Even more disturbing is the Beer II panel's use of a "least restrictive measure" standard for defining national treatment in order to determine whether discrimination exists. Using the least restrictive measure standard, the panel ruled against higher regulatory standards of some states on the basis that other states had lower standards. Some states impose requirements on the methods of distributing beer as an effective and efficient means of collecting excise taxes. Other states, however, do not impose the same requirements. The Beer II panel's ruling allowed no room for different requirements based on different circumstances confronted by various states, nor did the panel allow any room for differing judgments by separate sovereigns as to the most appropriate requirements to impose to effect collection of taxes.

By imposing on all states the least restrictive measure standard among the states for assessing whether a neutrally structured and intended measure operates on a de facto basis to discriminate under the national treatment obligation of GATT, the Beer II panel struck at the very heart of federalism. The panel's reasoning leaves no room for different laws based on different local circumstances, nor for any range of judgment, regardless of the absence of any discriminatory intent in those judgments, to be exercised by different state sovereigns. Indeed, the combination of the least restrictive measure standard and the acceptance of de facto arguments leaves all state law potentially at risk of being subject to challenge under the aegis of GATT and GATS. Higher taxes levied by a state in which a company from one nation does business could be challenged as discriminatory simply because a competitor does business in another state with lower taxes. The following examples illustrate the potential problems created by the Beer II reasoning, if applied to state taxation:

If Chilean wine is sold primarily in states with low wine taxes, while French wine is sold more often in states with higher wine taxes, the French firms could win a de facto MFN judgment for a GATT panel against states with higher wine taxes.

If the gross receipts tax on a foreign-owned long distance telephone company is higher in the states in which it operates than the tax rates on American-owned long distance (or local) phone companies in other states, the foreign-owned company could win a de facto "national treatment judgment" against the higher tax states.

If a foreign-owned bank pays higher property taxes in the one state in which it operates (for example, NY) than do banks, on average, in other states, it could win a national treatment judgment against the high tax state. (This result would potentially disrupt the billions in revenues realized from property taxation, a form of taxation that is covered by GATS. Property taxes are the primary source of support for education in the United States.)

Since GATT/GATS, as drafted, does not recognize federalism and looks at "discrimination" on a national basis, differences among states in tax treatment of similar economic activity could be used by foreign multinationals to win tax breaks from GATT/GATS panels using the "least restrictive measure" reasoning of the Beer II panel. The obvious result of such rulings would be to destroy America's federal system. Each state would be barred by GATT/GATS panels from setting its own tax policy, settling instead to the lowest level of taxation by any state.

GATT Overrules the U.S. Constitution: The Beer II panel decision does not recognize governmental powers that are reserved to the States under the U.S. Constitution. The panel found in Beer II the States' alcohol regulatory practices, which could not be described intended to discriminate against foreign or interstate commerce or to promote economic protectionism, to violate GATT obligations. This violation was found even in the face of the central government's (federal government's) lack of power to require the States to change their alcohol regulatory practices that are reserved to the States under Twenty-First Amendment of the U.S. Constitution. In essence, the panel has used a congressionally approved international trade agreement to overrule the U.S. Constitution—something the U.S. Supreme Court cannot even do.

GATT/GATS RULINGS CAN BIND STATES, BUT NOT FEDERAL GOVERNMENT

As suggested above, GATT and GATS generally will bind the states in ways that do not apply to the federal government. It is important to keep this difference in effect in mind, because the federal government is simply not subject to the many restrictions applicable to the states and the perspective of the federal government is not, therefore, directly transferable to the states.

GATT and GATS are a part of the foreign policy of the United States that, under the Constitution, is binding on the states. U.S. domestic courts entertaining state tax disputes will consider GATT and GATS rulings by the Dispute Settlement Bodies (and the other authorized decision-making agencies of these trade accords) as expressions approved under U.S. foreign policy unless there is a formal rejection of the rulings by the U.S. government. Thus, in any future cases involving state or local taxes in which the U.S. government does not expressly and firmly reject the GATT or GATS ruling, foreign parties will be able to take the trade ruling into U.S. domestic courts and argue persuasively that the state or local tax practice violates the U.S. Constitution by virtue of being inconsistent with the foreign policy of the U.S.

This ability of foreign parties to seek enforcement of GATT or GATS rulings that may be adverse to a state taxing practice in the domestic courts of the U.S. makes the nature of the dispute settlement process of great concern. Trade panels—closed to the states and comprised of non-U.S. citizens—will begin to play a role previously reserved to the U.S. Supreme Court precedents and constitutional language on the rights and obligations of subnational governments, but empowered instead to interpret broadly vague language, pose a clear and present danger to the U.S. system of federalism.

FEDERAL LAWS MAY CREATE GATT PROBLEMS FOR THE STATES

States, especially in the income tax area, have frequently based their state tax treatment on federal law. The practice of "piggybacking" on federal laws typically simplifies tax compliance and reduces costs for taxpayers and states alike. This practice generally supports the free flow of commerce and should not be discouraged by GATS or GATT. Accordingly, state laws based on federal law should not be subject to a separate challenge under these trade agreements.

In addition, there are several state or local tax practices that are required by federal law. This category of state and local taxation should be similarly protected from the jurisdiction of the trade agreements, more because of the federal interests involved than the state interests.

The following examples—which are not all inclusive—illustrate the category of laws involved in state taxing practices reflecting federal law:

Tax exemptions for non-profit and U.S. government enterprises,

Protection of businesses engaged in interstate, but not foreign commerce, from state income taxation under Pub. L. 86-272, and

Tax exemptions for U.S. and state government securities.

These examples all involve activities that provide for favorable treatment of domestic activities. States are prohibited from taxing federal obligations, but they are allowed to tax foreign obligations. States use federal concepts of charitable, non-profit activities to similarly provide favorable tax treatment to charitable activities within their borders. They do not provide favorable tax treatment for charitable activities outside their borders or, following the federal law, for similar activities provided by for-profit entities. States are required by federal law to provide certain favorable treatment to businesses engaged in interstate commerce, but not those engaged in foreign commerce.

States must comply with federal law and are often wise in using federal tax laws as a basis for their own laws. States should not get caught in a conflict between specific federal laws and general GATT requirements. The federal government should protect states from adverse GATT determinations that might arise from their use of or compliance with federal laws.

PROTECTING FREE TRADE, FEDERALISM AND TAX FAIRNESS

The task at hand is to restore tax fairness and federalism to the framework of the world trade agreements. Unless this task is accomplished, foreign taxpayers will be able to reduce their state and local taxes unfairly at the expense of U.S. taxpayers. Further, because taxation is at the core of sovereignty, the role of the states in our federal system will be undermined as authority over taxation shifts from state and federal officials to non-U.S. citizens serving on international trade panels.

There is a ready solution to the need to restore tax fairness and federalism to the GATT and GATS framework. Currently, in the GATT negotiations, nations are developing exclusions from the GATT and GATS agreements. These exclusions involve Most Favored Nation Exemptions and National Treatment Reservations. The MFN Exemptions are to be resolved by April 15, and the National Treatment Reservations by June 15.

We proposed to the Administration that they seek two types of exclusions from GATT and GATS as both MFN Exemptions and National Treatment Reservations. In developing the proposed exclusions, we seek to establish two broad principles that will restore tax fairness and federalism to the trade agreements:

(1) The U.S. Constitution should be the basic standard for judging whether state and local taxes are fair and non-discriminatory as they apply to foreign commerce, and

(2) States should not suffer the penalty of adverse GATT or GATS ruling because they comply with or base their taxes on federal laws.

Using these principles, we have proposed to the Administration that they seek an MFN Exemption and a National Treatment Reservation that would exclude from the scope of the trade agreements any state or local tax measures that "satisfy the requirements of the U.S. Constitution as determined by the domestic courts of the States and the United States." Further we have sought an MFN Exemption and a National Treatment Reservation that would exclude from the trade agreements state and local tax measures that "substantially replicate, or discharge requirements or manifest the policy of, the U.S. Internal Revenue Code or other applicable federal law."

These proposed exclusions from the trade agreements remain under discussion. We seek the support of Congress for these exclusions. If these exclusions are incorporated into the GATT and GATS framework, then there would likely be little need to address state and local tax issues in the implementing legislation for GATT and GATS. However, if these exclusions are not adopted, we will return to Congress with extensive and detailed proposals for embodying to the degree possible not only the constitutional and statutory principles listed above, but also a third and fourth additional principles:

(3) As is the case with the federal government, rulings under GATT and GATS should not be legally binding on state and local governments,

(4) Federalism should be recognized as a positive value by allowing state governments, as sovereign entities, full and direct participation in GATT or GATS disputes involving state laws and by requiring that trade panels dealing with state and local tax issues should include tax officials from subcentral governments in federal systems.

Incorporating these principles into the implementing legislation would require detailed provisions dealing with a host of matters including, as a sample, the following: i) a requirement that the U.S. government use the Constitution for judging the acceptability of GATT rulings involving state and local taxes, ii) prohibitions on private rights of action by foreign parties seeking to enforce GATT rulings involving state and local taxes in the domestic courts of the United States, iii) procedures for the direct participation of state governments in defending cases before GATT panels involving state or local taxes, (iv) requirements for nominees from other nations acceptable to the United States for serving on trade panels dealing with state and local tax matters, (v) consultation procedures between the federal government and state and local government when GATT cases begin to arise, (vi) procedures for determining whether and in what manner the U.S. accepts adverse GATT rules, and (vii) procedures for the U.S. government to pay compensation or other means that avoid unfunded mandates on state or local governments if adverse GATT rulings occur. There may be other subjects that should be considered in the implementing legislation as well. However, most if not all of these subjects need not be addressed if the U.S. secures the type of MFN Exemptions and National Treatment Reservations we have sought.

The linchpin of our proposals is the Constitution. For that reason, it is necessary to understand why the Constitution works to ensure fundamental fairness in state and local taxation for foreign and domestic taxpayers alike.

HOW THE U.S. CONSTITUTION ENSURES TAX FAIRNESS

The Interstate Commerce Clause, combined with other provisions of the U.S. Constitution, guarantees that states tax out-of-state parties in the same manner as they tax their own state residents. Further, the Foreign Commerce Clause requires that the states tax foreign parties in the same manner as they tax U.S. parties. Both clauses interact to achieve more effectively and precisely than GATT or GATS can guarantee essential equality in taxation for foreign and U.S. interests alike. Further, the case law under these provisions is careful and well-developed and is not subject to the likely abuses under the ambiguous language and incomplete precedents of the trade agreements. Because of the effectiveness of the U.S. Constitution in guaranteeing equal and non-discriminatory taxation, the Constitution should be the basis for achieving the result sought by GATT and GATS: trade that is not restrained by discriminatory taxation.

Because foreign companies are well protected by the Constitution against unlawful discrimination, local economic protectionism and undue burdens placed upon commerce, GATT/GATS should not limit or affect the tax methods by which states or other subnational governments raise revenue from business activities over which they have jurisdiction. During the past 200 years, the United States Supreme Court has consistently safeguarded interstate and foreign commerce from discrimination and undue burdens caused by unlawful state tax measures. Several provisions of the United States Constitution exist to address overreaching by the states when they seek to require interstate and foreign commerce to bear a "fair share" of taxation. Those protections reside in Articles I, §8, cl.3 (Interstate and Foreign Commerce Clauses), §10, cl.2 (Import and Export Clause), VI (Supremacy Clause), and Amendment XIV, §1 (Due Process and Equal Protection Clauses) of the Constitution. This discussion is limited to an examination of the Commerce Clause protections extended by the Constitution which more than amply protects consistent with the standards of GATT and GATS domestic and foreign companies transacting business in foreign commerce.

Under the Foreign Commerce Clause, states and their political subdivisions are only allowed to impose a tax obligation on business engaged in foreign commerce when the obligation:

1. Is applied to an activity with a substantial nexus with the taxing state;
2. Is fairly apportioned;
3. Does not discriminate against interstate commerce;
4. Is fairly related to the services provided by the taxing state;
5. Does not create a substantial risk of international tax multiplication; and
6. Does not prevent the Federal Government from speaking with one voice when regulating commercial relations with foreign governments.

Unless each and every requirement listed above is fully met, the tax obligation will fail under the Foreign Commerce Clause and the taxpayer who might have paid the tax will be entitled to meaningful relief. See *McKesson Corp.* v. *Division of Alcoholic Beverages and Tobacco*, 496 U.S. 18 (1990).

Since the adoption of the Constitution, the United States Supreme Court and state courts have addressed scores of state tax issues and found many to violate the Interstate and Foreign Commerce Clauses. In the past ten years alone, the Supreme Court has issued several opinions declaring invalid against the Commerce Clause state tax measures that bore on interstate and foreign commerce. Representative examples of but a few of those cases are found in Westinghouse Elec. Corp. v. Tully, 459 U.S. 1144 (1983); Bacchus Imports, Ltd. v. Dias, 468 U.S. 263 (1984); New Energy Co. of Indiana v. Limbach, 486 U.S. 269 (1988); Kraft General Foods, Inc. v. Iowa Dept. of Revenue and Finance, —— U.S. ——, 112 S.Ct. 2365 (1992). State courts also preserve the free flow of commerce. See HL Farm Corp. v. Self, 1994 WL 1927 (Tex.).

Our message is simple: the Constitution works, and has worked, for over two centuries as an instrument of free trade, federalism and tax fairness. That is why we have made the standards and procedures of the Constitution the foundation of our proposals for exclusions of certain state and local tax measures from the scope of the GATT and GATS. That proposal, combined with a further provision protecting states when they act on or implement federal law, would effectively harmonize the trade agreements with our system of federalism. We ask for your support for the MFN Exemptions and National Treatment Reservations that we have proposed.

Protecting the role of state and local governments in our nation is not an abstract or theoretical matter. The states have primary responsibility for meeting the domestic needs of the people of our nation. The states and their subdivisions maintain public order, educate future citizens and workers, maintain the essential infrastructure necessary for commerce and public life, and assist persons beset by misfortune or wrong choices to become productive members of society again. They do these tasks and more in a diversity of ways. That diversity is an important value of our federal system. States are laboratories of democracy and are a continuous source of innovation to meet a range of public needs. Endangering state tax sovereignty inevitably imperils the vitality and stability of our society.

Mr. CRAIG. Before closing, Mr. President, I would also like to mention that the WTO has not received accolades abroad.

Articles in various papers and journals have outlined concerns that our trading partners have on the structure of the World Trade Organization and issues of sovereignty.

Mr. President, after World War II, representatives from the United States and Great Britain designed a postwar economic system with three pillars: the World Bank, the International Monetary Fund, and the International Trade Organization [ITO].

The ITO was intended to be the administrating body covering the General Agreement on Tariffs and Trade [GATT]. As I mentioned earlier, Mr. President, the U.S. Congress rejected the ITO as a threat to U.S. sovereignty.

The Congress took that action despite warnings from beltway insiders that the failure to join this would certainly impede economic recovery for the entirety of the world.

Our predecessors realized that the United States and our trading partners did not need a bureaucracy. What they needed was free trade. And, of course, this Senate rejected it. And yet we saw the world go on to prosper, as GATT itself and as we worked in a voluntary way to promote free trade around the world.

Well, Mr. President, I hope that congressional wisdom will continue to prevail and that many of the questions I have spoken to today and others are speaking to about the World Trade Organization will be resolved to ensure our U.S. sovereignty and the very important question of States rights.

It is clearly time that we listened to the underpinnings of this amendment and that we are willing to stop for just a moment and do an extensive examination, as the amendment calls for, some 90 days' worth of examination, and respond to our attorneys general and to our State tax commissioners and to our Governors, who are concerned, as we should be, about the issue of our sovereignty and about the issue of States rights.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER (Mr. FEINGOLD). The Senator from Vermont.

Mr. LEAHY. Mr. President, I will yield to the Senator from Montana in just a moment.

But assuming all the arguments made by all the supporters of the amendment by the Senator from South Carolina, we still come down to one major point. This is not the vehicle for it. This is an appropriations bill. This is not an authorizing bill.

We are going to have debates on implementing legislation for the GATT. There will be debates in the Finance Committee, as there will be in the Senate Agriculture Committee. I am perfectly willing to assume that the distinguished chairman of the Finance Committee, Senator MOYNIHAN, would oppose this, certainly on this appropriations bill, just as I, in my capacity as the chairman of the Senate Agriculture Committee, would oppose it. If you want to bring it up on implementing legislation, fine.

The other point to realize is, of course, every Senator has a right to speak on this as long as they want. But the fact of the matter is, this will not become law on this bill. It is not going to be accepted by the other body in the conference. It can mean that we could spend a lot of time putting our various foreign policy earmarks in this bill, and they will disappear. They will disappear in the continuing resolution that will be sent over by the other body sometime toward the end of September.

We can either pass a foreign operations bill, one that is designed to bring into play a number of significant earmarks and issues raised by some of my distinguished colleagues and by the distinguished Senator from Kentucky and by myself and some by others that are in this bill, and it will pass overwhelmingly. And they are not in the legislation from the other body.

But I guarantee you, this is not going to be able to be accepted if it is adopted here. All Senators should have the right to vote on it, and I hope they might very, very soon. They either vote to add it in or vote to keep it out. But it will not make it possible for us to conference a bill with it in and that will be accepted by this body or the other body, and we will end up with a continuing resolution without some of the country specific designations that we now have in our foreign aid in here.

That again is fine. Senators have to make up their own minds on that. I am not suggesting whether that is a good idea or a bad idea. I am just trying to point out the realities.

With that, I yield to my friend from Montana, who has proven time and again that he is one of the foremost experts the Senate has had on the whole issue of international trade, on the question of GATT and NAFTA, and numerous others.

I feel privileged to have him as a member of the Senate Agriculture Committee and a member of the Finance Committee. He is the chairman of the Environment and Public Works Committee. But he is a Senator that I turn to more and more in my career in the Senate on these issues of international trade because of his proven expertise.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I thank the Senator from Vermont for his very kind words.

I understand, and I think most Members of the Senate understand, the concerns the Senator from South Carolina has, the Senator from Idaho has, and the concerns a lot of Americans have, over proposed Uruguay round agreements, including the World Trade Organization and particularly including the disputes settlement mechanism.

I think we all know this is the post-cold-war era. The world has changed. It has changed dramatically. Each country is now, to some degree, assuming an economic agenda a bit more than it has in the past, at least during the cold-war era. And that is probably the way it should be, each of us looking for a way to increase our economic position, to boost our incomes. American families are looking for ways to boost their incomes, as well they should. In fact, we here are doing what we can to help, in large respect, particularly American families to increase their incomes in this uncertain world we find ourselves in into the 1990's, and particularly into the next century.

I would like to follow on the words of the chairman of the Agriculture Committee, Senator LEAHY, in basically saying this resolution is not properly offered on this bill. This is an appropriations bill. This is not an authorizing bill. We are not here debating provisions of the Uruguay round. We are not here debating the provision of the implementing language that Congress, I think, will debate fairly quickly with respect to ratifying or not ratifying the proposed Uruguay Round Agreement.

In addition, I must say that it probably makes much more sense for these issues—and they are very good issues, and I have a lot of sympathy for and, in fact, agree with a good part of the statements that have been made thus far—to debate these in the ordinary course.

What is the ordinary course? The ordinary course is, of course, the Finance Committee will be working on implementing language. Senator MOYNIHAN, the chairman of the committee, has scheduled hearings this week and next, particularly next week, when he thought he would begin to go toward debating and adopting implementing language which goes to the questions raised by Senators who have previously spoken in favor of this resolution.

It is, I think, unwise to put the cart before the horse. By voting now in favor of this resolution, we, in a sense, would be putting the cart before the horse. It makes much more sense for the Congress, particularly the Senate, to look at the implementing language after it is drafted, and agree to the implementing language which addresses concerns raised by Senators in favor of this resolution.

Once the implementing language comes to the floor of the Senate, we will have ample, ample opportunity to debate the merits of that implementing language. That is the proper course. I urge Senators to follow that course, because that course will result in a much better product.

We must also remember that it would be unwise to lose sight of the big picture. What is the big picture? The big picture, frankly, is there is a lot of good and, I think on a net basis, more good in the Uruguay Round Agreement. If Congress ratifies the Uruguay Round Agreement and if the other participating countries ratify it, we Americans will find that our GDP will increase $200 billion every year; a massive infusion, a massive addition to the United States gross domestic product because of provisions in the proposed Uruguay Round Trade Agreement.

Where are those benefits? One is in intellectual properties. Today, about $60 billion worth of American intellectual property—that is, goods for which we have trademarks that are copyrighted—are pirated by people in other countries to their benefit and to America's disadvantage.

The proposed world trade agreement, the proposed Uruguay agreement—they take very significant first steps. There was a "free rider" problem in the past; that is, some countries could adopt some portions of trade agreements and not others. This proposed trade agreement requires all countries to enact very significant intellectual property, copyright, and trademark protection that inures to the tremendous benefit of Americans because most intellectual property pirating is by other countries pirating American intellectual property. We still are the most creative society, the most creative country in the world. We generate more new ideas that we Americans copyright and provide intellectual property protection for than other countries. This agreement helps keep those dollars in the United States.

Second, this agreement opens new markets for American farmers, American agriculture. This agreement will open new markets by about a third. There are tremendous reductions in export subsidies that other countries enact that inure to our benefit. Generally, we Americans have about $1 billion of export subsidies helping promote our agricultural exports overseas. The European Union has about $10 billion—10 times what we have. This agreement provides for a 26-percent reduction in export subsidies. Obviously a 26-percent reduction of $10 billion the European Union has to face compared to the 26-percent reduction of $1 billion we Americans face means we come out ahead. We come out very much ahead because of the agriculture provisions in the round. Beyond that, there are generally major benefits in tariff reduction for manufactured products, reductions of about one-third.

So, all in all, it is important to realize that this agreement has tremendous provisions in it which will dramatically increase and give a boost to the American economy. That means more jobs for Americans.

Mr. President, it is true there are some concerns. One is the so-called secrecy provision referred to by the Senator from Idaho. That is a concern I have. I am quite concerned that the dispute settlement provisions in the proceedings in the World Trade Organization are not sufficiently transparent, they are too secret. We are going to address those provisions in the implementing legislation by providing that Americans can sit in on proceedings. They should sit in on proceedings. I think it is a real problem the Senator from Idaho properly raised. We are going to address that.

Second, we have concerns about American sovereignty—very real concerns about American sovereignty. I think it is important to point out, though, those same concerns exist today because today we Americans bring many more cases to the GATT than do other countries. Four-fifths of the time we Americans prevail in cases we bring to the GATT. Why do we bring more cases to the GATT than do other countries against us? Because we are the biggest country. We are the biggest consuming country. We are the wealthiest country. We Americans buy a lot of other countries' products and we are also the most open country.

By the way, that is a major benefit of the round in that it lowers other countries' barriers proportionately more than it lowers ours. But nevertheless, today we bring more cases to the GATT than other countries do. And we win four-fifths of the time.

Currently, any other single country can block a GATT panel decision in America's favor. All it takes is one country. The Reagan administration and the Bush administration frankly advocated and asked for, in the GATT negotiations, binding dispute settlement mechanisms so that no one country in the future could block. Because we are there more than other countries, we do not want other countries to block. Currently other countries can block with their one vote. Under the proposed agreement that will no longer be the case, so we will come out net beneficiaries.

Second, in those areas where a GATT panel rules against the United States today, and in the proposed agreement, we Americans—the U.S. Government—we reserve the authority to either agree or disagree; we reserve the authority to either change our law or not change our law in accordance with the GATT panel decision. That is what we have done in the past. That is also under this proposed agreement what we will do in the future.

For example, not too many years ago, the GATT panel ruled against the United States in the so-called tuna/dolphin case. That was a case where the U.S. Congress passed the Marine Mammal Protection Act, which essentially said countries which export tuna into the United States, tuna caught with fishing nets that catch dolphins—we could not import tuna caught that way into the United States. That went to a GATT panel. The GATT panel ruled against the United States.

What did we do? We Americans said: Sorry, we are not going to change our law. We have not changed our law. We still have the same law. Other countries have not retaliated.

Why have they not retaliated? Because we are still the biggest economic power in the world and I expect that will be the case in the future. The same thing under the proposed agreement. Let us say a panel rules against us, hypothetically. We reserve the right to either agree or disagree, reserve the right to either change the American law or not change.

Let us say we do not want to change our law. Other countries do have the right to retaliate just as they have today. But whether they do or do not will depend so much on circumstances and whether they want to take on the United States, which is the largest, strongest economic power in the world. So far they have not. I do not think they will in the future either. So there are a lot of answers to these earlier initial concerns that a lot of people had. Frankly, I think it is wise for us, again, not to put the cart before the horse.

I must also point out that we, the Finance Committee and others, are working with State governments and State associations to find ways to address the States rights concerns that the Senator from Idaho raised. Those are good points. They should be addressed and we will be addressing those.

Finally, to sum up, Mr. President, the U.S. Congress passed so-called fast-track legislation in 1988, renewed it in 1990, again in 1993. We in the Congress passed a law setting up this procedure. We wanted executive agreements. That is what the law says. That is what we wanted. That is what we provided. We are just here following the law that the Congress enacted which Republican Presidents have asked for, which Democratic Presidents have asked for. That is the process. Under that, we look at the implementing language. If we in the Senate agree with the implementing language, we ratify it. If we do not, we reject it. But we have not yet seen the language. So it is difficult not to prejudge it. I suggest we wait until we get the language, we in the Senate, and then make a judgment.

I tell my colleagues we in the Finance Committee, again, hear these concerns. Frankly, we are burning the midnight oil to address them because some of them are very real concerns.

Mr. CRAIG. Will the Senator yield?

Mr. BAUCUS. I will be happy to yield.

Mr. CRAIG. I think the Senator knows we share a concern about the importance of trade to the country and its economic well-being and place in the world. But I am pleased to hear the Senator speak about the dispute resolution provisions. There clearly are questions there that have to be answered. I did not say I would oppose GATT. I did come to the floor and speak to this amendment, as the amendment itself speaks to a concern, trying to bring together our best minds to try to solve these problems before we get ourselves into trouble. I think that is the essence of the amendment. It is not anti-GATT and was not intended to be.

What it is intended to do is to clarify what the World Trade Organization's authority is and how that might impact a State, and State tax commissions. I mean, when my State tax commissioners, who are very bipartisan, and when my State attorney general, who by the way is of your party and not mine, take the time to call me personally and say, "We have some very real problems here, Senator; you ought to address them before you vote on this thing," I think that is a legitimate concern. And that is what provoked me to begin to examine the details of the language of the World Trade Organization as proposed in this agreement, and why I am now a supporter of this amendment.

I guess I am surprised that we would want to oppose this amendment. I do not believe it is anti-GATT. I think it is desiring to create a situation and address the very request of the States attorneys general, and that is of a summit that brings out these issues and resolves them in the implementing language that you have suggested it could be resolved in.

I thank the Senator for addressing that issue.

Mr. BAUCUS. Just replying to the Senator, Mr. President, I oppose the amendment for two reasons: one, because it is premature; and, second, because it kills any ability of the Congress to consider whether or not to ratify the GATT this year because of the 90-day provision in the resolution.

I think it is premature for Congress today, with virtually no debate, to decide that under no circumstances are we going to take up the implementing language and whether or not to ratify the GATT this year. That is premature. Without looking at the implementing language, without trying to address the implementing language, I think the better course is to look at the implementing language, if it ever comes—I say to the Senator, there is a possibility the Senate may not take it up this year. In fact, I think it is not only a real possibility, but I think there is some probability that in the normal course of business, the Congress will not take up the Uruguay round this year.

I say that because I think the administration has done a very poor job in explaining what this is all about and explaining its benefits.

Second, I think the administration has done a very poor job in trying to find a way to pay for it. They have not consulted anyone on this side of the aisle; they have a few on your side of the aisle. I must say, it is a little strange to me that the President of the United States would first consult with Members on the minority side before he consulted with Members on the majority side.

Because of the poor job the administration has done, there is some probability that it may never come up this year. But if they get their act together, if it does come up before the Finance Committee soon, then I think we will have an opportunity to address these issues.

Mr. CRAIG. I thank the Senator for yielding again. That is why I do not believe the 90 days is deleterious to the whole issue. I think we have ample time and I think that is what the Senator felt when he offered the amendment; that we are not going to deal with it this year. I guess I must also react by saying I am not terribly surprised this President would come to the minority party when it comes to trade issues. I think he had to coalesce with them to get NAFTA through. He probably feels the same here.

My guess is, though, that if he resolves or works with us to resolve the very real questions of the World Trade Organization, it can become a very bipartisan base of support for GATT. If he fails to do that or if we fail to do that, my guess is that it will be a very bipartisan voice of opposition to this agreement, and we should not find ourselves there. We ought to know better and work out these differences before we get to this very important trade agreement for our country and the world.

Mr. BAUCUS. I appreciate that and, just to finish, we will more likely get a bipartisan agreement if we let the ordinary process continue than if we do not.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair.

Mr. President, I listened with great interest to our friend from Montana who said something that I did not realize. He said there is going to be "plenty of time" to debate GATT when it comes up on the floor.

One of the reasons I am apprehensive is that we have the fast track rules that are going to apply. Debate will be limited, I say to the Senator from Montana, to 20 hours, no more. Also, no amendment will be permitted, and that means that what should be a treaty will be approved—a treaty that no Senator knows much if anything about. I say to you, Mr. President, that this is a bad way to legislate, particularly for the U.S. Senate, which has always prided itself as being the world's greatest deliberative body.

So that leads me to the conclusion, Mr. President, that the U.S. Senate should overwhelmingly support the pending resolution offered by the distinguished Senator from South Carolina [Mr. THURMOND] and the others of us who have felt it is absolutely imperative that there be a delay in the submission to Congress of the GATT agreement until more public hearings are held.

Mr. President, I do not know how many people in the press gallery know one thing in the world about this GATT agreement or the World Trade Organization. If they profess to know anything about it, I would like to meet them outside. I want them to tell me what they know about it.

The Senate has the duty to study this massive agreement very carefully, and the Senate has not done that at all. We need to take a serious look at this agreement lest a tragic error be made in terms of the best interests of this country and the American people. So do not give me all this hogwash about we need to move along, or that this is not the right vehicle. It is always the "right vehicle" when you are trying to protest something that ought not happen.

There are many citizens who have many concerns about the WTO. Reference has been made to the State attorneys general—42 of them—who have written to me and to the President saying, "Please, hold up on this thing. We have fears about the attacks on the sovereignty of the United States."

Mr. President, I am sick and tired of this business of rolling things through the Senate not knowing one thing about what the Senate is doing in the process, just because a President says he would like to have it done.

If the President will send word up to the Senate that he is not going to trigger the fast track this year, the Thurmond amendment will be withdrawn. I have not checked it with Senator THURMOND, but I believe that if the President does not intend to trigger the fast track moving, that this argument is over. But, no, they are going to try to slip it through at the last minute—20 hours of debate and roll it into law.

Last week, 42 State attorneys general wrote to the President saying in effect, "Please, delay submitting the GATT agreement for consideration by the Senate so that a summit," as they put it, "a summit can be held to discuss how the World Trade Organization impacts on State laws." They are worried about State laws, and I am worried about U.S. laws.

State tax commissioners, or revenue commissioners as they are called in some States, have also expressed grave concerns.

No more than a handful of Senators—and let us be honest about this—have the vaguest notion what is in this massive trade document, and there have been very few hearings on it. The 42 State attorneys general are absolutely right, more hearings are imperative before this agreement is formally considered by the U.S. Senate.

Mr. President, we are not playing games here. We are talking about the sovereignty of the United States of America. This new trade agreement, and especially the World Trade Organization, could very well be a prelude to disaster.

One of the great privileges I have had in my life is to serve for 2 years as the junior Senator from North Carolina when Sam Ervin was the senior Senator. Sam Ervin had been one of the great constitutional scholars of our time. He was also my friend. We did not belong to the same party, but I had great affection and respect for him. I believe he had some for me. After he left the Senate, never a day passed that he did not call me or I call him. He was a great American.

One of his greatest apprehensions was the danger that international agreements so often posed to national sovereignty. Time and time again he called me and said, "JESSE, watch out for that." He often said, prior to the Vietnam war, that the United States never lost a war, nor won a treaty. I do not think this was original. I think Will Rogers, or somebody, said it first. But it is well worth bearing in mind.

Mr. President, I have done my best to uphold Sam Ervin's concerns, and as long as I am in the Senate, I will continue to make that effort.

But let me make this point. We hear the glib comment: "Well, this is so good for trade." What kind of trade? What kind of attacks on sovereignty? I will bet you that there are not 10 Senators, if that many, who could tell you how many pages there are in this agreement. I will tell you, it is 825 pages long. It is enough to give you a hernia trying to carry it around, and it has 22,000 pages of addenda. Do you want to bet me that 10 Senators know what is in it? You will lose.

In reading parts of this GATT agreement, I found myself amazed. This agreement, as I have indicated, creates an entirely new international institution. They call it the World Trade Organization, which is going to replace the old GATT organization. It has some flaws that Senators ought to bear in mind.

The WTO takes away the ability of the United States to veto decisions that are harmful to the best interests of the United States. We have a right to veto in the United Nations but not in the World Trade Organization. One might refer to this organization as a "United Nations of World Trade," except the United States does not have a veto anymore.

Everybody favors expanding world trade. I find myself a little bit nauseous at these pious declarations: "Well, we must have more world trade." Of course, we all want to eliminate world trade barriers. But while I am for world trade, I am flat out against world government. And I believe the majority of the American people feel the same way about it.

Mr. President, let me specify just a few of the concerns that I have with this so-called World Trade Organization. It is impossible to mention all of them here; it would take the rest of the afternoon. I do not want to do that. But let us go over a few of them. Later on, if anybody wants to hear, I will add a few dozen more concerns.

But, first, under this World Trade Organization, the United States of America, which is supporting about half the world with foreign aid, has only 1 vote out of 117. Many important votes will be cast in the next 10 or 25 years if and when this World Trade Organization goes into being and becomes effective. Votes to amend and votes to interpret the provisions of the WTO. The WTO will decide how to interpret all of these 22,000 pages of addenda and 825 pages of the agreement.

Since we have only that one vote, we may very well be outvoted by Third World countries just as we are in the United Nations where 83 of the countries vote against the United States 50 percent of the time. At least we have the power of the veto in the United Nations. But we have nothing but one vote in the World Trade Organization. These countries vote against the United States in the United Nations—think about them in terms of the World Trade Organization: Cuba, Uganda, Ghana, Chad, Zimbabwe, Cameroon, Bangladesh, Cyprus. At least at the United Nations, I reiterate for the purpose of emphasis, the United States can veto decisions with which the United States disagrees because of the adverse effect on the best interests of this country.

Second, under this World Trade Organization that is going to be put on a fast track—20 hours of debate, and byebye birdie, into law it goes—the United States gets one vote, but the United States will pay 20 percent of the budget of the World Trade Organization. They are socking it to Uncle Sugar again.

Why do the American taxpayers always end up on the short end of the stick? They end up paying most of the tab for these international organizations. That bothered Sam Ervin and it bothers me. It does not bother the news media. You will not read one thing about this debate in the Washington Post tomorrow morning. It will be the best kept secret in American journalism. And that suits me just fine. But if it is possible to have any effect whatsoever in slowing down this fast track that will be imposed on the U.S. Senate, or better put, upon the American people, I am going to try to do it.

We no longer have the veto to stop the bad decisions. Under the old GATT each country could effectively exert a veto over a bad decision by not agreeing to adopt the panel's final decision. That is the way it used to be. This would preclude another country from retaliating against the United States.

Under the new World Trade Organization as it is proposed to be, a country can no longer stop the panel decisions. These World Trade Organization decisions will be automatically adopted unless the winner agrees to drop the case. And how many winners do you think are going to do that? Therefore, if the United States, hypothetically, loses a case in the new World Trade Organization, what options do we have?

First option. When I say this, Mr. President, Sam Ervin is going to spin in his grave. The United States can change its laws to conform with the World Trade Organization. Or the United States could pay compensation. Or the United States could face trade retaliation. Those are the three options we have.

Mr. President, the United States will face incredible pressure, do you not see, to change a law that offends somebody in another country. It is like having a gun held to Uncle Sam's head: Change your law, give us money, or we will shoot you. It sounds like certain sections of Washington, DC, at 3 in the morning.

It seems to me, Mr. President, that the sovereignty of the United States is so clearly at risk and we are faced so obviously with such consequences if we refuse to change our laws. STROM THURMOND is right in sending forward his resolution. I do not care whether it is an appropriations bill. I do not care whether some think it is not the right bill. I have managed many a bill since I have been in the Senate, and I have never objected to anybody's offering an amendment in the context of his apprehension or her apprehension that the best interests of this country would not be served otherwise. I challenge anybody to check the record and see if I have ever objected. I may not have voted for it, but I have never complained such a serious amendment was not on the right vehicle. And I never will.

Mr. LEAHY. Will the Senator yield?

Mr. HELMS. Yes.

Mr. LEAHY. I do not know if I misunderstood the Senator.

Mr. HELMS. I yield for a question.

Mr. LEAHY. Is the Senator suggesting that the manager of the bill said that Senators did not have a right to offer an amendment to this bill?

Mr. HELMS. No, I did not say that.

Mr. LEAHY. Then I misunderstood the Senator. Was the Senator suggesting that the manager of the bill has in any way impeded the ability of anybody to offer this amendment?

Mr. HELMS. If the Senator will repeat all after the word "suggesting," I will appreciate it.

Mr. LEAHY. Is the Senator suggesting the manager of the bill was in any way impeding any Senator from being able to offer the amendment now before us?

Mr. HELMS. Obviously not, because the manager of the bill does not have the right to do that in the first place, does he?

Mr. LEAHY. No. In fact, the manager of the bill has said——

Mr. HELMS. Mr. President, I have no personal animus——

Mr. LEAHY. It is not appropriate on an appropriations bill but that everyone would have a chance to argue——

Mr. HELMS. The Senator has to state his point with the question mark. I am saying to the Senator that I have no personal animus against the chairman of the Senate Agriculture Committee. I understand, because I have been in his shoes, the desire to move a piece of legislation that he is managing. But I am saying that the statements that I constantly hear, "Oh, we must not do this to this bill," I think the spirit of and meaning of the U.S. Senate is for the Senate to speak its will on what Senators—even a minority of Senators—feel is bad principle for this country.

Mr. LEAHY. Will the Senator yield further for another question?

Mr. HELMS. Yes, sir.

Mr. LEAHY. Would the Senator accept that this is authorizing legislation on an appropriations?

Mr. HELMS. Absolutely. That does not mean a thing to the American people, and it means very little to me. I think that the Senate ought to consider vital issues. We have authorizing bills. We have appropriations bills. As a general rule, it is fine to go ahead and have a delineation of the two. However, I have not seen an appropriations bill in a long time that did not have a lot of legislation in it. Do you see what I mean?

I am saying to the Senator that I am so concerned about this sovereignty issue that I intend to have my full say, and if I offend the Senator, I apologize to him.

Mr. LEAHY. If the Senator will yield for a question, I hope he does not think that I am suggesting he is criticizing me. I was in the Cloakroom and missed part of what he said. That is why I was trying to find out what he was saying.

The Senator is not suggesting that the manager of this bill would in any way try to cut off the debate of any Member on this issue.

Mr. HELMS. No, because the Senator cannot do it, unless there are 60 votes.

Mr. LEAHY. Will the Senator yield for a further question?

Would it not have been possible if the Senator who is managing the bill—is it not a fact that the Senator urged Senators to come to the floor, and did not move to table as he obviously could have under the law? In fact, is it not the fact that the Senator says he wants to make sure that every Senator has been heard on this subject prior to making a motion to table, something that was available to the Senator from Vermont, and would have cut off debate on this particular issue?

Mr. HELMS. If I understand what the Senator is saying—and if it is a question, I did not hear a question mark at the end—in the first place, any Senator who moves to table an amendment with nobody on the floor will find themselves in serious personal difficulty the next time he has something. So I know the Senator from Vermont would not do that. He is an honorable man. He is a good legislator and a good Senator.

But I do not think I will yield for any more questions. I think the two Senators, Senator LEAHY and Senator HELMS, understand each other. I will probably wind up here in a little bit so somebody else can have the floor.

Mr. President, under the old GATT, the General Agreement on Tariffs and Trade, each country could effectively exert that veto that I discussed over an undesirable decision by not agreeing to adopt the panel's final decision. That is what I was saying before the distinguished Senator from Vermont asked his several questions.

A fourth concern is the impact that the new World Trade Organization can have on State laws, and those 42 attorneys general have addressed that situation very, very clearly. Foreign countries, do you not see, have the ability to challenge the laws of any one or all of the 50 States of the Union. All they have to do is file a case with the World Trade Organization. Canada, as a matter of fact, did exactly that sort of thing when it challenged the tax laws on beer of some 40 U.S. States, and Canada won. Now the administration is trying to convince some States to change those laws.

But under the new World Trade Organization, the Federal Government will put pressure on States to change law. As a result, obviously, many States may be compelled to change some of their laws. That is why the attorneys general of the 42 States wrote a collective letter to President Clinton expressing their concern. These 42 attorneys general requested that a State-Federal consultation summit be held either this month, July, or next month, August, before the administration submits the implementing bill. And the THURMOND resolution responds to the concerns of the States' attorneys general and calls for a delay so that this summit can take place.

That is a valid amendment, whether it is an appropriations bill, or authorization bill, or anything else because that takes precedence in my mind over any other thing. When we start playing around with the sovereignty of the United States of America, that is time for the Senate to act under whatever rule it chooses.

Let me read a little bit of what the attorneys general wrote to Mr. Clinton. It said:

> DEAR MR. PRESIDENT: As defenders of State laws, State attorneys general have a particularly keen interest in State sovereignty. The Uruguay Round of the General Agreement on Tariffs and Trade, which is expected to be submitted to Congress under fast-track authority soon, appears to have broad implications for States' self government. Given the paramount importance that the U.S. Constitution assigns to States' rights, we would like to request a State-Federal consultation summit on this issue to be held in July or August before the administration submits implementing legislation.

Mr. President, does that sound familiar? That is exactly what STROM THURMOND is asking the Senate to approve. Forty-two attorneys general in the United States have asked the President to do this. I do not know whether they received a reply from him or not. Then the letter says:

> We are requesting a summit to give State officials the benefit of a thorough airing of the concerns about how the Uruquay Round and the proposed World Trade Organization would affect State laws and regulations. Many State officials still have questions about how some of our State laws and regulations would fare under the WTO.

I will say, parenthetically, you bet they have concerns, and the U.S. Senate, all 100 of us, ought to have the same concerns about Federal law, and Federal sovereignty.

The letter goes on to say:

> As you know, the U.S. Trade Representative's office is charged with an interesting set of responsibilities. On the one hand, its primary responsibility is to promote U.S. exports and international trade. Yet, on the other hand, the Trade Representative's office is charged with the responsibility of protecting State sovereignty and defending State law [any State law] challenged in the various international dispute tribunals. Given the inevitable conflict in fulfilling both sets of these responsibilities, we would like to take advantage of the proposed summit to clarify a range of serious concerns, including: One, whether the implementing legislation adequately guarantees States that the Federal Government will genuinely consider accepting trade sanctions rather than pressuring States to change State laws which are successfully challenged in the WTO.

Mr. President, I will say to the distinguished manager of the bill on the Republican side—I see him smiling—I do not know who wrote this letter. But whoever wrote it ought to get a bonus because the author of this letter, who is speaking for the 42 State attorneys general, is hitting it right on target.

The second thing they indicate is "whether States have a guaranteed right and formalized process in which they could participate in defending their own State laws." Of course. These State attorneys general are right on target. Then they say: "We want to know whether the USTR is required to engage in regular consultation with the States, and involve any State whose measures may be challenged in the defense of that measure at the earliest possible opportunity."

That is another great point.

Then they want to know "whether parties challenging a State measure under GATT will be able to prevail based on the fact that one State law is simply more or less restrictive than another State," and "whether GATT grants any private party a right of action to challenge a State law in Federal court," and so on and so on.

I ask unanimous consent that the full letter of the 42 attorneys general be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF MAINE, DEPARTMENT OF
THE ATTORNEY GENERAL,
Augusta, ME, July 6, 1994.

Hon. WILLIAM J. CLINTON,
President of the United States,
Washington, DC.

DEAR PRESIDENT CLINTON: As defenders of State laws, State Attorneys General have a particularly keen interest in State sovereignty. The Uruguay Round of the General Agreement on Tariffs and Trade (GATT), which is expected to be submitted to Congress under fast-track authority soon, appears to have broad implications for State self-government. Given the paramount importance that the U.S. Constitution assigns to State's rights, we would like to request a State-Federal Consultation Summit on this issue, to be held in July or August, before the Administration submits implementing legislation. Although we have agreed to take the lead on this issue, because it affects all State officials, an invitation would be extended to State executive and legislative branches as well.

We are requesting a Summit to give State officials the benefit of a thorough airing of concerns about how the Uruguay Round and the proposed World Trade Organization (WTO) would affect State laws and regulations. Many State officials still have questions about how some of our State laws and regulations would fare under the WTO and its dispute resolution panels. This is of particular concern given that some of our trading partners have apparently identified specific State laws which they intend to challenge under the WTO.

As you know, the U.S. Trade Representative's Office (USTR) is charged with an interesting set of responsibilities. On one hand, its primary responsibility is to promote U.S. exports and international trade. Yet, on the other hand, the Trade Representative's Office is charged with the responsibility of protecting State sovereignty and defending any State law challenged in the various international dispute tribunals. Given the inevitable conflict in fulfilling both sets of these responsibilities, we would like to take advantage of the proposed Summit to clarify a range of serious concerns, including:

Whether the implementing legislation adequately guarantees States that the federal government will genuinely consider accepting trade sanctions rather than pressuring States to change State laws which are successfully challenged in the WTO.

Whether States have a guaranteed right and a formalized process in which they can participated in defending their own State laws.

Whether the USTR is required to engage in regular consultation with the States, and involve any State whose measures may be challenged in the defense of that measure at the earliest possible opportunity.

Whether parties challenging a State measure under GATT will be able to prevail based on the fact that one State law is simply more or less restrictive than another State's.

Whether GATT grants any private party a right of action to challenge a State law in federal court.

Whether an adverse WTO panel decision can be interpreted as the foreign policy of the United States without the subsequent ratification of the Congress and the President.

Whether GATT panel reports and any information submitted by the States to the USTR during the reservation process are admissible as evidence in any federal court proceeding.

Whether a panel decision purporting to overturn State law shall be implemented only prospectively.

Whether the federal government may sue a State and challenge a State measure under GATT without an adverse WTO panel decision.

How will adverse WTO panel decisions impact State laws covering pesticide residues, food quality, environmental policy including recycling, or consumer health safety, where State standards are more stringent than federal or international standards.

Whether so-called "unitary taxation," which assesses the State taxes corporations pay on the basis of a corporation's worldwide operations, be illegal under GATT.

Whether States may maintain public procurement laws that favor in-State business in bidding for public contracts.

How well protected is a State law if it is included within the coverage of U.S. reservations to the new GATT agreements.

Whether the United States can import some due process guarantees into the WTO dispute resolution system, now that the negotiations are over, the WTO panel proceedings remain closed and documents confidential.

In responding to our request for this GATT Summit, please have staff contact Christine T. Milliken, Executive Director and General Counsel of the National Association of Attorneys General, at (202) 434-8053. Although the Association has taken no formal position on this issue, the Association provides liaison service upon request when fifteen or more Attorneys General express an interest in a key subject.

Further, the Association through action at its recent Summer Meeting has instructed staff to develop in concert with the Office of U.S. Trade Representative an ongoing mechanism for consultation. The Association participates in several federal-state work groups, principally with the U.S. Department of Justice and also with the U.S. Environmental Protection Agency that might serve as a starting point for developing a model for an effective ongoing dialogue with the USTR on emerging issues in this key area.

Respectfully yours,
MICHAEL E. CARPENTER,
Attorney General of Maine.

The following attorneys general signed the letter:

Alabama: Jimmy Evans; Alaska: Bruce M. Botelho; Arizona: Grant Woods; Colorado: Gale A. Norton; Connecticut: Richard Blumenthal; Delaware: Charles M. Oberly, III; Florida: Robert A. Butterworth; Hawaii: Robert A. Marks; Idaho: Larry EchoHawk; Illinois: Roland W. Burris; Indiana: Pamela Fanning Carter; Iowa: Bonnie J. Campbell; Kansas: Robert T. Stephan; Kentucky: Chris Gorman; Maine: Michael Carpenter; Maryland: J. Joseph Curran, Jr.; Massachusetts: Scott Harshbarger; Michigan: Frank J. Kelley; Minnesota: Hubert H. Humphrey, III; Mississippi: Mike Moore; Missouri: Jeremiah W. Nixon; Montana: Joseph F. Mazurek; Nevada: Frankie Sue Del Papa; New Hampshire: Jeffrey R. Howard; New Jersey: Deborah T. Poritz; New Mexico: Tom Udall; New York: G. Oliver Koppell; North Carolina: Michael F. Easley; North Dakota: Heidi Heitkamp; Northern Mariana Islands: Richard Weil; Ohio: Lee Fisher; Oregon: Theodore R. Kulongoski; Pennsylvania: Ernest D. Preate, Jr.; Puerto Rico: Pedro R. Pierluisi; Rhode Island: Jeffrey B. Pine; South Carolina: T. Travis Medlock; Tennessee: Charles W. Burson; Texas: Dan Morales; Utah: Jan Graham; Vermont: Jeffrey L. Amestoy; Virginia: James S. Gilmore, III; Washington: Christine O. Gregoire; West Virginia: Darrell V. McGraw, Jr.; Wyoming: Joseph B. Meyer.

Mr. PRESSLER. Will my friend yield for a friendly question?

Mr. HELMS. Mr. President, I thought he was friendly—he being the distinguished Senator from Vermont. As I said to the Senator from Vermont, I have no animus against him at all. He and I have been friends ever since he came to the Senate, and certainly the Senator is my friend.

Mr. PRESSLER. Would it not be true that this should be a treaty based on the criterion that has been established? There was a report by the Senate Foreign Relations Committee on when a treaty is a treaty, and is it not true that they outline four points: That the parties intend the agreement to be legally binding, subject to international law, deal with significant matters, as this agreement does, and it specifically describes the legal obligations of the parties, and the form indicates that intention to include a party on the substance rather than forms of the governing factor. Furthermore, to conclude my question, the Senate Finance Committee debated this in 1947.

Mr. HELMS. Exactly.

Mr. PRESSLER. The chairman was Eugene D. Milliken. Perhaps my friend knew him. I am not asking anything about his age here, merely a question. The Finance Committee suggested the following test be determined: Whether a treaty should be submitted to the Senate for a two-thirds approval.

Is it not true that they state the proper distinction is when we go beyond conventional marks, duties, customs, and management of foreign trade commerce, the point where the proper field of treaty comes in, whenever you come to the matter where there is substantial disparagements of our sovereignty, to a matter where sanctions may be imposed against the United States, exactly what this does, by an international body, then you have entered the field for treaties; is that not true that the Finance Committee and Foreign Relations Committee both had such findings?

Mr. HELMS. The Senator is exactly right. He anticipated a point I was going to make later, which I will not make because he has made it so eloquently.

But the real point is that I have an aversion to the fast track in general, because I think it complicates the life of any Senator who really wants to perform adequately and completely in defense of the principles of this country. I do not say that anybody connected with WTO, or anybody who supports it, is not in favor of protecting the sovereignty of this country. But this fast track, which somebody sort of ingeniously fabricated in recent years, does not permit the Senate to study a treaty to the complete satisfaction of every Senator. This business of saying we are going to discuss it fully is just absolutely nonsense. We are allocated 20 hours, which is stipulated by the fast track rules.

Mr. President, State tax officials wrote a letter that states the following:

> We are deeply concerned about the power over state and local taxes that the new General Agreement of Tariffs and Trade [GATT] will give the World Trade Organization [WTO]. Our analysis reveals that these provisions will undermine state and local fiscal sovereignty and likely favor business over U.S. taxpayers.
>
> We have no objections to those provisions of the GATT designed to encourage trade. However, the WTO provisions applicable to State and local taxes exceed legitimate trade concerns. They are likely to have unintended, but significant, consequences for State sovereignty and federalism.

Furthermore, the Federation of Tax Administrators and the Multistate Tax Commission prepared a report that talked about the GATT case that Canada brought challenging dozens of State beer tax laws. The report concluded:

> The Beer II panel struck at the very heart of federalism. The panel's reasoning leaves no room for different laws based on different local circumstances, nor for any range of judgment, regardless of absence of any discriminatory intent in those judgments, to be exercised by different State sovereigns. Indeed, the combination of the least restrictive measure standard and the acceptance of de facto arguments leaves all State law potentially at risk of being subject to challenge under the aegis of GATT.

Mr. President, the concerns of 42 State attorneys general and the tax administrators are very legitimate. Dozens or perhaps hundreds of State laws could be attacked by foreign countries. As a matter of fact, the European Union issued a book entitled "Report on United States Barriers to Trade and Investment." This report contains 111 pages of Federal and State laws that the EU claims are barriers and that the Europeans may challenge in the WTO.

Mr. President, some claim that there is no sovereignty problem because the United States can ignore a bad decision and not change our law. What kind of reasoning is that? Our sovereignty, it seems to me, is affected when the courses of action that the United States can take are restricted.

The fact is, the United States will face serious consequences if we ignore a WTO decision. If we refuse to change our law, then we will face trade retaliation from the winning country. Relations is a nice word for a trade war. The only other alternative is to settle the case by paying the winner some kind of compensation—like money—which comes from the taxpayers' pockets.

Mr. President, the concern is real: The United States has lost several GATT cases—the beer case, the tuna dolphin case to name a couple. The administration is trying to change the beer tax laws in the implementing bill. And the United States is about to lose another one—the Germans have challenged our gas guzzler tax and our CAFE laws. The retaliation in these two alone could be in the hundreds of millions of dollars.

Let me read a few quotes from several news articles that are quite revealing:

From the BNA Report—March 28, 1994:

> A GATT panel ruled in 1989 that section 337 discriminates unfairly against foreign imports. A GATT panel ruling in 1992, initiated by Canada, found that the United States was imposing unfair excise taxes on imports of Canadian beer. The administration plans to implement two panel rulings of the GATT.

From the Wall Street Journal—March 18, 1994:

> The Clinton administration is preparing to withdraw a clean-air regulation challenged by Venezuela under the GATT. Officials concluded at a White House meeting this week that the regulation would have to be withdrawn and modified because in its present form it was likely to violate GATT.

From the Journal of Commerce—March 11, 1994:

> Two rulings expected soon from the trade-monitoring General Agreement on Tariffs and Trade could require changes in the U.S. environmental law GATT members are challenging aspects of U.S. fuel economy standards that some argue are tougher for foreign manufacturers.

Mr. President, how many U.S. laws could be challenged? If we want to maintain U.S. laws that the WTO finds are illegal, will we face a trade war? How much money will the United States have to pay to settle a case to avoid a trade war? Are we prepared to pass those costs along to the American taxpayer?

Mr. President, these are just a few examples of issues that merit serious and thoughtful debate. I urge the Congress to support this resolution that calls for a 60-day delay. Forty-two State attorneys general want more time. And the Congress should take time to hold more hearings on this serious subject.

Well, Mr. President, I have occupied the floor longer than I intended. Senator PRESSLER is here.

I thank the Chair for recognizing me, and I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise in animated opposition to this measure. It would be such a departure from our procedures and such a loss to the Nation that it is difficult to imagine that we are even debating it now.

Yesterday, Mr. President, I came to the floor as chairman of the Committee on Finance, which is the committee that will be principally occupied with the question of the Uruguay round. But the Committee on Agriculture will have real responsibilities, and they will be part of the final legislation. And I sent a message—as I hoped to do—to the administration saying two things: No. 1, we were disturbed to read in the Wall Street Journal on Friday that White House aides were not sure the Congress would get to the Uruguay round implementing legislation in this Congress, which is exactly the opposite of our intention. And that Friday story appeared 1 day after we sent notice to each member of the Finance Committee that next Tuesday, July 19, we would begin marking up the implementing legislation.

We have been hard at work for the better part of a year. The Uruguay round was finally approved in December of last year, and initialed in Marrakesh in April. We have been steadily at work on this matter, under the fast track procedures that were specifically approved, overwhelmingly approved, in the Senate for the specific purpose of giving President Clinton the authority to finish up the negotiation, which was done. That negotiation took 7 years. It was the initiative in the first place of President Reagan; President Bush pursued it, and President Clinton was on hand at the conclusion. But it is a wholly bipartisan measure. And I said yesterday, and will repeat, that it marks the culmination of 60 years of American trade policy.

From the time that Cordell Hull, Secretary of State under President Roosevelt, began the reciprocal trade agreements, trying—too late, as it happened—to bring the world back from the closed trading system that was precipitated by the Smoot-Hawley tariff of 1930. In the course of about 3 years, world trade dropped 60 percent, depression deepened everywhere, totalitarian regimes came to power in Europe, the expansionist Japanese "Co-Prosperity Sphere" began in the Far East, the British Commonwealth moved away from free trade and went to a Commonwealth preference, unemployment reached 25 percent in our country—well, it was too late to prevent the Second World War that followed in the wake of these events.

Smoot-Hawley was not the only event that led to that war, but a profoundly important event.

In the aftermath of the war, our Government thought to create a series of international economic organizations that would learn the lessons of the 1930's. We would learn about currencies and exchange rates, and so we created the International Monetary Fund. We would learn about the movement of capital, and we would create the International Bank for Reconstruction and Development, now known as the World Bank; and we would learn from the disaster of beggar-thy-neighbor trade policies of the 1930's, the disaster which began on this floor, sir, and would create an international trade organization.

The World Bank was put in place, and the Monetary Fund was put in place. The International Trade Organization was not. It died in the Senate Finance Committee. But a temporary arrangement, the General Agreement on Tariffs and Trade, was worked out in Geneva. As I remarked yesterday, I can recall from the negotiations of the Long-Term Cotton and Textile Agreement of 1962, when the GATT consisted of Eric Wyndham White, former British treasury official and civil servant, and a few secretaries in a small villa looking over the city of Geneva.

(Mr. ROBB assumed the chair.)

Mr. MOYNIHAN. But now after 7 years of negotiations, we have produced a world agreement with 117 nations which eliminates tariffs by about a third across the world, contemplates the end of agricultural subsidies such that American farm exports can have the place to which they economically are entitled in world trade, ensures intellectual property rights in developing nations, and does an extraordinary range of other things. It is a 22,000-page agreement, if you include the country schedules.

It creates a World Trade Organization, basically the same mechanism that was anticipated back in 1945 and 1946. It is, as the GATT is, a forum in which trade issues are worked out, new agreements are reached, as was the Uruguay round, an agreement under the GATT. The next such world agreement will be under the World Trade Organization. And there is a dispute settlement mechanism.

People who trade together will have disputes, and they have an interest in arranging for their resolution.

As to the United States and Canada, my friend from North Carolina was mentioning that. When we had the United States-Canadian Free-Trade Agreement, we put in a dispute settlement arrangement. It did not threaten the sovereignty of Canada; it did not threaten the sovereignty of the United States. It just means that we get these things settled. Sometimes the cases will go against you, and sometimes they will go for you. That is the way trade is. There are many, many issues involved.

In no sense does this new organization contemplate changing American domestic law.

I have a letter here from the distinguished jurist, Robert H. Bork, who wrote to Ambassador Kantor on May 26 saying that it is impossible to see a threat to this Nation's sovereignty posed by either the World Trade Organization or the dispute settlement arrangement.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ROBERT H. BORK,
Washington, DC, May 26, 1994.

Ambassador MICHAEL KANTOR,
Office of the U.S. Trade Representative,
Washington, DC.,

DEAR MR. AMBASSADOR: I understand that opposition to the Uruguay Round agreements has focused on the creation of the World Trade Organization [WTO]. The claim, which was also made with respect to NAFTA, is that the WTO is a threat to the sovereignty of the United States.

It is difficult to resist the conclusion that some of those who make this claim are actually opposed to the lowering of tariff and non-tariff barriers in international trade. The protectionist impulse is strong but it is contrary to the best interests of American business, workers, and consumers.

The sovereignty issue, in particular, is merely a scarecrow. Under our constitutional system, no treaty or international agreement can bind the United States if it does not wish to be bound. Congress may at any time override such an agreement or any provision of it by statute. (The President would, or course, participate as the Constitution provides in the enactment of such a statute.) Congress should be reluctant to renege on an agreement except in serious cases, but that is a matter of international comity and not a loss of sovereignty.

The same observations apply to the Dispute Settlement Understanding [DSU]. A mechanism for settling trade disputes is essential if the aims of the Uruguay Round agreements are to be achieved. It is extremely unlikely that any country will agree with all recommendations as to the resolution of the disputes in which it is involved. There is no dispute resolution process anywhere that can achieve that result. Once again, however, recommendations made under the DSU do not bind Congress and the Executive Branch unless those departments of government choose to be bound.

Protection of U.S. sovereignty, however, does not depend solely on the undoubted ability of our political branches to nullify or modify agreements or recommendations. The WTO itself contains numerous safeguards concerning procedures which protect not only the sovereignty but the interests of all nations, including the United States. It appears that these safeguards are either the same as or stronger than those already existing in the GATT, under which we have operated successfully for decades.

In sum, it is impossible to see a threat to this nation's sovereignty posed by either the WTO or the DSU. Any agreement liberalizing international trade would necessarily contain mechanisms similar to those in the Uruguay Round agreements. The claim that such mechanisms are a danger to U.S. sovereignty is not merely wrong but would, if accepted, doom all prospects for freer trade achieved by multi-national agreement.

Yours truly,

ROBERT H. BORK.

Mr. MOYNIHAN. Mr. President, to continue what I was saying yesterday, the Finance Committee, having worked on this for the better part of a year, next Tuesday, if we get a signal from the President and get from the President the financing mechanism which he proposes, we will proceed to draft legislation. They will do the same or are doing the same on the House side. We will work our bills together.

Then, under this arrangement we have worked out, having in mind that disaster of 1930, we will transmit to the President this legislation which he will propose to us as a bill. We will have drafted this legislation. It will be a bipartisan effort in the Finance Committee, and several other committees.

The proposal to give the President an extension of his fast-track negotiating authority passed the Finance Committee a year ago 18 to 2, so the President could go to the G–7 summit in Tokyo, and say we are ready to finish up this negotiation, which was done in about 6 months' time.

This would stop it. This would cost hundreds of thousands of jobs. This could be the kind of decision that we made in the thirties that triggered a world depression and helped trigger a world war.

I am not arguing we are about to do that, but we can break up after the cold war into separate trading blocs. We could do that. There is a whiff of that in the world right now and the realization that, no, do not—a thousand economists wrote President Hoover saying, "Do not sign that Smoot-Hawley tariff." He signed it anyway, and the 1930's commenced, ending with war.

I am not making any such melodramatic proposals, but I am saying this could be the end of the free-trading system that the United States has triumphantly put in place. We have in the Uruguay round the culmination of 60 years of American foreign trade policy that has taken place through Presidents Roosevelt, Truman, Eisenhower, Kennedy, Johnson, Nixon, Ford, Carter, Reagan, Bush, and Clinton. This particular measure, I would remind my friends in the Senate, the Uruguay round was initiated by President Reagan, having been given the authority to do so under the fast-track mechanism by the Congress.

President Reagan got going very well indeed. President Bush proceeded. It took 7 years. And then when the time ran out and the newest President in line, in this case Mr. Clinton, needed an extension of fast-track authority, we gave it to him because we want this.

Mr. President, there is an organization put together recently called the Alliance for GATT Now. It represents 200,000 American businesses. It is an astonishing list. Any Member of the Senate would want to look at it to see the firms from his or her own State, to see firms that are in just about every State.

The organization is headed by the distinguished chairman of Texas Instruments, Jerry Junkins with whom I have met and discussed this matter at some length.

I think this organization, if anything, could be said to represent the judgment of the American business community, that this is a job-creating, wealth-creating agreement, a measure that the United States has worked for and now is about to achieve.

I ask unanimous consent that the membership of the Alliance for GATT Now be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ALLIANCE FOR GATT NOW MEMBERSHIP

3M (St. Paul, MN).
Abbott Laboratories (North Chicago, IL).
ABI Irrigation, Inc. (Monroeville, PA).
A.C. Products Inc. (Apple Creek, OH).
Access International Markets, Ltd (Milwaukee, WI).
Ace Hardware Corporation (Oak Brook, IL).
Aerospace Industries Association (Washington, DC).
Aetna Life & Casualty Company (Hartford, CT).
Air L.A. (Los Angeles, CA).
Air Products and Chemicals, Inc. (Allentown, PA).
Aire-Mate Inc. (Westfield, IN).
AlliedSignal Inc. (Morristown, NJ).
Almerica Overseas, Inc. (Tuscaloosa, AL).
The Aluminum Association, Inc. (Washington, DC).
AMC Entertainment Int'l (Kansas City, MO).
America's Voice Communications (Studio City, CA).
American Assoc. of Exporters & Importers, (New York, NY).
American Brands, Inc. (Greenwich. CT).
American Business Conference (Washington, DC).
American Cyanamid Company (Wayne, NJ).
American Electric Power Company, Inc. (Columbus, OH).
American Electronics Association (Washington, DC).
American Express Company (New York, NY).
American Furniture Manufacturers Association (Washington, DC).
American Home Products Corp, (Madison, NJ).
American Insurance Association (Washington, DC).
American International Group (New York, NY).
American Iron & Steel Institute (Washington, DC).
American Maize Products Co. (Stamford, CT).
American Mining Congress (Washington, DC).
American Petroleum Institute (Washington, DC).
American President Companies (Oakland, CA).
American Standard (New York, NY).
Ameritech (Chicago, IL).
Amoco Corporation (Chicago, IL).
AMP Incorporated (Harrisburg, PA).
Ampacey International (Tarrytown, NY).
AMR Corporation (Dallas, TX).
Anheuser-Busch Companies (St. Louis, MO).
Antelope Valley Board of Trade (Lancaster, CA).
APAN Corporation (Owings Mills, MD).
Applause, Inc. (Woodland Hills, CA).
ARCO (Los Angeles, CA).
Argyle Atlantic Corporation (Phoenix, AZ).
Armstrong World Industries (Lancaster, PA).
Arthur Andersen & Co., SC (Chicago, IL).
Arvin Industries Inc. (Columbus, IN).
ASARCO, Inc. (New York, NY).
Asea Brown Boveri, Inc. (Stamford, CT).
Ashland Oil, Inc. (Ashland, KY).
Associated Merchandising Corp. (Washington, DC).
Association of American Railroads (Washington, DC).
Association of International Automobile Manufacturers (Arlington, VA).
AT&T (Basking Ridge, NJ).
A.T.C.I. (Richardson, TX).
Atlanta Customs Brokers (Atlanta, GA).
Avon Products, Inc. (New York, NY).
Azimex International (Greenwood Lake, NY).
Azon USA Inc. (Kalamazoo, MI).
Baker Hughes Inc. (Houston, TX).
Baldor Electric Company (Fort Smith, AR).
Bane One Corp. (Columbus, OH).
Bankers Trust Corp. (New York, NY).
Baxter International Inc. (Deerfield, IL).
Bechtel Group Inc. (San Francisco, CA).
Beehive Botanicals (Hayword, WI).
Bell Atlantic (Philadelphia, PA).
BellSouth Corporation (Atlanta, GA).
Bethlehem Steel Corporation (Bethlehem, PA).
BFC Industries (Bremen, IN).
BFGoodrich Company (Akron, OH).
The Black & Decker Corporation (Towson, MD).
BMC Specialties (Columbia, SC).
The Boeing Company (Seattle, WA).
Booth & Associates (Scottsdale, AZ).
BP America (Cleveland, OH).
Bridgestone/Firestone, Inc. (Nashville, TN).
Bristol-Myers Squibb Co. (New York, NY).
Browning-Ferris Industries (Houston, TX).
Bruce Foods Corporation (New Iberia. LA).
Burlington Northern International Services, Inc. (Fort Worth, TX).
The Business Roundtable (Washington, DC).
BW/IP International, Inc. (Long Beach, CA).
Cable & Wireless, Inc. (Vienna, VA).
California Chamber of Commerce (Sacramento, CA).
California Council for International Trade (San Francisco, CA).
Campbell Soup Company (Camden, NJ).
Capital Cities/ABC (New York, NY).
Cargill (Minneapolis, MN).
Carolina Power & Light Company (Raleigh, NC).
Carolyn Warner and Associates (Phoenix, AZ).
CASAS International Brokerage (San Diego, CA).
Cascade Corporation (Portland, OR).
Case Logic, Inc. (Longmont, CO).
Caterpillar, Inc. (Peoria, IL).
Cemex/Sunwest Materials (Washington, DC).
Ceridian Corporation (Minneapolis, MN).
Cezadon Group, Inc. (Indianapolis, IN).
Chase Manhattan Bank (New York, NY).
Chemical Banking Corporation (New York, NY).
Chemical Manufacturers Association (Washington, DC).
Chevron Corporation (San Fransisco, CA).
The Chubb Corp. (Warren, NJ).
CIGNA Corporation (Philadelphia, PA).
Cintron Lehner Barrett, Inc. (Dallas, TX).
Circuit City Stores, Inc. (Richmond, VA).
Citicorp/Citibank (New York, NY).
Citizens for a Sound Economy (Washington, DC).
Clarklift of San Diego, Inc. (San Diego, CA).
Cleveland-Cliffs Inc. (Cleveland, OH).
Clorox Company (Oakland, CA).
Coalition for Open Markets & Expanded Trade (Washington, DC).
Coalition of New England Companies for Trade (Washington, DC).
Coalition of Service Industries (Washington, DC).
The Coca-Cola Company (Atlanta, GA).
Coergon, Inc. (Boulder, CO).
Colgate-Palmolive Company (New York, NY).
The Columbia Gas System, Inc. (Wilmington, DE).
Columbia Healthcare Corp.
Committee for Economic Development (Washington, DC).
Committee on Pipe and Tube Imports (Washington, DC).
Computer & Business Equipment manufacturers Association (Washington, DC).
Computer & Communications Industry Association (Washington, DC).
ConAgra (Omaha, NE).
Connell Company (Westfield, NJ).
Consumers for World Trade (Washington, DC).
Cooper Industries (Houston, TX).
Copper & Brass Fabricators Council, Inc. (Washington, DC).
Corn Refiners Association, Inc. (Washington, DC).
Corning Incorporated (Corning, NY).
Corpus International (Ellicott City, MD).
Cosmopolitan Business Comm., Inc. (Arvada, CO).
CPC International, Inc. (Englewood Cliffs, NJ).
Crane Cams, Inc. (Daytona Beach, FL).
Creed Rice Company, Inc. (Houston, TX).
CSX Corporation (Richmond, VA).
Cummins Engine Co., Inc. (Columbus, IN).
Curtis Dyna-Fog Ltd. (Westfield, IN).
Custom Duplication (Inglewood, CO).
Customs Consultants (No. Tonawanda, NY).
Daimler-Benz Washington (Washington, DC).
Dana Corporation (Toledo, OH).
Data General Corp. (Westboro, MA).
Davis, Keller & Davis (Langley, WA).
Dayton Hudson Corporation (Minneapolis, MN).
Deere & Company (Moline, IL).
Delta Air Lines, Inc. (Atlanta, GA).
Denver Business & Economics Council (Denver, CO).
Detroit Diesel Corporation (Detroit, MI).
The Dial Corporation (Phoenix, AZ).
Digital Equipment Corporation (Maynard, MA).
Distilled Spirits Council of the U.S. (Washington, DC).
Dodge-Reupol, Inc. (Lancaster, PA).

R.R. Donnelley & Sons Company (Chicago, IL).
Dormont Mfg. Co. (Export, PA).
Dow Chemical Company (Midland, MI).
DPL Inc. (Dayton, OH).
Dresser Industries (Dallas, TX).
Drexel Chemical Company (Memphis, TN).
E.J. Du Pont de Nemours & Co., Inc. (Wilmington, DE).
The Dun & Bradstreet Corp. (New York, NY).
Duracell International (Bethel, CT).
E'Lan International, Inc. (Newport Beach, CA).
Eastman Chemical Company (Kingsport, TN).
Eastman Kodak Co. (Rochester, NY).
Eaton Corporation (Cleveland, OH).
EBCO Manufacturing Company (Columbus, OH).
EBW, Inc. (Muskegon, MI).
Ecology International Ltd., Corp. (Akron, OH).
Economic Development Consortium (Georgetown, SC).
Ed Garber Associates (Los Angeles, CA).
EDS Corporation (Washington, DC).
Electronic Industries Association (Washington, DC).
Eli Lilly and Company (Indianapolis, IN).
Emergency Committee for American Trade (Washington, DC).
Emerson Electric Company (St. Louis, MO).
Engle-Hambright & Davies, Inc. (Lancaster, PA).
Enron Corporation (Houston, TX).
Equipment Manufacturers Institute (Chicago, IL).
The Equitable Companies Inc. (New York, NY).
Ernst & Young (New York, NY).
Eubanks Engineering Co. (Monrovia, CA).
Exxon Corporation (Irving, TX).
Fairfield Chair Company (Lenoir, NC).
Fairmount Minerals, Limited (Chardon, OH).
Faison-Stone, Inc. (Irving, TX).
Federal Express Corporation (Memphis, TN).
Filter Specialists, Inc. (Michigan City, IN).
First Brands Corporation (Danbury, CT).
Fluor Corporation (Irvine, CA).
FMC Corporation (Chicago, IL).
Food Marketing Institute (Washington, DC).
Ford New Holland, Inc. (New Holland, PA).
Gannett Co., Inc. (Arlington, VA).
GenCorp Inc. (Fairlawn, OH).
General Electric Co. (Fairfield, CT).
General Mills, Inc. (Minneapolis, MN).
General Motors Corporation (Detroit, MI).
General Tire, Inc. (Akron, OH).
George Koch Sons, Inc. (Evansville, IN).
Georgia Ports Authority.
Gilbert & VanCampen Int'l (New York, NY).
The Gillette Company (Boston, MA).
Global Export & Import (Reseda, CA).
Global Manufacturing, Inc. (Little Rock, AR).
Global Overseas Services, Inc. (Houston, TX).
The Goodyear Tire & Rubber Co. (Akron, OH).
Grant Thornton (Los Angeles, CA).
Great West International, Inc. (Englewood, CO).
Greater Dallas Chamber of Commerce (Dallas, TX).
Greater Houston Partnership (Houston, TX).
Greater Miami Chamber of Commerce (Miami, FL).
Greater San Diego Chamber of Commerce (San Diego, CA).
Grocery Manufacturers Association (Washington, DC).
Groth Corporation (Houston, TX).
Grupo Cisneros International (Lakewood, CO).
GTE Corporation (Stamford, CT).
Halliburton Co. (Dallas, TX).
Hallmark Cards, Inc. (Kansas City, MO).
Harris Associates/The Oatmark Funds (Chicago, IL).
Harris Corporation (Melbourne, FL).
Hasbro Inc. (Pawtucket, RI).
Health Industry Manufacturers Association (HIMA) (Washington, DC).
Henry Vogt Machine Company (Louisville, KY).
Hercules Incorporated (Wilmington, DE).
Hershey Foods Corporation (Hershey, PA).
Heublein, Inc. (Washington, DC).
Heukel Corporation (Ambler, PA).
Hewlett-Packard Company (Palo Alto, CA).
HHS Export Trading Company (Alhambra, CA).
Hidden Creek Industries (Troy, MI).
Honeywell Inc. (Minneapolis, MN).
Horix MFG. Co. (Pittsburgh, PA).
Household International (Prospect Heights, IL).
Hufcor, Inc. (Janesville, WI).
IBM Corp. (Armonk, NY).
IKR Corporation (Houston, TX).
Illinois Corn Growers Assoc. (Bloomington, IL).
Illinois Department of Agriculture (Springfield, IL).
Illinois Tool Works (Glenview, IL).
IMCERA Group, Inc. (Northbrook, IL).
Importmex (Baltimore, MD).
Indiana Chamber of Commerce (Indianapolis, IN).
Information Technology Association of America (Arlington, VA).
Ingersoll-Rand Company (Woodcliffe Lakes, NJ).
Inland Empire International Business Association (Moreno Valley, CA).
InouMar Products, Inc. (Houston, TX).
Intel Corporation (Santa Clara, CA).
Intellectual Property Committee (Washington, DC).
Intellectual Property Owners Association (Washington, DC).
International Association of Drilling Contractors (Washington, DC).
International Business Consultants (Lakewood, CO).
International Business Services I.B.S. (Chicago, IL).
International Insurance Council (Washington, DC).
International Mass Retail Association (Washington, DC).
International Paper Company (New York, NY).
International Public Relations Affiliates (Long Beach, CA).
International Services, USA (Austin, TX).
International Trade Advisor (Berwyn, PA).
Interpro, Inc. (Phoenix, AZ).
Inverness Corp. (Fairlawn, NJ).
ITT Corporation (New York, NY).
J.C. Penney Company, Inc. (Dallas, TX).
J.L. Marketing, Inc. (Fenton, MO).
J.R. Simplot Company (Boise, ID).
Johnson & Johnson (New Brunswick, NJ).
Johnson Controls, Inc. (Milwaukee, WI).
Johnson Matthet, Incorporated (Wayne, PA).
Joseph A. McKinney Consulting (Waco, TX).
Joseph E. Seagram & Sons, Inc. (New York, NY).
KMart Corporation (Troy, MI).
Kellogg Company (Battle Creek, MI).
Kentucky World Trade Center (Lexington, KY).
Kerr-McGee Corporation (Oklahoma City, OK).
KPMG Peat Marwick (New York, NY).
The Kroger Company (Cincinnati, TX).
Latin American Consulting, Inc. (Kent, WA).
Lectro Engineering Co. (St. Louis, MO).
Leeward, Inc. (Dallas, TX).
Levi Strauss Associates (San Francisco, CA).
LFP Capital (Los Angeles, CA).
The Limited, Inc. (Columbus, OH).
Lindsay International Corp. (Houston, TX).
Litton Industries, Inc. (Beverly Hills, CA).
Long Island Foreign Trade Zone Authority (Ronkonkoma, NY).
The LTV Corporation (Cleveland, OH).
M.G. Maher & Company, Inc. (New Orleans, LA).
Made In Mexico, Inc. (Chula Vista, CA).
Malichi Diversified, Ltd. (Indianapolis, IN).
Manitowoc Company, Inc. (Manitowoc, WI).
Marketeck International (Tampa, FL).
Marriott Corporation (Bethesda, MD).
Marsh & McLennan Companies (New York, NY).
Marsheider & Company (Cincinnati, OH).
Martin K. Eby Construction Co. (Wichita, KS).
Martin Marietta Corporation (Bethesda, MD).
Maryland Department of Agriculture (Annapolis, MD).
Master Chemical Corporation (Perrysburg, OH).
Mattel Toys (El Segundo, CA).
Maytag Corporation (Newton, IA).
McDermott International Inc. (New Orleans, LA).
McDonnell Douglas Corporation (St. Louis, MO).
McDowell Services Company (Cleveland, OH).
McGraw-Hill, Inc. (New York, NY).
MCI (Washington, DC).
McKesson Corporation (San Francisco, CA).
Melton Truck Lines, Inc. (Tulsa, OK).
Merck & Co., Inc. (Whitehouse Station, NJ).
Merrill Lynch & Co., Inc. (New York, NY).
Metallia (Washington, DC).
Metropolitan Life Insurance Co. (New York, NY).
Miami Valley Marketing Group, Inc. (Dayton, OH).
Michigan Manufacturers Association (Lansing, MI).
Microfax, Inc. (Arvada, CO).
Mid-America World Trade Center (Wichita, KS).
Migrandy Corp. (Merritt Island, FL).
Miles, Inc. (Pittsburgh, PA).
Milwaukee Heart, S.C. (Milwaukee, WI).
Milwaukee Minority Chamber of Commerce (Milwaukee, WI).
Mobil Corporation (Fairfax, VA).
Mobile Area Chamber of Commerce (Mobile, AL).
Monsanto Company (St. Louis, MO).
J.P. Morgan & Company, Inc. (New York, NY).
Morgan Stanley & Company, Inc. (New York, NY).
Morrison Knudsen Corp. (Boise, ID).
Mosler Inc. (Hamilton, OH).
Motor & Equipment Manufacturers Association (Washington, DC).
Motorola (Schaumburg, IL).

MSI United Ltd. (Seattle, WA).
N. Merfish Supply Co. (Houston, TX).
Nalco Chemical Company (Naperville, IL).
National Apparel & Textile Association (Seattle, WA).
National Association of Beverage Importers, Inc. (Washington, DC).
National Assoc. of Hosiery Manufacturers (Charlotte, NC).
National Association of Insurance Brokers (Washington, DC).
National Association of Manufacturers (Washington, DC).
National Business Products (Ste. Genevieve, MO).
National Electrical Manufacturers Association (Washington, DC).
National Foreign Trade Council (Washington, DC).
National Grain and Feed Association (Washington, DC).
National Intergroup, Inc. (Pittsburgh, PA).
National Retail Federation (Washington, DC).
National Semiconductor Corp. (Santa Clara, CA).
NationsBank (Charlotte, NC).
New England/Canada Business Council (Boston, MA).
New York Life Insurance Co. (New York, NY).
NIKE, Inc. (Beaverton, OR).
NOR-AM Chemical Company (Wilmington, DE).
Norfolk Southern Corporation (Norfolk, VA).
North American Chemicals, L.C. (Houston, TX).
Nuffer, Smith, Tuder, Inc. (San Diego, CA).
NYNEX (New York, NY).
Occidental Petroleum Corp. (Los Angeles, CA).
Ohio Machinery Co. (Broadview Heights, OH).
Olin Corporation (Stamford, CT).
Oliver Rubber Company (Oakland, CA).
Organization for International Investment (Washington, DC).
Orion Corporate Funding, Inc. (Englewood, CO).
Ortho-Kinetics, Inc. (Waukesha, WI).
Owens-Corning Corp. (Toledo, OH).
Paccar Inc. (Bellevue, WA).
Pacific Enterprises (Los Angeles, CA).
Pacific Northwest International Trade Association (Portland, OR).
Pacific Telesis Group (San Francisco, CA).
Palocor Corporation (Dallas, TX).
The Paz Group (Carrollton, TX).
Pearson's Inc. (Thedford, NE).
Peavey Electronics Corp. (Meridian, MS).
Pennzoil (Houston, TX).
Pensacola Area Chamber of Commerce (Pensacola, FL).
PepsiCo (Purchase, NY).
The Perkin-Elmer Corporation (Norwalk, CT).
Pfizer Inc. (New York, NY).
Pharmaceutical Manuf. Assn. (Washington, DC).
Pharr Chamber of Commerce (Pharr, TX).
Phelps Dodge Corporation (Phoenix, AZ).
PHH Corporation (Hunt Valley, MD).
Philip Morris Companies Inc. (New York, NY).
Pina County Board of Supervisors (Tucson, AZ).
Port of New Orleans (New Orleans, LA).
Port of Oakland (Oakland, CA).
Potomac Electric Power Co. (Washington, DC).
PPG Industries, Inc. (Pittsburgh, PA).
Praxair, Inc. (Danbury, PA).
Precision Machine & Engineering (Phoenix, AZ).
Premark International, Inc. (Deerfield, IL).
Price Waterhouse (New York, NY).
Prince Mfg. Corporation (Sioux City, IA).
Principal Financial Group (Des Moines, IA).
The Procter & Gamble Company (Cincinnati, OH).
Professional Machine and Tool (Wichita, KS).
The Promus Companies (Memphis, TN).
The Prudential Insurance Company of America (Newark, NJ).
PSI Resources (Plainfield, IN).
Puratil, Inc. (Doraville, GA).
Quaker Fabric Corporation (Fall River, MA).
The Quaker Oats Company (Chicago, IL).
Raytheon Company (Lexington, MA).
Reader's Digest Association (Pleasantville, NY).
Reckitt & Coleman, Inc. (Wayne, NJ).
Red Devil Incorporated (Union, NJ).
Rendo Company (Fresno, CA).
Riverwood International Corp. (Washington, DC).
Roadway Services, Inc. (Akron, OH).
J.D. Robinson, Inc. (New York, NY).
Rockwell International Corp. (Seal Beach, CA).
Rohm and Haas Company (Philadelphia, PA).
Rome Area Chamber of Commerce (Rome, NY).
Rotunda, Inc. (Columbus, OH).
Royal Appliance Mfg. Co. (Cleveland, OH).
Ryder System, Inc. (Miami, FL).
Saint-Gobain Corporation (Valley Forge, PA).
San Diego Economic Development Corp. (San Diego, CA).
SaniServ (Indianapolis, IN).
Santa Fe Pacific Corp. (Schaumburg, IL).
Sara Lee Corporation (Chicago, IL).
Sayett Group, Inc. (Pittsford, NY).
Schering-Plough Corporation (Madison, NJ).
Sears, Roebuck and Co. (Chicago, IL).
Semiconductor Industry Association (San Jose, CA).
Shell Oil Company (Houston, TX).
SIFCO Industries (Cleveland, OH).
A.O. Smith Corporation (Milwaukee, WI).
Society of the Plastics Industry, Inc. (Washington, DC).
Solomon Brothers (New York, NY).
Southern California Edison Co. (Rosemead, CA).
The Southern Company (Atlanta, GA).
Southern States Cooperative (Richmond, VA).
Spalding & Eventlo Co., Inc. (Tampa, FL).
Springs Industries (Fort Mill, SC).
Sprint Corporation (Shawnee Mission, KS).
St Publications Inc. (Cincinnati, OH).
Stafford & Paulsworth (Blue Bell, PA).
State Farm Insurance Companies (Bloomington, IL).
Sun Microsystems (Mountain View, CA).
Sundstrand Corporation (Rockford, IL).
SunWest Foods, Inc. (Davis, CA).
SuperValu (Minneapolis, MN).
Syracuse University School of Management (Syracuse, NY).
Tacoma-Pierce County Chamber of Commerce (Tacoma, WA).
Telect Inc. (Liberty Lake, WA).
Tenneco Inc. (Houston, TX).
Texas Instruments (Dallas, TX).
Textron, Inc. (Providence, RI).
Thomas International Publishing Co., Inc. (New York, NY).
The Times Mirror Company (Los Angeles, CA).
TLC Beatrice Inter. Holdings (New York, NY).
Tomlinson Industries (Cleveland, OH).
Toner Service Co., Inc. (St. Louis, MO).
Toy Manufacturers of America, Inc. (New York, NY).
The Travelers Corporation (Hartford, CT).
TRW Inc. (Cleveland, OH).
Tubacero International Corporation (Houston, TX).
TURCK Inc. (Plymouth, MN).
Tyco International Ltd. (Exeter, NH).
U.S. Chamber of Commerce (Washington, DC).
U.S. Council for International Business (Washington, DC).
UAL Corporation (Chicago, IL).
Union Camp Corporation (Wayne, NJ).
Union Carbide Corporation (Danbury, CT).
Union Pacific Corp. (Bethlehem, PA).
Unisys Corp. (Blue Bell, PA).
United Distillers (Stamford, CT).
United Parcel Service (UPS) (Atlanta, GA).
United States Surgical Corporation (Norwalk, CT).
United Technologies Corporation (Hartford, CT).
Unitog Co. (Kansas City, MO).
Universal Metals & Mach., Inc. (Houston, TX).
Unocal Corporation (Los Angeles, CA).
UNUM Corp. (Portland, ME).
The Upjohn Company (Kalamazoo, MI).
Utilx Corporation (Kent, WA).
Valve Manufacturers Association (Washington, DC).
Viasoft Inc. (Phoenix, AZ).
VME North America (Asheville, NC).
VSI Catalog Communications International (Riverside, CA).
Vulcan Industries, Inc. (Missouri Valley, IA).
Warnaco (New York, NY).
Warner-Lambert Company (Morris Plains, NJ).
Warren and Company (Washington, DC).
Watkins Manufacturing, Inc. (Evendale, OH).
WCI Steel, Inc. (Warren, OH).
Wells Fargo & Company (San Francisco, CA).
Weltron Company (Morgan Hill, CA).
Westinghouse Corp. (Pittsburgh, PA).
Westvaco Corporation (New York, NY).
Wharton Export Network (Philadelphia, PA).
Whirlpool Corp. (St. Joseph, MI).
Wilbur-Ellis Co. (Edenburg, TX).
The Williams Companies, Inc. (Tulsa, OK).
Wimarco International (South Euclid, OH).
Wisconsin Manufacturers & Commerce (Madison, WI).
Witco Corporation (New York, NY).
WMX Technologies (Oak Brook, IL).
Woolworth Corporation (New York, NY).
World Trade Center Portland (Portland, OR).
Xerox Corporation (Stamford, CT).
Yuma Economic Development Corp. (Yuma, AZ).
Zenith Electronics Corp. (Glenview, IL).
Zero Tariff Coalition (Washington, DC).
Zurn Industries (Erie, PA).

Mr. MOYNIHAN. Mr. President, I would like to express my own personal appreciation to Mr. Jerry Junkins of Texas Instruments, who is doing a civic duty, and I think properly so, in heading up the organization.

And so, Mr. President, I would speak to my friend, the manager of the bill, the chairman of the subcommittee, and urge that we do not continue this matter any further. The Committee on Finance, as well as Agriculture and Foreign Relations and others, will take up this matter. It will come to us. We will have time to debate it on the floor in the manner that we have done in the past.

Mr. President, I ask consent to submit a statement by the chairman of the Committee on Foreign Relations, Senator PELL, a strong opponent of the measure before us, for the RECORD.

Mr. PELL. Mr. President, this amendment raises several issues of concern to the Foreign Relations Committee. First, the amendment suggests that existing procedures under which trade agreements are treated as executive agreements rather than as treaties be changed. It is my view that Congress has been well served by the current practice of considering trade agreements as Executive agreements and placing them in the primary jurisdiction of the Finance Committee.

Second, it raises concern about a potential threat to U.S. sovereignty posed by the World Trade Organization. The committee held an extensive hearing on this subject last month, and I am fully satisfied that the WTO does not present any threat to U.S. sovereignty.

The WTO does not affect Congress' sole right to change U.S. law nor does it create a new powerful international organization. The WTO reaffirms current GATT practice of making decisions by consensus. In the rare instances that the WTO would vote, the voting procedures in the WTO would strengthen the hand of the United States and weaken the power of smaller countries by requiring a higher majority for decisions than is currently required in the GATT. In addition, under the rules of the WTO, any provision or amendment affecting substantive U.S. rights and obligations expressly requires U.S. approval.

I urge my colleagues to defeat the Thurmond amendment.

Mr. MOYNIHAN. Mr. President, I believe that I have made such remarks as I have had in mind. Seeing no one else seeking recognition, I suggest we vote.

Mr. LEAHY. I am perfectly willing to go to a vote on this.

Mr. MOYNIHAN. May I propose that we do?

Mr. LEAHY. I have been advised by some on the other side that Senator THURMOND may wish to speak for another minute or two.

Have the yeas and nays been ordered, Mr. President?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. LEAHY. And if the yeas and nays were ordered, then it would take unanimous consent to either withdraw the amendment or vitiate the yeas and nays?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. I do not want to dissuade the Senator from South Carolina. I want to talk for a minute or so, but then we will go to a vote, unless I am advised he is about to come back.

Mr. President, I want to thank the distinguished Senator from New York for his comments. The distinguished Senator from New York carries tremendous burdens, not the least of which, of course, is the fact that he is the lead figure in trying to put together a health care package that this country can be able to afford. I know that he has taken time from what was a tremendously busy day on other matters to come over and discuss this.

I hope that Senators will listen to what the Senator from New York said. There will be a place to debate GATT. There is going to be a time to debate implementation language in the committee of the Senator from New York, in the Finance Committee. There will be a chance to debate some aspects of it in the Agriculture Committee, although I would note that, because of a dispute involving our neighbor to the north, we may be delayed in the Agriculture Committee some considerable time before we get to the implementing legislation, only because we are distracted, some of us, not the least of which is the chairman, somewhat distracted by this dispute taking place in Canada and the inability of the administration to focus on aspects of that debate and the inability of the administration to fully comprehend the interests of some producers of commodities in our country and apparently are unaware of the fact that our valued neighbor to the north has taken advantage of the United States. But I am sure that at some point they might get around to noting that.

Canada is nearby. I would invite any of our trade negotiators to come to Vermont with me and I can drive them to Canada, if they would like. It is only about an hour from my own home in Vermont. Once they have had a chance to look at this issue, we could go forward and set a schedule for implementing legislation in the Agriculture Committee. Otherwise, we may have to take the full time allotted to us.

But the distinguished Senator from New York has laid out the reasons why this should not be on this bill, as did the distinguished Senator from Montana, and I hope that I have.

This is an appropriations bill for foreign operations.

Obviously anybody can bring up anything they want, and probably will, but I would suggest that if people are serious about getting this legislation passed with some of the things that a vast majority of Senators support, then they ought to go ahead and do so. If, however, they hope to take out some of the country specific items that we have here, this is as good a way as any to do it.

The distinguished Senator from New York is here and I yield to him.

Mr. MOYNIHAN. I thank the Senator.

Mr. President, I see my friend from South Carolina has come to the floor, so I will be very brief.

Mr. President, I have a message from the President for the Senate. I have just talked to the chief of staff, Mr. Leon Panetta, who is on Air Force One returning from Georgia with the President.

He asked that I say to the Senate, and I say to the distinguished manager of the legislation and to my friend from South Carolina, that the President is absolutely committed to getting the Uruguay round implementing legislation passed this year; that he also made the commitment to our trading partners in the G–7 summit in Naples that this would be done. He very much hopes that he might have the cooperation of this body in this legislation and that this amendment might be withdrawn in the spirit of comity which is so characteristic of the one time President pro tempore, the most distinguished Senator from South Carolina.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont [Mr. LEAHY].

Mr. LEAHY. Mr. President, I am perfectly willing to go to a vote on this amendment. I advise the Senator from South Carolina, I was told he may wish to speak further, so I did not suggest that we go to a vote until he had a chance to come back to the floor.

Mr. THURMOND. I thank the Senator very much. I will speak a little bit further.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina [Mr. THURMOND].

Mr. THURMOND. Mr. President, earlier today, I introduced, along with several of my colleagues a resolution regarding the GATT negotiations. At this time, I would like to expand upon some of my previous remarks.

This morning I discussed the WTO and how it will have an effect on the sovereignty of our country. This supranational governing body will settle trade disputes and impose fines, sanctions, or make the United States change its law to comply with WTO decisions. However, I would suggest that if you do not want to take my word concerning this issue—if anyone does not want to take that word, maybe you will listen to 42 attorneys general. Let me read from the AP newswire concerning a recent letter the attorneys general sent to President Clinton. It reads:

ATTORNEYS GENERAL WRITE CLINTON ON GATT

(By Francis X. Quinn)

AUGUSTA, ME.—Led by Maine's Michael Carpenter, more than 40 state attorneys general are asking President Clinton to hold a state-federal summit on the potential domestic impact of new global trade rules.

In a letter signed by his counterparts from around the nation, Carpenter asked Clinton this week to agree to a summit this summer before the administration submits legislation to implement provisions of the Uruguay Round of the General Agreement on Tariffs and Trade.

Carpenter said state officials seek "a thorough airing of concerns about how the Uruguay Round and the proposed World Trade Organization would affect state laws and regulations."

"This is of particular concern given that some of our trading partners have apparently identified specific state laws which they intend to challenge under the WTO," Carpenter wrote.

Carpenter, who recently announced he will not seek re-election but plans to serve out the remainder of his term this year, said questions raised by sate officials concerning GATT are similar to those put to federal officials last year about the North American Free Trade Agreement.

The October 1993 letter urging increased protections for the states under NAFTA was sent to U.S. Trade Representative Mickey Kantor by Texas Attorney General Dan Morales.

States lock horns frequently with the federal government in legal disputes over whether local statutes violate national laws. Proponents of state sovereignty say they worry that states may be left without a forum to contest undesirable by-products of international trade pacts.

Carpenter said one illustrative example might be a state's ban on chemicals used to treat fruits or vegetables that could be subject to attack by a foreign government under new global trading rules.

More broadly, he said countless state standards could be vulnerable "anything that another country could say is a trade restriction."

"We can't say that this law or that law is in jeopardy, but we're very concerned," Carpenter said Thursday in a brief interview.

He said the states share "sort of a generalized anxiety." Besides writing with other attorneys general directly to Clinton on Wednesday, Carpenter himself also sent a letter to Kantor, thanking him for offering to have his staff meet next week with representatives of individual attorneys general as well as their national association.

Carpenter wrote that a series of meetings with administration officials could allow state representatives to propose changes in legislation to be submitted to Congress.

"Such an opportunity to engage in a real dialogue with the administration over the state's federalism concerns may give greater focus to the proposed summit or make its occurrence somewhat less urgent," Carpenter told Kantor.

Carpenter said Thursday the state expressions of concern were not meant to embarrass the administration. He said the attorneys general hoped to build a permanent structure that could speed reviews of future trade deals, "so that we can be involved before the deal is done."

Mr. President, that is the purpose here—before the deal is done. It is too late after the deal is done. This is merely a study we are asking for, in this resolution.

Mr. President, these 42 individuals are charged with upholding the laws of their States. If they have some concerns regarding how GATT and WTO are going to affect their efforts, then we should listen carefully to their concerns.

Another group of individuals that have also shown concern about the WTO are the State tax commissioners. Like the attorneys general, the tax commissioners are worried the WTO will render State laws useless. More specifically, the tax commissioners are worried that the Federal executive branch will have the authority to preempt State and local laws without congressional authorization, companies and foreign governments will use the Federal commerce clause to overturn State and local laws, States will have to pay retroactive taxes if a case is decided against the State, the States will not be notified about WTO cases against them nor will they have the ability to defend themselves when cases are brought against the State.

Mr. President, the tax commissioners and the attorneys general appear to have valid concerns with the authority of the WTO. One can only imagine what State and local taxes and laws that could be challenged under the WTO. Further, the investigations into whether these items are an unfair trade barrier can be conducted without even contacting the State or locality. It does not seem fair that actions can be taken against States and localities without the right to defend themselves.

In June of this year, I made a statement here on the Senate floor concerning the creation of the WTO and its effect on our country, as follows:

> Those of us who were serving in the Senate during some of the previous GATT rounds have heard many of the same arguments that the Clinton administration is making in regard to this agreement. Basically, this agreement will solve our trade problems and open foreign markets for U.S. goods. A brief review of history shows that we did not accomplish our goals. After the 1979 round was completed, we saw a major decline in the steel, textile and apparel, and electronics industries. At the same time, these industries were struggling to survive due in part to the closed markets of other countries.

Mr. President, now reading from an article from the Associated Press news wire:

FRANCE, U.S. CLASH ANEW ON TRADE AT G7

(By Paul Taylor)

NAPLES, ITALY—A bitter dispute between France and the United States on liberalising world trade flared anew on Friday when the French rejected President Bill Clinton's call for a fresh review of trade barriers.

Clinton told a news conference he would urge leaders of the Group of Seven industrial powers at their Naples summit to take a new axe to remaining restrictions following last year's GATT world trade accord.

U.S. officials listed among the issues financial services, telecommunications, biotechnology, intellectual property rights, investment rules and airline landing rights—all problems on which Washington was frustrated in the GATT negotiations.

But French President Francois Mitterrand told Japanese Prime Minister Tomiichi Murayama that countries which had just signed the GATT treaty in April after seven years of difficult talks, lowering many trade barriers, needed "a breathing space."

"The president's wish, which he will spell out to Mr. Clinton, is to avoid any excessive haste," Mitterrand's spokesman Jean Musitelli told reporters.

Musitelli also said France had not been invited to a meeting of trade ministers called by Italy on the fringes of the annual G7 summit on Saturday and did not consider it appropriate. The Italian Trade Ministry said that trade ministers, not normally part of the G7 summit line-up, would discuss fresh initiatives to free up world commerce at Washington's request.

Musitelli said France learned of the "novel, bizarre and unprecedented" meeting by rumour and believed it was "not the type of meeting which is appropriate for the work of the G7." He said Britain too had not been included.

But the Italians said trade ministers of all seven countries had been invited to the Saturday afternoon meeting, and so far Germany, Canada, Japan and Italy had said they would attend.

U.S. Trade Representative Mickey Kantor and European Union Trade Commissioner Sir Leon Brittan will also take part. British officials said Trade Secretary Michael Heseltine could not come to Naples but Britain would be represented by Sarah Hogg, a policy adviser to Prime Minister John Major.

They said Washington consulted London before sending its letter to G7 governments calling for the new trade review and many of the proposals chimed with British thinking.

France and the United States were the main adversaries in the last phase of GATT's Uruguay Round, fighting bitterly over agricultural subsidies and trade in film and television.

German Economics Minister Guenter Rexrodt said on Thursday that the United State planned to use the Naples summit to launch a trade initiative, probably named Open Markets 2000.

In Brussels, a European Commission spokesman said a new international initiative to boost trade would not be acceptable if it hampered chances of ratifying and implementing the Uruguay Round of the General Agreement on Tariffs and Trade.

"The Commission is for any initiative that can increase the commitment to liberalising trade, but the first priority above all is ratification and then implementation of the Uruguay Round agreement," the spokesman said.

"Anything that can hamper that is not acceptable, but anything that can encourage ratification can be acceptable." Commission sources acknowledged Washington's concerns to get freer trade access in Europe in areas such as telecommunications and aircraft landing rights, but pointed out that the EU had its own shopping list of reciprocal demands, including complaints about the protectionist impact of "Buy American" legislation.

The U.S. proposal calls for trade ministers to report back their findings to next year's G7 summit in Canada.

The study would be carried out in cooperation with the World Trade Organization, the successor to GATT due to be created next year, and the Paris-based Organisation for Economic Cooperation and Development.

Mr. President, to paraphrase President Reagan, here we go again. Congress has not completed this agreement and the administration is already arguing that we need a new agreement. It appears to me that these items should have been corrected in the current round instead of waiting until the future to address these issues.

Mr. President, another concern I have regarding the GATT is the total cost of the agreement. According to the news reports, the United States will lose—I repeat—will lose roughly $40 billion from tariffs over the next 10 years if this agreement is implemented. While some of the lost tariffs might be recouped from the increased trade that the United States is expected to experience, the pay-as-you-go provisions of our budgeting process require that money lost from tariff cuts must come from revenue increases or spending cuts. With our national debt at over $4 trillion, we need to be fiscally responsible in our actions. Therefore, waiving the budget rules to pay for GATT is not being fiscally responsible. If this agreement is important enough to pass, then we should not have to waive the Budget Act to enact it. Further, while the Federal Government will lose roughly $40 billion, there is no way to tell how the States and localities would fare if their taxes are challenged as unfair trade barriers.

Mr. President, hopefully, these concerns can be examined more closely before the implementing legislation is presented to Congress. It appears that the Congress is going to be forced to examine the 22,000-page GATT agreement at a time when we are working on health care reform, welfare reform, campaign finance reform, and a host of other major legislative issues. I would hope that the administration would not send the implementing legislation to Congress for at least 60 days. This agreement is very important to local, State, and Federal jurisdictions, and I would hope that we could have time to fully examine the impact of this legislation before being called to vote on it.

THE NEW WORLD TRADE ORGANIZATION—A RISK TO SOVEREIGNTY AND POWERS OF THE SENATE

Mr. PRESSLER. Mr. President, the Thurmond amendment deserves serious consideration by the Senate. The amendment addresses major concerns about the new GATT agreement soon to be addressed by the Senate. The amendment is simple and straightforward.

First, it expresses the sense of the Senate that a joint Senate-administration commission be convened to decide whether the proposed World Trade Organization should be considered as a treaty and not as an Executive agreement.

Second, the amendment calls for a period of time, prior to introduction of the implementing legislation, for further congressional hearings, both in and outside of Washington to consider the full ramifications of the United States joining the World Trade Organization.

The process being taken by the administration has brought a new meaning to the phrase "fast track." Fast-track authority permits implementing legislation to be considered and voted on without amendment. This should not mean pushing through legislation without full and deliberate consideration.

The new trade agreement is a massive document. It was just signed on April 15 of this year. The Finance Committee will begin its trial markup of implementing legislation next week. I understand that the committee hopes to conclude its consideration by the end of next week.

One thing is certain. We can learn from history. History has taught us that free trade brings stronger economic growth. I am a free trader.

The last time this body considered GATT was in 1947, when it was created. At that time, the World Bank and the International Monetary Fund were created to address international developmental and monetary problems. An International Trade Organization [ITO] was proposed to regulate trade relations among countries. However, the ITO encountered opposition in the Senate. The issue? Sovereignty. As a result, the proposed ITO failed to win enough votes for ratification.

As CBO reported in 1987, "As a weak substitute for the envisioned ITO, a GATT Secretariat, with a very small staff, was created to oversee the General Agreement and to manage multilateral trade negotiations."

Well, the ITO proposal has resurfaced. It is now called the WTO. The new GATT agreement creates a new World Trade Organization that differs from the old GATT. The WTO is not a weak version of the ITO, but a new version of it.

Under the old GATT, the United States had a veto. We could block a panel decision and we would not face retaliation. Under the WTO, the process is automatic. Panels are established, decisions are made and the United States has no veto.

Mr. President, the risks that the WTO pose to sovereignty and to the constitutional role of the Senate are real. These risks must be fully addressed. That is why my colleagues and I felt it was important to offer this amendment today. Time is running out.

The full consequences of this agreement are just beginning to come to light. Recently, I have raised concerns over the proposed World Trade Organization [WTO] created under the new agreement. I have addressed these concerns on the floor and at two hearings held by the Foreign Relations Committee and the Commerce Committee.

Many questions and concerns about the WTO are being raised. Unfortunately, there appear to be more questions than answers.

For example, what impact will this organization have on Federal, State, and local laws? What will be its budget? How many taxpayer dollars will be spent on the WTO? To whom will the WTO, with its unelected bureaucrats, answer? I do not think these questions have been answered adequately.

Another concern is whether or not the creation of the WTO should be considered as a treaty. There is a possibility the new WTO could threaten the constitutional role of the U.S. Senate.

I am not certain the WTO could be fixed. If submitted as part of the implementing legislation, it would not be subject to amendment. The best option may be to drop the proposed WTO from the implementing legislation and deal with it separately. This option needs careful consideration.

TREATY CONCERNS

Mr. President, before I discuss the issue of sovereignty, let me explain why I believe the WTO should be considered by the Senate as a treaty—not as an executive agreement.

There are four ways an international agreement can become the law of the United States.

First, if it is accompanied by the advice and consent of the Senate—a treaty;

Second, if it is authorized or approved by Congress and the matter falls with the constitutional authority of Congress—a congressional-executive agreement;

Third, if it is authorized by a prior treaty which received the advice and consent of the Senate—an executive agreement pursuant to treaty; or

Fourth, it is based on the President's own constitutional authority—a sole executive agreement.

It is clear that past GATT agreements fall under No. 2—congressional-executive agreements. These agreements call for lowering tariffs and quotas, and expanding trade. However, I question whether Congress intended or authorized the creation of the WTO.

Under international law, an international agreement is generally considered to be a treaty and binding on the parties if it meets four criteria:

First, the parties intend the agreement to be legally binding and the agreement is subject to international law;

Second, the agreement deals with significant matters;

Third, the agreement clearly and specifically describes the legal obligations of the parties; and

Fourth, the form indicates an intention to conclude a treaty, although the substance of the agreement rather than the form is the governing factor.

Mr. President, international agreements and treaties have been used interchangeably in recent years. I do not question that the trade agreements under the Uruguay round should be treated as agreements. However, the creation of the WTO is a different matter.

Let's look at Senate precedents. In 1947, the Senate Finance Committee debated this issue when considering the International Trade Organization [ITO]. At that time, the chairman of the Foreign Relations Committee was Senator Eugene D. Millikin. He suggested the following test for determining whether a treaty should be submitted to the Senate for two-thirds approval:

> The proper distinction is that when we go beyond conventional matters (duties, custom matters and foreign trade), and commence to surrender sovereignty, this is the point where the proper field of treaty comes in. Whenever you come to a matter where there is substantial disparagement of our sovereignty, whenever you come to a matter where sanctions may be invoked against the United States, by an international body, then you have probably entered the legitimate field for treaties.

I warn my colleagues. The vote on the GATT implementing legislation, which creates the WTO, is expected to be considered by the Senate as an Executive agreement. Passage will only require a simple majority.

I believe it is abundantly clear. The creation of the World Trade Organization was not anticipated when the Uruguay round negotiations began. It has been reported that the proposed WTO was pushed through in the eleventh hour of the negotiations.

Whether or not the United States joins the WTO should be considered apart from legislation implementing the final texts of the GATT Uruguay Round Agreements.

Mr. President, proponents of the WTO will argue that there is no difference between the existing GATT structure and the WTO. Proponents will argue that the WTO will not be able to coerce the United States into any decisions on trade matters. They will argue that there's little or no difference between trade dispute settlements under the current GATT agreement and the WTO. It's sort of like shopping for a used car. You hear all the great things about the WTO, but little about its flaws. I am not quite ready to buy all the arguments in favor of the WTO.

United States negotiations in the Uruguay round improved the GATT by including goods and services and reducing nontariff trade barriers. For the first time agriculture is included under the agreement. Proponents of the WTO will say the new organization is needed to ensure that these gains are not lost in dispute settlements.

Mr. President, I hear those arguments. What I do not hear is that United States intended to create and promote the creation of the WTO.

All too often, issues are rushed through this body without full consideration. It is these 11th hour deals that all too often get us into trouble. I fear that is what is happening with the WTO.

Mr. THURMOND. I yield to Senator BYRD.

Mr. BYRD. If the Senator would, I will probably take about 3 minutes.

Mr. THURMOND. I will be glad to, without losing the floor, Mr. President.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

Mr. President, I rise in support of the policy expressed in the amendment by the distinguished Senator from South Carolina [Mr. THURMOND]. It is an issue about which I feel rather strongly, but I also sympathize with the distinguished manager of bill, Mr. LEAHY, and his sentiments that this is not the right place for the amendment. The foreign aid bill is not the place to debate trade policy, and it is difficult enough for us to consider this annual legislation without major debates on extraneous matters.

I understand that the distinguished Senator from South Carolina will withdraw his amendment shortly. He has not said so, but I understand he will. And I think, all concerns considered, that would probably be the best thing. I hope that he will.

But the amendment is nevertheless before the body now, and I strongly support it. The Constitution reserves powers over international economic matters exclusively to the Congress. This is not a shared power with the executive branch. Article I, section 8 says that the Congress shall have the power to regulate commerce with foreign nations.

In recent years, there have been attempts to tippy-toe around this constitutional provision by using a mechanism allowing the executive branch to seek legislative authority from Congress to negotiate trade agreements with other nations that it structures as executive agreements. The executive branch then receives an additional advantage through procedures included in the authorizing legislation known as "fast track." This is a device which denies the Congress the opportunity to amend the agreement, and then forces the Congress to vote up or down within a limited time period. We do not even have the luxury of amending the agreement, which in the case of a treaty we would be able to amend.

First, I agree that the weight of the agreement reached in the case of the Uruguay round is such that it rises to the importance of a treaty and should be treated as a treaty.

Second, the long-term implications of the Uruguay round are such that the Senate should have full and unrestricted debate—unrestricted debate—with the opportunity for the Senate to work its will in this most vital arena of foreign policy, the economic relations we have with the rest of the world. The fact is that there should be no rush to pass legislation implementing this agreement this year. We need time to discuss it at length.

The Congress could wait until next year, next spring, after a full investigation of the ramifications of this agreement. In any case, implementing legislation is not needed until July of next year.

The Senator from South Carolina states in his amendment that the implementing legislation did not address the question of establishing a supernational adjudicatory mechanism which was incorporated in the Uruguay round of the World Trade Organization. The mechanism could make decisions which could profoundly, profoundly affect U.S. domestic law.

Considerable investigation needs to be done on this matter by this body. There are many other concerns which Members in both Houses have raised in respect to this extensive and far-reaching agreement. So let us not rush it. I think the agreement should be considered as a treaty. In any event, it should be amendable. That may be inconvenient for the other signatories to the treaty but American national interests are at stake. This is a massive trade document and has not been scrutinized by the Senate in any meaningful manner.

Therefore, I support the amendment of the Senator from South Carolina. I appreciate his offering it. I congratulate him on offering the amendment. I am glad to have an opportunity to say these few words in support of the amendment.

I hope, now that we have had an opportunity to speak at least briefly on the subject, the Senator will withdraw the amendment as it is a sense-of-the-Senate amendment and it is attached to an appropriations bill. In that respect, I hope the wishes of the Senator from Vermont [Mr. LEAHY] will be followed.

The PRESIDING OFFICER. The Senator from South Carolina retains the floor.

Mr. THURMOND. Mr. President, I am pleased we have received assurances from the Senator from Montana, who is chairman of the trade subcommittee, that the issues we have raised today will be addressed next week when the Finance Committee meets to mark up the Uruguay round implementing bill. This is one Senator who will be very interested in whether these issues have been adequately addressed. In fact, we should be given adequate time to review the proposed legislation before it is submitted to the President.

Now, Mr. President, I wish to say again that what we are trying to do is just not rush this matter. It is a matter of tremendous importance. It involves the very sovereignty of our country. It is just to give time to the executive branch and legislative branch to get together and study this matter carefully and inform the Senate what impact it is going to have on our country and just how it is going to affect the sovereignty of our country.

In view of the situation now and out of my great respect for the able chairman of the Appropriations Committee and what he said, that he thinks it would be better not to put it on this legislation, I will withdraw the amendment at this time.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

The PRESIDING OFFICER. Without objection, the amendment offered by the Senator from South Carolina is withdrawn.

The amendment (No. 2239) was withdrawn.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kentucky [Mr. MCCONNELL].

AMENDMENT NO. 2240 TO THE FIRST EXCEPTED COMMITTEE AMENDMENT ON PAGE 2

(Purpose: To establish the date of Russian troop withdrawal from the Baltics)

Mr. McCONNELL. Mr. President, I send an amendment to the desk on behalf of myself, Senator MCCAIN, Senator D'AMATO, Senator DOLE, and Senator HELMS. It is an amendment to the committee amendment on page 2.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Kentucky [Mr. MCCONNELL], for himself, Mr. MCCAIN, Mr. D'AMATO, Mr. DOLE, and Mr. HELMS, proposes an amendment numbered 2240 to the first excepted committee amendment on page 2.

Mr. McCONNELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the end of the committee amendment on page 2, odd the following:
>
> "SEC. . (a) RESTRICTION.—None of the funds appropriated or otherwise made available by this Act may be obligated for assistance for the Government of Russia after August 31, 1994 unless all armed forces of Russia and the Commonwealth of Independent States have been removed from all Baltic countries or that the status of those armed forces have been otherwise resolved by mutual agreement of the parties.
>
> "(b) Subsection (a) does not apply to assistance that involves the provision of student exchange programs, food, clothing, medicine or other humanitarian assistance or to housing assistance for officers of the armed forces of Russia or the Commonwealth of Independent States who are removed from the territory of Estonia, Latvia, Lithuania, or countries other than Russia.
>
> "(c) Subsection (a) does not apply if after August 31, 1994, the President determines that the provision of funds to the Government of Russia is in the national security interest.
>
> "(d) Section 568 of this Act is null and void."

Mr. McCONNELL. Mr. President, since declaring their independence, Latvia, Lithuania, and Estonia have been dedicated to assuring that Russian troops are fully and promptly withdrawn from their sovereign territory. There is, as we can all imagine, no more provocative symbol of 50 years of Soviet occupation than the continued presence of these troops. To expedite that process, last year Congress earmarked $190 million specifically for troop withdrawal including through support for an officer resettlement program and technical assistance for the housing sector.

Now, Mr. President, in spite of that directive and an extensive legislative history which made clear this commitment was designed to remove the Russians from Lithuania, Latvia, and Estonia, the administration decided to use only 50 percent of the designated funding for Baltic troop resettlement and the balance for other Russian troops.

Now, Mr. President, in spite of undercutting congressional intent, progress has been made, I am happy to report. Three years ago, when these nations declared their independence, they were occupied by more than 100,000 Soviet troops—just 3 years ago, 100,000 Soviet troops. Obviously, comparatively speaking, the situation is a good deal better. All troops are now out of Lithuania, with 4,500 remaining in Latvia, and 2,500 remaining in Estonia. But that remaining 7 percent is still a problem. Like the citizens of Latvia and Estonia, I welcome the President's public comment in Riga last week that the United States was committed to seeing the withdrawal remain on track with all troops out by August 31 of this year, 1994. This was a target date. It is interesting to note this is the target date that President Yeltsin originally offered last year and all the parties agreed to honor. So this was a date picked by the Russians.

While in Riga, the President also offered more financial support to secure that goal. Again, I commend the President for his observation. But many of us have a nagging feeling irritated by the past year with administration compromises and concessions to the Russians that, unless held accountable in legislation, August 31 will come and go and Russian troops will continue to occupy Estonia and Latvia.

Mr. President, my concern about the President's predilection to capitulate is exacerbated by the Russian's seeming reluctance to honor the deadline. We have an example of this very recently. As Warner Wolf used to say when he was around here, and may still say, "Let us go to the videotape."

On July 11, just this week, standing at Boris Yeltsin's side, President Clinton announced the following. These are the President's words 2 days ago:

> There has been a promising development in the Baltics. After my very good discussion with the President of Estonia, Mr. Meri, passed on his ideas to President Yeltsin. I believe the differences between the two countries have been announced and then agreement can be reached in the near future so that the troops would be able to be withdrawn by the end of August.

Two days ago the President was talking about the end of August this year. The President said:

> When the Russian troops withdraw from Germany and the Baltics, it will end the bitter legacy of the Second World War.

Bear in mind 2 days ago President Yeltsin was standing right beside President Clinton when he said that. President Yeltsin was immediately asked by a reporter:

> Will you have all of the Russian troops out of the Baltics by August 31?

This is just 2 days ago standing by President Clinton, President Yeltsin was asked the question.

The answer by President Yeltsin, a direct quote: "No." "Nice question", says President Yeltsin. "I like the question because I can say no."

So here we had 2 days ago a joint press conference with President Clinton and President Yeltsin standing side by side, and asked the question, "Will the Russian troops be out of the Baltics by August 31?" President Clinton says "yes," and President Yeltsin says "no."

Obviously, there is some confusion here about whether or not the August 31 deadline is going to be—originally suggested by the Russians, I repeat. August 31, 1994, was originally suggested by the Russians as the deadline for having all Russian troops out of the Baltics. Yet 2 days ago Yeltsin says, "I don't think we can make it."

I want to just repeat that this was the Russian's selection of this date last year. Even though they preferred a more immediate departure, when this came up last year reluctantly Estonia and Latvia accepted the target of August 31 of this year.

A full year later, a full 2 years after committing in the Helsinki summit to an early, orderly, and complete withdrawal of foreign military troops from the territories of the Baltic States, Russia is stalling again. On July 11, just a couple of days ago, Yeltsin publicly and flatly rejected his self-imposed obligation to withdraw the troops.

Madam President, this Russian reality check stands in stark contrast to the administration's sort of Disney vision about this. It is animated, it is colorful, but it is a total fantasy. There is no more clear representation of the yawning gap between reality and the administration's policy than statements made by the Secretary of State over the past 10 months.

As we are all aware, one of the significant sticking points in troop withdrawal negotiations has been how ethnic Russians will be treated. Last autumn at the ministerial meetings of the CSCE and again before the Foreign Operations Subcommittee in March, Secretary Christopher declared that Russia's intention to protect 25 million

Russians living in the so-called near abroad was understandable and legitimate. This is the Secretary of State before the Subcommittee on Foreign Operations saying the Russian concern about the 25 million Russians living in the near abroad was understandable and legitimate. Before the subcommittee he added that these Russians should be treated with generosity.

Needless to say, the sovereign sensibilities of many nations which suffered Soviet occupation were deeply offended. Like other nations, the Baltics struggled to maintain their language and their culture in defiance of the Soviet regime's calculated plans of reunification. Thousands of Balts were exiled to Siberia, or worse, and Russians dispatched military and civilians alike to establish control.

History offers a window on the current skepticism. Latvians, Lithuanians, and Estonians share with their neighbors Russia's not past ambitions but current ambitions. But there are also ongoing serious issues which cause any observer to question Moscow's intentions.

In addition to protecting minority rights, Russia continues to insist that they are guaranteed access to military installations and bases. In April, during a round of discussions with Estonia, Russia linked further progress to payment of $23 million by Estonia to Russia. In late June, this threat was repeated in conjunction with the unilateral demarcation of the Russia-Estonia border, a declaration I might add that was viewed with considerable alarm in Talinn.

In a similar vein, Latvia has found troop withdrawal subject to Russian access to radar facilities and military bases as well as offering social guarantees to Russians who reside in Latvia.

I understand the administration is attempting to balance a number of issues in a multilateral context, and is extremely sensitive to Russian concerns. But the combination of statements by the Secretary of State, and positions taken by the Russians in negotiations, cause me concern about the firmness of the August 31 withdrawal commitment.

At the moment, the bill before the Senate, the bill we are debating, bans funds from Russia after December 31, 1994, if all troops have not been withdrawn or a mutual agreement on removal has not been reached.

The amendment at the desk, the amendment we are discussing at the moment, simply changes the date to August 31, I repeat a date originally chosen by President Yeltsin and the Russians as a date by which they would have all of the troops out of the Baltics. Just last week in Riga, the President reconfirmed his commitment to that date, a commitment shared by many here in Congress.

I see no reason why legislation should undercut or postpone prospects for meeting that deadline. For more than 35 years, the Baltic nations have suffered Soviet occupation. I do not think that Congress should postpone the end of that era 1 more minute let alone 4 more months. Last year, Congress tried to provide the necessary financial incentive for withdrawal by supporting housing for withdrawn troops. I supported that. The administration decided to use only half the dedicated funds for troops from the Baltics. I hope my colleagues will join in sending a clear signal that half-hearted attempts are no longer sufficient. We expect Russia to comply with its obligations, and we look forward to September 1.

In Estonia, President Meri's words of September 1 represents the first day of a new Europe, a day when the Baltics are truly free.

Let me just quickly summarize what this amendment does. It simply moves the withdrawal date from the end of this year back to August 31, the date originally set over a year ago by President Yeltsin himself. It simply moves that date forward to the expressed intention of President Yeltsin a year ago. I think this will be extremely reassuring to those in Latvia, Estonia and Lithuania. In addition to that, there is considerable American interest that this date be met.

(Mrs. BOXER assumed the chair.)

Mr. McCONNELL. I just call my colleagues' attention to a press release dated yesterday from the Joint Baltic American National Committee—these are American citizens—supporting this amendment I have just offered. I say to all of my colleagues that this is not only the foreign policy over a "there" kind of an issue; it is also a "here" issue, in the sense that many Americans who came from the Baltic countries maintain an ongoing interest in this important date and would like it to be met.

Madam President, I ask unanimous consent that this statement from the Joint Baltic American National Committee be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Press release from the Joint Baltic American National Committee, June 12, 1994]

YELTSIN SAYS RUSSIAN TROOPS TO REMAIN IN ESTONIA

Russian President Boris Yeltsin, after meeting with President Clinton on July 10, stated that Russian troops will remain in Estonia after the August 31, 1994 withdrawal deadline. The statement followed President Clinton's trip to Latvia where he called on Russia to adhere to its unconditional commitment to withdrawal.

When asked if Russia will meet the self-imposed August 31 deadline, Yeltsin bluntly stated "No", then added "I like the question, because I can say no." Only moments before, President Clinton optimistically projected that an agreement between Estonia and Russia is near, paving the way for withdrawal by the end of August. According to Yeltsin, the delay is tied to the "human rights" violations of 10,640 Russian military retirees in Estonia in addition to a lack of housing for returning Russian officers. However, these allegations are false and represent an attempt to gain unacceptable concessions from Estonia. In reality:

Ex-Soviet military personnel who retired in Estonia prior to August 31, 1991 may apply for Estonian residency permits as allowed by Estonian legislation, which would permit them to live in Estonia and vote in local elections.

Of the 10,640 ex-Red Army pensioners in Estonia, 1,600 retirees are under the age of 50; hundreds of these are younger than 45 and cannot be characterized as "harmless pensioners." Less than half, or 5,170, are over 60.

Russia demands that all Russian military personnel presently in Estonia (2,500), in addition to military pensioners, be granted residency permits. These include KGB and military intelligence officers and individuals who actively worked against Estonian independence. Their presence will continue to pose a threat to Estonia's security. Succumbing to Russian demands would lead to a demobilization of Russian forces in Estonia—not a withdrawal of Russian forces.

The United States allocated $6 million (FY93) and $160 million (FY94) to house returning Russian officers. This includes 1,250 housing vouchers for Russian officers and retired officers leaving Estonia. Estonia should not be coerced into paying for the illegal Soviet occupation.

Russia's actions follow a familiar pattern of issuing threatening statements aimed at stalling the withdrawal, such as Russia's suspension of withdrawal from Lithuania only days before its deadline. It is imperative that the United States once again take a firm stand and call on the unconditional removal of Russian troops from the Baltics by August 31.

CONGRESSIONAL SUPPORT VITAL IN WITHDRAWAL FROM ESTONIA

The Joint Baltic American National Committee, an organization representing over one million Americans of Baltic heritage, calls on Congress to support an amendment to be submitted by Senator Mitch McConnell to the FY95 Foreign Operations Appropriations Act (sec. 568) that would limit US aid to Russia if withdrawal, or an agreement on withdrawal, is not completed by August 31. The present cut-off date of December 31 will send a tacit signal that a continued Russian military presence in Estonia is acceptable. A firm resolution, however, will send a strong signal to Russia that it must live up to its international commitments and withdrawal by August 31, 1994.

Mr. McCONNELL. Madam President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY addressed the Chair.

Mr. McCONNELL. Madam President, who has the floor?

The PRESIDING OFFICER. Has the Senator yielded?

Mr. McCONNELL. I have not yielded.

Mr. CRAIG. If the Senator from Kentucky will yield briefly, while I stand in support of his amendment, I wanted to also clarify something. I just came to the floor, and I understand that Senator THURMOND has withdrawn his amendment on the World Trade Organization. To the ranking member and chairman, let me say that while I support Senator THURMOND in withdrawing that amendment, his intent and my intent in coming to the floor to debate that issue was to raise its visibility and hope to express to all of you and to the Senate at large that this is an issue that is now beginning to speak out for an answer. It is not just this Senator or others, it is State tax commissions all around our country, State attorneys general and Governors who are beginning to look at the fine points of the General Agreement on Tariffs and Trade and the General Agreement on Tariffs in Services as it relates to the fundamental issue of sovereignty.

I strongly support trade and hope we can resolve these issues. I do believe it is incumbent upon us who are interested in it, and certainly the chairman and ranking member are here today to work with us in resolving this issue, whether it be in the implementation language or in some other form. I do not believe this is an issue that will now go away as easily as the Senator withdrew his amendment. I think it is an issue that speaks out for an answer.

Mr. McCONNELL. I thank my friend from Idaho. It is my understanding that the chairman—I was here when the chairman of the Appropriations Committee spoke in support of the Thurmond amendment, as well. There is considerable concern about this issue. I do not believe the Senator from South Carolina withdrew it with any sense that this was an issue that was over. I think the debate was very helpful in bringing this issue before the Senate.

Mr. CRAIG. I thank my colleague.

Mr. McCONNELL. I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, I yield momentarily to the Senator from Kentucky, without losing my right to the floor.

Mr. McCONNELL. Madam President, I ask unanimous consent that Senator BYRD, the chairman of the Appropriations committee, be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Madam President, I just ask the Senator from Kentucky, in the last subsection, subsection (c), if he might consider, so we do not get into further debate down the way, in the last line, where it says "Government of Russia is in the national security interest," removing the word "security?"

While the Senator thinks about that, let me make a couple of comments.

Madam President, in our bill, we have this amendment with the date of December 31—partly because we were not sure that the bill might be finished—to avoid a continuing resolution. It appears that we may be able to avoid that. As a result, the date might be moved up. I listened to President Yeltsin's comments in Naples, and I had some concern in listening to them. I have been encouraged by the progress Russia has made to withdraw its troops from the Baltics, and I considered traveling there myself to observe some of that. But I was concerned when President Yeltsin said he would not make the August 31 deadline that we had originally assumed.

I hope that President Yeltsin will continue with his earlier commitment or be moving the withdrawal so rapidly that it was obvious that the conclusion was ineluctable.

Mr. McCONNELL. If my friend will yield, I do not know whether he was on the floor, but my concern is that, just 2 days ago, at a joint press conference with President Clinton and President Yeltsin standing side by side, President Yeltsin said he was not going to meet the August 31 deadline. I do not think he left it in a speculative state.

Mr. LEAHY. I understand. I am perfectly willing to support this August 31 deadline. My question was only to one word in the third paragraph.

Mr. McCONNELL. I must say to my friend that my initial reaction is that I hope we will not water down the language. We both know that national security interest is a tougher standard than national interest. The freedom and independence of the Baltics have been a big issue in this country for 50 years. We are very close to having all those Russian troops out. Many people in this country, particularly those who belong to these organizations of Latvian-, Estonian-, and Lithuanian-Americans, think it is probably in our national security interest. I hope that we can avoid modifying the amendment and that we will send a strong message to President Yeltsin to meet the date he originally suggested a year ago.

Mr. LEAHY. The reason I mention it is that in the legislation which the Senator from Kentucky and I both supported in the committee, it spoke of national interest. That was with the December 31 deadline. This is adding another word. I am trying to keep it close to that, because it is also language I want to be able to maintain as we go through this whole process. I also tell my friend from Kentucky that I support the August 31 deadline. It is one we had discussed earlier.

I note that if indeed that was not being followed and indeed the administration was not taking it seriously, there are items of this Russian aid that will have to go through the normal reprogramming process, and that would certainly influence my thinking in such reprocessing. I do not intend to allow this just to be a figleaf thing. I think the policy of the Baltics, both for stability within the former Soviet Union and the ability to improve the efficacy of our own help, is such that it is important to remove them from the Baltics.

Mr. McCONNELL. I would say to my friend from Vermont, I understand his concerns. It seems to me we are not really asking the Russians to do much here. We are asking the Russians to stick to the deadline they themselves set.

Logistically, we are down to a rather small number of troops left. I was checking my notes here. There are 4,500 in Latvia, 2,500 in Estonia, and all of them out of Lithuania.

So we are not asking them to move all 100,000 in 6 weeks here. They are down to a few. We are asking them simply to comply with the deadline that they themselves set.

I really believe firmly that if the Senate sent a strong message with this amendment we would see those troops gone by August 31, which would be to the substantial relief to people in Latvia, Estonia, and certainly a lot of Americans who came from that area over here.

Mr. LEAHY. Madam President, as I said, the Senator has supported different language earlier. Both he and I had in the early language contemplating August 31 as the date they would be out. So his position today is as consistent today as it was earlier.

I was trying to simply change the date. I was having it be the same language.

Mr. McCONNELL. If I may say to my good friend Senator LEAHY, the reason that I think we now need a tougher standard is just 2 days ago this week President Yeltsin stood beside President Clinton and said he was not going to meet the August 31 deadline.

So I think we have a changed condition warranting toughening up a little bit the standard as well as moving the date back to the original date that the Russians set of August 31. I think there is a changed intervening condition, a changed condition that warrants the national security interest standard as opposed to the national interest standard.

That would be my thinking there. I would hope the Senator from Vermont would agree.

Mr. LEAHY. I am persuaded by the Senator from Kentucky. At the time when I heard the statement in Naples I had expressed then, not on the floor of the Senate, but I expressed concern, Madam President.

We are in the position—the United States is, and I believe my friend from Kentucky would agree with this—as a major power—in fact we are the major power of the world—we know that it is in our national security interests to have the former Soviet Union become a democratic market-oriented, however defined, country, not with a copycat necessarily of all our laws and institutions but one where there is a rule of law, where there are democratic principles, elections, and so forth, and one where they can engage in a free and open trade with the rest of the world, including the United States, but also one where our competition is on economics, it is on the exposure of our own ideas and ideals and not a competition on nuclear warheads or the balance of terror or deterrence. I know the Senator from Kentucky and I both agree on that.

I think, though, we also have to realize we are dealing with a nation redesigning itself, reforming itself, a nation becoming in many ways a new and totally new nation but with a proud heritage, also a heritage of great strife in the past and a feeling and the kind of concern when they did need help from the West also do not want to be considered as a second-rate nation, nor should they. This is a nation that has in the course of a century gone from being one of the major powers of all history. But the fact is that the results are in our security interests beyond the Baltics.

So, Madam President, I have no problem with this amendment.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that Senator LAUTENBERG be added as cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Madam President, I believe that we must continue to hold Russia's feet to the fire with regard to troop withdrawal from the Baltic countries. Russia has made substantial progress on withdrawing from the Baltics—all troops are out of Lithuania and withdrawal from Latvia is proceeding on schedule. This progress is due in no small part to United States engagement on this issue. Accordingly, I believe we should continue to remain engaged by pressing Russia to move ahead on its commitment to withdraw its troops from Estonia. One way to do that is to remind Russian leaders that continued United States assistance depends on responsible international behavior.

I share the concern expressed by my colleagues about President Yeltsin's recent statements that indicate foot dragging on troop withdrawal from Estonia. I am encouraged, however, that President Yeltsin and Estonian President Meri have agreed to meet within the coming days to discuss the issue.

With the Estonian-Russian talks looming, we must strike a delicate balance. On the one hand, we must be clear that continued Russian troop presence is unacceptable. On the other, we must give Russia and Estonia enough breathing room to work out the outstanding issues surrounding troop withdrawal. I believe the underlying committee bill strikes the correct balance. It states that we will restrict our assistance to Russia if Russian troops are not removed—or if the status of those forces has not been resolved by mutual agreement—by December 31. The committee language also contains a waiver that would allow the President to assist Russia if he believed it was in the national interest.

The McConnell amendment is much more stringent. It moves the deadline from December 31 to August 31. It also would make it more difficult for the President to waive the restriction. To my mind, this amendment could actually damage the prospects for speedily troop withdrawal from Estonia. By moving the date at this delicate time, we could undermine President Yeltsin and empower the hardliners in Russia who wish to undermine the negotiations on troop withdrawal.

President Yeltsin is already under intense domestic pressure. It is in our interest to bolster the reformers in Russia, and one way that we are shoring up those progressive elements is through our assistance program. If Russian reformers do not survive and nationalist or military leaders come to power, does anyone believe that troop withdrawal from Estonia will continue on track?

As I said, I believe the underlying committee amendment strikes a good balance, and I believe we should maintain that language in the bill. I therefore will oppose the McConnell amendment.

Senator MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I rise in support of my friend from Kentucky.

I think it is important. I think it has significant ramifications for our future relations with Russia. I believe that it is of the utmost importance that at some point Russia recognize that the Western countries, especially the United States, will not allow them to continue to practice occupation and even expansion similar to that of the former Soviet Union.

Madam President, just in the way of background on March 11, 1994, a number of Senators wrote a letter to Secretary of State Christopher, encouraging continued efforts to remove the Russian armed forces from the Baltic States by August 31, 1994.

As the Senator from Kentucky has pointed out that was the date that Boris Yeltsin, the President of Russia, had committed to.

And in this letter it urges the Secretary of State to take action in order to try to see that that goal is achieved.

On April 20, I and the other Senators who cosigned the letter received an answer from Secretary Christopher:

> Russian and Latvian negotiators in Moscow initiated an agreement regarding withdrawal of Russian troops from Latvia. This significant breakthrough we hope paves the way for full withdrawal of Russian forces in Estonia by no later than August 31.

Since April 20 of this year the reasons for optimism and hope on the part of the Secretary of State have obviously been dashed.

According to published reports when President Clinton and President Yeltsin were holding a press conference in Naples, President Yeltsin was asked the question as to whether he intended to honor his own August 31 target date of withdrawal of troops from Estonia. The New York Times this week reports:

> Mr. Yeltsin replied with a blunt "nyet." This reply brought a flash of attention to the day in which the leaders sought to show they stood tall on troubled spots from Bosnia to North Korea.

According to other reports, Yeltsin said:

> Nice question. I like the question because I can say no.

Madam President, it is very disturbing that President Yeltsin should not only say no but in that manner.

I think we have to understand this issue in the context of what is happening in Russia today. We are seeing more and more clear indications of its agressive policy in the near abroad. The desire of the Russian Government and people have at least some semblance to what used to be the Soviet Union and the Russian empire by setting up buffer states which are either reabsorbed into Russia or are totally dependent upon Russia.

A number of recent events indicate clearly that events tend in this direction. Elections took place just a few days ago in two countries, Ukraine and Belarus. Victors in each of these countries were the pro-Russian candidates. In Ukraine, the president-elect in perhaps the most strategically important country in the region has often stated his desire to resume extremely strong economic, military, and political ties with Russia. Some experts predict as a result of this election that the eastern part of the Ukraine will in one way or another be reabsorbed into Russia, not necessarily the entire Ukraine but the eastern part.

In Belarus it is obviously the same, and we are seeing instances such as Georgia where Russian troops came in to put down an insurgency. For all intents and purposes the Government of Georgia today is being run from the Russian Embassy in Toblez.

So there is no doubt as to what the Russians are about. It does not necessarily make them bad or evil people. It does not necessarily mean we are on the brink of renewing the cold war. But what it does signal, all of these events, including all of the countries whose names end in stan, Turkistan, Kazakhstan, et cetera, is that there is again in many of these countries a reemergence of pro-Russian governments and more and more Russian influence ranging from elections like those in Belarus and Ukraine to actual movement of Russian troops.

We have to tell President Yeltsin that we understand his ambitions, but we will not sit by and abandon a commitment that we have had in this country ever since the beginning of the cold war.

I think there are many of us here that remember the Fourth of July parades and those funny looking flags that we used to see of the Baltic countries—Latvia, Estonia, and Lithuania. Most of us did not know what those flags were, but we maintained embassies here in this country, in Washington, DC, of those three little countries which had suffered under Russian occupation since the end of World War II, and we maintained our commitment to their full and complete independence.

Perhaps in many parts of this country, where there are a great number of ethnic Latvians, Estonians, and Lithuanians, there was great joy and rejoicing which accompanied the dissolution of the Soviet empire and the promise of free and independent countries.

The fact is that no country is free and independent, Madam President, when they are occupied by a foreign country's military presence. We cannot, in my view, provide assistance—the treasured and hard-earned tax dollars of the American people—to a country that insists on maintaining its troops in a free and independent country against the will of that country for an unlimited period of time.

It is not complicated. We cannot fail to honor the commitment and the promise that we made to these three little countries, especially Estonia, during the days of the cold war.

So, Madam President, I believe that the amendment of the Senator from Kentucky not only signals our view and that of the American people and the Congress concerning Estonia, Latvia, and Lithuania, but it signals Mr. Yeltsin and the military in Russia and their parliament, that we will not sit idly by while the Russian empire is reconstituted. Because if we do, very soon there will be a threat to other countries, such as Poland.

Later on, I hope we are going to have a spirited debate on the issue of what countries are allowed membership in NATO, and under what conditions.

This amendment is important, not only for the Baltic States. It is very important that the American Congress send a message that we are not ready or willing to have Russian troops maintain a presence in a nation against that nation's will. Frankly, over time, if those Russian troops remain there, there is bound to be some kind of conflict between those troops and the Estonian people, because the Estonian people, very correctly, will not stand still for this kind of military occupation of their country.

I know that the amendment of the Senator from Kentucky has the full intentions of conveying the message that we share of the withdrawal of Russian troops and demand that negotiations move forward. I think we can change Yeltsin's attitude and send a message that will spur these negotiations and arrange for a peaceful and orderly withdrawal so that the people of Estonia can live a free and independent life, as has been promised to them by their Constitution and our commitment to them during the many long years of the cold war.

Madam President, I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, the Senator from Arizona knows I agree with him. I would suspect it probably would pass virtually unanimously in this body, which would make very clear what the U.S. position is in both the policy and the press conference.

Madam President, seeing the chief sponsor of the amendment on the floor, I ask unanimous consent that the vote on this be at 3:30 this afternoon.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

Mr. LEAHY. Madam President, I ask, if there are others who may have amendments that require a rollcall, if they might come forward soon.

Mr. McCONNELL. If the Senator will yield, it is my understanding the Republican leader will be here momentarily to offer an amendment, and I suspect it will take a rollcall. I know the chairman is maybe interested in having two votes at 3:30 and I think that would be possible.

Mr. LEAHY. I thank my friend from Kentucky.

What I am thinking of is, if we had this and had it fairly clear that we were going to have two or even three votes right together at that time, we could make sure that was hot-lined.

The Breyer nomination is before the Judiciary Committee. In fact, I am a member of that committee and I have been trying to divide my time with that. There are a couple other committee meetings of that nature. If we are able to accommodate the chairman and ranking member of those various committees to do it in such a way that we get stacked votes, it would help them.

So, with that, I might again reiterate to those who are watching—certainly if the distinguished Republican leader is coming to the floor, I will yield to him for whatever he has—but if anybody else has an amendment that could be brought up and is going to require a rollcall between now and 3:30, my recommendation would be, if we are able to get the votes stacked, if the distinguished leaders would agree, that we might be able to then vote on one with a 15-minute vote, and the subsequent ones with a shorter time.

Again, I also note, I appreciate the cooperation of Senators so far in moving these things forward. I know we have a couple of late evenings ahead of us, but it enables us to then try to get this through conference prior to the August 31 date, because otherwise we will be unable to get through a conference by that time. But I know it is the intent of the Senator from Kentucky, and indeed mine, that if we complete this in time, we will try to do just that.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Madam President, I have four amendments.

Mr. LEAHY. If the Senator will yield, I ask unanimous consent the pending amendment on which the yeas and nays have been ordered be temporarily laid aside so as to accommodate the Senator from Kansas.

The PRESIDING OFFICER. Without objection, it is so ordered. Without objection, the pending amendments will be laid aside.

AMENDMENTS NOS. 2241, 2242, 2243, 2244, EN BLOC

Mr. DOLE. Madam President, I understand these amendments have been cleared on each side. Let me say one is a Trans-Caucasus Enterprise Fund amendment which earmarks $5 million; another eliminates assistance for the violators of Serbian sanctions; the third would be earmarked $5 million for Bosnian hospitals. If you have been there, you would understand the need. The fourth would be for Bosnia winterization, an earmark of $10 million.

I send these four amendments to the desk en bloc and ask they be considered en bloc.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes amendments numbered 2241 through 2244, en bloc.

Mr. DOLE. Madam President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2241

(Purpose: To establish a Trans-Caucasus Enterprise Fund)

Mr. DOLE offered amendment No. 2241 for himself and Mr. LEVIN.

The amendment is as follows:

On page 23, line 21, delete "(m)" and insert the following new subsection:

(m) Not less than $5 million of the funds appropriated under this heading shall be made available for the capitalization of a Trans-Caucasus Enterprise Fund.

Mr. DOLE. Madam President, this is a simple and straightforward amendment. It earmarks $5 million for the establishment of a Transcaucasus Enterprise Fund. This represents a modest amount of the more than $800 million in aid provided by this legislation for the independent states of the former Soviet Union.

Enterprise funds are one of the few success stories of the American aid to the post-Communist world. They were first established in Hungary and Poland in the seed legislation in 1989 and provided with initial funding of $300 million. Enterprise funds support small- and medium-sized business ventures. They provide expertise and capital for investment. They show by joint venture and by example that projects can work—and that fosters additional investment.

The administration has established enterprise funds for all the countries of Eastern Europe, and all the countries of the former Soviet Union—with the sole exception of the Transcaucasus region of Armenia, Georgia, and Azerbaijan. The Russian Enterprise Fund was established with planned funding of $340 million. A Central Asia fund was set up for the five Central Asian republics with $150 million. A western NIS fund was established with $150 million for Ukraine, Belarus, and Moldova. Enterprise funds exist for the Baltics, for Bulgaria, for Albania, for Slovenia, and for the Czech and Slovak Republics.

Yet there is no enterprise fund for the Transcaucasus. There are arguments against such a fund—the bureaucrats can always find excuses for inaction. Some say there is conflict in the Transcaucasus. But there are conflicts in Moldova and in Central Asia as well. If it makes sense to establish enterprise funds in those regions—despite ongoing conflicts—it makes sense to include the Transcaucasus in this important private sector initiative.

Some say conditions are not yet ideal for an enterprise fund for the Caucasus. But the administration's record shows that it takes months and even years for an enterprise fund to begin operations after its formal establishment. For example, the Baltic-American Enterprise Fund was announced in October 1992, reannounced in June 1993, but no board has been named, no funds have been provided, and no operations are underway. It is not armed conflict or political violence slowing the Baltic enterprise funds, it is bureaucratic inertia. Given this track record, it makes sense to plan ahead for enterprise funds and establish one for the Transcaucasus now.

There is no shortage of needs in the Caucasus region. Port, rail, and communications facilities all need rebuilding. Armenia is a nation of entrepreneurs. Privatization has commenced and opportunities are there. In Armenia, for example, $5,000 could finance the start of a computer software company. Georgian traders and carpenters could benefit from small scale loans.

The focus of the administration's foreign aid reform is sustainable development. In my view, the best type of sustainable development is support for the private sector, support which an enterprise fund is designed to give.

Due to Senator McCONNELL's efforts, this legislation contains $75 million for Armenia and $50 million for Georgia. Such grants are vital to meet immediate needs in the region. But we also need to look ahead, to look beyond handouts. That is what the Transcaucasus Enterprise Fund will do. An enterprise fund would provide a real incentive for privatization. It would foster regional cooperation that is vital to the future of the Transcaucasus.

I know of no opposition to this proposal and urge my colleagues to support the amendment.

AMENDMENT NO. 2242

(Purpose: To allocate funds for humanitarian assistance for Bosnia and Herzegovina)

Mr. DOLE offered amendment No. 2242 for himself and Mr. LIEBERMAN.

The amendment is as follows:

On page 112, between lines 9 and 10, insert the following new section:

SEC. . HUMANITARIAN ASSISTANCE FOR BOSNIA AND HERZEGOVINA.

Of the funds appropriated by this Act, not less than $5,000,000 shall be available only for medical equipment, medical supplies, and medicine to Bosnia and Herzegovina, and for the repair and reconstruction of hospitals, clinics, and medical facilities in Bosnia and Herzegovina.

Mr. DOLE. Madam President, last month, I was in Sarajevo and had the opportunity to visit one of its hospitals. What many people fail to realize is that hospitals and clinics in Bosnia and Herzegovina have been targeted and attacked throughout the war. We saw the Bosnian Serbs attack the Red Cross clinic in Gorazde only a few months ago. And, the hospital I visited, Kosevo Hospital, was hit often by Bosnian Serb forces in the hills surrounding Sarajevo—sometimes with tragic results. Not only did the hospital sustain structural damage and equipment loss, but doctors and nurses lost their lives when artillery shells blasted through the hospital's walls. Nevertheless, at Kosevo Hospital, and other hospitals and clinics throughout Bosnia and Herzegovina, courageous and dedicated staff worked under horrible conditions to try to save lives.

The amendment I am offering today, together with the distinguished Senator from Connecticut, Senator LIEBERMAN, provides $5 million for the repair of hospitals and other medical facilities in Bosnia and Herzegovina. These funds can also be used to provide medical equipment, medical supplies, and medicines, as required.

I hope that this amendment will receive strong support. The damaged hospitals and medical facilities need to be repaired and provided with the necessary equipment and supplies so that the Bosnian people—who have suffered for so long now—can receive the better medical care.

AMENDMENT NO. 2243

(Purpose: To allocate funds for emergency projects in Bosnia and Herzegovina)

Mr. DOLE offered amendment No. 2243 for himself and Mr. LIEBERMAN.

The amendment is as follows:

On page 112, between lines 9 and 10, insert the following new section:

SEC. . EMERGENCY PROJECTS IN BOSNIA AND HERZEGOVINA.

Of the funds appropriated by this Act, not less than $10,000,000 shall be available only for emergency winterization and rehabilitation projects and for the reestablishment of essential services in Bosnia and Herzegovina.

Mr. DOLE. Madam President, I am pleased to offer this amendment on behalf of myself and the distinguished Senator from Connecticut [Mr. LIEBERMAN]. This amendment provides $10 million in emergency winterization and rehabilitation assistance for Bosnia and Herzegovina, and for the reestablishment of essential services there.

It is not too early to plan for winter. Winter is only a few months away—and in Bosnia, it usually comes early. Unfortunately, it is my understanding that not enough is being done by international relief agencies at this time to prepare for the coming winter. Instead of increasing airlifts and convoys so that winter-related items can be stockpiled and prepositioned while the weather is good, the UNHCR has actually significantly decreased the number of airlifts into Sarajevo.

This seems incredibly shortsighted. Maybe the United Nations and others are hoping that a settlement will be reached and that the crisis in Bosnia will be over. In my view, this is wishful thinking. But, in any event there is no concrete evidence before us to suggest that there will not be a humanitarian crisis in Bosnia and Herzegovina this winter.

Mr. President, now is also the time to work on rehabilitation projects and the reestablishment of essential services. It is my understanding that U.S. aid officials, such as the disaster assistance response team [DART] based in Zagreb, have already conducted assessments on rehabilitation assistance and reestablishment of essential services.

Through this amendment we can provide at least some of the resources necessary for United States officials to move forward with rehabilitation projects, emergency winter assistance, and efforts to reestablish essential services in Bosnia.

AMENDMENT NO. 2244

(Purpose: To restrict funds available for assistance to countries not in compliance with United Nations sanctions against Serbia and Montenegro)

Mr. DOLE offered amendment No. 2244 for himself and Mr. LIEBERMAN.

The amendment is as follows:

On page 72, line 23, insert ", Serbia, and Montenegro" after "Iraq".

On page 73, line 11, insert ", Serbia, or Montenegro" after "Iraq".

On page 73, line 17, insert ", Serbia, or Montenegro, as the case may be," after "Iraq".

On page 73, line 19, insert ", Serbia, or Montenegro, as the case may be" after "Iraq".

Mr. DOLE. Madam President, I am pleased to offer this amendment on behalf of myself and the distinguished Senator from Connecticut [Mr. LIEBERMAN]. This amendment is very simple. It adds Serbia and Montenegro to section 538 of this bill, which provides that no United States assistance may be provided to any country that is not in compliance with the U.N. Security Council sanctions against Iraq, unless the President certifies that such aid is in the United States national interest, or that such aid is of a humanitarian nature.

U.N. sanctions were imposed on Serbia and Montenegro in May 1992, shortly after the war against Bosnia and Herzegovina was launched. Since that time, the international community—largely at the urging of the United States—has worked to tighten these sanctions. While the situation has improved over time, sanctions violations still occur, particularly along the Danube where NATO ships do not patrol.

In the absence of lifting the arms embargo on the Bosnians, and in the absence of effective enforcement of the NATO exclusion zones in Bosnia, sanctions remain the chief source of leverage and pressure on the Serbian Government and its collaborators in Bosnia. In short, the administration has put most of its eggs in the sanctions basket and while some like myself do not believe that is sufficient pressure to bring about a just and stable peace, the bottom line is that unless we pass legislation to lift the arms embargo on Bosnia, the administration's policy which relies on sanctions remains in place.

Therefore, it is essential that these sanctions are airtight. This amendment should serve to enhance compliance with sanctions against Serbia and Montenegro since all of the countries that border Serbia and Montenegro are recipients of United States foreign assistance.

It seems to me that we are not asking too much in making compliance with United Nations sanctions against Serbia and Montenegro a prerequisite for United States aid, just as we have made compliance with United Nations sanctions against Iraq a prerequisite. Both are aggressor states who have violated fundamental principles of international law and the U.N. Charter.

This amendment should not be controversial and I hope it will receive broad support.

Mr. LEAHY. Madam President, if the Senator from Kansas will yield, I have seen these four amendments. I have no problem with them. I understand the Senator from Kentucky has no problem with them either. I am certainly willing to accept them.

I obviously cannot guarantee what happens in conference. I do not know what will happen in conference, but I am perfectly willing to accept them and support them.

Mr. DOLE. Madam President, I thank my colleague from Vermont. I understand the Senator from Kentucky has no problem with the amendments. They have been agreed to on each side.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendments.

The amendments (Nos. 2241, 2242, 2243, and 2244) were agreed to en bloc.

Mr. DOLE. Madam President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. I have another amendment which I will send to the desk which has not been agreed to. I will lay it down now and ask the pending amendment be temporarily laid aside, the McConnell amendment.

The PRESIDING OFFICER. Without objection the McConnell amendment and the pending committee amendments will be laid aside.

AMENDMENT NO. 2245

(Purpose: To establish a congressional commission for the purpose of assessing the humanitarian, political, and diplomatic conditions in Haiti and reporting to the Congress on the appropriate policy options available to the United States with respect to Haiti)

Mr. DOLE. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself and Mr. WARNER, proposes an amendment numbered 2245.

Mr. DOLE. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 112, between lines 9 and 10, insert the following new section:

SEC. . CONGRESSIONAL COMMISSION ON HAITI POLICY.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the American people support a peaceful transition to a democratic and representative government in Haiti.

(2) Haiti's elected President who is in exile and the de facto ruling junta in Haiti have reached an impasse in their negotiations for the reinstitutions of civilian government;

(3) the extensive economic sanctions imposed by the United Nations and United States against the de facto rules are causing grave harm to innocent Haitians;

(4) private businesses and other sources of employment are being shut down, and the continuation of the comprehensive economic sanctions are causing massive starvation, the spread of disease at epidemic proportions, and widespread environmental degradation; and

(5) an armed invasion of Haiti by forces of the United States, the United Nations, and the Organization of American States would endanger the lives of troops sent to Haiti as well as thousands of Haitians, especially civilians.

(b) ESTABLISHMENT AND DUTIES.—(1) There is established a congressional commission which shall be known as the Commission on Haiti Policy (in this section referred to as the "Commission").

(2) It shall be the duty of the Commission—

(A) to assess the humanitarian, political, and diplomatic conditions in Haiti; and

(B) to submit to the Congress the report described in subsection (d).

(3) In carrying out its duties, the Commission shall call upon recognized experts on Haiti and Haitian culture, as well as experts on health and social welfare, political institution building, and diplomatic processes and negotiations.

(c) COMPOSITION OF COMMISSION.—The Commission shall consist of the following Members of Congress (or their designees):

(1) The Majority Leader of the Senate.

(2) The Minority Leader of the Senate.

(3) The chairman and the ranking Member of the following committees of the Senate:

(A) The Committee on Appropriations.

(B) The Committee on Foreign Relations.

(C) The Select Committee on Intelligence.

(D) The Committee on Armed Services.

(4) The Speaker of the House of Representatives.

(5) The Minority Leader of the House of Representatives.

(6) The chairman and ranking Member of the following committees of the House of Representatives:

(A) The Committee on Appropriations.

(B) The Committee on Foreign Affairs.

(C) The Permanent Select Committee on Intelligence.

(D) The Committee on Armed Services.

(d) REPORT OF COMMISSION.—Not later than 45 days after enactment of this Act, the Commission shall submit to the congress a report on the Commission's analysis and assessment of conditions in Haiti and, if appropriate, analysis and assessment of appropriate policy options available to the United States with respect to Haiti.

Mr. DOLE. Madam President, I join with the international community in condemning Haiti's expulsion of United Nations human rights observers. It is a cowardly and deplorable act. But I also join with an unlikely ally, the editorial page of the New York Times, in urging the administration not to use this act as a pretext for invasion.

The editorial is right to conclude, "But except for refugees, what is going on in Haiti affects only Haiti." And I join with the USA Today editorial in saying we tried invading Haiti before and we failed in our goals.

I ask unanimous consent both editorials be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOLE. There are obviously many views in this body on what course we ought to take in Haiti. It is in the news every night. It is on the front page of the paper every morning. It is on the radio wherever you go. It is a matter of great concern.

Here we find the most impoverished country in this hemisphere—poor people are poorer now than they were a week ago or 2 weeks ago because of sanctions. Some support the use of force. Some support the use of American military power. Some oppose risking American lives for that purpose.

But all of us should want the facts before passing judgment on the issue. And the last thing we should do is to shoot first and ask questions later, questions that could lead to a peaceful resolution.

For more than 2 months now, I have called for a bipartisan factfinding commission to review the situation in Haiti.

I would expect supporters of the military option to favor my proposal. The worst outcome for the United States would be to commit U.S. power, prestige, and lives without understanding the nature of local conditions. The unfortunate example of Somalia stands as a stark reminder of this mistake. We all remember how dozens of Americans lost their lives trying to arrest a Somali warlord who just days later was given first-class transportation by the United States military.

I have every confidence in America's men and women in uniform, but in Haiti it is not hard to foresee a similar outcome. U.S. military power will reinstall Aristide as president, and within days the American soldiers will be deployed to restrain excesses of pro-Aristide forces. The time to prevent such disaster is before it begins. The time to examine the facts is now before troops are deployed. President Aristide opposes an invasion. Prime Minister Malval opposes an invasion. Haitian parliamentarians oppose an invasion. I have a letter I will include in the RECORD from a number of parliamentarians. I do not know the parliamentarians. I do not know where they belong in the political spectrum. I think the letter will be helpful to some.

Under all these circumstances, with all this opposition, it is hard to find anyone supporting an invasion. But it appears the administration is dead set on an invasion course. Political options have been rejected and no longer explored. In this situation, Congress has an appropriate role. A few weeks ago, the Senate rejected amendments which would require congressional approval before an invasion of Haiti. Later, we approved an amendment expressing our view that such approval should be sought. It is sort of a sense-of-the-Senate approach. We made that same approach months or weeks earlier. I think the vote was 98 to 0, or something unanimous for all those who were here.

Today I am offering an amendment which establishes a congressional commission of limited duration of bipartisan membership. The commission would include the majority and minority leaders and chairmen and ranking members of four key committees in the House and Senate: Foreign Relations, Armed Services, Intelligence, and Appropriations Committee.

I do not see how anybody can oppose this amendment. It is not tying anybody's hands. It simply establishes a joint Senate-House commission to assess conditions in Haiti and report back in 45 days—45 days. It seems to me it makes a lot of sense.

I would assume that the members of this commission would have no special interest, no ax to grind, no preconceived notion on what the recommendations should be.

Some might say they have enough facts now, that the commission would lead to more delay. In my view, there cannot be too much information before a decision to employ American troops is made. Maybe that decision has already been made by this administration. Sometime next week, or the next week, or the next week they are going to deploy American troops.

I believe there are many questions this commission could examine:

What, if anything, is the exact nature of any threats to Americans in Haiti?

Are any Americans really threatened? We hear some of the newscasts, we hear some of the rumors, but are any Americans threatened? If that is the case, it would certainly buttress those who favor intervention.

Why has the flow of Haitians leaving by boat increased so dramatically in the past month?

Why have efforts to achieve a political solution failed over the last 2 years?

What role could democratically-elected Haitian parliamentarians play in any potential solution?

Why did the parliamentarians' effort earlier this year fail, an effort supported and accepted by the United States and the United Nations?

Why did Prime Minister Malval resign in disgust last year?

What is the real effect of sanctions on the poorest of Haitians? And certainly we know what tragic impact sanctions are having on the poorest of Haitians.

What is the human rights record of Aristide and Cedras governments? I think we ought to take a look at both. I do not think in either case you are going to find them to anybody's liking.

Is it feasible to establish a safe haven on Haitian soil, a proposal endorsed by the House of Representatives?

The commission established by my amendment would not review such questions with a stacked deck. It would not rely on the spin control of high-priced lawyers and public relations firms. It would provide an objective view of the situation by the Congress and for the Congress.

Madam President, earlier this month, as I mentioned, I received this letter signed by a majority of the Haitian Chamber of Deputies, some 48 Haitians. In the letter, the Deputies request that a bipartisan commission be designated to assess the situation in Haiti first hand.

A week later, one of the signatories of the letter, Duly Brutus, wrote a Washington Post article supporting a congressional commission. This Member of Parliament was democratically chosen in the same election which Aristide won in 1991 and is every bit as legitimate as President Aristide. I do not know if Bill Gray has met Duly Brutus. I do not know how many Haitians he has met with beyond Aristide's circle. I do not know if he has been to Haiti recently.

I do know that U.S. policy should be based on all the available facts. I do not believe that 45 days and an independent review by Congress is too much to ask. In 1984, with bitter partisan debate toward United States policy in Central America, President Reagan listened to Congress and appointed a bipartisan panel. It was called the Kissinger Commission. I think the cochairman or vice chairman was Robert Strauss, later to become Ambassador to Russia, and a very fine Democrat.

I remain ready to work with the President in creating such a commission. I am confident the executive branch will work cooperatively with this congressional commission if this amendment is adopted.

I urge my colleagues to support this amendment, and I ask unanimous consent that the letter from the parliamentarians be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

REPUBLIQUE D'HAITI,
CHAMBRE DES DEPUTES,
Port-au-Prince, July 1, 1994.

Hon. ROBERT DOLE,
Minority Leader, Senate, Washington DC.

HONORABLE SENATOR: We are writing to you and other members of the bipartisan congressional leadership to request your participation in and support for an effort to peacefully resolve the political crisis that has engulfed our country and threatens to ensnare yours.

The dire consequences of Haiti's political crisis in addition to the sanctions for our society and economy are increasingly evident.

We are certain, however, that foreign military intervention cannot provide a foundation for a lasting solution to Haiti's problems. It must be noted that as Parliamentarians we firmly oppose the very idea of a military intervention which is, in any case, reproved by the different sectors comprising Haitian society.

In order to avert such a development, we think it critical that democratically-elected legislators in both of our countries establish a dialogue with each other in solemn effort to find a peaceful solution to the crisis.

Ideally such a dialogue would have been established at an earlier stage of the crisis, but we believe that it is not too late to begin working together to find a peaceful, democratic solution.

We would recommend as a first step that the bipartisan leadership of the Congress, or a group of Members designated by the bipartisan leadership, visit Haiti to assess the situation in our country first hand and to meet with Deputies from all parties elected to the Haitian Parliament.

In view of the advanced stage of the crisis, we believe this visit should occur as soon as possible.

We are available, of course, to meet in Washington with you and other members of the congressional leadership, or with Members designated by the leadership, but we believe that any such meetings should be held in addition to rather than as a substitute for a visit to Haiti.

We seek a political solution in Haiti under which human rights and the democracy will be fully respected and which would further more put an end to the degradation of the country socio economic problems while contributing to the promotion of human rights in Haiti. We are confident that it is not too late to achieve these objectives by means short of foreign military intervention.

We urge you to join us in finding a political solution along the lines described above. Please come to our country to learn more about our actual situation and to help us forge a peaceful, democratic solution.

Sincerely,

Frantz Robert Monde, Président; Député Marc Ferl Morquette, Vice-Président; Député Gabriel Antoinier Clerva, Deuxième Secrétaire; Député Benoit Beaubrun; Député Evans G. Beaubrun; Député Edmonde S. Beauzile; Député Emmanuel Reyme, Premier Secrétaire; Député Frédéric Cheron, Questeur; Député Yves Périclès Beauge; Député Pierre Duly Brutus; Député Joseph E. Beaumier; Député Jn Gardy Charlotin; Député Mie Junie Creve-Coeur; Député Job Dornevil; Député Delicier Geffrard; Député Appolon Israel; Député Jean Lionel Bouzi; Député Lafontant Clervil; Député Milcent Datus; Député Jn Eddy T. Desjardins; Député Pierre Simon George; Député Sorel Jacinthe; Député Jn Baptiste Laveaux; Député Girard R. Jn-Francois; Député Géla Jn-Simon; Député Josué Lafrance; Député Joseph Benoit Laguerre; Député Déus Jn-Francois; Député Jn Néland Jn-Luis; Député Lonnes Joseph; Député Firmin Milou Laguerre; Député Joseph Lambert; Député Jonas Louis; Député François S. Moise; Député Rita F. Moncoeur; Député Olipcial Regis; Député Millevoye Sanon; Député Denis St Fort; Député Joseph Félix Mathieu; Député Paris Moise; Député Roosevelt Ovide; Député Gabriel Sanon; Député Pierre François Vital; Député Geffrard Etienne; Député Seignon Jn-Jacques; Député Léosthène Charlot; Député Jacques Lafleur; Député Ancelot Venort.

Mr. DOLE. Madam President, let me just conclude by suggesting that 45 days—that would probably be mid-September, by the time this bill goes to conference—Congress will be in session in mid-September. Those members of the commission would have time during the August and September break, if there is to be an August break, to visit Haiti and to have appropriate hearings, whatever might be necessary.

This is totally bipartisan. As far as I know, nobody, as I said, has any preconceived notions on what should happen. I know this is a big, big issue in the State of Florida. I know in the State of Florida, they are very concerned about more and more and more immigrants coming to Florida and the burden it places on the State of Florida.

I hope that the President will see this effort as an effort to be of assistance, to remove this from what has become, at least as I view it, as sort of a partisan effort and it ought to be a nonpartisan effort or a bipartisan effort.

There has been very little consultation by the White House. I understand there may be some consultation later today. But the best way, in my view, to support whatever the President may decide to do is to have some bipartisan congressional group. Congress has a role to play in foreign policy. Congress has a role to play in Haiti. And Congress ought to be given that responsibility. I think they are willing to take it.

I would be very happy, if everything else failed, if the majority leader and the minority leader sat down and said, "OK, we are going to appoint this special group to find facts." Maybe we do not need the legislation. I think we can accomplish the same without it. But there would be certain advantages to having Congress approve the commission.

This is a very important concern. I listened to Congressman RANGEL last night on television. Obviously, he is very concerned about Haiti and has every right to be concerned about Haiti. I have great respect for Congressman RANGEL. I think he has not clearly decided which course to follow, though he may at this point favor intervention.

I do not believe anybody, regardless of their position today, would not be willing to give us 45 days or 60 days to take a look at the facts, bring back the facts, give those facts to our colleagues, Democrats and Republicans alike, and then let us make a judgment at that time, working with this administration.

That is the basis for the amendment, and I hope that my colleagues will see some merit to the amendment. I am not certain whether there will be a vote on this amendment. I know there is another amendment pending. I know some of my colleagues on this side may wish to speak on the amendment, and I yield the floor.

EXHIBIT 1

[From the USA Today, July 13, 1994]

INVADE HAITI? WE'VE DONE IT BEFORE—AND FAILED

Temptation to invade Haiti swells with each new outrage by the military gangsters running the show there. Especially for President Clinton.

He's up to his ears in Haitian refugees, he's suffering a foreign policy flop a week, and his Haiti policy spins chaotically from one questionable tactic to another.

Small wonder he threatens invasion, particularly with Haiti's thugs now booting out international human rights monitors in defiance of the international community.

After all, conquering this Caribbean nation the size of Maryland is almost a nobrainer. Overwhelming 7,500 poorly equipped Haitian troops with the full bore of the world's most sophisticated fighting force could take just hours, maybe days. Casualties, though painful, would be few, perhaps on a par with the 1983 Grenada invasion that killed 19 Americans.

Just one problem: That's where the good news ends. So before we send in the Marines, take a moment to look at what could happen next. History suggests an outcome far less satisfying than we might wish.

The last time U.S. troops tried to rescue Haiti, they stayed 19 years.

That was in 1915. Haiti had gone through seven presidents in eight years, and President Woodrow Wilson concluded that Marines could teach Haitians how "to elect good men." U.S. forces took over Haiti's finances, imposed their idea of order, dissolved the Congress and mandated a new constitution. An uneasy peace resulted, but riots and strikes erupted just before forces pulled out in 1934. Marine officers left convinced that Haiti could only be run by dictators.

Many Haitians still blame the USA for humiliating the world's first black republic with that "white-man" occupation. And they blame the USA for later support of despot Jean-Claude "Baby Doc" Duvalier.

Another invasion certainly won't change that attitude. More likely, it will be resented by the very people we aim to help.

Even Haitians fed up with the violent military junta that overthrew popularly elected President Jean-Bertrand Aristide in 1991 are unlikely to welcome lingering occupation forces. And not just because of bad, old memories.

When Duvalier fled in 1986, his brutal followers were hunted, tortured and killed. In the wake of this invasion, U.S. forces could easily find themselves with the unsavory task of protecting anti-Aristide forces.

Then there's the daunting challenge of establishing democracy in a nation that is a political, economic and environmental basket case.

President Clinton painted himself into this corner by imposing severe economic sanctions that drove Haitians from their homeland by the thousands.

Before he blasts his way out of this dilemma with U.S. firepower, the president should consider long-term costs of U.S. intervention, not just short-term rewards.

[From the New York Times National, July 13, 1994]

NO GOOD REASON TO INVADE HAITI

If the Clinton Administration is looking for a pretext to invade Haiti—a distinct possibility—it has just been handed a dandy one.

The army-backed Government's abrupt expulsion of foreign human rights monitors is a defiant slap at the United Nations and the Organization of American States. By threatening the safety of these international civil servants, Gen. Raoul Cédras and his crew have conveniently internationalized what has been essentially a domestic political crisis, finessing the objection that an invasion would violate Haitian sovereignty.

It is a conscious provocation, daring Washington to override domestic skepticism and invade. But unless force is literally needed to protect the monitors' lives, the Administration should sit tight and settle down to a policy of sanctions, sanctuary and intensified international diplomacy.

An invasion will not create a workable Haitian political system, win regional respect or set a constructive precedent for the use of force in post-cold war foreign policy. There is no guarantee of a quick exit or acclaim from the Haitian population, even the pro-Aristide majority. And it is not supported by Congress or American public opinion.

Nevertheless invasion is a seductive idea to some in the White House and the State Department because of frustration with the insolent behavior of Haiti's generals, a desire to refute doubts that this Administration is prepared to use force and fear of the political consequences of the continued massive exodus of Haitian refugees.

The better, if less dramatic, policy is to let recently tightened international sanctions do their work, pressuring countries like France to suspend commercial flights and cooperate in arranging refugee resettlement; and to find enough safe haven sites, including some in the U.S., to assure that no fleeing Haitian is forced to return home.

Force is a blunt instrument. It cannot solve political problems. It kills people, including American troops, who should only be asked to die when vital national interests are involved. It punches holes in the international legal order. It is sometimes necessary but must be used only as a last resort.

Democracy and human rights are national interests for the U.S. But except for refugees, what is going on in Haiti affects only Haiti. Fear of the political consequences of admitting legally qualified but politically unpopular refugees is not a very good reason for invading a country.

[From the Washington Post, July 7, 1994]

ALTERNATIVE TO INVASION

PORT AU PRINCE.—It would be ironic—as well as tragic—if the United States, in the name of democracy, were to intervene militarily to achieve the return of President Jean-Bertrand Aristide to Haiti. It is hard to think of anything that would do more damage to democracy.

No reputable political leader or party in all of Haiti—including Aristide—welcomes the use of military force to achieve his return. Haiti is one of the poorest nations in the world. The only dignity left to us is our sovereignty and our independence. For the United States to strip that away would be taking away the last vestige of our self-respect.

Such a forcible intervention would only generate entrenched and rigid opposition from all political classes of Haiti—including Aristide's supporters. And those supporters could be expected to be among the first to criticize the United States for conducting such an operation—even if the return of Aristide is the reason.

Everyone in the international community knows that the military of Haiti is unwilling to abide by the will of the majority as expressed in democratic elections. But the military is only one part of the problem. The weakness of democratic political institutions and the absence of a democratic culture are other parts. While the U.S. military is most certainly able to drive the Haitian military from power, it is less certain that the U.S. military would be able to build the political institutions or culture necessary for democracy to succeed. That remains for Haitians. I believe a U.S. invasion would damage Haitians' ability to build those institutions in the future.

Aristide's return to Haiti depends on his skill as a politician and, above all, his capacity to become a truly national leader. If he were a great force for national unity and reconciliation—as Nelson Mandela has been for South Africa—he would have returned to Haiti long ago. Those who know South Africa know that Mandela compromised at every turn to achieve truly democratic elections.

Today Aristide is also being tested on his willingness and ability to arrive at a compromise that will result in the departure of the high command. In the past, whenever his political skills have been most needed, he has stumbled and made it possible for the high command to find arguments to remain in power.

Aristide and his advisers have been unable to build precisely the kind of grand consensus that would make his return a political triumph for all of Haiti. His failure to achieve that victory threatens to produce a national disgrace: his return to Haiti on the shoulders of the U.S. Marine Corps.

In the past, the power of a grand national movement has worked to advance democracy in Haiti against difficult odds. In 1990 the political classes, in partnership with the economic elite and government employees, overthrew another ruthless dictator, Prosper Avril. Avril was much stronger than Gen. Raoul Cedras has ever been, but the national consensus against him was ever more powerful.

With political skill and vision, Aristide could still build that consensus. Sadly, however, he is a force for disunity and division. He has played the role of conflict seeker rather than consensus builder. Every time Haitians have come together over the past two years to try to build a broad-based consensus for democracy, Aristide—just as much as the high command—has been a reluctant if not recalcitrant participant.

It is instructive to look at his three different appearances before the United Nations at times when, without his personal participation, there would have been international consensus on Haiti. In 1991 Aristide denounced President Joaquin Balaguer of the Dominican Republic as a racist and called on the United States to lift its economic embargo against Cuba. In 1992, after he had been removed from office by coup, Aristide denounced the pope as racist. Most recently, in 1993, he called for diplomatic recognition of Taiwan.

Political consensus in Haiti is difficult if not impossible without political consensus in the United States. Congress should create a bipartisan commission on Haiti to listen to all the actors and make recommendations to the president. Such an approach would contribute to the emergence of a dialogue and a real national consensus in Haiti. Nelson Mandela, with his legendary popularity added to his legitimacy as a democratic leader, achieved a consensus that has allowed formation of his new government. That search for consensus should guide American and Haitian political leaders as well.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Virginia.

Mr. WARNER. Mr. President, I commend the distinguished Republican leader, and I join him as a cosponsor on this amendment.

Yesterday afternoon, the Senate Intelligence Committee conducted an extensive and indepth hearing, with administration officials, primarily from the intelligence community, concerning the very complex issue of Haiti.

While I am not at liberty to go into the details of that hearing, I wish to assure the Senate that these details can be made available to each Member and that they deserve the closest scrutiny at this critical time.

I have joined the Republican leader on this amendment because I think he has come up with the most viable approach to this problem that I have seen put forward by anyone to date. In reaching this conclusion to support the leader, I have undertaken an in-depth study of the history of the United States and its relations with Haiti. I urge each colleague to go back to 1915, when the President decided to send the U.S. Marines into Haiti to try to bring about some order, some stability and to lessen human suffering. At that time it was expected that the Marines would be in Haiti for a short period of time.

That short period soon evolved into many years. As a matter of fact, it was not until 1934 that the Marines were withdrawn.

Those who advocate using U.S. military forces to invade Haiti claim that it would only take a matter of hours for U.S. forces to achieve their initial objectives. But I have not seen the analysis that I feel is absolutely essential concerning what happens after the Haitian military leaders are removed from power. Have those persons advocating this invasion gone back and studied, as I and other Members of this body have, the history of the last time the United States sent forces into Haiti? I think it is essential for every Member of the Senate, indeed of the Congress, to study that chapter of our history and know full well the consequences which might follow an initial use of our military in Haiti.

Mr. President, I will ask unanimous consent at this time to place in the RECORD an editorial from today's New York Times, which questions the wisdom of those who argue for military action by this country; as well as an article from the Wall Street Journal.

And I hope to receive from the Department of Defense today in time to incorporate in the RECORD, some material about that critical chapter of 1915 to 1934 when the U.S. Marines were called on to perform a task not dissimilar to the one that is being contemplated today.

There being no objection, the editorial were ordered to be printed in the RECORD, as follows:

[From the New York Times, July 13, 1994]

NO GOOD REASON TO INVADE HAITI

If the Clinton Administration is looking for a pretext to invade Haiti—a distinct possibility—it has just been handed a dandy one.

The army-backed Government's abrupt expulsion of foreign human rights monitors is a defiant slap at the United Nations and the Organization of American States. By threatening the safety of these international civil servants, Gen. Raoul Cédras and his crew have conveniently internationalized what has been essentially a domestic political crisis, finessing the objection that an invasion would violate Haitian sovereignty.

It is a conscious provocation, daring Washington to override domestic skepticism and invade. But unless force is literally needed to protect the monitors' lives, the Administration should sit tight and settle down to a policy of sanctions, sanctuary and intensified international diplomacy.

An invasion will not create a workable Haitian political system, win regional respect or set a constructive precedent for the use of force in post-cold war foreign policy. There is no guarantee of a quick exit or acclaim from the Haitian population, even the pro-Aristide majority. And it is not supported by Congress or American public opinion.

Nevertheless invasion is a seductive idea to some in the White House and the State Department because of frustration with the insolent behavior of Haiti's generals, a desire to refute doubts that this Administration is prepared to use force and fear of the political consequences of the continued massive exodus of Haitian refugees.

The better, if less dramatic, policy is to let recently tightened international sanctions do their work, pressuring countries like France to suspend commercial flights and cooperate in arranging refugee resettlement; and to find enough safe haven sites, including some in the U.S., to assure that no fleeing Haitian is forced to return home.

Force is a blunt instrument. It cannot solve political problems. It kills people, including American troops, who should only be asked to die when vital national interests are involved. It punches holes in the international legal order. It is sometimes necessary but must be used only as a last resort.

Democracy and human rights are national interests for the U.S. But except for refugees, what is going on in Haiti affects only Haiti. Fear of the political consequences of admitting legally qualified but politically unpopular refugees is not a very good reason for invading a country.

[From the Wall Street Journal, July 13, 1994]

HAITI—NO GRENADA

(By William Perry)

The debate over the merits of U.S. military intervention in Haiti has many curious facets. One of the most obvious is that the liberal doves of yesteryear now seem to have recanted their prejudice that Washington can do no good in the world (especially through military means), as well as their attachments to the principle of nonintervention. And they now invoke precedents, like Grenada, to make their case. Unfortunately for this line of argument, the situations within Haiti and Grenada are not comparable. The wider international context has been completely transformed since 1983.

The nominal purposes of a U.S. military intervention in Haiti would be to "restore" democracy to that country and to stanch the flow of refugees from there to our shores. But the fact is that the use of U.S. forces to oust the current regime in Port-au-Prince and substitute a government headed by Jean-Bertrand Aristide is unlikely to produce these results. And any effort to secure them would involve America in a complicated, long-term commitment for which even the most fervent advocates of intervention are not prepared.

The first thing to appreciate about Haiti is that it is the least developed country—both economically and politically—in the Western Hemisphere. To speak more bluntly: At its present state of development, Haitian society may be incapable of sustaining an authentic and functional democratic political system by itself. And the messianic, problematical personality of Mr. Aristide will not make this inherently difficult task any easier. Such judgments are not based on ideology—much less on racism. In fact, the example of Grenada demonstrates that what truly matters is a country's political culture and its level of economic development.

Thus, in Grenada we were confronted with a group of malefactors who could be surgically removed—in short order and at low cost—gratifying the local population and allowing that country's naturally democratic institutions to resume their normal function. But with regard to Haiti, we would either install Mr. Aristide and promptly leave—in which case he would soon find himself involved in grave difficulties (probably requiring another intervention)—or we would have to stay on for a long time.

A DIFFICULT PARTNER

Even if the United Nations could be induced to join us in a longer-term effort, the heart of an occupation force would be American—and seen that way in Haiti and abroad. We would be functioning, in effect, as the security force of an Aristide government. Inevitably, he would prove a difficult partner, while his opponents would blame us for whatever policies he pursues. More fundamentally, we would face the task of transforming Haiti's political culture in the teeth of that nation's fierce and somewhat paranoid nationalism. Ugly incidents would be bound to occur and substantial obligations undertaken, both to sustain the occupation and to refloat the Haitian economy with further financial aid. Frankly, it is doubtful whether U.S. public opinion has the stomach for all this.

The other major difference between Haiti in 1994 and Grenada in 1983 is the international context. The early 1980s were characterized by an effort on the part of the Reagan administration to contain and reverse the Soviet expansionism that was evident during President Carter's tenure—and to make the "evil empire" pay the highest possible price for the aggressive course that it has been pursuing.

In this high-stakes global game, the very future of the U.S. was seen to hang in the balance. The Western Hemisphere, where the Soviet-Cuban axis was operating in Central America and the Caribbean, had emerged as a significant area in that competition. Grenada had become the third ally of Moscow in the arena (along with Cuba and Nicaragua). Thus, the bloody internal struggle that tore apart the Marxist New Jewel movement in Grenada presented dangers of even greater extremism there—and, alternatively, opportunities for the U.S. containment of Soviet designs—that could not be ignored.

Haiti in 1994 does not fit into any such strategy to protect vital U.S. interests. The Clinton administration has as yet been unable to articulate any grand design to meet the challenges of the new post-Cold War world. In fact, its vacillating course on the international scene, combined with a painful ambivalence about the use of force that weakens its credibility, has contributed a great deal to the situation we now face in Haiti. As a result, the protagonists in the local struggle have scant respect for the views of the Clinton government. Of equal importance, little in the way of support from the American people can be expected.

Undoubtedly the U.S. would have to use its military forces if the situation in Haiti exploded to the point that the lives of our citizens and those of other foreign nationals were seriously threatened. But armed intervention to install Mr. Aristide and to halt the tide of refugees would be a serious mistake—in no way justified by our previous experience in places like Grenada.

Mr. WARNER. A second subject that we covered at some length yesterday—and again I am handicapped, understandably, by the classification level at that hearing, but I pressed at length about whether or not the administration has examined all of the options regarding policy toward Haiti. The Secretary of State, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff will be in the Senate today consulting with the leadership on this and other issues. But I question whether we have fully looked at all of the options which may be available to us, other than the use of U.S. military force.

Second, I question the degree to which the United Nations will or will not participate in a military mission in Haiti. It is very easy to say we should go in under the auspices of the United Nations. Time and time again here in this Chamber, primarily in connection with Somalia and to some extent Bosnia, my colleagues have quite justifiably questioned command and control of military operations under the auspices of the United Nations. I would like to see such arrangements spelled out with great clarity if, indeed, the United Nations is to be involved in a Haiti operation.

This Senator has been informed that if the military leadership in Haiti is removed, there is a question as to whether or not such a move would precipitate civil war throughout the country. We should consider this possibility and other possible consequences of a U.S. military invasion. This is a decision not to be taken lightly.

Furthermore, this Senator would want to know exactly what role, if any, other nations in the hemisphere are going to play. Is this going to be solely a U.S. operation or is it to be a multilateral venture? Will other nations help with the problem of restoring some stability to Haiti and providing the economic assistance that would be necessary in the aftermath of any military action?

Mr. President, the Senate Armed Services Committee will soon be completing a report on Somalia. It has been my privilege to work on that report with my colleague from Michigan, Mr. LEVIN. We have taken extensive testimony, interviewed almost everyone that played a key role. The experience of developing that report on Somalia directly relates to my concerns in the case of Haiti. We have not as yet fully documented lessons learned in Somalia. I hoped that we could do that before, once again, we send our troops forward from these shores in the cause of trying to lessen the hardship of other citizens of the world.

I question whether the United States has national security interests in Haiti which would justify the use of the United States military. Yes, it is but a short distance from our shores as compared to Bosnia and Somalia. But that fact alone, to this Senator, does not justify an immediate conclusion that there are security interests involved. Humanitarian interests, yes. That is apparent; but that is not enough to justify a military invasion.

In the course of the deliberations on the Senate Armed Services authorization bill, I produced a chart prepared by the Defense Intelligence Agency showing that as of today there are no less than 60 areas of the world in which hostilities are occurring, resulting in human suffering of varying degrees.

That compared with an analysis using the same parameters 7 years ago showing 30-plus areas of the world in which there were hostilities and human suffering. This is a very troubled world. We have to be very careful as a Nation to determine the criteria we use to send our men and women in the Armed Forces beyond our shores to try to lessen the hardship in the world.

Mr. President, I urge all colleagues to take a close look at this amendment and, hopefully, join with the distinguished Republican leader in this effort. I urge that we take the steps outlined in this amendment, in this real view of leadership taken by Senator DOLE in relation to this serious problem in Haiti.

I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Hampshire [Mr. GREGG].

Mr. GREGG. Thank you, Mr. President.

I rise to comment also on the proposal of the senior Senator from Kansas, the Republican leader. I think it is a very constructive effort to try to address the Haitian situation. A week and a half ago, I offered an amendment on this floor to ask that the President be required to come to this Congress, this Senate, and explain and report the purposes which he was pursuing in Haiti before he used any military force in Haiti.

The Senate decided that, rather than pursue it in a manner which would require that it occur relative to funding to be available, to rather make it a sense of the Senate to call on the President to come to this Congress and explain his purposes relative to Haiti.

Yet, we have not heard that explanation. Today, it is fairly clear that this administration has positioned itself to use military force in Haiti. There is no question about that. In fact, one of the national channels, CNN, was reporting yesterday the date on which the invasion would occur. They said it was going to occur within 10 days. They said the reason it was not going to occur today or in the next few days was because the President was out of the country and the Secretary of Defense was going to be out of the country. So they were specifically reporting, from the Pentagon I might add, that the invasion would occur within 10 days.

When we have reached that point of intensity of threat for the use of American forces, we need to know why. The American people need to know why. The fundamental question has to be when an American soldier is in the streets fighting for his or her life, whether it is in the streets of Port-au-Prince or in the streets of Somalia, that American soldier has to know why he or she is there putting his or her life at risk, and the American people need to know why that is occurring. The national interest has to have been defined, a national interest significant enough to be willing to put at risk an American life, and to be willing to put at stake the American military prestige. This President has not defined that national interest.

Is the national interest the failure of his policy and sanctions which has created the immigration issue? Is the national interest the fact that you have a thuggery running the country? Is the national interest the fact that the country is impoverished? I do not happen to think that the threshold question of national interest is met by any of those issues.

This Presidency has not been able to make the case that the refugee issue from Haiti involving Haitians represents a clear national interest which requires us to use military intervention there. In fact, the refugee issue is a self-created event, self-inflicted wound generated by the policies of this administration as they pursue the sanction policy which has impoverished the people of Haiti while enriching the thugs who run Haiti, and then at the same time taking a bumper car approach of how they deal with refugees, one day saying they will give them political asylum and the next saying they will not give them political asylum and encouraging Haitians to leave their country in hopes of a better life when in fact we are not going to be able to accept them here.

So it is their own policies that have created this exodus, and the numbers involved in this exodus, although large and compelling, certainly do not impact us as a nation as much as, for example, the numbers of people who are illegally immigrating here from other nations in the Western Hemisphere. In fact, they are only a small fraction of the people coming into our country from, for example, Mexico.

So the case for national interest for invasion cannot be made on the basis of illegal immigrants or the refugees. It cannot be made on the basis of fact that there are a bunch of thugs running the country that have taken over that country from an elected democracy for elected leaders. That has occurred in other parts of this hemisphere, and is in fact the case in a nation even closer to our shores than that, and the people have been repressed. But it does not justify military intervention.

It cannot be made for the reason that this is a very impoverished country because, regrettably, there are a number of impoverished countries in this world, and that does not justify military intervention.

So this administration simply has not made the case for why we should initiate military intervention. Until it makes that case and makes it to the American people, it would be a tremendous mistake to pursue such a policy.

Thus, I rise to support the proposal put forward by Senator DOLE, which makes the very reasonable suggestion that, if the President is not going to lay out the justifications for American policy relative to Haiti or if that policy is going to change basically on an hourly basis by this administration, that the Congress needs to step in and at least find out what is going on and give some definition to American policy. That is what the Dole amendment basically proposes: that we as a Senate and we as a Congress fulfill our role in the area of giving advice and consent in the area of foreign policy and design and assist this administration, which really needs a tremendous amount of assistance, in giving some definition to what is the American purpose relative to Haiti.

Clearly, at a minimum, at an absolute minimum, this should be done before we put American lives at risk. What Senator in this body is going to want to go to the loved one of a soldier who has been wounded, or maybe even lost his or her life as a result of being put into the streets of Port-au-Prince in a military action? What Senator is going to want to go to that mother or that father or that spouse, that husband, that son, that daughter and try to explain to them what it was that their son or their daughter or their husband or their wife went to war for? What was the American interest? I could not do it. I would not want to be put in that position.

I do not think we should ask our American soldiers to go into Port-au-Prince or into Haiti unless they know what they are going in for. That is a basic element of a democracy that you do not ask your people to fight unless you know and tell them what they are fighting for. This administration has not done that. It continues to fail on that account. Therefore, the Dole amendment is an attempt to try to clarify the situation.

So I strongly support it.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kentucky [Mr. MCCONNELL].

Mr. MCCONNELL. Mr. President, let me briefly commend the Senator from New Hampshire for his comments and the particular leadership he exhibited when we discussed a different approach to the Haiti question. I suspect that the President thinks that many of us are trying to embarrass him on Haiti. We are not. We are clearly trying to force the administration to come to grips and define an appropriate policy, Mr. President.

I am not going to read them all, but I have a list here of quotes on Haiti policy by people who are friendly to the President. The chairman of the Black Caucus in the House said the other day: "It is a policy of anarchy." An adviser to Aristide said just 3 days ago: "I am simply lost. Once again, there has been policy derailment."

Carl Rowan, a columnist we are all familiar with and frequently read, who is certainly not hostile to the Clinton administration, said 2 days ago: "He is about to invade because he hasn't the foggiest notion of anything else to do."

This is not the Senator from New Hampshire or the Senator from Arizona or the Senator from Kentucky making these remarks. This is Carl Rowan, a prominent columnist that we all admire and read frequently.

So the point we are trying to make to the President in a variety of different ways is define and stick with a policy on Haiti. The Republican leader has come up with a good suggestion on this congressional commission because, clearly, before you do anything in Haiti, we are all going to have to be participants in it. The message we have been trying to send to the President of the United States is there is no way, practically speaking that he can politically, or should strategically, or for any other reason, invade Haiti without coming to us for some consultation.

So we are not here having this debate because we are trying to embarrass the President of the United States. We are having this discussion because, Mr. President, we do not understand the policy and cannot comprehend how he can justify an invasion of this tiny island. As numerous speakers have pointed out, the last time the United States did it, it did not work out too well. So we are trying to send a message—hopefully not in a confrontational way—to the President, that if he has any notions of invasion, let us not do that. So the Republican leader has suggested this congressional commission, with a very limited lifespan of 45 days, composed of people who represent the body that he will have to consult—the Congress—in order to make any kind of invasion fly with the American public.

So I commend the Senator from New Hampshire for his continuing involvement in this issue. The Senator from Arizona is about to speak as well. We have come at this issue with amendments in a little different way. Some of us have had problems with them if they intended to restrict the President's involvement in advance; but, fundamentally, we are all in the same place. I think we are saying in a rather unified chorus: Do not invade, Mr. President. And do, by the way, try to figure out what the policy ought to be.

There were 15,000 new refugees created in the last few weeks because of what they think the current policy is. People are leaving the country, scrambling to get out. Obviously, what we are doing now is not working. Maybe some of us up here may be able to offer some good advice to the President as he seeks to formulate a policy that will work.

I am certain that the invasion option is an inviting thing. I mean, most military advisers would think that the initial invasion would be a piece of cake. But then we all know—as it has been frequently discussed as we have debated Haiti on other occasions—what happens then. So you topple the government and what do you have? Then you have the responsibility—a highly questionable option.

I commend the Senator from New Hampshire for his most important contribution to this debate and join the chorus of those saying to the President: Please do not invade; it is not a good idea. I know it is tempting, and it might be doubly tempting if we are out of here during the August recess.

Mr. President, we should say to the President of the United States that there will be an uproar across America if there is an invasion of Haiti, particularly if it is not conducted after careful consultation with the Congress. And just because there may be some Americans in Haiti that will be a strained way to justify such an invasion, because there is no evidence that any of them are under a threat of bodily harm or would welcome such action.

So I think the Republican leader has certainly crafted an interesting and appropriate approach so that Congress might speak on this Haiti issue. We have been trying to. We have been working at it in different ways. The amendments may not be clear, or the pattern may not be clear of the amendments, but the message should be clear and unambiguous, Mr. President.

I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. I would advise the Senator that there is a rollcall vote scheduled for 3:30 p.m., at which time the Chair will have to interrupt the Senator, but then he will immediately regain the floor following the vote.

Mr. MCCAIN. I thank the Chair.

Mr. President, I rise in support of the Dole amendment. I want to associate myself with the remarks of the Senator from New Hampshire and the Senator from Kentucky, who I think make very important points.

There are several reasons why this amendment—although perhaps unusual—is very important and compelling. One is that, in my view, with a caveat, this country is headed toward an invasion of Haiti. The embargo policy which starves children and women and poor and elderly and prevents rich people from flying to Miami ratchets up in a most distressing way the poverty and deprivation of the Haitian people. This in turn drives them into boats and drives them into either safe havens, or Florida, to be returned after some period of time.

The caveat I have to the likelihood of this invasion is that the President of the United States like all Presidents, pays close attention to the polls, and the overwhelming majority of the American people are in opposition to a military invasion of Haiti. The overwhelming majority of the military leadership in this country, uniformed military leadership, is also opposed, not because, as the Senator from Kentucky stated, it would be a difficult military operation initially, but because once we are enmeshed in this very difficult and complex situation, we would sooner or later face very fierce resistance on the part of the Haitian people who, for whatever reason, do not want to be invaded and occupied by a foreign country or countries.

So we are headed toward an invasion, and perhaps, as my friend from Florida, who I see on the floor, very articulately argued, there is a reason for an invasion. But if there is going to be one, there should be consensus in the Congress and among the American people before we do so.

Unfortunately, this administration has not—I repeat, has not—consulted in a bipartisan fashion with Members of Congress—not on this issue or practically any other issue. I regret it, and

I strongly urge this administration to do what previous administrations have done, both Republican and Democrat, and that is start consulting with Members of the opposite party. It has not happened, and they could probably spare themselves a lot of grief and criticism if they would begin to do that.

There are some of us that still believe that partisanship ends at the water's edge, but when not consulted, we have to draw our own conclusions and reach the American people in the most effective fashion.

The other reason, Mr. President, why there is a need for this bipartisan commission is because of the incredible confusion which has characterized the conduct of the United States' policy in Haiti.

Mr. President, I ask unanimous consent that the vote be delayed for an additional 7 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object, I want to accommodate the Senator from Arizona. I am thinking of the two hearings that are going on. We can delay the vote 5 minutes.

Mr. MCCAIN. I understand. I withdraw my unanimous-consent request.

Mr. LEAHY. If the Senator wants 5 minutes, all right.

The PRESIDING OFFICER. Without objection, the vote will then occur at 3:35 p.m.

The Senator from Arizona has the floor.

Mr. MCCAIN. Mr. President, there have been in my view five Clinton policies on Haiti.

The first policy was that of candidate Clinton, who called the Bush policy of forcibly returning fleeing Haitians immoral. Candidate Clinton said, "I am appalled by the decision of the Bush administration to pick up fleeing Haitians on the high seas and forcibly returning them to Haiti."

The second policy was that of a President just beginning to understand that being a candidate and being President are vastly different things. He announced just before the inauguration a policy identical to the Bush policy—that he would continue to intercept fleeing Haitians and retain them. The intention was to prevent the massive outflow of refugees that may have accompanied his inauguration.

The third policy was policy by hunger strike. The change came on May 8 under pressure from the Congressional Black Caucus and Randall Robinson. The new policy proposed to process refugees on ships off the coast of Haiti and in third countries. The new policy took effect on June 16, 1994, and then began the new flood of refugees, exactly what Clinton had sought to avoid before his inauguration. Between June 16, when the policy changed, and July 7, roughly 14,000 Haitians were picked up at sea. This is a massive number if compared to the more than 45,000 between the coup in September 1991 and June 16, 1994.

The fourth policy came this last Tuesday, 3 weeks after the second policy. This was a policy once again designed to stem the flow of refugees. Refugees would be taken to out-of-country processing centers. If they were found to have a legitimate claim to persecution, they would have been allowed to stay in the refugee camp. If not, they would be returned to Haiti. This was backed up by statements from the administration such as William Gray, "Those who take to the boats will not have resettlement possibilities in the United States."

The fifth policy came a day later, apparently under pressure from the Black Caucus and others. Once again a tough policy designed to stem the flow of refugees was overturned for political reasons. Refugees would not have to prove a fear of persecution to stay in the third country refugee camps, although they would still be barred from coming to the United States.

We are telling the refugees "come" and "do not come." The nuances of the policies may be lost on them. The constant flip-flops are causing tragedy off the coast of Haiti every day.

There have also been changes in Clinton's policies on military intervention. Last fall the President said that he was only contemplating military involvement as part of a peaceful U.N. brokered settlement.

Later he said military force to restore Aristide could not be ruled out. October 13, 1993:

> I have no intention of asking our young people in uniform * * * to go in there and do anything other than implement a peace agreement.

May 13, 1994:

> I think that we cannot afford to discount the prospect of a military option in Haiti.

Mr. President, we have to have consistent policy, as said by Congressman MFUME just a couple days ago. We have got to have a consistent policy even one that this Senator may disagree with. We are confusing our allies, encouraging our enemies, and the response of the military leadership in Haiti is only one group that has been encouraged.

Questions need to be answered, Mr. President. What basis under international law would justify the United States invading at this time?

If United States troops occupy Haiti, they will become the police power there. What will American forces do if Haitian citizens take mob action in the street against their purported enemies? Will they shoot Haitians if necessary to prevent violence by Haitians against Haitians, or will they stand by and permit mob action including necklacing to occur?

What strategy do we have to remove American forces once they are committed to Haiti? Will we remove our troops if President Aristide requests that we do so within weeks after an invasion? What assurances do we have that the United Nations, or another international institution, will deploy a force to relieve American forces? How quickly would they do so? If we do not have such assurances, what is our exit strategy for the United States?

Mr. President, I note that the hour has almost arrived. I will save the remainder of remarks until after the vote.

The PRESIDING OFFICER. The Chair thanks the Senator from Arizona.

VOTE ON AMENDMENT NO. 2240

The PRESIDING OFFICER. The question occurs now under the previous order on amendment No. 2240 offered by the Senator from Kentucky. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Georgia [Mr. NUNN] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE] and the Senator from Georgia [Mr. COVERDELL] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 89, nays 8, as follows:

[Rollcall Vote No. 190 Leg.]

YEAS—89

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Coats
Cochran
Cohen
Conrad
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feingold
Feinstein
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Packwood
Pressler
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wellstone
Wofford

NAYS—8

Boren
Ford
Glenn
Hollings
Metzenbaum
Pell
Pryor
Simon

NOT VOTING—3

Chafee
Coverdell
Nunn

So the amendment (No. 2240) was agreed to.

Mr. D'AMATO. Madam President, I rise today in support of Senator McCONNELL'S amendment that would condition Russian aid upon a commitment to withdrawal of all Russian troops from the Baltics. I would like to commend the Senator from Kentucky for offering this amendment, and I am pleased to be a cosponsor of it.

It is very important for Russia to understand that the colonial legacy of the Soviet Union is over. Russian policy vis-a-vis its neighbors leaves much to be desired. The insistence that Russia be allowed to settle disputes along its borders, smacks of imperialism and a rightist tendency that must be stopped. Having said this, I am very disturbed that President Yeltsin has refused to withdraw its 2,500 troops from Estonia by August 31, 1994.

The United States is providing $839,000,000 to Russia. This is no small amount of money. While it most certainly needs this assistance, it must also realize that it must follow a norm of behavior consistent with the rest of the civilized world. As long as Russia refuses to commit to the withdrawal of its troops from Estonia and the other sovereign Baltic States, then we must condition our aid to them on this issue.

The Baltics are free and independent States and Russia must recognize this. The presence of Russian troops represents a Russian dispute with this fact. The message that this amendment sends is an important one and one that must be clearly understood by Russia. I hope that my colleagues will support this amendment.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. McCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2245

The PRESIDING OFFICER. The Senate now returns to the pending amendment offered by the Senator from Kansas, No. 2245.

Mr. LEAHY. Mr. President, I ask unanimous consent the amendment by the Senator from Kansas be temporarily laid aside.

Mr. McCONNELL. Mr. President, reserving the right to object, it was my understanding that Senator McCAIN was to be recognized.

The PRESIDING OFFICER. The Chair advises that the Senator from Arizona did indicate that after the vote we just concluded he would seek recognition to extend his remarks.

Mr. McCONNELL. That was my understanding, Mr. President.

Mr. LEAHY. Mr. President, I think the Senator from Illinois is only going to need 2 or 3 minutes while we are waiting for the Senator from Arizona.

Mr. McCONNELL. Mr. President, I therefore do not object. I do not see the Senator from Arizona.

The PRESIDING OFFICER. Without objection, the pending amendment, No. 2245, is set aside.

AMENDMENT NO. 2246

(Purpose: To allocate assistance that has as its objective the improvement of the lives of the poor)

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration. I think it is agreed to by both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON], for himself and Mr. JEFFORDS, proposes an amendment numbered 2246.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 112, between lines 9 and 10, insert the following new section:

POVERTY REDUCTION EMPHASIS FOR DEVELOPMENT ASSISTANCE

SEC. . (a) Of the total amount of funds appropriated by this Act to carry out chapters 1 and 10 of part I of the Foreign Assistance Act of 1961, a substantial percentage of the funds shall be available only to finance programs, projects, and activities that directly improve the lives of the poor, with special emphasis on those individuals living in absolute poverty.

(b) It is the sense of Congress that the President, in carrying out this section, should—

(1) promulgate appropriate standards for identifying those populations living in poverty;

(2) establish a program performance, monitoring, and evaluation capacity within the Agency for International Development that will develop and prepare, in consultation with both local and international nongovernmental organizations, appropriate indicators and criteria for monitoring and evaluation of progress toward poverty reduction; and

(3) take steps necessary to increase the direct involvement of the poor in project design, implementation and evaluation, including increasing opportunities for direct funding of local nongovernmental organizations serving these populations, and other local capacity-building measures.

(c) The Congress urges the President, not later than April 1, 1995, to submit to the Congress a report setting forth the progress made in carrying out this section.

Mr. SIMON. Mr. President, I believe this is acceptable to both sides. What this is, is a sense of the Senate that a substantial amount of our foreign aid has to go to those who are the poor in various countries.

Many people say that is happening already. Unfortunately, frequently in foreign aid programs we end up with consultant fees and all kinds of other things and they do not get the priority. Back some years ago, when I was in the House, I got an amendment on saying that 50 percent ought to go, at least, to those who are poor within the countries that receive foreign aid, with the exception of the Middle East situation, which is special. That was accepted in conference at 40 percent.

Then a few years ago, unbeknownst to me, that was quietly slipped off.

I think this sense of the Senate, with the requirement that we get a report back on what is happening, is acceptable to everyone. I think it moves our aid program just a little more in the direction that we ought to be going.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I have no objection to the amendment. I believe it has been cleared.

Mr. McCONNELL. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Illinois.

The amendment (No. 2246) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SIMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I know there are a number of people who will speak on the Dole amendment when it recurs. I understand the distinguished Republican leader anticipates a vote tomorrow, as opposed to today, on that amendment. So I suggest, Mr. President, if there are others who have amendments that have either been cleared or could go quickly to a vote or otherwise—let me ask the Presiding Officer, what now is the parliamentary situation?

The PRESIDING OFFICER. The Senate has now returned to amendment No. 2245 offered by the Senator from Kansas.

Mr. LEAHY. And that is the pending business?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. Is my understanding correct that the yeas and nays have been ordered on that amendment?

The PRESIDING OFFICER. The yeas and nays have not been ordered on that amendment.

Mr. LEAHY. I am not requesting them. I leave that to the Senator from Kansas. I just wanted to know the situation.

Mr. McCONNELL. Mr. President, I request the yeas and nays on the Dole amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There does not appear to be a sufficient second.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. McCONNELL. Mr. President, I ask unanimous consent that Senators

HELMS and MCCAIN be added as cosponsors to the Dole amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

AMENDMENT NOS. 2247, 2248, 2249, 2250, 2251, AND 2252, EN BLOC

Mr. MCCONNELL. Mr. President, if the Senator from North Carolina will withhold briefly, under the unanimous-consent agreement under which we are operating, it is permissible for me to send to the desk some amendments on behalf of one of our colleagues to protect his opportunity to offer them.

So I have a series of amendments that Senator BROWN intends to offer. I send them to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment will be temporarily set aside for the purpose of receiving the amendments offered by the Senator from Kentucky.

Does the Senator seek unanimous consent to offer these en bloc?

Mr. MCCONNELL. Yes. I ask unanimous consent that they be offered en bloc and then laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendments.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for Mr. BROWN, proposes amendments numbered 2247 through 2252, en bloc.

AMENDMENT NO. 2247

(Purpose: To reduce appropriations under the account "International Organizations and Programs" which are available for the United Nations Development Program in order to bring the bill into compliance with the Budget Enforcement Act)

Mr. MCCONNELL offered amendment No. 2247 for Mr. BROWN.

The amendment is as follows:

On page 7, lines 7 and 8, strike "$382,000,000: *Provided*," and insert "$273,000,000: *Provided*, That not to exceed $12,000,000 of the funds appropriated under this heading shall be made available for the United Nations Development Program: *Provided further*,".

AMENDMENT NO. 2248 TO THE COMMITTEE AMENDMENT ON PAGE 2

(Purpose: To make Poland, Hungary, and the Czech Republic eligible for allied defense cooperation with NATO countries, and for other purposes)

Mr. MCCONNELL offered amendment No. 2248 for Mr. BROWN, for himself, Mr. SIMON, Mr. ROTH, Ms. MIKULSKI, Mr. DOLE, and Mr. DOMENICI.

The amendment is as follows:

At the end of the Committee amendment which ends on line 21 of page 2 of the bill, add the following new section:

SEC. . ADDITIONAL COUNTRIES ELIGIBLE FOR PARTICIPATION IN ALLIED DEFENSE COOPERATION.

(a) SHORT TITLE.—This section may be cited as the "NATO Participation Act".

(b) TRANSFER OF EXCESS DEFENSE ARTICLES.—The President may transfer excess defense articles under section 516 of the Foreign Assistance Act of 1961 or under the Arms Export Control Act to Poland, Hungary, and the Czech Republic.

(c) LEASES AND LOANS OF MAJOR DEFENSE EQUIPMENT AND OTHER DEFENSE ARTICLES.—Section 63(a)(2) of the Arms Export Control Act (22 U.S.C. 2796(b) is amended by striking "or New Zealand" and inserting "New Zealand, Poland, Hungary, or the Czech Republic".

(d) LOAN MATERIALS, SUPPLIES, AND EQUIPMENT FOR RESEARCH AND DEVELOPMENT PURPOSES.—Section 65(d) of the Arms Export Control Act (22 U.S.C. 2796d(d)) is amended—

(1) by striking "or" after "United States)" and inserting a comma; and

(2) by inserting before the period at the end the following: ", Poland, Hungary, or the Czech Republic".

(e) COOPERATIVE MILITARY AIRLIFT AGREEMENTS.—Section 2350c(e)(1)(B) of title 10, United States Code, is amended by striking "and the Republic of Korea" and inserting "the Republic of Korea, Poland, Hungary, and the Czech Republic".

(f) PROCUREMENT OF COMMUNICATIONS SUPPORT AND RELATED SUPPLIES AND SERVICES.—Section 2350f(d)(1)(B) is amended by striking "or the Republic of Korea" and inserting "the Republic of Korea, Poland, Hungary, or the Czech Republic".

(g) STANDARDIZATION OF EQUIPMENT WITH NORTH ATLANTIC TREATY ORGANIZATION MEMBERS.—Section 2457 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(g) It is the sense of the Congress that in the interest of maintaining stability and promoting democracy in Eastern Europe, Poland, Hungary, and the Czech Republic, those countries should, on and after the date of enactment of this subsection, be included in all activities under this section related to the increased standardization and enhanced interoperability of equipment and weapons systems, through coordinated training and procurement activities, as well as other means, undertaken by the North Atlantic Treaty Organization members and other allied countries.".

(h) INCLUSION OF OTHER EUROPEAN COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—The President should recommend legislation to the Congress making eligible under the provisions of law amended by this section such other European countries emerging from communist domination as the President may determine if such countries—

(1) have made significant progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law; and

(2) are likely, within 5 years of such determination, to be in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area.

AMENDMENT NO. 2249

(Purpose: To freeze contributions to the International Development Association [IDA])

Mr. MCCONNELL offered amendment No. 2249 for Mr. BROWN.

The amendment is as follows:

On page 3, line 12 strike "$1,207,750,000" and insert "$1,024,332,000."

AMENDMENT NO. 2250

(Purpose: To maintain funding for the Global Environment Facility at FY 1994 level and to make the funds available pending certain reform measures)

Mr. MCCONNELL offered amendment No. 2250 for Mr. BROWN.

The amendment is as follows:

On page 3, line 6, strike $98,800,000, insert $30,000,000 and on page 105, line 16, insert the following:

(c) Funds appropriated by Title I of the Act under the heading "Limitation on Callable Capital Subscriptions" shall be available for payment to the IBRD for the Global Environmental Facility (GEF) as follows:

(1) 50 percent of the funds appropriated under such heading shall be made available prior to April 1, 1995 only if the Secretary of the Treasury makes the determination and so reports to the Committee on Appropriations as described in paragraph (3) of this subsection.

(2) 50 percent of the funds appropriated under such heading shall be made available on or after April 1, 1995 only if the Secretary of the Treasury makes the determination and so reports to the Committee on Appropriations as described in paragraph (3) of this subsection.

(3) The determinations referred to in paragraphs (1) and (2) are determinations that the GEF has:

(i) established clear procedures ensuring public availability of documentary information on all GEF projects and associated projects of the GEF implementing agencies.

(ii) established clear procedures ensuring that affected peoples in recipient countries are consulted on identification, preparation and implementation of GEF projects.

AMENDMENT NO. 2251

(Purpose: To establish an independent commission to study the salaries and benefits of the World Bank and the International Monetary Fund)

Mr. MCCONNELL offered amendment No. 2251 for Mr. BROWN.

The amendment is as follows:

At the end of the bill insert the following:

SEC. 576. LIMITATION ON USE OF FUNDS FOR CONTRIBUTION TO THE ENHANCED STRUCTURAL ADJUSTMENT FACILITY.

(a) LIMITATION.—Not more than $20,000,000 of the amount appropriated under Title I under the heading "CONTRIBUTION TO THE ENHANCED STRUCTURAL ADJUSTMENT FACILITY OF THE INTERNATIONAL MONETARY FUND" shall be available until the Bipartisan Commission described in subsection (b) submits the report described in subsection (c).

(b) BIPARTISAN COMMISSION.—There shall be established a bipartisan Commission whose members shall be appointed within two months of enactment of this Act to conduct a complete review of the salaries and benefits of World Bank and International Monetary Fund employees and their families. The Commission shall be composed of:

(i) 1 member appointed by the President;

(ii) 1 member appointed by the Speaker of the House of Representatives;

(iii) 1 member appointed by the Minority Leader of the House of Representatives;

(iv) 1 member appointed by the Majority Leader of the Senate;

(v) 1 member appointed by the Minority Leader of the Senate;

(vi) STAFF MEMBERS.—The U.S. Agency for International Development shall provide funding for the hire of outside experts and shall provide expert AID staff members to the Commission as necessary.

(c) COVERED REPORT.—Within six months after appointment, the Commission shall submit a report to the President, the Speaker of the House of Representatives and the Chairman of the Senate Foreign Relations Committee which includes the following:

(i) a review of the existing salary paid and benefits received by the employees of the World Bank and the IMF;

(ii) a review of all benefits paid by the World Bank and the IMF to family members and dependents of the employees of the World Bank and the IMF;

(iii) a review of all salary and benefits paid to employees and dependents of the World Bank and the IMF as compared to all salary and benefits paid to comparable positions for employees of U.S. banks.

AMENDMENT NO. 2252 TO THE COMMITTEE AMENDMENT ON PAGE 2

(Purpose: To make Poland, Hungary, and the Czech Republic eligible for allied defense cooperation with NATO countries, and for other purposes)

Mr. McCONNELL offered amendment No. 2252 for Mr. BROWN, for himself, Mr. SIMON, Mr. ROTH, Ms. MIKULSKI, and Mr. DOLE.

The amendment is as follows:

On Page 2, line 21, after the period insert the following:

SEC. . ADDITIONAL COUNTRIES ELIGIBLE FOR PARTICIPATION IN ALLIED DEFENSE COOPERATION.

(a) SHORT TITLE.—This section may be cited as the "NATO Participation Act".

(b) TRANSFER OF EXCESS DEFENSE ARTICLES.—The President may transfer excess defense articles under the Foreign Assistance Act of 1961 or the Arms Export Control Act to Poland, Hungary, and the Czech Republic.

(c) LEASES AND LOANS OF MAJOR DEFENSE EQUIPMENT AND OTHER DEFENSE ARTICLES.—Section 63(a)(2) of the Arms Export Control Act (22 U.S.C. 2796b) is amended by striking "or New Zealand" and inserting "New Zealand, Poland, Hungary, or the Czech Republic".

(d) LOAN MATERIALS, SUPPLIES, AND EQUIPMENT FOR RESEARCH AND DEVELOPMENT PURPOSES.—Section 65(d) of the Arms Export Control Act (22 U.S.C. 2796d(d)) is amended—

(1) by striking "or" after "United States)" and inserting a comma; and

(2) by inserting before the period at the end the following: ", Poland, Hungary, or the Czech Republic".

(e) COOPERATIVE MILITARY AIRLIFT AGREEMENTS.—Section 2350c(e)(1)(B) of title 10, United States Code, is amended by striking "and the Republic of Korea" and inserting "the Republic of Korea, Poland, Hungary, and the Czech Republic".

(f) PROCUREMENT OF COMMUNICATIONS SUPPORT AND RELATED SUPPLIES AND SERVICES. Section 2350f(d)(1)(B) is amended by striking "or the Republic of Korea" and inserting "the Republic of Korea, Poland, Hungary, or the Czech Republic".

(g) STANDARDIZATION OF EQUIPMENT WITH NORTH ATLANTIC TREATY ORGANIZATION MEMBERS.—Section 2457 of title 10, United States code, is amended by adding at the end of the following new subsection:

"(g) It is the sense of the Congress that in the interest of maintaining stability and promoting democracy in Eastern Europe, Poland, Hungary, and the Czech Republic, those countries should, on and after the date of enactment of this subsection, be included in all activities under this section related to the increased standardization and enhanced interoperability of equipment and weapons systems, through coordinated training and procurement activities, as well as other means, undertaken by the North Atlantic Treaty Organization members and other allied countries.".

(h) INCLUSION OF OTHER EUROPEAN COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—The President should recommend legislation to the Congress making eligible under the provisions of law amended by this section such other European countries emerging from communist domination as the President may determine if such countries—

(1) have made significant progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law; and

(2) are likely, within 5 years of such determination, to be in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area.

The PRESIDING OFFICER. Without objection, the amendments are received en bloc and the amendments have been set aside.

The business before the Senate is the amendment offered by the Senator from Kansas, Senator DOLE, and the Senator from Virginia, Senator WARNER.

Mr. LEAHY. Mr. President, parliamentary inquiry. The amendments sent up en bloc, am I correct in understanding these are sent to protect the rights of the Senator as related to the 6 p.m. Thursday deadline under the unanimous-consent agreement?

The PRESIDING OFFICER. That is the understanding of the Chair.

Mr. McCONNELL. That was the intention of the Senator from Kentucky.

Mr. LEAHY. Also, further parliamentary inquiry, each one would have to be brought up and voted on individually in whatever fashion we do, either by voice vote, division, yeas and nays, or however they are voted on; is that correct?

The PRESIDING OFFICER. The Senator from Vermont is correct.

The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Mr. President, I ask unanimous consent that it be in order for me to send to the desk nine amendments and that these nine amendments be deemed to have been offered en bloc; that each of the amendments be deemed to be a second-degree amendment to a committee amendment and that the nine amendments then be set aside; and further, that it be in order for me to call up each of them upon my having been duly recognized by the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object, and I will not object, am I correct, Mr. President, this also fulfills the unanimous-consent agreement of prior to 6 p.m. Thursday?

Mr. HELMS. That is correct.

Mr. LEAHY. And further reserving the right to object, and I shall not, am I also correct in understanding, even though these are nine amendments, the Senator from North Carolina would have to be recognized to speak in the normal course? In other words, it does not mean that he would automatically hold the floor through nine amendments but would have to be recognized in the normal course.

The PRESIDING OFFICER. Would the Senator from North Carolina restate the unanimous consent request?

Mr. HELMS. Certainly. But, first, Mr. President, if I may, let me respond to the question raised—and it is a good question—by the distinguished Senator from Vermont.

We are in a situation where we have a good faith gentleman's/lady's agreement that nobody will be cut off. I am trying to conform to the specific language of the unanimous-consent agreement that precipitated the problem. I think this unanimous-consent request, when I restate it, will take care of that. I may not call up these amendments, and I pledge to the managers of the bill that when I decide not to call up an amendment, if I decide not to call up an amendment, I will let you know.

Mr. LEAHY. If the Senator will further yield, as the Senator knows, as having experience as a manager, I always try to protect Senators.

I just wanted to make sure if, as we are going along on this, we are enabled to do other business in between these amendments. I do not want in any way to cut off the ability of the Senator from North Carolina or any other Senator to be able to bring up amendments and have them disposed of by the Senate if those amendments are filed prior to 6 o'clock tomorrow evening.

Mr. HELMS. I think I agree to that. I am not sure exactly what the Senator said.

Mr. LEAHY. I think the Senator will agree. I think we are both saying the same thing.

Mr. HELMS. I think so.

Mr. LEAHY. We just want to make sure we have room for everyone else to come in here also.

The PRESIDING OFFICER. The Chair would make the following parliamentary observation, that the amendments as offered would have to be considered or, if withdrawn, withdrawn under a unanimous-consent agreement.

Mr. LEAHY. I understand.

Mr. HELMS. Correct. Correct.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request as stated by the Senator from North Carolina? The Chair would ask again——

Mr. HELMS. Reserving the right to object, does the Presiding Officer want me to state it again?

The PRESIDING OFFICER. Yes. Will the Senator from North Carolina restate his unanimous-consent request.

Mr. HELMS. Once more, slowly and with not much of a Southern accent, if I can manage that, I ask unanimous consent that it be in order for me to send to the desk nine amendments and that these nine amendments be deemed to have been offered en bloc; that each of the amendments be deemed to be a second-degree amendment to a committee amendment, and that the nine amendments then be set aside and, further, that it be in order for me to call up each of these amendments upon my having been recognized by the Chair to do so.

Mr. LEAHY. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from North Carolina.

AMENDMENT NO. 2253 TO FIRST COMMITTEE AMENDMENT ON PAGE 2, LINE 12

(Purpose: To prohibit U.S. government intervention with respect to abortion laws or policies in foreign countries)

The PRESIDING OFFICER. Will the Senator from North Carolina send his amendments to the desk.

Mr. HELMS. What was the question?

The PRESIDING OFFICER. Will the Senator from North Carolina send his amendments to the desk.

Mr. HELMS. I am going to send the first one up, and then I will send the other eight during the time of consideration of this amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows.

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 2253 to the first committee amendment on page 2, line 12:

The amendment is as follows:

At the end of the first committee amendment, add the following:

SEC. . NON-INTERVENTION CONCERNING ABORTION.

(a) CONGRESSIONAL DECLARATION.—The Congress recognizes that countries adhere to a diversity of cultural, religious, and legal traditions regarding the deliberate abortion of the human fetus.

(b) PROHIBITED ACTIVITIES.—Therefore, none of the funds appropriated by this Act may be used by any agency of the United States or any officer of the Executive Branch to—

(1) engage in any activity or effort to alter the laws or policies in effect in any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited;

(2) support any resolution or participate in any activity of a multilateral organization which seeks to alter such laws or policies in foreign countries; or

(3) permit any multilateral organization or private organization to use U.S. Government funds for such purposes.

(c) RULE OF STATUTORY CONSTRUCTION.—Nothing in this section may be construed to prevent—

(1) U.S. funds from being used to pay for treatment of injuries or illness caused by legal or illegal abortions; or

(2) agencies or offices of the United States from engaging in activities in opposition to policies of coercive abortion or involuntary sterilization.

Mr. HELMS. Mr. President, I had the amendment read in its entirety——

The PRESIDING OFFICER. If the Senator would withhold, the pending business before the Senate is the amendments offered by the Senator from Kansas and the Senator from Virginia. Does the Senator from North Carolina wish to ask unanimous consent——

Mr. HELMS. I thought those amendments had already been laid aside. Please forgive me.

The PRESIDING OFFICER. The amendments be laid aside?

Mr. HELMS. I ask unanimous consent that these amendments be laid aside temporarily so that these amendments can be considered.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HELMS. As I was saying, I asked the distinguished clerk to read the entire amendment because I think if ever an amendment spoke for itself, this one does. But let me elaborate just a little bit in terms of explaining the intent.

The pending amendment forbids the use of the taxpayers' money by any U.S. Government employee or by employees of multilateral organizations or by any private organization to lobby or otherwise engage in efforts to change any law regarding abortion in any foreign country.

Now, this means that no U.S. funds under this act can be used in an effort to make laws in foreign countries either more permissive or more restrictive. In other words, the United States should not be permitted to meddle in the affairs of other countries one way or another when it comes to abortions.

This amendment does not—let me repeat, does not—propose to prevent the use of funds to pay for treatment of injuries or illnesses caused by abortions, nor does it prohibit the United States from engaging in activities in opposition to policies of coercive abortion or involuntary sterilization. And, of course, I am in fact talking about Red China. The amendment merely prohibits the U.S. Government from using taxpayers' money to lobby foreign countries to change their laws on this subject, the subject of abortion.

Now, I am prompted to offer this amendment because I believe that most Americans are not aware of the hundreds of millions of dollars currently being spent by the United States on the so-called population control programs. Oftentimes, these programs do little more than browbeat countries into adopting policies which can be described only as social engineering.

So the pending amendment addresses an area where the administration has gone too far in its worldwide effort to pressure foreign countries into changing their abortion laws.

Now, bear in mind, Mr. President, that the United States gives away more foreign aid than most other countries combined. The U.S. Government pays the largest portion of any country to the United Nations. The United States is a key member of the U.N. Security Council. U.S. representatives cast deciding votes at multilateral banks and other international institutions. Not surprisingly, small countries fear reprisals from and by the United States if they do not comply with the proabortion policies of the present administration in Washington, DC.

My point is that foreign aid should never be used as either a carrot or a stick by this or any other administration, by any multilateral bank or by any international organization in an effort to promote worldwide legalization of abortion on demand. The President's policy of supporting abortion on demand is unpopular enough here at home without taking it overseas.

Mr. President, the American people will not, in my judgment, support a policy of pressuring foreign countries into changing their abortion laws one way or the other. It is wrong on its face. But this administration will hear the loudest complaints from the citizens of foreign countries. Take Egypt for example. Egypt is critically important to the United States. Ensuring that Egypt remains stable is vitally important to the United States, and we have spent billions of dollars to that end. Now, Egypt, as all Senators know, I assume, is a Moslem country with a large Coptic Christian population and it has laws protecting unborn children.

Egypt must also maintain relations with Islamic fundamentalists within its borders, and pressuring Egypt under those circumstances to liberalize its abortion laws is certainly a recipe for internal strife.

Such an effort by this administration, Mr. President, is just plain bad foreign policy. It makes no sense to undermine important U.S. interests around the world in order to satisfy the radical proabortion lobby in the United States. Mr. President, there is evidence that the administration is, indeed, engaged in a policy of pressuring countries to change their abortion laws. On March 16 of this year, Secretary Christopher sent a cable to all U.S. Embassies directing U.S. diplomats to pressure those countries to liberalize their abortion laws. And here is what the cable sent by Warren Christopher said:

> The Department [meaning the U.S. State Department] wishes to reiterate that the Clinton administration views international population policy as a major issue in U.S. foreign policy. Accordingly, the advancement of U.S. population policy interests will require senior level diplomatic intervention to complement the more technical interventions which are conducted between assistance agencies.

So that there will be absolutely no doubt about the administration's policy, Secretary Christopher's cable went on to say—this cable was sent on March 16 of this year. The cable says:

> A comprehensive strategy begins with the need to ensure universal access to family planning and related reproductive health services, including access to safe abortions. The United States believes that access to safe, legal and voluntary abortion is a fundamental right of all women. The United States delegation to the U.S. Population Conference in Cairo will also be working for stronger language on the importance of access to abortion services.

That was Warren Christopher in the cable that he sent on March 16.

If those statements by Secretary of State Christopher do not make it sufficiently clear that a proabortion agenda is being pursued, then consider that on April 1, 1993—that happened to be April Fool's Day—White House spokesman Dee Dee Myers said that the administration regards abortion as "part of the overall approach to population control." I do not think it can be made more clear than that, Mr. President.

In any case, the administration plans to use the upcoming Conference on Population and Development in Cairo to pressure foreign countries into liberalizing their abortion laws. It is outrageous for the U.S. Government to demand that foreign governments at the conference change their abortion laws.

Citizens of Argentina, Egypt, Namibia have never elected Bill Clinton to anything. And U.S. officials have no right to demand that these countries change their laws regarding the most sensitive of issues in their own countries.

After Mr. Clinton visited with the Pope on June 2, he stated:

> The United States does not, and will not, support abortion as a means of birth control or population control.

Those are the direct words from Mr. Clinton. Mr. Clinton said that in one breath and yet at the same time his State Department is right now pursuing a policy to promote abortion as part of—here I am quoting directly from the cable—"the advancement of U.S. population policy interests."

Unfortunately, to date there is little or nor correlation between the President's rhetoric and the direction his administration has taken on international abortion advocacy. I hate to say this, but the President tries to be all things to all people. But it is evident that he has aligned himself with the most radical elements of the proabortion movement in the United States of America, which brings to mind Mother Teresa's eloquent speech condemning abortion at this year's National Prayer Breakfast, with President Clinton sitting no more than 6 feet to her right. That marvelous lady, let me quote her—

> The greatest destroyer of peace today is abortion. Any country that accepts abortion is not teaching the people to love but to use violence to get what they want.

That is the end of the quote of Mother Teresa.

In the face of enthusiastic policy supporting Mother Teresa's brave statement, President Clinton sat on his hands. He did not applaud.

I also find it difficult to forget that one of the first things Mr. Clinton did after his inauguration was to obliterate many of the protections that the pro-life movement had won for unborn children during the past several years. It is demonstrable that the President is in the corner of the proabortion crowd. Just the same, Mr. President, it makes no sense for the U.S. Government using the American taxpayers' money to entangle itself in such a sensitive issue in foreign countries where the governments and the people do not agree with Bill Clinton.

If a sovereign nation has a greater respect for unborn babies than Mr. Clinton does, and if a foreign nation chooses to enact laws to protect the rights of the unborn, is it not morally indefensible, is it not atrocious foreign policy, is it not obviously arrogant for this administration to pressure these countries to change their laws to suit Mr. Clinton and his administration on this sensitive subject?

Mr. President, I have a bunch of letters here that I want to have printed in the RECORD.

I ask unanimous consent that letters opposing President Clinton's advocacy of worldwide abortion on demand be printed in the RECORD.

The first is signed by the following Protestant leaders: Chuck Colson, chairman of the Prison Fellowship; James Dobson, of the Focus on the Family; Joseph Stowell, of Moody Bible Institute; Charles Swindoll, president of Insight for Living; Edwin Young, of the Southern Baptist Convention; Paul Cedar, of the Evangelical Free Church of America; Billy Melvin, executive director of the National Association of Evangelicals; Dr. James Kennedy, pastor of the Coral Ridge Presbyterian Church; Dr. Brandt Gustavson, president of the National Religious Broadcasters; Dr. William Bright, of the Campus Crusade for Christ; and Rev. John Perkins, president of the John Perkins Foundation for Reconciliation and Development.

I ask unanimous consent that this letter be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APRIL 22, 1994.

President WILLIAM J. CLINTON,
The White House, 1600 Pennsylvania Avenue, NW., Washington, DC.

DEAR MR. PRESIDENT: We are sending you this open letter to express our deep concern over the State Department's cable last month to all diplomatic and consular posts asking them to pressure foreign governments to support greater abortion availability in the United Nations population-stabilization plan. The cable described access to legal abortion as a "fundamental right of all women."

Mr. President, this is an unprecedented misuse of our diplomatic corps for political ends. We can think of no other time in history when American embassies were used to promote a domestic social agenda—particularly one that has bitterly divided our own people for more than two decades. The majority of Americans do not accept abortion as a "fundamental right."

Moreover, the countries that the State Department is pressuring to embrace liberalized abortion policies, often in violation of their own laws, deeply resent what they rightly regard as cultural imperialism. The citizens of Africa, Asia, Central America, and South America are offended that the United States would urge them to refashion their own social policies to "look like America."

Apart from the moral issue, which we consider paramount, how can we urge greater access to abortion in countries that often do not have antibiotics, ultrasound machines, or even sterile operating rooms? At a press conference on Capitol Hill, Dr. Margaret Ogola from Kenya pointed out that in remote regions of her country, clinics often lack life-saving medications, such as penicillin. If a surgical procedure like abortion were introduced into these regions, the result would be massive infections and death. Surely the United Nation's plan to slow population growth does not include mothers dying on unsafe operating tables.

Mr. President, we remind you of the words of Mother Teresa that you yourself heard a few weeks ago at the National Prayer Breakfast. This tiny woman has spent her life working among the world's poor and understands their needs far better than any of us do. She said: "the greatest destroyer of peace today is abortion. * * * Any country that accepts abortion is not teaching the people to love but to use any violence to get what they want."

In a recent interview with Peggy Wehmeyer of ABC News, you stated, "I think there are too many abortions in America. I think there should be more adoptions in America." During your campaign you proclaimed that abortions should be "safe, legal and *rare*." How can these statements be reconciled with your cable to our embassies, directing them to promote abortions world wide? How do they square with your allocation of federal dollars to agencies that perform or support abortions internationally? A chasm exists between your public pronouncements and the quieter actions of your Administration. We plead with you, Mr. President, not to make the United States an exporter of violence and death. Instead, we urge you to maintain our heritage as a beacon of morality and hope to the poor and suffering of the world.

We respectfully ask that you direct the State Department to rescind last month's directive pressuring foreign governments to accept abortion on demand. America is at its best when we respect other nations' desire to nurture life, not destroy life.

Respectfully,

Charles W. Colson, Dr. Charles Swindoll, Dr. Billy A. Melvin, Dr. William R. Bright, Dr. James C. Dobson, Dr. Edwin Young, Dr. D. James Kennedy, Rev. John M. Perkins, Dr. Joseph M. Stowell, Dr. Paul A. Cedar, Dr. Brandt Gustavson.

Mr. HELMS. Mr. President, the second letter to which I referred a moment ago is signed by the following leaders of the Catholic Church: the Archbishop of Washington, Cardinal Hickey; the Archbishop of Chicago,

Cardinal Berenardin; the Archbishop of Boston, Cardinal Law; the Archbishop of New York, Cardinal O'Connor; the Archbishop of Philadelphia, Cardinal Bevilacqua; the Archbishop of Los Angeles, Cardinal Mahony; the Archbishop of Baltimore and the president of the National Conference of Catholic Bishops, the Most Reverend William Keeler.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ARCHDIOCESE OF WASHINGTON,
Washington, DC, May 28, 1994.

THE PRESIDENT OF THE UNITED STATES,
The White House, Washington, DC.

DEAR MR. PRESIDENT: As plans proceed for the International Conference on Population and Development at Cairo in September, we write with great urgency as leaders of the Catholic Church in our nation concerning your Administration's promotion of abortion, contraception, sterilization and the redefinition of the family.

We speak, Mr. President, not only for Catholics throughout the United States but also for many other people of good will. We are looking for leadership that truly respects the dignity of innocent human life and recognizes the fundamental importance of the family for the development of nations and individual persons. We are calling for policies which promote sound economic and social development throughout the world precisely because they recognize the indispensable role of the family and respect the innate dignity and rights of each person.

There is a broad consensus in our country that abortion on demand is morally repugnant. With millions of people representing all faiths, we recognize that abortion destroys not only the child in the womb but also creates untold conflict in the lives of millions of women. Abortion cheapens human life, tears apart families and contributes to the violence that plagues our culture. However cleverly the current Cairo document may be crafted, in fact it continues to advocate abortion as a way of controlling population growth and promiscuity.

Mr. President, we urge you to shun the advice of those who would apply pressure on developing nations to mandate abortion as a condition for receiving aid from other countries. Do not allow our country to participate in trampling the rights and religious values of people around the world. Please recognize that abortion is not a legitimate way to control population and that it does not improve women's lives. There is no such thing as a "safe" abortion; whether legal or not, abortion is lethal for the child and destructive of the mother and society.

The Draft Final Document of the Cairo Conference, with the support of the United States, also advocates the world-wide distribution of artificial contraceptives and the increased practice of sterilization which will have the effect of promoting a self-centered and casual view of human sexuality, an approach so destructive of family life and the moral fiber of society. When the United States supports such measures for unmarried adolescents as well as adults, what ideals are we holding up to young people? How are we helping them develop authentic values and that mastery of self which is the calling of every human being? As we prepare for tomorrow, we dare not take the course of least resistance today!

So also, when our government advocates population control through abortion, contraception and sterilization, it is not a force for freedom but an agent of coercion. Sadly it appears that the United States is urging developing countries to adopt population control programs that will interfere with the rights of couples to make responsible and moral family planning decisions. Couples in poor countries will find themselves at the mercy of government officials and programs that have no real regard for the dignity of the human person. They will face the prospect of government agencies providing abortion and contraceptives for their adolescent children with utterly no regard for parental authority and responsibility. At the same time, such policies could be insensitive to the existing realities of strong family life in many of those countries. As you have stated, Mr. President, "families raise children, not governments."

Even if such coercive population control measures would lead to economic growth and development, they would still be morally objectionable. In fact, however, there is no proof that enforced population control will bring about economic development in the Third World. What will help poor nations develop their full potential is not pressure from the First World for population control but rather a greater commitment on the part of wealthy nations to foster sustainable economic growth in Third World countries. That is the kind of constructive leadership we should expect from our country!

The Cairo Conference represents a golden opportunity for nations to come together to improve the lives of people throughout the world. That improvement will come only if the participants have the vision and moral courage to recognize that the future of humanity lies in strong, stable families. Time and time again, the bishops of the United States have shared with you our alarm over Administration policies and statements that place non-marital sexual relationships on a par with marriage and family. Archbishop Keeler, President of the National Conference of Catholic Bishops, has pointed out the dangers in such positions in a personal letter to Secretary of State Christopher. Sadly, however, the United States' participation in the preparatory meeting of the Cairo Conference mirrored Administration policies and positions by advocating "a plurality of family forms."

The United States is doing the world no favor by exporting a false ideology which claims that any type of union, permanent or temporary, is as good as the traditional family. There is mounting evidence that being part of an intact, traditional family or an extended family helps children grow into emotionally well-adjusted and productive citizens. While it is true that many single parents do an admirable job of raising their children, nonetheless we owe it to the children of our country and of the world to encourage stable, intact two-parent families. Mr. President, we wholeheartedly agree with what you said in your 1994 State of the Union address: "we cannot renew our country when, within a decade, more than half of the children will be born into families where there is no marriage." We hasten to add that we will never develop and renew our world by encouraging substitutes for marriage and family life.

Mr. President, the United States' delegation to the Cairo Conference will have enormous influence; it will represent the power, prestige and influence of the United States among the family of nations. We ask you, as the leader of our country, to steer our nation away from promoting an agenda so destructive of our own society and of the nations of the world. We thank you for your attention to the pressing concerns we have shared with you in loyalty to our country and to the many citizens whom we serve.

I sign, Mr. President, for myself and for the following Cardinal-Archbishops of the United States listed below, who, together with the President of the United States Conference of Catholic Bishops, have explicitly authorized this letter.

Sincerely,

James Cardinal Hickey, Archbishop of Washington; Joseph Cardinal Bernardin, Archbishop of Chicago; Bernard Cardinal Law, Archbishop of Boston; John Cardinal O'Connor, Archbishop of New York; Anthony Cardinal Bevilacqua, Archbishop of Philadelphia; Roger Cardinal Mahony, Archbishop of Los Angeles; Most Rev. William H. Keeler, Archbishop of Baltimore, President, National Conference of Catholic Bishops.

Mr. HELMS. Mr. President, in very brief summary, this amendment now pending prohibits using foreign aid money provided by the U.S. taxpayers to lobby foreign countries to change their abortion laws. It does not—I repeat, does not—prohibit funds from being used to pay for treatment of injuries or illnesses caused by abortion. And it does not prohibit funds from being used to oppose policies of coercive abortion or sterilization, such as is going on in Communist China.

Mr. President, before I yield the floor, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. When my unanimous-consent request was agreed to, I mentioned nine amendments. One is pending, and there are eight others, one of which I will not be able to offer until tomorrow.

AMENDMENTS NOS. 2254, 2255, 2256, 2257, 2258, 2259 AND 2260, EN BLOC

Mr. HELMS. Mr. President, I send seven amendments to the desk, en bloc, and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes amendments numbered 2254, 2255, 2256, 2257, 2258, 2259, and 2260, en bloc.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 2254

(Purpose: To prohibit the availability of funds for the U.N. Development Program)

On page 8, line 22, before the period insert the following: "*Provided further*, That none of the funds appropriated under this heading shall be made available for the United Nations Development Program''.

AMENDMENT NO. 2255

(Purpose: To prohibit the use of funds for the foreign governments engaged in espionage against the United States)

At the appropriate place in the bill, insert the following:

PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS ENGAGED IN ESPIONAGE AGAINST THE UNITED STATES

SEC. . (a) None of the funds appropriated by this Act (other than for humanitarian assistance or assistance for refugees) may be provided to any foreign government which the President determines is engaged in intelligence activities within the United States harmful to the national security of the United States.

AMENDMENT NO. 2256

(Purpose: To prohibit funds for Russia while that country is not in compliance with the Biological Weapons Convention, and for other purposes)

At the appropriate place in the bill, insert the following:

SEC. . RUSSIAN CHEMICAL AND BIOLOGICAL WEAPONS PRODUCTION.

None of the funds appropriated or otherwise made available under this Act may be made available in any fiscal year for Russia (other than humanitarian assistance) unless the President has certified to the Congress not more than 6 months in advance of the obligation or expenditure of such funds that Russia is in compliance with the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, and has disclosed the existence of its binary chemical weapons program (as required under the memorandum of understanding regarding a bilateral verification experiment and data exchange related to prohibition of chemical weapons) and the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction.

AMENDMENT NO. 2257

(Purpose: To limit the provision of assistance to Nicaragua)

At the appropriate place in the first Committee amendment add the following: On page 93, between lines 13 and 14, insert the following:

(1) a full and independent investigation conducted relating to issues raised by the discovery, after the May 23 explosion in Managua, of weapons caches, false passports, identity papers and other documents, suggesting the existence of a terrorist/kidnapping ring;

On page 93, line 22, strike out "(2)" and insert in lieu thereof "(3)".

On page 93, line 24, strike out "(3)" and insert in lieu thereof "(4)".

On page 94, line 4, strike out "(4)" and insert in lieu thereof "(5)".

On page 94, line 8, strike out "(5)" and insert in lieu thereof "(6)".

On page 94, line 11, strike out "(6)" and insert in lieu thereof "(7)".

AMENDMENT NO. 2258

(Purpose: To limit the authority to reduce U.S. government debt to certain countries)

On page 98, line 24 strike out "and" and all that follows through page 99, line 3, and insert in lieu thereof the following:

(4) (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights; and

(5) has not nationalized, expropriated, or otherwise seized ownership or control of property owned by any United States person and has not either—

(A) returned the property;

(B) provided adequate and effective compensation for such property in convertible foreign exchange or other mutually accepted compensation equivalent to the full value thereof, as required by international law;

(C) offered a domestic procedure providing prompt, adequate and effective compensation in accordance with international law; or

(D) submitted the dispute to arbitration under the rules of the Convention for the Settlement of Investment disputes or other mutually agreeable binding international arbitration procedure.

AMENDMENT NO. 2259

(Purpose: To provide conditions for renewing nondiscriminatory (most-favored-nation) treatment for the People's Republic of China)

At the end of the amendment, insert the following:

On page 112, between lines 9 and 10, insert:

TITLE VI—MOST-FAVORED-NATION TREATMENT FOR PEOPLE'S REPUBLIC OF CHINA

SEC. 601. SHORT TITLE.

This title may be cited as the "United States-China Act of 1994".

SEC. 602. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress makes the following findings:

(1) In Executive Order 12850, dated May 28, 1993, the President established conditions for renewing most-favored-nation treatment for the People's Republic of China in 1994.

(2) The Executive order requires that in recommending the extension of most-favored-nation trade status to the People's Republic of China for the 12-month period beginning July 3, 1994, the Secretary of State shall not recommend extension unless the Secretary determines that such extension substantially promotes the freedom of emigration objectives contained in section 402 of the Trade Act of 1974 (19 U.S.C. 2432) and that China is complying with the 1992 bilateral agreement between the United States and China concerning export to the United States of products made with prison labor.

(3) The Executive order further requires that in making the recommendation, the Secretary of State shall determine if China has made overall significant progress with respect to—

(A) taking steps to begin adhering to the Universal Declaration of Human Rights;

(B) releasing and providing an acceptable accounting for Chinese citizens imprisoned or detained for the nonviolent expression of their political and religious beliefs, including such expressions of beliefs in connection with the Democracy Wall and Tiananmen Square movements;

(C) ensuring humane treatment of prisoners, and allowing access to prisons by international humanitarian and human rights organizations;

(D protecting Tibet's distinctive religious and cultural heritage; and

(E) permitting international radio and television broadcasts into China.

(4) The Executive order requires the executive branch to resolutely pursue all legislative and executive actions to ensure that China abides by its commitments to follow fair, nondiscriminatory trade practices in dealing with United States businesses and adheres to the Nuclear Nonproliferation Treaty, the Missile Technology Control Regime guidelines and parameters, and other nonproliferation commitments.

(5) The Government of the People's Republic of China, a member of the United Nations Security Council obligated to respect and uphold the United Nations charter and Universal Declaration of Human Rights, has over the past year made less than significant progress on human rights. The People's Republic of China has released only a few prominent political prisoners and continues to violate internationally recognized standards of human rights by arbitrary arrests and detention of persons for the nonviolent expression of their political and religious beliefs.

(6) The Government of the People's Republic of China has not allowed humanitarian and human rights organizations access to prisons.

(7) The Government of the People's Republic of China has refused to meet with the Dalai Lama, or his representative, to discuss the protection of Tibet's distinctive religious and cultural heritage.

(8) It continues to be the policy and practice of the Government of the People's Republic of China to control all trade unions and suppress and harass members of the independent labor union movement.

(9) The Government of the People's Republic of China continues to restrict the activities of accredited journalists and Voice of America broadcasts.

(10) The People's Republic of China's defense industrial trading companies and the People's Liberation Army engage in lucrative trade relations with the United States and operate lucrative commercial businesses within the United States. Trade with and investments in the defense industrial trading companies and the People's Liberation Army are contrary to the national security interests of the United States.

(11) The President has conducted an intensive high-level dialogue with the Government of the People's Republic of China, including meeting with the President of China, in an effort to encourage that government to make significant progress toward meeting the standards contained in the Executive order for continuation of most-favored-nation treatment.

(12) The Government of the People's Republic of China has not made overall significant progress with respect to the standards contained in the President's Executive Order 12850, dated May 28, 1993.

(b) POLICY.—It is the policy of the Congress that, since the President has recommended the continuation of the waiver under section 402(d) of the Trade Act of 1974 for the People's Republic of China for the 12-month period beginning July 3, 1994, such waiver shall not provide for extension of nondiscriminatory trade treatment to goods that are produced, manufactured, or exported by the People's Liberation Army or Chinese defense industrial trading companies or to nonqualified goods that are produced, manufactured, or exported by state-owned enterprises of the People's Republic of China.

SEC. 603. LIMITATIONS ON EXTENSION OF NONDISCRIMINATORY TREATMENT.

(a) IN GENERAL.—Notwithstanding any other provision of law—

(1) if nondiscriminatory treatment is not granted to the People's Republic of China by

reason of the enactment into law of a disapproval resolution described in subsection (b)(1), nondiscriminatory treatment shall—

(A) continue to apply to any good that is produced or manufactured by a person that is not a state-owned enterprise of the People's Republic of China, but

(B) not apply to any good that is produced, manufactured, or exported by a state-owned enterprise of the People's Republic of China,

(2) if nondiscriminatory treatment is granted to the People's Republic of China for the 12-month period beginning on July 3, 1994, such nondiscriminatory treatment shall not apply to—

(A) any good that is produced, manufactured, or exported by the People's Liberation Army or a Chinese defense industrial trading company, or

(B) any nonqualified good that is produced, manufactured, or exported by a state-owned enterprise of the People's Republic of China, and

(3) if nondiscriminatory treatment is or is not granted to the People's Republic of China, the Secretary of the Treasury should consult with leaders of American businesses having significant trade with or investment in the People's Republic of China, to encourage them to adopt a voluntary code of conduct that—

(A) follows internationally recognized human rights principles,

(B) ensures that the employment of Chinese citizens is not discriminatory in terms of sex, ethnic origin, or political belief,

(C) ensures that no convict, forced, or indentured labor is knowingly used,

(D) recognizes the rights of workers to freely organize and bargain collectively, and

(E) discourages mandatory political indoctrination on business premises.

(b) DISAPPROVAL RESOLUTION.—

(1) IN GENERAL.—For purposes of this section, the term "resolution" means only a joint resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: "That the Congress does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to the Congress on ______ with respect to the People's Republic of China because the Congress does not agree that the People's Republic of China has met the standards described in the President's Executive Order 12850, dated May 28, 1993.", with the blank space being filled with the appropriate date.

(2) APPLICABLE RULES.—The provisions of sections 153 (other than paragraphs (3) and (4) of subsection (b)) and 402(d)(2) (as modified by this subsection) of the Trade Act of 1974 shall apply to a resolution described in paragraph (1).

(c) DETERMINATION OF STATE-OWNED ENTERPRISES AND CHINESE DEFENSE INDUSTRIAL TRADING COMPANIES.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall determine which persons are state-owned enterprises of the People's Republic of China and which persons are Chinese defense industrial trading companies for purposes of this title. The Secretary shall publish a list of such persons in the Federal Register.

(2) PUBLIC HEARING.—

(A) GENERAL RULE.—Before making the determination and publishing the list required by paragraph (1), the Secretary of the Treasury shall hold a public hearing for the purpose of receiving oral and written testimony regarding the persons to be included on the list.

(B) ADDITIONS AND DELETIONS.—The Secretary of the Treasury may add or delete persons from the list based on information available to the Secretary or upon receipt of a request containing sufficient information to take such action.

(3) DEFINITIONS AND SPECIAL RULES.—For purposes of making the determination required by paragraph (1), the following definitions apply:

(A) CHINESE DEFENSE INDUSTRIAL TRADING COMPANY.—The term "Chinese defense industrial trading company"—

(i) means a person that is—

(I) engaged in manufacturing, producing, or exporting, and

(II) affiliated with or owned, controlled, or subsidized by the People's Liberation Army, and

(ii) includes any person identified in the United States Defense Intelligence Agency publication numbered VP-1920-271-90, dated September 1990.

(B) PEOPLE'S LIBERATION ARMY.—The term "People's Liberation Army" means any branch or division of the land, naval, or air military service or the police of the Government of the People's Republic of China.

(C) STATE-OWNED ENTERPRISE OF THE PEOPLE'S REPUBLIC OF CHINA.—(i) The term "state-owned enterprise of the People's Republic of China" means a person who is affiliated with or wholly owned, controlled, or subsidized by the Government of the People's Republic of China and whose means of production, products, and revenues are owned or controlled by a central or provincial government authority. A person shall be considered to be state-owned if—

(I) the person's assets are primarily owned by a central or provincial government authority;

(II) a substantial proportion of the person's profits are required to be submitted to a central or provincial government authority;

(III) the person's production, purchases of inputs, and sales of output, in whole or in part, are subject to state, sectoral, or regional plans; or

(IV) a license issued by a government authority classifies the person as state-owned.

(ii) Any person that—

(I) is a qualified foreign joint venture or is licensed by a governmental authority as a collective, cooperative, or private enterprise; or

(II) is wholly owned by a foreign person,

shall not be considered to be state-owned.

(D) QUALIFIED FOREIGN JOINT VENTURE.—The term "qualified foreign joint venture" means any person—

(i) which is registered and licensed in the agency or department of the Government of the People's Republic of China concerned with foreign economic relations and trade as an equity, cooperative, contractual joint venture, or joint stock company with foreign investment;

(ii) in which the foreign investor partner and a person of the People's rẻpublic of China share profits and losses and jointly manage the venture;

(iii) in which the foreign investor partner holds or controls at least 25 percent of the investment and the foreign investor partner is not substantially owned or controlled by a state-owned enterprise of the People's Republic of China;

(iv) in which the foreign investor partner is not a person of a country the government of which the Secretary of State has determined under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) to have repeatedly provided support for acts of international terrorism; and

(v) which does not use state-owned enterprises of the People's Republic of China to export its goods or services.

(E) PERSON.—The term "person" means a natural person, corporation, partnership, enterprise, instrumentality, agency, or other entity.

(F) FOREIGN INVESTOR PARTNER.—The term "foreign investor partner" means—

(i) a natural person who is not a citizen of the People's Republic of China; and

(ii) a corporation, partnership, instrumentality, enterprise, agency, or other entity that is organized under the laws of a country other than the People's Republic of China and 50 percent or more of the outstanding capital stock or beneficial interest of such entity is owned (directly or indirectly) by natural persons who are not citizens of the People's Republic of China.

(G) NONQUALIFIED GOOD.—The term "nonqualified good" means a good to which chapter 39, 44, 48, 61, 62, 64, 70, 73, 84, 93, or 94 of the Harmonized Tariff Schedule of the United States applies.

(H) CONVICT, FORCED, OR INDENTURED LABOR.—The term "convict, forced, or indentured labor" has the meaning given such term by section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

(I) VIOLATIONS OF INTERNATIONALLY RECOGNIZED STANDARDS OF HUMAN RIGHTS.—The term "violations of internationally recognized standards of human rights" includes but is not limited to, torture, cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by abduction and clandestine detention of those persons, secret judicial proceedings, and other flagrant denial of the right to life, liberty, or the security of any person.

(J) MISSILE TECHNOLOGY CONTROL REGIME.—The term "Missile Technology Control Regime" means the agreement, as amended, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on an annex of missile equipment and technology.

(d) SEMIANNUAL REPORTS.—The Secretary of the Treasury shall, not later than 6 months after the date of the enactment of this Act, and the end of each 6-month period occurring thereafter, report to the Congress on the efforts of the executive branch to carry out subsection (c). The Secretary may include in the report a request for additional authority, if necessary, to carry out subsection (c). In addition, the report shall include information regarding the efforts of the executive branch to carry out subsection (a)(3).

SEC. 604. PRESIDENTIAL WAIVER.

The President may waive the application of any condition or prohibition imposed on any person pursuant to this title, if the President determines and reports to the Congress that the continued imposition of the condition or prohibition would have a serious adverse effect on the vital national security interests of the United States.

SEC. 605. REPORT BY THE PRESIDENT.

If the President recommends in 1995 that the waiver referred to in section 602 be continued for the People's Republic of China, the President shall state in the document required to be submitted to the Congress by section 402(d) of the Trade Act of 1974, the extent to which the Government of the People's Republic of China has made progress during the period covered by the document, with respect to—

(1) adhering to the provisions of the Universal Declaration of Human Rights,

(2) ceasing the exportation to the United States of products made with convict, force, or indentured labor,

(3) ceasing unfair and discriminatory trade practices which restrict and unreasonably burden American business, and

(4) adhering to the guidelines and parameters of the Missile Technology Control Regime, the controls adopted by the Nuclear Suppliers Group, and the controls adopted by the Australia Group.

SEC. 606. SANCTIONS BY OTHER COUNTRIES.

If the President decides not to seek a continuation of a waiver in 1995 for the People's Republic of China under section 402(d) of the Trade Act of 1974, the President shall, during the 30-day period beginning on the date that the President would have recommended to the Congress that such a waiver be continued, undertake efforts to ensure that members of the General Agreement on Tariffs and Trade take a similar action with respect to the People's Republic of China.

AMENDMENT NO. 2260

At the appropriate place in the bill, insert the following new section:

SEC. . AMBASSADORIAL RANK FOR HEAD OF UNITED STATES DELEGATION TO THE CSCE.

The United States delegation to the Conference on Security and Cooperation in Europe shall be headed by an individual who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall have the rank of ambassador.

The PRESIDING OFFICER. Does the Senator from North Carolina seek further unanimous consent to submit his ninth amendment at a later time, prior to 6 p.m. tomorrow?

Mr. HELMS. Let me have a few moments. First, I will suggest the absence——

Mr. LEAHY. If the Senator will withhold that, I will chat about the pending amendment. I think I know what the Senator wants to do, and I am going to be in agreement with him on it. I just say this about the amendment now pending, on which the yeas and nays have been ordered, it is one of those amendments that looks harmless enough on the surface. But it is so broadly written that it can be construed to prevent the United States from even participating in the world population conference in Cairo in September.

I understand that some probably feel that should be our policy. I am not one who feels that way. It is a conference that we ought to be able to participate in. If they had the Cairo conference and they came out with a resolution that called for a reduction in unsafe abortions worldwide, technically, under this amendment, the United States could not even join that, join in an effort to cut the number of unsafe abortions. Obviously, we do not want to do that. We do want, however, to be able to at least talk about the question of population.

I look at the foreign aid legislation before us, and in many parts of the world it is but a drop in the bucket because of unchecked population. From the time I was born, the world population has almost tripled. Can you imagine that? For thousands and thousands of years the world population was at a certain level. It went from 2.5 to 5.7 billion. In the middle of the next century, it can double again. We know what this means—the kind of pressures brought on areas with tragic ecosystems, and pressure on the environment, and the ability to raise food in this world.

We have 19 million refugees in the world today. That is almost 35 times the population of my own State of Vermont. What is going to happen is, there is going to be twice the mouths to feed in the world by the middle of the next century. Can you imagine the number of refugees we will have?

Today, there are half a million women who die each year of pregnancy-related causes, and many are in the developing world. Up to one-third are from septic or incomplete abortions. We have to find better ways of population control than abortion. Certainly, concerning the world population, for instance, the conference in Cairo can look at such issues.

But this amendment would stop the administration from calling for a reduction in unsafe abortions, or if the administration wanted to sign on to agreements to cut the number of unsafe abortions, it could not do it under this amendment. In fact, it could not contribute to any multilateral organization that wanted to do that. We would be precluded from reproductive health services for women.

The President has said time and again that the administration does not support abortion as a method of family planning. We have carefully crafted our legislation in the past to keep from doing that. He has said that abortion should be safe and legal and rare. If it does exist, it should be safe. One of the central goals in Cairo is to promote alternatives to abortion.

No one is telling any other country to change their laws. We could not do that. Sometimes what goes on is, in resolutions we ask other countries to change their laws. This is not one of them. We cannot do that and will not do that. Every country has to decide ultimately what its laws should be. The Cairo document says just that. But what you do by a resolution like this is you so tie the United States hands that we cannot even go out and explore alternatives to abortion. We cannot explore ways of getting rid of the unsafe abortions.

The PRESIDING OFFICER. The Chair has a parliamentary inquiry of the Senator from North Carolina as to whether he wishes to modify his unanimous-consent request to incorporate the fact that the amendment that would be offered to complete his en bloc nine amendments at a later date, prior to 6 p.m. on Thursday?

Mr. HELMS. I thought we had said that. If I am mistaken——

The PRESIDING OFFICER. The inquiry was made earlier, but there was not a response as to whether that was the Senator's intention.

Mr. HELMS. Sure.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

Mr. HELMS. Mr. President, it gives me no pleasure to disagree with my friend from Vermont, but I simply do not understand what amendment he was talking about in his comments just now. He was not talking about the pending amendment, because the amendment speaks for itself, and I will be glad to read it to him. But I hope that will not be necessary.

If he is really defending the use of the American taxpayers' money to force or to pressure any foreign country, such as Egypt and many other countries that have strict religious rules against the deliberate destruction of innocent human life—which is what abortion is—then we part company.

The amendment does not say anything about the nicety of population control, even though population control has taken on sort of a gruesome meaning in later years. But I will say to the Senator from Vermont that this amendment says what it says. It says that the taxpayers' money shall not be used in any attempt to force a foreign country to change its position or its laws relative to abortion one way or another, to liberalize it, or to restrict it.

That is all the amendment says.

I think it is indefensible for the administration to try to do otherwise with the taxpayers' money.

I understand that the Clinton administration is all gung-ho for abortion. Kill them all. Get rid of them. That is the way to control population.

That is not what Mother Tereas said, and that is not what a number of the rest of us have said far less eloquently than the way Mother Teresa said it.

I suggest the absence of a quorum.

Mr. LEAHY. Mr. President, will the Senator withhold that?

The PRESIDING OFFICER. Does the Senator withhold.

Mr. LEAHY. Yes.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, it seems we are talking a little at cross-purposes here.

But, one, I will not accept the fact that the Clinton administration has said let us go kill them all. I do not know of any administration—I have served here with five administrations, Republican and Democratic—that has taken that attitude. I certainly do not attribute it to the Clinton administration any more than I would the Bush, Reagan, Carter, or Ford administrations, the administrations that I have served with.

What I am concerned about is this would stop any participation in the world population conference in Cairo this September. That may or may not have been the intention of the proponent of the amendment. It is certainly the position of some who support it.

It says that the United States cannot support any resolution or participation in any activity of a multilateral organization that seeks to alter such laws or policies in foreign countries.

In other words, should a multilateral organization try to get countries to stop abortion as a means of birth control, we could not join in that. The U.S. policy is and always has been that abortion is not a method of birth control. We have also tried to make it clear that where abortion is legal that abortion be safe.

That is the policy of the United States. It is not a policy of killing them all, by any means, nor do I accept that. Nor would I support any legislation that would carry out such a policy.

This legislation basically says do not go to Cairo. Whether it was intended to do that or not, that is the sum effect of it.

And because of that, I will oppose it. I have made it very clear that my support of population money or family planning money in this bill is limited in this fashion, that no money, no U.S. tax dollars should ever go to a country that uses abortion as a method of family planning, or uses or pays for enforced abortion.

I suspect that is a known fact. That is the position of the Clinton administration. To suggest otherwise is wrong. To suggest that this bill or the position of the administration is different than that states by the President in his meeting in the Vatican City with the pontiff is also erroneous.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I still have difficulty understanding the meaning of the opposition to this amendment of the distinguished Senator from Vermont. Maybe the acoustics are not good in the Senate, but I understood him to say that this means that we cannot go to the population conference in Cairo. I want him to point out anywhere in the amendment that that is even suggested or implied.

All it says and what it says is that you cannot use American taxpayers' money to compel or to try to compel another country, such as Egypt, to change its laws regarding abortion.

There are all sorts of religions in the world and many religions forbid the deliberate destruction on innocent human life. They used to be forbidden in this country until things changed for the worse in 1972 when the U.S. Supreme Court wrote the Roe versus Wade decision.

But I do not understand what the Senator is saying in opposition to my amendment.

I hope the RECORD will reflect that I am asking him to be more specific and point out precisely in the amendment where it implies what he said it provides.

It simply does not do that. It was not intended to do it, and I regret that the amendment is not being characterized properly.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I have high regard and respect for my friend from North Carolina. I mean that. Senator HELMS is a splendid friend. He has been very helpful to me in my activities as assistant leader of our party, and I have come to know him in a way I did not when I came to this body, and I have the highest regard for him.

But I must in this instance resist and speak in strong opposition to the amendment of my friend from North Carolina because I have been involved in these population issues for many years, as was my father. I think the Senator from North Carolina will recall that my father, Senator Milward Simpson, was deeply involved in population issues. For it is here that everything we do in the world, literally—and I am not being overly dramatic—will depend upon how many footprints will fit upon the face of the Earth.

Our mission to Cairo is not about abortion—and I knew that that would eventually come—but it is not about abortion. We are talking about education. We are talking about women's rights. We are talking about men's responsibilities. We are talking about things that have to do with fertility rates and families. And we are not talking about abortion.

But as I interpret the amendment in reading it, it would prohibit the United States from participating in or endorsing the world consensus document that is to be negotiated and ratified at the upcoming population conference in Cairo. It would prohibit the United States from endorsing any international agreements that acknowledge the high rates of maternal mortality associated with unsafe abortions throughout the developing world and the call for reducing reliance on unsafe abortions. In essence, then, this amendment goes to the heart of the International Conference on Population and Development [ICPD] that will be held in Cairo in September.

Delegates from 110 nations from around the world will gather in Cairo to assess the current state of global population. How many human beings can the Earth sustain? We are presented with figures that show that the population will double from 5½ to 11 billion in the year 2047, if I recall, and then go on up exponentially into the year 2150 when the population reaches a figure of 694 billion. That is beyond my comprehension.

I am not a mathematician, but I do know the issues that concern the Senator from North Carolina and concern me, issues like immigration, illegal immigration, population, how much food is to be presented to the world for its billions. What are we going to do when in a society of food gatherers and wanderers—when they take the last bird, kill the last animal, drink the last water, and move on in nomadic ways with a sack of grain over their shoulders looking for a place to live.

Now that is pretty dramatic, but these are the things that we are going to discuss in Cairo to determine its impact on human development, and to try to produce an action plan for the next decade and the next century.

And the United States will play a very significant role at that Conference because of the current administration's complete reversal of the position then stated at the 1984 Mexico City Conference. Over the past decade, the United States, in a sense, has had its hands tied in terms of acting on the challenge of increasing population growth, and its impact on the environment, impact on the global economy, and the international standards of living. And I must say I am heartened to see the administration's renewed interest in these serious issues and the leadership role it has embraced in the past year.

But when the United States travels to Cairo this September—and I plan to be a part of our delegation—I strongly believe the United States should be leading the international community in a unified effort to meet the severest of challenges involved with these issues of global population, economic opportunity, and sustainable development.

That is why this amendment troubles me so. Because every time we bring up the issue of global population here in the Congress, we suddenly find ourselves embroiled in a debate over abortion—that is a political reality—and it is most unfortunate. This is not about abortion.

I respectfully say that my colleague from North Carolina or his able staff is misinterpreting the goals of the draft document that is currently being edited for discussion in Cairo. This draft document addresses a comprehensive array of population and development issues, including, as I say, environmental concerns, sustained economic growth, child survival and health, international migration, and maternal health, which includes a call for the elimination of all deaths associated with unsafe abortion.

Hear that. It calls for the elimination of all deaths associated with unsafe abortion.

This draft document is not calling for the legalization of abortion. Let us be absolutely clear. It does not call for the legalization of abortion where it is currently illegal. No one is forced. There is no coercion. The document recognizes abortion as a women's health issue because of the current crisis of maternal mortality resulting from unsafe abortion.

Accordingly, governments are urged—and this is from the document—"to deal openly and forthrightly with unsafe abortion as a major public health concern." And then the document also calls for the prevention of abortion and urges countries to avoid promoting abortion as a method of family planning. Very important.

This amendment, unfortunately, mischaracterizes or misunderstands the U.S. position on abortion and the U.S. role at the Cairo Conference.

The administration, led by our former colleague, now Vice-President AL GORE—and he and I had some spirited debates in opposition to each other here—and Under Secretary of State Tim Wirth—who was another former colleague—we have had serious discussions with on this issue—has articulated its view on abortion numerous times and they say abortion should be safe, legal, and rare. I uphold that. I think that is an important distinction. And the U.S. will continue to articulate that very clear position at the Cairo Conference.

In addition, the U.S. Agency for International Development, AID, has a longstanding policy based on the efforts and good work of Senator HELMS with an amendment to the Foreign Assistance Act of 1961 stating that AID "does not advocate the use of abortion as a method of family planning." That is in the law. U.S. AID also recognizes that unsafe abortion is a major cause of mortality and morbidity for women, leading to as many as 200,000 deaths of women every year in the developing world.

The U.S. position on population that will be expressed at the Cairo Conference is not just about abortion policy. It is about ensuring access to high quality family planning and related reproductive health services, increasing child survival programs, addressing migration and environmental degradation—I am being repetitive—strengthening families, and addressing the needs of adolescents.

The document that comes out of the Cairo Conference never calls for legalization of abortion where it is currently illegal. It is so important to hear that, and I share that with my friend from North Carolina. Our negotiations taking place at the International Conference will result in an international consensus document on all of the very serious issues of which I have spoken today. In addition, this document will—or hopefully will—be endorsed by 110 member nations of the United Nations.

I think it would surely be a shame, a real shame, if the United States could not resume its position of moral leadership and global efforts to reach responsible and sustainable population levels, and to back that leadership up with specific commitments to population planning activities—without seeing the debate slide into the numbing and vexing issue of abortion, where never a vote is changed on this floor, ever—never is a vote changed on the issue of abortion on this floor.

This amendment would prohibit the United States from playing a key role, its important key role, in this international Conference, and we simply cannot stand by and let this occur.

I urge my colleagues to assist me in that outcome.

I thank the Chair.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I say to the Senator from Wyoming, for whom I have the greatest affection, and he knows that; he has indicated the same with respect to me and I return it twofold to him because he has been so helpful to me through the years, even when we disagree.

I do not know how the Cairo Conference got into this debate. This amendment says nothing about the Cairo Conference.

I would ask the Senator, first of all, if he has read the amendment? And would he be good enough, if he has read it, to point out to me where even inferentially the Cairo Conference is mentioned?

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, there is no mention of the Cairo Conference. But the Cairo Conference will take place in September. I have read the amendment and it "recognizes that countries adhere to a diversity of cultural, religious, and legal traditions regarding the deliberate abortion of the human fetus. Therefore, none of the funds appropriated by this act may be used by any agency of the United States"—that is any agency of the United States; I assume that means anything we do in the international field, including all our activities with regard to AID, with regard to our mission to Cairo—will not "engage in any activity or effort to alter the laws or policies in effect in any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited; support any resolution or participate in any activity of a multilateral organization"—that is where we are going is the U.N. operation—"which seeks to alter such laws or policies in foreign countries; or permit any multilateral organization"—that is the United Nations—"or private organization to use U.S. Government funds."

Mr. HELMS. If the Senator will permit me, would you explain——

The PRESIDING OFFICER. Does the Senator from Wyoming yield to the Senator from North Carolina?

Mr. HELMS. I would like to know how it ties into the Cairo Conference.

Mr. SIMPSON. I do yield to my friend from North Carolina.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. I see that the leader of the delegation to the Cairo Conference—or one of the participants, it is a bipartisan delegation—is here on the floor. He has been much more active in this than I.

My simple reason for participating in the beginning, and I do think this does impact—I am going to yield to my friend from Massachusetts——

Mr. HELMS. You cannot yield because I have the floor, is that correct?

Mr. SIMPSON. Then I shall not yield. It is not my opportunity to yield.

Did the Senator have a further question?

Mr. HELMS. Yes, I do. How does the Senator, even if he infers something that is not even implied in the amendment—how does he assume it is going to prevent our participation in the Cairo Conference? When is the Cairo Conference?

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. The Cairo Conference is in September. The dates I believe are——

Mr. HELMS. The third of September?

Mr. SIMPSON. Yes, this September.

Mr. HELMS. This bill is effective for the spending of the taxpayers' money beginning when?

Mr. SIMPSON. Mr. President, the purpose of the amendment of Senator HELMS is to prohibit U.S. Government intervention with respect to abortion laws or policies in foreign countries. This was the Mexico City proposal, which I thought was very restrictive and strained. Now this administration has chosen to proceed in a different way. I think it is an important way.

All I am doing is looking at the amendment. I am using the term "Cairo Conference" because that is the next issue that will come before this country in any significant way with regard to dealing with population and family planning and the future of children and discussion of women and legalization of abortion and not allowing unsafe, illegal abortions. And all of this has to do with that. I do not see how it could be said that this would escape what we are going to be talking about in Cairo.

Mr. HELMS. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. HELMS. I thank the Chair. I would like to differ with my friend from Wyoming, because he is my friend and we work together so often. But let me say to him that part (b)(3) of the amendment is not like President Reagan's Mexico City policy—not at all.

Mexico City said that an organization could not use any funds, no matter where those funds came from, to promote abortion. Therefore, if an organization spent 1 dime raised from private sources to promote abortion, it was ineligible to receive funds provided by the U.S. Government.

This amendment pending says nothing of the sort. Part (b)(3) of the pending amendment says that funds provided by the U.S. Government cannot be used to lobby countries to change their abortion laws based on their religious principles, based on whatever. We have no right to do that.

The amendment allows organizations to do whatever they please, even if they receive U.S. funds. The language of the amendment simply prohibits an organization from using U.S. funds to lobby for abortion.

Mr. KERRY. Will the Senator yield for a question?

Mr. HELMS. No, no, not yet. Not yet. I say that respectfully.

Furthermore, the funds involved in this amendment do not begin to flow until October 1 of this year. And the Cairo Conference is in early September.

This amendment does not mention the Cairo Conference. So I think that some of the opponents of the amendment—and I say this as respectfully as I can—sort of kneejerk whenever one of us who believes in prolife gets up, that they have to oppose an amendment without even reading it or knowing what it says, let alone what it implies. I regret that.

We cannot discuss dispassionately this business of the deliberate destruction of millions of innocent human lives. That goes beyond any friendship, certainly that I have.

Certainly it bothers me. It worries me. And I cannot countenance the suggestion that trying to do the minimum, that is to prevent the U.S. Government from using taxpayer funds to lobby other countries one way or another on the abortion question—that is all the amendment does, that is all the amendment says. It does not mention the Cairo Conference.

Mr. KERRY. Will the Senator yield for a question?

Mr. HELMS. I am going to yield the floor. You can have at me.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I would like to comment on the observations of my friend from North Carolina. First of all, I do not observe any knees jerking over here. I do not think this is a reaction that is not in keeping with what this amendment does. I am not sure the Senator from North Carolina intends this amendment to do what it does. I would say to him respectfully, it may well be that the language in his amendment is more overreaching than perhaps the Senator intends.

Let me say respectfully to the Senator from North Carolina, Mr. President, that, for example, in paragraph (b)(2) of this amendment there is a policy statement, not an expenditure. And a policy statement takes effect upon enactment. So, in effect, upon enactment this amendment seeks to say that the United States is not able "to support any resolution or participate in any activity of a multilateral organization which seeks to alter such laws or policies in foreign countries."

I know my friend from North Carolina does not intend to say that the United States could not go to the Cairo conference and argue against unsafe abortions. I know my friend from North Carolina does not intend to say that the United States should not be taking efforts to prevent abortions. And there is nothing that better prevents abortions than offering women alternative choices which are part of the voluntary family planning practices of the United States.

The language that the Senator offers in his amendment would, in fact, prohibit us from doing that because it says you cannot do anything to alter a law, even if you were trying to alter the law to the positive effect of the Senator from North Carolina.

I would say when you measure this amendment against the larger objectives, not only in Cairo but in the U.S. policy, I do not think the U.S. Senate wants to do this.

Population is a significant issue for foreign policy and the United States has a responsibility to fully participate in these international debates. Rapid population growth is closely linked with poverty and environmental degradation. The population of the world has gone from 2 to 5.7 billion during the course of this century. Unfortunately, this trend is expected to continue. The great issue facing us when we go to International Conference on Population and Development [ICPD] in Cairo this September is whether or not we can develop strategies to level growth to 11 billion and not have it explode to 20 billion.

The President of the United States has said very clearly this conference is not about abortion, nor is U.S. policy about abortion. In fact, the President said very clearly that he is seeking to make sure that abortion is legal, safe, and rare.

I cannot imagine that the Senator does not want to permit the United States to engage in a policy that reaches out to people to empower them to be able to make abortion more rare; 173 of the 190 countries have some form of legalized abortion today; and many if not all of those 173 countries have abortions that are very unsafe. Some are so unsafe that the purpose of the U.S. delegation is to try to save lives.

But the Senator from North Carolina, in his amendment, just broadly, sweepingly says "you cannot support any resolution or participate in any activity of a multilateral organization (that is, the United Nations) which seeks to alter such laws or policies in foreign countries."

So, among other activities, we would be prohibited from going to Cairo to attempt to change the policy of a country, other than coercive abortion, which this amendment allows. But there are other issues in addition to coercive abortion; for example, unsafe abortion practices which must be dealt with. The World Health Organization estimates that over 150,000 deaths and injuries to women each year are a direct result of unsafe abortion practices. We would not be allowed to talk about this critical health issue under the amendment of the Senator from North Carolina.

This amendment would be a formal statutory codification of the abdication of U.S. responsibility. It would also be a prohibition on our involvement in this activity as a matter of policy, whether or not American funds were expended. Therefore, Mr. President, I respectfully suggest that I cannot imagine why the Members of the Senate would want to ratify this amendment.

Furthermore, the Senator from North Carolina should be fully aware that the United States' policy does not—in any way—attempt to dictate to other countries on the issue of abortion. In fact, President Clinton, in a speech he delivered just 2 weeks ago reiterated his administration's policy, and I quote:

> Contrary to some assertions, we do not support abortion as a method of family planning. We respect, however, the diversity of national laws, except we do oppose coercion wherever it exists. Our own policy in the United States is that this should be a matter of personal choice, not public dictation and, as I have said many times, abortion should be safe and legal and rare. In other countries where it does exist, we believe safety is an important issue * * * we also believe that providing women with the means to prevent unwanted pregnancy will do more than anything else to reduce abortion.

Under the amendment of the Senator from North Carolina, regretfully, we would not be able to pursue that policy of the President of the United States.

In addition to participation in the U.N.-sponsored ICPD, this amendment would prohibit U.S. endorsement of international agreements that promote safe abortion services and could prohibit research and educational programs focused on the incidence and health consequences of unsafe abortion by any organization, such as the World Health Organization, U.N. Population Fund or the International Planned Parenthood Federation. So the scope of this amendment goes far beyond the upcoming Cairo Conference.

The effect of this amendment is that we would not be able to save lives. We would not be able to prevent unwanted pregnancies, and I think it would have a contrary effect to the very thing that the Senator from North Carolina is trying to set out to do.

It is imperative that the United States be a leader in the population debate. As President Clinton has stated, the overriding objective of his administration and of its participation at the ICPD meeting in Cairo is to reduce the incidence of unwanted pregnancies. We cannot achieve this goal with this amendment and I urge my colleagues to oppose it.

Several Senators addressed the floor.

The PRESIDING OFFICER (Mr. CAMPBELL). Does the Senator yield the floor?

Mr. KERRY. I yield the floor.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I will yield in a moment to my friend from Maryland.

I think that was a very excellent review of that, but I would ask my friend from North Carolina—because he does care, he is a caring person on these issues and he talks of millions of human babies—but now we are at a point in the world's history where there will be millions of human babies. If we do nothing, they will simply die. They will die of starvation; they will die of dehydration; they will die of disease because there is no way this Earth, this planet home of ours, can sustain the growth that is coming. That is who will die. They will die first. They are the babies and those who are not able to sustain themselves, and that is a very serious issue.

I respect my friend from North Carolina and know what he is trying to do. But even if it does not take effect until October, after October, we are all done if this amendment is adopted because there are no funds to use after October. And that, I am sure, was not the intent. If we are going to get a good start in September, we do not want to see the funds gone in October.

I thank the Chair.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I would like to ask the Senator from North Carolina a question, if I might, if he would consider adding language that would clearly state that this does not apply to funds for the Cairo Conference or, I would suggest, any other followup conferences?

I think the Senator from Massachusetts and I think the Senator from North Carolina himself would believe that it is important for us to participate for the very reasons that we do need to be there, to express a sensitivity to the cultures and the concerns of other nations. And yet, population is an important issue, sustainable development, children in the African countries, the Third World countries where population is such a major problem.

I personally feel that we need to be there at the table in a constructive way, recognizing that we cannot nor should we force other countries into positions with which they would have trouble. But we need to discuss them and be cognizant of those problems.

I myself have some real difficulties with language that was part of the International Women's Health Conference in Rio de Janeiro in January 1994 in preparation for the Cairo Conference. I have some problems with the language that was expressed in this.

But I also believe very strongly that we need to be part of the Cairo Conference. I wonder if the Senator would be willing to look at some language that would clarify our participation.

Mr. HELMS. Will the Senator yield?

Mrs. KASSEBAUM. I will be happy to yield.

Mr. HELMS. That is the easiest question I received all day. Of course, I have stood here and said a dozen times it does not apply to the Cairo Conference. To answer your question specifically, I say to the distinguished Senator from Kansas, certainly I will be glad to accept any language that she may wish to draft in that regard.

Now as far as going into the future, I think sufficient unto the day the evil thereof. I would rather leave that alone. I did not introduce the Cairo Conference. I did not even imply it in the amendment. But to answer, again, the Senator's question, certainly I will accept that language as a modification. It will require unanimous consent, of course.

Mrs. KASSEBAUM. Mr. President, I will work on some language and work with others who are concerned about this, because I think there would be a question, even though it might not have been intended. And maybe if we could just clarify that, that would be useful.

Mr. HELMS. I thank the Senator. I thank her very much.

Mrs. KASSEBAUM. I thank the Senator from North Carolina. I yield the floor.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland [Ms. MIKULSKI] is recognized.

Ms. MIKULSKI. Mr. President, I rise today in opposition to the Helms amendment. I believe there is much that the Senator from North Carolina and I would agree on. I believe we would agree that neither of us would support involuntary sterilizations; neither of us would support coercive abortions. However, I believe that the amendment, as is currently drafted, would prevent the United States of America from fully participating in the International Conference on Population and Development in Cairo. It would weaken the United States as we seek to provide world leadership on population issues and also women's health issues. And I believe it would result in untold suffering for hundreds of thousands of men, women, and children worldwide.

The Helms amendment does have the effect of preventing the United States from endorsing the world consensus document to be negotiated and ratified in Cairo in September by most of the countries at this world Conference.

The draft document addresses many issues. It addresses many development issues as well as population concerns. It does include a call for the elimination of all deaths associated with unsafe abortions.

Some opponents of abortion believe that calling for safe motherhood initiatives and a reduced level of unsafe abortions is the same as altering laws or policies involving abortion. This is a shortsighted and flawed evaluation of what the Cairo Conference is all about.

If the Helms amendment is adopted, it will prevent our Government from sending a delegation to the Cairo Conference or participating in diplomatic negotiations in advance of the Conference, or afterward.

Mr. President, this would be a terrible loss for women and children in developing countries who run the risk, first of all, of going to unsafe and unsanitary conditions in health facilities.

This is about public health initiatives.

For years, the United Nations, with our country's support, has sought to improve global health standards, including the reduction in hazardous abortion practices. The Cairo Conference is not an effort to promote a prochoice agenda. The Conference is an opportunity for the nations of the world to address and seek solutions to the wide range of common problems concerning population and development, issues such as children's survival; access to family planning; women's education; the needs of adolescents; the improvement of the status of women worldwide, because we know as the status of women improves and the legal status of women is ratified, the birth rate goes down; the encouragement also of responsible sexual behavior; the strengthening of families, as well as issues related to migration and environmental degradation.

The supporters of the Helms amendment would have us believe the Cairo Conference is to force countries which do not permit abortion because of their cultural, religious, or legal traditions to change their laws.

This just is not so. The Cairo Conference document currently states that all population and development policies are to be formulated and implemented as the sovereign responsibility of each country. We will continue to acknowledge the sovereignty of nations.

Nothing about the Cairo Conference will alter the sovereignty of nations to make their own laws based on the economic, social, cultural and political conditions in their country.

Supporters of the Helms amendment claim that the United States will lobby to forward a prochoice agenda, and to pressure countries to liberalize their abortion laws.

The distinguished Senator from Massachusetts said what the President's position was before the National Academy of Sciences:

> We do not support abortion as a method of family planning. We respect the diversity of national laws, except we do oppose coercion wherever it exists.

That is what the President says, and I support what the President says.

I do, however, oppose the Helms amendment because it keeps the United States from exerting its leadership to alleviate human suffering.

Population in the world, in our lifetime, has nearly tripled. We are seeing with increasing frequency the link between overpopulation, poverty, and environmental degradation.

Five hundred thousand women die each year from pregnancy-related causes. Many suffer from acute or chronic complications related to pregnancy-related complications.

Why? Because abortions in many countries are illegal and are done in filthy, dirty circumstances. And if the Helms amendment is passed, the United States will be effectively barred from participating in seeking solutions to these pressing problems. It will also be prohibited from contributing constructively to the deliberations leading to up to Cairo, and after Cairo.

So I urge my colleagues to join me in defeating the Helms amendment, an amendment the purpose of which is to hinder the participation of the United States in this important conference. I hope that when we ultimately vote, the amendment will be defeated.

Mr. President, I yield the floor.

Mr. President, I also note the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk called the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I have discussed this with the distinguished Senator from North Carolina and the distinguished Senator from Kentucky.

I ask unanimous consent that we vote on or in relation to the pending Helms amendment at 11 a.m. tomorrow.

The PRESIDING OFFICER. Is there an objection? The Chair hears none, and it is so ordered.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. LEAHY. Mr. President, I now ask there be a period of morning business with Senators recognized for a period not to exceed 10 minutes each.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPEAKING FEES AND JOURNALISTS II

Mr. GRASSLEY. Mr. President, last month I spoke on this floor about the issue of some journalists taking speaking fees for up to $30,000 a talk. This practice has become more and more common among the media elites in Washington and New York—the power centers of our country.

Indeed, I am told by industry officials that some of the more noted journalists supplement their income by hundreds of thousands of dollars a year.

Let me say that again, Mr. President. Because this shows the dimensions and magnitude of the issue.

According to media officials, some of the more noted journalists supplement their incomes by hundreds of thousands of dollars a year. They do this by speaking to companies and trade associations. And that is above and beyond their normal salaries, which sometimes range from a few hundred thousand dollars, to a few million.

For speaking fees alone, Mr. President, that is more than the salary of the President of the United States.

And despite the exorbitant numbers, there is no disclosure. Set aside the issue of taking fees for a moment. There is no reasonable interpretation for why—with numbers this high—there is no disclosure.

The public has a right to know who in the world would pay $30,000 for a 20-minute speech. Or $20,000. Or even $15,000.

This state of affairs is what led at least one senior network executive—Senior Vice President Richard C. Wald of ABC News—to remark, "A few—of our colleagues, either because of frequency or the size of their fees, in fact have a second, high-income job."

The issue raises questions concerning the media's credibility. The questions are raised within the journalism community itself. If a reporter accepts money from an industry that he or she covers, how credible should we view their reporting?

The public has a right to know if this question applies to specific journalists who bring them the news. The problem is, because there is no disclosure, they cannot get an answer. They cannot find out which interests are paying how much money to which reporters.

The relevant question is, Who would pay such exorbitant sums? And to whom? And why?

Mr. President, I spoke about this issue on this floor on June 29. I discussed the issue as I see it, and as seen by many in the journalism profession.

I also discussed how this issue parallels that of honoraria taken by Members of Congress. The numbers we are talking about, here, have the potential to make criticism by the media of honoraria and PAC money to Members of Congress ring hollow.

But I raise the concern in precisely the same context as that of us politicians—that is, how the public perceives us as a profession.

And that public perception, as I said in my June 29 statement, is pretty low. Journalists and politicians are right down there together with used car salesmen, in the eyes of the American people.

The result is that people have become cynical toward their Government, as well as those in the news media who cover their Government.

Americans want those who bring them the news to be objective. They want them to be effective watchdogs of the governing process.

Suspicions about special interests, buying influence with, and access to, big media stars, diminish the media's effectiveness as watchdogs, and increase the public's cynicism.

The first step to effectively counter the suspicion is to disclose.

Now, I know the vast majority of journalists do not take speaking fees. But the ones who do reach the largest audiences. They are generally the TV elites and bureau chiefs of the print media. And so the issue is one of enormous import.

I have not suggested that journalists should not take fees. Far be it from me—a Member of the Congress of the United States—to suggest someone—anyone—should not take speaking fees.

But at a minimum, journalists should disclose their fees—just like Members of Congress had to when we received speaking fees. We had to disclose who provided how much and when. Journalists should disclose the same information, in my view, because the public is entitled to know.

Members of Congress have struggled with how to restore credibility with the public. One step was to severely curtail our speaking fees, or honoraria. It was a response in large part due to prodding journalists. They pointed out how the taking of honoraria by Members of Congress can be viewed by the public as engaging in possible conflicts of interest.

We in Congress resisted that proposition. We said that honoraria from outside interests does not influence how we act. So why should we not take it, we asked?

Eventually, Congress realized that it was not a matter of integrity. It was a matter of perception. And it was members of the press corps who usually drove home that point.

And so Congress finally reformed its rules governing speaking fees. Now, we cannot accept fees unless we give them to charity.

Should not the same media, which helped make Congress aware of its perception problems with the public, now make themselves aware of its own perception problems?

If so, it should start with the same minimum standard that Congress had—disclosure. Beyond that, each news organization should set its own policy for speaking fees. That should properly be the business of each company.

In my June 29 speech, I quoted extensively from the May issue of the American Journalism Review. The article notes that many of the journalists queried said their speaking fees are none of the public's business.

Mr. President, I beg to differ. It is the public's business. The public has a right to know who in the world thinks journalists are worth up to $30,000 for one 20-minute speech.

This is not to question the level of talent of these media elites. This is not in dispute. Most agree—they are charming, witty, and extremely talented.

Rather, the real issue is where the money is coming from. Who in the world would value 20 minutes of time to the tune of $20,000 and $30,000? And most important—why?

Is it because of their great ability as entertainers? Is it because of their great ability as purveyors of information?

This is what the public has a right to know.

During the past month, the media has covered extensively the tragic O.J. Simpson case. It has been reported that Mr. Simpson has hired the best defense lawyers money can buy.

These defense attorneys make upward of $600 an hour. That is top dollar for legal advice. Mr. Clinton's lawyers are even said to command about $450 an hour. This is the best legal help in America.

Yet, that is nothing compared to $30,000 for a 20-minute speech.

Much has been made, too, of the dizzying salaries these days of major league baseball players. Let us take a look.

The average salary for a major leaguer is $1.2 million a year. He plays 162 games per year.

At $1.2 million, that ballplayer makes $7,407.35 per game. And since the average baseball game is about 3 hours, that is $2,469.12 per hour.

That's a far cry from $30,000 per speech; or, $20,000 per speech; or even $15,000 or $10,000.

The average American worker makes just over $21,000 a year. Imagine what he or she thinks when a journalist gets that amount of money for just one speech.

Is it not reasonable to expect he or she would want to know who is providing that kind of money, and why? They may, or may not, conclude there is influencing or access-buying with those kinds of numbers. But at least that worker can make an informed decision.

Even a Member of Congress, roundly criticized by the media for taking speaking fees, was limited to just $2,000 a speech. And there were legal limits on the totals, unlike for journalists.

Remember, these speaking fees are in addition to the hundreds of thousands or millions of dollars these journalists already make for their salaries.

Since my statement of June 29, there have been some developments on this issue. Since my colleagues have been out of town, I thought I would bring them up to date.

In my June statement, Mr. President, you will remember that I mentioned ABC News has a new policy regarding speaking fees. That new policy bans fees for its on-camera reporters from trade associations and for-profit companies.

A couple days later—on July 1—an article appeared in the Washington Post that quoted from an ABC News memorandum that outlined its new policy. That memo was written by the aforementioned Mr. Wald. In it, according to the Post article, Mr. Wald says the following:

> It isn't just how big a fee is, it is also who gives it and what it might imply.

The memo goes on to say:

> Their special interest is obvious, and we have to guard against it.

And so on the basis of that judgment, ABC tells its on-camera reporters, again according to the memo, "You may not accept a fee from a trade association or from a for-profit business."

On July 7, another story appeared about speaking fees in a trade journal called Communications Daily. It added that:

> ABC News has put [an] end to its star correspondents' receiving speakers' fees from various groups, action that reportedly isn't sitting too well with correspondents.

The daily also reports, of the other major networks, the following:

> NBC News said it was revamping its conflict and ethics guidelines and would "directly address the issue of speaking fees." CBS News has conflict and ethic guidelines with no blanket rule prohibiting payment for speeches, while CNN permits fees on a case-by-case basis.

On July 9, the Washington Post advanced the ABC story. It appears that a group of media stars at ABC wrote a letter of protest to Mr. Wald about the new policy.

According to the Post, those signing the protest letter include David Brinkley, Sam Donaldson, Cokie Roberts, Jeff Greenfield, Brit Hume, and Ann Compton.

The Post story quotes one ABC insider as calling the practice of accepting fees "outrageous." For them to look like they are compromising themselves takes away the value of what they do as professionals."

While the article makes clear that the purpose of the letter is to protest the new policy, at least one of the signatories appears to be calling for tougher measures.

Mr. Greenfield was asked to comment on the letter. According to the Post, Mr. Greenfield said, "The whole idea of avoiding conflicts of interest is exactly right. When you start trying to figure out what is and what isn't, it gets really tricky. You can speak to non-profit groups—they don't have a legislative agenda," he asks? "They lobby all the time. We're just trying to get a policy that makes sense."

Mr. President, as journalists continue to come to grips with this issue, it seems to me that the necessary first step—one that would be seen as a positive step forward—is disclosure.

Last Sunday, the matter of speaking fees for journalists was discussed on CNN's "Reliable Sources," a roundtable forum dealing with media ethics and issues. After much discussion, the question of disclosure was brought up by former Wall Street Journal correspondent Ellen Hume.

She said: "I also have always been willing to disclose that, and I think there should be a mechanism for disclosing these speaking fees." Other reporters suggest the same remedy. It is an appropriate first step, in my view.

Mr. President, this is an issue involving big money from special interests. It is an issue of perception and credibility. And it is an issue of reluctance to disclose relevant data to the public that is in their interest.

The motto of any responsible politician and journalist should be, "Mold doesn't grow where the sun shines in."

When we get away from that principle, we get in trouble. Disclosure would provide the requisite sunshine for getting back on the right course.

I yield the floor.

TRIBUTE TO CHARLES C. DERAMUS

Mr. HEFLIN. Mr. President, the Council for Rural Housing and Development has selected Charles C. DeRamus as the distinguished recipient of its Harry L. Tomlinson Award in recognition of his years of service to the Farmers Home Administration of the U.S. Department of Agriculture.

Charles DeRamus, who is currently the Rural Housing Chief for the State of Alabama, joined the Farmers Home Administration as an Assistant County Supervisor. Under his competent and energetic leadership, the Alabama State office reorganized and centralized its loan processing services, resulting in increased efficiency and participant satisfaction. Charles DeRamus oversaw the development of a system which other States now emulate as a model for reform.

High personal standards of decency, concern for others, and involvement in civic affairs distinguish Charles DeRamus as an exemplary State son. Following the 1992 election of President Clinton, he served as Acting State Director for the State of Alabama. Furthermore, his expertise as a hunter and renown as an author enhance the image of Alabama among all sportsmen.

I do not stand alone in thanking Mr. DeRamus for his lifetime of service to the State of Alabama. Those who benefit from his hard work on the problem of housing in our State thank him as well. I am proud to commend Charles DeRamus for this deserved recognition of his contribution to Alabama's future.

TRIBUTE TO WILLIAM H. LEWIS, SR.

Mr. HEFLIN. Mr. President, on June 12, Prof. William H. Lewis, Sr., passed away in Huntsville at the age of 91. Professor Lewis' lifelong commitment to education and the people of his community earned him the title "Legend of Burrell Slater School."

William Lewis was born in Greensboro, AL, on March 31, 1903. He attended Morehouse College in Atlanta, the University of Cincinnati, and Fisk University in Nashville. He began his teaching career at Snow Hill Institute in Alabama. In 1928, Professor Lewis moved to Florence, AL, where he served as principal of Burrell-Slater School for 37 years. He also held positions as teacher, band director, and football coach. His teaching career spanned 36 years at several different schools.

Professor Lewis was not only a legend in his own schools, he was a pioneer and role model for all black youth. He organized the first Boy Scout Troop for black boys and the first black youth band. He was also a founder of the North Alabama High School Athletic Conference, encompassing 26 schools across north Alabama.

During the course of his long and distinguished career, Professor Lewis received more than 155 plaques and citations for his participation in school, church, and civic affairs. He was one of the first blacks to join the Kiwanis Club. His generous contributions to such organizations as Meals on Wheels, Omega Psi Phi Fraternity, the New Florence Masonic Lodge, United Way, and the Tennessee Valley Community Church reveal his spirit of giving.

A long-time friend said after Lewis' death that he never hesitated to contribute wherever and whenever he was called upon, and this sentiment was echoed among several friends and colleagues. Indeed, his graciousness, personal discipline, and humble spirit had a great impact on his students, who will carry his legacy with them into the future. He will be remembered for years to come not only as the "Legend of Burrell-Slater," but also as an inspiration to all Alabamians.

TRIBUTE TO THE HONORABLE JAMES RUSSELL McELROY

Mr. HEFLIN. Mr. President, Judge James Russell McElroy of Birmingham, AL, died on June 28 after 50 years of service on the bench and a lifetime of commitment to civic affairs.

Judge McElroy was born October 1, 1901, in Sumpter County and grew up in the small communities of York and Cuba. After finishing high school, he worked at various railroad jobs until he enrolled in law school. He was admitted to the Alabama Bar in 1924 and was in private practice and a part-time assistant city attorney of Birmingham until appointed a circuit court judge by Gov. Bibb Graves in 1927, when he was only 25. He served continuously as an active circuit court judge until his retirement in 1977 at 75. His long tenure as a judge was recognized in the "Guiness Book of World Records" 1979 edition as "Most Durable Judge" for serving almost half a century on the bench.

Judge McElroy was the author of "The Law of Evidence in Alabama," now known as "McElroy's Alabama Evidence," which is among the most widely used legal treatises in the State. He was also coauthor of "Alabama Annotations to Restatement of Contracts" and associate editor of the Alabama Lawyer for 18 years.

Judge McElroy was a part-time faculty member of the Birmingham School of Law, the University of Alabama School of Law, and the Cumberland School of Law, and was a lecturer on medical jurisprudence at the Medical College of Alabama. Endowed professorships were established in his honor at Cumberland and the University of Alabama, where a scholarship was also established in his honor.

Judge McElroy was a past member and served on the board of directors of several organizations, including the Y.M.C.A., the Junior Chamber of Commerce, the Birmingham Area Educational Television Association, and the Jefferson County Sportsmen Association. He was chairman of the Jefferson County council of United Service Organization [USO] and a charter member, coorganizer, and past president of the Alabama Circuit Judges Association. He received the University of Alabama Law School Dean's Notable Service Award and the Birmingham Bar Association's Law and Justice Award in 1972. He was a member of Kappa Alpha, Phi Alpha Delta, Omicron Delta Kappa, Farrah Order of Jurisprudence, and Cumberland Order of Jurisprudence. He was a Mason, Shriner, and member of the York Rite.

Judge McElroy will be sorely missed by the many, many people who were fortunate enough to have known him over the many years of his life. His long legacy of devoted service to the State of Alabama, and the legal community in particular, will be remembered with respect for years to come, and he will long be admired for his dedication and leadership. I extend my sincerest condolences to his family.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, as of the close of business on Tuesday, July 12, the Federal debt stood at $4,621,828,111,034.37. This means that on a per capita basis, every man, woman, and child in America owes $17,727.78 as his or her share of that debt.

TRIBUTE TO ROBERT L. VIERA

Mr. LEVIN. Mr. President, I rise today to honor and pay tribute to Robert L. Viera, of Michigan, who has worked for the Saginaw County Community Action Committee [CAC] for the last 25 years. In 1970, a time of transition for the CAC, Mr. Viera assumed the role of executive director. Since 1970, Mr. Viera has turned the CAC into a powerhouse community organization based on his tenet of "Education as a key link in breaking the cycle of poverty."

Mr. Viera's first goal for the committee was the elimination of poverty. To achieve this goal he mobilized resources in order to create institutional change. Mr. Viera described his philosophy that became the driving force of the organization as "changing tax consumers into tax contributors". In order to support his philosophy he instituted over 20 community programs, from dental care to jail rehabilitation.

Mr. Viera is not only a community warrior, he is a community savior. His selfless efforts to alleviate poverty have brought hope through education. A scholarship fund established in his name will serve as a living gift to the community that has benefited so greatly from having him as their leader.

The Saginaw County Community Action Committee and a cross-section of the community joined together on June 24, 1994, to celebrate 25 years of Mr. Robert L. Viera's accomplishments in the community. Although no longer the executive director of the CAC, Mr. Viera continues to work for the Saginaw County Child Development Center. His altruism has helped the Saginaw community immeasurably, making him both a hero and a role model.

UKRAINE'S PRESIDENTIAL ELECTIONS

Mr. DECONCINI. Mr. President, In Sunday's Presidential elections in Ukraine, former Prime Minister Leonid Kuchma emerged victorious over incumbent President Leonid Kravchuk, winning 51.5 percent of the vote to Kravchuk's 45.5 percent. Campaigning on the theme of strengthening economic ties with Russia and blaming President Kravchuk for Ukraine's serious economic ills, Kuchma drew largely on the support of the industrialized East and South.

President Kuchma's principal policy challenge will be to launch meaningful economic reform. President Kravchuk, for all his success in the international arena and in maintaining domestic stability, seemed unwilling to exert the leadership needed to implement real reform. President Kuchma will have the difficult job of working with the Cabinet of Ministers, Parliament, and regional and local officials—where reformers have made gains in recent elections—to turn this dire situation around. In this regard, Mr. Kuchma may face opposition in Parliament. Whereas the Communists and their allies—the largest bloc of deputies—appear to back his call for closer economic ties with Russia, they may block economic reform, much as the previous Parliament did when he was Prime Minister in 1992. There is a danger of continued gridlock unless Ukraine moves forward on a new constitution that more clearly defines executive and legislative powers.

The other major political challenge for the new President will be to bridge the gap between Eastern Ukraine and more nationalist Western Ukraine, which voted heavily for President Kravchuk, fearing that Kuchma would move Ukraine back into Russia's orbit. To his credit, the President-elect immediately called for political unity and articulated a willingness to overcome the East-West split. Mr. Kuchma will need to convince many of his countrymen that closer economic ties to Russia will not mean a loss of Ukraine's sovereignty or a turning away from the West.

Mr. President, last weekend, acting on a U.S. initiative, the leaders of the G–7 promised up to $4 billion in finance from the IMF to Ukraine, contingent on progress on economic reform. As Chairman of the Helsinki Commission, I have had a longstanding interest in Ukraine. I am very encouraged that the West, especially the United States, is increasingly acknowledging Ukraine's importance and is beginning to back it with concrete support. We need to sustain and nurture this growing interest in Ukraine and develop worthwhile assistance programs there, as an independent, Democratic Ukraine is crucial to the stability and security of Europe. But the key will be what happens in Ukraine. The country's new leadership has the opportunity to consolidate independence and develop the political and economic bases for democracy and prosperity. No amount of foreign aid or goodwill can be a substitute for the commitment to freedom of Ukraine's people and political maturity of its leadership.

BUDGET SCOREKEEPING REPORT

Mr. SASSER. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through July 1, 1994. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget—House Concurrent Resolution 287, show that current level spending is below the budget resolution by $4.9 billion in budget authority and $1.1 billion in outlays. Current level is $0.1 billion above the revenue floor in 1994 and below by $30.3 billion over the 5 years, 1994–98. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $311.7 billion, $1.1 billion below the maximum deficit amount for 1994 of $312.8 billion.

Since the last report, dated June 27, 1994, there has been no action that affects the current level of budget authority, outlays, or revenues.

Mr. President, I ask that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 11, 1994.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the 1994 budget and is current through July 1, 1994. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 64). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated June 27, 1994, there has been no action that affects the current level of budget authority, outlays, or revenues.

Sincerely,
ROBERT D. REISCHAUER.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE

[Fiscal Year 1994, 103d Congress, 2d Session as of Close of Business July 1, 1994; in billions of dollars]

	Budget resolution (H. Con. Res. 64) [1]	Current level [2]	Current level over/under resolution
ON-BUDGET			
Budget Authority	1,223.2	1,218.4	−4.9
Outlays	1,218.1	1,217.1	−1.1
Revenues:			
1994	905.3	905.4	0.1
1994–98	5,153.1	5,122.8	−30.3
Maximum Deficit Amount	312.8	311.7	−1.1
Debt Subject to Limit	4,731.9	4,537.3	−194.6
OFF-BUDGET			
Social Security Outlays:			
1994	274.8	274.8	(*)
1994–98	1,486.5	1,486.5	(*)
Social Security Revenues:			
1994	336.3	335.2	−1.1
1994–98	1,872.0	1,871.4	−0.6

[1] Reflects revised allocation under section 9(g) of H. Con. Res. 64 for the Deficit-Neutral reserve fund.

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

*Less than $50 million.

Note: Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE

[103d Congress, 2d Session, Senate Supporting Detail for Fiscal Year 1994 as of Close of Business July 1, 1994; in millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in Previous Sessions			
Revenues			905,429
Permanents and other spending legislation [1]	721,182	694,713	
Appropriation legislation	742,749	758,885	
Offsetting receipts	(237,226)	(237,226)	
Total previously enacted	1,226,705	1,216,372	905,429
Enacted this Session			
Emergency Supplemental Appropriations, FY 1994 (P.L. 103–211)	(2,286)	(248)	
Federal Workforce Restructuring Act (P.L. 103–226)	48	48	

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE—Continued

[103d Congress, 2d Session, Senate Supporting Detail for Fiscal Year 1994 as of Close of Business July 1, 1994; in millions of dollars]

	Budget authority	Outlays	Revenues
Offsetting receipts	(38)	(38)	
Housing and Community Development Act (P.L. 103–233)	(410)	(410)	
Extending Loan Ineligibility Exemption for Colleges (P.L. 103–235)	5	3	
Foreign Relations Authorization Act (P.L. 103–236)	(2)	(2)	
Marine Mammal Protection Act Amendments (P.L. 103–238)		4	
Airport Improvement Program Temporary Assistance Act (P.L. 103–260)	(65)		
Total enacted this session	(2,748)	(643)	
Pending Signature			
Federal Housing Administration Supplemental (H.R. 4568)	(*)	(2)	
Entitlements and Mandatories			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted [2]	(5,562)	1,326	
Total Current Level [3] [4]	1,218,395	1,217,054	905,429
Total Budget Resolution	1,223,249	1,218,149	905,349
Amount remaining:			
Under Budget Resolution	4,854	1,095	
Over Budget Resolution			80

[1] Includes Budget Committee estimate of $2.4 billion in outlay savings for FCC spectrum license fees.

[2] Includes changes to baseline estimates of appropriated mandatories due to enactment of P.L. 103–66.

[3] In accordance with the Budget Enforcement Act, the total does not include $14,203 million in budget authority and $9,079 million in outlays in funding for emergencies that have been designated as such by the President and the Congress, and $757 million in budget authority and $291 million in outlays for emergencies that would be available only upon an official budget request from the President designating the entire amount as an emergency requirement.

[4] At the request of Budget Committee staff, current level does not include scoring of section 601 of P.L. 102–391.

*Less than $500 thousand.

Notes: Numbers in parentheses are negative. Detail may not add due to rounding.

TRIBUTE TO JACQUELINE KENNEDY ONASSIS

Mr. DODD. Mr. President, I rise today to pay tribute to Jacqueline Kennedy Onassis, a woman whose extraordinary journey through life recently came to an end. Like everyone, I was saddened by her passing, and my sincerest condolences go out to her family and friends.

In remembering Mrs. Onassis, many have focused on her grace and on her beauty. And to be sure, she was graceful, and she was beautiful. But to stop there in describing this woman is to sell her short. For the fact is that Jacqueline Kennedy Onassis was more than anything else a woman of character.

This was most starkly illuminated after the terrible tragedy of Dallas, when she stood along side Lyndon Johnson as he was sworn in as President. She put aside the shock and grief for long enough to fulfill her final, and perhaps most important, duty as First Lady: providing the Nation with an indispensable symbol of the peaceful transfer of power.

But we honor Mrs. Onassis's memory not because she was a former President's wife, but because she was a unique individual and an authentic American. She loved this country; she was proud of its culture; and she dedicated much of her life to spreading that pride among her fellow citizens.

She lent her talents to the cause of historical preservation, and Lafayette Square in Washington and New York's Grand Central Terminal stand today as monuments to her work, enduring gifts from her to the people of this Nation.

After a person has left us, the best test of her life is to ask the question, did she make a difference. Was the world a better place than it would have been had she not been born?

In the case of Jacqueline Kennedy Onassis, the answer to these questions is unquestionably "yes." In the lives of her children and grandchildren, in the lives of millions of Americans she touched, in the life of this Nation, Jacqueline Kennedy Onassis did make a tremendous difference, and it was a difference for the better.

She will be sorely missed, and she will be fondly remembered.

TRIBUTE TO JACQUELINE KENNEDY ONASSIS

Mr. SASSER. Mr. President, I join with my colleagues in paying tribute to former First Lady Jacqueline Kennedy Onassis.

Jacqueline Kennedy came to the White House in 1961 as the third youngest First Lady in American history. In three short years, her elegance and grace set a standard by which all future First Ladies have been judged.

She restored the White House and made it a national treasure. Under her guidance, sources of historic pieces of art and furniture were returned to the White House. She also made the White House a showcase for the arts—featuring the work of such world-renowned artists as Pablo Casals.

When developers threatened Lafayette Park, across from the White House, Mrs. Kennedy stepped in. Lafayette Park was saved and the historic setting of the White House was preserved.

Equally important, however, she made a secure and happy home for her family in the White House, giving her children the privacy and security that all children need.

It is difficult now to recreate the feeling of idealism of that time. It was as if a New American Age had dawned and anything was possible. That belief, and our own innocence, ended in one shattering moment.

Those of us who lived through those terrible days in November of 1963 will never forget the grace, and dignity, and courage Mrs. Kennedy displayed. She quite literally held our country together in its grief.

After President Kennedy's assassination, during her remarriage and her career in publishing, Jacqueline Kennedy Onassis guarded her privacy zealously. She continued her involvement and support for the arts and historic preservation. She worked to save such historic sites as New York's Grand Central Terminal. As a book editor, she continued her commitment to culture, editing books on the arts and history.

Throughout her life, Jacqueline Onassis never hesitated in saying that she considered raising her children to be the most important thing in her life. In the past few years we have seen just how successful she has been—raising her children to be responsible adults with a commitment to public service.

Although Jacqueline Kennedy Onassis has been taken from us too young, she has left us a legacy of grace and dignity and common sense. She graced our lives with her presence and we are the poorer for her passing.

RECLAIMING CHRISTIANITY: A CALL FOR TOLERANCE

Mr. HOLLINGS. Mr. President, poll after poll shows that our Nation is among the most religious in the Western world. We Americans are a people of faith. The Senate and House open their daily sessions with a solemn prayer. Every American coin and bill is stamped with the national motto: "In God we trust."

Likewise, we have a long and honored tradition of political activism by Americans of faith—citizens motivated by their religious beliefs to enter the political fray, to seek changes in our laws and in our society. This was the case with abolitionists in the decades prior to the Civil War. It was the case with those who committed themselves—who still commit themselves—to the struggle for civil rights. And it is the case today with many conservative Christians who seek to reinvigorate traditional American values.

I respect conservative Christians, however strongly I may disagree with them on particular issues. In an era of rising crime, widespread drug abuse, and soaring rates of illegitimacy, it is ridiculous to say that Christians should stick to their churches and not step forward as a positive influence in the political arena.

That said, I must also point out the danger of extremists in the midst of the conservative Christian community. These extremists—a small but highly visible minority—trade in a fundamentally un-Christian brand of bigotry, intolerance and hatred. They stoop to character assassination. They arrogantly claim that God is on their side and that their political opponents are in league with Satan.

Mr. President, in a July 8 editorial titled "Reclaiming Christianity," the Atlanta Constitution speaks out forcefully against these extremists. The editorial is a plea for tolerance—which is surely among the most honored of Christian virtues.

I rise to add my voice to that of the Atlanta Constitution. Let me state what ought to be obvious: That we can disagree without vilifying or demonizing our opponents; that God is not the exclusive property of any political or religious group; that there are millions of good Americans on the far right, on the far left and everywhere in between who have a profound and sincere faith in God.

Mr. President, I ask unanimous consent that the Constitution editorial, "Reclaiming Christianity," be printed in the RECORD.

[From the Atlanta Constitution, July 8, 1994]

RECLAIMING CHRISTIANITY

Jerry Falwell, Pat Robertson and others are trying to steal something that doesn't belong to them. They have hijacked and profaned the word "Christian," and it is time the term was reclaimed from their grasping hands and restored to its full, honorable meaning.

The word "Christian" should not be used to divide Americans one against the other. Nor should it be diminished to a description of a narrow political ideology. A Christian is someone who believes in Jesus Christ as the son of God, and, defined properly, the word applies to people holding a broad spectrum of political beliefs, from liberal to conservative. There is no such thing as a Christian political position.

Nonetheless, groups such as Robertson's Christian Coalition have attempted to steal the word and apply it only to themselves and their conservative political agenda. According to their definition, a Christian opposes abortion, gay rights and the Clinton health plan, and supports prayer in schools, school vouchers and the balanced-budget amendment. By implication, any deviation from that list is a deviation from biblical principles and the word of God.

So, while Jimmy Carter may think of himself as a born-again evangelical Christian, politically he is not "Christian." Bill Clinton is a Southern Baptist by upbringing and by belief, but he is not "Christian" in a political sense. In fact, Falwell, Robertson and others would deny the president is Christian in any sense, usurping for themselves God's authority to peer into the man's soul and judge him.

The arrogance of such an act is astounding but typical. Those who believe themselves to be the infallible interpreters of God's word, particularly as it applies to political issues, apparently feel little cause to feign humility. And the most troubling expression of their arrogance is the intolerance it breeds for the opinions of others.

Tolerance is born of the understanding that none of us is infallible. Christian tolerance is born of the understanding that while God and his message may be infallible, no one (except, in Catholic theology, the pope) is infallible in interpreting that message.

In a political setting, once a position is defined as God's position, compromise and debate become impossible. How is it possible to compromise God's position? It is not. And once God has spoken, what is there left to debate? Nothing. What once might have been a calm political discussion instead becomes a battle between believers and non-believers, in which compromise is ruled out and utter defeat or victory the only possible outcome.

That is not democracy. It's religious warfare.

Democracy requires that we enter the political arena allowing at least the tiny possibility that we could be wrong, and that the other side might have a point. That kernel of doubt allows us to respect other points of view. It allows us to compromise. Most important, it allows us to accept as legitimate decisions that we ourselves believe to be wrong.

Without the seed of doubt from which tolerance springs, we are left with the attitude expressed by the Christian Coalition, which dismissed the inauguration of Clinton as illegitimate and "a repudiation of our forefathers' covenant with God."

Such a sentiment is profoundly antidemocratic, and it demonstrates anew why our forefathers were so wary of mixing religion and government. They knew that a government influenced by religious beliefs is a good thing, but a government dictated by a religious belief is something else entirely.

IN MEMORY OF BERNARD H. "BARNEY" ERHART

Mr. MOYNIHAN. Mr. President, I rise today to recognize the passing of prominent western New York State politician, Bernard H. "Barney" Erhart on July 6, 1994.

In the July 7, 1994, edition of the Buffalo News, Bill Price wrote a fitting memorial to this dedicated family man and public servant. Mr. President, I ask at this time that the article be included in the RECORD:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Buffalo News, July 7, 1994]

BERNARD H. ERHART, DEAN OF WYOMING POLITICS, DIES

(By Bill Price)

SILVER SPRINGS.—Bernard H. "Barney" Erhart, considered the dean of Wyoming County politics, died Wednesday (July 6, 1994) in Wyoming County Community Hospital, Warsaw, after a long illness. He was 76.

He was supervisor for the Town of Gainesville for 30 years, retiring only last December. He was considered one of the longest-sitting town supervisors in the state.

Erhart also operated a real estate business, barber shop, Christmas tree farm and the Silver Springs Liquor Store, all in Silver Springs.

Born in Rochester, he moved to Wyoming County as a boy.

For several decades he gave free haircuts to patients in the Wyoming County Community Hospital and at area nursing homes and senior citizen facilities.

It was not uncommon for Erhart to deliver a bag of groceries to a needy family or elderly residents. Many families in need also received free Christmas trees from Erhart.

Among his many affiliations, Erhart was a member of the Silver Springs Fire Department, the former Silver Springs-Gainesville Kiwanis Club and the Bates-Courtney America Legion Post. He also was a member of St. Mary's Catholic Church.

Erhart retired from the Army in 1962 as a sergeant-major after a 23-year military career. He saw service during World War II, the Korean War and the Cuban missile crisis.

During his political career, Erhart was known for a friendly smile, hot cinnamon candies and the trademark greeting, "Hello Darling."

For years, Erhart routinely adjourned each session of the Wyoming County Board of Supervisors with a slam of his fist on his desk.

He was familiar with politicians at all levels, including presidents, governors and senators. His barber shop featured a "picture wall" of famous faces of politics from the 1960s through the '90s.

Those barbershop patrons getting their "ears lowered" sometimes would be surprised to see senatorial or congressional candidate seeking Erhart's support. One time, a youthful Robert F. Kennedy, then seeking the nomination for U.S. Senate from New York, showed up unexpectedly at his barbershop door.

From 1970 until his death he served as chairman of the Wyoming County Democratic Party.

A testimonial dinner last Aug. 1 attended by leaders on both sides of the political aisle honored Erhart for his many years of public service.

A longtime friend, former Wyoming County Judge John Conable, who was a Republican, called Erhart "the consummate politician."

"He always cared about his people and always wanted to know what was going on in Wyoming County and in the Town of Gainesville."

A portrait of Erhart and his wife, the former Frances Luzer, who died May 28, was presented to the Gainesville Town Library by members of the Gainesville Town Board in 1991.

Survivors include three daughters, Dr. Kathleen of Sausalito, Calif., Janet McQuade of Ontario, N.Y., and Elizabeth; a brother Lewis of Anchorage, Alaska; and two grandchildren.

A Mass of Christian Burial will be offered at 10 a.m. Saturday in St. Mary's Catholic Church, Church Street. Burial will be in the church cemetery.

IN HONOR OF THE PUBLIC HEALTH SERVICE ACT'S 50TH ANNIVERSARY

Mr. DURENBERGER. Mr. President, Tuesday, July 12, marks the 50th anniversary of the Public Health Service Act. In 1944, the Public Health Service [PHS] Act helped establish institutions that are dedicated to improving the health of the citizens of this Nation: The National Institutes of Health, the Centers for Disease Control and Prevention, and other agencies of the PHS. The 1944 law armed the PHS for a broader role—keeping Americans healthy.

PHS has built an excellent track record in a variety of areas to improve health. It rushes medical teams to earthquakes, floods, and other disasters. It supports birth control clinics and tracks and isolates such diseases as toxic shock syndrome. It identified AIDS. It led the world-wide drive that eliminated small pox. PHS research has garnered Nobel Prizes and has undertaken such watershed disease-prevention activities as the publication of the 1964 Surgeon General's Report on Smoking and Health and the 1988 mailing of Understanding AIDS to every household in America. At the same time, PHS helps the medically underserved by paying tuition for medical students who are willing to serve in isolated areas, and by supporting community and migrant health centers.

The 50 years of the modern PHS have seen great progress: Cardiovascular deaths have declined dramatically; diabetes mellitus is under better control; many cases of childhood leukemia are now curable; polio has not been seen in the United States since 1979; and researchers are on the verge of genetic breakthroughs and diagnostic and therapeutic revolutions.

In spite of that progress, individuals growing up today face substantial challenges in their everyday lives that contribute to their health and medical care needs. We are facing violence, drug abuse, accidents, infant mortality, and AIDS, among others. Individuals are not seeking prenatal and preventive care because they are faced with everyday problems of food, safety, and shelter. Until we address the underlying factors that contribute to the health of our citizens we will not be able to resolve our escalating medical care costs.

Prevention is critical not just because it is cheaper to prevent than to cure—prevention is better for people. The issue we must tackle as we reform our health care delivery system is how to create a system that builds in incentives for healthy personal behavior. I believe that preventive care cannot simply be mandated, we need to institutionalize a process to facilitate and promote change, specifically behavioral change.

In spite of advances in health care technology, the health of Americans is eroding due to poor personal choices. It has become increasingly evident that an individual's unhealthy behavior is most likely a determinant to heart disease, cancer, and stroke. Behaviors such as smoking, a high-fat diet, and obesity, lack of exercise and lifestyle choices which lead to high blood pressure and stress are subject to behavior modifications. Not far behind them are accidents, injuries, suicide, and homicide, many of which are generally preventable.

Every day over 1,000 Americans die from preventable diseases. Heart disease and lung cancer are two of the most prominent causes of death among men and women in the United States. Each year, 40 percent of deaths from heart disease and 85 percent of deaths from lung cancer in this country are attributable to smoking. It is not coincidental that as smoking has increased among women over the last decade, lung cancer is now surpassing breast cancer as the leading cause of cancer death for American women.

In addition, a mother's chemical dependency is an escalating social problem, as well as health problem. Premature infants suffering from crack addiction or fetal alcohol syndrome must endure more expensive care than a normal, healthy infant in the first year of life. In many cases, the consequences are apparent for a lifetime.

These spreading health problems stem from poverty, poor education, and lack of access to care that would prevent tuberculosis, AID's, and other scourges. Responsible family planning, prenatal care, and abstinence from drugs and alcohol during pregnancy would substantially reduce the incidence of premature births in this country.

Obviously, a problem exists and has been defined. However, I urge my colleagues to define this problem in the broadest possible manner. The Federal Government has articulated its acceptance of the economic problems associated with health care—spiraling medical costs have had a negative impact on both individuals and businesses in this country. Health reform needs to look beyond medicine and recognize the effect improvements in education, welfare and crime prevention will also have.

The entities created by the Public Health Service Act are attempting to tackle many of these problems. "Healthy Goals 2000" establishes goals that encompass the broader definition of health in this Nation. Any message on health care must communicate an understanding that health care costs and access have a personal impact on every American.

We must put the public back in public health. Unhealthy and self-destructive behavior, addiction, abuse, AID's, violence, and failure to maximize immunization and other preventive health care needs all feed inefficiencies into the system. Individuals must accept greater responsibility in health care delivery and the Federal Government must provide incentives for them to do so.

I want to stress the importance of prevention. Our lifestyles, families, and communities must all assume their fair share. We must remember that just because these are common problems does not mean they have a common Federal answer. Indeed, good health promotion and needed solutions to our current health dilemma are more effectively located at the State and local levels, through schools and most importantly through efforts by all Americans to focus and better understand the problem.

If we, as legislators, can encourage preventive care and wellness attitudes in our communities and as individuals, we can reduce violence, substance abuse, accidents, and smoking. As a result, we will see remarkable changes in the quality of our health and in our demands on the medical system.

The PHS is focusing on reaching public health goals set in 1990 for the turn of the century. I commend them on their past successes and applaud their continued efforts.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT RELATIVE TO EXPORTS TO THE PEOPLE'S REPUBLIC OF CHINA—MESSAGE FROM THE PRESIDENT—PM 131

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

Pursuant to the authority vested in me by section 902(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246), and as President of the United States, I hereby report to the Congress that it is in the national interest of the United States to waive the restrictions contained in that Act on the export to the People's Republic of China of U.S.-origin satellites insofar as such restrictions pertain to the EchoStar project.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 13, 1994.*

ENROLLED BILLS SIGNED

The following enrolled bills, previously signed by the Speaker of the House, were signed on today, July 13, 1994, by the President pro tempore [Mr. BYRD]:

H.R. 3567. An act to amend the John F. Kennedy Center Act to transfer operating responsibilities to the Board of Trustees of the John F. Kennedy Center for the Performing Arts, and for other purposes; and

H.R. 4454. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1995, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3036. A communication from the Chairman of the National Education Commission on Time Learning, transmitting, pursuant to law, a report relative to the relationship between time and learning; to the Committee on Labor and Human Resources.

EC-3037. A communication from the Acting Assistant Secretary of Intergovernmental and Interagency Affairs, Department of Education, transmitting, pursuant to law, the annual report of the Commisssion on Educational Excellence for Hispanic Americans for fiscal year 1993; to the Committee on Labor and Human Resources.

EC-3038. A communication from the Assistant Secretary of Education for Postsecondary Education, transmitting, pursuant to law, the final regulations with respect to the Faculty Development Fellowship Program; to the Committee on Labor and Human Resources.

EC-3039. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report to Congress from the Interagency Task Force on the Prevention of Lead Poisoning; to the Committee on Labor and Human Resources.

EC-3040. A communication from the Secretary of Education, transmitting, pursuant to law, the final regulations with respect to administration of grants and agreements with institutions of higher education, hospitals, and other non-profit organizations; to the Committee on Labor and Human Resources.

EC-3041. A communication from the Board of Directors of the Railroad Retirement Board, transmitting, pursuant to law, the actuarial report for the railroad retirement system for calendar year 1992; to the Committee on Labor and Human Resources.

EC-3042. A communication from the Board of Directors of the Railroad Retirement Board, transmitting, pursuant to law, the 1994 report on the status of the railroad unemployment insurance system; to the Committee on Labor and Human Resources.

EC-3043. A communication from the Secretary of Education, transmitting, pursuant to law, the final regulations with respect to the Federal Family Education Loan Program; to the Committee on Labor and Human Resources.

EC-3044. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the annual report of the Student Loan Marketing Association for calendar year 1993; to the Committee on Labor and Human Resources.

EC-3045. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report on Advisory and Assistance Services for fiscal year 1993; to the Committee on Agriculture, Nutrition and Forestry.

EC-3046. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the report on worst case needs for housing assistance in calendar years 1990 and 1991; to the Committee on Banking, Housing, and Urban Affairs.

EC-3047. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report to Congress on direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC-3048. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation to authorize appropriations for fiscal years 1995 and 1996 for the Office of Commercial Space Transportation of the Department of Transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC-3049. A communication from the Chairman of the Pennsylvania Avenue Development Corporation, transmitting, a draft of proposed legislation entitled "Pennsylvania Avenue Corporation Act of 1994"; to the Committee on Energy and Natural Resources.

EC-3050. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the summary of expenditures of rebates from the low-level radioactive waste surcharge escrow account for calendar year 1993; to the Committee on Energy and Natural Resources.

EC-3051. A communication from the Environmental Protection Agency, transmitting, pursuant to law, the report of point source discharges inside the baseline; to the Committee on Environment and Public Works.

EC-3052. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-265 adopted by the Council on June 7, 1994; to the Committee on Governmental Affairs.

EC-3053. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-266 adopted by the Council on June 7, 1994; to the Committee on Governmental Affairs.

EC-3054. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals, dated July 1, 1994; pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Banking, Housing and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Committee on the Judiciary, and the Committee on Small Business.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-587. A resolution adopted by the Board of Supervisors of the County of Chenango, New York relative milk price supports; to the Committee on Agriculture, Nutrition, and Forestry.

POM-588. A resolution adopted by the House of the General Assembly of the State of Illinois; to the Committee on Appropriations.

"HOUSE RESOLUTION

"Whereas, the Pentagon's Bottom-Up Review concluded that the next Nimitz-class nuclear aircraft carrier (CVN-76) is required if America is to maintain a 12-carrier fleet, the force structure needed to sustain peacetime forward presence and protect American interests in regional conflicts; and

"Whereas, this year Congress will consider the Administration's request for full funding of CVN-76, which will be constructed by Newport News Shipbuilding at its Virginia facilities; and

"Whereas, the Administration's plan calls for full funding of the carrier in FY 1995, with work on the ship beginning soon after October 1; and

"Whereas, CVN-76 could bring millions of dollars in contracts and jobs to the businesses and citizens of the State of Illinois; and

"Whereas, the possible benefits to Illinois will be much greater if the funding for 1995 is approved and the project is kept on schedule; Therefore, be it

"*Resolved, by the House of Representatives of the Eighty-Eighth General Assembly of the State of Illinois*, That we urge the Congress to support full funding of the CVN-76 aircraft carrier project in the 1995 budget; and be it further

"*Resolved*, That suitable copies of this resolution be presented to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Illinois Congressional delegation."

POM-589. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Energy and Natural Resources.

"LEGISLATIVE RESOLVE

"Whereas, the Alaska National Interest Lands Conservation Act (ANILCA) and the Tongass Land Management Plan define multiple use objectives for the Tongass National Forest; and

"Whereas, according to the Multiple Use Sustained Yield Act of 1960, national forest land is to be managed for a sustainable yield of various resources including water, fish, wildlife, and timber; and

"Whereas, the Tongass Land Management Plan is currently undergoing revision to see how these goals are being met and to provide direction for meeting these goals in the future; and

"Whereas, regeneration on harvested land in the Tongass National Forest has demonstrated that second growth yields can reach the 23,000 board feet per acre necessary to sustain a harvest of 450,000,000 board feet per year as designated in the Tongass Land Management Plan; and

"Whereas, in recent years, timber sales on the Tongass National Forest have been significantly reduced so that far less than 450,000,000 board feet are available; and

"Whereas, the economy of Southeast Alaska utilizes resources of the Tongass for commercial fisheries, recreation, tourism, mining, and timber harvest; and

"Whereas, the economy of Southeast Alaska is stable, has enabled the use of long-term bond financing for public service, and has attracted significant private capital investment; and

"Whereas, the timber industry of Southeast Alaska was developed based upon an expected annual harvest level of 450,000,000 board feet; and

"Whereas, Tongass National Forest timber resources accounted for about 2,500 of the annual average 3,600 private sector jobs directly generated by the forest products industry in Southeast Alaska in 1992, the last year for which accurate figures are available; and

"Whereas, the forest products industry in Southeast Alaska accounted for 24 percent of basic industry employment (including government), and 34 percent of all private basic industry employment, in 1992; and

"Whereas, workers in the forest products industry in Southeast Alaska, including loggers, road builders, stevedores, sawmill workers, and pulp mill workers earned approximately $146,000,000 in wages and salaries during 1992; and

"Whereas, forest products industry employment in Southeast Alaska has declined sharply since 1990, marked by the loss of $18,000,000 in payroll and more than 600 jobs, due to reduced timber harvests on the

Tongass and the near completion of the first harvest on private land; and

"Whereas, the United States Congress in 1980 enacted the Alaska National Interest Lands Conservation Act, which includes provisions designating 5,400,000 acres of the Tongass National Forest as part of the Wilderness Preservation System, and thus closed that land to timber harvest; and

"Whereas, an increase in the availability of timber for harvest on the Tongass National Forest could offset the lack of production of timber from private land and maintain the economic well-being of Southeast Alaska; and

"Whereas, a decline in the availability of timber to harvest on the Tongass National Forest will continue to cause the loss of jobs in the timber industry in Southeast Alaska and will significantly impair the economic well-being of the area as many communities are totally or otherwise very dependent on the timber industry as the sole or one of the largest employers in the community; and

"Whereas, the United States Congress in 1990 enacted the Tongass Timber Reform Act, thus closing an additional 1,100,000 acres of land to timber harvest through wilderness designations and management practices; and

"Whereas, timber availability is critical to the health of the forest products industry in Alaska, and the availability of timber in the Tongass National Forest will likely determine the future of the forest products industry in Alaska; and

"Whereas, the United States Congress controls the level of timber harvesting in the Tongass in part through the budget process and by these land designations acts; and

"Whereas, the United States Department of Agriculture, Forest Service, manages the Tongass National Forest and determines the availability of timber for harvest on the land not closed to timber harvest: Be it

Resolved, That the Alaska State Legislature respectfully requests the United States Congress to review the economic impact on the Southeast Alaska economy and the forest products industry of the wilderness designations imposed by the Alaska National Interest Lands Conservation Act of 1980, and the wilderness designations and changes in management practices mandated by the Tongass Timber Reform Act of 1990; and be it further

Resolved, That the Alaska State Legislature respectfully requests the United States Congress to provide sufficient funding to the United States Department of Agriculture, Forest Service, to facilitate offering for harvest the maximum amount of Tongass timber possible under current law while recognizing and protecting other resource values; and be it further

Resolved, That the Alaska State Legislature requests the United States Department of Agriculture, Forest Service, to manage the Tongass National Forest in order to provide maximum opportunity for timber harvest under current law while recognizing and protecting other resource values.

"Copies of this resolution shall be sent to the Honorable Bill Clinton, President of the United States; the Honorable Al Gore, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Thomas S. Foley, Speaker of the U.S. House of Representatives; the Honorable George Mitchell, Majority Leader of the U.S. Senate; the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska Delegation in Congress; and to Mr. Michael Espy, Secretary of the U.S. Department of Agriculture, and Mr. Jack Ward Thomas, Chief of the U.S. Forest Service."

POM-590. A joint resolution adopted by the Legislature of the General Assembly of the State of Illinois; to the Committee on Veterans' Affairs.

"HOUSE JOINT RESOLUTION

"Whereas, there is continuing controversy concerning the presence of American servicemen, who were listed as Prisoners of War or Missing in Action, being held against their will in the Southeast Asian nations of Vietnam, Laos, and Kampuchea (formerly Cambodia); and

"Whereas, the United States government has stated that all of our Prisoners of War have been returned from Vietnam; and

"Whereas, a recent top secret Vietnamese report, dating from 1972, by General Tran Von Kwong, Deputy Chief of Staff for the North Vietnamese Army, reported that in September of 1972 Hanoi held 1,205 American prisoners; and

"Whereas, only 591 American Prisoners of War have been released under the 1973 Peace Settlement; and

"Whereas, Vietnamese nationals who have moved to the united States have reported the appearance of American Prisoners of War still being held against their will in Southeast Asia; and

"Whereas, the President of Russia let it be known that the Soviet Union took American servicemen during the Vietnam War into the Soviet Union and that there is no adequate explanation concerning the whereabouts of these servicemen; and

"Whereas, there are still hundreds of documents in the United States Defense Department that have not been released to the public concerning the fate of American servicemen classified as Prisoners of War or Missing in Action; and

"Whereas, the United States government's intelligence agencies have taken the position of trying to discredit any information concerning the existence of American Prisoners of War, instead of demanding a full accounting from Vietnam, Laos, and Kampuchea based upon the information that has been received; and

"Whereas, there are 96 missing and unaccounted for servicemen in Southeast Asia from Illinois; and

"Whereas, the United States government has never entered into negotiations with the government of Laos or Kampuchea concerning the release of American Prisoners of War who were taken prisoner by the communists in Laos during the Vietnam War; and

"Whereas, the only reason for secrecy at this time would be to cover up the actions of politicians, bureaucrats, and negotiators who deliberately abandoned American Prisoners of War after the Vietnam War; and

"Whereas, the executive branch of the Federal government has put forth a pathetic effort to negotiate the release of Americans that may still be held in Southeast Asia, and is obstructing the discovery of any remaining servicemen; and

"Whereas, the legislative branch of the Federal government has failed to thoroughly investigate and honestly report on this tragedy, and, indeed, has even ordered the destruction of staff documents containing staff intelligence reports on this sensitive issue; and

"Whereas, the inferior courts of the federal judiciary have not granted relief to the American soldiers listed as Prisoners of War or Missing in Action; and

"Whereas, the United States Supreme Court is the last bastion that an American citizen has for redress of grievances and protection of Constitutional liberty against an oppressive federal executive and a duplicitous federal legislature; and

"Whereas, the United States Constitution, in Article III, section 2, states "In all cases affecting Ambassadors, other public Ministers and Counsels, and those in which a State shall be a Party, the Supreme Court shall have original jurisdiction"; and

"Whereas, any Americans who are still being held against their will in Southeast Asia as a result of the Vietnam War are having their right to liberty, that inherent and inalienable right by which they are endowed by our Creator, as guaranteed by the Declaration of Independence and the Constitution of the United States, violated: therefore be it

"*Resolved by the House of Representatives of the Eighty-Eighth General Assembly of the State of Illinois. (The Senate Concurring Herein.)* That we request the Attorney General of the State of Illinois, on behalf of the people of the State of Illinois, to file in the United States Supreme Court a cause of action against the government of the United States, especially the Department of Defense and the intelligence agencies, and also against the ambassadors or other public ministers and consuls of the governments of Vietnam, Laos, Kampuchea, Russia, and China, alleging violation of civil rights of the people of Illinois, especially alleging the violation of the right to life, liberty, and the pursuit of happiness of the following named citizens of the State of Illinois:

"Harold Joseph Alwan, USMC, of Peoria;

"Harry Arlo Amesbury, Jr., USAF, of Morrison;

"Gregory Lee Anderson, USAF, of Wheaton;

"Robert Donald Beutel, USAF, of Tremont;

"Wayne Bibbs, USA, of Blue Island;

"Timothy Roy Badden, USMC, of Downer's Grove;

"Arthur Ray Bollinger, USAF, of Greenville;

"Daniel Vernor Boran, Jr., USN, of Olney;

"James Alvin Branch, USAF, of Park Forest;

"Thomas Edward Brown, USN, of Danville;

"Robert Wallace Brownlee, USA, of Chicago;

"Bernard Ludwig Bucher, USAF, of Eureka;

"Kenneth Richard Buell, USN, of Kankakee;

"Park George Bunker, USAF, of Homewood;

"Michael John Burke, USMC, of Chicago;

"Joseph Henry Byrne, USAF, of Evanston;

"Ralph Laurence Carlock, USAF, of Des Plaines;

"John Werner Carlson, USAF, of Chicago;

"John Bernard Causey, USAF, of Granite City;

"Charles Peter Claxton, USAF, of Chicago;

"Dean Eddie Clinton, USA, of Dix;

"Ralph Burton Cobbs, USN, of East St. Louis;

"Willard Marion Collins, USAF, of Quincy;

"Joseph Bernard Copack, Jr., USAF, of Chicago;

"Kenneth Leroy Cunningham, USA, of Ellery;

"Patrick Robert Curran, USMC, of Bensenville;

"Raymond George Czerwiec, USA, of Chicago;

"Thomas Carl Daffron, USAF, of Pinckneyville;

"Randall David Dalton, USA, of Collinsville;

"James Leslie Dayton, USA, of Granite City;

"Richard Carl Deuter, USN, of Chicago;

"Michael E. Dunn, USN, of Naperville;

"Dennis Keith Eads, USA, of Prophetstown;

"William F. Farris, USN, of West Salem;

"Barry Frank Fivelson, USA, of Evanston;

"Ronald E. Galvin, USN, of River Forest;

"Carles Hue Gatewood, USMC, of Chicago;

"Donald Arthur Gerstel, USN, of Matteson;

"John Bryan Golz, USN, of Rock Island;

"Thomas E. Heideman, USAF, of Chicago;

"Robert D. Herreid, USA, of Aurora;

"Joseph Arnold Hill, USMC, of Taylorville;

"Anthony F. Housh, USA, of Newton;

"Roger B. Innes, USN, of Chicago;

"Michael James Jablonski, USA, of Chicago;

"Ronald James Janousek, USMC, of Posen;

"Jack Elmer Keller, USN, of Chicago;

"Kenneth Keith Knabb, Jr., USN, of Wheaton;

"Jeffery C. Lemon, USAF, of Flossmoor;

"Leonard J. Lewandowski, Jr., USMC, of Des Plaines;

"Notely G. Maddox, USAF, of Rockford;

"Richard Carlton Marshall, USAF, of Chicago;

"James Philip Mason, USA, of DeKalb;

"Glenn David McElroy, USA, of Sidney;

"James Patrick McGrath, USN, of Chicago;

"Carl Ottis McCormick, USAF, of Peoria;

"Robert Charles McMaran, USN, of Jacksonville;

"Roger Allen Meyers, USN, of Chicago;

"William John Moore, USAF, of Monmouth;

"Wayne Ellsworth Newberry, USAF, of E. St. Louis;

"Randall John Nightingale, USN, of Onarga;

"Joseph Paul Nolan, Jr., USA, of Oak Park;

"Michael David O'Donnell, USA, of Springfield;

"Floyd Warren Olsen, USA, of Wheaton;

"Warren Robert Orr, Jr., USA, of Kewanee;

"Donald E. Parsons, USA, of Sparta;

"Roger Dale Partington, USMC, of Sparta;

"Gordon Samuel Perisho, USN, of Quincy;

"James L. Phipps, USA, of Mattoon;

"Thomas Holt Pilkington, USA, of Morton Grove;

"Jerry Lynn Pool, USA, of Freeport;

"William Marshall Price, USMC, of Kewanee;

"Dennis M. Rattin, USA, of Bradley;

"Ronald R. Rexroad, USAF, of Rankin;

"Robert Paul Riggins, USAF, of Champaign;

"Billie Leroy Roth, USAF, of Lacon;

"Leland Charles Cooke Sage, USN, of Waukegan;

"Richard Eugene Sands, USA, of Springfield;

"Leroy Clyde Schaneberg, USAF, of Ashton;

"David Lee Scott, USA, of Carlock;

"David William Skibbe, USMC, of Des Plaines;

"Harold Victor Smith, USAF, of Bridgeport;

"Joseph Stanley Smith, USAF, of Assumption;

"Dean Paul St. Pierre, USAF, of Kankakee;

"James Clellon Story, USA, of Berwyn;

"John W. Swanson, Jr., USAF, of Arlington;

"Jerrold Allen Switzer, USMC, of Paris;

"Derri Sykes, USA, of Chicago;

"Oral D. Terry, USA, of Mascoutah;

"John C. Towle, USAF, of Harrisburg;

"Duston Cowles Trowbridge, USN, of Wayne;

"Martin D. Vandeneykel II, USA, of Wheaton;

"James Edward Whitt, USAF, of Penfield;

"Richard Dennis Wiley, USA, of Decatur;

"Robert Cyril Williams, USAF, of McLeansboro; and

"Robert John Zukowski, USAF, of Chicago; and be it further

"*Resolved*, That the Attorney General of the State of Illinois, in filing this suit, shall demand that the Department of Defense, the intelligence agencies, the governments of Vietnam, Laos, Kampuchea, Russia, and China turn over all documents concerning Prisoners of War and Missing in Action in Laos, Kampuchea, and Vietnam: and be it further

"*Resolved*, That the sister forty-nine states of the United States of America be urged to join in this action on behalf of their state and the citizens of their state who are being held in captivity in Southeast Asia: and be it further

"*Resolved*, That a suitable copy of this preamble and resolution be forwarded to the Attorney General of the State of Illinois, to the United States Supreme Court, to the President of the United States, to the Speaker of the United States House of Representatives, to the President of the United States Senate, to the members of the Illinois congressional delegation, and to the clerks of the respective Houses and Senates of our sister forty-nine states."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 2281. An original bill to reduce homelessness, reform public housing, expand and preserve affordable housing, encourage homeownership, ensure fair housing for all, and empower communities, and for other purposes (Rept. No. 103-307).

By Mr. NUNN, from the Committee on Armed Services, with amendments:

H.R. 4429. A bill to authorize the transfer of naval vessels to certain foreign countries.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ROCKEFELLER (by request):

S. 2279. A bill to amend title 38, United States Code, to make discretionary the financial reporting requirements applicable to recipients of certain need-based benefits; to the Committee on Veterans Affairs.

By Mr. ROBB (for himself and Mr. WARNER):

S. 2280. A bill to provide for an orderly process to ensure compensation for the termination of an easement or the taking of real property used for public utility purposes at the Manassas National Battlefield Park, Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. RIEGLE:

S. 2281. An original bill to reduce homelessness, reform public housing, expand and preserve affordable housing, encourage homeownership, ensure fair housing for all, and empower communities, and for other purposes; from the Committee on Banking, Housing, and Urban Affairs; placed on the calendar.

By Mr. KERRY:

S. 2282. A bill to amend title V of the Trade Act of 1974 to provide incentives for developing countries to develop and implement strong environmental protection programs, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD:

S. Res. 241. A resolution to amend rule XVI of the Standing Rules of the Senate relating to amendments to appropriation bills in the Senate; to the Committee on Rules and Administration.

By Mr. CAMPBELL (for himself, Mr. BAUCUS, Mr. JOHNSTON, Mr. REID, Mr. BRYAN, Mr. BINGAMAN, Mr. DECONCINI, Mr. BURNS, Mr. PACKWOOD, Ms. MIKULSKI, Mr. BUMPERS, Mr. DASCHLE, Mr. CRAIG, Mr. MATHEWS, Mr. BROWN, Mr. DORGAN, Mr. BIDEN, Mr. HATFIELD, Mr. KEMPTHORNE, Mr. DOLE, and Mr. STEVENS):

S. Res. 242. A resolution honoring the 14 Federal firefighters who died while fighting a wildfire near Glenwood Springs, Colorado; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROCKEFELLER (by request):

S. 2279. A bill to amend title 38, United States Code, to make discretionary the financial reporting requirements applicable to recipients to certain need-based benefits; to the Committee on Veterans' Affairs.

VETERANS' BENEFITS INCOME VERIFICATION AMENDMENT OF 1994

Mr. ROCKEFELLER. Mr. President, as chairman of the Committee on Veterans' Affairs, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 2279, a bill to make discretionary the financial reporting requirements applicable to recipients of certain need-based benefits. The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated May 17, 1994.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Committee on Veterans' Affairs. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with Secretary Brown's transmittal letter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Benefits Income Verification Amendments of 1994".

SEC. 2. RELAXATION OF MANDATORY ELIGIBILITY VERIFICATION REPORTING REQUIREMENTS.

(a) DEPENDENCY AND INDEMNITY COMPENSATION FOR PARENTS.—Section 1315(e) of title 38, United States Code, is amended—

(1) in the first sentence—

(A) by striking out "shall" and inserting in lieu thereof "may"; and

(B) by striking out "each year" and inserting in lieu thereof "for a calendar year"; and

(2) in the second sentence—

(A) by striking out "revised"; and

(B) by striking out "the estimated".

(b) PENSION.—Section 1506 of such title is amended—

(1) in paragraph (2)—

(A) by striking out "shall" and inserting in lieu thereof "may"; and

(B) by striking out "each year" and inserting in lieu thereof "for a calendar year"; and

(2) in paragraph (3)—

(A) by striking out "estimated" each time it appears; and

(B) by striking out "such applicant's or recipient's estimate of".

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, May 17, 1994.

Hon. ALBERT GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill entitled the "Veterans' Benefits Income Verification Amendments of 1994." I request that this bill be referred to the appropriate committee for prompt consideration and enactment.

The draft bill would eliminate the current mandatory requirement that all recipients of pension or parents' dependency and indemnity compensation (DIC) submit to the Department of Veterans Affairs (VA) annually an eligibility verification report (EVR) providing information on their income and net worth. Instead, the draft bill would give VA discretionary authority to require such reports where necessary to determine eligibility. The Draft bill would specify that such reports are to be submitted on a calendar-year basis.

A majority of the veterans and surviving spouses who receive VA pension either have no other income or have no other income except Social Security benefits. An analysis performed in July 1992 indicated that, of 939,151 veterans and surviving spouses on the pension rolls at that time, 197,611 had no other source of income and 518,576 had only Social Security income in addition to VA pension. Thus, only 222,964 (approximately 24 percent) of those sampled had income other than VA pension and Social Security benefits. Although a similar analysis was not performed with regard to the recipients of parents' DIC, we would anticipate that a study of that group could yield similar results.

VA currently has in place computer-matching programs with both the Social Security Administration and the Internal Revenue Service which assist VA in verifying the income of recipients of need-based benefits administered by this Department. The information gathered under these matching programs is sufficient to warrant suspension of the requirement of annual EVR's in many cases.

If given this authority, VA would develop criteria for exemptions that are consistent with the need to maintain program integrity, and implement the policy through notice-and-comment rulemaking so that veterans service organizations and other interested parties would have an opportunity to comment on the policy.

VA's Compensation and Pension (C&P) Service projects that, under current statutory requirements, approximately 321 full-time equivalent employees (FTEE) will be required to process EVR's in fiscal year 1994. Once the final regulations implementing the exemptions for reporting are in place, the FTEE necessary to process EVR's will decrease.

Implementation of this proposal would also have a beneficial impact on other regional office operations. VA mail rooms would be required to handle fewer EVR's, and the Veterans Services Divisions would receive fewer visits and telephone calls requesting assistance in completing EVR's. In addition, the contemplated reduction in pending C&P claims would decrease the number of status inquiries received by VA, thus further increasing efficiency of operations. Further, the reduced volume of EVR's would allow conversion to a system in which EVR's would be submitted on a calendar-year basis, thereby providing increased convenience to beneficiaries.

VA would keep all beneficiaries advised of the requirement to report any changes in income or other matters which might affect benefit entitlement. For each beneficiary who would not receive an EVR as a result of this change, VA intends to advise the beneficiary by letter of his or her legal obligation in this regard and provide information on how to file a report concerning any change in income. It is anticipated that this action, together with continued use of computer-match information to verify entitlement, should ensure that no increase in payments to ineligible claimants will result from the proposed amendment. Thus, enactment of this proposal would reduce administrative costs and result in no increase in benefit costs.

We urge that the Senate promptly consider and pass this legislative item.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this legislative proposal to the Congress.

Sincerely yours,

JESSE BROWN.

By Mr. ROBB (for himself and Mr. WARNER):

S. 2280. A bill to provide for an orderly process to ensure compensation for the termination of an easement or the taking of real property used for public utility purposes at the Manassas National Battlefield Park, VA, and for other purposes; to the Committee on Energy and Natural Resources.

THE MANASSAS NATIONAL BATTLEFIELD PARK AMENDMENT OF 1994

Mr. ROBB. Mr. President, today I would like to introduce legislation, known as the Manassas National Battlefield Park Amendments of 1994, which makes a technical correction to the Manassas National Battlefield Park Amendments of 1988.

This legislation is necessary to avoid expensive litigation.

Both Virginia Power and the National Park Service support passage of this bill because it will provide the necessary time to complete the required public reviews, which could take substantial time beyond November 1994. Should the statute of limitations not be extended, it will be necessary for Virginia Power to prepare and file legal action before November 10, 1994 to preserve their rights under the fifth amendment.

In 1988, Congress passed the Manassas National Battlefield Park Amendments of 1988 which instituted a legislative taking of land in Manassas, VA for the purposes of adding to it the park. When the Government acquired the land at Manassas, it also acquired some electric power lines owned by Virginia Power. These lines and towers are an integral part of Virginia Power's transmission system, serving customers in northern Virginia and south into North Carolina and interconnecting with utilities in other parts of the northeast.

Unfortunately, Virginia Power has not yet been compensated by the Government for the value of the condemned property which is estimated at $50 to $60 million.

This legislation, cosponsored by the distinguished senior Senator from Virginia, Senator WARNER, would provide for an orderly process to ensure compensation for the termination of the easement or the taking of real property used for public utility purposes at the Manassas National Battlefield Park. It is the companion to H.R. 4435, sponsored by Representative WOLF in the House of Representatives.

Virginia Power and the Park Service have worked together and arrived at a tentative agreement regarding this situation. Virginia Power and the National Park Service staff have concentrated on identifying a suitable route to relocate the transmission lines. This has involved preparation of an Environmental Assessment by the National Park Service, preparation of a Virginia State Corporation Commission application by Virginia Power and meetings with the public.

In order to protect the historic resource of the historic park, these parties have agreed to move the power lines about 400 feet to the perimeter of the park. The Park Service would grant Virginia Power an easement for the lines.

This legislation would alleviate the need and costs of litigation—which could affect taxpayers and Vepco ratepayers. In addition, this legislation would allow Virginia Power and the National Park Service to continue to work together to complete this project in an orderly and cost-effective fashion.

By Mr. KERRY:

S. 2282. A bill to amend title V of the Trade Act of 1974 to provide incentives for developing countries to develop and implement strong environmental protection programs, and for other purposes; to the Committee on Finance.

THE SUSTAINABLE DEVELOPMENT THROUGH TRADE ACT OF 1994

• Mr. KERRY. Mr. President, I am proud today to introduce a bill with which I hope to promote the dual interests of free trade and environmental protection, the Sustainable Development Through Trade Act of 1994. This bill proposes modifications to the United States' Generalized System of Preferences program. It would give the President tools with which to expand trade with developing countries which take strong steps to protect their environmental resources.

Mr. President, the Generalized System of Preferences program, or GSP, is the most important program governing U.S. trade with developing countries. Through it, the U.S. grants preferential treatment to certain developing country exports. Clearly, GSP is a potentially powerful tool for promoting sustainable development worldwide. Unfortunately, today GSP is failing to meet this potential for two reasons.

First, GSP does not include any mechanisms for encouraging countries which receive GSP benefits to protect the environment. This is true despite the fact that promoting sustainable development is a declared U.S. foreign policy objective. For example, Brazil and Indonesia are only two of the 132 countries which benefited from GSP in 1991. That year, they garnered 12 percent of all GSP benefits. Brazil and Indonesia harbor important environmental resources. Specifically, they are home to nearly 40 percent of the world's remaining rainforests. Both countries are clearing their rainforests for timber production and agricultural expansion at alarming rates. Besides the environmental importance of these rainforests, they also contain a wealth of biological treasures which the biotechnology industry has only begun to explore.

My proposal would allow the President to encourage countries like Brazil and Indonesia to protect environmental resources in exchange for GSP benefits.

A second concern with today's GSP program is that it provides virtually no benefits for many of the developing countries it was designed to assist. In 1991, less than 1 cent of every GSP dollar went to the world's 40 least-developed countries. This is ironic, since, according to several international agreements, such countries are supposed to enjoy special status under GSP.

Moreover, the vast majority of least-developed countries are in Sub-Saharan Africa, a region plagued by chronic economic crises exacerbated by negative trade balances. Last month AID Administrator Brian Atwood and Representative TONY HALL, chairman of the Congressional Hunger Caucus, led a Presidential mission to Rwanda and about 10 other countries in Africa. They concluded that if the United States wants to help avoid future Rwandas—and Somalias and Ethiopias—it must do more to promote long-term development in that region.

Thus, my proposal would expand GSP benefits for least-developed countries in Africa.

I should note that, although I support extension and reform of the GSP program, the Sustainable Development Through Trade Act does not include an extension of GSP. My intent in introducing this legislation is to propose language which I hope would be included in a comprehensive GSP extension and reform bill.

I urge my colleagues to support the goals of the Sustainable Development Through Trade Act of 1994 and to work to include its provisions in any GSP legislation that passes this body.

I urge my colleagues to support passage of the Sustainable Development Through Trade Act of 1994.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2282

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sustainable Development Through Trade Act of 1994".

SECTION 2. ENVIRONMENTAL PROTECTION INCENTIVES.

(a) WAIVER FOR ENVIRONMENTAL PROTECTION ACTION.—Section 504(c)(3) of the Trade Act of 1974 (19 U.S.C. 2464(c)(3)) is amended—

(1) in subparagraph (A) by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) is advised by the Administrator of the Environmental Protection Agency, the Administrator of the National Oceanic and Atmospheric Administration, and the Secretary of the Interior, that the beneficiary developing country is taking action to protect environmental resources, including ecosystems, that have environmental, economic, or national security significance for the United States."; and

(2) in subparagraph (B), by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", and", and by adding at the end the following new clause:

"(iii) the extent to which such country is taking action to protect environmental resources, including ecosystems, that have environmental, economic, or national security significance for the United States.".

(b) LEAST-DEVELOPED COUNTRIES.—Section 503 of the Trade Act of 1974 (19 U.S.C. 2463) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of law, the President may designate any article that is the growth, product, or manufacture of a least-developed beneficiary developing country as an eligible article under subsection (a), unless the President determines that such article is an import-sensitive article in the context of imports from such least-developed beneficiary developing country.".•

ADDITIONAL COSPONSORS

S. 359

At the request of Mr. DECONCINI, the names of the Senator from California [Mrs. FEINSTEIN] and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 359, a bill to require the Secretary of the Treasury to mint coins in commemoration of the National Law Enforcement Officers Memorial, and for other purposes.

S. 1415

At the request of Mr. PRYOR, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 1415, a bill to amend the Internal Revenue Code of 1986 to clarify provisions relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 1690

At the request of Mr. PRYOR, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 1690, a bill to amend the Internal Revenue Code of 1986 to reform the rules regarding subchapter S corporations.

S. 1956

At the request of Mr. SHELBY, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1956, a bill to amend the Consumer Credit Protection Act to improve disclosures made to consumers who enter into rental-purchase transactions, to set standards for collection practices, and for other purposes.

S. 1962

At the request of Mr. DODD, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1962, a bill to provide for demonstration projects in 6 States to establish or improve a system of assured minimum child support payments.

S. 1976

At the request of Mr. DODD, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 1976, a bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the Act.

S. 2007

At the request of Mr. WOFFORD, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of S. 2007, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the end of World War II and Gen. George C. Marshall's service therein.

S. 2062

At the request of Mr. INOUYE, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 2062, a bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to permit the movement in interstate commerce of meat and meat food products and poultry products that satisfy State inspection requirements that are at least equal to Federal inspection standards, and for other purposes.

SENATE JOINT RESOLUTION 165

At the request of Mr. COCHRAN, the names of the Senator from Kentucky [Mr. FORD] and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of Senate Joint Resolution 165, a joint resolution to designate the month of September 1994 as "National Sewing Month."

SENATE JOINT RESOLUTION 182

At the request of Mr. JOHNSTON, the names of the Senator from Florida [Mr. MACK], the Senator from Delaware [Mr. ROTH], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of Senate Joint Resolution 182, a joint resolution to designate the year 1995 as "Jazz Centennial Year."

SENATE JOINT RESOLUTION 185

At the request of Mr. D'AMATO, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Senate Joint Resolution 185, a joint resolution to designate October 1994 as "National Breast Cancer Awareness Month."

SENATE JOINT RESOLUTION 198

At the request of Mr. PRYOR, the names of the Senator from Tennessee [Mr. SASSER], the Senator from New Jersey [Mr. BRADLEY], the Senator from Virginia [Mr. WARNER], the Senator from Washington [Mr. GORTON], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Texas [Mrs. HUTCHISON], the Senator from Maine [Mr. COHEN], the Senator from Idaho [Mr. CRAIG], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Florida [Mr. GRAHAM], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Texas [Mr. GRAMM], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of Senate Joint Resolution 198, a joint resolution designating 1995 as the "Year of the Grandparent."

SENATE JOINT RESOLUTION 206

At the request of Mr. WOFFORD, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senate Joint Resolution 206, a joint resolution designating September 17, 1994, as "Constitution Day."

SENATE RESOLUTION 241—TO AMEND RULE XVI OF THE STANDING RULES OF THE SENATE

Mr. BYRD submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 241

Resolved, That paragraph 4 of rule XVI of the Standing Rules of the Senate is amended by—

(1) inserting "as passed by the House or as reported to the Senate," after "contained in the bill";

(2) striking "relevancy of amendments under this rule" and inserting "relevancy or germaneness of amendments under this paragraph";

(3) striking "submitted to the Senate and be decided without debate" and inserting "ruled on by the chair";

(4) inserting "(a)" after "4."; and

(5) adding at the end thereof the following:

"(b)(1) An affirmative vote of three-fifths of the Senators, duly chosen and sworn, shall be required to overturn a ruling of the Chair regarding questions of germaneness, relevancy, or legislation under this paragraph.

"(2) This paragraph may be waived with respect to an amendment by the affirmative vote of three-fifths of the Senators, duly chosen and sworn.".

SENATE RESOLUTION 242—RELATIVE TO FEDERAL FIREFIGHTERS

Mr. CAMPBELL (for himself, Mr. BAUCUS, Mr. JOHNSTON, Mr. REID, Mr. BRYAN, Mr. BINGAMAN, Mr. DECONCINI, Mr. BURNS, Mr. PACKWOOD, Ms. MIKULSKI, Mr. BUMPERS, Mr. DASCHLE, Mr. CRAIG, Mr. MATHEWS, Mr. BROWN, Mr. DORGAN, Mr. BIDEN, Mr. HATFIELD, Mr. KEMPTHORNE, Mr. DOLE, and Mr. STEVENS) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 242

Whereas on July 6, 1994, 14 Federal firefighters from the United States Forest Service and the Bureau of Land Management perished while heroically fighting a raging wildfire on Storm King Mountain near Glenwood Springs, Colorado;

Whereas the firefighters died when they were overswept by a wildfire whipped by high and erratic winds;

Whereas the 14 firefighters who gave their lives were Kathi J. Beck, hot shot crewmember, Prineville, Oregon, Tamara J. Bickett, hot shot crewmember, Prineville, Oregon, Scott A. Blecha, hot shot crewmember, Prineville, Oregon, Levi Brinkley, hot shot crewmember, Prineville, Oregon, Robert Browning, helitack, Grand Junction, Colorado, Douglas Dunbar, hot shot crewmember, Prineville, Oregon, Terri A. Hagen, hot shot crewmember, Prineville, Oregon, Bonnie J. Holtby, hot shot crewmember, Prineville, Oregon, Robert A. Johnson, hot shot crewmember, Prineville, Oregon, Jon R. Kelso, hot shot squad leader, Prineville, Oregon, Donald Mackey, smokejumper, Missoula, Montana, Roger Roth, smokejumper, McCall, Idaho, James Thrash, smokejumper, McCall, Idaho, and Richard Tyler, helitack, Grand Junction, Colorado; and

Whereas these brave men and women gave their lives in an attempt to protect American lives, property, and natural resources: Now, therefore, be it

Resolved, That the Senate honors, and will always remember, the 14 Federal firefighters who died on July 6, 1994, for their heroic efforts in trying to contain a fire on Storm King Mountain near Glenwood Springs, Colorado, in order to protect American lives, property, and natural resources.

Mr. CAMPBELL. Mr. President, last week, while we and millions of other Americans were celebrating the Nation's 218th birthday on the 4th of July, a wisp of smoke was detected on Storm King Mountain just west of Glenwood Springs, in my State of Colorado. At the time, many of the residents of Colorado's Western Slope were concerned about the small fire, but confident that land management agencies would deal with it, as they were dealing with the many other wildfires already burning around the hot, dry West.

Summer wildfires are not new to us westerners. We know that when a column of smoke is spotted, often by someone manning a remote fire lookout high atop some mountain, that young men and women, clad in their trademark yellow fire shirts, will always respond. We often see these people, hard at work with their shovels, pulaskis, hoses, and chain saws on steep mountain slopes, protecting life, property, and natural resources all over the West. Every summer, Americans watching television news programs see such ground crews, along with spectacular shots of air-tankers and helicopters dropping water and retardant on fires somewhere in the West.

The 52 men and women responding to that column of smoke on Storm King Mountain were among the best of the best Federal firefighters; they included smokejumpers, helitack and hotshots crews. These are crews that have developed a well-deserved reputation of doing their job exceptionally well, and, considering the risk of the profession, have a tremendously good safety record. Maybe that is why we were all so unprepared for what went so terribly wrong last week.

It was last Wednesday afternoon, the 6th of July, when these 52 firefighters were trying to contain the blaze, that high winds struck the area, whipping a small fire into a fire storm. Many of these brave young people found themselves trapped, their planned escape routes blocked by sheets of flame. When the blowup, as firefighters commonly call it, was over, 14 people were unaccounted for. As officials began searching for the individuals who did not come out, they began to recognize that there was a terrible tragedy in the making and, in minutes, Storm King became "fire king."

Fourteen firefighters perished on the South Canyon fire that afternoon. Several others were injured. I believe it is appropriate that the Senate honor the brave men and women, who were employees of the U.S. Forest Service and Bureau of Land Management, who gave their lives that day. They were: Kathi J. Beck, Tamara J. Bickett, Scott A. Blecha, Levi Brinkley, Robert Browning, Douglas Dunbar, Terri A. Hagen, Bonnie J. Holtby, Robert A. Johnson, Jon R. Kelso, Donald Mackey, Roger Roth, James Thrash, and Richard Tyler.

We are tremendously grateful to these people for what they were trying to do in protecting the lives, property, and resources of Colorado citizens. Our hearts go out to their surviving comrades, family, and freinds. We will always remember their heroism.

Today I am submitting a commemorative resolution recognizing their sacrifice. I encourage my colleagues to join me, and the citizens of Colorado, as original cosponsors to show their respect by supporting this resolution.

• Mr. BURNS. Mr. President, as we pause to honor these brave Americans, I would like to pay tribute to Don Mackey, a smokejumper from Hamilton, MT, who died while trying to save the lives of others.

Quentin Rhoades, a Montana firefighter who survived the fire reported that Don Mackey saved Rhoades' life and the life of seven other smoke jumpers. It was only when Mackey returned to the fire trying to save more lives that he lost his own. "If (Mackey) would have stayed with us, he would have lived," Rhoades said.

Mr. President, Montana is experienced with the tragedies wildfires bring. The Mann Gulch fire of 1949 was a wildfire with disturbing similarities to the one on Storm King Mountain 1 week ago. Mr. President, on behalf of Montanans who are all too familiar with the horrible destruction these wildfires can cause, I would like to pay tribute to Don Mackey and the other brave firefighters who lost their lives in the Storm King Mountain fire on July 6, 1994.•

• Mr. PACKWOOD. Mr. President, nine Federal firefighters came home to Oregon yesterday.

Usually such a homecoming would be a normal and happy turn of events, unmarked and unnoticed except for their immediate family and close friends who knew they were off battling yet another big fire to save the lives, livestock, and property of strangers.

But this homecoming was marked by immense grief, for these firefighters were killed when they were overswept by a wildfire whipped by high and erratic winds on a Colorado mountainside. They came home in a DC–3, wrapped in an American flag.

These firefighters were typical hardworking, self-sacrificing Oregonians, many of whom hail from small communities. They were, by and large, young, which makes it doubly hard to accept their loss. My heartfelt condolences go out to their families and friends, and to their hometowns.

Today I cosponsored a resolution to honor all 14 of the Federal firefighters who were caught in that devastating blaze near Glenwood Springs, CO. These men and women gave their lives in a successful effort to protect the lives and property of other Americans, and our natural resources. They are heroes and should be recognized as such.•

• Mr. BROWN. Mr. President, last week, we in Colorado were reminded that nature is a powerful force. Fires in nearly a dozen separate sites, most started by lightening strikes, ravaged the mountainous terrain of western Colorado.

Even more unfortunate than the burning of thousands of acres of America's most beautiful countryside, was the tragic loss of 14 firefighters. By all accounts, the fire erupted as high winds accompanying a cold front blew into the canyon where 52 firefighters were battling a 50-acre fire. Strong winds typically herald the arrival of a front. But the usually predictable winds of 20 to 30 miles per hour high in the sky may have accelerated to 40 to 50 miles per hour on the ground. Within hours, the fire erupted from 50 acres to 2,200. In moments, the fire topped the ridge, blown from behind. Then fierce crosswinds forced the flames back down onto the firefighters.

The crews split up and sprinted through the thin 7,000-foot air for the prearranged escape routes; 38 made it. Of the 14 who died, 9, 5 men and 4 women, were part of a hot shot crew based in Prineville, OR. It is my hope that Senators HATFIELD and PACKWOOD will help me in extending the sympathy and the thanks of all Coloradans to this community and the families of these brave men and women.

I also take this opportunity to offer words of commendation and comfort to the family of Richard Tyler of Palisades, CO. There is no higher service than a sacrifice for your own State and community. Richard Tyler's sacrifice was much greater than that usually asked of Colorado citizens.

I commend Secretaries Espy and Babbitt for initiating a board of inquiry into the incident which led to this tragic loss of life. These individuals lost their lives protecting the beauty that is Colorado, and the homes of Coloradans who enjoy this majesty. We must have the facts, so that never again will we place our firefighters in a position that leads to such an excessive loss of life.

In Glenwood Springs, CO, a city that was threatened by the same fire that took these brave individuals lives, the citizens are raising funds to erect a memorial to their sacrifice. Long after the grass and seedlings erase the horror of last week, those who live in this Colorado community will remember.

Again, I take this opportunity to share my sympathy with the families of those who sacrificed their lives to halt the wildfires in Colorado. Their bravery and sacrifice will not be forgotten quickly by those whose homes were at risk.•

AMENDMENTS SUBMITTED

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1995

LEAHY AMENDMENT NO. 2238

Mr. LEAHY proposed an amendment to the bill (H.R. 4426) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995; and follows:

On page 89, line 12 of the Committee reported bill, strike "in" and all that follows through "Act" on line 16 and insert in lieu thereof: "notwithstanding any other provision of law".

On page 99, line 11 of the Committee reported bill, after "country." insert: "The authority provided by subsection (a) may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961."

On page 10, line 1 of the Committee reported bill, after the word "activities" insert: "notwithstanding any other provision of law".

THURMOND (AND OTHERS) AMENDMENT NO. 2239

Mr. THURMOND (for himself, Mr. PRESSLER, Mr. HELMS, and Mr. CRAIG) proposed an amendment to the bill H.R. 4426, supra; as follows:

To the first committee amendment, at the end of the amendment insert the following:

SEC. . SENSE OF THE SENATE ON URUGUAY ROUND IMPLEMENTATION.

(a) FINDINGS.—The Senate makes the following findings:

(1) the United States recently signed the Uruguay Round Agreement which included among its provisions the establishment of a new supranational governing body known as the World Trade Organization (hereafter in this section referred to as the "WTO").

(2) The legislation approving fast track authority and giving the executive branch negotiators specific objectives did not authorize the elimination of the current General Agreement on Tariffs and Trade structure and the creation of a new, more powerful world-governing institution.

(3) The Congress has the constitutional prerogative to regulate foreign commerce

and may be ceding such authority to the WTO.

(4) The initial membership of the WTO is 117 nations. The United States will have only one vote and no veto rights in the WTO.

(5) The single vote structure will give the European Union the capacity to out vote the United States 12 to 1. It will also give the island nation of St. Kitts, with a population of 60,000, the same voting power as the United States.

(6) The United States will have less than 1 percent of the total vote, but will be assessed almost 20 percent of the total cost of operating the WTO.

(7) The one vote-no veto structure of the WTO will increase the power of nations, which are not democracies and do not share our Nation's traditional notions of capitalism and freedom.

(8) Any United States law can be challenged by a WTO member as an illegal trade barrier and such challenge will be heard by a closed tribunal of 3 trade lawyers.

(9) The United States must eliminate any law that a WTO tribunal finds to be in conflict with the trade rules of the WTO or the United States will face severe trade sanctions.

(10) The WTO would effectively set the parameters within which United States Federal, State, and local legislators can maintain or establish domestic policy on the broad array of issues covered under the nontariff provisions of the WTO.

(11) State officials have no standing before WTO tribunals even if a State law is challenged as an illegal trade barrier.

(12) The WTO would require the United States Federal Government to preempt, sue, or otherwise coerce States into following the WTO trade rules which the States did not negotiate and to which they are not a legal party.

(13) The Attorneys General from 42 States have signed a letter to the President expressing their concern over States rights under the WTO and have asked for a summit to discuss these issues.

(14) WTO decisions could result in shifts in State and local tax burdens from foreign multi-national corporations to American businesses, farmers, and homeowners.

(15) Under pay-as-you-go budget rules, the revenue losses from tariff reductions must be offset over a 10-year period.

(16) The Congressional Budget Office has estimated that such tariff reductions will cost approximately $40,000,000,000.

(17) When the United States joined other supranational governing bodies, the United States retained rational precautions, such as a permanent seat on the Security Council and veto rights in the United Nations, and a voting share in the International Monetary Fund that is commensurate with its role in the global economy.

(18) The WTO Agreement prohibits unilateral action by the United States including action against predatory and unfair trade actions of other member nations.

(19) The dispute settlement mechanisms to be used by the WTO will be conducted in secret and in a manner that is not consistent with the guarantees of judicial impartiality and due process which characterize the United States judicial tradition.

(20) The WTO Agreement is already resulting in substantial changes and erosion of existing United States law.

(21) Neither the United States Congress nor the American people have had an opportunity to analyze and debate the long-term impact of United States membership in the WTO.

(22) Traditionally the United States has entered into international obligations that impact on domestic sovereignty and law and that have the legal statute and permanence that the WTO has, by using treaty ratification procedures.

(23) The United States Senate rejected, on sovereignty grounds, executive branch attempts to secure ratification of a similar supranational organization known as the International Trade Organization when it was offered repeatedly between 1947 and 1950. The Organization for Trade Cooperation was rejected by the Senate in 1955.

(24) Under the rules of fast track, the United States Senate cannot change or amend provisions creating the WTO and is limited to 20 hours of debate.

(b) POLICY.—It is the policy of the Senate that—

(1) a task force composed of members of Congress and the executive branch be established to study and report to the Congress and the President within 90 days on whether the provisions creating the World Trade Organization should be treated as a treaty or an executive agreement, and

(2) a 90-day period be allowed before the introduction of the Uruguay Round implementation legislation and that during that period additional Congressional hearings be held to consider the full ramifications of the United States joining the WTO, including the impact that joining the WTO will have on State and local laws.

MCCONNELL (AND OTHERS) AMENDMENT NO. 2240

Mr. MCCONNELL (for himself, Mr. MCCAIN, Mr. D'AMATO, Mr. DOLE, Mr. HELMS, Mr. LAUTENBERG, Mr. DECONCINI, and Mr. BYRD) proposed an amendment to the bill H.R. 4426, supra; as follows:

At the end of the committee amendment on page 2, add the following:

"SEC. . (a) RESTRICTION.—None of the funds appropriated or otherwise made available by this Act may be obligated for assistance for the Government of Russia after August 31, 1994 unless all armed forces of Russia and the Commonwealth of Independent States have been removed from all Baltic countries or that the status of those armed forces have been otherwise resolved by mutual agreement of the parties.

"(b) Subsection (a) does not apply to assistance that involves the provision of student exchange programs, food, clothing, medicine or other humanitarian assistance or to housing assistance for officers of the armed forces of Russia or the Commonwealth of Independent States who are removed from the territory of Estonia, Latvia, Lithuania, or countries other than Russia.

"(c) Subsection (a) does not apply if after August 31, 1994, the President determines that the provision of funds to the government of Russia is in the national security interest.

"(d) Section 568 of this Act is null and void."

DOLE (AND LEVIN) AMENDMENT NO. 2241

Mr. DOLE (for himself and Mr. LEVIN) proposed an amendment to the bill H.R. 4426, supra; as follows:

On page 23, line 21, delete "(m)" and insert the following new subsection:

(m) Not less than $5 million of the funds appropriated under this heading shall be made available for the capitalization of a Trans-Caucasus Enterprise Fund.

DOLE (AND LIEBERMAN) AMENDMENTS NOS. 2242–2244

Mr. DOLE (for himself and Mr. LIEBERMAN) submitted three amendments to the bill H.R. 4426, supra; as follows:

AMENDMENT NO. 2242

On page 112, between lines 9 and 10, insert the following new section:

SEC. . HUMANITARIAN ASSISTANCE FOR BOSNIA AND HERZEGOVINA.

Of the funds appropriated by this Act, not less than $5,000,000 shall be available only for medical equipment, medical supplies, and medicine to Bosnia and Herzegovina, and for the repair and reconstruction of hospitals, clinics, and medical facilities in Bosnia and Herzegovina.

AMENDMENT NO. 2243

On page 112, between lines 9 and 10, insert the following new section:

SEC. . EMERGENCY PROJECTS IN BOSNIA AND HERZEGOVINA.

Of the funds appropriated by this Act, not less than $10,000,000 shall be available only for emergency winterization and rehabilitation projects and for the reestablishment of essential services in Bosnia and Herzegovina.

AMENDMENT NO. 2244

On page 72, line 23, insert ", Serbia, and Montenegro" after "Iraq".

On page 73, line 11, insert ", Serbia, or Montenegro" after "Iraq".

On page 73, line 17, insert ", Serbia, or Montenegro, as the case may be," after "Iraq".

On page 73, line 19, insert ", Serbia, or Montenegro, as the case may be" after "Iraq".

DOLE (AND OTHERS) AMENDMENT NO. 2245

Mr. DOLE (for himself, Mr. WARNER, Mr. HELMS, and Mr. MCCAIN) proposed an amendment to the bill H.R. 4426, supra; as follows:

On page 112, between lines 9 and 10, insert the following new section:

SEC. . CONGRESSIONAL COMMISSION ON HAITI POLICY.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the American people support a peaceful transition to a democratic and representative government in Haiti;

(2) Haiti's elected President who is in exile and the de facto ruling junta in Haiti have reached an impasse in their negotiations for the reinstitution of civilian government;

(3) the extensive economic sanctions imposed by the United Nations and United States against the de facto rulers are causing grave harm to innocent Haitians;

(4) private businesses and other sources of employment are being shut down, and the continuation of the comprehensive economic sanctions are causing massive starvation, the spread of disease at epidemic proportions, and widespread environmental degradation; and

(5) an armed invasion of Haiti by forces of the United States, the United Nations, and the Organization of American States would endanger the lives of troops sent to Haiti as

well as thousands of Haitians, especially civilians.

(b) ESTABLISHMENT AND DUTIES.—(1) There is established a congressional commission which shall be known as the Commission on Haiti Policy (in this section referred to as the "Commission").

(2) It shall be the duty of the Commission—

(A) to assess the humanitarian, political, and diplomatic conditions in Haiti; and

(B) to submit to the Congress the report described in subsection (d).

(3) In carrying out its duties, the Commission shall call upon recognized experts on Haiti and Haitian culture, as well as experts on health and social welfare, political institution building, and diplomatic processes and negotiations.

(c) COMPOSITION OF COMMISSION.—The Commission shall consist of the following Members of Congress (or their designees):

(1) The Majority Leader of the Senate.

(2) The Minority Leader of the Senate.

(3) The chairman and the ranking Member of the following committees of the Senate:

(A) The Committee on Appropriations.

(B) The Committee on Foreign Relations.

(C) The Select Committee on Intelligence.

(D) The Committee on Armed Services.

(4) The Speaker of the House of Representatives.

(5) The Minority Leader of the House of Representatives.

(6) The chairman and ranking Member of the following committees of the House of Representatives:

(A) The Committee on Appropriations.

(B) The Committee on Foreign Affairs.

(C) The Permanent Select Committee on Intelligence.

(D) The Committee on Armed Services.

(d) REPORT OF COMMISSION.—Not later than 45 days after enactment of this Act, the Commission shall submit to the Congress a report on the Commission's analysis and assessment of conditions in Haiti and, if appropriate, analysis and assessment of appropriate policy options available to the United States with respect to Haiti.

SIMON (AND JEFFORDS) AMENDMENT NO. 2246

Mr. SIMON (for himself and Mr. JEFFORDS) proposed an amendment to the bill H.R. 4426, supra; as follows:

On page 112, between lines 9 and 10, insert the following new section:

POVERTY REDUCTION EMPHASIS FOR DEVELOPMENT ASSISTANCE

SEC. . (a) Of the total amount of funds appropriated by this Act to carry out chapters 1 and 10 of part I of the Foreign Assistance Act of 1961, a substantial percentage of the funds shall be available only to finance programs, projects, and activities that directly improve the lives of the poor, with special emphasis on those individuals living in absolute poverty.

(b) It is the sense of Congress that the President, in carrying out this section, should—

(1) promulgate appropriate standards for identifying those populations living in poverty;

(2) establish a program performance, monitoring, and evaluation capacity within the Agency for International Development that will develop and prepare, in consultation with both local and international nongovernmental organizations, appropriate indicators, and criteria for monitoring and evaluation of progress toward poverty reduction; and

(3) take steps necessary to increase the direct involvement of the poor in project design, implementation and evaluation, including increasing opportunities for direct funding of local nongovernmental organizations serving these populations, and other local capacity-building measures.

(c) The Congress urges the President, not later than April 1, 1995, to submit to the Congress a report setting forth the progress made in carrying out this section.

BROWN AMENDMENT NO. 2247

Mr. MCCONNELL (for Mr. BROWN) proposed an amendment to the bill H.R. 4426, supra; as follows:

On page 7, lines 7 and 8, strike "$382,000,000: *Provided,*" and insert "$273,000,000: *Provided,* That not to exceed $12,000,000 of the funds appropriated under this heading shall be made available for the United Nations Development Program: *Provided further,*".

BROWN (AND OTHERS) AMENDMENT NO 2248

Mr. MCCONNELL for Mr. BROWN (for himself, Mr. SIMON, Mr. ROTH, Ms. MIKULSKI, Mr. DOLE, and Mr. DOMENICI) proposed an amendment to the bill H.R. 4426, supra; as follows:

At the end of the Committee amendment which ends on line 21 of page 2 of the bill, add the following new section:

SEC. . ADDITIONAL COUNTRIES ELIGIBLE FOR PARTICIPATION IN ALLIED DEFENSE COOPERATION.

(a) SHORT TITLE.—This section may be cited as the "NATO Participation Act".

(b) TRANSFER OF EXCESS DEFENSE ARTICLES.—The President may transfer excess defense articles under section 516 of the Foreign Assistance Act of 1961, or under the Arms Export Control Act to Poland, Hungary, and the Czech Republic.

(c) LEASES AND LOANS OF MAJOR DEFENSE EQUIPMENT AND OTHER DEFENSE ARTICLES.—Section 63(a)(2) of the Arms Export Control Act (22 U.S.C. 2796b) is amended by striking "or New Zealand" and inserting "New Zealand, Poland, Hungary, or the Czech Republic".

(d) LOAN MATERIALS, SUPPLIES, AND EQUIPMENT FOR RESEARCH AND DEVELOPMENT PURPOSES.—Section 65(d) of the Arms Export Control Act (22 U.S.C. 2796d(d)) is amended—

(1) by striking "or" after "United States)" and inserting a comma; and

(2) by inserting before the period at the end of the following: ", Poland, Hungary, or the Czech Republic".

(e) COOPERATIVE MILITARY AIRLIFT AGREEMENTS.—Section 2350c(e)(1)(B) of title 10, United Stated Code, is amended by striking "and the Republic of Korea" and inserting "the Republic of Korea, Poland, Hungary, and the Czech Republic".

(f) PROCUREMENT OF COMMUNICATIONS SUPPORT AND RELATED SUPPLIES AND SERVICES.—Section 2350f(d)(1)(B) is amended by striking "or the Republic of Korea" and inserting "the Republic of Korea, Poland, Hungary, or the Czech Republic".

(g) STANDARDIZATION OF EQUIPMENT WITH NORTH ATLANTIC TREATY ORGANIZATION MEMBERS.—Section 2457 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(g) It is the sense of the Congress that in the interest of maintaining stability and promoting democracy in Eastern Europe, Poland, Hungary, and the Czech Republic, those countries should, on and after the date of enactment of this subsection, be included in all activities under this section related to the increased standardization and enhanced interoperability of equipment and weapons systems, through coordinated training and procurement activities, as well as other means, undertaken by the North Atlantic Treaty Organization members and other allied countries."

(h) INCLUSION OF OTHER EUROPEAN COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—The President should recommend legislation to the Congress making eligible under the provisions of law amended by this section such other European countries emerging from communist domination as the President may determine if such countries—

(1) have made significant progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law; and

(2) are likely, within 5 years of such determination, to be in a position to further the principles of the North Atlantic treaty and to contribute to the security of the North Atlantic area.

BROWN AMENDMENTS NOS. 2249–2251

Mr. MCCONNELL (for Mr. BROWN) proposed three amendments to the bill H.R. 4426, supra; as follows:

AMENDMENT NO. 2249

On page 3, line 12 strike "$1,207,750,000" and insert "$1,024,332,000."

AMENDMENT NO. 2250

On page 3, line 6, strike $98,800,000, insert $30,000,000 and on page 105, line 16, insert the following:

"(c) Funds appropriated by Title I of the Act under the heading "Limitation on Callable Capital Subscriptions" shall be available for payment to the IBRD for the Global Environmental Facility (GEF) as follows:

(1) 50 percent of the funds appropriated under such heading shall be made available prior to April 1, 1995 only if the Secretary of the Treasury makes the determination and so reports to the Committee on Appropriations as described in paragraph (3) of this subsection.

(2) 50 percent of the funds appropriated under such heading shall be made available on or after April 1, 1995 only if the Secretary of the Treasury makes the determination and so reports to the Committee on Appropriations as described in paragraph (3) of this subsection.

(3) The determinations referred to in paragraphs (1) and (2) are determinations that the GEF has

(i) established clear procedures ensuring public availability of documentary information on all GEF projects and associated projects of the GEF implementing agencies.

(ii) established clear procedures ensuring that affected peoples in recipient countries are consulted on identification, preparation and implementation of GEF projects.

AMENDMENT NO. 2251

At the end of the bill insert the following—

"SEC. 576. LIMITATION ON USE OF FUNDS FOR CONTRIBUTION TO THE ENHANCED STRUCTURAL ADJUSTMENT FACILITY.

(a) LIMITATION.—Not more than $20,000,000 of the amount appropriated under Title I under the heading "CONTRIBUTION TO THE ENHANCED STRUCTURAL ADJUSTMENT

FACILITY OF THE INTERNATIONAL MONETARY FUND" shall be available until the Bipartisan Commission described in subsection (b) submits the report described in subsection (c).

(b) BIPARTISAN COMMISSION.—There shall be established a bipartisan Commission whose members shall be appointed within two months of enactment of this Act to conduct a complete review of the salaries and benefits of World Bank and International Monetary Fund employees and their families. The Commission shall be composed of:

(i) 1 member appointed by the President;

(ii) 1 member appointed by the Speaker of the House of Representatives;

(iii) 1 member appointed by the Minority Leader of the House of Representatives;

(iv) 1 member appointed by the Majority Leader of the Senate;

(v) 1 member appointed by the Minority Leader of the Senate;

(vi) Staff members—The U.S. Agency for International Development shall provide funding for the hire of outside experts and shall provide expert AID staff members to the Commission as necessary.

(c) COVERED REPORT.—Within six months after appointment, the Commission shall submit a report to the President, the Speaker of the House of Representatives and the Chairman of the Senate Foreign Relations Committee which includes the following:

(i) a review of the existing salary paid and benefits received by the employees of the World Bank and the IMF;

(ii) a review of all benefits paid by the World Bank and the IMF to family members and dependents of the employees of the World Bank and the IMF;

(iii) a review of all salary and benefits paid to employees and dependents of the World Bank and the IMF as compared to all salary and benefits paid to comparable positions for employees of U.S. banks.

BROWN (AND OTHERS) AMENDMENT NO. 2252

Mr. MCCONNELL for Mr. BROWN (for himself, Mr. SIMON, Mr ROTH, Ms. MIKULSKI, and Mr. DOLE) proposed an amendment to the bill H.R. 4426, supra; as follows:

On page 2, line 21, after the period, insert the following:

SEC. . ADDITIONAL COUNTRIES ELIGIBLE FOR PARTICIPATION IN ALLIED DEFENSE COOPERATION.

(a) SHORT TITLE.—This section may be cited as the "NATO Participation Act".

(b) TRANSFER OF EXCESS DEFENSE ARTICLES.—The President may transfer excess defense articles under the Foreign Assistance Act of 1961 or the Arms Export Control Act to Poland, Hungary, and the Czech Republic.

(c) LEASES AND LOANS OF MAJOR DEFENSE EQUIPMENT AND OTHER DEFENSE ARTICLES.—Section 63(a)(2) of the Arms Export Control Act (22 U.S.C. 2796b) is amended by striking "or New Zealand" and inserting "New Zealand, Poland, Hungary, or the Czech Republic".

(d) LOAN MATERIALS, SUPPLIES, AND EQUIPMENT FOR RESEARCH AND DEVELOPMENT PURPOSES.—Section 65(d) of the Arms Export Control Act (22 U.S.C. 2796d(d)) is amended—

(1) by striking "or" after "United States)" and inserting a comma; and

(2) by inserting before the period at the end the following: ", Poland, Hungary, or the Czech Republic".

(e) COOPERATIVE MILITARY AIRLIFT AGREEMENTS.—Section 2350c(e)(1)(B) of title 10, United States Code, is amended by striking "and the Republic of Korea" and inserting "the Republic of Korea, Poland, Hungary, and the Czech Republic".

(f) PROCUREMENT OF COMMUNICATIONS SUPPORT AND RELATED SUPPLIES AND SERVICES.—Section 2350f(d)(1)(B) is amended by striking "or the Republic of Korea" and inserting "the Republic of Korea, Poland, Hungary, and the Czech Republic".

(g) STANDARDIZATION OF EQUIPMENT WITH NORTH ATLANTIC TREATY ORGANIZATION MEMBERS.—Section 2457 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(g) It is the sense of the Congress that in the interest of maintaining stability and promoting democracy in Eastern Europe, Poland, Hungary, and the Czech Republic, those countries should, on and after the date of enactment of this subsection, be included in all activities under this section related to the increased standardization and enhanced interoperability of equipment and weapons systems, through coordinated training and procurement activities, as well as other means, undertaken by the North Atlantic Treaty Organization members and other allied countries.".

(h) INCLUSION OF OTHER EUROPEAN COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—The President should recommend legislation to the Congress making eligible under the provisions of law amended by this section such other European countries emerging from communist domination as the President may determine if such countries—

(1) have made significant progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law; and

(2) are likely, within 5 years of such determination, to be in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area.

HELMS AMENDMENTS NOS. 2253–2260

Mr. HELMS proposed eight amendments to the bill H.R. 4426, supra; as follows:

AMENDMENT NO. 2253

SEC. . NON-INTERVENTION CONCERNING ABORTION.

(a) CONGRESSIONAL DECLARATION.—The Congress recognizes that countries adhere to a diversity of cultural, religious, and legal traditions regarding the deliberate abortion of the human fetus.

(b) PROHIBITED ACTIVITIES.—Therefore, none of the funds appropriated by this Act may be used by any agency of the United States or any officer of the Executive Branch to—

(1) engage in any activity or effort to alter the laws or policies in effect in any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited;

(2) support any resolution or participate in any activity of a multilateral organization which seeks to alter such laws or policies in foreign countries; or

(3) permit any multilateral organization or private organization to use U.S. government funds for such purposes.

(c) RULE OF STATUTORY CONSTRUCTION.—Nothing in this section may be construed to prevent—

(1) U.S. funds from being used to pay for treatment of injuries or illnesses caused by legal or illegal abortions; or

(2) agencies or officers of the United States from engaging in activities in opposition to policies of coercive abortion or involuntary sterilization."

AMENDMENT NO. 2254

On page 8, line 22, before the period insert the following: ": *Provided further*, That none of the funds appropriated under this heading shall be made available for the United Nations Development Program".

AMENDMENT NO. 2255

At the appropriate place in the bill, insert the following:

PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS ENGAGED IN ESPIONAGE AGAINST THE UNITED STATES

SEC. . (a) None of the funds appropriated by this Act (other than for humanitarian assistance or assistance for refugees) may be provided to any foreign government which the President determines is engaged in intelligence activities within the United States harmful to the national security of the United States.

AMENDMENT NO. 2256

At the appropriate place in the bill, insert the following:

"SEC. . RUSSIAN CHEMICAL AND BIOLOGICAL WEAPONS PRODUCTION.

None of the funds appropriated or otherwise made available under this Act may be made available in any fiscal year for Russia (other than humanitarian assistance) unless the President has certified to the Congress not more than 6 months in advance of the obligation or expenditure of such funds that Russia is in compliance with the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, and has disclosed the existence of its binary chemical weapons program (as required under the memorandum of understanding regarding a bilateral verification experiment and data exchange related to prohibition of chemical weapons) and the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction."

AMENDMENT NO. 2257

At the appropriate place in the first Committee amendment add the following:

On page 93, between lines 13 and 14, insert the following:

(1) a full and independent investigation conducted relating to issues raised by the discovery, after the May 23 explosion in Managua, of weapons caches, false passports, identity papers and other documents, suggesting the existence of a terrorist/kidnapping ring;

On page 93, line 22, strike out "(2)" and insert in lieu thereof "(3)".

On page 93, line 24, strike out "(3)" and insert in lieu thereof "(4)".

On page 94, line 4, strike out "(4)" and insert in lieu thereof "(5)".

On page 94, line 8, strike out "(5)" and insert in lieu thereof "(6)".

On page 94, line 11, strike out "(6)" and insert in lieu thereof "(7)".

AMENDMENT NO. 2258

On page 98, line 24 strike out "and" and all that follows through page 99, line 3, and insert in lieu thereof the following:

(4) (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights; and

(5) has not nationalized, expropriated, or otherwise seized ownership or control of property owned by any United States person and has not either—

(A) returned the property;

(B) provided adequate and effective compensation for such property in convertible foreign exchange or other mutually acceptable compensation equivalent to the full value thereof, as required by international law;

(C) offered a domestic procedure providing prompt, adequate and effective compensation in accordance with international law; or

(D) submitted the dispute to arbitration under the rules of the Convention for the Settlement of Investment disputes or other mutually agreeable binding international arbitration procedure.

AMENDMENT NO. 2259

At the end of the amendment, insert the following:

On page 112, between lines 9 and 10, insert:

TITLE VI—MOST-FAVORED-NATION TREATMENT FOR PEOPLE'S REPUBLIC OF CHINA

SEC. 601. SHORT TITLE.

This title may be cited as the "United States-China Act of 1994".

SEC. 602. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress makes the following findings:

(1) In Executive Order 12850, dated May 28, 1993, the President established conditions for renewing most-favored-nation treatment for the People's Republic of China in 1994.

(2) The Executive order requires that in recommending the extension of most-favored-nation trade status to the People's Republic of China for the 12-month period beginning July 3, 1994, the Secretary of State shall not recommend extension unless the Secretary determines that such extension substantially promotes the freedom of emigration objectives contained in section 402 of the Trade Act of 1974 (19 U.S.C. 2432) and that China is complying with the 1992 bilateral agreement between the United States and China concerning export to the United States of products made with prison labor.

(3) The Executive order further requires that in making the recommendation, the Secretary of State shall determine if China has made overall significant progress with respect to—

(A) taking steps to begin adhering to the Universal Declaration of Human Rights;

(B) releasing and providing an acceptable accounting for Chinese citizens imprisoned or detained for the nonviolent expression of their political and religious beliefs, including such expressions of beliefs in connection with the Democracy Wall and Tiananmen Square movements;

(C) ensuring humane treatment of prisoners, and allowing access to prisons by international humanitarian and human rights organizations;

(D protecting Tibet's distinctive religious and cultural heritage; and

(E) permitting international radio and television broadcasts into China.

(4) The Executive order requires the executive branch to resolutely pursue all legislative and executive actions to ensure that China abides by its commitments to follow fair, nondiscriminatory trade practices in dealing with United States businesses and adheres to the Nuclear Nonproliferation Treaty, the Missile Technology Control Regime guidelines and parameters, and other nonproliferation commitments.

(5) The Government of the People's Republic of China, a member of the United Nations Security Council obligated to respect and uphold the United Nations charter and Universal Declaration of Human Rights, has over the past year made less than significant progress on human rights. The People's Republic of China has released only a few prominent political prisoners and continues to violate internationally recognized standards of human rights by arbitrary arrests and detention of persons for the nonviolent expression of their political and religious beliefs.

(6) The Government of the People's Republic of China has not allowed humanitarian and human rights organizations access to prisons.

(7) The Government of the People's Republic of China has refused to meet with the Dalai Lama, or his representative, to discuss the protection of Tibet's distinctive religious and cultural heritage.

(8) It continues to be the policy and practice of the Government of the People's Republic of China to control all trade unions and suppress and harass members of the independent labor union movement.

(9) The Government of the People's Republic of China continues to restrict the activities of accredited journalists and Voice of America broadcasts.

(10) The People's Republic of China's defense industrial trading companies and the People's Liberation Army engage in lucrative trade relations with the United States and operate lucrative commercial businesses within the United States. Trade with and investments in the defense industrial trading companies and the People's Liberation Army are contrary to the national security interests of the United States.

(11) The President has conducted an intensive high-level dialogue with the Government of the People's Republic of China, including meeting with the President of China, in an effort to encourage that government to make significant progress toward meeting the standards contained in the Executive order for continuation of most-favored-nation treatment.

(12) The Government of the People's Republic of China has not made overall significant progress with respect to the standards contained in the President's Executive Order 12850, dated May 28, 1993.

(b) POLICY.—It is the policy of the Congress that, since the President has recommended the continuation of the waiver under section 402(d) of the Trade Act of 1974 for the People's Republic of China for the 12-month period beginning July 3, 1994, such waiver shall not provide for extension of nondiscriminatory trade treatment to goods that are produced, manufactured, or exported by the People's Liberation Army or Chinese defense industrial trading companies or to nonqualified goods that are produced, manufactured, or exported by state-owned enterprises of the People's Republic of China.

SEC. 603. LIMITATIONS ON EXTENSION OF NONDISCRIMINATORY TREATMENT.

(a) IN GENERAL.—Notwithstanding any other provision of law—

(1) if nondiscriminatory treatment is not granted to the People's Republic of China by reason of the enactment into law of a disapproval resolution described in subsection (b)(1), nondiscriminatory treatment shall—

(A) continue to apply to any good that is produced or manufactured by a person that is not a state-owned enterprise of the People's Republic of China, but

(B) not apply to any good that is produced, manufactured, or exported by a state-owned enterprise of the People's Republic of China,

(2) if nondiscriminatory treatment is granted to the People's Republic of China for the 12-month period beginning on July 3, 1994, such nondiscriminatory treatment shall not apply to—

(A) any good that is produced, manufactured, or exported by the People's Liberation Army or a Chinese defense industrial trading company, or

(B) any nonqualified good that is produced, manufactured, or exported by a state-owned enterprise of the People's Republic of China, and

(3) if nondiscriminatory treatment is or is not granted to the People's Republic of China, the Secretary of the Treasury should consult with leaders of American businesses having significant trade with or investment in the People's Republic of China, to encourage them to adopt a voluntary code of conduct that—

(A) follows internationally recognized human rights principles,

(B) ensures that the employment of Chinese citizens is not discriminatory in terms of sex, ethnic origin, or political belief,

(C) ensures that no convict, forced, or indentured labor is knowingly used,

(D) recognizes the rights of workers to freely organize and bargain collectively, and

(E) discourages mandatory political indoctrination on business premises.

(b) DISAPPROVAL RESOLUTION.—

(1) IN GENERAL.—For purposes of this section, the term "resolution" means only a joint resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: "That the Congress does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to the Congress on ________ with respect to the People's Republic of China because the Congress does not agree that the People's Republic of China has met the standards described in the President's Executive Order 12850, dated May 28, 1993.", with the blank space being filled with the appropriate date.

(2) APPLICABLE RULES.—The provisions of sections 153 (other than paragraphs (3) and (4) of subsection (b)) and 402(d)(2) (as modified by this subsection) of the Trade Act of 1974 shall apply to a resolution described in paragraph (1).

(c) DETERMINATION OF STATE-OWNED ENTERPRISES AND CHINESE DEFENSE INDUSTRIAL TRADING COMPANIES.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall determine which persons are state-owned enterprises of the People's Republic of China and which persons are Chinese defense industrial trading companies for purposes of this title. The Secretary shall publish a list of such persons in the Federal Register.

(2) PUBLIC HEARING.—

(A) GENERAL RULE.—Before making the determination and publishing the list required by paragraph (1), the Secretary of the Treasury shall hold a public hearing for the purpose of receiving oral and written testimony regarding the persons to be included on the list.

(B) ADDITIONS AND DELETIONS.—The Secretary of the Treasury may add or delete persons from the list based on information available to the Secretary or upon receipt of a request containing sufficient information to take such action.

(3) DEFINITIONS AND SPECIAL RULES.—For purposes of making the determination required by paragraph (1), the following definitions apply:

(A) CHINESE DEFENSE INDUSTRIAL TRADING COMPANY.—The term "Chinese defense industrial trading company"—

(i) means a person that is—

(I) engaged in manufacturing, producing, or exporting, and

(II) affiliated with or owned, controlled, or subsidized by the People's Liberation Army, and

(ii) includes any person identified in the United States Defense Intelligence Agency publication numbered VP-1920-271-90, dated September 1990.

(B) PEOPLE'S LIBERATION ARMY.—The term "People's Liberation Army" means any branch or division of the land, naval, or air military service or the police of the Government of the People's Republic of China.

(C) STATE-OWNED ENTERPRISE OF THE PEOPLE'S REPUBLIC OF CHINA.—(i) The term "state-owned enterprise of the People's Republic of China" means a person who is affiliated with or wholly owned, controlled, or subsidized by the Government of the People's Republic of China and whose means of production, products, and revenues are owned or controlled by a central or provincial government authority. A person shall be considered to be state-owned if—

(I) the person's assets are primarily owned by a central or provincial government authority;

(II) a substantial proportion of the person's profits are required to be submitted to a central or provincial government authority;

(III) the person's production, purchases of inputs, and sales of output, in whole or in part, are subject to state, sectoral, or regional plans; or

(IV) a license issued by a government authority classifies the person as state-owned.

(ii) Any person that—

(I) is a qualified foreign joint venture or is licensed by a governmental authority as a collective, cooperative, or private enterprise; or

(II) is wholly owned by a foreign person,

shall not be considered to be state-owned.

(D) QUALIFIED FOREIGN JOINT VENTURE.—The term "qualified foreign joint venture" means any person—

(i) which is registered and licensed in the agency or department of the Government of the People's Republic of China concerned with foreign economic relations and trade as an equity, cooperative, contractual joint venture, or joint stock company with foreign investment;

(ii) in which the foreign investor partner and a person of the People's republic of China share profits and losses and jointly manage the venture;

(iii) in which the foreign investor partner holds or controls at least 25 percent of the investment and the foreign investor partner is not substantially owned or controlled by a state-owned enterprise of the People's Republic of China;

(iv) in which the foreign investor partner is not a person of a country the government of which the Secretary of State has determined under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) to have repeatedly provided support for acts of international terrorism; and

(v) which does not use state-owned enterprises of the People's Republic of China to export its goods or services.

(E) PERSON.—The term "person" means a natural person, corporation, partnership, enterprise, instrumentality, agency, or other entity.

(F) FOREIGN INVESTOR PARTNER.—The term "foreign investor partner" means—

(i) a natural person who is not a citizen of the People's Republic of China; and

(ii) a corporation, partnership, instrumentality, enterprise, agency, or other entity that is organized under the laws of a country other than the People's Republic of China and 50 percent or more of the outstanding capital stock or beneficial interest of such entity is owned (directly or indirectly) by natural persons who are not citizens of the People's Republic of China.

(G) NONQUALIFIED GOOD.—The term "nonqualified good" means a good to which chapter 39, 44, 48, 61, 62, 64, 70, 73, 84, 93, or 94 of the Harmonized Tariff Schedule of the United States applies.

(H) CONVICT, FORCED, OR INDENTURED LABOR.—The term "convict, forced, or indentured labor" has the meaning given such term by section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

(I) VIOLATIONS OF INTERNATIONALLY RECOGNIZED STANDARDS OF HUMAN RIGHTS.—The term "violations of internationally recognized standards of human rights" includes but is not limited to, torture, cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by abduction and clandestine detention of those persons, secret judicial proceedings, and other flagrant denial of the right to life, liberty, or the security of any person.

(J) MISSILE TECHNOLOGY CONTROL REGIME.—The term "Missile Technology Control Regime" means the agreement, as amended, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on an annex of missile equipment and technology.

(d) SEMIANNUAL REPORTS.—The Secretary of the Treasury shall, not later than 6 months after the date of the enactment of this Act, and the end of each 6-month period occurring thereafter, report to the Congress on the efforts of the executive branch to carry out subsection (c). The Secretary may include in the report a request for additional authority, if necessary, to carry out subsection (c). In addition, the report shall include information regarding the efforts of the executive branch to carry out subsection (a)(3).

SEC. 604. PRESIDENTIAL WAIVER.

The President may waive the application of any condition or prohibition imposed on any person pursuant to this title, if the President determines and reports to the Congress that the continued imposition of the condition or prohibition would have a serious adverse effect on the vital national security interests of the United States.

SEC. 605. REPORT BY THE PRESIDENT.

If the President recommends in 1995 that the waiver referred to in section 602 be continued for the People's Republic of China, the President shall state in the document required to be submitted to the Congress by section 402(d) of the Trade Act of 1974, the extent to which the Government of the People's Republic of China has made progress during the period covered by the document, with respect to—

(1) adhering to the provisions of the Universal Declaration of Human Rights,

(2) ceasing the exportation to the United States of products made with convict, force, or indentured labor,

(3) ceasing unfair and discriminatory trade practices which restrict and unreasonably burden American business, and

(4) adhering to the guidelines and parameters of the Missile Technology Control Regime, the controls adopted by the Nuclear Suppliers Group, and the controls adopted by the Australia Group.

SEC. 606. SANCTIONS BY OTHER COUNTRIES.

If the President decides not to seek a continuation of a waiver in 1995 for the People's Republic of China under section 402(d) of the Trade Act of 1974, the President shall, during the 30-day period beginning on the date that the President would have recommended to the Congress that such a waiver be continued, undertake efforts to ensure that members of the General Agreement on Tariffs and Trade take a similar action with respect to the People's Republic of China.

AMENDMENT NO. 2260

At the appropriate place in the bill, insert the following new section:

SEC. . AMBASSADORIAL RANK FOR HEAD OF UNITED STATES DELEGATION TO THE CSCE.

The United States delegation to the Conference on Security and Cooperation in Europe shall be headed by an individual who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall have the rank of ambassador.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will be holding a Hearing on Thursday, July 14, 1994, beginning at 9:30 a.m., in G-50 Dirksen Senate Office Building on S. 2269, the Native American Cultural Protection and Free Exercise of Religion Act of 1994.

Those wishing additional information should contact the Committee on Indian Affairs at 224-2251.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry, Subcommittee on Agricultural Research Conservation, Forestry, and General Legislation will hold a hearing on Tuesday, July 26, 1994, at 2:30 p.m. in SR-332, to review the administration's proposed meat and poultry inspection legislation. Senator TOM DASCHLE will preside. Witnesses will be announced at a later date.

For further information, please contact Tracey Henderson at 224-2321.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today, July 13, 1994, at 10 a.m., to hear testimony from Secretary Donna Shalala on the administration's welfare reform bill, the Work and Responsibility Act of 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, July 13, 1994, at 10 a.m., in room 216 Senate Hart Office Building, to hold a hearing on the nomination of Stephen G. Breyer of Massachusetts, to be Associate Justice of the Supreme Court.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FOREIGN COMMERCE AND TOURISM

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the Foreign Commerce and Tourism Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on July 13, 1994, at 9:30 a.m. on current tourism policy activities.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUPERFUND, RECYCLING AND SOLID WASTE MANAGEMENT

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Recycling and Solid Waste Management of the Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, July 13, beginning at 2 p.m., to conduct a hearing on S. 2227, the Flow Control Act of 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TOXIC SUBSTANCES, RESEARCH AND DEVELOPMENT

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the Subcommittee on Toxic Substances, Research and Development, of the Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, July 13, beginning at 9:30 a.m., to conduct a hearing on issues involving the reauthorization of the Toxic Substances Control Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PROBLEMS HIT F–22 FIGHTER

• Mr. D'AMATO. Mr. President, first the fuselage. Now the engine. Next the avionics. Think I am talking about the B–1B? Nope. F–22.

I ask that an article that appeared in the May 31, 1994, edition of Defense Week, "Excess Engine 'Vibration' Problems Hit F–22 Fighter," be printed in the RECORD at the end of my remarks.

The article follows.

[From the Defense Week, May 31, 1994]

EXCESS ENGINE 'VIBRATION' PROBLEMS HIT F–22 FIGHTER

(By Tony Capaccio)

Excessive, unanticipated vibrations inside the turbine engine of the Air Force's newest fighter have forced the United Technologies Corp.'s Pratt & Whitney unit to redesign the powerplant, according to internal service documents obtained by Defense Week.

Redesign of the F–22's F119–PW–100 engine will cost the Air Force at least $179 million, according to program office documents.

The excessive "vibrational stress," or excitation, within the turbine "is the most serious problem that exists today because it restricts uninhibited engine operation," said the final report of a Air Force-commissioned independent review team. It was dated Feb. 8.

The review team was chaired by William Heiser, an Air Force Academy professor of aeronautics.

The engine issue represents the most serious technical problem emerging to date in the ongoing 10-year engineering manufacturing and development test phase. The $71 billion F–22 program is the second most expensive in the Pentagon procurement pipeline and a potential target of lawmakers hoping to cut the defense budget.

Pratt & Whitney spokesman Bob Carroll declined comment, referring questions to the Air Force.

Heiser praised Pratt & Whitney's Government Engines & Space propulsion division for its cooperation. "We believe that they agree with our findings and recommendations and are ready to act on them," he wrote.

News of the heretofore unpublicized engine problem comes as the Senate Armed Services Committee reviews a recommendation by the General Accounting Office to delay by seven years initial fielding of the jet until 2010 for budget savings.

The GAO recommendation was driven largely by information suggesting the F–15 could handle any new aircraft threats emerging in that timeframe and not out of any major technical concerns. At $164 million per aircraft, the F–22 is being sold largely on its hoped-for superior performance, increased ranges and improved reliability, all of which are threatened by the engine problem. "The nature and number of problems being experienced by the P&W F119 are not excessive for a highly sophisticated new centerline aircraft at this stage of development," said the review team report.

"Major advances in propulsion performance necessarily involve pushing back many technological barriers," said the report. "Nevertheless, the sum of our observations leads directly to our principle conclusion that the pace of the P&W F119 program must be significantly accelerated in order to insure that acceptable versions of the engine are available for flight test and production."

"Taken together, the magnitude of the remaining challenges and shortness of the remaining time (about 18 months are needed to design and manufacture a new turbine) require a revitalized, aggressive approach if the desired goals are to be reached," said the report.

The review team concluded: "This is a crucial moment for the F–22 system program office to conduct a top-down evaluation of aircraft/engine systems performance in order to assess the impact of probable deficiencies on mission requirements and on F119 engine specifications and priorities."

"New tradeoffs between range, payload, durability and cost must be carried out. This assessment will only become more difficult as major milestones approach and available options become more limited," it said.

"This is a big problem," said a Pentagon official very familiar with the issue. "If we don't fix any of these problems we can't make our range requirements in terms of fuel efficiency and can't make our reliability requirements," he said.

But given the aircraft's carefully crafted test program, the F–22 development team has time to solve the vexing problems because first flight of a production model F119 is scheduled for 1996.

The team also warned that, given "major" configuration changes and unanticipated development problems, there is a serious shortage of ground test engines for remaining F119 development.

"Even though there is enough reason to believe that the overall F119 program will require less than half the engines and significantly fewer ground test hours that its predecessors (because of extensive prototype testing and modern analytical methods), there are clear indications that the current numbers are inadequate," said the report.

Among the indications, actual engine test hours compared with planned hours by December 1993 were 577 versus 900. "The gap is not projected to close for at least two years. There are no back-up engines available for unanticipated future additional testing or to replace one that breaks," the report said.

Known in engineering parlance as "76E excitation," the vibration problem "not only prevents the timely acquisition of essential ground test data and places some engines at risk but remains a potential safety-of-flight issue for the initial flight release engines until conclusively eliminated," said the report.

"The 76E problem must be pursued with rigor now," wrote the team. The team "strongly supports the near term effort by P&W," it said. [Emphasis in the original.]

Heiser wrote Feb. 8 to Lt. Gen. Richard Hawley, Air Force principal deputy for acquisition: "The most important conclusion reached by the [team] is that the pace of the P&W F119 development program must be significantly accelerated relative to that of the previous year in order to insure that acceptable versions of the engine are available in time for flight testing and production."

Hawley through a spokeswoman said the Air Force was already planning to redesign the F–22 turbine to increase its fuel efficiency. "Our biggest [engine] challenge so far is subsonic cruise thrust specific fuel consumption . . . The Air Force knew that the cause of the subsonic fuel consumption shortfall was the turbine."

The independent review team validated the Air Force approach, Hawley said. "In their review summary the [team] noted the aggressive goals for the engine but also noted that the problems encountered were not uncommon for an engine development program at this stage."

Hawley's statement failed to mention the far more important issue of excess vibrations.

The report said the company's engine workforce has "adequate competence and capacity available for at least one major effort of this sort, provided that they apply it diligently," said the report.

"Nevertheless, we are anxious about the apparent shortage of experienced aerodynamic designers of highly loaded single stage turbines of the type presented by the F119. We base our concern on the lack of P&W experience with production turbines of this class as well as their reductions in strength in this area."

These caveats aside, the team concluded P&W "is sincerely dedicated" to a successful development program. "But they will have to persevere in order to keep the necessary quality and quantity of technical personnel involved." The review team concluded that both high and low pressure turbines "fall far short of their [fuel] efficiency goals. One can see that the shortfall is caused by excessive blade tip clearance and seal leakages and poor airfoil aerodynamics."

"Engine development issues remain a high priority," the F–22 system program office wrote in a quarterly program review dated March 24.

"The engine has experienced fuel consumption inefficiencies and a durability shortfall in the turbine section. Our initial approach to correct these issues has been reviewed and agreed to be an executive independent review team," said the assessment. "These approaches focus on minimizing blade vibratory stress and tightening blade clearances."

The redesign options will be explored in June during a turbine redesign "critical design review," sources said. "You've got very, very high supersonic air that is exciting the blade twice and it shouldn't be," said a Pentagon official familiar with the F–22 program.

"Air is entering so fast it is hitting the blade at one angle and bouncing off and, hitting the next blade at a different angle," the official said.

"It is 'excited' in a way it wasn't meant to be excited," he said. "That will shorten the life of the turbine and that's bad. While we are fixing that problem we are going to try to make the whole thing more fuel efficient."

The redesign will focus on the turbine section looking at whether Pratt & Whitney must change the blade's aerodynamic shape or add blades.•

THE AMERICAN ECONOMY AND THE REST OF THE WORLD: TWO SIDES OF THE SAME COIN

• Mr. SIMON. Mr. President, one of the most thoughtful observers of our economic scene is Felix Rohatyn of New York City.

Recently, he gave the Albert H. Gordon Lecture on Finance and Public Policy at the John F. Kennedy School of Government. He calls on the United States, among other things, to deal with the jobs shortage in the underclass in a much more meaningful and creative way. He also calls on us to deal with our deficit.

Both have to be done.

As chair of the subcommittee that deals with retraining, I am all for retraining and education, but Felix Rohatyn is absolutely right when he says:

> The relentless downsizing of American business, together with the defense cutbacks, cannot be offset just by retraining and education.

We need jobs programs that put people to work, that give them a lift, and that screen them when they come in to determine if they need training for basic literacy and skills acquisition. But to believe that we can do this on the cheap is living in a world of fantasy, and we have to do it on a pay-as-you-go basis. We cannot continue to have interest be the fastest growing item in the Federal budget.

That means, inevitably, that we're going to have to raise additional Federal revenue. Those of us in politics don't like to talk about those kinds of things, but we had better level with the American people that our problems are simply going to compound unless we face up to the underclass situation and unless we face up to the deficit situation.

I ask unanimous consent to insert the Felix Rohatyn statement into the RECORD at this point.

THE AMERICAN ECONOMY AND THE REST OF THE WORLD: TWO SIDES OF THE SAME COIN

(By Felix G. Rohatyn)

It is a great privilege to deliver the Albert Gordon Lecture at the Kennedy School. The Lecture is dedicated "to improved discussion and increased understanding of matters related to finance and public policy". In that context, I would like to review the relationship of the U.S. economy to the international realities of the so-called New World Order.

I would like to put forward three general propositions:

(1) That economic growth and social stability in the developed world requires substantial and steady economic growth in the large developing countries.

(2) That this development will require further integration of the western economies with the rest of the world through open trade and investment policies;

(3) That totally free market policies may not be the panacea that they are cracked up to be. Just as the U.S. is still trying to balance the benefits of free markets with the requirements of individual security and the creation of new jobs, so will other countries.

The fall of the Berlin Wall and the collapse of communism in Europe (Both East and West) have created a new historical reality. Never before has the competition among the world's leading powers been concentrated on economic, as opposed to military and ideological, realities. On the world stage, today, the competition is essentially driven by economics as Western Europe, North America, Japan, China and South East Asia approach the turn of the Century. Last week's vote on NAFTA in the Congress and the Seattle Meeting of APEC are a reflection of this situation.

However, this has had another result, namely the widely accepted conclusion that the colossal economic and political failure of communism was due to the perfection of a Reaganesque or Thatcherite version of free-market capitalism. This conclusion is dangerous for two reasons:

First, it is not true. Communism collapsed mainly because of its internal inefficiencies and contradictions once modern communications and technology made it impossible to continue its isolation. Second, because it leads to the easy and unproven assumption that pure market economies can deal with technologically-driven productivity growth, defense cutbacks and foreign competition; that they can, simultaneously, provide high levels of employment and continued improvement in the standard of living of a large majority of the population.

The danger in these assumptions is already visible in Eastern Europe and the FSU. The expectations raised by these prescriptions, superimposed on archaic systems and psychological mindsets decades behind the times, were beyond anything that could realistically be expected to come about. The best that could have been achieved would have been a disappointment; the reality in many cases, turned out to be a crushing letdown. Current conditions of inflation, corruption, insecurity and humiliation have replaced the political fear and relative economic security which characterized communist regimes. The tradeoff, for many, is not self-evident. In my judgment, there are two reasons for these failures:

First that the prescription was wrong. For socialist countries in transition, economic "shock therapy" combined with immediate democratization is in most cases, a prescription for economic failure and/or political reaction. Second, and equally important, is the fact that we, in the West, with the most advanced economic and political systems in the world, have not yet effectively dealt with the need to equate freedom, fairness and wealth. Liberals have consistently argued for freedom combined with fairness; the result was redistribution of wealth and the modern welfare state. Conservatives argued for freedom and the creation of wealth; the result has too often been significant gaps between social and economic classes as well as a very weak safety net for those in need of assistance. Until we resolve this dilemma, economic and political solutions will be in difficulty in all democracies.

It seems to me that for political stability and democracy to flourish in the world of the 21st Century, three objectives have to be met:

(1) The big, developed Western democracies, ie., the U.S., Canada and Western Europe, together with Japan, have to resolve the problems of structural unemployment and of chronic budget deficits. The creation of adequate jobs with a future is the biggest economic and social challenge now facing the West. As a result of weak economies and flawed fiscal policies, the U.S. and Germany in particular are now a drain on the credit markets. They should, over time, along with the other OECD countries become major sources of investment capital for the rest of the world;

(2) The big developing countries, China, India, the FSU, Latin America must follow their own individual path to market economies and sustained economic growth. Many SE Asian countries have done so successfully. Cultural and historical factors may be as important as economic theories in determining individual countries approach to the market economy. Social and political stability together with currency stability are both required to attract the necessary foreign investment and mobilize local savings.

A recent article in the Wall St. Journal by Henry Rowen suggested a possible scenario for the years 1990 to 2020 insofar as economic growth is concerned, dividing the world into "rich" and "non-rich" countries. This scenario shows that strong growth is required in the "non-rich" part of the world economy simply to maintain minimum acceptable growth in the developed world. Per capita growth in the OECD would be about 1.5% per annum, while the "non-rich" countries grow at about 3.5% per annum. Its achievement would require mutually reinforcing economic policies on an entirely new scale. The achievements of the Marshall Plan and the Bretton Woods architecture are modest in comparison. In view of the growing importance of exports for the U.S. economy, it is easy to see that, if the developing world falters, the U.S. will be in serious difficulties.

It is clear that no one Western country, such as Germany, Japan or the U.S. is capable of being the locomotive to generate sufficient economic growth; it is questionable that any one region is capable of doing so. The pressures created by West Germany having to invest $100 billion per annum in East Germany, combined with continued large U.S. borrowings to finance our own budget deficits, have slowed the economies on both sides of the Atlantic. For the first time in modern history, the locomotive for the West must come from new growth in the rest of the world.

Nonetheless, the U.S. must take the lead to achieve this objective, with long-term economic and trade policies aiming at sustained economic growth in Latin America, China, India and other South East Asian countries. Completing the GATT and NAFTA agreements are vital aspects of that role. At home, the U.S. must make continued progress in the related areas of structural unemployment, budget deficits and savings and investment. We must redefine our foreign policy so as to give much greater emphasis to international economic integration and growth policies. Like every major multinational corporation, the foreign components of economic policy are but the other side of the coin of domestic economic policy.

On the domestic front, The Clinton Administration has made a courageous start to reverse a decade of deficits, of increased indebtedness and of a low savings rate. Much more will have to be done, particularly in the areas of solving the growth of entitlement programs such as Social Security, Medicare and Medicaid, probably through some form of means testing. However, providing security to the working American will have to come pari passu with deficit reduction. Universal health care is one component of that security, providing it is realistically financed. Job opportunities and financial security is a second component, and on that score we are failing badly. The relentless downsizing of American business, together with defense cutbacks, cannot be offset just by retraining and education. These are important components but they are inadequate, and a number of different initiatives will be required.

Among government actions, a large scale public works program should be undertaken, federally financed and supplementing state and local programs. A $250 billion ten-year program would be a fraction of what is needed to bring this Country's infrastructure to satisfactory condition and should be considered as a minimum first step; it could create about 1 million new jobs annually and could serve as one component of a defense conversion effort. High speed rail; mass transit; airport construction and many others would be a more effective use of defense contractors capabilities than building redundant Seawolf submarines. The use of some military bases, which are presently scheduled to be closed, for CCC-type programs to train inner-city youngsters, would be another benefit. The financing for such a program could be separated from the federal budget, with special issues of infrastructure bonds, secured by modest increases in gasoline taxes or other recurring revenues. These would pay off the bonds in 30–40 years and could make them eligible for investment by private and public pension funds, which now amount to about $3 trillion and will probably double in size over the next ten years.

In addition to such a program, new private sector initiatives will have to be studied, such as shorter work weeks, earlier retirements, and tax incentives for retirees to start small businesses. The impact on productivity as well as on the Federal budget must obviously be taken into account with any of these approaches. But the agreement of the German unions to Volkswagen's adoption of a four-day week must be compared with the chaos created in France by the failure of the French Government to support Air France vis a vis its unions. The social and economic costs of long-term unemployment are usually greater than the cost of creating opportunities for those who want it.

The U.S. Government should also be willing to compete directly with other nation's industrial policies as they affect key American industries. A clear example is the case of Airbus Industrie, the European airplane consortium, which has acquired 30% of the world's commercial aircraft market, at the expense of the American aerospace industry. The estimated subsidy invested by European governments of about $30 billion over 20–25 years has been a spectacular success, and Airbus could well be headed for 40–50% of the market over time. A program should be developed between the Government and the U.S. aerospace industry to assist in the development of the next generation 600–800 passenger "super-jumbo" jet as well as to the successor of the supersonic Concorde.

While it is important for the U.S. to eliminate its budget deficits over time and to become an exporter of capital instead of an importer, the amounts of capital required for world development dwarf any possible Marshall Plan, either U.S. or even OECD led. The original Marshall Plan consisted of about $16 billion to be disbursed over a four year period. This would be the equivalent of about $100 billion in today's dollars. To generate $25 trillion of new output in the developing world over the next 25 years, as suggested in the WSJ essay, could require as much as $15–$20 trillion of investment. No combination of western public and private investment can provide more than a fraction of this amount. However, western expansionists trade and investment policies will accelerate the required internal capital generation in large developing countries.

It is crystal clear that this reality requires major developing countries to establish domestic capital markets of sufficient depth, transparency and integrity so as to encourage and mobilize domestic savings as well as tap into the global savings pool represented by the rest of the world's capital markets. These will be heavily influenced by modern legislative reforms and financial and monetary policies of currency stability and low inflation. A global competition for capital will drive economic and political reforms, which in turn will be needed to mobilize domestic savings.

In order to be able to rely mostly on private capital flows and capital formation, developing countries must meet two basic requirements: A stable currency and a stable social and political environment. Runaway inflation brought about economic collapse and nazism in post WWI Germany; runaway inflation, today, is still the biggest enemy of investments and stability, witness the events in the FSU at present. The control of inflation and the transition to a market economy argue against overnight "shock therapy" solutions such as are imposed today on former communist countries. Memories are notoriously short, but WWII ended less than fifty years ago and it would be well to review what happened then. Despite the Marshall Plan; despite the fact that the European economies had experience with market economies and the technical and administrative infrastructures to comprehend them; despite the "German-economic miracle" beginning with currency reform in the 1950s; it took most of Europe 10 to 20 years to regain fully convertible currencies and a relative level of political stability. I would argue that the task of bringing Western Europe back from the catastrophe of WWII was easier, politically and economically, than the task facing the FSU and, possibly, China today.

Eastern Europe, while a daunting challenge, appears to be more manageable, with the exception of Yugoslavia. West Germany has essentially taken over the responsibility for East Germany, albeit at huge cost. Poland, despite a political setback, has strong current growth. The other countries all have histories of Western type economies and politics, interrupted by forty years of communism. It is hard to overemphasize the importance of opening up trade opportunities for Eastern and Central Europe. This can be done not only by encouraging the EC to open its markets on an accelerated time table, but by reopening some FSU markets to these countries as part of Western economic assistance programs to the FSU. The economic stability of Europe requires the integration of Maastricht; the social stability of Europe requires the orderly inclusion of Eastern and Central Europe into the EC through more aggressive trade and investment policies.

While the prospects and the requirements for a successful transition of both the FSU and China are quite different, I remain convinced that a gradual approach to economic as well as political transition is most likely to succeed. In other words, I believe that Deng Xiao-Ping is more likely to succeed than Boris Yeltsin. Every major U.S. corporation that has undertaken significant restructuring programs has done so on a multi-year basis. Early retirements have been combined with programs to cushion the shock of lay-offs, with definite goals set on a year by year basis. New York City avoided bankruptcy in the 1970s with a multi-year plan along similar lines. The same approach should be applied to inefficient state enterprises, even those that lead to total shutdowns. The sacrifices required, in the form of lower standards of living and higher unemployment, by the quick dismantling of state enterprises and total decontrol of prices is politically unsustainable in the long run. The U.S. is in a poor position to argue for the compatibility of sacrifice with democracy; when a 4 cent tax on gasoline is deemed to be a terrible burden, we should be very modest when calling on others to sacrifice. There are also other models than those of Thatcherite Britain or Reaganite America for these countries to aim for. Japan's spectacular postwar development took place under a one-party system and significant government guidance to the private sector economy. France has followed the path of a mixed economy. Similar approaches could succeed in former communist countries if we recognize that individual countries will have to follow individual paths.

Russia and some of the other members of the FSU will require special treatment. Both democratization and economic reform have gone part way and have stalled as a result of inflation, economic collapse and political resistance of non-democratic forces. Boris Yeltsin seems to be our best hope, but it would not be surprising if Russian democracy turned out to be more authoritarian than our ideal model or if regional pressures caused significant structural changes to occur. The economy will also need much more time and far more outside financial and technical assistance to make the transition than any of the other major countries. In the case of Russia and possibly Ukraine and Belarus, very large scale, long-term international economic assistance programs will probably have to be set up. It is doubtful whether the technical and administrative infrastructure in the FSU is adequate to manage such a program, or has the ability to attract and generate sufficient private capital.

A stable convertible rouble is still unattainable, but it is ultimately necessary. The international financial community, through the IMF, created additional Special Drawing Rights which allowed members to increase their borrowings in the 1970s in order to deal with the oil crisis. This amounted to about $8 billion (equivalent to about $15 billion currently) to be spread over seven years. A similar approach could be taken for the FSU in order to finance a multi-year program to stabilize the currency, or currencies as the case may be.

In addition, FSU participating countries could be encouraged to provide 10–20 year concessions to Western companies or consortia to acquire control of, and operate, some important sectors of the economy in order to accelerate transition. Control would thereafter revert to local interests. Guarantees for the protection of private property, debt repayment and profit remittance would have to be provided by the local governments and supplemented by broad investment guarantees by the Western Governments.

I am aware of the fact that such a program could be described as "Western neo-colonialism" and may be politically unacceptable in the FSU. There may not be very attractive alternatives, however, and it would be well to be realistic about what is required. West Germany is committed to invest about $10 billion annually in East Germany, probably for the next 7–10 years to provide for its transition costs. East Germany, with less than 10% of the population of the FSU, is probably twenty years ahead of the FSU in its infrastructure, overall educational levels and technological and administrative competence. The requirements of the FSU are many times the amounts invested in East Germany, but its ability to receive and disburse them effectively are inadequate; this will require both time and significant foreign participation. The "Grand Bargain" proposed by Harvard's Graham Allison and Robert Blackwill was an idea ahead of its time. Some version of the Grand Bargain will, however, be required.

China is a different case. It has allowed gradual economic liberalization, beginning with agriculture; it has maintained up to recently, a relatively stable currency while maintaining a politically authoritarian system. It has had the support of large amounts of capital and know-how provided by overseas Chinese as well as foreign trade surpluses and other capital inflows. So far, the result has been an economic boom, huge inflows of capital and, in certain regions, significant advances to a market economy at spectacular growth rates. However, the lack of a modern administrative, legal and credit structure; an inadequate public infrastructure; and some of the more negative aspects of rapid economic development (i.e. recently increasing inflation; rampant speculation; corruption; crime) leave the question of the future of China still unanswered. Huge differences exist in the pace and level of economic transition between the coastal regions and the rest of the Country and between urban and rural areas. The challenge to the Chinese Government is to get administrative and financial mechanisms in place that enable national policies to be carried out effectively. Equally important, is the development of a capital market of sufficient size to raise the huge sums necessary, both domestically and abroad, to meet China's needs. Direct investment will not be sufficient without the creation of such a market and an independent and responsible Chinese Central Bank is integral to such a development. As far as the U.S. is concerned, the issues of human rights, weapons proliferation and our significant trade deficit with China will remain as continued impediments to a totally open relationship.

Our economic relationship with Japan is beginning to change as China becomes a more important factor and as Japan's own economic and political problems force a reassessment of their own situation. The Clinton Administration is absolutely correct in attempting to obtain a measurable reduction in our balance-of-trade deficit with Japan, based on measuring sectoral activity. Equally important, however, is to push Japan to open its doors to U.S. direct investment as broadly as we have maintained open investment on the part of Europe and Japan. Japan (and to a lesser extent Germany) maintains an almost impenetrable net of bank-insurance-industrial cross-ownership and control which makes direct foreign investment very difficult if not impossible. It is as important to open up Japanese direct investment markets as it is to remove trade barriers; it is equally important for Japan to continue and accelerate its role as a heavy investor in developing countries.

Mexico and the rest of Latin America will be heavily dependent on the success and the extension of NAFTA. The creation of a total American market reaching from Canada to the tip of Argentina is clearly in our interest as well as those of Canada and all of Latin America. NAFTA is a key first step and was a critical and courageous win for the Clinton Administration. At the same time, we should make it clear that NAFTA and the ultimate creation of a Continental American market is not exclusive of other regions. Powerful economic forces will push China, Korea, SE Asia and possibly Japan to create an economic trading zone that could someday be exclusive of the West. Germany, if European union fails to come about, could drift toward similar arrangements with Austria, Poland, Czechoslovakia, Hungary and, possibly Ukraine. Such developments would be profoundly inimical to our interests. We need not embrace Asia at the expense of Europe as was recently hinted at by the Seattle APEC Meeting. Common values, histories and languages still play an important role in the world. President Clinton must continue his fight against protectionism throughout the West by providing a bridge, instead of a moat between Europe and Asia.

Which brings me back to the U.S. economy and the U.S. role in the world. I stated at the beginning of this lecture my belief that we have yet to prove that free market capitalism can successfully close the triangle of political freedom; the creation of wealth; and the fairness of its distribution. It may be that this is impossible and that the price of political freedom and the creation of wealth requires the sacrifice of job and income security for significant parts of the population. This is Reaganism and Thatcherism at its purest and, more or less, describes the recent attitude (implicit rather than explicit) of most Western governments, including the U.S. This is not good enough and recent statements by President Clinton and Senator Bill Bradley pointing to the need for security by the average American underline this fact. Before we push other countries too hard with respect to the appropriate role of Government and to what models they should follow, we had better be further along in providing satisfactory answers to these problems ourselves while closing our own budget deficits and stimulating our economy. It is also clear that progress on the domestic economy is necessary for the process of international integration. A stronger U.S. economy would have removed the threat to NAFTA caused by fears of domestic unemployment; a stronger French economy would reduce the threat to GATT created by internal pressures on the French Government.

A recent article in Business Week described GE's growth strategy for the 21st Century as being focused on aggressive investment in China, India and Mexico. The Chairman of GE, Jack Welch, is quoted as saying: "If I'm wrong, we will lose $1 or $2 billion; if I'm right, we will own the 21st Century". I think he is making the right bet. The future of our economy is organically, and permanently, tied to the developing world and the process of integration must be accelerated. Economic integration can allow for different political and social paths to be followed as countries experiment with what is best for them. Access to large amounts of development capital will, however, be central to every country's performance and the competition for that capital will be fierce. It may be worth reviewing whether current U.S. financial institutions (as well as global institutions) are appropriate to support the level of capital formation and investment needs to be faced over the coming decade. Just as new public instutitions were created for the 1930s and 1940s, we may need again to consider the need for institutional development to support economic change and international exchange rate stability.

The world may be a lot safer today than it was before the Berlin Wall fell; I say "may be" because safety is relative and lots of dangers remain. What is certain is that safety can be buttressed by economic growth and that American growth is heavily dependent on the rest of the world. Our ability to solve our own economic and social problems is heavily dependent on our leadership in helping other countries to solve theirs; the reverse, however, is equally true. These are two sides of the same coin.•

TRIBUTE TO THE RETIREMENT OF VICTOR PHILLIPS POOLE

• Mr. SHELBY. Mr. President, I rise today to honor Victor Phillips Poole on the occasion of his retirement. For 30 years, Victor has been a member of Alabama's State Board of Education, an elected body that serves as trustee for the State's kindergarten-twelfth grade system as well as Alabama's 2-year colleges. Most likely, no one else in the State has affected the lives of more people in Alabama than Victor. His main concern has always been the improvement of Alabama's public education system.

Victor was born in Greene County, located in one of Alabama's poorest regions also referred to as the Black Belt. Here he developed the basis for his strong commitment to public education. His dedication is based in his belief that all people in the State, no matter their race or gender, have the right to an education.

Victor attended high school in Hale County, just across the river from Greene County. After high school he went on to graduate from the University of Alabama. Victor has come to the aid of the University several times over the years such as chairing the committee to establish a medical center in Tuscaloosa and helping to locate the College of Community Health Sciences on the University's campus.

In 1963, then Governor George Wallace first appointed Victor to the newly established State Board of Education. Victor continued to be reappointed by Governors Lurleen Wallace and Albert Brewer. In 1970, the Alabama State Constitution was changed and called for the trustees of the Board of Education to be elected. Since that time Victor has continued to be elected by the people of his district, even with the 1980 redrawing of districts making Victor's district the largest in the State.

Victor and his wife, Madie Irene Howell, live in Moundville, AL, where he is currently the chief executive officer for the Bank of Moundville. The Pooles and their three sons are active in every aspect of community life in Hale County, and their oldest son, Phil, is a member of the Alabama House of Representatives.

Mr. President, Victor Poole has been a dedicated servant to the education system in the State of Alabama for over 30 years. His lifetime commitment of his community and to our State is an example to us all.•

STATEMENT OF NORMAN A. CARLSON, DEPARTMENT OF SOCIOLOGY, UNIVERSITY OF MINNESOTA

• Mr. SIMON. Mr. President, in the midst of all our efforts on crime, someone gave me a copy of the testimony of Norman A. Carlson, former Director of the Bureau of Prisons and now a professor of sociology at the University of Minnesota.

From his years of experience, he gives us some common sense.

All of us who work with him know that he was highly regarded by everyone in Congress and in the administration.

He points out, among other things, that when he retired in 1987, there were 43,500 inmates and 47 Federal institutions. As of 1993, when he testified, there were more than 76,000 offenders in 73 Federal prisons.

Most important, he says:

> I believe that most individuals who seriously examine the Federal criminal justice system would conclude that minimum-mandatory sentences have produced results which have not served the public interest and are costing the taxpayers a tremendous amount of money.

He also points out in his statement that 26 percent of all Federal prisoners are non-United States citizens.

I urge my colleagues, who are seriously concerned about our crime problem and the use of our penal facilities to read the Norm Carlson statement.

At this point, I ask that his full statement of May 12, 1993, be entered into the RECORD.

The statement follows:

STATEMENT OF PROF. NORMAN A. CARLSON

Mr. Chairman, members of the Committee, it's a pleasure for me to appear before you once again. During my tenure as Director of the Federal Bureau of Prisons, I had an opportunity to testify before this committee on a regular basis and discuss a number of legislative and oversight issues. I want to again express appreciation for the support, assistance and encouragement you provided during those years.

While I've been retired for nearly six years, I continue to be an interested observer of the Federal criminal justice system. My interest relates in part to the fact that I teach in the area of criminal justice at the University of Minnesota. In addition, I have strong attachments to the men and women who are employed by in the Department of Justice—both in the Bureau of Prisons as well as the other divisions and agencies. They are, in my opinion, an exceptionally talented and dedicated group of public servants—a group that I am proud to have been associated with during my 30 year career.

Since retiring, my only official contact with the federal system occurred during 1989 and 1990 when I Chaired an Advisory Group established by the United States Sentencing Commission to explore the possibility of expanding intermediate punishments for federal offenders. In connection with that assignment, I had an opportunity to become familiar with the effect Sentencing Guidelines and Minimum-Mandatory sentences are having on the system. In addition to reviewing available data concerning those initiatives, I learned of their human impact and the tremendous frustration that is experienced by prosecutors, Federal Judges, U.S. Probation Officers and the staff of the Bureau of Prisons because of the absence of discretion in sentencing.

I don't have to tell you, Mr. Chairman, that the population of Federal prisons has dramatically increased during these past six years. When I retired in July 1987, there were 43,500 inmates confined in 47 federal institutions. Today, there are over 76,000 offenders incarcerated in 73 facilities. Despite the fact 50,000 additional beds have been or will be added in the future at a cost of over $3.2 billion, federal prisons are more overcrowded today than when I left. While the increase is unprecedented, the future is even more alarming. Unless there are fundamental changes in the criminal justice system, there will be over 115,000 federal prisoners by 1999 according to current projections.

From personal experience, I can tell you that severe overcrowding exacerbates the tensions and frustrations that are found in any place of confinement. Beyond limiting the amount of living space available for inmates, overcrowding taxes the support areas such as food service and medical care. More importantly, it creates idleness because existing work and educational programs, which are already limited, cannot accommodate the additional population pressure.

The population explosion during the past six years is directly attributable to two factors; One, minimum-mandatory sentences contained in the Anti-Drug Abuse Act of 1986 and two, sentencing guidelines established by the Sentencing Reform Act. These two acts have resulted in a significant reduction in the use of probation—even for first offenders—and a dramatic increase in the length of time many inmates—particularly drug offenders—will spend in prison.

There has also been a significant change in the composition of the federal prison population during the past several decades. When I became Director in 1970, Armed Bank Robbery and Drug Laws were the largest offense categories, each constituting approximately 16 percent of the total population. Today, narcotic violators are, by an over-whelming margin, the largest category constituting over 60 percent of the population. In terms of background, over 50 percent of the drug violators now in federal prison are serving their first sentence. Data from the U.S. Sentencing Commission indicates that 60 percent of all the drug violators fall into the lowest of the six criminal history categories used by the Commission in determining sentence length. These facts would appear to suggest that at least some of these offenders may not constitute a significant threat to the public.

No one disputes the fact that prisons and jails are important and necessary components in our nation's criminal justice system. They are, without question, needed to confine violent and dangerous offenders as well as those who repeatedly violate our laws. Having said that, however, we must also look at the economic costs of building and operating prisons. No matter how safe, humane and well managed they are, prisons will always be a scarce—and very expensive—resource in the system. As is the case with any scarce resource, we need to insure that prisons are utilized in a manner which maximizes their contribution to public safety. Simply locking up more and more offenders for longer and longer periods of time is, in my opinion, not a rational response. Instead of simply continuing to build prisons, we should, first of all, insure that space is available for violent and dangerous inmates who require incarceration and find other means of punishing less serious offenders who can be dealt with in more cost-effective ways from the standpoint of the taxpayer.

I believe that most individuals who seriously examine the Federal criminal justice system would conclude that minimum-mandatory sentences have produced results which have not served the public interest and are costing the taxpayers a tremendous amount of money. While recognizing that the certainty of locking offenders up for long periods of time may appear to have surface validity, minimum-mandatory sentences are, in my opinion, based on several false assumptions. First, all offenders are not alike—some have long histories of anti-social and predatory behavior, others are non-threatening individuals with little or no prior criminal record. To impose similar minimum-mandatory sentences on disparate individuals is both unwise and unjust. Secondly, all offenses are not the same. Even though the specific acts may violate a common statute, some crimes present a much more serious threat to the public and deserve harsher punishment. Finally, I am aware of no empirical evidence which suggests that the threat of lengthy minimum-mandatory sentences has a demonstrable deterrent effect on potential violators in the community.

Further compounding the problem is the fact that the minimum-mandatory sentences serve as a major force driving up the guidelines developed by the U.S. Sentencing Commission. In an attempt to conform with Congressional action, the Commission established the minimum-mandatory as the lowest guideline sentence. In effect, this has resulted in a "ratcheting" up of all guideline sentences where mandatories are included in the statute.

For these reasons, I would urge the committee to re-consider minimum-mandatory sentences, particularly for drug law violators. In my opinion, they are contributing to the present crisis in the Federal criminal justice system. Studies have demonstrated that the possibility of such sentences frequently results in circumvention by prosecutors and occasionally by juries. All too often, they result in the imposition of prison terms that virtually everyone agrees are unduly harsh given the facts of the crime and the background of the offender.

One additional issue that I would suggest the committee consider relates to the fact that 26 percent of all federal prisoners are non-U.S. citizens. The vast majority of these offenders have been committed for drug law violations. While there unquestionably are major traffickers included in this group who should be confined for many years, a substantial percentage are low level "mules" who were recruited by others to smuggle drugs. Even though a period of confinement may be necessary I question keeping them in federal prison for 5, 10, or even 20 years at a cost to the U.S. taxpayers of over $20,000 per year. In addition to the cost factor, one must also keep in mind that their continued incarceration means that over a quarter of all federal prison space is not available for offenders who may constitute a far greater threat to the public safety. In my opinion, it makes little sense to use scarce and expensive U.S. prison capacity to incarcerate relatively low level, non-violent foreign offenders for long periods of time. A number of state prison systems, particularly California, New York, Florida and Texas are experiencing similar problems with non-U.S. citizens taking up substantial amounts of prison capacity. In this connection, I was pleased to note that several members of this committee have introduced H.R. 1459 entitled "The Criminal Aliens Deportation Act of 1993". I believe the Congress should address this issue, particularly the impact non U.S. citizens have on prison and jail capacity.

This concludes my formal statement, Mr. Chairman. I'd be pleased to respond to any questions you and your colleagues may have.●

ANNIVERSARY OF THE FEDERAL CREDIT UNION ACT

● Mr. PRYOR. Mr. President, Sunday, June 26 marked the 60th anniversary of the signing of the Federal Credit Union Act. That legislation gave birth to a national movement which today is comprised of a community of 13,000 member institutions. For 60 years now, Federal credit unions have offered cooperative savings opportunities to individuals of all financial means. This has been their principal mission, and I am convinced it is the characteristic which will distinguish them from all other types of financial institutions in the future.

I believe it is important to recognize the achievements of those institutions which truly are "the people's banks"—Federal credit unions. As they have in the past, Federal credit unions continue serving their members in a manner consistent with their tradition of cooperation and democratic participation. I am proud to say that the 95 Federal credit unions representing 212,000 members in my home State of Arkansas are fine examples of the credit union community's cooperative service ideals. I commend Federal credit unions for their dedicated service to their members over these 60 years and wish them continued success.●

INTRODUCTION OF THE NATIONAL INSTITUTE FOR THE ENVIRONMENT ACT

● Mr. DASCHLE. Mr. President, the environmental challenges confronting the United States and the world are some of the most critical issues we face today. Global climate change, loss of biodiversity, resource depletion and environmental justice illustrate the broad scope of serious environmental problems that present our society with tough policy choices and are becoming more complex each year.

It is clear that without solutions to these problems our quality of life and economic security is severely threatened. It is also evident that proposed solutions raise questions of economic and social trade-offs that can spark intense, often emotional debate.

Lack of scientific certainty and credibility establishes a climate within which passions can become inflamed and bad policy can be made. We all remember the national controversy over the chemical alar. Environmentalists contended that it contributed significantly to increased health risks to children. The apple industry challenged that contention and felt that they were being stigmatized.

The entire matter was debated in the press, without the benefit of an objective, scientifically credible referee. Eventually, a lawsuit was brought against the television station that initially ran the story as well as the environmental group that developed the risk estimates. This is not a model of how serious environmental issues, involving potentially significant health risks and economic consequences, ought to be handled.

The Federal Government will have many tough environmental policy issues to deal with in the future as it implements such initiatives as the Clean Air Act, the Safe Drinking Water Act, and ecosystem management. Policymakers and the public will need objective, complete, and dispassionate answers to the questions raised by these programs.

Too often decisionmakers have not had the scientific information they needed to design long-term, cost effective solutions. And there is an overriding consensus that the Federal environmental research system is not meeting the challenge.

More than 17 reports in the last 6 years—including EPA's Science Advisory Board, the Carnegie Commission, the National Research Council, and the Committee for the National Institute for the Environment—have found that credible information on the environment is lacking.

These reports attribute this deficiency to the fact that there is no focal point for Federal environmental research, and that the current agency structure is not well suited to address current and future environmental challenges.

Federal environmental research programs are spread out over more than 20 agencies. These piecemeal programs have developed over the last two decades, resulting in a collection of substantially diffuse environmental research efforts that are largely geared toward short-term regulatory or management needs.

This nation spends $3.1 billion each year on environmental research and an estimated $135 billion to $158 billion on pollution abatement and clean-up. That is 2 to 2.4 percent of GNP.

Clearly, it is in the interest of the Nation to ensure that research funds are spent in the most effective way and that there is a formal process for using environmental research in the policymaking process, so that we are regulating in the most rational way.

The Federal bureaucracy has great difficulty in conducting environmental research that is interdisciplinary and requires long-term study. These complex issues fall between the cracks of narrowly focused agency research programs.

Bridges between science and policy are weak and lack timely, ongoing assessments on the state of environmental knowledge. Insufficient attention is paid to information management and making information accessible to scientists and decisionmakers at all levels.

No single agency is charged with educating and training the next generation of environmental scientists and professionals. And, most importantly, there is no Federal entity that effectively integrates assessment, research, information, and education and training while incorporating the input of scientists, public and private decisionmakers, and those affected by environmental decisions.

Recently, I introduced a bill to respond to those problems. "The National Institute for the Environment Act" will establish the National Institute for the Environment [NIE] as an independent entity within the Federal Government whose sole mission is to improve the scientific basis for decisionmaking on environmental issues.

The NIE will support this mission by funding problem-focused competitively awarded, peer-reviewed extramural research, providing comprehensive and ongoing assessments on the current state of environmental knowledge, communicating information through a state-of-the-art data base, and sponsoring higher education and training.

The NIE would not replace but would supplement existing Federal research programs that are necessary to accomplish individual agencies' missions.

To ensure the credibility of its science, the NIE will have no regulatory or management responsibilities and would focus solely on improving the scientific basis for environmental decisionmaking. In order to control costs and bureaucracy, the NIE will not operate its own research laboratories and facilities, but would instead fund competitively awarded extramural grants to the best talent available in academia, government, private industry, or others.

What is most unique about the NIE is that all relevant stakeholders will play an active role in determining environmental research goals and priorities. The NIE's governing board will include representatives from Federal and State governments, scientists, environmental groups, business, and others.

This approach will help create a nonadversarial climate that has less confrontation, and ensure that priorities are policy relevant. This multistakeholder process makes the NIE distinctly different from current Federal research where nonfederal interests have only a limited advisory role.

This bill draws on the work of the committee for the National Institute for the Environment, a national grassroots network of over 7,000 scientists, business leaders, environmentalists and concerned citizens who are dedicated to the creation of the NIE. Their work has already prompted the introduction of legislation in the House (H.R. 2918) which currently has 73 bipartisan cosponsors. More than 100 universities, scientific and professional organizations, major environmental groups, and business leaders have endorsed the NIE.

The NIE is a cost-effective, comprehensive solution that will help the United States strategically spend research dollars to address the most complex environmental issues. It is my intention to move forward with this initiative and promote further debate in the Senate about the inadequacies of current Federal environmental R&D and the potential of NIE as the solution.

I strongly urge my colleagues to join me in my effort to improve the scientific basis for environmental decisionmaking and to cosponsor the "National Institute for the Environment Act." I ask unanimous consent that the text of the bill be printed in the RECORD.

The text of the bill follows:

S. 2242

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Institute for the Environment Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) An appropriate scientific understanding of the diverse physical, biological, engineering, social, and economic issues that underlie the environmental problems facing the United States is essential to finding environmentally and economically sound solutions to the problems.

(2) While more than a dozen Federal agencies support environmental research and gather environmental information, there is not a lead Federal agency for environmental research and information.

(3) The current approach of the Federal Government to developing a scientific understanding of environmental problems, and of applying that understanding to the problems, lacks coherence and often fails to provide information vital to finding sound solutions to the problems.

(4) The United States needs to improve the scientific basis for decisionmaking by Federal, State, and local governments, and private sector entities, on environmental issues.

(5) Many environmental issues that will seriously affect the United States in the future are not adequately studied under existing Federal environmental research programs.

(6) Existing Federal environmental research programs often do not provide adequate information in a timely manner to enable Federal, State, and local governments, and private sector entities, to engage in well-informed decisionmaking on environmental and related issues.

(7) Existing Federal environmental research programs do not adequately address, link, and integrate research in different disciplinary, interdisciplinary, and multidisciplinary environmental sciences.

(8) Ongoing study and communication of the existing knowledge about environmental issues, including the assessment of the significance of the knowledge, are needed to strengthen the weak link between scientific knowledge and decisionmaking on environmental issues.

(9) Easy and effective access, including access by the scientific community, to the many rapidly growing sources of environmental information would improve the effectiveness of research on, and communication about, environmental issues.

(10) To address the complex environmental problems facing the United States, there is a growing need for more education and training of individuals in disciplinary, interdisciplinary, and multidisciplinary sciences related to the environment.

(b) PURPOSE.—It is the purpose of this Act to create an independent establishment to improve the scientific basis for making decisions on environmental issues through support for competitive, peer-reviewed, extramural research, ongoing knowledge assessments, data and information activities, and education and training on environmental issues.

SEC. 3. ESTABLISHMENT OF NATIONAL INSTITUTE FOR THE ENVIRONMENT.

There is established as an independent establishment an institute to be known as the "National Institute for the Environment" (referred to in this Act as the "Institute"). The mission of the Institute shall be to improve the scientific basis for decisionmaking on environmental issues.

SEC. 4. DUTIES.

The Institute shall have the following duties:

(1) To increase scientific understanding of environmental issues (including environmental resources, systems, and sustainability, and the human dimensions associated with environmental issues) by initiating and supporting credible, extramural, problem-focused, peer-reviewed basic and applied scientific environmental research and other disciplinary, multidisciplinary, and interdisciplinary environmental programs. The support of research and programs under this paragraph may include the provision of financial assistance pursuant to section 8, including grants, contracts, and cooperative agreements.

(2) To assist decisionmaking on environmental issues by providing ongoing, comprehensive assessments of knowledge of environmental issues. The performance of assessments under this paragraph shall include the following:

(A) Summarizing the state of the knowledge.

(B) Assessing the implications of the knowledge.

(C) Identifying additional research that will provide information needed for decisionmaking by Federal, State, and local governments, and private sector entities, on environmental issues.

(D) Analyzing constraints that may affect the conduct of research described in subparagraph (C), including the existence of limited technological, human, and economic resources.

(E) Communicating the results of assessments under this paragraph to relevant Federal, State, and local government decisionmakers and the public.

(3) To serve as the foremost provider and facilitator in the United States of access to current and easy-to-use peer-reviewed scientific and technical information about the environment. The provision and facilitation of access to information under this paragraph shall include the following:

(A) Providing and facilitating access to credible environmental information (including scientific and technological results of environmental research) for relevant Federal, State, and local government decisionmakers, policy analysts, researchers, resource managers, educators, information professionals (including computer and telecommunications specialists), and the general public.

(B) Establishing an electronic network that—

(i) uses existing telecommunications infrastructures to provide single-point access to environmental information; and

(ii) includes existing collections of environmental information, such as libraries, specialized information centers, data and statistical centers, and government and private sector repositories of regional, event-driven, or ecosystem information.

(C) Identifying and encouraging the effective application of state-of-the-art information technologies to promote the availability and use of, and access to, environmental knowledge.

(D) Providing long-term stewardship of the environmental information resources of the United States, including efforts to ensure the continued usefulness of the resources, through the promotion and development of policies and standards for providing access to environmental information, and through the support of relevant research and development.

(4) To sponsor higher education and training in environmental fields in order to contribute to a greater public understanding of the environment and to ensure that the United States has a core of scientifically educated and trained personnel who possess skills to meet the environmental needs of the United States. The sponsorship of education and training under this paragraph shall include the following:

(A) Awarding scholarships, traineeships, and graduate fellowships at appropriate nonprofit institutions of the United States for study and research in natural and social sciences and engineering related to the environment.

(B) Supporting curriculum and program development in fields related to the environment.

(C) Promoting the involvement of women, minorities, and other underrepresented groups.

(5) To encourage and support the development and use of methods and technologies that increase scientific and general understanding of the environment and minimize adverse environmental impact.

(6) To evaluate the status and needs of the various environmental sciences and fields.

(7) To foster interchange of scientific information about the environment among scientists, Federal, State, and local government decisionmakers, and the public.

(8) To identify and seek to address emerging environmental issues and all aspects of scientific, technological, and societal aspects of environmental problems.

(9) To establish research priorities for the Institute for environmental issues of global, national, and regional significance.

SEC. 5. GOVERNING BOARD.

(a) ESTABLISHMENT.—There shall be a Governing Board for the Institute (referred to in this Act as the "Board") which shall establish the policies and priorities of the Institute.

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Board shall be composed of 18 members who shall be appointed by the President by and with the advice and consent of the Senate.

(2) REPRESENTATION ON THE BOARD.—

(A) IN GENERAL.—The members of the Board shall include individuals—

(i) who, as scientists and users of scientific information, are representative of diverse groups and entities, including States, academic institutions, businesses, environmental groups, citizens groups, and other appropriate organizations;

(ii) who have a distinguished record of service in their fields; and

(iii) who, among the scientific members of the Board, represent the diversity of scientific fields that study the environment.

(B) SELECTION OF CERTAIN GROUPS.—In making appointments under this subsection, the President shall seek to provide for representation on the Board of women, minority groups, and individuals recommended by the National Academy of Sciences, the National Academy of Engineering, and other groups.

(c) TERMS.—

(1) INITIAL TERMS.—Members initially appointed to the Board shall serve for the following terms:

(A) 6 members shall serve for an initial term of 2 years.

(B) 6 members shall serve for an initial term of 4 years.

(C) 6 members shall serve for an initial term of 6 years.

(2) SUBSEQUENT TERMS.—On completion of a term referred to in paragraph (1), each member of the Board subsequently appointed or reappointed shall serve for a term of 6 years, with a maximum of 2 consecutive terms for any member appointed under this section.

(d) ADMINISTRATION.—

(1) TRAVEL EXPENSES.—Each member of the Board who is not an officer or employee of the United States may receive travel expenses, including per diem in lieu of subsistence, in the same manner as travel expenses are allowed under section 5703 of title 5, United States Code, for persons serving intermittently in the Government service.

(2) PROHIBITION OF COMPENSATION OF FEDERAL EMPLOYEES.—Members of the Board who are full-time officers or employees of the United States or Members of Congress may not receive additional pay, allowances, or benefits by reason of their service on the Board.

(e) CHAIRPERSON.—The Chairperson of the Board shall be designated by the President at the time of the appointment. The term of office of the Chairperson shall be 6 years.

(f) MEETINGS.—The Board shall meet as needed at the call of the Chairperson or a majority of the members of the Board, but not less than 4 times a year.

(g) REPORTS.—The Board shall periodically submit to the President reports on such specific environmental policy matters as the Board, the President, or Congress determines to be necessary. After receipt of any such report, the President shall transmit the report to Congress in a timely fashion, together with any comments that the President considers to be appropriate.

(h) ADVISORY COMMITTEES.—The Board may establish such advisory committees as the Board considers necessary to carry out this Act.

SEC. 6. STAFF.

(a) DIRECTOR.—

(1) APPOINTMENT.—The Director of the Institute shall be appointed by the President by and with the advice and consent of the Senate.

(2) AUTHORITY.—The Director shall exercise all of the authority granted to the Institute by this Act, including any powers and functions delegated to the Director by the Board. All actions taken by the Director pursuant to this Act, or pursuant to the delegation from the Board, shall be final and binding on the Institute. The Director shall formulate programs consistent with the policies of the Institute and in consultation with the Board and any appropriate advisory committee established pursuant to this Act.

(3) PAY; TERM OF OFFICE.—The Director shall receive basic pay at the rate provided for level II of the Executive Schedule under section 5313 of title 5, United States Code, and shall serve for a term of 6 years.

(4) NSTC MEMBERSHIP.—Section 401(b) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6651(b)) is amended by inserting ", the Director of the National Institute for the Environment," after "the Director of the Office of Science and Technology Policy".

(b) ASSISTANT DIRECTORS.—The President may, on the recommendation of the Director, appoint such assistant Directors as the President considers necessary to carry out this Act.

SEC. 7. INTERAGENCY ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established an Interagency Advisory Committee to ensure that the environmental efforts of the Institute and other Federal agencies are complementary.

(b) DUTIES.—It shall be the duty of the Interagency Advisory Committee established under subsection (a) to provide recommendations and advice to the Board to help to ensure that—

(1) the research priorities and agenda of the Institute support, rather than duplicate or compete with, the research agendas of existing Federal agencies;

(2) the knowledge assessment activities of the Institute incorporate knowledge obtained and possessed by other Federal agencies, and are useful to the agencies;

(3) information within the databases of other Federal agencies is available for incorporation into the information network of the Institute; and

(4) the educational programs of the Institute serve the needs of the United States.

(c) COMPOSITION.—

(1) IN GENERAL.—The Interagency Advisory Committee established under subsection (a) shall include directors of research (or individuals who hold a comparable position) from Federal agencies that conduct or use substantial quantities of environmental research, including—

(A) the Environmental Protection Agency;

(B) the National Oceanic and Atmospheric Administration;

(C) the National Science Foundation;

(D) the Department of Energy;

(E) the Department of the Interior; and

(F) the Department of Agriculture.

(2) EX OFFICIO MEMBERS.—The Director of the Office of Science and Technology Policy (or a designee of the Director) and the Director of the Office of Environmental Quality (or a designee of the Director) shall serve as ex officio members of the Interagency Advisory Committee.

(d) DURATION.—Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2) shall not apply to the Interagency Advisory Committee established under subsection (a).

SEC. 8. FUNDING.

(a) AUTHORITY TO PROVIDE FINANCIAL ASSISTANCE.—The Institute may enter into contracts and cooperative agreements and provide financial assistance, including grants, to carry out the duties of the Institute under this Act.

(b) PERSONS ELIGIBLE TO RECEIVE FUNDING.—Scientists, engineers, and other researchers are eligible to receive funding from the Institute under subsection (a), except that—

(1) scientists from Federal agencies shall not be given a preference for funding based on their employment with the Federal Government; and

(2) the receipt of funding from the Institute shall be subject to any criteria and other requirements that are prescribed by the Institute.

(c) RECEIPT OF FUNDS FROM OTHER PERSONS.—The Institute may, subject to the approval of the Board, receive funds from other Federal agencies and private sector persons to carry out particular projects and activities under this Act. Funds received under this subsection shall be deposited in the Treasury and shall be made available to the Institute to the extent provided in appropriations Acts.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.●

EXCERPT FROM A SPEECH BY THE PRESIDENT OF CYPRUS, GLAFCOS CLERIDES

• Mr. SIMON. Mr. President, some years ago, I was a Member of the House of Representatives and had the opportunity to have breakfast with Mr. Glafcos Clerides, then a political leader in Cyprus and now the President of Cyprus.

Recently, the Ambassador from Cyprus to the United States, the Honorable Andrew Jacovides, gave me a copy of a speech given by President Clerides before the Parliamentary Assembly of the Council of Europe.

While it is a few weeks old, unfortunately, it is just as pertinent today as it was then.

I believe that President Clerides has the personality, the will, and the ability to provide leadership on the Greek side; and from my one-time meeting with the leader of the Turkish side, Mr. Denktash, I also believe that he has the ability to lead that side toward reconciliation.

What is clearly needed is approval of the government of Ankara.

I am sure Turkey is in a somewhat delicate situation and does not want to be perceived, in any way, as giving in to the Greeks. And yet the irony is that if Turkey improves her relationship with Greece and Armenia, it will help Turkey's position, in terms of the European Community, immensely.

If Yasar Arafat and Yitzak Rabin can reach across their gulf to shake hands, and move toward peace in the Middle East, and if F.W. deKlerk and Nelson Mandela can reach across their huge gulf to bring about an improved situation in South Africa, it is certainly not asking too much for the leaders of the two communities in Cyprus to reach across a much smaller gulf to shake hands and make peace in that area.

I hope significant steps can be taken. In the meantime, I would urge that small steps be taken. We have been waiting too long for the big steps.

The reason that Jordan and Israel are able to move toward a peaceful resolution of their difficulties is the traffic that is taking place between the two countries for some time, even though there has been no formal recognition. There has been more traffic in 1 day between Jordan and Israel than there is in an entire year across the green line in Cyprus.

I suggest some modest steps that could be taken in a positive direction:

First, a small group of leaders on both sides of the green line should explore some small things that can be done to increase exchanges between the two sides. For example, I remember visiting on the Greek side at a school for the deaf that was doing woodworking. It was an impressive school. I asked the person in charge whether he would be willing to take students from the Turkish side, and he said he would. The numbers would not be great, but to have even a few students come over and have those who cannot speak to each other in formal language working together would be important to the nation. In a real sense they are almost an allegory for the two sides in Cyprus today, who cannot speak to each other. There are probably a half-dozen things like that involving only a very few people that could be arranged on both sides. In the scheme of things, it is not large, but it starts to thaw the ice a little bit.

Second, I assume there must be campuses in the United States, and perhaps in other countries, where there are both Greek Cypriot and Turkish Cypriot students. Every student at a university is not emotionally equipped to start taking on new ideas and build friendships, but there are those among each group who are willing to listen to reason, be less emotional, and who would commit themselves to try to understand the other side's position a little more. Getting a few students together on a regular basis—and I would suggest once a week on a campus—is not going to immediately change the climate or the political reality in Cyprus, but in the long run, it will help.

Third, I believe that Mr. Clerides and Mr. Denktash should agree that once every 2 months the two of them should get together for a visit, either in Cyprus, or New York, or some other mutually agreed upon place. I recall visiting Mr. Denktash after his son had been killed in an automobile accident and how moved he was by a gesture of friendship from Mr. Clerides at that time. This may seem to be a very small thing, but it is meaningful. And it means that there is at least a minimal fundamental understanding between the two men. Some may argue that their representatives have been getting together in New York and elsewhere. That is fine, but it is not the same thing as the two principles getting together.

Mr. President, I ask that President Clerides' speech be inserted into the RECORD at the end of my remarks, and I am taking the liberty of sending a copy of this statement to Mr. Clerides and Mr. Denktash; to Prime Minister Papandreou in Greece, and Prime Minister Ciller in Turkey; and to the Cyprian Ambassador to the United States, Andrew Jacovides.

I will be pleased to insert into the RECORD any response I receive from any of the parties.

The speech follows:

EXERPT FROM A SPEECH BY THE PRESIDENT OF CYPRUS, MR. GLAFCOS CLERIDES

Mr. President, having said the above I wish to take this opportunity to turn to the question of Cyprus and to stress that it is within this overall European orientation of our country that we try to promote the solution of the Cyprus problem.

I wish to state at the outset in the most emphatic and categorical manner, that my Government and I remain firm to our commitment to spare no effort to find a just and viable solution to the Cyprus problem and to make a success of the negotiations, which take place with the good offices of the Secretary-General of the United Nations as provided by United Nations Security Council Resolutions.

In line with that commitment, we have accepted the basic principle that the political solution of the Cyprus problem must allow the two ethnic communities to enjoy the maximum degree of autonomy in internal administration, permitting at the same time the bicommunal Federal Republic of Cyprus to have one international legal personality, territorial integrity, freedom from foreign forces on its territory, as provided by United Nations resolutions, entrenchment of the human rights in its constitution, compatibility of its constitution with the Acquis Communautaire and entry into the European Union.

The question that is in the mind of all international observers of the Cyprus situation is why has a solution escaped us for so many years.

Some international observers say that the failure to find a solution is because the recent history of Cyprus, both before independence and after independence, was such that because of the intercommunal conflict there is deep mistrust between the two communities. Others are of the opinion that the Cyprus problem from an intercommunal one has been complicated by the Turkish invasion of Cyprus and the continued occupation by Turkish forces of substantial territory of the Republic. There are also those who attribute the failure to the lack of political will to find a solution by the parties concerned.

That there is some mistrust between the two communities cannot be denied. The leaderships of both communities, in which I include myself, committed political mistakes in the past and it is a futile exercise to try to apportion blame and to throw accusations and counter accusations against each other. What is needed is to recognize the fact that both erred and to demonstrate the will not to repeat the mistakes of the past.

There can be no doubt that the Turkish invasion of Cyprus complicated the situation. As a result of that invasion one third of the Greek Cypriot population of the island were expelled from their homes and properties and were made refugees in their own country. One thousand six hundred and nineteen Greek Cypriots are missing, Under the protection of the Turkish occupation forces a separate state was declared in the North and continues to be maintained by Turkey, despite United Nations Security Council resolution 550 calling for its dissolution and calling on all United Nations members not to recognize it. Despite United Nations Security Council Resolution calling on both sides to avoid any acts which will change the demographic composition of the island, Turkey colonized the North by sending to Cyprus 80,000 Turks from Turkey, which were installed in the properties from which the Greek Cypriots were forced to leave. The Turkish forces built a military line across Cyprus thus forcing a military confrontation and preventing conduct between the two communities.

The massive military presence in Cyprus of 40,000 Turkish troops and 400 armour cars, with air cover and naval support, forces the Republic of Cyprus to maintain the National Guard, to purchase arms and seek military support and joint defense planning with Greece.

I believe that the time has come, if progress is to be made towards a solution of the Cyprus problem, to proceed to the demilitarization of the territory of the Republic. Having this in mind I addressed, on the 17th of December 1993, a letter to the Secretary-General of the United Nations making the following offer:

"There is no doubt that the massive presence of Turkish military forces in the occupied part of Cyprus creates serious anxieties and mistrust amongst the Greek Cypriot Community regarding Turkish intentions. It also imposes on the Government of the Republic the need to increase the defensive capabilities of the country by purchasing arms. Further it makes it necessary to request military help from Greece and to include Cyprus in the Greek defensive plans. There are also indications that the above preparations, though entirely defensive in their nature, are misinterpreted and cause anxiety and mistrust within the Turkish Cypriot Community regarding Greek intentions.

"After careful consideration, I came to the conclusion that in order to brake the counter productive climate of fear and mistrust and thus enhance the prospects of a negotiated settlement the Government of the Republic should take the following steps:

"(a) Repeal the National Guard Law, disband the National Guard and hand all its arms and military equipment to the custody of the United Nations Peace Keeping Force.

"(b) Undertake to maintain the Police Force of the Republic at its present numerical strength armed only with light personal weapons.

"(c) Undertake the total cost of a substantially numerically increased United Nations Peace Keeping Force.

"(d) Agree that the United Nations Peace Keeping Force will have the right of inspection to ascertain compliance with the above.

"(e) Agree that the National Guard armour cars, armour personnel vehicles and tanks, which will be handed to the United Nations Peace Keeping Force for custody, can be used by the United Nations Peace Keeping Force to patrol the buffer zone and to prevent intrusions in it.

"(f) Deposit in United Nations account all money saved from disbanding the National Guard and from stopping the purchase of arms, after deducting the cost of the United Nations Peace Keeping Force, to be used after the solution of the problem for the benefit of both Communities.

"The above offer is made provided the Turkish side agrees also that parallel to the above the Turkish Forces are withdrawn from Cyprus, the Turkish Cypriot armed forces disband and hand their weapons and military equipment to the custody of the United Nations Peace Keeping Force.

"I wish also to reaffirm what I have told Mr. Feissel before leaving for New York i.e. that I am ready to discuss the modalities regarding the implementation of the confidence building measures and of course the solution of the Cyprus problem.

"I hope Your Excellency, the Turkish side will respond positively to my proposal, otherwise the only logical inference to be drawn will be that the massive presence of Turkish forces is not for the alleged safety of the Turkish Cypriot Community, but for the perpetuation of the status quo which, as stated in your report, has been created by military force and is sustained by military strength and which the Security Council has deemed unacceptable. Such an inference will impose on my Government the need to substantially increase the defensive capabilities of the Republic and to enter into arrangements with Greece regarding a common defensive plan."

Regrettably Turkey rejected my proposal.

Coming now to the view that the failure of finding a solution of the Cyprus problem is due to the lack of the political will for a settlement by the Communities I have the following observations.

It is a fact that there is lack of political will by the Turkish side. The Secretary-General of the United Nations in his report to the Security Council document S/24830 of the 19th November 1992 stated that the effort to find a solution, despite the intensive efforts made, failed because the Turkish position was at variance with the set of ideas prepared by the Secretary-General and made it clear that there was a lack of political will by the Turkish side and that this was the major obstacle in reaching an agreed settlement.

The Secretary-General of the United Nations in his report of the 1st July 1993, document S/26026, informed the Security council that despite intensive efforts and preparatory work it was not found possible to secure acceptance by the Turkish side of the confidence building measures and that the leader of the Turkish Cypriot community had not promoted the acceptance of the package of the confidence building measures during his subsequent consultations in Ankara and Nicosia nor did he return to the joint meeting in New York as he had undertaken to do.

Today, almost a year later, the situation is as follows in the issue of the confidence-building measures: The Greek Cypriot side accepted the paper prepared by the Representatives of the Secretary-General of the 21st March regarding the implementation of the confidence building measures. Regarding the position of the parties the report of the Secretary-General of the 4th of April 1994 document S/1994/1330 states the following:

"The Leader of the Greek Cypriot community stated that, while he did not like many of the changes which had been introduced in the 21 March text, he was prepared to accept that revised text if the Turkish Cypriot leader would do likewise.

"Before leaving Cyprus on 23 March, Mr. Clark stated publicly that he had not received from the Turkish Cypriot side the agreement that he had hoped for on the implementation of the package. He stated that there was still time to reach an agreement before I had to submit my report to the Security Council and that he hoped that news would be received from the Turkish Cypriot side that would make an agreement possible. He stated that Mr. Feissel would remain in touch with both leaders.

"On 28 March, Mr. Feissel again met with the leader of the Turkish Cypriot community to pursue discussion to reach an agreement on the ideas for the implementation of the package of confidence-building measures. At the conclusion of this meeting, Mr. Feissel confirmed publicly that there had been no new developments and that the Turkish Cypriot side had not provided the response necessary to make an agreement on the implementation of the confidence-building measures possible."

From what has been stated so far, it is clear that the Secretary-General has warned the Security Council that—

(a) The unacceptable status quo is maintained by military forces.

(b) The failure to find a solution in November 1992 squarely falls on the Turkish side which did not have the political will to conclude an agreement which was within reach.

(c) The failure to agree to the implementations of the confidence-building measures in April 1994 also falls squarely on the Turkish side.

The Security Council has in its recent resolutions warned that if no progress is made it will consider alternative methods of promoting a solution. It is my firm belief that the time has come for the Security Council to decide to act. It must consider seriously the question of demilitarization because as long as there is a massive Turkish Occupation Force in Cyprus the Turkish side will continue to show lack of political will for a solution to the Cyprus problem and both communities will bear arms and live as potential enemies.

Despite Turkish opposition, Europe accepted our demand and appointed an observer in the talks. We are happy that his terms of reference are not only to keep the European Union informed if progress is being made and consequently which side is responsible for the lack of progress, but also to inform whether the solution discussed is compatible with the Acquis Communautaire. I believe also that it would give an impetus to the solution of the Cyprus problem if substantive talks for the accession of Cyprus to the European Union were to start without delay.

Mr. President, Members of the Assembly, ethnic differences, micro-nationalism and the problems of minorities gave a rude awakening to the euphoria that was created by the end of the Cold War. It now seems that if we don't take immediate and resolute action the issues of minorities and their rights, along with the emerging wider confrontation between cultures will be with us in the coming decades. Cyprus has every potential to be a model of success and a source of hope in our collective search for solutions. Problems of ethnic or other communities are not solved by partition and forced physical separation but by participation in democratic institutions and effective constitutional and judicial protection. Cyprus, at the crossroads of continents and civilizations can be a vital bridge of communication contributing to deconfrontation and understanding, provided that it is itself free of internal fragmentation and weakness.

It is or dream to solve the problem of Cyprus not only because this will be beneficial to both communities and to the people of Cyprus irrespective of language, religion or ethnicity but because we wish to bring Cyprus into the European Union as a state based on the European concept of democracy, freedom, justice, human rights and compliance with the rule of Law.•

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from Delaware [Mr. ROTH] is recognized for 10 minutes.

THE NORTH KOREAN NUCLEAR PROBLEM

Mr. ROTH. Mr. President, the death of Kim Il-song this past weekend has made an already dangerous and uncertain situation on the Korean Peninsula even more menacing and unpredictable.

We should never mourn the passing of a dictator as brutal and malevolent as Kim. Yet with Kim's departure, we no longer know who, if anyone, is making decisions in North Korea.

Kim was a man who had a firm and unquestioned grip on the reins of power. Over the course of a half century as North Korea's only leader, Kim created a personality cult so effective that he literally came to be revered as a god-king.

Kim Chong-il, son of Kim Il-song, appears on his way toward replacing his father. The elder Kim had been grooming him for two decades to assume the mantle of leadership, and more than 10 years ago, Kim Il-song designated him as his successor. Much doubt remains, however, over whether Kim Chong-il will be able to maintain power. He is an untested leader who commands very little of the respect accorded his father.

The United States has virtually no capacity either to influence the struggle for power within the North or to ameliorate any unrest that might arise in the midst of that struggle. Moreover, we have absolutely no ability to foretell the intentions of the North, even if Kim Chong-il successfully takes control. With Kim Il-song's death, a thick fog of uncertainty has descended over North Korea, both within its borders, and in its relations with the outside world.

Yet that fog has not obscured all the problems presented by the North—indeed, some have even been clarified. For example, our goals in Korea remain the same: We seek a peaceful, stable, and nonnuclear peninsula, a North Korea that lives up to all its obligations under the Nuclear Nonproliferation Treaty, and full implementation of the Joint North-South Denuclearization Agreement.

In addition, Kim's death has not changed the very limited timeframe we have available to settle the challenge posed by the North's nuclear program. Pyongyang made clear last month that the protective cladding on its spent nuclear fuel rods will deteriorate and begin to pose a serious safety hazard by the end of August.

At that point North Korea will have to do something with the fuel, including, for example, reprocessing the fuel. Of course, weapons-grade plutonium will incidentally be produced as a result of reprocessing. But so long as International Atomic Energy Agency officials oversee the reprocessing and certify that the North maintains "continuity of safeguards,"—an expression of magnificent vagueness—it will not have compromised its obligations under the Nuclear Nonproliferation Treaty.

The stakes in our confrontation with the North remain as high, if not higher, than ever. To begin with, should we allow Pyongyang to fulfill its nuclear ambitions, the NPT, coming up for renewal next year, would be rendered irrelevant.

Moreover, all of East Asia would be destablized by a nuclear North Korea. Should Pyongyang be permitted to continue its nuclear weapons program, a regional nuclear arms race, including the two Koreas, Japan, and Taiwan, would almost assuredly ensue. With China and Russia already possessing nuclear weapons and historical, territorial, and political disputes festering among and between all six countries, East Asia would become a terribly dangerous place.

So too might other regions of the world as Pyongyang can be expected to become a willing seller not only of the technology of nuclear weapons production, but even of the weapons themselves. Given the country's impoverishment and its history of unreserved weapons sales to rogue states, the Libyans, the Iraqis, the Iranians, and any number of terrorist organizations would suddenly have open access to the ultimate weapon of diplomatic blackmail.

Of course, even if North Korea were not capable of producing nuclear bombs, Pyongyang's conventional weapons capabilities alone are enough to give one pause. The area around the military demarcation line dividing North and South is the most militarized terrain on the entire planet.

If the worst were to occur, and war were to break out on the Korean peninsula, America's 37,000 troops stationed in the South would be treaty-bound to fight alongside the South Koreans. United States and Republic of Korea forces would certainly achieve victory, but at indeterminable cost. North Korea fields a military of at least 1.2 million, with 65 percent of its forces offensively positioned on the demilitarized zone just 30 miles from Seoul. Pyongyang maintains the world's biggest special operations forces, has a large ballistic missile arsenal, and has produced chemical and biological weapons. Its massive artillery formations have the potential of blanketing the South with as many as 20 million shells each day.

In the last Korean war, 54,000 Americans lost their lives, as did as many as 4 million others—South Koreans, soldiers from the more than a dozen member countries of the U.N. force involved in the conflict, North Koreans, Chinese, and Soviets. Another war could easily cost as many lives, if not more.

Beyond the enormous, tragic human loss that would result from war, further potential dangers loom—economic chaos, perhaps an irreparable break in the United States-Japan alliance.

Economic growth throughout East Asia—a key to global prosperity—would suffer a severe setback. Even if North Korea were to collapse simply from internal stresses rather than war, reconstructing Pyongyang's economy could cost anywhere from $300 billion to $1 trillion. Obviously, if war were to break out, the costs of the conflict and of reconstructing both Koreas would be far greater, certainly enough to have very negative consequences for the global economy.

A war on the Korean peninsula also poses grave problems for United States-Japan relations. It is important to note that in defending South Korea, the United States implicitly would be defending Japan. As Tokyo has consistently noted in its annual Defense White Papers, the presence of United States forces in South Korea and our commitment to defend the South contributes to peace and stability throughout all northeast Asia, including Japan.

Yet Japan has not only steadfastly avoided serious public discussion of the problems posed by the North, its weak political leaders languish in esoteric legal debate over what Japan can and cannot do should economic sanctions be imposed on the North, a blockade instituted, or conflict break out.

Under currently accepted interpretations of the Constitution, if war did erupt, Tokyo would be forbidden from putting its forces on the line—except in the unlikely event that Japan were directly attacked by North Korea. Thus, Japan's 700 fighter planes, its state-of-the-art antisubmarine technology, its minesweepers, and its personnel would sit idly by as Americans and Koreans lost their lives, partly to protect Japan.

When the war was over, and the accounting done, Americans would undoubtedly consider Japan an untrustworthy ally. We would ask why our sons and daughters had to die defending a country that assumed little or no risks itself, a country, moreover, that is so often viewed as having taken economic advantage of the United States for decades. Japanese impotence in the face of a war fought partly on its behalf could well push the crucial bilateral relationship to the breaking point.

The goals, timetable, and stakes involved in the confrontation on the Korean peninsula suggest a number of actions we and our allies should undertake.

First, while we should give a negotiated solution as much chance as possible, we must recognize the severe time constraints we face. We must, therefore, immediately and comprehensively define the "freeze" North Korea claims to have placed on its nuclear program. At a minimum, that definition must prevent North Korea from reprocessing any more nuclear fuel. It must include a freeze on the construction of the second unfinished reprocessing line, two partially completed nuclear reactors, and the fuel rods needed for those reactors. It must also permit an IAEA inspection regime that can fully verify the freeze remains in force. In addition, we must make it absolutely clear to the North Korea regime that should they initiate a war, that conflict will only end when that regime and their country are destroyed.

Second, given the enormous military costs we face on the Korean peninsula

I believe United States preparations intended to deter North Korean aggression should be sped up, though in such a way that we do not provoke the North into starting a conflict. We owe it to our 37,000 troops stationed in South Korea to give them the best means possible to defend themselves.

I believe the following steps should be considered: enhanced counter-fire capabilities; an increased readiness posture of United States forces; deployment of additional troops, fighter aircraft, Apache helicopters, and a carrier battle group; the prepositioning of bombers, tankers, and stocks in the region; upgraded intelligence collection and sharing with South Korea; delivery of additional antitank weapons and precision-guided munitions; enhancement of defenses against chemical and biological weapons; deployment of additional mine countermeasure assets and antimissile systems; and actions to ensure compatibility of command, control, and communication systems between United States and Korean forces.

Third, the administration must make a concerted effort to explain to the American people the vital interests we have at stake on the Korean peninsula, the risks we face, and the reasons we are willing to take those risks to protect our interests.

Fourth, we should do all we can to work as closely as possible with all those countries that share our interest in addressing the North Korea problem—South Korea, Japan, China, and Russia. The United States must be mindful, however, of sensitive circumstances Japan and China face in this situation.

Japan's Constitution, for example, is nearly sacrosanct, and the Japanese public has understandable, historically based reasons for its strong pacifism. Yet Japan must address the tangle of legal and constitutional obstacles to its participation in applying sanctions, a blockade, or engaging in a military conflict with North Korea, as soon as possible and certainly before a crisis erupts in Korea. If not, the United States-Japan relationship could be put in grave danger.

China is being pushed in two directions, but it should be in their interest to join us in creating a peaceful and nonnuclear Korean peninsula. A nuclear arms race in northeast Asia would pose a direct threat to China. A war on the peninsula would wreak havoc on the regional economy in which China is a central player. At the same time, however, 900,000 Chinese troops fought with the North during the Korean war. In addition, North Korea remains one of the last redoubts of communism.

Time is of the essence if we are to solve the Korean peninsula. Clearly we cannot wait for a resolution of the power struggle in Pyongyang before we act. The stakes are simply too high.

Mr. President, I yield the floor

Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, JULY 14, 1994

Mr. FEINGOLD. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:45 a.m. Thursday, July 14; that following the prayer, the Journal of proceedings be deemed approved to date, and the time for the two leaders reserved for their use later in the day; that there then be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each, with the time until 9:30 a.m. under the control of Senators DOMENICI and MIKULSKI or their designees, with Senator CAMPBELL recognized for up to 10 minutes and Senator BRADLEY for up to 20 minutes; that at 10 a.m. the Senate resume consideration of H.R. 4426, the Foreign Operations appropriations bill; that the vote on or in relation to the Helms amendment No. 2253 occur at 11:30 a.m.

The PRESIDING OFFICER. Do I hear objection? The Chair hears none, and it is so ordered.

RECESS UNTIL 8:45 A.M. TOMORROW

Mr. FEINGOLD. Mr. President, if there is no further business to come before the Senate today—I see no other Senator seeking recognition—I now ask unanimous consent the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 6:30 p.m., recessed until Thursday, July 14, 1994, at 8:45 a.m.

NOMINATIONS

Executive nominations received by the Senate July 13, 1994:

THE JUDICIARY

MICHAEL A. HAWKINS, OF ARIZONA, TO BE U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE THOMAS TANG, RETIRED.

WILLIAM T. MOORE, JR., OF GEORGIA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF GEORGIA VICE ANTHONY A. ALAIMO, RETIRED.

HOUSE OF REPRESENTATIVES—*Wednesday, July 13, 1994*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We know, O gracious God, that Your ways are above our ways and Your spirit above our spirits. Yet, we know too that You are with us in all the moments of life—in joy and sorrow, in struggle and in tranquility. When our plans go amiss, give us patience; when we miss the mark, correct us; and when we grow weary of the disappointments that certainly come to each person, grant us that peace that passes all human understanding, for You are our Creator and the sustainer of all our lives. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. TRAFICANT. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. TRAFICANT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 241, nays 149, not voting 44, as follows:

[Roll No. 318]

YEAS—241

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barlow
Barrett (WI)
Bateman
Beilenson
Berman
Bevill
Bilbray
Bonior
Borski
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Castle
Chapman
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Combest
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
English
Eshoo
Evans
Everett
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Houghton
Hoyer
Hughes
Hutto
Hyde
Inglis
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kingston
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lehman
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Moakley
Mollohan
Montgomery
Moran
Murtha
Myers
Nadler
Neal (MA)
Oberstar
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pombo
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Thompson
Thornton
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—149

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Clay
Coble
Collins (GA)
Cox
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Dreier
Duncan
Dunn
Ehlers
Emerson
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gilchrest
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Gunderson
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Hunter
Hutchinson
Inhofe
Istook
Jacobs
Johnson (CT)
Kim
King
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Machtley
Manzullo
McCandless
McCollum
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Nussle
Packard
Paxon
Petri
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (FL)
Zeliff
Zimmer

NOT VOTING—44

Barcia
Becerra
Bentley
Bishop
Blackwell
Boucher
Brown (CA)
Clinger
Collins (MI)
Condit
Crane
Danner
Doolittle
Dornan
Engel
Ewing
Ford (MI)
Ford (TN)
Gallo
Geren
Hancock
Huffington
Johnson, Sam
Laughlin
Manton
McCrery
McCurdy
McDade
Mink
Murphy
Neal (NC)
Obey
Oxley
Porter
Reed
Ridge
Rowland
Slattery
Tejeda
Thurman
Valentine
Washington
Whitten
Young (AK)

□ 1025

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Minnesota [Mr. RAMSTAD] will lead the House in the Pledge of Allegiance.

Mr. RAMSTAD led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

PERSONAL EXPLANATION

Mrs. THURMAN. Mr. Speaker, this morning I was having a meeting in my office during the vote on the Journal, No. 318. The bell system in my office was not operating properly. When I realized that a vote was occurring, I hurried to the Capitol but arrived just after the vote closed. I want the RECORD to reflect that I would have voted "aye."

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

IMPROVEMENTS MADE DURING CLINTON ADMINISTRATION

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, watching our 1-minutes yesterday, I was amazed at the distorted perception and the short-term memories of my Republican colleagues. I would like to remind all of my colleagues today and the American people of the progress that has been made in our economy over the past year and the improvements that have been made under the Clinton administration.

For the first time in 12 years, our Tax Code actually reflects some fairness. Fifteen million taxpayers received a tax cut this last April 15. Over 3 million jobs have been created since January 1993, and the economic forecasts predict future growth.

Those who claim that the economy was improving before the Democrats took control are the same ones who said last year that the President's economic plan would cripple our economy. Here we are over 1 year later and the only thing that is crippled is that same old tired rhetoric that we heard yesterday. The projected deficit as a share of gross national product is down almost half. We need to brag about America. We need to brag about what good is happening in Congress and this administration instead of just listening to the naysayers.

UNANSWERED QUESTIONS IN DEATH OF VINCE FOSTER

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, there are several unanswered questions in special counsel Robert Fisk's report on the White House lawyer's death, Mr. Vince Foster.

First, who moved Vince Foster's body?

Second, blonde hair, not Mr. Foster's, was found on the body. Whose hair was it?

Third, carpet and other wool fibers were found on the body. Where did this come from?

Fourth, semen was found on his underwear. Did he have a sexual encounter between 1 and 5 the day he died and, if so, with whom and, if so, it is hard to understand the state of mind of someone thinking about sex and committing suicide at the same time.

Fifth, why were there no skull fragments found at the park?

Sixth, all kinds of bullets were found at the site using modern technology, but not the one that killed Mr. Foster.

Seventh, why was the gun in Mr. Foster's right hand when he was left-handed?

Eighth, why did the man who found Foster's body say there was no gun in either hand when he found the body?

□ 1030

Mr. Speaker, tonight we will go into more detail about why the President's people invaded Vince Foster's office right after his death. There are a lot of questions that need to be answered.

GOOD NEWS FOR AMERICAN FAMILIES

(Mr. MILLER of California asked and was given permission to address the House for 1 minute.)

Mr. MILLER of California. Mr. Speaker, there obviously are no depths to which our colleagues will not seek to try to make points. It is very unfortunate for Vince Foster's family that the gentleman from Indiana would take on like that.

But in spite of him and in spite of his attacks on the President to try to derail what was announced today in the Los Angeles Times and papers all across the country, there is good news for Americans. There is good news for American families and for American workers.

The fact is, because of the President's economic plan, we see that we will achieve almost $700 billion in deficit reduction over the next 5 years as opposed to the $500 billion that we had anticipated when we passed the President's plans with no Republican votes. Not a single Republican would belly up to the bar to cast a vote that turned out to be real deficit reduction.

After 12 years, they were so used to talking about deficit reduction and not doing anything about it, they thought that is the way you would achieve it.

This President inherited a deficit that was out of control, and now we see the deficit reduction will far exceed, far exceed anything that anybody had anticipated.

And where is it coming from? It is coming because more Americans are going back to work, because lower interest rates have allowed corporations to reschedule their debt and able to hire more people and invest in new jobs. That is what the President promised, and that is what the President is delivering.

HEALTH SECURITY EXPRESS

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, the health security express is gearing up and coming to Washington.

Organized by the White House and liberal special interest groups, this express will bus in thousands of activists late this summer to lobby for the passage of the Clinton health care bill.

It is not certain if they will take Greyhound, but their motto will surely be "Leave your health care to U.S.," as in the U.S. Government.

Most Americans, though, do not want to get on this express.

They do not want their health care quality run off the road. They don't want the Government to make the choices on what doctor to see. And they do not trust the Government to control one-seventh of the economy.

In fact, President Clinton's health care reform plan is so unpopular, polls show that most folks would rather wait for the Congress to pass a better bill.

Mr. Speaker, the health security express is getting ready to come to Washington. Most Americans, though, would prefer it stay home.

THE ECONOMY IS ON THE MOVE AGAIN

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, today I am proud to join my colleagues to talk about the budget that we passed last year and the positive effects of that budget.

Today, the Office of Management and Budget will release its mid session review of the budget. The numbers show an economy on the move again. Last year, we made the tough choices, passed a budget package that has created jobs, lowered the deficit, cut spending, and cut taxes. A budget that has put people first again.

We have created jobs—6,398 private sector jobs a day. We have lowered the deficit. And it is not going to be the $500 billion once projected but $700 billion over the next several years. We have reduced the deficit 2 years in a row for the first time in two decades.

We have cut spending and cut the bureaucracy. Spending is projected to be lower during the Clinton administration than during either the Bush or Reagan administrations. More than 115 programs have been eliminated from the 1995 budget.

We have cut taxes for millions of Americans. The earned income tax credit rewards work and cuts taxes for 15 million working families who make less than $27,000 a year.

Yes, there is still much work to be done. But those of us who stood with the President and made the tough choices last year can be proud today that both our economy and our priorities are back on track.

CURRENT HEALTH CARE SYSTEM CAN BE FIXED

(Mr. BOEHNER asked and was given permission to address the House for 1 minute.)

Mr. BOEHNER. Mr. Speaker and my colleagues, these Clinton-like health care bills about to come to this floor all have one central thesis: "Let's make employers pay for it." It is because we do not have the honesty to ask the American people to pony up this money. We cannot afford it. We have got a burgeoning budget deficit, so let us just make somebody else pay for it: employers.

But employers are not going to pay for it. It is estimated that 1 million to 3 million Americans would lose their jobs if the Clinton health care bill were to become law. Another 23 million American workers are going to see reduced wages and reduced benefits because of the effects of this Clinton health care bill on their employers.

And so it is not America's employers who are going to pay, it is America's employees. As much as we want to help every American get health care, I do not know many workers in my district or around this country who want to give up their job, to give up their benefits or their wage increases so that others can have health care.

We can fix the problems in the current system without big Government-run health plans.

UNITED STATES HOUSING AID FOR RUSSIAN SOLDIERS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, reports say Uncle Sam has offered Russian soldiers $25,000 to buy a house if they would leave the Baltics.

Now, if this is correct, ladies and gentlemen, what is next? How about Haiti; we just send Cedras to Las Vegas and slip in Aristide? Or how about just take the North Korean Politburo, send them to Disney World and stop all the nuclear weapons? Or just bribe everybody in Bosnia to stop fighting?

Unbelievable. But what gets me, $25,000 for every Russian soldier to buy a house is called diplomacy. But to try and help an American soldier whose base closed and is losing their job, that is called pork.

Beam me up. I say tell Bully Boris to get out of the Baltics. If we have any money to spend, Congress, spend it and help the American soldiers losing their jobs and tell the Russians to develop a market economy. They will like it.

MANDATES: ANOTHER TAX ON WORKERS

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, we have heard a lot of, I guess, reconstructionist history over the last year about tax increases and who pays and who does not. We have also heard the same stories about job creation.

But we ought to realize where jobs come from in the last year has been out of the tough economic decisions of small businesses and their competitiveness in being able to put people to work.

Well, there is no shortage of economic studies that find massive job losses resulting from any imposition of employer mandates to small businesses to fund the Clinton health care plan.

A survey of 40 studies found estimates running from 600,000 to 3.8 million jobs destroyed by the imposition of what should be called by its true name: a new payroll tax.

Mandate is just another bogus term concocted by the White House spin doctors to hide the true nature of their proposals which, as usual, are yet another tax hike on the middle and working class.

THE LINE-ITEM VETO

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, last year on April 29, 1993, the House passed the line-item veto by a vote of 258 to 157. A year and 3 months later, we are still waiting for action by the other body.

Therefore, I call upon the other body to act upon the line-item veto.

The line-item veto is an essential tool in restoring fiscal responsibility. When we were sent to Washington with a mandate to cut the deficit, and I have cast the tough votes to reduce the deficit, through the President's deficit-reduction package, plus an additional $68 billion, though the deficit is on the way down, we still need fiscal responsibility and accountability.

Getting the line-item veto to the President will go even further in reducing unwarranted spending and increase the accountability of both the legislative and executive branches of Government.

This week I urge everyone to support the line-item veto. This initiative is a major step in providing reductions in spending that my constituents in northern Michigan and throughout the Nation are asking for.

DO NOT RISK UNITED STATES LIVES IN HAITI

(Mr. RAMSTAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAMSTAD. Mr. Speaker, I could not sleep at all last night.

I was haunted by the rumors swirling around the Capitol of an imminent United States invasion of Haiti. I was haunted by a call I received yesterday from the mother of a young Air Force pilot in my district sent to Puerto Rico on a couple of hours notice "to be on the highest alert."

Mr. Speaker, I could not answer that young pilot's mother when she asked me, "Why?

"Why invade Haiti when the President has yet to define any American national security interest?

"Why risk American lives when even former President Aristide said recently, 'I am against a military invasion.'"

Mr. Speaker, considering the cost of an invasion in blood and money, not to mention the danger and expense of a long-term peacekeeping force, I hope and pray the President revives the diplomatic effort and rejects the plan for a United States military invasion of Haiti.

Otherwise many other American mothers will be calling us to ask, "Why?"

□ 1040

AMERICANS WANT UNIVERSAL HEALTH CARE COVERAGE NOW

(Mr. BILBRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, I have heard the comments of my colleagues on the other side of the aisle on health care. I do not know who they are talking to out there; probably going to the country club and sitting down with their high-paid executives talking about why health care and mandatory employer mandates will not work.

But let me tell you, I talked to the people out there. I will tell you, people take me by the arm and say, "Congressman, we need help." Twenty-six percent of Nevadans have no health care, and it is growing; 17 percent nationally.

People want health care, and they do not want to wait until the next Congress, they want it now. We are willing to work with our colleagues from the other side of the aisle to try to find a solution to make sure health care works and that we get everybody in this country covered, we keep costs down, and make sure Americans receive what other people in other industrialized nations do: Medical care that is guaranteed, universal, and you cannot take it away, and prior existing conditions are not precluded. We need this kind of help, we need this help from both sides of the aisle. And you are kidding yourselves if you think the American people do not want universal health care; they do. They want it now, not a year from now, not 5 years from now and not 10 years from now.

BLOWING IN THE WIND

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, recently I learned that the Justice Department has an opinion line. Dial 1-800-LINE-2-AG, and you can pass on your opinions to Janet Reno about anything at all; justice by polling. I can just see the new Statue of Justice: She is still blindfolded, still has her scale, but on the other hand she is holding her index finger raised high in the wind to see which way the wind is blowing. But on second thought, Mr. Speaker, if we are going to do justice by polling, why not make a little money from it with a 900 number?

Jeffrey Dahmer is up for sentencing. How about 1-900-HANG-HIM? S&L crooks getting away with it? 1-900-BAIL-OUT. Important Congressmen stealing from the taxpayer? 1-900-PORK-PIE.

Mr. Speaker, the Justice Department has been badly politicized under the current administration. Everyone knows that. But do we have to be so obvious about it?

IN SUPPORT OF A REQUIREMENT FOR INFANT SAFETY RESTRAINTS ON AIRPLANES

(Mrs. UNSOELD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. UNSOELD. Mr. Speaker, one of the victims of last week's tragic USAir crash in Charlotte, NC, was a 9-month-old baby flying unrestrained on her mother's lap. The mother, who survived with injuries, tried with all her might to hold on to her daughter. She simply could not do it.

You may think larger person—a stronger person—could have held on to that baby. Think again. During a crash landing, a 30-pound child feels more like a 480-pound weight, 480 pounds.

Clearly, the Federal Aviation Administration recognizes the risk parents take by flying with infants on their laps. That is why the FAA recommends infants be secured during take off and landing. But they cannot bring themselves to require it. That is right—they require that you, the other passengers, the flight attendants, the pilot, the bags in the overhead compartment and the soda cans in the kitchen be secured, but not your infant. This is crazy—and it can be deadly.

All I am asking is that children under the age of 2 be given the same protections as you or I. Please support the youngest and most vulnerable of your constituents. Think of their futures. Support H.R. 1533, legislation Representative LIGHTFOOT and I introduced to require infant safety restraints on airplanes. Better still, urge the FAA to take the initiative to require infant restraints without an act of Congress.

CAMPAIGN MODE ON HEALTH CARE REFORM

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, the White House and congressional Democrats are deep in campaign mode on health care. They are preoccupied with damage control in 1994 congressional elections and saving the Clinton Presidency in 1996. That is understandable if you look at the polls. Sunday's New York Times reports that Democrats view health care reform as a do-or-die issue. Chairman of the DCCC, VIC FAZIO, says, "Health care will be the key to the 1994 elections. It will play to our advantage only if we use every aspect of the debate to reinforce our key overall political/economic message." Maybe that is why Democrats are meeting behind closed doors among themselves: They want to insure total control of this health care debate. But Americans want open debate and they want a bipartisan solution. They do not want what Mark Mellman, a Democratic strategist, is urging: "What Members of Congress need to do is to say they are supporting universal coverage but will be different in significant ways." That is a quote from the New York Times of Sunday. That is doublespeak, it is talking out of both sides of your mouth, and it is a Democrat speaking.

Mr. Speaker, we need open debate for all to see on health care. It is too important to do otherwise.

THE DEMOCRATIC ECONOMIC PLAN IS WORKING

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, for a dozen years, the Republican Party talked about reducing the deficit. They talked about reining in Federal spending. They talked about making our Government fit the reality of our pocketbooks.

But for a dozen years, there was too much talk, and not enough action.

The deficit swelled. Spending soared. The Republicans, for all their tough talk, brought us right to the brink of bankruptcy.

Then President Clinton and the Democrats in this Congress decided it was time to put America's house in order. Just yesterday, the Office of Management and Budget shared the results of that 18-month effort. And the results are dramatic:

Federal spending, as a percentage of our gross domestic product, is lower than under Bush or Reagan.

By the end of this decade, we will have slashed almost 275,000 Federal positions, making the Federal work force smaller than it has been since the Kennedy administration.

By next year, the deficit, as a percentage of national income, will be half as big as it was when Bill Clinton took office.

Next year will be the first time the deficit has gone down for 3 years in a row since the buck stopped on Harry Truman's desk.

The Republicans called our economic plan a job killer. They said it was a one-way ticket to a recession. Not a single Republican voted for it.

So the real question is: When will the Republicans give us credit for doing what they could not do for 12 long years? When will they stop carping about the Democratic economic plan, and start working with us to keep this Nation on the road to recovery?

THE DOC HOLIDAY SCHOOL OF MEDICINE

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, the administration has obviously taken a page from the Doc Holiday School of Medicine by shooting from the hip and attacking Congress for its health care coverage.

But a Roll Call editorial states that the plan covering Congress and all Federal workers "is more attractive than Mrs. Clinton's own proposal."

It goes on to state that the Federal employee plan offers "a choice of about 300 different health insurance plans, whereas the Clinton plan guarantees a choice of only 3. Federal employees will lose their breadth of coverage if the Clinton plan is enacted. If Mrs. Clinton were truly interested in giving all Americans the same insurance that Congress has, she would favor one of several bills to allow employers and ordinary citizens to buy into the Federal plan."

Interestingly enough, Republican health care bills would allow the choice option to continue, while the Clinton plan would end it.

It would seem that the White House has once again either misdiagnosed or misprescribed the illness. No wonder they do not want America to be able to get a second opinion from Republicans.

MEDICAL MALPRACTICE REFORM

(Mr. GRAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAMS. Mr. Speaker, imagine if every time consumers went to the doctor they had to write three checks to pay the bill, one to the physician, and then one to the lawyer, and one to the liability insurance company. Do you think consumers would tolerate this if they knew the costs? They certainly would not.

If you told those same consumers that serious medical malpractice reform would save them $500 per hospital stay, they would wonder what is taking us so long to correct this problem.

Medical malpractice reform, would bring down the costs of hospital stays, reduce the cost of medical liability insurance, and reduce the rate of defensive medicine. But, amazingly enough, there is no real medical malpractice reform in any of the health care reform bills reported by the House committees. That is why I am going to introduce the Medical Malpractice Fairness Act of 1994 later this week.

In fact, former Vice President Dan Quayle has strongly endorsed this legislation and urged its passage this year because unlike other proposals before Congress, this legislation is true reform that Americans want, need, and demand.

Mr. Speaker, I strongly urge my colleagues to become original cosponsors of the Medical Malpractice Fairness Act of 1994.

□ 1050

FRAUDULENT CLAIMS FOR THE EARNED INCOME CREDIT

(Mr. LEHMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEHMAN. Mr. Speaker, I rise in support of H.R. 4225, legislation which will be an important first step toward much-needed welfare reform for low-income working Americans. There is no question that current mechanisms for helping recipients must be tightened as an integral part of any major changes in the system.

The earned income credit [EIC] is a refundable tax credit for people with children who have an income less than $23,050. The EIC was established to increase the amount of income which low-income workers keep after taxes. The credit allows welfare families to work their way out of poverty and off the welfare program. However, the EIC can be abused when the IRS allows certain filers who provide incomplete or erroneous information to receive the credit.

While studies have shown that the earned income credit is an effective means of boosting low-income earners who work, they have also shown that nearly 1 in 3 of the 12.6 million families who received the EIC in 1990 may have been ineligible for it. As the EIC expands from an estimated $12 billion this year to about $25 billion in 1998, we must be sure that only eligible workers are receiving this tax break.

Specifically, this legislation requires the IRS to verify the taxpayer and dependent identification number before they can receive the credit—no number, no credit. We should not move on to new and costly welfare programs before we fix the responsibility and accountability of existing multibillion-dollar programs for low-income Americans.

Mr. Speaker, I urge my colleagues to support this timely legislation.

BUMBLING FOREIGN POLICY INTENSIFYING HAITIAN CRISIS

(Mr. MILLER of Florida asked and was given permission to address the House for 1 minute.)

Mr. MILLER of Florida. Mr. Speaker, I rise today to express my dismay over the current United States policy toward Haiti. It appears that for the first time in U.S. history pure ineptness on the part of the administration is being used as the rationale for sending young marines into harm's way.

Last week, the policy du jour approach to foreign policy took on new meaning when we literally announced three separate Haiti policies in 3 days. Our cruel sanctions policy has not worked—in fact it intensified the refugee crisis. Our promise to give asylum to Haitians did not work—it only sent more Haitians onto those overcrowded, dangerous boats. And the American people were forced to suffer the indignity of the Panamanian President telling Bill Clinton no Haitians would be allowed in Panama. This refugee crisis was created by the pure bumbling of Bill Clinton's foreign policy team, and now that crisis is being used as a rationale for invasion.

But before they think that invasion will solve their problems, let us remember how the Clinton administration's ineptness led to loss of life in Somalia 10 months after the invasion. I do not believe Bill Clinton should attempt to solve his public relations problems on the backs of U.S. Marines.

AMERICA'S HEROES

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, I rise today to pay tribute to some of the most selfless men and women in our country, our emergency responders. Last week, on July 6, 14 firefighters gave their lives in the line of duty as they fought a forest fire in Glenwood Springs, CO. These men and women were among the best our country has to offer. In this case, Mr. Speaker, they came from the elite U.S. Forest Service firefighting groups including the Smokejumpers, the Helitacks, and the Hotshots. Fourteen of the fifty-two firefighters on that Colorado ridge did not escape, including nearly half of the Preneville, OR, Hotshots.

Fires, floods, hurricanes, tornados, earthquakes, manmade disasters are handled every day in this country by the 1½ million men and women who are our bravest Americans. In honor of these 14 fallen heroes, Mr. Speaker, let us recommit ourselves to the fullest possible support of America's domestic defenders.

WHAT ARE THEY AFRAID OF?

(Mr. ROTH asked and was given permission to address the House for 1 minute.)

Mr. ROTH. Mr. Speaker, something must be said about the coverup that is going on here in Washington. I ask my colleagues, Did you see the paper this morning? There was an article entitled "Congress to Shield Whitewater Papers." I commend this article to every Member of Congress.

Mr. Speaker, this is a very serious situation. The documents, for example, which detail contacts between the White House and the Treasury Department about the early stages of the Whitewater investigation, they are, and I quote, being kept in safes and secure rooms under guard.

What? What are they afraid of? What are they hiding? What is the White House and Democratic leadership afraid of? In order to review these documents, Mr. Speaker, one has to sign a statement, a confidentiality agreement.

This is the first time that has happened in our history. Not even in Watergate were Members asked to sign a confidentiality agreement.

Now there are rumors here on Capitol Hill that there is information in the documents that is highly embarrassing to people at the White House. Well, the American people have a right to know. This Government does belong to the people and should be of the people, by the people, and for the people.

This is a serious situation. I ask the leadership of this House and the Members to look into this. We cannot allow this coverup to continue.

SUPPORT THE EXPORT ADMINISTRATION ACT

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, we in this Congress have begun to turn the American economy around, not by ourselves, but working with small business across this country.

Now the budget passed, sadly by only Democrat votes, and was able to work with an economy ready to respond. We have another opportunity coming before this House to help the economy, and that is to pass the Export Administration Act.

Mr. Speaker, in our competition with Japan and Germany, American companies are shackled and prevented from engaging in the international market in technology that is generally available. In our bill we are tougher on terrorists, but we let the administration lead the effort to take advantage of the international marketplace where the future of our economy will be built.

I ask my colleagues to focus on the Export Administration Act as it comes to the floor in the next several days and to make sure those of my colleagues interested in its passage helps us fight off amendments that would leave American companies in a more complicated situation than they were at the height of the Brezhnev era. We need to take advantage of international markets and of international security, not destroy American opportunity by passing some of these very negative amendments.

DISTRICT OF COLUMBIA HOUSING DEPARTMENT SPENDS $10,000 AT RESORT IN PUERTO RICO

(Mr. WALSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALSH. Mr. Speaker, today's front page of the Washington Post is very enlightening. The District of Columbia's housing department, rated the worst in the country, recently sent eight employees to a resort in Puerto Rico to study public housing at a cost of over $10,000 to the taxpayer. This is the same department that spent $1.3 million to spruce up its own headquarters while hundreds of its housing units are unrepaired and uninhabitable and while hundreds of Americans live homeless and on the streets of Washington, DC.

Mr. Speaker, when we take up the District of Columbia appropriations bill, I ask my colleagues to remember this. Our choice is to fix the budget ourselves by amendment or to defeat it and send it back to the Mayor and the city council. This is our responsibility.

DEMOCRATS CONFRONTING HEALTH CARE ISSUES IN AN HONEST AND FORTHRIGHT MANNER

(Mr. COLEMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN. Mr. Speaker, I think it appropriate that some of us, at least, begin to respond to some of the suggestions by the Republicans about the health care plans that have been placed before us for consideration. One of my colleagues from Texas just a few minutes ago suggested that, if Hillary Clinton was honest about all of this, she would have given us all these options, and then he said, I believe he said, if I am not mistaken, that then employers and employees could have gone out, paid for, bought, those plans. Interesting analysis.

What is it that is missing? I suggest to my colleagues that a lot of people cannot go out and just pay for plans. That is part of the problem. "Why in the world," I ask my colleagues, "do you think we got 40 million Americans without health care coverage, most of them being children in America today?"

I think it is wrong for anybody in this House to try to sweep under the rug how we are going to pay for health care, and I think that for the President and the Democrats to have confronted this issue in an honest and forthright plan with one proposal for payment by employers and employees for a new health care system for all Americans is not deceiving at all.

In fact, Mr. Speaker, it is the most honest thing that has been put forward in my years in the Congress here. It is about time somebody said how we are going to pay for things we say we want or we need.

CALIFORNIA DESERT PROTECTION ACT OF 1994

The SPEAKER pro tempore (Mr. DURBIN). Pursuant to House Resolution 422 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 518.

□ 1059

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 518) to designate certain lands in the California Desert as wilderness, to establish the Death Valley and Joshua Tree National Parks and the Mojave National Monument, and for other purposes, with Mr. PETERSON of Florida in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, July 12, 1994, the amendment offered by the gentleman from Tennessee [Mr. QUILLEN] had been disposed of, and title IV was open to amendment at any point.

Are there further amendments to title IV?

□ 1100

AMENDMENT OFFERED BY MR. CUNNINGHAM

Mr. CUNNINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CUNNINGHAM: On page 53, after line 24, insert the following:

SEC. 416. NO ADVERSE AFFECT ON LAND UNTIL ACQUIRED.

With the exception of lands owned by the California State Lands Commission and the Catellus Development Corporation, the owners of all lands acquired pursuant to this Act and the Wilderness Act or their designees shall be entitled to full use and enjoyment of such lands and nothing in the Act shall be—

(1) construed to impose any limitation upon any otherwise lawful use of these lands by the owners thereof or their designees,

(2) construed as authority to defer the submission, review, approval or implementation of any land use permit or similar plan with respect to any portion of such lands, or

(3) construed to grant a cause of action against the owner thereof or their designee, except to the extent that the owners thereof or their designees may, of their own accord, agree to defer some or all lawful enjoyment and use of any such lands for a certain period of time.

Mr. CUNNINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CUNNINGHAM. Mr. Chairman, yesterday we offered this amendment, and the gentleman from California [Mr. MILLER] offered a perfecting amendment. We asked to be protected under the rights of the House so we could work out the language, and we withdrew the amendments.

The gentleman from Colorado [Mr. ALLARD], the gentleman from Louisiana [Mr. TAUZIN], the gentleman from California [Mr. MILLER], and I and the staffs sat back and worked out the language of the perfecting amendment, and the reason is this: Let me go through just briefly what this is about. The problem is that when the Federal Government wants to take land away from private citizens under eminent domain or anything else, quite often there is not the money to pay for the land, and in the meantime that rancher, homeowner, or private owner has to live under the restrictions and cannot improve the land. Therefore, the land goes down in value, and by the time the Federal Government pays that individual the land may be worth a nickel on the dollar.

That is not right, Mr. Chairman, and the gentleman from California [Mr. MILLER] agrees with that.

What our amendment did not make clear is that we want in the meantime for the rancher or the private owner to be able to go ahead and utilize the land in a normal way. We do not want, as the gentleman from California [Mr. MILLER] suggested in his perfecting amendment, to add toxic waste dumps in that area, which would really deflate the value of the land when the Federal Government took it over, and it would cost billions of dollars to take it over, or to affect the Mining Act on parks.

So we have worked it out, and I think the gentleman from Colorado [Mr. ALLARD], the gentleman from Louisiana [Mr. TAUZIN], the gentleman from California [Mr. MILLER], and myself offer a good amendment, and I think we are in agreement with it. I do agree that the Clean Air Act would be a fine addition there.

Mr. Chairman, let me yield to my friend, the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, let me suggest that I go ahead and offer my amendment to the perfecting amendment first.

The CHAIRMAN. The gentleman from California [Mr. CUNNINGHAM] will have to yield back his time in order for the gentleman to do that.

Mr. CUNNINGHAM. Mr. Chairman, I will do that, and I would like the amendment to be issued as the Miller-Allard-Tauzin-Cunningham amendment.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA TO THE AMENDMENT OFFERED BY MR. CUNNINGHAM

Mr. MILLER of California. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California to the amendment offered by Mr. CUNNINGHAM: In the matter proposed to be inserted by the amendment, strike "With the exception" and all that follows and insert "Unless and until acquired by the United States, no lands within the boundaries of wilderness areas or National Park System units designated or enlarged by this Act that are owned by any person or entity other than the United States shall be subject to any of the rules or regulations applicable solely to the Federal lands within such boundaries and may be used to the extent allowed by applicable law. Neither the location of such lands within such boundaries nor the possible acquisition of such lands by the United States shall constitute a bar to the otherwise lawful issuance of any federal license or permit other than a license or permit related to activities governed by 16 U.S.C. §4601–22(c). Nothing in this section shall be construed as affecting the applicability of any provision of the Mining in the Parks Act (16 U.S.C. §1901 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.) or regulations applicable to oil and gas development as set forth in 36 CFR 9.B."

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Chairman, I want to thank my colleague, the gentleman from California [Mr. CUNNINGHAM] for his help in putting together this compromise which I think will clearly ensure that the concerns that he and others and I have about the impacts on private land inholdings when we change the status of Federal lands or create Federal lands around those private properties, that we not inhibit the ability of the property owner to engage in the beneficial use of that property as he might have before the Federal reservation was created.

My amendment goes to two points. Since we are creating these reserves in this bill, we maintain that the mining operations there would be subject to mining in the park, which has been on the books for many years, and we also make sure the generic provision in the law that prohibits one from operating a hazardous waste site facility on an inholding within the parks not be overridden. But other than that, we make it very clear that one will not be prejudiced nor will one be barred from getting a permit. That person might have to go to the local county or the State or some other local jurisdiction to get it because of the fact that they are an inholding. And we also make it clear we do not want the bureaucracy to muscle in on inholdings, trying to extend to those private properties restrictions that the Congress in its wisdom chose not to extend to those properties.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. Yes, I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, I thank the gentleman from California for yielding.

I was asked not to negotiate on this bill, and the reason that I decided to do it is that the gentleman from California [Mr. MILLER] and I have worked, not only on education and labor matters, but on other issues together, and we may disagree on issues, but not once has he ever said we would sit down and work out something that has not happened, and I appreciate that.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman, and I yield back the balance of my time.

Mr. LEWIS of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I really was not going to seek time, but I would like to have some exchange with the chairman of the committee, if I may.

The CHAIRMAN. The gentleman from California [Mr. LEWIS] is recognized for 5 minutes.

Mr. LEWIS of California. Mr. Chairman, in order to clarifying precisely the gentleman's amendment, as well as the Cunningham-Huffington amendment, does relative to inholders, let us assume that the inholder goes to a local county—and it largely would be county authority—and has a proposed change or use of his property and the county signs off on it but in turn for one reason or another the department does not. How does that procedure work? What actually happens?

Mr. MILLER of California. Mr. Chairman, if the gentleman will yield, I think in fact the department has no authority on whether to sign off or not sign off on it, unless it had to do with these two provisions.

If you go down to the county and say, "I want to remodel my home" or "I want to add a barn onto my farm," if you need those permits at the local level, that is between you and the county. The purpose of this amendment is to suggest that they do not get to sign off on that. If you were going to build a power plant, they could come in under applicable law. If there are 404 permits or endangered species or clean air issues, they could come in under those provisions, but they can do that today.

Mr. LEWIS of California. So, Mr. Chairman, the gentleman is suggesting that outside of very special circumstances like a power company or something that is directly affected by established Federal law, that local planning authority would totally control that planning process?

Mr. MILLER of California. The Park Service could go in. I guess the Park Service could go in and complain about the impact if you were going to put in 500 homes, for instance.

Mr. LEWIS of California. Sure.

Mr. MILLER of California. But that is their standing. Like any other entity, they could come into that process, but they do not get special status in that process to make determinations because of the Federal lands around that facility. If they can make their case that this is incompatible or what have you, that is fine, but that in itself is not the basis to deny the permit. They do not have that special standing.

Mr. LEWIS of California. Mr. Chairman, as the chairman of the committee knows, in the other body a portion of the eastern Mojave, the Landfair Valley was left out of the bill, in no small part because of a very sizable number of private property owners, inholders, or potential inholders. So the gentleman is suggesting that where those people would be following a normal development process, that is, building a home or a barn or otherwise, they would be totally under the direction of and be able to get response from the local planning authority that is already well-established?

Mr. MILLER of California. Mr. Chairman, the gentleman is correct. Again, within the guidelines and within applicable law, the Park Service can participate, and if it rose to such an occasion that the Park Service thought it was inconsistent——

Mr. LEWIS of California. Then they could testify?

Mr. MILLER of California. Then they could go in and try to condemn the property, as we pointed out yesterday.

Mr. LEWIS of California. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MILLER], to the amendment offered by the gentleman from California [Mr. CUNNINGHAM].

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. CUNNINGHAM], as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there further amendments to title IV?

If not, the Clerk will designate title V.

The text of title V is as follows:

TITLE V—NATIONAL PARK WILDERNESS

DESIGNATION OF WILDERNESS

SEC. 501. The following lands are hereby designated as wilderness in accordance with the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131 et seq.) and shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act:

(1) Death Valley National Park Wilderness, comprising approximately three million one hundred seventy-nine thousand four hundred and eighteen acres, as generally depicted on 23 maps entitled "Death Valley National Park Boundary and Wilderness", numbered in the title one through twenty-three, and dated May 1994 or prior, and three maps entitled "Death Valley National Park Wilderness", numbered in the title one through three, and dated May 1994 or prior, and which shall be known as the Death Valley Wilderness.

(2) Joshua Tree National Park Wilderness Additions, comprising approximately one hundred thirty-one thousand seven hundred and eighty acres, as generally depicted on four maps entitled "Joshua Tree National Park Boundary and Wilderness—Proposed", numbered in the title one through four, and dated October 1991 or prior, and which are hereby incorporated in, and which shall be deemed to be a part of the Joshua Tree Wilderness as designated by Public Law 94–567.

(3) Mojave National Park Wilderness, comprising approximately six hundred ninety-four thousand acres, as generally depicted on ten maps entitled "Mojave National Park Boundary and Wilderness—Proposed", numbered in the title one through ten, and dated May 1994 or prior, and seven maps entitled "Mojave National Park Wilderness—Proposed", numbered in the title one through seven, and dated May 1994 or prior, and which shall be known as the Mojave Wilderness.

(4) Upon cessation of all uses prohibited by the Wilderness Act and publication by the Secretary in the Federal Register of notice of such cessation, potential wilderness, comprising approximately six thousand eight hundred and forty acres, as described in "1988 Death Valley National Monument Draft General Management Plan Draft Environmental Impact Statement" (hereafter in this title referred to as "Draft Plan") and as generally depicted on a map in the Draft Plan entitled "Wilderness Plan Death Valley National Monument", dated January 1988, shall be deemed to be a part of the Death Valley Wilderness as designated in paragraph (1). Lands identified in the Draft Plan as potential wilderness shall be managed by the Secretary insofar as practicable as wilderness until such time as said lands are designated as wilderness.

FILING OF MAPS AND DESCRIPTIONS

SEC. 502. Maps and a legal description of the boundaries of the areas designated in section 501 of this title shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior, and in the Office of the Superintendent of each area designated in section 501. As soon as practicable after this title takes effect, maps of the wilderness areas and legal descriptions of their boundaries shall be filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, and such maps and descriptions shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such maps and descriptions.

ADMINISTRATION OF WILDERNESS AREAS

SEC. 503. The areas designated by section 501 of this title as wilderness shall be administered by the Secretary in accordance with the applicable provisions of the Wilderness Act governing areas designated by that title as wilderness, except that any reference in such provision to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this title, and where appropriate, and reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment.

The Clerk reads as follows:

Amendment offered by Mr. VENTO: Page 54, lines 13 and 14, strike "one hundred seventy-nine thousand four hundred and eighteen acres" and in lieu thereof insert "one hundred sixty-two thousand one hundred and thirty-eight acres".

Mr. VENTO. Mr. Chairman, this is a simple amendment. It would reduce the wilderness designation within the enlarged Death Valley National Park by about 17,280 acres.

The result will be to leave a nonwilderness zone along the southern boundary of the national park, where the park adjoins the Fort Irwin National Training Center.

This change is desired by the Defense Department. They have indicated that they are concerned about difficulties that might arise in connection with policing of the Fort Irwin boundary if the adjacent national park lands were designated as wilderness.

Frankly, Mr. Chairman, I am not certain that the Defense Department's concerns are not exaggerated. However, in the interests of removing doubts about this point, and to make this portion of the bill more like the corresponding portion of the version passed by the Senate, I urge the House to adopt this amendment.

□ 1110

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, I thank the gentleman for yielding to me.

The minority agrees with this amendment. We think it is a good amendment, and we go along with it.

Mr. VENTO. Mr. Chairman, I thank the gentleman for his support and interest.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. VENTO].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title V?

If not, the Clerk will designate title VI.

The text of title VI is as follows:

TITLE VI—MISCELLANEOUS PROVISIONS

TRANSFER OF LANDS TO RED ROCK CANYON STATE PARK

SEC. 601. Upon enactment of this title, the Secretary of the Interior shall transfer to the State of California certain lands within the California Desert Conservation Area, California, of the Bureau of Land Management, comprising approximately twenty thousand five hundred acres, as generally depicted on two maps entitle "Red Rock Canyon State Park Additions 1" and "Red Rock Canyon State Park Additions 2", dated May 1991, for inclusion in the State of California Park System. Should the State of California cease to manage these lands as part of the State Park System, ownership of the lands shall revert to the Department of the Interior to be managed as part of the California Desert Conservation Area to provide maximum protection for the area's scenic and scientific values.

DESERT LILY SANCTUARY

SEC. 602. (a) There is hereby established the Desert Lily Sanctuary within the California Desert Conservation Area, California, of the Bureau of Land Management, comprising approximately two thousand forty acres, as generally depicted on a map entitled "Desert Lily Sanctuary", dated February 1986. The Secretary of the Interior shall administer the area to provide maximum protection to the desert lily.

(b) Subject to valid existing rights, Federal lands within the sanctuary, and interests therein, are withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970.

LAND TENURE ADJUSTMENTS

SEC. 603. In preparing land tenure adjustment decisions within the California Desert Conservation Area, of the Bureau of Land Management, the Secretary shall give priority to consolidating Federal ownership within the national park units and wilderness areas designated by this Act.

DISPOSAL PROHIBITION

SEC. 604. Notwithstanding any other provision of law, the Secretary of the Interior and the Secretary of Agriculture may not dispose of any lands within the boundaries of the wilderness or parks designated under this Act or grant a right-of-way in any lands within the boundaries of the wilderness designated under this Act. Further, none of the lands within the boundaries of the wilderness or parks designated under this Act shall be granted to or otherwise made available for use by the Metropolitan Water District and any other agencies or persons pursuant to the Boulder Canyon Project Act (43 U.S.C. 617–619b) or any similar acts.

MANAGEMENT OF NEWLY ACQUIRED LANDS

SEC. 605. Any lands within the boundaries of a wilderness area designated under this Act which are acquired by the Federal Government shall become part of the wilderness area within which they are located and shall be managed in accordance with all the provisions of this Act and other laws applicable to such wilderness area.

NATIVE AMERICAN USES

SEC. 606. In recognition of the past use of the parks and wilderness areas designed under this Act by Indian people for traditional cultural and religious purposes, the Secretary shall ensure access to such parks and wilderness areas by Indian people for such traditional cultural and religious purposes. In implementing this section, the Secretary, upon the request of an Indian tribe or Indian religious community, shall temporarily close to the general public use of one or more specific portions of park or wilderness areas in order to protect the privacy of traditional cultural and religious activities in such areas by Indian people. Such access shall be consistent with the purpose and intent of Public Law 95–341 (42 U.S.C. 1996) commonly referred to as the "American Indian Religious

Freedom Act", and with respect to areas designated as wilderness, the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131).

WATER RIGHTS

SEC. 607. (a) With respect to each wilderness area designated by this Act, Congress hereby reserves a quantity of water sufficient to fulfill the purposes of this Act. The priority date of such reserved water rights shall be the date of enactment of this Act.

(b) The Secretary of the Interior and all other officers of the United States shall take all steps necessary to protect the rights reserved by this section, including the filing by the Secretary of a claim for the quantification of such rights in any present or future appropriate stream adjudication in the courts of the State of California in which the United States is or may be joined and which is conducted in accordance with section 208 of the Act of July 10, 1952 (66 Stat. 560, 43 U.S.C. 666; commonly referred to as the McCarran Amendment).

(c) Nothing in this Act shall be construed as a relinquishment or reduction of any water rights reserved or appropriated by the United States in the State of California on or before the date of enactment of this Act.

(d) The Federal water rights reserved by this Act are specific to the wilderness areas located in the State of California designated under this Act. Nothing in this Act related to the reserved Federal water rights shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made thereto.

STATE SCHOOL LANDS

SEC. 608. (a) Upon request of the California State Lands Commission (hereinafter in this section referred to as the "Commission"), the Secretary shall enter into negotiations for an agreement to exchange Federal lands or interests therein on the list referred to in subsection (b)(2) for California State School Lands (hereinafter in this section referred to as "State School Lands") or interests therein which are located within the boundaries of one or more of the wilderness areas or park units designated by this Act. The Secretary shall negotiate in good faith to reach a land exchange agreement consistent with the requirements of section 206 of the Federal Land Policy and Management Act of 1976.

(b) Within six months after the date of enactment of this Act, the Secretary shall send to the Commission and to the Committees a list of the following:

(1) The State School Lands or interests therein (including mineral interests) which are located within the boundaries of the wilderness areas or park units designated by this Act.

(2) Lands under the Secretary's jurisdiction to be offered for exchange, including in the following priority:

(A) Lands with mineral interests, including geothermal, which have the potential for commercial development but which are not currently under mineral lease or producing Federal mineral revenues.

(B) Federal lands in California managed by the Bureau of Reclamation that the Secretary determines are not needed for any Bureau of Reclamation project.

(C) Any public lands in California that the Secretary, pursuant to the Federal Land Policy and Management Act of 1976, has determined to be suitable for disposal through exchange.

(c)(1) If an agreement under this section is for an exchange involving five thousand acres or less of Federal land or interests therein, or Federal lands valued at less than $5,000,000, the Secretary may carry out the exchange in accordance with the Federal Land Policy and Management Act of 1976.

(2) If an agreement under this section is for an exchange involving more than five thousand acres of Federal lands or interests therein, or Federal land valued at more than $5,000,000, the agreement shall be submitted to the Committees, together with a report containing—

(A) a complete list and appraisal of the lands or interests in lands proposed for exchange; and

(B) a determination that the State School Lands proposed to be acquired by the United States do not contain any hazardous waste, toxic waste, or radioactive waste.

(d) An agreement submitted under subsection (c)(2) shall not take effect unless approved by a joint resolution enacted by the Congress.

(e) If exchanges of all of the State School Lands are not completed by October 1, 2004, the Secretary shall adjust the appraised value of any remaining inholdings consistent with the provisions of section 206 of the Federal Land Management Policy Act of 1976. The Secretary shall establish an account in the name of the Commission in the amount of such appraised value. Title to the State School Lands shall be transferred to the United States at the time such account is credited.

(f) The Commission may use the credit in its account to bid, as any other bidder, for excess or surplus Federal property to be sold in the State of California in accordance with the applicable laws and regulations of the Federal agency offering such property for sale. The account shall be adjusted to reflect successful bids under this section or payments or forfeited deposits, penalties, or other costs assessed to the bidder in the course of such sales. In the event that the balance in the account has not been reduced to zero by October 1, 2009, there are authorized to be appropriated to the Secretary for payment to the California State Lands Commission funds equivalent to the balance remaining in the account as of October 1, 2009.

(g) As used in this section, the term "Committees" means the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

EXCHANGES

SEC. 609. (a) Upon request of the Catellus Development Corporation, its subsidiaries or successors in interest (hereafter in this section referred to as "Catellus"), the Secretary shall enter into negotiations for an agreement or agreements to exchange Federal lands or interests therein on the list referred to in subsection (b)(2) of this section for lands of Catellus or interests therein which are located within the boundaries of one or more of the wilderness areas or park units designated by this Act.

(b) Within six months after the date of enactment of this Act, the Secretary shall send to Catellus and to the Committees a list of the following:

(1) Lands of Catellus or interests therein (including mineral interests) which are located within the boundaries of the wilderness areas or park units designated by this Act.

(2) Lands under the Secretary's jurisdiction to be offered for exchange, in the following priority:

(A) Lands, including lands with mineral and geothermal interests, which have the potential for commercial development but which are not currently under lease or producing Federal revenues.

(B) Federal lands managed by the Bureau of Reclamation that the Secretary determines are not needed for any Bureau of Reclamation project.

(C) Any public lands that the Secretary, pursuant to the Federal Land Policy and Management Act of 1976, has determined to be suitable for disposal through exchange.

(c)(1) If an agreement under this section is for (A) an exchange involving lands outside the State of California, (B) more than 5,000 acres of Federal land or interests therein in California, or (C) Federal lands in any State valued at more than $5,000,000, the Secretary shall provide to the Committees a detailed report of each such land exchange agreement.

(2) All land exchange agreements shall be consistent with the Federal Land Policy and Management Act of 1976.

(3) Any report submitted to the Committees under this subsection shall include the following:

(A) A complete list and appraisal of the lands or interests in land proposed for exchange.

(B) A complete list of the lands, if any, to be acquired by the United States which contain any hazardous waste, toxic waste, or radioactive waste which requires removal or remedial action under Federal or State law, together with the estimated costs of any such action.

(4) An agreement under this subsection shall not take effect unless approved by a joint resolution enacted by the Congress.

(d) The Secretary shall provide the California State Lands Commission with a one hundred eighty-day right of first refusal to exchange for any Federal lands or interests therein, located in the State of California, on the list referred to in subsection (b)(2). Any lands with respect to which a right of first refusal is not noticed within such period or exercised under this subsection shall be available to Catellus for exchange in accordance with this section.

(e) On January 3, 1999, the Secretary shall provide to the Committees a list and appraisal consistent with the Federal Land Policy and Management Act of 1976 of all Catellus lands eligible for exchange under this section for which an exchange has not been completed. With respect to any of such lands for which an exchange has not been completed by October 1, 2004 (hereafter in this section referred to as "remaining lands"), the Secretary shall establish an account in the name of Catellus (hereafter in this section referred to as the "exchange account"). Upon the transfer of title by Catellus to all or a portion of the remaining lands to the United States, the Secretary shall credit the exchange account in the amount of the appraised value of the transferred remaining lands at the time of such transfer.

(f) Catellus may use the credit in its account to bid, as any other bidder, for excess or surplus Federal property to be sold in the State of California in accordance with the applicable laws and regulations of the Federal agency offering such property for sale. The account shall be adjusted to reflect successful bids under this section or payments or forfeited deposits, penalties, or other costs assessed to the bidder in the course of such sales. Upon approval by the Secretary in writing, the credits in Catellus's exchange account may be transferred or sold in whole or in part by Catellus to any other party, thereby vesting such party with all the rights formerly held by Catellus. The exchange account shall be adjusted to reflect successful bids under this section or payments or forfeited deposits, penalties, or other costs assessed to the bidder in the course of such sales.

(g)(1) The Secretary shall not accept title pursuant to this section to any lands unless such title includes all right, title, and interest in and to the fee estate.

(2) Notwithstanding paragraph (1), the Secretary may accept title to any subsurface estate where the United States holds title to the surface estate.

(3) This subsection does not apply to easements and rights-of-way for utilities or roads.

(h) In no event shall the Secretary accept title under this section to lands which contain any hazardous waste, toxic waste, or radioactive waste which requires removal or remedial action under Federal or State law unless such remedial action has been completed prior to the transfer.

(i) For purposes of the section, any appraisal shall be consistent with the provisions of section 206 of the Federal Land Policy and Management Act of 1976.

(j) As used in this section, the term "Committees" means the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

AMENDMENTS OFFERED BY MR. RICHARDSON

Mr. RICHARDSON. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. RICHARDSON: Page 59, line 22, insert "(a)" after "606.".

Page 60, after line 11, insert the following: (b)(1) The Secretary, in consultation with the Timbisha Shoshone Tribe and relevant Federal agencies, shall conduct a study, subject to the availability of appropriations, to identify lands suitable for a reservation for the Timbisha Shoshone Tribe that are located within the Tribe's aboriginal homeland area.

(2) Not later than two years after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Energy and Natural Resources and the Committee on Indian Affairs of the Senate, and the Committee on Natural Resources of the House of Representatives on the results of the study conducted under paragraph (1).

Page 62, after line 25, insert the following: (3) Any other Federal land, or interest therein, within the State of California, which is or becomes surplus to the needs of the Federal Government. The Secretary may exclude, in his discretion, lands located within or contiguous to, the exterior boundaries of lands held in trust for a federally recognized Indian tribe located in the State of California.

Page 66, after line 2, insert the following: (3) Any other Federal land, or interest therein, within the State of California, which is or becomes surplus to the needs of the Federal Government. The Secretary may exclude, in his discretion, lands located within, or contiguous to, the exterior boundaries of lands held in trust for a federally recognized Indian tribe located in the State of California.

Mr. RICHARDSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Chairman, The en bloc amendments I am offering would be added to title VI of this bill.

The first amendment would amend section 606 entitled "Native American Uses" to allow for a 2-year study to be completed by the Secretary of Interior in consultation with the Timbisha Shoshone Tribe of lands which would be suitable for a reservation for the tribe. The lands to be considered are to come from aboriginal homeland areas of the Timbisha Shoshone Tribe.

The Timbisha Shoshone Tribe has been a federally recognized tribe since 1983 and has approximately 200 members. The recognition did not, however, convey a land base to the tribe. Without a land base the tribe is unable to pursue tribal self-determination or social and economic development for its members. The ancestral homeland of the Timbisha Shoshone includes lands in and surrounding the Death Valley area of California.

The Timbisha Shoshone Tribe's ancestral homelands are found on lands within the boundaries of the Death Valley National Monument and Death Valley National Park as described in the California Desert Protection Act of 1994, and as more particularly described in the "Death Valley Timbisha Shoshone Band of California: Final Determination for Federal Acknowledgment" (Fed. Reg. vol. 47 at page 50109 (Nov. 4, 1982). These lands are part of the tribe's aboriginal territory, but have been held by the Federal Government for other uses since 1933, including lands of the National Park Service, Bureau of Land Management, and other Federal departments and agencies.

The Timbisha Shoshone Tribe is the successor and direct descendant of the Panamint Shoshone whose traditional ancestral homeland for thousands of years encompassed a vast territory of hundreds of square miles in the Death Valley, CA area, and extending into western Nevada. The Timbisha Shoshone Tribe resides at the will of the U.S. Department of Interior, National Park Service, on a 40-acre tract of land managed and administered by the National Park Service.

My amendment does not put 1 acre of land into trust for the tribe. It simply authorizes, subject to the availability of appropriations, a study to identify lands which the tribe and the Secretary of Interior find to be appropriate for use as a reservation.

The second and third amendments I am offering give the Secretary of Interior the discretion to exclude from the lists referred to in section 608 and section 609 any lands which become surplus and are within or contiguous to any existing Indian tribal trust lands. Under sections 608 and 609 the Secretary is required to compile a list of any lands which may be deemed surplus by the Secretary and, therefore, eligible for possible trade with parcels inside areas which this legislation intends to designate as wilderness or national park units.

Again, these amendments would not provide any Indian tribe with 1 acre of land. They would merely allow the Secretary of Interior the ability to withhold a particular surplus parcel that is within or contiguous to the exterior boundary of existing trust land. Currently, some Indian trust land in California is checker-boarded with private or Federal land included within the trust land. If and when, this non-Indian land becomes available it may be more appropriate for that land to be conveyed to the tribe instead of to another entity which would increase problems related to the management of checker-boarded areas.

The native Americans of California deserve to have a few protections in this legislation and I believe my amendments allow for this. I urge my colleagues to support my amendments.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding to me.

I think it is probably appropriate to require a study to see if a reservation could be established for the Timbisha Shoshones. I think that we should be careful not to raise undue expectations about the likelihood that Congress will agree to take lands out of parks, out of forests, out of wildlife refugees or wilderness areas once designated. That would be a concern.

The intent here, as I understand, and I would like the gentleman to respond to this, is that in order for anything to be established, we would have to come back and act on it. Congress would have to act on that particular matter.

Mr. RICHARDSON. Mr. Chairman, let me say that the gentleman is correct, but I think what is very important to the Subcommittee on Native American Affairs is to look at the entire aboriginal lands and keep that option open.

Mr. VENTO. Mr. Chairman, if the gentleman will continue to yield, I think that if we excluded such lands in fact, as Members know, the gentleman, we have exchanged, maybe we should exclude parks, exclude wildernesses, I think that just tortures the logic of the study. In fact, we are better off having them included for the purpose of the study and learn if there are substantial claims within a park for example. We would hope that, for instance, for religious purposes or others that they would apply to the general law. But we should have the information and we would rather have it formally than trying to structure a study that would end up being incomplete.

Mr. RICHARDSON. Mr. Chairman, the gentleman is correct. We do want that.

Mr. VENTO. Mr. Chairman, I agree with the gentleman, and I urge adoption of the amendment.

AMENDMENTS OFFERED BY MR. MILLER OF CALIFORNIA TO THE AMENDMENTS OFFERED BY MR. RICHARDSON

Mr. MILLER of California. Mr. Chairman, I offer amendments to the amendments.

The Clerk read as follows:

Amendments offered by Mr. MILLER of California to the amendments offered by Mr. RICHARDSON:

In the matter proposed to be inserted on page 62 after line 25, strike "The Secretary" and all that follows and insert after paragraph (3) as contained in such matter the following:

The Secretary may exclude, in his discretion, from such list lands located within, or contiguous to, the exterior boundaries of lands held in trust for a federally recognized Indian tribe located in the State of California.

In the matter proposed to be inserted on page 66 after line 2, strike "The Secretary' and all that follows and insert after paragraph (3) as contained in such matter the following:

The Secretary may exclude, in his discretion, from such list lands located within, or contiguous to, the exterior boundaries of lands held in trust for a federally recognized Indian tribe located in the State of California.

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Chairman, this amendment clarifies that the Secretary of the Interior has discretionary authority to exclude from the negotiated exchanges lands which may be adjacent to tribal trust lands. It provides an assurance to Indian tribes that their interests will be considered in the decisions regarding which lands will be included in the exchanges, but it leaves those decisions within the discretion of the Secretary.

Mr. Chairman, the amendment is technical in nature and I urge my colleagues to support it.

Mr. RICHARDSON. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from New Mexico.

Mr. RICHARDSON. Mr. Chairman, I thank the gentleman for yielding to me.

I think this is a very constructive amendment. What it would do is give discretion to the Secretary of the Interior. Naturally, we would accept it.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman.

Mr. LEWIS of California. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, first, I would like to express my appreciation to my colleague, the gentleman from New Mexico [Mr. RICHARDSON] for this amendment. He is addressing himself to a very sensitive problem that exists within my district, specifically dealing with the Timbisha Shoshone tribe.

The gentleman from New Mexico [Mr. RICHARDSON] is the chairman of the Subcommittee on Native American Affairs and has been extremely sensitive to these problems as we go about significant public policy changes within my district.

First, let me say that the Timbisha Shoshone tribe was originally kicked off of its land in 1933, as the Death Valley National Monument was established.

Since that time, to say the least, they have been frustrated by their relationship with the Federal Government.

The chairperson, Roy Kennedy, as well as the heads of the other tribes in the region, is very supportive of this approach.

Essentially what the gentleman from New Mexico [Mr. RICHARDSON] and the gentleman from California [Mr. MILLER] are attempting to do here is to make certain that the Timbisha Shoshone tribe don't lose one more time to the Federal Government. It is my strong desire that the Department of Interior is sensitive to not only the history of the tribe but their current problem that will result from creating a National Park in Death Valley.

The Timbisha Shoshone tribe has been more than patient with the Federal Government in connection with their relations with this Department. I urge the Director of the Park Service to go forward with this study to find the tribe a permanent land base, and I urge the House to support this amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California [Mr. MILLER] to the amendments offered by the gentleman from New Mexico [Mr. RICHARDSON].

The amendments to the amendments were agreed to.

□ 1120

The CHAIRMAN. The question is on the amendments offered by the gentleman from New Mexico [Mr. RICHARDSON], as amended.

The amendments, as amended, were agreed to.

The CHAIRMAN. Are there further amendments to title VI?

AMENDMENT OFFERED BY MR. ALLARD

Mr. ALLARD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ALLARD: On page 61, after line 13, insert the following:

(e) Nothing in this Act shall be construed to affect the operation of federally owned dams located on the Colorado River in the Lower Basin.

(f) Nothing in this Act shall be construed to amend, supersede, or preempt any State law, Federal law, interstate compact, or international treaty pertaining to the Colorado River (including its tributaries) in the Upper Basin, including, but not limited to the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those rivers.

(g) With respect to the Havasu and Imperial wilderness areas designated by section 111 of Title I of this Act, no rights to water of the Colorado River are reserved, either expressly, impliedly, or otherwise.

Mr. ALLARD. Mr. Chairman, I rise today to offer an amendment to simply clarify the intent of Congress and provide protections for the Upper Colorado River Basin water entitlements. It ensures that there would be no undesirable impact on the Colorado River and its operations as a consequence of this act.

Specifically, this amendment does three things. First, it specifies that the federally owned dams located on the Colorado River in the Lower Basin would not be affected. Second, it protects State water laws and the interstate compacts pertaining to the Colorado River in the Upper Basin. Third, it ensures that no Federal rights to the Colorado River are reserved, expressly or impliedly, with respect to the Havasu and Imperial wilderness areas.

Mr. Chairman, I want to point out that this language is NOT new. It was also included in the Arizona Desert Wilderness Act, passed in October 1990—Public Law 101-628. When this bill came before the House, the Members wisely included language to ensure that there would be no adverse impact to the Colorado River operations.

As you know, the Havasu and Imperial wilderness areas straddle the Colorado River and the Arizona-California State line. When these refuges were established as wilderness on the Arizona side with the Arizona Wilderness Act, provided that no rights to the water of the Colorado River were reserved expressly or impliedly. This was done in recognition of the fact that the Havasu and Imperial designations were in close geographic proximity to the Colorado River and while the boundaries had been drawn at the high water mark and any effect on the Colorado River was thought by them unlikely, Arizona's Senator's DECONCINI and MCCAIN nonetheless, to avoid any confusion, unequivocally stated in the bill that no such rights were reserved.

These provisions were put in the act and assurances were also given during the debates that the act was not to supersede any existing compacts, treaties, Federal statutes of Supreme Court decrees governing interstate or intrastate water allocations. The law of the river, which included the operations of existing and future dams in either the upper or lower basin, was to be protected and not affected as a consequence of the wilderness designations.

Congress now has the California Desert Protection Act before it and this proposal also designates wilderness in the California portions of the Havasu and Imperial National Wildlife Refuges, on the California side of the Colorado River. The Senate, recognizing the desirability and need for treating both sides of the river in the same fashion, included the same protections for the Colorado River in its recently passed S. 21. The common treatment thus accorded both halves of the two refuges lying astride the Colorado River along the Arizona-California border is important not only from the management and administration aspects but in addition, as the Senate committee report observes—at p. 32—these two refuges already have a reserved water right which is unaffected by the legislation. That right has already been quantified by the decree of the U.S. Supreme Court at the conclusion of the Arizona versus California litigation. 376 U.S. 340 at 346 (1964), with any consumptive use of water within a State to be charged to that State's apportionment of the waters of the Colorado River. While the water rights thus accorded and quantified by the Court were for the lands as wildlife refuges, certainly their additional designation as wilderness should not require any greater quantities of water. It would accordingly be duplicative as well as totally inconsistent with congressional action with respect to the Arizona lands to now place a Federal general reserved water right on the California side of the river.

To say that the Havasu and Imperial wilderness boundaries have been drawn so as not to include the Colorado River is hardly determinative of the concerns that have been expressed throughout both the Upper and Lower Basins—which include significant portions of seven States—Arizona, California, Colorado, New Mexico, Nevada, Utah and Wyoming. The only significant water source in the two affected areas is the Colorado River itself, including its impoundments and underflow. Uses of waters in these two areas would necessarily be supplied from the Colorado River. Accordingly, the protections provided by Congress in both the Arizona Act as well as by the Senate in acting on the California Desert bill—in S. 21—should be included in any final action by the Congress on the California Desert legislation. The Allard-Thomas language would provide consistency for the treatment of the Colorado with respect to the Havasu and Imperial wilderness areas in California.

Also noteworthy is the fact that the Allard-Thomas language is included in report language of H.R. 518. However, we do not believe report language is sufficient, as it is not legally binding. If the authors of this bill want to prevent the disruption of the Colorado River compact and they felt it was important enough to include in report language, then there should be no reason why this cannot be clarified in the bill. It is obviously a very important point for those of us in the West where water is our most precious commodity and this bill does not provide enough certainty for Members who represent States that supply water throughout the West. Without the Allard-Thomas language the bill would unravel the extremely complicated and fragile Colorado River Compact worked out by the States, California, Arizona, Nevada, Utah, New Mexico, Colorado and Wyoming.

Our concerns have been heightened by the discussion of boundaries and what constitutes water of the Colorado River contained in the Bureau of Reclamation's draft regulations for administering entitlements to Colorado River water in the lower basin, just released May 6. The Bureau says they have developed a method with the U.S. Geological Survey to identify wells yielding water originating from the river. This method "employs a presumption that all water beneath the lower Colorado River floodplain" and certain areas adjacent to it are believed to be hydrologically connected to mainstream Colorado River water, which will be subject to these regulations and will have to have a contract for the water with the Secretary of the Interior.

The details of these proposed regulations for simply defining the boundaries of the mainstream are extremely involved and comprehensive, not only with respect to the surface, but to the subsurface. One simply cannot be assured that any wilderness boundary that has been drawn excludes the impact of a Federal reserved right, unless any reserved right to the water of the Colorado is itself denied, as provided in the Arizona Act of 1990, and in S. 21. Even users of waters from wells in these areas as well as all areas upstream on the Colorado River could otherwise be adversely affected.

Before Statehood in 1876 Colorado submitted its Constitution to Congress to be ratified. In connection with water, considered the most precious and scarce resource in the West, the Colorado Constitution provided, "The right to divert the unappropriated waters of any natural stream to beneficial use shall never be denied."

Ever since that time Colorado has sought to protect its water resources from any Federal intrusion. The importance of water resource management on the Western way of life is not widely understood beyond the arid West and the technical intricacies involved in such management are even less understood. Any impact on the ability of Colorado and her sister States to maintain state control over water decisions, which a Federal reservation of water can entail, has been resisted because such reservations could prohibit Colorado and other Basin States from protecting their interests under the interstate compacts on the Colorado which are so important to them.

Some States, Nevada for example, provide that groundwater is subject to appropriation in a similar manner as surface water. A broad Federal reservation could indeed interfere with and possibly preclude a State official from approving an application for groundwater in any areas adjacent to a wilderness holding such a reservation.

The draft regulations of the Bureau of Reclamation call all water below the floodplain of the lower Colorado River and below certain elevations in adjacent areas to be water of the Colorado River, which must have contact with the Secretary of the Interior.

In light of these proposals, the only way to assure a Federal reserved right cannot impact an individual water right or a State's Compact entitlement is to deny that a reserved right to water of the Colorado River and its tributaries, either expressed or implied, is being created.

In summary, the protections provided by Congress in the Senate version of this bill, and the Arizona Act should be included in any final action by the Congress on the California Desert legislation.

Mr. MILLER of California. Mr. Chairman, we have had a chance to look at the amendment. We think the amendment does no harm, and we are prepared to accept it.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, we had considered this amendment in the subcommittee and tried to persuade the gentleman from Colorado [Mr. ALLARD] that because of the way the boundaries are now drawn with regard to the California wilderness, that they are outside the watershed, our feeling or our belief was that there was no impact.

Mr. Chairman, I agree with the gentleman from California [Mr. MILLER] that it does give a measure of confidence, apparently it is in the Senate bill, and the gentleman from Colorado [Mr. ALLARD] and his allies continue to press in terms of providing for additional reassurance. I do not think it does any harm in terms of the basic language, although I do not know that it affords any additional protection, because the boundaries are ultimately outside of it.

In light of the comity here on the floor today, Mr. Chairman, I am willing to go along with the chairman of the committee and accept the amendment.

Mr. ALLARD. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Colorado.

Mr. ALLARD. Mr. Chairman, I would like thank both gentleman for working with this particular Member on this issue, and am willing to assure that these Members in the Colorado River Compact States water rights are protected.

Mr. THOMAS of Wyoming. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Wyoming.

Mr. THOMAS of Wyoming. Mr. Chairman, as a cosponsor, I, too, want to thank the gentleman from California. Again, I think it is important that this language be in the bill, but it is also important as a generic statement in terms of western water that there are not reserved water rights here, so I think it is a very important part of the this bill, and I appreciate the sponsors accepting this language.

Mr. Chairman, I am pleased to offer this amendment with the gentleman from Colorado. As you know, the Colorado River is extremely important to all of the States in the West.

Water is an essential part of life for many folks living in the arid West. The Colorado River is a vital lifeline for many folks throughout this region.

Almost 40 years ago, the States in the Colorado River Basin reached and agreement on how this valuable resource should be administered. The Colorado River compact has served the western States well and balanced the competing needs for water in this area.

What this amendment is designed to do is protect that important agreement and ensure that it is not destroyed by this legislation.

The amendment offered by myself and Mr. ALLARD closely resembles an amendment to the Arizona Desert Wilderness Act, which was approved in 1990.

It simply states that nothing in this bill would give the Federal Government a reserved water right on the Colorado River. It also states that the Havasu and Imperial Wilderness areas, which straddle the river, do not have any reserved right to the waters of the Colorado River.

The opponents of this amendment will tell you that this is a nonissue. That there is no Federal reserved water right to the Colorado River given in the desert protection bill.

However, I disagree. The very fact the legislation does not state that there is no Federal reserved water right to the Colorado River is troublesome. We have all seen how the Federal Government works. Once the feds get their foot in the door, they will trample on the rights of the States.

In addition, the opponents of this amendment claim the Havasu and Imperial Wilderness boundaries have been drawn so that the Colorado River is not affected. This is hardly conclusive and could change with fluctuations in the river's width and breadth.

The Colorado River is the only significant water source in these two areas. To say these wilderness areas will not be affected by the Colorado River is highly misleading.

Mr. Chairman, this amendment is sound and will remove any misconceptions about the Federal Government having a reserved water right on the Colorado River. It is vital for the people of the West to have this language included in this bill.

The Senate has already included this language in its version of the California Desert Protection Act, and I urge the House to do the same.

Support the Thomas-Allard amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado [Mr. ALLARD].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title VI?

AMENDMENT OFFERED BY MR. CUNNINGHAM

Mr. CUNNINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CUNNINGHAM: Page 64, strike line 22 and all that follows through line 9 on page 69 (all of section 609).

Mr. CUNNINGHAM. Mr. Chairman, this amendment strikes from the bill, section 609, a provision which grants special, and I repeat special, treatment to one landowner and one landowner only that is affected by this bill. My colleague, the gentleman from California [Mr. HUFFINGTON], originally intended to offer this amendment. Unfortunately, due to a recent operation, and that was in his eye, he is unable to be here today. I want to commend him for his work on this important amendment which would eliminate an egregious and unfair special interest provision from the bill.

Section 609 permits one landowner and one landowner only to benefit from the unique land exchange arrangement with the Government under this bill. That landowner is the Catellus Development Corp., a multibillion-dollar real estate concern. While other landowners affected by this bill will become subject to the Department of the Interior's cumbersome and often unfair compensation procedures, that will not be the case for the multibillion-dollar Catellus Corp.

Mr. Chairman, unless this amendment is adopted, Catellus will be permitted to swap all of the 355,000 acres. Let me give the Members an idea. In the bill, they do not distinguish between excess and surplus land. Excess land by the Federal Government, if the Federal Government has no use, they can offer it up to another Federal agency. If they do not want it, then it is considered surplus. Surplus is if no Federal agency wants it, then it can go to anybody.

What this does, Mr. Chairman, it puts the Catellus Corp. on the same level as the Federal Government for land acquisition. They can take over military bases, and there is nothing in there that states that they could not even sell it to a foreign country like Japan or one of the other countries that invests here. It is absolutely wrong.

Mr. Chairman, if after the 10-year period Catellus has not exchanged all of their landholdings, the corporation would then be allowed to establish an exchange account. There is nothing in there in the 10-year period that even says they have to use those credits. They can wait and pick and choose.

Mr. Chairman, I have here a list of affected lands. They can buy the 9-acre site and exchange it for points in San Francisco. There is another 9.6 acres in Malibu, with a 6,000-square-foot house they can trade for. It is wrong, Mr. Chairman. In effect, Catellus would go to the head of the line of all private parties.

Mr. Chairman, we have talked about the little guy, we have talked about the middle of the roader, and we have talked about the rancher. This is a company with a multibillion-dollar prospectus. This provision means that Catellus would be compensated for 100 percent of their losses under this bill. That is dramatically different from the way our Government treats most people who become inholders as a result of Federal land acquisitions. That situation, will get worse under this bill, because this is the largest addition to Federal landholdings in history of the lower 48 continental States.

Mr. Chairman, under law it also says that one cannot exchange land outside the State of California. That is law. This bill reneges on that law, because there is not enough land in the State of California to replace the 335,000 acres, and we would be violating the law in that as well.

□ 1130

Clearly this provision is the kind of special interest legislation that undermines the public faith in the fairness-Government. If one is in a multimillion-dollar corporation with the money to hire good lobbyists, he will be taken care of. If they simply are a retired couple who bought a cabin in the desert or a small mining corporation, they are out of luck. "Take a number and wait for the Department of the Interior to tell you what they think your land is worth and whether or not they will intend to pay for it."

What might Catellus eventually get under the deal by being allowed exchange of 100 percent of their lands for property elsewhere? They may reap up to $100 million more than the actual value of their land in compensation. Additionally, they will be permitted to sell their exchange credits to others. They can go to one corporation and RTC lands and exchange those credits to that company who in turn could buy land for 10 cents on the dollar. That is not fair. It is not right.

Finally, it takes more than 10 years to dispose of all the land they may be eligible for property seized by the U.S. marshals, such as the 9 acres in beachfront property in Malibu. No other desert landholder will get such a sweetheart deal. I would love to get 9 acres in Malibu if I had a little ranch in the desert, and I think the chairman would, also. Catellus stock sold at $38 per share back in 1989 before the real estate market collapsed, but that is simply not justification to treat one landholder so much better than every other landholder.

Mr. Chairman, this is not right. The amendment is correct. Let us take the special interests and let us put Catellus the same as everyone else and not give special interests to a gentlewoman from the other body.

PERFECTING AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer a perfecting amendment to section 609 that has been printed in the RECORD.

The Clerk read as follows:

Perfecting amendment offered by Mr. MILLER of California: Page 64, beginning on line 23, strike "the Catellus" and all that follows through "'Catellus')" and insert "holder of private lands (hereafter in this section referred to as the 'landowner')".

Page 65, line 3, strike "Catellus" and insert "the landowner".

Page 65, line 7, strike "Catellus" and insert "the landowner".

Page 65, line 9, strike "Catellus" and insert "the landowner".

Page 67, line 8, strike "Catellus" and insert "the landowner".

Page 67, line 12, strike "Catellus" and insert "private".

Page 67, line 17, strike "Catellus" and insert "each landowner".

Page 67, line 19, strike "Catellus" and insert "the landowner".

Page 67, line 23, strike "Catellus" and insert "The landowner".

Page 68, line 6, strike "Catellus's" and insert "the landowner's".

Page 68, line 8, strike "Catellus" and insert "the landowner".

Page 68, line 9, strike "Catellus" and insert "the landowner".

Mr. MILLER of California. Mr. Chairman, the provision to which the Cunningham amendment speaks to is in no way represented by the remarks he just made, and I understand that he is standing in for the gentleman from California [Mr. HUFFINGTON] who wanted to offer this amendment. Let me go through the provisions that are in the law and explain what we were trying to do.

We have two very large inholdings in and around these parks and these Federal lands. One of them which is the Catellus Corp. of which 41 percent of the Catellus Development Corp. is owned by the California retirees, the State retirees, the CALPERS system, some 900,000 retired public workers in our State, that is held in trust for them.

In the management of the park and in the management of those lands, these are checkerboard lands. Every other section is owned by the Federal Government and/or Catellus. In trying to manage those lands in the most efficient way for the Federal Government and eventually hopefully in the most efficient way for the retirees in California, we were trying to work out a means by which they could exchange those lands and maybe we could consolidate Federal lands and they could consolidate their lands. If that did not work out, we would give them the option to see if there were other Federal lands we could trade for so we could put together a management regime of these lands. Catellus would receive no special favor, they would not be allowed, and if the gentleman would look at the bottom of page 67, this is for lands within the State of California, this has to be done in accordance with the Federal Land Policy and Management Act of 1976. But because of the concerns he has raised, my amendment simply allows this provision to be used by any landowner in the area. We have indications from a number of landowners that they, too, would like to swap out. They are more than welcome to go through this process and the Secretary will provide a list of lands that will be available. If exchanges cannot be available, the Secretary will provide an appraisal of their lands. They will be able to take that appraisal and look for these surplus lands just like any other entity in this country which stands behind the original offers of the Federal Government. Eventually they, too, would be given an account where they could go in and hopefully they would take some RTC land from us. We are still managing it in the RTC.

As we know over the last 4 or 5 years, many people have gone in and bought RTC land and the economy has turned around in Houston or Dallas or Fort Worth or Arizona and, as I say, every person is entitled to his bargain. That is one way for us to get that land off our back, get the decent management and regime so we are not crossing back and forth over private properties in the management of this land or we can simply leave the status quo. Take Catellus out and we just leave it around and make it much more expensive to administer these parks and to essentially allow the California retired employees who are the stakeholders in this to have a bunch of checkerboard land out in the middle of the desert which they may or may not be able to ascribe some value to.

Mr. Chairman, there is nothing hidden here. This has been out in the open. It has been around for a long time. Some people say it is the size of it, but that is how the railroads ended up with the land. They were given these alternating sections. We are trying to provide some consolidation. I have no problem extending that to any other affected landowners in the areas. They can do the same thing. Hopefully we will, one, whittle down the backlog of excess and surplus property and we will whittle down some of the RTC property and we will end up with the management of those properties that are affected by this bill and in some instances those landowners who want out will be able to consolidate their properties so that they can leave.

Mr. Chairman, that is what is going on here. This amendment would simply make it apply to all landowners and then people can decide if they want to strike that provision across the board.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, I thank the gentleman for yielding.

I believe, Mr. Chairman, the RTC properties are exempt.

Mr. MILLER of California. They were in originally. They have now been taken out.

Mr. CUNNINGHAM. Where that could come into effect is past the 10-year period, they could sell their credits to someone else or use it for RTC property.

Mr. MILLER of California. The gentleman is correct.

Mr. CUNNINGHAM. I think this would be expensive, but at least it gives fairness to ranchers or someone who wants to exchange their land in the same way. I have no problem. I have been advised they do want a recorded vote on it, but I do not have any problem with the amendment.

Mr. MILLER of California. The gentleman has no problem with the amendment?

Mr. CUNNINGHAM. I do not.

Mr. LEWIS of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first I would like to express my appreciation to the gentleman from California [Mr. MILLER] for his perfecting amendment. Essentially his perfecting amendment would substitute an amendment that we were going to offer at another time during the debate on this section of the bill. It does address a very important question which I think is important to the public and the membership of the House. It is one thing to lightly talk about putting all property owners in the same place on the playing field when it comes to getting themselves out of a major shift in Federal public land policies. Specifically, when the Federal Government acquires private property. It is another thing to recognize what the original solution was to sizable landholders in the area on the part of the committee.

Mr. Chairman, Catellus is a sizable corporation. But, what it actually is, is a company which was originally the landholder for the Santa Fe Railroad. Now, Catellus is a publicly traded corporation separate from the Santa Fe Railroad. Not quite a half a million acres but a sizable number of acres, approximately 355,000 acres spread throughout that desert region.

The committee made the decision that they had to solve the problem of some of those large landholders including Catellus, it was essentially to say that they would get at the front of the line. Indeed, when it came to a new park where Catellus lands were involved, the Natural Resources Committee felt that they would be given broad possibility in terms of essentially chits they could hold in their pocket and trade for other Federal assets.

The original language actually allowed them to go the RTC and trade for properties that were taken back as a result of the savings and loan scandal. As a practical fact of life. Catellus, initially the landholder for the railroads, has another relationship that is very interesting here. Over recent years, the public employees union in California has seen the potential values in those railroad lands or Catellus stock. They have progressively purchased that stock.

□ 1140

Now they own nearly 50 percent of the Catellus stock. So, now we do not have just the robber barons to worry about here. Essentially, we have got a process where there is a broad public employee base relative to their retirement system that was being protected by way of this amendment.

These issues were crystallized in the committee hearings in the Senate. Almost nobody discussing this whole subject area outside of the very inner bowels of the committee knew about these provisions the last time the House considered this legislation. The committee in the Senate thought this was outrageous and essentially did what the Huffington-Cunningham amendment would accomplish.

There is little doubt that the small miner, the small property owner, people who work for a living day in and day out need to be treated equally in this process.

So I support my colleague's amendment, the amendment offered by the gentleman from California, as well as the chairman's perfecting amendment. But, indeed, the public does need to know that there were special groups being taken care of in a very special way as this bill left the House the last time and as it was originally being proposed in the Senate committee.

When we are talking about millions of acres of land and thousands of small property owners, it is very, very important that the House be sensitive to those needs, the needs of the small person and make sure their voice is heard. That is what is happening in this case.

Mr. Chairman, I am including at this point in the RECORD several newspaper articles, as follows:

[From the San Francisco Chronicle, June 6, 1994]

GREED ON THE RANGE

(By Debra J. Saunders)

The rap on the Decade of Greed goes like this: In the Bad 1980s, aka the Reagan-Bush Years, leveraged buyouts reflected an accumulation sickness in the private sector. Amid a buying frenzy, amoral speculators would take over mom-and-pop operations with money they didn't have. The companies then were run to the ground. In the end, pensioners were left holding worthless junk bonds while raids on company assets cost workers their jobs.

Congress now is emulating the worst of the leveraged buyout kings. In the crime bills which passed the House and Senate, lawmakers expanded federal crimes even as the deficit has forced cuts in the federal criminal justice system. In April, the Senate passed the California Desert Protection Act, sponsored by Senator Dianne Feinstein, which "protects"—Feinstein's word—9 million acres of the California desert. The bill's acquisition pricetag of up to $300 million, plus about $7 million in annual upkeep, would be met by raiding other federal assets, or deficit spending. There could be a vote on a companion House measure, sponsored by California Democratic Representatives George Miller and Richard Lehman, as early as this week.

The questions Capital Hillians aren't asking: Does America need California desert preserves larger than the state of Maryland? And: Aren't the existing 2 million acre Death Valley National Monument and 500,000 acre Joshua Tree National Monument enough? The question backers aren't answering with any credibility: How are they going to pay for all this wasteland?

Feinstein and Interior Secretary Bruce Babbitt insist that the bill can be paid for with savings squeezed from within the Interior Department budget. If this is true, Babbitt and Feinstein would pay for these million acres of scrub by raiding the budgets of *real* parks, like Yosemite and Yellowstone. That is, they would emulate the leveraged buyout and fund new acquisitions by looting other assets.

Last week The Chronicle ran a story about Yosemite's staffing woes. Despite a boom in visitorship and growing crime rate, Yosemite's staff is half the size it was 20 years ago. Yosemite charges a $5 fee for visiting cars, which brought in $5.4 million last year. That $5 mil was sent to the Interior Department, which sent back only $920,000. How much less might Yosemite get next year so that Feinstein and company can siphon more dollars to the Size of Maryland National Lizard Refuge?

As critics have pointed out, Congress has a habit of buying lands it can't care for. Senate Appropriations Chairman Robert Byrd warned, "We cannot adequately maintain the parks that we now have. * * *" This kind of overspending cannot go on forever. Already, national parks suffer from a $2.9 billion maintenance backlog. If Congress keeps this up, a systems crash is inevitable.

Ironically, the House bill even contains something of a bailout for a corporate concern that took a bath in California's real estate crash, the Catellus Development Corporation. Catellus owns almost 1 million acres of California desert, land that was given to its parent company, the Santa Fe Railroad, by the federal government. The House bill would allow Catellus to swap more than 300,000 acres for as much as a $400,000 credit for this who-else-wants-it acreage, according to Representative Jerry Lewis, a Republican from the desert area. And that $400,000 could be exchanged in a below-market trade for other federal properties. No coincidence: 40 percent of Catellus, which lost $53 million in 1993, is owned by CalPERS, the politically influential state employee retirement fund, which would benefit from the bill.

"The bottom line is we can't afford not to have this park," Babbitt once said. Wrong. America cannot afford these wide acres. Other parks will pay for Babbitt's snake-oil pitch and Feinstein's voodoo financing.

[From the San Francisco Examiner]

REAL ESTATE SYNDICATOR CAPITALIZES ON CATELLUS

(By Bradley Inman)

Not everyone lost money on Catellus. The real estate firm that got the California Public Employees Retirement System to invest in Catellus Development Corp. has been rewarded handsomely.

JMB Realty Corp. was paid a finder's fee or acquisition fee of $7.96 million when Calpers first invested in Catellus, according to Roger Franz, Calpers' mortgage investment officer. Moreover, the Chicago-based real estate firm is paid an annual asset management fee of $2.38 million.

In the 1980s, JMB was one of the nation's largest real estate syndicators, raising money for a raft of property deals across the country, including bringing Catellus and Calpers together. Today, JMB is a property manager, developer and real estate adviser.

"Have you ever heard of someone getting such a fee to manage a stock? It's the most bizarre thing you can imagine," former California State Sen. Dave Elder said earlier this year when Calpers upped its stake in Catellus. While in the state Legislature, the Long Beach Democrat was a frequent critic of Calpers' investment in Catellus.

"It (the fee) is certainly unique," said Mike Kirby, principal in the Newport Beach-based Green Street Advisors, which does institutional research on publicly traded real estate firms. He also described the fee as "excessive, foolish, ridiculous and outrageous" by Wall Street standards.

Calpers Chief Investment Officer DeWitt Bowman defended the fee, noting that it was "competitive with private placement fees at the time."

The fees are part of a partnership agreement that Calpers has with JMB, in which the realty concern acts as managing general partner of Bay Area Real Estate Investment Associates (BAREI). BAREI was formed to invest in Catellus, although Calpers put up 98.8 percent of the money.

"Compared to what some investment bankers get, JMB's (upfront) fees are very low," said Bowman.

He conceded that the ongoing fee may be higher, but he pointed out that "most Wall Street fees are expensed up front and are often very handsome. We spread ours out over the life of the investment."

According to Calpers, the fees go to compensate JMB for independent analysis of Catellus and to represent the pension fund on the board of directors. The two JMB directors on the Catellus board, Darla Totusek Flanagan and Judd D. Malkin, also received $15,000 from Catellus to serve on the board along with $1,000 per board meeting.

A JMB representative referred calls regarding BAREI to Calpers.

Bowman said, "Generally, we get our money's worth."

[From Human Events, June 3, 1994]

INSIDE WASHINGTON: WILL BACK-ROOM DEAL DERAIL DESERT BILL?

Following the Memorial Day recess, the House will consider final approval of the California Desert Protection Act, a monumental environmental bill (HR 518) designed to transfer millions of acres of land in southern California to "protected wilderness." While thousands of endangered property owners, farmers and local miners on the land are mounting opposition, the bill's sponsors have tried to clear the way for passage by inserting a special financial arrangement—originally crafted by Sen. Dianne Feinstein (D.-Calif.)—for the politically connected Catellus Development Corp., which has large land holdings in the area.

Angered by the inequities and huge additional costs of such a provision, Rep. Jerry Lewis (R.-Calif.) is now planning to fight the Catellus deal, which, if removed, could jeopardize the passage of the bill itself.

Introduced over eight years ago by then Sen. Alan Cranston (D.), the California Desert Protection Act was the result of persistent lobbying by a number of environmental groups—particularly the Sierra Club—that argued that the southern California desert was at serious risk from mining and off-road vehicle use. The bill proposed redesignating tracts of land in and around the East Mojave desert from multiple use standards under the Bureau of Land management to strictly protected wilderness in the National Park Service.

The final version of the bill, however, ended up applying to an immense area far exceeding any original estimates. Shutting off about 7.5 million acres of variegated land (the size of the state of Maryland) to resource extraction and virtually any other use, it represents the largest withdrawal of federal land in the history of the lower 48 states.

The mining industry, which has predicted the bill will cause the loss of $1.6 billion in mineral production per year and 12,000 to 20,000 jobs on the extremely valuable lands, has been a staunch opponent. Also aggrieved are the thousands of private property holders within the areas (inholders) who would face stringent land use regulations and lengthy negotiations with the Park Service over the status of their lands (see Human Events, April 22, 1994).

But perhaps the biggest hurdle for the bill's proponents has been the status of approximately 418,000 acres of land in the protected areas owned by the huge Catellus Corp. According to a staffer on the House Natural Resources Committee, lobbyists for the Catellus Corp.—one of California's biggest land development concerns, with $2.1 billion in real estate assets—were able to hold up the bill for years while they tried to get better terms for their land.

But when Sen. Feinstein was elected in 1992, she resubmitted the ailing California Desert Protection Act originally sponsored by Cranston and made it one of her top legislative priorities. And Feinstein—who has had a close and amicable relationship with the San Francisco-based Catellus Corp. since her days as mayor of that city—was determined to smooth out the rough spots.

FEINSTEIN DEVISES SPECIAL CATELLUS PLAN

In her bill, Feinstein granted Catellus an extremely favorable arrangement for the transfer of its lands. While all other landholders in the protected areas would face the standard, drawn-out, allegedly "fair-market price" government purchases, the Feinstein bill established for Catellus a "special land account"—an unprecedented legal arrangement that will enable the company to immediately exchange its desert lands for other federal property in the state of California or for its cash value.

Such a provision is a hugely important privilege considering that the National Park Service is already about $9 billion and many years behind in payments to numerous property owners under its normal acquisition procedures.

Several members of the Senate Energy and Natural Resources Committee opposed the deal singling out Catellus for the right to swap its property for valuable lands, such as Resolution Trust Corp.-seized property or land no longer used by the military.

Republican critics, who decried the concessions made to Catellus as patently unfair to the other desert landholders and estimated that financing the deal would eventually cost American taxpayers an additional $2 to $3 billion, were able to kill the provision in the Senate version of the bill, which then passed 69 to 29 (See Human Events rollcall, April 22, page 23).

But now, the Catellus provision has reappeared in the House bill being aggressively pushed by Natural Resources Committee Chairman George Miller (D.-Calif.), also of the San Francisco area. Specifically, the bill declares, "The Secretary [of Interior] shall establish an account in the name of Catellus. Upon the transfer of title by Catellus to * * * the United States, the Secretary shall credit the exchange account in the amount of the appraised value. Catellus may use the credits in its account to bid for surplus federal property in California * * * [or] the credits may be sold in whole or part by Catellus to any other party."

The land deal with Catellus has provoked bitter reaction from area mining organizations and property rights groups already angry about the bleak future of their own holdings. Chuck Cushman, executive director of the National Inholders Association, remarked, "It definitely appears that as far as the bill goes, some people are more equal than others."

Don Fife, director of government relations at the National Association of Mining Districts, commented, "[The Catellus deal] is the ultimate in political cynicism. To please the Sierra Club they propose this reckless bill that will thoroughly decimate the miners and * * * then to push it through they cut this huge land deal with Catellus. * * *"

UNDUE FAVORITISM?

Sen. Feinstein, who is up for re-election this fall, is drawing particularly harsh criticism for her role in the desert deal. Besides sponsoring an economically devastating proposal—all four congressmen from affected districts have opposed the bill—she now, with the Catellus deal, also has given the appearance of being involved in a conflict of interest.

In 1984, when mayor of San Francisco, she entered into a massive business/government venture with Catellus to develop the Mission Bay Project, an urban renewal program on San Francisco Bay. In announcing the awarding of a $2.1-billion contract to Catellus to build the project, she declared, "I am prepared to support it before various government bodies."

Now, 10 years later, and considerably over budget, the joint San Francisco Mission Bay project is still unfinished. And the firm that Feinstein chose to build it is now in serious financial trouble. Last year Catellus posted a $400-million loss and its stock has continued to tumble from a high of $38 to about $8 a share.

And the condition of Catellus' health grew considerably more critical for Cranston, and now Feinstein, after the huge California state pension fund Calpers acquired 41% of the stock of Catellus before the firm's stock began to decline.

In a letter to Cranston in 1990, Calpers clearly expressed its demand for a special Catellus deal in the impending desert bill. Dale Hansen, executive officer for Calpers, wrote, "Calpers paid $428 million for this investment [in Catellus], and unless [the bill] adequately compensates owners of land and mineral rights, hundreds of thousands of working people and retired persons in California could suffer financial injury."

Hansen concluded, "The bill must be amended to: (1) exclude a portion of the Catellus holdings thought to have significant mineral deposits, and (2) provide for adequate compensation for other Catellus-owned land."

Rep. Lewis, who says that the Catellus deal is just one aspect of an entirely rotten land acquisition deal, told Human Events, "The Feinstein bill raises visions of robber barons of the Old West. While Sen. Feinstein has largely accommodated large corporate interests, she has forgotten the little guy, the inholders whose land make up our desert."

But Lewis promises that the Catellus provision will not stay in the final bill without a bitter fight on the House floor. He plans to propose an amendment that either the Catellus deal be struck from the bill or that its "special account" for land swaps be extended to everyone holding land within the proposed wilderness areas. Either provision would deal a nearly fatal blow to this massive proposed land grab, but would, as Lewis notes, finally inject a modicum of fairness and sanity into the government's acquisition of private land.

[From the San Francisco Examiner, July 20, 1993]

Riding Out the Slump

(By Bradley Inman)

Unlike so many California property companies—most of which are private and struggling—Catellus Development Corp. can't mask how the state's slumping real estate market has hammered the San Francisco-based firm.

The company still has big dreams for its vast property holdings, including San Francisco's 313-acre Mission Bay community. But it is a publicly traded company and its stock performance tells the painful story of the firm's 4-year life, which perfectly parallels the 48-month downturn in the real estate market here.

Take the earliest investor in Catellus. Just before the company was spun off from the Santa Fe Pacific Corp. in 1990, the $81 billion California Public Employment Retirement System (Calpers) bought 19.9 percent of Catellus at a price equivalent to $38 a share or $398 million.

Last week, the stock was trading around $6.75 a share. On paper, the pension fund's original investment sank a whopping 82 percent, representing a $326 million loss. By this measure, Wall Street has been less forgiving of Catellus than the overall California real estate market, which has collapsed 30 to 50 percent.

"If Calpers had just gone out and bought raw land anywhere in California (with their $398 million investment in Catellus), they would have been better off," said consultant Jeffrey Lewis, who has advised Calpers on other real estate transactions.

But while stock investors have heavily discounted the value of Catellus Development Corp., real estate people still drool over the prospects of the company's land holdings. In some of California's most ideal urban settings, these complex deals promise megaprofits on futuristic new towns, massive shopping destinations and expansive new neighborhoods.

Catellus is caught between two worlds: Wall Street and real estate development.

Most property developers are dream peddlers who must aggressively sell the prospects of their projects so that banks lend, so that cities grant approvals and so that consumers use and buy their space.

On its four massive mixed-use projects in California, for example, Catellus has successfully sold its dreams to local civic leaders, elected officials and hometown lenders.

Wall Street, on the other hand, doesn't care much for long-term promises and cares even less about dreamers: It wants to hear about quarterly earnings, cash flow and stock value.

Less than a year after Calpers picked up its expensive 19.9 percent stake in Catellus, the company's stock went public and opened at $8.50 per share. It rose to $15 per share but has been languishing at $5.75 to $8.25 for the last year.

FORMED AT REAL ESTATE PEAK

Catellus was formed at a time when California's real estate market seemed to offer prosperity at every turn, and Santa Fe Pacific's $3.1 billion property portfolio was viewed as a magnificent asset buried inside the railroad giant.

But since 1989, the California real estate market has collapsed and Catellus' holdings have plummeted 31 percent, according to company appraisals which valued its property at $2.1 billion at the end of 1992.

Add a sour market to a tradition by Wall Street to discount land companies and you have a depressed stock.

"This isn't a bankruptcy situation and it's not a $1 stock, but the company hasn't performed as expected," said Mike Kirby of the Newport Beach-based Green Street Advisors, an institutional research firm that does ongoing analysis of Catellus and other publicly traded real estate companies.

However, while Green Street isn't bullish on the stock, it gives Catellus management credit for effectively steering the company through troubled times.

"Vernon Schwartz is a bright capable guy," said Green Street's Jon Fosheim, referring to Catellus' chairman, president and chief executive officer.

Other analysts also give good reviews of management and are more bullish on the firm's prospects. "Catellus is a good company in bad times," said Barry Vinocur, publisher of Realty Stock Review in Shrewsbury, N.J. "It should be a solid long-term growth play."

"This is definitely an undervalued company, but anyone developing in this market has trouble creating value," said San Francisco-based Montgomery Securities' real estate analyst James Wilson.

SELLING TO SHOW A PROFIT

Though it generates sizable revenues from its many industrial office parks, the company has had to sell off small parts of its 950,000 acres of property to show a profit. The vast majority of the holdings are agriculture land and mountain property.

One real estate observer equated this strategy to "someone drinking his own blood to survive."

But company executives say that the land-selling scheme was always an integral part of the Catellus plan.

"We are selling land out of our surplus of desert and mountain holdings—it's not property that is imminently or near-term developable," said Mary Burczyk, a Catellus vice president.

Green Street's Fosheim confirms that "the game plan has always depended on selling land." But he also said that "therein lies the whole problem with the company: Just as they need the liquidity (from land sales) to develop and cover their debt service, they need to sell land at a time when land values have collapsed."

On the dream front, Catellus faces some formidable challenges as a developer.

After putting together a complex entitlement with the cities of Emeryville and Oakland, Catellus is furthest along with its East Baybridge discount warehouse retail project. The company is breaking ground later this summer on the 40-acre site at the crossroads of Interstates 580 and 80 along the Emeryville-Oakland border, which retail experts say is one of the best retail locations in all of California. The 462,000 square-foot project will have a Home Depot, Office Max, Pak 'N Save and SportMart.

SLOW-MOVING MISSION BAY

Moving much slower is Mission Bay, which in many ways embodies the gap between the dream and booked earnings. This project has won all sorts of honors and accolades for its master plan and for the nearly 10-year planning process undertaken by the City and Catellus.

But at best, the company won't break ground on the site until 1994 or 1995. And it plans to start with a modest 150- to 200-unit subdivision on a project that promises 8,000 homes.

Catellus is still negotiating with the City about how to undertake and guarantee the environmental clean-up on the former industrial site, which has toxic problems. Regardless, the company hasn't been too eager to proceed because the real estate market has been so bad, according to Catellus Vice President James W. Augustino.

The company's 1,400-home golf course community in Fremont has received local approvals but, according to Burczyk, financing for the golf course is difficult to obtain in this market. Nevertheless, she said, "It's on track even if it's not on the fast track."

Catellus is also trying to get approval for a major mixed-used project in downtown Los Angeles, and plans for a commercial development in downtown San Diego are stalled by the downturn in the economy.

SCRAMBLING TO RESTRUCTURE

In the meantime, Catellus has been scrambling to restructure its debt, including a $388 million first mortgage loan with the Prudential Insurance Co. of America and a $109 million convertible bond with Calpers.

Prudential committed to refinancing the loan, which comes due in 1994 and 1996. Earlier this year, Calpers doubled its stake in Catellus by converting the bond into $141 million in stock. This boosted Calpers ownership in Catellus to 40 percent.

While company executives say this investment shows a commitment by Calpers, observers say the pension fund had no other choice. If it had demanded payment on the bond, Catellus would have been strapped for funds, hurting its ability to pursue development projects and jeopardizing Calpers' original 19.9 percent stake.

"Short term, we are obviously concerned, but we view Catellus as a long-term investment," said DeWitt Bowman, Calpers' chief investment officer. "We are in a hold position with the investment."

Added Roger Franz, Calpers' mortgage investment officer, "In our portfolio, Catellus is an alternate investment—somewhat similar to a venture capital investment—where there is no expectation of a return for, say, 5 to 7 years."

What's next?

Both its standing on Wall Street and the future of its big projects are driven so much by the state's real estate market. If the market turns around, "a land-rich company can double overnight," said Green Street's Kirby. "Catellus is going to be a timing call."

A turnaround in the real estate market will also help the company finance its big development projects, drive up the value of its land holdings and increase demand for the developments. Catellus' fate is, in many ways, out of the hands of its board of directors and its executives.

On the other hand, because of Wall Street constraints, Catellus can't act like a cavalier developer, which pushes forward in a good market or bad. Wall Street forces the company to be conservative and measured.

These same limits may account for Catellus' survival. Big risks in a bad market have forced many real estate developers out of business.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I am happy to yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank my friend, the gentleman from California, for yielding to me.

As a Member who has not been intimately acquainted with the details of the Catellus provisions, I have a few basic questions. I am trying to sort this out as we go through the debate.

My friend, the gentleman from California [Mr. MILLER], described the Catellus investment as being basically retirees in the California retirement system. But as I understand it now, as to Catellus, it is a little deeper than that, in that the Catellus Corp. is a landholding corporation for the Santa Fe Railroad. Is that right?

Mr. LEWIS of California. That is my understanding. Their origin was that.

Mr. MILLER of California. If the gentleman will yield, just a point of clarification, I think the gentleman from California [Mr. LEWIS] said earlier they no longer are that. They are a separate publicly held corporation. I believe about 40 to 45 percent of the stock is now owned by CALPERS.

Mr. HUNTER. So it is a corporation which is now publicly owned, and that means that it has a mix of investors, some of whom are the CALPERS, which is the retirement system in California, but also some people are simply Wall Street investors who thought it was a good investment who bought stock in Catellus. So it is a mixture.

The CHAIRMAN. The time of the gentleman from California [Mr. LEWIS] has expired.

(At the request of Mr. HUNTER and by unanimous consent, Mr. LEWIS of California was allowed to proceed for 2 additional minutes.)

Mr. LEWIS of California. Mr. Speaker, I will continue to yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, so it is a mixture of owners, some of whom are simply stock investors; others are individuals who invested in CALPERS, which is the retirement plan for public employees in California, who have invested about, or who have about 40 percent of the stock presently held by Catellus?

Mr. LEWIS of California. Something in excess of that, but the gentleman is correct.

Mr. HUNTER. What the gentleman is talking about is a deal in which, in order to consolidate, as the chairman said, property holdings in the California desert, some of which will be wilderness that is presently checkerboarded private-public-private-public, and Catellus being formerly the railroad holding company, holds a great deal of this land. How much is the gentleman talking about? How much acreage?

Mr. LEWIS of California. In excess of 355,000 acres. Some estimates are as high as 400,000 acres.

Mr. HUNTER. Four hundred thousand acres. The one provision originally of the bill gave Catellus, this holding corporation which holds 400,000 acres in fee, fee simple of land in the proposed wilderness, will be given a menu of other properties held by the Federal Government throughout California or throughout the United States where they could pick and choose which ones they wanted to take in exchange for their giving up ownership of the desert lands?

Mr. LEWIS of California. The original language was much broader than the gentleman suggests. Catellus essentially would have been put at the front of the line, given what could essentially be described as chits. As they saw properties that were within the Federal collection of properties, they could use those chits for value and trade that property. It included not just land that was, like, land in the State of California, but in an unprecedented fashion, land anywhere in the country, and then from there, even other Federal assets were originally included, RTC properties, for example.

The CHAIRMAN. The time of the gentleman from California [Mr. LEWIS] has again expired.

(At the request of Mr. HUNTER and by unanimous consent, Mr. LEWIS of California was allowed to proceed for 2 additional minutes.)

Mr. LEWIS of California. I would love to be on the board of directors of a corporation and be able to trade those chits for the assets that are really the public's assets or citizen taxpayers' assets and select from those that I thought were really valuable to me. These assets could include strengths in financial institutions going broke, et cetera.

Mr. HUNTER. So you are saying originally the holding company, the Catellus Corp., could say, "We like this string of condominiums down here. We think we might be able to buy it at fire-sale prices if it is RTC?"

Mr. LEWIS of California. That was the original plan. Yes.

Mr. HUNTER. If I could carry this a little bit further, could you contrast this with, say, a rancher who had 20 acres that was going to be taken that is an inholding in the wilderness area? What choices would that rancher have? Would he be able to look at this menu of properties throughout the United States and make an acquisition or use the chit system you have discussed to acquire those properties?

Mr. LEWIS of California. The amendment, as it would be perfected by the chairman, would put all property owners on an equal footing. They would not be able to trade for properties around the country, as I understand it, but nevertheless, those properties available to them, they would be put on an equal footing which seems to be appropriate.

Mr. HUNTER. Just lastly, as I understand it, basically the chairman's amendment does the same thing the Huffington-Cunningham-Lewis amendment would do, that is, put everybody, Catellus Corp. and small landowners, all on the same playing field where they all have the same opportunity to choose from properties around the country?

Mr. LEWIS of California. Yes, The chairman's perfecting amendment has essentially combined an amendment offered by the gentleman from California [Mr. CUNNINGHAM] and the amendment that was going to be proposed by the gentleman from California [Mr. HUFFINGTON]. As you know, the gentleman from California [Mr. HUFFINGTON] is not able to be here today because of a medical problem.

Mr. HUNTER. Just one last question, and maybe the chairman could elucidate on this, is there any constraint on this still that will be in place under this amendment where the Catellus Corp. and the other landowners now will be able to look at other property around the State or around the country and say, "We would like to trade for that one, we would like to trade for that one?" Have we constrained that at all in this amendment, or will all parties have that opportunity?

Mr. LEWIS of California. It is my understanding that the language, presuming the perfecting amendment, would put all landowners or property owners in the same position on a level playing field.

The CHAIRMAN. The time of the gentleman from California [Mr. LEWIS] has again expired.

(At the request of Mr. HUNTER and by unanimous consent, Mr. LEWIS of California was allowed to proceed for 2 additional minutes.)

Mr. LEWIS of California. If the chairman would correct me if I am incorrect, I believe that his perfecting amendment essentially would establish the same language that would be a part of the bill as it currently exists coming from the other body? Is that correct?

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I am happy to yield to the gentleman from California.

Mr. CUNNINGHAM. I thank the gentleman for yielding to me.

First of all, I would like to thank the gentleman from California [Mr. HUFFINGTON] and the gentleman from California [Mr. MILLER]; two different ways to solve the same problem, but it takes care of the little guy, and I think that is important in this.

I would also like to thank the gentleman from California [Mr. LEWIS], because I knew you and the gentleman from California [Mr. HUNTER] were going to offer an amendment later, this same amendment, which neutralized and gave the little guy the same rights as the Catellus. I only wish that the other body would have taken this into account instead of looking after the special interests.

I thank the gentleman from California, and I thank the gentleman from California [Mr. MILLER] for the perfecting amendment.

I ask my colleagues to support it.

Mr. LEWIS of California. I appreciate my colleagues being patient with the time on this matter.

The gentleman from California [Mr. HUFFINGTON] has put a great deal of time and effort into this amendment and was going to present the amendment today. Unfortunately, a detached retina has delayed his arrival here in Washington. In the meantime, I urge the Members to support this perfecting amendment.

Mr. MCCANDLESS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am speaking in favor of the amendment.

Mr. Chairman, most of what I have to say has been covered. However, there are some areas here that I think are extremely important, for the purpose of land ownership in areas which are surrounded by public lands that either needs clarification beyond that of this amendment, or some type of colloquy that would explain to the average person what has transpired with respect to the arrangement made between the gentleman from California [Mr. CUNNINGHAM] and the chairman over yesterday's activities.

First, let me explain something here that I think is important, and that is the assets of the Catellus Corp., one cannot deny, are theirs and theirs alone to which they are entitled.

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However, I would point out that by far, largely a very high percentage, if not virtually all, of the property held by Catellus is a result of the Railroad Act of the 1860's in which, as an encouragement for the railroads to build westward, the Federal Government gave them optional, that is, on each side of the railroad, sections of land as an inducement to spend this money to build the railroad for which then they could sell the land as a means of an incentive to go out and borrow these large amounts of money and to make this large investment.

I mention this because the railroad was the original, basic monetary investment in the Catellus property, which originated with Santa Fe. These lands, which constitute a large part of my district, have since been invested in by other parties.

Now having set that stage, I would like to point out that in the area, particularly between the Coachella Valley and Palm Springs area and the Colorado River, if one takes a look at the land map they will see a checkerboard on top of a checkerboard on top of a checkerboard of private ownership, public ownership, private ownership, by sections of land.

The problem we have here is manyfold in that the current legislation before us says that if you own a piece of property in this section that is going to be designated wilderness, you are no longer—you will no longer have access to this property unless you can walk to it.

All right. Now we have that and we have that property surrounded by public land. When we talk about individuals—and they want to dispose of that property because it now is to be in a wilderness area. Unless this amendment is passed, as I understand the structure of its language, then the owner of that section of land, say x amount of acres, cannot sell that land as Mr. Catellus or some other person could—and I mean "Mr." in the sense of the corporation—so he or she becomes a party of the 14th part if they get in line, and there are 14 pieces of the bone left. I think this is not the right thing to do, as I have outlined in the origin of the properties. And I take exception to the fact that we have virtually thousands of private property owners who own sections of land, quarter sections of land, all through the desert area both in my district, Mr. THOMAS' district and particularly in Mr. LEWIS' district, that will not have an opportunity to move forward.

Second, I think we need to clarify what is referred to as Federal surplus lands. Are we talking about, say, a Norton Air Force Base or a March Air Force Base or another Air Force base or an Army base or a Navy base; are these considered to be surplus Federal lands which have a value, which have a value to communities? And where in the pecking order do we have the Catelluses if this amendment is not passed in terms of the purchase of these lands, or the right to have them as that right relates to the economic value of that land within the community in which it exists?

So I have a great deal of concern here about not only how are we going to move forward and take care of the inholdings, where we want to develop a wilderness area and give that landowner a right that he or she deserves with respect to compensation for their land, for which we have none in the bill, I might add, but also how to maintain access to that property, the development of that property, without the approval of the Secretary of the Interior irrespective of whether or not the land use is designated by the county or the jurisdictional land use authority?

The CHAIRMAN. The time of the gentleman from California [Mr. McCANDLESS] has expired.

(By unanimous consent, Mr. McCANDLESS was allowed to proceed for 1 additional minute.)

Mr. McCANDLESS. Mr. Chairman, without the consent of the Secretary of the Interior, we cannot develop that, as I understand it, within a park, within a wilderness area, whatever it might be. This is a multi-faceted thing that deals with the real rights of a property owner.

Yes, the property owner is one of many who should contribute to the public welfare through the eventual sale of that property to the designated area, but in so doing, the property owner is entitled to a series of activities which are equal to those of a higher land use of ownership in terms of numbers.

Mr. Chairman, I do not know that the chairman of the committee would want to respond to this, but there are some real concerns here, given the fact that we are trying to develop wilderness areas, we are trying to address the issue of private ownership.

We talked about eminent domain, fair prices, and therein lie some real questions as to how that comes about based upon the history of the National Park Service and its dealings with private ownership.

I certainly would suggest to my colleagues that it is a good move to approve this amendment, and I ask that it be moved forward.

The CHAIRMAN. The question is on the perfecting amendment to section 604, offered by the gentleman from California [Mr. MILLER].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CUNNINGHAM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 419, noes 0, not voting, 20.

[Roll No. 319]

AYES—419

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Faleomavaega (AS)
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Nussle
Oberstar
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)

Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roberts
Roemer
Rogers
Rohrabacher
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Sweet
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—20

Barlow
Bishop
Danner
Dicks
Ewing
Gallo
Huffington
Johnson, Sam
Laughlin
McCurdy
McDade
Moran
Murphy
Obey
Ridge
Rowland
Slattery
Volkmer
Washington
Wise

□ 1216

Ms. VELÁZQUEZ, Ms. HARMON, Mr. ROEMER, and Mr. BATEMAN changed their vote from "no" to "aye."

So the perfecting amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment to strike offered by the gentleman from California [Mr. CUNNINGHAM].

The question was taken; and the Chairman announced that the noes appeared to have it.

So the perfecting amendment to strike was rejected.

The CHAIRMAN. Are there further amendments?

PARLIAMENTARY INQUIRIES

Mr. CUNNINGHAM. Mr. Chairman, I have a parliamentary inquiry. No Member said, "no." There was not a single "no." How could the "noes" have it?

The CHAIRMAN. The Chair announced that the "noes" had it.

Mr. VENTO. Mr. Chairman, I could not hear.

The CHAIRMAN. The Chair put the question to a vote on the amendment to strike as submitted by the gentleman from California [Mr. CUNNINGHAM]. In the vote, as voice voted, the Chair recognized that the "noes" had it.

Mr. CUNNINGHAM. Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CUNNINGHAM. If there were "ayes" and there were absolutely no recorded "noes," how does the Chair say that the "noes" have it?

The CHAIRMAN. The Chair recognized the "noes," and the Chair himself voted "no."

Mr. CUNNINGHAM. That is one vote, Mr. Chairman. At least 10 Members said "aye."

Mr. VENTO. Mr. Chairman, I have a parliamentary inquiry.

Mr. Chairman, if the amendment to strike had been successful, then the perfecting amendment offered by the gentleman from California [Mr. MILLER], which was agreed to, would be stricken; is that correct?

The CHAIRMAN. The gentleman is correct.

Mr. VENTO. I have a further parliamentary inquiry, Mr. Chairman.

The situation now is that the Miller language, as perfected, is in the bill, is that correct, as agreed to by the gentleman from California [Mr. CUNNINGHAM]?

The CHAIRMAN. The gentleman is correct.

Mr. VENTO. I thank the Chair.

Mr. CUNNINGHAM. I thank the Chair.

The CHAIRMAN. Are there further amendments to title VI?

If not, the Clerk will designate title VII.

The text of title VII is as follows:

TITLE VII—DEFINITIONS AND AUTHORIZATION OF APPROPRIATIONS

DEFINITIONS

SEC. 701. For the purposes of this Act:

(1) The term "Secretary", unless specifically designated otherwise, means the Secretary of the Interior.

(2) The term "public lands" means any land and interest in land owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management.

AUTHORIZATION OF APPROPRIATIONS

SEC. 702. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The CHAIRMAN. Are there amendments to title VII or the remainder of the bill?

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VENTO:

—Page 69, after line 23, add the following:

TITLE VIII—CALIFORNIA MILITARY LANDS WITHDRAWAL

SEC. 801. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This title may be cited as the "California Military Lands Withdrawal and Overflights Act of 1994".

(b) FINDINGS.—The Congress finds that—

(1) the Federal lands within the desert regions of California have provided essential opportunities for military training, research, and development for the Armed Forces of the United States and allied nations;

(2) alternative sites for military training and other military activities carried out on Federal lands in the California desert area are not readily available;

(3) while changing world conditions have lessened to some extent the immediacy of military threats to the national security of the United States and its allies, there remains a need for military training, research, and development activities of the types that have been carried out of Federal lands in the California desert area; and

(4) continuation of existing military training, research, and development activities, under appropriate terms and conditions, is not incompatible with the protection and proper management of the natural, environmental, cultural, and other resources and values of the Federal lands in the California desert area.

SEC. 802. WITHDRAWALS.

(a) CHINA LAKE.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) use as a research, development, test, and evaluation laboratory;

(B) use as a range for air warfare weapons and weapon systems;

(C) use as a high hazard training area for aerial gunnery, rocketry, electronic warfare and countermeasures, tactical maneuvering and air support; and

(D) subject to the requirements of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands, located within the boundaries of the China Lake Naval Weapons Center, comprising approximately 1,100,000 acres in Inyo, Kern, and San Bernardino Counties, California, as generally depicted on a map entitled "China Lake Naval Weapons Center Withdrawal—Proposed", dated January 1985, and filed in accordance with section 803.

(b) CHOCOLATE MOUNTAIN.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) testing and training for aerial bombing, missile firing, tactical maneuvering and air support; and

(B) subject to the provisions of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands comprising approximately 226,711 acres in Imperial County, California, as generally depicted on a map entitled "Chocolate Mountain Aerial Gunnery Range Proposed—Withdrawal" dated

July 1993 and filed in accordance with section 803.

(c) El Centro Ranges.—(1) Subject to valid existing rights, and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundaries of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws) but not the mineral or geothermal leasing laws. Such lands are reserved for use by the Secretary of the Navy for—

(A) defense-related purposes in accordance with the Memorandum of Understanding dated June 29, 1987, between the Bureau of Land Management, the Bureau of Reclamation, and the Department of the Navy; and

(B) subject to the provisions of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands comprising approximately 46,600 acres in Imperial County, California, as generally depicted on a map entitled "Exhibit A, Naval Air Facility, El Centro, California, Land Acquisition Map, Range 2510 (West Mesa)" dated March 1993 and a map entitled "Exhibit B, Naval Air Facility, El Centro, California, Land Acquisition Map Range 2512 (East Mesa)" dated March 1993.

SEC. 803. MAPS AND LEGAL DESCRIPTIONS.

(a) Publication and Filing Requirement.—As soon as practicable after the date of enactment of this title, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this title; and

(2) file maps and the legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Natural Resources of the United States House of Representatives.

(b) Technical Corrections.—Such maps and legal descriptions shall have the same force and effect as if they were included in this title except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) Availability for Public Inspection.—Copies of such maps and legal descriptions shall be available for public inspection in the Office of the Director of the Bureau of Land Management, Washington, District of Columbia; the Office of the Director, California State Office of the Bureau of Land Management, Sacramento, California; the office of the commander of the Naval Weapons Center, China Lake, California; the office of the commanding officer, Marine Corps Air Station, Yuma, Arizona; and the Office of the Secretary of Defense, Washington, District of Columbia.

(d) Reimbursement.—The Secretary of Defense shall reimburse the Secretary of the Interior for the cost of implementing this section.

SEC. 804. MANAGEMENT OF WITHDRAWN LANDS.

(a) Management by the Secretary of the Interior.—(1) Except as provided in subsection (g), during the period of the withdrawal the Secretary of the Interior shall manage the lands withdrawn under section 802 pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable law, including this Act.

(2) To the extent consistent with applicable law and Executive orders, the lands withdrawn under section 802 may be managed in a manner permitting—

(A) the continuation of grazing pursuant to applicable law and Executive orders where permitted on the date of enactment of this title;

(B) protection of wildlife and wildlife habitat;

(C) control of predatory and other animals;

(D) recreation (but only on lands withdrawn by section 802(a) (relating to China Lake));

(E) the prevention and appropriate suppression of brush and range fires resulting from nonmilitary activities; and

(F) geothermal leasing on the lands withdrawn under section 802(a) (relating to China Lake).

(3)(A) All nonmilitary use of such lands, including the uses described in paragraph (2), shall be subject to such conditions and restrictions as may be necessary to permit the military use of such lands for the purposes specified in or authorized pursuant to this title.

(B) The Secretary of the Interior may issue any lease, easement, right-of-way, or other authorization with respect to the nonmilitary use of such lands only with the concurrence of the Secretary of the Navy.

(b) Closure to Public.—(1) If the Secretary of the Navy determines that military operations, public safety, or national security require the closure to public use of any road, trail, or other portion of the lands withdrawn by this title, the Secretary may take such action as the Secretary determines necessary or desirable to effect and maintain such closure.

(2) Any such closure shall be limited to the minimum areas and periods which the Secretary of the Navy determines are required to carry out this subsection.

(3) Before and during any closure under this subsection, the Secretary of the Navy shall—

(A) keep appropriate warning notices posted; and

(B) take appropriate steps to notify the public concerning such closures.

(c) Management Plan.—The Secretary of the Interior (after consultation with the Secretary of the Navy) shall develop a plan for the management of each area withdrawn under section 802 during the period of such withdrawal. Each plan shall—

(1) be consistent with applicable law;

(2) be subject to conditions and restrictions specified in subsection (a)(3);

(3) include such provisions as may be necessary for proper management and protection of the resources and values of such area; and

(4) be developed not later than three years after the date of enactment of this title.

(d) Brush and Range Fires.—The Secretary of the Navy shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands withdrawn under section 802 as a result of military activities and may seek assistance from the Bureau of Land Management in the suppression of such fires. The memorandum of understanding required by subsection (e) shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Navy to the Bureau of Land Management as compensation for such assistance.

(e) Memorandum of Understanding.—(1) The Secretary of the Interior and the Secretary of the Navy shall (with respect to each land withdrawal under section 802) enter into a memorandum of understanding to implement the management plan developed under subsection (c) Any such memorandum of understanding shall provide that the Director of the Bureau of Land Management shall provide assistance in the suppression of fires resulting from the military use of lands withdrawn under section 802 if requested by the Secretary of the Navy.

(2) The duration of any such memorandum shall be the same as the period of the withdrawal of the lands under section 802.

(f) Additional Military Uses.—(1) Lands withdrawn by section 802 may be used for defense-related uses other than those specified in such section. The Secretary of Defense shall promptly notify the Secretary of the Interior in the event that the lands withdrawn by this title will be used for defense-related purposes other than those specified in section 802. Such notification shall indicate the additional use of uses involved, the proposed duration of such uses, and the extent to which such additional military uses of the withdrawn lands will require that additional or more stringent conditions or restrictions be imposed on otherwise-permitted nonmilitary uses of the withdrawn land or portions thereof.

(g) Management of China Lake.—(1) The Secretary of the Interior may assign the management responsibility for the lands withdrawn under section 802(a) to the Secretary of the Navy who shall manage such lands, and issue leases, easements, rights-of-way, and other authorizations, in accordance with this title and cooperative management arrangements between the Secretary of the Interior and the Secretary of the Navy. In the case that the Secretary of the Interior assigns such management responsibility to the Secretary of the Navy before the development of the management plan under subsection (c), the Secretary of the Navy (after consultation with the Secretary of the Interior) shall develop such management plan.

(2) The Secretary of the Interior shall be responsible for the issuance of any lease, easement, right-of-way, and other authorization with respect to any activity which involves both the lands withdrawn under section 802(a) and any other lands. Any such authorization shall be issued only with the consent of the Secretary of the Navy and, to the extent that such activity involves lands withdrawn under section 802(a), shall be subject to such conditions as the Secretary of the Navy may prescribe.

(3) The Secretary of the Navy shall prepare and submit to the Secretary of the Interior and annual report on the status of the natural and cultural resources and values of the lands withdrawn under section 802(a). The Secretary of the Interior shall transmit such report to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(4) The Secretary of the Navy shall be responsible for the management of wild horses and burros located on the lands withdrawn under section 802(a) and may utilize helicopters and motorized vehicles for such purposes. Such management shall be in accordance with laws applicable to such management on public lands and with an appropriate memorandum of understanding between the Secretary of the Interior and the Secretary of the Navy.

(5) Neither this Act nor any other provision of law shall be construed to prohibit the

Secretary of the Interior from issuing and administering any lease for the development and utilization of geothermal steam and associated geothermal resources on the lands withdrawn under section 802(a) pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) and other applicable law, but no such lease shall be issued without the concurrence of the Navy.

(6) This title shall not affect the geothermal exploration and development authority of the Secretary of the Navy under section 2689 of title 10, United States Code, except that the Secretary of the Navy shall obtain the concurrence of the Secretary of the Interior before taking action under that section with respect to the lands withdrawn under section 802(a).

(7) Upon the expiration of the withdrawal made by subsection 802(a) or relinquishment of the lands withdrawn by that subsection, Navy contracts for the development of geothermal resources at China Lake then in effect (including amendments or renewals by the Navy after the date of enactment of this Act shall remain in effect: *Provided*, that the Secretary of the Interior, with the consent of the Secretary of the Navy, may offer to substitute a standard geothermal lease for any such contract.

(h) Management of El Centro Ranges.—To the extent consistent with this title, the lands and minerals within the areas described in section 802(c) shall be managed in accordance with the Cooperative Agreement entered into between the Bureau of Land Management, Bureau of Reclamation, and the Department of the Navy, dated June 29, 1987.

SEC. 805. DURATION OF WITHDRAWALS.

(a) Duration.—The withdrawal and reservation established by this title shall terminate 15 years after the date of enactment of this Act.

(b) Draft Environmental Impact Statement.—No later than 12 years after the date of enactment of this Act, the Secretary of the Navy shall publish a draft environmental impact statement concerning continued or renewed withdrawal of any portion of the lands withdrawn by this title for which that Secretary intends to seek such continued or renewed withdrawal. Such draft environmental impact statement shall be consistent with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to such a draft environmental impact statement. Prior to the termination date specified in subsection (a), the Secretary of the Navy shall hold a public hearing on any draft environmental impact statement published pursuant to this subsection. Such hearing shall be held in the State of California in order to receive public comments on the alternatives and other matters included in such draft environmental impact statement.

(c) Extensions or Renewals.—The withdrawals established by this title may not be extended or renewed except by an Act or joint resolution.

SEC. 806. ONGOING DECONTAMINATION.

(a) Program.—Throughout the duration of the withdrawals made by this title, the Secretary of the Navy, to the extent funds are made available, shall maintain a program of decontamination of lands withdrawn by this title at least at the level of decontamination activities performed on such lands in fiscal year 1986.

(b) Reports.—At the same time as the President transmits to the Congress the President's proposed budget for the first fiscal year beginning after the date of enactment of this Act and for each subsequent fiscal year, the Secretary of the Navy shall transmit to the Committees on Appropriations, Armed Services, and Energy and Natural Resources of the Senate and to the Committees on Appropriations, Armed Services, and Natural Resources of the House of Representatives a description of the decontamination efforts undertaken during the previous fiscal year on such lands and the decontamination activities proposed for such lands during the next fiscal year including:

(1) amounts appropriated and obligated or expended for decontamination of such lands;

(2) the methods used to decontaminate such lands;

(3) amount and types of contaminants removed from such lands;

(4) estimated types and amounts of residual contamination on such lands; and

(5) an estimate of the costs for full decontamination of such lands and the estimate of the time to complete such decontamination.

SEC. 807. REQUIREMENTS FOR RENEWAL.

(a) Notice and Filing.—(1) No later than three years prior to the termination of the withdrawal and reservation established by this title, the Secretary of the Navy shall advise the Secretary of the Interior as to whether or not the Secretary of the Navy will have a continuing military need for any of the lands withdrawn under section 802 after the termination date of such withdrawal and reservation.

(2) If the Secretary of the Navy concludes that there will be a continuing military need for any of such lands after the termination date, the Secretary shall file an application for extension of the withdrawal and reservation of such needed lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals of lands for military uses.

(3) If, during the period of withdrawal and reservation, the Secretary of the Navy decides to relinquish all or any of the lands withdrawn and reserved by this title, the Secretary shall file a notice of intention to relinquish with the Secretary of the Interior.

(b) Contamination.—(1) Before transmitting a notice of intention to relinquish pursuant to subsection (a), the Secretary of Defense, acting through the Department of Navy, shall prepare a written determination concerning whether and to what extent the lands that are to be relinquished are contaminated with explosive, toxic, or other hazardous materials.

(2) A copy of such determination shall be transmitted with the notice of intention to relinquish.

(3) Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

(c) Decontamination.—If any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the Navy, determines that decontamination is practicable and economically feasible (taking into consideration the potential future use and value of the land) and that upon decontamination, the land could be opened to operation of some or all of the public land laws, including the mining laws, the Secretary of the Navy shall decontaminate the land to the extent that funds are appropriated for such purpose.

(d) Alternatives.—If the Secretary of the Interior, after consultation with the Secretary of the Navy, concludes that decontamination of any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is not practicable or economically feasible, or that the land cannot be decontaminated sufficiently to be opened to operation of some or all of the public land laws, or if Congress does not appropriate a sufficient amount of funds for the decontamination of such land, the Secretary of the Interior shall not be required to accept the land proposed for relinquishment.

(e) Status of Contaminated Lands.—If, because of their contaminated sate, the Secretary of the Interior declines to accept jurisdiction over lands withdrawn by this title which have been proposed for relinquishment, or if at the expiration of the withdrawal made by this title the Secretary of the Interior determines that some of the lands withdrawn by this title are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(1) the Secretary of the Navy shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(2) after the expiration of the withdrawal, the Secretary of the Navy shall undertake no activities on such lands except in connection with decontamination of such lands; and

(3) the Secretary of the Navy shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of this subsection.

(f) Revocation Authority.—Notwithstanding any other provision of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over lands proposed for relinquishment pursuant to subsection (a), is authorized to remove the withdrawal and reservation established by this title as it applies to such lands. Should the decision be made to revoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which the lands will be opened to the operation of some or all of the public lands laws, including the mining laws.

SEC. 808. DELEGABILITY.

(a) Defense.—The functions of the Secretary of Defense or the Secretary of the Navy under this title may be delegated.

(b) Interior.—The functions of the Secretary of the Interior under this title may be delegated, except that an order described in section 807(f) may be approved and signed only by the Secretary of the Interior, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 809. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn by this Act shall be conducted in accordance with the provisions of section 2671 of title 10, United States Code.

SEC. 810. IMMUNITY OF UNITED STATES.

The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injury or damage to persons or property suffered in the course of any geothermal leasing or other authorized nonmilitary activity conducted on lands described in section 802 of this title.

SEC. 811. MILITARY OVERFLIGHTS.

(a) EFFECT OF ACT.—(1) Nothing in this Act shall be construed to—

(A) restrict or preclude continuation of low-level military overflights, including those on existing flight training routes; or

(B) preclude the designation of new units of special airspace or the establishment of new flight training routes over the lands designated by this Act for inclusion within new or expanded units of the National Park System or National Wilderness Preservation System.

(2) Nothing in this Act shall be construed as requiring revision of existing policies or procedures applicable to the designation of units of special airspace or the establishment of flight training routes over any Federal lands affected by this Act.

(b) MONITORING.—The Secretary of the Interior and the Secretary of Defense shall monitor the effects of military overflights on the resources and values of the units of the National Park System and National Wilderness Preservation System designated or expanded by this Act, and shall attempt, consistent with national security needs, to resolve concerns related to such overflights and to avoid or minimize adverse impacts on resources and values and visitor safety associated with overflight activities.

SEC. 812. TERMINATION OF PRIOR RECLAMATION WITHDRAWALS.

Except to the extent that existing Bureau of Reclamation withdrawals of public lands were identified for continuation in Federal Register Notice Document 92-4838 (57 Federal Register 7599, March 3, 1992), as amended by Federal Register Correction Notices (57 Federal Register 19135, May 4, 1992; 57 Federal Register 19163, May 4, 1992; and 58 Federal Register 30181, May 26, 1993), all existing Bureau of Reclamation withdrawals made by Secretarial Orders and Public Land Orders affecting public lands and Indian lands located within the California Desert Conservation Area established pursuant to section 601 of the Federal Land Policy and Management Act of 1976 are hereby terminated.

Mr. VENTO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

MODIFICATION TO AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I ask unanimous consent that the amendment be modified with the technical corrections that I have sent to the desk, which are non-controversial and technical in nature.

The CHAIRMAN. The Clerk will report the amendment, as modified.

The Clerk read as follows:

Amendment, as modified, offered by Mr. VENTO: Page 69, after line 23, add the following:

TITLE VIII—CALIFORNIA MILITARY LANDS WITHDRAWAL

SEC. 801. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This title may be cited as the "California Military Lands Withdrawal and Overflights Act of 1994".

(b) FINDINGS.—The Congress finds that—

(1) the Federal lands within the desert regions of California have provided essential opportunities for military training, research, and development for the Armed Forces of the United States and allied nations;

(2) alternative sites for military training and other military activities carried out on Federal lands in the California desert area are not readily available;

(3) while changing world conditions have lessened to some extent the immediacy of military threats to the national security of the United States and its allies, there remains a need for military training, research, and development activities of the types that have been carried out on Federal lands in the California desert areas; and

(4) continuation of existing military training, research, and development activities, under appropriate terms and conditions, is not incompatible with the protection and proper management of the natural, environmental, cultural, and other resources and values of the Federal lands in the California desert area.

SEC. 802. WITHDRAWALS.

(a) CHINA LAKE.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) use as a research, development, test, and evaluation laboratory;

(B) use as a range for air warfare weapons and weapon systems;

(C) use as a high hazard training area for aerial gunnery, rocketry, electronic warfare and countermeasures, tactical maneuvering and air support; and

(D) subject to the requirements of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands, located within the boundaries of the China Lake Naval Weapons Center, comprising approximately 1,100,000 acres in Inyo, Kern, and San Bernardino Counties, California, as generally depicted on a map entitled "China Lake Naval Weapons Center Withdrawal—Proposed", dated January 1985, and filed in accordance with section 803.

(b) CHOCOLATE MOUNTAIN.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) testing and training for aerial bombing, missile firing, tactical maneuvering and air support; and

(B) subject to the provisions of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands comprising approximately 226,711 acres in Imperial County, California, as generally depicted on a map entitled "Chocolate Mountain Aerial Gunnery Range Proposed—Withdrawal" dated July 1993 and filed in accordance with section 803.

(c) EL CENTRO RANGES.—(1) Subject to valid existing rights, and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundaries of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws) but not the mineral or geothermal leasing laws. Such lands are reserved for use by the Secretary of the Navy for—

(A) defense-related purposes in accordance with the Memorandum of Understanding date June 29, 1987, between the Bureau of Land Management, the Bureau of Reclamation, and the Department of the Navy; and

(B) subject to the provisions of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands comprising approximately 46,600 acres in Imperial County, California, as generally depicted on a map entitled "Exhibit A, Naval Air Facility, El Centro, California, Land Acquisition Map, Range 2510 (West Mesa) dated March 1993 and a map entitled "Exhibit B, Naval Air Facility, El Centro, California, Land Acquisition Map Range 2512 (East Mesa)" dated March 1993.

SEC. 803. MAPS AND LEGAL DESCRIPTIONS.

(a) PUBLICATION AND FILING REQUIREMENT.—As soon as practicable after the date of enactment of this title, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this title; and

(2) file maps and the legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Natural Resources of the United States House of Representatives.

(b) TECHNICAL CORRECTIONS.—Such maps and legal descriptions shall have the same force and effect as if they were included in this title except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—Copies of such maps and legal descriptions shall be available for public inspection in the Office of the Director of the Bureau of Land Management, Washington, District of Columbia; the Office of the Director, California State Office of the Bureau of Land Management, Sacramento, California; the office of the commander of the Naval Weapons Center, China Lake, California; the office of the commanding officer, Marine Corps Air Station, Yuma, Arizona; and the Office of the Secretary of Defense, Washington, District of Columbia.

(d) REIMBURSEMENT.—The Secretary of Defense shall reimburse the Secretary of the Interior for the cost of implementing this section.

SEC. 804. MANAGEMENT OF WITHDRAWN LANDS.

(a) MANAGEMENT BY THE SECRETARY OF THE INTERIOR.—(1) Except as provided in subsection (g), during the period of the withdrawal the Secretary of the Interior shall manage the lands withdrawn under section 802 pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable law, including this Act.

(2) To the extent consistent with applicable law and Executive orders, the lands withdrawn under section 802 may be managed in a manner permitting—

(A) the continuation of grazing pursuant to applicable law and Executive orders where permitted on the date of enactment of this title;

(B) protection of wildlife and wildlife habitat;

(C) control of predatory and other animals;

(D) recreation (but only on lands withdrawn by section 802(a) (relating to China Lake));

(E) the prevention and appropriate suppression of brush and range fires resulting from nonmilitary activities; and

(F) geothermal leasing and development and related power production activities on the lands withdrawn under section 802(a) (relating to China Lake).

(3)(A) All nonmilitary use of such lands, including the uses described in paragraph (2), shall be subject to such conditions and restrictions as may be necessary to permit the military use of such lands for the purposes specified in or authorized pursuant to this title.

(B) The Secretary of the Interior may issue any lease, easement, right-of-way, or other authorization with respect to the nonmilitary use of such lands only with the concurrence of the Secretary of the Navy.

(b) CLOSURE TO PUBLIC.—(1) If the Secretary of the Navy determines that military operations, public safety, or national security require the closure to public use of any road, trail, or other portion of the lands withdrawn by this title, the Secretary may take such action as the Secretary determines necessary or desirable to effect and maintain such closure.

(2) Any such closure shall be limited to the minimum areas and periods which the Secretary of the Navy determines are required to carry out this subsection.

(3) Before and during any closure under this subsection, the Secretary of the Navy shall—

(A) keep appropriate warning notices posted; and

(B) take appropriate steps to notify the public concerning such closures.

(c) MANAGEMENT PLAN.—The Secretary of the Interior (after consultation with the Secretary of the Navy) shall develop a plan for the management of each area withdrawn under section 802 during the period of such withdrawal. Each plan shall—

(1) be consistent with applicable law;

(2) be subject to conditions and restrictions specified in subsection (a)(3);

(3) include such provisions as may be necessary for proper management and protection of the resources and values of such area; and

(4) be developed not later than three years after the date of enactment of this title.

(d) BRUSH AND RANGE FIRES.—The Secretary of the Navy shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands withdrawn under section 802 as a result of military activities and may seek assistance from the Bureau of Land Management in the suppression of such fires. The memorandum of understanding required by subsection (e) shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Navy to the Bureau of Land Management as compensation for such assistance.

(e) MEMORANDUM OF UNDERSTANDING.—(1) The Secretary of the Interior and the Secretary of the Navy shall (with respect to each land withdrawal under section 802) enter into to memorandum of understanding to implement the management plan developed under subsection (c). Any such memorandum of understanding shall provide that the Director of the Bureau of Land Management shall provide assistance in the suppression of fires resulting from the military use of lands withdrawn under section 802 if requested by the Secretary of the Navy.

(2) The duration of any such memorandum shall be the same as the period of the withdrawal of the lands under section 802.

(f) ADDITIONAL MILITARY USES.—(1) Lands withdrawn by section 802 may be used for defense-related uses other than those specified in such section. The Secretary of Defense shall promptly notify the Secretary of the Interior in the event that the lands withdrawn by this title will be used for defense-related purposes other than those specified in section 802. Such notification shall indicate the additional use or uses involved, the proposed duration of such uses, and the extent to which such additional military uses of the withdrawn lands will require that additional or more stringent conditions or restrictions be imposed on otherwise-permitted nonmilitary uses of the withdrawn land or portions thereof.

(g) MANAGEMENT OF CHINA LAKE.—(1) The Secretary of the Interior may assign the management responsibility for the lands withdrawn under section 802(a) to the Secretary of the Navy who shall manage such lands, and issue leases, easements, rights-of-way, and other authorizations, in accordance with this title and cooperative management arrangements between the Secretary of the Interior and the Secretary of the Navy. In the case that the Secretary of the Interior assigns such management responsibility to the Secretary of the Navy before the development of the management plan under subsection (c), the Secretary of the Navy (after consultation with the Secretary of the Interior) shall develop such management plan.

Nothing in this title shall affect geothermal leases issued by the Secretary of the Interior prior to the date of enactment of this title or the responsibility of the Secretary to administer and manage such leases consistent with the provisions of this title.

(2) The Secretary of the Interior shall be responsible for the issuance of any lease, easement, right-of-way, and other authorization with respect to any activity which involves both the lands withdrawn under section 802(a) and any other lands. Any such authorization shall be issued only with the consent of the Secretary of the Navy and, to the extent that such activity involves lands withdrawn under section 802(a), shall be subject to such conditions as the Secretary of the Navy may prescribe.

(3) The Secretary of the Navy shall prepare and submit to the Secretary of the Interior an annual report on the status of the natural and cultural resources and values of the lands withdrawn under section 802(a). The Secretary of the Interior shall transmit such report to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(4) The Secretary of the Navy shall be responsible for the management of wild horses and burros located on the lands withdrawn under section 802(a) and may utilize helicopters and motorized vehicles for such purposes. Such management shall be in accordance with laws applicable to such management on public lands and with an appropriate memorandum of understanding between the Secretary of the Interior and the Secretary of the Navy.

(5) Neither this Act nor any other provision of law shall be construed to prohibit the Secretary of the Interior from issuing and administering any lease for the development and utilization of geothermal steam and associated geothermal resources on the lands withdrawn under section 802(a) pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) and other applicable law, but no such lease shall be issued without the concurrence of the Secretary of the Navy.

(6) This title shall not affect the geothermal exploration and development authority of the Secretary of the Navy under section 2689 of title 10, United States Code, except that the Secretary of the Navy shall obtain the concurrence of the Secretary of the Interior before taking action under that section with respect to the lands withdrawn under section 802(a).

(7) Upon the expiration of the withdrawal made by subsection (a) of section 802 or relinquishment of the lands withdrawn by that subsection, Navy contracts for the development of geothermal resources at China Lake then in effect (including amendments or renewals by the Navy after the date of enactment of this Act) shall remain in effect: *Provided*, That the Secretary of the Interior, with the consent of the Secretary of the Navy, may offer to substitute a standard geothermal lease for any such contract.

(h) MANAGEMENT OF EL CENTRO RANGES.—To the extent consistent with this title, the lands and minerals within the areas described in section 802(c) shall be managed in accordance with the Cooperative Agreement entered into between the Bureau of Land Management, Bureau of Reclamation, and the Department of the Navy, dated June 29, 1987.

SEC. 805. DURATION OF WITHDRAWALS.

(a) DURATION.—The withdrawal and reservation established by this title shall terminate 15 years after the date of enactment of this Act.

(b) DRAFT ENVIRONMENTAL IMPACT STATEMENT.—No later than 12 years after the date of enactment of this Act, the Secretary of the Navy shall publish a draft environmental impact statement concerning continued or renewed withdrawal of any portion of the lands withdrawn by this title for which the Secretary intends to seek such continued or renewed withdrawal. Such draft environmental impact statement shall be consistent with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to such a draft environmental impact statement. Prior to the termination date specified in subsection (a), the Secretary of the Navy shall hold a public hearing on any draft environmental impact statement published pursuant to this subsection. Such hearing shall be held in the State of California in order to receive public comments on the alternatives and other matters included in such draft environmental impact statement.

(c) EXTENSIONS OR RENEWALS.—The withdrawals established by this title may not be extended or renewed except by an Act or joint resolution.

SEC. 806. ONGOING DECONTAMINATION.

(a) PROGRAM.—Throughout the duration of the withdrawals made by this title, the Secretary of the Navy, to the extent funds are made available, shall maintain a program of decontamination of lands withdrawn by this title at least at the level of decontamination activities performed on such lands in fiscal year 1986.

(b) Reports.—At the same time as the President transmits to the Congress the President's proposed budget for the first fiscal year beginning after the date of enactment of this Act and for each subsequent fiscal year, the Secretary of the Navy shall transmit to the Committees on Appropriations, Armed Services, and Energy and Natural Resources of the Senate and to the Committees on Appropriations, Armed Services, and Natural Resources of the House of Representatives a description of the decontamination efforts undertaken during the previous fiscal year on such lands and the decontamination activities proposed for such lands during the next fiscal year including:

(1) amounts appropriated and obligated or expended for decontamination of such lands;

(2) the methods used to decontaminate such lands;

(3) amount and types of contaminants removed from such lands;

(4) estimated types and amounts of residual contamination on such lands; and

(5) an estimate of the costs for full decontamination of such lands and the estimate of the time to complete such decontamination.

SEC. 807. REQUIREMENTS FOR RENEWAL.

(a) Notice and Filing.—(1) No later than three years prior to the termination of the withdrawal and reservation established by this title, the Secretary of the Navy shall advise the Secretary of the Interior as to whether or not the Secretary of the Navy will have a continuing military need for any of the lands withdrawn under section 802 after the termination date of such withdrawal and reservation.

(2) If the Secretary of the Navy concludes that there will be a continuing military need for any of such lands after the termination date, the Secretary shall file an application for extension of the withdrawal and reservation of such needed lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals of lands for military uses.

(3) If, during the period of withdrawal and reservation, the Secretary of the Navy decides to relinquish all or any of the lands withdrawn and reserved by this title, the Secretary shall file a notice of intention to relinquish with the Secretary of the Interior.

(b) Contamination.—(1) Before transmitting a notice of intention to relinquish pursuant to subsection (a), the Secretary of Defense, acting through the Department of Navy, shall prepare a written determination concerning whether and to what extent the lands that are to be relinquished are contaminated with explosive, toxic, or other hazardous materials.

(2) A copy of such determination shall be transmitted with the notice of intention to relinquish.

(3) Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

(c) Decontamination.—If any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the Navy, determines that decontamination is practicable and economically feasible (taking into consideration the potential future use and value of the land) and that upon decontamination, the land could be opened to operation of some or all of the public land laws, including the mining laws, the Secretary of the Navy shall decontaminate the land to the extent that funds are appropriated for such purpose.

(d) Alternatives.—If the Secretary of the Interior, after consultation with the Secretary of the Navy, concludes that decontamination of any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is not practicable or economically feasible, or that the land cannot be decontaminated sufficiently to be opened to operation of some or all of the public land laws, or if Congress does not appropriate a sufficient amount of funds for the decontamination of such land, the Secretary of the Interior shall not be required to accept the land proposed for relinquishment.

(e) Status of Contaminated Lands.—If, because of their contaminated state, the Secretary of the Interior declines to accept jurisdiction over lands withdrawn by this title which have been proposed for relinquishment, or if at the expiration of the withdrawal made by this title the Secretary of the Interior determines that some of the lands withdrawn by this title are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(1) the Secretary of the Navy shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(2) after the expiration of the withdrawal, the Secretary of the Navy shall undertake no activities on such lands except in connection with decontamination of such lands; and

(3) the Secretary of the Navy shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of this subsection.

(f) Revocation Authority.—Notwithstanding any other provision of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over lands proposed for relinquishment pursuant to subsection (a), is authorized to revoke the withdrawal and reservation established by this title as it applies to such lands. Should the decision be made to revoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which the lands will be opened to the operation of some or all of the public lands laws, including the mining laws.

SEC. 808. DELEGABILITY.

(a) Defense.—The functions of the Secretary of Defense or the Secretary of the Navy under this title may be delegated.

(b) Interior.—The functions of the Secretary of the Interior under this title may be delegated, except that an order described in section 807(f) may be approved and signed only by the Secretary of the Interior, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 809. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn by this title shall be conducted in accordance with the provisions of section 2671 of title 10, United States Code.

SEC. 810. IMMUNITY OF UNITED STATES.

The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injury or damage to persons or property suffered in the course of any geothermal leasing or other authorized nonmilitary activity conducted on lands described in section 802 of this title.

SEC. 811. MILITARY OVERFLIGHTS.

(a) Effect of Act.—(1) Nothing in this Act shall be construed to—

(A) restrict or preclude continuation of low-level military overflights, including those on existing flight training routes; or

(B) preclude the designation of new units of special airspace or the establishment of new flight training routes;

over the lands designated by this Act for inclusion within new or expanded units of the National Park System or National Wilderness Preservation System.

(2) Nothing in this Act shall be construed as requiring revision of existing policies or procedures applicable to the designation of units of special airspace or the establishment of flight training routes over any Federal lands affected by this Act.

(b) Monitoring.—The Secretary of the Interior and the Secretary of Defense shall monitor the effects of military overflights on the resources and values of the units of the National Park System and National Wilderness Preservation System designated or expanded by this Act, and shall attempt, consistent with national security needs, to resolve concerns related to such overflights and to avoid or minimize adverse impacts on resources and values and visitor safety associated with overflight activities.

SEC. 812. TERMINATION OF PRIOR RECLAMATION WITHDRAWALS.

Except to the extent that existing Bureau of Reclamation withdrawals of public lands were identified for continuation in Federal Register Notice Document 92–4838 (57 Federal Register 7599, March 3, 1992), as amended by Federal Register Correction Notices (57 Federal Register 19135, May 4, 1992; 57 Federal Register 19163, May 4, 1992; and 58 Federal Register 30181, May 26, 1993), all existing Bureau of Reclamation withdrawals made by Secretarial Orders and Public Land Orders affecting public lands and Indian lands located within the California Desert Conservation Area established pursuant to section 601 of the Federal Land Policy and Management Act of 1976 are hereby terminated.

Mr. VENTO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment, as modified, be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN. Is there objection to the original request of the gentleman from Minnesota [Mr. Vento] that the amendment be modified?

Mr. HANSEN. Mr. Chairman, reserving the right to object, I yield to the gentleman to ask about the technical corrections that he just mentioned.

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, my request is based on the modifications discussed with the minority to the title VIII amendments dealing with the military withdrawal. They involve adding language related to geothermal activities and the correction of a cross reference.

If the gentleman would further yield, the procedure here that I followed is simply to deal with title VIII. All of the title VII amendments will be considered in due course. It simply was a matter of trying to deal with this in an orderly manner, rather than waiting to the end of the bill. I believe the military withdrawal language and the amendment to be offered by the gentleman from California [Mr. FARR] to my language is noncontroversial. I appreciate the cooperation of the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota [Mr. VENTO]?

There was no objection.

The CHAIRMAN. The gentleman from Minnesota [Mr. VENTO] is recognized for 5 minutes in support of his amendment, as modified.

Mr. VENTO. Mr. Chairman, this amendment would add an additional title to the bill, dealing with military lands and overflights in the California desert.

The amendment would effect or renew the withdrawal for military purposes of certain public lands in the California desert, and would clarify the relationship between the designation of Federal lands in that area for conservation purposes and the use of other lands and associated airspaces for important military training and testing.

The provisions of this amendment are similar to ones included in the version of the California Desert Protection Act passed by the House of Representatives in 1991. It would provide the Armed Services with secure tenure on more than 1.3 million acres of lands in the California desert areas that are in daily use for very important testing and training activities.

I regret that the Senate did not complete action on the California Desert Protection Act during the last Congress. However, earlier this year the Senate did pass S. 21, which includes provisions like those in this amendment.

As we did in 1991, the Natural Resources Committee omitted such provisions from the version of the bill we reported, because we share responsibility over these matters with the Committee on Armed Services.

In developing this amendment, I have worked with Chairman DELLUMS and Subcommittee Chairman MCCURDY, of the Armed Services Committee, and with the gentleman from Utah [Mr. HANSEN] and the gentleman from California [Mr. FARR] who both serve on the Armed Services Committee as well as on the Committee on Natural Resources. There have also been discussions with representatives of the Department of Defense and the various military services with an interest in the matters addressed by the amendment.

While there are elements of the amendment—particularly the duration of the land withdrawals for military use—that are not exactly as suggested by the services, I believe that the amendment provides the necessary security for continued military use of these withdrawal areas and the airspaces in the California desert area that are so important to maintenance of military readiness.

As I said when the House last considered this matter, it does not seem to me that there is an absolute need for Congress to legislate regarding military overflights. As a matter of law, designation of wilderness or national parks does not preclude continued military overflights of the lands involved.

However, because of the importance of the California desert's airspaces for military training, inclusion of such provisions is desirable in order to resolve questions that some have raised about how this bill might affect the ability of the Armed Forces to continue their overflights of the lands involved.

There will be a second-degree amendment, which is intended to be offered by the gentleman from California [Mr. FARR], that will refine somewhat the overflight language of my amendment. That second-degree amendment has been worked out through discussions between the natural resources Committee and the Committee on Armed Services.

For the information of the House, I am including in my statement information about the background and provisions of the amendment.

In conclusion, Mr. Chairman, I think that this amendment is appropriate as part of this bill's comprehensive blueprint for future management of Federal lands in the California desert, and I urge its adoption by the House.

BACKGROUND INFORMATION AND SUMMARY OF AMENDMENT

Before 1958, Federal lands in California (as in other States) were made available to the military departments for bases, training areas, and other purposes through administrative or executive actions, without the need for Congressional involvement. This was done through Public Land Orders, Executive Orders, or other measures that had the effect of withdrawing lands from operation of some or all of the otherwise applicable public lands laws (such as the Mining Law of 1872 or the Mineral Lands Leasing Act of 1920) and of limiting public access.

The extent of these military withdrawals and their long duration after the end of the Second World War and the Korean conflict led to the enactment in 1958 of the law popularly know as the "Engle Act" (P.L. 85-337). Named after the late U.S. Representative and Senator Clair Engle of California, this law provides that a peacetime withdrawal of 5,000 acres or more of public lands for military purposes can be accomplished only by Act of Congress. It also specifies that (except in certain Naval reserve areas) minerals in lands withdrawn for military purposes are under the jurisdiction of the Secretary of the Interior, but that disposition of such shall not occur in cases in which the Secretary of Defense determines that this would be inconsistent with military use of the lands.

This amendment, like Title VIII of H.R. 2929 of the 102nd Congress, would withdraw two extensive areas of land in Southern California that have long been used by the Navy, in a manner consistent with Engle Act. It would also similarly withdraw additional lands in Imperial County, referred to as the El Centro Ranges, for use by the Navy. At the time of consideration of the 1991 legislation, agreement had not been reached between the Navy and Interior Departments concerning the extent to which such a withdrawal would be appropriate; that agreement has now been reached, and the amendment reflects and incorporates that agreement.

AREAS WITHDRAWN

The lands that the amendment would withdraw for military uses are the China Lake Naval Weapons Center ("China Lake"), of approximately 1,100,000 acres in Inyo, Kern, and San Bernadino Counties; the Chocolate Mountain Aerial Gunnery Range ("Chocolate Mountain") in Imperial and Riverside Counties, of approximately 227,369 acres; and the El Centro Ranges in Imperial County, of approximately 46,600 acres.

CHINA LAKE

According to the Navy, China Lake is the principal Navy center for research, development, test, and evaluation of air warfare systems and missile weapon systems. The Navy has also been actively pursuing a program of developing the geothermal resources of the area for the production of electrical power. The amendment includes the same language as in the corresponding provisions of S. 21 to assure the continuation of geothermal development and utilization in the China Lake area.

CHOCOLATE MOUNTAINS

The Chocolate Mountains area is heavily used by the Marine Corps for training of pilots in air-to-air gunnery, air combat maneuvering, air-to-ground ordnance delivery, and related training activities, many involving use of live ordnance.

EL CENTRO RANGES

The California Desert Protection legislation passed by the House in 1991 addressed these lands, but did not make them subject to the military-withdrawal provisions. The public lands involved are on the west side of the Imperial Valley, and have been the subject of a series of withdrawals for reclamation purposes for many years. In 1987, the Interior Committee (now, the Committee on Natural Resources) was told that since 1954 portions of these lands had been used as target ranges by the Navy in connection with the El Centro Naval Air Station. This use was permitted by the Interior Department through a series of "memoranda of understanding," even after the enactment of the Engle Act in 1958 and the Federal Land Policy and Management Act of 1976.

The Committee was told that in 1982 the Navy concluded that although the two target ranges were used only for inert ordnance, additional controls on other uses were needed. The Committee was further informed that the Navy therefore proposed to seek a withdrawal of about 290,000 acres of public domain in the El Centro area—more than twice the public domain then being used under the existing arrangements. This evidently provoked controversy.

Subsequently, the Navy entered into a cooperative agreement with the Interior Department under which the Navy was to reduce its withdrawal request to 55,000 acres immediately around certain target areas, and would seek a right-of-way grant for additional 97,000 acres to control potential conflicts between Navy activities in the area and other uses. The Committee was told that the Navy and the Department of the Interior were planning to submit a legislative request for the 55,000 acre withdrawal before the end of 1988, but to date no such request has been submitted.

In 1987, the Committee had serious doubts about the authority of the Secretary of the Interior under existing law to permit the Navy to continue its use of public lands in the El Centro area prior to Congressional action on a withdrawal proposal. Therefore, the Committee included in that year's bill for the withdrawal of China Lake and Chocolate Mountains provisions to explicitly authorize the Secretary of the Interior to permit the Navy to use the relevant public lands in the El Centro ranges until January 1, 1990, for the same purposes and to no greater extent than as of July 1, 1987. The intent of this was to assure that the Navy could continue to use these lands for a period of time that the Committee believed adequate for submission and consideration of a proposal for withdrawal of the affected public lands. In the same way, the corresponding provisions of H.R. 2929, as passed by the House in 1991, would have allowed this used to continue until January 1, 1994.

Since that time, the Interior Department has reached an agreement with the Navy for continued military use of about 46,600 acres of these lands, and has taken steps toward revocation of the reclamation withdrawal applicable to the remainder. Accordingly, and consistent with the requirements of the Engle Act, the amendment would statutorily withdraw 46,600 acres for continued military use by the Navy and would revoke the reclamation withdrawal applicable to these and other public lands.

This amendment, like a similar House-passed bill of 1987, is closely modelled on the omnibus Military Lands Withdrawal Act of 1986 (P.L. 99-606), which renewed the Engle Act withdrawals for areas in Nevada, Arizona, New Mexico, and Alaska. That omnibus measure was developed through negotiations between the House and Senate in the closing hours of the 99th Congress and included a number of compromises, such as agreement on 15 years as the standard period for duration of such withdrawals (as opposed to 10 years in House measures and 25 years requested by the Administration). The Natural Resources Committee has subsequently approved and the House has twice passed legislation (including H.R. 194 by Representative Hefley) for a 15-year military withdrawal of lands in Colorado associated with Fort Carson.

The amendment would withdraw the China Lake, Chocolate Mountains, and El Centro Ranges areas for all forms of appropriation under the public lands laws, and from entry, location, and patent under the mining laws. China Lake would be withdrawn from mineral leasing but not from geothermal leasing (to accommodate the ongoing program of developing geothermal resources there); Chocolate Mountains would be withdrawn from both mineral leasing and goethermal leasing. The El Centro Ranges would not be withdrawn from either mineral or geothermal leasing.

China Lake would be reserved for use by the Secretary of the Navy for a research, development, test, and evaluation laboratory; Chocolate Mountains would be reserved for use in testing and training for aerial bombing, missile firing, tactical maneuvering, and air support; El Centro would be reserved for military uses in accordance with an existing agreement between the Navy and Interior Departments. Each area could be used for additional defense-related purposes.

The Secretary of the Interior would retain responsibility for management of the lands involved, including the preparation of land-management plans, except that in the case of China Lake this could be assigned by the Secretary of the Interior to the Secretary of the Navy (as is currently done).

The military withdrawal of the three areas would expire 15 years after the date of enactment. No later than 12 years after enactment, the Secretary of the Navy would be required to publish a draft environmental impact statement concerning any desired continuation or renewal of either or both withdrawal. Consistent with the requirements of the Engle Act, any continuation or renewal of any of these withdrawals would be by Congress.

The amendment includes the same provisions related to decontamination of the withdrawn lands as established by the omnibus withdrawal Act for the areas covered by that Act. The Navy would thus be required to maintain an ongoing program of decontamination, to the extent that funds are made available, at least at the level of work done in fiscal 1986, with reports concerning this program to be submitted to Congress at the same time as the President's budget is transmitted.

The amendment also includes the same provisions regarding procedures for requesting continuation or renewal of the withdrawal for either or both areas as were included in the omnibus withdrawal Act of 1986 and in the 1987 House-passed bill to withdraw China Lake and the Chocolate Mountain area. Similarly, the amendment's provisions regarding immunization of the United States against damages; regulation of hunting, fishing, and trapping; and delegation of authority by the respective Secretaries are all modelled on those of P.L. 99-606.

Finally, the amendment includes provisions similar to those in Title VIII of H.R. 2929 as passed by the House in 1991 with respect to military overflights of the lands withdrawn by the amendment or the lands given wilderness, National Park, or other conservation status by the California Desert Protection Act.

AMENDMENT OFFERED BY MR. FARR OF CALIFORNIA TO THE AMENDMENT OFFERED BY MR. VENTO, AS MODIFIED

Mr. FARR of California. Mr. Chairman, I offer an amendment to the amendment, as modified.

The Clerk read as follows:

Amendment offered by Mr. FARR of California to the amendment offered by Mr. VENTO, as modified: On page 20 of the amendment, strike line 23 and all that follows through line 23 on page 21, and in lieu thereof insert the following:

SEC. 811. MILITARY OVERFLIGHTS.

(a) EFFECT OF ACT.—(1) Nothing in this Act shall be construed to—

(A) restrict or preclude continuation of low-level military overflights, including those on existing flight training routes; or

(B) affect the designation of new units of special airspace or the establishment of new flight training routes over the lands designated by this Act for inclusion within new or expanded units of the National Park System or National Wilderness Preservation System.

(2) Nothing in this Act shall be construed as requiring revision of existing policies or procedures applicable to the designation of units of special airspace or the establishment of flight training routes over any Federal lands affected by this Act.

(b) MONITORING.—The Secretary of the Interior and the Secretary of Defense shall monitor the effects of military overflights on the resources and values of the units of the National Park System and National Wilderness Preservation System designated or expanded by this Act, and shall attempt, consistent with national security needs, to resolve concerns related to such overflights and to avoid or minimize adverse impacts on resources and values and visitor safety associated with such overflight activities.

Mr. FARR of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FARR of California. Mr. Chairman, I rise in support of Mr. VENTO's amendment and urge my colleagues to vote for the amendment.

As it now stands, the California Desert Protection Act would permit grazing to continue indefinitely in the Mojave National Park.

Mr. VENTO's amendment will allow current grazing permit holders to continue grazing their livestock in the park until their grazing permit expires.

Let us remember that we talking here about protecting some of the least productive grazing lands in the United States where it can take up to 160 acres of land to feed 1 cow for 1 month. Annual rain totals less than 6 inches and summer temperatures regularly approach 120 degrees.

The environmental impact of domestic livestock grazing on public lands is a controversial issue. It is undisputable however that grazing in hot desert areas like the Mojave Desert exacts a high environmental cost and causes long term environmental damage. Studies have shown that grazing is incompatible with proper management in Mojave National Park.

The November 1991 GAO report on rangeland management focused on the BLM's Hot Desert Grazing Program supports this view.

The report further emphasizes that deserts have a particularly fragile ecosystem and once damage occurs they take a long time to recover.

Research has shown that grazing has a detrimental impact on certain hot desert wildlife species, plant species, and vitally important habitat for endemic species.

Numerous desert animal and plant species have evolved elaborate survival systems to endure their harsh living conditions. Removing competition for survival by removing cattle will eliminate a significant threat to this delicate ecosystem.

I strongly urge my colleagues to support the Vento amendment.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. FARR of California. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I wanted to thank the gentleman from California [Mr. FARR], a member of both committees, as I said, for his work on this matter. The gentleman has been very helpful.

As the gentleman has indicated, this is an agreement between the principals involved, Chairman MILLER, Chairman DELLUMS, myself, and others, and this keeps the law in place and provides nothing in the act shall be construed to restrict or preclude low level military flights. We do enter an agreement here to provide for joint monitoring by the Department of Defense and the Department of Interior in terms of overflights over the parks and wilderness system.

It is a data-reporting requirement and consultation about visitors' safety and, of course, the necessity for training in these areas.

I want to make clear to my colleague from Utah and others that may be interested or aware of my interest in military overflights that this is not disruptive or does not include the provisions of restricting military overflights. It is an amendment that was shared with the minority. I would be happy to respond to further questions concerning it, but it is, as presented by the gentleman from California [Mr. FARR], a straightforward agreement between the two committees.

I thank the gentleman from California [Mr. FARR] for yielding to me and for his help and that of the gentleman from Utah [Mr. HANSEN].

AMENDMENT OFFERED BY MR. HANSEN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. VENTO, AS MODIFIED

Mr. HANSEN. Mr. Chairman, I offer an amendment as a substitute for the amendment, as modified.

The Clerk read as follows:

Amendment offered by Mr. HANSEN as a substitute for the amendment offered by Mr. VENTO, as modified:

In lieu of the matter proposed to be inserted, insert:

TITLE VIII—MILITARY LANDS AND OVERFLIGHTS

SEC. 801. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This title may be cited as the "California Military Lands Withdrawal and Overflights Act of 1994".

(b) FINDINGS.—The Congress finds that—

(1) military aircraft testing and training activities as well as demilitarization activities in California are an important part of the national defense system of the United States, and are essential in order to secure for the American people of this and future generations an enduring and viable national defense system;

(2) the National Parks and wilderness areas designated by this Act lie within a region critical to providing training, research, and development for the Armed Forces of the United States and its allies;

(3) there is a lack of alternative sites available for these military training, testing, and research activities;

(4) continued use of the lands and airspace in the California desert region is essential for military purposes; and

(5) continuation of these military activities, under appropriate terms and conditions, is not incompatible with the protection and proper management of the natural, environmental, cultural, and other resources and values of the Federal lands in the California desert area.

SEC. 802. MILITARY OVERFLIGHTS.

(a) OVERFLIGHTS.—Nothing in this Act, the Wilderness Act, or other land management laws generally applicable to the new units of the National Park or Wilderness Preservation Systems (Or any additions to existing units) designated by this Act, shall restrict or preclude low-level overflights of military aircraft over such units, including military overflights that can be seen or heard within such units.

(b) SPECIAL AIRSPACE.—Nothing in this Act, the Wilderness Act, or other land management laws generally applicable to the new units of the National Park or Wilderness Preservation Systems (or any additions to existing units) designated by this Act, shall restrict or preclude the designation of new units of special airspace or the use or establishment of military flight training routes over such new park or wilderness units.

(c) NO EFFECT ON OTHER LAWS.—Nothing in this section shall be construed to modify, expand, or diminish any authority under other Federal law.

SEC. 803. WITHDRAWALS.

(a) CHINA LAKE.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) use as a research, development, test, and evaluation laboratory;

(B) use as a range for air warfare weapons and weapon systems;

(C) use as a high hazard training area for aerial gunnery, rocketry, electronic warfare and countermeasures, tactical maneuvering and air support;

(D) geothermal leasing and development and related power production activities; and

(E) subject to the requirements of section 805(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands located within the boundaries of the China Lake Naval Weapons Center, comprising approximately one million one hundred thousand acres in Inyo, Kern, and San Bernardino Counties, California, as generally depicted on a map entitled "China Lake Naval Weapons Center Withdrawal—Proposed", dated January 1985.

(b) CHOCOLATE MOUNTAIN.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) testing and training for aerial bombing, missile firing, tactical maneuvering and air support; and

(B) subject to the provisions of section 805(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands comprising approximately two hundred twenty-six thousand seven hundred and eleven acres in Imperial County, California, as generally depicted on a map entitled "Chocolate Mountain Aerial Gunnery Range Proposed—Withdrawal" dated July 1993.

SEC. 804. MAPS AND LEGAL DESCRIPTIONS.

(a) PUBLICATION AND FILING REQUIREMENT.—As soon as practicable after the date of enactment of this title, the Secretary shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this title; and

(2) file maps and the legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Natural Resources of the United States House of Representatives.

(b) TECHNICAL CORRECTIONS.—Such maps and legal descriptions shall have the same force and effect as if they were included in this title except that the Secretary may correct clerical and typographical errors in such maps and legal descriptions.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—Copies of such maps and legal descriptions shall be available for public inspection in the appropriate offices of the Bureau of Land Management; the office of the commander of the Naval Weapons Center, China Lake, California; the office of the commanding officer, Marine Corps Air Station, Yuma, Arizona; and the Office of the Secretary of Defense, Washington, District of Columbia.

(d) REIMBURSEMENT.—The Secretary of Defense shall reimburse the Secretary for the cost of implementing this section.

SEC. 805. MANAGEMENT OF WITHDRAWN LANDS.

(a) MANAGEMENT BY THE SECRETARY OF THE INTERIOR.—(1) Except as provided in subsection (g), during the period of the withdrawal the Secretary shall manage the lands withdrawn under section 803 of this title pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable law, including this title.

(2) To the extent consistent with applicable law and Executive orders, the lands withdrawn under section 803 may be managed in a manner permitting—

(A) the continuation of grazing pursuant to applicable law and Executive orders were permitted on the date of enactment of this title;

(B) protection of wildlife and wildlife habitat;

(C) control of predatory and other animals;

(D) recreation (but only on lands withdrawn by section 803(a) (relating to China Lake));

(E) the prevention and appropriate suppression of brush and range fires resulting from nonmilitary activities; and

(F) geothermal leasing and development and related power production activities on the lands withdrawn under section 803(a) (relating to China Lake).

(3)(A) All nonmilitary use of such lands, including the uses described in paragraph (2), shall be subject to such conditions and restrictions as may be necessary to permit the military use of such lands for the purposes specified in or authorized pursuant to this title.

(B) The Secretary may issue any lease, easement, right-of-way, or other authorization with respect to the nonmilitary use of such lands only with the concurrence of the Secretary of the Navy.

(b) Closure to Public.—(1) If the Secretary of the Navy determines that military operations, public safety, or national security require the closure to public use of any road, trail, or other portion of the lands withdrawn by this title, the Secretary may take such action as the Secretary determines necessary or desirable to effect and maintain such closure.

(2) Any such closure shall be limited to the minimum areas and periods which the Secretary of the Navy determines are required to carry out this subsection.

(3) Before and during any closure under this subsection, the Secretary of the Navy shall—

(A) keep appropriate warning notices posted; and

(B) take appropriate steps to notify the public concerning such closures.

(c) Management Plan.—The Secretary (after consultation with the Secretary of the Navy) shall develop a plan for the management of each area withdrawn under section 803 of this title during the period of such withdrawal. Each plan shall—

(1) be consistent with applicable law;

(2) be subject to conditions and restrictions specified in subsection (a)(3);

(3) include such provisions as may be necessary for proper management and protection of the resources and values of such area; and

(4) be developed not later than three years after the date of enactment of this title.

(d) Brush and Range Fires.—The Secretary of the Navy shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands withdrawn under section 803 as a result of military activities and may seek assistance from the Bureau of Land Management in the suppression of such fires. The memorandum of understanding required by subsection (e) shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Navy to the Bureau of Land Management as compensation for such assistance.

(e) Memorandum of Understanding.—(1) The Secretary and the Secretary of the Navy shall (with respect to each land withdrawal under section 803 of this title) enter into a memorandum of understanding to implement the management plan developed under subsection (c). Any such memorandum of understanding shall provide that the Director of the Bureau of Land Management shall provide assistance in the suppression of fires resulting from the military use of lands withdrawn under section 803 if requested by the Secretary of the Navy.

(2) The duration of any such memorandum shall be the same as the period of the withdrawal of the lands under section 803.

(f) Additional Military Uses.—Lands withdrawn under section 803 of this title may be used for defense-related uses other than those specified in such section. The Secretary of Defense shall promptly notify the Secretary in the event that the lands withdrawn by this title will be used for defense-related purposes other than those specified in section 803. Such notification shall indicate the additional use or uses involved, the proposed duration of such uses, and the extent to which such additional military uses of the withdrawn lands will require the additional or more stringent condition or restrictions be imposed on otherwise-permitted nonmilitary uses of the withdrawn land or portions thereof.

(g) Management of China Lake.—(1) The Secretary may assign the management responsibility for the lands withdrawn under section 803(a) to the Secretary of the Navy who shall manage such lands, and issue leases, easements, rights-of-way, and other authorizations, in accordance with this title and cooperative management arrangements between the Secretary and the Secretary of the Navy: *Provided*, That nothing in this subsection shall affect geothermal leases issued by the Secretary prior to the date of enactment of this title, or the responsibility of the Secretary to administer and manage such leases, consistent with the provisions of this section. In the case that the Secretary assigns such management responsibility to the Secretary of the Navy before the development of the management plan under subsection (c), the Secretary of the Navy (after consultation with the Secretary) shall develop such management plan.

(2) The secretary shall be responsible for the issuance of any lease, easement, right-of-way, and other authorization with respect to any activity which involves both the lands withdrawn under section 803(a) and any other lands. Any such authorization shall be issued only with the consent of the Secretary of the Navy and, to the extent that such activity involves lands withdrawn under section 803(a), shall be subject to such conditions as the Secretary of the Navy may prescribe.

(3) The Secretary of the Navy shall prepare and submit to the Secretary an annual report on the status of the natural and cultural resources and values of the lands withdrawn under section 803(a). The Secretary shall transmit such report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives.

(4) The Secretary of the Navy shall be responsible for the management of wild horses and burros located on the lands withdrawn under section 803(a) and may utilize helicopters and motorized vehicles for such purposes. Such management shall be in accordance with laws applicable to such management on public lands and with an appropriate memorandum of understanding between the Secretary and the Secretary of the Navy.

(5) Neither this title nor any other provision of law shall be construed to prohibit the Secretary from issuing and administering any lease for the development and utilization of geothermal steam and associated geothermal resources on the lands withdrawn under section 803(a) pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) and other applicable law, but no such lease shall be issued without the concurrence of the Secretary of the Navy.

(6) This title shall not affect the geothermal exploration and development authority of the Secretary of the Navy under section 2689 of title 10, United States Code, except that the Secretary of the Navy shall obtain the concurrence of the Secretary before taking action under that section with respect to the lands withdrawn under section 803(a).

(7) Upon the expiration of the withdrawal or relinquishment of China Lake, Navy contracts for the development of geothermal resources at China Lake then in effect (as amended or renewed by the Navy after the date of enactment of this title) shall remain in effect: Provided, that the Secretary, with the consent of the Secretary of the Navy, may offer to substitute a standard geothermal lease for any such contract.

SEC. 806. DURATION OF WITHDRAWALS.

(a) Duration.—The withdrawals and reservations established by this title shall terminate twenty-five years after the date of enactment of this title.

(b) Draft Environmental Impact Statement.—No later than twenty-two years after the date of enactment of this title, the Secretary of the Navy shall publish a draft environmental impact statement concerning continued or renewed withdrawal of any portion of the lands withdrawn by this title for which that Secretary intends to seek such continued or renewed withdrawal. Such draft environmental impact statement shall be consistent with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to such a draft environmental impact statement. Prior to the termination date specified in subsection (a), the Secretary of the Navy shall hold a public hearing on any draft environmental impact statement published pursuant to this section. Such hearing shall be held in the State of California in order to receive public comments on the alternatives and other matters including in such draft environmental impact statement.

(c) Extensions or Renewals.—The withdrawals established by this title may not be extended or renewed except by an Act or joint resolution of Congress.

SEC. 807. ONGOING DECONTAMINATION.

(a) Program.—Throughout the duration of the withdrawals made by this title, the Secretary of the Navy, to the extent funds are made available, shall maintain a program of decontamination of lands withdrawn by this title at least at the level of decontamination activities performed on such lands in fiscal year 1986.

(b) Reports.—At the same time as the President transmits to the Congress the President's proposed budget for the first fiscal year beginning after the date of enactment of this title and for each subsequent fiscal year, the Secretary of the Navy shall transmit to the Committees on Appropriations, Armed Services, and Energy and Natural Resources of the United States Senate and to the Committees on appropriations, Armed Services, and Natural Resources of the United States House of Representatives a description of the decontamination efforts undertaken during the previous fiscal year on such lands and the decontamination activities proposed for such lands during the next fiscal year including—

(1) amounts appropriated and obligated or expended for decontamination of such lands;

(2) the methods used to decontaminate such lands;

(3) amount and types of contaminants removed from such lands;

(4) estimated types and amounts of residual contamination on such lands; and

(5) an estimate of the costs for full contamination of such lands and the estimate of the time to complete such decontamination.

SEC. 808. REQUIREMENTS FOR RENEWAL.

(a) Notice and Filing.—(1) No later than three years prior to the termination of the withdrawal and reservation established by this title, the Secretary of the Navy shall advise the Secretary as to whether or not the

Secretary of the Navy will have a continuing military need for any of the lands withdrawn under section 803 after the termination date of such withdrawal and reservation.

(2) If the Secretary of the Navy concludes that there will be a continuing military need for any of such lands after the termination date, the Secretary of the Navy shall file an application for extension of the withdrawal and reservation of such needed lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals of lands for military uses.

(3) If, during the period of withdrawal and reservation, the Secretary of the Navy decides to relinquish all or any of the lands withdrawn and reserved by this title, the Secretary of the Navy shall file a notice of intention to relinquish with the Secretary.

(b) CONTAMINATION.—(1) Before transmitting a notice of intention to relinquish pursuant to subsection (a), the Secretary of Defense, acting through the Department of the Navy, shall prepare a written determination concerning whether and to what extent the lands that are to be relinquished are contaminated with explosive, toxic, or other hazardous materials.

(2) A copy of such determination shall be transmitted with the notice of intention to relinquish.

(3) Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

(c) DECONTAMINATION.—If any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is contaminated, and the Secretary, in consultation with the Secretary of the Navy, determines that decontamination is practicable and economically feasible (taking into consideration the potential future use and value of the land) and that upon decontamination, the land could be opened to operation of some or all of the public land laws, including the mining laws, the Secretary of the Navy shall decontaminate the land to the extent that funds are appropriated for such purpose.

(d) ALTERNATIVES.—If the Secretary, after consultation with the Secretary of the Navy, concludes that decontamination of any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is not practicable or economically feasible, or that the land cannot be decontaminated sufficiently to be opened to operation of some or all of the public land laws, or if Congress does not appropriate a sufficient amount of funds for the decontamination of such land, the Secretary shall not be required to accept the land proposed for relinquishment.

(e) STATUS OF CONTAMINATED LANDS.—If, because of their contaminated state, the Secretary declines to accept jurisdiction over lands withdrawn by this title which have been proposed for relinquishment, or if at the expiration of the withdrawal made by this title the Secretary determines that some of the lands withdrawn by this title are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(1) the Secretary of the Navy shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(2) after the expiration of the withdrawal, the Secretary of the Navy shall undertake no activities on such lands except in connection with decontamination of such lands; and

(3) the Secretary of the Navy shall report to the Secretary and to the Congress concerning the status of such lands and all actions taken in furtherance of this subsection.

(f) REVOCATION AUTHORITY.—Notwithstanding any other provision of law, the Secretary, upon deciding that it is in the public interest to accept jurisdiction over lands proposed for relinquishment pursuant to subsection (a), is authorized to revoke the withdrawal and reservation established by this title as it applies to such lands. Should the decision be made to revoke the withdrawal and reservation, the Secretary shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary; and

(3) state the date upon which the lands will be opened to the operation of some or all of the public lands law, including the mining laws.

SEC. 809. DELEGABILITY.

(a) DEPARTMENT OF DEFENSE.—The functions of the Secretary of Defense or the Secretary of the Navy under this title may be delegated.

(b) DEPARTMENT OF THE INTERIOR.—The functions of the Secretary under this title may be delegated, except that an order described in section 808(f) may be approved and signed only by the Secretary, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 810. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn by this title shall be conducted in accordance with the provisions of section 2671 of title 10, United States Code.

SEC. 811. IMMUNITY OF UNITED STATES.

The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injury or damage to persons or property suffered in the course of any geothermal leasing or other authorized nonmilitary activity conducted on lands described in section 803 of this title.

SEC. 812. EL CENTRO RANGES.

The Secretary is authorized to permit the Secretary of the Navy to use until January 1, 1997, the approximately forty-four thousand eight hundred and seventy acres of public lands in Imperial County, California, known as the East Mesa and West Mesa ranges, in accordance with the Memorandum of Understanding dated June 29, 1987, between the Bureau of Land Management, the Bureau of Reclamation, and the Department of the Navy. All military uses of such lands shall cease on January 1, 1997, unless authorized by a subsequent Act of Congress.

Mr. HANSEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment offered as a substitute for the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. HANSEN. Mr. Chairman, one of the problems we have in America today, I am saying this as a member of the Committee on Armed Services as well as a member of the Committee on Natural Resources, is training. Little by little we have been taking away from the areas that we can train in America. In fact, most of our places that we can train we do not have unlimited air space, except for the Utah Test and Training Range, which is zero to 58,000 feet. It is the only place we can test.

As this is being given to us and restricted more and more, the military finds themselves in a very precarious situation. They are not in a position that they can go wherever they want to go and train, and they should not go wherever they want to go. But they should have the ability to train our pilots.

The whole thing of the cold war was training. Many of our people in the military started out their careers as Second Lieutenant and ended at whatever, and all they did was train the entire time. But they were trained, and they were perfected and ready to go at the drop of a hat and help us out.

Now we find ourselves more and more, wilderness areas come along, more and more parks come along, remember the time over the Grand Canyon when we decided we could not fly up and down the Grand Canyon?

At the time I remember the chairman, Chairman Udall, confessed to flying a Cessna down the middle of the Grand Canyon. I confessed to flying a Piper Supercub down the Grand Canyon. We cannot do those things anymore.

Now we find ourselves in a position, as we become more restrictive, that we cannot train in that area.

The area that we are talking about is the A-10. They call it the Warthog affectionately. That is an airplane that they train in that particular area. Go back to the Persian Gulf war. That was the plane that was so effective on air-to-ground. That was the plane that stopped those tanks from Saddam Hussein. Those people did a super job with it at that point.

Now, as we go through restrictive language, as we start tightening that up, more and more we are taking away the ability for our pilots and others to learn to fly these aircraft. They are not going to learn to do it in a training simulator. They have to have their hands on the controls. They have to be able to do it.

All we are asking here is to accept the same language that the Senate has passed. That is all we are asking. The Senate has already passed this particular language.

What this does, it opens it up a wee bit more on military overflights to wilderness and parks across the country and not just restricted to the desert, the California desert bill.

I think this a good amendment, a very innocuous amendment, kind of a housekeeping measure. I personally feel it would be a better piece of legislation than what we have before us.

Mr. VENTO. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

This amendment really is out of order, according to our rules. The gentleman did not share the fact that he was going to offer the amendment or I would have tried to dissuade him from doing so. I think his last statement points up the problem with the Senate insistence on dealing with something that really does not relate to this act.

We are trying to accommodate the concerns and, as a consequence, end up with the dilemma that we now have on the floor in terms of a full-fledged debate on military overflights which really should be considered with the Committee on Armed Services and the Natural Resources Committee process.

The fact is that this amendment applies to all sorts of other laws unrelated to the subject before the House. The amendment that I have proposed in terms of title VIII, in agreement with the Committee on Armed Services, actually provides for a longer period of withdrawal for 15 years, not until just 1997, as does the amendment of the gentleman from Utah.

Third, the gentleman from Utah is not even really dealing with the El Centro withdrawal. The gentleman from Utah is not dealing with the 46,000 acre request of the Department of Defense that withdraws the El Centro area from consideration, which is a major concern of the Department of Defense with regards to the California desert.

We are trying to deal with the Miller-Dellums-Vento title VIII. We do not, in fact, as I said to the gentleman in my previous remarks before I was aware that he was going to offer this, we do not deal with or try to change the necessary air space concerns. There are problems out there with military aircraft overflights. That is why I have submitted legislation on the subject and why the gentleman from Oklahoma [Mr. MCCURDY] and myself and members of the respective committees have had hearings on this specific issue.

This does not change the basic tenor. What is being proposed here by the Senate and by the gentleman from Utah is to in fact decide that issue in favor of, and on this bill, in favor of the military with no limitations whatsoever. The Vento amendment doesn't change the basic configuration of what the agreements had been in terms of air space reservation.

The Hansen substitute tries to decide it all in 1 day. This is a one-sided amendment. There has been no consultation. There has been no agreement on this amendment. I would hope that the gentleman would not pursue this amendment.

I can assure him that the issue, as he knows, he was in attendance at the hearing, is being addressed. We are aware of this problem, and I would hope that we would not pursue this particular amendment, because I think it is just one area of disagreement more in the House that we do not need.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, if I may, I thank the gentleman for yielding to me. On page 4, the El Centro ranges, we would be more than happy to accept that by unanimous consent.

Mr. VENTO. Mr. Chairman, I am not going to agree to that based on the tenor of today's debate and the way that this was brought up. I think that we have striven to keep this military withdrawal a non-issue in the House in the sense that it has been agreed to by the committees. This amendment, as the gentleman should know, the Lewis amendment initially submitted is out of order. It simply is not valid in terms of consideration under the rules of the House, but for the fact that it was offered in the way that it was offered, it would have been objected to.

So at this particular point, I think if there is no other alternative, the gentleman is going to pursue it, I think this amendment richly deserves to be defeated. I would urge the Members of the House to defeat this amendment.

This has nothing to do with the topic we are trying to accommodate and deal with the problems of the Department of Defense. This has nothing to do with the Desert bill in a sense other than the fact that the Senate is attempting to bootstrap this onto the legislation, and the gentleman from Utah has picked up on that theme.

We have tried to work this out. The Committee on Armed Services agrees with the language that we submitted, and the Committee on Natural Resources agrees with it.

The Hansen amendment should be defeated. I would urge Members to do so.

☐ 1240

Mr. LEWIS of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support the amendment offered as a substitute by the gentleman from Utah [Mr. HANSEN]. I would like to ask the gentleman a couple of questions, if I might, Mr. Chairman.

It is my understanding, Mr. Chairman, I would say to the gentleman from Utah [Mr. HANSEN], that his substitute is a reflection of that which was finally agreed to in the other body and in the committee hearings relative to military overflight.

Mr. HANSEN. Will the gentleman yield, Mr. Chairman?

Mr. LEWIS of California. I am happy to yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, I would tell the gentleman that that is exactly right. This has been kind of a tacky issue on both the Senate side and on this side on what would be military overflight. I am not in any way discounting the good work of the chairman, the gentleman from Minnesota [Mr. VENTO], but I think this is one that opens it up, that makes it easier, and would not be as restrictive as the language we were working with on the House side.

Mr. Chairman, I personally feel this is the kind of language that would be beneficial to our military people, and I think it would take care of many of the problems we have been encountering. I may add to what the gentleman from California [Mr. LEWIS] has brought up, little by little we see more restrictions coming in there. We do not know if we are going to have any place left for our people to have the idea of testing.

Also, Mr. Chairman, many of these testing ranges, when we talk to the Pentagon, are being considered for being closed, so we are going to get to the point that I do not know where we are going to test. I imagine Siberia, if we could work something out with those folks, is about the last place we could test that someone is not going to be upset with us or worried about ruining their wilderness trip or hearing an airplane or having an experience where they are completely silent.

I think people have to accept the fact that this has to be done and it is part and parcel of what we do in the military, and an extremely important part.

Mr. LEWIS of California. Mr. Chairman, I thank the gentleman. My concern about the Vento proposal versus this substitute is that every indication we received as this bill went through the complete process in the House was that the committee was avoiding military language while in committee, because they essentially wanted to avoid re-referral to the appropriate policy committee that really should be dealing with this issue.

Mr. Chairman, it is a pretty fundamental question relative to those training grounds that the gentleman from Utah [Mr. HANSEN] is talking about. Military overflight is very, very significant and potentially impacts very greatly the ability we have to effectively train our troops, particularly the pilots who fly our airplanes. There is little doubt that the Senate dealt with this matter after considerable struggle, debate, and compromise. Senator NUNN, among others, apparently served as the driver behind the language that is part of this substitute.

The point is, Mr. Chairman, that we want to make certain that military overflight does not interfere across the country with training processes that are so vital to our national interest. If indeed the gentleman from Minnesota [Mr. VENTO] had chosen to present this amendment or this proposal in the committee, or in his subcommittee, that would be another circumstance. It was clear that they wanted to avoid the Armed Services committee which really understands this issue. What my colleague, Mr. HANSEN, is attempting to do here is essentially take the language of that compromise that took place in the other body, use it as a substitute here, and then negotiate the process out as the bill goes to conference.

Mr. Chairman, indeed, I urge the House to support the substitute offered by my colleague, the gentleman from Utah [Mr. HANSEN].

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I want to explain to the gentleman that the concern was not to avoid it. We worked with the Committee on Armed Services. This is not the Vento amendment, it is the Miller-Dellums amendment we are dealing with, and it does include the El Centro. In fact, we have made several changes that are a compromise. For instance, removing to the wilderness area from Death Valley the 17,000 acres was another compromise. There have been a number of compromises made.

Mr. Chairman, the fact is that the language from the Senate has not been heard in any committee. Nobody knows what it is. It has not been considered by any of the committee members. It is simply a matter that has not been exposed to the light of the day. It does not accomplish what needs to be done in terms of El Centro and some of the other issues in the desert that are at the insistence of the Members. The delegation wanted this included in the withdrawal. It does not withdraw wrongly, it just does not do the job, so it is basically throwing out what has been.

If we go to conference with the same language, there will be no negotiations.

Mr. LEWIS of California. Mr. Chairman, if I could reclaim my time, if the gentleman would agree with me that this is a complicated issue and we ought to send this bill with this matter to the Committee on Armed Services of the House, all right.

Mr. VENTO. Mr. Chairman, if the gentleman will continue to yield, if we act on this, it will be all done. The Senate language will be the same. There will be no consideration or modification of this. That is why I am urging the rejection of the Hansen amendment.

Mr. LEWIS of California. Frankly, Mr. Chairman, I am very disconcerted by the fact that the committee has done all that it can by their past actions to avoid input from, as we have discussed many times, those Members who are elected to represent the desert by way of consultation. It is very clear that there was some attempt to avoid the Committee on Armed Services in the House as well, a re-referral.

In this case, Mr. Chairman, I would certainly tend to put my faith in the work that was done by the likes of Senator NUNN on the Senate side. I would urge my colleagues to support the proposal of the gentleman from Utah [Mr. HANSEN].

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. FARR] to the amendment offered by the gentleman from Minnesota [Mr. VENTO], as modified.

The amendment to the amendment, as modified, was agreed to.

Mr. MILLER of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, once again, unfortunately, our colleague, the gentleman from California [Mr. LEWIS], has provided some kind of capital based on his theory and his construction of how this bill was considered, which was a very open process. Any and all amendments could have been offered in committee. Some were and some were not. The fact is that at the time we were considering this legislation, the Committee on Armed Services was considering their authorization bill and getting ready to bring that to the floor, and we told them in advance that this is, in fact, what we were going to do. We sat down in advance of the bill leaving our committee. After it left our committee with the people of the gentleman from California [Mr. DELLUMS], with the people of the gentleman from Utah [Mr. HANSEN], with the people of the gentleman from Oklahoma [Mr. MCCURDY] on the Committee on Armed Services, they reviewed these provisions. That is why the chairman, the gentleman from California [Mr. DELLUMS] has signed off on this legislation contingent upon the Farr amendment being adopted, which has now been adopted, and clearly the Vento amendment more clearly reflects the needs of the withdrawal proposals within the California Desert Act.

Mr. Chairman, I would hope we would go along with what the Committee on Armed Services of this House has considered, both the gentleman from Oklahoma [Mr. MCCURDY] and the chairman, the gentleman from California [Mr. DELLUMS], with what we have considered and addressed this. It is very interesting that the criticism is that we did not consider it with the Committee on Armed Services, when in fact we did, and yet the gentleman supports legislation from the Senate that never went to committee, that they never had a hearing on.

We can understand that the gentleman from California [Mr. LEWIS] wants to act like he fell off the back of the vegetable truck and found himself in Congress this morning. He is a very clever member of the Committee on Appropriations, very skilled, but in fact his arguments ought to be rejected. We ought to get on with the one amendment that has been addressed by both the Committee on Armed Services, signed off by the chairman, our committee, and addresses the problems of the California Desert Protection Act as it affects military overflights and maneuvers. I would hope we would consider the Vento amendment as now amended by the Farr amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah [Mr. HANSEN] as a substitute for the amendment offered by the gentleman from Minnesota [Mr. VENTO], as modified, as amended.

The amendment offered as a substitute for the amendment, as modified, as amended, was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. VENTO], as modified, as amended.

The amendment, as modified, as amended, was agreed to.

The CHAIRMAN. Are there further amendments to title VII?

AMENDMENT OFFERED BY MR. DUNCAN

Mr. DUNCAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DUNCAN: Strike Section 702 in its entirety and insert the following:

"Sec. 702.

"Authorization of Appropriations. There are hereby authorized to be appropriated to carry out the purposes of the Act an amount not to exceed $36 million for all additional construction and operational costs over the next 5 years and $300 million for all land acquisition costs. No funds in excess of these amounts may be used for any purpose authorized under this Act without additional, specific authorization of an Act of Congress. Provided further, that operational funding and staffing to support new National Park Service responsibilities established pursuant to this Act may not be reallocated from any National Park Service area outside the State of California."

Mr. DUNCAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

MODIFICATION TO AMENDMENT OFFERED BY MR. DUNCAN

Mr. DUNCAN. Mr. Chairman, I ask unanimous consent that the amendment be modified.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment, as modified.

The Clerk read as follows:

Amendment, as modified, offered by Mr. DUNCAN: Strike the amendment in its entirety and insert the following:

APPROPRIATIONS

SEC. 702. There are hereby authorized to be appropriated to the National Park Service and Bureau of Land Management to carry out the purposes of this Act an amount not to exceed $36,000,000 for additional administrative and construction costs over the fiscal year 1995–1999 period and $300,000,000 for all land acquisition costs. No funds in excess of these amounts may be used for construction, administration, or land acquisition authorized under this Act without a specific authorization in an Act of Congress enacted after the date of enactment of this Act.

Mr. DUNCAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment, as modified, be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The CHAIRMAN. The amendment is modified.

The gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes in support of his amendment, as modified.

Mr. DUNCAN. Mr. Chairman, the amendment I offer today is one which I feel can and should be supported by anyone who is in the least concerned about either our tremendous national debt and the impact of this legislation on our taxpayers, or this country's great National Park System.

Mr. Chairman, my amendment simply replaces the open-ended "such sums as may be necessary" language currently in the bill with the Congressional Budget Office estimate of $336 million.

Mr. Chairman, the National Park Service already faces a 37-year backlog in funds for development of existing parks and a 25-year backlog in funding for land acquisition at existing parks.

H.R. 518, as reported by the Natural Resources Committee, ignores both of these considerations.

Instead, it authorizes unlimited expenditures, funds which will come from the already underfunded National Park Service.

□ 1250

In the State of California alone, the National Park Service reports a shortfall of $936.4 million for construction and land acquisition and $31.8 million for annual operations at its existing 20 National Park Service areas in that State.

I would like to quote from Senator BYRD's floor statement when he spoke in opposition to this bill in the other body:

> We cannot adequately maintain the parks that we now have, nor buy the lands which the authorizing committees have told us to buy. Having three new beautiful national parks would be nice. In an age when the United States enjoyed small deficits, creating new parks would be desirable, but we, in this Chamber, have to come to grips with the realities of the age in which we live. One does not go out and buy a Cadillac when one cannot make payments on the family Ford.

To address this concern, my amendment limits the amount that can be spent to implement this bill based on the amount projected by the Congressional Budget Office.

According to the Congressional Budget Office, this measure will cost between $100 and $300 million for land acquisition and $36 million in additional costs over the next 5 years for construction and administration.

I have a letter from Secretary Babbitt, which I will insert into the RECORD, in which he asserts that based on the experience of his Department in implementing similar legislation, the cost of H.R. 518 will be less than the amount estimated by CBO.

Certainly, this amendment does not totally solve the problems in this bill of unfunded mandates for our National Park System, but it does institute some degree of accountability.

It puts in place a very liberal and feasible ceiling on the total cost of this effort, which can be enforced and monitored during the annual appropriation process.

The fact is that funds for operating our existing park areas are not likely to see increases in the near future.

Further, Secretary Babbitt recently ordered the National Park Service to cut 1,325 positions, about 7 percent of their work force.

Last month, in testimony before the Senate, National Park Service Director Roger Kennedy stated that it was his intent to take personnel from other existing National Park Service areas in order to staff the 350 vacant positions at the proposed new Presidio National Park in San Francisco.

Mr. Chairman, many National Park Service areas across this country cannot afford to take any more cuts in funding or personnel. I know this is true of the Great Smoky Mountain National Park, part which is in my district.

Ninety percent of the lands addressed in this bill are already owned by the Federal Government, and there are already nearly 4 million acres of Mojave and Sonoron Desert lands in the National Park System today.

The only thing this bill really provides is a more expensive way to manage these 8 million acres, which will result in less economic opportunity and fewer jobs for Californians.

I believe it is not in the national interest to take money from other National Park Service areas to implement this legislation.

Let me make clear, so that my colleagues understand, my amendment simply replaces the open-ended "such sums as may be necessary" language in this bill with the Congressional Budget Office estimate of $336 million, which is greater than the amount Secretary Babbitt says we need to implement this bill.

This is a very reasonable and sound amendment. The fact is that we cannot continue to pass bills around here that provide such sums as may be necessary. We simply cannot afford to operate like this anymore.

We always get low ball estimates on the front end of almost every project. My amendment leaves a huge amount of funding for this legislation, but it still sets at least some type of cap and gives us a little more certainty on the total cost. The American people do not want us passing bills when we have no idea or at least no limitation on what the actual cost will be.

I urge support for my amendment.

Mr. MILLER of California. Mr. Chairman, I move to strike the lasts word.

Mr. Chairman. if I might ask the author of the amendment a question, it is my understanding that the intent of the amendment is to place a cap of $36 million over and above fiscal year 1994. Is that correct?

Mr. DUNCAN. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Tennessee.

Mr. DUNCAN. That is correct.

Mr. MILLER of California. Mr. Chairman, I ask unanimous consent that that be inserted into the amendment and then we would be clear on that.

Mr. DUNCAN. Mr. Chairman, I have no objection to that.

The CHAIRMAN. The gentleman from California [Mr. MILLER] would have to present a modification to the desk.

Mr. MILLER of California. Mr. Chairman, I ask unanimous consent to modify the agreement to reflect that it is over and above the cost of fiscal year 1994.

The CHAIRMAN. The Chair would like to have that in writing from the gentleman from California [Mr. MILLER].

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Minnesota.

Mr. VENTO. I would just on the general topic while we are getting that prepared so that it will be in writing, I think it is important, Mr. Chairman, there are a couple of elements here that I think should be considered. Obviously here we are dealing with a piece of the California desert, the park areas, and treating them separately from the BLM wilderness managed areas and the other lands that will be managed in a general manner. Clearly because of the expansion of Death Valley and Joshua Tree, we have BLM lands that are being transferred to the Park Service including the east Mojave area. That will free up dollars or should free up some dollars from BLM which is now managing those lands and they will have to be, of course, dedicated or partially dedicated to the Park Service management of the lands that they will be absorbing in this particular instance.

Mr. Chairman, I think it is important to recognize that Death Valley and Joshua Tree monuments now being expanded and made parks by this bill already have base budgets which I think the gentleman from California [Mr.

MILLER] has rightly stated that the 1994 appropriation or authorization ought to be built upon.

I agree, frankly, with the concern of the gentleman from Tennessee [Mr. DUNCAN] about stating specifically insofar as we have information as to what the development ceiling, what the land ceilings ought to be. If there are difficulties with that, if there are special expenditures that are being made that are unusual, they can come back before the committee to explain them. I would like to state as the gentleman from California continues to yield to me that there has been a lot of discussion about the backlog in terms of park dollars. We are getting some specific information. I might say that I have repeatedly tried to qualify or tried to find specific information from the current Secretary of Interior and from the Park Director about these backlogs cost statement. In fact, the first backlog discussions occurred because of GAO studies initiated by Congress and instigated by Congress and questions as to what the backlog problems were. They are, in fact, not even half as much as some of the explanations and some of the material that has been passed around and suggested. I will not go through it, but it is substantially less and a substantial amount of it is in roads, in highway construction dollars, some in park construction dollars, some in unprioritized construction, and amazingly over a $1 billion backlog in land purchases.

Of course we have repeatedly, during the 1980's, talked about the shortfalls in the land water conservation fund and the fact that it was not carrying out the intended task and policy; the result has been, of course, the land costs within the parks have dramatically increased during that period of time. As many of the Members and committees had predicted.

I thank the gentleman from California for yielding and for my opportunity to point these differences out.

I think he now has his amendment ready.

Mr. MILLER of California. I thank the gentleman for his comments.

MODIFICATION OFFERED BY MR. MILLER OF CALIFORNIA TO THE AMENDMENT OFFERED BY MR. DUNCAN, AS MODIFIED

Mr. MILLER of California. Mr. Chairman, I ask unanimous consent that the amendment be modified so that there be inserted after "36,000,000" the phrase, "over and above that provided in fiscal year 1994."

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification offered by Mr. MILLER of California to the amendment offered by Mr. DUNCAN, as modified: After "$36,000,000" insert "over and above that provided in fiscal year 1994".

The CHAIRMAN. Is there objection to the request of the gentleman from California [Mr. MILLER] that the amendment be modified?

There was no objection.

The text of the amendment, as modified, is as follows:

Strike the amendment in its entirety and insert the following:

APPROPRIATIONS

SEC. 702. There are hereby authorized to be appropriated to the National Park Service and Bureau of Land Management to carry out the purposes of this Act an amount not to exceed $36,000,000 over and above that provided in fiscal year 1994 for additional administrative and construction costs over the fiscal year 1995–1999 period and $300,000,000 for all land acquisition costs. No funds in excess of these amounts may be used for construction, administration, or land acquisition authorized under this Act without a specific authorization in an Act of Congress enacted after the date of enactment of this Act.

Mr. HANSEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Duncan amendment as modified by the gentleman from California.

Mr. Chairman, I feel we have before us an excellent amendment which is something long overdue in this House. The gentleman from Tennessee [Mr. DUNCAN] has brought up a very realistic point talking about what can and cannot be done with the money that we appropriate for various things.

I think if people look at this California wilderness bill and the three parks that are inherent in it, have to realize that from time to time we miss the amounts of money that go on around here. They used to say in the construction business, "Whenever you build a house, one thing you should remember and you will not be frustrated, one, it is going to take longer and, two, it will cost more."

Mr. Chairman, that seems to be a standard around here, also. To give an example of that as the gentleman from Tennessee [Mr. DUNCAN] pointed out, we always get the low ball estimate and it does not turn out that way. Medicare passed in the House and Senate years ago and this body and the other body missed it the first year by 300 percent.

☐ 1300

Now, you take 300 percent in the insurance business, if they miss a line by 6 percent, they go broke. So it seems to me it would be an interesting study for someone at some time to figure out all the things we say it is going to cost and then what it really costs, and we will find we give a lowball estimate on this almost every time.

There was an interesting discussion between the chairman, the gentleman from Minnesota [Mr. VENTO], and others about what the costs of parks are. As we get into some of these particular areas, we find there is a difference of opinion, if I may say to my friend, the gentleman from Minnesota, as to what it costs on the land and water money, what it costs for infrastructure of parks, and I personally feel that the gentleman from Tennessee [Mr. DUNCAN] has come up with an excellent amendment, one we should probably consider in many pieces of legislation around here, and we would probably be in better shape as far as worrying about the estimated costs that are going to come forward.

So with this very reasonable amendment, I would like to offer my support and urge the Members of this body to support it as it comes up for a vote.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I want to emphasize we do support this. The gentleman has been productive in terms of producing specific language. We like to have specifics. We want accurate information as far as the costs are concerned.

I might say that it is to no one's advantage to either overstate or understate what the costs are. There is a significant backlog in land and construction projects and highway and road projects within the parks. We should recognize that as we are dealing with the issue.

I wanted to assure the gentleman that that is my interest, as it is his.

Mr. HANSEN. I appreciate the assurance of the gentleman from Minnesota. I think, if you do any traveling this year and stop in a park, talk to the superintendent about the backlog he has got in infrastructure. You have got a whole day of listening to him. They all seem to be in that position.

Mr. LEWIS of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and Members, I think the amendment by my colleague, the gentleman from Tennessee [Mr. DUNCAN], is a very important amendment, for the language of the bill otherwise would allow for the expenditure of such sums as may be necessary for the entire process to consume.

It is very apparent by the history of some of these efforts that we need to be rather specific in making certain that there is some dollar limitation on legislation which is passed on the floor of the House after this committee has worked its will. As an Appropriations Committee member, I make that point in a very special way.

In the Senate when this item was considered, the chairman of the Senate Appropriations Committee, Senator ROBERT BYRD, suggested that we have severe difficulty with the cost of these programs and indicated that someone does not go out and buy a Cadillac when one cannot make the payments on the family Ford. What he was really referring to essentially is this, we can't pay for the operation, maintenance, and land acquisition of our current park system.

Let me share with the House one example of this: On August 10, 1988, the House debated the Manassas National Battlefield Park amendments. The Congressional Budget Office estimated this acquisition would cost roughly $13 million. Many of my colleagues suggested the Manassas bill could cost as much as $100 million.

My colleague, the gentleman from Minnesota [Mr. VENTO], a member of the Natural Resources Committee, said, and I quote, "The fact is that there have been a lot of scare tactics used on this floor throughout the debate. The scare tactic is that somehow this bill is going to cost $100 million. The developer paid less than $10 million for it less than 2 years ago." Mr. VENTO said, "The Congressional Budget Office reports the assessed value at $13.6 million."

Well, my friends, the Manassas legislation has cost the taxpayers well over $150 million, and the acquisition is not complete yet.

Obviously this was not a scare tactic, but it is, to say the least, frightening. The CBO estimate for just land acquisition for H.R. 518 is between $100 to $300 million. Based on the Manassas battlefield estimate, the actual cost of land acquisition, I would not really suggest this would ever happen, but just think about it. It could be between $1 and $3 billion.

During this time of increased fiscal awareness, is the House really prepared to pass legislation with a price tag this high? My constituents want Congress to cut spending first, not continue to increase the deficit.

In California, there are already 20 units of the National Park System with 22,000-plus acres of authorized but unacquired lands. Estimates vary, but land acquisition costs from the Santa Monica Mountains National Scenic Area alone have been estimated at $500 million to $1 billion and are climbing every day.

To put this in perspective, Congress appropriates between $80 and $100 million a year for land acquisition throughout the entire National Park System. But the value of the backlog of unacquired lands is really in the billions.

Why should we obligate a large expenditure of funds that should, instead, go to existing units of the National Park System? Should we not preserve what we have already designated before we create new mandates?

It is no wonder the American people are faced with a burgeoning Federal deficit.

This next chart, my colleagues and Members, kind of outlines in California the budget shortfalls at selected locations in our State. At Yosemite, no minor park of some interest, annual operating shortfall of $9.4 million; construction and land acquisition shortfall of $394 million. But let us say we are not worried about all the rest of these, but let us go down to the Channel Islands National Park, one of our last actions. There is a $3.3 million shortfall in operating costs, annual operating costs; $62 million in construction and land acquisition.

To say the least, we have promised an awful lot more than we are able to fully fund by the work of this fine committee that has this bill on the floor today.

Unlike many of our national parks, the California desert is not threatened from overdevelopment. It is more appropriately and cost-effectively managed by the Bureau of Land Management.

Desert legislation must balance desert protection with economic preservation. The bill before us today, H.R. 518, fails this criteria test.

However, legislation introduced by my desert colleagues and I does pass this test. The only problem is in the past we have not been able to get that legislation set for hearing in the committee.

The CHAIRMAN. The time of the gentleman from California [Mr. LEWIS] has expired.

(By unanimous consent, Mr. LEWIS of California was allowed to proceed for 1 additional minute.)

Mr. LEWIS of California. Mr. Chairman, the reality is that across the country in park after park and wilderness after wilderness we find ourselves in the circumstances where our committee puts up a big wish list, considering what they would like to do in terms of expanding Federal ownership of public lands, never considering how you pay for it. The reality is that we are faced with a $4 trillion deficit, and every extra dime that this committee recommends that we spend, no matter how we should pay for it, just adds to that deficit.

The desert of California is doing mighty well by itself without my colleagues from this committee, I must suggest, but in the meantime as we go forward with this bill, the least we ought to do is to put some lid on what the costs will be.

They are suggesting whatever we might consume. Well, friends, what we might consume is all that we have for the rest of the year to spend. This is a bill that requires careful consideration, not just in terms of public policy but in the costs to the American taxpayer. I strongly support the Duncan amendment.

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the amendment and at odds with the statements of my colleague, the gentleman from California [Mr. LEWIS], the commitments made and the sequency of events and status of the National Park Service financial needs.

I note that in holding up a chart talking about whatever the construction backlog is, it is not any discussion, and/or land, whether or not any of that is authorized at all for Yosemite or for the construction of any of the buildings. Some may not have the ceilings on that he is seeking for these new parks today.

I think those ceilings ought to be put in place. But historically they have not always been. So what you are really looking at is a wish list of a park superintendents or a general management plan that guides these parks goals.

Second of all, in terms of establishing the units, the Congress some time ago, almost over 25 years ago, set up what is called the Land Water Conservation Fund that sets aside nearly $1 billion each year for States and for the Federal Government land management agencies to expend money on the purchase of lands; the intention is, as we expend resources or expend and develop the oil on the outer continental shelves of this Nation, the idea was to take, as we exploit or use a resource, to preserve a resource. The idea was to preserve and to buy historic sites, great natural resources in our States and across this Nation to provide that in perpetuity for the American people to conserve those areas.

The fact of the matter is that Congress and the administrations over the past decades have failed to provide or to allocate the dollars from that Land Water Conservation Fund to the point today where there is nearly $10 billion in Land Water Conservation Funds that are available until expended that are supposed to be going for the parks, for the national forests, for the BLM, and for the State conservation lands. So we are not keeping that pledge.

We made that pledge in law and it is not being kept. We are taking and using that money, those dollars, for other purposes. If that were available, it would certainly eclipse any type of commitments that have been made with regards to the parks, and, yes, even for Manassas or for Bull Run, as we in Minnesota refer to it.

The fact of the matter is, Mr. Chairman, I cannot make up for the lack of credentials and ability and motivation of the Justice Department in terms of advocating or representing the Congress and the American people in the courts to enforce the laws that are enacted.

□ 1310

The court made a decision on the value of Manassas land added to the park. I think the information I quoted in that debate was accurate with regard to what was paid, what the assessed valuation is, but the court decided to award and to enrich an individual who had made some investment. We were wronged. But I think that part of the error has to deal with the way the case was presented. The fact of the matter is we know in case after case during the decade of the 1980's we found the Justice Department lawyers showing up 2 days before a case was to be presented to a court, in order to prepare their case. I suggest that is not good diligence. They did not do their homework.

The result is they penalized the United States taxpayers and the Congress in terms of cost and the policy that was to be developed. I think we would look to the difference or the changes in the Justice Department with regard to these problems of representation. Mr. Chairman, the Congress has acted prudently with regard to the expansion of the Park System. It has been modest. Much of the cost is embedded in the existing units. The American public want these parks, the American public needs these parks, and they want to have them as a lasting legacy.

The parks in California that we intend to act on in these remaining weeks during the summer will be a legacy that many of us can look back on and be very proud that we expanded and developed and designated places like the Mojave Desert, places like Death Valley, like the Joshua Tree Parks. These are public lands, and the public and the youth of today and the citizens today and tomorrow have a right to have such a legacy. We should not diminish that or destroy it in the name of trying to make the case with regard to a different philosophy or a different policy with regard to these lands.

Mr. MCCANDLESS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I listened with a great deal of interest to my colleagues relative to the budgetary process. The fact that they were talking about the substitution of Bureau of Land Management budget authority and its appropriation to offset additional costs involved in this project. I would call, again, to the attention of the subcommittee chairman and the full committee chairman that the entire area in question has a total of 42 Bureau of Land Management rangers. Now, we have talked about the size. It is my understanding that the size of this is twice, to repeat, twice the size of Rhode Island. So we are saying, well, OK, we are going to have 42 highway patrolmen for the entire State, 2 States of Rhode Island, to manage what it is we have here in the way of additional wilderness, special designations, closing of existing wilderness, special designations, closing of existing roads, pathways, whatever the designation may be. I have a lot of concern here about the fact that we are talking about the substitution of an already—how should we say it—diminished ability on the part of the existing Federal agency to manage what it has now.

Certainly the amount of money involved would not be anywhere near—would not take care of—what is going to be required in the way of additional management, given the fact that this legislation would add additional parks to the authority of the National Park Service.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. MCCANDLESS. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, just briefly, I want to thank the gentleman for his observation. I know he intended to imply that the transfer would be equal, that there would not be additional costs here and thinks that there are. I would suggest that when the committee's hearings and debates had begun on this, as I recall, there were 25 BLM personnel in the desert. So we have made some progress. All of us can agree it ought to be enhanced, the presence of BLM, not only in California but elsewhere, so that they can do a better job and meet the expectations. I thank the gentleman.

Mr. MCCANDLESS. I appreciate the gentleman's comments. It was through the Committee on Appropriations, particularly the interest of Congressman LEWIS, that we were able to increase the number from 22 to 44, which is just a drop in the bucket as to what is necessary to properly manage this activity.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. MCCANDLESS. I yield to the gentleman from California.

Mr. LEWIS of California. I thank the gentleman for yielding.

Mr. Chairman, I asked the gentleman to yield, to at least respond, in part, to some of the statements made by my colleague, the gentleman from Minnesota, BRUCE VENTO, regarding my presentation and the shortfall in the national parks. It was suggested in his remarks that these items had not been authorized. It is my understanding that indeed they are authorized.

There is some question as to whether the authorization included language with some specific lid on the amount authorized. On about half of them, there has been a specific amount, a specific limitation; on the balance, there is not. It is left to the discretion of the needs that exist in those parks, based upon the local supervisor. But I must say the backlog is very real, and we do not find the funds to actually appropriate the money needed to carry out the promises made, often by our authorizing committees. I must say that Secretary Babbitt suggested that there would obviously be enough money available to carry out the intention of the bills that passed from the committee of the other body. One more time we get the promise without having to bite the bullet relative to the appropriations process and see where this money is going to come from.

I have with me a letter from my colleague, Mr. VENTO, that addresses his response to my concern about a very specific problem in one of these parks. In one of these parks, Ranger Mike McKie is shown in this news article lowering a flag before the residency has been provided at this park. It happens to be—you see those truck crates, those metal cars often on railroad cars across the country? He has one of those metal-framed items with holes cut in it, and he is living in it in one of our parks, Death Valley National Monument. We have asked for funding to provide adequate facilities for rangers to live in, and the response from the committees is, "We have other priorities. Don't worry about those rangers who are out there." They are living like they were in a ghetto rather than in one of our national parks.

Mr. Chairman, we are long past due recognizing that the promise is one thing and to pay the bill is another. This bill before us, lots of promises are being made.

The CHAIRMAN. The time of the gentleman from California [Mr. MCCANDLESS] has expired.

(By unanimous consent, Mr. MCCANDLESS was allowed to proceed for 2 additional minutes.)

Mr. LEWIS of California. Mr. Chairman, will the gentleman continue to yield?

Mr. MCCANDLESS. I yield.

Mr. LEWIS of California. I thank the gentleman.

Mr. Chairman, in this bill we have many a promise but no indication as to how we ought to pay for it or adjust our priorities; it is simply language that suggests how it may be consumed by the needs of this bill. I think the gentleman's reasonable limiting amendment is long past due in this process, and I commend him for his effort.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. MCCANDLESS. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, I appreciate the gentleman from California, Mr. LEWIS', comment with regard to housing in the parks. I would just suggest to you that we are undergoing a major reevaluation of housing in the parks because traditionally the Forest Service and BLM have not provided housing for their employees. The Park Service has fallen into a pattern of continuing to add this in irrespective of what the changes are, either demographically or geographically with regard to location and to the cost of housing. So you do not find a ready advocate in me for necessarily housing in the parks, especially if it is not necessary. I think that is one of the problems with some of the backlogs that we get.

I think Death Valley is a substantial area, it may be in a remote area, and in those areas we need to deal with housing. But the pattern here has been that we have done this in the past and we are going to continue to do it in the future, and it is exactly that type of a decision that we have to address to reprioritize what our housing policy would be with respect to our employees and for others, concessionaires in the park. I will be working with the gentleman and others to try to do a reasonable job with respect to that problem.

Mr. MCCANDLESS. Reclaiming my time and responding to the subcommittee chairman, I find it difficult to accept the fact that we have traditionally not provided housing for this type of a Bureau of Land Management employee. I do not think the Bureau of Land Management employee would be living out there under these conditions unless it was something that he was asked to do or required to do by the management of that region.

Mr. VENTO. Mr. Chairman, will the gentleman yield to me?

Mr. MCCANDLESS. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, I did not understand. My point was that the Park Service finds it essential that they have housing in the parks. BLM and Forest Service less often provided it.

The CHAIRMAN. The time of the gentleman from California [Mr. MCCANDLESS] has again expired.

(On request of Mr. VENTO and by unanimous consent, Mr. MCCANDLESS was allowed to proceed for 2 additional minutes.)

Mr. MCCANDLESS. I yield further to the gentleman.

Mr. VENTO. I thank the gentleman.

My point is there has been the proper evolution, I do not think, in terms of policy with regard to housing of park employees, or not housing them. It is a sensitive issue to me, and I think it will be to the Members here. In some cases we simply do not need that housing. There is a lot of resonance in terms of building and doing things, but it does not necessarily serve the purposes of the park.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. MCCANDLESS. I yield to the gentleman from California [Mr. LEWIS].

□ 1320

Mr. LEWIS of California. I must say that the chairman kind of passes by neatly a pretty fundamental question. Maybe we do not need housing in these parks. Maybe in a remote area we might consider that policy question.

My colleagues, this is a remote area. We are talking about millions of acres way out in the countryside. Death Valley National Monument is huge, huge territory.

I quote Secretary Babbitt of the Department of the Interior. He says there are park rangers living with families in slums as bad as anything we would see in the third world, and that same secretary said in the committee of the other body that we will have enough money to carry forward whatever is required by this bill.

Well, my colleagues, it is time we tell these park rangers and their families, as well as the American taxpayer, how we are going to pay for it.

Mr. MCCANDLESS. Mr. Chairman, I thank the gentleman. I would like to respond by saying that we are asking people who are law enforcement officers, who are responsible; the basic responsibility lies within the framework of these officers to enforce what it is that this legislature and this legislative agreement that we are talking about is required to do and to say to them, "Well, we want you at a certain place 60 miles from the nearest grocery store, and we don't have anything out there, but we have been able to find some type of a railroad car that we bought for a price." This is just not the way we want to treat these people who have the basic responsibility for managing this bill, as it is to be implemented, into the real world.

Mr. VENTO. Mr. Chairman, will the gentleman yield just once more?

The CHAIRMAN. The time of the gentleman from California [Mr. MCCANDLESS] has expired.

(On request of Mr. VENTO and by unanimous consent, Mr. MCCANDLESS was allowed to proceed for 1 additional minute.)

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. MCCANDLESS. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I think the question we have to ask ourselves is BLM manages this land now at 24 employees. How many housing units do they have in the California desert? I do not know that they have any. They have 242 housing units, BLM does, throughout all of the units it has in North America, in Alaska and the contiguous States. They have 242.

So, this is the point I am trying to make here. It is that we have to harbor our resources carefully today and look at what the contemporary needs are. They ought to be living in the community, and I think there is a real advantage to that.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee [Mr. DUNCAN] as modified.

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: At the end of the bill add the following:

TITLE VIII—BUY AMERICAN ACT

SEC. 801. COMPLIANCE WITH BUY AMERICAN ACT.

None of the funds made available in this Act may be expended in violation of sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c, popularly known as the "Buy American Act"), which are applicable to those funds.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, earlier we had a hypothetical supposition by the chairman, that in the event that the gentleman from California [Mr. LEWIS] would fall out of a vegetable truck, here is what my amendment would do:

I would want that vegetable truck to be made in America, those vegetables to be grown in America, and, if the gentleman from California [Mr. LEWIS] would have to go to the hospital, I would want him to go in an ambulance that is made in America, and, if he needed to be x rayed, tested on machines, I would want those machines to be made in America because the gentleman from California [Mr. LEWIS] falling out of a vegetable truck on or about the desert could be good for American workers and the American economy.

So, Mr. Chairman, I ask my colleagues to support my buy American amendment and pass it overwhelmingly.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, we have looked at this amendment. It is fine.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, I think this is an excellent amendment, as all the amendments of the gentleman from Ohio [Mr. TRAFICANT] usually are.

Mr. TRAFICANT. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

Mr. MILLER of California. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MONTGOMERY) having assumed the chair, Mr. PETERSON of Florida, Chairman of the Committee of the Whole House on the

State of the Union, reported that that Committee, having had under consideration the bill (H.R. 518) to designate certain lands in the California desert as wilderness, to establish the Death Valley and Joshua Tree National Parks and the Mojave National Monument, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. BARLOW. Mr. Speaker, I was unavoidably detained and was not present to vote on the Miller amendment to H.R. 518, the California Desert Protection Act. But had I been here, I would have voted for the amendment, which was recorded as rollcall vote 319.

GENERAL LEAVE

Mr. DIXON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 4649) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes, and that I be permitted to include tables, charts, and other extraneous material.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from California?

There was no objection.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT 1995, INCLUDING SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS FOR FISCAL YEAR 1994

Mr. DIXON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4649) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from New York [Mr. WALSH] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

□ 1326

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4649, with Mr. MFUME in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from California [Mr. DIXON] will be recognized for 30 minutes, and the gentleman from New York [Mr. WALSH] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman and Members, I am pleased today to present to the House the District of Columbia appropriations bill for fiscal year 1995. I will be brief as to my remarks, but first I would like to thank the members of the subcommittee for their support and assistance, especially the gentleman from New York [Mr. WALSH], the ranking member of the committee, for his contributions. We have certainly not always agreed philosophically, but I think we respect each other's opinion, and I am pleased to announce to the House that, along with the ranking member, Mr. WALSH, and the gentleman from Virginia [Mr. BLILEY] who is the ranking member on the authorizing committee, and with the approval of the chairman of the authorizing committee, Mr. STARK, we have reached an agreement that I will touch upon in a few minutes.

This bill, Mr. Chairman and Members, is different from the other appropriation bills in two ways. First, it is balanced with budget authority equal to revenues; and, second, it includes the appropriation of three District kinds of funding. The first is the Federal money, which totals $720 million. Second, it includes local taxes and fees which amount to $3 billion. And third, it includes long-term borrowing authority in the amount of $5 million. These amounts add up to the total sum of the bill of $3.7 billion.

□ 1330

And that is the distinction that it has from the other 12 appropriation bills which only include Federal funds and they draw of their funds from the Federal Treasury.

We are also recommending a net increase of $22 million in supplemental appropriations and rescissions for fiscal year 1994. These are all District funds. There are no Federal funds involved in the 1994 supplemental which is included in this bill.

For fiscal year 1995, the $720 million to which I have just made reference is $20 million above last year's appropriation but $2 million below the President's request and $5.7 million below the city's request. The $720 million falls basically into 2 categories. The Federal payment, which is $667.9 million, and the Federal contribution of $52.1 million to the police, fire, teachers, and judges retirement system.

I would like to take just a moment to explain these two categories briefly. The Federal payment of $667.9 million is authorized under Public Law 102–102 that established a formula for determining the Federal payment for fiscal years 1993, 1994, and 1995. The formula is 24 percent of general fund local revenues collected by the District of Columbia 2 years prior to the budget year. This is the third and final year of the Federal formula payment under the current authorization.

I would point out that just yesterday I received a letter from the GAO which indicated that the Federal payment by their calculations should be $671.4 million, so we are well below their calculation.

We recommend $52.1 million, as I indicated, for the police, fire, teachers, and judges retirement system. This is the 16th of 25 annual payments authorized under Public Law 96–122. For the Police Department, we recommend $227 million. For the 81,000 students in the public school system, we are including an increase of $25 million for a total of $543 million for fiscal year 1995.

In the area of human resources, we are recommending $779 million, an increase over last year's recommendation of $14 million.

During our hearings we received a report from the Social Services Commissioner. I want to point out that I think she is making some progress in hiring and training additional social workers and eliminating overplacements, but one of the major problems with foster care from my perspective is that the District is having a difficult time trying to keep up with the new cases that come in. The largest single program under the "human services" category is the Medicaid program, which amounts to over 36 percent or $283 million of the Department of Human Services' budget. This $283 million is matched by the Federal Government, so that the total for Medicaid in 1995 is $600 million.

As most of us have been reading in the newspaper, the District is the subject of 30 or so significant equity suits that involve several programs and departments ranging from Housing to Corrections to Foster Care to code violations in the public schools. The requirements of these court orders and mandates are straining the District's resources.

The bill also includes $106 million for pay adjustments for all District employees, including police officers, firefighters, teachers, and other employees. This is the second year of a 3-year collective bargaining agreement. Prior to last year District personnel had not received a pay raise since October 1989 and were furloughed 12 days in fiscal year 1993. They were also denied within-grade raises for fiscal year 1993.

There are two language items that I would like to point out to the members of the committee. First, as it relates to abortion, the current law prohibits the use of Federal funds for abortion except to save the mother's life and in the case of rape or incest. The restriction on Federal funds is identical to the Hyde language adopted last year and this year on the Labor-HHS Appropriations bill.

The committee also deleted the restriction on the use of funds to implement the Domestic Partnership Act as requested by the District.

Before I conclude, I want to briefly share with the House the results of a well-publicized GAO and CBO report. On March 29, the gentleman from California [Mr. STARK], who is the chairman of the authorizing committee, and I joined in a letter to the GAO and CBO asking them to analyze and examine the budget and the budget process of the District of Columbia. They reported back to us on June 22. Our subcommittee transmitted a copy of the report to the members of our committee. I want to point out that there were no real surprises in the report. We had discussed in our hearings the issues that are discussed in the report.

I fully agree with the Members who indicate that there is a financial crisis in the District. It is a financial crisis that I believe can be corrected if the District takes action immediately to cut spending and improve its management of District funds. In my personal view, the problem is not caused necessarily by the lack of money that flows into the pipeline, although I would argue that on occasion the Federal payment has not been adequate, but, rather, it is the money that is flowing out of the pipeline. It is flowing out at a much faster rate than it is flowing in.

I understand that the District has a large number of citizens who need public services, and I think those services should be provided. However, I do think that the District must at some point take some of the priorities off the table. In that regard, a compromise has been entered into by the gentleman from Virginia [Mr. BLILEY], the gentleman from New York [Mr. WALSH], and myself. Basically, that compromise directs the District to reduce its spending in fiscal year 1995 by $150 million. Some would say that is an excessive amount, but I would say that there is a recognition by the District already of the impact of the agreement they have reached through a consent decree as it relates to the payment of arrearages to the pension fund, and because of that, the budget is out of kilter on a cash basis. When you take that money away and if you accept the proposition as you look at the anticipated revenues that they are exceptionally high in a declining economy; and if you accept the proposition that the Medicaid expenditures for 1995 are suppressed, that is, they are underestimated; and if the District is to reach the end of the year and still have a balanced budget, they are going to cut at least $100 million to $150 million. So as it relates to that money, I say that the Congress is directing them to do something that they would have to do anyway if they are to adhere to a balanced budget concept.

Second, it does not direct the District to make any specific cuts—we leave that judgment up to the Mayor and the City Council.

It also provides reporting requirements and an implementation plan. The language requires that no later than 30 days after the date of enactment, the Mayor of the District shall submit to Congress a report setting forth a detailed plan for implementing the reduction.

As we know, the gentleman from California [Mr. STARK] is holding hearings tomorrow on the Federal payment, and I want to assure this body that our committee, as well as Mr. STARK's committee, intends to stay abreast of the District government's spending, and District officials will have to make quarterly reports to the committees. In no event, though, shall they spend in 1995 more than they collect. There is a section in our agreement that says the total outlays of the District of Columbia during fiscal year 1995 shall not exceed the total receipts collected by the District during such fiscal year.

And, fourth, the compromise amendment provides that if in fact they do spend more than they collect the amount by which their outlays exceed their receipts will be deducted from the 1996 Federal payment.

□ 1340

I would rather come to the floor with no agreement; however, the District government is in a precarious financial situation and has lost its credibility with this Congress, so I feel it necessary, in order to get sufficient support for this bill, to enter into an agreement. But I think it is an agreement they would have to implement on their own if they were to keep good faith. From that perspective, I think it is a good agreement.

I would like to thank and acknowledge the fine work of the General Accounting Office and its staff. I also want to thank District officials for their total cooperation in the GAO report. It obviously was a very painful experience for them. But, under the circumstances, I think the findings of the GAO report are totally accurate, and I was pleased to see that the Wall Street analysts support the findings of the GAO report.

Mr. Chairman, I reserve the balance of my time.

Mr. WALSH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have enjoyed working with Chairman DIXON throughout this process and the other members of the subcommittee as we worked our way through the hearings and the markup. I would like to thank our subcommittee staff, in particular Shelia Brown on my staff, Debbie Weatherly, and Migo Miconi on the chairman's staff, for their hard work.

We heard a lot in these hearings. However, the chairman and I have drawn some different conclusions on how to respond, although, as the chairman has noted, we have reached, with the help of the gentleman from Virginia [Mr. BLILEY], a substantial compromise, that I think we can all support. I will comment on that later also.

The chairman also has accepted in the process two amendments that I offered. One was a requirement that the District provide quarterly reports on spending and revenue projections throughout the year to the subcommittee; and a second amendment that would provide appropriations of $250,000 for an audit of the pension board, following on to what the gentlewoman from the District of Columbia [Ms. NORTON] had requested earlier on. It would formalize that process.

Allow me, please, to share with you some of what I heard and also the results of the GAO audit requested by the chairman. Although the District received an additional $331 million from the Congress in proceeds under general obligation bonds in 1991, and then another $100 million more from the Congress, their cash position has declined since then by $200 million. They will finish the year 1995 with a minimum cash deficiency of $21 million. Minimum. The GAO suggests there could be more than $200 million in deficit at the end of 1995, and have to borrow from the U.S. Treasury.

While the mayor claims to have cut employment by 17 percent, the GAO audit shows employment at best has been reduced by 9 percent, but payroll costs have gone up. The Mayor decided not to pay pension payments this year, and the pension board was forced to raid the fund. Since then, an agreement was reached, but it cost the taxpayers an additional $13 million in penalties, fines, and interest. The Mayor has not yet explained where the dollars will come from to meet the obligations under this agreement.

The list goes on. The GAO report is dramatic evidence that the District of Columbia is out of control and headed for bankruptcy. We cannot stand by anymore and point to home rule. The law says that the District must present balanced budgets to the Congress to qualify for home rule, and they have not.

In 1991, supplemental request, they asked for and got an additional $103 million to balance their budget. In 1992, they transferred $28 million out of the water and sewer fund to the general fund to balance the books, a clear violation of their own charter. In 1993, they changed their property tax year to get five quarters into that year, to get an additional and phony $174 million. By the way, since our Federal formula grant is based only on that phony number, we are being asked to pay more this year because of it.

I planned to offer an amendment to reduce our appropriation by $41 million, but this compromise agreement covers that amount.

In 1994, the Mayor tried to renege on the pension payments to free up an additional $150 million and the city council established fees that may be ruled unconstitutional to gather another $35 million.

Estimates are that this year the budget is short by $200 million. Who do they think they are fooling? These are in the papers every day. Allow me to cite some of the problems that are not being addressed.

Just this week, we read that the Department of Housing, rated the worst in America, spent an additional $1.3 million to spruce up its own offices, while hundreds of rental units remained empty, unrepaired, and uninhabitable, and hundreds of Americans are living on the streets of Washington, DC, homeless.

Regarding home rule: We tell cities and States all over America what rate to pay for Medicaid reimbursements. We tell doctors basically what to charge for services. We tell schools what standards to achieve. We tell businesses what the minimum wage is and what constitutes a violation of their employees' rights. We tell States that they will get no highway funds unless they set speed limits at 55 miles per hour. We tell everybody what to do and how to do it. Why not the District of Columbia? The Constitution has given us the right and the authority to do that.

Home rule equals balanced budgets. If the District does not provide a balanced budget, we do not have to provide home rule.

One point on the District General Hospital, the District is writing off $10 million per year and they call this a loan to make the books balance. They are not collecting Medicaid or private insurance. The hospital is really a primary care facility, not needed as a hospital.

I will ask for a feasibility study over the next year to determine how to close the District hospital. It is currently $109 million in debt, accumulated debt, and it has been projected by the GAO audit that it will be $280 million in debt by the year 2000. Other District hospitals can make up the beds, room days at the DC hospital are down, surgeries are down. They need a clinic in the neighborhood, not a hospital that loses $10 million per year. Depending on the report and the management of that hospital over the next year, I will offer an amendment to eliminate funds under next year's appropriations bill.

Minimum cash shortfall for 1995, $9 million, probable $21 million. This year the District will receive $668 million from the Congress, from the taxpayers of the United States, in addition to $52 million directly on the pension fund, and $770 million in direct grants, which equals $1.5 billion to a city of 600,000.

A couple of points on mismanagement in the District. The Rivlin Commission said the District of Columbia has 40 percent higher staffing levels than the average city in America. The mayor said she would cut 17 percent. There has been nowhere near a 17-percent cut in employment. Just to make the point. My hometown, Syracuse, NY, 170,000 people, the District of Columbia has 600,000. So DC is about three times larger than Syracuse in terms of population.

The city council payroll for the District of Columbia is 192 employees. Syracuse, including the councilors, has 14 employees. Police, Syracuse, 757 total officers. DC, 5,429. Public works, Syracuse has 350 employees, DC has 1,240. The corporation counsel's office for a city of 170,000 in Syracuse has 29 lawyers. The District of Columbia has 247. The department of finance, Syracuse has 35 employees, the District of Columbia, 229.

Just to give you an idea, and you will hear the argument the District of Columbia is largely tax exempt, property tax exempt, because of all the government property. It is true, the District of Columbia is 49-percent tax exempt. But my hometown, Syracuse, NY, is 52-percent tax exempt. So the District of Columbia is not unlike any other State capital city or county seat city in America, in that its property tax is roughly 50-percent uncollectible because it is tax exempt property. So they are not unusual in that respect.

While the District of Columbia has county and statelike responsibilities, those are clearly apples to apples comparisons.

Mr. Chairman, in conclusion, last week the AIDS director for the District of Columbia resigned. Earlier this year, the health commissioner resigned, as did the Medicaid director. The Board of Elections officials, school superintendent, housing supervisor, the list goes on and on; these individuals have either resigned or been fired. We rarely saw a department head, the same department head this year in our hearings that we saw last year.

□ 1350

Something is dramatically wrong. Home rule and the current situation of unfunded pensions, unbalanced budgets, and poor management of city resources is no longer possible.

Mr. Chairman, I intend to comment on the compromise agreement when we get to the amendments.

Mr. Chairman, I reserve the balance of my time.

Mr. DIXON. Mr. Chairman, I yield 5 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, the District appropriation is always and perhaps always will be the most difficult appropriation to come to the floor of the House. I suppose this is in part because it is nobody's District but mine and it is nobody's responsibility but the gentleman from California [Mr. DIXON]. Of course, it is in everybody's interest to remember that it is everybody's Nation's Capital.

In bringing this appropriation forward, we have been struggling as the capital of the United States struggles to stave off insolvency. And when the time comes to cast a vote, I am going to ask Members to cast their votes for the District. And I am going to ask them to vote against any cuts beyond what the chairman and the ranking member of the Subcommittee on the District of Columbia have been able to agree upon.

For there could be nothing more true than that the District is drained of cash. I will speak to the compromise later. I want only to say at this time that I regret that the appropriation has provided the opportunity to bring or to begin to bring the District's budget under control. I am grateful that far more harmful approaches have been eliminated by virtue of a very tough compromise that has been worked out.

I ask my own constituents in the District to understand that while 80 percent of this budget before this House is their money, there was a real question whether we could get their money and the Federal payment through this House in an appropriation. And so the appropriation that comes out of here today comes out only because of the compromise that has been reached.

I opposed hurling the budget back at the District, because I believed it was a pitifully inadequate approach to the point of being counterproductive. I did not believe we would get back a piece of paper much better looking than the one that has been submitted.

Cutting the District and the appropriation attracted cuts of all kinds for the first time since I have been in the House. And yet cutting is precisely what the District has been doing now for several years. And so we have to ask, why has this not worked?

They have cut hundreds of positions, with layoffs and the elimination of positions. They have had 12 furlough days. They have had a pay freeze for 3 out of the last 5 years. With all that happening, why are we in this predicament?

I believe, Mr. Chairman, that it is because the cuts were disconnected from the restructuring of the D.C. government itself. And thus I think that perhaps the District could continue to cut until doomsday. But if it did not in fact look at the underlying problems, then I think it would have indeed been doing that, cutting until doomsday. In effect, the District has been making temporary savings because the underlying problems have remained intact, making more cuts necessary for the next budget period.

Part of this results because the District government grew like topsy before home rule and then was handed to the District, which simply added to it or reshaped what was there. This happened throughout the 1970's, and it happened throughout the 1980's, and it is happening throughout the 1990's.

The D.C. government needs to be finally taken apart and put back together again to get at recurring fiscal problems and shortfalls and deep structural problems in the way the District government itself is structured, full of redundancies and inefficiencies that simply have been built on top of one another year after year after year.

An example of the pre-home rule legacy, with direct and unaddressed congressional culpability, is the debt, the largest debt unilaterally created by Congress, the $5 billion unfunded pension liability which forces the D.C. government to spend currently $300 million annually to pay for pensions, as they say, on a pay-as-you-go basis.

What that increasingly means for the District is pay as you go broke. I certainly hope that the pension liability bill that is before the Congress will be passed this year as one way to begin to get a hold of a huge structural problem bequeathed us by this Congress.

The GAO report, however, is the result of a congressional initiative that has exposed the problem and its causes, and I think it is the GAO report that lays the predicate for whatever hope we have to moving forward beyond this problem at this time.

The short-term budget manipulations that would have come to the floor, if the compromise had not been reached, would have left the District struggling next year as it has this year. With this very heavy compromise, however, There would be no place to run and no place to hide, because the Congress has now made that impossible.

The predicate for a systematic reworking of the D.C. government has been laid by the Congress. It would have been my preference that this initiative come from the D.C. government. It is here now. There was absolutely nothing further that anyone in this body would have done to prevent it.

The chairman of the subcommittee, the gentleman from California [Mr. DIXON], put out his best, his very best, and I thank him sincerely.

The CHAIRMAN. The Chair would advise Members controlling the debate time that the gentleman from New York [Mr. WALSH] has 21 minutes remaining, and the gentleman from California [Mr. DIXON] has 13 minutes remaining.

Mr. WALSH. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia [Mr. BLILEY], ranking member of the Committee on the District of Columbia.

Mr. BLILEY. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I would like to thank the chairman of the Appropriations Subcommittee, the gentleman from California [Mr. DIXON]. I would like to thank the gentleman from New York [Mr. WALSH], the ranking member, for working together with this member as we deal with this situation.

I do not think that any of us enjoy being here in the position that we find ourselves today. I know that the chairman of the subcommittee, the gentleman from California, who knows better than anyone that this budget is in bad shape, does not wish that he is here today dealing with this as we have to deal with it. It is the spotlight that he has focused onto the District budget which has cast such a large shadow over this appropriations bill. Anyone who has followed the local news recently knows that the delegate of the District of Columbia does not want to be here. She has been dealt a very difficult hand, and she has handled it exceedingly well.

I can assure Members that I do not want to be in the position that I am in today. In the past 3 years I have helped the District with an infusion of more than $1 billion.

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Believe me, I do not take pleasure in saying that despite all of our efforts, the District is still facing a short-term financial crisis which pales in comparison to the long-term crisis dead ahead.

Mr. Chairman, District expenditures are growing at twice the rate of revenues and the annual budget deficit, if we do nothing, will grow to $742 million by the year 2000.

Let me state, Mr. Chairman, that this budget, the District budget, is not a partisan issue. We all share responsibility for the Nation's Capital. We are divided, however, between those who would have us do nothing, despite the evidence we have, and those of us who fully understand that the day of reckoning is here. We are all in our unfortunate positions because the District government has refused to make any changes in the budget before us. District officials have, instead, chosen a strategy of blaming Congress for the problems in the budget.

If that strategy works today and we do not force District officials to live up to their responsibilities under their home rule charter, we will see it repeated over and over again. If we do not demand that the District government revise this year's budget, there is little hope we will achieve any semblance of discipline in the future. The District will close the books early in fiscal year 1994, deferring some $30 million in disbursements into fiscal year 1995.

The District also faces an estimated $90 million in new expenditures to correct the more than 5,600 safety violations in the public schools. A judge has threatened to keep the schools closed until repairs are made. District officials acknowledge they do not have the money.

GAO found that the District has not budgeted funds to pay the cost for more than 300 inmates who are housed in Federal and other non-D.C. correctional facilities. It has uncovered violations of the Anti-Deficiency Act. Some have calculated that the fiscal year 1995 deficit for the District of Columbia will reach between $200 and $300 million.

Congress has done its part to help the District. Between 1990 and 1994, Federal assistance to the District has increased by nearly 30 percent compared to a 9-percent increase in general fund local revenues. In 1990 the Federal Government provided 49 cents for every $1 raised in local revenues. Today the Federal Government provides 58 cents for every $1.

As the gentleman from New York [Mr. WALSH] has pointed out, the Federal Government will provide more than $1.5 billion to the District this year. Members may be interested to know that the District has just recently projected it will receive $31 million more in Federal grants than it anticipated in April.

Mr. Chairman, I have been a strong supporter of the District and have worked hard on a bipartisan basis to help this great city. We all share a responsibility for the Nation's Capital, but we cannot ignore the reality and the seriousness of the District's financial crisis. We have a fiduciary responsibility to the American taxpayer to ensure that these funds are spent wisely and in accordance with Federal laws.

Mr. Chairman, I will speak at the time the amendment is offered. Again, I want to thank the gentleman from California [Mr. DIXON] for his patience and understanding and willingness to work together that brings us to this point today.

Mr. DIXON. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. STARK], the distinguished chairman of the authorizing committee.

Mr. STARK. Mr. Chairman, I thank the distinguished chairman of the Subcommittee on the District of Columbia of the Committee on Appropriations for yielding time to me, and I wish to engage the distinguished ranking member of the committe in a colloquy.

First, Mr. Chairman, I would like to take the opportunity to thank the gentleman for his work in bringing about this compromise, and to state that the gentleman on the Committee on the District of Columbia has been an advocate of home rule and has been a great help to us in attempting to assist the District where he can and resist interfering, where often fools would rush in where angels fear to tread. The gentleman has been a consistent aid in that, and I appreciate his patience. I want to commend the gentleman.

Mr. Chairman, I believe that I am quite right that the gentleman still maintains his commitment to home rule, is that not the case?

Mr. BLILEY. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Virginia.

Mr. BLILEY. That is the case, Mr. Chairman, I would say to the gentleman.

Mr. STARK. Mr. Chairman, we would both look forward to the day when perhaps this was not necessary and the payments would be more automatic, in the nature of real estate taxes, and he and I would have time to pursue other interests that might be of more importance to our particular constituents, but in the meantime I wanted to take this opportunity, along with the ranking member of the subcommittee, to thank them for arriving at this compromise. I think it is a wise step, and I think it will satisfy many of the concerns of the Members of the House, and, I might add, if any Members have a tremendous interest in this, I am sure the gentleman from Virginia [Mr. BLILEY] would say we always have room on the Committee on the District of Columbia for those who would like to pitch in and help. The gentleman does yeoman's work and I want to thank him for his cooperation in these matters.

Mr. BLILEY. If the gentleman will continue to yield, Mr. Chairman, I also want to thank the gentleman for his help in improving the language of the amendment that will be offered shortly.

Mr. STARK. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I support the District of Columbia appropriations bill for fiscal year 1995, and I commend Chairman JULIAN DIXON for his diligence in managing this bill through an arduous process under very trying circumstances. And, I especially want to commend the ranking member of the House District Committee, TOM BLILEY of Virginia, for his support of home rule and his role in reaching a compromise to finally bring this bill to the floor.

There is no longer any mystery as to causes and effects of the District's fiscal crisis. On March 29, 1994, Chairman DIXON and I commissioned the General Accounting Office [GAO] to conduct a comprehensive review of the District's finances. An excellent interim report was released by the GAO on June 22, 1994. With great detail and impressive analysis, the report explains how the District has reached this low point.

Based on GAO's findings, I am convinced that major financial and management reforms must be implemented immediately to avert financial calamity. However, this appropriations bill is not the proper vehicle for those reforms. Nor is it the role of the Congress to hastily impose major changes.

Out of my deep respect for home rule, I will oppose any amendment offered here today that would propose specific cuts in District programs. I will also vote against any attempt to impose the moral views of others on the sovereign residents of the District.

Nevertheless, the District's political and governmental leaders must make tough choices now. If not, the city will effectively "hit the wall" next year and need to borrow from the Federal Treasury. Time is of the essence.

Let me say Mr. Chairman, that I am disappointed that the District has failed to heed the warnings of even its best friends here in Congress. I know of the frustration of my colleague, JULIAN DIXON, to get the city to responsibly fulfill its own obligation to its citizens and to present Congress with a logical and balanced budget. My own attempts to get the city to acknowledge its need to demonstrate some modicum of fiscal discipline were summarily dismissed by the District. Matters did not need to reach this point.

Beginning tomorrow and over the next several weeks, my committee will consider legislation reauthorizing the annual Federal payment to the District. At that time, and in that context, the Committee will address many of the issues raised by the GAO report.

In closing, home rule does not absolve the District of its obligation to exercise responsible decision-making and fiscal discipline. Nor does it absolve the Congress of its responsibility to the Nation's taxpayers, including the District's residents. This bill now sends a clear signal to the District that Congress will not sit idly by while the District descends into bankruptcy.

Mr. WALSH. Mr. Chairman, I yield 2 minutes to my distinguished colleague, the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Chairman, I thank my colleague, the gentleman from New York [Mr. WALSH] for yielding me this time.

I intended to offer an amendment, Mr. Chairman, cutting $1.6 million out of this bill, but in light of the compromise that has been worked out I think the points have been made. I would like to associate myself with the remarks of the gentleman from New York [Mr. WALSH], which I think were excellent, and point out a problem that remains, notwithstanding that a compromise has been achieved this year.

I do offer my congratulations to the gentleman from New York [Mr. WALSH], the chairman, the gentleman from California [Mr. DIXON], and the ranking member, the gentleman from Virginia [Mr. BLILEY] for the hard work they have done to pull something together here.

However, Mr. Chairman, I have to point out that my remarks during the rule still are relevant. We have not made a fix. It is broken. Either the system is broken or the management is broken, I do not know which, but it has got to be fixed.

The chairman of the subcommittee has more or less agreed to that problem or to that hypothesis, Mr. Chairman, and has promised that we will try and do better. I think that is very important, because we do have a genuine financial crisis. The GAO has said so, others have said so, people who have looked at it have said so.

No matter whether people agree or disagree, we cannot come up with the fact that we are not having a problem with dollars. I think, Mr. Chairman, that the fact that we have a management problem still has been underscored, regrettably, in a Washington Post article, I think it was today, where it talked about the Housing Department, which was the genesis of my amendment, the problems that have been caused there by the scandal and the misappropriation of dollars for glorifying their headquarters when there are needs for the people of the District of Columbia for shelter and better improved housing; that the money was spent on propaganda for newsletters, it was spent on cleaning up the headquarters and making a better palace for the leaders of the program, apparently.

Now we read in today's paper that indeed there have been junkets to Puerto Rico. What is happening is that they just have not got the message in this department, and they just have not got the message in some of the other departments of the District of Columbia.

I hope that those in positions of authority are going to send that message, because I, too, would like to be able to stand here and say, "I think Home Rule has succeeded in Washington." I do not think that is the case now. I would love to be able to say that.

Mr. WALSH. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, as a member of the Committee on the District of Columbia, I rise in support of the compromise to cut $150 million from the District of Columbia budget.

In the summer of 1991, with bipartisan support, the House approved a series of steps to help the District financial situation. One of the most important actions was to approve a controversial $331 million bond obligation. As a past local government official who had to balance a budget I learned one thing for sure: "you don't sell bonds for operating expenses as the District of Columbia government did in 1991."

Only the Federal Government can do that, and I think that is wrong. And would you believe that the District received a beneficial interest rate on those bonds in spite of their financial condition? Would you like to know why—because the bond attorneys knew that we, the Federal Government would eventually have to pay up. Ultimately, it is the responsibility of the Federal Government to cover the bonds.

The D.C. government must face the problem now or it will fall on the backs of the American taxpayer. The time has come to quit playing politics with the numbers and face facts.

Mr. WALSH. Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from Nebraska [Mr. BEREUTER].

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Mr. BEREUTER. Mr. Chairman, I do not want to make life more difficult for the gentleman from California or the gentleman from New York. I am a member of the Housing Subcommittee of this body and I would like to have some attention from the District of Columbia's Department of Public and Assisted Housing [DPAH].

The gentleman from Florida [Mr. GOSS] just made mention of the difficulties revealed today again.

In a recent hearing before the Housing Subcommittee, both the HUD inspector general and the special master appointed by Judge Steffen Graae of the District of Columbia Superior Court expressed their judgment that the Department of Public and Assisted Housing should be placed in receivership. This Member heartily concurs with that judgment.

The residents of the District have been harmed and allegedly defrauded by their local government. The District's housing authority has been rated by HUD as "troubled" since 1979—the first year such a designation was used—yet neither HUD nor the District Government has succeeded in alleviating the problems at DPAH. In fact, things have only gotten worse. In their most recent rating, HUD rated DPAH as the worst public housing authority in the Nation.

Despite the recent charges brought against DPAH authorities, no action has been taken by DPAH to recover the section 8 certificates which were fraudulently issued. Even as fraud is uncovered and publicized, DPAH does nothing to remedy the situation.

Mr. Chairman, it is apparent that neither the District nor HUD is able to deal with this situation on their own, or most likely, together, and that the only answer to this problem is an independent receiver. Despite a joint effort between the District and HUD to clean up the mess that is DPAH, the shenanigans continue. Today's Washington Post reports that just last month, apparently with the blessing of the HUD-District partnership, DPAH sent eight representatives on an all-expense paid trip to Puerto Rico at a cost to taxpayers of $10,800. The excuses offered to justify the trip are transparent and ridiculous. This use of funds is outrageous and inexcusable. While citizens of the District go homeless, DPAH employees bask in the sun and stay at a luxury hotel.

If this can go on after HUD and the District have vowed to clean up DPAH, it is clear that they are not up to the task. Receivership is the only answer. In fact, Mr. Chairman, in a hearing on May 24, the special master, Mr. James Stockard, again made that recommendation to Judge Graae. It is this Member's hope that Judge Graae will finally exhibit the proper judgment and minimal courage to take Mr. Stockard's advice. However, the Judge has not yet acted, and the residents of the District continue to suffer while Judge Graae procrastinates.

As this body moves to make Federal funds available to the District, this Member wants to take the opportunity to urge Judge Graae to act to place the District of Columbia Housing Authority in receivership. It is the responsibility of this body to see that the Federal funds appropriated for the District are not misused. Unfortunately, it is clear that until the Judge acts we cannot have an even minimal assurance that such misuse will not occur again. Again, this Member urges Judge Graae to place the District of Columbia's Department of Public and Assisted Housing in receivership. The citizens of the District, and the taxpayers of the United States should not be defrauded further.

Mr. WALSH. Mr. Chairman, I yield 5 minutes to my colleague, the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Chairman, I want to commend the ranking Republicans and the chairman and the subcommittee chairmen on the Democratic side for their efforts at compromise on this bill. However, there is one subject in the bill that there has not been a compromise made and which apparently there will not be. That is, the fact that the District of Columbia is one of the few cities in the country that has passed a domestic partnership act under which any two individuals who can prove by certification that they live in the same domicile whether they are married or not can receive health care benefits.

This act is actually entitled the Health Care Benefits Expansion Act of 1992.

Mr. Chairman, I want to read into the RECORD the definition of what a family and what a domestic partner is called in this act. It says "Definitions" under section 2:

> A domestic partner means a person with whom an individual maintains a committed relationship as defined in subsection 1.

In subsection 1, a committed relationship means a familial relationship between two individuals characterized by mutual caring and the sharing of a mutual residence.

A domestic partner, then, is anyone who is 18 years old, mentally competent who agrees that they are the sole domestic partner of the other individual and who is not married. In plain English, what this means is that homosexual couples, heterosexual couples who are not married, roommates, can go to the District of Columbia, register as domestic partners, and then be eligible for health benefits and any unemployment or any other benefits that happen to be available if they happen to be employees of the District of Columbia.

To me, this is simply not acceptable. It has not been acceptable to the last Congress and to the previous Congress.

In 1992, the gentleman from Texas [Mr. DELAY] offered an amendment that would have prevented any funds being spent to implement this act. That passed with 235 votes. In 1993, the gentleman from Oklahoma [Mr. ISTOOK] offered a similar amendment that passed in this body with 251 votes. I am prepared to offer an identical amendment to this bill but because of a parliamentary problem there can be a point of order made against it. The distinguished chairman of the committee has indicated that he would make such a point of order. In order for the Barton amendment to prevent any funds being expended to implement the Domestic Partnership Act, in order to offer that amendment, we have got to defeat the motion to rise which again the distinguished chairman of the committee has indicated that he will offer at the appropriate point in time.

If we go to Webster's Dictionary at the back of this Chamber and look up the definition of family, we do not see the definition that is in this act. To me, a family is your mother and father, your wife, your husband, your children, your aunts, your uncles, your cousins, your nephews, it is not somebody who signs a piece of paper and says they have a mutually caring relationship. That is not the definition of family that I grew up with, it is not the definition of family that anybody in this Chamber has grown up with, it is not the definition of family that the Congress in the last session and the previous session saw fit to support.

I would strongly ask that at the appropriate time Members help me defeat the motion to rise so that I can offer the amendment to prevent any funds in this act from being expended to implement the District of Columbia's Domestic Partnership Act.

Mr. WALSH. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. DIXON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 4649

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1995, and for other purposes, namely:

TITLE I

FISCAL YEAR 1995 APPROPRIATIONS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1995, $667,930,000, as authorized by section 502(a) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code, sec. 47–3406.1).

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds, as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96–122), $52,070,000.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $81,159,000: *Provided*, That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: *Provided further*, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further*, That notwithstanding any other provision of law, there is hereby appropriated from the earnings of the applicable retirement funds $12,432,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: *Provided further*, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further*, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: *Provided further*, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally generated revenues.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $56,343,000: *Provided*, That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2–135; D.C. Code, sec. 45–2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Housing Finance Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: *Provided further*, That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the owners of any bonds or notes issued by the Housing Finance Agency and shall be repaid to the District of Columbia government only from available operating revenues of the Housing Finance Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further*, That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia.

HUMAN RESOURCES DEVELOPMENT

Human resources development, $41,046,000.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of 135 passenger-carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, $884,926,000: *Provided*, That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further*, That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further*, That the Metropolitan Police Department shall provide quarterly reports to the Committees on Appropriations of the House and Senate on efforts to increase efficiency and improve the professionalism in the department: *Provided further*, That notwithstanding any other provision of law, or Mayor's Order 86–45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be $500,000: *Provided further*, That the District of Columbia government may not require the Metropolitan Police Department to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed $500,000: *Provided further*, That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93–412; D.C. Code, sec. 11–2601 et seq.), for the fiscal year ending September 30, 1995, shall be available for obligations incurred under the Act in each fiscal year since inception in the fiscal year 1975: *Provided further*, That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5–129; D.C. Code, sec. 16–2304), for the fiscal year ending September 30, 1995, shall be available for obligations incurred under the Act in each fiscal year since inception in the fiscal year 1985: *Provided further*, That funds appropriated for expenses under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986, effective February 27, 1987 (D.C. Law 6–204; D.C. Code, sec. 21–2060), for the fiscal year ending September 30, 1995, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1989: *Provided further*, That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further*, That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District of Columbia government officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further*, That the District of Columbia government shall also take steps to publicize the availability of the 24-hour telephone information service among the residents of the area surrounding the Lorton prison: *Provided further*, That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County, Virginia, and Prince William County, Virginia, for expenses incurred by the counties during the fiscal year ending September 30, 1995, in relation to the Lorton prison complex: *Provided further*, That such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, fires, riots, and similar disturbances involving the prison: *Provided further*, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further*, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $720,258,000, to be allocated as follows: $542,682,000 for the public schools of the District of Columbia; $87,100,000 shall be allocated for the District of Columbia Teachers' Retirement Fund; $60,348,000 for the University of the District of Columbia; $21,260,000 for the Public Library, of which $200,000 shall be transferred to the Children's Museum; $3,301,000 for the Commission on the Arts and Humanities; and $5,567,000 for the District of Columbia School of Law: *Provided*, That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further*, That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further*, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1995, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

HUMAN SUPPORT SERVICES

Human support services, $898,034,000: *Provided*, That $20,800,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further*, That the District shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization (as defined in section 411(5) of Public Law 100–77, approved July 22, 1987) providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to the Stewart B. McKinney Homeless Assistance Act, approved July 22, 1987 (101 Stat. 485; Public Law 100–77; 42 U.S.C. 11301 et seq.).

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $195,002,000: *Provided*, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

WASHINGTON CONVENTION CENTER FUND

For the Washington Convention Center Fund, $12,850,000.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79–648); section 1 of An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; D.C. Code, sec. 9–219); section 4 of An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86–515); sections 723 and 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973, as amended (87 Stat. 821; Public Law 93–198; D.C. Code, sec. 47–321, note; 91 Stat. 1156; Public Law 95–131; D.C. Code, sec. 9–219, note), including interest as required thereby, $306,768,000.

REPAYMENT OF GENERAL FUND RECOVERY DEBT

For the purpose of eliminating the $331,589,000 general fund accumulated deficit as of September 30, 1990, $38,678,000, as authorized by section 461(a) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, as amended (105 Stat. 540; Public Law 102–106; D.C. Code, sec. 47–321(a)).

SHORT-TERM BORROWING

For short-term borrowing, $5,000,000.

OPTICAL AND DENTAL BENEFITS

For optical and dental costs for nonunion employees, $3,312,000.

PAY ADJUSTMENT

For pay increases and related costs, to be transferred by the Mayor of the District of Columbia within the various appropriation headings in this Act for fiscal year 1995 from which employees are properly payable, $106,095,000.

D.C. GENERAL HOSPITAL DEFICIT PAYMENT

For the purpose of reimbursing the General Fund for costs incurred for the operation of the D.C. General Hospital pursuant to D.C. Law 1–134, the D.C. General Hospital Commission Act of 1977, $10,000,000.

RAINY DAY FUND

For mandatory unavoidable expenditures within one or several of the various appropriation headings of this Act, to be allocated to the budgets for personal services and nonpersonal services as requested by the Mayor and approved by the Council pursuant to the procedures in section 4 of the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3–100; D.C. Code, sec. 47–363), $22,508,000.

JOB-PRODUCING ECONOMIC DEVELOPMENT INCENTIVES

For tax incentive programs to be enacted by the Council targeted specifically to stimulating job-producing economic development in the District, $22,600,000.

CASH RESERVE FUND

For the purpose of a cash reserve fund to replenish the consolidated cash balances of the District of Columbia, $3,957,000.

PERSONAL AND NONPERSONAL SERVICES ADJUSTMENTS

The Mayor shall reduce appropriations and expenditures for personal and nonpersonal services in the amount of $5,702,000, within one or several of the various appropriation headings in this Act.

CAPITAL OUTLAY

For construction projects, $5,600,000, as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, secs. 43–1512 through 43–1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83–364); An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided*, That $140,000 shall be available for project management and $110,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor: *Provided further*, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further*, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further*, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90–495; D.C. Code, sec. 7–134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1996, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1996: *Provided further*, That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $265,653,000, of which $40,160,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects: *Provided*, That of the amounts appropriated under this heading in prior fiscal years for construction projects from the water and sewer enterprise fund for the Washington Aqueduct, $21,365 are rescinded.

In addition, for the Water and Sewer Enterprise Fund, such amounts as are necessary for reimbursement to the United States of funds loaned to the Secretary of the Army by the Secretary of the Treasury, including interest as required thereby, for the Washington Aqueduct Capital Improvement program.

Subject to approval of authorizing legislation, during fiscal year 1995, new notes and other obligations shall be issued by the Secretary of the Army to the Secretary of the Treasury for the Washington Aqueduct Capital Improvement program in an aggregate principal amount of $10,000,000.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97–91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3–172; D.C. Code, secs. 2–2501 et seq. and 22–1516 et seq.), $8,318,000, to be derived from non-Federal District of Columbia revenues: *Provided*, That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally-generated revenues: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5–36; D.C. Code, sec. 43–1801 et seq.), $2,353,000, of which $140,000 shall be transferred to the general fund of the District of Columbia.

STARPLEX FUND

For the Starplex Fund, an amount necessary for the expenses incurred by the Armory Board in the exercise of its powers granted by An Act to Establish a District of Columbia Armory Board, and for other purposes, approved June 4, 1948 (62 Stat. 339; D.C. Code, sec. 2–301 et seq.) and the District of Columbia Stadium Act of 1957, approved September 7, 1957 (71 Stat. 619; Public Law 85–300; D.C. Code, sec. 2–321 et seq.): *Provided*, That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by section 442(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 824; Public Law 93–198; D.C. Code, sec. 47–301(b)).

GENERAL PROVISIONS

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided*, That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101–7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided*, That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided*, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84–460; D.C. Code, sec. 47–1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4–101; D.C. Code, sec. 3–205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90–445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 110. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1996, shall be transmitted to the Congress no later than April 15, 1995.

SEC. 111. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, the Subcommittee on General Services, Federalism, and the District of Columbia, of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative: *Provided*, That none of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 112. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2–20; D.C. Code, sec. 47–421 et seq.).

SEC. 113. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 114. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided*, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowings and spending progress compared with projections.

SEC. 115. The Mayor shall not borrow any funds for capital projects unless the Mayor has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 116. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 117. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96–443), which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96–93), as modified in House Report No. 98–265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3–100; D.C. Code, sec. 47–361 et seq.).

SEC. 118. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 119. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96–425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided*, That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 120. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) of this section for any position for any period during the last quarter of calendar year 1994 shall be deemed to be the rate of pay payable for that position for September 30, 1994.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79–592; D.C. Code, sec. 5–803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, per diem compensation at a rate established by the Mayor.

SEC. 121. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2–139; D.C. Code, sec. 1–601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided*, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 122. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72–212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency, and the District's best interest.

SEC. 123. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1995, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1995 revenue estimates as of the end of the first quarter of fiscal year 1995. These estimates shall be used in the budget request for the fiscal year ending September 30, 1996. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 124. Section 466(b) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 806; Public Law 93–198; D.C. Code, sec. 47–326), as amended, is amended by striking "sold before October 1, 1994" and inserting "sold before October 1, 1995".

SEC. 125. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6–85; D.C. Code, sec. 1–1183.3), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 126. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided*, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended.

SEC. 127. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037: Public Law 99–177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided*, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended.

SEC. 128. Effective as if included in the enactment of the District of Columbia Appropriations Act, 1990, section 133(e) of such Act is amended by striking "shall take effect" and all that follows and inserting "shall apply with respect to water and sanitary sewer services furnished on or after January 1, 1990.".

SEC. 129. For the fiscal year ending September 30, 1995, the District of Columbia shall pay interest on its quarterly payments to the United States that are made more than 60 days from the date of receipt of an itemized statement from the Federal Bureau of Prisons of amounts due for housing District of Columbia convicts in Federal penitentiaries for the preceding quarter.

SEC. 130. Nothing in this Act shall be construed to authorize any office, agency or entity to expend funds for programs or functions for which a reorganization plan is required but has not been approved by the Council pursuant to section 422(12) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(12)) and the Governmental Reorganization Procedures Act of 1981, effective October 17, 1981 (D.C. Law 4–42; D.C. Code, secs. 1–299.1 to 1–299.7). Appropriations made by this Act for such programs or functions are conditioned on the approval by the Council, prior to October 1, 1994, of the required reorganization plans.

SEC. 131. (a) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 1995 if—

(1) the Mayor approves the acceptance and use of the gift or donation: *Provided*, That the Council of the District of Columbia may accept and use gifts without prior approval by the Mayor; and

(2) the entity uses the gift or donation to carry out its authorized functions or duties.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a) of this section, and shall make such records available for audit and public inspection.

(c) For the purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.

SEC. 132. Notwithstanding any other provision of law, each agency, office, and instrumentality of the District shall implement a hiring freeze and shall fill only vacancies in essential positions, and to the extent practicable, shall fill essential positions from among employees holding non-essential positions. A non-essential position that becomes vacant, other than by termination for cause, shall not be filled. The Council shall enact legislation to implement this title, which may include, but shall not be limited to, procedures for identifying essential and non-essential positions, for filling vacant essential positions from among employees holding non-essential positions, and for reporting on implementation of the hiring freeze required by this section.

SEC. 133. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representatives under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979, effective March 10, 1981 (D.C. Law 3–171; D.C. Code, sec. 1–113(d)).

SEC. 134. None of the Federal funds appropriated under this Act shall be expended for any abortion except when it is made known to the entity or official to which funds are appropriated under this Act that such procedure is necessary to save the life of the mother or that the pregnancy is the result of an act of rape or incest.

INDEPENDENT AUDIT OF RETIREMENT BOARD

SEC. 135. (a) IN GENERAL.—The District of Columbia Retirement Board shall enter into an agreement with an independent firm meeting the qualifications described in subsection (b) to prepare and submit to the Retirement Board a written set of findings and recommendations not later than 6 months after the date of the enactment of this Act regarding the appropriateness and adequacy of the Retirement Board's fiduciary, management, and investment practices and procedures.

(b) QUALIFICATIONS FOR FIRM.—A firm meets the qualifications described in this subsection if the firm has a demonstrated expertise in the areas of investment and investment consulting, particularly with respect to—

(1) the review and analysis of the investment portfolios of large public pension funds;

(2) the investment practices of the managers of such funds;

(3) the relationship of such practices to the fiduciary responsibilities of the managers of such funds; and

(4) the analysis of the investment returns achieved by such funds on both an absolute and risk-adjusted basis.

(c) REPORT TO CONGRESS.—Not later than 30 days after receiving the findings and recommendations provided under subsection (a), the Retirement Board shall submit a report to the Committee on the District of Columbia of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate on the findings and recommendations.

(d) EXPENDITURE OF FUNDS.—The Retirement Board shall spend not less than $250,000 from investment earnings to carry out this section. No additional funds may be provided by the Mayor of the District of Columbia to the Retirement Board to carry out this section.

MUNICIPAL FISH WHARF

SEC. 136. None of the funds appropriated in this Act shall be obligated or expended on any proposed change in either the use or configuration of, or on any proposed improvement to, the Municipal Fish Wharf until such proposed change or improvement has been reviewed and approved by Federal and local authorities including, but not limited to, the National Capital Planning Commission, the Commission of Fine Arts, and the Council of the District of Columbia, in compliance with applicable local and Federal laws which require public hearings, compliance with applicable environmental regulations including, but not limited to, any amendments to the Washington, D.C. urban renewal plan which must be approved by both the Council of the District of Columbia and the National Capital Planning Commission.

FINANCIAL REPORTING

SEC. 137. (a) SUBMISSION OF QUARTERLY FINANCIAL REPORTS.—Not later than fifteen days after the end of every calendar quarter (beginning October 1, 1994), the Mayor shall submit to the Committee on the District of Columbia of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Subcommittees on District of Columbia Appropriations of the House of Representatives and the Senate a report on the financial and budgetary status of the government of the District of Columbia for the previous quarter.

(b) CONTENTS OF REPORT.—Each report submitted under subsection (a) with respect to a quarter shall include the following information:

(1) A comparison of actual to forecasted cash receipts and disbursements for each month of that quarter, as presented in the District's fiscal year consolidated cash forecast;

(2) A projection of the remaining months' cash forecast for that fiscal year;

(3) Explanations of (a) the differences between actual and forecasted cash amounts for each of the months in the quarter, and (b) the changes in the remaining months' forecast as compared to the original forecast for those months of that fiscal year; and

(4) The effect of these changes, actual and projected, on the total cash balance of the remaining months and for the fiscal year.

This title may be cited as the "District of Columbia Appropriations Act, 1995".

TITLE II

FISCAL YEAR 1994 SUPPLEMENTAL DISTRICT OF COLUMBIA FUNDS

Governmental Direction and Support

(INCLUDING RESCISSION)

For an additional amount for "Governmental direction and support" $164,000: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1994 in the District of Columbia Appropriations Act, 1994, approved October 29, 1993 (Public Law 103–127; 107 Stat. 1337), $18,797,000 are rescinded for a net decrease of $18,633,000.

Economic Development and Regulation

(INCLUDING RESCISSION)

For an additional amount for "Economic development and regulation", $1,311,000: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1994 in the District of Columbia Appropriations Act, 1994, approved October 29, 1993 (Public Law 103–127; 107 Stat. 1337), $31,697,000 are rescinded for a net decrease of $30,386,000.

Human Resources Development

Human resources development, $42,801,000.

Public Safety and Justice

(INCLUDING RESCISSION)

For an additional amount for "Public safety and justice", $16,398,000: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1994 in the District of Columbia Appropriations Act, 1994, approved October 29, 1993 (Public Law 103–127; 107 Stat. 1338), $4,742,000 are rescinded for a net increase of $11,656,000.

Public Education System

(INCLUDING RESCISSION)

For an additional amount for "Public education system", $17,243,000 for public schools of the District of Columbia and $735,000 for the University of the District of Columbia: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1994 in the District of Columbia Appropriations Act, 1994, approved October 29, 1993 (Public Law 103–127; 107 Stat. 1339), $487,000 for the Education Licensure Commission, $91,000 for the Commission on the Arts and Humanities, $30,000 for the District of Columbia Law School and $245,000 for the District of Columbia Public Library are rescinded for a net increase of $17,125,000.

Human Support Services

(INCLUDING RESCISSION)

For an additional amount for "Human support services", $32,461,000: *Provided*, That $4,657,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1994 in the District of Columbia Appropriations Act, 1994, approved October 29, 1993 (Public Law 103–127; 107 Stat. 1340), $831,000 are rescinded for a net increase of $31,630,000.

Public Works

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1994 in the District of Columbia Appropriations Act, 1994, approved October 29, 1993 (Public Law 103–127; 107 Stat. 1340), $9,092,000 are rescinded.

Washington Convention Center Fund

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1994 in the District of Columbia Appropriations Act, 1994, approved October 29, 1993 (Public Law 103–127, 107 Stat. 1340), $338,000 are rescinded.

Repayment of Loans and Interest

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1994 in the District of Columbia Appropriations Act, 1994, approved October 29, 1993 (Public Law 103–127; 107 Stat. 1340 and 1341), $15,161,000 are rescinded.

Repayment of General Fund Recovery Debt

For an additional amount for "Repayment of General Fund Recovery Debt", $312,000.

Optical and Dental Benefits

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1994 in the District of Columbia Appropriations Act, 1994, approved October 29, 1993 (Public Law 103–127; 107 Stat. 1341), $11,000 are rescinded.

Severance Pay

For an additional amount for "Severance pay", $6,000,000.

D.C. General Hospital Deficit Payment

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1994 in the District of Columbia Appropriations Act, 1994, approved October 29, 1993 (Public Law 103–127; 107 Stat. 1341), $5,500,000 are rescinded.

Cash Reserve Fund

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1994 in the District of Columbia Appropriations Act, 1994, approved October 29, 1993 (Public Law 103–127; 107 Stat. 1341), $3,957,000 are rescinded.

Short-Term Borrowing

For "Short-term borrowing", $3,500,000.

Water and Sewer Enterprise Fund

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1994 in the District of Columbia Appropriations Act, 1994, approved October 29, 1993 (Public Law 103–127; 107 Stat. 1343), $9,411,000 are rescinded: *Provided*, That $37,436,000 of the amounts available for fiscal year 1994 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects instead of $40,438,000 as provided under this heading in the District of Columbia Appropriations Act, 1994, approved October 29, 1993 (Public Law 103–127; 107 Stat. 1343).

Lottery and Charitable Games Enterprise Fund

For an additional amount for "Lottery and Charitable Games Enterprise Fund", $1,235,000.

Cable Television Enterprise Fund

The paragraph under the heading "Cable Television Enterprise Fund" in the District of Columbia Appropriations Act, 1994, approved October 29, 1993, is amended by inserting after the figure "$2,353,000" the following: "of which $140,000 shall be transferred to the General Fund of the District of Columbia.".

Starplex Fund

The paragraph under the heading "Starplex Fund" in the District of Columbia Appropriations Act, 1994, approved October 29, 1993, is amended by inserting after the phrase "Television" the following: "and an additional $1,400,000 shall be transferred to the General Fund of the District of Columbia.".

General Provisions

SEC. 201. Notwithstanding any other provision of law, appropriations made and authority granted pursuant to this title shall be deemed to be available for the fiscal year ending September 30, 1994.

Mr. DIXON (during the reading). Mr. Chairman, I ask unanimous consent that the bill through line 2 on page 40 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any points of order against the bill up to that portion?

Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. DIXON

Mr. DIXON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

On page 15, strike line 23 through line 9 on page 16.

Mr. DIXON. Mr. Chairman, this amendment is technical in nature. We were trying to accommodate a member of the Committee on Appropriations, the gentleman from Virginia [Mr. MORAN]. It would have allowed the Secretary of the Army to borrow $10 million from the Secretary of the Treasury for capital projects for the Washington Aqueduct subject to approval of authorizing legislation.

The problem is that CBO indicates that it would be scored against our bill. This language was not scored by CBO until yesterday and the scoring results in our exceeding our 602(b) allocation by $10 million.

□ 1420

I think it is a no-cost amendment. However, I am not in a position to argue with the CBO scoring so I am offering this amendment to strike that language.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. DIXON].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DIXON

Mr. DIXON. Mr. Chairman, I offer an amendment. It is marked "Compromise Amendment, #2, Offered by Mr. DIXON of California, Mr. WALSH of New York, and Mr. BLILEY of Virginia."

The Clerk read as follows:

Amendment Offered by Mr. DIXON: Page 33, after line 24, insert the following new section:

SPENDING REDUCTIONS

SEC. 138. (a) REDUCTION IN FISCAL YEAR 1995 EXPENSES.—

(1) IN GENERAL.—In addition to any other reduction required by this Act, the total amount appropriated in this title for the District of Columbia for fiscal year 1995 under the caption "Division of Expenses" is hereby reduced by $150,000,000. The reduction shall be allocated by the Mayor of the District among the various appropriation headings under such caption (excluding the "Rainy Day Fund") and shall be taken only from expenses for personal and nonpersonal services.

(2) REPORTING REQUIREMENTS.—

(A) IMPLEMENTATION PLAN.—Not later than 30 days after the date of the enactment of this Act, the Mayor of the District of Columbia shall submit to the Congress a report setting forth a detailed plan for the implementation of the reduction made by paragraph (1).

(B) PLAN REVISIONS.—The Mayor may at any time revise the implementation plan submitted under subparagraph (A). Not later than 30 days after making any such revision, the Mayor shall submit to the Congress a report setting forth a detailed description and justification of such revision.

(C) REVISED CASH FLOW STATEMENTS.—Each report required by subparagraph (A) or (B) shall include a revised cash flow statement for the government of the District that incorporates the reduction made by paragraph (1) and the allocation of the reduction under the plan or plan revisions submitted under this paragraph.

(D) SUPPLEMENTAL BUDGET SUBMISSION.—Any supplemental budget request for fiscal year 1995 submitted by the District to the Congress shall incorporate the reduction made by paragraph (1) and the allocation of the reduction under the plan or plan revisions submitted under this paragraph.

(b) ANNUAL LIMITATION ON OUTLAYS.—

(1) AGGREGATE LIMITATION.—The total outlays of the government of the District of Columbia during fiscal year 1995 shall not exceed the total receipts collected by the government during such fiscal year.

(2) INDIVIDUAL FUND LIMITATIONS.—The total outlays of the government of the District of Columbia from the general fund, or from any special fund, of the District during fiscal year 1995 shall not exceed the total receipts collected by the government and paid into such fund during such fiscal year.

(c) ENFORCEMENT.—

(1) TIMING OF ANNUAL FEDERAL PAYMENT.—The annual Federal payment to the District of Columbia authorized by section 502(a) of the District of Columbia Self-Government and Governmental Reorganization Act for fiscal year 1996 shall not be made until the Secretary of the Treasury has received from the Mayor of the District a certification of the total outlays of, and total receipts collected by, the government of the District during the preceding fiscal year.

(2) REDUCTION OF ANNUAL FEDERAL PAYMENT.—The amount of any annual Federal payment subject to paragraph (1) shall be reduced by the amount (if any) by which the outlays described in such paragraph exceed the receipts described in such paragraph.

(d) APPLICABILITY.—The provisions of this section shall apply hereafter, notwithstanding any other provision of law to the contrary.

Mr. DIXON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DIXON. Mr. Chairman and Members, this is the amendment I spoke about earlier and that others have made reference to. It is a compromise that has been reached through the efforts of my good friend and ranking member, the gentleman from New York [Mr. WALSH].

Also I would like to thank the gentleman from Virginia [Mr. BLILEY] for his very valuable input, and I thank the gentleman from California [Mr. STARK] for blessing this amendment.

It is something that certainly is not the most desirable thing to do, but when we look at all of the circumstances involved in moving this bill including the response from the District government, offering this amendment was a necessary step to keep this bill moving.

As I indicated before, it is my personal belief that if District officials are to operate in good faith in fiscal year 1995, they would have to cut $150 million anyway. I am sorry the cut is necessary, but I appreciate the cooperation that I have received from all Members of the House.

I especially want to thank the gentlewoman from the District of Columbia [Ms. NORTON], who I very thoroughly understand does not enjoy me doing this, and I have kept her informed. I just am sorry that I could not accommodate her in not reaching this agreement.

Mr. WALSH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of this amendment, and I would also like to extend my thanks to the principals in this agreement, the gentleman from California [Mr. DIXON], our chairman of the subcommittee, and the gentleman from Virginia [Mr. BLILEY], ranking member on the authorizing committee.

This agreement, I think, is the best we could get. That is the name of compromise.

I do not think either side is totally happy with the agreement. I am sure the District is not happy with the agreement, and there may be others who think that we should do more.

But what this agreement says is that we recognize that there is a fiscal crisis in the District of Columbia. The Congress is exerting its constitutionally prescribed authority in this area, but we are continuing to honor the premise of home rule. We are saying:

> We will not appropriate more than this amount. You decide how you are going to spend it. You decide how you are going to make the cuts that are required to meet this, and if you spend more than we appropriate in this fiscal year, 1995, we will dock you dollar for dollar in the next fiscal appropriation next year if you overspend.

The GAO report showed clearly year after year after year the District has sent up nonbalanced budgets to the Congress. If we are going to continue to have a home-rule agreement with the District of Columbia, they have to honor their portion of the agreement, which is to provide us with a balanced budget. We are continuing our end of the bargain. We are sticking with home rule. But in order for us to do that, they have to give us a balanced budget.

This is going to go back to the Mayor and the council. They have 30 days to respond positively. I hope they will do so.

Mr. BLILEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment. I certainly want to thank the chairman of the Appropriations Subcommittee, the gentleman from California [Mr. DIXON]. I want to thank the ranking minority member, the gentleman from New York [Mr. WALSH]. I want to thank the patience of the gentlewoman from the District of Columbia [Ms. NORTON]. This is not something that we enjoy.

But this is a bipartisan agreement, and it does require the District to cut $150 million for next year.

The chairman of the Appropriations Subcommittee, the chairman of our authorizing committee, the gentleman from California [Mr. DIXON], and the gentleman from California [Mr. STARK], realized early on that the District's budget this year was in shambles and, therefore, they called in the General Accounting Office and requested a study. They got the study. We got the report, and the report confirmed our worst fears.

Since that time, the chairman has been patient. He has given the District every opportunity to respond and, to date, they have yet to respond, or if they have, it has not been apparent to this Member.

This amendment does not let the District government continue to spend more money than it takes in. This amendment sends a very strong message to the District government that Congress is concerned about the financial condition of our Nation's Capital.

The bipartisan amendment tells the District government that business as usual is not good enough.

This amendment removes any need for the two motions that I had planned to offer later today.

We urge all Members to support this bipartisan amendment and get on with the business of this Congress.

Mr. Chairman, I think that it is fair to say that no one wants to be in the position we find ourselves in today. I daresay that the chairman of the subcommittee, the gentleman from California, knows better than anyone the inherent problems of the District budget. It is the spotlight he has focused onto the District budget which has cast such a large shadow over this appropriations bill. He and Chairman STARK deserve our thanks for bringing the GAO report to life. Mr. DIXON deserves our admiration for his courage in protecting in the interests we all share in the Nation's Capital.

The ranking member of the District of Columbia Appropriations Subcommittee, Mr. WALSH, also deserves our gratitude. He has demonstrated himself to be a true friend of the District and, at the same time, followed the courage of his convictions. He sees what is ahead and knows what must be done even if it is unpopular.

Anyone who has followed the local news recently knows that the Delegate from the District of Columbia does not want to be in her position. Nevertheless, she will put on a spirited and admirable defense of a budget she knows is not defensible. And, to her great credit, she has not defended the city's failure to act responsibly.

I can assure you that I do not want to be in the position that I am in today. I have helped provide the District with a cash infusion of more than $1 billion over the past few years. Believe me, I do not take any pleasure in saying that despite all of our efforts, the District is still facing a short-term financial crisis which pales in comparison to the long-term crisis dead ahead. District expenditures are growing at twice the rate of revenues and the annual budget deficit will grow to $742 million by the year 2000.

The District of Columbia budget should not be a partisan issue. We all share responsibility for the Nation's Capital. We should not be divided between those who would have us do nothing despite the evidence we have and those of us who fully understand that the day of reckoning is here. The dire consequences of doing nothing far outweigh the modest proposal now being put before us.

Mr. Chairman, some may regard the vote on this amendment as a minor one among the thousands of votes we cast each year which merits no special notice. Such appearances and perceptions are deceiving. This vote is, in fact, a turning point of historical significance. Much of what will happen in the future will spring from this vote.

This vote will in large part shape the relationship between the District and the Congress for the remainder of this century. Clearly, Congress cannot stand idly by and watch the District collapse financially. Do you prefer to simply wait for a massive Federal bailout? Despite all of the other denials, city officials admit that additional Federal resources will be sought. According to the District's most recent cash-flow statement, the District has just recently added another $31 million in Federal grants.

If we do not demand that the District government adhere to necessary fiscal constraints, there is little hope that we will demand any semblance of discipline in the future. Do you prefer that the Federal Government step in and take over large parts of the local government's responsibilities? Do you prefer to tell your constituents that you are willing to increase the Federal payment while spending goes unchecked?

I have been a strong supporter of the District and have worked hard on a bipartisan basis to help this great city. We all share responsibility for the Nation's Capital. But we cannot ignore the reality and the seriousness of the District's financial crisis. We have a fiduciary responsibility to the American taxpayers to ensure that these funds are spent wisely and in accordance with Federal laws.

In passing this amendment, I firmly believe that no other amendments to make reductions will be necessary. This is the toughest amendment possible. Let us pass the Chairman's amendment and send a strong, united message to the city.

I urge all my colleagues to vote for this amendment.

Mr. DORNAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to my colleague, the gentleman from Texas [Mr. BARTON], to see if we can have a colloquy on what legislative course we are going to follow from here to voting.

Mr. BARTON of Texas. Mr. Chairman, I would like to ask the distinguished chairman of the Subcommittee on the District of Columbia if he could answer a question for me at this point in time. I would like to ask the gentleman from California [Mr. DIXON]: The amendment that I have prepared on the Domestic Partnership Act comes at this same point in the bill. Now, as soon as we have the vote on the pending amendment, I am prepared to offer my amendment entitled "No. 1" at this point in the bill.

What does the chairman intend to do at that point in time?

Mr. DIXON. Mr. Chairman, if the gentleman will yield, it is my understanding that it would be subject to a point of order if the gentleman were to raise the issue before the motion to rise. I would ask the Chair to rule on the point of order.

Mr. BARTON of Texas. If I do not offer the amendment at this point in time, assuming that there are no other amendments to the bill, the gentleman would then offer the motion to rise, at which point in time I would rise to attempt to defeat that?

Mr. DIXON. That is correct. It is my understanding there is one further amendment at the desk. After that amendment, assuming it is the last one, I will hope to be recognized for a motion to rise.

Mr. BARTON of Texas. Mr. Chairman, I thank the gentleman.

Mr. DORNAN. Mr. Chairman, reclaiming my time, I intend to speak on the amendment offered by the gentleman from Texas [Mr. BARTON] striking the domestic partnership arrangements from the District of Columbia bill, and will use the remainder of my time to try and clarify this.

Now, I have great respect for the gentleman from California [Mr. DIXON], my colleague from California, not only for his legislative skills but also for his intellect and his judgment. We just disagree on certain issues from time to time, most often these very passionate social issues. And I know that he is going to do what he has to do legislatively to try and defeat the Barton amendment, which would bar the District of Columbia from enforcing its domestic partners law.

It puts a great burden on the gentleman from Texas [Mr. BARTON] to get the House to defeat the motion to rise, which would allow the Barton amendment to be offered. I have only seen this happen a few times in my 16 years. When we do defeat the motion to rise it is usually on a ratable vote, or those votes which might either come back to haunt Members or reward them in the next election, which for us, is only 118 days away.

Now, here is what is so peculiar about the domestic partnership law as it stands now.

□ 1430

The wording of the law is so vague that it requires no proof of long-time commitment from two people. Officials need only to rely on the honesty of the registrants. The "partners," so to speak, could live together only a few days and still receive employment, health, and government benefits.

To be eligible, you only have to be friends, 18 years of age, and state in writing you care for one another. So, it is not just homosexuals, who may qualify. Since when does a governmental entity of any kind, particularly one with all the fiscal problems of the District of Columbia, provide benefits to people who merely like one another and cohabitate? Buddies from Vietnam, each one saved the other one's life at different times; two women who went all the way through grade school, through high school and college together, and they sign, "I like this person." They would be eligible.

And so the District of Columbia, with all of its fiscal problems, is going to start paying for things like a roommate's hospital bills? From my historical knowledge, this business of domestic partner benefits started in Seattle where they were trying to give privileged treatment to lesbian and homosexual partners.

But they decided they could not be quite so brazen, they would take too much heat from the voters. To get around that they decided to make any roommate at all, whether in the fire department or the police department, eligible for benefits. This law denigrates marriage and family. It undermines the health care system, and I think it is a harbinger of the nightmare debate we are going to go through before the August district work period.

Here are the facts, to my good friend, Mr. DIXON: In 1992, 235 Members said "no" to benefits for domestic partners when it had a homosexual twist. In 1993, it increased to 251 Members, another clear majority saying "no" to benefits for domestic partners. And now we have to fight for a vote defeating Mr. DIXON's motion to rise, and we will probably get an even bigger vote, given the volatility of this election year, which is only 118 days away. That's because now we are talking about roomies, just plain old roommates getting a free ride from the people who pay taxes to the District of Columbia.

This is madness. Defeat the motion to rise, give Mr. BARTON the chance to offer his amendment. Let us be representatives, let the voters speak here, 118 days before the election. Let us get rid of this domestic partnership nonsense.

Thank you, Mr. Chairman.

Ms. NORTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. DIXON. Mr. Chairman, will the gentlewoman yield?

Ms. NORTON. I yield to the distinguished gentleman from California.

Mr. DIXON. I thank the gentlewoman for yielding.

Mr. Chairman, for those Members who are watching this debate on television—and I respect the views of my colleague from California—I just want to remind them that the pending business is the Bliley-Walsh-Dixon compromise amendment and that the vote at this point in time will be on that amendment and not on the domestic partnership issue.

Ms. NORTON. I thank the distinguished chairman for that clarification. I will have something to say about the red-herring Barton domestic partnership amendment at a later point.

I wish to speak to the compromise amendment at this point. I want to express my appreciation for the very hard work, one might say the toil, of Chairman DIXON, ranking member BLILEY, Chairman STARK, and ranking member WALSH.

Chairman DIXON, with whom I have worked very closely, deserves very special and great respect because he has managed to pull no punches during this frightening budget ordeal and at the same time to continue to be the best friend the District has.

What he had desired was tough love; what I am afraid has come about is harsh love. And I mean no oxymoron there.

The alternatives that the chairman faced were, in my opinion, kill the District cutting amendments. I believe the many amendments that would have come on the floor, if accepted, would have sent the District right over the side into insolvency. I know that Chairman DIXON had hoped to focus the District on spending cuts and not to deny the District a single cent of its Federal payment. And he has succeeded in doing just that, miraculously.

Even so, it is very, very difficult for me to support a directive from the Congress to the District to cut its budget in a specific amount. I have, as most Members know—and as I have had to tell even some District residents who have come here to ask me to try to get Congress to overturn District law—I have very firm self-government and home-rule principles that come from simply being an American; but, Mr. Chairman, I am compelled to support this compromise. I support it for three reasons: First, it is not a violation of home rule because the cuts are in spending and must be made by the District and not the Congress. Second, there are no cuts in the Federal payment. If there were, the District would be so cash-short it would, for example, be unable to pay the pension liability that its court order says it should.

Finally, I support it, I suppose, because of the biblical reference, "If your ox be in the mire." Mr. Chairman, the District's ox is in the mire, and this compromise is the only way to get that ox out of the mire and through this House and over to the other body.

The revenue cuts that the budget had attracted were murder, and I mean that literally. Those revenue cuts would have meant that the District could not have made the pension fund payment, that the District would have had little cash and DC has been waiting for the Federal payment because it needs immediate cash.

Whatever cuts the District is going to make, it can make over time, but it needs immediate cash.

Now, the spending cuts should have been initiated by the District. The District was paralyzed, perhaps, because this is an election season. I do not know all of the reasons. But I can tell you this: The $150 million is spending cuts that the District is now obliged to choose and to make is pitted against the number of cuts that this budget had already attracted.

And that figure is $378,611,590. That is the aggregate amount of cuts in amendments that we have tallied up today as opposed to $150 million, which is the harsh cut the District is left with to do in its own way.

May I say, Mr. Chairman, that I never envisioned that the day would come when the District would be compelled to submit to such a compromise and I would have to accept such a compromise. I followed Chairman DIXON every step of the way; we have consulted, we have labored, we have tried every single option. I know well, after going through that ordeal, that it is either this compromise or we risk greater sacrifice. And I emphasize: getting no appropriation at all.

The CHAIRMAN. The time of the gentlewoman from the District of Columbia [Ms. NORTON] has expired.

(On request of Mr. DIXON and by unanimous consent, Ms. NORTON was allowed to proceed for 2 additional minutes.)

Ms. NORTON. I thank the gentleman.

Mr. Chairman, there were three kinds of amendments. There were very specific amendments to make cuts, they were legion. There was an amendment to cut the Federal payment, which would have left the city even further cash-starved. And then there were simply punitive amendments that had little to do with the fiscal condition of the city.

Mr. Chairman, this is the saddest day I have spent in the House.

Now, it is inherently difficult to represent the District in this Congress, because everybody else gets into your business. But I regard that as a challenge, not as a cause for sadness. Today I am sad because of what the chairman has had to accept. The only person who knows how sad I am is Chairman DIXON himself, because he has fought the good fight for the District for 14 years; it is only my 4th.

The chairman has never lost a battle, and he has not lost the battle this year. He has given up more on the battlefield than he should have had to give, but he has saved the Federal payment.

The fiscal crisis of the District is at the root of all we do today.

□ 1440

This is a crisis not unlike the one I found when I came to Congress, when the gentleman from California [Mr. DIXON] in one important miracle got $100 million for the city, then another 200 million. I want to thank my colleagues for the bipartisanship of 1991. I want to say to them that I will work with the city and with my colleagues so that we can return to the bipartisanship of 1991, which is support for the Nation's Capital, and move from the bipartisanship of 1994, where both parties have gotten together to mandate cuts in spending. I regret that it is the best we could do, but at least the District will have its full appropriation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. DIXON].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RICHARDSON

Mr. RICHARDSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RICHARDSON: Page 4, line 3, insert before the period the following: ": *Provided further*, That the Mayor shall expend $200,000 of this appropriation for the D.C. Schools Project for intensive intervention and youth development initiatives for high risk Hispanic teenagers".

Mr. DIXON. Mr. Chairman, I reserve a point of order on this amendment.

The CHAIRMAN. A point of order is reserved.

The Chair recognizes the gentleman from New Mexico [Mr. RICHARDSON] for 5 minutes in support of his amendment.

Mr. RICHARDSON. Mr. Chairman, the purpose of this amendment is to force the Mayor of the District to expend $200,000 of this appropriations bill for the D.C. schools project.

Mr. Chairman, an increasing number of Hispanics are becoming involved in gangs and illegal or dangerous activities in the District, and this project is going to use the money for intensive intervention and youth development initiatives for high-risk Hispanic teenagers. Hispanic youth will then be able to learn about alternative opportunities to crime and become conscientious and concerned citizens within the District of Columbia.

Mr. Chairman, the root of the problem is that Hispanic issues within the District of Columbia continue to receive little support from the Mayor. Let me say that the chairman of the Committee on the District of Columbia and the delegate for the District of Columbia [Ms. NORTON] in my judgment have done outstanding work, not just with their own communities, but with the Hispanic community, so my criticism is mainly at the Mayor and the Mayor's office, and I want to take this moment to send a strong message to the Mayor and her administration to fund more Hispanic projects.

Mr. Chairman, I have long felt that the D.C. officials do not do enough for Hispanics. That is the bottom line as to why I am offering this amendment. Sometimes their insensitivity to Hispanic issues must be confronted, and I regret to say that I cannot any longer be silent about this issue.

I also want to express my resentment and disappointment with the manner in which D.C. officials responded to my efforts at funding a project which assists Hispanic youth. Instead of supporting my efforts and asking Congress for more money to help a Hispanic program, I was criticized for attempting to cut other programs in other parts of their budget, in particular the Office of Latino Affairs, and the Federal and congressional offices completely misunderstood my attempt in offering this amendment in assisting Hispanics in this district and inappropriately stated that my project was detrimental to the District of Columbia. In short, the responses of officials from the District were condescending and, in my judgment, inappropriate.

So, at this time I would like to respectfully ask the distinguished chairman, who, as I mentioned, is enormously sensitive to Hispanic issues in the District, to engage with me in a colloquy.

Mr. Chairman, does the Mayor of the District of Columbia have the power to modify the funding in her budget to support Hispanic projects in the District?

Mr. DIXON. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from California.

Mr. DIXON. Yes, the Mayor has the power to modify the funds in the District of Columbia budget to fund more Hispanic programs.

Mr. RICHARDSON. Mr. Chairman, although Hispanics are considered to be the fastest growing minority in the United States, does the gentleman agree that Hispanic programs continue to receive a disproportionate lack of support from the Mayor of the District of Columbia?

Mr. DIXON. Yes. In my opinion, the Mayor could indeed extend more support to programs within the District of Columbia that focus on assisting Hispanics, and I would further point out that, in my opinion, the recommendations of the U.S. Civil Rights Commission as published in the January 1993 report entitled "Racial and Ethnic Tensions in American Communities", would substantiate your statement.

Mr. RICHARDSON. Mr. Chairman, I appreciate the time the gentleman has allowed me to express my concerns for the lack of support for Hispanic programs by the Mayor. In short, I am going to continue to work with the Congressional Hispanic Caucus, and the Congressional Black Caucus. We are going to be asking the mayor to come and explain some of the Hispanic programs in the District.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The CHAIRMAN. The amendment offered by the gentleman from New Mexico [Mr. RICHARDSON] is withdrawn.

The CHAIRMAN. The Clerk will read the last two lines of the bill.

The Clerk read as follows:

> This title may be cited as the "District of Columbia Supplemental Appropriations and Rescissions Act, 1994".

Mr. DIXON. Mr. Chairman, I move that the Committee do now rise.

Mr. BARTON of Texas. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The Chair recognizes the gentleman from Texas [Mr. BARTON] for 5 minutes.

Mr. BARTON of Texas. Mr. Chairman, I had been prepared to offer an amendment to the bill that would have prevented any funds in this bill from being expended to implement the Domestic Partnership Act that the District of Columbia passed on April 15, 1992. The amendment that I was prepared to offer is identical to an amendment that was offered and accepted last year by the gentleman from Oklahoma [Mr. ISTOOK] and the year before that by the gentleman from Texas [Mr. DELAY]. Evidently, Mr. Chairman, in the last 2 previous years points of order could have been placed against the same amendment, but they were not. This year the chairman has indicated earlier that he would make such a point of order.

I want to explain the point of order. Under the appropriation bills, Mr. Chairman, one can offer a specific cutting amendment to specific items in the bill. Since in the last 2 years the Congress has gone on record specifically not to allow any money to be spent to implement the Domestic Partnership Act in the District of Columbia, as passed, there has been no money spent. So, the language that I had and which is identical to that of the gentleman from Oklahoma [Mr. ISTOOK] and the gentleman from Texas [Mr. DELAY] simply says no funds made available. Evidently that point of order could be raised against that.

So, I want everybody to be perfectly clear on this motion to rise. This is not a procedural vote. It is a substantive vote. We have sent out extensive materials around the country, both in writing and through the audio and video media, that the motion to rise that the gentleman from California [Mr. DIXON] is preparing to offer is going to be rated as a substantive vote. Senator LOTT, a distinguished Senator from the other body from the great State of Mississippi, has indicated to me that he is going to offer this amendment in the Senate.

So, this issue is not going to go away. If in fact we are successful in defeating the motion to rise, I will offer the amendment, and I am confident that it will be passed. The reason it is important to defeat the motion to rise is because, as I indicated earlier, the definition of family in this ordinance that the District of Columbia has passed is not a definition of family that one is going to find in the dictionary. It is not a definition of family that deals with brothers, and sisters, and aunts, and uncles, and fathers, and mothers, and cousins, and nephews. It is simply any two people that are 18 years old who happen to live in the same building, the same domicile, can go down and certify to the Mayor of the District of Columbia that they are a family. Now, if they change their mind, every 6 months they can submit a written certification that they are no longer a family and can have a different family.

This goes directly against the institution of marriage, it goes directly against any widely accepted definition of what a family ought to be. It has tremendous consequences. It could cost anywhere from $1 million, which is a low estimate that I have been able to obtain, up to as much as $40 million a year if it were to actually be implemented.

So, I would strongly recommend that we defeat this motion to rise, allow me to offer the amendment, and then have a vote on the amendment.

☐ 1450

Mr. STERNS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the actions by my friend, the gentleman from Texas [Mr. BARTON]. The motion to rise should be defeated to reaffirm what this House has done in previous years, which is to eliminate funding for the Domestic Partnership Act. This action seeks to put back into the bill the language the House passed last year which simply states that "no funds shall be used" to enact the Domestic Partnership Act.

It seems incredible that at a time when the District of Columbia has once again shown its inability to put its fiscal affairs in order, this act would expand their budgetary responsibilities. If the District cannot meet its obligations now, then why expand them?

This amendment inserts what is missing in this bill, a fiscally responsible message that expanding the District's budgetary obligations into unsound social policies is not what the City Council or Mayor should be concentrating on. The American taxpayer is subsidizing a growing city deficit and shouldn't be asked to accept responsibility for more, when this body has the ability to at least slow it down.

Common sense, if anything at all, tells us that this domestic partners law is not a responsible plan for expanding access to health care in the District of Columbia. Besides giving health benefits and sick leave to both heterosexual and homosexual couples who merely state they are in a mutually caring relationship this law gives the appearance that the Congress endorses such behavior. This act is nothing more than a revolving door for people who do not wish to enter into marriage but still want to receive all the legal and social perks of the institution. Passage of this bill would mean that a domestic partner merely has to go downtown, fill out a government form stating that they are domestic partners, share a street address, and you now are entitled to health benefits if your friend works for the District.

Other cities across this Nation have followed Congress' lead of last year and vetoed or rescinded domestic partnership laws. If the rest of the country is waking up to this social experiment at taxpayers expense and saying, "no more," Congress should do the same.

Ms. NORTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, you will note that even given the contentiousness that has surrounded this budget year, this is the first amendment to be offered that was not a bipartisan amendment. I ask my colleagues not to dissolve the bipartisan spirit that we have embraced, some of us very reluctantly. Earlier I called the Barton anti-domestic partnership amendment a red herring amendment. Mr. Chairman, that is a polite word for it. My colleagues, this is a sucker amendment. It is designed to make people put themselves on record on homosexual marriage, that has nothing to do with the domestic partnership law. If you look at some of the "Dear Colleagues" that have been handed out, you will see that.

Now, I do not know about the district of the gentleman from Texas [Mr. BARTON], but let me tell you about my district, sir. The law's chief effect in my district is on extended families.

The typical beneficiary would be two working single mothers living in the same household, and one is a DC employee, and the other works for some hotel downtown that is nonunionized and has no health benefits. She can get on the health benefit plan of the women in the house with whom she lives.

Moreover, it is absolutely false that there is a single dollar of taxpayer funds involved here. This health benefit must be paid 100 percent by the recipient of the benefit.

Now, this has been framed as an amendment that is outside of the family tradition, that supports heterosexual and homosexual, illicit, relationships. If that is the case, my friend, why is it then supported by the National Council of Senior Citizens? Why is it then supported by the District of Columbia Nurses Association? Why is it then supported by the Gray Panthers? Why is it then supported by the Concerned Clergy of the District of Columbia? Why is it then supported by Church Women United? Are they accustomed to supporting illicit relationships?

Shame on you. Take it back. Members, do not be used by a Member who has a personal political ax to grind involving his district. The gentleman from Texas [Mr. BARTON] represents part of Dallas County. They had a big brouhaha down there about domestic partnership, a different kind of domestic partnership. But leave that stuff in Texas, and let my constituents rule themselves in the name of democracy.

The gentleman from Texas [Mr. BARTON] may be running on homosexual marriage, but few of the rest of us in this House are. I ask you, my colleagues, do not get suckered into a vote on a local issue that has been mischaracterized to the benefit of those who want to make you go on the line and cast your vote on a controversial vote. Vote for the Dixon motion to rise.

Mr. ISTOOK. Mr. Chairman, I move to strike the requisite number of words.

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. ISTOOK. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Chairman, I would like the distinguished gentlewoman from the District of Columbia [Ms. NORTON] to answer a question for me, if she would.

First let me say that I have the greatest respect. I think as you said yourself, you have a difficult job in representing the District of Columbia, and you have done an excellent job. There is absolutely no personal animosity or political partisanship in me offering this amendment.

I would simply ask you the question, that if you actually look at the law itself, or the city ordinance itself, it is very specific in section 2, subparagraph C, that these domestic partners not be married. I mean, that is the plain language of the law.

Then if you go on down later on page 1, subsection 2, subparagraph 7, subparagraph B, a family member can be, as defined by this, any unmarried person, regardless of age, who is incapable of self support because of a mental or physical disability that existed before age 22.

Now, I do not believe that I am being partisan or action grinding at all to say that that does not meet any definition I am comfortable with as a family.

Would the distinguished gentlewoman like to respond to that?

Ms. NORTON. Mr. Chairman, if the gentleman will yield, I want to say to the gentleman, I recognize that the gentleman does not submit his amendment in any personal animosity to the District. My passion has to do with my concern that my constituents have the right to have a domestic partnership law if they desire, just as yours have recently voted to, in their democratic right, take back a domestic partnership law.

Let me respond to the reason that the law says the people must be unmarried. The reason is that if they are already married, they are automatically entitled to share.

Mr. BARTON of Texas. Exactly.

Ms. NORTON. If I could just finish, if they are not, even though they are living as a family, they may well not be entitled to the same rights.

☐ 1500

For example, my son just graduated from college. Therefore, he is off of my insurance, my health insurance. If I were a District employee, he could get back on my health insurance because he is living in the same house with me.

Typically in my district, where single households predominate, we have low-income working women. One of them may be a District employee. She has access to a group plan. Someone who has no plan ought to be able to come on.

Therefore, they are living as a family. And in my community people live in extended families. I would like them to be able to take advantage of this law.

(On request of Mr. BARTON of Texas, and by unanimous consent, Mr. ISTOOK was allowed to proceed for 5 additional minutes.)

Mr. ISTOOK. Mr. Chairman, we will have to vote upon this issue of the domestic partners law of the District of Columbia. On the motion to rise, we have the opportunity to vote, and I can guarantee that this is going to come back. And nobody is going to be able to escape a vote by voting for the motion to rise. Because when this bill comes back from the Senate, they are going to do the same thing that they did last year. They are going to assure that the prohibition against spending money to implement this domestic partners law is in this piece of legislation. And then it can come back on a motion to instruct conferees.

Look at the history of this. Two years ago we had a vote in this House on a motion to instruct conferees. I would remind all concerned, especially anyone who contends that this is not bipartisan, 2 years ago 235 Members of this House, Democrats and Republicans alike, voted for the very language that the gentleman from Texas [Mr. BARTON], is promoting today. It passed by 235 to 173.

Last year, in this bill, this same language passed by a vote of 253 to 167, an even stronger vote than the year before.

When this bill got over to the Senate last year, the subcommittee took the language out, and they put it right back in on the Senate floor. And they will do the same thing again this year. And we will still have to vote.

If Members want inconsistent votes on their records, if they want people to say, my goodness, you voted against the motion to rise and, therefore, you voted to permit funding of homosexual marriages and domestic partners in the District of Columbia, then vote against the motion to rise and Members will have inconsistent records on their votes. And they will properly be attacked for it.

If Members vote for the amendment, then vote against the motion to rise. And the vote ought to be along the same lines as last year. This should prevail in a bipartisan vote. We cannot escape our obligation. The Home Rule Charter of the District of Columbia, in section 601, keeps the authority with this Congress, not with the City Council of the District of Columbia, not with the local government, but with this Congress over the exactments of the District.

Article 1, section 8, clause 17 of the U.S. Constitution gives us exclusive power over legislation in all cases whatsoever involving the District of Columbia.

We cannot escape our obligation, and I am really amazed to hear a contention that this has nothing to do with homosexual marriage.

I used to work in a meat plant. I know baloney when I see it or when I smell it and when I hear it. And we have had some baloney on that. I have been on local talk shows having carried this amendment last year. Who was it that was on there to be the advocates for this? It was the gay and lesbian alliances and caucuses, because they want this because it is their effort to have homosexual marriage legalized in any part of the country that they can get it legalized in.

Read the Washington Blade, the newspaper of the homosexual community in this area. Members will find that they promote it. Claiming that this is just so people can pretend to be a family and adopt a legal fiction to try to deceive an insurance company about who is qualified for family coverage is nonsense. Are we going to pass a law just so that we can help people try to pull the wool over the eyes of an insurance company about who is a family and who is not a family? Why not declare the whole District one big happy family then? Let everybody be covered under one person's family policy?

The real issue here is the American family. Do we believe that a family is a unit that begins with a husband and a wife and expands from there and it goes into children and into multiple generations and the aunts and uncles. It is a relationship that is born of marriage, and it is a heterosexual marriage relationship. This is about undercutting the institution of marriage.

If Members want to undercut marriage, vote to rise and cut off the amendment. If Members want to vote for the family, vote not to rise so that we can pass the Barton amendment as we have in the last 2 years.

I offered this amendment in subcommittee this year. I made an offer. I said, let us put it in subcommittee so we do not have to fight it out on the floor. Members do not have to have a vote on the record. Members were not willing to do that. So we are here, we are fighting it out on the floor. But do not be deceived what this is about. This is a vote about the families of the United States. Vote for the family. Vote against the motion to rise.

Mr. DIXON. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to, and that the bill, as amended, do pass.

The CHAIRMAN. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BARTON of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 192, noes 236, not voting 11, as follows:

[Roll No. 320]

AYES—192

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barcia
Barlow
Becerra
Beilenson
Berman
Bevill
Bilbray
Blackwell
Blute
Bonior
Borski
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Coyne
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Engel
English
Eshoo
Evans
Faleomavaega (AS)
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Green
Gutierrez
Hamburg
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoyer
Hughes
Jacobs
Jefferson
Johnson (CT)
Johnson, E.B.
Johnston
Kanjorski
Kennedy
Kennelly
Kildee
Klein
Kopetski
Kreidler
Lambert
Lantos
LaRocco
Lazio
Lehman
Levin
Lewis (GA)
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
McCloskey
McDermott
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickle
Pomeroy
Price (NC)
Rangel
Reed
Reynolds
Richardson
Roemer
Romero-Barcelo (PR)
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Skaggs
Slaughter
Smith (IA)
Stark
Stokes
Strickland
Studds
Stupak
Swift
Synar
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Washington
Waters
Watt
Waxman
Wheat
Woolsey
Wyden
Wynn
Yates

NOES—236

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barca
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bonilla
Boucher
Brewster
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chapman
Clement
Clinger
Coble
Collins (GA)
Combest
Condit
Cooper
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Gilman

Gingrich
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Johnson (GA)
Johnson (SD)
Johnson, Sam
Kaptur
Kasich
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kyl
LaFalce
Lancaster
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Lucas
Machtley
Manzullo
Mazzoli
McCandless
McCollum
McHale
McHugh
McInnis
McKeon
McMillan
McNulty
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Myers
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Penny
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Stump
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Torkildsen
Tucker
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Williams
Wilson
Wise
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—11

Bishop
Gallo
Huffington
Laughlin
McCrery
McCurdy
McDade
Obey
Rowland
Slattery
Whitten

□ 1527

Messrs. WILLIAMS, ROBERTS, EDWARDS of Texas, DE LA GARZA, ORTIZ, CHAPMAN, and SPRATT changed their vote from "aye" to "no."

Messrs. KENNEDY, HEFNER, BEVILL, and POMEROY changed their vote from "no" to "aye."

So the motion to rise and report was rejected.

The result of the vote was announced as above recorded.

□ 1530

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 33, after line 24, insert the following new section:

PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS

SEC. 138. SENSE OF CONGRESS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each agency of the Federal or District of Columbia government, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, this is a Buy American amendment. It was placed on all other 12 appropriation bills. It is not being contested.

Mr. DIXON. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I am happy to yield to the gentleman from California.

Mr. DIXON. Mr. Chairman, I am pleased to accept the gentleman's amendment. I have no problem with it.

Mr. WALSH. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I am happy to yield to the gentleman from New York.

Mr. WALSH. Mr. Chairman, we have no objection to this amendment.

Mr. TRAFICANT. Mr. Chairman, I would ask that the Committee as a whole approve the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BARTON OF TEXAS

Mr. BARTON of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BARTON of Texas: Page 33, after line 24, insert the following new section:

SEC. 138. No funds made available pursuant to any provision of this Act shall be used to implement or enforce any system of registration of unmarried, cohabiting couples whether they are homosexual, lesbian, or heterosexual, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples; nor shall any funds made available pursuant to any provision of this Act otherwise be used to implement or enforce D.C. Act 9-188, signed by the Mayor of the District of Columbia on April 15, 1992.

Mr. BARTON of Texas. Mr. Chairman, first, let me thank all of my colleagues who voted to defeat the motion to rise so that I could offer this amendment.

Mr. DIXON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 30 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The gentleman from Texas [Mr. BARTON] is recognized for 5 minutes.

Mr. BARTON of Texas. Mr. Chairman, I do not think we need to have a lengthy debate on this. Simply put, this is the identical amendment that was the Istook amendment last year and the DeLay amendment 2 years ago. It is identical to the amendment that Senator LOTT has attached.

Once again, I do not think there needs to be an extensive debate. This language is identical to language voted on last year and the year before. It simply says that no funds made available pursuant to this appropriation bill can be used to implement or enforce the District of Columbia's Domestic Partnership Act.

I would ask there be a "yes" vote on the amendment, and I will at the appropriate time ask for a recorded vote.

Mr. Chairman, I would at this point in time either reserve the balance of my time or yield it back, depending on the parliamentary situation.

The CHAIRMAN. The gentleman must do either. It is totally the choice of the gentleman.

Mr. BARTON of Texas. I reserve the balance of my time.

The CHAIRMAN. The gentleman realizes he was recognized for 5 minutes on his amendment?

Mr. BARTON of Texas. Right. I do not think, Mr. Chairman, that we need to have an extensive debate though. I think Members know the issue. We have defeated the motion to rise. We discussed the issue before we defeated the motion to rise. I would ask for a "yes" vote on the Barton amendment.

The CHAIRMAN. Does the gentleman yield back the balance of his time?

Mr. BARTON of Texas. I reserve the balance of my time.

The CHAIRMAN. The gentleman cannot reserve, because he was recognized for 5 minutes under the general 5-minute rule.

Mr. BARTON of Texas. Then I would yield back the balance of my time, Mr. Chairman.

The CHAIRMAN. The gentleman yields back the balance of his time.

Mr. DIXON. Mr. Chairman, as I understand the situation based on my unanimous-consent request, 15 minutes was allotted to me as opponent of the amendment, and 15 minutes was allotted to the gentleman from Texas [Mr. BARTON]. Is that correct?

The CHAIRMAN. The Chair did not hear that in the request.

Mr. DIXON. Mr. Chairman, I ask unanimous consent that that request be granted.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WALSH. Mr. Chairman, would the Chair clarify the procedure once more, please, how the time is divided, and who controls?

The CHAIRMAN. It was that there be 30 minutes of additional debate time on this amendment, not to exceed that. Then there was a further proposal that the debate time be equally divided, 15 minutes on each side.

Mr. WALSH. Between the proponent and opponent, and the gentleman from Texas [Mr. BARTON] would control 15 minutes for the proponent?

The CHAIRMAN. That is correct. The gentleman from California [Mr. DIXON] stands in opposition and would control the other 15 minutes.

AMENDMENT OFFERED BY MR. DIXON TO THE AMENDMENT OFFERED BY MR. BARTON OF TEXAS

Mr. DIXON. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

> Amendment offered by Mr. DIXON to the amendment offered by Mr. BARTON of Texas: Insert the word "Federal" after the word "No" and before the word "funds".

Mr. DIXON. I yield myself 1 minute.

Mr. Chairman, the Representative from the District of Columbia was absolutely correct when she said this is a local matter, and my amendment inserts the word "Federal," thereby prohibiting the use of Federal funds to implement the Domestic Partners' Act.

We are not the city council. We could not do this in any other jurisdiction. I think it is only appropriate, if we do it at all, to say that the Federal money not be used for this purpose.

The CHAIRMAN. Does the gentleman yield back the balance of his time?

Mr. DIXON. No. I reserve the balance of my time, Mr. Chairman.

Mr. BARTON of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I must oppose the perfecting amendment. It is simply a subterfuge. If you allow the addition of the word "Federal" you are simply giving the District of Columbia the opportunity to shuffle funds around.

Again, I reiterate, the amendment, the original Barton amendment before the perfecting amendment of the gentleman from California [Mr. DIXON], is identical to language adopted last year and the year before in this body and also the other body.

I would strongly oppose the Dixon amendment and ask for a "no" vote on that amendment.

Mr. Chairman, I reserve the balance of my time

□ 1540

Mr. DIXON. Mr. Chairman, I yield 6 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I must say that I do not have a very high expectation that I am going to get a lot of courtesy today, but the debate should go forward.

I was about to ask a parliamentary inquiry because I was wondering whether logic would be allowed in this debate. I am assuming it will be allowed, but not highly valued, because the argument, somehow, put forward is that families are being undermined by what the District of Columbia did. And even by the somewhat strained logical standards I am prepared to apply from time to time in this House, I cannot understand how that is supposed to work.

What the District of Columbia has said is if two people who are living together want to register as domestic partners, they can do so. And we are told that this will undermine the family.

Now, many of the people who will be taking advantage of this, as the gentlewoman from Washington has pointed out, will be people who are in no particular loving relationship of a sexual sort. But what has clearly roiled some of the Members here is that some of the people who will take advantage of this will be gay or lesbian couples, and that, I gather, is how this is supposed to undermine the family.

Mr. Chairman, I have to tell you that I do not understand for the life of me how the fact that I will go home tonight and have dinner with Herb undermines anybody else's family. I do not begin to understand the logic.

I understand there are people who are so motivated by anger toward others that they are resentful that other people might find some happiness, and they consider it their mission in life to interfere with the happiness of others solely for that purpose.

But to argue that this somehow undermines their families has no logical basis. The only thing I can think of is that they were very impressed at an early age by the V-8 commercial. You remember the V-8 commercial. You remember the commercial where the guy is drinking a tomato juice, drinking stringbean juice, and he is drinking whatever else, and then someone gives him a V-8 and he says, "By God, I could have had a V-8." Apparently, the analogs are happily married heterosexuals all over Washington, DC, indeed all over America, and they learned that in Washington, DC, Herb and I could register as domestic partners, and these happily married people say, "God, I could have married a guy."

I mean are we really the V-8 of America? Is the attractive power of the way I live my life so great that you fear that happily married couples will somehow dissolve their bonds, ignore their children, and come knock at our doors? That is, of course, nonsense, even by the standards that some of the nonsense purveyors of this place specialize in. And it makes it very clear we are not talking about undermining a family.

No one thinks that the recognition by the District of Columbia of the right of two men who love each other or two women who love each other to try to be responsible and share each other's lives responsibly, that that undermines anybody's family. It does not undermine my family or Herb's family. We coexist very happily with our family.

But I do not understand the logic. What is it about the fact that a couple of people have found happiness that so offends you?

What is it that drives you to try to make political capital by inflicting misery on other people? What is it that says we have a duty to interfere with the lives of others? The gentleman from California made a reasonable proposal. The gentleman from California's proposal says, "All right, there will not be any Federal money."

And by the way, I hope no one will tell me under oath that they are doing this to save money, because we are going to have a U.S. attorney in here making an arrest. No one thinks this is about money. This is about anger at other people's way of living, with this phony argument that somehow it is going to undermine the family.

What we are talking about is an amendment by the gentleman from California that says, "OK, no Federal money." Let the District of Columbia make its own decisions. And what we have is a majority of Members, apparently, that they hope are going to say "no," the District of Columbia cannot recognize that two men or two women might find comfort in each other and might want to share each other's lives and we are so offended by that that we are going to ban it, we are going to prevent it, we are going to forbid it, under some pretext.

And again, I would be delighted if someone later in this debate would explain to me how that undermines the family. How does it destroy the family? If it is not the power of attraction, what is it? What is it that would take a happy marriage between a man and a woman, and as a matter of fact, by the way, the attractive power of this particular V-8 must be extraordinary because no one is talking about anything that meets the benefits of marriage. We are not talking about the tax benefits of marriage, we are not talking about a whole range of other things married couples can do. We are talking about some minimalist situation in which people might be able to grant health benefits together.

Let us be very clear what we are talking about. We are talking about a combination of some people whose primary motivation is dislike, to the point of irrationality, of other human beings and who have decided to use the elevated position of a Member of the greatest legislative body in the world and the greatest democracy in the world—and I mean to include the Senate in that comparison—these are people who want to use that elevated position simply to make some other people's lives miserable because they do not approve of their lives. That is what we are talking about.

This is an effort to impose a punishment on other people. This is not a case about money, and there is not even a rational beginning about how we offend families.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. Frank] has expired.

(By unanimous consent, Mr. Frank of Massachusetts was allowed to proceed for 1 additional minute).

Mr. FRANK of Massachusetts. Mr. Chairman, I thought the gentleman was going to explain how this happens. Let me then say, in conclusion, to my colleagues: I understand the political problems. I understand that many of these gentlemen know what the right thing to do is, but fear politically what will happen to them if they do it. That is a fact of life.

I do not counsel political suicide, but I would ask my colleagues on both sides: Think about it. Barry Goldwater today wrote a column in the Washington Post which was an excellent argument. There were people who said, "Well, we are not for discriminating, but we going to make an exception for the military." Barry Goldwater has asked people, this genuinely honest conservative who believes in the right of individuals to be left alone, Barry Goldwater has set it down. Let me say to my colleagues, particularly to some of my colleagues on this side: I believe that most of them, not all of them but for most of them, "In your heart you know he is right. Why don't you do the right thing?"

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. Frank] has expired.

The Chair will advise those Members controlling the debate time that the gentleman from Texas [Mr. Barton] has 14 minutes remaining and the gentleman from California [Mr. Dixon] has 7 minutes remaining and reserves the right, under the rule, to close debate.

The Chair recognizes the gentleman from Texas [Mr. Barton].

Mr. BARTON of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would ask for the same attention to my remarks that has just been given to the distinguished Representative from Massachusetts.

The CHAIRMAN. The Chair will advise the Member, as he did in making the remarks, that every Member seeking recognition will be granted the full courtesy of this body; otherwise the Chair will not proceed.

☐ 1550

Mr. BARTON of Texas. Let me simply say, Mr. Chairman, that the Barton amendment is not about anger, it is not about preventing consenting adults from finding happiness. If any two individuals in the District of Columbia, or anywhere in this great country of ours, wished to engage in some sort of a relationship, I have absolutely no problem with that. What this amendment is about, though, is preventing a definition of "family" going on the books in the District of Columbia that is not in congruence with any definition of "family" that has historically been recognized in our society.

I think it may be, again, in order to read some of the definitions from the actual ordinance. First, the title, Health Care Benefits Expansion Act, Expansion Act, of 1992, and then, when we get down to where it does define "family" it says a family member means a domestic partner, which has already been defined as anybody who is at least 18 years old and living in the same domicile. It goes on to say that a family member can also be any unmarried person regardless of age who is incapable of self-support because of a mental or physical disability, and, as we all know, a mental disability can be diagnosed in a very broad way.

I think it is also appropriate to understand that under the Constitution of this great Nation we have what is called a reciprocity agreement between the States, and, although the District of Columbia is not a State under the terms of reciprocity agreements, the local ordinances sometimes have the effect of State law, and, if we were to allow this Health Care Benefits Extension Act to actually be implemented, it is at least arguable that people could come from all over the Nation, register their domestic partnership in the District, go back to their home State and demand reciprocity. I am not saying that that would happen; I am saying that it could happen.

I would also remind the great Members of this body that we are suspending reality to say that there is no organized effort to have some of these domestic partnership agreements recognized somewhere in the country and that there is an organized effort to do that. There is simply no reason to do that here in the District of Columbia, and again——

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. First, the reciprocity would apply if they had domestic partnerships in other States, but no one has ever argued that a domestic partnership, not marriage, but a domestic partnership, would give them any reciprocal rights in any other States.

Second, I would like to ask the gentleman, because he put out literature which said, if the District of Columbia does this, it undermines the family; so, would he explain to me how it undermines the family? Does he mean that the power of attraction of this in the District of Columbia would lead other people to abandon their marriages or decide not to get married in the first place? What does the gentleman mean when he said, not that it would change the definition, but what did he mean when he said it would undermine the family?

Mr. BARTON of Texas. There is a definition of "family" in this act that is not in congruence with any definition of——

Mr. FRANK of Massachusetts. How does it undermine other families?

Mr. BARTON of Texas. Mr. Chairman, I say to the gentleman, "It's my time," and I would also point out that there is no residency requirement in this ordinance. People from anywhere in the Nation could come over here, could come to the District of Columbia, and register their partnerships.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentleman from Texas [Mr. Barton] for yielding to me.

The CHAIRMAN. The gentlemen will suspend for just a moment.

Mr. BARTON of Texas. Mr. Chairman, I think we should have a debate if the gentleman from Massachusetts wants to have a debate.

The CHAIRMAN. The Chair will certainly allow for that.

The time is controlled by the gentleman from Texas [Mr. Barton]. He may yield it and reclaim it at will.

Mr. BARTON of Texas. Mr. Chairman, I yield to the gentleman from Massachusetts [Mr. Frank].

Mr. FRANK of Massachusetts. Mr. Chairman, I want to repeat that I believe the reciprocity argument has no validity, that no one would claim reciprocity or be granted it, no lawyer would find it, in this simple limited health benefits thing, but the more important point is, yes, the gentleman has said that this is a different type of family, et cetera.

By the way, I would be willing to strike the word "family" and tell them to give the exact same thing, but do not call it family. I do not think that would solve the gentleman's problem, but I also want to understand how does this undermine families.

I would understand the English language to mean, when one says that this undermines families, that it means it is a problem for other families, that other than those people who voluntarily choose to do this, this somehow would undercut the likelihood or ability of other people to form families of husband, and wife, and children, and I do not understand how I am undermining anybody else's family if I decided to register as a domestic partnership.

Mr. BARTON of Texas. I think very strongly, Mr. Chairman, that if the gentleman allows a definition of family to go on the books in the District of Columbia, it certainly, arguably, could be used in other legal proceedings to totally change the definition of family, and I do not think that is necessary.

Mr. ISTOOK. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Oklahoma.

Mr. ISTOOK. Mr. Chairman, I think first we need to remember what we are on is an amendment to the Barton amendment. The gentleman from California [Mr. DIXON] has said, rather than saying that no money can be used since all of the District of Columbia's money has to be appropriated through this bill, instead of saying no money can be used, let us say no Federal money. The effect of the Dixon amendment is to make the Barton amendment totally meaningless because it says to the District of Columbia, "You can still have what you want to call the domestic partners law, you can still have all of the problems, all of the consequences, all of the effects that we have been talking about." That is what the Dixon amendment would do.

And what does it really mean? I say to my colleagues, if you look at the bill, the money in the bill that is approved for spending by the District of Columbia is about $3.4 billion. Where does it come from? Six hundred and sixty-eight million dollars of it comes from a direct Federal appropriation. Fifty-two million dollars of it comes from Federal pension funds. And if you look on page 7 of the bill report, you will find of the $3.4 billion another $777 million comes from other Federal grants and programs so that you have a total of $1.5 billion of Federal funds coming into the District of Columbia.

In addition to that, Mr. Chairman, I say to my colleagues, if you will look on page 80 of the report, you will find the District also receives $500 million from the Federal Government to run cultural, educational, and similar attractions.

This money that comes into the District of Columbia, can you tell what is Federal and what is not? If I pulled this dollar out of this pocket, and I say, "This is Federal money," and I pull this dollar out of this pocket and say, "This is State money," and I put them together in my wallet, can you tell which is which?

If my colleagues say the District can spend one of these dollars but not the other, then they are approving the domestic partners provision of the District of Columbia, and they are undermining the family.

The gentleman from Massachusetts [Mr. FRANK] is wanting to undermine families by changing the definition, by saying that it is no longer, and I will not yield. I do not have time to yield, we have heard plenty from the other side.

We have the bill redefine family member. It is in the District of Columbia, a new definition that can be taken and will be argued from State to State that this is what a family means. It is not just homosexual partners. The language of the District of Columbia act also makes family members out of heterosexuals that are living together. But it is fascinating to me that in the earlier debate on the bill we heard a claim that this bill has nothing to do with homosexuals living together and wanting a legal recognition of that. Now we hear from the Massachusetts gentleman that that is exactly what is being promoted by this bill.

This is a question of redefining the family. It is not a question of playing games with which pocket the money came out of. We still have the constitutional authority and duty over all legislative enactments in the District of Columbia—article I, section 8, clause 17, of the U.S. Constitution.

If domestic partners goes into effect, Mr. Chairman, in the District of Columbia because my colleagues vote for the Dixon amendment, then it is their responsibility, and they must bear it, they must account for it to all the people back home in their own districts. My colleagues, do not think that you can escape the responsibility of the U.S. Constitution by saying, "Oh, I turned it over to the District of Columbia. Don't we all trust the government of the District of Columbia?" So I ask that the Dixon amendment be defeated and the Barton amendment be adopted.

□ 1600

The CHAIRMAN. The Chair would advise Members controlling debate that the gentleman from California [Mr. DIXON] has 7 minutes remaining, and the gentleman from Texas [Mr. BARTON] has 5 minutes remaining.

Mr. DIXON. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Chairman, there are two issues here, and two issues only: One is the home rule issue. I am not going to speak too long about that. That issue is obvious. The voters, represented through the city council and the Mayor of the District of Columbia voted to allow domestic partners at their own expense who work for the District government to extend health coverage by paying extra premiums to the people they live with, and we are going to overrule the District government and say "No, you can't," a violation of home rule, no moral reason on earth, no reason we should violate the home rule.

The second issue is the core issue. Why are we doing this anyway? And I do not believe for a minute a word said by the last two speakers, the proponents of this. Does anybody here believe, does anybody listening believe, that if the D.C. law were couched differently, that if instead of defining the word "family" to include domestic partner, they had a separate section of the law that defined the word domestic partner, made no reference to family, and said the benefits of domestic partners follows, you can have medical benefits, pension benefits, if they wanted to do that, does anybody believe the same people from this House would not be on their feet trying to overrule that? That they would not say that somehow magically impaired or threatened the family?

I do not believe it for a minute. I think it is sheer hypocrisy. Maybe we will get the D.C. government to test that next year by writing their law a little differently.

I believe the real issue here is that there are people in this country and in this House who so disapprove of the way some people live their private lives, that they want to make us moral arbiters and say those people are wrong, they are terrible. We will not let them live their private lives the way they will without exacting a pound of flesh because we feel good about it. That is what this debate is about, and nothing else, and it is wrong.

Mr. Chairman, I urge that the Barton amendment be defeated and the perfecting amendment be passed.

Mr. BARTON of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Chairman, I rise against the so-called perfecting amendment because it would destroy the intent of what we are trying to do here. Money is fungible, as my colleagues already know.

I am going to try and clarify the core issue here, which is why some of us have come to the well of the floor to defend the traditional family unit. I know we will be talking past one another. I am willing to take out an hour special order tonight to debate this. I am willing to submit it to our leaders as a topic for one of our Wednesday night Oxford-style debates. I could quote the Old Testament here for about 30 minutes, but I would not want to feed VICTOR "The Gentle" FAZIO's paranoia regarding us fire-breathing Christians. So I will just discuss this topic from a sociological basis.

No jurisdictional unit in these here United States, from Alaska to the territory of Puerto Rico from Guam through California to Kennebunkport, no town, city, county, or State, recognizes same-sex couples as married. Protections favoring marriage are built into the law and our culture because of the central importance of the family unit as the building block of civilization. To have a governmental unit in this case the District of Columbia, sanction same-sex partnerships by putting them on par with traditional marriages in terms of benefits, sends a message that traditional married couples are not the ideal. Our society, especially as it is steeped in illegitimacy and divorce, needs to unashamedly promote traditional marriage. Traditional marriage is better than same-sex partnerships and our institutions should say so. Anything less is an attack on the family.

My gosh, where did I first hear that about the family being the building block of civilization? It so sticks in my mind that I place it as September 1946. on the corner of Venice Boulevard and Normandy, at Loyola High School Father kelly, the professor of my first big class in sociology as a 13 year old, said "the family is the building block of society."

The U.S. Supreme Court in 1888, you New Englanders will remember that as the year of the big blizzard, described marriage as, "Creating the most important relation in life; as having more to do with the morals and civilization of a people than any other institution." That is the U.S. Supreme Court.

However, some jurisdictions are moving toward redefining the family to include same-sex relationships, and they are less like the V-8 juice as my colleague from Massachusetts stated, and more like Heinz 57. You know, you got your bondage, and you got your discipline, and you got your sadism, and you got your masochism, and you got your menage a trois, and you got your bisexuality.

And if you had military experience you would understand there are visiting officers quarters, that is a VOQ. Then there is a BOQ. That is the bachelors officers quarters. And then there is family housing. And that is for enlisted men who are married and officers who are married. We don't want bachelors partying in the family quarters or occupying those quarters. They are to go to the BOQ, or get housing in the community in town.

Now, a note in the Harvard Law Review in 1991—am I out of time?

The CHAIRMAN. The time of the gentleman has expired.

Mr. DORNAN. Then I will submit all this for the RECORD and look forward, Mr. Chairman, to the Oxford debate on the family. Thank you, Father Kelley, in sociology 101.

Thomas Stoddard, leader of the drive to lift the military's ban on homosexuals and former president of the Lambda Legal Defense Fund, now known as the Lambda Legal Defense and Education Fund, a homosexual legal foundation, sees marriage as the prime vehicle to advance societal acceptance of homosexuality:

"I must confess at the outset that I am no fan of the 'institution' of marriage as currently constructed and practiced. * * * Why give it such prominence? Why devote resources to such a distant goal? Because marriage is, I believe, the political issue that most fully tests the dedication of people who are not gay to full equality for gay people, and also the issue most likely to lead ultimately to a world free from discrimination against lesbians and gay men. Marriage is much more than a relationship sanctioned by law. It is the centerpiece of our entire social structure, the core of the traditional notion of 'family.'"

Lesbian activist Paula Ettelbrick, former legal director of the Lambda Legal Defense and Education Fund and now policy director for the National Center for Lesbian Rights, supports the "right" of homosexuals to marry, but opposes marriage as oppressive in and of itself. She says homosexual marriage does not go far enough to transform society:

"Being queer is more than setting up house, sleeping with a person of the same gender, and seeking state approval for doing so. * * * Being queer means pushing the parameters of sex, sexuality, and family, and in the process, transforming the very fabric of society. * * * As a lesbian, I am fundamentally different from non-lesbian women. * * * In arguing for the right to legal marriage, lesbians and gay men would be forced to claim that we are just like heterosexual couples, have the same goals and purposes, and vow to structure our lives similarly. * * * We must keep our eyes on the goals of providing true alternatives to marriage and of radically reordering society's views of reality."

MARRIAGE, DOMESTIC PARTNERSHIPS AND THE LAW

No jurisdictional unit in the United States—town, city, county or state—recognizes same-sex couples as "married." Protections favoring marriage are built into the law and the culture because of the central importance of the family unit as the building block of civilization. In 1888, the U.S. Supreme Court described marriage "as creating the most important relation in life, as having more to do with the morals and civilization of a people than any other institution."

However, some jurisdictions are moving toward redefining the family to include same-sex relationships, and there is a movement within the legal community to overhaul the definitions of marriage and family. A note in the Harvard Law Review in 1991 advocated replacing the formal definition of family with an elastic standard based "mainly on the strength or duration of emotional bonds," regardless of sexual orientation. The note recommends redefining the family through "domestic partner" or family "registration" statutes that go beyond the limited benefits now conferred by existing domestic partnership laws so as to "achieve parity" between marriage and other relationships.

In 1990, San Francisco Mayor Art Agnos appointed lesbian activist Roberta Achtenberg (currently Assistant Secretary of the U.S. Department of Housing and Urban Development) to chair the Mayor's Task Force on Family Policy. The final report of the task force defines the family this way:

"A unit of interdependent and interacting persons, related together over time by strong social and emotional bonds and/or by ties of marriage, birth, and adoption, whose central purpose is to create, maintain, and promote the social, mental, physical and emotional development and well being of each of its members."

In this definition, which could reasonably be described as a formulation by homosexual activists, marriage is no longer the foundation for families but secondary to "strong social and emotional bonds." This definition is so vague that multiple-partner unions are not excluded, nor any imaginable combination of persons, including a fishing boat crew. The whole point is to demote marriage to a level with all other conceivable relationships.

The Task Force's definition of "domestic partners" is almost as vague, but limits the relationship to two partners: "Two people who have chosen to share all aspects of each other's lives in an intimate and committed relationship of mutual caring and love."

The District of Columbia City Council legislation defines "domestic partner" as "a person with whom an individual maintains a committed relationship," which is defined as "a familial relationship between two individuals characterized by mutual caring and the sharing of a mutual resident." One of the partners must be a city employee "at least 18 years old and is competent to contract;" "not be related by blood closer than would prohibit marriage in the District;" "be the sole domestic partner of the older person;" and "not be married."

Applicants would qualify by signing a "declaration of domestic partnership" to be filed with the mayor, and which could be terminated by filing a termination statement with the mayor, which takes effect six months after filing. After that, another partner could be registered. Benefits include granting of sick leave, health insurance and funeral leave.

Mr. DIXON. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, to my utter disappointment, the preceding speaker failed to get my point. The question is not whether the family is an important thing and a good thing. My question remains unanswered: How does the fact that two men or two women choose voluntarily on their own to live together and to take advantage of the much lower level of benefits or other level of benefit that is there, how does that undermine the family? What is it about the example of two women living together that so frightens some of my colleagues on the other side that they think this will dissolve the bonds that bring men and women together?

That is the question. Not whether or not the family is important, but how does allowing a small minority of people to live in a different way undermine the right and the ability of the majority to do what it wants? That is the core issue, and it has not been answered, because it cannot be answered.

I will have to say, finally, that I would have to decline the invitation to engage in an Oxford debate with the gentleman from California. That seems to be somewhat oxymoronic.

Mr. BARTON of Texas. Mr. Chairman, may I inquire, who has the right to close?

The CHAIRMAN. The right to close is reserved by the gentleman from California [Mr. DIXON], who has 4 minutes remaining. The gentleman from Texas [Mr. BARTON] has 2 minutes remaining.

Mr. BARTON of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me simply state in closing that the domestic partnership ordinance that is currently on the books of the District of Columbia says any two adults that are at least 18 years of age or older, they can be heterosexual couples, they can be homosexual couples, as long as they are not married and want health benefits, they can register with the District of Columbia as a domestic partnership and receive those benefits, and any other benefits.

Admittedly, if we pass the Barton amendment, we will not allow homosexual couples to receive any health care benefits if they registered themselves as a domestic partner. But neither would we allow heterosexual unmarried couples to receive those benefits either.

Once again, I must reiterate that the definition of family in the ordinance that is on the books in the District of Columbia does not meet any currently acceptable legal definition of family or of marriage anywhere else in the country.

I would hope that we would defeat the amendment of the gentleman from California [Mr. DIXON], which is a shell game, so that they could substitute Federal funds in another area so they could use local funds to implement this act. Defeat the Dixon amendment, and then vote for the Barton amendment, as we have the last 2 years.

☐ 1610

Mr. DIXON. Mr. Chairman, to close the debate, I yield the balance of my time to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, I thank the gentleman, after a tough day for the District.

I say to my colleagues, leave us with our laws. How much do they mean to extract today from the District of Columbia? Have not you gotten enough?

The Dixon amendment has with it the power of precedent. The fact is that the Members of this body have used the distinction between Federal and local funds to separate themselves from the District of Columbia. That is the precedent for the way we have most often approached these issues.

I ask my colleagues to follow that precedent and to do so once again. I do not believe that the domestic partnership part of this is relevant to the way we have chosen to look at these issues in the past. Dozens of jurisdictions have domestic partnership laws, and some of my colleagues come from districts that have them. All that I ask of Members is that they show respect for my constituents and their democratically chosen choices.

My friends, this is a great country. Vive la difference. In the District, we have little enough democracy. We have less than any of the rest of my colleagues.

Today, through a bipartisan amendment, have inflicted heavy fiscal pain in order for the District to get its appropriation through; 80 percent of the money in this appropriation, my friends, on the other side of the aisle, is the District's money. Therefore, local funds means local funds.

Leave us with our laws. Do unto my constituents, I ask my colleagues, as they would have others do unto theirs.

Mr. STARK. Mr. Chairman, I oppose the Barton amendment. The citizens of the District of Columbia have once again decided that unmarried citizens of their jurisdiction should not be denied healthcare coverage. As a proponent of universal healthcare coverage and as a longstanding supporter of home rule, I must oppose any effort to deny the District the authority to expand healthcare coverage for its citizens.

I urge my colleagues to support the motion to rise. It is neither our right nor our responsibility to intrude on local matters.

Mr. SMITH of Texas. Mr. Chairman, the protections favoring marriage are built into the law and the culture because of the central importance of the family unit as the building block of civilization. It is no accident that this has taken place.

By the same token, it is no accident that the District of Columbia's Domestic Partners Act has decided to include homosexual couples, heterosexual couples living together, or any roommates. This definition reducing the institution of marriage to a level with all other conceivable relationships is a deliberate attempt.

People need to resist this assault against the family and the bond that was designed to hold it together—the institution of marriage. Taxpayers are tired of picking up the tab for special interests, especially ones that they are morally opposed to.

Furthermore, the domestic partnership provision mocks the idea of commitment—commitment in any relationship, since most domestic partner laws allow for easy dissolution of the relationship and the registry of several partners a year.

In September, Austin became the first city in my State of Texas to adopt the domestic partners policy, which is similar to ones passed in about 25 cities nationwide.

Since Austin City Council enactment and approval of the insurance program in September, 98 employees had signed up with 69 registering an opposite sex partner and 29 enrolling a same-sex partner.

In May, Austin voters repealed the domestic partner policy that extended health insurance benefits to unmarried partners of city employees by a clear mandate of 62 percent.

This mandate expresses Austin residents' frustrations with the maneuvering of the city council.

One of the many reasons this program was overwhelmingly repealed was because this program erodes family values.

People also felt very strongly that the city of Austin had no right to redefine marriage.

Many voters also opposed the program simply because of the added expense it would cost the city and ultimately the taxpayer to provide these benefits. According to city estimates these benefits would have cost the city of Austin approximately $130,000 this year alone.

D.C. should learn from the lesson Austin offers and not make the same mistake its presumptuous council did last September. We should vote against the motion to rise and for the Barton amendment to continue the ban on domestic partnership through fiscal year 1995.

The CHAIRMAN. All time for debate has expired.

The question is on the amendment offered by the gentleman from California [Mr. DIXON] to the amendment offered by the gentleman from Texas [Mr. BARTON].

The amendment to the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BARTON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BARTON of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 251, noes 176, not voting 12, as follows:

[Roll No. 321]

AYES—251

Allard
Andrews (TX)
Applegate
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Boehner
Bonilla
Boucher
Brewster
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chapman
Clement
Clinger
Coble
Collins (GA)
Combest
Cooper
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gekas
Geren
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Greenwood
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Hefner
Herger
Hobson
Hoekstra
Hoke
Holden
Horn
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Johnson (GA)
Johnson (SD)
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kyl
LaFalce
Lambert
Lancaster
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Lucas
Machtley
Manton
Manzullo
Martinez
Mazzoli
McCandless
McCollum
McCrery
McHale
McHugh
McInnis
McKeon
McMillan
McNulty
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Murphy
Murtha
Myers
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Regula
Ridge
Roberts
Roemer

Rogers
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Sensenbrenner
Shaw
Shepherd
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Stump
Stupak
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Traficant
Tucker
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Whitten
Wilson
Wise
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—176

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Becerra
Beilenson
Berman
Bilbray
Blackwell
Blute
Boehlert
Bonior
Borski
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coppersmith
Coyne
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dixon
Dooley
Durbin
Edwards (CA)
Engel
English
Eshoo
Evans
Faleomavaega (AS)
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gonzalez
Green
Gunderson
Gutierrez
Hamburg
Harman
Hastings
Hilliard
Hinchey
Hoagland
Hochbrueckner
Houghton
Hoyer
Hughes
Jacobs
Jefferson
Johnson (CT)
Johnson, E.B.
Johnston
Kennedy
Kennelly
Kildee
Klein
Kolbe
Kopetski
Kreidler
Lantos
LaRocco
Lazio
Leach
Lehman
Levin
Lewis (GA)
Long
Lowey
Maloney
Mann
Margolies-Mezvinsky
Markey
Matsui
McCloskey
McDermott
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Moran
Morella
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Price (NC)
Rangel
Reed
Reynolds
Richardson
Rohrabacher
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Skaggs
Slaughter
Smith (IA)
Stark
Stokes
Strickland
Studds
Swift
Synar
Thompson
Thurman
Torkildsen
Torres
Torricelli
Towns
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Washington
Waters
Watt
Waxman
Wheat
Williams
Woolsey
Wyden
Wynn
Yates

NOT VOTING—12

Bacchus (FL)
Bishop
Ford (MI)
Ford (TN)
Gallo
Huffington
Laughlin
McCurdy
McDade
Obey
Rowland
Slattery

□ 1633

Ms. EDDIE BERNICE JOHNSON of Texas, Mr. DELUGO and Mr. RUSH changed their vote from "aye" to "no."

Mr. STUPAK changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. DIXON. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SHARP) having assumed the chair, Mr. MFUME, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4649) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to, and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 213, noes 210, not voting 11, as follows:

[Roll No. 322]

AYES—213

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Ballenger
Barca
Barcia
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Berman
Bevill
Bilbray
Blackwell
Bliley
Bonilla
Bonior
Borski
Boucher
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Coyne
Darden
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Houghton
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lantos
Levin
Lewis (GA)
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Mfume
Michel
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Morella
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Pickle
Pomeroy
Price (NC)
Rangel
Reed
Reynolds
Richardson
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schumer
Scott
Sharp
Sisisky
Skaggs
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Swift
Synar
Tanner
Thompson
Thornton
Thurman
Torres
Towns
Traficant
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Walsh
Washington
Waters
Watt
Waxman
Wheat
Whitten
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—210

Allard
Andrews (NJ)
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Barrett (NE)
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Blute
Boehlert
Boehner
Brewster
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Condit
Cooper
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
de la Garza
Deal
DeFazio
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fingerhut
Fowler
Franks (NJ)
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lancaster
LaRocco
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder

Lipinski
Livingston
Lloyd
Long
Lucas
Machtley
Manzullo
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Murphy
Myers
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Regula
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schenk
Schiff
Schroeder
Sensenbrenner
Shaw
Shays
Shepherd
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Stupak
Sundquist
Swett
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Torkildsen
Torricelli
Upton
Valentine
Volkmer
Vucanovich
Walker
Weldon
Williams
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—11

Bishop
Gallo
Huffington
Kennedy
Laughlin
McCurdy
McDade
Obey
Rowland
Serrano
Slattery

□ 1654

The Clerk announced the following pair:

On this vote:

Mr. Serrano for, with Mr. Rowland against.

Mr. VOLKMER changed his vote from "aye" to "no."

Mr. WISE changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

MOTION TO INSTRUCT CONFEREES ON H.R. 3355, VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

Ms. DUNN. Mr. Speaker, I offer a privileged motion to instruct conferees on the bill (H.R. 3355) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety.

The SPEAKER pro tempore (Mr. SHARP). The Clerk will report the motion.

The Clerk read as follows:

Ms. DUNN moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the Senate amendment to the bill H.R. 3355 be instructed not to make any agreement that does not include subtitle F of title VIII of the Senate amendment, relating to sexually violent predators.

Mr. NADLER. Mr. Speaker, I rise in opposition to the motion.

The SPEAKER pro tempore. The gentlewoman from Washington [Ms. DUNN] will be recognized for 30 minutes, and the gentleman from New York [Mr. NADLER] will be recognized for 30 minutes.

The Chair recognizes the gentlewoman from Washington [Ms. DUNN].

Ms. DUNN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this motion instructs conferees on the crime bill to encourage States to establish registration and tracking procedures and community notification with respect to released sexually violent predators. This same language was accepted by unanimous consent as a part of the Senate Crime bill. An effort to add companion language in the House—the bipartisan Dunn-Deal amendment—unfortunately was denied by the House Rules Committee.

Mr. Speaker, this now is an opportunity for Members of the House to go on record in support of the strong Senate language. We can send a precise message to conferees on the importance not only of registration and tracking provisions, but of notification that a sexually violent predator has moved into a community. American women and families deserve no less.

Mr. Speaker, this is a proven approach. The legislative language is modeled after a successful Washington State law, and will monitor sexually violent predators—including those convicted of stalking—wherever they may locate once they are released. Even if they move across State lines. Washington State leads the Nation in coping with this small group of criminals who terrorize primarily women, in their neighborhoods, homes, and workplaces.

The problem of sexually violent predators has unfortunately become too widespread in our society. We need only recall the tragic case of young Polly Klaas of Petaluma, CA who was snatched from her home and brutally murdered.

It is worth noting that the Polly Klaas Foundation is fully supportive of efforts not only to establish registration and tracking procedures, but also to institute community notification when sexually violent predators are released into the general public.

Mr. Speaker, I have had friends who have been raped. And as the ranking member of the Police and Personnel Subcommittee of House Administration, I have become aware of stalking cases right here on Capitol Hill. More to the point, I know firsthand what it feels like to have a stalker watching my every move, with the implicit threat of violence that is involved in that.

When rapists, women-beaters, or convicted violent stalkers are released into a community, the women in that community have a right to know that a dangerous individual has been placed in their midst. In fact, the Washington State Supreme Court already has ruled that this type of law is constitutional.

Already, both the House and Senate have passed legislation that requires law enforcement officials to notify communities when child molesters and others who pose a threat to children are released. This is right and good: A warning that society owes to parents and their children.

Likewise, our society owes to its women some notification that a predator is being released. And law enforcement officials should be encouraged to track their movements just as they do for those who have committed crimes against children.

That is all this language would do. I hope and believe it is something we all can agree on and endorse.

By contrast, Mr. Speaker, the language that is being proposed in the conference committee would completely strip any community notification from the crime bill. That is unacceptable. Law-abiding citizens, especially women, have a right to know when a predator is being released into their community.

What is the point of registering and tracking these convicted predators if we are not going to share that information with the very citizens who are at risk? How can we justify knowing where a sexual predator has located, and not notify the women and families in that neighborhood? The rate of recidivism for these crimes is astronomical. We know that. And that is why it is incumbent upon us to ensure that community notification is encouraged. Without the community notification, the effort is reduced simply to the collection of data.

I would hope the House would recognize this fact and express its strong support for community notification just as the Senate has done.

Mr. Speaker, on behalf of the thousands of women who work here on Capitol Hill. On behalf of the millions of women across the country and in every congressional district represented here, I respectfully ask that you support this bipartisan motion.

□ 1700

Madam Speaker, I reserve the balance of my time.

Mr. NADLER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in opposition to this motion for several reasons. First, Madam Speaker, on a substantive basis the Senate version, the Senate language, has several problems with it. The Senate version says that, if we define someone as a sexual predator; and the first problem is, I say to my colleagues, "If you look at the language in the bill as to defining a sexual predator, it's all-predicting. Someone with a mental abnormality, defined as a condition, a congenital or acquired condition, that affects the emotional or volitional capacity of the person in the manner that predisposes the person to the commission of criminal sexual acts."

Madam Speaker, we do not have the knowledge of the human mind and the brain that enables a proper decision to the degree of certitude required by criminal law as to a mental abnormality that predisposes someone to commit a crime. I do not think there is anything in the law books of this country, and I dare say of any State, that subjects someone to a penalty for a predisposition, for a prediction, that this person may commit a crime. That is a major danger here and a problem with this.

Second, let us assume that we did know. Let us assume that we did know how to predict this properly. What does this bill do? It says to the State, "Notify local law enforcement. Establish a program requiring someone who is released from jail either on probation, or parole, or at the completion of a sentence. He must notify local law enforcement as to where he lives and must keep that current." I frankly do not have a great problem with that if we want to say that some person, that we have the ability to predict that some person, is sufficiently dangerous, that although we are going to let him out of jail; and if he is so dangerous, I do not know why we let him out of jail; but he is sufficiently not dangerous enough to keep in jail, but sufficiently dangerous, we should notify local law enforcement and let them know to keep an eye on him.

OK; but this bill goes on to say that there should be community notification. The gentlewoman from Washington [Ms. DUNN] in her statement in support of this motion says the women of America have a right to know when a sexual predator moves into their neighborhood, and what is anybody going to do with this information? Move out of the neighborhood? Agitate to push that person out of the neighborhood so he goes to someone else's neighborhood where the process will start over again? Of what use is this information?

If we are going to mandate the release of information to the public, it should be with information that someone can do something with. Releasing this information to law enforcement might make some sense because law enforcement will keep an eye on him perhaps, but releasing this to the public is simply saying that someone who has committee a crime, paid the full penalty, spent 20 years in jail, or 30 years in jail, or 10 years or whatever it is, we are not going to penalize that person. But saying we are going to notify people that this is a pervert, and they can then go and try to demonstrate in front of his house, ask people to kick him out of the neighborhood or whatever, is fundamentally unfair.

More to the point:

If we have a person who is really this dangerous as to deserve or to necessitate such warning to the neighborhood, that person ought to be kept in jail. If people are sufficiently dangerous, then the criminal law ought to be such that they are kept in jail while they are dangerous to protect the people from their being let out, and if we let people out because we judge them no longer so dangerous, maybe community law enforcement notification to keep an eye on the fellow, maybe that makes sense, too. But to say sufficiently dangerous that we should notify the community so they can demonstrate against him or try to get him to move out of the neighborhood so some other neighborhood can demonstrate against him, but he is not dangerous enough to keep in jail, does not make sense.

Finally, Madam Speaker, in all of this, these issues, I am not going to attempt to persuade anybody of the rightness of these issues or of the rightness of what I just said of my view of these issues except to say that they are serious issues here.

□ 1710

But they are probably issues for State legislatures. The arguments that I just made should really be made before a State legislature, as should the arguments of the gentlewoman from Washington [Ms. DUNN], and the legislature might have policy reasons, might agree with her, might agree with me, might decide to lengthen the criminal penalties of some of these crimes, might decide for police notification or even community notification.

Those are questions for State legislatures. This is local law. What we are attempting to do here, or what the Senate is attempting to do here, what we should not agree with, is to mandate the States to enact a State criminal law and a State criminal program.

It says here, in fact we are writing State criminal law here. It says a person required to register under a State program who knowingly fails to register, shall be subject to criminal penalties in the State. Not in the Federal courts, in the State courts.

So we are writing State criminal law here. We are mandating the States under threat of withholding Federal funds as to a criminal law they are to enact. The Federal Government should not be in the business generally of enacting and writing local State criminal laws. That is the business of the State. The State legislature has ample policy arguments on both sides. I have enunciated some on one side of the issue, the gentlewoman from Washington [Ms. DUNN] on the other. I do not think this makes a heck of a lot of sense. But those are decisions for the State legislature, and, therefore, I oppose the motion to instruct the conferees and I urge that it be defeated.

Mr. BURTON of Indiana. Madam Speaker will be gentleman yield?

Mr. NADLER. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Madam Speaker, I would just like to make one brief comment, and that is in Indiana not long ago, we had a woman terrified of a man who had been incarcerated. She asked specifically that she be notified if this man were to be released. She was not notified, and within hours after he was released, he went up to her home, 200 miles away, and brutally murdered her. Had she been notified, as this provision would mandate, she would be alive today.

Mr. NADLER. Reclaiming my time, I recall that incident, and I would say, number one, that that is a matter for the State legislature. But, number two, I would not have a problem, in concept or in policy, I think it makes eminent sense. Certainly if an individual was harassed by someone in State custody, if an individual has reason to believe that that person has something against them or is going to harass them, it makes eminent sense to notify that person when he is going to be released so that she can seek an order of protection, so that she can take whatever protective measures, so she can ask the local police to keep an eye on him or her, if it is going to be in the same community. I have no problem with that.

But that is not what this says. This says the general community at large should know about all people that a judge or some board will decide may have these characteristics, wherever he may go.

Now, it is true, and this case that the gentleman referred to is an example of that, it is true that there are certain individuals in our society, unfortunately, who are fixated on someone and may do bodily harm or kill that person. And that person ought to be protected, if we know about it, obviously. And certainly the woman that you referred to should have been protected. She had the right to know. She should have been told when he was being released, although if he were so dangerous, he probably should not have been released. But that is a separate question. She should have known. But that person is probably not a danger to anybody else.

So I would say, again, these are matters for the State legislature. We should not get into the business of writing State criminal laws. And the

State legislature in its wisdom might fashion a more narrow protection that would take care of the concern raised by the gentleman.

So, again, I urge that this motion be defeated.

Madam Speaker, I reserve the balance of my time.

Ms. DUNN. Madam Speaker, I yield 3 minutes to the gentleman from Georgia [Mr. DEAL], a former prosecuting attorney, and who has been very active in putting this together.

Mr. DEAL. Madam Speaker, I thank the gentlewoman for yielding.

Madam Speaker, the gentlewoman from Washington [Ms. DUNN] and I, were cosponsors of an amendment to our original version of the crime bill that would have included language much more comprehensive than the language we are talking about instructing conferees to deal with. We were so presumptuous as to call it the Dunn-Deal amendment, and, as a result, the Committee on Rules did not allow us to vote on it.

We have a chance to make it a done deal here today by instructing our conferees that the language in the conference committee for purposes of consideration should be accomplished.

All of you, I think, knows what it does. It does require there be some tracking of those who are sexual predators. It is similar to language that is in the Jacob Wetterling Crimes Against Children Registration Act, which both bodies have passed.

I would like to take a moment to address the concerns of the gentleman from New York. He suggests to us we should not do this because in order to require registration, it requires we prove a predisposition of a mental condition to commit a crime, and that we have the inability to do that.

I would suggest to the gentleman we ought to tell all the defense attorneys in this country that that is impossible to prove, because it is the basis upon which defenses for being guilty but mentally ill or other mental defenses are usually based in order to get someone out of being punished for a crime.

The truth of the matter is we do have the ability to show this, and, yes, we do release them from jails and from prisons, even with that knowledge. And it is that basis upon which we should act.

I would also suggest that the fact that we may be telling State legislatures what they should or should not do has never been a deterrent to this body. In fact, if we took those provisions out of the Federal crime bill, we would probably have only a few pages to deal with whatsoever. We are in the business of writing Federal statutes. We are in the business of dealing with legislation that affects people who cross State lines, things that State legislatures cannot do. There is an old saying that in time of crisis, women and children first. This is a time of crisis. We have taken care of the children with registration. It is now the time to do the same thing for the women of this country.

Ms. DUNN. Madam Speaker, I yield 1 minute to the gentlewoman from Ohio [Ms. PRYCE], a former judge and an active Member of the freshman class.

Ms. PRYCE of Ohio. Madam Speaker, I rise in strong support of the Dunn motion to instruct conferees on the crime bill.

As a former judge, I strongly believe one of the most important duties of government is to ensure that its citizens can live safely in their homes and neighborhoods, free from violence and crime. Yet each year thousands of our citizens, our neighbors and loved ones, face the reality of violent sexual crimes, and their lives are changed forever. Madam Speaker, I've seen the bad remnants of many of these lives hundreds of times in my former court room.

This motion to instruct conferees is a simple way to monitor this group of violent sexual offenders who are released into society after serving time for these heinous offenses. After decades of elevating the needs and rights of criminals, the American public has slowly begun to recognize that victims and potential victims of crime have rights as well. With the passage of this motion the American people will at least have more information about released sexual predators.

Madam Speaker, this should not be a controversial issue. For the thousands of individuals who are victims of sexual violence every year, we are simply trying to give the law enforcement officials another commonsense tool to do their jobs to protect the communities from these most violent and brutal criminals. I urge my colleagues to support the Dunn motion to instruct and urge its passage.

Ms. DUNN. Madam Speaker, I yield 1 minute to the gentlewoman from New York [Ms. MOLINARI].

Ms. MOLINARI. Madam Speaker, I rise in strong support of the Dunn motion to instruct conferees. Let me just say in the moment I have left, the sexually violent predator as defined by this motion is a person who has been convicted of the sexually violent offense, and who suffers from mental abnormalities. At that moment of conviction under the Dunn motion, we are saying yes, you then abdicate your civil rights to live a free and normal life, just like your victim did at the moment that the crime was committed.

What does that accomplish? It gives every other woman who may live in that town an opportunity to be aware and be on guard. Does that sound fair? It is not fair. Nor is it fair for a sexual predator to be able to roam a neighborhood and ruin lives. And the moment that that conviction occurs, that person relinquishes his ability to serve with his civil rights like every other law-abiding citizen in the United States. And to the Dunn motion to instruct, it lets you know once and for all, at least in one portion of our Criminal Code, that if you violate this law, it will be an offense that haunts you for the rest of your life. Not only because that is justice, but because that is fairness for every woman who may live in that neighborhood.

Madam Speaker, I thank the gentlewoman, and I strongly support the motion.

□ 1720

Ms. DUNN. Madam Speaker, I yield 1½ minutes to the gentlewoman from Florida [Mrs. FOWLER], who, just as the gentlewoman from New York [Ms. MOLINARI], has been a very active member of our conference and who is another strong, hard-working Member of the freshman class.

Mrs. FOWLER. Madam Speaker, I rise in support of the Dunn motion to instruct conferees on the crime bill to ensure that the conference report includes: National tracking and registration of released sexually violent predators; community notification of the presence of these released individuals; immunity for law enforcement agencies that act in good faith to notify communities.

A sexually violent predator is a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in another such offense.

This measure targets the small group of violent sexual offenders who are released into society after serving time for rape or child molestation, despite the fact that they are a continued threat.

After a determination has been made that a person is a sexually violent predator, it is simply a commonsense precaution for law enforcement officials to monitor the person's whereabouts and warn communities where the person may commit another offense.

Currently, law enforcement officials often fail to communicate the presence of a sexual predator in their communities, because they either have no way of ensuring his residence or lack the legal protection to do so.

This measure gives our law enforcement officials the tools to protect their communities from some of the most violent and brutal criminals.

According to the Congressional Budget Office, the cost of this measure is negligible.

The Dunn motion to instruct is a commonsense motion, which will serve to protect women and children in the future, and I urge my colleagues to support it.

Ms. DUNN. Madam Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. RAMSTAD], a member of the Subcommittee on Crime and Criminal Justice who has worked on this legislation for 3½ years.

Mr. RAMSTAD. Madam Speaker, I rise in support of the Dunn motion.

As Members will recall, the House passed the Jacob Wetterling Crimes Against Children Act last fall, and this measure was also included in the crime bill.

As the author of this legislation, I've worked on this issue for 3 years. I know how important it is to coordinate with the States to develop a national registration system to keep track of released sex offenders who are known to be notorious repeat offenders.

I support expanding the Wetterling bill to cover sexually violent predators, and I commend Republican DUNN for bringing this motion to the floor.

Regarding community notification, reasonable minds can disagree over whether it is good policy. Yes, there is the potential for abuse. On the other hand, we need to protect the public from persons we know are dangerous.

But the key point is that the individual State legislatures—not the U.S. Congress—should decide whether they want to adopt some form of community notification. This is all the Dunn motion would do.

Attorney General Janet Reno, in her recommendations to the conferees dated June 13, discussed this very issue as it pertains to the Wetterling bill, which, I might add, she supports. She recommends that the conferees strike the provision in the Wetterling bill which deems the registration information to be "private data."

As she says, "this could interfere with State discretion to use the data for other legitimate purposes, such as notifying school authorities or victims of earlier offenses that a child molester has moved nearby."

As you can see, the Attorney General essentially supports the concept of "community notification," and like me, she believes this should be a matter of State discretion.

Indeed, I think it is also instructive to note that her comments regarding the Senate's registration system for sexually violent predators, which is the subject of the Dunn motion, do not raise any objections to community notification.

While not the subject of this motion, I urge the conferees to accept the Attorney General's recommendation regarding deletion of the "private data" provision in the Wetterling bill.

And I urge Members today to vote for the Dunn motion. The women and children of America deserve nothing less.

A vote for the Dunn motion is a vote for victims rights.

Mr. NADLER. Madam Speaker, I yield 2 minutes to the distinguished gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Madam Speaker, I really had not expected to speak on this issue until I got in the Chamber. My disposition, frankly, is to support the gentlewoman from Washington, and I intend to do so because I think that her instruction makes a very important point.

I have listened to the gentleman from New York [Mr. NADLER], and he did an excellent job of presenting the nuances, the subtleties of the law, and the questions that are necessarily raised by this instruction.

But I think what we are talking about here, if I have heard correctly, and if the Members on the proponents' side of the argument are clear in their understanding, we are talking about those who have preyed upon children as well as preyed upon women. Is that correct?

Ms. DUNN. Madam Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentlewoman from Washington.

Ms. DUNN. Madam Speaker, it is sexual predators, and they prey most often upon women but also talking about children.

Mr. MAZZOLI. Madam Speaker, if I am correct in that, this would be a notification to the communities about the presence in those communities of people who have preyed upon children, who have abused children, who have raped and sodomized children. Is that correct?

Ms. DUNN. Madam Speaker, if the gentleman will continue to yield, the way we define sexually violent predator, the term sexually violent predator means a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes that person likely to engage in predatory sexually violent offenses.

Mr. MAZZOLI. I thank the gentlewoman for that, because I remember when we had the markup of the crime bill in our Committee on the Judiciary, I had just come upon an article which appeared in the Courier-Journal, a Louisville, KY newspaper, about a man who did not live in Louisville, but nearby, who was a sexual predator, who had committed horrible and heinous offenses against children in his career as a career criminal and who freely confessed that he could not prevent himself from committing these acts again. And I think that the reality is that psychologists and the psychiatrists indicate that people who have preyed upon children are almost inevitably going to prey again. They are almost inevitably going to commit these acts again. So it does appear to me that, while I think the gentleman from New York [Mr. NADLER] has performed a very valiant duty here, it does seem to me that we should tell our conferees that we believe this kind of treatment is necessary to protect American women and American children.

Ms. DUNN. Madam Speaker, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM], who has been very active on behalf of the initiatives to inform and protect women and who has been a strong supporter of this legislation.

Mr. CUNNINGHAM. Madam Speaker, I do not think it is too unreasonable to ask to instruct in a motion that is going to protect our most vulnerable citizens, our senior citizens are not included in this, but they should be, but the children and women.

The gentleman from Indiana [Mr. BURTON] talked about a lady that was harassed by a gentleman and asked to be notified when that gentleman got out of prison. She was not. The gentleman immediately drove 200 miles and killed that lady.

We need to protect these kinds of people. The gentleman from New York said, well, it is not our responsibility. It is the States' responsibility to do that.

I cannot tell my colleagues on this House floor what I feel about that response from the gentleman from New York. It is all of our responsibilities to protect our men and women, not just the State legislature. I have heard that it is unfair to have somebody register.

If you are a sexual molester, you molest either of my two daughters, you better not be told that you are in my district because you are probably not going to survive.

At a minimum, we ought to at least let the community know that that individual that has been convicted of rape, of stalking, of sexual molestation is in the district. Is it unfair? It is unfair to be raped. It is unfair to be sexually molested, and it is unfair to be stalked.

□ 1730

They should be informed not only at the time, but for the future people that that person is going to commit that crime against. Madam Speaker, I hope we look at the O.J. Simpson case out in California that is going on right now, as far as domestic violence, and get stronger penalties with that. Polly Klaas' dad was asking for at least 85 percent of the time that a molester should spend in jail, at a minimum. I would like to see 100 percent, but that did not happen.

Madam Speaker, it is time, a long overdue idea, that we quit protecting criminals and criminal rights and focus on the victims' rights, not only those that have been victimized, but those that will be victimized it we do not notify.

Madam Speaker, I rise in strong support of the motion offered by the gentlewoman from Washington [Ms. DUNN], and I thank the gentleman from Georgia [Mr. DEAL] as well.

Ms. DUNN. Madam Speaker, I yield 4 minutes to the gentleman from Arizona [Mr. KYL], who has been very active on behalf of this and other protective legislation.

Mr. KYL. Madam Speaker, first I want to thank the gentlewoman for yielding time to me, and for offering this motion. She has been a real leader in this field, and that is an important reason why I think we will be improving the crime bill and able to pass a very strong crime bill before this Congress is finally adjourned.

Madam Speaker, sexual violence is one of the most troubling issues facing our Nation today. Today, again, we have the opportunity on the floor of this chamber to help combat domestic and sexual violence. For the sake of the thousands of victims, I once again urge the House not to pass up an opportunity to strengthen laws against domestic and sexual abuse.

Both the House and Senate have wisely passed legislation to require law enforcement officials to notify communities when a child molester is released from prison and then moves into a community. Likewise, when a sexually violent predator is released from prison into a community, the citizens of that community should be notified.

During debate on the Senate crime bill, an amendment passed which provides for community notification of released sexual predators. The Senate amendment also encourages States to establish registration and tracking procedures of violent sexual offenders and establishes immunity for officials notifying communities of the presence of violent sexual offenders. This amendment, it should be noted, passed unopposed.

During consideration of the House crime bill, Representatives DUNN, SUSAN MOLINARI, and I attempted to offer that amendment, as well as other sexual assault measures, but we were rejected, on a party-line vote, from doing so. Today, we have an opportunity to continue the battle against domestic and sexual violence by ensuring that both the House and Senate are on record in support of these provisions. This notification amendment is important and complements the objectives of the Sexual Assault Prevention Act, legislation Representative SUSAN MOLINARI and I have introduced to combat sexual and domestic violence and give victims greater protection while going through the criminal justice system.

Every community in this nation has had to grapple with sexual abusers. And, in hearings I have held on sexual violence here in Washington and in Arizona, experts have testified the prognosis for curing violent sexual abusers in poor. They also testified that the likelihood of sexual abusers repeating acts of sexual violence is very high. If a criminal justice system were in place to put and keep sexually violent predators in jail, then a notification system would not be necessary. However, according to the Bureau of Justice, rapists, on average, spend only 3 years in jail. Given the recidivist nature of these offenders, it makes clear and perfect sense to let the citizens of a community know that a potentially dangerous person in living in their neighborhood.

My interest in ensuring that victims and communities receive proper notification of the release of perpetrators was heightened last year. During my work on the House Armed Services Committee, I became aware that the Department of Defense knows little about domestic and sexual violence even though 28,000 military families were touched by violence in 1992 alone. In those situations, victims were often not notified of their rights. As a result, I had language added to the DOD authorization bill last year which requires DOD to implement a system to ensure notification of victims and witnesses if prisoners in military correctional facilities are moved or released. As a result of last year's Defense bill, DOD has also established a new, centralized Victim and Witness Assistance Program.

Victims and citizens in communities around the country deserve to know when a violent abuser will be released from prison. The Dunn motion to instruct will help to accomplish this goal and so I urge my fellow colleagues to vote to instruct crime bill conferees to agree to subtitle F of title VII of the Senate-passed crime bill. Again, Members should not pass up the opportunity to make a positive difference in the lives of those who have experienced the tragedy of sexual and domestic assault.

Mr. NADLER. Madam Speaker, I yield myself such time as I may consume to close debate for this side.

Madam Speaker, a number of references were made in the discussion that are not really apropos to the subject of the amendments, to the provision that the Senate seeks to put in this bill, which this motion urges our conferees to accede to. Reference was made, for instance, to protecting victims of child molestation, to protecting children.

The fact is that 12 pages earlier in this bill there is subtitle C, crimes against children, the Jacob Wetterling Crimes Against Children Registration Act to which the gentlewoman and several speakers on that side referred. This is the section of the bill which the House and Senate both passed, which is not the subject of what we are talking about, that is designed to protect children, and that sets up a notification system.

What we are considering here is a separate section which the Senate did but we did not on sexually violent predators. The child molestation notification is in subtitle C of the bill, which both House and Senate agree on. Here we are talking about setting up a sexually violent predators definition, and mandate on the States to set up a program to notify the police and the communities and local people.

Madam Speaker, I would point out that the Jacob Wetterling provision, which we are going to enact as part of the crime bill, because both Houses agree, is not a precedent for this, because it does the right thing.

It provides for notification of the police in a community when someone who has been a child molester is going to be released, so the police are notified, the law enforcement agencies are notified, and can keep an eye on this person to protect the community. It does not provide for community notification.

Madam Speaker, my main objection to this provision is the community notification, because once someone has been released from jail, if we think he is dangerous, I think it makes eminent sense to do two things: First, notify the police, and that makes eminent sense; second, if he has shown a fixation on an individual victim, as in the case in I forget which State was referred to before, in Indiana, notify the victim, by all means. If someone has been a victim, then he or she certainly should be notified when the felon or the perpetrator is going to be released.

However, to notify the world at large, what effect does it have, other than to enable people to demonstrate and try to put pressure on this person not to live in that community, so he can move to another community where they will have the same problem, and so forth, from one community to the other?

If this person is so dangerous, then that person should be in jail. As I said before, this is criminal law, local criminal law, and the State legislature should deal with it. Let the State legislatures mandate longer prison terms, or in certain cases, maybe life without parole. That is the prerogative of the State legislature.

Madam Speaker, again, either the person is so dangerous that he should be in jail or he is not so dangerous that he should be hounded from community to community because he is labeled a sexually violent offender and everybody is told about it when he is released from jail x number of years later.

Police notification makes sense, individual notification makes sense, large-scale notification does not make sense, because if we need large-scale notification, so-called community notification, then we should not be releasing him from jail, and the State legislature should be dealing with both ends of this problem, and that is the bottom line of this. This is a State matter.

When I hear someone stand up here and say that it is all of our responsibility, sure, it is all of our responsibility, but in this country we leave general decisions of criminal law generally to the States except when it crosses the State line. Here there is no suggestion of crossing State lines.

In fact, in this provision we are saying to the State, "If you do not do it exactly the way we tell you to do it, then we are going to take Federal funds away from you and we are going to mandate it. We are not going to leave it to the discretion of the Attorney General or anything."

This is telling the States, "We know best how to do it, we are telling you how to do it in the States," and that is not something we ought to be doing in the criminal law in a matter of this kind, especially when there are strong policy arguments that this particular solution to this problem has real problems with it. Let the State legislature deal with the specifics of how to deal with this.

Madam Speaker, I yield back the balance of my time.

Ms. DUNN. Madam Speaker, I yield the remainder of my time to the gentleman from Florida [Mr. McCOLLUM], who has been a diligent leader on crime legislation.

□ 1740

Mr. McCOLLUM. Madam Speaker, I thank the gentlewoman for yielding me that time and her kind words.

Madam Speaker, I do not intend to take up the full 10 minutes. I first of all want to commend the gentlewoman from Washington for offering this. This is a very important and constructive provision in the crime bill that should have been out here on the floor with an opportunity for the Members of the House to vote on it way back on April 21 when we considered this bill. It was not for her lack of diligence. She tried very hard to convince the Committee on Rules, and many of us supported her, to get this opportunity to offer the amendment that today she is seeking us to offer in the motion to instruct to tell our conferees to accept what is in the Senate bill.

Madam Speaker, why is this so important? First of all, the No. 1 issue in the crime world today for the American public is violent crime. There is no greater violent crime problem that faces American women and children today than that of a sexual predator, that is, a stalker. That is what we are talking about today. We are talking about somebody who has been convicted of not just any old crime but a violent sexual crime who then is going to go back out onto the streets again, whose opportunity to commit another crime of that nature will be there, who has a track record that undoubtedly shows a predisposition of some sort with a mental abnormality or some personality disorder that psychologists and psychiatrists would say has this predisposition, and then who is somebody who probably is going to be winding up stalking a woman or potentially a child in our communities locally.

I cannot think of anything more appropriate to the crime bill than this provision. What does this provision do? We have heard a lot of talk about it today. It is pretty darn straightforward. What it is is simply saying to the States around the country who are receiving a lot of Federal largess under the Federal Justice Assistance Act and under many other provisions that are in this crime bill that is a multibillion dollar bill if we ever get around to being able to see the final product. We are simply saying to the States, "Look, if you want to get all of that justice assistance money that is coming out, if you do not want to lose 10 percent of it, then we want you to take the minimum step of enacting laws that require that any time somebody who is one of these sexually violent predators is defined, who has been convicted of such a crime, is released from jail, that they register with the local enforcement officials and that if they move, that they indeed take that address and notify the new folks of it and that the local law enforcement people where these folks have been released also take the step of notifying the next folks down the line where these folks are moving, in other words, to keep track of them."

Yes, there is the possibility of community notification. What is all the hullabaloo about that has been discussed today on that? I would like to read it. Community notification. It says:

"The designated State law enforcement agency may," does not require it to, but may, "release relevant information that is necessary to protect the public concerning a specific sexually violent predator required to register under this section."

Madam Speaker, this legislation if adopted would simply say that the local law enforcement agency could determine, your local police chief, your local sheriff, your local or State head law enforcement person could determine that in a particular given case of such an egregious nature, this person's characteristics are such that that should be generally known by the public that his presence is in the community.

I doubt that occurs very often, but what is wrong with that? We are seeing today where 6 percent of the criminal population of this country are committing 70 percent of the violent crimes and serving only an average of about a third of their sentences. We are seeing sexual predators who have committed violent crimes against women and children released on the streets. The very least we should do is have the opportunity not only for registration in the States and local law enforcement agencies as someone who has done this and been released but also the opportunity for those law enforcement locals to make a discretionary judgment on a case-by-case basis to let the general population know that this particular individual is up and about and out and been released. That is all this is about. It is our opportunity to instruct conferees.

Madam Speaker, I would like to remind my colleagues that we are stuck right now without a crime bill. It has been since April 21, when we passed our crime bill, the Senate all the way back last year passed its, and we still do not have any movement toward a conference report between the House and the Senate. Every single week that passes, there are officially at least 2,000 rapes committed in this country. There are reportedly 12,000 or so that have not been reported in officially that are committed every week. That is just one of many statistics on violent crime that demonstrate the importance and the urgency of a crime bill that the other side has not been able to get its Members together and act on.

We have things like the so-called Racial Justice Act, the quotas for murderers that we have already passed a provision on saying we want to retreat from here on a motion to instruct similar to the one tonight passed a couple of weeks ago, passed long before we went out on our recess for the Fourth of July. But it seems that provision from all we hear on this side of the aisle is hanging up on the on the Democrat side of the aisle and they are unable to come up with an opportunity for us to get together on a crime bill.

Madam Speaker, how many more weeks have got to pass before we get legislation through a conference committee and get it passed into law that will stop some of this nonsense and give the resources to the States for prisons? I do not know. But I do know that tonight, because of the gentlewoman from Washington [Ms. DUNN] and her motion to instruct conferees, we at least have the opportunity to tell our conferees that when and if we ever get together as a conference on this with the Senate, they should accept this Senate language that takes care of the simple matter of requiring States to pass rules and regulations having registration of stalkers, of sexually violent predators and giving community notification.

It is a good proposal that the gentlewoman is offering. It is a simple proposal. There should not be any no votes on it. It should not be controversial. It should have been brought out on the floor and allowed under the rules. The other party did not let that happen when the bill was voted on before. Certainly tonight we should be correcting that problem and at the very least saying to the conferees, "Please accept this language when you go to conference. Don't tinker around with it. Don't take out this permissive language on community notification." It is just permissive, but it is very, very important.

Madam Speaker, I thank the gentlewoman for letting me close.

Ms. DUNN. Madam Speaker, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentlewoman from Washington.

Ms. DUNN. Madam Speaker, I thank the gentleman for yielding.

I do want to say, Madam Speaker, this has been a joint operation and I want to send my special thanks across the aisle to the gentleman from Georgia [Mr. DEAL] for all the work he has done and for his helping so much in his very adroit, adaptable, and effective way in making this a "Dunn-Deal."

I hope the Congress will support us as well.

Madam Speaker, I move the previous question on the motion to instruct.

The previous question was ordered.

The SPEAKER pro tempore (Ms. KAPTUR). The question is on the motion to instruct offered by the gentlewoman from Washington [Ms. DUNN].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. DUNN. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 407, nays 13, not voting 14, as follows:

[Roll No. 323]

YEAS—407

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Blute
Boehlert
Bonilla
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Hefner
Herger
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Neal (MA)
Neal (NC)
Nussle
Oberstar
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—13

Brooks
Clay
Gonzalez
Hastings
Hilliard
Hughes
Kopetski
Meek
Nadler
Owens
Rangel
Waters
Watt

NOT VOTING—14

Armey
Bishop
Boehner
Conyers
DeLay
Edwards (CA)
Gallo
Laughlin
McCurdy
McDade
Obey
Rowland
Slattery
Washington

□ 1807

Mr. HUGHES changed his vote from "yea" to "nay."

Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. COLLINS of Illinois, and Mr. RUSH changed their vote from "nay" to "yea."

So the motion to instruct was agreed to.

A motion to reconsider was laid on the table.

The result of the vote was announced as above recorded.

MOTION TO INSTRUCT CONFEREES ON H.R. 3355, VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

Mr. ROHRABACHER. Madam Speaker, I offer a privileged motion to instruct conferees on the bill (H.R. 3355) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety.

The SPEAKER pro tempore (Ms. KAPTUR). The Clerk will report the motion.

The Clerk read as follows:

Mr. ROHRABACHER moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the Senate amendment to the bill H.R. 3355 be instructed to agree to section 5102 of the Senate amendment.

Mr. BECERRA. Madam Speaker, I rise in opposition to the motion.

The SPEAKER pro tempore. The gentleman from California [Mr. ROHRABACHER] will be recognized for 30 minutes, and the gentleman from California [Mr. BECERRA] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. ROHRABACHER].

□ 1810

Mr. ROHRABACHER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, when the Senate considered the crime bill, which is now in conference, it adopted, by a vote of 85 to 2, the Exon amendment which takes a significant step forward in excluding some illegal aliens from certain Government programs. The Exon amendment specifically excludes illegal aliens from Aid to Families with Dependent Children, Supplemental Security Income, food stamps, Medicare, except for emergency care, legal services, assistance under the Job Training Partnership Act, unemployment compensation and financial aid for postsecondary education.

The primary effect of this amendment is to effect on persons residing under color of law, meaning PRUCOL, aliens. PRUCOL aliens are those immigrants who are deportable, but the INS has failed to deport. It also includes refugees and others who have a claim to remain in the United States but have not had their legal status determined. The Exon amendment makes the important distinction between the PRUCOL aliens who are simply awaiting deportation and those who have a claim to permanent resident status. The amendment cuts off benefits to those aliens who are illegally in the United States or aliens who are PRUCOL but are only in this country awaiting deportation.

Some programs covered by the Exon amendment already contain prohibitions on illegal alien eligibility, however the Exon amendment breaks new ground by cutting off illegals, to illegals, any eligibility for the Job Training Partnership Act assistance, and it only takes a little bit of common sense that people who are now here legally and are not entitled to a job here because they are here illegally, they should not be eligible for job training.

Another program that the Exon amendment reserves to citizens and legal residents is college financial aid. We in this House have wrangled with the issue over scarce Federal dollars for student aid. This provision would cut off illegal alien eligibility for Federal postsecondary student aid and help ensure that our own citizens enjoy the resources that we have committed to help young people to college.

This amendment is a blow for fiscal sanity at a time of high deficit spending. The CBO estimates that over 5 years the Exon amendment will save $2.2 billion. The National Taxpayers Union, which it even further studied on this proposal, states that the provision will save over $700 million a year, each and every year.

The Exon amendment is compassionate. It says we cannot afford to be the welfare benefactor to the whole world. We have citizens who have dreams and needs, and we must preserve our social services for those who have paid into the system.

Furthermore, without amendments such as this we are sending an unmistakable invitation to needy people everywhere in the world and on every continent of the world. We are inviting them to ignore our immigration laws, and to come to our country and receive a host of taxpayer benefits provided by the taxpayers. Madam Speaker, the taxpayers cannot continue to provide such largess to illegal aliens wherever they come from in the world.

This vote presents Members with the most straightforward and clear choice on the illegal immigration issue that the 103d Congress has had. I say to my colleagues, if you support the giveaway of taxpayer funded benefits to illegal aliens, vote against my motion. If, however, you believe that we must cut off the illegal aliens from benefits and stop the tidal wave of illegal immigration, then a vote for the Rohrabacher motion is in order.

Only a majority vote of this House will ensure that the Exon amendment will stay in the conference report. It is time to go on the record on this pivotal issue of tax supported benefits for illegal aliens.

I am pleased to note that both of California's Senators; that is, BARBARA BOXER and DIANE FEINSTEIN, as well as Senator MOSELEY-BRAUN and Senator MURRAY, have joined as cosponsors of this amendment in its present form. I urge my colleagues to join with the overwhelming majority of our Senate colleagues. It was an 85 to 2 vote in support of this historic change as to what benefits the Federal Government will be providing to illegal aliens, the proper amount of money that should be going to illegal aliens at a time when we are reducing services for our own people.

Madam Speaker, that is what this amendment is about, is to try to reduce the amount of money going to illegal aliens.

Madam Speaker, I reserve the balance of my time.

Mr. BECERRA. Madam Speaker and Members, I rise in opposition to this motion for a number of reasons, but let me first try to address a couple that were raised by my colleague, the gentleman from California [Mr. ROHRABACHER].

First, we have to remember we are talking about a crime bill here. Yet all of a sudden, through the crime bill, through this motion to instruct, the gentleman from California [Mr. ROHRABACHER] would want us to address issues of public benefits which have nothing to do with the issue of crime.

We have a crime bill which is stuck in conference that has not moved yet. Now we are trying to clutter it up with more things that relate not at all to the issue of crime and making our streets safer. But let us go to the issue that the gentleman from California [Mr. ROHRABACHER] raises.

First, Madam Speaker, he says that he is trying to deny undocumented immigrants benefits from the Federal Government because it is taking taxpayer dollars. Well, what the gentleman from California [Mr. ROHRABACHER] does not tell anyone is that each and every program service that he is trying to deny undocumented immigrants, they are already denied in Federal law.

I say to my colleagues, if you look at AFDC, Supplemental Social Security Income, SSI, food stamps, Medicaid, except emergency assistance, as Mr. ROHRABACHER pointed out, Job Training and Partnership Act moneys, unemployment compensation and postsecondary student financial aid, each and every one of those that's specified in the language in this motion to instruct already is prohibited from going to someone who is here without documents as an immigrant. The only program that is listed that currently is not restricted is legal services, and that's of course because we have a Constitution that says someone who is being charged with a crime under this Nation's Constitution is afforded a right to counsel.

☐ 1820

Unlike what the gentleman from California says in one of his "Dear Colleague" letters, this does not pertain just to the Legal Services Corporation provision of services. This is legal services of any sort. So there is a good chance the amendment of the gentleman from California [Mr. ROHRABACHER] is not only inaccurate in what it says it will do, but it is probably unconstitutional.

The sum of $2.2 billion is what the gentleman from California [Mr. ROHRABACHER] says this particular motion to instruct will save the American taxpayer. It will not do so, because most of the benefits that he lists are already restricted to the undocumented. But more than that, the gentleman from California [Mr. ROHRABACHER] is basing his judgment of $2.2 billion on a Congressional Budget Office report that said that $2.2 billion could be saved by a Senate bill that was raised back in 1993 that would have struck any provision in Federal law that would have provided benefits to the undocumented, including, and this is the main point, including emergency medical services that are reimbursed by Medicaid.

The gentleman from California [Mr. ROHRABACHER], just said, and he said to be compassionate, we do not restrict emergency medical services under Medicaid from reimbursement. So the money that is being saved under that 1993 Senate bill of $2.2 billion was based on the fact that emergency medical services would be denied.

I am not just saying it. Let me refer to a letter which I know the gentleman from California [Mr. ROHRABACHER] has, from Jean Hearne from the CBO dated July 13, which says:

> In May of 1993, CBO was asked to provide an estimate of Senate bill 457, a bill that would prohibit the payment of Federal benefits to undocumented illegal aliens. CBO estimated this would save $2.2 in Federal Medicaid payments during the period of 1994 to 1998 because undocumented aliens would no longer be eligible to receive Medicaid reimbursement for emergency services.

The 2.2 billion is based on savings because there would be no reimbursements for medical services under Medicaid. As the gentleman from California [Mr. ROHRABACHER] just told us, he is exempting from prohibition the emergency medical services. Therefore, the $2.2 billion would not be saved.

We know from this that there would likely be no savings or negligible savings from this particular language in this motion to instruct.

But forget everything I have said. Do not worry about that. Do not vote based on anything I said. Do me a favor. I hope my colleagues will do me one favor. Listen to the following, and listen to a couple of speakers that will come up.

I hope Members will listen to this one last point: Regardless of what you think about the issues, regardless of whether you think it is appropriate for this Congress to repeat and just state, rubber stamp again what is current Federal law, which already denies the undocumented immigrant Federal services, if you want to make a political point, okay. But forget abut that and think about this one last point. With the language in this provision, you summarily deny an America national from the Island of American Samoa the opportunity to apply for Federal benefits. You deny individuals who are here as immigrants who are under the protected status of the U.S. law, like El Salvador nationals, the chance to be able to obtain some benefits while they are here under the legal protection of the law. Why? Because the language in this particular provision was drafted very hurriedly, and it excluded people who are here under a lawful status.

So regardless of what you think of the undocumented immigrant, understand what you are going to do to folks from American Samoa. You are telling them they cannot receive public benefits for which they probably paid a great deal of taxes for. I think for that reason alone, we should oppose this motion to instruct.

Mr. ROHRABACHER. Madam Speaker, will the gentleman yield?

Mr. BECERRA. I yield to the gentleman from California.

Mr. ROHRABACHER. Madam Speaker, the CBO memorandum that the gentleman read, who is that signed by?

Mr. BECERRA. It is a memorandum, so it is not signed. It was faxed over, so there is no signature.

Mr. ROHRABACHER. Is it signed by Mr. Reischauer or his deputy?

Mr. BECERRA. No, it is from Ms. Jean Hearne. We can find out if she is willing to subscribe by this.

Mr. ROHRABACHER. The documentation of the cost figures that I gave were documents signed by those individuals. Those individuals actually verified the statistics I gave before. What you have is a document not signed by the head of the organization that you are quoting.

Mr. BECERRA. Madam Speaker, let me reclaim my time and just say I am not trying to verify. Unless the gentleman from California [Mr. ROHRABACHER] is saying there is no such thing as a Senate bill 457 and the CBO report that was the basis for the analysis on that Senate bill is not the status of that, then I would yield to that. But that is not the case. Unless you are saying this person is lying, then I think there is a reason to question it.

Madam Speaker, I reserve the balance of my time.

Mr. ROHRABACHER. Madam Speaker, I yield myself 3 minutes.

Madam Speaker, first of all, let us note that there has been tremendous pressure put on the CBO to come up with certain figures about my proposal. The fact that we have a last minute reneging on figures that have gone out from CBO many months before, and now in the last minute we are presented a reneging on the part of the CBO and they come up with cooked figures, it suggests that at the CBO, there has been political pressure applied. I think that is evident to anyone listening here.

The figures that Mr. EXON used when he made his proposal in the Senate were backed up by the Congressional Budget Office. They are not my only source, however. The National Taxpayers Union and many other organizations have done studies indicating that the cost of illegal aliens in our society is in the billions and billions of dollars. If our friendly opponents on the other side are trying to convince us that there is no cost for illegal aliens in our society, and that this is bogus, why not just accept my amendment then?

If indeed what I am saying is already in the law, why is there such opposition to us reaffirming the law.

Mr. BERMAN. Madam Speaker, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from California.

Mr. BERMAN. Madam Speaker, does the Exon amendment, does S. 457 exclude emergency Medicaid services?

Mr. ROHRABACHER. Madam Speaker, the amendment does not exclude emergency aid. Let me note this: The fact that we are talking about here is how much that emergency aid costs. If it is your contention that all the costs of illegal aliens is just emergency aid, and that is the full $2.2 billion, we have a real problem in this country that we are providing $2.2 billion in emergency aid to people who are coming here illegally from all over the world. That cannot be what you believe.

Mr. BERMAN. If the gentleman will yield further, your amendment I think very appropriately excludes emergency Medicaid services, the only kind of Medicaid services for which people who are not here legally are eligible. It would make sense an estimate of $2.2 billion would be substantially less, once you exclude that service.

Mr. ROHRABACHER. Madam Speaker, I yield 3 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. McCOLLUM. Madam Speaker, I thank the gentleman for yielding. I think this is developing into an interesting debate over a motion to instruct conferees on something that is in the Senate crime bill but not in the House crime bill. There is a little lesson to be learned about this particular debate, about our procedures and what we have and have not been doing in the House.

For one thing, there is no major immigration reform bill of any type coming forward in this Congress, this last year or this year, although we have got a lot of problems that should be addressed. I serve as the ranking member on the Subcommittee on International Law, Immigration, and Refugees in the House, and I know for a fact that we have tremendous problems with the asylum laws of the Nation and the definitions that are there, what we should be doing to deal with the backlog of now almost 400,000 asylum applicants with no plan of the Clinton administration whatsoever to find a way to reduce that huge backlog and many other areas of immigration reform that should be addressed.

However, today, we have a very limited opportunity to address this on the kind of technical procedure we are involved with here, because the Senate does not have the same rules of germaneness the House does. On their crime bill, Senator EXON did put this provision in we are discussing today. The gentleman from California is seeking to instruct our conferees in the House-Senate conference to recede to the Senate on this point and let this one immigration matter, with a welfare overtone to it, get passed.

I might add, we also do not look like we are going to see a welfare reform bill, despite the President's stated intentions, during this Congress. We do not have much time left, and I see no movement to do that.

This is the only opportunity we have to address the matter.

□ 1830

Now, I pose a query, if all of these matters are covered, and I do not believe they are, by present law, excluding all the illegal aliens from the various benefits that are proposed to be excluded under this proposal, then why is there such an objection to this anyway? I heard a couple of things being raised on the other side of the aisle, but they sound exceedingly technical to me. I do not read in my interpretation of the language anything so abhorrent about it.

I would say to my colleagues that ther are technical matters of coverage that are not presently excluded for illegal aliens, people who are here who are receiving benefits, welfare benefits, and other benefits.

Madam Speaker, one of the problems is the so-called PRUCOL area that was described by the gentleman from California a moment ago. We have left in the law various loopholes for those who are not really here legally to be receiving various and sundry benefits under some of these provisions that are covered by the so-called Exon proposal that we are here asking our conferees to accept.

There is no reason why we should not close that loophole, and that is what at the very least this would do.

As far as legal services are concerned, I would remind my colleagues that the very stated language of this provision says that no direct Federal financial benefit or social insurance benefit may be paid for legal services. We are talking now not about cutting off the opportunity for criminal assistance by State public defenders. That is State law and a State matter. We are talking about Federal benefits.

I would encourage the adoption of this. I think this is an excellent motion to instruct, and it really should not be that controversial.

Mr. BECERRA. Madam Speaker, I yield 3 minutes to the distinguished gentleman from Michigan [Mr. BONIOR], the majority whip.

Mr. BONIOR. Madam Speaker, supporters of this amendment would have us believe that as we have just heard that this bill would just apply to undocumented immigrants, that it would just exclude undocumented immigrants from receiving certain services.

But the truth is, the truth is that current law already does what the gentleman from California is trying to do with his amendment.

Undocumented immigrants are already excluded from receiving aid to families with dependent children. They are already excluded from receiving supplemental security income. They are already excluded from receiving food stamps. They are already excluded from receiving Medicaid.

Current law excludes undocumented immigrants from receiving these services. If that is the intent of the gentleman from California [Mr. ROHRABACHER], we do not need it. But in fact, the Rohrabacher amendment is not just limited to undocumented immigrants. As the gentleman from California [Mr. BECERRA] has so eloquently pointed out at the beginning of this debate, this amendment will not just affect undocumented immigrants. It affects the legal, documented immigrants as well.

The fact is, this amendment is drafted in such a way as to exclude people who are lawfully in the United States from receiving benefits that they are eligible for under the law, because of constitutional requirements under our system of government which the gentleman from California [Mr. BECERRA] referred to and because of benefits earned.

We will hear more about that as other speakers speak, Madam Speaker.

Madam Speaker, we may have disagreements about how best to deliver these services. We may have disagreements about who is eligible to receive services, and we may have disagreements about who is covered under these agreements and the services. But this is a crime bill. It is not a welfare bill. And this is not the place to address these issues.

Once again, the gentleman from California is trying to take, I think, a highly emotional issue, an issue that has nothing to do with this bill and waste the time of the House to debate something that he knows is best addressed elsewhere.

The fact is, what he claims this bill will do is already part of current law. And what he will also do with this amendment is exclude people who are lawfully entitled to the benefits through our constitutional guarantees and through other means which we will hear in a little while.

I urge my colleagues to vote "no" and against the Rohrabacher motion.

Mr. ROHRABACHER. Madam Speaker, I yield 3 minutes to the gentleman from California [Mr. COX].

Mr. COX. Madam Speaker, it is difficult to imagine that the language that we are now debating was drafted by a Democratic Senator and was voted for by every liberal in the U.S. Senate, comprised, last time I checked, of many Democrats and many liberals. The vote was 85 to 2 in favor. Only 2 out of 100 U.S. Senators voted against this amendment.

My colleague, the gentleman from Michigan [Mr. BONIOR], made it seem as if somehow there was something wrong or something not liberal with this amendment. In fact, the Rohrabacher motion is a motion to instruct. There is no Rohrabacher language. This is Senator EXON's language. It is not changed one iota.

All that my colleague from California is asking this body to do is what the other body already did by a vote of 85 to 2. And of course, we in California, which have over half of the Nation's illegal aliens, are especially concerned about this. And thus, we ought not to be surprised that Democratic Senator BARBARA BOXER, our former colleague here in the House, and that Democratic Senator DIANNE FEINSTEIN of California voted in support of this.

There is no reason whatever that Democrats in the House hold en masse behave differently than Democrats in the Senate, unless somehow there is a political fix in and this is not on the level. But I cannot imagine that that is so.

We are told that because this is a crime bill, we cannot vote for this motion to instruct. Yet the language is already in the bill. Four years ago this very same thing happened. Four years ago Senator EXON had a similar bill passed, but the House and Senate negotiators dropped it out of the final bill. That is why we need a motion to instruct. Otherwise this is all a charade, providing political cover for Senators in an election year. We would not want that.

We are told that all of these programs already deny benefits to illegal aliens. If that were true, why would we get this resistance? Why would Members not want to go ahead and vote "aye" on this motion to instruct?

The answer is that current law is not enforced.

Current law is not enforced. Yes, it is true that in theory the law prevents an illegal alien from picking up welfare benefits, from picking up food stamps, from picking up SSI. And yet, certainly in California, certainly in Texas, certainly in New Jersey and New York and Illinois, Arizona, and Florida, we all know that illegal aliens do this every day because they break the law with some success and because those laws are not enforced.

As a matter of fact, the assassin of Mr. Colosio, the PRI candidate for President in Mexico, was an illegal alien in California, registered to vote in California, who actually voted in two Democratic primaries.

These laws must be enforced. They are not enforced, and in order to enforce them, we need the Exon language. That is why what the other body accomplished is not an idle act. That is why it is so important.

The Exon language begins, "Notwithstanding any other law, no direct Federal financial benefit or social insurance benefit may be paid."

This is a vitally important measure. I urge my colleagues to vote "aye" on this motion to instruct.

Mr. BECERRA. Madam Speaker, I yield 2 minutes to the gentleman from California [Mr. MINETA], the distinguished chairman of the Committee on Public Works and Transportation.

Mr. MINETA. Madam Speaker, I rise today in strong opposition to the motion to instruct on the crime bill offered by the gentleman from California [Mr. ROHRABACHER].

The drafters and supporters of the amendment in question thought, no doubt, that it struck only at those who are illegally in this country.

Well, Madam Speaker, nothing could be further from the truth. The amendment does not affect the undocumented at all in the programs it lists. The undocumented, under existing law, are already ineligible for every single one of them.

This amendment was aimed to strike at illegal aliens, but it does not affect them at all.

The people it would affect, however because it was so poorly drafted, are American Samoans and other nationals of the United States living legally in this country. That is why, as Chair of the Asian Pacific American Caucus, I am asking my colleagues to vote "no" on this motion to instruct.

American Samoans are U.S. nationals, and when they come to this country, they are here legally. They pay taxes just like every other legal resident, and they receive social services benefits just like any other legal resident.

The amendment which the gentleman from California would have us support would strip U.S. nationals and American Samoans of their eligibility for legal aid assistance, AFDC, and Medicaid. American Samoan students going to school here would lose their guaranteed student loans.

Madam Speaker, that is flatly wrong—and I am positive that it was never the intention of either the author of the amendment in the other body or the gentleman who offers this motion to instruct from California.

But the fact remains, the amendment in question is poorly drafted, it accomplishes nothing with regard to the undocumented, and it would inflict real pain on territorial citizens who are legally in this country.

So I urge my colleagues to join me in voting against the Rohrabacher motion to instruct.

Mr. ROHRABACHER. Madam Speaker, I yield myself 1 minute.

First of all, Madam Speaker, this language, which was voted on by 85 U.S. Senators, including almost all of the leadership of the Democratic Party, minus just two people who opposed it, makes it very clear in the language that we are talking about people who are not lawfully present within the United States. It defines what is not lawfully present very clearly. This is what their own leadership voted on 85 to 2.

However, as my colleague, the gentleman from California, pointed out, sometimes people do things in the other body when they are just trying to make a political point because they think that here we will be prevented from acting on this side. I do not know if that is the case on this side. I would hate to think that people were making political points.

Madam Speaker, under current law, the illegal immigrants are not, are not, excluded by current law under the Job Training Partnership Act and college aid. This proposal today deals specifically with those two programs. If it is illegal for an immigrant trying to come here and have a job in the first place. We always hear from that side, why should we give them free job training? It is crazy.

Mr. ROHRABACHER. Madam Speaker, I yield 2 minutes to my colleague, the gentleman from San Diego, California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Madam Speaker, so may times we are on the House floor and we have heard that the problem of illegal immigration is best addressed elsewhere. When we had an earthquake with illegals applying for services, it was best addressed elsewhere. When we had an education bill on the House floor, it was best addressed elsewhere. In committee, on the health care bill, it was best addressed elsewhere.

Madam Speaker, we need to come to task with the problems that we have in this entire country on illegal immigration. Why has the gentleman from California [Mr. ROHRABACHER] brought this to the floor? It is not just the issue that he is talking about. In the State of California, and especially the border States, illegal immigration is costing American taxpayers and preventing health care and education from Americans. We have to come to grips with that.

Illegal aliens are receiving services today, not only in the State of California, but all over this Nation. It has been by reputable factors $37 billion a year that it costs this Government for illegal aliens in this country, in the United States, $37 billion a year. Now take that times five, over a 5-year period, take half of that. Say "DUKE, your figures are inflated." That is $93 billion. You want to figure out how to pay for the other 5 percent of the health care bill? There it is. It would be easy to cover Americans instead of illegal immigrants in the services that they receive. Only those illegal aliens already that are not affected, I want to tell the Members I can take them down in San Diego and show them five different places where someone can get an ID card saying you are an American citizen as an illegal alien. Again, that is why we need an ID card that specifies if a person is an American citizen or not.

Mr. BECERRA. Madam Speaker, I yield 2 minutes to the gentleman from Kentucky [Mr. MAZZOLI], the distinguished chairman of the Subcommittee on International Law, Immigration, and Refugees of the Committee on the Judiciary.

Mr. MAZZOLI. Madam Speaker, I want to thank my good friend, the gentleman from California, who is a very valuable member of the subcommittee, for yielding me this time.

Madam Speaker, I have somewhat of a different opinion than the gentleman does about what we should do on this amendment, or on this motion to instruct. Let me say, Madam Speaker, first of all I do not feel it is appropriate to use the term "illegals," as the gentleman from California has used in his letter to all of us. I think it is a disparaging term and I think it ought not to be too quickly resorted to because it conjures up a lot of emotionalism that I think this debate does not need. We have enough emotion in looking at it straightforwardly.

Madam Speaker, having said that, and also what my friend, the gentleman from California [Mr. BECERRA], has said, this is really a crime bill, and this proposed instruction really has no place here. It was a very hastily drafted amendment. The gentleman and I have talked about the loose wording in here, the uncertainty of some of the phrasing, and it can be actually speculated, as my staffers said, that it, might actually expand rather than contract the types of people who might get these benefits.

But having said that, I think that my problem here is based on the fact that as long ago as last October, October 1993, our subcommittee reported a bill which was a bill drafted by the gentleman from New York [Mr. SCHUMER], the gentleman from Florida [Mr. MCCOLLUM], and myself, the gentleman from Kentucky, dealing with asylum reform, dealing with the question of expedited exclusion of people who try to come into the country illegally using asylum as the recommendation, and then trying to have some preclearance, so people are prevented abroad from coming in here using false and fraudulent paper.

That bill was passed by our subcommittee. It has languished, and I use that term advisedly, languished at the full committee since October 1993. I even asked as recently as today what the prospects are of taking up that sensible, multifaceted, balanced, highly principled bill that would do something about the back door.

Madam Speaker, let me just say that I think the instruction of the gentleman from California [Mr. ROHRABACHER] ought to be adopted. I think it would help to do something about closing the back door in order that we could keep the front door open.

Mr. ROHRABACHER. Madam Speaker, I yield myself 1 minute.

Madam Speaker, illegal alien is a pejorative term and we certainly do not feel right about using terms that are not positive terms about other human beings, but when you struggle to try to find definitions of what is going on, the fact is many people are coming into our society illegally and they are participating in services, they are consuming money that was supposed to go for benefits for our own people, and when we struggle to come up with funds for different programs here, and we know that we are not even providing all the funds we need for our own people, and then we find out that someone who has come out illegally from another society is consuming those resources, it is not right.

Mr. MAZZOLI. Madam Speaker, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Madam Speaker, I do not argue the righteousness of anything. What I do argue is the use of the terminology. I do take issue with the gentleman's terminology, because I think it disparages people, human beings, many of whom are here doing good things and working hard and making a go of it, adding in some cases burdens to States like the gentleman's, but I think what it does is add an emotional edge. It puts a context here which is very difficult for us to deal with.

Mr. ROHRABACHER. Madam Speaker, reclaiming my time, it is emotional for a lot of people who depend on programs. In California they see money that should be going for their own children's education being eaten up by a flood of illegal immigrants from other countries.

Yes, it is emotional for them, and we do not want to create hatred between one person and another, but the worst thing we can do is let this problem fester and continue to have an invitation to people from all over the world to come here.

Mr. MAZZOLI. If the gentleman will continue to yield, that is the point of the gentleman from Kentucky, unless we do something to end this festering, we are going to have a worse problem.

□ 1850

Mr. ROHRABACHER. Madam Speaker, I yield 30 seconds to the gentleman from Illinois [Mr. HYDE]

Mr. HYDE. Madam Speaker, I thank the gentleman for yielding me the time.

Madam Speaker, I just want to see if I can add to the discussion. The term "illegal alien" is harsher than "undocumented worker," there is no question. I do not know which is more accurate, however. But we do use a lot of terms that I think we could soften. I have often thought a bank robber could be called a holder not in due course. A dope dealer could be called an unlicensed pharmacist. There are lots of changes we could make. I should commend them to my friend.

Mr. MAZZOLI. Madam Speaker, if the gentleman will yield, the gentleman from California [Mr. ROHRABACHER] did not use the term "illegal alien," he used "illegals," i-l-l-e-g-a-l-s, and "illegals" has a pejorative connotation that "illegal alien" does not have.

Mr. BECERRA. Madam Speaker, I yield 3 minutes to the gentleman from California [Mr. MATSUI], the distinguished chairman of the Subcommittee on Trade and the ranking majority member of the Subcommittee on Human Resources of the Committee on Ways and Means, which, of course, is the committee that would have jurisdiction over these issues relating to public benefits.

Mr. MATSUI. Madam Speaker, I thank the gentleman from California for yielding me the time.

Madam Speaker, I might just say that the gentlemen on the other side of the aisle have made reference to the fact that on the Senate side, 85 Members, liberals included, voted for the Exon amendment. Let me explain why that happened, I believe. The Exon amendment passed the Senate floor on November 5, 1993, last year. I do not believe a lot of attention was paid to that legislation on the Senate side when it was passed. We received some 6 days later on November 11, the Committee on Ways and Means which has jurisdiction over many of these benefits, from the American Law Division of the Congressional Research Service which all of us use as an authoritative body that analyzes legislation, the CRS said 6 days after the Exon amendment passed, "The primary effect of the Exon amendment as adopted may be to deny AFDC, SSI, full Medicaid coverage, and unemployment compensation to aliens," now, listen, "allowed to remain in the United States under certain exercises of administration discretion."

Madam Speaker, it will not affect illegal aliens, because illegal aliens are not allowed to collect benefits under current law. The gentleman did talk about the Job Training Partnership Act. We will close that loophole when we deal with the retraining legislation if, in fact, it is a problem.

I will say to the gentleman that it is an issue of enforcement in terms of making sure illegal aliens do not receive resources. What the gentleman is going to affect is people who are residents in this country, permanent residents in this country under color of law. They got here perhaps on an illegal basis, but because the Immigration and Naturalization Service feels that for some reason they should stay through their discretion, by laws passed by the United States, now we are going to deny those legal residents, although they are illegal aliens in the true sense, benefits.

Madam Speaker, the gentleman is just going to affect a small number of people but people that have been welcomed into this country, and it is not going to have any impact on illegal aliens because it is an issue of enforcement.

Madam Speaker, I might just conclude by saying, I do not question that the gentleman's amendment or proposal will pass. But it is a shame that this issue is brought up in the way it is, because frankly I think reality would say that this is an issue that is being exploited time and time again in the recent past.

Mr. ROHRABACHER. Madam Speaker, I yield 1½ minutes to the gentleman from California [Mr. COX].

Mr. COX. Madam Speaker, I would like to respond to the comments of my colleague, the gentleman from California, by saying that it is not the intent, I do not think, of the amendment as drafted, neither is it the intent of any of the Senators, the 85 of them who voted for it, to include within the term "persons not lawfully present within the United States" people who actually are lawfully present within the United States. I do not believe a judge would ever interpret those words in that fashion.

Madam Speaker, the argument that is being made would require a Federal judge to interpret the words "persons not lawfully present within the United States" to mean people who are lawfully present within the United States, that is the only way to reach the territorial residents referred to and so on.

Mr. MATSUI. Madam Speaker, will the gentleman yield?

Mr. COX. I yield to the gentleman from California.

Mr. MATSUI. Under the CRS report on this issue, it basically says that those that are permanently residing under color of law do not necessarily reside legally in the United States, but what they are allowed to do is through an administrative action stay in this country but are not under any illegal categories in this country.

Mr. COX. Madam Speaker, in a colloquy off the floor, another one of our California colleagues on the Democratic side and I discussed this. There is no question that the list of categories in the definition of the term "persons not lawfully present within the United States" should be if and when our conferees get a chance to include this language in the crime bill, should be deemed inclusive rather than exclusive. But we have to keep in mind here, we are voting on a motion to instruct. Routinely our conferees reject our instructions. We ought to clearly with one voice let them know we want to cut out welfare benefits for illegal aliens. That is the point of the Exon amendment.

Mr. BECERRA. Madam Speaker, I yield 2½ minutes to the distinguished gentleman from California [Mr. BERMAN], chairman of one of the subcommittees of the Committee on Foreign Affairs.

Mr. BERMAN. Madam Speaker, I think this debate can at least get the author of the motion to instruct, whom I have great respect for, and I know he believes in what he is doing, to acknowledge that there is some obligation here to draft precisely when dealing with these kinds of issues. The fact is the way the motion to instruct is drafted and by incorporating the Exon amendment, what the gentleman has done or what he is urging the conference committee to do is to pass a law which excludes from a whole series of benefits they are otherwise eligible for, Nicaraguans who fled the Sandinistas in the mid-1980's who were granted temporary protected status in 1990, who were then given deferred extended departure status in 1992 and who would like to apply, perhaps, because their parents are part of the working poor, they are getting straight A's in school and they want to get some kind of college assistance, people who we have given work authorization to, who we have said can live in this country.

The gentleman from California [Mr. ROHRABACHER], my friend, does not want to exclude these people from these kinds of programs. He does not want to tell American Samoans that they cannot get certain kinds of benefits. He does not want to tell people whom we have allowed to come into this country under the Cuban-Haitian Entrance Act that they are ineligible for the whole series of benefits and the people he does want to tell that they are not eligible are for the most part already ineligible for the programs the gentleman is mentioning.

I think the gentleman has an obligation as the gentleman from California [Mr. COX] I think at least implied to draft this language correctly. The gentleman says, "Oh, we are only talking about persons not lawfully present within the United States." But look at the language.

In this section, "persons not lawfully present in the United States" means persons who at the time they applied for, receive, or attempt to receive, a Federal benefit are not either, and then the gentleman specifies a series of things, and he leaves out a large number of other people. He leaves out registry entrants who were here before 1971 and, therefore, under the pre-1986 immigration law are here legally at this particular time and they have work authorization. The gentleman leaves out U.S. nationals from the U.S. territories. The gentleman leaves out persons granted withholding of deportation status and a whole series of categories by the way this is done.

The gentleman does not want to do that, and I think since apparently a motion to instruct can be made every day, he can come back tomorrow with one that is drafted right.

I urge a "no" vote on this one.

□ 1900

Mr. ROHRABACHER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I think that most people who are listening to this debate understand we are talking about language that has already passed the U.S. Senate. It is good language. The fact is we are trying to do something that has been needed to be done.

I am totally frustrated on this issue, because I have to go to such great lengths to get a vote. Finally, we have a vote, an up-and-down vote on the issue of benefits for illegal aliens.

People who followed this issue know that I have to go so far as to ask people to oppose a motion to rise so that I can then get a vote on the issue.

Do not tell me to come back tomorrow. I cannot come back tomorrow, because you will not give me an up-and-down vote on this issue. You will not give anybody on this side of the aisle who has been struggling so that we do not have to waste our resources on people who are coming here illegally. You will not give us those up-and-down votes.

Now, we had an up-and-down vote in the Senate, and that is why it passed so overwhelmingly, 85 to 2.

So do not tell me to come back and draft it again. I did not draft it. A Democratic Senator drafted this language.

Under current law, under the Job Training Partnership Act, the college aid goes to illegal aliens. This will cover that. People who have come here temporarily, whom my last colleague just mentioned, if you come here temporarily, whether from Nicaragua or elsewhere, if you overstay the time you are permitted to be here, you should not be collecting welfare; you should not be getting college aid. That money should be going to our own citizens.

We are taking food out of the mouths of our own people if we refuse to be responsible when it comes to aid to illegal aliens.

Madam Speaker, I yield 1 minute to my colleague, the gentleman from Georgia [Mr. KINGSTON].

Mr. KINGSTON. Madam Speaker, I thank the gentleman for yielding me this time.

The other previous speaker from California mentioned how this body is reluctant to deal with the issue of illegal immigration.

We hear a lot about gridlock. This is majority party gridlock at its finest. This is the same old thing. We cannot get a good bill on the floor because we cannot get it through the Committee on Rules or through subcommittees, and so we are here one more time, not here, not now, not this time, not this committee, not this vehicle, not this subcommittee. Now, it is a drafting problem, from people who routinely pass bills they have never read.

I certainly hope that the other side of the aisle is just as careful when it comes to health care, because we are going to be passing some bill that will be about that thick, and none of us will get it until the day of the vote.

I hope everybody keeps this in mind.

Madam Speaker, as you know, this is only a motion to instruct. If there is a true language problem and not just a political problem here, then the conferees can work that out. If that is the case, the counsel confers with it. This is saying we are making a statement about benefits to non-Americans, non-tax-paying people who are in our country.

Mr. BECERRA. Madam Speaker, I yield 3 minutes to the distinguished gentleman from American Samoa [Mr. FALEOMAVAEGA].

Mr. FALEOMAVAEGA. Madam Speaker, outside of the jurisdictional, nongermaneness issues, there are a multitude of major policy shortcomings with the Exon amendment that have been aptly pointed out by my colleagues.

I join my colleagues in their objections and concerns. As a Member representing the Territory of American Samoa, I am particularly concerned with the sloppy drafting of this measure.

Let me say why. Although it may be intended for the measure to prohibit Federal benefits from being received by those illegally in the United States, the way the measure is drafted though, unfortunately, is that as presently constituted, the measure would disqualify some 100,000 U.S. Nationals currently living in the United States; for that matter, even those of my constituents living in the territory of American Samoa.

What is a U.S. national? Madam Speaker, by definition of the Immigration and Naturalization Act, a U.S. national is any person who owes permanent allegiance to the United States but who is neither a citizen or an alien, and our territory seems to have the distinct honor of being classified under this Federal statute of being the only U.S. nationals currently living under the U.S. flag.

Madam Speaker, U.S. nationals have fought and died at least for all the wars that our country has faced, and I want to say that the gentleman's motion will, in effect, deny thousands of U.S. nationals who served honorably in the armed services the benefits that I certainly feel they should be allocated like all others legally residing here in the United States.

So I ask my colleagues to defeat the motion to instruct.

Mr. BECERRA. Madam Speaker, I yield 3 minutes to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Madam Speaker, this may come as quite a shock to my good friend from California, but I do think if we are going to have a motion to instruct, we might take a look at what is actually written in the bill. That would be strange for some of us, because you are intent today upon exploiting anxieties and fears over immigrants.

Every time someone brings up something that actually shows the weakness of the language that has been drafted here, you go off on a tangent about illegal aliens. The fact of the matter is that the definition under this prohibition on payment, section 5102 that you are referring to, leaves vulnerable all American nationals.

I agree with the gentleman from California [Mr. BERMAN], and I am sure you did not intend to do that, and what you need to do is draft language where the meaning is precise. This is legislation, friends, that we are passing on behalf of the people of the United States. This is not something to appeal to your constituents on the political fashion of the moment, and we ought to respect this institution enough not to pass slopping language that, in effect, says it is all right to be an American-Samoan and die for this country, it is OK to play football in southern California and exploit them that way, it is OK to take 100,000 people; after all, that is not very many. And so what if we have to use them up? So what if they have to be sacrificed on the great altar of bashing immigrants because that happens to be something that will sell in someone's political constituency today?

These are people. These are American nationals. They are not a drafting problem. Someone has stood up today and actually said, "So there are a few drafting problems, pass it anyway. We can sell it."

Look, we are better than that. We have had this conversation before, my good friend from California. You do not really want to do this kind of thing to people. You would be the last person. We know one another. You would be the last person to say let us sacrifice American nationals like loyal American-Samoans, because you want to get at a greater issue.

I understand the bigger issue that you want to get to. This is not the way to do it. This is a motion to instruct, and it is a motion to instruct on very bad language, and if that language is written by a Democrat, it should be denied; if that language is written by a Republican, it should be denied.

You cannot come down here and say, "Well, the Democrats wrote it, and it is not very good language, but because they did, we can take advantage of it and do something for another purpose." What we need to do is remember that this is a motion to instruct, and it is language that I do not think anybody can look the gentleman from American Samoa [Mr. FALEOMAVAEGA] in the eye and say, "Well, it is too bad you people have to go on the altar, but we had a larger purpose in mind. We wanted to make sure that everybody knows we are on the right side with respect to illegal immigrants, illegal aliens," or whatever the fashionable phrase of the moment is.

If that is what you want to do, let us draft language to do that. You are capable of it. You have spoken on this issue very, very clearly; let us not take the language and try to make something good of it.

Let us defeat this motion. Put language forward that you can be proud of.

Mr. ROHRABACHER. Madam Speaker, I yield myself 1 minute.

The language is very clear in this bill. It states very clearly that it is aimed at those who are illegally residing in the United States. That is illegally residing in the United States.

This idea that I can just go back and write something else: The American people who have been watching this either at home or are reading about it in the CONGRESSIONAL RECORD should understand that the people making that argument know full well that I am not permitted to do that, and every time that I have tried over and over and over again to try to get a vote on the issue of illegal immigration into this country, I have been cut off one time after another. Very rarely do I ever get even close to a vote, and there is a reason, because of that. The reason is that on that side of the aisle, which controls the debate here, you do not have a clean debate on whether or not we should give benefits to illegal aliens.

This language is clear. It is aimed at those illegally residing in the United States. If those illegally residing in the United States should not get benefits, you should vote "yes" on my proposal.

Madam Speaker, I yield 2½ minutes to my colleague, the gentleman from California [Mr. BAKER].

Mr. BAKER of California. Madam Speaker, I have only spoken on this issue once, but I have seen so many red herrings flying around this room tonight, I think we will review the issue from a Californian's standpoint.

The sum of $2.8 billion in California's thinly passed budget this year goes to illegal alien benefits.

□ 1810

That is the problem. The problem is we are paying $350 million to house 14 percent of our State prison population, which is not and has never been in California legally. Twenty-one thousand dollars per year we spend on each prisoner. Fourteen percent of our population, around 20,000 of our prisoners, in California are here illegally and came here not for opportunity but to commit crimes. That is the problem.

Over a billion dollars is spent in educating people who came to California illegally. That is the problem.

We spend over a billion dollars in California in health and welfare expenditures, health and welfare expenditures for people who came to California illegally. That is the problem.

What Mr. ROHRABACHER is doing is repeating a Senator Exon amendment to the crime budget which says in his letter to us:

> I have been trying to get an amendment passed since 1988 which would cut off funding to illegal aliens.

Now, we have heard of all of the screwball definitions of illegal, but I am not a lawyer so I just read it as meaning not legal. Senator EXON said also:

> I have designed this amendment to prohibit the payment of Federal benefits to illegal aliens. That amendment is a modification of a bill I have introduced in this Congress since 1988. At times I quote this to show how far out of step Congress is with the taxpaying public, at times due to congressional inaccuracy or expansive court interpretation. Federal statutes have been used to provide Federal financial benefits for illegal aliens. The amendment which I offered set a basic governmentwide policy.

A basic governmentwide policy, "prohibiting the payment of such benefits." That is what we are asking. Let us uphold the law. If we have laws against illegal aliens entering this country and laws which require people to stay here 5 to 10 years in order to come here legally, then we ought to uphold those laws.

Mr. BECERRA. I yield myself 30 seconds.

Just quickly in order to respond: It bothers me no end to constantly hear people throw out these numbers that they know they cannot prove. On several occasions I have asked my colleagues, Mr. BAKER and Mr. ROHRABACHER, to provide me the documentation of these very inflated numbers that they continue to cite. Not once, not once have they responded to give me the documentation or the source for that information. Why? Because they cannot provide it, but it sounds very good.

Madam Speaker, I yield 1 minute to the distinguished gentleman from Maryland [Mr. MFUME], chairman of the Congressional Black Caucus.

Mr. MFUME. I thank the gentleman for yielding this time to me.

Madam Speaker, may I ask the gentleman from California [Mr. ROHRABACHER] for some clarification on this issue of American national, which I thought was rather clear? Is the gentleman saying that the bill does not exclude American nationals from receiving benefits?

Mr. ROHRABACHER. Madam Speaker, will the gentleman yield?

Mr. MFUME. I yield to the gentleman from California.

Mr. ROHRABACHER. I thank the gentleman for yielding.

Madam Speaker, it is aimed specifically at people who are not lawfully present in the United States. The intent of this is very clear. When it gets into conference, if there is any lack of definition, they can clear it up. But to me it seems very clear that they are not lawfully in the United States.

Mr. MFUME. I happen to have the bill here, and on page 831, this is the wording:

> (c) "Persons not lawfully present within the United States" means persons who at the time they applied for, receive, or attempt to

receive a Federal benefit are not either a United States citizen, a permanent resident alien, an asylee or asylee applicant, a refugee, a parolee, a nonimmigrant in status under the Immigration and Nationality Act, * * *.

So, technically, then, if you are from American Samoa and you have fought and died for this Nation and just happened to be living here at the time and you go and apply, because you are not a citizen, you are not qualified?

Mr. ROHRABACHER. I do not believe 85 Members of the Senate intended that. That would never be upheld by any court whatsoever. Obscuring the issue in that way is not going to hold water.

Mr. MFUME. Madam Speaker, I have a unanimous-consent request: May the gentleman from California and I proceed for another 30 seconds?

The SPEAKER pro tempore (Ms. KAPTUR). The gentleman from California [Mr. BECERRA] has the time.

Mr. MFUME. I am making a unanimous-consent request.

Mr. LINDER. Madam Speaker, reserving the right to object, is there time left on each side?

The SPEAKER pro tempore. There is time left on each side. There is 3 minutes on this side and 4 minutes on this side.

Mr. LINDER. So if there is time left on each side, Mr. MFUME has the right to get more time from Mr. BECERRA.

The SPEAKER pro tempore. That is correct.

Mr. LINDER. I object.

Mr. BECERRA. Madam Speaker, I yield 30 seconds to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. I thank the gentleman for yielding.

Madam Speaker, let me say I understand this was drafted on the Senate side and by a person who happens to be a Democrat, but that individual is absolutely wrong. This is bad language, and we are hurting people who have fought and died for this country. While many people might want to move toward supporting this, this is such a discriminatory act the way it is drafted that I think it requires a defeat, and I would urge Members of this House to defeat it.

Mr. ROHRABACHER. If the gentleman is only concerned about technical problems, he knows those things can be taken care of. The fact is that that is not the intent of this bill. The intent is to hit illegal aliens.

Mr. BECERRA. Madam Speaker, I have one additional speaker and 30 seconds to close. I do not know if the gentleman from California [Mr ROHRABACHER] has additional speakers.

Mr. ROHRABACHER. Madam Speaker, do I have the right to close? And if so, how much time do I have?

The SPEAKER pro tempore. The gentleman from California [Mr. ROHRABACHER] has the right to close, yes, and there are 3 minutes remaining on his side. There are 3½ minutes remaining on the other side.

Mr. ROHRABACHER. Madam Speaker, I reserve the right to close.

Mr. BECERRA. Madam Speaker, I yield 3 minutes to the distinguished gentlewoman from the State of Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. Madam Speaker, this is not a matter to be lightly considered. The House is being asked to instruct conferees on a crime bill. The amendment that we are debating today is really nongermane, as far as the House rules are concerned. But someone has felt it important to instruct our conferees on a matter that has been raised in the Senate.

We are being asked to adopt language that was inserted in the Senate that could egregiously hurt and harm at least 100,000 persons who live in the continent of the United States and in my State of Hawaii; at least 100,000 persons from American Samoa who have come into the United States by right because they are U.S. nationals, and yet, unthinkingly a Senate provision is going to say to these individuals, who are just like us, who are represented by the gentleman from American Samoa [Mr. FALEOMAVAEGA], who is here as a Member of this body, that somehow because you come from American Samoa and because the designation you have received under the laws of this country is not as a U.S. citizen but as a national, that from henceforth because we have deemed it to be because of defective language, that these individuals cannot get student loans, cannot get any of the entitlements of unemployment compensation when they work in my district and they lose their job, are not entitled to all the other benefits like you and I. We are being asked to adopt defective language which goes against the public policy of this institution.

Why have we allowed ENI to sit in this Chamber unless we have accepted the fact that he and the people he represents are just like us, American citizens? Let us not just dismiss this as defective language; we are being asked to put aside a very important principle which was accepted under the Constitution, to allow American Samoans to come in and be part of this country and to receive all the benefits and entitlements of this country and, yes, to go to war and die for this country.

So please, do not be dismissed by the notion that we can go to conference and fix it. This is not our idea. Our conferees can discuss it. They can bring it before the table and debate it.

What we are being asked is to endorse, to give thus the approval of this language which has no place in any deliberative body in the United States, which discriminates and denigrates citizens of this country who belong here but who, because of their status, are regarded as U.S. nationals.

I rise in great indignation this afternoon and ask you to vote down this motion to instruct.

□ 1920

Mr. BECERRA. Madam Speaker, Members, please do not close your eyes to defective language. We are asking the highest body of this Nation to do what we would not expect a first grader, a sixth grader, or a twelfth grader in our schools to do, and that is to accept something that we know is wrong.

It makes no difference what the intent of the Senators or the Representatives in this House is. We all know that it is the letter of the law, the express meaning of each word, that counts. If we pass this, we know what will happen. American Samoans will be deprived benefits.

I say to my colleagues, "Don't pretend you do something with a bill that it doesn't do. This doesn't help. It just hurts."

I urge my colleagues to oppose this motion.

Mr. ROHRABACHER. Madam Speaker, I yield such time as he may consume to the gentleman from California [Mr. BAKER].

Mr. BAKER of California. Madam Speaker, it is a sophomoric debating technique to challenge one's opponent to give them some facts.

On August 31, Madam Speaker, the gentleman from California [Mr. BECERRA] asked me for facts regarding illegal aliens and the expenditures in California. On September 3, 1993, for eight categories I sent the gentleman those facts.

Mr. BECERRA. Never got them.

Mr. BAKER of California. It does not surprise me.

Mr. ROHRABACHER. Madam Speaker, I yield myself the balance of my time.

There have been articles; there have been studies; there have been countless studies and examinations of the illegal alien problem, and all the ones that I have seen conclude that the flood of illegal immigration into this country is causing a great hardship upon our people. It is stretching our own social infrastructure to the breaking point.

We are being told by the other side that that is already taken care of, go ahead, vote against Rohrabacher because the illegal alien problem is already taken care of. Well, if my colleagues do not believe there is an illegal alien problem in this country, fine. Vote against what I am proposing today. But if they believe that the millions of illegal aliens that have come into our country are consuming limited, scarce benefits that should be going to our people is a major problem in our society, they should be voting for my proposition because I probably will get very few chances of ever presenting this on the floor again.

Madam Speaker, I have time and again had to go through maneuvers on this floor to try to get a vote and have been denied almost every time a chance to get a direct vote by those people who now say, "Just correct the language and come back and get another vote when it's absolutely perfect." There was a vote on this issue. It was 85 to 2 in the Senate.

Now we are told that all of those Senators, including the two Senators from my State, well, they were too imperfect to pass it here in the House. I would think that there might be some other motivation besides total perfection in terms of the opposition to my proposal. The fact is that, if there is, and I deny that there is any problem in terms of the issue that is being brought up, the fact is, if there is a problem, everyone on that side knows, and everyone here knows, we have worked here, it could be cleared up in conference committee, made absolutely perfectly clear.

Madam Speaker, there is no problem with that at all. What the real opposition to my proposal is is that those folks who are opposed to this proposal, the fact is that they do not want to deal with the illegal immigration issue no matter how we bring it forward. They believe that we are being inhumane.

I say to my colleagues, "I grant you you have good hearts, you are wonderful people. The fact is we all have love in our hearts. I say we have a responsibility to our own citizens to make sure that those very scarce resources that we have in this country are channeled to our own citizens rather than to illegal aliens."

Ms. HARMAN. Madam Speaker, to date, the debate on illegal immigration has been marked by a great deal of vitriol and relatively little wisdom. On one extreme, there have been those who claim that immigrants—both legal and illegal—are responsible for every ill facing this country. And on the other extreme, there are those who claim that borders are meaningless, and that there is no such thing as an illegal immigrant.

This motion today provides a rare opportunity to be reasonable. It allows us to clearly support a very basic principle: Illegal immigrants are not entitled to Government benefits. They are not entitled to AFDC. They are not entitled to food stamps, SSI, unemployment compensation, or routine health care.

It is not racist to say to. And it is not heartless to believe that American borders ought to be respected.

This debate about illegal immigration is not just some academic exercise. Illegal immigration affects millions of Americans who are here legally, and to ignore those impacts is irresponsible.

This motion simply states that illegal immigrants are not entitled to receive benefits like AFDC, food stamps, and nonemergency health care, and I support it strongly.

Mr. ROHRABACHER. Madam Speaker, I yield back the balance of my time, and I move the previous question on the privileged motion to instruct.

The previous question was ordered.

The SPEAKER pro tempore (Ms. KAPTUR). The question is on the motion to instruct offered by the gentleman from California [Mr. ROHRABACHER].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. ROHRABACHER. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 289, nays 121, not voting 24, as follows:

[Roll No. 324]

YEAS—289

Ackerman
Allard
Andrews (NJ)
Andrews (TX)
Archer
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Beilenson
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Bonilla
Boucher
Brewster
Browder
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Carr
Castle
Chapman
Clement
Clinger
Coble
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
Deal
DeFazio
DeLauro
Deutsch
Dickey
Dingell
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Ehlers
Emerson
English
Eshoo
Everett
Ewing
Fawell
Fields (TX)
Fingerhut
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Hefner
Herger
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Klein
Klink
Klug
Knollenberg
Kolbe
Kreidler
Kyl
LaFalce
Lambert
Lancaster
LaRocco
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lucas
Machtley
Maloney
Mann
Manzullo
Margolies-Mezvinsky
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McHale
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Miller (FL)
Minge
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Myers
Neal (MA)
Neal (NC)
Nussle
Orton
Packard
Pallone
Parker
Paxon
Payne (VA)
Penny
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Regula
Reynolds
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Roth
Roukema
Royce
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schenk
Schiff
Schumer
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Thurman
Torkildsen
Torricelli
Traficant
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Williams
Wise
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—121

Abercrombie
Andrews (ME)
Bacchus (FL)
Becerra
Berman
Blackwell
Bonior
Borski
Brooks
Brown (CA)
Brown (FL)
Cardin
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
de la Garza
Dellums
Derrick
Diaz-Balart
Dicks
Dixon
Dooley
Durbin
Edwards (CA)
Engel
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford (TN)
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hamburg
Hastings
Hilliard
Hinchey
Hughes
Jefferson
Johnson, E.B.
Johnston
Kleczka
Kopetski
Lantos
Lewis (GA)
Lowey
Manton
Markey
Martinez
Matsui
McDermott
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moran
Morella
Murphy
Nadler
Oberstar
Olver
Ortiz
Owens
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickle
Rangel
Reed
Richardson
Ros-Lehtinen
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Shepherd
Skaggs
Smith (IA)
Smith (NJ)
Stark
Stokes
Studds
Swift
Synar
Thompson
Torres
Towns
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Waters
Watt
Waxman
Wheat
Woolsey
Wynn
Yates

NOT VOTING—24

Applegate
Armey
Bishop
Boehner
DeLay
Doolittle
Fish
Ford (MI)
Frank (MA)
Gallo
Laughlin
McCurdy
McDade
Michel
Murtha
Obey
Oxley
Rowland
Sharp
Slattery
Smith (OR)
Washington
Whitten
Wilson

☐ 1943

Messrs. MOAKLEY, ACKERMAN, and GEJDENSON, Mrs. KENNELLY, and Ms. FURSE changed their vote from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

WAIVER OF RESTRICTIONS ON CERTAIN EXPORTS TO THE PEOPLE'S REPUBLIC OF CHINA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 103–279)

The SPEAKER pro tempore (Mr. STARK) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

Pursuant to the authority vested in me by section 902(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246), and as President of the United States, I hereby report to the Congress that it is in the national interest of the United States to waive the restrictions contained in that Act on the export to the People's Republic of China of U.S.-origin satellites insofar as such restrictions pertain to the EchoStar project.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 13, 1994.*

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3222

Mr. GOSS. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 3222.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET REGARDING CURRENT LEVELS OF SPENDING AND REVENUES FOR FISCAL YEARS 1995–99

(Mr. SABO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SABO. Mr. Speaker, on behalf of the Committee on the Budget and pursuant to sections 302 and 311 of the Congressional Budget Act, I am submitting for printing in the CONGRESSIONAL RECORD an updated report on the current levels of on-budget spending and revenues for fiscal year 1995 and for the 5-year period fiscal year 1995 through fiscal year 1999.

This report is to be used in applying the fiscal year 1995 budget resolution (H. Con. Res. 218), for legislation having spending or revenue effects in fiscal years 1995 through 1999. I am also submitting today a separate report dealing with the current levels of spending and revenues for fiscal year 1994, to be used in applying the fiscal year 1994 budget resolution (H. Con. Res. 64).

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, July 13, 1994.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: To facilitate application of sections 302 and 311 of the Congressional Budget Act, I am transmitting a status report on the current levels of on-budget spending and revenues for fiscal year 1995 and for the 5-year period fiscal year 1995 through fiscal year 1999.

The term "current level" refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President's signature as of June 30, 1994.

The first table in the report compares the current levels of total budget authority, outlays, and revenues with the aggregate levels set by H. Con. Res. 218, the concurrent resolution on the budget for fiscal year 1995. This comparison is needed to implement section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's aggregate levels. The table does not show budget authority and outlays for years after fiscal year 1995 because appropriations for those years will not be considered this session.

The second table compares the current levels of budget authority, outlays, and new entitlement authority for each direct spending committee with the "section 602(a)" allocations for discretionary action made under H. Con. Res. 218 for fiscal year 1995 and for fiscal years 1995 through 1999. "Discretionary action" refers to legislation enacted after adoption of the budget resolution. This comparison is needed to implement section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 602(a) discretionary action allocation of new budget authority or entitlement authority for the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a). The section 602(a) allocations are printed in the conference report on H. Con. Res. 218 (H. Rept. 103–490).

The third table compares the current levels of discretionary appropriations for fiscal year 1995 with the revised "section 602(b)" suballocations of discretionary budget authority and outlays among Appropriations subcommittees. This comparison is also needed to implement section 302(f) of the Budget Act, since the point of order under that section also applies to measures that would breach the applicable section 602(b) suballocation. The revised section 602(b) suballocations were filed by the Appropriations Committee on June 9, 1994 (H. Rept. 103–539).

The aggregate appropriate levels and allocations reflect the adjustment required by section 25 of H. Con. Res. 218 relating to additional funding for the Internal Revenue Service compliance initiative.

Sincerely,

MARTIN OLAV SABO,
Chairman.

Enclosures.

REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET

STATUS OF THE FISCAL YEAR 1995 CONGRESSIONAL BUDGET ADOPTED IN HOUSE CONCURRENT RESOLUTION 218—REFLECTING ACTION COMPLETED AS OF JUNE 30, 1994

[On-budget amounts, in millions of dollars]

	Fiscal years	
	1995	1995–1999
Appropriate level (as set by H. Con. Res. 218):		
Budget authority	1,238,705	6,892,705
Outlays	1,217,605	6,767,805
Revenues	977,700	5,415,200
Current level:		
Budget authority	730,011	NA
Outlays	916,222	NA
Revenues	977,700	5,393,058
Current level over (+)/under (−) appropriate level:		
Budget authority	−508,694	NA
Outlays	−301,383	NA
Revenues	0	−22,142

NA=Not applicable because annual appropriations Acts for Fiscal Years 1996 through 1999 will not be considered until future sessions of Congress.

BUDGET AUTHORITY

Enactment of measures providing more than $508.694 billion in new budget authority for FY 1995 (if not already included in the current level estimate) would cause FY 1995 budget authority to exceed the appropriate level set by H. Con. Res. 218.

OUTLAYS

Enactment of measures providing new budget or entitlement authority that would increase FY 1995 outlays by more than $301.383 billion (if not already included in the current level estimate) would cause FY 1995 outlays to exceed the appropriate level set by H. Con. Res. 218.

REVENUES

Enactment of any measure producing any net revenue loss in FY 1995 (if not already included in the current level estimate) would cause FY 1995 revenues to fall below the appropriate level set by H. Con. Res. 218.

Enactment of any measure producing any net revenue loss for the period FY 1995 through FY 1999 (if not already included in the current level estimate) would cause revenues for that period to fall further below the appropriate level set by H. Con. Res. 218.

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH COMMITTEE ALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(a)

[Fiscal years, in millions of dollars]

	1995			1995–1999		
	Budget authority	Outlays	NEA	Budget authority	Outlays	NEA
House Committee:						
Agriculture:						
Allocation	0	0	0	0	0	4,861
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	−4,861
Armed Services:						
Allocation	0	0	0	0	0	0

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH COMMITTEE ALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(a)—Continued

[Fiscal years, in millions of dollars]

	1995			1995–1999		
	Budget authority	Outlays	NEA	Budget authority	Outlays	NEA
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Banking, Finance and Urban Affairs:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
District of Columbia:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Education and Labor:						
Allocation	0	0	309	0	0	5,943
Current level	0	0	0	0	0	0
Difference	0	0	−309	0	0	−5,943
Energy and Commerce:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Foreign Affairs:						
Allocation	0	0	0	0	0	0
Current level	−4	−4	0	2	2	0
Difference	−4	−4	0	2	2	0
Government Operations:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
House Administration:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Judiciary:						
Allocation	0	0	0	0	0	0
Current level	2	2	0	10	10	0
Difference	2	2	0	10	10	0
Merchant Marine and Fisheries:						
Allocation	0	0	0	0	0	0
Current level	0	3	0	0	−2	0
Difference	0	3	0	0	−2	0
Natural Resources:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Post Office and Civil Service:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Public Works and Transportation:						
Allocation	2,161	0	0	64,741	0	0
Current level	0	0	0	0	0	0
Difference	−2,161	0	0	−64,741	0	0
Science, Space, and Technology:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Small Business:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Veterans' Affairs:						
Allocation	0	0	340	0	0	5,743
Current level	0	0	0	0	0	0
Difference	0	0	−340	0	0	−5,743
Ways and Means:						
Allocation	0	0	0	0	0	214
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	−214
Perm. Select Committee on Intelligence:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0

NEA=New Entitlement Authority.

DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 1995—COMPARISON OF CURRENT LEVEL WITH SUBALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(b)

[In millions of dollars]

	Revised 602(b) suballocations (June 9, 1994)		Current level		Difference	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Agriculture, Rural Development	13,817	13,945	0	4,197	−13,817	−9,748
Commerce, Justice, State	26,057	24,818	2	6,322	−26,055	−18,496
Defense	243,432	250,515	0	86,480	−243,432	−164,035
District of Columbia	720	722	0	2	−720	−720
Energy and Water Development	20,373	20,853	0	8,801	−20,373	−12,052
Foreign Operations	13,795	13,736	0	8,167	−13,795	−5,569
Interior	13,525	13,943	375	5,063	−13,150	−8,880
Labor, Health and Human Services, and Education	69,978	69,819	1,771	41,702	−68,207	−28,117
Legislative Branch	2,468	2,424	2,367	2,380	−101	−44
Military Construction	8,837	8,554	0	6,345	−8,837	−2,209
Transportation	13,584	36,445	0	24,562	−13,584	−11,883
Treasury-Postal Service	12,049	12,260	0	2,953	−12,049	−9,307
VA-HUD-Independent Agencies	70,418	72,945	813	43,270	−69,605	−29,675
Reserve	2,106		0	0	−2,106	0
Grand total	511,159	540,979	5,328	240,244	−505,831	−300,735

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 13, 1994.

Hon. MARTIN O. SABO,
Chairman, Committee on the Budget,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the on-budget current levels of new budget authority, estimated outlays, and estimated revenues for fiscal year 1995 in comparison with the appropriate levels for those items contained in the 1995 Concurrent Resolution on the Budget (H. Con. Res. 218), and is current through June 30, 1994. A summary of this tabulation follows:

[In millions of dollars]

	House current level	Budget resolution (H. Con. Res. 218)	Current level +/− resolution
Budget Authority	730,011	1,238,705	−508,694
Outlays	916,222	1,217,605	−301,383
Revenues:			
1995	977,700	977,700	
1995–1999	5,393,058	5,415,200	−22,142

Since my last report, dated June 13, 1994, Congress approved and the President signed the Independent Counsel Reauthorization Act (P.L. 103-270). Congress has also approved for the President's signature the 1994 FHA Supplemental (H.R. 4568) and the Legislative Branch Appropriations bill (H.R. 4454). These actions changed the current level of budget authority and outlays.

Sincerely,

ROBERT D. REISCHAUER,
Director.

PARLIAMENTARIAN STATUS REPORT, 103D CONGRESS, 2D SESSION, HOUSE ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1995 AS OF CLOSE OF BUSINESS JUNE 30, 1994

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			977,700
Permanents and other spending legislation	747,135	705,985	
Appropriation legislation		242,066	
Offsetting receipts	(203,682)	(203,682)	
Total previously enacted	543,453	744,370	977,700
ENACTED THIS SESSION			
Emergency Supplemental Appropriations, FY 1994 (P.L. 103–211)	18	(832)	
Federal Workforce Restructuring Act (P.L. 103–226	443	443	
Offsetting receipts	(269)	(269)	
Foreign Relations Authorization Act (P.L. 103–236)	(4)	(4)	
Marine Mammal Protection Act Amendments (P.L. 103–238)		3	
Independent Counsel Reauthorization Act (P.L. 103–270)	2	2	
Total enacted this session	190	(657)	
PENDING SIGNATURE			
Legislative Branch Appropriations (H.R. 4454)	2,367	2,174	
1994 FHA Supplemental (H.R. 4568)	(2)	(1)	
Total pending signature	2,365	2,174	
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	184,003	170,335	
Total Current Level[2]	730,011	916,222	977,700
Total Budget Resolution	1,238,705	1,217,605	977,700
Amount remaining: Under Budget Resolution	508,694	301,383	
Over Budget Resolution			

[1] Less than $500 thousand.

[2] In accordance with the Budget Enforcement Act, the outlay total does not include $4,568 million for funding of emergencies that have been designated as such by the President and the Congress, and $252 million for emergencies that would be available only upon an official budget request from the President designating the entire amount requested as an emergency requirement.

[3] Notes.—Amounts in parentheses are negative. Detail may not add due to rounding.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET REGARDING CURRENT LEVELS OF SPENDING AND REVENUES FOR FISCAL YEAR 1994

(Mr. SABO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SABO. Mr. Speaker, on behalf of the Committee on the Budget and pursuant to sections 302 and 311 of the Congressional Budget Act, I am submitting for printing in the CONGRESSIONAL RECORD an updated report on the current levels of on-budget spending and revenues for fiscal year 1994.

This report is to be used in applying the fiscal year 1994 budget resolution (H. Con. Res. 64), for legislation having spending or revenue effects in fiscal year 1994. I am also submitting today a separate report dealing with the current levels of spending and revenues for fiscal years 1995 through 1999, to be used in applying the fiscal year 1995 budget resolution (H. Con. Res. 218).

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, July 13, 1994.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: To facilitate application of sections 302 and 311 of the Congressional Budget Act, I am transmitting an updated status report on the current levels of on-budget spending and revenues for fiscal year 1994.

The term "current level" refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President's signature as of June 30, 1994.

The first table in the report compares the current levels of total budget authority, outlays, and revenues with the aggregate levels set by H. Con. Res. 64, the concurrent resolution on the budget for fiscal year 1994. This comparison is needed to implement section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's aggregate levels.

The second table compares the current levels of budget authority, outlays, and new entitlement authority for each direct spending committee with the "section 602(a)" allocations for discretionary action made under H. Con. Res. 64 for fiscal year 1994. "Discretionary action" refers to legislation enacted after adoption of the budget resolution. This comparison is needed to implement section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 602(a) discretionary action allocation of new budget authority or entitlement authority for the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a). The section 602(a) allocations were printed in the CONGRESSIONAL RECORD for March 31, 1993, on pages H. 1784–87.

The third table compares the current levels of discretionary appropriations for fiscal year 1994 with the revised "section 602(b)" suballocations of discretionary budget authority and outlays among Appropriations subcommittees. This comparison is also needed to implement section 302(f) of the Budget Act, since the point of order under that section also applies to measures that would breach the applicable section 602(b) suballocation. The revised section 602(b) suballocations were filed by the Appropriations Committee on June 16, 1993 (H. Rept. 103–549).

Sincerely,

MARTIN OLAV SABO,
Chairman.

REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET

STATUS OF THE FISCAL YEAR 1994 CONGRESSIONAL BUDGET ADOPTED IN HOUSE CONCURRENT RESOLUTION 64, REFLECTING ACTION COMPLETED AS OF JUNE 30, 1994

[On-budget amounts, in millions of dollars]

	Fiscal year 1994
Appropriate level (as set by H. Con. Res. 64):	
Budget authority	1,223,400
Outlays	1,218,300
Revenues	905,500
Current level:	
Budget authority	1,218,333
Outlays	1,216,991
Revenues	905,429
Current level over (+)/under(−) appropriate level:	
Budget authority	−5,067
Outlays	−1,309
Revenues	−71

BUDGET AUTHORITY

Enactment of measures providing more than $5.067 billion in new budget authority for fiscal year 1994 (if not already included in the current level estimate) would cause fiscal year 1994 budget authority to exceed the appropriate level set by H. Con. Res. 64.

OUTLAYS

Enactment of measures providing new budget or entitlement authority that would increase fiscal year 1994 outlays by more than $1.309 billion (if not already included in the current level estimate) would cause fiscal year 1994 outlays to exceed the appropriate level set by H. Con. Res. 64.

REVENUES

Enactment of any measure producing any revenue loss in fiscal year 1994 (if not already included in the current level estimate) would cause fiscal year 1994 revenues to fall further below the appropriate level set by H. Con. Res. 64.

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH COMMITTEE ALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(a)

[Fiscal year, in millions of dollars]

	1994		
	Budget authority	Outlays	NEA
House Committee:			
Agriculture:			
Allocation	−65	−66	−60
Current level	−99	−106	−402
Difference	−34	−40	−342
Armed Services:			
Allocation	−128	−128	−128
Current level	−153	−163	−167
Difference	−25	−35	−39
Banking, Finance and Urban Affairs:			
Allocation	0	−338	0
Current level	−417	−915	0
Difference	−417	−577	0
District of Columbia:			
Allocation	0	0	0
Current level	0	0	0
Difference	0	0	0
Education and Labor:			
Allocation	0	0	118
Current level	−142	−155	−787
Difference	−142	−155	−905
Energy and Commerce:			
Allocation	0	−1,700	−180
Current level	2	−2,398	42
Difference	2	−698	222
Foreign Affairs:			
Allocation	0	0	0
Current level	−35	−35	−3
Difference	−35	−35	−3
Government Operations:			
Allocation	0	0	0
Current level	0	0	0
Difference	0	0	0
House Administration:			
Allocation	0	0	0
Current level	1	1	0
Difference	1	1	0
Judiciary:			
Allocation	0	0	0
Current level	0	0	0
Difference	0	0	0
Merchant Marine and Fisheries:			
Allocation	0	0	0
Current level	−1	3	0
Difference	−1	3	0
Natural Resources:			
Allocation	−117	−112	0
Current level	−74	−78	0
Difference	43	34	0
Post Office and Civil Service:			
Allocation	−66	−66	−77
Current level	−256	−256	−218
Difference	−190	−190	−141
Public Works and Transportation:			
Allocation	2,092	−13	0
Current level	−78	−13	0
Difference	−2,170	0	0
Science, Space, and Technology:			
Allocation	0	0	0
Current level	0	0	0
Difference	0	0	0
Small Business:			
Allocation	0	0	0
Current level	0	0	0
Difference	0	0	0
Veterans' Affairs:			
Allocation	−11	−11	70
Current level	−11	−11	28
Difference	0	0	−42
Ways and Means:			
Allocation	−2,876	−2,054	−2,036
Current level	−1,216	−824	261
Difference	1,660	1,230	2,297
Perm. Select Committee on Intelligence:			
Allocation	0	0	0
Current level	7	7	7
Difference	7	7	7

NEA=New Entitlement Authority.

DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 1994—COMPARISON OF CURRENT LEVEL WITH SUBALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(b)

[In millions of dollars]

	Revised 602(b) suballocations (June 16, 1994)		Current level		Difference	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Agriculture, Rural Development	14,595	14,205	14,595	14,205	0	0
Commerce, Justice, State	23,470	23,887	22,800	23,217	−670	−670
Defense	240,319	255,151	239,897	255,151	−422	0
District of Columbia	700	698	700	698	0	0
Energy and Water Development	22,017	21,585	21,689	21,585	−328	0
Foreign Operations	13,444	13,878	12,690	13,878	−754	0
Interior	13,736	13,726	13,727	13,726	−9	0
Labor, Health and Human Services, and Education	67,283	68,066	67,189	68,012	−94	−54
Legislative Branch	2,270	2,267	2,264	2,262	−6	−5
Military Construction	10,066	8,784	9,464	8,759	−602	−25
Transportation	12,284	34,889	12,435	34,878	−849	−11
Treasury-Postal Service	11,469	11,642	11,312	11,639	−157	−3
VA-HUD-Independent Agencies	68,311	69,979	68,053	69,976	−258	−3
Grand total	500,964	538,757	496,815	537,986	−4,149	−771

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 13, 1994.

Hon. MARTIN O. SABO,
Chairman, Committee on the Budget,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the on-budget current levels of new budget authority, estimated outlays, and estimated revenues for fiscal year 1994 in comparison with the appropriate levels for those items contained in the 1994 Concurrent Resolution on the Budget (H. Con. Res. 64), and is current through June 30, 1994. A summary of this tabulation follows:

[In millions of dollars]

	House current level	Budget resolution (H. Con. Res. 64)	Current level +/− resolution
Budget authority	1,218,333	1,223,400	−5,067
Outlays	1,216,991	1,218,300	−1,309
Revenues:			
1994	905,429	905,500	−71
1994 to 1998	5,105,866	5,153,400	−47,534

Since my last report, dated June 13, 1994, Congress approved for the President's signature the 1994 FHA Supplemental (H.R. 4568). This action changed the current level of budget authority and outlays.

Sincerely,

ROBERT D. REISCHAUER,
Director.

PARLIAMENTARIAN STATUS REPORT, 103D CONGRESS, 2ND SESSION, HOUSE ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1994 AS OF CLOSE OF BUSINESS JUNE 30, 1994

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			905,429
Permanents and other spending legislation[1]	721,126	695,196	
Appropriation legislation	742,749	758,885	
Offsetting receipts	(237,226)	(237,226)	
Total previously enacted	1,226,648	1,216,855	905,429
ENACTED THIS SESSION			
Emergency Disaster Supplemental (P.L. 103–211)	(2,286)	(248)	
Federal Workforce Restructuring Act (P.L. 103–226)	48	48	
Offsetting receipts	(38)	(38)	
Housing and Community Development Act (P.L. 103–233)	(410)	(410)	
Extending Loan Ineligibility Exemption for Certain Colleges (P.L. 103–235)	5	3	
Foreign Relations Authorization Act (P.L. 103–236)	(2)	(2)	
Marine Mammal Protection Act Amendments (P.L. 103–238)		4	
Airport Improvement Program Temporary Assistance Act (P.L. 103–260)	(65)		
Total enacted this session	(2,748)	(643)	
PENDING SIGNATURE			
1994 FHA Supplemental (H.R. 4568)	(2)	(2)	
ENTITLEMENTS AND MANDATORIES			
Budget resolution estimates of appropriated entitlements and other mandatory programs not yet enacted.[3]	(5,567)	781	
Total current level[4,5]	1,218,333	1,216,991	905,429
Total budget resolution	1,223,400	1,218,300	905,500
Amount remaining:			
Under budget resolution	5,067	1,309	71
Over budget resolution			

[1] Includes budget committee estimate of $2.4 billion in outlay savings for FCC spectrum license fees.

[2] Less than $500 thousand.

[3] Includes changes to baseline estimates of appropriated mandatories due to enactment of P.L. 103–66 and P.L. 103–140.

[4] In accordance with the Budget Enforcement Act, the total does not include $14,203 million in budget authority and $9,079 million in outlays in funding for emergencies that have been designated as such by the President and the Congress, and $757 million in budget authority and $291 million in outlays for emergencies that would be available only upon an official budget request from the President designating the entire amount as an emergency requirement.

[5] At the request of Committee staff, current level does not include scoring of sec. 601 of P.L. 102–391.

Note.—Amounts in parentheses are negative. Detail may not add due to rounding.

□ 1950

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. STARK). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

THE FAILED POLICY IN HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, the subject of Haiti and our policy in Haiti has certainly captured the attention of the Nation these days. I wanted to sum up just exactly what the facts are again, because there seems to be an increasing dialogue and debate in the media and on the electronic TV.

There are failures in the Clinton policy. These are factual matters. These are not debatable, they are facts. Think of this: Under the Clinton policy, we have unleashed a monumental refugee crisis. That is a fact. It cannot be denied. It was not there until we had the Clinton policy.

The second thing that has happened, which is uncontroverted, I believe, is that we have driven up the misery index for Haitians, mostly poor Haitians and middle-class Haitians trying to get along in Haiti.

At the same time, we have made life fairly easy, or at least relatively easy, for the very people that we are targeting our sanctions against: that is, those military people who illegally took over the country. They are thriving, and the people we are trying to help are being subjected to additional misery virtually every day. That misery is real. It is starvation, it is lack of medical attention that is causing disease to thrive, and it is an extraordinary, deplorable condition.

When we start eating our seed corn, literally, and cutting down our fruit trees to build boats to escape, and are no longer going to have fruit, we have a problem on our hands. That is what our policy is causing.

Equally true, it is not debatable that the Clinton policy is causing a political situation in Haiti that has always been difficult to polarize. The people who do not like each other really detest each other now, because we have created so much pressure there that there is no chance they will talk to each other and come to a common accord and make peace.

We have polarized people who do not like each other to the point where they are ready to do bad things to each other again. We have also certainly created a loss of credibility for our capabilities as a world power.

We have had a policy of zigging and zagging and changing our minds and inconsistency, applying now one way and then the next. We have got our friends and neighbors in the Caribbean wondering what in the world we are trying to do, and why we are putting the pressure on them to do things that do not need to be done, that they do not want to do, like take hundreds of thousands or tens of thousands of any numbers of Haitian exiles into their countries where jobs are just as precious as they are in any other country, including ours, especially when we do not need to be having all these Haitians leaving Haiti. There is a better solution.

Finally, we need to talk about another incontrovertible fact, Mr. Speaker. It is one that I do not have the numbers on because nobody seems to be willing to come forward with it. This is costing the American taxpayers a bundle, but nobody knows just how much a bundle. It is a big bundle.

We have 15 Coast Guard cutters down there, we have 8 Navy ships, we have 5 attack assault amphibious ships down there with our best fighting forces aboard. All of this is going on at some very great expense.

Of course, we have the refugee processing centers, the ships that we have rented; we have the *Comfort*, the hospital ship we are using as a processing center, and whatever deals we have made with neighboring countries to rent land or rent processing stations in the area. It is expensive.

Mr. Speaker, I think what else is happening, which is really critical and catching everybody's attention here, is that we are beginning to box ourselves into a dangerous and foolhardy position where we may not have a good out if we do not retreat from where we are, except a military invasion, and that would be a fateful, serious mistake. It has not worked before and it will not work this time.

Yes, we will win the military engagement, but we will end up losing credibility and we will end up taking on problems that we are not prepared to take on, that we have no ways to resolve. It will not be doing the Haitians a favor and it will not be doing the United States of America a favor.

Mr. Speaker, I might say that all of these things are going on under the Clinton policy. Are there elements of a successful policy we could adopt instead? Indeed there are. If we take the pressure off and pull back from the invasion, if we lift the sanctions and we remove those magnets that are drawing the refugees out of Haiti, we begin to make life a little bit more sane in Haiti for those people.

Can we do that? Yes. Lifting the sanctions will indeed allow our humanitarian relief flights to go back in. We have had flights that have not flown for a month now, that used to go in twice a week to provide food, medicine, and other supplies for the needy and the poor in Haiti. We just got one flight out, I am told. We have to go through a tremendous amount of redtape to get these flights in that used to go routinely a couple of times a week. This is insane. Why don't we send those flights back with this relief that these people need?

We can certainly set up a safe haven in Haiti on an appropriate geographical site where we can provide this humanitarian relief, where we can do it safely, and where we can create the opportunity for the return of the duly elected president, who, frankly, should be picking up his paycheck in Haiti, on Haitian soil, doing his job, rather than in the United States of America, in Washington, DC, living in a Georgetown penthouse.

Mr. Speaker, I think the final point as I close out is to say that we have an opportunity to deal with real people who want to bring peace to Haiti, the elected people in the parliament. They want to talk to us, they want parliamentary exchange. We should be doing that instead of talking war.

THE FLOOR OF THE HOUSE: NO PLACE FOR SENSATIONALISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. BONIOR] is recognized for 5 minutes.

Mr. BONIOR. Mr. Speaker, the floor of this House is supposed to be a place where people exchange ideas.

A place where we're supposed to work together to move this country forward and work out our differences with open and honest debate.

It's not a place for sensationalism.

It's not a place for rumor-mongering.

And it's not a place for scandal-baiting.

And even though the rhetoric gets heated at times, even though words get exchanged, for the most part since I've been privileged enough to serve in this body democracy has been served well by this Chamber.

But I'm extremely sad to say, Mr. Speaker, that that was not the case earlier this morning.

Mr. Speaker, during a 1-minute speech earlier this morning, we were treated to the same kind of scandal-mongering and gutter politics that's usually reserved for cheap tabloids.

Once again, we saw a Member from the other side of the aisle take the floor and try to exploit the sad death of Vince Foster as something more than a tragic suicide.

The fact is, Mr. Speaker, that this case has been closed.

Less than 2 weeks ago, the independent prosecutor who the Republicans called for, who the Republicans greeted with such open arms, who is himself a Republican, issued a report on this case.

And that report said: "the evidence overwhelmingly supports" the conclusion that Mr. Foster committed suicide at Ft. Marcy Park.

After the independent prosecutor had a team of investigators looking into every minute detail of this case, they concluded: "there is no evidence to the contrary."

And after the independent prosecutor had numerous lawyers spend thousands of hours examining and reexamining all the evidence, they found:

> No evidence that issues involving Whitewater, Madison Guaranty, Capitol Management Services or other personal legal matters of the President or Mrs. Clinton were a factor in Foster's suicide.

That's what the independent prosecutor said. And everyone else involved in the case concurred.

The Park Police who were first on the scene called it a suicide.

The pathologist panel who examined the body called it a suicide.

All the participants in the investigation concluded that it was a suicide.

And the independent prosecutor concluded that it was a suicide.

Even the Washington Post wrote:

> The * * * question whether Vincent Foster's death was a suicide or homicide has been answered in a manner that should satisfy all but the most cynical participants. His death was a suicide.

Mr. Speaker, those are the facts. And nobody should be exploiting this situation to score cheap political points.

This is a real human tragedy and to turn it into fodder for partisan politics is beyond reprehensible and it's beyond the dignity of this institution.

We may have our differences on how to reform health care.

We may have our differences on the budget.

We may have our differences on the role of Government.

But let's not resort to this.

Let's not turn the floor of this House into an arena for the wretched refuse of trashy tabloids.

Let's not resort to a politics of hate that preys on other people's tragedy.

Let us rise above this and work together to move this country forward.

And let's see Vince Foster for who he was: a good man and a good father who did his best to serve this country well, who was faced with a pain and a darkness that few of us could ever fathom, and who followed that darkness to a bitter, tragic end.

For the sake of the people who loved Vince Foster, and who still mourn his loss I hope we'll let him rest in peace.

And for the sake of this institution and the dignity of our democracy I hope we will never hear rhetoric stoop to this level again on the floor of the House of Representatives.

□ 2000

UNANSWERED QUESTIONS ON VINCENT FOSTER'S SUICIDE

The SPEAKER pro tempore (Mr. HOLDEN). Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I am very glad I was here to hear the remarks made by the majority whip because I want to go into what I said this morning in more detail. I believe there is a real possibility that Vince Foster committed suicide. I do not believe, after reading that report in some detail with about seven other people, that he committed suicide at Fort Marcy Park. I believe his body was moved to that location, and I will tell this body why.

I want to go into my remarks this morning because I do not want to hurt the Foster family, but at the same time I believe that if there was some misdeeds done out there, the American people have a right to know and this Congress has a right to know, and there should be a complete and full investigation if there are any irregularities.

Let us go into this just a little bit. The man that found Vince Foster's body said his face was straight up, and yet if you read the report there was blood coagulated on the side of his face, and on the shirt. Forensics experts say his body was like this, and they say in the report that one of the people who worked on the investigation must have moved his head. The fact of the matter is before they even got out there the man that found him said his head was straight up. So the head had been moved before the experts went out there.

Who moved the body? We need to find out who moved the body.

There was blonde hair, not Mr. Foster's, on his T-shirt and other parts of his garments. Whose hair was it? It was not his.

There were carpet and other wool fibers found on the body. Where did they come from?

I do not like to talk about this, but there was semen found on his underwear, which would indicate there might have been a sexual experience that afternoon between 1 and 5. If that is the case, it is hard to understand the state of mind of somebody who is thinking about committing suicide and having a sexual encounter at the same time.

Here is something very damaging. They dug 18 inches around the body, and they sifted all of the dirt, and they could find no skull fragments at the site, no skull fragments were found at the site, and there was a 3-inch hole at the back of the man's head from the gun. If he was killed at Fort Marcy Park, they would have found skull fragments at that site. Why were they not found there? I believe because he committed suicide or was killed someplace else and moved to that spot.

All of the bullets that were found at the site, using modern technology, show that there were a number of bullets found but not the one which killed Vince Foster, and they were out there with grids and everything else for several days with 16 people looking.

And why was the gun in Mr. Foster's hand, in the wrong hand? Mr. Foster was left-handed. The gun was in his right hand. I want to tell you that if you are going to commit suicide, and you are in that state of mind, usually you grab with the hand you use all of the time. The gun was in the other hand.

Why did the man who found Foster's body say there was no gun in either hand, not once, not twice, but three times when he talked to Gordon Liddy, and that is the man the FBI investigated.

My concern is for the facts and the truth. When people say I am down here trying to bring this body to a low ebb, I resent it. I am concerned about the feelings of the family members, and I think it is tragic that they went through this. Mr. Foster had an awfully good record in life. But if his body was moved, we need to know from where it was moved. If he had this kind of experience during the day, we need to know about it. We need to know whose hair was on his body.

These are questions that need to be answered. We need to know why there were no skull fragments at the site if he blew the back of his head out. It appears to me that he probably was moved from someplace else.

While I have time left, let me go into what happened after Mr. Foster was killed.

At 6 p.m. on July 20, deputy White House counsel Vincent Foster was found dead in the park.

Shortly after 9 p.m., White House chief of staff Mack McLarty was informed of his death. McLarty ordered his office sealed However, the office remained unlocked overnight until 11 a.m. the next day, and despite this order, less than 3 hours after his body was found, White House officials removed records of business deals between Mr. Clinton and his wife and the Whitewater Development Corp. from Mr. Foster's office without telling Federal authorities who were investigating the death. In fact, they did not admit that they were in the office until 6 months later, Why?

The people who went in were White House counsel Bernie Nussbaum, the

President's special assistant, Patsy Thomasson, and Mrs. Clinton's chief of staff, Maggie Williams.

Bernie Nussbaum said they were there 10 minutes. The Park Police said they were there over 2 hours taking files out of that office.

During his first search, Whitewater files and President Clinton's tax returns were removed and turned over to David Kendall, President Clinton's attorney. Were any of those destroyed? I do not know.

White House officials did not confirm that the July 20 search took place, as I said, until late in December.

There are a lot of questions to be answered. We want to take care of people's feelings, especially family members, but if something was done wrong, we need to get to the bottom of it.

I include for the RECORD the chronology of the two searches as well as some unanswered questions concerning Mr. Foster's death, as follows:

TWO SEARCHES OF VINCENT FOSTER'S OFFICE

THE FIRST SEARCH

At 6:00 p.m. on July 20, 1993 Deputy White House Counsel, Vincent Foster was found dead in Fort Marcy Park in Virginia.

Shortly after 9:00 p.m., White House Chief of Staff, Thomas "Mack" McLarty, was informed of Foster's death.

McLarty ordered Vince Foster's office sealed. However, the office remained unlocked overnight and was sealed at 11:00 a.m. the next morning when a guard was posted at the door.

Despite this order, less than three hours after his body was found, White House officials removed records of business deals between President Clinton, his wife, and the Whitewater Development Corporation from Mr. Foster's office without telling federal authorities who were investigating the death.

They were White House Counsel Bernard Nussbaum, the President's Special Assistant, Patsy Thomasson, and Mrs. Clinton's chief of staff, Maggie Williams.

Bernie Nussbaum said they were in the office ten minutes. Park Police say the visit lasted two hours.

During this first search, Whitewater files and President Clinton's tax returns were removed and turned over to David E. Kendall, President Clinton's attorney.

White House officials did not confirm that there was a July 20th search of Foster's office or that files were removed during this search until December, 1993.

THE SECOND SEARCH

On July 22, 1993, Mr. Nussbaum and White House officials searched Mr. Foster's office a second time. They collected more documents. Some were sent to President Clinton's attorney and others were sent to Vince Foster's attorney, James Hamilton.

During the second search, Mr. Nussbaum, citing executive privilege, kept Park Police and FBI agents from entering the office.

Dee Dee Myers, the White House press secretary, said "Bernie went through and sort of described the contents of each of his files and what was in his drawers while representatives of the Justice Department, the Secret Service, the FBI, and other members of the counsel's office were present."

According to other sources, FBI agents and Park Police were ordered to sit on chairs in the hallway while White House staff went through documents and that Mr. Nussbaum gave the FBI agents and Park Police no indication of what he was taking. One FBI agent was reprimanded when he stood up to peer in the room.

Park Police later discovered that Whitewater records had been removed from Vincent Foster's office during the second search after they visited James Hamilton, Foster's lawyer, a week after the death to review a personal diary that was also taken during one of the searches.

Hamilton allowed Park Police to briefly inspect the diary and other documents. However, he did not allow them to make copies citing privacy concerns, and he refused a request for access to the diary and documents by the Justice Department.

On July 27, 1993, White House officials revealed that on July 26, they found a note, supposedly written by Vince Foster, in the bottom of his brief case which was in his office.

They said they missed the note in their first two searches. The note was unsigned, undated, and torn into 27 pieces.

QUESTIONS

1.) When did White House Chief of Staff Thomas McLarty give the order to seal Vince Foster's office? How was the White House staff informed of McLarty's order?

2.) Why was the office not sealed until 11:00 a.m. the next morning?

3.) Did Bernard Nussbaum, Patsy Thomasson, and Maggie Williams know about Thomas McLarty's order? How did they first learn about Vince Foster's death?

4.) Did somebody order Nussbaum, Thomasson, and Williams to search Vince Foster's office, or did one of them make the decision to search the office?

5.) If someone ordered them to search the office, what were they told to look for? If it was Nussbaum, Thomasson, or Williams' idea to search the office, what were they looking for?

6.) Why did they remove the Whitewater files?

7.) Were other documents taken? Were documents destroyed?

8.) Where were the documents when they entered the office? Were they in locked files or a safe? If so, how were these opened?

9.) Shouldn't they have left everything there for the police to examine?

10.) Instead of keeping the FBI from doing its job, shouldn't the White House staff have been giving law enforcement their full cooperation after their friend and colleague was found dead?

11.) Did anyone else go into Vince Foster's office that night?

12.) Did White House officials purposely mislead the Park Police about the existence of Whitewater documents in Vince Foster's office?

13.) How did the White House staff miss a note, torn into 27 pieces, in the bottom of Vince Foster's brief case during their first two searches of his office?

14.) What documents were given to Vince Foster's attorney James Hamilton and what was given to the Clintons' attorney David Kendall? Were any destroyed?

15.) Who were all the White House officials involved in the second search of Vincent Foster's office?

16.) Did the White House staff have the legal right to prohibit the FBI from searching Foster's office as part of an investigation into Foster's death?

HAITI AND THE CAPUTO MEMO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON. Mr. Speaker, I rise this evening with a great deal of concern as a member of the Armed Services Committee for the past 8 years about the rumors that are circulating rampantly on the Hill regarding this President's alleged intentions to involve this country in a military action in Haiti within a matter of the next several weeks, or perhaps even in a shorter period of time.

My concern stems from the fact that as a member of this Armed Services Committee who takes his position very seriously that we not engage ourselves in a situation like we saw last September where we had a big White House ceremony on the lawn in terms of bringing our troops back home from Somalia, but left 4,500 troops unprepared for what they would face in that country. In September of last year, the only time during the 8 years I have been here, we found out political considerations were used to deny a request by a senior military official to have appropriate backup support in Somalia to protect our troops. In other words, a political consideration was made involving our military troops.

The rumors circulating on the Hill are along the line that the President is considering another military operation for political purposes. That would be outrageous.

I point to a special confidential memo from Dante Caputo dated May 23. Dante Caputo is the Special Envoy to Haiti, the U.N. Special Envoy. This was leaked to the press. The document suggests that the current economic sanctions against Haiti are not intended or expected to dislodge the Haitian military rulers, but instead the sanctions are to serve as a diplomatic cover for the real objective, which is an armed military invasion to take place before the November election.

Caputo explains that the United States intends to leave 1 month after the invasion, to pass the torch to the United Nations.

He further explains that the only thing holding back Clinton's invasion is whether the United States can find countries to mount a multinational operation after United States forces exit Haiti.

This really tears me apart, this next point. In his memo, Dante Caputo, U.S. Special Envoy to Haiti, said the reason behind the invasion is to demonstrate "* * * The President's decisionmaking capability and the firmness of leadership in international political matters."

Is that why we are going to Haiti? Is this President so concerned with his polls that he is going to send American troops in? I can guarantee you, Mr.

Speaker, if this President causes us to shed one drop of American blood for a political purpose, there will be a war, but it will not be in Haiti. It will be inside of the beltway.

During a meeting between Mr. Caputo and Secretary General Boutros Ghali, Mr. Caputo is cited as saying, "The Americans will not be able to wait much longer than August at the latest to invade. They want to do something; they are going to try to intervene militarily."

Notes from that same meeting explained that "Mr. Caputo predicts a disaster. That the United States will make the United Nations bear the responsibility to manage the occupation of Haiti."

The notes of the meeting further convey Mr. Caputo's belief that "with Aristide as President during 2 or 3 years, it will be hell."

Yesterday, Mr. Speaker, the U.S.S. *Mount Whitney*, a 2d Fleet command ship, left for Haiti. Its primary function is that of an amphibious command and control center for major operations.

Mr. Speaker, let me put my colleagues on notice and the American people on notice. This President and this Commander in Chief had better be able to justify whatever action he takes in regard to Haiti, and if he cannot do that, he is going to have to pay hell with Members of this body, and I will be leading the attack.

□ 2010

THE AMERICAN PEOPLE DO NOT WANT TO GO TO WAR IN HAITI

The SPEAKER pro tempore (Mr. HOLDEN). Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, I also rise to discuss the situation in Haiti.

The American people, or at least an overwhelming majority of the American people, do not want to go to war in Haiti. There is no threat to our national security there. There is no vital U.S. interest there.

Some in the administration are saying that we have an interest in invading Haiti to slow the flood of immigration. However, as the gentleman from New Jersey [Mr. TORRICELLI] was quoted as saying in the Wall Street Journal, "A situation is being created where the administration is leaving itself no choice but military intervention."

In other words, it is the policy of this administration itself, that is, the embargo, the sanctions which are creating the "need" for military action. We are manufacturing this crisis ourselves. Senator GRAHAM of the other body from Florida said a few days ago the U.S. embargo is doing nothing to the rich people of Haiti, but it is starving the poor people there to death.

This was reconfirmed on the Nightline program last night. Our policies are having no effect on the rich, but we are forcing the poor from Haiti to come here.

If we invade Haiti, what have we proved? Nothing. Let us say we conquer Haiti in a few hours or a few days militarily. So what: Big deal.

But all the experts say we would have to stay there a long time to really stabilize the country. This would be a tremendous drain on our national finances at a time that we really cannot afford it. All this to satisfy domestic political considerations or to give the President some type of foreign policy victory. It is not worth it. It is not worth the life of one American soldier.

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN. I am happy to yield to the gentleman from California.

Mr. CUNNINGHAM. I thank the gentleman for yielding.

I think it is also important to remember the President was going to send marines into Haiti originally with sidearms only.

Mr. DUNCAN. I thank the gentleman for his comments.

One of our leading national columnists wrote this in yesterday's Washington Times:

(By Pat Buchanan)

God willing, the saving grace of America's ruthless and ruinous policy toward the tiny and destitute nation of Haiti will be that it tarnishes forever the reputations of those who pursued it. For what we have done to Haiti for three years, would, in better times, have been called "a crime against humanity."

"I think the sanctions are having an impact," President Clinton said cheerily in Latvia. He certainly has that right.

Haiti's strangulation is almost complete now. Her economy is destroyed; her population is without work; her people are dying of disease; many of her babies are being born retarded because their mothers are malnourished; and perhaps thousands have drowned trying to escape the hell on Earth our embargo-blockade has made of their country.

Why did the United States do such a thing?

Three years ago Jean-Bertrand Aristide, a priest defrocked by the Catholic Church for preaching class hatred, a man the CIA has concluded is a nut case, was ousted by the general he had made chief of staff. Gen. Raoul Cedras booted out Mr. Aristide because Mr. Aristide, though elected democratically, had begun ruling dictatorially.

Surely Haiti would have been better off for the ouster of Mr. Aristide, if only we had left her alone. But rather than accept the military coup, and suggest to Mr. Aristide he take up a new trade, the United States decided that Haiti's internal affairs were our concern. But this time it was the Left that was adamant that Mr. Aristide be returned to his palace, even if we had to choke his country to death to achieve it.

Consider the hypocrisy here.

In 1933 under Franklin Roosevelt the United States signed a convention in Montevideo stipulating that "No [American] State has the right to intervene in the internal affairs of another." This was the Good Neighbor policy, celebrated by the American Left as replacing Teddy Roosevelt's Big Stick policy so beloved of Yankee capitalists with large investments in little countries in the Caribbean and Central America.

Yet, today, it is the 1980's "Hands off Nicaragua!" crowd howling for intervention in Haiti, and a liberal Democrat who shakes his fist and sends the gunboats loaded with Marines.

Out of the blindness of ideology and the arrogance of power we have ravaged the poorest nation in our neighborhood, to force them to take back a Castroite demagogue we would never have tolerated in our own country.

Mr. Aristide is not worth the life of a single U.S. Marine. And if U.S. lives are lost putting him back in power, or a civil war erupts in Haiti that we are forced to put down, or a long and costly occupation has to be undertaken, full responsibility will rest with the Clinton administration.

Mr. Speaker, I say once again, an overwhelming majority, three-fourths, of the American people, by most polls, do not want us to go to war in Haiti. We should not do this just to give Mr. Clinton some points in some political popularity poll.

I urge my colleagues to say "no" to military intervention in Haiti.

GENERAL LEAVE

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

HEALTH CARE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Pennsylvania [Mr. GOODLING] is recognized for 60 minutes as the designee of the minority leader.

Mr. GOODLING. Mr. Speaker, on June 23 the Committee on Education and Labor reported the amended version of the Health Security Act, the legislation originally sent to the Congress by President Clinton last November.

This was one of the most disappointing days of my career in the Congress of the United States, because I had hoped when we began the process 7 weeks earlier that we would take some of the issues that everyone agrees need to be dealt with and build from that point.

The majority was very cordial. They allowed us in subcommittee and full committee to speak as long as we wanted to speak, to offer any amendment we wanted to offer, but they had also decided before we began the markups both in subcommittee and full committee that they were going to start with the highest-priced Cadillac what was available, and then they were going to embellish that with some parts from Rolls Royce, Mercedes Benz, Ferrari, and Porsche. Unfortunately, that is what happened in the committee, and those of us on the Republican side of the committee made clear our intentions to respond to the problems with the current system of health insurance and health care delivery which were evidenced by the many who testified during the nearly 30 days of hearings held by the committee and the subcommittee.

Our preference was to take a problem-solving approach and build a bipartisan consensus on what needs to be accomplished without disrupting the positive qualities of the current system or inducing a decline in the quality of medical care Americans expect to receive.

As I indicated, unfortunately the committee rejected this bipartisan approach.

What we plan to do this evening, as members, minority members, of the Committee on Education and Labor is point out to the American public that we had alternatives to offer, and we offered them, and also to point out to the American public what we believe is totally wrong with the piece of legislation that came from our committee.

Mr. Speaker, at this point I would yield to the gentlewoman from New Jersey [Mrs. ROUKEMA], who is the ranking member on the subcommittee where this all began.

Mrs. ROUKEMA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I certainly want to extend my appreciation to the gentleman from Pennsylvania, our ranking Republican Member, Mr. GOODLING, for giving us this opportunity to discuss the actions in our Committee on Education and Labor.

I think this is a particularly propitious time for us to do this, because health care reform has come to be understood as, and obviously remains, one of the most complex and interrelated subjects to come before the Congress in modern history. In fact, the American people are learning what we learned when we worked on the committee, namely, that the more you work on health care reform, the more you realize you do not know.

I think we would all do well to heed these facts as we consider health care reform both in the context of what we did in the committee and as we look ahead now that the future of health care reform seems so clouded and so perplexing. We must do everything possible to reach bipartisan agreement before the election is upon us.

□ 2020

I think specifically we must agree and understand that no one is not for health care reform. We all want that. The question is how do we extend coverage for the uninsured Americans while still protecting the highest quality of health care coverage enjoyed by more than 80 percent of the American people, and at a cost that can be borne by society?

I think it is important now to understand, and many of us having been home with our constituents over the recess have learned, that the American public is now pulling back. Yes, there are certain things that they want, and that they understand that they need, but the national polls show as much as anything that there is confusion among the public, a certain cynicism, and lots of unanswered questions. Certainly, that is what we have learned in our long trek in fashioning an alternative to the Clinton "chubby", as it was dubbed in the Committee on Education and Labor. But I want to say here that we know, as the American people now know, that there is no magic pill to cure everything that ails our system, and that health care reform is not simply a matter of going after the so-called rich doctors and greedy hospitals and the waste, fraud, and abuse. If it were only that we could get at the people who were gaming the system, we would be able to fix it almost overnight. But we have a new understanding of all the things that we need. Above all, we know through the work that we have done and through the work with our constituents that paying more for less health care is not what the American people had in mind when they called for health care reform.

Unfortunately, that will be the consequence of what the Democrats on the Committee on Education and Labor have put forth. Most Americans will pay more and get less health care.

I think we kept as our standard the first principle of health care, which is to do no harm. It was our guiding principle both on the subcommittee and on the full committee as we presented our alternative.

I would like to give a little attention to how we developed this alternative. Many of us had worked with our Republican leader, BOB MICHEL, and the Republican Health Care Task Force. We took the very fine work of that group, we added to it, and we dubbed it Michel-plus in subcommittee. Then it became Michel-plus-plus in full committee as we fine-tuned our alternative.

I think the important thing is not what we call it but exactly how it works: following our principle of do no harm while still not undermining in any way the very fine coverage that 80 percent of the American people already enjoy.

I think we have to go back to the way this whole health care debate first started. I have got to give credit to the President because he put it very succinctly in one of his speeches. But subsequently, I am afraid he lost sight of what he originally talked about: namely, the fear that the American people have that their health care insurance might be canceled. And indeed I do not know about you, but I have found in discussing with all of my constituents that it is the sick joke of the health insurance industry that you can only get health insurance as long as everyone in your family is completely healthy. If someone gets ill, you are in danger of having that health insurance taken away.

So the President put out as a goal health care insurance that can never be taken away.

Taking the first principle that the President correctly laid out at the beginning, we built on it in this Republican alternative. We said, "All right, now, what are the problems that most shift from anxiety to near panic in the minds of the American people?" Very simply put, that became known as comprehensive health insurance reform, and it formed the basis of the Michel-plus-plus alternative that we put forward.

Just to summarize, and I know the rest of our colleagues on the committee are going to focus on some of the more specific areas, but just to summarize, I want to say that this proposal of the Republicans on the committee was fashioned on comprehensive insurance reform principles. It would continue access to coverage and eliminate the job lock. It certainly goes a long way to eliminate the job lock; namely, giving you portability if you happen to lose a job or must or want for some reason to change your job. You have insurance portability that goes with you.

It restricts the loss of coverage due to preexisting conditions. And here I want to make it very clear for all our colleagues that the Michel bill had gone a far distance, but we improved upon it and closed any continuing loopholes on the preexisting condition question. It ends the cancellation of coverage due to illness.

So it would give the American people that security of knowing that when a person gets sick or when a job opportunity comes along, they would have continuous coverage.

I think an important thing that we also did was that we used a modified community rating system. We understood that you have to get a lot of people into the pool in order to make insurance reform work. But we did not go to the extremes of total community rating. We used the very well accepted actuarial standards of a modified community rating.

It also permits us to develop affordable coverage for small businesses in group reform. It gives us the assurance of continued ERISA requirements for self-insured plans, and I think that is essential for continuing to provide an incentive for the good health care coverage that Americans currently enjoy.

I could go on to some of the more detailed issues here, but I think I summarize the feeling on our committee by saying that I think we should form this as the basis for a bipartisan effort to pass legislation this year. It will be admittedly incremental reform, but I think that is what the American people want. It would satisfy their genuine needs, and it will be a giant step in terms of bringing into the insurance pools small business, the self-insured plans, the self-employed—who would get 100 percent deduction for their costs. We could all go home, face the voters in the fall by showing that we have made progressive reforms; that we have dealt with the genuine needs, the obvious needs of the American people for continuous insurance; that we have done no harm to their existing insurance program; and we have broken the gridlock and set a foundation for all future actions as we reach towards universal coverage. Here, Mr. Speaker, I would include in the RECORD a summary of the Republican Substitute offered:

REPUBLICAN SUBSTITUTE TO H.R. 3600 HOUSE COMMITTEE ON EDUCATION AND LABOR

GOALS

The goal of this substitute is to preserve and build upon what works best in the system. We work toward the ultimate goals of affordable, quality, universal coverage for all Americans.

By making health coverage more available and more affordable, we believe that significant strides can be made to reduce the number of the uninsured as we move toward the ultimate goal of universal coverage.

EXPANDING COVERAGE

The Republican Substitute requires all employers to offer their employees a health plan meeting minimum standards of coverage.

The expansion of more affordable coverage would be encouraged by removing barriers and giving incentives to employers to pool their purchasing power under multiple employer health plans.

COMPREHENSIVE HEALTH INSURANCE REFORM

The Republican Substitute provides for comprehensive health insurance reform, addressing the real problems that we have seen center around small business.

It expands access to affordable group health coverage for employers, and increases coverage through Pooled Employer Health Programs.

The Republican Substitute provides continued access to coverage to help eliminate "job lock"; restricts the loss of coverage due to preexisting conditions; and ends the cancellation of coverage due to illness.

The Republican Substitute Amendment provides for affordable coverage for small businesses through small group insurance reforms that limit the range over which premiums can vary because of experience.

CORPORATE/SELF-INSURED

The Republican Substitute preserves a viable self-insurance option, to encourage multiple employer health plans under ERISA, and increases access through the formation of community health networks under ERISA.

In both cases, we hold these arrangements to strict criteria for quality assurance, coordination of care, and solvency.

COVERAGE/LOW-INCOME

Finally, unlike other plans, our substitute does not terminate state programs to address the problem of the uninsured. Instead, we make it clear that states have even more flexibility. For example, under a medical allowance program, states could extend Medicaid eligibility to all those under 100 percent of poverty and also to other uninsured individuals on an optional basis.

States could also be counted on to develop Accessible Health Programs for those "underinsured" who do not have access to the minimum standards of coverage through their workplace.

ADDITIONAL

There is a consensus to include additional incentives to help cover the uninsured, including the self-employed and low-income families.

Insurance would be more affordable for the self-employed by ultimately increasing the current 25 percent deduction to 100 percent, as allowed for employer-provided health care.

In combination with other measures enjoying broad and bipartisan support—comprehensive medical malpractice reform, administrative simplification, expanded community health centers—the Roukema amendment starts the process of extending coverage to those who are without.

These provisions are not included in the substitute because they lie outside the jurisdiction of the Committee on Education and Labor.

ENHANCEMENTS AND CLARIFICATIONS TO H.R. 3080—MICHEL-PLUS-PLUS

PREEXISTING CONDITIONS

Michel-plus-plus requires insurance companies to ignore preexisting conditions, if the employee elects coverage when first eligible. Includes all employer health benefit plans, including self-funded plans. Eliminates pregnancy as a preexisting condition and provides that coverage for newborns be available at birth (enhancement of H.R. 3080 provision that allows a six-month exclusion for conditions not diagnosed or treated three months prior to beginning coverage).

PORTABILITY

The improved preexisting conditions provision, H.R. 3080's guaranteed issue provision, and the requirement that employers offer access to health insurance ensures continuous availability of health coverage for those who elect when first eligible (as above).

VOLUNTARY ACCESSIBLE HEALTH PROGRAMS/ INDIVIDUAL MARKET INSURANCE REFORM

Michel-plus-plus clarifies that nothing under ERISA shall prevent a state from providing access to health coverage for those unable to obtain employer-based insurance. Michel-plus-plus further provides that States may adopt open enrollment periods and comprehensive insurance reforms in the individual market to expand coverage (clarification and enhancement of H.R. 3080).

DEFINITION OF MEDICALLY NECESSARY

Adopts definition of "medically necessary" in the same manner as the Federal Employee Health Benefits Program [FEHBP]. In this way, any adjudication will be based on standards of good medical practice in the United States, and NOT an unelected and bureaucratic National Health Board (clarification and enhancement of H.R. 3080).

STRUCTURE FOR SMALL BUSINESS INSURANCE POOLS

Provides structure for voluntary small business purchasing pools based on geographic area, trade or business association, franchise agreement. Requires Pooled Employer Health Programs to cover at least 250 employees or 500 participants; to provide open enrollment without reference to health status for all eligible employees; and to meet solvency and reinsurance requirements for plans not fully insured. Reduces requirements under ERISA to provide for voluntary establishment of pooled employer health programs (clarification and enhancement of H.R. 3080).

PART-TIME EMPLOYEES

Michel-plus-plus requires employers to offer access to health insurance to all employees who work at least 10 hours per week (a reduction from 30 hours per week under H.R. 3080).

COMMUNITY HEALTH NETWORKS

Provides "community health network" to the definition of a multiple employer health plan under ERISA. Community Health Networks are community-based health delivery systems organized by providers or community groups. Provides criteria for health care quality assurance, coordination of care, public accountability, financial solvency (clarification and enhancement of H.R. 3080).

ERISA REMEDIES

Michel-plus-plus clarifies civil remedies section under ERISA to allow prevailing plaintiff's reasonable attorney's and witness fees, court costs and prejudgment interest. Shortens claim response times and provides for altnerative dispute resolution through non-binding mediation (addition to H.R. 3080).

RURAL INITIATIVE

Adds $1.1 billion over 5 years for community-based health plans in rural and frontier areas, and for at-risk hospital and emergency medical services in rural and underserved areas (addition to H.R. 3080).

PATIENT PROTECTION

Amendment adopted in full Education and Labor Committee providing consumer safeguards for participants enrolled in managed health care plans. Requires plans to furnish to enrollees clear and truthful information related to benefits, covered services, required cost sharing, all prior authorization or other review requirements; and any financial arrangements that would limit patient services, including financial incentives not to provide medical or other services. Requires medical utilization review criteria to be developed in cooperation with board certified or similarly qualified health professionals, and input of network physicians and providers into a plan's medical policy, utilization review criteria and procedures, quality and credentialing criteria. Provides that plans wishing to terminate a provider's membership in a network must provide written notice, including explanation of reasons for removal at least 60 days in advance. Requires opportunity for appeal and peer review (addition to H.R. 3080).

SOLVENCY STANDARDS FOR SELF-INSURED SINGLE-EMPLOYER AND MULTIEMPLOYER PLANS

Provides for the Department of Labor to promulgate regulations relating to solvency standards. Requires arrangements operating health plans to inform the state in which they operate, and requires Multiple Employer Welfare Arrangements providing health care to register and report to the Department of Labor and to each state in which they operate. Clarifies the ability of states to regulate multiple employer welfare arrangements which lack an exemption from the Department of Labor (enhancement and clarification of H.R. 3080).

STUDY ON DELIVERY OF HEALTH CARE TO ILLEGAL IMMIGRANTS

Directs Secretary of HHS to report to Congress within one year on the extent to which illegal immigrants obtain health care services, the costs attributable to these services, and the means for paying for them. Further requires Secretary to make recommendations for financing such costs, increasing intergovernmental cooperation, and for alleviating the health problems that affect this population (addition to H.R. 3080).

Mr. GOODLING. I thank the gentlewoman for walking us through our actions in subcommittee, where we tried our best to bring about a bipartisan effort that all Americans could support.

I would like to speak just very briefly about rhetoric versus what the committee bill actually does.

As you have heard a lot of rhetoric about what was done in our full committee markup, rhetoric that says Americans should have private health insurance. The fact is that the bill tips the balance to a government-run system by means of the so-called single-payer option.

The rhetoric says the bill builds on the current employer-based system; the fact is that for the vast majority of working Americans, the bill would eliminate their current individually purchased or employer-based health insurance plans and instead would require most to obtain coverage through government-based entities.

The rhetoric says security and savings, but what reliance can the American people place on legislation that is at least $120 billion unfunded at the very start of the program?

The rhetoric says choice; but what choice will consumers have when the Government stipulates one set of benefits each family must purchase regardless of whether it contains less than is wanted or costs more than at present?

The rhetoric says let the public choose the same health insurance that Members of Congress have. But the bill denies this option. The gentlewoman from New Jersey gave them that choice: Just take the Federal program. There you have 400-plus choices and you have many, many different options in relationship to cost. The rhetoric says quality, but the global budgets negotiated fee schedules and other Government controls in the bill would place the world's best medical technology and health care at risk of stagnation, of decline or of being rationed. The rhetoric says simplicity, but in nearly 2,000 pages of fine print, the bill is as top-heavy with complexity as the President's plan and mandates regulation under nearly 5 dozen new Federal, State, and other Government offices.

□ 2030

We offered, as the gentlewoman said—I offered in full committee what I called the Michael enhanced, and it was our attempt to move the process toward the goal of a bipartisan effort. Unfortunately, as I indicated earlier, the decision had already been made by the majority that we would have, as our beginning, the very best we could find and then add to that, not worrying about the fact that we may have moved from a $74 billion deficit to a $102 billion deficit to a $120 billion deficit, and all of these will be much, much higher than the projected deficit.

At this time I would like to yield to the gentleman from Illinois [Mr. FAWELL] who worked long and hard in trying to deal with some remedies to the proposal by the majority to offer some suggestions that the minority wanted to put forth.

Mr. FAWELL. Mr. Speaker, Winston Churchill said: "You can always trust the Americans to do the right thing * * * after they've exhausted every bloody alternative."

Probably, only one committee in all of Congress could take a very expensive, underfinanced, big government health plan, and make it more expensive, more underfinanced, and bigger government. What we have in the Ford bill is the grotesque monument to the law of unintended consequences. While some alternatives to the Clinton plan are called "Clinton Lite" because they are leaner, we call the Ford bill "Clinton Slovenly Fat" because it is so much bigger, more intrusive, and more expensive.

The problem areas I will focus on tonight are: First, the Ford bill includes remedies which award malpractice-like damages in cases of denials of health benefits which will add immeasurably to the cost of health care. Second, the Ford bill mandates that all individuals give up their present health care coverage and be directed to buy only the Federal Government's one-size-fits-all health plan, composed of an HMO, PPO, and FFS plan.

As to the remedies issue: The Ford bill, amazingly includes provisions which award malpractice-like damages, that is, compensatory and/or punitive damages upon proof that a regional alliance or corporate alliance health plan was guilty of a wrongful denial of health benefits. By malpractice-like damages, I refer to compensatory damages, that is, those customarily awarded in negligence cases, including mental distress, pain and suffering, and so forth. By punitive damages, I mean damages also awarded in negligence cases over and above compensatory damages. These types of damages are what makes medical malpractice insurance so expensive to health care providers—primarily doctors!

Compensatory and punitive damages are customarily confined to tort—negligence—cases, such as medical malpractice—negligence—cases. Conversely, such damages are usually not awarded in contract cases, that is, cases construing the provisions of a contract, such as, for instance, a health insurance policy. For example, no such damages have ever been awarded under employer-sponsored health plans operating under Federal law. Nor have such damages ever been a part of remedies available to the 9 million Federal employees under the Federal Employees Health Benefit Act.

Therefore, it is surprising to see compensatory and punitive damages included as remedies in any breach of contract case involving the administration's health care package, including every alleged wrongful denial of a health plan benefit. We all know the results of medical malpractice damage awards against health care providers. To now provide another dose of malpractice-like damages whenever there is an allegation that benefits under a regional alliance or corporate alliance health plan were wrongfully denied, is no way to control health care costs!

Such provisions will undoubtedly encourage litigation. Every health claim disagreement would have the potential of a huge jury award of the type which have plagued medical malpractice and product liability. The expense will be passed on up the chain, driving up health costs! In addition, fears of huge damage awards will result in the awarding of benefits not actually covered under the health care plan.

Under the Ford bill, remedies for malpractice-like compensatory damages are allowed in administrative actions and compensatory and/or punitive damages are allowed in court cases against both corporate alliances and health plans operating under regional alliances. There is one notable exception: Preferential treatment is afforded to multiemployer-union plans which are exempted from any court imposed malpractice-like compensatory and/or punitive damages!

Why the lack of uniformity of remedies? I think the answer is because of the strong inference of a bias toward union health plans in the construction trade. In committee, I offered an amendment to eliminate malpractice-like damages against all health plans.

So far, it has been refused by the majority along party lines. I hope that changes. We don't need Malpractice II in health care. One is enough.

Finally, the Ford bill mandates that people give up their existing health care insurance coverage in return for a one-way-for-all federally mandated comprehensive health care plan which includes about everything except Chinese acupuncture.

If however, the mandated plan is as good as its sponsors calm, then it should be able to compete successfully in the marketplace. If it is that good, we should not have to mandate that anyone enroll in it. If it is that good, it need not be a competition killer in the market of health insurance coverage.

And it is a killer of all existing health care plans with the exception of medicare, postal union employee health plans, and veterans' health care. It kills off all employer-sponsored health care plans, in spite of the fact that 50 percent of employers now, under the Federal law known as ERISA, voluntarily provide health coverage for 70 percent of all employees. And these employer health plans of course compete against each other and supply new and innovative health care plans.

Most Americans don't know that the Clinton and Ford plans will force them to turn in their present health coverage and stand in line with millions of others to accept whatever the Federal Government dictates, along with global budgets, premium price controls, mandated fee-for-service schedules, ad infinitum.

There is a basic right of people—especially the middle class—to be able to choose the type of health care coverage they and their families need. Some may not want to be covered, for instance, for substance abuse, or stress management, or detoxification or abortion—the list goes on and on. No matter what big government knows best—the citizen must accept and pay for the coverage congress deems best.

This is not to say that health care in America does not need repair—that is targeted reform.

Indeed, there is a consensus in Congress for one or more of the following targeted reforms, to-wit:

First, funding medicaid up to or beyond the Federal poverty level.

Second, proscribing insurance companies from refusing health insurance coverage, or renewal, because of preexisting health conditions.

Third, voluntary regional or national health plans, protected by Federal law, competing nationally or, some day, internationally.

Fourth, high health risk pools, between insurers, so that affordable access can be assured for high health risks.

Fifth, market incentives, that is, employer tax deductions tied to a minimum standard health care plan; the use of reasonable coinsurance and deductibles; employee 401K-type medical savings plans with employer catastrophic coverage; individual out-of-pocket health care deductions; 100-percent tax deductions for the self-employed; standard judicial contract remedies rather than malpractice-like negligence remedies for breaches of insurance contracts; systemic changes such as malpractice and antitrust reform, extension of rural health care, computerized administration of health services, and so forth.

Concensus in these areas can be reached to help achieve affordable and portable access to health care without dismembering our entire health care structure in America. Remember, just because the present system is flawed does not mean Congress can't make it worse:

□ 2040

Again, I thank the gentleman for having this special order and allowing me to take a part in it.

Mr. GOODLING. Mr. Speaker, I thank the gentleman for bringing to the attention of the American public what they might get if a plan such as that, that has come from our committee, would ever become the law of the land.

I would like to yield at this time to the gentlewoman from New York [Ms. MOLINARI].

Ms. MOLINARI. Mr. Speaker, First, I want to take this opportunity to thank our ranking member, Congressman GOODLING, for his leadership during the Committee on Education and Labor's consideration of the Health Care Security Act.

President Clinton has clearly stated the important goals of health care reform in his plan which in concept we all share: Universal coverage for all, simplicity, and above all, security. However what the President's health care reform plan would do, is allow for the Government takeover of our Nation's health care system.

Despite the rhetoric we have heard on competition and consumer choice, the Clinton plan provides for massive Government intervention in the entire $900 billion a year health care industry, which constitutes one-seventh of the country's entire economy.

In my home State of New York, implementation of the Clinton health care plan would be devastating to a state and a city that is slowly trying to fight its way back to economic recovery.

Nearly 280,000 people in New York City work in health care, according to the Bureau of Labor Statistics—in hospitals, doctors' and dentists' offices, clinics, nursing homes, home-health-care services, laboratories and dialysis centers. Health care employment now accounts for about 9 percent of the city work force.

However, if the Clinton plan is implemented, it has been estimated that 71,099 New York workers would lose their jobs, and another 1.8 million would face reduced wages, hours or benefits. And, New York workers would suffer a loss of wages and benefits of $8.15 billion. These are numbers that cannot be ignored.

Another fact that cannot be ignored is that New York has made a remarkable commitment to medical education. New York State's 13 medical schools graduate 1,900 new doctors each year, and its graduate medical education programs have more than 15,000 residents in training—60 percent more than the next largest State, almost 20 percent of all physicians trained in the Nation.

Currently, the Medicare Program reimburses hospitals for direct medical education costs on the basis of 1984 hospital-specific costs inflated by the Consumer Price Index. Direct medical education reform proposals in the Clinton plan would abandon the hospital-specific historical approach and instead use a price based upon a national average of costs across all teaching hospitals.

Teaching hospitals in the New York metropolitan area have above-average direct medical education costs, in part due to the abundance of services provided to indigent communities. If a national average direct medical education pricing policy were enacted for all payers, New York City teaching hospitals could lose between $200 million and $550 million annually.

New York's medical education programs are a national resource and must be viewed in that regard. Most of the current health care reform plans will force New York's medical centers—some of them established before the birth of the Nation—onto the endangered list. Some might ask if these hospitals deserve special consideration in the pending health care bill—consider this brief, and only partial—record of accomplishment:

In 1943, Dr. George Papanicolaou developed the Pap test for early cancer detection at New York Hospital.

In 1961 New York University's Dr. Albert Sabin began the work that lead to the live-virus oral polio vaccine.

In 1971, Dr. Saul Krugman of Bellevue Hospital developed the first vaccine for hepatitis B.

In 1993, Columbia-Presbyterian's Nancy S. Wexler, Ph.D., won a Lasker Award for her role in identifying the Huntington's disease gene.

As one doctor put it, "if you think excellent biomedical education and research are expensive—try ignorance and disease."

Clearly that is the road the Clinton health care plan takes us down.

Under the Education and Labor Committee bill, New York hospitals would lose 25 percent of their residents—about 3,800 of the current 16,000. As a result, hospital costs would soar, for hospitals will lose 25 percent of the payments they now get to train residents.

No one in the Clinton administration has thought through how to deal with that reduction.

Residents treat patients and they teach medical students and junior residents—they are the backbone of the health care system—they are the ones that are there 24 hours a day, 7 days a week. When residents are eliminated, somebody will have to care for patients—but the hospitals will have to hire two, possibly three replacements, for every resident lost. No one else has thought about how to pay for those additional doctors.

Foremost, reform of the Medicaid program should be central to true health care reform and it must include a change in the Medicaid matching formula to correct the inequities and insure that States like New York will get their fair share. Right now, New York receives only a 50 percent Federal match of funds, while States like Arkansas receive above 70 percent—even though they provide less comprehensive Medicaid coverage.

For more than a quarter of a century, New York has contributed more than its fair share to the Federal Government. But while Washington has taxed New York's wealth, it has not adequately assisted New York's sick and indigent.

While President Clinton's intentions are admirable, his health care plans does not answer our health care problems. He exacerbates it. Implementing an untested and unproven Government-run health care plan would be a mistake.

The United States has the finest quality health care in the world. We have 86 percent of Americans covered by health insurance, and three-quarters of Americans are satisfied with that coverage.

Every day due to the medical education that we can still afford in many cities and rural areas in our country, we come closer and closer to finding cures to incurable diseases that remain today.

Yes, we have to make changes, Mr. Speaker, but clearly the President's plan is not the answer.

I thank the gentleman for giving me some time to talk albeit it a little parochially about the effects of the President's plan and the plan passed out of the Committee on Education and Labor and its effects on one of the largest States in the Union.

Mr. GOODLING. I thank the gentlewoman for the statistical information she gave us and the devastation that could come to medical education if we were to actually pass the plan that came from our committee.

At this time I yield to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, on the minority side, we did not support the plan out of the Committee on Education and Labor. There were such things as quack medications that were included, Hawaii had waivers to take itself out of the health care plan and was granted that waiver.

One committee member, the gentlewoman from California [Ms. WOOLSEY], offered a $3.5 billion increase, and when the gentleman from Wisconsin [Mr. GUNDERSON] asked her a question about it, the chairman said, "You know how you're going to vote. There's no need for debate."

No need for debate on a $3.5 billion add in a health care plan?

□ 2050

There was no dealing with the illegal immigration costs on health care across the Nation. Clinton's plan contributed $120 billion toward the deficit. And we also tried to have Congress Members have the same plan that we were going to insist that our constituents had. All of these were on partisan line votes, and beaten.

It has been repeatedly stated that choice and flexibility are the key to the success of any health care plans of over the 18 that are out there today. I offered a medical saving type option that again was defeated on a party-line vote.

Let me give you an idea of what we were talking about in Medisave, because, Mr. Speaker, it is very, very important to understand it.

The Wall Street Journal said the idea of the medical savings account is the most bipartisan proposal in Congress. It is also included in Senator DOLE's health care reform. It is included in the Republican and Democrat version of the House Ways and Means legislation. But in our committee, it could not be passed.

But under the Medisave plan, a worker and his employer might now be paying $4,500 for a year for a family policy. They could buy a high $3,000 deductible policy for about $2,000. That leaves you $2,500 that you still have. That $2,500 in a medical savings account, called an MSA, is the property of the worker. He gets to retain it. He gets to apply it to either the premiums or additional health care costs that that individual would incur. If the family has medical expenses during the year, that $2,500 is used by the person, the employee. If there is catastrophic care, it is handled by the insurance. But it is a dual plan with the insurance company, to where the employee has control of his life and dollars going toward medical care.

The key advantage of a medical savings account is that it puts the consumer in control. That is a rare moment in this body, that usually tries to put the Government in control of every issue of anyone's life.

Since the account belongs to the consumer, it gives them an incentive. And if you were going to ask in one word, in one word, the difference between Bill Clinton and DUKE CUNNINGHAM, it would be the word incentive. Give someone an incentive to save, give someone an incentive, such as an IRA to save, that is tax deductible, and they are going to do it. You take that away, and it takes away that incentive.

The consumer, not the Government, decides where to spend the money. There is incentive to manage this money carefully, the flexibility to save and seek preventive care and make your own decisions. It may not be the answer for everyone, but it sure would be the answer for the majority of people.

The MSA, the medical savings account, is also portable. If you go from one job to the other, your insurance policy and the medical savings account is transportable. It is portable, which most people wanted. Also it covers with preexisting conditions.

Currently providers who receive revenue based-only services provided get financially rewarded by ordering the most expensive tests. If you are dealing with your own accounts and your own dollars, then you will be more careful in how and how wisely you spend that money, thus saving the health care expenses and costs.

Medical MSA's empower the consumer by restoring the patient-physician relationship. Health care must have the MSA.

California has led the Nation in the introduction of managed health care delivery, because the California population is growing twice as fast as the Nation's. Twenty-one percent of California's population is currently uninsured. But we also offered an amendment that would take care of the illegal immigrant problem that is costing the State of California much money. We would have hospitals not reimbursed by constituents, but the hospitals would be reimbursed by the Government. They turned that down. A mandate by OPA '86, and they turned it down. The Government mandates it, they should have to pay for it. Even that was defeated in this committee.

Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. GOODLING], for taking this special order and letting the Members know how it affects every American.

Mr. GOODLING. I thank the gentleman for his contribution.

Mr. Speaker, I yield to the gentleman from Michigan [Mr. HOEKSTRA].

Mr. HOEKSTRA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, what I would like to share with my colleagues are some of the observations that I have made sitting through 7 weeks of hearings, 7 weeks of markup. Some of the interesting things, when we take a complex problem like health care, and where I thought we would be focusing on how best to deliver health care to the American people, and we did spend a lot of time in talking about that, but then what happens, as we move it in the political process and start to politicize health care, we move away from talking about a solution to what works politically or what may work for a Member in a specific district, or, heaven forbid, what do we need to do to get somebody to vote for a plan.

I have a couple of examples that I think the Members would again be very interested in. Before I talk about what we did in the Committee on Education and Labor, I would like to talk about what happened at the tail-end of the other committee that passed out the Clinton bill, which is the Committee on Ways and Means.

It talks about a little story. This is out of the Chicago Tribune. They described this as what happens to get people to support a bill or how we take care of the powerful people in health care.

Now, remember what this means. It means as we talk about health care in the future, whether you get good health care or get a new hospital, or whether you get doctors or you get so many medical students in your hospitals, teaching universities in the future, may depend not on the need or the requirement, but may depend on which party your Representative is in.

This is an example on the Committee on Ways and Means. They tacked in an amendment which benefits teaching hospitals. It does not benefit all teaching hospitals in the country. It happens to benefit three teaching hospitals.

On June 29, an amendment was prepared with the help of Members of Congress from Chicago and New York, approved with little public discussion. It is going to benefit three teaching hospitals, one in Chicago, of the former chairman of that committee, Congressman ROSTENKOWSKI. It is going to benefit another senior Member's district in New York, CHARLIE RANGEL, and it is going to benefit a teaching hospital in Los Angeles.

Three teaching hospitals, not specifically mentioned in the bill, but the requirements are written so stringently that only three teaching hospitals of all the teaching hospitals in the country will reap millions of dollars of reward because their Congress people were on the right committee at the right place at the right time.

Now, let us go and talk about what we did in the Education and Labor Committee, which just astounded me. We have what we call a National Health Care Security Act.

Well, what we did in our committee is made sure it is no longer a national program, it is now a continental U.S. Health Security Act, because we included language that allows the National Health Care Board, now the semi-National Health Care Board, to exempt Hawaii from a national or semi-national system.

So Hawaii can now be exempted. So we went through the process and said well, there is a set of criteria that says if Hawaii meets these criteria, Hawaii can be exempted. So the rationale would be well, if Michigan meets those criteria, we should maybe change the language that says if any state meets these specific criteria, they also can be exempted.

That was a stroke of logic which I find does not work here in Washington. We proposed an amendment like that, and it was defeated.

Then we said, what about the process? States have been experimenting on health care in all 50 States about delivering good health care. There are other States that have developed systems that work as effectively as what Hawaii does. But they have done it in their own way. The States have taken action. State legislatures, local countries, local units of government, have taken actions to solve the health care problems in their area.

□ 2100

So we came up with another proposal that said, perhaps if Hawaii can exempt itself what we ought to do, and this is the amendment that we proposed, and it says very simply, no State shall be considered to be a participating State for the purposes of this act unless a majority of voters in the State by a statewide referendum approve the State becoming a participating State. That is the legalese language. That is how they make us write stuff here in Washington. What it basically says is, if the people of Michigan want to give up the system that they have developed, they can do so, not by what we do here in Washington by mandating on the State "you will be a part of this program." But it says the voters in the State will be the ones that determine, through a referendum, we are going to vote, we are going to give up our system. We are going to participate in the national system through a statewide referendum. We are moving decision-making exactly where it should be.

We are moving it out of Washington. We are giving the people in the country the opportunity in each State to pick which program they want to participate in.

The disappointing thing is, those same people that voted to exempt Hawaii defeated this amendment and said, sorry for the rest of you, what we have decided here in Washington is what you are going to get.

Mr. GOODLING. Mr. Speaker, I thank the gentleman from Michigan.

I yield to the gentleman from California [Mr. MCKEON].

Mr. MCKEON. Mr. Speaker, I want to thank the gentleman for the leadership that he has provided in setting up this special order tonight and for the leadership he has provided in taking us to this point.

I think that there are two things that I would like to talk about that scare me about the Government-run bureaucracy running something as important as our health care system. As you know, the earthquake that devastated our area last year, the epicenter was in my district. And I have an actual example that I have seen in my district of national health care.

The veterans hospital was damaged and a decision was made here in Washington to take the hospital down, to move the patients from that facility down to another facility in West Los Angeles. The reason given was that that hospital in West Los Angeles was underutilized and it was best for the Government to move those patients to that facility where we could get better utilization and the patients that were using the hospital, the veterans and their families would just have to put up with the inconvenience. It was just another 15 miles, which equates to about an hour driving down there and causes great difficulty.

I have a letter from one of my constituents. I would like to read just a couple of excerpts from this letter, indicating the problem that one of these families has under Federal bureaucratic health care:

> DEAR MR. MCKEON: In May of 1994, we wrote to you about John's father who is a World War II veteran who is an amputee and a former POW. At that time we requested answers as to why the Sepulveda VA was not going to be rebuilt. We thought that you should hear the rest of the ordeal this man and his family was put through thanks to the Wadsworth VA.
>
> When dad checked into Wadsworth on Friday, June 10, 1994, no one knew he was coming. It was 3:30 p.m. before he was given a room and he missed lunch, which isn't a good idea for a diabetic, but he was busy waiting, taking tests and following orders. He rode home that afternoon on a bus with three other people and the driver.

Skipping, I will just highlight this:

> Dad had a total knee replacement on June 13, 1994. He was taken from his room at 6:30 a.m. No one knew where his family was supposed to wait and no one advised us of his status until after we started knocking on doors to see if he was back from surgery. This was after 1 p.m. His wife of 52-plus years and family were worried for several hours due to not being advised of the delay in surgery.
>
> He awoke after surgery to find that his left arm cannot be raised and two fingers are numb. No one seems to have an answer for how that condition occurred or what to do regarding it.
>
> The doctor was supposed to order his Indocin on the Thursday after surgery because he developed gout and he never received it until Friday evening.
>
> One-and-a-half days before he was supposed to go home he was moved from floor 5 to floor 2.

They go on and tell other problems that he had. He was put in a room with a bathroom and told that they do not use bedpans on that floor. You take a man with one leg and get him to try to reach a bathroom.

> Needless to say this was not a pleasant stay. It was a lonely stay also, since his wife could not make the long drive by herself and the rest of the family has to work. Therefore it was weekends and 1 day in the middle of the week because of the horrendous traffic on the freeway. Had he been at Sepulveda his wife and family could have visited him every day and his spirits would have been much better. After 20 days he was really depressed.

They wanted him to stay another week but he pled a good case to go home.

This is one example of a health care run by a Federal bureaucratic system where a decision is made in Washington without regard to the patients somewhere across the country.

One other thing that scares me to death is the effect that this will have on business. Small businesses account for a major part of the American economy. We know that several reports show that there will be a drastic job loss. In California alone, the employer mandate, which is a payroll tax, which is a tax by any name, they might call it a premium, but we know, and the American people are smart enough to know that it is a tax. This mandate shows that there will be huge job losses. In California alone, a report was released just last month by the State of California Governor's Office of Planning and Research which showed the effect of the Clinton plan on California and the Nation.

In California alone, the study concludes that job loss would range between 476,000 and 650,000 jobs. These losses would exceed all of the California jobs lost from the defense cuts and would postpone the California economic recovery by up to 2 years.

We have been in a depression out there now for going on 3 years. To add another 2 years onto this, based on this kind of a health care system, I think is a travesty and should not be imposed upon the American people. They have shown that they are strongly opposed to this. I think it is time that we just back up a little bit, bring some common sense to the debate and the discussion, bring the American people in on the discussion.

We have a vote coming up in November. Let them participate.

Mr. Speaker, I thank the gentleman for this opportunity.

Mr. Speaker, I include for the RECORD the letter to which I referred.

JOHN & JEAN HALVORSON,
North Hills, CA, July 2, 1994.

Re rebuilding of Sepulveda VA Hospital.

Mr. HOWARD "BUCK" MCKEON,
Cannon House Office Building,
Washington, DC.

DEAR MR. MCKEON: In May of 1994, we wrote to you about John's father who is a WWII Vet who is an amputee and a former POW. At that time we requested answers as to why the Sepulveda V.A. was not going to be rebuilt. We thought that you should hear the rest of the ordeal this man and his family was put through thanks to the Wadsworth V.A.

When Dad checked into Wadsworth on Friday, June 10, 1994 no one knew he was coming. It was 3:30 pm before he was given a room and he missed lunch, which isn't a good idea for a diabetic, but he was busy waiting, taking tests and following orders. He rode home that afternoon on a bus with 3 other people and the driver.

When we brought him back to his room on Sunday, June 12, 1994 we noticed his name was on the board in front of the nurses station and the word "SEPULVEDA" in parentheses after it. In fact the word "SEPULVEDA" was after every patient's name from the Sepulveda V.A. None of the other patients had "Las Vegas", "Arizona" or "Bakersfield" after their names.

Dad had a total knee replacement on June 13, 1994. He was taken from his room at 6:30 am. No one knew where his family was supposed to wait and no one advised us of his status until we started knocking on doors to see if he was back from surgery. This was after 1:00 pm. His wife of 52+ years and family were worried for several hours due to not being advised of the delay in surgery.

He awoke after surgery to find that his left arm cannot be raised and 2 fingers are numb. No one seems to have an answer for how that condition occurred or what to do regarding it.

The doctor was supposed to order his Indocin on the Thursday after surgery because he developed gout and he never received it until Friday evening.

He was in Wadsworth 20 days and most of his meals were cold, eggs runny, and food tasted like sawdust. We realize he was on a diabetic diet, but we know from experience that food doesn't have to taste like sawdust nor does it have to be half cooked. He says that his weight hasn't been this low since he was a POW.

1½ days before he was supposed to go home he was moved from Floor 5 to Floor 2. There, he was informed that they didn't use bedpans on that floor. Try going to the bathroom on one leg with a new knee replacement. When they moved him to floor 2 they forgot to transfer his Indocin so he wasn't given that medication for the duration of his stay. They did however start to check his blood sugar 18½ days after he entered the V.A.

Needless to say this was not a pleasant stay. It was a lonely stay also, since his wife could not make the long drive by herself and the rest of the family has to work. Therefore, it was weekends and 1 day in the middle of the week because of the horrendous traffic on the freeway. Had he been at Sepulveda his wife and family could have visited him every day and his spirits would have been much better. After 20 days he was really depressed. They wanted him to stay another week but he pled a good case to go home.

1. Why are Sepulveda V.A. Vets labeled?
2. Why can we afford to run several empty buses between the Sepulveda V.A. and the Wadsworth V.A.?
3. Why can we afford to fly patients in from other states but not be able to give Sepulveda patients good care?
4. Why is the Wadsworth V.A. so incompetently run? Or is it that they really are treating the Sepulveda patient differently?

It really seems as though priorities have been misplaced badly. We all owe the Vets much, much more than we can ever repay. Seems that rebuilding the Sepulveda V.A. is a small token of that repayment, but it would mean a lot to those Veterans.

Sorry, not for you. You did answer.

Sincerely,

JOHN & JEAN HALVORSON.

Mr. GOODLING. Mr. Chairman, I yield to the gentleman from Florida [Mr. MILLER].

Mr. MILLER of Florida. Mr. Speaker, when I first came to Congress over 18 months ago I came with high hopes about the prospects of achieving real, bipartisan health care reform. The new President and his wife expressed their intention to reach out and work with both sides of the aisle and I saw a real commitment on the part of my Republican colleagues to craft sensible solutions. Those hopes quickly evaporated when I saw Bill Clinton's big-Government plan coupled with stridently partisan rhetoric. According to Bill Clinton, anyone who didn't support his plan was against health care reform, against the middle class, against the poor, and against the elderly. In the meantime, House Republicans continued to develop workable solutions that resulted in the Goodling substitute.

Unfortunately, the White House has decided to ignore Republicans, ignore moderate Democrats, and to ignore the American people and attempt to ram a massive tax-and-spend plan through. Senator JAY ROCKEFELLER has vowed that "we're going to push through health care reform regardless of the views of the American people." It won't work. The more the American people learn about the Clinton plan, the less they like it. The American people have made it clear that health care reform doesn't mean supporting a Government takeover of one-seventh of the economy. Today, I received a letter from Barbara Brand of Sarasota, FL, a constituent. She summarized exactly what I've been hearing for the past 10 months. It says, "no to Government controlled health care; not to the give-a-way of our freedoms. Is this clear?" Yes, Mrs. Brand, it is clear. The American people have made it clear and the only people who haven't gotten the message are the folks at 1600 Pennsylvania Ave.

I would now like to focus on a particularly troubling aspect of the bill produced by the majority on the Education and Labor Committee. The district I represent contains the largest number of senior citizens in the Nation and I think senior citizens are the big losers under this plan.

The Health Security Act will reduce both the access and the quality of health care for our seniors. First, the legislation allows States to place Medicare patients into mandatory purchasing cooperatives. Medicare patients would then be forced to choose between the three plans offered by the Government. Millions of lower income seniors would be forced to choose the low-cost-sharing option. I offered an amendment to give Medicare patients the option of staying in Medicare, but the Democratic majority voted it down.

□ 2110

Why? According to a Democratic staff member, "we are under pressure to get this health reform bill out of the way and we're just not willing to get into the whole Medicare thing right now." That's a direct quote. They didn't have time to protect the elderly.

Next, I do not support financing universal coverage on the backs of the elderly. Based on what the Ways and

Means Committee produced we all know that the financing for this legislation relies on $480 billion in Medicare cuts. As former HCFA Administrator Gail Wilensky has said, removing this much money would "be a serious mistake unless the elderly understand that it will affect the level and availability of their health care." I haven't heard many statements from the White House asking seniors to accept a lower standard of care.

But by far the most damaging aspect of the Clinton plan for seniors are the price controls and global budgets of title VI. Rapidly and inflexibility ratcheting back on health care spending will result in the rationing of health care in America—and the group most vulnerable to rationing schemes are the elderly. This legislation mandates zero-real growth in health care spending by the year 1999. No country in the world, even those that explicitly ration care, have controlled health care spending to that extent.

In short, the Ford mark asks the elderly to finance universal coverage. The Ford mark goes beyond the Clinton plan by offering even more benefits—without saying how to pay for them. That makes it even more likely that the draconian Medicare cuts of the original Clinton bill will be needed to finance the plan. The Ways and Means bill offers fewer benefits and contains $480 billion in Medicare cuts!

Reduced choice, forced enrollment in new untested systems, lower quality of care, and reduced access to medical services are not what the seniors in my district have in mind when they talk about health care reform.

In the next few weeks the White House and the Democratic leadership and their allies will attempt to brand anyone who opposes their bill as opposed to health care reform. Nothing could be further from the truth. There is not a Member of Congress who does not recognize the need for change in the system. But we are talking about people's health care. We are talking about one-seventh of the economy. We are talking about people's jobs. I will not support a bad bill, even if it means we have to wait until next year to forge a workable solution.

Mr. GOODLING. Mr. Speaker, I thank the gentleman for his participation, and now yield to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. GOODLING], the ranking member of the Committee on Education and Labor, and not just for yielding to me, but for all the work he has done for the children of this country. Working with him for the past year, I have been tremendously impressed by not only health care, education, labor standards, whatever.

Mr. Speaker, the Members have had a long night, and I will try to be brief. The time for this special order is almost over, as it is.

Mr. Speaker, I just want to share a few thoughts at the end of all this about where we are going with health care. We hear the debate about health care, and it is without a doubt in my mind the most complicated domestic issue we have ever undertaken to deal with in the Congress of the United States of America.

Yet, I think in a sense it can be boiled down to relatively simple elements, because 85 percent of the people of America are covered by Medicaid, Medicare, health insurance through an employer or their own health insurance, in some way or another, and about 15 percent, roughly, are not covered.

The people who are covered basically feel, even though they may be underinsured in certain areas, that they are receiving good health care coverage in this country, perhaps better than anyplace in the world. Everyone is concerned about costs. I have not spoken to anyone or talked to anyone or have had anyone address me at a parade or whatever it may be, who has not said, "Why is health care so expensive today?" So we have to worry about that 15 percent who do not have the coverage and we have to worry about the costs of health care.

Mr. Speaker, we tend to think that all the conventional wisdom on how to solve the problems of health care is right here in Washington, DC. I do not think that is accurate. I think it is out in the States, it is out in the capitals of the States. It is certainly out in Hawaii, which has been exempted under the Education and Labor markup, because they feel their system is doing so well that they do not want to be included in it if they can meet certain standards.

The gentleman from Michigan [Mr. HOEKSTRA] mentioned that he had introduced an amendment which was turned down, saying that other States could get out by referendum. I introduced an amendment which was also turned down, saying if the other States met those same conditions, could they get out, and the answer was no, they could not. But why should they not be able to get out?

What we are missing in the United States of America today is the fact that it costs this country, in all of those State capitals, all manner of problems dealing with health care being solved on a day in and day out basis. We basically have to expand universal access to health care. We have to contain costs, and we can do this by not passing a major piece of legislation, turning it over to the Federal Government in Washington, but giving more flexibility to the States, particularly in the Medicaid programs, which the States helped pay for anyhow, about 50 percent of them, and giving them the flexibility to carry out what they need to get done.

When I was Governor of the State of Delaware, we passed a piece of legislation that allowed us to work within the Nemours Foundation through the Medicaid program in order to provide universal health care for all the children in the State of Delaware. I cannot imagine a more beneficial program to offer in a State than that was, and yet we spent 18 months moving a mountain of paper work through Medicaid, and we are spending $7 million in addition to that, but it took us 18 months in order to get this done.

State after State has had this problem and yet 10 States are talking about universal health care, some States are talking about universal health care, without any other greater expenditures except to give them more flexibility under Medicaid.

I know in my State, after having examined very carefully a whole series of services which we provide there, try to provide there, that of that 15 percent or 95,000 people in my State, when we look at the Nemours Foundation for Children, when we look at the clinics we have in the city of Wilmington and in our rural areas, when we look at the services provided by our medical society, when we look at what our hospitals do, when we look at a variety of other services for the poor, when we look at insurance reform, all of a sudden we find that perhaps it is not 15 percent; that yes, there is 15 percent without insurance, but it is a much lesser number that we are dealing with who may not have access to health care in the United States of America.

The States have universally, each and every one of the 50 States, have come forward and they have taken steps which have greatly addressed and alleviated this problem, and yet we are trying to reinvent the wheel because somehow or another we have to do it in Washington.

Frankly, Mr. Speaker, it does not work particularly well from Washington, DC., and we have seen that with numerous programs. Medicaid and Medicare are an example of that, as are some other programs which we have seen come out of Washington, DC.

I would suggest, Mr. Speaker, that whatever we do in health care, regardless of which plan actually comes up in the House or in the other body, that we take the opportunity to make sure that the States are given that flexibility, the States are given the opportunity to solve the problems.

In fact, Mr. Speaker, I would suggest that we give that to them first and then see what they can do, give them extra flexibility, come back in a couple of years and see what we can do to resolve whatever problems are left. What we will have, we will get the universal health care a lot faster than we are going to if the Federal Government does it, we are going to do it at less expense, we are going to do it in the way services are being delivered in those States now, and you will have a dramatically improved system without going through the large bureaucracy and expense of the Federal system.

I will leave it at that, Mr. Speaker. I feel strongly we need to pursue it in that way, and hopefully we can address that here in the weeks to come.

Mr. GOODLING. Mr. Speaker, I thank the gentleman for his participation. Particularly having been a Governor, he truly understands what problems the different States face.

Again, I hope the American public understands that we on the minority were there with substitutes, we were there in a spirit of compromise, we were there trying to build a bipartisan coalition. We wanted to attack the portability issue, the preexisting condition issue, the malpractice issue, paper work simplification, cost containment.

All of these things we could have done, Mr. Speaker, but we did not have that opportunity. I hope we will in the near future.

Mr. BOEHNER. Mr. Speaker, we in this body must ask ourselves a question on health care reform—who will really pay for an employer mandate? The proponents of the mandate claim that it will be the employer who pays. Studies and statistics show that the employees will bear the brunt of a mandate.

As a small businessman, I know how difficult it is to run a small business and meet a payroll. I know that if businesses can afford to provide health insurance to their employees, they will do so. What Congress must understand is that health insurance is a valuable benefit. Employers want to offer it in order to retain high-quality employees. However, the fact is—most simply cannot afford to provide the insurance to each and every employee.

If Congress forces employers to pay for the insurance, they will have to find the money from within their own operations in order to comply with the mandate. If they cannot find the money, they will have to either lay-off employees, raise prices, or close their doors altogether. Various studies have put the estimated job loss from an employer mandate at between 800,000 and 3.8 million individuals.

If an employee can hold onto his job, he will most likely receive health care at the expense of wages and benefits. CONSAD predicts that 23 million workers will have their wages and benefits reduced as a result of the mandate. The National Bureau of Economic Research estimates that 85 percent of mandated benefits would be paid by workers through reduced wages. The Congressional Budget Office [CBO] has concluded that "employers facing an increase in their premiums would probably shift most of the added costs to their workers through reduced cash wages."

The employer mandate will impact the poor and unskilled workers the hardest. As the Employment Policies Institute recently reported, "since a percentage increase in the cost of unskilled labor reduces demand for that labor more than a comparable increase reduces the demand for skilled labor, job losses will be concentrated in these unskilled positions."

Of course, businesses could raise their prices, however, raising prices in response to a government mandate is the same as imposing a hidden tax on consumers. We must also remember that retailers must account for the price increases passed on by suppliers, manufacturers, and wholesalers—all of which will be affected by the mandate. There are those businesses that simply cannot raise their prices without pricing themselves out of a market, or having people decide to forgo their product or service.

I am fully aware of the increasing pressures facing small businesses. Government already makes it difficult enough to succeed considering the multitude of taxes, regulations, and mandates. In the past few years alone, there have been mandates from the Clean Air Act, Americans with Disabilities Act, Civil Rights Act, and Family and Medical Leave Act. Congress shouldn't make it worse with a health care mandate and tax.

On a final note, the proponents of the employer mandate are trying to sell their plan as a free lunch. They are in effect saying to the American people, "don't worry, your employer will pay 80 percent of your health care." However, it will not be the employer who pays, but rather the employee—through lower wages, reduced benefits, and the possibility of permanent job loss. Congress should be honest with the American people and reject the employer mandate.

Mr. GUNDERSON. Mr. Speaker, after 7 weeks of deliberations, the House Education and Labor Committee completed consideration of their version of President Clinton's health reform initiative. Our committee had a great opportunity to design a bipartisan package that could improve the affordability and accessibility to our health care delivery system. Unfortunately, we were not able to vote out a bipartisan package, although several bipartisan amendments were included.

Any legislation of this magnitude contains both positive and negative elements. The sections of the bill pertaining to rural health care illustrate the positive result that comes from bipartisanship. Mr. WILLIAMS, the chairman of the Subcommittee on Labor-Management Relations, and I worked together to guarantee that the rural health care delivery system will be greatly improved. This will be accomplished through the creation of Rural Emergency Access Care Hospitals [REACHs] which will enable rural communities access to 24-hour emergency medical care, additional assistance to Medicare-Dependent Hospitals (hospitals that have over a 50-percent Medicare patient load), and the development of rural hospital and outpatient facility assistance grants to expand health care services to underserved communities.

Despite some of the Education and Labor Committee's provisions that improve health care, there are many which will have a negative impact on the health care system. These include elements regarding self-insured businesses and the training of health professionals.

The bill that passed the Education and Labor Committee contains an improved provision over President Clinton's original proposal for self-insured businesses. The Clinton plan states that if a business has 5,000 or more employees, they may self-insure. The Education and Labor Committee lowered the number to 1,000. Although the change to 1,000 is a step in the right direction, this number must be lowered even further for two reasons: First, over 67 percent of the U.S. workforce receives benefits under self-insured plans and second, between 50 to 60 percent of the businesses that self-insure are under 500. I believe that a business should be allowed to self-insure if it meets the following test: First, offers at a minimum, the same benefits package included in the health reform proposal that passes the Congress and second, includes a risk assessment component. The self-insured issue is one of the most important to small-and medium-sized businesses. In western Wisconsin, alone, there are at least 200 businesses that self-insure and have an average number of 50 employees. Most of these businesses have successfully been self-insured for years. Let us all work toward enabling those businesses to continue their self-insured status.

The Education and Labor Committee bill establishes a National Institute for Health Care Workforce Development. The purpose of this institute is to develop and implement high performance, high quality health care delivery systems by working with the entire community. My concern with the creation of this Institute is that it duplicates the responsibilities of existing entities overseeing health care workforce issues. One example of duplication is the Office of the American Workplace located in the Department of Labor and an annual budget of $30 million. The specific goal of this office is to "build partnerships with business, labor, and Government to promote high-performance work practices and effective labor-management relations" which appears to be similar to the goal of the new National Institute for Health Care Workforce Development. Although I am sensitive to the needs of health care personnel who may have to make career transitions due to health care reform, I do not see the need for the Federal Government to say that health care workers should be given special treatment over any other group of workers. I urge my colleagues to delete this section when the health reform bill comes before this body in the near future.

Mr. BALLENGER. Mr. Speaker, the House Education and Labor Committee approved a health care plan that mirrors the proposal put forth by President Clinton. It includes burdensome Government mandates, a costly standard benefit package, global budgets, price controls, and inefficient Government bureaucracies. During 19 days of deliberation, the committee managed to add at least $120.3 billion to the Federal deficit—roughly $6 billion a day. The original Clinton proposal was 1,342 pages long, and with the input from the Education and Labor Committee, another 658 pages was added to an already complex bill. The House Education and Labor expansion of the Clinton plan takes bad policy and makes it worse. Needless to say, I am opposed to the proposal.

Today, I would like to focus on several of the amendments that I offered during the committee debate that were rejected by the majority.

One amendment I offered addressed a serious labor law concern raised by the Ford-Clinton health care proposal, that is, the relationship of guaranteed comprehensive health care benefits for every worker and the continuing obligation of employers and employees to bargain collectively over such benefits. As we know, negotiating over health care can be one of the most contentious subjects in the collective bargaining process, and it frequently leads to labor and management strife.

As you know, under the National Labor Relations Act [NLRA], issues that may be negotiated by labor and management are generally separated into two classes—mandatory subjects of bargaining and permissive subject of bargaining. The respective rights and obligations of unions and employers in bargaining with each other often depend on whether an issue is considered to be permissive or mandatory. Of course, some subjects are simply illegal to bargain over, such as proposals to implement a policy contrary to existing law.

Mandatory subjects of bargaining include wages, benefits, working hours, or working conditions. Health care is a mandatory subject of bargaining. If management and labor bargain over a mandatory subject, like health care benefits, either party may insist on its position until an impasse is reached and then labor may strike or management may order a lockout. Thus, failure to reach consensus on a mandatory subject of bargaining can prevent a collective bargaining agreement from being reached. In addition, during the life of an agreement already in place, an employer may not order any changes in mandatory subjects previously agreed to without first bargaining with the union.

Permissive subjects of bargaining include any other item that the union and the employer may bargain over such as internal union affairs. In this case, either party may try to initiate bargaining, and, if the other party is willing, they may address the subject in the agreement. However, if the other party does not wish to bargain, the issue is taken off the table. A strike may not be ordered by a union and a lockout may not be ordered by the company. The parties simply go on to other matters.

My amendment, if it had been adopted, would have virtually eliminated labor-management tensions over health care issues by taking increases in health care benefit levels off of the collective bargaining table unless both of the parties—the employer and the union—want to negotiate over them. My amendment would be limited to situations where labor wanted to press for increases over what is in the law or a collective bargaining agreement. If the employer wanted to seek cutbacks below the agreement, that would still be a mandatory subject and the union could strike.

Now, under the Education and Labor version of health care reform the Federal Government is saying to employers and their employees: This is your health care benefit package. We have already decided what is the best package for you and do not worry, because it is a comprehensive package. Indeed, it has even been expanded.

By requiring every employer to provide a comprehensive package of health care benefits, the Clinton-Ford bill imposes substantial costs on companies—both large and small. Let us be honest—comprehensive health care is expensive. Under the Clinton-Ford plan, benefits mandated by the Government would include hospital care, emergency services, preventive care, mental health and substance abuse services, family planning, hospice care, home health and extended care services, ambulance services, outpatient laboratory and diagnostic services, prescription drugs, vision and hearing care, periodic medical checkups, and preventive dental services for children. The Ford plan and the many amendments adopted during the markup in the Education and Labor Committee expand upon the Clinton plan, adding several billion in new mandated benefits.

This is a comprehensive package of federally mandated benefits, some would even call it a Cadillac plan. Employers will be obligated by law to provide every one of these benefits. In addtion, employers with union employees must continue to provide any health benefit collectively bargained prior to passage of the Health Security Act. It is ridiculous that employers would be obligated by law to negotiate over additional health care benefits, or suffer the consequences of strikes.

We have heard a great deal from organized labor in recent years about tensions generated at the bargaining table about health care issues. In fact, a representative of the Services Employees International Union [SEIU] testified before the House Education and Labor Committee recently that "Health care is the No. 1 issue at the bargaining table and the No. 1 cause of strikes." I would tend to agree that health care costs generally have been a subject of workplace tensions, as employers and their employees have struggled to cope with rising costs.

If one of the intended effects of this bill is to reduce those tensions by ensuring a package of comprehensive benefits to every worker, then my amendment would have helped ensure reduced tensions in the future by resolving that, once and for all, there will be no more labor-management battles over health care.

I believe it is time for organized labor in America to make a choice. Unions can either try to achieve comprehensive benefits for employees through collective bargaining or they can try to get these benefits from the Congress. The system, and our ability as a nation to compete effectively, cannot afford both. The Ballenger amendment should be included in health care reform legislation to ensure that businesses do not have to risk a strike over having to provide even more.

I would also like to comment on two other amendments that were offered and were rejected by the full committee on rollcall votes. The committee bill includes a provision that requires a health care employer who replaces another health care employer through merger, consolidation, acquisition, or contract, to provide employees who would otherwise be displaced, a right to continued employment unless their positions no longer exist—the provision sunsets after 5 years. My amendment would have eliminated this requirement because under current labor law, an employer who acquires a business is under no general obligation to retain current employees. The provision in the Ford bill creates a statutory entitlement to continued employment of no defined duration, makes no allowance for displacement of employees for cause, and gives all displaced employees preferential rehire rights for 6 months. The continued employment provision creates yet another cause of action that may be advanced by employees in Federal or State court subjecting employers to liability for backpay, double backpay, and attorneys' fees. Finally, although technically limited to health care employers, the reach of the provision in the bill is very broad because the definition includes any employer that provides "necessary related services, including administrative, food service, janitorial, or maintenance services, to an entity that provides health care items or services." My amendment to strike this provision should have been adopted because it prevents the creation of yet another employment right to be litigated in court.

I also offered an amendment to strike a section of the Ford bill that would require a health care employer to recognize the exclusive bargaining agent and to assume the collective bargaining agreement of the predecessor employer if a majority of its employees were previously covered by the agreement and if there has been no substantial change in operations. This provision would sunset after 5 years of enactment. The amendment would have also stricken a provision—again sunsetting after 5 years—which assumes joint employer status whenever employees of a contractor to a health care employer work on the premises and are functionally integrated with the operations of that employer.

The provision in the Ford bill concerning the collective bargaining obligation of health care employers would make significant changes in labor law, without hearings or discussion of the magnitude of those changes. These provisions signal the kinds of amendments to current law that might be sought by organized labor in a push for comprehensive labor law reform and should be considered at that time—not during a debate on reform of our health care system. Under current law, while a successor employer may be obligated to recognize the exclusive bargaining agent of the previous employer, it is not required to assume the previous collective bargaining agreement. Requiring successor health care employers to be bound by a collective bargaining agreement to which it is not a party creates a disincentive for any restructuring of the health care industry that may lead to better and more efficient care.

Also, the Ford bill would create a new test for determining joint employer status under the National Labor Relations Act. Under current law, the test is whether an employer has sufficient control over the essential terms and conditions of the employment of any group of workers. The Ford bill assesses whether the tasks performed by a group of employees are functionally integrated with the operations of the employer. Again, the Ford bill establishes a new legal standard without discussion of its significance. I am concerned that these changes would unnecessarily complicate the health care marketplace and would be particularly detrimental to the restructuring of the health care industry.

Mr. PETRI. Mr. Speaker, the markup process in the Education and Labor Committee unfortunately was not an effort to reach real consensus on a health care reform bill.

Rather, it was an exercise in ramming through a partisan bill. And that's a shame, because I don't believe that kind of a process will lead to a good health care reform bill in the long run.

It's a double shame, in fact, because all of the elements are already there for the making of a bipartisan compromise, a compromise that can achieve our foremost objectives. So instead of continuing this partisan exercise, let's begin the final round of the health care debate by looking at those issues on which we all agree.

First, I think it's safe to say that we all want insurance market reform that provides guaranteed issue, portability, at least modified community rating, and the elimination of preexisting condition exclusions. We all want some kind of medical malpractice liability reform, although we may disagree on its details.

Clearly, we need administrative simplification provisions to reduce overhead, and we need to provide consumers with the comparative value information they need to make smart medical decisions.

I'd suggest we require mandatory price disclosure by providers, publication of the average prices for health care services in the regional market, information on common patterns of practice, and indicators of the quality of health care offered by plans and providers.

With insurance market reform a given, many of us agree we should provide a graduated subsidy for Medicaid enrollees and the low-income uninsured so that they, too, can enroll in competitive health plans. Finally, we know there will have to be some risk adjustment between plans, and we ought to at least allow voluntary purchasing alliances.

We should start there, as several bipartisan bills already have—with the elements of reform on which we have the most hope of consensus. Then we can turn next to the issues which divide us: the mandated benefits package, for example. I'm sure we can agree that a benefits package should provide at least catastrophic coverage, but we disagree about whether any other benefits should be mandatory.

I'd argue that universal catastrophic coverage can accomplish most of the objectives we've set out to achieve: We can protect American families from financial disaster and we can eliminate our cost-shifting problems.

Cost shifting should not be much of a problem if poor people have more comprehensive coverage and middle-income people, in relatively few instances, only have to come up with a few thousand dollars out of pocket to cover medical emergencies.

Without a comprehensive, mandated benefits package, of course, we'd have to rely more heavily on risk adjustment between plans in order to prevent comprehensive plans from being driven out of the market because they attracted mainly higher risk people. That's another contentious aspect of the benefits issue.

But, perhaps the most fundamental issue of disagreement is how best to accomplish universal coverage for all Americans. The first question here is what we mean by universal coverage. I think we can agree that we mean by that at least universal catastrophic coverage. And although most people think we cannot get universal coverage without a broad-based tax increase or mandates, that's not the case.

There is a way to get universal catastrophic coverage without either a net tax increase or a mandate—and that's through tax reform. By that I mean rationalizing the $100 billion of subsidies for health care that we already have in the Tax Code.

As it stands, the main health subsidy in the Tax Code is the exclusion from individual income of employer-paid health premiums or benefits.

This subsidy is extraordinarily regressive, because its value to any individual depends on both his marginal tax rate and the cost of his benefits, both of which are higher for wealthy people. In fact, it's estimated that the value of this subsidy is six times as great for people in the top 20 percent of our Nation's income distribution as it is for those in the bottom 20 percent.

Moreover, the more your employer spends on premiums and benefits, the more subsidy you get, which contributes to third-party payment and inflation.

This is a rotten way to design a Federal health care subsidy. Why provide a subsidy only to those who already have employer-paid benefits? Why provide a far bigger subsidy to wealthy people? And why make it open ended?

It would be much fairer to turn this $100 billion pot of money into a fixed voucher for the purchase of competitive health plans. Those with employer-paid coverage, which the employer could still deduct as a business expense, would use their vouchers to cover their share of premiums and their cost sharing and would receive a cash rebate for any excess.

By my calculation, the average 1995 Federal voucher amount would be $1,764 for a couple with children, $1,219 for a childless couple, $1,133 for a single parent, and $612 for a single person. Reforming State tax subsidies the same way would typically add 15 to 30 percent to these amounts. Vouchers this big should allow people otherwise uninsured to purchase at least catastrophic coverage.

And they'll be highly motivated to do at least that if failure to do it will cost them the value of their vouchers. Finally, with vouchers this big, virtually all 15 percent bracket taxpayers—that is, all four person families below $55,000 in income—would be much better off than with the present exclusion, and many 28 percent bracket families would be as well off.

Thus, although highly paid union leaders would be hurt initially, the vast majority of their members would be better off with an egalitarian voucher than with the present regressive exclusion. They may be right to oppose taxing generous benefits when they get nothing in return, but they should support taxing all benefits in return for a voucher of greater value.

Therefore, I believe this kind of tax reform can be the basis of a sound compromise on the most difficult issue before us. It can provide the key that unlocks a solid health care reform bill this year, and for that reason, I've already made it the centerpiece of my own multicare proposal, H.R. 4469.

I urge my colleagues to join in a dialog aimed at real consensus, rather than retreating behind partisan battle lines, as we did so often during the Education and Labor Committee markup.

Mr. ARMEY. Mr. Speaker, I want to thank my distinguished colleague from Pennsylvania for his leadership on the committee. For the past several months, we in the party of freedom, the Republican party, have been fighting to prevent the Government, and therefore the party of government, from nationalizing the world's best health system. The American people rejected the idea of a government-run health system. But alas, on our committee, what the American people want is an inconvenience. The Democrats seem determined, in the words of Senator ROCKEFELLER, to pass this unpopular bill "regardless of the wishes of the American people."

America's health system does have problems that must be fixed. But it doesn't need a government takeover. It doesn't need a national health board. It doesn't need price controls. It doesn't need the Government defining everyone's insurance package. And it doesn't need criminal penalties for so-called "health care crimes." America does not need this bill.

Nearly a year ago, I compiled this flowchart to depict the workings of the President's plan. People ask me if I meant it as a joke, but, on the contrary, I meant it to be completely accurate, based strictly on the language of the Clinton plan itself. Not even Ira Magaziner has been able to find an error or omission, or at least that's what I deduce from the silence with which he has greeted my repeated requests for comment. Now what differentiates the original version of the bill, depicted here, from the one reported by the Education & Labor Committee is the number of lines and boxes. Our committee felt the Clinton plan was too simple.

Here we have a portrait of what happens when power meets an Ivy League degree. Apparently some people in this day and age actually believe that 250 million people have less wisdom and less common sense than Ira Magaziner's seven-member National Health Board.

Perhaps the most misbegotten of all the misguided features of this mind-boggling plan is its price controls. As an economist, I take a professional interest in this, but you don't have to have a Ph.D. to understand why price controls are a bad idea. As you can see from this second chart, forty centuries of human history show that price controls do not work. Price controls cause suffering.

Hammurabi tried price controls and got a permanent depression. The Roman Emperor Diocletian tried price controls and got riots, hoarding, and mass executions, and, after 4 years, had to abdicate. The ancient Greeks tried price controls on grain and got grain shortages. The Romans tried it on wheat, and got wheat shortages. President Nixon tried petroleum price controls in the 1970's and gave us the energy crisis. Now President Clinton wants to give us price control on health insurance premiums. Why do I have a bad feeling about this?

With this long, melancholy history in mind, I offered an amendment in our committee to remove price controls from the Clinton plan. The amendment was defeated on a straight party line vote. Now you may ask, given the history sketched out on this chart, why would the Democrats vote for price controls? I certainly tried to persuade them of the likely result. I pointed out that no nation in modern times has ever achieved the President's goal of bringing medical inflation to zero. Let me say that again. No nation has ever achieved zero medical inflation. Yet this bill would try to mandate it, by force of law.

I also told my committee colleagues about the study by the independent economics firm DRI-McGraw Hill, which predicts that if the President's price controls are implemented, health-care services would be reduced by about 5 percent over the first 3 years. Sound harmless? What this means is that if price controls begin in 1998, by the year 2000, every American household will suffer a reduction of available health services of about $500. Or put another way, health insurance price controls will mean a $500 tax hike for every family in this country. And it may turn out to be a lot more than $500, because the American Academy of Actuaries estimates the premiums for the Government-defined insurance package will cost at least 20 percent more than the White House claims.

But more important than the dollar figures is the very real pain that will be felt by sick people who will be denied medical care. Price controls invariably produce scarcity, and scarcity produces rationing. When you make it illegal to sell a product at its natural market price, producers respond by reducing the quantity and quality of the product until supply and demand meet at the new, lower, Government-imposed price. This is a law of economics, which no parchment law can repeal.

What will happen if we impose President Clinton's price controls? At first, the pain may not be terribly noticeable. But after a few years, as the controls begin to bite, we will start to see the telltale signs. Lines will form. Surgeries will be delayed. People will go without necessary care. The Government will stop covering certain procedures.

All of this happens right now in Canada. Despite all the praises lavished upon it by left-wing liberals, the Canadian system is in crisis. The Canadian Government is canceling health coverage for foreign nationals, even if those foreigners pay Canadian taxes. It is imposing 3-month waiting periods before new residents can apply for health care coverage. It is limiting coverage for Canadians abroad. It is rationing care and imposing premiums and co-payments for Canadians at home. The province of Quebec now refuses to pay for hip replacements. At this very moment, 250,000 Canadians—the equivalent of 2.5 million Americans—are on a government waiting list for needed medical care. Canadian patients have to wait, on average, 5 weeks just to see a specialist. A sample group of 177,000 Canadian patients had to wait up to 14 weeks for surgery. Coronary bypass patients wait 5 and a half months on average for surgery. Some die while waiting. Others pay to travel to the United States for immediate service. Indeed, one-third of Canadian doctors have sent patients outside the country for treatment during the past 5 years. And a Canadian firm is reportedly offering a private insurance policy that will fly you to the United States if you've been on the Government waiting list more than a certain number of weeks, depending on the illness. Mr. Chairman, it seems the best thing about the Canadian health system is the American health system.

All of these statistics simply confirm what economists have always known: Fiat rationing is unavoidable under a price-controlled, government-financed system.

Some of my more left-leaning colleagues claim that a government system of universal coverage is more moral than the free market in health care. Let me tell you about the moral superiority of government medicine. This past Christmas, the Canadian province of Ontario sent doctors and nurses home for several weeks, for no other purpose than to save money. The financial crunch had gotten so bad, the authorities at the Toronto Hospital for Sick Children told parents not to bring their children to the emergency room unless the child had a fever and was experiencing, and I quote, "lethargy, convulsion, or nonresponsiveness." My friends, is this what health security has to mean—turning sick children away because they're not sick enough to be having convulsions?

On January 13, President Clinton received a letter, which I would like to quote. I have edited it for brevity, but here is the meat of what the authors said:

"Price controls produce shortages, black markets, and reduced quality. In countries that have imposed these types of regulation, patients face delays of months and years for surgery, government bureaucrats decided treatment options instead of doctors or patients, and innovations in medical techniques are dramatically reduced.

"In the 1970's, government tried to regulate the price of a simple homogeneous product, gasoline. The result was that people were forced to waste hours waiting in lines to purchase gasoline. Long waits for surgery will have more serious consequences. Price controls may appear to reduce medical spending, but such gains are illusory. We will still end up with lower-quality medical care, reduced medical innovation, and expensive new bureaucracies to monitor compliance. These controls will hurt people, and they will damage the economy. We urge you to remove price controls, in any form, from your health care plan."

Mr. Speaker, the letter is signed by 562 Ph.D. economists, including several Nobel Prize winners.

Reading this letter, I was reminded of the letter President Hoover received in 1930, signed by 1,028 economists, begging him not to raise taxes on imports. As every school child knows President Hoover ignored their advice, and the result was a catastrophic deepening of the Great Depression just as the country was beginning to recover from the crash of 1929.

I am suggesting that we should always heed the advice of economists, but I do think we should think twice before disregarding the plain lessons of history. Those who cannot remember the past are condemned to repeat it. But we need not repeat it. We can learn from history.

I have tried to lay out what I hope is a persuasive case against price controls, but no argument of mine could compare with the eloquence of our predecessors of the Continental Congress. Listen to what our Founding Fathers wrote on June 4th, 1778:

"Whereas * * * it hath been found by experience that limitations upon the prices of commodities are not only ineffectual for the purposes proposed, but likewise productive of very evil consequences to the great detriment of the public service and grievous oppression of individuals * * * [Therefore, be it] resolved, that it be recommended to the several states to repeal or suspend all laws or resolutions within the said states * * * limiting, regulating, or restraining the price of any article, manufacture, or commodity."

Thankfully, the 13 States heeded Congress' call and lifted their wartime price controls. Scarce provisions became abundant. And by the fall of 1778, our armies were able to procure needed winter supplies that only a year before had been unavailable to General Washington at Valley Forge. I sometimes wonder how Washington's armies, and our fledgling Nation, would have fared had the reinous price controls never been lifted.

I urge my colleagues on the other side of the aisle to choose the wiser course and take the higher road and strike from the President's bill these disastrous price controls.

THE 50TH ANNIVERSARY OF THE LIBERATION OF GUAM

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Guam [Mr. UNDERWOOD] is recognized for 60 minutes as the designee of the majority leader.

Mr. UNDERWOOD. Mr. Speaker, I am taking this opportunity for a 1-hour special order to pay honor and respect to the veterans of the Pacific Theater during World War II and especially those who participated in the Battles of Guam, Saipan, and the "Marianas Turkey Shoot," one of the greatest naval victories during that conflict.

I also want to take the opportunity to tell the Guam story; a story not fully understood and appreciated, but a story which demands to be told.

This session of Congress which is broadcast live by C-SPAN across America, will be rebroadcast on a delayed basis on Guam next week on July 20, on the eve of the 50th anniversary of the liberation of Guam which will be commemorated on July 21. Therefore, I wish to send my greetings to the people of Guam, to the hundreds of veterans who have returned to our island for the golden salute commemoration, and to the veterans of World War II—especially the Pacific veterans—watching this broadcast all across America on this most auspicious occasion. And this occasion is honoring and remembering the landing of American forces to liberate Guam from Japanese occupiers. Japanese troops had earlier bombed and invaded Guam on December 8 and 10, 1941, as part of Japan's attacks on United States Forces, the most famous having taken place at Pearl Harbor.

This commemoration will honor the American veterans, remember the sacrifices of the people of Guam and will serve as a tribute to the necessity for peace; for it is only in the remembrance of the horrors of war do we remain vigilant in our quest for peace.

My purpose tonight is to give a historical perspective to the events we are commemorating on Guam and to enhance the understanding among all Americans of the wartime experience of the people of Guam and the postwar legacy that has framed our relationship with the United States. It is a story that is a microcosm of the heroism of soldiers everywhere and of the sufferings of civilians in occupied areas during World War II. But Guam is also a unique story, an experience all to itself, not in terms of human suffering—there is far too much of that to go around—but of dignity in the midst of political and wartime machinations of large powers over small peoples and of loyalty to America, a demonstration of loyalty that has not been asked of any civilian community under the flag during any time this century.

Tonight, Mr. Speaker, I will outline the following:

Some of the details of the battles leading up to the Marianas campaign; the importance of the Marianas campaign for the war; some heroic figures involved in the battle; the lack of attention given to the Pacific battles in the 50th anniversary commemoration activities for World War II; the special nature of the Guam battle and the experiences of the people of Guam; and some unfinished business for the people of Guam relating to the war.

Guam, which has been an American territory since the end of the Spanish-American War in 1898, was invaded in the early morning hours of December 10, 1941. Thus began a 32-month epic struggle of the indigenous people of Guam, the Chamoru people, to maintain their dignity and to survive during an occupation by a brutal oppressor.

In the years leading up to the war in the Pacific, American military planners decided that it was not feasible to defend Guam against possible invasion forces by Japanese Forces in the surrounding islands of the Japanese mandate in Micronesia, most notably Saipan about 100 miles to the north.

This was probably a sound decision militarily; but to the Chamoru people, it meant that they were going to be written off at the onset of hostilities between Japan and the United States, hostilities which nearly everyone in the Pacific knew was coming.

When the Japanese landed, they found 153 Marines, 271 Navy personnel, and 134 workers associated with the Pan American station and some 20,000 Chamorus who were United States nationals. All American military dependents had been evacuated with the last ship having left on October 17, 1941, pursuant to an order of Naval Governor, Captain McMillan.

The other vulnerable territory, Alaska's Aleutian islands were similarly threatened by their proximity to Japanese Forces. However, in that instance the Army evacuated all Aleutian inhabitants in anticipation of Japanese invasion, thus sparing the Aleutian islanders from an occupation. The Chamorus alone among American civilian communities was left to withstand the onslaught of an enemy occupation.

To demonstrate how Chamorus were treated distinctively, a handful of Chamoru civilians who worked at the Pan American station in Wake Island were not evacuated when American civilians were. The result was that they, along with a handful of Marines, fought, died and were placed in prison camps.

With Guam and its people's fate preordained, it fell to the Guam insular guard and the Guam militia, comprised of civilian reserve forces along with the handful of Marines and sailors to defend the island. The Japanese invasion force, numbering over 5,000 easily overwhelmed the defending insular guard and Guam militia. Resistance against a vastly larger and better equipped invasion force was futile, and the Naval Governor McMillan surrendered the island to the Japanese.

The signal that the Japanese had prevailed to aircraft overhead was for the Japanese commander to shine a flashlight on an American flag on the ground. The American flag, used as a symbol of defeat by the invading Army, assumed immense importance to the American nationals on Guam throughout the occupation.

Throughout the ordeal of occupation, the Chamoru people maintained their loyalty to America and their faith that the American Forces would soon return to liberate them. The resistance against the occupation manifested itself in many forms, but none so powerful and costly as the effort to help the American sevicemen on Guam who had escaped capture when the island surrendered.

Seven U.S. sailors evaded capture, and one by one, each in turn was hunted down and killed by the occupiers. One fortunate sailor evaded capture throughout the 32 months of occupation with the assistance of the people at the cost of numerous beatings and even beheadings. The story of this one sailor, George Tweed, was made into a movie entitled "No Man Is An Island."

INVASION OF GUAM THE LIBERATION: JULY 21, 1944

Fifty years ago, in mid-June, Rear Admiral Ainsworth began his preinvasion bombardment of the coast of Guam only to be called back only 2 hours after the invasion began due to the ferocity of the Battle of Saipan. The additional time between the scheduled and actual invasion allowed the Japanese 5 additional weeks in which to reinforce their beachheads.

During those intervening weeks following the original naval attack, an onslaught of cruelty was endured by the Chamorus on Guam from their occupiers. This was the most brutal time of the occupation. The atrocities suffered by the people of Guam included forced labor, forced marches and civilian massacres. The increased brutality and intensity of these atrocities marked the beginning of the end of the 2½ year enemy occupation.

The invasion—dubbed Operation Forager—was rescheduled for July 21 and was preceded by a preinvasion bombardment lasting 13 days. While this bombardment leveled most fortified structures on Guam, it also acted as a stimulus for further acts against the Chamoru people. As the bombardment continued, the Chamorus became more restless, and the Japanese realized their ensuing fate, inflicting further brutality and mass slaughter against my people. This preinvasion bombardment had been preceded by numerous air raids beginning in February 1944, 5 months earlier.

After the bombardment, underwater demolition teams spent 4 days sweeping the shoreline making the Marine invasion possible. Unlike the attack on Tinian, which provided ideal terrain and conditions, U.S. Marines landed on the narrow beaches of Asan and Agat to crawl their way up what is now know as Nimitz Hill. The men of the 3d Marine Division were thrust, wave after wave, onto Asan beach—already littered with the Marines who had come before them. Once on the shore, United States troops were in the heart of Japan's defense fortifications and troops. This well thoughtout plan led to the seemingly insurmountable task of climbing the cliffs which rose just beyond the beach against fortified enemy weapon sites which dropped artillery and small weapons fire on them like rain.

Simultaneously, the flatter southern beaches of Guam were being braved by the 1st Marine Brigade. However, this less formidable topography was quickly interrupted by the only Japanese counter attack of the day.

One of the heroes was a young Marine named Howell Heflin, most important 6 hours of my life.

The island was secured on August 10, 1944. Twenty thousand men died during the 20-day battle, but the casualties were not equivalent, 18,500—the entire garrison of Japanese troops were killed compared to only 1,900 United States soldiers.

The mayor's resolution follows:

RESOLUTION NO. 94-6

Relative to naming Route 15 (Yigo) as the U.S. Army 77th Infantry Division Drive in honor of the soldiers who participated in the Liberation of Guam during World War II in the Pacific.

Whereas, on July 21, 1944, Army, Navy and Marine Units of the U.S. armed forces landed on Guam to liberate the island and its people from over 30 months of Japanese occupation during World War II in the Pacific, and

Whereas, the U.S. Army 77th Infantry Division commanded by Major General Andrew D. Druce, played a significant role in defeating the Japanese forces and restoring peace and freedom to the island of Guam, and

Whereas, after landing in Agat along with the 1st Marine Provisional Brigade, the 77th Infantry Division proceeded to secure the southern part of Guam where it rescued thousands of Chamorus who were in the Manengon and other concentration camps, and

Whereas, the 77th Infantry Division continued its fight to Yona, Chalan Pago, Mangilao and Barrigada, and

Whereas, in the drive through the central and northern parts of Guam, the 77th Infantry Division was assigned the right flank as the area of operation where the troops engaged with the Japanese forces in a number of skirmishes, and

Whereas, the 77th Infantry Division proceeded up to the village of Yigo where the Japanese forces were regrouping to make their last battle stand, and

Whereas, when it reached the village of Yigo the 77th Infantry Division came upon a large concentration of Japanese forces and engaged them in a battle that involved tanks, artillery strikes and an infantry drive charge up on Mount Santa Rosa and Milalak hill where the Peace Memorial Park is now located, and

Whereas, the battle in Yigo turned out to be the last major encounter with the Japanese forces who waged an all out fight in a desperate attempt to turn back U.S. advances, and

Whereas, the Guam combat patrol were very instrumental in the search and locating of the Japanese forces and the Guam combat patrol also participated and engaged heavily in a number of skirmishes and the last battle of Yigo, and

Whereas, Route 15 is located in the Army sector of the 77th Infantry Division's avenue of approach to the north in the final days of the war; now, therefore, be it

Resolved, That in recognition of the 77th Infantry Division's role in the liberation of Guam, it is appropriate that Route 15 be named "U.S. Army 77th Infantry Division Drive" in conjunction with the 50th anniversary Golden Salute observances; and be it further

Resolved, That the Yigo Municipal Planning Council endorses the action on behalf of the people of Yigo as a grateful tribute to the sacrifices to the U.S. armed forces in the liberation of Guam.

THE IMPORTANCE OF THE BATTLE FOR THE WAR

The taking of the Marianas Islands was very important to winning the war against Japan. The defeat of the forces on Saipan and Guam led to the fall of the Tojo government and the recognition by many in Japan that there was no doubt left about the outcome of the conflict with the United States. "Hell is upon us," stated Adm. Osami Nagano, Supreme Naval Advisor to the Japanese Emperor; and, indeed it was as the bombers took off from air fields on Guam, Saipan, and Tinian—Harmon, Andersen, North, Northwest, Isley, Kobler, and other names familiar to the Army Air Corps, including a Member of the House, BEN GILMAN from New York.

The importance of the Marianas as islands from which to further prosecute not only an airwar against Japan, but as the jumping off points for further landings in the Philippines, Okinawa, and Iwo Jima became crucial to final victory. In effect, Apra Harbor on Guam became the forward naval base as Pearl Harbor was effectively moved 3,500 miles to the West.

And from Guam, Admiral Nimitz set up his headquarters for the balance of the war. In the island-hopping strategy of the Pacific, the Marianas were not islands to be leapfrogged. They formed an integral part of Japan's defensive structure.

Over 54,000 Japanese soldiers lost their lives in the battles for Saipan and Guam. American losses were equally staggering—over 5,700 lost their lives and over 21,900 were wounded. During the Marianas Turkey Shoot, the naval air battle, enemy losses exceeded 400 aircraft to minimal American losses.

One of those aircraft losses belonged to a young Navy pilot who was shot down in the skies over the Marianas—George Bush.

The ferocity of the Marianas campaign was an indication of the blood that was to be shed in later campaigns. On Saipan, the Americans encountered a phenomenon that had never been encountered before—the sight of hundreds of Japanese soldiers and civilians committing suicide by jumping off cliffs rather than surrendering. At Suicide Cliff and Banzai Cliff on Saipan, American soldiers and marines could only watch helplessly as civilian noncombatants chose death over surrendering to an enemy they believed would commit atrocities against them. While sporadic kamakazi raids had been encountered in some naval air battles, nothing could compare to the mass suicides that stunned the American forces.

All these factors weighed into the decision to avoid an invasion of Japan, and the use of atomic bombs on Hiroshima and Nagasaki. And again, the Marianas had a pivotal role to play, providing the airfield in Tinian where the bombers loaded with the world's first atomic bombs were launched. The Marianas Campaign was indicative of the ferocity of the Pacific war and the courage of the Americans who fought in many far flung islands which now bear the honor as campaign streamers on our military's service colors. Let me share the honor of those who fought on Guam with a recounting of the most important Pacific battles leading to Guam's liberation.

GUADALCANAL

The first American offensive during World War II was a definitive battle in the Solomon Islands and began to turn the tide of the war in the Pacific in favor of the Allied forces. This was the Battle of Guadalcanal, an island little known even to the 19,000 members of the 1st Marine Division preparing to land on its shores on August 7, 1942. This battle was decisive as Guadalcanal became the Allied doorway to the central and southwestern Pacific—then held by the Japanese forces. Guadalcanal also prevented the airfield under construction from becoming a threat to the Allied-held Pacific and subsequently making major U.S. shipping routes an easy target.

PAPUA

The Japanese faced a dilemma during the Papua and Guadalcanal campaigns. They were made to decide whether to stand firm on their Papua defense or to transfer vital supplies to strengthen the Guadalcanal counteroffensives. They opted to send warships, planes, and troops to Guadalcanal and ended up losing both battles.

SOLOMON ISLANDS

The Navy contradicted the strategic value of General MacArthur's obsession to reclaim the Philippines. Naval strategists thought that a drive across the Pacific, making full use of their new and fast carriers, would put more pressure on Japan. The dispute was resolved when the Joint Chiefs of Staff agreed to use both options in order to prevent the Japanese from knowing where and when the next blow would fall. MacArthur advanced northwest from New Guinea while Admiral Nimitz and his navy moved west toward the Central Pacific. The series of naval battles that followed this gave numerous Americans their baptisms of fire. Among these gallant men was a young lieutenant named John Fitzgerald Kennedy.

TARAWA

One of the bloodiest battles of World War II was fought for an area less than half the size of New York's Central Park. Tarawa was an atoll of 47 small islands. The main objective was Betio, the largest of the islands. Compared to the atoll's defenders, American casualties were less. However, it had a greater impact upon a country that had not yet begun to realize the cost of war.

SAIPAN

There was no doubt that U.S. forces would hit the Marianas. The islands' central location, the significant Japanese presence within its boundaries and the area's potential as future sites for United States bases made its acquisition, at the time, inevitable. October 1, 1944, was the date set for the invasion of the Marianas. Decisive victories in the Pacific, however, enabled the operations to advance several months ahead of schedule.

In the middle of June 1944, a formidable armada of 7 battleships, 21 cruisers, scores of destroyers, 15 fast carriers bearing 891 combat planes, and 127,571 fighting men had been assembled. They had a clear mission. They were to take the Mariana Islands of Saipan, Tinian, and Guam—the next step toward the Navy's drive toward the Central Pacific. Admiral Nimitz decided to take Saipan before liberating Guam. This island was 100 miles closer to Japan. The task of bombing the Japanese homeland would be less complicated if initiated here. In addition, the loss of Japanese air support from Saipan would make the liberation of Guam less costly.

The assault was placed upon the hands of both the 2d and 4th Marine divisions. The Army's 27th Infantry division was also placed on reserve for these operations. Landings began, made after 2 days of naval bombardment. Swayed by negative propaganda and fearful of the invading Americans, hundreds of Japanese civilians committed suicide by jumping seaside cliffs. After 25 days of fighting, the invasion force declared the island as having been secured on July 9.

THE BATTLE OF SAIPAN

The battle for Saipan was more ferocious than the battle for Guam and is etched in the minds of many as the classic amphibious struggle of the Pacific war; a determined invasion force meeting a suicidal, entrenched defensive force.

Saipan was part of the Japanese mandate; Japanese civilians outnumbered natives 5–1; the invasion was the first contact between the people of Saipan and America; this contact, founded in battle, led to the eventual formation of the Commonwealth of the Northern Marianas, in which Saipan is the principal island; and this contact represented the best in the advancement of the principles of democracy and liberty to other parts of the world.

HEROISM

When faced with an enormous challenge, men of courage find in their inner selves enormous strength. In the battles for Guam, Saipan, and Tinian, and in all the fierce fighting throughout the Pacific war, the victories were won not by massive offensive forces but by extraordinary heroism.

If the measure of a battle is the numbers of Medals of Honor awarded, surely then the battle for Guam ranks among the top battles of World War II. Two medals were awarded for valor on Guam, one to Capt. Louis H. Wilson, Jr., who later served as the Commandant of the Marine Corps, and one to Pfc. Frank P. Witek.

As commanding officer of Company, F, 2d Battalion, 9th Marine Regiment, Captain Wilson distinguished himself in a bloody fight to repel Japanese counteroffensives on the Fonte Plateau. As in many similar situations throughout the first days of the invasion, a breach of the extremely vulnerable American lines would have caused certain disaster for the whole invasion force.

Private Frank Witek provided the cover for the withdrawal of his wounded comrades during a firefight and then singlehandedly attacked the enemy machine gun position

Also noteworthy for their heroism were the efforts of underwater demolition teams that went in ahead of the American forces to destroy much of the fortifications on the invasion beaches.

In all these instances, and in countless more unheralded acts of courage, the individual soldier, marine, sailor, and airman made the difference, and ensured by their individual actions, that freedom would be won for the people of Guam. And again, on behalf of the people of Guam, I say thank you.

LACK OF ATTENTION

On Saturday, June 25, veterans of the war in the Pacific, people from Guam and the Northern Marianas, and some Federal officials gathered at Arlington National Cemetery to pay tribute to those who fought and died on Guam, Saipan, Tinian, and other battles in the Pacific.

This commemoration, which was jointly sponsored by my office and Northern Marianas Resident Representative Juan Babauta's office, and which took place at the site of the Tomb of the Unknown Soldier, was the only national commemoration held this year to recognize battles in the Pacific theater during World War II.

I am extremely grateful for the participation of Interior Secretary Bruce Babbitt, Navy Secretary Dalton, Chairman of the Joint Chiefs of Staff General Shalikashvili. Their support, stirring words, and encouragement reflect the administration's growing awareness of these historical events.

But I must take note again of the fact that this event went largely unnoticed by the media and by the Nation's leadership, other than for those officials I just named. There has been no effort to equate the magnitude of Normandy with the battles that took place 50 years ago in Guam and Saipan. While Normandy pulled the Nation's leadership across the Atlantic, the commemoration of the Pacific was not a strong enough draw to get many to cross the Potomac.

D-day has come to mean Normandy in the minds of many. But I want this body, and America, to know that there was more. I recently received a call from a veteran in Atlanta, Mr. Aherst, who called to thank us for hosting the commemoration at Arlington for the Pacific war, and to say that for the men who fought in the Marianas and all the way across the Pacific, every island was a D-day. Guadalcanal, Peleilu, Tarawa, Saipan, Guam, Iwo Jima. All these were D- days which required the courage and commitment that the American soldier, marine, airman, and sailor always gave.

While few in number, we did gather at Arlington, we did remember the sacrifices of those who fought in the Pacific, and we did honor those who died as we laid a wreath at the Tomb of the Unknown Soldier on behalf of a grateful people.

THE SPECIAL NATURE OF GUAM AS A U.S. TERRITORY BEING REOCCUPIED

There is a special dimension to the battle for Guam which was not present in any other Pacific battle, indeed any battle during the Second World War. Guam was a U.S. territory inhabited by people who were U.S. nationals at the time of the outbreak of World War II. It became the only inhabited U.S. territory invaded and occupied by an enemy power during World War II and, in fact, was the first time that a foreign power invaded U.S. soil since the War of 1812.

This special relationship is demonstrated in a painting made from a picture of two young Chamorro boys; battle-hardened American servicemen broke down at the sight of the people of Guam who came down from the hills, and sobbed at the sight of children with handmade American flags, imperfect in their design yet perfectly clear in their representation. This was these boys' presentation of that same flag which had earlier laid on the ground on Guam and which the Japanese commander waved the flashlight over as a sign of victory.

The people of Guam had endured much during the occupation of their island; there was forced labor particularly in the last few months as the Japanese hurriedly built defense fortifications and airstrips on the labor of men and boys as young as 13 and 14.

There was the confiscation of food to feed the thousands of Japanese soldiers brought to Guam to fight off the invasion. This led to some form of malnutrition affecting all of the population of Guam, especially the children. In a postwar study of the children of Guam, those who were born after the war were on the average 2 inches taller than those who were children during the occupation. Those who had grown to adolescence prior to the war were also taller than the children of the occupation.

And there was the forced marches and eventual internment in camps near places called Maimai, Malojloj, and Manengon. Manengon was where most of the people went. And in the forced marches, many were shot, bayoneted, executed, beaten for moving too fast or too slow as whole families, young and old, made their way to camps. And in those camps, the people stayed for a few weeks with no food waiting for their deliverance and hoping that the Japanese would not carry out threats to kill them all.

And in this entire panorama of experience there were naturally heroic stories and dramatic tales. But most experienced the war as a time in which their families were put at risk. My parents lost three children during the war, and two were buried in areas which my mother can remember, but which we cannot really find today. My elder brothers and sisters became ill; one was so malnourished, the stomach walls became almost transparent; the others simply died. For most Chamorros, the war challenged them in these ways.

But for an unfortunate minority, the brutality of the occupiers became a reality. I'd like to share two stories with you told to me by a couple of very heroic people, Beatrice Flores Emsley who survived an attempted beheading at the age of 13 and Jose Mata Torres who as a 16-year-old witnessed the successful efforts of determined villagers to overtake the Japanese soldiers who had massacred their people.

In the Southern end of Guam, there is a beautiful village called Merizo.

THE MERIZO MASSACRE

The villagers of Merizo had an equally frightening experience, but one with a heroic ending. Many brave men, women, and children played a part in this story, what follows is a synopsis of those events.

On July 15, 1944, the 800 residents of Merizo were rounded up by the Japanese and taken to the Geus River Valley. When they arrived that evening, the Japanese commander stood before the assembled villagers and read aloud a list of thirty names. This group of twenty-five men and five women represented the leadership of the village: schoolteachers, the village commissioner, mothers and fathers who had sons in the U.S. military, a woman who had refused to bow to the Japanese, her two daughters, and other rebellious Chamorros who might give trouble to the Japanese. As darkness began to settle over the valley and the summer rains began to fall, these thirty Chamorros were marched off. The Japanese, intoxicated on sake, teased and tormented their captives constantly until, at Tinta, they reached a cave which the Merizo people had previously been forced to dig as a Japanese ammunition dump.

Fear and hatred ran through the Chamorros as they stood before the taunting Japanese in the ever-increasing rain. Even though the night was now pitch dark, the flashes of naval gunfire from the American ships just offshore occasionally lit the faces of the Chamorros. As they glanced at one another, they came to the realization that the cave was their intended grave. They dared not attempt a rebellion, however, for fear of reprisals against their families back in the valley. The thirty Chamorros were ordered into the cave and told to go to sleep because, their captors told them, "American airplanes are coming to bomb you tonight."

After a few moments of silence, the Japanese began to fire into the cave. Half a dozen Chamorros fell while the rest tried to find cover. Then the Japanese began to lob hand grenades at the Chamorros. Blood flew through the air, splattering on the walls of the cave and on the other Chamorros. Manuel T. Charfauros had attempted to dive for cover outside the cave, but a grenade exploded nearby, ripping the flesh from his leg. Unable to escape now, he lay face down in the dirt pretending to be dead.

Charfauros could hear the groaning of one of his comrades and the rasping sound of air escaping from another's chest. The wounded men heard footsteps approaching. The slashing saber of an officer killed two of them. Charfauros waited his turn, praying that he would only be wounded. Eight Japanese soldiers watched as another, who particularly hated Charfauros, flipped the Chamorro's cap off with the tip of his bayonet, then raised his rifle and lunged, driving the bayonet through Charfauros's shoulder. The Japanese officer then turned and casually tossed six grenades, one after another in the cave.

Felipe Santiago Cruz, inside the cave, had watched his father fall in the first volley of shots. When an exploding Japanese grenade wounded Charfauros, recognizing the Japanese plot for another mass murder, told the boy to return to the camp and tell the men about he Merizo massacre.

At about the same time, the men who had gone to Tingringhanum to gather supplies met one of the survivors of the massacre, Jose S. Reyes, who told them the story of the death of their fellow villagers. Dropping the equipment they were carrying, these brave men return to the Atate camp to try to save the others. Reyes was the only one among them who had a rifle, which he had hidden at his ranch home. As they approached Atate, Reyes devised a plot to overcome the Japanese guards. Each day, the Japanese would form up and stack their weapons together. At that moment, Reyes said, the unarmed men would dash forward and grab the Japanese weapons.

Arriving at Atate, Jose Reyes, Antonio Tyquinco, Juan Borja, Pat Taijeron, Juan Naputi, and Jose Nanguata hid in the jungle, awaiting the most opportune moment. But with the jungle, awaiting the most opportune moment. But with only one rifle, one dagger, and some sharpened sticks among them to face seventeen guards, bravery began to give way to fear. Reyes realized that any hesitation at this moment could mean death for all of them and reprisals against their families. He angrily urged his men forward. "What are you waiting for? Do I have to shoot one of you first to get you to make your move?"

At that, the men rushed for the Japanese weapons. The guards reacted quickly as Reyes began to shoot. Borja attempted to take on a Japanese guard, dagger against saber, while Tyquinco fought with his bare hands. The other men seized the Japanese rifles and, as Reyes quickly showed them how to activate the weapons, began to shoot the Japanese, eventually killing all but one guard, who escaped. The freed Chamorros quickly dispersed to jungle hideouts and ranches, while Reyes and his men took all of the Japanese weapons and headed to a place called Finile, which was known as one of the best hideouts on the island.

After the Merizo villagers had revolted, the families encamped at Atate escaped one by one to their jungle ranches to hide out for the duration of the battle. Manuel Charfauros still lay on the floor of his hut. During a night of delirium, Charfauros sensed a man entering his shack. A searching hand crossed Charfauros's wounded leg and he cried out in pain. A muffled light showed a knife held by a Chamorro. "I was ready to kill you had you been a Jap," said the intruder.

The men with him explained that they had come to find an American flag which they had hidden away shortly after the Japanese had landed two and a half years before. The Chamorros cut coconuts and poured the juice into the empty water jar for Charfauros, then took the flag and left. Three days later, Charfauros' son and three other men rescued him from the shack, carrying him on a stretcher. On July 31, Manuel Charfauros was taken by a small boat from the sandy beaches of Merizo to an American hospital ship that was anchored off the reef.

For Charfauros, it had been a fifteen-day nightmare. For the people of Merizo, the incident was one of heroism and valor. In the face of extermination the Chamorros has fought and saved their families and their honor.

STATEMENT OF BEATRICE FLORES EMSLEY

So as we were sitting there, someone interpreted and came in and started investigating us, whether we're waiting for the American, whether we love the American. Do you understand the American ain't gonna find nothing but just flies?

So we agreed with them. They say we're liars, and they start slapping us around. By almost daylight, a bunch of the soldiers all dressed up and well equipped like they're going to war, and they call us all out and line up.

To each one of us, we had two guns with a rifle and something like a bayonet in front, and they march us down just a little ways. And that place where my grave is at is now got McDonald's.

They push us into this hill, and on top of the hill there's a bunch of soldiers. There was an officer with a long saber. He was standing right by the hole.

The first thing they did is they separate the seven men. And when my uncle pull me, they pull him away and they march them in the other side of the jungle. All us four girls hear is like somebody chopping down the forest, and moaning for God, for mother, and I'm dying, and all that.

Since then, Mr. Chairman, I didn't have any feeling. I'm standing there like I'm just out in a cloud. So then after they finish and everything is quiet, they come back and went by us and they all have a bloody uniform. Their rifle and everything are all blood.

Then finally they start calling Diana Guerrero, the oldest woman, who walked up to this officer, and the only think I seen, and it start to get blurr, was he cut this front and start sawing off her breast.

Then the sister next to her came running up to try to help. They do just everything they can with what they got. And the third one was Toni, because I was the youngest one and the last. They march her up, and the only thing they did is slice down her stomach and everything come out.

When it comes to me, when they took me out, I was walking in air. As soon as they let go of me, I fall down to the ground. Then one Japanese soldier came toward to me and asked me about his half-cast Japanese girlfriend, whether she had a baby.

I said, I don't know because when the Americans start bombing back the island, everybody is out to the jungle, about two, three family in one big tree, praying and praying and praying.

So finally when they are finished with me, he pushed my head down and he hit me in the back of my neck. And all I did is, I feel a splash down on my body, and I was gone.

The next thing, I know, I was trying to struggle because I was buried in that hole. I was struggling for air because I was losing breathing.

Then I found this hand was shaking loose, and I start to reach and scratch my face. When that face was open and I start breathing, I look up on that hill and there was this young man standing, calling, who is alive, to come with him.

Then he said, there comes the Japanese. All I did is I closed my eyes. They come, and I hear them say Bonsai three times, and took off because it's getting daylight.

During daylight, the Japanese is not out. They're all hiding. Only at night.

So then I start digging myself. I look at that certain particular person I saw, and he ain't there. I was just there in that hole.

Then I start digging myself and I hear somebody moaning next to me. It was that girl that has been cut up. She wanted some water. She's thirsty.

So what I did is I crawl over to her and I just felt something wet on that ground, and we just start drinking it.

I passed out until the sun was hitting it and it was so hot and I wake up and I look around, and I said, "Toni," and she was already stiff.

I started to crawl up the hill to get away from that area. When I got up to the hill, I fell down because I'm so weak. When I fell back down there, I wait for awhile until I get enough strength to climb up.

I climb up and I start crawling over to where I hear them Chamorro men crying and hollering for God and help.

I happened to look, and the only thing that I seen on my uncle is that leg that got wounded. The reason why, Mr. Chairman, I know this is his is because the half of that pants that he was wearing they're so filthy.

So then I just look and I continue. I don't know where I'm going. I don't know what happened to me. I don't know nothing. I just keep going.

THE FINAL IRONY—WAR RESTITUTION

The story of the people of Guam is powerful and deserves recognition and I am determined to ensure that the appropriate attention is given to them. There is an unfinished story here and a resulting irony which demands attention.

War reparations; Compensation, reparations, restitution has been given to all who experienced the war except for Guam.

All islands; including the Aleutian Islands have been given some compensation.

In a twist of fate that has worked against the Chamorro people, the Chamorus were granted U.S. citizenship in 1950 as part of the Organic Act.

This was done in recognition of loyalty.

In 1952, the United States signed a peace treaty with Japan ending World War II. In that treaty, United States citizens were foreclosed the opportunity to seek redress through reparations claims against Japan.

The result was that everyone in the Pacific has been allowed to seek and receive reparations for forced labor as well as injury and death from Japan, including Japanese mandate peoples.

The U.S. Government inherited this obligation and for this purpose I have introduced a Guam War Restitution Act today to bring justice for the people of Guam; to finish the story; to give justice to Jose Torres and Beatrice Emsley.

TAI JAPANESE CAMP—WAR MEMORIES

(As told by Judge Joaquin V.E. Manibusan)

Before the bombardment, about July 3-4, there were several of us who have been under the siege and brutal treatment by treatment of the Japanese during WWII. Opposite Father Duenas Memorial School in Tai was a farm which belonged to a Chamorro family I believe was the Torre-Tenorio (Bonik) family. I remember there were three nurses from the Guam Memorial Hospital who were stationed at the camp whose names are: Mariquita Perez Howard, Concepcion Torre Tenorio (Connie Slotnick) and Simplicia Salas. This farm was taken over by the Japanese command and I, along with the rest of those farming there, were forced to labor and harvest for the Japanese soldiers. We were also beaten up and struck almost every time if we did not obey their command. I recall how the Japanese commander would take a dog and hang it upside down with his legs tied up to a limb of a tree and how he would demonstrate to us what he believed to be an art and skill of slaying the dog's head. Of course, he was showing off the power of his sharp blade on the sword.

There were several occasions where he would tie my hands and others and he would take his sword and run the sword on the back of my neck. The interpreter told me that I was supposed to have my neck slashed twice; however, I escaped death again. Another fearful and agonizing moment was when a blade of the sword actually nicked my forehead as a threat to be obedient to the Japanese command. The scar is still on my forehead and although in these past few years that I have not associated this scar with the painful scars of the war, I am again reminded why that scar is there. Again, while others may have had their heads severed, I again escaped death.

There is that one day in my life that cannot be compared with any other day of my life. It was that day 51 years ago where Tun Enrique White and I were teamed up to dig one hole of three holes that others were teamed up to dig. On the opposite side which, I believe, belongs to the Bonja or Aguon family. It was the hole that later Juan Perez was buried in after he was beheaded. Looking at this picture, it is the hole on your extreme right and you can see Juan Perez kneeling beside the hole. In the middle of the picture is Jesus Salas shown kneeling beside the hole dug for him. Both Perez and Salas were members of the insular forces and were from Piti. Another hole to the immediate left was Dug, Migel Salas who either was already dead because he had been tortured severely from Hagatna because instead of going to get water he was found doing something else, or was to be killed at the site of the hole. I do not quite remember the Merfalen death. What I remember was that a ceremony always occurs before a beheading. I remember that the tallest Japanese was the man in charge of slaying both Perez and Salas. You can see from the photo a Japanese soldier leaning to wipe off the blood from the slaying and cleaning the sword. The sword was always cleaned before any beheading is to be done. Tun Enrique White now has passed away and I am the only one living to recall this agonizing and traumatic experience. One other command from the Japanese that was part of their ritual was to have all the prisoners of their camp surround the holes to be witnesses of what would happen to them if anyone dare disobey their command.

Although I forced myself to mentally block this memory from my mind, the scars on my leg and on my back are constant reminders every waking moment of my day. And now as I remember, the pain grows stronger and the memories vivid and I find myself reliving the fear and torture in tears.

A few days after the beheading incident during the heavy bombardment, Tun Ben Blas, Tun Victioriano Camacho and I went into the middle of the camp and hid in between a bunch of bananas as the American flyers were bombing into the camp. After the bombardment stopped for awhile, we went to inspect the rest and this is where we found Msgr. Ben Martinez and Salas were badly injured by shrapnel.

Martinez and Salas where hit at the Thorretenorio property and they were handed to me at the other camp. Because their wounds are getting swollen and are beginning to have an odor. I convinced the Japanese ("Taicho") leader that it was in their (Japanese) best interests to send both Martinez and Salas to their families in Mannenghon so that they will not be blamed if anything should happen to them. This was my way of safeguarding the lines of Martinez and Salas. It was then, I who carried Msgr. of Martinez all the way to Mannenghon to deliver him to the Martinez family.

As the Chamorros honor the members of their insular forces who died in battle and the rest of the Chamorros who were beheaded and tortured to death, I want to part with a picture that my late father, Judge Jose Cmacho Manibusan, gave me while he was a member of the War Crime Commisison—which accounts for these painful memories at Tai. I wish to tell my stories to my children and to their children's children, and so on. It is time to talk about my experience during the war, and continue to talk so that maybe by talking and sharing my experience I can finally let go of these painful memories and find peace after 51 years of not telling my story and now begin to heal.

I do say without any doubt in my heart and in my mind that the Almighty God was always with me and spared my life. As one grateful individual, I will always hold these memories close to my heart and remember my comrades and those who have died during Guam's own war holocaust.

I cannot add to that story; justice and recognition must come and it must come from this body. To this end, I have introduced H.R. 4741, the Guam War Restitution Act. I urge my colleagues to cosponsor and support this legislation which may not be of immediate concern to the nation, but which brings justice to those who have been denied all these years and which will do honor to this country.

□ 2200

Si yu's ma' ase' todos hamyo.

Thank you very much, Mr. Speaker, I know the day is long and I thank the staff very much for their forebearance.

THE FIRE ON STORM KING MOUNTAIN

The SPEAKER pro tempore (Mr. HOLDEN). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Colorado [Mr. MCINNIS] is recognized for 30 minutes.

Mr. MCINNIS. Mr. Speaker, July 6, 1994. The fire on Storm King Mountain. Let me tell you a little about the mountains of Colorado, specifically Storm King Mountain. Storm King Mountain is a massive mountain about

8,900 feet in elevation. It sits on the west side of Glenwood Springs, CO. It is a beautiful mountain, a big, bold mountain, a mountain which has provided over the generations water for the community, a mountain which for generations has provided recreation and has provided livestock opportunities, earning opportunities for the people, hiking opportunities. It is truly a beautiful mountain. But on July 6, 1994, just last week, 14 very brave individuals lost their lives in an attempt to control an out-of-control fire on the face of Storm King Mountain.

As I proceed this evening to tell you about the fire, to tell you about the volunteers, to tell you about the firefighters and the community and the very heavy price that was paid, let me remind all of you in here that Storm King Mountain must be forgiven for she could not control what happened on her face that day and that as time heals the mountain, we also hope time helps heal this country for the tremendous loss that we suffered of these young and vibrant firefighters who paid the supreme sacrifice with their lives.

Let me start with the history of the fire. It is somewhat in question as to when that bolt of lightening hit the mountain, but we do believe that about on July 2, lightning did strike Storm King Mountain. At least in Colorado when lightning strikes the mountains, it usually takes from the smoldering to the actual flame clear up to 20 hours or 24 hours. But on July 2, a bolt of lightning struck the mountain and that was to begin one of the deadliest fires in the history of the United States in regards to forest fires.

The terrain of Storm King Mountain is steep terrain. In fact, where these particular firefighters lost their lives, the terrain was probably at about 70 degrees. It is not dense vegetation. It has juniper trees, pinyon trees, and sheep grass. It is rugged terrain. It also has a lot of oak brush.

□ 2210

The fire, when it originally started, really was confined to about 2 or 3 acres. At that time in Colorado we had a number of fires going. We had a horrible fire in Paonia, CO, that at this point in time and already burned structures. We had a fire raging in Durango, CO. We had a fire going in Fort Collins, CO.

In fact, on a daily basis, when fire has passed through Colorado, this summer in particular, when it is very dry, we are averaging about 30 fires a day. This fire was being monitored, and it was about 2 or 3 acres.

By Tuesday of that week, it had spread to about 30 acres and we were able to, because some of the other fires were under control, the Bureau of Land Management and the Forest Service were able to move some resources to Glenwood Springs. They had about 15 firefighters on Tuesday.

By Wednesday these firefighters had additional reinforcements, which included slurry bombs, helicopters, and 52 fighters that came onto the scene to better control the fire.

At that time, again, the fire was about 30 acres. Control of the fire was felt to be imminent. Amongst those 52 fighters, we had the best of the best, and we had a group in there called the Hot Shots from Prineville, OR.

Well, that day we had a cold front that came through the mountain region, and that cold front delivered winds between 50 and 75 miles an hour. In my opinion, those winds, swirling up that particular canyon, were very unpredictable. It is my belief that this fire, once we complete our investigations, will show that many unforgiving circumstances came together at the same time to create this tragedy, to create this inferno on Storm King Mountain.

What happened, and let me refer to our diagram here, this is about the point of origin of where the first lightning took place. The fire expanded to about 30 acres, which would be about the area where my finger is right now. The winds came through, and, as I said, these winds were not predictable, especially at the velocity they were. In fact, I had a friend riding a horse about 6 miles away from the scene, and said that the dust was so fierce that he could hardly see the head of the horse as he was riding, and the wind velocity.

What happened was that the wind came into this canyon. An easy way to picture it is on your right hand you have the incline of the slope. On the left hand you have firefighters who are cutting down the slope a fireline. The fire is going down in this type of direction, and these firefighters are trying to cut this line. What happened is the wind came into the canyon, caught behind this fire, swirled the fire, and the fire was on the firefighters.

It was a devastating wind. The forest, as they say in firefighting terms, literally blew up. This fire went from a 30-acre fire to a 2,000-acre fire within a period of hours. It looked like a blow torch sitting on the mountain. Some of these firefighters never even knew what hit them.

Some of the firefighters were fortunate and were able to outrace the flames. But even some of those firefighters suffered very serious injuries.

In a matter of seconds, what appeared to be a minor fire under control by some of the most sophisticated, best-trained, hardest working firefighters in the world, turned into a chaotic tragedy of unbelievable consequences.

So as this fire expanded, there was an immediate threat, one, to the lives of the firefighters, and, two, this is Glenwood Springs over in this area. This community is surrounded by mountains that are vegetated very much, like Storm King Mountain. The entire community of Glenwood Springs, CO, was under imminent threat of total destruction. But these firefighters wanted to make sure that that did not happen.

Let us talk for just a few minutes about who these firefighters are. We know they are hard workers. They are young, for the most part. To climb these kind of rugged mountains in Colorado, Montana, Oregon, or anywhere in the West, you have got to be rugged. Frankly, you have got to be a pretty tough cookie. You have got to be well-trained. Because a timber fire is different from a grass fire, and a grass fire is different from a fire with oak brush, and an oak brush fire is different than a structural fire. They need to know those differences. They need to know how to use their tools. They need to know how to survive and fight fires under severe weather conditions.

But what I can tell you, because I was on the scene, I went up where the accident occurred, where the fatalities were incurred, and it is my conclusion after seeing that, and I used to be a police officer, a fireman, I am not going up without knowledge, it is my conclusion that those firefighters who lost their lives and those firefighters who were on the scene gave it their very best. They had a job to do, and I think that they did a good job. It is just that those unforgiving circumstances caught up with them.

Now, there is also always a point in time where people like to point fingers, where people like to say, did they do their job right? Did they do this? Did they do that? There will be plenty of time for investigations.

But right now, I am very comfortable in what I have just said, and that is that these rugged, tough, young, and, by the way, well-educated young firefighters, did the best job they knew how and the best job any of us could have asked them to do.

We had lots of participation in helping with this fire. Once the fire blew up, of course, it became the highest priority in the United States in regards to firefighting. Before the fire was over, we had 499 firepeople on the scene. We had tens of ambulances. We had hundreds of other volunteers from throughout the valley. We had thousands, literally thousands of volunteers, who came to Glenwood Springs to offer what they could to put out the fire on Storm King Mountain.

What about the victims? What about these firefighters who were, as I described earlier, young, vivacious, energetic, bright? Well, I am going to read to you tonight about these 14 people. I am going to start with Tami Bickett.

Tami Bickett, 25, didn't let anything interfere with her job as a squad leader for the Prineville Hot Shots.

Two years ago, she was injured fighting a fire. But Bickett, willful and determined, persuaded her doctor to let her go back to work.

"They put her in a supply office until she got better," said friend Laura Pyle. "She wanted to be back out on the line."

Bickett, who was engaged to marry Bob Lightly, was a strong, competitive athlete who loved the excitement of fighting fires, Pyle said.

"She didn't like to lose."

Bickett, of Powell Butte, Ore., joined the U.S. Forest Service in 1988.

"All Tami could ever talk about was wanting to be a firefighter," said another friend, Teresa Gentry.

She is survived by her parents, Gerald and Jan Bickett of Lebanon, Ore., a brother and sister, and her fiance.

"I'm going to do my own tribute to her in Oregon, where she grew up," Lightly said.

Next is Kathi Beck.

Kathi Beck, 24, lived on the edge.

"We were dubious at times," said her father, Ernest Walsleben. "But her love for adventure overpowered our concerns."

Beck, a member of the Prineville Hot Shots, did not fear the elements, her family said. She liked sky diving. She climbed mountains as close as Mount Hood and as far away as Thailand. She ran every day and went rock climbing as often as she could.

She loved children, and wanted to pass on her passion for the outdoors.

"Kathi was a free spirit. She was a beautiful person, and so kind," said her mother, Susan Walsleben of Boring, Ore. "I always thought she would be written up in history books because she was so unique."

Susan Walsleben thinks her daughter was inspired by her grandfather, who was a firefighter.

"Kathi always wanted to be a firefighter," she said.

Beck was a psychology major at the University of Oregon in Eugene, notching straight A's and trying to earn money to go to graduate school.

She is survived by her parents and two sisters. •

□ 2220

Robert Browning.

Robert Browning, 27, was a southerner fighting the West's worst fires.

Browing had moved to Grand Junction in the past month to join the Western Slope Helitack BLM Smoke Jumpers, firefighters who rappel from helicopters.

A resident of Jackson, S.C., he had been working as a firefighter at the Savannah River Site in George since 1982.

"His friends and his workmates speak of him as a No. 1 young man," his stepfather, Donald Lee Radford, told the *Augusta (GA.) Chronicle*.

"He was a dedicated Forest Service person. He loved his career. He loved serving people. He was just a good kid."

Browing is also survived by his-mother, Ruth, and two stepsisters.

Scott Blecha.

Scott Blecha, 27, an ex-Marine who had decided to give up firefighting in favor of engineering, was always the one who made everyone laugh.

He was an excellent athlete who worked as a life-guard and taught water aerobics, said his girlfriend, Kelly Armantrout. He enjoyed scuba diving. And he was ambitious.

He was student body vice president his senior year at Clatskanie High School in Oregon. He played offensive tackle on the football team and played clarinet in the band.

"He was a real go-getter," Armantrout said.

Blecha had lived in Clatskanie most of his life. He had just decided to go to graduate school after fighting fires this summer with the Prineville Hot Shots, said his father, Kirk Blecha.

"He said he wanted one more season."

Blecha died doing what he wanted to do, his father said.

"He was a man who made those kinds of decisions," Kirk Blecha said. "I love him a lot, but I want you to know he was a man doing what he liked to do. We're going to miss him immensely"

Levi Brinkley.

The triplets were born Oct. 21, 1971, in Burns, Ore. Levi and Seth and Joseph.

"Most people remember when they were born, these three wild little boys," said neighbor Carol McDonald.

When Levi Brinkley, 22, got word this spring that he'd made the elite Prineville Hot Shot crew, he quit his construction job in Boise, Idaho, and headed to Oregon.

He'd worked as a U.S. Forest Service firefighter in the Ochoco National Forest for two or three years, but he didn't plan to be a firefighter forever.

Blecha was earning money to complete his degree at Boise State University, where his two brothers live. He wanted to be a psychologist.

Brinkley was an avid skier, and one of his goals was to ski in Colorado.

"He and his brothers went to Utah last year," said his father, Ken Brinkley of Burns. "He said the next trip was in Colorado."

Doug Dunbar.

Doug Dunbar was only 22, but he'd been a firefighter for five years.

He knew a good fire crew, and the Prineville Hot Shots was the best, he told his father, Randy Dunbar.

Dunbar had called his father from Kingsley Air Field in Klamath Falls to say he was headed to Colorado to help put out a fire.

"I always wanted to keep track of him," said Randy Dunbar, who had assumed the next communication would be in person.

This was to be Dunbar's last season on the fire lines. He had one quarter left at Southern Oregon State College in Ashland to earn a degree in business administration.

"Doug was the kind of human being that society ought to have," Randy Dunbar said. "He was a good worker. He was a good, kindhearted kid, and any parent would be awfully proud to have a son like Doug."

Richard Tyler.

Rich Tyler, 33, foreman of an elite four-person crew with the Western Slope Helitack, narrowly escaped death in 1985, when a helicopter crashed at the west end of the Gunnison Gorge.

The helicopter pilot, Jim Daugherty of Grand Junction, and three firefighters were killed. Tyler was a member of that crew, but he had rotated out of the helicopter to the "chase truck" that day, said Rob Ferguson of the Grand Junction Fire Department.

"He escaped that one, only to have this one get him," Ferguson said. "It got him anyway. It just took a little longer."

Tyler once said his job—rappelling from helicopters to fight fires—was "no big deal."

He studied forestry at the University of Minnesota and worked on fire engine crews in the summer. He moved to Mesa County in 1985 to join the Helitack group because he thought it looked like fun.

Tyler was dedicated to firefighting, said Paul Hefner, director of the Western Slope Fire Coordination Center.

"I remember he was on a fire about a year ago. We had to drag him in when his son was born," said Hefner.

Tyler worked seasonally, from mid-May until September.

The time off served as "a cleansing period," he told the Grand Junction Daily Sentinel in March. "I get to spend time with my son, Andrew, and my wife."

Robert Johnson.

Rob Johnson, 26, and his 24-year-old brother, Tony, were on the same ridge on Storm King Mountain Wednesday as the fire roared at them. Tony Johnson barely outran the flames that claimed his brother.

Rob Johnson was a rare combination—a firefighter and an accountant. He spent his winters in Vail as a CPA, his summers in Prineville fighting fires with the Hot Shots.

A 1986 graduate of Roseburg High School, he graduated from Oregon State University in 1990.

His mother, Marie, is an elementary school teacher. His father, Gene, is a fire marshall with the Roseburg Fire Department.

Jon Kelso.

Jon Kelso, 27, loved the outdoors. A lifelong resident of Prineville, he was a crew chief for the Prineville Hot Shots.

Kelso had graduated from Oregon State University with a degree in wildlife biology. He was seeking an engineering degree from the Oregon Institute of Technology in Klamath Falls.

"It certainly has been quite a shock," said David Armstrong, owner of Armstrong Surveying and Engineering, where Kelso's brother, Greg, works as a surveyor.

"I know (Jon Kelso) enjoyed outdoor activities with his father and brother," Armstrong said.

Kelso's mother, Anita, is a Prineville real estate agent. His father, Marvin, is a sixth-grade teacher.

Don Mackey.

Montana smoke jumper Don Mackey, 34, died doing what he did best: fighting fires.

"There was none better," said his father, Robert Mackey, 62, of Corvallis, Mont. "He was one of those first and last guys (in a fire)."

Mackey, who had fought fires for 19 years, became a year-round smoke jumper in January. His last fire was deadly, but Mackey—the father of three—was a hero, said his ex-wife, Rene Mackey, 37.

"He was at the ridge where it had already burned, and he took one bunch of firefighters up and told them where to go," she said.

"He came back to get the rest of those firefighters and that's when he was taken over. He could have taken off and run, but he knew the situation and went back to save their lives."

Mackey's best friend, Kevin Erickson of Missoula, Mont., was on Storm King Mountain. He survived.

An avid hunter and fisherman, Mackey took his kids—13-year-old Cara, 4-year-old Bob and Leslianne, who turned 6 the day after Mackey died—horseback riding and taught them to shoot. This year, for the first time, he obtained a moose hunting license.

Don Mackey knew the risks. But he never thought he would die fighting a fire, Rene Mackey said.

"He always thought he would grow old."

□ 2230

James Thrash.

James Thrash was the best of the best.

The oldest and most experienced firefighter to die on Storm Creek Mountain, Thrash, 44, had been a smoke jumper for 15 years. He was based in McCall, Idaho.

"I find it very hard to believe that something caught him off guard," said John Humphries, training and operations foreman in McCall.

"People looked to him for advice and leadership on fires."

He called Thrash an "avid outdoorsman, very skillful and knowledgeable about taking care of himself outdoors."

Thrash operated a guide business. He owned pack horses and led hunting and camping expeditions into the Payette National Forest.

He leaves his wife, Holly, and a son and a daughter, both grade-schoolers.

Roger Roth.

Roger Roth, 30, couldn't get enough of fighting fires.

He was a smoke jumper based in McCall, Idaho, during the western fire season.

During the winter, he headed to Florida to fight wildfires there.

Roth, who wasn't married, had been a smokejumper for three years.

Bonnie Holtby.

Bonnie Holtby, 21, was the youngest victim of the Canyon Creek Fire.

Holtby was a high school distance runner who was long on desire but wasn't the fastest athlete on the team.

"She wasn't gifted with a great deal of speed," said Jim Erickson, who coaches the Redmond High School track teams. "But she worked hard for everything she got. She had that really strong character and integrity."

Holtby also ran for the cross-country team in the fall and played basketball as a 5-foot-8 forward in the winter. In the spring, she ran 3,000-meter races and threw the shot put for the track team.

"Some kids gain a lot of success just by sheer talent," Erickson said. "Bonnie didn't have that talent, but she was a dedicated, hard worker. She was special that way."

Holtby had followed her father, uncle and grandfather into firefighting, seeking the same thrill she got from athletics, said her mother, Jeannie Holtby of Redmond.

She is survived by her mother and father; brother, Ben; and a sister, Stacy.

Terri Hagen.

Terri Ann Hagen, 28, another Prineville Hot Shot, spent her holidays and summers working at Central Oregon District Hospital in Redmond, drawing and collecting blood in the laboratory.

A 1984 high school graduate, she was just shy of completing her degree in entomology, the study of insects, at Oregon State University.

"She was always bringing these strange and exotic insects into the lab," said Steven O'Connell, manager of the hospital lab. "My kids still have some at home."

He described Hagen as a woman who liked to live life to the fullest. He said she was excited about joining the Hot Shots this year.

She leaves her husband, Cliff Hagen.

These names and the people that I have just discussed with you will forever have their names etched in the side of Storm King Mountain.

What about the rescue and the recovery efforts? There are an awful lot of people to thank for the efforts and for saving Glenwood Springs from what appeared to be imminent destruction by fire.

I arrived at the scene and went up to the scene of the fatalities, and I can tell you that upon getting out of that helicopter, it looked like you were peeking inside the door of hell.

We had many people who spent a lot of time. We had the Glenwood Springs Fire Department, their fire chief, Jim Mason, and his wife, Renee, both longstanding and welcome members of the community.

We had Levi Buris, and Levi was the undersheriff of Garfield County, and I think he went 3 or 4 days without sleeping. He wanted to bring those men and women home. He did not want any more destruction.

We had the Holub brothers, Rick and Jeff, who were part of the search and rescue crew, who have spent 16 years on search and rescue in that area.

We had Steve Ocho, the same thing, dedicated his life to search and rescue, and would not come off those mountains until they knew they were able to bring these men and women home.

There was Tray Holt, who assisted as the assistant coroner in Garfield County, a very compassionate and kind man.

There were the helicopter crews, lots of helicopter crews, and as you know if you have read the news recently, in the last weekend we lost a helicopter just over the mountain with two rescuers, the helicopter pilot and a nurse.

In New Mexico just 2 days ago we had a helicopter go down that killed three firemen. Helicopter crews take a high risk, but they are very good at what they do, and they know how to do it.

We had lots of volunteer firemen, men and women from across the valley. I will bet we had 25 departments, maybe even 50 departments, that sent tanks and crews and backup and food and supplies to Glenwood Springs to fight the Storm King fire.

Our Governor, Governor Romer, arrived on the scene and did, in my opinion, a tremendous job in assisting the families and the victims and the survivors.

Our own mayor, Glenwood Springs mayor, Bob Zanelli, who said that "These 14 lost firefighters are ours. They are a part of us, and they will remain a part of us throughout our history."

There was the chairman of the Garfield County Commissioners, Marion Smith; the Bureau of Land Management; the Forest Service; all of the different agencies that came together to take on this monster.

Finally we slayed the monster, but not before the monster slayed 14 of our own.

I had an opportunity, Mr. Speaker, truly a privilege, to go to Prineville, OR, for the memorial service. Prineville is a beautiful community, a wonderful golf course, a small town, very, very similar to Glenwood Springs, CO; good people, small town America to small town America.

Prineville sent their youth to our community so that the youth of our community could have a tomorrow. There were lots of people in these communities, both in Prineville and down in Glenwood Springs, that supported the efforts of trying to conquer the monster.

We had donations of everything from chocolate chip cookies to private jets. We had pizza come down from Aspen, from Andre's, the local pizza place, who sent in lots of pizza.

Norm and Rose Gould, the Goulds provided expresso. Can you imagine, our headquarters was at the middle school in Glenwood Springs and our firefighters for 4 or 5 days, 24 hours a day, either Norm or Rose were there serving them expresso coffee, cappuchino, on order.

There were meals that the restaurants sent in by the hundreds, motel and hotels that voluntarily gave away their rooms; the Wal-Marts, the other clothing stores, Anderson's sent pants and smocks, all of these retail clothing stores that would donate clothes, donate boots, whatever we could do to accumulate our efforts in the battle against that fire.

At the hospital we had a tremendous amount of volunteers, and of course we had very qualified medical personnel. John Johnson and Trish out there, who run the hospital, did an excellent job. We had excellent response by the emergency squads.

We had a woman who carried around a sign at the headquarters, and the sign said "God bless our firefighters." We had prayers from every faith.

In memory of the 14 firefighters, the city of Glenwood Springs has on one of its mountains a cross. That cross is lit usually every holiday, and it has been lit three times, for three different tragedies: this tragedy; when the gas company blew up in about 1986; and the coal company in about 1981 had an explosion, and that cross was lit for all three occasions. In memory of these 14 firefighters, that cross will remain lit for 14 days.

We had lots of help, lots of good help to take on this fire.

□ 2240

What about the investigation? A lot of us asked the same question. How did it happen? Why did it happen? Why did we have to pay such a heavy price of 14 young, bright, capable men and women? Was it because they had made a mistake?

In my opinion, no. I told you earlier I think they did a good job. I think they worked hard. They were tough cookies. they were not a bunch of rookies on the side of a vicious mountain in Colorado. They were pros.

We are going to have investigations, but I urge people across the country to hold off and let the investigations run their due course. What we want to learn from those investigations is not who to point fingers at, what we want to learn from those investigations is how do we avoid this kind of tragedy in the future and what kind of technology improvements can we have. What type of different strategies can we use so that hopefully in our history this never repeats itself.

What about the future? The future I think holds a lot for Oregon and for Colorado, thanks to the valiant efforts of these firefighters, not only the ones who lost their lives, but also the firefighter who survived, those Hotshot crews, and that is the name of them, out of Primeville who will be back fighting fires very soon. Many of the crews that were on that fire and pulled off that fire after we got it out are now on other fires throughout the West. It is a job that is endless. It is a job that will have a high price to pay at some point in the future.

We need to give these people the best support we can. Being a firefighter is an admirable job, but it needs support. They need support from their community.

Let me conclude with just two things. First, let me read an article about the final journey of the 14 who lost their lives on Storm King Mountain. It is entitled "Bodies of 9 Firefighter Make Journey to Oregon."

[From the Denver Post, July 13, 1994]

BODIES OF 9 FIREFIGHTERS MAKE JOURNEY TO OREGON

(By Mark Eddy and Ellen Miller)

GLENWOOD SPRINGS.—Under a cross illuminated in their honor, nine Oregon firefighters who were killed trying to smother a blaze that threatened this town journeyed home yesterday.

The caskets, draped in Colorado state flags, were loaded into nine hearses adorned with purple bows and driven to Grand Junction, where they were put on a U.S. Forest Service DC-3 smoke-jumping plane and flown home to Oregon.

The nine "hotshots". were among 14 firefighters killed a week ago when the fire on Storm King Mountain west of Glenwood Springs suddenly flared out of control. The fire, which burned more than 2,000 acres, was finally brought under control by more than 500 firefighters Monday night.

The cross, on a ridge above town, was illuminated Friday and will stay lit for 14 days in honor of the 14 firefighters.

District Ranger Dick Godwin of the U.S. Bureau of Land Management led the solemn procession. He said there were people at the Canyon Creek exit near the fire site and others down the road at Newcastle standing by to pay their respects.

Six firefighters—four men and two women—were pallbearers, transferring each of the caskets from hearses to the plane. All six wore the standard firefighter flame-resistant uniform of yellow shirts and green pants.

The only sounds were the roars of slurry bombers taking off from Walker Field for morning strikes on the many fires burning on the Western slope.

As the DC-3 lifted off from the runway at about 9 a.m., several firefighters removed their helmets and waved.

"It makes you think a lot about safety, and about how serious a job this is," said Chad Ford, a firefighter from Minturn. "It really, really makes you think."

The plane made four stops in Oregon. Six of the dead were returned to Redmond in central Oregon, where the elite team of hotshot firefighters was based. Eleven firefighters who survived the blaze and about 50 friends and relatives were on hand for a somber ceremony punctuated only by sobs and the playing of taps.

"This is the worst part of the deal, right here," said Bryan Scholz, one of the survivors. "It's going to be good having them back home, but not being able to shake their hands is a raw deal."

The six brought to Redmond were Kathi Beck of Eugene; Tami Bickett of Powell Butte; Rob Johnson of Redmond; and Terri Hagen, Bonnie Holtby and Jon Kelso of Prineville.

Earlier, at the eastern Oregon town of Burns, a crowd of about 350 fell silent as the plane approached. A minister read the Lord's Prayer.

The plane later stopped in Eugene, where 40 ribbon-wearing spectators awaited the return of the body of Doug Dunbar of McKenzie Bridge.

The hearse was led by motorcycle police and followed by several squad cars. Fire engines were stationed along the route to the funeral home.

The plane's final stop was in Troutdale, east of Portland, with the body of Scott Blecha of Clatskanie.

The bodies of the other firefighters killed in the blaze were returned home last week.

Today I had the privilege and honor to write to Gov. Barbara Roberts, Governor of the State of Oregon, Senator MARK HATFIELD, U.S. Senator of the State of Oregon and Senator PACKWOOD, U.S. Senator from the State of Oregon and the Honorable ROBERT SMITH, U.S. House of Representatives in whose district Prineville and these other communities are located. I wrote as follows:

To the People of Oregon:

On July 6th, 1994, several of Oregon's finest citizens gave their lives in the line of duty to protect the community of Glenwood Springs, Colorado from devastation as a result of a horrible, unpredictable fire. The pain and loss felt by the fine state of Oregon and by the family and friends of the firefighters is shared by the people of Colorado.

Such bravery, as shown by these firefighters and those firefighters who survived, is the standard by which the term "hero" should be defined.

With deep gratitude, the people of Colorado and I would like to thank the state of Oregon. We will reserve in our memory and thoughts a special place, so that future generations will recognize the price paid.

A beautiful and moving memorial will be placed in the Glenwood area within the near future.

Finally, Mr. Speaker, years ago I lost a very, very close friend of mine, and I can remember his grandfather, an old cowboy. His grandfather came down to me, and I was in grief, and he put his hand on my shoulder and he said to me, "Scott, E.J. has just ridden ahead on the trail to set up camp and put on the coffee." These 14 heroes have just ridden ahead on the trail.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Miss COLLINS of Michigan (at the request of Mr. GEPHARDT), for today before 11 a.m., on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GOSS) to revise and extend their remarks and include extraneous material:)

Mr. WELDON, for 5 minutes, today.
Mr. DUNCAN, for 5 minutes, today.

(The following Members (at the request of Mr. UNDERWOOD) to revise and extend their remarks and include extraneous material:)

Mr. BONIOR, for 5 minutes, today.
Mr. OWENS, for 5 minutes, today.
Mr. SABO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GOSS) and to include extraneous matter:)

Mr. GILMAN.
Mrs. VUCANOVICH.
Mr. ZELIFF.
Mr. WELDON.
Mr. QUINN.
Mr. SMITH of Texas.
Mr. SOLOMON in four instances.

(The following Members (at the request of Mr. UNDERWOOD) and to include extraneous matter:)

Mr. HAMILTON in three instances.
Mrs. THURMAN in two instances.
Mr. HASTINGS.
Mr. MANN.
Mr. CLYBURN in four instances.
Mr. MARKEY.
Mr. LANTOS.
Mr. BROWN of California.
Mr. HINCHEY.
Mr. CARR of Michigan.
Mr. BROWN of California.
Mrs. MALONEY.
Mrs. SCHROEDER.
Mr. STUDDS.
Mr. SPRATT.
Mr. RICHARDSON.

(The following Members (at the request of Mr. MCINNIS) and to include extraneous matter:)

Mr. LEACH.
Mr. PAXON.
Mr. POMEROY.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1703. An act to expand the boundaries of the Piscataway National Park, and for other purposes; to the Committee on Natural Resources.

SENATE ENROLLED BILLS AND A JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following titles:

S. 273. An act to remove certain restrictions from a parcel of land owned by the City of North Charleston, South Carolina, in order to permit a land exchange, and for other purposes.

S. 1402. An act to convey a certain parcel of public land to the county of Twin Falls, Idaho, for use as a landfill, and for other purposes.

S.J. Res. 187. Joint resolution designating July 16 through July 24, 1994, as "National Apollo Anniversary Observance."

ADJOURNMENT

Mr. McINNIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 48 minutes p.m.) the House adjourned until tomorrow, Thursday, July 14, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3508. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a memorandum of justification for Presidential determination regarding the drawdown of defense articles and services for the Dominican Republic, pursuant to 22 U.S.C. 2318(b)(2); to the Committee on Foreign Affairs.

3509. A letter from the Director, Office of Management and Budget, transmitting a report by OMB for pay-as-you-go calculations for Public Law No. 103–275 (H.R. 4568), pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on Government Operations.

3510. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of their intent to disburse funds for purposes of Nonproliferation and Disarmament Fund activities, pursuant to 22 U.S.C. 5858; jointly, to the Committees on Foreign Affairs and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 3499. A bill to amend the Defense Department Overseas Teachers Pay and Personnel Practices Act; with an amendment (Rept. 103–598, Pt. 1). Ordered to be printed.

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 2721. A bill to amend title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967 to improve the effectiveness of administrative review of employment discrimination claims made by Federal employees, and for other purposes; with an amendment (Rept. 103–599 Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. STUDDS (for himself, Mrs. UNSOELD, and Mr. WYDEN):

H.R. 4734. A bill to require consultations, assessments, and monitoring of the effects of major trade actions on the environment generally, including fish, wildlife, endangered species, and other natural resources; jointly, to the Committees on Ways and Means and Merchant Marine and Fisheries.

By Mr. RUSH:

H.R. 4735. A bill to amend section 14 of the United States Housing Act of 1937 to authorize public housing agencies to use comprehensive modernization grant amounts to leverage amounts to replace and modernize public housing; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ROSE (by request):

H.R. 4736. A bill to establish in the Treasury of the United States the Library of Congress Revolving Fund, and for other purposes; jointly, to the Committees on House Administration and the Judiciary.

By Mr. WYDEN (for himself, Mr. STUDDS, and Mrs. UNSOELD):

H.R. 4737. A bill to modify the negotiating objectives of the United States for future trade agreements, and for other purposes; to the Committee on Ways and Means.

By Mr. BOEHNER (for himself, Mr. BLUTE, Mr. GOSS, Mr. INGLIS of South Carolina, Mr. PORTMAN, Mr. GREENWOOD, and Mr. ROBERTS):

H.R. 4738. A bill to reduce the official mail allowance of Members of the House and to prohibit certain other mailing practices, and for other purposes; jointly, to the Committees on Post Office and Civil Service and House Administration.

By Mrs. BYRNE:

H.R. 4739. A bill to extend certain requirements and standards under the Occupational Safety and Health Act of 1970 to the legislative branch; jointly, to the Committees on Education and Labor and House Administration.

By Mr. DEUTSCH:

H.R. 4740. A bill to require the Administrator of General Services to convey to the city of Key West, FL, each of 2 parcels of land of the Naval Air Station Key West in Key West, FL, at such time as the parcel is reported to the Administrator as excess to the needs of the Department of the Navy; to the Committee on Government Operations.

By Mr. UNDERWOOD:

H.R. 4741. A bill to amend the Organic Act of Guam to provide for restitution to the people of Guam who suffered atrocities such as personal injury, forced labor, forced marches, internment, and death during the occupation of Guam in World War II, and for other purposes; jointly, to the Committees on Natural Resources and the Judiciary.

By Mr. HERGER:

H.R. 4742. A bill to declare a state of emergency on Federal lands within the State of California for the immediate reduction in forest fuels for the prevention of catastrophic wildfire; jointly, to the Committees on Natural Resources and Agriculture.

By Mr. KINGSTON:

H.R. 4743. A bill to provide that carriage of an item of equipment to be used under a Federal contract for cleaning up radioactive waste from the production of nuclear weapons is not coastwise trade; to the Committee on Merchant Marine and Fisheries.

By Ms. LAMBERT (for herself, Mr. THORNTON, Mr. EMERSON, Mr. STENHOLM, Mr. McCLOSKEY, Mr. MYERS of Indiana, Mr. HILLIARD, and Mr. BAKER of Louisiana):

H.R. 4744. A bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture commercialization research program, and for other purposes; to the Committee on Agriculture.

By Mr. MARKEY (for himself and Mr. SYNAR):

H.R. 4745. A bill to provide a framework for Securities and Exchange Commission supervision and regulation of derivatives activities, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MILLER of California (by request):

H.R. 4746. A bill to provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes; to the Committee on Natural Resources.

By Mr. MORAN:

H.R. 4747. A bill to amend the Internal Revenue Code of 1986 to allow claims for credits and refunds in certain cases where the statute of limitations is open for the assessment of a deficiency; to the Committee on Ways and Means.

H.R. 4748. A bill to amend the Internal Revenue Code of 1986 to allow the Internal Revenue Service to prescribe and update a standard mileage rate for the charitable use of a passenger automobile; to the Committee on Ways and Means.

By Ms. ROS-LEHTINEN (for herself and Mr. DIAZ-BALART):

H.R. 4749. A bill to provide for adjustment of status of certain Nicaraguans; to the Committee on the Judiciary.

By Mr. SHARP:

H.R. 4750. A bill to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively, and for other purposes; to the Committee on Energy and Commerce.

H.R. 4751. A bill to reauthorize appropriations for the weatherization program under section 422 of the Energy Conservation and Production Act; to the Committee on Energy and Commerce.

H.R. 4752. A bill to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively, and for other purposes; to the Committee on Energy and Commerce.

By Mr. TORRICELLI:

H.R. 4753. A bill to provide for the safety of journeymen boxers, and for other purposes; jointly, to the Committees on Education and Labor and Energy and Commerce.

By Mr. YOUNG of Alaska:

H.R. 4754. A bill to provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes; to the Committee on Natural Resources.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 140: Mr. LUCAS and Mr. ANDREWS of New Jersey.

H.R. 171: Mr. WELDON.

H.R. 214: Mr. KYL.

H.R. 216: Ms. MARGOLIES-MEZVINSKY.

H.R. 291: Mr. BACCHUS of Florida, Mr. MANTON, Mr. FOGLIETTA, and Mr. GEKAS.

H.R. 302: Mr. ENGEL and Mr. STRICKLAND.

H.R. 326: Mr. POMBO, Mr. HALL of Texas, Mrs. COLLINS of Illinois, Mr. MCHUGH, Mr. PETE GEREN of Texas, Ms. MOLINARI, and Mr. ORTIZ.

H.R. 559: Ms. FURSE.

H.R. 743: Ms. MARGOLIES-MEZVINSKY.

H.R. 832: Mr. MCHUGH.

H.R. 911: Mr. LIVINGSTON.

H.R. 1009: Mrs. BYRNE.

H.R. 1110: Mr. WELDON.

H.R. 1295: Mr. KILDEE.

H.R. 1417: Mr. FROST, Mr. OWENS, and Mr. ANDREWS of Maine.

H.R. 1563: Mr. BLUTE.

H.R. 1737: Mr. WILSON.

H.R. 1887: Ms. MARGOLIES-MEZVINSKY.

H.R. 2043: Mr. FORD of Tennessee.

H.R. 2132: Mr. KASICH.

H.R. 2292: Mr. SWETT, Mr. STEARNS, and Mr. FRANK of Massachusetts.

H.R. 2512: Mr. ROYCE.

H.R. 2898: Mr. SABO.

H.R. 2930: Mr. ENGEL.

H.R. 2959: Mr. TALENT.

H.R. 3271: Mr. POMBO.

H.R. 3309: Mr. DARDEN, Mrs. SCHROEDER, and Mr. FILNER.

H.R. 3407: Mr. BAKER of California and Mr. ABERCROMBIE.

H.R. 3490: Mr. HINCHEY.

H.R. 3560: Mr. POMBO.

H.R. 3594: Mr. KINGSTON.

H.R. 3705: Mr. PETRI, Mr. GALLEGLY, Mr. JEFFERSON, and Mr. BARCIA of Michigan.

H.R. 3722: Mr. LEVY, Mr. FROST, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 3771: Mr. ENGEL.

H.R. 3827: Mr. ENGEL.

H.R. 3943: Mr. BACHUS of Alabama.

H.R. 3951: Mr. MINGE, Mr. BACHUS of Alabama, Mr. BATEMAN, and Mr. BROWDER.

H.R. 3990: Mr. ANDREWS of Maine, Mr. KLECZKA, Mr. LEVY, and Ms. SHEPHERD.

H.R. 3994: Mr. HUFFINGTON.

H.R. 4042: Mr. GUTIERREZ.

H.R. 4056: Mr. CONDIT, Mr. SANTORUM, Mr. PAYNE of Virginia, and Mr. CALVERT.

H.R. 4057: Mr. MACHTLEY, Mr. GALLEGLY, Mr. CALVERT, Mr. WELDON, Mr. BLUTE, Mrs. FOWLER, Mr. ZELIFF, Mr. BARRETT of Nebraska, and Mr. EMERSON.

H.R. 4077: Mr. HAYES.

H.R. 4135: Mr. REGULA, Mr. LEVIN, Mr. CAMP, Mr. STUPAK, and Mr. HOEKSTRA.

H.R. 4189: Mr. BEILENSON, Ms. PRYCE of Ohio, and Mr. ROHRABACHER.

H.R. 4230: Mr. PASTOR.

H.R. 4260: Mr. WASHINGTON, Mr. LEWIS of California, Mr. GEKAS, Mr. HUGHES, Ms. WOOLSEY, and Ms. MOLINARI.

H.R. 4263: Ms. BROWN of Florida.

H.R. 4271: Mr. CHAPMAN.

H.R. 4298: Mr. MAZZOLI.

H.R. 4316: Mr. EVANS.

H.R. 4365: Mr. BACHUS of Alabama and Mr. LIVINGSTON.

H.R. 4402: Mr. FILNER.

H.R. 4404: Mr. GRANDY, Mr. HALL of Ohio, Mr. STARK, Ms. PRYCE of Ohio, and Mr. OLVER.

H.R. 4411: Ms. KAPTUR, Mr. BERMAN, and Mr. MARTINEZ.

H.R. 4421: Mr. HERGER.

H.R. 4467: Ms. KAPTUR.

H.R. 4495: Mr. LAFALCE, Mr. EVANS, and Mr. SYNAR.

H.R. 4514: Mr. CUNNINGHAM and Mr. STUDDS.

H.R. 4517: Mr. STUPAK, Mr. FRANK of Massachusetts, and Mr. COLEMAN.

H.R. 4612: Mr. ROHRABACHER.

H.R. 4636: Mr. SWIFT, Mr. FINGERHUT, Mr. FISH, Mrs. JOHNSON of Connecticut, Mr. RICHARDSON, Mrs. BYRNE, Mr. WHEAT, Mrs. KENNELLY, and Mr. FALEOMAVAEGA.

H.R. 4643: Mr. CALLAHAN.

H.J. Res. 44: Mr. ZIMMER.

H.J. Res. 90: Ms. BROWN of Florida, Mr. CLYBURN, and Ms. MCKINNEY.

H.J. Res. 113: Mr. HASTERT.

H.J. Res. 311: Mr. ANDREWS of Maine, Mr. GIBBONS, Mr. GINGRICH, Mr. GRANDY, Mr. ROBERTS, Mr. ROWLAND, and Mr. TORRES.

H. Con. Res. 6: Mr. MCCURDY and Mr. MCKEON.

H. Con. Res. 122: Mr. ZIMMER.

H. Con. Res. 148: Mr. REGULA and Mr. GEKAS.

H. Con. Res. 243: Mrs. FOWLER, Mr. DURBIN, and Mr. YOUNG of Florida.

H. Con. Res. 250: Mr. ABERCROMBIE, Mr. BROWN of California, Mr. DELLUMS, Mr. EVANS, Mr. FILNER, Ms. FURSE, Mr. GUTIERREZ, Ms. Eddie BERNICE JOHNSON of Texas, Mr. JOHNSON of South Dakota, Ms. SLAUGHTER, and Mr. WAXMAN.

H. Res. 473: Ms. SLAUGHTER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3222: Mr. GOSS.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions, and papers were laid on the Clerk's desk and referred as follows:

102. By the SPEAKER: Petition of the Commissioner of Public Lands, Olympia, WA, relative to public lands; to the Committee on Natural Resources.

103. Also, petition of the Commissioner of Public Lands, Olympia, WA, relative to conservation, preservation and restoration of America's biodiversity; to the Committee on Merchant Marine and Fisheries.

104. Also, petition of the Commissioner of Public Lands, Olympia, WA, relative to transboundary natural resources along the Mexican border; jointly, to the Committee on Natural Resources and Foreign Affairs.

105. Also, petition of the Commissioner of Public Lands, Olympia, WA, relative to pollutants on State land; jointly, to the Committees on Public Works and Transportation and Merchant Marine and Fisheries.

AMENDMENTS

Under Clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3937

By Mr. BERMAN:

(PURSUANT TO THE RULE, PAGE AND LINE NUMBERS ARE TO H.R. 4663)

—Page 236, insert the following after line 6:

(i) REGULATION OF EXPORT OF CERTAIN COMMERCIAL COMMUNICATIONS SATELLITES AND ASSOCIATED EQUIPMENT.—

(1) REGULATION SOLELY UNDER THIS TITLE.—Notwithstanding any other provision of law, the export of commercial communications satellites, including any integral components of such satellites, which are designed for civil applications, when exported as part of a satellite system for purposes of launch, shall be regulated under this title, except that this paragraph shall not apply to cryptographic components of such satellites, ground stations, and test equipment, that are controlled under the Arms Export Control Act. The Secretary shall consult with the Secretary of Defense and the Secretary of State to determine the satellites and components to which this paragraph applies. The Secretary, inconsultation with the Secretary of State and the Secretary of Defense, shall prohibit the unauthorized transfer of missile equipment, data, or technology that are components of any such satellite which is authorized for export.

(2) PRESIDENTIAL DETERMINATIONS.—An item described in paragraph (1) that is regulated under this title may be subject to control under the Arms Export Control Act if the President—

(A) determines that extraordinary circumstances exist affecting the national security of the United States, which require that the item be controlled under the Arms Export Control Act;

(B) proposes to COCOM that the item be added to the International Munitions List; and

(C) not later than 10 days after making the determination under subparagraph (A), submits a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, describing in detail the reasons for the determination, in appropriate classified form, as necessary.

(3) AMENDMENT TO ARMS EXPORT CONTROL ACT.—Section 38(a) of the Arms Export Control Act (22 U.S.C. 2778(a)) is amended—

(A) in paragraph (3), by striking "In exercising the authorities" and inserting "Except as provided in paragraph (4), in exercising the authorities"; and

(B) by adding at the end the following new paragraph:

"(4) The export of commercial communications satellites, when exported as part of a satellite system for purposes of launch, may be regulated only by the Secretary of Commerce under the Export Act of 1994, pursuant to section 117(i)(1) of that Act.".

(4) APPLICABILITY.—The amendments made by this subsection shall apply only with respect to the export of satellites on or after the date of the enactment of this Act.

By Mr. CUNNINGHAM;

—Page 208, add the following after line 23:

(s) SPECIAL ROLE OF SECRETARY OF DEFENSE.—Notwithstanding any other provision of this title, the Secretary of Defense shall have the authority under this title to prohibit any export of commodities or technology to North Korea, Iran, Iraq, Syria, Libya, or Cuba.

By Mr. GEJDENSON:

—Add at the end of the bill the following new title:

TITLE III—ENVIRONMENTAL EXPORT PROMOTION

SEC. 301. SHORT TITLE.

This title may be cited as the "Environmental Export Promotion Act of 1994"

SEC. 302. PROMOTION OF UNITED STATES ENVIRONMENTAL EXPORTS.

(a) ENVIRONMENTAL TECHNOLOGIES TRADE ADVISORY COMMITTEE.—Section 2313 of the Export Enhancement Act of 1988 (15 U.S.C. 4728) is amended—

(1) by striking subsection (d);

(2) by redesignating subsection (c) as subsection (e); and

(3) by inserting after subsection (b) the following:

"(c) Environmental Technologies Trade Advisory Committee.—

"(1) Establishment and Purpose.—The Secretary, in carrying out the duties of the chairperson of the TPCC, shall establish the Environmental Technologies Trade Advisory Committee (hereafter in this section referred to as the 'Committee'). The purpose of the Committee shall be to provide advice and guidance to the Working Group in the development and administration of programs to expand United States exports of environmental technologies, goods, and services.

"(2) Membership.—The members of the Committee shall be drawn from representatives of—

"(A) environmental businesses, including small businesses;

"(B) trade associations in the environmental sector;

"(C) private sector organizations involved in the promotion of environmental exports;

"(D) States (as defined in section 2301(i)(5)) and associations representing the States; and

"(E) other appropriate interested members of the public.

"The Secretary shall appoint as members of the Committee at least 1 individual under each of subparagraphs (A) through (E).

"(d) Export Plans for Priority Countries.—

"(1) Priority country identification.—The Working Group, in consultation with the Committee, shall annually assess which foreign countries have markets with the greatest potential for the export of United States environmental technologies, goods, and services. Of these countries the Working Group shall select as priority countries 5 with the greatest potential for the application of United States Government export promotion resources related to environmental exports.

"(2) Export plans.—The Working Group, in consultation with the Committee, shall annually create a plan for each priority country selected under paragraph (1), setting forth in detail ways to increase United States environmental exports to such country. Each such plan shall—

"(A) identify the primary public and private sector opportunities for United States exporters of environmental technologies, goods, and services in the priority country;

"(B) analyze the financing and other requirements for major projects in the priority country which will use environmental technologies, goods, and services, and analyze whether such projects are dependent upon financial assistance from foreign countries or multilateral institutions; and

"(C) list specific actions to be taken by the member agencies of the Working Group to increase United States exports to the priority country.".

(b) Additional Mechanisms To Promote Environmental Exports.—Section 2313 of the Export Enhancement Act of 1988 is further amended by adding at the end the following:

"(f) Environmental Technologies Specialists in the United States and Foreign Commercial Service.—

"(1) Assignment of environmental technologies specialists.—The Secretary shall assign a specialist in environmental technologies to the office of the United States and Foreign Commercial Service in each of the 5 priority countries selected under subsection (d)(1), and the Secretary is authorized to assign such a specialist to the office of the United States and Foreign Commercial Service in any country that is a promising market for United States exports of environmental technologies, goods, and services. Such specialist may be an employee of the Department, an employee of any relevant United States Government department or agency assigned on a temporary or limited term basis to the Commerce Department, or a representative of the private sector assigned to the Department of Commerce.

"(2) Duties of environmental technologies specialists.—Each specialist assigned under paragraph (1) shall provide export promotion assistance to United States environmental businesses, including, but not limited to—

"(A) identifying factors in the country to which the specialist is assigned that affect the United States share of the domestic market for environmental technologies, goods, and services, including market barriers, standards-setting activities, and financing issues;

"(B) providing assessments of assistance by foreign governments that is provided to producers of environmental technologies, goods, and services in such countries in order to enhance exports to the country to which the specialists is assigned, the effectiveness of such assistance on the competitiveness of United States products, and whether comparable United States assistance exists;

"(C) training Foreign Commercial Service Officers in the country to which the specialist is assigned, other countries in the region, and United States and Foreign Commercial Service offices in the United States, in environmental technologies and the international environmental market;

"(D) providing assistance in identifying potential customers and market opportunities in the country to which the specialist is assigned;

"(E) providing assistance in obtaining necessary business services in the country to which the specialist is assigned;

"(F) providing information on environmental standards and regulations in the country to which the specialist is assigned; and

"(G) providing information on all United States Government programs that could assist the promotion, financing, and sale of United States environmental technologies, goods, and services in the country to which the specialist is assigned.

"(g) Environmental Training in One-Stop Shops.—In addition to the training provided under subsection (f)(2)(C), the Secretary shall establish a mechanism to train—

"(1) Commercial Service Officers assigned to the one-stop shops provided for in section 2301(b)(8), and

"(2) Commercial Service Officers assigned to district offices in districts having large numbers of environmental businesses,

in environmental technologies and in the international environmental marketplace, and ensure that such officers receive appropriate training under such mechanism. Such training may be provided by officers or employees of the Department of Commerce, and other United States Government departments and agencies, with appropriate expertise in environmental technologies and the international environmental workplace, and by appropriate representatives of the private sector.

"(h) International Regional Environmental Initiatives.—

"(1) Establishment of initiatives.—The TPCC shall establish one or more international regional environmental initiatives the purpose of which shall be to coordinate the activities of Federal departments and agencies in order to build environmental partnerships between the United States and the geographic region outside the United States for which such initiative is established. Such partnerships shall enhance environmental protection and promote sustainable development by using in the region technical expertise and financial resources of United States departments and agencies that provide foreign assistance and by expanding United States exports of environmental technologies, goods, and services to the region.

"(2) Activities.—In carrying out each international regional environmental initiative, the TPCC shall—

"(A) support, through the provision of foreign assistance, the development of sound environmental policies and practices in countries in the geographic region for which the initiative is established, including the development of environmentally sound regulatory regimes and enforcement mechanisms;

"(B) identify and disseminate to United States environmental businesses information regarding specific environmental business opportunities in the geographic region;

"(C) coordinate existing Federal efforts to promote environmental exports to that geographic region, and ensure that such efforts are fully coordinated with environmental export promotion efforts undertaken by the States and private sector;

"(D) increase assistance provided by the Federal Government to promote exports from the United States of environmental technologies, goods, and services to that geographic region, such as trade missions, reverse trade missions, trade fairs, and programs in the United States to train foreign nationals in United States environmental technologies; and

"(E) increase high-level advocacy by United States Government officials (including the United States ambassadors to the countries in that geographic region) for United States environmental businesses seeking market opportunities in the geographic region.

"(i) Environmental Technologies Project Advocacy Calendar and Information Dissemination Program.—The Working Group shall maintain a calendar, updated at the end of each calendar quarter, of significant opportunities for United States environmental businesses in foreign markets and trade promotion events, which shall be made available to the public. Such calendar shall—

"(1) identify the 50 to 100 environmental infrastructure and procurement projects in foreign markets that have the greatest potential in the calendar quarter for United States exports of environmental technologies, goods, and services; and

"(2) include trade promotion events, such as trade missions and trade fairs, in the environmental sector.

The Working group shall also provide, through the National Trade Data Bank and other information dissemination channels, information on opportunities for environmental businesses in foreign markets and information on Federal export promotion programs.

"(j) Regional Centers.—The Secretary, through the Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service, is authorized to provide matching funds for the establishment in the United States of regional environmental business and technology cooperation centers that will draw upon the expertise of the private sector and institutions of higher education and existing Federal programs to provide export promotion assistance related to environmental technologies, goods, and services.

"(k) Definition.—For purposes of this section, the term 'environmental business' means a business that produces environmental technologies, goods, services.".

By Mr. GILMAN:

—Page 208, insert the following after line 7 and redesignate succeeding subsections accordingly:

(q) End Use Monitoring.—

(1) Reports on license checks.—The Secretary shall include, in each annual report submitted under section 115, a list of all postshipment verification checks, prelicense checks, and similar procedures conducted to monitor end uses, in the case of licenses approved for exports to any country of commodities or technology that could provide significantly enhanced military capabilities to that country, especially the capability to develop, produce, stockpile, use, or deliver advanced conventional weapons and weapons of mass destruction. Such report shall include the license number, the value of the commodities or technology to which the license relates, the country of destination, and the date on which the check or procedure was performed.

(2) Monitoring standards.—The President shall develop monitoring standards in order to improve accountability with respect to the export of commodities and technology for which licenses are required under sections 105 and 106. Such standards shall be designed to provide reasonable assurance that the authorized end user is complying with the requirements imposed by the United States Government with respect to the use or reexport of those commodities or technology.

(3) Monitoring responsibilities.—Pursuant to the standards developed under paragraph (2), the Secretary, in consultation with appropriation departments and agencies, shall monitor the end uses of the exports described in paragraph (2) to recipient countries.

(4) Monitoring arrangements.—(A) The President, as appropriate, shall pursue negotiations leading to arrangement or agreement with recipient countries of commodities and technology identified under paragraph (1) to permit representatives of the United States Government, including the attachés assigned under subsection (r), to review the end uses of such commodities and technology and provide such representatives with information necessary to monitor end uses of items controlled for export by the United States.

(B) The President shall take into account the compliance of the recipient country in carrying out any such arrangement or agreement before supporting the membership of such country in a multilateral export control regime, including COCOM.

(5) Monitoring report.—Not later than 6 months after the date of the enactment of this Act, and annually thereafter as part of the annual report submitted under section 115, the Secretary shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report outlining the actions taken to implement paragraphs (2), (3), and (4).

By Mr. HUNTER:

—Page 208, add the following after line 23:

(s) Authority of the Secretary of Defense To Halt Exports.—Notwithstanding any other provision of this title, in any case in which the Secretary of Defense determines that it is necessary to halt a particular export of a commodity or technology in order to protect the national security interest of the United States, the Secretary of Defense shall so notify the President. The President may, within 10 days thereafter, decide not to prohibit the export, in which case he shall so notify the Secretary of Defense within that 10-day period. If the President does not make such a decision within that 10-day period, or if the President fails to so notify the Secretary of Defense of such a decision, the export shall be prohibited under this title.

By Mr. KASICH:

—Page 82, insert the following after line 2:

(l) Treatment of Certain Sensitive Items.—

(1) Findings.—The Congress makes the following findings:

(A) The United States continues to play a leadership role in controlling the export of sensitive dual use items and munitions items to dangerous countries.

(B) The importance of maintaining this leadership and securing the adherence of friendly nations to export restrictions similar to those of the United States was demonstrated by the large number of dual use and munitions items Iraq was able to secure from Western exporters prior to Desert Storm.

(C) Besides Iraq, the United States has voiced its concern about Libya, North Korea, Syria, Cuba, and Iran acquiring dual use and munitions items from Western sources, republics of the former Soviet Union, and the Peoples' Republic of China.

(D) Since Desert Storm, the United States has learned that a substantial number of sensitive items Iraq received from Western nations were not sent directly, but were reexported from third-party destinations.

(E) The threat of third-party reexports of sensitive exports could be aggravated by proposals to send dual use items to friendly nations "license-free" or under "substitute" licensing schemes that would be less restrictive than individual validated licensing, which requires prior United States consent for any reexport.

(F) Eliminating or reducing individual validated licensing requirements on sensitive dual use and munitions exports to friendly countries increases the risk that such items will be reexported to rogue countries, including Iran, Iraq, Syria, Libya, Cuba, and North Korea.

(2) Policy statement.—It shall be the policy of the United States to maintain its international leadership in restricting the export of sensitive dual use items and of munitions to rogue countries such as Iran, Iraq, Syria, Libya, Cuba, and North Korea by—

(A) maintaining existing unilateral controls whenever necessary to keep sensitive United States dual use items and munitions from being exported to these countries;

(B) encouraging all other countries producing such items to restrict the export of these items in a similar manner;

(C) working with the republics of the former Soviet Union and of the members of COCOM to create a successor COCOM that would prohibit the export of the most sensitive dual use items and munitions to rogue countries such as Iran, Iraq, Syria, Libya, Cuba, and North Korea; and

(D) not reducing existing levels of controls on the export of sensitive dual use items and munitions through the creation of license-free zones and substitute licensing schemes.

(3) Licensing requirement.—

(A) List of sensitive items.—Notwithstanding any other provision of this title, the President, in consultation with the Secretary and the Secretaries of State, Defense, and Energy and the Director of the Arms Control and Disarmament Agency, shall compile a list of the most sensitive dual use and munitions items the export of which to the countries set forth in subparagraph (C) the President believes the United States should restrict. This list shall indicate whether the item is being controlled unilaterally or with other countries and shall be published in the Federal Register not later than 60 days after the date of the enactment of this Act.

(B) Individual validated license requirement.—The President shall instruct the Secretary to require an individual validated license for the export to any destination of any item on the list compiled under subparagraph (A).

(C) List of countries.—The countries referred to in subparagraph (A) are Iran, Iraq, Syria, Libya, Cuba, and North Korea.

—Page 62, line 24, strike "(F)" and insert "(E)".

—Page 67, line 6, strike "(E)" and insert "(D)".

—Page 173, line 23, strike "109(h)(1)" and insert "109(i)(1)".

—Page 211, line 4, strike "109(g)" and insert "109(h)".

By Mr. MARKEY:

—Page 297, add the following after line 6:

Part E—Restrictions on Nuclear Exports

SEC. 261. RESTRICTIONS.

(a) In General.—Notwithstanding any other provision of law—

(1) no application for a license under the Export Administration Act of 1970 for the export to the People's Republic of China of any commodities or technology which, as determined under section 309(c) of the Nuclear Non-Proliferation Act of 1978, could be of significance for nuclear explosive purposes, or which, in the judgment of the President, is likely to be diverted for use in any nuclear explosive device, in any nuclear production or utilization facility, or for research on or the development of any nuclear explosive device shall be approved.

(2) no license may be issued under the Atomic Energy Act of 1945—

(A) for the export to the People's Republic of China of any production or utilization facility or any source material or special nuclear material, or

(B) for the export to the People's Republic of China of any component part, item, or substance which has been determined, under section 109b. of the Atomic Energy Act of 1954, to be especially relevant from the standpoint of export control because of its significance for nuclear explosive purposes,

(3) no authorization may be approved under section 57b.(2) of the Atomic Energy Act of 1954 for any person to engage, directly or indirectly, in the production of special nuclear material, and

(4) no retransfer may be approved to or from the People's Republic of China of any commodities, technology, facility, material, component part, item, or substance referred to in paragraph (1), (2), or (3),

until the conditions set forth in subsection (b) are met.

(b) Conditions.—The conditions referred to in subsection (a) are that—

(1) the President has certified to the Congress that the People's Republic of China has provided clear and unequivocal assurances to the United States that it is not assisting and will not assist any non-nuclear-weapon

state, either directly or indirectly, in acquiring nuclear explosive devices or the materials and components for such devices; and

(2) the President has made the certifications and submitted the report required by Public Law 99-183.

SEC. 362 DEFINITIONS.

For purposes of this part—

(1) the terms "commodity" and "technology" have the meanings given those terms in section 116;

(2) the terms "non-nuclear-weapons state" and "nuclear explosive device" have the meanings given those terms in section 231; and

(3) the terms "production facility", "utilization facility", "source material" and "special nuclear facility" have the meanings given those terms in section 11 of the Atomic Energy Act of 1954.

By: Mr. MARKEY:

—Page 297, add the following after line 6:

TITLE III—RESTRICTIONS ON NUCLEAR EXPORTS

SEC. 301. RESTRICTIONS.

(a) In General.—Notwithstanding any other provision of law—

(1) no application for a license under the Export Administration Act of 1979 for the export to the People's Republic of China of any commodities or technology which, as determined under section 309(c) of the Nuclear Non-Proliferation Act of 1978, could be of significance for nuclear explosive purposes, or which, in the judgment of the President, is likely to be diverted for use in any nuclear explosive device, in any nuclear production or utilization facility, or for research on or the development of any nuclear explosive device shall be approved,

(2) no license may be issued under the Atomic Energy Act of 1954—

(A) for the export to the People's Republic of China of any production or utilization facility or any source material or special nuclear material, or

(B) for the export to the People's Republic of China of any component part, item, or substance which has been determined, under section 109b. of the Atomic Energy Act of 1954, to be especially relevant from the standpoint of export control because of its significance for nuclear explosive purposes,

(3) no authorization may be approved under section 57b.(2) of the Atomic Energy Act of 1954 for any person to engage, directly or indirectly, in the production of special nuclear material, and

(4) no retransfer may be approved to or from the People's Republic of China of any commodities, technology, facility, material, component part, item, or substance referred to in paragraph (1), (2), or (3), until the conditions set forth in subsection (b) are met.

(b) Conditions.—The conditions referred to in subsection (a) are that—

(1) the President has certified to the Congress that the People's Republic of China has provided clear and unequivocal assurances to the United States that it is not assisting and will not assist any non-nuclear-weapon state, either directly or indirectly, in acquiring nuclear explosive devices or the materials and components for such devices; and

(2) the President has made the certifications and submitted the report required by Public Law 99-183.

SEC. 302. DEFINITIONS.

For purposes of this title—

(1) the terms "commodity" and "technology" have the meanings given those terms in section 116;

(2) the terms "non-nuclear-weapon state" and "nuclear explosive device" have the meanings give those terms in section 231; and

(3) the terms "production facility", "utilization facility", "source material" and "special nuclear facility" have the meanings given those terms in section 11 of the Atomic Energy Act of 1954.

By Mr. SOLOMON:

—Page 237, add the following after line 25:

(j) Export of Satellites to China.—A license may not be issued under this title or section 38 of the Arms Export Control Act for the export of any satellite intended for launch from a launch vehicle owned by the People's Republic of China.

By Mr. TORRICELLI:

—Page 208, after line 23, add the following:

(j) Satellites Launched on Vehicles of the People's Republic of China or Russia.—

(1) Validated license requirement.—A validated license shall be required under this title for the export of satellites, components, or satellite-related technology, that originated in the United States and that is intended for launch on vehicles owned or operated by the People's Republic of China or Russia.

(2) Criteria.—A validated license shall be granted under paragraph (1) only if—

(A) an agreement addressing the issue of fair trade in commercial satellite launch services exists between—

(i) the United States and the People's Republic of China, in the case of an application for a validated license to the People's Republic of China; or

(ii) the United States and Russia, in the case of an application for a validated license to Russia;

(B) the Secretary notifies the United States Trade Representative whenever an application for such a validated license in pending; and

(C) not later than 15 days after such notification, the Trade Representative determines with respect to the satellite, components thereof, or satellite-related technology which is the subject of the validated license application and notifies the Secretary in writing—

(i) that the People's Republic of China or Russia (as the case may be) is in full compliance with the terms of the agreement between that country and the United States referred to in subparagraph (A); or

(ii) that there is no reason to conclude that compliance with the terms of the agreement referred to in subparagraph (A) between that country and the United States has not been achieved.

H.R. 4663

By Mr. DeFAZIO:

—Add the following at the end of section 107:

(l) Commodities Used as Raw Materials for Manufacturing Purposes.—

(1) Monitoring.—The Secretary shall monitor—

(A) exports of, and contracts of export, commodities typically used as raw materials for manufacturing purposes, and

(B) domestic supplies of such commodities, for the purpose of determining whether a critical shortage of such commodities exists in any State or region.

(2) Export restrictions.—If the Secretary finds that a critical shortage of any such commoditiy exists in any State or region, then the Secretary shall impose restrictions on the export of such commodities sufficient to ensure that there is an adequate supply of such commodities to meet domestic manufacturing needs in that State or region. The Secretary may remove such restrictions upon reporting to Congress, under paragraph (3)(A), that such restrictions are no longer required under this subsection.

(3) Reporting to congress.—(A) The Secretary shall submit to Congress, not later than 30 days after the end of each calendar quarter, a report on the results of the monitoring conducted under paragraph (1), the Secretary's determination of whether a critical shortage of any commodities typically used as raw materials for manufacturing purposes for domestic manufacturing purposes exists in any State or region, and any export restrictions imposed or to be imposed as a result of such determination.

(B) Each report under subparagraph (A) shall—

(i) specify the quantity of exports, by port, or commodities typically used as raw materials for manufacturing purposes during the period covered by the report;

(ii) estimate, as of the date of the report, the domestic supplies, by State, of such commodities;

(iii) determine whether such supplies of such commodities were sufficient to meet the needs of domestic manufacturers;

(iv) include a formal finding as to whether a critical shortage of such commodities for domestic manufacturing purposes exists in any State or region; and

(v) if such a shortage or shortages exist, specify the export restrictions imposed or to be imposed to satisfy domestic needs.

(4) Presidential authority.—The President is authorized, after suitable notice and a public comment period of not less than 90 days, to suspend any export restrictions imposed under paragraph (2) if a ruling is issued under the formal dispute resolution procedures of the General Agreement on Tariffs and Trade finding that such restrictions violate Article XI prohibitions on export restrictions and are not allowable under the exceptions to Article XI.

—Add the following at the end of section 107:

(l) The President shall prohibit the export of a commodity to any nation where—

(1) such commodity is typically used as a raw material for manufacturing purposes;

(2) that nation's demand for such commodity is contributing to domestic supply shortages of such commodity for domestic manufacturing purposes; and

(3) the National Trade Estimate Report on Foreign Trade Barriers, prepared by the U.S. Trade Representative, finds that such nation maintains tariff or non-tariff barriers that impede the import of items manufactured in the U.S. using such commodity.

EXTENSIONS OF REMARKS

THE TRADE AND ENVIRONMENT REPORTING ACT OF 1994

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mr. STUDDS. Mr. Speaker, the world in which U.S. consumers and workers live is growing steadily smaller. Actions we take in this country today have the potential to reverberate almost immediately on the other side of the planet. American workers must compete in a global economy and American jobs are created or lost by the relative success or failure of our export markets. The ways in which U.S. companies do business reflect the growing influence of international free trade principles—that, ideally, those who produce the best products at the cheapest prices are the winners.

As we work to improve markets for U.S. products abroad, one of the questions we must ask is whether, in all this rush to embrace the principles of free trade, we are sacrificing any of the environmental goals that are so important to the American people.

Those who would question whether environmental issues should play any role in trade deliberations need only sit on the Merchant Marine and Fisheries Committee for a while, and they'll find a clear and unequivocal answer. Many of the critical environmental statutes under my committee's jurisdiction—laws which enjoy tremendous popular support—contain trade provisions as enforcement mechanisms, identify trade in wildlife products as contributing to the demise of species, or recognize that irresponsible harvesting methods can have devastating effects on ecosystems. Discussions on how best to harmonize trade objectives with environmental goals are underway at the United Nations, the Organization for Economic Cooperation and Development, and other international fora. As responsible lawmakers, we should be using our time to determine—both domestically and in the global arena—how to best approach this issue, not how to avoid it.

The bill I introduce today, the Trade and Environment Reporting Act of 1994, is based on the simple need to get information about this complex relationship. It would require the Office of the Trade Representative [USTR] to consult with Congress, the environmental agencies, and environmental organizations before entering into major trade actions that could affect environmental resources. It would also require USTR to prepare environmental assessments of free trade agreements, and it would require the environmental agencies to monitor and report on the effects of those agreements.

This bill is simple common sense. It will shed much-needed light on the relationship between liberalized global trade and an increasingly fragile global environment, and it will do so without affecting our ability to negotiate trade agreements that are good for the American economy and American workers. This is good policy, and I urge my colleagues to support it.

WILLIE M. McLAUGHLIN—FIRST BLACK STATE AMERICAN LEGION COMMANDER

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mr. CLYBURN. Mr. Speaker, I rise today to congratulate Mr. Willie M. McLaughlin of Greenwood, SC, who recently was elected the first black commander of the State American Legion chapter.

Mr. McLaughlin was unanimously selected as the leader of the group of more than 25,000 State veterans. Mr. McLaughlin, who is 66 years old, is a retired vocational and agriculture teacher.

Mr. McLaughlin was a sergeant in the U.S. Army and served from 1946 to 1951, including 10 months in Korea. He was a teacher for 35 years, including stints at Greenwood High School and Greenwood Vocational Center, and was president of the Greenwood County Education Association.

Mr. McLaughlin served as post commander of the American Legion in Greenwood and as vice commander of the State chapter.

Mr. McLaughlin should be commended for his mission as the new State commander to increase the American Legion's involvement in education and drug abuse prevention among our youth.

VALUES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, July 13, 1994 into the CONGRESSIONAL RECORD:

VALUES

My sense is that the country is going through a kind of moral crisis in which a great many complicated issues with significant moral dimensions are being worked out. I have been impressed how the issues in politics today relate increasingly to our culture. The usual stuff of politics is the economy or foreign policy. Today the concerns of many Americans are violent crime, drug abuse, coarse popular entertainment, rising birth rates among unmarried mothers, and a sense that parents are not raising their children properly. Statistics confirm that violent crime, especially by juveniles, out-of-wedlock births, teen suicides, non-married households, and divorces are all up sharply in recent years.

The polls show that an overwhelming percentage of adults think that the United States is in moral and spiritual decline. They rank crime and drug abuse far ahead of jobs and health care as national concerns. They see that the family has fractured, neighborhoods have disappeared and turned unruly, schools struggle to educate, and even churches are under stress. In short, they fear we are abandoning the very values which have held us together as a nation for over two centuries. As one voter put it to me recently, "Whatever happened to decency and respect?"

Building Character: The debate about values surfaces in discussions of crime, welfare reform, health care, and education, and in many other aspects of social policy. This concern for the culture of the nation is creating a new kind of politics in America. Its theme is personal responsibility and building character. It emphasizes that there is a moral crisis in America and that its citizens must fight back to retrieve the shared values we all agree contribute to ethical behavior and good citizenship.

Numerous communities and institutions across the country are rekindling shared values through "character education" programs. These programs take many forms. Some teach students the use of mediation instead of aggression to solve conflicts, or ways to resist peer pressure to use drugs or engage in sexual activity. Still others encourage community service, promote democratic practices, or highlight a particular value, such as honesty or tolerance, through essays, visuals, or role-playing. In some communities, parents, clergy, and local businesses participate. Some programs report dramatic drops in discipline problems; for others results are more modest. But all take seriously the words of Theodore Roosevelt that "to educate a man in mind and not in character is to educate a menace to society."

There are national efforts as well. Two organizations involved in values education are the Character Counts Coalition (CCC), a broadbased coalition which includes the American Red Cross, the 4-H, the Girls and Boys Clubs of America, the Little League, and the National Urban League; and the Character Education Project (CEP), supported by groups including the National Association of Evangelicals and the National Education Association. The CCC seeks to "strengthen the moral fiber of the next generation" through programs which promote six commonly-accepted principles: trustworthiness, respect, responsibility, justice, caring, and citizenship. While not emphasizing specific values, the CEP similarly promotes character education programs and awareness across the country, helping to match schools with appropriate programs and materials.

Role of the Family: Of course such groups cannot and do not seek to act alone. Most of us would acknowledge that good character has to come from living in communities—family, neighborhood, religious and civic institutions—where virtue is encouraged and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

rewarded. There is no question that the family will continue to play the central role in shaping the values of the next generation. That is as it should be. But like it or not, many young people do not enjoy the benefit of strong and positive family influences. Even those with loving and involved parents need those positive influences reinforced in their schools, religious institutions, and community organizations. Adults in all facets of our children's lives must serve as models of the core ethical values we would like them to learn.

Role of Government: Government can be of some help as well. First, like the national coalitions, government can draw attention to the issue. Bipartisan groups in both the House and Senate have introduced a resolution to declare a "National Character Counts Week." The resolution, which I cosponsored, focuses attention on character education efforts by encouraging local activities during the commemorative week and beyond. Secondly, Congress can pass appropriate legislation to help strengthen the family or address other value-related concerns, even if in a secondary way. For example, legislation can support local anti-crime efforts, prohibit discrimination, or help states improve child support enforcement, school safety, and anti-drug programs. Finally, Congress can be alert to unanticipated negative effects of public policies on values, such as a welfare system which discourages two-parent families and encourages dependency.

In the end I think that most of us understand that without a virtuous people the country really does not function well and individuals cannot realize either their own or the common good. I have been encouraged by the rising national debate over character and the public rethinking of the kind of people we really want to be. I am encouraged that politicians are focusing on values, even though they are far behind most Americans, who have been thinking about values for many months.

At the same time, every legislator is keenly aware of the inadequacies of legislation. As has been noted, in the end it is not the laws we pass that count but the lives we lead. In the home, in the workplace, in the classroom, and elsewhere, we must uphold the high standards and values we espouse. A combination of efforts—those of families, of schools, of local and national institutions—can complement and strengthen each other. In the words of the old proverb, "It takes a whole village to raise a child." Together, we can successfully reinforce in the next generation of Americans the common values we treasure. It is the most valuable legacy we can leave them.

GLENS FALLS, WARREN COUNTY MOURN LOSS OF COMMUNITY PILLAR NATHAN PROLLER

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mr. SOLOMON. Mr. Speaker, one of the business, political, and civic giants of my hometown of Glens Falls, NY, has passed away, and he will be sorely missed.

Nathan Proller was a former New York State senator and chairman of the Warren County Board of Supervisors. He was a legend in his own time, and I always looked up to him as a political mentor.

Born in 1901, Mr. Proller owned and operated his own insurance firm, Proller Agency, Inc., for 40 years in Glens Falls. Besides his stint as State senator and county supervisor, he also served as supervisor of the town of Lake Luzerne and with the State Lottery Commission.

He played a major role in the development of I–87, the Northway connecting New York City and Montreal, and was one of those responsible for routing this great highway through Glens Falls.

Mr. Proller was a member of Temple Beth El in Glens Falls and the Glens Falls Country Club, and also was active in the Benevolent and Protective Order of Elks Lodge 81. He was a 50-year member of the American Legion.

But above all, Mr. Speaker, Nathan Proller was a man of unblemished integrity and sterling character. Glens Falls and Warren County have lost a great man, and I have lost a friend.

I ask all Members to join me in a posthumous tribute to Nathan Proller, one of the finest servants I have ever known.

TRIBUTE TO BOB WEHLING

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mr. MANN. Mr. Speaker, I rise today to honor Bob Wehling, a distinguished gentleman who is one of Cincinnati's most respected advocates for children. The list of Bob's accomplishments and contributions to children is long and impressive.

Bob has volunteered for the United Way for three decades, raised more than $100,000 for the March of Dimes, helped open a children's defense fund office in Cincinnati, lead his area board of education, and taught Sunday school for 23 years. He is also a husband, father of six, and grandfather of six. This extensive list is incredible, even more so because volunteering is not his full time occupation. Bob is Proctor & Gamble's senior vice president of public affairs and president of a company philanthropic foundation that allocates $20 million annually.

I have personally appreciated Bob's advice and counsel over the years on many issues before the Congress and the city counsel. He has also been recognized by others for his achievements. He has been given many awards including the March of Dimes "Battered Boot" Award. This is an award that is given to indomitable volunteers at the March of Dimes.

In addition to all of these accomplishments Mr. Wehling served our country. In 1960, he took a leave of absence from work and served for 3 years in the U.S. Air Force Strategic Air Command.

Through all of his years of work on behalf of the children of Cincinnati, I commend him and look forward to many more years of valuable friendship and service to the community.

THOMAS EDWARD "PAPA" WILLIAMS, JR., CELEBRATES 100TH BIRTHDAY

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to Mr. Thomas Edward "Papa" Williams, Jr., of Charleston, SC, who celebrated his 100th birthday on July 4, 1994.

Mr. Williams was born to Thomas and Julia Rivers Williams on July 4, 1894, in Dale, a small town in Beaufort County, SC. He was one of five sons and three daughters.

Mr. Williams, affectionately called Papa by his family and friends, currently lives in the Rosemont neighborhood of Charleston, where he has been a resident for 48 years. In 1929, he married Florence Rivers, who brought two children into the marriage, Rivers and Louise, and they had a daughter, Leila. Mrs. Williams was 93 when she died nearly 3 years ago. Mr. Williams has 16 grandchildren, 43 great-grandchildren, and 11 great-great-grandchildren.

Mr. Williams retired from Etiwan Fertilizer Co. in 1972 at the age of 78. Prior to his retirement, Mr. Williams also worked on local farms, with Atlantic Coastline Railroad in Waycross, GA, as a longshoreman at the Seabord airline dock and with Port Terminal.

Mr. Williams has been a member of Ebenezer African Methodist Episcopal Church for more than 65 years, where he serves as a leader and a steward.

Mr. Speaker, I wish to say happy birthday to a remarkable gentleman who credits his longevity to living a Christian life.

VIOLENCE AGAINST WOMEN ACT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mrs. SCHROEDER. Mr. Speaker, at least four women a day die at the hands of the individuals who supposedly love them the most. The criminal justice system, by its inaction, is an accessory to these crimes. Passage of the Violence Against Women Act will send the unequivocal message that police, prosecutors, and judges, the public can no longer cast aside domestic violence and stalking as personal problems.

COLORADO 1993

March 9, 1993: Michael, 33, committed suicide after breaking into estranged wife's trailer. Wife and children escaped through window.

March 11, 1993: John, 50, committed suicide after shooting Leslie, 48. John had a history of domestic violence.

March 29, 1993: Bruce, 38, committed suicide after traveling from several States away to shoot estranged wife Paulette, 48.

April 26, 1993: Donald, 62, committed suicide after shooting Edna, 64.

Society can no longer tolerate these crimes. In an effort to change the way that the criminal justice system and society approach domestic violence the House and the Senate have included the Violence Against Women Act in the crime bill. Swift and strong congressional action on the Violence Against Women Act can provide abused women protection and communities with tools they need to punish and stop domestic violence. Act now to send the Violence Against Women Act to the President's desk.

TAX EXPENDITURES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, July 6, 1994, into the CONGRESSIONAL RECORD:

TAX EXPENDITURES

Policy debates in Congress continue to be dominated by efforts to reduce the federal budget deficit. Yet one area of the budget has received comparatively little systematic scrutiny from policymakers: the various tax breaks provided by Congress, known more formally as tax expenditures. They cost some $400 billion annually—which is more than all of domestic discretionary spending combined—and they are growing faster than entitlements.

OVERVIEW

Tax expenditures are the various provisions added to the tax code over the years that allow individuals and businesses to reduce their federal tax payments. They provide incentives for certain activities or relief for certain taxpayers. Currently there are more than 120 federal tax expenditures, ranging from the home mortgage deduction to tax breaks for oil drilling and historic preservation. They are called "tax expenditures" because they add to the budget deficit and address policy needs the same way that direct federal expenditures do. For example, both tax incentives and direct spending programs are aimed at improving housing availability. Tax expenditures function much like open-ended entitlements in that whoever meets the eligibility requirements is entitled to receive benefits, regardless of the cost to the government.

Many tax expenditures date back to the early 1900s when the federal income tax was being set up. The largest tax expenditures for individuals are for employer-paid pension contributions ($56 billion), employer-paid health insurance ($46 billion), and the home mortgage interest deduction ($44 billion). The largest tax expenditure for business is for accelerated depreciation ($19 billion). Almost half of the current $400 billion in annual revenue losses from tax expenditures stems from those enacted before 1920.

Many tax expenditures serve worthwhile purposes and enjoy broad public support, such as the home mortgage and charitable contribution deductions. Yet others have been called into question, such as those encouraging U.S. businesses to locate operations overseas, allowing income earned by foreigners on their U.S. investments to be tax-free, and providing various breaks for the wealthy—such as for million dollar homes, expensive vacation homes, and lavish business entertainment. When certain groups benefit from tax expenditures, everyone else has to pay higher taxes.

GAO REPORT

A recent report by the U.S. General Accounting Office, the watchdog agency for Congress, recommended that greater oversight be given to tax expenditures, for several reasons. First, they are costly and are growing rapidly. Since 1980, their cost to the federal treasury has almost doubled. Second, tax expenditures have the same fiscal impact of direct federal spending, but they are subject to much less congressional oversight. They do not compete in the annual budget process and most are not subject to periodic reauthorization. Third, once enacted, tax expenditures are rarely eliminated. Only 13 were eliminated between 1913 and the passage of the 1986 Tax Reform Act. Some still in existence today were set up for World War I purposes. Fourth, tax expenditures often disproportionately benefit higher income individuals. For example, the home mortgage deduction provides more benefits to someone buying a $1 million house than someone buying a $100,000 house, and many tax expenditures only benefit the ⅓ of Americans who itemize deductions on their taxes. Fifth, sometimes the same policy goal could be reached more efficiently and at lower cost through a direct spending program. GAO states, for example, that it would be much cheaper to pay interest subsidies directly to state and local governments than to continue to exempt state and local bonds from taxation. Finally, tax expenditures can distort business and financial decisions—as the tax breaks lead people to engage in activities they otherwise believe make little economic sense.

PROPOSALS

Currently tax expenditures are listed in federal budget documents for informational purposes, but they are not included in the formal budget process nor are they included in various congressional spending controls such as caps or sequestration. GAO recommended several steps to increase scrutiny of tax expenditures: improving public information about them; establishing a schedule for regular congressional review; tightening eligibility for various tax expenditures, such as by limiting benefits for upper income taxpayers; integrating them more fully into the congressional budget process; creating targets for tax expenditure savings; speeding up the study underway to measure the results and performance of tax expenditures; and jointly reviewing them in the budget along with spending programs with the same function.

ASSESSMENT

My view is that although major progress has been made on the deficit in recent years, much more needs to be done. As part of that effort it makes sense to try to ferret out wasteful government benefits and subsidies—no matter what the source. Past scrutiny of tax expenditures found and curbed some wasteful subsidies, such as those for football stadium skyboxes and business travel on luxury liners, and eliminated a variety of unproductive tax shelters. We should not blindly accept all current tax expenditures and put them totally beyond public scrutiny, as though Congress was somehow infallible when it passed out special tax breaks. Moreover, as deficit reduction proceeds, people may find it preferable, for example, to trim tax breaks for upper income taxpayers rather than cut back student loans or agricultural research.

A more systematic review of tax expenditures makes sense. The Joint Committee on the Organization of Congress, which I cochaired, has recommended that the total cost of tax expenditures be listed in the congressional budget resolution and that all newly proposed tax expenditures be more clearly identified rather than hidden away in technical bill language. I also favor other steps such as requiring that the president's budget present tax expenditures alongside spending programs with the same function. As we review tax expenditures in a more comprehensive and systematic way, we may find that some are wasteful, inequitable, or unproductive. We may also find that some are working much better than we thought and need to be expanded. Thoroughly and regularly assessing tax expenditures is another way of making government work better and cost less.

TROOPER FOUNDATION OF NEW YORK PROSPERS UNDER DR. WILLIAM TRIGG III

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mr. SOLOMON. Mr. Speaker, I'd like to say a few words about an outstanding organization and its equally outstanding executive director.

Since its founding in 1984, the Trooper Foundation of the State of New York has provided over $1.3 million in financial support to the State Police for a variety of worthwhile programs. Since 1987, this outstanding organization has been under the able leadership of Dr. William C. Trigg III.

The Trooper Foundation has benefited underprivileged children under the State Police Summer Program and the McBear the Trooper Program for children in crisis situations. The first responder first aid case project outfitted every State police patrol vehicle with state-of-the-art first aid equipment. Other fine examples of the foundations' work include the Management Development Program, the Gray Rider Monument, and the Police Survivors Program. Also, the foundation has enabled the State Police to accept over $500,000 worth of services and equipment from the private sector.

Dr. Trigg has been a moving force in the success of the Trooper Foundation. After graduating summa cum laude from Thomas More College in Fort Mitchell, KY, he went on to earn an M.A. and Ph.D. from State University of New York at Albany. As a graduate student, Dr. Trigg received two research assistantships and a doctoral fellowship. He worked with the late Prof. William P. Brown at the school of criminal justice on a Federal grant entitled "Crime-Focused Policing."

In 1981, Dr. Trigg was awarded a fellowship with the New York State Senate, where he was assigned to the office of Senator Ralph J. Marino. In that capacity he assisted in a number of law enforcement legislative endeavors.

In 1984, Dr. Trigg joined the newly-formed Trooper Foundation, first as director of administration and research before his promotion to executive director.

He is also a founding director of the Community Services Center in Stillwater, NY, where he resides. He is the father of two daughters. He is also a member of the national society of fundraising executives. Dr.

Trigg has taught as an adjunct professor at the SUNY-Albany and at Russell Sage College.

Mr. Speaker, fine organizations are often the reflection of able leadership. That is what we have in the case of the Trooper Foundation and its executive director, Dr. William C. Trigg III. Please join me in saluting both the foundation and Dr. Trigg for all they have done.

TRIBUTE TO ANNMARIE TENN

HON. WILLIAM H. ZELIFF, JR.

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mr. ZELIFF. Mr. Speaker, I would like to take this opportunity to bring to attention the outstanding accomplishment of Ms. Annmarie Tenn. As a winner of the Voice of Democracy broadcast scriptwriting contest, she had made me very proud to be her representative. I am pleased to submit a copy of her speech to the Congressional Record on her behalf.

My Commitment To America

"I pledge allegiance to the flag of the United States of America and to the republic for which it stands."

This is my commitment to America. Let my commitment be an example to all Americans. I have and will always have respect for that "Old glory flying high."

My commitment to America was tested when the Supreme Court controversially decided that the burning of the flag was legal. I cringed at that decision, but, as a citizen committed to America, I had the responsibility to support that decision even though I disagreed with it.

The Pledge of Allegiance is more than memorizing words—it is a challenge to live my life as a citizen committed to my country using those words of the pledge as a guidepost.

My commitment to America demands that I cultivate the qualities of character and personality that have a high value in society. I must assume an active part in government and in the community. It is my duty to help free the community from influences that weaken and degrade the lives of so many young people.

Commitment gives one such as myself, a youth living in troubled times, the ability to refuse drugs, violence, and crimes. I support my country by my every day decisions to turn away from what I know is wrong.

America, approaching the 21st Century, is at a crossroad as a nation. She is at a fateful decade of decision. Advancements in technology, the destruction of the family unit, the establishment of a world which, despite its size, has become a global village, confront the ethical and moral character of our country. There is a growing tide of permissiveness that is crushing our society from every side. We must begin to reverse the trend America finds herself in and reclaim our basic values.

Each generation of Americans, if it is equal to the task, rebuilds and regenerates the value system, reinterprets old values and opens the way to new values. This is my commitment to America.

The fundamental source of the law is the Constitution. I have the obligation and the duty to know and support it. In the words of Abraham Lincoln, "Let every man remember that to violate the law is to trample on the blood of his father * * * and his children's liberty."

Our Constitution calls us to a responsibility to form and establish, to secure and provide, to promote and ensure these same liberties which have been guaranteed by our founding fathers. The essence of our country is liberty, the substance of liberty is individual aspirations, individual responsibilities, and individual accountability. This is my commitment to America.

In our daily living we must establish the spirit and set the pattern for a kinder world. I must point the way to happiness through the path of service—making our communities a better place to live. I will take an active interest in government and public affairs. At school, through my commitment, concern, and involvement, I must stand up to the challenge to be counted on to work in student government. After our responsibilities to God and our families, our primary responsibility is that of an informed conscientious citizen. Besides voting, I must grasp the opportunities I have to participate and share in the immense power and wealth of America—just because I am a citizen. This is my commitment to America.

It is the duty of my generation to protect America's liberty. All of us must watch over and protect it. There is no promise or guarantee of a secure or happy future. Yet, if our own desire challenges us to bring meaning to our lives, we can do it. That is my commitment to America.

The future will be shaped by all, those who do and will believe in it. The challenge has been put forth to all to create a peaceful and just world. We must take hold of our own futures and create a better world in which to live. There is hope for mankind. This is my commitment to America. Thank you.

TRIBUTE TO DAVID R. CUNLIFFE

HON. JAMES A. LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mr. LEACH. Mr. Speaker, I rise today to pay tribute to David R. Cunliffe, a young diplomat with the new Zealand Embassy who will soon be taking a leave of absence from the foreign service to enter graduate school.

As the ranking Republican on the Subcommittee on Asia and the Pacific. I have probably had as much or more contact with the New Zealand Embassy as any in Washington. In this regard, I have come to know David Cunliffe as a young man with enormous energy, an impressive intellect, and clear leadership ability. His commitment to the highest ideals of public service is self-evident. So too is his conviction in New Zealand's distinguished diplomatic tradition of leadership through good global citizenship.

From a congressional perspective, David has also worked hard to maintain and bolster United States-New Zealand ties. Here it is worth observing that the signal bilateral development of recent years—the United States decision to restore high-level diplomatic dialog with New Zealand—came about under the leadership of Ambassador Dennis McLean and with the able assistance of a young political officer named David Cunliffe. No one should underestimate the persistence of effort that was required to help effectuate what otherwise should have been a commonsense change in U.S. policy perspective.

In closing, I would just note that few countries have been as well represented in Washington as New Zealand. Its very professional diplomatic corps, represented by the likes of David Cunliffe, is precisely the reason why. I could not commend any young man more highly. We bid David a fond farewell and wish him and his wife Karen the greatest success.

RECOGNITION OF VI LY'S ACCOMPLISHMENT

HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mrs. VUCANOVICH. Mr. Speaker, it is with immense pride that I rise today to recognize the achievement of a young Nevadan. Vi Ly, of Sparks, NV, was recently named the State winner in the Voice of Democracy broadcast script writing contest. While Ms. Ly was born in Vietnam, she has exhibited a great love for democracy and the American way of life. I am proud to entrust the future of this great Nation to such enthusiastic, young Americans as Ms. Ly. It is my honor to submit her winning essay, entitled "My Commitment to America," to today's Record. I congratulate Ms. Ly on her achievement, and I wish her success in all future endeavors.

My Commitment to America

(By Vi Ly)

Thomas Paine once said: "Those who expect to reap the blessings of freedom must, like men, undergo the fatigue of supporting it." Supporting freedom is supporting America. From the first framers of the Constitution to the last soldier whose name appears on the Vietnam Memorial, a genuine commitment has been made. Now the baton has reached our hands from generations of committed men and women who have carried it through war and peace and it is our chance to take it over and beyond the finish line. Whether it touches one person or a hundred people, my commitment is to do my part in conserving, improving, and believing in America.

Freedom and democracy. The men and women who fought for it know that it is not easily won, but rather easily lost. I believe in saving and preserving it for future generations; not to spoil the true meaning of freedom, which is the liberty to exercise, not to desecrate, or natural human rights—freedom of speech, freedom of religion, and freedom of the vote. Children in the future should be given a chance to experience the power of a country ruled by the people. I am committed to supporting the conversation and preservation of freedom and democracy in America for a future that will someday become a present.

I believe that the improvement of America and society comes as the result of the development of people's heedful and healthy habits through the mind, and what better way is there to improve a mind than education? Committing myself to achieving my high school and college diploma not only fulfills a personal appetite for achievement, but it can also affect the nation in a direct and definite way, by me giving back to society the knowledge that I have gained. Knowledge that might someday provide all Americans with health care; knowledge that might someday help one person across the room, or many people across the United States.

I am just a single person in a population of millions, but I don't believe in hiding behind numbers; one is still one. Have faith in the commitment of one person because it is the sole individuals who make up a group, a community, a nation. Without the contribution of one person we may be without a Gettysburg Address, without a cure for polio, without the same face on the dollar bill.

Edward Hale put it best when he said: "I am only one, but still I am one. I cannot do everything, but I can still do something: and because I cannot do everything I will not refuse to do the something that I can do."

On every page of the Bill of Rights, of every song from America the Beautiful to The Star Spangled Banner, behind every general from Lee to Grant, shines a commitment "of the people, by the people, for the people," and as a part of this nation, I too have a claim to revere and contribute to it. From a pledge of preservation to a goal of graduation I am willingly committed to at least doing this part that I am capable of doing. It doesn't matter if I am tall or short, big or small, black or white, my individual pledge means just one more hand in a tug-of-war, one more rung on the ladder of knowledge, one more voice of democracy.

HONORING NATIONAL SHOE REPAIR AWARENESS WEEK

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mr. HINCHEY. Mr. Speaker, I would like to bring to the attention of this Chamber the designation by way of Presidential proclamation, Shoe Repair Awareness Week. Ms. Antoinette Knable, owner of Shoe Systems Plus, Inc., of Campbell Hall, NY, has been a great help in trying to establish this designation.

This event serves as an impetus to all aspects of the shoe industry to work together to provide the American public with the many benefits derived from shoe repair. Now, the shoe repair industry will be able to educate the public to the health, ecological, and economic advantages of shoe repair. By creating such a designation within the industry, it will help to promote an industry that many small business owners depend upon for their livelihood and raise shoe repair quality levels to that of Europe, the leader in the field of shoe repair.

The likelihood of this program having such an impact on the American public is both exciting and commendable. Mr. Speaker, I ask that this Congress assembled today join the people of the Hudson Valley who have made this designation possible.

IONE KENDALL CELEBRATES 100TH BIRTHDAY

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to Mrs. Ione Kendall, of Florence, SC, who celebrated her 100th birthday on June 18, 1994.

Mrs. Kendall was born on June 18, 1894, in Waco, TX, the daughter of George Brisco and Sally Wortham. She was one of eight children and grew up on a ranch, where her father raised horses and cows and grew corn and cotton.

Mrs. Kendall's father joined the Confederate Army near the end of the Civil War, which establishes her as an original Daughter of the Confederacy. She continues to be an active member of the Ellison Capers Chapter of the United Daughters of the Confederacy and the Samuel Bacot Chapter of the Daughters of the Revolution.

She attended Baylor University and worked for the Internal Revenue Service in Washington, DC, before moving back home to Waco to teach school. She married Jim Kendall of North Carolina on February 25, 1921, and the couple moved to Florence, where Mrs. Kendall joined Central United Methodist Church. She taught Sunday school at Central for many years and continues her membership there.

Mrs. Kendall and her husband had four children. She has five grandchildren and four great-grandchildren.

Mr. Speaker, please join me in wishing a happy 100th birthday to a remarkable woman who credits her longevity to living a good life and keeping active.

GLENS FALLS AREA MOURNS PASSING OF CORRESPONDENT JOAN PATTON

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mr. SOLOMON. Mr. Speaker, the Glens Falls, NY, area I represent and call home is mourning the loss of a great lady, Joan Patton.

She was a woman who's character and intelligence were evident to all who knew her. I could go on at great length, but the Glens Falls Post-Star, a newspaper she graced with her pieces as a correspondent, said it perfectly in a recent editorial.

I enter that editorial in today's RECORD, and invite all Members to join me in conveying our condolences to Joan Patton's grieving family.

[From the Glens Falls, NY, Post-Star, June 26, 1994]

THE LOSS OF A GREAT PERSON

This community has lost a wonderful citizen and enthusiastic chronicler of our past and present, Joan Patton died Friday after a long, valiant fight against cancer. We are saddened, as are so many who knew her.

Feisty, intelligent, cheerful, direct and courageous, Joan was handed more than her fair share of life's adversities, and she bore them with grace and good humor.

We knew her as a correspondent for the Post-Star, an avocation she took up late in life.

In her last days at Glens Falls Hospital, she talked about the joy she had received from her sojourn in journalism. It was an interest she sort of fell into late in life and pursued with enthusiasm and exactitude. She was told how much pleasure she had brought to readers, especially those interested in historical sketches of the area. "I think what makes me pretty good at it is I don't know how to do it," she replied with characteristic candor. "I'm just curious."

Even up, to the end, she took her reporting and writing seriously, enjoying it and using it to keep busy and her mind off cancer. About three weeks ago, as she lay in her hospital bed, she expressed concern that she had not finished a historical piece on Solomon Northrup, who was born a free black man in northern New York before the Civil War and was kidnapped and cast into slavery for 12 years.

This editor, feigning a scolding tone, told her he wanted the story on his desk in three weeks. She laughed. A few days later, she had her husband, Fred, turn in her laptop computer which she had used for many years to send us stories from her home. It was a signal that she was about to bid us adieu. But along with the machine was a hard copy of the piece or Northrup, not complete as she had wanted, but a nice, well-written tale nonetheless. We printed it two Sundays ago.

Joan kept her personal feelings out of her stories, even an account, never published, of her own experience with cancer. She wrote that article matter-of-factly, explaining that when she underwent breast surgery, "I didn't feel devastated, or angry. From who knows what source, a positive attitude welled up which continues to sustain me to this day." She told how she was waiting to be wheeled into the operating room and the nurses looked solemn, "and I said, 'Smile.' "

That was about as close as Joan would come to revealing her personal feelings to the public.

"She has no guile," Fred noted recently. She always spoke plainly, but without malice or prejudice. Mincing no words, Joan told editors such as this one when she thought he or the paper had gone astray. There were no pretenses.

Joan grew as a journalist and a writer through the years, noticeably in the last couple of years. But we appreciated even more her great character, her wry sense of humor and her valor. As a fine human being, she set the standard.

She truly will be missed by those who knew her, including those who knew her only through her writing.

REINVENTING AID—A YEAR'S ACCOMPLISHMENTS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mr. HAMILTON. Mr. Speaker, when Brian Atwood assumed the position of Administrator of the Agency for International Development, he offered AID as a test case for reinventing government and pledged to revitalize the agency. In a July 1 letter Administrator Atwood identified the steps which he has taken to implement that commitment. As he notes, it will take at least 2 years to make the necessary changes. I am hopeful that in that period the Congress will do its part by enacting a new foreign assistance statute.

I commend Mr. Atwood for moving aggressively to reinvent AID. The portions of the letter which detail the steps which have been taken are reprinted below:

U.S. AGENCY FOR
INTERNATIONAL DEVELOPMENT,
Washington, DC, July 1, 1994.

Hon. LEE HAMILTON,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This has been a productive and challenging year at the U.S. Agency for International Development (USAID). We have taken significant steps to create a national development agency that is participatory, efficient and able to advance America's interests abroad.

During the past year, all of us at USAID have devoted ourselves to instituting the innovations which have allowed the agency to more effectively harness the talents of its first-class workforce. The Clinton Administration has made substantial progress toward creating a results-oriented development agency of which the Congress and the American people can be proud.

For example, since May 1993 we have:

Articulated a new strategic agenda based on five interrelated objectives—protecting the environment, building democracy, stabilizing world population growth and protecting human health, encouraging broad-based economic growth, and providing humanitarian assistance and aiding post-crisis transitions.

Submitted to Congress a new legislative charter for American foreign assistance that would replace the 1961 Foreign Assistance Act and would give USAID the focused mandate and specific tools we will need to respond to the demands of the post-Cold War world.

Announced the close-out of 23 overseas missions over the next three years in order to concentrate our resources in countries where the need is greatest and where we can establish productive partnerships with host governments.

Established for every country in which we operate a timetable for how long we should be involved there and committed the Agency, its bureaus and its overseas missions to achieving specific measurable results.

Established USAID as a reinvention lab in Vice President Gore's Reinventing Government Program.

Created an Agency-wide Quality Council to involve employees in the process of revitalizing USAID.

Completed an agency-wide reorganization and "right-sizing" effort that will simplify and streamline the Agency.

Introduced broad procurement reforms designed both to streamline the process and to open USAID's procurement to a wider variety of bidders throughout America.

Initiated an effort to reengineer our project design and implementation processes to reduce sharply the time required to move ideas into the field.

Developed a framework to unify USAID's multiple personnel systems.

Initiated a major overhaul of USAID's financial management systems.

Introduced important new information technology to strengthen decisionmaking, improve coordination with our overseas posts and increase productivity.

We have made many tough choices. Much progress has been made, but it would be disingenuous to lead you to believe that we are close to the finish line. As I have said many times, it will be at least two years before USAID is truly a reinvented agency.

If the momentum of our reforms is to be sustained, your continued assistance, ideas, and partnership will be critical. I hope you agree that we are moving in the right direction, and look forward to continued consultation with you and your staff as we work for passage of the Peace, Prosperity and Democracy Act of 1994 and continue our reform efforts.

Sincerely,

J. BRIAN ATWOOD.

TRIBUTE TO THELMA SIBLEY

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mr. CARR of Michigan. Mr. Speaker, I rise today to pay tribute to the exceptional activism of Mrs. Thelma Sibley, a woman who has suffered tragic loss in the death of her 5-year-old daughter Nancy, but who has turned her grief into action.

In early January of this year, Nancy Sibley strangled after the drawstring on her coat caught on the spiral slide at her elementary school's playground in Ann Arbor, MI. She died the next day. Since then, her mother's campaign to require manufacturers to stop making drawstrings and other strangulation hazards on children's clothing has garnered the support of over 7,400 petitioners, across six States: Michigan, Ohio, Wisconsin, Nebraska, Florida, and Texas. Included with the signatures that she sent to First Lady Hillary Rodham Clinton and Mrs. Tipper Gore was seven pounds of drawstrings cut from children's clothing by parents of small children.

Nancy Sibley's tragic death and her mother's resulting activism have reached the U.S. Consumer Product Safety Commission [CPSC], where a major cooperative effort with manufacturers and retailers to remove drawstrings from children's clothing was announced on July 7.

Today, in expressing my admiration and respect for the activism of Thelma Sibley, I also want to join her in warning parents across the Nation of the hazards of loose strings on children's clothing. The CPSC recommends removing the strings immediately, and I urge parents of small children to do so. Thank you.

TRIBUTE TO CISSIE SWIG, DIRECTOR, ART IN EMBASSIES PROGRAM

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mr. LANTOS. Mr. Speaker, yesterday I had the great honor and pleasure to attend the swearing in of Roselyne Chroman "Cissie" Swig as the Director of the Arts in Embassies Program for the Department of State. Cissie is a dear friend of mine whom I have known for many years. President Clinton and Secretary Christopher could not have made a better choice for this important position.

Cissie will represent all of us well by displaying the best in American art in our embassies around the world. The program that she will direct assembles works of American art from private lenders and the Department of State's permanent collection for display at embassies worldwide. The impression of our country and our people that many foreigners receive is based on the looks of our embassies and official residences abroad. Cissie will make an important contribution to the image our Nation conveys in this position.

Prior to taking up her duties at the Department of State, Mrs. Swig served as president and founder of her own art consulting firm in San Francisco. For 16 years she has played a pivotal role in the art community as a businesswoman, advisor, advocate, teacher, and collector.

In addition to her professional responsibilities, Mrs. Swig has served with distinction in a number of key positions in the arts and business communities: board member, American Council for the Arts; board member, San Francisco Museum of Modern Art; chairman of the board, trustees of the San Francisco Art Institute; president, University Art Museum of Berkeley; member, international board of governors of the Tel-Aviv Museum of Art; local programs panel member, National Endowment for the Arts; board member, San Francisco Economic Development Corp.; and board member, Opportunity Capital Corp.

Cissie Swig has written numerous articles on the arts, leadership, public/private partnerships, volunteerism and the social welfare community. She attended the University of California at Berkeley as an undergraduate and has been awarded honorary masters and doctorate of fine arts degrees from the San Francisco Art Institute.

Mrs. Swig brings 30 years of experience in the arts, business, development, and political activism to the Art in Embassies Program. In addition to a deep commitment to encouraging the arts in our country, she has a natural enthusiasm, and understanding and respect for the program's objectives, and art experience at the local, national, and international levels.

Mrs. Swig is the wife of my dear friend, Richard L. Swig, the chairman of the Fairmount Hotel Co. in San Francisco. They have four children and nine grandchildren.

ANAKTUVUK PASS LAND EXCHANGE AND WILDERNESS REDESIGNATION ACT OF 1994

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mr. YOUNG of Alaska. Mr. Speaker, I am pleased today to introduce the Anaktuvuk Pass Land Exchange and Wilderness Redesignation Act of 1994. When enacted, this legislation will ratify an agreement to settle a longstanding and difficult dispute between the National Park Service and Alaska Native landowners over the use of all-terrain vehicles—or

ATV's—for access for subsistence purposes in Gates of the Arctic National Park and Preserve.

The residents of Anaktuvuk Pass and the National Park Service have had a longstanding dispute over the use by village residents of certain ATV's for subsistence purposes on national park and wilderness lands adjacent to the village. In an effort to resolve this conflict, Arctic Slope Regional Corporation—the regional corporation established by the Inupiat Eskimo people of Alaska's North Slope under the provisions of the Alaska Native Claims Settlement Act [ANCSA], Nunamiut Corporation—the Anaktuvuk Pass ANCSA Village Corporation—the city of Anaktuvuk Pass and the National Park Service have entered into an innovative agreement both guaranteeing dispersed ATV access on specific tracts of park land and limiting development of Native land in the area. The agreement will limit the types of ATV's allowed and will also lead to enhanced recreational opportunities by improving public access across Native lands.

The village of Anaktuvuk Pass is located on the North Slope of Alaska in the remote Brooks Mountain Range, completely within the boundary of and surrounded by the Gates of the Arctic National Park and Preserve. Village residents have long relied upon the use of ATV's for summer access to subsistence resources, primarily caribou, on certain of these nearby park, and park wilderness lands. As there are no rivers near the community for motorboat access to park lands, ATV's provide the primary means by which to reach and transport game in the summer. The only alternative to ATV use is to walk. Snowmobiles are the primary mode of transportation for subsistence activity in the winter.

With the passage of the Alaska National Interest Lands Conservation Act [ANILCA] in 1980, Congress expressly reserved the rights of rural Alaska residents to continued, reasonable access to subsistence resources on public lands, by providing in section 811(a) of the act that, "rural residents engaged in subsistence uses shall have reasonable access to subsistence resources on public lands." Section 811(b) of ANILCA provides further that "the Secretary shall permit on the public lands appropriate use for subsistence purposes of snowmobiles, motorboats, and other means of surface transportation traditionally employed for such purposes by local residents, subject to reasonable regulation." The National Park Service and the Native landowners disagree about whether ATV's are "other means of surface transportation traditionally employed" for subsistence purposes in Gates of the Arctic National Park and Preserve. But there is no dispute that ATV's are necessary for the summertime subsistence activities of the residents of Anaktuvuk Pass.

Following several years of discussions, the Native landowners and the National Park Service have reached an agreement which will finally resolved the ATV controversy on the public lands surrounding Anaktuvuk Pass. In April 1992, the Park Service issued a final legislative environmental impact statement embracing the proposed agreement, and in November 1992, the Secretary of the Interior endorsed the agreement in a Record of Decision. The parties executed the agreement on December 17, 1992.

The parties have since executed two technical amendments to the original agreement.

The agreement involves an exchange of land and interests in lands between the Native landowners and the Park Service. Specifically, the Federal Government will convey in fee approximately 30,642 acres of park land to Arctic Slope Regional Corporation and Nunamiut Corporation. On the Federal land conveyed to the Native corporations, the National Park Service will reserve surface and subsurface access and development rights as well as broad public access easements. In addition, certain nonwilderness areas of federally owned park land will be opened up to dispersed ATV use. In return, the Native landowners will convey to the Federal Government approximately 38,840 acres in fee for inclusion in both the national park and national wilderness systems. Native landowners will also convey to the Park Service additional surface and subsurface development rights on 86,307 acres as well as a series of conservation, scenic, and public access easements on other Native-owned lands within the boundaries of Gates of the Arctic National Park and Preserve. Finally, the city of Anaktuvuk Pass will convey a city lot to the National Park Service for administrative purposes.

Congressional ratification of this agreement will be required in order to remove 73,993 acres of Federal land from the National Wilderness Preservation System, as well as to designate approximately 56,825 acres of other park and presently Native-owned lands as new National Wilderness. If ratified by Congress, the agreement will expressly authorize dispersed ATV use on certain lands within the park boundary. Without congressional approval, the agreement will become null and void, and none of the conveyances or creation of easements proposed by the agreement will occur.

It is intended that this agreement will resolve the longstanding dispute over subsistence use of ATV's only on public lands in and around Anaktuvuk Pass. It is important to note that neither this agreement nor the accompanying Federal legislation will diminish, or otherwise affect in any way, anyone's rights and privileges to access public lands in Alaska for subsistence purposes. This agreement does not confirm or deny that ATV access to public lands for subsistence use is a statutorily protected traditional access right under ANILCA, and consequently, this agreement does not purport to resolve this issue.

TRIBUTE TO PREEYA NORONHA

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mr. WELDON. Mr. Speaker, I rise today to congratulate my constituent, Preeya Noronha, a senior at the Academy of Notre Dame De Namur in Villanova, who recently received first place in the Pennsylvania competition of the National Peace Essay contest.

As our Nation's leading newspapers report daily on the continuing turmoil abroad, it is important for our youth to understand the critical role the United States plays in world peace. Since launching the National Peace Essay contest in 1987, the U.S. Institute of Peace has encouraged students across the country to actively discuss the international peace process.

The contestants were asked this year to examine the role of the United Nations in peacekeeping, and assess whether or not the United Nations should intervene in internal conflicts. For the RECORD, I submit Preeya's award-winning essay, "The Need for an Interventionist United Nations."

In conclusion, I commend Preeya and her fellow essay contestants who have dedicated their energy toward comprehending the magnitude of international peace.

THE NEED FOR AN INTERVENTIONIST UNITED NATIONS

In the midst of the Civil War Abraham Lincoln said that "the dogmas of the quiet past are inadequate to the stormy present. We must think anew and act anew."[1] With the end of the Cold War, a barrier which has prevented the United Nations from reaching its ultimate potential has fallen. We are now living in a new world order, and our actions and attitudes must adjust accordingly. To effectively face the challenges of this contemporary era, countries should shed the hindrance of national sovereignty and undertake a policy of collective security and multilateralism through an interventionist United Nations, a policy in which one nation's concern is every nation's concern.

The idea of institutionalizing collective security was first advocated by President Woodrow Wilson. His vision took the form of the League of Nations, yet ironically, Wilson's own country did not agree with his notion of post-World War I world supervision. Isolationism once again enveloped American foreign policy and Congress refused to join the League. Undoubtedly, Wilson's concept failed, and the evils of national sovereignty, evident in the world's indifference toward the 1930s maneuvers of Adolf Hitler, spawned our Second World War.

The lessons of World War II prompted the global community to create an collective institution "to maintain international peace and security," and the United Nations was born. However, despite the emphasis on "collective measures" in the U.N. Charter, the basis of the document is national sovereignty.[2] The U.N. is in fact an association of diverse independent States and can do only what its members have ascribed it to do. Yet practicality in our modern environment demands that we discard the notion of individual autonomy and adopt multilateralism as the sole protector of "better standards of life in larger freedom." The influence of national supremacy is particularly evident in Article Two of the U.N. Charter, which claims that "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State." However in principle and in practice, Article 1 has taken precedence over this clause. In order "to maintain international peace and security" and "take effective collective measures for the prevention and removal of threats to the peace," oftentimes it is essential to intervene in conflicts under domestic jurisdiction. Secretary-General Boutros-Ghali has said that "the misuse of state sovereignty may jeopardize a peaceful global life. Civil wars are no longer civil, and the carnage they inflict will not let the world remain indifferent."[3] In addition, Article 2 itself allows this intervention by concluding, "but this principle shall not prejudice the application of enforcement measures under Chapter VII."

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*Footnotes at end of article.

There are several justifications for external intervention in civil strife. Besides the direct involvement of neighboring countries militarily, an increasing problem concerning internal conflict is the effect of refugees on those nations. The refugee crisis is greatest in Africa, where unrest in Somalia, Sudan, Uganda, Rwanda, Mozambique, and Angola have prompted millions of citizens to flee to other African nations. Streams of refugees present an immense quandary to those countries that permit them to enter, destabilizing them politically, economically, and ethnically. Moreover, the displaced are forced to inhabit refugee camps, often maintained in deplorable conditions. In short, domestic strife usually negatively affects surrounding countries, and consequently is a concern of global status.

Another consideration that warrants an interventionist United Nations is that of human rights. Boris Yeltsin said that human rights "are not an internal matter of States, but rather obligations under the U.N. Charter" and that the Security Council has a "collective responsibility for the protection of human rights and freedoms."[4] A recent example of this preservation is the precedent set within U.N. Resolution 688, which argued that the situation with the Kurdish refugees threatened international stability, even though external military intervention was used to prevent Iraq from oppressing its own citizens in its own territory.[5] Humanitarian assistance is a moral commitment in the world today and a legitimate reason for intervention, even in domestic affairs. "Today sovereignty must meet its limits in the responsibility of States for mankind as a whole * * * When human rights are trampled underfoot, the family of nations is not confined to the role of spectator * * * It must intervene."[6]

Ultimately, the question is not whether the United Nations should intervene in domestic affairs, but how. Common methods of arbitration in recent conflicts have taken the form of humanitarian assistance, the monitoring of elections, temporary governmental administration, and the repatriation of refugees. Economic sanctions, though widely used, are not always efficient. Currently employed in both Iraq and Haiti in efforts to oust governing bodies, sanctions have resulted in only an outbreak of cholera due to poor sewage treatment in Iraq and an upsurge of Haitian refugees to the United States. Consequently, peacekeeping, and now, peacemaking, are viewed as more competent methods of intervention.

Originally, the creators of the U.N. intended to have an armed force for "maintaining international peace and security," but this clause of Chapter VII of the Charter has been replaced with peacekeeping. "The vision of the U.N. was downsized from world policeman to volunteer fire brigade."[7] The Blue Helmets, the beacon United Nations peacekeeping force, may only use their light weapons in self-defense. Yet in today's post-Cold War conditions, peacekeeping alone does not seem to fulfill the Charter's goals.

The conflicts in Korea and the Persian Gulf, although commonly referred to as "U.N. operations," were under the control of the United States. The current domestic strife in Somalia, however, has set a true precedent for the use of force in U.N. operations. After humanitarian efforts proved futile, the United Nations authorized its members to use "all necessary means" to ensure that aid is available to the victims of the civil unrest in Somalia. In Yugoslavia, as negotiations are unavailing, it seems that the only method of halting the "ethnic cleansing" and other aggression is the use of force. This full-scale intervention truly fulfills the original intentions of the creators of the United Nations: "to save succeeding generations from the scourge of war which twice in our lifetime has brought untold sorrow to mankind" at any cost, because conflict anywhere is a danger to peace everywhere.

This purpose also insists the need for preventive deployment of forces in areas of potential unrest. Boutros-Ghali claims that "Peace-keeping is a technique that expands the possibilities for both the prevention of conflict and the making of peace."[8] The Security Council has also supported preventive deployment on a case-by-case basis in zones of instability and political crisis.[9] In fact, several tragic instances in history could have been avoided if the United Nations responded quickly and in a preventive fashion. For example, after the SWAPO troops invaded Namibia, the South African-led Namibian Security forces were compelled to retaliate. If the United Nations had reacted more quickly to the situation, a bloody period in Namibian history could possibly have been avoided.[10] History's lessons are being heeded, as the first preventive operation in the chronicle of U.N. peace-keeping was just recently deployed in the former Yugoslav Republic of Macedonia. In short, a more creative balance needs to be struck among humanitarian action, diplomatic initiative, and military pressure, anticipating problems before they become more difficult to resolve.

The central argument against a highly interventionist United Nations is that there are simply not enough resources and too much bureaucracy to effectively deal with global situations. The U.N. system remains a highly decentralized body consisting not only of the Secretariat, Security Council, and General Assembly, which deal with political and security issues, but also of sixteen specialized agencies, which are budgeted and run independently of the central organization. Peace-keeping missions are run on an "ad hoc" basic, which cause conflicts to become more tense, (and therefore more difficult to resolve,) by the time the U.N. is able to become involved. Another problem is the lack of resources, including finances, personnel, and equipment. Consequently, in order for the United Nations to ideally fulfill the intentions of its creators, reforms must be conducted. Although there is increased consensus due to the end of East-West tensions, the hierarchy must be restructured, including widening the elitist Security Council and abandoning the single veto power. The entire system should be centralized to reduce costs and minimize waste. Finally, as the Charter originally intended, the United Nations should have a standing military force composed from its member countries to effectively and quickly handle dangers to global peace and harmony.[11]

The needs of our global community require an interventionist collective institution "to maintain international peace and security." To achieve this end, it is often necessary to arbitrate a domestic conflict through the use of force. The United Nations must rise to the challenge of this new and dynamic era, and ensure humanity that freedom, justice, equality, and peace "will not perish from the face of the earth."[12]

FOOTNOTES

[1] John Logue. "The New U.N. Charter Approach for Achieving World Federation." A New World Order, Can It Bring Security to the World's People? Washington, DC: World Federalist Association, September 1991: 113.

[2] Elsa B. Endrst. "A Look Back . . . The U.N. at 45." U.N. Chronicle, March 1991: 41.

[3] Tad Daley. "Can the U.N. Stretch to Fit Its Future?" Bulletin of the Atomic Scientists. April 1992: 38.

[4] Ibid., 40.

[5] Ibid., 40.

[6] Ibid., 41.

[7] Michael G. Renner. "A Force for Peace." World Watch, July/August 1992: 28.

[8] "U.N. operations: Not only expanding, but breaking new ground." U.N. Chronicle, September 1991: 45.

[9] "The 38th Floor; Security Council Concludes 'Agenda For Peace' Meetings." U.N. Chronicle, September 1993: 3.

[10] Kathryn Damm. "Global Security: Should There Be a Standing United Nations Police Force? Or a United Nations Peacekeeping Reserve?" A New World Order, Can It Bring Security to the World's People? September 1991: 8.

[11] "The 14-Point Program to Reform and Restructure the U.N. System." Washington DC: Campaign for U.N. Reform, February 1992.

[12] Abraham Lincoln. "The Gettysburg Address." postcard (Washington DC: National Parks and Historical Monuments Association; 1992).

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SALUTE TO LEON P. KLEMENTOWICZ, GRAND MARSHAL OF THE 1994 PULASKI PARADE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mrs. MALONEY. Mr. Speaker, I rise today to salute Leon P. Klementowicz, a special constituent of mine, who has played an extremely active part in improving the lives of all New Yorkers. This year is particularly special as Mr. Klementowicz serves as grand marshal of the 1994 Pulaski parade.

Born to immigrant parents in the Bronx, NY, Leon Klementowicz was an active participant of the St. Adalbert's parish. After finishing high school he was drafted into the U.S. Army during World War II. He served as a combat sergeant in the 3d Infantry Division, serving in Italy, France, Germany, and ending his tour in Austria. Mr. Klementowicz received the Silver Star, the Bronze Star, and the Combat Infantry Badge.

After the war he returned home and married Irene Nieminski. Today he is the proud father of three daughters, one son, and the grandfather of three grandchildren. In 1958 Mr. Klementowicz purchased the John Smolenski Funeral Home in Greenpoint, Brooklyn. He, along with his wife Irene, have been active members of the Greenpoint community ever since.

He is a trustee of the Sts. Cyril and Methodius parish, and member of several organizations, including the Veteran's of Foreign Wars, the American Legion, the Polish Legion of American Veterans, and Smolenski Democratic Club. In addition, Mr. Klementowicz is a director of the Polish and Slavic Center, which boasts over 30,000 members. He is also a member of the Pulaski Business and Professional Men, where he was honored as their Man of the Year. He has been so active in efforts to assist newly arrived Polish immigrants in adjusting to life in the United States that he has received a medal from the Polish Government.

Participating in his first Pulaski parade in 1938, Mr. Klementowicz has been an active member of the Pulaski parade committee for over 35 years. He has been in charge of the parade Mass in St. Patrick's Cathedral and has been active as one of the parade's directors for many years.

In assisting the Greenpoint parade committee, he has helped to make the Greenpoint contingent one of the most active and well prepared groups in the parade. I am confident that with Mr. Klementowicz as grand marshal, this year's Pulaski parade will be one of the best parades ever held.

KIMBERLY TUPA—VFW VOICE OF DEMOCRACY SCHOLARSHIP PROGRAMS' NORTH DAKOTA WINNER

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mr. POMEROY. Mr. Speaker, I would like to submit the following essay written by Ms. Kimberly Tupa, a high school student in Bismarck, ND. Each year students from around the United States participate in the Voice of Democracy Scholarship Program essay contest sponsored by ladies auxiliary of the Veterans of Foreign Wars. Kimberly, selected as the North Dakota State winner, was named the fifteenth place national winner and received the $1,500 Department of Missouri and Ladies Auxiliary Scholarship Award, I would like to share her thoughts on "My Commitment to America" with my colleagues, to reinforce our young people's dedication to preserving America and its liberties.

MY COMMITMENT TO AMERICA

(By Kimberly Tupa)

Commitment. In the frenzy of the world today, people cringe when they hear the dreaded word, commitment. We're all guilty of this. We seem to dream up the most amazing excuses to avoid volunteering our time and efforts to help others.

I believe I've heard almost every excuse imaginable, and I must confess, I've depended on some of the same excuses myself. "I don't have time," or "Why should I, no one else does?" I had a very narrow-minded, selfish point of view, until one evening during dinner when I began to see the light. As usual, my family was involved in yet another lively conversation, the downfall of America. What had happened to the sense of duty to others and the nation? Morality, ethics, patriotism, where had they gone?

Hours later, still pondering over my family's lengthy and animated discussion, I was suddenly struck with a sense of dread. What was my duty to America? Horrified, I realized I had become the type of person I detested. My country had given me so much. Yet, what did I give back? At that moment, I examined the other members of my family. What had they contributed?

My father, having served in the military for three years, became a role model for my oldest brother Mark. Belonging to the Air Force Reserve Officers Training Corps, Mark attends college on a full-ride scholarship. After graduation, he will fulfill a four-year obligation in the Air Force. Mark is extremely proud to serve and defend his country. He feels privileged having been given the opportunity to belong to the Armed Forces.

My mom, an elementary teacher, is committed in an altogether different way, teaching and preparing the future leaders of America. She cherishes every moment she spends in the classroom with her students. Likewise Ken, another older brother whom I greatly admire, intends to become an English teacher with the hope of giving back to society what society has given to him.

For years, I had believed my family contributed an extremely insignificant amount to society. How wrong I was! Where then did this leave me? What could I contribute? That momentous evening, with my family gathered around the diner table, I finally realized my commitment to America. I believe the key to commitment is community involvement. For two years I have been involved in Special Olympics, coaching soccer. Looking on as my team enthusiastically accepted their bronze medal this year, I felt pride and contentment. I had never dreamed that I would be the one to benefit. The athletes made me more aware of the importance of patience, compassion, generosity, and maturity.

Every week I also visit the students in my mom's classroom. For half an hour I present Spanish to the children, awed at how quickly and eagerly they grasp the new knowledge. I first began this practice four years ago, but at that time I only taught the children for one day. As soon as I noticed their fervor for the language I decided to come for regular visits, one day each week

I spent an entire day each year, for three consecutive years, scooping ice cream at a festival specifically for children. Even when my wrists were so stiff I couldn't move them. I experienced an amazing feeling of satisfaction. Despite the fact that I am donating my own time, I am the better citizen for it. My reward, my payment, is the smile I witness on every child's face as they gulp down their ice cream, the hug I share with each Special Olympic athlete.

A major portion of my contribution to America is donating time to these community projects. My ultimate goal, however, is to obtain college degrees in both Biochemistry/Molecular Biology and Spanish. With this training, I hope to devote my time to research. My lifelong wish is to discover cures to those diseases which plague hundreds of thousands of people today. Although to many a seemingly unattainable goal to reach, I believe with determination my efforts won't be futile.

As Edward Everett Hale once said, "I am only one, but still I am one. I cannot do everything, but still I can do something; and because I cannot do everything, I will not refuse to do the something that I can do."

WILLIAM JEFFERSON RETIRES AFTER 44 YEARS IN EDUCATION

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to William Jefferson, who retired June 30, 1994, after serving 30 years in Lee County schools, and a total of 44 years in education.

Mr. Jefferson is retired assistant superintendent for personnel and instruction for Lee County schools, a post he held since 1985.

Mr. Jefferson, who is 64 years old, began his career as a high school math and science teacher in Andrews, SC, in 1950. He was drafted into the Army a year later and served as an education specialist in Germany. He returned to the United States in 1953 and was a teaching principal in Williamsburg, SC.

In 1954, Mr. Jefferson went to Sumter School District 2, where he served as a teacher and assistant principal. He later moved to Lee County and accepted the position of principal of Dennis High School in 1964. A year later, a court ordered Lee County schools to integrate.

Mr. Jefferson became principal of the newly integrated Bishopville Middle School in 1970 and became principal of Mount Pleasant High School in 1977. Mr. Jefferson lists as one of his accomplishments the accreditation of Mount Pleasant High School by the Southern Association of Colleges and Schools, the first school in the district to receive this distinction.

Mr. Speaker, Mr. Jefferson began his career in the Lee County schools at the onset of the integration movement in that county, and deserves recognition for his professionalism in peacefully guiding students, parents, and teachers through what could have been a turbulent transition.

Countless students have no doubt benefited from Mr. Jeffersons' over four decades of experience, and I am sure the Lee County school system will join me in commending Mr. Jefferson for his many years of outstanding service.

VERNON N. GREEN RETIRES AFTER DECADES OF OUTSTANDING LEGAL COUNSEL

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mr. SOLOMON. Mr. Speaker, the village of South Glens Falls and the town of Moreau are located in the middle of the lengthy 22d Congressional District I have the privilege of representing. For more than 30 years, those two municipalities have been ably served by the legal counsel of Vernon N. Green, who is now retiring.

Mr. Speaker, never was it more appropriate to say that a person's shoes will not easily be filled. Everyone in this Chamber understands that you cannot serve the public in any important capacity for several decades without earning a reputation for integrity, wisdom, and professionalism. Those qualities certainly describe Vernon Green.

Mr. Green graduated from the Albany Law School in 1951, and was admitted to the bar later that year. He began private practice in 1954. He subsequently served as South Glens Falls village justice from 1955 to 1975, South Glens Falls school district attorney from 1960 to 1994, and Moreau town attorney from 1956 to 1994. In those 39 years of service to the community, Mr. Green not only acquired a priceless grasp of local affairs, but conducted himself in a manner that brought credit to his profession.

Mr. Green has been a member of the bar associations of New York State, Warren County, and Saratoga County. He was also a member of the South Glens Falls Rotary Club, the South Glens Falls-Moreau Chamber of Commerce, and the Tee-Bird Country Club.

Mr. Speaker, in my nearly three decades of public life on the local, State, and Federal levels, I have met many fine public servants, but few as fine as Vernon N. Green. I would ask all Members to join me in a tribute to this outstanding attorney and great American.

A TRIBUTE TO A DEDICATED SECURITY OFFICER, DAVID L. ROBERTS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mr. GILMAN. Mr. Speaker, I rise to salute a seasoned security professional, David L. Roberts, who is retiring from the Department of State this summer after more than 30 years of distinguished service with a number of agencies in the U.S. Government.

Mr. Roberts was born in West Virginia in 1939, graduated from Concord College, and later did graduate studies at the American University here in Washington.

Following 3 years of service in the Marine Corps, he joined the Naval Investigative Service in 1971 as a criminal investigator and served in Vietnam as a civilian investigator from 1966 to 1967. In 1971, he was recruited by the Bureau of Diplomatic Security in the Department of State where his investigative and overseas security experience were invaluable skills in countering the escalating terrorist attacks on Americans and our embassies overseas.

During his distinguished career with the Bureau of Diplomatic Security, he served as the Regional Security Officer in Zaire, as both the Security Officer and the Administrative Officer for SALT in Geneva, and was assigned to the American Embassy in Moscow, one of the most challenging security assignments in the world.

From 1981 to 1984, he became the Associate Director of Security for Africa and the Middle East. Mr. Roberts' superior performance was appropriately recognized when the Department named him Associate Director of Security for Europe.

Beginning in 1987, David Roberts served as the Director of the Anti-Terrorism Assistance Program [ATA], an important office created by the legislative efforts of the House Foreign Affairs Committee. The ATA program helps the United States enhance our worldwide fight against the scourge of terrorism.

Subsequently, Mr. Roberts was called upon to take over the directorship of Diplomatic Security's Protection and Investigations program. He served there until 1991, when he became Division Director of the Construction Security Management program in the Foreign Buildings Office.

In recognition of his many significant accomplishments, Mr. Roberts was one of a select group of seasoned security officers promoted to the Senior Foreign Service where he now holds the rank of Officer Counselor.

Few Americans recognize the demands made on State Department security professionals, as well as their families with regard to the occasional dangers inherent in international travel and their assignments in distant lands. While visiting Beirut in 1984, Mr. Roberts was wounded in the terrorist bombing of the American Embassy. Despite his injuries, he stayed in the building in order to help rescue many employees.

I invite my colleagues to join me in commending David Roberts for his many years of dedicated service to his Nation. We wish him, his wife Cathie, and sons good health and happiness in all of their future endeavors.

27TH FIGHTER WING IS NO. 1

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mr. RICHARDSON. Mr. Speaker, I urge my colleagues to join me in saluting the outstanding men and women serving at Cannon Air Force Base near Clovis, NM.

The principal Air Force unit at Cannon, the 27th Fighter Wing, won the top prize in the Air Combat Command's annual bombing competition in early May. In addition to winning the Gen. Muir S. Fairchild Trophy given to the best overall team, the 27th Fighter Wing also captured two other trophies. The Cannon team won the Russell E. Dougherty Trophy as the best fighter team and the Koritz-Holland Electronic Countermeasures Award for the best fighter unit in electronic countermeasures.

The 27th Fighter Wing operates the swing-wing F-111 tactical fighter, one of the most sophisticated aircraft in our military inventory. With a history dating back to the 1920's. Cannon is home to 4,500 officers and enlisted personnel and 582 civilians. With family members, over 9,000 persons live on the base.

Capturing the three trophies in May is nothing new for the F-111 crews. They regularly distinguish themselves in annual competitions and in combat, particularly in the Persian Gulf war. I am attaching an article from the Air Force Times for my colleagues' review. I am proud to represent this base and urge my colleagues to salute and continue to support the 27th Fighter Wing and our F-111's.

[From the Air Force Times, June 6, 1994]

THE 27TH IS NO. 1

(By Julie Bird)

WASHINGTON.—The 27th Fighter Wing from Cannon Air Force Base near Clovis, N.M., is the winner of the top prize in Air Combat Command's annual bombing competition.

Units that participated in the May 3 competition, known as Proud Shield, gather annually at Barksdale Air Force Base near Bossier City, La., for score posting and awards. The flying part of the competition takes place at ranges across the country.

The competition formerly was a Strategic Air Command event for heavy bombers. It has been modified under Air Combat Command to include fighter-bombers such as the F-15E "Strike Eagle," which competed for the first time this year.

The Cannon wing, which flies F-111s, took home the Gen. Muir S. Fairchild Trophy given to the best overall team. The award is named after a World War II bomber pilot and former Air Force vice chief of staff.

The Cannon team also won two other trophies: The Russell E. Dougherty Trophy as the best fighter team, and the Koritz-Holland Electronic Countermeasures Award for the best fighter unit in electronic countermeasures.

The Dougherty trophy is named for the former Strategic Air Command commander in chief, who served from 1974 to 1977. The Koritz-Holland award, which was given for the first time, was named in memory of Maj.

Thomas E. Koritz and Lt. Col. Donnie P. Holland, F-15E crewmen killed Jan. 17, 1991, in Operation Desert Storm.

The 7th Wing from Dyess Air Force Base near Abilene, Texas, won the Maj. Wayne D. Whitlock Trophy for having the highest score among B-1B Lancer units in electronic countermeasures. The award is named after a defensive systems operator who died in a 1987 B-1 accident.

The Dyess wing also won the Gen. Ira C. Eaker Memorial Trophy as the best overall B-1 unit. Eaker commanded the 8th Air Force in England during World War II and later was chief of the Air Staff in the Army Air Forces.

The 2nd Bomb Wing from Barksdale won the Maj. James F. Bartsch Memorial Electronic Warfare Award as the B-52 Stratofortress unit with the most points in electronic countermeasures. The trophy honors an electronic warfare officer killed in a B-52 crash in 1977.

The 5th Bomb Wing at Minot Air Force Base in North Dakota won the Gen. Bennie L. Davis Trophy as the most improved unit compared with its performance the previous year. Davis, a Tuskegee Airman, was the first black two-star general in the Air Force and, after winning his third star, was deputy commander in chief of the U.S. Strike Command at MacDill Air Force Base, Tampa, Fla.

The Minot wing also won the John D. Ryan Trophy as the best overall B-52 unit. Ryan was Strategic Air Command commander in chief from 1964 to 1967.

Crew E-60 crew from the 410th Bomb Wing at K.I. Sawyer Air Force Base near Marquette, Mich., won the Curtis E. LeMay Bombing Trophy as the best crew in bombing and timing control. The trophy is named for the former Air Force Strategic Air Command commander in chief and Air Force chief of staff.

Winners of the crew awards were: F-15E—Crew S-02, 4th Wing, Seymour Johnson Air Force Base, Goldsboro, N.C. F-111—Crew C-02, 27th Fighter Wing, Cannon. B-1B—Crew R-26, 7th Wing, Dyess. B-52—Crew E-45, 5th Bomb Wing, Minot.

TRIBUTE TO VILLAGE OF DEPEW, NY

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mr. QUINN. Mr. Speaker, I rise today to pay tribute to the Village of Depew, NY which is proudly celebrating the 100th anniversary of its incorporation on July 23, 1994.

A weeklong centennial celebration scheduled from July 17 to July 24 is eagerly anticipated by the residents of Depew. They are rightfully proud of the heritage of their village.

In 1892, 2 years before incorporation, ground was broken for the New York Central Railroad shops. Railroads and their related industries were essential to the Nation's economy at this time. Buffalo was the location of huge coal trestles supplying 27 different rail lines—more than 250 trains entered and left the Buffalo area daily.

The area which would become known as Depew proved to be an ideal place for development.

Chauncey Mitchell Depew—a man who made many contributions to the State of New York and who served as Secretary of the State Senate, United States Senator, and the President of the New York Central Railroad—turned the dream of a company town into a reality with the small purchase of land on either side of the railroad. He gave politics up for his first "love"—the railroad.

Depew contracted the premier landscape architect, Frederick Law Olmstead, to develop commercial and residential land. Although Olmstead's original plan for a subdivision was never completed, Depew is proud of the historic southern part of the village which serves as a landmark to his talents.

People of all nationalities came to settle in Depew. Many Depew citizens are honored to be able to count their families as original Depew residents.

The Village of Depew is still a thriving and vibrant place. Chauncey Depew would be pleased that his vision of a community full of opportunity continues to grow.

Mr. Speaker, I think we will realize the importance of communities like the Village of Depew. Furthermore, we should all be grateful for communities like Depew whose great strength is its people and their strong values.

I am very pleased to be able to help Depew celebrate its 100th anniversary and as we look towards all the possibilities of its future.

TRIBUTE TO WINN NEWMAN

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mr. FRANK of Massachusetts. Mr. Speaker, one of the most dedicated and thoughtful fighters for social justice whom I have worked with died 2 weeks ago. Winn Newman was a lawyer who showed what the legal profession can be at its best. As a labor lawyer, as a leader in Americans for Democratic Action, and as a citizen, Winn Newman fought hard for the things that he rightly believed would make this a better and fairer society. He was one of the pioneers on the question of pay equity, and did a great deal to help address the intolerable situation of women being compensated far less than man for equal work.

In the July 8 Washington Post, Judy Mann wrote a column which captured the essence of this strong, gentle man. Because Judy Mann did do such a good job of describing a man who ought to be a role model for all lawyers—indeed for all citizens—I ask that her column be printed here.

[From the Washington Post, July 8, 1994]

A GENTLEMAN AND A LAWYER

(By Judy Mann)

There was a moment of tribute at the convention of the American Federation of State, County and Municipal Employees (AFSCME) for Winn Newman, the labor lawyer who died of a stroke June 24. When the moment ended, two groups remained standing.

One was a group of public employees from Washington state; the other from New York. They had received hundreds of millions in pay raises as a result of Newman's landmark "comparable worth" lawsuits. "They remembered deeply what Winn had done for them on pay equity," Al Bilik, president of the Public Employee Department of the AFL-CIO, said at the packed memorial service last week at AFL-CIO headquarters.

The essential ingredient in Newman's bold legal concept was fairness. The Equal Pay Act of 1963 required employers to give men and women "equal pay for equal work," but not for similar work. This was a critical point, for women and men often are segregated by sex in the work force, and the job categories predominantly filled by women invariably pay less than jobs filled by men.

Newman pioneered the argument that comparable jobs should be of comparable worth to the employer, and he did it in litigation, legislative hearings and in collective bargaining. He helped forge the coalition of trade unions, political groups and women's organizations that has been critically important in advancing women's rights in the work force.

The AFSCME pay equity campaign has led to comparable worth standards being adopted by dozens of state and local governments. "The pay equity campaign of AFSCME represents a break in union traditions of acquiescence to inferior pay for women," wrote economist Barbara R. Bergmann in "The Economic Emergence of Women." She credits Newman and the late Ruth Weyand with starting the pay equity campaign in the United States when they were lawyers for the International Brotherhood of Electrical Workers.

"He played an extraordinary and in many aspects a unique role in . . . expanding our concepts as a country about what is fair and just in the treatment of working women," said Marcia Greenberger, of the National Women's Law Center. This, she predicted, is the legacy that will have the most profound impact on women.

"Winn's great genius was to look at the jobs women have traditionally held and enjoyed and excelled at and question why those jobs didn't have greater pay and advancement opportunities.

"In the early '70s, he was one of the pioneers in defining discrimination on the basis of pregnancy as an aspect of illegal sex discrimination. That was a concept that was not only new but in fact very controversial," she said. He and Weyand took a pregnancy discrimination case against General Electric to the U.S. Supreme Court, and when they lost there, he helped lead the campaign in Congress to overturn the Supreme Court decision two years later.

"He really was a revolutionary," said Judith Lichtman, head of the Women's Legal Defense Fund, which spearheaded that drive. "When he started thinking about and talking about and doing something about sex discrimination in employment, there weren't very many people who were.

"He was willing to use creatively the resources of the trade union movement on behalf of its women members and to provide the leadership, as well as his organizing skills and his legal ability. He was a master at using litigation for social change."

Bernice Resnik Sandler, one of the most influential advocates for women in education, was in the standing-room-only crowd at the memorial service. One of her daughters had been fired once because she was pregnant. "That's less likely to happen because of Winn," Sandler said. "He was among the first men who understood that women's issues were important, not just to women but to everybody."

"He was not a religious man," David Davidson, a labor lawyer and former colleague of Newman's, said in his eulogy. "But no religious activist ever had a stronger belief in the worth and dignity of every human being."

Newman, who was 70 years old when he died, was unassuming, funny, warm and wonderfully patient about explaining fine points of the law to newspaper columnists. Greenberger described him well when she said he had a combination of "good grace and tenacity."

But there was something else that contributed to the great affection and respect in which he was held. He had a quality that is especially prized in times marked by cynicism and demagoguery: It's called integrity. He had it in spades.

THE GSP RENEWAL AND REFORM ACT OF 1994, H.R. 4586—PART I

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mr. BROWN of California. Mr. Speaker, my distinguished colleague, Congressman JOHN LAFALCE and I recently introduced comprehensive legislation to extend and make badly needed improvements in the most important trade program governing U.S. relations with developing nations on the third world—the Generalized System of Preferences [GSP] Program.

The GSP law was substantially amended in 1984 to increase trade with developing countries and to spread the benefits of trade more broadly within every trading nation in order to stimulate long-term, sustainable development. The goal was to bring GSP implementation more into concert with the fundamental premise of the founding of the GATT in 1948–49.

Specifically, the GATT Preamble states, "Relations among countries in the field of trade and economic endeavor should be conducted with a view to raising standards of living and ensuring full employment." The subsequent generation of knee-jerk free traders seem to have forgotten this underlying purpose of trade liberalization. Trade is not an end in itself, but a mechanism for improving the standard of living for people, most of whom are workers.

The guiding assumption underpinning the GSP Program and reflected in its original legislative history has been that giving developing countries temporary trading preferences through duty-free treatment of many of their exports would encourage long-term, sustainable development, thereby reducing the need for unilateral U.S. aid.

The original GSP Program was quite simple in its operation, but it failed to achieve its primary development objective. The program permitted countries identified as beneficiary developing countries [BDCs] to export to the United States duty-free any products listed as eligible articles. Providing duty-free access to the U.S. market, GSP was expected to increase exports from BDCs and provide an incentive for investors to locate new plants in BDCs, thus creating jobs, stimulating the local economies, and gradually reducing the need for traditional forms of direct development aid. These surface economic goals were partly achieved, but broad-based development was quite limited.

As Congress expressly indicated in the legislative history to the first reauthorization of GSP in 1984, which resulted in amendments to attempt to rectify the failure of the program to achieve the development objectives, the benefits of the program were largely restricted to the "privileged elites" in a handful of newly industrialized developing* countries.[1] There was also increasing evidence that the GSP Program was providing a strong incentive for U.S. employers to relocate to developing countries, where they could take advantage of the absence of fundamental worker rights and substandard labor conditions coupled with duty-free access to U.S. markets.[2]

THE 1984 GSP AMENDMENTS REQUIRED COMPLIANCE WITH WORKER RIGHTS TO BE ELIGIBLE FOR GSP BENEFITS, BUT THE PAST TWO ADMINISTRATIONS DISAGREED WITH THE POLICY AND FAILED IN FUNDAMENTAL WAYS TO ENFORCE THE LAW

Rather than abolish the GSP Program, or simply accept the Reagan administration's recommendation to transform the program in ways to browbeat developing countries about counterfeiting and market access,[3] Congress also tackled the problems associated with the systematic exploitation of workers in BDCs. We wrote into the mandatory and discretionary eligibility criteria for GSP benefits whether a country is "taking steps to afford internationally recognized worker rights to its workers." With the added requirement that BDCs must comply with internationally recognized worker rights, the benefits of GSP could be expected to reach more of the impoverished workers, who would finally be able to bargain for a fair share of the benefits of increased trade. In addition, by improving worker rights in developing countries, U.S. companies would be less likely to make investment decisions based upon the availability of duty-free access to the U.S. market from countries that were able to offer labor made artificially cheap due to the systematic suppression of worker rights.

For reasons that will be discussed in detail, the goals of Congress in passing the 1984 amendments have been largely unrealized due to the failure of the Reagan and Bush administrations to properly implement and enforce the GSP worker rights provisions. The main problem arose because too much discretion was left to the executive branch in determining whether a BDC was in compliance with the worker rights provisions. Accordingly, the Reagan and Bush administrations undermined enforcement of the worker rights provisions. They pursued a policy of promoting trade with the overriding goal of increasing the volume of GSP trade, leaving concerns as to whether the workers benefited to the whims of employers to share their bounty and to a belief in the failed policy of "trickle down" economics. This was the policy approach that Congress sought to change in passing the 1984 amendments—the benefits of increased trade through the original GSP Program had not resulted in any measurable improvement in conditions for workers, so Congress took the step of requiring that specific standards were enforced to release the flow of benefits that had previously been trickling down drop by drop without any broad-based impact.

Disagreement with the goals of the 1984 amendments, coupled with broad enforcement discretion, allowed the Reagan and Bush administrations to substantially negate congressional intent. Enforcement was neglected to such an extreme degree that all of the parties that had ever petitioned in the annual GSP administrative review for stronger enforcement of the GSP worker rights provisions banded together and filed suit against the Bush administration, seeking a judicial order requiring the executive branch to enforce the GSP law consistent with the intent of Congress.[4] The case, International Labor Rights Education and Research Fund et al versus George Bush et al,[5] resulted in a split decision in the Court of Appeals for the District of Columbia Circuit in which the judges expressed differing rationales, but left standing a lower court ruling that the present GSP law leaves broad discretion in the hands of the executive branch and that the Congress would need to amend it in order to achieve its expressed statutory purposes.

If we don't enact amendments now to further clarify congressional intent, the substantial GSP benefits of duty-free access to U.S. markets will continue to be available to countries that systematically deny internationally recognized worker rights. The past decade has shown that the executive branch will continue to be exercised in ways that minimize the impact of the GSP worker rights provisions. This will allow countries that are among the worst offenders of worker rights, and many large U.S.-based multinational corporations operating in such countries, often to take advantage of unprotected labor kept cheap by the suppression of worker rights, to continue receiving billions of dollars in GSP benefits without fulfilling the reciprocal responsibility of allowing workers to share more fully in those benefits. Without improved specific, enforceable provisions requiring that BDCs respect internationally recognized worker rights, the goal of encouraging sustainable, broad-based economic development will not be achieved.

FURTHER AMENDMENTS ARE NEEDED TO REALIZE THE ORIGINAL DEVELOPMENT GOALS OF THE GSP PROGRAM

It is now up to the Congress to take the required steps to restore the original goal of the GSP Program. The 1994 GSP Renewal and Reform Act seeks to more nearly fulfill the intent of Congress in enacting the worker rights provisions a decade ago. By improving BDC compliance with internationally recognized worker rights, this legislation will ensure that BDCs spread the benefits of the GSP program to a broader base of citizens. This will directly encourage sustainable development and will allow workers to finally begin to purchase some of the products they make, increasing global demand.

In addition, improved compliance with worker rights in BDCs will help curb the loss of U.S. jobs by reducing the gap between worker rights and labor costs in the United States and developing countries, thus allowing legitimate comparative advantages to guide investment decisions and discouraging the practice of rewarding countries that are the most willing to deny worker rights and maintain wages that are artificially constrained.

THE GSP ADMINISTRATIVE REVIEW AND ENFORCEMENT PROCESSES MUST BE IMPROVED

A brief history of the evolution of the GSP administrative review and enforcement processes are necessary to understand why changes are needed.

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* Footnotes to appear at end of article.

• See footnotes at end of article.

Shortly after the 1984 GSP amendments were enacted, the GSP Subcommittee (the GSP Comm.) within the Office of the U.S. Trade Representative (USTR), which is comprised of representatives from USTR and the Departments of Agriculture, Interior, Labor, State and Treasury, drafted and implemented new regulations to establish new procedures under which an "interested party" may petition the GSP Committee to review whether a country is in compliance with the worker rights provisions and other eligibility criteria that apply to designation of BDCs or eligible articles under the GSP program. This was in furtherance of Congress' expressed intent to allow "parties interested in the implementation and protection of * * * workers rights" to participate fully in the review process to the same extent as "parties having a significant economic interest."

The current administrative review process thus requires an interested party to file a petition with the USTR that documents alleged violations of internationally recognized worker rights within a GSP beneficiary country. The GST Committee then makes a determination as to whether to summarily deny the petition or whether to accept it for investigation and public hearing.

FOOTNOTES

[1] H.R. Rep. No. 98-1090, 98th Cong., 2d Sess. 11, reprinted in, Committee Report at 5111.

[2] Id at 5111-12; 130 Cong. Rec. at 977-79.

[3] The Reagan administration proposed a ten-year extension of GSP with no substantial change except provisions for greater access to foreign markets. 130 Cong. Rec. at E 977. Congressman Pease, the sponsor of the 1984 amendment bill, stated in reference to the bill proposed by the Reagan administration, "[a]s is customary with the Reagan administration's trade policy, there is nothing in the President's bill that recognizes the impact of a program like GSP upon American workers . . ." 130 Cong. Rec. at E978.

[4] There were a total of 23 parties who joined together to challenge the failure of the Bush administration to enforce the worker rights provision consistent with the intent of Congress: The International Labor Rights Education and Research Fund; The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO); International Union of Electronic, Electrical, Salaried, Machine, and Furniture Workers; International Union, United Automobile, Aerospace and Agricultural Implement Workers of America; American Federation of State, County and Municipal Workers; United Steelworkers of America; International Longshoremen's and Warehousemen's Union; International Ladies Garment Workers Union; Amalgamated Clothing and Textile Workers Union; Communications Workers of America; International Association of Machinists and Aerospace Workers; United Electrical Workers; Human Rights Watch; North American Coalition for Human Rights in Korea; Lawyers Committee for Human Rights; Council on Hemispheric Affairs; Institute for Policy Studies; Indochina Resource Center, Inc. d/b/a/ Asia Resource Center; Washington Office on Haiti; Massachusetts Labor Committee in Support of Democracy, Human Rights and Non Intervention in Central America; American-Arab Anti-Discrimination Committee; Columbian Fathers Justice and Peace Office, and Bread for the World.

[5] 752 F. Supp. 495 (D. D.C. 1990), aff'd by a divided opinion, 954 F. 2d 745 (D.C. Cir 1992).

INTRODUCTION OF THE INSPECTOR GENERAL REFORM ACT OF 1994 AND THE WHISTLEBLOWER PROTECTION ENHANCEMENT ACT OF 1994

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mr. SPRATT. Mr. Speaker, on June 29, 1994, I introduced two bills, H.R. 4679, the Inspector General Reform Act of 1994, and H.R. 4680, the Whistleblower Protection Enhancement Act of 1994. The first bill would increase the independence and strengthen the operations of the officers of inspectors general [OIGs]. The second bill would increase protections for whistleblowers providing information to the Congress and the IGs. These two bills are designed to achieve two goals, improve the IGs' effectiveness and increase protection of whistleblowers providing information to the Congress and the IGs.

Before describing the major provisions, I would like to preface my remarks by expressing the hope that these bills will serve as a starting point and catalyst to stimulate discussion and help frame the debate in the Congress and the administration. I want to make clear at the outset that, while there is an evidentiary basis for the proposals in my legislation, I am open to other proposals, as well. I recognize that these bills may be controversial. Some may think that these two bills go too far, and others may think that they do not go far enough in reforming the present system. I very much look forward to receiving comments, both positive and negative, about these two measures. I plan to work closely with my colleagues in Congress, the IG community, the GAO, the administration, and all other interested parties in fashioning legislation which will pass the Congress and become law.

While hearings have not yet been held, the staff of the Commerce, Consumer, and Monetary Affairs Subcommittee of the Committee on Government Operations has extensively researched these issues, consulted with experts, and reviewed the literature. First, it has surveyed the Congressional Research Service, the General Accounting Office, and congressional committee staff. Second, it has reviewed legislative history and congressional oversight hearings and reports on the implementation of the IG Act, including oversight by the Committee on Government Operations. Third, it has reviewed other written literature, including articles, a recent scholarly book,[1] and work by the Administrative Conference of the United States.[2] We also reviewed the 1993 National Performance Review's recommendations pertaining to the IGs. The subcommittee staff has also relied on its oversight experience in monitoring the work of OIG offices over the years.

INSPECTOR GENERAL REFORM ACT OF 1994

The IG reform legislation would: Expand the IG's mission to include program evaluations and inspection assessments, focussing on those programs especially vulnerable to waste or fraud (consistent with the recommendations of the Vice President's National Performance Review); provide for greater independence for and better selection of IGs, by establishing 5-year terms, a conflict of interest provisions applicable to IG personnel, grounds for removal of IGs, specific IG authority to obtain space and hire legal counsel free from agency control, and removal of the IGs from both direct and indirect control of agency staff; improve protection for whistleblowers cooperating with the IGs; increase the dissemination of IG reports to the public and the amount of information in them, while reducing the semi-annual reporting requirement to an annual one; increase the effectiveness of IG criminal investigations, by requiring (1) earlier consultation and coordination between the IGs and Justice Department (DOJ) prosecutors in criminal cases, and (2) an expedited procedure for DOJ consideration of IG requests for grants of law enforcement authority to IG agents; direct IGs to monitor personnel actions taken by agency management in response to IG findings of serious misconduct and provide an opportunity for review by agency heads; and expand the investigative and oversight powers of the DOJ IG to cover the entire Justice Department, including all law enforcement and prosecutorial personnel, who are now exempt from such scrutiny.

As repeatedly evidenced during congressional hearings and in the literature, there are forces which can and sometimes do curtail the independence of the 53 OIGs. The current IG statute is internally inconsistent on the issue of IG independence. On the one hand, current law grants some independence to the larger agency IGs through its presidential appointment and its prohibitions on agency attempts to prevent or prohibit OIG audits and investigations. On the other hand, it makes the IG an inherent part of each agency. For example, the IG one, is supervised by the head of each agency who can set priorities and eventually discourage certain IG investigative or activity; Two, is dependent on office supplies, space, and often legal counsel from the agency; and three, must obtain the agency's approval for the IG's budget submission to OMB. Moreover, the heads of the smaller agencies select and often more closely supervise their own IG's, making those IG's potentially even less independent. Also, some IG personnel have previously worked for other units in the agency they now oversee, which can create a conflict of interest. In addition, although the IG's for larger agencies are appointed by the President, in truth, they are often selected by the heads of those agencies which they are supposed to police.

In a 1988 report, the Government Operations Committee discussed several instances of interference.[3] In some agencies, the IG's role may be viewed as seeing, speaking, and hearing as little evil, as possible. Consequently, many knowledgeable observers and some former IG officials have supported increased independence and protection from agency interference. Some suggestions have included one, a term of years for the IG's—the bill sets 5 years—and two, restrictions on the President's power to remove IG's, not for partisan or policy reasons but only for good cause, such as inefficiency or neglect of duty, which this legislation would do.

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*See footnotes at end of article.

I believe that it is possible for IG's to work with agency heads in close consultation on a regular basis to improve agency performance without losing their independence, provided that certain protections are written into the statute. That is what my proposed legislation seeks to open up for debate and for consideration during Government Operations Committee hearings, tentatively planned for sometime this year.

WHISTLEBLOWER PROTECTION ENHANCEMENT ACT OF 1994

This bill would provide a remedy for those Executive branch employees who provide information to the Congress and are thereafter punished, in violation of 5 U.S.C. 7211[4]. Under this bill any agency interference with or denial of an employee's right to provide certain information to Congress would constitute a prohibited personnel practice under the Whistleblower Protection Act of 1989, which would enable employees to seek the help of the Office of Special Counsel and to appeal to the Merits Systems Protection Board. The bill would confer protection for those employees who reasonably believe that the information they are furnishing to the Congress evidences a violation of law or regulation or gross mismanagement or waste of funds. Congress does have a special obligation to protect those whistleblowers who risk their careers when providing the Congress with such information.

The bill would also confer additional protection on those employees providing information to the IG's. Many employees reporting allegations of mismanagement or misconduct have complained that IG's do not keep their names confidential from their managers, in violation of the spirit, if not the letter, of the IG statute, and that such revelations cause agency reprisals against them. This can negatively impact the reporting of important information to IG personnel and leaves employees with the impression that OIG's cannot be trusted to protect their sources. This practice seems to be a widespread one throughout the Government. As reported in the Washington Post in the spring of 1993, Vice President GORE had a meeting with Federal employees at one agency who accused their IG of routinely disclosing their identities and being too close to the department. The legislation would absolutely prohibit OIG identification of such employees, with an exception for Federal prosecutors needing such information during a criminal investigation.

OIG's do not routinely investigate retaliation against cooperating employees or even advise whistleblowers of their rights under both the Whistleblower Protection Act of 1989 and the Civil Service Reform Act of 1978. By not advising employees of their rights under these two statutes, the OIG's often leave the employees in the dark. Therefore, the bill would require OIG staff to disclose those rights and would improve the protection of those employees reporting information to the IG's. As a result, it would help ensure the continued flow of such information.

In sum, the current remedies to protect whistleblowers are inadequate. If Congress wants to encourage whistleblowers to come forward in order, it must confer greater protection on those whistleblowers.

FOOTNOTES

[1] "Monitoring Government: Inspectors General and the Search for Accountability," Paul C. Light, the Brookings Institution and the Governance Institute, Washington, DC, 1993.

[2] Transcript of a March 3, 1993, Meeting, entitled, "Inspectors General: An Institution in Need of Reform", Office of the Chairman, Administrative Conference of the United States.

[3] This included an investigation seriously mishandled by the Interior Department's IG because of pressure from the Secretary. See House Report 100-1027, "The Inspector General Act of 1978: A 10-Year Review", 61st Report by the Committee on Government Operations, House of Representatives, October 3, 1988.

[4] That provision states: "The right of employees, individually or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied."

INTRODUCTION OF DERIVATIVES DEALERS ACT OF 1994

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 1994

Mr. MARKEY. Mr. Speaker, today I am joining with the gentleman from Oklahoma [Mr. SYNAR] in introducing the Derivatives Dealers Act of 1994. This legislation is aimed at providing a framework for improved supervision and regulation of previously unregulated derivatives dealers and assuring appropriate protections for their customers.

Derivatives are financial products whose value is dependent on—or derived from—the value of some underlying financial asset such as a stock, bond, foreign currency, commodity, or an index representing the values of such assets. Some derivatives have been around for many years, such as the exchange-traded futures and options used by investors and dealers seeking to hedge positions taken in the stock and bond markets, or to speculate on future market movements.

Within the last few years, however, such exchange-traded futures and options have been supplemented by a vast and dizzying array of over-the-counter [OTC] derivatives. These include forwards, swaps, options, swaptions, caps, flowers, and collars that may be linked to the performance of the Japanese stock market, the dollar-deutsche mark exchange rate, the S&P 500, or virtually any other asset. Today, the total outstanding value of the principal underlying such over-the-derivatives is estimated to be over $12 trillion.

The dynamic growth of the OTC derivatives market is the direct result of developments in computer and telecommunications technology and breakthrough in modern portfolio management theory that have created a new world of cyber-finance that is reshaping U.S. and global financial markets. These new financial instruments are an important component of modern financial activity and provide useful risk management tools for corporations, financial institutions, and governments around the world seeking to respond to fluctuations in interest rates, foreign currency exchange rates, commodity prices, and movements in stock or other financial markets.

While OTC derivatives are frequently used to hedge foreign currency or interest rate risks or to lower borrowing costs, there has been a proliferation of increasingly exotic, customized financial contracts or instruments that enable dealers and end-users to make speculative synthetic side bets on global financial markets. This development has raised concerns over the potential for OTC derivatives to increase, rather than reduce risk of financial loss or contribute to a future financial panic. In addition, the concentration of market-making functions in a small number of large banks and securities firms, the close financial inter-linkages OTC derivatives have created between each of these firms, and the sheer complexity of the products being traded raise serious concerns about the potential for derivatives to contribute to serious disruptions in the fabric of our financial system.

I believe that the public interest demands that regulators have adequate tools on hand to minimize the potential for OTC derivatives to contribute to a major disruption in the financial markets, either through excessive speculation and overleveraging, or due to inadequate internal controls and risk management on the part of major derivatives dealers or end-users. I also believe that our financial regulatory structure must assure that there are appropriate customer protections in place in the form of full disclosure, accurate financial accounting, appropriate sales practices, and restrictions against fraudulent or manipulative activity.

In light of the explosive growth of and the public policy issues raised by OTC financial derivatives, the Subcommittee on Telecommunications and Finance, which I chair, wrote to the General Accounting Office [GAO] in June 1992 to request a comprehensive study of the derivatives market. At that time, the subcommittee noted that the trading of new and complex derivative products by financial institutions and their customers had greatly increased in recent years, creating a corresponding need to assure that knowledge of how to manage and oversee the risks associated with these products was keeping pace. The subcommittee asked the GAO to examine the nature and extent of the use of derivative products and determine how well the dealers and end-users of these products handled the related risks. In addition, the subcommittee asked the GAO to examine how well Federal regulators protect the Federal interest and to identify any regulatory inconsistencies or gaps in regulation that might result in harm to the financial system.

The GAO derivatives study submitted on May 19, 1994 response to the subcommittee's request has identified some serious gaps in the current legal and regulatory structure relating to OTC derivatives.

First, the GAO made a series of recommendations aimed at improving Federal supervision of bank dealers in OTC derivatives. These include developing consistent capital standards, requiring independent and knowledgeable audit committees, performing comprehensive annual examinations, and requiring bank dealers to provide better information on counterparty concentrations and the amount and type of their derivatives holdings. The GAO found that the bank regulators already have considerable legal authority to undertake such regulatory reforms.

Second, the GAO recommended that the SEC use its existing legislative authorities to improve disclosure and accounting treatment of derivatives. The GAO recommended that the SEC take steps to ensure that major end-users of derivatives improve their internal controls and risk management systems. The GAO also recommended that the SEC, both directly through its review of disclosure documents filed by public companies and in its capacity in overseeing accounting standards set by the Financial Accounting Standards Board [FASB], ensure that investors receive full and accurate disclosures regarding the derivatives activities of corporations, mutual funds, and other major institutional end-users of derivative financial products. The SEC has broad authority under existing law to mandate such changes.

Finally, the GAO identified serious gaps in the current legal and regulatory framework that allows derivatives dealers affiliated with securities firms or insurance companies to largely escape the type of regulations which are already in place for derivatives dealers affiliated with banks. GAO's testimony before the subcommittee also identified potential gaps in antifraud and antimanipulation enforcement authority, and sales practice regulation. In response, the GAO recommended that this black hole be plugged by granting a Federal regulator, such as the Securities and Exchange Commission, appropriate authority to conduct examinations and set capital standards for these currently unregulated dealers.

The subcommittee has closely examined the derivatives markets and the findings and recommendations of the GAO study in oversight hearings held on May 10, 19, 25, and July 7th of this year. We have heard testimony from the GAO, from current and former financial regulators, from derivatives dealers and other experts. Based on the information gathered in the course of these hearings, and other inquiries undertaken by the subcommittee, I have crafted a piece of legislation which would close the most glaring legal gap affecting the derivatives markets—the presence of virtually unregulated OTC derivatives dealers in the market.

The Derivatives Dealers Act of 1994 that Mr. SYNAR and I are introducing today represents a three-tiered approach to derivatives regulation.

First, the bill would define "derivative" to include any financial contract or other instrument that derives its value from the value or performance of any security, currency exchange rate, or interest rate, or group of index thereof. It should be noted with respect to instruments based on currency exchange rates, that the definition would exclude the most common type of derivative instrument—forward rate contracts—but would include foreign currency swaps that have a duration greater than 270 days. Securities traded on an exchange or on the NASDAQ, futures or options on futures, and bank or savings institution deposits also would be excluded.

Second, the definition of "security" in section 3(a)(10) of the Securities Exchange Act of 1934 [Exchange Act] would be amended to include derivatives based on the value of any security. While options on securities already are included within this definition, the amendment would bring equity swaps under the definition of "security" and subject transactions in equity swaps to regulation under the Exchange Act.

Third, persons defined as "derivatives dealers" would become subject to Securities and Exchange Commission [Commission] regulation. Derivatives dealers that are not first, registered broker-dealers or second, material associated persons of registered broker-dealers that have filed notice with the Commission, see discussion below, would be required to register with the Commission and would be subject to Commission rulemaking and enforcement authority. Commission rulemaking would focus on financial responsibility and related recordkeeping and reporting requirements, as well as on the prevention of fraud. Such dealers also would be required to become members of an existing registered securities association, or any registered securities association that may be established for derivatives dealers. Rules adopted by a registered securities association would focus on the prevention of sales practice abuses and the establishment of internal controls.

Derivatives dealers that are material associated persons of registered broker-dealers would be required, as a general matter, to file a form of notice with the Commission. Alternatively, such dealers would be permitted to register, as discussed above. Dealers that file notice would be regulated indirectly through their broker-dealer affiliate. The risk assessment provisions already in place under the Exchange Act, which would be amended by this bill, would be utilized for this purpose. In addition, the broker-dealer's net capital would be based, in part, on the derivatives activities of its affiliated derivatives dealer. The designated examining authority for the broker-dealer would have rulemaking and enforcement authority with respect to the derivatives activities of both the broker-dealer and the affiliate. The Commission also would be authorized to adopt rules designed to prevent fraud.

This bill will close the regulatory black hole that has allowed derivatives dealers affiliated with securities or insurance firms to escape virtually any regulatory scrutiny. It will give the SEC the tools needed to monitor the activities of these firms, assess their impact on the financial markets, and assure appropriate protections are provided to their customers against any fraudulent or abusive activities. It is not a radical restructuring of the derivatives market; it is focused laser-like on the real gaps that exist in the current regulatory framework that need to be closed, and closed now.

In addition to this legislative reform package, the subcommittee has been strongly urging the bank regulators and the Commission to make full use of the authorities they have under existing law to enhance their oversight over the derivatives market and to assure protections are afforded to end-users of derivatives and to their shareholders. As the GAO's report indicated, the bank regulators already have considerable authority to take action with respect to the activities of bank derivatives dealers, and I believe that the bank regulators should continue to make use of these authorities to improve their supervision of the derivatives activities of banks.

The GAO report also indicated that the SEC has considerable authority under existing law to enhance derivatives-related disclosures made by public companies, to regulate the use of derivatives by investment companies, and to assure the adequacy of the derivatives accounting standards established by the Financial Accounting Standards Board [FASB]. The subcommittee expects the Commission to follow through on the commitments made by Chairman Levitt during the subcommittee's May 25, 1994 hearing to take a strong leadership role in assuring that significant improvements are made in each of these critical areas.

In this regard, the subcommittee has recently contacted the SEC to requesting information regarding the Commission's ongoing activities and authorities, and to clarify the need for any additional legislative reforms. On June 15, 1994, I joined with Representative FIELDS to request certain information regarding the participation of mutual funds in the derivatives markets. On June 23, 1994, I joined with Representatives SYNAR and WYDEN to request information regarding GAO's recommendations for enhancements in the role of audit committees in reviewing and approving the activities of OTC derivatives dealers and major end-users and the establishment of requirements for internal controls reporting with respect to derivatives. In addition, on May 23, 1994 Chairman DINGELL sent letters to the SEC, the Treasury Department, and the Securities Industry Association requesting their comments on the findings and recommendations of the GAO report. Responses to each of these inquiries are expected to be received shortly.

Based on the nature of the information received from the Commission and other respondents in response to these and other inquiries and investigations, the subcommittee will need to carefully consider the need for further legislative reforms to the bill I am introducing today as it moves through the legislative process. I look forward to working with my colleagues on the subcommittee and with all other interested parties as the subcommittee undertakes this effort to improve regulation of the markets for financial derivatives.

Again, I urge my colleagues to cosponsor and support this important legislation.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, July 14, 1994, may be found in the Daily Digest of today's RECORD.

SETINGS SCHEDULED

JULY 15

9:00 a.m.

Foreign Relations

To hold hearings on the nominations of Phyliss E. Oakley, of Louisiana, to be an Assistant Secretary of State for Population, Refugees and Migration, and Richard L. Greene, of Maryland, to be Chief Financial Officer, Department of State.

SD-419

Joint Economic

To hold hearings to examine the recent economic developments in the former Soviet Union and the countries of Eastern and Central Europe.

SD-628

9:30 a.m.

Environment and Public Works

To hold hearings on the designation of the National Highway System.

SD-406

JULY 19

9:00 a.m.

Environment and Public Works

Clean Water, Fisheries and Wildlife Subcommittee

To resume hearings on proposed legislation authorizing funds for programs of the Endangered Species Act, focusing on conservation on private lands.

SD-406

9:30 a.m.

Energy and Natural Resources

To hold hearings on S. 2151, to direct the Secretary of the Interior to convey certain lands in the State of California.

SD-366

10:00 a.m.

Finance

Business meeting, to mark up proposed legislation to implement the Uruguay Round of Multilateral Trade Negotiations.

SD-215

Foreign Relations

To hold hearings to examine the humanitarian crisis in the Horn of Africa.

SD-419

Labor and Human Resources

To hold hearings on S. 2238, to prohibit employment discrimination on the basis of sexual orientation.

SD-430

2:00 p.m.

Indian Affairs

To hold hearings on S. 2230, to revise the Indian Gaming Regulatory Act.

SD-G50

2:30 p.m.

Labor and Human Resources

To hold hearings on S. 1702, to amend the Federal Food, Drug, and Cosmetic Act to ensure that human tissue intended for transplantation is safe and effective.

SD-430

JULY 20

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Governmental Affairs

Federal Services, Post Office, and Civil Service Subcommittee

To hold hearings to examine the Federal role in child support enforcement.

SD-342

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to review the Federal Reserve's semi-annual monetary policy report.

SD-538

Environment and Public Works

To hold hearings on proposals to reform current policies on floodplain management and flood control.

SD-406

JULY 21

9:30 a.m.

Environment and Public Works

Toxic Substances, Research and Development Subcommittee

To hold hearings on S. 1545, to authorize funds for fiscal years 1994 through 1996 for environmental research, development, and demonstration.

SD-406

10:00 a.m.

Commerce, Science, and Transportation

To hold hearings on issues relating to international fisheries.

SR-253

JULY 22

10:00 a.m.

Foreign Relations

To hold hearings on the nomination of Robert A. Pastor, of Georgia, to be Ambassador to the Republic of Panama.

SD-419

JULY 25

2:00 p.m.

Indian Affairs

To resume hearings on S. 2230, to revise the Indian Gaming Regulatory Act.

SD-106

JULY 26

2:30 p.m.

Agriculture, Nutrition, and Forestry

Agricultural Research, Conservation, Forestry and General Legislation Subcommittee

To hold hearings on the Administration's proposed legislation relating to meat and poultry inspection.

SR-332

JULY 27

2:00 p.m.

Energy and Natural Resources

Water and Power Subcommittee

To hold hearings on S. 2253, to modify the Mountain Park Project in Oklahoma, S. 2262, to amend the Elwha River Ecosystem and Fisheries Restoration Act, and S. 2266, to amend the Recreation Management Act of 1992.

SD-366

JULY 28

9:30 a.m.

Energy and Natural Resources

To hold hearings on S. 2121, to promote entrepreneurial management of the National Park Service.

SD-366

Rules and Administration

To hold hearings on S. Res. 230, to designate and assign two permanent Senate offices to each State.

SR-301